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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

**RESPONSE TO MINUTE ORDER
REQUESTING STATEMENTS AS TO
WHY DECLARATIONS ARE NOT
ACCURATE OR WHY STIPULATIONS
CANNOT BE ENTERED, OBJECTIONS
AND STATEMENT OF INABILITY TO
COMPLY**

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 TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Bolthouse Properties, LLC and Wm. Bolthouse Farms,
3 Inc., hereinafter "Bolthouse", respond to the Court's Minute Order requesting statements as to
4 why declarations are not accurate or why they cannot otherwise agree or stipulate. Bolthouse
5 is unable to respond in any meaningful way and/or objects due to the following:

- 6 1. Although the Minute Order has issued, a proposed order was
7 submitted by Janet Goldsmith, followed by objections thereto,
8 which has not been signed. Accordingly, it is unclear exactly
9 what has been ordered.
- 10 2. Bolthouse has requested review of declarations by a qualified
11 expert, but there has been insufficient time to date to complete
12 this expert review.
- 13 3. Requiring a party to review and determine whether another
14 party's declaration is accurate improperly reverses the burden of
15 proof applicable to civil actions and the matters at issue.
- 16 4. The stipulations cannot substitute for summary adjudication of
17 issues or proof of any fact or matter as to parties who do not
18 stipulate. Procedural mechanisms for a summary adjudication
19 of issues exist by Code of Civil Procedure.
- 20 5. The effect of comments regarding declarations and/or
21 stipulations is not clearly understood because the potential
22 effects of findings in the Phase 4 Trial regarding the
23 groundwater use of the parties is not known and no cause of
24 action is being tried related to groundwater rights as between
25 overlying landowners.
- 26 6. No party can stipulate to a share of the native correlative supply
27 in the absence of stipulation by other parties with a right to the
28

1 correlative supply or without litigation of water rights of the
2 parties.

- 3 7. Declarations are improper as a matter of proof and/or procedure
4 to adjudicate a correlative right to the native supply and/or to
5 adjudicate return flow rights and/or federal reserved rights.
6 8. Discovery has not been completed nor has there been sufficient
7 time following discovery to evaluate factually and from an
8 expert's perspective, whether the information is accurate or
9 should be stipulated.

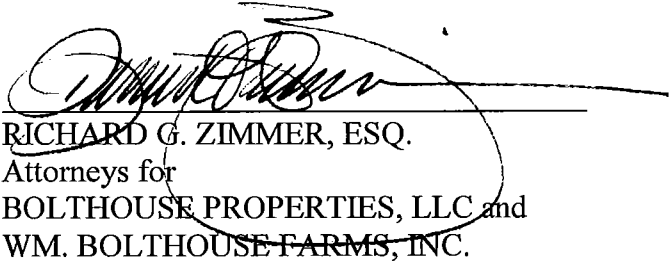
10 Notwithstanding the procedural objections noted above and the inability to respond to
11 the Minute Order, Bolthouse will continue to evaluate both declarations and other stipulations
12 in hopes that a settlement between all and/or most of the parties to litigation can be reached.
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14 DATED: April 15, 2013

Respectfully submitted.

15 CLIFFORD & BROWN

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18 By:


19 RICHARD G. ZIMMER, ESQ.
20 Attorneys for
21 BOLTHOUSE PROPERTIES, LLC and
22 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, Suite 900,
7 Bakersfield, CA 93301.

8 On April 15, 2013, I served the foregoing document(s) entitled:

9 **RESPONSE TO MINUTE ORDER REQUESTING STATEMENTS AS TO WHY**
10 **DECLARATIONS ARE NOT ACCURATE OR WHY STIPULATIONS CANNOT BE**
11 **ENTERED, OBJECTIONS AND STATEMENT OF INABILITY TO COMPLY**

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

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

18 Executed on April 15, 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.

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VICKI STREET
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