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STATE BAR No. 83304

**Attorney for BLUM TRUST**

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

Coordinated Proceedings  
Special Title {Rule 1550 (b)}  
**ANTELOPE VALLEY GROUNDWATER  
CASES**  
Included Actions:  
Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co.  
Los Angeles County Superior Court  
Case No. BC 325 201  
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  
Defendants.

Judicial Council Coordination Proceeding  
No. 4408

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

**SUPPLEMENTAL DECLARATION OF SHELDON  
BLUM TRUSTEE FOR BLUM TRUST &  
OBJECTION TO DECLARATIONS OF  
BOLTHOUSE ENTITIES ANTHONY L. LEGGIO  
& TRACY M. SAIKI IN LIEU OF DEPOSITION  
TESTIMONY FOR PHASE 4 TRIAL**

Pursuant to the Court's First Amendment to Case Management Order For Phase 4 Trial,  
the BLUM TRUST submits its Supplemental Declaration & Objections to the BOLTHOUSE ENTITIES

1 Declarations In Lieu of Deposition Testimony for Phase 4 Trial.

2 As discussed herein, The BOLTHOUSE ENTITIES have no legal nor equitable title to the  
3 groundwater beneficially and reasonably used to irrigate and harvest Carrots & Onions on the  
4 BLUM TRUST leased parcels. Rather, each admit in their responses to BLUM TRUST's Special  
5 Interrogatories, Set One, that there were no Lease Agreement terms that provided the  
6 BOLTHOUSE ENTITIES with any allocated entitlement to groundwater rights arising out of  
7 BOLTHOUSE FARMS farming operations on the leased parcels. (Declaration of Sheldon Blum,  
8 2/8/13, Exhibit "C"). Furthermore, there is no genuine factual basis which as a matter of law,  
9 establishes any groundwater rights to the BOLTHOUSE ENTITIES in lieu of BLUM TRUST, based  
10 upon the Declarations of Mr. Anthony Leggio and/or Ms. Tracey Saiki.  
11

12 **SUPPLEMENTAL DECLARATION &**  
13 **OBJECTION TO BOLTHOUSE ENTITIES DECLARATIONS**

14 I, SHELDON R. BLUM, declare:

15 1. I am the Trustee for the BLUM TRUST, a party to this action. This supplemental  
16 declaration is made in further support of the Declaration of Sheldon Blum Trustee dated February 8,  
17 2013, and in objection to the January 31, 2013, Declarations of BOLTHOUSE ENTITIES' Anthony L.  
18 Leggio, and Tracy M. Saiki in Lieu of Deposition Testimony For Phase 4 Trial. I have personal  
19 knowledge of each fact herein, and would testify competently thereto under oath.  
20

21 **I. Court Ordered Deposition of BOLTHOUSE ENTITIES Designated "PMK" With**  
22 **Production of Documents**

23 2. On January 16, 2013, the BLUM TRUST's 'meet and confer' discovery motion to compel  
24 the deposition testimony of WM. BOLTHOUSE FARMS, INC., Management Employees Daniel  
25 Wilke; Steve Rodrigeus; Michael Kovacevich and to produce business records at deposition,  
26

1 pursuant to the BLUM TRUST's Notice of Deposition & Production of Business Records dated  
2 January 10, 2013, came on for hearing before the Hon. Jack Komar. After oral argument by the  
3 parties counsel and good cause appearing, the Court ordered a 6-hour deposition of BOLTHOUSE  
4 ENTITIES "PMK" (i.e. Person Most Knowledgeable), with documents to be taken during the week of  
5 February 4, 2013. A true and correct copy of the BLUM TRUST Notice of Deposition & Production of  
6 Business Records is attached as Exhibit "1", herein.

8 3. On February 8, 2013, in Bakersfield, California, the deposition of BOLTHOUSE ENTITIES  
9 designated "PMK" Irrigation Equipment Manager DANIEL WILKE was taken, who appeared with  
10 BOLTHOUSE ENTITIES counselors' Mr. Richard Zimmer and Ms. Tracy Saiki without producing any  
11 documents, whatsoever. True and correct copies of relevant excerpts from the WILKE Deposition  
12 transcript are attached as Exhibit "2", and incorporated by reference.

13 **II. Deposition Testimony of Daniel Wilke "PMK"**

14 4. DANIEL WILKE testified that he understood his designated role as "PMK" by the  
15 BOLTHOUSE ENTITIES regarding the amount and duration of groundwater used on BLUM  
16 TRUST's farmland. Mr. WILKE also stated that he knew the location of the water well(s) where the  
17 groundwater pumping occurred. However as later determined, such was not the case.

19 5. Mr. WILKE testified that during the 2002- 2009, lease term between BLUM TRUST and  
20 WM. BOLTHOUSE FARMS, INC, the groundwater used on the BLUM TRUST farmland came from  
21 the water wells on AVOL 14-3, NORTH and/or 14-3 SOUTH, located on Avenue 65 East & J Street.  
22 However, Mr. WILKE was unable to identify which of the two (2), water wells or whether both were  
23 used at any given time or year on the BLUM TRUST parcels. Furthermore, Mr. WILKE did not know  
24 the type of crop or applied irrigated acreage of the AVOL 14-3 NORTH and 14-3 SOUTH water wells  
25

1 when not in use on the BLUM TRUST parcels.

