

1 RICHARD G. ZIMMER - SBN 107263  
2 T. MARK SMITH - SBN 162370  
3 CLIFFORD & BROWN  
4 A Professional Corporation  
5 Attorneys at Law  
6 Bank of America Building  
7 1430 Truxtun Avenue, Suite 900  
8 Bakersfield, CA 93301-5230  
9 Tel (661) 322-6023  
10 Fax (661) 322-6508

11 Attorneys for Bolthouse Properties, LLC and Wm. Bolthouse Farms,  
12 Inc.

13 **SUPERIOR COURT OF CALIFORNIA**

14 **COUNTY OF SANTA CLARA**

15 \* \* \*

16 COORDINATION PROCEEDING	)	Judicial Council Coordination
17 SPECIAL TITLE (Rule 1550(b))	)	Proceeding No. 4408
18 ANTELOPE VALLEY GROUNDWATER	)	CASE NO. 1-05-CV-409053
19 CASES	)	
20 INCLUDED ACTIONS:	)	
21 LOS ANGELES COUNTY WATERWORKS	)	BOLTHOUSE PROPERTIES, LLC'S AND
22 DISTRICT NO. 40 v. DIAMOND	)	WM. BOLTHOUSE FARMS, INC.'S
23 FARMING COMPANY, et al.,	)	TRIAL BRIEF
24 Los Angeles Superior Court	)	
25 Case No. BC325201	)	
26 LOS ANGELES COUNTY WATERWORKS	)	
DISTRICT NO. 40 v. DIAMOND	)	DATE: OCTOBER 6, 2008
FARMING COMPANY, et al.,	)	TIME: 9:00 A.M.
Kern County Superior Court	)	DEPT. 1
Case No. S-1500-CV-254348	)	
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]	)	

## INTRODUCTION

In the Phase 1 Trial the Court determined the Area of Adjudication. In the Phase 2 Trial, the Court invited presentation of evidence regarding sub-basins within the Area of Adjudication. The definitions of "sub-basin" and "basin" are not terms which have precise meaning among hydrologists and geologists. Nevertheless, for purposes of a comprehensive adjudication of water rights in the Antelope Valley as alleged in the pleadings, and in order to comply with the McCarran Act for purposes of having jurisdiction over the United States Government, the Area of Adjudication must include so called sub-basins or areas wherein there is hydraulic connection to other portions of the Area of Adjudication. All of the so called sub-basins or areas within the Area of Adjudication could, now or in the future, affect groundwater flow, quality and/or quantity and accordingly must continue to be included in the Area of Adjudication.

## EVIDENCE

Evidence for the Phase 2 Trial will consist entirely of expert analysis and depositions. With the exception of experts for two parties, Tejon Ranchcorp and Anaverde, all experts have agreed that although there may be so called sub-basins or sub-areas within the Area of Adjudication, that all these sub-basins or sub-areas are hydraulically connected and that pumping in these areas does and/or potentially may, affect groundwater flow, quantity and quality within the Antelope Valley. This testimony

1 is more persuasive than testimony offered by Tejon Ranchcorp and  
2 Anaverde.

3 Tejon Ranchcorp contends that a subterranean bedrock ridge  
4 to some degree separates a sedimentary water basin aquifer to the  
5 west from a sedimentary water basin aquifer to the east. The  
6 length, width and specifics of the postulated bedrock ridge are  
7 admittedly not known by the Tejon Ranchcorp experts. However,  
8 these experts do admit that hydraulic connection exists between  
9 the two aquifers and that there are at least two areas, one  
10 approximately two miles long and another approximately nine miles  
11 long wherein the bedrock ridge is two hundred to five hundred  
12 (200-500) feet below the saturated alluvium allowing water to  
13 pass over and commingle across the bedrock ridge.

14 Tejon Ranchcorp experts contend that because groundwater  
15 contours according to them are level across the bedrock ridge,  
16 that there is no significant effect as a result of pumping on one  
17 side of the ridge versus pumping on the other side. However,  
18 both experts admit that if there was significant pumping on the  
19 west side of the bedrock ridge, that this could affect water flow  
20 and quantity on the east side of the ridge and vice versa. They  
21 also admit that because of changes in use and pumping, the water  
22 contours and gradient can change over time, as they have in the  
23 past, resulting in different water flow and quantities available  
24 to different areas. Accordingly, it is clear that both sub-areas  
25 are part of the same hydraulically connected water basin and must  
26 be included within the Area of Adjudication.

Anaverde contends that the San Andres Fault to the north of part of its property inhibits groundwater flow causing the groundwater to migrate to the surface and that such groundwater is then consumed by plants. However, Anaverde presents no convincing evidence that all of the water which would otherwise flow from precipitation in the mountains which migrates into bedrock, is consumed by plants. In fact, this is not plausible. The existence and scarcity of vegetation in the area, along with the amount of rainfall falling in the mountains, combined with the extremely fractured bedrock along the San Andres Fault, lead to the conclusion that significant amounts of water fall in the mountains, are absorbed into the groundwater table and migrate through the fractured fault into the groundwater basin. The same thing occurs along the entire stretch of the San Gabriel Mountains wherein the largest amounts of recharge to the Antelope Valley are known to exist.

Crystal Organic Farms does claim to be separated from the basin based primarily on a low flow and estoppel argument. However, whether or not the estoppel argument succeeds, expert testimony indicates there is a significant amount of recharge from Oak Creek which recharges the Antelope Valley area, which should be included in the water balance for the Antelope Valley.

## CONCLUSION

Pumping in all so called sub-basins and/or areas of the Area of Adjudication will affect the flow, quantity and quality of groundwater within the Antelope Valley. Although the actual

1 amount of recharge provided by various areas of the Valley may  
2 vary, and although the affect of pumping in one area in terms of  
3 groundwater flow, quantity and/or quality varies throughout the  
4 Area of Adjudication, pumping in various areas within the Area of  
5 Adjudication will have an affect on pumping in other areas.  
6 Accordingly, all of the so called sub-basins and/or areas within  
7 the Area of Adjudication must be included for purposes of  
8 achieving a comprehensive adjudication as prayed for in the  
9 pleadings and to satisfy the requirements of the McCarran Act.  
10 Although individual characteristics of certain areas and/or sub-  
11 basins may potentially be taken into consideration in terms of  
12 management of the groundwater supply, they must be included in  
13 the Area of Adjudication to properly assess supply and demand  
14 within the groundwater basin of the Antelope Valley.

15  
16 DATED: October 1, 2008 Respectfully submitted,

17 CLIFFORD & BROWN

18  
19 By: 

RICHARD G. ZIMMER, ESQ.

T. MARK SMITH, ESQ.

Attorneys for  
BOLTHOUSE PROPERTIES, LLC AND  
WM. BOLTHOUSE FARMS, INC.

**PROOF OF SERVICE (C.C.P. §1013a, 2015.5)**  
***Antelope Valley Groundwater Cases***  
***Judicial Counsel Coordination Proceeding No. 4408***  
***Santa Clara County Superior Court Case No. 1-05-CV-049053***

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

On October 1, 2008, I served the foregoing document(s) entitled:

**BOLTHOUSE PROPERTIES, LLC'S AND WM. BOLTHOUSE FARMS, INC.'S TRIAL BRIEF**

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

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

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

Executed on October 1, 2008, at Bakersfield, California.

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

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

  
NANETTE MAXEY  
2455-2