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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

16 ANTELOPE VALLEY GROUNDWATER  
17 CASES

Judicial Council Coordination Proceeding  
No. 4408

18 Included Actions:

CLASS ACTION

19 Los Angeles County Waterworks District No.  
40 v. Diamond Farming Co., Superior Court of  
20 California, County of Los Angeles, Case No.  
BC 325201;

Santa Clara Case No. 1-05-CV-049053  
Assigned to the Honorable Jack Komar

21 Los Angeles County Waterworks District No.  
40 v. Diamond Farming Co., Superior Court of  
22 California, County of Kern, Case No. S-1500-  
CV-254-348;

PUBLIC WATER SUPPLIERS'  
SEPARATE STATEMENT OF DISPUTED  
MATERIAL FACTS IN OPPOSITION TO  
BLUM TRUST'S MOTION FOR  
SUMMARY  
JUDGMENT/ADJUDICATION

23 Wm. Bolthouse Farms, Inc. v. City of  
24 Lancaster, Diamond Farming Co. v. City of  
Lancaster, Diamond Farming Co. v. Palmdale  
Water Dist., Superior Court of California,  
25 County of Riverside, Case Nos. RIC 353 840,  
RIC 344 436, RIC 344 668;

26 RICHARD WOOD, on behalf of himself and  
27 all other similarly situated v. A.V. Materials,  
Inc., et al., Superior Court of California,  
28 County of Los Angeles, Case No. BC509546.

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Los Angeles County Waterworks District No. 40, City of Palmdale, City of Lancaster, Rosamond Community Services District, Littlerock Creek Irrigation District, Palm Ranch Irrigation District, Desert Lake Community Services District, North Edwards Water District, Llano Del Rio Water Company, Llano Mutual Water Company, Big Rock Mutual Water Company, Quartz Hill Water District, and California Water Service Company (collectively, "Public Water Suppliers") submit this separate statement of disputed and undisputed material facts in response to Blum Trust's Separate Statement of Undisputed Material Facts.

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

No.	Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Parties' Response:
1.	<p>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 &amp; 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>Declaration of Sheldon Blum Pg. 2, ¶2.</p> <p>Request For Judicial Notice Ex. "A".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Evidentiary Objections to Declaration of Sheldon Blum ("Objections to Blum Decl.") at p. 1: Lack of personal knowledge; speculation; lack of foundation; inadmissible hearsay.</p> <p>Opposition to Request for Judicial Notice ("Opposition to RJN") at pp. 3-4:</p>

1		inadmissible hearsay.
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3	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.	Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. ( <i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)
4	Request For Judicial Notice, Ex. "A" & "B".	Opposition to RJN at pp. 3-4: inadmissible hearsay.
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6	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.	Disputed as to "its location with respect to the Basin's underlying percolating water, without which the overlying lands would have little value". Blum Trust has not produced admissible evidence in support of its contention.
7	Declaration of Sheldon Blum - Pg. 2, ¶3.	Objections to Blum Decl. at p. 1: Lack of personal knowledge; speculation; lack of foundation; improper opinion testimony.
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9	4. There are <u>three (3) water wells</u> on BLUM TRUST's 120 acres of farmland located on <u>APN 3384-009-001 &amp; 3384-009-006</u> . The wells are illustrated on BOLTHOUSE FARMS' Lease MAP OF BLUM PARCEL & Ariel Photo.	Disputed. Blum Trust has not produced admissible evidence in support of its contention.
10	Declaration of Sheldon Blum, Pg. 2 ¶5. Exhibit List Ex. "2" & Ex. "6".	Objections to Blum Decl. at p. 2: Lack of personal knowledge; speculation; lack of foundation; inadmissible hearsay.
11		Evidentiary Objection to Blum Exhibits ("Objection to Exs.") at pp. 1-2: lack of foundation; hearsay; lack of authentication.
12	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.	Disputed. Blum Trust has not produced admissible evidence in support of its contention.
13	Request For Judicial Notice, Ex. "B"; & Declaration of Sheldon Blum Pg. 3, ¶6.	Objections to Blum Decl. at p. 2: hearsay.
14		Opposition to RJN at p. 4: inadmissible hearsay
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6.	<p>BLUM TRUST's <u>APN 3384-020-012 = 10 Acs.</u>; <u>APN 3384-020-013 = 10 Acs.</u>; &amp; <u>3262-016-011 = 10 Acs.</u>, 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>Disputed as to “the parcels overly the basin and have correlative rights with other overlying landowners free of replenishment assessment from the native safe yield.” Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at p.2: Lack of personal knowledge; speculation; lack of foundation; improper opinion testimony; inappropriate legal conclusion.</p>
7.	<p>On August 2, 2001, BLUM TRUST as Lessor, and BOLTHOUSE FARMS as Lessee, entered into an Agriculture Lease Agreement and Modification Of Lease dated May 17, 2004, to lease Lessors' <u>APN: 3384-009-001 = 80+/- Acs.</u> and <u>3384-009-006 = 39 +/- Acs.</u>, and have all groundwater pumped for the beneficial use of BLUM TRUST's approximate 120 Acres of farmland. Pumping was to be undertaken from servicing BLUM TRUST's existing three (3) water wells, and/or if agreed, pumped from BOLTHOUSE FARMS' adjacent parcel(s) well(s) and delivered onto the BLUM TRUST leased parcels.</p> <p>Declaration of Sheldon Blum, Pg. 3, ¶8.</p> <p>Exhibit List Ex. "1".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at pp. 2-3: Lack of personal knowledge; speculation; lack of foundation; improper opinion testimony; hearsay; inappropriate legal conclusion.</p> <p>Objection to Exs. at p. 1: lack of foundation; speculation; lack of authentication.</p>
8.	<p>BOLTHOUSE FARMS elected to construct an underground pipeline delivery system from its adjacent parcels' water wells and route it underneath the city streets of Ave. J and 75th St. E. onto the BLUM TRUST's farmland. These water wells were designated by BOLTHOUSE</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention.</p> <p>Objections to Blum Decl. at pp.4-6: Lack of foundation; inadmissible secondary evidence; hearsay; speculative; lack of personal knowledge; lack of authentication.</p>

