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Tejon Ranchcorp

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES - CENTRAL DISTRICT**

ANTELOPE VALLEY GROUNDWATER  
CASES

Judicial Council Coordination No. 4408

Included Actions:

Santa Clara Case No. 1-05-CV-049053

Assigned to Hon. Jack Komar

Los Angeles County Waterworks District No. 40  
v. Diamond Farming Co., Superior Court of  
California, County of Los Angeles, Case No. BC  
325201;

**TEJON RANCHCORP'S CASE  
MANAGEMENT STATEMENT**

Los Angeles County Waterworks District No. 40  
v. Diamond Farming Co., Superior Court of  
California, County of Kern, Case No. S-1500-CV-  
254-348;

Date: November 18, 2010

Time: 9: 00 a.m.

Dept: 1 (Los Angeles)

Wm. Bolthouse Farms, Inc. v. City of Lancaster,  
Diamond Farming Co. v. Lancaster, Diamond  
Farming Co. v. Palmdale Water Dist., Superior  
Court of California, County of Riverside, Case  
No. RIC 353 840, RIC 344 436, RIC 344 668

TEJON RANCHCORP (Tejon) submits the following Case Management Statement:

**A. Phase Three Trial Issues**

On November 6, 2008 the Court issued an order determining, *inter alia*, that there is a

1 “hydraulic connection between the so-called east and west portions of the Antelope Valley over the  
2 Bedrock Ridge” and stated:

3 “The affect of the hydraulic connection on the rights of the parties to  
4 the litigation cannot be determined at this stage of the proceedings.  
5 There are multiple claims to be adjudicated in this case, including  
6 declaratory relief, claims of prescription, claims of overlying owners  
7 to quiet title to water rights, claims that portions of the basin should  
8 be treated as a separate area for management purposes in the event a  
9 physical solution to water use is established, among other issues and  
claims. The resolution of many of these claims may well be affected  
by the nature and extent of the hydraulic connectivity of water within  
various portions of the aquifer. However, it would be premature to  
make any such determination at this stage of the proceedings.”

10 Thus, although the Court concluded that there is a hydraulic connection between the acquifers on  
11 each side of the Bedrock Ridge, the Court found it premature to make any other finding.

12 On March 8, 2010 the Court held a Case Management Conference to discuss, *inter alia*, the  
13 scope of Phase Three Trial. A copy of pages 1 and 34-47 of the transcript are attached as **Exhibit**

14 A. At page 46, lines 19-24, of the transcript the Court stated:

15 “Well, I want to hear aggregate, but I also want to hear individual  
16 areas as to the basin and what’s happening in those particular areas in  
17 terms of what the impact is. I know there is conductivity and  
18 connectivity, but I want to know the extent of it with regard to the  
19 various portions of it in the valley now.”

20 The Court then set the Phase Three Trial for September 2010 and set a further Case Management  
21 Conference for March 22, 2010.

22 During the March 22, 2010 Case Management Conference, the Court again discussed, *inter*  
23 *alia*, the scope of Phase Three Trial. A copy of pages 1 and 14-25 of the transcript are attached as  
24 **Exhibit B**. The Court stated the following:

25 “I thought I made this very clear, the Court’s concern at this  
26 point is with whether or not the basin as a whole or parts, thereof, are  
27 in overdraft. . . .

28 . . . “and I want to hear what the mega [sic] safe yield is given the

1 circumstances that exist in connection with a definition with whether  
2 or not there is an overdraft in the basin at this time.

3 "And the reason for that is because it's a large valley and there  
4 are significant inferences [sic] in the hydrology of the valley  
5 depending on various locations and whether pumping in one area  
6 affects another area is not clear to me.

7 "If the basin is not currently in overdraft and there are no more  
8 parts in overdraft, the public water producers might want to re-  
9 evaluate their claims of prescription." (Ex. B, pp. 14-16.)

10 At page 18 of the transcript, Mr. Zimmer posed a question to the Court:

11 "Previously, at the last hearing I understood that the Court was  
12 saying we are going to try whether the basin is in overdraft and the  
13 effect of pumping in one area versus another.

14 "The term portions of the basin in overdraft causes me some  
15 question because there is a legal issue underpinning all of this and  
16 that is whether you can have a portion of the basin that is quote, in  
17 overdraft or not."

18 The Court responded:

19 "I mean to say that there are difference [sic] in the basin in  
20 terms of how much productivity [sic] there is and what affect a  
21 portion of the basin has on the other portions.

22 "I'll be very interested in hearing if the experts that each of  
23 you are going to call think that there is a difference and there are  
24 different affects." (Ex. B, p. 19.)

25 After further prompting from Mr. Zimmer, the Court went on to state:

26 "Well, I'm assuming that the entire basin is a unit and that  
27 pumping in one portion will affect other portions of the aquifer, but  
28 I don't know that and I'm not making any findings at this point as to  
anything. All I want to do is hear the evidence as to the current status  
of the basin.

"So when I make reference to it all or in part, by that I just  
think that I don't know and I want to hear the evidence."

Counsel for U.S. Borax, Mr. Sloan, then asked the Court for clarification as to whether the  
Phase Three Trial would "be addressing the issue of whether pumping in one location impacts the

1 pumping at another location within the adjudication boundaries.” (Ex. B, p. 22.) The Court  
2 responded:

3 “That is fine, Mr. Sloan, I don’t mean to tell people what  
4 evidence they should produce. It may be that somebody wants to  
5 produce evidence that shows that their portion, their land is in an area  
6 where pumping has no affect on anything.” (Id.)

7 Counsel for Tejon Ranchcorp (Tejon), William C. Kuhs, then addressed the Court stating:

8 “We certainly anticipate putting in evidence that there are  
9 significant portions of the overall basin that are not in the condition  
10 of overdraft. So I need to know so that I can tell my experts if what  
11 they are going to say is whether or not we can come in and produce  
12 evidence that a significant portion of the basin is not in overdraft, for  
13 example, and not being subjected to an objection by one of the other  
14 parties that is outside the scope of the issues for this phase of the trial.

15 “I appreciate the Court saying you are not going to make a  
16 particular finding and that is fine, but I don’t want to be precluded  
17 from introducing evidence that shows that pumping in one portion of  
18 the basin has absolutely no affect on pumping in other portions of the  
19 basin.” (Ex. B, pp. 23-24.)

20 The following exchange then took place:

21 “The Court: I think that means you can offer it.

22 “Mr. Cush [sic]: That means it would be admitted and not subject to  
23 an objection that [it] is not in the scope of the Phase Three Trial.

24 “The Court: I think that is correct.” (Ex. B, p. 24.)

25 The Court then issued an order dated March 22, 2010 stating, in part:

26 “In this third phase of trial, the Court will hear evidence to determine  
27 whether the basin, as previously defined by the Court in trial phases  
28 one and two, is in such overdraft and to determine whether there is a  
basis for the Court to exercise its equitable jurisdiction, including the  
implementation of a ‘physical solution,’ as prayed for by the public  
water provider parties. The public water providers have the burden  
of proof.

///

“The Court will not hear any evidence concerning prescription  
claims nor does it expect to hear evidence of individual pumping of

1 water by any party within the basin; rather, it expects to hear evidence  
2 concerning total pumping and total recharge from all sources, with a  
3 further breakdown showing the amount of imported water on an  
4 annual basis.” (See Ex. C.)

5 On July 15, 2010 Tejon disclosed as its experts Richard D. Rhone and E. John List.  
6 Consistent with the Court’s prior orders, both Mr. Rhone and Mr. List are prepared to testify  
7 regarding the safe yield of that portion of the Antelope Valley Groundwater Basin lying westerly of  
8 the Bedrock Ridge and southerly of the Willow Springs Fault (West Antelope Valley Basin or  
9 WAVB) and whether the WAVB is in a state of overdraft.

10 Since the last Case Management Conference Tejon’s counsel has discussed the scope of the  
11 Phase Three Trial with Bob Joyce, Richard Zimmer, and several representatives of the Public Water  
12 Suppliers. Tejon is willing to limit the scope of the Phase Three Trial to the current condition of the  
13 basin as a whole provided that any issue relating to whether the WAVB is a separate basin, is in a  
14 state of overdraft, or should be considered as a separate management area are reserved for a later  
15 phase of the trial.

16 Under the circumstances, Tejon proposes that the Court supplement its March 22, 2010 order  
17 by adding a sentence thereto which reads substantially as follows:  
18

19 “Additionally, the Court will not hear evidence concerning whether any  
20 portion of the Basin is or is not in overdraft or whether pumping in any  
21 portion of the Basin affects or does not affect water levels in other portions  
22 of the Basin since those issues will be reserved for a later phase of trial.”

23 Dated: November 15, 2010

KUHS & PARKER

24 By /s/

Robert G. Kuhs, Attorney for  
Tejon

26 FA1291.01 - Tejon Ranch - Antelope Valley\11-15-10 Draft CMC Statement.wpd  
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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
2 FOR THE COUNTY OF LOS ANGELES  
3 DEPARTMENT NO. 1 HON. JACK KOMAR, JUDGE

4 COORDINATION PROCEEDING )  
5 SPECIAL TITLE (RULE 1550B) )  
6 ANTELOPE VALLEY GROUNDWATER CASES ) JUDICIAL COUNCIL  
7 ) COORDINATION  
8 ) NO. JCCP4408  
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15 REPORTER'S TRANSCRIPT OF PROCEEDINGS  
16 MONDAY, MARCH 8, 2010  
17

18 APPEARANCES:  
19 (SEE APPEARANCE PAGES)  
20

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22  
23  
24  
25  
26  
27 GINGER WELKER, CSR #5585  
28 OFFICIAL REPORTER

2 TRANSFERRED PROPERTY?

3 I'M CONCERNED. BECAUSE IF WE END UP WITH  
4 JUST PUBLICATION ON 90 PROPERTY OWNERS, WE MAY VERY WELL  
5 MAY NOT HAVE ALL THE PARTIES.

