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5 CALIFORNIA WATER SERVICE COMPANY SUCCESSOR TO
ANTELOPE VALLEY WATER COMPANY

6 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

7 **IN AND FOR THE COUNTY OF LOS ANGELES**

9 Coordination Proceeding Special Title) **JUDICIAL COUNCIL COORDINATION**
(Rule 1550 (b))) **PROCEEDING NO. 4408**
10 ANTELOPE VALLEY GROUNDWATER CASES) Santa Clara Case No. 01-05-CV-049053
11 Included Actions:) Assigned to the Honorable Jack Komar
12 Los Angeles County Waterworks Company)
No. 40 vs. Diamond Farming Company) **AMENDMENT TO CALIFORNIA WATER SERVICE**
13 Los Angeles Superior Court) **COMPANY'S RESPONSE TO BOLTHOUSE**
Case No. BC 325201) **PROPERTIES, LLC'S REQUESTS FOR**
14) **ADMISSIONS**
Los Angeles County Waterworks Company)
15 No. 40 vs. Diamond Farming Company) **[SET TWO]**
Kern County Superior Court)
16 Case No. S-1500-CV 254348 NFT)
Diamond Farming Company, and W.M.)
17 Bolthouse Farms, Inc., vs. City of)
Lancaster)
18 Riverside County Superior Court)
Lead Case No. RIC 344436)
19 [Consolidated w/Case Nos. 344668 &)
353840])

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AMENDMENT TO CAL WATER'S RESPONSE TO BOLTHOUSE

1 **PROPOUNDING PARTY: PLAINTIFF, BOLTHOUSE FARMS, INC.; BOLTHOUSE**
2 **PROPERTIES, LLC**

3 **RESPONDING PARTY: DEFENDANT, CALIFORNIA WATER SERVICE COMPANY**

4 **SET: TWO (2)**

5 Defendant CALIFORNIA WATER SERVICE COMPANY (Cal Water), successor-in-interest
6 to Antelope Valley Water Company (hereinafter collectively referred to as the
7 "Company"), hereby responds to the Requests for Admissions Set Two propounded
8 by Bolthouse Farms, Inc.; Bolthouse Properties, LLC ("Plaintiffs") as
9 follows:

10 **PRELIMINARY STATEMENT**

11 The Company is in the process of conducting its investigation and discovery
12 in this action. Consequently, the Company responds to these Requests to the
13 best of its knowledge, but in doing so, reserves the right to amend its
14 response at a future date. The Company further reserves the right to offer,
15 at time of trial, facts, testimony or other evidence discovered subsequent to
16 and not included in this response, and assumes no obligation to voluntarily
17 supplement or amend this response to reflect such facts, testimony or other
18 evidence.

19
20 **GENERAL OBJECTIONS**

21 By responding to Bolthouse's Requests for Admission, Set Two, the Company
22 does not concede the relevancy or materiality of any request, or of the
23 subject to which such request refers.

24 Each response is made subject to all objections as to competence, relevance,
25 materiality, propriety, admissibility, attorney-client privilege, attorney

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1 work product doctrine, and the deliberative process privilege, as well as any
2 or all other objections and grounds which would require exclusion of
3 evidence. The Company reserves the right to make any and all such objections
4 at trial and at any other proceeding relating to this action.
5 The specific responses and objections given below are submitted without
6 prejudice to, and without waiving, any of these general objections even
7 though the general objections are not expressly set forth in each response.

8
9 **OBJECTIONS AND RESPONSES**

10 The Company incorporates fully the foregoing Preliminary Statement and
11 General Objections into each of the following specific objections and
12 responses, and no specific objection or response shall be construed to waive
13 any of the General Objections.

14
15 **Request for Admission No. 108:**

16 Admit that the characteristics of the BASIN do not support a claim for
17 unreasonable use of water.

18 **Response to Request for Admission No. 108:**

19 The Company incorporates by this reference the Preliminary Statement and
20 General Objections as though expressly set forth herein. The Company objects
21 on the grounds that the propounding party failed to define "characteristics
22 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
23 subdivision (e). As such, the Request for Admission is vague, ambiguous and
24 unintelligible. The Company objects to this Request for Admission because it
25 is the subject of expert witness investigation and may be answered at the

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1 time such expert witness investigation is appropriately disclosed pursuant to
2 Court Order and the Code of Civil Procedure. Without waiving the foregoing
3 objections, the Company responds as follows: Denied.

