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8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 * * *

11 COORDINATION PROCEEDING
SPECIAL TITLE (Rule 1550(b))

12 ANTELOPE VALLEY GROUNDWATER
13 CASES

14 INCLUDED ACTIONS:

15 LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40 v. DIAMOND FARMING
16 COMPANY, et al.,
Los Angeles Superior Court Case No. BC325201

17 LOS ANGELES COUNTY WATERWORKS
18 DISTRICT NO. 40 v. DIAMOND FARMING
COMPANY, et al.,
19 Kern County Superior Court Case No. S-1500-
CV-254348

20 DIAMOND FARMING COMPANY, and W.M.
21 BOLTHOUSE FARMS, INC., v. CITY OF
LANCASTER, et al.,
22 Riverside Superior Court Case No. RIC 344436
[c/w case no. RIC 344668 and 353840]
23

24 AND RELATED ACTIONS.
25

JUDICIAL COUNCIL COORDINATION PROCEEDING
No. 4408

CASE NO. 1-05-CV-049053
Action Filed: October 26, 2005

**BOLTHOUSE PROPERTIES, LLC AND
WM. BOLTHOUSE FARMS, INC.
RESPONSE TO BLUM TRUST'S
SEPARATE STATEMENT OF
UNDISPUTED MATERIAL FACTS IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT / SUMMARY
ADJUDICATION**

Date: December 22, 2014
Time: 10:00 a.m.
Dept.: TBD
Judge: Hon. Jack Komar

26 COME NOW, BOLTHOUSE PROPERTIES, LLC and WM. BOLTHOUSE FARMS, INC.
27 (hereinafter "BOLTHOUSE"), and hereby submit the following Response to BLUM TRUSTS Separate
28 Statement of Undisputed Material Facts in Support of BLUM TRUSTS Motion for Summary

1 Summary Judgment or Summary Adjudication, as follows:

2 **RESPONSE TO BLUM TRUST'S PURPORTEDLY UNDISPUTED MATERIAL FACTS**

3 **ISSUE NO. 1: CROSS-COMPLAINANTS' FIRST AMENDED CROSS-COMPLAINT FOR**
4 **DECLARATORY AND INJUNCTIVE RELIEF AND ADJUDICATION OF WATER RIGHTS'**
5 **FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF-PRESCRIPTIVE RIGHTS;**
6 **SECOND FOR DECLARATORY RELIEF-APPROPRIATIVE RIGHTS;**
7 **THIRD FOR DECLARATORY RELIEF-PHYSICAL SOLUTION;**
8 **FOURTH FOR DECLARATORY RELIEF-MUNICIPAL PRIORITY;**
9 **FIFTH FOR DECLARATORY RELIEF-STORAGE OF IMPORTED WATER;**
10 **SIXTH FOR DECLARATORY RELIEF-RECAPTURE OF RETURN FLOWS; &**
11 **SEVENTH FOR UNREASONABLE USE OF WATER AGAINST BLUM TRUST HAS NO MERIT**
12 **BECAUSE BLUM TRUST'S REASONABLE BENEFICIAL USE OF ITS OVERLYING RIGHTS &**
13 **CORRELATIVE RIGHTS ARE SUPERIOR, AND AT THE VERY LEAST CO-EQUAL TO**
14 **CROSS-COMPLAINANTS' WATER RIGHTS, AND NOT SUBORDINATE.**

| Blum Trust's Undisputed Material Facts & Supporting Evidence | Defendant's Response and Supporting Evidence |
|--|--|
| <p>15 1. Since 1985 to present, Sheldon Blum/BLUM TRUST was and is, the Fee Owner of approximately 150 acres of farmland that overlies the Antelope Valley Basin located in the City of Lancaster, County of Los Angeles, CA, identified by APNs & Acreage as follows: (1) 3384-009-001 =80+/- Acs.; (2) 3384-009-006 = 39+/- Acs.; (3) 3384-020-012=10+/-Acs; (4) 3384-020-013 =10+/- Acs.;_ and (5) 3262-016-011 = 10+/- Acs.</p> <p>18 Declaration of Sheldon Blum Pg. 2, ¶2. 19 Request for Judicial Notice Ex. "A."</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Undisputed.</p> |
| <p>20 2. By virtue of the location of each overlying parcel, BLUM TRUST has a overlying and correlative right to pump and/or divert groundwater for the reasonable and beneficial use of its parcels.</p> <p>24 <i>Request For Judicial Notice, Ex. "A" & "B",</i></p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed. This is not a fact, but a legal contention. Further, the evidence submitted in support of this fact consists of deeds for the property and well index cards, which do not establish the proposition asserted.</p> |

| | |
|--|---|
| <p>3. BLUM TRUST bought the above-described parcels because of its location with respect to the Basin's underlying percolating water without which the overlying lands would have little value to BLUM TRUST.</p> <p>Declaration of Sheldon Blum – Pg. 2, ¶3</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed. This fact is irrelevant, lacks foundation, is speculative, and offers an improper opinion on the value of the parcels.</p> |
| <p>4. There are three (3) water wells on BLUM TRUST's 120 acres of farmland located on APN 3384-009-001 & 3384-009-006. The wells are illustrated on BOLTHOUSE FARMS' Lease MAP OF BLUM PARCEL & Ariel Photo.</p> <p>Declaration of Sheldon Blum, Pg. 2 ¶5, Exhibit List Ex. "2" & Ex. "6".</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Undisputed that there are three wells on the BLUM TRUST land. The materiality and relevance of this fact are disputed.</p> |
| <p>5. The public records of the CA Dept. of Water Resources, Southern District, records two (2) Water Well Index Cards on file which were drilled on BLUM TRUST's above-referenced farmland in 1932 & 1948, by farming predecessor T.D. KYLE .</p> <p>Request For Judicial Notice, Ex. "B", & Declaration of Sheldon Blum Pg. 3, ¶6 .</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed insofar as this fact is unsupported by competent evidence, and is irrelevant.</p> |
| <p>6. BLUM TRUST's APN 3384-020-012 = 10 Acs.: APN 3384-020-013 = 10 Acs.: & 3262-016-011 = 10 Acs. p have been dormant of groundwater pumping during the Basin's adjudication time-frame of 2000-2014, however the parcels overly the Basin and have correlative rights with other Overlying Landowners, free of replenishment assessment, from the native safe yield.</p> <p>Declaration of Sheldon Blum Pg. 3, ¶7</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed. This is not a fact, but a legal contention.</p> |

