

# **EXHIBIT “A”**

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11 Attorneys for Bolthouse Properties, LLC

12 SUPERIOR COURT OF CALIFORNIA

13 COUNTY OF SANTA CLARA

14 \* \* \*

15 COORDINATION PROCEEDING	)	Judicial Council Coordination
16 SPECIAL TITLE (Rule 1550(b))	)	Proceeding No. 4408
17 ANTELOPE VALLEY GROUNDWATER	)	CASE NO. 1-05-CV-049053
18 CASES	)	
19 INCLUDED ACTIONS:	)	
20 LOS ANGELES COUNTY WATERWORKS	)	
21 DISTRICT NO. 40 v. DIAMOND	)	CROSS-COMPLAINT OF BOLTHOUSE
22 FARMING COMPANY, et al.,	)	PROPERTIES, LLC
23 Los Angeles Superior Court	)	
24 Case No. BC325201	)	
25 LOS ANGELES COUNTY WATERWORKS	)	
26 DISTRICT NO. 40 v. DIAMOND	)	
FARMING COMPANY, et al.,	)	
Kern County Superior Court	)	
Case No. S-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]	)	
ROSAMOND COMMUNITY SERVICES	)	
DISTRICT,	)	
CROSS-COMPLAINANT,	)	

1 BOLTHOUSE PROPERTIES, LLC, )  
2 Cross-Complainant, )  
3 v. )  
4 ROSAMOND COMMUNITY SERVICES )  
5 DISTRICT; LOS ANGELES COUNTY )  
6 WATERWORKS DISTRICT NO. 40; )  
7 PALMDALE WATER DISTRICT; CITY )  
8 OF LANCASTER; CITY OF )  
9 PALMDALE; LITTLEROCK CREEK )  
10 IRRIGATION DISTRICT; PALM )  
11 RANCH IRRIGATION DISTRICT; )  
12 CALIFORNIA WATER SERVICE )  
13 COMPANY; ANTELOPE VALLEY-EAST )  
14 KERN WATER AGENCY; COUNTY OF )  
15 SANITATION DISTRICTS NOS. 14 )  
16 and 20 OF LOS ANGELES COUNTY; )  
17 and as against each and every )  
18 party which subsequently files )  
19 a Cross-Complaint against )  
20 Bolthouse Properties, LLC; and )  
21 MOES 1 through 10,000, )  
22 Cross-Defendants. )  
23 )  
24 )  
25 )  
26 )

16 Cross-Defendant/Cross-Complainant, BOLTHOUSE PROPERTIES,  
17 LLC., complains of Cross-Defendants, ROSAMOND COMMUNITY SERVICES  
18 DISTRICT; LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40; PALMDALE  
19 WATER DISTRICT; CITY OF LANCASTER; CITY OF PALMDALE; LITTLEROCK  
20 CREEK IRRIGATION DISTRICT; PALM RANCH IRRIGATION DISTRICT;  
21 CALIFORNIA WATER SERVICE COMPANY; ANTELOPE VALLEY-EAST KERN WATER  
22 AGENCY; COUNTY OF SANITATION DISTRICTS NOS. 14 and 20 OF LOS  
23 ANGELES COUNTY, and MOES 1 through 10,000, inclusive, and each of  
24 them (collectively "Cross-Defendants"), and as against each and  
25 every party which subsequently files a Cross-Complaint against  
26 Bolthouse Properties, LLC as follows:

GENERAL ALLEGATION

1. Cross-Complainant, BOLTHOUSE PROPERTIES, LLC, is and at all times herein mentioned was, a California corporation authorized to do business in the State of California.

2. Cross-Complainant owns in fee certain parcels of real property, and/or own water rights for certain properties, (hereinafter individually referred to as a "PARCEL") in the Antelope Valley area of Los Angeles County, California. Each PARCEL has previously been identified in previous Complaints filed by WM. BOLTHOUSE FARMS, INC. in the Riverside action which was later coordinated with the Los Angeles County and Kern County actions filed by Los Angeles County Waterworks District No. 40.

3. Each PARCEL overlies percolating groundwater, the extent of which is unknown to Cross-Complainant. Cross-Complainant hereby incorporates by reference, as if set forth at length verbatim, the Cross-Complaints of Los Angeles County Waterworks District No. 40, et al., Antelope Valley-East Kern Water Agency and County Sanitation Districts Nos. 14 and 20 of Los Angeles County, not for the truth thereof, but as and for a basis for bringing this Cross-Complaint.