4
5 **Request for Admission No. 109:**

6 Admit that the characteristics of the BASIN do not support YOUR prayer for
7 relief.

8 **Response to Request for Admission No. 109:**

9 The Company incorporates by this reference the Preliminary Statement and
10 General Objections as though expressly set forth herein. The Company objects
11 on the grounds that the propounding party failed to define "characteristics
12 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
13 subdivision (e). As such, the Request for Admission is vague, ambiguous and
14 unintelligible. The Company objects to this Request for Admission because it
15 is the subject of expert witness investigation and may be answered at the
16 time such expert witness investigation is appropriately disclosed pursuant to
17 Court Order and the Code of Civil Procedure. Without waiving the foregoing
18 objections, the Company responds as follows: Denied.

19
20 **Request for Admission No. 110:**

21 Admit that the physical characteristics of the BASIN, including, but not
22 limited to, geological, hydrogeological, geotechnical and topographical
23 aspects, do not support YOUR claim of prescription, for each period during
24 which YOU claim prescription.

25 \\\

1 **Response to Request for Admission No. 110:**

2 The Company incorporates by this reference the Preliminary Statement and
3 General Objections as though expressly set forth herein. The Company objects
4 on the grounds that the propounding party failed to define "characteristics
5 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
6 subdivision (e). As such, the Request for Admission is vague, ambiguous and
7 unintelligible. The Company objects to this Request for Admission because it
8 does not seek information for the Phase 2 trial nor is it reasonably
9 calculated to lead to the discovery of admissible evidence for the Phase 2
10 trial. The Court has directed the parties to focus their discovery requests
11 upon the subject matter of the Phase 2 trial. Furthermore, this Request for
12 Admission is the subject of expert witness investigation and may be answered
13 at the time such expert witness investigation is appropriately disclosed -
14 pursuant to Court Order and the Code of Civil Procedure. Without waiving the
15 foregoing objections, the Company responds as follows: Denied.

16
17 **Request for Admission No. 111:**

18 Admit that the physical characteristics of the BASIN, including, but not
19 limited to, geological, hydrogeological, geotechnical and topographical
20 aspects, do not support a claim of OVERDRAFT, for each period during which
21 YOU claim OVERDRAFT.

22 **Response to Request for Admission No. 111:**

23 The Company incorporates by this reference the Preliminary Statement and
24 General Objections as though expressly set forth herein. The Company objects
25 on the grounds that the propounding party failed to define "characteristics

1 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
2 subdivision (e). As such, the Request for Admission is vague, ambiguous and
3 unintelligible. The Company objects to this Request for Admission because it
4 does not seek information for the Phase 2 trial nor is it reasonably
5 calculated to lead to the discovery of admissible evidence for the Phase 2
6 trial. The Court has directed the parties to focus their discovery requests
7 upon the subject matter of the Phase 2 trial. This Request for Admission is
8 the subject of expert witness investigation and may be answered at the time
9 such expert witness investigation is appropriately disclosed pursuant to
10 Court Order and the Code of Civil Procedure. Without waiving the foregoing
11 objections, the Company responds as follows: Denied
12

13 **Request for Admission No. 112:**

14 Admit that the physical characteristics of the BASIN, including, but not
15 limited to, geological, hydrogeological, geotechnical and topographical
16 aspects, do not support a claim of priority, for each period during which YOU
17 claim priority.

