

STEPHEN T. CLIFFORD
ROBERT D. HARDING
ARNOLD ANCHORDOQUY
PATRICK J. OSBORN
MICHAEL L. O'DELL
GROVER H. WALDON
JOHN R. SZEWCZYK
STEPHEN H. BOYLE†
JAMES B. WIENS
RICHARD G. ZIMMER
CHARLES D. MELTON

JAMES E. BROWN (RETIRED)

† LLM TAXATION

CLIFFORD • BROWN

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

BANK OF AMERICA BUILDING

1430 TRUXTUN AVENUE, SUITE 900

BAKERSFIELD, CALIFORNIA 93301-5230

TELEPHONE NO. (661) 322-6023 • FACSIMILE NO. (661) 322-3508

WWW.CLIFFORD-BROWNLAW.COM

January 14, 2014

T. MARK SMITH
DANIEL T. CLIFFORD
CHRISTOPHER J. HAGAN
WINIFRED THOMSON HOSS
SHELLY S. MAURER
VICTORIA M. TRICHELL
NICHOLAS J. STREET
MARC E. DENISON
JOSEPH A. WERNER
ZACHARY B. YOUNG

OF COUNSEL
ANTHONY L. LEGGIO

KATHY R. SMITH
OFFICE ADMINISTRATOR

2455-2

Via Discovery E-Service

Jeffrey Dunn, Esq.
Christopher Sanders, Esq.
Wayne Lemieux, Esq.
Thomas Bunn, III, Esq.
Steven Orr, Esq.
Douglas J. Evertz, Esq.
Bradley T. Weeks, Esq.
John Tootle, Esq.

Re: Antelope Valley Groundwater Litigation
Santa Clara County Superior Court Case No. 1-05-CV-049053
Judicial Council Coordination Proceeding No. 4408

Dear Counsel:

This correspondence is to advise that Rowena has set a conference with Judge Komar tomorrow morning at 9:00 a.m. related to the dispute regarding the depositions of Peter Leffler, Mark Wildermuth and Joe Scalmanini discussed in our meet and confer correspondence dated January 7, 2014 and January 13, 2014 (attached for convenient review). Please provide your letter responses no later than noon today.

In light of the objections filed and statements by counsel that the witnesses will not be presented for depositions on January 17, 2014 as scheduled, we will reschedule the depositions if appropriate following the meet and confer conference with Judge Komar.

Thank you for your courtesy and attention to this matter.

Very truly yours,


RICHARD G. ZIMMER

RGZ/ash

cc: All Parties

BL/ANTELOPE VALLEY/COUNSEL-25

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January 13, 2014

T. MARK SMITH
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Re: Antelope Valley Groundwater Litigation
Santa Clara County Superior Court Case No. 1-05-CV-049053
Judicial Council Coordination Proceeding No. 4408

Dear Counsel:

The depositions of Peter Leffler, Mark Wildermuth and Joseph Scalmanini were set for January 17, 2014, since it was not clear what work Mr. Leffler, Mr. Wildermuth and Mr. Scalmanini did regarding return flows, if any, or the extent to which your designated experts, Dennis Williams and Robert Beebe, may attempt to rely on any work done by Leffler, Wildermuth and or Scalmanini or the extent to which you would attempt to use work or previous testimony of these witnesses for the Phase 5 trial.

Mr. Sanders advised that he does not believe Mr. Leffler did work on return flows. However, I advised Mr. Sanders that my memory was that Mr. Leffler may have done work on septic tank return flows related to imported water which clearly would be at issue for the Phase 5 trial as to the amount of claimed return flows to which the purveyors may be entitled. Mr. Bunn recently advised that Mr. Wildermuth did no work on return flows.

We are unclear what work Mr. Scalmanini may have done related to return flows. We recognize that Joe has health problems and do not wish to unnecessarily take his deposition. If Joe did no work on return flows or did no work on return flows that you intend to rely on for the Phase 5 trial, we will not need to take his deposition. Likewise, if you do not intend to rely upon any work done by Mr. Leffler or Mr. Wildermuth, we do not need to take their depositions.

Counsel for Public Water Suppliers
Re: Antelope Valley Groundwater Litigation
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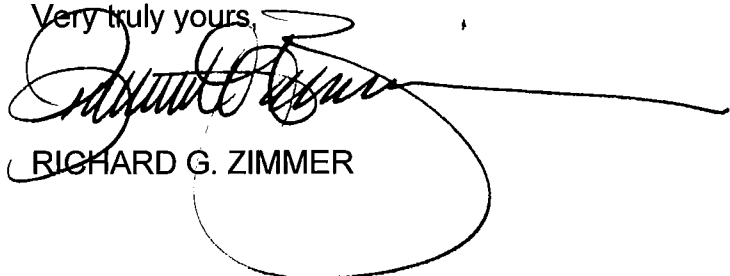
You objected to taking the depositions of Leffler, Wildermuth and Scalmanini based upon the fact that these witnesses were deposed for a prior phase of trial. Given the complexity of this case, the court has exercised its power to "provide for the orderly conduct of the proceedings" and to "amend and control its process and orders" pursuant to CCP section 128 as well as its implied powers pursuant to CCP section 187, to conduct the litigation in phases set to decide discrete issues. Taking depositions of expert witnesses on all matters related to the litigation in one deposition would have been confusing and would not have been possible since all issues were not known nor fully discovered at the time previous depositions were taken. In fact, depositions were not taken on all issues, but rather, taken related to the then upcoming phase of trial. Accordingly, it is clear that in this this multi-phased complex litigation ordered by the court, that to the extent experts conduct work which may be relied upon in a subsequent phase of trial, that such experts must be available for deposition for the subsequent phase of trial.