4. Cross-Complainant is ignorant of the true names and capacities, whether individual, corporate, governmental, or otherwise, of the Cross-Defendants named in this Cross-Complaint as Moes 1 through 10,000, inclusive, and therefore sues these Cross-Defendants by these fictitious names. Cross-Complainant will amend this Cross-Complaint to allege the fictitiously-named Cross-

1 Defendants' names and capacities when ascertained.

2 5. By virtue of the location of each PARCEL overlying  
3 groundwater, Cross-Complainant holds an overlying water right or  
4 other right to groundwater, entitling Cross-Complainant to extract  
5 groundwater and to put the water to reasonable and beneficial use  
6 on the property ("Cross-Complainant's overlying water rights").

7 6. Cross-Complainant is informed and believes, and on the  
8 basis of such information and belief alleges, that each of the  
9 Cross-Defendants currently extracts groundwater for use on  
10 property not held by the extracting Cross-Defendant or for some  
11 other non-overlying use.

12 7. Cross-Complainant has an appurtenant right and/or other  
13 water right to pump and reasonably use groundwater on the parcels  
14 at issue in this lawsuit. These rights to pump groundwater are  
15 superior to rights of the Cross-Defendants and/or other Cross-  
16 Defendants depending upon the priority rights of such Cross-  
17 Defendants based upon the California priority water allocation  
18 system.

19 8. Cross-Complainant is informed and believes, and on the  
20 basis of such information and belief alleges, that each Cross-  
21 Defendant claims that it has water rights to extract groundwater  
22 for uses that are superior to, or coequal with, Cross-  
23 Complainant's overlying water rights, based upon alleged superior  
24 water right, claim of prescription or otherwise, whether in law or  
25 in equity.

26 9. The quantity of alleged superior and/or coequal rights

1 claimed by Cross-Defendants, each of them, currently is not known.

2 **FIRST CAUSE OF ACTION**

3 **(Quiet Title/Appurtenant Rights)**

4 10. Cross-Complainant sets forth herein at length verbatim  
5 the general allegations contained in paragraphs 1 through 9 of  
6 this Cross-Complaint.

7 11. Cross-Complainant owns PARCELS overlying the Antelope  
8 Valley alluvial groundwater basin. Accordingly, Cross-Complainant  
9 has appurtenant rights to pump and reasonably use groundwater on  
10 such PARCELS.

11 12. Cross-Complainant herein requests a declaration from  
12 the Court quieting title to Cross-Complainant's appurtenant rights  
13 to pump and reasonably use groundwater on their PARCELS.

14 **SECOND CAUSE OF ACTION**

15 **(Declaratory Relief)**

16 13. Cross-Complainant sets forth herein at length verbatim  
17 the general allegations contained in paragraphs 1 through 9 of  
18 this Cross-Complaint.

19 14. Cross-complainant contends that by virtue of the filing  
20 of the Complaints filed by Los Angeles County Waterworks District  
21 No. 40 in Kern County and Los Angeles County, herein coordinated  
22 with the Riverside action, that a current controversy exists as  
23 between Cross-Complainant and Cross-Defendants and as to all other  
24 Defendants in that Los Angeles County has requested a complete  
25 basin-wide adjudication of all rights of all parties to water in  
26 the Antelope Valley basin. Cross-Complainant requests quiet title

1 and/or other appropriate declaration of the right to pump and  
2 reasonably use groundwater on its PARCELS and/or to pump and use  
3 other groundwater based upon its rights as declared by the Court  
4 herein.

5 **THIRD CAUSE OF ACTION**

6 **(Unlawful Taking/42 USC § 1983)**

7 15. Cross-Complainant sets forth herein at length verbatim  
8 the general allegations contained in paragraphs 1 through 9 of  
9 this Cross-Complaint.

10 16. State and federal constitutions and 42 USC § 1983  
11 prevent the unlawful taking of property without due process and  
12 just compensation. Cross-Defendants concealed their efforts to  
13 obtain prescriptive rights against Cross-Complainant and have  
14 failed to take property by appropriate legal means and without  
15 notice, due process and/or the right to be heard, and have taken  
16 such property in the absence of just compensation.

17 **FOURTH CAUSE OF ACTION**

18 **(Equal Protection/Due Process 42 USC § 1983)**

19 17. Cross-Complainant sets forth herein at length verbatim  
20 the general allegations contained in paragraphs 1 through 9 of  
21 this Cross-Complaint.

