

BHS

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE
CIVIL COMPLEX CENTER
DEPARTMENT CX101

COPY

COORDINATION PROCEEDING	)	JUDICIAL COUNCIL
SPECIAL TITLE (RULE 1550(B))	)	PROCEEDING NO. 4408
)	
ANTELOPE VALLEY)	
GROUNDWATER CASES)	
)	
INCLUDED ACTIONS:)	
	)	SUPERIOR COURT OF
LOS ANGELES COUNTY WATERWORKS	)	CALIFORNIA, COUNTY OF
DISTRICT NO. 40 V. DIAMOND	)	LOS ANGELES,
FARMING COMPANY, ET AL.,	)	CASE NO. BC 325201
)	
LOS ANGELES COUNTY WATERWORKS	)	SUPERIOR COURT OF
DISTRICT NO. 40 V. DIAMOND	)	CALIFORNIA, COUNTY OF
FARMING COMPANY, ET AL.,	)	KERN, CASE NO.
	)	S-1500-CV-254348
DIAMOND FARMING COMPANY, AND)	
W.M. BOLTHOUSE FARMS, INC.,	)	SUPERIOR COURT OF
V. CITY OF LANCASTER, ET AL.,	)	CALIFORNIA, COUNTY OF
	)	RIVERSIDE,
DEFENDANTS.	)	CASE NO. RIC 344436
	)	(C/W CASE NO. RIC
	)	344668 AND 353840)

HONORABLE DAVID C. VELASQUEZ, JUDGE PRESIDING

REPORTER'S TRANSCRIPT

JUNE 17, 2005

TERESA J. GROVE, CSR NO. 6166
OFFICIAL COURT REPORTER

(APPEARANCES OF COUNSEL ON THE FOLLOWING PAGE.)

APPEARANCES OF COUNSEL:

FOR LOS ANGELES COUNTY
WATERWORKS DISTRICT
NO. 40:

BEST, BEST & KRIEGER
BY: JEFFREY V. DUNN

OFFICE OF THE COUNTY COUNSEL
COUNTY OF LOS ANGELES
BY: FREDERICK W. PFAEFFLE

FOR ROSAMOND COMMUNITY
SERVICES DISTRICT:

BEST, BEST & KRIEGER
ERIC J. GARNER

FOR DIAMOND FARMING
COMPANY:

LEBEAU, THELEN, LLP
BY: BOB H. JOYCE

FOR W.M. BOLTHOUSE FARMS:

CLIFFORD & BROWN
BY: RICHARD G. ZIMMER

FOR PALMDALE WATER
DISTRICT, QUARTZ HILL
WATER DISTRICT:

LAGERLOF, SENEAL, BRADLEY,
GOSNEY & KRUSE
BY: THOMAS S. BUNN III

FOR ANTELOPE VALLEY
WATER COMPANY:

CALIFORNIA WATER SERVICE
COMPANY
BY: JOHN TOOTLE
(VIA COURT CALL)

FOR CITY OF LOS ANGELES:

KRONICK, MOSKOVITZ,
TIEDEMANN & GIRARD
BY: JANET K. GOLDSMITH

LOS ANGELES DEPARTMENT
OF WATER & POWER
BY: JULIE A. CONBOY
DEPUTY CITY ATTORNEY

FOR ANTELOPE VALLEY
GROUNDWATER AGREEMENT
ASSOCIATION:

HATCH AND PARENT
BY: MICHAEL T. FIFE

FOR LITTLE ROCK CREEK
IRRIGATION DISTRICT AND
PALM RANCH IRRIGATION
DISTRICT:

LEMIEUX & O'NEILL
BY: STEVEN O'NEILL

FOR CITY OF LANCASTER:

STADLING, YOCCA, CARLSON
& RAUTH
BY: DOUGLAS J. EVERTZ

FOR CITY OF PALMDALE:

RICHARDS, WATSON & GERSHON
BY: JAMES L. MARKMAN

APPEARANCES OF COUNSEL:
(CONTINUED)

FOR CITY OF LOS ANGELES,
DEPARTMENT OF AIRPORTS:

IVERSON, YOAKUM, PAPIANO
& HATCH

BY: JOHN A. SLEZAK
(VIA COURT CALL)

FOR TEJON RANCH:

NOSSAMAN, GUTHNER, KNOX
& ELLIOTT

BY: HENRY S. WEINSTOCK
(VIA COURT CALL)

1 SANTA ANA, CALIFORNIA - FRIDAY, JUNE 17, 2005

2 MORNING SESSION

3 (THE FOLLOWING PROCEEDINGS WERE

4 HAD IN OPEN COURT:)

5 THE COURT: BACK ON THE RECORD. THE RECORD
6 SHOULD REFLECT WE ARE IN OPEN COURT. THIS IS THE
7 PETITION FOR COORDINATION IN THE ANTELOPE VALLEY
8 GROUNDWATER CASES.

9 MAY I GET COURT CALL APPEARANCES FIRST, AND
10 THEN HAVE COUNSEL WHO ARE IN COURT STEP FORWARD WHILE
11 THIS IS TAKING PLACE.

12 COURT CALLS, PLEASE. HOLD ON. WE GOT TO MAKE
13 SURE YOUR VOLUME IS UP.

14 THE BAILIFF: COUNSEL FOR CX101, JUDGE
15 VELASQUEZ'S TEN O'CLOCK CALENDAR, ARE YOU ON LINE?

16 UNIDENTIFIED VOICE: YES.

17 UNIDENTIFIED VOICE: YES.

18 THE BAILIFF: OKAY. HE'S TAKING APPEARANCES
19 NOW.

20 THE COURT: CAN I HAVE YOUR COURT CALL
21 APPEARANCES FOR THE COURT REPORTER THEN AT THIS TIME.

22 MR. TOOTLE: YES. JOHN TOOTLE FOR THE ANTELOPE
23 VALLEY WATER COMPANY.

24 THE COURT: THANK YOU. NEXT, PLEASE.

25 MR. WEINSTOCK: HENRY WEINSTOCK FOR TEJON RANCH
26 CORP.

1 THE COURT: THANK YOU. NEXT, PLEASE.

2 MR. SLEZAK: JOHN SLEZAK, CITY OF LOS ANGELES,
3 DEPARTMENT OF AIRPORTS.

4 THE COURT: THANK YOU. NEXT, PLEASE.

5 ANY OTHER COURT CALL APPEARANCES ON THE WATER
6 DISTRICT CASES?

7 THERE ARE MANY COUNSEL IN COURT FOR THE RECORD,
8 SO WE'LL GET YOUR APPEARANCE BY BUSINESS CARD, UNLESS YOU
9 ADDRESS THE RECORD, AND PLEASE STATE YOUR APPEARANCE AT
10 THAT TIME.

11 FOR THE RECORD, THE COURT NOTES HISTORICALLY
12 THIS IS A CONTINUATION OR CONTINUANCE OF THE FIRST
13 HEARING FOR COORDINATION. THE COURT HAD READ, RECEIVED
14 AND CONSIDERED THE FIRST ROUND OF PAPERS AND THEN
15 RECEIVED ADDITIONAL PLEADINGS -- EXCUSE ME -- BRIEFING AT
16 ITS REQUEST.

17 LET ME START BY SAYING WHAT I AM NOT GOING TO
18 BE ORDERING TODAY. THE ISSUE THAT WAS IN THE MIND OF
19 MANY OF THE PARTIES WAS WHETHER OR NOT THE CASE SHOULD
20 PROCEED ON AN INDIVIDUAL BASIS OR A BASIN-WIDE
21 ADJUDICATION. THAT WOULD NOT BE WHAT THE COURT IS GOING
22 TO BE ADDRESSING TODAY.

23 WHETHER OR NOT THE MATTER SHOULD PROCEED AS
24 INDIVIDUAL QUIET TITLE ACTIONS OR BASIN WIDE WOULD BE UP
25 TO THE JUDGE WHO GETS THE CASE TO DECIDE, BUT I AM STILL
26 INCLINED TO ORDER COORDINATION TO HAVE ALL THOSE ISSUES

1 RESOLVED, EXCEPT WITH THE TINY CARVE OUT FOR DIAMOND
2 FARMING ON THE TRIAL THAT WAS ABORTED TO MAKE ITS MOTION
3 FOR FEES AND COSTS IN THE RIVERSIDE SUPERIOR COURT, SO
4 THAT TRIAL JUDGE HAS THE BEST HANDLE ON ADDRESSING THAT
5 ISSUE. BUT FOR ALL OTHER PURPOSES THE MATTERS WILL BE
6 COORDINATED.

7 THE COURT IS MINDFUL OF THE NEED AND THE
8 REQUEST OF THE PARTIES FOR A NEUTRAL JUDGE, AND IN THAT
9 REGARD THE COURT WOULD BE RECOMMENDING OR TENTATIVELY --
10 I'M WILLING TO HEAR ARGUMENT -- TENTATIVELY WILLING TO
11 ASSIGN EITHER A RETIRED JUDGE SITTING ON ASSIGNMENT, OR
12 IN THE ALTERNATIVE, A JUDGE FROM A COUNTY OTHER THAN
13 LOS ANGELES COUNTY OR KERN COUNTY.

14 I UNDERSTAND THAT THERE IS A REQUEST THAT THE
15 MATTER BE HEARD IN THE VICINITY OF THE SITE OF THE WATER
16 TABLE THAT IS INVOLVED HERE, THE AQUIFER, AND THAT
17 LANCASTER MAY BE MOST CONVENIENT FROM THAT STANDPOINT,
18 BUT GIVEN THE AMOUNT OF COUNSEL AND THE NEED FOR
19 FACILITIES AND CAPABILITY OF HANDLING THE PAPER WORK THAT
20 IS JUST NOT GOING TO BE PRACTICAL.

21 SO MY TENTATIVE IS TO DETERMINE THE SITUS OF
22 THE ACTION TO BE LOS ANGELES COUNTY WITH A NEUTRAL JUDGE
23 FROM EITHER -- NOT FROM EITHER L.A. OR KERN COUNTY,
24 PREFERABLY A RETIRED JUDGE, AND THEN TO DESIGNATE THE
25 APPELLATE JURISDICTION AS THE FOURTH DISTRICT, DIVISION
26 2, WHICH IS RIVERSIDE, AND THAT WILL KIND OF KEEP YOU IN

1 THAT BALLPARK OVER THERE.

2 I THINK THE COMPLEX CENTER IN LOS ANGELES HAS
3 THE ABILITY TO HANDLE THE PAPER WORK AND ALSO THE
4 COURTROOMS THAT COULD ACCOMMODATE COUNSEL. EVERYBODY IS
5 SPREAD OUT ALL OVER THE PLACE. ORANGE COUNTY, EXCEPT FOR
6 ONE FIRM, REALLY IS NOT GEOGRAPHICALLY CONVENIENT FOR A
7 LOT OF PEOPLE.

