

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SSC 10 HON. WILLIAM F. HIGHBERGER, JUDGE

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SANTA BARBARA CHANNELKEEPER, A )  
CALIFORNIA NON-PROFIT CORPORATION, ) CASE NO.:  
) )  
) 19STCP01176  
PETITIONER, )  
) )  
V. )  
) )  
STATE WATER RESOURCES CONTROL BOARD, )  
A CALIFORNIA STATE AGENCY, ET AL., )  
) )  
RESPONDENTS. )  
\_\_\_\_\_ )  
CITY OF SAN BUENAVENTURA, A )  
CALIFORNIA MUNICIPAL CORPORATION, )  
) )  
CROSS-COMPLAINANT )  
) )  
V. )  
) )  
DUNCAN ABBOTT, AN INDIVIDUAL, )  
ET AL. )  
) )  
CROSS DEFENDANTS. )  
\_\_\_\_\_ )

REMOTE TRANSCRIPT OF PROCEEDINGS

Friday, FEBRUARY 28, 2022

1:45 P.M.

Reported by: SHABNAM S. LAVIAN, CSR  
CSR No. 14191  
Job No.: 68606

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28       ALSO PRESENT:

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                  LAURA R. SCHREINER, (APPEARING VIA LACC)

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                  LOA ELAINE BLISS, (APPEARING VIA LACC)

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                  MARNIE A. PROCK

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1 CASE NUMBER: 19STCP01176  
2 CASE NAME: SANTA BARBARA CHANNELKEEPER V. STATE WATER  
3 RESOURCES CONTROL BOARD  
4 LOS ANGELES, CA  
5 MONDAY, NOVEMBER 15, 2021  
6 DEPARTMENT SSC-10 HON. WILLIAM F. HIGHBERGER, JUDGE  
7 APPEARANCES: (AS HERETOFORE NOTED.)  
8 REPORTER: SHABNAM S. LAVIAN, CSR NO. 14191  
9 TIME: 1:45 P.M.

10

11 THE COURT: OKAY. WE'RE ON THE RECORD ON  
12 19STCP01176, SANTA BARBARA CHANNELKEEPER VERSUS STATE  
13 WATER RESOURCES CONTROL BOARD.

14 THE REPORTER DOES HAVE THE SCREEN WITH YOUR  
15 FACES, BUT THERE ONLY ABOUT SIX OF YOU, ACTUALLY -- ONCE  
16 YOU EXCLUDE THE COURT, THERE'S FIVE OF YOU -- WHOSE FACES  
17 ARE EVIDENT. AND YOU MAY OR MAY NOT KNOW IF YOU'RE ONE OF  
18 THOSE FIVE. SCOTT -- LAST NAME GARRISON, HIDDEN; GREGG  
19 GARRISON, FREDERICK QUIRK, JEREMY JUNGREIS, FROM CASITAS,  
20 AND MARC MELNICK FOR THE STATE.

21 BUT EVERYBODY ELSE IS JUST A LITTLE DOT OVER IN  
22 THE CORNER. SO EVEN IF YOU'RE ONE OF THE FIVE WHOSE NAMES  
23 I JUST RECITED, I RECOMMEND THAT WHEN YOU SPEAK, YOU GIVE  
24 YOUR NAME. HERE WE HAVE MR. PISANO AND MR. HAGERTY IN THE  
25 COURTROOM PRESUMING THE REPORTER TO KNOW WHICH IS WHICH,



1 PISANO ON THE LEFT; HAGERTY ON THE LEFT.

2 MR. QUIRK, HAVE YOU SEEN THE CITY OF VENTURA'S  
3 RESPONSE TO YOUR EX PARTE. YOU'RE MUTED, MR. QUIRK.

4 MR. QUIRK: SORRY. NO.

5 THE COURT: IT WAS RECENTLY SERVED. IT'S ON  
6 CALENDAR FOR MONDAY. I WAS HOPING TO DEAL WITH THIS  
7 TODAY. THE GIST OF WHAT THEY SAY IS NO OBJECTION TO  
8 MR. QUIRK PARTICIPATING, BUT DON'T SCREW UP THE EXISTING  
9 DEADLINES.

10 IS THERE ANY DEADLINE THAT YOU WANT TO BE  
11 RELIEVED OF, OTHER THAN THE FACT THAT I WILL GIVE YOU AN  
12 EXTRA SESSION OF A DEPOSITION AND LET PEOPLE FILE AMENDED  
13 PAPERWORK AFTER THEY MEET THE ORIGINAL DEADLINES IN REGARD  
14 TO IDENTITY OF EXPERTS AND ALL THAT?

15 MR. QUIRK: NO, JUDGE. THE ONLY DEADLINE THAT  
16 I'M THINKING OF -- I THINK I WANTED TO DISCUSS TODAY WAS  
17 THE MOTION IN LIMINE DEADLINE. AND THINKING ABOUT IT OUT  
18 LOUD, I DO NOT YET HAVE COPIES OF MS. ARCHER, THE CITY OF  
19 VENTURA'S EXPERT DEPOSITION TRANSCRIPT.

20 AND I KNOW FROM LISTENING TO THE FIRST SESSION OF  
21 HER DEPOSITION, THAT MUCH OF HER MODEL I WOULD ARGUE IS  
22 INADMISSIBLE ON SANCHEZ GROUNDS. SO I'M GOING TO BE  
23 FILING A MOTION IN LIMINE AS TO THAT MODEL AND THE STATE'S  
24 WATER MODEL, FOR THAT MATTER, ON THE SANCHEZ GROUNDS.

25 BUT I DON'T HAVE COPIES OF THE DEPOSITION

1 TRANSCRIPTS. I JUST GOT BACK IN THE OFFICE THIS MORNING  
2 AND GOING THROUGH TRYING TO GET CAUGHT UP. SO THAT'S THE  
3 ONLY ISSUE I CAN PERCEIVE.

4 THE COURT: SO WHAT IF YOU FILED YOUR MOTION ON  
5 MARCH 2, WITHOUT ATTACHING THE TRANSCRIPT AND WITHOUT  
6 CITATIONS TO PAGES, WITH THE UNDERSTANDING THAT YOU CAN  
7 SUBMIT A SUPPLEMENT THERETO, WHEN IT BECOMES AVAILABLE TO  
8 YOU.

9 MR. QUIRK: GREAT. NO PROBLEM.

10 THE COURT: ANY OTHER CONCERNS ABOUT THE CURRENT  
11 DEADLINES? I'LL JUST RECITE THEM. AND THIS IS REALLY TO  
12 GIVE EDIFICATION TO EVERYBODY NOW.

13 I'M LOOKING AT PAGE 2 OF THE REPORT FOR TODAY.  
14 IN THE REARVIEW MIRROR WAS THE REPORT FOR TODAY'S EVENT.  
15 I HAVE IT IN HAND, FEBRUARY 24TH. ACTUALLY, YESTERDAY WAS  
16 THE EXPERT DEPOSITION CUTOFF. SUBJECT TO MR. QUIRK  
17 GETTING AQ FURTHER SESSION WITH EXPERT ARCHER, HAVE WE  
18 OBTAINED THAT, MR. HAGERTY -- MR. PISANO?

19 MR. PISANO: WE HAVE, YOUR HONOR.

20 THE COURT: EXCELLENT. WE'RE CONDUCTING THE  
21 TRIAL READINESS CONFERENCE. NEXT WEDNESDAY IS THE FILING  
22 DEADLINE FOR PRETRIAL STATEMENTS, TRIAL BRIEFS, AND  
23 MOTIONS IN LIMINE, WITH THE CODICIL THAT I JUST PROVIDED,  
24 THAT MR. QUIRK CAN ADD CITATIONS TO THE ARCHER DEPOSITION  
25 WHEN IN FACT OF THE MATTER HE HAS ACCESS TO IT.

1 ANY OBJECTIONS TO THAT, MR. PISANO?

2 MR. PISANO: NO OBJECTION, YOUR HONOR.

3 THE COURT: ANYBODY ELSE WISH TO BE HEARD TO THE  
4 LEAVE GIVEN MR. QUIRK TO PROVIDE THE CITATIONS LATER?

5 NO OBJECTIONS NOTED.

6 THEN, VERY IMPORTANT, NEXT FRIDAY, GOD WILLING,  
7 WE'LL GET JOINT EXHIBIT LIST AND JOINT WITNESS LIST. I  
8 HOPE IT WILL BE SOMETHING CLOSE TO THE FORMAT I REQUESTED  
9 IN MY TENTATIVE THAT WAS SERVED ON YOU FEBRUARY 14TH.

10 I BELIEVE I SAW THAT SOME TEMPLATE OF THESE  
11 DOCUMENTS HAVE BEEN SHARED BY CITY OF VENTURA. IS IT  
12 AVAILABLE FOR MY REVIEW?

13 MR. PISANO: WE DID SUBMIT IT TODAY ON FILE AND  
14 EXPRESS SERVE. THE COMBINED LIST OF CITY OF VENTURA,  
15 WOOD-CLAEYSSSENS, MEINERS OAKS, VENTURA RIVER WATER  
16 DISTRICT, AND THE STATE AGENCIES. OUR --

17 THE COURT: SO THIS IS YOUR PART OF THE DRAFT OF  
18 SOMETHING THAT'S GOING TO GET EVEN BIGGER?

19 MR. PISANO: CORRECT, YOUR HONOR.

20 THE COURT: LET ME TAKE A MOMENT TO LOOK AT IT.  
21 BUT THAT'S A LOT OF EXHIBITS ALREADY, IF IT INCLUDED THOSE  
22 SEVERAL PARTIES.

23 MR. PISANO: YES, YOUR HONOR.

24 THE COURT: HOW MANY IN NUMBER?

25 MR. PISANO: THE CITY; AND IT'S SORT OF PROPOSING

1 PARTIES ARE IN, I THINK, THE 320'S. MY RECOLLECTION IS  
2 THE STATE WATER BOARD HAD ABOUT 60 OR SO EXHIBITS; AND  
3 CDFW HAD SOMEWHERE IN THE ORDER OF -- MY RECOLLECTION IS  
4 IN THE 40S.

5 THE COURT: DO YOU SUPPOSE THAT YOUR STAFF DIDN'T  
6 INCLUDE ME ON THE SERVICE LIST, WHICH IS WHY I DON'T FIND  
7 IT WHEN I LOOK AT FILE AND SERVE EXPRESS?

8 MR. PISANO: OH. YOU KNOW WHAT? THAT IS -- YOU  
9 KNOW WHAT? YOUR HONOR, MY APOLOGIES. IT WAS NOT PUT ON  
10 FILE IN THE SERVE EXPRESS. WE SERVED IT TO THE PARTIES  
11 WHO HAVE INDICATED THAT THEY INTEND TO APPEAR AND  
12 PARTICIPATE. IT WAS MORE FOR MEET AND CONFER.

13 THE COURT: ARE YOU WILLING TO SERVE IT ON FILE  
14 AND SERVE EXPRESS, SO I CAN SEE IT?

15 MR. PISANO: SURE. ABSOLUTELY.

16 THE COURT: OKAY. THAT WILL BE HELPFUL. IF I  
17 SEE SOMETHING AMISS ABOUT IT, I'LL TRY TO TELL YOU. IF I  
18 GIVE YOU AN "ATTABOY," I'LL TRY TO GIVE YOU AN "ATTABOY."

19 MR. PISANO: UNDERSTOOD, YOUR HONOR.

20 THE COURT: THERE WILL BE ONE FOR EXHIBIT AND ONE  
21 FOR WITNESS?

22 MR. PISANO: ONE FOR EXHIBIT AND ONE FOR WITNESS.

23 THE COURT: AND DOES THE WITNESS DO ANYTHING TO  
24 TALK ABOUT DURATION AND/OR GENERAL TOPIC?

25 MR. PISANO: YES, YOUR HONOR. WE HAVE A

1 DESCRIPTION OF GENERAL TOPIC AND ESTIMATED DIRECT.

2 THE COURT: OKAY. SO CONTINUING, THEN, WITH THE  
3 SCHEDULE, MARCH 8, WHICH IS PRETTY QUICKLY COMING, BUT SO  
4 IS THE TRIAL DATE.

5 TUESDAY, MARCH 8, WOULD BE THE RESPONSE DATE FOR  
6 THE MOTION IN LIMINES AND THE DATE BY WHICH THE EXHIBITS  
7 THEMSELVES MUST BE EXCHANGED THAT ARE OTHERWISE ON THE  
8 EXHIBIT LIST, OBVIOUSLY, AND NECESSARY PRECONDITIONED TO  
9 KNOW IF YOU'RE GOING TO STIPULATE TO ADMISSIBILITY OR AT  
10 LEAST STIPULATE TO AUTHENTICITY.

11 DO I GET AN UPDATED JOINT EXHIBIT LIST AFTER  
12 MARCH 8, WHEN THE TANGIBLE EXHIBITS HAVE BEEN EXCHANGED IN  
13 VIRTUAL, IF NOT PHYSICAL FORM? I WOULD ASSUME THAT THERE  
14 COULD BE PEOPLE UNWILLING TO COMMIT TO ADMISSIBILITY OR  
15 AUTHENTICITY UNTIL THEY SEE SOMETHING.

16 THE LIST EXISTS IN THEORY ON MARCH 4, BUT THEY  
17 DON'T GET TO SEE THE EXHIBITS UNTIL MARCH 8. I WOULD HOPE  
18 THAT SOME PEOPLE, AFTER THEY'VE SEEN THE EXHIBIT, WILL  
19 SAY, "OKAY. NOW I'LL STIPULATE TO AUTHENTICITY" OR "NOW  
20 I'LL STIPULATE TO ADMISSIBILITY." WHICH WOULD THEN  
21 SUGGEST THAT I MIGHT LIKE TO SEE AN AMENDED JOINT EXHIBIT  
22 LIST BECAUSE IT MIGHT HAVE A FEW MORE YESSES.

23 MR. PISANO: WE WOULD CERTAINLY DO THAT, YOUR  
24 HONOR.

25 THE COURT: OKAY. THEN ADD A DEADLINE OF

1 MARCH 10, NOON TO SUBMIT AN UPDATED JOINT EXHIBIT LIST  
2 WITH THE MOST CURRENT INFORMATION POSSIBLE ABOUT  
3 ADMISSIBILITY AND AUTHENTICITY, IN PARTICULAR.

