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8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 * * *

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

JUDICIAL COUNCIL COORDINATION PROCEEDING
No. 4408

12 ANTELOPE VALLEY GROUNDWATER
13 CASES

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

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

**BOLTHOUSE PROPERTIES, LLC AND
WM. BOLTHOUSE FARMS, INC.
OBJECTIONS TO EVIDENCE
SUBMITTED BY BLUM TRUST IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT / ADJUDICATION; AND
[PROPOSED] ORDER**

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

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

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

25 AND RELATED ACTIONS.

26 COME NOW, BOLTHOUSE PROPERTIES, LLC and WM. BOLTHOUSE FARMS, INC.
27 (hereinafter "BOLTHOUSE"), and hereby submit the following Objections to the evidence submitted by
28

1 by BLUM TRUST in support of its Motion for Summary Judgment or Summary Adjudication:

2 I.

3 **OBJECTIONS TO BLUM DECLARATION**

Material Objected To	Grounds for Objection	Ruling
4 5 1. Blum Dec., ¶3: “BLUM TRUST 6 bought the parcels because of its 7 location with respect to the Basin’s 8 underlying groundwater, without which the property would have little value to BLUM TRUST.”	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403).	Sustained: _____ Overruled: _____
9 10 2. Blum Dec., ¶4: “Each year BLUM 11 TRUST paid the Los Angeles County 12 Annual Property Tax Bills on the above-described parcels which included a ‘Special Water’ assessment.”	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403).	Sustained: _____ Overruled: _____
13 14 3. Blum Dec., ¶5: “The BLUM 15 TRUST water wells are illustrated by 16 Lessee BOLTHOUSE FARMS on its ‘MAP OF BLUM PARCEL’. A true and correct copy of the subject Map is attached and marked Exhibit ‘2, on the Exhibit List.”	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Speculation / lacks personal knowledge (Evid. Code § 702).	Sustained: _____ Overruled: _____
17 18 4. Blum Dec., ¶6: “which identify that 19 the water wells were drilled in 1932 & 20 1948, on BLUM TRUST’s farmland, by its farming owner/predecessor, T.D. KYLE.”	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Speculation / lacks personal knowledge (Evid. Code § 702); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
21 22 5. Blum Dec., ¶7: “however, the 23 parcels overly the basin and have 24 correlative rights with other overlying landowners free of replenishment 25 assessment from the native safe yield.”	Lacks foundation (Evid. Code § 403); Speculation / lacks personal knowledge (Evid. Code § 702); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310).	Sustained: _____ Overruled: _____
26 27 6. Blum Dec., ¶8: “and have all 28 groundwater pumped for the beneficial use of BLUM TRUST’s farmland.”	Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Misstates evidence (Rule Prof. Cond. 5-	Sustained: _____ Overruled: _____

1		200, 5-220).	
2	7. Blum Dec., ¶8: “The groundwater	Irrelevant (Evid. Code §§ 210, 350);	Sustained: _____
3	was to be pumped from servicing	Lacks foundation (Evid. Code § 403);	Overruled: _____
4	BLUM TRUST’s existing three (3)	Improper secondary evidence (Evid.	
5	water wells and/or if agreed, pumped	Code § 1521).	
6	from BOLTHOUSE FARMS’ adjacent		
7	parcel(s) water well(s) and delivered		
8	onto the BLUM TRUST leased parcels.		
9	Lessee was to conduct its farming		
10	operation in conformity with good		
11	agriculture operations and comply with		
12	all State and Federal laws. A		
13	Modification Lease Agreement was		
14	also executed between Lessor and		
15	Lessee on or about May 17, 2004,		
16	which extended the lease term through		
17	12/31/2009.”		
18	8. Blum Dec., ¶8 “True and correct	Lacks foundation (Evid. Code § 403);	Sustained: _____
19	copies of excerpts from the Agriculture	Speculation / lacks personal knowledge	Overruled: _____
20	Lease Agreement & Modification of	(Evid. Code § 702).	
21	Lease are collectively attached and		
22	marked Exhibit “1” to the Exhibit List.”		
23	9. Blum Dec., ¶9: “The agriculture	Irrelevant (Evid. Code §§ 210, 350);	Sustained: _____
24	lease & modification agreement were	Lacks foundation (Evid. Code § 403);	Overruled: _____
25	for eight (8) consecutive years . . . and	Improper secondary evidence (Evid.	
26	cited the effect of the Antelope Valley	Code § 1521).	
27	groundwater governmental issues and		
28	adjudication, and the impact on water		
29	well pumping and water rights which		
30	may affect the amount and cost of		
31	available groundwater for the subject		
32	property.”		
33	10. Blum Dec., ¶9: “In recognition of	Lacks foundation (Evid. Code § 403);	Sustained: _____
34	the need for the groundwater pumping	Speculation / lacks personal knowledge	Overruled: _____
35	to belong to the BLUM TRUST	(Evid. Code § 702);	
36	farmland under any California	Improper secondary evidence (Evid.	
37	allocation system”	Code § 1521);	
38		Misstates evidence (Rule Prof. Cond. 5-	
39		200, 5-220);	
40		Improper opinion (Evid. Code § 803);	
41		Legal conclusion (Evid. Code § 310).	

