

1 ACTION, I THINK THAT THE WILLIS CLASS COULD AT THIS TIME BE A
2 CLASS OF ALL LANDOWNERS. IF IT GETS TO A POINT WHERE THERE
3 ARE CONFLICTS OF INTERESTS, THEN CLEARLY THAT CAN'T OCCUR
4 BECAUSE IT WOULD PUT THE WILLIS ATTORNEY IN AN UNTENABLE
5 POSITION. BUT TO GET THE PARTIES IN THE ACTION, TO HAVE THEM
6 SERVED WITH NOTICE, GET THE MATTER AT ISSUE, I THINK THAT
7 COULD BE DONE. AND I THINK IT IS A BETTER WAY THAN DOING JUST
8 PUMPERS OR PUTTING SOME PUMPERS, NONPUMPERS TOGETHER, TRYING
9 TO MAKE OTHER DISTINCTIONS THAT COULD COME BACK TO HAUNT US
10 LATER.

11 THE COURT: OKAY. THAT MEANS MR. DUNN IS GOING TO STEP
12 BACK TO THE PODIUM TO ADDRESS MR. ZIMMER'S ARGUMENT.

13 IF YOU WOULD, SIR.

14 MR. DUNN: SURE, IF IT WOULD PLEASE THE COURT.

15 IF I HEARD MR. ZIMMER CORRECTLY, I BELIEVE HE IS
16 REPRESENTING TO THE COURT HIS BELIEF THAT ALL LANDOWNERS
17 SHOULD BE INCLUDED IN A CLASS. I HAD THOUGHT THAT THAT HAD
18 SORT OF BEEN THE DIRECTION WHERE WE STARTED THIS HEARING THIS
19 MORNING.

20 I WON'T GO BACK WITH THE COURT AND GO OVER THE
21 DISCUSSIONS IN THE PAST ABOUT THE DIFFERENCES BETWEEN USING
22 PLAINTIFF'S CLASS, AND THE ADVANTAGES OF USING A PLAINTIFF'S
23 CLASS OVER A DEFENDANT'S CLASS.

24 BUT IN LISTENING TO ALL THIS DISCUSSION I THINK
25 IT IS CLEAR THAT ALL PARTIES ARE INTERESTED IN MOVING THIS
26 CASE FORWARD. I THINK THAT THERE REALLY ISN'T ANY REASONABLE
27 DISPUTE THAT THE CLASS ACTION MECHANISM IS THE BEST WAY TO DO
28 THAT.

1 THERE SEEMS TO BE A GROWING CONSENSUS THAT THE
2 CLASS ACTION DEVICE SHOULD BE USED AS BROADLY AS POSSIBLE AND
3 THAT WE RECOGNIZE, AS THE CASES HAVE CAREFULLY AND REPEATEDLY
4 TOLD US, THAT WE NEED TO USE THE CLASS ACTION DEVICE
5 CREATIVELY AND BROADLY AND THAT WE CAN FACILITATE PROBLEMS
6 THAT MAY ARISE, OR THAT DO ARISE, WITHIN THE CLASS ACTION
7 CONTEXT AND THAT THE COURT HAS TO POWER TO DO THAT. THE
8 ULTIMATE RESPONSIBILITY, IT RESTS WITH THE COURT TO MAKE SURE
9 THAT THE INTERESTS OF THE ABSENT CLASS MEMBERS ARE ADEQUATELY
10 REPRESENTED THROUGHOUT THE LITIGATION. THAT WE ARE CONFIDENT
11 THAT THAT WILL TAKE PLACE, REGARDLESS OF HOW THE CLASS
12 MECHANISM IS USED.

13 WE DO NOT HOWEVER -- OR I DO NOT, HOWEVER, THINK
14 THAT IT IS A GOOD IDEA TO PREEMPTIVELY SEND OUT A CLASS NOTICE
15 TODAY TO ALL PROPERTIES OWNERS IN THE VALLEY KNOWING THAT A
16 SUBSTANTIAL NUMBER OF THEM ARE NOT PART OF THAT CLASS. I
17 DON'T THINK IT MAKES SENSE TO DO THAT EVEN IF IT IS IN THE
18 INTEREST OF TRYING TO MOVE THIS CASE ALONG IN THE NEXT FEW
19 WEEKS.

20 I THINK THAT THE CLASS ACTION DISCUSSION HAS BEEN
21 INTERESTING OVER THIS EXTENDED PERIOD OF TIME. I FIND IT
22 FASCINATING TO HEAR THE COMMENTS WHERE PEOPLE WHO ARE
23 ADAMANTLY OPPOSED TO THE CLASS ACTION DEVICE IN ANY SHAPE,
24 FORM, OR FASHION, ARE SORT OF NOW STANDING UP IN COURT AND
25 IMPLEMENTING IT, AT LEAST IN SOME FASHION.

26 AND I DON'T MEAN THAT IN A CRITICISM OR A
27 NEGATIVE WAY, BUT IT DOES POINT OUT THAT THERE HAS BEEN QUITE
28 A BIT OF DISCUSSION AND EFFORT AND WORK IN THIS AREA ALREADY.

1 I DON'T THINK WE ARE STARTING FROM SQUARE ONE, BY ANY MEANS,
2 BUT I THINK WE ARE NOW GETTING CLOSER TO THE POINT WHERE WE
3 NEED FINAL DECISIONS BY THE COURT IN TERMS OF HOW THE CLASS
4 MECHANISM IS TO BE USED.

5 I THINK IT IS WORTH GOING FORWARD WITH A MOTION
6 FOR MODIFICATION ALLOWING ALL PARTIES TO RESPOND TO THAT WITH
7 THEIR OWN APPROPRIATE MODIFICATIONS, AND THEN TO HAVE THAT
8 ISSUE THEN PROPERLY BRIEFED, AND THEN ALL PARTIES WITH A
9 RESPONSE. AND THEN THAT WAY EVERYBODY THAT WANTS TO CAN WEIGH
10 IN ON THIS. THEY CAN WEIGH IN WITH THEIR BRIEF, IT IS ON THE
11 RECORD, AND IT IS ALL BEFORE THE COURT. AND THE COURT CAN
12 THEN MAKE A DECISION.

