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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
DISTRICT NO. 40 v. DIAMOND FARMING
18 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.

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.
OPPOSITION TO BLUM TRUST'S
REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION FOR SUMMARY
JUDGMENT / SUMMARY
ADJUDICATION OF ISSUES**

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

25
26 COME NOW, BOLTHOUSE PROPERTIES, LLC, and WM. BOLTHOUSE FARMS, INC.
27 (hereinafter "BOLTHOUSE"), and hereby submit the following Points and Authorities in Opposition
28 to BLUM TRUST's Request for Judicial Notice in support of the BLUM TRUST Motion for

1 Summary Judgment / Summary Adjudication of Issues, as follows:

2 **I.**

3 **SUMMARY OF ARGUMENT**

4 The BLUM TRUST, in support of its Motion for Summary Judgment / Adjudication, has
5 requested that this Court take judicial notice of various writings. However, a number of the
6 documents subject to the Request are not appropriate for judicial notice. BLUM TRUST's Motion
7 also makes clear that it is requesting the Court take judicial notice of the truth of matters stated within
8 the documents, which is not authorized by the Code of Civil Procedure.

9 While there are a number of evidentiary deficiencies with the documents submitted with the
10 Request, those are addressed separately in the Evidentiary Objections pursuant to Rules of Court,
11 Rule 3.1354.

12 **II.**

13 **JUDICIAL NOTICE GENERALLY**

14 Evidence Code section 453 provides that a trial court shall take judicial notice of any matter
15 specified in Section 452 if a party requests it, and gives each adverse party sufficient notice of the request
16 through the pleadings or otherwise, to enable such adverse party to meet the request and furnishes the
17 court with sufficient information to enable it to take judicial notice of the matter.

18 A broad range of documents are subject to judicial notice, but the Court is not authorized to
19 judicially notice the truth of statements within those documents. (*See Sosinsky v. Grant* (1992) 6
20 Cal.App.4th 1548, 1562–1569 [court may not take notice of contents of court records, only the existence
21 of the noticeable documents]; *Joslin v. H.A.S. Ins. Brokerage* (1986) 184 Cal.App.3d 369, 374 [taking
22 judicial notice is not the same as accepting the truth of a document's contents]; *Ragland v. U.S. Bank*
23 *Natl. Assn.* (2012) 209 Cal.App.4th 182, 193–194.)

24 The purpose of judicial notice is to allow the expedited introduction of **otherwise admissible**
25 evidence. (*Mozzetti v. City of Brisbane* (1977) 67 Cal.App.3d 565, 578.) It does not render judicially
26 noticeable documents immune from the rules of relevance, hearsay, foundation, etc. Further, the party
27 requesting judicial notice has the burden of persuasion that the document is properly subject to judicial
28 notice. (*See Cal. L. Revision Comm'n Comment to Evid. Code § 453.*)

1 III.

2 SPECIFIC DOCUMENTS

3 A. Exhibit “B” – Water Well Index Cards

4 The BLUM TRUST requests that this Court take judicial notice of two Water Well Index
5 Cards, but does not provide any justification for why such notice should be taken. Based on the
6 reference to Exhibit B in the Motion and supporting papers, it would appear that BLUM TRUST’s
7 only purpose for requesting notice is to rely on the truth of statements contained within these
8 documents. However, that is not subject to judicial notice. (*See Sosinsky, supra*, 6 Cal.App.4th at
9 1562–1569; *Joslin, supra*, 184 Cal.App.3d at 374; *Ragland, supra*, 209 Cal.App.4th at 193–194.) There
10 is no relevance to the existence of these documents, which is the only matter that can be judicially
11 noticed.

12 B. Exhibits “C” and “D” – Leggio Declarations & Attachments

13 BLUM TRUST asks that this Court take judicial notice of Declarations of Anthony Leggio in
14 Lieu of Testimony for Phase 4 Trial, as well as exhibits thereto. Again, the existence of these documents
15 is not relevant, and the truth of the statements contained therein are not judicially noticeable. (*See*
16 *Sosinsky, supra*, 6 Cal.App.4th at 1562–1569; *Joslin, supra*, 184 Cal.App.3d at 374; *Ragland, supra*, 209
17 Cal.App.4th at 193–194.)

18 C. Exhibit “E” – Summary of Applied Crop Water Duties

19 BLUM TRUST asks that this Court take judicial notice of Exhibit 58 to the Phase 3 Trial.
20 BLUM TRUST plainly offers this document for the truth of the matters stated therein, which is not
21 subject to judicial notice. (*See Sosinsky, supra*, 6 Cal.App.4th at 1562–1569; *Joslin, supra*, 184
22 Cal.App.3d at 374; *Ragland, supra*, 209 Cal.App.4th at 193–194.)

23 D. Exhibit “I” – Declaration of Tracy Saiki

24 As with Exhibits “C” and “D,” the BLUM TRUST asks that the Declaration of Tracy Saiki be
25 judicially noticed. The only possible relevance of this document is the truth of the matters stated within
26 Ms. Saiki’s declaration, which is not subject to judicial notice. (*See Sosinsky, supra*, 6 Cal.App.4th at
27 1562–1569; *Joslin, supra*, 184 Cal.App.3d at 374; *Ragland, supra*, 209 Cal.App.4th at 193–194.)

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1 E. Exhibits “J,” “K,” “L,” and “M”

2 Exhibits “J” through “M” are various documents filed in this action. While the existence of
3 these documents is judicially noticeable, it is apparent from the Points and Authorities that BLUM
4 TRUST seeks judicial notice of the truth of the matters stated therein. This is not judicially
5 noticeable. (*See Sosinsky, supra*, 6 Cal.App.4th at 1562–1569; *Joslin, supra*, 184 Cal.App.3d at 374;
6 *Ragland, supra*, 209 Cal.App.4th at 193–194.) Indeed, the BLUM TRUST attempts to treat these
7 documents as if they are legal authority, which they certainly are not.

8 IV.

9 CONCLUSION

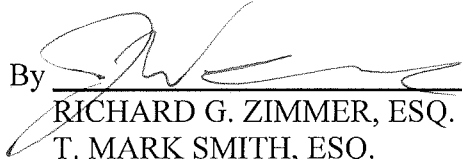
10 Judicial notice of the truth of the matters in the above-identified documents would not be
11 appropriate. Further, the mere existence of these documents is not relevant to the Motion. As such,
12 BOLTHOUSE respectfully requests that the Request for Judicial Notice be denied as to these
13 documents.

14 DATED: December 8, 2014

Respectfully submitted,

15 CLIFFORD & BROWN

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17
18 By


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