

LAW OFFICES OF  
BEST BEST & KRIEGER LLP  
5 PARK PLAZA, SUITE 1500  
IRVINE, CALIFORNIA 92614

1 BEST BEST & KRIEGER LLP  
ERIC L. GARNER, Bar No. 130665  
2 JEFFREY V. DUNN, Bar No. 131926  
STEFANIE D. HEDLUND, Bar No. 239787  
3 5 PARK PLAZA, SUITE 1500  
IRVINE, CALIFORNIA 92614  
4 TELEPHONE: (949) 263-2600  
TELECOPIER: (949) 260-0972  
5 Attorneys for Cross-Complainant  
LOS ANGELES COUNTY WATERWORKS  
6 DISTRICT NO. 40

7 OFFICE OF COUNTY COUNSEL  
COUNTY OF LOS ANGELES  
8 JOHN F. KRATTLI, Bar No. 82149  
COUNTY COUNSEL  
9 WARREN WELLEN, Bar No. 139152  
PRINCIPAL DEPUTY COUNTY COUNSEL  
10 500 WEST TEMPLE STREET  
LOS ANGELES, CALIFORNIA 90012  
11 TELEPHONE: (213) 974-8407  
TELECOPIER: (213) 687-7337  
12 Attorneys for Cross-Complainant LOS ANGELES  
COUNTY WATERWORKS DISTRICT NO. 40  
13

14 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
15 COUNTY OF LOS ANGELES – CENTRAL DISTRICT  
16

17 **ANTELOPE VALLEY  
GROUNDWATER CASES**

18 Included Actions:  
19 Los Angeles County Waterworks District  
No. 40 v. Diamond Farming Co., Superior  
20 Court of California, County of Los  
Angeles, Case No. BC 325201;

21 Los Angeles County Waterworks District  
22 No. 40 v. Diamond Farming Co., Superior  
Court of California, County of Kern, Case  
23 No. S-1500-CV-254-348;

24 Wm. Bolthouse Farms, Inc. v. City of  
Lancaster, Diamond Farming Co. v. City of  
25 Lancaster, Diamond Farming Co. v.  
Palmdale Water Dist., Superior Court of  
26 California, County of Riverside, Case Nos.  
RIC 353 840, RIC 344 436, RIC 344 668  
27  
28

Judicial Council Coordination No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053  
Assigned to The Honorable Jack Komar

**DECLARATION OF JEFFREY V. DUNN  
IN SUPPORT OF LOS ANGELES  
COUNTY WATERWORKS DISTRICT NO.  
40'S OPPOSITION TO WILLIS CLASS'  
MOTION FOR RECONSIDERATION OF  
THE COURT'S NOVEMBER 16, 2011  
ORDER RE ELECTION FOR PERIODIC  
PAYMENTS OF THE AMENDED FINAL  
JUDGMENT APPROVING WILLIS  
CLASS ACTION SETTLEMENT OR, IN  
THE ALTERNATIVE, FOR RELIEF  
PURSUANT TO CCP SECTION 984(e)(4)**

Date: April 17, 2012  
Time: 9:00 a.m.  
Dept: Room 1515 (CCW)

LAW OFFICES OF  
BEST BEST & KRIEGER LLP  
5 PARK PLAZA, SUITE 1500  
IRVINE, CALIFORNIA 92614

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**DECLARATION OF JEFFREY V. DUNN**

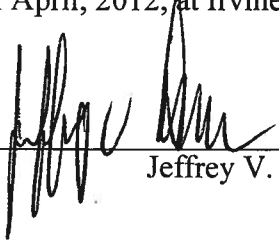
I, Jeffrey V. Dunn, declare:

1. I am an attorney duly licensed to appear before all courts in the State of California. I am a partner of Best Best & Krieger LLP and counsel for Cross-Complainant LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40 in this matter. I have personal knowledge of the facts stated herein and, if called upon to do so, I could and would competently testify to these facts.

2. Attached hereto as Exhibit "A" is a true and correct copy of relevant transcript portions for the August 30, 2011 hearing.

3. Attached hereto as Exhibit "B" is a true and correct copy of the relevant transcript portions for the November 15, 2011 hearing.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 4th day of April, 2012, at Irvine, California.

  
\_\_\_\_\_  
Jeffrey V. Dunn

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# EXHIBIT “A”

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 316

HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING	)	
SPECIAL TITLE (RULE 1550B)	)	
	)	JUDICIAL COUNCIL
ANTELOPE VALLEY GROUNDWATER CASES)	)	COORDINATION
_____)	)	NO. JCCP4408
	)	
PALMDALE WATER DISTRICT AND	)	SANTA CLARA CASE NO.
QUARTZ HILL WATER DISTRICT,	)	1-05-CV-049053
	)	
CROSS-COMPLAINANTS,	)	
	)	
VS.	)	
	)	
LOS ANGELES COUNTY WATERWORKS,	)	
DISTRICT NO. 40, ET AL,	)	
	)	
CROSS-DEFENDANTS.	)	
_____)	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, AUGUST 30, 2011

APPEARANCES:

(SEE APPEARANCE PAGES)

GINGER WELKER, CSR #5585  
OFFICIAL REPORTER

1 MR. MCLACHLAN: THANK YOU, YOUR HONOR.

2 THE COURT: THANK YOU.

3 MR. DUNN: YOUR HONOR, JUST SO I'M CLEAR, THE  
4 CONFERENCE CALL WILL BE BETWEEN THE COURT AND WOOD  
5 COUNSEL, WOOD CLASS OR --

6 THE COURT: I THINK IT SHOULD BE WITH JUSTICE  
7 ROBIE, AND I WILL TALK WITH HIM SO IF YOU WILL AUTHORIZE  
8 HIM TO DO THAT.

9 MR. DUNN: YES, NO OBJECTION.

10 MR. MCLACHLAN: YES, WOOD COUNSEL IS FINE WITH  
11 THAT. THERE IS REALLY NOTHING IN OUR POSITION THAT  
12 HASN'T BEEN PUBLICALLY FILED TO THIS POINT. OUR  
13 POSITION IS THE SAME.

14 THE COURT: OKAY. THANK YOU. LET'S TALK ABOUT  
15 THE WRIT REQUEST. WHERE IS THAT FILED, MR. KALFAYAN?  
16 IT WAS POSTED ON THE ANTELOPE WEBSITE, BUT THERE'S NO  
17 CASE NUMBER AND RELATED TO THE COORDINATION MATTERS, BUT  
18 IT DOES NOT SEEM TO ME THAT -- THAT IS PUTTING IT BEFORE  
19 ME, NUMBER ONE.

20 AND SECONDLY, WHY DON'T YOU AMEND THE  
21 JUDGMENT SO YOU CAN AMEND THE JUDGMENT SO WE CAN PUT IT  
22 TO REST?

23 MR. KALFAYAN: LET ME ADDRESS THOSE POINTS, YOUR  
24 HONOR. THE FIRST POINT WE DIDN'T FILE THE PETITION AS A  
25 SECOND ACTION BECAUSE IN THE WILLIS AGREEMENT --

26

27 (COURT PROCEEDINGS TEMPORARILY PAUSE PER EXTREMELY LOUD

28 DOG BARKING OF COURT CALL PARTICIPANT.

1 THE COURT: I WANT TO KNOW WHAT KIND OF DOG THAT  
2 IS THAT I'M HEARING.

3

4 (LAUGHTER)

5

6 THE COURT: WHOSE DOG IS IT?

7 UNIDENTIFIED ATTORNEY: THAT WOULD BE ME, YOUR  
8 HONOR.

9 THE REPORTER: WHO IS THAT?

10 UNIDENTIFIED ATTORNEY: IT'S A MIXED BREED.

11 THE REPORTER: YOUR HONOR, I CAN'T TELL WHO THE  
12 SPEAKER IS.

13 THE COURT: AND THAT'S MR. ZIMMER'S?

14 MR. ZIMMER: NO, NO, THAT'S NOT MR. ZIMMER'S. I  
15 HAVE NO DOG HERE.

16 MR. KEITH LEMIEUX: THIS IS KEITH LEMIEUX. I'M  
17 SORRY, YOUR HONOR.

18 MR. ZIMMER: LEMIEUX IS TRYING TO GET ME IN  
19 TROUBLE AGAIN.

20

21 (LAUGHTER)

22

23 THE COURT: ALL RIGHT. ALL RIGHT.

24 GO AHEAD, MR. KALFAYAN.

25 MR. KALFAYAN: THANK YOU, YOUR HONOR. WE FILED  
26 THE PETITION STRICTLY AS A MEASURE TO PROTECT OR -- OR  
27 JUST AN ALTERNATIVE. REALLY, THERE IS A COMPANION  
28 MOTION THAT WAS FILED WITH THE PETITION.

1                   AND ALL WE ARE LOOKING TO DO IS ENFORCE WHAT  
2 THE PUBLIC WATER SUPPLIERS HAVE ALREADY . . .

3           MR. BUNN: YOUR HONOR, COULD YOU ASK MR. KALFAYAN  
4 TO SPEAK UP. THIS IS TOM BUNN. I CAN'T HEAR HIM AT  
5 ALL.

6           MR. KALFAYAN: SURE.

7           THE COURT: ALL RIGHT. WE WILL GIVE HIM A  
8 MICROPHONE.

9           MR. KALFAYAN: ALL WE ARE ASKING THE PUBLIC WATER  
10 SUPPLIERS TO DO IS REALLY -- WE ARE ASKING THE COURT TO  
11 HELP US ENFORCE THE TERMS THAT THE PUBLIC WATER  
12 SUPPLIERS AGREED TO IN THE STIPULATION OF SETTLEMENT AND  
13 IN THE JUDGMENT. THE JUDGMENT ITSELF -- THE MECHANISM  
14 BY WHICH WE ARRIVED AT THE ATTORNEY FEE COMPONENT WAS --

15           THE COURT: YOU HAVE TO REALLY SPEAK UP A BIT.

16           MR. KALFAYAN: CERTAINLY. THE MECHANISM BETWEEN  
17 THE PARTIES TO ARRIVE AT ATTORNEY FEES WAS DOCUMENTED IN  
18 THE JUDGMENT AND IN THE STIPULATION OF SETTLEMENT.

19                   SO IF I COULD QUOTE TO YOU THE TWO SENTENCES  
20 IN THE JUDGMENT, PARAGRAPH 21 OF THE JUDGMENT SAYS:

21                   "THE COURT RETAINS JURISDICTION TO CONSIDER  
22 AN APPLICATION BY PLAINTIFF AND CLASS COUNSEL FOR AN  
23 AWARD OF ATTORNEY FEES AND REIMBURSEMENT OF COSTS AS  
24 WELL AS AN INCENTIVE AWARD TO THE REPRESENTATIVE  
25 PLAINTIFF AS WELL AS ANY OTHER COLLATERAL MATTERS.

26                   "ANY SUCH MATTERS SHALL BE ADDRESSED BY  
27 SEPARATE ORDER. AND THE COURT RETAINS JURISDICTION TO  
28 ENTER SUCH FURTHER ORDERS."

1            THAT IS FROM THE JUDGMENT. SO THE MECHANISM  
2            THAT THEY AGREED TO FOR THE ATTORNEY FEES -- AND THAT IS  
3            GENERALLY HOW IT IS DONE IN CLASS ACTIONS. THERE IS A  
4            JUDGMENT ON THE MERITS AND THEN THE SEPARATE ORDERS.

5            THE STIPULATION OF SETTLEMENT ITSELF SPEAKS  
6            TO HOW THE PAYMENT OF ATTORNEY FEES WHEN IT IS SUPPOSED  
7            TO ARRIVE TO COUNSEL. IT SAYS, "IF THE WILLIS CLASS  
8            OBTAIN AN AWARD OF FEES, THEN THE SETTLING PARTIES  
9            AGREED TO EXERCISE THEIR BEST EFFORT TO PAY THE FEE  
10           AWARD WITHIN A REASONABLE PERIOD OF TIME OR AS REQUIRED  
11           PURSUANT TO COURT ORDER."

12           SO, AGAIN, THE STIPULATION OF SETTLEMENT  
13           PROVIDES THAT ANY FEE PETITION AND THE RESULTING ORDER,  
14           THE ORDER ITSELF IS THE MANDATE, IF YOU WILL, OF THE  
15           COURT TO PAY THE FEES.

16           NOW, THEY COULD HAVE MOVED TO RECONSIDER.  
17           THEY COULD HAVE APPEALED THAT ORDER. THAT ORDER ITSELF  
18           IS FINAL AND COLLATERAL.

19           THE COURT: YOU KNOW, I THINK THIS IS KIND OF AN  
20           ARGUMENT ON THE HEAD OF A PIN, IF YOU WILL. IF I CAN  
21           SHORT CIRCUIT THAT METAPHOR, GOVERNMENT CODE 984 CITED  
22           BY MR. DUNN. AND I'M ASSUMING THAT THE GOVERNMENTAL  
23           ENTITIES WANT TO BE ABLE TO PAY PURSUANT TO THAT  
24           PROVISION.

25           WHY DON'T YOU JUST PUT IT IN THE JUDGMENT SO  
26           THAT THEY CAN DO THAT?

27           MR. KALFAYAN: BECAUSE, YOUR HONOR, JUST TO GET TO  
28           THE HEART OF IT, THEY HAVE HAD THEIR PERIOD TO APPEAL,



1 AND THEY HAVEN'T. THAT ORDER IS A FINAL COLLATERAL  
2 ORDER, AND THERE IS NO LAW THAT SAYS THAT THERE IS --  
3 THERE IS NO LAW THAT SAYS THAT THE JUDGE -- THAT THE  
4 ATTORNEY FEE ORDER HAS TO BE IN THE JUDGMENT.

5 THAT IS NOT WHAT WE AGREED TO.

6 THE COURT: WELL, I UNDERSTAND THAT, BUT THAT IS  
7 BESIDES THE POINT THAT I'M ASKING YOU ABOUT. I MEAN IF  
8 THERE IS A SIMPLE WAY OF DOING IT WHERE YOU GET  
9 CONCURRENCE FROM THE OTHER SIDE, WHY NOT DO THAT?

10 MR. KALFAYAN: BUT WE ARE HAPPY TO SIT DOWN WITH  
11 MR. DUNN. AND BY THE WAY, LET ME BACKTRACK A LITTLE  
12 BIT. THERE IS NO OPPOSITION TO THE MOTION FOR WRIT BY  
13 ANY OTHER PUBLIC WATER SUPPLIER OTHER THAN MR. DUNN.

14 IN FACT, FOUR OF THE PUBLIC WATER SUPPLIERS  
15 HAVE ALREADY PAID OR AGREED TO PAY THE MAY 4 ORDER.

16 IF THEY WANT THE PROTECTION, SOME  
17 PROTECTION, FROM THE GOVERNMENT CODE, FOR EXAMPLE, TO  
18 PERIODICIZE (SIC) THE PAYMENT, WE ARE WILLING TO DISCUSS  
19 THAT. WE OFFERED THAT TO THE OTHER PUBLIC WATER  
20 SUPPLIERS. WHAT THEY WANT IS ANOTHER A -- A SECOND  
21 JUDGMENT. THE JUDGMENT THAT WE HAVE SUMMARIZED.

22 THE COURT: AN AMENDED JUDGMENT, NOT A SECOND  
23 JUDGMENT.

24 MR. KALFAYAN: OR -- OR -- OR AMENDED JUDGMENT.  
25 BUT THE PARTIES REALLY AGREED TO HANDLE THIS BY SEPARATE  
26 ORDER.

27 THE COURT: I'M JUST TRYING TO GET TO THE END  
28 RESULT HERE THAT EVERYBODY SEEMS TO THINK WE SHOULD BE

1 AT. AND THERE IS A LONG WAY, AND THERE IS A SHORT WAY.

2 MR. DUNN, WHY DON'T YOU TELL US ANY FURTHER  
3 INFORMATION THAT YOU WANT TO GIVE US.

4 MR. DUNN: I'LL BE BRIEF BECAUSE I'M GOING TO NEED  
5 TO HOPEFULLY CATCH A FLIGHT HERE PRETTY SOON, BUT THE  
6 COURT HAS PRECISELY IDENTIFIED THE ISSUE. ALL WE ASKED  
7 IS FOR AN AMENDED JUDGMENT. UNDER THE TERMS OF THE  
8 GOVERNMENT CODE SECTION 984, IT TALKS ABOUT THE JUDGMENT  
9 AS THE BASIS FOR THE PAYMENT BY THE GOVERNMENTAL ENTITY.

