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Attorneys for Bolthouse Properties, LLC

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

\* \* \*

|                                    |   |                                    |
|------------------------------------|---|------------------------------------|
| COORDINATION PROCEEDING            | ) | Judicial Council Coordination      |
| SPECIAL TITLE (Rule 1550(b))       | ) | Proceeding No. 4408                |
|                                    | ) |                                    |
| <b>ANTELOPE VALLEY GROUNDWATER</b> | ) | CASE NO. 1-05-CV-049053            |
| <b>CASES</b>                       | ) |                                    |
|                                    | ) |                                    |
| INCLUDED ACTIONS:                  | ) |                                    |
|                                    | ) | <b>BOLTHOUSE PROPERTIES, LLC'S</b> |
| LOS ANGELES COUNTY WATERWORKS      | ) | <b>ISSUES CONFERENCE STATEMENT</b> |
| DISTRICT NO. 40 v. DIAMOND         | ) |                                    |
| FARMING COMPANY, et al.,           | ) |                                    |
| Los Angeles Superior Court         | ) |                                    |
| Case No. BC325201                  | ) |                                    |
|                                    | ) |                                    |
| LOS ANGELES COUNTY WATERWORKS      | ) |                                    |
| DISTRICT NO. 40 v. DIAMOND         | ) |                                    |
| FARMING COMPANY, et al.,           | ) | DATE: March 24, 2006               |
| Kern County Superior Court         | ) | TIME: 10:00 a.m.                   |
| Case No. S-1500-CV-254348          | ) | DEPT: D-17                         |
|                                    | ) |                                    |
| DIAMOND FARMING COMPANY, and       | ) |                                    |
| W.M. BOLTHOUSE FARMS, INC., v.     | ) | Location:                          |
| CITY OF LANCASTER, et al.,         | ) |                                    |
| Riverside Superior Court           | ) | SANTA CLARA SUPERIOR COURT         |
| Case No. RIC 344436 [c/w case no.  | ) | 191 N. First Street                |
| RIC 344668 and 353840]             | ) | San Jose, CA 95113                 |
|                                    | ) |                                    |
| ROSAMOND COMMUNITY SERVICES        | ) |                                    |
| DISTRICT,                          | ) |                                    |
|                                    | ) |                                    |
| CROSS-COMPLAINANT,                 | ) |                                    |

1 BOLTHOUSE PROPERTIES, LLC ("Bolthouse"), submits the  
2 following Issues Conference Statement:

3 I

4 **CLAIMS BEING LITIGATED**

5 Quiet Title

6 Bolthouse and Diamond Farming filed Quiet Title actions  
7 roughly seven years ago. These actions were filed to quiet title  
8 to specific properties In Rem including the appurtenant right to  
9 pump percolating groundwater on the properties. The overlying  
10 landowners in the present litigation also will seek to quiet  
11 title of their overlying rights to reasonably pump percolating  
12 groundwater on their identified properties.

13 Declaratory Relief Claims

14 The purveyor parties which filed the Los Angeles County and  
15 Kern County actions, now coordinated in this action, are making  
16 declaratory relief claims of prescriptive rights, appropriative  
17 rights, physical solution, municipal priority, storage of  
18 imported water, recapture of return flows and unreasonable use of  
19 water. Additional purveyor parties may make similar claims for  
20 declaratory relief.

21 II

22 **ORGANIZATION OF PLEADINGS**

23 The Court has requested joint pleadings be developed wherein  
24 the purveyor parties respond by way of Cross-complaint to the  
25 Bolthouse and Diamond Farming Complaints requesting quiet title.  
26 It is anticipated that the quiet title Complaints and Cross-

1 complaints for declaratory relief will be drafted broadly so as  
2 to include the interests of all overlying landowners in the  
3 Complaint and all purveyor parties in the Cross-complaint. In  
4 this way, although particular claims of specific parties may vary  
5 to some degree in terms of proof, the consolidated pleadings will  
6 nevertheless cover all potential claims.

### 7 III

#### 8 MEETING BETWEEN LIAISON GROUP ATTORNEYS

9 Once the issues are identified, the liaison group attorneys  
10 and any other attorneys who desire to attend, should meet to  
11 evaluate the issues before the Court and to consider stipulation  
12 to matters which may not be in dispute. For example, there may  
13 be an agreement between the attorneys and parties, for procedural  
14 purposes of determining necessary parties in this action, as to a  
15 particular geographic area or area of adjudication for purposes  
16 of naming and serving all necessary parties. There may be  
17 agreement as to additional issues as well. To the extent that  
18 agreement cannot be reached, the parties are free to discuss  
19 these issues with their experts, have experts meet and confer  
20 and/or take any other action they deem necessary in hopes of  
21 reaching agreement on as many issues as possible. Agreement on  
22 issues will streamline the litigation. If the parties cannot  
23 agree, trial will be necessary on such issues.

### 24 IV

#### 25 SERVICE OF ALL NECESSARY PARTIES

26 Once a geographic area or area of adjudication is determined

1 for the procedural purpose of including all necessary parties,  
2 such parties should be served and brought into the lawsuit.

3 V

4 **HANDLING CLAIMS OF LANDOWNERS OR PURVEYORS WHO**  
5 **HAVE NO INTEREST BEING INVOLVED IN THE LAWSUIT**

6 Once all necessary parties are served, it can be determined  
7 whether all parties so served have any interest in being involved  
8 in this lawsuit. Parties which have no interest in being  
9 involved in the lawsuit potentially can disclaim any quiet title  
10 issues on the one hand, or declaratory relief claims on the  
11 other. Or, such parties can simply allow a default to be taken  
12 if they do not respond to the Complaint.