6 THE COURT: THOSE ARE OPT-OUT PEOPLE WHO OPERATED  
7 OUT OF THE CLASSES. AND AS I UNDERSTAND, IT IS ONLY  
8 THOSE. SO WE ARE NOT TALKING ABOUT PUBLICATION ON THE  
9 PARTIES AT THIS POINT.

10 MR. JOYCE: DO WE KNOW HOW MANY PEOPLE THERE  
11 ARE -- LANDOWNERS THERE ARE IN ANTELOPE VALLEY AND HOW  
12 MANY HAVE BEEN SERVED?

13 THE COURT: MR. DUNN, I DON'T KNOW IF WE HAVE THAT  
14 INFORMATION TODAY OR NOT.

15 MR. DUNN: NO. AS I INDICATED EARLIER, THAT'S THE  
16 ONE BIT OF INFORMATION I DON'T HAVE HERE EXCEPT THAT WE  
17 DO HAVE THAT INFORMATION, THE -- THE IDENTIFICATION OF  
18 THE INDIVIDUAL PARTIES HAS BEEN POSTED, YOU KNOW, AS WE  
19 HAVE GONE ALONG IN THE CASE AS PARTIES ARE DOE'ED OR  
20 ROE'ED IN (PHONETIC) AT APPROPRIATELY.

21 AND IN TERMS OF THEIR SERVICE, I'M TRYING TO  
22 THINK WHAT WE HAVE POSTED, BUT WE DO HAVE THAT  
23 INFORMATION. I WOULD BE HAPPY TO INCLUDE THAT  
24 INFORMATION IN THE DECLARATION THIS AFTERNOON.

25 THE COURT: I THINK THAT IS APPROPRIATE.

26 MR. DUNN: OKAY.

27 THE COURT: LET'S TALK ABOUT THE NEXT PHASE OF THE  
28 TRIAL BOTH IN TERMS OF WHAT ISSUES NEED TO BE ADDRESSED

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1 IN THAT TRIAL AND HOW THEY ARE GOING TO BE ADDRESSED AS  
2 WELL AS SETTING UP A TIME LINE FOR DISCLOSURE OF



3 WITNESSES AND COMPLETION OF DISCOVERY AND THE LIKE. MY  
4 DESIRE TO HAVE THIS MATTER HEARD AS EARLY AS POSSIBLE --  
5 I MAY HAVE BEEN OVERLY OPTIMISTIC AS TO WHAT WE COULD  
6 ACCOMPLISH BETWEEN NOW AND JULY WHEN I LAST SPOKE TO YOU  
7 OR -- AT OUR LAST HEARING.

8 IT SEEMS TO ME AS I'M LOOKING AT WHAT IS IN  
9 PLAY HERE THE ISSUES HAVE TO BE NARROWED FOR THAT PHASE  
10 OF THAT TRIAL, NUMBER ONE.

11 AND, NUMBER TWO, I THINK THAT IN ORDER TO  
12 ACCOMPLISH PREPARATION IT REALLY CAN'T BE ACCOMPLISHED  
13 PRIOR TO THE END OF SEPTEMBER, SO I'M REALLY THINKING  
14 THIS TRIAL SHOULD OCCUR IN THE FALL ASSUMING THAT  
15 EVERYTHING PROCEEDS AS I HOPE IT WILL.

16 AND I WOULD LIKE TO TALK ABOUT THE ISSUES TO  
17 BE ADJUDICATED IN THAT NEXT PHASE OF THE TRIAL. IT  
18 SEEMS TO ME THAT IT HAS GOT TO EVOLVE AROUND THE  
19 QUESTION OF OVERDRAFT. CERTAINLY IF THE CURRENT  
20 CONDITIONS -- BECAUSE IF WE ARE TALKING ABOUT ISSUES  
21 RELATED TO THE MANAGEMENT OF THE AQUIFER, WE NEED TO  
22 DETERMINE WHAT ITS PRESENT CONDITIONS ARE.

23 IF THERE IS NO OVERDRAFT -- AND THAT IS  
24 POSSIBLE AND I DON'T KNOW WHAT THE EVIDENCE IS IN THIS  
25 CASE -- THAT IS GOING TO END THAT INQUIRY.

26 THEN IT'S GOING TO BE UP TO THE INDIVIDUAL  
27 DISPUTANTS AMONG THEMSELVES TO DETERMINE WHETHER OR NOT  
28 THEY HAVE ANY CLAIMS THAT THEY WISH TO PURSUE AGAINST

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1 EACH OTHER. AND THAT IS NOT GOING TO INVOLVE EVERYBODY  
2 IN THIS CASE. THAT IS GOING TO INVOLVE THE PEOPLE WHO  
3 ARE PARTIES TO THE INDIVIDUAL ACTIONS THAT HAVE BEEN

4 WORK -- COORDINATED HERE AND OBVIOUSLY TO SOME EXTENT

5 THERE MAY BE SOME COMMON ISSUES, BUT MOSTLY NOT, I  
6 THINK. THOSE ARE SEPARATE ISSUES.

7 ONE OF THE PROBLEMS THAT I FORESEE HERE IS  
8 THAT VARIOUS PURVEYORS HAVE STARTED PUMPING AT VARIOUS  
9 TIMES. EVEN THOUGH WE HAVE A SINGLE AQUIFER, THERE ARE  
10 OBVIOUSLY DIFFERENCES IN VARIOUS PORTIONS OF THE AQUIFER  
11 AS TO THE EFFECT OF PUMPING.

12 AT THE TIME THAT I MADE THE DECISION  
13 CONCERNING A SINGLE AQUIFER, I INDICATED THAT THERE WERE  
14 DISPARITIES AND DIFFERENCES IN THE VARIOUS PORTIONS OF  
15 THE AQUIFER IN TERMS OF THE EFFECT OF THE -- THE AMOUNT  
16 OF CONNECTIVITY OR CONDUCTIVITY OR -- WITHOUT AN  
17 UNDERSTANDING BECAUSE WE DIDN'T HAVE SUFFICIENT  
18 EVIDENCE, AND IT REALLY HASN'T -- HAD NOT BEEN ADDRESSED  
19 AT THAT POINT, WITHOUT AN UNDERSTANDING OF WHAT THE  
20 EFFECT OF THE DIFFERENCES WERE IN CONNECTIVITY.

21 FOR EXAMPLE, IN CERTAIN PARTS OF THE  
22 AQUIFER, THERE WAS FAIRLY NOMINAL CONNECTIVITY. AND  
23 WHAT THE EFFECT OF THAT SHOULD BE IN TERMS OF MANAGEMENT  
24 OF THE BASIN DEPENDS ON WHAT THE EFFECT IS ON PUMPING IN  
25 THAT AREA, OR EVEN IF THERE WAS NO SIGNIFICANT EFFECT  
26 WHAT THE CONSEQUENCES WERE OF THE PRECIPITATION OCCURRED  
27 IN THAT PART OF THE VALLEY IN TERMS OF FEEDING INTO THE  
28 AQUIFER.

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1 IT SEEMS TO ME THAT BEFORE WE GET INTO THE  
2 QUESTION OF -- AND I WOULD LIKE COUNSEL TO ADDRESS THIS.  
3 BUT BEFORE WE GET INTO THE QUESTION OF WHAT EACH  
4 INDIVIDUAL PORTION OF THE VALLEY LOOKS LIKE, WE NEED TO

5 KNOW GENERALLY WHETHER THERE IS AN OVERDRAFT THAT

6 PERTAINS TO THE ENTIRE AQUIFER.

7 AND THAT IS GOING TO REQUIRE SOME EVIDENCE

8 AS TO RECHARGE SO THE COURT CAN DETERMINE WHAT THE

9 SAFETY OF IT IS. AND SO MY INCLINATION IS TO SAY THE

10 NEXT PHASE OF THE TRIAL SHOULD INVOLVE THE QUESTION OF

11 WHAT THE CONDITION OF THE AQUIFER IS IN ITS ENTIRETY

12 TODAY WITHOUT ATTEMPTING TO DETERMINE WHAT ELSE MIGHT BE

13 INVOLVED IN TERMS OF PRIOR HISTORY, IN TERMS OF WHEN,

14 FOR EXAMPLE, A PARTICULAR WATER PURVEYOR STARTED

15 PUMPING, WHAT THE MUTUAL WATER COMPANIES DID IN TERMS OF

16 PUMPING, WHEN THEY WERE FORMED, AND SO ON.

17 THOSE ARE ISSUES THAT MAY NOT BE APPLICABLE

18 TO ALL PARTIES AND SO THAT I -- I THINK THAT ATTEMPTING

19 TO DO THAT ALL IN ONE SINGLE PROCEEDING IS NOT WISE AND

20 MAY NOT EVEN BE NECESSARY DEPENDING ON WHAT THE OUTCOME

21 IS AS TO THE STATUS. I WOULD LIKE TO KNOW WHAT THAT IS.

22 RECOGNIZING THAT THIS TO SOME EXTENT CREATES

23 A RATHER LONG DRAWN-OUT PROCEEDING AND SERIES OF

24 PROCEEDINGS THAT THE WISEST COURSE -- AND, AGAIN, I WANT

25 COUNSEL TO ADDRESS THIS -- MIGHT WELL BE TO DO A HEARING

26 ON THE CURRENT STATUS OF THE AQUIFER, THE AMOUNT OF --

27 ASSUMING FOR A MINUTE -- AND I CERTAINLY AM NOT DECIDING

28 THIS. BUT ASSUMING FOR A MINUTE THAT THERE MAY BE AN

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1 OVERDRAFT, WHETHER OR NOT THAT OVERDRAFT REALLY PERTAINS

2 TO THE ENTIRE AQUIFER OR NOT.

3 WE CERTAINLY HAVE HAD SOME ARGUMENTS THAT IT

4 MAY NOT BE. I WOULD LIKE TO HAVE THE EVIDENCE ON THAT.

5 ALL RIGHT. SO I AM THINKING AT THIS POINT -- AND IT IS

6 A VERY TENTATIVE THOUGHT -- THAT I WOULD LIKE TO LIMIT  
7 THE NEXT PHASE TO THE CURRENT CONDITIONS IN THE VALLEY.  
8 AND I WOULD LIKE TO HAVE THAT HEARING PROBABLY AT THE  
9 END OF SEPTEMBER OR EARLY OCTOBER, AND I'LL SET SOME  
10 DATES IF THAT OCCURS FOR DISCLOSURE OF EXPERTS,  
11 DEPOSITIONS AND THE LIKE.

