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January 15, 2013

2455-2

**Via E-mail**

Honorable Jack Komar  
Superior Court of California, County of Santa Clara  
Old Courthouse  
191 N. First Street  
San Jose, CA 95113

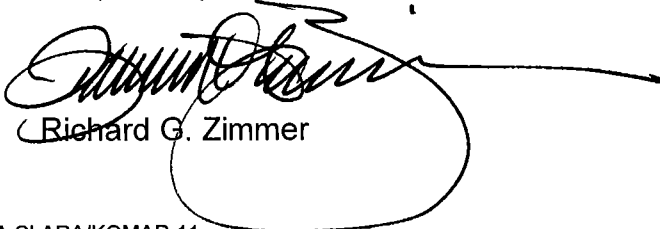
Re: Antelope Valley Groundwater Cases  
Judicial Council Proceeding No. 4408  
Santa Clara County Superior Court Case No. 1-05-CV 049053

Dear Judge Komar:

We recently received correspondence from Attorney Steve Orr on January 11, 2013 requesting further discovery responses from Bolthouse. We also received an e-mail from Sheldon Blum regarding his dispute with Bolthouse. Unfortunately, the flurry of e-mails, telephone calls and Liaison Committee telephone conferences have made it impossible to have any meaningful discussions regarding these issues. Nevertheless, I forwarded e-mails which are attached, to both Mr. Orr and Mr. Blum, advising that Bolthouse will be providing additional discovery responses and that information will be provided regarding water usage on Mr. Blum's property.

Given the fact that we will be appearing in front of your honor on the 16<sup>th</sup> at which time it is believed that the parties will have a better idea how the Court intends to proceed regarding trial, I have suggested to both Mr. Orr and Mr. Blum that we discuss any further issues we may have between each other after they have had an opportunity to review the further discovery responses we are providing rather than taking up the Court's time arguing over what may not be necessary to argue over.

Respectfully submitted,

  
Richard G. Zimmer

RGZ/nm  
Enclosures  
BL/BOLTHOUSE/ANTELOPE VALLEY/SANTA CLARA/KOMAR-11

## Nanette Maxey

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**From:** Richard Zimmer  
**Sent:** Monday, January 14, 2013 8:01 PM  
**To:** Nanette Maxey  
**Subject:** FW: Bolthouse documents

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**From:** Richard Zimmer  
**Sent:** Monday, January 14, 2013 7:59 PM  
**To:** 'Sorr@rwglaw.com'  
**Subject:** Bolthouse documents

Steve,

In light of all the e-mails and liaison meetings, you and I have not had an opportunity to meet and confer regarding your January 11, 2013 letter requesting further discovery response from Bolthouse. However, please note the following.

We are working diligently, despite everything else which is going on, to obtain more detailed information regarding crop types as requested in section I of your letter. We hope to provide additional information as soon as possible. In fact, we are meeting again tomorrow. We will provide whatever we can, as soon as possible.

Regarding " "allocated credits for groundwater produced by the lessee" I am not clear what you mean by "allocated credits" but it appears that you mistakenly believe that Bolthouse Properties is a lessee based upon your comment "Bolthouse Properties should explain whether it, as lessee, is entitled to credits for the land it leases,..." Bolthouse Properties owns the land and is not a lessee and Bolthouse Farms, a lessee, is not claiming any groundwater rights.

Regarding the request for further information as to "the uses to which groundwater was put" we are locating further information and will produce this as soon as possible.

As to your request for documents of a "prima facie showing" I am not sure what that means. A landowner has a correlative right to produce and use groundwater. No prima facie showing is necessary. On the issue of current groundwater production, I am not aware of any case law which discusses what a prima facie showing is. Hence my objections. Putting the objections aside for the moment, as I indicated above, we are locating additional documents regarding Judge Komar's recent clarification that he is seeking 1) The amounts of water produced and what the water was used for. We will produce additional information as soon as possible.

Perhaps there will be further clarification of the Phase 4 issues at the hearing on the 16<sup>th</sup> and we can discuss these issues further after that. However,, if you want to discuss the issues before the 16<sup>th</sup> please give me a call. Given how crazy all of this is in terms of telephone calls, e-mails and liaison meetings I am fine waiting until after the hearing on the 16<sup>th</sup>. I simply wanted you to know that additional documents are forthcoming so that we do not need to argue or to take up Judge Komar's time unnecessarily.

Thanks, Rich

## Nanette Maxey

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**From:** Richard Zimmer  
**Sent:** Monday, January 14, 2013 7:29 PM  
**To:** 'Sheldon Blum (blumlaw@sbcglobal.net)'  
**Cc:** Nanette Maxey  
**Subject:** Depositions

Mr. Blum,

We are in the process locating documents to show water production by Bolthouse during the 2000 to 2011 time period which the witnesses identified by Bolthouse will testify to during their depositions depending upon how the Phase 4 trial is clarified at the hearing on the 16<sup>th</sup>. This testimony will include water used on your property. The only issue as between you and Bolthouse is who may claim that production. Judge Komar recently clarified that the next phase of trial will determine the amounts of groundwater that the parties are claiming to have pumped over the last ten years. Although you may be claiming that water used on your property is somehow attributable to you rather than to Bolthouse, based upon my understanding of what the court intends to try in Phase 4, other than having the witnesses testify to the amount in question, who may claim the production will be litigated at a different time.

However, if the court wants us to litigate that issue in the next phase of trial we will make an appropriate witness (s) available on those issues. There was quite a bit of discussion over the scope of the Phase 4 issues in recent e-mails so let us discuss exactly what witnesses need to be deposed after the hearing on Wednesday. Or, feel free to call me tomorrow to discuss the issues further. I left you a message earlier this evening. Unfortunately with all the calls on other issues related to the scope of trial and depositions, you and I have not had an opportunity to have a meaningful conversation.