

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

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

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

\* \* \*

COORDINATION PROCEEDING	)	Judicial Council Coordination Proceeding
SPECIAL TITLE (Rule 1550(b))	)	No. 4408
	)	
ANTELOPE VALLEY GROUNDWATER	)	CASE NO. 1-05-CV-409053
CASES	)	<i>Trial Date: 02/11/13</i>
	)	
INCLUDED ACTIONS:	)	
	)	
LOS ANGELES COUNTY	)	
WATERWORKS DISTRICT NO. 40 v.	)	
DIAMOND FARMING COMPANY, et al.,	)	CASE MANAGEMENT CONFERENCE
Los Angeles Superior Court Case No.	)	STATEMENT AND RESPONSE RE
BC325201	)	STIPULATIONS AND OBJECTIONS
	)	SUBMITTED BY BOLTHOUSE
LOS ANGELES COUNTY	)	PROPERTIES, LLC. AND WM.
WATERWORKS DISTRICT NO. 40 v.	)	BOLTHOUSE FARMS, INC.
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]	)	
	)	
	)	

\\

COMES NOW, Bolthouse Properties, LLC (Bolthouse) and submits the following Case Management Conference Statement and Response Re Stipulations and Objections.

STATUS OF THE CASE

The Court previously ordered and/or requested the parties to provide pumping information to Justice Robie for the 2002-2004 timeframe to assist in the mediation, which the parties did. Land owners and other parties at mediation agreed to the numbers provided and agreed to an adjusted settlement number based upon these numbers.

Recently, at the request of the Purveyor Parties, the Court ordered all parties to exchange declarations regarding current water use, including a declaration under penalty of perjury by the party. The parties recently provided these declarations.

The declarations provided are largely consistent with the pumping information provided at mediation. Although some current water use exceeds what was agreed to at mediation, it is believed that landowners continue to be willing to resolve the case based upon their previous adjusted number agreed to at the mediation with Justice Robie. Likewise, current information suggests that other parties who were neutral regarding settlement now may be willing to fully support the mediation settlement. Accordingly, it is believed that if sufficient time is provided, these parties will be willing to provide a joint stipulation which can be submitted to the Court along with a partial settlement of the case. This stipulation likely would include stipulations to not only landowner claims but to other non-land owner claims as well, based upon previous discussions with these parties.

The Purveyor Parties legally have no share in the correlative native supply but nevertheless demanded declarations from land owners and other parties suggesting that they would use this information to stipulate to water use, rather than conducting depositions. Nevertheless, it does not appear that any stipulations have been reached between the purveyors and any other party. Depositions began on February 26, 2013, and are continuing daily. The refusal of the purveyor parties to accept the declarations, or any of them, has resulted in the unnecessary expenditure of tens of thousands of dollars preparing declarations and attending depositions. It is significant to note that most of the depositions have been set by the purveyors who have no share in the native

1 supply suggesting that either the depositions are being conducted for some unidentified non-Phase  
2 4 purpose, or conducted simply to deplete party resources.

3 Further time is necessary to allow parties to jointly stipulate to water use, rather than  
4 having only a few parties stipulate, which has little impact on either limiting issues or reaching a  
5 resolution of the matter.

6 At the last Liaison Committee meeting, there was considerable discussion regarding the  
7 effect of potential partial stipulations and/or objections and procedurally how this all will work.  
8 Members of the committee among themselves were unclear regarding these issues. The  
9 committee intended to communicate with this Court to request clarification at the further Case  
10 Management Conference on March 1, 2013. Unfortunately, the Case Management Conference is  
11 set after the date for stipulations and/or objections.