<p>1 11. Blum Dec., ¶9: “all lease covenants 2 and agreements were deemed to be 3 covenants running with the BLUM 4 TRUST farmland, and shall inure to the benefit of and be binding upon the successors in interest of the parties.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Improper secondary evidence (Evid. Code § 1521).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>5 12. Blum Dec., ¶10: “These water wells 6 were designated by BOLTHOUSE as 7 LAID 13-3, located on APN 3384-008- 8 002 at Ave. J & 75th St. E., and AVOL 9 14-3N; & AVOL 14-3S located on APN 3384-004-004 at Ave. J & 65th St. E.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Speculation / lacks personal knowledge (Evid. Code § 702).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>10 13. Blum Dec., ¶11: “This information 11 was confirmed to me by BOLTHOUSE 12 FARMS’ counsel Mr. Richard Zimmer’s via e-mail dated 11/30/11.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>13 14. Blum Dec., ¶12: “This information 14 was also communicated to me by 15 BOLTHOUSE FARMS Ag. Properties 16 / Legal Manager Michael W. 17 Kovacevich via email dated 18 11/16/2009, in which he identifies Ave. 19 J and 75th Street E., from where the 20 routed irrigation pipes were cut on BLUM TRUST’s leased farmland, at the expiration of the lease. Attached to Mr. Kovacevich’s email were photographs and an illustrated BLUM- MAP diagram dated November 11, 2009.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>21 15. Blum Dec., ¶13: “Additionally 22 helpful to the location of BOLTHOUSE 23 FARMS’ ‘Place of Diversion’ onto the 24 BLUM TRUST’s ‘Place of Use’ 25 parcels, are excerpts from the 26 deposition of BOLTHOUSE FARMS’ 27 designated ‘Person Most 28 Knowledgeable’ Irrigation Equipment Manager DANIEL WILKE taken on February 6, 2013, under C.C.P. § 2025.230. Mr. WILKE testified that during the 2002-2009, lease term BOLTHOUSE FARMS’ water well(s) designated as AVOL 14-3, NORTH and/or 14-3 SOUTH, located on Ave. J</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310).</p>	<p>Sustained: _____ Overruled: _____</p>

<p>1 & 65 St. E were pumped onto the 2 BLUM TRUST parcels. Mr. Wilke 3 further testified that he was not aware 4 whether LAID 13-3 water well located 5 at or near Ave. J. & 75th St. E., was 6 used to deliver groundwater to the 7 BLUM TRUST parcels.”</p>		
<p>8 16. Blum Dec., ¶14: “An Ariel View 9 Photographs of BLUM TRUST’s 10 farmland depicting its 3 water wells, 11 and approximate location of 12 BOLTHOUSE FARMS’ designated 13 wells: AVOL 14-3N; AVOL 14-3S; & 14 LAID 13-3 are attached and marked 15 Exhibit “6” to the Exhibit List.</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Speculation / lacks personal knowledge (Evid. Code § 702); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>16 17. Blum Dec., ¶15: “In accordance 17 with the parties lease agreement, Lessee 18 BOLTHOUSE FARMS’ acted on 19 behalf of Lessor BLUM TRUST in 20 securing City Permits to construct and 21 route its groundwater pipeline system 22 onto the leased BLUM TRUST 23 farmland. In addition, Lessee filed 24 Annual Notice(s) of Groundwater 25 Extraction & Diversion Forms with the 26 CA Water Resources Control Board, 27 Division of Water Rights, depicting the 28 applied groundwater on the BLUM TRUST farmland.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Speculation / lacks personal knowledge (Evid. Code § 702); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>18 18. Blum Dec., ¶16: “At the time that 19 the photographs were taken, I did not 20 observe any groundwater pipes routed 21 at 70 Street East which would have 22 been pumped from AVOL 14-3N and/or AVOL 14-3S onto Lessor BLUM TRUST farmland.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>23 19. Blum Dec., ¶17: “The groundwater 24 would have been pumped from water 25 wells AVOL 14-3N and/or AVOL 14- 26 3S.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Speculation / lacks personal knowledge (Evid. Code § 702); Improper opinion (Evid. Code § 803).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>27 20. Blum Dec., ¶18: “In accordance 28 with the Agriculture Lease Agreement,</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403);</p>	<p>Sustained: _____</p>