4 I DON'T SEE ANY OBJECTIONS TO THE JOINT WITNESS  
5 LIST, UNLESS IT JUST HAPPENED THAT PEOPLE WANT TO AMEND.

6 AND THEN WE'VE GOT FINAL STATUS CONFERENCE HERE  
7 ON MARCH 11, AT 1:30. NOW, LET ME DOUBLE-CHECK. AS SOME  
8 OF YOU KNOW -- AND I THINK I HAVEN'T TRIED TO HIDE IT FROM  
9 YOU -- MY WIFE HAS GOT VERY SERIOUS MEDICAL PROBLEMS  
10 REQUIRING CHEMOTHERAPY AND ADDITIONAL MEDICAL  
11 CONSULTATIONS AS WE GO AHEAD IN THE WEEKS AND MONTHS  
12 AHEAD.

13 ON MY INTERMEDIATE PROSTATE CANCER, WHICH IS  
14 COMMON FOR MEN MY AGE, IS UNDER CONTROL IN TERMS OF HAVING  
15 A THERAPY PLANNED. BUT OF RELEVANCE TO THIS TRIAL, ON  
16 FRIDAY, MARCH 18, MY DOCTOR HAS SCHEDULED ME AT 10:00 A.M.  
17 FOR A PLANNING SESSION, WHICH WILL TAKE ABOUT AN HOUR,  
18 WHICH WILL INTERFERE WITH THE MORNING SESSION OF THE TRIAL  
19 THAT FRIDAY.

20 BUT WHEN THE DOCTOR OFFERS YOU A TIME SLOT FOR  
21 LIFE-SAVING THERAPY, YOU TEND NOT TO SAY NO. SO I'M GOING  
22 TO GO DO THAT. WHAT I PLAN TO DO ON MARCH 18, WITH THE  
23 CONSENT AND COOPERATION OF MY EVER SO HELPFUL AND DILIGENT  
24 STAFF, MR. LIM AND MR. SANCHEZ, IS TO START THE COURT  
25 SESSION AT 12:30 P.M. AND INCLUDE TWO 15-MINUTE BREAKS

1 BEFORE WE END IT UP AT APPROXIMATELY 4:40 P.M. THAT WAY,  
2 WE GET MOST OF THE DAY, BUT NOT ALL OF THE DAY.

3 I AM GIVEN TO UNDERSTAND THAT ON MARCH 18, I WILL  
4 THEN BE ADVISED BY THE DOCTORS AT CEDARS WHAT TIME SLOT  
5 THEY'LL GIVE ME TO GO IN PROBABLY -- IF NOT MONDAY THE  
6 WEEK FOLLOWING -- SOME BUSINESS DAY IN THE WEEK FOLLOWING  
7 TO COMMENCE A FIVE-DAY-A-WEEK RADIATION REGIME FOR  
8 FIVE WEEKS AND THREE DAYS, THAT WILL REQUIRE ABOUT 15  
9 MINUTES ACTUALLY IN THE PROCEDURE ROOM, PLUS PARKING AND  
10 WALKING IN AND CHECKING IN AND WAITING. PAYING FOR THE  
11 PARKING AND LEAVING AND THE DIGRESSION FROM THE  
12 SANTA MONICA FREEWAY TO GET UP TO CEDARS AND BACK.

13 BUT THEY SUPPOSEDLY SET APPOINTMENTS AS EARLY AS  
14 7:00 A.M. I DON'T KNOW THAT I'LL BE GIVEN ONE OF THOSE,  
15 BUT I'M TRYING TO GET ONE THAT'S EARLY ENOUGH THAT  
16 STARTING THE TRIAL AT 9:30 A.M. REMAINS TOTALLY DOABLE.  
17 SO AT THE MOMENT -- AND I WON'T KNOW UNTIL MARCH 18 IF  
18 THIS HAS BECOME A PROBLEM.

19 AND THE DOCTORS KNOWS I'M A JUDGE, AND I'M GOING  
20 TO EXPLAIN TO HIM FORTHRIGHTLY I REALLY NEED THIS EARLY  
21 TIME SET OR PERHAPS VERY LATE IN THE DAY IN ORDER TO  
22 ACCOMMODATE YOUR NEEDS.

23 THE SIDE EFFECTS OF THE HORMONE THERAPY THAT I'M  
24 ON, PLUS THE RADIATION, COULD PRODUCE HOT FLASHES. I  
25 DON'T KNOW THAT THAT WILL REQUIRE AN UNEXPECTED RECESS,

1 BUT IT MIGHT: TO WIPE MY FOREHEAD, MORE FREQUENT  
2 URINATION, POSSIBLE DIARRHEA. THERE MAY HAVE TO BE  
3 FREQUENT BATHROOM BREAKS THAT WOULD OTHERWISE BE REQUIRED  
4 MAYBE ANOTHER 15-MINUTE VERSION OF A BREAK. AND FATIGUE,  
5 BUT I THINK I CAN OVERCOME THE FATIGUE WITH SWIMMING  
6 OTHERWISE.

7 SO I COULD JUST PLAN TO SOLDIER ON THROUGH THIS  
8 EXERCISE. MY WIFE'S SITUATION IS MORE COMPLICATED. SHE'S  
9 GOT CHEMO ON CERTAIN DAYS; BUT, AS IT HAPPENED, HER CHEMO  
10 DAYS SEEM NOT TO CONFLICT WITH THIS TRIAL. BECAUSE THE  
11 FIRST IS ON MARCH 10 -- FOR HER IT'S THE 3RD, BUT THE NEXT  
12 IN SEQUENCE IS MARCH 10. AND THEN THE ONE AFTER THAT IS  
13 ON A PUBLIC HOLIDAY CESAR CHAVEZ DAY, MARCH 31, WHEN WE  
14 CAN'T BE IN TRIAL.

15 SO THAT'S OUR HAPPY COINCIDENCE, AS FAR AS HOW  
16 THAT GOES. NOW, BACK TO MARCH 11, THOUGH, LET ME SEE  
17 WHAT, IF ANYTHING, MAY BE HAPPENING THAT DAY. NO THAT  
18 SHOULD BE FINE. THE ONE THOUGHT I HAVE IS WE'VE GOT SO  
19 MUCH HEAVY LIFTING TO DO. MAYBE WE OUGHT TO SET IT AT  
20 9:00 A.M., SO THAT WE HAVE PRETTY MUCH THE WHOLE DAY,  
21 SUBJECT TO SOME OTHER CLUTTER THAT'S ON THE CALENDAR, THAT  
22 I'LL TRY TO DECLUTTER. BUT DON'T JUST LIMIT US TO  
23 THREE HOURS IN THE AFTERNOON, BUT I'LL BE AVAILABLE TO  
24 SPEND THE WHOLE DAY ON EXERCISE.

25 DO YOU HAVE ANY SENTIMENTS ON THE POINT,



1 MR. PISANO?

2 MR. PISANO: THAT WOULD BE FINE, YOUR HONOR.  
3 WHATEVER WORKS FOR THE COURT, QUITE FRANKLY.

4 THE COURT: MS. JACOBSON, DO YOU HAVE ANY  
5 SENTIMENTS ABOUT STARTING ON THE 11TH AT 9:00 A.M.?

6 MS. JACOBSON: STARTING THE STATUS CONFERENCE ON  
7 MARCH 11 AT 9:00 A.M.?

8 THE COURT: FINAL STATUS CONFERENCE, CORRECT.

9 MS. JACOBSON: I HAVE NO OBJECTION. WHATEVER  
10 WORKS.

11 THE COURT: MR. SCOTT PATTERSON?

12 MR. PATTERSON: GOOD MORNING, YOUR HONOR. NO, I  
13 DON'T HAVE ANY PROBLEM WITH THAT. I THINK THERE'S GOING  
14 TO BE --

15 THE COURT: GREGG GARRISON. MY APOLOGIES.

16 THERE'S A GREGG PATTERSON --

17 MR. PATTERSON: NO PROBLEM.

18 THE COURT: -- AND A GREGG GARRISON. WHO'S THE  
19 SCOTT WITH NO LAST NAME.

20 MR. SLATER: SORRY. IT'S SCOTT SLATER, YOUR  
21 HONOR, ON BEHALF OF THE WOOD-CLAEYSSENS TRUST.

22 THE COURT: FAIR ENOUGH. OKAY. YOU JUST  
23 REGISTERED WITH YOUR NICKNAME -- OR YOUR GIVEN NAME BUT  
24 NOT YOUR SURNAME.

25 BUT, MR. PATTERSON, ARE YOU OKAY WITH THAT?

1 MR. PATTERSON: THIS IS GREGG PATTERSON FOR THE  
2 EAST OJAI GROUP. I'M FINE WITH THAT, YOUR HONOR. I THINK  
3 THERE ARE GOING TO BE SOME VERY SIGNIFICANT ISSUES WE NEED  
4 TO DISCUSS BEFORE THIS TRIAL STARTS.

5 THE COURT: SO DOES ANYBODY OBJECT TO MOVING THE  
6 FINAL STATUS CONFERENCE UP TO 9:00 A.M.?

7 HEARING NO OBJECTION, THAT WILL BE THE REVISED  
8 DATE. I'LL HAVE THE CITY OF VENTURA GIVE NOTICE.

9 THEN YOU REFERENCE ON MARCH 16 THE TRIAL  
10 BEGINNING AT 8:30. THAT'S NOT WHAT I SAID TO YOU FOLKS.  
11 WHAT I SAID ON FEBRUARY 14, IS THAT I HOPE TO START YOU  
12 EVERY DAY AT 9:30; AND THAT BETWEEN 8:30 AND 9:30, I WILL  
13 BE WITH OTHER LITIGANTS' EMERGENCIES OR EVEN ORDINARY  
14 THROUGHPUT. AND THAT MAY GET PINCHED ON ACCOUNT OF MY  
15 RADIATION THERAPY, FRANKLY. BUT I DO CONTINUE TO PLAN TO  
16 DO EVERYTHING AND CAN ARRANGE MY CALENDAR SO THE JURY  
17 TRIAL STARTS AT 9:30 EVERY DAY.

18 SO FAR SO GOOD?

19 MR. PISANO: YES, YOUR HONOR.

20 THE COURT: OKAY. I TOLD YOU ABOUT THE NECESSARY  
21 ADJUSTMENT ON MARCH 18. THEORETICALLY, THE TRIAL IS GOING  
22 TO BE OVER BY ABOUT MONDAY, APRIL 4TH, BUT IT'S POSSIBLE  
23 THAT IF IT ROLLS OVER TO THURSDAY, THE 7TH, OR FRIDAY, THE  
24 8TH OF APRIL, THERE MAY BE A CONFLICT THAT HAS ME OUT AT  
25 10:00. THAT'S PAST THE CURRENT DURATION OF THE TRIAL, BUT

1 I'VE BEEN WARNED THAT THE TRIAL MAY RUN LONG, BUT I MAY  
2 FORCE A COUPLE OF DARK DAYS ON YOU, ON ONE OR BOTH OF  
3 THOSE DAYS. BUT WE CAN FIGURE THAT OUT WHEN WE GET CLOSER  
4 TO THE TIME.

5 YOUR TECH PEOPLE WERE HERE A COUPLE OF DAYS  
6 AGO -- SOMEBODY'S TECH PEOPLE. AND THEY SEEMED TO COME  
7 AND DO WHAT THEY NEEDED AND LEAVE HAPPY. ANY MORE REPORTS  
8 ON WHETHER YOU THINK YOU'RE READY TO GO TECHNOLOGICALLY?

9 MR. PISANO: YES, YOUR HONOR. MY TECH PERSON  
10 WANTS TO MAKE ONE MORE TRIP HERE NEXT WEEK. HE WILL CALL  
11 AND ARRANGE FOR THAT WITH THE CLERK.

12 THERE WERE A FEW QUESTIONS THAT I WAS HOPING TO  
13 ADDRESS WITH THE COURT REGARDING TECHNOLOGICAL ISSUES.  
14 NUMBER ONE, IS OUR ASSUMPTION IS THAT YOU WILL LOG INTO  
15 THE ZOOM VIA THE COURT SYSTEM. SO YOU WOULD NOT BE TAKING  
16 UP A WI-FI SPOT. IS THAT CORRECT, YOUR HONOR?

17 THE COURT: TRUE. AND WHAT I WOULD PLAN TO DO IS  
18 I HAVE TWO SCREENS HERE. AT THE MOMENT, YOU'RE SEEING  
19 WHAT I CHOSE TO PUT ON THE SECOND OF MY TWO SCREENS. SO,  
20 BY WAY OF EXAMPLE, IF I WANTED TO, I COULD SHOW YOU MY  
21 E-MAIL ACCOUNT, IF I STUPIDLY PUT IT OVER THERE INSTEAD.

22 SO THIS HAPPENS TO BE A CALENDAR PART OF MY  
23 OUTLOOK. OR I COULD PUT ANY PAGE OVER THERE. AND THEN  
24 THAT'S WHAT WOULD BE SEEN ON THESE SCREENS, IN FRONT OF  
25 THE COURT REPORTER, THE LARGE SCREENS IN THE COURTROOM,

1 ALL OF WHICH ARE WIRED TO BE ESSENTIALLY DERIVATIVE OF  
2 WHAT'S ON THE SECOND SCREEN.

3 SO I'LL PUT THE ZOOM UP THERE, SO THAT THE ZOOM  
4 THAT'S OTHERWISE BEING CONTROLLED MOSTLY BY THE ADVOCATES,  
5 NOT THE JUDGE, IS NEVERTHELESS PUT ON THE SCREEN THAT  
6 PROVIDES THIS VISIBILITY, INCLUDING ON THE WITNESS STAND,  
7 AS WELL AS BEFORE THE REPORTER. AND THEN AT LEAST THAT  
8 ONE BIG -- YEAH, THAT BIG SCREEN THAT'S FIXED BY THE JURY  
9 BOX AND THIS BONUS SCREEN THAT WE HAPPEN TO HAVE, BY GOOD  
10 FORTUNATE.

