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ZAMRZLA AND JEANETTE ZAMRZLA

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES – CENTRAL DISTRICT

Coordinated Proceeding,
Special Title (Rule 1550(b))

ANTELOPE VALLEY
GROUNDWATER CASES.

Judicial Council Coordination
Proceeding No.: 4408

LASC Case No. BC325201

Santa Clara Sup. Court Case No.: 1-05-CV-049053
Assigned to Hon. Jack Komar, Judge of the Santa
Clara County Superior Court

**DECLARATION OF NICHOLAS R.
SHEPARD IN SUPPORT OF JOHNNY AND
PAMELLA ZAMRZLA’S CLOSING BRIEF**

I, Nicholas R. Shepard, declare as follows:

1. I am an attorney of law, duly licensed to practice before all the Courts in the State of California. I am a partner at Matheny Sears Linkert & Jaime, LLP., attorneys of record for Defendants JOHNNY ZAMRZLA, PAMELLA ZAMRZLA, JOHNNY LEE ZAMRZLA and JEANETTE ZAMRZLA. This declaration is based upon my personal knowledge and if called as a witness I could and would testify competently to the facts stated herein.

3. A two-day evidentiary hearing in this matter was held March 15-16, 2023, before the Honorable Judge Jack Komar. A true and correct copy of relevant portions of the transcripts of the hearing is attached hereto as Exhibit A.

1 I declare under penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct of my own knowledge, and if called to do so, could and would competently
3 testify to the matters set forth herein.

4 Executed on this 14th day of April 2023 at Sacramento, California.

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7 NICHOLAS R. SHEPARD
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EXHIBIT A

Transcript of the Proceedings of:

ANTELOPE VALLEY GROUNDWATER CASES

March 15, 2023



I M A G I N E
R E P O R T I N G

1 MR. PARTON: They came to the legal
2 conclusion, your Honor, that it made more business sense
3 not to get involved in the adjudication. They spent
4 zero on legal fees while 4,000 spent time, effort
5 working out a detailed judgment.

6 And for that behavior, that is not inequity.
7 And what they're here to ask the Court to do is to set
8 aside a settled judgment, a collateral attack using
9 extrinsic evidence. They're only allowed under the law
10 to do that if the equities weigh in their favor. And
11 this is not a situation where the equities weigh in
12 their favor.

13 They were aware of the situation. They made a
14 business calculation. You can say they were the
15 smartest people around because they didn't spend any
16 attorneys' fees money during the entire time of the
17 litigation on the issue of their water rights, and yet
18 their water rights were significant to them.

19 So I think that your Honor will find from the
20 testimony -- I don't think it will vary from what they
21 said at their depositions -- that they were aware of the
22 adjudication, thought it was for big players, and that's
23 the Exhibit 4 parties, who -- of which 60 percent of
24 them pumped at the level the Zamrzlas pump at. They're
25 not unusual. They would fit perfectly into the
26 Exhibit 4. Now they come late and want to stand up at
27 the front of the line bypassing everybody who's spent
28 time and money in doing so.

1 real issues.

2 One straw argument we heard this morning based
3 on the McLachlan declaration arguing that the Water Code
4 section 5000 reporting requirements weren't used by the
5 Woods Class. That's not an argument we made, your
6 Honor. Straw argument.

7 The argument we made is that the public water
8 suppliers reviewed the State Board's records and filings
9 to find out who was pumping more than 25 acre-feet and
10 to serve those parties personally.

11 And the Zamrzlas admitted in discovery, and
12 they will admit here today, that they never made those
13 filings. And if they had made those filings, they would
14 have been identified early on in this case; they would
15 have been personally served.

16 What is going to be critical to this Court
17 today, your Honor, is the class definition. And a lot
18 of the documents behind me go back to discourse with the
19 Court over that class definition over many years. The
20 relevant definition is contained in the judgment in
21 physical solution that this Court entered on 2015. The
22 relevant definition is contained in the Woods Class
23 judgment. That definition says all private persons and
24 entities that own real property within the basin as
25 adjudicated and that have been pumping less than
26 25 acre-feet per year on their property during any year
27 from 1946 to present. In other words, your Honor,
28 unless there is evidence in this court of pumping on

1 did.

2 Q. And so who owned it prior to you?

3 A. The Sundstroms.

4 Q. And is that property used for any purpose to
5 your knowledge?

6 A. It was alfalfa as far back -- before I bought
7 it and as far back as my checking accomplished, that it
8 had been alfalfa for a long time.

9 Q. And when you purchased that property, was
10 there something in particular about that property that
11 you liked or a reason why that's the property you chose?

12 A. Yeah, I had been looking around because the
13 property where I had the livestock on the east side of
14 Lancaster was -- was actually too small, had no growth
15 on it, and we wanted to get somewhere where we could
16 grow feed. And I got the word out that I was looking.
17 I had a realtor that contacted me and, after I had put
18 the word out, said I think I've got two or three places
19 that I'd like to show you.

20 My office then was in Bell. He flew down and
21 picked me up, showed me a number from there of parcels
22 that were available, and then said this was going to be
23 the last one and this is probably got the best water of
24 any place in the Antelope Valley. And I said, boy,
25 let's land and go look at it. We did. And I shook
26 hands, said put the paperwork together, and we made the
27 deal.

28 And then I went home and told my wife. She

1 said, You've already bought it? And I said, Yep, we're
2 moving.

3 Q. You mentioned a moment ago near the beginning
4 of that -- that response that it had some growth on
5 there. What -- what growth were you referring to?

6 A. The growth of the alfalfa.

7 Q. It had alfalfa growing on it already?

8 A. Oh, it did, absolutely.

9 Q. And was that -- was that relevant to your
10 decision to purchase the property?

11 A. It was a place that I could move immediately
12 and put my livestock in there, continue farming it. It
13 had a barn full of alfalfa at the time and a crop
14 growing. And all we had to do is purchase it, move our
15 cattle over, and we were back in the business with the
16 feed readily available and a family that was willing to
17 jump in and become part of a farm family.

18 Q. And so you moved there in 1970. And then did
19 you go ahead and do that, you started growing -- or
20 continued, I guess, growing alfalfa on that property and
21 use it for your livestock?

22 A. We continued raising alfalfa for a number of
23 years on that 40 acres.

24 Q. When you were raising alfalfa for those number
25 of years, were you using in excess of 25-acre-feet of
26 water in those years?

27 A. Yes, sir.

28 MR. KUHS: Objection. Lacks foundation, your

1 Honor.

2 THE COURT: All right.

3 MR. PARTON: Watermaster would join.

4 THE COURT: Lay the foundation for the
5 question.

6 BY MR. SHEPARD:

7 Q. Mr. Zamrzla, do you have an understanding
8 about how much water you were using -- in these years in
9 the '70s we're talking about, how much water you were
10 using in those years out of your well for your home and
11 growing alfalfa?

12 A. I have an approximate idea, yes.

13 Q. And was that -- is that number more than
14 25-acre-feet?

15 A. Yes, sir, it was.

16 MR. KUHS: Objection again, your Honor. Lacks
17 foundation.

18 THE COURT: What did you base that opinion on
19 as to how much you were using?

20 THE WITNESS: Well, it takes roughly an acre
21 of water per cutting times the acres that you're
22 farming. And I think there's also probably some records
23 that we've seen on the other parcels around there,
24 including our neighboring farmers, that would document
25 that as being a good estimate of what water it takes to
26 raise alfalfa.

27 BY MR. SHEPARD:

28 Q. How did you water the alfalfa?

1 the 80 acres as the farm well? You will understand what
2 we're talking about?

3 A. We always called it that, the Farm, and the
4 front 40 were Domestic.

5 Q. When did you start growing on the additional
6 80 acres?

7 A. Actually, I believe it was in about 2000
8 roughly. We started leasing it for farming. We didn't
9 actually farm it ourselves.

10 Q. So let me ask you about that.

11 You said you leased it for farming. Who did
12 you lease it to?

13 A. Well, so far, I found two after a lot of
14 searching. One of them was Grimmway Farms. The other
15 one was Phil Giba Farms.

