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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SANTA CLARA

BEFORE THE HONORABLE JACK KOMAR, JUDGE

DEPARTMENT 1

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ANTELOPE VALLEY GROUND WATER CASES

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) NO. JCCP4408
) LEAD CASE NO:
) BC 325 201
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

AUGUST 29, 2014

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OFFICIAL COURT REPORTER: MELISSA CRAWFORD, CSR, RPR
CSR NO. 12288

1 APPEARANCES:

2 FOR THE CITY OF LOS ANGELES JEFFREY DUNN
3 COUNTY WATER WORKS DISTRICT Attorney at Law
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4 FOR PHELAN PINON HILLS WESLEY MILIBAND
5 COMMUNITY SERVICE: Attorney at Law

6 CITY OF PALMDALE: TILDEN KIM
7 Attorney at Law

8 BLUM TRUST: SHELDON BLUM
9 Attorney at Law

10 FOR ANTELOPE VALLEY WATER WILLIAM CARLSON
11 STORAGE, LLC: Attorney at Law

12 WAGAS LAND COMPANY: EDWARD RENWICK
13 Attorney at Law

14 NORTHROP GRUMMAN, ET AL: EDWARD CASEY
15 Attorney at Law

16 LANDIN V, INC.: MARY ALDEN
17 Attorney at Law

18 FOR SANTA MONICA MOUNTAIN NOAH GOLDEN-KRASNER
19 CONSERVANCY, CA DEPARTMENT Attorney at Law
20 Of JUSTICE, ET AL:

21 FOR LA COUNTY WATER WORKS WARREN WELLEN
22 DISTRICT 40: Attorney at Law

23 FOR US DEPARTMENT OF JUSTICE: LEE LEININGER
24 Attorney at Law

25 FOR RICHARD WOOD MICHAEL MCLACHLAN
26 Attorney at Law

27 FOR US BORAX: WILLIAM SLOAN
28 Attorney at Law

FOR NRG SOLAR ALPINE LLC: WALTER RUSINEK
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FOR PALMDALE WATER DISTRICT: THOMAS BUNN
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4 FOR TEJON RANCH CORP.: ROBERT KUHS
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5 FOR BORON COMMUNITY SERVICES DISTRICT: JAMES WORTH
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7 FOR BOLTHOUSE PROPERTIES, LLC AND WM BOLTHOUSE FARMS: RICHARD ZIMMER
Attorney at Law

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9 FOR JEFF GREEN: JEFF GREEN
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10 FOR DIAMOND FARMING: BOB JOYCE
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11 H&N DEVELOPMENT CO. WEST, INC.: JOSEPH HUGHES
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13 FOR CITY OF LANCASTER AND ROSAMOND: KATHERINE MELESKI
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15 FOR LITTLE ROCK CREEK IRRIGATION DISTRICT, ET AL: KEITH LEMIEUX
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17 FOR ANTELOPE VALLEY GROUND WATER AGREEMENT ASSOCIATION: MICHAEL FIFE
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18 WEST VALLEY COUNTY WATER DISTRICT: JUSTIN GRAHAM
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20 FOR ANTELOPE VALLEY EAST KERN WATER AGENCY: WILLIAM BRUNICK
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24 FOR COPA DE ORO LAND COMPANY: ANDREW RAMOS
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25 FOR LOS ANGELES SANITATION: CHRISTOPHER SANDERS
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27 FOR SHEEP CREEK, ET AL: MICHAEL DAVIS
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28 FOR COUNTY OF WATER WORKS DISTRICT 40: WENDY WANG
Attorney at Law

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Attorney at Law

FOR CITY OF PALMDALE: JAMES MARKMAN
Attorney at Law

1 San Jose, California

August 29, 2014

2 P R O C E E D I N G S

3 THE COURT: All right, this is in the Antelope Valley
4 Groundwater Cases. This is a -- basically a case management
5 conference and a status conference. There are several matters
6 for us to deal with this morning. The first question that I
7 have relates to the ongoing settlement discussions and the
8 status with regard to the Wood's class issues, which were still
9 up in the air the last time we met. As you make your initial
10 appearance, state your appearances, please. We'll start with
11 Mr. Dunn.

12 MR. DUNN: Jeffrey Dunn present in court. The short
13 response to the Court's inquiry is that the issue is not yet
14 resolved. There has been some discussion amongst counsel that
15 we would -- we could meet as a group of settling parties this
16 week, a face-to-face meeting, to continue work on that. I'll
17 defer to others who would propose that idea. But the short
18 answer is it's not yet resolved. But we would like to keep
19 working on it.