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	<p>FARMS as <u>L A I D 13-3 bearing APN 3384-008-002; AVOL 14-3N; &amp; AVOL 14-3S bearing APN 3384-004-004.</u></p> <p>Declaration of Sheldon Blum Pgs. 4-51110-14.</p> <p>Exhibit List Ex. "3" - "6".</p> <p>Request For Judicial Notice Ex. "C" &amp; "D".</p>	<p>Objection to Exs. at pp. 1-2: hearsay; lack of authentication; lack of foundation.</p> <p>Opposition to RJN at pp. 4-6: inadmissible hearsay.</p>
<p>9.</p>	<p>Under the Agriculture Lease Agreement a contiguous 'Farming Unit' for eight (8) consecutive years was created between Lessor BLUM TRUST's approximate 120 acres of healthy non-contaminate farmland, and Lessee BOLTHOUSE FARMS' above identified water wells, for the reasonable beneficial use of irrigating and harvesting carrots and onions on the leased farmland.</p> <p>Declaration of Sheldon Blum Pg. 3-4 ¶9.</p> <p>Exhibit List Ex. "6"; Ex. "7(1-3)"; Ex. "8(1-7)".</p> <p>Request For Judicial Notice Ex. "J."</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at p. 4: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement.</p> <p>Objection to Exs. at p. 2: lack of foundation; hearsay</p> <p>Opposition to RJN at pp. 11-12: inadmissible hearsay.</p> <p>Evidentiary Objections to Declaration of Ali Shahroody ("Objections to Shahroody Decl."): untimely; lack of foundation; speculative; lack of personal knowledge; hearsay; improper opinion testimony; opinion based on improper matter; states legal conclusion; inappropriate conclusory assertion.</p>
<p>10.</p>	<p>In accordance with Lessors and Lessee's 'Farming Unit', BOLTHOUSE FARMS' acted in securing County of Los Angeles Dept. of Public Works Excavation Permits to construct and</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts to the extent Blum Trust contends</p>

<p>1 2 3 4 5 6 7 8</p>	<p>route its groundwater pipeline delivery system onto the leased BLUM TRUST farmland. In addition, BOLTHOUSE FARMS filed Annual Notice(s) of Groundwater Extraction &amp; Diversion Forms with the CA State Water Resource Control Board, Division of Water Rights, depicting its applied groundwater on the BLUM TRUST farmland pursuant to CA Water Code U001.</p> <p>Declaration of Sheldon Blum Pg. 5 ¶15.</p>	<p>Bolthouse acted in accordance with any agreement. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at pp. 6-7: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence.</p>
<p>9 10 11 12 13 14 15 16</p>	<p>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.</p> <p>Request For Judicial Notice, Ex. "J"; &amp; "K".</p> <p>Declaration of Ali Shahroody.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention.</p> <p>Opposition to RJN at pp. 11-13: inadmissible hearsay.)</p> <p>Objections to Shahroody Decl.: untimely; lack of foundation; speculative; lack of personal knowledge; hearsay; improper opinion testimony; opinion based on improper matter; states legal conclusion; inappropriate conclusory assertion.</p>
<p>17 18 19 20 21 22 23 24 25 26</p>	<p>12. The PUBLIC WATER SUPPLIERS' Case Management Statement' dated 1/15/13, expressly states: "It is also important to determine the parcels upon which the water was used versus where the water was pumped, because the water rights belong to the owner of the property where the water was used absent contractual agreement. If this in not taken into account, there is a danger of double counting." The statement is consistent with a 'Place of Use' methodology in establishing groundwater production rights.</p> <p>Request For Judicial Notice Ex. J, 1:22-25.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains opinions of counsel inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Opposition to RJN at pp. 11-12: inadmissible hearsay.</p>
<p>27 28</p>	<p>13. The CITY OF LOS ANGELES 'Proposal Concerning Form Discovery'</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its</p>