1 7. On August 2, 2001, BLUM TRUST as
2 Lessor, and BOLTHOUSE FARMS as
3 Lessee, entered into an Agriculture Lease
4 Agreement and Modification Of Lease dated
5 May 17, 2004, to lease Lessors' APN: 3384-
6 009-001 = 80+/- Acs. and 3384-009-006 = 39
7 +/- Acs., and have all groundwater pumped
8 for the beneficial use of BLUM TRUST's
9 approximate 120 Acres of farmland. Pumping
10 was to be undertaken from servicing BLUM
11 TRUST's existing three (3) water wells,
12 and/or if agreed, pumped from BOLTHOUSE
13 FARMS' adjacent parcel(s) well(s) and
14 delivered onto the BLUM TRUST leased
15 parcels.

16 Declaration of Sheldon Blum, Pg. 3, ¶8.
17 Exhibit List Ex. "1".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Undisputed that BOLTHOUSE FARMS leased
certain real property from BLUM TRUST.

Disputed as to the remainder of the assertion. The
evidence submitted in support of this fact does not
support the proposition for which it is asserted.
BOLTHOUSE used all water from its own wells,
for its own crops, in its own farming operation.

See BLUM TRUST's Exhibit 1.

18 8. BOLTHOUSE FARMS elected to
19 construct an underground pipeline delivery
20 system from its adjacent parcels' water wells
21 and route it underneath the city streets of Ave.
22 J and 75th St. E. onto the BLUM TRUST's
23 farmland. These water wells were designated
24 by BOLTHOUSE FARMS as LAID 13-3
25 bearing APN 3384-008-002; AVOL 14-3N: &
26 AVOL 14-3S bearing APN 3384-004-004.

27 Declaration of Sheldon Blum Pgs. 4-5, ¶10-
28 14.

Exhibit List Ex. "3" - "6":

Request For Judicial Notice Ex. "C" & "D".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed insofar as the fact implies that the
BLUM TRUST land was "farmland," as this
assertion is not supported by the evidence
submitted.

1 9. Under the Agriculture Lease Agreement a
2 contiguous 'Farming Unit' for eight (8)
3 consecutive years was created between Lessor
4 BLUM TRUST's approximate 120 acres of
5 healthy non-contaminate farmland, and
6 Lessee BOLTHOUSE FARMS' above
7 identified water wells, for the reasonable
8 beneficial use of irrigating and harvesting
9 carrots and onions on the leased farmland.

10 Declaration of Sheldon Blum Pg. 3-4, ¶9.
11 Exhibit List Ex. "6"; Ex. '7(1-3)'; Ex. "8(1-7)".
12 Request For Judicial Notice Ex. "J" & Ex. "K".
13 Declaration of Ali Shahroody, P.E.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed. BOLTHOUSE did not form a
"Farming Unit" with BLUM TRUST at any point
in time. "Farming Unit" is vague and ambiguous.
Further, the evidence submitted does not support
the asserted fact.

14 10. In accordance with lessor's and Lessee's
15 'Farming Unit', BOLTHOUSE FARMS' acted
16 in securing County of Los Angeles Dept. of
17 Public Works Excavation Permits to construct
18 and route its groundwater pipeline delivery
19 system onto the leased BLUM TRUST
20 farmland. In addition, BOLTHOUSE FARMS
21 filed Annual Notice(s) of Groundwater
22 Extraction & Diversion Forms with the CA
23 State Water Resource Control Board, Division
24 of Water Rights, depicting its applied
25 groundwater on the BLUM TRUST farmland
26 pursuant to CA Water Code §5001.

27 Declaration of Sheldon Blum Pg. 5 ¶15.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed insofar as there is no competent
evidence to support this asserted fact. Also
disputed insofar as there was is no support for the
proposition that a "Farming Unit" existed with the
lessor.

28 11. The method of extracting groundwater
from one water well on a APN parcel for use
on a contiguous or adjoining APN parcel as a
'Unit' is both an approved PUBLIC WATER
SUPPLIER practice and Overlying
Landowner farming practice known to exist in
the Antelope Valley.

Request For Judicial Notice, Ex. "J";& "K".
Declaration of Ali Shahroody.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed in that there is no competent evidence of
this assertion.

1 12. The PUBLIC WATER SUPPLIERS' 'Case
2 Management Statement' dated 1/15/13,
3 expressly states: "It is also important to
4 determine the parcels upon which the water
5 was used versus where the water was pumped,
6 because the water rights belong to the owner
7 of the property where the water was used
8 absent contractual agreement. If this in not
9 taken into account, there is a danger of
10 "double counting." The statement is consistent
11 with a "Place of Use" methodology in
12 establishing groundwater production rights .

13 Request For Judicial Notice Ex. J, 1:22-25.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Undisputed that the cited document contains the
quoted language. Disputed that this fact is
relevant or material.

14 13. The CITY OF LOS ANGELES 'Proposal
15 Concerning Form Discovery' dated 11/20/12,
16 confirmed 'Place of Use', stating: "Some
17 landowners such as the City of Los Angeles
18 own multiple contiguous parcels as identified
19 by APNs and may extract water from a well
20 on one APN for use on an adjoining or nearby
21 APN. The proper scope of inquiry is the
22 extent and nature of the water use on property
23 owned by a party, and on the description of
24 the property on which the water is used." This
25 statement is consistent with a IPlace of Use I
26 methodology in establishing groundwater
27 production rights.