10 THE COURT: ALL RIGHT. I WILL SHORT CIRCUIT THIS  
11 COMPLETELY. I WANT YOU, MR. DUNN, TO FILE AN EX-PARTE  
12 APPLICATION FOR AN AMENDED JUDGMENT AND PUT THE FEES IN  
13 THE JUDGMENT. I WILL SIGN IT, AND WE WILL POST IT AND  
14 YOU CAN POST IT AND FILE IT.

15 MR. DUNN: OKAY. THANK YOU, YOUR HONOR.

16 THE COURT: DO YOU WANT TO BE HERE FOR THE  
17 ATTORNEY FEES ARGUMENT OR JUST TALK ABOUT THE CMC FIRST?

18 MR. DUNN: I SHOULD BE HERE FOR THE ATTORNEY FEES.

19 THE COURT: ALL RIGHT. LET'S DO THAT NEXT. OKAY.

20 MR. KALFAYAN.

21 MR. KALFAYAN: THANK YOU, YOUR HONOR. I'LL BE  
22 VERY BRIEF. THIS SUPPLEMENTAL FEE ORDER FROM  
23 JANUARY 1ST TO MAY 13TH, THE DATE OF ENTRY OF JUDGMENT.  
24 THE STIPULATION OF SETTLEMENT AGAIN PROVIDED THAT WE  
25 WILL SEEK FEES UP TO THE DATE OF ENTRY OF JUDGMENT.  
26 WITH THAT PETITION WE CLOSE OUT OUR FEE APPLICATION  
27 AGAINST THE PUBLIC WATER SUPPLIERS UNLESS THERE IS A  
28 TRIGGER OF ONE OF THE ENUMERATED SECTIONS UNDER

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 316

HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING	)	
SPECIAL TITLE (RULE 1550B)	)	
	)	JUDICIAL COUNCIL
ANTELOPE VALLEY GROUNDWATER CASES)	)	COORDINATION
-----)	)	NO. JCCP4408
	)	
PALMDALE WATER DISTRICT AND	)	SANTA CLARA CASE NO.
QUARTZ HILL WATER DISTRICT,	)	1-05-CV-049053
	)	
CROSS-COMPLAINANTS,	)	
	)	
VS.	)	
	)	
LOS ANGELES COUNTY WATERWORKS,	)	
DISTRICT NO. 40, ET AL,	)	
	)	
CROSS-DEFENDANTS.	)	
-----)	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, NOVEMBER 15, 2011

APPEARANCES:

(SEE APPEARANCE PAGES)

GINGER WELKER, CSR #5585  
OFFICIAL REPORTER

1 CASE NUMBER: JCCP 4408  
2 CASE NAME: ANTELOPE VALLEY  
3 LOS ANGELES, CALIFORNIA, TUESDAY, NOVEMBER 15, 2011  
4 DEPARTMENT NO. 316 HON. JACK KOMAR  
5 REPORTER GINGER WELKER, CSR #5585  
6 TIME: 9:30 A.M.  
7 APPEARANCES: (SEE TITLE PAGE)  
8

9 THE COURT: GOOD MORNING. WE HAVE SEVERAL MATTERS  
10 ISSUES AT LEAST TO TALK ABOUT. THE FIRST ONE I WANT TO  
11 TALK ABOUT IS THE REQUEST OF THE WILLIS -- OR BY THE  
12 PUBLIC WATER SUPPLIERS, ACTUALLY, TO MAKE AN ELECTION  
13 UNDER 984(D), I THINK -- IT'S UNDER THE GOVERNMENT CODE.

14 MR. DUNN, ANYTHING FURTHER?

15 MR. DUNN: NO, YOUR HONOR.

16 THE COURT: IS MR. KALFAYAN --

17 MR. KALFAYAN: GOOD MORNING, YOUR HONOR, RALPH  
18 KALFAYAN. NO, YOUR HONOR, WE SUBMIT ON THE PAPERWORK.

19 THE COURT: OKAY. IT SEEMS TO ME GIVEN THE  
20 PRESENT STATE OF THE ECONOMY AND OTHER CIRCUMSTANCES IN  
21 VIEW OF THE STIPULATION THAT 984(D) DOES APPLY IN THIS  
22 CASE OR AT LEAST THERE IS NO OBJECTION TO IT -- I'M  
23 GOING TO APPROVE THE ELECTION MADE BY THE PUBLIC WATER  
24 SUPPLIERS IN PARTICULAR OF THE COUNTY WATER DISTRICT  
25 NUMBER 40 AND ORDER A COMPLIANCE WITH THAT ELECTION.

26 THE COURT WILL RETAIN JURISDICTION AS  
27 PROVIDED IN THE GOVERNMENT CODE IN THE EVENT -- IN THE  
28 INTEREST OF JUSTICE IF -- IF THERE IS A NEED TO MODIFY

1 THIS ORDER.

2 ALL RIGHT. ALL RIGHT. THE SECOND ISSUE  
3 SHOULD BE THE CASE MANAGEMENT CONFERENCE. I HAVE  
4 RECEIVED A LARGE NUMBER OF CASE MANAGEMENT CONFERENCE  
5 STATEMENTS. THEY -- A PREPONDERANCE -- IF WE ARE  
6 COUNTING JUST BY THE NUMBERS WOULD INDICATE THAT COUNSEL  
7 WISH TO CONTINUE WITHOUT HAVING A TRIAL COURT -- TRIAL  
8 DATE SET WITH THEIR DISCUSSIONS WITH JUSTICE ROBIE AND  
9 OTHERS. SEVERAL BELIEVE THAT THE MATTER SHOULD BE SET  
10 FOR TRIAL. THE DATES RANGE FROM 2012 TO 2013.

11 IT IS A LITTLE BIT HARD FOR ME TO  
12 ESTIMATE -- AND I NEED YOUR HELP ON THAT -- EXACTLY HOW  
13 MUCH TIME IS GOING TO BE REQUIRED TO TRY THE CASE, HOW  
14 MUCH DISCOVERY IS NEEDED AND WHAT THE ISSUES OUGHT TO BE  
15 AND WHETHER THEY WILL BE TRIED IN A SINGLE PROCEEDING AS  
16 OPPOSED TO SEVERAL PROCEEDINGS, IN PARTICULAR WITH  
17 REGARD TO THE ALLOCATION OF WATER RIGHTS. THAT IS NOT A  
18 SIMPLE ISSUE, AND IT SEEMS TO ME THERE IS -- I HAVE ONE  
19 RATHER DETAILED SUGGESTION FROM MR. BEZERRA FROM COPA DE  
20 ORO BUT NOT A WHOLE OTHER THAN THAT.

21 MY OWN VIEW IS, AT THIS POINT ANYWAY, IS  
22 THAT IF PARTIES ARE INDEED MAKING PROGRESS IN TERMS OF  
23 SETTLEMENT AND IN PARTICULAR WITH REGARD TO ALLOCATIONS  
24 THAT WE SHOULDN'T INTERRUPT THAT AT -- AT LEAST IN THE  
25 SHORT-TERM. AND BY THAT I'M THINKING I WOULD LIKE TO  
26 SEE WHAT HAPPENS WITHIN THE NEXT 30 DAYS BEFORE I MAKE A  
27 DECISION ABOUT SETTING THE MATTER FOR TRIAL AND WHAT THE  
28 ISSUES AT TRIAL WOULD BE. I WOULD BE HAPPY TO HEAR FROM

# EXHIBIT “B”

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 316

HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING )  
SPECIAL TITLE (RULE 1550B) )

JUDICIAL COUNCIL  
COORDINATION  
NO. JCCP4408

ANTELOPE VALLEY GROUNDWATER CASES )

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

TUESDAY, NOVEMBER 15, 2011

APPEARANCES:

(SEE APPEARANCE PAGES)

GINGER WELKER, CSR #5585  
OFFICIAL REPORTER

1 APPEARANCES:

2  
3 RICHARD A. WOOD  
(MR. WOOD PRESENT)  
4 SMALL PUMPER CLASS

OFFICES OF MICHAEL MCLACHLAN  
BY: MICHAEL D. MCLACHLAN  
10490 SANTA MONICA BLVD.  
LOS ANGELES, CA 90025  
5 (310) 954-8270

6  
7 L.A. COUNTY WATERWORKS  
DISTRICT NO. 40  
8 (VIA TELEPHONE)

BEST, BEST & KRIEGER, LLP  
BY: JEFFREY V. DUNN  
STEFANIE HEDLUND  
5 PARK PLAZA, SUITE 1500  
IRVINE, CA 92614  
9 (949) 263-2600

10  
11 LOS ANGELES COUNTY SANITATION  
12 DISTRICTS NOS. 14 & 20  
13 (VIA TELEPHONE)

ELLISON, SCHNEIDER &  
HARRIS  
BY: CHRISTOPHER M. SANDERS  
2015 H STREET  
SACRAMENTO, CA 95811-3109  
14 (916) 447-2166

15  
16 CITY OF LANCASTER &  
ROSAMOND CSD  
17 (VIA TELEPHONE)

MURPHY & EVERTZ  
BY: KATHERINE K. MELESKI  
650 TOWN CENTER DRIVE  
SUITE 550  
COSTA MESA, CA 92626  
18 (714) 277-1700

19  
20 LITTLEROCK CREEK IRRIGATION  
DISTRICT & PALM RANCH IRRIGATION  
21 DISTRICT:

LEMIEUX & O'NEILL  
BY: SCOTT C. NAVE  
2393 TOWNSGATE ROAD  
SUITE 201  
WESTLAKE VILLAGE, CA 91361  
22 (805) 495-4770

23  
24  
25 BOLTHOUSE PROPERTIES, INC.

CLIFFORD & BROWN  
BY: RICHARD G. ZIMMER  
BANK OF AMERICA BUILDING  
1430 TRUXTUN AVENUE  
SUITE 900  
BAKERSFIELD, CA 93301  
26 (661) 322-6023  
27  
28



1 APPEARANCES (CONTINUED):

2  
3 QUARTZ HILL WATER DISTRICTS

CHARLTON WEEKS  
4 BY: BRADLEY T. WEEKS  
1007 W. AVE. M-14, SUITE A  
5 PALMDALE, CA 93551  
6 (661) 265-0969

7 DIAMOND FARMING COMPANY  
AND CRYSTAL ORGANIC

LEBEAU, THELEN, MCINTOSH &  
CREAR  
8 BY: BOB H. JOYCE  
5001 EAST COMMERCENTER DR.  
9 P.O. BOX 12092  
BAKERSFIELD, CA 93389-2092  
10 (661) 325-8962

11 (VIA TELEPHONE)

JEFF A. GREEN (CLIENT)

12  
13 PHELAN PINON HILLS, CSD

ALESHIRE & WYNDER, LLP  
14 BY: WESLEY A. MILIBAND  
18881 VON KARMAN AVENUE  
15 SUITE 400  
IRVINE, CA 92612  
16 (949) 223-1170

17 TEJON RANCH CORP

KUHS & PARKER  
18 BY: ROBERT G. KUHS  
1200 TRUXTUN AVENUE  
SUITE 200  
19 BAKERSFIELD, CA 93301  
20 (661) 322-4004

21 (VIA TELEPHONE)

22 ANTELOPE VALLEY GROUNDWATER  
AGREEMENT ASSOCIATION  
(AGWA)

BROWNSTEIN, HYATT, FARBER  
& SCHRECK  
23 BY: MICHAEL FIFE  
21 EAST CARRILLO STREET  
24 SANTA BARBARA, CA 93101  
(805) 963-7000

25 CALIFORNIA WATER SERVICES  
26 COMPANY

JOHN S. TOOTLE  
CORPORATE COUNSEL  
2632 W. 237TH STREET  
27 TORRANCE, CA 90505-5272  
28 (310) 257-1488

1 APPEARANCES (CONTINUED) :

2  
3 NORTHROP, GRUMAN &  
4 SGS, SEMPRA

ALSTON & BIRD, LLP  
BY: NEAL P. MAGUIRE  
2801 TOWNSGATE ROAD  
SUITE 215  
WESTLAKE VILLAGE, CA 91361  
(805) 497-9474

6  
7 SERVICE ROCKS, SHEEP CREEK  
8 SHEEP CREEK & AV UNITED  
9 MUTUAL GROUP

GRESHAM, SAVAGE, NOLAN &  
TILDEN  
BY: MICHAEL DUANE DAVIS  
3750 UNIVERSITY AVENUE  
SUITE 250  
RIVERSIDE, CA 92501  
(951) 684-2171

10  
11  
12 CITY OF LOS ANGELES

LOS ANGELES CITY ATTORNEY  
BY: JULIE C. RILEY  
111 NORTH HOPE  
LOS ANGELES, CA 90051  
(213) 367-4513

13  
14  
15  
16 ANTELOPE VALLEY EAST  
17 KERN WATER AGENCY

BRUNICK, MCELHANEY, BECKETT  
DOLEN & KENNEDY  
BY: WILLIAM J. BRUNICK  
1839 COMMERCENTER WEST  
SAN BERNARDINO, CA 92408  
(909) 889-8301

18  
19  
20 STATE OF CALIFORNIA

DEPARTMENT OF JUSTICE  
OFFICE OF ATTORNEY GENERAL  
BY: MICHAEL W. HUGHES  
300 SOUTH SPRING STREET  
SUITE 1700  
LOS ANGELES, CA 90013  
(213) 897-2612

21  
22  
23  
24 LANDINV, INC.

SMILAND & CHESTER  
BY: THEODORE A. CHESTER, JR.  
601 WEST FIFTH STREET  
SUITE 1100  
LOS ANGELES, CA 90071  
(213) 891-1010

25  
26  
27  
28

1 APPEARANCES (CONTINUED) :

2  
3 THE UNITED STATES

4 (VIA TELEPHONE)

U.S. DEPARTMENT OF JUSTICE  
ENVIRONMENT & NATURAL  
RESOURCES DIVISION  
BY: R. LEE LEININGER  
1961 STOUT STREET, 8TH FLOOR  
DENVER, CO 80294  
(303) 844-1364

7  
8 COPA DE ORO LAND

9 (VIA TELEPHONE)

BARTKIEWICZ, KRONICK &  
SHANAHAN  
BY: RYAN BEZERRA  
(NO ADDRESS GIVEN)

10  
11 WAGAS LAND CO.

12 (VIA TELEPHONE)

HANNA AND MORTON, LLP  
BY: EDWARD S. RENWICK  
444 S. FLOWER STREET  
SUITE 1500  
LOS ANGELES, CA 90071  
(213) 628-7132, EXT. 516

13  
14  
15  
16 SOUTHERN CALIFORNIA  
EDISON COMPANY

17 (VIA TELEPHONE)

AMY M. GANTVOORT  
ATTORNEY AT LAW  
(NO ADDRESS GIVEN)

18  
19 LITTLEROCK AGGREGATE,  
A.C. WARNACK TRUSTEE OF  
20 A.C. WARNACK TRUST,  
LITTLEROCK SAND & GRAVEL,  
21 A.V. MATERIALS, INC.  
FRANK & YVONNE LANE FAMILY  
22 FAMILY TRUST, AND GEORGE  
& CHARLENE LANE

POOLE & SHAFFERY  
BY: JAMES W. LEWIS  
25350 MAGIC MT. PARKWAY  
SECOND FLOOR  
SANTA CLARITA, CA 91355  
(310) 201-8936

23  
24 NEW ANAVERDE, LLC

PIRCHER, NICHOLS & MEEKS  
BY: GISELLE ROOHPARVAR  
1925 CENTURY PARK EAST  
SUITE 1700  
25 LOS ANGELES, CA 90067  
26 (310) 201-8936  
27  
28

1 APPEARANCES (CONTINUED):

2  
3 PALMDALE WATER DISTRICT

LAGERLOF, SENEAL, GOSNEY  
& KRUSE, LLP  
BY: THOMAS S. BUNN III  
301 NORTH LAKE AVENUE  
10TH FLOOR  
PASADENA, CA 91101-4108  
(626) 793-9400

7  
8 FOR THE WILLIS CLASS:

KRAUSE, KALFAYAN, BENINK  
& SLAVENS  
BY: RALPH B. KALFAYAN  
625 BROADWAY, SUITE 635  
SAN DIEGO, CA 92101  
(619) 232-0331

11  
12 VAN DAM PARTIES &  
13 ANTELOPE VALLEY WATER  
STORAGE, LLC

YOUNG WOOLDRIDGE, LLP  
BY: PHILIP W. HALL  
(ADDRESS NOT GIVEN)  
(661) 327-9661

14  
15 L.A. COUNTY WATERWORKS  
16 DISTRICT NO. 40

OFFICE OF THE COUNTY  
COUNSEL, COUNTY OF L.A.  
BY: WARREN R. WELLEN  
500 WEST TEMPLE STREET  
6TH FLOOR  
LOS ANGELES, CA 90012  
(213) 974-9668

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1 CASE NUMBER: JCCP 4408  
2 CASE NAME: ANTELOPE VALLEY  
3 LOS ANGELES, CALIFORNIA, TUESDAY, NOVEMBER 15, 2011  
4 DEPARTMENT NO. 316 HON. JACK KOMAR  
5 REPORTER GINGER WELKER, CSR #5585  
6 TIME: 9:30 A.M.  
7 APPEARANCES: (SEE TITLE PAGE)  
8

9 THE COURT: GOOD MORNING. WE HAVE SEVERAL MATTERS  
10 ISSUES AT LEAST TO TALK ABOUT. THE FIRST ONE I WANT TO  
11 TALK ABOUT IS THE REQUEST OF THE WILLIS -- OR BY THE  
12 PUBLIC WATER SUPPLIERS, ACTUALLY, TO MAKE AN ELECTION  
13 UNDER 984(D), I THINK -- IT'S UNDER THE GOVERNMENT CODE.