11 BUT I THINK WE CAN FIND A SPLITTER SO THAT WE CAN  
12 CONNECT IT?

13 THE CLERK: FOR WHICH ONE, YOUR HONOR?

14 THE COURT: THE SCREEN YOU'RE LOOKING AT, WHICH  
15 IS ON ALREADY?

16 THE CLERK: IT'S CONNECTED.

17 THE COURT: SO WE FIGURED OUT THE WIRING FOR  
18 THAT.

19 THE CLERK: YES.

20 THE COURT: SO THAT SHOULD GET -- THE REASON YOU  
21 HAVE TO HAVE A SECOND LAPTOP IN FRONT OF THE WITNESS, AT  
22 LEAST IN MY JUDGMENT, IS THE SCREEN THAT'S HERE IN FRONT  
23 OF THE WITNESS IS TOTALLY PASSIVE, THE ONE PROVIDED BY THE  
24 COURT, AND YOU CANNOT TOUCH IT OR OTHERWISE DO ANYTHING TO  
25 PULL UP A DOCUMENT AND REVIEW IT PRIVATELY.

1 MR. PISANO: OKAY.

2 THE COURT: SO EVEN THOUGH THAT'S A ZOOM  
3 CAPABILITY, THIS SCREEN IS TOO DUMB TO DO THAT. IT'S JUST  
4 LIKE A TV SET IN YOUR BEDROOM THAT DOESN'T HAVE A  
5 TOUCHSCREEN CAPACITY. AND THE SAME FOR THE COURT  
6 REPORTER.

7 THAT'S WHY YOU NEED TO HAVE A LAPTOP THAT WILL  
8 ALSO CONNECT TO THE ZOOM. NOW, THIS MAY CHALLENGE THE  
9 NUMBER OF PORTS YOU GOT. BECAUSE THE WITNESS, TO BE ABLE  
10 TO USE THAT ZOOM CHAT REVIEW DOCUMENT FUNCTION, WILL NEED  
11 TO HAVE A CONNECTED LAPTOP OR SURFACE PRO OR SOMETHING  
12 EQUIVALENT TO THAT THAT CONNECTS TO ZOOM SEPARATE AND  
13 APART FROM THE ONE I'M TOUCHING AT THE MOMENT.

14 UNDERSTOOD?

15 MR. PISANO: VERY GOOD, YOUR HONOR.

16 YES, I UNDERSTAND. AND I'VE HAD THE DISCUSSION  
17 ABOUT THIS WITH MY TECHNICAL PERSON, AND HE THINKS THAT HE  
18 CAN GET A WI-FI SIGNAL IN HERE THAT'S STRONG ENOUGH FOR  
19 FOUR DEVICES. SO OUR THOUGHT WAS ONE AT EACH COUNSEL  
20 TABLE, ONE IN FRONT OF THE WITNESS, AND THEN PERHAPS ONE  
21 IN FRONT OF THE COURT REPORTER OR PERHAPS AT THE PODIUM.  
22 YOU KNOW, OR MAYBE --

23 THE COURT: IF YOU HAVE A SPARE, SO MUCH BETTER.

24 MR. PISANO: YES. OR MAYBE IT'S JUST THREE, AND  
25 WE HAVE CUSHION.

1 THE COURT: OKAY. SO FAR SO GOOD.

2 MR. PISANO: OKAY.

3 THE COURT: I'LL REMIND YOU THAT THE SOUND THAT  
4 WILL GO OUT -- ONLY IN MY COURTROOM IN DEPARTMENT 1 IN  
5 THIS BUILDING -- IS CONNECTED TO EACH OF THESE MIC'S. SO  
6 EACH OF THE TWO MICS IN FRONT OF YOU AND MR. HAGERTY ARE  
7 EQUALLY LIVE. THE TWO MICS AT DEFENSE COUNSEL'S TABLE ARE  
8 LIVE.

9 THE SPEAKERPHONE IS IRRELEVANT; WHEREAS, IN  
10 VIRTUALLY EVERY OTHER COURTROOM IN LOS ANGELES SUPERIOR,  
11 YOU'RE TRYING TO PROJECT YOUR VOICES ON THE SPEAKERPHONE:  
12 NOT NECESSARILY IN THIS COURTROOM. THIS MIC IN FRONT OF  
13 ME IS LIVE, AND THE MIC THAT HAS BEEN TWISTED OVER TO THE  
14 REPORTER, FOR WHATEVER REASON, WILL BE PUT BACK SO THAT IT  
15 FACES THE WITNESS, AND THAT'S LIVE.

16 MR. PISANO: OKAY.

17 THE COURT: AND THAT PRODUCES PRETTY GOOD SOUND  
18 QUALITY.

19 MR. PISANO: SO I THINK WE'RE OKAY IN THAT  
20 REGARD. SECOND QUESTION IS THE PERSON OPERATING THE ZOOM.  
21 IS --

22 THE COURT: NOT ME.

23 MR. PISANO: IS THE COURT OKAY IF THAT PERSON IS  
24 REMOTE?

25 THE COURT: IF YOU THINK IT IS ADVISED, IT'S NO

1 POINT TO CORRECT TO ME.

2 MR. PISANO: VERY GOOD. THE THOUGHT ON OUR END  
3 WAS --

4 THE COURT: THERE WILL BE ONE ONLY, BY THE WAY,  
5 SHARED WITH ALL PARTIES, OR ARE YOU GOING TO HAVE  
6 COMPETING TECHIES?

7 MR. PISANO: WE ARE OPEN TO DOING ONE THAT IS  
8 SHARED. IN FACT, I THINK THAT'S OUR PREFERENCE. MY  
9 TECHNICAL PERSON WHO WILL BE IN THE COURTROOM WILL BE  
10 PUTTING THE EXHIBITS UP AS WE IN THE COURTROOM CALL THEM  
11 UP -- OR DEPOSITION TRANSCRIPTS OR WHAT HAVE YOU.

12 THE ZOOM OPERATOR, WHO WILL BE REMOTE -- AND  
13 WE'LL BE RETAINING THAT PERSON THROUGH THE COURT REPORTING  
14 COMPANY -- WILL BE SHADOWING AND PUTTING THE EXHIBITS OR  
15 THE DEPOSITION TRANSCRIPTS ON THE ZOOM. AND TO THE EXTENT  
16 SOMEBODY EXAMINES THE WITNESS --

17 THE COURT: TO THE EXTENT THAT YOU HAVE A  
18 STENOGRAPHIC PLAYBACK OR A VIDEOTAPE PLAYBACK?

19 MR. PISANO: I'M SORRY, YOUR HONOR?

20 THE COURT: WHEN YOU SAY THEY'LL BE PUTTING THE  
21 DEPOSITION TRANSCRIPTS UP ON ZOOM, WILL THIS REMOTE WORKER  
22 BE THEN GIVING US THE BENEFIT OF A VIDEO PLAYBACK OF A  
23 DEPO OR JUST PAGES OF THE STENOGRAPHIC TRANSCRIPT?

24 MR. PISANO: RIGHT NOW IT'S JUST PAGES OF THE  
25 STENOGRAPHIC TRANSCRIPT. IF SOMEBODY WISHES TO LODGE A

1 VIDEO DEPOSITION, THEN WE CAN DEAL WITH THAT.

2 THE COURT: HAVE YOU AND MR. PATTERSON AND  
3 MS. JACOBSON AND THE OTHER PEOPLE WHO ARE YOUR ADVERSARIES  
4 FOR THESE PURPOSES HAD A DISCUSSION YET ABOUT WHETHER THEY  
5 INTEND TO HAVE THEIR OWN TECH SUPPORT VERSUS SHARING YOURS  
6 AT A PRORATED EXPENSE?

7 MR. PISANO: WE HAVE NOT. MY PLAN WAS TO GET A  
8 BUDGET AND SHARE IT WITH THEM AND INVITE THEM TO SHARE IN  
9 THE COST.

10 THE COURT: YOU SHOULDN'T WAIT MUCH LONGER TO GET  
11 AN ANSWER TO THIS QUESTION.

12 MR. PATTERSON, DO YOU HAVE A SENTIMENT AS TO  
13 WHETHER YOU WANT TO HAVE A COMPETING TECH PERSON IN THE  
14 COURTROOM OR ELSEWHERE, OR WOULD YOU RATHER HAVE A BONA  
15 FIDE VENDOR WORKING FOR VENTURA --

16 MR. PATTERSON: YEAH, I'LL TALK TO MR. PISANO  
17 ABOUT THAT, BUT I DON'T THINK THAT WE'RE GOING TO HAVE A  
18 SEPARATE TECH PERSON. AND WE, OBVIOUSLY, OUGHT TO SEE IF  
19 WE CAN WORK SOMETHING OUT. WE JUST HAVEN'T HAD THAT  
20 DISCUSSION YET.

21 THE COURT: MS. JACOBSON?

22 MS. JACOBSON: YOUR HONOR, WE HAVEN'T HAD THE  
23 OPPORTUNITY TO TALK ABOUT THAT. THIS IS THE FIRST I'M  
24 HEARING ABOUT THE TECH EFFORT BY VENTURA, WHICH IT'S VERY  
25 MUCH APPRECIATED. I THINK IT MAKES SENSE TO COORDINATE



1 OUR EFFORTS, AND I'M HAPPY TO HAVE THOSE DISCUSSIONS.

2 THE COURT: MR. GREGG GARRISON?

3 MR. GARRISON: YES, YOUR HONOR. DITTO TO  
4 MS. JACOBSON AND MR. PATTERSON. I HAVE NOT SPOKEN WITH  
5 MR. PISANO, BUT LOOK FORWARD TO DOING SO.

6 THE COURT: MR. QUIRK?

7 YOU'RE MUTED, SIR.

8 MR. QUIRK: GOSH DARN IT, THAT'S NUMBER TWO.  
9 I'VE BEEN MUTED TWICE. MY BAD.

10 SAME AS THE OTHER PARTIES, BUT I DON'T INTEND TO  
11 SHARE IN ANY COST OR USE THEIR TECH PERSON.

12 THANK YOU FOR ASKING.

13 THE COURT: YOU HAVE TO BE CAREFUL NOT TO USE IT  
14 IF YOU DON'T EXPECT TO PAY ANY PRORATED SHARE OF THE COST,  
15 OBVIOUSLY.

16 MR. QUIRK: UNDERSTOOD.

17 THE COURT: OKAY. AND I'LL LET YOU FIGURE OUT  
18 WHAT YOU WANT TO DO WITH THE FOLLOW-UP TO SEE IF THOSE  
19 TERMS ARE ACCEPTABLE WITH YOU, MR. PISANO.

20 MR. PISANO: VERY GOOD, YOUR HONOR. THANK YOU.  
21 THOSE WERE THE ONLY QUESTIONS FROM OUR TECH PERSON. WE  
22 DID -- JUST SO THE COURT IS AWARE, WE CALLED THE -- WE  
23 HAVE SEVERAL CALLS IN TO THE FIRMS THAT DID THE  
24 SYNCO (PHONETIC) CORP CASE, AND WE DID NOT GET CALLBACKS.

25 THE COURT: SORRY ABOUT THAT.

1 MR. PISANO: NO, THAT'S OKAY. THE TECH VENDOR  
2 WHO I HAVE CONTACTED, I HAD USED THEM IN THE PAST, AND  
3 THEY DO A GOOD JOB. THIS WILL BE THE FIRST TRIAL LIKE  
4 THIS WHERE I HAVE USED THEM, BUT THEY'VE ALWAYS BEEN GOOD  
5 AT SETTING UP THE MONITOR WHERE THE EXHIBITS AND  
6 TRANSCRIPTS AND THE VIDEOS CAN JUST POP UP ON THE SCREEN.

7 THE COURT: CONTINUE.

8 MR. PISANO: VERY GOOD, YOUR HONOR.

9 THERE WAS AN ISSUE WITH REGARDS TO ONE OF THE  
10 DOCUMENTS WE HAVE TO FILE ON MARCH 2, ARE THE PRETRIAL  
11 STATEMENTS, AND --

12 THE COURT: WELL, THERE'S NO JURY.

13 MR. PISANO: YES.

14 THE COURT: SO I DON'T NEED ANYTHING THAT'S LIKE  
15 A STATEMENT OF CASE FOR A JURY. YOU'RE WAIVED OF ANY  
16 OBLIGATION TO PROVIDE THAT.

17 MR. PISANO: OKAY. VERY GOOD, YOUR HONOR. THANK  
18 YOU.

19 ONE OTHER ISSUE WE HAD -- WE HAVE A COUPLE OTHER  
20 ISSUES --

21 THE COURT: IF IT WAS A JURY, YOU JUST SAY WORST  
22 CASE FOR JENKINS, WATER IS FOR -- THIS IS A FIGHT ABOUT  
23 WHAT?

24 MR. PISANO: TWO OTHER ISSUES WITH REGARDS TO THE  
25 TIMING OVER THE NEXT COUPLE WEEKS, WHICH WILL OBVIOUSLY BE

1 CRITICAL TIMING OR CRITICAL TIME.

2 THE WOOD-CLAEYSSENS FOUNDATION SUBMITTED  
3 YESTERDAY AGAIN, I BELIEVE IT WAS JUST TO THE  
4 PARTICIPATING PARTIES, A STIPULATION REGARDING  
5 CONNECTIVITY FOR THE UPPER VENTURA RIVER BASIN AND THE  
6 LOWER VENTURA RIVER BASIN, WHICH NO EXPERT THAT HAS BEEN  
7 DEPOSED HAS INDICATED THERE'S NO CONNECTIVITY. SO,  
8 THEORETICALLY, THOSE TWO BASINS SHOULD NOT BE PART OF THE  
9 BATTLE, SO TO SPEAK.

10 THE COURT: BUT WE'LL HAVE A STIPULATION TO PROVE  
11 THAT.

12 MR. PISANO: AND THAT'S WHAT WE'RE HOPING TO  
13 ACHIEVE. THE STIPULATION WENT OUT YESTERDAY. WE'VE HEARD  
14 BACK FROM THE CITY OF OJAI THAT THEY DO NOT AGREE TO THAT.  
15 WE HAVE NOT HEARD FROM OTHER PARTIES, BUT I THINK IT WOULD  
16 BE A GOOD IDEA IF WE COULD PERHAPS SET A DATE BY WHICH  
17 EVERYBODY NEEDED TO RESPOND AND THEN PERHAPS DISCUSS THE  
18 MATTER VIA AN OSC OR WHATEVER THE COURT DESIRES AT THE  
19 PRETRIAL CONFERENCE -- OR THE FINAL STATUS CONFERENCE.

