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6 Attorneys for Cross-Defendants, Bolthouse Properties, LLC and Wm.  
7 Bolthouse Farms, Inc.,

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SANTA CLARA

10 \* \* \*

11 COORDINATION PROCEEDING ) Judicial Council Coordination  
12 SPECIAL TITLE (Rule 1550(b)) ) Proceeding No. 4408  
13 ANTELOPE VALLEY GROUNDWATER )  
14 CASES ) CASE NO. 1-05-CV-049053  
15 INCLUDED ACTIONS: ) OBJECTION TO NOTICE OF MOTION AND  
16 LOS ANGELES COUNTY WATERWORKS ) MOTION FOR LEAVE TO FILE SECOND  
17 DISTRICT NO. 40 v. DIAMOND ) AMENDED COMPLAINT, MEMORANDUM OF  
18 FARMING COMPANY, et al., ) POINTS AND AUTHORITIES  
19 Los Angeles Superior Court )  
20 Case No. BC325201 ) DATE: March 3, 2008  
21 ) TIME: 8:45 a.m.  
22 ) DEPT: D-1, Room 534  
23 )  
24 LOS ANGELES COUNTY WATERWORKS ) Location:  
25 DISTRICT NO. 40 v. DIAMOND ) Los Angeles Superior Court  
26 FARMING COMPANY, et al., ) Central District  
Kern County Superior Court ) 111 North Hill Street  
Case No. S-1500-CV-254348 ) Los Angeles, CA 90012  
DIAMOND FARMING COMPANY, and )  
W.M. BOLTHOUSE FARMS, INC., v. )  
CITY OF LANCASTER, et al., )  
Riverside Superior Court )  
Case No. RIC 344436 [c/w case no. )  
RIC 344668 and 353840] )  
ROSAMOND COMMUNITY SERVICES )  
DISTRICT, )  
CROSS-COMPLAINANT, )  
)  
)  
)  
)

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that cross-defendants, BOLTHOUSE  
3 PROPERTIES, LLC and WM. BOLTHOUSE FARMS, INC., hereby object to  
4 the Notice of Motion and Motion for Leave to File Second Amended  
5 Complaint, Memorandum of Points and Authorities.

6 These objecting parties incorporate herein by reference all  
7 objections previously made to class action treatment of the  
8 above-captioned matter, including all arguments made by other  
9 counsel objecting to class action treatment.

10 These objecting parties further object on the grounds  
11 that the proposed class herein is not ascertainable.  
12 Specifically, these objecting parties object to any class which  
13 includes "the successors and assigns of Class members who become  
14 owners of property in the Basin at a later date."

15 "A defendant class should be certified and  
16 such an action tried only after the most  
17 careful scrutiny is given to preserving the  
18 safeguards of adequate representation, notice  
19 and standing." (*Mark Simons, et al. v.*  
20 *Benjamin Horowitz, et al.* [1984] 151  
21 *Cal.App.3d 834, 845.*)

22 "In attempting to define an ascertainable  
23 class, the goal is to use terminology that  
24 will convey sufficient meaning to enable  
25 persons hearing it to determine whether they  
26 are members of the class plaintiffs wish to  
represent. Ascertainability is not a problem  
limited to the determination of damages so  
that it could be solved by decertifying the  
class after the questions of liability have  
been resolved. Rather, it goes to the heart  
of the question of class certification, which  
requires a class definition that is precise,  
objective and **presently** ascertainable.  
Otherwise, it is not possible to give  
adequate notice to class members or to

1 determine after the litigation has concluded  
2 who is barred from relitigating." (*Global*  
3 *Minerals & Metals Corporation v. The Superior*  
4 *Court of San Diego County; National Metals,*  
5 *Inc.* [2003] 113 Cal.App.4<sup>th</sup> 836; 7  
6 Cal.Rptr.3d 28.) [Emphasis added.]

7 The proposed Willis Class is not currently ascertainable in  
8 that it attempts to incorporate unidentified successors and  
9 assigns who later acquire the property. This could and should,  
10 be properly cured by a proper *in rem* action identifying all  
11 properties subject to the adjudication. These objecting parties  
12 contend that this lawsuit cannot be properly adjudicated on an *in*  
13 *personum* class action basis.

14 DATED: February 15, 2008

Respectfully submitted,

CLIFFORD & BROWN

15  
16 By: 

RICHARD G. ZIMMER, ESQ.  
T. MARK SMITH, ESQ.  
Attorneys for Cross-Defendant,  
BOLTHOUSE PROPERTIES, LLC and  
WM. BOLTHOUSE FARMS, INC.

1 **PROOF OF SERVICE (C.C.P. §1013a, 2015.5)**

2 *Antelope Valley Groundwater Cases*  
3 *Judicial Counsel Coordination Proceeding No. 4408*  
4 *Santa Clara County Superior Court Case No. 1-05-CV-049053*

5 I am employed in the County of Kern, State of California. I am over the age of 18 and not a  
6 party to the within action; my business address is 1430 Truxtun Avenue, Bakersfield, CA 93301.

7 On February 15, 2008, I served the foregoing document(s) entitled:

8 **OBJECTION TO NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE SECOND  
9 AMENDED COMPLAINT, MEMORANDUM OF POINTS AND AUTHORITIES**

10 XX by placing the true copies thereof enclosed in sealed envelopes  
11 addressed as stated on the attached mailing list.

12 — by placing \_ the original, \_ a true copy thereof, enclosed in a sealed  
13 enveloped addressed as follows:

14 X **BY SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX  
15 LITIGATION PURSUANT TO CLARIFICATION ORDER DATED OCTOBER  
16 27, 2005.**

17 Executed on February 15, 2008, at Bakersfield, California.

18 X (State) I declare under penalty of perjury under the laws of the State of California  
19 that the above is true and correct.

20 — (Federal) I declare that I am employed in the office of a member of the Bar of  
21 this Court at whose direction the service was made.

22   
23 NANETTE MAXEY  
24 2455-2  
25  
26