12 MR. MARKMAN: JAMES MARKMAN FOR THE CITY OF  
13 PALMDALE. THAT WOULD BE A STARTING POINT AS FAR AS WE  
14 ARE CONCERNED ON THE PUBLIC WATER SUPPLIERS' SIDE.

15 WE NEED TO ESTABLISH THAT SAFE YIELD NUMBER  
16 AND ALL THE FACTORS THAT CAUSE THAT NUMBER TO BE OPINED  
17 ON BY -- AT THE TRIAL. IT MAY BE THAT WE HAVE TO DO A  
18 DO-OVER ON SOME OF IT IF IT IS NECESSARY TO GO BACK  
19 HISTORICALLY WHEN YOU GET TO THE ISSUE OF WHETHER THERE  
20 HAS BEEN A PRESCRIPTIVE PERIOD.

21 BUT, NEVERTHELESS, YOUR HONOR IS CORRECT.  
22 YOU HAVE TO START WITH SAFE YIELD AND THE PRESENT  
23 SITUATION AND THE BASIN WHICH IS RELEVANT TO MANAGEMENT  
24 OF IT.

25 SO THAT IS A GOOD STARTING POINT. WE THINK  
26 WE WOULD BE A LITTLE MORE AMBITIOUS IF IT WERE OUR  
27 CHOICE, BUT I THINK YOUR HONOR HAS HIT THE CORE OF WHAT  
28 YOU HAVE TO DO BEFORE YOU GO INTO MANAGEMENT OR BACK

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1 INTO SOME TERMINATION OF PRESCRIPTIVE RIGHTS. SO  
2 LIMITED TO THIS, THIS IS THE CORRECT STARTING POINT.

3 THE COURT: WELL, MY INTEREST RIGHT NOW IS  
4 DETERMINING WHETHER OR NOT THE COURT IS GOING TO HAVE TO  
5 BE INVOLVED IN THE MANAGEMENT OF THIS BASIN, TOTALLY  
6 APART FROM WHAT THE RIGHTS INTER SE MAY BE BETWEEN THE

7 VARIOUS COMPLAINANTS AGAINST EACH OTHER IN TERMS OF  
8 PRESCRIPTIVE RIGHTS OR APPROPRIATED RIGHTS AND THE LIKE.  
9 AND SO I -- I MEAN THAT IS WHERE I'M KIND OF  
10 HEADED. I REALLY DIDN'T WANT TO MAKE THIS MY LIFETIME  
11 CASE.

12

13 (LAUGHTER)

14

15 THE COURT: THAT WAS NEVER MY INTENT. AND I  
16 ASSURE YOU THAT I'M NOT TAKING ANY STEPS IN TRYING TO  
17 STAY IN THIS CASE. I'M DOING SOMETHING THAT I FEEL IS A  
18 DUTY. I HAVE OTHER THINGS THAT I COULD BE DOING RIGHT  
19 NOW.

20 MR. MARKMAN: WELL, YOUR HONOR, ONE OF THE  
21 BENEFITS OF STARTING WHERE THE COURT IS STARTING IS GET  
22 THE SCIENTIFIC CONCLUSIONS IN FRONT OF THE COURT AND THE  
23 COURT MAKE A JUDICIAL DETERMINATION ON WHAT IS THE  
24 SUPPLY AND WHAT IS THE SAFE YIELD AND ELIMINATING  
25 RAINFALL FACTORS, WHAT'S THE CONDITION OF THE BASIN  
26 TODAY, AND ON A GO-FORWARD BASIS SO THAT YOU CAN DECIDE  
27 WHETHER YOU HAVE TO MANAGE IT.

28 ALSO, IT MAY TURN A LIGHT ON FOR EVERYBODY

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1 AS TO THE -- WHEN THE COURT MAKES THAT STOP AND THAT  
2 DETERMINATION, PEOPLE WILL UNDERSTAND THEIR POSITION IS  
3 A WHOLE LOT BETTER INSOFAR AS GENERATING MEANINGFUL  
4 SETTLEMENT DISCUSSIONS EITHER WAY. WE THINK IT SERVES  
5 MORE THAN ONE PURPOSE.

6 THE COURT: OKAY.

7 UNIDENTIFIED ATTORNEY: YOUR HONOR --

8 THE REPORTER: YOUR HONOR, I DIDN'T HEAR A NAME.  
9 THE COURT: STOP FOR JUST A MOMENT. THE REPORTER  
10 HAS GOT TO BE ABLE TO HEAR YOU. AND STATE YOUR NAME  
11 BEFORE YOU SPEAK.  
12 MS. MCKEITH: OH, OKAY. SORRY. MALISSA MCKEITH  
13 FROM ANAVERDE, LLC.  
14 THE COURT: TURN UP THE SPEAKER.  
15 THE REPORTER: THANK YOU.  
16 THE COURT: GO AHEAD, MISS MCKEITH.  
17 MS. MCKEITH: GOOD MORNING, YOUR HONOR, MALISSA  
18 MCKEITH FOR ANAVERDE LLC. I APPRECIATE THE COURT  
19 RECOGNIZING THAT THERE HAS BEEN QUITE A BIT OF RESOURCES  
20 EXPANDED TO CERTAIN AREAS OF THE AQUIFER WHERE THERE MAY  
21 OR MAY NOT BE OVERDRAFT DO TO THE -- TO THE LIMIT IS --  
22 ITS CONDUCTIVITY.  
23 AND I WOULD APPRECIATE FOR OUR CLIENT SOME  
24 DIRECTION FROM THE COURT AS TO THE OVERDRAFT ISSUE  
25 RELATIVE TO THE AREA THAT WE ARE BEING -- THE LINE  
26 PROPERTY OWNER IS ON. I APPRECIATE THAT THERE WAS NOT  
27 OVERALL CONSENSUS ABOUT US HAVING A SEPARATE AQUIFER,  
28 BUT AT LEAST AS TO THE WATER BENEATH OUR SITE -- IT IS

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1 NOT AN OVERDRAFT.  
2 AND I'M NOT CERTAIN HOW THE COURT INTENDS TO  
3 TREAT THE PARTIES WHO HAVE BEEN THROUGH THE LAST PHASE  
4 RELATIVE TO THE BROADER OVERDRAFT ISSUE, THE QUANTITY OF  
5 WATER UNDER OUR SITE EVEN THOUGH THERE WAS NOT  
6 SIGNIFICANT EVIDENCE THAT A GREAT PERCENTAGE OF THAT  
7 WATER MIGRATED BEYOND THE FAULT OR NOT.  
8 AND THE REASON I RAISE THIS, YOUR HONOR, IS

9 BECAUSE LIKE IN MANY REAL ESTATE DEVELOPERS IT IS A VERY  
10 DIFFICULT TIME FOR OUR CLIENTS FINANCIALLY, AND BEING  
11 ABLE TO NOT EXPEND ATTORNEY FEES UNNECESSARILY IS ALWAYS  
12 AN IMPORTANT PRIORITY.

13 THE COURT: WELL, I'M NOT SURE WHAT TYPE OF  
14 RESPONSE I CAN GIVE YOU ABOUT THAT, MISS MCKEITH. I  
15 MEAN, I REMEMBER THE EVIDENCE AS TO ANAVERDE, AND I  
16 REMEMBER YOUR ARGUMENTS. AND THE FACT THAT THERE WAS  
17 CONDUCTIVITY -- AND I DON'T KNOW WHAT THE FULL  
18 CONSEQUENCE OF THAT CONDUCTIVITY IS -- MEANS THAT I NEED  
19 TO HEAR SOME EVIDENCE ABOUT IT.

20 I DON'T KNOW AT THIS POINT TO WHAT THE  
21 SIGNIFICANCE -- EVEN RECHARGE IS FROM THAT AREA THAT  
22 GOES INTO THE AQUIFER ITSELF WHETHER BY THE MOVEMENT OF  
23 UNDERGROUND WATER OR NOT.

