

In the Matter Of:

SANTA BARBARA CHANNELKEEPER vs STATE WATER RESOURCES, et al.,

CONFERENCE HEARING

August 12, 2019

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES

3
4 DEPARTMENT 10 HON. WILLIAM F. HIGHBERGER, JUDGE

5 SANTA BARBARA CHANNELKEEPER,)
6)
7) PETITIONER,)
8) VS.) CASE NO.
9) 19STCP01176)
10) STATE WATER RESOURCES CONTROL)
11) BOARD, ET AL.,)
12)
13) RESPONDENTS.)
14)
15)
16)
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

AUGUST 12, 2019

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23 BOARD:

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25 DEPARTMENT OF JUSTICE
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1 CASE NUMBER: 19STCP01176
2 CASE NAME: SANTA BARBARA CHANNELKEEPER
3 VS. STATE WATER RESOURCES
4 CONTROL BOARD
5 LOS ANGELES, CALIFORNIA MONDAY, AUGUST 12, 2019
6 DEPARTMENT: 10 HON. WILLIAM F. HIGHBERGER
7 APPEARANCES: (AS HERETOFORE NOTED.)
8 REPORTER: AURORA BOWSER, CSR NO. 12801
9 TIME: 10:00 A.M.

10

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13

THE COURT: ON THE RECORD. 19STCP01176, SANTA
14 BARBARA CHANNELKEEPER VERSUS STATE WATER RESOURCES
15 CONTROL BOARD.

16

LET'S START WITH APPEARANCES OF COUNSEL.

17

COUNSEL TABLE FOR THE PLAINTIFF.

18

MR. COOPER: DANIEL COOPER FOR PETITIONER

19

SANTA BARBARA CHANNELKEEPER.

20

MR. SWANHUYSER: JESSE SWANHUYSER FOR SANTA

21

BARBARA CHANNELKEEPER.

22

THE COURT: AND THE DEFENDANTS.

23

MR. TANAKA: GOOD MORNING, YOUR HONOR. GENE

24

TANAKA FOR THE CITY OF BUENAVENTURA.

25

MR. HAGERTY: AND SHAWN HAGERTY FOR THE CITY

26

OF SAN BUENAVENTURA.

27

THE COURT: IS SOMEBODY FROM THE STATE

28

ATTORNEY GENERAL'S OFFICE?

1 MR. MELNICK: YES, YOUR HONOR.

2 THE COURT: WHY DON'T YOU SIT AT COUNSEL
3 TABLE.

4 MR. MELNICK: YOUR HONOR, MARK MELNICK FROM
5 THE ATTORNEY GENERAL'S OFFICE ON BEHALF OF THE STATE
6 WATER RESOURCES CONTROL BOARD.

7 THE COURT: ANYONE ELSE FROM THE AG'S OFFICE?

8 MR. MELNICK: I'M HERE BY MYSELF.

9 THE COURT: SO LET'S TURN TO OTHER PEOPLE IN
10 THE COURTROOM, ALL OF WHOM ARE IN THE GALLERY.

11 MR. PATTERSON: GOOD MORNING, YOUR HONOR.
12 GREG PATTERSON ON BEHALF OF CROSS-DEFENDANTS, FRIEND'S
13 RANCH, TOPA TOPA RANCH, DAVIS RANCH, FINCH RANCH AND
14 THATCHER SCHOOL.

15 THE COURT: PATTERSON IS YOUR SIR NAME?

16 MR. PATTERSON: YES.

17 THE COURT: DID YOU CHECK IN?

18 MR. PATTERSON: YES.

19 THE COURT: THAT'S OUR REPORTER. YOU NEED TO
20 CHECK IN WITH THE COURT. NEXT?

21 MR. KWONG: GOOD MORNING, YOUR HONOR. ROBERT
22 KWONG FOR THE CASITAS MUNICIPAL WATER DISTRICT,
23 CROSS-DEFENDANT.

24 MR. METCALF: GOOD MORNING, YOUR HONOR.
25 NATHAN METCALF FOR THE CROSS-DEFENDANT VENTURA COUNTY
26 WATER PROTECTION DISTRICT.

27 MR. KATZ: YOUR HONOR, I'M JUST OBSERVING.
28 I'M NOT MAKING AN APPEARANCE.

1 THE COURT: AS YOU WISH.

2 MS. ZOLEZZI: GOOD MORNING, YOUR HONOR.

3 JEANNE ZOLEZZI REPRESENTING CROSS-DEFENDANTS VENTURA
4 RIVER WATER DISTRICT AND MEINERS OAKS WATER DISTRICT.

5 MR. NEWMAN: GOOD MORNING, YOUR HONOR.

6 CLYNTON NAMUO REPRESENTING CROSS-DEFENDANTS BENTLEY
7 FAMILY LIMITED PARTNERSHIP AND AGR BREEDING
8 INCORPORATED.

9 MR. FRANCOIS: GOOD MORNING, YOUR HONOR. TONY
10 FRANCOIS REPRESENTING CROSS-DEFENDANT DR. ROBIN
11 BERNHOFT.

12 MS. SHAM: GOOD MORNING, YOUR HONOR. ELSA
13 SHAM REPRESENTING CROSS-DEFENDANT ST. JOSEPH'S
14 ASSOCIATES OF OJAI.

15 MR. HERREMA: GOOD MORNING, YOUR HONOR. BRAD
16 HERREMA REPRESENTING CROSS-DEFENDANT WOOD CLAEYSSSENS
17 FOUNDATION.

18 MR. MAGUIRE: GOOD MORNING, YOUR HONOR. NEAL
19 MAGUIRE ON BEHALF OF THE RANCHO MATILIJA MUTUAL WATER
20 COMPANY.

21 THE COURT: OKAY. GLAD TO HAVE YOU HERE. I'M
22 GOING TO TALK AT YOU FOR A FEW MINUTES. AND THEN HEAR
23 FROM YOU STARTING WITH PLAINTIFFS, CITY OF
24 BUENAVENTURA, COMMONLY KNOWN AS CITY OF VENTURA AND
25 STATE HERE FROM THE CROSS-DEFENDANTS.

26 I'M SORRY FOR THE DELAY IN YOU GETTING ON
27 CALENDAR. YOU STIPULATED IN YOUR TRANSFER OUT OF SAN
28 FRANCISCO MONTHS AGO. THE CROSS-DEFENDANTS HAVE TO

1 SOME EXTENT COVERTLY GOTTEN A PORTION OF THE
2 CONTINUANCE THEY ASKED FOR BY WHAT IT APPEARS TO BE
3 CLERICAL DELAY GETTING ON CALENDAR.

4 I DON'T HAVE ANY SENTIMENTS YET AS TO WHETHER
5 THE UNRESOLVED MOTION FOR STAY IS OR IS NOT
6 WELL-ADVISED, BUT I DO INTEND TO PROVIDE AMPLE JUDICIAL
7 TIME AND ATTENTION ON THIS CASE NOW THAT YOU ARE HERE
8 AND ON MY DOCKET.

9 AS A LAWYER AT GIBSON, DUNN AND CRUTCHER, I
10 DID LABOR AND EMPLOYMENT DEFENSE WORK. IT DID NOT
11 CAUSE ME TO LEARN ABOUT WATER LAW. AS A JUDGE, I HAVE
12 NEVER HAD A WATER CASE. SO I AM DOING MY PART TO
13 LEARN.

14 I READ THE APPELLATE DECISION IN THIS CASE.
15 AND I'M AWARE OF THE PROVISIONS AT CCP SECTION 830 AND
16 FOLLOWING. AND I HAVE REVIEWED THE UNRESOLVED MOTION
17 FOR STAY AND TAKEN THE TIPPIE-TOE INTO LOOKING AT THE
18 KUEBLER, K-U-E-B-L-E-R, DECLARATION, AND SOME BUT NOT
19 ALL OF THE EXHIBITS THERETO.

20 AS A MATTER OF POLITICAL HISTORY, THE SUBJECT
21 OF WATER ON THE WESTERN UNITED STATES HAS FASCINATED
22 ME. I'M AWARE OF MAXIMA WHISKEY IS FOR DRINKING AND
23 WATER IS FOR FIGHTING. AND I'M AWARE OF THE IMPORTANCE
24 OF WATER AND THE CONTESTING USES OF IT.

25 I OWN A MOTORCYCLE AND THEREFORE HAD OCCASION
26 TO DRIVE STATE HIGHWAY 33 FROM DOWNTOWN VENTURA UP INTO
27 THE MOUNTAINS AND OVER TO MARICOPA AND VICINITY. SO
28 THAT GIVES ME SOME PASSING FAMILIARITY WITH WATERSHED

1 INTO THE VENTURA RIVER. ALTHOUGH THE HIGHWAY AT SOME
2 POINT SEEMS TO PEEL AWAY FROM THE HEAD WATERS.

3 BUT I AM AWARE OF THAT STRETCH WHERE THAT
4 FREEWAY FUNCTION ENDS GOING NORTH FROM VENTURA, WHICH
5 SEEMS TO BE THE LOWER END OF THE WET REACH, THE WATERS
6 KNOWN TO PORTIONS OF REACH 4, TO WHERE -- AFTER CASITAS
7 SPRINGS, THE WET REACH TURN TO THE DRYER REACH IN
8 ORDINARY SUMMER CONDITIONS.

9 AND EVENTUALLY WHEN YOU GET TO THE CITY OF
10 OJAI AND IT'S VARIOUS COMMERCIAL ESTABLISHMENTS. I
11 GUESS AS WATER BACK IN THE STREAM, BUT YOU THEN HAVE A
12 COMBINATION OF THE SAN ANTONIO CREEK, PLUS FURTHER
13 HEADWATERS OF THE VENTURA RIVER, GOING UP TO THE
14 SENTIMENT LATENT MATILIJA DAM AND RESERVOIR.

15 AT WHICH POINT, THE HIGHWAY PEELS OFF AWAY
16 FROM THE HEADWATERS UNTIL IT GETS TO THE RIDGE,
17 HEADWATERS OF THE COYAMA RIVER GOING INTO THE OTHER
18 DIRECTION OF THE PACIFIC.

19 THERE APPEARS TO BE SOME DISPUTE ABOUT EXACTLY
20 HOW TO DEFINE THE REACHES, WHICH IS WHY I BROUGHT UP MY
21 AUTO CLUB MAP, WHICH IS ACTUALLY PRETTY GOOD AT SHOWING
22 ALL THE STREAMS, IF PEOPLE WANT TO MAKE REFERENCE TO
23 IT.

24 TO MY UNDERSTANDING, NOW THAT WE HAVE A
25 CROSS-COMPLAINT, WE ARE -- NOT BECAUSE OF THE ORIGINAL
26 COMPLAINT, BUT BECAUSE OF THE CROSS-COMPLAINT --
27 DEALING WITH THE PROVISIONS THAT REQUIRE APPLICATION OF
28 CCP SECTION 830, WHICH LEADS TO ONE PRACTICAL QUESTION:

1 DO I NEED TO BE APPOINTED BY THE CHIEF JUST TO
2 HEAR THIS CASE? I'M NOT AWARE OF THE APPOINTMENT
3 ORDER. I KNOW THIS CASE WAS PROPERLY TRANSFERRED FROM
4 SAN FRANCISCO, AND THEN TO THIS COURT, JUDGE
5 HIGHBERGER. BUT I DON'T THINK I'VE SEEN ANYTHING THAT
6 SHOWS CHIEF JUSTICE HAS BLESSED THE CURRENT ASSIGNMENT,
7 WHICH SEEMS TO BE ONE OF THE ASSIGNMENT OF THE
8 STREAMLINE GROUNDWATER PROCEDURAL ACT, WHICH I'M NOT
9 QUITE CORRECTLY DESCRIBING. MR. TANAKA?

10 MR. TANAKA: YES, YOUR HONOR. WOULD YOU LIKE
11 ME TO SPEAK FROM THE LECTERN OR STAND?

12 THE COURT: IT'S YOUR PLEASURE. IT NEVER
13 HURTS TO BE FORMAL, ESPECIALLY WHEN YOU GET THE
14 PLEASURE OF A FORMAL FEDERAL COURTROOM. BUT IF YOU
15 HAVE YOUR NOTES THERE AT COUNSEL TABLE AND PREFER TO
16 STAY THERE, I WON'T CHASTISE YOU FOR THAT.

17 MR. TANAKA: SO, YOUR HONOR, THE CCP PROVISION
18 THAT APPLIES TO THE ISSUE IS 838 SUB A-1. AND THAT
19 PROVISION CONTEMPLATES THAT THE CASE MIGHT BE, AND MOST
20 LIKELY WILL BE BROUGHT IN THE COUNTY IN WHICH THE
21 WATERSHED OR BASIN IS SITUATED.

22 THE COURT: IT WASN'T. IT WAS FILED IN SAN
23 FRANCISCO. AND FOUND ITS WAY TO L.A.

24 MR. TANAKA: EXACTLY, YOUR HONOR. AND THE
25 SECOND SENTENCE OF A-1 HAS TO BE READ IN CONJUNCTION
26 WITH THE FIRST. THE FIRST BEING, "THEY SHALL BE
27 DISQUALIFIED IF THEY ARE A JUDGE IN THE COUNTY
28 OVERLYING THE BASIN." THE SECOND SAYS, "THE CHAIR

1 PERSON OF THE JUDICIAL COUNSEL SHALL ASSIGN A JUDGE."

2 SINCE NEITHER OF THOSE SITUATIONS APPLIED
3 EITHER IN SAN FRANCISCO OR HERE IN LOS ANGELES, OUR
4 READING IS THAT THE COURT NEED NOT DEAL WITH THE
5 CONFLICT AND THEREFORE NEED NOT ASSIGN A JUDGE.

6 THE COURT: DO PLAINTIFFS CONCUR IN THAT
7 CONCLUSION? MR. COOPER?

8 MR. COOPER: YES.

9 THE COURT: ANYBODY IN THE COURTROOM OBJECT?

10 MR. MELNICK: YOUR HONOR, MARK MELNICK FROM
11 THE ATTORNEY GENERAL'S OFFICE.

12 WE DON'T OBJECT TO THE CASE BEING BEFORE YOUR
13 HONOR. BUT WE READ THE STATUTE THE WAY YOU DID, I
14 BELIEVE, YOUR HONOR, WHICH IS THAT THE JUDICIAL COUNSEL
15 NEEDS TO APPOINT THAT. WE HAD SENT A LETTER TO THE
16 PRESIDING JUDGE RAISING THIS ISSUE.

17 THE COURT: L.A. SUPERIOR COURT?

18 MR. MELNICK: YES.

19 THE COURT: BUT NOTHING HAPPENED, RIGHT?

20 MR. MELNICK: NOTHING HAPPENED.

21 THE COURT: SO WHY DON'T YOU MAKE AN
22 APPLICATION ON PLEADING PAPER TO THE JUDICIAL COUNSEL
23 AS IF IT WAS A COORDINATING PROCEDURE. IT'S NOT. BUT
24 MIMIC THE FORMAT OF WHAT A COORDINATION PETITION WOULD
25 LOOK LIKE, AND ASK THE CHIEF JUST TO EXERCISE YOUR
26 POWERS UNDER THIS CODE SECTION TO APPROVE THE
27 ASSIGNMENT OF THIS CASE TO HIGHBERGER. ONE MOMENT.