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	<p>dated 11/20/12, confirmed 'Place of Use', stating: "Some landowners such as the City of Los Angeles own multiple contiguous parcels as identified by APNs and may extract water from a well on one APN for use on an adjoining or nearby APN. The proper scope of inquiry is the extent and nature of the water use on property owned by a party, and on the description of the property on which the water is used." This statement is consistent with a 'Place of Use' methodology in establishing groundwater production rights.</p> <p>Request For Judicial Notice Ex. "K", 2:17-21.</p>	<p>contention. This statement contains opinions of counsel inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Opposition to RJN at pp. 12-13: inadmissible hearsay.</p>
<p>14.</p>	<p>The PUBLIC WATER SUPPLIERS Cross-Complaint 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.</p> <p>Request For Judicial Notice Ex. "J" Pg. 13 1140 (A), Lines 9-14.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement also misstates the language contained in the Public Water Suppliers' First Amended Cross-Complaint, which provides in relevant parts: the Public Water Suppliers' "right to pump groundwater from the Antelope Valley Groundwater Basin in an annual amount equal to the highest volume of groundwater extracted by each of the Public Water Suppliers in any year preceding entry of judgment in this action." (Blum's RJN, Ex. "F", at p. 13, ¶40(A).)</p> <p>Opposition to RJN at pp. 11-12: inadmissible hearsay.</p>
<p>15.</p>	<p>BLUM TRUST's groundwater production rights are limited and measured by its 'Place of Use' methodology arising out of the Agriculture Lease 'Farming Unit' with BOLTHOUSE FARMS. The 'Place of Use' methodology most accurately represents BLUM TRUST's reasonable and beneficial water usage without any danger of "double counting", nor impairment or injurious to the rights of</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains opinions of counsel inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at pp. 9-10: Lack of</p>



	<p>others.</p> <p>Declaration of Sheldon Blum Pg. 6, ¶20.</p> <p>Declaration of Ali Shahroody, P.E.</p>	<p>foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; inadmissible secondary evidence; inappropriate conclusory statement.</p> <p>Objections to Shahroody Decl.: untimely; lack of foundation; speculative; lack of personal knowledge; hearsay; improper opinion testimony; opinion based on improper matter; states legal conclusion; inappropriate conclusory assertion.</p>
<p>16.</p>	<p>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 e-filed on or about May 23, 2013.</p> <p>Request For Judicial Notice Ex. "H".</p> <p>Declaration of Sheldon Blum Pg. 9 ¶30.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement also misstates the language contained in the stipulation, which provides in parts, "This Stipulation shall not preclude the Blum Trust from introducing in a later phase evidence to support its claimed water rights, including, without limitation, evidence of water use in years other than in 2011 and 2012."</p> <p>Objections to Blum Decl. at p. 13: hearsay; inadmissible secondary evidence.</p> <p>Opposition to RJN at pp. 9-10: inadmissible hearsay.</p>
<p>17.</p>	<p>BLUM TRUST's overlying groundwater production rights are evidentiary supported and verified by BOLTHOUSE ENTITIES Business Records and Declarations filed in this action.</p> <p>Declaration of Sheldon Blum Pg. 6, ¶19.</p> <p>Request For Judicial Notice Ex. "C" &amp; "D."</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at p. 8: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inappropriate conclusory statement.</p> <p>Opposition to RJN at pp. 4-6: inadmissible</p>

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		hearsay.
18.	<p>During the Phase 3 Trial the PUBLIC WATER SUPPLIERS introduced through the testimony of expert witness Mr. Joseph Scalmanini an <u>Exhibit 58</u> "Summary of Applied Crop Water Duties". The Chart identifies the irrigation efficiency value for "Onions" at 4.5 Ac. Ft. Per Yr., and for "Carrots" 3.9 Ac. Ft. Per Yr. A similar document was attached to the Declarations In Lieu of Deposition Testimony For Phase 4 Trial.</p> <p>Request For Judicial Notice Ex. "E".</p> <p>Declaration of Sheldon Blum Pgs. 6-7, ¶21."</p> <p>Declaration of Ali Shahroody, P.E.</p>	<p>Undisputed. Blum Trust has not produced admissible evidence in support of its contention. This statement misstates information contained in Blum RJN Ex. "E", which concerns "applied crop duty".</p> <p>Objections to Blum Decl. at p. 10: hearsay; inadmissible secondary evidence.</p> <p>Objections to Shahroody Decl.: untimely; lack of foundation; speculative; lack of personal knowledge; hearsay; improper opinion testimony; opinion based on improper matter; states legal conclusion; inappropriate conclusory assertion.</p> <p>Opposition to RJN at pp. 6-7: inadmissible hearsay.</p>
19.	<p>Pursuant to: (1) Phase 3 Trial <u>Exhibit 58</u> 'Applied Crop Water Duties', (2) May 23, 2013 Stipulation between Cross-Complainants and BLUM TRUST; and (3) Cross-Complainants' First Amended Cross-Complaint computations for groundwater production rights computed at the highest volume of groundwater extracted and the Declaration of Ali Shahroody, PE; the BLUM TRUST's groundwater production rights equal <u>531 Ac. Ft. Per Yr.</u>, based on Years 2004-2005 when "Onions" were beneficially irrigated on its farmland by BOLTHOUSE FARMS.</p> <p>Declaration of Sheldon Blum Pg. 6 ¶19 - 21.</p> <p>Request For Judicial Notice Ex. "E", "F"@ Pg. 13 ¶40 (A), Lines 9-14.</p> <p>Declaration of Ali Shahroody.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at pp. 8-10: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement.</p> <p>Objections to Shahroody Decl.: untimely; lack of foundation; speculative; lack of personal knowledge; hearsay; improper opinion testimony; opinion based on improper matter; states legal conclusion; inappropriate conclusory assertion.</p>