16 Q. What did Phil Giba grow when he was leasing
17 the property?

18 A. Phil Giba, to the best of my knowledge, came
19 by way of Gene Wheeler. And he was an onion grower and
20 so was Gene, and I believe that's how I met Giba. I
21 didn't know those guys myself. And I was fairly new in
22 the farming circle. So the reference was this guy would
23 like to have your property, and he grows onions.

24 Q. And when Phil Giba leased your land to grow
25 onions, how did he water the 80 acres?

26 MR. KUHS: Objection. Misstates testimony,
27 your Honor.

28 THE COURT: I'm sorry, I didn't hear your

1 objection.

2 MR. KUHS: It misstates the testimony. The
3 testimony was the property was under lease. So I guess
4 the question lacks foundation.

5 THE COURT: Overruled at this point.

6 BY MR. SHEPARD:

7 Q. Mr. Zamrzla, how did Giba water the onion
8 fields in those years?

9 A. Oh, I had to get the well running. Number 1,
10 what we're calling the farm well, it hadn't been used in
11 awhile. I got that operational, and then they brought
12 their own hand lines in. They used our well. They paid
13 the water bill, and they leased the property and farmed
14 it. And they set up their own sprinklers.

15 Q. Is it your understanding that all of the water
16 used for Phil Giba's onion-growing operation in those
17 years came out of the farm well?

18 A. It was coming out of my well from my property
19 for the product that he was leasing the ground to raise
20 on our property using our water.

21 Q. Another -- another entity you mentioned that
22 you leased your property to was Grimmway?

23 A. That's correct.

24 Q. What is Grimmway?

25 A. Grimmway is probably one of the largest carrot
26 growers. At the time I first knew of them, I believe
27 they had come up with the idea of the little small
28 carrots, finger carrots or thumbs carrots we call them.

1 I used to see carrots when I was growing up; they were
2 big ones. But they also had machinery that came in and
3 picked them, and that was quite unique. I'd never seen
4 or heard anybody that had that before. And I believe
5 the record shows that Grimmway was there leasing that
6 property and well for use of growing carrots on our
7 property for two years.

8 THE COURT: So let me ask you this: What was
9 the name of the onion farmer?

10 THE WITNESS: Phil Giba, G-I-B-A.

11 BY MR. SHEPARD:

12 Q. And I believe you touched on this, but I just
13 wanted to make sure it's clear for the record. When
14 Grimmway leased your 80 acres to grow carrots, did they
15 water the carrot fields with the water out of farm well?

16 A. Yes, we -- we know that they actually paid the
17 water bill as did Giba with a little more nudging on
18 Giba. No nudging on Grimmway. They always paid it
19 regularly.

20 Q. Do you have a general understanding of how
21 much water it would take to irrigate 80 acres of onions?

22 A. I've seen some numbers. But off the top of my
23 head, you know, I'm actually in the roofing business. I
24 took up all the water that comes through your roof, so I
25 can't help you on that one.

26 Q. Do you have any knowledge at all about whether
27 it would be in excess of 25-acre-feet?

28 A. I've seen some of the information. It's all

1 well over 25-acre-feet if you're farming 80 acres of
2 either onions or carrots.

3 MR. KUHS: Your Honor, I'll object to the
4 question. It lacks foundation; calls for speculation.

5 THE COURT: Sustained.

6 MR. PARTON: I'll join that, your Honor.

7 BY MR. SHEPARD:

8 Q. How do you -- how do you know that farming
9 80 acres of carrots or onions requires more than
10 25 acre-feet of water?

11 A. I've seen some numbers.

12 MR. KUHS: Same objection, your Honor.

13 MR. PARTON: And join.

14 THE COURT: Overruled as to that.

15 BY MR. SHEPARD:

16 Q. Mr. Zamrzla, I want to talk to you about some
17 documents now. And let me get you some exhibit binders,
18 if that's all right.

19 Your Honor, may I approach the witness?

20 THE COURT: Yes.

21 BY MR. SHEPARD:

22 Q. Mr. Zamrzla, if you could do me a favor and
23 turn to Exhibit 6.

24 A. Yes, sir.

25 Q. This is an exhibit that was admitted earlier
26 today in evidence, sir.

27 Have you seen this exhibit before?

28 A. Yes.

1 the expert's work.

2 THE COURT: Respond to that.

3 MR. SHEPARD: Mr. Zamrzla as the property
4 owner certainly has an idea -- and he's already sort of
5 talked about -- of how much water was being used in any
6 given year. I'm just corroborating whether his
7 understanding is similar to the understanding of
8 Mr. Koch.

9 THE COURT: What you're asking him to do is
10 explain what these numbers are in this exhibit; is that
11 correct?

12 MR. SHEPARD: No, I'm just asking him if he
13 agrees that these appear to be accurate numbers based on
14 his own understanding about how much water was being
15 used in those years.

16 THE COURT: Well, you're asking him to comment
17 on an expert's product.

18 I'll sustain the objection.

19 BY MR. SHEPARD:

20 Q. Mr. Zamrzla, you can go ahead and close that
21 exhibit.

22 Is it your understanding in the years 2001 to
23 2010 -- what is your understanding about how much water
24 you were using out of the farm well, to be specific?

25 A. Usually the low three hundreds up per year. I
26 tell you at the end of that period you just named we
27 shut down because I was then switching over to alfalfa.

28 Q. And so when you say at the end of that period

1 you shut down, tell me more about that. What do you
2 mean about that?

3 A. 2009, 2010, so there was a period of about
4 nine years in there that we had -- were working with
5 leased farm purveyors that were coming in using the well
6 on the property, and then we decided we should get
7 moving on the alfalfa. It's a good time to do it. That
8 was about '09 or 210 -- 2010.

9 Q. When you say you shut down, why was it
10 necessary to shut down in that time period?

11 A. Well, you can't do both. You can't be doing
12 the hand lines onions and carrots and going to raise
13 alfalfa.

14 And, you know, the bottom line was -- I'm
15 talking about my own livestock, the rodeos we were doing
16 and everything. My horses and cattle don't eat onions,
17 don't eat carrots, so I wanted to raise what they eat.
18 That's alfalfa or grasses, whether it's Sudangrass or
19 the three-layer, whatever it may be. So we decided
20 now's the time to get on with growing the feed for our
21 own livestock.

22 Q. Did you have to do any repairs or upgrades to
23 the well around that time frame?

24 A. Unfortunately, several times. I did it -- I
25 can recall, because the numbers are fresh, I looked back
26 and felt the pain just recently of how much I did spend.
27 During the time I was letting those property go to other
28 farmers for carrots and onions, I spent quite a bit of

1 money. Then at the 2009, 2010, did some more major
2 work, and then put a ton of money in just before I shut
3 it off at the end of 2017. We had a lot -- thousands of
4 dollars to rebuild and continue on with the well which,
5 you know, I bring up because I wouldn't have done that
6 if I thought I was going to lose my water.

7 Q. Let me ask you. In the years once you
8 converted over to -- you said alfalfa and various
9 grasses?

10 A. Grass, yeah.

11 Q. 2011 to 2017, you said you stopped, what --
12 what is your understanding about how much water you were
13 using in those years?

14 A. Well, you know, I think we probably all know,
15 if we've been around water very long, it takes more
16 water to run grass feeds than it probably does the
17 carrots and the onions. But I throw out the number of
18 probably 500 a year on the 80 acres if you're getting
19 six or seven cuttings and depending on how good your
20 alfalfa is. There's a lot of variables in there. And,
21 again, I'm not a farm expert, but, you know, it burns
22 out after a while. You've got to replenish it, put new
23 alfalfa in. Some last longer than others. When do you
24 plant? Do you have rain fall at the -- you know,
25 November, December, January period where you don't have
26 to put the water on early?

27 Or a couple of years, I can tell you because
28 I've looked at the numbers recently in this painful

1 situation and saw we had to turn the water on November,
2 December because there was no rain because we were
3 starting alfalfa for the coming year.

4 Q. You mentioned a few responses back about
5 installing some additional lines when you were
6 converting over to the alfalfa, the grasses. And
7 forgive me. I often forget the terminology here. Were
8 they wheel lines? Is that what you said?

9 A. Well, first of all, we put the riser line in,
10 the permanent aluminum lines below the surface that have
11 pop-ups on them that you connect your hose that goes to
12 your wheel lines.