24 UNIDENTIFIED ATTORNEY: RIGHT.

25 THE COURT: PARDON?

26 MS. MCKEITH: I DIDN'T SAY ANYTHING. SOMEONE ELSE  
27 WAS WEIGHING IN, YOUR HONOR.

28 THE COURT: I KNOW. I'M TRYING TO FIGURE OUT WHO.

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1 IN ANY EVENT, I'M TRYING TO TELL YOU WHAT DIRECTION TO  
2 GIVE YOU IF I COULD, BUT I WANT TO HEAR WHATEVER  
3 EVIDENCE THERE IS THAT ESTABLISHES WHATEVER CONDITIONS  
4 OF THE ENTIRE AQUIFER MIGHT BE. AND IF I RECOLLECT  
5 CORRECTLY, ONE OF THE THINGS THAT I WAS CONCERNED ABOUT  
6 WAS THE AMOUNT OF RECHARGE CONTRIBUTION FROM THE  
7 ANAVERDE AREA INTO THE AQUIFER ITSELF BECAUSE OF  
8 PRECIPITATION AND STREAMS.

9 BUT AT THIS POINT, I CAN'T REALLY GO BEYOND

03-08-10\_ANTELOPE VALLEY FINAL TRANSCRIPT.txt  
10 THAT, AND I CERTAINLY SYMPATHIZE WITH YOUR CLIENT'S  
11 DESIRES NOT TO SPEND A LOT OF MONEY.  
12 MS. MCKEITH: WELL, THESE ARE, AS YOU KNOW,  
13 MULTI-PARTIES LONG-TERM COMPLICATED CASES, AND WE LOOK  
14 FORWARD TO PUTTING ON THE EVIDENCE AGAIN IN SEPTEMBER.  
15 BUT TO THE EXTENT THAT THE COURT PROVIDES SOME  
16 DIRECTIONS TO THE PARTIES IN TERMS OF PRESENTATION --  
17 AND I KNOW THAT YOU MAY NOT BE PREPARED TO DO THAT  
18 TODAY. PERHAPS, THAT WILL TAKE SOME EFFORTS AMONGST THE  
19 ATTORNEYS.  
20 THE ISSUE OF OVERDRAFTS IN THE BASIN IS A  
21 VERY BROAD ISSUE, AND IT COULD TAKE MONTHS TO TRY. AND  
22 AS MUCH AS I WOULD ENJOY SPENDING MONTHS IN COURT WITH  
23 EVERYONE, THAT IS A VERY DIFFICULT CHALLENGE FOR  
24 NONPUBLIC ENTITIES AND PROBABLY MANY OF THE PARTIES IN  
25 THIS CASE THAT ARE NOT REPRESENTING LARGE ENTITIES.  
26 THE COURT: WELL, I DON'T INTEND TO SPEND MONTHS  
27 DEALING WITH THE QUESTION OF THE BASIN CONDITION. I AM  
28 GOING TO SET IT TEN DAYS, TEN COURT DAYS. MY EXPERIENCE

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1 TELLS ME THAT IS SUFFICIENT IF THE PARTIES ACT  
2 EFFICIENTLY WITH REGARD TO THEIR WITNESSES.  
3 SO, MR. BUNN, YOU WANTED TO SPEAK?  
4 MR. BUNN: JUST ON YOUR LAST POINT, YOUR HONOR --  
5 THOMAS BUNN -- OR ALMOST LAST. IT WAS MY RECOLLECTION  
6 WITH RESPECT TO ANAVERDE THAT THERE WAS VIRTUALLY NO  
7 DISPUTE AS TO THE AMOUNT OF RECHARGE THAT CAME FROM  
8 ANAVERDE OVER THE FAULT.  
9 SO I CAN'T TELL HOW -- MISS MCKEITH HOW TO  
10 PRESENT HER CASE, BUT IT SEEMS TO ME THAT HER ISSUES ARE



11 MOSTLY FOR WHAT YOU HAVE RESERVED TO LATER PHASES.

12 THE COURT: WELL, I THINK YOU NEED TO TALK TO HER  
13 ABOUT THAT.

14 MS. MCKEITH: WELL, I AGREE WITH MR. BUNN. I JUST  
15 DID NOT GET A SPECIFIC FINDING ON THAT PARTICULAR ISSUE.  
16 AND TO THE EXTENT I CAN GET A STIPULATION AS TO THE  
17 AMOUNT OF WATER THAT ANAVERDE AREA WAS CONTRIBUTING TO  
18 THE REMAINING AQUIFER, I WOULD BE HAPPY TO CONSIDER THAT  
19 BECAUSE I DO THINK THAT THERE WERE GENERAL CONSENSUS  
20 THAT IT WAS A PRETTY SMALL PERCENTAGE OF --

21 MR. BUNN: WE CAN. I'M SORRY.

22 THE COURT: I'M SURE COUNSEL WILL ALL TALK WITH  
23 EACH OTHER AFTER THE PROCEEDING, I HOPE.

24 MR. KUNEY: YOUR HONOR, SCOTT KUNEY, IF I MAY. I  
25 APPRECIATE THE COURT'S SUGGESTION FOR THE NEXT PHASE  
26 ISSUE. I THINK THAT'S THE CORRECT ONE, THE CURRENT  
27 STATUS OF THE BASIN AND ITS ASSOCIATED SAFE YIELD. I  
28 THINK THAT IS THE CORRECT INCREMENT. AND THE PROPOSED

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1 SCHEDULE OF MAYBE LATE SEPTEMBER OR OCTOBER IS PERHAPS  
2 VIABLE. BUT BEFORE THAT AS A PREDICATE TO THAT, I'M  
3 INTERESTED IN UNDERSTANDING WHAT ORDER THE COURT IS  
4 GOING TO ISSUE SO THAT WE CAN BE CERTAIN THAT WE HAVE  
5 ALL THE WATER RIGHT CLAIMANTS SUBJECT TO THE COURT'S  
6 JURISDICTION BEFORE WE GO THROUGH THE PROSES OF THE  
7 DISCOVERY AND THE TRIAL. THERE IS NOT CURRENTLY ON  
8 THIS -- I KNOW THERE ARE NOT -- ALL OF THE CLAIMANTS ARE  
9 NOT SUBJECT TO THE COURT'S JURISDICTION.

10 THE COURT: WHO MIGHT NOT BE SUBJECT TO THE  
11 COURT'S JURISDICTION?

12  
13 DEALINGS THERE ARE SEVERAL ENERGY COMPANIES WITH WHICH  
14 WE DON'T REPRESENT BUT THAT HAVE ACQUIRED HUNDREDS IF  
15 NOT THOUSANDS OF ACRES OF LAND IN THE BASIN IN THE LAST  
16 YEAR. AND THERE VERY WELL MAY BE OTHERS THAT I'M NOT  
17 KNOWLEDGEABLE OF; BUT IN MY OWN DEALINGS, I KNOW THAT IS  
18 THE CASE.

19 I ALSO KNOW THAT THERE IS -- IT'S NOT A  
20 MECHANISM THAT THE PLAINTIFFS OR THE CROSS-COMPLAINANTS  
21 HAVE TO CAPTURE ALL THOSE TRANSACTIONS. I DON'T THINK  
22 THEY HAVE A MECHANISM AT ALL FOR THAT.

23 THE COURT: ALL I CAN DO IS TAKE WHAT COUNSEL  
24 REPRESENTS TO ME TO BE THE FACTS CONCERNING WHO IS A  
25 PARTY AND WHO IS NOT A PARTY AND WHO HAS BEEN SERVED AND  
26 WHO SHOULD BE SERVED. I'M RELYING ON COUNSEL. AND IF I  
27 CAN'T RELY ON COUNSEL, I HAVE NO -- I DON'T HAVE  
28 INDEPENDENT INVESTIGATIVE BODY TO DEAL WITH THESE

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1 ISSUES.

2 MR. LEMIEUX.

3 MR. LEMIEUX: I JUST HAVE A COUPLE OF QUESTIONS TO  
4 MAKE IT CLEAR TO ME WHAT WE ARE TALKING ABOUT FOR THE  
5 NEXT PHASE. I UNDERSTAND THAT YOU'RE TALKING ABOUT THE  
6 CURRENT SAFE YIELD AND WHETHER OR NOT THE OVERDRAFTING  
7 EXISTS. MY UNDERSTANDING IS THAT IN ORDER TO PRESENT  
8 EVIDENCE OF THAT, THERE WILL BE EVIDENCE, I BELIEVE,  
9 PRESENTED ABOUT HISTORICAL TRENDS AND SO ON.

10 IS IT YOUR INTENTION TO ALLOW THAT EVIDENCE  
11 IN?

12 THE COURT: I OBVIOUSLY -- I HAVE TO HEAR WHATEVER

13 EVIDENCE THE EXPERT MAY BASE HIS OR HER OPINION ON, BUT  
14 THE ONLY FINDING OF FACT THAT I INTEND TO MAKE IS WITH  
15 REGARD TO THE CURRENT STATUS OF THE AQUIFER, NOT ANY  
16 HISTORICAL EVIDENCE BECAUSE THAT IS GOING TO VARY FROM,  
17 I THINK, AREA TO AREA WITHIN THE AQUIFER. AND IT IS  
18 GOING TO VARY WITH REGARD TO VARIOUS PERIODS OF TIME AS  
19 TO WHEN VARIOUS PARTIES MAY HAVE STARTED PUMPING.

20 AND SO THAT -- I THINK IT WOULD BE  
21 IMPOSSIBLE FOR THE COURT TO MAKE THAT KIND OF A  
22 DETERMINATION WITHOUT HEARING A TRIAL THAT WOULD TAKE  
23 FOR THAT PHASE MONTHS AS MISS MCKEITH ALLUDED TO. AND I  
24 THINK SHE IS CORRECT. IT WOULD TAKE MONTHS TO DO THAT,  
25 AND I DON'T THINK THAT IS NECESSARY AT THIS POINT.

