

EXHIBIT “A”

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

DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

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

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, JUNE 14, 2010

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(SEE APPEARANCE PAGES)

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* * *

1 LOS ANGELES, CALIFORNIA; MONDAY, JUNE 14, 2010

2 9:10 A.M.

3 DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

4 THE COURT: GOOD MORNING, EVERYBODY. THIS IS THE CASE
5 MANAGEMENT CONFERENCE AND HEARING ON A NOTICED MOTION IN THE
6 ANTELOPE VALLEY CASE. I'M ASSUMING ALL COUNSEL HAS CHECKED
7 IN WITH THE CLERK, AND SO WE ARE NOT GOING TO ASK YOU THAT
8 AGAIN. ONE THING I WILL ASK YOU TO DO IS PLEASE AS YOU SPEAK
9 IDENTIFY YOURSELF BY NAME, AND WE'LL PROCEED IN THAT FASHION.

10 THERE ARE ESSENTIALLY TWO THINGS THAT I WANT TO
11 TAKE UP HERE THIS MORNING. ONE IS THE MOTION NOTIFICATION OF
12 TRANSFEREES AND OBTAINING JURISDICTION. THAT WAS FROM THE
13 ORIGINAL PROPOSED MOTION THAT WAS FILED BY TEJON IN 2008.
14 AND I'D LIKE AN UPDATE WITH REGARD TO SOME OF THE ISSUES THAT
15 HAVE BEEN BROUGHT TO MY ATTENTION WITH REGARD TO JUSTICE
16 ROBIE.

17 SO LET'S FIRST TALK ABOUT THE PROPOSED ORDER AND
18 JURISDICTION. I HAVE READ EVERYBODY'S OPPOSITION AS WELL AS
19 THE REPLY AND THE RESPONSE TO THE REPLY THAT A COUPLE OF YOU
20 HAVE FILED. IS THERE ANYTHING NEW THAT ANYBODY WANTS TO
21 ADDRESS AT THIS POINT?

22 ALL RIGHT. HEARING NONE, LET ME JUST MAKE AN
23 OBSERVATION ABOUT THIS.

24 WITH REGARD TO THE ORIGINAL PROPOSED ORDER, IT
25 MAKES SENSE TO ME THAT THAT ORDER BE MODIFIED AND SIGNED.
26 THE ONLY ISSUE THAT I'M CONCERNED ABOUT WITH REGARD TO THAT
27 IS FIRST OF ALL, INCLUDING THE REQUIREMENT THAT THE
28 CROSS-COMPLAINANT SHOULD THEN BE SERVED UPON ANY TRANSFER AND

1 NOTICE, BUT SECONDLY, THE CLASS MEMBERS.

2 AND IT DOES SEEM TO ME THAT GIVEN THE STATE OF
3 FLUX WITH REGARD TO THE SETTLEMENT OR SETTLEMENTS OF THE
4 CLASS MEMBERS, I REALLY DON'T WANT TO MAKE AN ORDER
5 CONCERNING TRANSFEREES AT THIS POINT WITH REGARD TO THE CLASS
6 MEMBERS.

7 AND RECOGNIZING THAT, UNDOUBTEDLY, IN PARTICULAR
8 WITH REGARD TO THE NUMBERS OF DORMANT CLASS MEMBERS
9 UNDOUBTEDLY HAVE BEEN TRANSFERRED AND PROBABLY A SIGNIFICANT
10 NUMBER OF THEM, THOSE PEOPLE MAY WELL BE CLASSIFIED FOR
11 PURPOSES OF THIS ADJUDICATION AS DE MINIMUS INsofar AS THE
12 MCCARRAN ACT AND OTHER ISSUES THAT ARE CONCERNS.

13 SO AT THIS POINT, I WANT TO RESERVE MAKING ANY
14 ORDERS CONCERNING THOSE CLASS MEMBERS AND NOTIFICATION TO
15 TRANSFEREES.

16 IN TERMS OF THE WOOD CLASS, HOW MANY ROUGHLY DO
17 WE BELIEVE ARE MEMBERS OF THAT CLASS?

18 MR. MCLACHLAN, ARE YOU ON THE LINE?

19 MR. MCLACHLIN: YES, YOUR HONOR. THIS IS MIKE
20 MCLACHLAN SPEAKING. I JUST RECENTLY, I THINK ACTUALLY ON
21 FRIDAY RECEIVED FROM BEST, BEST & KRIEGER THE DOWNLOADED
22 DATABASE WE HAVE. THAT SHOULD BE FINE. MY PARALEGAL'S
23 OFFICE IS ANALYZING THAT TO FIGURE OUT THE EXACT NUMBER.
24 THERE IS QUITE A BIT OF WORK TO BE DONE TO BE ABLE TO WEED
25 OUT PEOPLE THAT EXCLUDED THEMSELVES FROM THE CLASS.

26 SO I DON'T KNOW. ROUGHLY, IT'S SOMEWHERE
27 BETWEEN 4,000 AND 5,000. THE EXACT NUMBER I CAN'T TELL YOU.
28 AND I PROBABLY WON'T BE ABLE TO TELL YOU FOR PROBABLY FIVE OR

1 SIX DAYS, I GUESS.

2 THE COURT: OKAY. I AM ASSUMING THAT THOSE PEOPLE
3 THAT EXCLUDED THEMSELVES FROM THAT CLASS HAVE BEEN SERVED?

4 MR. MCLACHLAN: MY UNDERSTANDING IS MOST OF THEM HAVE
5 BEEN, ALTHOUGH WE WILL KNOW THE EXACT ANSWER TO THAT WHEN WE
6 GO TO THE DATABASE. AND AFTER I HAVE LOOKED THROUGH THE
7 THING MYSELF, I FIND A PILE OF DECLARATIONS SETTING FORTH THE
8 INFORMATION RELATIVE TO SERVICE AND WHO'S IN THE CLASS
9 NUMBERS AND SO FORTH AFTER, OF COURSE, I DISCUSS WITH BEST,
10 BEST & KRIEGER TO MAKE SURE THAT WE DON'T HAVE ANY GLITCHES.

11 THE COURT: YEAH, OKAY. ALL RIGHT. WELL, MY
12 TENTATIVE DECISION HERE IS TO SIGN AN ORDER THAT IS
13 ESSENTIALLY THE ORDER THAT WAS FILED BY TEJON, PROPOSED BY
14 TEJON IN 2008, EXCLUDING AND RESERVING THE ISSUE AS TO CLASS
15 MEMBERS AND NOTIFICATION OF CLASS MEMBERS, TRANSFEREES AND
16 SERVICE AS TO THOSE PEOPLE.

17 AGAIN, I THINK THERE IS A DIFFERENCE BETWEEN THE
18 LOWEST CLASS AND THE WOOD CLASS IN THAT REGARD IN TERMS OF
19 OUR ABILITY TO DO A PROPER AND COMPREHENSIVE ADJUDICATION.

20 ALL RIGHT. SO THAT'S MY TENTATIVE. AND I AM
21 GOING TO ASK MR. DUNN, ARE YOU ON THE LINE?

22 MR. DUNN: YES, I AM, YOUR HONOR.

23 THE COURT: I'M NOT SURE WHICH OF THE LAWYERS PREPARED
24 YOUR RESPONSE. BUT WHAT I WOULD LIKE YOU TO DO IS TO GO BACK
25 TO THE TEJON PROPOSED ORDER AND ESSENTIALLY, YOU CAN
26 ELIMINATE ALL OF THE PRELIMINARY LANGUAGE DEALING WITH
27 DISCUSSIONS AND SO ON, AND ESSENTIALLY, IN THE LANGUAGE OF
28 THE COURT FIND GOOD CAUSE AND ESSENTIALLY ADOPT THE LANGUAGE

1 FROM THAT ORDER, EXCLUDING CLASS MEMBERS.

2 MR. DUNN: YES, YOUR HONOR.

3 THE COURT: IF YOU CAN GET THAT AND POST IT WITHIN THE
4 NEXT FIVE DAYS, THEN I WILL SIGN IT.

5 MR. DUNN: YES.

6 THE COURT: ALL RIGHT. NOW --

7 MR. DUBOIS: YOUR HONOR, THIS IS MR. DUBOIS. ARE THE
8 REST OF THE PARTICIPANTS GOING TO HAVE AN OPPORTUNITY TO SEE
9 THAT PROPOSED REVISED ORDER BEFORE IT ACTUALLY GETS SIGNED
10 AND GOES FINAL?

11 THE COURT: YOU'LL SEE IT WHEN I SEE IT. AND I'LL
12 WAIT A COUPLE OF DAYS BEFORE I SIGN IT.

13 MR. DUBOIS: THANK YOU, YOUR HONOR.

14 THE COURT: OKAY.

15 MR. KUNEY: YOUR HONOR, THIS IS SCOTT KUNEY.

16 THE COURT: YES.

17 MR. KUNEY: I APPRECIATE THAT, YOUR HONOR. IF I
18 UNDERSTAND YOU CORRECTLY, BACK IN THE ORIGINAL TEJON ORDER,
19 THE 7TH PARAGRAPH HAD EXPRESSED DIRECTIVES THAT THEY WOULD
20 PROMPTLY SERVE THE CROSS-COMPLAINT ON THESE TRANSFEREES. AND
21 IT IS THAT LANGUAGE THAT YOU ARE REINSTATING AS COMPARED TO
22 THE CURRENT PROPOSAL?

23 THE COURT: YES.

24 MR. KUNEY: THANK YOU. AND THEN WHAT DO WE DO -- THIS
25 WILL BE A GOING FORWARD ORDER, OF COURSE, TO AFFECT AND
26 NOTIFY PEOPLE. BUT WHAT DO WE DO ABOUT THE HIATUS THAT HAS
27 OCCURRED THIS LAST YEAR AND A HALF WITH TRANSFEREES? AND WE
28 PRESENTED TO THE COURT EVIDENCE THAT OBVIOUSLY, THERE HAVE

1 BEEN SUBSTANTIAL TRANSFERS. HOW ARE WE GOING TO RECTIFY THAT
2 DEFICIENCY IN OUR JURISDICTION?

3 THE COURT: HOW WOULD YOU LIKE TO RECTIFY IT?

4 MR. KUNEY: I THINK IT IS THE COUNTY'S OBLIGATION TO
5 IDENTIFY THOSE PARTIES AND TO SERVE THEM. THEY HAVE TO
6 RECEIVE SERVICE OF THE COMPLAINT.

7 THE COURT: LET ME ASK YOU THIS, MR. KUNEY. ALL OF
8 THOSE PEOPLE THAT YOU ARE TALKING ABOUT FOR THE MOST PART ARE
9 REPRESENTED BY COUNSEL IN THIS PROCEEDING. THOSE ARE THE
10 PEOPLE WE'RE TALKING ABOUT BECAUSE IT SEEMS TO ME WITH THE
11 EXCEPTION OF A COUPLE THAT HAVE FALLEN THROUGH THE CRACKS,
12 THERE HAS BEEN SERVICE ON VIRTUALLY ALL OF THE SIGNIFICANT
13 LAND OWNERS IN THE VALLEY. AND MOST OF THOSE PEOPLE, ONCE
14 THEY HAVE BEEN SERVED, HAVE FILED AN ANSWER THROUGH COUNSEL,
15 PARTICULARLY I'M TALKING ABOUT SIGNIFICANT PARCELS OF LAND.

16 AND I'M ASSUMING THAT IF COUNSEL REPRESENTS A
17 PARTY WHO HAS TRANSFERRED THE PROPERTY, SO THAT THEY ARE NO
18 LONGER A PARTY TO THIS LAWSUIT, COUNSEL WOULD BE UNDER SOME
19 OBLIGATION TO NOTIFY THE COURT; IS THAT CORRECT?

20 MR. KUNEY: I DON'T KNOW IF THAT'S CORRECT OR NOT.
21 BUT I MEAN --

22 THE COURT: WELL, AS AN OFFICER OF THE COURT, DON'T
23 YOU THINK THAT COUNSEL HAS AN OBLIGATION TO NOTIFY THE COURT
24 WHEN THE PARTIES THEY REPRESENT ARE NO LONGER INTERESTED IN
25 THE LAWSUIT?

26 MR. FIFE: MICHAEL FIFE, YOUR HONOR. IF I CAN COMMENT
27 ON THAT?

28 THE COURT: I WANT MR. KUNEY TO COMMENT ON IT FIRST.

1 MR. KUNEY: WELL, I DON'T KNOW THAT THAT'S BEEN THE
2 CASE. I HAVE NEVER SEEN IN THIS PROCEEDING ANY SUCH
3 NOTIFICATION BY ANY COUNSEL IN THIS CASE OF THAT KIND OF A
4 NOTIFICATION, YOUR HONOR. SO I'M NOT CERTAIN OF THAT.