22 18. The State and federal constitutions require equal  
23 protection under the law. Cross-Defendants seek to exclude what  
24 they define as "de minimus" overlying water producers and other  
25 appropriators from the lawsuit. They intend not to name and/or  
26 serve these individuals, thereby intentionally treating them

1 differently than similarly situated persons with no rational basis  
2 for different treatment denying them equal protection under the  
3 law and in violation of 42 USC § 1983.

4 19. Cross-Defendants also potentially make claims that  
5 separate management areas should exist. Separate management areas  
6 as between correlative overlying rights holders and treating these  
7 areas differently, denies equal protection to overlying landowners  
8 in violation of State and Federal Constitutions and violates 42  
9 USC § 1983.

10 **FIFTH CAUSE OF ACTION**

11 **(Declaratory Relief of Inter Se Appropriative Rights)**

12 20. Cross-Complainant sets forth herein at length verbatim  
13 the general allegations contained in paragraphs 1 through 9 of  
14 this Cross-Complaint.

15 21. Cross-Complainants have failed to name all  
16 appropriators as defendants. In the event that Cross-Defendants  
17 prove the Antelope Valley Groundwater basin is, or has been, in a  
18 state of common law overdraft, cutbacks may be required to balance  
19 the demand with the supply available. The California priority  
20 water allocation system requires that appropriative users cutback  
21 water usage before overlying landowners are required to cutback  
22 usage. Cutbacks among the appropriators are based upon priority  
23 as between appropriators. Appropriators with first in time  
24 appropriative rights have priority over later in time  
25 appropriators. Accordingly, in order to apply the California  
26 priority water allocation system, all appropriators must be

1 included in the action so that the priority of appropriative  
2 rights can be litigated which will allow the Court by injunction  
3 or physical solution to cutback appropriators based upon such  
4 priorities in the event that Cross-Defendants prove the Antelope  
5 Valley Groundwater basin is in common law overdraft and that an  
6 injunction and/or physical solution is necessary to balance the  
7 water demand with water supply.

8 SIXTH CAUSE OF ACTION

9 (Return Flows - Against All Defendants)

10 22. Cross-Complainant sets forth herein at length verbatim  
11 the general allegations contained in paragraphs 1 through 9 of  
12 this Cross-Complaint.

13 23. Cross-complainant has pumped and used groundwater on  
14 its PARCELS to irrigate crops. This water was pumped from a lower  
15 aquifer not significantly hydraulically connected to the upper  
16 aquifer and which water would not otherwise be supplied to the  
17 upper aquifer. A portion of this water has reached the upper  
18 aquifer by percolation. Cross-Complainant has a priority right to  
19 these return flows as well as a right to store water in the upper  
20 aquifer from the return flows and has a paramount right against  
21 all other parties to this water and a paramount right against all  
22 other parties to recapture this water or an equivalent amount of  
23 such water.

24 SEVENTH CAUSE OF ACTION

25 (Self Help - Against Purveyor Parties)

26 24. Cross-Complainant sets forth herein at length verbatim

1 the general allegations contained in paragraphs 1 through 9 of  
2 this Cross-Complaint.

3 25. Cross-complainant contends that Cross-Defendants must  
4 prove any claim for prescription or adverse possession and prove  
5 that they prevented Cross-Complainant from pumping amounts which  
6 Cross-Complaint desired to pump during any alleged period of  
7 adverse possession or prescription. However, to the extent the  
8 Court rules that self help constitutes an affirmative request for  
9 relief by Cross-Complainant, Cross-Complainant claims water rights  
10 based upon self help.

11 **EIGHTH CAUSE OF ACTION**

12 **(Storage Rights)**

13 26. Cross-Complainant sets forth herein at length verbatim  
14 the general allegations contained in paragraphs 1 through 9 of  
15 this Cross-Complaint.

16 27. Cross-Complainant possesses overlying rights to produce  
17 water on its PARCELS in the Antelope Valley. Cross-Complainant  
18 possesses an appurtenant right to storage space in the fractured  
19 bedrock and alluvial water basin and the right to water stored  
20 therein based upon the California water allocation priority  
21 system.

22 **NINTH CAUSE OF ACTION**

23 **(Storage Space - Against All Defendants)**

24 28. Cross-Complainant sets forth herein at length verbatim  
25 the general allegations contained in paragraphs 1 through 9 of  
26 this Cross-Complaint.