28 Request For Judicial Notice Ex. "K", 2:17-21.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Undisputed that the cited document contains the
quoted language. Disputed that this fact is
relevant or material.

14. The PUBLIC WATER SUPPLIERS
CrossComplaint acknowledged in its
pleading, the basis for computing groundwater
rights as the right to pump groundwater from
the Antelope Valley Groundwater Basin in an
amount equal to the highest volume of
groundwater extracted by each of the Cross-
Complainants in any year preceding entry of
judgment in this action.

Request For Judicial Notice Ex. "J" Pg. 13
¶40(A), Lines 9-14.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed that this assertion is relevant or material,
as the truth of a statement in a document is not
judicially noticeable.

1 15. BLUM TRUST's groundwater production
2 rights are limited and measured by its 'Place
3 of Use' methodology arising out of the
4 Agriculture Lease 'Farming Unit' with
5 BOLTHOUSE FARMS. The 'Place of Use'
6 methodology most accurately represents
7 BLUM TRUST's reasonable and beneficial
8 water usage without any danger of "double
9 counting", nor impairment or injurious to the
10 rights of others.

11 Declaration of Sheldon Blum Pg. 6 ¶20
12 Declaration of Ali Shahroody, P.E.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed insofar as there is no competent support
for this argument, which is not a fact at all.

13 16. BLUM TRUST and the PUBLIC WATER
14 SUPPLIERS executed a Stipulation to
15 introduce in a later phase evidence to support
16 water usage in years other than 2011 and 2012
17 e-filed on or about May 23, 2013.

18 Request For Judicial Notice Ex. "H" .
19 Declaration of Sheldon Blum Pg. 9 ¶30.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Undisputed that this document exists. Disputed
that it is a relevant and material fact.

20 17. BLUM TRUST's overlying groundwater
21 production rights are evidentiary supported
22 and verified by BOLTHOUSE ENTITIES
23 Business Records and Declarations filed in
24 this action.

25 Declaration of Sheldon Blum Pg. 6 ¶19.
26 Request For Judicial Notice Ex. "C" & "D".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed. This is a legal contention, and the
evidence cited by moving party is only evidence
of the pumping of water by BOLTHOUSE, not
BLUM TRUST. Further, the truth of matters
stated in a document is not judicially noticeable.

1 18. During the Phase 3 Trial the PUBLIC
2 WATER SUPPLIERS introduced through the
3 testimony of expert witness Mr. Joseph
4 Scalnanini an Exhibit 58 "Summary of
5 Applied Crop Water Duties". The Chart
6 identifies the irrigation efficiency value for
7 "Onions" at 4.5 Ac. Ft. Per Yr., and for
8 "Carrots" 3.9 Ac. Ft. Per Yr. A similar
9 document was attached to the Declarations In
10 Lieu of Deposition Testimony For Phase 4
11 Trial.

12 Request For Judicial Notice Ex. "E".
13 Declaration of Sheldon Blum Pgs. 6-7 ¶21.
14 Declaration of Ali Shahroodv. P.E.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed in that the fact is not supported by
competent evidence. Truth of statements within
documents are not judicially noticeable. Also
disputed in that this fact is neither relevant nor
material.

15 19. Pursuant to: (1) Phase 3 Trial Exhibit 58
16 'Applied Crop Water Duties', (2) May 23,
17 2013 Stipulation between Cross-Complainants
18 and BLUM TRUST; and (3) Cross-
19 Complainants' First Amended Cross-
20 Complaint computations for groundwater
21 production rights computed at the highest
22 volume of groundwater extracted and the
23 Declaration of Ali Shahroody, PE; the BLUM
24 TRUST's groundwater production rights equal
25 531 Ac. Ft. Per Yr., based on Years 2004-
26 2005 when "Onions" were beneficially
27 irrigated on its farmland by BOLTHOUSE
28 FARMS.

29 Declaration of Sheldon Blum Pg. 6 ¶19 - 21.
30 Request For Judicial Notice Ex. "E", "F" @
31 Pg. 13 ¶40 (A), Lines 9-14.
32 Declaration of Ali Shahroody.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed in that the fact is not supported by
competent evidence. Truth of statements within
documents are not judicially noticeable. Also
disputed in that this fact is neither relevant nor
material. Further, the water used on the Blum
Ranch for years 2004 and 2005 was 409.5 acre-
feet.

See Declaratation of Richard G. Zimmer, ¶2, Ex.
"A" (Declaration of Dan Wilke re: Water Use on
Blum Property)

1 20. The BLUM TRUST's & BOLTHOUSE
2 FARMS' farming operation represents a valid
3 exercise of overlying production rights in
4 conformity with good agriculture farming
standards and practices, and in compliance
with all applicable State and Federal laws.

5 Declaration of Sheldon Blum Pg. 6 ¶18 .
6 Exhibit List Ex. "1": Pg. 1, Section 2 Purpose
7 For Which Premises Are To Be Used.
8

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed. BLUM TRUST did not have a farming
operation, only BOLTHOUSE did. Further, the
evidence submitted does not support the fact
asserted.

See Moving Party's Exhibit 1, at ¶2 ("The Leased
premises are to be used **by Lessee** for the purpose
of farming . . .") (emphasis added).

10 21. On or about December 20, 2007 BLUM
11 TRUST served on all parties its Answer to the
12 PUBLIC WATER SUPPLIERS'
13 Complaint/Cross-Complaint. The First
14 through Seventh Causes of Action were
15 denied as to their alleged prescriptive rights,
16 appropriative rights, Municipal rights and any
17 other water right as having priority over
18 BLUM TRUST's overlying water rights or
otherwise that BLUM's rights are subordinate
as oppose to co-equal, and asserted 31
Affirmative Defenses.

