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14 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
15 **COUNTY OF LOS ANGELES**

16 Coordination Proceeding
17 Special Title (Rule 1550(b))

18 ANTELOPE VALLEY GROUNDWATER
19 CASES

20 RICHARD A. WOOD, an individual, on
21 behalf of himself and all others similarly
22 situated,

23 Plaintiff,

24 v.

25 LOS ANGELES COUNTY
26 WATERWORKS DISTRICT NO. 40; et
27 al.

28 Defendants.

Judicial Council Coordination
Proceeding No. 4408

(Honorable Jack Komar)

Case No.: BC 391869

**DECLARATION OF MICHAEL D.
MCLACHLAN IN SUPPORT OF
OPPOSITION TO WILLIS' CLASS
MOTION TO WITHDRAW
BASED ON CONFLICT OF
INTEREST OR, IN THE
ALTERNATIVE, MOTION FOR
CONTINUANCE OF THE PHASE
VI PHYSICAL SOLUTION TRIAL**

Date: August 25, 2015
Time: 10:00 a.m.
Dept.: 12 (San Jose)

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DECLARATION OF MICHAEL D. MCLACHLAN

I, Michael D. McLachlan, declare:

1. I make this declaration of my own personal knowledge, except where stated on information and belief, and if called to testify in Court on these matters, I could do so competently.

2. I am co-counsel of record of record for Plaintiff Richard Wood and the Class, and am duly licensed to practice law in California. I make this declaration in support of the opposition to the Willis Class' motion to withdraw.

3. Attached as **Exhibit 1** is a true and correct copy of the Court's order of September 11, 2007.

4. Attached as **Exhibit 2** is a true and correct copy of the Court's order of May 22, 2008.

5. Attached as **Exhibit 3** is a true and correct copy of the Court's order of September 2, 2008.

6. Attached as **Exhibit 4** is a true and correct copy of the Final Judgment Approving Willis Class Action Settlement.

7. Attached as **Exhibit 5** is a true and correct copy of the Amended Final Judgment Approving Willis Class Action Settlement.

8. Over the years, I have had numerous phone calls and exchanged many emails with Ralph Kalfayan and/or David Zlotnick on the issue of individuals being members of both classes – an issue I have been aware of since sometime in 2008. I am fairly certain that in late 2008, I discussed this issue with David Zlotnick in the context of Class Notice, but I cannot determine the exact date.

9. On March 20, 2009, I was part of an exchange of many e-mails between Willis Class Counsel (Mr. Zlotnick and Mr. Kalfayan), regarding the issue of "Dual" Class membership. True and correct copies of two e-mails

1 authored by David Zlotnick, and copied to numerous lawyers including Mr.
2 Kalfayan, are attached as **Exhibits 6 and 7**. Mr. Kalfayan did respond in this
3 string of e-mails, but did not raise and disagreement with the position of the
4 Willis Class as set forth by Mr. Zlotnick.

5 10. I next discussed this issue dual class membership with Willis Class
6 Counsel at the hearing of April 24, 2009, in the context of certain class notice and
7 strategic issues. I know I discussed the issue David Zlotnick, but I cannot say
8 whether Mr. Kalfayan was party to that discussion. The Willis Class position on
9 dual class membership remained as set forth above.

10 11. I discussed the “dual” class membership issue with Ralph Kalfayan
11 again on February 1, 2010, in conjunction with our discussion about the impact of
12 the consolidation motion. At that time Mr. Kalfayan did not state any concern
13 with the dual class membership issue. I have no recollection of Mr. Kalfayan
14 raising a conflict of interest concern relating to class membership until his phone
15 call to me on June 18, 2015.

16 12. Attached as **Exhibit 8** is a true and correct copy of the March 20,
17 2009 e-mail from David Zlotnick to “Dual” Class member Scott Savage advising
18 him to pursue his class membership in both classes.

19 13. Until June of 2015, at no time do I recall Willis Class counsel
20 informing me that they were advising “dual” class members that they were not in
21 the Willis class. I have consistently advised such members that they were in both
22 classes if they owned properties that pumped and did not pump.

23 14. Mr. Kalfayan has stated that his firm has received and responded to
24 calls and emails from over 1,500 Willis Class members over the years. Attached
25 as **Exhibit 9** (see Declaration of Ralph B. Kalfayan in Support of Motion for An
26 Award of Attorneys’ Fees, ¶ 40 (Dkt. No. 4240, January 24, 2011)). If there is in
27 fact an overlap of dual class membership greater than 70%, it is very hard to
28 believe that Olaf Landsgaard was the first person to raise the issue. Basic

1 principles of statistics would dictate that over 1,200 “dual” class members have
2 contacted Willis Class counsel. My belief in this regard is also based on the fact
3 that I have had it raised to me in e-mails or phone call from at least as many as 50
4 Small Pumpers Class members, and perhaps several dozen more than that.
5 During these calls, I have refrained from discussing my views regarding Willis
6 Class issues, and have always instructed “dual” class members to contact Willis
7 Class Counsel on such issues.

8 15. After the court hearings on March 26, 2015, Mr. Kalfayan informed
9 me that he was considering filing a motion to withdraw based upon the refusal of
10 the Court to appoint experts for the Willis class premised upon an inadequacy of
11 counsel argument. He informed me that he wanted to get out of the case, and
12 asked my opinion about whether I thought such a motion would work. He again
13 raised this issue with me in a phone call on May 7, 2015. At no time prior to filing
14 his Motion to Withdraw, did Mr. Kalfayan inform me that this motion was to be
15 predicated on the purported class conflict of interest issue.

16 16. Attached as **Exhibit 10** is a true and correct copy of an email string
17 between Willis Class Counsel and Best, Best & Krieger concerning the Willis Class
18 Lists.

19 17. Attached as **Exhibit 11** is a true and correct copy of relevant
20 portions of the hearing transcript for January 14, 2007. Among the relevant
21 portions is page 6 at lines 23 through 28, which reads as follows (emphasis
22 added):

23 MR. ZLOTNICK: . . .MR. DUNN WANTS TO EXPAND THE CLASS IN
24 ESSENCE TO ENCOMPASS PUMPERS. YOU KNOW, THIS WAS A
25 MATTER THAT WE DISCUSSED AT SOME LENGTH. I WAS
26 GENERALLY OF THE VIEW THAT IT WAS PREFERABLE TO LIMIT
27 THE CLASS TO NONPUMPERS AND THAT THERE WERE POTENTIAL
28 CONFLICTS DOWN THE ROAD BETWEEN THE PUMPER GROUP AND
NONPUMPER GROUP.

1 18. Attached as **Exhibit 12** is a true and correct copy of relevant
2 portions of the hearing transcript for March 12, 2007. Among the relevant
3 portions is page 38 at lines 4 through 13, which reads as follows (emphasis
4 added):

5 THE COURT: I AGREE WITH YOU, MR. LEININGER. THIS HAS
6 TO BE A COMPREHENSIVE ADJUDICATION. WE HAVE TO ENSURE
7 THAT, AS MR. JOYCE INSISTS, THAT EVERY PARTY HAVE DUE
8 PROCESS AND THEY NOT BE DEPRIVED OF A RIGHT WITHOUT DUE
9 PROCESS. WE HAVE TO ENSURE THAT **ANY JUDGMENT THAT IS**
10 **ENTERED IN THIS CASE WILL BE EFFECTIVE TO**
11 **ADJUDICATE THE RIGHTS OF EVERYBODY THAT IS THERE**
12 **IN THAT VALLEY, OR I SHOULD SAY ALL THE PARCELS THAT**
13 **ARE IN THAT VALLEY, AND THE RIGHTS TO WATER FLOW FROM**
14 **THE PROPERTY. AND IT IS A REASONABLE AND BENEFICIAL USE**
15 **OF EACH PARCEL.**

16 19. Attached as **Exhibit 13** is a true and correct copy of relevant
17 portions of the hearing transcript for April 16, 2007. Among the relevant
18 portions is page 10 at lines 13 through 17, which reads as follows:

19 THE COURT: SO I GUESS WHAT I'M LOOKING AT HERE IS I'M
20 TRYING TO PARE DOWN THE VARIOUS SUBCLASSES, IF WE CAN,
21 AND TO MAKE SURE THAT WE COVER EVERYBODY WHO HAS ANY
22 RIGHTS WITHIN THIS ANTELOPE VALLEY, AND MAKE SURE THAT
23 THEIR RIGHTS ARE PROPERLY PROTECTED AND ADJUDICATED.

24 20. Attached as **Exhibit 14** is a true and correct copy of relevant
25 portions of the hearing transcript for May 21, 2007. Among the relevant portions
26 is page 29 at lines 16 through 28, which reads as follows:

27 MR. ZLOTNICK: YES, YOUR HONOR. I THINK THAT MAKES SENSE.
28 BUT I WOULD LIKE TO JUST BRIEFLY GO BACK TO ONE OF THE
POINTS THAT HAS BEEN IN THE AIR HERE. AND ALTHOUGH OUR
ORIGINAL PLEADING WAS NOT LIMITED TO NONPUMPERS, I
THINK, YOU KNOW, IN THE COURSE OF DISCUSSIONS WE HAVE
HAD OVER THE LAST SEVERAL MONTHS, IT DOES SEEM TO ME
THAT THAT IS PROBLEMATIC FOR US TO REPRESENT BOTH
GROUPS. SO, YOU KNOW, I THINK THAT IT DOES NEED TO BE SOME
SEPARATE REPRESENTATION.

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THE COURT: IT SEEMS TO ME TO BE A CONFLICT BETWEEN THE PUMPERS AND NONPUMPERS.

MR. ZLOTNICK: RIGHT. THERE SEEMS TO BE. THERE ARE DIFFERENT ISSUES.

21. The issue of conflicts of interest within in the context of the classes and structuring a comprehensive adjudication continued into 2008. Attached as **Exhibit 15** is a true and correct copy of relevant portions of the hearing transcript for January 14, 2008.

22. During the process of disseminating class notice, I and my staff spent considerable amounts of time reviewing the Class lists. There were various errors and issues that required correction. In all of my class action cases, in which I am always the Plaintiff, I very closely participate and monitor the class notice process.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 27th day of July 2015, at Hermosa Beach, California.

Michael D. McLachlan

Exhibit 1

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

Coordinated Proceeding
Special Title (Rule 1550(b))

Judicial Council Coordination
Proceeding No. 4408

ANTELOPE VALLEY GROUNDWATER
CASES

Included Actions:

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

**ORDER CERTIFYING PLAINTIFF
CLASS**

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

Hearing Date: August 20, 2007
Time: **9:00 a.m.**
Department: 1, Room 534
111 North Hill Street
Los Angeles, CA
90012

Wm. Bolthouse Farms, Inc. v. City of Lancaster
Diamond Farming Co. v. City of Lancaster
Diamond Farming Co. v. Palmdale Water
District
Riverside County Superior Court
Consolidated Action, Case Nos.
RIC 353 840, RIC 344 436, RIC 344 668

Judge: Hon. Jack Komar

Rebecca Lee Willis v. Los Angeles County
Waterworks District No. 40
Los Angeles County Superior Court
Case No. BC 364 553

1
2 **AND RELATED CROSS-ACTIONS.**
3

4 The matter having come before the Court for hearing on August 20, 2007 on Plaintiff
5 Rebecca Lee Willis' motion for class certification; and the Court having overruled the
6 objections of Diamond Farming to hearing the motion at that time; and having considered and
7 reviewed the notice of motion and motion for class certification, the points and authorities in
8 support thereof, the responsive papers filed by other parties, and having considered the file in
9 this matter and the arguments presented at the hearing on the motion, and good cause appearing
10 thereon;

11 **THE COURT FINDS AS FOLLOWS:**

- 12 1. The proposed Class of non-pumping landowners satisfies all of the requirements
13 of Section 382 of the California Code of Civil Procedure and due process;
- 14 2. The proposed Class is so numerous that joinder of all members would be
15 impracticable;
- 16 3. The claims asserted on behalf of Plaintiff Willis are typical of those asserted on
17 behalf of the absent Class members;
- 18 4. There are common issues of fact and law and those common issues predominate
19 over any individual issues;
- 20 5. Willis is an adequate representative of the Class in that she is actively asserting
21 her rights and those of the absent Class members, and there is no adversity or
22 conflict between Willis' claims and those of the Class;
- 23 6. Willis' counsel is adequate and capable to represent the Class;
- 24 7. Class certification is the superior means to adjudicate this matter, especially in
25 light of the need to obtain a comprehensive allocation of water rights that is
26 binding on all landowners within the Basin.

27 **WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:**

- 28 1. The Court hereby certifies the following Class in the above action:

1 “All private (i.e., non-governmental) persons and entities that own real
2 property within the Basin, as adjudicated, that are not presently pumping water on
3 their property and did not do so at any time during the five years preceding
4 January 18, 2006 (“the Class”). The Class includes the successors-in-interest by
5 way of purchase, gift, inheritance, or otherwise of such landowners.

6 The Class excludes the defendants herein, any person, firm, trust,
7 corporation, or other entity in which any defendant has a controlling interest or
8 which is related to or affiliated with any of the defendants, and the
9 representatives, heirs, affiliates, successors-in-interest or assigns of any such
10 excluded party. The Class also excludes all persons to the extent their properties
11 are connected to a municipal water system, public utility, or mutual water
12 company from which they receive or are able to receive water service, as well as
13 owners of properties within the service areas of the foregoing water purveyors as
14 to which there is a water system agreement or water service agreement providing
15 for the provision of water service by such purveyors.”

16 2. The Court further certifies Rebecca Lee Willis as the representative of the Class
17 and the law firm of Krause, Kalfayan, Benink & Slavens LLP as counsel for the
18 class.

19 3. The Court further directs Plaintiff Willis to lodge a proposed form of notice to
20 the Class on or before September 17, 2007. Any responses shall be lodged on or
21 before September 24, 2007, and the matter will be considered by this Court at a
22 hearing on October 12, 2007 at 9:00 a.m. in Department 1 of the Los Angeles
23 County Superior Court.

24 4. The Court further directs counsel for the Municipal Purveyors to work with
25 Willis’ counsel in preparing the proposed form of notice and to seek authority
26 from their clients to pay for the costs of identifying and sending notice to the
27 members of the Class.

28 SO ORDERED.

Dated: September 11, 2007

/s/ Jack Komar
Judge of the Superior Court

Exhibit 2

SUPERIOR COURT OF THE STATE OF CALIFORNIA

JUN 03 2008

FOR THE COUNTY OF LOS ANGELES

John A. Clarke, Executive Officer/Clerk

COORDINATED PROCEEDING)
SPECIAL TITLE (Rule 1550(b)))

JUDICIAL COUNCIL ~~COORDINATION~~)
PROCEEDING ~~BY~~)
NATHAN M. JACOBS)

ANTELOPE VALLEY GROUNDWATER)
CASES)

Included Actions:)

REBECCA LEE WILLIS, on behalf of herself)
and all others similarly situated,)

PLAINTIFF WILLIS' [~~PROPOSED~~] ORDER)
MODIFYING CLASS DEFINITION AND)
ALLOWING PARTIES TO OPT IN TO THE)
PLAINTIFF CLASS)

Plaintiff,)

vs.)

LOS ANGELES COUNTY WATERWORKS)
DISTRICT NO. 40; et al.,)

Hearing:)

Defendants.)

Los Angeles County Superior Court)
Case No. BC 364 553)

Date: May 22, 2008)
Time: 9:00 a.m.)
Place: Dept. 1 (L.A. Super. Ct.))

AND RELATED ACTIONS)

Judge: Hon. Jack Komar)

WHEREAS, this matter came before the court on May 5, 2008 for continued Hearing on Los Angeles County Waterworks District No. 40's Motion to Modify Definition of Plaintiff Class (the "Motion to Modify");

WHEREAS, the Court entered an Order on September 11, 2007 certifying a plaintiff Class defined as follows:

"All private (i.e., non-governmental) persons and entities that own real property within the Basin, as adjudicated, that are not presently pumping water on their property and did not do so at any time during the five years preceding January 18, 2006 ("the Class"). The Class includes the successors-in-interest by way of purchase, gift, inheritance, or otherwise of such landowners.

The Class excludes the defendants herein, any person, firm, trust, corporation, or other entity in which any defendant has a controlling interest or which is related to or affiliated with any of the defendants, and the representatives, heirs, affiliates, successors-in-interest or assigns of any such excluded party. The Class also excludes all persons to the extent their properties are connected to a municipal water system, public utility, or mutual water company from which they receive or are able to receive water service, as well as owners of properties within the service areas

1 claims and those of the Class with respect to those issues.

2 8. Willis' counsel is adequate and capable to represent the Class.

3 9. The Class of non-pumpers is ascertainable through the analysis performed by the
4 Suppliers' expert, William E. Leever, Jr., as set forth in his Declaration dated May 1, 2008. It is
5 reasonable to assume that the owners of all parcels listed as improved by the county assessors'
6 offices, which are outside the service areas of the water providers, pump groundwater for use of their
7 parcels.

8 10. Class certification is the superior means to adjudicate this matter, especially in light
9 of the need to obtain a comprehensive adjudication of water rights that is binding on all landowners
10 within the Basin.

11 WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

12 1. The Court hereby modifies its prior Class Certification order in the following
13 respects:

14 A. The Class shall exclude all persons who are already participating in this
15 litigation (other than Plaintiff Willis), but any such persons may "opt in" to the Class to the extent
16 they otherwise fall within the Class definition.

17 B. The following sentence of the Court's September 11, 2007 Class Certification
18 Order is stricken:

19 "The Class also excludes all persons to the extent their properties are connected to a
20 municipal water system, public utility, or mutual water company from which they receive
21 or are able to receive water service, as well as owners of properties within the service areas
of the foregoing water purveyors as to which there is a water system agreement or water
service agreement providing for the provision of water service by such purveyors."

22 C. The Class excludes all persons who only own property(ies) within the Basin
23 that are connected to *and* receive water service from a municipal supplier, public utility, or mutual
24 water company.

25 D. The Class shall exclude all property(ies) that are listed as "improved" by the
26 Los Angeles County or Kern County Assessor's office, unless the owners of such properties declare
27 under penalty of perjury that they do not pump water on their property and did not do so during the
28 five years preceding January 18, 2006.

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2. The Court's prior Class Certification Order remains in full force and effect in all other respects.

3. On or before AUG 15, 2008, L.A. County Waterworks District No. 40 shall compile a list of Class Members and propose a means for disseminating the Class Notice to such persons, which it shall post on the case website.

4. The Court provisionally approves the attached form of Notice to be sent to the Class.

IT IS SO ORDERED.

Dated: May 22, 2008



HON. JACK KOMAR
JUDGE OF THE SUPERIOR COURT

Exhibit 3

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

COORDINATED PROCEEDING
SPECIAL TITLE (Rule 1550(b))
ANTELOPE VALLEY GROUNDWATER
CASES
Included Actions:
REBECCA LEE WILLIS, on behalf of herself
and all others similarly situated,

 Plaintiff,

vs.

LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40; et al.,

 Defendants.

Los Angeles County Superior Court
Case No. BC 364 553

AND RELATED ACTIONS

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4408

PLAINTIFF WILLIS' ~~PROPOSED~~
SECOND ORDER MODIFYING
DEFINITION OF PLAINTIFF CLASS

Hearing:
Date: August 11, 2008
Time: 9:00 a.m.
Place: Dept. 1 (L.A. Super. Ct.)
Judge: Hon. Jack Komar

WHEREAS, this matter came before the court for Hearing on August 11, 2008, on the Public
Water Suppliers' Motion to Amend or Modify September 11, 2007 Order Certifying Plaintiff Willis
Class (the "PWS Motion"); and

WHEREAS, the Court had entered an Order on September 11, 2007 certifying a Plaintiff
Class of non-pumping landowners (the "Willis Class"); and

WHEREAS, by Order dated May 22, 2008 (filed on June 3, 2008), the Court modified the
definition of the Willis Class in certain respects;

NOW, THEREFORE, having considered and reviewed the PWS Motion, the points and
authorities in support thereof, the responsive papers filed by other parties, and having considered the
file in this matter and the arguments presented at the hearing on the Motion and in connection with
prior Class Certification proceedings, and good cause appearing thereon;

THE COURT FINDS AS FOLLOWS:

1 A. In order to achieve a comprehensive, binding, and lasting adjudication of the water
2 rights at issue in this matter, it is important that all landowners within the Antelope Valley Basin be
3 made parties to this proceeding. The Willis Class previously certified encompasses the bulk of the
4 property in the Basin that is not owned by one of the present parties to this litigation.

5 B. The Class previously certified by the Court requires modification to ensure that it
6 does not overlap with the Class of Small Pumpers certified by the Court on August 11, 2008. Hence
7 the Willis Class should exclude all persons or entities to the extent they own a property within the
8 Basin on which they have ever pumped water.

9 C. The Class of non-pumping landowners set forth below satisfies all of the requirements
10 of Section 382 of the California Code of Civil Procedure and due process.

11 D. The proposed Class is so numerous that joinder of all members would be
12 impracticable.

13 E. The claims asserted on behalf of Plaintiff Willis are typical of those asserted on
14 behalf of the absent Class members.

15 F. The claims asserted on behalf of the Class raise common issues of fact and law, which
16 predominate over any individual issues.

17 G. Willis is an adequate representative of the Class in that she is actively asserting her
18 rights and those of the absent Class members; and there is no adversity or conflict between Willis'
19 claims and those of the Class with respect to those issues.

20 H. Willis' counsel is adequate and capable to represent the Class.

21 I. The Class is ascertainable through the use of existing well permit records and other
22 records, as well as studies showing the properties within the Basin that are improved. All persons
23 who own property within the Basin and have filed such well permits shall be deemed excluded from
24 the Class unless they affirmatively respond that they fall within the Class definition. In addition, all
25 persons who own developed properties within the Basin which are outside the service area of any
26 municipal water provider shall be deemed excluded from the Class unless they affirmatively respond
27 that they fall within the Class definition

28 J. Class certification is the superior means to adjudicate this matter, especially in light

1 of the need to obtain a comprehensive adjudication of water rights that is binding on all landowners
2 within the Basin.

3 WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:


4 1. The Court hereby modifies its prior Class Certification order in the following
5 respects: The Willis Class shall exclude all persons to the extent they own properties within the
6 Basin on which they have pumped water at any time.

7 2. Paragraph 1.D. of the Court's Order of May 22, 2008 is hereby revised to provide as
8 follows: "The Class shall exclude all property(ies) that are listed as 'improved' by the Los Angeles
9 County or Kern County Assessor's office, unless the owners of such properties declare under penalty
10 of perjury that they do not pump and have never pumped water on those properties."

11 3. The Court's prior Class Certification Orders remain binding in all other respects.

12 **IT IS SO ORDERED.**

13 Dated: SEP 02 2008


HON. JACK KOMAR
JUDGE OF THE SUPERIOR COURT

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Exhibit 4

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

**ANTELOPE VALLEY
GROUNDWATER CASES**

) JUDICIAL COUNCIL COORDINATION
) PROCEEDING NO. 4408

This Pleading Relates to Included Action:
REBECCA LEE WILLIS, on behalf of
herself and all others similarly situated,

) CASE NO. BC 364553

Plaintiff,

vs.

) **[PROPOSED] FINAL JUDGMENT
APPROVING WILLIS CLASS ACTION
SETTLEMENT**

LOS ANGELES COUNTY WATERWORKS)
DISTRICT NO. 40; CITY OF LANCASTER;)
CITY OF PALMDALE; PALMDALE)
WATER DISTRICT; LITTLEROCK CREEK)
IRRIGATION DISTRICT; PALM RANCH)
IRRIGATION DISTRICT; QUARTZ HILL)
WATER DISTRICT; ANTELOPE VALLEY)
WATER CO.; ROSAMOND COMMUNITY)
SERVICE DISTRICT; PHELAN PINON)
HILL COMMUNITY SERVICE DISTRICT;)
and DOES 1 through 1,000;

) Date:
) Time:
) Dept:
) Judge: Hon. Jack Komar
Coordination Trial Judge

Defendants.

This matter has come before the Court on the Motion of Plaintiff Rebecca Lee Willis (Willis) for Final Approval of the Proposed Class Action Settlement between and among Rebecca Lee Willis and the Willis Class, on the one hand; and Los Angeles County Waterworks District No. 40, City of Palmdale, Palmdale Water District, Littlerock Creek Irrigation District, Palm Ranch Irrigation District, Quartz Hill Water District, California Water Service Company,

1 Rosamond Community Service District, Phelan Pinon Hills Community Services District, Desert
2 Lake Community Services District, and North Edwards Water District (collectively, the “Settling
3 Defendants”), on the other hand.

4 By Order dated November 18, 2010, this Court granted Plaintiff’s Motion for
5 Preliminary Approval of the Proposed Settlement of this action and directed the sending of
6 Notice to the Willis Class. After considering all arguments and submissions for and against final
7 approval of the proposed settlement, and being fully advised in the premises, **IT IS HEREBY**
8 **ORDERED, ADJUDGED AND DECREED AS FOLLOWS, PURSUANT TO SECTIONS**
9 **382 AND 664.6 OF THE CODE OF CIVIL PROCEDURE:**
10

11 1. For over 10 years, a number of actions have been pending in the Los Angeles
12 County Superior Court and other California courts seeking an adjudication of various parties’
13 respective rights to the groundwater underlying the Antelope Valley Groundwater Basin (the
14 “Basin”).

15 2. A number of cases raising such issues were coordinated by a July 11, 2005 Order
16 of the Judicial Council and assigned to the Honorable Jack Komar of the Superior Court for the
17 County of Santa Clara (the “Court”).

18 3. The Court held an initial phase of trial on October 2006 with respect to the
19 boundaries of the Basin and issued an Order on November 3, 2006 defining the Basin for
20 purposes of the litigation.

21 4. The Willis Class Action was filed on or about January 11, 2007 to contest certain
22 public entities’ claims that those entities had obtained prescriptive rights to a portion of the
23 Basin’s groundwater. The Willis case was subsequently coordinated with the Coordinated
24 Cases.
25

26 5. By Order dated September 11, 2007, the Court certified the Willis Class. As
27

1 amended by Orders dated May 22, 2008 and September 2, 2008, the Willis Class is defined as
2 follows:

3 “All private (i.e., non-governmental) persons and entities that own real
4 property within the Basin, as adjudicated, that are not presently pumping
5 water on their property and have not done so at any prior time (“the Class”).
6 The Class includes the successors-in-interest by way of purchase, gift,
inheritance, or otherwise of such landowners.

7 The Class excludes the defendants herein, any person, firm, trust,
8 corporation, or other entity in which any defendant has a controlling interest
9 or which is related to or affiliated with any of the defendants, and the
10 representatives, heirs, affiliates, successors-in-interest or assigns of any such
11 excluded party. The Class also excludes all persons to the extent their
12 properties are connected and receive service from a municipal water system,
13 public utility, or mutual water company. The Class shall [further] exclude
all property(ies) that are listed as ‘improved’ by the Los Angeles County or
Kern County Assessor’s office, unless the owners of such properties declare
under penalty of perjury that they do not pump and have never pumped
water on those properties.”

14 6. Notice of the Pendency of this action was sent to the Willis Class in or about
15 January 1, 2009 and the opt-out period (as extended) expired on August 30, 2009. Certain
16 persons who opted out were subsequently permitted to rejoin the Class.

17 7. The persons listed on Exhibit 1 hereto validly excluded themselves from the Class
18 in accordance with this Court’s prior Orders (and have not re-joined the Class) and are not bound
19 by the Settlement or this Judgment.

20 8. Counsel for the Willis Class engaged in settlement discussions with Defendants’
21 counsel during mid 2009. On September 2, 2009, counsel participated in a mediation session
22 before the Honorable Ronald Robie. That mediation resulted in an agreement in principle
23 among counsel for the Settling Parties to settle the litigation between and among their
24 respective clients, subject to appropriate approvals.

25 9. By Order dated October 28, 2009, the Court stated its intent to consolidate the
26 various Actions that were coordinated as part of JCCP No. 4008, including the Willis action. On
27 February 19, 2010, the Court entered an Order Transferring and Consolidating [the Coordinated]

1 Actions for All Purposes. As provided in the Consolidation Order, this Final Judgment shall not
2 be construed to prejudice the rights of any of the Non-Settling Parties in the Consolidated
3 Actions nor shall it prejudice the claims and defenses that the Settling Parties may assert with
4 respect to such Non-Settling Parties.

5 10. By Order dated November 18, 2010, this Court granted preliminary approval to
6 the proposed settlement of this action and directed that Notice of the Proposed Settlement be sent
7 to the Class.

8 11. Notice of the Proposed Settlement has been sent to the Willis Class by first class
9 mail in accordance with the Court's Preliminary Approval Order. Such Notice fully and
10 accurately informed the Class of all material terms of the proposed settlement and the
11 opportunity to object to or comment on the Settlement. The Notice was given in an adequate and
12 sufficient manner, constituted the best notice practicable under the circumstances, and satisfied
13 due process.