20 THE COURT: MS. JACOBSON, IF YOU NEED MORE TIME  
21 TO ANALYZE THE STIPULATION, I UNDERSTAND THAT, IF WE'RE  
22 GOING TO TRIAL AND THERE'S NO EXPERT ON THE ISSUE WHO'S  
23 GOING TO OFFER ANY PROOF ABOUT CONNECTIVITY OR THE LACK OF  
24 CONNECTIVITY OF THE WATER IN THAT PORTION OF THE VENTURA  
25 RIVER.

1 MS. JACOBSON: YES, YOUR HONOR. THIS GOES REALLY  
2 TO THE ULTIMATE QUESTION OF BURDEN OF PROOF, WHICH IS ON  
3 THE PROPONENT, WHICH IS THE CITY OF VENTURA. THEY HAVE  
4 ALLEGED THAT THERE IS CONNECTIVITY IN THE ENTIRE  
5 WATERSHED, AND THEY HAVE CERTAIN THEORIES ON THAT THAT  
6 THEY HAVE ADVANCED AND THEY NEED TO PROVE.

7 THE MOST IMPORTANT ISSUE WITH THIS PROPOSED  
8 STIPULATION IS IT'S NOT ACTUALLY LIMITED TO THE BASINS  
9 THEY SAY IT IS. AND THEY'RE TRYING TO SWEEP THIS AWAY,  
10 WHEN THE FACT IT'S THEIR BURDEN OF PROOF, AND THAT'S THE  
11 ISSUE THAT I HAVE WITH IT.

12 THE COURT: FAIR ENOUGH. DO YOU HAVE AN  
13 ALTERNATIVE WORDING THAT YOU THINK MIGHT BE ACCEPTABLE  
14 THAT DOESN'T HAVE SLIPPERY SLOPE KIND OF LANGUAGE?

15 MS. JACOBSON: I HAVE TO -- I NEED MORE TIME TO  
16 ANALYZE THAT, GIVEN THE SIGNIFICANT AMOUNT OF WORK THAT  
17 HAD TO BE DONE BEFORE THESE DEADLINES NEXT WEEK. I'M NOT  
18 SURE WHEN I CAN DO THAT. IT IS ON MY LIST OF TO-DOS, BUT  
19 FRANKLY, THE TRIAL BRIEFS, THE MOTIONS IN LIMINE, WE ARE  
20 MEETING AND CONFERRING. THIS WOULD BE VERY SIGNIFICANT  
21 ISSUES FOR THE MOTIONS IN LIMINE ON THE EXPERTS IN THIS  
22 CASE, IN ADDITION TO THE HUNDREDS OF EXHIBITS AND  
23 WITNESSES ALREADY IDENTIFIED.

24 THE COURT: THE WORD TRIAL IN THE ENGLISH  
25 LANGUAGE MEANS SOMETHING THAT'S VERY ARDUOUS AND

1 DIFFICULT, AND THAT'S EXACTLY WHAT YOU ENCOUNTER AS YOU  
2 GET READY FOR AN ACTUAL TRIAL. SO I DO UNDERSTAND IT'S  
3 A TERRIBLY DIFFICULT PERIOD.

4 I UNDERSTAND YOUR POINT. I DON'T HAVE ANY MORE  
5 QUESTIONS OF YOU TODAY, MS. JACOBSON. AND INSOFAR AT THE  
6 END OF THE TRIAL, THE BURDEN OF PROOF IS UNMET, THEN  
7 THAT'S PROBABLY ONE MR. PISANO'S PROBLEM.

8 DO YOU HAVE A THEORY OTHER THAN THE STIPULATION  
9 TO BE APPROVED AS TO HOW YOU'LL SHOW THE CONNECTIVITY, IF  
10 EVERYONE HERE DOESN'T AGREE IN THE ABSENCE OF PROOF TO THE  
11 CONNECTIVITY?

12 MR. PISANO: YOUR HONOR, MY EXPERTS ARE PREPARED  
13 TO PROVE CONNECTIVITY FOR ALL FOUR BASINS.

14 THE COURT: THEY JUST WEREN'T BEING DEPOSED AT  
15 LENGTH, THEN?

16 MR. PISANO: THEY WEREN'T BEING DEPOSED AT  
17 LENGTH, AND THERE'S NO CONTRA-EXPERT SAYING THAT THERE'S  
18 NO CONNECTIVITY AND --

19 THE COURT: BUT YOU CAN PUT THEM ON THE STAND,  
20 AND IN HALF HOUR, TWO HOURS AND MAKE YOUR PROOF?

21 MR. PISANO: TRUE. JUST IN THE -- YES. IN THE  
22 INTEREST, THOUGH, OF TRYING TO PRESERVE SOME COURT TIME,  
23 WE WERE TRYING TO WORK OUT THIS STIPULATION.

24 THE COURT: BUT YOU'VE GOT A FALLBACK?

25 MR. PISANO: IF WE NEED TO PROVE IT UP, WE'LL

1 PROVE IT UP.

2 THE COURT: OKAY. AND IT'S IN THEIR REPORTS, AND  
3 THE PEOPLE DIDN'T CHOSE TO DEPOSE THEM ON IT. THAT WAS  
4 THEIR CHOICE OF HOW TO USE DEPOSITION TIME?

5 MR. PISANO: CORRECT, YOUR HONOR.

6 MR. SLATER: YOUR HONOR, THIS IS SCOTT SLATER  
7 FROM THE WOOD-CLAEYSSENS TRUST FOUNDATION.

8 THE COURT: YOU'RE A FRIEND TO VENTURA CITY, TO  
9 MY RECOLLECTION; RIGHT?

10 MR. SLATER: YES. AND WE'RE THE LARGEST PRODUCER  
11 IN THE LOWER -- THE LOWER VENTURA RIVER SYSTEM. WE'RE  
12 REPAIRING, AND WE ARE GROUND WATER USERS. WE HAD PROPOSED  
13 THE STIPULATION; IT IS ONE -- THE MEAT OF THE STIPULATION,  
14 YOUR HONOR, IS ONE PARAGRAPH CAREFULLY CRAFTED, TO LEAVE  
15 THE NOOKS AND CRANNIES OF WHETHER A SPECIFIC WELL HAS AN  
16 IMPACT ON THE RIVER BUT DOES INDICATE THAT THERE IS  
17 INTERCONNECTION IN VARIOUS LOCATIONS.

18 AND I WOULD -- I WOULD APPRECIATE THAT IF THERE  
19 ARE ANY SUGGESTIONS, TO MODIFY THE LANGUAGE WHICH OF WHAT  
20 I THINK IS A VERY NARROW CAREFULLY-CRAFTED STIPULATION FOR  
21 US TO CONSIDER. AGAIN, ONE PARAGRAPH.

22 THE COURT: WELL, YOU MAY WANT TO PARLAY WITH  
23 MS. JACOBSON OFFLINE AND SEE IF YOU CAN CHANGE HER  
24 SENTIMENTS ON THE TOPIC.

25 MR. SLATER: WE'LL TRY.

1 THE COURT: OKAY.

2 OTHER ISSUES YOU WANT TO TAKE UP WITH THE COURT,  
3 MR. PISANO?

4 MR. PISANO: YES, YOUR HONOR. I INITIALLY  
5 REACHED OUT TO ALL THE PARTICIPATING COUNSEL ON  
6 FEBRUARY 15TH ABOUT THE JOINT WITNESS AND EXHIBIT LIST.  
7 AND WE WERE -- OR THERE WAS SOME SLOWNESS OUT OF THE GATE  
8 FROM SOME FOLKS TO RESPOND TO US.

9 IN FACT, I STILL DON'T HAVE RESPONSES FROM MANY  
10 OF THE PARTIES WHO ARE SLATED TO PARTICIPATE IN THE TRIAL.  
11 AND GIVEN THAT THE JOINT LIST IS DUE NEXT WEEK, I BELIEVE  
12 NEXT FRIDAY -- OR MARCH 4TH, MY CONCERN IS THAT WE'RE  
13 GOING TO GET ALL THIS STUFF IN THE DAY BEFORE, AND WE'RE  
14 GOING TO HAVE NO TIME TO MEET AND CONFER ON FOUNDATION AND  
15 ADMISSIBILITY.

16 I THINK IT WOULD BE A GOOD IDEA IF THE COURT WERE  
17 TO HOLD OUR FEET TO THE FIRE, SO TO SPEAK, AND REQUIRE  
18 RESPONSES TO WHAT THE CITY AND THE OTHER PROPOSING PARTIES  
19 AND THE STATE AGENCIES SUBMITTED TODAY TO GET RESPONSES  
20 QUICKLY, SO THAT WE COULD HAVE A MEANINGFUL MEET AND  
21 CONFER SOMETIME NEXT WEEK TO DISCUSS -- -

22 THE COURT: HAVE YOU GOTTEN ANYTHING FROM THE  
23 CITY OF OJAI?

24 MR. PISANO: NO.

25 THE COURT: HAVE YOU GOTTEN ANYTHING FROM CASITAS

1 MUNICIPAL WATER DISTRICT?

2 MR. PISANO: NO.

3 THE COURT: HAVE YOU GOTTEN ANYTHING FROM THE  
4 STATE?

5 MR. PISANO: THE STATE, YES. AND MS. JACOBSON  
6 DID E-MAIL ME TODAY, INDICATING THAT SHE SAW THERE WAS A  
7 LOT OF OVERLAP AND WAS GOING TO BE GETTING US HER  
8 DOCUMENTS; AND I APPRECIATE THAT, BUT WE NEED THIS -- WE  
9 NEED THE INFORMATION QUICKLY.

10 THE COURT: HAVE YOU GOTTEN ANYTHING FROM  
11 MR. BLATZ FOR SENIOR CANYON WATER?

12 MR. PISANO: MR. BLATZ DID E-MAIL, INDICATING  
13 THAT HE HAD NO WITNESSES BUT RESERVED HIS RIGHT FOR  
14 REBUTTAL WITNESSES.

15 THE COURT: WHAT ABOUT EXHIBITS?

16 MR. PISANO: NOTHING ON EXHIBITS FOR MR. BLATZ,  
17 YOUR HONOR.

18 THE COURT: SILENCE?

19 MR. PISANO: SILENCE.

20 THE COURT: AREA ENERGY IS NOT A PLAYER IN THIS  
21 TRIAL; RIGHT?

22 MR. PISANO: CORRECT.

23 THE COURT: OKAY. WHAT ABOUT ROBERT MARTIN?

24 MR. PISANO: HAVE NOT RECEIVED ANY -- NOTHING.

25 THE COURT: WHAT ABOUT EAST OJAI GROUP?



1 MR. PISANO: NOTHING, YOUR HONOR.

2 THE COURT: WHAT ABOUT MR. GREGG GARRISON'S  
3 OFFICE?

4 MR. PISANO: MR. GARRISON'S OFFICE SENT A SIMILAR  
5 E-MAIL TO MS. JACOBSON TODAY, THAT THEY WERE GOING TO WORK  
6 TO GET US THEIR INFORMATION.

7 THE COURT: AND WHAT ABOUT VENTURA RIVER  
8 WATER AND MEINERS OAKS? THEY'RE YOUR FRIENDS; RIGHT?

9 MR. PISANO: YES, THEY'RE PART OF OUR GROUP.

10 THE COURT: AND WHAT ABOUT MR. QUIRK?

11 MR. PISANO: NOTHING YET FROM MR. QUIRK, YOUR  
12 HONOR.

13 THE COURT: SO YOU'VE GOT TO PRODUCE A JOINT  
14 EXHIBIT LIST BY THE 2ND, NEXT WEDNESDAY?

15 MR. PISANO: THE 4TH, YOUR HONOR.

16 THE COURT: THE 4TH, NEXT FRIDAY.

17 OKAY. SO I'M GOING TO ORDER EVERYBODY WHO'S  
18 ACTIVELY PARTICIPATING -- AND THAT INCLUDES MR. QUIRK, AND  
19 I'M GOING TO ADVANCE HIS EX PARTE, AND IT WILL BE GRANTED  
20 TODAY, WITH THE LIMITATIONS NOTED ONCE SPOKE ABOUT IT, BUT  
21 IT'S OFF CALENDAR FOR MONDAY, AND IT'S GRANTED HERE AND  
22 NOW.

23 BUT ALL THE PEOPLE ACTIVELY PARTICIPATING NEED TO  
24 GET THEIR ADDITIONAL EXHIBITS AND ADDITIONAL WITNESSES, A  
25 GOOD FAITH FINAL DRAFT TO MR. PISANO BY NOON ON THE 2ND,

1 AND ALSO TO GET THEIR CONSENTS TO ADMISSIBILITY OR  
2 AUTHENTICITY OF THE ITEMS PREVIOUSLY IDENTIFIED ALSO BY  
3 NOON ON THE 2ND, SO THAT YOU'VE GOT SOME CHANCE TO DISTILL  
4 IT.

5 AND THAT WILL, HOPEFULLY, GIVE YOU AND THE PEOPLE  
6 ON YOUR SIDE, MR. PISANO, AS WELL AS THE STATE -- THAT'S  
7 NOT QUITE ON YOUR SIDE BUT SORT OF SOMEWHERE HALFWAY  
8 THERE -- THE BENEFIT OF THE 3RD AND PART OF THE 4TH TO  
9 FIGURE OUT WHAT YOU'RE GOING TO AGREE TO ON THE NEWLY  
10 DISCLOSED EXHIBITS THAT ARE NON REDUNDANT.

11 DOES THAT HELP?

12 MR. PISANO: THAT IS HELPFUL. THANK YOU, YOUR  
13 HONOR.

14 THE COURT: ANYBODY OBJECT TO THAT ORDER?

15 OKAY. THAT WILL BE THE ORDER OF THE COURT. AND  
16 YOU GIVE NOTICE, FOR CITY OF VENTURA.

17 WHAT ELSE, MR. PISANO?

18 MR. PISANO: MY LAST ITEM, YOUR HONOR. AND THIS  
19 DECISION DOESN'T NECESSARILY HAVE TO BE MADE TODAY. BUT I  
20 THINK I SAW ON THE NEWS THAT THE COUNTY INDOOR MASK  
21 MANDATE WAS OR IS ABOUT TO BE LIFTED. MY ONLY REQUEST  
22 IS --

23 THE COURT: THE PRESIDING JUDGE CLEARLY ISSUED AN  
24 EDICT YESTERDAY THAT THE MASK MANDATE AT THE L.A. SUPERIOR  
25 COURT BUILDING REMAINS IN EFFECT, WHETHER OR NOT YOU'RE

1 VACCINATED.

2 MR. PISANO: UNDERSTOOD, YOUR HONOR. IT WAS JUST  
3 GOING TO BE A REQUEST THAT THE WITNESS BE ALLOWED TO  
4 REMOVE HIS OR HER MASK WHILE TESTIFYING.