8 LET ME HEAR FROM MOVING PARTIES FIRST, THE LOS
9 ANGELES COUNTY WATERWORKS DISTRICT.

10 MR. DUNN: MAY WE HAVE JUST A BRIEF MOMENT TO
11 CAUCUS ON THE TENTATIVE?

12 THE COURT: I CAN TAKE A FIVE-MINUTE RECESS.

13 MR. DUNN: IT WOULDN'T TAKE THAT LONG, YOUR
14 HONOR, JUST A MOMENT.

15 THE COURT: ALL RIGHT.

16 (DISCUSSION AMONG COUNSEL OFF
17 THE RECORD.)

18 MR. DUNN: ON BEHALF OF THE COUNTY WATERWORKS
19 DISTRICT, WE'LL ACCEPT THE TENTATIVE.

20 THE REPORTER: COUNSEL, YOUR NAME, PLEASE.

21 MR. DUNN: MY NAME IS JEFFREY DUNN.

22 THE COURT: ANY OTHER PARTIES, JUST FOR THE
23 RECORD, WHO ARE WILLING TO SUBMIT ON THE TENTATIVE?

24 MR. MARKMAN: YES, YOUR HONOR. CITY OF
25 PALMDALE ACCEPTS THE TENTATIVE.

26 MR. EVERTZ: YOUR HONOR, DOUG EVERTZ ON BEHALF

1 OF THE CITY OF LANCASTER. WE ACCEPT.

2 MR. O'NEILL: YOUR HONOR, STEVEN O'NEILL FOR
3 LITTLEROCK CREEK IRRIGATION DISTRICT AND PALM RANCH
4 IRRIGATION DISTRICT. WE ACCEPT.

5 MR. GARNER: ERIC GARNER ON BEHALF OF ROSAMOND
6 COMMUNITY SERVICES DISTRICT. WE ACCEPT.

7 MR. BUNN: GOOD MORNING, YOUR HONOR.

8 THOMAS BUNN ON BEHALF OF PALMDALE WATER
9 DISTRICT AND QUARTS HILL WATER DISTRICT. WE'LL ACCEPT.

10 THE COURT: ANY OTHER PARTIES WHO ARE
11 WILLING --

12 MS. GOLDSMITH: YES.

13 THE COURT: -- JUST TO FOCUS THE ARGUMENTS --

14 MS. GOLDSMITH: JANET GOLDSMITH ON BEHALF OF
15 THE CITY OF LOS ANGELES ACTING BOTH FOR THE DEPARTMENT OF
16 WATER AND POWER WHICH REPRESENTS THE LOS ANGELES AIRPORT
17 DISTRICT -- DEPARTMENT.

18 THE COURT: THAT'S THE DWP AND --

19 MS. GOLDSMITH: DWP AND LAWA. WE ACCEPT.

20 THE COURT: THANK YOU.

21 ALL RIGHT. AND THOSE COUNSEL THAT WISH TO
22 ARGUE IN OPPOSITION, I CAN TAKE YOU IN ANY ORDER.

23 MR. JOYCE: YES, YOUR HONOR.

24 BOB JOYCE APPEARING ON BEHALF OF THE PLAINTIFF
25 IN RIVERSIDE -- SORRY, YOUR HONOR.

26 (COUNSEL APPROACHES

1 MICROPHONE.)

2 THE COURT: THAT MAKES IT EASIER FOR US. THANK
3 YOU.

4 MR. JOYCE: GOOD MORNING, YOUR HONOR.

5 BOB JOYCE APPEARING ON BEHALF OF DIAMOND
6 FARMING COMPANY, ONE OF THE PLAINTIFFS IN THE RIVERSIDE
7 CONSOLIDATED ACTIONS.

8 THE COURT: ALL RIGHT. AND, YES, SIR, DO YOU
9 WISH TO BE HEARD FOR THE RECORD?

10 MR. JOYCE: YES, YOUR HONOR, I DO.

11 THE COURT: OKAY.

12 MR. JOYCE: YOUR HONOR, I APPRECIATE THE
13 COURT'S TENTATIVE. I WANT TO GET A POINT OF
14 CLARIFICATION.

15 THE COURT: ALL RIGHT.

16 MR. JOYCE: AND THEN I WILL ADDRESS THE
17 ARGUMENT.

18 FIRST OF ALL, THE COURT INDICATED THERE WILL BE
19 A CARVE OUT CONCERNING THE ISSUE OF THE MONETARY
20 SANCTIONS, WHICH WOULD BE APPROPRIATE, GIVING WHAT
21 ESSENTIALLY WILL COMPEL OF NECESSITY AN ORDER OF MISTRIAL
22 IN RIVERSIDE COUNTY SUPERIOR COURT ACTIONS. IS THAT
23 CORRECT?

24 THE COURT: WHATEVER THE -- WHATEVER THE
25 MOTIONS WOULD BE IT WOULD BE LIMITED TO THOSE POST-TRIAL
26 ISSUES, INCLUDING COSTS AND FEES. I'M NOT EXACTLY SURE,

1 YOU ARE SAYING YOU WOULD ALSO MOVE FOR MISTRIAL?

2 MR. JOYCE: WELL, YOUR HONOR, PRACTICALLY
3 SPEAKING AS WE STAND HERE TODAY THAT ACTION IS STILL IN
4 PROGRESS. JUDGE TRANBARGER AT THE TIME OF THE HEARING
5 POINTED OUT THAT ABSENT A STIPULATION FROM ALL PARTIES
6 THAT HE WAS WILLING -- EXCUSE ME -- THAT IF ALL PARTIES
7 STIPULATED HE WOULD USE THE TRANSCRIPTS AND THE EXHIBITS
8 AND PROCEED AND PICK UP THE TRIAL FROM WHERE IT WAS LEFT
9 OFF.

10 OBVIOUSLY, THE SITUATION WOULD HAVE BEEN THEN
11 IF THE PURVEYOR DEFENDANTS WERE TO HAVE REFUSED TO
12 STIPULATE, THEN OBVIOUSLY IN THE RIVERSIDE ACTION WE
13 WOULD HAVE THEN, PURSUANT TO JUDGE ETTINGER'S RULING,
14 RENEWED THE MOTION FOR THE SANCTIONS; SINCE OBVIOUSLY A
15 MISTRIAL WOULD HAVE BEEN DECLARED WHICH IT WOULD HAVE TO
16 BE. THAT MOTION WOULD THEN BE RIPE FOR CONSIDERATION.

17 IF THE COURT IS NOW GOING TO COMPEL OVERALL
18 COORDINATION, THEN AT SOME POINT SOMEONE IS GOING TO HAVE
19 TO ADDRESS THE TRIAL ISSUE AND SOME FORMAL ORDER OF
20 MISTRIAL WILL BE NECESSITATED AND THEN, OBVIOUSLY, THAT
21 WILL IN TURN BE FOLLOWED BY THE MOTION RENEWING THE
22 REQUEST FOR THE SANCTIONS.

23 THE COURT: I UNDERSTAND. LET ME GET
24 EVERYTHING AND THEN I CAN HEAR FROM THE OTHER SIDE TO SEE
25 WHAT WOULD MAKE THE BEST SENSE.

26 MR. JOYCE: OKAY. SO THAT IS MORE OF A

1 PROCEDURAL ISSUE?

2 THE COURT: RIGHT.

3 MR. JOYCE: AND THAT IS ON THE ASSUMPTION THAT
4 I AM GOING TO NOW ADDRESS THE MERITS OF THE ISSUE AND
5 THAT PROVE UNSUCCESSFUL. AND IF I'M CLEAR THEN, IF I
6 UNDERSTAND THE COURT'S TENTATIVE, THE COURT IS
7 ESSENTIALLY REVISING ITS PRIOR TENTATIVE RULING WHICH HAD
8 CARVED OUT THE RIVERSIDE ACTIONS AND LEFT THEM, SO THEY
9 COULD PROCEED TO TRIAL.

10 IS THAT CORRECT, YOUR HONOR?

11 THE COURT: MY TENTATIVE IS DIFFERENT IN THAT
12 RESPECT.

13 MR. JOYCE: OKAY. YES, YOUR HONOR. THAT'S
14 WHAT -- I APPRECIATE -- YOUR HONOR, I THINK -- I INTENDED
15 TO INITIALLY ATTEMPT TO RESPOND TO THE REPLY MEMORANDUM
16 FILED BY THE PURVEYOR GROUP ON A POINT-BY-POINT BASIS,
17 BUT I THINK I WANT TO TAKE A LITTLE MORE GENERALIZED
18 APPROACH, AND THAT IS IN THIS SENSE; I THINK IT IS
19 IMPRACTICAL AND FACTUALLY INAPPROPRIATE TO CONCLUDE THAT
20 COORDINATION IS GOING TO ULTIMATELY SERVE ANY USEFUL
21 PURPOSE.

22 AND I APPRECIATE THE COURT'S INITIAL COMMENTS
23 TO THE EFFECT THAT YOU ARE NOT PASSING UPON WHETHER OR
24 NOT ULTIMATELY IN A TRIAL CONTEXT EACH SEPARATE
25 LANDOWNER, PARCEL, PURVEYOR CLAIM ARE GOING TO HAVE TO BE
26 IN ESSENCE SEPARATELY ADJUDICATED, BUT THE ULTIMATE

1 REALITY IS THAT IS EXACTLY WHAT IS GOING TO HAVE TO
2 HAPPEN AND -- BECAUSE, PRACTICALLY SPEAKING, IF -- THE
3 COURT, I'M SURE, HAS NOW HAD THE OPPORTUNITY TO KIND OF
4 GET A SENSE OF THE LAW THAT IS APPLICABLE TO THIS ISSUE.

5 AT THE END OF THE DAY, WHEN IT IS ALL SAID AND
6 DONE, THE MOST SIGNIFICANT FACTUAL ADJUDICATION THAT IS
7 GOING TO BE REQUIRED IS GOING TO TURN UPON WHEN ANY
8 PARTICULAR LANDOWNER AS TO ANY PARTICULAR PARCEL OF
9 PROPERTY, OVERLYING WHATEVER THE AREA HAPPENS TO BE,
10 LEARNED OF OR HAD SUFFICIENT INFORMATION IMPARTED TO HIM
11 SO AS TO COMMENCE THE ACCRUAL OF A CAUSE OF ACTION IN
12 INVERSE CONDEMNATION.