The Phase 5 trial was set specifically to litigate purveyor claims to return flows and the Federal Reserved Right. LA County and the San District both objected to the deposition of Peter Leffler related to return flows leading up to the Phase 3 trial on the safe yield, based upon the argument that return flows were not at issue in the phase 3 trial. Return flows also were not at issue in the Phase 4 trial. Since the Phase 5 trial is specifically set to litigate the purveyor return flow claims, depositions of experts related to return flows are now appropriate.

If you continue to assert that leave of court is necessary to conduct these depositions, we will proceed with a conference with Judge Komar to allow these depositions. We would like to avoid bothering Judge Komar with this issue. If you simply confirm that you will not be relying on any work conducted by the experts for the Phase 5 trial, the depositions will not be necessary. Please confirm your position today given the fact that the depositions were timely set for Friday January 17, 2014.

We appreciate your courtesy and attention to this matter. We look forward to your reply.

Very truly yours,



RICHARD G. ZIMMER

RGZ/ash

cc: All Parties

BL/ANTELOPE VALLEY/COUNSEL-21

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OF COUNSEL
ANTHONY L. LEGGIO

KATHY R. SMITH
OFFICE ADMINISTRATOR

January 7, 2014

2455-2

Via Discovery E-Service

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Re: Antelope Valley Groundwater Litigation
Santa Clara County Superior Court Case No. 1-05-CV-049053
Judicial Council Coordination Proceeding No. 4408

Dear Counsel:

As you know, we set the depositions of experts Scalmanini, Wildermuth and Leffler who each participated in preparation of the Summary Expert Report. We noticed these depositions because your Phase 5 designated experts, Williams and Beebee, may attempt to rely upon the opinions and/or work of these experts for purposes of the Phase 5 trial on return flows. Additionally, you may attempt to rely upon the work and/or opinions of these experts for use at the Phase 5 trial. We objected to use of hearsay evidence of experts at the Phase 3 trial and have continuously objected to later attempts by you to use this hearsay evidence. If you are intending to use the work and/or opinions of Scalmanini, Williams and/or Beeby for the Phase 5 trial on the issue of return flows, we are entitled to take their depositions on matters related to return flows.

We set the depositions on January 17th so they would follow the depositions of experts Beeby and Williams. In this way, we can determine whether experts Beeby and/or Williams will be relying upon foundational work or opinions of Scalmanini, Wildermuth or Leffler. If Williams and Beebee are not relying upon the work and/or opinions of others and if you will not be offering evidence of the work and/or opinions of

Counsel for Public Water Suppliers
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experts other than Williams and Beebee in the Phase 5 trial, we can take the depositions off calendar.

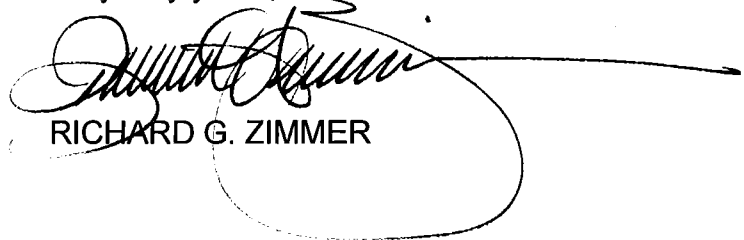
I received a telephone call from Tom Bunn advising that he did not believe the depositions were appropriate since they are not designated experts. We agreed to disagree. Our position is that if the current experts will be relying on work of the previous experts, or upon previous expert opinions, or if the purveyors seek to rely upon opinions or work of these experts for the Phase 5 trial, then we are entitled to take their depositions. Chris Sanders also sent an objection to the deposition of expert Leffler. We are not entirely clear on exactly what each of these experts did in terms of evaluation or work related to return flows which is at issue in the Phase 5 trial. If they did no work which will be relied upon for the Phase 5 trial on return flows, they may not need to be deposed, but this will need to be confirmed.

We are willing to adjust the deposition days to dates that are convenient to each of the experts and our calendars and in a way that they are not taken too close to trial.

Given the objection by Mr. Sanders and Mr. Bunn's comments which suggest a likely objection to these depositions, this correspondence is meant as a meet and confer communication in an attempt to resolve how to proceed. Hopefully we can avoid unnecessarily involving Judge Komar.

Thank you for your courtesy and consideration of this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Richard G. Zimmer", is written over a large, loopy circular flourish. The signature is positioned above the printed name "RICHARD G. ZIMMER".

RICHARD G. ZIMMER

RGZ/ash

cc: All Parties

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