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Exempt from filing fee
Government Code § 6103

Attorneys for Defendants
City of Lancaster and Rosamond Community
Services District

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

**ANTELOPE VALLEY GROUNDWATER
CASES**

Included Actions:

Los Angeles County Waterworks District
No. 40 v. Diamond Farming Co.
Superior Court of California, County of
Los Angeles, Case No. BC325201;

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

Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
Lancaster, Diamond Farming Co. v. Palmdale
Water Dist., Superior Court of California
County of Riverside, consolidated actions; Case
Nos. RIC 353 840, RIC 344 436, RIC 344 668.

LASC Case No. BC 325201

Judicial Council Coordination
Proceeding No. 4408

CLASS ACTION

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

**NOTICE OF LODGING JUNE 16, 2011
REPORTER'S TRANSCRIPT OF
PROCEEDINGS RE PRELIMINARY
APPROVAL OF WOOD CLASS
SETTLEMENT**

DATE: October 25, 2013
TIME: 9:00 a.m.
DEPT: 11 – San Jose

1 PLEASE TAKE NOTICE that City of Lancaster and Rosamond Community Services District
2 hereby lodge with the Court the June 16, 2011 Reporter's Transcript of Proceedings ("Transcript") in
3 connection with the Motion for Preliminary Approval of Partial Wood Class Settlement to be held on
4 October 25, 2013 in the above-captioned action. A true and correct copy of the Transcript is attached
5 hereto as Exhibit "A."

6
7 DATED: October 22, 2013

MURPHY & EVERTZ LLP

8
9 By:



Douglas J. Evertz, Attorney for City of Lancaster and
Rosamond Community Services District

EXHIBIT “A”

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NO. 4

HON. JACK KOMAR, JUDGE

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

6 ANTELOPE VALLEY GROUNDWATER CASES))

JUDICIAL COUNCIL
COORDINATION
NO. JCCP4408

7 PALMDALE WATER DISTRICT AND)
8 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 THURSDAY, JUNE 16, 2011

17
18 APPEARANCES:

19 (SEE APPEARANCE PAGES)
20
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25
26

27 GINGER WELKER, CSR #5585
28 OFFICIAL REPORTER

1 APPEARANCES:

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

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1 APPEARANCES (CONTINUED)

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13 BY: RYAN BEZERRA
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15 SHEEP CREEK & AV UNITED TILDEN
16 MUTUAL GROUP BY: MARLENE L. ALLEN

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1 CASE NUMBER: JCCP 4408
2 CASE NAME: ANTELOPE VALLEY
3 LOS ANGELES, CALIFORNIA, THURSDAY, JUNE 16, 2011
4 DEPARTMENT NO. 2D HON. ELIA WEINBACH
5 REPORTER GINGER WELKER, CSR #5585
6 TIME: 8:38 A.M.
7 APPEARANCES: (SEE TITLE PAGE)
8

9 THE COURT: WE HAVE A NUMBER OF PEOPLE WHO ARE ON
10 COURT CALL. HAVE THEY BEEN IDENTIFIED?

11 THE CLERK: YES, THEY HAVE, YOUR HONOR.

12 THE COURT: IF ANYBODY ON COURT CALL WISHES TO
13 ARGUE, COMMENT, OR ADDRESS THE COURT, MAKE SURE YOU
14 STATE YOUR NAME EACH TIME YOU SPEAK SO THAT THE REPORTER
15 AND I WILL KNOW WHO YOU ARE.

16 WE HAVE SEVERAL ACTIONS AND MATTERS TO TAKE
17 CARE OF THIS MORNING. THE PRIMARY ONE IS THE MOTION FOR
18 PRELIMINARY APPROVAL OF THE WOOD'S CLASS SETTLEMENT
19 PROPOSED. AND THE COURT HAS READ AND CONSIDERED THAT
20 APPLICATION AS WELL AS A NUMBER OF PARTIES WHO HAVE
21 FILED WRITTEN OPPOSITION TO THAT.

22 I WILL TELL YOU I HAVE SOME CONCERNS. AND I
23 THINK WE NEED TO ADDRESS THOSE HERE THIS MORNING.
24 BEFORE I DO THAT, IS THERE SOMETHING AS MOVING PARTY,
25 MR. MCLACHLAN, THAT YOU WANT TO STATE?

26 MR. MCLACHLAN: NO. I THINK MAYBE THE TIME IS
27 BEST SPENT ADDRESSING WHATEVER CONCERNS THE COURT IS
28 ALLUDING TO.

1 THE COURT: ALL RIGHT. THE FIRST CONCERN I HAVE
2 RELATES TO THE ESTABLISHMENT OF THE RIGHTS OF THE CLASS
3 MEMBERS AND THE DEFINITION THAT THE ALLOCATION FOR EACH
4 MEMBER WILL BE AS TO PER HOUSEHOLD RATHER THAN TO THE
5 CLASS MEMBERS AS THEY WERE DEFINED IN THE ORDER
6 ESTABLISHING THE CLASS.

7 IT SEEMS TO ME THAT THERE IS POTENTIAL HERE
8 FOR SOME CONTRADICTIONS IN TERMS. FOR EXAMPLE, A
9 HOUSEHOLD MAY OWN SEPARATE PARCELS. EACH PARCEL OF
10 WHICH WOULD HAVE OVERLYING RIGHTS. THAT IS MY FIRST
11 CONCERN BECAUSE IT IS INCONSISTENT WITH THE DEFINITION
12 OF THE CLASS.

13 AND AS I UNDERSTAND IT -- AND WE WILL TALK
14 ABOUT THIS IN A FEW MOMENTS -- PART OF THE REASON FOR
15 THAT IS TO ESTABLISH DOMESTIC USE. AND THAT IS ALSO NOT
16 PART OF THE CLASS DESCRIPTION. AND IT IS NOT A
17 LIMITATION OF THE CLASS DESCRIPTION. SO IT IS A
18 NARROWER DESCRIPTION, IT SEEMS TO ME, THAN THE CLASS
19 DESCRIPTION.

20 AND I GUESS WHAT I CAN DO IS JUST GO THROUGH
21 THESE AND TELL YOU WHAT MY CONCERNS ARE, AND WE CAN
22 START ADDRESSING THEM SERIATIM.

23 ON PAGE 11 OF THE AGREEMENT STARTING AT LINE
24 FOUR, "THE SETTLING PARTIES AGREE THAT THE WOOD CLASS
25 MEMBERS MAY EACH PUMP UP TO 3 ACRE-FEET PER HOUSEHOLD
26 FOR REASONABLE AND BENEFICIAL USE ON THEIR OVERLYING
27 LAND," ET CETERA, ET CETERA. AND THAT IF THE COURT DOES
28 NOT APPROVE THIS PROVISION, THIS AGREEMENT IS VOID.


1 THE PROBLEM THAT I HAVE WITH THAT IS NOT
2 THAT THE PARTIES WHO ARE SETTLING THE CASE CANNOT AGREE
3 AMONG THEMSELVES. THE DIFFICULTY IS THAT WHAT YOU ARE
4 DOING IS ATTEMPTING TO ESTABLISH, AS I READ THIS
5 AGREEMENT, THE 3 ACRE-FEET PER YEAR ALLOCATION AS A --
6 AS A STANDARD THAT IS GOING TO BIND ALL THE NONSETTLING
7 PARTIES. AND I DON'T THINK YOU CAN DO THAT.

8 YOU HAVE TO ACKNOWLEDGE THE FACT THAT AS TO
9 OTHER PARTIES THE COURT HAS TO MAKE FINDINGS BASED UPON
10 EVIDENCE. I CAN'T DO THAT BASED UPON AN AGREEMENT OF
11 SOME OF THE PARTIES, BUT NOT ALL OF THE PARTIES.

12 AND I UNDERSTAND THAT THE CONCERN THAT YOU
13 HAVE IS THAT YOU CAN'T SETTLE THIS CASE WITHOUT THAT
14 KIND OF A FINDING BINDING EVERYBODY, BUT I CAN'T MAKE
15 THAT KIND OF A FINDING WITHOUT EVIDENCE AND AN
16 OPPORTUNITY FOR THE PARTIES TO DISPUTE IT. IT MAY WELL
17 BE REASONABLE, BUT I HAVE NO WAY OF KNOWING THAT AT THIS
18 POINT.

19 LET ME JUST GO THROUGH HERE: YOU ARE
20 ATTEMPTING TO BIND A WATER MASTER AND A WATER MASTER
21 DECISION AND DETERMINATION OF ALLOCATION OF WATER RIGHTS
22 AND PREVENTING THE COURT AND THE WATER MASTER FROM DOING
23 ANYTHING OTHER THAN WHAT YOU HAVE AGREED AMONG
24 YOURSELVES.

