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OUR FILE NO.

August 22, 2008

1291.01

Richard G. Zimmer
Clifford & Brown
1430 Truxtun Avenue, Suite 900
Bakersfield, CA 93301-5230

Re: Antelope Valley Groundwater Cases
Judicial Council Proceeding No. 4408
Santa Clara County Superior Court Case No. 1-05-CV 049053
Expert Witness Disclosure

Dear Mr. Zimmer:

We are in receipt of Bolthouse Properties, LLC ("Bolthouse") expert witness disclosure statement. The disclosure is not adequate.

The expert witness declaration must include (a) "a brief narrative statement of the general substance of the testimony that the expert is expected to give." (Code Civ. Proc., § 2034.260(c)(2).) The purpose of the expert witness discovery statute is to give "fair notice of what an expert will say at trial." (*Bonds v. Roy* (1999) 20 Cal.4th 140, 146.) "This allows the parties to assess whether to take the expert's deposition, to fully explore the relevant subject area and any such deposition, and to select an expert who can respond with a competing opinion on that subject area." (*Id.* at pp. 146-147.)

The sole issue before the court during the Phase 2A trial is whether there are sub-basins within the Antelope Valley adjudication area. We cannot determine from your declaration or any material incorporated by reference therein, what opinion, if any, Mr. Sheahan will express, whether we should take his deposition, and whether we should prepare rebuttal testimony.

The purpose of this letter is to request that Bolthouse properly submit a supplemental declaration which includes a brief narrative statement of the general

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substance of Mr. Sheahan's testimony as required. Absent such compliance, will move to exclude Mr. Sheahan's opinion. (Code Civ. Proc., § 2034.300.)

Very truly yours,



Robert G. Kuhs

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cc: Counsel and Parties