19 Declaration of Sheldon Blum Pg. 7 ¶22.
20 Request For Judicial Notice Ex. "G".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Undisputed as to the BLUM TRUST's Answer.
Disputed that this fact is relevant or material.

21 22. BLUM TRUST has a superior right, but
22 not less than a co-equal right to pump water
23 for the reasonable beneficial use of its 120
24 Acs., as against Cross-Complainants' alleged
25 prescriptive rights in times of overdraft.
26 CrossComplainants' appropriative rights are
27 subordinate to BLUM TRUST
28 overlying/correlative rights in times of
overdraft.

City of Los Angeles v. City of San Fernando
(1975) 14 Cal.3d 199, 293.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed insofar as this is not a fact, but an
argument. Further, no evidence is submitted to
support this assertion.

1 **ISSUE NO.2: ALL GROUNDWATER PUMPED FROM LESSEE BOLTHOUSE FARMS'**
 2 **ADJACENT PARCELS' WATER WELLS AND APPLIED FOR THE REASONABLE**
 3 **BENEFICIAL USE ON BLUM TRUST'S FARMLAND TO IRRIGATE CROPS DURING THE**
 4 **EIGHT (8) YEAR LEASE TERM, BELONGS TO BLUM TRUST AND NOT THE BOLTHOUSE**
 5 **ENTITIES, AS A MATTER OF LAW**

| Blum Trust's Undisputed Material Facts & Supporting Evidence | Defendant's Response and Supporting Evidence |
|--|--|
| <p>6 1. The Agriculture Lease Agreement 7 between Lessor BLUM TRUST and Lessee 8 BOL THOUSE FARMS dated August 2, 9 2001, expressly cited the Antelope Valley 10 groundwater issues in this adjudication, and 11 the impact on water pumping and water rights 12 which may affect the amount and cost of 13 available groundwater for the BLUM TRUST 14 farmland. Based on these concerns, it was 15 agreed by the parties that all covenants and 16 agreements contained in the lease were 17 deemed to be covenants running with the land 18 and shall inure to the benefit of and be 19 binding upon the successors in interest of the 20 parties.</p> <p>21 Declaration of Sheldon Blum Pgs. 2 ¶3; 3-4 22 ¶9</p> <p>23 Exhibit List Ex. "1" Pg. 14, Pg. 15, Section 22 24 <u>Water Adjudication.</u></p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed. The Lease acknowledges that the adjudication may affect water rights, and provides that the Lease's covenants run with the land, but those provisions are entirely unrelated. The fact asserted is not supported by the evidence cited.</p> <p>See Moving Party's Exhibit 1.</p> |
| <p>25 2. On or about December 20, 2007, BLUM 26 TRUST filed in these coordinated proceedings 27 a Complaint/Cross-Complaint against WM. 28 BOL THOUSE FARMS, INC & BOLTHOUSE PROPERTIES, LLC. which alleged various causes of action, including Breach of Agriculture Lease/Modification Agreement arising out of the parties 'Farming Unit'. The pleadings alleged that during the lease term the groundwater allocation right belongs to the leased BLUM TRUST 'Place of Use' farmland.</p> <p>Declaration of Sheldon Blum Pg. 7 ¶23.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Undisputed that such a Cross-Complaint was filed. Disputed that this fact is relevant or material.</p> |

1 3. The BLUM TRUST action was
2 subsequently severed by Stipulation & Order
3 and proceeded as an independent case to the
4 Basin adjudication. During discovery, BLUM
5 TRUST served a First Set of Special Interr.
6 Set One, on 2120/08. Special Interr. No. 92,
7 requested that BOL THOUSE quote the lease
8 language which authorized the BOLTHOUSE
9 ENTITIES to deliver groundwater onto the
10 BLUM TRUST farmland from its adjacent
11 parcel(s).

12 Declaration of Sheldon Blum Pgs. 7-8 ¶24.
13 Exhibit List Ex. "9"(1)"

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Undisputed that such discovery was propounded.
Disputed that this fact is relevant or material.

14 4. On May 9, 2008, BOLTHOUSE
15 PROPERTIES, LLC, President Anthony L.
16 Leggio provided a verified Response To
17 BLUM TRUST's Special Interr., Set One, and
18 admitted in its response to Interr. No. 92 that:
19 "WM. BOLTHOUSE FARMS, INC lease
20 water rights regarding the SUBJECT
21 PROPERTY are set forth in the lease
22 agreement and are contractual in nature.
23 BOLTHOUSE PROPERTIES, LLC does not
24 have any leasehold or contractual water rights
25 relationship with BLUM."

26 Declaration of Sheldon Blum, Pg. 8 ¶25 .
27 Exhibit List Ex. "9(2)".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Undisputed that the response to discovery
contains the quoted language. Disputed insofar as
moving party mischaracterizes it. BOLTHOUSE
does not state in the response that it leases BLUM
TRUST's water rights, it says that its "lease water
rights regarding the subject property are set forth
in the lease." This is not a relevant or material
fact.

See Moving Party's Exhibit 9.

1 5. On or about December 16, 2008, BLUM
2 TRUST and BOLTHOUSE ENTITIES
3 entered into a Settlement Agreement under
4 BLUM TRUST's express 'reservation of
5 rights' to contend in this adjudication that the
6 volume of groundwater pumped by
7 BOLTHOUSE FARMS and its sublessees in
8 undertaking its/their farming operations was
9 for the beneficial use of BLUM TRUST's
10 farmland during the lease term, and that such
11 pumping should be allocated and credited to
12 BLUM TRUST's farmland under any CA
13 water priority allocation system.