<p>1 Lessor BLUM TRUST and Lessee 2 BOLTHOUSE FARMS' farming 3 operation represents a valid exercise of 4 overlying production rights in 5 conformity with good agriculture 6 farming standards and practices, and in 7 compliance with all applicable State 8 and Federal laws."</p>	<p>Speculation / lacks personal knowledge (Evid. Code § 702); Improper opinion (Evid. Code § 803); Improper secondary evidence (Evid. Code § 1521); Misstates evidence (Rule Prof. Cond. 5- 200, 5-220).</p>	<p>Overruled: _____</p>
<p>6 21. Blum Dec., ¶19: "BLUM TRUST's 7 overlying groundwater production 8 rights are evidentiary supported and 9 verified by BOLTHOUSE ENTITIES 10 Business Records and Declarations 11 filed in this action."</p>	<p>Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Improper secondary evidence (Evid. Code § 1521); Misstates evidence (Rule Prof. Cond. 5- 200, 5-220); Legal conclusion (Evid. Code § 310); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>13 22. Blum Dec., ¶20: "BLUM TRUST's 14 groundwater production rights are 15 measured by its 'Place of Use' 16 methodology arising out of the 17 Agriculture Lease 'Farming Unit' with 18 BOLTHOUSE FARMS, with reference 19 to crop season Years 2004-2005, when 20 'Onions' were irrigated on 118 acres of 21 BLUM TRUST's farmland."</p>	<p>Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Improper secondary evidence (Evid. Code § 1521); Misstates evidence (Rule Prof. Cond. 5- 200, 5-220); Legal conclusion (Evid. Code § 310); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>20 23. Blum Dec., ¶21: "During the Phase 21 3 Trial testimony of PUBLIC WATER 22 SUPPLIERS' introduced into evidence 23 through the testimony of Expert 24 Witness Mr. Joseph Scalmanini, an 25 Exhibit 58 'Summary of Applied Crop 26 Water Duties, Antelope Valley Area of 27 Adjudication'. A similar document 28 entitled Summary Expert Report Appendix D-3: Table 4 Applied Crop Duties & Irrigation Efficiency Values was used in Phase 4 Trial discovery. In accordance with the expert witness Declaration of Ali Shahroody, P.E., expert witness Mr. Joseph Scalmanini's testimonial chart introduced as Exhibit 58 during Phase 3 Trial, the applied</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Improper secondary evidence (Evid. Code § 1521); Legal conclusion (Evid. Code § 310); Speculation / lacks personal knowledge (Evid. Code § 702); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>