14 12. The Settling Parties and each class member have irrevocably submitted to the
15 jurisdiction of this Court for any suit, action, proceeding or dispute arising out of the Settlement
16 Agreement.

17 13. It is in the best interests of the parties and the Class Members and consistent with
18 principles of judicial economy that any dispute between any class member (including any dispute
19 as to whether any person is a class member) and any Settling Defendant which is in any way
20 related to the applicability or scope of the Settlement Agreement or the Final Judgment should be
21 presented to this Court for resolution.

22 14. The Stipulation of Settlement submitted by the Settling Parties is hereby finally
23 approved as fair, reasonable, and in the best interests of the Class, and the parties are directed to
24 consummate the Settlement in accordance with its terms.

25 15. The Complaint in the Willis Action shall be deemed dismissed with prejudice as
26 soon as this Final Judgment becomes effective under the terms of the Settlement Stipulation.

27 16. For purposes of this Final Judgment, "Released Parties" means Plaintiff Rebecca
28

1 Lee Willis and the Willis Class, as well as Defendants Los Angeles County Waterworks District
2 No. 40; The City of Palmdale; Palmdale Water District; Littlerock Creek Irrigation District; Palm
3 Ranch Irrigation District; Quartz Hill Water District; California Water Service Company;
4 Rosamond Community Service District; Phelan Pinon Hills Community Services District; Desert
5 Lake Community Services District; and North Edwards Water District.

6 17. The Court hereby orders that the Released Parties are released and forever
7 discharged from the Released Claims as more specifically provided in the Stipulation of
8 Settlement.

9 18. The Class members and their heirs, executors, administrators, successors, and
10 assigns are hereby permanently barred and enjoined from instituting, commencing, prosecuting,
11 or continuing to prosecute, either directly or indirectly, any Released Claim against any of the
12 Released Parties in any forum, other than claims to enforce the terms of the Settlement. Each
13 Class member may hereafter discover facts other than or different from those which he or she
14 knows or believes to be true with respect to the Released Claims. Nevertheless, each member of
15 the Class (except those who timely opted out) waive and fully, finally and forever settle and
16 release, upon the Settlement Agreement becoming final, any known or unknown, suspected or
17 unsuspected, contingent or noncontingent Released Claim, whether or not concealed or hidden,
18 without regard to the subsequent discovery or existence of such different or additional facts.

19 19. The Settling Defendants and their heirs, executors, administrators, successors, and
20 assigns are hereby permanently barred and enjoined from instituting, commencing, prosecuting,
21 or continuing to prosecute, either directly or indirectly, any Released Claim against any of the
22 Class Members in any forum, other than claims to enforce the terms of the Settlement. Each
23 Settling Defendant may hereafter discover facts other than or different from those which he or
24 she knows or believes to be true with respect to the Released Claims. Nevertheless, each Settling
25 Defendant waives and fully, finally and forever settles and releases, upon the Settlement
26 Agreement becoming final, any known or unknown, suspected or unsuspected, contingent or
27 noncontingent Released Claim, whether or not concealed or hidden, without regard to the

1 subsequent discovery or existence of such different or additional facts.


2 20. Without affecting the finality of this Judgment, the Court hereby reserves and
3 retains jurisdiction over this Settlement, including the administration and consummation of the
4 Settlement, as well as any action or proceeding brought to enforce the Settlement. In addition,
5 without affecting the finality of this Judgment, the Court retains jurisdiction over the Parties for
6 purposes of incorporating and merging this Judgment into a physical solution or other Judgment
7 that may ultimately be entered in the Consolidated Actions. The Settling Parties are hereby
8 deemed to have submitted irrevocably to the exclusive jurisdiction of this Court for any suit,
9 action, proceeding or dispute arising out of or relating to this Judgment or the Settlement.

10 21. The Court retains jurisdiction to consider an application by Plaintiff and Class
11 Counsel for an award of attorneys' fees and reimbursement of costs, as well as an incentive
12 award to the Representative Plaintiff, as well as any other collateral matters. Any such matters
13 shall be addressed by separate Order, and the Court retains jurisdiction to enter such further
14 Orders.

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17 Date: MAY 12, 2011



Judge of the Superior Court
HON. JACK KOMAR

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Exhibit 5

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7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF LOS ANGELES
9

10 ANTELOPE VALLEY
11 GROUNDWATER CASES

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4408

12 This Pleading Relates to Included Action:
13 REBECCA LEE WILLIS, on behalf of
herself and all others similarly situated,

CASE NO. BC 364553

14 Plaintiff,

**~~PROPOSED~~ AMENDED FINAL
JUDGMENT APPROVING WILLIS
CLASS ACTION SETTLEMENT**

15 vs.

16 LOS ANGELES COUNTY WATERWORKS
17 DISTRICT NO. 40; CITY OF LANCASTER;
18 CITY OF PALMDALE; PALMDALE
19 WATER DISTRICT; LITTLEROCK CREEK
IRRIGATION DISTRICT; PALM RANCH
20 IRRIGATION DISTRICT; QUARTZ HILL
WATER DISTRICT; ANTELOPE VALLEY
21 WATER CO.; ROSAMOND COMMUNITY
SERVICE DISTRICT; PHELAN PINON
HILL COMMUNITY SERVICE DISTRICT;
and DOES 1 through 1,000;

Date:
Time:
Dept:
22 Judge: Hon. Jack Komar
Coordination Trial Judge

23 Defendants.

24 This matter has come before the Court on the Motion of Plaintiff Rebecca Lee Willis
25 (Willis) for Final Approval of the Proposed Class Action Settlement between and among
26 Rebecca Lee Willis and the Willis Class, on the one hand; and Los Angeles County Waterworks
27 District No. 40, City of Palmdale Water District, Littlerock Creek Irrigation District, Palm
28 Ranch Irrigation District, Quartz Hill Water District, California Water Service Company,

1 Rosamond Community Service District, Phelan Pinon Hills Community Services District,
2 Desert Lake Community Services District, and North Edwards Water District (collectively, the
3 “Settling Defendants”), on the other hand.

4 By Order dated November 18, 2010, this Court granted Plaintiff’s Motion for
5 Preliminary Approval of the Proposed Settlement of this action and directed the sending of
6 Notice to the Willis Class. After considering all arguments and submissions for and against
7 final approval of the proposed settlement, and being fully advised of the premises, **IT IS**
8 **HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS, PURSUANT TO**
9 **SECTIONS 382 AND 664.6 OF THE CODE OF CIVIL PROCEDURE.**

10 1. For over 10 years, a number of actions have been pending in the Los Angeles
11 County Superior Court and other California courts seeking an adjudication of the various
12 parties’ respective rights to the groundwater underlying the Antelope Valley Groundwater Basin
13 (the “Basin”).

14 2. A number of cases raising such issues were coordinated by a July 11, 2005 order
15 of Judicial Council and assigned to the Honorable Jack Komar of the Superior Court for the
16 County of Santa Clara (the “Court”).

17 3. The Court held an initial phase of the trial on October 3006 with respect to the
18 boundaries of the Basin and issued an Order on November 3, 2006 defining the Basin for
19 purposes of the litigation.

20 4. The Willis Class Action was filed on or about January 11, 2007 to contest certain
21 public entities’ claims that those entities had obtained prescriptive rights to a portion of the
22 Basin’s groundwater. The Willis case was subsequently coordinated with the Coordinated
23 Cases.

24 5. By Order dated September 11, 2007, the Court certified the Willis Class. As
25 amended by Orders dated May 22, 2008 and September 2, 2008, the Willis Class is defined as
26 follows:

1 "All private (i.e., non-governmental) persons and entities that own real property
2 within the Basin, as adjudicated, that are not presently pumping water on their
3 property and have not done so at any prior time ("the Class"). The Class
4 includes the successors-in-interest by way of purchase, gift, inheritance, or
5 otherwise of such landowners.

6 The Class excludes the defendants herein, any person, firm, trust,
7 corporation, or other entity with which any defendant has a controlling interest or
8 which is related to or affiliated with any of the defendants, and the
9 representatives, heirs, affiliates, successors-in-interest or assigns of any such
10 excluded party. The Class also excludes all persons to the extent their properties
11 are connected and receive service from a municipal water system, public utility,
12 or mutual water company. The Class shall [further] exclude Kern County
13 Assessor's office, unless the owners of such properties declare under penalty of
14 perjury that they do not pump and have never pumped water on those
15 properties."

16 6. Notice of the Pendency of this action was sent to the Willis Class in or about
17 January 1, 2009 and the opt-out period (as extended) expired on August 30, 2009. Certain
18 persons who opted out were subsequently permitted to rejoin the Class.

19 7. The persons listed on Exhibit 1 hereto validly excluded themselves from the
20 Class in accordance with this Court's prior Orders (and have not re-joined the Class) and are not
21 bound by the Settlement or this Judgment.

22 8. Counsel for the Willis Class engaged in settlement discussions with Defendants'
23 counsel during mid 2009. On September 2, 2009, counsel participated in mediation session
24 before the Honorable Ronald Robie. That mediation resulted in an agreement in principle
25 among counsel for the Settling Parties to settle the litigation between and among their respective
26 clients, subject to appropriate approvals.

27 9. By Order dated October 28, 2009, the Court stated its intent to consolidate the
28 various Actions that were coordinated as part of JCCP No. 4408, including the Willis action.
On February 19, 2010, the Court entered an Order Transferring and Consolidating [the
Coordinated] Actions for All Purposes. As provided in the Consolidation Order, this Final
Judgment shall not be construed to prejudice the rights of any of the Non-Settling Parties in the
Consolidated Actions nor shall it prejudice the claims and defenses that the Settling Parties may
assert with respect to such Non-Settling Parties.

10. By Order dated November 18, 2010, this Court granted preliminary approval to

1 the proposed settlement of this action and directed that Notice of the Proposed Settlement be
2 sent to the Class.

3 11. Notice of the Proposed Settlement has been sent to the Willis Class by first class
4 mail in accordance with the Court's Preliminary Approval Order. Such Notice fully and
5 accurately informed the Class of all material terms of the proposed settlement and the
6 opportunity to object to or comment on the Settlement. The Notice was given in an adequate
7 and sufficient manner, constituted the best notice practicable under the circumstances, and
8 satisfied due process.

9 12. The Settling Parties and each class member have irrevocably submitted to the
10 jurisdiction of this Court for any suit, action, proceeding or dispute arising out of the Settlement
11 Agreement.

12 13. It is in the best interest of the parties and the Class Members and consistent with
13 principles of judicial economy that any dispute between any class member (including any
14 dispute as to whether any person is a class member) and any Settling Defendant which is in any
15 way related to the applicability or scope of the Settlement Agreement or the Final Judgment
16 should be presented to this Court for resolution.

17 14. The Stipulation of Settlement submitted by the Settling Parties is hereby finally
18 approved as fair, reasonable, and in the best interests of the Class, and the parties are directed to
19 consummate the Settlement in accordance with its terms.

20 15. The Complaint in the Willis Action shall be deemed dismissed with prejudice as
21 soon as the Final Judgment becomes effective under the terms of the Settlement Stipulation.

22 16. For purposes of this Final Judgment, "Released Parties" means Plaintiff Rebecca
23 Lee Willis and the Willis Class, as well as Defendants Los Angeles County Waterworks District
24 No. 40; The City of Palmdale; Palmdale Water District; Littlerock Creek Irrigation District;
25 Palm Ranch Irrigation District; Quartz Hill Water District; California Water Service Company;
26 Rosamond Community Services District; Phelan Pinon Hills Community Services District;
27 Desert Lake Community Services District; and North Edwards Water District.

28 17. The Court hereby orders that the Released Parties are released and forever

1 discharged from the Released Claims as more specifically provided in the Stipulation of
2 Settlement.

3 18. The Class members and their heirs, executors, administrators, successors, and
4 assigns are hereby permanently barred and enjoined from instituting, commencing, prosecuting,
5 or continuing to prosecute, either directly or indirectly, any Released Claim against any of the
6 Released Parties in any form, other than claims to enforce the terms of the Settlement. Each
7 Class member may hereafter discover facts other than or different from those which he or she
8 knows or believes to be true with respect to the Released Claims. Nevertheless, each member of
9 the Class (except those who timely opted out) waive and fully, finally and forever settle and
10 release, upon the Settlement Agreement becoming final, any known or unknown, suspected or
11 unsuspected, contingent or noncontingent Released Claim, whether or not concealed or hidden,
12 without regard to the subsequent discovery or existence of such different or additional facts.

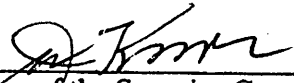
13 19. The Settling Defendants and their heirs, executors, administrators, successors,
14 and assigns are hereby permanently barred and enjoined from instituting, commencing,
15 prosecuting, or continuing to prosecute, either directly or indirectly, any Released Claim against
16 any of the Class Members in any forum, other than claims to enforce the terms of the
17 Settlement. Each Settling Defendant may hereafter discover facts other than or different from
18 those which he or she knows or believes to be true with respect to the Released Claims.
19 Nevertheless, each Settling Defendant waives and fully, finally and forever settles and releases,
20 upon the Settlement Agreement becoming final, any known or unknown, suspected or
21 unsuspected, contingent or noncontingent Released Claim, whether or not concealed or hidden,
22 without regard to the subsequent discovery or existence of such different or additional facts.

23 20. Without affecting the finality of this Judgment, the Court hereby reserves and
24 retains jurisdiction over this Settlement, including the administration and consummation of the
25 Settlement, as well as any action or proceeding brought to enforce the Settlement. In addition,
26 without affecting the finality of this Judgment, the Court retains jurisdiction over the Parties for
27 purposes of incorporating and merging this Judgment into a physical solution or other Judgment
28 that may ultimately be entered in the Consolidated Actions. The Settling Parties are hereby

1 deemed to have submitted irrevocably to the exclusive jurisdiction of this Court for any suit,
2 action, proceeding or dispute arising out of or relating to this Judgment or the Settlement.

3 21. The Court after considering the pleadings on file herein, and the arguments of
4 counsel, awards the Willis Class attorneys fees in the amount of \$1,839,494, an incentive award
5 for Ms. Rebecca Willis in the amount of \$10,000, costs in the amount of \$65,057.68, and
6 supplemental attorneys fees in the amount of \$160,622.50. Judgment in the amount of
7 \$2,075,174.18 is hereby entered for the Willis Class against Los Angeles County Waterworks
8 District No. 40, City of Palmdale, Palmdale Water District, Littlerock Creek Irrigation District,
9 Palm Ranch Irrigation District, Quartz Hill Water District, California Water Service Company,
10 Rosamond Community Service District, Phelan Pinon Hills Community Services District,
11 Desert Lake Community Services District, and North Edwards Water District.

12
13
14 Dated: 9.22.2011



Judge of the Superior Court
Honorable Jack Komar

15
16 26345.000006870843.1

Exhibit 6

Mike McLachlan

From: David Zlotnick <David@kkbs-law.com>
Sent: Friday, March 20, 2009 10:58 AM
To: Mike McLachlan; Michael T Fife; Ralph Kalfayan
Cc: Dan Oleary; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Follow Up Flag: Follow up
Flag Status: Flagged

So that my position is clear, I have no problem with allowing people to participate as members of both classes if they own one or more properties on which they pump and one or more on which they don't pump water. But the Willis Class expressly excludes persons who are (named) parties to the litigation.

dz

-----Original Message-----

From: Mike McLachlan [mailto:mike@mclachlanlaw.com]
Sent: Friday, March 20, 2009 11:02 AM
To: 'Michael T Fife'; Ralph Kalfayan; David Zlotnick
Cc: 'Dan Oleary'; 'Bradley J Herrema'
Subject: RE: Water - Town Hall Meeting = April 7, 2009

While this debate is a sideline, for what its worth, the purveyors are agree on the position I expressed in my CMC statement on those questions. If there is some order that reads differently for David's class, then so be it.

But the SP class will be defined as stated in our brief and in Court, until such time as some different understanding is reached.

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 11:07 PM
To: Ralph Kalfayan; David Zlotnick; mike@mclachlanlaw.com
Cc: Dan Oleary; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Here are materials from the Feb 17 meeting.

My firm is not sponsoring these meetings, though I am attending. You are also free to attend.

I do not agree with the interpretation about class membership that you describe below. It is contrary to Mike MacLachlan's description which was specifically endorsed by the Court on 2/27. The 2/27 hearing is the only time the Court has specifically addressed these issues.

-----Original Message-----

From: Ralph Kalfayan [mailto:Ralph@kkbs-law.com]
Sent: Thursday, March 19, 2009 8:27 PM
To: Michael T Fife; David Zlotnick; mike@mclachlanlaw.com
Cc: Dan Oleary; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

MF, I am not against putting pressure on the PWS; my concern is that your town hall meeting interferes with our representation of the class.

The Farm Bureau may be putting on the show but you firm is appearing and sponsoring. Your flyer directly invites members of the Willis class to attend. This may be problematic. I think we should reserve judgment until we see the power point presentation and discuss further.

BTW, do you agree with David that if a landowner owns several parcels: one where he pumps more than 25 afy, another one where he pumps less than 25 afy, and lastly another non contiguous parcel that is dormant, and you represent that individual, with a written fee agreement, then he cannot be a member of either class? I think David is right, i.e. if you represent the individual then he cannot participate in either class.

What do you think?

Ralph B. Kalfayan
Krause, Kalfayan, Benink & Slavens
625 Broadway, Suite 635
San Diego, Ca 92101
Phone: 619-232-0331
Fax: 619-232-4019
Email: rkalfayan@kkbs-law.com

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-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 4:42 PM
To: David Zlotnick; mike@mclachlanlaw.com
Cc: Dan Oleary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

David, et al.,

These meetings are organized primarily by the Farm Bureau. The intent is to mobilize political support for the landowner position in order to put pressure on the elected officials that govern our opponents. In my opinion, this is a far more effective use of our resources than is wasting time on discovery processes that are not going to produce any useful information anyway. This is just my opinion. It is probably useful that we are all focused on different approaches. I can say that the purveyors were pissed off after our last town hall meeting.

Especially LA County. They were particularly pissed off that we told people to call Antonovich and ask him why he is driving them to bankruptcy with this lawsuit.

I am not sure why you guys would object to putting political pressure on your opponents.

Michael

-----Original Message-----

From: David Zlotnick [mailto:David@kkbs-law.com]
Sent: Thursday, March 19, 2009 5:15 PM
To: Michael T Fife; mike@mclachlanlaw.com
Cc: Dan Oleary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Mike,

The issues are separate to a degree. They are related to the extent that neither Mike nor I have any objection to you communicating with your clients. But I do think it inappropriate for you or your clients to solicit class members to participate in town hall meetings that are neither Court sanctioned nor organized by class counsel.

As to the other point, notwithstanding the CMC statements, I think you are wrong in the advice you are giving your clients, at least insofar as the Willis Class is concerned. The Class Certification Order expressly excludes from the Willis Class persons who are already parties to the litigation.

But that is between you and your clients.

dz

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 4:07 PM
To: David Zlotnick; mike@mclachlanlaw.com
Cc: Dan Oleary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

As Mike points out, this issue is separate from the Town Hall meeting. I am advising my clients, and anyone who asks me, that per the Court's

2/27 statement, anyone who owns a dormant parcel or a parcel which has had 25 AFY or less water usage, can be a member of the class or classes.

If you have an order to the contrary, please show me. Members of my group have received class notices and are staying in the class. Nearly all my guys own a few dormant parcels, and several large farming operations are composed of numerous contiguous small parcels that each individually use less than 25 acre-feet.

-----Original Message-----

From: David Zlotnick [mailto:David@kkbs-law.com]
Sent: Thursday, March 19, 2009 3:48 PM
To: Michael T Fife; mike@mclachlanlaw.com
Cc: Dan O'leary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Mike,

There is a Court Order that addresses these issues and that takes precedence over musings at a CMC. If you want to proceed on the basis of your interpretation of the Court's off-hand comments at CMC's, so be it.

In any event, your client's solicitation was clearly not limited to your current clients.

dz

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 3:32 PM
To: mike@mclachlanlaw.com; David Zlotnick
Cc: Dan O'leary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Digest:

MM: You maybe can't talk to my clients

MF: My clients are your clients

DZ: No they're not

MF: Yes they are

DZ: No they're not

MF: Yes they are

-----Original Message-----

From: Mike McLachlan [mailto:mike@mclachlanlaw.com]
Sent: Thursday, March 19, 2009 3:29 PM
To: Michael T Fife; 'David Zlotnick'
Cc: 'Dan O'leary'; 'Ralph Kalfayan'; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

I think I lost the thread here. Is this email related to the issue we are discussing today?

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 3:21 PM
To: David Zlotnick; mike@mclachlanlaw.com
Cc: Dan Oleary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Please see Mike McLachlan's CMC statement filed 2/23 (page 4). These answers were provided in response to my CMC statement filed 2/23 (page 2). The judge said Mike's answers are the answers to the questions.

THE COURT: I THOUGHT THAT MR. MC LACHLAN'S

6 ANSWERS WERE PRETTY LUCID.

7 MR. FIFE: SO AS LONG AS WE KNOW THAT THOSE

8 ARE THE ANSWERS THEN THAT IS SATISFACTORY.

9 MR. MC LACHLAN: AND THIS IS MIKE MC LACHLAN

10 AGAIN. I GOT E-MAILS FROM BOTH I BELIEVE FROM JEFF

11 DUNN AND TOM BUNN AT LEAST FOR THEIR CLIENTS ANYWAY AND

12 THOSE ANSWERS ARE AGREEABLE AND I HEARD NO CONTRARY

13 OPINION NOT TO SAY THERE ISN'T BUT I BELIEVE THE

14 PURVEYORS GENERALLY AGREE THAT IS HOW THINGS ARE

15 STRUCTURED.

16 THE COURT: UNLESS SOMEBODY FILES A MOTION

17 ASKING THE COURT TO RULE TO THE CONTRARY I DON'T THINK

18 THERE IS ANYTHING FOR THE COURT TO DO WITH REGARD TO

19 THOSE ANSWERS.

-----Original Message-----

From: David Zlotnick [mailto:David@kkbs-law.com]

Sent: Thursday, March 19, 2009 2:42 PM
To: Michael T Fife; mike@mclachlanlaw.com
Cc: Dan Oleary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

All persons who are participating in the litigation are excluded from our Class, regardless of whether they own a property that would otherwise qualify them to be members of the Willis Class. Please make that clear to your clients.

dz

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 2:46 PM
To: David Zlotnick; mike@mclachlanlaw.com
Cc: Dan Oleary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

I posed this question to the Court at the last CMC and Mike said class membership is determined on a parcel by parcel basis with the explicit recognition that this means that some (actually most) of my clients are in each of your classes.

By the way, some of the Board members for the purveyors are also landowners and they are getting class notices.

-----Original Message-----

From: David Zlotnick [mailto:David@kkbs-law.com]
Sent: Thursday, March 19, 2009 2:30 PM
To: Michael T Fife; mike@mclachlanlaw.com
Cc: Dan Oleary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Mike,

What do you mean by your "group members?" if they are clients, they are not in our class.

dz

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 2:34 PM
To: mike@mclachlanlaw.com
Cc: Dan Oleary; David Zlotnick; Ralph Kalfayan; Bradley J Herrema

Subject: RE: Water - Town Hall Meeting = April 7, 2009

Interesting position. Some of my group members are in both of your classes.
Are you saying that I cannot talk to them without your permission?

-----Original Message-----

From: Mike McLachlan [mailto:mike@mclachlanlaw.com]
Sent: Thursday, March 19, 2009 2:27 PM
To: Michael T Fife
Cc: 'Dan O'leary'; 'David Zlotnick'; 'Ralph Kalfayan'
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Thanks. While the class counsel are not taking a position on this moment, you should be aware that there are rules regarding non-court-sanctioned attorney contact with class members during the litigation. I would suggest you look into that. There is a pretty good argument to be made that this is improper. While it would be hard for an aggrieved lawyer to stop Gene from doing what he is doing, it would be much easier to get you and your firm in hot water. After I speak with the other class lawyers a bit more, I'll let you know if we have formal objection to this. Down the road, I certainly would not be allowing Gene to circulate something like this directly targeted at class members, particularly if you are going to be present and speaking.

If you get an objection from my class, it will likely only be because now that we know about it, we have to raise concerns.

Mike

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 1:34 PM
To: mike@mclachlanlaw.com
Cc: Dan O'leary
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Yes, I attended the last one too. My client group in association with the Farm Bureau is sponsoring these meetings

-----Original Message-----

From: Mike McLachlan [mailto:mike@mclachlanlaw.com]
Sent: Thursday, March 19, 2009 1:29 PM
To: Michael T Fife
Cc: 'Dan O'leary'
Subject: FW: Water - Town Hall Meeting = April 7, 2009

Michael, are you or another lawyer from your firm planning on attending this?

Exhibit 7

Mike McLachlan

From: David Zlotnick <David@kkbs-law.com>
Sent: Friday, March 20, 2009 11:09 AM
To: Mike McLachlan; Ralph Kalfayan; Michael T Fife
Cc: Dan Oleary; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Mike,

I could show you earlier CMCs where the Judge expressly stated that this is not an in rem action. I don't think anyone is bound by comments at case management statements, particularly where there is a Court Order defining our Class that is on point.

As I wrote a few minutes ago, I have no problem with people being members of both classes with respect to distinct properties. But Mike Fife has stated on more than one occasions that his clients' interests are in conflict with and opposed to those of the Willis Class. We can't both represent the same people.

dz

-----Original Message-----

From: Mike McLachlan [mailto:mike@mclachlanlaw.com]
Sent: Friday, March 20, 2009 11:12 AM
To: Ralph Kalfayan; 'Michael T Fife'; David Zlotnick
Cc: 'Dan Oleary'; 'Bradley J Herrema'
Subject: RE: Water - Town Hall Meeting = April 7, 2009

I am just looking at this email now. Ralph, the court has been pretty clear that this adjudication is running based on the parcel, not the individual.

One person can have multiple properties, each with different property/water rights. I see no issue with such an individual being represented by multiple counsel. Indeed, given the land ownership issues and the over-riding goal of comprehensive adjudication, I don't see how the case can run otherwise. I don't understand what possible harm comes if Joe Smith is a member of both classes, for 2 different parcels. And further, if he has a 3rd piece that pumps over 25 afy, why can't he join up with AGWA on that parcel? He has 3 distinct interests and it should be his choice who best to press those interests.

If you and David have some legal or ethical basis for your position, it would help if you would articulate it. But I will note that neither of you objected to the Court's continued affirmation that this case is running off the parcel, not the person. So, in re-reading that transcript, I think you guys are

stuck with that unless and until you go to the Court and get the judge to adopt some alternative position.

-----Original Message-----

From: Ralph Kalfayan [mailto:Ralph@kkbs-law.com]
Sent: Thursday, March 19, 2009 8:27 PM
To: Michael T Fife; David Zlotnick; mike@mclachlanlaw.com
Cc: Dan O'leary; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

MF, I am not against putting pressure on the PWS; my concern is that your town hall meeting interferes with our representation of the class.

The Farm Bureau may be putting on the show but your firm is appearing and sponsoring. Your flyer directly invites members of the Willis class to attend. This may be problematic. I think we should reserve judgment until we see the power point presentation and discuss further.

BTW, do you agree with David that if a landowner owns several parcels: one where he pumps more than 25 afy, another one where he pumps less than 25 afy, and lastly another non contiguous parcel that is dormant, and you represent that individual, with a written fee agreement, then he cannot be a member of either class? I think David is right, i.e. if you represent the individual then he cannot participate in either class.

What do you think?

Ralph B. Kalfayan
Krause, Kalfayan, Benink & Slavens
625 Broadway, Suite 635
San Diego, Ca 92101
Phone: 619-232-0331
Fax: 619-232-4019
Email: rkalfayan@kkbs-law.com

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-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 4:42 PM
To: David Zlotnick; mike@mclachlanlaw.com
Cc: Dan O'leary; Ralph Kalfayan; Bradley J Herrema

Subject: RE: Water - Town Hall Meeting = April 7, 2009

David, et al.,

These meetings are organized primarily by the Farm Bureau. The intent is to mobilize political support for the landowner position in order to put pressure on the elected officials that govern our opponents. In my opinion, this is a far more effective use of our resources than is wasting time on discovery processes that are not going to produce any useful information anyway. This is just my opinion. It is probably useful that we are all focused on different approaches. I can say that the purveyors were pissed off after our last town hall meeting.

Especially LA County. They were particularly pissed off that we told people to call Antonovich and ask him why he is driving them to bankruptcy with this lawsuit.

I am not sure why you guys would object to putting political pressure on your opponents.

Michael

-----Original Message-----

From: David Zlotnick [mailto:David@kkbs-law.com]
Sent: Thursday, March 19, 2009 5:15 PM
To: Michael T Fife; mike@mclachlanlaw.com
Cc: Dan Oleary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Mike,

The issues are separate to a degree. They are related to the extent that neither Mike nor I have any objection to you communicating with your clients. But I do think it inappropriate for you or your clients to solicit class members to participate in town hall meetings that are neither Court sanctioned nor organized by class counsel.

