

1 UNLESS THEY DO CONTACT AN ATTORNEY, THEY ARE REALLY NOT GOING
2 TO KNOW WHAT IS GOING ON HERE.

3 AND I THINK OUR EXPERIENCE UP IN SANTA MARIA
4 SHOWS THAT YOU CAN SERVE A WHOLE BUNCH OF PEOPLE AND THEY JUST
5 SIT THERE.

6 AND THAT IS ALL I HAVE TO SAY.

7 THE COURT: ALL RIGHT.

8 ALL RIGHT. MR. FIFE?

9 MR. FIFE: MICHAEL FIFE.

10 YOUR HONOR, THERE IS A CURRENT CONFLICT, IT IS
11 NOT SOMETHING THAT IS IN THE FUTURE. IN THE ANTELOPE VALLEY
12 THERE IS A STRANGE DYNAMIC WITHIN THE LANDOWNERS THAT YOU
13 DIDN'T ENCOUNTER IN SANTA MARIA AND THAT REALLY HASN'T BEEN AT
14 THE FOREFRONT IN PAST ADJUDICATIONS, AND THAT IS THAT THE
15 DORMANT OVERLYERS, THAT IS THE NON-PUMPING LANDOWNERS, ARE SO
16 NUMEROUS AND MAKE UP SUCH A LARGE PART OF THE VALLEY, THAT THE
17 PUMPERS ARE ACTUALLY MORE ADVERSE TO THEM THAN THEY ARE TO THE
18 PURVEYORS.

19 THE THREAT OF CORRELATIVE RIGHTS, THE THREAT THAT
20 THOSE NONPUMPERS WOULD BEGIN TO PUMP AND THAT THE CURRENT
21 PUMPERS' RIGHTS WOULD BE DIMINISHED PROPORTIONATELY IS A MUCH
22 BIGGER THREAT TO THE PUMPING LANDOWNERS THAN IS THE THREAT OF
23 PRESCRIPTION.

24 THE WHOLE USE OF PRESCRIPTION HERE, BECAUSE OF
25 THAT DYNAMIC, WE SORT OF GET INTO A STRANGE REVERSAL FROM WHAT
26 WE HAVE ENCOUNTERED IN PAST ADJUDICATIONS WHERE THE PUMPERS IN
27 THE ANTELOPE VALLEY LEGALLY MAY PREFER TO BE PRESCRIBED
28 AGAINST SO THAT THEIR RIGHTS ARE DEFINED THROUGH SELF HELP.

1 THE NONPUMPERS DON'T FACE THAT. IF THEY ARE PRESCRIBED
2 AGAINST, THEY'LL GET NOTHING. AND SO THEY ARE INCLINED, FROM
3 THE FIRST MOMENT, TO FIGHT AGAINST PRESCRIPTION. WHEREAS THE
4 PUMPERS MAY ACTUALLY BE IN FAVOR OF BEING PRESCRIBED AGAINST.

5 AND SO THAT TRACES BACK THEN TO THE STAGE OF THE
6 ADJUDICATION RIGHT NOW. AS WE MOVE INTO THE NEXT PHASE,
7 ANYTHING THAT HAPPENS IN THIS COURTROOM THAT MOVES US TOWARDS
8 THE PRESCRIPTIVE RIGHTS PORTION OF THE CASE, WHETHER THAT IS
9 THE NEXT PHASE OR THE PHASE AFTER THE NEXT PHASE, THOSE TWO
10 INTERESTS WILL DIVERGE. THAT IS THE CONFLICT IN FRONT OF THE
11 COURT RIGHT NOW.

12 BUT THEN THERE IS ALSO THE ISSUE OF SETTLEMENT
13 NEGOTIATIONS. WE ARE CONDUCTING SETTLEMENT NEGOTIATIONS. THE
14 PUMPERS WILL GO INTO THE SETTLEMENT NEGOTIATIONS. AND I THINK
15 I CAN REVEAL MY POSITION; WON'T SAY ANYTHING ABOUT OTHERS. MY
16 POSITION GOING IN IS THAT THE NONPUMPERS GET ZERO. IF I HAVE
17 NONPUMPERS IN MY GROUP, I'LL BE ACTING ADVERSE TO THEM.

18 I REALLY DON'T SEE HOW MR. ZLOTNICK CAN GO INTO
19 THE SETTLEMENT NEGOTIATIONS AND SPEAK ON BEHALF OF HIS
20 CLIENTS, THE NONPUMPERS AND THE PUMPERS AT THE SAME TIME.
21 BECAUSE FOR THE PUMPERS, HE'LL HAVE TO SAY THAT THE NONPUMPERS
22 GET ZERO; FOR THE NONPUMPERS HE'LL HAVE TO SAY THEY GET
23 SOMETHING. THEY CAN'T BE RECONCILED.

24 THE COURT: EXPLAIN TO ME WHY YOU WOULD BE INTERESTED
25 IN HAVING PRESCRIPTION RUN AGAINST YOU?

26 MR. FIFE: IF WE ARE PRESCRIBED AGAINST, THEN OUR WATER
27 RIGHTS ARE DEFINED BY SELF HELP. AND THAT MEANS THAT OUR
28 WATER RIGHTS ARE DEFINED IN TERMS OF OUR HISTORICAL

1 PRODUCTION.

2 THE COURT: WELL, NOT NECESSARILY SO. YOU MAY ALSO
3 FIND YOUR RIGHTS ARE DIMINISHED.

4 MR. FIFE: THEY MAY BE DIMINISHED BUT THE POTENTIAL OF
5 DIMINISHMENT IS MUCH GREATER IF WE HAVE TO SHARE THE SAFE
6 YIELD OF THE BASIN CORRELATIVELY WITH THE THOUSANDS AND
7 THOUSANDS OF DORMANT OVERLYERS, EACH OF WHOM COULD PUT AN
8 ALFAFA FARM ON THEIR PROPERTY.

9 THE COURT: WELL, IT OBVIOUSLY WILL BE DETERMINED BY
10 WHETHER OR NOT THE DORMANT OVERLYERS HAVE ANY RIGHTS LEFT AT
11 ALL, BASED UPON PRESCRIPTION, SINCE THAT IS AN ISSUE THAT HAS
12 TO BE DETERMINED.

13 MR. FIFE: EXACTLY.

14 THE COURT: BUT LET'S BACK UP JUST A LITTLE BIT.

15 IS IT NOT TRUE THAT THE CONFIGURATION OF THE
16 VALLEY AND THE HYDROGEOLOGICAL ASPECTS OF THE VALLEY ARE
17 ISSUES ABOUT WHICH THERE IS NOT LIKELY TO BE A CONFLICT; THAT
18 THAT IS A DETERMINATION, HOWEVER IT TURNS OUT, THAT THE COURT
19 IS GOING TO HAVE TO MAKE THAT IS GOING TO IMPACT ALL PARTIES
20 EQUALLY?

21 MR. FIFE: NOT NECESSARILY. FOR EXAMPLE, THE QUESTION
22 OF SUB-BASINS. AND JUST USING THE ANALOGY OF SANTA MARIA
23 AGAIN. THERE WAS THE ISSUE OF SUB-BASINS IN SANTA MARIA.