<p>1 water duties for 'Onions' during BLUM 2 TRUST's crop season Years 2004- 3 2005, computes at 531 Ac. Ft. Per Year (118 Acres irrigated x 4.5 Applied Water For Onions)."</p>		
<p>4 24. Blum Dec., ¶22: "On December 20, 5 2007, Cross-Defendant BLUM TRUST 6 voluntarily answered and electronically 7 served on all parties a response to the 8 PUBLIC WATER SUPPLIERS' 9 Complaint / Cross-Complaint For 10 Declaratory And Injunctive Relief And 11 Adjudication of Water Rights. The First 12 through Seventh Causes of Action were 13 denied as to their alleged prescriptive rights, appropriativerights, Municipal rights and any other water right as having priority over BLUM TRUST's overlying rights, or otherwise that BLUM's rights are subordinate as oppose to co-equal. The response also asserted 31 Affirmative Defenses."</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>14 25. Blum Dec., ¶23: "On December 20, 15 2007, BLUM TRUST concurrently 16 filed in these coordinated proceedings a 17 Complaint/Cross-Complaint against 18 BOLTHOUSE FARMS, and 19 BOLTHOUSE PROPERTIES, LLC, 20 (hereinafter collectively 21 "BOLTHOUSE ENTITIES"), bearing 22 Superior Court of Santa Clara County 23 Case No. 1-05-CV-049053. BLUM 24 TRUST alleged various causes of actions against the BOLTHOUSE ENTITIES, including Breach of Agriculture Lease Agreement / Modification Agreement arising out of the parties 'Farming Unit', and sought the recovery of all groundwater production allocation rights for the leased 'Place of Use' farmland during the lease term."</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>25 26. Blum Dec., ¶ 24: "The BLUM 26 TRUST action was subsequently 27 severed by Stipulation & Court Order 28 and proceeded as an independent companion case to the Antelope Valley Basin Adjudication action. During discovery, BLUM TRUST served its</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>

<p>1 First Set of Special Interrogatories, Set 2 One, on the BOLTHOUSE ENTITIES 3 on February 20, 2008. Special 4 Interrogatory No. 92 requested to quote 5 the lease language which authorized the 6 BOLTHOUSE ENTITIES to delivery 7 groundwater onto the BLUM TRUST 8 farmland from its adjacent parcel.”</p>		
<p>6 27. Blum Dec., ¶ 25: “On May 9, 2008, 7 BOLTHOUSE PROPERTIES, 8 President Anthony L. Leggio provided 9 a verified Response To BLUM 10 TRUST's Interr. No. 92, declaring 11 "WM. BOLTHOUSE FARMS, INC 12 lease water rights regarding the 13 SUBJECT PROPERTY are set forth in 14 the lease agreement and are contractual 15 in nature. BOLTHOUSE 16 PROPERTIES, LLC does not have any 17 leasehold or contractual water rights 18 relationship with BLUM.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>13 28. Blum Dec., ¶26: “On or about 14 December 16, 2008, the BLUM 15 TRUST and BOLTHOUSE ENTITIES 16 settled the above-stated action under 17 BLUM TRUST's express 'reservation of 18 rights' to contend in the Basin 19 adjudication that the volume of 20 groundwater pumped by BOLTHOUSE 21 FARMS and its sublessees in 22 undertaking its/their farming operations 23 was for the beneficial use of the BLUM 24 TRUST's farmland during the lease 25 term, and that such pumping should be 26 allocated and credited to BLUM 27 TRUST's farmland under any California 28 water priority allocation system.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200); Settlement discussions (Evid. Code § 1152).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>23 29. Blum Dec., ¶27: “Consistent with 24 the allocation of the groundwater 25 production rights to BLUM TRUST, I 26 was served in this adjudication with 27 General Counsel for BOLTHOUSE 28 FARMS' Ms. Tracy M. Saiki's Declaration In Lieu of Deposition Testimony For Phase 4 Trial dated January 31, 2013. Ms. Saiki's Declaration stated that “BOLTHOUSE FARMS is not claiming any groundwater rights in this action.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310).</p>	<p>Sustained: _____ Overruled: _____</p>