18 **Response to Request for Admission No. 112:**

19 The Company incorporates by this reference the Preliminary Statement and
20 General Objections as though expressly set forth herein. The Company objects
21 on the grounds that the propounding party failed to define "characteristics
22 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
23 subdivision (e). As such, the Request for Admission is vague, ambiguous and
24 unintelligible. The Company objects to this Request for Admission because it
25 does not seek information for the Phase 2 trial nor is it reasonably

1 calculated to lead to the discovery of admissible evidence for the Phase 2
2 trial. The Court has directed the parties to focus their discovery requests
3 upon the subject matter of the Phase 2 trial. The Company objects to this
4 Request for Admission because it is the subject of expert witness
5 investigation and may be answered at the time such expert witness
6 investigation is appropriately disclosed pursuant to Court Order and the Code
7 of Civil Procedure. Without waiving the foregoing objections, the Company
8 responds as follows: Denied

9
10 **Request for Admission No. 113:**

11 Admit that the physical characteristics of the BASIN, including, but not
12 limited to, geological, hydrogeological, geotechnical and topographical
13 aspects, do not support YOUR request for a physical solution.

14 **Response to Request for Admission No. 113:**

15 The Company incorporates by this reference the Preliminary Statement and
16 General Objections as though expressly set forth herein. The Company objects
17 on the grounds that the propounding party failed to define "characteristics
18 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
19 subdivision (e). As such, the Request for Admission is vague, ambiguous and
20 unintelligible. The Company objects to this Request for Admission because it
21 does not seek information for the Phase 2 trial nor is it reasonably
22 calculated to lead to the discovery of admissible evidence for the Phase 2
23 trial. The Court has directed the parties to focus their discovery requests
24 upon the subject matter of the Phase 2 trial. The Company objects on the
25 grounds that the propounding party failed to define "physical

1 solution" as required by Code of Civil Procedure Section 2033.060,
2 subdivision (e). As such, the Request for Admission is vague, ambiguous and
3 unintelligible. The Company objects to this Request for Admission because it
4 is the subject of expert witness investigation and may be answered at the
5 time such expert witness investigation is appropriately disclosed pursuant to
6 Court Order and the Code of Civil Procedure. Without waiving the foregoing
7 objections, the Company responds as follows: Denied.

8
9 **Request for Admission No. 114:**

10 Admit that the physical characteristics of the BASIN, including, but not
11 limited to, geological, hydrogeological, geotechnical and topographical
12 aspects, do not support a claim for appropriative rights during each time
13 period during which YOU claim to have obtained appropriative rights.

14 **Response to Request for Admission No. 114:**

15 The Company incorporates by this reference the Preliminary Statement and
16 General Objections as though expressly set forth herein. The Company objects
17 on the grounds that the propounding party failed to define "characteristics
18 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
19 subdivision (e). As such, the Request for Admission is vague, ambiguous and
20 unintelligible. The Company objects to this Request for Admission because it
21 does not seek information for the Phase 2 trial nor is it reasonably
22 calculated to lead to the discovery of admissible evidence for the Phase 2
23 trial. The Court has directed the parties to focus their discovery requests
24 upon the subject matter of the Phase 2 trial. The Company objects to this
25 Request for Admission because it is the subject of expert witness

1 investigation and may be answered at the time such expert witness
2 investigation is appropriately disclosed pursuant to Court Order and the Code
3 of Civil Procedure. Without waiving the foregoing objections, the Company
4 responds as follows: Denied.

5
6 **Request for Admission No. 115:**

7 Admit that the physical characteristics of the BASIN, including, but not
8 limited to, geological, hydrogeological, geotechnical and topographical
9 aspects, do not support a claim for municipal priority, for each time period
10 wherein YOU claim a municipal priority.

11 **Response to Request for Admission No. 115:**

12 The Company incorporates by this reference the Preliminary Statement and
13 General Objections as though expressly set forth herein. The Company objects
14 on the grounds that the propounding party failed to define "characteristics
15 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
16 subdivision (e). As such, the Request for Admission is vague, ambiguous and
17 unintelligible. The Company objects to this Request for Admission because it
18 does not seek information for the Phase 2 trial nor is it reasonably
19 calculated to lead to the discovery of admissible evidence for the Phase 2
20 trial. The Court has directed the parties to focus their discovery requests
21 upon the subject matter of the Phase 2 trial. The Company objects on the
22 grounds that the propounding party failed to define "municipal priority" as
23 required by Code of Civil Procedure Section 2033.060, subdivision (e). As
24 such, the Request for Admission is vague, ambiguous and unintelligible. The
25 Company objects to this Request for Admission because it is the subject of

1 expert witness investigation and may be answered at the time such expert
2 witness investigation is appropriately disclosed pursuant to Court Order and
3 the Code of Civil Procedure. Without waiving the foregoing objections, the
4 Company responds as follows: Denied.