26 BECAUSE MY CONCERN WITH REGARD TO THE CENTER  
27 POINT OF THIS CASE IS, DOES THE COURT HAVE TO INVOLVE  
28 ITSELF IN THE MANAGEMENT OF THE BASINS SINCE THAT EVEN

40

1 AS MR. FIFE ASKED TO DO IS THE BASIC CORE OF THIS CASE.  
2 AND THEN THAT IS TOTALLY APART FROM ANY INDIVIDUAL  
3 CLAIMS THAT PARTIES MAY HAVE VIS-A-VIS EACH OTHER  
4 WHETHER IT BE PUBLIC WATER PROVIDERS OR LANDOWNERS OR  
5 WHOEVER IT MIGHT BE. ALL RIGHT.

6 MR. LEMIEUX: THE SECOND QUESTION I HAVE -- I  
7 UNDERSTAND THAT ANSWER. THE SECOND QUESTION I HAD ALONG  
8 THOSE LINES YOU SAID THAT WE -- YOU ARE NOT GOING TO  
9 MAKE ANY DETERMINATION OF INDIVIDUAL RIGHTS, AND YOU  
10 DON'T WANT TO KNOW ABOUT INDIVIDUAL PUMPING AND HISTORY  
11 AND SO ON, WHICH I UNDERSTAND.

12 BUT I ALSO UNDERSTAND THAT THAT PUMPING, FOR  
13 EXAMPLE, IN THE AGGREGATE WILL GO INTO THE QUESTION OF

14 WHETHER OR NOT THERE IS AN OVERDRAFT TODAY. SO JUST TO  
15 MAKE IT CLEAR SO YOU -- YOU ARE PREPARED TO HEAR  
16 AGGREGATE EVIDENCE ABOUT THOSE THINGS EVEN IF YOU ARE  
17 NOT GOING TO MAKE A PARTICULAR DETERMINATION AT THE END  
18 OF THE TRIAL.

19 THE COURT: WELL, I WANT TO HEAR AGGREGATE, BUT I  
20 ALSO WANT TO HEAR INDIVIDUAL AREAS AS TO THE BASIN AND  
21 WHAT'S HAPPENING IN THOSE PARTICULAR AREAS IN TERMS OF  
22 WHAT THE IMPACT IS. I KNOW THERE IS CONDUCTIVITY AND  
23 CONNECTIVITY, BUT I WANT TO KNOW THE EXTENT OF IT WITH  
24 REGARD TO THE VARIOUS PORTIONS OF IT IN THE VALLEY NOW.

25 MR. LEMIEUX: OKAY. THAT IS CLEAR TO ME, YOUR  
26 HONOR. THANK YOU.

27 THE COURT: OKAY. ALL RIGHT.

28 MR. WILLIAM KUHS: YOUR HONOR, WILLIAM KUHS ON

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1 BEHALF OF TEJON RANCH CORP.

2 THE COURT: YES, MR. KUHS.

3 MR. WILLIAM KUHS: HOW ARE OUR EXPERTS GOING TO  
4 HANDLE THE CLAIMS TO RETURN FLOW OR -- OR IMPORTED  
5 WATER?

6 THE COURT: IN TERMS OF WHAT, MR. KUHS?

7 MR. WILLIAM KUHS: IN TERMS OF THERE ARE VARIOUS  
8 PUBLIC WATER PURVEYORS, IF I RECALL THE PLEADINGS, ARE  
9 CLAIMING RETURN FLOWS FROM IMPORTED WATER SUPPLIES.

10 THE COURT: WELL, THAT CERTAINLY IS PART OF THE  
11 EVIDENCE AS TO WHETHER OR NOT THERE IS AN OVERDRAFT,  
12 ISN'T IT?

13 MR. WILLIAM KUHS: WELL, IT DEPENDS ON WHETHER OR  
14 NOT THEIR CLAIMS ARE LEGITIMATE OR WHETHER THOSE WATERS

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15 HAVE BEEN ABANDONED TO THE BASIN.

16 THE COURT: WELL, THAT IS A LEGAL QUESTION THE  
17 COURT WILL HAVE TO DECIDE BASED UPON THE EVIDENCE THAT  
18 IS PRESENTED.

19 MR. WILLIAM KUHS: WELL, MY QUESTION IS WILL THAT  
20 BE PART OF THE NEXT PHASE OF THE TRIAL?

21 THE COURT: AS IT RELATES TO WHETHER OR NOT THE  
22 BASIN IS IN OVERDRAFT, THE ANSWER IS YES.

23 MR. WILLIAM KUHS: OKAY. SO THE CLAIMANTS OF  
24 THOSE RETURN FLOWS WILL NEED TO PRESENT EVIDENCE TO --  
25 IF THERE ARE CLAIMS, IS THAT ACCURATE?

26 THE COURT: YES. AND THE MOVING PARTIES HERE --  
27 THE PARTIES ARE GOING FORWARD. THE PARTIES WHO HAVE THE  
28 BURDEN OF PROOF IN THIS CASE ARE THE PURVEYORS WHO BY

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1 THEIR CROSS-COMPLAINT HAVE SET UP THE ISSUE OF OVERDRAFT  
2 AND A NEED FOR THE COURT TO PROVIDE A PHYSICAL SOLUTION  
3 TO AN OVERDRAFT. IF THERE IS NO OVERDRAFT, THERE IS NO  
4 PHYSICAL SOLUTION.

5 ALL RIGHT. MR. ZIMMER.

6 MR. ZIMMER: MR. ZIMMER ON BEHALF OF BOLTHOUSE. I  
7 APPLAUD THE COURT FOR TAKING A DEEP BREATH ON THIS CASE  
8 AND CONSIDERING SOME OF THESE ISSUES THAT ARE, I THINK,  
9 ARE IMPORTANT TO EVERYBODY.

10 I THINK IT IS FUNDAMENTAL THAT EVERYBODY  
11 NEEDS TO BE IN THE CASE. I UNDERSTAND THE COURT'S  
12 POSITION REGARDING THAT YOU CAN'T BE THE POLICEMAN AS  
13 FAR AS KNOWING EXACTLY WHO HAS BEEN SERVED, BUT I THINK  
14 NONETHELESS MAYBE WITH MR. DUNN'S FILING IT, IT IS GOING  
15 TO BE A LITTLE MORE APPARENT THAT ALL THE LANDOWNERS OUT



## 1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2  
3 FOR THE COUNTY OF LOS ANGELES4  
5 DEPARTMENT NO. 1 HON. JACK KOMAR, JUDGE6 COORDINATION PROCEEDINGS  
7 SPECIAL,8  
9 ANTELOPE VALLEY GROUNDWATER. } SUPERIOR COURT  
JCCP4408

10 MONDAY, MARCH 22, 2010

11 APPEARANCES:

12 FOR PLAINTIFF:

RALPH KALFAYAN  
MICHAEL MCLACHLAN  
ATTORNEYS AT LAW14  
15 FOR THE DEFENDANT:  
16 IN PERSONTHOMAS BUNN, BRADLEY WEEKS,  
JAMES DUBOIS, WARREN WELLEN,  
STEPHANIE HEDLUND  
ATTORNEYS AT LAW17  
18 BY COURT CALL:KEITH LEMIEUX, MICHAEL CROW,  
STEPHEN SIPTROTH, ROBERT KUHS,  
BOB JOYCE, BRADLEY HERREMA,  
CHRIS SANDERS, MALISSA MCKEITH,  
ANNA MILLER, JOHN UKKESTAD,  
KARA GERMANE, JEFF DUNN,  
MICHAEL DAVIS, EDWARD RENWICK,  
RICHARD ZIMMER, RICHARD WOOD,  
MICHAEL FIFE, JANET GOLDSMITH,  
SUSAN TRAGER, TAQMMY JONES,  
WILLIAM SLOAN, SCOTT KUNEY.  
ATTORNEYS AT LAW24  
25  
26 CHARLES KUHN, CSR# 7810  
OFFICIAL REPORTER  
27  
28

1 THE COURT: YES, AND TO THE EXTENT THAT THERE  
2 ARE SERIOUS WITNESS ISSUES THAT CANNOT BE RESOLVED, WE  
3 WILL FIGURE OUT A WAY TO DO IT.

4 MR. DUNN: THANK YOU, YOUR HONOR.

5 THE COURT: ALL RIGHT.

6 MR. MCLACHLAN: YOUR HONOR, I THINK ALSO THAT  
7 CLASS COUNSEL WHO ESSENTIALLY IS INVOLVED IN THAT CASE  
8 NEEDS TO OFFER A DECLARATION AND NECESSARY DOCUMENTS TO  
9 BE ABLE TO TELL THE CLASS HOW SERVICE IS CONDUCTED, WHO  
10 HAS BEEN SERVED, AND WHO IS IN THE CLASS SO EVERYBODY  
11 KNOWS WHO IS IN THE CLASS AND WHO ISN'T.

12 THAT IS A STANDARD PROCEDURE AND I THINK  
13 THAT NEEDS TO BE DONE AT SOME POINT IN THE NEXT MONTH  
14 OR TWO.

15 THE COURT: ALL RIGHT. WHAT I WOULD LIKE TO DO  
16 IS MAKE SURE THAT WE UNDERSTAND TWO THINGS. ONE, WHAT  
17 THE ISSUES ARE THAT WE ARE GOING TO TRY; AND SECONDLY,  
18 TO SET SOME TIME LINES. WE SET A COUPLE OF TIME LINES  
19 FOR EXPERTS AND I THINK THERE WAS SOME CONFUSION AS TO  
20 WHAT THOSE WERE.

