

“EXHIBIT M”

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550B))

ANTELOPE VALLEY GROUNDWATER CASES)

JUDICIAL COUNCIL
COORDINATION NO. P4408

PALMDALE WATER DISTRICT AND)
QUARTZ HILL WATER DISTRICT,)

SANTA CLARA CASE NO.
1-05-CV-049053

CROSS-COMPLAINANTS,)

VS)

LOS ANGELES COUNTY WATERWORKS,)
DISTRICT NO. 40, ET AL,)

CROSS-DEFENDANTS.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, JANUARY 14, 2008

APPEARANCES:

(SEE APPEARANCE PAGES)

ORIGINAL

CHARLOTTE NICHOLAS MOHAMED, CSR #2384
OFFICIAL REPORTER

1 DILIGENTLY ON THE PROPOSED NOTICE.

2 I THINK THE PRIMARY POINT I WOULD LIKE TO ADDRESS
3 WITH THE COURT, IF I MAY, THIS MORNING HAS TO DO WITH WHAT MR.
4 ZLOTNICK TALKED A LITTLE BIT ABOUT ALREADY AS PART OF THAT
5 MEET-AND-CONFER PROCESS.

6 WE HAVE BEEN AWARE THAT MR. ZLOTNICK'S FIRM HAS
7 BEEN SEARCHING FOR ANOTHER PROPERTY OWNER TO BE A CLASS
8 REPRESENTATIVE FOR A GROUP OF HOMEOWNERS -- OR EXCUSE ME --
9 PROPERTY OWNERS WE COMMONLY CALL "SMALL PUMPERS." AND THOSE
10 EFFORTS HAVE BEEN ONGOING, AND THEY CONTINUE. WE HAVE TALKED
11 WITH MR. ZLOTNICK AND OTHER LEGAL COUNSEL AS OF LAST WEEK ON
12 HOW TO CONTINUE THAT PROCESS. BUT WE FIND OURSELVES HERE
13 TODAY STILL WITHOUT A CLASS REPRESENTATIVE TO SERVE IN THE
14 FUNCTION OF ANOTHER CLASS, THIS TIME BEING SMALL PUMPERS.

15 ONE OF THE THINGS THAT WE HAVE DONE IS WE HAVE
16 GONE BACK AND WE HAVE LOOKED AT CASE LAW AS IT DEALS WITH
17 CLASS CERTIFICATION FOR LIMITED ISSUES AND IN PARTICULAR WE
18 HAVE GONE BACK AND DONE A VERY THOROUGH REVIEW OF THE CASES AS
19 IT RELATES TO PURPORTED CONFLICTS OR CLAIM CONFLICTS OR
20 APPARENT CONFLICTS WITHIN THE CLASS ACTION CONTEXT. AND THE
21 SHORT VERSION OF THE RESULT OF THAT IS THAT WE ARE CONFIDENT
22 THAT WHAT THE COURT HAD ON ITS OWN SUGGESTED AT THE BEGINNING
23 OF THE LAST HEARING IS AND SHOULD -- IS POSSIBLE AND SHOULD BE
24 AGAIN CONSIDERED BY THE COURT.

25 WHAT THE COURT HAD PROPOSED OR SUGGESTED WAS THAT
26 FOR LIMITED PURPOSES ONLY, THE CLASS BE MODIFIED SO THAT IT IS
27 MORE INCLUSIVE, INCLUDING REPRESENTATION OF THE SMALL PUMPER
28 GROUP FOR AN ISSUE OR CERTAIN ISSUES THAT ARE COMMON AS TO

1 BOTH PUMPERS AND SMALL PUMPERS. IN OTHER WORDS, ISSUES THAT
2 ARE COMMON TO LANDOWNERS GENERALLY, AND THAT WOULD INCLUDE
3 CHARACTERISTICS OF THE BASIN INCLUDING THE BASIN'S YIELD; AND
4 WHETHER YOU ARE A PUMPER OR NONPUMPER, THOSE INTERESTS ARE
5 GENERALLY COMMON. THAT IS A PREDOMINANT COMMON ISSUE AS TO
6 PROPERTY OWNERS, WHETHER THEY PUMP OR NOT.