13 And my neighbor at that time, Delmar Van Dam,
14 one of his sons, Craig Van Dam, was my immediate
15 neighbor on the -- what would be the southeast corner of
16 the old three property which is part of the 80 acres.
17 And he had had sort of the edge -- the recommendation of
18 his father Delmar you should help Johnny; he's trying to
19 get his alfalfa going.

20 So he came in, knew how to do it, put the line
21 in with the risers on it, put me in touch with C&W
22 irrigation people, helped me get all the wheel lines.
23 And of course I paid for everything, paid for what he
24 did for me. But he helped me do it because he was a
25 farmer full time.

26 Q. And what year was this again?

27 A. '9 and '10.

28 Q. 2009 to 2010?

1 A. Yes, sir.

2 And at the same time I was doing some major
3 repairs on the old turbine.

4 THE COURT: Is it your testimony then that you
5 used more water for alfalfa than you did for carrots and
6 onions?

7 THE WITNESS: That's true; yes, sir.

8 THE COURT: And what did you base that on?
9 What did you base that opinion on?

10 THE WITNESS: Well, you don't have to read
11 very far to figure out that alfalfa takes more water
12 than carrots. I saw the records that Gene showed me.
13 He had records that went back I think for 50 years how
14 much water he documented on his alfalfa, and he also
15 showed me what he had done with the University of Davis
16 on carrots and other products. So I think it's pretty
17 well-known in the water industry that if you just took
18 those three products, Judge --

19 THE COURT: Yes.

20 THE WITNESS: -- alfalfa takes much more than
21 carrots or onions.

22 THE COURT: Okay. So what was the additional
23 cost to you to grow alfalfa based on the water usage as
24 opposed to carrots and onions?

25 THE WITNESS: What was the cost difference?
26 Pay for the power.

27 THE COURT: I'm sorry?

28 THE WITNESS: Pay for the power, Edison.

1 Q. So is it your understanding that this is a
2 true and correct copy of the lease agreement between you
3 and Phil Giba to farm there?

4 A. I believe it to be true.

5 Q. Your farmland in 2005?

6 A. Yes.

7 MR. SHEPARD: Your Honor, I'd like to offer
8 Exhibit 45 and move Exhibit 45 into evidence.

9 MR. KUHS: No objection.

10 MR. PARTON: No objection.

11 THE COURT: It's admitted.

12 (Exhibit 45 admitted into evidence.)

13 BY MR. SHEPARD:

14 Q. Now, if you could flip back to Exhibit 42.

15 A. Yes, sir.

16 Q. Do you have an understanding about what this
17 document is?

18 A. Well, yes, I do. It's again a Lancaster farm
19 lease for -- it looks like a term beginning
20 November 30th of '06. It -- I don't believe -- yeah,
21 it's owned by Carl Voss. And I do remember him as an
22 employee of Grimmway Enterprises and -- who did have to
23 correct that he misspelled my name.

24 Q. Is that your signature, though, above your
25 misspelled name on page 4?

26 A. It is. In fact, I printed Zamrzla spelled
27 correctly, but that's it.

28 Q. And is it your understanding this is a true

1 and correct copy of a lease agreement between you and
2 Grimmway Enterprises to use your property for -- the
3 farmland part of your property back in 2006?

4 A. Yeah, that's the way I recall it. And even
5 though there's not a check there, it showed a balance
6 due of 15,400.

7 MR. SHEPARD: Your Honor, I'd like to move
8 Exhibit 42 into evidence.

9 THE COURT: That will be admitted.

10 MR. KUHS: No objection.

11 MR. PARTON: No objection.

12 (Exhibit 42 admitted into evidence.)

13 BY MR. SHEPARD:

14 Q. If you can flip back one more time to
15 Exhibit 41. I'm trying to trick you now by going
16 backwards.

17 Mr. Zamrzla, do you have an understanding
18 about what this document is?

19 A. This is a little bit different. It's got a
20 well agreement title on it. And it is again from
21 Grimmway Enterprises as -- to me for a fee for using the
22 well of \$9,625.

23 Q. Is that your signature on page 3?

24 A. It is. 11/19/07.

25 Q. Is it your understanding that this document is
26 a true and correct copy of the well-use agreement
27 between you and Grimmway Enterprises made on
28 November 16th, 2007 to November 30th, 2008?

1 A. I do; that's correct.

2 Q. Now, this is -- this is called a well-use
3 agreement. The last few documents we looked at were for
4 land leases -- land-use agreements. Do you have a
5 recollection about whether Grimmway -- this appears to
6 cover well use, but did Grimmway also lease your land
7 that year?

8 A. I don't recall exactly why they were two
9 different agreements. I don't recall that differential.

10 Q. Let me ask it this way: Is it your
11 recollection that Grimmway did in fact farm carrots on
12 your property in 2008?

13 A. No question about that. I just don't --

14 MR. KUHS: Excuse me, your Honor. Objection.
15 The question is leading and it lacks foundation.

16 THE COURT: All right. Sustained.

17 BY MR. SHEPARD:

18 Q. Mr. Zamrzla, did Grimmway farm carrots on your
19 property in 2008?

20 A. Did they what, sir?

21 Q. Did Grimmway Enterprises farm carrots on your
22 property in 2008?

23 A. That's my recollection, yes.

24 MR. SHEPARD: I'd like to move Exhibit 41 into
25 evidence.

26 MR. KUHS: I'd like the Court to reserve on
27 this one. I've heard two different things. They're
28 offering I think this agreement for the purposes of

1 Q. I just want to be clear for the record.

2 When you say your sons, is one of the sons who
3 works there Johnny Lee --

4 A. Johnny Lee and Joe, and grandsons.

5 Q. And generally -- and we don't need to get into
6 the specifics of this, but I just want to generally ask
7 you. As a business owner for 60 years, have you ever
8 been sued or been involved in lawsuits?

9 A. We've sued a few and we've been sued.

10 Q. If you could turn to Exhibit 23?

11 A. 23?

12 Q. Yeah.

13 A. Yes.

14 Q. Have you ever seen this document before?

15 A. Well, I've seen it recently. It's the one
16 that everyone says was mailed my way that I never saw
17 before recently. In fact, I think I saw it yesterday in
18 review, but I never saw it through the service it was
19 supposedly been sent to me many years ago.

20 Q. So I just -- I want to be clear about this
21 point.

22 Did you ever receive this document in the mail
23 at your property in your home address that you
24 identified previously?

25 A. I never saw it in my home, my business,
26 anywhere, no.

27 Q. Did you ever receive any document like this in
28 the mail?

1 A. Absolutely not.

2 Q. Any document identifying the Antelope Valley
3 groundwater litigation, groundwater rights, small pumper
4 class, anything like that?

5 A. Absolutely not.

6 Q. You never received anything in the mail like
7 that at any point, correct?

8 A. Absolutely not. And I know what -- things
9 that come legally, you asked me about our business and
10 have we been in lawsuits. We have been. And we are
11 involved in some that we bring about and some that we
12 get. And they usually come to us in written form. They
13 come to our office or our house. Soon as we get them,
14 we read them, we copy them, we contact an attorney to
15 take care of them. We jump right on it.

16 And of course, we don't have one attorney that
17 takes care of everything. It depends on what it's
18 about. We jump right on it, as we did in this matter.
19 Once it came to our attention by written form you're
20 illegally pumping water in 2018, within a week, I had an
21 attorney.

22 Q. Did anyone personally serve you with any
23 documents or any notifications of any kind prior to
24 December 2015 about the Antelope Valley litigation?

25 A. Nothing about the Antelope Valley water has
26 ever been served on me in person, by the mail, carrier
27 pigeon, or any other means.

28 Q. Did you ever read anything in any newspaper

1 about the Antelope Valley water litigation prior to --
2 and my -- let me -- let me rephrase that.

3 Did you ever see any sort of notice or
4 notification or anything like that about the Antelope
5 Valley groundwater litigation prior to December of 2015?

6 A. No, absolutely not.

7 Q. When was the first time that you understood
8 that your water rights were potentially affected by the
9 Antelope Valley water litigation?

10 A. Well, I got a notice obviously and it was
11 dated June. I actually got it mid or late July of 2018,
12 but that was from the Watermaster, the mailing that said
13 I'm illegally pumping water. But I actually got a -- I
14 got a slight notice to don't plant in December of 2017,
15 that there could be some problems.