21 MY NOTES INDICATE A RATHER BRIEF TIME FOR  
22 EXPERT DEPOSITIONS. I THOUGHT IT WAS STATED ON THE  
23 RECORD. SOMEBODY INDICATED THAT AS LONG AS I ISSUED A  
24 CORRECTIVE ORDER GIVING UNTIL THE END OF AUGUST TO  
25 COMPLETE EXPERT DISCOVERY, BUT LET'S TALK ABOUT FIRST  
26 OF ALL WHAT THE ISSUES ARE.

27 I THOUGHT I MADE THIS VERY CLEAR, THE  
28 COURT'S CONCERN AT THIS POINT IS WITH WHETHER OR NOT



1 THE BASIN AS A WHOLE OR PARTS, THEREOF, ARE IN  
2 OVERDRAFT. TO THE EXTENT THAT THE COURT MIGHT BE  
3 CALLED UPON TO EXERCISE EQUITABLE JURISDICTION AND  
4 POWERS TO MANAGE THE BASIN AND THE DEFINITION OF  
5 OVERDRAFT TO MAKE IT A SAFE DEAL ARE CLEARLY SET FORTH  
6 IN A NUMBER OF JUDICIAL DECISIONS FROM OUR SUPREME  
7 COURT AND THE COURT OF APPEAL.

8           THEY HAVE BEEN QUOTED AND CITED BY EVERY  
9 COUNSEL TO THIS. I DON'T THINK THERE IS ANY CONFUSION  
10 EXCEPT TO THE FACT THAT THE COURT HAS NOT MADE IT  
11 CLEAR, AND I WANT TO HEAR WHAT THE MEGA SAFE YIELD IS  
12 GIVEN THE CIRCUMSTANCES THAT EXIST IN CONNECTION WITH A  
13 DEFINITION WITH WHETHER OR NOT THERE IS AN OVERDRAFT IN  
14 THE BASIN AT THIS TIME.

15           SO I WILL ALSO WANT TO HEAR WHAT FOREIGN  
16 WATER IS INTRODUCED INTO THE BASIN SO I WILL HAVE AN  
17 IDEA AS TO WHAT THE CURRENT CONDITIONS IN THE BASIN ARE  
18 AND WHETHER OR NOT THE COURT IS GOING TO HAVE TO  
19 EXERCISE SOME EQUITABLE JURISDICTION IN THIS MATTER.

20           NOW, TO THE EXTENT THAT THERE ARE  
21 PRESCRIPTIVE CLAIMS HERE, AND THERE CLEARLY ARE BY THE  
22 PUBLIC WATER PRODUCERS WHO ARE THE APPROPRIATE PARTIES.  
23 AND TO DETERMINE WHETHER OR NOT THEY HAVE ANY RIGHTS IN  
24 THE BASIN, I'M NOT GOING TO MAKE THAT KIND OF A  
25 DETERMINATION AT THIS NEXT PHASE OF THE TRIAL BECAUSE I  
26 DON'T BELIEVE IT'S POSSIBLE TO DO IT IN A WAY THAT  
27 WOULD EFFECTIVELY MAKE THE KIND OF DETERMINATIONS THAT  
28 NEED TO BE MADE AND THE CONCLUSIONS THAT NEED TO BE

1 MADE.

2 AND THE REASON FOR THAT IS BECAUSE IT'S A  
3 LARGE VALLEY AND THERE ARE SIGNIFICANT INFERENCES IN  
4 THE HYDROLOGY OF THE VALLEY DEPENDING ON VARIOUS  
5 LOCATIONS AND WHETHER PUMPING IN ONE AREA AFFECTS  
6 ANOTHER AREA IS NOT CLEAR TO ME.

7 I DON'T KNOW WHEN PEOPLE STARTED THE  
8 PUMPING. I DON'T KNOW HOW MUCH THEY PUMPED. I DO KNOW  
9 THAT THE PUBLIC WATER PRODUCERS AMOUNT OF PUMPING HAS  
10 VARIED. IT OBVIOUSLY HAS AS THE POPULATION INCREASES  
11 IT WILL PROBABLY INCREASE. WHEN THAT HAPPENS, HOW IT  
12 CAN HAPPENS, I DON'T KNOW. I DON'T WANT TO ADJUDICATE  
13 THOSE ISSUES AT THIS PHASE.

14 IF THE BASIN IS NOT CURRENTLY IN  
15 OVERDRAFT AND THERE ARE NO MORE PARTS IN OVERDRAFT, THE  
16 PUBLIC WATER PRODUCERS MIGHT WANT TO RE-EVALUATE THEIR  
17 CLAIMS OF PRESCRIPTION. IF THEY NEED AN OVERDRAFT THEN  
18 THEY ARE GOING TO HAVE TO DECIDE HOW THEY WISH TO  
19 PROCEED ON THOSE CLAIMS, THE CLAIM OF PRESCRIPTION TO  
20 WATER.

21 I'M NOT MAKING A FINDING OF FACT OR  
22 CONCLUSION OF LAW HERE, I'M MERELY OPINING TO WHAT  
23 ISSUES I WANT TO HEAR. THE QUESTION OF PRESCRIPTION  
24 HAS TO BE PROVED GENERALLY BY CLEAR AND CONVINCING  
25 EVIDENCE, IT'S A SUBSTANTIAL BURDEN. AND THE PARTY  
26 CLAIMING PRESCRIPTION HAS THE BURDEN OF PROOF.

27 WHETHER WE HAVE TO GET TO THAT OR NOT, I  
28 DON'T KNOW. BUT WE AREN'T GOING TO DO IT IN THIS

1 STAGE. SO NO FINDINGS THAT I'M GOING TO MAKE COULD  
2 POSSIBLY AFFECT THE CLAIMS OR THE DEFENSES AGAINST  
3 PRESCRIPTION BECAUSE I'M NOT GOING TO MAKE ANY FINDINGS  
4 WITH REGARD TO PARTICULAR PORTIONS OF THE AQUIFER OR AS  
5 TO RIGHTS OR DUTIES OF PARTICULAR PARTIES WITHIN THE  
6 AQUIFER.

7 THE ONLY THING I'M CONCERNED WITH IS THE  
8 CURRENT STATUS, AND THE CURRENT STATUS OF THE BASIN IN  
9 TERMS OF OVERDRAFT CAN ONLY BE DETERMINED BY LOOKING  
10 BACKWARD. BUT IT'S GOING TO BE LOOKING BACKWARD WITH  
11 REGARD TO WHETHER OR NOT THE CURRENT CONDITION IS A  
12 CONDITION THAT HAS EXISTED FOR A SUFFICIENT PERIOD OF  
13 TIME AND WILL CONTINUE TO EXIST SUCH THAT WE COULD SAY  
14 THAT IT IS LIKELY TO LEAD TO DEGRADATION IN THE BASIN.  
15 THOSE ARE THE ISSUES THAT WE ARE GOING TO TRY IN THIS  
16 PHASE. I WILL DO A WRITTEN ORDER SPECIFYING,  
17 ESSENTIALLY, WHAT I JUST SAID.

18 I NEED COUNSEL TO, IF YOU CAN AGREE TO A  
19 TIME LINE FOR THE CLOCK OF DISCOVERY, THE DISCLOSURE OF  
20 EXPERTS HAS ALREADY BEEN DETERMINED AND I WILL ACCEPT  
21 THOSE RECOMMENDATIONS FROM COUNSEL.

22 I WOULD ALSO LIKE TO HEAR FROM COUNSEL AS  
23 TO WHETHER THEY WOULD LIKE TO FILE ANY IN LIMINE  
24 MOTIONS AND SO FORTH, TRIAL BRIEFS, AND THE LIKE. WE  
25 HAVE A LOT OF PEOPLE ON THE LINE. IF YOU WANT TO OFFER  
26 SOME SUGGESTIONS, IF YOU HAVE HAD SOME MEET AND CONFERS  
27 AS I ASKED YOU TO DO SO THEN YOU CAN TELL ME WHAT YOU  
28 AGREED TO. I WOULD LIKE TO HEAR FROM YOU. JUST TELL

1 US WHO YOU ARE WHEN YOU SPEAK. IF YOU DON'T WANT TO  
2 TALK THAT IS OKAY TOO.

3 MR. ZIMMER: YOUR HONOR, THIS IS MR. ZIMMER,  
4 CAN WE STEP BACK FROM THE MONETARY ISSUES?

5 THE COURT: YES.

6 MR. ZIMMER: PREVIOUSLY, AT THE LAST HEARING I  
7 UNDERSTOOD THAT THE COURT WAS SAYING WE ARE GOING TO  
8 TRY WHETHER THE BASIN IS IN OVERDRAFT AND THE EFFECT OF  
9 PUMPING IN ONE AREA VERSUS ANOTHER. AND MAYBE THE  
10 COURT SAID THIS LAST TIME AND I'M NOT TRYING TO  
11 MISQUOTE THE COURT, BUT I KNOW THE COURT SAID THIS  
12 MORNING THE WETTER PORTIONS OF THE BASIN ARE IN  
13 OVERDRAFT.

14 THE TERM PORTIONS OF THE BASIN IN  
15 OVERDRAFT CAUSES ME SOME QUESTION BECAUSE THERE IS A  
16 LEGAL ISSUE UNDERPINNING ALL OF THIS AND THAT IS  
17 WHETHER YOU CAN HAVE A PORTION OF THE BASIN THAT IS  
18 QUOTE, IN OVERDRAFT OR NOT.