5
6 **Request for Admission No. 116:**

7 Admit that the physical characteristics of the BASIN, including, but not
8 limited to, geological, hydrogeological, geotechnical and topographical
9 aspects, do not support a water right claim based upon imported water as to
10 each amount and as to each time frame wherein YOU claim to have obtained
11 water rights based upon imported water.

12 **Response to Request for Admission No. 116:**

13 The Company incorporates by this reference the Preliminary Statement and
14 General Objections as though expressly set forth herein. The Company objects
15 on the grounds that the propounding party failed to define "characteristics
16 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
17 subdivision (e). As such, the Request for Admission is vague, ambiguous and
18 unintelligible. The Company objects to this Request for Admission because it
19 does not seek information for the Phase 2 trial nor is it reasonably
20 calculated to lead to the discovery of admissible evidence for the Phase 2
21 trial. The Court has directed the parties to focus their discovery requests
22 upon the subject matter of the Phase 2 trial. The Company objects on the
23 grounds that the propounding party failed to define "imported water" as
24 required by Code of Civil Procedure Section 2033.060, subdivision (e). As
25 such, the Request for Admission is vague, ambiguous and unintelligible. The

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1 Company objects to this Request for Admission because it is the subject of
2 expert witness investigation and may be answered at the time such expert
3 witness investigation is appropriately disclosed pursuant to Court Order and
4 the Code of Civil Procedure. Without waiving the foregoing objections, the
5 Company responds as follows: Denied.

6
7 **Request for Admission No. 117:**

8 Admit that the physical characteristics of the BASIN, including, but not
9 limited to, geological, hydrogeological, geotechnical and topographical
10 aspects, do not support a water right claim based upon return flows as to
11 each amount and each time frame wherein YOU claim to have obtained water
12 rights based upon return flows.

13 **Response to Request for Admission No. 117:**

14 The Company incorporates by this reference the Preliminary Statement and
15 General Objections as though expressly set forth herein. The Company objects
16 on the grounds that the propounding party failed to define "characteristics
17 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
18 subdivision (e). As such, the Request for Admission is vague, ambiguous and
19 unintelligible. The Company objects to this Request for Admission because it
20 does not seek information for the Phase 2 trial nor is it reasonably
21 calculated to lead to the discovery of admissible evidence for the Phase 2
22 trial. The Court has directed the parties to focus their discovery requests
23 upon the subject matter of the Phase 2 trial. The Company objects on the
24 grounds that the propounding party failed to define "return flows" as
25 required by Code of Civil Procedure Section 2033.060, subdivision (e). As

1 such, the Request for Admission is vague, ambiguous and unintelligible. The
2 Company objects to this Request for Admission because it is the subject of
3 expert witness investigation and may be answered at the time such expert
4 witness investigation is appropriately disclosed pursuant to Court Order and
5 the Code of Civil Procedure. Without waiving the foregoing objections, the
6 Company responds as follows: Denied.

7
8 **Request for Admission No. 118:**

9 Admit that the physical characteristics of the BASIN, including, but not
10 limited to, geological, hydrogeological, geotechnical and topographical
11 aspects, do not support a claim or unreasonable use of water for each time
12 period wherein YOU claim unreasonable use of water.