14 MR. DUNN, ANYTHING FURTHER?

15 MR. DUNN: NO, YOUR HONOR.

16 THE COURT: IS MR. KALFAYAN --

17 MR. KALFAYAN: GOOD MORNING, YOUR HONOR, RALPH  
18 KALFAYAN. NO, YOUR HONOR, WE SUBMIT ON THE PAPERWORK.

19 THE COURT: OKAY. IT SEEMS TO ME GIVEN THE  
20 PRESENT STATE OF THE ECONOMY AND OTHER CIRCUMSTANCES IN  
21 VIEW OF THE STIPULATION THAT 984(D) DOES APPLY IN THIS  
22 CASE OR AT LEAST THERE IS NO OBJECTION TO IT -- I'M  
23 GOING TO APPROVE THE ELECTION MADE BY THE PUBLIC WATER  
24 SUPPLIERS IN PARTICULAR OF THE COUNTY WATER DISTRICT  
25 NUMBER 40 AND ORDER A COMPLIANCE WITH THAT ELECTION.

26 THE COURT WILL RETAIN JURISDICTION AS  
27 PROVIDED IN THE GOVERNMENT CODE IN THE EVENT -- IN THE  
28 INTEREST OF JUSTICE IF -- IF THERE IS A NEED TO MODIFY

1 THIS ORDER.

2 ALL RIGHT. ALL RIGHT. THE SECOND ISSUE  
3 SHOULD BE THE CASE MANAGEMENT CONFERENCE. I HAVE  
4 RECEIVED A LARGE NUMBER OF CASE MANAGEMENT CONFERENCE  
5 STATEMENTS. THEY -- A PREPONDERANCE -- IF WE ARE  
6 COUNTING JUST BY THE NUMBERS WOULD INDICATE THAT COUNSEL  
7 WISH TO CONTINUE WITHOUT HAVING A TRIAL COURT -- TRIAL  
8 DATE SET WITH THEIR DISCUSSIONS WITH JUSTICE ROBIE AND  
9 OTHERS. SEVERAL BELIEVE THAT THE MATTER SHOULD BE SET  
10 FOR TRIAL. THE DATES RANGE FROM 2012 TO 2013.

11 IT IS A LITTLE BIT HARD FOR ME TO  
12 ESTIMATE -- AND I NEED YOUR HELP ON THAT -- EXACTLY HOW  
13 MUCH TIME IS GOING TO BE REQUIRED TO TRY THE CASE, HOW  
14 MUCH DISCOVERY IS NEEDED AND WHAT THE ISSUES OUGHT TO BE  
15 AND WHETHER THEY WILL BE TRIED IN A SINGLE PROCEEDING AS  
16 OPPOSED TO SEVERAL PROCEEDINGS, IN PARTICULAR WITH  
17 REGARD TO THE ALLOCATION OF WATER RIGHTS. THAT IS NOT A  
18 SIMPLE ISSUE, AND IT SEEMS TO ME THERE IS -- I HAVE ONE  
19 RATHER DETAILED SUGGESTION FROM MR. BEZERRA FROM COPA DE  
20 ORO BUT NOT A WHOLE OTHER THAN THAT.

21 MY OWN VIEW IS, AT THIS POINT ANYWAY, IS  
22 THAT IF PARTIES ARE INDEED MAKING PROGRESS IN TERMS OF  
23 SETTLEMENT AND IN PARTICULAR WITH REGARD TO ALLOCATIONS  
24 THAT WE SHOULDN'T INTERRUPT THAT AT -- AT LEAST IN THE  
25 SHORT-TERM. AND BY THAT I'M THINKING I WOULD LIKE TO  
26 SEE WHAT HAPPENS WITHIN THE NEXT 30 DAYS BEFORE I MAKE A  
27 DECISION ABOUT SETTING THE MATTER FOR TRIAL AND WHAT THE  
28 ISSUES AT TRIAL WOULD BE. I WOULD BE HAPPY TO HEAR FROM

1 COUNSEL WHO HAVE OPINIONS ABOUT THOSE ISSUES.

2 ANYBODY? NOBODY HAS AN OPINION?

3 MR. ZIMMER: WE HAVE AN OPINION; HOWEVER, IF THE  
4 COURT'S INCLINATION IS TO DO WHAT WAS INDICATED, I HAVE  
5 NO COMMENTS AT THIS POINT. I THINK THAT IS APPROPRIATE.

6 THE COURT: I WANT TO SEE IF, IN FACT, THE PARTIES  
7 BELIEVE THAT YOU CAN MAKE REAL PROGRESS TO CLOSE THE  
8 GAPS THAT CURRENTLY EXIST. THE GAPS AS I UNDERSTAND IT  
9 RELATE TO PUMPING NEEDS -- WHAT PUMPING REQUIREMENTS  
10 ARE.

11 THE WOOD'S CLASS HAS SERIOUS ISSUES  
12 CONCERNING TRYING TO FIGURE OUT WHAT THEIR REQUIREMENTS  
13 ARE, AND I HAVE A REQUEST FOR A JOINTLY PROPOSED ORDER  
14 REQUIRING EVERYBODY WHO HAS ANY CLAIMS AT ALL TO MAKE  
15 SUCH CLAIMS WHICH HAS SOME MERIT TO IT, I THINK. AND SO  
16 THAT -- IT IS A LITTLE BIT HARD FOR ME TO EVALUATE  
17 WHETHER WE SHOULD CONTINUE ON. THIS CASE IS VERY OLD.  
18 I'M GETTING OLD, AND SO ARE YOU.

19  
20 (LAUGHTER)

21  
22 MR. ZIMMER: LOOK AT ME. I HEAR YOU.

23 THE COURT: I THINK WE HAVE GOT TO DO SOMETHING TO  
24 SEE IF WE CAN PUT SOME CLOSURE HERE. AND WHETHER  
25 THERE'S A REAL PROSPECT OF THAT WITHOUT GETTING INTO  
26 FULL-BLOWN LITIGATION DEALING WITH SUCH THINGS AS  
27 PRESCRIPTIVE RIGHTS, FIRST IN TIME APPROPRIATIONS,  
28 SOMETHING THAT I THINK IS EUPHEMISTICALLY CALLED

1 SELF-HELP WHICH REALLY IS NOTHING MORE THAN PUMPING YOUR  
2 MAXIMUM RIGHTS UNDER THE -- IN THE GROUNDWATER THAT YOU  
3 MIGHT HAVE.

4 SO, YOU KNOW, WITH THAT IN MIND, I WOULD  
5 LIKE TO HEAR WHAT OUR CHANCES OF SUCCESS ARE HERE  
6 WITHOUT GOING INTO WHAT YOUR ACTUAL NEGOTIATIONS ARE  
7 WHICH OBVIOUSLY ABSENT A TOTAL STIPULATION I COULD NOT  
8 HEAR.

9 MR. ZIMMER: I WOULD BE HAPPY TO COMMENT ON THAT.  
10 I REMAIN OPTIMISTIC THAT WE CAN PUT SOMETHING TOGETHER.  
11 AS THE COURT WILL RECALL, WE HAD LOTS OF YEARS OF  
12 LITIGATION AND NOTHING HAPPENED REALLY, AND A COUPLE OF  
13 PROCEDURAL TRIALS. THEN WE HAD THE COURT PROCESS AND  
14 THE ROBIE PROCESS, AND THERE WAS A DIFFERENCE OF OPINION  
15 ON THE SAFE YIELD. THE COURT SET A CONSERVATIVE SAFE  
16 YIELD NUMBER.

17 AND WITH THAT NUMBER, WE HAVE NOW AGREED --  
18 THE LANDOWNERS AGREED TO GO TO JUSTICE ROBIE AT THE  
19 COURT'S URGING, AND THAT WAS THE CURRENT SETTLEMENT  
20 JUDGE THAT WAS OVERSEEING THE LANDOWNERS AND THE CLASSES  
21 WITH SOME RESERVATIONS BECAUSE WE HADN'T BEEN INVOLVED  
22 IN THE BEGINNING OF THAT PROCESS. BUT I DO HAVE TO SAY  
23 THAT THAT PROCESS HAS BEEN EXTREMELY HELPFUL. JUSTICE  
24 ROBIE HAS BEEN VERY FAIR.

25 HE HAS DISCUSSED WITH US WHAT HIS VIEWS ARE  
26 IN TERMS OF THE WAY THIS MATTER CAN WORK, AND HE HAS  
27 TACKLED ISSUES THAT WE NEED TO DISCUSS AS A GROUP AND  
28 INDIVIDUALLY IN TERMS OF REACHING THAT GOAL.



1 I THINK THAT WE ARE NOW IN A SITUATION WHERE  
2 WE HAVE DISCUSSED AN ALLOCATION, AND MOST OF THE PARTIES  
3 HAVE BEEN INVOLVED IN THAT PROCESS DISCUSSING THE  
4 ALLOCATION. BUT WE CONTEMPORANEOUSLY AT JUSTICE ROBIE'S  
5 URGING -- RATHER ENGAGING DISCOVERY, THEN LOOKING AT THE  
6 POTENTIAL TERMS OF A STIPULATED JUDGMENT AND PHYSICAL  
7 SOLUTION. SO IF WE GET THE ALLOCATION PUT TOGETHER, I  
8 THINK IT WILL BE AN EASIER ROAD TO GETTING A STIPULATED  
9 JUDGMENT AND PHYSICAL SOLUTION PUT IN PLACE.

10 THERE IS STILL SOME GAP TO BE CLOSED ON THE  
11 ALLOCATION; AND COMPARED TO WHERE WE STARTED, THAT GAP  
12 IN MY VIEW IS VERY SMALL AT THIS POINT. AND THERE IS  
13 CONTINUING PRESSURE BETWEEN THE PARTIES IN TERMS OF  
14 THOSE NUMBERS. YOU HAVE HEARD SOME THINGS ON THE  
15 FRINGE. I WON'T GET INTO THE DETAILS ON THAT. BUT WE  
16 ARE CLEARLY MAKING PROGRESS, AND WE ARE MAKING THE  
17 ISSUES CLEAR, AND WE'RE GETTING FACTS CLARIFIED. AND I  
18 THINK THAT IS LEADING IN THE RIGHT DIRECTION.

19 NOW, ONE THING THAT WE ABSOLUTELY NEED IS  
20 THAT THE CLOSE -- TO CLOSE THE GAP -- WE HAVE A GAP.  
21 AND NOBODY IS REALLY GOING TO MAKE THAT LAST STEP IN MY  
22 VIEW UNTIL WE KNOW THAT WE HAVE THE ENTIRE UNIVERSE OF  
23 CLAIMED PUMPING. BECAUSE WE CAN'T GET TO A FINAL  
24 RESOLUTION WHICH EACH PARTY AGREES TO AN ALLOCATION  
25 UNLESS WE KNOW THAT THERE ARE NOT GOING TO BE NEW  
26 PARTIES IN LATER MAKING CLAIMS.

27 WE KNOW WHAT THE CURRENT PRODUCTION IS. WE  
28 KNOW HOW MUCH PARTIES HAVE TO CUT BACK TO MAKE THAT

1 PRODUCTION, AND THAT IS SUBSTANTIAL TO MAKE THAT HAPPEN  
2 WITHIN THAT CERTAIN SAFE YIELD.

3 TO MAKE THAT FINAL STEP, WE NEED TO KNOW  
4 THAT THESE ARE THE PARTIES THAT ARE MAKING CLAIMS; THAT  
5 THIS IS THE TOTAL AMOUNT WE'RE DEALING WITH AND THIS IS  
6 GOING TO BE GOOD AND THIS IS GOING TO BE BINDING; AND  
7 THAT WE ARE NOT GOING TO HAVE CLAIMS MADE AT A LATER  
8 TIME.

9 SO THAT LED TO A LOT OF DISCUSSION ABOUT HOW  
10 TO MAKE THAT HAPPEN WITHOUT GETTING INTO GREAT DEAL OF  
11 DISCOVERY. WE DISCUSSED IT WITH JUSTICE ROBIE, AND I  
12 THINK IT WAS HIS VIEW THAT WE COULD POTENTIALLY DO THAT  
13 PROCEDURALLY AS OPPOSED TO GETTING INTO VOLUMINOUS  
14 DISCOVERY WHICH WOULD DELAY THE CASE AND CAUSE THE  
15 PARTIES TO SPEND A LOT OF MONEY.

16 THAT LED TO DISCUSSIONS BETWEEN THE  
17 PURVEYORS AND THE LANDOWNERS, AND I HAVE TO SAY I HAVE  
18 NEVER HAD BETTER COMMUNICATION WITH ALL THE PEOPLE IN  
19 THIS ROOM, MR. DUNN AND MR. BUNN, OR, YOU KNOW, ANY OF  
20 THE PARTIES THAT HAVE BEEN ATTENDING THESE PROCEEDINGS.  
21 AND IT HASN'T BEEN EASY BECAUSE THERE HAS BEEN UPS AND  
22 DOWNS. AND WHENEVER YOU ARE NOT IMMEDIATELY IN THE  
23 DISCUSSION, YOU THINK SOMETHING IS GOING ON AND SOMEONE  
24 IS TRYING TO ACT ADVERSELY TO YOUR RIGHTS.

25 BUT WHAT HAS HAPPENED IS THAT I THINK THERE  
26 IS A CERTAIN TRUST LEVEL THAT HAS BEEN DEVELOPED THAT WE  
27 ARE ALL HEADED IN THE SAME DIRECTION. BUT WE NEED  
28 PROCEDURALLY FOR ALL PARTIES TO MAKE CLAIMS OR WAIVE

1 THEM OR FORFEIT THEM, AND THAT IS -- THE PROPOSED ORDER  
2 IS NOT BY ANY MEANS MEANT TO TRY TO USURP YOUR  
3 FUNCTIONS. YOU'VE MADE YOUR INPUT ON IT, BUT IT IS  
4 SOMETHING THAT WE HAVE COLLECTIVELY DISCUSSED WITH BOTH  
5 PURVEYORS' LAWYERS AND LANDOWNERS' LAWYERS, AND THAT  
6 IS -- THAT IS CRITICAL TO MAKE THAT HAPPEN.

7 IN MY VIEW WHAT WILL HAPPEN IS WE WILL  
8 PROBABLY END UP WITH A SETTLEMENT THAT EITHER HAS  
9 EVERYBODY OR HAS MAYBE A COUPLE OF DISCREET ISSUES THAT  
10 NEED TO BE TRIED, AND THAT IS WHY I WOULD URGE THE COURT  
11 NOT TO SET THE TRIAL DATE BECAUSE WE DON'T KNOW EXACTLY  
12 WHAT WOULD NEED TO BE TRIED. IF WE CAN NARROW THIS DOWN  
13 AND WE KNOW THERE IS -- THERE IS -- MY HOPE IS THAT  
14 EVERYBODY WOULD BE INVOLVED.

15 MR. MCLACHLAN AND I SPAR BACK AND FORTH. I  
16 ENCOURAGE HIM TO BE AT THESE -- AT THE TABLE AND AVEC AT  
17 MEDIATION BECAUSE WE NEED THEIR PARTICIPATION. WE NEED  
18 THE AGREEMENT TO WORK FOR THEM JUST LIKE IT WORKS FOR  
19 EVERYBODY ELSE.

20 WHAT I SEE HAPPENING IS WE WILL GO THROUGH  
21 THIS PROCESS, AND I THINK WE CAN GET IT DONE. I THINK  
22 IF WE KNOW THIS IS -- I THINK WE CAN BRIDGE THAT GAP  
23 WITH A LITTLE WORK BY ALL PARTIES. ONCE THAT HAPPENS  
24 THEN WE ARE GOING TO NEED A PHYSICAL SOLUTION THAT BINDS  
25 ALL PARTIES, THAT LIMITS -- THAT USES THE ALLOCATION TO  
26 LIMIT PRODUCTION TO THE CURRENT SAFE YIELD AND THAT  
27 PROVIDES A MECHANISM THAT WE COULD MANAGE THE BASIN  
28 APPROPRIATELY IN THE FUTURE.