5 THE COURT: WELL, I HAVEN'T EITHER. AND THAT'S WHY
6 I'M ASSUMING THAT THERE HAS BEEN NO SUCH REMOVAL.

7 MR. FIFE, YOU WANT TO SAY SOMETHING?

8 MR. FIFE: YES, YOUR HONOR. I REPRESENT A NUMBER OF
9 LARGE LAND OWNERS WHO OWN MULTIPLE PARCELS OF PROPERTY. AND
10 OVER THE COURSE OF THE PAST COUPLE YEARS, MANY OF THEM HAVE
11 SOLD PORTIONS OF THEIR PROPERTY TO OTHER PEOPLE. THEY ARE
12 STILL PARTIES TO THIS CASE. THEY STILL OWN PROPERTY. THEY
13 ARE STILL MY CLIENTS. BUT THERE ARE NOW OTHER PEOPLE WHO ARE
14 PROPERTY OWNERS WHO OWN PROPERTY WHERE WATER PRODUCTION HAS
15 OCCURRED AND IS CONTINUING TO OCCUR WHO ARE NOT PARTIES TO
16 THE CASE.

17 AND I NOTICE THAT THAT'S THE CASE WITH SOME OF
18 MY CLIENTS. AND I BELIEVE THAT THAT'S THE CASE WITH OTHER
19 LAND OWNERS WHO ARE NOT MY CLIENTS. SO JUST BECAUSE THERE
20 HAS BEEN A TRANSFER AND THERE ARE NOW PARTIES OUT THERE WHO
21 ARE NOT PARTIES TO THIS CASE, THAT WOULDN'T NECESSARILY
22 APPEAR IN THE FORM OF AN ATTORNEY WITHDRAWING FROM THE CASE
23 BECAUSE THEIR CLIENT IS NO LONGER --

24 THE COURT: NOT TALKING ABOUT NECESSARILY WITHDRAWING.
25 BUT WHEN YOUR REPRESENTATION CHANGES AND THERE ARE NEW
26 PARTIES INVOLVED IN A LAWSUIT, IT SEEMS TO ME THAT FIRST OF
27 ALL, THE TRANSFEROR OF THE PROPERTY, THE GRANTOR IS UNDER
28 SOME OBLIGATION TO NOTIFY THE BUYER OF ANY SUCH PROPERTY.

1 AND CERTAINLY, I THINK COUNSEL, AS AN OFFICER OF
2 THE COURT PROBABLY OUGHT TO NOTIFY THE COURT OR AT LEAST THE
3 OTHER PARTIES THAT THERE HAS BEEN THE ELIMINATION OF SOME OF
4 THE PROPERTY. HOW ABOUT IF I MAKE AN ORDER THAT DO YOU THAT?

5 MR. FIFE: WELL, UNTIL THE FINDING OF THE COURT'S
6 ORDERS TODAY, AND I THINK IT IS THE SUBSTANCE OF MR. KUNEY'S
7 QUESTIONS, GOING FORWARD NOW, THAT'S THE CASE. BUT
8 PREVIOUSLY, THAT'S NOT BEEN THE CASE.

9 AND THERE HAVE BEEN A NUMBER OF VERY LARGE LAND
10 TRANSACTIONS, NOT ALL FROM MY CLIENTS, BUT FROM OTHER LAND
11 OWNERS SO THAT THERE ARE NOW VERY LARGE LAND OWNERS OUT THERE
12 WHO HAVE NOT BEEN MADE PARTIES TO THIS CASE.

13 THE COURT: WELL, THEY NEED TO BE, DON'T THEY?

14 MR. FIFE: I BELIEVE SO. AND I THINK MR. KUNEY HAS
15 IDENTIFIED SOME OF THOSE. IN OUR PLEADINGS, I BELIEVE MARCH
16 15TH, WE PROVIDED ANECDOTAL EVIDENCE OF SEVERAL LARGE SOLAR
17 PROJECTS, FOR EXAMPLE.

18 THE COURT: THOSE HAVE SUBSEQUENTLY BEEN SERVED, AS I
19 UNDERSTAND IT, BASED UPON THE DECLARATION OF THE
20 CROSS-COMPLAINANT.

21 ALL RIGHT. I THINK THAT YOU'VE RAISED A GOOD
22 POINT. I THINK THERE IS AN ISSUE THAT WE NEED TO ADDRESS BY
23 COURT ORDER. AND WHAT I'M GOING TO DO IS INQUIRE OF EACH
24 COUNSEL WHO REPRESENTS A LAND OWNER WHO HAS TRANSFERRED
25 PROPERTY TO A THIRD PARTY WHO IS NOT A PARTY TO THIS
26 LITIGATION TO FIRST OF ALL, POST NOTICE OF THAT TRANSFER.
27 AND I'M GOING TO DIRECT THAT THE CROSS-COMPLAINANT SERVE EACH
28 PARTY.

1 MR. DUBOIS: YOUR HONOR, I ASSUME THAT THIS ADDITIONAL
2 PROVISIO WILL BE INCLUDED IN THE PROPOSED ORDER?

3 THE COURT: YES.

4 MR. DUBOIS: THANK YOU.

5 MR. ZIMMER: RICHARD ZIMMER, YOUR HONOR.

6 THE COURT: YES, MR. ZIMMER.

7 MR. ZIMMER: I THINK PART OF THE PROBLEM, AT LEAST
8 FROM MY PERSPECTIVE, IS I'M NOT SURE ANYBODY REALLY KNOWS WHO
9 IS NOT INCLUDED. THE COURT MADE THE COMMENT EARLIER THAT YOU
10 THINK THAT ALL SIGNIFICANT PARTIES ARE IN THE CASE AND
11 THEREFORE, THE LAWYERS WOULD KNOW IF THEIR PROPERTY HAS BEEN
12 TRANSFERRED.

13 BUT I HAD ASKED SOMETIME AGO IF THE SUPPLIERS OR
14 THE COUNTY SPECIFICALLY WOULD PROVIDE AN INDICATION OF WHO
15 HASN'T BEEN SERVED, HOW MANY PIECES OF PROPERTY ARE THERE OUT
16 THERE AND WHO HASN'T BEEN SERVED.

17 THE COURT ALSO MADE THE COMMENT THAT ANYBODY
18 WITH ANY SIGNIFICANT INTEREST HAS BEEN SERVEDM AND THAT
19 DE MINIMUS PEOPLE MAY EXIST OUT THERE. BUT THE PROBLEM IS NO
20 ONE, I DON'T THINK ANYONE REALLY KNOWS WHO HASN'T BEEN
21 SERVED.

22 I HAVEN'T SEEN ANYTHING FROM THE COUNTY THAT
23 INDICATES HOW MANY PIECES OF PROPERTY THERE ARE OUT THERE,
24 HOW MANY PEOPLE OWN THOSE PROPERTIES, AND HOW MANY OF THOSE
25 PEOPLE HAVE BEEN SERVED WHO ARE EITHER IN THE CLASS OR HAVE
26 BEEN SERVED INDEPENDENTLY. AND I JUST DON'T THINK WE HAVE
27 ANY IDEA OF WHO HASN'T BEEN SERVED. THAT'S JUST A
28 FUNDAMENTAL PROBLEM.

1 THE COURT: WELL, THE QUESTION OBVIOUSLY AROSE VERY
2 EARLY ON IN THIS LITIGATION AND INDICATED THAT WE RECEIVED
3 INFORMATION FROM THE CROSS-COMPLAINANTS REPRESENTING TO THE
4 COURT THAT THEY BELIEVE THAT THEY HAVE IDENTIFIED AND SERVED
5 EVERY SIGNIFICANT WATER PRODUCER IN THE VALLEY.

6 NOW IF SOMEBODY HAS EVIDENCE TO THE CONTRARY, IT
7 SEEMS TO ME THAT THE BURDEN SHIFTS AT THAT POINT. AND I'D
8 LIKE TO HEAR IF THERE ARE PEOPLE WHO ARE SIGNIFICANT WATER
9 PRODUCERS WHO HAVE NOT BEEN SERVED.

10 YOU TRIED, WE TRIED TO MAKE IT DOWN SO THAT WE
11 HAVE A COMPREHENSIVE ADJUDICATION, VIRTUALLY, AND I SAY
12 VIRTUALLY BECAUSE YOU ARE NEVER GOING TO BE 100 PERCENT.
13 WE'VE GOT THE DORMANT CLASS, AT SOME POINT WE THOUGHT MIGHT
14 HAVE TO BE THE INCENTIVE CLASS. BUT WE HAVE THE GOOD FORTUNE
15 OF MISS WILLIS OR COUNSEL INITIATING THAT CLASS REPRESENTING
16 ALL OF THOSE PEOPLE.

17 MR. MCLACHLAN HAS INITIATED CLASS ACTION ON
18 BEHALF OF THE SMALL CLASS. AND I AM ASSUMING THAT EVERYBODY
19 ESSENTIALLY ABOVE THAT LEVEL HAS NOW BEEN SERVED AS AN
20 INDIVIDUAL DEFENDANT. THOSE PEOPLE WHO DECIDED THAT THEY
21 WANTED TO OPT OUT OF THE CLASS, I'M ASSUMING BASED UPON THE
22 INFORMATION THAT'S PROVIDED TO THE COURT, WERE SERVED. AND A
23 NUMBER OF THEM DECIDED TO OPT BACK INTO THE CLASS.

24 AND SO IT SEEMS TO ME AT THIS POINT THAT ABSENT
25 SOME EVIDENCE, FOR EXAMPLE, AS PROVIDED TO THE COURT,
26 VIRTUALLY EVERYBODY WHO SHOULD HAVE BEEN SERVED IS IN THE
27 LITIGATION. AND THOSE THAT MR. KUNEY INDICATED HAVE NOT BEEN
28 SERVED HAVE NOW BEEN SERVED.

1 MR. ZIMMER: YOUR HONOR, ONE MORE COMMENT. WHEN YOU
2 SAY THAT EVERYONE THAT IS SIGNIFICANT HAS BEEN NAMED AND
3 SERVED, I DON'T THINK -- EVEN IF THE COUNTY DID DO A
4 DECLARATION THAT SAID ANYONE WHO IS SIGNIFICANT HAS BEEN
5 NAMED AND SERVED, IT WOULDN'T MEAN ANYTHING. WHAT'S
6 SIGNIFICANT? WHAT'S DE MINIMUS?

7 I HAVEN'T SEEN ANYTHING FROM THE COUNTY
8 INDICATING HOW MANY LAND OWNERS ARE OUT THERE AND WHAT THE
9 PERCENTAGE IS OF THOSE THAT THEY SERVED, AND IF THEY ARE
10 EXCLUDING THEM, WHETHER THEY ARE EXCLUDING THEM BASED UPON A
11 CERTAIN AMOUNT OF PUMPING OR A CERTAIN AMOUNT OF ACREAGE.

12 I DO RECALL WHEN THIS ISSUE FIRST CAME UP THAT
13 THE LAND OWNERS WERE PRESENTED WITH THE OPPORTUNITY TO DO
14 DISCOVERY TO FIND OUT HOW MANY LAND OWNERS ARE THERE, HOW
15 MANY HAVE YOU SERVED, HAVE YOU MADE ANY EXCLUSIONS. AND THAT
16 DISCOVERY WAS NEVER ALLOWED. AND WE KEEP GETTING AROUND IT,
17 SO THESE BIG DECLARATIONS.

18 BUT THERE HAS NEVER BEEN -- I MEAN CERTAINLY A
19 LOT OF LAND OWNERS HAVE BEEN SERVED, THERE IS NO QUESTION.
20 BUT WE HAVE NO IDEA WHAT THAT IS PERCENTAGE-WISE TO THE WHOLE
21 BASIN. WE HAVE NO IDEA WHAT THAT BEARS ON IN TERMS OF THEIR
22 WATER USAGE OR ACREAGE IN COMPARISON TO THE WHOLE BASIN.

23 THE COURT: I THINK COUNSEL MADE REPRESENTATIONS TO
24 THE COURT ABOUT WHO HAS BEEN SERVED AND CATEGORIES OF THE
25 PARTIES WHO HAVE BEEN SERVED. AND IF THERE IS CONTRARY
26 EVIDENCE, THAT NEEDS TO BE PRODUCED TO THE COURT.

27 AS I INDICATED, MR. KUNEY DID PROVIDE SOME.
28 BOTH BLANKS WERE FILLED IN, I THINK, OF THE PARTIES SERVED.

1 AND I THINK THAT I'M SATISFIED THAT WE HAVE A SUFFICIENT
2 NUMBER OF PARTIES TO DO A VERY COMPREHENSIVE ADJUDICATION IN
3 THIS MATTER. SO I'M NOT GOING TO MAKE FURTHER ORDERS BEYOND
4 WHAT I'VE JUST INDICATED.