13 THE COURT: SO YOU DO NOT THINK THAT THE COURT SHOULD
14 AUTHORIZE NOTICE TO A NONPUMPERS CLASS TODAY?

15 MR. DUNN: NO, I DEFINITELY DO NOT. BECAUSE I THINK AS
16 THE COURT HAS HEARD AND I THINK IT SOMEWHAT STATED ON ITS OWN
17 IS THERE WOULD BE NO LEGAL IMPACT UPON PEOPLE WHO ARE NOT
18 MEMBERS OF THE CLASS WHEN THEY RECEIVE THAT NOTICE. AND IT
19 WOULD, I THINK, DEFEAT THE WHOLE PURPOSE OF THE FORM PORTION
20 OF THAT NOTICE THAT ASKS THE RECIPIENT TO IDENTIFY ITSELF AS A
21 PUMPER AND INFORMATION ABOUT THAT PUMPING, WHEN THERE IS NO
22 LEGAL SUPPORT BEHIND FORCING THEM TO RESPOND. I DON'T THINK
23 IT REALLY ADVANCES THIS CASE, TO BE HONEST WITH YOU. I THINK
24 WE END UP A MONTH OR TWO OR THREE MONTHS LATER FINDING
25 OURSELVES IN A SITUATION WHERE WE NEED TO SEND IT BACK OUT
26 AGAIN TO THESE PEOPLE ONLY TO GET A NOTICE RESPONSE THAT WE
27 CAN ALL RELY UPON.

28 I WILL JUST SAY QUICKLY, I WOULD BE THE FIRST ONE

1 TO STAND UP HERE AND TELL THE COURT I'D LOVE TO SEND THAT
2 NOTICE OUT TODAY, WHICH IS TO LIMIT THE CLASS OF PROPERTY
3 OWNERS WHO DON'T PUMP, COMMONLY CALLED "THE ZLOTNICK CLASS."
4 AND THEN BASED ON THE RESPONSES WE GET BACK FROM THAT NOTICE,
5 WE MOVE ON. BUT I CAN'T DO THAT. THERE IS JUST NO LEGAL
6 SUPPORT FOR THE PROPOSITION THAT WE, ON A GO-FORWARD BASIS,
7 CAN TAKE OUR CHANCES THAT EVERYBODY WHO GETS THAT NOTICE IS
8 GOING TO RESPOND AND WE CAN RELY ON IT. IT JUST DOESN'T WORK.

9 THE COURT: SO WHAT IS YOUR VIEW IN TERMS OF SERVING A
10 CLASS OF ALL PROPERTY OWNERS?

11 MR. DUNN: WELL, GENERALLY I THINK -- AND THE
12 DISCUSSIONS WE HAVE HAD BEFORE THIS HEARING TODAY WITH SOME
13 COUNSEL HAVE BEEN -- THAT GENERALLY WE NEED TO DO THAT, AFTER
14 THERE IS A CLASS OF ALL PROPERTY OWNERS. OUR POSITION HAS
15 BEEN THAT PEOPLE WHO ARE CONNECTED TO A PUBLIC WATER SUPPLIER
16 WHO ARE GETTING THEIR WATER SERVICE, AND THESE ARE THE PEOPLE
17 ON WHOSE BEHALF WE ARE TRYING TO ESTABLISH THEIR WATER SUPPLY
18 FOR, IT DOESN'T MAKE MUCH SENSE FOR US TO BE ENGAGED IN A
19 LITIGATION WITH THOSE FOLKS.

20 THE COURT: YOU SAID ONCE A CLASS HAS BEEN CERTIFIED?

21 MR. DUNN: YES, YOUR HONOR.

22 THE COURT: YOU MEAN A CLASS OF --

23 MR. DUNN: ALL PROPERTY OWNERS.

24 THE COURT: OF ALL PROPERTY OWNERS.

25 MR. DUNN: YES.

26 THE COURT: WHO WOULD BE THE PLAINTIFF IN THAT?

27 MR. DUNN: THE PLAINTIFF WOULD BE THE EXISTING PLAINTIFF
28 REPRESENTATIVE, WOULD BE MISS WILLIS. AND THE CLASS COUNSEL

1 WOULD BE THE EXISTING CLASS COUNSEL, MR. ZLOTNICK. IT WOULD
2 BE THE MODIFIED CLASS. IT WOULD NOT BE FOR ALL PURPOSES.

3 I WANT TO GO BACK AND JUST POINT OUT THAT WE ARE
4 PROPOSING A BROADER CLASS OF ALL PROPERTY OWNERS BUT FOR
5 LIMITED ISSUES OF COMMON ISSUES OF COMMON FACT THAT
6 PREDOMINATE AS TO ALL PROPERTY OWNERS.

7 THE COURT: JUST THINKING DOWNSTREAM, IF YOU WILL,
8 LET'S SUPPOSE THAT THE COURT ADJUDICATES THE CHARACTER AND THE
9 NATURE OF THE BASIN, AND A DETERMINATION OF WHAT SAFE YIELD
10 IS. ARE THERE GOING TO BE ADVERSARIES THERE?

11 MR. DUNN: ARE YOU ASKING OF ADVERSARIES WITHIN THE
12 CLASS?

13 THE COURT: YES.

14 MR. DUNN: FOR BASIN SAFE YIELD, NO, I DON'T THINK SO.
15 I DON'T.

16 THE COURT: I WAS JUST THINKING OF ANOTHER LITIGATION
17 THAT YOU WERE INVOLVED IN, MR. DUNN, THAT INVOLVED PROPERTY
18 OWNERS AND PURVEYORS. THERE CERTAINLY WERE ADVERSARIAL
19 INTERESTS THERE. WHY IS THIS ANY DIFFERENT?

20 MR. DUNN: I'M NOT SURE IT IS DIFFERENT PARTICULARLY AS
21 IT RELATES TO THAT FORMER CASE. AND ONE OF THE ISSUES WAS THE
22 YIELD.

23 IN THAT FORMER CASE, THE INTERESTS WERE SORT
24 OF -- WERE DEFINITELY IN TWO CAMPS. THERE WERE PUBLIC ENTITY/
25 PUBLIC WATER SUPPLIERS AND THERE WERE PRIVATE PROPERTY OWNERS
26 AND THAT IS HOW IT SORT OF PROCEEDED ALL THE WAY THROUGH.

27 THE COURT: THAT IS WHAT WE HAVE HERE TOO, ISN'T IT?

28 MR. DUNN: YES, IT IS. AND I THINK IT IS WORTH

1 REPEATING TWO FACTS: ONE IS THAT THE EXISTING ZLOTNICK CLASS
2 ACTION, THE PLAINTIFF'S CLASS ACTION, DOES NOT HAVE ANY
3 ALLEGATION AGAINST ANY OTHER PRIVATE LANDOWNER. AND AS FAR AS
4 I KNOW, THERE ARE NO OPERATIVE -- THERE ARE NO COMPLAINTS OR
5 CROSS-COMPLAINTS FOR WATER RIGHTS DETERMINATION FROM LANDOWNER
6 TO LANDOWNER OTHER THAN A CROSS-COMPLAINT RECENTLY FILED BY
7 MR. BLUM THAT IS UNIQUE AS TO THE BOLTHOUSE PROPERTIES. BUT
8 THAT IS NOT IN THE CONTEXT OF AN ADJUDICATION OF THE WATER
9 RIGHTS.