28 (PAUSE IN THE PROCEEDINGS.)

1 THE COURT: BACK ON THE RECORD. THAT
2 INTERRUPTION WAS SPECIFIC TO THIS CASE. AND IT WAS
3 JUDGE KELLEGREW OF THE VENTURA SUPERIOR COURT CALLING
4 BACK. BECAUSE I KNOW THAT WHEN JACK KOMAR FROM SANTA
5 CLARA HEARD AN L.A. WATER DISPUTE FROM THE ANTELOPE
6 VALLEY, HE OBLIGED COUNSEL AND LITIGANTS BY BRINGING
7 HIMSELF DOWN FROM SAN JOSE TO HEAR THE DISPUTE IN THE
8 MOSK COURTHOUSE.

9 AND JUDGE KELLEGREW TENTATIVELY TRIED TO MAKE
10 A LARGE COURTROOM AVAILABLE IN THE SIMI VALLEY
11 COURTHOUSE, IF YOU WANT TO HOLD COURT FOR FUTURE
12 HEARINGS SO THAT WE CAN BE CLOSER TO THE LITIGANTS ALL
13 OF WHOM HAVE SOME CONNECTION TO VENTURA COUNTY MORE
14 THAN L.A. COUNTY. SO THANK YOU FOR YOUR PATIENCE.

15 MR. MELNICK: SURE. THANK YOU, YOUR HONOR.
16 WHEN THIS ISSUE WAS RAISED, WE ACTUALLY MADE SEVERAL
17 INQUIRIES TO THE JUDICIAL COUNSEL AND PRESENTED THAT
18 INFORMATION. AND THEY TOLD US THEY DON'T DEAL WITH
19 SITUATIONS LIKE THIS. THEY JUST DEAL WITH WHEN THERE'S
20 A DISQUALIFICATION.

21 THE COURT: AND THAT HAPPENS SOMETIMES.
22 PARTICULARLY IN THE TWO-JUDGE COUNTIES, YOU GET BOTH
23 JUDGES DISQUALIFIED, AND THEY'VE GOT TO APPOINT
24 SOMEBODY TO THE DOCKET.

25 IF THERE'S NO OBJECTION, WHAT I'LL DO IS REACH
26 OUT TO THE PERSON I UNDERSTAND IS A POSSIBLE POINT OF
27 CONTACT ON JUDICIAL COUNSEL STAFF. I'M THINKING OF THE
28 NAME SUSAN MCMULLEN, A LAWYER.

1 IF SHE'S NOT THE RIGHT PERSON, SHE PROBABLY
2 KNOWS WHO IS THE RIGHT PERSON, JUST CONFIRM EITHER THAT
3 IF THERE IS A PROCESS THEY ENGAGE IN IT; OR IF THEY
4 DECLINE TO EXERCISE THE PROCESS, WE MADE OUR LAST BEST
5 ATTEMPT TO COMPLY WITH THE CODE. DOES THAT MAKE SENSE?

6 MR. MELNICK: YES. THAT MAKES SENSE TO ME,
7 YOUR HONOR. AND IF YOU DO, AFTER MAKING THAT CONTACT,
8 WANT US TO FILE A PETITION THAT YOU SUGGESTED, WE'RE
9 HAPPY TO DO THAT.

10 THE COURT: DON'T DO ANYTHING UNTIL I SEE.
11 ANYBODY OBJECTING MY CONTACTING MS. MCMULLEN?

12 MR. COOPER: NO OBJECTION.

13 MR. MELNICK: NO, YOUR HONOR.

14 THE COURT: ANYBODY ELSE WISH TO BE HEARD OR
15 OBJECT? NONE HEARD. OKAY.

16 A COUPLE OTHER PRELIMINARY COMMENTS BEFORE I
17 INVITE YOU ALL TO TALK. THIS CASE IS DEFINITELY A
18 ONE-OFF, BUT IS DRAWING MY EXPERIENCE IN HANDLING OTHER
19 COMPLEX LITIGATION INVOLVING SCIENTIFIC QUESTIONS,
20 MOSTLY BIG PHARMA CASES.

21 THE POSSIBILITY OF HAVING WHAT IS CALLED A
22 SCIENCE DAY CAME TO MIND. I DID THAT TO GOOD EFFECT
23 AND INDEED CHAIRED IT WITH A FEDERAL JUDGE IN SAN
24 DIEGO, ANTHONY BATTAGLIA FOR MY CASE INVOLVING A
25 PRODUCT CALLED BYETTA AND ITS COMPETITOR PRODUCTS ON
26 HIS DOCKET WAS CALLED, INKERTON MEMETICS.

27 IN THAT CASE, IT WAS A DIABETES TYPE 2 DRUG
28 THAT WAS LABELED AS CAUSING PANCREATITIS; AND THERE WAS

1 A DISPUTE AS TO WHETHER IT CAUSES PANCREATIC CANCER.
2 AND WE HAD A USEFUL SHARED SCIENCE DAY IN HIS COURTROOM
3 TO HELP GIVE THE JUDGE CONTEXT.

4 COUNSEL NEEDS TO UNDERSTAND, ONE PROBLEM YOU
5 HAVE AS A JUDGE IS, IF YOU FOLLOW PROCEDURE THE WAY
6 WRITTEN FROM THE FIRST VOLUME TO THE LAST OR WEILAND
7 BROWN DO IT FROM THE FIRST CHAPTER TO THE LAST, YOU
8 THINK ABOUT THINGS LIKE SERVICE OF SUMMONS DISPUTES,
9 AND VENUE AND JURISDICTION DISPUTES, AND THEN DISCOVERY
10 DISPUTES, AND EVENTUALLY YOU GET TO SUMMARY JUDGMENT
11 AND SUMMARY ADJUDICATION THAT'S ON A VERY NARROW
12 FACTUAL ISSUE. BECAUSE IF IT'S GOING TO WORK AT ALL,
13 IT HAS TO BE KEPT VERY CLEAN AND NARROW.

14 BUT NONE OF THAT IS GIVING THE JUDGE A GOOD
15 ORIENTATION TO THE ENTIRETY OF THE MERITS OR THE
16 CONTEXT FACTUALLY. SOMETIMES YOU LEARN IT BY FITS AND
17 STARTS AND MANAGING DISCOVERY, BUT IT'S AN EFFICIENT
18 WAY GOING ABOUT IT.

19 I HAD A SCIENCE DAY IN A DIFFERENT DRUG CASE
20 INVOLVING A PRODUCT IMPLANTED IN WOMEN, CALLED
21 TRANSVAGINAL MESH. THE PICTURES WERE GORY, BUT THE
22 EDUCATION WAS VALUABLE.

23 THE MODEL, AS I PERCEIVE IT, IS THAT IT'S TO
24 BE A JOINT EFFORT BY OPPOSING PARTIES AND NOT ADVOCACY.
25 THERE'S SOME SUBTLE ADVOCACY OCCURRING WITH HORNS
26 PULLED IN, BUT IT'S SUBTLE ENOUGH IT'S NOT OBVIOUS.

27 I THINK IT'S GOOD WHEN IT'S DONE OUT OF THE
28 MOUTH OF LAWYERS, BECAUSE IT DOESN'T CREATE A RECORD

1 WHERE SOMEBODY'S EXPERT HAS NOW TESTIFIED UNDER OATH IN
2 A PRELIMINARY WAY AND CREATES SOME BASIS FOR LATER
3 IMPEACHMENT.

4 THE LAWYERS ARE NOT THEMSELVES UNDER OATH, NOR
5 SHOULD THEY BE; TYPICALLY IS OFF THE RECORD, ALTHOUGH
6 IN A PUBLIC COURT; IT SHOULD BE A SHARED EXERCISE HERE,
7 BUT THERE'S SO MANY PARTIES HERE, IT'S A LITTLE LESS
8 CLEAR HOW YOU FULLY SHARE IT. BUT CERTAINLY SOME
9 CROSS-DEFENDANT LAWYERS SHOULD BE INVOLVED.

10 THE BASIC THING WOULD BASICALLY BE TO EXPLAIN
11 A LITTLE MORE ABOUT THE GEOGRAPHIC AND GEOLOGICAL
12 CONSTRUCT OF THE VENTURA RIVERSHED -- THE VENTURA RIVER
13 WATERSHED; AND PERHAPS HOW GROUNDWATER AND SUBSURFACE
14 WATER CORRELATE; PERHAPS WHERE THE MAJOR EXPORTS AND
15 WATER ARE IN THIS WATERSHED; AND PERHAPS SOMETHING TO
16 DO WITH LIFE AND CIRCUMSTANCES OF -- ANTHROMOLIS, THE
17 FISH THAT COMES FROM THE OCEAN TO FRESH WATER.

18 MR. COOPER: ANADROMOUS. ANADROMOUS.

19 THE COURT: THAT KIND OF FISH. IT'S A TONGUE
20 TWISTER.

21 MR. COOPER: IT IS.

22 THE COURT: I THINK THAT WOULD HELP ME. FOR
23 MY PURPOSES, I'D DO THAT SOONER RATHER THAN LATER. CCP
24 SECTION 830 ET SEQ CONTEMPLATES THIS, BUT MY EXPERIENCE
25 WITH MASS TORT CASES INVOLVING MANY PARTIES SUGGESTS
26 THAT A WEBSITE, SOONER RATHER THAN LATER, WOULD BE
27 USEFUL.

28 NOW, I'M DELIGHTED THAT I'VE INHERITED THE

1 FILE AND SERVE EXPRESS REPOSITORY, AND I HAVE ACCESS TO
2 IT. IT SHOULD BE UPDATED TO GET THE L.A. SUPERIOR
3 DOCKET NUMBER ON IT. BUT I CAN GET INTO IT. EVEN THIS
4 MORNING, I WAS AT HOME ABLE TO READ THE KUEBLER
5 DECLARATION AND LOOK AT SOME OF THE EXHIBITS JUST BY
6 PULLING UP FILE AND SERVE EXPRESS.

7 WHAT I'M TAKING ABOUT IS A WEBSITE. BY WAY OF
8 EXAMPLE, IF YOU GO TO WWW.RISPERDALJCCP.COM, YOU'LL
9 FIND A WEBSITE THAT WAS PUT UP FOR THAT DOCKET. MODEST
10 IN SOME WAYS, JUDGE BATTAGLIA CREATED A WEBSITE ON THE
11 SOUTHERN DISTRICT U.S. DISTRICT COURT WEBSITE FOR HIS
12 INKERTON MEMETIC DOCKET, WHICH INCLUDED KEY DOCUMENTS.

13 AS I UNDERSTAND IT, ONCE THE NOTICE IN LIEU OF
14 SUMMONS AND COMPLAINT IS SERVED ON MANY OF THE
15 CROSS-DEFENDANTS, EVEN IF YOU DO SOME CLASS TREATMENT
16 OF THE FEE SIMPLE OWNERS, WE'RE GOING TO WIND UP WITH
17 HUNDREDS IF NOT THOUSANDS OF POTENTIAL INTERESTED
18 PARTIES IN THIS CASE ON THE CROSS-COMPLAINT.

19 SO I THINK GETTING SOME KIND OF LAWYER
20 SPONSORED -- THAT'S MY VISION AT LEAST. I DON'T
21 ENVISION THE COURT TRYING TO CREATE THIS. BUT IT WOULD
22 HAVE TO BE SOME KIND OF FAIR AND NEUTRAL THING, UNLESS
23 YOU FOLKS CAN COACH ME EVER SO GENTLY ON HOW TO MAKE IT
24 A COURT INSTITUTION.

25 BUT WHAT I'M POINTING YOU TO, RISPERDAL, WAS
26 MAINTAINED BY PLAINTIFF'S BAR WITHOUT OBJECTION BY THE
27 DEFENDANTS. HERE IT'S CONCEIVABLE THAT INSTEAD OF
28 LANDING ON SANTA BARBARA CHANNELKEEPER, IT MAY LAND ON

1 CITY OF VENTURA.

2 THE ONE THAT BATTAGLIA HAD I THINK WAS
3 MAINTAINED BY THE FEDERAL DISTRICT COURT. SO THERE ARE
4 EXAMPLES WHERE IT'S CONCEIVABLE THAT A WEBSITE OF THAT
5 TYPE SHOULD BE MAINTAINED BY THE COURT RATHER THAN THE
6 PARTIES.

7 AT SOME POINT, MAYBE AS EARLY AS TODAY, I
8 WOULD LIKE WHAT IN THE AEROSPACE TRADE -- I THINK IT'S
9 CALLED A GANTT CHART, WHERE YOU HAVE THE SIDE BARS, BIG
10 FOUNDATION, FORMS TO POUR CONCRETE, INSTALL REBAR, POUR
11 FOUNDATION, WATERPROOF FOUNDATION, INSTALL STEEL. ALL
12 THESE THINGS THAT FINALLY LEAD TO FINISHED PAINTING OF
13 THE PROJECT AND GETTING THE CERTIFICATES OF OCCUPANCY.
14 THAT'S A CONSTRUCTION EXAMPLE, NOT AEROSPACE, BUT IT'S
15 THE SAME THING.

16 BUT THERE ARE CERTAIN STUDIES, AS I UNDERSTAND
17 IT, AT LEAST IF THEY WERE FUNDED SUPPOSED TO BE UNDER
18 WAY, DOESN'T MEAN THEY NECESSARILY ARE GOING TO GET
19 COMPLETED TIMELY. BUT RELATIVE PARTICULARLY WITH A
20 STAY REQUEST LURKING IN THE BACKGROUND, IT WOULD HELP
21 ME MAYBE AS EARLY AS TODAY.

22 AND I'VE GOT SOME PLAIN OLD LARGE POSTER
23 BUTCHER PAPER WHERE WE SIT IT ON THE WALL AND MAKE THAT
24 GANTT CHART, SO I CAN UNDERSTAND WHAT'S SUPPOSED TO
25 LAND WHERE.

26 AND SOMETHINGS, LIKE CONSTRUCTION, YOU HOPE
27 THAT YOU GET YOUR HOLE DUG WITHOUT DISCOVERING A LARGE
28 ROCK BY THE END OF NEXT WEEK. THEN YOU DISCOVER, OH,

1 THERE'S A BOULDER. SO YOU DON'T ACCOMPLISH YOUR
2 TIMELINE AS YOU ORIGINALLY HOPED. THAT'S ONE REASON
3 WHY THE CHART, SO YOU CAN WATCH THE RIPPLE EFFECT OF
4 UNANTICIPATED BUT UNAVOIDABLE DELAYS.