13 BECAUSE LEGALLY THE PRESCRIPTIVE PERIOD AS
14 AGAINST A GIVEN LANDOWNER COULD NOT HAVE COMMENCED UNLESS
15 IT COINCIDED IN TIME WITH THE FIRST DAY THAT HE HAD AN
16 ACCRUED CAUSE OF ACTION IN INVERSE CONDEMNATION. TO SAY
17 OTHERWISE WOULD BE TO SUGGEST THAT THE EFFECTIVE
18 LANDOWNER HAD AN INJURY AND A WRONG BEING COMMITTED UPON
19 IT BY A PUBLIC AGENCY WHO COULD NOT BE RESTRAINED FROM
20 PUMPING BECAUSE OF THE INTERVENTION OF PUBLIC USE
21 DOCTRINE AND, YET, AT THE SAME TIME, BE LEFT WITH NO
22 REMEDY WHATSOEVER.

23 AND THE PRACTICAL REALITY IS, IS THAT THAT IS
24 GOING TO REQUIRE A LANDOWNER-BY-LANDOWNER INDIVIDUAL
25 AND/OR ENTITY-BY-ENTITY INQUIRY AND INVESTIGATION AS TO
26 WHAT THEY KNEW, WHEN THEY KNEW IT AND THE LIKE.

1 AND PRACTICALLY SPEAKING I WOULD REFER THE
2 COURT TO THE OBSERVATION BY THE CALIFORNIA SUPREME COURT
3 IN THE CITY OF SAN FERNANDO/LOS ANGELES WHERE THE COURT
4 MADE IT ABUNDANTLY CLEAR THAT THE ISSUE IS NOT WHEN DOES
5 THIS QUOTE, UNQUOTE, "CONCEPT OF OVERDRAFT" COMMENCE; THE
6 ISSUE IS WHEN IN FACT DOES THE AFFECTED LANDOWNER HAVE
7 ACTUAL NOTICE OF ADVERSITY IN FACT? NOT SOME
8 HYPOTHETICAL OR THEORETICAL ADVERSITY, NOT SOME CLAIM
9 THAT SOME 20 OR 30 YEARS DOWN THE ROAD IF THINGS AREN'T
10 DONE THAT HE SOMEHOW IS GOING TO THEN BE ADVERSELY
11 IMPACTED, BUT IN FACT SOME MANIFESTATION OF ADVERSITY IN
12 FACT AT THE TIME THAT THE PRESCRIPTIVE PERIOD WOULD
13 COMMENCE TO RUN.

14 AND SO THAT IS GOING TO MAKE IT OF NECESSITY A
15 WHOLE SERIES OF MINI TRIALS WITHIN A TRIAL.
16 UNFORTUNATELY, MY CLIENT IS JUST GOING TO BE ONE SMALL
17 PIECE OF THAT WHOLE LARGER PROBLEM.

18 WE STARTED THIS ACTION FOR A VERY SIMPLE,
19 STRAIGHTFORWARD REASON. WE WEREN'T TRYING TO SAY TO
20 ANYBODY, "SHUT YOUR PUMPS DOWN." WE WEREN'T TRYING TO
21 TELL LOS ANGELES OR THE CITY OR ANYBODY ELSE, "YOU CAN'T
22 PUMP WATER." ALL WE SAID, SIMPLY AND STRAIGHTFORWARDLY,
23 WAS, "TELL US, 'YES' OR 'NO,' HAVE WE MANAGED TO EITHER
24 THROUGH SELF-HELP, BY CONTINUING TO PUMP BEFORE AND
25 CONTINUE TO PUMP NOW AND CONTINUE TO PUMP AFTER,
26 PRESERVED OUR PRIORITY?" THAT'S IT.

1 THEY IN TURN RESPOND WITH A CLAIM OF
2 PRESCRIPTION. THE IRONY IS, IS THEY CONCEDE IN THEIR
3 REPLY MEMORANDUM OF POINTS AND AUTHORITIES THAT WE WERE
4 PUMPING BEFORE, WE ARE PUMPING NOW, AND WE ARE GOING TO
5 CONTINUE TO PUMP.

6 WELL, THEY ARE RIGHT. WE ARE GOING TO. THE
7 ONLY DIFFERENCE IS THAT AFTER WE GET OUR JUDGMENT, WE
8 WILL PUMP WITH AN AFFIRMED PRIORITY RIGHT AND THAT'S IT.
9 IT IS PURE AND SIMPLE.

10 SO I'M HAVING A HARD TIME UNDERSTANDING HOW
11 PULLING US OUT OF THE RIVERSIDE COURT AND COMPELLING US
12 TO PARTICIPATE IN WHAT IS GOING TO TURN OUT TO BE A
13 MONSTROUSLY TIME-CONSUMING AND EXPENSIVE PROPOSITION
14 SERVES THE UNDERLYING PURPOSE OF CODE OF CIVIL PROCEDURE
15 SECTION 401 WHICH IS TO -- WHICH IS PRIMARILY INTENDED TO
16 DO AND ENSURE THAT UPON CONSIDERING THESE KINDS OF
17 MOTIONS THAT THE ENDS OF JUSTICE ARE MET.

18 IF THE COURT WILL NOTE ON MY MEMORANDUM OF
19 POINTS AND AUTHORITIES, I RAISED A QUESTION IN FOOTNOTE
20 NO. 1 AND THAT QUESTION HAS NEVER BEEN ANSWERED. THAT
21 QUESTION WAS PRETTY SIMPLE. IT IS THAT ALL THESE LAWYERS
22 REPRESENTING ALL THESE MUNICIPALITIES AND PUMPERS, THEY
23 ARE ALL THE WATER EXPERTS. IF YOU LOOK AT THE FIRMS'
24 RESUMES THAT'S WHAT THEY DO FOR A LIVING.

25 WELL, I'M NOT A WATER EXPERT, I'M JUST A
26 LITIGATOR, BUT THE ISSUE I RAISED IS PRETTY

1 STRAIGHTFORWARD AND PRETTY SIMPLE AND THAT IS THIS: WE
2 FILED A COMPLAINT, SIMPLE AND STRAIGHTFORWARD, COURT
3 PLEASE AFFIRM THE PRIORITY OF OUR RIGHT.

4 THEY AT THAT TIME GOT SERVED WITH THAT
5 COMPLAINT. THE LAW GAVE THEM OPTIONS. I'M CERTAIN THEY
6 CONSULTED THEIR CLIENTS. I'M CERTAIN THAT THEY ADVISED
7 THEM OF WHAT THEY COULD DO LEGALLY. ONE OF THE THINGS
8 THEY COULD HAVE DONE IS THEY COULD HAVE FILED A
9 PERMISSIVE CROSS-COMPLAINT AND AT THAT TIME TURNED THIS
10 INTO WHAT THEY ARE NOW TRYING TO DO TODAY.

11 THEY DIDN'T DO THAT. THEY MADE THE CONSCIOUS,
12 INTELLIGENT DECISION TO LEAVE THE DISPUTE AS BETWEEN THEM
13 AND ME AND THAT WAS IT. THEY DIDN'T FEEL ANY COMPULSION
14 TO BRING IN EVERY OTHER LANDOWNER AT THAT POINT. THEY
15 OPTED TO NOT DO THAT.

16 THEY CONSCIOUSLY ELECTED TO NOT FILE THE
17 COMPULSORY CROSS-COMPLAINT -- EXCUSE ME, THE PERMISSIVE
18 CROSS-COMPLAINT WHICH THEY COULD HAVE DONE. AND I POSIT
19 IN FOOTNOTE 1 IN MY MEMORANDUM OF POINTS AND AUTHORITIES,
20 WHAT'S THE REASON? I KNOW THE ANSWER. AND I WOULD LIKE
21 TO HEAR IT FROM THEM.

22 BECAUSE IT IS THE POSITION OF THESE FOLKS OVER
23 HERE, AND THEY KNOW IT, THERE IS NO SINGLE LANDOWNER WHO
24 CAN STAND UP TO THEM. THIS WILL BECOME SO MONUMENTALLY
25 EXPENSIVE THAT THERE IS NO SINGLE TRACT OF REAL PROPERTY
26 OUT THERE THAT IS WORTH WHAT IT IS GOING TO COST TO

1 LITIGATE THESE CLAIMS.

2 AND IF WE GET SUCKED INTO THIS THING AND HAVE
3 TO GO THROUGH -- I'M INVOLVED IN THE SANTA MARIA CASE AND
4 THIS SUGGESTION THAT SOMEHOW WE ARE GOING TO GET A TRIAL
5 DATE IN THE FALL OF -- OF 2007 IS A COMPLETE LUDICROUS
6 SUGGESTION. IT IS JUST NUTS.

7 THEY KNOW IT AND I KNOW IT BECAUSE THAT CASE
8 HAS BEEN PENDING FOR NINE YEARS ALREADY, AND IT IS
9 NOWHERE CLOSE TO BEING OVER, UNLESS WE SUCCESSFULLY
10 SETTLE IT.

11 SECONDLY, IF THEIR CLAIM IS TRUE, THAT THE ONLY
12 WAY TO RESOLVE THIS ENTIRE DISPUTE IS TO HAVE EVERYBODY
13 BEFORE THE COURT IN ONE PROCEEDING, WHY WERE THEY WILLING
14 TO NEGOTIATE FOR 18 MONTHS SEPARATELY WITH US?

15 IT IS ONLY WHEN THOSE SETTLEMENT NEGOTIATIONS
16 BROKE DOWN AND THAT WE ASKED THE TRIAL COURT IN RIVERSIDE
17 TO RESET THE MATTER FOR TRIAL THAT THEY SUDDENLY DECIDE,
18 UH-OH, NOW IT IS TIME TO THROW UP ANOTHER ROADBLOCK
19 BECAUSE THE DAY OF RECKONING WAS GOING TO COME.

20 WE WERE GOING TO GET A TRIAL DATE. WE WERE
21 GOING TO TRY THE CASE AND THEN WE WERE GOING TO GET WHAT
22 WE ARE GOING TO GET EVENTUALLY ANYWAY AND THAT IS AN
23 AFFIRMATION OF OUR PRIORITY. BECAUSE THE REAL
24 UNDISPUTABLE FACT, A CONCEDED FACT, WE PUMPED; WE PUMP;
25 AND WE WILL CONTINUE TO PUMP.

26 MOJAVE, DOCTRINE OF SELF-HELP, EVEN IF THEY

1 PROVE EVERY ELEMENT OF PRESCRIPTION, WE STILL PRESERVED
2 OUR PRIORITIES. IT IS THAT SIMPLE.

3 SO I DON'T SEE WHERE THE UTILITY IS OF
4 COMPELLING MY CLIENT TO -- TO INCUR PROBABLY SIX OR SEVEN
5 TIMES THE LITIGATION COSTS TO PARTICIPATE IN THIS
6 PROCEEDING ON A COORDINATED BASIS.