25 WELL, AS TO YOURSELVES, THAT IS FINE. AND
26 IF YOU WANT TO AGREE THAT THE WATER PRODUCERS, PURVEYORS
27 HERE, WILL NOT TAKE A POSITION THAT YOU ARE NOT ENTITLED
28 TO A 3 ACRE-FEET PER YEAR, THAT IS FINE. THEY CAN DO



1 THAT, BUT YOU CAN'T BIND THE OTHER PARTIES. THE
2 ALLOCATION CANNOT BIND NONSETTLING PARTIES.

3 MR. MCLACHLIN: YOUR HONOR, THAT LAST COMMENT. IS
4 THAT DIRECTED TO A PARTICULAR PORTION OF THE AGREEMENT?

5 THE COURT: YES, IT IS -- IT IS ACTUALLY DIRECTED
6 TO WHERE I JUST POINTED TO.

7 MR. MCLACHLIN: PAGE 11?

8 THE COURT: YEAH, PAGE 11, STARTING AT LINE 4; BUT
9 IT THREADS ITS WAY THROUGH THE ENTIRE AGREEMENT SO THAT
10 THE COURT BINDS ITSELF DEPENDING UPON YOUR AGREEMENT AND
11 NOT WHAT THE EVIDENCE MIGHT ESTABLISH UPON FURTHER
12 PRESENTATION OR DETERMINATION BY THE WATER MASTER.

13 I THINK WHAT YOU ARE ATTEMPTING TO
14 ACCOMPLISH CAN BE ACCOMPLISHED BY AGREEMENT, BUT I DON'T
15 THINK YOU CAN DO IT IN THIS FASHION WHERE YOU ARE
16 BINDING OTHER PARTIES.

17 STARTING ON LINE 16 ON THAT SAME PAGE, "IF
18 THE WATER MASTER'S ASSESSMENT DETERMINES THAT
19 COLLECTIVELY THAT THE WOOD CLASS IS USING LESS THAN AN
20 AVERAGE OF 3 ACRE-FEET PER YEAR, THEN ANY UNUSED PORTION
21 IN ANY GIVEN YEAR WILL BE REALLOCATED FOR USE BY OTHER
22 OVERLYING OWNERS AS PART OF THEIR RIGHT TO USE THEIR
23 CORRELATIVE SHARES OF THE BASE OF THE 85 PERCENT OF THE
24 BASIN'S FEDERALLY ADJUSTED RATE OF SAFE YIELD; HOWEVER,
25 SUCH REALLOCATION SHALL IN NO WAY DIMINISH ANY CLASS
26 MEMBERS FOR -- FOR A REASONABLE AND BENEFICIAL USE."

27 WELL, YOU ARE BINDING THE COURT WITHOUT
28 HAVING PRESENTED ANY EVIDENCE OF THE PROPRIETY OF THAT

1 DETERMINATION.

2 THE -- LINE 26, "THE WOOD CLASS MEMBERS
3 PUMPING IN EXCESS OF 3 ACRE-FEET PER YEAR SHALL NOT BE
4 SINGLED OUT BY THE WATER MASTER FOR REDUCTION OF PUMPING
5 OR ASSESSMENT." WHAT YOU ARE ATTEMPTING TO DO IS
6 ESTABLISH AN EXEMPTION THAT PREVENTS THE WATER MASTER
7 FROM MAKING A DETERMINATION AS TO THE APPROPRIATE
8 ALLOCATION OF WATER TO THE CLASS MEMBERS.

9 AND YOU CAN, I BELIEVE, ENTER INTO AN
10 AGREEMENT THAT THE WATER PURVEYORS WILL NOT CONTEST
11 THAT, BUT YOU CAN'T BIND NONSETTLING PARTIES TO THAT
12 KIND OF A DETERMINATION.

13 YET YOU ARE DOING THE SAME THING ON PAGE 12,
14 STARTING AT LINE 6. YOU ARE TAKING AWAY FROM THE COURT
15 THE ABILITY AND THE WATER MASTER THE ABILITY TO MAKE
16 DETERMINATIONS BASED UPON FACTS. AND, AGAIN, AS BETWEEN
17 YOU AND THE WATER PURVEYORS IF THEY WISH TO AGREE NOT TO
18 CONTEST YOUR POSITION WITH REGARD TO THAT, THEY
19 CERTAINLY MAY DO THAT.

20 AND TO THE EXTENT THAT ALL THE OTHER PARTIES
21 IN THIS LAWSUIT WERE TO ENTER INTO THAT AGREEMENT AS
22 WELL, THAT WOULD BE FINE. BUT THAT IS NOT WHAT WE ARE
23 DEALING WITH HERE. WE ARE DEALING WITH SOME OF THE
24 PARTIES, AND YOU CANNOT BIND NONSETTLING PARTIES.

25 AGAIN, ON LINE 23 THROUGH 27, YOU ARE MAKING
26 FINDINGS FOR THE COURT THAT BINDS THIRD PARTIES. AND
27 YOU CAN'T DO THAT TO MAKE A DETERMINATION AS TO DOMESTIC
28 USE WITHOUT EVIDENCE TO SUPPORT THAT AND AN OPPORTUNITY

1 FOR NONSETTLING PARTIES TO CONTEST IT.

2 MR. MCLACHLIN: YOUR HONOR, AT SOME POINT HERE, I
3 REALLY WOULD LIKE TO MAKE A COMMENT TO SOME OF THIS
4 STUFF, PARTICULARLY THIS NOTION OF PRESENTATION OF
5 EVIDENCE. BECAUSE IT SEEMS TO BE A -- RUNNING THROUGH A
6 NUMBER OF THE COURT'S OBSERVATIONS ON THESE PAGES 11 AND
7 12.

8 THE COURT: WOULDN'T YOU LIKE TO HEAR THE REST OF
9 MY COMMENTS?

10 MR. MCLACHLIN: YES, YOUR HONOR, I WOULD. I WILL
11 HOLD MY THOUGHTS. CONTINUE.

12 THE COURT: I UNDERSTAND YOU ARE NOT HAPPY, BUT I
13 THINK IT IS IMPORTANT THAT WE HAVE A FULL HEARING ON
14 THESE ISSUES. YOU'RE ON PAGE 14, PARAGRAPH 2, STARTING
15 AT LINE 4, "THE SETTLING PARTIES AGREE THAT THE PRIMARY
16 MEANS FOR ENFORCING THE TERMS OF THE AGREEMENT AND
17 MONITORING THE GROUNDWATER USE WILL NOT INCLUDE METERING
18 OF WELLS."

19 AND, AGAIN, YOU'RE ELIMINATING THE COURT'S
20 DISCRETION WITH REGARD TO THIS ENTIRE BASIN. IT MAY
21 WELL BE -- AND I DON'T KNOW IF THIS IS THE CASE -- THAT
22 METERING WOULD BE APPROPRIATE.

23 AS TO THIS AGREEMENT IF THE PURVEYORS WANT
24 TO AGREE WITH YOU THAT THEY WILL NOT ASSERT A RIGHT TO
25 HAVE METERING, THEY CAN CERTAINLY DO THAT, BUT THEY
26 CAN'T BIND NONSETTLING PARTIES. THE SAME IS TRUE WITH
27 THE PROVISIONS REGARDING THE REPLACEMENT WATER.

28 I GUESS THAT I CAN SIMPLIFY MY CONCERNS BY

1 TELLING YOU THAT TOO MANY OF THE PROVISIONS IN HERE DO
2 ATTEMPT TO BIND THIRD PARTIES, TIE THE COURT'S HANDS
3 WITH REGARD TO DECISIONS THAT IT WILL MAKE BASED UPON
4 THE EVIDENCE, AND I WOULD LIKE TO HAVE YOU ADDRESS THOSE
5 ISSUES.

6 MR. MCLACHLIN: THANK YOU, YOUR HONOR. I THINK
7 THAT THE FIRST COMMENT I'LL START WITH WAS THE COURT'S
8 COMMENT RELATIVE TO -- LET ME TAKE A SPECIFIC EXAMPLE.
9 LET'S SAY THE 3 ACRE-FOOT CONCEPT AND THE LACK OF
10 EVIDENCE, THE AGREEMENT IS -- WAS STRUCTURED IN THAT
11 FASHION BECAUSE OF THE COURT'S PRIOR RULINGS
12 REFLECTINGLY TIEING THE CLASS COUNSEL'S HANDS IN TERMS
13 OF THE COURT APPOINTED EXPERT. OVER A YEAR AND A HALF
14 AGO, THE COURT APPOINTED A COURT APPOINTED EXPERT THAT
15 WAS TASKED WITH THIS VARIOUS ISSUE.

16 AND -- BUT WE HAVE BEEN PROHIBITED FROM
17 USING THAT EXPERT TO ACTUALLY DO THE WORK TO ASSESS THE
18 CLASS'S WATER USE. AND UNDER APPLICABLE LAW -- BEFORE I
19 AGREED -- THIS IS GOING BACK A LITTLE BIT IN TIME, BUT I
20 THINK THERE NEEDS TO BE A LITTLE BIT OF AN UNDERSTANDING
21 OF WHAT IS GOING ON HERE.