5 MR. KUNEY: YOUR HONOR, THIS IS SCOTT KUNEY AGAIN, AND
6 I APPRECIATE THIS. WHAT WE WERE ABLE TO DO IS IDENTIFY FOUR
7 LAND OWNERS THAT WE WERE AWARE OF IN THE COURSE OF OUR
8 BUSINESS, AND IT AMOUNTED TO OVER 5,000 ACRES. BUT I CAN'T
9 REPRESENT TO THE COURT THAT THOSE ARE THE ONLY FOUR. THOSE
10 ARE SIMPLY THE FOUR THAT I KNEW OF.

11 BUT I THINK IT IS INDICATIVE OF THE PROBLEM THAT
12 SOME OF THESE WERE TRANSFEREES. BUT THE MAJORITY OF THAT
13 ACREAGE WAS NOT THE SUBJECT OF TRANSFEREES. SO I THINK IT IS
14 EVIDENCE INDICATING THAT THERE IS DEFICIENCY IN THE SERVICE,
15 NOTWITHSTANDING THE GOOD FAITH EFFORTS AND REPRESENTATIONS OF
16 THE COUNTY'S COUNSEL.

17 AND IT REALLY IS INCUMBENT ON THE COUNTY TO
18 IDENTIFY WITH SOME CERTAINTY THAT THEY HAVE, IN FACT, SERVED
19 EVERYONE THAT IS NECESSARY FOR THIS PROCEEDING. AND WE JUST
20 HAVEN'T RECEIVED, AND WE HAVE NO WAY OF VERIFYING THE ACTUAL
21 SERVICE OF THE OTHER PARTIES. AND I THINK THAT'S --

22 THE COURT: AS I INDICATED, MR. KUNEY, I'M NOT GOING
23 TO MAKE ANY FURTHER ORDERS CONCERNING THAT AT THIS TIME. NOW
24 WE'VE HAD VARIOUS INDICATIONS THAT THERE ARE SETTLEMENT
25 CONFERENCES GOING FORWARD, THAT THERE IS A MEDIATOR WHO IS
26 ASSISTING THE PARTIES. AND BASED UPON THOSE REPRESENTATIONS
27 AND THE REPRESENTATION THAT THERE WAS SOME VERY GREAT
28 LIKELIHOOD OF SUCCESSFUL SETTLEMENT NEGOTIATIONS, I'VE

1 MODIFIED THE CASE MANAGEMENT ORDER REGARDING THE DISCLOSURES
2 AND SO ON AT THAT HEARING.

3 AND I'D LIKE TO KNOW IF THOSE SETTLEMENT
4 NEGOTIATIONS ARE STILL GOING ON, NUMBER ONE. NUMBER TWO, I
5 DID AUTHORIZE JUSTICE ROBIE TO ENGAGE IN FURTHER MEDIATION
6 AND SETTLEMENT DISCUSSIONS WITH -- I'M ASSUMING IT WAS THE
7 CLASS MEMBERS OR THE CLASS COUNSEL THAT ASKED FOR THAT
8 SETTLEMENT.

9 AND THEN I WAS INFORMED BY JUSTICE ROBIE THAT
10 THERE WAS ANOTHER INQUIRY CONCERNING THE POTENTIAL OF
11 EXPANDING HIS ROLE IN BEYOND JUST THE CLASS MEMBERS. HIS
12 CONCERN IS THAT IF THERE IS ANOTHER MEDIATION GOING ON, HE
13 DOESN'T WANT TO DO ANYTHING THAT WOULD IMPACT ON THAT UNTIL
14 THAT MEDIATION HAS BEEN CONCLUDED SUCCESSFULLY OR OTHERWISE.

15 SO MAYBE COUNSEL CAN ADVISE THE COURT AS TO
16 WHAT'S GOING ON IN THAT REGARD.

17 MR. ZLOTNICK: YOUR HONOR, THIS IS DAVID ZLOTNICK. AS
18 CLASS COUNSEL, I HAVE BEEN PARTICIPATING IN THAT WHAT'S KNOWN
19 AS THE WALDO MEDIATION PROCESS ON BEHALF OF THE CLASS. I AM
20 SPEAKING BECAUSE MOST OTHER COUNSEL HAVE NOT PARTICIPATED.

21 GENERALLY, THAT PROCESS HAS INVOLVED PRINCIPALS
22 OR REPRESENTATIVES OF PRINCIPALS RATHER THAN COUNSEL OF
23 RECORD IN THE LITIGATION. BUT THAT PROCESS HAS BEEN
24 CONTINUING. VIRTUALLY ALL OF THE PARTICIPANTS MET THIS PAST
25 WEDNESDAY AND THURSDAY IN PALMDALE. AND THERE IS ANOTHER
26 SESSION SCHEDULED NOT THIS WEEK, BUT NEXT WEEK IN PALMDALE.

27 THE COURT: ARE YOU SPEAKING EXCLUSIVELY OF THE WILLIS
28 CLASS?

1 MR. ZLOTNICK: NO. THAT INVOLVES A LARGE NUMBER OF
2 PARTIES, INCLUDING MANY OF THE PUBLIC WATER SUPPLIERS,
3 INCLUDING MANY OF THE OVERLYING LAND OWNERS. THE UNITED
4 STATES HAS PARTICIPATED AT TIMES IN THAT. AND YOU KNOW, MOST
5 OF THE MAJOR LAND OWNERS HAVE SOME OF THE PUBLIC WATER
6 SUPPLY, SO IT'S BEEN A TENSE COMPREHENSIVE RESOLUTION.

7 OBVIOUSLY I CAN'T TALK ABOUT THE SUBSTANCE OF
8 THINGS BECAUSE OF THE MEDIATION PRIVILEGE AND BECAUSE OF THE
9 FACT THAT CERTAIN PARTIES ARE NOT PARTICIPATING. BUT I WILL
10 SAY THAT I THINK THERE HAS BEEN SUBSTANTIAL PROGRESS. IT IS
11 FAR FROM COMPLETE. THERE HAS BEEN SIGNIFICANT PROGRESS ON A
12 NUMBER OF MAJOR ISSUES AMONG THE PARTICIPANTS.

13 THE COURT: NOW THIS DOES NOT INCLUDE JUSTICE ROBIE'S
14 MEDIATION EFFORTS; IS THAT CORRECT?

15 MR. ZLOTNICK: THAT'S CORRECT. THIS IS TOTALLY
16 INDEPENDENT OF JUSTICE ROBIE'S MEDIATION EFFORTS. THIS
17 EFFORT STARTED IN MARCH OF THIS YEAR WITH A GROUP OF LAWYERS
18 FROM A WASHINGTON LAW FIRM GORDON -- FORGET THE FULL NAME OF
19 THE FIRM. BUT JIM WALDO IS THE LEAD LAWYER. HE HAS
20 SUCCESSFULLY MEDIATED A NUMBER OF CALIFORNIA BASINS. SO HE'S
21 FAMILIAR WITH CALIFORNIA WATER LAW.

22 AND ALSO, A NUMBER OF THE PARTIES HAVE WORKED
23 WITHIN THE PUBLIC ENTITIES, SOME OF THE PUBLIC ENTITIES IN
24 THE PAST, IN ANY EVENT.

25 SO THERE HAVE BEEN THREE ATTORNEYS FROM HIS FIRM
26 WHO HAVE BEEN ACTIVELY MEETING WITH THE PARTIES EVERY OTHER
27 WEEK AND MEETING IN PALMDALE SINCE MARCH. AND THEY ARE BEING
28 PAID A SIGNIFICANT AMOUNT BY A NUMBER OF PARTICIPANTS. NOT

1 EVERYONE HAS AGREED TO PAY THEM, BUT I THINK 14 OR 15 OF THE
2 PARTICIPANTS ARE PAYING A SIGNIFICANT AMOUNT ON A MONTHLY
3 BASIS TO THAT LAW FIRM TO TRY TO GET TO A RESOLUTION OF THIS
4 ON A COMPREHENSIVE BASIS. AND THERE HAS BEEN SUBSTANTIAL
5 PROGRESS.

6 I CAN'T SAY THAT, YOU KNOW, I MEAN IT'S
7 CERTAINLY FAR FROM CONCLUDED AT THIS POINT. BUT THE HOPE IS
8 THAT IT WILL BE RESOLVED AT LEAST IN PRINCIPLE ON MAJOR
9 ISSUES WELL BEFORE THE UPCOMING TRIAL DATE.

10 THE COURT: OKAY. I'M ASSUMING THAT THESE DISCUSSIONS
11 AND THESE POTENTIAL SETTLEMENTS IF THEY COME TO PASS WILL
12 THEN FLOW RIGHT INTO THE NECESSITY OF ADJUDICATION?

13 MR. LEMIEUX: YOUR HONOR, THIS IS KEITH LEMIEUX. TO
14 MY KNOWLEDGE, THE COUNTY IS NOT PARTICIPATING. THE
15 LITTLEROCK CREEK GROUP IS NOT PARTICIPATING. I DON'T BELIEVE
16 THE FEDERAL GOVERNMENT IS PARTICIPATING. SO I DON'T THINK
17 ANYTHING WITH THIS WALDO PROCEDURE IS GOING TO HAVE ANY
18 BEARING ON THE TRIAL DATE.

19 THE COURT: WELL, THAT'S WHAT I MEANT. WE WOULD THEN
20 PROCEED WITH THE TRIAL BECAUSE THAT'S GOING TO BE AN
21 IMPORTANT FINDING OF FACT THAT NEEDS TO BE MADE BY THE COURT.

22 MR. FIFE: YOUR HONOR, MICHAEL FIFE. AND I WOULD
23 DISAGREE WITH THAT. I BELIEVE THAT PART OF THE MEDIATION
24 THAT'S GOING ON IS A TECHNICAL MEDIATION ALSO CONCERNING THE
25 BASIC FACTS THAT WOULD BE THE SUBJECT OF PAGE 3, AND THAT ONE
26 POSSIBILITY COMING OUT OF THIS MEDIATION PROCESS IS THAT THE
27 PHASE 3 TRIAL WOULD NOT BE NECESSARY.

28 MR. DUNN: THIS IS MR. DUNN, YOUR HONOR. AS MR.

1 LEMIEUX INDICATED, THE COUNTY OF LOS ANGELES AND OTHER KEY
2 PARTIES IN THIS LITIGATION ARE NOT PARTICIPATING IN THE WALDO
3 MEDIATOR PROCESS. WE WILL GO FORWARD WITH THE PHASE 3 TRIAL
4 AND WE WOULD OPPOSE ANY EFFORT ON THE PART OF ANY PARTY --

5 MR. EVERTZ: YOUR HONOR, DOUG EVERTZ FOR THE CITY OF
6 LANCASTER. I AGREE WITH MR. FIFE. MOST OF THE PARTIES ARE
7 PARTICIPATING IN WHAT WE CALL THE WALDO PROCESS. FROM OUR
8 STANDPOINT, I THINK THAT WE SHOULD HAVE MOST OF THE PARTIES
9 STIPULATE TO THE PROPOSED JUDGMENT, BRING IT TO THE COURT AND
10 AT LEAST FROM THE PARTIES PARTICIPATING, OBLIATE THE NEED FOR
11 THIS UPCOMING TRIAL.

12 THE COURT: WELL, WE'LL DEAL WITH THAT IF AND WHEN WE
13 REACH THAT POINT, OKAY? SO INsofar AS JUSTICE ROBIE'S
14 FURTHER INVOLVEMENT HEREIN, HE SET ASIDE A COUPLE OF DATES
15 TOWARD THE END OF THE MONTH. AND I'M ASSUMING THAT THE ONLY
16 PARTIES THAT ARE GOING TO BE INVOLVED IN THOSE DISCUSSIONS
17 ARE THE CLASS MEMBERS; IS THAT CORRECT?

18 MR. BUCK: MIKE BUCK, YOUR HONOR. WHEN THOSE DATES
19 WERE OBTAINED, THEY WERE OBTAINED -- MY UNDERSTANDING IS I
20 INQUIRED OF MR. DUNN ABOUT THAT. NOW I'M TOLD THAT THOSE
21 DATES WERE NOT FOR THE CLASS. THEY WERE RESERVED FOR SOME
22 COMPETING PROCESS FOR THE WALDO, FOR OTHER LAND OWNERS IF
23 THEY WANTED TO MEDIATE WITH JUSTICE ROBIE.

24 SO AS FAR AS I KNOW, THE CLASSES ARE NOT
25 MEDIATING ANY FURTHER, AND WE HAVE NO INDICATION OF THAT. IT
26 SOUNDS TO ME LIKE -- NOTHING IS GOING ON WITH IT. TRYING TO
27 PROCEED, BUT IT'S NOT GOING ANYWHERE. SO I WOULD NOT COUNT
28 ON THE SMALL MEMBER CLASSES SETTling OUT. (TELEPHONIC STATIC

1 INTERRUPTION)

2 MR. KALFAYAN: RALPH KALFAYAN, YOUR HONOR. WITH
3 RESPECT TO THE MEDIATION THAT WAS INITIATED BEFORE JUSTICE
4 ROBIE, I BELIEVE WE ARE STILL, WE ARE WAITING FOR WORD FROM
5 THE PUBLIC WATER SUPPLIERS AS TO WHETHER OR NOT THAT DEAL
6 WILL BE FINALIZED AND EXECUTED.