1 WE HAVE MADE MORE PROGRESS IN THE  
2 DISCUSSIONS THAT WE HAVE HAD THAN IN TEN YEARS OF  
3 LITIGATION BY ANYONE'S ACCOUNTS EVEN IF YOU THINK THERE  
4 ARE SOME HURDLES WE NEED TO CROSS. BY ANYBODY'S  
5 ACCOUNT, I THINK WE HAVE MADE TREMENDOUS PROGRESS. WE  
6 HAVE A MEETING SCHEDULED WITH AVEK ON FRIDAY.

7 SO WE NEED TO (1) MAKE SURE WE HAVE ALL THE  
8 CLAIMS IN THERE AND (2) MAKE SURE THAT ALL CLAIMS ARE --  
9 AND ALL PARTIES ARE BOUND BY THE PHYSICAL SOLUTION AND  
10 THE ALLOCATION THAT IS DETERMINED. SO THE FIRST STEP OF  
11 THAT IS THIS PROCEDURAL ISSUE OF HOW TO MAKE SURE THAT  
12 ALL CLAIMS ARE MADE, FORFEITED, OR WAIVED; AND I THINK  
13 WE NEED SOME TYPE OF ORDER FOR THE COURT TO DO THAT IF  
14 THE COURT IS COMFORTABLE WITH USING THAT MECHANISM.  
15 THOSE ARE MY GENERAL COMMENTS.

16 I THINK TRIAL RIGHT NOW AND/OR DISCOVERY  
17 WOULD TAKE US COMPLETELY IN THE WRONG DIRECTION. I HAVE  
18 BEEN TRYING CASES FOR 30 YEARS. AND I KNOW WHEN IT IS  
19 GOING TO HELP PARTIES TO PUSH TO SETTLEMENT, AND I KNOW  
20 WHEN IT IS GOING TO BE DISRUPTIVE. AND THE AMOUNT OF  
21 TIME THAT I'VE SPENT IN JUST TALKING WITH TOM OR JEFF OR  
22 WARREN OR ANYBODY ELSE ON THE PHONE ABOUT THE CASE OR  
23 GOING TO AVEK MEETINGS IS TAKING A HUGE AMOUNT OF TIME  
24 ALREADY IN TRYING TO FILE DISCOVERY ON TOP OF THAT.

25 I THINK IT WOULD SEND US IN AN OPPOSITE  
26 DIRECTION. IF IT GOES ON ONE SIDE, THEN IT'S GOING TO  
27 GO ON THE OTHER SIDE. THEN WE WILL BE TAKING YOUR TIME  
28 DISCUSSING THINGS THAT MAY OR MAY NOT NEED TO BE

1 LITIGATED AT ALL IF WE CAN RESOLVE IT.

2 THE COURT: OKAY. MR. DUNN, DO YOU WANT TO SAY  
3 ANYTHING?

4 MR. DUNN: YES, YOUR HONOR. I AGREE WITH  
5 MR. ZIMMER. I THINK THAT THE PROGRESS THAT WE HAVE BEEN  
6 ABLE TO MAKE WITH JUSTICE ROBIE'S ASSISTANCE HAS BEEN  
7 REMARKABLE. AND I -- AND I AGREE WITH MR. ZIMMER AS  
8 WELL THAT WITH THE COURT'S ASSISTANCE PERHAPS WE CAN  
9 GATHER ADDITIONAL INFORMATION PARTICULARLY FROM SOME OF  
10 THE NONPARTICIPATING PARTIES IN THE ADJUDICATION TO SORT  
11 OF GIVE US THE COMPLETE PICTURE OF WHAT THE OVERALL  
12 PUMPING CLAIMS IN THE BASIN LOOK LIKE SO THAT WE CAN  
13 EVALUATE THOSE CLAIMS.

14 THE COURT: ARE THERE ANY LARGE PRODUCERS THAT  
15 HAVE NOT COME TO THE SETTLEMENT CONFERENCES?

16 MR. DUNN: NOT THAT WE KNOW OF. THERE HAS BEEN  
17 GOOD PARTICIPATION BY ALL THE MAJOR --

18 THE COURT: SO THE PARTIES WHO HAVE NOT  
19 PARTICIPATED ARE ESSENTIALLY THE PEOPLE WHO HAVE FILED  
20 THE STANDARD ANSWER BUT WHO HAVE NOT OTHERWISE ACTIVELY  
21 APPEARED IN THE CASE; IS THAT CORRECT?

22 MR. DUNN: FOR THE MOST PART, YES. THERE IS NO  
23 PARTICULARLY LARGE PARTY THAT WE COULD IDENTIFY THAT IS  
24 NOT PARTICIPATING. IT IS A LARGER GROUP OF SMALLER  
25 PARTIES THAT FROM THE BEGINNING DECIDED TO -- IN A SENSE  
26 STAY ON THE SIDELINES ESSENTIALLY WAITING FOR THIS TYPE  
27 OF EVENT OR DAY TO HAPPEN WHERE THERE IS A SETTLEMENT  
28 AGREEMENT IN THE WORKS OR UNDER DISCUSSION THAT THEY

1 WOULD POTENTIALLY BE A PARTY OF.

2 THE COURT: HAS THERE BEEN ANY REQUESTS OF THEM  
3 INFORMALLY TO PROVIDE THEIR OWN PUMPING DATA TO THE  
4 EXTENT THAT THEY ARE PUMPING?

5 MR. DUNN: WELL, ONLY TO THE EXTENT THAT ALL  
6 PARTIES I BELIEVE HAVE BEEN ADVISED THAT THIS SETTLEMENT  
7 PROCESS IS UNDER WAY WITH JUSTIFY ROBIE. AND AS PART OF  
8 THAT PROCESS, WE ARE TO PROVIDE OUR CLAIMS TO JUSTICE  
9 ROBIE AS A MEDIATOR IN CONFIDENTIALITY SO THAT WE CAN  
10 EVALUATE ALL THE CLAIMS IN THE BASIN AND UNDER THAT  
11 UMBRELLA OF MEDIATION AND CONFIDENTIALITY.

12 MR. ZIMMER: JUST TO ADD TO THAT, I THINK IT'S  
13 BEEN DONE IN TWO WAYS: ONE, THE COURT HAS ISSUED A --  
14 THE MINUTE ORDER IS INDICATING THAT THE SETTLEMENT  
15 PROCESS IS CONTINUING. MEDIATION WITH JUSTICE ROBIE ARE  
16 CONTINUING. THAT HAS BEEN DONE SEVERAL TIMES. IN  
17 ADDITION TO TAKE, MR. ORR HAS SENT OUT A LETTER TO THE  
18 PARTIES INDICATING THAT, YOU KNOW, THESE -- THE  
19 MEDIATION WAS CONTINUING, AND THEY NEED TO MAKE CLAIMS  
20 IF THEY ARE GOING TO MAKE THEM.

21 MR. DUNN: AND I SUSPECT THAT THE ACTIVE PARTIES  
22 THAT ARE PARTICIPATING IN THE MEDIATION WOULD PROBABLY  
23 AGREE THAT IF THERE ARE THESE LARGE NUMBERS OF SMALLER  
24 PARTIES OUT THERE, IT PROBABLY IS NOT COST BENEFICIAL  
25 FOR THEM TO FLY UP TO SACRAMENTO AND SPEND A DAY OR TWO  
26 IN THESE OVERALL DISCUSSIONS. IT IS PROBABLY BEST AT  
27 SOME POINT THAT -- I BELIEVE WITH MR. ZIMMER AT THAT  
28 POINT WHERE THEY BE NOTIFIED THAT THERE ARE SETTLEMENT

1 DISCUSSIONS THAT HAVE REACHED A LEVEL OF PROGRESS WHERE  
2 WE NEED TO EVALUATE EVERYBODY'S CLAIM ON THE BASIN. SO  
3 WE NEED SOME TYPE OF FORMAL PROCESS EITHER FROM THE  
4 COURT OR INITIATED BY THE PARTIES TO REQUIRE EVERYONE  
5 ESSENTIALLY TO SUBMIT THAT DATA OR BE DETERMINED NOT TO  
6 HAVE A CLAIM IN THE BASIN.

7 ULTIMATELY, WE NEED TO BE ABLE TO COME BACK  
8 TO THE COURT WITH A COMPREHENSIVE PHYSICAL SOLUTION THAT  
9 HAS AN ALLOCATION OF WATER RIGHTS THAT IS SATISFACTORY  
10 TO THE PARTIES BY STIPULATION. OR IF THERE IS SOME  
11 PARTIES THAT ARE NOT GOING TO BE A PART OF THAT  
12 STIPULATION TO BE TRIED BY THE COURT.

13 AND THEN ALSO I WILL QUICKLY ADD THAT IN  
14 THESE DISCUSSIONS WE HAVE TO KEEP IN MIND THAT BECAUSE  
15 THE UNITED STATES IS INVOLVED THERE IS THIS  
16 COMPREHENSIVENESS REQUIREMENT, AND WE HAD DISCUSSIONS  
17 WITH THE UNITED STATES IN TERMS OF HOW IT IS THAT WE  
18 WILL ULTIMATELY WRAP UP THAT ALLOCATION OF WATER RIGHTS.

19 SO IT IS IMPORTANT THAT AT SOME POINT HERE  
20 WE GET ALL OF THE PARTIES TO PARTICIPATE IN THE  
21 SETTLEMENT PROCESS NOT NECESSARILY BY BEING THERE IN  
22 SACRAMENTO BUT BY SUBMITTING TO THE COURT AND ALL THE  
23 PARTIES WHAT THEIR PUMPING CLAIMS ARE.

24 THE COURT: IS IT FAIR TO SAY, MR. DUNN, THAT  
25 THERE ARE -- WITHIN THAT GROUP OF PEOPLE WHO ARE NOT  
26 ACTIVELY PARTICIPATED WHO ALTHOUGH COURT HAS  
27 JURISDICTION OF THIS MATTER --

28 MR. DUNN: YES.

1 THE COURT: -- BUT THEY FALL INTO TWO TYPES?

2 MR. DUNN: YES.

3 THE COURT: ONE WHO IS NOT PUMPING BUT IS NOT THE  
4 MEMBER OF THE WILLIS CLASS, AND I HAVE NO IDEA HOW MANY  
5 THAT MIGHT BE. I DON'T KNOW IF YOU DO KNOW OR NOT, BUT  
6 IT WOULD BE HELPFUL TO KNOW. AND, SECONDARILY, THE  
7 OTHER FACET OF THAT WOULD BE PEOPLE WHO ARE NOT MEMBERS  
8 OF THE WOOD'S CLASS BUT WHO ARE, IN FACT, PUMPING  
9 RATHER, I GUESS, DISPARATE AMOUNTS, I DON'T KNOW.

10 MR. DUNN: YES TO BOTH OF THOSE QUESTIONS.

11 THE COURT: OKAY. HOW MANY PEOPLE ARE WE TALKING  
12 ABOUT?

13 MR. DUNN: I USED TO KNOW THE ANSWER TO THAT, YOUR  
14 HONOR. WE HAVE A SERVICE LIST OF PEOPLE WHO WERE  
15 INDIVIDUALLY SERVED AND WHO HAVE RESPONDED AND SOME WHO  
16 DID NOT AND DEFAULTED AND SOME THAT HAVE DONE THE  
17 STANDARD ANSWER, BUT I THINK IT IS IN THE LOW HUNDREDS.

18 THE COURT: OKAY.

19 MR. DUNN: IT IS NOT A DOZEN OR TWO. WE ARE  
20 TALKING MAYBE SEVERAL HUNDREDS.

21 THE COURT: OKAY. THEN WE ALSO HAVE THE WOOD'S  
22 CLASS WHO AT THIS POINT ARE FACING THEIR CLAIM ON THE  
23 OVERALL ESTIMATES THAT WERE MADE AT THE TIME THAT WE HAD  
24 THE TRIAL ON THE OVERDRAFT ISSUES AND SAFE YIELD. AND  
25 THEY DON'T KNOW IF THAT IS SOMETHING THEY SHOULD RELY ON  
26 OR NOT. HOW DO WE DEAL WITH THAT?

27 MR. DUNN: WELL, I THINK THAT FOR ANY PUMPER, ANY  
28 OVERLYING USER IN THE BASIN, THEY WOULD BE IN A POSITION



1 TO BE ABLE TO TESTIFY AS TO THEIR OWN PARTICULAR WATER  
2 USE. AND WHETHER OR NOT IN THE CLASS CONTEXT, THE CLASS  
3 REPRESENTATIVE CAN PROVIDE THAT INFORMATION. I  
4 PERSONALLY BELIEVE HE OR SHE COULD. AND THAT IS PERHAPS  
5 PART OF THE FUNCTION OF BEING A CLASS REPRESENTATIVE.  
6 BUT IF THAT IS NOT THE CASE, THEN THERE ARE DEVICES  
7 AVAILABLE TO IMPLEMENT IN A CLASS ACTION THAT COULD  
8 GATHER INFORMATION FROM CLASS MEMBERS.

9 AND, ALTERNATIVELY, THERE IS JUST THE  
10 RECOGNITION THAT IF YOU LOOK AT THE SMALL CLASS -- OR  
11 CLASS OF SMALL PUMPERS, EXCUSE ME, BY DEFINITION THEY  
12 ARE SMALL PUMPERS, AND THEY ARE OUT IN THE SAME  
13 ESSENTIALLY GEOGRAPHIC AREA OF ANTELOPE VALLEY, IT IS  
14 POSSIBLE TO ESTIMATE THE AMOUNT OF WATER USE FOR THEM.

15 THE COURT: THERE WAS SOME NUMBER THROWN OUT OF  
16 3800 ACRE-FEET PER YEAR FOR ALL THE -- WHOSE NUMBER WAS  
17 THAT?

18 MR. DUNN: WELL, I DON'T WANT TO GET INTO  
19 SETTLEMENT DISCUSSIONS.

20 THE COURT: I DON'T WANT YOU TO. I DON'T WANT TO  
21 HEAR ABOUT SETTLEMENT DISCUSSIONS, BUT THAT IS A NUMBER  
22 I'VE SEEN REFLECTED IN PAPERS. I WANT TO KNOW WHOSE  
23 NUMBERS THAT IS.

24 MR. DUNN: I DON'T THINK IT CAME FROM  
25 MR. MCLACHLAN, I'M PRETTY CONFIDENT OF THAT.

26 THE COURT: I'M SURE OF THAT.

27  
28 (LAUGHTER)

1 MR. MCLACHLAN: THERE WOULD HAVE BEEN A NOTICE OF  
2 ME BEING FIRED BY MR. WOOD IF THEY DID.

3 MR. DUNN: I THINK IT REFLECTS AN ALLOCATION BASED  
4 ON ESTIMATE OF WATER ACROSS THE BOARD TO ALL THE CLASS  
5 MEMBERS.

6 THE COURT: OKAY. WELL, LET ME JUST OBSERVE THAT  
7 I THINK THE NOTION OF GETTING ON RECORD EVERYBODY'S  
8 CLAIMED AMOUNT WHETHER THEY WERE PUMPING OR NOT IS  
9 NECESSARY IN ORDER TO GET THIS CASE CLOSED UP.

10 AS FAR AS THE FORM THAT THAT NOTICE SHOULD  
11 TAKE, I'M CONCERNED ABOUT TWO THINGS. I'M CONCERNED  
12 ABOUT DUE PROCESS, AND I'M CONCERNED ABOUT ACTUAL NOTICE  
13 TO THE INDIVIDUALS THAT WOULD BE SUBJECT TO AN ORDER.  
14 AND I WOULD PROBABLY RATHER THAN PHRASING IT AS A  
15 STRAIGHT ORDER PROBABLY AN ORDER TO SHOW CAUSE AND TO  
16 ASSERT THE CLAIMS.

17 AND I SUPPOSE IT WOULD BE USEFUL TO HAVE  
18 SOME INPUT FROM THOSE PEOPLE. I DON'T KNOW IF ANY OF  
19 THEM ARE HERE IN THE COURTROOM TODAY, BUT EVERYBODY IS  
20 ON NOTICE THAT THE CASE MANAGEMENT CONFERENCE WAS  
21 SCHEDULED, AND IF THE COURT WAS GOING TO MAKE ORDERS  
22 CONCERNING THE PROGRESS IN THIS CASE.