22 BEFORE -- WHEN I WAS INITIALLY APPROACHED TO
23 TAKE THIS CASE, I REFUSED FOR A LOT OF DIFFERENT
24 REASONS. WHEN I DECIDED TO RECONSIDER IT, YOUR HONOR
25 WILL REMEMBER IN MAY OF 2008 THERE WAS A HEARING. I
26 SENT YOU A LETTER AND LAID OUT THE CONCERNS REGARDING
27 THE EXPERT FOR THE CLASS AND THE APPLICABLE LAW IN
28 CALIFORNIA THAT, UNFORTUNATELY, HAS A HOLE IN IT.

1 IT DOESN'T ALLOW -- EVEN IF I WANTED TO
2 ADVANCE THOSE COSTS, IT DOESN'T ALLOW THOSE TO BE
3 RECOVERED. WOOD'S CLASS COUNSEL IS IN A VERY DIFFICULT
4 SITUATION.

5 THE AGREEMENT IS STRUCTURED TO DEAL WITH
6 THAT IN TERMS OF WE STAY IT -- IT IS NOT A 3 ACRE-FOOT.
7 IT IS VERY CLEAR THAT ANY PARTICULAR CLASS MEMBER --
8 LET'S JUST TAKE MR. WOOD WHO HAPPENS TO BE IN THE
9 COURTROOM FOR AN EXAMPLE.

10 HE IS NOT GETTING A GUARANTEED 3 ACRE-FEET.
11 WHAT HE IS GETTING IS THE RIGHT TO PUMP FOR A REASONABLE
12 BENEFICIAL -- BENEFICIAL USES FOR RESIDENTIAL PURPOSES
13 ON HIS LAND, AND THE OTHER 3800 PEOPLE WOULD BE
14 EFFECTIVELY IN THE STATE BOAT. YOU CANNOT OBVIOUSLY
15 TREAT CLASS MEMBERS DIFFERENTLY.

16 AND THOSE WHO WOULD PUMP, LET'S SAY, MORE
17 THAN 10 ACRE-FEET AND HAVE SOME LIGHT AGRICULTURAL, THEY
18 COULD, OF COURSE, OPT-OUT AND HAVE THEIR OWN
19 REPRESENTATION AND PROVE UP THEIR SELF-HELP. AND THE
20 COURT COULD SAY, WELL, YOU KNOW, YOU GET X ACRE-FEET OF
21 WATER OR YOU DON'T AT SOME FUTURE POINT IN TIME.

22 THERE IS NO WAY FOR CLASS COUNSEL TO DEAL
23 WITH THOSE VARIATIONS. WE DO KNOW -- I KNOW OF NONE OF
24 THESE PROPERTIES OTHER THAN ONE, A CAMP, A CHILDREN'S
25 CAMP, THAT DOESN'T HAVE A RESIDENTIAL USE.

26 THAT IS THE ONLY REASONABLE WAY TO STRUCTURE
27 THIS. THE AGREEMENT ALLOWS THE WATER MASTER, ASSUMING
28 ONE COMES AROUND SOME DAY, TO MAKE AN ASSESSMENT OF THE

1 CLASSES' WATER USE ON A WHOLE AND SET THAT. THIS IS
2 EFFECTIVELY THE SURROGATE FOR THE COURT APPOINTED
3 EXPERT.

4 AND THE WATER MASTER CAN MAKE THAT
5 ASSESSMENT AND SAY, LOOK, THE CLASS IS ONLY COLLECTIVELY
6 USING ABOUT 6,000 ACRE-FEET. SO WE ARE GOING TO TAKE
7 THAT ACCESS AND PUT IT BACK IN THE OVERLYING POOL, AND
8 IT CAN BE ALLOCATED IN WHATEVER MANNER THE COURT
9 DETERMINES IN THE FUTURE.

10 BUT I DISAGREE WITH THE NOTION THAT THERE
11 IS -- SOME OF THE COMMENTS ARE THAT THE -- THAT THE
12 AGREEMENT IS TRYING TO BIND THIRD PARTIES. IN SOME OF
13 THOSE, I WOULD AGREE WITH. BUT THE COURT HAS THE POWER
14 ULTIMATELY TO DECIDE ALL OF THESE ISSUES. AND RELATIVE
15 TO THE CLASS, THESE DECISIONS WILL HAVE TO BE MADE AT
16 SOME POINT IN TIME, AND THERE ARE -- I SEE NOTHING IN
17 HERE THAT -- OTHER THAN THE NOTION THAT THE CLASS IS
18 USING IT FOR DOMESTIC PURPOSES THAT SETS EVERYTHING IN
19 STONE AND TIES THE COURT'S HANDS IN THE FUTURE.

20 THE COURT: WELL, WHAT ABOUT THE LANGUAGE THAT
21 ALLOCATES THE COST -- THAT LIMITS, I SHOULD SAY, THE
22 EXEMPTION THE COURT CANNOT DO ANYTHING ABOUT? THE THREE
23 ACRE-FEET PER YEAR, FOR EXAMPLE, AS A STANDARD AND
24 THAT -- BUT IT IS NOT EVEN SO MUCH THAT AS IT IS THAT IT
25 BINDS A WHOLE LOT OF OTHER PARTIES HERE WHO HAVE -- WHO
26 ARE NOT PART OF THIS AGREEMENT.

27 MR. MCLACHLIN: THE COURT CLEARLY, I THINK, COULD
28 DO THAT BECAUSE THE LAW SAYS IN CALIFORNIA THAT DOMESTIC

1 USE -- WELL, LET ME STRIKE THAT.

2 THE AGREEMENT REFERS TO DOMESTIC USE FOR
3 REASONABLE BENEFICIAL PURPOSES ON THESE PARCELS. SO TO
4 THE EXTENT, LET'S SAY, THAT MR. WOOD OR SOME OTHER CLASS
5 MEMBER DECIDES TO -- OR IS ACTUALLY USING WATER THAT
6 DOES NOT COMPLY WITH THOSE STANDARDS, CLEARLY THE COURT,
7 AND IF IT DELEGATES ITS RESPONSIBILITY TO A WATER
8 MASTER, WOULD HAVE THE ABILITY TO CURTAIL THAT PERSON'S
9 WATER USE AND, THEORETICALLY, DOWN TO ZERO ON AN
10 INDIVIDUAL BASIS.

11 REMEMBER, WE ARE DEALING WITH 3800 PARCELS
12 HERE. THERE IS NO WAY IN A CLASS CONTEXT TO DO THAT.
13 IT CAN'T BE DONE. IT IS PHYSICALLY IMPOSSIBLE. BECAUSE
14 IF THAT IS THE -- IF THAT IS WHAT WE ARE REALLY DRIVING
15 AT, THEN THE CLASS VEHICLE IS THE WRONG VEHICLE TO BE
16 USING. ALL THESE PEOPLE SHOULD HAVE BEEN INDIVIDUALLY
17 NAMED AND SERVED AND MADE TO COME IN AS I THINK
18 BOLTHOUSE MAY HAVE STATED IN THEIR PAPERS AND PROVE UP
19 THEIR INDIVIDUAL WATER RIGHT.

20 OKAY. THAT IS WHY MR. GARNER'S DECLARATION
21 DELINEATES THE HISTORY AND THE USAGE OF THE DE MINIMUS
22 EXEMPTION. BECAUSE IF WE USE THINGS LIKE -- IF WE
23 HAVE -- LET'S SAY WE SPEND \$1,500 PER PARCEL TO PUT
24 METERS ON ALL THESE PARCELS AND THEN WE HAVE TO SPEND,
25 WHAT, THREE OR 400 OR \$500,000 A YEAR AT LEAST TO HAVE A
26 COUPLE OF PEOPLE GO READ THOSE MEETINGS.

27 WE START ADDING UP ALL THE COSTS OF THIS AND
28 WE LOOK AT THE OPTIONS, OF COURSE, OF AERIAL ENFORCEMENT

1 WHICH IS -- A LOT OF THE WORK HAS BEEN DONE IN THIS
2 CASE, THE DATABASE ALREADY EXISTS. AND WE LOOK AT THE
3 COST BENEFIT ANALYSIS, I REALLY THINK -- AND I BELIEVE
4 MR. DUNN AND THE OTHER WATER SUPPLIER COUNSEL ALL AGREE
5 THAT IF PENNY WISE AND POUND FOOLISH WE END UP SPENDING
6 A SMALL FORTUNE TO MONITOR WHAT IS A VERY SMALL AMOUNT
7 OF WATER --

8 THE COURT: MR. MCLACHLAN, I DON'T DISAGREE WITH
9 YOU. I DON'T DISAGREE AT ALL WITH THAT CONCLUSION. THE
10 PROBLEM IS HOW DO WE GET TO THERE. AND WE CAN'T GET TO
11 THERE IN A LITIGATION AND IN AN ADJUDICATION THAT
12 ENCOMPASSES ALL OF THE WATER USERS WITHIN THE VALLEY, BY
13 AGREEMENT OF SOME OF THEM. THAT IS THE PROBLEM THAT I'M
14 HAVING.