24 YOU CAN ARGUE HYDROGEOLOGICALLY THAT THERE ARE
25 SUB-BASINS, BUT YOU CAN ARGUE JUST AS VALIDLY FROM A
26 MANAGEMENT PERSPECTIVE THAT A BASIN SHOULD BE TREATED AS ONE
27 BASIN. AND IT CAN HAVE -- IT CAN MAKE A DIFFERENCE WHEN YOU
28 ARE TALKING ABOUT PRESCRIPTION AND THE OVERALL WATER BALANCE,

1 WHETHER YOU ARE DOING MULTIPLE SUB-BASIN WATER BALANCES OR A
2 BASIN-WIDE WATER BALANCE. AND THAT'S THE REASON IT WAS AN
3 ISSUE IN SANTA MARIA, IT WAS BECAUSE IT WAS EASIER TO SHOW.

4 THE COURT: WELL, MR. FIFE, SHOULD WE JUST DISMISS ALL
5 THE COMPLAINTS AND CROSS-COMPLAINTS AND SAY THAT THIS CASE IS
6 AT AN END BECAUSE THE COURT CAN'T ADJUDICATE IT? IS THAT WHAT
7 WE SHOULD DO?

8 MR. FIFE: WELL, SINCE MY CLIENTS ARE DEFENDANTS AND
9 ARE PAYING A GREAT DEAL OF MONEY TO TRY TO DEFEND THEIR
10 PROPERTY RIGHTS, WE WOULDN'T MIND THAT.

11 THE COURT: HOW DO YOU THINK THAT WOULD BENEFIT YOUR
12 CLIENTS?

13 MR. FIFE: WELL, MY CLIENTS HAVE BEEN PUMPING FROM THE
14 ANTELOPE VALLEY FOR THREE GENERATIONS AND THE WATER LEVELS
15 HAVE GONE UP AND DOWN OVER THE COURSE OF THOSE GENERATIONS.
16 AND FOR THE LAST TEN YEARS THEY HAVE BEEN FAIRLY STABLE.

17 BUT WE HAVEN'T SUGGESTED THAT. AND WE HAVEN'T --
18 WE DON'T THINK THAT -- WE THINK THE CASE CAN MOVE FORWARD.
19 THERE ARE MANY AVENUES TO MOVE IT FORWARD. WE HAVE TRIED TO
20 ARTICULATE SOME OF THOSE IN OUR PAPERS THAT WE FILED.

21 THE COURT: WELL, GIVE ME AN EXAMPLE OF HOW THIS CASE
22 CAN MOVE FORWARD WITHOUT HAVING JURISDICTION OVER ALL THE
23 PEOPLE WHO HAVE ANY CLAIM AT ALL TO WATER RIGHTS IN THIS
24 VALLEY.

25 MR. FIFE: THE L.A. COUNTY CAN VERY EASILY PRODUCE THE
26 NAMES AND ADDRESSES OF EVERYONE IN THE VALLEY. THEY CAN -- WE
27 CAN CERTIFY A CLASS FOR NONPUMPERS. AND ANYONE WHO CHECKS
28 THAT BOX ON THE FORM THAT SAYS THAT THEY PUMP WATER SHOULD BE

1 INDIVIDUALLY NAMED AND SERVED. THAT IS ONE WAY TO DO IT.

2 THE COURT: OKAY. NOW THE COURT HAS PREVIOUSLY
3 CERTIFIED A CLASS OF NONPUMPERS; IS THAT TRUE?

4 MR. FIFE: UH-HUH.

5 THE COURT: I'VE MADE AN ORDER. I HAVEN'T SEEN THE
6 ACTUAL DESCRIPTION OF THE CLASS, BUT I THINK IT IS PRETTY
7 CLEAR WHAT IT IS.

8 MR. FIFE: AND I'VE GOTTEN CONFUSED BY THE STATE OF THE
9 PLEADINGS BECAUSE WE SEEM TO GO BACK AND FORTH. THE LAST I
10 CHECKED, MR. ZLOTNICK WAS ACTUALLY GOING TO FILE A MOTION.

11 THE COURT: WELL, HIS MOTION, THOUGH, IS GOING TO
12 ENCOMPASS THE CLASS OF SMALL PUMPERS.

13 MR. FIFE: OKAY.

14 THE COURT: BUT WHAT I WOULD LIKE TO SEE HAPPEN HERE IS
15 COUNSEL, AT LEAST COUNSEL WHO ARE CURRENTLY INVOLVED IN THE
16 CASE, TO COME TO SOME AGREEMENT AS TO HOW WE CAN PROCEED.
17 BECAUSE I WOULD LIKE TO SET THIS MATTER FOR PHASING THE TRIAL
18 AND I WOULD LIKE TO DO THAT WITH SOME REASONABLE CERTAINTY,
19 THAT WE CAN ACCOMPLISH IT. BUT I CAN'T DO THAT UNLESS WE HAVE
20 SOME AGREEMENT AS TO THE JURISDICTIONAL BASIS FOR EACH OF THE
21 PARTIES WHO ARE CURRENTLY BEFORE THE COURT AS WELL AS THE
22 CLASS OF DORMANT PUMPERS.

23 MR. FIFE: AND WE HAVE -- WE WANT THAT ALSO, YOUR
24 HONOR. AND WE HAVE NO OBJECTION TO THE CLASS OF NONPUMPERS.
25 WE REALLY, PROPERLY CONFIGURED, WOULD HAVE NO OBJECTION TO A
26 CLASS OF PUMPERS. WE, IN FACT, VOLUNTEERED TO REPRESENT THEM.
27 AND I RAISE THAT IN THE PAPERS.

28 YOU KNOW, A VERY SIMPLE WAY OF DOING THIS WHOLE

1 THING WOULD BE TO CERTIFY MR. ZLOTNICK'S CLASS FOR NONPUMPERS.
2 YOU COULD CERTIFY A CLASS FOR PUMPERS. PUT ALL THE PUMPERS
3 INTO ONE CLASS. OUR GROUP WILL REPRESENT THEM. AND THE
4 PURVEYORS CAN PAY THE BILL.

5 IT'S FUNNY BUT THERE IS PRECEDENCE FOR IT. IT IS
6 DONE IN OTHER ADJUDICATIONS.

7 THE COURT: I WOULD FAIL TO SEE THE HUMOR.

8 MR. FIFE: I'M SERIOUS THOUGH.

9 THE COURT: MY SENSE IS THAT WE CERTAINLY CAN MOVE
10 AHEAD WITH A CLASS OF NONPUMPERS. AND EVERYBODY WITHIN THE
11 VALLEY WHO OWNS REAL PROPERTY CAN BE SERVED WITH A COPY OF THE
12 NOTICE. AND IF THEY CHOOSE TO REPRESENT TO THE COURT THAT
13 THEY ARE IN FACT PUMPERS, THEY CAN BE INDIVIDUALLY SERVED AND
14 NAMED; AND/OR IF THEY OPT OUT, THEY CAN BE CERTIFIED AND
15 SERVED.

16 I MADE THAT SUGGESTION ABOUT TWO HEARINGS AGO
17 AND SUGGESTED THAT IT WOULD BE AN AUTOMATIC OPT-OUT FOR
18 ANYBODY WHO WAS A PUMPER THAT WAS NOT ALREADY SERVED HERE.