		Opposition to RJN at pp. 6-8: inadmissible hearsay.
20.	<p>The BLUM TRUST's &amp; BOLTHOUSE FARMS' farming operation represents a valid exercise of overlying production rights in conformity with good agriculture farming standards and practices, and in compliance with all applicable State and Federal laws.</p> <p>Declaration of Sheldon Blum Pg. 6 ¶18.</p> <p>Exhibit List Ex. "1", Pg. 1, Section 2 Purpose For Which Premises Are To Be Used.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at pp. 7-8: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inappropriate conclusory statement.</p> <p>Objection to Exs. at p. 1: lack of foundation; lack of authentication.</p>
21.	<p>On or about December 20, 2007 BLUM TRUST served on all parties its Answer to the PUBLIC WATER SUPPLIERS' Complaint/Cross-Complaint. The First through Seventh Causes of Action were denied as to their alleged prescriptive rights, appropriative rights, Municipal rights and any other water right as having priority over BLUM TRUST's overlying water rights or otherwise that BLUM's rights are subordinate as oppose to co-equal, and asserted 31 Affirmative Defenses.</p> <p>Declaration of Sheldon Blum Pg. 7 ¶22.</p> <p>Request For Judicial Notice Ex. "G".</p>	<p>Undisputed to the service of the Blum Trust's answer.</p> <p>Disputed to the extent Blum Trust is asserting the truth of matter asserted in its Answer. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at p. 10: hearsay; inadmissible secondary evidence.</p> <p>Opposition to RJN at pp. 8-9: inadmissible hearsay.</p>
22.	BLUM TRUST has a superior right, but not less than a co-equal right to pump water for the reasonable beneficial use of its 120 Acs., as against Cross-Complainants' alleged	Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. ( <i>See California School of Culinary Arts</i>

<p>prescriptive rights in times of overdraft. Cross-Complainants' appropriative rights are subordinate to BLUM TRUST overlying/correlative rights in times of overdraft.</p> <p><i>City of Los Angeles v. City of San Fernando</i> (1975) 14 Cal.3d 199, 293</p>	<p><i>v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p>
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**ISSUE NO. 2: ALL GROUNDWATER PUMPED FROM LESSEE BOLTHOUSE FARMS' ADJACENT PARCELS' WATER WELLS AND APPLIED FOR THE REASONABLE BENEFICIAL USE ON BLUM TRUST'S FARMLAND TO IRRIGATE CROPS DURING THE EIGHT (8) YEAR LEASE TERM, BELONGS TO BLUM TRUST AND NOT THE BOLTHOUSE ENTITIES, AS A MATTER OF LAW**

No.	Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Parties' Response:
1.	<p>The Agriculture Lease Agreement between Lessor BLUM TRUST and Lessee BOLTHOUSE FARMS dated August 2, 2001, expressly cited the Antelope Valley groundwater issues in this adjudication, and the impact on water pumping and water rights which may affect the amount and cost of available groundwater for the BLUM TRUST farmland. Based on these concerns, it was agreed by the parties that all covenants and agreements contained in the lease were deemed to be covenants running with the land and shall inure to the benefit of and be binding upon the successors in interest of the parties.</p> <p>Declaration of Sheldon Blum Pgs. 2 ¶3; 3-4 ¶9.</p> <p>Exhibit List Ex. "1" Pg. 14, Pg. 15, Section 22. <u>Water Adjudication.</u></p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at pp. 1-2, 4: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement.</p> <p>Objection to Exs. at p. 1: lack of foundation; lack of authentication,</p>
2.	<p>On or about December 20, 2007, BLUM TRUST filed in these coordinated proceedings a Complaint/Cross-Complaint against WM. BOLTHOUSE FARMS, INC. &amp;</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention.</p> <p>Objections to Blum Decl. at pp. 10-11:</p>

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	<p>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>hearsay; inadmissible secondary evidence.</p>
<p>3.</p>	<p>The BLUM TRUST action was subsequently severed by Stipulation &amp; Order and proceeded as an independent case to the Basin adjudication. During discovery, BLUM TRUST served a First Set of Special Intern Set One, on 2/20/08. Special Intern No. 92, requested that BOLTHOUSE quote the lease language (which authorized the BOLTHOUSE ENTITIES to deliver groundwater onto the BLUM TRUST farmland from its adjacent parcel(s).</p> <p>Declaration of Sheldon Blum Pgs. 7-8 ¶24.</p> <p>Exhibit List Ex. "9"(1)".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention.</p> <p>Objections to Blum Decl. at p. 11: hearsay; inadmissible secondary evidence.</p>
<p>4.</p>	<p>On May 9, 2008, BOLTHOUSE PROPERTIES, LLC, President Anthony L. Leggio provided a verified Response To BLUM TRUST's Special Intern, Set One, and admitted in its response to Interr. No. 92 that: "WM. BOLTHOUSE FARMS, INC. lease water rights regarding the SUBJECT PROPERTY are set forth in the lease agreement and are contractual in nature. BOLTHOUSE PROPERTIES, LLC does not have any leasehold or contractual water rights relationship with BLUM."</p> <p>Declaration of Sheldon Blum, Pg. 8 ¶25.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention.</p> <p>Objections to Blum Decl. at p. 11: hearsay; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory.</p> <p>Objection to Exs. at p. 2: hearsay.</p>