15 SEE, I DON'T HAVE ANY PROBLEM WITH YOU AND
16 THE WATER PURVEYORS AGREEING THAT THEY ARE NOT GOING TO
17 CONTEST UP TO 3 ACRE-FEET PER YEAR THAT EACH ONE OF THE
18 MEMBERS OF THIS CLASS HAVE THE RIGHT TO PUMP. OKAY?

19 AND IT MAY WELL BE THAT WHEN ALL IS SAID AND
20 DONE IF THAT IS THE AGREEMENT AND THE COURT THEN IS IN
21 THE POSITION OF CREATING A PHYSICAL SOLUTION -- AND I
22 DON'T KNOW WHAT THAT FORM IS GOING TO BE -- THAT THAT
23 ENCOMPASSES YOUR AGREEMENT AND EVERYBODY ELSE IS GOING
24 TO BE BOUND BY THAT. BUT YOU CAN'T DO THAT AT THIS
25 POINT. THAT IS THE PROBLEM.

26 AND WHAT YOU HAVE DONE IS, YOU HAVE ALSO PUT
27 IN LIMITATIONS ON THE COURT'S ABILITY TO CREATE A
28 PHYSICAL SOLUTION HERE. I HAVE NO IDEA WHAT THAT

1 PHYSICAL SOLUTION IS GOING TO BE. I DOUBT SERIOUSLY AT
2 THIS POINT THAT ANYBODY DOES.

3 WE DON'T EVEN HAVE THE STATEMENT OF DECISION
4 YET. I HAVE GIVEN A TENTATIVE DECISION. I HAVE A
5 PROPOSAL FROM THE PURVEYORS AS TO WHAT THAT STATEMENT OF
6 DECISION SHOULD BE. AND IT MOSTLY FOLLOWS THE TENTATIVE
7 DECISION THAT I RENDERED WITH A COUPLE OF EXCEPTIONS.

8 I HAVE ESSENTIALLY INTERROGATORIES FROM SOME
9 OF THE PARTIES ASKING THE COURT TO MAKE DETAILED
10 RESPONSES AS PART OF THE STATEMENT OF DECISION. WE WILL
11 TALK ABOUT THAT ANOTHER TIME. BUT AT THIS POINT, WHAT
12 YOUR AGREEMENT DOES IS IT TIES THE COURT'S HANDS, AND IT
13 CREATES A PROCESS THAT BINDS OTHER PARTIES WHO ARE NOT
14 PARTIES TO THE SETTLEMENT PLAN. AND I JUST DON'T THINK
15 I CAN DO THAT.

16 I DO THINK THAT THE NUB OF YOUR SETTLEMENT
17 AGREEMENT IS SOMETHING THAT IF MODIFIED CAN BE APPROVED;
18 BUT AT THIS POINT, I CAN'T APPROVE THE AGREEMENT AS IT
19 STANDS FOR THE REASONS THAT I HAVE INDICATED.

20 AND IF YOU READ THROUGH THE AGREEMENT, I
21 THINK THAT YOU WILL UNDERSTAND WHY I CAN'T DO THAT. I
22 HAVEN'T HEARD FROM MR. DUNN.

23 MR. DUNN: WELL, I HAVE BEEN LISTENING TO THE
24 COURT'S COMMENTS, AND IT SEEMS TO ME GIVEN WHAT THE
25 COURT HAS INDICATED, AND I HAVE LISTENED TO COUNSEL'S
26 COMMENTS AS WELL, I -- WHAT I WOULD SUGGEST IS THAT WE
27 BE ALLOWED TO AFTER THIS HEARING, YOU KNOW, GO BACK AND
28 SEE WHAT WE CAN DO TO -- I'M LOOKING FOR THE RIGHT

1 WORD -- TO REVIEW, REVISE, EDIT, WHATEVER, THE AGREEMENT
2 TAKING INTO ACCOUNT THE COURT'S CONCERNS.

3 THE COURT: WELL, I DO THINK THAT IT IS A WORKABLE
4 AGREEMENT BETWEEN THE SETTLING PARTIES, AND IT MAY WELL
5 BE IF IT IS A REASONABLE AGREEMENT THAT OTHER PARTIES
6 ARE GOING TO BUY INTO IT AND BE BOUND. BUT I CAN'T MAKE
7 THEM DO THAT. YOU HAVE TO MAKE THEM DO THAT.

8 AND WHAT I -- I'M -- YOU KNOW, I HATE TO DO
9 THIS TO YOU, MR. MCLACHLIN, BECAUSE I KNOW HOW HARD YOU
10 HAVE WORKED ON THIS CASE, AND I KNOW HOW SINCERELY YOU
11 HAVE ATTEMPTED TO REPRESENT YOUR CLIENTS EFFECTIVELY,
12 AND I THINK YOU HAVE DONE A GOOD JOB.

13 THE PROBLEM IS THAT THIS AGREEMENT IS
14 INCONSISTENT WITH THE ABILITY FOR THE COURT TO APPROVE
15 IT AT THIS POINT. SO I'M SORRY. I TRULY AM SORRY THAT
16 I COULDN'T APPROVE IT.

17 NOW, THERE ARE A COUPLE OF OTHER THINGS. I
18 HAVEN'T HEARD FROM ANYBODY ON THE TELEPHONE. DOES
19 ANYONE WISH TO MAKE ANY COMMENTS OR ARGUMENT? ARE YOU
20 STILL ON THE LINE?

21

22 (SEVERAL ATTORNEYS RESPOND, "YES, YOUR HONOR.")

23

24 THE COURT: OKAY. ALL RIGHT.

25 MR. SLOAN: YOUR HONOR, THIS IS WILLIAM SLOAN FOR
26 U.S. BORAX.

27 THE COURT: YES.

28 MR. SLOAN: I WOULD LIKE TO TAKE AN OPPORTUNITY --

1 IT IS SO RARE THAT WE'RE ALL SPEAKING TOGETHER. I WOULD
2 JUST ENCOURAGE IN THAT REWRITE EFFORT THAT THE PARTIES
3 THAT NEED TO BE A PART OF SOME OF THESE ISSUES BE
4 ENGAGED IN THE DISCUSSION.

5 THE COURT: YES. MR. MCLACHLAN?

6 MR. MCLACHLAN: YES, I WOULD LIKE TO ADDRESS THAT.
7 THE PROBLEM WITH THE CLASS COMPLAINT IS THAT IT -- IT
8 HAS FOUR CORNERS, AND IT HAS SOME CAUSES OF ACTION THAT
9 ARE FAIRLY CLEARLY DEFINED. AND THERE HAS BEEN
10 SIGNIFICANT EFFORTS TO STUFF A LOT OF THINGS INTO THAT
11 COMPLAINT TALKING LOOSELY IN LOOSE TERMS THAT JUST
12 SIMPLY ARE NOT THERE.

13 IT HAS SOME DISCREET CAUSES OF ACTION AND
14 SOME DISCREET PARTIES. THE -- THERE ARE NO CLAIMS
15 BETWEEN THE CLASS MEMBERS AND ANYBODY ELSE OTHER THAN
16 THE WATER SUPPLIERS. IN FACT, NO ONE IN THIS PROCEEDING
17 IS SUING MR. WOOD OR ANY OF THE CLASS MEMBERS. THERE
18 ARE NO CLAIMS AGAINST THEM.

19 THE ONLY CLAIMS THE CLASS MEMBERS HAVE ARE
20 AFFIRMATIVE CLAIMS AGAINST THOSE 12 WATER SUPPLIERS. SO
21 THE LANDOWNERS ARE NOT PARTY TO THE WOOD ACTION. THEY
22 SIMPLY ARE NOT. I UNDERSTAND BY VIRTUE OF THE RESOURCE
23 WE ARE DEALING WITH BEING COMMON IN NATURE THAT THERE IS
24 SOME TIE IN WITH THE LANDOWNERS.

25 THE NOTION THAT SOMEHOW THEY ARE A PARTY TO
26 THE WOOD CLASS ACTION SETTLEMENT IS JUST WRONG, AND I
27 THINK WE NEED TO DRAW A LINE THERE.

28 THE COURT: WELL, THAT WAY WELL BE; BUT IF YOU

1 HAVE CONCURRENCE WITH THESE PARTIES IN THIS CONSOLIDATED
2 COORDINATED ACTION, IT SEEMS TO ME THAT YOU COULD HAVE
3 AN EFFECTIVE AGREEMENT THAT WILL PERMIT IT TO BE
4 APPROVED BY THE COURT.

