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12 (collectively "ZAMRZLA'S")

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
14 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

15 Coordinated Proceeding,
16 Special Title (Rule 1550(b))

17 ANTELOPE VALLEY
18 GROUNDWATER CASES.

Judicial Council Coordination
Proceeding No.: 4408

LASC Case No. BC325201

Santa Clara Sup. Court Case No.: 1-05-CV-049053
Assigned to Hon. Jack Komar, Judge of the Santa
Clara County Superior Court

**JOHNNY AND PAMELLA ZAMRZLA'S
CLOSING REPLY BRIEF**

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I. INTRODUCTION

The Settling Parties and Watermaster (“SP & WM”) repeatedly misrepresent the facts and evidence, and disparage Johnny and Pamela Zamrzla¹, in a strained effort to try to prevent the Zamrzlas from obtaining the relief to which they are entitled.

Apart from the many misrepresentations, the SP & WM’s main argument is, essentially, that no remedy exists for a party wronged by the Antelope Valley Groundwater Adjudication. If the arguments they set forth are to be confirmed, it would mean that regardless of any mistakes in service, or in due process, no person who was not given proper notice, or otherwise denied their due process rights in the underlying litigation, may seek a remedy in law or equity. Of course, the SP & WM are incorrect in this assertion.

In litigation of such massive scope (both in years and number of parties) it is simply not possible that no mistake was made along the way. The questions before this Court with respect to the Zamrzlas are: does the Court have the power to grant relief to a party that was not properly served with notice of the underlying litigation? Can this Court uphold the integrity of the adjudication by correcting errors as to specific parties when such errors are identified? The answers are clearly yes.

II. LEGAL ARGUMENT

A. The Court Has the Inherent Power in Equity to Modify or Set Aside the Judgment.

The SP & WM have repeatedly attempted to couch the Zamrzlas’ motions as a collateral attack on the judgment. The purpose of this is to assert that the Zamrzlas are thus not permitted to offer extrinsic evidence in support of their claims. Of course, neither the SP nor the WM have specifically rebutted the actual legal authorities the Zamrzlas have offered in support of their motions.

As detailed in the Zamrzlas’ closing briefs, an equitable attack on a judgment or order, whether by motion in the same action or by a separate action in equity, is a direct attack on the judgment or order. (*Bennett v. Hibernia Bank* (1956) 47 Cal.2d 540, 558; *Olivera v. Grace* (1942)

¹ The Zamrzlas regret to inform the Court that Pamela Zamrzla passed away on May 21, 2023.

1 19 Cal.2d 570, 575.) Extrinsic evidence is admissible on a direct attack in equity to set aside
2 judgment on the ground of extrinsic fraud or mistake. (*Bae v. T.D. Service Co.* (2016) 245
3 Cal.App.4th 89, 98; *Sousa v. Freitas* (1970) 10 Cal.App.3d 660, 667; *Munoz v. Lopez* (1969) 275
4 Cal.App.2d 178, 183–184.) Fraud or mistake is extrinsic when it deprives the unsuccessful party
5 of an opportunity to present his case to the court. (*Rogers v. Mulkey* (1944) 63 Cal.App.2d 567,
6 575.) A mistaken belief of one party preventing proper notice of the action has been held to be a
7 mistake warranting equitable relief. (*Aldabe v. Aldabe* (1962) 209 Cal.App.2d 453, 475.) The
8 circumstances which deprive an adversary of a fair notice of a hearing or which prevent him from
9 having a fair hearing may be acts of the opponent not amounting to actual or intentional fraud.
10 Extrinsic mistake is sufficient. (*Antonsen v. Pacific Container Co.* (1941) 48 Cal.App.2d 535;
11 *Davis v. Davis* (1960) 185 Cal.App.2d 788, 793, 794.)

12 Equity’s jurisdiction to interfere with final judgments is based upon the absence of a fair,
13 adversary trial in the original action. (*Saunders v. Saunders* (1958) 157 Cal.App.2d 67, 72.) It is
14 well established that in cases where the aggrieved party is unable to make out a case of intentional
15 fraud, the courts on motion will extend a liberal interpretation to relieve him from a judgment taken
16 without a fair adversary hearing. (*Davis v. Davis* (1960) 185 Cal.App.2d 788, 794; *Evry v. Tremble*
17 (1957) 154 Cal.App.2d 444; *Watson v. Watson* (1958) 161 Cal.App.2d 35.) The basis for equitable
18 relief in these cases, whether it be denominated “extrinsic fraud” or “extrinsic mistake,” is that
19 which has resulted in a judgment taken under circumstances of unfairness and injustice without
20 affording a party the opportunity to participate in the proceedings. (*Id.*; *Saunders, supra*, 157
21 Cal.App.2d 67; *Dei Tos v. Dei Tos* (1951) 105 Cal.App.2d 81.) If an unsuccessful party to an action
22 has been kept in ignorance thereof or has been prevented from fully participating therein there has
23 been no true adversary proceeding, and the judgment is open to attack at any time. (*Rogers, supra*,
24 63 Cal.App.2d at p. 575 [internal citations omitted].)

25 *Antonsen v. Pacific Container Co.* is directly on point. *Antonsen* involved a plaintiff that
26 gave his agent power of attorney for the limited purpose of realizing on his interests, without
27 subjecting him to liability. Without the knowledge, direction, or authorization of the plaintiff, the
28 agent hired an attorney to proceed in an action against defendants. The attorney hired by the agent

1 was suspended for one year from the practice of law. Defendants served their answers and cross-
2 complaints upon the attorney. The attorney did not notify anyone of the purported service.
3 Defendants then obtained a default judgment against plaintiff. *Plaintiff had no knowledge of the*
4 *action for approximately five years* when defendants commenced an action against him to recover
5 on the default judgment. Plaintiff's motion to set aside the judgment was denied. While plaintiff's
6 appeal was pending, he commenced an action in equity to set aside the default judgment based on
7 the lack of service. The trial court entered a judgment for plaintiff. The Court noted that while it
8 was "entirely clear that there was no actual fraud on the part of defendants' counsel, we are of the
9 opinion that plaintiff was entitled to the relief granted." (*Antonsen, supra*, 48 Cal.App.2d 535.)
10 Like the Zamrzlas, the plaintiff in *Antonsen* did not discover he was subject to the action until years
11 afterwards. Nonetheless, the court concluded that it would be a travesty of justice not to set aside
12 the judgment and that plaintiff was not required to show actual fraud. (*Antonsen, supra*, 48
13 Cal.App.2d 535.)

14 The SP & WM contend no extrinsic evidence is permitted to be considered. But of course,
15 how could a mistake or fraud be proven without such evidence? The SP & WM continue to try to
16 couch the Zamrzlas' efforts as a collateral attack because it benefits the SP & WM to do so.² They
17 know that once considered, the facts and evidence paint a clear picture of insufficient notice and
18 inadequate due process. Because of the failure to properly serve them with notice of the litigation,
19 the Zamrzlas were prevented from engaging in the underlying litigation. This mistake resulted in
20 denial of the Zamrzlas' due process rights and denial of the Zamrzlas' ability to participate in an
21 adversarial hearing. This is precisely the kind of circumstance warranting relief in equity.

22 Indeed, the SP & WM know full well that extrinsic evidence is permitted, and have used it
23 extensively. It was the SP & WM who filed a motion with this Court seeking to conduct discovery
24 in response to the Zamrzlas' motions. They spent multiple days deposing the Zamrzlas, sent the
25 Zamrzlas a substantial volume of written discovery, introduced dozens of exhibits at the March
26 hearing, and submitted closing briefs in which they outline the evidence and why they believe it

27 ² The Zamrzlas note, however, that one basis for relief they have set forth – that the small pumper class notice is
28 defective on its face because it materially differs from the judgment – requires no extrinsic evidence, and can be decided
on the record of the underlying adjudication.

1 support their case. The SP & WM's actions over the past year are an implicit admission that such
2 evidence is permissible in deciding whether the Zamrzlas are entitled to equitable relief.

3 **B. The SP & WM Repeatedly Engage in Hyperbolic Exaggerations of the Facts**
4 **and Evidence.**

5 Attorneys have an obligation to zealously advocate for their clients. However, they must
6 do so within the parameters of the law and the rules of professional conduct. Attorneys owe a duty
7 of candor to the Court and to other parties. In their closing briefs, the SP & WM repeatedly
8 misrepresent the facts and evidence in this case and also engage in ad hominem attacks on the
9 Zamrzlas' character.

10 Notwithstanding their claim that no extrinsic evidence is permitted to be considered, the SP
11 & WM spend a substantial amount of time arguing the evidence. In fact, the bulk of their briefs
12 are evidence focused. However, much of the evidence is taken out of context or outright
13 misrepresented. The examples are too numerous to identify each and every mischaracterization of
14 evidence, but an effort is made here to rebut the most egregious examples:

15 **"Johnny Zamrzla then testified that he "gave bad information" during his**
16 **deposition... Johnny Zamrzla failed to correct the error in his deposition transcript." (SP p.**
17 **18, lines 17-22.)** Here, the Settling Parties accuse Johnny Zamrzla of wrongdoing by asserting that
18 he "failed" to correct the error in his deposition transcript. Of course, this assertion is, itself,
19 misleading and unsupported by the evidence. Johnny Zamrzla testified that he had trouble
20 remembering the timeline of his communications with Mr. Hickling at his deposition, and he did
21 not learn of the exact timeline (that he received the information post-judgment) until after he signed
22 his deposition. (190:19-191:13, 194:18-196:18.) The Settling Parties' implication that Johnny
23 Zamrzla intentionally misstated facts and failed to correct his deposition is a gross
24 misrepresentation of Johnny Zamrzlas' testimony.

25 **"...three class notices were duly mailed to Johnny and Pamela Zamrzla..." (SP p. 29,**
26 **lines 10-11.)** This is simply incorrect. One class notice is alleged to have been mailed (Z Exh. 23),
27 and the other two "notices" at issue are notices of potential class settlement. Again, the SPs
28 misrepresent the evidence. The 2013 and 2015 notices, which purport to notify a class member of

1 potential settlement, cannot be retroactively turned into initial notices of a class action.

2 Further, the SP & WM offered no evidence to support that the 2013 and 2015 notices were
3 mailed to any of the Zamrzlas.³ They simply state that it is so, but have not offered such evidence.
4 Thus, the argument appears to be that this Court should presume these notices were sent to the
5 Zamrzlas, without evidence, and that the Court should also presume the notices were received, read,
6 and understood, by persons who did not know they were part of any small pumper class. Indeed,
7 at the time these notices were allegedly mailed, none of the Zamrzlas had heard of the small pumper
8 class. (138:2-20, 248:2-10.)

9 **“The Zamrzlas... admit[] on numerous occasions that they were made aware of the**
10 **adjudication and its impact on their water rights.” (WM p. 6, lines 22-24.) “The Zamrzlas**
11 **admitted to knowing about the adjudication and that their claimed water rights were at risk**
12 **by at least 2009.” (SP p. 6, line 13.)** Neither the SP nor the WM have offered any actual evidence
13 supporting the conclusion that the Zamrzlas knew of the adjudication’s impact on their water rights.
14 This is an oft repeated claim by both the SP & WM, but to date, not a shred of evidence has been
15 produced to support it. It is also of critical importance to this case, which is why the SP & WM so
16 desperately want it to be true. However, while the Zamrzlas have admitted to various conversations
17 they had over the years about water litigation, they have always made clear they had no knowledge
18 that *they* were subject to the adjudication until the Watermaster’s letter in 2018. No evidence has
19 been offered that in any way shows the Zamrzlas had knowledge that they were personally subject
20 to the adjudication until 2018. Any claim to the contrary is outright false.

21 **“Despite discovery requests, Johnny Zamrzla refused to provide the Settling Parties**
22 **with a copy of the records provided by Norm Hickling, and did not reveal his 2016**
23 **communication with Mr. Hickling until the March 15, 2023, hearing.” (SP p. 17, lines 11-13.)**

24 Here, the Settling Parties accuse the Zamrzlas of wrongdoing in discovery. Again, this is a gross
25 misrepresentation of both the facts and the conduct of discovery in this case. The fact that Johnny

26 ³ The two Keough declarations, ostensibly offered to show a mailing was done do not include the mailing lists to which
27 the “notices” were allegedly mailed. These declarations also note many of the notices (690 in 2013 and 770 in 2015)
28 were “returned undeliverable” but fail to identify the persons to which these notices were undeliverable. The SP &
WM obtained the Declaration of Kevin Berg (SPW Ex 16), but why is there no similar declaration as to the 2013 and
2015 notices of settlement? The absence of such evidence is telling.

1 Zamrzla no longer had a copy of documents given to him by Mr. Hickling, *more than six years*
2 *ago*, does not imply wrongdoing. This is yet another example of the Settling Parties disparaging
3 the Zamrzlas and attempting to distract from the main issues in this case.

4 **“Even though Johnny and Pamela’s daughter Sherri (sic) Zamrzla Greco is a**
5 **California licensed attorney who participated in this proceeding and is a beneficiary of the**
6 **Zamrzla’s family trust, they also decided against consulting her or any other attorney to**
7 **advise them in their decision concerning their claimed water rights.” (SP p. 12, lines 12-15.)**

8 Consider the claim being made here: a party – that has never been properly served with notice of
9 litigation – is apparently obligated to actively seek out legal advice from a licensed attorney based
10 on the mere rumor that the litigation might involve them, even where everything that party knows
11 at that point is that the litigation does not involve them. This is an absurd stance taken by the
12 Settling Parties. By this rationale, a lay person has an affirmative obligation to actively seek out
13 and inject themselves into litigation. The Settling Parties have apparently forgotten that a right to
14 Due Process exists.

15 **“Pamella Zamrzla testified that it was possible that Johnny and Pamela Zamrzla**
16 **received the notices in the mail.” (SP 35, lines 23-24.)** Here, the Settling Parties intentionally
17 take a figure of speech out of context to claim Pamela Zamrzla made an admission which she did
18 not actually make. The testimony cited is as follows:

19 Q. Isn't it possible, ma'am, that you received
20 the class notice, didn't recognize it for what it was,
21 and threw it out? Isn't that possible?