13 **Response to Request for Admission No. 118:**

14 The Company incorporates by this reference the Preliminary Statement and
15 General Objections as though expressly set forth herein. The Company objects
16 on the grounds that the propounding party failed to define "characteristics
17 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
18 subdivision (e). As such, the Request for Admission is vague, ambiguous and
19 unintelligible. The Company objects to this Request for Admission because it
20 does not seek information for the Phase 2 trial nor is it reasonably
21 calculated to lead to the discovery of admissible evidence for the Phase 2
22 trial. The Court has directed the parties to focus their discovery requests
23 upon the subject matter of the Phase 2 trial. The Company objects to this
24 Request for Admission because it is the subject of expert witness
25 investigation and may be answered at the time such expert witness

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1 investigation is appropriately disclosed pursuant to Court Order and the Code
2 of Civil Procedure. Without waiving the foregoing objections, the Company
3 responds as follows: Denied.
4

5 **Request for Admission No. 119:**

6 Admit that the physical characteristics of the BASIN, including, but not
7 limited to, geological, hydrogeological, geotechnical and topographical
8 aspects, do not support YOUR prayer of relief.

9 **Response to Request for Admission No. 119:**

10 The Company incorporates by this reference the Preliminary Statement and
11 General Objections as though expressly set forth herein. The Company objects
12 on the grounds that the propounding party failed to define "characteristics
13 of the BASIN" as required by Code of Civil Procedure Section 2033.060,
14 subdivision (e). As such, the Request for Admission is vague, ambiguous and
15 unintelligible. The Company objects to this Request for Admission because it
16 does not seek information for the Phase 2 trial nor is it reasonably
17 calculated to lead to the discovery of admissible evidence for the Phase 2
18 trial. The Court has directed the parties to focus their discovery requests
19 upon the subject matter of the Phase 2 trial. The Company objects to this
20 Request for Admission because it is the subject of expert witness
21 investigation and may be answered at the time such expert witness
22 investigation is appropriately disclosed pursuant to Court Order and the Code
23 of Civil Procedure. Without waiving the foregoing objections, the Company
24 responds as follows: Denied.

25 \\\

1 **Request for Admission No. 120:**

2 Admit that for each and every period of time during which YOU claim to have
3 obtained prescription, that YOU cannot prove that pumping exceeded "Safe
4 Yield" as defined by *City of Los Angeles v. City of San Fernando* (1974) 14
5 Cal.3d 199.

6 **Response to Request for Admission No. 120:**

7 The Company incorporates by this reference the Preliminary Statement and
8 General Objections as though expressly set forth herein. The Company objects
9 on the grounds that the propounding party failed to define "Safe Yield" as
10 required by Code of Civil Procedure Section 2033.060, subdivision (e). As
11 such, the Request for Admission is vague, ambiguous and unintelligible.
12 Furthermore, the Company objects to this Request for Admission because it
13 does not seek information for the Phase 2 trial nor is it reasonably
14 calculated to lead to the discovery of admissible evidence for the Phase 2
15 trial. The Court has directed the parties to focus their discovery requests
16 upon the subject matter of the Phase 2 trial. The Company objects to the
17 Request for Admission because it seeks admission of a legal matter, without
18 reference to any fact, which is outside the scope of discovery
19 permitted by Code of Civil Procedure Section 2033.010. Without waiving the
20 foregoing objections, the Company responds as follows: Denied.

21
22 **Request for Admission No. 121:**

23 Admit that for each and every period of time during which YOU claim to have
24 obtained prescription, YOU cannot prove that YOUR pumping was in excess of
25 "surplus" as defined in *City of Los Angeles v. City of San Fernando* (1974) 14

1 Cal.3d 199.

2 **Response to Request for Admission No. 121:**

3 The Company incorporates by this reference the Preliminary Statement and
4 General Objections as though expressly set forth herein. The Company objects
5 on the grounds that the propounding party failed to define "surplus" as
6 required by Code of Civil Procedure Section 2033.060, subdivision (e). As
7 such, the Request for Admission is vague, ambiguous and unintelligible.
8 Furthermore, the Company objects to this Request for Admission because it
9 does not seek information for the Phase 2 trial nor is it reasonably
10 calculated to lead to the discovery of admissible evidence for the Phase 2
11 trial. The Court has directed the parties to focus their discovery requests
12 upon the subject matter of the Phase 2 trial. The Company objects to the
13 Request for Admission because it seeks admission of a legal matter, without
14 reference to any fact, which is outside the scope of discovery permitted by
15 Code of Civil Procedure Section 2033.010. Without waiving the foregoing
16 objections, the Company responds as follows: Denied.