5 MR. MCLACHLIN: WE DID. IT WAS CALLED "THE
6 ACCORD." AND ALL THE PROVISIONS IN MY AGREEMENT ARE
7 CONTAINED IN THAT. I SPENT I DON'T KNOW HOW MANY
8 HUNDREDS OF HOUR ENGINEERING THAT. AND IF YOU WILL NOTE
9 THAT ALL THOSE OBJECTIONS WERE BEHIND THAT "ACCORD."

10 THE COURT: IN THE EVENT THAT YOU WISH TO CONTINUE
11 THAT DISCUSSION, IT SEEMS TO ME, IT WOULD BE A
12 REASONABLE THING TO DO. MR. SLOAN INDICATES HE WOULD
13 LIKE TO PARTICIPATE. I THINK -- THAT IS THE INFERENCE
14 THAT I GOT.

15 WAS THAT RIGHT, MR. SLOAN?

16 MR. SLOAN: YES, YOUR HONOR. THANK YOU.

17 MR. ZIMMER: YOUR HONOR?

18 THE COURT: YES, MR. ZIMMER.

19 MR. ZIMMER: THIS IS MR. ZIMMER FROM BOLTHOUSE. I
20 HATE TO INTERRUPT YOU, BUT I REALIZE THERE IS AN
21 OPPORTUNITY.

22 THE COURT: GO AHEAD.

23 MR. ZIMMER: I WOULD JUST LIKE TO RESPOND TO
24 MR. MCLACHLAN'S COMMENTS, AND JUST AS A MATTER OF
25 SIMPLICITY GO BACK TO THE PLEADINGS. THIS CASE
26 ORIGINALLY STARTED OUT AS WHAT THEY CALL A TITLE ACTION
27 IN RIVERSIDE INVOLVING DIAMOND AND BOLTHOUSE AND THE
28 PURVEYORS.

1 AND IT WAS THE PURVEYOR CROSS-COMPLAINTS IN
2 KERN COUNTY AND LOS ANGELES COUNTY THAT EXPANDED THE
3 ACTION TO WHAT ONE WOULD MIGHT LOOSELY CALL A BASIN-WIDE
4 ADJUDICATION REQUESTING -- LA REQUESTING A DETERMINATION
5 OF ALL RIGHTS OF ALL PARTIES IN THIS BASIN.

6 SO I UNDERSTAND THAT THE -- MR. MCLACHLAN'S
7 COMPLAINT ONLY DEALS WITH THE ISSUE OF PRESCRIPTION
8 REALLY. IT CAUSES ME TO WONDER WHY IF HE IS ONLY TRYING
9 TO SETTLE PRESCRIPTION THEY HAVE ALL THESE OTHER RIGHTS
10 THAT ARE BEING DISCUSSED IN THE SETTLEMENT AGREEMENT.
11 AND THE ONLY REASON I CAN COME UP WITH IS THAT LA COUNTY
12 IS TRYING TO CREATE THOSE RIGHTS IN THAT SETTLEMENT
13 AGREEMENT. BECAUSE, OTHERWISE, THEY ARE GOING TO HAVE
14 THESE PARTIES IN THE CASE TO LITIGATE ALL OF THOSE
15 ISSUES.

16 HOW (UNINTELLIGIBLE TELEPHONIC TRANSMISSION)
17 FOR EVERY OTHER CASE ON THIS ISSUE DEAL WITH THE
18 CORRELATIVE RIGHT AND SHARED EQUALLY BY ALL PARTIES.
19 AND I AGREE WITH THE COURT'S OBSERVATIONS THAT YOU CAN'T
20 BIND A NONSETTLING PARTIES TO THIS NUMBER. BUT I HAVE
21 TO WONDER WHY THEY ARE TRYING TO CREATE A QUANTIFIED
22 RIGHT OF THE ILLUSION OF A QUANTIFIED RIGHT IN THE CLASS
23 MEMBERS WHEN THAT RIGHT DOESN'T EXIST EITHER UNDER THE
24 LAW OR WITHOUT PROOF OR SOME KIND OF ADJUDICATION.

25 SO THEY CAN'T -- THEY CAN'T CREATE THIS
26 SETTLEMENT AGREEMENT. SO IT'S LIKE I HAVE TO WONDER WHY
27 THE SETTLEMENT AGREEMENT IS SO COMPLICATED WHEN THE
28 CLASS COULD CLEARLY SETTLE BY VIRTUE OF THE FACT THAT

1 THEY COULD GET AN ASSERTION FROM -- OR A -- A
2 DOCUMENTATION FROM LA COUNTY AND PRESCRIPTION RIGHTS
3 AGAINST THEM.

4 I AGREE WITH THE COURT THAT IF THEY CAN
5 AGREE -- LA COUNTY CAN AGREE THAT WE WILL NOT CONTEST UP
6 TO 3 ACRE-FEET THAT YOU MIGHT CLAIM, BUT IT DOESN'T
7 CHANGE THE FACT THAT SOMEWHERE AROUND THE LINE THERE
8 STILL HAS TO BE PROOF OF THAT. AND IF LA COUNTY HAS
9 THAT -- THIS CLAIM THAT ALL THESE RIGHTS NEED TO BE
10 ADJUDICATED, I STILL DON'T UNDERSTAND HOW WE GET AROUND
11 THE NECESSARY PARTIES' ISSUES.

12 LA COUNTY NEEDS TO HAVE THOSE PEOPLE IN
13 FRONT OF THE COURT TO LITIGATE THE CORRELATIVE RIGHT AND
14 TO LITIGATE ANY PRESCRIPTIVE CLAIMS THAT THEY HAVE
15 EITHER -- I'M NOT SURE THEY CAN LITIGATE THE
16 PRESCRIPTIVE RIGHT AGAINST THE BASIN AS A WHOLE WITHOUT
17 HAVING THESE PEOPLE HERE OR -- IF -- IF THEY MAKE THE
18 SAME CLAIM AS THEY DID IN SANTA MARIA THAT TURNS INTO A
19 QUANTIFIED RIGHT, THEN -- THEN WOULD ALL THE CLASS
20 MEMBERS SHOW UP HAVE LOST THAT RIGHT? IS THE
21 CORRELATIVE RIGHT DETERMINED WITHOUT THOSE PEOPLE
22 PRESENT?

23 I JUST DON'T UNDERSTAND HOW THIS -- HOW THIS
24 ALL WORKS OUT IN THE END. BUT I DON'T DISAGREE THAT
25 THEY CAN'T SETTLE THEIR CLAIMS, AND I AGREE WITH
26 MR. MCLACHLIN THAT THEIR CLAIM WAS VERY NARROW
27 INITIALLY. AND WHAT IS COMPLICATING THIS SETTLEMENT IS
28 THE -- I THINK IS LA COUNTY TRYING TO CREATE RIGHTS IN

1 THE SETTLEMENT AGREEMENT WHETHER WE ARE TALKING ABOUT
2 THE RIGHT TO ACRE-FEET OR WHETHER WE'RE TALKING ABOUT
3 DOMESTIC PRIORITY WHICH HAS NEVER BEEN LITIGATED WHICH
4 WASN'T LITIGATED IN SANTA MARIA OR ANYWHERE ELSE THAT I
5 CAN SEE ON A -- ON A -- AS AN OVERLYING OWNER AND IN A
6 LITIGATION SUCH AS THIS.

7 SO I -- I -- IT JUST SEEMS TO ME THAT IT
8 CREATES MORE PROBLEMS THAN WE NEED AT THIS POINT IF THEY
9 ARE GOING TO SETTLE SO -- ON THE PRESCRIPTIVE RIGHT
10 CLAIMS.

11 THE COURT: WELL, I DON'T THINK WE NEED TO HAVE
12 THAT DISCUSSION HERE THIS MORNING. BUT I THINK THAT
13 MAYBE IF THE PARTIES WERE TO SIT DOWN AND TALK ABOUT A
14 FRAMEWORK FOR RESOLVING AND GETTING CONCURRENCE WITH AN
15 AGREEMENT, YOU MIGHT WELL NEED TO WORK SOMETHING OUT.
16 AND I KNOW THAT JUSTICE ROBBIE HAS MADE HIMSELF
17 AVAILABLE. I DON'T KNOW IF ANYTHING IS SCHEDULED WITH
18 HIM?

19 MR. DUNN: YES. IT IS NEXT WEEK.

20 THE COURT: WHEN ARE YOU GOING TO SEE HIM,
21 MR. DUNN?

22 MR. DUNN: WE ARE BACK ON THE --

23 MR. ZIMMER: THEY ARE TRYING TO SET THAT UP FOR
24 THE END OF THE MONTH AND (UNINTELLIGIBLE TELEPHONIC
25 TRANSMISSION).