20 THE COURT: Well, I notice that the time for the
21 hearing is, what, October 10, on approval?

22 MR. DUNN: Yes, Your Honor.

23 THE COURT: I'm concerned about, first of all, not
24 extending that time. And when you would expect to have some
25 finality with regard to that. You know, we've put this matter
26 on hold in terms of all the trial phases that remain. And not
27 having a likelihood being able to tell me when we know what
28 we're going to be doing creates a real problem both for the

1 Court and the other parties involved. There are a number of
2 issues and phases that would have to be tried if you do not come
3 to resolution. Can you give me some sort of a timeline when I
4 can expect an answer?

5 MR. DUNN: Again, Jeffrey Dunn for Water Works
6 District Number 40. My sense is that there is still a very
7 strong desire amongst the settling group of parties to maintain
8 that settlement. We have not resolved the Wood class attorney
9 fee issue. But my sense is that we would have to reach some
10 type of resolution in the sense that either we're going to make
11 it -- we're going to resolve the issue or we're going to come
12 back to court and say that we haven't been able to work through
13 it. My own sense is that we probably would be able to do that
14 with the Court as early as a week from today. Again, I've had
15 some discussion with a few parties that -- and they've all
16 indicated they'd like to have a face-to-face meeting in Los
17 Angeles to see if we can find some type of way to get around
18 this settlement obstacle.

19 But I do think we should hold on to that October 10th
20 date. I think that it needs to remain in place. I think
21 that -- but I also think that we should be able to come back to
22 the court in relatively short order and report on whether or not
23 we're going to be able to resolve that issue.

24 THE COURT: What's the date for next Friday's?

25 MR. MILIBAND: The 5th, Your Honor.

26 THE CLERK: September 5.

27 THE COURT: Why don't we do a further status
28 conference on the 5th at nine o'clock.

1 MR. DUNN: Yes, Your Honor. And I assume the Court
2 will provide notice? The court clerk will provide notice?

3 THE COURT: Yes. It'll go up by minute order. I have
4 to tell you I'm somewhat disappointed at the lack of progress
5 with regard to that issue, given the long delay that the Court
6 has allowed in order to come to what was represented to me to be
7 the great likelihood of a global settlement. And I think that
8 -- I know that counsel has worked very hard on all of the other
9 issues. This issue needs to get resolved one way or the other.
10 And I remain optimistic, given what I understand the attitudes
11 of counsel and the parties might be. But optimism doesn't
12 translate into conclusion. So, I'm hopeful. So, I'd ask you to
13 double your efforts, all counsel who are involved in that issue,
14 to see if you can get it resolved. And, of course, without
15 involving myself in settlement discussions, I recall just
16 commenting that the parties could leave that issue to the Court
17 and decide the other issues.

18 MR. DUNN: Your Honor, with the Court's permission, if
19 I may announce to the parties on court call that the proposed
20 meeting date would be Wednesday at ten o'clock in the Los
21 Angeles offices of Best Best & Krieger. I'm not looking for a
22 response by anyone over the phone. This would not be the time
23 or place to do that. It's just simply an announcement. People
24 can e-mail my associate, Ms. Wendy Wang, regarding their
25 availability. And we will make conference-call capability
26 available so people don't have to be there. But that seems to
27 be a date that some people have indicated they could do it. So,
28 I just announce that.

1 THE COURT: All right. Thank you, Mr. Dunn.

2 MR. LEMIEUX: Jeff, what time did you say that was?

3 MR. DUNN: I'm sorry, it would be 10:00 a.m.

4 THE REPORTER: And who was just speaking, please?

5 MR. LEMIEUX: This is Keith Lemieux. L-E-M-I-E-U-X.

6 THE COURT: Okay, let's remember when you speak we
7 can't see you, so, identify yourself. All right. Okay, other
8 issues. Mr. Miliband, you're here on behalf of Phelan Pinon
9 Hills.

10 MR. MILIBAND: Yes. Good morning, Your Honor. Wes
11 Miliband on behalf of Phelan Pinon Hills Community Service
12 District.

13 THE COURT: Okay, I did receive your statements filed
14 the other day, as well as the one that apparently was filed
15 today or last night.

16 MR. MILIBAND: Yesterday, late afternoon, it should
17 have been posted.

18 THE COURT: I have read those. Is there anything
19 beyond that, that you can tell me at this point?

20 MR. MILIBAND: Yes, Your Honor. One of the reasons to
21 be here today was that Phelan and I thought it would be
22 worthwhile, given that Mr. Zimmer was here for a different
23 matter but had to leave, but Mr. Dunn is obviously here and we
24 have had some dialogue as to what issues we do think are at
25 issue or should be at issue in this next trial.