22 A. *Anything is possible.*

23 (Transcript, 285:28-286:3.)

24 As the Settling Parties well know, and as the Court also knows, this response was a figure
25 of speech, made in exasperation in response to a strange and badgering line of questioning, in which
26 counsel for Grimmway appeared to assume that because the Zamrzlas did not stamp as “received”
27 documents that were not received in the mail, they must have been lying about stamping important
28 *mailed* documents “received.” The Settling Parties were present at the hearing, know the comment

1 was a figure of speech, and nonetheless chose to misrepresent it to the Court as an admission.

2 The Zamrzlas have no choice but to point out all of the above attacks, mischaracterizations,
3 and misrepresentations. This is done not to impugn the character of the Settling Parties' attorneys,
4 but simply to highlight that the evidence is not being accurately represented to the Court. The
5 evidence is clear and the SP & WM should not be permitted to so carelessly mispresent it.

6 **C. The Settling Parties and Watermaster Double Down on an Unbelievable**
7 **Version of Events that is Unsupported by the Evidence.**

8 The SP & WM again repeat specious claims about the Zamrzlas, which the evidence does
9 not at all support. First, they claim the Zamrzlas ignored the adjudication as a cost-saving measure.
10 This claim is absurd on its face, and the evidence clearly contradicts it. Next, they attempt to
11 impugn mal intent on various actions taken by the Zamrzlas over the year – again, with no actual
12 evidence to support these claims.

13 *1. The Claim that the Zamrzlas Ignored the Adjudication to Save Money on*
14 *Legal Fees.*

15 “It is undisputed that the Zamrzlas knew about the underlying adjudication long before the
16 Court’s entry of the final Judgment, but chose to ignore the potential impacts to their water rights
17 in an effort to save attorneys’ fees and maximize their water production.” (WM 16, lines 6-8.)
18 Here, the Watermaster again repeats the contention that the Zamrzlas ignored the adjudication “in
19 an effort to save attorneys’ fees.” It is unclear where this theory first arose, but it has been repeated
20 on numerous occasions by the SP & WM. It might be a nice soundbite, but it is belied by the
21 evidence. As Johnny Zamrzla testified, prior to 2015, he expended no legal fees relating to the
22 adjudication. (150:17-151:2.) However, subsequent to the 2018 letter from the Watermaster, the
23 Zamrzlas have expended in excess of \$500,000 in legal fees relating to the adjudication. (193:26-
24 194:11.) Thus, the representation that the Zamrzlas’ actions are explained by a penny-pinching
25 desire to save money on legal fees, is utterly false. There is not a shred of evidence to support such
26 a claim, yet it continues to be repeated.

27 Thus, the evidence not only does not support the SP & WM’s contention that the Zamrzlas
28 intentionally ignored the adjudication to save on legal fees, but it supports the exact opposite

1 conclusion: That the Zamrzlas have so actively fought to protect their water rights since 2018 – at
2 such great expense – proves they didn’t know they were subject to the adjudication prior to the
3 2015 judgment. It simply is not possible to believe that people who have acted as the Zamrzlas
4 have since 2018 would have knowingly ignored the adjudication before the judgment.

5 2. *The Implications in the Settling Parties’ Timeline of Events are Not*
6 *Supported by the Evidence.*

7 The Settling Parties created a chart (see SP p. 15-17). The purpose appears to be to imply
8 that the Zamrzlas took specific actions in response to events in the adjudication. But the Settling
9 Parties fail to connect the dots. Indeed, the Settling Parties stop short of actually stating the events
10 are connected because they lack any such evidence. Rather, they apparently want to impugn the
11 Zamrzlas’ credibility by implication. The evidence clearly contradicts these allegations.

12 SP & WM Claim: Johnny Zamrzla knew of the litigation affected him personally because
13 he reads the paper.

14 Actual Fact: Johnny Zamrzla did not know the adjudication affected him personally until
15 he received a letter from the Watermaster in 2018.

16 Evidence: The Zamrzlas first learned they were potentially subject to the adjudication when
17 they received a letter from the Watermaster on July 16, 2018. (95:7-15, 96:8-97:5, 245:11-16.)

18 The SP & WM offer no evidence concerning what Johnny Zamrzla (or any other Zamrzla)
19 actually read in the paper. They offer no evidence of what information was contained in Antelope
20 Valley Press articles that would have informed the Zamrzlas that they were personally alleged to
21 be subject to the adjudication.

22 SP & WM Claim: Gene Nebeker and Delmar Van Dam informed the Zamrzlas they were
23 subject to the adjudication.

24 Actual Fact: Gene Nebeker and Delmar Van Dam failed to inform the Zamrzlas that they
25 were subject to the adjudication.

26 Evidence: The Van Dam family are/were also heavy users of water in the Antelope Valley.
27 Johnny Zamrzla and Delmar Van Dam were longtime neighbors and friends. (80:4-25, 100:5-10.)
28 They had discussions about the adjudication during its pendency, and yet, at no point did Delmar

1 advise Johnny that the Zamrzlas were subject to the adjudication, or had been listed as Small
2 Pumpers. At no point did the Van Dams raise the issue with the Court, that the Zamrzlas were
3 incorrectly included on the Small Pumper list. To the contrary, Delmar specifically told Johnny
4 the adjudication did not affect the Zamrzlas, and that Johnny should continue doing what he was
5 doing. (100:25-102:25, 154:3-13.)

6 When the Zamrzlas decided to go back to growing alfalfa and grass crops in the 2010
7 timeframe, Delmar's son, Craig Van Dam was hired by the Zamrzlas to install the water lines on
8 the Zamrzlas' property. Again, at no point did Craig Van Dam advise the Zamrzlas that they were
9 subject to the ongoing adjudication. Apparently, Craig Van Dam also never advised the Court or
10 any other parties that the Zamrzlas were improperly classified as Small Pumpers. (80:4-27, 186:27-
11 187:27.) Indeed, as the Settling Parties helpfully point out, Mr. Van Dam gave the Zamrzlas the
12 bad advice to "stay out of the adjudication." (SP p. 36, lines 13-17.)

13 Likewise, Eugene Nebeker, a large landowner in the Antelope Valley, was also heavily
14 involved in the adjudication. The SP & WM repeatedly inquired into a conversation that took place
15 between Johnny and Pamella Zamrzla and Mr. Nebeker in approximately 2014 in which the
16 adjudication was discussed. (152:6-153:9, 154:3-13, 188:8-190:9, 251:2-20.)

17 SP & WM Claim: The Zamrzlas intentionally increased their water production by growing
18 alfalfa after 2010.

19 Actual Fact: The Zamrzlas did not maximize their water use in 2010 and forward.

20 Evidence: When none of the farming companies leased the Zamrzlas land in 2009, they
21 decided to convert to growing alfalfa and other grasses for their own animals. (77:28-78:20, 221:3-
22 5.) This process included rebuilding the well and installing water lines. (77:28-80:28.)

23 The Zamrzlas did not immediately plant the full 80 acres when they began growing alfalfa
24 and grasses. Rather, the aerial imagery clearly shows a slow and gradual progression over a number
25 of years. In the first year, 2011, 40 acres were planted. It is only in 2017 that the full 80 acres were
26 planted. (Z Exh. 26-30; 240:18-241:19.) If the Zamrzlas were trying to maximize water usage in
27 response to the adjudication, they would have promptly planted 80+ acres of alfalfa and used many
28 hundreds of acre feet of water per year than they actually used.

1 SP & WM Claim: Johnny Zamrzla knew he was subject to the adjudication when he
2 received a copy of the Judgment from Norm Hickling in 2016.

3 Actual Fact: Johnny Zamrzla did not have an understanding that he was subject to the
4 adjudication until he received the letter from the Watermaster in 2018.

5 Evidence: The Zamrzlas first learned they were potentially subject to the adjudication when
6 they received a letter from the Watermaster on July 16, 2018. (95:7-15, 96:8-97:5, 245:11-16.)
7 Jonny Zamrzla never even heard the term “small pumper class” until late 2018 or early 2019.
8 (192:12-20.)

9 The contention from the SP & WM appears to be that if a lay person receives a legal
10 document, they have an obligation to seek legal advice with respect to that document, *even if they*
11 *have no reason to believe it involves them*. (See SP p. 12, lines 12-15; WM p. 7, lines 1-5.)
12 Replacing proper legal notice, with placing an affirmative obligation on non-lawyers to seek out
13 and inject themselves into litigation, is a patently absurd contention, with no support in the law.

14 **D. The 2009 Mail Notice is Defective as it Materially Differs from the Class**
15 **Definition in the 2015 Judgment.**

16 Strangely, the SP & WM fail to even address the Zamrzlas’ argument regarding the
17 defective 2009 notice of class action. As detailed in the Zamrzlas moving papers and closing brief,
18 the 2009 Class Notice’s definition of the Small Pumper Class materially differs from the final
19 judgment definition. This is such a critical issue in this case, the silence of the SP & WM on the
20 issue is shocking.

21 The June 26, 2009 Notice of Class Action for the “Small Pumper” Class Action, dated June
22 26, 2009, defined Small Pumpers as follows:

23 **YOU ARE NOT IN THE CLASS WITH RESPECT TO ANY**
24 **GIVEN PARCEL OF PROPERTY IF THAT PARCEL FALLS**
25 **WITHIN ANY OF THE FOLLOWING CATEGORIES:**

- 26 1. **You have pumped 25 acre-feet or more of groundwater for**
27 **use on a that parcel in any calendar year since 1946; or**
28 2. You are a shareholder in a mutual water company in the Antelope
Valley; or
3. You are already a party to this litigation (but, in that event, you

may elect to join the Class).

Per section 1 of the Small Pumper Notice, a landowner is not a member of the class if, **in any year since 1946 the landowner pumped 25 acre-feet or more**. This definition materially differs from the definition in the class certification order, which defined the class as all persons “that have been pumping less than 25 acre-feet per year on their property during any year from 1946 to the present.” (Z Exh. 78.) It also differs from the definition of the Small Pumper Class found at section 3.5.44 of the Judgment and Physical Solution, which states small pumpers are those persons “that have been pumping less than 25 acre-feet per year on their property during any year from 1946 to the present.” This discrepancy in the class definition renders the notice deficient on its face, as it would mislead anyone reading the notice regarding who is properly a member of the small pumper class. No extrinsic evidence is required to reach such a conclusion. The defect is apparent on the record in the adjudication.

Importantly, this major discrepancy between the notice and the class definition fails to meet constitutional due process for notice because the notice was not reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. Nor does such notice reasonably convey the required information. The notice thus fails the basic test of *Mullane v. Cent. Hanover Bank & Trust Co.* (1950) 339 U.S. 306 regarding the sufficiency of notice [The notice must be reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections. The notice must be of such nature as reasonably to convey the required information, and it must afford a reasonable time for those interested to make their appearance.]

1. Johnny and Pamela Zamrzla are Not Small Pumpers.

As defined by the 2009 class notice the SP & WM so heavily rely on, Johnny and Pamela Zamrzla do not fit the definition of the Small Pumper class. According to Rick Koch, of Southern California Edison, the Zamrzlas’ Farm Well produced significantly more than 25 acre-feet per year every year during the studied period, with the exception of 2009-2010 (when the Zamrzlas were converting from leasing the farmland to their own alfalfa and grass production [see 77:28-81:3] and

1 2018 forward, when the Zamrzlas stopped producing water from the Farm Well. (78:22-79:6.) The
2 Zamrzlas' water production for the years prior to 2011 exceeded or equaled the average water
3 produced from 2011 to 2020. (Z Exh. 1-15.)

4 Mr. Koch's analysis also showed that the Zamrzlas' Domestic Well pumped in excess of
5 25 acre-feet in most years since 2000. Mr. Koch's results show that this analysis is not a close
6 call—the Zamrzlas have consistently pumped far in excess of the 25 acre-feet per year maximum
7 required for inclusion in the Small Pumper Class. (Z Exh. 1-15.)

8 When the SP & WM highlight the occasional year of water production that fell below 25
9 acre feet, and argue that this means the Zamrzlas meet the class definition in the Judgment, they
10 essentially prove the Zamrzlas' point. How can it be that there are competing definitions of the
11 class? How can it be that there is an argument as to whether or not the Zamrzlas meet the class
12 definition? The contradictory class definitions, and the confusion and inconsistencies that arise
13 therefrom, prove the inadequacy of the 2009 notice.

14 *2. The Settling Parties and Watermaster Take an Inconsistent Position Regarding*
15 *What Constitutes a Small Pumper.*

16 The 2015 Judgment was the result of an agreement between the numerous parties to the
17 adjudication after many years of litigation. That Judgment, at its core, was intended to equitably
18 apportion the safe yield amongst all water producers in the Antelope Valley. The Settling Parties
19 and Watermaster now seek to turn the purpose and intent of the judgment on its head, and force the
20 Zamrzlas into the Small Pumper Class, granting them only a tiny fraction of their historical water
21 production. Their attempt to now use the Judgment as a weapon against the Zamrzlas not only
22 contradicts its purpose but is also inconsistent with past determinations and classifications of parties
23 to the adjudication.

24 Take, for example, Watermaster Board Member and Exhibit 4 party Wm. Bolthouse Farms,
25 Inc. The record in this matter indicates that Bolthouse Farms listed 73 total fields in which they
26 grew crops. In 2012 Bolthouse listed two fields as fallow and in 2011 Bolthouse listed 3 fields as
27 fallow. Bolthouse's water production for 2011 and 2012 were then averaged and reported as their
28 Pre-Rampdown Production in the Judgment. However, out of the 73 Fields, they reported 27 were

1 Fallow in 2007, 44 were Fallow in 2006, 48 were Fallow in 2005, 29 were Fallow in 2002, and 36
2 were Fallow in 2001. (Docket No. 6571, EXHIBITS A THRU C Amended 5/8/13 AND EXHIBIT
3 P-1, attached hereto as Exhibit A.) If the SP & WM arguments regarding non-use in certain years
4 are taken as true, Bolthouse should be classified as a Small Pumper, or at least with respect to the
5 numerous fields on which no water was produced in *any* year since 1946; given their crop rotation
6 practices, this appears to be virtually all fields, meaning their production right under the judgment
7 should have been 3 acre-feet per year per well. Even with 110 owned parcels, the total production
8 right would be a far cry from the 9,945 AFY awarded to Bolthouse under the final judgment. The
9 SP & WM are attempting to apply a different standard to the Zamrzlas than was applied to other
10 parties to the adjudication. The Court should reject this attempt.