1			
2	30. Blum Dec., ¶28: “Based on: (1) The	Irrelevant (Evid. Code §§ 210, 350);	Sustained: _____
3	terms of the Agriculture Lease	Lacks foundation (Evid. Code § 403);	Overruled: _____
4	Agreement that all covenant's and	Improper secondary evidence (Evid.	
5	BOLTHOUSE ENTITIES verified	Code § 1521);	
6	discovery response that it leased BLUM	Hearsay (Evid. Code § 1200);	
7	TRUST's water rights, and (3) General	Improper opinion (Evid. Code § 803);	
8	Counsel for BOLTHOUSE FARMS'	Legal conclusion (Evid. Code § 310);	
9	declaration of relinquishing its water	Misstates evidence (Rule Prof. Cond. 5-	
10	rights in this action, it is now unjust,	200, 5-220).	
11	highly prejudicial and inconsistent for		
12	the BOLTHOUSE ENTITIES to now		
13	contest or contradict BLUM TRUST's		
14	groundwater production rights acquired		
15	during the 8 year lease term.”		
16			
17	31. Blum Dec., ¶29: “BLUM TRUST’s	Lacks foundation (Evid. Code § 403);	Sustained: _____
18	production rights are not in conflict	Improper opinion (Evid. Code § 803);	Overruled: _____
19	with nor duplicative to any of the	Legal conclusion (Evid. Code § 310).	
20	groundwater production claims of		
21	‘successor in interest’ BOLTHOUSE		
22	PROPERTIES.”		
23			
24	32. Blum Dec., ¶29: “BOLTHOUSE	Irrelevant (Evid. Code §§ 210, 350);	Sustained: _____
25	PROPERTIES calculated its pumping	Lacks foundation (Evid. Code § 403).	Overruled: _____
26	on crop farming involving different		
27	parcels during Years 2011-2012.”		
28			
29	33. Blum Dec., ¶29: “BLUM TRUST’s	Irrelevant (Evid. Code §§ 210, 350);	Sustained: _____
30	production claims for Overlying	Lacks foundation (Evid. Code § 403);	Overruled: _____
31	Landowners have not been factored	Hearsay (Evid. Code § 1200);	
32	within the 85% of the Overlying	Settlement discussions (Evid. Code §	
33	Landowners' Basin allocation under the	1152).	
34	Proposed Global Stipulation For Entry		
35	of Interlocutory Judgment & Physical		
36	Solution Agreement. BLUM TRUST is		
37	not among the settling parties.”		
38			
39	34. Blum Dec., ¶30: “On or about May	Irrelevant (Evid. Code §§ 210, 350).	Sustained: _____
40	23, 2013, BLUM TRUST and all of the		Overruled: _____
41	PUBLIC WATER SUPPLIERS		
42	executed and e-filed a Stipulation to		
43	introduce in a later phase evidence to		
44	support water usage in years other than		
45	2011 and 2012.”		
46			
47	35. Blum Dec., ¶31: “There are no set	Irrelevant (Evid. Code §§ 210, 350);	Sustained: _____
48	of facts that I am aware of to declare	Lacks foundation (Evid. Code § 403);	
49	that the BLUM TRUST ‘Place of Use’		

<p>1 production entitlement is either 2 subordinate to the 'Place of Diversion', or otherwise constitute a forfeiture of groundwater production rights."</p>	<p>Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310).</p>	<p>Overruled: _____</p>
<p>3 36. Blum Dec., ¶32: "BLUM TRUST 4 has also suffered a severe legal injury and hardship because of the damage to 5 its three (3) water wells which has resulted in involuntary and compelled 6 disuse. At the expiration of the lease agreement BOLTHOUSE FARMS 7 agreed to weld a steel plate at each water well opening to secure access to 8 avoid damage. Instead, BLUM TRUST's 3 water well openings were 9 not steel plate welded by BOLTHOUSE FARMS, but rather 10 capped and left unsecure resulting in someone causing each well opening to 11 be filled with debris, rocks and dirt."</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>12 37. Blum Dec., ¶33: "BLUM TRUST 13 has been unable to lease its approximate 14 120 acres of farmland to a farmer because: (1) BLUM TRUST's 3 water 15 wells require substantial repair at a significant expense; (2) The 16 groundwater allocation entitlement for the BLUM TRUST parcels remain 17 uncertain and unreasonably rejected by the settling overlying landowners and 18 Public Water Suppliers in this Antelope Valley Basin adjudication, (See Request 19 For Judicial Notice, Ex. "M"), and (3) There exists a cost prohibitive 20 economic risk for a farmer to farm the parcels under a 3 to 5 year lease term 21 without assurance of annual water production rights in times of overdraft 22 and cut back under the CA water priority groundwater allocation 23 system."</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310); Improper secondary evidence (Evid. Code § 1521); Speculation / lacks personal knowledge (Evid. Code § 702); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>24 38. Blum Dec., ¶34: "Since this action 25 is now coming to a conclusion, in September and October, 2014, I have 26 been notified by an agriculture realtor that 2 Antelope Valley farmers are 27 interested in leasing BLUM TRUST's 119 acres of farmland. The lease would 28 be subject to being awarded groundwater allocation production right</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310); Improper secondary evidence (Evid. Code § 1521); Speculation / lacks personal knowledge</p>	<p>Sustained: _____ Overruled: _____</p>