26 MR. WELLEN: IT'S THE LAST WEEK IN JUNE AND THEN
27 THE LAST WEEK IN JULY, YOUR HONOR.

28 THE COURT: SO DO YOU HAVE A FIRM DATE, LAST WEEK

1 IN JUNE?

2 MR. DUNN: WE DO.

3 MR. WELLEN: YES.

4 THE COURT: ALL RIGHT. I AM GOING TO LET JUSTICE
5 ROBBIE KNOW WHAT THE STATUS OF THE CASE IS FROM THIS
6 STANDPOINT. BUT I WOULD CERTAINLY HOPE THAT -- WE ARE
7 AT A POINT IN THIS CASE NOW, IT SEEMS TO ME -- WE HAVE
8 HEARD A LOT OF EVIDENCE. THE COURT IS NOT MAKING ANY
9 KIND OF DETERMINATION CONCERNING PRESCRIPTION.
10 PRESCRIPTION IS AN EXTRAORDINARY COMPLEX ISSUE AS IT IS
11 ARTICULATED IN AND ALLEGED IN THIS CASE.

12 YOU ARE TALKING ABOUT ALL THE ELEMENTS OF
13 PRESCRIPTION THAT WOULD NEED TO BE ESTABLISHED IN ORDER
14 TO CREATE THAT SORT OF A RIGHT.

15 THERE ARE MIXED STATUS OF THE VARIOUS
16 PUMPERS HERE. EVEN THE PURVEYORS SOME OF THEM ARE
17 OVERLYING OWNERS AND SOME ARE NOT AND SOME ARE IN THE
18 CATEGORY OF APPROPRIATORS.

19 IT SEEMS TO ME THAT IF THE PARTIES WOULD
20 FORGET ABOUT -- LET ME REPHRASE THAT. IF THE PARTIES
21 WOULD FOCUS ON HOW TO PROVIDE FOR EVERYBODY'S RIGHTS
22 WITHIN THIS VALLEY INSTEAD OF ATTEMPTING TO BE OVERLY
23 CONCERNED ABOUT HOW YOU GET TO THE ALLOCATION OF THOSE
24 RIGHTS THAT THIS CASE COULD AND SHOULD SETTLE.

25 AND I MEAN TO HANG A HAT ON PRESCRIPTION OR
26 ADVERSE POSSESSION -- AND I'M NOT FORECLOSING THAT, AND
27 I'M NOT GIVING YOU ANY OPINIONS ABOUT HOW THAT IS
28 ULTIMATELY GOING TO COME OUT, BUT I THINK SOMETIMES WE

1 MISS THE FOREST FOR THE TREES OR WE MISS THE TREES FOR
2 THE FOREST. AND I'M NOT SURE WHICH ONE OF THOSE WOULD
3 APPLY.

4 BUT I WOULD CERTAINLY ENCOURAGE GIVEN WHAT
5 WE KNOW ABOUT THE BASIN AT THIS POINT THAT THE PARTIES
6 REDOUBLE THEIR EFFORTS IN GOOD FAITH TO TRY AND MAKE
7 THIS SETTLEMENT FOR THE CLASS WORK AS WELL AS THE OTHER
8 ISSUES THAT NEED TO BE ADDRESSED WITH REGARD TO THE
9 OTHER PARTIES IN THIS LAWSUIT.

10 I DON'T KNOW IF THAT MAKES ANY SENSE TO YOU,
11 BUT THAT IS WHAT I WOULD LIKE TO SEE HAPPEN HERE.

12 UNIDENTIFIED SPEAKER: (UNINTELLIGIBLE ELECTRONIC
13 TRANSMISSION).

14 THE REPORTER: YOUR HONOR, I COULDN'T HEAR THE
15 SPEAKER?

16 THE COURT: KEITH LEMIEUX.

17 THE REPORTER: OKAY. I COULDN'T HEAR THE COMMENT,
18 YOUR HONOR.

19 THE COURT: WELL, ALL RIGHT. YOU HAVE AN
20 OPPORTUNITY IF YOU WISH TO ATTEMPT TO ACHIEVE THOSE
21 OBJECTS.

22 THE REPORTER: I'M SO SORRY, YOUR HONOR, BUT I
23 COULDN'T HEAR WHAT HE SAID. I DIDN'T HEAR WHAT MR.
24 LEMIEUX SAID.

25 THE COURT: HE SAID HE AGREES.

26 THE REPORTER: OH, OKAY.

27 THE COURT: ALL RIGHT.

28 MR. MCLACHLAN: YOUR HONOR?

1 THE COURT: YES, MR. MCLACHLAN.

2 MR. MCLACHLAN: I APOLOGIZE. I HAVE ONE MORE
3 QUICK QUESTION AS I'M SITTING HERE THINKING THROUGH
4 VARIOUS OPTIONS -- AND GRANTED I NEED A LITTLE MORE TIME
5 TO THINK THINGS OVER AND DISCUSS IT OVER WITH MY
6 CO-COUNSEL AND WATER SUPPLIER COUNSEL.

7 AT THE END OF THE PHASE III TRIAL, I RAISED
8 WHAT HAS BEEN THE SORT OF ONGOING PROBLEM WITH MY CLASS
9 SINCE THE BEGINNING, THE ISSUE OF BEING ABLE TO
10 EFFECTIVELY REPRESENT THE CLASS AND ESTABLISH ANY SORT
11 OF PROOF THAT WAS NEEDED IN THE FUTURE PHASES VIS-A-VIS
12 THIS COURT APPOINTED EXPERT.

13 AND WE HAD THOUGHT ABOUT REFILING THAT
14 MOTION AGAIN; AND I RAISED WITH YOUR HONOR, IF YOU
15 RECALL, ON THAT LAST DAY AFTER THE CLOSING ARGUMENTS
16 THESE ISSUES NOT WANTING TO FILE AN UNNECESSARY MOTION
17 AGAIN. BECAUSE I DON'T KNOW -- IT IS PROBABLY FOUR OR
18 FIVE TIMES WE FILED THESE VARIOUS MOTIONS FOR THE EXPERT
19 IN AND -- BUT I AM GETTING THE FEELING FROM THE COURT'S
20 COMMENTS THAT IF CLASS COUNSEL FEELS LIKE THEY CAN STILL
21 STAY IN THIS LITIGATION -- AND I'M NOT SO SURE THAT'S
22 THE CASE.

23 BUT IF THAT IS POSSIBLE, WE MAY HAVE TO
24 REVIEW THAT MOTION, AND THE COURT -- I'M NOT ASKING FOR
25 AN ADVISORY OPINION IN ADVANCE, BUT IT SEEMS TO ME THAT
26 MAYBE THAT MOTION HAS GOT TO BE REFILED AGAIN, AND THIS
27 EXPERT HAS TO START DOING SOMETHING IN TERMS OF
28 ASSESSING THE CLASS'S WATER USE.

1 THE COURT: WELL, YOU KNOW, I CAN'T -- I CAN'T
2 TELL YOU WHAT YOU SHOULD DO. I CAN TELL YOU THAT I
3 THINK THAT YOU SHOULD PARTICIPATE IN THE DISCUSSIONS TO
4 SEE IF THERE CAN BE A GLOBAL SETTLEMENT OF THIS CASE.

5 IT SEEMS TO ME THAT -- THE CASE IS REALLY ON
6 THE VERGE OF A GLOBAL SETTLEMENT, AND I THINK THAT -- IN
7 PARTICULAR AS I LISTEN TO AND READ THE OBJECTIONS THAT
8 WERE MADE BY THE NONSETTLING PARTIES TO THE LANGUAGE IN
9 THE SETTLEMENT AGREEMENT, I REALLY THINK THAT IF YOU ALL
10 WORK AT IT YOU CAN ACCOMPLISH THAT SETTLEMENT AND
11 PROTECT THE RIGHTS OF YOUR CLIENTS IN THAT CLASS.

12 MR. MCLACHLIN: THE QUESTION I WAS DRIVING AT IS,
13 I THINK THAT DECISION DEPENDS UPON WHAT IS TO COME IN
14 TERMS OF THE NEXT PHASE, AND I WAS WONDERING ABOUT WHEN
15 WE ARE GOING TO MAKE A DECISION AS TO WHAT THE NEXT
16 PHASE IS GOING TO BE AND WHEN THAT IS GOING TO OCCUR.

17 WILL THAT OCCUR AT SOME POINT IN THE NEAR
18 FUTURE, A DECISION?

19 THE COURT: WE HAVE A HEARING SCHEDULED FOR THE
20 15TH OF JULY AT 9 O'CLOCK. AND THAT IS A CASE
21 MANAGEMENT CONFERENCE. THAT IS WHAT IT WAS SCHEDULED
22 FOR. I'M GOING TO EXPAND THAT TO PERMIT ARGUMENTS ON
23 THE PROPOSED STATEMENT OF DECISION THAT WAS PROPOUNDED
24 IN RESPONSE TO THE COURT'S REQUEST, AND WE WILL CONSIDER
25 AS WELL AS THE -- ANY OBJECTIONS THAT ARE MADE TO THAT
26 STATEMENT OF DECISION AND REASONS FOR THEM ON THE 15TH.