11 The record reflects the Court's intention was to provide small domestic pumpers typically
12 pumping 1.2 AFY with generous permission to pump up to 3 AFY, without them each having to
13 spend millions of dollars in legal fees to get that production right and to spare the Public Water
14 Suppliers the burden of having to personally serve them the First-Amended Cross-Complaint of
15 Public Water Suppliers For Declaratory And Injunctive Relief And Adjudication of Water Rights.
16 The Zamrzlas have been unable to locate any evidence in the voluminous court record that Small
17 Pumper Class Attorney McLachlan ever represented the interests of anyone who had a history of
18 ever pumping over 25 AFY. The Zamrzlas can also find no evidence that the Court intended for
19 the Small Pumper Class Attorney to represent the interests of anyone who had a history of Pumping
20 over 25 AFY. For the Settling Parties and especially the Watermaster (responsible for the ethical,
21 unbiased administration of the Judgment) to assert otherwise is a shocking claim. A ruling
22 accepting the SP & WM's arguments would fly in the face of the intent and validity of the entire
23 Judgment. The Zamrzlas deserve the right to be released from their alleged classification as Small
24 Pumpers and to be given the opportunity to prove up an equitable historical pumping right in
25 relation to the pumping histories stated on the Court record by the stipulating parties. All the
26 Zamrzlas ask for is equitable treatment.

27 **E. Granting the Zamrzlas' Relief Will Not Result in Catastrophe.**

28 The Watermaster contends that to grant the Zamrzlas' relief would have "catastrophic

1 consequences.” (WM p. 23.) The Settling Parties have made similar assertions against the
2 Zamrzlas. What both fail to do is cite any legal authorities for the proposition that relief should not
3 be granted in law or equity on the basis that such relief would have substantial negative
4 consequences. Here, the basic thrust of the argument is that to grant the Zamrzlas relief would “set
5 a dangerous precedent” and apparently potentially unwind the entire adjudication.

6 There are two problems with this claim. The first is that it is simply not true. The Zamrzlas
7 request relief specific to themselves. They have not requested that this court throw out the 2015
8 judgment. The Court can make the Zamrzlas whole without affecting the rights or obligations of
9 any other party under the judgment, and without affecting the judgment itself.

10 Second, even if granting the Zamrzlas’ motions would have the effect of throwing out the
11 entire 2015 judgment if the Zamrzlas are entitled to relief under the law or equity, they are entitled
12 to such relief. *The effect on other parties, or the adjudication as a whole, is irrelevant to the Court’s*
13 *determination of the Zamrzlas’ motions.* The Zamrzlas cannot be denied a remedy to which they
14 are entitled, simply out of misguided fear that the broader adjudication will be adversely affected.

15 The Court should disregard the SP & WM’s legally unsupported scare tactic.

16 **F. The Settling Parties and Watermaster Offer no Explanation for Why Parties**
17 **to the Litigation that Knew the Zamrzlas Were Not Small Pumpers and Knew**
18 **the Zamrzlas Had Not Been Served did Nothing to Correct the Error Prior to**
19 **Judgment.**

20 The Zamrzlas presented substantial evidence establishing that numerous parties to the
21 adjudication had personal knowledge that 1) the Zamrzlas were not small pumpers; 2) knew the
22 Zamrzlas were improperly classified as Small Pumpers; and 3) knew the Zamrzlas were not actively
23 involved in the adjudication. Evidence also established that despite this knowledge, at no point
24 during the years of ongoing litigation did any of these parties attempt to address or rectify the
25 Zamrzlas’ improper classification or absence. At no point did any party tell the Zamrzlas, “This
26 adjudication affects *everyone* who pumps in the Antelope Valley.” Such parties include Grimmway
27 Enterprises, the Van Dam family, and Eugene Nebeker.

28 Rather than address why these parties knowingly failed to properly inform the Zamrzlas of
the threat to their water rights, the Settling Parties accuse the Zamrzlas of “audacity and arrogance”

1 and of lacking “candor or self-responsibility.” This caustic response, lacking any legal or factual
2 argument or explanation, is revealing.

3 **G. Johnny and Pamella Zamrzla Have Been Denied Due Process as They Were**
4 **Never Served Notice of the Antelope Valley Groundwater Litigation.**

5 Notice must be “reasonably calculated, under all the circumstances, to apprise interested
6 parties of the pendency of the action and afford them an opportunity to present their objections.”
7 (*Mullane v. Cent. Hanover Bank & Trust Co.* (1950) 339 U.S. 306, 314.) Water rights are treated
8 as real property rights in California and are subject to due process law. Once rights to use water
9 are acquired, they become vested real property rights. As such, they cannot be infringed by others
10 or taken by governmental action without due process and just compensation. (*United States v. State*
11 *Water Res. Control Bd.* (1986) 182 Cal.App.3d 82, 101.) Due process principles require reasonable
12 notice and opportunity to be heard before governmental deprivation of a significant property
13 interest. (*Horn v. Cty. of Ventura*, (1979) 24 Cal.3d 605, 612.)

14 It is well settled that “the judgment in a class action binds only those class members who
15 had been notified of the action and who, being so notified, had made no request for exclusion.”
16 (*Steen v. Fremont Cemetery Corp.* (1992) 9 Cal.App.4th 1221, 1227.) The notice requirement is
17 not only important and essential to the correct determination of the main issue it is, above all,
18 jurisdictional. (*Id.*, at p. 1227-1228.)

19 The Zamrzlas have repeatedly and consistently testified they were never served personally,
20 by mail, or by publication. No evidence to the contrary has been offered. Instead, the SP & WM
21 rely on distractions such as notices of proposed class settlement, or water code extraction notices,
22 in an effort to deflect from the clearly insufficient notice.

23 **H. There Was No Service by Publication**

24 The SP & WM fail to establish effective service by publication. No evidence has been
25 offered establishing that the Zamrzlas were served by publication. The SP & WM offered two
26 exhibits relevant to the issue of service by publication: SWP Exhibits 10 and 15. These exhibits
27 fail to establish service of notice of the litigation by publication. Rather, the exhibits show that
28 notices of Proposed Settlement of Class Action were published in a few area newspapers.

1 As detailed in the Zamrzlas Closing Brief, Exhibit 10 – Supplemental Declaration of
2 Michael D. McLachlan, dated December 3, 2015 – relates to the publication of Notices of Proposed
3 Partial Class Action Settlement in the Los Angeles Times, the Bakersfield Californian, and the
4 Antelope Valley Press. These notices were variously published on November 3, 10, and 17, 2013;
5 Exhibit 15 – Declaration of Michael D. McLachlan, dated June 4, 2015 – relates to the publication
6 of Notices of Proposed Class Action Settlement in the Los Angeles Times, the Bakersfield
7 Californian, and the Antelope Valley Press. These notices were published on April 12 and April
8 19, 2015, only eight months prior to the final Judgment. Neither notice is a notice of class action.
9 Both are notices of proposed settlement.

10 While the SP & WM claim the 2009 Class Notice was served by publication, they fail to
11 offer any evidence of such. Whereas declarations showing proof of publication, and attaching the
12 published notices, were provided for the 2013 and 2015 notices of proposed settlement, no such
13 documentation was provided for the 2009 notice. Even if it was served by publication, that notice
14 was defective on its face given the critical differences between the class definition in the notice and
15 the judgment. The two notices of proposed settlement are not notices of the litigation itself. Neither
16 the 2013 notice nor the 2015 notices were intended to identify potential class members and permit
17 them to opt out of the litigation. Neither meets the *Mullane* standard of being “reasonably
18 calculated, under all the circumstances, to apprise interested parties of the pendency of the action
19 and afford them an opportunity to present their objections.” (*Mullane v. Cent. Hanover Bank &*
20 *Trust Co.* (1950) 339 U.S. 306, 314.)

21 **I. Water Code Extraction Notices Are a Distraction from the Undisputed Fact**
22 **that Johnny and Pamela Zamrzla Should have been Personally Served.**

23 The SP & WM continue to repeat the falsehood that had the Zamrzlas filed Water Code
24 Extraction Notices, they would have been served. Implicit in this claim, of course, is the admission
25 that the Zamrzlas *should have been personally served*. But the SP & WM take the position that it
26 is the Zamrzlas’ own fault they were not personally served.

27 The Zamrzlas admit they did not file extraction notices. This has never been in dispute.
28 But, the SP & WM are improperly using the notices for a purpose for which they were not intended.

1 Not only has this Court previously ruled against using the extraction notices (Z Exh. 55-58), but
2 nothing in Water Code section 4999, *et seq.* provides that failure to file the extraction notices means
3 a property owner need not be served with notice of litigation affecting the property owner's water
4 rights. The SP & WM are attempting to read into the Water Code penalties which do not exist.
5 There is no statutorily prescribed penalty in the Water Code that a party that fails to file extraction
6 notices loses its right to due process by proper service of notice of litigation against that party. The
7 SP & WM are using the extraction notice issue as character evidence, to say that because the
8 Zamrzlas failed to file the extraction notices, they should essentially be punished, and should not
9 be afforded due process.

10 It is telling that the only response to the claim that the Zamrzlas should have been personally
11 served is the extraction notice distraction. The SP & WM have no other answer for why the
12 Zamrzlas were not personally served. In fact, it is undisputed that Johnny and Pamela Zamrzla
13 were required to be personally served. On September 12, 2008, Jeffrey Dunn filed a declaration
14 regarding the status of service of process. In that declaration, Mr. Dunn indicated that "Pursuant
15 to Court Order, the Public Water Suppliers initiated personal service attempts beginning on October
16 28, 2005, on over 630 parties." (Z Exh. 120, Docket No. 2011.) Mr. Dunn notes that "the Court
17 directed that personal service be completed upon the landowners owning at least 100 acres and/or
18 known to pump more than 25 acre feet annually." (Z Exh. 120, Docket No. 2011.) The Zamrzlas
19 would have been easily identifiable as owners of more than 100 acres, given the length of time they
20 had owned their three parcels. The SP & WM completely ignore this issue.

21 **J. The Zamrzlas Have Acted Diligently and are Entitled to Equitable Relief.**

22 The SP & WM again assert that the Zamrzlas delayed in bringing their motions, and should
23 be denied relief in equity on the basis of that delay. However, the evidence proves the Zamrzlas
24 have responded to the adjudication with diligence since they first became aware that it affected
25 their water rights in 2018. The SP & WM have no evidence of delay, they simply assert it to be so.
26 At the risk of being repetitive, the Zamrzlas must again outline the history of events, post-judgment:

27 The Zamrzlas did not know they were subject to the adjudication until they received the
28 letter from the Watermaster in 2018. (95:7-15, 192:12-20, 249:10-22.) The only conversation

1 related to the adjudication that Pamela Zamrzla had prior to 2015 was the single conversation with
2 Gene Nebeker previously discussed at length. (251:2-20.) Johnny Zamrzla was involved in various
3 conversations with friends and acquaintances over the years, including Mr. Nebeker and Delmar
4 Van Dam, but critically, did not have any understanding that the adjudication involved the Zamrzlas
5 or would affect their pumping rights. (152:6-153:9, 251:2-252:20.) Neither Johnny nor Pamela
6 had even heard of the Small Pumper Class until after they actively became involved in litigating
7 the issues raised by the Watermaster in 2018 and onward. (138:2-20, 248:2-10.)

8 The Zamrzlas first received a letter from the Watermaster on July 16, 2018. In response,
9 they promptly retained Mr. Robert Brumfield, who requested on July 24, 2018, that the
10 Watermaster stipulate to the Zamrzlas being permitted to intervene in the litigation. **No response**
11 **was received.** Mr. Brumfield followed up again on August 6, 2018, **again no response was given**
12 **to the request.** (Z Exh. 19, pages 17-19; 95:7-15, 96:8-97:5, 245:11-17.) Thus, the initial delays
13 began due to the Watermaster's failure to communicate with the Zamrzlas' counsel.

14 When the Watermaster finally requested information regarding how much water both sets
15 of Zamrzlas planned to pump in the future, Mr. Brumfield promptly provided the requested
16 information. Sometime thereafter, the Watermaster began asserting the claim that the Zamrzlas
17 were Small Pumper Class members, which was the first time the Zamrzlas had heard this allegation
18 or were aware of a Small Pumper Class. Finally, approximately six months after the letter, on
19 January 22, 2019, the Watermaster invoiced the Zamrzlas for the year 2018 in the amount of
20 \$273,165, based on erroneous information. Communication between the Watermaster and the
21 Zamrzlas ensued throughout 2019 and 2020. During this time the Zamrzlas willingly produced
22 evidence regarding their actual water use and attempted to reach some sort of reasonable settlement
23 with the Watermaster. The Watermaster even sent the Zamrzlas a draft settlement agreement on
24 April 12, 2021, however, the agreement improperly lumped Johnny and Pamela Zamrzla together
25 with Johnny Lee and Jeanette Zamrzla as if they were one party.⁴ (Z Exh. 19, pages 17-19; 300:28-
26 302:25.) Thus, another two years elapsed as the Watermaster strung the Zamrzlas along with

27 ⁴ This conflation of Johnny and Pamela with Johnny Lee and Jeanette continues to this day; see, for example, the
28 Settling Parties' joint brief in which they repeatedly conflate the two couples, and constantly use evidence relating to
one couple against the other.

1 settlement negotiations that, in the end, proved fruitless.