7 THE COURT: OKAY.

8 MR. KALFAYAN: SO WE'RE STILL WAITING ON THAT PROCESS.
9 BUT WE WON'T BE GOING IN FRONT OF JUSTICE ROBIE FOR ANYTHING
10 FURTHER ON THAT.

11 MR. DUNN: JEFF DUNN, YOUR HONOR. COUNSEL IS CORRECT.
12 FUTURE MEDIATION DATES ARE ANTICIPATED, MEDIATION WITH
13 PRIVATE LAND OWNER PARTIES. OTHER KEY PLAYERS WHO ARE NOT
14 PARTICIPATING IN THE WALDO PROCESS THAT ARE LOOKING FOR
15 ANOTHER APPROACH TO --

16 THE COURT: WELL, NOT EVERYBODY HAS TO SETTLE ON THE
17 SAME BASIS. WHAT I'M GOING TO DO IS TELL JUSTICE ROBIE TO GO
18 AHEAD, WITH THE UNDERSTANDING HE'S NOT REALLY INTERFERING
19 WITH THE WALDO PROCESS. HE'S SEPARATE FROM IT. AND IF HE'S
20 WILLING TO DO THAT, I WOULD ENCOURAGE YOU TO PARTICIPATE WITH
21 HIM.

22 ALL RIGHT. IS THERE ANYTHING FURTHER WE SHOULD
23 TAKE UP THIS MORNING?

24 MR. MCLACHLAN: YOUR HONOR, THIS IS MIKE MCLACHLAN. I
25 HAVE ONE OTHER POINT I WANTED TO BRING UP WHICH I THINK I
26 FAILED TO RAISE IN MY BRIEF, BUT IT DIDN'T DAWN ON ME UNTIL
27 FRIDAY.

28 THE COURT: YES.

1 MR. MCLACHLAN: WE DID TWO ROUNDS OF MAIL BECAUSE WE
2 HAD THAT ADDRESS AND SO FORTH. QUITE A NUMBER OF PEOPLE WE
3 WERE ABLE TO ULTIMATELY GET SERVICE ON. THERE ARE 160 SMALL
4 UPPER CLASS MEMBERS THAT NEVER RECEIVED ANY NOTICE. AND I
5 HAVE BEEN WRESTLING IN MY HEAD WHAT TO DO ABOUT THAT.

6 IT STRIKES ME THAT GIVEN THE IMPORTANCE OF THIS
7 CASE, THIS IS NOT LIKE, YOU KNOW, A SMALL BANK FRAUD CASE,
8 CONSUMER CLASS ACTION OR SOMETHING LIKE THAT INVOLVING, YOU
9 KNOW, A \$25 ISSUE OR SOMETHING. IT'S A PRETTY SIGNIFICANT
10 ISSUE.

11 AND I HAVE A GREAT CONCERN ABOUT INCLUDING THOSE
12 160 PEOPLE IN THE CLASS AND CONSIDERING THEM BOUND TO
13 JUDGMENT WITHOUT FURTHER STEPS BEING TAKEN AND ACTUALLY
14 NOTIFYING THEM. SO WHEN I FILE MY PAPERS, MY POSITION IS
15 THAT THOSE PEOPLE SHOULD BE EXCLUDED FROM THE CLASS, ABSENT
16 ADDITIONAL EFFORTS TO NOTIFY THEM. AND THE NUMBER AGAIN IS
17 160.

18 THE COURT: MR. DUNN, DO YOU WANT TO RESPOND?

19 MR. DUNN: I'M NOT SURE I FOLLOWED THE WHOLE COMMENT.
20 BUT IF IT'S A QUESTION OF SENDING OUT CLASS NOTICE TO AN
21 ADDITIONAL 160 MEMBERS OF THE CLASS, WE SHOULD BE ABLE TO GET
22 THAT CLASS NOTICE OUT TO THEM. THOSE ARE --

23 MR. MCLACHLAN: WE HAD NOTICES RETURNED BECAUSE OF BAD
24 ADDRESSES. THAT'S AFTER WE DID THE TITLE COMPANY SEARCH. SO
25 IT MAY TAKE A LITTLE BIT MORE THAN JUST A POSTAGE STAMP.

26 MR. DUNN: I HAVE TO THINK ABOUT THAT. MAYBE WE CAN
27 TALK WITH MR. MCLACHLAN:

28 MR. MCLACHLAN: YEAH, WE CAN TALK. I WANTED TO RAISE

1 THE ISSUE TO THE COURT JUST TO SEE IF WE HAD ANY STRONG
2 FEELINGS ON THAT ISSUE.

3 THE COURT: WELL, I THINK THEY OUGHT TO BE SERVED AND
4 GIVEN NOTICE. WELL, WHY DON'T YOU DISCUSS THAT WITH THE
5 OTHER WATER PRODUCERS AND SEE HOW THAT CAN BE RESOLVED.

6 LET ME ASK THIS OTHER QUESTION WITH REGARD TO
7 THE WALDO MEDIATION EFFORTS. IS THE COUNTY OF LOS ANGELES
8 GOING TO PARTICIPATE IN THAT MEDIATION WITH JUSTICE ROBIE?

9 COUNSEL: YOUR HONOR, WE WILL PARTICIPATE IN MEDIATION
10 WITH JUSTICE ROBIE, BUT NOT WITH MR. WALDO.

11 THE COURT: OKAY, THAT'S FINE. THEN I THINK, THE
12 OTHER THING THAT I WOULD URGE TO HAPPEN, WHEN YOU TELL ME
13 THAT THE WOODS CLASS IS BASICALLY STATIC AND NOTHING IS
14 HAPPENING, I THINK THAT FURTHER DISCUSSIONS NEED TO GO
15 FORWARD WITH REGARD TO THAT CLASS AND AT LEAST MAKE AN
16 EFFORT.

17 JUSTICE ROBIE IS CERTAINLY AVAILABLE AND WILLING
18 TO PARTICIPATE IN THAT DISCUSSION. SEE IF HE CAN ASSIST THE
19 PARTIES IN COMING TO A SOLUTION. AND GIVEN THE OTHER
20 SETTLEMENT DISCUSSIONS, THAT MAY BE OCCURRING WITH MR. WALDO.
21 AND SEEMS TO ME THAT'S AN IMPORTANT THING TO DO. IT WOULD BE
22 A REAL SHAME TO HAVE TO LITIGATE A SMALL PORTION. BUT OF
23 COURSE WE'RE WILLING TO DO THAT IN THE EVENT IT'S NECESSARY.

24 WITH THAT, MR. DUNN, IF YOU'LL GET THAT ORDER
25 PREPARED FOR THE COURT AND POST IT WITHIN FIVE DAYS, I'LL
26 APPRECIATE IT.

27 MR. DUBOIS: MR. DUBOIS SPEAKING, YOUR HONOR. WITH
28 RESPECT TO THE 160 SMALL MEMBERS THAT APPARENTLY HAVE NOT

1 EFFECTIVELY BEEN GIVEN NOTICE OR OTHERWISE SERVED, CAN THE
2 COURT REQUIRE THAT THE REST OF US PARTICIPANTS BE KEPT
3 APPRISED AS TO THE SOLUTION OF THAT PROBLEM SO THAT WE AT
4 LEAST HAVE SOME SENSE OF HOW IT'S GOING TO BE RESOLVED?

5 THE COURT: THAT'S APPROPRIATE.

6 MR. DUBOIS: THANK YOU, YOUR HONOR.

7 THE COURT: MR. DUNN, YOU CAN DO THAT?

8 MR. DUNN: YES, YOUR HONOR. THANK YOU.

9 THE COURT: ALL RIGHT. THANK YOU.

10 ALL RIGHT. I'M SURE THAT SOMEWHERE ALONG THE
11 LINE HERE, I'LL BE SCHEDULING ANOTHER CMC, AND I INVITE
12 COUNSEL TO PARTICIPATE. UNFORTUNATELY, IT'S PROBABLY GOING
13 TO HAVE TO BE, AT LEAST FOR THE NEXT COUPLE OF WEEKS,
14 TELEPHONICALLY IF IT OCCURS THEN. I'M NOT ABLE TO TRAVEL AND
15 I CANNOT -- I'M NOT VERY AMBULATORY AT THIS POINT.

16 SO MY APOLOGIES FOR THAT BECAUSE I HAD HOPED
17 THAT WE COULD HAVE AN IN-PERSON CASE MANAGEMENT CONFERENCE.
18 AND I'M GOING TO TRY AND SET ONE OF THOSE CERTAINLY WELL IN
19 ADVANCE OF THE TRIAL DATE.

20 OKAY. ANYTHING FURTHER?

21 MR. DUNN: NO, YOUR HONOR.

22 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

23 ALL COUNSEL: THANK YOU, YOUR HONOR.

24 THE COURT: THAT'S THE CONCLUSION.

25 (PROCEEDINGS CONCLUDED)
26
27
28

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

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

I, GLORIA J. HALL, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES, 1 THROUGH 19, COMPRISE A PARTIAL,
TRUE, AND COMPLETE TRANSCRIPT OF THE PROCEEDINGS HELD
ON JUNE 14, 2010 IN THE MATTER OF THE
ABOVE-ENTITLED CAUSE.

DATED THIS 20TH DAY OF JUNE, 2010.


#4165
OFFICIAL REPORTER

C

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EXHIBIT “B”

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT 1 HON. JACK KOMAR, JUDGE
4
5 COORDINATION PROCEEDING)
6 SPECIAL TITLE (RULE 1550B))
7 ANTELOPE VALLEY GROUNDWATER CASES)
8 JUDICIAL COUNCIL
9 COORDINATION
10 NO. JCCP4408
11 PALMDALE WATER DISTRICT AND
12 QUARTZ HILL WATER DISTRICT,
13 CROSS-COMPLAINANTS,)
14 VS.)
15 SANTA CLARA CASE NO.
16 1-05-CV-049053
17 LOS ANGELES COUNTY WATERWORKS,
18 DISTRICT NO. 40, ET AL,
19 CROSS-DEFENDANTS.)
20

21 REPORTER'S TRANSCRIPT OF TELEPHONIC PROCEEDINGS

22 THURSDAY, MAY 6, 2010

23

24 APPEARANCES:

25

26 (SEE APPEARANCE PAGES)

27

28

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□

1 CASE NUMBER: JCC NO. JCC04408
2 CASE NAME: ANTELOPE VALLEY GROUNDWATER CMC
3 LOS ANGELES, CALIFORNIA THURSDAY, MAY 6, 2010
4 DEPARTMENT 1 HON. JACK KOMAR, JUDGE
5 REPORTER: ANITA B. ALDERSON, CSR NO. 11843
6 TIME: A.M. SESSION
7 APPEARANCES: (AS HERETOFORE NOTED.)

8

9

10 (THE CLERK ACTIVATED COURTCALL AT 9:07 A.M. WHILE
11 PROCEEDING WAS IN PROGRESS.)

12

13

14

15 THE CLERK: JUDGE KOMAR, ARE YOU ON THE LINE. I
16 WAS UNAWARE YOU WERE GOING TO APPEAR UNTIL I GOT THE SHEET
17 THIS MORNING. I HAVE NOT FOLLOWED THIS. I DID NOT CONNECT
18 UNTIL NOW. I HAD A CALENDAR; WE WERE ON THE RECORD WITH
19 JUDGE BERLE.

20 I DO HAVE A COURT REPORTER. IF YOU GUYS NEED US,
21 WE WILL SET UP HERE AND DO THIS NOW. IF YOU DON'T FEEL YOU
22 NEED US, I WILL JUST DISAPPEAR.

23 THE COURT: MARTY, DON'T DISAPPEAR. TO THE EXTENT
24 WE HAVE A COURT REPORTER, LET'S BE ON THE RECORD ON THIS.

25 THE CLERK: OKAY.

26 THE COURT: MRS. WALKER IS ON THE LINE AS WELL.
27 AND YOU AND SHE CAN TALK ABOUT TAKING ROLL AT THE
28 CONCLUSION OF THE HEARING THIS MORNING.

1 THE CLERK: OKAY.

2 THE COURT: MR. LEININGER, WHY DON'T YOU ADDRESS
3 THE ISSUE TO THE EXTENT THERE IS ANYTHING FURTHER YOU WANT
4 TO ADD.

5 MR. LEININGER: CERTAINLY, YOUR, HONOR, THANK YOU,
6 AND GOOD MORNING. FROM THE RESPONSES THAT WE RECEIVED TO
7 OUR MOTION, I DON'T THINK THERE IS ANY DISPUTE THAT THE
8 PHASE TWO TRIAL, EXPERT WITNESS DISCOVERY, WAS AN EXPENSIVE
9 AND TIME-CONSUMING MESS.