19 WHY WOULD THAT NOT CONFER JURISDICTION SUFFICIENT
20 TO MOVE THIS CASE FORWARD AND SET IT FOR TRIAL?

21 MR. FIFE: I THINK THAT WOULD BE SUFFICIENT. AND WHEN
22 YOU SUGGESTED THAT A COUPLE OF HEARINGS AGO, WE WERE QUITE
23 SATISFIED WITH THAT. IT WAS THEN THAT THERE WERE OTHER
24 PROPOSALS THAT CAME IN TO TRY TO PUT PUMPERS INTO A CLASS, AND
25 THAT IS WHERE WE HIT THE SAME SNAG EVERY TIME. EVERY TIME
26 THAT IT IS JUST A NONPUMPERS CLASS AND PUMPERS WOULD BE
27 INDIVIDUALLY NAMED AND SERVED, EVERYTHING IS FINE AND THERE IS
28 NO OBJECTION. IT ONLY GETS MESSED UP WHEN THERE IS THEN A

1 PROPOSAL THAT COMES IN TO TRY TO PUT PUMPERS IN A CLASS.

2 THE COURT: ALL RIGHT. MR. LEMIEUX.

3 MR. WAYNE LEMIEUX: THANK YOU, YOUR HONOR.

4 I SHOULD BE CLEAR: I'M WAYNE LEMIEUX. I'M HERE
5 REPRESENTING THE LITTLE ROCK GROUP.

6 THE COURT: THE OTHER LEMIEUX.

7 MR. WAYNE LEMIEUX: THE OTHER LEMIEUX.

8 I REALLY DON'T HAVE -- WHATEVER THE EUPHEMISM
9 IS -- "A DOG IN THIS FIGHT." I GUESS THAT IS POOR TASTE AFTER
10 MICHAEL VICK. BUT I HAVE A SUGGESTION: PERHAPS THE NOTICE
11 SHOULD INCLUDE THE WAIVER OF CONFLICT, BECAUSE THAT IS WHAT WE
12 ARE TALKING ABOUT HERE IS WAIVER OF CONFLICT OR THE EXISTENCE
13 OF A POTENTIAL CONFLICT. AND MAYBE EVEN THE COURT COULD MAKE
14 A FINDING THAT AS OF TODAY THERE IS NO CONFLICT AND THAT UNTIL
15 YOU SAY DIFFERENTLY THERE IS NO CONFLICT. AND THEN ALL WE
16 HAVE TO WORRY ABOUT IS FORMER CLIENT PROBLEMS. AND IF WE STAY
17 AHEAD OF THAT, AS WOULD BE THE CASE WITH THE NOTICE, THAT
18 MIGHT SOLVE IT. I WOULD THINK SMALL PUMPERS COULD OPT INTO
19 THE CLASS, IF THEY WANTED TO, BY WAIVING CONFLICT.

20 THE COURT: WELL, I THINK THERE IS HOWEVER A CONFLICT.

21 MR. WAYNE LEMIEUX: EVENTUALLY.

22 THE COURT: YEAH. AND I THINK MY RHETORICAL QUESTION
23 ABOUT THERE NOT BEING ONE REALLY, I THINK, HELPS TO EXPLAIN
24 THAT THERE IN FACT IS ONE.

25 I THINK THAT, HOWEVER, A PROPER NOTICE SENT OUT
26 TO ALL PROPERTY OWNERS GIVING ANYBODY WHO IS A PUMPER WHO IS
27 NOT ALREADY A PARTY TO THIS LAWSUIT AN OPPORTUNITY TO OPT OUT
28 OR TO CHECK A BOX THAT SAYS THEY ARE A PUMPER THEREFORE THEY

1 ARE A MEMBER OF THE CLASS AND THEY WOULD BE OBLIGATED TO
2 PROVIDE THE COURT WITH THAT NOTICE, WOULD THEN GIVE THE COURT
3 AN OPPORTUNITY TO PROCEED BECAUSE THE PARTIES CAN THEN SERVE
4 THOSE INDIVIDUALS INDIVIDUALLY.

5 MR. WAYNE LEMIEUX: I THINK I'M ONLY ADDING ONE OTHER
6 LAYER TO THAT AND ASKING IS IT POSSIBLE FOR THAT SMALL PUMPER
7 TO CHECK A BOX TO SAY, "I AM A PUMPER. I RECOGNIZE THERE IS A
8 CONFLICT BUT I STILL WANT TO BE IN THE CLASS."

9 THE COURT: YES. I THINK THAT IS CERTAINLY SOMETHING
10 THEY CAN DO. BUT WAIVER OF A CONFLICT --

11 MR. WAYNE LEMIEUX: TRICKY THING.

12 THE COURT: YEAH. I'M A LITTLE CONCERNED ABOUT THE DUE
13 PROCESS ASPECTS OF THAT WAIVER.

14 MR. WAYNE LEMIEUX: THANK YOU, YOUR HONOR.

15 THE COURT: BUT I WOULD LIKE TO SEE, IF COUNSEL CAN
16 AGREE AS TO A FORM OF NOTICE TO THE NON-PUMPING CLASS THAT IT
17 WOULD ENCOMPASS THAT TYPE OF A NOTICE, I THINK WE COULD
18 PROBABLY MOVE FORWARD.

19 MR. DOUGHERTY: ROBERT DOUGHERTY AGAIN.

20 THE CONCERN I WOULD SEE THERE IS WHAT HAPPENS IF
21 THE FOLKS GET THE NOTICE; THAT THEY JUST DON'T DO A THING WITH
22 IT. AND YOU CAN'T OBVIOUSLY TELL WHO IS A PUMPER OR WHO IS
23 NOT A PUMPER. AND SO THAT KIND OF BRINGS YOU WHERE PROBABLY
24 YOU WOULD HAVE TO SERVE THEM.

25 THE COURT: WELL, IF A PARTY RECEIVES A NOTICE THAT
26 PUTS THEM IN THE CLASS, THEY DO HAVE AN OBLIGATION TO RESPOND
27 TO THE COURT TO OPT OUT, TO CLAIM THEY DON'T FIT WITHIN THE
28 CLASS, OR THAT THEY CHOOSE NOT TO BE A MEMBER OF THE CLASS

1 FOR A NUMBER OF REASONS. AND YOU ARE ASKING HOW WE MAKE
2 EVERYBODY ACT PERFECTLY TO PROTECT THEIR OWN INTERESTS. AND I
3 DON'T THINK I KNOW THE ANSWER TO THAT ANY MORE THAN YOU DO.

4 MR. DOUGHERTY: THAT IS TRUE, YOUR HONOR. THE QUESTION
5 WOULD BE IF THEY DON'T RETURN THE NOTICE OR WHATEVER THEY ARE
6 TO SIGN, THEN HOW DO WE CHARACTERIZE THEM? DO WE SAY THAT
7 THEY ARE NONPUMPERS OR THAT THEY ARE PUMPERS? I DON'T KNOW.

8 THE COURT: WELL, THEIR RIGHTS WOULD BE DETERMINED AS A
9 MEMBER OF THE CLASS.

10 WELL, I WOULD LIKE COUNSEL TO MEET AND CONFER
11 CONCERNING THE FORM OF A NOTICE. AND I'M THINKING THAT I
12 WOULD LIKE YOU TO DO THAT -- OF COURSE THERE ARE ALOT OF
13 PEOPLE ON THE TELEPHONE THAT AREN'T HERE, SO I'M GOING TO HAVE
14 TO GIVE YOU SOME DEADLINES FOR ACCOMPLISHING THAT, AND I WILL.

15 BUT I WOULD LIKE TO KNOW IF ANYBODY ELSE HAS
16 ANYTHING TO OFFER CONCERNING THAT? EITHER HERE IN THE
17 COURTROOM OR ON THE TELEPHONE.

18 MR. DUNN?

19 MR. DUNN: YOUR HONOR, JUST SO THAT SOME OF US ARE
20 CLEAR ON WHAT DIRECTION WE ARE HEADED, MAYBE IT IS HELPFUL TO
21 CIRCLE BACK JUST BRIEFLY FOR A MOMENT WITH HOW WE GOT TO THIS
22 POINT.