5 AS I UNDERSTAND IT, THE PETITIONER'S WRIT
6 AGAINST THE STATE AGENCY IS A WRIT BASED ON A FAILURE
7 TO ACT.

8 MR. COOPER: YES.

9 THE COURT: SO THE ADMINISTRATIVE RECORD IS
10 THE EMPTY GLASS ESSENTIALLY, CORRECT?

11 MR. COOPER: WE DID SUBMIT AN ADMINISTRATIVE
12 RECORD TO DEMONSTRATE THAT THE REACH AT FOSTER PARK IS,
13 IN FACT, IMPAIRED; AND THAT THE STATE BOARD KNEW IT.

14 THE COURT: AND YOU HAVE SOME DEMONSTRATION
15 THAT THEY KNEW IT?

16 MR. COOPER: THAT THEY KNEW. AND THEN THE
17 FAILURE TO ACT IS, AS YOU SAY, A LACK OF ACTION.

18 THE COURT: BUT AS AN ADVOCATE, YOU FEEL YOU
19 HAVE SUCH ADMINISTRATIVE RECORD THAT AS THE
20 CIRCUMSTANCES WARRANT ALREADY BEFORE THE COURT?

21 MR. COOPER: YES.

22 THE COURT: AND YOU WOULD BE READY TO HAVE
23 THAT MATTER PUT ON FOR HEARING AT THE COURT'S EARLIEST
24 CONVENIENCE.

25 MR. COOPER: YES.

26 THE COURT: SO ONE OTHER THING BEFORE WE END
27 TODAY, I AM OPEN TO THE IDEA OF GETTING THE STATE'S
28 OPPOSITION TO THIS. TO SOME EXTENT IT'S A ONE-OFF. I

1 UNDERSTAND, PARTICULARLY IN REFERENCE TO MY GANTT CHART
2 AND STUDIES, THERE ARE A LOTS OF OTHER THINGS GOING ON
3 THAT MAY TAKE MONTHS. BUT IT DOESN'T SEEM LIKE ANY OF
4 THAT HAS TO PROCEED DEALING WITH THE MERITS OF THE
5 PETITION.

6 SO I'M OPEN TO THE IDEA OF GETTING THE
7 PETITION ON AS A, KIND OF, ONE-OFF COLLATERAL PIECE OF
8 BUSINESS. IT'S TRIVIAL IN A SENSE, BUT IT'S SEVERABLE
9 IN SOME SENSE. SO WE COULD DEAL WITH THAT.

10 MR. COOPER: YOUR HONOR, IF I MAY?

11 THE COURT: BRIEFLY.

12 MR. COOPER: OR WOULD YOU LIKE TO FINISH GOING
13 THROUGH YOUR LIST?

14 THE COURT: I'VE GOT A BUNCH OF THINGS THAT I
15 NEED TO TOUCH ON. SO I'LL HEAR FROM YOU BRIEFLY WHILE
16 THE SUBJECT IS AT HAND.

17 MR. COOPER: OKAY. WE WILL GET THERE; BUT THE
18 PARTIES HAVE BEEN ENGAGED IN SUBSTANTIVE SETTLEMENT
19 NEGOTIATIONS AROUND THIS.

20 THE COURT: INDEED. I MADE REFERENCE TO JACK
21 KOMAR. THE FIRST JUDGE I REACHED OUT TO AND SAID, "I
22 GOT A WATER CASE. I KNOW YOU DID A WATER CASE. TELL
23 ME WHAT I NEED TO KNOW. WHAT'S THE TREATISE."

24 THEN I LEARNED FROM KOMAR QUICKLY THAT HE IS
25 YOUR MEDIATOR. SO HE APPROPRIATELY DID NOT DO ANYTHING
26 FURTHER TO ENGAGE. IF I'M AUTHORIZED TO TALK TO HIM
27 MORE FREELY, I WOULD.

28 I ALSO LEARNED THAT JUDGE KERWIN OF SANTA

1 CLARA, A SUCCESSOR TO KOMAR, DOES HAVE SOME OTHER WATER
2 CASES. AND I GOT FROM KERWIN A POWER POINT THAT HE
3 USED. I CERTAINLY AM HAPPY TO STAND BACK AND DO
4 ANYTHING I CAN TO GENTLY BLOW ON THE SMALL EMBERS OF --
5 THIS IS PROBABLY A BAD ANALOGY -- BUT WHATEVER LITTLE
6 HOPEFUL FIRE IS THERE OF SETTLEMENT, AND LET YOU MAKE
7 IT BETTER AND BETTER UNTIL YOU EXHAUST ALL THE
8 LITIGATION AND GET RID OF THE LITIGATION.

9 MR. COOPER: YES. SO SPECIFICALLY IN THE
10 CONTEXT OF WHETHER OUR WRIT AGAINST THE STATE AND ALSO
11 DECLARATORY RELIEF AGAINST THE CITY SHOULD PROCEED ON A
12 FAST TRACK; WHILE THE RECORD IS COMPLETED, WE COULD
13 BRIEF IT NEXT WEEK. GIVEN THE PROGRESS WE'VE BEEN
14 MAKING, I THINK PERHAPS WE SHOULD PUT THAT ON HOLD FOR
15 A MINUTE.

16 THE COURT: IF YOU'RE IN NO RUSH, I'M IN NO
17 RUSH.

18 MR. COOPER: THAT WOULD BE MY THOUGHT.

19 THE COURT: I DON'T FEEL STATISTICALLY I HAVE
20 TO GET THIS CASE OFF MY DOCKET BY THE END OF THE YEAR.
21 SO IF YOU WANT TO SLOW ROLL YOUR OWN CASE AS THE
22 PETITIONER, YOU CAN SLOW ROLL YOUR CASE; UNLESS THE
23 RESPONDENT HAS SOME WELL TAKEN ARGUMENT WHY THEY
24 DESERVE JUSTICE QUICKER.

25 MR. COOPER: RIGHT. AS WE GO THROUGH THIS, I
26 THINK YOUR SUGGESTIONS ABOUT AN ORDERED SCHEDULE, AND
27 KEEPING US ALL ON TRACK, AND THE SCIENCE DAY, PERHAPS A
28 SERIES OF SCIENCE DAYS AS THE SCIENCE DEVELOPS AND THE

1 STUDIES YOU'VE MENTIONED COME OUT WOULD BE EXTREMELY
2 USEFUL TO KEEP US ALL MOVING.

3 BUT I'M NOT SURE THAT RESOLVING THE QUESTION
4 OF THE RESPONSIBILITY TO THE STATE AT THIS POINT WOULD
5 NECESSARILY HELP THAT GO. WOULD YOU AGREE.

6 MR. MELNICK: I AGREE.

7 THE COURT: OKAY. LESS URGENT THEN.

8 OKAY. SO YOU WANT TO HAGGLE ABOUT THE COMPLEX
9 FEE. IN MY VIEW, THE LEGISLATURE IN ITS INFINITE
10 WISDOM DECIDED THAT ONE OF THE WAYS IT WANTED TO FUND
11 THE COURT IN LIEU OF USING GENERAL FUND MONEY, IS TO
12 MAKE PEOPLE PAY FEES.

13 NOW, HAVING SAID THAT, THE CITY BUENAVENTURA
14 WHINES THAT IT PAID THE TRANSFER FEE TO SAN FRANCISCO
15 SUPERIOR COURT, CORRECT?

16 MR. TANAKA: WE DID, YOUR HONOR. WE'RE NOT
17 COMPLAINING --

18 THE COURT: ISN'T THE CITY AS A GOVERNMENT
19 EXEMPT FROM PAYING FILING FEES AND OTHER ASSOCIATED
20 NUISANCE FEES.

21 MR. TANAKA: WE ARE. BUT WE WANTED TO MAKE
22 SURE THIS GOT THROUGH. AND WE'RE NOT COMPLAINING ABOUT
23 THAT FEE.

24 THE COURT: THE AG KNOWS HOW TO DO IT. THEY
25 JUST PUT IT RIGHT ON TOP OF THEIR PAPERS. GOVERNMENT
26 AGENCY EXEMPT FROM FEES. THE CODE SECTION, I THINK
27 IT'S TATTOOED ON MR. MELNICK'S HAND PROBABLY.

28 MR. TANAKA: RIGHT. BUT WE WERE EAGER TO GET

1 THIS CASE ROLLING DOWN HERE.

2 THE COURT: IF YOU WANT A REFUND, APPLY TO SAN
3 FRANCISCO SUPERIOR.

4 MR. TANAKA: VERY WELL, YOUR HONOR. THANK
5 YOU.

6 THE COURT: SOME OTHER PEOPLE APPARENTLY PAID
7 FEES ALREADY WHO ARE GOVERNMENT AGENCIES. WHEN YOU HAD
8 YOUR LIST OF WHO PAID, I THOUGHT I SAW THINGS THAT SURE
9 LOOKED LIKE A GOVERNMENT TO ME.

10 MR. DENNINGTON: YOUR HONOR, DOUG DENNINGTON
11 ON COURT CALL FOR CASITAS MUNICIPAL WATER DISTRICT. WE
12 HAVE NOT PAID A FEE. WE CONFIRMED THAT WE DO NOT HAVE
13 TO. I BELIEVE THE OTHER TWO ARE MINORS OAKS MAY HAVE
14 PAID THE FEE --

15 THE COURT: TODAY'S REPORT INDICATES THAT
16 MINORS OAK WATER DISTRICT AND VENTURA RIVER WATER
17 DISTRICT DID PAY A FEE. I WENT ON THE INTERNET FAR
18 ENOUGH TO ESTABLISH THAT TO MY PERCEPTION AT LEAST AS A
19 MATTER OF JUDICIAL NOTICE SURE WALKS AND SQUATS LIKE
20 IT'S A GOVERNMENT.

21 DO I HAVE COUNSEL FROM THE VENTURA WATER
22 DISTRICT HERE?

23 MS. ZOLEZZI: YES, YOUR HONOR. THE DISTRICTS
24 DID PAY THE FEE.

25 THE COURT: THEY ARE THE GOVERNMENT, AREN'T
26 THEY?

27 MS. ZOLEZZI: YES, THEY ARE.

28 THE COURT: THEY ARE EXEMPT. SO YOU CAN APPLY

1 FOR A REFUND TO SAN FRANCISCO TO REFUND THE MONEY.

2 SO VENTURA RIVER AND MEINERS OAK SHOULD GET A
3 REFUND FROM SAN FRANCISCO. BUT HAVING SAID THAT, I'M
4 NOT GOING TO MIMIC JUDGE ANDERLE AND GIVE YOU A FREE
5 PASS.

6 I AM GOING TO PROVIDE THAT THE FIRST 18
7 DEFENDANTS THROUGH THE DOOR, SHOULD EACH PAY A THOUSAND
8 DOLLARS; BUT THE NEXT 18 THROUGH THE DOOR, AND WE KNOW
9 WHO THEY ARE ALREADY BECAUSE WE HAVE THE APPEARANCES,
10 SHOULD PAY \$500 A HEAD BACK TO THE FIRST 18 WHO DID PAY
11 SO AS TO PRORATE IT DOWN.

12 AND WHAT THAT WOULD MEAN RELATIVE TO THE
13 APPEARANCES ARE EXEMPTING THE GOVERNMENT ENTITIES. AND
14 AS A MUTUAL WATER COMPANY A GOVERNMENT, OR IT'S
15 PRIVATE?

16 MR. MAGUIRE: YOUR HONOR, MR. MAGUIRE --

17 MR. BLATZ: YOUR HONOR, RYAN BLATZ --

18 THE COURT: SPEAK UP, SIR, IN THE GALLERY.

19 MR. MAGUIRE: NEAL MAGUIRE FOR RANCHO
20 MATILIJA --

21 MR. BLATZ: YOUR HONOR, RYAN BLATZ ON COURT
22 CALL.

23 THE COURT: YOU'RE NOT IN THE GALLERY. YOU
24 SAID IT ONCE ALREADY, MR. BLATZ. I'M TRYING TO HEAR
25 FROM SOMEONE IN THE GALLERY. YOU'RE NOT IN THE
26 GALLERY, MR. BLATZ. PLEASE SPEAK UP IN THE GALLERY.

27 MR. MAGUIRE: WE ARE A PRIVATE ENTITY, YOUR
28 HONOR.

1 THE COURT: OKAY. SO WE HAVE MONEY IN HAND
2 FROM TOPA TOPA, FRIEND'S RANCH, THE THATCHER SCHOOL,
3 KROTONA INSTITUTE OF THEOSOPHY, RANCHO MATILIJA MUTUAL
4 WATER COMPANY, AND WOOD-CLAEYSSSENS FOUNDATION. MINDFUL
5 THAT TWO OTHER ENTITIES GET A REFUND. THAT'S SIX
6 PAYMENTS IN HAND. WE NEED ANOTHER 12.

7 SO BASED ON YOUR LIST OF APPEARANCES, IT LOOKS
8 LIKE THE NEXT APPEARANCES THROUGH THE DOOR ARE RANCHO
9 -- NO. THEY HAVE RANCHO MATILIJA PAID, BUT SENIOR
10 CANYON WATER DISTRICT, IS VENTURA COUNTY WATERSHED
11 PROTECTION DISTRICT THE GOVERNMENT?

12 MR. HAGERTY: YES, YOUR HONOR.

13 THE COURT: THAT THEN BASED ON THE APPEARANCES
14 VIA THE CASE MANAGEMENT STATEMENT FILED BACK IN JANUARY
15 TAKES US TO AGR BREEDING. TROY BECKER IS 9. BENTLEY
16 FAMILY LIMITED IS 10. ROBIN BERNHOFT IS 11. JANET
17 BOULTEN IS 12. MICHAEL BOULTEN IS 13. MICHAEL
18 CALDWELL 14. JOE CLARK IS 15. LINDA EPSTEIN IS 16.
19 ERNEST FORD IS 17. AND LAWRENCE HARTMANN IS 18.

20 SO THEY PAY IN FULL TO THE CLERK, THOSE WHO
21 HAVEN'T PAID ALREADY, NEED TO PAY IT TO L.A. SUPERIOR
22 COURT.

23 AND THEN THE FOLLOWING 18, SEQUENTIALLY ONE OF
24 THE FIRST PEOPLE \$500 TO OFFSET THAT AND SOMEDAY WHEN
25 THE CASE IS OVER, REMEMBER WHO PAID WHAT. THIS IS MY
26 IDEA OF A FAIR ALLOCATION.

27 SO OLE KONIG PAYS 500 TO TOPA TOPA. NORTH
28 FORK SPRINGS MUTUAL WATER PAYS 500 TO FRIEND'S RANCH.

1 SHLOMO RAZ PAYS 500 TO THE THATCHER SCHOOL. SYLVIA RAZ
2 PAYS 500 TO KROTONA INSTITUTE OF THEOSOPHY. WOOD RANCH
3 LLC PAYS 500 TO RANCHO MATILIJA MUTUAL WATER DISTRICT.

4 SENIOR CANYON MUTUAL WATER COMPANY -- IS THE
5 SENIOR CANYON MUTUAL WATER COMPANY -- THEY ARE IN HERE
6 TWICE. THEY'VE ALREADY PAID.