19 I THINK, CERTAINLY, THERE IS AN ISSUE OF  
20 NOTICE IMBEDDED IN HERE AS TO WHETHER PUMPING IN ONE  
21 AREA HAS A SUFFICIENT AFFECT ON PUMPING SOMEWHERE ELSE.  
22 THAT ONE COULD HAVE BEEN NOTICED AND COULD HAVE HAD  
23 ADVERSITY.

24 BUT THE CONSENT OF OVERDRAFT AND WHETHER  
25 THAT CAN BE IN A SEPARATE PLACE I THINK IS A REAL  
26 QUESTION IN TERMS OF WHETHER YOU CAN HAVE OVERDRAFT AND  
27 DETERMINATION IF THEY ASSUMED THAT WE HAD A RELATIVELY  
28 CONNECTED BASIN AS A WHOLE FROM, AT LEAST MY HYDROLOGY

1 STANDPOINT, THE QUESTION OF OVERDRAFT WOULD BE AS TO  
2 THAT COMPLETE KIND OF WATER SOLUTION WITHIN THE  
3 WATERSHED.

4           THERE IS A DIFFERENCE BETWEEN NOTICE AND  
5 ADVERSITY, SO I'M NOT SURE WHAT THE COURT MEANS BY  
6 THAT.

7           THE COURT: I DON'T KNOW. I DON'T KNOW WHAT  
8 THE EXPERTS ARE GOING TO TESTIFY TO. I DO KNOW THAT I  
9 MADE A FINDING THERE IS PRODUCTIVITY IN THE ENTIRE  
10 BASIN, BUT THIS IS A VARIABLE THING AND I DON'T KNOW --  
11 AS I HAVE INDICATED, THERE ARE DIFFERENCES IN MY  
12 FINDINGS. I JUST KNOW THERE ARE DIFFERENCES IN THE  
13 BASIN AS TO WHO SAID WHAT. WHO DID WHAT. I SHOULD NOT  
14 SAY IT THAT WAY. I MEAN TO SAY THAT THERE ARE  
15 DIFFERENCE IN THE BASIN IN TERMS OF HOW MUCH  
16 PRODUCTIVITY THERE IS AND WHAT AFFECT A PORTION OF THE  
17 BASIN HAS ON THE OTHER PORTIONS.

18           I'LL BE VERY INTERESTED IN HEARING IF THE  
19 EXPERTS THAT EACH OF YOU ARE GOING TO CALL THINK THAT  
20 THERE IS A DIFFERENCE AND THERE ARE DIFFERENT AFFECTS.

21           MR. ZIMMER: MY FEELING IS WE ARE BETTER OFF  
22 STAYING WITH THE SAFETY OF OVERDRAFT ISSUE FOR A  
23 MOMENT. BUT PUTTING THAT ASIDE, WHEN YOU START TALKING  
24 ABOUT WHAT AREAS IN TERMS OF WHAT THE AFFECTS OF  
25 PUMPING IN ONE AREA ARE AS OPPOSED TO ANOTHER AREA,  
26 IT'S ALMOST IMPOSSIBLE TO TRY THAT WITHOUT KNOWING WHAT  
27 THE SO-CALLED AREAS ARE. OTHERWISE, WE WILL HAVE SEVEN  
28 PEOPLE TALKING ABOUT SEVEN DIFFERENT POTENTIAL AREAS

1 THAT DON'T CO-EXIST AND ARE NOT THE SAME.

2 I'M NOT SURE HOW YOU DO DISCOVERY ON  
3 THAT. HOW WOULD YOU GET YOUR EXPERT TO ADDRESS IT  
4 WITHOUT KNOWING WHAT AREA WITHIN THIS AREA OF  
5 ADJUDICATION WE ARE TALKING ABOUT.

6 THE COURT: WELL, I'M ASSUMING THAT THE ENTIRE  
7 BASIN IS A UNIT AND THAT PUMPING IN ONE PORTION WILL  
8 AFFECT OTHER PORTIONS OF THE AQUIFER, BUT I DON'T KNOW  
9 THAT AND I'M NOT MAKING ANY FINDINGS AT THIS POINT AS  
10 TO ANYTHING. ALL I WANT TO DO IS HEAR THE EVIDENCE AS  
11 TO THE CURRENT STATUS OF THE BASIN.

12 SO WHEN I MAKE REFERENCE TO IT ALL OR IN  
13 PART, BY THAT I JUST THINK THAT I DON'T KNOW AND I  
14 WANT TO HEAR THE EVIDENCE.

15 MR. SLOAN: YOUR HONOR, THIS IS WILLIAM SLONE.  
16 IF I COULD JUST ACTUALLY COMMENT ON WHAT MR. ZIMMER  
17 WAS SAYING. MY UNDERSTANDING OF WHAT THE COURT WAS  
18 JUST SAYING IS THAT YOU WILL NOT BE MAKING FINDINGS ON  
19 NOTICE AND ADVERSITY AT THIS STAGE.

20 THE COURT: THAT'S CORRECT.

21 MR. SLOAN: SO, THE WAY I WAS CONCEPTUALLY  
22 VIEWING THE COURT'S COMMENTS AND WE CAN CERTAINLY WAIT  
23 FOR THE COURT ORDER, IS THAT, IN EFFECT, YOU ARE  
24 LOOKING AT SORT OF A GROSS CONDITION OF THE BASIN. THE  
25 BASIN THAT HAS BEEN OUTLINED BY THE ADJUDICATION  
26 BOUNDARIES AND THAT AT LEAST AT THIS POINT HAVE BEEN  
27 VIEWED AS ONE SINGLE BASIN AND THAT IS THE SECOND PHASE  
28 OF TRIAL.

1 THE COURT: THAT'S RIGHT. I HOPE THAT YOU'RE  
2 NOT DRAWING ANY CONCLUSIONS. I INDICATED I'M NOT GOING  
3 TO BE ABLE TO DECIDE THE ISSUE OF PRESCRIPTION. I  
4 THINK THAT BECAUSE OF THE VARIOUS ISSUES WITH REGARD TO  
5 PUMPING, THE KIND OF PUMPING, THE CONDITION AT THE TIME  
6 PUMPING STARTED, I DON'T KNOW ANY OF THOSE NUMBERS AT  
7 THIS POINT. I DON'T WANT TO KNOW ANY OF THOSE NUMBERS  
8 AT THIS POINT BECAUSE IT'S NOT SOMETHING THAT I AM  
9 CONCERNED ABOUT. I'M CONCERNED WITH THE OVERALL  
10 CONDITIONS. I WANT TO DETERMINE WHETHER OR NOT THE  
11 COURT IS GOING TO EXERCISE EQUITABLE POWERS AT THIS  
12 STAGE.

13 NOW, LET'S SUPPOSE THAT AT THE CONCLUSION  
14 THE COURT REACHES BASED ON THE EVIDENCE IS THAT THERE  
15 IS NO OVERDRAFT. WELL, THEN THERE ARE GOING TO BE  
16 CERTAIN CONSEQUENCES TO THAT, AREN'T THERE? AND THERE  
17 IS GOING TO HAVE TO BE A DETERMINATION MADE BY THOSE  
18 PARTIES WHO CLAIM A PRESCRIPTION AS TO WHERE THEY  
19 PROCEED FROM THAT POINT FORWARD.

20 IF THE COURT FINDS THERE IS AN OVERDRAFT,  
21 THEN THE COURT IS GOING TO BE EVALUATING THE NEXT PHASE  
22 OF THE TRIAL TO DETERMINE WHETHER OR NOT THERE ARE  
23 APPROPRIATOR RIGHTS THAT HAVE BEEN ACQUIRED BY WAY OF  
24 PRESCRIPTION. THAT MEANS THAT IN THAT PHASE THOSE  
25 CLAIMING PRESCRIPTION WILL HAVE TO GO FORWARD WITH THE  
26 EVIDENCE AND IT MAY WELL BE THAT THAT REQUIRES A JURY  
27 TRIAL. I DON'T KNOW AT THIS POINT.

28 MAYBE IT REQUIRES A NUMBER OF THINGS.

1 BUT NOTHING THAT IS GOING TO HAPPEN WILL BE BASED UPON  
2 ANY FINDINGS OF FACT AS TO ENTITLEMENT COMING OUT OF  
3 THE THIRD PHASE OF TRIAL. I'M NOT GOING TO HEAR THAT  
4 KIND OF EVIDENCE.

5 MR. SLOAN: THANK YOU, YOUR HONOR. AND JUST TO  
6 CLARIFY BECAUSE WHERE I GUESS I GOT CONFUSED IS HEARING  
7 MR. ZIMMER'S COMMENTS.

8 WE WILL NOT AT THIS STAGE OF TRIAL BE  
9 ADDRESSING THE ISSUE OF WHETHER PUMPING IN ONE LOCATION  
10 IMPACTS THE PUMPING AT ANOTHER LOCATION WITHIN THE  
11 ADJUDICATION BOUNDARIES.

12 THE COURT: THAT IS FINE, MR. SLOAN, I DON'T  
13 MEAN TO TELL PEOPLE WHAT EVIDENCE THEY SHOULD PRODUCE.  
14 IT MAY BE THAT SOMEBODY WANTS TO PRODUCE EVIDENCE THAT  
15 SHOWS THAT THEIR PORTION, THEIR LAND IS IN AN AREA  
16 WHERE PUMPING HAS NO AFFECT ON ANYTHING.

17 I MEAN, I DON'T KNOW. SOMEBODY MAY WANT  
18 TO ESTABLISH THERE IS A SERIOUS PROBLEM THERE, BUT THAT  
19 IS GOING TO RELATE TO THE OVERALL CONDITION OF THE  
20 BASIN.