2 Apparently unwilling to correct the problems with the draft settlement agreement, on
3 October 28, 2021, the Watermaster moved for monetary, declaratory, and injunctive relief against
4 the Zamrzlas. This motion was the first time the Watermaster acknowledged its error, now claiming
5 the Zamrzlas owe only \$28,755 based on their own reported 2018 pumping. Notwithstanding this
6 admission of error, the invoice for \$273,165 remains publicly posted to the Watermaster's website,
7 despite numerous requests that it be withdrawn. (Z Exh. 19, pages 17-19; 300:28-302:25.)

8 The Zamrzlas opposed the Watermaster's motion. The Watermaster filed a reply brief.
9 Four hearings were held as to the Watermaster's claims: December 10, 2021, January 25, 2022,
10 February 18, 2022, and March 4, 2022. (Z Exh. 19, pages 17-19.) Another hearing was held in
11 December, 2022, which was followed by the March 15-16, 2023 evidentiary hearing. This brings
12 us to the present. What the SP & WM cannot do is point to a period of time in which the Zamrzlas
13 did nothing. They insinuate that too much time has elapsed since the judgment, but have failed to
14 identify where the Zamrzlas unreasonably delayed.

15 **K. The Settling Parties Had Improper Ex Parte Communication with the Court.**

16 Finally, the Zamrzlas must lodge an objection here to the Settling Parties' improper ex parte
17 communication with the Court the day prior to their Closing Brief being filed. The Settling Parties
18 contacted counsel for the Zamrzlas a few days prior to their closing brief being due requesting that
19 the Zamrzlas stipulate that the Settling Parties be permitted to file one 40-page brief addressing all
20 four of the Zamrzlas, as opposed to two 20-page briefs, one addressing each couple. The Zamrzlas
21 declined to agree to this modification of the Court's order.

22 In short, a joint brief provided the Settling Parties more room to make their arguments than
23 they otherwise would have had. Introductions, Conclusions, Legal Arguments and Factual
24 Background information that might need to be repeated in both briefs, now needed to be stated only
25 once. Further, the issues involving Johnny and Pamella have historically been more complex than
26 the issues involving Johnny Lee and Jeanette. Combining the briefs permitted the Settling Parties
27 a substantial number of additional pages to make their arguments. A review of the Settling Parties'
28 brief confirms this, as the vast majority is dedicated to joint arguments applicable to all the

1 Zamrzlas, or arguments specific to Johnny and Pamela. Very few pages are expended on
2 arguments specific to Johnny Lee and Jeanette only.

3 In response to the Zamrzlas declining to agree to the request, the Settling Parties contacted
4 the Court – *without informing or including the Zamrzlas* – and obtained the relief they sought. This
5 constituted an improper ex parte communication with the Court and it resulted in a substantial
6 material advantage to the Settling Parties.

7 **III. CONCLUSION**

8 Is there a remedy for a party that was not served with notice of the Antelope Valley
9 Groundwater Adjudication? If the Settling Parties and the Watermaster are to be believed, the
10 answer is no. No party who was not served, or who was inadequately served, with notice of the
11 adjudication can complain of that fact when it is discovered. Rather, all the thousands of parties to
12 the adjudication are now bound by the judgment, in perpetuity, regardless of due process or other
13 extenuating circumstances.

14 Notwithstanding the personal attacks, misrepresentations, and distractions from the Settling
15 Parties and Watermaster, the evidence is clear that the Zamrzlas never received notice of the
16 adjudication prior to the judgment. For all of the reasons outlined in the Zamrzlas' moving papers,
17 and herein, they are entitled to equitable relief.

18 Dated: May 26, 2023

MATHENY SEARS LINKERT & JAIME, LLP

20 By: 
21 NICHOLAS R. SHEPARD, ESQ., Attorney
22 for Defendants, "ZAMRZLA'S")
23
24
25
26
27
28

EXHIBIT A

1 **RICHARD G. ZIMMER - SBN 107263**

2 **T. MARK SMITH - SBN 162370**

3 **CLIFFORD & BROWN**

4 **A Professional Corporation**

5 **Attorneys at Law**

6 **Bank of America Building**

7 **1430 Truxtun Avenue, Suite 900**

8 **Bakersfield, CA 93301-5230**

9 **(661) 322-6023**

10 Attorneys for Bolthouse Properties, LLC and

11 Wm. Bolthouse Farms, Inc.,

12 **SUPERIOR COURT OF CALIFORNIA**

13 **COUNTY OF SANTA CLARA**

14 * * *

15 **COORDINATION PROCEEDING**

16 **SPECIAL TITLE (Rule 1550(b))**

) **Judicial Council Coordination Proceeding**

) **No. 4408**

17 **ANTELOPE VALLEY GROUNDWATER**

18 **CASES**

) **CASE NO. 1-05-CV-409053**

) *Trial Date: 02/11/13*

19 **INCLUDED ACTIONS:**

20 **LOS ANGELES COUNTY**

21 **WATERWORKS DISTRICT NO. 40 v.**

22 **DIAMOND FARMING COMPANY, et al.,**

23 **Los Angeles Superior Court Case No.**

24 **BC325201**

) **ADDENDUM EXHIBITS A, B, C**

) **AMENDED MAY 8, 2013, EXHIBITS P-1**

) **AND P-2 TO DECLARATION OF**

) **ANTHONY L. LEGGIO IN LIEU OF**

) **DEPOSITION TESTIMONY FOR**

) **PHASE 4 TRIAL**

25 **LOS ANGELES COUNTY**

26 **WATERWORKS DISTRICT NO. 40 v.**

27 **DIAMOND FARMING COMPANY, et al.,**

28 **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]

1 Bolthouse Properties, LLC hereby submits Exhibit A amended May 8, 2013, Exhibit B
2 amended May 8, 2013, and Exhibit C amended May 8, 2013 superseding Exhibits A, B, and C
3 previously provided in the Declaration of Anthony L. Leggio in Lieu of Deposition Testimony
4 for Phase 4 Trial.

5 In addition, Bolthouse Properties, LLC hereby submits Exhibits P-1 and P-2. These
6 exhibits are in response to inquiries made at the deposition of Anthony L. Leggio on April 23,
7 2013.

8 I declare under penalty of perjury under the laws of the State of California that the
9 foregoing is true and correct. Executed this 13th day of May, 2013, at Bakersfield, California.

10
11 By:


12 ANTHONY L. LEGGIO
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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 **May 10, 2013**, I served the foregoing document(s) entitled:

9 **ADDENDUM EXHIBITS A, B, C AMENDED MAY 8, 2013, EXHIBITS P-1 AND P-2**
10 **TO DECLARATION OF ANTHONY L. LEGGIO IN LIEU OF DEPOSITION**
11 **TESTIMONY FOR PHASE 4 TRIAL**

12 by uploading true copies thereof to the Santa Clara Superior Court's website as
13 directed by:

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

16 Executed on **May 10, 2013**, at Bakersfield, California.

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

19 **(Federal)** I declare that I am employed in the office of a member of the Bar
20 of this Court at whose direction the service was made.

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Vicki Street
2455-2

EXHIBIT A

Amended 5/8/13

To Addendum Exhibits A, B, C Amended May 8, 2013,
Exhibits p-1 and P-2 to Declaration of Anthony L. Leggio
In Lieu of Deposition Testimony for Phase 4 Trial

BOLTHOUSE PROPERTIES, LLC**EXHIBIT A Amended 5/8/2013****APNs and Acreage**

| APN | RANCH | ACRES |
|--------------|-----------------------|-----------------|
| 3378-023-005 | Bushnell | 29.43 |
| 3382-022-057 | Bushnell | 79.10 |
| 3382-023-017 | Bushnell | 19.55 |
| 3382-023-018 | Bushnell | 19.55 |
| 3382-023-027 | Bushnell | 116.84 |
| 3382-023-033 | Bushnell | 39.09 |
| 3382-023-034 | Bushnell | 38.20 |
| 3384-001-004 | Bushnell | 37.81 |
| | Bushnell Total | 379.57 |
| 3150-015-003 | Minn | 77.29 |
| 3150-015-004 | Minn | 79.09 |
| 3150-015-006 | Minn | 155.08 |
| 3150-016-019 | Minn | 29.66 |
| 3150-016-020 | Minn | 29.66 |
| 3150-016-021 | Minn | 28.76 |
| 3150-016-023 | Minn | 29.32 |
| 3154-017-009 | Minn | 40.00 |
| 3384-003-008 | Minn | 76.57 |
| 3384-003-010 | Minn | 19.55 |
| 3384-003-011 | Minn | 18.66 |
| 3384-004-004 | Minn | 81.68 |
| 3384-008-001 | Minn | 30.68 |
| 3384-008-020 | Minn | 39.09 |
| 3384-015-013 | Minn | 70.91 |
| 3384-016-013 | Minn | 40.00 |
| 3384-016-014 | Minn | 39.09 |
| 3384-017-001 | Minn | 79.09 |
| 3384-017-002 | Minn | 77.29 |
| 3384-017-003 | Minn | 76.40 |
| 3384-018-001 | Minn | 272.16 |
| 3384-018-002 | Minn | 39.00 |
| 3384-018-003 | Minn | 1.00 |
| 3384-018-004 | Minn | 153.38 |
| 3384-020-001 | Minn | 40.57 |
| | Minn Total | 1,623.98 |
| 3376-022-004 | Pardee | 20.00 |
| 3376-022-005 | Pardee | 20.00 |
| 3376-022-006 | Pardee | 18.48 |

BOLTHOUSE PROPERTIES, LLC**EXHIBIT A Amended 5/8/2013**

APNs and Acreage

| APN | RANCH | ACRES |
|--------------|--------|--------|
| 3376-022-016 | Pardee | 36.74 |
| 3376-022-017 | Pardee | 19.27 |
| 3376-022-018 | Pardee | 17.17 |
| 3376-026-002 | Pardee | 7.64 |
| 3376-026-003 | Pardee | 9.33 |
| 3376-026-004 | Pardee | 9.34 |
| 3376-026-005 | Pardee | 9.35 |
| 3376-026-006 | Pardee | 9.35 |
| 3376-026-007 | Pardee | 9.36 |
| 3376-026-008 | Pardee | 9.37 |
| 3376-026-009 | Pardee | 7.97 |
| 3376-026-010 | Pardee | 8.82 |
| 3376-026-011 | Pardee | 8.92 |
| 3376-026-012 | Pardee | 8.90 |
| 3376-026-013 | Pardee | 8.63 |
| 3376-026-014 | Pardee | 8.54 |
| 3376-026-015 | Pardee | 8.80 |
| 3376-026-016 | Pardee | 8.82 |
| 3376-026-017 | Pardee | 8.72 |
| 3376-026-018 | Pardee | 8.73 |
| 3376-026-019 | Pardee | 8.83 |
| 3376-026-020 | Pardee | 8.82 |
| 3376-026-021 | Pardee | 8.55 |
| 3376-026-022 | Pardee | 8.68 |
| 3376-026-023 | Pardee | 8.95 |
| 3376-026-024 | Pardee | 8.96 |
| 3376-026-025 | Pardee | 8.86 |
| 3376-026-026 | Pardee | 8.05 |
| 3376-026-027 | Pardee | 9.45 |
| 3376-026-028 | Pardee | 9.45 |
| 3376-026-029 | Pardee | 8.26 |
| 3376-026-030 | Pardee | 8.25 |
| 3376-026-031 | Pardee | 9.43 |
| 3376-026-032 | Pardee | 9.42 |
| 3376-026-033 | Pardee | 7.72 |
| 3378-002-003 | Pardee | 35.69 |
| 3378-003-001 | Pardee | 156.38 |
| 3378-004-008 | Pardee | 79.09 |

BOLTHOUSE PROPERTIES, LLC**EXHIBIT A Amended 5/8/2013****APNs and Acreage**

| APN | RANCH | ACRES |
|--------------|---------------------|-----------------|
| 3378-005-001 | Pardee | 155.19 |
| 3378-005-002 | Pardee | 78.49 |
| 3378-005-004 | Pardee | 79.11 |
| 3378-005-005 | Pardee | 79.11 |
| 3378-005-006 | Pardee | 76.08 |
| 3386-013-010 | Pardee | 40.00 |
| 3386-014-001 | Pardee | 78.48 |
| | Pardee Total | 1,271.55 |
| 3075-011-017 | Retlaw | 40.00 |
| 3075-014-001 | Retlaw | 156.97 |
| 3075-015-001 | Retlaw | 1.00 |
| 3075-015-002 | Retlaw | 74.50 |
| 3075-015-003 | Retlaw | 40.00 |
| 3075-015-004 | Retlaw | 40.00 |
| 3075-015-005 | Retlaw | 40.00 |
| 3075-015-006 | Retlaw | 78.48 |
| 3075-015-007 | Retlaw | 38.48 |
| 3075-016-001 | Retlaw | 153.50 |
| 3075-016-002 | Retlaw | 76.71 |
| 3075-016-003 | Retlaw | 61.03 |
| 3075-016-004 | Retlaw | 18.49 |
| 3075-017-010 | Retlaw | 0.01 |
| 3075-017-011 | Retlaw | 2.00 |
| 3075-019-001 | Retlaw | 79.09 |
| 3075-019-002 | Retlaw | 19.77 |
| 3075-019-005 | Retlaw | 19.54 |
| 3075-019-006 | Retlaw | 20.00 |
| 3079-014-017 | Retlaw | 75.21 |
| 3079-015-001 | Retlaw | 156.36 |
| 3080-005-001 | Retlaw | 80.00 |
| 3080-005-002 | Retlaw | 95.03 |
| 3080-005-003 | Retlaw | 40.00 |
| 3080-005-009 | Retlaw | 47.67 |
| | Retlaw Total | 1,453.84 |
| 3032-004-020 | S&P Rowen | 6.41 |
| 3032-004-021 | S&P Rowen | 686.95 |
| 3091-020-019 | S&P Rowen | 38.48 |
| 3091-020-020 | S&P Rowen | 37.60 |

BOLTHOUSE PROPERTIES, LLC

EXHIBIT A Amended 5/8/2013

APNs and Acreage

| APN | RANCH | ACRES |
|--------------|----------------------------|----------|
| 3091-021-018 | S&P Rowen | 635.15 |
| 3091-024-006 | S&P Rowen | 310.14 |
| 3091-024-007 | S&P Rowen | 304.31 |
| | S&P Rowen Total | 2,019.04 |
| | Grand Total | 6,747.98 |