7 ALSO WHEN WE LOOK AT MR. ZLOTNICK'S PLAINTIFF'S
8 CLASS ACTION, THE FIRST AMENDED COMPLAINT THAT IS THE
9 OPERATIVE PLEADING ALSO IS A CLASS OF PROPERTY OWNERS WITH A
10 DISPUTE OVER WATER RIGHTS WITH PUBLIC WATER SUPPLIERS. IN
11 OTHER WORDS, THE ZLOTNICK -- MR. ZLOTNICK'S CLASS ACTION
12 PLEADING DOES NOT RAISE ANY ISSUE WITH ANY OTHER PROPERTY
13 OWNER. IT IS A LAWSUIT THAT IS DIRECTED AT PUBLIC WATER
14 SUPPLIERS. SO THERE IS NO -- AS FAR AS WE ARE AWARE OF IN
15 THIS CASE THERE IS NO PLEADING AGAINST THE CLASS BY OTHER
16 PROPERTY OWNERS AND THERE IS NO PLEADING BY THIS CLASS OF
17 PROPERTY OWNERS AGAINST OTHER PRIVATE PROPERTY OWNERS.

18 AND SO WHEN WE LOOK AT THIS WHOLE AREA IN TERMS
19 OF WHAT THE COURT CAN DO TO SORT OF FACILITATE GETTING THIS
20 CASE FURTHER DOWN THE ROAD TOWARDS A RESOLUTION, THE CASES
21 SEEM VERY CLEAR AND SPEAK VERY LOUDLY AT TIMES THAT THE
22 NECESSITY OF THE CLASS ACTION DEVICE REQUIRES IMPLEMENTATION
23 IN SORT OF CREATIVE WAYS, AND OFTEN THAT MEANS USING THE CLASS
24 ACTION DEVICE INITIALLY FOR LIMITED PURPOSES.

25 NOW ONE OF THE THINGS WE TALKED ABOUT WITH MR.
26 ZLOTNICK WAS THAT BECAUSE THERE ARE THESE ISSUES THAT ARE
27 COMMON TO LANDOWNERS, PARTICULARLY IN TERMS OF THE
28 CHARACTERISTICS OF THE BASIN INCLUDING YIELD, WHAT COULD

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550B))

ANTELOPE VALLEY GROUNDWATER CASES)

JUDICIAL COUNCIL
COORDINATION NO. P4408

PALMDALE WATER DISTRICT AND)
QUARTZ HILL WATER DISTRICT,)

SANTA CLARA CASE NO.
1-05-CV-049053

CROSS-COMPLAINANTS,)

VS)

LOS ANGELES COUNTY WATERWORKS,)
DISTRICT NO. 40, ET AL,)

CROSS-DEFENDANTS.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, JANUARY 14, 2008

APPEARANCES:

(SEE APPEARANCE PAGES)

ORIGINAL

CHARLOTTE NICHOLAS MOHAMED, CSR #2384
OFFICIAL REPORTER

1 GOING TO BE AFFECTED BY ALL THIS.

2 THE COURT: WELL, SOME PEOPLE OWN MORE THAN ONE PARCEL
3 BY DEFINITION.

4 MR. DOUGHERTY: VERY TRUE.

5 THE COURT: BUT THE NUMBER OF PEOPLE THAT HAVE TO BE
6 SERVED I'M SURE WOULD BE OVER A HUNDRED AND 50 THOUSAND BASED
7 ON WHAT I UNDERSTAND ABOUT THE CHARACTER OF THE VALLEY.

8 AND WE ARE INTERESTED IN A PRACTICAL SOLUTION
9 HERE, WE ARE NOT LOOKING FOR SHORTCUTS, MR. DOUGHERTY. THE
10 COURT IS INTERESTED IN A PRACTICAL WAY OF OBTAINING
11 JURISDICTION OVER THE OWNERS OF LAND WITHIN THE VALLEY SO THAT
12 WE CAN GO THROUGH A NORMAL PROGRESSION OF LITIGATION. WE CAN
13 GET A DEFINITION OF THE VALLEY, CHARACTERISTICS. WE CAN
14 DETERMINE WHAT THE YIELD IS. WE CAN PUT THE PARTIES IN A
15 POSITION WHERE THEY CAN EITHER SEEK AN ADJUDICATION OR TRY TO
16 SETTLE THE CASE AMONG THEMSELVES.