2           6. Furthermore, Mr. WILKE testified that his "Updated Declaration of Dan Wilke Regarding  
3 Water Use on Blum Property" dated June 26, 2012, attached as Exhibits "C" & "D", filed State Water  
4 Resources Control Board ANNUAL NOTICES OF GROUNDWATER EXTRACTION from 2002-  
5 2007, regarding the AVOL 14-3 SOUTH and the AVOL 14-3 NORTH water well Applied Acre Feet.  
6 However he was unable to apportion any of the identified Acre Feet to some other parcel then the  
7 BLUM TRUST leased parcel.  
8

9           7. In addition, Mr. WILKE admitted that the Applied Acre Feet entries for the BLUM TRUST  
10 parcels were the same Groundwater Production Applied Acre Feet numbers that are identified in the  
11 Declaration of Anthony L. Leggio, attached as Exhibit "F", thereto. True and correct copies of the  
12 Annual Notices of Groundwater Extraction and the Declaration of Leggio Exhibit "F", Groundwater  
13 Production Acre Feet copy with redaction, are collectively attached as Exhibit "3".  
14

15           8. On October 22, 2009, at the hour of 11:00 am, I meet with BOLTHOUSE ENTITIES  
16 Director of Farming Operations Mr. Darren Filkens and Lancaster Ranch Manager Mr. Steve  
17 Rodrigues at the BLUM TRUST farmland for the purpose of inspecting and surrendering the  
18 leasehold premises. During our walk-through of the BLUM TRUST leased property, we observed  
19 groundwater pipeline hardware casings on both sides of the bordered streets of Avenue J, from  
20 imported groundwater delivered from the LAID 13-3 water well at APN 3384-008-020, and 70<sup>th</sup> Street  
21 East from imported groundwater delivered from the AVOL 14-3 water wells at 3384-004-004. On  
22 October 23, 2009, I wrote a confirming letter to Mr. Filkens regarding our meeting and necessary  
23 steps to restore the leased premises at the expiration of the lease term.  
24

25           9. In response, on November 16, 2009, I received an email from WM. BOLTHOUSE  
26

1 FARMS, INC's Agriculture Properties/Legal Manager Mr. Michael W. Kovacevich, which attached my  
2 October 23, 2009, letter To Mr. Filkens; a BLUM TRUST Plot Map Diagram; and Pictures that  
3 identified two (2) separate sources of groundwater piping delivered onto the BLUM TRUST farmland  
4 from both Avenue J and 70<sup>th</sup> Street East. Mr. Kovacevich's subject email, my confirming 10/23/009,  
5 letter, and the BLUM TRUST Plot Map Diagram are factually inconsistent with Mr. WILKE's "PMK"  
6 sworn deposition testimony of February 6, 2013, as well as his three (3) Declarations dated May 24,  
7 2012, June 26, 2012 and September 6, 2012, regarding the amount, duration and location from  
8 where the groundwater was pumped onto the BLUM TRUST parcels. True and correct copies of my  
9 letter to Mr. Filkens, Mr. Kovacevich's email, and the BLUM TRUST Plot Map Diagram are  
10 collectively attached and marked as **Exhibit "4"**, and incorporated herein by reference.

11  
12 10. Similarly, on November 30, 2011, Mr. Richard Zimmer remitted an email to me stating  
13 that that WM. BOLTHOUSE FARMS, INC, imported groundwater onto the BLUM TRUST parcels  
14 from the water wells designated as LAID 13-3 and AVOL 14-3 North and South. Mr. Zimmer's email  
15 is also factually inconsistent with Mr. WILKE's sworn deposition and declaration testimony, however  
16 entirely consistent with Mr. Kovacevich's email, and my observations and letter. A true and correct  
17 copy of Mr. Zimmer's email is attached and marked as **Exhibit "5"**, and incorporated herein by  
18 reference.


19  
20 11. Likewise, both Mr. Kovacevich's email and attachments, and Mr. Zimmer's email are  
21 entirely consistent with my Declaration in Lieu of Deposition Testimony For Phase 4 Trial dated and  
22 e-filed on February 8, 2012, as well as the BLUM TRUST's Responses To Discovery Order For  
23 Phase 4 Trial dated and e-filed on December 21, 2012, which are incorporated herein by reference.  
24

1       **III. Conclusion**

2           12. Based on the foregoing, and on information and belief, it is customary for farmers in the  
3 Antelope Valley Basin to use two (2) separate parcels, similar to the subject LAID, AVOL and BLUM  
4 TRUST farmland parcels, to represent a 'collective farming unit' to irrigate and harvest agriculture  
5 crops. Consistent therewith, the BLUM TRUST farmland consisting of 119 acres, as a matter of law  
6 should be allocated all groundwater rights associated to BOLTHOUSE FARMS beneficial and  
7 reasonable agriculture use on the leased premises from 2002-2009. Consequently, both the AVOL  
8 parcel consisting of approximately 80 Acres and/or the LAID parcel consisting of approximately 40  
9 Acres, are each smaller in size to the BLUM TRUST 119 Acre parcel, and therefore historic  
10 groundwater pumping from those water wells could never be duplicated in irrigated Acre Feet as  
11 applied to the BLUM TRUST leased parcel.  
12

13           I declare under penalty of perjury under the laws of the State of California that the  
14 foregoing is true and correct, including those matters stated on information and belief.  
15

16           Executed this 22<sup>th</sup> day of February 2013, at San Jose, California.

17             
18           \_\_\_\_\_  
19           SHELDON R. BLUM