7 I MEAN, I CAN'T EVEN BEGIN TO FATHOM -- THIS
8 GEOGRAPHIC AREA IN THE ANTELOPE VALLEY IT IS ABOUT
9 THREE-AND-A-HALF TIMES THE SIZE OF THE SANTA MARIA VALLEY
10 LITIGATION. THE NUMBER OF PARTIES, MULTIPLY IT BY FOUR
11 OR FIVE. IN THAT CASE THERE IS -- I THINK THERE'S 826
12 PARTIES. WE ARE GOING TO HAVE THOUSANDS OF PARTIES HERE.

13 THEY HAVE TO SUE EVERY SINGLE OWNER OF EVERY
14 SINGLE PIECE OF PROPERTY WITHIN WHATEVER AREA IT IS THEY
15 CLAIM HAPPENS TO BE THE BASIN. OF WHAT UTILITY IS IT TO
16 MAKE ME SIT ON BEHALF OF MY CLIENT INCURRING ENORMOUS
17 LEGAL FEES THROUGH A VERY LONG TRIAL TO HEAR EVERYBODY
18 ELSE'S INDIVIDUAL CLAIM?

19 AND THAT'S WHAT IS GOING TO HAPPEN. EVERY
20 SINGLE PERSON IS GOING TO SAY, "I DON'T EVEN LIVE IN THE
21 AREA. I DON'T EVEN PUMP WATER. AND YOU ARE TELLING ME I
22 LOST MY RIGHTS. HOW DID THAT HAPPEN?"

23 BUT THAT IS THE KINDS OF FACTUAL INQUIRIES THAT
24 ARE GOING TO OCCUR THAT ARE GOING TO BE UNIQUE ON A PIECE
25 OF PROPERTY, INDIVIDUAL-OWNER BASIS. AND SO I'M STILL
26 HARD PRESSED TO UNDERSTAND WHERE THERE IS ANY LEGAL

1 UTILITY AND HOW THE ENDS OF JUSTICE ARE BEING PROMOTED BY
2 LITERALLY TELLING MY CLIENT TODAY, YOU MIGHT AS WELL
3 THROW IN THE BAG. YOU CAN'T AFFORD TO STAY IN THIS
4 ANYMORE. BECAUSE THAT IS WHAT IS HAPPENING.

5 THE COURT IS TELLING MY CLIENT, UNLESS YOU WANT
6 TO SPEND ANOTHER 800,000, MAYBE ANOTHER MILLION DOLLARS,
7 AND STICK IT OUT FOR THE NEXT EIGHT TO TWELVE YEARS; GIVE
8 UP. THROW IT IN. IT IS OVER. THAT IS NOT PROMOTING THE
9 ENDS OF JUSTICE, YOUR HONOR.

10 WE CAN GO BACK TO RIVERSIDE; WE CAN TRY OUR
11 CASE; AND WE CAN HAVE IT DONE IN 12 MONTHS TO 14 MONTHS.
12 NO -- WITHOUT ANY DOUBT WHATSOEVER. WHEN WE DISCONTINUED
13 THE PHASE 1 TRIAL EVERY ONE OF THESE PERSONS STOOD IN
14 THAT ROOM BEFORE THAT JUDGE AND GAVE HER A TRIAL ESTIMATE
15 OF TWO WEEKS TO FINISH IT.

16 WELL, WE ARE NOT TALKING ABOUT TWO WEEKS. WE
17 ARE TALKING ABOUT 15 YEARS. MARK MY WORDS, AND I'LL MAKE
18 THIS ON THE RECORD, THIS CASE WILL NOT SEE A TRIAL DATE
19 FOR AT LEAST 5 YEARS. AND IF ANY ONE OF THESE LADIES AND
20 GENTLEMEN WILL TELL YOU TO THE CONTRARY, THEN JUST ASK
21 THEM, "HOW LONG DID IT TAKE YOU TO GET PHASE 1 TRIED IN
22 SANTA MARIA? HOW LONG DID IT TAKE YOU TO GET PHASE 2
23 TRIED? HOW MANY PHASES DID YOU ANTICIPATE AND HOW MANY
24 PHASES HAVE YOU TRIED?"

25 WELL, I KNOW THE ANSWER. WE FINISHED PHASE 3
26 IN OCTOBER A YEAR AGO. AND THERE IS PROBABLY TWO PHASES

1 TO GO, MINIMALLY, AND THAT'S NINE -- TWO YEARS AGO, I'M
2 SORRY -- AND THAT'S -- AND THAT'S NINE YEARS AFTER THE
3 CASE STARTED.

4 THIS IS GOING TO BE THREE TIMES WORSE JUST BY
5 THE SHEER NUMBER OF PARTIES THAT ARE GOING TO END UP
6 BEING BEFORE THE COURT, AND I'M HAVING A HARD TIME
7 UNDERSTANDING HOW A SIMPLE, SINGLE, STRAIGHTFORWARD ISSUE
8 BY ONE PLAINTIFF HAS TO THEN GET SUCKED INTO THE
9 CAULDRON, STIRRED INTO THE POT WITH ALL THE COSTS AND
10 EXPENSES THAT ARE GOING TO BE ASSOCIATED WITH IT.

11 AND AGAIN I SAY SIMPLY, ASK THEM, YOUR HONOR --
12 MAKE THEM ANSWER FOOTNOTE 1 ON PAGE 8 OF MY MEMORANDUM OF
13 POINTS AND AUTHORITIES. THEY COULD HAVE DONE THIS WAY
14 BACK WHEN AND THEY DIDN'T. AND I WANT TO KNOW WHY AND I
15 THINK THE COURT DESERVES AN EXPLANATION, AS WELL.

16 THE COURT: JUST A BRIEF COMMENT. IT APPEARS
17 TO THE COURT THAT COUNSEL IS ASSUMING THE WORST CASE
18 SCENARIO. AND I UNDERSTAND THE CASE COULD LAST A DECADE
19 OR MORE, BUT I THINK THESE ARE THRESHOLD ISSUES WHICH THE
20 COORDINATION JUDGE WOULD HAVE TO MAKE.

21 JUST BECAUSE THE COURT IS COORDINATING --
22 THAT'S WHY I STARTED OFF WITH THE PREAMBLE THAT I'M NOT
23 SAYING WHETHER THIS SHOULD BE PARCEL BY PARCEL OR BASIN
24 WIDE. THAT IS FOR THE COORDINATION JUDGE TO HANDLE.

25 YOU COULD BE SUED BY ALL THESE PEOPLE INSTEAD
26 OF JUST ONE, OR YOU COULD SUE ONE AND THE NEXT ONE SUES

1 YOU, AND WHEN THAT IS DONE THE NEXT ONE SUES YOU. I
2 MEAN, I DON'T KNOW WHAT COULD HAPPEN. THEY COULD STILL
3 ROUGH YOU UP ONE WAY OR THE OTHER.

4 THESE ARE ALL THRESHOLD ISSUES WHICH I WANT TO
5 MAKE CLEAR FOR THE RECORD JUST BECAUSE I SAY I'M
6 COORDINATING I AM NOT REACHING THE MERITS OF THOSE
7 ISSUES, THAT YOU STILL HAVE ALL YOUR RIGHTS PRESERVED TO
8 TELL A JUDGE WITH ALL THE PARTIES PRESENT WHETHER THIS
9 SHOULD BE PARCEL BY PARCEL OR, YOU KNOW, 900 SQUARE MILES
10 OF LANDOWNERS.

11 MR. JOYCE: YOUR HONOR, I APPRECIATE THAT,
12 BUT -- AND THAT'S ALL THE MORE REASON WHY THIS COURT CAN
13 VERY EASILY GO BACK TO ITS ORIGINAL TENTATIVE BECAUSE IN
14 ITS ORIGINAL TENTATIVE THE COURT RECOGNIZED THE FACT THAT
15 WE ARE IN TRIAL.

16 THERE HAS BEEN NO DECLARED MISTRIAL AS OF YET.
17 AND, CONSEQUENTLY, THERE'S BEEN NO THRESHOLD POINT AT
18 WHICH WE COULD GO BACK TO THE RIVERSIDE COURT, OR FOR
19 THAT MATTER ANY COURT, AND SAY, HOLD IT. LET'S GO BACK
20 THEN AND REVISIT THE ISSUE THAT WAS RESERVED BY THE TRIAL
21 JUDGE, AND THAT IS, HOW MUCH SHOULD WE BE COMPENSATED
22 BECAUSE THE PHASE I TRIAL GOT ABORTED AT THEIR
23 INSISTENCE?

24 WHAT THE POSTURE IS RIGHT NOW IS THAT WE HAVE
25 BEEN NAMED, MY CLIENT HAS, IN BOTH OF THE NEW ACTIONS,
26 THE ONE IN KERN COUNTY AND THE ONE IN L.A. SO IF THE

1 COURT ADOPTS ITS TENTATIVE AND COORDINATES THOSE TWO
2 ACTIONS, MY CLIENT IS STILL IN THOSE TWO ACTIONS AS A
3 DEFENDANT.

4 THE DIFFERENCE IS, IS THIS: IS THAT THEN WE
5 GET TO TEST LEGALLY THE PROPRIETY OF WHETHER OR NOT MY
6 CLIENT SHOULD BE COMPELLED TO PARTICIPATE IN WHAT IS
7 GOING TO TURN OUT TO BE A DONNYBROOK THAT IS GOING TO
8 LAST YEARS AND YEARS AND YEARS AND THAT RUNNING UP -- MY
9 CLIENT IS GOING TO HAVE TO THEN BE PREPARED TO SADDLE THE
10 ENORMOUS ADDITIONAL EXPENSE THAT IS GOING TO BE
11 SHOULDERED UPON THEM TO BE INVOLVED IN THAT KIND OF A
12 LITIGATION.

13 I HAVE PENDING IN BOTH OF THOSE TWO ACTIONS A
14 DEMURRER. I'M CHALLENGING THE REALITY AND THE FACT THAT
15 YOU DON'T HAVE A RIGHT TO TRY TO SUCK ME IN ON THESE NEW
16 ACTIONS ON CLAIMS THAT YOU SHOULD HAVE ASSERTED AS
17 AGAINST ME BY WAY OF COMPULSORY CROSS-COMPLAINT WHEN YOU
18 FILED YOUR ANSWER IN RIVERSIDE WAY BACK WHEN.

19 IT IS THE SAME ISSUE RAISED IN FOOTNOTE NO. 1.
20 YOU HAD THE PROCEDURAL LEGAL RIGHT TO DO BY
21 CROSS-COMPLAINT FOUR YEARS -- FIVE YEARS AGO WHAT YOU ARE
22 NOW TRYING TO DO BY WAY OF A PETITION FOR COORDINATION.
23 THEY ARE JERKING THE SYSTEM AROUND AND USING NEW ACTIONS
24 IN THIS PETITION TO CORRECT A FUNDAMENTAL FLAW IN THEIR
25 STRATEGY THAT OCCURRED FIVE YEARS AGO.