17 AND IT SEEMS TO ME THERE ARE LARGE COMMON
18 INTERESTS AMONG THE NONPUMPERS AS WELL AS THE SMALL PUMPERS,
19 AND THE LARGE PUMPERS AS OPPOSED TO THOSE WHO ARE SUPPLYING,
20 OR "PURVEYING," AS YOU PUT IT, WATER. WHETHER THEY ARE A
21 MUNICIPALITY OR A PRIVATE WATER COMPANY OR WHATEVER.

22 MR. DOUGHERTY: YOUR HONOR, I GUESS I REALLY SHOULD
23 APOLOGIZE FOR USING THE WORD "SHORTCUT." I DIDN'T MEAN IT IN
24 THE SENSE THAT IT SOUNDS. WHAT I WAS TRYING TO GET ACROSS IS
25 IT WOULD BE A SHAME TO GO THROUGH WHATEVER WE GO THROUGH AND
26 THEN FIND OUT LATER ON THAT WHAT HAS BEEN DONE IS NOT AN
27 APPROPRIATE WAY OF OBTAINING JURISDICTION OVER EVERYONE THAT
28 WE THOUGHT WE MIGHT BE DOING. AND THAT IS THE REASON I SAY

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550B))

ANTELOPE VALLEY GROUNDWATER CASES)

JUDICIAL COUNCIL
COORDINATION NO. P4408

PALMDALE WATER DISTRICT AND)
QUARTZ HILL WATER DISTRICT,)

SANTA CLARA CASE NO.
1-05-CV-049053

CROSS-COMPLAINANTS,)

VS)

LOS ANGELES COUNTY WATERWORKS,)
DISTRICT NO. 40, ET AL,)

CROSS-DEFENDANTS.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, JANUARY 14, 2008

APPEARANCES:

(SEE APPEARANCE PAGES)

ORIGINAL

CHARLOTTE NICHOLAS MOHAMED, CSR #2384
OFFICIAL REPORTER

1 ANYTHING THAT INTERFERES WITH SETTLEMENT IS INTERFERING WITH
2 THIS CASE MOVING FORWARD.

3 MR. ZLOTNICK, IF HE REPRESENTS BOTH PUMPERS AND
4 NONPUMPERS, IS GOING TO HAVE AN IMPOSSIBLE TIME PARTICIPATING
5 IN THE SETTLEMENT NEGOTIATIONS BECAUSE A CENTRAL ISSUE IN
6 THOSE NEGOTIATIONS IS HOW TO RECONCILE THE RIGHTS OF THE
7 PUMPERS VERSUS THE NONPUMPERS.

8 I REPRESENT PUMPERS. OUR BIGGEST CONCERN IS NOT
9 THE WATER PURVEYORS, IT'S THE NONPUMPERS. AND MOST OF OUR
10 PARTICIPATION IN THE SETTLEMENT NEGOTIATIONS -- WHICH ARE
11 UNDERWAY RIGHT NOW, THIS ISN'T SOMETHING IN THE FUTURE -- OUR
12 PRINCIPAL CONCERN IS TO GET A SETTLEMENT THAT PROTECTS US FROM
13 THE NONPUMPERS. IF WE CAN GET A SETTLEMENT, THEN THESE PHASES
14 OF TRIAL SUCH AS BASIN CHARACTERISTICS, PRESCRIPTION, ET
15 CETERA, MAY BECOME MOOT. MAYBE WE CAN AVOID THEM ALTOGETHER.
16 IF WE HAVE A PROPER SETTLEMENT IN THE WORKS, PERHAPS WE CAN
17 HAVE STIPULATIONS ABOUT THOSE THINGS; WE CAN REACH CONSENSUS.
18 BECAUSE IF PEOPLE KNOW WHERE THE RESOLUTION IS GOING, THEN
19 THEY CAN BE LESS CONCERNED ABOUT WHETHER WE HAVE SUBBASINS OR
20 NON-SUBBASINS.