12  
13 STIPULATIONS/OBJECTIONS  
14

15 Numerous parties have submitted e-mails to the purveyor parties requesting a stipulation  
16 based upon the declarations which the purveyors requested. These requests for a stipulation have  
17 been met with curt, and what some might describe as rude, responses and a complete refusal to  
18 provide any information as to why a stipulation would not be accepted, or as to what additional  
19 information possibly could lead to a stipulation. Coupled with a lack of any meeting of the minds  
20 as to the effect substantively or procedurally of a stipulation as between only some parties, it is  
21 virtually impossible to meaningfully evaluate and/or enter into a stipulation. On this basis,  
22 Bolthouse, at this time generally objects to proposed stipulations. However, to be clear, Bolthouse  
23 believes that a substantial stipulation between many parties can be reached based upon previous  
24 discussions with the parties and believes that a more global stipulation will form an important part  
25 of an overall settlement agreement. Accordingly, Bolthouse does not rule out, and in fact  
26 encourages, a stipulation once issues are clarified and the parties have the opportunity to evaluate  
27 the declarations and proposed stipulations with knowledge of the basis for other parties' refusal to  
28 enter into such stipulations.

1 CONCLUSION

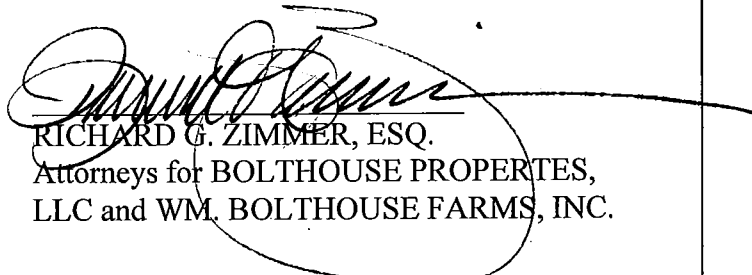
2  
3 Bolthouse requests the Court clarify the substantive and/or procedural effect of objections  
4 and/or stipulations by some but not all parties. Bolthouse further requests that additional time be  
5 provided for parties to reach a more global stipulation. The stipulations filed thus far have been  
6 very limited and of questionable value. Any further evaluation of potential stipulations could be  
7 set for approximately thirty (30) days at a further case management conference.

8  
9  
10 DATED: February 28, 2013

Respectfully submitted,

11 CLIFFORD & BROWN

12  
13 By:

  
14 RICHARD G. ZIMMER, ESQ.  
15 Attorneys for BOLTHOUSE PROPERTES,  
16 LLC and WM. BOLTHOUSE FARMS, INC.  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 PROOF OF SERVICE (C.C.P. §1013a, 2015.5)  
2 *Antelope Valley Groundwater Cases*  
3 *Judicial Counsel Coordination Proceeding No. 4408*  
4 *Santa Clara County Superior Court Case No. 1-05-CV-049053*

5 I am employed in the County of Kern, State of California. I am over the age of 18 and  
6 not a party to the within action; my business address is 1430 Truxtun Avenue, Suite 900,  
7 Bakersfield, CA 93301.

8 On **February 28, 2013**, I served the foregoing document(s) entitled:

9 **CASE MANAGEMENT CONFERENCE STATEMENT, STIPULATIONS AND**  
10 **OBJECTIONS SUBMITTED BY BOLTHOUSE PROPERTIES, LLC'S AND WM.**  
11 **BOLTHOUSE FARMS, INC.**

12 by placing the true copies thereof enclosed in sealed envelopes addressed as  
13 stated on the attached mailing list.


14 by placing the original, a true copy thereof, enclosed in a sealed envelope  
15 addressed as follows:

16 X BY SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX LITIGATION  
17 PURSUANT TO CLARIFICATION ORDER DATED OCTOBER 27, 2005.

18 Executed on **February 28, 2013**, at Bakersfield, California.

19 X (State) I declare under penalty of perjury under the laws of the State of  
20 California that the above is true and correct.

21 (Federal) I declare that I am employed in the office of a member of the Bar  
22 of this Court at whose direction the service was made.

23  
24  
25  
26  
27  
28  
  
Vicki Street  
2455-2