26 And it seems that the one item that's unclear relates
27 to surplus. And as the Court might recall from August 11th, I'd
28 originally, going into the August 11th hearing, proposed four

1 causes of action. It seems that two of those causes of action,
2 by Phelan Pinon Hills' cross-complaint are what we are putting
3 into issue for this trial phase. And, specifically, that's the
4 second and the sixth cause of action. The surplus issue would
5 relate to the second cause of action, which is an appropriative
6 water right cause of action. And from my dialogue with Mr. Dunn
7 this morning, and with Mr. Zimmer, there was a question as to
8 whether or not Phelan Pinon Hills can even assert that there --
9 at some point had been surplused, given the Court's finding in
10 the phase 3 trial that the basin was generally in a state of
11 overdraft.

12 So, Mr. Dunn's thinking, and I don't want to misspeak
13 for him, and he'll let me know if I am, but I think what we had
14 talked about was doing some briefing on that and having the
15 Court determine, if the Court's agreeable to doing so, whether
16 or not surplus, in fact, can be asserted at this point. And, if
17 so, what would happen in connection with that, with this trial
18 that's been set for October 7th.

19 THE COURT: Mr. Dunn, do you want to respond to that?

20 MR. DUNN: Yes, Your Honor. As Mr. Miliband
21 indicated, it would be helpful, in terms of providing guidance
22 to the parties and in a more potential efficient presentation of
23 evidence, to know in advance of the Phelan claim hearing or
24 trial whether there will be evidence presented by Phelan Pinon
25 Hills as to generally what we would call a surplus condition in
26 the area near where they actually pump groundwater. The issue,
27 of course, is that the Court has made earlier findings,
28 particularly in the phase 3 trial, regarding the hydrogeologic

1 conductivity in relationship within the area as a whole. And,
2 so, the issue is can Phelan Pinon Hills present evidence to the
3 Court that there is within an area a surplus condition, despite
4 the fact that there have been these findings made in the phase 3
5 trial. So, it's somewhat I would imagine more like a motion in
6 limine. Although, this is a bench trial of course. But it's
7 something more along those lines, but even perhaps something
8 more expedited and quickly resolved. And we would be looking
9 for some guidance from the Court in advance of the October date
10 that we have for Phelan. You know, some time in September.

11 THE COURT: Generally --

12 MR. ZIMMER: Your Honor?

13 THE COURT: Who was that?

14 MR. ZIMMER: This is Mr. Zimmer, Your Honor, for
15 Bolthouse.

16 THE COURT: Go ahead, Mr. Zimmer.

17 MR. ZIMMER: Just a couple, quick comments, Your
18 Honor. First, I agree with what Mr. Dunn said. What I would
19 add to that is that it's not simply a question of whether
20 surplus can be relitigated. It's a question of whether surplus,
21 for the purpose of proving water right could be relitigated. We
22 all understand that if there's a surplus, so-called surplus in
23 one area, that might effect management decisions. But that's a
24 different question legally than whether surplus changes the
25 parameters of the basin in which the Court has already decided.
26 So, I think we need some direction from the Court as to whether
27 that issue will be relitigated in terms of a separate area for
28 water rights purposes.

1 THE COURT: Okay.

2 MR. ZIMMER: It would be better for my client to
3 accept the water rights in area the basis because we do have
4 some land there. But we had lots of discussion during the trial
5 from -- (inaudible).

6 THE REPORTER: Excuse me. Excuse me.

7 THE COURT: Slow down, Mr. Zimmer.

8 MR. ZIMMER: -- a question of --

9 THE REPORTER: Excuse me, counsel.

10 THE COURT: Wait. We'll get back to it.

11 MR. ZIMMER: -- water rights based upon being in that
12 --

13 THE COURT: Mr. Zimmer, would you stop for a minute.
14 The reporter -- Mr. Zimmer, the reporter was unable to follow
15 you. You were going rather quickly. And she is not really
16 familiar with this case or what has gone on in this case. So
17 that it's a little hard for her to interpolate when she doesn't
18 hear the exact words. So, you're going to have to repeat that
19 arguments.

20 MR. ZIMMER: I'm sorry, Your Honor. I will slow down.

21 MS. MELESKI: Your Honor, excuse me. Your Honor, this
22 is Katherine Meleski for the City of Lancaster and Rosamond.
23 I'm not sure if it's just my connection or if perhaps everybody
24 is experiencing this, but when Mr. Zimmer speaks there's a real
25 significant echo. It's very difficult to hear him, as well as
26 some background noise that's been going on through the call. I
27 don't know if it's the quality of our call or just his line.

28 MR. ZIMMER: I think it's the quality of the call. I

1 have the same static. I will go a slower, Your Honor, and see
2 if we can get through it. What's at issue in terms of Phelan,
3 the way I understand it, is that Phelan is claiming that it has
4 a water right because it is located in the southeast portion of
5 the basin. And that somehow there is surplus there which
6 creates a water right. That is different than whether some area
7 has more water, so-called surplus, for purposes of management.
8 We previously tried the case to determine the confines of the
9 basin that were hydraulically connected. We analyzed the basin
10 in terms of whether the basin, as a whole, is an overdraft.
11 That determination that there was not a surplus I think stands.