10 THIS IS A COMPLEX TECHNICAL CASE WITH COMPLEX
11 TECHNICAL ISSUES. AND ALL WE'RE ASKING IN OUR MOTION IS A
12 MORE EFFICIENT AND COST-EFFECTIVE MEANS OF DISCOVERING
13 EXPERT'S OPINIONS. BY REQUIRING A COMPLETE STATEMENT OF
14 EXPERT'S OPINIONS, IT WILL BE MORE EFFICIENT AND COST
15 EFFECTIVE. IT'S LESS COSTLY TO PRODUCE A THOROUGH REPORT
16 BY AN EXPERT THAN THE MULTI-DAY 15- TO 20-HOUR DEPOSITIONS
17 ATTENDED BY DOZENS OF LAWYER TO REVEAL THAT EXPERT'S
18 OPINION, NOT TO MENTION THE EXPENSE AND THE TIME GENERATED
19 IN ARGUING OVER THE SCOPE OF THE BRIEF NARRATIVE STATEMENTS
20 OF GENERAL SUBSTANCE OF TESTIMONY THAT IS REQUIRED UNDER
21 THE NORMAL RULES OF CIVIL PROCEDURE.

22 AND LET ME JUST ADDRESS THE COMPLAINT, THE
23 RESPONSES REGARDING INTEREST IN TIME TO REDUCE AN EXPERT
24 REPORT. THE TECHNICAL COMMITTEE IN THIS CASE, YOUR HONOR,
25 WAS FORMED OVER THREE YEARS AGO. AND IT WAS CHARGED WITH
26 EXAMINING THE AMOUNT OF WATER BEING PUMPED OUT OF THE BASIN
27 AND ALL PARTIES HAD AN OPPORTUNITY TO PARTICIPATE.

28 MR. JOYCE: YOUR HONOR, I DON'T MEAN TO INTERRUPT,

1 THIS IS BOB JOYCE. I OBJECT TO ANY DISCUSSION CONCERNING
2 ANYTHING THAT OCCURRED OR ANYTHING INVOLVED WITH A
3 TECHNICAL COMMITTEE. THAT WAS DONE UNDER A STIPULATION
4 MOTIVATED FOR SETTLEMENT AND IT'S SUPPOSED TO BE MAINTAINED
5 IN CONFIDENCE. MR. LEININGER KNOWS THAT AND IT HAS NO
6 BEARING UPON WHAT IS PRESENTLY PENDING BEFORE THE COURT.

7 MR. LEININGER: YOUR HONOR, I'M NOT ABOUT TO REVEAL
8 DATA THAT ARISED FROM TECHNICAL -- (PHONE CONNECTION
9 CUTTING OUT) WE'RE TALKING ABOUT THE SCOPE OF THE ISSUES
10 WITH REGARDS TO (PHONE CONNECTION CUTTING OUT).

11 THE COURT: LET ME JUST MAKE AN OBSERVATION,
12 MR. LEININGER, AND STATE THAT THE COURT IS AWARE OF THE
13 ARGUMENTS; YOUR PAPERS ARE CLEAR. ALSO AWARE THERE HAS
14 BEEN A TECHNICAL COMMITTEE AND THAT MAY HAVE LITTLE OR NO
15 BEARING ON THIS ISSUE OF DISCLOSURE THAT YOU'RE REQUESTING.
16 I THINK YOU ARE UNDERSTATING THE OBLIGATIONS THAT APPLY
17 UNDER THE CODE OF CIVIL PROCEDURE, STATE OF CALIFORNIA.
18 THERE IS MORE THAN JUST A STATEMENT AS TO WHAT THE PATTERN
19 WOULD BE AS TO WHAT THE EXPERT WOULD TESTIFY TO THAT IS
20 REQUIRED TO BE DISCLOSED.

21 THERE IS ALSO A REQUIREMENT THAT ANY REPORTS THAT
22 HAVE BEEN PREPARED IN CONNECTION WITH THE SUBJECT MATTER
23 AND TESTIMONY BE DISCLOSED, AVAILABLE TO THE OTHER PARTIES
24 IN ADVANCE OF ANY DEPOSITION.

25 TO CUT TO THE CHASE HERE, AND SHORTEN THIS IF I
26 CAN, I'M NOT INCLINED TO MODIFY THE PREVIOUS ORDER IN THAT
27 RESPECT. I THINK THAT TO THE EXTENT THAT SOMEBODY IS
28 PLAYING GAMES AND DOESN'T MAKE THE DISCLOSURES THAT'S GOING

1 TO BE A PENALTY THEY ARE GOING TO HAVE TO DEAL WITH.

2 BUT I DO THINK THE CODE OF CIVIL PROCEDURE, AND
3 WE'RE JUST TALKING ABOUT MORE THAN 2034.210. WE'RE TALKING
4 ABOUT AS THE ENTIRE BODY OF RULES AND DISCLOSURE APPLY IN
5 THIS CASE. IT SEEMS TO ME THERE WILL BE A SUFFICIENT
6 DISCLOSURE. AND I WANTED TO GIVE THE PARTIES AMPLE LEAD
7 TIME TO MAKE SURE THAT THE INFORMATION WAS PRESENTED SO THE
8 COURT COULD ENTERTAIN APPROPRIATE MOTIONS.

9 UNLESS THERE IS SOMETHING ELSE YOU WANT TO ADD,
10 IT'S MY INCLINATION TO DENY TO MODIFY, AS YOU'VE REQUESTED,
11 TO MAKE APPLICABLE THE FEDERAL RULES HERE.

12 MR. LEININGER: VERY WELL, YOUR HONOR. AND JUST
13 FOR CLARIFICATION PURPOSES, WE WEREN'T ASKING THE COURT TO
14 ADOPT THE FEDERAL RULES HERE. WE'RE ASKING THE COURT TO
15 HAVE A MORE EXPLICIT STATEMENT WITH REGARD TO EXPERTS
16 REQUIREMENTS FOR FILING IN THEIR NARRATIVE STATEMENT. I
17 THINK THE COURT HAS ADDRESSED THAT. THANK YOU.

18 THE COURT: THANK YOU, MR. LEININGER.

19 UNLESS SOMEBODY ELSE WANTS TO ADDRESS THE ISSUE,
20 I'M GOING TO MOVE AHEAD.

21 NEXT REQUEST WHICH IS TO EXTEND THE TIME
22 ESSENTIALLY AS REQUESTED FROM JULY 1ST TO JULY 15. AND THE
23 EXPERT DEPOS FROM JULY 15 ALL THE ATTORNEYS FROM JULY 29 TO
24 SEPTEMBER 13. I HAD A NUMBER OF INCURRENCES. I DON'T
25 THINK I'VE HAD A SINGLE LEGAL OBJECTION TO -- UNLESS
26 SOMEBODY HAS A FURTHER OBJECTION, I AM PREPARED TO RULE ON
27 THAT.

28 PLAINTIFF COUNSEL?

1 MR. LEMIEUX: YES, YOUR HONOR, WAYNE LEMIEUX.

2 THE COURT: YES, MR. LEMIEUX.

3 MR. LEMIEUX: GOOD MORNING, YOUR, HONOR. MY
4 OBJECTION IS NOT TO THE TWO-WEEK DELAY, BUT TO THE NEXT
5 TWO-WEEK DELAY AND THE NEXT ONE AND THE NEXT ONE. I'M
6 FAIRLY CERTAIN THAT THIS IS A STORY THAT IS GOING TO BE
7 PLAYED OUT OVER AND OVER AGAIN. AND WHILE WE ALL EXPECT
8 SOME DELAY IN THESE PROCEEDINGS, WE SHOULD ALSO ANTICIPATE
9 THIS IS AN ENDLESS CYCLE, AND I WILL OBJECT TO THAT.

10 THE COURT: I THINK THAT'S AN ANTICIPATORY
11 OBJECTION. WE HAD OUR SHARE OF DELAYS IN THIS CASE. YOU
12 ARE ENTITLED, MORE THAN ENTITLED TO. I'M GOING TO GRANT
13 THIS SPECIFIC REQUEST, BUT BEARING IN MIND THAT CASES THAT
14 DON'T HAVE SET, FIRM DATES RARELY GET RESOLVED.

15 I'M GOING TO ADMONISH COUNSEL TO DO WHAT YOU NEED
16 TO DO TO GET THIS MATTER IN POSITION TO EITHER SETTLE OR TO
17 BE TRIED. I DO NOT WANT TO RESET THAT TRIAL DATE.

18 I'M GOING TO GRANT MR. JOYCE'S REQUEST, AND I'M
19 GOING TO ADOPT THE LANGUAGE THAT HE HAS ON PAGE TWO OF HIS
20 MEMORANDUM. WE'LL SET UP DISCLOSURE DATES FOR JULY 15,
21 2010, AND SUPPLEMENTAL DISCLOSURES TO EXCHANGE INFORMATION
22 SHALL OCCUR ON JULY 29. EXPERT DEPOS SHALL BE TAKEN
23 BETWEEN JULY 29 AND SEPTEMBER 13, 2010. I DON'T EXPECT ANY
24 FURTHER REQUESTS IN THE CASE, BUT I WILL URGE YOU TO EITHER
25 RESOLVE THE CASE, APPARENTLY SOMEBODY IS OPTIMISTIC, OR BE
26 READY FOR TRIAL THAT WILL BE THE ORDER ON THAT.

27 MR. MC LACHLAN HAD REQUESTED AN ORDER ON THE
28 DISQUALIFICATION MOTION THAT MOTION IS DENIED. I SHOULD

2 INFORMATION PROVIDED TO THE COURT.

3 AND MR. LEMIEUX, I'M ASSUMING THAT YOU HAVE HELD
4 UNDER SEAL ALL OF THE LABORS THAT WILL BE REQUIRED IN THIS
5 CASE.

6 MR. LEMIEUX: I BELIEVE THAT'S TRUE, YOUR HONOR,
7 INCLUDING THE ONE THAT WAS FILED, WHAT WAS IT, A MONTH AGO.

8 THE COURT: OKAY. MOVING ON TO THE NEXT ITEM ON MY
9 LIST IS THE REQUEST FOR AN ORDER ON THE EXPERT WITNESS, THE
10 COURT'S EXPERT TO BE COMPENSATED. THERE WERE TWO
11 OBJECTIONS LANCASTER AND PALMDALE THOSE OBJECTIONS ARE
12 NOTED; I THINK THEY ARE APPROPRIATE. AND I'M GOING TO,
13 UNLESS I HEAR SOMETHING FURTHER FROM SOMEBODY, I'LL GRANT
14 THE ORDER AS MODIFIED TO EXCLUDE THOSE TWO PARTIES FROM THE
15 OBLIGATION TO PAY SINCE THEY'RE MAKING NO CLAIMS AGAINST
16 THESE LANDOWNERS.

17 HEARING NONE THAT IS THE ORDER.

18 MR. MC LACHLAN: YOUR HONOR, THIS IS MIKE
19 MC LACHLAN.

20 THE COURT: YES.

21 MR. MC LACHLAN: CAN WE HAVE SOME TIME FRAME FOR
22 PAYMENT ON THAT.

23 THE COURT: YES, 14 DAYS.

24 MR. MC LACHLAN: THANK YOU, YOUR HONOR.

25 THE COURT: ALL RIGHT. NOW THERE IS ALSO THIS
26 ISSUE CONCERNING LUNSFORD, MR. KUNY, ARE YOU ON THE LINE?

27 MR. DOUD: YOUR HONOR, IT'S ALAN DOUD.

28 THE COURT: YOU'RE APPEARING FOR HIM.

1 MR. DOUD: YES.

2 THE COURT: LET ME JUST SAY THIS, MERELY FILING AN
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3 OBJECTION IS NOT BRINGING THE ISSUE APPROPRIATELY BEFORE
4 THE COURT. IF THERE IS A REMEDY TO THIS, IT'S NOT TO FILE
5 AN OBJECTION. THE REMEDY IS TO FILE A MOTION FOR SOME
6 SPECIFIC RELIEF -- THAT HASN'T BEEN DONE HERE.

7 THE PUBLIC WATER PRODUCERS HAVE INDICATED THEY WILL
8 GO AHEAD AND SERVE THESE PEOPLE. I THINK WE HAVE ABOUT AS
9 COMPREHENSIVE AN ADJUDICATION POSSIBILITY FOR NEUTRALITY AS
10 IT'S POSSIBLE TO HAVE WITH OR WITHOUT THESE FOLKS BEING
11 SERVED.

12 IF YOUR FIRM REPRESENTS ANY ONE OF THESE PEOPLE,
13 SEEMS TO ME YOUR REMEDY IS TO INTERVENE AND NOT TO JUST
14 FILE AN OBJECTION. THERE MAY BE OTHER REMEDIES AS WELL.
15 THERE IS REALLY NOTHING THE COURT CAN DO WHEN SOMEBODY JUST
16 FILES AN OBJECTION. PENDING -- (PHONE CUTS OUT) AN
17 INDEPENDENT PROCEEDING. BEAR THAT IN MIND AND I'M GOING TO
18 TAKE THE PUBLIC WATER AT THEIR WORD AND GO AHEAD AND SERVE
19 THESE FOLKS AND CALL IT TO THEIR ATTENTION. I DON'T KNOW
20 WHAT THE ULTIMATE CONSEQUENCE OF THAT IS GOING TO BE.