7 SIETE ROBLES MUTUAL WATER COMPANY PAYS -- WHAT
8 WAS I UP TO? DID I GET TO WOODS-CLAEYSSENS? DID I GET
9 TO RANCHO MATILIJA WATER?

10 MR. MAGUIRE: YES, YOUR HONOR.

11 THE COURT: SO I'VE ALREADY TOUCHED ON THAT?

12 MR. MAGUIRE: YES, YOUR HONOR.

13 THE COURT: AS GETTING A REFUND OR JUST PAYING
14 THE MONEY?

15 MR. MAGUIRE: AS GETTING A REFUND, YOUR HONOR.

16 THE COURT: OKAY. SO THE NEXT ONE, WHICH IS
17 SIETE ROBLES MUTUAL WATER COMPANY PAYS 500 TO
18 WOOD-CLAEYSSENS FOUNDATION. ST. JOSEPH'S ASSOCIATES
19 PAYS 500 TO SENIOR CANYON MUTUAL WATER.

20 THE THATCHER SCHOOL IS ALREADY PAID. PICO
21 MUTUAL WATER PAYS 500 TO AGR BREEDING. JOHN TOWN PAYS
22 500 TO BENTLEY FAMILY LIMITED PARTNERSHIP. TRUDIE TOWN
23 PAYS 500 TO ROBIN BERNHOFT. MICHAEL CROMER PAYS 500 TO
24 I GOT TO ROBIN BERNHOFT, CORRECT?

25 MR. MAGUIRE: YES, YOUR HONOR.

26 THE COURT: THE NEXT PAYMENT IS TO JANET
27 BOULTEN. ROBERT DAVIS PAYS 500 TO MICHAEL BOULTEN.
28 ETCHART RANCH PAYS 500 TO MICHAEL CALDWELL. JAMES

1 FINCH PAYS 500 TO JOE CLARK. STEPHEN MITCHELL PAYS 500
2 TO LINDA EPSTEIN. SOULE PARK GOLF COURSE PAYS 500 TO
3 ERNEST FORD. TELOS LLC PAYS 500 TO LAWRENCE HARTMANN.
4 I SEEM TO HAVE MISSED SOMEBODY. DO I HAVE 18 PEOPLE
5 PAYING REFUNDS?

6 VENTURA, DO YOU HAVE DECENT NOTES ON THIS?

7 MR. HAGERTY: YOUR HONOR, I COUNTED TIMOR IS
8 THE 18TH PERSON. THAT'S WHAT MY COUNT IS. I DON'T
9 KNOW WHO THAT MONEY GOES TO, BECAUSE I HAVE LOST TRACK
10 OF THAT. BUT THE 18TH PERSON I HAVE IN MY NOTES IS
11 VICTOR TIMAR.

12 THE COURT: TO MY UNDERSTANDING, HE SHOULD BE
13 PAYING 500, BUT I'VE RUN OUT OF PEOPLE TO PAY IT TO.
14 SO FROM THE TOP, THE FIRST THROUGH THE DOOR WAS KONIG
15 PAYING TOPA. SECOND OF THE SECOND 18 WAS NORFOLK
16 SPRINGS TO FRIENDS. SHLOMO RAZ TO THATCHER. SYLVIA
17 RAZ TO KROTONA. RUDD RANCH TO RANCH MATILIJA. SIETE
18 ROBLES TO WOOD-CLAEYSSENS. ST. JOSEPH TO SENIOR
19 CANYON. TICO MUTUAL TO AGR.

20 JOHN TOWN, TROY BECKER. TRUDY TOWN, BENTLEY
21 FAMILY. MICHAEL CROMER, ROBIN BERNHOFT. ROBERT DAVIS,
22 JR., JANET BOULTEN. ETCHART RANCH, MICHAEL BOULTON.
23 JAMES FINCH, MICHAEL CALDWELL.

24 MR. BLATZ: YOUR HONOR, RYAN BLATZ FOR A
25 NUMBER OF THE CROSS-DEFENDANTS. I JUST WANT TO SAY,
26 YOUR HONOR, I DON'T BELIEVE -- I'M TRYING TO MAKE LOT
27 OF NOTES, BECAUSE I'M REPRESENTING A LOT OF THESE
28 DEFENDANTS; BUT I DON'T BELIEVE THAT SOME OF THESE

1 DEFENDANTS HAVE PAID ANY INITIAL FEE.

2 I'M NOT SURE THE LIST YOU'RE GOING OFF OF, IT
3 MAYBE THE ORIGINAL CASE MANAGEMENT LIST FROM SAN
4 FRANCISCO. BUT I DON'T BELIEVE THERE WAS ANY FILING
5 FEES PAID. I KNOW THERE WAS, KIND OF, FIRST APPEARANCE
6 WITH THAT INITIAL ONE.

7 SO SOME OF THESE, I THINK, WERE MAKING
8 PAYMENTS BETWEEN PARTIES THAT THE RECEIVING PARTY
9 HASN'T ACTUALLY PAID THE INITIAL FEE.

10 THE COURT: I AM LOOKING AT PAGES 12 AND 13 OF
11 THE REPORT FOR TODAY 6 AND 7 OF THE REPORT FOR TODAY.
12 I DON'T DOUBT THAT FEES HAVEN'T BEEN PAID. I'M FURTHER
13 GOING TO PROVIDE THAT ANYBODY WHO THINKS THEY HAVE
14 BOOTLEG APPEARED BY JOINING A STATUS CONFERENCE REPORT
15 NEEDS TO FILE A NOTICE OF APPEARANCE AND PAY FOR ITS
16 APPEARANCE FEE. THAT'S \$435, AS I UNDERSTAND IT. AND
17 THERE IS NO LID ON HOW MANY PEOPLE PAY \$435.

18 SO EVERY APPEARING CROSS-DEFENDANT HAS TO PAY
19 \$435. I'M TRYING TO ALLOCATE THE \$18,000 EQUITABLY AS
20 AMONGST THE FIRST 36 FEE-PAYING DEFENDANTS THROUGH THE
21 DOOR. AT WHICH POINT, I DON'T INTEND TO FURTHER
22 ALLOCATE IT, BECAUSE IT'S MORE OF A COST WHEN SOMEBODY
23 PREVAILS.

24 SO NOW I WAS TRYING TO FIGURE OUT HOW WE COME
25 DOWN THE HOME STRETCH HEAR ALLOCATING THE 500. WHAT
26 WAS THE LAST NAME I WAS UP TO?

27 MR. BLATZ: BOULTEN, YOUR HONOR.

28 THE COURT: OKAY. JANET BOULTEN --

1 COULD YOU READ BACK FROM WHEN WE WERE
2 INTERRUPTED, MADAM REPORTER?

3 (RECORD READ)

4 THE COURT: FINCH IS TO PAY CALDWELL, MICHAEL.
5 MITCHELL, STEPHEN PAYS CLARK. SOULE PARK GOLF PAYS
6 LINDA EPSTEIN. TELOS PAYS ERNEST FORD. TIMAR PAYS
7 HARTMANN.

8 MR. HAGERTY AND TANAKA, YOU'RE GOING TO BE
9 LUCKY ENOUGH TO NOTICE. AND I WILL LOAN YOU MY
10 DOCUMENT THAT HAS THE CORRELATION OF THE NUMBERS. SO
11 YOU CAN DOUBLE CHECK THIS.

12 MR. HAGERTY: THANK YOU, YOUR HONOR. I THINK
13 I DID TRACK THAT LAST GO-ROUND. SO I HAVE THAT.

14 THE COURT: I'M TRYING TO BE SOMEWHAT
15 EQUITABLE IN ALLOCATING THE COMPLEX FEE. ONCE YOU'RE
16 DOWN TO 500, I THINK THAT FURTHER ALLOCATION IS NOT
17 COST EFFECTIVE.

18 DOES THERE ANYBODY WHO WANT TO BE HEARD
19 FURTHER TO DISPUTE THE POINT? NO OBJECTION FOR THE
20 RECORD.

21 DO YOU HAVE ANOTHER DATE WITH JACK KOMAR TO
22 TALK MEDIATION?

23 MR. TANAKA: WE DO NOT, YOUR HONOR.

24 THE COURT: DO YOU HAVE VISION WHEN YOU MIGHT
25 WANT TO HAVE SESSION OR YOU DON'T NEED TO MEET HIM IN
26 PERSON ANYMORE?

27 MR. TANAKA: AT THIS POINT, YOUR HONOR, WE'VE
28 MADE A LOT OF PROGRESS. AND WE THINK WE MAY BE ABLE TO

1 AT LEAST GET THROUGH THE INTERIM PHASE AND DO AN
2 INTERIM SETTLEMENT.

3 THE COURT: PHYSICAL SOLUTION OR NOT?

4 MR. TANAKA: NOT THE PHYSICAL SOLUTION YET;
5 BUT THE INTERIM MEASURES WILL BUILD TOWARDS A PHYSICAL
6 SOLUTION.

7 THE COURT: ARE THERE PUBLIC SANITARY SEWERS
8 IN MOST OF OJAI?

9 MR. TANAKA: I DON'T KNOW, YOUR HONOR.

10 MR. KWONG: YES, THERE ARE, YOUR HONOR.

11 THE COURT: ARE THERE PUBLIC SANITARY SEWERS
12 OUTSIDE THE CITY OF VENTURA AND OUTSIDE THE CITY OF
13 OJAI AND ANY OF THE REST OF THE WATERSHED?

14 MR. KWONG: YES. THERE ARE SANITARY SEWERS.

15 THE COURT: I LIVE NEAR MALIBU CREEK, WHICH IS
16 A YEAR-ROUND PERENNIAL STREAM, THANKS TO THE TAPIA
17 WATER TREATMENT FACILITY. AND THAT'S WHY I ASKED,
18 BECAUSE IN THEORY, IF THEY WEREN'T SANITARY SEWERS
19 ALREADY AND YOU BUILT A SEWER PLANT, YOU WOULD CREATE A
20 PERENNIAL STREAM FLOW PRETTY RELIABLY JUST THROUGH THE
21 MAGIC OF A SEWER.

22 MR. HAGERTY: THERE IS A TREATMENT PLANT, YOUR
23 HONOR, AT THE LOWER END OF THE RIVER THAT DOES PROVIDE
24 WATER TO THE RIVER ON A SUSTAINABLE BASIS.

25 THE COURT: BUT NOT ON THE DISPUTED WET REACH?

26 MR. HAGERTY: IT'S LOWER THAN THE FOSTER PARK
27 AREA. YOU'RE RIGHT.

28 THE COURT: PIPE IT UP, PUT IT IN THE WET

1 REACH.

2 MR. HAGERTY: THERE'S ALWAYS THINGS THAT
3 EVERYONE IS CONSIDERING, AND SOLUTIONS. BUT TAKING IT
4 FROM THERE AND MOVING IT UP TO THE UPPER PART, CREATES
5 ITS OWN PROBLEMS. SO THERE'S ALWAYS ISSUES TO WORRY
6 ABOUT.

7 THE COURT: SO I'M GOING TO MAKE A FURTHER
8 ORDER THAT THE PARTIES WHOSE NAMES ARE RECITED ON PAGES
9 6 AND 7 AS HAVING APPEARED VIA ONE OR ANOTHER JOINT
10 INITIAL STATUS CONFERENCE STATEMENT, ARE REACH TO FILE
11 A FORMAL NOTICE OF APPEARANCE IN THIS DOCKET; MINDFUL
12 THAT YOU'RE USING THE NEW LOS ANGELES SUPERIOR COURT
13 DOCKET NUMBER, WHICH SUPERCEDES THE SAN FRANCISCO
14 NUMBER. AND PAY APPEARANCE FIRST APPEARANCE FEE TO THE
15 LOS ANGELES SUPERIOR COURT.

16 I WON'T BOTHER TO RECITE ALL THE NAMES; BUT
17 THERE ARE A WHOLE BUNCH OF PEOPLE LISTED ON PAGES 6 TO
18 7 WHO DON'T APPEARED TO HAVE FORMALLY APPEARED, BUT
19 HAVE JOINED BY SIGNATURES ON INITIAL STATUS CONFERENCE
20 STATEMENTS. AND THOSE WOULD BE PAID BY SEPTEMBER 3 OF
21 THIS YEAR.

22 MR. TANAKA: YOUR HONOR, DOES THAT ALSO APPLY
23 TO RESPONDENTS AND PLAINTIFF?

24 THE COURT: CERTAINLY. IF THEY HAVEN'T PAID A
25 FIRST APPEARANCE FEE; BUT PLAINTIFF WOULDN'T HAVE
26 GOTTEN THEIR COMPLAINT CROSS THE DOCKET.

27 MR. MELNICK: AND WE ARE EXEMPT.

28 MR. TANAKA: I MEANT THE NOTICE OF APPEARANCE,

1 YOUR HONOR.

2 THE COURT: YES. THAT WE SHOULD HAVE. BUT WE
3 DON'T NEED IT FROM SOMEBODY WHO FILED A COMPLAINT OR AN
4 ANSWER OR A CROSS-COMPLAINT. HAS THE STATE FILED
5 SOMETHING IN THIS COURT WITH THEIR NAME ON IT?

6 MR. MELNICK: YOUR HONOR, WE FILED AN ANSWER
7 IN SAN FRANCISCO.

8 THE COURT: WELL, THAT'S FINE. WE INHERITED
9 THAT DOCKET. IT'S PART OF OUR RECORDS. WE HAVE THEM
10 ELECTRONICALLY AND PHYSICALLY.

11 MR. COOPER: YOUR HONOR, WOULD YOU LIKE THE
12 COMPLEX LITIGATION FEE FROM THE ORIGINAL PETITIONERS,
13 CHANNELKEEPER?

14 THE COURT: IF YOU PAID IN SAN FRANCISCO,
15 THAT'S FINE. DID YOU PAY IT ONCE?

16 MR. COOPER: YES.

17 THE COURT: THIS IS NOT A NEW CASE. THIS IS
18 JUST A TRANSFERRED VENUE.

19 WHAT IS THIS MANUAL FOR COMPLEX LITIGATION TO
20 WHICH REFERENCE WAS MADE?

21 MR. TANAKA: YOUR HONOR, THAT'S ON ME. IT IS
22 SUPPOSED TO BE THE SAME DOCUMENT THAT YOU HAD AND CITED
23 IN YOUR NOTES TO US. I WAS USING AN OLDER EDITION. I
24 GOT THE CORRECTED SECTIONS, IF YOU WOULD LIKE THEM.

25 THE COURT: IT SITS ON MY REVOLVING BOOKCASE.
26 AND I DON'T TOUCH IT FOR YEARS. SO WE HAVE OUR OWN
27 APPROACH TO CASE MANAGEMENT. IT DOESN'T GENERALLY
28 INVOLVE A CASE MANAGEMENT ORDER, ALTHOUGH THIS CASE

1 MIGHT JUSTIFY ONE.

2 WE DO USE CASE MANAGEMENT ORDERS IN
3 CONSTRUCTION DEFECT CASES. WE, SORT OF, HAVE FIGURED
4 OUT OUR OWN WAY TO MANAGE HOW MUCH LITIGATION HERE IN
5 L.A. WITHOUT REGARD TO THAT TREATISE. SO CITE IT IF
6 YOU WANT, BUT IT'S NOT THE BIBLE IN MY COURTROOM.