16 Q. And tell me about that. Who told you that?

17 A. One of the Van Dams.

18 Q. Which Van Dam?

19 A. Nick. Nick Van Dam.

20 Q. And what did he --

21 A. He saw that we were disking. He talked to --
22 I think he talked to a fellow that was going to plant
23 for me. He knew that we were putting numbers together
24 to buy seed. And he said, Do you know there's some
25 issues going around about the water? And if I were
26 you --

27 I said, no, but what are you talking about?

28 And he said, you know, they're -- they're

1 starting to restrict water. If I were you, I wouldn't
2 plant and then not have water to take care of the
3 expense you put into the ground.

4 And I said, Really?

5 And he said, Yeah, it looks like you're
6 getting ready to.

7 I said, I was. This is like December of 2017.

8 Q. Just to be clear, the first time that you
9 had -- you actually understood or got some sort of
10 notice that you received was the Watermaster's letter in
11 July of 2018?

12 A. 2018.

13 Q. What did you do when you received that letter?

14 A. Within a week I had an attorney named Bob
15 Armstrong, but -- he was my representative at the time.
16 I started making phone calls. I, all of the sudden,
17 found out, jeez, nobody's available to do water.
18 They're all taken up.

19 And a friend of mine that's in the hay
20 business happened to be at my ranch, and he said, I hear
21 they're after you about water.

22 And I said, What do you know about that?

23 And he said, Do you have an attorney yet?

24 I said, No, I'm looking for one.

25 He ran to his truck. He came back. I took a
26 phone picture of the business card in his hand, and the
27 next day I called Bob Brumfield in Bakersfield, and I
28 had him on it and had him calling the Watermaster

1 attorney.

2 Q. And so Mr. Brumfield --

3 A. I mean the date was within a week.

4 Q. That you retained counsel?

5 A. From the day I got the letter.

6 THE COURT: Okay. We're going to stop for
7 lunch at this point. It's 12:00 o'clock, so let's
8 return at 1:30.

9 THE WITNESS: Thank you, sir.

10 THE COURT: Thank you, sir.

11 (Whereupon, the lunch recess was taken at 12:02 p.m.)

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1 CROSS-EXAMINATION

2 BY MS. RYAN:

3 Q. Good afternoon, Mr. Zamrzla.

4 A. Good afternoon.

5 Q. You just spoke about your conversations with
6 Delmar Van Dam, correct?

7 A. I did.

8 Q. Delmar Van Dam was your personal best friend,
9 right?

10 A. He was a very good friend, yes.

11 Q. As you've described him in your deposition
12 before as your best friend?

13 A. Hunting, what have you, yes, events around the
14 town.

15 Q. You knew he was a party to the groundwater
16 litigation?

17 A. I did.

18 Q. You knew he was represented by Michael Fife of
19 the Brownstein Hyatt law firm, right?

20 A. I don't know that I knew what the attorney
21 was.

22 Q. You knew he had counsel, right?

23 A. Yeah, I'm pretty sure I knew he had counsel,
24 but I don't think I knew who that was.

25 Q. You had conversations with Delmar Van Dam
26 about the groundwater litigation?

27 A. Who?

28 Q. With Delmar Van Dam about the groundwater

1 litigation?

2 A. Very minimal discussion.

3 Q. Sorry, sir, please. I didn't mean to

4 interrupt.

5 You can finish.

6 A. We had minimal conversations about the ongoing
7 water litigation that he was involved in.

8 Q. These conversations occurred before 2016,
9 right?

10 A. Was that Delmar?

11 Q. Yes.

12 A. Well, he died in 2014, so, yes, it was.

13 MR. KUHS: I'm sorry. I didn't hear that last
14 answer. Delmar died when?

15 THE COURT: He said 2014.

16 BY MS. RYAN:

17 Q. Delmer Van Dam told you that the groundwater
18 litigation was costing him a lot of money; didn't he?

19 A. I don't know that he used those words. I
20 think he said it was expensive.

21 Q. He said it was a costly ordeal; didn't he?

22 A. Costly what?

23 Q. Costly ordeal; didn't he?

24 A. That could have been one of the words. I
25 don't recall specifically.

26 Q. He reiterated over several years that the
27 groundwater litigation was costing him a lot of money;
28 didn't he?

1 A. That it was going on over several years.

2 Q. No, Delmar -- I'll rephrase.

3 Delmar Van Dam reiterated over several years
4 to you that the groundwater litigation was costing him a
5 lot of money; didn't he?

6 A. I don't remember how many times it might have
7 come up. It was minimal, but he said he was involved
8 and that he believed that it didn't affect me; I
9 shouldn't be worried about it; I should do what I'm
10 doing.

11 MS. RYAN: Objection.

12 THE WITNESS: And it was for other people.

13 MS. RYAN: I'm going to move to strike his
14 answer where he starts to talk about his involvement and
15 what his advice was to Mr. Zamrzla. That wasn't the
16 question.

17 THE COURT: Well, I'm going to overrule the
18 objection. It is what it is.

19 BY MS. RYAN:

20 Q. Delmar Van Dam told you to keep doing what
21 you're doing; didn't he?

22 A. That was later, yeah, because that was
23 probably what I was doing in that conversation was
24 sometime in the mid 2000s, because I wasn't doing
25 anything before that other than leasing the property.

26 Q. He told you to keep track of your water use;
27 didn't he?

28 A. He may have -- well, he knew we used Edison

1 my behalf.

2 Q. And you understood Watermaster was asserting
3 that you were a member of the small pumper class, right?

4 A. Never heard of it.

5 Q. I understand you never heard of it. But you
6 understood that that was what the conclusion was of the
7 Watermaster, that you were a member of the small pumper
8 class, right?

9 A. Counsel, how could I have understood it if I
10 never heard of it?

11 Q. Did you hear of it as of July 16th, 2018, for
12 the first time?

13 A. Absolutely not.

14 Q. When was the first time you heard about the
15 small pumper class?

16 A. I think it was after there was some discussion
17 between Bob Brumfield and yourself about intervention.

18 Q. That's the first time you heard about the
19 existence of the small pumper class, right?

20 A. I never heard of it before in my life.

21 Q. Okay. Did you understand that Mr. Brumfield
22 represented Charles Tapia?

23 A. Eventually I did. He mentioned several
24 people, but I don't know when that was.

25 Q. Did you talk to Charles Tapia about your
26 representation?

27 A. No, I wouldn't know Charlie Tapia if he was in
28 here.

1 business directly, correct?

2 A. That's the way most legal actions work.

3 Q. Is the answer yes or no?

4 A. That's the way they work, yes.

5 Q. Yes. Thank you.

6 You've been involved in a number of lawsuits,
7 correct?

8 A. Well, I think I admitted earlier that I've
9 been on both ends. I've sued and been sued. It's part
10 of being in business.

11 Q. You've been deposed 12 times?

12 A. Oh, that's on different activities. That's
13 where I've served as an expert.

14 Q. Just as being an expert. How many times have
15 you been deposed as a litigant?

16 A. Not very many.

17 Q. And how much in legal fees have you paid,
18 Mr. Zamrzla, to defend or pursue your water right
19 interest in the adjudication that ended in December of
20 2015?

21 MR. SHEPARD: Objection. Relevance.

22 THE WITNESS: It's grown.

23 BY MR. PARTON:

24 Q. I'm not talking about it growing. I'm talking
25 about how much in legal fees did you pay before the
26 adjudication was concluded in December of 2015?

27 A. Before?

28 Q. Yes.

1 A. I don't think I paid any before the
2 adjudication.

3 Q. Right. Thank you.

4 MR. PARTON: That's all the questions I have
5 for now, your~Honor.

6 THE COURT: All right. We've so far been
7 ignoring the people who are on remote.

8 Do any of those counsel wish to further
9 cross-examine this witness?

10 Are you there?

11 MR. SLOAN: William Sloan, your~Honor, I'm
12 here, but I don't need to ask any questions.

13 THE COURT: Thank you.

14 And I assume the silence from anybody else is
15 the same; is that right?

16 MR. SANDERS: This is Chris Sanders. Yes,
17 that's correct, your~Honor.

18 THE COURT: Okay. All right. So --

19 MR. PARTON: Your Honor --

20 THE COURT: -- I have a couple of questions,
21 sir. And especially what I'm interested in is what you
22 knew about the water adjudication that was going on and
23 how you came to know that?