21 MR. SLOAN: AGAIN, MR. SLOAN SPEAKING. AND  
22 WOULD YOUR HONOR NOT BE MAKING FINDINGS AT THIS STAGE  
23 OF THE TRIAL WITH RESPECT TO WHETHER PUMPING IN ONE  
24 LOCATION AFFECTS PUMPING IN ANOTHER LOCATION BECAUSE I  
25 DO THINK THAT THAT WOULD OBVIOUSLY QUITE DRAMATICALLY  
26 CHANGE THE SCOPE OF THIS PHASE OF THE TRIAL IF THERE  
27 WERE THAT CONCERN THAT THE COURT WOULD ACTUALLY ISSUE  
28 FINDINGS OF FACT AS SUCH TO AN ISSUE AS THAT.



1 I UNDERSTAND THE DIFFICULTY OF SIMPLY  
2 PRESENTING EVIDENCE THAT MAY BE RELEVANT TO OVERLAPPING  
3 ISSUES BUT IF WE ARE GOING TO BE TRYING THE ISSUE OF  
4 --

5 THE COURT: I DON'T WANT TO MAKE ANY FINDING,  
6 MR. SLOAN, THAT WILL HAVE ANY IMPACT AT ALL ON ANY OF  
7 THE CLAIMS THAT THE PARTIES HAVE, VIS-A-VIS, TO EACH  
8 OTHER WITH REGARD TO PRESCRIPTION, OWNERSHIP, RIGHTS TO  
9 PUMP, AND SO ON.

10 MR. SLOAN: OKAY, THANK YOU, YOUR HONOR.

11 MR. CUSH: YOUR HONOR, BILL CUSH.

12 THE COURT: YES, MR. CUSH.

13 MR. CUSH: I'M NOT SURE AND I DON'T WANT TO  
14 START THIS BY SAYING I'M NOT CLEAR ON SOMETHING OR IT  
15 NEEDS CLARIFICATION, BUT YOUR EARLIER STATEMENT OF THE  
16 ISSUES CERTAINLY SUGGESTED THAT. AND WE ARE STARTING  
17 OFF IN SO FAR AS I KNOW WITH THE LARGEST AREA OF  
18 ADJUDICATION THAT MAY GO TO TRIAL ON THAT ISSUE SO  
19 THERE ARE SIGNIFICANT DIFFERENCES REGIONALLY THROUGHOUT  
20 THE ENTIRE BASIN WITHIN THE COURT'S JURISDICTION.

21 WE CERTAINLY ANTICIPATE PUTTING IN  
22 EVIDENCE THAT THERE ARE SIGNIFICANT PORTIONS OF THE  
23 OVERALL BASIN THAT ARE NOT IN THE CONDITION OF  
24 OVERDRAFT. SO I NEED TO KNOW SO I CAN TELL MY EXPERTS  
25 IF WHAT THEY ARE GOING TO SAY IS WHETHER OR NOT WE CAN  
26 COME IN AND PRODUCE EVIDENCE THAT A SIGNIFICANT PORTION  
27 OF THE BASIN IS NOT IN OVERDRAFT, FOR EXAMPLE, AND NOT  
28 BEING SUBJECTED TO AN OBJECTION BY ONE OF THE OTHER

1 PARTIES THAT IS OUTSIDE THE SCOPE OF THE ISSUES FOR  
2 THIS PHASE OF THE TRIAL.

3 I APPRECIATE THE COURT SAYING YOU ARE NOT  
4 GOING TO MAKE A PARTICULAR FINDING AND THAT IS FINE,  
5 BUT I DON'T WANT TO BE PRECLUDED FROM INTRODUCING  
6 EVIDENCE THAT SHOWS THAT PUMPING IN ONE PORTION OF THE  
7 BASIN HAS ABSOLUTELY NO AFFECT ON PUMPING IN OTHER  
8 PORTIONS OF THE BASIN.

9 THE COURT: I THINK THAT MEANS YOU CAN OFFER  
10 IT.

11 MR. CUSH: THAT MEANS IT WOULD BE ADMITTED AND  
12 NOT SUBJECT TO AN OBJECTION THAT IS NOT IN THE SCOPE OF  
13 THE PHASE THREE TRIAL.

14 THE COURT: I THINK THAT IS CORRECT.

15 MR. DUNN: WE HAVE GONE THROUGH A PHASE TWO OF  
16 TRIAL IN WHICH THE COURT SET THAT PHASE FOR ANY PARTY  
17 WHO HAD A CLAIM THAT THE PUMPING IN THIS AREA DID NOT  
18 IMPACT ANOTHER AREA IN THE BASIN. IN OTHER WORDS, WHEN  
19 THEY CLAIM TO BE IN A SEPARATE SUB BASIN.

20 WHAT WE ARE HEARING NOW IS AN ATTEMPT TO  
21 RELITIGATE THE ISSUE THAT MR. CUSH WAS INVOLVED WITH IN  
22 THE PHASE TWO PROCEEDING AND OTHERS. I JUST WANT TO BE  
23 SURE THAT WE ARE NOT GOING TO GO BACK AND HAVE TO  
24 REVIEW THE PHASE TWO TRIAL AND HAVE ONE OR MORE PARTIES  
25 SHOW THAT THEIR PUMPING OR PUMPING IN THEIR AREA DOES  
26 NOT IMPACT OTHER AREAS OF THE BASIN. SO TO JUSTIFY  
27 THAT THEY WOULD BE EITHER IN A SEPARATE BASIN OR SUB  
28 BASIN. I ASSUME WE ARE NOT GOING TO GO BACK TO DO THAT

1 EXERCISE.

2 THE COURT: WE ARE NOT GOING TO RELITIGATE WHAT  
3 HAS BEEN PREVIOUSLY ADJUDICATED BUT THAT IS NOT WHAT I  
4 HEARD MR. CUSH SAY THAT HE WANTS TO DO.

5 HE WANTS TO ESTABLISH THAT THERE IS NO  
6 OVERDRAFT IN HIS PORTIONS OF THE BASIN AND THAT IS A  
7 DIFFERENT ISSUE. AND I'M CERTAINLY WILLING TO HEAR  
8 TESTIMONY CONCERNING THE ENTIRE STATUS OF THE BASIN  
9 WITH REGARD TO OVERDRAFT.

10 MR. JOYCE: YOUR HONOR, I JUST WANT TO  
11 INTERJECT, IF I UNDERSTOOD CORRECTLY, THE COURT AT THE  
12 PHASE TWO TRIAL WITH THE FACTUAL FINDINGS THAT THERE  
13 WAS WITHIN THE AREA OF THE ADJUDICATION BOUNDARIES  
14 HYDRAULIC CONNECTIONS WITHIN AND AS BETWEEN ALL AREAS,  
15 BUT THE COURT DID NOT PURPORT TO MAKE ANY FINDINGS OF  
16 QUALIFYING AND MANIFESTED EFFECT OF THAT CONNECTION  
17 BASED UPON THE CONCENTRATION OR THE AFFECTS OF PUMPING  
18 IN ONE AREA AND HOW THEY WOULD MANIFEST THEMSELVES BOTH  
19 IN CONTEMPORARY AS WELL AS HISTORICAL TIMES TO THE  
20 OTHER AREAS.

21 THE COURT: THAT IS TRUE.

22 MR. JOYCE: THANK YOU.

23 MS. MCKEITH: GOOD MORNING, YOUR HONOR, MALISSA  
24 MCKEITH. I UNDERSTAND THE COURT RULED PREVIOUSLY ABOUT  
25 THERE BEING SOME PRODUCTIVITY AND I APPRECIATE THE FACT  
26 THAT THE COURT HAS THIS KNOWLEDGE THAT IT DOES NOT SEEM  
27 TO BE A SIGNIFICANT CONNOTATION.

28 BUT GETTING TO MR. JOYCE'S QUALIFYING OF

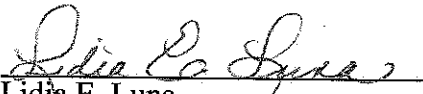
**PROOF OF SERVICE**

I, Lidia E. Luna, declare:

I am employed in the County of Kern, State of California. I am over the age of 18 and am not a party to the within action; my business address is Kuhs & Parker, 1200 Truxtun Avenue, Suite 200, Bakersfield, California 93301.

On November 15, 2010, I caused the foregoing document(s) described as: **TEJON RANCHCORP'S CASE MANAGEMENT STATEMENT** to be served on the parties in this action, as follows:

- (X) (BY ELECTRONIC SERVICE) by posting the document(s) listed above to the Santa Clara County Superior Court website: [www.scefilng.org](http://www.scefilng.org) regarding the Antelope Valley Groundwater matter.
- ( ) (BY U.S. MAIL) I am readily familiar with the firm's practice of collection and processing of documents for mailing. Under that practice, the above-referenced document(s) were placed in seal envelope(s) addressed to the parties as noted above, with postage thereon fully prepaid and deposited such envelope(s) with the United States Postal Service on the same date at Bakersfield, California, addressed to:
- ( ) (BY FEDERAL EXPRESS) I served a true and correct copy by Federal Express or other overnight delivery service, for delivery on the next business day. Each copy was enclosed in an envelope or package designated by the express service carrier; deposited in a facility regularly maintained by the express service carrier or delivered to a courier or driver authorized to receive documents on its behalf; with delivery fees paid or provided for; addressed as shown on the accompanying service list.
- ( ) (BY FACSIMILE TRANSMISSION) I am "readily familiar" with the firm's practice of facsimile transmission of documents. It is transmitted to the recipient on the same day in the ordinary course of business.
- (X) (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- ( ) (FEDERAL) I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

  
Lidia E. Luna