21 NOW THERE WAS AN ORAL, I THOUGHT, ORDER MADE. AND
22 I THOUGHT IT WAS IN WRITING, BUT IT'S NOT, THAT THE COURT
23 MADE CONCERNING THE OBLIGATIONS OF PARTIES IN THESE
24 PROCEEDINGS TO NOTIFY TRANSFEREES. I'M GOING TO SIGN THAT
25 ORDER. I THINK IT'S BEEN PRESENTED TO ME AGAIN BY
26 MR. WINESTOCK, I GUESS. IN OTHER WORDS IT'S GOING TO BE
27 SIGNED.

28 MR. MC LACHLAN: YOUR HONOR, THIS IS MIKE

1 MC LACHLAN. I'D LIKE TO BE HEARD.

2 THE COURT: GO AHEAD.

3 MR. MC LACHLAN: I WAS OUT OF STATE UNTIL TUESDAY
4 SO I DIDN'T GET A CHANCE TO PREPARE UNTIL YESTERDAY. AND I
5 DON'T KNOW IF YOUR HONOR SAW IT OR NOT. THAT ORDER
6 OBVIOUSLY WAS A PRODUCT OF A LOT OF DISCUSSIONS BEFORE I
7 WAS EVER IN THE CASE, BEFORE RICHARD WAS EVEN A PARTY. AND
8 WE WERE NEVER TOLD OF ANY ARGUMENT OF IT.

9 THE ORDER SAYS RIGHT AT THE TOP THAT IT APPLIES TO
10 ALL CLASS MEMBERS. HOW EXACTLY THE CLASS MEMBER IS EVEN TO
11 BE TOLD OF THIS ORDER AND ARE THE CLASS MEMBERS ACTUALLY
12 EXPECTED TO COMPLY WITH THIS.

13 THE COURT: IF THEY MAKE A TRANSFER OF THEIR
14 PROPERTY, THEY SHOULD NOTIFY THE TRANSFEREE.

15 MR. MC LACHLAN: HOW WILL THEY KNOW ABOUT THE
16 ORDER -- IF THE COURT IS GOING TO SIGN THIS ORDER NOW, HOW
17 WILL THEY KNOW ABOUT IT?

18 THE COURT: IT'S GOING TO BE POSTED.

19 MR. MC LACHLAN: IF THE CLASS MEMBER IS -- MOST OF
20 THEM DON'T EVEN KNOW ABOUT THE COURT WEB SITE. IF THERE IS
21 A PRACTICAL EXPECTATION THAT 70,000 CLASS MEMBERS ARE
22 ACTUALLY GOING TO BE COMPLYING WITH THIS, IT'S A LITTLE --
23 STRIKES ME AS A LITTLE FAR-FETCHED. NO OFFENSE, BUT THE
24 PRACTICAL MATTER IS IT'S A VERY DIFFICULT THING. IF THE
25 CLASS IS GOING TO BE HELD TO THIS TO THE EXTENT THAT THE
26 JUDGMENT IS GOING TO BE RECORDED ON THE TITLE OF THE
27 PROPERTY FOR SUBSEQUENT PURCHASERS, IT'S A BIG ISSUE.

28 I'M JUST GOING TO RAISE THIS BECAUSE IT'S MY JOB TO

1 ADVOCATE FOR THE CLASS AND OBVIOUSLY THE COURT SOUNDS LIKE
2 IT WANTS TO DO THIS. BUT FOR THE RECORD, COUNSEL AT LEAST
3 FOR THE WOODS CLASS IS VERY OPPOSED TO THAT. PARTICULARLY

4 GIVEN THE PASSAGE OF TWO AND A HALF YEARS AND THE FACT WE
5 NEVER EVEN GOT TO BRIEF THIS ISSUE AND AN ORDER IS BEING
6 ISSUED EX POST FACTO ATTACKING THE RIGHTS OF THE CLASS
7 MEMBERS.

8 THE COURT: THE ORDER IS REALLY NOT EX POST FACTO.
9 THE ORDER WAS MADE, ORALLY MADE, IN OPEN COURT. AND,
10 AGAIN, AT THE TIME IT WAS MADE, I THOUGHT THAT THE ORDER
11 HAD BEEN SIGNED. APPARENTLY IT HAD NOT, OR IF IT HAD BEEN
12 IT WAS NOT POSTED, AND SOMEHOW OR OTHER IT GOT LOST IN THE
13 SHUFFLE.

14 THERE MAY BE SOME VERY REAL CONSEQUENCES TO THE
15 ISSUES THAT YOU ARE RAISING, MR. MC LACHLAN, AND I'M GOING
16 TO ASK COUNSEL TO DEAL WITH THAT ISSUE AND SEND A SOLUTION
17 TO THE COURT AT OUR NEXT CONFERENCE.

18 THANK YOU FOR BRINGING THAT TO THE COURT'S
19 ATTENTION.

20 MR. MC LACHLAN: I'M MORE THAN A LITTLE TROUBLED BY
21 THE FACT THAT THE CLASS IS BEING TOLD IN ORDER TO COMPLY
22 WITH IT WITHOUT ANY NOTICE BECAUSE THEY HAVE BEEN GIVEN NO
23 NOTICE OF THIS ORDER. NONE OF THESE PEOPLE KNOW OF THE
24 EXISTENCE -- I DIDN'T EVEN KNOW THE EXISTENCE OF THIS ORDER
25 UNTIL MR. JOYCE CALLED ME YESTERDAY WHEN I FLEW INTO TOWN
26 AND SAID, HEY, YOU NEED TO TAKE A LOOK AT THIS.

27 I LOOKED AT IT AND SAID THAT'S SIX MONTHS BEFORE I
28 WAS IN THE CASE, THE CLASS DIDN'T EVEN EXIST, OBVIOUSLY THE

10

1 CLASS COULDN'T BE BOUND BY THIS. NOW YOUR, HONOR IS SAYING
2 THE CLASS IS BOUND BY IT WITHOUT NOTICE.

3 THE COURT: I'M SAYING, ALL THE PARTIES TO THESE

4 PROCEEDINGS ARE BOUND BY THE ORDER THAT WAS MADE AT THE
5 TIME THE COURT MADE IT. THIS ORDER SHOULD HAVE BEEN DATED,
6 IF IT WASN'T, IN JANUARY, 2008. I APPRECIATE THE FACT THAT
7 THERE MAY BE SOME IMPACT ON THE SMALL PUMPER CLASS, BUT I
8 THINK IT'S A NOMINAL IMPACT. I ALSO THINK IT'S A NOMINAL
9 IMPACT ON THE WILLIS CLASS, BUT WE'LL DEAL WITH THAT IN THE
10 APPROPRIATE FASHION. I'M NOT GOING TO DO THAT TODAY.

11 IF YOU'RE ASKING ME TO HOLD UP ON SIGNING THIS
12 ORDER UNTIL WE CAN HAVE SOME BRIEFING AND LEGAL ARGUMENT ON
13 IT, I SUPPOSE I CAN DO THAT. I'D RATHER SIGN THE ORDER
14 TODAY, AND IF NECESSARY AND APPROPRIATE, AND IT MAY WELL
15 BE, MODIFY IT TO TAKE ACCOUNT FOR THE ISSUES YOU'RE RAISING
16 THIS MORNING.

17 MR. JOYCE: YOUR HONOR, THIS IS MR. JOYCE.

18 THE COURT: YES.

19 MR. JOYCE: I WOULD ASK THE COURT, IF IT WOULD, TO
20 LOOK AT THE ORDER CLOSELY. AT THE TIME THAT PROPOSED ORDER
21 WAS BEFORE THE COURT, THE WOODS CLASS HAD NOT YET EVEN, THE
22 THOUGHT OF IT, HAD NOT EVEN EXISTED. AT THE TIME CAL CAME
23 ON, THE WILLIS CLASS WAS THE ONLY POTENTIAL CLASS ISSUE
24 BEFORE THE COURT.

25 WHAT WAS ANTICIPATED AT THAT TIME IS THAT IF IN
26 FACT THAT ORDER WERE TO HAVE BEEN ADOPTED BY THE COURT,
27 THAT A COPY OF THAT ORDER WOULD HAVE BEEN TRANSMITTED BY
28 THE EXPRESS TERMS AND PROPOSED ORDER ITSELF WITH THE CLASS

1 NOTICE AND THE CLASS MEMBERS BECAUSE THAT'S WHAT WOULD HAVE
2 BEEN REQUIRED MINIMALLY FROM A PROCEDURAL DUE PROCESS
3 STANDPOINT.

4 AT THE TIME IT WAS BEFORE THE COURT, AND I WOULD
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5 REFER THE COURT SPECIFICALLY TO THE MINUTE ORDER OF
6 JANUARY 8, 2008, IT WAS OBVIOUS THAT THE SITUATION AS IT
7 THEN EXISTED PRESENTED SOME PROBLEMATIC ISSUES CONCERNING
8 THE ORDER AND THE COURT DECLINED TO ACCEPT THAT ORDER AT
9 THAT TIME AND DEFERRED IT FOR FURTHER CONSIDERATION.

10 NOW WE'RE TWO YEARS DOWN THE ROAD, AND WE'RE
11 REVISITING THE ISSUE. BUT THE ORDER AS PRESENTLY SUBMITTED
12 TO THE COURT IS IMPOSSIBILITY OF COMPLIANCE BECAUSE IT BY
13 CONTENT PRESUPPOSES THAT IT WILL BE SERVED ON EACH CLASS
14 MEMBER BY ITS TERM WHICH PRACTICALLY SPEAKING NOW IS
15 IMPOSSIBLE.

16 THE COURT: OKAY. THAT IS FINE. WE'RE GOING BACK
17 INTO HISTORY A LITTLE BIT HERE, AND I DON'T HAVE A REAL
18 GOOD RECOLLECTION OF THE DETAILS. I'M GOING TO ASSUME WHAT
19 YOU'RE TELLING ME IS CORRECT, AND I WANT COUNSEL TO TELL ME
20 HOW TO ADDRESS THIS ISSUE TO BE SURE THERE IS A TRANSFEREE,
21 TRANSFEROR OBLIGATION TO MAKE CERTAIN THAT THE PARTIES
22 DON'T JUST WALK AWAY FROM THE LAWSUIT WITHOUT TELLING THE
23 SUCCESSORS IN INTEREST THAT'S THE REAL THRUST OF THE ISSUE
24 HERE AND TO ME IT'S A LEGITIMATE ONE.

25 MR. ZIMMER: YOUR HONOR, RICHARD ZIMMER ON BEHALF
26 OF BOLTHOUSE, IF I MAY SPEAK BRIEFLY. I DON'T KNOW ALL THE
27 ISSUES REGARDING THE CLASSES, BUT I AM SOMEWHAT CONCERNED
28 ABOUT WHETHER THERE HAVE BEEN ANY TRANSFERS BECAUSE IT'S

12

1 ACTUALLY BEEN TWO AND A HALF YEARS, AND I THINK SOMEONE
2 SUGGESTED IN THE PAPERWORK AND I AM SOMEWHAT CONCERNED
3 ABOUT WHETHER THERE HAVE BEEN TRANSFERS IN THE INTERIM.
4 BECAUSE IF THERE ARE A GREAT NUMBER OF PARTIES THAT WEREN'T

5 PROPERLY BROUGHT INTO THE ACTION THAT COULD AFFECT THE
6 ENFORCEABILITY OF THE ACTION LATER AND IN THAT CASE MY
7 CLIENT WOULD HAVE SPENT A BUNCH OF MONEY WITHOUT HAVING AN
8 ENFORCEABLE -- I DON'T KNOW WHAT THE ANSWER IS TO THAT.

9 I DON'T REMEMBER THE ORAL ORDER THAT THE COURT WAS
10 THINKING WAS MADE, AND I'M NOT SURE IF ANYBODY HAS A COPY
11 OF THAT OR NOT, BUT I HAVEN'T SEEN IT. AS A COROLLARY TO
12 THIS PROCESS, I THINK THE COURT IS MAKING THE RIGHT
13 DECISION IN REVISITING THE ISSUE AND ALLOWING SOME BRIEFING
14 ON THAT TO THE EXTENT NECESSARY. I THINK WE NEED TO HAVE
15 SOME IDEA WHETHER OR NOT ANY PROPERTY HAS TRANSFERRED OVER
16 THE PAST TWO AND A HALF YEARS AND HAS BEEN LEFT OUT OF THE
17 ADJUDICATION.