12 As I said before, my client has ground in that
13 southeast portion of the basin as well. It would be better for
14 us, as to that ground, if we were not bound by adjudication and
15 we had some kind of different rights. Mr. Kuhs argued in one
16 phase that his client was in a different portion of the basin
17 and, therefore, should have different rights. Mr. Joyce argued
18 the same thing on behalf of Diamond. The Court ultimately ruled
19 that the water rights were determined by the confines of the
20 water basin.

21 So, I think that the question Mr. Miliband is asking
22 is whether he has some different water rights because he's in a
23 different portion of the basin. I think the Court has decided
24 that. I'm not sure it needs briefing, but I'm willing to brief
25 it. But I agree with Mr. Dunn's comments. I just wanted to
26 make the distinction between this surplus issue in terms of
27 management, which the water master will deal with ultimately,
28 contrasted with the surplus issue that was originally litigated

1 in front of the Court that determined the confines of the basin
2 and some overlying land owners in that basin for determination
3 of water rights. So, I guess those are my comments.

4 THE COURT: All right. Thank you, Mr. Zimmer.
5 Mr. Miliband, did you want to respond?

6 MR. MILIBAND: Just very briefly. Two things, Your
7 Honor. Just as a matter of procedure and process I probably
8 wouldn't have to be standing here this morning addressing the
9 surplus issue but for objections that came during the trial. As
10 the Court might recall, during phase 3 in which I was trying to
11 present evidence through our expert who was on the witness
12 stand, just been qualified as an expert, appropriate to opine
13 and discuss these issues, Mr. Zimmer and a number of other
14 counsel objected. And the outcome of that was the Court
15 sustaining it, but deferring it to a later point. So, it seems
16 we're at a much later point. It's just a question of whether we
17 can and should be doing that as part of this next trial. So, in
18 terms of process or procedure, it's something we tried to do
19 before, but were told we can do later.

20 In terms of a legal question is really the second
21 thing I heard from Mr. Zimmer is whether there could even
22 legally be a finding of surplus given the Court's phase 3
23 decision. Finding that generally this is a basin with
24 interconnectivity that is in a state of overdraft.

25 THE COURT: All right, well -- okay, first of all, I
26 don't have the record in front of me so I don't know what the
27 basis of the objection was or why it was sustained. But if my
28 recollection is correct the offer of testimony by your witness

1 was only as to the water condition in that area in terms of
2 surplus and didn't deal with the aquifer as a whole, which the
3 Court previously had found was a connected aquifer where one
4 part of the aquifer would effect another part of the aquifer in
5 terms of recharge and pumping. So, that in terms of what we
6 were looking for in phase 3, that really wasn't relevant. And
7 wouldn't be relevant in terms of establishing the status of the
8 entire basin and the aquifer.

9 I think that your offer of testimony at that time, and
10 of evidence, was not that this was a totally separate basin.
11 But that -- and there was no question really as to the, from
12 your client or your witness, that there was not a single basin.
13 So, having said that, in terms of acquiring appropriative
14 rights, it seems to me that does probably depend upon the status
15 of the aquifer as a whole, not what would occur in a particular
16 small section or section of the aquifer apart from others.

17 If you wish to have the Court rule that that is the
18 case you need to formally put that issue before the Court. You
19 can certainly do that with a motion in limine if you wish to do
20 so. At this point I'm merely reflecting on what I think the
21 record shows. You may have other evidence. You may be able to
22 demonstrate, as a matter of law, that it doesn't matter. But
23 you need to do that in a formal way so that the Court can make a
24 formal ruling on your request in terms of the water --
25 groundwater conditions in that section of the aquifer.

26 MR. MILIBAND: Understood, Your Honor. And one thing
27 as to the substance on there being surplus. It's been our
28 position that a finding in surplus is not required in order for

1 us to have a water right.

2 THE COURT: That's a different issue. That's a
3 totally different issue. And that's something that you're going
4 to seek to have an adjudication about in the next phase. And
5 assuming that you can arrive at a stipulation, of course as to
6 what the facts are, I think most of them are probably not in
7 dispute. Perhaps with the exception of the nature of the water
8 levels in that section. Then we can deal with it. What was the
9 amount of pumping that you established in phase 4?

10 MR. MILIBAND: For 2011 it was 1,053 acre fee. For
11 2012 it was 1,035 acre fee. There were decimals two points
12 over.

13 THE COURT: One-zero-five-three?

14 MR. MILIBAND: Correct, Your Honor.

15 THE COURT: And what was the other one?

16 MR. MILIBAND: One-zero-three-five for 2012.

17 THE COURT: For 2012?

18 MR. MILIBAND: Yes.

19 THE COURT: Okay. All right. And you're going to
20 work further regarding seeing if you can arrive at a stipulation
21 as to the facts for purposes of this hearing that we have --
22 trial we have scheduled on October 7th?