23 THE REASON WHY I THINK WE ARE HERE TODAY
24 GENERALLY IS THAT WE HAVE A LARGE NUMBER OF PROPERTY OWNERS IN
25 THE ANTELOPE VALLEY WHO NEED TO BECOME PART OF THIS CASE
26 SUBJECT TO COURT JURISDICTION. WE KNOW GENERALLY THEY EXIST
27 IN TWO GROUPS.

28 THERE IS A GROUP OF PEOPLE WHO PUMP; PEOPLE WHO

1 DO NOT PUMP. I THINK IT IS IMPORTANT FOR US TO BRING OUT THE
2 FACT THAT PRAGMATICALLY, REALISTICALLY, TO ACQUIRE
3 JURISDICTION OVER THESE PROPERTY OWNERS, THE CLASS MECHANISM
4 IS NECESSARY. AND IT WILL BE NECESSARY FOR BOTH SMALL PUMPERS
5 AND PEOPLE WHO DO NOT PUMP, BECAUSE BOTH GROUPS ARE ESTIMATED
6 TO BE QUITE LARGE, EXTRAORDINARILY LARGE IN NUMBER.

7 AND IF THERE WERE TO BE A SITUATION WHERE THERE
8 WOULD ONLY BE A SINGLE CLASS OF SMALL PUMPERS -- EXCUSE ME --
9 A SINGLE CLASS OF NONPUMPERS, REPRESENTED BY MR. ZLOTNICK, THE
10 COURT AND THE PARTIES, THE PRESENT PARTIES, WOULD STILL BE
11 FACED WITH THE PROBLEM OF THIS LARGE NUMBER OF ESTIMATED SMALL
12 PUMPERS. AND SO WE COME BACK TO THAT ISSUE YET AGAIN.

13 AND SO I THINK WHERE THIS CASE HAS TO BE HEADED,
14 QUITE FRANKLY, IS IN ORDER TO MOVE IT ALONG IS THAT WE WILL
15 NEED A CLASS MECHANISM OR CLASS MECHANISMS FOR BOTH GROUPS.

16 TODAY WE HAVE A CLASS OF NONPUMPERS REPRESENTED
17 BOTH BY LEGAL COUNSEL AND A CLASS REPRESENTATIVE. THE ISSUE
18 IS HOW DO WE DEAL THEN WITH THESE "SMALL PUMPERS," AS THEY ARE
19 COMMONLY CALLED HERE.

20 THERE HAS BEEN SOME CONCERN RAISED BY
21 MR. ZLOTNICK THAT AGAIN THE SHEER NUMBER OF THESE FOLKS MAY
22 INUNDATE BOTH CLASS COUNSEL, BOTH FOR THE PUMPERS AND SMALL
23 PUMPERS. AND ONE SOLUTION TO THAT, ONE ALTERNATIVE, IS WHAT
24 MR. ZLOTNICK SUGGESTED, AND THAT IS THAT THE COURT USE THE
25 CLASS MECHANISM BUT IN A WAY THAT IS COMMONLY DONE BOTH IN THE
26 FEDERAL AND STATE COURT SYSTEM IN TERMS OF NOTICE AND THAT IS
27 THE NOTICE IS SENT TO THE CLASS MEMBERS GENERALLY AT THE TIME
28 THAT THERE IS A SETTLEMENT PROPOSED SO IT GIVES CLASS MEMBERS

1 AN OPPORTUNITY TO NOT JUST OPT OUT OF THE CLASS BUT TO OPT OUT
2 OF THE CLASS SETTLEMENT. AND THAT IS ONE ALTERNATIVE THAT WAS
3 RAISED BY MR. ZLOTNICK. IN THAT THE CASE COULD MOVE FORWARD
4 TO SOME EXTENT, PARTICULARLY ON THE SETTLEMENT SIDE, AND THE
5 CLASS NOTICE THEN COULD GO OUT ONCE THERE IS AN PROPOSED
6 SETTLEMENT FOR THE CLASS.

7 THE OTHER ALTERNATIVE IS WHAT THE COURT HAS
8 BROUGHT UP THIS MORNING, AND IT HAS BEEN DISCUSSED EARLIER,
9 AND THAT IS THE CLASS MECHANISM IS VERY PRAGMATIC. WE CAN
10 CERTIFY A CLASS OF ALL PROPERTY OWNERS FOR THE LIMITED
11 PURPOSES, FOR THE PURPOSES THAT THE COURT HAS DESCRIBED THIS
12 MORNING. THERE ARE PREDOMINANT ISSUES OF FACT THAT ARE COMMON
13 TO ALL THE PROPERTY OWNERS IN THE BASIN AND THAT HAS TO DO
14 WITH THE YIELD OF THE BASIN, HOW MUCH WATER CAN BE SAFELY
15 ALLOCATED REGARDLESS OF WHETHER YOU PUMP OR DON'T PUMP OR YOU
16 ARE A PURVEYOR.

17 THERE ARE CERTAIN YIELD DETERMINATIONS AND
18 CHARACTERISTICS OF THE BASIN THAT ARE COMMON TO ALL PROPERTY
19 OWNERS. AND I WOULD ALSO ADD THAT PROPERTY OWNERS ALSO SHARE
20 COMMON FACTUAL AND LEGAL ISSUES REGARDING THE RIGHTS THAT THE
21 PUBLIC WATER SUPPLIERS HAVE.

22 THE CONCERNS THAT HAVE BEEN RAISED THIS MORNING
23 BY VARIOUS COUNSEL FOR PROPERTY OWNERS HAVE TO DO WITH
24 CONFLICT THAT YET MAY ARISE WHEN PROPERTY OWNERS, VIS A VIS
25 EACH OTHER, ATTEMPT TO USE THESE LEGAL PROCEEDINGS. UNDER
26 WELL-ESTABLISHED CLASS ACTION LAW AND PROCEDURE WE CAN DEAL
27 WITH THAT AT A LATER TIME. AND I THINK WHAT WE ARE SUGGESTING
28 HERE IS IT MAY BE AN ACCEPTABLE RESOLUTION OF THIS ROADBLOCK

1 THAT WE FACE TO HAVE A CLASS CERTIFIED FOR CERTAIN ISSUES.

2 AND THEN THE LAST COMMENT IS: I AGREE WITH THE
3 COURT; I THINK THIS CAN AND SHOULD BE WORKED OUT WITH COUNSEL.
4 I THINK IT CAN BE DONE.

5 OUR REQUEST IS THAT IF THE COURT IS GOING TO SET
6 A DEADLINE TO DO THAT, I THINK IT SHOULD BE A SHORT DEADLINE,
7 PERHAPS NO LATER THAN JANUARY 4, BECAUSE IT IS JUST OVER A
8 COUPLE OF WEEKS. THESE ISSUES ARE NOT NEW TO THE ACTIVE
9 COUNSEL IN THIS CASE. WE HAVE BEEN DEALING WITH THIS NOW FOR
10 A LONG TIME. I THINK WE ARE AT A POINT WHERE WE CAN
11 INTELLIGENTLY DISCUSS AND GET IT RESOLVED.

12 HAVING SAID THAT, IT IS VERY DIFFICULT, WITH THE
13 LARGE NUMBER OF ACTIVE COUNSEL IN THIS CASE, PARTICULARLY ON
14 THE PROPERTY OWNER SIDE, TO GET PEOPLE TOGETHER, TO SIT DOWN
15 IN A ROOM AND TRY AND DO THIS. IT HAS BEEN MUCH MORE
16 PRODUCTIVE TO HAVE SORT OF INDIVIDUAL CONVERSATIONS WITH MR.
17 ZLOTNICK AND WITH OTHERS.

