

1 Bob H. Joyce, (SBN 84607)
2 Andrew K. Sheffield (SBN 220735)
3 LAW OFFICES OF
4 **LEBEAU • THELEN, LLP**
5 5001 East Commercenter Drive, Suite 300
6 Post Office Box 12092
7 Bakersfield, California 93389-2092
8 (661) 325-8962; Fax (661) 325-1127

6 Attorneys for DIAMOND FARMING COMPANY,
7 a California corporation, and CRYSTAL ORGANIC
8 FARMS, a limited liability company

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **IN AND FOR THE COUNTY OF LOS ANGELES**

11
12 Coordination Proceeding Special Title
(Rule 1550 (b))

Judicial Council Coordination No. 4408

13 ANTELOPE VALLEY GROUNDWATER
14 CASES

Case No.: 1-05-CV-049053

15 Included actions:

16 Los Angeles County Waterworks District No.
17 40 vs. Diamond Farming Company
18 Los Angeles Superior Court
19 Case No. BC 325201

**DIAMOND FARMING COMPANY'S
20 JOINDER IN AGWA'S RESPONSE TO
21 THE PROPOSED CLASS ACTION
22 NOTICES; JOINDER IN BOLTHOUSE
23 PROPERTIES, LLC AND WM.
24 BOLTHOUSE FARMS, INC.'S
25 OBJECTION TO PROPOSED CLASS
26 NOTICES AND OBJECTION TO
27 PROPOSED ORDER RE
28 JURISDICTION OVER TRANSFEREES
OF PROPERTY; AND FURTHER
OBJECTIONS TO SAME**

18 Los Angeles County Waterworks District No.
19 40 vs. Diamond Farming Company
20 Kern County Superior Court
21 Case No. S-1500-CV 254348 NFT

21 Diamond Farming Company vs. City of
22 Lancaster
23 Riverside County Superior Court
24 Lead Case No. RIC 344436 [Consolidated
25 w/Case Nos. 344668 & 353840]

Date: January 14, 2008
Time: 9:00 a.m.
Dept: 1

24 AND RELATED CROSS-ACTIONS.

1 Diamond Farming Company hereby joins in “RESPONSE TO PROPOSED CLASS ACTION
2 FILED ON BEHALF OF REBECCA LEE WILLIS ON JANUARY 4, 2007; OBJECTION TO
3 PROPOSED REVISIONS TO NOTICE FILED BY LA COUNTY WATERWORKS AND
4 ROSAMOND COMMUNITY SERVICES DISTRICT” filed by attorney Michael Fife on behalf of the
5 Antelope Valley Ground Water Agreement Association, and joins in “OBJECTION TO PROPOSED
6 CLASS ACTION FILED ON BEHALF OF REBECCA LEE WILLIS ON JANUARY 4, 2007;
7 OBJECTION TO PROPOSED REVISIONS TO NOTICE FILED BY LA COUNTY WATERWORKS
8 AND ROSAMOND COMMUNITY SERVICES DISTRICT; OBJECTION TO PROPOSED ORDER
9 RE JURISDICTION OVER TRANSFEREES OF PROPERTY; JOINDER IN AGWA’S RESPONSE
10 TO PROPOSED CLASS ACTION FILED ON BEHALF OF REBECCA LEE WILLIS ON JANUARY
11 4, 2007 AND OBJECTION TO PROPOSED REVISIONS TO NOTICE FILED BY LA COUNTY
12 WATERWORKS AND ROSAMOND COMMUNITY SERVICES DISTRICT” filed by attorney
13 Richard Zimmer on behalf of Bolthouse Properties, LLC, and Wm. Bolthouse Farms, Inc. Diamond
14 Farming Company also makes the following observations and additional objections:

15 1. The Proposed “Notice of Class Action” submitted on behalf of the Plaintiff, Rebecca Lee
16 Willis, purports to establish a non-pumping class based upon an operative date of January 18, 2001. The
17 competing “Notice of Class Action” proposed by Los Angeles County Waterworks and Rosamond
18 Community Services District purports to define a class of both pumpers and non-pumpers who own less
19 than one hundred (100) acres and uses an operative date of January 1, 2000. The fact of pumping and/or
20 non-pumping with reference to either of the two proposed operative dates would only have relevance
21 to the claims of prescription asserted by all of the purveyors. That relevancy would presumably be with
22 reference to the notice elements of prescription as well as to the effect of the doctrine of self-help. To
23 date, neither this Court nor any party has been advised as to what the claimed prescriptive period is and
24 therefore neither date as proposed has any factual or evidentiary support and/or relevancy. Thus,
25 Diamond Farming Company renews its Objection to Class Certification based upon the lack of pre-
26 hearing discovery as more thoroughly articulated in the Objection to Class Certification hearing filed
27 by Diamond Farming Company with this Court on June 27, 2007, with the supporting Declaration,
28

1 Document Nos. 5368 & 5369. Had the discovery identified in that Declaration, Document No. 5369,
2 been responded to timely, or if this Court had ordered responses to that discovery, then the operative date
3 for class definitional purposes could have been fixed with reference to the prescriptive period which
4 would have been disclosed through those responses. That previous Objection to Class Certification
5 without pre-certification discovery is hereby reasserted and restated herein.