23 MR. MILIBAND: Yes, Your Honor. In fact, I was a few
24 days delayed, as I put into an e-mail to the group. Really
25 wanted to have that August 11th transcript. Unfortunately, that
26 reporter fell ill for a number of days. So having that allowed
27 me to have a very workable basis to be able to share that we're
28 literally working from the same page. And I submitted a very

1 lengthy set of potential and proposed stipulated facts
2 yesterday. And, so, that's why in my papers for this morning I
3 was proposing that the Court order us to further meet and confer
4 and I'd set out some dates for the next several weeks to give us
5 milestones to reach. And should we not be able to, that's why I
6 would request that we have another status conference in another
7 two or three weeks to revisit whatever issues might exist at
8 that time.

9 THE COURT: Are we going to run into a problem because
10 the Court's going to be unavailable between September 10th and
11 September 21? I think the 21st is a Sunday. We will be back in
12 business on the 22nd. I guess I could have a hearing on the 9th
13 if that's enough time for you.

14 MR. MILIBAND: Well, from my perspective, Your
15 Honor -- this is Wes Miliband. The proposed schedule I had
16 going into this morning I think still makes sense. The one
17 ambiguity, at lease for me, is how to deal with this surplus
18 issue and whether it would be a motion in limine or joint
19 briefing by the parties through some other more general motion,
20 but getting to that substantive set of issues. Because I think
21 we have different ideas as to not only whether it could be at
22 issue, but even how it would be dealt with being at issue. I
23 guess for today's purposes it might make the most sense that the
24 Court direct us to meet and confer further on that issue.

25 THE COURT: I will. Seems to me that's kind of
26 implicit in everything that's at issue in this case. Mr. Dunn,
27 you don't disagree with that, do you?

28 MR. DUNN: I agree, Your Honor.

1 THE COURT: Yeah, okay. So, meet and confer. And
2 that includes other counsel, as well, who are representing other
3 parties. So, I suppose that it would make sense for us to have
4 a further status conference after the 22nd of September with
5 regard to Phelan's issues. So, let me just think about when we
6 could do that. Well, what about September the 26th?

7 MR. ZIMMER: Your Honor, it's Mr. Zimmer, for
8 Bolthouse. I will be out of the country through the 27th. But
9 I don't think -- the other parties know the issues as well. So,
10 I don't necessarily need to be there, but because I knew the
11 issues.

12 THE COURT: All right. We'll have a status conference
13 on September the 26th. And I'm going to ask, Mr. Miliband, that
14 you file a case management statement, indicating what has
15 occurred, by the 22nd of September. And anybody who wishes to
16 file anything in opposition to or responsive to that statement
17 should do so by the 25th.

18 MR. MILIBAND: I will do so, Your Honor. And will
19 notice be provided by way of the court's minute order for both
20 the 22nd --

21 THE COURT: Yes, that's all going to be in the minute
22 order. You're in San Jose now.

23 MR. DUNN: Your Honor, Mr. Dunn. May I inquire of the
24 Court as to that September 26th status conference date? Would
25 it be appropriate to also reserve, at that same day and time, a
26 potential hearing on a motion in limine so that in these ongoing
27 discussions that we have with Phelan if there's not a resolution
28 there would be then, by agreement perhaps with Phelan, the

1 mechanism to bring it before the Court would be by a motion in
2 limine? September 26 is still sufficient in advance of the
3 October Phelan trial date to give us the --

4 THE COURT: Yes. That makes sense to me.

5 MR. MILIBAND: I'm agreeable to doing that. The idea
6 of having the discussions and reserving the date.

7 THE COURT: I don't -- I did not anticipate that you
8 would settle that issue without settling all the other issues.
9 I mean if that's even remotely a possibility obviously that
10 would be ideal. I don't expect that to happen. But if it does,
11 fine. Otherwise, that's a good time for hearing on the motion
12 in limine. And if you -- I think we should do that in person.
13 That kind of a motion is a serious motion.

14 MR. DUNN: Yes.

15 MR. MILIBAND: Agreed.

16 THE COURT: So, we'll do that here somewhere. And
17 we'll let you know where.

18 MR. DUNN: Okay.

19 THE COURT: Okay.

20 MR. BUNN: Your Honor?

21 THE COURT: Yes.

22 MR. BUNN: This is Thomas Bunn for Palmdale Water
23 District. With the trial being on October 7th I'm thinking also
24 that we'd want to have some scheduling from the Court about
25 trial briefs. As the Court pointed out, the facts are going to
26 be largely stipulated and there is going to be an issue of law.
27 Perhaps the Court could establish those dates at the status
28 conference. But that doesn't give us a lot of time. If the

1 Court could give us some indication on when you would like to
2 have trial briefs that would be helpful.

3 THE COURT: Yes, that's a good idea, Mr. Bunn. And in
4 looking at the calendar I think I'd like trial briefs from each
5 side by October the 1st.

