

1 MICHAEL DUANE DAVIS (BAR NO. 93678)
 2 MARLENE L. ALLEN-HAMMARLUND (BAR NO. 126418)
 3 **GRESHAM SAVAGE NOLAN & TILDEN, APC**
 3750 University Avenue, Suite 250
 4 Riverside, CA 92501-3335
 Telephone: (951) 684-2171
 Facsimile: (951) 684-2150
 Email: michael.davis@greshamsavage.com
 5 Attorneys for SERVICE ROCK PRODUCTS
 CORPORATION, SHEEP CREEK WATER
 6 COMPANY, INC. and A.V. UNITED MUTUAL
 GROUP

7
 8 RICHARD G. ZIMMER (BAR NO. 107263)
 T. MARK SMITH (BAR NO. 162370)
CLIFFORD & BROWN
 9 1430 Truxton Avenue, Suite 900
 Bakersfield, California 93301-5230
 10 Telephone: (661) 322-6023
 Facsimile: (661) 322-3508
 11 Email: rzimmer@clifford-brownlaw.com
 Attorneys for BOLTHOUSE PROPERTIES, INC.
 12 and WM. BOLTHOUSE FARMS, INC.

13 *(List of Counsel Continues on Next Page)*

14 **SUPERIOR COURT OF CALIFORNIA**
 15 **COUNTY OF LOS ANGELES**

16	Coordination Proceeding Special Title (Rule 1550(b))	)	Judicial Council Coordination Proceeding No. 4408
17	ANTELOPE VALLEY GROUNDWATER CASES	)	For Filing Purposes Only:
18	Included Actions:	)	Santa Clara Case No. 1-05-CV- 049053
19	Los Angeles County Waterworks District No. 40 v. Diamond Farming Co.	)	Assigned to the
20	Superior Court of California, County of Los Angeles,	)	Honorable Jack Komar,
21	Case No. BC 325 201	)	Department 17C
22	Los Angeles County Waterworks District No. 40 v. Diamond Farming Co.	)	PEREMPTORY CHALLENGE
23	Superior Court of California, County of Kern, Case No. S-1500-CV-254-348	)	TO ASSIGNED JUDGE
24		)	(C.C.P. § 170.6)
25	Wm. Bolthouse Farms, Inc. v. City of Lancaster Diamond Farming Co. v. City of Lancaster Diamond Farming Co. v. Palmdale Water Dist.	)	Date: February 5, 2010
26	Superior Court of California, County of Riverside,	)	Time: 8:30 a.m.
27	consolidated actions, Case Nos. RIC 353 840, RIC 344 436, RIC 344 668	)	Dept: 1
28	(Consolidated Actions)	)	Judge: Jack Komar

1 *List of Counsel (Continued):*

2 **BOB H. JOYCE (BAR NO. 84607)**
3 **ANDREW SHEFFIELD (BAR NO. 220735)**
4 **KEVIN E. THELEN (BAR NO. 252665)**
5 **LAW OFFICES OF LEBEAU THELEN, LLP**
6 5001 East Commercenter Drive, Suite 300
7 Post Office Box 12092
8 Bakersfield, California 93389-2092
9 Telephone: (661) 325-8962
10 Facsimile: (661) 325-1127
11 *Email: bjoyce(@)lebeauthelen.com*
12 Attorneys for **DIAMOND FARMING COMPANY**, a
13 California corporation, **CRYSTAL ORGANIC**
14 **FARMS**, a limited liability company, **GRIMMWAY**
15 **ENTERPRISES, INC.** and **LAPIS LAND**
16 **COMPANY, LLC.**

17 **EDGAR B. WASHBURN (BAR NO. 34038)**
18 **WILLIAM M. SLOAN (BAR NO. 203583)**
19 **MORRISON & FOERSTER, LLP**
20 425 Market Street
21 San Francisco, California 94105-2482
22 Telephone: (415) 268-7000
23 Facsimile: (415) 268-7522
24 *Email: wsloan(@)mofo.com*
25 Attorneys for **U.S. BORAX, INC.**

26 **MICHAEL T. FIFE (BAR NO. 203025)**
27 **BRADLEY J. HERREMA (BAR NO. 228976)**
28 **BROWNSTEIN HYATT FARBER SCHRECK, LLP**
29 21 East Carrillo Street
30 Santa Barbara, California 93101
31 Telephone: (805) 963-7000
32 Facsimile: (805) 965-4333
33 *Email: mfife(@)bhfs.com*
34 Attorneys for the **ANTELOPE VALLEY**
35 **GROUNDWATER AGREEMENT**
36 **ASSOCIATION ("AGWA")**

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1 TO ALL PARTIES, THEIR COUNSEL OF RECORD AND THE COURT:

2 We, the undersigned counsel, declare as follows:

3 1. We are all attorneys duly licensed to practice law in the courts of the State of
4 California. We submit this declaration as Cross-Defendants' Peremptory Challenge to the
5 Honorable Jack Komar. We have personal knowledge of the facts stated herein, and we make
6 this declaration based upon personal knowledge, and, if called as a witness, could and would
7 competently testify thereto.