24 THE WITNESS: I actually got to tell ya that I
25 found out when I started reading after getting the first
26 letter from the Watermaster. I knew nothing because --

27 THE COURT: Prior to 2018, you did not know
28 any of the details of the adjudication; is that right?

1 THE WITNESS: It more than proved itself when
2 I started reading about it, absolutely.

3 THE COURT: All right. So --

4 THE WITNESS: Had I known when I read about
5 it, I would have been -- handled it differently.

6 THE COURT: Well, how did you know there was
7 an adjudication going on?

8 THE WITNESS: I knew a few people that were
9 talking about it, but, you know, it was not as I've
10 heard everybody was talking about it. That's -- that's
11 an untruth. That's a fallacy. That's a remote story
12 that's untrue. People weren't talking about it. In
13 fact, if you ask around today, a lot of people don't
14 even know about it, and they're property owners.

15 So it just was not the kind of subject -- and
16 maybe -- maybe people were defensive of talking about it
17 if they were in it, I don't know. But, I mean, I have a
18 few good friends that are in the farming and very few of
19 them talked about it. Delmar was one that talked to me
20 several times about what he thought and, of course,
21 Gene Nebeker, but always not for advice, just telling me
22 what he thought about things and how he felt.

23 But, you know, I know John Calandri. He never
24 gave me any advice. You know, I know Kyle and Kyle.
25 They never gave me any advice. I know George Lane.
26 George has probably been the longest member until
27 recently of the Antelope Valley Kern County Board. He
28 used to come out to our ranch and join the rodeos with

1 his daughter, and he never mentioned it. And he's very
2 prominent and known very well in the water -- we do
3 business with him besides that.

4 THE COURT: So what did you think the fight
5 was all about?

6 THE WITNESS: I thought the fight was over
7 water between the big users, the big purveyors and the
8 big farmers, and they were trying to wrestle it away
9 from the farmers. That's what I thought.

10 THE COURT: But was there any understanding
11 that you had as to what the concept of overdraft is?

12 THE WITNESS: Well, I have several different
13 opinions, and I don't want to upset you, but some -- of
14 course one of them was from Gene that it wasn't really
15 overdraft, that the numbers weren't used correctly. But
16 yeah, it was -- as going up and down the state is how do
17 you not diminish the groundwater.

18 THE COURT: Okay. And that included everybody
19 that was pumping water; is that right?

20 THE WITNESS: All pumpers.

21 THE COURT: Okay. So you felt you were
22 included in that?

23 THE WITNESS: Well, as I understood it, they
24 were starting with the big users that could get it under
25 control.

26 THE COURT: Well -- and why did you conclude
27 that? Was it because of what Mr. Van Dam said?

28 THE WITNESS: I think I concluded that from

1 conversations with he and Gene and just my -- I guess
2 general lack of an overall knowledge about it.

3 THE COURT: So Mr. Nebeker and Mr. Van Dam and
4 others indicated to you that there was some people that
5 were pumping too much; is that right?

6 THE WITNESS: Or that they were gonna be
7 brought under a cap. You know, it's like Greg Bielli,
8 he's the head honcho at the Tejon Ranch. I've worked
9 with two or three of his people on the Blue Ribbon
10 Committee. I've known Greg very well. They've been
11 buying water and all kinds of things. He never said,
12 Hey, what are you doing about water? No one ever -- no
13 one ever brought it up.

14 THE COURT: Have you ever checked the well
15 depth of any of your wells?

16 THE WITNESS: I have, every year. Or try to
17 every year.

18 THE COURT: And have you noticed whether or
19 not it --

20 THE WITNESS: Going up --

21 THE COURT: -- drops or rises?

22 THE WITNESS: Going up for 20 years.

23 THE COURT: Does it drop or rise?

24 THE WITNESS: Rise.

25 THE COURT: Every year?

26 THE WITNESS: Every year about 10-foot
27 average.

28 THE COURT: So every year you have more water

1 A. Yes.

2 MR. KUHS: Your Honor, I'd like to read from
3 page 224 of Mr. Zamrzla's July 3rd, 2022, deposition
4 beginning with line 13 -- I'm sorry, June 3rd.

5 THE COURT: Go ahead.

6 MR. KUHS: Beginning at line 13.

7 "Question: In 2007, who leased your property?

8 "Answer: Can't tell you.

9 "Question: Do you know how many acres?

10 "Answer: No, sir.

11 "Question: Do you know what crop was grown?

12 "Answer: I do not.

13 "Question: 2008, do you know who leased your
14 property?

15 "Answer: No.

16 "Question: Do you know how many acres?

17 "Answer: No.

18 "Question: Do you know what crop was grown?

19 "Answer: No.

20 "2009, do you know who leased the property?

21 "Answer: I do not.

22 "Question: Do you know what crop was grown?

23 "No, sir.

24 "Question: And do you know how many acres?

25 "Answer: I do not."

26 BY MR. KUHS:

27 Q. Mr. Zamrzla, do you recall having a
28 conversation with one of the Van Dams in 2010 when --

1 talking about making a switch to alfalfa?

2 A. I thought it was a little before that, but
3 could have been 2010.

4 Q. And do you recall one of the Van Dams telling
5 you that if you're going to start farming it yourself,
6 now is the time to do it, and we'll help get you the
7 wheel lines, and that's when we started doing that. I
8 believe that will show up in the Rottman and irrigation,
9 wheel lines.

10 Do you recall that conversation?

11 A. I know there was some conversations. I don't
12 specifically recall one, but there were several about us
13 putting the wheel lines on that property for alfalfa and
14 Craig Van Dam would help us put the trenches and the
15 risers on for wheel lines.

16 Q. And at the time you were putting in those
17 wheel lines, you already knew about the adjudication,
18 correct?

19 A. I knew there had been an adjudication. It
20 ended in December, 2015.

21 Q. Right.

22 As of 2010, you were already aware that there
23 was litigation concerning the groundwater in Antelope
24 Valley, correct?

25 A. Well, I think I said a number of times that we
26 were aware of it not in great detail, and we didn't
27 think it involved us, but yes, we were.

28 Q. What I'm trying to establish, sir, is that you

1 knew about it in 2010.

2 You agree with that?

3 A. I did know about it, not in detail, but knew
4 about it, yes.

5 Q. You may have even known about it in 2009,
6 correct?

7 A. To some extent.

8 Q. Do you recall a conversation with Gene Nebeker
9 in 2009 about the groundwater adjudication?

10 A. About the what?

11 Q. About the groundwater adjudication?

12 A. Nothing specific other than talking to him in
13 general for a number of years.

14 Q. Well, you knew that the adjudication was going
15 to result in cutbacks of water, correct?

16 A. No. No, I didn't.

17 MR. KUHS: Your Honor, I'd like to read from
18 page 238 of Mr. Zamrzla's testimony at June 3rd, 2022,
19 beginning at line 2.

20 THE COURT: Okay. Go ahead.

21 MR. KUHS: "Question: And you knew that
22 comma, as a result of the adjudication, comma,
23 that people were going to lose their water
24 rights through the adjudication, comma,
25 correct?"

26 "Objection.

27 "Answer: No. I'd say that's more -- more
28 than I would agree to. I knew there was

1 adjudication going on. There was gonna be some
2 resolution and probably a cutback depending on
3 how it worked out," comma, "but."

4 BY MR. KUHS:

5 Q. Mr. Nebeker told you that people were gonna
6 lose their water rights as a result of the adjudication;
7 did he not?

8 A. He did not.

9 MR. KUHS: Your Honor, I'd like to read from
10 the same page beginning at line 13.

11 THE COURT: Go ahead.

12 MR. KUHS: "Question: Mr. Nebeker told you
13 that people were gonna lose their water rights
14 as a result of the adjudication, correct?

15 "Answer: He said there's gonna be some
16 cutback definitely, yeah."

17 But the word you used --

18 "Question: But the word you used earlier was
19 people were going to lose --

20 "Answer: Some people are going to be --

21 "Question: -- their water rights?

22 "Answer: Yeah.

23 "Question: Correct?

24 "Answer: Some water rights, yeah.

25 "Question: I just want to be clear. That was
26 your testimony earlier?

27 "Answer: Yeah.