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	<p>Exhibit List Ex. "9(2)".</p>	
<p>5.</p>	<p>On or about December 16, 2008, BLUM TRUST and BOLTHOUSE ENTITIES entered into a Settlement Agreement under BLUM TRUST's express 'reservation of rights' to contend in this adjudication that the volume of groundwater pumped by BOLTHOUSE FARMS and its sublessees in undertaking its/their farming operations was for the beneficial use of BLUM TRUST's farmland during the lease term, and that such pumping should be allocated and credited to BLUM TRUST's farmland under any CA water priority allocation system.</p> <p>Declaration of Sheldon Blum, Pg. 8 ¶26.</p> <p>Exhibit List Ex. 10, Pgs. 1, &amp; 4 ¶E f. &amp; g.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at pp. 11-12: hearsay; states legal conclusion; inadmissible secondary evidence.</p> <p>Objection to Exs. at p. 2: hearsay.</p>
<p>6.</p>	<p>General Counsel Ms. Tracy M. Saiki for BOLTHOUSE FARMS' Declaration In Lieu of Deposition Testimony For Phase 4 Trial dated January 31, 2013, declared that "BOLTHOUSE FARMS is not claiming any groundwater rights in this action."</p> <p>Declaration of Sheldon Blum, Pgs. 8-9 ¶27.</p> <p>Request For Judicial Notice Ex. "I".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention.</p> <p>Objections to Blum Decl. at p. 12: hearsay; inadmissible secondary evidence.</p> <p>Opposition to RJN at pp. 10-11: inadmissible hearsay.</p>
<p>7.</p>	<p>Based on: (1) The terms of the Agriculture Lease Agreement that all covenant's and agreements run with the land,</p> <p>(2) BOLTHOUSE ENTITIES verified discovery response that it leased BLUM TRUST's water rights, and (3) General Counsel for BOLTHOUSE FARMS' declaration of relinquishing all of its water rights in this action, it is unjust, prejudicial and inconsistent for</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at pp. 4, 11-12:</p>

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	<p>BOLTHOUSE ENTITIES to contest or contradict BLUM TRUST's groundwater production rights acquired during the 8 year lease term.</p> <p>Declaration of Sheldon Blum, Pgs. 3-4 ¶9; 7-8 ¶25 &amp; ¶27, &amp; 9 ¶28.</p> <p>Exhibit List Ex. "9(1 &amp; 2).</p> <p>Request For Judicial Notice Ex. "I".</p>	<p>Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement.</p> <p>Objection to Exs. at p. 2: hearsay.</p> <p>Opposition to RJN at pp. 10-11: inadmissible hearsay.</p>
<p>8.</p>	<p>BLUM TRUST's water production rights arising from 'Place of Use, are not in conflict with nor duplicative to any of BOLTHOUSE PROPERTIES groundwater production claims. BOLTHOUSE calculated its pumping usage based on irrigating different parcels during crop season Years 2011 2012.</p> <p>Declaration of Sheldon Blum Pg. 9, ¶29.</p> <p>Request for Judicial Notice on Global Settlement Agreement, Ex. "M".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at pp. 12-13: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement; inadmissible settlement discussion.</p> <p>Opposition to RJN at p. 14: inadmissible hearsay; inadmissible settlement communication</p>
<p>9.</p>	<p>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.</p> <p>Declaration of Sheldon Blum Pgs. 9-10 ¶31.</p> <p>Request for Judicial Notice, Ex. "M".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Opposition to RJN at p. 14: inadmissible hearsay; inadmissible settlement</p>

1		communication.
2	10. Based on the above-described conduct of the BOLTHOUSE ENTITIES, the doctrines of <u>Equitably Estoppel</u> and/or <u>Judicially Estoppel</u> should bar them from contesting or contradicting BLUM TRUST's groundwater production rights acquired during the 8 year lease term.	Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. ( <i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)
3	Declaration of Sheldon Blum, Pg. 9 ¶28.	Objections to Blum Decl. at p. 12: states legal conclusion; inappropriate conclusory statement.
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**ISSUE NO. 3: BLUM TRUST HAS COMPLETE AFFIRMATIVE DEFENSES AGAINST ROSS-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 3 DIMES 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 HE ACTS OR OMISSIONS OF OTHERS.  
 (Third Affirmative Defense)**

No.	Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Parties' Response:
17	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.  Declaration of Sheldon Blum Pg. 3 ¶8  <u>Exhibit List Ex. "1", Pg. 1, Section 2 Purpose For Which Premises Are To Be Used.</u>  Request For Judicial Notice, Ex. "G", 3:6-12.	Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. ( <i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)  After the Phase 3 trial, the Court issued its Statement of Decision ("Phase 3 Decision") finding that the Antelope Valley Adjudication Area ("AVAA") has been in overdraft since 1951. (Public Water Suppliers' Request for Judicial Notice ("PWS RJN"), Ex. "A" at pp. 5-6.) Many of the Public Water Suppliers, including Los Angeles County Waterworks
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		<p>District No. 40 (“District No. 40”), have been pumping groundwater since at least 1940s and have prescribed against overlyer users. (See District No. 40’s Exhibit to its Statement of Claims, available at <a href="http://www.scefileing.org/document/document.jsp?documentId=91580">http://www.scefileing.org/document/document.jsp?documentId=91580</a>.)</p> <p>Blum Trust has not provide evidence that it continuously exercise of its overlying rights or self-help since 1946. (<i>City of Santa Maria v. Adam</i> (2012) 211 Cal. App. 4th 266, 279 (“<i>Santa Maria</i>”) [“Overlying landowners who fail to seek an injunction preventing an adverse use may nevertheless protect their interests by means of self-help. Self-help in this context requires the landowner to continue to pump nonsurplus water concurrently with the adverse users. When they do, the landowners retain their overlying rights, losing only the amount of the prescriptive taking.”].)</p> <p>Objections to Blum Decl. at pp. 3-4: Lack of foundation; lack of personal knowledge; speculation; improper opinion testimony; states legal conclusion; inappropriate conclusory statement.</p> <p>Opposition to RJN at pp. 8-9: inadmissible hearsay.</p>
2.	<p>The ‘Place of Use’ methodology under a ‘Farming Unit’ is an acceptable method to acquire groundwater production entitlement under the CA water priority allocation system.</p> <p>Request for Judicial Notice, Ex. "J", 1:22-25; &amp; "K", 2:17-21.</p> <p>Declaration of Ali Shahroody, PE.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Shahroody Decl.: untimely; lack of foundation; speculative; lack of personal knowledge; hearsay; improper opinion testimony; opinion based on improper matter; states legal conclusion; inappropriate conclusory assertion.</p> <p>Opposition to RJN at pp. 11-13: inadmissible</p>