14 Declaration of Sheldon Blum Pg. 8 ¶26.
15 Exhibit List Ex. 10, Pgs. 1, & 4 ¶E f. & g.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Undisputed that the parties entered into the
Settlement Agreement, and that BLUM TRUST
reserved the right to make contentions in the
adjudication.

Disputed insofar as the Settlement Agreement
further provides that Defendants dispute those
contentions. Further disputed in that this
reservation of rights is not relevant or material.

See Moving Party's Exhibit 10.

12 6. General Counsel Ms. Tracy M. Saiki for
13 BOLTHOUSE FARMS' Declaration In Lieu
14 of Deposition Testimony For Phase 4 Trial
15 dated January 31, 2013, declared that
16 "BOLTHOUSE FARMS is not claiming any
17 groundwater rights in this action."

18 Declaration of Sheldon Blum, Pgs. 8-9 ¶27.
19 Request For Judicial Notice Ex. "I".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Undisputed that the declaration contains the
quoted language. Disputed insofar as Moving
Party attempts to characterize this as a
relinquishment of water rights, as BOLTHOUSE
FARMS had simply sold its water rights (and
property) to BOLTHOUSE PROPERTIES.

See Moving Party's Exhibit I.

1 7. Based on: (1) The terms of the Agriculture
2 Lease Agreement that all covenant's and
3 agreements run with the land, (2)
4 BOLTHOUSE ENTITIES verified discovery
5 response that it leased BLUM TRUST's water
6 rights, and (3) General Counsel for
7 BOLTHOUSE FARMS' declaration of
8 relinquishing all of its water rights in this
9 action, it is unjust, prejudicial and inconsistent
10 for BOLTHOUSE ENTITIES to contest or
11 contradict BLUM TRUST's groundwater
12 production rights acquired during the 8 year
13 lease term.

14 Declaration of Sheldon Blum, Pgs. 3-4 ¶9; 7-8
15 ¶25 & ¶27, & 9 ¶28.
16 Exhibit List Ex. "9(1 & 2).
17 Request For Judicial Notice Ex. "I".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed that the BOLTHOUSE ENTITIES'
responses to discovery state that they leased the
BLUM TRUST's water rights. Disputed that
BOLTHOUSE FARMS relinquished water rights,
as they were simply sold to BOLTHOUSE
FARMS. Disputed insofar as there is no
competent evidence supporting the legal assertion
contained herein. This is not a fact at all, but
constitutes an unsupported legal argument.

See Moving Party's Exhibit I.
See Moving Party's Exhibit 9.

18 8. BLUM TRUST's water production rights
19 arising from "Place of Use", are not in
20 conflict with nor duplicative to any of
21 BOLTHOUSE PROPERTIES groundwater
22 production claims. BOLTHOUSE calculated
23 its pumping usage based on irrigating
24 different parcels during crop season Years
25 2011 2012.

26 Declaration of Sheldon Blum Pg. 9, ¶29.
27 Request for Judicial Notice on Global
28 Settlement Agreement, Ex. "M".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed in that there is no competent evidence to
support this proposition. Further disputed that
this purported fact is relevant or material. This is
not a fact at all, but constitutes an unsupported
legal argument.

9. There are no set of facts or basis to declare
that the BLUM TRUST 'Place of Use'
production entitlement is either subordinate to
the 'Place of Diversion', or otherwise
constitutes a forfeiture of groundwater
production rights.

Declaration of Sheldon Blum Pgs. 9-10 ¶31.
Request for Judicial Notice, Ex. "M".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed in that there is no competent evidence to
support this proposition. Further disputed that
this purported fact is relevant or material. This is
not a fact at all, but constitutes an unsupported
legal argument.

| | |
|---|--|
| <p>10. Based on the above-described conduct of the BOLTHOUSE ENTITIES, the doctrines of Equitably Estoppel and/or Judicially Estoppel should bar them from contesting or contradicting BLUM TRUST's groundwater production rights acquired during the 8 year lease term.</p> <p>Declaration of Sheldon Blum, Pg. 9 ¶28.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed in that there is no competent evidence to support this proposition. Further disputed that this purported fact is relevant or material. This is not a fact at all, but constitutes an unsupported legal argument.</p> |
|---|--|

ISSUE NO.3: BLUM TRUST HAS COMPLETE AFFIRMATIVE DEFENSES AGAINST CROSS-COMPLAINANTS' FIRST THROUGH SEVENTH CAUSES OF ACTION WHICH BARS THE RELIEF SOUGHT AGAINST BLUM TRUST'S OVERLYING WATER RIGHTS FROM THE NATIVE SAFE YIELD, FREE OF REPLENISHMENT ASSESSMENT, AND IN TIMES OF OVERDRAFT/CUTBACK UNDER THE CA PRIORITY ALLOCATION SYSTEM.

**A. BLUM TRUST DULY ACTED WITHIN ITS GROUNDWATER PRODUCTION RIGHTS, AND IS NOT RESPONSIBLE FOR THE LOSS OR DAMAGE RESULTING FROM THE ACTS OR OMISSIONS OF OTHERS.
(Third Affirmative Defense)**

| Blum Trust's Undisputed Material Facts & Supporting Evidence | Defendant's Response and Supporting Evidence |
|--|--|
| <p>1. At all times mentioned in the Cross-Complaint, BLUM TRUST exercised its groundwater production rights in conformity with good agriculture operations and in compliance with all applicable State & Federal law.</p> <p>Declaration of Sheldon Blum Pg. 3 ¶8 Exhibit List Ex. "1", Pg. 1, Section 2 <u>Purpose For Which Premises Are To Be Used.</u> Request For Judicial Notice, Ex. "G", 3:6-12.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed. BLUM TRUST did not exercise any production rights. The evidence supported by Moving Party only supports that BOLTHOUSE exercised production rights.</p> |

1 2. The 'Place of Use' methodology under a
2 'Farming Unit' is an acceptable method to
3 acquire groundwater production entitlement
4 under the CA water priority allocation system.