6 MR. MILIBAND: Your Honor, in terms of other dates, I
7 had proposed for today that the Court also set some other dates,
8 including those parties who do want to actively oppose Phelan.
9 Have that notice of intent to participate, designation of
10 percipient witnesses with a brief summary of anticipated
11 testimony, of course expert witness designations per the Code of
12 Civil Procedure. I think that would help provide all of us with
13 more guidance and certainty as to process.

14 THE COURT: Well, yeah, I think that anybody that's
15 going to participate in this trial on the 7th should so indicate
16 by the 26th. And participate in the status conference on the
17 26th.

18 MR. MILIBAND: My only concern with the notice of
19 intending to participate being that far out is not necessarily
20 having sufficient time, to whatever extent we do not stipulate
21 to the facts, then my need to potentially depose an expert.

22 THE COURT: Well, I'm not sure I can do anything about
23 that. But I think the 26th is sufficient for notice.

24 MR. MILIBAND: And to be clear, Your Honor, would that
25 be not just a notice of intent to participate but also providing
26 the description of percipient witnesses, as well as expert
27 witness designations?

28 THE COURT: No. I want that to occur in trial briefs.

1 MR. MILIBAND: Well, that's pushing it out even
2 further to inform -- informing me for the first time as to who
3 has a witness adversary.

4 THE COURT: Well, given the issues in this case --
5 well, okay.

6 MR. MILIBAND: That's why, Your Honor, I was proposing
7 September 9th be the date the parties would file their notices
8 of intent to participate, as well as their percipient witness
9 designations with a brief summary, as we've done in the past, of
10 anticipated testimony.

11 THE COURT: All right, September 9. Notice of intent
12 with witness descriptions.

13 MR. MILIBAND: And expert witness designations per
14 code?

15 THE COURT: Yes. Yes.

16 MR. MILIBAND: Thank you.

17 THE COURT: All right. What else?

18 MR. WEEKS: Your Honor, Brad Weeks. What time is the
19 status conference on September 26th?

20 THE COURT: If we knew who was talking it would be
21 useful.

22 MR. WEEKS: Brad Weeks for Quartz Hill Water District.

23 THE COURT: Is that Brad weeks?

24 MR. WEEKS: Yes, Your Honor.

25 THE COURT: All right. It was a little blurry. All
26 right, anything else?

27 MR. DUNN: Your Honor, Mr. Weeks inquired as to the
28 time for the in-person status conference on September 26th. If

1 I may suggest 10:00 a.m.?

2 THE COURT: Yes.

3 MR. DUNN: That would work better for the flights
4 coming in that morning.

5 THE COURT: Yes. 10:00 a.m. I thought I had said
6 that, but I guess I didn't.

7 MR. DUNN: Yes.

8 MS. GOLDSMITH: Your Honor, this is Janet Goldsmith
9 for the City of Los Angeles.

10 THE COURT: Yes. Good morning.

11 MS. GOLDSMITH: Good morning. I expect to file a
12 notice of intent, but I am leaving on a two-week vacation
13 beginning the 26th. So, I may not be able to attend the status
14 conference. I will rely on a live party to represent on this.

15 THE COURT: Thank you. That's sufficient.

16 MS. MELESKI: Your Honor, Katherine Meleski, again,
17 for the City of Lancaster and Rosamond. Will you also be taking
18 telephonic appearances on September 26th for those that would
19 like to participate but will not be physically there?

20 THE COURT: Yes.

21 MS. MELESKI: Thank you. And also to confirm, at the
22 beginning of the call when it was difficult to hear, was there a
23 status conference a week from today scheduled as well?

24 THE COURT: Yes.

25 MS. MELESKI: And that was at 9:00 a.m., correct?

26 THE COURT: And that is telephonic at 9:00 a.m.

27 MS. MELESKI: Thank you, Your Honor. Thank you.

28 THE COURT: Okay. Mr. Miliband?

1 MR. MILIBAND: Nothing further today, Your Honor.
2 Thank you.

3 THE COURT: Okay. All right. We still have -- we're
4 going to receive a written -- or indication as to the parties
5 who are participating in this. So, do we need to do a role
6 call?

7 THE CLERK: We should.

8 THE COURT: Before we take up Mr. Blum's matter we're
9 going to do a role call. So, if you're on the line as your name
10 is called indicate your presence. If you're not on the line
11 don't say anything.