EXHIBIT B

Amended 5/8/13

To Addendum Exhibits A, B, C Amended May 8, 2013,
Exhibits p-1 and P-2 to Declaration of Anthony L. Leggio
In Lieu of Deposition Testimony for Phase 4 Trial

BOLTHOUSE PROPERTIES, LLC
EXHIBIT B Amended 5/8/2013
Titleholder 2000 to Present

| APN | RANCH | TITLEHOLDER | FROM | TO | TITLEHOLDER | FROM | TO | TITLEHOLDER | FROM | TO |
|--------------|----------|--------------------------|----------|----------|--------------------------|----------|----------|---------------------------|----------|----------|
| 3378-023-005 | Bushnell | Estandia, N.V. | Jan 2000 | Sep 2004 | WM Bolthouse Farms, Inc. | Sep 2004 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3382-022-057 | Bushnell | David P Bushnell Trust | Jan 2000 | Jul 2004 | WM Bolthouse Farms, Inc. | Jul 2004 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Nov 2005 |
| 3382-023-017 | Bushnell | David P Bushnell Trust | Jan 2000 | Jul 2004 | WM Bolthouse Farms, Inc. | Jul 2004 | Jan 2005 | | | Present |
| 3382-023-018 | Bushnell | David P Bushnell Trust | Jan 2000 | Jul 2004 | WM Bolthouse Farms, Inc. | Jul 2004 | Jan 2005 | | | Present |
| 3382-023-027 | Bushnell | David P Bushnell Trust | Jan 2000 | Jul 2004 | WM Bolthouse Farms, Inc. | Jul 2004 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Sep 2007 |
| 3382-023-033 | Bushnell | David P Bushnell Trust | Jan 2000 | Jul 2004 | WM Bolthouse Farms, Inc. | Jul 2004 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | May 2006 |
| 3382-023-034 | Bushnell | David P Bushnell Trust | Jan 2000 | Jul 2004 | WM Bolthouse Farms, Inc. | Jul 2004 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Jan 2008 |
| 3384-001-004 | Bushnell | David P Bushnell Trust | Jan 2000 | Jul 2004 | WM Bolthouse Farms, Inc. | Jul 2004 | Sep 2004 | | | Sep 2004 |
| 3150-015-003 | Minn | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3150-015-004 | Minn | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3150-015-006 | Minn | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3150-016-019 | Minn | Avot Trust | Jan 2000 | May 2001 | WM Bolthouse Farms, Inc. | May 2001 | Dec 2001 | | | Dec 2001 |
| 3150-016-021 | Minn | Avot Trust | Jan 2000 | May 2001 | WM Bolthouse Farms, Inc. | May 2001 | Oct 2002 | | | Oct 2002 |
| 3150-016-023 | Minn | Avot Trust | Jan 2000 | May 2001 | WM Bolthouse Farms, Inc. | May 2001 | Aug 2003 | | | Aug 2003 |
| 3154-017-009 | Minn | Avot Trust | Jan 2000 | May 2001 | WM Bolthouse Farms, Inc. | May 2001 | Jan 2004 | | | Jan 2004 |
| 3384-003-008 | Minn | Estandia, N.V. | Jan 2000 | Sep 2004 | WM Bolthouse Farms, Inc. | Sep 2004 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | May 2005 |
| 3384-003-010 | Minn | Estandia, N.V. | Jan 2000 | Sep 2004 | WM Bolthouse Farms, Inc. | Sep 2004 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Nov 2008 |
| 3384-003-011 | Minn | Estandia, N.V. | Jan 2000 | Sep 2004 | WM Bolthouse Farms, Inc. | Sep 2004 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Apr 2007 |
| 3384-004-004 | Minn | Avot Nimrut | Jan 2000 | May 2001 | WM Bolthouse Farms, Inc. | May 2001 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-008-001 | Minn | Claire Lade Living Trust | Jan 2000 | Jun 2001 | WM Bolthouse Farms, Inc. | Jun 2001 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-008-020 | Minn | Claire Lade Living Trust | Jan 2000 | Jun 2001 | WM Bolthouse Farms, Inc. | Jun 2001 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-015-013 | Minn | Avot Nimrut | Jan 2000 | May 2001 | WM Bolthouse Farms, Inc. | May 2001 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-016-013 | Minn | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-017-001 | Minn | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-017-002 | Minn | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-017-003 | Minn | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-018-001 | Minn | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-018-002 | Minn | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-018-003 | Minn | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-018-004 | Minn | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3384-020-001 | Minn | Claire Lade Living Trust | Jan 2000 | Jun 2001 | WM Bolthouse Farms, Inc. | Jun 2001 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-022-004 | Pardee | Juliana Ching | Jan 2000 | Sep 2002 | WM Bolthouse Farms, Inc. | Sep 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-022-005 | Pardee | Juliana Ching | Jan 2000 | Sep 2002 | WM Bolthouse Farms, Inc. | Sep 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-022-006 | Pardee | Juliana Ching | Jan 2000 | Sep 2002 | WM Bolthouse Farms, Inc. | Sep 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-022-016 | Pardee | Piani Trust | Jan 2000 | Feb 2000 | WM Bolthouse Farms, Inc. | Feb 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-022-017 | Pardee | Piani Trust | Jan 2000 | Feb 2000 | WM Bolthouse Farms, Inc. | Feb 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-022-018 | Pardee | Piani Trust | Jan 2000 | Feb 2000 | WM Bolthouse Farms, Inc. | Feb 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-022-019 | Pardee | Piani Trust | Jan 2000 | Feb 2000 | WM Bolthouse Farms, Inc. | Feb 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-022-020 | Pardee | Pablo Group | Jan 2000 | Nov 2000 | WM Bolthouse Farms, Inc. | Nov 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-026-003 | Pardee | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-026-004 | Pardee | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-026-005 | Pardee | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-026-006 | Pardee | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3378-026-007 | Pardee | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |

| APN | RANCH | TITLEHOLDER | FROM | TO |
|-----|-------|-------------|------|----|
| | | TITLEHOLDER | FROM | TO |

| TITLEHOLDER | FROM | TO |
|-------------|------|----|
|-------------|------|----|

BOLTHOUSE PROPERTIES, LLC
EXHIBIT B Amended 5/8/2013
Titleholder 2000 to Present

| APN | RANCH | TITLEHOLDER | FROM | TO | TITLEHOLDER | FROM | TO | TITLEHOLDER | FROM | TO |
|--------------|-----------|--------------------------|----------|----------|--------------------------|----------|----------|---------------------------|----------|----------|
| 3075-016-003 | Retlaw | Retlaw Enterprises, LLC | Jan 2000 | May 2002 | WM Bolthouse Farms, Inc. | May 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3075-016-004 | Retlaw | Retlaw Enterprises, LLC | Jan 2000 | May 2002 | WM Bolthouse Farms, Inc. | May 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3075-017-010 | Retlaw | Retlaw Enterprises, LLC | Jan 2000 | May 2002 | WM Bolthouse Farms, Inc. | May 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3075-017-011 | Retlaw | Retlaw Enterprises, LLC | Jan 2000 | May 2002 | WM Bolthouse Farms, Inc. | May 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3075-019-001 | Retlaw | Retlaw Enterprises, LLC | Jan 2000 | May 2002 | WM Bolthouse Farms, Inc. | May 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3075-019-002 | Retlaw | Retlaw Enterprises, LLC | Jan 2000 | May 2002 | WM Bolthouse Farms, Inc. | May 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3075-019-005 | Retlaw | Retlaw Enterprises, LLC | Jan 2000 | May 2002 | WM Bolthouse Farms, Inc. | May 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3075-019-006 | Retlaw | Retlaw Enterprises, LLC | Jan 2000 | May 2002 | WM Bolthouse Farms, Inc. | May 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3075-014-017 | Retlaw | Estancia, N.V. | Jan 2000 | Sep 2004 | WM Bolthouse Farms, Inc. | Sep 2004 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Jul 2006 |
| 3079-015-001 | Retlaw | Estancia, N.V. | Jan 2000 | Sep 2004 | WM Bolthouse Farms, Inc. | Sep 2004 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3080-005-001 | Retlaw | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3080-005-002 | Retlaw | WM Bolthouse Farms, Inc. | Jan 2000 | Mar 2005 | | | | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3080-005-003 | Retlaw | Kenneth A Anderson | Jan 2000 | Sep 2002 | WM Bolthouse Farms, Inc. | Sep 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3080-005-009 | Retlaw | Kenneth A Anderson | Jan 2000 | Sep 2002 | WM Bolthouse Farms, Inc. | Sep 2002 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3032-004-020 | S&P Rowen | R.A. Rowan & Co | Jan 2000 | Feb 2000 | WM Bolthouse Farms, Inc. | Feb 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3032-004-021 | S&P Rowen | R.A. Rowan & Co | Jan 2000 | Feb 2000 | WM Bolthouse Farms, Inc. | Feb 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3091-020-019 | S&P Rowen | Lutz E Issleib | Jan 2000 | Feb 2000 | WM Bolthouse Farms, Inc. | Feb 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3091-020-020 | S&P Rowen | Lutz E Issleib | Jan 2000 | Feb 2000 | WM Bolthouse Farms, Inc. | Feb 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3091-021-018 | S&P Rowen | Lutz E Issleib | Jan 2000 | Feb 2000 | WM Bolthouse Farms, Inc. | Feb 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3091-024-006 | S&P Rowen | Lutz E Issleib | Jan 2000 | Feb 2000 | WM Bolthouse Farms, Inc. | Feb 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |
| 3091-024-007 | S&P Rowen | Lutz E Issleib | Jan 2000 | Feb 2000 | WM Bolthouse Farms, Inc. | Feb 2000 | Mar 2005 | Bolthouse Properties, LLC | Mar 2005 | Present |

* Title to Water Well and water rights retained by
Bolthouse Properties, LLC

EXHIBIT C

Amended 5/8/13

To Addendum Exhibits A, B, C Amended May 8, 2013,
Exhibits p-1 and P-2 to Declaration of Anthony L. Leggio
In Lieu of Deposition Testimony for Phase 4 Trial

WM. BOLTHOUSE FARMS, INC.
7200 E. BRUNDAGE LANE
BAKERSFIELD, CA 93307
PHONE (661) 366-7205

MASTER FARM LEASE

LANDLORD: BOLTHOUSE PROPERTIES, LLC

TENANT: WM. BOLTHOUSE FARMS, INC.

This MASTER FARM LEASE (hereinafter the "Lease") is made on April 1, 2005, by and between BOLTHOUSE PROPERTIES, LLC, a California limited liability company (hereinafter "Landlord"), and WM. BOLTHOUSE FARMS, INC., a Michigan corporation, authorized to do business in the State of California (hereinafter "Tenant"), as described below. Landlord and Tenant are singularly referred to as a "Party" and collectively referred to as the "Parties."

1. Description of the Premises. Landlord leases to Tenant and Tenant hires from Landlord, on the terms and conditions herein, the property set forth in Exhibit "A", attached hereto and incorporated herein by reference (hereinafter the "Premises").

2. Term. The initial term of this Lease is for a period of ten (10) years, commencing on April 1, 2005, and ending on March 31, 2015 (hereinafter the "Term"). Any extension of the Term as provided in Paragraph 4 shall also be referred to as the "Term."

3. Option to Extend.

A. Option. At the option of the Tenant, the Term of this Lease may be extended for up to three (3) succeeding terms of five (5) years each on the same terms, covenants and conditions and subject to the same exceptions and reservations herein contained, except that the rent shall be adjusted as set forth in Paragraph 8.

B. Exercise of Option. Each option shall be exercised only by the Tenant's delivery of written notice of exercise of such option to Landlord at least one hundred eighty (180) days prior to the expiration of the then-current Term; provided, however, that Landlord has the right to refuse to extend the Term if, as of the expiration of the then-current Term, (i) Tenant has been in receipt of a notice of default from Landlord for at least thirty (30) days and (ii) Tenant remains in default under this Lease as of the date of the expiration of the then-current

Term. If an option is not exercised by Tenant or if Landlord rightfully refuses to extend the Term, then any remaining option terms shall automatically expire and be extinguished for all purposes.

4. Holding Over. Any holding over after expiration of the Term of this Lease, with the consent of Landlord, shall be treated as a tenancy from month-to-month, on the same terms and conditions as specified in this Lease, as far as applicable, and with the exception of the Term and the Base Rent which shall be increased ten percent (10%) above the prior years rent.

5. Purpose. Tenant shall utilize the Premises only for planting, growing, and harvesting of agricultural crops and incidental uses thereto. Tenant shall not use, or permit to be used, any part of the Premises for any purpose other than the purposes for which the Premises are leased.

6. Condition. Tenant acknowledges that Tenant has conducted its own independent inspection of the Premises and is knowledgeable and satisfied with the acres available for farming and the condition of the Premises. Tenant agrees, on the last day of the term or sooner termination of this Lease, to surrender the Premises and appurtenances to Landlord in the same condition as when received and to remove all of Tenant's property from the Premises.

7. Lease Subject to Existing Rights. This Lease is subject to (a) all existing easements, servitudes, licenses, and rights-of-way for canals, ditches, levees, roads, highways, and telegraph, telephone, and electric power lines, railroads, pipelines, and other purposes whether recorded or not; and (b) the rights of other tenants or other third parties under any existing or future oil, gas, and mineral lease(s) from Landlord affecting the Premises or any portion thereof, whether recorded or not.