7 MR. TANAKA: ALL RIGHT. THANK YOU, YOUR
8 HONOR.

9 THE COURT: I DO REMEMBER THAT THERE'S ANOTHER
10 CASE THAT'S PENDING IN SAN FRANCISCO STATE COURT.

11 MR. MELNICK: YES, YOUR HONOR. THERE'S A
12 SEPARATE CASE THAT MR. COOPER BROUGHT AGAINST THE WATER
13 BOARD.

14 THE COURT: SAME PETITIONER?

15 MR. MELNICK: SAME PETITIONER.

16 THE COURT: SHOULD WE TRY TO TAKE IT FROM SAN
17 FRANCISCO TO KEEP IT TOGETHER WITH THIS OR IS IT BETTER
18 ON ITS OWN PATH?

19 MR. MELNICK: NO. IT'S PRETTY SEPARATE ISSUES
20 AND I THINK SHOULD BE KEPT SEPARATE. THAT'S BEEN OUR
21 POSITION.

22 THE COURT: DIFFERENT BODY OF WATER?

23 MR. COOPER: NO.

24 MR. MELNICK: NO. IT'S THE SAME BODY OF
25 WATER, BUT IT'S VERY DIFFERENT ISSUES. IT HAS TO DO
26 WITH CLEAN WATER ACT 303D LIST OF IMPAIRED WATERS.

27 THE COURT: I'M NOT LOOKING FOR WORK. IF YOU
28 THINK IT SHOULD STAY THERE, LET IT.

1 MR. COOPER: YOUR HONOR, IF I MAY. WE
2 DISAGREE. WE THINK IT SHOULD COME HERE. AND THE
3 REASON IT'S RELATED IS YOU RECALL PREVIOUSLY I SAID WE
4 HAVE A RECORD EXPLAINING HOW IT IS THAT THE STATE BOARD
5 KNOWS THAT THE USE AT FOSTER PARK IS WASTEFUL AND
6 UNREASONABLE.

7 THE WAY THEY KNOW, IS BECAUSE THE REGIONAL
8 BOARD LISTED IN THE CLEAN WATER ACT, AND THEN IT WAS
9 APPROVED BY THE STATE BOARD, THAT STRETCH AS IMPAIRED
10 BY PUMPING IN DIVERSION, MEANING IT CAN'T SUPPORT
11 BENEFICIAL USES, LIKE STEELHEAD MIGRATION, FOR EXAMPLE,
12 BECAUSE THERE'S TOO MUCH WATER PUMPED AND DIVERTED AT
13 FOSTER PARK.

14 SO IT'S OUR POSITION THAT THE STATE BOARD
15 LISTED IT UNDER THE CLEAN WATER ACT AS IMPAIRED BY
16 PUMPING AND DIVERSION. THEY KNEW THAT THE USE OF
17 PUMPING AND DIVERSION WAS NOT REASONABLE.

18 THE REGIONAL BOARD THEN, AFTER WE FILED OUR
19 LAWSUIT, DECIDED THEY WOULD UNLIST THAT STRETCH OF
20 RIVER. SO OUR LAWSUIT IS CHALLENGING THAT UNLISTING, D
21 LISTING, AND SAYING THAT THEY DIDN'T FOLLOW THEIR OWN
22 RULES AND THE CLEAN WATER ACT IN DOING SO.

23 SO WHILE IT IS A DIFFERENT LAW, IN OUR VIEW
24 IT'S CLOSELY RELATED TO THE ISSUES HERE. AND SO IT
25 WOULD MAKE SENSE TO HAVE IT DEALT WITH HERE. AND I
26 WOULD SAY ALSO --

27 THE COURT: AT THE RISK OF STATING THE
28 OBVIOUS.

1 MR. COOPER: YES.

2 THE COURT: IF YOU SOUGHT LEAVE TO AMEND THE
3 INSTANT ACTION AS A CAUSE OF ACTION, YOU WOULD PUT THAT
4 BEFORE THIS COURT. WOULD YOU NOT?

5 MR. COOPER: YES.

6 THE COURT: IF YOU DISMISSED YOUR SAN
7 FRANCISCO CASE WITHOUT PREJUDICE.

8 MR. COOPER: WELL, I'D HAVE TO THINK ABOUT THE
9 STATUTE OF LIMITATIONS ON THAT.

10 THE COURT: WELL, YOU WOULD HAVE TO WORRY
11 ABOUT THAT.

12 MR. COOPER: YES.

13 THE COURT: YOU COULD OTHERWISE MAKE A MOTION
14 TO TRANSFER IN SAN FRANCISCO, WHICH MAY BE CONTESTED;
15 BUT THAT'S WHERE YOU WOULD START IF YOU THINK IT WOULD
16 GET HERE.

17 MR. COOPER: YES.

18 THE COURT: AND IF YOU HAVE A LIMITATIONS
19 REASONS THAT YOU'RE NOT PREPARED TO JUST REFILE, ACT
20 PRUDENTLY IF YOU THINK YOU CAN AMEND THE INSTANT ACTION
21 IT COULD BE IN THIS DOCKET.

22 MR. COOPER: YES. I THINK WHERE IT'S BEEN SO
23 FAR IS STAYED BY STIPULATION OF THE PARTIES TO SEE
24 WHERE THIS GOES.

25 THE COURT: JUDGE MASSULLO OR SOMEBODY ELSE?

26 MR. COOPER: I DON'T REMEMBER. DO YOU
27 REMEMBER WHO WE HAVE?

28 MR. MELNICK: I DON'T. BECAUSE THAT'S

1 ACTUALLY BEING HANDLED BY A DIFFERENT PERSON IN MY
2 OFFICE. I DON'T REMEMBER.

3 MR. COOPER: I THINK WE STAYED THAT PENDING
4 SETTLEMENT NEGOTIATIONS HERE. AND I DON'T HAVE ANY
5 PROBLEM KEEPING IT STAYED FOR THE MOMENT. AND THEN IF
6 IT TURNS OUT WE NEED TO PROCEED WITH THAT CASE, THEN WE
7 WOULD EXAMINE OUR OPTIONS IN TERMS OF GETTING IT
8 TRANSFERRED DOWN HERE.

9 THE COURT: THIS IS THE LAST THING I'M GOING
10 TO SAY BEFORE I INVITE PLAINTIFFS TO START TALKING. I
11 UNDERSTOOD THE MOTION FOR APPROVAL OF THE STATUTORY
12 NOTICE OF SUB FEES FOR SUMMONS AND COMPLAINT AS WELL AS
13 A DRAFT FORM ANSWER WAS IN FRONT OF JUDGE KRAMER --
14 JUDGE KERNALL BEFORE THE COURT WAS ABOUT TO BE
15 TRANSFERRED TO JUDGE MASSULLO.

16 AND THEN THE NEED TO GET BACK ON MY CALENDAR
17 THERE'S A PREDICATE QUESTION WHETHER COURT SHOULD MAKE
18 A FINDING CONTEMPLATED BY THE STREAMLINE WATER
19 ADJUDICATION ACT, WHICH ADJUSTS BY GIVING NOTICE TO
20 SERVICE WATER USERS, IN ADDITION TO GIVING NOTICE TO
21 GROUNDWATER USERS, WHICH APPEARS TO BE A MATTER OF
22 DISPUTE.

23 BUT AGAIN, IF YOU ARE ON A SETTLEMENT PATH AND
24 NOBODY IS REALLY HOT TO TROT TO GET THIS NOTICE AND
25 FORM ANSWER APPROVED, THEN I'M NOT HOT TO TROT. IT
26 MAKES ME FEEL BETTER ABOUT THE DELAY GETTING ON
27 CALENDAR.

28 SO WITH THAT I'M HERE TO BE OF SERVICE. AND

1 I'LL HEAR FROM PLAINTIFFS.

2 MR. COOPER: SURE. SO JUST TO PUT OUR CASE IN
3 CONTEXT, WE STARTED THIS CASE AGAINST THE STATE BOARD
4 AND THE CITY OF VENTURA SEEKING TO ADDRESS SPECIFICALLY
5 THE PUMPING AND DIVERSION AT REACH 4, WHICH GET DRIED
6 OUT EVERY YEAR WHEN THE FISH ARE TRYING TO MAKE THEIR
7 WAY UP OR DOWN.

8 WE ALLEGE THAT THE USE WAS UNREASONABLE AND
9 WASTEFUL AND IN VIOLATION OF THE CONSTITUTION AND
10 STATUTE; AND THAT WE WANTED AN EXAMINATION BY THE STATE
11 BOARD OF THAT WATER RIGHT AND AN ADJUSTMENT, IF
12 NECESSARY.

13 WE WANTED A PROCESS. WE WEREN'T PREJUDGING
14 THAT PROCESS, BUT WE WANTED A PROCESS. AND WE WANTED
15 DECLARATORY RELIEF THAT THE CITY'S USE WAS
16 UNREASONABLE.

17 AFTER EXTENDED LITIGATION, INCLUDING THE
18 APPEAL THAT YOU LOOKED AT, THE CITY THEN CROSS-CLAIMED
19 AND TRIGGERED ADJUDICATION. SO WE'RE RIDING ALONG ON
20 THE ADJUDICATION WITH OUR FOCUS STILL PRIMARILY REACH
21 4, FOSTER PARK, AND THE USE THERE.

22 THE COURT: I DON'T NECESSARILY UNDERSTAND
23 HYDRAULICS ALL THAT WELL. THIS IS BASED ON SIMPLE
24 GRAVITY AND THE REST. I ASSUME THE TAKES BY VENTURA
25 CITY THAT MOST TROUBLE YOU ARE SOMEWHERE UPSTREAM FROM
26 REACH 4, WHICH DEWATERS THE STREAM FROM ITS NORMAL
27 FLOW, OR IS IT THE TAKE AT FOSTER PARK SOMEHOW
28 INDIRECTLY IMPACTS HOW MUCH WATER IS LEFT IN REACH 4 BY

1 SOMEHOW SUCKING DOWN THE GROUND WATER.

2 MR. COOPER: IT'S FOSTER PARK. THERE'S A --
3 AND FEEL FREE TO CORRECT ME ON THE FACTS OR AMPLIFY.
4 IN OLD TIMES --

5 THE COURT: 1906 THE VENTURA POWER COMPANY PUT
6 IN SOME KIND OF BELOW THE SURFACE BAND --

7 MR. COOPER: EXACTLY.

8 THE COURT: -- TO FORCE THE GROUNDWATER UP TO
9 MAKE IT EASIER TO TAKE.

10 MR. COOPER: EXACTLY. AND SO THE CITY PUMPS
11 THERE. AND DURING CERTAIN SEASONS, PRIMARILY IN THE
12 LATE SUMMER AND FALL DRY THE RIVER OUT AT THAT POINT.

13 THE COURT: AND FUNCTIONALLY CAN DRY THE RIVER
14 UPSTREAM BY DROPPING THE GROUNDWATER LEVELS SUCH THAT
15 WHAT OTHERWISE WOULD BE A SERVICE FLOW DESCENDS INTO
16 THE SUBSURFACE?

17 MR. COOPER: WHERE THE PUMPING OCCURS THEY
18 DRY, SO THAT THAT REACH DRIES AND TURNS INTO STAGNANT
19 PUDDLES OF WATER.

20 THE COURT: AND THAT BECOMES THE IMPASSABLE
21 STRETCH OF THE RIVER OF GREATEST CONCERN.

22 MR. COOPER: EXACTLY. AND KILLS THE FISH ON
23 THE WAY DOWN. AND THEN THEY CAN'T PASS ON THE WAY UP.

24 SO THAT HAS BEEN OUR FOCUS. HOWEVER, THE FACT
25 THAT IT'S NOW AN ADJUDICATION AND WILL DEAL WITH THE
26 WHOLE RIVER IS STILL OF INTEREST TO CHANNELKEEPER, AND
27 WE INTEND TO PARTICIPATE ALL THE WAY THROUGH.

28 OUR FOCUS THUS FAR IN SETTLEMENT HAS BEEN

1 INTERIM FLOWS AT FASTER PARK TO ALLOW FISH TO GET
2 PASSED THERE DURING THE CRITICAL PERIOD.

3 THE COURT: THAT WILL BE FACILITATED BY
4 REDUCING THE AMOUNT OF PUMPING?

5 MR. COOPER: EXACTLY. PRECISELY.

6 THE COURT: IS THERE ANYTHING DONE IN THE
7 HEADWATERS RELATIVE TO THE BAND OR OTHERWISE THAT HAS A
8 POSITIVE IMPACT?

9 MR. COOPER: ACCORDING TO OUR ANALYSIS -- AND
10 WE WILL DEBATE THIS -- BUT WE BELIEVE THE CITY IS
11 TAKING ORDERS OF MAGNITUDE MORE WATER THAN ANYONE ELSE
12 OUT OF THAT RIVER AT FOSTER PARK.

13 SO EVEN IF EVERYBODY UPSTREAM PUT ALL THEIR
14 WATER BACK IN, DIDN'T TAKE ANYTHING, AT THE PERMITTED
15 LEVELS FOR THE CITY TO PUMP THEY COULD STILL DRY IT
16 OUT. THEY EXPRESSED THE INTENTION TO DO SO IN THE
17 PAST. NOW THEY'VE CHANGED THEIR POSITION SINCE. AND
18 WE SEEM TO BE HAVING A VERY GOOD DIALOG AS WE'RE GOING
19 FORWARD.

20 BUT THAT WAS THEIR POSITION THAT THEY HAVE
21 WATER RIGHTS TO BASICALLY PUMP EVERYTHING OUT THAT
22 COULD BE PUT BACK IN BY ANYONE ELSE.

23 THE COURT: DO THE CITY HAVE ACCESS TO THE
24 STATE WATER PRODUCT, THE CALIFORNIA AQUEDUCT?

25 MR. COOPER: THEY DO NOT. THEY ARE IN THE
26 SEQUEL PROCESS RIGHT NOW FOR A CONNECTION. I IMAGINE
27 THAT WOULD BE HEAVILY DISPUTED WHEN THE TIME COMES.
28 BUT NO, ALL THE WATER IN FOR THE CITY OF VENTURA MUST

1 COME FROM SANTA CLARA, GROUNDWATER, OR THE VENTURA.

2 SO IT'S ITS OWN LITTLE MICROCOSM OF WATER
3 MANAGEMENT FOR THE STATE OF CALIFORNIA. SO FROM THE
4 PERSPECTIVE OF THE ENVIRONMENTAL ORGANIZATION, IT
5 PRESENTS AN OPPORTUNITY FOR INTEGRATED WATER
6 MANAGEMENT, EVEN AS AN EXAMPLE FOR THE REST OF THE
7 STATE.