10 THE COURT: DID YOU HEAR WHAT MR. FIFE SAID HIS CONCERN
11 WAS? HIS CONCERN WAS NOT THE WATER PURVEYORS, HIS CONCERN WAS
12 THE NONPUMPERS WHO OWN LAND.

13 MR. DUNN: YEAH, I -- WELL, I DON'T WANT TO BE FLIPPANT
14 OR WHATEVER, BUT I HAVEN'T SEEN THAT IN ANY PLEADING RAISED BY
15 MR. FIFE'S CLIENTS, SO I SUPPOSE IF THERE IS THAT TYPE OF
16 ADVERSITY I SUPPOSE THAT WOULD HAVE TO BE PLED AT SOME POINT.

17 NOW IF IT IS SIMPLY A CLAIM BY MR. FIFE'S CLIENTS
18 THAT THEY HAVE A DIFFERENT RIGHT OF RELIEF AS A PROPERTY OWNER
19 AS OPPOSED TO OTHERS, THEN I'M COMFORTABLE WITH THAT BECAUSE
20 THAT PUTS IT SQUARELY WITHIN THE CLASS ACTION LAW THAT TALKS
21 ABOUT ACCOMMODATING CLASS MEMBERS WITH DIFFERENT TYPES OF
22 RELIEF AVAILABLE TO THEM.

23 THE COURT: NOW WHAT YOU ARE SUGGESTING -- YOU
24 MENTIONED EARLIER THAT YOU COULD HAVE A MOTION ON FILE, BUT
25 REALLY THE PERSON WHO HAS TO FILE THAT MOTION IS MR. ZLOTNICK,
26 ISN'T IT?

27 MR. DUNN: BEFORE I ANSWER THAT, I'VE GIVEN A LOT OF
28 THOUGHT TO THAT QUESTION AS IT COMES UP. I THINK THE ANSWER

1 TO THAT IS YES, ALTHOUGH I THINK, BECAUSE MY CLIENT IS A
2 DEFENDANT IN THAT CLASS ACTION, IN OTHER WORDS WE ARE A NAMED
3 PARTY, WE ARE ONE OF THE PUBLIC WATER SUPPLIERS THAT HE
4 SERVED, IT APPEARS THAT WE HAVE STANDING TO REQUEST THE
5 MODIFICATION AS WELL.

6 WHERE IT GETS INTERESTING, I THINK, IS WHAT
7 HAPPENS OUTSIDE THE GROUP. IN OTHER WORDS, YOU HAVE THE
8 PLAINTIFF CLASS REPRESENTED BY MR. ZLOTNICK. YOU HAVE THIS
9 GROUP OF DEFENDANT WATER SUPPLIERS, PUBLIC WATER SUPPLIERS
10 THAT HE SUED. CLEARLY THEY HAVE STANDING TO WEIGH IN ON THIS
11 ISSUE. I'M NOT QUITE CERTAIN HOW FAR THAT GOES OUTSIDE THAT
12 GROUP. I'M NOT QUITE SURE WHAT THE INTEREST IS OF ANOTHER
13 PROPERTY OWNER THAT IS NOT PART OF THAT PARTICULAR CLAIM.

14 THE COURT: WELL, THE COMPLAINT UNDERLIES THIS ALL,
15 DOESN'T IT? THE COMPLAINT THAT MR. ZLOTNICK FILED. SO THAT
16 MIGHT REQUIRE SOME AMENDMENTS, MIGHT IT NOT?

17 MR. DUNN: YES.

18 THE COURT: BECAUSE THE ISSUES THAT ARE TO BE DECIDED
19 IN A CLASS ACTION ARE, AT LEAST AT THE OUTSET, DEFINED BY THE
20 PLEADINGS.

21 MR. DUNN: THEY ARE. AND THAT IS, AS THE COURT IS
22 AWARE, THAT IS PARTICULARLY TRUE IN MAKING THE DETERMINATION
23 OF WHETHER THE CLASS ACTION DEVICE IS APPROPRIATE THERE AS A
24 RESORT-TO PLEADINGS. HAVING SAID THAT THOUGH, IT DOES SEEM TO
25 US OR SEEM CLEAR THAT AS PART OF THE COURT'S INHERENT POWER TO
26 MANAGE THE LITIGATION, IT CAN TAKE THAT EXISTING PLEADING AND
27 UPON APPROPRIATE MOTION MAKE MODIFICATIONS THAT ARE NOT
28 NECESSARILY WITHIN THE SCOPE OF THAT ORIGINAL COMPLAINT.

1 THE COURT: I THINK THE COURT CAN AMEND IT ON ITS FACE
2 AS LONG AS IT IS NOT TO ANYBODY'S PREJUDICE IN DOING SO.

3 MR. DUNN: CORRECT.

4 THE COURT: ALL RIGHT.

5 MR. DUNN: MY LAST COMMENT, IN THE CONTEXT OF OUR
6 DISCUSSIONS ON THIS AND AGAIN TRYING TO MOVE THIS ALONG, WE
7 DID REALIZE THAT THE COURT ON ITS OWN MOTION HAS THE ABILITY
8 TO SHORTEN THAT 28-PERIOD NOTICE TIME DOWN SOMEWHAT. OUR
9 THOUGHTS WERE THAT THERE WOULD BE FROM SOME PARTIES SOME
10 PRETTY VIGOROUS OPPOSITION TO THAT.

11 THE ONLY REASON FOR A WEEK FROM FRIDAY IS THERE
12 IS JUST SOME EXISTING COMMITMENTS AMONGST SOME OF THE COUNSEL.
13 WE JUST CAN'T COOPERATIVELY GET THAT DONE THIS WEEK.
14 OTHERWISE THERE ARE NO REALLY NEW ISSUES FOR US TO LOOK AT.
15 IT IS JUST A SIMPLE QUESTION OF GETTING TOGETHER AND HAVING
16 THAT PREPARED, TRY TO SHOP IT AROUND AS MUCH AS POSSIBLE TO
17 GET AS MUCH WEIGH-IN ON IT, AND THEN AN OPPORTUNITY FOR THE
18 PEOPLE WHO ARE GOING TO OPPOSE THIS.

19 THE COURT: ALL RIGHT. SO YOU ARE ASKING TO HAVE A NEW
20 HEARING DATE SET FOR A MOTION TO MODIFY THE ORDER CERTIFYING
21 THE CLASS?

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

23 THE COURT: ANYBODY HAVE ANY OBJECTION TO THAT?

24 MR. JOYCE: YOUR HONOR, I'M NOT SURE I UNDERSTAND. WHEN
25 YOU SAY "OBJECTION" --

26 THE COURT: I CAN'T HEAR YOU, MR. JOYCE.

27 MR. JOYCE: BOB JOYCE ON BEHALF OF DIAMOND FARMING AND
28 CRYSTAL ORGANIC LLC.

1 WHEN YOU SAY "OBJECTION," YOU MEAN OBJECTION TO A
2 RE-HEARING DATE?

3 THE COURT: YES.

4 MR. JOYCE: WITH A BRIEFING SCHEDULE?

5 THE COURT: YES.

6 MR. JOYCE: NO.

7 YOUR HONOR, I DO WANT TO MAKE THE RECORD CLEAR.
8 MR. DUNN MADE THE OBSERVATION THAT SOME OF US WERE SOUNDING AS
9 AS IF WE WERE ADVOCATING CLASS ACTION TREATMENT OVER THE FACT
10 THAT WE HAD PREVIOUSLY FILED AND ARGUED -- STRENUOUSLY OPPOSED
11 THE CLASS ACTION TREATMENT.

12 I WOULD NOT WANT THE RECORD TO REFLECT NOR TO
13 CONSTRUE THAT MY ACCEPTANCE OF WHAT IS AN APPARENT FAIT
14 ACCOMPLI, IS NECESSARILY A WITHDRAWAL OR A RETRACTION OF MY
15 EARLIER STATED POSITIONS. I'M MERELY TRYING TO ASSIST THE
16 COURT IN MOVING FORWARD.

17 THE COURT: THANK YOU.

18 ALL RIGHT. ANYBODY ELSE WISH TO BE HEARD ON THAT
19 ISSUE?

20 YES, MR. WEINSTOCK.

21 MR. WEINSTOCK: HENRY WEINSTOCK FOR TEJON RANCH CORP.

22 I ONLY WANT TO TALK ABOUT TWO NARROW POINTS.
23 ONE, I WOULD LIKE TO JOIN WITH MR. ZLOTNICK ON THE SUGGESTION
24 OF ELIMINATING FROM THE DEFINITION OF THE CLASS LANDOWNERS WHO
25 OWN LESS THAN AN ACRE OF LAND IN THE ANTELOPE VALLEY, BECAUSE
26 WE BELIEVE THAT THAT IS A SUPERIOR METHOD OF ACHIEVING THE
27 GOAL THAT THE PURVEYORS HAD TRIED TO BY EXCLUDING EVERYONE IN
28 THEIR SERVICE AREA. BECAUSE THERE ARE PARTIES IN THE SERVICE

1 AREAS, LANDOWNERS WHO MAY HAVE LARGER PARCELS BECAUSE THE
2 SERVICE AREAS GO BEYOND THE CITIES. SO THERE COULD BE -- WE
3 DON'T KNOW IF THERE ARE -- BUT THERE COULD BE SUBSTANTIAL
4 LANDOWNERS AND SUBSTANTIAL PUMPERS OUT THERE. BUT NO ONE WHO
5 OWNS A ACRE OR LESS HAS -- IT IS ALMOST ECONOMICALLY
6 IMPOSSIBLE TO DRILL A WELL AND USE IT. AND EVEN IF THEY DID,
7 THEY COULDN'T USE MUCH WATER.

8 AND SO WE THINK THAT THAT REALLY -- IT IS LESS
9 THAN DE MINIMUS. IT IS REALLY NEGLIGIBLE EXCEPT THE NUMBERS
10 OF THEM THERE COULD BE A FEW HUNDRED THOUSAND OF THE
11 LANDOWNERS IN THE VALLEY WHO HAVE THAT CHARACTERISTIC BECAUSE
12 THE RESIDENTS OF PALMDALE, ALL THE LANDOWNERS, HOMEOWNERS IN
13 PALMDALE, LANCASTER, AND THE OTHER SMALL TOWNS SCATTERED
14 AROUND THE ANTELOPE VALLEY WOULD PROBABLY FALL IN THAT
15 CATEGORY. AND LEAVING THEM OUT, I THINK, WOULD BE DOING THEM
16 AN ENORMOUS SERVICE, REDUCE THE COST OF LITIGATION TO ALL THE
17 PARTIES, KEEP OUT A LOT OF PARTIES WHO --

18 THE COURT: SO YOU DEFINE "LANDOWNERS," ONE ACRE OR
19 GREATER?

20 MR. WEINSTOCK: YES, YOUR HONOR, WE WOULD. AND IT
21 DOESN'T -- WE THINK MR. ZLOTNICK IS RIGHT ABOUT THAT. IT
22 DOESN'T PREJUDICE THEM AT ALL, AND IT CERTAINLY -- UNLESS WE
23 HEAR AN OBJECTION FROM THE PURVEYORS, WHO THE PARTIES WHO
24 WOULD BE SUING THEM THAT THEY ARE WORRIED ABOUT LEAVING THEM
25 OUT, I'M PRETTY SURE YOU WON'T HEAR THAT OBJECTION.

26 THE COURT: NO, WE ARE NOT TALKING ABOUT PUMPERS AT
27 ALL.

28 MR. WEINSTOCK: NO.

1 THE COURT: JUST TALKING ABOUT LANDOWNERS.

2 MR. WEINSTOCK: LANDOWNERS WHO HAVE LESS THAN AN ACRE.
3 I SEE NO HARM IN LEAVING THEM OUT. THEY ARE LESS NOT DE
4 MINIMUS. AND THERE IS GREAT BENEFIT, IN TERMS OF PROGRESS AND
5 ECONOMICS OF THIS LITIGATION, TO LEAVING THEM OUT.

6 AND THEN LASTLY, IN TERMS OF JUST SORT OF THE
7 SCHEDULING AND MOTIONS AND ALL THAT, WE HAD APPROXIMATELY, I
8 THINK A YEAR AGO I BELIEVE THE PURVEYORS MADE A MOTION FOR
9 CLASS CERTIFICATION. MR. ZLOTNICK DID SEVERAL MONTHS AGO.
10 I'M NOT SURE WE NEED MORE MOTIONS. WE CERTAINLY NEED ANOTHER
11 HEARING FOR THE REASONS MR. FIFE GAVE. I THINK THERE SHOULD
12 BE FURTHER BRIEFING BY THE COUNTY OR THE PURVEYORS WHO
13 APPARENTLY HAVE A SLIGHTLY DIFFERENT PROPOSAL NOW OF WHAT THE
14 CLASS ORDER SHOULD SAY AND WHAT THE CLASS NOTICE SHOULD SAY.

15 MR. DUNN HAS OFFERED TO FILE THAT BY THE END OF
16 THIS WEEK. I THINK --

17 MR. DUNN: THE END OF NEXT WEEK.

18 MR. WEINSTOCK: THE END OF NEXT WEEK. I THINK IF THEY
19 DO SO, THERE IS STILL TIME -- I THINK WE HAVE A HEARING
20 SCHEDULED IN THIS CASE FOR AROUND THE 28TH OF THIS MONTH.

21 THE COURT: WE DO.

22 MR. WEINSTOCK: I THINK WE COULD KEEP THAT HEARING DATE
23 AND USE IT PRODUCTIVELY TO FINISH UP FINALLY, AT LAST, THE
24 CLASS CERTIFICATION ISSUES THAT WE HAVE BEEN WRESTLING WITH.

25 THE COURT: WELL, ACTUALLY THAT IS PROBABLY NOT
26 POSSIBLE TO DO.

27 TODAY IS THE 14TH. IF HE FILES IT ON THE 25TH,
28 THAT IS THE WEEKEND PRIOR TO THE 28TH. I DON'T SEE THAT

1 HAPPENING. I THINK THAT YOU ARE TALKING ABOUT FEBRUARY.

2 MR. WEINSTOCK: I'M AFRAID THEN I -- BUT WITH OR
3 WITHOUT A HEARING, I THINK WHAT WE NEED FROM THE COUNTY AND/OR
4 OTHER PURVEYORS IS A NEW PROPOSED CLASS ORDER, A NEW PROPOSED
5 CLASS NOTICE, AND A BRIEF THAT MR. FIFE REQUESTED JUSTIFYING
6 THIS APPROACH, WITH TIME FOR OTHER PARTIES TO RESPOND OR
7 OBJECT, AND A HEARING AS SOON THEREAFTER AS POSSIBLE,
8 HOPEFULLY IN EARLY FEBRUARY, SO WE CAN KEEP TO THE JUNE TRIAL
9 SCHEDULE THAT WAS TENTATIVELY APPROVED AT THE LAST CASE
10 MANAGEMENT CONFERENCE.

11 IN THAT REGARD, DOUG EVERTZ, COUNSEL FOR
12 LANCASTER, ASKED US TO REQUEST THAT THE TRIAL BE AT THE END OF
13 JUNE RATHER THAN THE BEGINNING OF JUNE BECAUSE HE HAS A
14 CONFLICT, AND THAT IS FINE WITH US.

15 THAT IS ALL I HAVE, YOUR HONOR.

16 THE COURT: OKAY.

17 MR. BEZERRA: YOUR HONOR, THIS IS RYAN BEZERRA FOR COPA
18 DE ORA.

19 I JUST WANTED TO CLARIFY A POINT. HAS THE COURT
20 SET A TRIAL DATE IN THIS CASE?

21 THE COURT: NO.

22 MR. BEZERRA: NO? THANK YOU.

23 THE COURT: I CAN'T SET A TRIAL DATE UNTIL IT IS AT
24 ISSUE. IT IS NOT AT ISSUE UNTIL WE HAVE A CLASS CERTIFIED AND
25 NOTICES HAVE GONE OUT.

26 MR. BEZERRA: THAT WAS MY UNDERSTANDING. THANK YOU,
27 YOUR HONOR.

28 THE COURT: ALL RIGHT. IT SEEMS TO ME THAT WE ARE AT

1 THE POINT WHERE THE PARTIES WANT FURTHER BRIEFING CONCERNING
2 THE CLASS DESCRIPTION AND THE FORM OF THE NOTICE, TRUE?

3 MR. DUNN: YES.

4 THE COURT: AND YOU ARE GOING TO FILE SOMETHING NO
5 LATER THAN THE 18TH? NOT THE 18TH, THE 25TH. NO, NOT EVEN
6 THAT. THE 22ND OF FEBRUARY.

7 MR. DUNN: YES, YOUR HONOR.

8 MS. GOLDSMITH: OF FEBRUARY, YOUR HONOR?

9 THE COURT: I'M SORRY. OF JANUARY.

10 LET ME BACK UP. THE 25TH OF JANUARY. AND YOU
11 WANT A HEARING DATE SOMETIME IN FEBRUARY. EVERYBODY HAS AN
12 OPPORTUNITY TO PROPERLY BRIEF IT. AND I'D LIKE TO HAVE IT --
13 LET'S HAVE A BRIEFING SCHEDULE THAT CREATES-- IF YOU FILE YOUR
14 MOTION AND YOUR AUTHORITIES BY JANUARY 25TH, I WOULD LIKE TO
15 HAVE AN OPPOSITION FILED NO LATER THAN FEBRUARY THE 15TH.

16 MR. DOUGHERTY: I'M SORRY, YOUR HONOR. COULD YOU
17 REPEAT THAT?

18 THE COURT: YES. THE PAPERS TO BE FILED BY JANUARY 25.
19 OPPOSITION FEBRUARY 15. AND I WOULD LIKE TO HAVE THE REPLIES
20 NO LATER THAN THE 20TH. AND I'LL SET A HEARING FOR -- IT
21 WOULD HAVE TO BE THE THIRD OF MARCH.

22 MS. GOLDSMITH: YOUR HONOR?

23 THE COURT: YES.

24 MS. GOLDSMITH: JAN GOLDSMITH.

25 WOULD THAT BE AT NINE A.M.?

26 THE COURT: YES. ACTUALLY ON THE THIRD OF MARCH --

27 MS. GOLDSMITH: YES.

28 THE COURT: -- LET'S MAKE IT TEN A.M., SO I DON'T HAVE

1 TO GET UP AT 3 O'CLOCK IN THE MORNING TO GET HERE.

2 MS. GOLDSMITH: THANK YOU, YOUR HONOR.

3 THE COURT: ALL RIGHT. NOW, INsofar AS ANY INDIVIDUALS
4 WHO HAVE CURRENTLY BEEN SERVED AND ARE PRESENTLY PARTIES,
5 SHOULD THERE BE A TRANSFER OF THE OWNERSHIP OF LAND, THE COURT
6 IS GOING TO ORDER THAT NOTICE OF THESE PROCEEDINGS BE GIVEN TO
7 THE TRANSFEREE, WHETHER IT BE AN INVOLUNTARY TRANSFER OR A
8 VOLUNTARY TRANSFER. AND COUNSEL FOR THE PARTY IS ORDERED TO
9 ENSURE THAT THE COURT IS NOTIFIED IF THERE IS AN INVOLUNTARY
10 TRANSFER, TO THE EXTENT THAT COUNSEL KNOWS ABOUT IT.

11 NOW MR. WEINSTOCK HAS PREPARED A PROPOSED FORM OF
12 NOTICE. IT SEEMS TO ME ALSO THAT TO THE EXTENT THAT WE KNOW
13 WHO THE PARTIES ARE, WE KNOW THE LEGAL DESCRIPTION OF THE
14 LAND, THAT YOU GIVE YOURSELF FURTHER ASSURANCES WITH A LIS
15 PENDENS THAT DESCRIBES THE LITIGATION AND THAT OUGHT TO BE
16 RECORDED BY EVERY PARTY WHO IS CURRENTLY A PLAINTIFF OR A
17 CROSS-COMPLAINANT WHO HAS SERVED ANOTHER PARTY.

18 AND I'M GOING TO ASK MR. WEINSTOCK TO PREPARE
19 THAT COURT ORDER IN THAT FASHION.

20 OKAY. NOW TO THE EXTENT THAT OTHER PARTIES
21 BECOME INVOLVED IN THE CASE, THE COURT OBVIOUSLY WILL EXTEND
22 THAT ORDER TO APPLY TO THEM.

23 MR. WEINSTOCK: DID YOU SAY ANYONE WHO HAS FILED AN
24 ANSWER TO A CROSS-COMPLAINT?

25 THE COURT: YES.

26 MR. WEINSTOCK: SO ANYONE WHO HAS MADE AN APPEARANCE?

27 THE COURT: YES.

28 MR. BEZERRA: YOUR HONOR, THIS IS RYAN BEZERRA OF COPA

1 DE ORO.

2 SO THE ORDER WILL BE THAT THE CROSS-DEFENDANTS
3 ARE REQUIRED TO FILE LIS PENDENS ON THEIR OWN PROPERTY?

4 THE COURT: NO. CROSS-COMPLAINANTS ARE REQUIRED TO
5 FILE IT.

6 MR. BEZERRA: OKAY. THANK YOU.

7 THE COURT: ALL RIGHT. ARE THERE ANY OTHER ISSUES
8 THAT WE SHOULD TAKE TODAY?

9 MR. JOYCE: YOUR HONOR, AS TO THE LIS PENDENS THAT WILL
10 BE FILED BY CROSS-COMPLAINANTS AGAINST IDENTIFIED AND SERVED
11 CROSS-DEFENDANTS -- CROSS-DEFENDANTS AGAINST IDENTIFIED AND
12 SERVED CROSS-DEFENDANTS, I ASSUME CONFIRMATION OF THE FACT OF
13 THE RECORDATION OF THE -- I ASSUME THAT WITH REFERENCE TO THE
14 FACT OF THE RECORDATION OF THE LIS PENDENS BY A
15 CROSS-COMPLAINANT AS AGAINST A SERVED CROSS-DEFENDANT, THAT
16 THE FACTS OF THAT RECORDATION WILL BE CONFIRMED SOMEHOW ON THE
17 COURT'S WEBSITE?

18 THE COURT: I BELIEVE THERE IS A DECLARATION FROM --

19 MR. JOYCE: AND A FILING OF A COPY OF IT WITH THE COURT.

20 THE COURT: YES.

21 MR. JOYCE: THANK YOU, YOUR HONOR.

22 THE COURT: NOW, AT THE NEXT HEARING ON THE 28TH, WE
23 HAVE A DEMURRER THAT IS SCHEDULED. IS THERE ANYTHING ELSE
24 THAT IS SCHEDULED OR THAT OUGHT TO BE HEARD ON THAT DAY?

25 MR. WEINSTOCK: YOUR HONOR, HENRY WEINSTOCK.

26 IF THE COURT WANTS A NEW ORDER OR NEW PROPOSED
27 ORDER POSTED ON THE WEBSITE, IS THERE GOING TO BE ANOTHER
28 HEARING ABOUT THIS, OR ARE WE JUST GOING TO DO IT AND THE

1 COURT WILL DISPOSE OF IT AS THE COURT DEEMS FIT?

2 THE COURT: I'LL TAKE CARE OF IT AS A COURT ORDER.

3 MR. WEINSTOCK: OKAY. SO THEN WE DON'T NEED TO DO IT ON
4 THE 28TH?

5 THE COURT: WE DO NOT.

6 WHAT I'M WONDERING IS WHETHER OR NOT WE HAVE TO
7 HAVE A HEARING ON THE 28TH, OR IF WE COULD DO IT
8 TELEPHONICALLY?

9 MR. JOYCE: THE 28TH OF THIS MONTH, YOUR HONOR?

10 THE COURT: YES.

11 MR. JOYCE: YOUR HONOR, MY UNDERSTANDING IS THERE MAY BE
12 AN INHERENT CONFLICT ON THAT DATE. THERE ARE SETTLEMENT
13 MEETINGS THAT ARE TRYING TO BE SCHEDULED FOR THE 28TH AND THE
14 29TH, IF I'M NOT MISTAKEN.

15 (PAUSE IN THE PROCEEDINGS)

16 MR. JOYCE: I WITHDRAW IT, YOUR HONOR.

17 THE COURT: MR. BLUM HAS FILED I THINK A MOTION TO
18 DISMISS, A DEMURRER, AND A MOTION TO STRIKE. I HAVEN'T READ
19 IT YET BUT IT IS SET FOR HEARING ON THE 28TH. AND I'M JUST
20 WONDERING IF THERE IS ANYTHING ELSE THAT NEEDS TO BE HEARD ON
21 THAT DAY. AND IF THERE IS NOT, I WOULD BE INCLINED -- I'M NOT
22 SURE COUNSEL WILL ALL WANT TO APPEAR OTHER THAN THE PARTIES
23 INVOLVED WITH THAT PARTICULAR DEMURRER.

24 WE CAN DO IT ONE OF TWO WAYS: WE CAN DO IT IN
25 SAN JOSE, OR WE CAN DO IT ON THE TELEPHONE, OR BOTH.

26 MR. ZIMMER: WE WOULD BE INCLINED TO DO THAT BY
27 TELEPHONE, YOUR HONOR.

28 THE COURT: OKAY. WHY DON'T I -- SINCE THE ONLY PARTIES

1 TO BE INVOLVED IN THAT ARE THE DEMURRING PARTY AND THE -- I
2 GUESS IT IS TO A CROSS-COMPLAINT -- YES, TO YOUR
3 CROSS-COMPLAINT, IS IT NOT, MR. DUNN?

4 MR. DUNN: NO.

5 I DON'T KNOW IF MR. BLUM IS STILL ON THE LINE.
6 HE MADE AN APPEARANCE.

7 MR. BLUM: YES, I AM ON THE LINE.

8 MR. DUNN: YES, IT IS HIS.

9 THE COURT: TO WHOM -- TO WHICH PLEADING IS THAT
10 DIRECTED, MR. BLUM?

11 MR. BLUM: IT IS TO THE SECOND AMENDED COMPLAINT. THERE
12 IS THE MOTION TO STRIKE AND THE MOTION TO DISMISS AS WELL AS
13 THE DEMURRER TO THE SECOND AMENDED COMPLAINT TO QUIET TITLE BY
14 WILLIAM BOLTHOUSE FARMS, AND THERE IS THE DEMURRER TO THE
15 CROSS-COMPLAINT OF BOLTHOUSE PROPERTIES LLC.

16 THE COURT: OKAY. SO MR. ZIMMER, THAT INVOLVES YOUR
17 CLIENT.

18 MR. ZIMMER: YES, YOUR HONOR, IT DOES.

19 THE COURT: OKAY. NOW THAT IS SET FOR HEARING A WEEK
20 FROM THIS COMING FRIDAY.

21 MR. ZIMMER: YES, YOUR HONOR.

22 THE COURT: I'M SORRY. NO, IT IS A WEEK -- TWO WEEKS
23 FROM TODAY. IT IS THE 28TH.

24 WHERE WOULD YOU LIKE TO HAVE THAT HEARD?

25 MR. ZIMMER: I'D RATHER HAVE IT HEARD AT THE TIME OF THE
26 NEXT HEARING IF WE COULD DO THAT, IF THE COURT IS INCLINED TO
27 DO THAT, OR I'D RATHER DO IT TELEPHONICALLY PERHAPS.

28 THE COURT: JUST DO IT IN MARCH?

1 MR. ZIMMER: I'M FINE WITH DOING IT IN MARCH.

2 THE COURT: MR. BLUM, DO YOU HAVE ANY OBJECTION TO
3 THAT?

4 MR. BLUM: HAVING IT HEARD IN MARCH?

5 THE COURT: YES.

6 MR. BLUM: I HAVE NO OBJECTION.

7 THE COURT: OKAY. THEN WE WILL PUT IT OVER TO MARCH
8 THE THIRD, WAS THAT THE DATE?

9 MR. BLUM: HOWEVER, YOUR HONOR, THERE IS STILL THE
10 OPPOSITION AND THE REPLY TO BE DONE AS WELL. SO WHEN IS THAT
11 TO BE UNDERTAKEN? SINCE I HAVE NOT RECEIVED A RESPONSE TO THE
12 OPPOSITION.

13 THE COURT: I DON'T KNOW.

14 MR. ZIMMER, WHEN CAN YOU FILE YOUR OPPOSITION?

15 MR. ZIMMER: WHENEVER THE COURT WOULD LIKE WOULD BE
16 FINE.

17 THE COURT: WELL, I THINK MR. BLUM WOULD LIKE IT MORE
18 THAN I WOULD LIKE IT.

19 MR. ZIMMER: I'M NOT SURE WHETHER HE WILL LIKE IT OR
20 NOT.

21 THE COURT: WELL, WHY DON'T YOU FILE IT WITHIN -- LET'S
22 SEE. LET'S LOOK AT THE CALENDAR HERE.

23 MR. BLUM: YOUR HONOR, IT SHOULD BE DUE THIS WEEK.

24 THE COURT: I'M GATHERING THAT MR. ZIMMER MAY NEED
25 ADDITIONAL TIME.

26 WELL, MR. ZIMMER, WHY DON'T YOU FILE YOUR
27 OPPOSITION.

28 MR. ZIMMER: THAT WOULD BE FINE, YOUR HONOR.

1 THE COURT: OKAY. AND LET'S HAVE A REPLY BY FEBRUARY
2 6. AND WE WILL HAVE THE MATTER HEARD CONCURRENTLY WITH THE
3 HEARING ON THE OTHER MOTIONS ON MARCH THIRD AT TEN A.M.

4 MR. ZIMMER: THANK YOU, YOUR HONOR.

5 MR. BLUM: THANK YOU, YOUR HONOR.

6 THE COURT: OKAY. DOES ANYBODY ELSE HAVE ANYTHING THEY
7 WISH TO PRESENT?

8 MR. DUNN: YES, I DO, YOUR HONOR.

9 CONSULTING WITH CO-COUNSEL, MR. PFAEFFLE, OF
10 COUNTY COUNSEL'S OFFICE, IF WE COULD GO BACK JUST FOR A MOMENT
11 TO THE LIS PENDENS RECORDATION, MR. PFAEFFLE REMINDED ME THAT
12 THE INFORMATION TO RECORD THAT LIS PENDENS IS GOING TO BE
13 WITHIN THE POSSESSION OF EACH ONE OF THOSE PROPERTY OWNERS.
14 WE, BEING THE COUNTY WATERWORKS DISTRICT, DO NOT HAVE THAT,
15 DON'T HAVE THE LEGAL DESCRIPTIONS TO THEIR PROPERTIES.

16 IN THE SANTA MARIA CASE SOME OF THE PROPERTY
17 OWNERS, WHAT THEY DID WAS THEY RECORDED THEIR OWN LIS PENDENS
18 TO THEIR OWN PROPERTY. AND THIS INFORMATION WAS PROBABLY --
19 WE THINK THAT THE COURT SHOULD CONSIDER THE PROPRIETY OF
20 HAVING JUST EACH OF THOSE PROPERTY OWNERS WITH THEIR OWN
21 INFORMATION RECORD THEIR OWN LIS PENDENS.

22 AS THE COURT HAS POINTED OUT, THE COURT HAS NOW
23 ORDERED EACH PROPERTY OWNER HAS THE RESPONSIBILITY OF
24 NOTIFYING THE TRANSFEREES. THIS IS MORE PROPERLY WITHIN THAT
25 RESPONSIBILITY. WITH AS MANY PROPERTIES THAT ARE OUT THERE,
26 EVEN FOR THE FOLKS WHO HAVE BEEN INDIVIDUALLY SERVED, THE TASK
27 UPON THE COUNTY WOULD BE UNDULY BURDENSOME AND EXPENSIVE. IT
28 WOULD BE EASIER FOR JUST EACH PROPERTY OWNER JUST TO SIMPLY DO

1 IT HIMSELF.

2 SO WE ARE ASKING THAT THE COURT CONSIDER THAT,
3 PLEASE. THANK YOU.

4 MR. BEZEZZA: YOUR HONOR, THIS IS RYAN BEZERRA FOR
5 COPA DE ORO.

6 MR. DOUGHERTY: YOUR HONOR, COULD I ADDRESS THAT?

7 THE COURT: JUST A MINUTE, MR. DOUGHERTY. WE HAVE
8 MR. BEZERRA TALKING.

9 MR. DOUGHERTY: I'M SORRY.

10 MR. BEZERRA: YOUR HONOR, I WOULD OPPOSE THE ORDER TO
11 RECORD A CLOUD ON OUR OWN TITLE. THIS IS A CASE UNDER WHICH
12 VARIOUS PURVEYORS HAVE DECIDED TO -- {UNINTELLIGIBLE}

13 THE COURT: BASICALLY, MR. BEZERRA, YOU'RE OBJECTING TO
14 HAVING TO RECORD A CLOUD ON YOUR OWN TITLE?

15 MR. BEZERRA: YES. FOR EXAMPLE, YOUR HONOR, AT THIS
16 POINT I DON'T KNOW WHAT THE PRESCRIPTIVE PERIOD IS. SO IF WE
17 AREN'T REQUIRED TO RECORD A LIS PENDENS AND WE NEED TO EXPLAIN
18 THAT TO A POTENTIAL TRANSFEREE, IT BECOMES VERY TRICKY FOR US.

19 THE COURT: YES.

20 MR. BEZERRA: WE CAN'T REPRESENT THE CLAIMS THAT HAVE
21 BEEN FILED AGAINST US, THOSE MUST ONLY BE REPRESENTED BY THE
22 PEOPLE WHO HAVE DECIDED TO FILE THOSE CLAIMS.

23 MR. WEINSTOCK'S ORDER IS -- I HAVE A FEW QUIBBLES
24 WITH IT, BUT IT'S TOLERABLE IN THE SENSE THAT ALL WE WOULD BE
25 REQUIRED TO DO IS DISCLOSE TO THE POTENTIAL TRANSFEREE IN THE
26 GENERAL DUE DILIGENCE PERIOD THAT THIS CASE IS IN. BUT ONCE
27 YOU START RECORDING DOCUMENTS IN A CHAIN OF TITLE, IT NEEDS TO
28 BE PRETTY CLEAR EXACTLY WHAT IS GOING ON. AT THIS POINT, THIS

1 CASE DOES NOT HAVE THAT SORT OF CLARITY. AND THE ONLY PEOPLE
2 WHO CAN PROVIDE IT WOULD BE THE PURVEYORS WHO HAVE DECIDED TO
3 FILE --

4 THE COURT: MR. DUNN?

5 MR. DUNN: YES, I TEND TO AGREE WITH MR. BEZERRA ON
6 THAT. AND THAT GOES BACK TO WHY MR. WEINSTOCK HAD PROPOSED
7 THE TRANSFEREE NOTICE THAT HE DID. IT IS PROBLEMATIC QUITE
8 FRANKLY TO HAVE A LIS PENDENS RECORDED. IT DOESN'T REALLY PUT
9 A PROPERTY OWNER ON ANY NOTICE OTHER THAN THE FACT THERE IS
10 EXISTING LITIGATION.

11 THE TYPE OF NOTICE THAT MR. BEZERRA IS CONCERNED
12 ABOUT IS NOT GOING TO BE SATISFIED WITH THE RECORDING OF A LIS
13 PENDENS.

14 THE COURT: WELL, IF IT COULD BE RECORDED SO THAT IT
15 PROVIDES NOTICE, IT SEEMS TO ME THAT IF IT COULD BE RECORDED,
16 FOCUSED ON THE INDIVIDUAL PARCEL, THEN IT WOULD PROVIDE NOTICE
17 TO TRANSFEREES UNDER ALL CIRCUMSTANCES, EVEN THOUGH IT IS NOT
18 A FORMAL LIS PENDENS.

19 ON THE OTHER HAND IT IS A CLOUD ON TITLE, NO
20 QUESTION ABOUT THAT. AND THE COURT'S ONLY CONCERN IS TO
21 ENSURE THAT WE DON'T LOSE JURISDICTION OVER A PARCEL WHEN A
22 PROPERTY IS TRANSFERRED.

23 I'M NOT GOING -- LET ME WITHDRAW THE ORDER,
24 VACATE THE ORDER CONCERNING THE LIS PENDENS. AND WE WILL TALK
25 ABOUT THAT FURTHER AT THE NEXT HEARING.

26 MR. DUNN: THANK YOU.

27 MR. DOUGHERTY: YOUR HONOR, ROBERT DOUGHERTY.

28 I WOULD JUST LIKE TO POINT OUT THAT IN THE SANTA

1 MARIA CASE IT WAS THE LANDOWNERS WHO WERE EITHER
2 CROSS-COMPLAINANTS OR ORIGINAL PLAINTIFFS WHO WERE SUING IN
3 QUIET TITLE WHO RECORDED A LIS PENDENS BECAUSE THE QUIET TITLE
4 STATUTE REQUIRED IT. AND SO, YEAH, WE RECORDED IT, BECAUSE --
5 ON OUR OWN PROPERTY. BUT IT WAS REQUIRED BY STATUTE.

6 THE COURT: ALL RIGHT. THANK YOU.

7 MR. WEINSTOCK: YOUR HONOR, IF THIS IS GOING TO BE
8 RECONSIDERED THE NEXT HEARING --

9 THE COURT: I WILL RECONSIDER THE LIS PENDENS ISSUE.
10 AND IF PEOPLE WOULD BRIEF IT, I WOULD APPRECIATE IT.

11 MR. DUNN: OKAY.

12 MR. WEINSTOCK: OKAY, YOUR HONOR.

13 THE COURT: I DON'T THINK IT WOULD BE UNREASONABLE TO
14 PUT A REASONABLE BURDEN ON LANDOWNERS.

15 MR. WEINSTOCK: OKAY. FOR EASE OF REFERENCE, THOSE WHO
16 MAY WANT TO BRIEF IT, WE POSTED A BRIEF ON THE SUBJECT ON MAY
17 11 OF 2007. IT IS ON THE COURT'S WEBSITE AND PEOPLE CAN
18 ADDRESS THE ARGUMENTS WE MADE.

19 THE COURT: OKAY. WE WILL BE IN RECESS.

20
21 (AT 10:55 A.M., PROCEEDINGS CONCLUDED)
22
23
24
25
26
27
28

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 1

HON. JACK KOMAR, JUDGE

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

ANTELOPE VALLEY GROUNDWATER CASES)

JUDICIAL COUNCIL
COORDINATION NO. P4408

PALMDALE WATER DISTRICT AND)
QUARTZ HILL WATER DISTRICT,)

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

CROSS-COMPLAINANTS,)

VS)

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

REPORTER'S CERTIFICATE

CROSS-DEFENDANTS.)

STATE OF CALIFORNIA)
) SS.
COUNTY OF LOS ANGELES)

I, CHARLOTTE NICHOLAS MOHAMED, CSR, 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 67, COMPRISE A TRUE AND
CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN THE
ABOVE-ENTITLED MATTER ON MONDAY, JANUARY 14, 2008.

DATED THIS 15th DAY OF JANUARY, 2008.


CHARLOTTE NICHOLAS MOHAMED, CSR #2384
OFFICIAL REPORTER

PROOF OF SERVICE

I, Kerry V. Keefe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 5 Park Plaza, Suite 1500, Irvine, California 92614. On February 20, 2008, I served the within document(s):

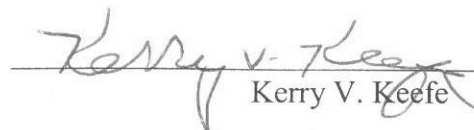
**REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF PUBLIC WATER
SUPPLIERS' REPLY RE MOTION TO MODIFY SEPTEMBER 11, 2007 ORDER
CERTIFYING PLAINTIFF CLASS**

- ☒ by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- ☐ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- ☐ by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.
- ☐ I caused such envelope to be delivered via overnight delivery addressed as indicated on the attached service list. Such envelope was deposited for delivery by Federal Express following the firm's ordinary business practices.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

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

Executed on February 20, 2008, at Irvine, California.


Kerry V. Keefe