As to the other point, notwithstanding the CMC statements, I think you are wrong in the advice you are giving your clients, at least insofar as the Willis Class is concerned. The Class Certification Order expressly excludes from the Willis Class persons who are already parties to the litigation. But that is between you and your clients.

dz

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 4:07 PM
To: David Zlotnick; mike@mclachlanlaw.com
Cc: Dan Oleary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

As Mike points out, this issue is separate from the Town Hall meeting. I am advising my clients, and anyone who asks me, that per the Court's

2/27 statement, anyone who owns a dormant parcel or a parcel which has had 25 AFY or less water usage, can be a member of the class or classes.

If you have an order to the contrary, please show me. Members of my group have received class notices and are staying in the class. Nearly all my guys own a few dormant parcels, and several large farming operations are composed of numerous contiguous small parcels that each individually use less than 25 acre-feet.

-----Original Message-----

From: David Zlotnick [mailto:David@kkbs-law.com]
Sent: Thursday, March 19, 2009 3:48 PM
To: Michael T Fife; mike@mclachlanlaw.com
Cc: Dan Oleary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Mike,

There is a Court Order that addresses these issues and that takes precedence over musings at a CMC. If you want to proceed on the basis of your interpretation of the Court's off-hand comments at CMC's, so be it.

In any event, your client's solicitation was clearly not limited to your current clients.

dz

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 3:32 PM
To: mike@mclachlanlaw.com; David Zlotnick
Cc: Dan Oleary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Digest:

MM: You maybe can't talk to my clients

MF: My clients are your clients

DZ: No they're not

MF: Yes they are

DZ: No they're not

MF: Yes they are

-----Original Message-----

From: Mike McLachlan [mailto:mike@mclachlanlaw.com]
Sent: Thursday, March 19, 2009 3:29 PM
To: Michael T Fife; 'David Zlotnick'
Cc: 'Dan Oleary'; 'Ralph Kalfayan'; Bradley J Herrema

Subject: RE: Water - Town Hall Meeting = April 7, 2009

I think I lost the thread here. Is this email related to the issue we are discussing today?

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]

Sent: Thursday, March 19, 2009 3:21 PM

To: David Zlotnick; mike@mclachlanlaw.com

Cc: Dan O'leary; Ralph Kalfayan; Bradley J Herrema

Subject: RE: Water - Town Hall Meeting = April 7, 2009

Please see Mike McLachlan's CMC statement filed 2/23 (page 4). These answers were provided in response to my CMC statement filed 2/23 (page 2). The judge said Mike's answers are the answers to the questions.

THE COURT: I THOUGHT THAT MR. MC LACHLAN'S

6 ANSWERS WERE PRETTY LUCID.

7 MR. FIFE: SO AS LONG AS WE KNOW THAT THOSE

8 ARE THE ANSWERS THEN THAT IS SATISFACTORY.

9 MR. MC LACHLAN: AND THIS IS MIKE MC LACHLAN

10 AGAIN. I GOT E-MAILS FROM BOTH I BELIEVE FROM JEFF

11 DUNN AND TOM BUNN AT LEAST FOR THEIR CLIENTS ANYWAY AND

12 THOSE ANSWERS ARE AGREEABLE AND I HEARD NO CONTRARY

13 OPINION NOT TO SAY THERE ISN'T BUT I BELIEVE THE

14 PURVEYORS GENERALLY AGREE THAT IS HOW THINGS ARE

15 STRUCTURED.

16 THE COURT: UNLESS SOMEBODY FILES A MOTION

17 ASKING THE COURT TO RULE TO THE CONTRARY I DON'T THINK

18 THERE IS ANYTHING FOR THE COURT TO DO WITH REGARD TO

19 THOSE ANSWERS.

-----Original Message-----

From: David Zlotnick [mailto:David@kkbs-law.com]
Sent: Thursday, March 19, 2009 2:42 PM
To: Michael T Fife; mike@mclachlanlaw.com
Cc: Dan O'leary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

All persons who are participating in the litigation are excluded from our Class, regardless of whether they own a property that would otherwise qualify them to be members of the Willis Class. Please make that clear to your clients.

dz

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 2:46 PM
To: David Zlotnick; mike@mclachlanlaw.com
Cc: Dan O'leary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

I posed this question to the Court at the last CMC and Mike said class membership is determined on a parcel by parcel basis with the explicit recognition that this means that some (actually most) of my clients are in each of your classes.

By the way, some of the Board members for the purveyors are also landowners and they are getting class notices.

-----Original Message-----

From: David Zlotnick [mailto:David@kkbs-law.com]
Sent: Thursday, March 19, 2009 2:30 PM
To: Michael T Fife; mike@mclachlanlaw.com
Cc: Dan O'leary; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Mike,

What do you mean by your "group members?" if they are clients, they are not in our class.

dz

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 2:34 PM

To: mike@mclachlanlaw.com
Cc: Dan Oleary; David Zlotnick; Ralph Kalfayan; Bradley J Herrema
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Interesting position. Some of my group members are in both of your classes. Are you saying that I cannot talk to them without your permission?

-----Original Message-----

From: Mike McLachlan [mailto:mike@mclachlanlaw.com]
Sent: Thursday, March 19, 2009 2:27 PM
To: Michael T Fife
Cc: 'Dan Oleary'; 'David Zlotnick'; 'Ralph Kalfayan'
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Thanks. While the class counsel are not taking a position on this moment, you should be aware that there are rules regarding non-court-sanctioned attorney contact with class members during the litigation. I would suggest you look into that. There is a pretty good argument to be made that this is improper. While it would be hard for an aggrieved lawyer to stop Gene from doing what he is doing, it would be much easier to get you and your firm in hot water. After I speak with the other class lawyers a bit more, I'll let you know if we have formal objection to this. Down the road, I certainly would not be allowing Gene to circulate something like this directly targeted at class members, particularly if you are going to be present and speaking.

If you get an objection from my class, it will likely only be because now that we know about it, we have to raise concerns.

Mike

-----Original Message-----

From: Michael T Fife [mailto:MFife@bhfs.com]
Sent: Thursday, March 19, 2009 1:34 PM
To: mike@mclachlanlaw.com
Cc: Dan Oleary
Subject: RE: Water - Town Hall Meeting = April 7, 2009

Yes, I attended the last one too. My client group in association with the Farm Bureau is sponsoring these meetings

-----Original Message-----

From: Mike McLachlan [mailto:mike@mclachlanlaw.com]
Sent: Thursday, March 19, 2009 1:29 PM
To: Michael T Fife
Cc: 'Dan Oleary'

Subject: FW: Water - Town Hall Meeting = April 7, 2009

Michael, are you or another lawyer from your firm planning on attending this?

Exhibit 8

Mike McLachlan

From: David Zlotnick <David@kkbs-law.com>
Sent: Friday, February 27, 2009 9:43 PM
To: SAVAGE SCOTT SAVAGE SCOTT; info@avgroundwater.com
Cc: Daniel Roberts; Mike McLachlan
Subject: RE: AV Groundwater Website Inquiry

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: Red Category

Thanks for your communication. We will have some forms sent to you. I think the best approach is to file a form for each property if that is not too much trouble. Otherwise, file 1 for the properties on which you pump and a separate one for the other properties.

From: SAVAGE SCOTT SAVAGE SCOTT [<mailto:buzzardbaitranch@verizon.net>]
Sent: Friday, February 27, 2009 7:52 PM
To: info@avgroundwater.com
Subject: AV Groundwater Website Inquiry

I just heard this was going on today. My question is I own lots that I've pumped and and one's that I haven't. I don't want to cause any confusion if some see's my name on both class lists.

I did not receive any mailings so I don't have a mailing ID number. I own 11 lots in the west antelope valley.

Scott Savage

Exhibit 9

1 Ralph B. Kalfayan, SBN133464
David B. Zlotnick, SBN 195607
2 KRAUSE, KALFAYAN, BENINK
& SLAVENS LLP
3 625 Broadway, Suite 635
San Diego, CA 92101
4 Tel: (619) 232-0331
Fax: (619) 232-4019
5
6 Attorneys for Plaintiff
Rebecca Lee Willis and the Willis Class

7
8
9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**

12 **ANTELOPE VALLEY**
13 **GROUNDWATER CASES**

) RELATED CASE TO JUDICIAL
) COUNCIL COORDINATION
) PROCEEDING NO. 4408
)

14 This Pleading Relates to Included Action:
15 REBECCA LEE WILLIS, on behalf of herself
and all others similarly situated,

) **DECLARATION OF RALPH B.**
) **KALFAYAN IN SUPPORT OF**
) **MOTION FOR AN AWARD OF**
) **ATTORNEYS' FEES;**
) **REIMBURSEMENT OF EXPENSES;**
) **AND CLASS REPRESENTATIVE**
) **INCENTIVE AWARD**

16 Plaintiff,

17 vs.

18 LOS ANGELES COUNTY WATERWORKS
DISTRICT NO. 40; CITY OF LANCASTER;
19 CITY OF PALMDALE; PALMDALE WATER
DISTRICT; LITTLEROCK CREEK
20 IRRIGATION DISTRICT; PALM RANCH
IRRIGATION DISTRICT; QUARTZ HILL
21 WATER DISTRICT; ANTELOPE VALLEY
WATER CO.; ROSAMOND COMMUNITY
22 SERVICE DISTRICT; PHELAN PINON HILL
COMMUNITY SERVICE DISTRICT; and
23 DOES 1 through 1,000;

) Date: February 24, 2011
) Time: 10:00 a.m.
) Judge: Hon. Jack Komar
)

24 Defendants.
25

26 I, Ralph B. Kalfayan, declare and state as follows:

27 1. I am a partner at the law firm of Krause Kalfayan Benink & Slavens ("KKBS"),
28 counsel for the Willis Class in the above captioned matter. I submit this declaration in support of

1 Plaintiffs' Motion for An Award of Attorneys' Fees, Reimbursement of Expenses, and Class
2 Representative Incentive Award. The matters stated herein are true to the best of my own
3 personal knowledge and, if called upon as a witness to testify thereto, I would and could
4 competently do so.

5 2. The purpose of this declaration is to summarize the factual and procedural history
6 of this litigation, including, but not limited to, the initial filing and investigation of this action,
7 class certification proceedings, discovery, law and motion practice, settlement negotiations, class
8 notice, and litigation expenses. As counsel for Plaintiff Rebecca Willis and the Willis Class
9 ("Class Counsel"), my firm has been intimately involved in all aspects of this litigation from the
10 outset of the Class case to the present.

11 3. I am an attorney admitted to practice before all the courts in the State of
12 California, Federal District Courts for the Northern District of California, Central District of
13 California, Southern District of California, and the Ninth Circuit Court of Appeals. My firm is
14 located in Southern California and specializes in complex class action litigation. I have been a
15 partner of KKBS for the past sixteen (16) years. Prior to KKBS, I was a partner at the law firm of
16 Borton, Petrini & Conron ("BPC") where I specialized in business litigation for over six (6)
17 years. Before BPC, I was a tax attorney at the national accounting firm of Arthur Andersen &
18 Co. I am a 1985 graduate of the University of San Diego School of Law. A true and correct copy
19 of the firm resume is attached to the NOL as Exhibit 6.

20 4. Over my career I have successfully litigated numerous complex class action cases
21 including but not limited to: *Marsh vs Blue Cross*, San Diego County Superior Court case #; 37-
22 2007-00077967-CU-BC-CTL; *In re Wholesale Electricity Cases*, JCCP 4204; *In re Natural Gas*
23 *Antitrust Consumer cases I, II, III, IV, and V*, JCCP 4221; *In re Natural Gas Antitrust*
24 *Commodity cases*, US District Court Southern District of New York, 03-CV-6186; *In re Tricor*
25 *Antitrust litigation*, US District Court Southern District of Delaware, Case No. 05-360 (SLR);
26
27
28

1 and *Gilley vs. Arco, et al.*, US District Court Southern District of California Case No. 98-cv-132
2 (BTM).

3 5. My current active caseload includes the following complex class actions that I
4 have been precluded from working on over the past four (4) years due to the workload demands
5 required in the Antelope Valley groundwater adjudication. They include: *In re Korean Airlines*,
6 US District Court Central District of California MDL 1891; *In re Transpacific Airlines*, US
7 District Court for the Northern District of California MDL 1913; *In re Dynamic Random Access*
8 *(DRAM) Antitrust Litigation*, US District Court for the Northern District of California, MDL
9 1486; and, *In re Cipro Antitrust litigation*, San Diego County Superior Court JCCP 4154.
10 DRAM is particularly noteworthy as I gave up the chance to actively continue working on the
11 matter which recently settled in an amount in excess of \$100 million.

13 I. INTRODUCTION

14 6. This case deals with groundwater rights, a valuable resource for all residents in
15 Antelope Valley and the public at large. The coordinated and now consolidated cases seek to
16 resolve the groundwater problems that have perplexed landowners and public entities in the
17 entire Antelope Valley for years. The Class's participation was required in large part due to the
18 McCarran Amendment requirement for a comprehensive adjudication and in order to defend
19 against claims of Prescription raised by the various governmental entities.

21 7. Since November 2006, Class Counsel has prosecuted this case on behalf of the
22 single largest stakeholder in the Antelope Valley, the Willis Class¹. The Willis Class
23 encompasses over 531,000 acres and includes over 65,000 landowner members who have never
24 pumped groundwater from the groundwater basin and who were facing a loss of all or part of
25

26 ¹ The Willis Class includes: "All private (i.e., non-governmental) persons and entities that own real
27 property within the Basin, as adjudicated, that are not presently pumping water on their property
28 and have not done so at any prior time ("the Class"). The Class includes the successors-in-interest by
way of purchase, gift, inheritance, or otherwise of such landowners.

1 proposed order to exclude from the non-pumper Class all persons to the extent they own
2 properties within the basin on which they had pumped water at any time, as well as those who
3 have “improved” values on their assessor’s parcel (Doc #1812). The court signed the order on
4 September 2, 2008 (Doc #1866).

5 38. On November 21, 2008 the PWS requested that one single notice document be
6 mailed to both class members (Doc #2275). Willis responded on November 24, 2008 and
7 opposed (Doc #2288). Willis submitted another proposed order to the court governing class
8 notice on December 16, 2008 (Doc #2312). The court signed the order on the same day (Doc
9 #2314).

10 VI. CLASS NOTICE

11 39. Class Counsel met and conferred with expert William Leever from Wildermouth
12 and Associates to discuss, review, and help assemble the list of Willis Class members.
13 Compilation of the list was handled and administered by Best, Best & Krieger (“BBK”). Class
14 counsel helped design the website for class members and drafted the notice after meeting with a
15 committee of other interested counsel.

16 40. LACWW #40 mailed out the original notice to over 65,000 landowners on
17 December 30, 2008, and published the summary notice in three (3) separate journals including
18 the Los Angeles Times, the Bakersfield Californian, and the Antelope Valley Press (Doc #2454).
19 After the notice was mailed, Class Counsel worked diligently in responding to telephone and
20 email inquiries from class members. During that process, numerous Class members contacted
21 Class Counsel regarding the action, and we were able to gather valuable insights into the desires
22 and priorities of those persons. As of February 23, 2009, over twelve hundred (1,200) phone
23 calls and over two hundred (200) emails were received and processed (Doc #2465). On average
24 Class Counsel processed approximately twenty five (25) calls per day and approximately five (5)
25 emails per day for an extended period of time after the mailing of the notice. Since that date,
26 Class Counsel has received and responded to over three hundred (300) further phone calls and
27 emails. Class Counsel made their best effort to return all phone calls and emails to class
28

1 members as promptly as possible. Because of the volume of calls and emails, Class Counsel
2 suggested extending the deadline for class members to submit their response form to BBK. It
3 was communicated to Class Counsel that over 17,000 class members submitted the response
4 form that was attached to the original notice and 1,720 forms were processed via the
5 avgroundwater.com website.

6
7 41. The Settlement notice was mailed out to the Willis class on January 10, 2011. We
8 are informed that the summary notice was also published in the same periodicals as the original
9 notice. As of the date of this declaration, Class Counsel has received an average of ten (10) calls
10 per day and ten (10) emails per day. Class Counsel is using their best effort to return all these
11 calls and emails as promptly as possible. The volume of calls and emails has increased slightly as
12 a result of calls from landowners that originally opted out of the Willis class but now seek to
13 rejoin it. BBK has forwarded these calls to Class Counsel for handling. To date, no Class
14 member has filed objections to the Settlement.

15 VII. SETTLEMENT

16
17 42. The first significant settlement negotiations in which we participated were at a
18 multi-day mediation process with facilitator Bill Dendy. The mediation was well attended. The
19 Dendy mediation educated the parties on each other's litigation positions and on the positions of
20 the key experts who worked on the technical committee. These experts attended the meetings
21 and offered their opinions. At one point it seemed that Mr. Dendy was close to finalizing a
22 settlement. However, the safe yield issue presented a formidable obstacle that could not be easily
23 overcome. Class Counsel attended many of those sessions which took place throughout
24 California, was tasked with drafting and drafted parts of the proposal for settlement, and
25 separately conferred with numerous counsel and their principals. This mediation finally came to
26 a halt in late November, 2008, after Mr. Dendy voluntarily terminated his services.
27
28

1 interest nature of the case, and the importance of the issues at hand. In my opinion, given the
2 procedural and substantive complexities of the case, the number of party participants, the novelty
3 of the issues involved, the sheer size of the Class, the importance of groundwater rights at stake,
4 and the contingent nature of the engagement, a 1.50 multiplier is reasonable.

5 **XII. INCENTIVE AWARD FOR CLASS REPRESENTATIVE**

6
7 58. Class Counsel requests that the Court approve an incentive award for the Class
8 representative, Rebecca Willis, who represented the Class throughout this litigation, in the
9 amount of \$10,000. The case and the settlement would not exist without the efforts of Ms. Willis
10 who came forward to challenge the PWS and their claim of prescription. Ms. Willis was integral
11 in helping Class Counsel analyze the claims and the evidence. She met with Class Counsel at the
12 outset of the action, responded to interrogatories, searched for and produced documents to
13 forward the litigation, requested and received reports from Class Counsel, regularly
14 communicated with Class Counsel, and monitored the status of the case. She is deserving of
15 some recompense for the many hours she devoted to this matter.
16

17 59. I declare under penalty of perjury and under the laws of the State of California
18 that the foregoing is true and correct. Executed on the 24th day of January, 2011, in San Diego,
19 California.

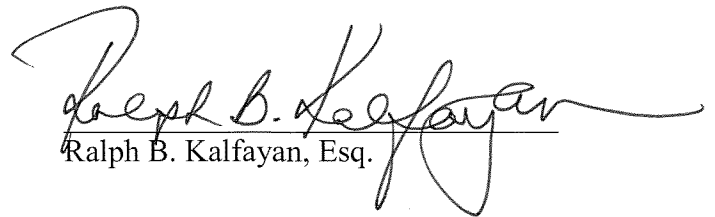
20
21 
22 Ralph B. Kalfayan, Esq.

Exhibit 10

Mike McLachlan

From: Wendy Wang <Wendy.Wang@bbklaw.com>
Sent: Tuesday, June 23, 2015 12:36 PM
To: 'Cindy Barba (CBarba@kkbs-law.com)'
Cc: 'Ralph Kalfayan (ralph@kkbs-law.com)'; Jeffrey Dunn; Eric Garner
Subject: FW: AV - Willis Class database

Cindy,

In response to your inquiry yesterday regarding a downloadable Willis database. I came across an old email between Stef and Ralph that contains the link from which the database can be downloaded. Our IT department tested it today and confirmed that the link still works. Please let me know if you have any problems downloading the file.

Best,

Wendy Y. Wang
Best Best & Krieger LLP
Direct: (213) 787-2554

From: Ralph Kalfayan [<mailto:Ralph@kkbs-law.com>]
Sent: Thursday, March 31, 2011 3:59 PM
To: Stefanie Hedlund; Jeffrey Dunn
Cc: David Zlotnick; Vic Merjanian; Eric Garner; Gar House
Subject: RE: AV

Ok thank you

Ralph B. Kalfayan

Krause Kalfayan

Benink & Slavens, LLP

625 Broadway, Suite 635

San Diego, CA 92101

☎ 619-232-0331

☎ 619-232-4019

✉ rkalfayan@kkbs-law.com

🌐 www.kkbs-law.com

From: Stefanie Hedlund [<mailto:Stefanie.Hedlund@bbklaw.com>]
Sent: Thursday, March 31, 2011 1:02 PM
To: Jeffrey Dunn; Ralph Kalfayan
Cc: David Zlotnick; Vic Merjanian; Eric Garner; Gar House
Subject: RE: AV

Ralph:

Here is a link to the databases for the final list and the opt outs. If you have any questions, please contact me.

http://www.avgroundwater.com/storage/databases/willis_15March2011.mdb

Regarding item 4, please send us the language you would like to use and where on the website it should be posted. Gar will take care of it.

Thanks,
Stef

From: Jeffrey Dunn
Sent: Thursday, March 31, 2011 12:54 PM
To: 'Ralph@kkbs-law.com'; Stefanie Hedlund
Cc: 'David@kkbs-law.com'; 'vmerjanian@krausekalfayan.com'; Eric Garner; Gar House
Subject: Re: AV

Ralph,

We will look into it - thanks

From: Ralph Kalfayan [<mailto:Ralph@kkbs-law.com>]
Sent: Thursday, March 31, 2011 12:16 PM
To: Stefanie Hedlund; Jeffrey Dunn
Cc: David Zlotnick <David@kkbs-law.com>; Vic Merjanian <vmerjanian@krausekalfayan.com>; Eric Garner; Gar House
Subject: RE: AV

Hi Jeff,

Given the break in the trial may we please ask you to follow up on these last remaining open items:

- (1) BBK declaration in support of mailing Willis notice and publication of notice-see court order of 2/24/11 and preliminary approval order;
- (2) Willis final class list – see email string below;
- (3) list of excluded class members with parcel numbers – see prior email; and,
- (4) website update to reflect court's grant of final approval motion as we are getting many calls from class members asking for status of motion.

Please let us know if you need help with any of these items. We're told that evidence portion of phase 3 trial has concluded with closing arguments set for the 13th. If you have any further update on the trial we'd greatly appreciate it.

Thanks,
Ralph


Ralph B. Kalfayan


Krause Kalfayan

Benink & Slavens, LLP

625 Broadway, Suite 635

San Diego, CA 92101

 619-232-0331

 619-232-4019

✉ rkalfayan@kkbs-law.com

🌐 www.kkbs-law.com

From: Stefanie Hedlund [<mailto:Stefanie.Hedlund@bbklaw.com>]

Sent: Tuesday, March 01, 2011 11:19 AM

To: Ralph Kalfayan; Jeffrey Dunn

Cc: David Zlotnick; Vic Merjanian; Eric Garner; Gar House

Subject: Re: AV

Gar is putting the list together for you and will send in a couple of days.

Thanks,

Stef

From: Ralph Kalfayan [<mailto:Ralph@kkbs-law.com>]

Sent: Tuesday, March 01, 2011 10:38 AM

To: Stefanie Hedlund; Jeffrey Dunn

Cc: David Zlotnick <David@kkbs-law.com>; Vic Merjanian <vmerjanian@krausekalfayan.com>; Eric Garner; Gar House

Subject: RE: AV

Great thanks

Ralph B. Kalfayan

Krause Kalfayan

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From: Stefanie Hedlund [<mailto:Stefanie.Hedlund@bbklaw.com>]

Sent: Tuesday, March 01, 2011 10:43 AM

To: Ralph Kalfayan; Jeffrey Dunn

Cc: David Zlotnick; Vic Merjanian; Eric Garner; Gar House

Subject: Re: AV

Gar can get you the final list with the opt outs removed.

Thanks,

Stef

From: Ralph Kalfayan [<mailto:Ralph@kkbs-law.com>]

Sent: Tuesday, March 01, 2011 10:30 AM

To: Stefanie Hedlund; Jeffrey Dunn

Cc: David Zlotnick <David@kkbs-law.com>; Vic Merjanian <vmerjanian@krausekalfayan.com>

Subject: AV

Stefanie,

I am trying to find a FINAL list of Willis Class members. The excel spreadsheets that you provided us two years ago include pumpers and non-pumpers. The website lists the 18k plus landowners that responded to the Notice and it includes landowners that have pumped. Where can I find the final list of Willis members, the 60k plus landowners?

Thanks

Ralph

Ralph B. Kalfayan

Krause Kalfayan

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Exhibit 11

1 LOS ANGELES, CALIFORNIA; MONDAY, JANUARY 14, 2008; 9:02 A.M.

2 DEPARTMENT NO. 1 HON. JACK KOMAR, JUDGE

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

4 CASE NAME: ANTELOPE VALLEY GROUNDWATER CASES

5 APPEARANCES: (AS NOTED ON TITLE PAGE)

6

7 (CHARLOTTE NICHOLAS MOHAMED, CSR #2384)

8 ---0---

9 THE COURT: ALL RIGHT. GOOD MORNING.

10 (ALL ANSWER "GOOD MORNING, YOUR HONOR")

11 THE COURT: WE ARE HERE ON THE ANTELOPE VALLEY
12 COORDINATED CASES.

13 LET'S HAVE APPEARANCES FROM ALL COUNSEL WHO
14 INTEND TO APPEAR. AND LET ME JUST REMIND YOU THAT EACH TIME
15 YOU SPEAK YOU SHOULD IDENTIFY YOURSELF.

16 AND ON THIS FIRST GO-AROUND, STATE YOUR NAME AND
17 SPELL YOUR LAST NAME.

18 MR. DOUGHERTY: GOOD MORNING.

19 ROBERT DOUGHERTY, YOUR HONOR, FOR THE A V UNITED
20 MUTUAL GROUP.

21 D-O-U-G-H-E-R-T-Y.

22 MR. ZLOTNICK: YOUR HONOR, DAVID ZLOTNICK,
23 S-L-O-T-N-I-C-K, FOR REBECCA WILLIS AND THE CLASS.

24 MR. JOYCE: GOOD MORNING, YOUR HONOR.

25 BOB JOYCE APPEARING ON BEHALF OF DIAMOND FARMING
26 COMPANY AND CRYSTAL FARMS -- EXCUSE ME -- CRYSTAL ORGANIC LLC.

27 THAT IS J-O-Y-C-E.

28 MR. ZIMMER: GOOD MORNING, YOUR HONOR.

1 RICHARD ZIMMER, Z-I-M-M-E-R, ON BEHALF OF
2 BOLTHOUSE FARMS AND BOLTHOUSE PROPERTIES.

3 MR. MARKMAN: GOOD MORNING, YOUR HONOR.

4 JAMES MARKMAN FOR THE CITY OF PALMDALE.

5 M-A-R-K-M-A-N.

6 MR. WEINSTOCK: GOOD MORNING, YOUR HONOR.

7 HENRY WEINSTOCK, W-E-I-N-S-T-O-C-K, FOR TEJON
8 RANCH CORP.

9 MR. DUNN: GOOD MORNING, YOUR HONOR.

10 JEFFREY DUNN ON BEHALF OF ROSAMOND COMMUNITY
11 SERVICE DISTRICT AND LOS ANGELES COUNTY WATERWORKS DISTRICT
12 NUMBER 40.