26 IF THEY WANTED ADJUDICATION OF THE BASIN AT

1 THAT TIME, FILE YOUR CROSS-COMPLAINT. THEY DIDN'T. WHAT
2 IS THE EXPLANATION? THERE IS NONE, EXCEPT FOR AT THAT
3 TIME THEY WERE PERFECTLY WILLING TO RESOLVE THEIR
4 DISPUTES ON A SEPARATE BASIS WITH JUST MY CLIENT AND WITH
5 BOLTHOUSE, AND THEY SETTLED -- THEY NEGOTIATED WITH US
6 FOR 18 MONTHS.

7 WHEN THEY DIDN'T GET THEIR WAY, WHEN WE FAILED
8 OR REFUSED TO SUCCUMB TO THEIR DEMANDS, OR HOWEVER YOU
9 WANT TO CHARACTERIZE HOW IT TURNED OUT, THEN THEY DECIDE
10 THEY WANT TO TURN THE CLOCK BACK AND DO A PETITION FOR
11 COORDINATION; DO WHAT THEY DID NOT DO LEGALLY, THEY HAD A
12 RIGHT TO DO AT THAT TIME.

13 I WANT AN ANSWER TO FOOTNOTE 1 TO MY MEMORANDUM
14 OF POINTS AND AUTHORITIES. WHY DIDN'T YOU DO WHAT THE
15 LAW PERMITTED YOU TO DO WHEN YOU ANSWERED THE COMPLAINT
16 IN THE FIRST PLACE?

17 YOUR HONOR, THIS IS NOT IN THE ENDS OF JUSTICE
18 TO COMPEL MY CLIENT TO HAVE TO BUDGET ON A GOING FORWARD
19 BASIS THREE TO FOUR TIMES WHAT IT SHOULD COST THEM TO GET
20 A SIMPLE ANSWER TO A SIMPLE QUESTION. DO WE OR DON'T WE
21 HAVE A PRESERVED PRIORITY RIGHT ON OUR TWO PIECES OF
22 PROPERTY? THAT'S IT. TWO PIECES OF PROPERTY, DO WE OR
23 DON'T WE HAVE OUR RIGHT? PURE AND SIMPLE. ESTIMATED
24 PREVIOUSLY TO BE A TWO-WEEK TRIAL THAT COULD HAVE BEEN
25 DONE AT THAT TIME FOUR MONTHS, I.E. APRIL OF 2003.

26 ADMITTEDLY, WE PUT IT OFF AND WE NEGOTIATED FOR

1 THAT PERIOD OF TIME AND WE ARE WHERE WE ARE TODAY, BUT
2 THEY SHOULD NOT BE PERMITTED TO CIRCUMVENT THE CODE OF
3 CIVIL PROCEDURE ON PETITION FOR COORDINATION AND
4 EFFECTIVELY ACCOMPLISH WHAT THEY FAILED TO DO WHEN THEY
5 MADE THE KNOWING, INTELLIGENT AND VOLUNTARY DECISION TO
6 NOT CROSS-COMPLAIN EITHER PERMISSIVELY OR COMPULSORY AT
7 THE TIME THEY ANSWERED THE ORIGINAL COMPLAINT.

8 IT IS THAT SIMPLE, YOUR HONOR. THIS IS NOT
9 JUSTICE. THIS IS A PERVERSION OF JUSTICE.

10 THE COURT: COUNSEL, DO YOU WISH TO BE HEARD?

11 MR. ZIMMER: YES, YOUR HONOR. GOOD MORNING,
12 YOUR HONOR. RICHARD ZIMMER FOR BOLTHOUSE FARMS.

13 YOUR HONOR, I FEEL SORRY FOR THE LITTLE GUY WHO
14 WANTS TO TRY AND FILE A QUIET TITLE ACTION WHEN SOMEBODY
15 IS PUMPING WATER IN HIS STREAM ABOVE HIS PROPERTY.

16 BECAUSE IF YOU FOLLOW THE LOGIC THAT THESE
17 GENTLEMEN WANT YOU TO FOLLOW IN THOSE BRIEFS, IT MEANS
18 THAT IN ANY CASE LIKE THAT, EVERY SINGLE LANDOWNER WHO
19 ADJOINS THAT STREAM OR EVERY SINGLE FARMER WHO IS PUMPING
20 A WELL ANYWHERE MUST BRING IN ALL PARTIES THAT PUMP FROM
21 THE SAME WATER SOURCE.

22 I SHARE A LOT OF MR. JOYCE'S THOUGHTS REGARDING
23 THIS ACTION. I'VE BEEN IN THE ACTION -- RIGHT AFTER
24 MR. JOYCE WAS IN IT, WE WERE JOINED IN IT. AND WE FILED
25 A QUIET TITLE ACTION.

26 THE SIMPLE ANSWER IS A QUIET TITLE ACTION IS A

1 PROPER ACTION UNDER THE LAW. IT IS A PROPER ACTION TO
2 TRY AND LITIGATE A CASE IN AN ECONOMICALLY FEASIBLE
3 MANNER AND TO LITIGATE THAT SMALL ISSUE THAT YOU ARE
4 TRYING TO TAKE CARE OF AND THAT'S EXACTLY WHAT WE ARE
5 DOING.

6 WE BEGAN A TRIAL IN THIS CASE. AND WE TRIED
7 THIS CASE AND AS FAR AS I'M CONCERNED THAT CASE WAS GOING
8 VERY WELL FOR US. THE EXPERT TESTIMONY WAS VERY HELPFUL
9 TO US. AND I THINK THE FACT THAT THAT TESTIMONY WAS VERY
10 HELPFUL TO US IS -- IS VERY CLEAR BY HOW THE WATER
11 PURVEYORS RESPONDED TO IT.

12 YOU HAVE THESE MASSIVE WATER PURVEYORS
13 REPRESENTING THE COUNTY OF LOS ANGELES AND ALL THESE BIG
14 ENTITIES WHO HAVE ENORMOUS MONEY THAT THEY CAN SPEND ON
15 THIS. THEY CAN SPEND ALL DAY WORKING ON THESE CASES AND
16 ALL NIGHT, IF THEY WANT TO, AND GET THOSE BILLS PAID.

17 AND AS SOON AS WE OBTAINED FAVORABLE TESTIMONY
18 IN THAT ACTION DOWN IN RIVERSIDE THAT SHOWED US THAT THEY
19 COULD IN NO WAY PROVE THEIR CASES AGAINST US, WHAT DID
20 THEY DO? THE FIRST THING THEY DID WAS THEY FILED A
21 MOTION TO VACATE A STIPULATION THAT HAD BEEN ENGAGED IN
22 OVER A MONTH'S PERIOD OF TIME BETWEEN ALL PARTIES IN
23 AGREEING ON THE LANGUAGE.

24 THEN THEY SAID, WELL, WE NOW DON'T UNDERSTAND
25 WHAT THAT STIPULATION MEANS. THEN THEY GOT THE COURT TO
26 VACATE A BIFURCATION ORDER WHICH WE HAD ARGUED AGAINST

1 BECAUSE IT WAS NOT THE APPROPRIATE WAY TO LOOK AT THE
2 CASE, AS FAR AS WE WERE CONCERNED.

3 THE JUDGE, COMMISSIONER ETTINGER, ULTIMATELY
4 AGREED WITH US AND VACATED THE BIFURCATION ORDER AND
5 SAYS, OKAY, EVERYTHING WILL BE TRIED IN THE COMPLETION OF
6 THIS CASE.

7 ALL PARTIES SAT THERE AND AGREED, WENT OUT IN
8 THE HALL AND WE ALL AGREED THAT THE CASE WILL BE TRIED IN
9 I THINK IT WAS LIKE SIX OR SEVEN MONTHS AND THAT THE CASE
10 WOULD TAKE ABOUT TWO WEEKS TO COMPLETE.

11 WHAT DID THEY DO THEN? THEN THEY SAID, WELL,
12 WE WANT TO ENGAGE IN SETTLEMENT NEGOTIATIONS, AND THEY
13 DREW US OFF ONTO THIS -- THEY ALWAYS HAD THESE PROMISES
14 OF, YES, WE CAN SETTLE THIS. WE CAN SETTLE THIS CASE.
15 AND THEY DRAW US OFF AND WE HAD THESE SETTLEMENT
16 NEGOTIATIONS. WE SPEND MORE AND MORE OF OUR MONEY. THEY
17 DRAW OUT THE CASE LONGER AND LONGER AND LONGER.

18 AND THEN WHEN THAT DIDN'T WORK, AS MR. JOYCE
19 CORRECTLY POINTED OUT, THEN THEY TRIED TO FILE A
20 CROSS-COMPLAINT TO EXTEND THIS INTO A BASIN-WIDE
21 ADJUDICATION.

22 AND MR. JOYCE IS RIGHT. THEY COULD HAVE DONE
23 IT FIVE YEARS AGO. AND IT WASN'T DONE, NO. 1, BECAUSE
24 THE QUIET TITLE ACTION WAS APPROPRIATE. NO. 2, BECAUSE
25 THE PARTIES IN THE ACTION WERE APPROPRIATE. NO. 3,
26 BECAUSE THE LEGAL ACT -- ISSUES BEFORE THE COURT WERE

1 APPROPRIATE. THERE WERE NO DEMURRERS IN THAT ACTION.
2 THERE WAS NO PARTIES SAYING THIS IS LEGALLY
3 INAPPROPRIATE, AS YOU'VE SEEN IN THESE BRIEFS.

4 THIS WAS ALL TACTICAL. THEY STRUNG US OUT FOR
5 FIVE YEARS AND THEY SPENT MONIES APPROACHING A MILLION
6 DOLLARS TRYING TO GET OUR RIGHTS LITIGATED.

7 NOW THEY COME TO THE COURT AND ASK FOR
8 COORDINATION. AND THEY SAY, WELL, WE DON'T CARE ABOUT
9 THE MONEY THEY'VE SPENT. WE DON'T CARE ABOUT THE FACT
10 THAT THEY'VE SPENT FIVE YEARS DOING THIS. WE DON'T CARE
11 ABOUT WHETHER THEY CAN PLAN FARMING OPERATIONS IN THE
12 ANTELOPE VALLEY.

13 THEY DON'T CARE ABOUT THE FACT THAT THEY ARE
14 GOING TO BRING ALL THESE SMALL PROPERTY OWNERS IN THE
15 ANTELOPE VALLEY INTO THIS THING AND DRIVE THEM INTO THE
16 GROUND, AS WELL.