28 "Question: People are going to lose their

1 water rights as a result of the adjudication?

2 "Answer: Well, now you're saying 'water

3 rights.' They're going to lose some of their

4 water rights. Isn't what I said earlier?

5 Question: No. Your testimony was that Gene

6 had told you that people were going to lose

7 water rights as a result of this adjudication.

8 "Answer: I wouldn't doubt he said both,

9 yeah."

10 No further questions, your~Honor. Thank you.

11 THE COURT: Any further examination?

12 MR. SHEPARD: Yes, your~Honor.

13 THE COURT: Approximately how much more do you
14 have with this witness?

15 MR. SHEPARD: A few minutes.

16 THE COURT: Okay.

17 REDIRECT EXAMINATION

18 BY MR. SHEPARD:

19 Q. Mr. Zamrzla, the -- there was some discussion
20 earlier about Mr. Norm Hickling.

21 Do you recall that, those questions?

22 A. I do.

23 Q. And there were -- there were questions about
24 Norm Hickling providing you some sort of information,
25 stack of papers or something, right?

26 A. Correct.

27 Q. When did you receive that information from
28 Norm Hickling?

1 Q. Did you ever see any notice in the L.A. Times
2 regarding the Antelope Valley water adjudication?

3 A. No, never.

4 Q. Did you ever see any notice in the Antelope
5 Valley Press regarding the Antelope Valley water
6 adjudication?

7 A. No, never.

8 Q. Did you ever see any notice in any other paper
9 of any kind regarding the Antelope Valley water
10 adjudication?

11 A. None whatsoever.

12 Q. When was the first time you heard the term
13 "small pumper class"?

14 A. That term actually came to us for the first
15 time through attorney Bob Brumfield from Bakersfield and
16 that was, I believe, in one or two of the letters and
17 discussions he was having with the Watermaster in the
18 latter part of 2018.

19 Q. Some time in late 2018?

20 A. Or early 2019 even.

21 Q. And are you sure that's the very first time
22 you ever heard the term "small pumper" or "small pumper
23 class"?

24 A. Absolutely.

25 Q. There's been a lot of discussion today about
26 your prior discussions with various people that you
27 know, for example, Delmar Van Dam, Gene Nebeker.

28 Delmar Van Dam ever mention the term "small

1 pumper" to you?

2 A. Never.

3 Q. Did he ever tell you you were a small pumper?

4 A. No, never.

5 Q. Gene Nebeker ever use the term "small pumper"?

6 A. Absolutely not.

7 Q. Did he ever tell you -- did Gene Nebeker ever
8 tell you you were a small pumper?

9 A. Never mentioned the small pumper or anything
10 like that.

11 Q. So when you had these conversations with
12 Delmar Van Dam or Gene Nebeker, some other folks we
13 talked about in the years leading up to the judgment,
14 we've talked about a number of conversations from, say,
15 '09 to 2015, why didn't you ever go out and retain
16 counsel after any of those conversations?

17 A. Still seemed to me, as we originally decided,
18 we were not in the game. It was for the big -- a battle
19 between the big purveyors and the big farmers that were
20 using the bulk of the water. It did not include me.
21 That's not where my livelihood came from. That was not
22 what I did for a living. I was a small farmer to begin
23 with. It didn't fit me. It was not -- it was not part
24 of what the adjudication was over. I was, I believed, a
25 small player.

26 Q. There's been an insinuation here that -- more
27 than an insinuation, a claim that you made a business
28 decision to try to save yourself money by ignoring the

1 adjudication prior to the judgment.

2 And you can give me a ballpark figure here if
3 you want or just in general, but how much money has --
4 has it cost you since 2018 when you got that letter from
5 the Watermaster, how much money have you spent on
6 attorneys?

7 A. Well, first of all, the first part of your
8 question, money has nothing to do with my decision. And
9 it has none today. It didn't then, doesn't now. My
10 wife can probably tell you pretty close, but my gut
11 would tell you it's probably in excess of 500,000.

12 MR. SHEPARD: Thank you, your~Honor. I have
13 nothing further.

14 THE COURT: All right. Thank you.

15 Mr. Kuhs, go ahead.

16 RECROSS-EXAMINATION

17 BY MR. KUHS:

18 Q. Mr. Zamrzla, did you have the conversation
19 with Mr. Norm Hickling directly?

20 A. Well, I've had lots of them with Norm because
21 we were working together on a lot of things, including
22 the Blue Ribbon.

23 Q. You referred a few moments ago to inquiring
24 about these missing documents and when they were
25 provided. When did that conversation occur and between
26 whom?

27 A. As I found out after the deposition, my timing
28 in trying to come up with a date was quite a ways off.

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)

) ss.

LOS ANGELES COUNTY)

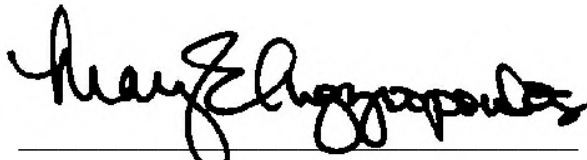
I, MARY E. ARGYROPOULOS, a Certified Shorthand Reporter in and for the State of California, hereby certify:

That on March 15, 2023, I fully, truly, and correctly took down in shorthand writing all of the testimony given in said court and cause;

That I thereafter fully, truly, and correctly caused the same to be transcribed into typewriting;

That the foregoing pages 1-202, inclusive, is a full, true, and correct transcript of my shorthand notes taken at said time and place therein named.

DATED: 28th day of March, 2023.



MARY E. ARGYROPOULOS
CSR NO. 9775, RMR, CRR

Transcript of the Proceedings of:

ANTELOPE VALLEY GROUNDWATER CASES

March 16, 2023



I M A G I N E
R E P O R T I N G

1 MR. SHEPARD: And 38, 39, and 40.

2 THE COURT: All right. There being no
3 objection, it will be admitted.

4 (Exhibits 37 through 40 admitted
5 into evidence.)

6 MR. SHEPARD: Thank you, your Honor.

7 And I just wanted to highlight for the record
8 that Request for Admission and Response, the Request for
9 Admission Number 7 which reads: Admit the amount of
10 water you used from wells owned by Johnny and Pamella
11 Zamrzla in each year you used such water exceeding
12 25 acre-feet.

13 And Grimmway's amended response: Without
14 waiving the objections, the responding party admits that
15 the amount of water used by the responding party from
16 the Zamrzlas' well in 2006 and 2008 exceeded
17 25 acre-feet.

18 THE COURT: All right. What else?

19 MR. SHEPARD: At this time, I'd like to call
20 Pamella Zamrzla to the stand.

21 THE COURT: All right. Good morning.

22 THE WITNESS: Good morning, sir.

23 THE COURT: If you would stand there and raise
24 your right hand.

25 THE CLERK: Please raise your right hand.

26 PAMELLA ZAMRZLA,
27 called as a witness on behalf of the Zamrzlas', was
28 first duly sworn, examined, and testified as follows:

1 the south pasture, was being watered because it's green.
2 We have livestock, animals. The water is used obviously
3 for the animals, and all needs for the property.

4 Q. When you say the "pasture," you water the
5 pastures to grow feed for livestock?

6 A. Correct. Sorry.

7 Q. And a moment ago you said the domestic well is
8 used for everything you do on the property. And I just
9 want to be clear. Does the domestic well -- do you use
10 any water from the domestic well on the other two
11 parcels, the other 80 acres, or is it solely on this?

12 A. Solely on these 40 acres.

13 Q. Now, the other -- the other well, the farm
14 well, where about is that located?

15 A. Approximately right where the two -- the two
16 40-acre parcels would join which would be like at the
17 northeast corner of our 40 acres. So it's about in the
18 middle of those two parcels.

19 Q. And that -- that -- that well serves the other
20 80 acres?

21 A. It does. It's a large turbine well and it
22 serves those two bordering properties.

23 Q. You mentioned you purchased the two additional
24 parcels comprising nearly 80 acres in 1986. When did
25 you start using those properties to grow anything?

26 A. Ourselves. When we purchased them, they had
27 previously been alfalfa farmed and -- but they were
28 dormant when we purchased. And we started leasing the

1 land to third party growers -- in 2001, I think was
2 first year.

