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and Wm. Bolthouse Farms, Inc.

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SANTA CLARA

COORDINATION PROCEEDING
SPECIAL TITLE (Rule 1550(b))

Judicial Council Coordination Proceeding No.
4408

ANTELOPE VALLEY GROUNDWATER
CASES

CASE NO. 1-05-CV-049053

INCLUDED ACTIONS:

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 v.
DIAMOND FARMING COMPANY, et al.,
Los Angeles Superior Court Case No.
BC325201

OBJECTION TO [PROPOSED] FOURTH
AMENDMENT TO CASE
MANAGEMENT ORDER FOR PHASE
FOUR TRIAL

LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40 v.
DIAMOND FARMING COMPANY, et al.,
Kern County Superior Court Case No. S-
1500-CV-254348

Trial Date: May 28, 2013
Action Filed: October 26, 2005

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]

AND RELATED ACTIONS

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1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Wm. Bolthouse Farms, Inc. and Bolthouse Properties,
3 LLC, (hereinafter "Bolthouse") object to the [Proposed] Fourth Amendment to Case
4 Management Order for Phase Four Trial on the grounds that the proposed amendment does not
5 meet the requirements of Civil Procedure Sections 187 and 404.7 and Rule of Court 3.504(c)
6 and on the grounds that the date set to "require parties to indicate whether they dispute
7 information provided by the parties in response to those orders" is premature.

8 The Stipulations propose that failure to stipulate is the equivalent to proof of an
9 adjudicated fact or a prima facie case, which is inappropriate under the Code of Civil
10 Procedure. Rule 3.504(c), Code of Civil Procedure Sections 187 and 404.7 do not apply since
11 the Code of Civil Procedure sets forth the appropriate methods for summary adjudication of
12 issues. Further, the April 15, 2013 "date by which to require parties to indicate whether they
13 dispute information provided by their parties in response to those orders" is premature.
14 Depositions are continuing. Specifically, depositions of Bolthouse witnesses are not scheduled
15 until April 22, 2013 and other depositions have not yet been completed. Requiring that parties
16 indicate whether they dispute information provided in other parties responses or stipulations
17 cannot possibly occur when the date to do so is before discovery is completed. Further,
18 appropriate time to evaluate information submitted by other parties must be allowed after the
19 submission of the information, in order to allow time for parties to engage in any meaningful
20 evaluation of this information.

21 Bolthouse does not object to any party stipulating with another party regarding disputed
22 facts as between those parties. However, such a stipulation cannot bind other non-stipulating
23 parties and stipulating parties cannot by stipulation settle rights which the stipulating parties do
24 not have the right to settle, or settle rights which the stipulating party does not by itself have
25 the ability to separately settle, such as correlative groundwater rights. Such stipulations cannot

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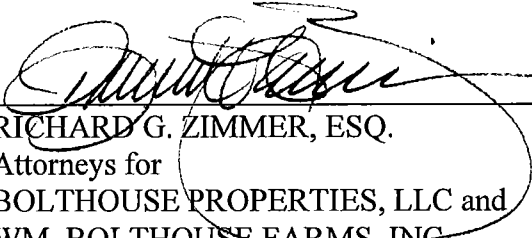
1 properly convert the usufructuary correlative groundwater right into a quantified groundwater
2 right. Finally, the rules for trial of disputed issues likewise are set forth in the Code of Civil
3 Procedure and case law.

4 DATED: April 2, 2013

Respectfully submitted.

5 CLIFFORD & BROWN

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8 By:


9 RICHARD G. ZIMMER, ESQ.
10 Attorneys for
11 BOLTHOUSE PROPERTIES, LLC and
12 WM. BOLTHOUSE FARMS, INC.
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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, Bakersfield, CA
7 93301.

8 On April 2, 2013, I served the foregoing document(s) entitled:

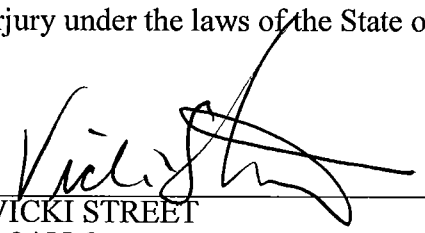
9 **OBJECTION TO [PROPOSED] FOURTH AMENDMENT TO CASE MANAGEMENT**
10 **ORDER FOR PHASE FOUR TRIAL**

11 by uploading the document listed above to the Santa Clara Superior Court website in regard to
12 the Antelope Valley Groundwater Matter. All parties listed on the Santa Clara Superior Court
13 in regard to the Antelope Valley Groundwater Matter are hereby incorporated within by this
14 reference.

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

17 Executed on April 2, 2013, at Bakersfield, California.

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

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VICKI STREET
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