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		hearsay.
3.	<p>3. At all times herein mentioned, BLUM TRUST was and is the Fee Owner and entitled to the reasonable beneficial use of groundwater which the parcels overlays. This overlying right includes the right to pump and divert groundwater from the native safe yield free of replenishment assessment, and a quantified production right on its leased 120 acres in times of overdraft-and cutback under the CA water priority allocation system.</p> <p>Declaration of Sheldon Blum Pgs. 2 ¶2; &amp; 11 ¶35.</p> <p>Request For Judicial Notice Ex. "A".</p> <p>Exhibit List Ex. "1".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>This Court has found that that the AVAA has been in overdraft since 1951. (PWS RJN, Ex. "A" [Phase 3 Decision] at pp. 5-6.) Many of the Public Water Suppliers, including District No. 40, have been pumping groundwater since at least 1940s and have prescribed against overlyer users. (See District No. 40's Exhibit to its Statement of Claims, available at <a href="http://www.scefilng.org/document/document.jsp?documentId=91580">http://www.scefilng.org/document/document.jsp?documentId=91580</a>.)</p> <p>Blum Trust has not provide evidence that it continuously exercise of its overlying rights or self-help since 1946. (<i>Santa Maria</i>, 211 Cal. App. 4th 266, 279 ["Overlying landowners who fail to seek an injunction preventing an adverse use may nevertheless protect their interests by means of self-help. Self-help in this context requires the landowner to continue to pump nonsurplus water concurrently with the adverse users. When they do, the landowners retain their overlying rights, losing only the amount of the prescriptive taking."].)</p> <p>Objections to Blum Decl. at pp. 1 &amp; 16: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inappropriate conclusory statement.</p> <p>Objection to Exs. at p. 1: lack of foundation; lack of authentication.</p> <p>Opposition to RJN at pp. 3-4: inadmissible</p>

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**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)**

No.	Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Parties' Response:
1.	<p>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 &amp; 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.</p> <p>Declaration of Sheldon Blum Pg. 6 ¶18.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].) Moreover, this statement misstates the law and the referenced documents.</p> <p>Objections to Blum Decl. at pp. 7-8: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inappropriate conclusory statement.</p> <p>Opposition to RJN at pp. 8-9; 11-13: inadmissible hearsay.</p>
2.	<p>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.</p> <p>Declaration of Sheldon Blum Pg. 6 ¶21.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement also misstates the language contained in the Public Water Suppliers' First Amended Cross-Complaint, which provides in relevant parts: the Public Water Suppliers' prescriptive "right to pump groundwater from the Antelope Valley Groundwater Basin in an annual amount equal to the highest volume of groundwater extracted by each of the Public Water Suppliers in any year preceding entry of judgment in this action." (Blum's RJN, Ex.</p>

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		<p>“F”, at p. 13, ¶40(A).) This calculation is not applicable to an overlying user that needs to prove self-help. Blum Trust has not provide evidence that it continuously exercise of its overlying rights or self-help since 1946. (<i>Santa Maria</i>, 211 Cal. App. 4th 266, 279 [“Overlying landowners who fail to seek an injunction preventing an adverse use may nevertheless protect their interests by means of self-help. Self-help in this context requires the landowner to continue to pump nonsurplus water concurrently with the adverse users. When they do, the landowners retain their overlying rights, losing only the amount of the prescriptive taking.”].)</p> <p>Objections to Blum Decl. at pp. 9-10: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; secondary evidence; inappropriate conclusory statement.</p> <p>Opposition to RJN at pp. 7-8: inadmissible hearsay.</p>
3.	<p>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".</p> <p>Declaration of Sheldon Blum Pg. 9 ¶30.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement also misstates the language contained in the stipulation, which provides in parts, “This Stipulation shall not preclude the Blum Trust from introducing in a later phase evidence to support its claimed water rights, including, without limitation, evidence of water use in years other than in 2011 and 2012.”</p> <p>Objections to Blum Decl. at pp. 13-14: hearsay; inadmissible secondary evidence.</p> <p>Opposition to RJN at pp. 9-10: inadmissible hearsay.</p>
4.	4. Based on the above-stated facts, it is unjust and inconsistent for Cross-	Disputed. Blum Trust has not produced admissible evidence in support of its