8. Rent.

A. Base Rent.

B. Rent Payable.

C. Base Rent Adjustment.

(i) First Anniversary Term -

(ii) Second Anniversary Term -

(iii) Third and Fourth Anniversary Term -

D. Sublease Income.

9. Improvements.

A. Maintenance, Repair and Replacement. Tenant shall be responsible to maintain, repair and replace when and where needed, all improvements located on the Premises and Tenant shall bear the entire cost and expense thereof, whether existing at the inception of the Lease or placed on the Premises by Tenant during the Lease. If during the Term Tenant wishes to replace or improve any improvement, then the cost of the replacement or improvement and installation shall be borne solely by the Tenant. Such improvement will be considered a part of the Premises at the time that it is installed and Tenant shall be required to maintain and repair it during the Term. For purposes of the Lease, (i) an "improvement" is equivalent to a "fixture" in real property law and (ii) an improvement is considered to be a chattel that has been permanently attached to the Premises. Such improvements include, but are not limited to roadways, fences, berms, buildings, other structures and irrigation wells and irrigation facilities including component parts of above-ground irrigation systems, electrical panels, pumps, pipelines, valves, siphons, waste gates and other irrigation facilities. More specifically, Tenant shall be solely responsible for all above-ground and below-ground water well maintenance and repairs and to rework or replace existing water wells and component parts in order to maintain existing water flow rates for all existing agricultural wells.

B. Ownership of Above-Ground and Below Ground Removable Irrigation Equipment. Landlord and Tenant acknowledge that all above-ground and below ground removable irrigation equipment is owned by Tenant consisting of motors, pumps and gearheads. Tenant shall retain ownership of all of these above-ground and below ground removable irrigation improvements including any improvements or replacement which Tenant installs or affixes to the Premises during the term of this Lease. Tenant agrees to not remove any such improvement until termination of this Lease and subject to Landlord's option to purchase these improvements as set forth in Paragraph 18.

10. Option to Reduce Premises by Landlord.

11. Substitution of Parcels of Land within the Premises.

12. Right to Sublease.

13. Waste. Tenant shall not commit, or permit others to commit, waste or a nuisance or any other act that could disturb the quiet enjoyment of Landlord or any occupant of adjacent property.

14. Buena Vista Ranch and Stockdale Ranch.

15. LRC Contract. Tenant acknowledges that the terms of this Lease and the rights of Tenant are subject to a prior agreement with Land Resource Concepts, Inc., a California corporation ("LRC") concerning LRC's right to acquire a certain property located in the Lancaster region as set forth on "Exhibit B". Tenant acknowledges that LRC has the right to acquire this property. As a result of the pending acquisition, Landlord has the right, upon six months prior notice, to terminate the Lease as to any portion of the property located in the Lancaster region. This right of cancellation shall be in addition to, and shall not be considered a part of, Landlord's right to reduce the Leased Premises pursuant to Paragraph 10 A. Tenant assumes the risk of all loss which may result therefrom and waives any claim or other right which Tenant may have as against Landlord or any third party as a result of the acquisition of this property by LRC. To the extent permitted by the agreement with LRC, Tenant will be entitled to any compensation for actual crop loss for which LRC will be responsible.

16. Lancaster Litigation. Landlord is currently involved in litigation currently filed in Riverside County Superior Court, Civil Action No. RIC 344436 consolidated with RIC 344668 and RIC 353840, and involving the City of Lancaster, Antelope Water District, Antelope Valley Water Company, Palm Ranch Irrigation District, Little Rock Creek Irrigation District, Palmdale Water District and Los Angeles County Waterworks District 40 and a second action currently filed in Kern County Superior Court, Civil Action No. S-500-CV 254348, involving Los Angeles County Water Waterworks District No. 40, Diamond Farming Company, Bolthouse Properties, Inc., City of Lancaster, City of Los Angeles, City of Palmdale, Little Rock Creek Irrigation District, Palmdale Water District, Palm Ranch Irrigation District and Quart Hill Water District, among others. Landlord shall remain responsible to defend these actions and prosecute the acquisition and preservation of water rights in the Lancaster area and shall remain in charge of the litigation as it pertains to the Premises or part thereof. Tenant shall cooperate with and reasonably assist Landlord by providing relevant documentation or testimony as needed in prosecuting and protecting the acquisition and preservation of these water rights.

17. Power Plant.

18. Condition, Surrender and Option to Purchase Irrigation Equipment. Tenant accepts the Premises in its present condition. Tenant agrees, on the last day of the Term or sooner termination of this Lease, to surrender the Premises and appurtenances to Landlord in the same or similar condition as when received and to remove all of Tenant's property from the Premises. Landlord shall have the option to purchase any above-ground or below ground removable irrigation equipment owned by Tenant at the time of surrender of the Premises. The purchase price shall be the then fair market value of the improvements to be purchased. Fair market value shall be determined by mutual agreement of the Parties. If the Parties are unable to reach a mutual agreement, the Parties shall select a qualified individual to value such improvements and such third party valuation shall be binding on the parties. The parties shall share equally the expense of such appraisal.

19. Insurance Coverage.

A. Tenant agrees to maintain during the Term, at Tenant's expense, public liability insurance with a company satisfactory to Landlord for protection against liability to the public and Tenant's employees, independent contractors and invitees arising as an incident to the use of or resulting from any accident occurring in or about the Premises. The limits of liability are to be in amounts of not less than _____ for any one person injured, _____ for any accident, and _____ for property damage.

B. Tenant agrees to maintain during the Term, at Tenant's expense, proper and adequate workers' compensation insurance.

C. Tenant shall name Landlord as an additional insured on all such insurance policies (except workers' compensation insurance) and Tenant shall provide that the insurance carrier(s) shall notify Landlord in writing at least thirty (30) days prior to any modification or cancellation of such insurance and Tenant shall provide proof of insurance on an annual basis. Tenant agrees that if Tenant does not keep such insurance in force, Landlord may obtain such insurance and pay the premium. Repayment of the premium shall be added to the rent payment and such payment shall be made upon demand by Landlord.

20. Inspection, Access, Construction of Improvements and Records.

A. Access. Tenant shall permit Landlord, Landlord's agents and assigns, at all reasonable times during the Lease Term, to enter the Premises and to use the roads established on the Premises for purposes of inspection to determine compliance with the terms of this Lease, exercise of all rights of Landlord under this Lease, posting notices, conducting any pre-development activities and all other lawful purposes. Tenant shall supply Landlord, Landlord's agents and assigns with keys and other instruments necessary to effect entry on the Premises and all parts thereof if locked or gated.

B. Construction of Improvements. Landlord reserves the right, at its reasonable discretion, to construct improvements to the Premises and to take any other action to improve the Premises such as granting easements, constructing or relocating power, sewer, water or other utility lines and the like. Landlord shall indemnify, defend and hold harmless Tenant from and against any and all claims, losses (including reasonable crop damages) and liabilities arising from or in connection with Landlord's exercise of its rights hereunder.

C. Application Records. Tenant shall make and keep pertinent records of all chemicals, pesticides, fertilizers, and other materials used or applied on the Premises, including identity, dates of, and rates of application and shall make them available to Landlord and Landlord's agents and assigns, at all reasonable times, for inspection.

21. Farming Practices. All operations incident to the permitted uses of the Premises shall be carried in accordance with the best husbandry and cultural practices utilized in the

vicinity of that portion of the Premises being evaluated, including, but not limited to, control of and economical use of irrigation water, maintenance of sufficient leveling of the surface of the irrigable part of the Premises for the method of irrigation as it exists at the time Tenant goes into possession, institution of diligent efforts to prevent the spread of noxious weeds and to protect the Premises from infestations of insects and other pests. On default of Tenant to do so, Landlord reserves the right, after having given thirty (30) days notice, to take all necessary remedial measures at Tenant's expense for which Tenant shall reimburse Landlord upon demand.

22. Utilities and Real Property Taxes.

A. Tenant shall pay all electric and other utility bills, for service supplied to the Premises in a timely fashion and where feasible, Tenant shall put the accounts in Tenant's name.

B. Tenant shall pay all assessments and all real property and personal property taxes assessed against the Premises in a timely fashion. Tenant shall provide Landlord with proof of payment as each payment is made.

23. Expenses. Tenant shall, at its own risk and expense, provide and promptly pay for all labor, water, fertilizer, farm implements, seed, building maintenance, and other materials and services of whatsoever kind or nature which may be used for the planting, cultivation, irrigation, production, and harvesting of crops and other permitted uses and maintenance of the Premises and Landlord shall not be liable for any part thereof, except as specifically set forth in this Lease.

24. Water. Tenant shall have the use of all rights to water for permitted uses hereunder. However, Landlord assumes no responsibility for the quality or quantity of the water supply to the Premises or any part thereof. Tenant shall conduct its own independent investigation of the availability and quality of water and assumes all risks involving the quantity and quality of water and the condition of the well(s), pump(s), pipelines and all other parts of the irrigation system on the Premises. In no event shall Landlord be liable or responsible for any crop loss, loss of profit, or other direct or consequential damages resulting from the unavailability of water, water quality or any failure of the irrigation systems.

25. Insurance Hazards. Tenant shall not use the Premises, or permit others to use it, or do or permit acts that will increase the existing rates of insurance on the Premises or cause cancellation of any insurance policy covering the Premises or part thereof. Tenant shall comply with all requirements of any insurance organization providing the Premises with insurance coverage which is necessary for the maintenance of any reasonable fire and public liability insurance covering the Premises and the crops thereon.

26. DISCLAIMER OF WARRANTIES: LANDLORD MAKES NO WARRANTY EXCEPT AS SPECIFICALLY SET FORTH HEREIN. LANDLORD DISCLAIMS AND TENANT WAIVES AND RELEASES ALL RIGHTS AND REMEDIES OF TENANT AND ALL WARRANTIES AND OBLIGATIONS OF LANDLORD, EXPRESS OR IMPLIED, ARISING OUT OF LAW OR OTHERWISE INCLUDING, BUT NOT LIMITED TO, ANY

WARRANTY OF (i) THE PREMISES SUITABILITY FOR GROWING CROPS; (ii) THE ABSENCE OF DELETERIOUS ORGANISMS, (iii) THE PREVAILING CLIMATIC CONDITIONS AND/OR OTHER FACTORS THAT MIGHT PERTAIN TO THE ABILITY TO SUCCESSFULLY GROW AND HARVEST THE CROPS AND/OR (iv) THE QUANTITY OR QUALITY OF WATER AVAILABLE TO THE PREMISES. TENANT HAS MADE ITS OWN INDEPENDENT INVESTIGATION OF THE SUITABILITY OF THE PREMISES FOR THE USES AUTHORIZED UNDER THIS LEASE.

27. Mineral Rights. All rights in minerals, oil, gas, and other hydrocarbons located on or under the Premises which are owned by Landlord, are reserved by Landlord and are excepted from the Premises covered by the terms of this Lease. Tenant expressly grants to Landlord, and anyone acting under Landlord's rights, a right of entry and a right-of-way for ingress and egress, in and to, over and on, the Premises during the Term for exploration, drilling, and mining of minerals, oil, gas, and other hydrocarbons on the Premises; provided, Landlord shall reimburse Tenant for any damages that Tenant sustains as a result of any interference with the agricultural operations conducted under this Lease arising from exploration, drilling, and/or mining operations.

28. Abandonment. Tenant shall not vacate or abandon the Premises at any time during the Term of this Lease. If Tenant does abandon or vacate the Premises or if Tenant is dispossessed by process of law or otherwise, subject to Paragraph 36 C, any personal property belonging to Tenant and left on the Premises shall be kept for a reasonable time by Landlord, but in no event longer than ten (10) days, after Landlord gives Tenant notice to remove the property from the Premises, after which time, if it has not been reclaimed by Tenant, it may be treated by Landlord as abandoned.

29. Alterations. Tenant shall not make or permit to be made any alteration of the Premises with a cost in excess _____ without the prior written consent of Landlord.

30. HAZARDOUS MATERIAL.

A. AS USED HEREIN, THE TERM "HAZARDOUS MATERIAL" MEANS ANY HAZARDOUS OR TOXIC SUBSTANCE, MATERIAL, OR WASTE WHICH IS OR BECOMES REGULATED BY ANY LOCAL GOVERNMENTAL AUTHORITY, THE STATE OF CALIFORNIA, OR THE UNITED STATES GOVERNMENT.

B. LANDLORD REPRESENTS AND WARRANTS THAT ALL HANDLING, TRANSPORTATION, STORAGE, TREATMENT, OR USE OF HAZARDOUS MATERIAL THAT HAS OCCURRED ON THE PREMISES, IF ANY, PRIOR TO THE DATE OF THIS LEASE HAS BEEN IN COMPLIANCE WITH ALL LAWS AND REGULATIONS THEN IN EXISTENCE REGULATING HAZARDOUS MATERIAL, AND THAT THE PREMISES IS, AS OF THE DAY BEFORE TENANT CAME INTO POSSESSION, IN COMPLIANCE WITH ALL LAWS AND REGULATIONS THEN IN EXISTENCE REGULATING THE HANDLING, TRANSPORTATION, STORAGE, TREATMENT, USE AND DISPOSITION OF HAZARDOUS MATERIAL.

C. TENANT SHALL NOT CAUSE OR PERMIT ANY HAZARDOUS MATERIAL TO BE BROUGHT UPON OR USED IN OR ABOUT THE PREMISES BY TENANT, ITS AGENTS, CONTRACTORS, OR INVITEES WITHOUT THE PRIOR CONSENT OF LANDLORD, WHICH SHALL NOT BE UNREASONABLY WITHHELD BY LANDLORD CONDITIONED UPON TENANT'S DEMONSTRATION TO LANDLORD'S REASONABLE SATISFACTION THAT SUCH HAZARDOUS MATERIAL IS NECESSARY OR USEFUL TO TENANT'S AGRICULTURAL OPERATIONS AND WILL BE USED AND STORED IN COMPLIANCE WITH ALL LAWS, REGULATIONS, AND ORDINANCES REGULATING SUCH HAZARDOUS MATERIAL.

D. NOTWITHSTANDING THE ABOVE, TENANT SHALL NOT BE REQUIRED TO OBTAIN ANY PRIOR WRITTEN CONSENT FROM LANDLORD FOR THE USE OF ANY CHEMICALS, PESTICIDES, FERTILIZERS OR OTHER MATERIALS ACTUALLY CONSUMED OR UTILIZED IN THE FARMING OF THE PREMISES IN COMPLIANCE WITH ALL THEN EXISTING APPLICABLE LAWS, REGULATIONS, AND ORDINANCES.