13 MR. PFAEFFLE: GOOD MORNING.

14 FRED PFAEFFLE, LOS ANGELES COUNTY WATER DISTRICT
15 40.

16 MR. RENWICK: GOOD MORNING, YOUR HONOR.

17 EDWARD RENWICK FOR WAGAS LAND COMPANY.

18 AND IT IS R-E-N-W-I-C-K.

19 MR. SANDERS: GOOD MORNING, YOUR HONOR.

20 CHRIS SANDERS ON BEHALF OF THE COUNTY SANITATION
21 DISTRICT OF LOS ANGELES COUNTY NUMBERS 14 AND 20.

22 MR. FIFE: GOOD MORNING, YOUR HONOR.

23 MICHAEL FIFE, F-I-F-E, ON BEHALF OF ANTELOPE
24 VALLEY GROUNDWATER AGREEMENT ASSOCIATION.

25 MS. COLLINS: GOOD MORNING, YOUR HONOR.

26 CLAIRE HERVEY COLLINS, C-O-L-L-I-N-S, FOR
27 ANAVERDE LLC.

28 MR. BRUNICK: GOOD MORNING, YOUR HONOR.

1 BILL BRUNICK, B-R-U-N-I-C-K, APPEARING FOR
2 ANTELOPE VALLEY EAST KERN WATER AGENCY.

3 THE COURT: ANY OTHER COUNSEL IN THE COURT WHO INTEND
4 TO APPEAR?

5 [NO AUDIBLE RESPONSE]

6 THE COURT: WE HAVE SOME TELEPHONIC APPEARANCES.

7 MR. CROW: MICHAEL CROW, C-R-O-W, FOR THE STATE OF
8 CALIFORNIA.

9 GOOD MORNING.

10 MS. GOLDSMITH: GOOD MORNING, YOUR HONOR.

11 JANET GOLDSMITH, G-O-L-D-S-M-I-T-H, FOR THE CITY
12 OF LOS ANGELES.

13 MR. BLUM: GOOD MORNING, YOUR HONOR.

14 SHELDON BLUM, B-L-U-M, FOR SHELDON R. BLUM TRUST.

15 MR. HOLMES: GOOD MORNING, YOUR HONOR.

16 MIKE HOLMES, H-O-L-M-E-S, FOR DEL SUR RANCH LLC.

17 MR. BEZERRA: GOOD MORNING, YOUR HONOR.

18 RYAN BEZERRA, B-E-Z-E-R-R-A, FOR COPA DE ORO LAND
19 COMPANY.

20 MR. SLOAN: GOOD MORNING, YOUR HONOR.

21 WILLIAM SLOAN, S-L-O-A-N, ON BEHALF OF U.S.
22 BORAX.

23 MR. HERREMA: GOOD MORNING, YOUR HONOR.

24 BRAD HERREMA, H-E-R-R-E-M-A, ON BEHALF OF
25 ANTELOPE VALLEY GROUNDWATER AGREEMENT ASSOCIATION.

26 MR. LEININGER: GOOD MORNING, YOUR HONOR.

27 THIS IS LEE LEININGER, L-E-I-N-I-N-G-E-R, FOR THE
28 UNITED STATES.

1 MS. JONES: GOOD MORNING, YOUR HONOR.

2 TAMMY JONES, J-O-N-E-S, APPEARING ON BEHALF OF
3 PALMDALE HILLS PROPERTY AND NORTHROP GRUMMAN.

4 THE COURT: ANY OTHERS APPEARING ON THE TELEPHONE?

5 [NO AUDIBLE RESPONSE]

6 THE COURT: ALL RIGHT. WE ARE HERE WITH SEVERAL
7 MATTERS THIS MORNING. I'M GOING TO TAKE THE EASIEST ONE
8 FIRST.

9 THERE IS A MOTION TO WITHDRAW BY MR. HOLMES ON
10 BEHALF OF HIS FIRM IN CONNECTION WITH THE DEL SUR RANCH.

11 IS THERE ANYTHING FURTHER ON THAT, MR. HOLMES? I
12 DID RECEIVE YOUR SUBSEQUENT MEMORANDUM.

13 MR. HOLMES: YES, YOUR HONOR. UNFORTUNATELY I DON'T
14 HAVE ANYTHING NEW SINCE THAT WAS FILED LAST WEEK.

15 THE COURT: OKAY.

16 MR. HOLMES: SO THERE HAVE BEEN NO OTHER DEVELOPMENTS.

17 THE COURT: ALL RIGHT. DEL SUR RANCH IS A CORPORATION,
18 IS IT NOT?

19 MR. HOLMES: IT IS A LIMITED LIABILITY COMPANY, YES.

20 THE COURT: OKAY. THE COURT IS GOING TO GRANT THE
21 MOTION TO WITHDRAW. I'M GOING TO ORDER THAT NEW COUNSEL MAKE
22 AN APPEARANCE EITHER IN PERSON OR BY FILING NO LATER THAN
23 JANUARY 28, 2008. NO LATER THAN.

24 THAT WILL BE THE ORDER. AND YOU SHOULD PREPARE
25 THE ORDER, MR. HOLMES, AND SUBMIT IT TO THE COURT.

26 MR. HOLMES: YES, YOUR HONOR.

27 THE COURT: ALL RIGHT. THANK YOU.

28 MR. HOLMES: THANK YOU.

1 THE COURT: ALL RIGHT. NOW, THERE ARE SOME OTHER
2 MATTERS HERE. LET'S TAKE UP THE FORM OF THE NOTICE THAT WAS
3 FILED BY PLAINTIFF WILLIS. AND THERE ARE SEVERAL OBJECTIONS
4 TO IT AND THERE WAS -- ESSENTIALLY A COUNTER FORM OF NOTICE,
5 I'LL CALL IT, SUBMITTED BY MR. DUNN, I THINK.

6 MR. ZLOTNICK, WHY DON'T WE ASK YOU FIRST TO
7 ADDRESS, FIRST OF ALL, THE OBJECTIONS AS WELL AS THE PROPOSED
8 REVISIONS.

9 MR. ZLOTNICK: YES, YOUR HONOR. I'M HAPPY TO DO THAT.

10 I THINK THE PRIMARY OBJECTIONS WERE FILED BY MR.
11 FIFE ON BEHALF OF HIS CLIENT. AND AS I RECALL, HE OBJECTED
12 THAT THE NOTICE, AS PROPOSED, WASN'T CLEAR ENOUGH, THAT
13 PUMPERS WILL BE TREATED AS IF THEY WERE NONPUMPERS IF THEY
14 DON'T RETURN THE RESPONSE FORM AND MAKE IT CLEAR THAT THEY ARE
15 PUMPING.

16 THE PROPOSED NOTICE SAYS "IF YOU PUMP GROUNDWATER
17 ON YOUR" -- THIS IS IN BOLD PRINT AS WE PREPARED IT -- "IF YOU
18 PUMP GROUNDWATER ON YOUR PROPERTY AND YOU HAVE DONE SO SINCE
19 JANUARY 18, 2001, YOU ARE NOT A MEMBER OF THE CLASS." AND IN
20 CAPS IT SAYS THAT "YOU MUST STILL RETURN THE ATTACHED RESPONSE
21 FORM TELLING THE COURT THAT YOU ARE NOT A MEMBER OF THE CLASS,
22 OR ELSE THAT YOU WILL BE TREATED AS A MEMBER OF THE CLASS AND
23 YOUR RIGHTS TO USE WATER ON YOUR PROPERTY MAY BE PREJUDICED."

24 I THINK THAT IS ADEQUATE. I DON'T THINK HIS
25 ADDITIONAL LANGUAGE ADDS ANYTHING TO THAT. I DON'T HAVE ANY
26 PARTICULAR OBJECTION TO IT EXCEPT THE MORE VERBIAGE YOU PUT
27 INTO THESE THINGS THE LESS LIKELY THAT PEOPLE READ IT.

28 WE DON'T OBJECT IN PRINCIPLE. THE QUESTION IS,

1 HAVE WE ADEQUATELY EXPRESSED THIS? TO MY MIND, WE HAVE.

2 BUT LIKE I SAY, I MEAN, WE DON'T HAVE ANY
3 PRINCIPLED OBJECTION TO HIS POINT IN THAT REGARD.

4 THE OTHER POINT THAT I RECALL HE RAISES IS THE
5 DATE. IN PREPARING THE NOTICE, I MEAN, WE HAVE TO WORK WITHIN
6 THE CONFINES OF THE ORDER THAT THE COURT PREVIOUSLY ENTERED
7 CERTIFYING THE CLASS. THAT WAS THE DATE THAT WAS DECIDED
8 SEVERAL MONTHS AGO, AND I CAN'T CHANGE THAT DATE. THE COURT
9 ORDERED IT. AND IF THERE IS A MOTION TO ALTER IT, FINE, YOU
10 KNOW, WE CAN DEAL WITH THAT ISSUE, BUT THAT IS THE DATE THAT
11 THE COURT SET. AND WE HAVE TO -- TO DEFINE THE CLASS, THE
12 SCOPE OF THE CLASS, AND I HAVE TO LIVE WITH THAT. AND, YOU
13 KNOW, LIKE I SAID, IF HE WANTS TO CHANGE THAT, HE HAS TO MOVE
14 TO CHANGE THAT. AS FAR AS I'M CONCERNED, I CAN'T DO IT
15 UNILATERALLY. AND THE NOTICE HAS TO BE CONSISTENT WITH THE
16 COURT'S PRIOR ORDER.

17 AND THAT RELATES ALSO TO THE POINT THAT MR.
18 ZIMMER RAISED. THERE IS A PRIOR ORDER CERTIFYING CLASS. AND
19 THAT WAS DONE BY NOTICED MOTION AND THAT'S -- THAT IS WHAT LED
20 TO THIS NOTICE PROPOSAL. AND SO, YOU KNOW, WE ARE WORKING
21 WITHIN THAT FRAMEWORK. WE HAVE TO WORK WITHIN THAT FRAMEWORK.

22 AND AGAIN, THAT RELATES ALSO TO MR. DUNN'S POINT.

23 MR. DUNN WANTS TO EXPAND THE CLASS IN ESSENCE TO ENCOMPASS
24 PUMPERS. YOU KNOW, THIS WAS A MATTER THAT WE DISCUSSED AT
25 SOME LENGTH. I WAS GENERALLY OF THE VIEW THAT IT WAS
26 PREFERABLE TO LIMIT THE CLASS TO NONPUMPERS AND THAT THERE
27 WERE POTENTIAL CONFLICTS DOWN THE ROAD BETWEEN THE PUMPER
28 GROUP AND NONPUMPER GROUP.

1 I HAVE HAD DISCUSSIONS WITH MR. DUNN ON THAT
2 SUBJECT. I DON'T REALLY, YOU KNOW, OBJECT TO RE-VISITING THAT
3 ISSUE IF THAT IS GOING TO FORWARD THE CASE. BUT THEN AGAIN,
4 THAT WOULD HAVE TO BE DONE BY NOTICED MOTION TO EXTEND, IN
5 EFFECT EXPAND, THE CLASS OR RE-DEFINE IT. AND AT THE MOMENT I
6 THINK IF SOMEONE WANTS TO PROPOSE THAT, I'M HAPPY TO WORK WITH
7 HIM AND TO THE EXTENT APPROPRIATE, IF THAT IS GOING TO HELP
8 MOVE THIS CASE FORWARD TO A RESOLUTION. I'M HAPPY TO DO WHAT
9 I CAN TO ASSIST IN THAT REGARD WITHIN THE CONSTRAINTS THAT WE
10 ALL HAVE OF OUR ETHICAL RESPONSIBILITIES IN TERMS OF CONFLICTS
11 AND POTENTIAL CONFLICTS.

12 I DON'T THINK THE CONFLICT HERE IS -- AGAIN, WE
13 DISCUSSED THAT AT SOME LENGTH -- I THINK IT IS SOMETHING THAT
14 COULD BE WORKED WITH. AND IF SO, YOU KNOW, AGAIN I'M NOT
15 OPPOSED TOTALLY TO HIS PROPOSAL BUT AGAIN I THINK WE WOULD
16 HAVE TO HAVE A NEW MOTION AND LET EVERYONE BE HEARD ON THE
17 ISSUE. SO THAT IS BASICALLY WHERE I COME OUT.

18 THE NOTICE PROPOSAL FLOWS OUT OF THE COURT'S
19 PRIOR ORDER CERTIFYING THE NONPUMPERS CLASS. I SPENT A FAIR
20 AMOUNT OF TIME ON IT. I TALKED TO OTHER COUNSEL AT GREAT
21 LENGTH. WE HAD A MEETING IN PASADENA AT MR. BUNN'S OFFICE TO
22 TRY TO SIMPLIFY IT AND MAKE IT CLEAR AS POSSIBLE TO PEOPLE.
23 OTHERS PARTICIPATED IN THAT EFFORT. MR. WEINSTOCK HAD
24 SIGNIFICANT INPUT. I THINK IT IS A PRETTY GOOD PROPOSAL. IS
25 IT PERFECT? I'M SURE SOME THINGS COULD BE IMPROVED, BUT I
26 THINK IT IS A GOOD PROPOSAL GIVEN THE CONTOURS OF THE EXISTING
27 CLASS.

28 I DON'T KNOW WHAT ELSE TO SAY AT THIS POINT, YOUR

1 HONOR.

2 THE COURT: WELL, I THINK THAT WE HAVE GOT TO START
3 WITH THE ORDER ITSELF, CERTIFYING A CLASS. AND I WAS JUST
4 LOOKING AT THAT. AGAIN, I'M NOT SURE THAT I HAVE BEFORE ME A
5 COPY OF THE FINAL ORDER. BUT MY RECOLLECTION WAS WE HAD
6 SIGNIFICANT DISCUSSION ABOUT EVEN WHETHER OR NOT THE CLASS WAS
7 TO INCLUDE PERSONS WHO WERE -- WHO OWNED PROPERTY THAT WERE
8 ATTACHED OR WITHIN A WATER SYSTEM, PUBLIC UTILITIES AND THE
9 LIKE.

10 MR. ZLOTNICK: YEAH.

11 THE COURT: AND FRANKLY IT CONCERNS ME TO EXCLUDE THOSE
12 PEOPLE.

13 MR. DUNN WAS CONCERNED ABOUT BEING IN A POSITION
14 OF CONFLICT WITH THEM. I DON'T THINK THAT THAT CONFLICT IS
15 REAL OR ACTUAL AT THIS POINT. IT COULD IN THE FUTURE BE A
16 GENUINE CONFLICT. BUT IT SEEMS TO ME THAT ANYBODY WHO OWNS
17 LAND WHO IS NOT PUMPING HAS WATER RIGHTS, WHETHER THEY ARE
18 PUMPING OR NOT. AND THE DEGREE OF THOSE WATER RIGHTS IS WHAT
19 IS GOING TO ULTIMATELY BE AN ISSUE HERE.

20 SO I THINK EXCLUDING THEM, I'M NOT SURE; I MIGHT
21 WANT TO HEAR SOME FURTHER ARGUMENT ABOUT THAT.

22 BUT BEYOND THAT, THE ORDER ALSO PROVIDED THAT IT
23 WAS APPLICABLE TO THOSE -- I SHOULD SAY INCLUDED THOSE MEMBERS
24 OF THE CLASS WHO WERE NOT PUMPING WITHIN FIVE YEARS PRECEDING
25 JANUARY 18, 2006.

26 NOW I THINK THAT WAS THE DATE OF YOUR COMPLAINT,
27 IS THAT CORRECT? THE INITIAL COMPLAINT?

28 MR. ZLOTNICK: YOUR HONOR, I THINK THAT DATE, AS I

1 INFORMATION ABOUT THAT, THAT INFORMATION CAN THEN BE GATHERED
2 AND IT CAN BE PUT TOGETHER IN A WAY SO THAT WE CAN AT A LATER
3 POINT IN TIME IF WE NEED TO SUBDIVIDE THAT CLASS FOR ISSUES
4 THAT -- FURTHER DOWN THE ROAD.

5 THE COURT: SHOULD THE CLASS BE AFFECTED BY THE
6 OBJECTIVES OF THE LITIGATION AND CAN WE SEGMENT THE OBJECTIVES
7 OF THE LITIGANTS?

8 MR. DUNN: YES.

9 THE COURT: SO THAT THE CLASS COULD BE DESIGNATED FOR
10 PURPOSES OF DETERMINING THE CHARACTERISTICS, THE SAFE YIELD,
11 AND PERHAPS I'M NOT SURE WHAT ELSE BUT CERTAINLY THOSE THINGS?

12 MR. DUNN: YES. THE ANSWER IS CLEARLY YES.

13 THE COURT: AND THAT WOULD REQUIRE A MODIFICATION OF
14 THE ORDER, WOULD IT NOT?

15 MR. DUNN: IT WOULD. AND WE HAVE TALKED WITH MR.
16 ZLOTNICK ABOUT SPECIFICALLY DOING THAT. AND WE THOUGHT THAT
17 WHAT WE COULD DO IS WE WOULD PROPOSE TO THE COURT, IF THE
18 COURT WOULD ALLOW US TO DO THIS, IS WE WOULD FILE AN AMENDED
19 MOTION NO LATER THAN A WEEK FROM FRIDAY. IT WOULD AMEND THE
20 EXISTING -- IT WOULD EXPAND OR MODIFY THE EXISTING CLASS TO
21 INCLUDE GENERALLY THE REMAINING PROPERTY OWNERS. SO THAT FOR
22 LIMITED PURPOSES ONLY, AND THAT WOULD BE CHARACTERISTICS OF
23 THE BASIN INCLUDING YIELD DETERMINATION. AND WE WOULD ALSO
24 PROPOSE THAT THAT WOULD BE THE NEXT PHASE OR A FIRST PHASE OF
25 COURT DETERMINATION OR TRIAL, AND FOR THAT LIMITED PURPOSE.

26 WE ALSO THINK THAT IF THE COURT WERE THEN TO
27 PHASE THE PROCEEDINGS SO THAT THERE WOULD BE CHARACTERISTICS
28 OF THE BASIN INCLUDING YIELD TO BE FOLLOWED BY THE CLAIMS OF

1 THE PUBLIC WATER SUPPLIERS, THEN IT SHOULD BE POSSIBLE TO
2 MAINTAIN THAT EXISTING MODIFIED CLASS STRUCTURE UP TO AND
3 INCLUDING THAT POINT AS WELL.

4 BUT THAT PROVIDES US WITH A LOT OF TIME, QUITE
5 FRANKLY, TO GATHER INFORMATION, TO GET JURISDICTION OVER
6 PROPERTY OWNERS, AND TO WORK OUT MORE CREATIVE SOLUTIONS
7 INCLUDING SUBDIVIDING THE CLASS AT A LATER POINT IN TIME.

8 SO OUR THOUGHT WAS THAT WE COULD, TOGETHER WITH
9 OTHER PARTIES THAT SUPPORT MOVING THIS CASE ALONG, GET THAT
10 MOTION ON FILE WITH THE COURT NO LATER THAN A WEEK FROM
11 FRIDAY, HAVE THE HEARING 28 DAYS LATER. THAT GIVES AN
12 OPPORTUNITY FOR ALL THE PEOPLE WHO OBJECT TO THE CLASS
13 MECHANISM AND FOR WHATEVER OTHER REASON, TO GO FORWARD. THEY
14 CAN FILE THEIR OPPOSITION. THE COURT CAN HOLD A HEARING ON
15 THAT. IF THE COURT IS INCLINED TO GRANT THE CLASS AS MODIFIED
16 OR AS REQUESTED, THEN NOTICE SHOULD BE ABLE TO GO OUT IN THE
17 FORM THAT HAS BEEN PROPOSED BY MR. ZLOTNICK.

18 JUST ONE QUICK COMMENT ON THAT FORM BY MR.
19 ZLOTNICK. IT DOES REPRESENT A LOT OF COLLABORATION WITH
20 COUNSEL. IT IS NOT JUST MR. ZLOTNICK'S FORM. IT WAS A LOT OF
21 EFFORT THAT WENT INTO IT. AND WE WOULD -- I WOULD BE VERY
22 CAREFUL ABOUT CHANGING THAT VERY MUCH JUST BECAUSE THERE HAS
23 BEEN A LOT OF INPUT IN THAT.

24 BUT THE NOTICE COULD THEN GO OUT, INCLUDING WITH
25 THE COURT'S DIRECTION AS PART OF THAT NOTICE, THAT THE FORM BE
26 RETURNED BY ALL THE RECIPIENTS IN THE CLASS AND THAT IT BE
27 RETURNED WITHIN A CERTAIN PERIOD OF TIME. AND THAT WE COULD
28 PROBABLY HAVE THIS NOTICE GO OUT WE THINK WITHIN SIXTY DAYS

1 AFTER THE COURT'S ORDER IF THE COURT WERE INCLINED TO MODIFY
2 THE CLASS.

3 AND SO THAT WOULD SORT OF PUT US INTO THE EARLY
4 APRIL TIME PERIOD PERHAPS. AND IT IS STILL POSSIBLE --
5 THERE'S BEEN A LOT OF DISCUSSION ABOUT PHASING AMONG SOME OF
6 THE COUNSEL -- WE STILL THINK IT IS POSSIBLE BY THE END OF
7 JUNE TO HAVE A FIRST PHASE OF TRIAL IN THIS CASE ON THE BASIN
8 CHARACTERISTICS INCLUDING YIELD, AND THAT WOULD ALLOW US TO
9 GET THE NOTICE OUT AND PEOPLE TO RESPOND.

10 THE COURT: WHEN YOU ARE TALKING ABOUT YIELD YOU ARE
11 TALKING ABOUT PRESENT SAFE YIELD?

12 MR. DUNN: YES.

13 THE COURT: NOTHING HISTORICAL?

14 MR. DUNN: I THINK YOU COULD LOOK AT A HISTORICAL
15 LOOK-BACK AS WELL.

16 THE COURT: WELL, YOU COULD LOOK AT IT BUT I DON'T
17 THINK IT WOULD BE APPROPRIATE TO BIND THE CLASS BECAUSE THAT
18 IS WHERE THE CONFLICT STARTS, IT SEEMS TO ME, ON YOUR
19 PROPOSAL.

20 MR. DUNN: YEAH, I WANTED TO AVOID, IF I COULD, THIS
21 MORNING, SORT OF THE ISSUES THAT WERE RAISED BY SOME COUNSEL
22 LAST WEEK ABOUT THIS CLAIMED CONFLICT. I THINK WHAT I CAN
23 REPRESENT IS, WITHOUT GETTING TOO DEEP INTO THIS, INTO THE
24 CASES, IS THAT I THINK THE COURT IS CORRECT. THERE MAY BE
25 DOWN THE ROAD AN ACTUAL CONFLICT THAT MAY ARISE BETWEEN
26 MEMBERS OF A CLASS, BUT TO THE EXTENT THAT THE COURTS CAN
27 IMPLEMENT THE CLASS ACTION DEVICE INITIALLY SO THAT THAT
28 CONFLICT IS NOT PRESENTLY BEFORE THE COURT AND THE CLASS

1 MEMBERS, THEN THE CLASS ACTION DEVICE IS ACCEPTABLE.

2 THERE WAS SOME COMMENT MADE THAT PERHAPS DURING
3 THE COURSE OF SETTLEMENT DISCUSSIONS THAT A CONFLICT MIGHT
4 ARISE BETWEEN PEOPLE WHO PUMP AND PEOPLE WHO DON'T PUMP AND
5 THAT WOULD SOMEHOW CREATE A CONFLICT WITHIN A CLASS. THE
6 SHORT ANSWER ON THAT IS THAT IS WRONG, IT DOESN'T. THAT IS
7 NOT THE WAY IT WORKS IN A CLASS ACTION DEVICE. BECAUSE THE
8 COURT HAS TO APPROVE ULTIMATELY ANY SETTLEMENT THAT INVOLVES
9 THIS CLASS, IT WOULD BE UP TO THE COURT TO DECIDE WHETHER THE
10 INTEREST OF THE CLASS MEMBERS HAD BEEN REPRESENTED OR
11 ADVOCATED DURING THE COURSE OF THE SETTLEMENT DISCUSSIONS.

12 THE SHORT VERSION ON THIS IS THAT THERE ARE
13 ALREADY IN THIS CASE AND ACTIVE IN THIS CASE PROPERTY OWNERS
14 WITH WELLS WHO PUMP AND THE ISSUE THAT ONE LEGAL COUNSEL
15 IDENTIFIED LAST TIME THAT PERHAPS THE PROPERTY OWNERS THAT
16 PUMP ARE GOING TO BE ADVERSE TO THE PEOPLE WHO DON'T PUMP,
17 THAT IS ALL GOING TO PLAY ITSELF OUT WITH THE EXISTING PUMPING
18 LANDOWNERS AND IT HAS ALREADY BEEN RAISED BY THEM IN THIS
19 HEARING.

20 SO THERE ARE COUNSEL IN THIS CASE WHO ARE GOING
21 TO RAISE THAT ISSUE AS PUMPER COUNSEL. THAT ISSUE WILL BE
22 CERTAINLY INVOLVED.

23 SO I DIDN'T MEAN TO TAKE A LOT OF THE COURT'S
24 TIME ON THIS, BUT THE SHORT VERSION IS I THINK WE CAN GET THIS
25 CASE MOVING ALONG.

26 AND LAST COMMENT IS THAT WE TALKED WITH MR.
27 ZLOTNICK AND THE OTHER COUNSEL. WE STILL BELIEVE AT SOME
28 POINT THAT ONE OR MORE PROPERTY OWNERS WITH WELLS WILL STEP

1 FORWARD AND SAY THEY WANT TO BE A CLASS REPRESENTATIVE. AND I
2 THINK THE MODIFICATION OF THE CLASS AND GETTING THIS CLASS
3 NOTICE OUT WILL FACILITATE THAT. THERE ARE GOING TO BE PEOPLE
4 WHO GET THIS CLASS NOTICE, AND WE WILL HAVE A RECORD OF THEM,
5 ONE OR MORE OF THEM MAY DECIDE TO SERVE THEN AS A PUMPER
6 REPRESENTATIVE.

7 THE COURT: THANK YOU.

8 MR. DUNN: THANK YOU FOR YOUR TIME, YOUR HONOR.

9 THE COURT: MR. DOUGHERTY, YOU LOOK LIKE YOU ARE
10 GETTING READY TO STAND UP.

11 MR. DOUGHERTY: YES. REARING TO GO, YOUR HONOR.

12 ROBERT DOUGHERTY FOR THE A V UNITED MUTUAL GROUP.

13 YOUR HONOR, IT IS REALLY HARD TO KNOW WHERE TO
14 BEGIN BUT I THINK WE CAN BEGIN BY RECOGNIZING THAT MOST CLASS
15 ACTION CASES THAT PEOPLE DEALT WITH IN THE PAST HAVE BEEN,
16 WELL, SOMEBODY HASN'T GOTTEN A REFUND OF TEN DOLLARS WHEN THEY
17 SHOULD HAVE AND THERE IS A WHOLE BUNCH OF OTHER PEOPLE OUT
18 THERE THAT SHOULD, AND EVERYONE'S IN THE SAME BOAT. AND
19 INSTEAD OF ALL OF THEM LITIGATING THIS INDIVIDUALLY, THEY GET
20 TOGETHER AND THEY HAVE A CLASS REPRESENTATIVE. AND THEY GET
21 THE MONEY AND THEY DISTRIBUTE IT.

22 HERE, THEY ARE ASKING ESSENTIALLY FOR INJUNCTIVE
23 RELIEF. AND IF WE GO BACK TO THE FEDERAL RULES -- WE RAISED
24 THIS BACK IN APRIL OF LAST YEAR -- ESSENTIALLY CLASS ACTIONS,
25 AT LEAST UNDER THE FEDERAL RULES, SHOULD NOT BE USED FOR
26 INJUNCTIVE RELIEF.

27 NOW GETTING TO THIS ISSUE OF CONFLICTS, I DON'T
28 KNOW WHERE WE ARE GETTING TO. WE SAY "WELL, THERE MAY NOT BE

1 A CONFLICT TO START BUT THERE MAY BE ONE THAT COMES UP." I
2 THINK IF THERE IS ANY POSSIBILITY OF A CONFLICT COMING UP,
3 THAT ISSUE HAS TO BE ADDRESSED AT THE BEGINNING. HOW CAN YOU
4 SAY "WELL, I DON'T HAVE A CONFLICT NOW BUT SOONER OR LATER,
5 MAYBE FIVE MONTHS DOWN THE LINE, I'M GOING TO HAVE A SITUATION
6 ARISE WHERE I CAN'T CONTINUE TO REPRESENT ONE OR MORE OF THE
7 PEOPLE THAT I REPRESENT"? I'M CERTAINLY NOT GOING TO GET
8 INVOLVED IN THAT KIND OF A SITUATION AS AN ATTORNEY. AND HERE
9 WE DO HAVE A VERY DEFINITE POSSIBILITY.

10 I HAVE HEARD THAT THERE ARE A NUMBER OF PUMPERS,
11 I WON'T SAY WHO THEY ARE, THAT ARE GOING TO TAKE THE POSITION
12 THAT NONPUMPERS HAVE ESSENTIALLY NO WATER RIGHTS. WELL, AS WE
13 KNOW, THAT IS NOT CURRENTLY THE LAW IN CALIFORNIA BUT THEY
14 WOULD LIKE IT TO BE.

15 ALSO, NOW GETTING BACK TO WHAT MR. DUNN
16 PROPOSES, THIS SORT OF DUAL CLASS, OR WHATEVER, I DON'T SEE
17 ANY COMPLAINT THAT IS ON FILE THAT WOULD ASK THAT. ARE THEY
18 GOING TO FILE AN AMENDED CROSS-COMPLAINT OF THEIR OWN? ARE
19 THEY GOING TO ASK MISS WILLIS TO FILE AN AMENDED COMPLAINT? I
20 DON'T KNOW.

21 AND ALSO -- AND HERE IS ONE THING I DISLIKE ABOUT
22 THIS WHOLE IDEA OF THE NOTICE OF CLASS ACTION. WHO IS THE
23 ENEMY? RIGHT HERE IT SAYS THE ENEMY IS MISS WILLIS, THAT SHE
24 IS THE ONE THAT IS SUING ALL OF THESE GOOD PEOPLE. WE KNOW
25 THAT THAT'S NOT THE CASE. THE REAL ENEMY, THE ONES THAT ARE
26 TRYING TO ACQUIRE PRESCRIPTIVE RIGHTS, ARE THE WHAT THEY CALL
27 THEMSELVES THE "PUBLIC WATER SUPPLIERS." I THINK "PURVEYORS"
28 IS PROBABLY MORE ACCURATE.

