1 2 3 4 5	RICHARD G. ZIMMER - SBN 107263 T. MARK SMITH - SBN 162370 CLIFFORD & BROWN A Professional Corporation Attorneys at Law Bank of America Building 1430 Truxtun Avenue, Suite 900 Bakersfield, CA 93301-5230 (661) 322-6023	
6 7	Attorneys for Cross-Defendants, E Bolthouse Farms, Inc.,	Bolthouse Properties, LLC and Wm.
9	SUPERIOR COURT OF THE	E STATE OF CALIFORNIA
10	COUNTY OF LOS ANGELE	S - CENTRAL DISTRICT
11	COORDINATION PROCEEDING	* * Judicial Council Coordination Proceeding No. 4408
12   13	ANTELOPE VALLEY GROUNDWATER CASES	Santa Clara Case No. 01-05-CV-049053 Assigned to the Honorable Jack Komar
14	INCLUDED ACTIONS:	
15 16 17	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 JOINDER AND OBJECTIONS TO CLASS CERTIFICATION AND CLASS CERTIFICATION HEARING AND COMMENTS REGARDING FURTHER
18	LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 v. DIAMOND	HANDLING OF MATTER
19	FARMING COMPANY, et al., Kern County Superior Court	DATE: August 20, 2007
20	Case No. S-1500-CV-254348	DATE: August 20, 2007 TIME: 9:00 A.M. DEPT: 1
21   22	DIAMOND FARMING COMPANY, and W.M. BOLTHOUSE FARMS, INC., v. CITY OF LANCASTER, et al.,	) DEFI: I ) )
23	Riverside Superior Court Case No. RIC 344436 [c/w case no. RIC 344668 and 353840]	) )
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## TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

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BOLTHOUSE PROPERTIES, LLC and WM. BOLTHOUSE FARMS, INC., hereby join in the pleadings in opposition to class certification, including but not limited to: Objection to Class Certification Hearing currently scheduled for August 20, 2007, and Declaration of Bob H. Joyce in Support Thereof, Diamond Farming Co.'s Observations in Response to the Plaintiff Willis' Motion for Class Certification, Objection to the Public Water Suppliers' Statement of Support for a Modified Class as Proposed by Rebecca Lee Willis and Renewal of Objection to Class Certification Hearing Until After Discovery Responses Have Been Provided by the Public Water Suppliers, and Objection to the Declaration of Joseph C. Scalmanini in Support of Public Water Suppliers' Statement of Support for a Modified Class as Proposed by Rebecca Lee Willis filed by Diamond Farming in the abovecaptioned matter, as well as Statement of Clarification; Statement of Support for Plaintiff Willis' Withdrawal of Motion for Class Certification; Joinder in Objections by Diamond Farming Company filed by AGWA.

Bolthouse Properties, LLC and Wm. Bolthouse Farms, Inc. make the following further observations regarding how to proceed at this juncture:

1. No Motion for Class Certification currently is pending before the Court. Accordingly, the Public Water Purveyors should identify the operative pleading which sets forth all causes of action against all defendants they have chosen to sue in this

lawsuit. The Court then should order service of the lawsuit on all named parties.

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- 2. The parties should be required to comply with the Code of Civil Procedure to assure procedural and substantive clarity.
- If the Public Water Purveyors are somehow provided the opportunity to file а Motion for Class Certification, investigation, discovery and trial must properly be allowed regarding said certification prior to ruling by the Court as to whether a class or classes will be certified. To date, the Public Water Purveyors have refused to respond to discovery necessary to evaluate the efficacy of their position that this matter should be tried as a class action. Additionally, in light of the failure of the Public Water Purveyors to respond to discovery, and in light of the untimely filed Declaration of Joseph Scalmanini, along with Public Water Purveyors' recent filings, Bolthouse Properties, LLC and Wm. Bolthouse Farms, Inc. have scheduled the deposition of Joseph Scalmanini regarding the basis for his declaration, as well as serve discovery similar to that propounded by Diamond Farming.
- 4. Once all parties have been served, filed responsive pleadings and/or defaulted, the Court should set a trial on the issue of alleged prescription. It is clear based upon filings of the parties, that prescription is a pivotal issue in the lawsuit. Parties have made it clear that there is a difference of opinion as to the legal standard for notice and the legal standard for proving a prescriptive claim based upon the alleged taking of

1	water rights. Determination of these issues will be helpful to
2	resolution of the overall lawsuit. Additionally, these issues
3	have been investigated and discovered significantly in the
4	Riverside action, which should expedite trial of these issues in
5	this matter.
6	5. The parties have agreed independent of the Court
7	process to retain Bill Dendy as a private mediator to assist in
8	resolution of the matter. It is clear under California law that
9	a judicial reference is not appropriate under these
10	circumstances. In any event, given that the parties already have
11	agreed to use him privately, he would not be appropriate for
12	court reference. Finally, there should be no communication with
13	the Court by this privately retained mediator.
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15	DATED: August 16, 2007 Respectfully submitted,
16	CLIFFORD & BROWN
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18	By: A ) ( )
19	RICHARD G. ZIMMER, ESQ. T. MARK SMITH, ESQ.
20	Attorneys for Cross-Defendants, BOLTHOUSE PROPERTIES, LLC and
21	WM. BOLTHOUSE FARMS, INC.
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1	PROOF OF SERVICE (C.C.P. §1013a, 2015.5)
2	Antelope Valley Groundwater Cases  Judicial Counsel Coordination Proceeding No. 4408
3	Santa Clara County Superior Court Case No. 1-05-CV-049053
4	I am employed in the County of Kern, State of California. I am over the age of 18 and not a
5	party to the within action; my business address is 1430 Truxtun Avenue, Bakersfield, CA 93301.
6	On August 16, 2007, I served the foregoing document(s) entitled:
7	BOLTHOUSE PROPERTIES, LLC AND WM. BOLTHOUSE FARMS, INC.'S JOINDER AND OBJECTIONS TO CLASS CERTIFICATION AND CLASS CERTIFICATION HEARING AND COMMENTS REGARDING FURTHER HANDLING OF MATTER
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9	<u>XX</u> by placing the true copies thereof enclosed in sealed envelopes
10	addressed as stated on the attached mailing list.
11	by placing _ the original, _ a true copy thereof, enclosed in a sealed
12	enveloped addressed as follows:
13	X BY SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX LITIGATION PURSUANT TO CLARIFICATION ORDER DATED OCTOBER
14	27, 2005.
15	Executed on August 16, 2007, at Bakersfield, California.
16 17	X (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
18	(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.
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