5 Request for Judicial Notice, Ex. "J", 1:22-25;
6 & "K", 2:17-21.

7 Declaration of Ali Shahroody, PE.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed in that this purported fact is not
supported by any competent evidence. The cited
evidence consists of an improper declaration of a
legal opinion and documents filed by other parties
to this action, and the truth of statements therein
is not subject to judicial notice.

8 3. At all times herein mentioned, BLUM
9 TRUST was and is the Fee Owner and entitled
10 to the reasonable beneficial use of
11 groundwater which the parcels overlays. This
12 overlying right includes the right to pump and
13 divert groundwater from the native safe yield
14 free of replenishment assessment, and a
15 quantified production right on its leased 120
16 acres in times of overdraft .and cutback under
17 the CA water priority allocation system.

18 Declaration of Sheldon Blum Pgs. 2 ¶2; & 11
19 ¶35.

20 Request For Judicial Notice Ex. "A".

21 Exhibit List Ex. "1".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed in that this purported fact is not
supported by any competent evidence. This is not
a fact at all, but rather is an unsupported legal
argument.

B. THE DOCTRINES OF EQUITABLY ESTOPPEL & JUDICIAL ESTOPPEL BAR
 THE PUBLIC WATER SUPPLIERS FROM CONTESTING OR CONTRADICTING BLUM
 TRUST'S GROUNDWATER PRODUCTION ENTITLEMENT TO THE BASIN.
 (Tenth Affirmative Defense)

| Blum Trust's Undisputed Material Facts & Supporting Evidence | Defendant's Response and Supporting Evidence |
|--|--|
| <p>1. Cross-Complainants have engaged in using multiple APN parcels as a "Unit" when applying groundwater to the beneficial 'Place of Use' parcel for groundwater priority . production priority entitlement in this Basin adjudication BLUM TRUST & BOLTHOUSE FARMS engaged in similar conduct.</p> <p>Request for Judicial Notice, Ex. "G" 4:26, 5:1; Ex. "J" 1:22-25; . Ex. "K", 2:17-21. Declaration of Sheldon Blum Pg. 6 ¶18.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Undisputed that certain entities have treated multiple parcels as a unit. Disputed in that this purported fact is not supported by competent evidence. Disputed that this is relevant or material. Disputed that BLUM TRUST and BOLTHOUSE engaged in "similar" conduct. The only relationship between BLUM TRUST and BOLTHOUSE is that BOLTHOUSE leased property from BLUM TRUST.</p> <p><i>See Moving Party's Exhibit 1.</i></p> |
| <p>2. Cross-Complainants' have calculated their right to pump groundwater from the Antelope Valley Basin in an annual amount equal to the highest volume of groundwater extracted in any year preceding entry of judgment in this action. BLUM TRUST has followed suit.</p> <p>Request For Judicial Notice Ex. "F" Pg. 13 ¶40(A), Lines 9-14. Declaration of Sheldon Blum Pg. 6 ¶21.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed that the claims of Cross-Complainants are material or relevant, or competent evidence of the proposition asserted.</p> |
| <p>3. BLUM TRUST and the PUBLIC WATER SUPPLIERS executed a Stipulation to introduce in a later phase evidence to support water usage in years other than 2011 and 2012 dated May 21, 2013.</p> <p>Request For Judicial Notice Ex. "H". Declaration of Sheldon Blum Pg. 9 ¶30.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Undisputed that the Stipulation exists. Disputed as to its relevance or materiality.</p> |

| | |
|---|--|
| <p>4. Based on the above-stated facts, it is unjust and inconsistent for Cross-Complainants to contest or contradict BLUM TRUST' 'Place of Use' methodology and Annual Ac. Ft. production entitlement in the Basin adjudication.</p> <p>Request for Judicial Notice, Ex. 'J': 1:22-25; Ex. "K", 2:17-21.</p> <p>Declaration of Sheldon Blum Pgs. 8-9 ¶28 ¶31.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed in that this is not a fact, but an unsupported legal argument. Disputed that any of the stated purported facts entitle BLUM TRUST to water that it did not actually use.</p> |
|---|--|

C. BLUM TRUST'S WATER RIGHTS ARE EITHER SUPERIOR TO AND TAKE PRIORITY OVER ANY WATER RIGHTS ASSERTED BY CROSS-COMPLAINANTS AGAINST BLUM TRUST, OR ARE CO-EQUAL BUT NOT SUBORDINATE TO CROSS-COMPLAINANTS' RIGHTS UNDER THE CA WATER PRIORITY ALLOCATION SYSTEM (Twelfth Affirmative Defense)

| Blum Trust's Undisputed Material Facts & Supporting Evidence | Defendant's Response and Supporting Evidence |
|--|---|
| <p>1. BLUM TRUST refers to and incorporates by reference all statements of undisputed facts and supporting evidence under ISSUE NOS. 1 & 2 as though fully set forth hereat.</p> <p>Request For Judicial Notice, Ex. "G", 5:12-14.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed as to the relevance of Exhibit G to an incorporation by reference. Responding party incorporates its response to the purported facts set forth in "Issue Nos. 1 & 2."</p> |
| <p>2. In awarding judgment to BLUM TRUST, it is necessary that either BOLTHOUSE FARMS offset its groundwater allocated production share by 531 Ac. Ft., or otherwise all Overlying Landowners equally reduce their pro-rata allocated share under their Global Stipulation, so that BLUM TRUST is properly allocated its annual Ac. Ft. entitlement in times of overdraft and cutback under the CA water priority allocation system.</p> <p>Declaration of Sheldon Blum, Pg. 11 ¶36.</p> <p>Request For Judicial Notice, Ex. "D"; "E"; "F" 13:9-14; "H"; "I"; "J" 1:22-26; "K" 2:3-28 & 3:1-3.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed insofar as this is not a fact, but is an unsupported legal argument. The evidence cited by Moving Party does not support this proposition.</p> |