1 29. Cross-Complainant possesses a right to produce  
2 groundwater in the Antelope Valley and storage rights related  
3 thereto. Accordingly, assuming there is storage space available  
4 for all overlying needs, Cross-Complainant possesses a right to  
5 compensation from parties storing water in the basin.

6 TENTH CAUSE OF ACTION

7 (Injunction/Physical Solution)

8 30. Cross-Complainant sets forth herein at length verbatim  
9 the general allegations contained in paragraphs 1 through 9 of  
10 this Cross-Complaint.

11 31. Cross-Complainant contends that Cross-Defendants, which  
12 are seeking an injunction/physical solution, must prove common law  
13 overdraft, the nature and extent of all pumping occurring in the  
14 Antelope Valley, appropriative inter se priority rights, the  
15 rights of all groundwater producers in the Antelope Valley and a  
16 legal basis for an injunction against parties holding inferior  
17 rights based upon the California groundwater allocation priority  
18 system. Cross-Complainant further contends that if water cutbacks  
19 are necessary, appropriative users must be cutback first to  
20 prevent continuing common law overdraft. To the extent Cross-  
21 Defendants prove that common law overdraft exists, Cross-  
22 Complainant requests the Court enjoin parties holding inferior  
23 appropriative rights from pumping and/or that the Court impose a  
24 physical solution on appropriators to prevent continuing common  
25 law overdraft.

26 ///

PRAYER

WHEREFORE, Cross-Complainant prays for judgment against Cross-Defendants, and each of them, and against all other persons or entities, as follows:

1. For a judgment against the Cross-Defendants;

2. For a declaration quieting title to Cross-Complainant's rights to pump and reasonably use groundwater on their PARCELS and to their rights to otherwise pump groundwater;

3. If the Court determines based upon the Cross-Defendants basin-wide adjudication that the fractured bedrock and alluvial groundwater basin is in common law overdraft, for an injunction and/or a physical solution cutting back appropriative water use to prevent continuing common law overdraft;

4. For continuing jurisdiction of the Court to litigate disputes as necessary in the future consistent with the Court judgment herein and consistent with California water law;

5. For a declaration that no party hereto may hereinafter obtain prescriptive rights as against any other party to this action and that all parties will act in conformance with the terms of any such judgment;

6. For a judgment for Cross-Complainant for all available remedies to secure and protect Cross-Complainant's continuing overlying water rights;

7. For an award of reasonable attorneys' fees and costs of suit; and

///

1           8. For such other and further relief as the court deems  
2 just and proper.

3  
4 DATED: January 24, 2007

5 CLIFFORD & BROWN

6  
7 By: 

8 RICHARD G. ZIMMER, ESQ.

9 T. MARK SMITH, ESQ.

10 Attorneys for

11 BOLTHOUSE PROPERTIES, LLC  
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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA COUNTY OF KERN:

3 I am a resident of the County aforesaid; I am over the age of  
4 eighteen years and not a party to the within entitled action; my  
5 business address is 1430 Truxtun Avenue, Suite 900, Bakersfield,  
6 California, 93301.

7 On January 2, 2007, I served the **CROSS-COMPLAINT OF BOLTHOUSE**  
8 **PROPERTIES, LLC'S** on the interested parties in said action.

9 (xx) BY SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX LITIGATION  
10 PURSUANT TO CLARIFICATION ORDER DATED OCTOBER 27, 2005.

11 ( ) VIA FACSIMILE - [C.C.P. § 1013(e)]; - The telephone number of  
12 the sending facsimile machine was (661) 322-3508. The  
13 telephone(s) number of the receiving facsimile machine(s) is  
14 listed below. The Court, Rule 2004 and no error was reported by  
15 the machine. Pursuant to California Rules of Court, Rule  
16 2006(d), the machine was caused to print a transmission record  
17 of the transmission, a copy of which is attached hereto.

18 ( ) VIA OVERNIGHT DELIVERY on the date below stated, pursuant to CCP  
19 §1013(c)(d), I deposited such envelope with delivery fees fully  
20 prepaid with CALIFORNIA OVERNIGHT.

21 ( ) BY MAIL I am readily familiar with the business' practice for  
22 collection and processing of correspondence and documents for  
23 mailing with the United States Postal Service. Under that  
24 practice, the correspondence and documents would be deposited  
25 with the United States Postal Service that same day, with  
26 postage thereon fully prepaid, in the ordinary course of  
business at Bakersfield, California.

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

Executed on January 2, 2007, at Bakersfield, California.

23   
24 ROSEMARY MYERS