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6 Attorneys for DIAMOND FARMING COMPANY,  
7 a California corporation, CRYSTAL ORGANIC  
8 FARMS, a limited liability company, GRIMMWAY  
9 ENTERPRISES, INC., and LAPIS LAND COMPANY, LLC

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **IN AND FOR THE COUNTY OF LOS ANGELES**

11 Coordination Proceeding Special Title  
12 (Rule 1550 (b))

Judicial Council Coordination No. 4408

13 ANTELOPE VALLEY GROUNDWATER  
14 CASES

Case No.: 1-05-CV-049053

14 Included actions:

**OBJECTION TO BLUM TRUST'S  
15 MOTION FOR SUMMARY  
16 JUDGMENT/SUMMARY  
17 ADJUDICATION OF ISSUES**

15 Los Angeles County Waterworks District No.  
16 40 vs. Diamond Farming Company  
17 Los Angeles Superior Court  
18 Case No. BC 325201

Date: December 22, 2014  
Time: 10:00 a.m.  
Dept. No.: TBD  
Judge: Hon. Jack Komar

18 Los Angeles County Waterworks District No.  
19 40 vs. Diamond Farming Company  
20 Kern County Superior Court  
21 Case No. S-1500-CV 254348 NFT

20 Diamond Farming Company vs. City of  
21 Lancaster  
22 Riverside County Superior Court  
23 Lead Case No. RIC 344436 [Consolidated  
24 w/Case Nos. 344668 & 353840]

24 **AND RELATED CROSS-ACTIONS.**

25 DIAMOND FARMING COMPANY, CRYSTAL ORGANIC FARMS, GRIMMWAY  
26 ENTERPRISES, INC., and LAPIS LAND COMPANY, LLC (collectively "**Grimmway**"), hereby  
27 object to the entirety of the Blum Trust's Motion for Summary Judgment/Summary Adjudication of  
28 Issues.

1           If a summary judgment is sought, the notice of motion should name the party in whose favor  
2 and against whom the judgment is sought, . . . . A notice simply directed “to all opposing parties” is  
3 not adequate notice in a multiparty case such as this one, where different relief is sought by different  
4 parties as against different parties. (Weil & Brown, et al., Cal. Prac. Guide: Civ. Pro. Before Trial  
5 (The Rutter Group 2014), Ch. 10-C ¶ 10:85.) Here, it is not entirely clear from the Blum Trust’s  
6 notice of motion what is being sought nor precisely against whom. The Notice of Motion reads as  
7 follows:

8                           **“Cross-Defendant BLUM TRUST will and hereby does move the**  
9 **court pursuant to Code of Civil Procedure. §437c for an order**  
10 **that summary judgment be entered in favor of Cross-Defendant**  
11 **BLUM TRUST and against Cross-Complainants PUBLIC**  
12 **WATER SUPPLIERS’ First-Amended Cross-Complaint For**  
13 **Declaratory and Injunctive Relief And Adjudication of Water**  
14 **Rights, under the First Cause of Action for Declaratory Relief-**  
15 **Prescriptive Rights; Second Cause of Action for Declaratory**  
16 **Relief-Appropriative Rights; Third Cause of Action for**  
17 **Declaratory Relief-Physical Solution; Fourth Cause of Action for**  
18 **Declaratory Relief-Municipal Priority; Fifth Cause of Action for**  
19 **Declaratory Relief-Storage of Imported Water; Sixth Cause of**  
20 **Action for Declaratory Relief-Recapture of Return Flows From**  
21 **Imported Water Stored in the Basin; and Seventh Cause of Action**  
22 **for Unreasonable Use of Water; and against all other Cross-**  
23 **Defendants who claim against Cross-Defendant BLUM TRUST’s**  
24 **groundwater rights in this coordinated action . . . .” [Emphasis**  
25 **added.]**

18           No **Grimmway** entity is a cross-complainant as against the Blum Trust. As such,  
19 **Grimmway** objects to the extent that the Blum Trust’s motion seeks an adjudication or  
20 determination of the interests and rights of any **Grimmway** entity in this litigation.

21           This objection is made on the basis that the Blum Trust lacks standing under Code of Civil  
22 Procedure § 437c to bring a motion for summary judgment/summary adjudication against  
23 **Grimmway**. There is no operative complaint or cross-complaint in the present consolidated action  
24 in which any **Grimmway** entity has alleged a cause of action or claim against the Blum Trust.  
25 Likewise, the Blum Trust has not alleged any cause of action or claim in any pleading as against  
26 **Grimmway** in this action. **Grimmway** has not sued the Blum Trust and the Blum Trust has not  
27 sued **Grimmway**. Thus, there is no cause of action which the present motion may adjudicate as  
28 between **Grimmway** and the Blum Trust.

1 Summary judgment is granted when there is no triable issue as to a necessary material fact of the  
2 cause of action and the moving party is entitled to judgment as a matter of law. (Code Civ. Proc. § 437c.)

3 Under Code of Civil Procedure § 437c(o)(1), a defendant [cross-defendant] is entitled to  
4 summary judgment upon a showing that one or more elements of the cause of action cannot be  
5 established unless the plaintiff [cross-complainant] meets the burden of showing that a triable issue of  
6 one or more material facts exists as to that cause of action. (*Hughes Aircraft Co. v. Superior Court*  
7 (1996) 44 Cal.App.4th 1790, 1794; Code Civ. Proc. § 437c(o)(1) and (p)(2).) The motion is directed  
8 to a pled cause of action.