8 SO IF WE COULD BETTER MANAGE RECYCLED WATER
9 OUT OF THE SEWAGE PLANT ON THE SANTA CLARA RIVER, WATER
10 USE, STORM WATER INFILTRATION, ALL THE THINGS THAT THE
11 CITY OF LOS ANGELES IS IN THE PROCESS OF TRYING TO DO,
12 THE CITY COULD EFFECTIVELY GET OUT OF THE VENTURA TO
13 THE BENEFIT OF FISH.

14 NOW, THE REASON THE CITY -- AGAIN, I'M
15 SPEAKING FOR YOU GUYS. THE REASON THE CITY
16 CROSS-CLAIMED, BECAUSE THEY HAVE A DIFFERENT
17 PERSPECTIVE. THEY THINK THAT ALL THE REST OF THE
18 PLAYERS ON THE RIVER ARE IMPORTANT; AND THEY DON'T WANT
19 TO BE STUCK; AND THAT THEY HAVE PERHAPS AN OLDER RIGHT
20 THAN MANY OF THE OTHER PLAYERS.

21 AND FOR THE FISH TO MAKE IT ALL THE WAY UP TO
22 THE DAM -- WHICH NEEDS TO COME OUT. BUT THAT'S A
23 DIFFERENT STORY -- THERE ARE ISSUES, FLOW ISSUES UP AND
24 DOWN THE RIVER.

25 THE COURT: IT'S INDISPUTABLE THE FISH DON'T
26 GET PASSED THE MATILIJA DAM.

27 MR. COOPER: THAT'S RIGHT. AND THAT'S -- SOME
28 OF THE BEST SPAWNING HABITAT IS ABOVE THAT.

1 NOW, THREE, FOUR, FIVE YEARS AGO IN THE MIDST
2 OF THIS LITIGATION, THE GOVERNOR -- THEN GOVERNOR BROWN
3 -- ISSUED THE GOVERNOR'S WATER PLAN. AND HE LISTED
4 FIVE RIVERS THAT WERE SUPPOSED TO BE SPECIFICALLY
5 FOCUSED ON BY THE STATE OF CALIFORNIA TO DEAL WITH
6 THEIR PUBLIC TRUST AND REASONABLE USE RESPONSIBILITIES,
7 AND SET MINIMUM FLOWS, INSTREAM FLOWS FOR THE ENTIRE
8 RIVER.

9 THE VENTURA IS ONE OF THOSE. CALIFORNIA
10 DEPARTMENT OF FISH AND WILDLIFE AND THE STATE BOARD ARE
11 IN THE PROCESS OF DEVELOPING THOSE MINIMUM FLOW
12 STANDARDS FOR THE ENTIRE RIVER, VIA A BIG MODELING
13 EXERCISE. A LOT OF DATA COLLECTION. THEY CAN CORRECT
14 ME, BUT MY UNDERSTANDING IS 2021 IS A TARGET DATE FOR
15 THAT RIVER-WIDE STUDY TO COME OUT.

16 THE COURT: NOT 2020?

17 MR. COOPER: I DON'T THINK 2020. BUT WE WILL
18 LET THE STATE SPEAK TO THAT.

19 THE COURT: WHAT'S THE NAME OF THE STUDY?

20 MR. MELNICK: YOUR HONOR, THERE'S TWO STUDIES.
21 ONE IS AN INSTREAM FLOW STUDY FOR THE FISH AND OTHER
22 SPECIES. AND THE SECOND IS A MODEL TO EXPLORE THE
23 CONNECTIONS BETWEEN SURFACE WATER AND GROUNDWATER.

24 THE COURT: DO THEY HAVE THE SAME COMPLETION
25 DATE?

26 MR. MELNICK: NO. MY UNDERSTANDING IS THAT
27 THE INSTREAM FLOW RECOMMENDATIONS MAY BE DONE BY THE
28 BEGINNING OF NEXT YEAR.

1 THE COURT: THAT'S THE SURFACE GROUNDWATER?

2 MR. MELNICK: NO. THAT'S THE INSTREAM FLOW
3 FOR THE FISH.

4 THE COURT: SO MARCH OF 2020?

5 MR. MELNICK: I DON'T HAVE A MORE PRECISE THAN
6 EARLY 2020. MAYBE MY COLLEAGUE, ERIC KATZ, WHO
7 REPRESENTS DEPARTMENT OF FISH AND WILDLIFE. HE DID NOT
8 MAKE AN APPEARANCE, BUT HE MIGHT BE ABLE TO --

9 MR. KATZ: YES. THANK YOU, YOUR HONOR. ERIC
10 KATZ FOR DEPARTMENT OF FISH AND WILDLIFE.

11 WE HAVEN'T MADE AN APPEARANCE, BUT THE LATEST
12 INFORMATION I HAVE IS BY THE END OF THIS CALENDAR YEAR
13 THE DEPARTMENT WILL HAVE FINISHED A SIGNIFICANT PORTION
14 OF ITS INSTREAM FLOW STUDY.

15 THERE WILL STILL BE MORE WORK THAT IT WILL DO
16 TO INTEGRATE WITH THE MODELING EXERCISE THAT THE STATE
17 WATER RESOURCES CONTROL BOARD IS ENGAGED IN.

18 THE COURT: WILL YOU BE PREPARED TO RELEASE
19 WHAT YOU HAVE AT THE END OF THE YEAR OR IT'S NOT GOING
20 TO BE RELEASED?

21 MR. KATZ: NO. I BELIEVE IT WILL BE PUBLIC.

22 THE COURT: AND PRETTY MUCH NEW YEAR'S EVE IS
23 THE DEADLINE?

24 MR. KATZ: THAT'S WHAT I'VE BEEN TOLD.

25 THE COURT: OKAY. SO THEN BACK TO
26 MR. MELNICK. WHAT'S THE DEADLINE FOR THE OTHER STUDY?

27 MR. MELNICK: THE GROUNDWATER, SERVICE WATER
28 MODELING EXERCISE IS PROJECTED TO BE COMPLETED IN 2021.

1 THAT'S BEING DONE UNDER CONTRACT, SO THERE ARE A SERIES
2 OF DATES. I DON'T HAVE THOSE PRECISELY IN FRONT OF ME,
3 BUT THOSE ARE PRETTY FIRM DATES.

4 THE COURT: EARLY, MIDDLE, LATE 2020?

5 MR. MELNICK: MIDDLE, I BELIEVE, OF 2021.

6 THE COURT: WHILE I'M DOING MY GANTT CHART, IS
7 THERE A THIRD OR A FOURTH STUDY THAT'S UNDERWAY?

8 MR. TANAKA: YOUR HONOR, WE HAVE SLIGHTLY
9 DIFFERENT DATES THAT WE'VE GLEANED FROM THE STATE
10 DOCUMENTS THAT WE'VE GOTTEN. FIRST OF ALL, THE --
11 EXCUSE ME FOR SHUFFLING THROUGH ALL MY PAPERS.

12 SO, YOUR HONOR, FOCUSING FIRST ON THE
13 GROUNDWATER MODEL, THE STATE RENEWED THE CONTRACT TO
14 FINISH THE MODEL AS OF -- SORRY -- MID 2023; AND THAT
15 THEY ARE ALSO LOOKING AT A THIRD STUDY, WHICH DEALS
16 WITH GROUNDWATER, SURFACE WATER INTERACTION.

17 THIS IS A GENERAL SET OF GUIDELINES BY THE
18 STATE BOARD. AND THAT'S NOT EXPECTED TO COME OUT UNTIL
19 2025.

20 THE COURT: IS THERE SOME INTERIM PRODUCT DUE
21 OUT SOONER, TO YOUR UNDERSTANDING, MR. MELNICK?

22 MR. MELNICK: I'M ACTUALLY NOT SURE WHAT
23 MR. TANAKA IS TALKING ABOUT.

24 THE COURT: WE WILL HAVE ANOTHER CONFERENCE.
25 YOU CAN FIGURE THIS OUT. WAS THERE THOUGH AN UPPER
26 OJAI OR UPPER VENTURA GROUNDWATER BASIN? IS THAT
27 ANOTHER PROJECT?

28 MR. TANAKA: YES, YOUR HONOR. THERE'S A SIGMA

1 GROUNDWATER SUSTAINABILITY PLAN THAT'S DUE IN JANUARY
2 2022.

3 THE COURT: THAT'S SPECIFIC TO THE DISPUTED
4 REACH, RIGHT?

5 MR. TANAKA: IT IS. IT'S ONE OF THE FOUR
6 GROUNDWATER BASINS AT ISSUE HERE.

7 THE COURT: THE MOST DISPUTED GROUNDWATER
8 BASIN, RIGHT?

9 MR. TANAKA: WELL, YOUR HONOR, THERE HASN'T
10 EVEN BEEN SCIENCE DONE AT THIS POINT AND PRESENTED TO
11 THE PARTIES REGARDING ALL THE OTHER BASINS. BUT IT IS
12 CLEARLY AT THE FOCAL POINT. YOU'RE RIGHT, YOUR HONOR.

13 THE COURT: SO THAT'S DUE, LIKE, FEBRUARY OF
14 2022?

15 MR. TANAKA: JANUARY 31.

16 THE COURT: IS THERE A FOURTH STUDY OF ANY
17 CONSEQUENCE THAT YOU KNOW OF -- '21 OR '22?

18 MR. TANAKA: IT'S '22, YOUR HONOR.

19 THE COURT: BECAUSE THIS WAS A MID-LEVEL
20 PRIORITY, NOT AN OVERDRAFT?

21 MR. TANAKA: CORRECT, YOUR HONOR.

22 THE COURT: IS THERE A FOURTH STUDY OF ANY
23 CONSEQUENCE OUT THERE THAT I SHOULD WORRY ABOUT? I
24 DIDN'T SENSE ANYTHING. I'M JUST ASKING.

25 MR. HAGERTY: YOUR HONOR, THE OJAI FOLKS MAY
26 SAY BETTER. BUT THERE IS ALSO THE OJAI BASIN THE WENT
27 THROUGH A PROCESS TO TRY TO GET AN APPROVAL OF THEIR --
28 ESSENTIALLY A SUBSTITUTE FOR A GROUNDWATER

1 SUSTAINABILITY PLAN THAT WAS RECENTLY, AT LEAST,
2 REJECTED BY STAFF.

3 I DON'T KNOW IF SOMEONE COULD SPEAK TO THE
4 EXACT DATES AND PROCESSES; BUT THERE WILL BE A STUDY
5 THAT IS DONE FOR THE OJAI BASIN THAT WILL BE RELEVANT
6 TO THE ISSUES THAT ARE PRESENTED IN THE CASE.

7 THE COURT: AND THAT'S ONE OF THE WATER BASINS
8 IN THE VENTURA RIVER GENERALLY.

9 MR. HAGERTY: CORRECT, YOUR HONOR.

10 MR. BLATZ: YOUR HONOR, RYAN BLATZ. THE OJAI
11 GROUNDWATER BASIN AGENCY ACTUALLY HAS A SPECIAL MEETING
12 TODAY AT 5:00 O'CLOCK REGARDING THE RESPONSE TO THE
13 DENIAL OF THEIR ALTERNATIVE PLAN.

14 THEY DON'T KNOW EXACTLY WHAT'S GOING TO HAPPEN
15 YET, BUT THAT IS THE MOTION. THAT THEY ARE
16 COMMUNICATING SENDING A LETTER OFF TO THE STATE AND
17 GETTING INFORMATION BACK TO BECOME COMPLIANT. BUT
18 THERE IS NO REAL CLEAR PATH YET HOW LONG THAT'S GOING
19 TO TAKE.

20 THE COURT: LET ME TAKE IT BACK TO MR. COOPER.
21 SO WHAT WOULD YOU WANT ME TO DO, MR. COOPER? YOU DON'T
22 WANT ME TO SET YOUR PETITION. THAT'S FINE BY ME. YOU
23 ARE HOPEFUL THAT THE MEDIATION WITH JUDGE KOMAR MAY PAY
24 DIVIDENDS. AND THAT'S FINE BY ME.

25 IT'S NOT YOUR PROBLEM TO GET THE NOTICE IN
26 DRAFT ANSWER APPROVED. THAT'S VENTURA'S ISSUE, NOT
27 YOURS. SO WHAT DO YOU WANT ME TO DO, SET A STATUS
28 CONFERENCE IN A MONTH OR TWO?

1 MR. COOPER: I THINK AT THIS JUNCTURE, YES.
2 MAYBE 60 DAYS.

3 THE COURT: VENTURA COUNTY OR DO IT HERE IN
4 L.A.?

5 MR. COOPER: I COME FROM SAN FRANCISCO.
6 VENTURA IS NICE. I DON'T MIND GOING THERE EITHER.

7 THE COURT: TWO MONTHS IS YOUR --

8 MR. COOPER: YES. AND I THINK THAT'S THE VIEW
9 OF THE CITY AS WELL.

10 THE COURT: OKAY. WHAT ELSE DO YOU WANT TO
11 TELL ME BEFORE I HEAR FROM THE CITY, MR. COOPER?

12 MR. COOPER: I GUESS, YOUR HONOR, THAT PERHAPS
13 ONCE WE GET YOUR CHART WITH THE DEADLINES FIXED, WHEN
14 THE STUDIES ARE COMING IN, THAT MIGHT PROVIDE A USEFUL
15 SCHEDULE FOR UPDATES WITH THE COURT WITH THE RESULTS OF
16 THOSE STUDIES AND THE POSITIONS OF THE PARTIES AS TO
17 WHAT THAT MIGHT MEAN;

18 AND WHETHER AT THAT POINT WE NEED THE
19 ASSISTANCE OF THE COURT IN TERMS OF THEN ADDRESSING THE
20 WATER RIGHTS AT ISSUE IN ORDER TO ENSURE -- FROM OUR
21 PERSPECTIVE, TO ENSURE INSTREAM FLOW FOR THE FISH AND
22 SO ON.

23 IF WE COULD COME TO AGREEMENT AS TO WHEN THOSE
24 STUDIES COME OUT, INCLUDING THE FIRST ONE, WHICH SOUNDS
25 LIKE CDFW IS GOING TO COME OUT WITH, AT LEAST, MOST OF
26 THE RIVER PRETTY SOON. THAT WOULD BE GREAT.

27 TO HEAR FROM THEM. PRESENT IT TO THE COURT.
28 GET THE PARTIES' PERSPECTIVE. AND DECIDE ON WHAT THE

1 NEXT STEPS MIGHT BE, HAVING THAT NEW INFORMATION IN
2 TERMS OF, PERHAPS, ADDITIONAL INTERIM FLOWS OR WHAT, AS
3 TO THE LARGER ADJUDICATIONS. THAT WOULD BE MY THOUGHT.

4 THE COURT: HAS THE WEATHER WE HAD RECENTLY
5 MITIGATED THE PROBLEM?

6 MR. COOPER: YES. MADE A TREMENDOUS
7 DIFFERENCE. YES.

8 THE COURT: IS THAT, LIKE, A TWO-YEAR BENEFIT?

9 MR. COOPER: ONE WET SEASON.

10 THE COURT: SHALL I TURN TO THE CITY NOW?

11 MR. COOPER: YES, PLEASE. THANK YOU.

12 THE COURT: OKAY. YOU'VE GOT THE FLOOR, SIR.

13 MR. TANAKA: THANK YOU, YOUR HONOR. LET ME
14 START WITH JUST THE GENERAL DESCRIPTION SUPPLEMENTING
15 AND AGREEING WITH OR DISAGREEING WITH MR. COOPER'S
16 DESCRIPTION OF THE CASE.