23 BUT I WOULD LIKE TO SEE SOME PROPOSALS WITH  
24 REGARD TO BEYOND WHAT YOUR JOINT PROPOSED ORDER IS  
25 CONCERNING HOW TO PROCEED TO GET THAT INFORMATION. I  
26 WOULD LIKE TO HAVE IT BY THE TIME OF -- I WOULD LIKE TO  
27 HAVE THE ORDER OUT AND A REQUIREMENT THAT THERE BE A  
28 RESPONSE TO THE ORDER BY THE NEXT HEARING WHICH I AM

1 THINKING IS PROBABLY GOING TO BE ABOUT A MONTH FROM NOW.

2 MR. DUNN: WE CAN CONTINUE TO MEET AND CONFER AS  
3 COUNSEL ON THAT. AT SOME POINT I WOULD LIKE TO ADDRESS  
4 THE COURT ON THE TRIAL DATE ISSUE.

5 THE COURT: GO AHEAD.

6 MR. DUNN: AGAIN, NOT GETTING INTO THE SUBSTANCE  
7 OF THE SETTLEMENT DISCUSSIONS WHICH I AGREE HAVE BEEN  
8 PRODUCTIVE AND PARTICULARLY WITH JUSTICE ROBIE'S  
9 ASSISTANCE, BUT WE HAVE -- AT LEAST FOR THE MOMENT, WE  
10 HAVE A GAP THAT WE STILL NEED TO CLOSE. I WILL SAY WE  
11 WERE NOT ABLE TO MAKE MUCH OF ANY PROGRESS AT THE LAST  
12 MEDIATION SESSION WITH JUSTICE ROBIE ON CLOSING THERE  
13 GAP.

14 IN OTHER WORDS, THE GAP HAS NOW CONTINUED.  
15 THAT IS NOT TO SAY THAT WE WILL NOT CLOSE THE GAP. IT  
16 IS A RECOGNITION THAT I THINK THAT LOOKING FORWARD WE  
17 ARE GOING TO HAVE TO COME BACK BEFORE THE COURT EITHER  
18 WITH A SETTLEMENT THAT MOST IF NOT ALL PARTIES WILL BE A  
19 PART OF, AND IT WILL BE PRESENTED TO THE COURT FOR COURT  
20 APPROVAL WITH EVIDENCE ESTABLISHING THE PHYSICAL  
21 SOLUTION AND THE REQUIREMENTS THAT THE -- THAT ARE SET  
22 TO PROVE THAT UP.

23 AND THERE WILL BE SOME PARTIES PERHAPS THAT  
24 WILL NOT. IN A CASE LIKE THIS, CANDIDLY, IT IS VERY  
25 DIFFICULT TO GET AN OVERALL AGREEMENT. WE ARE WORKING  
26 VERY HARD TO ACHIEVE THAT. BUT AT THE END OF THE DAY,  
27 WE MAY NOT BE ABLE TO HAVE THAT. AND THAT WILL NOT BE  
28 FOR LACK OF EFFORT OR PARTICIPATION BY ANY PARTY. IT'S

1 JUST THAT THERE ARE MANY INTERESTS IN THIS CASE, AND IT  
2 IS VERY DIFFICULT TO GET THEM ALL LINED IN A -- IN AN  
3 AGREEMENT. THEN RECOGNIZING THAT -- AGAIN BECAUSE WE DO  
4 HAVE THE UNITED STATES INVOLVED, THERE ARE SOME  
5 REQUIREMENTS THAT WILL COME INTO PLAY HERE FOR ALL OF US  
6 TO ALLOCATE THAT WATER AND TO PROVE THAT UP.

7 SO IT IS SEEMED TO -- TO US, THE PUBLIC  
8 WATER SUPPLIERS, THAT ONE OF THE BEST WAYS TO MOTIVATE  
9 THE PARTIES TO GET THIS CASE RESOLVED IS TO SET A TRIAL  
10 DATE. WE'VE BEEN WITHOUT A TRIAL DATE NOW SINCE THE  
11 CONCLUSION OF PHASE III. AND WE ARE GOING TO CONTINUE  
12 TO MEDIATE WITH JUSTICE ROBIE, BUT THERE'S A CONCERN ON  
13 OUR PART THAT WE DON'T WANT THIS PROCESS TO  
14 UNNECESSARILY DRAG OUT. WE ARE NOT ACCUSING ANYONE OF  
15 DRAGGING IT OUT, BUT A TRIAL DATE HAS A WAY OF  
16 ENCOURAGING THE PARTIES TO WORKING TOWARDS SOME FINALITY  
17 AND I THINK WE NEED THAT.

18 I THINK IT WILL BENEFIT ALL OF THE PARTIES  
19 AND JUSTICE ROBIE. I'M NOT SAYING IT NEEDS TO BE SET IN  
20 THE NEXT MONTH, BUT WHAT WE PROPOSE THAT WHEN WE COME  
21 BACK TO THE COURT WITH PROPOSALS ON WHAT THAT PROVE-UP  
22 OR TRIAL WOULD LOOK LIKE, AND PROBABLY BE A COMBINATION  
23 OF BOTH.

24 AND WE WOULD PARTICULARLY LIKE TO DISCUSS IT  
25 WITH THE UNITED STATES AND THEIR VIEWS ON HOW THIS  
26 SHOULD BE DONE, AND SOME OF THE OTHER ISSUES THAT ARE  
27 OUT THERE. OUR OTHER CONCERN, THOUGH, IS THAT WE WOULD  
28 LIKE TO GET THAT SCHEDULED SOON. BECAUSE EVEN IF IT'S

1 JUST A PROVE UP, ALL THE ATTORNEY CALENDARS HERE GET  
2 FULL PRETTY QUICKLY, AND WE WOULD LIKE TO GET THAT ON A  
3 CALENDAR AT LEAST. SO WHETHER IT'S A PROVE UP AND/OR A  
4 TRIAL, WE THINK WE SHOULD GET SOMETHING SCHEDULED.

5 THE COURT: YOU KNOW, OUR EXPERIENCE HAS BEEN THAT  
6 IF A MAJORITY OF THE PARTIES IN LITIGATION OF THIS SORT  
7 COME TO AN AGREEMENT, THAT AGREEMENT CAN BE APPROVED  
8 VIS-A-VIS THEMSELVES AS TO EACH PARTY, NOT BINDING  
9 PARTIES WHO HAVE NOT ENTERED INTO THE AGREEMENT. AND TO  
10 THE EXTENT THAT THAT IS WORKABLE, THE COURT CAN THEN  
11 PROCEED TO TRY THE ISSUES WITH REGARD TO THE  
12 NONSTIPULATING PARTIES. BECAUSE THE STIPULATION DOES  
13 NOT AND CANNOT BIND THEM.

14 AND IT OCCURS TO ME AND HAS OCCURRED TO ME  
15 THAT THE PARTIES WHO ARE VERY CLOSE BUT WHO STILL HAVE A  
16 GAP IN TERMS OF THEIR ALLOCATION REQUIREMENTS, IF YOU  
17 CAN CLOSE THAT GAP AND ENTER INTO WHATEVER KIND OF A  
18 STIPULATION YOU CAN VIS-A-VIS EACH OTHER, THE BALANCE OF  
19 THE TRIAL WITH THE NONSTIPULATING PARTIES CAN BE HEARD  
20 CONCURRENT WITH THE PROVE-UP.

21 AND WE HAVE DONE THAT IN THE PAST, AND IT  
22 SEEMS TO ME THAT THAT IS A VERY WORKABLE WAY SOMETIMES  
23 OF MOTIVATING PEOPLE TO PARTICIPATE AND HELPS THE COURT  
24 TO GET A RESOLUTION OF THE CASE WITH OR WITHOUT A TRIAL.

25 SO I REALLY WOULD ENCOURAGE YOU TO DO THAT.  
26 I KNOW THAT THERE IS -- I THINK THERE'S A SETTLEMENT  
27 CONFERENCE WITH JUSTICE ROBIE ON THE 7TH OF DECEMBER? I  
28 WOULD THINK THAT -- GET MY OWN CALENDAR. IF WE COULD

1 HAVE A FURTHER HEARING HERE ON THE 13TH OR 14TH OF  
2 DECEMBER, AND I THINK THIS TIME I WILL MAKE IT AT  
3 10 O'CLOCK RATHER THAN 9 O'CLOCK. GIVE YOU A CHANCE TO  
4 GET HERE.

5 MR. MCLACHLAN: WHICH DAY, YOUR HONOR?

6 THE COURT: 13TH OR 14TH OF DECEMBER.

7 MR. DUNN: THAT IS FINE. EITHER DATE IS FINE FOR  
8 ME.

9 MR. WELLEN: 13TH IS BETTER FOR MY OFFICE.

10 THE COURT: WE WILL DO THAT. WE ARE NOT DONE  
11 HERE. OBVIOUSLY WE HAVE GOT A LOT OF THINGS TO TALK  
12 ABOUT YET. AND ONE OF THE THINGS THAT I WANT TO TALK  
13 ABOUT IS, MR. MCLACHLAN, YOUR NEEDS. YOU HAVE -- HOW  
14 MANY CLASS MEMBERS, ABOUT 3800?

15 MR. MCLACHLAN: APPROXIMATELY 3800, AND I HAD A  
16 COUPLE POINTS. AND THE FIRST ONE, I THINK, DUCKTAILS  
17 INTO THAT ISSUE THERE -- WHICH I THINK IT NEEDS TO BE ON  
18 THE TABLE AND HAS BEEN DISCUSSED A LITTLE BIT; BUT AS  
19 THE COURT RECALLS, THERE WAS INITIALLY SOME DEBATE OVER  
20 THE DEFINITION OF THE CLASS IN TERMS OF THE WATER USE.  
21 AND COUNSEL HAD PUSHED FOR SOMETHING SMALLER AROUND THE  
22 5 ACRE-FOOT RANGE. AND ULTIMATELY IT ENDED UP BEING 28  
23 ACRE-FEET.

24 AND SO THE CLASS BY DEFINITION HAS A NUMBER  
25 OF -- WE -- PEOPLE WHO ARE NOT PURELY DOMESTIC USERS  
26 LIKE MR. WOOD. MR. WOOD HAS NO NONDOMESTIC USE SUCH AS  
27 AGRICULTURAL OR ANIMAL HUSBANDRY TYPE OF USES.

28 THERE'S NO WAY TO REALLY KNOW EXACTLY HOW

1 MANY OF THOSE PEOPLE ARE, SAY, ABOVE THE 5 ACRE-FEET  
2 PEOPLE. I DON'T THINK IT IS A LARGE NUMBER, BUT IT  
3 COULD BE ONE OR 200. I THINK WE SHOULD ALL FLAG THE  
4 ISSUE OF THE FACT THAT EVENTUALLY THEY WILL GET A CLASS  
5 NOTICE OF WHAT -- IF THERE IS A SETTLEMENT OF SOME TYPE  
6 THAT INVOLVES WATER RIGHTS, THEY WILL GET A CLASS  
7 NOTICE. AND THAT IS ALMOST CERTAINLY GOING TO INVOLVE  
8 WHATEVER THEIR RESIDENTIAL USAGE IS. IT IS UNDERSTOOD  
9 AND BELIEVED THAT ALL THESE PARCELS DO HAVE A RESIDENCE  
10 ON THEM. AND SO THERE IS SOME RESIDENTIAL COMPONENT  
11 WHICH IS WHAT WE HAVE BEEN NEGOTIATING AND DEALING WITH.

12 WELL, I SUSPECT THAT MOST OF THOSE PEOPLE  
13 WHEN THEY GET THIS AND IT SAYS, YOU KNOW, YOU ARE GOING  
14 TO BE ALLOTTED 3 ACRE-FEET OR 2 ACRE-FEET OR WHATEVER  
15 THE NUMBER IS, THEY ARE GOING TO WANT TO OPT-OUT OF THE  
16 CLASS AND TRY TO PROVE UP THEIR OWN RIGHTS.

17 AND SO THERE IS ANOTHER GROUP OF PEOPLE WHO  
18 MAY BAIL OUT OF THE WOOD CLASS, PROBABLY NOT A BIG  
19 GROUP, BUT THEY DO EXIST. AND IT COULD BE SEVERAL  
20 HUNDRED ACRE-FEET OR MORE. IT COULD BE AS MUCH AS 1,000  
21 ACRE-FEET. I'M NOT SURE, BUT IT DOES EXIST.

22 I DID HAVE A -- ON THE ACTUAL NOTICE ISSUE  
23 THAT THE COURT RAISED, I WOULD SUGGEST THAT GIVEN THE  
24 FACT THAT MR. DUNN BELIEVES THAT THERE IS JUST SEVERAL  
25 HUNDREDS OF THESE PEOPLE THAT WOULD BE EITHER OPT-OUTS  
26 FROM THE WILLIS CLASS OR OPT-OUTS FROM THE WOOD CLASS OR  
27 THE OTHER SMALL PARTIES THAT HAVE FILED THE ANSWERS.  
28 THAT MAYBE IN ADDITION TO THE POSTING OF THE COURT'S

1 ELECTRONIC WEBSITE THAT THE COURT GIVES SOME  
2 CONSIDERATION SINCE WE HAVE ADDRESSES OF THESE PEOPLE TO  
3 ACTUALLY MAIL THEM A NOTICE. BECAUSE I CAN TELL YOU  
4 HAVING DEALT WITH A LOT OF THESE PEOPLE, BOTH INSIDE AND  
5 OUTSIDE THE WOOD CLASS, THESE PEOPLE DISCONNECTED FROM  
6 THIS PROCESS. AND IT IS A FAIRLY IMPORTANT ISSUE, AND  
7 IT IS A LITTLE UNUSUAL SINCE THE COURT DOES HAVE  
8 JURISDICTION AND PEOPLE SHOULD TECHNICALLY BE CHECKING  
9 THE WEBSITE. THE PLAIN FACT OF THE MATTER IS, I THINK  
10 THAT IS NOT THE CASE, AND MAILED NOTICE, YOU KNOW, THE  
11 COST OF THE STAMPS IS 44 CENTS. IT MIGHT NOT BE A BAD  
12 IDEA IN ADDITION TO THAT TO TELL PEOPLE.

13 THE COURT: WHEN COURT MAKES AN ORDER OR SOMETHING  
14 IS POSTED, THERE SHOULD BE AN EMAIL ALERT TO EACH OF THE  
15 PEOPLE THAT DO HAVE EMAIL WHO ARE PARTIES TO THIS  
16 LAWSUIT SO -- SO THERE IS ACTUAL NOTICE IN THAT SENSE.  
17 THEY DO HAVE TO OPEN IT UP. BUT I THINK THE LEGISLATURE  
18 HAS DEALT WITH THAT ISSUES FAIRLY RECENTLY SINCE THERE  
19 WAS AN ISSUE IN SANTA MARIA CASE THAT AROSE.

20 MR. MCLACHLAN: THAT WAS PURELY A SUGGESTION, YOUR  
21 HONOR.

22 THE COURT: WELL, IT IS A GOOD ONE BECAUSE WE WANT  
23 TO MAKE SURE THAT WE HAVE THEIR ATTENTION.

24 MR. MCLACHLAN: I WILL JUST SAY FOR SOME OF THESE  
25 PEOPLE I DEALT WITH THEY ARE NOT IN THE LIVING IN THE  
26 SAME ELECTRONIC AGE A LOT OF US BELIEVE EVERYONE IS  
27 LIVING IN. SOME OF THESE PEOPLE, FOR EXAMPLE, HAD TO GO  
28 TO PUBLIC LIBRARIES TO FILE THEIR ANSWERS. YOU NOTICED



1 MANY OF THEM WERE HANDWRITTEN. I'M NOT SAYING IT'S A  
2 HUGE NUMBER, BUT I'M SAYING I HAVE PERSONALLY SPOKEN TO  
3 A NUMBER OF THEM, PARTICULARLY CLASS MEMBERS, WHO DIDN'T  
4 HAVE THE MEANS, NO FAX, NO COMPUTER AT THE HOME, ET  
5 CETERA.

6 AND THAT DOES -- THERE IS A COMPONENT WITH  
7 THE -- ANTELOPE VALLEY DOES LIVE IN THAT SORT OF A WORLD  
8 A 1970S AND "WE DON'T HAVE A COMPUTER TYPE OF WORLD.

9 IN TERMS OF THE ISSUE YOUR HONOR RAISED  
10 WITH -- RELATIVE TO THE CLASS WATER USE, I GUESS, AS  
11 LONG AS THERE IS NOT A TRIAL DATE SET, THE DEALS OF  
12 ALLOCATION OR SELF-HELP OR ANY OF THOSE ISSUES, WE CAN  
13 CONTINUE TO BE IN THE STATUS QUO. AND IT IS, OF COURSE,  
14 DIFFICULT FOR US TO NEGOTIATE ANY SORT OF MEANINGFUL  
15 SENSE BECAUSE WE ARE JUST GOING ON ANECDOTAL ISSUES.

