

1 RICHARD G. ZIMMER - SBN 107263

2 T. MARK SMITH - SBN 162370

3 CLIFFORD & BROWN

4 A Professional Corporation

5 Attorneys at Law

6 Bank of America Building

7 1430 Truxtun Avenue, Suite 900

8 Bakersfield, CA 93301-5230

9 (661) 322-6023

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

11 SUPERIOR COURT OF CALIFORNIA

12 COUNTY OF SANTA CLARA

13 * * *

14 COORDINATION PROCEEDING) Judicial Council Coordination Proceeding

15 SPECIAL TITLE (Rule 1550(b))) No. 4408

16 ANTELOPE VALLEY GROUNDWATER) CASE NO. 1-05-CV-409053

17 CASES) Trial Date: 02/11/13

18 INCLUDED ACTIONS:

19 LOS ANGELES COUNTY)

20 WATERWORKS DISTRICT NO. 40 v.)

21 DIAMOND FARMING COMPANY, et al.,)

22 Los Angeles Superior Court Case No.)

23 BC325201)

24 LOS ANGELES COUNTY)

25 WATERWORKS DISTRICT NO. 40 v.)

26 DIAMOND FARMING COMPANY, et al.,)

27 Kern County Superior Court Case No. S-)

28 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])

)

)

)

)

)

)

)

)

)

AMENDED CASE MANAGEMENT
CONFERENCE STATEMENT AND
RESPONSE RE STIPULATIONS AND
OBJECTIONS SUBMITTED BY
BOLTHOUSE PROPERTIES LLC

\\

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 2000-2004 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 with only a short amount of additional time, these parties will be able to provide a joint stipulation which can be submitted to the Court and accomplish 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, after canvassing many of the landowner parties, it appears that very few stipulations have been reached between the purveyors and any other party. Remarkably, this appears even to be the case with respect to simple issues such as land ownership. Depositions began on February 26, 2013, and are continuing daily. The refusal of the purveyor parties to accept the declarations has resulted in the unnecessary expenditure of tens of thousands of dollars preparing declarations and attending

1 depositions. It is significant to note that most of the depositions have been set by the purveyors
2 who have no share in the native supply suggesting that either the depositions are being conducted
3 for some unidentified non-Phase 4 purpose, or conducted simply to deplete party resources.

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

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

13 14 STIPULATIONS/OBJECTIONS

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

1 the declarations and proposed stipulations with knowledge of the basis for other parties' refusal to
2 enter into such stipulations.

3 CONCLUSION


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

10
11
12 DATED: February 28, 2013

Respectfully submitted,

13 CLIFFORD & BROWN

14
15 By:


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

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

***AMENDED CASE MANAGEMENT CONFERENCE STATEMENT AND RESPONSE RE
STIPULATIONS AND OBJECTIONS SUBMITTED BY BOLTHOUSE PROPERTIES LLC***

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

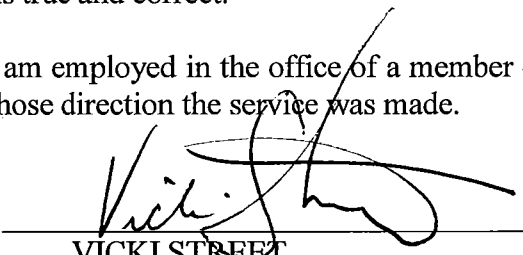
— by placing _ the original, _ a true copy thereof, enclosed in a sealed enveloped addressed as follows:

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

Executed on February 28, 2013, 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.



VICKI STREET
2455-2