<p>1 for the parcels in times of overdraft and 2 cutback, and servicing the water wells. 3 Based on the foregoing, upon award by 4 this court of BLUM TRUST's annual 5 production entitlement, BLUM 6 TRUST's legal injury and financial 7 hardship would be resolved so that the 8 subject water wells can be restored on 9 the parcels to fully functional pumping 10 capacity for irrigating 'Onions' without 11 prejudice or loss of production rights.”</p>	<p>(Evid. Code § 702); Hearsay (Evid. Code § 1200).</p>	
<p>7 39. Blum Dec., ¶35: “BLUM TRUST 8 seeks to preserve its groundwater 9 production allocation rights on its 120 10 acres in the Basin adjudication 11 computed annually at 531 Ac. Ft., in 12 times of overdraft and cutback under 13 the California water priority allocation 14 system. In addition, BLUM TRUST 15 seeks to preserve its overly/correlative 16 'present and prospective' water rights 17 for the beneficial use of its dormant 30 18 acres from the Basin's native safe yield, 19 free of replacement assessment.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>15 40. Blum Dec., ¶36: “In awarding 16 judgment to BLUM TRUST, it is 17 necessary that either BOLTHOUSE 18 FARMS offset its groundwater 19 allocated production share by 531 Ac. 20 Ft., or otherwise all Overlying 21 landowners equally reduce their pro- 22 rata allocated share under their 23 proposed Global Stipulation, so that 24 BLUM TRUST is properly allocated its 25 annual Ac. Ft. entitlement in times of 26 overdraft and cutback under the CA 27 water priority allocation system.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310); Speculation / lacks personal knowledge (Evid. Code § 702).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>23 41. Blum Dec., ¶37: “BLUM TRUST 24 was not been sued as a party Defendant 25 and/or Cross-Defendant in the Richard 26 Woods Class Action vs. Los Angeles 27 County Waterworks District No. 40, et 28 al. BLUM TRUST is also similarly situated as an overlying landowner to the Woods' Class members, as well as similarly situated as an overlying landowner with the Willis Class members in regards to its dormant parcels. Furthermore, there has been no</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310); Speculation / lacks personal knowledge (Evid. Code § 702).</p>	<p>Sustained: _____ Overruled: _____</p>

1 direct or significant benefit(s) or any
 2 value to BLUM TRUST derived from
 3 the Woods Class' attorney services or
 4 costs, which were not independently
 5 accomplished by BLUM TRUST's
 6 counsel against the PUBLIC WATER
 7 SUPPLIERS in this action. Since
 8 BLUM TRUST made a voluntary
 9 appearance in this action, as counsel for
 10 BLUM TRUST, I have not received
 11 any attorney fees for my services.”

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II.

OBJECTIONS TO SHAHROODY DECLARATION

Material Objected To	Grounds for Objection	Ruling
42. Shahroody Declaration, in its entirety.	<p>Untimely. (Code Civ. Proc. § 437c(a.) Code of Civil Procedure section 437c requires that the “[n]otice of the motion and supporting papers shall be served on all parties to the action at least 75 days before the time appointed for the hearing.” (Code Civ. Proc. § 437c(a) [emphasis added].)</p> <p>This 75-day period must be strictly construed by the Court, and the Shahroody Declaration disregarded in its entirety. (<i>See McMahon v. Superior Court</i> (2003) 106 Cal.App.4th 112, 118 [“in light of the express statutory language, trial courts do not have authority to shorten the minimum notice period for summary judgment hearings.”])</p> <p>Thus, all supporting papers for the Motion must have been served by October 8, 2014 (75 days before the December 22, 2014 hearing). The Shahroody Declaration was served on October 14, 2014, and is therefore untimely and must be disregarded.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
43. Shahroody Dec., ¶4: “According to the California Department of Water Resources Well Index Cards, two water wells with State Well Nos. 07N/11W-24C01 and 07N/11W-24F01 were	<p>Irrelevant (Evid. Code §§ 210, 350);</p> <p>Lacks foundation (Evid. Code § 403);</p> <p>Improper secondary evidence (Evid. Code § 1521);</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