5 THE COURT: THE WITNESS WILL BE ALLOWED TO USE A  
6 CLEAR MASK, SUCH AS WHAT I HAVE ON MY FACE. BUT THEY WILL  
7 BE REQUIRED TO BE MASKED. I'VE GOT A FEW CLEAR MASKS. IF  
8 YOU'RE CHARGING YOUR CLIENT -- NOW, YOU CAN PROBABLY  
9 AFFORD TO BUY A BOX OF THEM, BUT AT SOME POINT I'LL  
10 PROVIDE A FEW, AND THEN WHEN WE RUN OUT, YOU WILL BE  
11 EXPECTED TO PROVIDE MORE FOR THE WITNESS.

12 MR. PISANO: FAIR ENOUGH, YOUR HONOR.

13 THE COURT: YOU AS ADVOCATES MAY WANT TO USE IT.  
14 IT'S WORKING PERFECTLY FINE, FROM MY POINT OF VIEW. BUT  
15 THE PRESIDING JUDGE ISSUED A VERY CLEAR MANDATE YESTERDAY.  
16 I'LL FIND IT AND READ IT TO YOU.

17 MR. PISANO: I UNDERSTAND, YOUR HONOR. IT WAS  
18 SIMPLY -- IT WAS REALLY FOR THE BENEFIT OF ALL WITNESSES,  
19 BUT I APPRECIATE WHERE THE COURT IS COMING FROM.

20 THE COURT: CLEAR MASKS JUST LIKE MINE WOULD  
21 SATISFY THAT --

22 MR. HAGERTY: AND WE ORDERED THREE BOXES JUST TO  
23 MAKE SURE WE HAVE ENOUGH.

24 THE COURT: OKAY. ANYTHING ELSE, MR. PISANO OR  
25 MR. HAGERTY?

1 MR. PISANO: NOT ME.

2 MR. HAGERTY: WELL, WE MIGHT AS WELL --

3 THE COURT: THAT'S WHY YOU BRING YOUR PARTNER TO  
4 COURT.

5 MR. HAGERTY: I MEAN WE WOULD LIKE TO --  
6 MR. WHITMAN, I'M SURE, IS GOING TO TRY TO ADDRESS THIS  
7 ISSUE WITHOUT AMENDING THE COMPLAINT. AND I'D RATHER JUST  
8 ADDRESS IT NOW IF THE COURT IS GOING TO HEAR THAT?

9 THE COURT: WELL, IT SORT OF SHOWED UP AS -- IN  
10 FILE & SERVEXPRESS CHATTER. DOES ANYBODY HAVE A MOTION OR  
11 AN EX PARTE IN FRONT OF ME, OR IT'S JUST A CHATTER IN FILE  
12 & SERVEXPRESS?

13 MR. HAGERTY: IT'S JUST CHATTER. AND OUR  
14 POSITION IS THAT IT'S -- THERE IS NO MOTION PENDING. WE  
15 DID MEET AND CONFER. OUR POSITION IS THAT THE TIME TO  
16 BRING THAT MOTION BEFORE PHASE I HAS ELAPSED. YOU HAD SET  
17 A JANUARY 20TH DATE FOR THAT.

18 THE TIME TO BRING THAT MOTION PER CODE HAS ALSO  
19 PASSED, AND WE -- WE HAVE A LOT OF WORK TO DO. WE NEED TO  
20 FOCUS ON GETTING TO THE PHASE 1 TRIAL. WE'VE INDICATED TO  
21 MR. --

22 THE COURT: REMIND ME. WHEN I RULED ON THE  
23 MOTIONS FOR JUDGMENT ON THE PLEADINGS, I SPOKE TO THE  
24 PUEBLO RIGHTS WATER CHIEF TO SOME DEGREE. CAN YOU REMIND  
25 ME OF THE DATE OR APPROXIMATE DATE WHEN I HAD THAT

1 DECISION?

2 MR. HAGERTY: I THINK IT WAS FEBRUARY --

3 MR. PATTERSON: -- 8TH.

4 MR. HAGERTY: -- 8TH.

5 THE COURT: IS IT PART OF YOUR REASONABLY FILED  
6 NOTICE OF RULING?

7 MR. HAGERTY: YOUR HONOR, YOUR RULING WAS TO DENY  
8 THE MOTION BEFORE YOU WITHOUT PREJUDICE. AND THAT'S WHAT  
9 THE NOTICE OF RULING SAID. AND WHAT WE --

10 THE COURT: SILENCE, PLEASE. MR. WHITMAN, WAIT.  
11 ARE YOU GOING TO BRING US AN EXPERT ABOUT HISTORY  
12 ABOUT THE DIVERSION BUT NOT ABOUT PUEBLO RIGHTS?

13 MR. HAGERTY: PUEBLO RIGHTS WILL NOT BE PART OF  
14 THIS TRIAL AT ALL IN PHASE 1, YOUR HONOR. RIGHTS ARE NOT  
15 AN ISSUE IN PHASE 1.

16 THE COURT: THANK YOU.

17 OKAY. MR. WHITMAN, ARE YOU WITH US THIS  
18 AFTERNOON?

19 MR. WHITMAN: YES.

20 THE COURT: I WOULD TAKE AN ORAL OFFER OF PROOF  
21 NOW OR GIVE YOU THE CHANCE TO GIVE ME A WRITTEN OFFER OF  
22 PROOF BY THE MIDDLE OF NEXT WEEK AS TO WHAT YOU WANT TO  
23 PROVE ABOUT THE CITY'S PUEBLO RIGHTS, OR THE LACK THEREOF,  
24 THAT'S GERMANE TO THE UPCOMING TRIAL.

25 IT'S NOT OBVIOUS TO ME THAT I CAN SEE HOW IT FITS

1 INTO WHAT WE'RE TRYING TO ADJUDICATE. BUT, IN FAIRNESS, I  
2 THINK YOU SHOULD BE ABLE TO GIVE YOUR OFFER OF PROOF. AND  
3 IF YOU WANT TO DO IT IN WRITING --

4 MR. WHITMAN: OKAY.

5 THE COURT: -- AND NOT WING IT NOW, I HAVE NO  
6 PROBLEM WITH YOU BEING CAUTIOUS AND DOING IT IN WRITING.

7 MR. WHITMAN: I WILL DO IT IN WRITING, YOUR  
8 HONOR. GIVE ME THE DATE, AND I WILL PREPARE IT IN  
9 WRITING.

10 THE COURT: OKAY. SERVED AND FILED -- THIS IS  
11 PARTY ANDREW K. WHITMAN, REPRESENTING SELF. DO THIS BY  
12 WEDNESDAY, MARCH 2. WHAT YOU'LL OFFER OF PROOF IS -- AND  
13 THEN I WANT A WRITTEN RESPONSE FROM THE CITY AS TO WHETHER  
14 THEY WOULD STIPULATE TO ANY OF THE THINGS THAT YOU'VE PUT  
15 IN YOUR OFFER OF PROOF AS BEING CONCEDED FOR THE LIMITED  
16 PURPOSES OF PHASE 1 TRIAL, AS OPPOSED TO SOMETHING THAT IS  
17 CONTESTED FACTUALLY.

18 SINCE YOU HAVEN'T SEEN AN OFFER OF PROOF,  
19 MR. HAGERTY, YOU HAVE NO IDEA WHETHER YOU'RE GOING TO  
20 AGREE TO ANY OF IT OR NONE OF IT. BUT YOU NEVER KNOW.  
21 THERE MIGHT BE A PROPOSITION THAT HE PUTS OUT THERE THAT  
22 YOU SAY, "YES. FOR THE PURPOSES OF PHASE 1 TRIAL, I WILL  
23 CONCEDE THAT." I'M ONLY ASKING IF YOU'LL CONCEDE IT FOR  
24 PURPOSES OF THE PHASE 1 TRIAL.

25 MR. HAGERTY: YOUR HONOR, I THINK THAT PROCESS

1 MAKES SENSE.

2 THE COURT: AND THEN LET'S TAKE IT UP FURTHER ON  
3 MARCH 11TH, AT THE FINAL STATUS CONFERENCE. AND IF YOU  
4 WANT TO RESPOND TO THE CITY, MR. HAGERTY, WITH WHAT THEY  
5 DO OR DON'T SAY -- AND I'M NOT SURE THAT THERE'S ANY VALUE  
6 TO IT -- BUT I'LL GIVE YOU UNTIL MARCH 9 TO SUBMIT  
7 WHATEVER FURTHER RESPONSE TO THE CITY AND/OR FURTHER OR  
8 EVEN IN FAVOR OF WHY THERE'S SOMETHING THAT HAS TO BE  
9 TRIED IN CONTEXT OF PHASE 1.

10 OTHERWISE, CANDIDLY, MR. WHITMAN, YOU HEARD ME  
11 SAY EARLIER -- AND YOU'RE A PRACTICING LAWYER, SO THIS HAS  
12 GOT TO BE FAMILIAR TO YOU -- THAT, YOU KNOW, WHEN LAWYERS  
13 AND THE CLIENTS GO TO TRIAL, IT'S AN ARDUOUS PROCESS.

14 AND SO FAR AS WHAT I'M ATTEMPTING TO DO IS RATION  
15 WHERE THE SCARCE RESOURCES ARE APPLIED IN ORDER TO HAVE AS  
16 COST-EFFECTIVE AND LEGALLY AND FACTUALLY SOUND A TRIAL AS  
17 POSSIBLE. AND, AT THE MOMENT, THIS TO ME SEEMS LIKE  
18 SOMETHING SO COLLATERAL THAT IT REALLY OUGHT TO WAIT UNTIL  
19 APRIL WHEN THE TRIAL IS HOPEFULLY BEHIND US AND THEN PICK  
20 IT UP. BUT THAT IS MY CURRENT WORKING HYPOTHESIS. BUT  
21 I'LL SEE WHAT YOUR OFFER OF PROOF DOES TO SHOW ITS  
22 IMMINENCE, MR. WHITMAN. OKAY?

23 MR. WHITMAN: OKAY. AND, JUST TO MAKE CLEAR, I  
24 THINK YOU SAID MR. HAGERTY HAD UNTIL THE 9TH, BUT I THINK  
25 YOU MEANT TO SAY MR. WHITMAN HAS UNTIL THE 9TH?

1 THE COURT: YES. FOR THE FOLLOWING -- YES, IT'S  
2 YOU, MR. WHITMAN, HAS UNTIL THE 9TH. MR. HAGERTY SHOULD  
3 RESPONSE BY THE 4TH.

4 RIGHT?

5 MR. HAGERTY: YES, YOUR HONOR.

6 MR. WHITMAN: OKAY.

7 MR. HAGERTY: THANK YOU, YOUR HONOR.

8 THE COURT: ANYTHING ELSE FROM THE CITY OF  
9 VENTURA?

10 MR. PISANO: I DID HAVE ONE MORE, SORT OF,  
11 TECHNICAL QUESTION, YOUR HONOR. WILL THE COURT BE OPEN TO  
12 HAVING ANY WITNESSES TESTIFY REMOTELY? WE MAY HAVE ONE  
13 WHO NEEDS TO TESTIFY REMOTELY.

14 THE COURT: YES.

15 MR. PISANO: VERY GOOD.

16 THE COURT: THAT'S WHY I'M WORKING ON THE SINGLE  
17 SHOT. THEY WIND UP BEING ON THE BIG SCREEN. THAT IS, YOU  
18 KNOW, ONCE YOUR ZOOM PERSON GETS THEM IN THE MIDDLE OF IT.  
19 WE'LL SEE THEM APPARENTLY WELL ENOUGH.

20 MR. PISANO: THANK YOU, YOUR HONOR.

21 THE COURT: OKAY. MS. JACOBSON, ANYTHING YOU  
22 WANT TO TAKE UP THAT HASN'T ALREADY BEEN HEARD?

23 MS. JACOBSON: YES, YOUR HONOR. I WOULD LIKE TO  
24 REQUEST THAT FOR THE DEADLINE OF MARCH 2ND FOR THE MOTIONS  
25 IN LIMINE, IT'S NOT CLEAR WHETHER I WILL HAVE A CERTIFIED



1 TRANSCRIPT OF DR. ARCHER'S DEPOSITION, WHICH WAS FINISHED  
2 WITH, YOU KNOW, THE CAVEAT OF MR. QUIRK'S ABILITY TO  
3 DEPOSE HER. THAT WASN'T FINISHED UNTIL FEBRUARY 23RD.

4 THE COURT: I'LL GIVE YOU THE SAME LEAVE THAT I  
5 GAVE MR. QUIRK TO BASICALLY SUPPLEMENT YOUR WRITTEN MOTION  
6 IN LIMINE WITH THE CITATIONS WHEN YOU HAVE THEM.

7 MS. JACOBSON: THANK YOU.

8 THE COURT: ANYTHING ELSE, MS. JACOBSON, YOU  
9 WOULD LIKE TO TAKE UP FOR THE GOOD OF THE ORDER?

10 MS. JACOBSON: WELL, IN TERMS OF PROCEDURAL  
11 PROCESSES AND TECHNICALITIES AND DEADLINES, NO. I THINK  
12 WE WILL HAVE A LOT TO DISCUSS AT THE FINAL STATUS  
13 CONFERENCE AND FIRST DAY OF TRIAL, THOUGH.

14 THE COURT: I'M SURE WE WILL.

15 ANYTHING ELSE THAT YOU WOULD LIKE TO TAKE UP  
16 TODAY, WHETHER IT SEEMS TO BE JUST THE PRACTICALITIES OF  
17 FINDING THE COURTHOUSE OR THE RESTROOM OR ANYTHING?

18 MS. JACOBSON: I BELIEVE, AT THE LAST STATUS  
19 CONFERENCE, YOU INDICATED THAT IT WOULD BE UP TO THE  
20 PARTIES TO COME AND PHYSICALLY INSPECT THE COURTHOUSE FOR  
21 HOW WE WANT TO SET UP. SO WE COULD DO SO WITHOUT ADVANCED  
22 NOTICE, AT OUR DISCRETION. IS THAT STILL THE CASE?