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Complainants to contest or contradict BLUM TRUST' Place of Use' methodology and Annual Ac. Ft. production entitlement in the Basin adjudication.  
Request for Judicial Notice, Ex. "J", 1:22-25; Ex. "K", 2:17-21.  
Declaration of Sheldon Blum Pgs. 8-9 ¶28 ¶31

contention. This statement contains legal conclusions and opinion of counsel inappropriate for statement of facts. (*See California School of Culinary Arts v. Lujan* (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)  
Moreover, this statement misrepresents language contained in the Public Water Suppliers' First Amended Cross-Complaint, which concerns Public Water Suppliers' prescriptive rights and attempts to apply it to overlying users' rights. (Blum's RJN, Ex. "F", at p. 13, ¶40(A).) Further, Blum Trust has not provide evidence that it continuously exercise of its overlying rights or self-help since 1946. (*Santa Maria*, 211 Cal. App. 4th 266, 279 ["Overlying landowners who fail to seek an injunction preventing an adverse use may nevertheless protect their interests by means of self-help. Self-help in this context requires the landowner to continue to pump nonsurplus water concurrently with the adverse users. When they do, the landowners retain their overlying rights, losing only the amount of the prescriptive taking."].)  
Objections to Blum Decl. at pp. 12-13: states legal conclusion; inappropriate conclusory statement.  
Opposition to RJN at pp. 11-13: inadmissible hearsay.

**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)**

No.	Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Parties' Response:
1.	<p>BLUM TRUST refers to and incorporates by reference all statements of undisputed facts and supporting evidence under <u>ISSUE NOS. 1 &amp; 2</u>, as though fully set forth hereat.</p> <p>Request For Judicial Notice, Ex. "G", 5:12-14.</p>	<p>Disputed. Public Water Suppliers hereby refers to and incorporates by reference all evidentiary objections and states of disputed facts and supporting evidence set forth in pages 1 to 15.</p> <p>Moreover, Blum Trust has not produced admissible evidence in support of its contention. Blum Trust's statement contains legal conclusions, unsupported assertions and opinions of counsel inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22.)</p> <p>See Objections to Blum Decl.; Objections to Shahroody Decl.; Objection to Exs.; Opposition to RJN at pp. 8-9: inadmissible hearsay; PWS RJN Ex. "A."</p>
2.	<p>In awarding judgment to BLUM TRUST, it is necessary that either BOLTHOUSE FARMS offset its groundwater allocated production share by <u>531 Ac. Ft.</u>, 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 &amp; 3:1-3.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at pp. 16-17: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inappropriate conclusory statement.</p> <p>Opposition to RJN at pp. 5-8, 9-13: inadmissible hearsay.</p>

**D. BLUM TRUST IS DENIED EQUAL PROTECTION & DUE PROCESS**

1 **UNDER THE LAW BY CROSS-COMPLAINANTS, OVERLYING LANDOWNERS &**  
 2 **THE FEDERAL GOVERNMENT IN THE ANTELOPE VALLEY BASIN**  
 3 **ADJUDICATION.**

4 **(Twenty Second through Twenty Fifth Affirmative Defenses)**

No.	Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Parties' Response:
1.	<p>The US Constitution 14th Amendment as applied to the states under the 5#1 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 <u>deprived of property without due process.</u></p> <p>Request For Judicial Notice Evid. Code §451.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p>
2.	<p>The Proposed Global Stipulation &amp; 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".</p> <p>Declaration of Sheldon Blum Pgs. 9 ¶31; ¶35.</p> <p>Declaration of Ali Shahroody, PE.</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at p. 16: states legal conclusion; inappropriate conclusory statement.</p> <p>Objections to Shahroody Decl.: untimely; lack of foundation; speculative; lack of personal knowledge; hearsay; improper opinion testimony; opinion based on improper matter; states legal conclusion; inappropriate conclusory assertion.</p> <p>Opposition to RJN at p. 14: inadmissible hearsay; inadmissible settlement communication.</p>

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<p>3.</p>	<p>Between the calendar years 2000 to 2012, the PUBLIC WATER SUPPLIERS and Overlying Landowners have used a variety of methods and time-frames to calculate their water production rights. Despite BLUM TRUST adopting the same Applied Crop Water Duty formula, and 'Place of Use' methodology to calculate its production rights for its 120 Acs., BLUM TRUST has been denied any percentage share or quantified annual volume from the Basin in times of overdraft and cutback under the CA priority water allocation system.</p> <p>Declaration of Sheldon Blum Pg. 6 ¶20 &amp; 21.</p> <p>Request for Judicial Notice, Ex. "J", 1:22-25; . Ex. "K", 2:17-21. &amp; Ex. "F" Pg. 13 ¶40 (A), Lines 9-14.</p> <p>Exhibit List, Ex. "M".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions and opinions of counsel that are inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Specifically, Blum Trust has not provide evidence that it continuously exercise of its overlying rights or self-help since 1946. (<i>Santa Maria</i>, 211 Cal. App. 4th 266, 279 [“Overlying landowners who fail to seek an injunction preventing an adverse use may nevertheless protect their interests by means of self-help. Self-help in this context requires the landowner to continue to pump nonsurplus water concurrently with the adverse users. When they do, the landowners retain their overlying rights, losing only the amount of the prescriptive taking.”].)</p> <p>Objections to Blum Decl. at pp. 9-10: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement.</p> <p>Opposition to RJN at p. 14: inadmissible hearsay; inadmissible settlement communication</p>
<p>4.</p>	<p>The Proposed Global Settlement denies BLUM TRUST of its highest annual water extraction as a basis for computing BLUM TRUST's production entitlement in this Basin adjudication.</p> <p>Declaration of Sheldon Blum Pg. 11 ¶35.</p> <p>Request For Judicial Notice, Ex. "M".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].) Moreover, this state references and relies upon inadmissible settlement</p>