17 HE ACCURATELY DESCRIBED THAT THE APPEAL THAT
18 HAS NOW BROUGHT IN ALL THE OTHER PLAYERS OR WILL BE
19 BRING IN ALL THE OTHER PLAYERS IN THE CASE; AND THAT
20 THERE ARE ISSUES REGARDING THE STEELHEAD THAT ARE NOT
21 LIMITED TO THE FOSTER PARK AREA, BOTH HABITAT AND
22 PASSAGE ACROSS THE RIVER.

23 THERE ARE ALSO CREEKS THAT ARE PART OF THE
24 WATERSHED THAT ARE VERY IMPORTANT, NOT NOTWITHSTANDING
25 MATILIJA DAM, WHICH IS A HUGE PROBLEM.

26 THE ISSUE ON FOSTER PARK IS OBVIOUSLY VERY
27 IMPORTANT TO THE CITY. WE PROPOSED A PILOT PROJECT AS
28 A PART OF THE INTERIM SETTLEMENT. AND I DON'T THINK

1 I'M AT LIBERTY TO GET INTO TOO MUCH DETAIL. SO STOP ME
2 IF I'M GETTING INTO TOO MUCH DETAIL.

3 THE COURT: FOR YOUR MEDIATION COLLEAGUES TO
4 STOP YOU. NOT ME.

5 MR. TANAKA: I'M NOT TURNING TO MR. COOPER,
6 BUT ANYBODY ELSE.

7 THERE ARE TWO MAJOR PROBLEMS WITH THE FOSTER
8 PARK ANALYSIS THAT CHANNELKEEPERS PRESENTED. FIRST,
9 THERE'S BEEN NO CONFIRMATION OF EXACTLY WHAT THE EFFECT
10 OF THE CITY'S WITHDRAWAL IS ON THE FLOW LEVELS IN THE
11 RIVER.

12 BECAUSE THE RIVER IS FED FROM -- AS YOUR HONOR
13 NOTED, IT'S A DRY REACH AND IT'S FED FROM THE
14 GROUNDWATER. SO WE DON'T FULLY HAVE ANY CONFIRMATION
15 OF X AMOUNT OF PUMPING LEADS TO Y AMOUNT OF CHANGE IN
16 THE RIVER.

17 THE SECOND THING IS, THERE'S BEEN THIS NUMBER
18 FLOATED AROUND FOR 11 TO 12 CFS, CUBIC FEET PER SECOND,
19 COMING OUT OF A 2007, I BELIEVE, DRAFT NMFS, NATIONAL
20 MARINE FIDUCIARY STUDY. BUT THAT'S DRAFT.

21 AND THE ONLY CITATION WE SAW IN IT, IS TO A
22 1980 GRADUATE STUDENT MASTERS THESIS THAT DOES NOT LAY
23 OUT ANY CRITERIA FOR FLOW. SO WE STILL NEED TO SEE
24 INFORMATION THAT CONFIRMS EXACTLY WHAT FLOW LEVELS ARE
25 IMPORTANT FOR THE STEELHEAD.

26 SO AS PART OF THAT, WE HAVE MADE A LOT OF GOOD
27 PROGRESS. AND CREDIT TO CHANNELKEEPER, WE ARE, WE
28 THINK, CLOSING IN ON AN INTERIM PILOT PROJECT FLOW

1 LEVEL TO TAKE US THROUGH THE DRY PERIOD THIS YEAR, AND
2 FRANKLY, THE RIVER. THE WEATHER HAS HAD A MAJOR IMPACT
3 ON THAT.

4 AND WE'RE GOING TO PUT IN STREAM GAUGES TO
5 HELP ACCURATELY MEASURE THE STREAM AROUND FOSTER PARK
6 AND THE EFFECTIVE PUMPING. AND THEN WE'VE ALSO GOT
7 SOME INTERIM NON-FLOW MEASURES TO HELP ADDRESS THE
8 ISSUE OF GETTING FISH PASSAGE BY FOSTER PARK.

9 SO WE THINK WE'VE REACHED AGREEMENT WITH
10 CHANNELKEEPER ON MAJOR TERMS. AND NOW WE'VE GOT TO PIN
11 DOWN THE DETAILS. AND WITH THAT, WE THEN HOPE WE CAN
12 NARROW CHANNELKEEPER'S NEED TO BE A PART OF THE
13 LITIGATION. THEY ARE NOT GOING TO DISMISS THEIR
14 CLAIMS, BUT WE WOULD HOPE TO NARROW OR STAY SOME OF THE
15 CLAIMS SO THAT WE CAN THEN FOCUS ON THE PHYSICAL
16 SOLUTION.

17 SEPARATE AND APART FROM THOSE INTERIM MEASURES
18 THAT I'VE JUST DESCRIBED, THERE ARE OTHER INTERIM
19 MEASURES THAT WE STARTED WORKING ON. WE PRESENTED THEM
20 TO CHANNELKEEPERS. THEY ARE NOT PART OF WHERE WE'RE
21 LOOKING TO MAKE THIS INITIAL SETTLEMENT. BUT THOSE ARE
22 IMPORTANT, BECAUSE THERE'S STUDIES, THERE'S WORK TO BE
23 DONE BY THE CONSUMPTIVE USERS. AND WE HOPE TO USE THAT
24 TO THEN BUILD A FOUNDATION FOR A PHYSICAL SOLUTION.

25 SO WE ARE VERY ENCOURAGED BY THE PROGRESS
26 WE'RE MAKING. WE THINK WE CAN GET THERE, AT LEAST
27 PASSED THE INTERIM MEASURES. AND THAT WILL GET US A
28 GOOD START TOWARDS A PHYSICAL SOLUTION.

1 I'M PREPARED TO ARGUE THE MOTION TO STAY, IF
2 THE COURT WANTS TO HEAR; BUT THERE MIGHT BE A WAY TO
3 SHORTEN THAT UP. PRIOR -- WHILE WE WERE UP IN SAN
4 FRANCISCO WE CIRCULATED A DRAFT STIPULATION AND STAY
5 ORDER FOR -- IT'S A PARTIAL STAY.

6 AND WHILE THERE ARE NEW PARTIES NOW THAT HAVE
7 NOT HAD A CHANCE TO REVIEW IT. AND ALL THE PARTIES
8 NEED TO AGREE ON FINAL LANGUAGE.

9 THERE WERE REALLY THREE CONCEPTS THAT WE
10 DISCUSSED. FIRST, WE WOULD NOT STAY EFFORTS BEFORE
11 THIS COURT TO NOTIFY AND NAME ANY ADDITIONAL PARTIES;
12 BECAUSE WE NEED TO GET EVERYBODY INTO THIS CASE TO
13 ULTIMATELY SETTLE IT.

14 SECOND, WE WOULD EXCHANGE INFORMATION THAT
15 WOULD BE USEFUL TO HELP REACH A PHYSICAL SOLUTION. AND
16 SPECIFICALLY WE'RE TALKING ABOUT INITIAL DISCLOSURES
17 THAT ARE CONTEMPLATED UNDER THE GROUNDWATER
18 ADJUDICATION STATUTES. WE APPLY THAT ALSO TO ANY
19 INSTREAM DIVERTERS.

20 THE COURT: SO BY BRINGING IN THE ADDITIONAL
21 CROSS-DEFENDANTS AND REQUIRING THEM TO DISCLOSE THE
22 TAKES THEY HAVE HISTORICALLY TAKEN, WHETHER IT'S
23 SURFACE OR GROUNDWATER, THEN YOU BEGIN TO GET A TABLE
24 OF ALL THE CLAIMS AGAINST THE WATER.

25 MR. TANAKA: EXACTLY. AND THAT CAN SERVE TWO
26 PURPOSES. UNDER A HOPED-FOR AND OPTIMIST VIEW, THEY
27 WILL HELP US CREATE A JUDGMENT AS PART OF THE PHYSICAL
28 SOLUTION ESTABLISHING WATER RIGHTS.

1 FAILING THAT, THEY ARE OUR FIRST STEP IN THE
2 DISCOVERY THAT WOULD BE NEEDED IF WE HAVE TO LITIGATE
3 IT. THERE ARE MINOR PROVISIONS. WE OBVIOUSLY CANNOT
4 STOP ANY PUBLIC RECORDS ACT REQUESTS.

5 AND WE'VE EXCHANGED A FAIR AMOUNT OF
6 INFORMATION PURSUANT TO MEDIATION. SO THAT WOULD NOT
7 BE STAYED AS WELL. THAT'S THE SECOND PIECE OF THE
8 PROPOSED STAY -- THE STIPULATION FOR STAY.

9 AND THEN FINALLY, THE THIRD STEP IS ANY
10 ACTIONS NECESSARY TO CONDUCT CASE MANAGEMENT, SUCH AS
11 THIS, OR SUCH AS THE SCIENCE DAY YOUR HONOR IS
12 PROPOSING, THE WEBSITE, ALL THOSE OTHER THINGS.

13 SO IF THAT'S STILL VIABLE, THEN I WON'T TIE UP
14 THE COURT'S TIME TALKING ABOUT OUR VIEW ON WHETHER
15 THESE OTHER STUDIES ARE GOING TO GET DONE IN TIME;
16 WHETHER THEY ARE THERE APPLICABLE, BECAUSE WE DON'T
17 THINK THEY ARE, IN A BROAD SENSE, AS BROADLY AS THIS
18 CASE. AND ALL THE PROBLEMS WE SEE. I WON'T OPEN THAT
19 DOOR, UNLESS PARTIES HAVE REAL CONCERNS ABOUT A
20 PROPOSED STIPULATION.

21 THE COURT: STAYING WITH A PROPOSED
22 STIPULATION. IF I HEARD RIGHT, IT WAS A DRAFT, IT
23 WASN'T AGREED.

24 MR. TANAKA: RIGHT.

25 THE COURT: WAS IT A DRAFT THAT YOU WERE
26 PREPARED TO SIGN OR SOMEBODY ELSE'S IDEA AND YOU WERE
27 HAVING TO CONTEMPLATE YOUR TOLERANCE OF IT?

28 MR. TANAKA: I DRAFTED IT.

1 THE COURT: SO YOU WERE READY TO SIGN IT?

2 MR. TANAKA: I'M READY TO SIGN IT.

3 THE COURT: WHAT DO YOU NEED TO ADVANCE THAT
4 PROCESS BEFORE YOU ASK ME TO DECIDE YOUR ADVERSARY'S
5 MOTION FOR A FULL STAY?

6 MR. TANAKA: I BELIEVE THE MOTION FOR STAY HAS
7 BEEN WITHDRAWN. COUNSEL, CORRECT ME IF THAT'S
8 INCORRECT.

9 THE COURT: DEFENDANTS SAY THEY'VE WITHDRAWN
10 THE MOTION FOR A STAY OR JUST YOU'RE WAITING FOR A --

11 MS. ZOLLEZI: YOUR HONOR, WE'RE UNDER THE
12 ASSUMPTION WE WOULD NEED TO REFILE IT WITH THIS COURT.
13 WE HAD NOT DONE SO, BECAUSE WE WERE UNDER THE
14 IMPRESSION THAT THIS STIPULATED STAY WAS GOING TO MOVE
15 FORWARD.

16 THE COURT: SO FAR SO GOOD. SO IF THEY CAN
17 TOLERATE THE STIPULATED STAY IN LIEU OF A FULL STAY,
18 THEN YOU SHOULD PRESUME IN NEGOTIATION. AND IF YOU
19 FAIL AT THAT, THEN I SHOULD OPEN THE DOOR LETTING YOU
20 GET THE MOTION ON CALENDAR.

21 MR. TANAKA: RIGHT.

22 THE COURT: NOW, THAT DOES PRESUPPOSE, THE WAY
23 YOU'RE DESCRIBING IT, THAT I WILL NEED TO GET THE
24 MOTION FOR APPROVAL SOONER RATHER THAN LATER. AND
25 APPARENTLY THAT WOULD REQUIRE ME TO ALSO ENTERTAIN THE
26 REQUEST WHICH BUENAVENTURA WOULD NEED TO MAKE TO MAKE A
27 FINDING THAT WE NEED TO ROPE IN SERVICE USERS AS WELL
28 AS GROUNDWATER USERS. TRUE?

1 MR. TANAKA: YES. BECAUSE --

2 THE COURT: SO WOULD YOU NEED TO MODIFY YOUR
3 MOTION TO DIRECTLY ASK FOR THAT FINDING IN ORDER TO
4 JUSTIFY THE UNIVERSE OF RECIPIENTS THAT YOU WANT.

5 MR. HAGERTY: I THINK MAYBE -- WE DON'T
6 BELIEVE WE NEED TO DEMONSTRATE IS THAT. WE BELIEVE
7 THAT AS THE COMPLAINT IS LAID OUT, IT INCLUDES SURFACE
8 WATER AND GROUNDWATER. AND WE'VE ALLEGED THAT THERE'S
9 A REQUIRED CONNECTION BETWEEN GROUNDWATER AND SURFACE
10 WATER.

11 SO IN OUR POSITION, WE DON'T HAVE TO PROVE AT
12 THIS PHASE ANYTHING FURTHER REGARDING THE NOTICE.

13 THE COURT: I DID SEE THE OPPOSITIONS IN YOUR
14 MOTION NOT YET DECIDED TO OPPOSE IN THIS REGARD. IF
15 YOU THINK YOUR PLEADING SUFFICES, WE CAN GO AHEAD DEAL
16 WITH PUTTING THAT ON CALENDAR.

17 MR. TANAKA: I THOUGHT YOUR HONOR WAS ASKING
18 WHETHER WE WANTED THE GROUNDWATER ADJUDICATION STATUTES
19 REGARDING NOTICE AND AN ANSWER APPLIED TO SURFACE WATER
20 USERS GENERALLY, BECAUSE IT'S A GROUNDWATER STATUTE.

21 THE COURT: THAT'S LESS CLEAR TO ME. I DID
22 UNDERSTAND THERE WAS AN OBJECTION TO THE UNIVERSE OF
23 PEOPLE TO WHOM YOU INTENDED TO SEND THIS NOTICE IN LIEU
24 OF THE SUMMONS AND COMPLAINT AND DRAFT, HERE'S A FORM
25 OF ANSWER IF YOU WANT TO USE IT, RECIPIENT BY MAIL OR
26 WHATEVER. AND YOU WERE GOING TO SEND THIS TO SERVICE
27 WATER USERS AS WELL AS GROUNDWATER USERS. TRUE?

28 MR. TANAKA: YES. LET ME --

1 THE COURT: THEN DON'T I NEED TO FIND IT WOULD
2 BE COVERED BY THE GROUNDWATER STREAMLINE ADJUDICATION
3 ACT, BASED ON THE CODE SECTION YOUR ADVERSARY CITED?