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 1 HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550(B)))
ANTELOPE VALLEY GROUNDWATER CASES) JUDICIAL COUNCIL
COORDINATION NO. P4408
PALMDALE WATER DISTRICT AND) SANTA CLARA CASE NO.
QUARTZ HILL WATER DISTRICT,) 1-05-CV-049053
CROSS-COMPLAINANTS,)
VS)
LOS ANGELES COUNTY WATERWORKS,) REPORTER'S CERTIFICATE
DISTRICT NO. 40, ET AL,)
CROSS-DEFENDANTS.)

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

I, CHARLOTTE NICHOLAS MOHAMED, CSR, OFFICIAL
REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES, 1 THROUGH 67, COMPRISE A TRUE AND
CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
ABOVE-ENTITLED MATTER ON MONDAY, JANUARY 14, 2008.

DATED THIS DAY OF JANUARY, 2008.

CHARLOTTE NICHOLAS MOHAMED, CSR #2384
OFFICIAL REPORTER

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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
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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
MONDAY, AUGUST 20, 2007

APPEARANCES:
(SEE APPEARANCE PAGES)

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9

10 IN PROPRIA PERSONA:
11 (VIA TELEPHONE)

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Exhibit 12

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

4
5 COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550B))
6 ANTELOPE VALLEY GROUNDWATER CASES))

JUDICIAL COUNCIL
COORDINATION NO. P4408

7
8 PALMDALE WATER DISTRICT AND)
QUARTZ HILL WATER DISTRICT,)

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

9 CROSS-COMPLAINANTS,)

10 VS)

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

13 CROSS-DEFENDANTS.)
14

15 REPORTER'S TRANSCRIPT OF PROCEEDINGS

16 **MONDAY, MARCH 12, 2007**

17
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19 (SEE APPEARANCE PAGES)

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23 ORIGINAL

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1 LOS ANGELES, CALIFORNIA; **MONDAY, MARCH 12, 2007; 9:03 A.M.**

2 DEPARTMENT NO. 1 HON. JACK KOMAR, JUDGE

3 **CASE NO.:** 1-05-CV-049053

4 **CASE NAME:** ANTELOPE VALLEY GROUNDWATER CASES

5 **APPEARANCES:** (AS NOTED ON TITLE PAGE)

6
7 (CHARLOTTE NICHOLAS MOHAMED, CSR #2384)

8 ---0---

9 THE COURT: GOOD MORNING.

10 THIS IS THE ANTELOPE VALLEY GROUND WATER CASES.
11 COORDINATED PROCEEDINGS. WE HAVE SEVERAL MATTERS TO TAKE UP
12 THIS MORNING.

13 HOW MANY COUNSEL INTEND TO APPEAR THIS MORNING?
14 (RAISE HANDS)

15 THE COURT: OKAY. LET'S HAVE EACH COUNSEL STAND AND
16 IDENTIFY THEMSELVES FOR THE RECORD.

17 THE OTHER THING THAT I'LL ASK YOU TO DO, WHEN YOU
18 SPEAK, IN CONNECTION WITH THESE PROCEEDINGS, MAKE SURE TO
19 IDENTIFY YOURSELF FOR THE RECORD SO THAT THE REPORTER HAS YOUR
20 NAME.

21 SO WE WILL START.

22 MR. FIFE: GOOD MORNING, YOUR HONOR.

23 MICHAEL FIFE, ANTELOPE VALLEY GROUNDWATER
24 AGREEMENT ASSOCIATION.

25 MR. DUNN: GOOD MORNING, YOUR HONOR.

26 JEFFREY DUNN ON BEHALF OF ROSAMOND COMMUNITY
27 SERVICES DISTRICT AND LOS ANGELES COUNTY WATERWORKS DISTRICT
28 NUMBER 40.

1 MR. LEININGER: LEE LEININGER FOR THE UNITED STATES.

2 MR. ZIMMER: RICHARD ZIMMER FOR BOLTHOUSE PROPERTIES.

3 MR. EVERTZ: GOOD MORNING, YOUR HONOR.

4 DOUGLAS EVERTZ FOR THE CITY OF LANCASTER.

5 MS. CAHILL: VIRGINIA CAHILL FOR THE STATE OF
6 CALIFORNIA.

7 MS. GOLDSMITH: GOOD MORNING, YOUR HONOR..

8 JANET GOLDSMITH FOR THE CITY OF LOS ANGELES.,

9 MR. SLOAN: GOOD MORNING, YOUR HONOR.

10 WILLIAM SLOAN ON BEHALF OF THE U.S. BORAX.

11 THE COURT: WHY DON'T WE SEE IF WE CAN GO IN ORDER HERE
12 SO THAT WE STAY IN THE SAME LINE.

13 GO AHEAD.

14 MR. DOUGHERTY: GOOD MORNING, YOUR HONOR.

15 ROBERT DOUGHERTY ON BEHALF OF WHITE FENCE FARMS
16 MUTUAL WATER COMPANY.

17 MR. ZLOTNICK: GOOD MORNING, YOUR HONOR.

18 DAVID ZLOTNICK ON BEHALF OF PETITIONER WILLIS.

19 MR. BRUNICK: BILL BRUNICK ON BEHALF ANTELOPE VALLEY.

20 MR. FUDACZ: GOOD MORNING, YOUR HONOR.

21 FRED FUDACZ ON BEHALF OF TEJON RANCH CORPORATION.

22 MR. WEINSTOCK: HENRY WEINSTOCK. THE SAME.

23 MR. LEMIEUX: KEITH LEMIEUX ON BEHALF OF LITTLE ROCK
24 CREEK IRRIGATION DISTRICT, ET AL.

25 MR. SANDERS: CHRIS SANDERS ON BEHALF OF THE COUNTY
26 SANITATION DISTRICT OF LOS ANGELES, DISTRICT NUMBERS 14 AND
27 20.

28 MR. GARNER: GOOD MORNING, YOUR HONOR.

1 ERIC GARNER ON BEHALF OF THE LOS ANGELES COUNTY
2 WATER, DISTRICT NO. 40 AND ROSEMOND COMMUNITY SERVICES.

3 MR. MARKMAN: GOOD MORNING, YOUR HONOR.

4 JAMES MARKMAN FOR THE CITY OF PALMDALE.

5 MR. BUNN: GOOD MORNING, YOUR HONOR.

6 THOMAS BUNN FOR PALMDALE WATER DISTRICT.

7 MR. HOLMES: GOOD MORNING, YOUR HONOR.

8 MICHAEL HOLMES ON BEHALF OF SPC DEL SUR RANCH,
9 LLC.

10 THE COURT: ANY OTHER TELEPHONIC APPEARANCES?

11 (NO AUDIBLE RESPONSE)

12 THE COURT: WE HAVE SEVERAL MATTERS HERE THIS MORNING.
13 LET'S TAKE UP THE ISSUE OF THE ADD-ON MATTER, THE WILLIS
14 MATTER.

15 ANYTHING FURTHER, MR. ZLOTNICK, YOU WANT TO ADD
16 IN CONNECTION WITH THAT REQUEST ?

17 MR. ZLOTNICK: NO, YOUR HONOR. I HAVE NOTHING TO ADD.
18 I THINK IT IS PRETTY STRAIGHTFORWARD.

19 THE COURT: ANY COUNSEL HAVE ANY OBJECTION TO THIS
20 PROPOSED ADD-ON?

21 YES, MR. DOUGHERTY?

22 MR. DOUGHERTY: YES, YOUR HONOR. WE HAVE NOT YET HAD A
23 CHANCE TO FULLY REVIEW THE COMPLAINT IN THE OTHER ACTION. WE
24 FEEL THIS WOULD NOT BE AN APPROPRIATE CLASS REPRESENTED FOR A
25 NUMBER OF REASONS WHICH, IF WE CAN GET INTO, WE CAN CERTAINLY
26 BRING FORWARD.

27 THE COURT: THE ONLY ISSUE BEFORE THE COURT THIS
28 MORNING IS WHETHER OR NOT THIS CASE SHOULD BE ADDED ON. THE

1 THEIR CLASS REPRESENTATIVE TO MAKE THAT DECISION FOR THEM.

2 THE COURT: THAT IS NORMALLY WHAT HAPPENS IN THE CLASS.

3 MR. JOYCE: AS LONG AS WE DON'T IGNORE THE ISSUE, YOUR
4 HONOR.

5 THE COURT: THANK YOU.

6 I APPRECIATE YOUR EDIFYING THE COURT.

7 MR. JOYCE: THANK YOU.

8 THE COURT: ANYBODY ELSE LIKE TO ADDRESS THIS ISSUE?
9 MR. WEINSTOCK?

10 MR. WEINSTOCK: WE WILL PASS, YOUR HONOR.

11 THE COURT: ANYBODY ELSE WISH TO?

12 MR. LEININGER.

13 MR. LEININGER: GOOD MORNING, YOUR HONOR.

14 LEE LEININGER FOR THE UNITED STATES.

15 WELL, WE HAVE TAKEN THE POSITION THAT IS QUITE
16 DIFFERENT FROM EVERYONE ELSE WITH REGARD TO THE APPLICATION
17 AND THE MC CARREN AMENDMENT AND THE WAIVER OF THE UNITED
18 STATES SOVEREIGN IMMUNITY. I DON'T THINK THERE IS ANY
19 QUESTION AS TO THE CASE LAW REQUIREMENTS FOR THE COMPREHENSIVE
20 NATURE OF A MC CARREN ADJUDICATION.

21 AND I JUST WANTED TO ADDRESS A FEW THINGS THAT
22 APPEARED IN THE REPLY.

23 THIS IS NOT ABOUT THE EAGLE COUNTY CASE. THIS IS
24 NOT A QUESTION OF THE GEOGRAPHIC SCOPE. WE HAVE ALREADY
25 DECIDED THAT. WE ARE NOT HERE TO RE-ARGUE THE GEOGRAPHIC
26 SCOPE OF THIS ADJUDICATION. THIS IS NOT THE OREGON CASE WHICH
27 THE COURT DECIDED IT WAS -- THE NINTH CIRCUIT -- DECIDED IT
28 WAS ADEQUATE TO EXCLUDE GROUNDWATER RIGHTS.

1 WE HAD DEFINED THIS AS THE FLIP SIDE, AS THE
2 GROUNDWATER ADJUDICATION. THAT IS THE RELEVANT WATER SOURCE.
3 SO THE SCOPE HAS BEEN DEFINED FOR THIS GROUNDWATER BASIN AND
4 ADJUDICATION OF GROUNDWATER RIGHTS.

5 SO NOW WE ARE JUST TALKING ABOUT WHO IS GOING TO
6 BE -- WHAT IS GOING TO BE ADJUDICATED. WHO IS GOING TO BE
7 INCLUDED IN THE DECREE OF THAT ADJUDICATION OF THESE
8 GROUNDWATER RIGHTS. AND WE HAVE TALKED ABOUT QUITE A FEW
9 DIFFERENT THINGS: DE MINIMUS GROUNDWATER USERS, DORMANT WATER
10 USERS WITH INTENT, DORMANT WATER USERS WITHOUT INTENT. BUT I
11 THINK THE KEY IS, AS YOU HAD STATED, IS WANTING TO BIND THESE
12 PEOPLE, EVEN IF THEY DON'T WANT TO PARTICIPATE. BUT THEY ARE
13 BOUND BY WHATEVER DECISIONS THIS COURT MAKES. AND THAT IS
14 REALLY OUR INTENT HERE ALSO, YOUR HONOR.

15 THERE HAS BEEN SOME SUGGESTIONS, SOME INTERESTING
16 SUGGESTIONS THAT I HAVEN'T REALLY FULLY DIGESTED. ONE WAS
17 THAT TRYING TO DISTINGUISH THIS PROBLEM OF DORMANT WATER USERS
18 WITHOUT INTENT AND DORMANT WATER USERS WITH INTENT AND
19 PRESENTLY AND IN THE FUTURE, PERHAPS IT WOULD BE BETTER SERVED
20 AS AN OPT IN CLASS, AS AN AFFIRMATIVE DUTY OF THOSE LANDOWNERS
21 TO OPT IN TO THE CLASS ITSELF. THAT IS A POSSIBILITY.

22 THE QUESTION OF THE LARGE NUMBER OF POTENTIAL DE
23 MINIMUS USERS THAT ARE USING SMALL DE MINIMUS RIGHTS GOES TO
24 THE OTHER CASE THAT WAS CITED BY THE PUBLIC WATER SUPPLIERS,
25 AND THAT IS THE HEEDLE RIVER ADJUDICATION.

26 AND WHAT WAS INTERESTING IN THAT ADJUDICATION IS
27 THAT ALTHOUGH THE SUPREME COURT, THE ARIZONA SUPREME COURT,
28 SAID THAT YES WE COULD HAVE THIS DE MINIMUS CLASS, IT USED THE

1 WORD "EXCLUDED," THEY WERE NOT EXCLUDING THESE INDIVIDUALS AS
2 PARTIES. THEY WERE JOINED. THAT WAS -- THAT IS THE
3 ADJUDICATION OF THAT ENTIRE WATERSHED. THEY WERE JOINED.
4 THEY GOT NOTICED. THE SUPREME COURT THEN DECIDED YOU COULD
5 MAKE A REASONABLE EXCLUSION OF THESE PARTIES AFTER THEY HAD
6 BEEN JOINED BASED UPON THEIR DE MINIMUS USE.

7 WHAT THAT CASE DOESN'T SHOW YOU IS THAT THAT
8 MATTER WAS REMANDED BACK TO THE TRIAL COURT AND THE TRIAL
9 COURT INSTRUCTED THE SPECIAL MASTER TO DETERMINE WHAT IS DE
10 MINIMUS. AND SO THEY WENT TO A SMALL SUB BASIN CALLED THE SAN
11 PEDRO RIVER IN THAT CASE. AND THEY PUT ON EVIDENCE TO DECIDE,
12 WELL, WHAT REALLY IS DE MINIMUS. AND IT WAS EXACTLY WHAT MR.
13 BUNN HAD SAID. IT WAS DETERMINATION BASICALLY DEATH BY A
14 THOUSAND CUTS. IT WAS THAT CUMULATIVELY, THE DOMESTIC WATER
15 USERS WITH THE STOCK WATER INTEREST, ACCOUNTED FOR 22 PERCENT,
16 I BELIEVE, IT WAS 22 PERCENT OF THE OUTFLOW OF THAT BASIN.

17 THE SPECIAL MASTER'S DETERMINATION -- AND I CAN
18 PROVIDE THE COURT A COPY OF THE SPECIAL MASTER'S RULING IN
19 THIS MATTER -- BUT THE SPECIAL MASTER'S DETERMINATION
20 BASICALLY IS THERE REALLY ISN'T SUCH A THING AS DE MINIMUS.
21 NEVERTHELESS, BECAUSE THESE WERE SMALL INDIVIDUAL USERS, THEY
22 DECIDED TO SUMMARILY ADJUDICATE IT.

23 SO THESE PARTIES WERE JOINED. THEY WERE
24 SUMMARILY ADJUDICATED, AND THAT IS HOW THEY DEALT WITH THE DE
25 MINIMUS WATER ISSUE.

26 I THINK -- I AM NOT NECESSARILY SUGGESTING THAT
27 WE HAVE TO GO TO SUCH LENGTHS HERE BUT AT THIS POINT THE WAY
28 TO GET AROUND THIS IS TO TRY TO GET ALL INDIVIDUALS THAT HAVE

1 RIGHTS, AND POTENTIAL RIGHTS IN THIS CASE, DECIDE WHAT IS DE
2 MINIMUS, DECIDE WHO MAY EXERCISE EXISTING RIGHTS AND WHO MAY
3 NOT.

4 THE COURT: I AGREE WITH YOU, MR. LEININGER. THIS HAS
5 TO BE A COMPREHENSIVE ADJUDICATION. WE HAVE TO ENSURE THAT,
6 AS MR. JOYCE INSISTS, THAT EVERY PARTY HAVE DUE PROCESS AND
7 THEY NOT BE DEPRIVED OF A RIGHT WITHOUT DUE PROCESS. WE HAVE
8 TO ENSURE THAT ANY JUDGMENT THAT IS ENTERED IN THIS CASE WILL
9 BE EFFECTIVE TO ADJUDICATE THE RIGHTS OF EVERYBODY THAT IS
10 THERE IN THAT VALLEY, OR I SHOULD SAY ALL THE PARCELS THAT ARE
11 IN THAT VALLEY, AND THE RIGHTS TO WATER FLOW FROM THE
12 PROPERTY. AND IT IS A REASONABLE AND BENEFICIAL USE OF EACH
13 PARCEL.

14 SO THERE ARE MANY QUESTIONS THE COURT IS GOING TO
15 HAVE TO ANSWER HERE. AND HOPEFULLY COUNSEL ARE GOING TO WORK
16 REALLY HARD TO HELP ME TO ANSWER THOSE QUESTIONS,
17 COOPERATIVELY.

18 MR. LEININGER: YOUR HONOR, HAS BEEN LISTENING. THESE
19 DISCUSSIONS HAVE BEEN VERY HELPFUL TO US. AND I HOPE WE GET
20 ANOTHER OPPORTUNITY WHEN WE NOTICE THE PLAINTIFF'S
21 CLASSIFICATION THAT WE RE-VISIT THESE ISSUES: THE CLASSES AND
22 SUB CLASSES, AND WHAT IS APPROPRIATE, OPTING IN AND OPTING
23 OUT, ET CETERA.

24 THE COURT: I THINK I WOULD LIKE TO ADDRESS A NUMBER OF
25 THOSE ISSUES HERE THIS MORNING AS MUCH AS POSSIBLE AND
26 PARTICULARLY WITH REGARD TO THE DEFENDANT CLASS AND WE WILL
27 SEE WHAT HAPPENS WITH REGARD TO PLAINTIFF'S CLASS. THAT WE
28 MAY HAVE A BLUEPRINT TO FOLLOW.

1 BUT AT THIS POINT IT SEEMS PRETTY CLEAR THAT
2 THERE OUGHT TO BE A DORMANT CLASS OF PEOPLE WHO AREN'T
3 PUMPING, HAVING PUMPED, MAKE NO CLAIM TO A RIGHT TO PUMP AT
4 THIS POINT. AND IT SEEMS TO ME THAT THAT IS ONE CLASS, ONE
5 VERY CLEAR SUB CLASS OR HOWEVER IT MAY BE.

6 THE ISSUE CONCERNING THE DE MINIMUS PUMPERS, MY
7 OWN VIEW IS THAT HAS TO BE A CLASS. AND I THINK THAT IF THEY
8 CHOOSE NOT TO PARTICIPATE BECAUSE EACH ONE OF THOSE IS GOING
9 TO REALLY HAVE A TYPICAL CLAIM. AND, I MEAN, IF IT IS WITHIN
10 A RANGE THAT WE WOULD CALL DE MINIMUS AND MAYBE THOSE
11 INDIVIDUALS HAVING ACREAGES OF LESS THAN A HUNDRED ACRES, OR
12 MAYBE LESS THAN 50, I DON'T KNOW WHAT THAT IS, I WOULD DEPEND
13 UPON COUNSEL TO HELP TO DEFINE THAT CLASS.

14 BUT IF THOSE INDIVIDUALS ARE BROUGHT IN WITH
15 PROPER NOTICE, AND I THINK IT IS PUBLISHED NOTICE AT THIS
16 POINT, THEN THE QUESTION IS GOING TO BE WITH REGARD TO OPTING
17 IN OR OPTING OUT AND THAT IS SOMETHING WE KIND TO RESERVE TO
18 DISCUSS AT THIS POINT.

19 BUT IT SEEMS TO ME THAT IF A PARTY CHOOSES TO OPT
20 OUT, SO THAT THEY ARE SAYING THAT THE COURT DOESN'T HAVE
21 JURISDICTION, I WOULD BE INCLINED TO MAKE AN ORDER THAT THEY
22 BE SERVED AS A PARTY SO THEN THEY WILL HAVE A CHOICE OF
23 PARTICIPATING AS A MEMBER OF THE CLASS OR OF ACTUALLY BEING A
24 DEFENDANT OR CROSS DEFENDANT IN THIS CASE, SO THAT THE COURT
25 DOESN'T LOSE JURISDICTION OVER IT. BECAUSE I THINK WE HAVE TO
26 HAVE JURISDICTION OVER THE ENTIRE BASIN.

27 SO I DON'T THINK IT IS IMPORTANT FOR US TO
28 DETERMINE WHETHER IT BE MANDATORY CLASS OR AN OPT OUT CLASS.

1 I WOULD BE INCLINED TO SAY THEY CAN OPT OUT IF THEY WISH BUT
2 THEN THEY ARE GOING TO GET SERVED AND THEN THEY ARE GOING TO
3 HAVE A REAL BURDEN OF PROTECTING THEIR INTEREST BECAUSE THE
4 CLASS WOULD NOT BE PROTECTING THEM. BUT I THINK THEY HAVE TO
5 BE A CLASS.

6 SO IF WE HAVE A DORMANT CLASS, WE HAVE A DE
7 MINIMUS CLASS, THEN THE NEXT QUESTION BECOMES HOW DO WE DEAL
8 WITH THE PEOPLE WHO ARE WITHIN A PUBLIC SERVICE AREA RECEIVING
9 WATER. AND I HAD DIFFICULTY THINKING THAT THEY NEED TO BE
10 ACTUALLY SERVED AS A CLASS. I THINK THAT THEY SHOULD BE
11 EXCLUDED FROM THE DORMANT CLASS, BECAUSE THEY ARE NOT PUMPING.
12 I THINK THEY SHOULD BE EXCLUDED FROM THE DE MINIMUS CLASS,
13 BECAUSE THEY ARE NOT PUMPING. AND HOW WE DEAL WITH ENSURING
14 THAT THEY DON'T DECIDE TO PUMP IN THE FUTURE, WE ARE TALKING
15 ABOUT SOMEBODY WHO HAS GOT A BACKYARD. AND FRANKLY IT SEEMS
16 TO ME THAT WOULD BE EITHER SO DE MINIMUS THAT THAT WOULD BE A
17 KNIFE WITH A MILLION CUTS OR A BILLION CUTS. SO IT REALLY IS
18 NOT SOMETHING THE COURT SHOULD TAKE NOTICE OF.

19 THE OTHER OPTION IS THAT THE PARTIES ARE GOING TO
20 HAVE TO GET A PERMIT. AND I CAN'T IMAGINE FRANKLY THAT A CITY
21 OR COUNTY IS GOING TO PERMIT SOMEBODY TO DRILL A WELL WHEN
22 THEY ARE CONNECTED TO A WATER SERVICE.

23 SO I THINK WE CAN DO A COMPREHENSIVE ADJUDICATION
24 ALONG THOSE LINES. AND SO I THINK AT THIS POINT WHAT I WOULD
25 LIKE TO HAVE HAPPEN IS THE MOVING PARTY TO FORMULATE THE CLASS
26 AS I'VE JUST DESCRIBED IT, TO CIRCULATE THAT FOR OBJECTIONS
27 AND SUBMIT IT TO THE COURT WITH OBJECTIONS. IF WE HAVE TO
28 HAVE ANOTHER HEARING ON IT, WE WILL. BUT OTHERWISE I'M

1 INCLINED TO APPROVE THAT.

2 NOW THE OTHER THING I WANT TO MAKE SURE IS THAT
3 EVERY WATER PRODUCER WHO DOESN'T FALL WITHIN THOSE CLASSES IS
4 IN FACT A PARTY TO THIS LITIGATION. SO THAT INCLUDES THE
5 MUTUAL WATER COMPANIES, THEY HAVE TO BE SERVED. AND I WANT TO
6 MAKE CERTAIN THAT WE HAVE BROUGHT EVERYBODY IN THAT NEEDS TO
7 BE BROUGHT IN SO THAT WE DO HAVE A COMPREHENSIVE ADJUDICATION
8 HERE.

9 THE COURT HAS A SERIOUS QUESTION AS TO WHETHER
10 THERE IS GOING TO BE A NEED TO CERTIFY A PLAINTIFF'S CLASS.
11 BUT I'M GOING TO SET IT FOR HEARING AND I EXPECT COUNSEL TO
12 FILE A MOTION TO CERTIFY THE CLASS IF HE WISHES TO DO SO AT
13 THAT TIME AND THAT WILL BE AT OUR NEXT CMC.

14 THERE IS SOMETHING ELSE THAT IS ESCAPING MY MIND
15 AT THIS POINT.

16 MR. LEININGER: YOUR HONOR, I WILL SIT DOWN.

17 THE COURT: ONE OF THE CONCERNS THAT I HAVE WITH THE
18 PROPOSED CROSS-COMPLAINT THAT I AUTHORIZED TO BE FILED IS THAT
19 IT SEEMS TO ME VERY CLEAR THAT THE COURT CAN CERTIFY A CLASS
20 AS TO THE THIRD, FOURTH, FIFTH AND SIXTH AND EIGHTH CAUSES OF
21 ACTION. I'M NOT SO SURE ABOUT THE FIRST AND SECOND WHICH DEAL
22 WITH PRESCRIPTION. IT SEEMS TO ME THAT THAT MIGHT CREATE MORE
23 OF A PROBLEM. BUT ON THE OTHER HAND, WE CAN ADDRESS THAT AT
24 AN APPROPRIATE TIME BECAUSE AT THIS POINT WE JUST HAVE A
25 PLEADING. AND WE DON'T HAVE A RESPONSE TO IT, AN ANSWER, OR
26 OTHER OPPOSITION THAT IS FILED TO IT.

27 AND COUNSEL OUGHT TO HAVE AN OPPORTUNITY TO DO
28 ONE OF TWO THINGS ON BEHALF OF YOUR PARTY, YOUR CLIENT, AND

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550(B)))
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)

REPORTER'S CERTIFICATE

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

CROSS-DEFENDANTS.)

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

I, CHARLOTTE NICHOLAS MOHAMED, CSR, OFFICIAL
REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES, 1 THROUGH 50, COMPRISE A TRUE AND
CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
ABOVE-ENTITLED MATTER ON MONDAY, MARCH 12, 2007.

DATED THIS 13th DAY OF MARCH, 2007.


CHARLOTTE NICHOLAS MOHAMED, CSR #2384
OFFICIAL REPORTER

Exhibit 13

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

4
5 COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550B))
6 ANTELOPE VALLEY GROUNDWATER CASES))
7 _____)

JUDICIAL COUNCIL
COORDINATION NO. P4408

8 PALMDALE WATER DISTRICT AND)
QUARTZ HILL WATER DISTRICT,)
9 CROSS-COMPLAINANTS,)

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

10 VS)

11 LOS ANGELES COUNTY WATERWORKS,)
12 DISTRICT NO. 40, ET AL,)
13 CROSS-DEFENDANTS.)
14 _____)

15 REPORTER'S TRANSCRIPT OF PROCEEDINGS

16 **MONDAY, APRIL 16, 2007**

17
18 APPEARANCES:

19 (SEE APPEARANCE PAGES)

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22 **COPY**
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26
27 CHARLOTTE NICHOLAS MOHAMED, CSR #2384
28 OFFICIAL REPORTER

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1 LOS ANGELES, CALIFORNIA; **MONDAY, APRIL 16, 2007; 9:00 A.M.**

2 DEPARTMENT NO. 1 HON. JACK KOMAR, JUDGE

3 **CASE NO.:** 1-05-CV-049053

4 **CASE NAME:** ANTELOPE VALLEY GROUNDWATER CASES

5 **APPEARANCES:** (AS NOTED ON TITLE PAGE)

6
7 (CHARLOTTE NICHOLAS MOHAMED, CSR #2384)

8 ---0---

9 THE COURT: GOOD MORNING.

10 (COUNSEL RESPOND "GOOD MORNING, YOUR HONOR.")

11 THE COURT: THIS IS IN THE ANTELOPE GROUND WATER CASES.

12 IT IS THE TIME SET FOR HEARING ON SEVERAL THINGS.
13 IT IS A CASE MANAGEMENT CONFERENCE SCHEDULED. WE ARE GOING TO
14 TALK ABOUT THE CLASS DEFINITION. WE ARE GOING TO TALK ABOUT
15 NOTICE TO THE CLASS. AND I ALSO HAVE A MOTION TO INTERVENE
16 THAT HAS BEEN FILED BY ANAVERDE. SO WE WILL TAKE UP THOSE
17 THINGS AND ANYTHING ELSE THAT COUNSEL ARE INTERESTED IN THIS
18 MORNING.

19 WE HAVE SOMEBODY APPEARING BY TELEPHONE?

20 MS. CAHILL: WE DO, YOUR HONOR.

21 VIRGINIA CAHILL APPEARING FOR THE STATE OF
22 CALIFORNIA ALTHOUGH I BELIEVE MY COLLEAGUE MICHAEL CROW IS IN
23 THE COURTROOM.