3 Q. And then at some point did you begin growing
4 your own crops on those parcels?

5 A. We did in either late 2010, early 2011.

6 Q. On the original domestic -- the parcel that
7 you said was served by the domestic well, which I
8 believe you said you purchased in 1970, when did you
9 first start growing crops or watering pastures on that
10 parcel?

11 A. When we purchased it, it was an existing
12 alfalfa farm. It was a producing, active farm, and we
13 continued to farm it. So we irrigated -- well, it
14 wouldn't have been the whole 40 acres, but we irrigated
15 a good portion of that property for several years, and
16 continued to grow the alfalfa that was being farmed when
17 we purchased it.

18 Q. And that's for the use of your own livestock?

19 A. Correct.

20 Q. So talking still about the parcel served by
21 the domestic well, when you've been using that well ever
22 since 1970 to grow alfalfa and water the pastures and
23 serve your home, is it your understanding that you've
24 been using more than 25 acre-feet a year out of that
25 well?

26 MR. KUHS: Objection. Lacks foundation.

27 MR. PARTON: Join.

28 THE COURT: Overruled.

1 MR. SHEPARD: Okay. Thank you, your Honor.

2 BY MR. SHEPARD:

3 Q. Mrs. Zamrzla, Exhibit 28, is that again a
4 photograph depicting your properties?

5 A. Yes.

6 Q. And does -- are you growing a crop here on 40
7 of the 80 acres?

8 A. Yes.

9 Q. And I'll represent the photograph is indicated
10 August 25th, 2012. What would you have been growing at
11 that time?

12 A. Yes, alfalfa or other grasses.

13 MR. SHEPARD: Your Honor, I'd like to move
14 Exhibit 28 into evidence.

15 THE COURT: That will be admitted.

16 (Exhibit 28 admitted into evidence.)

17 BY MR. SHEPARD:

18 Q. Mrs. Zamrzla, can you switch to Exhibit 29.

19 A. Okay.

20 Q. Again, another aerial photograph of -- does
21 this appear to be your properties?

22 A. Yes, it is.

23 Q. And this one is labeled May 24th, 2013.

24 Does this depict what your understanding of
25 what your properties looked like on May 24th of 2013?

26 A. Yes, it does.

27 Q. And you see here that green area has expanded
28 a bit. The last few photos it was a square. It's a

1 longer rectangle now. Can you explain that to me?

2 A. Correct. We were extending the growth of the
3 alfalfa into the full 80 acres. We started this -- we
4 had the well retrofitted in early 20 -- in 2010 or 2011,
5 and then made the investment in the sprinkler lines.
6 And we were moving our way towards doing -- farming the
7 whole 80 acres. Our property ends at 138.

8 Q. So when you made -- when you stopped leasing
9 the 80 acres of farm land and you decided to convert
10 over and begin growing alfalfa and other grasses --

11 A. Correct.

12 Q. -- you didn't immediately the next year after
13 you stopped leasing it start growing alfalfa and these
14 other grasses on the whole 80 acres; is that correct?

15 A. That's correct; we did not.

16 Q. It appears to be that it was a gradual process
17 over a number of years as you worked up to growing on
18 the full 80 acres?

19 A. Correct.

20 MR. SHEPARD: Your Honor, I'd like to move
21 Exhibit 29 into evidence.

22 THE COURT: It will be admitted.

23 MR. KUHS: No objection.

24 (Exhibit 29 admitted into evidence.)

25 BY MR. SHEPARD:

26 Q. And if you could move -- flip to the next
27 exhibit, Exhibit 30. And again, another aerial
28 photograph here.

1 THE WITNESS: No, we do not.

2 THE COURT: Okay. Thank you.

3 BY MR. SHEPARD:

4 Q. Mrs. Zamrzla, could you please turn to
5 Exhibit 23.

6 A. I'm sorry, which one?

7 Q. Exhibit 23, please.

8 MR. KUHS: Two, three?

9 MR. SHEPARD: Yes.

10 THE WITNESS: 23. Okay.

11 BY MR. SHEPARD:

12 Q. Mrs. Zamrzla, have you seen this document
13 before?

14 A. Yes, I've seen this.

15 Q. You have an understanding that this is the
16 class action mail notice that allegedly is being claimed
17 was mailed to you in 2009?

18 A. Yes.

19 Q. Did you ever receive this class action notice
20 in the mail?

21 A. We did not.

22 Q. What is your general procedure when you
23 receive a legal document in the mail?

24 MR. KUHS: Objection. Lacks foundation.

25 MR. SHEPARD: I'm asking her what she does
26 when she receives generally a legal document in the
27 mail.

28 MR. KUHS: You haven't established a pattern,

1 stamp.

2 Q. And that -- has that been your pattern and
3 practice for many years?

4 A. Yes.

5 Q. Any time you get something that you deem to be
6 an important piece of mail, you follow that practice;
7 you date-stamp it, you staple it to the envelope?

8 A. Absolutely.

9 Q. And follow up and address it, correct?

10 A. Correct.

11 Q. In fact, you received a letter from the
12 Watermaster in 2018, correct?

13 A. Correct.

14 Q. Did you stamp that letter received with a
15 date?

16 A. Yes, we did.

17 Q. And why did you do that?

18 A. To document the date it was received, and we
19 stapled it to the envelope. And that, in particular, I
20 remember that when Johnny later, when we were reviewing
21 things, that the letter was dated in June and received
22 over a month later in July. And you could tell from the
23 mailing date that it was mailed a month later than the
24 letter was dated.

25 Q. And did you do that also because you saw that
26 letter and it appeared to be an important document?

27 A. Yes.

28 Q. So that would follow your pattern and practice

1 to mark received when you receive an important document
2 in the mail, correct?

3 A. Correct.

4 Q. Now, on this Exhibit 23 here, you just stated
5 you never -- you never received this in the mail. When
6 was the first time you saw this Exhibit 23?

7 A. The first time I saw this was when our counsel
8 Bob Brumfield sent it to us after the Watermaster said
9 that we were on a small pumper list, and he provided
10 this to Mr. Brumfield, and Mr. Brumfield provided it to
11 us.

12 Q. And when -- when, approximately, did that
13 happen, the date?

14 A. That I first saw it, because I wasn't involved
15 originally, immersed in it, in 2018. But as we got into
16 2021, when the Watermaster was threatening to file the
17 motion for relief and we were -- Brumfield was working
18 with the Watermaster to try to reach a resolution, then
19 I was looking at a lot of documents, and that would be
20 the first time I saw this particular one.

21 And -- can I expand on that for a minute?

22 Q. Sure.

23 A. As -- I remember when I first read this
24 thinking why is the Watermaster insisting that we're
25 small pumpers when this notice that they say was mailed
26 to all the class members says: You are not in the class
27 with respect to any given parcel or property if that
28 parcel falls within any of the following categories:

1 Number 1, you have pumped 25 acre-feet or more of
2 groundwater for use on a parcel that in any -- any
3 calendar year since 1946.

4 So when I read this, it is, well, we've -- I
5 mean, in any calendar year if you've pumped 25 acre-feet
6 or more, you're not a member of the small pumper class.
7 And so we never received this notice. But when I'm
8 reviewing it, I'm confused as to why the Watermaster is
9 insisting that in fact we're in that class. It says --

10 Q. You haven't owned all your parcels since 1946,
11 of course, but --

12 A. I know. I didn't understand the date, but I
13 knew that in any calendar year we had pumped more than
14 25 acre-feet. We farmed alfalfa.

15 Q. So in numerous years that you've owned your
16 parcels you've pumped more than 25 acre-feet in each?

17 A. Absolutely.

18 Q. At that time when you received this and you
19 were confused by that, did you provide documentation to
20 the Watermaster --

21 A. Oh, by the time --

22 Q. -- to show him that you had pumped in excess
23 of 25 acre-feet many years?

24 A. By the time I saw this in '21, we had already
25 provided the Watermaster with all of our historical
26 pumping data and also our projected future use. We --
27 we had provided already all of our water production
28 information to the Watermaster. That had been provided

1 in 2018, 2019 after the Watermaster sent us the letter.

2 Q. So that was even before you even heard the
3 term "small pumper"?

4 A. Oh, absolutely. No, we didn't hear the term
5 "small pumper" until after the Watermaster sent us the
6 2018 letter.

7 But I was -- I just was confused as to why
8 is -- "if you have pumped 25 acre-feet or more on any
9 parcel in any calendar year, you are not in the class."
10 What -- that seems pretty straightforward.