13 VI

14 **POTENTIAL PHASING OF LAWSUIT**

15 *Trial on Area of Adjudication*

16 If the parties cannot agree upon a geographical area and/or  
17 area of adjudication for procedural purposes for lawsuit, a trial  
18 of this issue can be conducted.

19 *Trial on Quiet Title*

20 The various landowner parties can exchange title information  
21 regarding the In Rem properties before the Court to confirm  
22 ownership of the property for purposes of placing the property  
23 before the Court for quiet title adjudication. It is very  
24 possible that a stipulation can be reached in this regard similar  
25 to what occurred in the Santa Maria action, except hopefully at  
26 an earlier stage in the proceedings.

1 If agreement cannot be reached as to ownership of the fee  
2 interest properties before the Court In Rem, trial can be  
3 conducted on this issue.

## 4 VII

### 5 TRIAL ON DECLARATORY RELIEF CLAIMS

#### 6 Prescription

7 Prescription was the primary issue involved in the Riverside  
8 action. The prescription claims present multiple requirements of  
9 proof which potentially could be handled in one phase, or in  
10 several shorter phases. Since there can be no prescription claim  
11 in the absence of overdraft, overdraft may be an issue which the  
12 Court would like to place first in order of priority. If the  
13 parties cannot agree upon whether the geographic area in question  
14 was in overdraft at a particular time, this issue may be tried.

15 The issues of self-help and dormant correlative rights have  
16 been mentioned by several parties in previous briefings to the  
17 Court. To the extent that self-help was exercised, there can be  
18 no prescription. Likewise, the doctrine of dormant correlative  
19 rights, will insulate landowners from a claim of prescription as  
20 well. Accordingly, having a phase trial on this issue next would  
21 potentially be an effective use of judicial time and resources.

22 A prescriptive claim legally requires proof of several  
23 elements. Notice is fundamental to a prescription claim. Once  
24 on notice of a prescriptive claim, a landowner acts at his or her  
25 peril in failing to take action by self-help or judicial  
26 intervention to prevent prescription. The notice issue along

1 with other elements of prescription can be tried together.

2 Other Declaratory Relief Claims

3 Additional claims of declaratory relief such as  
4 appropriative rights, physical solution, municipal priority,  
5 storage, return flows and alleged unreasonable use of water can  
6 be tried either collectively or individually depending upon the  
7 perceived scope of factual presentation and legal analysis  
8 necessary to properly evaluate these claims.

9 **VIII**

10 **JUDGMENT AND CONTINUING JURISDICTION**

11 Following presentation of all of the evidence the Court  
12 should issue a Judgment declaring quiet title to overlying rights  
13 of the landowners subject to any declaratory relief claims proved  
14 by the purveyors. The Court can retain jurisdiction to hear  
15 additional disputes which may rise between the parties following  
16 Judgment.

17  
18 DATED: March 17, 2006

19 Respectfully submitted,

20 CLIFFORD & BROWN

21  
22 By: \_\_\_\_\_  
23 RICHARD G. ZIMMER, ESQ.  
24 T. MARK SMITH, ESQ.  
25 Attorneys for  
26 BOLTHOUSE PROPERTIES, LLC

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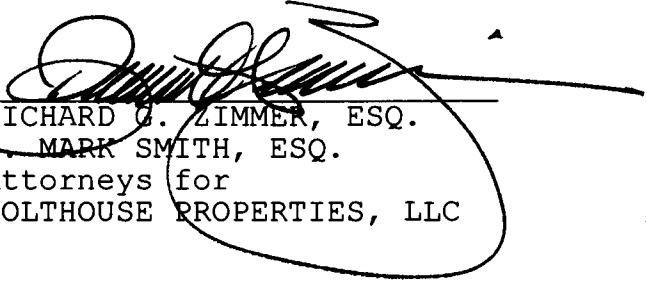
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**PROOF OF SERVICE**

STATE OF CALIFORNIA COUNTY OF KERN:

I am a resident of the County aforesaid; I am over the age of eighteen years and not a party to the within entitled action; my business address is 1430 Truxtun Avenue, Suite 900, Bakersfield, California, 93301.

On March 17, 2006, I served the **BOLTHOUSE PROPERTIES, LLC'S ISSUES CONFERENCE STATEMENT** on the interested parties in said action.

(xx) BY SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX LITIGATION PURSUANT TO CLARIFICATION ORDER DATED OCTOBER 27, 2005.

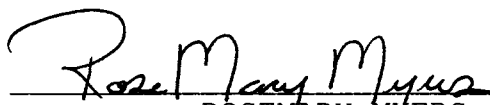
( ) VIA FACSIMILE - [C.C.P. § 1013(e)]; - The telephone number of the sending facsimile machine was (661) 322-3508. The telephone(s) number of the receiving facsimile machine(s) is listed below. The Court, Rule 2004 and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), the machine was caused to print a transmission record of the transmission, a copy of which is attached hereto.

( ) VIA OVERNIGHT DELIVERY on the date below stated, pursuant to CCP §1013(c)(d), I deposited such envelope with delivery fees fully prepaid with CALIFORNIA OVERNIGHT.

( ) BY MAIL I am readily familiar with the business' practice for collection and processing of correspondence and documents for mailing with the United States Postal Service. Under that practice, the correspondence and documents would be deposited with the United States Postal Service that same day, with postage thereon fully prepaid, in the ordinary course of business at Bakersfield, California.

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

Executed on March 17, 2006, at Bakersfield, California.

  
\_\_\_\_\_  
ROSEMARY MYERS