17
18 **Request for Admission No. 122:**

19 Admit that for each and every period of time during which YOU claim to have
20 obtained prescriptive rights, YOU cannot prove that YOUR pumping exceeded
21 "temporary surplus" as defined in *City of Los Angeles v. City of San Fernando*
22 (1974) 14 Cal.3d 199.

23 **Response to Request for Admission No. 122:**

24 The Company incorporates by this reference the Preliminary Statement and
25 General Objections as though expressly set forth herein. The Company objects

1 to the Request for Admission because it seeks admission of a legal matter,
2 without reference to any fact, which is outside the scope of discovery
3 permitted by Code of Civil Procedure Section 2033.010. The Company objects
4 on the grounds that the propounding party failed to define "temporary
5 surplus" as required by Code of Civil Procedure Section 2033.060, subdivision
6 (e). As such, the Request for Admission is vague, ambiguous and
7 unintelligible. Furthermore, the Company objects to this Request for
8 Admission because it does not seek information for the Phase 2 trial nor is
9 it reasonably calculated to lead to the discovery of admissible evidence for
10 the Phase 2 trial. The Court has directed the parties to focus their
11 discovery requests upon the subject matter of the Phase 2 trial. Without
12 waiving the foregoing objections, the Company responds as follows: Denied.

13
14 **Request for Admission No. 123:**

15 Admit that for each and every period of time during which YOU claim to have
16 prescriptive rights, YOU cannot prove that the area from which YOU were
17 pumping water was in "Overdraft" as defined in *City of Los Angeles v. City of*
18 *San Fernando* (1974) 14 Cal.3d 199.

19 **Response to Request for Admission No. 123:**

20 The Company incorporates by this reference the Preliminary Statement and
21 General Objections as though expressly set forth herein. The Company objects
22 to the Request for Admission because it seeks admission of a legal matter,
23 without reference to any fact, which is outside the scope of discovery
24 permitted by Code of Civil Procedure Section 2033.010. The Company objects
25 on the grounds that the propounding party failed to define "Overdraft" as


1 required by Code of Civil Procedure Section 2033.060, subdivision (e). As
2 such, the Request for Admission is vague, ambiguous and unintelligible.
3 Furthermore, the Company objects to this Request for Admission because it
4 does not seek information for the Phase 2 trial nor is it reasonably
5 calculated to lead to the discovery of admissible evidence for the Phase 2
6 trial. The Court has directed the parties to focus their discovery requests
7 upon the subject matter of the Phase 2 trial. Without waiving the foregoing
8 objections, the Company responds as follows: Denied.

9 I declare under penalty of perjury under the laws of the State of
10 California that the foregoing answers are true and correct.

11 //

12 DATED: August 15, 2008

CALIFORNIA WATER SERVICE COMPANY

13  FOR JOHN TOOTLE

14 By: _____

15 JOHN S. TOOTLE, ESQ.

VERIFICATION

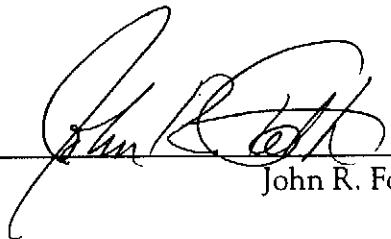
STATE OF CALIFORNIA)
) ss
COUNTY OF LOS ANGELES)

I, John R. Foth, declare:

I am an Engineering Manager for the California Water Service Company, successor to the Antelope Valley Water Company in the above entitled action. I have read the foregoing CALIFORNIA WATER SERVICE COMPANY'S AMENDMENT TO RESPONSE TO BOLTHOUSE PROPERTIES, LLC and WM. BOLTHOUSE FARMS, INC. 's REQUESTS FOR ADMISSIONS [SET TWO] and know the contents thereof. I am informed and believe that the same is true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at Torrance, California, Los Angeles County on August 15, 2008.



John R. Foth