11 Q. Mrs. Zamrzla, were you ever personally served,
12 and by "personally served," I mean did anybody ever come
13 to you and hand you documents serving you, like with
14 legal documents, with any sort of legal document or
15 notice relating to the Antelope Valley groundwater
16 adjudication?

17 A. No.

18 Q. Did you ever see any notice of any kind in any
19 newspaper about the Antelope Valley groundwater
20 adjudication prior to December 2015?

21 A. I did not.

22 Q. How can you be so sure -- you've been very
23 clear with your answers, but how can you be so sure that
24 you've never got notified in any form about the Antelope
25 Valley groundwater adjudication prior to the judgment in
26 2015?

27 A. Because our -- our -- the way that we handle
28 legal matters is you pay attention. If I had received

1 anything related to water usage, I would have paid
2 attention.

3 Q. And in 2018 --

4 MR. KUHS: I'm sorry, Counsel. I didn't hear
5 the answer to the question.

6 Can I have the reporter --

7 (Record read by the Reporter.)

8 MR. KUHS: Thank you.

9 BY MR. SHEPARD:

10 Q. When was the first time that you had an
11 understanding that your right to pump water was
12 potentially affected by the Antelope Valley water
13 adjudication?

14 A. When the Watermaster sent us a letter in 2018
15 and stated that we were subject to the adjudication and
16 that we were illegally pumping and that -- his letter --
17 if I had it in front of me, I could quote the letter,
18 but the letter stated that an option for you may be to
19 intervene, but please contact the Watermaster at your
20 earliest convenience. And we did so. We hired
21 Mr. Brumfield I think within a couple of weeks, a week,
22 and he contacted the Watermaster.

23 The Watermaster, he didn't respond
24 immediately, I can remember there were delays, but
25 eventually asked for all of our water production
26 history, how long we've been pumping, all the
27 information about the wells, all the information about
28 the properties, for both.

1 A. No, no.

2 Q. You don't remember anybody generally talking
3 about water litigation going on in the community?

4 A. Not -- it just wasn't -- no. The answer is
5 no. And I -- I do have to qualify that, but I do know
6 that in 2014, I believe, I joined Johnny in a phone
7 conversation with Gene Nebeker that the water
8 adjudication apparently was coming to an end. That
9 probably was the first real knowledge I had that there
10 had been ongoing long litigation and it was being
11 finalized. And --

12 Q. Did you have an understanding from that
13 conversation that you were subject to that adjudication
14 or that your rights were potentially affected by that
15 adjudication?

16 A. I did not.

17 Q. Did Gene Nebeker tell you, you need to do
18 something because your water rights are going to be
19 affected?

20 A. He did not.

21 MR. SHEPARD: Thank you, Mrs. Zamrzla. That's
22 all I have for you at this time.

23 THE COURT: All right. Cross-examination.

24 CROSS-EXAMINATION

25 BY MS. RYAN:

26 Q. Mrs. Zamrzla, you just testified that you had
27 a conversation with Eugene Nebeker in 2014 about the
28 groundwater litigation, correct?

1 A. Yes.

2 Q. And in that conversation, Eugene Nebeker
3 invited -- discussed with you and your husband whether
4 you could join his group, the Antelope Valley
5 Groundwater Group, correct?

6 A. His group was discussed, yes.

7 Q. And he -- they were discussing whether you and
8 your husband could join that group, right?

9 A. It wasn't like an invitation. He was
10 discussing his group and what they were doing. And if
11 we were interested in joining his group, that he would
12 see if his group would allow us to join.

13 Q. And --

14 A. But we -- go ahead.

15 Q. And you declined to do that? You declined to
16 join his group?

17 A. We decided that it did not affect us, that we
18 did not need to do that. And based on everything I
19 heard, it was too late anyway. You all had us on a
20 list.

21 Q. Well, Mrs. Zamrzla, you didn't investigate
22 further whether it was too late; did you?

23 A. We did not. It was --

24 Q. You did not hire an attorney after you talked
25 to Mr. Nebeker; did you?

26 A. We did not.

27 Q. I'd like to read you a statement from the
28 Zamrzlas' March 15th through 16th evidentiary hearing

1 haven't looked -- seen anything until we're involved in
2 this now. But, yes, since then I've seen it. I hadn't
3 seen the full list of his group.

4 Q. And you haven't tried to contact -- strike
5 that.

6 You didn't try, after you talked to
7 Mr. Nebeker in 2014, to contact any of his group about
8 what representation was like in Mr. Nebeker's Agua
9 group, right?

10 A. I did not. I didn't know at that time who was
11 in his group. I did know it was only four or five, and
12 that it was bigger property owners like himself. But we
13 had not been served. We were not brought into the
14 litigation. I'm assuming that everyone in his group had
15 been served a proper notice and been brought into it by
16 a legal piece of paper, you must appear, you must do
17 this. We did not receive that.

18 Q. You never received personal service of the
19 groundwater adjudication, right?

20 A. Right. I've read since that Judge Komar order
21 that property owners over a hundred acres or more be
22 personally served, and I've seen the list of attempted
23 service on people that they couldn't find, but no one
24 ever attempted to serve us under the Judge's order of
25 serving 100 acres or more.

26 And at that point, we owned 120, and we
27 wouldn't have been hard to find, Mr. Parton.

28 Q. Yes?

1 letter?

2 Q. Sure.

3 A. Because Mr. Parton suggested yesterday that we
4 retained Mr. Brumfield because we knew that he
5 represented small pumpers the minute we got this letter,
6 and we didn't know anything about Mr. Brumfield.

7 But this letter says: It is our understanding
8 that you may be pumping groundwater from the Antelope
9 Valley Adjudicated Basin. If you do not have a right to
10 do so under the terms of the judgment, the Watermaster
11 is required by the Court to stop all unauthorized
12 pumping. And this is our notice to you that you must
13 comply.

14 That section of the judgment provides a
15 process for non-parties to intervene in the judgment to
16 become a party, and to then seek the right to produce
17 groundwater from the adjudicated basin. Intervening to
18 become a party actually has a number of potential
19 advantages. And then it goes on to say the process to
20 intervene.

21 And so after we had retained Mr. Brumfield to
22 inquire about so what do we do next and what is our
23 responsibility -- and there was some time, you know,
24 went between this letter, Brumfield's initial attempt to
25 contact Mr. Parton. We got a timeline that shows the
26 time that went by between Mr. Parton's responses to our
27 counsel. But following this letter was the request to
28 produce -- to provide to them all of our historical

1 water production, and we complied with everything the
2 Watermaster requested.

3 And after we had completed all of that, we got
4 the -- through counsel the notice that, oh, you can't
5 intervene. You're already a party. You're on a small
6 pumper list. That's the first we heard of the small
7 pumper list.

8 And shortly after that, we got a bill from the
9 Watermaster for water that he said was pumped on our
10 80 acres in 2018, which we had not done. And we
11 provided the evidence from Edison that there was no
12 power to that well.

13 Q. That -- the bill you just mentioned, how much
14 was that bill for?

15 A. \$273,000.

16 Q. Has it been acknowledged that bill is
17 erroneous at this point?

18 A. It has been acknowledged, yes, by Mr. Parton.

19 Q. Is that bill still publicly posted for anyone
20 in the public to see?

21 A. Yes, it is.

22 Q. So anyone in the public might see that bill
23 and believe that you actually owe \$273,000 when you
24 don't?

25 A. Yes.

26 And Mr. Parton's claim for actual money based
27 on our actual water usage, which is that part, you know,
28 on the 40 acres is like 28,000, I think. And we've

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)

) ss.

LOS ANGELES COUNTY)

I, MARY E. ARGYROPOULOS, a Certified Shorthand Reporter in and for the State of California, hereby certify:

That on March 16, 2023, I fully, truly, and correctly took down in shorthand writing all of the testimony given in said court and cause;

That I thereafter fully, truly, and correctly caused the same to be transcribed into typewriting;

That the foregoing pages 203-384, inclusive, is a full, true, and correct transcript of my shorthand notes taken at said time and place therein named.

DATED: 28th day of March, 2023.



MARY E. ARGYROPOULOS
CSR NO. 9775, RMR, CRR