24 MR. ALLENBY: YES, YOUR HONOR. LIKewise, ROBERT
25 ALLENBY APPEARING ON BEHALF OF JUNG TOM WHO IS A DEFENDANT AND
26 MINIMAL PROPERTY OWNER.

27 MR. HOLMES: GOOD MORNING, YOUR HONOR.

28 MIKE HOLMES ON BEHALF OF SPC DEL SUR RANCH, LLC.

1 THE COURT: WHO IS APPEARING ON BEHALF OF THE LIMITED
2 MINIMAL PROPERTY OWNER?

3 MR. ALLENBY: ROBERT ALLENBY.

4 THE COURT: AND WHAT IS YOUR CLIENT'S NAME?

5 MR. ALLENBY: HIS NAME IS JUNG TOM. FIRST NAME J-U-N-G,
6 LAST NAME, T-O-M.

7 THE COURT: AND HAS HE BEEN SERVED?

8 MR. ALLENBY: HE HAS BEEN SERVED AND HE FILED THE KIND
9 OF STANDARD ANSWER THAT HAD BEEN DEVELOPED BY THE COURT WITH
10 COUNSEL.

11 THE COURT: ALL RIGHT. AND IS HE CURRENTLY PUMPING?

12 MR. ALLENBY: NO, HE IS NOT. THE PROPERTY HE OWNS IS
13 ESSENTIALLY UNDEVELOPED.

14 THE COURT: IS IT IN A WATER SERVICE AREA?

15 MR. ALLENBY: I DON'T BELIEVE SO. BUT I CAN'T
16 DEFINITELY ANSWER THAT.

17 THE COURT: WHAT IS THE SIZE OF THE PROPERTY?

18 MR. ALLENBY: I CAN'T GIVE YOU A PRECISE ACREAGE. I
19 THINK IT IS LESS THAN TEN ACRES.

20 THE COURT: ALL RIGHT. THE FIRST THING I THINK WE
21 OUGHT TO TAKE UP IS THE FURTHER ARGUMENT, IF ANY, CONCERNING
22 THE CLASS DEFINITION. I HAVE RECEIVED A NUMBER OF PAPERS
23 CONCERNING THAT.

24 MR. DUNN, YOU WERE THE AUTHOR. WHY DON'T YOU
25 STEP UP, IF YOU WOULD.

26 MR. DUNN: ALL RIGHT.

27 (PAUSE IN THE PROCEEDINGS).

28 THE COURT: CAN EVERYBODY HEAR ME?

1 (COUNSEL RESPOND IN THE AFFIRMATIVE)

2 THE COURT: ALL RIGHT. MR. DUNN, YOU HAVE PROPOSED
3 ESSENTIALLY CLASS -- SUBCLASS A AND SUBCLASS B.

4 MR. DUNN: YES, YOUR HONOR.

5 THE COURT: BY DEFINITION, DORMANT LANDOWNERS WHO HAVE
6 NOT OPERATED A GROUNDWATER WELL WITHIN FIVE YEARS IMMEDIATELY
7 PRECEDING OCTOBER 29, 1999?

8 MR. DUNN: YES.

9 THE COURT: AND SUBCLASS B, ALL LANDOWNERS WITHIN THE
10 ADJUDICATION WITH GROUNDWATER WELLS ON THEIR LAND WHO ARE NOT
11 MEMBERS OF SUBCLASS A.

12 THIS OBVIOUSLY EXCLUDES MUTUAL WATER COMPANIES,
13 AND I BELIEVE THAT MOST OF THOSE HAVE NOW BEEN SERVED; IS THAT
14 CORRECT, MR. DUNN?

15 MR. DUNN: AS TO THE SERVICE ON THE MUTUAL WATER
16 COMPANIES, WE HAVE IDENTIFIED APPROXIMATELY 20. ELEVEN OF THE
17 20 WERE REPRESENTED BY A SINGLE FIRM, AND SERVICE HAS BEEN
18 COMPLETED IN THAT REGARD.

19 AS TO THE REMAINING NINE, I AM INFORMED THAT WE
20 HAVE SENT OUT THE SERVICE OF PROCESS AS TO THE REMAINING. SO
21 AS TO THE APPROXIMATELY 20 THAT HAVE BEEN IDENTIFIED, THEY
22 HAVE BEEN SERVED.

23 THE COURT: OKAY. IT IS IMPORTANT TO GET THOSE PARTIES
24 SERVED AND AT-ISSUE AS SOON AS POSSIBLE.

25 THERE WERE SOME CONCERNS ABOUT NOT INCLUDING A
26 CLASS OF THOSE WHO ARE SERVED BY PUBLIC WATER SUPPLIERS. I
27 WOULD LIKE FOR YOU TO ADDRESS THAT, IF YOU WOULD.

28 MR. DUNN: YEAH. I'LL ADDRESS THAT ISSUE BY REFERRING

1 SLIGHTLY BETTER -- OR MAYBE A SIGNIFICANTLY BETTER SITUATION.

2 THE COURT: SUBCLASS A IS DORMANT LANDOWNERS WHO HAVE
3 NOT OPERATED THE GROUNDWATER WELL SINCE FIVE YEARS IMMEDIATELY
4 PRIOR TO A CERTAIN DATE. ISN'T THAT ALSO CONSISTENT WITH THE
5 ALLEGATIONS IN THE WILLIS CLASS ACTION COMPLAINT?

6 MR. DUNN: I WOULD HAVE TO DEFER TO MR. ZLOTNICK ON
7 THAT. I'M JUST NOT, MEMORYWISE, FAMILIAR WITH THOSE
8 ALLEGATIONS.

9 THE COURT: WELL, IT CERTAINLY IS CONSISTENT WITH HIS
10 CLIENT'S DEFINITION, AND THAT IS A LANDOWNER OF ABOUT TEN
11 ACRES WHO HAS NOT PUMPED BUT MIGHT PUMP IN THE FUTURE.

12 MR. DUNN: GENERALLY, YES.

13 THE COURT: SO I GUESS WHAT I'M LOOKING AT HERE IS I'M
14 TRYING TO PARE DOWN THE VARIOUS SUBCLASSES, IF WE CAN, AND TO
15 MAKE SURE THAT WE COVER EVERYBODY WHO HAS ANY RIGHTS WITHIN
16 THIS ANTELOPE VALLEY, AND MAKE SURE THAT THEIR RIGHTS ARE
17 PROPERLY PROTECTED AND ADJUDICATED.

18 SO THAT IT MAY BE THAT IF THE WILLIS COMPLAINT
19 STANDS, THAT DORMANT SUBCLASS A, DORMANT LANDOWNERS, FALLS BY
20 THE WAYSIDE AS A DEFENDANT CLASS BECAUSE THEY ARE A PLAINTIFF
21 CLASS.

22 MR. DUNN: YES. YES. AND I WOULD QUICKLY ADD THAT
23 PROCEDURALLY IT IS SIMPLER AND I'LL CALL IT "CLEANER" TO
24 PROCEED AS A PLAINTIFF'S CLASS IN ANY EVENT. SO THERE ARE A
25 VARIETY OF ADVANTAGES OF DOING IT IN THAT FASHION.

26 THE COURT: CERTAINLY A LOT MORE PRECEDENT --

27 MR. DUNN: YES.

28 THE COURT: -- THAT WE CAN RELY ON IN DOING THAT.

1 THAT IT IS TRULY THE END. ONE OF THE COMPLICATIONS I SEE IN
2 THE AMENDMENT OF THE MC CARRAN ACT IS IN ORDER TO SECURE
3 JURISDICTION OVER THE UNITED STATES GOVERNMENT, IT HAS TO BE
4 SUBJECT-MATTER JURISDICTION. FACING THE REALITY THAT IT IS AN
5 IN REM ACTION, IN ESSENCE IN LIGHT OF THE PRESCRIPTIVE CLAIMS
6 PLED, THE NET IMPACT BEING IS THAT IT HAS TO BE A
7 COMPREHENSIVE ADJUDICATION NOT ONLY AT THE OUTSET BUT MOST
8 IMPORTANTLY A COMPREHENSIVE ADJUDICATION AT THE TIME OF
9 JUDGMENT.

10 THE PROBLEM WE HAVE IN THE CURRENT CIRCUMSTANCE
11 AND THE PROBLEM THAT IS GOING TO BE COMPOUNDED BY TAKING A
12 CLASS APPROACH IS THAT IN THE VERY REALITY PEOPLE DIE,
13 PROPERTY IS TRANSFERRED THROUGH PROBATE, PEOPLE DEFAULT ON
14 LOANS, AND PROPERTY IS TRANSFERRED THROUGH FORECLOSURE, AND
15 PEOPLE JUST SELL IT. AND AS THE COURT IS VERY MUCH AWARE, IN
16 THE SANTA MARIA ACTION THAT VERY REAL PROBLEM MANIFESTED
17 ITSELF.

18 AT THIS VERY TIME WE ARE TRYING TO FINALIZE THE
19 JUDGMENT IN THAT ACTION. AND MY CONCERN IS THAT WE ARE GOING
20 TO GET INTO THIS ACTION AND WE ARE GOING TO LOSE THE UNITED
21 STATES AS A PARTY DEFENDANT BECAUSE THERE WON'T BE
22 JURISDICTION.

23 THOSE ARE MY COMMENTS.

24 **THE COURT:** WELL, I'M SATISFIED THAT A COMPREHENSIVE
25 ADJUDICATION OF THE WATER RIGHTS WITHIN THIS VALLEY APPLIES TO
26 THOSE PARTIES WHO ARE ASSERTING THE CLAIM FOR WATER RIGHTS,
27 AND/OR BY DE FACTO PUMPING, OR BY THE ASSERTION IN THESE
28 PROCEEDINGS OF COMPLAINTS AND CROSS-COMPLAINTS AND/OR ANSWERS.

1 SO THAT I DO THINK IT IS A COMPREHENSIVE LITIGATION,
2 ADJUDICATION OF THE RIGHTS OF THE VALLEY.

3 I DON'T THINK IN ORDER TO COMPLETE THAT
4 ADJUDICATION IT IS NECESSARY TO BRING IN PARTIES WHO ARE NOT
5 CLAIMING A RIGHT TO WATER BECAUSE IN FACT AMONG OTHER THINGS,
6 THEY HAPPEN TO BE RECEIVING WATER FROM ONE OF THE PARTIES IN
7 THIS ACTION, ONE OR MORE OF THE PARTIES IN THIS ACTION. AND I
8 DON'T THINK THAT AFFECTS THE RIGHT OF THE COURT TO PROCEED TO
9 DO EXACTLY WHAT IT IS THAT WE ARE TRYING TO DO HERE, TO
10 ADJUDICATE THE RIGHTS OF THOSE PARTIES WHO ARE CLAIMANTS OR
11 WHO MIGHT BE CLAIMANTS.

12 AND TO THE EXTENT THAT WE OFFER A CLASS OF
13 DORMANT LANDOWNERS WHO MIGHT HAVE A CLAIM, THEN AS FAR AS THE
14 COURT IS CONCERNED, IF THEY FILE THE CLAIM, THEY ARE PART OF
15 THE CLASS. IF THEY OPT OUT, THEY ARE GOING TO BE SERVED AND
16 WOULD BE PART OF THE LITIGATION. AND I THINK THAT IS A
17 SUFFICIENT BASIS TO DO A COMPREHENSIVE ADJUDICATION.

18 AND I THINK WE HAVE MADE THAT DECISION FAR
19 EARLIER THAN TODAY.

20 MR. JOYCE: YOUR HONOR, THE ONLY OBSERVATION I WOULD
21 MAKE WOULD BE THAT ASSUMING WE DEFINE A CLASS OF DORMANT
22 LANDOWNERS AND LET'S SAY ONE OF THOSE DORMANT LANDOWNERS OWNS
23 80 ACRES AND HE IS THE CLASS MEMBER, HIS INTERESTS ARE BEING
24 REPRESENTED, AND WE GO THROUGH PHASE 1, WE GO THROUGH PHASE 2,
25 WE ARE IN THE MIDDLE OF PHASE 3 AND HE SELLS HIS PROPERTY TO
26 JOE BLOW. IF THE CLASS ISN'T DEFINED IN SUCH A WAY SO AS TO
27 CREATE A [UNINTELLIGIBLE] SO THAT YOU CAN ACQUIRE AND MAINTAIN
28 JURISDICTION OVER THE RES, THE PROPERTY, JOE BLOW IS GOING TO

SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550(B)))
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,)

REPORTER'S CERTIFICATE

CROSS-DEFENDANTS.)

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

I, CHARLOTTE NICHOLAS MOHAMED, CSR, OFFICIAL
REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES, 1 THROUGH 40, COMPRISE A TRUE AND
CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
ABOVE-ENTITLED MATTER ON MONDAY, APRIL 16, 2007.

DATED THIS 17th DAY OF APRIL, 2007.

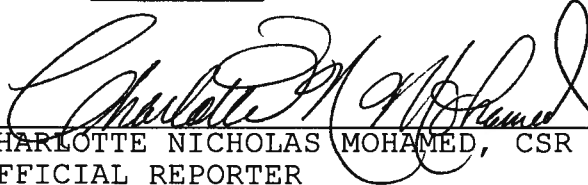

CHARLOTTE NICHOLAS MOHAMED, CSR #2384
OFFICIAL REPORTER

Exhibit 14

1 LOS ANGELES, CALIFORNIA; MONDAY, MAY 21, 2007; 10:00 A.M.

2 DEPARTMENT NO. 1 HON. JACK KOMAR, JUDGE

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

4 CASE NAME: ANTELOPE VALLEY GROUNDWATER CASES

5 APPEARANCES: (AS NOTED ON TITLE PAGE)

6

7 (CHARLOTTE NICHOLAS MOHAMED, CSR #2384)

8 ---0---

9 THE COURT: GOOD MORNING.

10 THIS IS THE ANTELOPE VALLEY GROUND WATER CASES.

11 I THINK I WILL START WITH ASKING IF THERE ARE ANY
12 TELEPHONIC APPEARANCES.

13 MR. KUNEY: YES, YOUR HONOR.

14 SCOTT KUNEY APPEARING ON BEHALF OF VAN DAM FARMS,
15 ET CETERA.

16 MR. CROW: YOUR HONOR, MICHAEL CROW APPEARING ON BEHALF
17 OF THE STATE OF CALIFORNIA.

18 MS. CAHILL: YOUR HONOR, VIRGINIA CAHILL ALSO APPEARING
19 ON BEHALF OF THE STATE PARTIES.

20 MR. HOLMES: GOOD MORNING, YOUR HONOR.

21 MIKE HOLMES APPEARING ON BEHALF OF SPC DEL SUR
22 RANCH, LLC.

23 THE COURT: ANY OTHERS?

24 (NO AUDIBLE RESPONSE)

25 THE COURT: ALL RIGHT. WE HAVE SEVERAL MATTERS ON THIS
26 MORNING. LET'S START WITH THE DEMURRER TO THE WILLIS
27 COMPLAINT.

28 MR. ORR: GOOD MORNING, YOUR HONOR.

1 STEVEN ORR ON BEHALF OF THE PUBLIC WATER
2 SUPPLIERS.

3 MR. ZLOTNICK: GOOD MORNING, YOUR HONOR.

4 DAVID ZLOTNICK ON BEHALF OF PLAINTIFF WILLIS.

5 THE COURT: GOOD MORNING.

6 ANYBODY ELSE APPEARING IN CONNECTION WITH THIS
7 DEMURRER?

8 MR. EVERTZ: GOOD MORNING, YOUR HONOR.

9 DOUGLAS EVERTZ ON BEHALF OF THE CITY OF
10 LANCASTER.

11 THE COURT: I'VE READ THE DEMURRER OBVIOUSLY AND THE
12 PLEADINGS. THERE IS ALSO A MOTION TO STRIKE.

13 ANY FURTHER ARGUMENT IN SUPPORT OF THE DEMURRER?

14 MR. ORR: YOUR HONOR, THE PARTIES NOW -- THERE IS NO
15 DISAGREEMENT THAT IF PRESCRIPTIVE RIGHTS WERE OBTAINED, THE
16 STATUTE OF LIMITATIONS BARS IT. SO IN THE OPPOSITION THEY
17 SHIFT TO A NEW UNPLED THEORY WHICH IS THAT IF THEY ATTEMPT TO
18 STOP US DURING THE FIVE-YEAR PERIOD OR ATTEMPT TO STOP ANYONE
19 DURING THE FIVE-YEAR PERIOD, THAT THAT WOULD SOMEHOW ENTITLE
20 THEM TO INVERSE CONDEMNATION DAMAGES. THERE IS NOT A SINGLE
21 CASE THAT SUPPORTS THAT. PUBLIC POLICY IS AGAINST IT. IT IS
22 COMPLETELY AGAINST WHAT THEY HAVE PLED; NAMELY, THEY ARE NOT
23 PUMPING.

24 SINCE THEY ARE NOT PUMPING, THERE CAN BE NO
25 INTERFERENCE WITH THEIR RIGHT TO OBTAIN WATER. THEY WOULD NOT
26 HAVE LOST PRIORITY BECAUSE THE FILING OF THIS LAWSUIT WOULD
27 STOP IT.

28 IN FACT, WE ALL KNOW THERE IS NO OWNERSHIP OF

1 MR. ZLOTNICK: YOUR HONOR, I DO NEED SOME TIME TO
2 CONFER WITH MY CLIENT AND DO A LITTLE INVESTIGATION BEFORE I
3 CAN REALLY ANSWER THAT.

4 THE COURT: ALL RIGHT. IT SEEMS TO ME, THOUGH, THAT
5 YOU NEED TO DO THAT WITHIN 30 DAYS --

6 MR. ZLOTNICK: YES, YOUR HONOR.

7 THE COURT: -- OF TODAY'S DATE.

8 MR. ZLOTNICK: I'M HAPPY TO DO THAT WITHIN 30 DAYS,
9 YOUR HONOR.

10 THE COURT: AND THAT MEANS THAT WHAT I WOULD LIKE TO DO
11 IS HAVE ANOTHER HEARING SCHEDULED SO THAT FOLLOWING YOUR
12 DETERMINATION AS TO THE NATURE OF YOUR PLEADING, WE CAN DECIDE
13 WHERE TO GO FROM THERE.

14 SO THAT IS GOING TO PROBABLY BE ABOUT SIXTY DAYS
15 HENCE?

16 MR. ZLOTNICK: YES, YOUR HONOR. I THINK THAT MAKES
17 SENSE.

18 BUT I WOULD LIKE TO JUST BRIEFLY GO BACK TO ONE
19 OF THE POINTS THAT HAS BEEN IN THE AIR HERE. AND ALTHOUGH OUR
20 ORIGINAL PLEADING WAS NOT LIMITED TO NONPUMPERS, I THINK, YOU
21 KNOW, IN THE COURSE OF DISCUSSIONS WE HAVE HAD OVER THE LAST
22 SEVERAL MONTHS, IT DOES SEEM TO ME THAT THAT IS PROBLEMATIC
23 FOR US TO REPRESENT BOTH GROUPS. SO, YOU KNOW, I THINK THAT
24 IT DOES NEED TO BE SOME SEPARATE REPRESENTATION.

25 THE COURT: IT SEEMS TO ME TO BE A CONFLICT BETWEEN THE
26 PUMPERS AND NONPUMPERS.

27 MR. ZLOTNICK: RIGHT. THERE SEEMS TO BE. THERE ARE
28 DIFFERENT ISSUES.

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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 1 HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING)	
SPECIAL TITLE (RULE 1550(B)))	
ANTELOPE VALLEY GROUNDWATER CASES))	JUDICIAL COUNCIL
)	COORDINATION NO. P4408
)	
PALMDALE WATER DISTRICT AND)	SANTA CLARA CASE NO.
QUARTZ HILL WATER DISTRICT,)	1-05-CV-049053
)	
CROSS-COMPLAINANTS,)	
)	
VS)	
)	REPORTER'S CERTIFICATE
LOS ANGELES COUNTY WATERWORKS,)	
DISTRICT NO. 40, ET AL,)	
)	
)	
CROSS-DEFENDANTS.)	
)	

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

I, CHARLOTTE NICHOLAS MOHAMED, CSR, OFFICIAL
REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES, 1 THROUGH 47, COMPRISE A TRUE AND
CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
ABOVE-ENTITLED MATTER ON MONDAY, MAY 21, 2007.

DATED THIS DAY OF MAY, 2007.

CHARLOTTE NICHOLAS MOHAMED, CSR #2384
OFFICIAL REPORTER

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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))
) JUDICIAL COUNCIL
ANTELOPE VALLEY GROUNDWATER CASES) COORDINATION NO. P4408
)
)
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
MONDAY, MAY 21, 2007

APPEARANCES:
(SEE APPEARANCE PAGES)

CHARLOTTE NICHOLAS MOHAMED, CSR #2384
OFFICIAL REPORTER

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19

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21 SPC DEL SUR RANCH
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24

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1 APPEARANCES (CONTINUED)

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19 SERVICE ROCK GRESHAM SAVAGE NOLAN & TILDEN
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24 MARILYN J. PREWOZNIK IN PROPRIA PERSONA

25

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Exhibit 15

1 LOS ANGELES, CALIFORNIA; MONDAY, JANUARY 14, 2008; 9:02 A.M.
2 DEPARTMENT NO. 1 HON. JACK KOMAR, JUDGE
3 CASE NO.: SANTA CLARA CASE NO. 1-05-CV-049053
4 CASE NAME: ANTELOPE VALLEY GROUNDWATER CASES
5 APPEARANCES: (AS NOTED ON TITLE PAGE)

6
7 (CHARLOTTE NICHOLAS MOHAMED, CSR #2384)
8 ---0---

9 THE COURT: ALL RIGHT. GOOD MORNING.
10 (ALL ANSWER "GOOD MORNING, YOUR HONOR")

11 THE COURT: WE ARE HERE ON THE ANTELOPE VALLEY
12 COORDINATED CASES.

13 LET'S HAVE APPEARANCES FROM ALL COUNSEL WHO
14 INTEND TO APPEAR. AND LET ME JUST REMIND YOU THAT EACH TIME
15 YOU SPEAK YOU SHOULD IDENTIFY YOURSELF.

16 AND ON THIS FIRST GO-AROUND, STATE YOUR NAME AND
17 SPELL YOUR LAST NAME.

18 MR. DOUGHERTY: GOOD MORNING.

19 ROBERT DOUGHERTY, YOUR HONOR, FOR THE A V UNITED
20 MUTUAL GROUP.

21 D-O-U-G-H-E-R-T-Y.

22 MR. ZLOTNICK: YOUR HONOR, DAVID ZLOTNICK,
23 S-L-O-T-N-I-C-K, FOR REBECCA WILLIS AND THE CLASS.

24 MR. JOYCE: GOOD MORNING, YOUR HONOR.

25 BOB JOYCE APPEARING ON BEHALF OF DIAMOND FARMING
26 COMPANY AND CRYSTAL FARMS -- EXCUSE ME -- CRYSTAL ORGANIC LLC.

27 THAT IS J-O-Y-C-E.

28 MR. ZIMMER: GOOD MORNING, YOUR HONOR.

1 RICHARD ZIMMER, Z-I-M-M-E-R, ON BEHALF OF
2 BOLTHOUSE FARMS AND BOLTHOUSE PROPERTIES.

3 MR. MARKMAN: GOOD MORNING, YOUR HONOR.

4 JAMES MARKMAN FOR THE CITY OF PALMDALE.

5 M-A-R-K-M-A-N.

6 MR. WEINSTOCK: GOOD MORNING, YOUR HONOR.

7 HENRY WEINSTOCK, W-E-I-N-S-T-O-C-K, FOR TEJON
8 RANCH CORP.

9 MR. DUNN: GOOD MORNING, YOUR HONOR.

10 JEFFREY DUNN ON BEHALF OF ROSAMOND COMMUNITY
11 SERVICE DISTRICT AND LOS ANGELES COUNTY WATERWORKS DISTRICT
12 NUMBER 40.

13 MR. PFAEFFLE: GOOD MORNING.

14 FRED PFAEFFLE, LOS ANGELES COUNTY WATER DISTRICT
15 40.

16 MR. RENWICK: GOOD MORNING, YOUR HONOR.

17 EDWARD RENWICK FOR WAGAS LAND COMPANY.

18 AND IT IS R-E-N-W-I-C-K.

19 MR. SANDERS: GOOD MORNING, YOUR HONOR.

20 CHRIS SANDERS ON BEHALF OF THE COUNTY SANITATION
21 DISTRICT OF LOS ANGELES COUNTY NUMBERS 14 AND 20.

22 MR. FIFE: GOOD MORNING, YOUR HONOR.

23 MICHAEL FIFE, F-I-F-E, ON BEHALF OF ANTELOPE
24 VALLEY GROUNDWATER AGREEMENT ASSOCIATION.

25 MS. COLLINS: GOOD MORNING, YOUR HONOR.

26 CLAIRE HERVEY COLLINS, C-O-L-L-I-N-S, FOR
27 ANAVERDE LLC.

28 MR. BRUNICK: GOOD MORNING, YOUR HONOR.

1 BILL BRUNICK, B-R-U-N-I-C-K, APPEARING FOR
2 ANTELOPE VALLEY EAST KERN WATER AGENCY.

3 THE COURT: ANY OTHER COUNSEL IN THE COURT WHO INTEND
4 TO APPEAR?

5 [NO AUDIBLE RESPONSE]

6 THE COURT: WE HAVE SOME TELEPHONIC APPEARANCES.

7 MR. CROW: MICHAEL CROW, C-R-O-W, FOR THE STATE OF
8 CALIFORNIA.

9 GOOD MORNING.

10 MS. GOLDSMITH: GOOD MORNING, YOUR HONOR.

11 JANET GOLDSMITH, G-O-L-D-S-M-I-T-H, FOR THE CITY
12 OF LOS ANGELES.

13 MR. BLUM: GOOD MORNING, YOUR HONOR.

14 SHELDON BLUM, B-L-U-M, FOR SHELDON R. BLUM TRUST.

15 MR. HOLMES: GOOD MORNING, YOUR HONOR.

16 MIKE HOLMES, H-O-L-M-E-S, FOR DEL SUR RANCH LLC.

17 MR. BEZERRA: GOOD MORNING, YOUR HONOR.

18 RYAN BEZERRA, B-E-Z-E-R-R-A, FOR COPA DE ORO LAND
19 COMPANY.

20 MR. SLOAN: GOOD MORNING, YOUR HONOR.

21 WILLIAM SLOAN, S-L-O-A-N, ON BEHALF OF U. S.
22 BORAX.

23 MR. HERREMA: GOOD MORNING, YOUR HONOR.

24 BRAD HERREMA, H-E-R-R-E-M-A, ON BEHALF OF
25 ANTELOPE VALLEY GROUNDWATER AGREEMENT ASSOCIATION.

26 MR. LEININGER: GOOD MORNING, YOUR HONOR.

011408 hearing transcript re CMC Ntc to Class Transferee
27 THIS IS LEE LEININGER, L-E-I-N-I-N-G-E-R, FOR THE
28 UNITED STATES.

4

1 MS. JONES: GOOD MORNING, YOUR HONOR.

2 TAMMY JONES, J-O-N-E-S, APPEARING ON BEHALF OF
3 PALMDALE HILLS PROPERTY AND NORTHROP GRUMMAN.

4 THE COURT: ANY OTHERS APPEARING ON THE TELEPHONE?

5 [NO AUDIBLE RESPONSE]

6 THE COURT: ALL RIGHT. WE ARE HERE WITH SEVERAL
7 MATTERS THIS MORNING. I'M GOING TO TAKE THE EASIEST ONE
8 FIRST.

9 THERE IS A MOTION TO WITHDRAW BY MR. HOLMES ON
10 BEHALF OF HIS FIRM IN CONNECTION WITH THE DEL SUR RANCH.

11 IS THERE ANYTHING FURTHER ON THAT, MR. HOLMES? I
12 DID RECEIVE YOUR SUBSEQUENT MEMORANDUM.

13 MR. HOLMES: YES, YOUR HONOR. UNFORTUNATELY I DON'T
14 HAVE ANYTHING NEW SINCE THAT WAS FILED LAST WEEK.

15 THE COURT: OKAY.

16 MR. HOLMES: SO THERE HAVE BEEN NO OTHER DEVELOPMENTS.

17 THE COURT: ALL RIGHT. DEL SUR RANCH IS A CORPORATION,
18 IS IT NOT?

19 MR. HOLMES: IT IS A LIMITED LIABILITY COMPANY, YES.

20 THE COURT: OKAY. THE COURT IS GOING TO GRANT THE
21 MOTION TO WITHDRAW. I'M GOING TO ORDER THAT NEW COUNSEL MAKE
22 AN APPEARANCE EITHER IN PERSON OR BY FILING NO LATER THAN
23 JANUARY 28, 2008. NO LATER THAN.