<p>1 constructed on the Blum property. The 2 approximate well depths were reported as 210 and 585 feet, respectively.”</p>	<p>Hearsay (Evid. Code § 1200).</p>	
<p>3 4 44. Shahroody Dec., ¶4: “Apparently, the Well Index Card for a third well is 5 not available. However, according to Exhibit “2” (see Exhibit List), the 6 approximate location of a third well was shown on the Blum property. The 7 approximate location of these three wells are shown on Exhibit 2, attached.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>8 9 45. Shahroody Dec., ¶5: “In 2001, the Blum Trust lands (approximately 120 10 acres) were leased to William Bolthouse Farms (lessee) for a period of 11 24 consecutive months, from January 1, 2002 to December 31, 2003, and the 12 lease was subsequently extended through 2009 (see Exhibit List, Exhibit 13 “1”). The lease was for the purpose of producing carrots and/or onions and 14 applying water for the irrigation of those crops as reasonably necessary. 15 The lease also provided for the lessee to perform well tests at the property (Blum 16 Trust lands). However, water for irrigation of crops on the Blum property 17 was supplied from wells on the adjacent property owned or leased by Bolthouse 18 Farms (see Exhibit List, Exhibit “3”, “4” and “5”).”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>19 20 46. Shahroody Dec., ¶6: “Blum Trust lands were irrigated for production of 21 carrots and onions in 2002 through 2009 (8 years) with the exception of 22 2006 when the property was kept in fallow. This is based on the Bolthouse 23 Properties Exhibit “P-1” (see Request for Judicial Notice, Exhibit “C” and 24 “D”) setting forth acreages of cultivated crops for each field (farming unit) and 25 crop types (crop rotation) farmed by Bolthouse in the Antelope Valley for 26 the period 2001 through 2012. According to Exhibit “P-1”, the Blum 27 Trust lands, referred to as “Blum 24-1”, were irrigated and in crop production on 28 118 acres in 2002 through 2005 and 90 acres in 2007 through 2009. Exhibit 2</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper secondary evidence (Evid. Code § 1521); Hearsay (Evid. Code § 1200).</p>	<p>Sustained: _____ Overruled: _____</p>

1	(attached) shows the acreage and crops cultivated on the Blum Trust lands in 2002 through 2009.”		
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3	47. Shahroody Dec., ¶7: “Based on the above information, I determined the amounts of water used for irrigation on the Blum Trust lands for the period from 2002 through 2009 by multiplying the irrigated acreage by applied crop water duty in acre-feet per acre and they are shown on Exhibit 3, attached.”	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310).	Sustained: _____ Overruled: _____
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8	48. Shahroody Dec., ¶8: “As shown on Exhibit 3, the maximum amount of water used by the Blum Trust lands for production of irrigated crops was 531 acre-feet in 2004, as well as 2005, over the eight year period (2002-2009).”	Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803).	Sustained: _____ Overruled: _____
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12	49. Shahroody Dec., ¶8: “Based on the result of calculations shown in Exhibit 3, the 120-acre Blum property is entitled to an annual supply of 531 acre-feet from the Antelope Valley Groundwater Basin.”	Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310).	Sustained: _____ Overruled: _____
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16	50. Shahroody Dec., ¶8: “With the confirmation of the annual entitlement (531 acre-feet) through the Court, Blum Trust intends to resume its irrigated farming on the property.”	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Speculation / lacks personal knowledge (Evid. Code § 702).	Sustained: _____ Overruled: _____
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20	51. Shahroody Dec., ¶9: “The overlying right is an attribute of land and it is attached to the land overlying a groundwater basin. Similar to riparian rights to a surface stream, an overlying right is entitled to use the water extracted from the groundwater basin on his or her parcel of land within the basin. [citation]. In exercising riparian rights, the point of diversion from a surface stream is not necessarily the riparian parcel. Usually, water is diverted further upstream and conveyed to the riparian land. Similarly, the point of diversion (point of extraction) from a groundwater basin may not be on the overlying parcel where the water is put	Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310).	Sustained: _____ Overruled: _____
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<p>1 to beneficial use. It is an attribute of an 2 overlying land (beneficial use) which entitles it to receive water, not the point of diversion.”</p>		
<p>3 52. Shahroody Dec., ¶9: “This is also 4 similar to decreed lands where water allocations form a stream are 5 administered under a court decree in a basin. Water is usually conveyed via 6 canals and ditches to decreed lands. Some of these lands may be located a 7 few miles away from the stream itself. For example, under the Orr-Ditch 8 Decree [fn], Truckee River water is served to decreed lands with points of 9 diversion mostly away from the place of use. A similar situation exists on the 10 Carson River under the Alpine Decree [fn]. The decreed rights are tied to the 11 land (place of use), not necessarily to points of diversion. Points of diversion 12 could change by merging canals or transferring water right from one parcel 13 to another served by another canal within the basin.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>15 53. Shahroody Dec., ¶10: “The point of 16 diversion for the irrigation of crops on the Blum Trust lands was on adjacent 17 property (Bolthouse Farms) during the period 2002-2009. Water was put to 18 beneficial use on the Blum property with an overlying right to the Antelope Valley Groundwater Basin.”</p>	<p>Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403).</p>	<p>Sustained: _____ Overruled: _____</p>
<p>20 54. Shahroody Dec., ¶10: “Based on 21 my determination of water use set forth in Exhibit 3, the Blum Trust lands are 22 entitled to 531 acre-feet per year of the perennial yield of the Antelope Valley Groundwater Basin.”</p>	<p>Lacks foundation (Evid. Code § 403); Improper opinion (Evid. Code § 803); Legal conclusion (Evid. Code § 310).</p>	<p>Sustained: _____ Overruled: _____</p>