16 AND I CERTAINLY WOULD ENTERTAIN A  
17 STIPULATION THAT WE COULD PROVE UP MR. WOOD'S PERSONAL  
18 WATER USE; AND IF EVERYBODY IS WILLING TO STIPULATE THAT  
19 HIS WATER USE WILL SUFFICE FOR THE PURPOSES OF  
20 ESTABLISHING A DOMESTIC USE AND EVERYBODY ELSE IN THE  
21 CLASS, I'M SURE WE WOULD AGREE TO THAT. I SUSPECT THAT  
22 THEY WON'T DO THAT BECAUSE MR. WOOD USES A LITTLE MORE  
23 THAN WHAT WE THINK THE AVERAGE PERSON USES, NOT BY A LOT  
24 BUT . . .

25 THE COURT: THAT MIGHT PRESENT AT LEAST FORMAT FOR  
26 DISCUSSION.

27 MR. MCLACHLAN: I KNOW MR. DUNN SUGGESTED I JUST  
28 RAISE IT; AND IF EVERYBODY WAS AGREED TO IT, THEN THAT

1 MIGHT SOLVE THE PROBLEM.

2 THE COURT: OKAY. YOU SHOULD TALK ABOUT THAT  
3 AMONG YOURSELVES, AND I WOULD ENCOURAGE YOU,  
4 MR. MCLACHLAN, TO PARTICIPATE IN ALL OF THE SETTLEMENT  
5 DISCUSSIONS THAT ARE GOING ON HENCEFORTH.

6 MR. MCLACHLAN: WELL YOUR HONOR, WE DID  
7 PARTICIPATE AS WE INDICATED ON AUGUST 31. WE PRESENTED  
8 OUR POSITION, AND WE DID IN WRITING IN FACT PRESENT OUR  
9 COUNTER PROPOSAL WHICH IS ALSO ATTACHED. THERE HAS BEEN  
10 NO RESPONSE WHATSOEVER. I PRESUME THAT MAYBE THERE --  
11 THE LARGER FISH ARE DEALING AMONG THEMSELVES AND  
12 ORGANIZING THINGS. I HAVE BEEN WATCHING IT.

13 BUT IT STRIKES ME AS A VERY SIGNIFICANT  
14 WASTE OF RESOURCES TO HAVE US SITTING AROUND FOR EIGHT  
15 OR TEN HOURS IN THESE VARIOUS SESSIONS WHEN IT REALLY  
16 HAS NOTHING WHATSOEVER TO DO WITH THE CLASS. THE CLASS  
17 ISSUES ARE VERY SIMPLE. MOST OF EVERYTHING THAT THE  
18 LIST OF DEAL (PHONETIC) POINTS WHICH IS 16 OR 15 OR 20  
19 LONG, OR WHATEVER IT IS, MOST OF THOSE DON'T AFFECT US,  
20 AND WE ARE ON BOARD WITH THESE ISSUES. THE REAL ISSUE  
21 FOR THE CLASS IS IF THERE IS GOING TO BE A WATER RIGHT  
22 THAT IS -- THAT NEEDS TO BE RESOLVED.

23 SO IT IS FAIRLY SIMPLE. ANYONE CAN PICK UP  
24 THE PHONE AND CALL US AND SAY, HEY, WE WANT TO HAVE A  
25 DISCUSSION, MEET IN MY OFFICE, OR WHATNOT. IT JUST  
26 DOESN'T STRIKE ME AS VERY EFFICIENT FOR ME AND  
27 MR. O'LEARY SPENDING 12 HOURS OF BILLABLE TIME SITTING  
28 IN SACRAMENTO READING THE NEWSPAPER WHICH IS REALLY WHAT

1 HAPPENS.

2 WE MET AND WE PRESENTED OUR POSITION. IT IS  
3 SIMPLE. AND IF WE ARE GOING TO BE UP, THEN WE ARE JUST  
4 PADDING OUR BILLS, FRANKLY.

5 THE COURT: WELL, EVERY SETTLEMENT CONFERENCE, I'M  
6 AWARE OF REQUIRES A LOT OF SITTING AROUND AND READING  
7 NEWSPAPERS. BUT, UNFORTUNATELY, I UNDERSTAND YOUR  
8 INABILITY TO DEVOTE THAT KIND OF TIME TO READING THE  
9 PAPER.

10

11

(LAUGHTER)

12

13 THE COURT: BUT I DO WANT YOU TO CONTINUE TO  
14 PARTICIPATE TO THE EXTENT THAT YOU CAN AND TO CONFER  
15 WITH THE PARTIES. I'M WONDERING -- ONE OF THE CONCERNS  
16 THAT YOU HAVE OBVIOUSLY IS ESTABLISHING SOME STANDARD  
17 THAT YOU CAN USE TO REFLECT THE WATER USAGE OF YOUR  
18 CLASS. AND IF YOU HAVE 3800 PEOPLE AND EACH ONE OF  
19 THOSE PEOPLE CONTRIBUTED \$20 TO THE COST OF AN EXPERT,  
20 YOU COULD PROBABLY EMPLOY AN EXPERT TO GIVE YOU GOOD  
21 ADVICE.

22

23 YOU KNOW, CLASS PARTICIPATION SHOULD COME  
24 WITH SOME RESPONSIBILITIES, IT SEEMS TO ME, AS WELL  
25 AS -- OTHERWISE, THEY ARE FORTUNATE THAT THEY ARE NOT  
26 INDIVIDUALLY REPRESENTING THEMSELVES. SO THAT EACH ONE  
27 OF THEM HAS THEIR INDIVIDUAL RESPONSIBILITY, BUT IT  
28 SEEMS TO ME THAT THE COLLECTIVE RESPONSIBILITY OF THE  
CLASS IS TO ASSIST IN DOING WHATEVER IS NECESSARY TO

1 FURTHER THE INTEREST OF THE CLASS.

2 AND UNLESS YOU DO HAVE YOUR OWN EXPERT, YOU  
3 ARE NOT GOING TO BE IN A POSITION TO SETTLE THE CASE IN  
4 THE WAY THAT YOU WOULD LIKE TO. YOU MAY END UP HAVING  
5 TO TRY THE CLASS ISSUES INDEPENDENTLY.

6 AT SOME POINT IF THE COURT GETS CONCERNED  
7 ENOUGH ABOUT IT, THE COURT MAY APPOINT ITS OWN EXPERT TO  
8 PROVIDE EVIDENCE TO THE COURT WHICH WOULD THEN BE  
9 AVAILABLE TO ALL THE PARTIES. I DON'T WANT TO DO THAT  
10 UNLESS I HAVE TO.

11 MR. MCLACHLAN: WELL, YOUR HONOR HAS ALREADY DONE  
12 THAT TO BE CLEAR.

13 THE COURT: I HAVE DONE IT PARTIALLY, BUT NOT IN  
14 THE WAY THAT IS GOING TO HAVE TO OCCUR IF THERE IS GOING  
15 TO BE A TRIAL IN THIS CASE.

16 MR. MCLACHLAN: WELL, THE EXPERT'S BEEN APPOINTED.  
17 THERE IS AN ORDER OUT THERE THAT EXISTS THAT YOUR HONOR  
18 HAS RESCINDED.

19 THE COURT: THE COURT'S EXPERT.

20 MR. MCLACHLAN: SURE.

21 THE COURT: I HAVE NOT ASKED THE EXPERT TO DO  
22 ANYTHING BEYOND WHAT WAS ALREADY DONE, THE STATISTICAL  
23 ANALYSIS THAT WOULD SERVE FOR SOME LIMITED PURPOSES.  
24 WHAT I'M TALKING ABOUT IS IF WE GO TO TRIAL. AND THEN  
25 YOUR CLASS IS INTERESTED IN ESTABLISHING WHAT ITS RIGHTS  
26 ARE AND PRESENTS EVIDENCE. AND IF THE COURT IS NOT  
27 SATISFIED, THEN I'M GOING TO ASK THE EXPERT TO ASSIST  
28 THE COURT. THAT IS DIFFERENT THAN YOUR NEEDS,

1 OBVIOUSLY, BECAUSE YOU ARE NOT GOING TO HAVE AN  
2 ADVOCATE. YOU ARE GOING TO HAVE THE COURT'S ADVOCATE.

3 SO -- BUT BE THAT AS IT MAY, IT SEEMS TO ME  
4 THAT THERE ARE BETTER WAYS OF DOING THAT OF ESTABLISHING  
5 WHATEVER THOSE NUMBERS ARE, AND IT SEEMS TO ME GIVEN THE  
6 MEMBER OF THE CLASS, IT IS -- IT IS NOT A GREAT EXPENSE  
7 FOR EACH CLASS MEMBER TO BE CONCERNED WITH.

8 MR. MCLACHLAN: THE OTHER OPTION, OF COURSE, IS  
9 TO -- WOULD HAVE BEEN TO DEAL WITH THE CLASS ISSUE WHICH  
10 IS THE CLASS -- THE CLASS COMPLAINT WAS FILED TO DEFEAT  
11 THE CLAIMS OF PRESCRIPTION AGAINST THE -- PURSUED BY THE  
12 WATER SUPPLIERS. AND THE OTHER OPTION, OF COURSE, WOULD  
13 BE TO EFFECTUATE THE SETTLEMENT OF THE CLASS CLAIMS THAT  
14 IS ON THE TABLE, AND THAT DOES NOT AS IT CURRENTLY  
15 STANDS AND IN ITS CURRENT FORM DEAL WITH THE WATER  
16 RIGHTS OF THE CLASS. IT JUST SAVES THE SMALL PUMPERS  
17 FROM THE PRESCRIPTIVE RIGHT CLAIMS.

18 AND THAT WOULD SOLVE CERTAINLY THE CLASSES'  
19 ISSUES, AND THEN THE COURT CAN IF IT NEEDS TO AT SOME  
20 LATER POINT IN TIME DEAL WITH THE WATER RIGHTS  
21 ALLOCATION ISSUE AS THE COURT DEEMS FIT.

22 THE COURT: I DON'T DISAGREE WITH THAT. MR.  
23 MCLACHLAN, I THINK ABOUT FOUR YEARS AGO I ASKED MR. DUNN  
24 HOW SERIOUS THEY WERE ABOUT PRESCRIPTION CLAIMS AT LEAST  
25 WITH REGARDS TO THE WILLIS CLASS AND PERHAPS THE WOODS  
26 CLASS IS DIFFERENT, BUT MAYBE NOT.

27 IF PRESCRIPTION IS NOT AN ISSUE IN THE CASE,  
28 IT SEEMS TO ME IT GOES A LONG WAYS IN MOVING TOWARD A

1 RESOLUTION THAT ELIMINATES THE ALLOCATION PROBLEM THAT  
2 YOU HAVE THAT IS CREATED BY PRESCRIPTION OR THE CLAIM OF  
3 PRESCRIPTION.

4 SO I'M SURE THAT ALL COUNSEL MUST BE TALKING  
5 ABOUT THAT REGULARLY -- PARTICULARLY SINCE THERE WAS A  
6 PROPOSED STIPULATION TO SETTLE YOUR CLASS WHICH ONLY HAD  
7 SOME -- IT'S CALLED DEFICIENCIES. BUT IN ANY EVENT,  
8 THAT PRECLUDES THE COURT FROM APPROVING IT.

9 IN ANY EVENT, I LEAVE THAT DISCUSSION TO  
10 YOU. I TELL YOU WHAT I WOULD LIKE TO DO NOW -- THERE  
11 ARE OTHER ISSUES THAT I WANT TO -- THAT YOU WANTED ME TO  
12 ADDRESS.

13 MR. BEZERRA: YOUR HONOR, THIS IS RYAN BEZERRA FOR  
14 COPA DE ORO. ON THE ISSUE OF HAVING PARTIES SUBMIT  
15 THEIR CLAIMS, WE DO HAVE A PENDING SET OF RATHER  
16 EXTENSIVE DISCOVERY THAT WILL REQUIRE RESPONSES WITHIN  
17 30 DAYS AND NOT -- LET ME CLARIFY, COPA DE ORO RECEIVED  
18 THAT DISCOVERY AMONG MANY, MANY PARTIES. AND IF WE ARE  
19 GOING DOWN THE ROAD OF HAVING AN ORDER TO SHOW CAUSE TO  
20 ADDRESS THIS, A DISCOVERY STAY, WOULD FORMAL DISCOVERY  
21 STAY -- WOULD BE APPROPRIATE IN MY OPINION SO THAT WE  
22 DON'T START SERVING EACH OTHER WITH DISCOVERY SO WE CAN  
23 ADDRESS THE ISSUE OF FLUSHING OUT WHATEVER CLAIMS THERE  
24 ARE IN A MORE ORDERLY FASHION.

25 THE COURT: ANYBODY WANT TO RESPOND TO THAT?

26 MR. ZIMMER: I WAS JUST STANDING UP TO AGREE WITH  
27 THAT, YOUR HONOR. I ASSUME THAT IS WHAT WE ARE GOING TO  
28 DO. I THINK CERTAIN DISCOVERY RIGHT NOW IF WE CAN DO

1 THIS WITH AN ORDER TO SHOW CAUSE -- THE ORDER TO SHOW  
2 CAUSE WOULD BE THE MOST DIRECT WAY TO DO IT.

3 AND THE DISCOVERY THAT HAS BEEN SERVED IS  
4 FAIRLY VOLUMINOUS. SO IT IS ONLY ON CERTAIN ISSUES THAT  
5 MIGHT RELATE TO THE PURVEYORS'S SIDE OF IT AND FORCE  
6 DISCOVERY ON THE LANDOWNERS' SIDE OF IT, AND I THINK WE  
7 NEED TO STAY OUT OF THE BATTLE UNTIL WE KNOW WHAT THE  
8 ISSUES OF THE NEXT PHASE OF TRIAL WILL BE.

9 THE COURT: MR. WEEKS.

10 MR. WEEKS: I --

11 THE REPORTER: I'M SORRY, MR. WEEKS, I COULDN'T  
12 UNDERSTAND YOU.

13 MR. WEEKS: I AM THE ONE WHO SERVED THE DISCOVERY.

14 THE COURT: IS THAT AN APOLOGY?

15  
16 (LAUGHTER)

17  
18 MR. WEEKS: NO. WE HAVE MADE GREAT PROGRESS, AND  
19 THE GAP AND ALLOCATION IS SUBSTANTIALLY NARROWED. THIS  
20 STILL HAS A SUBSTANTIAL NUMBER, AND I BELIEVE THE WAY TO  
21 HAVE THAT GAP DISAPPEAR IS TO HAVE ALL THE PARTIES KNOW  
22 WHAT OTHER PARTIES' PUMPING IS, AND ALSO HAVE ALL THE  
23 PARTIES KNOW WHO ACTUALLY HAS A CLAIM AND WHO DOESN'T.

24 SO I JUST REQUEST FOR ADMISSIONS, AND I  
25 ANTICIPATE MANY, MANY OF THOSE REQUESTS FOR ADMISSIONS  
26 WILL NOT BE ANSWERED. SO THEN THE COURT HAS A PROCEDURE  
27 THAT IS -- WE'RE ALL USED TO THAT THE COURT CAN SIMPLY  
28 HAVE IT DEEMED ADMITTED THAT IF PARTIES DO NOT RESPOND

1 TO -- DO NOT HAVE ANY WATER RIGHTS. SO IT WILL SOLVE  
2 THAT PROBLEM THAT WE HAVE.

3 AND IF WE MOVE ON THAT, I'LL MOVE ON THAT,  
4 THEN WE SIMPLY HAVE AN ANSWER TO THAT QUESTION IN A  
5 MONTH AND A HALF OR TWO MONTHS.

6 THE COURT: ALL RIGHT. SO DO YOU WANT TO EXTEND  
7 TO THE PARTIES UPON WHO YOU HAVE SERVED YOUR DISCOVERY A  
8 STAY?

9 MR. WEEKS: I WILL EXTEND A -- GIVE AN EXTENSION  
10 TO ALL THE PARTIES WHO ASK FOR IT, BUT I'M CERTAIN THAT  
11 THERE ARE MANY, MANY, MANY, MANY PARTIES WHO ARE NOT  
12 EVEN GOING TO ASK.

13 THE COURT: LET ME SAY, I'M NOT INCLINED AT THIS  
14 POINT TO ISSUE A STAY ORDER, BUT I THINK THAT -- THAT --  
15 THE REASON OUGHT TO INDUCE YOU TO EXTEND THAT BLANKET  
16 PERIOD -- EXTENSION OF TIME IN WHICH TO RESPOND PENDING  
17 WHAT WE ARE ABLE TO DO HERE.