12 THE CLERK: William Carlson?

13 MR. CARLSON: Present.

14 THE CLERK: Edward Renwick?

15 MR. RENWICK: Present.

16 THE CLERK: Edward Casey? (No response.) Mary Alden?

17 MS. ALDEN: Present.

18 THE CLERK: Noah Golden-Krasner?

19 MR. GOLDEN-DRASNER: Present.

20 THE CLERK: Warren Wellen?

21 MR. WELLEN: Present.

22 THE CLERK: Lee Leininger?

23 MR. LEININGER: Here.

24 THE CLERK: Michael McLachlan? (No response.)

25 William Sloan?

26 MR. SLOAN: Present.

27 THE CLERK: Walter Rusinek? (No response.) Thomas

28 Bunn?

1 MR. BUNN: Here.

2 THE CLERK: Bradley Weeks?

3 MR. WEEKS: Here.

4 THE CLERK: Kyle Holmes?

5 MR. HOLMES: Present.

6 THE CLERK: Robert Kuhs?

7 MR. KUHS: Yes.

8 THE CLERK: James Worth?

9 MR. WORTH: Here.

10 THE CLERK: Richard Zimmer?

11 MR. ZIMMER: Present.

12 THE CLERK: Jeff green? (No response.) Bob Joyce?

13 MR. JOYCE: Here.

14 THE CLERK: Joseph Hughes.

15 MR. HUGHES: Present.

16 THE CLERK: Katherine Meleski? (No response.)

17 Michael Fife?

18 MR. FIFE: Present.

19 THE CLERK: Keith Lemieux?

20 MR. LEMIEUX: Here.

21 THE CLERK: Justin Graham?

22 MR. GRAHAM: Present.

23 THE CLERK: William Brunick?

24 MR. BRUNICK: Yes.

25 THE CLERK: Janet Goldsmith?

26 MS. GOLDSMITH: Present.

27 THE CLERK: Andrew Ramos?

28 MR. RAMOS: Present.

1 THE CLERK: Christopher Sanders?

2 MR. SANDERS: Here.

3 THE CLERK: Michael Davis?

4 MR. DAVIS: Present.

5 THE CLERK: Wendy Wang?

6 MS. WANG: Present.

7 THE CLERK: Patrick Skahan?

8 MR. SKAHAN: Present.

9 THE CLERK: Walter Wilson?

10 MR. WILSON: Present.

11 THE CLERK: Scott Kuney?

12 MR. KUNEY: Present.

13 THE CLERK: James Markman?

14 MR. MARKMAN: Present.

15 THE COURT: All right. Thank you. Before we leave
16 Mr. Dunn's matter I just want to reiterate that the meet and
17 confer with regard to the settlement, the global settlement, is
18 mandatory for all parties who have any interest at all in the
19 issue regarding the Wood's class. Mandatory. And I expect,
20 unless it's an extreme hardship, that you be present. Otherwise
21 you may appear at that conference telephonically. But it is
22 mandatory. It's an important meeting. And I expect compliance
23 with this order.

24 MR. MILIBAND: Your Honor, may I -- Wes Miliband on
25 behalf of Phelan -- just request clarification? We did settle
26 with the Wood class. And because this relates to the other
27 settlement process I don't think it would be fruitful for me to
28 be there. But I'll follow the Court's direction. My request

1 would be whether -- or based on those circumstances that I still
2 be present?

3 MR. WILSON: Good morning, Your Honor, Walter Wilson.

4 THE COURT: Yes, Mr. Wilson.

5 MR. WILSON: For Mobile -- I'm sorry, Your Honor,
6 Antelope Mobile Estates.

7 THE COURT: Go ahead.

8 MR. WILSON: I am just coming into the case. I am
9 unclear exactly my role relating to the Wood class. And I'm not
10 sure whether I am required to be there on the 5th.

11 THE COURT: Are you participating -- are you
12 participating in the global settlement discussions?

13 MR. WILSON: I have not been in the discussions. I
14 have reviewed a copy of the agreement. I believe my client may
15 qualify as one of the Wood class members. If I do not then I am
16 out of it and I'm not sure exactly my role with relation to this
17 status conference.

18 THE COURT: I think you should talk to Mr. Dunn and
19 determine where you're going to proceed and how at this point.
20 Because a late arrival could have significant consequences with
21 regard to the ultimate resolution of this litigation and
22 whatever judgment the Court intends to enter. So, if you can
23 decide whether or not you are a member of the Wood's class, with
24 a late opt in I guess, then that may have an effect. But I
25 suggest that you speak one-on-one with Mr. Dunn.

26 MR. WILSON: I will do so, Your Honor. Walter Wilson,
27 again. I will do so. I am also scheduled for trial that day
28 here in Long Beach. I will attempt to work things out one way

1 or the another and take care of what needs to be taken care of.