17 ALL THEY CARE ABOUT IS WHETHER THEY GET THEIR
18 WAY AND THEY GET RID OF THE TRIAL IN RIVERSIDE. BECAUSE
19 MR. JOYCE IS RIGHT. THAT TRIAL IN RIVERSIDE, IF TRIED,
20 IS GOING TO HIGHLIGHT WHETHER THEY CAN PROVE THEIR CASES
21 OR NOT.

22 BASED ON THE DOCTRINE OF SELF-HELP AND THE
23 BARSTOW CASE, WHICH IS THE MOST RECENT SUPREME COURT
24 DECISION, THERE IS NO WAY THEY ARE GOING TO BE ABLE TO
25 PROVE THEIR CASE. BUT THEY DON'T WANT THAT TO HAPPEN.
26 THEY WANT TO STRING IT OUT ANOTHER 10 YEARS, 15 YEARS AND

1 DRIVE EVERYBODY INTO THE GROUND FINANCIALLY.

2 AND I AGREE WITH MR. JOYCE. IF I'M
3 UNDERSTANDING THE COURT'S RULING CORRECTLY IS THAT WHEN
4 MR. JOYCE MENTIONED THE MISTRIAL, I AGREED WITH MR. JOYCE
5 THAT THAT WOULD HAVE PROBABLY THE PROCEDURAL EFFECT OF A
6 MISTRIAL.

7 I THINK WHAT THE COURT WAS SAYING IS THAT THE
8 COORDINATION JUDGE WOULD MAKE A DECISION AS TO WHETHER
9 THE BOLTHOUSE AND DIAMOND FARMING ACTION WOULD BE TRIED
10 SEPARATELY APART FROM THE OTHER ACTIONS AND -- BUT I
11 THINK THE SAME THING CAN HAPPEN WITH A -- WITH A TRIAL
12 BEING COMPLETED IN RIVERSIDE.

13 BECAUSE THE TRIAL CAN BE COMPLETED IN RIVERSIDE
14 AND THERE WILL BE A DECISION ONE WAY OR ANOTHER ON
15 WHETHER THEY PROVED THEIR PRESCRIPTIVE CLAIMS BASED ON
16 THE WAY THEY WANT TO TRY AND PROVE THEM. AND, BELIEVE
17 ME, THAT WILL HAVE A BEARING ON THIS BASIN-WIDE
18 ADJUDICATION CASE.

19 NO. 1, IT WILL DECIDE THE ISSUE. ALL PARTIES
20 IN THE ANTELOPE VALLEY WILL HAVE A VISION OF WHAT IS
21 LIKELY TO HAPPEN WHEN THEY TRY AND PROVE IT IN THE
22 BASIN-WIDE ADJUDICATION CASE.

23 THE PLAINTIFFS IN THAT CASE WILL GET THEIR DAY
24 IN COURT, WHICH I THINK THEY JUSTLY DESERVE, AND THE
25 COORDINATION JUDGE, IF YOU -- AS YOUR TENTATIVE WAS
26 SUGGESTING -- COORDINATE THE LOS ANGELES COUNTY AND

1 THE KERN COUNTY ACTIONS, THEN WE HAVE -- WE COMPLETE OUR
2 LITIGATION IN RIVERSIDE; THE COURT WILL STILL USE
3 WHATEVER HAPPENS THERE IN THE COORDINATED PROCEEDINGS.
4 SO I DON'T SEE ANY DOWNSIDE TO ALLOWING THAT -- THAT
5 PROCEEDING TO GO FORWARD.

6 THE COURT CAN SUMMARILY DENY THE PETITION FOR
7 COORDINATION, I KNOW THE COURT IS AWARE, YOU KNOW, SIMPLY
8 BECAUSE OF THE FACT THAT TRIAL HAS BEGUN OR IF TRIAL IS
9 IMMINENT. BUT THE FACT OF THE MATTER IS THAT IT IS JUST
10 UNJUST AFTER THIS AMOUNT OF TIME TO LET PARTIES TAKE
11 TACTICAL ADVANTAGE OF OTHER PARTIES WHEN -- THESE ARE ALL
12 INTENTIONAL ACTS. EVERY SINGLE ACT WAS DONE
13 AFFIRMATIVELY BY THESE WATER PURVEYORS, OR THEIR LAWYERS,
14 I SHOULD SAY.

15 THEY -- THEY KNEW WHAT THEY WERE DOING.
16 THEY -- THEY ARE VERSED IN THE WATER LAW, AND THEY DIDN'T
17 DO IT UNTIL THE EVE OF TRIAL TO TRY AND DERAIL THE ENTIRE
18 PROCESS. THIS IS ALL A TACTICAL WAY TO CAUSE A MISTRIAL
19 OF THE -- OF THE RIVERSIDE ACTION.

20 WOULD IT BE ANY DIFFERENT IF IT WAS THE LITTLE
21 GUY PUMPING OUT OF HIS WELL? WE ARE FARMERS. WE'VE GOT
22 PRETTY GOOD SIZE FARMS, BUT IS IT ANY DIFFERENT FOR
23 ANYBODY TRYING TO GET THEIR DAY IN COURT TO TRY AND GET
24 JUSTICE SOMEWHERE? WE ARE JUST TRYING TO QUIET OUR TITLE
25 BECAUSE YOU GUYS SAY, "YOU ARE STEALING OUR WATER." DOES
26 THAT MEAN THAT WE HAVE TO GO OUT AND SUE EVERY SINGLE

1 PERSON EVERYWHERE THAT IS ATTACHED TO THAT WATER SOURCE?

2 DOES THAT MEAN THAT ANYBODY ELSE IN THE FUTURE
3 FROM THIS DAY FORWARD HAS TO GO OUT AND SUE EVERYBODY
4 TO -- TO SAY THAT, "HEY, YOU ARE DRAWING DOWN MY WELL;
5 STOP DOING THAT"? THAT IS WRONG.

6 AND IT IS WRONG -- IT IS WRONG FOR THESE
7 LAWYERS TO BE TRYING TO DO THAT TO NOT ONLY MY CLIENTS,
8 BUT EVERYBODY ELSE WHO WILL FROM HEREINAFTER GO FORWARD
9 IN SIMILAR ACTIONS.

10 THAT'S ALL I HAVE, YOUR HONOR. THANK YOU.

11 THE COURT: THANK YOU. ANY OTHERS IN
12 OPPOSITION?

13 MR. JOYCE: YOUR HONOR, I NEED A POINT OF
14 CLARIFICATION.

15 THE COURT: YES.

16 MR. JOYCE: IN THE COURT'S EXPRESSION OF ITS
17 TENTATIVE AS TO THE PROCEDURAL MECHANISM TO AT SOME POINT
18 ADDRESS THE SANCTIONS ISSUES -- I'M ASSUMING THAT THE
19 TENTATIVE IS HELD TO TODAY -- I PRESUME THAT THE COURT
20 INTENDED TO INCLUDE BOLTHOUSE IN THAT, AS WELL. THE
21 COURT ONLY MENTIONED DIAMOND FARMING, BUT ACTUALLY
22 DIAMOND FARMING AND BOLTHOUSE HAD PENDING MOTIONS FOR
23 SANCTIONS AT THE TIME THAT THE COURT RESERVED
24 JURISDICTION IN RIVERSIDE ON THAT ISSUE.

25 THE COURT: SANCTIONS ARISING OUT OF THE
26 ABORTED TRIAL.

1 MR. JOYCE: EXACTLY.

2 THE COURT: ALL THE PARTIES WHO WERE IN -- WAS
3 IT TWO SEPARATE TRIALS OR YOU WERE IN ONE TRIAL?

4 MR. JOYCE: NO, WE WERE CONSOLIDATED FOR TRIAL,
5 AND SO IT WAS BOLTHOUSE AND DIAMOND FARMING. AND THE
6 COURT WILL NOTE THAT THERE WAS ONLY ONE SIDE THAT WAS
7 PERMITTED TO PROCEED WITH THE SANCTION MOTIONS AND THAT
8 WAS BOLTHOUSE AND DIAMOND, AS EVIDENCED BY JUDGE
9 ETTINGER'S COMMENTS ON THE RECORD AT THE TIME, THAT IT IS
10 A RESERVED JURISDICTION ISSUE AS TO THEIR REQUEST FOR
11 SANCTIONS ONLY.

12 THE COURT: I'M NOT -- I WILL NOT LIMIT WHO MAY
13 NOT SEEK SANCTIONS OR OPPOSE SANCTIONS. I'M ONLY SAYING
14 THAT THE ISSUE OF SANCTIONS ARISING OUT OF THE ABORTED
15 TRIAL, CONSOLIDATED TRIAL, ARE TO BE DETERMINED BY THE
16 TRIAL COURT BECAUSE THEY ARE THE COURT WHICH HAS THE
17 CLOSEST UNDERSTANDING AND KNOWLEDGE OF THE CASE. AND I
18 THINK MY ORDER TODAY DOES OPERATE AS A MISTRIAL, BUT I
19 WOULD BE RECOMMENDING TO THE TRIAL JUDGE TO DECLARE A
20 MISTRIAL. ALL MY ORDERS TODAY ARE MERELY RECOMMENDATIONS
21 TO THE JUDICIAL COUNCIL.

22 MR. JOYCE: I UNDERSTAND. ASSUMING THAT THE
23 COURT'S TENTATIVE WERE TO HOLD, I ASSUME WE ARE FREE TO
24 RAISE WITH THE NEWLY ASSIGNED TRIAL JUDGE THE SAME ISSUE,
25 AND THAT IS, WHETHER OR NOT WE SHOULD PROCEED SEPARATELY,
26 AND THEN AT THE SAME TIME HAVE THE OPPORTUNITY TO RAISE

1 AGAIN WITH HIM WHETHER OR NOT -- AND FORCE THE OTHER SIDE
2 TO ADDRESS THE ISSUE OF WHETHER OR NOT THEY WOULD
3 STIPULATE TO THE USE OF THE TRANSCRIPTS AND THE EXHIBITS
4 THUS FAR TAKEN IN THE PENDING TRIAL AND THEN PROCEEDING
5 FORWARD.

6 THE COURT: ALL THOSE MATTERS ARE FOR THE
7 COORDINATION JUDGE TO DETERMINE.

8 MR. JOYCE: SO THAT'S WHAT I WANTED TO MAKE
9 SURE I UNDERSTOOD IS THAT NONE OF THOSE ISSUES ARE BEING
10 FORECLOSED AT THIS POINT, AND THAT IF AND TO THE EXTENT
11 THAT THE COURT'S TENTATIVE TODAY HOLDS, WE ARE FREE TO
12 ADVOCATE TO THE COORDINATED TRIAL JUDGE SEPARATING OUR
13 CASES OUT; USING THE TRANSCRIPTS; GETTING THIS THING
14 DONE; WHATEVER HE CHOOSES TO DO.