18 AND I'LL CLOSE BY SIMPLY SAYING I THINK WE ARE AT
19 A POINT WHERE WE NEED TO AGAIN RE-VISIT THE LIAISON COUNSEL
20 ROLE AND OPPORTUNITIES JUST TO HELP IN THESE KINDS OF PROBLEMS
21 WHEN THEY COME UP WHERE WE NEED TO, WITHIN A REASONABLE PERIOD
22 BUT SHORT PERIOD OF TIME, GET IMPORTANT ISSUES RESOLVED.

23 I'M CONCERNED THAT IF WE DECIDE JANUARY 4 IS
24 GOING TO BE OUR DEADLINE TO GET THIS ISSUE RESOLVED -- AND I
25 THINK THAT IS AN APPROPRIATE DEADLINE -- IT IS GOING TO BE
26 PARTICULARLY DIFFICULT WITH THE LARGE NUMBER OF COUNSEL. IT
27 IS NOT AN INTENT TO EXCLUDE ANYONE BUT A REQUEST PERHAPS TO
28 HAVE A MORE ORGANIZED APPROACH ON THE COUNSEL, LEGAL COUNSEL,

1 SIDE SO THAT WE ARE NOT COMING BACK EVERY 30 DAYS BEFORE THE
2 COURT AND WE DON'T HAVE ISSUES RESOLVED.

3 THANK YOU.

4 THE COURT: WELL, MR. DUNN, IT SEEMS TO ME THAT IF THE
5 COURT SETS A DEADLINE -- I DO INTEND TO DO THAT -- I WANT A
6 DEADLINE THAT MAY NOT NECESSARILY PRESENT TOTAL AGREEMENT BY
7 ALL COUNSEL, BUT I WANT A PROPOSAL THAT THE COURT CAN ACCEPT
8 AS A REASONABLE PROPOSAL THAT I CAN MAKE MY COURT ORDER.

9 SO I THINK IT APPROPRIATE TO HAVE COUNSEL MEET
10 AND CONFER. AND I MAY HAVE MORE THAN ONE PROPOSAL THAT THE
11 COURT CAN CHOOSE FROM. BUT I CERTAINLY WOULD EXPECT THAT TO
12 OCCUR.

13 AND I AM ALSO THINKING, IN TERMS OF OUR NEXT
14 HEARING DATE, BECAUSE THERE ARE A COUPLE OF MATTERS THAT ARE
15 CURRENTLY SCHEDULED.

16 MR. DUNN: YES.

17 THE COURT: ONE ON THE 14TH, I BELIEVE, AND ONE ON THE
18 28TH, OF JANUARY.

19 SO IT SEEMS TO ME THAT -- I WANT THIS TO HAPPEN
20 QUICKLY. I THINK THAT THE PROPOSAL OF THE CLASS NOTICE TO
21 DORMANT PUMPERS IS SOMETHING THAT I EXPECT TO SEE A PROPOSAL
22 FOR A FORM AND I WANT COUNSEL TO WORK WITH MR. ZLOTNICK. YOU
23 CAN DO IT INDIVIDUALLY OR YOU CAN DO IT ALL AT ONCE OR HOWEVER
24 SEQUENTIALLY YOU FIND IT MOST APPROPRIATE; MAKING SURE THAT
25 YOU LET -- THAT EVERY COUNSEL RECEIVES NOTICE OF WHAT YOU ARE
26 DOING, SO THAT THEY WILL HAVE AN OPPORTUNITY TO PARTICIPATE TO
27 SEE IF YOU CAN REACH AGREEMENT. BUT I'M NOT INSISTING THAT
28 YOU REACH AGREEMENT.

1 MR. DUNN: I UNDERSTAND.

2 THE COURT: I WILL MAKE AN ORDER APPROPRIATELY BASED ON
3 A RECOMMENDATION.

4 NOW THERE ARE A COUPLE OF WAYS, AS YOU HAVE
5 INDICATED, THAT THIS CAN BE ACCOMPLISHED. IT IS GOING TO
6 REQUIRE NOTICE BE SENT OUT, AND IT IS GOING TO GIVE PARTIES AN
7 OPPORTUNITY TO OPT OUT.

8 WE CAN'T SEND OUT A NOTICE OF SETTLEMENT UNLESS
9 THE PRINCIPAL PARTIES HAVE AN AGREEMENT TO SETTLE THIS CASE.
10 AND IT DOESN'T SEEM TO ME THAT THAT IS LIKELY TO HAPPEN
11 QUICKLY. IT MAY ULTIMATELY HAPPEN, BUT I THINK THAT THE MAJOR
12 PLAYERS HAVE TO BE INVOLVED HERE BEFORE THAT CAN HAPPEN.

13 SO I'D BE INTERESTED, IF ANY OTHER COUNSEL HAVE
14 ANYTHING THEY WANT TO OFFER CONCERNING THIS PROPOSAL,
15 INCLUDING COUNSEL ON THE TELEPHONE.

16 MR. JOYCE: YOUR HONOR?

17 THE COURT: YES.

18 MR. JOYCE: BOB JOYCE.

19 I CAME IN ON LINE LATE. I WANT TO MAKE FORMALLY
20 MY APPEARANCE.

21 THE COURT: ALL RIGHT. THANK YOU, MR. JOYCE.

22 MR. JOYCE: THANK YOU.

23 THE COURT: OKAY. WELL, MR. DUNN, YOU THINK YOU CAN
24 HAVE A PROPOSAL THAT REPRESENTS YOUR THOUGHTS AS WELL AS THE
25 THOUGHTS OF OTHER COUNSEL BY THE 14TH?

26 MR. DUNN: YES, YOUR HONOR.

27 THE COURT: OKAY. THAT WILL BE THE DATE. JANUARY 14.

28 WE HAVE A MOTION THAT IS CURRENTLY SCHEDULED FOR

1 JANUARY 14TH. THAT IS A MOTION TO -- FOR COUNSEL TO WITHDRAW
2 ONE OF THE PARTIES, ON THE BASIS OF A CONFLICT. AND I'M GOING
3 TO LEAVE THAT ON CALENDAR FOR THAT DATE AND ASSUME THAT WE
4 WILL HAVE TO BE HERE ON THE 14TH.

5 OKAY. ALL RIGHT. THAT WILL BE THE ORDER.

6 NOW BEFORE YOU LEAVE, THOUGH, LET ME ASK YOU
7 THIS: ARE YOU AWARE OF ANY DEFENDANTS OR CROSS-DEFENDANTS
8 THAT HAS NOT BEEN SERVED, WHO IS A KNOWN PARTY, A PUMPER OF
9 SOME CONSEQUENCE?

10 MR. DUNN: IF I COULD JUST CHECK WITH MY ASSOCIATE.

11 THE COURT: OKAY.

12 MR. DUNN: CAN I HAVE ONE ONE MOMENT, YOUR HONOR?

13 THE COURT: YES.

14 (PAUSE)

15 MR. DUNN: THE ANSWER TO THE COURT'S QUESTION IS YES,
16 WE ARE AWARE OF INDIVIDUALS WHO PUMP OR MAY BE PUMPING.
17 QUICKLY ADD, THOUGH, THAT SERVICE HAS BEEN ON HOLD SUBJECT, AS
18 THE COURT IS AWARE, PENDING THE DETERMINATION OF THESE CLASS
19 ISSUES.

20 SO I JUST WANT THE COURT TO BE AWARE, IT IS NOT
21 THAT WE HAVE BEEN -- WE HAVE BEEN COMPLYING WITH THE COURT'S
22 DIRECTIVE ON TRYING TO GET THE CLASS CERTIFIED BEFORE
23 CONTINUING.

