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

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA

\* \* \*

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

) **BOLTHOUSE PROPERTIES, LLC'S  
) AND WM. BOLTHOUSE FARMS, INC.'S  
) MOTION IN LIMINE NO. 1 TO  
) PREVENT EXPERTS FROM  
) TESTIFYING TO HEARSAY OPINIONS  
) OF OTHER EXPERTS**

LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40 v.  
DIAMOND FARMING COMPANY, et al.,  
Kern County Superior Court Case No. S-  
1500-CV-254348

) Phase 3 Trial Date:  
) January 4, 2011

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: December 15, 2010  
) TIME: 10:00 A.M.  
) DEPT: 1**

ROSAMOND COMMUNITY SERVICES  
DISTRICT,  
CROSS-COMPLAINANT,

Defendants, Bolthouse Properties, LLC and Wm. Bolthouse Farms, Inc. (hereinafter  
“Bolthouse”) move in limine for an order preventing experts from testifying to the hearsay  
opinions of other experts.

1 An expert may properly base an opinion on facts personally observed by an expert and  
2 upon data reviewed by such an expert. (*Behr v. County of Santa Cruz* (1959) 172 Cal.App.2<sup>nd</sup>  
3 697.) An expert may also rely upon hearsay in forming opinions. However, the expert may not  
4 simply relate an out-of-court opinion of another expert. (*Whitfield v. Roth* (1974) 10 Cal.3d  
5 874.)

6 The rationale for not allowing one expert to simply repeat the hearsay opinion of  
7 another expert lies in the fact that the hearsay opinion of a non-testifying expert could simply  
8 be stated by a testifying expert thereby avoiding any cross-examination of the non-testifying  
9 expert including the basis for such opinions. Assuming the non-testifying expert does testify  
10 and provide such opinions, having another expert simply repeat such hearsay opinions would  
11 be cumulative and irrelevant.

12 In the present case, the expert for the United States, June Oberdorfer, testified at  
13 deposition that she agrees with the opinions of other experts testifying for the Purveyor Parties.  
14 Whether or not Ms. Oberdorfer agrees with other experts is irrelevant. Allowing her to testify  
15 to the opinions of other experts would be improper as discussed above and/or cumulative.  
16 Accordingly, Bolthouse requests the Court limit the potential testimony of Ms. Oberdorfer to  
17 opinions and conclusions, if any, she has formed based upon her personal review of data rather  
18 than simply repeating or agreeing with the opinion of some other expert.

19  
20 DATED: December 10, 2010

Respectfully submitted.

21 CLIFFORD & BROWN

22  
23  
24 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 December 10, 2010, I served the foregoing document(s) entitled:

**BOLTHOUSE PROPERTIES, LLC'S AND WM. BOLTHOUSE PROPERTIES, INC.'S  
MOTION IN LIMINE NO. 1 TO PREVENT EXPERTS FROM TESTIFYING TO  
HEARSAY OPINIONS OF OTHER EXPERTS**

— 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-FILED IN COMPLEX  
LITIGATION PURSUANT TO CLARIFICATION ORDER DATED OCTOBER  
27, 2005.**

Executed on December 10, 2010, 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