18 AND WHAT I WANT TO DO NOW AT THIS POINT  
19 IS -- I WANT COUNSEL -- I WILL TAKE ABOUT A TEN-MINUTE  
20 RECESS OR 15-MINUTE RECESS. I WANT YOU TO DEAL WITH  
21 THAT JOINT ORDER THAT WAS PROPOSED AND SEE IF YOU CAN  
22 COME UP SOME LANGUAGE THAT EVERYBODY IS AGREEABLE TO.  
23 AND I'LL APPROVE THAT APPROPRIATELY, AND WE WILL GET IT  
24 OUT, AND I WOULD LIKE TO HAVE THESE PEOPLE RESPONDING  
25 SOON.

26 SO FIGURE OUT A TIME LIMIT TO DO THE SAME  
27 PLEASE.

28 MR. ZIMMER: YOUR HONOR, YOU WANT THAT FRAMED UP



1 AS AN ORDER TO SHOW CAUSE?

2 THE COURT: I WOULD.

3 MR. ZIMMER: STEMMING FROM THE PREVIOUS CASE  
4 MANAGEMENT CONFERENCE?

5 THE COURT: YEAH. GIVEN THE AGE OF THIS CASE AND  
6 HOW LONG THIS HAS BEEN GOING ON WITH PEOPLE ADDRESSING  
7 THE ISSUES AND RATHER IN A PIECEMEAL SORT OF WAY. AND  
8 THAT IS NOT A CRITICISM BECAUSE I THINK IT IS THE WAY IT  
9 HAD TO BE DEALT WITH IN THAT FASHION, BUT IT TOOK A LONG  
10 TIME TO GET THIS CASE AT ISSUE. WE WEREN'T AT ISSUE  
11 UNTIL ABOUT I THINK ABOUT TWO YEARS AGO AT THE LATEST OR  
12 EARLIEST SO . . .

13 SO NO ONE IS DRAGGING THEIR FEET HERE EXCEPT  
14 I THINK THERE WAS SOME DRAGGING OF THE FEET TO GET THE  
15 MATTER AT ISSUE. ONCE AT ISSUE I THINK IT HAS MOVED  
16 ALONG WELL AND PARTICULARLY GIVEN THE -- THE EFFECTIVE  
17 SETTLEMENT DISCUSSIONS THAT HAD BEEN GOING ON, AND WE  
18 ALL OWE A HUGE DEBT TO JUSTICE ROBIE, HUGE DEBT.

19 AND -- I MEAN HE DID THAT AT MY REQUEST  
20 BECAUSE OBVIOUSLY I COULDN'T DO THE SETTLEMENT  
21 CONFERENCE AS I WOULD LIKE TO HAVE.

22 BUT HE IS A VERY KNOWLEDGEABLE AND A WISE  
23 JUDGE, AND YOU WERE VERY FORTUNATE TO HAVE THE BENEFIT  
24 OF HIM. OKAY. NOW, ANYBODY ELSE WANT TO SAY ANYTHING  
25 BEFORE I TAKE A TEN OR 15 MINUTES BREAK?

26 MR. DAVIS: YES, YOUR HONOR. WITH RESPECT TO THE  
27 COURT --

28 THE REPORTER: I'M SORRY, COUNSEL, BUT COULD YOU

1 PLEASE REMIND ME OF YOUR NAME, PLEASE.

2 MR. DAVIS: I'M SORRY, MICHAEL DAVIS. JUST WITH  
3 RESPECT TO THE COURT'S USE OF THE PHRASE "ON THE RECORD"  
4 WHEN IT COMES TO THE CLAIM, THE COURT WILL RECALL THAT  
5 JUSTICE ROBIE HAD ASKED THE PARTIES TO PROVIDE  
6 INFORMATION. AND I THINK THERE WERE FOUR OR FIVE  
7 QUESTIONS THAT WERE TO BE ANSWERED. AND THOSE PARTIES  
8 HAVE DONE THAT, AND JUSTICE ROBIE HAS ESSENTIALLY BEEN  
9 TALLYING THAT INFORMATION.

10 IS THE COURT TALKING ABOUT A DIFFERENT  
11 PROCESS NOW OR A CONTINUATION OF THAT PROCESS TO FINISH  
12 THE PRESENTATION OF DATA THAT JUSTICE ROBIE -- SO THAT  
13 WE CAN IN THAT MEDIATION CONTEXT, AS MR. ZIMMER SAID,  
14 CLOSE THE GAPS?

15 THE COURT: MR. DAVIS, I'M NOT THINKING OF  
16 MEDIATION PROPOSALS. WHAT I'M INTERESTED IN IS WHAT IS  
17 THE AMOUNT OF THE CLAIM THAT YOU HAVE AS TO WATER RIGHTS  
18 ON YOUR LAND TO THE EXTENT THAT YOU HAVE NOT  
19 PARTICIPATED IN ANY OF THE SETTLEMENT NEGOTIATIONS AND  
20 HAVE BEEN STANDING BY ESSENTIALLY WITH THE COURT'S  
21 JURISDICTION.

22 MR. DAVIS: OKAY. SO THE PARTIES WHO HAVE NOT  
23 BEEN PARTICIPATING ARE THE PARTIES THAT YOU ARE FOCUSING  
24 ON?

25 THE COURT: THAT IS CORRECT.

26 MR. DAVIS: THANK YOU, YOUR HONOR.

27 THE COURT: I THINK THAT UNLESS YOU KNOW WHAT  
28 EVERYBODY ELSE'S CLAIM IS, IT IS VERY HARD TO COME TO A

1 RESOLUTION AS TO YOUR INDIVIDUAL CLAIMS. SO I THINK THE  
2 FEDERAL GOVERNMENT IS CERTAINLY INTERESTED IN KNOWING  
3 WHAT IS OUT THERE BECAUSE THE ULTIMATE JUDGMENT IN THIS  
4 CASE IS GOING TO BE DETERMINATIVE AT LEAST TO SOME  
5 EXTENT OF THE PERCENTAGES OF WATER RIGHTS.

6 YES, MR. BUNN.

7 MR. BUNN: THOMAS BUNN. THE JOINT ORDER THAT WAS  
8 SUBMITTED TO YOUR HONOR WAS IN FACT A JOINT ORDER AND  
9 WAS NEGOTIATED BY REPRESENTATIVES OF BOTH SIDES, AND WE  
10 DID -- DIDN'T SPEAK ABOUT THAT ORDER IN THE MEDIATION  
11 SESSION BEFORE JUSTICE ROBIE. SO, PERHAPS, IF WE COULD  
12 GET AN INDICATION OF HOW YOUR HONOR FEELS THAT ORDER  
13 NEEDS TO BE FIXED, THEN WE CAN SIT DOWN DURING THIS  
14 BREAK AND DO WHAT NEEDS TO BE DONE.

15 THIS ORDER SETS FORTH THE INFORMATION THAT  
16 WE THINK WE NEED TO SEE WHO IS MAKING THE CLAIM AND THE  
17 CONSEQUENCES THAT WE THINK THAT WE NEED IF SOMEBODY DOES  
18 NOT SUBMIT AN ANSWER.

19 AND IT IS -- IT IS SHORT AND SWEET WHICH WE  
20 THINK IS NECESSARY TO GET TO PEOPLE SUCH AS  
21 MR. MCLACHLAN DESCRIBED AS WHO MAY NOT BE VERY AWARE  
22 WHAT IS GOING ON IN THIS LAWSUIT.

23 MR. ZIMMER: I THINK -- I THINK WHAT THE COURT IS  
24 SUGGESTING IS THAT WE BRING THAT UP AS AN ORDER TO SHOW  
25 CAUSE FOR ANY PARTY THAT HAS NOT PARTICIPATED IN THE  
26 MEDIATION TO COME TO COURT AND PRESENT THAT INFORMATION  
27 OR PRESENT THAT INFORMATION TO THE COURT AS AN ORDER TO  
28 SHOW CAUSE. IF THAT IS NOT COMPLIED WITH, WE CAN DEAL

1 WITH THAT.

2 MR. BUNN: THAT IS FINE. IS THERE ANYTHING ELSE?

3 THE COURT: NO. THE OTHER ASPECT OF IT WAS WHAT  
4 WE TALKED ABOUT A LITTLE EARLIER WITH MR. DUNN, AND THAT  
5 IS THAT GROUP OF PEOPLE WHO ARE NOT PUMPING WHO ARE NOT  
6 MEMBERS OF THE WILLIS CLASS WHO OPTED OUT WHO DO HAVE  
7 WATER RIGHTS, AND WE NEED TO ADJUDICATE THAT POSITION,  
8 DON'T WE?

9 MR. ZIMMER: WOULDN'T WE BE DOING THE SAME THING  
10 AS TO BOTH PUMPERS AND NONPUMPERS BY ISSUING AN ORDER TO  
11 SHOW CAUSE IF NOT INVOLVED IN THE MEDIATION, PRESENT  
12 THIS INFORMATION TO THE COURT BY SUCH AND SUCH A DATE?  
13 AND THAT WILL PICK UP BOTH PUMPERS AND NONPUMPERS IF  
14 THEY HAVEN'T BEEN PUMPING.

15 THE COURT: THAT'S CORRECT. THIS FORM SUBMITTED  
16 TO ME ONLY DEALS WITH PUMPING. IT DOES NOT DEAL WITH  
17 THE OTHER -- MAY HAVE A CLAIM.

18 MR. ZIMMER: I THINK WE CAN ADJUST THAT AS WELL.

19 THE COURT: OKAY. WELL, ALL RIGHT.

20 MR. ZIMMER: I THINK IT'S A GOOD IDEA TO DO IT ON  
21 THE BREAK AND GET IT DONE.

22 THE COURT: YEAH, I WOULD LIKE TO SEE IT DONE SO  
23 WE CAN HAVE AN AGREEMENT, AND I CAN GET THE ORDER OUT.  
24 AND I WOULD LIKE YOU TO THINK ABOUT WHAT DATE IS THE  
25 LAST DATE FOR THAT SUBMISSION BY THESE PARTIES.

26 MR. BUNN: I WOULD ALSO LIKE TO MAKE THE COMMENT  
27 ON THE NOTICE BECAUSE I BELIEVE THERE ARE PARTIES WHO  
28 HAVE FILED ANSWERS THAT ARE NOT ON THE ELECTRONIC MAIL

1 SERVICE LIST THAT THE COURT MENTIONED.

2 NOW YOU PROBABLY ORDERED THAT THEY PUT  
3 THEMSELVES ON IT, BUT THE FACT IS THAT THEY -- THERE  
4 WERE PARTIES THAT ARE NOT ON THERE. I THINK I AGREED  
5 WITH MR. MCLACHLAN'S SUGGESTION THAT THIS ORDER SHOULD  
6 GO OUT BY MAIL.

7 THE COURT: I DON'T DISAGREE WITH THAT. I'M SURE  
8 THAT THERE ARE SOME WHO DON'T EVEN HAVE ELECTRICITY.

9 MR. ZIMMER: PONY EXPRESS.

10 THE COURT: TEN MINUTES.

11

12 (A RECESS WAS TAKEN.)

13

14 (A DISCUSSION WAS HELD OFF THE RECORD.)

15

16 THE REPORTER: YOUR HONOR, ARE WE BACK ON THE  
17 RECORD YET?

18 THE COURT: YES, BACK ON THE RECORD NOW. IF THE  
19 INFORMATION HAS ALREADY BEEN PROVIDED TO JUSTICE ROBIE  
20 AND IT HAS FORMED THE BASIS FOR THE DISCUSSIONS AND THE  
21 TENTATIVE AGREEMENTS AND ALLOCATIONS THAT YOU HAVE  
22 ARRIVED AT, THEN THIS ORDER SHOULD NOT APPLY TO THOSE  
23 PEOPLE.

24 MR. DUNN: THE CONCERN WE HAVE, YOUR HONOR, IS THE  
25 APPEARANCE OF SORT OF SELECTIVELY TARGETING SOME PARTIES  
26 IN THE CASE ALBEIT THE ONES THAT ARE NOT PARTICIPATING.

27 THE OTHER PROBLEM -- AND I DON'T KNOW IF  
28 PROBLEM IS THE RIGHT WORD; BUT WITHIN THE MEDIATION

1 ITSELF, PEOPLE HAVE PROVIDED INFORMATION. IT IS IN  
2 DIFFERENT FORMS AND SOME -- THERE IS MORE HERE OR LESS  
3 THERE AND SOME NOT AT ALL. AND SO IT IS HARD TO DEFINE  
4 THAT CARVE-OUT FOR THE MEDIATION.

5 FROM MY PERSPECTIVE IS TO MAKE IT ALL  
6 INCLUSIVE SO THAT IT'S ALL OUT ON THE TABLE SO  
7 EVENTUALLY WHATEVER FUTURE PROCEEDINGS WE HAVE WE HAVE  
8 ESTABLISHED A FOUNDATION OF DISCLOSURE FOR ALL PARTIES  
9 SO THAT ALL PARTIES ARE ABLE TO SAY, YOU KNOW, I WAS  
10 REQUIRED, I COMPLIED, AND THIS PARTY DID NOT. SO THAT  
11 TYPE OF FAIRNESS THING.

12 MR. ZIMMER: THE PROBLEM WITH THAT, YOUR HONOR --  
13 AND I DISCUSSED THAT WITH MR. DUNN. AND I UNDERSTAND  
14 THE CONCERN, BUT THE PROBLEM IS THAT THE PARTIES THAT  
15 ARE IN THE JUSTICE ROBIE PROCESS HAVE DETERMINED A TIME  
16 FRAME THAT THEY ARE USING FOR DETERMINATION OF THEIR  
17 WATER RIGHTS AND HAVE GONE THROUGH THAT ENTIRE PROCESS  
18 WITH JUSTICE ROBIE.

19 SO YOU CAN'T GET AROUND THE FACT THAT YOU  
20 WILL BE SEGREGATING THIS GROUP OF PEOPLE WHO ARE  
21 BEGINNING THE SETTLEMENT PROCESS. AND ALL THESE OTHER  
22 PEOPLE -- AND WE NEED TO KNOW FROM THESE OTHER PEOPLE IF  
23 THEY HAVE ANY WATER RIGHTS DURING ANY TIME FRAME, AND  
24 THAT'S WHAT NEEDS TO BE DONE.

25 THE COURT: WELL, THE DIFFERENCE HERE THAT THE  
26 PEOPLE WHO ARE PARTICIPATING ARE GOING TO COME TO AN  
27 AGREEMENT. THOSE PEOPLE WHO HAVE NOT PARTICIPATED MAY  
28 OR MAY NOT COME TO AN AGREEMENT. SO IT REALLY DOESN'T

1 REALLY MATTER, BUT IT IMPORTANT FOR THOSE WHO ARE  
2 AGREEING TO KNOW WHAT IS OUT THERE.

3 MR. ZIMMER: RIGHT.

4 THE COURT: TO MY MIND THAT IS THE REASON TO  
5 LIMITING TO THOSE PEOPLE. ALSO, IT WILL GET DONE A LOT  
6 FASTER AND APPROPRIATELY SO.

7 WHAT OTHER ISSUES DO YOU HAVE?

8 MR. ZIMMER: THE ONLY ISSUE, YOUR HONOR -- I THINK  
9 WE CAN CHANGE THE LAST PARAGRAPH IN THERE AND PUT IN  
10 THERE THESE PARTIES ARE ORDERED TO PROVIDE THIS  
11 INFORMATION BY SUCH AND SUCH A DATE OR APPEAR ON ANOTHER  
12 DATE TO SHOW CAUSE WHY THEIR MATTER -- WHY THEIR  
13 CLAIM --

14 THE COURT: I THINK -- THE LANGUAGE THAT YOU  
15 SHOULD USE IS THAT IT SHOULD BE EITHER FILED TO THE  
16 COURT OR POSTED. AND FAILURE TO DO SO, THEY ARE  
17 REQUIRED TO SHOW CAUSE WHY THE COURT SHOULD NOT MAKE A  
18 FINDING THEY ARE NOT ENTITLED TO. THEY CURRENTLY HAVE  
19 NO PUMPING AND NO RIGHTS TO PUMP.

20 MR. ZIMMER: WOULD YOU LIKE THE DATES IN THERE FOR  
21 THE ORDER TO SHOW CAUSE? THERE WERE TWO NUMBERS AND TWO  
22 DATES.

23 THE COURT: YES, I WANT THAT ORDER TO SHOW CAUSE  
24 TO BE ON THE 13TH.

25 MR. ZIMMER: THEN THE DATE OF THE HEARING ON THE  
26 ORDER TO SHOW CAUSE -- WHAT ABOUT THE FILING AND POSTING  
27 DATE?