24 BUT, YES, WE HAVE INFORMATION THAT THERE ARE
25 OTHER PUMPERS OUT THERE.

26 THE COURT: I THINK THAT AT THIS POINT WE OUGHT TO TAKE
27 THEM OFF HOLD AND GET THEM SERVED. AND IF THEY ARE NOT GOING
28 TO BE A MEMBER OF THE CLASS, IF THEY ARE A PUMPER OF SOME

1 SIGNIFICANCE, THEY NEED TO BE SERVED, AND WE HAVE TO GET THEIR
2 APPEARANCE SO THAT WE CAN PROCEED WITH THESE OTHER ISSUES.

3 MR. DUNN: JUST SO I'M CLEAR, YOUR HONOR, IN TERMS OF
4 SOME SIGNIFICANCE, WE HAVE BEEN USING IN THE PAST THE
5 ONE-HUNDRED-ACRE-FOOT THRESHOLD. AND I BELIEVE THAT WE HAVE
6 NOW SERVED EVERYONE THAT WE ARE AWARE OF THAT PUMPS MORE THAN
7 ONE HUNDRED ACRE FEET IN THE BASIN. AND WE HAVE ASKED IN THE
8 PAST THAT PARTIES ELSEWHERE IN THE CASE WHO ARE AWARE OF
9 INDIVIDUALS WHO PUMP THAT MUCH OR MORE TO LET US KNOW.

10 BUT BASED ON THE INFORMATION THAT WE HAVE, OR
11 WE'VE RECEIVED, PEOPLE WHO ARE SIGNIFICANT PUMPERS, THAT IS
12 ONE-HUNDRED-ACRE-FEET OR MORE, WE HAVE SERVED THEM.

13 THE COURT: OKAY. NONE WHO HAVE NOT YET BEEN SERVED OF
14 THAT SCOPE.

15 MR. DUNN: THAT'S CORRECT.

16 THE COURT: NOW, OF THOSE WHO HAVE BEEN SERVED, HAVE
17 THEY ALL APPEARED?

18 MR. DUNN: HAVE THEY ALL APPEARED, IS THAT THE COURT'S
19 QUESTION?

20 THE COURT: YES.

21 MR. DUNN: NO, THEY HAVE NOT.

22 THE COURT: OKAY. AND MORE THAN 30 DAYS HAS ELAPSED
23 SINCE SERVICE?

24 MR. DUNN: YES. I BELIEVE THAT IS CORRECT AS TO THE
25 ENTIRE GROUP.

26 THE COURT: THEN I THINK THEY OUGHT TO BE PUT ON NOTICE
27 CONCERNING A DEFAULT IF THEY FAIL TO APPEAR.

28 MR. JOYCE: YOUR HONOR?

1 THE COURT: YES.

2 MR. JOYCE: THIS IS MR. JOYCE.

3 I WOULD REMIND THE COURT THAT QUITE SOMETIME AGO,
4 THE COURT ENTERED AN ORDER CONCERNING THE TAKING OF ANY
5 DEFAULT WITHOUT PRIOR MOTION AND LEAVE OF COURT. WE PROBABLY
6 NEED TO RE-VISIT THAT ISSUE AND TO LIFT THAT BAN SO THAT WE
7 CAN PROCEED TO DEFAULT.

8 THE COURT: WELL, I CERTAINLY AGREE. THAT IS WHY I'M
9 SAYING THEY HAVE TO BE GIVEN NOTICE THAT IF THEY HAVE NOT
10 APPEARED, THEY NEED TO APPEAR OR THEIR DEFAULT WILL BE TAKEN.

11 MR. DUNN: WE COULD, YOUR HONOR, PROVIDE WRITTEN NOTICE
12 TO ALL OF THOSE PEOPLE WHO HAVE BEEN PERSONALLY SERVED, WHO
13 HAVE NOT YET APPEARED, AND INFORM THEM IN WRITING THAT THEY
14 NEED TO RESPOND WITHIN A TIME THE COURT WILL ORDER TODAY.

15 THE COURT: I THINK 30 DAYS FROM THE DATE OF THE
16 NOTICE.

17 MR. DUNN: AND WE WILL MAIL THAT TO THEM.

18 THE COURT: YES. ALL RIGHT. THANK YOU.

19 MR. JOYCE: YOUR HONOR?

20 THE COURT: YES.

21 MR. JOYCE: THIS IS MR. JOYCE AGAIN.

22 THE COURT: YES.

23 MR. JOYCE: I ASSUME THAT THAT FOLLOW-UP NOTICE WOULD
24 LIKEWISE BE POSTED AS A FOLLOW-UP PROOF OF SERVICE?

25 THE COURT: YES.

26 MR. JOYCE: THANK YOU, YOUR HONOR.

27 MR. ZIMMER: YOUR HONOR, THIS IS MR. ZIMMER.

28 JUST BRIEFLY. IS THERE SOME WAY THAT THE COUNTY

1 HAS DETERMINED WHO IS PUMPING OVER ONE HUNDRED FEET?

2 THE COURT: I'M ASSUMING THAT IF THEY ARE MAKING THE
3 REPRESENTATION THAT THEY SERVED THEM, THAT THEY MUST HAVE.

4 MR. DUNN: YES, WE HAVE THAT INFORMATION.

5 THE COURT: ALL RIGHT. OKAY.

6 SO ON THE 14TH WE ARE GOING TO HAVE THE PROPOSED
7 FORM OF NOTICE AND FURTHER CMC?

8 MR. DUNN: YES. WOULD THE COURT DIRECT -- IS THE COURT
9 DIRECTING US TO POST THAT NOTICE ON OR BEFORE THE 14TH?
10 WHAT'S THE COURT'S PREFERENCE?

11 THE COURT: I WOULD LIKE TO HAVE IT IN ADVANCE OF THE
12 HEARING, WITH ANY COMMENTS OR OBJECTIONS FROM ANYBODY. SO I
13 THINK IT SHOULD BE POSTED BY THE -- LET'S SEE -- BY JANUARY
14 THE FOURTH.

15 MR. DUNN: WE WILL DO THAT, YOUR HONOR.

16 THE COURT: OKAY. NOW, THERE ARE SOME OTHER THINGS WE
17 SHOULD TALK ABOUT HERE. OBVIOUSLY ONE OF THE CASE MANAGEMENT
18 CONFERENCES THERE IS A PROPOSAL FOR PHASING, ASKING THAT THE
19 CASE BE PHASED FOR TRIAL. I CAN'T MAKE THAT ORDER UNTIL WE
20 HAVE NOTICED ALL THE PARTIES THAT NEED TO BE HERE AND WE HAVE
21 APPEARANCES FROM EVERYBODY. BUT I THINK THAT THE TIME
22 SCHEDULE IS NOT UNREASONABLE, THAT IS TO HAVE A FIRST PHASE OF
23 THE TRIAL IN JUNE DEALING WITH THE CONFIGURATION AND YIELD OF
24 THE VALLEY. AND A SECOND PHASE DEALING WITH THE OTHER
25 ELEMENTS OF PRESCRIPTION OTHER THAN SELF-HELP IN OCTOBER. AND
26 THOSE DATES APPEAL TO ME. AND IF WE CAN GET EVERYTHING ELSE
27 DONE APPROPRIATELY WITHIN THAT APPROPRIATE TIMEFRAME, WE CAN
28 PLAN ON THOSE DATES AND ANTICIPATE THEM.