9 The Blum Trust has made the motion for summary judgment in its stated capacity as a “cross-  
10 defendant,” and specifically, a “cross-defendant” to the public water suppliers’ first amended cross-  
11 complaint. The California Legislature in enacting and amending Code of Civil Procedure section 437c,  
12 expressly provided for and set out the threshold burden of a moving defendant/cross-defendant on a  
13 motion brought pursuant to that section. Specifically, Code of Civil Procedure section 437c(p),(2)  
14 provides as follows:

15 **“(p) For purposes of motions for summary judgment and summary  
16 adjudication:**

17 **(2) A defendant or cross-defendant has met his or her burden of  
18 showing that a cause of action has no merit if that party has shown  
19 that one or more elements of the cause of action, even if not  
20 separately pleaded, cannot be established, or that there is a complete  
21 defense to that cause of action. Once the defendant or cross-  
22 defendant has met that burden, the burden shifts to the plaintiff or  
23 cross-complainant to show that a triable issue of one or more  
24 material facts exists as to that cause of action or a defense thereto.  
25 The plaintiff or cross-complainant may not rely upon the mere  
26 allegations or denials of its pleadings to show that a triable issue of  
27 material fact exists but, instead, shall set forth the specific facts  
28 showing that a triable issue of material fact exists as to that cause of  
action or a defense thereto. [Emphasis added.]**

24 Although it is doubtful that the Blum Trust has met the threshold burden, no **Grimmway** entity is a  
25 plaintiff or cross-complainant as against the Blum Trust, and therefore has no burden under the  
26 statute to respond to the pending motion for summary judgment.

27 As stated previously, no operative pleading exists in this litigation in which there are causes  
28 of action, claims or affirmative defenses alleged as and between Blum Trust and **Grimmway**.

1 Absent any cause of action, the Blum Trust has no standing under Code of Civil Procedure § 437c to  
2 seek a determination of the interests or rights of **Grimmway** by the present motion for summary  
3 judgment.

4 Moreover, the Blum Trust seeks a judgment quantifying a fixed amount of groundwater that  
5 it can pump in the future, which is neither permissible nor possible in this matter as a matter of law.  
6 The Blum Trust moving papers establish that the property was acquired by the Trust in 1985. The  
7 moving papers are devoid of any evidence of any groundwater pumping on the property which pre-  
8 dated its acquisition in 1985. The moving papers establish that the Blum Trust itself has never  
9 pumped any groundwater on the property. The property was farmed by Bolthouse from 2001  
10 through 2009, but no groundwater was pumped on the property during the term of the lease. From  
11 2009 to the present, the property has not been farmed and the Blum Trust has pumped no  
12 groundwater during that time and does not presently pump groundwater. Nonetheless, the Blum  
13 Trust seeks an order from this Court fixing a quantified right to pump groundwater in the future in  
14 the amount of 531 acre feet per annum. Under the law, a future or prospective use of groundwater  
15 cannot be quantified or fixed. *Tulare Irrigation District v. Lindsay* (1935) 3 Cal.2d 489, at 525.

16  
17 Dated: December 8, 2014

LeBEAU • THELEN, LLP

18  
19 By: 

20 BOB H. JOYCE  
21 Attorneys for DIAMOND FARMING  
22 COMPANY, a California corporation,  
23 CRYSTAL ORGANIC FARMS, a limited  
24 liability company, GRIMMWAY  
25 ENTERPRISES, INC., and LAPIS LAND  
26 COMPANY, LLC  
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**PROOF OF SERVICE**

ANTELOPE VALLEY GROUNDWATER CASES  
JUDICIAL COUNCIL PROCEEDING NO. 4408  
CASE NO.: 1-05-CV-049053

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I am a citizen of the United States and a resident of the county aforesaid; I am over the age of eighteen years and not a party to the within action; my business address is: 5001 E. Commercenter Drive, Suite 300, Bakersfield, California 93309. On December 8, 2014, I served the within **OBJECTION TO BLUM TRUST'S MOTION FOR SUMMARY JUDGMENT/SUMMARY ADJUDICATION OF ISSUES**

(BY POSTING) I am "readily familiar" with the Court's Clarification Order. Electronic service and electronic posting completed through [www.scefiling.org](http://www.scefiling.org) ; All papers filed in Los Angeles County Superior Court and copy sent to trial judge and Chair of Judicial Council.

Los Angeles County Superior Court  
111 North Hill Street  
Los Angeles, CA 90012  
Attn: **Department 1**  
(213) 893-1014

Chair, Judicial Council of California  
Administrative Office of the Courts  
Attn: Appellate & Trial Court Judicial Services  
(Civil Case Coordinator)  
Carlotta Tillman  
455 Golden Gate Avenue  
San Francisco, CA 94102-3688  
Fax (415) 865-4315

(BY MAIL) 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 at Bakersfield, California, in the ordinary course of business.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct, and that the foregoing was executed on December 8, 2014, in Bakersfield, California.

  
LEQUETTA HANSEN