8 2. On February 19, 2010, despite significant opposition from numerous parties,
9 including our clients, Judge Komar signed an order granting Public Water Suppliers' Motion to
10 Transfer and Consolidate for All Purposes each of the actions pending as part of Judicial Counsel
11 Coordination Proceeding 4408 (also known as the Antelope Valley Groundwater Cases). This
12 consolidation, among other things, has the effect of unwillingly making our clients parties to two
13 class actions involving separate causes of action in which they have not been named.

14 3. The law provides that upon consolidation, the opportunity to exercise a
15 peremptory challenge under California Civil Procedure Code section 170.6 is available.

16 A party's acquiescence of a judge to hear one action does not
17 impair his or her right to exercise a challenge to prevent that judge
18 from hearing another matter, even if that matter raises issues
19 closely related to those in the first action. [Citations.] 'Assigning
20 the same judge to hear a series of complex actions, such as these
where there exists subject mater overlap, may promote judicial
efficiency. However, judicial efficiency is not to be fostered at the
expense of a litigant's rights under section 170.6 to peremptorily
challenge a judge.'

21 *Nissan Motor Corp. v. Super Ct.*, 6 Cal.App.4th 150, 155 (1992).

22 A party to any of the consolidated cases may disqualify the
23 assigned judge by a timely challenge under CCP section 170.6
24 even where that party previously acquiesced to the judge in one of
the consolidated cases, i.e., consolidation with another case may
create a second chance for a section 170.6 challenge.

25 *Weil & Brown*, Section 12:369, Civil Procedure Before Trial (2009) (citing *Nissan Motor Corp.*)

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1 4. The Honorable Jack Komar is prejudiced against the Cross-Defendants, or the
2 interests of the Cross-Defendants, in this newly consolidated action so that we believe the Cross-
3 Defendants cannot have a fair or impartial trial or hearing before him.

4 We declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct.

6 Executed this 19th day of
7 February, 2010 at
8 San Francisco, California.

EDGAR B. WASHBURN
WILLIAM M. SLOAN
MORRISON & FOERSTER, LLP

9
10 By: William M. Sloan
11 William M. Sloan
12 Attorneys for U.S. BORAX, INC.

13 Executed this ____ day of
14 _____, 2010 at
15 Bakersfield, California.

RICHARD G. ZIMMER
T. MARK SMITH
CLIFFORD & BROWN

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17 Richard G. Zimmer
18 Attorneys for BOLTHOUSE PROPERTIES, LLC and
19 WM. BOLTHOUSE FARMS, INC.

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25 Bob H. Joyce
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27 California corporation, CRYSTAL ORGANIC
28 FARMS, a limited liability company, GRIMMWAY
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LLC.

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4. The Honorable Jack Komar is prejudiced against the Cross-Defendants, or the interests of the Cross-Defendants, in this newly consolidated action so that we believe the Cross-Defendants cannot have a fair or impartial trial or hearing before him.

We declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

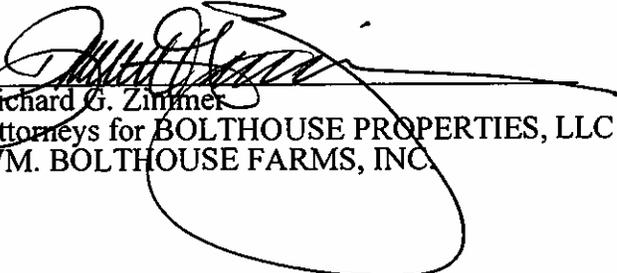
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MORRISON & FOERSTER, LLP

By: _____
William M. Sloan
Attorneys for U.S. BORAX, INC.

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WILLIAM M. SLOAN
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William M. Sloan
Attorneys for U.S. BORAX, INC.

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RICHARD G. ZIMMER
T. MARK SMITH
CLIFFORD & BROWN

By: _____
Richard G. Zimmer
Attorneys for BOLTHOUSE PROPERTIES, LLC and
WM. BOLTHOUSE FARMS, INC.

Executed this 17th day of February, 2010 at Bakersfield, California.

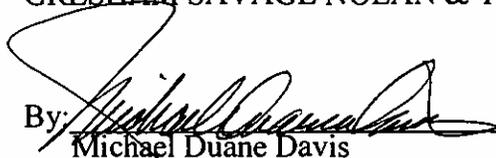
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Executed this 19th day of
February, 2010 at
Riverside, California.

MICHAEL DUANE DAVIS
MARLENE L. ALLEN-HAMMARLUND
GRESHAM SAVAGE NOLAN & TILDEN, APC

By: 

Michael Duane Davis
Attorneys for SERVICE ROCK PRODUCTS
CORPORATION, SHEEP CREEK WATER
COMPANY, INC. and A.V. UNITED MUTUAL
GROUP

Executed this ____ day of
____, 2010 at
Santa Barbara, California.

MICHAEL T. FIFE
BRADLEY J. HERREMA
BROWNSTEIN HYATT FARBER SCHRECK, LLP

By: _____
Michael T. Fife

Attorneys for the ANTELOPE VALLEY
GROUNDWATER AGREEMENT ASSOCIATION
("AGWA")

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