23 THE COURT: YES. ALTHOUGH YOU'VE HAD TWO OF YOUR  
24 COLLEAGUES IN THE COURTROOM TODAY, IT'S RATHER RARE. AND  
25 SO, GENERALLY SPEAKING, WE CAN CONDUCT OUR BUSINESS WHILE

1 YOU MOSEY AROUND THE COURTROOM, AS WE'RE DEALING WITH  
2 PEOPLE ALMOST EXCLUSIVELY REMOTELY.

3 SO WE HAVE NO PRIVATE OWNERSHIP OF THIS SPACE.  
4 IF YOU WANT TO DO IT WHILE I'M CALLING CASES OR IN  
5 CHAMBERS OR EVEN RIGHT HERE ON THE BENCH. AND I THINK YOU  
6 OUGHT TO, GIVEN THE MULTIPLICITY OF PEOPLE, SOME OF THEM  
7 ARE MORE CLOSELY ALIGNED THAN OTHERS, TO CARVE OUT THE  
8 SPACE, INCLUDING THE JURY BOX VERSUS THE GALLERY AND SEE  
9 WHAT WORKS.

10 I'VE TEMPORARILY PULLED THE SCREEN, HAVE THE  
11 VARIOUS PARTIES THAT ARE GOING TO HAVE TO RE-PARTICIPATE,  
12 BUT THAT WOULD BLOCK THE JURY BOX, SO I'M NOT SUGGESTING  
13 THAT WE WOULD USE THE SCREEN FOR PURPOSES OF THE TRIAL.  
14 BUT I THINK YOU DEFINITELY OUGHT TO DO THAT BECAUSE YOU'VE  
15 GOT TO FIGURE OUT -- GOT TO GET CARD TABLES AND SUCH THE  
16 LIKE TO MAKE IT VIABLE.

17 MS. JACOBSON: RIGHT. AND I INTEND TO DO SO.  
18 THANK YOU.

19 THE COURT: ANYTHING ELSE, MS. JACOBSON?

20 MS. JACOBSON: THE ONLY OTHER --

21 THE COURT: GO AHEAD.

22 MS. JACOBSON: YEAH. THE ONLY OTHER QUESTION I  
23 HAVE WAS IS WITH REGARDS TO THE EXHIBIT BINDERS. AND I  
24 KIND OF JUST WANT TO MAKE SURE I HAVE THIS CORRECT.

25 THE COURT WOULD LIKE TO HAVE TWO COPIES OF THE

1 BINDERS; ONE FOR YOURSELF, ONE FOR YOUR RESEARCH CLERK,  
2 AND THEN ONE FOR THE WITNESS; IS THAT RIGHT?

3 THE COURT: ONE FOR ME, ONE FOR MY RESEARCH  
4 ATTORNEY, AND THE THREE-RING BINDER TABS ON THE SIDE. THE  
5 WITNESS, YOU REALLY NEED TO HAVE THEM LOOSE IN MANILA  
6 FOLDERS BECAUSE I THINK YOU WANT TO HAVE IN FRONT OF THE  
7 WITNESS THE EXHIBITS THAT ARE SPECIFIC TO THE WITNESS.

8 NOW, MAYBE YOU WANT TO HAVE A THREE-RING BINDER  
9 WITH SIX EXHIBITS UNIQUE TO THAT WITNESS, IF YOU THINK IT  
10 WOULD SPEED UP THE PROCESS. I WOULDN'T QUARREL WITH THAT.

11 BUT THERE'S GOING TO BE FOR THE JUDICIAL  
12 ASSISTANT, I WOULD RECOMMEND YOU PUT EACH DISCREET EXHIBIT  
13 IN A SEPARATE MANILLA FOLDER. FOR THAT, WE'LL GET A  
14 YELLOW STICKY OR GREEN STICKY OR PINK, WHATEVER COLOR OF  
15 STICKY ON IT. ONE COLOR IF IT'S ONLY MARKED FOR  
16 IDENTIFICATION; DIFFERENT COLOR IF IT'S RECEIVED IN  
17 EVIDENCE.

18 AND THOSE REALLY NEED TO BE PHYSICALLY SEPARATE,  
19 WITNESS-BY-WITNESS. IF YOU WANT TO BE FUSSY ABOUT HAVING  
20 THE WITNESS TOUCH AND HOLD THE ONE THAT'S GOT THE COURT'S  
21 STICKER ON IT, THAT CAN HAPPEN, IF YOU TRUST THAT YOU'VE  
22 GOT A COUNTERPART IN THIS THREE-RING BINDER THAT IS  
23 FAITHFUL TO THE ORIGINAL EXHIBIT GIVEN TO THE JUDICIAL  
24 ASSISTANT, I CAN BE FLEXIBLE ABOUT THAT. IF YOU WANT BE  
25 HYPERTECHNICAL, THE WITNESS OUGHT TO BE HOLDING THE ONE

1 WITH THE STICKER.

2 MS. JACOBSON: THE WAY I'VE DONE IT IN THE PAST  
3 IS WITH BINDERS, BUT I'M AMENABLE TO DO WHAT IS EASIER FOR  
4 THE COURT.

5 THE COURT: AGAIN, THE BINDER I WOULD GET WOULD  
6 BE SEQUENTIALLY NUMBERED BECAUSE I GET THE TOTALTY OF IT,  
7 INCLUDING SOME EXHIBITS THAT WILL PROBABLY NEVER GET MOVED  
8 INTO EVIDENCE. BUT AT LEAST IF THE TOTALITY OF THE  
9 EXHIBITS IS SEQUENTIALLY NUMBERED, MY OWN THEORY, A LITTLE  
10 BIT OF PATIENCE CAN FIND ANY ONE EXHIBIT.

11 BUT WHEN IT GETS TO THE NICETIES AND MOVING AHEAD  
12 WITH A CERTAIN WITNESS ON THE STAND, WHERE YOU'RE ONLY  
13 EXPECTING TO USE SIX EXHIBITS, AND THEY HAPPEN TO BE  
14 NUMBER 17, 106, 312, 1,004, AND 1,005, IT MIGHT BE GOOD TO  
15 PUT THOSE IN A BINDER, AS LONG AS THEY'RE FAITHFUL TO THE  
16 ORIGINALS THAT THE JUDICIAL SYSTEM IS GOING TO HOLD.

17 AND, PRESUMABLY, THE LAWYERS IN THE COURTROOM  
18 SPEND ENOUGH TIME WITH THAT BINDER TO BE SURE THAT IT  
19 REALLY IS A BONA FIDE COUNTERPART AND NOBODY PLAYED ANY  
20 TRICKS WITH WHAT'S IN THE BINDER.

21 MS. JACOBSON: UNDERSTOOD. I THINK WE CAN WORK  
22 THAT OUT.

23 THE COURT: BUT I WOULD NOT RECOMMEND THAT YOU  
24 PUT THAT ENCYCLOPEDIA SET OF EXHIBITS ON THE WITNESS  
25 STAND.

1 I CAN ONLY IMAGINE -- HOW MANY EXHIBITS HAVE BEEN  
2 NUMBERED SO FAR?

3 MS. JACOBSON: I BELIEVE OVER --

4 MR. PISANO: ROUGHLY IN THE ORDER OF 400 TO 458.

5 THE COURT: IT'S NOT AS BAD AS SOME TRIALS, BUT  
6 IT'S PROBABLY GOING TO GET TO 600 BY THE TIME WE'RE DONE.

7 MR. PISANO: I WOULD ANTICIPATE SO, YOUR HONOR.

8 THE COURT: AND IN THE PHYSICAL BINDER SENSE, 10  
9 BINDERS? 15 BINDERS?

10 MR. PISANO: PROBABLY, YEAH, 15.

11 THE COURT: SO YOU DON'T WANT 15 BINDERS ON THE  
12 STAND, AND HAVE THE WITNESS PAWING AROUND TRYING TO PUT  
13 ASIDE THE BINDER WITH EXHIBIT 14 AND THEN TRYING TO GO  
14 FIND THE BINDER WITH EXHIBIT 1,005. THAT'S NOT AN  
15 EFFICIENT WAY TO HANDLE IT.

16 MR. PISANO: AGREED, YOUR HONOR.

17 THE COURT: OKAY. MS. JACOBSON, ANYTHING ELSE?

18 MS. JACOBSON: THAT IS IT, YOUR HONOR. THANK  
19 YOU.

20 THE COURT: MR. SCOTT SLATER, YOU'RE ALIGNED WITH  
21 VENTURA CITY. ANYTHING YOU WANT TO TAKE UP WITH WHAT  
22 THEY'VE ALREADY DONE?

23 YOU'RE MUTED, MR. SLATER.

24 MR. SLATER: NO, YOUR HONOR.

25 THE COURT: THANK YOU.

1 MR. JUNGREIS, YOU'RE THE OTHER MAN IN THE MIDDLE.  
2 WHAT DO YOU WANT TO TAKE UP? HAVE YOU PICKED  
3 SIDES YET?

4 MR. JUNGREIS: YES, YOUR HONOR. I THINK WE ARE,  
5 GENERALLY, FOR PURPOSES OF PHASE 1, ALIGNED WITH THE  
6 INTERESTS OF THE CITY OF OJAI AND THE EAST OJAI GROUP.  
7 ALTHOUGH CASITAS IS THE LARGEST WATER SUPPLIER IN THE  
8 VENTURA RIVER WATERSHED, AND WE HAVE SOME DIFFERENT  
9 INTERESTS AS WELL.

10 BUT I THINK, ON BALANCE, WE'RE IN AGREEMENT WITH  
11 THE APPROACHES THAT OJAI AND THE OJAI GROUP HAVE TAKEN  
12 THROUGH THEIR EXPERT TESTIMONY THAT ALIGNS WITH SOME OF  
13 THE EXPERTS THAT THOSE TWO GROUPS WILL BE PUTTING ON, IF  
14 THAT HELPS, YOUR HONOR.

15 THE COURT: WELL, GO AHEAD. I'M GOING TO COME  
16 BACK TO ANOTHER TOPIC, BUT YOU GO AHEAD WITH YOUR POINTS,  
17 MR. JUNGREIS.

18 MR. JUNGREIS: OKAY. FAIR ENOUGH, YOUR HONOR.

19 SO TWO OF THINGS I WANTED TO BRING UP. ONE, I  
20 WAS JUST GOING TO ASK FOR THE SAME FLEXIBILITY IN THE  
21 CERTIFIED TRANSCRIPTS THAT YOU'VE GIVEN A COUPLE OF OTHER  
22 FOLKS.

23 THE COURT: OF COURSE.

24 MR. JUNGREIS: THERE'S A COUPLE OF OTHER --  
25 THERE'S STILL SOME OF THE DEPOSITIONS IN THE LAST TWO

1 WEEKS, AND SO I WOULD ASK TO HAVE THE SAME FLEXIBILITY.

2 THE COURT: YES. YES. YES.

3 MR. JUNGREIS: OKAY. GREAT. THANK YOU.

4 THE COURT: EVERYBODY'S GOT THAT FLEXIBILITY.

5 MR. JUNGREIS: OKAY. THANK YOU, YOUR HONOR.

6 THAT'S VERY HELPFUL.

7 THE LAST THING I WAS GOING TO BRING UP WAS JUST I  
8 DON'T ENVY MR. PISANO AND HIS HAVING TO, YOU KNOW, HERD  
9 CATS TO GET ALL THE EXHIBITS IDENTIFIED, AND TO THE EXTENT  
10 THAT I WASN'T ABLE TO GET BACK WITH HIM, WE'VE JUST BEEN  
11 REALLY BUSY. BUT I CERTAINLY INTEND TO GET BACK WITH HIM.

12 BUT ONE THING THAT WAS SENT OUT BY MR. PISANO  
13 SHORTLY BEFORE NOON TODAY WAS THEIR DRAFT WITNESS LIST.  
14 AND THAT WAS THE FIRST TIME THAT I SAW THAT NOT ONLY MY  
15 GENERAL MANAGER AT CASITAS IS ON HIS WITNESS LIST, BUT ONE  
16 OF MY BOARD MEMBERS; AND THAT WAS A BIT OF A SHOCK. THAT  
17 NEVER CAME UP BEFORE.

18 AND, PRESUMABLY, THAT'S ONLY FOR -- PRIMARILY FOR  
19 AUTHENTICITY PURPOSES, AND WE MAY BRING A MOTION IN LIMINE  
20 ON THAT. BUT I THINK IT WOULD BE HELPFUL -- I THINK A LOT  
21 OF THE WITNESSES, IT SEEMS LIKE -- AT LEAST PRELIMINARY ON  
22 THE CITY'S LIST -- ARE INDIVIDUALS THAT ARE ASSOCIATED  
23 WITH AUTHENTICITY OR AUTHENTICATING DOCUMENTS.

24 IT SEEMS LIKE, YOU KNOW, GOOD-FAITH LAWYERS  
25 WORKING TOGETHER IN GOOD FAITH SHOULD BE ABLE, AT LEAST

1 FOR MOST DOCUMENTS, TO ADDRESS THE AUTHENTICITY ISSUES AND  
2 NOT REQUIRE -- NOT ONLY TAKE UP THEIR TIME, THE INDIVIDUAL  
3 WITNESSES, BUT THE COURT'S TIME IN HAVING TO GO THROUGH  
4 THE PROCESS OF SEVERAL HUNDRED DOCUMENTS AUTHENTICATING  
5 THEM.

6 SO I GUESS MY POINT IS THAT THAT'S SOMETHING THAT  
7 I WOULD HOPE THE COURT WOULD ENCOURAGE ALL SIDES TO WORK  
8 TOWARDS THAT GOAL.

9 THE COURT: WELL, I WOULD BE THE FIRST TO SAY  
10 THAT I THINK IT'S AN OUTRAGEOUS USE OF THE TAX PAYERS'  
11 RESOURCES FOR PEOPLE WHO REFUSE TO STIPULATE TO  
12 AUTHENTICITY, FOR SOMEBODY TO PUT THE WITNESS ON THE STAND  
13 AND HAVE THEM QUESTIONED AND THEN HAVE AUTHENTICITY  
14 ESTABLISHED AFTER FIVE OR FIFTEEN MINUTES' WORTH OF  
15 UNDISPUTED TESTIMONY BECAUSE THE ONE LAWYER WAS TOO LAZY  
16 OR TOO CAUTIOUS OR TOO CRUEL TO STIPULATE TO WHAT'S  
17 OBVIOUS.

