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**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:

) **CROSS-DEFENDANT BLUM TRUST'S  
) NOTICE OF MOTION AND MOTION FOR  
) SUMMARY JUDGMENT/SUMMARY  
) ADJUDICATION OF ISSUES; SUPPORTING  
) MEMORANDUM OF POINTS AND  
) AUTHORITIES; SEPARATE STATEMENT OF  
) UNDISPUTED MATERIAL FACTS;  
) DECLARATION OF SHELDON R. BLUM;  
) DECLARATION OF ALI SHAHROODY, P.E.;  
) REQUEST FOR JUDICIAL NOTICE; AND  
) [PROPOSED] ORDER**

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  
Lancaster; 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

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

**AND RELATED CROSS-ACTIONS**

**TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that on December 22, 2014, at the hour of 10:00 am, or soon thereafter as the matter may be heard in a Department TBD, of the Superior Court of Santa Clara County, California, Cross-Defendant BLUM TRUST will and hereby does move the court pursuant to *Code of Civil Procedure*, §437c for an order that summary judgment be entered in favor of Cross-Defendant BLUM TRUST and against Cross-Complainants PUBLIC WATER SUPPLIERS' First-Amended Cross-Complaint For Declaratory and Injunctive Relief And Adjudication of Water Rights, under the First Cause of Action for Declaratory Relief-Prescriptive Rights; Second Cause of Action for Declaratory Relief-Appropriative Rights; Third Cause of Action for Declaratory Relief-Physical Solution; Fourth Cause of Action for Declaratory Relief-Municipal Priority; Fifth Cause of Action for Declaratory Relief-Storage of Imported Water; Sixth Cause of Action for Declaratory Relief-Recapture of Return Flows From Imported Water Stored in the Basin; and Seventh Cause of Action for Unreasonable Use of Water; and against all other Cross-Defendants who claim against Cross-Defendant BLUM TRUST's groundwater rights in this coordinated action, in favor of Cross-Defendant BLUM TRUST's superior and/or coequal overlying rights and correlative rights to extract groundwater from the Antelope Valley Basin for the reasonable and beneficial use of its Parcels, free of replenishment assessment, from the native safe yield, and in time of overdraft requiring cut back water production under the California water priority allocation system.

The grounds for the issuance of this order are that no triable issue exists for any material fact against BLUM TRUST in this action, and that BLUM TRUST is entitled to a judgment as a matter of law.

In particular, Cross-Complainant PUBLIC WATER SUPPLIERS' First through Seventh Causes of Action against Cross-Defendant BLUM TRUST's overlying and correlative water rights

1 have no merit, in that one or more elements of the cause of action cannot be separately  
2 established, even if that element is separately pleaded, and BLUM TRUST has complete affirmative  
3 defenses to all causes of action which bars any Basin priority relief against BLUM TRUST, which  
4 include:

5  
6 (A) BLUM TRUST has duly acted within its rights as to the matters stated in the First  
7 Amended Cross-Complaint and is not responsible for the loss or damage resulting from the acts or  
8 omissions of others (*Third Affirmative Defense*);

9 (B) The doctrines of Equitable Estoppel and Judicial Estoppel bar the PUBLIC  
10 WATER SUPPLIERS from contesting or contradicting BLUM TRUST's groundwater production  
11 entitlement to the Basin (*Tenth Affirmative Defense*);

12 (C) BLUM TRUST's Water Rights are superior to, and take priority over any water  
13 rights asserted by Cross-Complainants against BLUM TRUST, or co-equal but not subordinate to  
14 Cross-Complainants' rights under the California water priority allocation system (*Twelfth Affirmative*  
15 *Defense*); and

16  
17 (D) BLUM TRUST is denied equal protection and due process under the law by the  
18 PUBLIC WATER SUPPLIERS, Overlying Landowners, and the Federal Government in the  
19 Antelope Valley Basin Adjudication (*Twenty Second through Twenty Fifth Affirmative Defense*).

20 If for any reason summary judgment cannot be granted, Cross-Defendant BLUM TRUST  
21 further moves separately or as an alternative to the Motion for Summary Judgment, for an order  
22 granting its Motion for Summary Adjudication that establishes in favor of BLUM TRUST, that:

23 (1) All groundwater pumped and delivered from Lessee BOLTHOUSE FARMS'  
24 adjacent parcels' water wells and applied for the reasonable beneficial use on BLUM TRUST'S  
25

1 farmland to irrigate crops during the eight (8) year lease term, belongs to BLUM TRUST and not  
2 BOLTHOUSE ENTITIES, as a matter of law.

3 (2) The BOLTHOUSE ENTITIES have admitted both under the Lease Agreement and  
4 in discovery that BOLTHOUSE FARMS leased BLUM TRUST's water rights, which is prima facia  
5 for the application of the doctrines of Equitable Estoppel and Judicial Estoppel to contest or  
6 contradict BLUM TRUST's water rights;  
7

8 (3) BLUM TRUST has suffered a legal injury and severe financial hardship because of  
9 the substantial damage to its 3 water wells, and uncertainty of any water production rights, causing  
10 involuntary and compelled disuse, which should not result in BLUM TRUST's loss of production  
11 entitlement in times of overdraft and cutback under the CA water priority allocation system;


12 (4) BLUM TRUST is not liable for the Woods class action attorney fees and costs under  
13 any legal theory, as a matter of law.  
14

15 NOTICE IS FURTHER GIVEN that Judicial Notice is requested of the matters set forth in  
16 the accompanying Request For Judicial Notice filed concurrently with this notice of motion and  
17 motion for summary judgment/summary adjudication under *Evidence Code §451, 452 & 453*.

18 This Motion for Summary Judgment/Summary Adjudication are based upon the pleadings,  
19 Memorandum of Points And Authorities; the Declarations of Sheldon R. Blum and Ali Shahroody,  
20 P.E., filed herewith; the Exhibit List hereto; the Separate Statement of Undisputed Material Facts,  
21 filed herewith; the records and files of the Court in this action; those matters as to which judicial  
22 notice may be taken; and upon such further evidence and argument as may be presented prior to  
23 or at the time of the hearing of the within motions.  
24

1 Dated: October 5, 2014

Respectfully submitted,  
Law Offices of Sheldon R. Blum

3  
4 By:   
Sheldon R. Blum, Esq.  
Attorney For Cross-Defendant Blum Trust