

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**LAW OFFICES OF
SHELDON R. BLUM**

2242 CAMDEN AVENUE, SUITE 201
SAN JOSE, CALIFORNIA 95124
TEL: (408) 377-7320
FAX: (408) 377-2199
STATE BAR NO. 83304

Attorney for . BLUM TRUST

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

Coordinated Proceedings
Special Title {Rule 1550 (b)}

) Judicial Council Coordination Proceeding
) No. 4408

**ANTELOPE VALLEY GROUNDWATER
CASES**

) Santa Clara Case No. 1-05-CV-049053

Included Actions:

**BLUM TRUST'S CASE MANAGEMENT
CONFERENCE STATEMENT**

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
Los Angeles County Superior Court
Case No. BC 325 201

) Date: October 12, 2012
) Time: 9:00 a.m.
) Dept. No.: 1, Room 534, Central Civil West
) Judge: Hon. Jack Komar

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
Kern County Superior Court
Case No. S-1500-CV-254-348

Wm. Bolthouse Farms, Inc., v. City of
Lancaster; Diamond Farming Co. v. City of
Lacncaster; Diamond Farming Co. v. City of
Palmdate Water District.
Riverside County Superior Court
Consolidated Action Nos. RIC 344 840,
RIC 344 436, RIC 344 668

AND RELATED CROSS-ACTIONS

The BLUM TRUST respectfully submits the following Case Management Conference

1 Statement, scheduled for hearing on October 12, 2012, as follows:

2 **I. MEDIATION STATUS**

3 The parties appear to be closer in compromising their respective positions on the substantive
4 issues in reaching a final Judgment & Physical Solution, leaving to this court an evidentiary 'Prove-
5 Up' Phase IV Trial regarding each party's entitlement to the 'Native Safe Yield'. A court established
6 evidentiary Prove-Up procedural mechanism should be implemented by the court for verifying
7 pumping claims based on each party's historic usage under the assigned five (5) year production
8 period of 2000 through 2004, or other court determined time-frame.
9

10 Based on the foregoing, any attached marked Exhibit to the Stipulated Judgment & Physical
11 Solution which purports to identify an overlying landowner's groundwater pumping/transfer rights
12 under an assigned quantify or volume must be viewed with circumspection by this court as an
13 allegation, only, which on its face is unreliable, unverified and of no evidentiary value.
14

15 The "I will not contest your pumping claim if you do not contest my pumping claim"
16 methodology appears widespread among overlying landowners, including the self labeled "Big 5",
17 who have yet to produce a scintilla of corroborating evidence on their individual historic groundwater
18 pumping claims. As in any case where the rights of the parties are contested and evidentiary support
19 for the same is within the exclusive possession of a party, and not subject to alternative sources of
20 disclosure, discovery between the parties should proceed on these triable issues without delay.
21

22 **II. BLUM TRUST'S GROUNDWATER ADJUDICATION RIGHT**

23 This court has previously been made aware *via* the BLUM TRUST's Cross-Complaint
24 against BOLTHOUSE FARMS and BOLTHOUSE PROPERTIES filed on December 20, 2007,
25 (Superior Court of Santa Clara County bearing Case No. 1-05-CV-09053; e-file Doc. #1088), as
26

1 well as Briefed for informal discovery hearings in this coordinated proceedings, that the BLUM
2 TRUST's pumping rights to meet its reasonable and beneficial needs, and to realize it's full use and
3 economic benefit arises out of WM. BOLTHOUSE FARMS, INC's and BOLTHOUSE PROPERTIES,
4 LLC's historical beneficial use of irrigating and harvesting its crops on the BLUM TRUST's 119 acres
5 of leased agriculture parcels, from January 1, 2002, up through December 31, 2009.

6
7 After engaging in numerous discovery 'meet and confer' efforts which required the
8 assistance of this court, in lieu of noticed depositions, WM. BOLTHOUSE FARMS' Irrigation
9 Equipment Manager Daniel Wilke, executed for BLUM TRUST three (3) materially different and
10 distinct Declarations (i.e. Dated May 24, 2012; June 26, 2012; and September 6, 2012), which are
11 in conflict with one another, and not inclusive of all water well sources used to deliver groundwater
12 onto the BLUM TRUST's leased parcels.

13 This court has also been advised that the BLUM TRUST's groundwater pumping claim is
14 not duplicative to any party's water claim nor injuries or prejudicial to any overlying party, nor
15 adversely affect the rights of others to the water involved, or otherwise unreasonably effect the
16 overall economy, or the fish, wildlife or other instream beneficial uses of the basin. (*Water Code*
17 §1736; and *Barnes v. Hussa* (2006) 136 Cal.App.4th 1358, 39 Cal.Rptr. 3d 659).

18
19 The BLUM TRUST overlying pumping rights are both crop determined and recorded under
20 an Annual Notice of Groundwater Extraction And Diversion by the BOLTHOUSES. Under these
21 case specific facts, privity of contract, covenants running with the land, as well as the violation of an
22 assignment/transfer of lease covenants the BLUM TRUST should be credited with the pumping
23 rights of all reasonable and beneficial irrigation used on it's leased parcels by the BOLTHOUSES, as
24 a matter of law and equity. Analogous to a 'Water Transfer' under *Water Code* §1735; a 'Court
25

1 Finding' under *Water Code §1740*; a 'Trespass' or 'Unauthorized Diversion of Water' under *Water*
2 *Code §1052*, coupled with *Water Code §1851* which speaks of unspecified "equitable and legal
3 relief"; or otherwise a 'Constructive Trust' under *Civil Code §2224*, the BLUM TRUST maintains an
4 overlying pumping/allocation adjudication right.

5
6 It is important to note that the California Secretary of State business status records
7 document that on **March 15, 2005**, **BOLTHOUSE PROPERTIES, LLC** became a **California**
8 **Limited Liability Company**, who on or about **June 3, 2005**, purchased in Fee, title to the WM.
9 BOLTHOUSE FARMS' leased parcels directly across the street from the BLUM TRUST parcels.
10 Thereafter, WM. BOLTHOUSE FARMS, INC and BOLTHOUSE PROPERTIES, LLC entered into
11 assignment and/or transfer agreement for BOLTHOUSE PROPERTIES to pump and deliver
12 groundwater onto the BLUM TRUST's leased parcels.

13
14 It is also important to note that the California Secretary of State business status records,
15 reflect that in **June, 2006**, BOLTHOUSE FARMS filed for California corporate domicile status in
16 lieu of its prior Michigan corporate status, and in **2006**, sold its farming operation business to the
17 Chicago, Illinois Equity Firm **MADISON DAVIDSON PARTNERS, LLC**, who is the successor in
18 interest.

19 However, all times herein mentioned, the real party in interest was and still remains BLUM
20 TRUST to the above-stated groundwater pumping/allocation rights.

21 Dated: October 8, 2012

Respectfully submitted,
LAW OFFICES OF SHELDON R. BLUM

22
23
24 By: 
SHELDON R. BLUM, Esq.
Attorney For The BLUM TRUST