15 THE COURT: I CAN'T TELL COUNSEL HOW TO
16 PROCEED. I CAN SUGGEST THAT IN MANY CASES THAT WE SEE
17 HERE IN COMPLEX WHICH ARE COORDINATED THAT CERTAIN KEY
18 ISSUES ARE LITIGATED FIRST, CERTAIN THRESHOLD ISSUES ARE
19 LITIGATED FIRST, AND THAT COULD -- AND I'M JUST
20 SUGGESTING THAT COUNSEL HIGHLIGHT TO THE COURT THEIR
21 FEELINGS ON THAT ISSUE, WHETHER OR NOT THOSE KEY ISSUES
22 SHOULD BE LITIGATED FIRST, BECAUSE THE MOTIONS OF RES
23 JUDICATA AND COLLATERAL ESTOPPEL WOULD NOT HELP AVOID THE
24 PROBLEMS YOU SUGGEST IF -- EVEN IF YOUR TRIAL WERE TO
25 COMMENCE TO COMPLETION -- I'M SORRY, WERE TO BE COMPLETED
26 IN RIVERSIDE BECAUSE YOU COULD STILL BE SUBJECT TO

1 SEPARATE LITIGATION SERIATIM BY EACH OF THE OTHER WATER
2 DISTRICTS BECAUSE IT IS A BIG WATER TABLE.

3 MR. JOYCE: YOUR HONOR, MY CLIENT IS AWARE OF
4 THOSE RISKS. LET US TAKE THEM. WE DON'T NEED TO BE
5 FORCED INTO THIS MONUMENTAL -- I CAN TELL YOU WHAT IS
6 GOING TO HAPPEN AS I SIT HERE RIGHT NOW.

7 I'VE BEEN THROUGH IT IN SANTA MARIA. WE ARE
8 GOING TO GO EXACTLY BACK TO WHERE WE WERE IN THE
9 BEGINNING IN RIVERSIDE. THEY ARE GOING TO MOVE THE COURT
10 TO BIFURCATE THE TRIAL AGAIN. THEY ARE GOING TO SAY WE
11 HAVE TO FIRST DETERMINE THE BOUNDARY BASIN.

12 THEY ARE GOING TO ASK THE COURT TO HAVE A
13 SEPARATE LITTLE TRIAL ON THE BOUNDARY BASIN. THEN WE ARE
14 GOING TO GO THROUGH THAT PROCESS AND AT THE END OF THAT
15 PROCESS WE ARE GOING TO BE -- WHAT HAPPENED IN RIVERSIDE?

16 JUDGE ETTINGER IS SITTING THERE, SHE'S GOING,
17 "I MADE A MISTAKE. I SHOULD NEVER HAVE BIFURCATED THIS
18 THING TO BEGIN WITH." AND SHE SET HER OWN ORDER ASIDE.

19 AND WE ARE GOING TO GO BACK AND DO EXACTLY THE
20 SAME THING ALL OVER AGAIN. WE ARE GOING TO DO
21 BOUNDARIES. LET'S BIFURCATE IT. THEN THEY ARE GOING TO
22 DO, LET'S DO PHASE 2 THIS. THEY ARE GOING TO BE
23 PIECEMEALING THIS THING OUT TO WHERE MY CLIENT'S RIGHTS
24 ARE GOING TO GET LOST IN THE BACKGROUND NOISE, AND WE ARE
25 NEVER GOING TO SEE JUSTICE BECAUSE WE CAN'T AFFORD IT.

26 THE COURT: DON'T -- DON'T, YOU KNOW, FORETELL

1 THE FUTURE. I DON'T KNOW IF THAT'S GOING TO BE THE
2 COURSE OF ACTION.

3 MR. JOYCE: YOUR HONOR, I LIVED WITH THESE
4 GUYS. I DID IT IN SANTA MARIA. I KNOW HOW THEY TRY TO
5 DO THESE THINGS AND THAT'S EXACTLY WHAT THEY ARE GOING TO
6 DO. MARK MY WORDS.

7 MR. MARKMAN: AND FOR THE RECORD, WE'VE LIVED
8 WITH MR. JOYCE AND THESE KINDS OF ARGUMENTS THAT WHOLE
9 TIME, TOO.

10 THE COURT: WELL, THE ISSUES ARE CLEAR, I
11 THINK. AND I THINK CERTAIN THRESHOLD ISSUES OUGHT TO BE
12 ADDRESSED FIRST, BUT THAT IS UP FOR COUNSEL TO TEE IT UP
13 FOR THE COORDINATION JUDGE TO RESOLVE SOME OF THESE
14 ISSUES FIRST. BECAUSE THERE ARE SO MANY POTENTIAL
15 PARTIES WHICH COULD BE LIABLE, IT IS A MATTER OF HIGH
16 PUBLIC INTEREST CONCERNING THE RIGHTS TO WATER.

17 AND ALSO THAT RESOLVING THEM IN A SINGLE
18 PROCEEDING BEFORE A SINGLE COURT I THINK IS IN THE BEST
19 INTEREST OF JUSTICE ON THE LARGER SCALE, AND THE COURT IS
20 STILL OF THE MIND TO ABIDE BY ITS TENTATIVE.

21 MR. ZIMMER: YOUR HONOR, I JUST HAVE ONE
22 COMMENT ON THE SANCTION ISSUE. THE COURT IN RIVERSIDE
23 REALLY ONLY HAS BEFORE IT THE SANCTION ISSUE AS TO
24 WHETHER THE FIRST PHASE OF TRIAL WAS LOST BECAUSE OF THE
25 BIFURCATION REQUEST THAT HAD BEEN MADE BY THE WATER
26 PURVEYORS.

1 I THINK IT WOULD BE APPROPRIATE FOR THIS COURT
2 TO RESERVE JURISDICTION ON THE SANCTION ISSUE BECAUSE
3 ONCE WE GET INTO THIS OTHER -- IN FRONT OF THE
4 COORDINATION JUDGE, THIS COURT IS GOING TO KNOW WHETHER
5 WHAT HAPPENED IN RIVERSIDE RESULTED IN A MISTRIAL;
6 WHETHER THESE FOLKS AGREED TO ALLOW US TO USE THE
7 TRANSCRIPTS OF THE EXPERT TESTIMONY; WHETHER THEY ARE
8 GOING TO FORCE US TO GO BACK TO STAGE ONE, AS MR. JOYCE
9 IS SUGGESTING, AND THIS COURT CLEARLY HAS THE AUTHORITY
10 TO CONDITION GRANTING OF COORDINATION BASED UPON TERMS
11 THAT ARE JUST. AND I THINK THAT IT WOULD BE JUST TO PAY
12 THE ATTORNEYS' FEES AND COSTS OF THE -- OUR TWO CLIENTS,
13 IF IT ENDS UP RESULTING IN A MISTRIAL, AND IF NONE OF
14 THIS TESTIMONY IS USABLE, ET CETERA.

15 THE COURT: YOU KNOW, THE PROBLEM IS THIS COURT
16 HAS A VERY NARROW TASK. I SIT HERE WITH ORDERS FROM THE
17 JUDICIAL COUNCIL TO RESOLVE A VERY NARROW ISSUE, WHICH IS
18 ALL I CAN DO TODAY, AND THEN MAKE RECOMMENDATION.

19 SO ALL THOSE ISSUES DEALING WITH SANCTIONS, I'M
20 RECOMMENDING GO BACK TO THE TRIAL COURT TO RESOLVE. I
21 WILL NOT RESERVE ANY JURISDICTION TO HANDLE THOSE KINDS
22 OF COLLATERAL MATTERS OR INTERLOCUTORY MATTERS.

23 MR. DUNN: AND, YOUR HONOR, I'M SORRY, OUR SIDE
24 HAS BEEN SOMEWHAT QUIET. I DON'T MEAN TO INTERRUPT THE
25 COURT. JUST SO THE RECORD IS CLEAR, THE ISSUE ON
26 SANCTIONS IS RESERVED AS TO ALL PARTIES SEEKING

1 SANCTIONS, IS THAT CORRECT, FOR THE COURT IN RIVERSIDE?

2 THE COURT: ALL I'M SAYING IS THE ISSUE OF
3 SANCTIONS, PERIOD, IS -- IS CARVED OUT FOR RESOLUTION IN
4 THE TRIAL COURT. I'M NOT SAYING -- I'M NOT ENLARGING
5 RIGHTS OR RESTRICTING RIGHTS BECAUSE I THINK THAT'S FOR
6 JUDGE TRANBARGER TO DETERMINE. HE KNOWS THE CASE AND IT
7 WAS IN FRONT OF HIM, SO WHEREVER THAT WAS THAT'S UP FOR
8 JUDGE TRANBARGER TO WORK OUT. JUST SO THAT WHEN THE CASE
9 GETS TO LOS ANGELES THERE IS SORT OF A -- A CLEAR DECK
10 AND -- AND THE THRESHOLD ISSUES CAN BE -- CAN BE
11 ADDRESSED.

12 MR. JOYCE: YOUR HONOR, FROM A JURISDICTIONAL
13 STANDPOINT IN CARVING IT OUT, DO I UNDERSTAND THAT TO
14 MEAN THAT THE EFFECTIVENESS OF THE ORDER OF COORDINATION
15 THEREFORE TRANSFER THE RIVERSIDE ACTIONS -- AS TO THE
16 RIVERSIDE ACTIONS WILL BE DEFERRED UNTIL THERE HAS BEEN
17 THE DECLARED MISTRIAL AND THE SANCTIONS ISSUES HAVE BEEN
18 RESOLVED?

19 OTHERWISE WE ARE GOING TO HAVE THAT ACTION
20 PENDING IN TWO COURTS AT THE SAME TIME. I'M TRYING TO
21 FIGURE OUT PROCEDURALLY, JURISDICTIONALLY WHERE WE ARE
22 GOING TO BE AT A GIVEN POINT IN TIME, SO WE KNOW THAT THE
23 COURT HAS THE POWER TO ACT.

24 THE COURT: IF THE JUDICIAL COUNCIL ADOPTS THE
25 COURT'S RECOMMENDATION, YOU'LL GET NOTICE TO APPEAR IN
26 LOS ANGELES COUNTY FOR ALL MATTERS CONNECTED TO THIS

1 DISPUTE, EXCEPT FOR THE ISSUE OF SANCTIONS. IN WHICH
2 CASE --

3 MR. JOYCE: AND THAT THE JURISDICTION ON THAT
4 ISSUE WILL BE RETAINED AND RESERVED IN RIVERSIDE COURT.

5 THE COURT: THE ISSUE OF SANCTIONS I'M
6 RECOMMENDING SHOULD BE CARVED OUT OF THE ORDER OF
7 COORDINATION AND RESERVED TO RIVERSIDE COURT.

