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

9 Coordinated Proceedings
10 Special Title {Rule 1550 (b)}

)
) Judicial Council Coordination Proceeding
) No. 4408

11 **ANTELOPE VALLEY GROUNDWATER
12 CASES**

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

12 Included Actions:

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

)
) **[PROPOSED] ORDER OF COURT**
) **{BLUM TRUST'S OBJECTION TO ENTERING**
) **INTO STIPULATION WITH BOLTHOUSE**
) **ENTITIES BASED ON DECLARATIONS OF**
) **ANTHONY L. LEGGIO & TRACY M. SAIKI**
) **FOR PHASE 4 TRIAL}**

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

)
) Trial Date: 5/28/13
) Location: TBD
) Time: 9:00 a.m.
) Judge: Hon. Jack Komar

19 Wm. Bolthouse Farms, Inc., v. City of
20 Lancaster; Diamond Farming Co. v. City of
21 Lancaster; Diamond Farming Co. v. City of
22 Palmdate Water District.

23 Riverside County Superior Court
Consolidated Action Nos. RIC 344 840,
RIC 344 436, RIC 344 668
Defendants.

24 Pursuant to this Court's March 25, 2013, Minute Order BLUM TRUST objects and
25 declines to stipulate to the accuracy of the BOLTHOUSE ENTITIES Declarations of Anthony L.

Leggio & Tracy M. Saiki In Lieu of Deposition Testimony for Phase 4 Trial, including any Addendum thereto, based on the following grounds: (1) 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, e-filed on February 22, 2013; (2) As a matter of law, the BOLTHOUSE ENTITIES have no legal nor equitable title to the groundwater beneficially used to irrigate and harvest Carrots & Onions on the BLUM TRUST leased farmland; (3) There is no genuine factual basis which as a matter of law, establishes any groundwater rights to the BOLTHOUSE ENTITIES in lieu of BLUM TRUST, based upon the Declarations of Mr. Anthony Leggio, Ms. Tracey Saiki and/or any Addendum thereto; (4) The BOLTHOUSE ENTITIES groundwater pumping claims lack foundation, are speculative and/or duplicative to the BLUM TRUST's groundwater claims; (5) All groundwater pumped and delivered by BOLTHOUSE PROPERTIES, LLC, onto the BLUM TRUST farmland represents a 'collective farming unit' which beneficial Ac. Ft. volume is fact specific to the BLUM TRUST's 119+/- farmland, and therefore future groundwater pumping in like quantity from AVOL 14-N, AVOL 14-S and LAID 13-3 water wells cannot be duplicated; (6) That the BLUM TRUST farmland would suffer permanent, prejudicial, substantial and ongoing damages and a miscarriage of justice would result as a consequence of no groundwater entitlement beneficially applied through the farming operations of BOLTHOUSE FARMS; (7) That the BOLTHOUSE ENTITIES would be unjustly enriched, acquire a windfall and thereby hold as constructive trustees any allocation of groundwater pumped onto the BLUM TRUST farmland; (8) The BOLTHOUSE ENTITIES have agreed in their responses to case specific discovery that there were no Lease Agreement terms nor conditions which provided WM. BOLTHOUSE

1 FARMS, INC, with any allocated groundwater credit or entitlement arising out of its farming
2 operations on the BLUM TRUST's leased farmland; (9) WM. BOLTHOUSE FARMS, INC,
3 breached the Lease Agreement by delivering groundwater onto the BLUM TRUST'S leased
4 farmland, in lieu of repairing and utilizing the BLUM TRUST water wells, including breached
5 the covenant against any 'Assignment, Sublease and/or Transfer' without obtaining Lessor's
6 prior consent applicable to the BOLTHOUSE PROPERTIES, LLC, Transfer; all lease terms
7 were deemed 'covenants running with the land'; and a lack of consideration, intent of the
8 parties and frustration of purpose would occur, if BOLTHOUSE FARMS and/or ENTITIES
9 were to acquire such a groundwater allocated entitlement.
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11 It is so ordered that BLUM TRUST's above-stated objections are triable issues to be
12 determined in this action.

13 Dated: April _____, 2013
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15 _____
16 Hon. Jack Komar, Judge
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