27 AND SO WHAT I WOULD LIKE TO DO IS JUST
28 ESSENTIALLY BE ABLE TO SET ASIDE THAT ENTIRE DAY AND --

1 IF NEED BE FOR THOSE HEARINGS.

2 NOW IN THE MEANTIME, THERE IS GOING TO BE AN
3 OPPORTUNITY FOR THE PARTIES TO WORK FURTHER ON A GLOBAL
4 RESOLUTION OF THIS CASE, AND I AM HOPEFUL THAT THAT WILL
5 BEAR FRUIT. BUT I'M ALWAYS HOPEFUL.

6 I'LL DO A MINUTE ORDER SO THAT EVERYBODY
7 UNDERSTANDS WHAT THE HEARING WILL BE ON THE 15TH.

8 THERE WERE A COUPLE OTHER THINGS THAT WERE
9 POSTED.

10 MR. DUNN, YOUR OFFICE POSTED A PROPOSED
11 ORDER REGARDING PARTIES' REQUEST TO REJOIN THE WILLIS
12 AND WOOD'S CLASS. I PRESUME THAT WAS A REQUEST MADE TO
13 YOU BECAUSE I -- THERE WAS NO APPLICATION POSTED. IT
14 WAS JUST A REQUEST FOR THE ORDER.

15 MR. DUNN: YES, I APOLOGIZE, YOUR HONOR. THAT
16 CAME FROM MY OFFICE THROUGH MISS HEDLUND, AND I DON'T
17 HAVE A COPY OF THAT WITH ME HERE TODAY.

18 THE COURT: WELL, I HAVE A COPY OF THE PROPOSED
19 ORDER.

20 MR. DUNN: YES.

21 THE COURT: IT SETS OUT A NUMBER OF PARTIES --

22 MR. DUNN: YEAH, I --

23 THE COURT: IF YOU WANT TO JOIN UP.

24 MR. DUNN: I'M SORRY. I MAY HAVE TO DEFER TO
25 MR. MCLACHLAN ON THIS. MY UNDERSTANDING IS THAT IN THE
26 PROCESS OF EVALUATING WHO THE CURRENT ROSTER OF CLASS
27 MEMBERS -- FROM TIME TO TIME WE MAKE THESE APPLICATIONS
28 TO THE COURT TO BRING IT UP TO -- TO BRING IT

1 UP-TO-DATE, AND THAT WAS THE GENESIS FOR THIS PARTICULAR
2 REQUEST. IF IT NEEDS MORE PAPERWORK, I CAN TRACK THAT.

3 THE COURT: I WAS JUST NOT CLEAR AS TO HOW THIS
4 CAME ABOUT.

5 MR. DUNN: AND CANDIDLY WITH THE COURT, I'M
6 PERSONALLY NOT EXACTLY CLEAR MYSELF SO OTHER THAN
7 WHAT --

8 MS. HEDLUND: YOUR HONOR, THIS IS MISS HEDLUND.
9 MAYBE I COULD SHED SOME LIGHT ON THE SUBJECT.

10 THE COURT: GO AHEAD.

11 MS. HEDLUND: THESE PEOPLE WERE INDIVIDUALS WHO
12 HAVE BEEN DEFAULTED. WE HAD PUT IN THE REQUEST TO TAKE
13 THEIR DEFAULT. THEY CONTACTED OUR OFFICE AND ASKED TO
14 REJOIN THE CLASS, OR THEY CONTACTED MISS WALKER AND
15 ASKED FOR INFORMATION TO REJOIN THE CLASS.

16 I SPOKE WITH MISS WALKER, AND SHE SUGGESTED
17 THE BEST WAY TO HANDLE THIS WOULD BE TO DO AN ORDER TO
18 THE COURT, A PROPOSED ORDER, AND HAVE YOU SIGN IT TO
19 REALLOW THESE INDIVIDUALS BACK INTO THE CLASS.

20 THE COURT: ALL RIGHT. BASED ON THAT
21 REPRESENTATION, I WILL APPROVE THE REQUEST TO INCLUDE
22 THESE MEMBERS. THERE IS EXHIBIT A AND EXHIBIT B.
23 EXHIBIT A IS PARTIES WHO WISH TO REJOIN THE WILLIS
24 CLASS, AND EXHIBIT B IS THE WOOD'S CLASS.

25 MR. MCLACHLIN: YOUR HONOR, I WOULD ADD ONE NOTE.
26 I DON'T KNOW IF OF IMPORTANCE; BUT AS I TOLD
27 MISS HEDLUND AFTER I READ THAT ORDER, MR. PIKE WHO IS
28 LISTED ON EXHIBIT B WAS NEVER ON THE CLASS LIST AND

1 NEVER RECEIVED NOTICE.

2 AND SO I -- CLASS COUNSEL DOES NOT HAVE ANY
3 INFORMATION OF HIS ADDRESS, HIS TELEPHONE NUMBER, A
4 PARCEL NUMBER, OR ANYTHING LIKE THAT. SO,
5 THEORETICALLY, IF THERE WERE TO BE A SETTLEMENT IN THE
6 FUTURE, THERE WOULD BE NO WAY TO NOTICE HIM. SO I
7 REALLY THINK WHAT THE COURT SHOULD DO IS ORDER THAT AT
8 LEAST HE FILL OUT THE OPT-BACK-IN FORM WHICH REQUESTS
9 ALL THAT INFORMATION.

10 THE COURT: I THINK THAT IS APPROPRIATE.

11 MR. MCLACHLIN: SO I'M NOT SO SURE I WOULD INCLUDE
12 HIM ON THAT LIST.

13 THE COURT: INCLUDE HIM ON THE LIST BUT PROVIDE
14 THE INFORMATION. MISS HEDLUND, YOU WILL COMMUNICATE
15 THAT TO MR. PIKE, PLEASE.

16 MS. HEDLUND: YES, YOUR HONOR.

17 THE COURT: THANK YOU. AND HE WAS SERVED AS 1745.

18 MR. MCLACHLIN: YEAH, I DIDN'T HAVE ANYTHING TO DO
19 WITH THAT, BUT HE WAS NEVER ON THE LIST OF CLASS
20 NUMBERS.

21 THE COURT: YEAH.

22 MR. MCLACHLIN: PRESUMABLY HE WAS MISSED.

23 THE COURT: OKAY. ALL RIGHT. SO THAT IS -- THAT
24 IS SO ORDERED. AND THERE WAS ANOTHER -- ROSAMOND LAND
25 TRUST REQUEST TO FILE AN ANSWER.

26 MISS HEDLUND, I PRESUME THAT ARE YOU THE
27 PERSON THAT SHOULD ADDRESS THAT?

28 MS. HEDLUND: YES, YOUR HONOR.

1 THE COURT: TELL ME ABOUT IT.

2 MS. HEDLUND: AGAIN, ANOTHER DEFAULT, AND THEY
3 ARE -- CONTACTED OUR OFFICE AND REQUESTED TO FILE AN
4 ANSWER. AND WE SAID WE WOULD FILE THE PROPOSED ORDER
5 SINCE WE WERE FILING THE PROPOSED ORDER FOR THE PEOPLE
6 WHO WANTED TO OPT BACK INTO THE WOOD AND WILLIS CLASSES.

7 THE COURT: ARE THERE OTHER LAWYERS REPRESENTING
8 THAT TRUST?

9 MS. HEDLUND: I BELIEVE SO, YOUR HONOR, BUT I
10 DON'T HAVE THE INFORMATION IN FRONT OF ME TO CONFIRM.

11 THE COURT: WELL, WAS THERE A DEFAULT NOTICED AS
12 TO THAT, AS TO THE TRUST?

13 MS. HEDLUND: YES, THERE WAS A DEFAULT NOTICE.

14 THE COURT: SO YOU ARE GOING TO, WHAT, SET ASIDE,
15 WITHDRAW THAT REQUEST?

16 MS. HEDLUND: AGAIN, YOUR HONOR, I HAVE BEEN
17 WORKING WITH THE CLERK IN LA BECAUSE THEY HAVE TO FILE
18 ALL OF THE PAPERWORK AND HANDLE THE DEFAULT. AND MISS
19 WALKER -- AND SO WE FILED A REQUEST FOR THE DEFAULT.
20 AND SEVERAL OF THE PEOPLE OBVIOUSLY FROM WHAT YOU HAVE
21 SEEN HAVE WANTED TO OPT BACK INTO THE CLASS.

22 SO WE ARE GOING TO REFILE THE NOTICE OF
23 DEFAULT REMOVING THOSE INDIVIDUALS.

24 THE COURT: NO. I'M NOT TALKING ABOUT THEM. I'M
25 TALKING ABOUT THE TRUST. THE ROSAMOND LAND TRUST WHICH
26 APPARENTLY WAS SERVED AS A ROW 548 BY THE
27 CROSS-COMPLAINANT; I GUESS DISTRICT 40 AND OTHERS.