6 2. The Proposed "Notice of Class Action" submitted to Los Angeles County Waterworks
7 and Rosamond Community Services District, purports to create a class of pumpers and non-pumpers
8 alike based upon a one hundred (100) acre limitation. The justification or explanation for the selected
9 one hundred (100) acre limitation is without evidentiary support. That proposal definitionally
10 distinguishes between non-pumpers and pumpers utilizing an operative date of January 1, 2000. There
11 is no proffered evidentiary support for nor explanation offered as to the significance of the date utilized
12 to make a distinction between pumpers and non-pumpers. Without an identified prescriptive period,
13 potential class members will have no way of knowing the potential significance of identifying the fact
14 of pumping in order to avoid being treated as a non-pumper. Thus, landowners who pump groundwater
15 during a relevant time frame but who fail to respond and affirm the fact of their pumping will, through
16 this notice procedure *ipso facto*, lose any water rights obtained and/or preserved under the doctrine of
17 self-help. Thus, a prospective loss of a valuable property right without adequate due process notice.

18 3. Nither Proposed Notice advises any prospective class member that they have the
19 constitutional right to have the prescriptive claims asserted by the purveyors tried to a jury of their peers.
20 Neither Notice advises that the Class Representative will hold the power to elect to waive that
21 Constitutional right. Without that information, no prospective class member can rationally make the
22 decision to defer to the Class Representative that election or to otherwise opt out of the class and insist
23 upon protecting, individually, their Constitutional rights and their due process right to a trial by jury.

24 Dated: January 10, 2008

LeBEAU • THELEN, LLP

25 By: 

26 BOB H. JOYCE
27 Attorneys for DIAMOND FARMING COMPANY,
a California corporation, and CRYSTAL ORGANIC
28 FARMS, a limited liability company

PROOF OF SERVICE

1 ANTELOPE VALLEY GROUNDWATER CASES
2 JUDICIAL COUNCIL PROCEEDING NO. 4408
3 CASE NO.: 1-05-CV-049053

4 I am a citizen of the United States and a resident of the county aforesaid; I am over the age
5 of eighteen years and not a party to the within action; my business address is: 5001 E. Commercenter
6 Drive, Suite 300, Bakersfield, California 93309. On January 10, 2008, I served the within
7 **DIAMOND FARMING COMPANY'S JOINDER IN AGWA'S RESPONSE TO THE
8 PROPOSED CLASS ACTION NOTICES; JOINDER IN BOLTHOUSE PROPERTIES, LLC
9 AND WM. BOLTHOUSE FARMS, INC.'S OBJECTION TO PROPOSED CLASS NOTICES
10 AND OBJECTION TO PROPOSED ORDER RE JURISDICTION OVER TRANSFEREES
11 OF PROPERTY; AND FURTHER OBJECTIONS TO SAME**

12 (BY POSTING) I am "readily familiar" with the Court's Clarification Order.
13 Electronic service and electronic posting completed through www.scefilings.org ; All papers filed
14 in Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

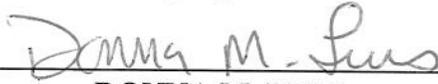
15 Los Angeles County Superior Court
16 111 North Hill Street
17 Los Angeles, CA 90012
18 Attn: **Department 1**
19 (213) 893-1014

20 Chair, Judicial Council of California
21 Administrative Office of the Courts
22 Attn: Appellate & Trial Court Judicial Services
23 (Civil Case Coordinator)
24 Carlotta Tillman
25 455 Golden Gate Avenue
26 San Francisco, CA 94102-3688
27 Fax (415) 865-4315

28 (BY MAIL) I am "readily familiar" with the firm's practice of collection and
processing correspondence for mailing. Under that practice it would be deposited with the U.S.
Postal Service on that same day with postage thereon fully prepaid at Bakersfield, California, in
the ordinary course of business.

(OVERNIGHT/EXPRESS MAIL) By enclosing a true copy thereof in a sealed
envelope designated by United States Postal Service (Overnight Mail)/Federal Express/United
Parcel Service ("UPS") addressed as shown on the above by placing said envelope(s) for ordinary
business practices from Kern County. I am readily familiar with this business' practice of
collecting and processing correspondence for overnight/express/UPS mailing. On the same day
that the correspondence is placed for collection and mailing, it is deposited in the ordinary course
of business with the United States Postal Service/Federal Express/UPS in a sealed envelope with
delivery fees paid/provided for at the facility regularly maintained by United States Postal Service
(Overnight Mail/Federal Express/United Postal Service [or by delivering the documents to an
authorized courier or driver authorized by United States Postal Service (Overnight Mail)/Federal
Express/United Postal Service to receive documents]).

(STATE) I declare under penalty of perjury under the laws of the State of
California that the above is true and correct, and that the foregoing was executed on January 10,
2008, in Bakersfield, California.



DONNA M. LUIS