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**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
) Assigned to Hon. Jack Komar

Included Actions:

) **[PROPOSED] ORDER GRANTING BLUM
TRUST'S MOTION FOR SUMMARY
JUDGMENT/SUMMARY ADJUDICATION
[C.C.P. §437c]**

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

) Hearing Date: December 22, 2014
) Time: 10:00 a.m.

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

) Dept. No.: TBD
) Judge: Hon. Jack Komar

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

AND RELATED CROSS-ACTIONS.

1 The Motion for Summary Judgment/Summary Adjudication of Issues of Cross-
2 Defendant BLUM TRUST came on regularly for hearing upon notice on December 22, 2014, in
3 Dept. No. __, of the Superior Court of Santa Clara County, California. Mr. Sheldon R. Blum,
4 Esq. appeared for Cross-Defendant BLUM TRUST, and Mr. Jeffrey V. Dunn appeared for
5 Cross-Complainant PUBLIC WATER SUPPLIERS, in addition to other attorneys and parties
6 respectively appearing.
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8 The Court, having reviewed and considered all papers in support of and in opposition to
9 the Motion For Summary Judgment/Summary Adjudication of Issues, and oral argument of
10 counsel having been received by the Court:

11 The Court finds, adjudges and orders, as follows:

12 1. That the Court GRANTS Cross-Defendant BLUM TRUST's Motion for Summary
13 Judgment/Summary Adjudication of Issues.

14 2. The Court finds that based upon the record presented, the Cross-Defendant BLUM
15 TRUST has made a proper showing that it is entitled to summary judgment. Cross-Complainant
16 PUBIC WATER SUPPLIERS had not controverted that showing.

17 3. The Court further finds that Cross-Defendant BLUM TRUST is an overlying
18 landowner in the Antelope Valley Basin located in the City of Lancaster, County of Los Angeles,
19 California, identified by APNs and acreage, as follows: (1) 3384-009-001=80+/- Acs.; (2) 3384-
20 009-006=39 +/- Acs.; (3) 3384-020-012=10+/- Acs.; (4) 3384-020-013=10+/- Acs.; and (5) 3262-
21 016-011= 10+/- Acs.
22

23 4. The Court further finds that Cross-Defendants BLUM TRUST and WM. BOLTHOUSE
24 FARMS, INC., created a "Farming Unit" under their Agriculture Lease Agreement dated August
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1 2, 2001, and Modification of Lease Agreement dated on or about May 12, 2004, with respect to
2 APN 3384-009-001; & APN 3384-009-006, which was a valid exercise of Cross-Defendant BLUM
3 TRUST's overlying production rights, limited and measured by 'Place of Use'.

4 5. The Court further accepts Cross-Defendant's expert witness *Declaration of Ali Shahoody*,
5 *P.E. and Summary of Applied Crop Water Duties Antelope Valley Area of Adjudication* which was
6 previously admitted into evidence during Phase 3 Trial as Exhibit 58, through the testimony of
7 Cross-Complainant's expert witness Mr. Joseph Scalnanini. (*id. Appendix D-3: Table 4' 'Applied*
8 *Crop Water Duty & Irrigation Efficiency Values*' in Phase 4 Trial Discovery), as representing the
9 most accurate measurement for groundwater production rights, without any danger of double
10 counting or impairment to the rights of other overlying landowners and rights through prescription.

11 6. The Court further finds that during crop season Years 2004-2005, 'Onions' were irrigated
12 on 118 acres of Cross-Defendant BLUM TRUST's farmland, and that through the business records
13 of Cross-Defendants WM. BOLTHOUSE FARMS, INC, & BOLTHOUSE PROPERTIES, LLC,
14 Cross-Defendant BLUM TRUST's water production rights shall be adjudicated annually at 531 Acre
15 Feet Per Year.

16 7. The Court further finds that Cross-Defendant BLUM TRUST's overlying parcels
17 identified as APN 3384-020-012; APN 3384-020-013; APN 3262-016-011, are dormant and
18 have a correlative right to pump and/or divert groundwater for the reasonable beneficial use of
19 the parcels, free of replenishment assessment from the native safe yield.

20 8. The Court further finds that Cross-Defendant BLUM TRUST disuse of its 3 water wells
21 on APN 3384-009-001; & APN 3384-009-006, was reasonable and justified under the law, which
22 does not extinguish nor prejudice Cross-Defendant BLUM TRUST's 531 Ac. Ft., water
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1 production rights in times of the Antelope Valley Basin's overdraft under the California water
2 priority allocation system.

3 9. The Court further finds that Cross-Defendant BLUM TRUST is not liable for the Woods
4 class action attorney fees or costs as a matter of law.

5 10. The Court further finds that Cross-Defendant BLUM TRUST's Statement of Undisputed
6 Material Facts ISSUE NO. 1, ____ through ____, ISSUE NO. 2, ____ through ____; ISSUE NO.
7 3, ____; ISSUE NO. 4, ____, through ____; and ISSUE
8 NO. 5, ____ through ____, are established to be true by competent evidence. Cross-
9 Complainant PUBLIC WATER SUPPLIERS, as well as other parties have not controverted any
10 of such facts with competent evidence. The uncontroverted facts entitle Cross-Defendant BLUM
11 TRUST to a judgment as a matter of law against Cross-Complainant PUBLIC WATER
12 SUPPLIERS, and all others who claim against Cross-Defendant BLUM TRUST.

13 IT IS SO ORDERED.

14 IT IS FURTHER ORDERED as follows:

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19 Dated: December ____, 2014

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Hon. Jack Komar
Judge of the Superior Court