28 MS. HEDLUND: RIGHT. THE DEFAULT HASN'T YET BEEN

1 ENTERED, SO WE WERE JUST GOING TO AMEND THE DEFAULT TO
2 REMOVE THEM. WE CAN --

3 THE COURT: I --

4 MS. HEDLUND: -- CAN'T REALLY SATISFY THE DEFAULT
5 BECAUSE THE LA COURT HASN'T DONE ANYTHING WITH
6 PROCESSING THE DEFAULTS AT THIS POINT IN TIME.

7 THE COURT: ALL RIGHT. SO YOU WANT THEM TO BE
8 ABLE TO FILE AN ANSWER?

9 MS. HEDLUND: YES, PLEASE.

10 THE COURT: ALL RIGHT. SO ORDERED. AND I SIGNED
11 YOUR ORDER.

12 ALL RIGHT. I THINK THAT IS ALL THAT I SEE
13 BEFORE ME.

14 DOES ANYBODY HAVE ANYTHING ELSE?

15 MR. DUNN: I DO, YOUR HONOR. ON THAT HEARING THAT
16 IS SCHEDULED ON THE 15TH AND JUST SPEAKING FOR MYSELF AT
17 THIS POINT, IS THERE ANY POSSIBLE WAY OF MOVING TO AN
18 EARLIER DATE? OR CHANGING THAT DATE SOMEWHAT?

19 THE COURT: WHAT IS THE MOTIVATION FOR THAT
20 EARLIER DATE?

21 MR. DUNN: YEAH, THIS DID NOT GET ON MY CALENDAR
22 AS IT SHOULD HAVE. I JUST NOTICED, AND I HAVE GOT A
23 TRIP PLANNED.

24 MR. WEEKS: YOUR HONOR, THIS IS BRAD WEEKS ON
25 COURT PHONE. THIS WAS ALSO NOT ON MY CALENDAR. I CAN'T
26 FIND IT. AND I WOULD ALSO REQUEST A DIFFERENT DATE.

27 THE COURT: THAT -- BECAUSE THAT WAS AN ORDER THAT
28 I MADE --

1 MR. DUNN: YES, IT WAS.

2 THE COURT: -- AT THE CONCLUSION OF THE HEARING.

3 MR. DUNN: YES, IT WAS.

4 THE COURT: SO THE LAWYERS WHO WERE PRESENT OR
5 SHOULD HAVE BEEN PRESENT WERE AWARE OF IT, AND I'M SURE
6 THAT IT IS IN THE MINUTES. SO WHAT DATE ARE YOU LOOKING
7 AT, MR. DUNN?

8 MR. DUNN: I COULD DO IT ANY DAY EARLIER. I COULD
9 DO IT THE MONDAY, TUESDAY, OR WEDNESDAY OF THAT WEEK.
10 THAT'S THE 11TH, 12TH, OR 13TH OR ANY DAY IN THE
11 PREVIOUSLY WEEK.

12 THE COURT: OKAY. I'M GOING TO HAVE STEP DOWN AND
13 GET MY CALENDAR. SO DON'T GO AWAY. I'LL RETURN.

14

15 (BRIEF PAUSE IN THE PROCEEDINGS)

16

17 THE COURT: I CAN DO IT JULY 11TH. THAT IS A
18 MONDAY. THAT IS NOT THE BEST DAY OF THE WEEK FOR ME TO
19 DO IT FROM MY PERSPECTIVE, BUT I CAN.

20 MR. MCLACHLIN: YOUR HONOR, WHAT TIME WAS -- WILL
21 THIS HEARING BE STARTING?

22 THE COURT: WELL, ON A MONDAY, I WOULD ORDINARILY
23 START IT AT 9:00 UNLESS THERE IS SOME REASON NOT TO.

24 MR. MCLACHLIN: I DON'T KNOW ABOUT ANYBODY ELSE,
25 BUT I HAVE A HEARING ALREADY SET IN ANOTHER COURT,
26 ACTUALLY IN ANOTHER COUNTY, THAT MORNING. BUT, YOU
27 KNOW, IF IT IS POSSIBLE, I WOULD REQUEST THAT THE
28 HEARING START A LITTLE LATER.

1 AND IF I'M THE ONLY ONE AND CLASS COUNSEL
2 ISN'T REALLY NECESSARY -- I MEAN, IT SEEMS LIKE WE KIND
3 OF ARE -- BUT IF WE ARE NOT, THEN I LEAVE IT TO THE
4 COURT TO SET THAT UP. I THINK MR. O'LEARY IS ON
5 VACATION THAT WEEK BUT ...

6 THE COURT: WELL, I CAN SET IT -- I CAN SET IT FOR
7 11:00. WOULD THAT ACCOMMODATE YOU?

8 MR. MCLACHLIN: YEAH, I THINK SO. THE HEARING,
9 UNFORTUNATELY, IS IN RIVERSIDE, BUT YOU KNOW IT COULD BE
10 A LITTLE BIT EARLIER.

11 THE COURT: OKAY. LET'S DO IT AT 11:00. AND AT
12 11:00, WE WILL START OUT WITH THE HEARING ON THE
13 STATEMENT OF DECISION, AND THE OBJECTIONS THERETO. AND
14 THEN WE WILL DO A CASE MANAGEMENT CONFERENCE AND MAYBE
15 EVEN ON THE RECORD SETTLEMENT DISCUSSION.

16 MR. JOYCE: YOUR HONOR?

17 THE COURT: YES.

18 MR. JOYCE: THIS MR. JOYCE FOR DIAMOND FARMING, ET
19 AL.

20 THE COURT: YES, MR. JOYCE.

21 MR. JOYCE: COULD THE COURT INCLUDE THE CHANGE OF
22 DATE IN ITS MINUTE ORDER FOR THIS HEARING TO FACILITATE
23 CALENDAR?

24 THE COURT: I WILL.

25 MR. JOYCE: THANK YOU, YOUR HONOR.

26 THE COURT: ALL RIGHT. ANYBODY ELSE HAVE ANYTHING
27 ELSE?

28 MR. DUNN: NO.

1 THE COURT: ALL RIGHT. WITH THAT IN MIND THEN,
2 HAVE A GOOD WEEK.

3 MR. DUNN: AND YOU, TOO, YOUR HONOR.
4

5 (SEVERAL COUNSEL ON COURT CALL SAY "THANK YOU.")
6

7 THE COURT: THANK YOU.

8 MR. DUNN: THANK YOU VERY MUCH.
9

10 (THE PROCEEDINGS WERE THEN CONCLUDED.)
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SUPERIOR COURT FOR THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

DEPARTMENT NO. 316

HON. JACK KOMAR,

COORDINATION PROCEEDING)
SPECIAL TITLE (RULE 1550B))
ANTELOPE VALLEY GROUNDWATER CASES)
_____))
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. JCCP4408

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

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS.

I, GINGER WELKER, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
TRANSCRIPT DATED JUNE 16, 2011 COMPRISES A FULL, TRUE,
AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
ABOVE ENTITLED CAUSE.

DATED THIS 5TH DAY OF JULY, 2011.

OFFICIAL REPORTER, CSR #5585

PROOF OF SERVICE

ANTELOPE VALLEY GROUNDWATER CASES

Judicial Council Coordination, Proceeding No. 4408

Santa Clara Case No. 1-05-CV 049053

Assigned to the Honorable Jack Komar

Los Angeles County Superior Court, Central, Dept. 1

I am a resident of the State of California, over 18 years of age and not a party to this action. I am employed in the County of Orange, State of California. My business address is 650 Town Center Drive, Suite 550, Costa Mesa, California 92626.

On October 22, 2013, I served the within document(s):

**NOTICE OF LODGING JUNE 16, 2011 REPORTER'S TRANSCRIPT OF PROCEEDINGS
RE PRELIMINARY APPROVAL OF WOOD CLASS SETTLEMENT**

☒ by posting the document(s) listed above to the website <http://www.scefiling.org>, a dedicated link to the Antelope Valley Groundwater Cases; Santa Clara Case No. 1-05-CV 049053, Assigned to the Honorable Jack Komar, said document(s) is electronically served/distributed therewith.

☐ By transmitting via e-mail the document(s) listed above to the e-mail address(es) and/or fax number(s) set forth below on this date.

☐ by placing the document(s) listed above in a sealed Overnight Express envelope/package for overnight delivery at Costa Mesa, California addressed as set forth below.

☐ by causing personal delivery by Nationwide Legal of the document(s) listed above, to the person(s) at the address(es) set forth below.

I am readily familiar with Murphy & Evertz, LLP's practice for collecting and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

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

Executed on October 22, 2013, at Costa Mesa, California.


Stephanie Patis