	<p>Declaration of Ali Shahroody, PE.</p>	<p>discussion.</p> <p>Objections to Blum Decl. at p. 16: states legal conclusion; inappropriate conclusory statement.</p> <p>Objections to Shahroody Decl.: untimely; lack of foundation; speculative; lack of personal knowledge; hearsay; improper opinion testimony; opinion based on improper matter; states legal conclusion; inappropriate conclusory assertion.</p> <p>Opposition to RJN at p. 14: inadmissible hearsay; inadmissible settlement communication.</p>
<p>5.</p>	<p>BLUM TRUST's and the PUBLIC WATER SUPPLIERS' Stipulation e-filed on 5/23/13 on introducing evidence to support water usage in years other than 2011 &amp; 2012, has been impaired or breached under the Proposed Global Stipulation which violates the Due Process &amp; Equal Protection Clauses.</p> <p>Request For Judicial Notice, Ex. "H" &amp; "M".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].) Moreover, this state references and relies upon inadmissible settlement discussion.</p> <p>Opposition to RJN at pp. 9-10, 14: inadmissible hearsay; inadmissible settlement communication.</p>

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

No.	Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Parties' Response:
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<p>1. Pursuant to the Agriculture Lease, Section 13, <u>Surrender of Premises</u>, at the expiration of the lease term Lessee BOLTHOUSE FARMS agreed to cause a steel plate to be welded to each well opening to secure BLUM TRUST's 3 water wells from access pursuant to the lease Section 13, <u>Surrender of Premises</u>.</p> <p>Declaration of Sheldon Blum, Pg. 10 ¶32.</p> <p>Exhibit List Ex. 1, Pg. 8, Section 13. <u>Surrender of Premises</u> ; and Ex. "11".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at p. 14: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement.</p> <p>Objection to Exs. at pp. 1-2: lack of foundation; hearsay; lack of authentication.</p>
<p>2. Instead, BOLTHOUSE FARMS did not weld each water well opening but capped and left them unsecure, resulting in someone filling the wells with debris, rocks and dirt, requiring substantial repairs at a significant cost.</p> <p>Declaration of Sheldon Blum Pg. 10 ¶32.</p> <p>Exhibit List Ex. "11".</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention.</p> <p>Objections to Blum Decl. at p. 14: Lack of foundation; lack of personal knowledge; speculation; hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement.</p> <p>Objection to Exs. at p. 2: lack of foundation; hearsay; lack of authentication.</p>
<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</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions and opinion of counsel that are inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at pp. 14-16: Irrelevant; lack of foundation; lack of personal knowledge; speculation; hearsay; improper</p>

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<p>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.</p> <p>Declaration Sheldon Blum Pg. 10-11 ¶33-34.</p>	<p>opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement; inadmissible settlement communication.</p>
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**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**


No.	Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Parties' Response:
1.	<p>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. 40, et al.</p> <p>Declaration of Sheldon Blum Pgs. 11-12 ¶37</p>	<p>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at p. 17: hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement.</p>
2.	<p>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>Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. (<i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)</p> <p>Objections to Blum Decl. at p. 17: hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement.</p>

1 2 3 4 5 6 7 8 9	3. Under the circumstances Code of Civil Procedure §1021.5, does not apply to BLUM TRUST; there is no duty owed by BLUM TRUST to the Woods' class; BLUM is similarly situated to the Willis class members, and it would not be in the interest of justice for BLUM TRUST to be responsible to satisfy pro-rata any of Woods' class counsel attorney fees or costs.  Declaration of Sheldon Blum Pg. 11 ¶37.	Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. ( <i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)  Objections to Blum Decl. at p. 17: hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement.
10 11 12 13 14 15 16 17 18 19 20	4. The Woods Class Supplemental Case Management Conference Statement for August 11, 2014, Hearing admits that it is the PUBLIC WATER SUPPLIERS, only who should pay for class counsel's attorney fees and costs and not the Overlying Landowners, including BLUM TRUST. The Order of Consolidation entered on February 24, 2010, also provided that no party may seek fees or cost from another party where they are not involved in the particular action.  Request For Judicial Notice Ex. "L".  Declaration of Sheldon Blum, Pg. 11, ¶37.	Disputed. Blum Trust has not produced admissible evidence in support of its contention. This statement contains legal conclusions inappropriate for statement of facts. ( <i>See California School of Culinary Arts v. Lujan</i> (2003) 112 Cal.App.4th 16, 22 [legal conclusions, unsupported assertions, and the opinions of counsel improper in separate statement].)  Objections to Blum Decl. at p. 17: hearsay; improper opinion testimony; states legal conclusion; inadmissible secondary evidence; inappropriate conclusory statement.  Opposition to RJN at p. 13-14: inadmissible hearsay.

21 Dated: December 8, 2014

BEST BEST & KRIEGER LLP

22  
23 By

  
ERIC L. GARNER  
JEFFREY V. DUNN  
WENDY Y. WANG  
Attorneys for LOS ANGELES COUNTY  
WATERWORKS DISTRICT NO. 40

**PROOF OF SERVICE**

I, Kerry V. Keefe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 18101 Von Karman Avenue, Suite 1000, Irvine, California 92712. On December 8, 2014, I served the within document(s):

**PUBLIC WATER SUPPLIERS' SEPARATE STATEMENT OF DISPUTED MATERIAL FACTS IN OPPOSITION TO BLUM TRUST'S MOTION FOR SUMMARY JUDGMENT/ADJUDICATION**

- by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on December 8, 2014, at Irvine, California.

  
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Kerry V. Keefe

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