21 THE COURT: HOW DO YOU HAVE STIPULATIONS WITH PARTIES
22 WHO ARE NOT PARTIES TO WHICH THE COURT HAS NOT OBTAINED
23 JURISDICTION?

24 MR. FIFE: RIGHT. SO THE QUESTION IS HOW TO GET THOSE
25 PEOPLE IN. AND THE POSITION THAT THE COURT HAS GOTTEN TO AT
26 THE END OF EVERY SINGLE ONE OF OUR PAST HALF DOZEN HEARINGS IS
27 THAT THERE SHOULD BE THE ZLOTNICK CLASS FOR THE NONPUMPERS --
28 AND THERE ARE ABOUT 3 HUNDRED THOUSAND PEOPLE IN THE ANTELOPE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550B))

ANTELOPE VALLEY GROUNDWATER CASES))

JUDICIAL COUNCIL
COORDINATION NO. P4408

PALMDALE WATER DISTRICT AND)
QUARTZ HILL WATER DISTRICT,)

SANTA CLARA CASE NO.
1-05-CV-049053

CROSS-COMPLAINANTS,)

VS)

LOS ANGELES COUNTY WATERWORKS,)
DISTRICT NO. 40, ET AL,)

CROSS-DEFENDANTS.)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, JANUARY 14, 2008

APPEARANCES:

(SEE APPEARANCE PAGES)

ORIGINAL

CHARLOTTE NICHOLAS MOHAMED, CSR #2384
OFFICIAL REPORTER

1 ANYTHING THAT INTERFERES WITH SETTLEMENT IS INTERFERING WITH
2 THIS CASE MOVING FORWARD.

3 MR. ZLOTNICK, IF HE REPRESENTS BOTH PUMPERS AND
4 NONPUMPERS, IS GOING TO HAVE AN IMPOSSIBLE TIME PARTICIPATING
5 IN THE SETTLEMENT NEGOTIATIONS BECAUSE A CENTRAL ISSUE IN
6 THOSE NEGOTIATIONS IS HOW TO RECONCILE THE RIGHTS OF THE
7 PUMPERS VERSUS THE NONPUMPERS.

8 I REPRESENT PUMPERS. OUR BIGGEST CONCERN IS NOT
9 THE WATER PURVEYORS, IT'S THE NONPUMPERS. AND MOST OF OUR
10 PARTICIPATION IN THE SETTLEMENT NEGOTIATIONS -- WHICH ARE
11 UNDERWAY RIGHT NOW, THIS ISN'T SOMETHING IN THE FUTURE -- OUR
12 PRINCIPAL CONCERN IS TO GET A SETTLEMENT THAT PROTECTS US FROM
13 THE NONPUMPERS. IF WE CAN GET A SETTLEMENT, THEN THESE PHASES
14 OF TRIAL SUCH AS BASIN CHARACTERISTICS, PRESCRIPTION, ET
15 CETERA, MAY BECOME MOOT. MAYBE WE CAN AVOID THEM ALTOGETHER.
16 IF WE HAVE A PROPER SETTLEMENT IN THE WORKS, PERHAPS WE CAN
17 HAVE STIPULATIONS ABOUT THOSE THINGS; WE CAN REACH CONSENSUS.
18 BECAUSE IF PEOPLE KNOW WHERE THE RESOLUTION IS GOING, THEN
19 THEY CAN BE LESS CONCERNED ABOUT WHETHER WE HAVE SUBBASINS OR
20 NON-SUBBASINS.

21 THE COURT: HOW DO YOU HAVE STIPULATIONS WITH PARTIES
22 WHO ARE NOT PARTIES TO WHICH THE COURT HAS NOT OBTAINED
23 JURISDICTION?

24 MR. FIFE: RIGHT. SO THE QUESTION IS HOW TO GET THOSE
25 PEOPLE IN. AND THE POSITION THAT THE COURT HAS GOTTEN TO AT
26 THE END OF EVERY SINGLE ONE OF OUR PAST HALF DOZEN HEARINGS IS
27 THAT THERE SHOULD BE THE ZLOTNICK CLASS FOR THE NONPUMPERS --
28 AND THERE ARE ABOUT 3 HUNDRED THOUSAND PEOPLE IN THE ANTELOPE