18 SO IF WE WIND UP PLAYING ANY SUBSTANTIAL TIME  
19 THAT'S GOING TO BE SPENT WITH AUTHENTICITY, I'M GOING TO  
20 HAVE A PROBLEM. WHAT I THINK YOU ALSO OUGHT TO DO WITH  
21 YOUR LIST, BECAUSE THERE'S SO MANY DIFFERENT PLAYERS IN  
22 THIS GAME, IS ON AUTHENTICITY AND ADMISSIBILITY AND GET --  
23 BUT YOU PROBABLY HAVE TO COME UP WITH SOMETHING THAT  
24 DOESN'T PRINT VERY WELL ON EVEN LEGAL PAPER IN LANDSCAPE,  
25 BUT WIDEN OUT THE COLUMNS SO THAT YOU CHECK THE BOX FOR



1 AUTHENTICITY OR ADMISSIBILITY SPECIFIC TO EACH OF THE  
2 SEPARATE LAW FIRMS THAT ARE REPRESENTING.

3 SO IF YOU GET AUTHENTICITY FROM EVERYBODY EXCEPT  
4 RYAN BLATZ, I WANT TO BE ABLE TO SEE IT. IF YOU GET  
5 ADMISSIBILITY FROM EVERYBODY EXCEPT MOLLY JACOBSON, I WANT  
6 TO BE ABLE TO SEE THAT. BECAUSE IT'S GOING TO RAISE SOME  
7 OBVIOUS QUESTIONS AS TO WHY, YOU KNOW, SOMEBODY IN GOOD  
8 CONSCIOUS ISN'T AGREEING TO AUTHENTICITY OR ADMISSIBILITY,  
9 WHEN EVERYBODY ELSE, EVEN THEIR OPPOSING COUNSEL, IS  
10 AGREEING TO IT.

11 NOW, IF THE ANSWER IS "I JUST DIDN'T GET AROUND  
12 TO RESPONDING," THEN, BASICALLY, PRETTY QUICKLY I'M GOING  
13 TO SAY, "WELL, ESSENTIALLY, YOU KNOW, RESPOND BY MIDNIGHT  
14 OR YOU'RE BEING IN CONTEMPT OF COURT."

15 I CAN'T ENFORCE PEOPLE TO AGREE TO IT. I  
16 UNDERSTAND THAT. BUT IF YOU'RE GOING TO BE THE LAWYER  
17 THAT WANTS TO BE IDENTIFIED AS THE PERSON THAT'S FORCING  
18 THE COURT TO ENGAGE IN WASTED TRIAL TIME TO HAVE  
19 UNDISPUTED FACTS PROVEN IN COURT THE HARD WAY, THAT'S,  
20 FRANKLY, UNETHICAL BEHAVIOR BY THE LAWYER, AND I WOULD  
21 RESERVE THE RIGHT TO REPORT HIM TO STATE BAR.

22 MR. JUNGREIS: THANKS, YOUR HONOR. I CERTAINLY  
23 DON'T THINK WE WANT THAT, AND -- WELL, I'LL YIELD TO  
24 MR. PISANO.

25 THE COURT: MY POINT OVER HERE NOW, MR. JUNGREIS,

1 IS ON A DIFFERENT ISSUE. IF THE GORILLA IN THE ROOM,  
2 FIGURATIVELY SPEAKING -- CASITAS WATER DISTRICT -- HAS  
3 DECIDED THAT FOR PURPOSES OF THIS TRIAL TRUTH AND WISDOM  
4 IS WITH THE CITY OF OJAI AND THE PARTIES ALIGNED WITH  
5 EAST OJAI SUCH THAT THERE'S NOT MATERIAL CONNECTEDNESS OF  
6 THE UPPER OJAI BASIN AND/OR THE OJAI BASIN WITH THE MAIN  
7 FLOW WITH THE VENTURA RIVER, THAT WOULD HAVE A PRACTICAL  
8 IMPACT ON THE PHYSICAL SOLUTION, WHICH IS BASICALLY A  
9 COST-SHARING EXERCISE THAT IS CURRENTLY DESIGNED TO HAVE  
10 THE COST SHARING EXPENDITURE OF PROPERTY OWNERS IN BOTH  
11 THE OJAI BASIN AND THE UPPER OJAI BASIN.

12 RIGHT, MR. JUNGREIS?

13 MR. JUNGREIS: I WOULD AGREE WITH THAT, YOUR  
14 HONOR. YES, IT POTENTIALLY COULD HAVE AN IMPACT.

15 BUT THERE ARE A NUMBER OF ISSUES WITH PHYSICAL  
16 SOLUTION THAT ARE PROBABLY BEYOND THE SCOPE OF DISCUSSION  
17 TODAY. BUT THERE ARE A NUMBER OF CONCERNS THAT CASITAS  
18 HAS, AND THOSE WILL NEED TO BE ADDRESSED.

19 THE COURT: BUT IF YOUR CLIENT HAS GOTTEN TO A  
20 POINT WHERE THEY'RE READY TO TAKE THIS LITIGATION POSITION  
21 ON WHAT IS PROBABLY ONE OF THE MOST IMPORTANT, IF NOT THE  
22 MOST IMPORTANT ISSUES IN THE CASE AS A WHOLE, IS THIS A  
23 GOOD TIME TO URGE YOU TO GO BEHIND THE CURTAIN AND GO  
24 BEHIND THE BARN AND SEE IF -- WHETHER THE SETTLEMENT TALKS  
25 MIGHT MUTATE THE PHYSICAL SOLUTION IN SOME WAY THAT MAKES

1 IT MORE ACCEPTABLE TO MORE PARTIES SOONER?

2 MR. JUNGREIS: IT PROBABLY IS A GOOD IDEA, YOUR  
3 HONOR. AND I THINK THERE'S A -- WE HAVE A LOT -- IN THE  
4 NEXT TWO WEEKS WE HAVE A LOT TO DO, BUT I THINK THERE'S  
5 ALSO MUCH TO BE POTENTIALLY GAINED BY HAVING DISCUSSIONS  
6 ON THE PHYSICAL SOLUTION. I THINK THAT'S FAIR AND TRUE.

7 THE COURT: MR. HAGERTY AND PISANO, ANY THOUGHTS  
8 ON THE SAME TOPIC?

9 MR. HAGERTY: WE'VE ALWAYS BEEN READY TO TALK,  
10 YES.

11 THE COURT: REMIND ME, DID YOU GET MUTUAL PAY TO  
12 HELP YOU WITH THE STUFF?

13 MR. HAGERTY: WE DID AT THE BEGINNING, AND IT SET  
14 US ON THE COURSE THAT WE'RE ON.

15 THE COURT: AND THE MUTUAL WAS WHO?

16 MR. HAGERTY: IT WAS JUDGE KOMAR, YOUR HONOR.

17 THE COURT: JACK KOMAR?

18 MR. HAGERTY: YES, YOUR HONOR.

19 THE COURT: WELL, YOU MIGHT THINK OF REACHING OUT  
20 TO HIM. I DON'T INTEND TO DELAY THE TRIAL, BUT THE  
21 IMMINENCE OF THE TRIAL, PARTICULARLY IF VENTURA CITY FAILS  
22 TO ROPE EVERYBODY IN, YOU'VE GOT A DIFFERENT CASE.

23 MR. HAGERTY: WE'VE ALWAYS BEEN WILLING TO TALK.  
24 WE'VE CONCLUDED THAT THE PARTIES ARE NOT INTERESTED IN  
25 MATERIALLY TALKING UNTIL WE GET THROUGH PHASE 1. IF

1 PEOPLE'S POSITIONS CHANGE, WE'RE ALL EARS.

2 THE COURT: BUT PROBABLY THE WAY IT TURNS OUT IN  
3 PHASE 1 -- ONCE I APPLY THE BURDEN OF PROOF, WHATEVER IT  
4 IS, YOU GET A YES OR NO ANSWER. YOU MAY GET A DIFFERENT  
5 ANSWER FOR UPPER OJAI VERSUS OJAI BASIN VERSUS THE REST.

6 MR. HAGERTY: WE GET AN ANSWER --

7 THE COURT: BUT YOU GET YES OR NO ANSWERS. IN A  
8 COMPROMISE YOU MIGHT BE ABLE TO FIND SOMETHING THAT TO  
9 SPLIT THE BABY, THAT PEOPLE WOULD TOLERATE WHERE THE COST  
10 SHARING IS CONSIDERED THE ORIGINAL PRO RATA MODEL YOU  
11 HAVE, BUT SOMETHING ELSE THAT PEOPLE MIGHT GET THEN.

12 MR. HAGERTY: THAT'S ALWAYS BEEN AN OPTION. AND  
13 WE'VE INDICATED TO EVERYONE WHO HAS PARTICIPATED IN THE  
14 DISCUSSIONS IN THE PHYSICAL SOLUTIONS THAT WE'RE OPEN TO  
15 ALL OF THOSE THINGS. NO ONE HAS COME FORWARD WITH ANY  
16 MATERIAL IDEAS.

17 IF THEY DO, WE'RE ALL EARS. WE THINK THAT,  
18 REALISTICALLY, GETTING THROUGH PHASE 1 IS THE BEST COURSE  
19 TO MOVE TOWARDS SETTLEMENT.

20 THE COURT: BUT THEN YOU'LL HAVE FACTUAL FINDING  
21 REVIEWED BY IN TELECOURT AS FACTFINDING. AND WHOEVER  
22 LOSES AT THE TIME OF TRIAL IS IN A MUCH MORE SPARTAN  
23 CONDITION.

24 MR. HAGERTY: IT IS. BUT, YOU KNOW, YOUR HONOR,  
25 YOU KNOW, IN SOME WAYS THIS IS AN EXERCISE IN FIGURING OUT

1 WHAT'S BEST FOR THE WATERSHED. AND THE EVIDENCE IS THE  
2 EVIDENCE. WE'RE CONFIDENT IN OUR EVIDENCE; OTHER PARTIES  
3 ARE CONFIDENT IN THEIR EVIDENCE.

4 IT MAY BE THAT WE NEED A DETERMINATION, YOUR  
5 HONOR. AND SO THAT MAY DRIVE A BETTER PHYSICAL SOLUTION  
6 EVENTUALLY; BUT, AGAIN, WE'RE OPEN. OUR DOOR HAS ALWAYS  
7 BEEN OPEN. IF PEOPLE HAVE IDEAS THEY SHOULD LET US KNOW.  
8 WE'RE HAPPY TO TALK.

9 BUT WE'VE BEEN UNDER THE CONCLUSION FOR SOME  
10 TIME, GIVEN THE VEHEMENCE OF THE OPPOSITION THAT UNTIL WE  
11 GET THROUGH PHASE 1, MEANINGFUL DISCUSSION IS REALLY NOT  
12 HELPFUL.

13 THE COURT: IS YOUR TRIAL BRIEF GOING TO EDUCATE  
14 ME ON HOW MUCH INTERCONNECTEDNESS IS ENOUGH TO BE LEGALLY  
15 COGNIZABLE OR WHETHER IT'S LIKE THE ONE-STREAM THEORY  
16 NECESSITATES IT, AND THIS IS A ONE-DROP THEORY?

17 MR. HAGERTY: THE TRIAL BRIEF WILL ADDRESS THAT.  
18 AND I ANTICIPATE THAT THERE WILL BE MOTIONS IN LIMINE THAT  
19 WILL ADDRESS THAT AS WELL, YOUR HONOR.

20 THE COURT: ARE YOU WEDDED TO A ONE-DROP THEORY?

21 MR. HAGERTY: YOUR HONOR, IT'S A FACT-SPECIFIC  
22 QUESTION, AND THE COURT'S GOING TO HAVE TO MAKE THE  
23 DETERMINATION THERE. THERE REALLY -- I MEAN NO -- I'LL BE  
24 SURPRISED IF ANYONE POINTS TO A STANDARD.

25 THERE ARE LOTS OF GUIDANCE. WE'VE TALKED ABOUT

1 THOSE. THERE'S CERTAINLY REGULATIONS THAT WILL BE  
2 INSTRUCTIVE TO THE COURT. BUT THERE -- IT'S A  
3 FACT-SPECIFIC DETERMINATION, AND YOU'RE GOING TO HAVE TO  
4 HEAR THE EVIDENCE.

5 THE COURT: SO ALL THESE YEARS INTO THIS KIND OF  
6 LITIGATION, WHICH BASICALLY PROCEEDS UNDER COMMON LAW,  
7 WITH A STATUTORY LOSS OF PROCESS, BUT NOT A STATUTORY LOSS  
8 OF SUBSTANCE OF LAW.

9 IT'S MURKY, TO YOUR PERCEPTION, WHAT THE TEST OF  
10 MATERIALITY IS, IF THERE IS SUCH A TEST?

11 MR. HAGERTY: WELL, I WOULDN'T SAY IT'S MURKY.  
12 I'D SAY IT'S A FACT-SPECIFIC QUESTION THE COURT HAS TO  
13 DECIDE IN EVERY INSTANCE, WITH GUIDANCE FROM THE PREVIOUS  
14 DECISIONS AND REGULATIONS.

15 NOW, THAT'S WHAT THE STANDARD IS. AND WE'LL  
16 EXPLAIN THAT VERY CLEARLY TO YOU, YOUR HONOR. AND, YOU  
17 KNOW, WE'LL LAY THAT OUT, AND OTHER PARTIES WILL DO THEIR  
18 BEST AS WELL. BUT, YOU KNOW, THERE IS NOT -- THIS IS NOT  
19 A SITUATION WHERE WE POINT TO CASE "X" AND SAY WE NOT SURE  
20 OF THESE FIVE THINGS. I MEAN THAT'S JUST NOT THE CASE IN  
21 THESE WATER CASES.

22 THE COURT: MR. SLATER, ON THE QUESTION OF THE  
23 POSSIBILITY OF UTILITY OF SETTLEMENT NEGOTIATIONS, DO YOU  
24 HAVE ANY THOUGHTS?

25 MR. SLATER: YOUR HONOR, MY INSTINCTS ARE -- HAVE

1 BEEN SIMILAR TO YOUR LINE OF QUESTIONING, WHICH IS WHAT IS  
2 MOTIVATING THE OPPOSITION IS WHAT IS BEHIND THE CURTAIN IN  
3 TERMS OF THE COST SHARING ASSOCIATED WITH THE PROPOSED  
4 PHYSICAL SOLUTION.