8 MR. JOYCE: SO WE'LL HAVE LIMITED CONCURRENT
9 JURISDICTION IN BOTH RIVERSIDE AND LOS ANGELES IN THAT
10 SENSE?

11 THE COURT: TO THE WHOLE CASES, YES, BUT ONLY
12 JURISDICTION OF THE ONE ISSUE OF SANCTIONS.

13 MR. JOYCE: I UNDERSTAND.

14 THE COURT: YES.

15 MR. JOYCE: I'M TALKING ABOUT JURISDICTION IN
16 THE BROADER SENSE.

17 THE COURT: YES.

18 MR. JOYCE: SO AT LEAST RIVERSIDE WILL STILL
19 RETAIN ACTIVE JURISDICTION OVER THE SANCTIONS ISSUES.

20 THE COURT: CORRECT.

21 MR. JOYCE: ALL RIGHT.

22 THE COURT: SO ANYTHING NECESSARY TO CARRYING
23 OUT OF THEIR ORDERS, IF THEY DO AWARD SANCTIONS, SO
24 ANYTHING LOGICALLY RELATED TO THAT.

25 MR. JOYCE: THEY WILL, YOUR HONOR.

26 THE COURT: SO THE COURT WILL PREPARE THE ORDER

1 RECOMMENDING THE MATTER OF LOS ANGELES COUNTY WATERWORKS
2 DISTRICT NO. 40 VERSUS DIAMOND FARMING, THAT IS L.A. CASE
3 BC 325201; LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40
4 VERSUS DIAMOND FARMING, KERN COUNTY SUPERIOR COURT
5 NO. S-1500-CV-25438; W.M. BOLTHOUSE FARMS, INC. VERSUS
6 CITY OF LANCASTER, I THINK THIS IS RIVERSIDE COUNTY, RIC
7 344436, WHICH IS I THINK CONSOLIDATED WITH DIAMOND
8 FARMING VERSUS LANCASTER, IT HAS A DIFFERENT CASE NUMBER,
9 RIC 344668 --

10 MR. JOYCE: YOUR HONOR, FOR CLARIFICATION, WE
11 HAD A PIECE OF PROPERTY IN KERN COUNTY; WE HAD A PIECE OF
12 PROPERTY IN LOS ANGELES COUNTY. WE FILED TWO SEPARATE
13 QUIET TITLE ACTIONS. THOSE TWO ACTIONS WERE MOVED TO
14 RIVERSIDE AND CONSOLIDATED.

15 BOLTHOUSE LIKEWISE HAD PROPERTY IN BOTH KERN
16 AND LOS ANGELES COUNTY. AT THE END OF THE DAY LOS
17 ANGELES/KERN COUNTY ACTIONS GOT MOVED TO RIVERSIDE, GOT
18 CONSOLIDATED, INCLUDING BOLTHOUSES, INTO ONE ACTION.

19 THE COURT: ALL RIGHT. JUST FOR THE RECORD,
20 JUST SO THERE IS A TRAIL AS TO EACH CASE ORIGINALLY
21 DESIGNATED, THEN I THINK THE LAST ONE IS DIAMOND FARMING
22 VERSUS PALMDALE WATER DISTRICT, CASE RIC 353840.

23 THE COURT DESIGNATES THE FOURTH DISTRICT COURT
24 OF APPEAL, DIVISION 2, SEATED IN RIVERSIDE AS THE
25 REVIEWING COURT WITH APPELLATE JURISDICTION FOR ANY
26 PETITION FOR RELIEF RELATING TO ANY ORDER IN THIS

1 PROCEEDING.

2 THE COURT RECOMMENDS THAT THE COORDINATED
3 ACTION BE ASSIGNED TO THE LOS ANGELES SUPERIOR COURT,
4 COMPLEX LITIGATION PANEL. AND FURTHER RECOMMENDS,
5 HOWEVER, THAT A NEUTRAL JUDGE; MEANING A JUDGE OTHER THAN
6 A SITTING JUDGE FROM EITHER LOS ANGELES COUNTY SUPERIOR
7 COURT OR KERN COUNTY SUPERIOR COURT, OR IN THE
8 ALTERNATIVE, A RETIRED ASSIGNED JUDGE; SIT AS THE NEUTRAL
9 OVER THE PROCEEDINGS.

10 THE COURT WILL MEMORIALIZE THIS IN A REGULAR
11 ORDER WHICH THE CLERK IS ORDERED HEREBY TO PREPARE, AND
12 THE PARTIES WILL BE NOTIFIED IN DUE COURSE.

13 IS THAT CORRECT, CHRISTINE?

14 THE CLERK: YES.

15 THE COURT: ALL RIGHT. ANYTHING ELSE?

16 MR. DUNN: NO, YOUR HONOR.

17 MR. MARKMAN: THANK YOU, YOUR HONOR.

18 MR. DUNN: THANK YOU, YOUR HONOR.

19 THE COURT: I APPRECIATE THE HARD WORK AND THE
20 EXCELLENT BRIEFING.

21 MR. DUNN: THANK YOU VERY MUCH, YOUR HONOR.

22 (END OF PROCEEDINGS.)
23
24
25
26

REPORTER'S CERTIFICATE

I, TERESA J. GROVE, CSR NO. 6166, OFFICIAL COURT REPORTER, DO HEREBY CERTIFY THAT THE FOREGOING REPORTER'S TRANSCRIPT IS A FULL, TRUE AND CORRECT TRANSCRIPTION OF MY SHORTHAND NOTES THEREOF, AND A FULL, TRUE AND CORRECT STATEMENT OF THE PROCEEDINGS HAD IN SAID CAUSE.

DATED AT SANTA ANA, CALIFORNIA, THIS 22ND DAY OF JUNE, 2005.

A handwritten signature in cursive script, appearing to read 'Teresa J. Grove', written over a horizontal line.

TERESA J. GROVE, CSR NO. 6166
OFFICIAL COURT REPORTER

CC: DRL
W-2C

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

JUN 17 2005

ALAN SLATER, Clerk of the Court
C. Carr
BY C. CARR

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE

RECEIVED
JUN 23 2005
By _____

Coordination Proceeding)
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 Waterworks)
District No. 40 v. Diamond)
Farming Co.)
)
Wm. Bolthouse Farms, Inc. v.)
)
City of Lancaster)
)
Diamond Farming Co. v.)
City of Lancaster)
)
Diamond Farming Co. v.)
Palmdale Water District)
)
)

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4408

Superior Court of California
County of Los Angeles
BC 325 201

Superior Court of California
County of Kern
S-1500-CV 254-348

Superior Court of California
County of Riverside - Consolidated
Actions
(RIC 353 840

RIC 344 436

RIC 344 668)

The actions filed in Los Angeles and Kern County entitled *Los Angeles County Waterworks District No 40 vs Diamond Farming*, case no. BC 325201 and Kern County Superior Court case no. S-1500-CV 254348 are deemed complex pursuant to CRC 1800.


Good cause appearing that the coordination of the included actions is appropriate under the standards specified in CCP §§ 404 and 404.1, it is hereby ordered that the petition of Los Angeles County Waterworks District No. 40 for coordination of the included actions is granted; except, however, that the Riverside Superior Court retain jurisdiction over the consolidated case of *Wm. Bolthouse Farms, Inc. v. City of Lancaster*, et al., RCSC case no. RIC 344436 (the lead action); *Diamond Farming Co. v. City of Lancaster*, case no. RIC 344668; and *Diamond Farming Co. v. Palmdale Water District*, case no. RIC 353840, currently in trial, solely for the purpose of granting a motion for mistrial and for hearing and determining issues related to sanctions, costs of suit and fees resulting from that mistrial. In all other respects, that consolidated action is coordinated pursuant to this order.

The court orders coordination of *Los Angeles County Waterworks District No. 40 v. Diamond Farming Company et al.*, LASC case no. BC 32501; *Los Angeles County Waterworks District No. 40 v. Diamond Farming Company et al.*, KCSC case no. S-1500-CV-25438; and the consolidated action of *Wm. Bolthouse Farms, Inc. v. City of Lancaster*, et al., RCSC case no. RIC 344436, *Diamond Farming Co. v. City of Lancaster*, case no. RIC 344668 and *Diamond Farming Co. v. Palmdale Water District*, case no. RIC 353840. The Court of Appeal, 4th Appellate District, Div. 2 (Riverside) is designated as the reviewing court with appellate jurisdiction for any petition for relief relating to any order in this proceeding.

This court recommends that the coordinated action be assigned to the Superior Court, County of Los Angeles, Complex Litigation. However, this court recommends that the Judicial Counsel appoint a judge from a neutral court (i.e., a sitting judge neither from Los Angeles County Superior Court nor Kern County Superior Court), or in the alternative, a retired judge to sit on assignment, to preside over this coordinated action as the coordination trial judge.

The clerk is directed to serve a copy of this order on the chair of the Judicial Council; the presiding judges of the Superior Courts of Los Angeles County, Kern County, Riverside County, and on counsel for all parties.

June 17, 2005


David C. Velasquez
Judge of the Superior Court

JUN 17 2005

ALAN SLATER, Clerk of the Court

C. Carr
BY C. CARR

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER

ANTELOPE VALLEY GROUNDWATER CASES Plaintiff(s)	CASE NUMBER JCCP 4408 CERTIFICATE OF SERVICE BY MAIL of ORDER GRANTING PETITION FOR COORDINATION dated 6-17-05
---	---

I, ALAN SLATER, Executive Officer and Clerk of the Superior Court, in and for the County of Orange, State of California, hereby certify; that I am not a party to the within action or proceeding; that on 6-20-05 I served the ORDER GRANTING PETITION FOR COORDINATION, dated 6-17-05, on each of the parties herein named by depositing a true copy thereof, enclosed in a sealed envelope with postage thereon fully prepaid, in the United States Postal Service mail box at Santa Ana, California addressed as follows:

Judicial Council of California
Administrative Office of the Courts
Attn: Carlotta Tillman
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Los Angeles County Superior Court
Executive Officer/Clerk, John A. Clarke
111 North Hill Street
Los Angeles, CA 90012

Riverside County Superior Court
Executive Officer/Clerk, Jose Octavio
Guillen
4100 Main Street
Riverside, CA 92501

Kern County Superior Court
Court Executive Officer, Terry McNally
1415 Truxton Ave.
Bakersfield, CA 93301-4172

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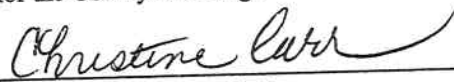
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90017

Henry Weinstock, Nossman, Guthner,
Knox, Elliott, 445 South Figueroa St., 31 st
Floor, Los Angeles, Ca 90071

ALAN SLATER,
Executive Officer and Clerk of the Superior Court
In and for the County of Orange

DATED: 6-20-05

By: 
Christine Carr, Deputy Clerk