28 THE COURT: WELL, THE POSTING DATE, WHAT DO YOU

1 RECOMMEND, COUNSEL?

2 MR. DUNN: IDEALLY IT WOULD BE BEFORE WE GO BACK  
3 TO JUSTICE ROBIE.

4 THE COURT: WHY DON'T YOU HAVE IT OCCUR ON THE  
5 7TH?

6 MR. WEEKS: POSTED IN THE EVENING?

7 THE COURT: OKAY. SIX -- 12 O'CLOCK P.M. ON THE  
8 6TH.

9 MR. JOYCE: YOUR HONOR, IF I COULD?

10 THE COURT: JUST ONE SECOND. ONE OTHER THING THAT  
11 I THINK THAT YOU NEED TO ALTER IS -- I'M LOOKING AT THE  
12 EXISTING ORDER. FAILURE TO PROVIDE THIS INFORMATION TO  
13 THE COURT AND POST THE INFORMATION ON THE COURT WEBSITE.  
14 I THINK IT SHOULD SAY "MAY RESULT IN A WAIVER OF YOUR  
15 RIGHT TO CLAIM ANY SPECIFIC WATER RIGHTS." BECAUSE I  
16 THINK THAT -- THAT DOESN'T MEAN THAT UNDER ALL  
17 CIRCUMSTANCES THERE WILL BE NO RIGHTS OF ANY KIND.

18 MR. MCLACHLAN: YOUR HONOR, ONE CLARIFYING POINT,  
19 IF THEY CHOOSE THE OPTION TO FILE IT WITH THE COURT,  
20 WOULD THAT BE FILED WITH THE LA SUPERIOR COURT OR UP IN  
21 SANTA CLARA?

22 THE COURT: IT WILL BE FILED HERE -- WELL, LET'S  
23 HAVE IT FILED HERE BECAUSE THAT IS WHERE EVERYTHING ELSE  
24 IS FILED, BUT IT COULD BE POSTED SO THAT EVERYBODY WILL  
25 HAVE ACCESS TO IT.

26 MR. MCLACHLAN: BUT IF IT WAS ONLY FILED IN THE LA  
27 SUPERIOR COURT, THEN I WONDER WHETHER ANY OF THE REST OF  
28 US ARE GOING TO GET NOTICE OF IT BEING FILED TO BE AWARE



1 OF IT.

2 THE COURT: WELL, DEBORAH, CAN WE MAKE SURE THAT  
3 IT GETS UP TO ROWENA WHEN IT IS FILED SO THAT SHE CAN  
4 POST IT RIGHT AWAY. I THINK IT WOULD BE CUMBERSOME TO  
5 TRY TO HAVE POSTING OR FILING IN SANTA CLARA COUNTY  
6 SINCE THE ORDER -- PREVIOUS ORDER -- EVERYTHING IS  
7 POSTED HERE, AND THAT IS RIGHT ON THE WEBSITE.

8 MR. WEEKS: YOUR HONOR, THERE IS -- THE -- WHEN I  
9 POST ON THE WEBSITE, IT IS -- IS THAT YOU CAN POST IT AS  
10 TO THE DISCOVERY PORTION OF THE WEBSITE WHICH IS  
11 PUBLICALLY AVAILABLE EXCEPT TO PEOPLE WHO LOGIN THAT  
12 WAY.

13 THE COURT: PUBLICALLY AVAILABLE.

14 MR. WEEKS: SO IT WOULD BE IN THAT PORTION OF THE  
15 WEBSITE.

16 THE COURT: YES.

17 MR. WEEKS: ARE THESE GOING TO BE UNDER PENALTY OF  
18 PERJURY?

19 MR. DUNN: ACTUALLY THAT WAS A POINT RAISED IN MY  
20 DISCUSSIONS WITH THE UNITED STATES. I'M SURE THEY ARE  
21 BACK ON THE LINE, BUT ASSUMING MANY OF THESE PARTIES ARE  
22 NOT REPRESENTED BY LEGAL COUNSEL, WE WILL NEED IT  
23 ESSENTIALLY SIGNED UNDER PENALTY OF PERJURY.

24 THE COURT: ALL RIGHT. PUT THAT IN THE ORDER.

25 MR FIFE: YOUR HONOR, CAN I ASK FOR A  
26 CLARIFICATION ABOUT YOUR RECOMMENDED DIVISION OF  
27 CHANGING THE WORD "WILL" TO "MAY" AND THEN SPECIFIC  
28 WATERS RIGHTS. CAN YOU EXPLAIN WHAT YOU MEAN BY THAT?

1 THE GOAL IS TO SHUT THE DOOR.

2 THE COURT: WELL, IT IS, BUT WHEN YOU SHUT THE  
3 DOOR, YOU KNOW, THERE IS ALWAYS A CRACK UNDER THE DOOR,  
4 AND I'M NOT INTERESTED IN THE FORFEITURE, FOR EXAMPLE,  
5 THE LANGUAGE IN THE ORDER. I DON'T THINK THAT IS  
6 APPROPRIATE BECAUSE IT IS NOT A FORFEITURE, BUT YOUR  
7 WATER RIGHTS WILL BE SUBJECT TO WHATEVER ORDERS THE  
8 COURT MIGHT MAKE. FOR EXAMPLE, IF THEY DON'T FILE A  
9 STATEMENT OF CLAIM, AND THEY ASK FOR A TRIAL AND WE GO  
10 TO TRIAL ON THEIR CLAIMS, HAVE THEY ENTERED INTO A  
11 FORFEITURE? THEY CAN AFFECT YOUR PORTION IF YOU SETTLE  
12 THE CASE, BUT I AM NOT CONVINCED THAT WE SHOULD HAVE IT  
13 THAT PRECIPITOUS.

14 MR. JOYCE: YOUR HONOR, EVERYONE THAT HAS BEEN  
15 ACTIVELY PARTICIPATING IN MEDIATION KNOWS WHO HAS BEEN  
16 PARTICIPATING. BUT THE KEY IS I THINK THAT THOSE THAT  
17 HAVE PARTICIPATED SHOULD RESPOND IF NOTHING MORE THAN TO  
18 SAY THAT THE INFORMATION SOUGHT HAS BEEN PROVIDED IN THE  
19 COURSE OF THE MEDIATION.

20 THAT WAY YOU WILL HAVE THE ENTIRE UNIVERSE  
21 OF ALL PARTIES RESPONDING IN ONE FORM OR THE OTHER. SO  
22 THAT SOMEONE CAN'T CLAIM WHILE EVEN THOUGH I DIDN'T FILE  
23 A RESPONSE TO THE ORDER TO SHOW CAUSE, I DID PROVIDE IT  
24 WHEN IN FACT THEY DID NOT.

25 THE COURT: ARE YOU GOING BACK TO THE QUESTION  
26 THAT MR. DUNN RAISED?

27 MR. JOYCE: IN PART.

28 MR. WEEKS: THERE IS ANOTHER ISSUE THAT SOME

1 PEOPLE PARTICIPATED VERY BRIEFLY, AND INFORMATION THEY  
2 PROVIDED AT THE MEDIATION WAS, EVEN BY THEIR OWN  
3 ADMISSIONS, WAS SORT OF AN ESTIMATE. I MEAN --

4 THE COURT: MR. WEEKS, IF EVERYBODY WANTS TO HAVE  
5 EVERYBODY RESPOND WHETHER THEY HAVE PARTICIPATED IN THE  
6 MEDIATION OR NOT, THAT IS FINE WITH ME. I DON'T CARE.  
7 OKAY. IT REALLY DOESN'T MATTER TO ME. WHAT I'M  
8 INTERESTED IN IS PUTTING THIS INTO A FORM THAT WE CAN  
9 KIND OF LOOK FOR SOME CLOSURE.

10 AND LET ME RESPOND A LITTLE FURTHER TO YOUR  
11 CONCERN, MR. FIFE. THE COURT MAY AT THE TIME OF THE  
12 HEARING ON THE ORDER TO SHOW CAUSE IF THEY HAVE NOT SO  
13 PROVIDED MAKE WHATEVER ORDERS ARE APPROPRIATE THAT WILL  
14 FORECLOSE ANY FURTHER CLAIMS, BUT I DON'T THINK THAT I  
15 WANT TO MAKE IT AUTOMATIC WITHOUT A HEARING.

16 MR FIFE: OKAY. THANK YOU.

17 MR. ZIMMER: THAT IS HOW I UNDERSTOOD.

18 THE COURT: THAT IS A DUE PROCESS ISSUE AS FAR AS  
19 I'M CONCERNED.

20 MR. ZIMMER: RIGHT. ORDER TO SHOW CAUSE AND COME  
21 IN AND SHOW SOME EXCUSE OR SOMETHING.

22 MR. DUNN: IN CONJUNCTION WITH ALL OF THIS AS PART  
23 OF THE MEDIATION WHAT WE HAVE ALSO BEEN TRYING TO DO IS  
24 THERE IS -- THERE IS AN ELEMENT OF TRUST THAT MR. ZIMMER  
25 REFERRED TO EARLIER, AND THAT HAS PRIMARILY BEEN  
26 DEVELOPED BY OPENNESS AND CANDOR AS TO WHAT THE PUMPING  
27 IS AND BEING ABLE TO SORT OF EVALUATE IT.

28 WE HAVE BEEN ABLE TO DO THAT AND CONFIRM

1 THAT THE NUMBERS IN MANY INCIDENCES ARE ACCURATE. ONE  
2 OF THE CONCERNS THAT HAS BEEN RAISED IS, WHEN WE GET ALL  
3 THESE CLAIMS COMING IN, WE HOPE PEOPLE WILL RESPOND, WE  
4 ARE GOING TO -- WE MAY NEED TO AT SOME POINT EVALUATE  
5 IT. IT HAS BEEN SUGGESTED IN MY CONVERSATIONS WITH THE  
6 UNITED STATES THAT PERHAPS WE ALSO REQUEST FOR THE  
7 BACKUP OF HOW THAT CLAIM IS DEVELOPED, AND I KNOW THAT  
8 IT REQUIRES A MORE SUBSTANTIVE --

9 THE COURT: PUT IN THAT LANGUAGE IN THE ORDER AND  
10 THE -- AND THE BASIS FOR YOUR CLAIM.

11 MR. DUNN: OKAY.

12 THE COURT: IT IS ALL WORDS. THAT IS WHAT LAWYERS  
13 DO.

14 MR. ZIMMER: YOUR HONOR, WOULD YOU LIKE US TO KEEP  
15 WORKING ON THAT THIS MORNING AND LET YOU GO ON TO OTHER  
16 THINGS, AND WE COULD MOVE TO ANOTHER ROOM, PERHAPS, AND  
17 LET YOU KNOW WHAT WE --

18 THE COURT: WELL, I'M NOT GOING TO BE HERE WHEN  
19 YOU COME BACK SO YOU CAN EMAIL IT TO ROWENA AND POST IT  
20 AND AS A PROPOSED ORDER, AND I'LL REVIEW IT. AND I  
21 MIGHT OR MIGHT NOT MAKE CHANGES TO IT, BUT I WOULD LIKE  
22 TO SEE YOUR PROPOSAL. AND IF IT ALL IS SOMETHING THAT  
23 YOU HAVE ALL AGREED TO, THAT IS FINE.

24 MR. JOYCE: I PROPOSE THAT MR. ZIMMER AND MR. DUNN  
25 BE CHARGED WITH THE LEAD RESPONSIBILITY TO ACQUIRE --  
26 THAT WAY WE DON'T HAVE TOO MANY HANDS IN THE PIE.

27 THE COURT: I THINK THEY COULD ASSUME THAT MANTLE.

28 MR. ZIMMER: WE CAN DO THAT, YOUR HONOR. THE

1 OTHER QUESTION WAS, WE WERE GOING TO DISCUSS SOME OTHER  
2 ISSUES ANYWAY. IS THERE ANY PLACE HERE AT THE  
3 COURTHOUSE THAT WE COULD HAVE A ROOM THAT WE COULD  
4 POTENTIALLY USE?

5 THE COURT: YOU CAN DO IT HERE. THIS COURTROOM IS  
6 NOT BEING USED. I DON'T KNOW IF THERE'S ANOTHER  
7 CONFERENCE ROOM?

8 THE CLERK: NOT REALLY, 17TH FLOOR HAS ONE, BUT  
9 PROBABLY PEOPLE ARE IN THERE ALREADY. THERE'S AN  
10 ATTORNEY CONFERENCE ROOM IN THERE.

11 THE COURT: OKAY. ALL RIGHT. LET ME JUST COMMEND  
12 YOU ALL FOR THE HARD WORK THAT YOU HAVE DONE. JUSTICE  
13 ROBIE HAS CERTAINLY KEPT ME INFORMED TO THE EXTENT THAT  
14 HE CAN WITHOUT VIOLATING ANYBODY'S PRIVILEGES OR RIGHTS.  
15 AND I AM NOT SURPRISED AT HOW EFFECTIVELY AND DILIGENTLY  
16 YOU HAVE BEEN WORKING. BUT I PERSONALLY REALLY  
17 APPRECIATE IT, AND I CAN TELL YOU THAT YOU HAVE DONE  
18 GREAT WORK FOR YOUR CLIENTS. I HOPE YOU ARE ABLE TO  
19 CONCLUDE IT IN THAT FASHION, BUT THANK YOU VERY MUCH.  
20 I, APPRECIATE IT VERY MUCH. OKAY.

21 MR. BUNN: AND WE ALL SHARE THE GRATITUDE THAT YOU  
22 EXPRESSED ABOUT JUSTICE ROBIE A FEW MINUTES AGO. I  
23 THINK THAT IS UNANIMOUS.

24 THE COURT: OKAY. THANK YOU. ALL RIGHT.

25 MR. ZIMMER: MAKE SURE HE UNDERSTANDS THAT. HE IS  
26 DOING IT ON HIS OWN TIME. HE HASN'T CHARGED US --

27 THE COURT: HE DOESN'T GET OVERTIME FOR IT. ALL  
28 RIGHT. SO I WILL SEE YOU ON THE 13TH.

1 UNIDENTIFIED ATTORNEY: AS A PROPOSED ORDER THAT  
2 WE GET AS WELL VIA EMAIL --

3 THE REPORTER: YOUR HONOR, I NEED A NAME.

4 THE COURT: YEAH, BUT IDENTIFY YOURSELF, PLEASE.

5 MS. MELESKI: THIS IS KATHY MELESKI WITH MURPHY  
6 AND EVERTZ WITH THE CITY OF LANCASTER.

7 THE COURT: ALL RIGHT. WHATEVER IS DEVELOPED IS  
8 GOING TO BE SENT OUT AS A PROPOSED ORDER, AND YOU WILL  
9 GET A COPY OF IT, THE POSTING. OKAY.

10 THANK YOU.

11

12 (SEVERAL ATTORNEYS JOIN IN SAYING "THANK YOU.")

13

14 (THE PROCEEDINGS WERE THEN CONCLUDED.)

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

DEPARTMENT NO. 316

HON. JACK KOMAR,

COORDINATION PROCEEDING )  
SPECIAL TITLE (RULE 1550B) )

ANTELOPE VALLEY GROUNDWATER CASES) )

JUDICIAL COUNCIL  
COORDINATION  
NO. JCCP4408

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. )

STATE OF CALIFORNIA )  
 ) SS.  
COUNTY OF LOS ANGELES )

I, GINGER WELKER, OFFICIAL REPORTER OF THE  
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE  
COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE  
TRANSCRIPT DATED NOVEMBER 15, 2011 COMPRISES A FULL,  
TRUE, AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN  
THE ABOVE ENTITLED CAUSE.

DATED THIS 1ST DAY OF DECEMBER, 2011.

\_\_\_\_\_  
OFFICIAL REPORTER, CSR #5585

LAW OFFICES OF  
BEST BEST & KRIEGER LLP  
5 PARK PLAZA, SUITE 1500  
IRVINE, CALIFORNIA 92614

**PROOF OF SERVICE**

I, Kerry V. Keefe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 5 Park Plaza, Suite 1500, Irvine, California, 92614. On April 4, 2012, I served the within document(s):

**DECLARATION OF JEFFREY V. DUNN IN SUPPORT OF LOS ANGELES COUNTY WATERWORKS DISTRICT NO. 40'S OPPOSITION TO WILLIS CLASS' MOTION FOR RECONSIDERATION OF THE COURT'S NOVEMBER 16, 2011 ORDER RE ELECTION FOR PERIODIC PAYMENTS OF THE AMENDED FINAL JUDGMENT APPROVING WILLIS CLASS ACTION SETTLEMENT OR, IN THE ALTERNATIVE, FOR RELIEF PURSUANT TO CCP SECTION 984(e)(4)**

- by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 4, 2012, at Irvine, California.

  
Kerry V. Keefe