18 THE COURT: WELL, I THINK THAT IS A LEGITIMATE
19 CONCERN, MR. ZIMMER. THE ONLY ASPECT SEEMS TO ME WE NEED
20 TO DEAL WITH HERE IS TO THE EXTENT THERE ARE MAJOR PARTIES
21 INVOLVED AND TO THE EXTENT THEY HAVE TRANSFERRED THEIR
22 PROPERTY INTEREST TO SOMEBODY ELSE. I DON'T THINK THERE IS
23 ANY DOUBT AT ALL THEY WOULD HAVE AN OBLIGATION THAT IS
24 IMPLICIT TO ADVISE THE TRANSFEREE TO ADVISE THE COURT OF
25 OTHER PARTIES TO THIS LITIGATION. WHY WOULD THEY WANT TO
26 STAY IN THE LITIGATION IF THEY DON'T OWN PROPERTY ANYMORE.

27 SO THAT REALLY COMES DOWN TO THE VAST MAJORITY OF
28 CLASS MEMBERS WHO MAY BE AT A SLIGHTLY DIFFERENT POSITION.

1 I CAN UNDERSTAND A DIFFERENTIATION THERE, BUT I WOULD ALSO
2 NOTE THAT WE'RE DEALING WITH AN ADJUDICATION BETWEEN
3 SERIOUSLY NAMED PARTIES. THERE ARE A NUMBER OF PUBLIC
4 WATER PRODUCERS AND THERE ARE A NUMBER OF LANDOWNERS, A
5 LARGE NUMBER OF LANDOWNERS, WHO HAVE A REAL GENUINE

6 INTEREST IN THIS ADJUDICATION. AND WE HAVE THE FEDERAL
7 GOVERNMENT WHICH HAS A VERY SERIOUS INTEREST IN THIS
8 ADJUDICATION.

9 IN ORDER TO MAKE IT TRULY COMPREHENSIVE SO THAT
10 WHATEVER JUDGMENT WE HAVE WOULD BE BINDING ON THESE
11 SPECIFICALLY NAMED PARTIES OR SERVED PARTIES WHO HAVE BEEN
12 SERVED AS TO DOE AND ROE DEFENDANTS. I THINK THAT NO
13 MATTER WHAT HAPPENS HERE, I'M NOT TOO CONCERNED ABOUT
14 TRANSFERS FROM NAMED PARTIES, WHAT I AM CONCERNED ABOUT IS
15 CLASS MEMBERS WHO TRANSFER, AND I THINK MR. MC LACHLAN'S
16 POINT IS A GOOD ONE.

17 SO I'D LIKE TO HAVE IT BRIEFED HOW WE'RE GOING TO
18 DEAL WITH IT AND WHAT SPECIFIC ORDER YOU WANT THE COURT TO
19 MAKE. AND I WILL WITHHOLD SIGNING THIS ORDER, CONTRARY TO
20 WHAT I EARLIER INDICATED, UNTIL WE HAVE THAT SET FOR
21 HEARING.

22 SO I'M GOING TO ASK THE PROPONENT OF THIS TRANSFER
23 DOCUMENT TO FILE A MOTION TO MODIFY IT AND TO APPLY IT
24 APPROPRIATELY.

25 MR. JOYCE: YOUR HONOR, THIS IS MR. JOYCE.

26 THE COURT: YES.

27 MR. JOYCE: I PRESUME THAT WOULD BE THE PURVEYOR
28 PARTY WHO REQUESTED THE COURT TO CONSIDER THAT ORDER?

14

1 THE COURT: I THINK THAT IS WHO IS CURRENTLY
2 REQUESTING IT IN RESPONSE TO THE VAN DAM, ET AL PARTIES'
3 OBJECTIONS.

4 MR. JOYCE: THANK YOU, YOUR, HONOR. MAY I MAKE ONE
5 ADDITIONAL COMMENT. I NOTED THAT IN THE RESPONSE BY THOSE

6 PURVEYORS TO THE VAN DAM OBJECTION THAT THEY TOOK GREAT
7 PAINS TO ARGUE THAT DESPITE THE FAILURE TO SERVE THE
8 IDENTIFIED TRANSFEREE IN THE VAN DAM OBJECTION, IT WAS
9 NONETHELESS A SUFFICIENTLY COMPREHENSIVE ADJUDICATION. AND
10 I UNDERSTAND THE COURT PERCEIVES THAT THE SITUATION,
11 LIKEWISE, SATISFIES THAT CRITERIA.

12 WHAT CONCERNS ME THE MOST IS I HAVE NOT YET HEARD
13 THE UNITED STATES CONCEDE THAT FOR ITS PURPOSES, IT IS
14 SATISFIED IT'S SUFFICIENTLY COMPREHENSIVE AND THAT HAS BEEN
15 MY CONCERN ALL ALONG.

16 THE COURT: MR. JOYCE, LET ME INTERRUPT YOU FOR A
17 MINUTE JUST TO SAVE SOME TIME HERE.

18 I THINK THE POSITION THAT THE FEDERAL GOVERNMENT
19 HAS TAKEN IN REGARD TO THIS CASE HAS BEEN VERY CLEAR. THE
20 COURT HAS MADE SOME VERY SPECIFIC RULINGS GIVEN THE
21 COMPREHENSIVE NATURE OF THIS ADJUDICATION. I DON'T WANT TO
22 RELITIGATE THAT.

23 IF THE FEDERAL GOVERNMENT ALONG THE WAY FINDS THAT
24 THERE IS ADDITIONAL FACTS THAT JUSTIFY AN ADDITIONAL
25 OBJECTION AND A MOTION TO DISMISS, I'M SURE THEY WILL TAKE
26 IT UPON THEMSELVES TO DO THAT.

27 MR. JOYCE: MY ONLY CONCERN, YOUR HONOR, IS THAT
28 WITH THE INTERLITIGATION TRANSFERS THAT ARE OBVIOUSLY

15

1 EVIDENCED BY THE VAN DAM OBJECTION THAT IT OPENS THE DOOR
2 TO THAT ISSUE AGAIN. I JUST DO NOT WANT TO GO THROUGH A
3 TRIAL PROCEEDING AND THEN AFTER THE FACT HAVE THE UNITED
4 STATES AVAIL ITSELF OF A CLAIM THAT THERE WAS INSUFFICIENT
5 COMPREHENSIVE ADJUDICATION -- JURISDICTION, AND USE THAT AS
6 A KEY TO THE BACK DOOR TO EXIT.

7 THE COURT: I DON'T SEE THAT HAPPENING. WHAT I SEE
8 IS IF PARTIES PROCEED THROUGH THE ADJUDICATION AND THERE
9 ARE NO FURTHER OBJECTIONS, THE ISSUE IS NOT RAISED, IT IS
10 WAIVED.

11 MR. JOYCE: THEN THAT IS ACCEPTABLE TO ME. IF THEY
12 PARTICIPATE IN TRIAL, AND I WILL ASSUME THE COMPREHENSIVE
13 ISSUE IS SATISFACTORILY MET --

14 THE COURT: THE THING THAT I NOTICE IS THERE SEEMS
15 TO BE FROM TIME TO TIME BY SOMEBODY OR OTHERS TO GET THE
16 FEDERAL GOVERNMENT TO DO OR SAY SOME THINGS, AND THE
17 FEDERAL GOVERNMENT HAS DECLINED. AND I'M SATISFIED THAT
18 WE'RE PROCEEDING APPROPRIATELY AT THIS POINT.

19 MR. LEININGER: YOUR HONOR, THIS IS MR. LEININGER,
20 IF I MAY COMMENT.

21 THE COURT: YES.

22 MR. LEININGER: THIS QUESTION GOES TO SUBJECT
23 MATTER JURISDICTION AND SPECIFICALLY GOES TO THE WAIVER OF
24 U.S. SOVEREIGN UNITY. IT'S NOT SOMETHING THAT WE CAN
25 WAIVE. IT IS SOMETHING THAT WILL ALWAYS BE AT ISSUE IN
26 THIS ADJUDICATION UP UNTIL THE TIME OF DECREE. THERE IS
27 NOTHING THUS FAR THAT HAS CAUSED US TO TAKE THE ACTION YOU
28 HAD JUST MENTIONED. ON THE OTHER HAND, I THINK IT'S

16

1 APPROPRIATE THAT WE RE-EXAMINE THIS ISSUE IN LIGHT OF THE
2 MOTIONS THAT HAVE BEEN FILED, AND WE'LL RESPOND.

3 THE COURT: I'M SURE YOU WILL, AND I HAVE GREAT
4 CONFIDENCE IN YOUR LAWYERING ABILITY. ONE OF THE THINGS
5 THAT I FIND INTERESTING IN THIS DISCUSSION IS THAT
6 EVERYBODY WHO HAS JOINED IN OR VIRTUALLY EVERYBODY HAS

7 JOINED IN ON A REQUEST TO EXTEND THE DISCOVERY DEADLINE
8 FROM THE OSTENSIBLE GROUNDS STATED IN THE PLEADINGS AND
9 MEMORANDUM THERE WAS VERY ACTIVE MOVEMENT TOWARDS
10 SETTLEMENT IN THIS CASE.

11 WHAT I'M HEARING HERE TODAY IS NOBODY IS TELLING ME
12 ANYTHING MORE ABOUT THAT. MAYBE YOU DON'T NEED TO, BUT A
13 LOT OF WHAT I'M HEARING IS INCONSISTENT WITH THAT. I
14 BELIEVE, AND I HAVE ALWAYS TRUSTED COUNSEL IN ACTING IN
15 GOOD FAITH HERE, BUT I'M A LITTLE CONCERNED, FRANKLY, ABOUT
16 THE REPRESENTATIONS ABOUT THIS CASE MOVING TOWARDS
17 SETTLEMENT. THAT IS THE ONLY REASON I GRANTED THE REQUEST
18 THAT WAS FILED ON BEHALF OF MR. JOYCE'S CLIENT.

19 MR. LEMIEUX: YOUR HONOR, THIS IS WAYNE LEMIEUX.
20 I'D LIKE TO MAKE TWO POINTS. FIRST WITH RESPECT TO THE
21 TRANSFEREES, DOES YOUR ORDER STILL STAND THOUGH AS TO NON
22 CLASS MEMBER TRANSFEREES AND PERHAPS THAT CAN BE
23 MEMORIALIZED IN WRITING.

24 THE COURT: WELL, I THINK IT SHOULD BE. IF I MADE
25 IT, I MADE IT. IF I DIDN'T MAKE IT, I DIDN'T MAKE IT. BUT
26 I CERTAINLY WOULD EXPECT ANY TRANSFEROR WHO IS A PARTY, AN
27 ACTIVE PARTY, IN THIS LITIGATION TO NOTIFY THE COURT IF
28 THEY ARE NO LONGER A PARTY.

17

1 MR. LEMIEUX: THANK YOU, YOUR HONOR. THE SECOND
2 POINT IS, WE DIDN'T FILE AN OBJECTION BECAUSE, FRANKLY,
3 WE'RE AGNOSTIC ON A TWO-WEEK DELAY, BUT WE DO NOT AGREE
4 THERE HAS BEEN SUBSTANTIAL PROGRESS TOWARD SETTLEMENT.

5 THE COURT: WE PROBABLY DON'T NEED TO GET INTO THAT
6 AT THIS POINT AND PROBABLY NOT A GOOD IDEA TO HAVE THAT
7 DISCUSSION AT THIS POINT, BUT I EXPECT THAT THOSE

8 REPRESENTATIONS WERE MADE IN GOOD FAITH.

9 MR. MC LACHLAN: YOUR HONOR, MIKE MC LACHLAN. I
10 DON'T WANT TO GET INTO THE SPECIFICS, BUT I'M ONE OF THE
11 ONLY LAWYERS THAT HAS BEEN ALLOWED INTO THAT PROCESS. AND
12 I'LL TELL YOU THAT ALMOST EVERY SINGLE PARTY HAS BEEN
13 PRESENT IN THOSE DISCUSSIONS HAPPENING TWICE A WEEK, EVERY
14 TWO WEEKS, FOR THE LAST TWO MONTHS OR MONTH AND A HALF.
15 AND THERE ARE 50 OR 60 PEOPLE IN THAT ROOM EVERY SINGLE
16 TIME, I'M NOT THERE EVERY TIME, BUT THERE IS A LOT OF TIME
17 AND ENERGY BEING PUT INTO THE SETTLEMENT PROCESS, AND THEY
18 ARE MAKING A LOT OF HEADWAY. THE ATTORNEY WHO MADE THOSE
19 REPRESENTATIONS, THOSE WERE ACCURATE, THERE IS GOOD
20 PROGRESS GOING ON.

21 THE COURT: I'VE ALREADY OPINED, THE COURT, THAT
22 THE PERSON MAKING REPRESENTATIONS LIKE THAT MUST HAVE BEEN
23 MADE IN GOOD FAITH, AND I ACCEPT COUNSEL'S REPRESENTATIONS.
24 THANK YOU FOR ADDING TO THAT.