24 THAT WILL BE THE ORDER. AND YOU SHOULD PREPARE
25 THE ORDER, MR. HOLMES, AND SUBMIT IT TO THE COURT.

26 MR. HOLMES: YES, YOUR HONOR.
27 THE COURT: ALL RIGHT. THANK YOU.
28 MR. HOLMES: THANK YOU.

5

1 THE COURT: ALL RIGHT. NOW, THERE ARE SOME OTHER
2 MATTERS HERE. LET'S TAKE UP THE FORM OF THE NOTICE THAT WAS
3 FILED BY PLAINTIFF WILLIS. AND THERE ARE SEVERAL OBJECTIONS
4 TO IT AND THERE WAS -- ESSENTIALLY A COUNTER FORM OF NOTICE,
5 I'LL CALL IT, SUBMITTED BY MR. DUNN, I THINK.

6 MR. ZLOTNICK, WHY DON'T WE ASK YOU FIRST TO
7 ADDRESS, FIRST OF ALL, THE OBJECTIONS AS WELL AS THE PROPOSED
8 REVISIONS.

9 MR. ZLOTNICK: YES, YOUR HONOR. I'M HAPPY TO DO THAT.

10 I THINK THE PRIMARY OBJECTIONS WERE FILED BY MR.
11 FIFE ON BEHALF OF HIS CLIENT. AND AS I RECALL, HE OBJECTED
12 THAT THE NOTICE, AS PROPOSED, WASN'T CLEAR ENOUGH, THAT
13 PUMPERS WILL BE TREATED AS IF THEY WERE NONPUMPERS IF THEY
14 DON'T RETURN THE RESPONSE FORM AND MAKE IT CLEAR THAT THEY ARE
15 PUMPING.

16 THE PROPOSED NOTICE SAYS "IF YOU PUMP GROUNDWATER
17 ON YOUR" -- THIS IS IN BOLD PRINT AS WE PREPARED IT -- "IF YOU
18 PUMP GROUNDWATER ON YOUR PROPERTY AND YOU HAVE DONE SO SINCE
19 JANUARY 18, 2001, YOU ARE NOT A MEMBER OF THE CLASS." AND IN
20 CAPS IT SAYS THAT "YOU MUST STILL RETURN THE ATTACHED RESPONSE
21 FORM TELLING THE COURT THAT YOU ARE NOT A MEMBER OF THE CLASS,
22 OR ELSE THAT YOU WILL BE TREATED AS A MEMBER OF THE CLASS AND
23 YOUR RIGHTS TO USE WATER ON YOUR PROPERTY MAY BE PREJUDICED."

24 I THINK THAT IS ADEQUATE. I DON'T THINK HIS
25 ADDITIONAL LANGUAGE ADDS ANYTHING TO THAT. I DON'T HAVE ANY
26 PARTICULAR OBJECTION TO IT EXCEPT THE MORE VERBIAGE YOU PUT
27 INTO THESE THINGS THE LESS LIKELY THAT PEOPLE READ IT.
28 WE DON'T OBJECT IN PRINCIPLE. THE QUESTION IS,

6

1 HAVE WE ADEQUATELY EXPRESSED THIS? TO MY MIND, WE HAVE.
2 BUT LIKE I SAY, I MEAN, WE DON'T HAVE ANY
3 PRINCIPLED OBJECTION TO HIS POINT IN THAT REGARD.
4 THE OTHER POINT THAT I RECALL HE RAISES IS THE
5 DATE. IN PREPARING THE NOTICE, I MEAN, WE HAVE TO WORK WITHIN
6 THE CONFINES OF THE ORDER THAT THE COURT PREVIOUSLY ENTERED
7 CERTIFYING THE CLASS. THAT WAS THE DATE THAT WAS DECIDED
8 SEVERAL MONTHS AGO, AND I CAN'T CHANGE THAT DATE. THE COURT
9 ORDERED IT. AND IF THERE IS A MOTION TO ALTER IT, FINE, YOU
10 KNOW, WE CAN DEAL WITH THAT ISSUE, BUT THAT IS THE DATE THAT
11 THE COURT SET. AND WE HAVE TO -- TO DEFINE THE CLASS, THE
12 SCOPE OF THE CLASS, AND I HAVE TO LIVE WITH THAT. AND, YOU
13 KNOW, LIKE I SAID, IF HE WANTS TO CHANGE THAT, HE HAS TO MOVE
14 TO CHANGE THAT. AS FAR AS I'M CONCERNED, I CAN'T DO IT
15 UNILATERALLY. AND THE NOTICE HAS TO BE CONSISTENT WITH THE
16 COURT'S PRIOR ORDER.

17 AND THAT RELATES ALSO TO THE POINT THAT MR.
18 ZIMMER RAISED. THERE IS A PRIOR ORDER CERTIFYING CLASS. AND
19 THAT WAS DONE BY NOTICED MOTION AND THAT'S -- THAT IS WHAT LED
20 TO THIS NOTICE PROPOSAL. AND SO, YOU KNOW, WE ARE WORKING
21 WITHIN THAT FRAMEWORK. WE HAVE TO WORK WITHIN THAT FRAMEWORK.

22 AND AGAIN, THAT RELATES ALSO TO MR. DUNN'S POINT.
Page 6

23 MR. DUNN WANTS TO EXPAND THE CLASS IN ESSENCE TO ENCOMPASS
24 PUMPERS. YOU KNOW, THIS WAS A MATTER THAT WE DISCUSSED AT
25 SOME LENGTH. I WAS GENERALLY OF THE VIEW THAT IT WAS
26 PREFERABLE TO LIMIT THE CLASS TO NONPUMPERS AND THAT THERE
27 WERE POTENTIAL CONFLICTS DOWN THE ROAD BETWEEN THE PUMPER
28 GROUP AND NONPUMPER GROUP.

7

1 I HAVE HAD DISCUSSIONS WITH MR. DUNN ON THAT
2 SUBJECT. I DON'T REALLY, YOU KNOW, OBJECT TO RE-VISITING THAT
3 ISSUE IF THAT IS GOING TO FORWARD THE CASE. BUT THEN AGAIN,
4 THAT WOULD HAVE TO BE DONE BY NOTICED MOTION TO EXTEND, IN
5 EFFECT EXPAND, THE CLASS OR RE-DEFINE IT. AND AT THE MOMENT I
6 THINK IF SOMEONE WANTS TO PROPOSE THAT, I'M HAPPY TO WORK WITH
7 HIM AND TO THE EXTENT APPROPRIATE, IF THAT IS GOING TO HELP
8 MOVE THIS CASE FORWARD TO A RESOLUTION. I'M HAPPY TO DO WHAT
9 I CAN TO ASSIST IN THAT REGARD WITHIN THE CONSTRAINTS THAT WE
10 ALL HAVE OF OUR ETHICAL RESPONSIBILITIES IN TERMS OF CONFLICTS
11 AND POTENTIAL CONFLICTS.

12 I DON'T THINK THE CONFLICT HERE IS -- AGAIN, WE
13 DISCUSSED THAT AT SOME LENGTH -- I THINK IT IS SOMETHING THAT
14 COULD BE WORKED WITH. AND IF SO, YOU KNOW, AGAIN I'M NOT
15 OPPOSED TOTALLY TO HIS PROPOSAL BUT AGAIN I THINK WE WOULD
16 HAVE TO HAVE A NEW MOTION AND LET EVERYONE BE HEARD ON THE
17 ISSUE. SO THAT IS BASICALLY WHERE I COME OUT.

18 THE NOTICE PROPOSAL FLOWS OUT OF THE COURT'S
19 PRIOR ORDER CERTIFYING THE NONPUMPERS CLASS. I SPENT A FAIR
20 AMOUNT OF TIME ON IT. I TALKED TO OTHER COUNSEL AT GREAT

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21 LENGTH. WE HAD A MEETING IN PASADENA AT MR. BUNN'S OFFICE TO
22 TRY TO SIMPLIFY IT AND MAKE IT CLEAR AS POSSIBLE TO PEOPLE.
23 OTHERS PARTICIPATED IN THAT EFFORT. MR. WEINSTOCK HAD
24 SIGNIFICANT INPUT. I THINK IT IS A PRETTY GOOD PROPOSAL. IS
25 IT PERFECT? I'M SURE SOME THINGS COULD BE IMPROVED, BUT I
26 THINK IT IS A GOOD PROPOSAL GIVEN THE CONTOURS OF THE EXISTING
27 CLASS.

28 I DON'T KNOW WHAT ELSE TO SAY AT THIS POINT, YOUR

8

1 HONOR.

2 THE COURT: WELL, I THINK THAT WE HAVE GOT TO START
3 WITH THE ORDER ITSELF, CERTIFYING A CLASS. AND I WAS JUST
4 LOOKING AT THAT. AGAIN, I'M NOT SURE THAT I HAVE BEFORE ME A
5 COPY OF THE FINAL ORDER. BUT MY RECOLLECTION WAS WE HAD
6 SIGNIFICANT DISCUSSION ABOUT EVEN WHETHER OR NOT THE CLASS WAS
7 TO INCLUDE PERSONS WHO WERE -- WHO OWNED PROPERTY THAT WERE
8 ATTACHED OR WITHIN A WATER SYSTEM, PUBLIC UTILITIES AND THE
9 LIKE.

10 MR. ZLOTNICK: YEAH.

11 THE COURT: AND FRANKLY IT CONCERNS ME TO EXCLUDE THOSE
12 PEOPLE.

13 MR. DUNN WAS CONCERNED ABOUT BEING IN A POSITION
14 OF CONFLICT WITH THEM. I DON'T THINK THAT THAT CONFLICT IS
15 REAL OR ACTUAL AT THIS POINT. IT COULD IN THE FUTURE BE A
16 GENUINE CONFLICT. BUT IT SEEMS TO ME THAT ANYBODY WHO OWNS
17 LAND WHO IS NOT PUMPING HAS WATER RIGHTS, WHETHER THEY ARE
18 PUMPING OR NOT. AND THE DEGREE OF THOSE WATER RIGHTS IS WHAT
19 IS GOING TO ULTIMATELY BE AN ISSUE HERE.

20 SO I THINK EXCLUDING THEM, I'M NOT SURE; I MIGHT
21 WANT TO HEAR SOME FURTHER ARGUMENT ABOUT THAT.

22 BUT BEYOND THAT, THE ORDER ALSO PROVIDED THAT IT
23 WAS APPLICABLE TO THOSE -- I SHOULD SAY INCLUDED THOSE MEMBERS
24 OF THE CLASS WHO WERE NOT PUMPING WITHIN FIVE YEARS PRECEDING
25 JANUARY 18, 2006.

26 NOW I THINK THAT WAS THE DATE OF YOUR COMPLAINT,
27 IS THAT CORRECT? THE INITIAL COMPLAINT?

28 MR. ZLOTNICK: YOUR HONOR, I THINK THAT DATE, AS I

9

1 RECALL, AND THIS HAS BEEN -- I THINK THAT DATE WAS FIVE YEARS
2 FROM THE DATE THAT THE PUBLIC SUPPLIERS -- BECAUSE THE
3 PRESCRIPTIVE PERIOD IS FIVE YEARS. I THINK THAT THAT DATE WAS
4 FIVE YEARS AFTER THEY FILED THEIR COMPLAINT. BUT I'M NOT A
5 HUNDRED PERCENT CERTAIN OF THAT. I WOULD HAVE TO LOOK BACK AT
6 THE RECORD AND VERIFY HOW THAT DATE WAS ARRIVED AT, TO BE
7 HONEST.

8 THE COURT: WELL, MAYBE OTHER COUNSEL CAN HELP YOU.

9 MR. ZLOTNICK: MAYBE SOMEONE CAN. BECAUSE THAT WAS --
10 TO MY MIND IT WAS MORE IN THE PUBLIC WATER SUPPLIERS' COURT IN
11 TERMS OF THE DATE. BECAUSE IT REALLY DOES -- I THINK MR. FIFE
12 MADE THIS POINT IN HIS PAPERS -- IT REALLY DOES FLOW OUT OF
13 PRESCRIPTIVE PERIOD THAT THEY ARE CLAIMING, WERE FIGHTING --
14 THEY ARE THE ONES WHO ARE ASSERTING PRESCRIPTIVE RIGHTS. AND
15 IT IS REALLY, TO MY MIND, IN THEIR AMBIT.

16 NOW YOUR HONOR RAISED THE POINT -- I WOULD LIKE
17 TO ADDRESS BRIEFLY THE POINT ABOUT THE PEOPLE WHO ARE BEING

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18 SERVICED BY THE MUNICIPAL WATER PROVIDERS. I THINK THAT --

19 AND YOUR HONOR IS CORRECT THAT IN THE ORDER THAT YOUR HONOR
20 ENTERED BACK IN SEPTEMBER, THOSE PEOPLE WERE EXCLUDED, AND THE
21 NOTICE DOES NOT, BECAUSE OF THE DISCUSSION THAT WE HAD WITH
22 THE COURT IN THE LAST TWO MONTHS ABOUT THAT ISSUE.

23 MY PERSONAL FEELING -- AND I THINK I'M IN
24 AGREEMENT BASICALLY WITH MR. DUNN ON THIS -- IS THAT PEOPLE
25 WHO LIVE IN THE CITIES, OWN LESS THAN AN ACRE, HAVE A HOUSE ON
26 THAT PROPERTY, A HALF ACRE OR WHATEVER LOT THEY HAVE, THE
27 CHANCES OF THEM GETTING THE RIGHTS TO AND PUTTING A WELL ON
28 THAT PROPERTY ARE SO MINUTE THAT I THINK THOSE PEOPLE -- AND

10

1 THAT'S A LARGE NUMBER OF PEOPLE. SOMEBODY ELSE WHO OWNS A
2 MORE SIGNIFICANT PROPERTY, THERE I THINK YOU HAVE TO ADDRESS
3 THEM WHETHER THEY ARE WITHIN THE SERVICE AREA OR NOT. BUT
4 SOMEBODY WHO OWNS LESS THAN AN ACRE AND LIVES IN PALMDALE OR
5 LANCASTER, I THINK THE ODDS OF THEM PUTTING IN A WELL ARE SO
6 MINUTE, AND THAT CAN BE DEALT WITH IN A VARIETY OF WAYS DOWN
7 THE ROAD.

8 SO THAT IS MY FEELING.

9 THE COURT: THAT MAY WELL BE DE MINIMUS BUT STILL IT IS
10 A RIGHT.

11 MR. ZLOTNICK: IT IS A RIGHT AND IT IS A THEORETICAL
12 POSSIBILITY. IT IS.

13 THE COURT: AS A PRACTICAL MATTER IT MAY NOT MAKE ANY
14 DIFFERENCE TO THEM, BUT SHOULD WE MAKE THAT DECISION FOR THEM
15 OR SHOULD WE GIVE THEM THE OPPORTUNITY TO MAKE THAT DECISION?

16 MR. ZLOTNICK: WELL, I THINK THAT WE ARE NOT
Page 10

17 FORECLOSING THEM IF WE EXCLUDE THEM FROM THE CLASS. ALL WE
18 ARE SAYING IS THAT THE CASE IS NOT BINDING THEM. AND ASSUMING
19 THEY DO NOTHING, THEY ARE NOT -- YOU KNOW, THEY ARE NOT
20 PREJUDICED IN ANY WAY IF THEY ARE NOT INCLUDED IN THE CLASS.
21 AND IF AS A PRACTICAL MATTER THEY ARE NEVER GOING TO EXERCISE
22 THAT RIGHT, THEN NO HARM. BUT IF WE ARE CONCERNED THAT AS A
23 PRACTICAL MATTER THOSE PEOPLE MAY START PUTTING IN WELLS AND
24 THERE MAY BE ISSUES RAISED, YOU KNOW, THEN THEY PROBABLY
25 SHOULD BE INCLUDED. I DON'T THINK THERE IS, YOU KNOW, ANY
26 TIME IN THE FORESEEABLE FUTURE, ANY LIKELIHOOD OF THAT. BUT
27 FOR THOSE SMALL, REALLY SMALL PEOPLE -- LANDOWNERS, NOT PEOPLE
28 BUT LANDOWNERS, WHO LIVE IN THE CITY, I DON'T THINK THAT IS

11

1 GOING TO HAPPEN.

2 THE COURT: HOW ABOUT SOMEBODY WHO OWNS A HUNDRED ACRES
3 OR FIVE HUNDRED ACRES AND THEY ARE WITHIN A WATER SERVICE
4 DISTRICT?

5 MR. ZLOTNICK: THOSE, I THINK, SHOULD BE INCLUDED.

6 THE COURT: THEY ARE EXCLUDED BY THIS DEFINITION.

7 MR. ZLOTNICK: THEY ARE EXCLUDED BY THE DEFINITION IN
8 THE ORDER AS IT PRESENTLY STANDS, YOU'RE RIGHT.

9 THE COURT: AND THEY SHOULD NOT BE.

10 MR. ZLOTNICK: I THINK THEY SHOULD BE INCLUDED BECAUSE
11 THERE YOU ARE TALKING ABOUT IF THEY DON'T GET THEIR
12 DEVELOPMENT RIGHTS THEY MIGHT WIND UP USING WATER ON THE
13 PROPERTY. AND I THINK THEY NEED TO BE INCLUDED IF THEY HAVE
14 THAT KIND OF SIGNIFICANT --

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15 THE COURT: IS YOUR CLIENT'S LAND WITHIN A WATER

16 SERVICE DISTRICT?

17 MR. ZLOTNICK: NO.

18 THE COURT: OKAY. I THINK I ASKED YOU THAT ONCE
19 PREVIOUSLY.

20 OKAY. I'D LIKE MR. DUNN TO ADDRESS THIS.

21 MR. ZLOTNICK: THANK YOU.

22 THE COURT: RECOGNIZING WE ARE PLOWING OVER GROUND THAT
23 HAS BEEN PLOWED BEFORE.

24 MR. DUNN: I SHOULD PROBABLY START OUT BY THANKING
25 MR. ZLOTNICK PUBLICLY FOR HIS EFFORTS TO MEET AND CONFER WITH
26 COUNSEL. IT WASN'T AN EASY TASK OVER THIS RELATIVELY SHORT
27 PERIOD OF TIME SINCE THE LAST HEARING INCLUDING THE HOLIDAY
28 SEASON. BUT HE HAS MADE HIMSELF AVAILABLE AND HAS WORKED

12

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

13

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

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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

14

1 HAPPEN IS THAT THE CLASS COULD BE MODIFIED SO AS TO INCLUDE
2 THE REMAINING PROPERTY OWNERS. AND I'M GENERALLY TALKING
3 ABOUT PEOPLE WHO ARE NOT INDIVIDUALLY SERVED AND WOULD BE
4 BROUGHT INTO THE CASE PRESENTLY AS INDIVIDUAL PARTIES BUT
5 SMALLER LANDOWNERS WHETHER THEY PUMP OR NOT. AND THEN THE
6 NOTICE WOULD THEN GO OUT TO THAT GROUP AND WOULD BE A NOTICE
7 VERY SIMILAR TO WHAT MR. ZLOTNICK PREPARED. WE HAD ONLY
8 MODIFIED IT IN THE CONTEXT THAT IF THE COURT AT SOME POINT
9 DOWN THE ROAD MODIFIED THE EXISTING CLASS TO INCLUDE THESE
10 SMALLER LANDOWNERS WITH WELLS OR HAD WELLS, THAT OUR

11 MODIFICATION REVISION COVERS THAT. IT IS JUST A BROADER NOTICE
12 THAT GOES OUT.

13 BUT THE REASON WHY THAT IS IMPORTANT IS IN ORDER
14 FOR THE NOTICE TO HAVE LEGAL IMPACT UPON THE RECIPIENT, THAT
15 RECIPIENT PROPERTY OWNER MUST ALREADY BE PRESENT IN A CLASS.
16 THE CONCERN THAT WE HAVE IS THAT IF THE NOTICE GOES OUT TO
17 PEOPLE WHO ARE JUST IN A ZLOTNICK SLASH WILLIS CLASS OF
18 NON-PUMPING PROPERTY OWNERS, IN OTHER WORDS PEOPLE WHO DON' T
19 HAVE WELLS, THE PARTIES THEN WHO HAVE THE WELLS WHO ARE NOT
20 MEMBERS OF THAT CLASS THERE IS NO LEGAL IMPACT UPON THEM WHEN
21 THEY RECEIVE THAT NOTICE; THEY ARE NOT PART OF THAT NOTICE.

22 IT IS AS IF, AS I SAID EARLIER, THEY COULD TAKE
23 THEIR NOTICE AND JUST DISREGARD IT, THEY COULD JUST THROW IT
24 AWAY. BUT BY BEING INITIALLY INCLUDED IN THE CLASS, THE
25 NOTICE THEN HAS IMPACT UPON THEM. AND THEN THE COURT-ORDERED
26 PORTION OF THE NOTICE THAT HAS THEM RETURN THE NOTICE FILLING
27 OUT THE FORM THAT MR. ZLOTNICK HAS PROPOSED INDICATING
28 GENERALLY WHETHER OR NOT THEY PUMP AND IF THEY HAVE BASIC

15

1 INFORMATION ABOUT THAT, THAT INFORMATION CAN THEN BE GATHERED
2 AND IT CAN BE PUT TOGETHER IN A WAY SO THAT WE CAN AT A LATER
3 POINT IN TIME IF WE NEED TO SUBDIVIDE THAT CLASS FOR ISSUES
4 THAT -- FURTHER DOWN THE ROAD.

5 THE COURT: SHOULD THE CLASS BE AFFECTED BY THE
6 OBJECTIVES OF THE LITIGATION AND CAN WE SEGMENT THE OBJECTIVES
7 OF THE LITIGANTS?

8 MR. DUNN: YES.

9 THE COURT: SO THAT THE CLASS COULD BE DESIGNATED FOR
10 PURPOSES OF DETERMINING THE CHARACTERISTICS, THE SAFE YIELD,
11 AND PERHAPS I'M NOT SURE WHAT ELSE BUT CERTAINLY THOSE THINGS?

12 MR. DUNN: YES. THE ANSWER IS CLEARLY YES.

13 THE COURT: AND THAT WOULD REQUIRE A MODIFICATION OF
14 THE ORDER, WOULD IT NOT?

15 MR. DUNN: IT WOULD. AND WE HAVE TALKED WITH MR.
16 ZLOTNICK ABOUT SPECIFICALLY DOING THAT. AND WE THOUGHT THAT
17 WHAT WE COULD DO IS WE WOULD PROPOSE TO THE COURT, IF THE
18 COURT WOULD ALLOW US TO DO THIS, IS WE WOULD FILE AN AMENDED
19 MOTION NO LATER THAN A WEEK FROM FRIDAY. IT WOULD AMEND THE
20 EXISTING -- IT WOULD EXPAND OR MODIFY THE EXISTING CLASS TO
21 INCLUDE GENERALLY THE REMAINING PROPERTY OWNERS. SO THAT FOR
22 LIMITED PURPOSES ONLY, AND THAT WOULD BE CHARACTERISTICS OF
23 THE BASIN INCLUDING YIELD DETERMINATION. AND WE WOULD ALSO
24 PROPOSE THAT THAT WOULD BE THE NEXT PHASE OR A FIRST PHASE OF
25 COURT DETERMINATION OR TRIAL, AND FOR THAT LIMITED PURPOSE.

26 WE ALSO THINK THAT IF THE COURT WERE THEN TO
27 PHASE THE PROCEEDINGS SO THAT THERE WOULD BE CHARACTERISTICS
28 OF THE BASIN INCLUDING YIELD TO BE FOLLOWED BY THE CLAIMS OF

16

1 THE PUBLIC WATER SUPPLIERS, THEN IT SHOULD BE POSSIBLE TO
2 MAINTAIN THAT EXISTING MODIFIED CLASS STRUCTURE UP TO AND
3 INCLUDING THAT POINT AS WELL.

4 BUT THAT PROVIDES US WITH A LOT OF TIME, QUITE
5 FRANKLY, TO GATHER INFORMATION, TO GET JURISDICTION OVER
6 PROPERTY OWNERS, AND TO WORK OUT MORE CREATIVE SOLUTIONS
7 INCLUDING SUBDIVIDING THE CLASS AT A LATER POINT IN TIME.

8 SO OUR THOUGHT WAS THAT WE COULD, TOGETHER WITH
9 OTHER PARTIES THAT SUPPORT MOVING THIS CASE ALONG, GET THAT
10 MOTION ON FILE WITH THE COURT NO LATER THAN A WEEK FROM
11 FRIDAY, HAVE THE HEARING 28 DAYS LATER. THAT GIVES AN
12 OPPORTUNITY FOR ALL THE PEOPLE WHO OBJECT TO THE CLASS
13 MECHANISM AND FOR WHATEVER OTHER REASON, TO GO FORWARD. THEY
14 CAN FILE THEIR OPPOSITION. THE COURT CAN HOLD A HEARING ON
15 THAT. IF THE COURT IS INCLINED TO GRANT THE CLASS AS MODIFIED
16 OR AS REQUESTED, THEN NOTICE SHOULD BE ABLE TO GO OUT IN THE
17 FORM THAT HAS BEEN PROPOSED BY MR. ZLOTNICK.

18 JUST ONE QUICK COMMENT ON THAT FORM BY MR.
19 ZLOTNICK. IT DOES REPRESENT A LOT OF COLLABORATION WITH
20 COUNSEL. IT IS NOT JUST MR. ZLOTNICK'S FORM. IT WAS A LOT OF
21 EFFORT THAT WENT INTO IT. AND WE WOULD -- I WOULD BE VERY
22 CAREFUL ABOUT CHANGING THAT VERY MUCH JUST BECAUSE THERE HAS
23 BEEN A LOT OF INPUT IN THAT.

24 BUT THE NOTICE COULD THEN GO OUT, INCLUDING WITH
25 THE COURT'S DIRECTION AS PART OF THAT NOTICE, THAT THE FORM BE
26 RETURNED BY ALL THE RECIPIENTS IN THE CLASS AND THAT IT BE
27 RETURNED WITHIN A CERTAIN PERIOD OF TIME. AND THAT WE COULD
28 PROBABLY HAVE THIS NOTICE GO OUT WE THINK WITHIN SIXTY DAYS

17

1 AFTER THE COURT'S ORDER IF THE COURT WERE INCLINED TO MODIFY
2 THE CLASS.

3 AND SO THAT WOULD SORT OF PUT US INTO THE EARLY
4 APRIL TIME PERIOD PERHAPS. AND IT IS STILL POSSIBLE --
5 THERE'S BEEN A LOT OF DISCUSSION ABOUT PHASING AMONG SOME OF

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6 THE COUNSEL -- WE STILL THINK IT IS POSSIBLE BY THE END OF
7 JUNE TO HAVE A FIRST PHASE OF TRIAL IN THIS CASE ON THE BASIN
8 CHARACTERISTICS INCLUDING YIELD, AND THAT WOULD ALLOW US TO
9 GET THE NOTICE OUT AND PEOPLE TO RESPOND.

10 THE COURT: WHEN YOU ARE TALKING ABOUT YIELD YOU ARE
11 TALKING ABOUT PRESENT SAFE YIELD?

12 MR. DUNN: YES.

13 THE COURT: NOTHING HISTORICAL?

14 MR. DUNN: I THINK YOU COULD LOOK AT A HISTORICAL
15 LOOK-BACK AS WELL.

16 THE COURT: WELL, YOU COULD LOOK AT IT BUT I DON'T
17 THINK IT WOULD BE APPROPRIATE TO BIND THE CLASS BECAUSE THAT
18 IS WHERE THE CONFLICT STARTS, IT SEEMS TO ME, ON YOUR
19 PROPOSAL.

20 MR. DUNN: YEAH, I WANTED TO AVOID, IF I COULD, THIS
21 MORNING, SORT OF THE ISSUES THAT WERE RAISED BY SOME COUNSEL
22 LAST WEEK ABOUT THIS CLAIMED CONFLICT. I THINK WHAT I CAN
23 REPRESENT IS, WITHOUT GETTING TOO DEEP INTO THIS, INTO THE
24 CASES, IS THAT I THINK THE COURT IS CORRECT. THERE MAY BE
25 DOWN THE ROAD AN ACTUAL CONFLICT THAT MAY ARISE BETWEEN
26 MEMBERS OF A CLASS, BUT TO THE EXTENT THAT THE COURTS CAN
27 IMPLEMENT THE CLASS ACTION DEVICE INITIALLY SO THAT THAT
28 CONFLICT IS NOT PRESENTLY BEFORE THE COURT AND THE CLASS

18

1 MEMBERS, THEN THE CLASS ACTION DEVICE IS ACCEPTABLE.

2 THERE WAS SOME COMMENT MADE THAT PERHAPS DURING
3 THE COURSE OF SETTLEMENT DISCUSSIONS THAT A CONFLICT MIGHT
4 ARISE BETWEEN PEOPLE WHO PUMP AND PEOPLE WHO DON'T PUMP AND

5 THAT WOULD SOMEHOW CREATE A CONFLICT WITHIN A CLASS. THE
6 SHORT ANSWER ON THAT IS THAT IS WRONG, IT DOESN'T. THAT IS
7 NOT THE WAY IT WORKS IN A CLASS ACTION DEVICE. BECAUSE THE
8 COURT HAS TO APPROVE ULTIMATELY ANY SETTLEMENT THAT INVOLVES
9 THIS CLASS, IT WOULD BE UP TO THE COURT TO DECIDE WHETHER THE
10 INTEREST OF THE CLASS MEMBERS HAD BEEN REPRESENTED OR
11 ADVOCATED DURING THE COURSE OF THE SETTLEMENT DISCUSSIONS.