1 LET ME ASK COUNSEL FOR DEL SUR RANCH, WHETHER OR
2 NOT THERE IS ANY PROGRESS ON OBTAINING NEW COUNSEL FOR YOUR
3 CLIENT.

4 MR. FATES: YES, YOUR HONOR. TED FATES ON BEHALF OF DEL
5 SUR RANCH.

6 WE HAVE IDENTIFIED A POTENTIAL SERIOUS CONFLICT
7 AND ASKED THE CLIENT TO PROVIDE SUBSTITUTE COUNSEL. THE
8 CLIENT HAS NOT DONE SO YET SO WE FILED THE MOTION TO WITHDRAW.
9 WE HAVE NOT -- STILL HAVE NOT RECEIVED SUBSTITUTE COUNSEL
10 YET. SO WE ARE HOPING THAT THAT WILL HAPPEN SO WE CAN FILE
11 THE SUBSTITUTION NOTICE BEFORE THE MOTION IS HEARD. BUT AS OF
12 NOW, THAT IS HOW WE STANDS.

13 THE COURT: OKAY. WELL, IN THE EVENT THAT YOU GET THAT
14 ISSUE RESOLVED WITH YOUR CLIENT IN ADVANCE OF THE 14TH, BE
15 SURE AND LET THE COURT KNOW.

16 MR. FATES: YES. WILL DO.

17 THE COURT: MR. DOUGHERTY?

18 MR. DOUGHERTY: ON ANOTHER PART OF THE SUBJECT, YOUR
19 HONOR, MY REQUEST WOULD BE IF LOS ANGELES, IF COUNSEL MR. DUNN
20 AND HIS GROUP KNOW WHO THE PEOPLE ARE THAT ARE PUMPING OVER A
21 HUNDRED ACRE FEET A YEAR, IF THERE WOULD BE ANY OBJECTION TO
22 POSTING THIS SO WE WOULD ALL KNOW.

23 THE COURT: WELL, I THINK YOU CAN ASSUME ANYBODY WHO
24 HAS BEEN SERVED, AND THERE SHOULD BE A PROOF OF SERVICE
25 POSTED, FALLS INTO THAT CATEGORY.

26 MR. DOUGHERTY: WELL, WE CAN'T TELL FROM THE PROOF OF
27 SERVICE WHO DOES OR HOW MUCH OR --

28 THE COURT: IT IS NOT GOING TO HAVE QUANTITIES,

1 CERTAINLY. AND I ASSUME THAT DURING THE DISCOVERY PROCESS
2 THAT INFORMATION IS GOING TO BE EXCHANGED.

3 MR. DOUGHERTY: YES. I WAS JUST TRYING TO GET A HEADS
4 UP ON IT.

5 THE COURT: OKAY. THERE WAS AN INTERESTING CASE
6 MANAGEMENT CONFERENCE STATEMENT PROVIDED TO THE COURT THAT HAD
7 A LOT OF FACTS ON INTENT IN TERMS OF STORAGE ISSUES, AND THERE
8 WAS AN OBJECTION TO THAT. THAT WAS THE CASE MANAGEMENT
9 CONFERENCE STATEMENT FILED BY THE ANTELOPE VALLEY EAST KERN
10 WATER AGENCY. AND OF COURSE THE OBJECTION BY THE -- BY A
11 NUMBER OF PARTIES WHO PARTICIPATE AS THE ANTELOPE VALLEY
12 GROUNDWATER AGREEMENT ASSOCIATION.

13 I DON'T THINK THAT IT'S IN ANY WAY HELPFUL FOR
14 THE COURT TO HAVE ALL OF THIS INFORMATION ABOUT WHAT PARTIES
15 INTEND TO DO, WHAT THEIR HOPES ARE. AND OF COURSE THE COURT
16 IS HARDLY IN A POSITION TO MAKE ANY KIND OF DETERMINATION AS
17 TO A PHYSICAL SOLUTION, WHICH IS THE PURPOSE THAT ALL THE
18 FACTS AND INFORMATION ARE PROVIDED TO THE COURT. BUT I CAN
19 ALSO TELL YOU THAT THERE IS NO HARM AND THEREFORE NO FOUL.

20 SO I UNDERSTAND YOUR CONCERNS. THAT THE COURT
21 NOT HAVE INFORMATION THAT LEADS IT DOWN THE ROAD TO ANY KIND
22 OF A DETERMINATION THAT IS NOT PRESENTED BY WAY OF COMPETENT
23 EVIDENCE.

24 THE ONE FINAL THING I WANT TO DO HERE IS DEAL
25 WITH THIS ISSUE OF NOTICES TO PARTIES WHO OWN PROPERTY WHO ARE
26 PARTIES HERE WHO MAY TRANSFER PROPERTY. NOW I THINK -- WE
27 HAVE HAD SOME BRIEFING ON IT AND I AGREE ESSENTIALLY WITH THE
28 BRIEFING. AND I THINK WHAT THE COURT NEEDS TO DO IS TO MAKE

1 AN ORDER THAT WOULD BE BINDING UPON ALL PARTIES.

2 NOW THE PROBLEM IS THAT THAT ORDER IS GOING TO
3 PROBABLY BE HONORED IN THE BRIEF BY PARTIES WHO ARE MEMBERS OF
4 THE CLASS AND NOT EVER GOING TO EVEN KNOW ABOUT IT. BUT WHAT
5 I'M GOING TO DO IS MAKE AN ORDER. I'M GOING TO ASK COUNSEL TO
6 FLESH IT OUT AND PRESENT IT TO THE COURT FOR SIGNATURE.

7 BUT THE ORDER WOULD BE THAT ANY PARTY TO THIS
8 LITIGATION WHO SELLS, TRANSFERS, OR ASSIGNS AN INTEREST IN
9 WHOLE OR IN PART TO ANY REAL PROPERTY THAT IS LOCATED WITHIN
10 THE JURISDICTIONAL BOUNDS OF THE ANTELOPE VALLEY, SHALL
11 IMMEDIATELY AND PRIOR TO THE TRANSFER OF ANY SUCH REAL
12 PROPERTY DO THE FOLLOWING:

13 POST NOTICE OF THE IDENTITY OF THE BUYER,
14 TRANSFEREE, OR ASSIGNEE ON THE COURT'S ANTELOPE VALLEY
15 WEBSITE; ADVISE THE BUYER, TRANSFEREE, OR ASSIGNEE OF THE
16 EXISTENCE OF THIS LITIGATION AND THE EFFECT UPON THE SAID REAL
17 PROPERTY THAT IS BEING TRANSFERRED; AND PROVIDE THE BUYER,
18 TRANSFEREE, OR ASSIGNEE WITH THE ANTELOPE VALLEY CASE
19 INFORMATION. THAT IS, THE TITLE OF THE CASE, THE CASE NUMBER,
20 THE LOCATION OF THE COURT, AS WELL AS ANY PLEADINGS THAT ARE
21 FILED OR RECEIVED BY THE SELLER, TRANSFEROR OR ASSIGNOR OR HIS
22 OR HER ATTORNEY.

23 AND COUNSEL FOR THE PARTIES ARE ORDERED TO ENSURE
24 THAT THIS INFORMATION IS FULLY DISCLOSED AND ACKNOWLEDGED BY
25 THE TRANSFEREE, ASSIGNEE, OR BUYER.