25 MR. JOYCE: YOUR HONOR, THIS IS MR. JOYCE. I HOPE
26 THE COURT WOULD EXPECT NOTHING LESS OF ME THAN GOOD FAITH.

27 THE COURT: THAT'S WHAT I JUST SAID.

28 MR. JOYCE: THANK YOU.

18

1 MR. ZIMMER: YOUR, HONOR, MR. ZIMMER, JUST TO
2 CLARIFY MR. LEMIEUX'S POINT, ARE THE PROPONENTS OF THE
3 ORDER GOING TO ADDRESS THE OTHER TRANSFEREES AS WELL. I'M
4 NOT AWARE OF AN ORDER THAT ACTUALLY EXISTS WHERE THAT WAS
5 ORDERED TO BE DONE. I THINK THAT SHOULD BE CLARIFIED AS
6 WELL IN A FORMAL ORDER.

7 THE COURT: OKAY. FIRST OF ALL, DOES ANY COUNSEL

8 REPRESENT A PARTY HERE WHO HAS SOLD HIS PROPERTY AND IS NO
9 LONGER INVOLVED IN THIS LITIGATION?

10 (NO RESPONSE HEARD.)

11 I WOULD HAVE THOUGHT NOT. IT WOULD NOT MAKE SENSE.
12 I THINK THAT IS GOING TO BE TRUE OF ALL THE NAMED PARTIES
13 AND THOSE PARTIES THAT HAVE BEEN SERVED SPECIFICALLY AND
14 WHO HAVE RESPONDED EITHER BY AGREEING TO BE BOUND BY THE
15 COURT'S ORDERS OR ADJUDICATION OR ACTIVELY PARTICIPATE.
16 AND I THINK THE BIG ISSUE, AS FAR AS I'M CONCERNED, IS
17 NOTIFICATION. SO WE'RE GOING TO DEAL WITH THAT BY MOTION.

18 I THINK I COULD SIGN AN ORDER THAT BASICALLY
19 FOLLOWS THIS FORMAT ALL PARTIES OTHER THAN THE CLASS
20 MEMBERS.

21 MR. WEEKS: YOUR, HONOR, THIS IS BRAD WEEKS. I
22 THINK THE ISSUE MIGHT BE THE PARTIES WHO SOLD A PORTION OF
23 THE PROPERTY THEY OWN TO SOMEONE WHO IS NOT A PARTY OR A
24 PARTY WHO TRANSFERRED A PORTION OF THE PROPERTY THEY OWNED
25 TO A SUBSIDIARY OR AFFILIATE OF THAT BUSINESS.

26 MR. JOYCE: THAT IS PROBABLY AN ISSUE THAT NEEDS TO
27 BE ADDRESSED.

28 THE COURT: OKAY, WELL, I CAN'T REALLY ADDRESS THAT

19

1 HERE THIS MORNING. WE CAN TAKE THAT UP AT A HEARING.

2 MR. JOYCE: YOUR HONOR, CAN WE HAVE A BRIEFING
3 SCHEDULE ON A SCHEDULED DATE FOR THAT ORDER.

4 THE COURT: WELL THE BRIEFING DATE WOULD BE BASED
5 UPON WHEN THE MOTION IS FILED AND CODE OF CIVIL PROCEDURE.

6 MR. JOYCE: CAN WE HAVE A SET DATE WHEN THAT MOTION
7 NEEDS TO BE FILED.

8 THE COURT: MR. DUNN, ARE YOU ON THE LINE?

9 MR. DUNN: I AM, YOUR HONOR, THIS IS MR. DUNN.
10 THE COURT: MR. DUNN, WHEN CAN YOU FILE THAT
11 MOTION?
12 MR. DUNN: WELL, LET'S SEE, OUT OF TOWN THIS WEEK,
13 MOST OF THE NEXT WEEK AND THE WEEK AFTER. I WOULD SAY TWO
14 WEEK FROM MONDAY.
15 THE COURT: OKAY. DON'T HAVE A CALENDAR IN FRONT
16 OF ME. WHAT KIND OF A DAY ARE YOU TALKING ABOUT FOR A
17 HEARING?
18 UNIDENTIFIED SPEAKER: A WEEK FROM MONDAY IS THE
19 24TH.
20 THE COURT: THE 24TH -- THAT IS A MONDAY.
21 UNIDENTIFIED SPEAKER: YES.
22 THE COURT: AND WHY DON'T WE HAVE A HEARING ON IT
23 20 DAYS AFTER THAT.
24 UNIDENTIFIED SPEAKER: I'M SORRY, YOUR HONOR, WHAT
25 DATE WAS THAT?
26 THE COURT: 20 DAYS.
27 UNIDENTIFIED SPEAKER: AND ANY OPPOSITION TO THE
28 MOTION BY WHAT DATE?

20

1 UNIDENTIFIED SPEAKER: 20 DAYS IS A SUNDAY, YOUR
2 HONOR, THE 13TH OF JUNE.
3 THE COURT: SO WOULD BE THE 14TH OF JUNE. FOLLOW
4 THE CODE IN BRIEFING.
5 UNIDENTIFIED SPEAKER: THANK YOU, YOUR HONOR.
6 UNIDENTIFIED SPEAKER: YOUR, HONOR, THIS IS ON THE
7 QUESTION OF CLASS MEMBERS OR EVERYBODY?
8 THE COURT: WELL, IT CAN BE ON ANY ISSUE RAISED,

9 BUT IT SEEMS TO ME IT'S NOT GOING TO BE A BIG DISPUTE ABOUT
10 PEOPLE WHO ARE NAMED OR SPECIFICALLY SERVED. THE REAL
11 ISSUE IS GOING TO BE CLASS MEMBERS AND THAT HAS TO BE DEALT
12 WITH.

13 UNIDENTIFIED SPEAKER: THANK YOU, YOUR HONOR.

14 THE COURT: ANYTHING FURTHER?

15 MR. DOUD: YOUR HONOR, ALAN DOUD, I JUST WANT TO
16 CLARIFY. I WILL PASS ALONG YOUR GUIDANCE TO MR. KUNEY,
17 BUT I THINK WHAT YOU SAID WAS THAT YOU THINK THAT THE --
18 THAT THIS IS AS COMPREHENSIVE AS WE'RE GOING TO GET WITH
19 REGARDS TO THESE PARTIES; IS THAT MY UNDERSTANDING?

20 THE COURT: NO, I DON'T THINK I SAID THAT.

21 MR. DOUD: I'M SORRY, I MISUNDERSTOOD. I ONLY
22 BRING THAT UP BECAUSE WE MIGHT FIND ANOTHER UNNAMED PARTY
23 THAT OWNED, WE THINK, AT LEAST 1100 ACRES WITHIN THE BASIN.
24 I WILL AGAIN --

25 THE COURT: IS THAT SOMEONE WHO IS REPRESENTED BY
26 YOUR FIRM?

27 MR. DOUD: NO, IT'S NOT. I DO NOTE THAT YOU
28 ADDRESSED THAT WITH REGARD TO OUR REMEDIES. BUT IT IS OUT

21

1 THERE AND --

2 THE COURT: HAVE YOU NOTIFIED ANYBODY?

3 MR. DOUD: I'M SORRY.

4 THE COURT: HAVE YOU NOTIFIED ANY OF THE
5 PLAINTIFFS?

6 MR. DOUD: NOT YET, YOUR HONOR, THIS JUST CAME UP.

7 THE COURT: I THINK YOU SHOULD DO THAT WHEN YOU
8 LEARN OF SOMETHING OF THAT SORT THAT'S SOMETHING THAT OUGHT
9 TO BE INVOLVED IN THE ADJUDICATION.

10 MR. DOUD: THANK YOU, YOUR HONOR.
11 THE COURT: ALL RIGHT. NOTHING FURTHER. I WILL
12 EXPECT TO HEAR FROM YOU ON JUNE 14, 9:00 A.M.
13 UNIDENTIFIED SPEAKER: THANK YOU, YOUR HONOR.
14 THE COURT: ARE YOU GOING TO HAVE A ROLL CALL NOW?
15 UNIDENTIFIED SPEAKER: YES, WE'RE GOING TO DO ROLL
16 CALL.
17 THE COURT: I'M GOING OFF.
18 THE CLERK: JUDGE KOMAR, BEFORE YOU GO OFF, IS THAT
19 GOING TO BE IN DEPARTMENT 1 AND IS THAT AN APPEARANCE? DID
20 I MISS HIM.
21 UNIDENTIFIED SPEAKER: I THINK HE WENT OFF.
22 THE CLERK: I'M GOING TO ASSUME YOU GUYS WILL BE
23 HERE 9:00 O'CLOCK IN DEPARTMENT 1 ON JUNE 14. IF IT TURNS
24 OUT IT'S HALF PHONE, HALF APPEARANCES THAT'S FINE, BUT I
25 WILL MAKE ARRANGEMENTS FOR A COURT REPORTER AND HAVE THE
26 COURT AVAILABLE TO YOU FOR A COUPLE OF HOURS.
27 UNIDENTIFIED SPEAKER: THANK YOU.
28 THE CLERK: I'M JUST GOING TO CALL ROLL CALL NOW.

22

1 MALISSA MC KEITH?
2 MS. MC KEITH: I'M HERE.
3 THE CLERK: JULIE RILEY?
4 MS. RILEY: HERE.
5 THE CLERK: EDWARD RENWICK?
6 MR. RENWICK: HERE.
7 THE CLERK: TAMMY JONES?
8 MS. JONES: HERE.
9 THE CLERK: IF YOU DON'T HEAR YOUR NAME, I ALREADY

10 KNOW YOU'RE ON BECAUSE YOU TALKED DURING THE HEARING.
11 ANNA MILLER?
12 MS. MILLER: HERE.
13 THE CLERK: WILLIAM SLOAN?
14 MR. SLOAN: HERE.
15 THE CLERK: BY THE WAY, MIKE MC LACHLAN, I KNOW
16 ABOUT YOU. JOHN UKKESTAD?
17 MR. UKKESTAD: HERE.
18 THE CLERK: JEFF GREEN?
19 MR. GREEN: HERE.
20 THE CLERK: I KNOW ABOUT ALAN DOUD. EMILY MADUENO?
21 MS. MADUENO: HERE.
22 THE CLERK: ROBERT NEAL?
23 MR. NEAL: HERE.
24 THE CLERK: KARA GRANOWITZ?
25 MS. GRANOWITZ: HERE.
26 THE CLERK: RYAN DRAKE?
27 MR. DRAKE: HERE.
28 THE CLERK: WILLIAM BRUNICK?

23

1 MR. BRUNICK: HERE.
2 THE CLERK: STEFANIE HEDLUND? (NO RESPONSE)
3 MICHAEL CROW?
4 MR. CROW: HERE.
5 THE CLERK: I KNOW ABOUT JEFFREY DUNN. WARREN
6 WELLEN?
7 MR. WELLEN: HERE.
8 THE CLERK: LEE LEININGER I KNEW ABOUT. JAMES
9 DUBOIS?
10 MR. DUBOIS: I'M HERE.

11 THE CLERK: JOHN TOOTLE?
12 MR. TOOTLE: HERE.
13 THE CLERK: RALPH KALFAYAN?
14 MR. ZLOTNICK: THIS IS DAVID ZLOTNICK, I'M HERE FOR
15 KALFAYAN.
16 THE CLERK: HOW DO YOU SPELL YOUR LAST NAME,
17 COUNSEL?
18 MR. ZLOTNICK: Z-L --
19 THE CLERK: OKAY, I KNOW YOU. AMY GANTVOORT?
20 MS. GANTVOORT: PRESENT.
21 THE CLERK: THOMAS BUNN?
22 MR. BUNN: HERE.
23 THE CLERK: I KNOW ABOUT BRADLEY WEEKS, HE SPOKE.
24 I BELIEVE HE DID. ROBERT KUHS?
25 MR. KUHS: HERE.
26 THE CLERK: ZIMMER, JOYCE, OF COURSE. JAMES
27 MARKMAN?
28 MR. MARKMAN: YES.

24

1 THE CLERK: LEMIEUX I KNOW. MICHAEL FIFE?
2 MR. FIFE: HERE.
3 THE CLERK: CHRISTOPHER SANDERS?
4 MR. SANDERS: HERE.
5 THE CLERK: SUMMER NASTICH?
6 MS. NASTICH: HERE.
7 THE CLERK: AND MARLENE ALLEN? COUNSEL ALLEN ARE
8 YOU ON THE LINE?
9 MS. ALLEN: YES, I'M HERE.
10 THE CLERK: IS THERE ANYBODY I DIDN'T CALL THE NAME

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11 OF? COUNSEL? HELLO? I THINK WE'RE ALL SET. WE WERE ALL
12 CHECKING OUT ANYWAY, I COULDN'T HEAR YOU ANYWAY BECAUSE OF
13 ALL THE BEEPS. THANK YOU VERY MUCH.

14

15 (END OF PROCEEDING AT 9:45 A.M.)

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