12 THE SHORT VERSION ON THIS IS THAT THERE ARE
13 ALREADY IN THIS CASE AND ACTIVE IN THIS CASE PROPERTY OWNERS
14 WITH WELLS WHO PUMP AND THE ISSUE THAT ONE LEGAL COUNSEL
15 IDENTIFIED LAST TIME THAT PERHAPS THE PROPERTY OWNERS THAT
16 PUMP ARE GOING TO BE ADVERSE TO THE PEOPLE WHO DON'T PUMP,
17 THAT IS ALL GOING TO PLAY ITSELF OUT WITH THE EXISTING PUMPING
18 LANDOWNERS AND IT HAS ALREADY BEEN RAISED BY THEM IN THIS
19 HEARING.

20 SO THERE ARE COUNSEL IN THIS CASE WHO ARE GOING
21 TO RAISE THAT ISSUE AS PUMPER COUNSEL. THAT ISSUE WILL BE
22 CERTAINLY INVOLVED.

23 SO I DIDN'T MEAN TO TAKE A LOT OF THE COURT'S
24 TIME ON THIS, BUT THE SHORT VERSION IS I THINK WE CAN GET THIS
25 CASE MOVING ALONG.

26 AND LAST COMMENT IS THAT WE TALKED WITH MR.
27 ZLOTNICK AND THE OTHER COUNSEL. WE STILL BELIEVE AT SOME
28 POINT THAT ONE OR MORE PROPERTY OWNERS WITH WELLS WILL STEP

19

1 FORWARD AND SAY THEY WANT TO BE A CLASS REPRESENTATIVE. AND I
2 THINK THE MODIFICATION OF THE CLASS AND GETTING THIS CLASS

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3 NOTICE OUT WILL FACILITATE THAT. THERE ARE GOING TO BE PEOPLE
4 WHO GET THIS CLASS NOTICE, AND WE WILL HAVE A RECORD OF THEM,
5 ONE OR MORE OF THEM MAY DECIDE TO SERVE THEN AS A PUMPER
6 REPRESENTATIVE.

7 THE COURT: THANK YOU.

8 MR. DUNN: THANK YOU FOR YOUR TIME, YOUR HONOR.

9 THE COURT: MR. DOUGHERTY, YOU LOOK LIKE YOU ARE
10 GETTING READY TO STAND UP.

11 MR. DOUGHERTY: YES. REARING TO GO, YOUR HONOR.

12 ROBERT DOUGHERTY FOR THE A V UNITED MUTUAL GROUP.

13 YOUR HONOR, IT IS REALLY HARD TO KNOW WHERE TO
14 BEGIN BUT I THINK WE CAN BEGIN BY RECOGNIZING THAT MOST CLASS
15 ACTION CASES THAT PEOPLE DEALT WITH IN THE PAST HAVE BEEN,
16 WELL, SOMEBODY HASN'T GOTTEN A REFUND OF TEN DOLLARS WHEN THEY
17 SHOULD HAVE AND THERE IS A WHOLE BUNCH OF OTHER PEOPLE OUT
18 THERE THAT SHOULD, AND EVERYONE'S IN THE SAME BOAT. AND
19 INSTEAD OF ALL OF THEM LITIGATING THIS INDIVIDUALLY, THEY GET
20 TOGETHER AND THEY HAVE A CLASS REPRESENTATIVE. AND THEY GET
21 THE MONEY AND THEY DISTRIBUTE IT.

22 HERE, THEY ARE ASKING ESSENTIALLY FOR INJUNCTIVE
23 RELIEF. AND IF WE GO BACK TO THE FEDERAL RULES -- WE RAISED
24 THIS BACK IN APRIL OF LAST YEAR -- ESSENTIALLY CLASS ACTIONS,
25 AT LEAST UNDER THE FEDERAL RULES, SHOULD NOT BE USED FOR
26 INJUNCTIVE RELIEF.

27 NOW GETTING TO THIS ISSUE OF CONFLICTS, I DON'T
28 KNOW WHERE WE ARE GETTING TO. WE SAY "WELL, THERE MAY NOT BE

2 THINK IF THERE IS ANY POSSIBILITY OF A CONFLICT COMING UP,
3 THAT ISSUE HAS TO BE ADDRESSED AT THE BEGINNING. HOW CAN YOU
4 SAY "WELL, I DON'T HAVE A CONFLICT NOW BUT SOONER OR LATER,
5 MAYBE FIVE MONTHS DOWN THE LINE, I'M GOING TO HAVE A SITUATION
6 ARISE WHERE I CAN'T CONTINUE TO REPRESENT ONE OR MORE OF THE
7 PEOPLE THAT I REPRESENT"? I'M CERTAINLY NOT GOING TO GET
8 INVOLVED IN THAT KIND OF A SITUATION AS AN ATTORNEY. AND HERE
9 WE DO HAVE A VERY DEFINITE POSSIBILITY.

10 I HAVE HEARD THAT THERE ARE A NUMBER OF PUMPERS,
11 I WON'T SAY WHO THEY ARE, THAT ARE GOING TO TAKE THE POSITION
12 THAT NONPUMPERS HAVE ESSENTIALLY NO WATER RIGHTS. WELL, AS WE
13 KNOW, THAT IS NOT CURRENTLY THE LAW IN CALIFORNIA BUT THEY
14 WOULD LIKE IT TO BE.

15 ALSO, NOW GETTING BACK TO WHAT MR. DUNN
16 PROPOSES, THIS SORT OF DUAL CLASS, OR WHATEVER, I DON'T SEE
17 ANY COMPLAINT THAT IS ON FILE THAT WOULD ASK THAT. ARE THEY
18 GOING TO FILE AN AMENDED CROSS-COMPLAINT OF THEIR OWN? ARE
19 THEY GOING TO ASK MISS WILLIS TO FILE AN AMENDED COMPLAINT? I
20 DON'T KNOW.

21 AND ALSO -- AND HERE IS ONE THING I DISLIKE ABOUT
22 THIS WHOLE IDEA OF THE NOTICE OF CLASS ACTION. WHO IS THE
23 ENEMY? RIGHT HERE IT SAYS THE ENEMY IS MISS WILLIS, THAT SHE
24 IS THE ONE THAT IS SUING ALL OF THESE GOOD PEOPLE. WE KNOW
25 THAT THAT'S NOT THE CASE. THE REAL ENEMY, THE ONES THAT ARE
26 TRYING TO ACQUIRE PRESCRIPTIVE RIGHTS, ARE THE WHAT THEY CALL
27 THEMSELVES THE "PUBLIC WATER SUPPLIERS." I THINK "PURVEYORS"
28 IS PROBABLY MORE ACCURATE.

1 BUT ALSO I HAVE A CONCERN WITH -- WELL, WITH MR.
2 ZLOTNICK'S DESCRIPTION OF WHAT THIS CASE IS ABOUT. ON THE
3 SECOND PAGE OF -- WELL, ACTUALLY I'M READING FROM THE RED LINE
4 VERSION FROM MR. DUNN'S GROUP. BUT IT WASN'T CHANGED. IT
5 SAYS, "UNDER CALIFORNIA LAW, PROPERTY OWNERS HAVE A RIGHT TO
6 PUMP AND USE GROUNDWATER ON THEIR LAND. IN THIS CASE HOWEVER
7 THE NATIONALLY AVAILABLE SUPPLY OF WATER IN THE BASIN IS NOT
8 ADEQUATE TO SUPPLY OR TO SATISFY EVERYONE WHO WANTS TO USE
9 THAT WATER. "

10 WELL, WHEN HAS THAT EVER BEEN DETERMINED? THAT
11 IS ONE OF THE WHOLE OBJECTS OF THIS EXERCISE, IS TO DETERMINE
12 HOW MUCH WATER IS AVAILABLE. BUT HERE THEY ARE CONCEDING
13 RIGHT UPFRONT THERE IS NOT ENOUGH WATER. AND THAT WOULD SEEM
14 TO BE THEIR POSITION AS WELL AS THE WILLIS POSITION.

15 THE COURT: WHO ARE YOU POINTING AT WHEN YOU SAY "THEIR
16 POSITION"?

17 MR. DOUGHERTY: I'M SORRY?

18 THE COURT: YOU WERE POINTING. YOU SAID "THEIR
19 POSITION. "

20 MR. DOUGHERTY: I'M SORRY. I MEANT THE PUBLIC WATER
21 SUPPLIER'S POSITION AS WELL AS THE WILLIS POSITION.

22 THE COURT: ALL RIGHT.

23 MR. DOUGHERTY: SO AGAIN, I HAVE TO REITERATE THE
24 POSITION OF OUR GROUP IS THAT THE CLASS ACTION PEOPLE, IT IS
25 NOT APPROPRIATE. BUT CERTAINLY IT WOULD NOT BE APPROPRIATE TO
26 COMBINE PUMPERS AND NONPUMPERS INTO A CLASS UNDER ANY
27 CIRCUMSTANCES AND HOPE THAT SOMEHOW IT SHAKES ITSELF OUT ALONG
28 THE LINE.

1 THE COURT: DO YOU THINK IT IS POSSIBLE THAT THERE IS A
2 COMMON INTEREST IN KNOWING WHAT THE CHARACTER OF THE VALLEY
3 IS?

4 MR. DOUGHERTY: WELL, THERE MAY BE A COMMON INTEREST IN
5 KNOWING CERTAIN FACTS, BUT IF THE ISSUE, THE CHARACTERISTIC
6 INCLUDES THE ISSUE OF IS THERE AN OVERDRAFT OR IS THERE NOT, I
7 THINK THAT CERTAIN PEOPLE, IN FACT MY GROUP, LEANS TOWARDS
8 THERE IS NO OVERDRAFT. AND I THINK THE EVIDENCE WILL STRONGLY
9 SUPPORT THAT. OTHER GROUPS, I THINK, ARE GOING TO SAY "YEAH,
10 THERE IS AN OVERDRAFT AND THAT --

11 THE COURT: THAT IS A DIFFERENT ISSUE. THE
12 CHARACTERISTICS OF THE BASIN, WHETHER IT IS A SINGLE BASIN,
13 WHETHER THERE ARE SECTIONS, IT SEEMS TO ME EVERYBODY REALLY
14 HAS A COMMON INTEREST IN KNOWING. AND I'M ASSUMING THAT THERE
15 MAY BE SOME FACTS CONCERNING THAT THAT ARE REALLY NOT IN
16 DISPUTE.

17 MR. DOUGHERTY: WELL, THERE MAY BE, YOUR HONOR. AND I
18 GUESS THE WAY TO FLUSH THAT OUT IS IN DISCOVERY AND IN
19 REQUESTS FOR ADMISSIONS. BUT THE CONCERN IS SOME PEOPLE MAY
20 SAY "YEAH, WE SHOULD HAVE SUB-BASINS BECAUSE I'M IN THIS ONE
21 OVER HERE, NOBODY AFFECTS ME," OR SOME OTHERS WILL SAY, "YEAH,
22 WE WANT TO HAVE IT ALL IN ONE BIG BASIN BECAUSE" -- I DON'T
23 SEE ANYTHING THAT CAN BE JUST SEPARATED SO EVERYONE IS GOING
24 TO AGREE ON ANY GIVEN FACT. I GUESS PEOPLE HAVE AGREED ON THE
25 BOUNDARIES PRETTY MUCH.

26 THE COURT: MR. DOUGHERTY, AS TO THAT FACT, AS TO
27 WHETHER THERE ARE SUBBASINS OR WHETHER IT IS ONE SINGLE BASIN,
28 DON'T YOU THINK THAT THERE MAY BE SOME CONSENSUS AMONG

1 SCIENTISTS, NOT PARTICULARLY WHAT THE OVERLYING OWNERS MIGHT
2 WANT, BUT RATHER IN TERMS OF WHAT IT IS GEOLOGICALLY?

3 MR. DOUGHERTY: I WOULD HAVE TO SEE THE EVIDENCE
4 PRESENTED BY THE SCIENTISTS. I JUST DO NOT WANT TO CONCEDE
5 THAT THEY ARE ALL GOING TO COME UP WITH THE SAME CONCLUSION.
6 AND I DON'T WANT TO INDICATE WHAT I HAVE HEARD, THAT THEY MAY
7 NOT BE COMING UP --

8 THE COURT: OKAY. BUT HERE IS MY QUESTION REALLY THAT
9 UNDERLIES THAT: CAN'T WE HAVE, AT THE OUTSET, A CLASS THAT
10 WOULD PERMIT PEOPLE TO OPT OUT, NUMBER ONE, AND NUMBER TWO,
11 WHICH REACHES THE POINT OF CONFLICT THAT THE COURT CAN EITHER
12 DE-CERTIFY OR MODIFY THE CLASS? IT IS A VERY COMMON PRACTICE
13 WITH CLASS ACTIONS. AND WE ARE NOT JUST TALKING ABOUT
14 DECLARATORY RELIEF HERE, WE ARE TALKING ABOUT CONSIDERABLY
15 MORE THAN THAT. WE ARE TALKING ABOUT OWNERSHIP AND USE AND
16 RESTRICTIONS ON USE POTENTIALLY. AND I DON'T HAVE AN OPINION
17 AT THIS POINT AS TO WHETHER THERE IS AN OVERDRAFT OR NOT AN
18 OVERDRAFT, WHETHER THERE IS A SINGLE BASIN, WHETHER THERE ARE
19 SUBBASINS, OR EVEN WHAT THE CONFIGURATION OF WHAT THE
20 SUB-SOILS MIGHT BE.

21 BUT IT SEEMS TO ME THAT AT SOME POINT WE HAVE GOT
22 TO REACH THE POINT WHERE WE CAN START HEARING EVIDENCE
23 CONCERNING THOSE THINGS AND I CAN'T DO THAT UNTIL WE HAVE
24 JURISDICTION OVER VIRTUALLY EVERYBODY THAT IS WITHIN THE
25 ANTELOPE VALLEY AS WE HAVE SO FAR DEFINED IT. AND IT SEEMS TO
26 ME THAT WE HAVE GOT TO GET TO THAT POINT OR WE WILL NEVER GET
27 THERE.

28 MR. DOUGHERTY: WELL, YOUR HONOR, THAT'S TRUE, WE DO

1 HAVE TO GET TO IT. THE QUESTION IS, HOW DO WE GET TO IT? DO
2 WE CONTINUE TO TRY TO FIND WAYS TO SHORTCUT WHAT SHOULD BE
3 DONE? I THINK WHAT SHOULD BE DONE IS IF YOU SUE SOMEBODY, YOU
4 HAVE GOT TO SERVE, PARTICULARLY WHEN YOU HAVE RIGHTS OF THE
5 NATURE WE ARE TALKING ABOUT INVOLVED.

6 IF THE PUBLIC WORKS SUPPLIERS WANT TO ASSERT
7 PRESCRIPTIVE RIGHTS -- AND WE WOULDN'T BE HERE UNLESS THAT
8 WAS THE CASE -- THEN THEY OUGHT TO SERVE THEIR
9 CROSS-COMPLAINTS ON EVERYBODY AND AT THAT POINT WE ARE GOING
10 TO KNOW WHO IS GOING TO STEP UP AND SAY "I SURRENDER" OR "I'M
11 GOING TO FIGHT YOU." AND I THINK IT OUGHT TO BE ACCOMPANIED
12 WITH LIS PENDENS AND QUIET TITLE TYPE ACTIONS IF WE ARE GOING
13 TO COMBINE PROPERTIES AS OPPOSED TO INDIVIDUALS. THAT WAY WE
14 WOULDN'T HAVE TO, YOU KNOW, CONCERN OURSELVES WITH THIS
15 TRANSFEEE/TRANSFEROR NOTICE WHICH I CAN'T SEE HOW THAT WOULD
16 GIVE JURISDICTION OVER THE TRANSFEEE UNTIL SUCH TIME AS IF
17 THEY DON'T RESPOND, AND I BELIEVE THE ORDER WOULD INDICATE
18 THEY WOULD HAVE TO BE SERVED AT THAT POINT WITH THE PUBLIC
19 PURVEYORS CROSS-COMPLAINT.

20 THE COURT: HOW MANY PEOPLE LIVE IN THE ANTELOPE
21 VALLEY?

22 MR. DOUGHERTY: I HAVE NO IDEA BUT THERE IS A WHOLE
23 BUNCH. I'M SURE THERE MUST BE PROBABLY OVER A HUNDRED AND 50
24 THOUSAND AT LEAST AMONG THE TWO CITIES. I'M SURE THAT THERE
25 ARE SOME FOLKS HERE WHO COULD CERTAINLY GIVE AN APPROXIMATION
26 BETTER THAN ME.

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27 BUT IT IS NOT SO MUCH THE NUMBER OF PEOPLE THAT
28 LIVE THERE, IT IS THE PARCELS THAT ARE THERE, THE LAND THAT IS

25

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

26

1 THE SAFEST WAY OBVIOUSLY WOULD BE TO SERVE THEM ALL. WELL,
2 UNFORTUNATELY --

3 THE COURT: BUT, MR. DOUGHERTY, THAT MAKES EVERYBODY A
4 DEFENDANT, AND I DON'T THINK THAT IS NECESSARY OR INTENDED OR
5 APPROPRIATE. IT CERTAINLY IS APPROPRIATE TO HAVE A CLASS OF
6 PLAINTIFFS WHO HAVE A COMMON INTEREST. THERE IS ABSOLUTELY NO
7 QUESTION IN MY MIND THAT NONPUMPERS ARE AN APPROPRIATE CLASS
8 OF PLAINTIFFS. THEY HAVE A COMMON INTEREST. THEY HAVE NOT
9 PUMPED. THEY MAY WANT TO PUMP IN THE FUTURE, AND TO THAT
10 EXTENT I THINK IT IS AN APPROPRIATE CLASS.

11 NOW THE QUESTION IS CAN WE JOIN PEOPLE WHO ARE
12 SMALL PUMPERS, INDIVIDUAL WELL OWNERS, WHO ARE NOT CONNECTED
13 TO A SERVICE DISTRICT, SO FAR AS SEEKING TO FIND OUT WHAT THE
14 CHARACTERISTICS OF THE BASIN MIGHT BE AND WHAT THE AVERAGE
15 YIELD, SAFE YIELD, IF YOU WILL, MIGHT BE. IS THERE A CONFLICT
16 AT THAT POINT? THERE CERTAINLY COULD BE LATER ON.

17 MR. DOUGHERTY: YOUR HONOR, I THINK THAT WHEN WE LOOK
18 AT WHAT WE ARE TRYING TO FIND OUT, THERE IS NO -- WOULD BE NO
19 CONFLICT; THAT WE ALL WANT TO HAVE THIS DETERMINED. BUT WHAT
20 WE WANT TO SEE AS A FACT TO BE DETERMINED IS WHERE THERE MIGHT
21 BE A CONFLICT.

22 AGAIN, SOME PEOPLE ARE GOING TO SAY "WE WANT AN
23 OVERDRAFT," OTHERS, "WE DON'T WANT AN OVERDRAFT." AND I DON'T

24 SEE, AT LEAST I DON' T SEE ME, AS AN ATTORNEY, WHERE I WOULD BE
25 AT ALL COMFORTABLE TAKING A CLASS REPRESENTATION WHERE I MIGHT
26 SOMEHOW WIND UP WITH A CONFLICT OF INTEREST IN THE FUTURE.

27 ACTUALLY I, IN MY OWN MIND, THINK THERE IS A
28 POTENTIAL NOW THAT HAS TO BE ADDRESSED, AND FOR THAT REASON I

27

1 WOULD N' T TAKE IT ON MY OWN.

2 BUT, ANYWAY, THAT IS ALL I WOULD SAY.

3 THE COURT: ONE OF THE DIFFICULTIES THAT I' M HAVING
4 WITH THIS SITUATION IS THAT EVERYBODY THAT IS IN THIS ROOM AND
5 EVERYBODY WHO HAS OWNERSHIP OF LAND IN THE ANTELOPE VALLEY
6 WOULD LIKE TO HAVE THIS MATTER RESOLVED ONE WAY OR ANOTHER.
7 AND THAT IS GOING TO REQUIRE ALL COUNSEL TO PUT THEIR HEADS
8 TOGETHER TO COME UP WITH A METHOD FOR DOING THAT; RATHER THAN
9 DIVIDING YOURSELVES AMONG THOSE WHO WANT TO DO CLASS ACTIONS,
10 THOSE WHO WANT TO BASICALLY OBJECT. BECAUSE WE ARE NOT
11 GETTING ANYWHERE THAT WAY.

12 AND IT SEEMS TO ME THAT WITH THIS LITIGATION,
13 COUNSEL REALLY NEED TO WORK TOGETHER TO AT LEAST TEE-UP THE
14 ISSUES, SO TO SPEAK, SO THAT THE COURT WILL HAVE AN
15 OPPORTUNITY TO HEAR THE EVIDENCE AND TO MAKE SOME SORT OF AN
16 ADJUDICATION, STEP-BY-STEP, SO THAT WE CAN GET THESE MATTERS
17 RESOLVED. OTHERWISE, IT GOES NOWHERE.

18 IT HAS BEEN A LONG TIME PENDING. IT STARTED OUT
19 WITH A COUPLE OF FARMS OR RANCHES, IF YOU WILL, SEEKING TO
20 PROTECT THEIR WATER RIGHTS. IT HAS BEEN PARLAYED INTO A MASS
21 OF LITIGATION.

22 I' VE SAID THIS BEFORE IN OTHER CASES. THIS

23 REALLY REQUIRES A POLITICAL SOLUTION. THE COURTS ARE PROBABLY
24 THE LEAST EFFECTIVE MANNER OF ARRIVING AT A POLITICAL
25 SOLUTION. AND THIS CASE MAY WELL BE A GOOD EXAMPLE OF THAT.

26 BUT WE HAVE THE CASE. I'VE BEEN ASSIGNED THE
27 CASE. I WANT TO PROCEED TO PROVIDE A PROPER ADJUDICATION OF
28 THE CASE, BUT I NEED COUNSEL TO COOPERATE AND PARTICIPATE IN

28

1 HELPING THE COURT TO ARRIVE AT A SOLUTION SO THAT WE HAVE
2 JURISDICTION OVER ALL THE PARTIES THAT NEED TO BE INVOLVED IN
3 THIS CASE AND WE CAN HAVE A FINAL ADJUDICATION.

4 AT THE LAST HEARING I SUGGESTED THAT WE HAVE A
5 FORM OF NOTICE THAT GOES OUT IN CONFORMITY TO THE
6 CERTIFICATION ORDER THAT I MADE, THAT WOULD BE SERVED ON
7 VIRTUALLY EVERY PERSON IN THE VALLEY. AND THOSE PEOPLE WOULD,
8 BECAUSE THEY ARE PRESUMPTIVELY NONPUMPERS BECAUSE WE DON'T
9 KNOW ABOUT THEM, HAVE AN OPPORTUNITY TO TELL THE COURT WHETHER
10 THEY ARE OR ARE NOT PUMPERS. IF THEY ARE PUMPERS, THAT THEY
11 HAVE A RIGHT TO ESSENTIALLY OPT OUT OF THE CLASS ITSELF. IF
12 THEY ARE NONPUMPERS AND THEY WANT TO OPT OUT OF THE CLASS,
13 THEY MAY ALSO DO THAT.

14 THE FORM OF THE NOTICE THAT MR. ZLOTNICK PREPARED
15 I THOUGHT WAS PRETTY REASONABLE IN ADDRESSING THOSE ISSUES
16 BECAUSE IT WOULD GIVE EVERYBODY AN OPPORTUNITY TO OPT OUT IF
17 THEY CHOSE TO OR TO TELL US THAT THEY ARE PUMPERS AND THAT
18 THEY WISHED TO BE EXCLUDED FROM THIS CLASS, AT WHICH POINT
19 THEY WERE ADVISED THEY WOULD BE SERVED AND THEY COULD BECOME
20 AN INDIVIDUAL DEFENDANT. THAT SEEMED TO ME TO BE A REASONABLE

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THE PROBLEM IS IF IT IS A SINGLE CLASS OF
NONPUMPERS, AND YOU HAVE SERVED SOMEBODY, AND THEY ARE NOT A
PUMPER -- I'M SORRY -- THEY ARE NOT A NONPUMPER, THEY ARE A
PUMPER, THEY CAN IGNORE YOU AS MR. -- I THINK MR. DUNN SAID.
AND I THINK HE IS RIGHT. I THINK THEY COULD. AND THEY COULD
DO IT WITH IMPUNITY.

SO IF WE INCLUDE IN THE NOTICE THE CLASS -- AND

29

1 FRANKLY I THINK MAYBE IT HAS GOT TO BE A SUBCLASS, BUT I THINK
2 WE WILL HAVE TO FILE A MOTION AS HE REQUESTED. AND THIS IS
3 SUBJECT TO HEARING FROM OTHER COUNSEL HERE THIS MORNING, BUT
4 IT SEEMS TO ME THAT IT IS POSSIBLE FOR MR. ZLOTNICK TO
5 REPRESENT NONPUMPERS AND SMALL PUMPERS UP TO A POINT. AND AT
6 THE POINT WHERE THE INTERESTS DIVERGE, WE CAN SEEK OTHER
7 COUNSEL TO CARRY ON REPRESENTING THE SMALL PUMPERS. NOW THAT
8 MAY BE ONE APPROACH TO IT.

9 AND I UNDERSTAND THAT FROM COUNSELS' STANDPOINT
10 YOU WOULD BE NERVOUS ABOUT NOW REPRESENTING ONE AGAINST THE
11 OTHER, ASSUMING THAT THAT IS THE CASE. BUT DIVERGENCE IS NOT
12 NECESSARILY CONFLICT.

13 MR. DOUGHERTY: WELL, THAT IS TRUE, YOUR HONOR. BUT
14 I'VE BASICALLY HAD MY SAY, SO I'LL --

15 THE COURT: ALL RIGHT. WELL, I APPRECIATE THAT VERY
16 MUCH, MR. DOUGHERTY.

17 I THINK MR. FIFE WOULD LIKE TO ADDRESS US ON
18 THIS.

19 MR. FIFE: GOOD MORNING.
Page 30

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THE COURT: ALL RIGHT. THANK YOU.

MR. WEINSTOCK: YOUR HONOR, IF THIS IS GOING TO BE RECONSIDERED THE NEXT HEARING --

THE COURT: I WILL RECONSIDER THE LIS PENDENS ISSUE. AND IF PEOPLE WOULD BRIEF IT, I WOULD APPRECIATE IT.

MR. DUNN: OKAY.

MR. WEINSTOCK: OKAY, YOUR HONOR.

THE COURT: I DON'T THINK IT WOULD BE UNREASONABLE TO PUT A REASONABLE BURDEN ON LANDOWNERS.

MR. WEINSTOCK: OKAY. FOR EASE OF REFERENCE, THOSE WHO MAY WANT TO BRIEF IT, WE POSTED A BRIEF ON THE SUBJECT ON MAY 11 OF 2007. IT IS ON THE COURT'S WEBSITE AND PEOPLE CAN ADDRESS THE ARGUMENTS WE MADE.

THE COURT: OKAY. WE WILL BE IN RECESS.

(AT 10:55 A.M., PROCEEDINGS CONCLUDED)

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COORDINATION PROCEEDING
SPECIAL TITLE (RULE 1550(B))
ANTELOPE VALLEY GROUNDWATER CASES)

PALMDALE WATER DISTRICT AND
QUARTZ HILL WATER DISTRICT,

CROSS-COMPLAINANTS,

VS

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

CROSS-DEFENDANTS.

JUDICIAL COUNCIL
COORDINATION NO. P4408

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

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.

I, CHARLOTTE NICHOLAS MOHAMED, CSR, OFFICIAL
REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES, 1 THROUGH 67, COMPRISE A TRUE AND
CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
ABOVE-ENTITLED MATTER ON MONDAY, JANUARY 14, 2008.

DATED THIS DAY OF JANUARY, 2008.

CHARLOTTE NICHOLAS MOHAMED, CSR #2384
OFFICIAL REPORTER

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DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING
SPECIAL TITLE (RULE 1550B)
ANTELOPE VALLEY GROUNDWATER CASES)

PALMDALE WATER DISTRICT AND
QUARTZ HILL WATER DISTRICT,

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DISTRICT NO. 40, ET AL,

CROSS-DEFENDANTS.

JUDICIAL COUNCIL
COORDINATION NO. P4408

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, JANUARY 14, 2008

APPEARANCES:

(SEE APPEARANCE PAGES)

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OFFICIAL REPORTER

011408 hearing transcript re CMC Ntc to Class Transferee
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