5 THAT'S MY OPINION. AND WE HAVE TRIED SEVERAL  
6 TIMES TO SUGGEST REVISITING POINTS TO PUSH THE CHIPS A  
7 LITTLE BIT IN ANY WHICH DIRECTION, TO SEE IF THAT WOULD  
8 HELP. WE HAVEN'T DONE IT IN A WHILE, AND I THINK WE'RE  
9 GOING TO TAKE YOUR INVITATION AND MAYBE TRY TO REACH OUT  
10 TO SOME PARTIES WHO WE THOUGHT WE WERE CLOSER TO A LITTLE  
11 BIT EARLIER ON. BUT BEYOND THAT, NO, YOUR HONOR.

12 THE COURT: OKAY. THANK YOU.

13 MR. PATTERSON, I SEE YOU'VE GOT YOUR HAND RAISED.

14 MR. PATTERSON: WELL, YOUR HONOR, I THINK YOU'VE  
15 ACTUALLY ADDRESSED THE ISSUE THAT I WANTED TO BRING TO THE  
16 COURT'S ATTENTION TODAY.

17 AND THAT IS THAT THERE'S PRETTY MUCH OF -- I'M  
18 GOING TO USE THE WORD "MATERIAL," IN QUOTES, DISCONNECT  
19 BETWEEN WHAT THE CITY OF VENTURA'S BURDEN OF PROOF IS  
20 COMPARED TO WHAT WE THINK IT IS.

21 AND THAT'S CREATED, I THINK, AN ISSUE THAT'S  
22 PREVENTED US FROM HAVING SOME SETTLEMENT DIALOGUE. FROM  
23 THE EAST OJAI GROUP'S PERSPECTIVE, THEY'RE LOOKING AT A  
24 PHYSICAL SOLUTION THAT HAS NO BOUNDARIES WITH RESPECT TO  
25 COST, WITH RESPECT TO WHAT THE NEW AGENCY WILL BE, WITH

1 RESPECT TO WHO WILL BE INVOLVED.

2 AND SO THEY'RE KIND OF STUCK. THEY'RE INTERESTED  
3 IN TRYING TO RESOLVE THIS. I AGREE WITH MR. HAGERTY THAT  
4 WHAT WE'RE ALL TRYING TO DO IS FIND A PRACTICAL SOLUTION  
5 TO THE WATER USES WITHIN THIS WATERSHED THAT ADDRESSES  
6 EVERYBODY'S CONCERNS, INCLUDING MY CLIENTS.

7 AND THIS IS NOT THE MOST, FROM MY PERSPECTIVE,  
8 NOT THE MOST EFFICIENT WAY TO DO IT, BUT IT'S WHERE WE'RE  
9 AT. SO WE'RE WILLING TO CHAT; BUT, YOU KNOW, FROM MY  
10 PERSPECTIVE, THE MESSAGE HAS BEEN "HERE'S THE PHYSICAL  
11 SOLUTION, AND, YOU KNOW, GOOD LUCK."

12 AND SO WE'RE HAVING A DIFFICULT TIME TRYING TO  
13 FIND SOME CONNECTION THERE. I DO THINK THAT THE BURDEN OF  
14 PROOF WITH RESPECT TO INTERCONNECTIVITY IS THE KEY ISSUE  
15 THAT NEEDS TO BE DEFINED IN THIS CASE.

16 AND YOU'RE GOING TO PROBABLY SEE VERY DIFFERENT  
17 CONCEPTS OF WHAT INTERCONNECTIVITY MEANS WITH RESPECT TO  
18 THE CASE AND WITH RESPECT TO THE STATEMENTS, YOU KNOW, AND  
19 THE AUTHORITY THAT WAS PROVIDED IN THE COURT OF APPEAL  
20 CASE HANDLED SANTA BARBARA CHANNELKEEPER V CITY THEN WIN A  
21 VENTURA CASE. PRETTY SPECIFIC ABOUT WHAT THE CITY HAS TO  
22 SHOW IN ORDER TO ASSERT AND PROVE UP A CLAIM AGAINST  
23 ANOTHER COURT FEASOR.

24 AND I THINK THAT CURRENTLY THE CASE HAS GONE FAR  
25 BEYOND THAT. BUT THAT'S JUST MY TWO CENTS ABOUT IT RIGHT



1 NOW. I'M SURE YOU'RE GOING TO SEE A LOT OF MOTIONS IN  
2 LIMINE, AND THE TRIAL BRIEFS TO TRY AND INFORM YOU OF EACH  
3 CLIENT'S PERSPECTIVE.

4 THE COURT: ANYTHING ELSE YOU WANT TO TAKE UP  
5 ABOUT TRIAL READINESS, MECHANICS OF TRIAL, OR ANYTHING  
6 ELSE, MR. PATTERSON?

7 MR. PATTERSON: NO. WE'LL PROBABLY GET SOMEBODY  
8 IN THERE TO TAKE A LOOK, YOU KNOW, AT -- WE'RE LIMITED  
9 RESOURCES IN THE CITY, BUT WE'LL DO OUR BEST TO MAKE SURE  
10 THAT WE'RE ON THE SAME PAGE WITH EVERYBODY WITH RESPECT TO  
11 THE TECHNICAL PRESENTATION AND THE PRESENTATION OF  
12 EXHIBITS AND WITNESSES.

13 THE COURT: MR. GREGG GARRISON?

14 MR. GARRISON: YES, YOUR HONOR. IN TERMS OF  
15 SETTLEMENT, I THINK THAT THE REAL ROADBLOCK THAT WE HAD IS  
16 THE COMPETING WATER MODELS. EVERYBODY HAS PROFFERED A  
17 DIFFERENT WATER MODEL WITH A DIFFERENT RESULT.

18 WHAT WE NEED IS ONE CONSENSUS WATER MODEL. AND I  
19 THINK WHAT WE DO HAVE IS A GOOD STEP FOR A WATER MODEL  
20 THAT THE PARTIES COULD BUILD WITH THE HELP OF A  
21 COURT-APPOINTED SPECIALIST, THAT HAS THE NEUTRAL, TO GET  
22 TO A WATER MODEL THAT FITS THE CONNECTIVITY ISSUE. AND  
23 THAT'S WHERE I THINK WE COULD DO A LOT OF GOOD.

24 THE COURT: WELL, TOWARDS THE END OF THE PHASE 1  
25 TRIAL, WHEN YOU THINK I KNOW BETTER ABOUT HAVING AN

1 UNDERSTANDING OF GOOD AND BAD WATER MODELS, YOU SHOULD  
2 PROBABLY TAKE UP THE POINT AGAIN, MR. GARRISON.

3 MR. GARRISON: OKAY, YOUR HONOR.

4 THE COURT: I HAVE NOT IN MY LIFETIME SO FAR EVER  
5 SEEN OR STUDIED A WATER MODEL, TO THE BEST OF MY  
6 KNOWLEDGE; AND AM NOW JUST GETTING CLOSE TO IT IN THE  
7 COURSE OF THIS CASE. SO I'VE GOT SOME LEARNING TO DO.

8 MR. GARRISON: YES, SIR.

9 THE COURT: OKAY. MR. QUIRK, ANYTHING ELSE YOU  
10 WANT TO TAKE UP TODAY FOR OUR TRIAL READINESS CONFERENCE?

11 MR. QUIRK: ONLY TO LET YOU KNOW THAT I'M  
12 STARTING ANOTHER TRIAL -- A DIFFERENT TRIAL ON MARCH 9TH.  
13 SO I WILL BE UNAVAILABLE FOR THE BEGINNING PORTIONS OF  
14 THIS TRIAL, I THINK. I'M GOING TO DO MY BEST, BUT I CAN'T  
15 BE IN TWO PLACES AT ONE TIME. I JUST WANTED TO GIVE YOU A  
16 HEADS UP, SO --

17 THE COURT: I WON'T TAKE ANY OFFENSE. COME WHEN  
18 YOU CAN AND TAKE CARE OF YOUR REGULAR DAY JOB WHEN YOU  
19 HAVE TO.

20 OTHER PEOPLE WANT TO BE HEARD THIS AFTERNOON?

21 MR. MELNICK: YOUR HONOR, THIS IS MARC MELNICK.

22 THE COURT: SURE.

23 MR. MELNICK: I JUST ASK FOR THE SAME FLEXIBILITY  
24 THAT YOU GAVE AS TO RECENT DEPOSITIONS AND MOTIONS IN  
25 LIMINE --

1 THE COURT: I SAID EVERYBODY'S GOT THAT RIGHT.  
2 YOU ALL HAVE FLEXIBILITY.

3 MR. MELNICK: THANK YOU, YOUR HONOR.

4 THE COURT: ANYTHING ELSE, MR. MELNICK?

5 MR. MELNICK: NO. THANK YOU, YOUR HONOR. I  
6 REALLY APPRECIATE YOUR TIME.

7 THE COURT: NO PROBLEM.

8 ANYONE ELSE WISH TO BE HEARD THIS AFTERNOON?

9 OKAY. SO, AGAIN, THERE'S NO EX PARTE THIS COMING  
10 MONDAY. I WILL SEE YOU ON THE 11TH AT 9:00 A.M. IF  
11 YOU'VE GOT PROBLEMS IN THE MEANTIME, THERE'S A BULLETIN  
12 BOARD BASED ANYWHERE.

13 STAY SAFE. IF THE MASK POLICY OF THE SUPERIOR  
14 COURT CHANGES, I'LL LET YOU KNOW. BUT AT THE MOMENT, IT'S  
15 MANDATORY, REGARDLESS OF YOUR VACCINATION STATUS.

16 ALL COUNSEL: THANK YOU, YOUR HONOR.

17 THE COURT: OKAY. SEE YOU ALL.

18 (TRIAL READINESS CONFERENCE PROCEEDING CONCLUDED AT  
19 2:53 P.M.)

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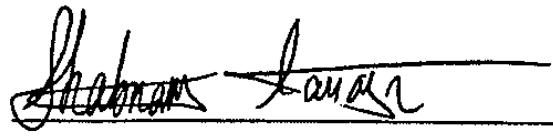
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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
DEPARTMENT SSC 10 HON. WILLIAM F. HIGHBERGER, JUDGE

_____	)	CASE NO.:
SANTA BARBARA CHANNELKEEPER, A	)	19STCP01176
CALIFORNIA NON-PROFIT CORPORATION,	)	
	)	
PETITIONER,	)	
	)	
V.	)	
	)	
STATE WATER RESOURCES CONTROL	)	
BOARD, A CALIFORNIA STATE AGENCY,	)	
ET AL.,	)	
	)	
RESPONDENTS.	)	
_____	)	

I, SHABNAM LAVIAN, OFFICIAL REPORTER PRO TEMPORE OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT I DID CORRECTLY REPORT THE PROCEEDINGS CONTAINED HEREIN AND THAT THE FOREGOING PAGES 1 THROUGH 52 COMPRISE A FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS AND TESTIMONY TAKEN IN THE MATTER OF THE ABOVE-ENTITLED CAUSE ON FEBRUARY 25, 2022.

EXECUTED THIS DAY, MARCH 4, 2022, AT LOS ANGELES, CALIFORNIA.



SHABNAM LAVIAN, CSR # 14191

TRANSCRIPT OF PROCEEDINGS

February 28, 2022

-	52:10	<b>1:45</b>	2:10	
	<b>12986</b>	1:9	<b>2600</b>	<b>4</b>
<b>-000-</b>	5:17		4:21	
52:20	<b>12:30</b>	<b>2</b>	<b>26TH</b>	<b>4</b>
	7:25		5:22	6:16 53:21
<b>1</b>	<b>14</b>	<b>2</b>	<b>28</b>	<b>400</b>
	11:11 38:13	6:20 3:5,13	1:19	38:4
<b>1</b>	<b>14191</b>	19:10 31:12	<b>2815</b>	<b>40S</b>
15:4 29:20	1:24,8 53:25	<b>200</b>	7:5	5:4
30:14,15	<b>14TH</b>	3:20	<b>2:53</b>	<b>458</b>
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32:9 39:5	<b>15</b>	3:17	<b>2ND</b>	<b>4:40</b>
44:25 45:3,18	1:5 8:8 38:9,	<b>2021</b>	26:14,25 27:3	8:1
46:11 50:24	10,11	1:5	33:24	<b>4TH</b>
53:17	<b>15-MINUTE</b>	<b>2022</b>		11:22 24:12
<b>1,004</b>	7:25 9:4	1:19 53:20,21	<b>3</b>	26:15,16 27:8
37:14	<b>1515</b>	<b>2049</b>		33:3
<b>1,005</b>	3:6	6:5,16	<b>300</b>	<b>5</b>
37:14 38:14	<b>15TH</b>	<b>209.472.7700</b>	6:11	
<b>10</b>	2:6 24:6	4:17	<b>31</b>	<b>510.879.0750</b>
1:3 7:1 9:11,	<b>16</b>	<b>20TH</b>	9:13	3:8
12 38:8 53:3	11:9	29:17	<b>310-500-4609</b>	<b>52</b>
<b>1011</b>	<b>17</b>	<b>213.269.6343</b>	6:17	53:17
2:15	37:14	6:12	<b>312</b>	<b>5757</b>
<b>1021</b>	<b>1702</b>	<b>213.617.8100</b>	37:14	4:16
6:20	6:11	2:11	<b>320</b>	<b>6</b>
<b>106</b>	<b>18</b>	<b>222</b>	7:5	
37:14	7:16,22 8:3,	4:16	<b>320'S</b>	<b>60</b>
<b>10:00</b>	17 11:21	<b>22ND</b>	5:1	5:2
7:16 11:25	<b>18575</b>	2:15	<b>323.481.9392</b>	<b>600</b>
<b>11</b>	4:4	<b>23RD</b>	5:12	38:6
7:7 9:16 10:7	<b>1940</b>	34:3	<b>3550</b>	<b>619.525.1300</b>
<b>111</b>	5:11	<b>24TH</b>	6:5,16	2:7
7:10,14	<b>19STCP01176</b>	3:15	<b>3RD</b>	<b>650.726.1111</b>
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4:10	<b>1:30</b>	53:19		<b>68606</b>
<b>11TH</b>	7:7	<b>25TH</b>		1:25
10:5 32:3				

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