E. IF THE PRESENCE OF HAZARDOUS MATERIAL ON THE PREMISES IS CAUSED OR PERMITTED BY TENANT DURING THE TERM AND RESULTS IN CONTAMINATION OF THE PREMISES OR THE WATER THEREUNDER IN VIOLATION OF ANY LAWS, REGULATIONS, AND ORDINANCES IN EXISTENCE AT THE TIME SUCH HAZARDOUS MATERIAL WAS BROUGHT UPON OR USED IN OR ABOUT THE PREMISES BY TENANT, THEN TENANT SHALL INDEMNIFY, DEFEND, AND HOLD LANDLORD HARMLESS FROM ANY AND ALL CLAIMS, JUDGMENTS, DAMAGES, FINES, ATTORNEYS' FEES, LOSS OF RENT OR DIMINUTION IN VALUE OF THE PREMISES, WHICH ARISE AS A RESULT OF SUCH CONTAMINATION BY TENANT. THIS INDEMNIFICATION OF LANDLORD BY TENANT ALSO INCLUDES COSTS INCURRED FOR SITE INVESTIGATION, CLEANUP, REMOVAL, OR RESTORATIVE WORK REQUIRED BY ANY GOVERNMENTAL AGENCY HAVING AUTHORITY TO REQUIRE SUCH WORK DUE TO THE PRESENCE OF HAZARDOUS MATERIAL CAUSED BY TENANT IN VIOLATION OF THE SAID LAWS, REGULATIONS, AND ORDINANCES. NO ACTION SHALL BE BROUGHT AGAINST TENANT UNDER THIS PARAGRAPH 30 MORE THAN TEN (10) YEARS AFTER ANY BREACH OF THE OBLIGATIONS STATED HEREIN.

31. General Indemnification. Tenant shall indemnify, defend, and hold harmless Landlord and its members, managers, employees, anyone acting on its behalf and its successors and assigns from and against all claims, judgments, damages, liabilities, penalties, losses, attorneys' fees and costs which arise during the Term or after the Term expires or the Lease is terminated, which result from Tenant's activities and/or farming operations and/or the actions of Tenant's employees, agents or representatives, even though caused by the concurrent or contributory fault of Landlord, except where caused solely by the negligence or willful misconduct of Landlord. Landlord shall have the right, but not the duty, to participate in the defense of any such claim or liability with attorneys of its own selection without relieving Tenant

of any of its obligations hereunder. This indemnity provision shall survive the termination of this Lease.

32. Compliance with Law. In all operations under this Lease, or on the Premises, Tenant shall, at its own expense, promptly comply with any and all laws, ordinances, rules, regulations and requirements whatsoever, present or future of the national, state, county or municipal government which in any way, apply to the use, maintenance, occupation and/or operations of the Premises or activities incidental thereto.

33. Soil Testing. During the Term, Landlord shall have the right during the Lease to take soil samples, inspect for the spread of noxious weeds and conduct soil tests on the Premises, such soil sampling and soil testing being done by state or federal agencies or by testing laboratories licensed by the State of California, to determine the soil fertility and the amount of soluble minerals and essential elements in the soil. If there has been any substantial increase in the spread of noxious weeds or decrease in the soil fertility or depletion of the soluble minerals and essential elements in the soil, adversely affecting the agricultural productivity of the Premises, Tenant shall, within ten (10) days after written notice of demand from Landlord, take appropriate remedial action to remove the noxious weeds or restore the soil fertility and the former level of soluble minerals and essential elements. A failure of Tenant to comply with such notice and demand shall constitute a breach of this Lease and, in addition, shall authorize Landlord to take appropriate steps to remove the noxious weeds or to restore the Premises to the level of fertility and productivity as shown in the initial tests made as herein provided, all at the expense of Tenant.

34. Default. Tenant shall be in material default under this Lease if:

A. Tenant fails to pay rent or any other charge required to be paid by Tenant within fifteen (15) days of when due;

B. If Tenant fails to perform any of Tenant's non-monetary obligations under this Lease for a period of thirty (30) days after written notice from Landlord; provided that if more than (30) days are required to complete such performance, Tenant shall not be in default if Tenant commences such performance within the thirty (30) day period and thereafter diligently pursues its completion. Landlord shall not be required to give such notice if Tenant's failure to perform constitutes a non-curable breach of this Lease; or,

C. A receiver is appointed to take possession of all or substantially all assets of Tenant or there is a general assignment by Tenant for benefit of creditors, or an action taken or suffered by Tenant under any insolvency or bankruptcy act.

35. Remedies Upon Default. In the event of a default of this Lease, and in addition to all other rights and remedies Landlord may have at law, in equity or otherwise, Landlord shall have the option to do any or all of the following:

A. Reentry. Immediately reenter and remove all persons and property from the Premises and take possession of all crops, harvested or unharvested, and maintain or market

them as appropriate and to store the non-perishable personal property in a public warehouse or elsewhere at the sole cost and expense of and for the account of Tenant. No such reentry or taking possession of the Premises by Landlord shall be construed as an election on Landlord's part to terminate this Lease unless a written notice of such intention is given by Landlord to Tenant.

B. Collection of Rent. To collect by suit or otherwise, pursuant to the provisions of section 1951.4 of the California Civil Code, each installment of rent or other sum as it becomes due hereunder, or to enforce, by suit or otherwise, any other term or provision hereof on the part of Tenant required to be kept or performed, it being specifically agreed that all unpaid installments of rent or other sums shall bear interest at the highest rate authorized by law from the due date thereof until paid.

C. Termination of Lease. Termination of this Lease, in which event Tenant shall immediately surrender possession of the Premises, and pay to Landlord, in addition to any other remedy Landlord may have, all damages Landlord may incur by reason of Tenant's default, including the cost of recovering the Premises, and including:

(i) The worth at the time of award of the unpaid rent which had been earned at the time of termination;

(ii) The worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided;

(iii) The worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for the same period that Tenant proves could be reasonably avoided. The express intent of this subparagraph 23.3 is to grant to Landlord all remedies specified in paragraphs (a)(1), (a)(2), (a)(3) and (a)(4) of Section 1951.2 of the California Civil Code; and

(iv) Any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform the Tenant's obligations under this Lease or which in the ordinary course of things would be likely to result therefrom.

D. Reletting. Should Landlord elect to reenter, as herein provided, or should Landlord take possession pursuant to legal proceedings or pursuant to any notice provided for by law, Landlord may either terminate this Lease or may from time to time, without terminating this Lease, relet the Premises, or any part thereof, as the agent and for the account of Tenant, either in the Landlord's name or otherwise, upon such terms and conditions and for such period (whether longer than the balance of the term hereof or not) as Landlord may deem advisable, either with or without any equipment or fixtures that may be situated thereon or therein, in which event the rents received on any such reletting during the balance of the term of this Lease, or any part thereof, shall be applied first to the expenses of reletting and collecting including necessary renovation and alteration of the Premises and reasonable attorney's fees, and any real estate commission actually paid and, thereafter, toward payment of all sums due or to become due to

Landlord hereunder, and if a sufficient sum shall not be thus realized to pay such rent and other charges, Tenant shall pay to Landlord monthly any deficiency, and Landlord may sue therefor as each monthly deficiency shall arise. Such monthly deficiencies shall be paid punctually when due.

36. Agricultural Programs. Tenant may enter into any governmental or privately arranged soil conservation, cropping, and/or crop control agreements or programs without Landlord's prior written consent only so long as any such agreement or program does not place an encumbrance, lien, or charge on or against the Premises or otherwise affect the use or title to the Premises beyond the Term of this Lease.

37. Arbitration. Any dispute that arises between Landlord and Tenant regarding this Lease except for the payment of rent, shall be resolved by binding arbitration pursuant to CCP §1282 through §1284.2 in Kern County, California. The parties shall mutually select an arbitrator but if the parties cannot so agree, then three arbitrators shall be selected, one of whom shall be selected by Landlord, one by the Tenant, and the third of whom, who shall be the chairman, shall be selected by the other two arbitrators. The three arbitrators, so selected, shall then hear and determine the controversy according to law, and their decision shall be final and binding on Landlord and Tenant. The cost of the arbitration shall be borne equally by Landlord and Tenant. Judgment upon the award of arbitrator(s) may be entered into in any court having jurisdiction.

38. Attorneys' Fees and Venue. In the event of default or deficiency or violation of any of the terms or conditions herein which require the employment of an attorney by either party to enforce this Lease or a civil action or arbitration, the prevailing party shall be entitled to all costs and reasonable attorneys' fees incurred therefor. Kern County shall be the proper venue for any litigation or arbitration as a portion of the Premises is located in Kern County and the last act to make this Lease enforceable occurred in Kern County.

39. Waiver. The waiver by Landlord of any default or breach by Tenant shall not be treated as a waiver of such term covenant or condition or as a waiver of a future breach of the same covenant or condition contained in this Lease. Acceptance of rent by Landlord shall not be treated as a waiver of any previous breach by Tenant.

40. Notices. Any notice to be given to either party by the other shall be in writing and shall be served upon either personally or by registered certified mail addressed as follows:

Landlord: BOLTHOUSE PROPERTIES, LLC
Attention: Anthony L. Leggio, Manager
2000 Oak Street, Suite 250
Bakersfield CA 93301

Tenant: WM. BOLTHOUSE FARMS, INC.
Attention: Andre Radandt, President
7200 E. Brundage Lane
Bakersfield CA 93307-3016

41. Integration. This Lease constitutes the sole and only agreement between Landlord and Tenant respecting the Premises and correctly sets forth the obligations of Landlord and Tenant to each other as of its date. Any agreements or representations respecting the Premises not expressly set forth in this Lease are null and void.

42. Binding Effect. This Agreement shall inure to the benefit of and be binding upon each party's respective parent, subsidiary or affiliated organizations, agents, members, managers, directors, officers, partners, successors, and all other acting for, under, or in concert with such parties.

43. Severability and Construction. A determination by a Court of competent jurisdiction that any provision of this Lease or any part thereof is illegal or unenforceable, shall not cancel or invalidate the remainder of such provision or this Lease, which shall remain in full force and effect. However, the parties will use their best efforts to add a provision to this Lease which will, to the extent legally possible, carry out the intent of any invalidated provision. Further, this Lease shall not be construed against either party since its terms were negotiated equally by the parties.

44. Modification. This Agreement may not be altered, amended, or modified in any respect, except by a writing duly executed by all the parties.

45. Time is of the Essence. Time is hereby expressly declared to be of the essence in this Lease and all terms and conditions herein.

46. Headings. Headings are for convenience of the parties only and do not form a part of this Agreement.

47. Separate Counterparts. This Lease may be executed in two (2) separate counterparts, each of which, when so executed, shall be deemed to be an original and to constitute the one and same contract.

Executed at Bakersfield, California, on the date above-written.

"Landlord"

"Tenant"

BOLTHOUSE PROPERTIES, LLC, a
California limited liability company

WM. BOLTHOUSE FARMS, INC., a
Michigan corporation

By [Signature]
Its President

By [Signature]
Its President

EXHIBIT P-1

To Addendum Exhibits A, B, C Amended May 8, 2013,
Exhibits P-1 and P-2 to Declaration of Anthony L. Leggio
In Lieu of Deposition Testimony for Phase 4 Trial

