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Attorneys for defendant, Bolthouse Properties, LLC

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
CENTRAL DISTRICT

COORDINATION PROCEEDING,
SPECIAL TITLE (Rule 1550 (b)),

Judicial Council Coordination
Proceeding No. 4408

ANTELOPE VALLEY GROUNDWATER
CASES ,

CASE NO.: 1-05-CV-049053

INCLUDED ACTIONS:, LOS ANGELES
COUNTY WATERWORKS DISTRICT NO.
40 v. DIAMOND FARMING COMPANY, et
al.,
Los Angeles Superior Court Case No.
BC325201,

DEFENDANT BOLTHOUSE PROPERTIES,
LLC'S¹ DEMURRER TO CROSS-
COMPLAINANT, ROSAMOND
COMMUNITY SERVICES DISTRICT'S
CROSS-COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND ADJUDICATION OF WATER
RIGHTS

LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40 v. DIAMOND FARMING
COMPANY, et al. ,
Kern County Superior Court 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] ,

DATE: February 6, 2005
TIME: 10:00 a.m.
DEPT: 1, Room 534

LOCATION: LA SUPERIOR COURT
111 NORTH HILL ST.
LOS ANGELES, CA 90012

¹ Bolthouse Properties, LLC. responds on behalf of erroneously named defendant Bolthouse Properties, Inc.

1)
2 ROSAMOND COMMUNITY SERVICES
3 DISTRICT,

4 CROSS-COMPLAINANT,
5)

6 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

7 PLEASE TAKE NOTICE that Defendant, BOLTHOUSE PROPERTIES, LLC hereby
8 demurs to the Cross-complaint for Declaratory and Injunctive Relief and Adjudication of Water
9 Rights of Cross-complainant, Rosamond Community Services District, as follows:

10 **DEMURRER TO THE FIRST CAUSE OF ACTION**

11 1. The First Cause of Action, "For Declaratory Relief – Prescriptive Rights –
12 Against all Defendants Except Public Entity Defendants," fails to state facts sufficient to
13 constitute a cause of action. (*California Code of Civil Procedure* § 430.10(e).)

14 2. The First Cause of Action is uncertain. (*California Code of Civil Procedure* §
15 430.10(f).)

16 3. The First Cause of Action is barred because there is another action pending.
17 (*California Code of Civil Procedure* § 430.10(c).)

18 **DEMURRER TO THE SECOND CAUSE OF ACTION**

19 1. The Second Cause of Action, "For Declaratory Relief – Appropriative Rights –
20 Against All Defendants," fails to state facts sufficient to constitute a cause of action. (*California*
21 *Code of Civil Procedure* § 430.10(e).)

22 2. The Second Cause of Action is uncertain. (*California Code of Civil Procedure* §
23 430.10(f).)

24 3. The Second Cause of Action is barred because there is another action pending.
25 (*California Code of Civil Procedure* § 430.10(c).)

26 **DEMURRER TO THE THIRD CAUSE OF ACTION**

27 1. The Third Cause of Action, "For Declaratory Relief – Physical Solution – Against
28 All Defendants," fails to state facts sufficient to constitute a cause of action. (*California Code of*

1 *Civil Procedure* § 430.10(e).)

2 2. The Third Cause of Action is uncertain. (*California Code of Civil Procedure* §
3 430.10(f).)

4 3. The Third Cause of Action is barred because there is another action pending.
5 (*California Code of Civil Procedure* § 430.10(c).)

6 **DEMURRER TO THE FOURTH CAUSE OF ACTION**

7 1. The Fourth Cause of Action, "For Declaratory Relief – Municipal Priority –
8 Against All Defendants," fails to state facts sufficient to constitute a cause of action. (*California*
9 *Code of Civil Procedure* § 430.10(e).)

10 2. The Fourth Cause of Action is uncertain. (*California Code of Civil Procedure* §
11 430.10(f).)

12 3. The Fourth Cause of Action is barred because there is another action pending.
13 (*California Code of Civil Procedure* § 430.10(c).)

14 **DEMURRER TO THE FIFTH CAUSE OF ACTION**

15 1. The Fifth Cause of Action, "Declaratory Relief – Storage of Imported Water in
16 the Basin – Against All Defendants," fails to state facts sufficient to constitute a cause of action.
17 (*California Code of Civil Procedure* § 430.10(e).)

18 2. The Fifth Cause of Action is uncertain. (*California Code of Civil Procedure* §
19 430.10(f).)

20 3. The Fifth Cause of Action is barred because there is another action pending.
21 (*California Code of Civil Procedure* § 430.10(c).)

22 **DEMURRER TO THE SIXTH CAUSE OF ACTION**

23 1. The Sixth Cause of Action, "Declaratory Relief – Recapture of Return Flows
24 From Imported Water Stored in The Basin – Against All Defendants," fails to state facts
25 sufficient to state a cause of action. (*California Code of Civil Procedure* § 430.10(e).)

26 2. The Sixth Cause of Action is uncertain. (*California Code of Civil Procedure* §
27 430.10(f).)

28 3. The Sixth Cause of Action is barred because there is another action pending.

1 (California Code of Civil Procedure § 430.10(c).)

2 **DEMURRER TO THE SEVENTH CAUSE OF ACTION**

3 1. The Seventh Cause of action, "Unreasonable Use of Water – Against all
4 Defendants Except Public Entity Defendants," fails to state facts sufficient to state a cause of
5 action. (California Code of Civil Procedure § 430.10(e).)

6 2. The Seventh Cause of Action is uncertain. (California Code of Civil Procedure §
7 430.10(f).)

8 3. The Seventh Cause of Action is barred because there is another action pending.
9 (California Code of Civil Procedure § 430.10(c).)

10 **DEMURRER TO THE EIGHTH CAUSE OF ACTION**

11 1. The Eighth Cause of Action, "Unreasonable Use of Water – Against Defendants
12 Diamond Farming and WM. Bolthouse Farms," fails to state facts sufficient to state a cause of
13 action. (California Code of Civil Procedure § 430.10(e).)

14 2. The Eighth Cause of Action is uncertain. (California Code of Civil Procedure §
15 430.10(f).)


16 3. The Eighth Cause of Action is barred because there is another action pending.
17 (California Code of Civil Procedure § 430.10(c).)

18
19 DATED: November 30, 2005

Respectfully submitted,

20 CLIFFORD & BROWN

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22 By:


23 RICHARD G. ZIMMER, ESQ.
24 T. MARK SMITH, ESQ.
25 Attorneys for defendant,
26 BOLTHOUSE PROPERTIES, LLC
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