D. BLUM TRUST IS DENIED EQUAL PROTECTION & DUE PROCESS UNDER THE
LAW BY CROSS-COMPLAINANTS, OVERLYING LANDOWNERS & THE FEDERAL
GOVERNMENT IN THE ANTELOPE VALLEY BASIN ADJUDICATION
(Twenty Second through Twenty Fifth Affirmative Defenses)

| Blum Trust's Undisputed Material Facts & Supporting Evidence | Defendant's Response and Supporting Evidence |
|---|--|
| <p>1. The US Constitution 14th Amendment as applied to the states under the 5th Amendment, and the CA Constitution, Art. I, §7(a) prohibits the denial of equal protection of the law. In addition, the constitutional guarantees of the Due Process Clause of the 5th Amendment states that no person shall be deprived of property without due process.</p> <p>Request For Judicial Notice Evid. Code §451.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Undisputed as to the constitutional provisions. Disputed as to relevance and materiality.</p> |
| <p>2. The Proposed Global Stipulation & Physical Solution Agreement of the settling parties violates BLUM TRUST's 'present and prospective' overlying rights and correlative rights to the Basin's native safe yield, free of replenishment assessment. In addition, the agreement denies BLUM TRUST's of its annual 531 Ac. Ft. production right on its 120 acre farmland under the CA water priority allocation system in times of overdraft and cutback.</p> <p>Request For Judicial Notice, Ex. "M". Declaration of Sheldon Blum Pgs. 9 ¶31; ¶35. Declaration of Ali Shahroody. PE.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed. This is not a fact, but is an unsupported legal argument. The evidence cited by Moving Party does not support this proposition.</p> |

1 3. Between the calendar years 2000 to 2012,
2 the PUBLIC WATER SUPPLIERS and
3 Overlying Landowners have used a variety of
4 methods and time-frames to calculate their
5 water production rights. Despite BLUM
6 TRUST adopting the same Applied Crop
7 Water Duty formula, and 'Place of Use'
8 methodology to calculate its production rights
9 for its 120 Acs., BLUM TRUST has been
10 denied any percentage share or quantified
11 annual volume from the Basin in times of
12 overdraft and cutback under the CA priority
13 water allocation system.

14 Declaration of Sheldon Blum Pg. 6 ¶20 & 21.
15 Request for Judicial Notice, Ex. "J", 1:22-25;
16 Ex. "K": 2:17-21. & Ex. "F" Pg. 13 ¶40 (A),
17 Lines 9-14.
18 Exhibit List. Ex. "M".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed in that this is not a fact, but is an
unsupported legal argument. The evidence cited
does not support the proposition that BLUM
TRUST has been denied anything.

19 4. The Proposed Global Settlement denies
20 BLUM TRUST of its highest annual water
21 extraction as a basis for computing BLUM
22 TRUST's production entitlement in this Basin
23 adjudication.

24 Declaration of Sheldon Blum Pg. 11 ¶35.
25 Request For Judicial Notice, Ex. "M".
26 Declaration of Ali Shahroody. PE.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed in that this purported fact is not
supported by any competent evidence.

27 5. BLUM TRUST's and the PUBLIC
28 WATER SUPPLIERS' Stipulation e-filed on
5/23/13 on introducing evidence to support
water usage in years other than 2011 & 2012,
has been impaired or breached under the
Proposed Global Stipulation which violates
the Due Process & Equal Protection Clauses.

Request For Judicial Notice, Ex. "H" & "M".

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed insofar as this purported fact is not
supported by competent evidence. This is not a
fact, it is an unsupported legal argument.

1 ISSUE NO.4: BLUM TRUST HAS SUFFERED A LEGAL INJURY AND SEVERE FINANCIAL
 2 HARDSHIP BECAUSE OF THE SUBSTANTIAL DAMAGE TO ITS 3 WATER WELLS, AND
 3 UNCERTAINTY OF PRODUCTION RIGHTS, CAUSING INVOLUNTARY & COMPELLED
 4 DISUSE, WHICH SHOULD NOT RESULT IN BLUM TRUST'S LOSS OF PRODUCTION
 5 ENTITLEMENT IN TIMES OF OVERDRAFT & CUTBACK UNDER THE CA. WATER
 6 PRIORITY ALLOCATION SYSTEM

| Blum Trust's Undisputed Material Facts & Supporting Evidence | Defendant's Response and Supporting Evidence |
|--|---|
| <p>7 1. Pursuant to the Agriculture Lease, Section</p> <p>8 13, Surrender of Premises. at the expiration of</p> <p>9 the lease term Lessee BOL THOUSE FARMS</p> <p>10 agreed to cause a steel plate to be welded to</p> <p>11 each well opening to secure BLUM TRUST's</p> <p>12 3 water wells from access pursuant to the</p> <p>13 lease Section 13, Surrender of Premises.</p> <p>14 Declaration of Sheldon Blum, Pg. 10 ¶32.</p> <p>15 Exhibit List Ex. 1, Pg. 8, Section 13.</p> <p>16 Surrender of Premises; and Ex. "11".</p> | <p>7 Responding party hereby incorporates the</p> <p>8 Evidentiary Objections filed concurrently</p> <p>9 herewith as if fully set forth herein. Subject to</p> <p>10 and without waiving those objections:</p> <p>11 Disputed in that this purported fact is irrelevant,</p> <p>12 immaterial, and unsupported by any competent</p> <p>13 evidence.</p> |
| <p>14 2. Instead, BOL THOUSE FARMS did not</p> <p>15 weld each water well opening but capped and</p> <p>16 left them unsecure, resulting in someone</p> <p>17 filling the wells with debris, rocks and dirt,</p> <p>18 requiring substantial repairs at a significant</p> <p>19 cost.</p> <p>20 Declaration of Sheldon Blum Pg. 10 ¶32.</p> <p>21 Exhibit List Ex. "11".</p> | <p>14 Responding party hereby incorporates the</p> <p>15 Evidentiary Objections filed concurrently</p> <p>16 herewith as if fully set forth herein. Subject to</p> <p>17 and without waiving those objections:</p> <p>18 Disputed in that this purported fact is irrelevant,</p> <p>19 immaterial, and unsupported by any competent</p> <p>20 evidence. Further, these claims have been settled</p> <p>21 (<i>see</i> Moving Party's Exhibit 10).</p> |