Bolthouse Properties, LLC

Exhibit P-1

Crop Rotation

| FIELDS | ACRES | 2012 | 2011 | 2010 | 2009 | 2008 | 2007 | 2006 |
|------------------|--------------|---------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Rowan 2-1 | 50 | Barley | carrots | Barley | fallow | carrots | fallow | fallow |
| Rowan 2-2 | 75 | Barley | carrots | Barley | fallow | carrots | fallow | fallow |
| Rowan 2-3 | 75 | Barley | carrots | Barley | fallow | carrots | fallow | fallow |
| Rowan 2-4 | 75 | carrots | Barley | Barley | carrots | fallow | carrots | fallow |
| Rowan 2-5 | 75 | carrots | Barley | Barley | carrots | fallow | carrots | fallow |
| Rowan 2-6 | 40 | Barley | Barley | carrots | fallow | fallow | carrots | fallow |
| Rowen 2-7 | 40 | Barley | Barley | carrots | wheat | fallow | fallow | carrots |
| Rowen 2-8 | 75 | Barley | Barley | carrots | wheat | fallow | fallow | carrots |
| Rowen 2-9 | 75 | carrots/sudan | Barley | Barley | carrots | fallow | fallow | carrots |
| S & P 26-1 | 124 | carrots/sudan | Barley | Barley | carrots | carrots | fallow | fallow |
| S & P 26-2 | 124 | Barley | carrots | Barley | wheat | fallow | fallow | carrots |
| S & P 26-3 | 124 | Barley | Barley | carrots | wheat | fallow | fallow | carrots |
| S & P 26-4 | 124 | Barley | Barley | carrots | onions | fallow | carrots | fallow |
| S & P 27-4 | 60 | carrots/sudan | Barley | Barley | carrots | carrots | fallow | fallow |
| S & P 35-1 | 124 | Barley | carrots | Barley | fallow | carrots | fallow | fallow |
| S & P 35-2 | 124 | Barley | carrots | Barley | fallow | fallow | carrots | fallow |
| S & P 35-3 | 120 | carrots/sudan | Barley | Barley | carrots | fallow | fallow | carrots |
| S & P 35-4 | 120 | Barley | Barley | carrots | fallow | fallow | carrots | fallow |
| AJAMIAN 27-4 | 28 | carrots | Barley | Barley | carrots | onions | carrots | fallow |
| Back 32-2 | 123 | Barley | carrots | Barley | onions | Sod/Carr. | Sod | carrots |
| Big Field 33-1 | 123 | Barley | carrots | Barley | fallow | carrots | Sod | fallow |
| Big Field 33-1 A | 15 | Barley | carrots | Barley | onions | carrots | fallow | fallow |
| Desert 34-1 | 123 | carrots | Barley | Barley | carrots | onions | carrots | fallow |
| Yard 33-2 | 92 | carrots | Barley | Barley | carrots | Mustard/Sod | Sod | carrots |
| Yard 33-2 A | 20 | carrots | Barley | Barley | carrots | onions | Sod | carrots |
| Anderson 5-2 | 122 | carrots | Barley | Barley | carrots | Sod | Sod | carrots |
| Turner 5-1 | 44 | Barley | Barley | carrots | onions | carrots | Onions | fallow |
| BROWN 34-3 | 109 | Barley | Barley | carrots | wheat | Sod | carrots | fallow |
| BROWN 34-4 | 123 | Barley | Barley | carrots | potatoes | carrots | onions | onion/fall |
| BALZER 29-3 | 62 | Fallow | Fallow | Barley | carrots | onions | fallow | carrots |
| QUAN 32-4 | 92 | Barley | carrots | Barley | wheat | carrots | onions | onions |
| SHETLER 28-4 | 124 | Fallow | Fallow | carrots | Pot/wheat | onions | carrots | fallow |
| Mashiyama W | 78 | | | | wheat | onions | onions | fallow |
| Mashiyama 28-4 | 62 | Barley | Barley | carrots | onions | onions | fallow | fallow |
| DACK 29-3 | 64 | carrots | Onions | onions | carrots | potatoes | carrots | fallow |
| TESTO 14-2 N | 24 | carrots | onions | Fallow | onions | fallow | fallow | fallow |
| TESTO 14-2 S | 31 | carrots | onions | Fallow | onions | fallow | fallow | fallow |
| TESTO 14-2 E | 31 | Carrots | Fallow | Fallow | fallow | fallow | fallow | fallow |
| HAWAIIAN 29-1 | 122 | carrots | onions | onions | wheat | carrots | potatoes | carrots |
| HUANG 30-2 | 60 | Barley | Barley | carrots | fallow | potatoes | carrots | onions |
| HUANG 30-4 | 60 | Barley | Barley | carrots | wheat | fallow | carrots | onions |
| PARDEE 30-3 | 28 | Barley | Barley | carrots | wheat | carrots | fallow | fallow |
| LAID 13-3 | 60 | Barley | Barley | Barley | carrots | onions | potatoes | carrots |
| Laid 13-3 A | 22 | Barley | Barley | Barley | carrots | onions | potatoes | carrots |
| LEVISTE 29-4 | 124 | | | | | onions | carrots | onions |
| REINELT 9-3 | 122 | | Car./Su. | potatoes | fallow | carrots | onions | onions |
| PARDEE 20-3 | 121 | Barley | Barley | carrots | fallow | carrots | onions | potatoes |
| PARDEE 20-4 | 117 | Barley | carrots | Barley | fallow | carrots | fallow | fallow |
| PARDEE 28-1 | 71 | Barley | Barley | Barley | carrots | carrots | potatoes | carrots |
| PARDEE 28-2 | 126 | Barley | Barley | Barley | carrots | carrots | potatoes | carrots |
| Pardee 28-4 | 126 | Barley | carrots | potatoes | onions | carrots | fallow | fallow |
| CHING 21-3 | 122 | Barley | carrots | Barley | onions | carrots | fallow | potatoes |
| PIANE 21-4 | 102 | Barley | Barley | carrots | fallow | potatoes | carrots | fallow |
| AVOL 25-2 | 31 | carrots | Barley | Barley | wheat | onions | carrots | fallow |
| AVOL 25-3 | 61 | Barley | Barley | Barley | fallow | onions | carrots | fallow |
| BUSHNEIL 10-3 | 57 | Barley | Barley | carrots | fallow | potatoes | carrots | fallow |
| BUSHNEIL 10-4 E | 56 | carrots | Barley | onions | onions | carrots | fallow | fallow |
| BUSHNEIL 10-4 N | 36 | carrots | Barley | Barley | carrots | onions | fallow | fallow |
| BUSHNEIL 10-4 S | 34 | Barley | Barley | carrots | wheat | onions | carrots | fallow |
| BUSHNEIL 15-2 | 29 | carrots | Barley | onions | onions | carrots | fallow | fallow |
| AVOL 14-3 | 68 | Barley | Barley | carrots | fallow | onions | carrots | fallow |
| BLUM 24-1 | 90 | | | | carrots | onions | carrots | fallow |

Bolthouse Properties, LLC

Exhibit P-1

Crop Rotation

| <u>FIELDS</u> | <u>ACRES</u> | <u>2012</u> | <u>2011</u> | <u>2010</u> | <u>2009</u> | <u>2008</u> | <u>2007</u> | <u>2006</u> |
|----------------------|---------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| AVOL 23-2 | 62 | Barley | Barley | Barley | onions | carrots | fallow | fallow |
| AVOL 21-1 | 92 | Barley | carrots | Barley | wheat | carrots | onions | onions |
| LRC 21-2 | 72 | | | | | carrots | onions | fallow |
| MINN 21-3 | 122 | Barley | Barley | carrots | fallow | Pot/onions | carrots | fallow |
| Minn 21-4 | 125 | Onions | Barley | carrots | fallow | onions | potatoes | carrots |
| MINN 22-2 | 124 | Car./Bar | Barley | Bar./onion | carrots | onions | fal/pot. | carrots |
| Minn 22-3 | 124 | Barley | carrots | Barley | onions | carrots | onions | fallow |
| MINN 22-4 | 124 | Barley | Barley | carrots | Barley | carrots | onions | potatoes |
| MINN 23-1 | 28 | Barley | carrots | carrots | fallow | carrots | fallow | fallow |
| MINN 23-3 | 85 | Barley | Barley | carrots | fallow | onions | carrots | fallow |
| MINN 23-4 | 90 | carrots | Barley | Bar./onion | carrots | onions | potatoes | carrots |

Bolthouse Properties, LLC

Exhibit P-1

Crop Rotation

| <u>FIELDS</u> | <u>ACRES</u> | <u>2005</u> | <u>2004</u> | <u>2003</u> | <u>2002</u> | <u>2001</u> |
|----------------------|---------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| Rowan 2-1 | 116 | carrots | fallow | fallow | carrots | fallow |
| Rowan 2-2 | 116 | carrots | fallow | fallow | carrots | fallow |
| Rowan 2-3 | 112 | fallow | carrots | wheat | fallow | carrots |
| Rowan 2-4 | 114 | fallow | carrots | wheat | fallow | carrots |
| Rowan 2-5 | 111 | fallow | fallow | carrots | fallow | fallow |
| Rowan 2-6 | 109 | fallow | fallow | carrots | fallow | fallow |
| S & P 26-1 | 162 | carrots | fallow | fallow | fallow | fallow |
| S & P 26-2 | 161 | fallow | carrots | sesbania | fallow | fallow |
| S & P 26-3 | 153 | fallow | fallow | carrots | fallow | fallow |
| S & P 26-4 | 157 | fallow/carrots | fallow/carrots | sesbania | fallow | fallow |
| S & P 27-4 | 74 | fallow | fallow | carrots | fallow | fallow |
| S & P 35-1 | 160 | carrots | fallow | fallow | carrots | fallow |
| S & P 35-2 | 155 | fallow | fallow | carrots | fallow | carrots |
| S & P 35-3 | 160 | fallow | carrots | wheat | fallow | carrots |
| S & P 35-4 | 151 | fallow/carrots | fallow/carrots | fallow/carrots | carrots | fallow |
| AJAMIAN 27-4 | 38 | onions | carrots | carrots | fallow | fallow |
| BACK 32-2 N | 40 | fallow | carrots | fallow | carrots | potatoes |
| BACK 32-2 S | 43 | fallow | TR/H2O | carrots | fallow | carrots |
| BIG FIELD 33-1 N | 95 | carrots | TR/H2O | fallow | carrots | potatoes |
| BIG FIELD 33-1 S | 105 | onions | TR/H2O | carrots | fallow | carrots |
| DESERT 34-1 N | 77 | fallow | TR/H2O | onions | carrots | potatoes |
| DESERT 34-1 S | 78 | fallow | TR/onions | carrots | fallow | carrots |
| YARD 33-2 N | 72 | fallow | TR/permit | wheat | carrots | fallow |
| YARD 33-2 S | 88 | fallow | TR/onions | carrots | fallow | carrots |
| ANDERSON 5-2N | 47 | fallow | TR/carrots | onions | carrots | potatoes |
| ANDERSON 5-2S | 39 | fallow | TR/carrots | onions | carrots | potatoes |
| QUAN 32-4 | 118 | fallow | carrots | sesbania | fallow | fallow |
| TURNER 5-1 N | 84 | fallow | TR/fallow | wheat | carrots | onions |
| TURNER 5-1 S | 48 | fallow | fallow | carrots | fallow | carrots |
| BROWN 34-3 | 109 | fallow | TR/permit | /sesbania/pern | fallow | carrots |
| ARNOLD 34-3 | 40 | fallow | carrots | sesbania | fallow | fallow |
| BROWN 34-4 | 78 | fallow | TR/carrots | wheat | carrots | onions |
| CAMELLO 34-4 | 80 | fallow | carrots | fallow | fallow | fallow |
| HORSE RANCH 28-3 | 125 | fallow | TR/potatoes | carrots | fallow | carrots |
| HUEGA 29-4 | 52 | fallow | TR/potatoes | wheat | carrots | potatoes |
| BALZER 29-3 | 88 | fallow | carrots | sesbania | fallow | fallow |
| SHETLER 28-4 | 142 | fallow | TR/H2O | wheat | carrots | potatoes |
| LAID 13-3 | 113 | fallow | onions | carrots | carrots | fallow |
| DACK 29-3 | 80 | fallow | carrots | onions | carrots | carrots |
| MONACO 29-3 | 13 | fallow | carrots | onions | carrots | fallow |
| GROSS 20-3 | 60 | fallow | onions | carrots | carrots | fallow |
| HAWAIIAN 29-1 | 157 | fallow | TR/potatoes | carrots | onions | carrots |
| HUANG 30-2 | 77 | fallow | carrots | onions | carrots | carrots |
| HUANG 30-4 | 77 | fallow | carrots | onions | carrots | carrots |
| LEVISTE 29-4 | 157 | fallow | carrots | onions | carrots | fallow |
| PARDEE 20-3 | 157 | carrots | TR/H2O | potatoes | carrots | onions |
| PARDEE 20-4 | 155 | fallow | TR/potatoes/fa | permit/carrots | onions | carrots |
| PARDEE 28-1 | 124 | fallow | TR/onions/fallo | carrots | onions | carrots |
| PARDEE 28-2 | 120 | fallow | TR/onions | carrots | onions | carrots |

Bolthouse Properties, LLC

Exhibit P-1

Crop Rotation

| <u>FIELDS</u> | <u>ACRES</u> | <u>2005</u> | <u>2004</u> | <u>2003</u> | <u>2002</u> | <u>2001</u> |
|----------------------|---------------------|--------------------|--------------------|--------------------|--------------------|--------------------|
| KASTNER 28-2 | 21 | fallow | onions | carrots | fallow | fallow |
| PARDEE 28-3 | 82 | carrots | TR/potatoes | onions | carrots | onions |
| PARDEE 28-4 | 83 | carrots | TR/potatoes | onions | carrots | wheat |
| PARDEE 30-3 | 36 | onions | carrots | onions | carrots | carrots |
| CHING 21-3 | 61 | carrots | onions | carrots | potatoes | fallow |
| PIANE 21-4 | 71 | fallow | TR/H2O | wheat/potatoes | carrots | onions |
| BUSHNEIL 10-3 | 71 | onions | carrots | fallow | carrots | wheat |
| BUSHNEIL 10-4 E | 70 | carrots | TR/H2O | fallow | carrots | wheat |
| BUSHNEIL 10-4 W | 99 | onions | onions/fallow | carrots | silage | carrots |
| BUSHNEIL 15-2 | 34 | carrots | fallow | fallow | fallow | fallow |
| WOLSKY 10-4 | 38 | onions | onions | carrots | carrots | fallow |
| AVOL 14-3 | 73 | onions | carrots | onions | carrots | potatoes |
| GORREZ 14-4 | 20 | onions | carrots | sesbania | fallow | fallow |
| COOPER 14-4 | 21 | onions | carrots | sesbania | fallow | fallow |
| BLUM 24-1 | 118 | onions | onions | carrots | carrots | fallow |
| LAUTERBURN 24-2 | 40 | onions | onions | carrots | carrots | fallow |
| AVOL 23-2 | 78 | carrots | onions | onions | carrots | carrots |
| AVOL 25-2 | 50 | onions | carrots | onions | carrots | fallow |
| STEHR 20-2 | 22 | onions | carrots | onions | fallow | fallow |
| OWENS 25-1 | 22 | onions | carrots | onions | carrots | fallow |
| AVOL 25-3 | 77 | onions | carrots | onions | carrots | fallow |
| CAMPBELL 25-4 | 11 | onions | carrots | sesbania | fallow | fallow |
| AVOL 21-1 | 119 | carrots | potatoes | sesbania/carrots | carrots | fallow |
| LRC 21-2 | 72 | carrots | potatoes | sesbania/onions | carrots | carrots |
| MINN 21-3 | 155 | fallow | onions/fallow | carrots | onions | carrots |
| MINN 21-4 E | 65 | fallow | carrots | onions | carrots | wheat |
| MINN 21-4 W | 97 | fallow | onions | carrots | onions | carrots |
| TAPIA 22-1 | 41 | onions | carrots | onions | carrots | fallow |
| MINN 22-2 | 130 | fallow | potatoes | carrots | onions | carrots |
| MINN 22-3 E | 79 | carrots | potatoes | onions | carrots | onions |
| MINN 22-3 W | 77 | carrots | fallow | wheat/potatoes | carrots | wheat |
| MINN 22-4 | 157 | carrots | potatoes | onions | carrots | onions |
| MINN 23-1 | 52 | fallow | onions | carrots | onions | carrots |
| MINN 23-3 | 110 | onions | carrots | wheat/potatoes | carrots | onions |
| MINN 23-4 | 83 | fallow | onions | carrots | onions | carrots |