26 NOW I EXPECT COUNSEL CAN PUT THAT INTO THE FORM
27 OF AN ORDER THE COURT CAN SIGN AND WE CAN POST. OKAY?

28 MR. FIFE?

1 MR. FIFE: JUST ONE COMMENT TO THAT. THE FORM OF THE
2 ORDER WAS THAT ALL OF THIS WAS DONE BEFORE THE TRANSFER?

3 THE COURT: YES.

4 MR. FIFE: WITH REGARD TO POSTING THE IDENTITY OF THE
5 BUYER OF THE PROPERTY, THERE MAY BE CONFIDENTIALITY ISSUES
6 WHEN THE PROPERTY IS IN ESCROW. THAT ONE ASPECT, IT WOULD BE
7 HELPFUL IF WE COULD DO THAT AFTER THE TRANSFER.

8 THE COURT: I AGREE WITH YOU. OKAY.

9 MR. ZIMMER: YOUR HONOR, RICHARD ZIMMER.

10 THE COURT: YES.

11 MR. ZIMMER: YOUR HONOR, I'M A LITTLE CONCERNED ABOUT
12 THE LAST PART OF THAT, HOLDING THE LAWYERS RESPONSIBLE. YOU
13 ARE SUBJECTING ALL THE LAWYERS IN THAT COURTROOM TO POTENTIAL
14 CIVIL LIABILITY FOR FAILING TO PROPERLY MAKE NOTICE OF A REAL
15 ESTATE TRANSFER AND KIND OF CHANGING THE RULES THAT OTHERWISE
16 APPLY TO AN IN REM REAL ESTATE TRANSFER. I'M A LITTLE
17 CONCERNED ABOUT THAT. IF IT DIDN'T HAPPEN, YOU COULD HAVE
18 MULTI-MILLION DOLLAR SALES OF PROPERTY AND SOMEHOW THE LAWYERS
19 NOW ARE RESPONSIBLE FOR IT.

20 THE COURT: ALL I WANT COUNSEL TO DO IS TO ENSURE THAT
21 YOUR CLIENT FULFILLS THE ORDER.

22 MR. ZIMMER: I UNDERSTAND THE INTENT OF IT, I'M JUST
23 CONCERNED ABOUT -- IT SHOULD BE AN IN REM ACTION AGAINST THE
24 PROPERTY SO IT IS RECORDED AGAINST THE PROPERTY. AND THAT
25 WOULD SOLVE THE ISSUE, I WOULD THINK, AS OPPOSED TO TRYING TO
26 ORDER THE OWNERS TO DO VARIOUS AND DIFFERENT THINGS.

27 THE COURT: I DON'T HAVE ANY DIFFICULTY WITH THAT.
28 THAT SHOULD BE IN THE FORM OF THE ORDER THAT COUNSEL WILL

1 PRESENT TO THE COURT.

2 MR. ZIMMER: PERHAPS THE LAWYERS CAN DISCUSS THE FORM OF
3 THAT ORDER IN ADDITION TO DISCUSSING WHAT MR. DUNN IS GOING TO
4 BE PREPARING.

5 THE COURT: I HOPE SO. THAT IS CERTAINLY MY INTENT.
6 AND YOU SHOULD BE ABLE TO MEET AND CONFER CONCERNING THE
7 PROPER FORM. THAT IS WHY I SAID FLESH IT OUT.

8 BUT YOU UNDERSTAND THE GIST OF WHAT I'M CONCERNED
9 ABOUT? I'M NOT TRYING TO PUT PERSONAL OBLIGATIONS ON COUNSEL;
10 THAT IS NOT MY INTENT. OKAY?

11 MR. ZIMMER: I UNDERSTAND, YOUR HONOR.

12 THE COURT: ALL RIGHT. YES, MR. WEINSTOCK?

13 MR. WEINSTOCK: YOUR HONOR, ARE YOU ADDRESSING THE
14 REQUEST TO PREPARE THIS ORDER TO ANY PARTICULAR COUNSEL OR TO
15 THE ATTORNEYS IN GENERAL?

16 THE COURT: WELL, I THINK THAT YOU WOULD BE THE
17 APPROPRIATE PARTY TO TAKE THE LEAD --

18 MR. WEINSTOCK: THANK YOU, YOUR HONOR.

19 THE COURT: -- SINCE I KNOW THIS HAS BEEN OF GREAT
20 CONCERN TO YOU AS WELL AS TO THE COURT FOR SOME TIME NOW.

21 MR. WEINSTOCK: OKAY. THANK YOU.

22 THE COURT: ANYTHING ELSE?

23 MR. JOYCE: YOUR HONOR?

24 THE COURT: YES.

25 MR. JOYCE: THIS IS MR. JOYCE.

26 THE COURT: YES.

27 MR. JOYCE: IN LIGHT OF THE COURT'S OBSERVATIONS
28 CONCERNING THE PROPOSED PROBABILITY OF SCHEDULED --

1 THE COURT: I CAN'T HEAR YOU.

2 MR. JOYCE: IN LIGHT OF THE COURT'S OBSERVATIONS
3 CONCERNING THE VIABILITY OF THE SCHEDULING OF THE PROPOSED
4 PHASES OF THE TRIAL.

5 THE COURT: YES.

6 MR. JOYCE: AS THE COURT IS AWARE, WE HAVE HAD A
7 DISCOVERY KIND OF HIATUS. DOES THE COURT HAVE ANY EXPECTATION
8 AS TO WHERE WE WILL BE OPENING THE DOOR SO WE CAN ENGAGE IN
9 PRETRIAL DISCOVERY?

10 THE COURT: YES. AFTER OUR HEARINGS IN JANUARY.

11 MR. JOYCE: THANK YOU, YOUR HONOR.

12 THE COURT: ALL RIGHT. ANYBODY ELSE HAVE ANY COMMENTS
13 OR OBSERVATIONS THAT YOU WANT TO MAKE?

14 [NO AUDIBLE RESPONSE]

15 THE COURT: ALL RIGHT. NOT HEARING ANY, WE WILL BE IN
16 RECESS.

17 WE WILL SEE YOU ON THE 14TH AT 9:00 A.M..

18

19 (AT 9:56 A.M., PROCEEDINGS CONCLUDED)

20

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1 SUPERIOR COURT FOR THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

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

6 ANTELOPE VALLEY GROUNDWATER CASES))

JUDICIAL COUNCIL
COORDINATION NO. P4408

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

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

9 CROSS-COMPLAINANTS,)

10 VS)

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

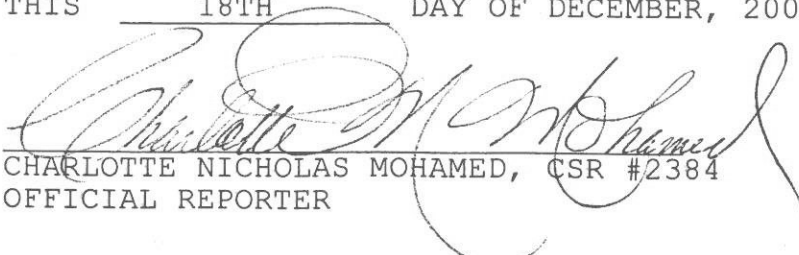
REPORTER'S CERTIFICATE

13 CROSS-DEFENDANTS.)
14

15
16 STATE OF CALIFORNIA)
17) SS.
COUNTY OF LOS ANGELES)

18 I, CHARLOTTE NICHOLAS MOHAMED, CSR, OFFICIAL
19 REPORTER OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA,
20 FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
21 FOREGOING PAGES, 1 THROUGH 32, COMPRISE A TRUE AND
22 CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
23 ABOVE-ENTITLED MATTER ON TUESDAY, DECEMBER 18, 2007.

24
25 DATED THIS 18TH DAY OF DECEMBER, 2007.

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