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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-409053
15 INCLUDED ACTIONS:)	
16 LOS ANGELES COUNTY WATERWORKS	)	BOLTHOUSE PROPERTIES, LLC'S AND
17 DISTRICT NO. 40 v. DIAMOND	)	WM. BOLTHOUSE FARMS, INC.'S
18 FARMING COMPANY, et al.,	)	OBJECTION TO [Proposed] NOTICE
19 Los Angeles Superior Court	)	OF CLASS ACTION FOR THE "SMALL
20 Case No. BC325201	)	PUMPER" CLASS ACTION
21 LOS ANGELES COUNTY WATERWORKS)	
22 DISTRICT NO. 40 v. DIAMOND)	
23 FARMING COMPANY, et al.,)	
24 Kern County Superior Court)	
25 Case No. S-1500-CV-254348)	
26 DIAMOND FARMING COMPANY, and)	
W.M. BOLTHOUSE FARMS, INC., v.)	
CITY OF LANCASTER, et al.,	)	DATE: June 12, 2009
Riverside Superior Court	)	TIME: 9:00 a.m.
Case No. RIC 344436 [c/w case	)	DEPT: 17
no. RIC 344668 and 353840])	

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Bolthouse Properties, LLC and Wm.
3 Bolthouse Farms, Inc., object to [Proposed] Notice of Class
4 Action for the "Small Pumper" Class Action on the following
5 grounds:

- 6 1. All previous objections to certification
7 of classes heretofore made by Bolthouse
8 Properties, LLC and Wm. Bolthouse Farms,
Inc., are hereby incorporated by
reference.
- 9 2. The Class Notice does not include all
10 necessary and/or indispensable parties.
- 11 3. The Class Notice does not include all
12 parties necessary to achieve a
comprehensive adjudication.
- 13 4. The Class Notice is vague in that the
14 currently certified classes and notices
will lead to confusion and loss of
rights by landowners in the basin.
- 15 5. The Notices are incomplete which will
16 result in lack of necessary and/or
17 indispensable parties and/or parties
18 necessary for comprehensive adjudication
19 pursuant to the McCarran Act and to the
extent the classes and notices do not
include all water users and sources of
water which recharge the Antelope Valley
Basin.
- 20 6. There is a lack of unity of interest and
21 conflict of interest between parties
22 included in the class which if known and
23 fully understood, could affect a
potential party's willingness to join or
24 not join a class, or potentially could
confuse a potential member of the class
into taking action and/or failing to
take action appropriate to his/her/its
own circumstances.

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7. There will be no way for parties contained within the class to obtain legal guidance specific too class members' circumstances in order to properly protect the rights of such class members.

CONCLUSION

The Court has attempted to accommodate the Purveyors in creating classes so that the Purveyors need not name and serve all parties necessary to a complete adjudication of the claims made in the various pleadings in the case. Although the Court has diligently tried to make this class process work, including the appointment of an expert to determine class members, attempting to create these classes has proved to be more time consuming and confusing than properly naming and serving landowners in the Antelope Valley.

Numerous procedural and substantive problems have occurred in the attempt to properly name and/or serve the classes. In the end, although creation of these classes may save the Purveyors from having to serve and name individual parties, the procedural and substantive problems created by attempts to create, maintain and serve these classes threatens the very foundation of the groundwater litigation.

If the litigation proceeds and is successfully appealed by any one of the number of parties as a result of the procedural and substantive problems in the case, the entire process, including all sums paid by the various parties will have been wasted.

1 The Purveyors have a potentially unlimited source of revenue
2 from their tax base to pay litigation costs. This unfortunately
3 is not the case for landowners. The Purveyor parties derailed
4 the Riverside action and brought these actions requesting
5 complete adjudication of water basin rights. They justifiably
6 should bear the cost of naming and serving all necessary and/or
7 indispensable parties. It is time to request that these parties
8 be properly named and served.

9 Bolthouse Properties, LLC and Wm. Bolthouse Farms, Inc.
10 request that the classes be decertified and that the Purveyors be
11 ordered to name and serve all necessary and/or indispensable
12 parties within a reasonable time. Otherwise, potential
13 procedural and substantive problems related to class definitions,
14 conflicts and funding, along with McCarran Act deficiencies,
15 could cause this matter to be reversed and rendered a waste of
16 judicial and party time and resources.

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18 DATED: June 8, 2009

Respectfully submitted,

19 CLIFFORD & BROWN

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21 By: 

RICHARD G. ZIMMER, ESQ.

T. MARK SMITH, ESQ.

Attorneys for plaintiff/defendant,
W. M. BOLTHOUSE FARMS, INC.

Santa Clara County Superior Court Case No. 1-05-CV-049053

On June 8, 2009, I served the foregoing document(s) entitled: