

1 effectively and properly do that today without sort of the
2 larger consideration of who's ultimately going to be
3 responsible, if at all, for fees and costs.

4 THE COURT: Well suppose that in this case the Court
5 determined in apportioning attorney's fees that may be due and
6 payable to the Woods class in ultimate settlement or judgment in
7 this case. That the amount that would be attributable to the
8 settling defendants is greater than the amount that they've
9 paid. Wouldn't the consequence of that only be that that could
10 not be collected against those defendants, but would have no
11 impact, whatsoever, on other defendants other than to reduce the
12 amount that they would be obligated to pay? So how would that
13 hurt anybody?

14 MR. DUNN: In that scenario it would not hurt others.
15 As I understand the scenario it's sort of a zero sum game or a
16 pot that the allocated share would thereby diminish the other
17 shares. So, yes, I agree.

18 THE COURT: And the same would be true as to the
19 prescriptive claims. That is to say, if the Court were to find
20 that there was prescription that impacted the three acre feet
21 that each of the class members -- up to three acre feet -- that
22 the settling defendants would not be entitled to participate in
23 that. But the non-settling defendants would have every right
24 determined by the Court. Is that true?

25 MR. DUNN: I believe it is. I'm kind of standing here
26 and running the numbers in my head. But I believe that's
27 correct.

28 THE COURT: Yeah. So the impact of this settlement