3. BLUM TRUST has been unable to lease its 120 acres of farmland to a farmer based upon: (1) BLUM TRUST's 3 water wells requiring substantial repair at a significant expense; (2) The groundwater allocation entitlement for the BLUM TRUST parcels remain uncertain and unreasonably rejected by the settling parties in this Basin adjudication; and (3) There exists a cost prohibitive economic risk for a farmer to farm the parcels under a 3 to 5 year lease term without assurance of an annual groundwater allocated production right in times of overdraft and cutback based on a CA water priority allocation system. Once the production rights are restored by this court, BLUM TRUST's water wells will be serviced to functional operation in due course.

Declaration Sheldon Blum Pg. 10-11 ¶33-34.

Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:

Disputed in that this purported fact is irrelevant, immaterial, and unsupported by any competent evidence. Further, these claims have been settled (*see* Moving Party's Exhibit 10).

ISSUE NO.5: BLUM TRUST IS NOT LIABLE FOR THE WOODS CLASS ACTION ATTORNEY FEES & COSTS UNDER ANY LEGAL THEORY AS A MATTER OF LAW

| Blum Trust's Undisputed Material Facts & Supporting Evidence | Defendant's Response and Supporting Evidence |
|---|---|
| <p>1. BLUM TRUST was not sued as an opposing party Defendant and/or Cross-Defendant in the Richard Woods Class Action vs. Los Angeles County Waterworks District No. 401 et al.</p> <p>Declaration of Sheldon Blum Pgs. 11-12 ¶37</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed in that this purported fact is irrelevant, immaterial, and unsupported by any competent evidence.</p> |
| <p>2. There has been no direct or significant benefit or any value to BLUM TRUST derived from the Woods Class' attorney services which was not independently accomplished by BLUM TRUST's counsel against the PUBLIC WATER SUPPLIERS in this action.</p> <p>Declaration of Sheldon Blum Pg. 11 ¶37.</p> | <p>Responding party hereby incorporates the Evidentiary Objections filed concurrently herewith as if fully set forth herein. Subject to and without waiving those objections:</p> <p>Disputed in that this purported fact is irrelevant, immaterial, and unsupported by any competent evidence.</p> |

1 3. Under the circumstances Code of Civil
2 Procedure §1021.5, does not apply to BLUM
3 TRUST; there is no duty owed by BLUM
4 TRUST to the Woods' class; BLUM is
5 similarly situated to the Willis class members,
6 and it would not be in the interest of justice
7 for BLUM TRUST to be responsible to satisfy
8 pro-rata any of Woods' class counsel attorney
9 fees or costs.

10 Declaration of Sheldon Blum Pg. 11 ¶37.

Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed in that this purported fact is irrelevant,
immaterial, and unsupported by any competent
evidence.

11 4. The Woods Class Supplemental Case
12 Management Conference Statement for
13 August 11, 2014, Hearing admits that it is the
14 PUBLIC WATER SUPPLIERS, only who
15 should pay for class counsel's attorney fees
16 and costs and not the Overlying Landowners,
17 including BLUM TRUST. The Order of
18 Consolidation entered on February 24, 2010,
19 also provided that no party" may seek fees or
20 cost from another party where they are not
21 involved in the particular action.

22 Request For Judicial Notice Ex. "L".
23 Declaration of Sheldon Blum, Pg. 11, ¶37.

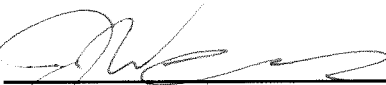
Responding party hereby incorporates the
Evidentiary Objections filed concurrently
herewith as if fully set forth herein. Subject to
and without waiving those objections:

Disputed in that this purported fact is irrelevant,
immaterial, and unsupported by any competent
evidence.

24 DATED: December 8, 2014

Respectfully submitted,

CLIFFORD & BROWN

25
26
27
28
By 
RICHARD G. ZIMMER, ESQ.
T. MARK SMITH, ESQ.
JOSEPH A. WERNER, ESQ.
Attorneys for BOLTHOUSE PROPERTIES, LLC
and WM. BOLTHOUSE FARMS, INC.

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 not a
6 party to the within action; my business address is 1430 Truxtun Avenue, Suite 900, Bakersfield, CA
7 93301.

8 On December 8, 2014, I served the foregoing document(s) entitled:

9 **BOLTHOUSE PROPERITES, LLC. AND WM. BOLTHOUSE FARMS, INC.
10 **RESPONSE TO BLUM TRUST'S SEPARATE STATEMENT OF UNDISPUTED
11 **MATERIAL FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT/
12 **SUMMARY ADJUDICATION********

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

17 **X BY SANTA CLARA SUPERIOR COURT E-FILING IN COMPLEX
18 LITIGATION PURSUANT TO CLARIFICATION ORDER DATED
19 OCTOBER 27, 2005.**

20 Executed on December 8, 2014, at Bakersfield, California.

21 X (State) I declare under penalty of perjury under the laws of the State of
22 California that the above is true and correct.
23 — (Federal) I declare that I am employed in the office of a member of the Bar of
24 this Court at whose direction the service was made.
25

26 

SUE HAYS
{2455-2}