III.

OBJECTIONS TO EXHIBITS SUBMITTED

Material Objected To	Grounds for Objection	Ruling
55. Exhibit 2 ("Map of Blum Parcel")	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
56. Exhibit 3 (11/30/11 e-mail from Richard Zimmer)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
57. Exhibit 4 (11/16/09 e-mail from Michael Kovacevich)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
58. Exhibit 6 (Aerial photographs)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
59. Exhibit 7 (Photographs) – specifically, typed statements included with the photographs	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
60. Exhibit 8 (Photographs) – specifically, typed statements included with the photographs	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400);	Sustained: _____ Overruled: _____

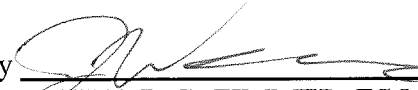
1		Hearsay (Evid. Code § 1200).	
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3	61. Exhibit 10 (Settlement Agreement)	Irrelevant (Evid. Code §§ 210, 350); Hearsay (Evid. Code § 1200); Settlement material (Evid. Code § 1152).	Sustained: _____ Overruled: _____
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6	62. Exhibit 11 (Photographs of wells)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400).	Sustained: _____ Overruled: _____
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9	63. Exhibit B (Water Well Index Cards)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400) (<i>see</i> Opposition to Request for Judicial Notice [“Opp. to RJN”]); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
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14	64. Exhibit C (Declaration of Anthony Leggio & attachments thereto)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400) (<i>see</i> Opp. to RJN); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
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18	65. Exhibit D (Declaration of Anthony Leggio & attachments thereto)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400) (<i>see</i> Opp. to RJN); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
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23	66. Exhibit E (Summary of Applied Crop Water Duties)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400) (<i>see</i> Opp. to RJN); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
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1	67. Exhibit H (Stipulation of BLUM TRUST and PUBLIC WATER SUPPLIERS)	Irrelevant (Evid. Code §§ 210, 350).	Sustained: _____ Overruled: _____
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4	68. Exhibit I (Declaration of Tracy Saiki)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400) (<i>see</i> Opp. to RJN); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
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8	69. Exhibit J (PUBLIC WATER SUPPLIERS Case Management Statement)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400) (<i>see</i> Opp. to RJN); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
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12	70. Exhibit K (CITY OF LOS ANGELES Proposal Concerning Form Discovery)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400) (<i>see</i> Opp. to RJN); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
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17	71. Exhibit L (WOODS Supplemental Case Management Conference Statement)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400) (<i>see</i> Opp. to RJN); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
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21	72. Exhibit M (Global Stipulation for Entry of Judgment & Physical Solution)	Irrelevant (Evid. Code §§ 210, 350); Lacks foundation (Evid. Code § 403); Lacks authentication (Evid. Code § 1400) (<i>see</i> Opp. to RJN); Settlement material (Evid. Code § 1152); Hearsay (Evid. Code § 1200).	Sustained: _____ Overruled: _____
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1 DATED: December 8, 2014

Respectfully submitted,

2 CLIFFORD & BROWN

3
4 By  _____

5 RICHARD G. ZIMMER, ESQ.

6 T. MARK SMITH, ESQ.

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8 Attorneys for BOLTHOUSE PROPERTIES, LLC

9 and WM. BOLTHOUSE FARMS, INC.

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