2 THE COURT: Thank you. Mr. Miliband, in response to
3 your question, I think it would be of benefit for you to attend
4 that conference because one way or the other your client will be
5 impacted, whether there is a settlement or not, with regard to
6 that last issue. And it seems to me that your being present
7 would be beneficial.

8 MR. MILIBAND: And I'm agreeable to that, Your Honor.
9 In the last several weeks I have not been invited or would I be
10 invited to participate. But if that's the Court order I will
11 certainly make myself available. And if I could do it
12 telephonically that would be my request. I do have something
13 already on calendar for next Wednesday morning.

14 THE COURT: All right.

15 MR. MILIBAND: I'm happy to dial in and participate in
16 that way, Your Honor.

17 THE COURT: Okay. All right. Thank you. Now,
18 Mr. Blum, I guess.

19 MR. BLUM: Good morning, Your Honor. Sheldon Blum on
20 behalf of Blum Trust.

21 THE COURT: Good morning.

22 MR. BLUM: This morning I did talk to Rowena and told
23 her that I'll be calling her in September for a December date
24 for the filing of the motion for summary judgment/summary
25 adjudication.

26 THE COURT: Okay.

27 MR. BLUM: So, it'll be on calendar in December -- for
28 a hearing in December.

1 THE COURT: All right. I still think that it would be
2 a reasonable thing for you to agree as to what the facts are in
3 the case and have an adjudication knowing the vicissitudes of
4 the summary judgment process.

5 MR. BLUM: Sure, Your Honor. Thank you.

6 THE COURT: All right. So, is there anything else
7 that we need to deal with this morning?

8 LEININGER: Your Honor, this is Mr. Leininger.

9 THE COURT: Yes, Mr. Leininger?

10 MR. LEININGER: Your Honor, the meet and confer, the
11 mandatory meet and confer scheduled for next Wednesday the 3rd,
12 I believe; is that correct?

13 THE COURT: Yes.

14 MR. LEININGER: We have a Mr. DuBois --

15 THE COURT: I'm having trouble hearing you,
16 Mr. Leininger.

17 MR. LEININGER: I'll try to speak up and speak more
18 slowly. We have a long scheduled Department of Justice retreat
19 on the 3rd through the 5th in the DC area. We'll be traveling
20 on the 3rd. We should be able, however, to participate
21 telephonically in the afternoon in California. And we would
22 just ask the Court's permission to allow us to appear at that
23 meet and confer in the afternoon, after lunch, telephonically.

24 THE COURT: That's fine, Mr. Leininger. I think the
25 position of the government is such that your presence would be
26 very helpful in terms of helping the parties to arrive at an
27 agreement with regard to that, irrespective of the unique
28 position of the federal government. So, yes, I would like you

1 to participate. I'm sorry that you can't be there personally.
2 But telephonically will be second best.

3 MR. LEININGER: Thank you, Your Honor.

4 THE COURT: All right. Thank you.

5 MR. WEEKS: Your Honor, this is Brad Weeks, Quartz
6 Hill Water District. My client is one of the clients being
7 asked to pay these fees.

8 THE COURT: Your client what?

9 MR. WEEKS: On September 3rd I will be in trial in
10 Riverside.

11 THE COURT: Tell me again what you said, please. I
12 couldn't hear you.

13 MR. WEEKS: I apologize. This is Brad Weeks, Quartz
14 Hill Water District. My client is one of the clients who have
15 been asked to pay these fees. On September 3rd I will be in
16 trial in Riverside.

17 THE COURT: Well, if something happens to that trial,
18 attend. If you can't be there perhaps you can have that
19 discussion with somebody who is aligned with you and give them
20 your thoughts so that your thoughts are available, if you
21 haven't already done so.

22 MR. WEEKS: Thank you, Your Honor.

23 THE COURT: All right. Thank you. Anybody else? All
24 right. So, I will hear from somebody next Friday at nine
25 o'clock. We will all call in. I will not be in session here.
26 I will be calling in as well. So, thank you very much. And
27 we're adjourned.

28 (Whereupon this matter adjourned.)

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1 STATE OF CALIFORNIA)
2 COUNTY OF SANTA CLARA) ss.

3
4 I, MELISSA CRAWFORD, HEREBY CERTIFY:

5 That I was the duly appointed, qualified shorthand
6 reporter of said court in the above-entitled action taken on the
7 above-entitled date; that I reported the same in machine
8 shorthand and thereafter had the same transcribed through
9 computer-aided transcription as herein appears; and that the
10 foregoing typewritten pages contain a true and correct
11 transcript of the proceedings had in said matter at said time
12 and place to the best of my ability.

13 I further certify that I have complied with CCP
14 237(a)(2) in that all personal juror identifying information has
15 been redacted, if applicable.

16
17 DATED: SEPTEMBER 4, 2014

18
19 _____
20 MELISSA CRAWFORD, CSR, RPR
21 CSR No. 12288

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