4 MR. TANAKA: IF YOU GIVE ME A SECOND, LET ME
5 TRY AND CAPTURE THE OPPOSITION AND HOW I THINK WE CAN
6 OR WILL DEAL WITH IT.

7 SO THE OPPOSITION FILED BY THE STATE HAD SOME
8 ISSUES DEALING WITH THE TIMING AND ALL THAT HAVE NOW
9 SINCE, I THINK, BEEN MOOTED. BUT THEY DO STILL HAVE AN
10 ISSUE AS TO SERVING ALL THE PARTIES. IN OTHER WORDS,
11 GIVING THEM NOTICE OF THE COMMENCEMENT OF THE ACTION
12 AND THE ANSWER.

13 AND TO AVOID HAVING TO FIGHT THAT FIGHT, WE
14 PLAN TO SERVE ALL PARTIES, WHETHER THEY'VE APPEARED OR
15 NOT. THE PARTIES THAT HAVE NOT APPEARED, WE WILL SERVE
16 BY MAIL.

17 SO THAT'S HOW WE INTEND TO ADDRESS THE STATE'S
18 CONCERN, SO WE DON'T HAVE TO FIGHT THAT.

19 THE SECOND ISSUE IS A LITTLE NAUGHTIER. IT'S
20 DO WE NEED TO PROVE AS A PREDICATE TO THE MOTION FOR
21 APPROVAL THAT THERE'S SURFACE WATER GROUNDWATER
22 CONNECTION. THAT ARGUMENT WE DISAGREE WITH. AND IF WE
23 CAN'T WORK IT OUT WITH COUNSEL, WE WILL REVISE OUR
24 MOTION AND BRIEF IT.

25 THERE'S A FURTHER ISSUES THAT YOUR HONOR IS
26 RAISING WITH ME, I BELIEVE, WHICH IS THE GROUNDWATER
27 STATUTE HAS ALL THESE PROVISIONS, BUT THEY APPLY TO
28 GROUNDWATER BASINS, WHAT DO WE DO WITH SURFACE WATER

1 DIVERTERS. I THINK WE'RE PREPARED TO ADD A SECTION IN
2 THERE TO TALK ABOUT THAT.

3 BUT THAT'S THE APPLICABILITY OF THE
4 GROUNDWATER ADJUDICATION STATUTE, NOT THE PREDICATE
5 ELEMENT OF PROOF, IS THERE SURFACE WATER GROUNDWATER
6 CONNECTION, WHICH WE THINK IS NO DIFFERENT THAN HAVING
7 TO BE ABLE TO PROVE ULTIMATELY THAT YOU'RE A PUMPER,
8 THAT YOU'RE EXERCISING WATER RIGHTS. ALL THOSE THINGS
9 ARE PROVEN IN TRIAL. COUNSEL HAS A DIFFERENT VIEW OF
10 THE RELEVANT CODE SECTION.

11 THE COURT: I, IN MY MIND'S EYE, WAS WORRIED
12 ABOUT CCP SECTION 833, SUBSECTION C, "IF THE COURT
13 FINDS THAT INCLUDING AN INTERCONNECTED SURFACE WATER
14 BODY, A SUBTERRANEAN STREAM FLOWING THROUGH KNOWN AND
15 DIFFERENT CHANNELS IS NECESSARY FOR THE FAIR AND
16 EFFECTIVE DETERMINATION OF GROUNDWATER RIGHTS IN THE
17 BASIN, THE COURT MAY REQUIRE THE JOINDER OF PERSONS WHO
18 CLAIM RIGHTS TO DIVERT AND USE WATER FROM THAT SURFACE
19 WATER BODY OR SUBTERRANEAN STREAM IN COMPREHENSIVE
20 ADJUDICATION CONDUCTED PURSUANT TO THIS CHAPTER."

21 I THOUGHT I READ IN SOME OF THE WATER
22 DISTRICT'S OPPOSITION THAT YOU HADN'T YET SOUGHT SUCH A
23 DETERMINATION THAT IT WOULD BE NEEDED FOR A FAIR AND
24 EFFECTIVE DETERMINATION.

25 AND I WAS SUGGESTING YOU OUGHT TO MODIFY IN
26 YOUR MOTION WHEN YOU FILE IT TO TOUCH THIS BASE, GIVING
27 YOUR ADVERSARIES THE ONGOING OPPORTUNITY TO DISPUTE IT
28 IF THEY FIND A REASON TO EXCLUDE SURFACE WATER.

1 I'M SURE THEY WILL UNDERSTAND THEIR TACTICAL
2 AND STRATEGIC CONSIDERATIONS MUCH BETTER THAN I, AS A
3 ROOKIE IN THIS FIELD; BUT IT'S SOMETHING YOU NEED TO
4 DO, TO MY PERCEPTION.

5 MR. TANAKA: TWO POINTS: WE READ THAT AS A
6 JOINDER STATUTE; NOT AN ELEMENT OF PROOF STANDARD. AND
7 THAT ALLOWS THE COURT TO JOIN PARTIES THAT ARE SURFACE
8 WATER. WE --

9 THE COURT: DO YOU WANT THIS NOTICE PROCESS TO
10 GO TO PEOPLE WHO ONLY HAVE SURFACE WATER RIGHTS, OR YOU
11 JUST WANT IT TO GO TO PEOPLE WHO HAVE GROUNDWATER
12 RIGHTS?

13 MR. TANAKA: WE WANT TO SEND IT TO BOTH.

14 THE COURT: SO MAKE YOUR MOTION. AND I'LL SEE
15 IF IT'S OPPOSED. YOU WON'T HAVE TO PAY FILING FEES.
16 SO PLEASE FILE A NEW MOTION THAT SAYS YOU WANT.

17 MR. TANAKA: WE WILL.

18 THE COURT: WHEN YOU WANT TO PUT IT ON
19 CALENDAR?

20 MR. TANAKA: WE WOULD ONLY NEED ABOUT A WEEK
21 OR TWO TO GET IT REVISED.

22 THE COURT: HOW MUCH TIME DO YOUR ADVERSARIES
23 NEED, 16 COURT DAYS PLUS TWO DAYS FOR SERVICE BY FILE
24 AND SERVE EXPRESS?

25 MR. TANAKA: WE'RE PREPARED TO GO THAT ROUTE.
26 IF COUNSEL NEEDS MORE TIME, I DON'T HAVE AN OBJECTION
27 TO IT.

28 THE COURT: WHO'S LIKELY TO RESIST THE MOTION?

1 THE LADY STANDING?

2 MS. ZOLEZZI: WE'RE LIKELY TO FILE AN
3 OPPOSITION, YOUR HONOR, UNLESS WE CAN AGREE TO THE
4 STIPULATED STAY. SO I DON'T KNOW IF YOU WANT SOME
5 ADDITIONAL TIME IN ORDER TO TRY TO FINALIZE THE STAY
6 BEFORE THAT'S FILED.

7 THE COURT: IS THAT BECAUSE IT WOULD MAKE ME
8 HAPPY ABOUT THE STAY I'LL STOP PROJECTING ABOUT THE
9 NOTICE, HORSE TRADE, OR IS THERE SOMETHING ABOUT THE
10 STAY THAT WILL OBTAIN THE NEED TO FILE THE NOTICE?

11 MS. ZOLEZZI: YES. IF WE ARE ABLE TO REACH
12 THE SUCCESSFUL STIPULATED STAY, THEN WE WOULD NOT
13 OBJECT TO THEIR MOTION AND IT COULD MOVE FORWARD. SO
14 WE MAY WANT TO FINALIZE THAT STAY BEFORE YOU REFILE
15 YOUR MOTION.

16 MR. TANAKA: WELL, THEN WE CERTAINLY WANT TO
17 TRY AND FINALIZE THAT STAY, YOUR HONOR.

18 THE COURT: THEN WHY DON'T I SET A
19 TELECONFERENCE UNTIL WE -- I DON'T NEED TO SEE YOU IN
20 PERSON. I'M GLAD TO SEE YOU IN PERSON, IF YOU WANT;
21 BUT THAT TO ME IS THE KIND OF THING WE OUGHT TO FIGURE
22 OUT IF IT'S GOING TO HAPPEN IN TWO WEEKS. IS THAT
23 ENOUGH TIME?

24 MR. TANAKA: IT IS, YOUR HONOR.

25 MS. ZOLEZZI: YES. THAT'S FINE.

26 THE COURT: DOES ANYBODY DISPUTE THAT?

27 OKAY. SO LET'S SET A FURTHER STATUS
28 CONFERENCE TWO WEEKS FROM TODAY, AUGUST 26TH AT 2:00

1 P.M. YOU CAN FEEL FREE TO APPEAR BY COURT CALL. I'M
2 NOT GOING TO BOTHER TO PUT THIS IN VENTURA, UNLESS
3 SOMEBODY PROTESTS.

4 I WILL WAIVE APPEARANCE IF SOME PEOPLE FEEL
5 THEY DON'T CARE ABOUT THIS. BUT I WOULD LIKE TO AT
6 THAT POINT KNOW IF WE NEED TO GET YOUR MOTION FOR
7 APPROVAL FOR NOTICE ON CALENDAR OR NOT.

8 AND I WOULD ASK FOR A REPORT FROM BUENAVENTURA
9 AT LEAST BY AUGUST 21. UNILATERAL, BUT HOPEFULLY AT
10 THAT POINT MR. HAGERTY, YOU CAN SIMPLY RELAY WHAT
11 YOU'VE LEARNED FROM OTHER INTERESTED PARTIES. AND IF
12 OTHER PEOPLE WANT TO FILE WITH THE COURT THE SAME DATE,
13 THEY CAN. IF I GET A REPORT FROM VENTURA, THAT OUGHT
14 TO BE ENOUGH TO TELL ME WHERE THINGS STAND.

15 IF WE DON'T REALLY NEED TO TALK ON THE 26TH,
16 LET'S SKIP IT AND EITHER ADOPT THE STIPULATION, OR GET
17 YOUR CONTESTED MOTION ON CALENDAR.

18 MR. TANAKA: VERY GOOD, YOUR HONOR. THAT WILL
19 WORK.

20 THE COURT: ANY OBJECTIONS?

21 WHEN WE'RE DONE HERE TODAY, VENTURA WILL BE
22 LUCKY ENOUGH TO GIVE NOTICE.

23 NOW, AS FAR AS A LARGER FURTHER STATUS
24 CONFERENCE, DO YOU CONCUR WITH MR. COOPER'S TWO MONTHS
25 SUGGESTION, MR. HAGERTY, OR --

26 MR. TANAKA: JUST FOR CLARIFICATION, I'M
27 TANAKA.

28 THE COURT: MY APOLOGIES.

1 MR. TANAKA: THAT'S OKAY. SAME FIRM. SO,
2 EASY. SO, YOUR HONOR, I THINK WE'RE GOING TO NEED SIX
3 MONTHS, BECAUSE --

4 THE COURT: I DON'T WANT TO WANT TO WAIT SIX
5 MONTHS BEFORE I SEE YOU. I AT LEAST WANT TO TALK TO
6 YOU. YOU CAN SAY, LEAVE ME ALONE. IT'S INTERESTING,
7 YOU'VE GOT YOUR OWN CROSS-COMPLAINT. AND YOUR
8 CROSS-DEFENDANTS WANT TO GO SLOW, YOU TELLING ME YOU
9 WANT TO GO SLOW. SO IN THAT SENSE, IT SOUNDS LIKE THE
10 STIPULATION WILL BE FORTHCOMING.

11 MR. COOPER, FOR HIS PART, IS WANTING TO GO
12 SLOW, WHICH IS OKAY BY ME.

13 MR. TANAKA: SURE. TWO MONTHS IS FINE. I
14 JUST WAS THINKING IN TERMS OF GETTING THE PARTIES
15 SETTLED IN AND FILING APPEARANCES AND ALL THAT, THAT
16 WILL PROBABLY TAKE SIX MONTHS; BECAUSE IT'S A PRETTY
17 COMPLICATED NOTICE PROCESS THAT WE HAVE TO ENGAGE IN.

18 THE COURT: ARE WE GOING TO BE ABLE TO USE ANY
19 CLASS TECHNIQUES TO AVOID EVERY FEE SIMPLE OWNER IN THE
20 WATERSHED?

21 MR. TANAKA: WELL --

22 THE COURT: THIS ISN'T THE LARGEST GEOGRAPHIC
23 AREA IN THE PLANET, BUT STILL. IF I'M SERVING
24 EVERYBODY WHO OWNS A FEE SIMPLE IN, WHAT, ALL OF
25 VENTURA COUNTY, OR HALF OF VENTURA COUNTY, THAT'S A LOT
26 OF SEPARATE LANDOWNERS.

27 MR. TANAKA: IT IS, YOUR HONOR.
28 UNFORTUNATELY, THE STATUTE IS QUITE SPECIFIC THAT WE

1 NEED TO GET ASSESSOR'S RECORDS OF ALL FEE SIMPLE
2 OWNERS. WE'VE GOT TO GET PUBLIC AGENCY RECORDS OF ALL
3 GROUNDWATER PUMPERS. AND WE'VE GOT TO SERVE THEM ALL.
4 THAT SAID, WE CAN USE MAIL, AND THEN WE CAN USE
5 PUBLICATION.

6 THE COURT: DON'T YOU HAVE TO GO POST ON THE
7 PARCEL IF THEY DON'T APPEAR?

8 MR. TANAKA: NO. NOT UNDER THE STATUTE.

9 THE COURT: I THOUGHT I SAW SOMETHING THAT
10 SAID YOU HAVE TO POST ON THE PROPERTY.

11 MR. TANAKA: I SURE HOPE NOT, YOUR HONOR.

12 THE COURT: TAKE LOOK AT CODE OF CIVIL
13 PROCEDURE SECTION 836, SUBDIVISION D1-C. "IF RETURN
14 RECEIPT IS NOT PROVIDED FOR A PARCEL OF REAL PROPERTY,
15 THE PLAINTIFF SHALL POST A COPY OF THE NOTICE,
16 COMPLAINT, AND FORM ANSWER AND PLACE IN A CONSPICUOUS
17 PLACE ON THE PROPERTY."

18 THIS DOES HELP JUSTIFY THE ARGUMENT FOR SIX
19 MONTHS. I STILL WANT TO CHECK ON IT IN TWO MONTHS. IT
20 LOOKS LIKE THE SHERIFF OR SOMEONE IS GOING TO BE OUT
21 THERE WITH A STAPLE GUN.

22 MR. TANAKA: MIGHT BE LONGER THAN SIX MONTHS.
23 I AGREE AFTER READING THE SECTION.

24 THE COURT: I WAS TRYING TO DO MY HOMEWORK.

25 MR. MELNICK: YOUR HONOR, THAT'S ONLY IF THE
26 RETURN RECEIPT IS NOT RETURNED. SO IF THEY GET THE
27 MAIL, THEY RETURN THE RECEIPT -- I UNDERSTAND THERE
28 WILL BE PEOPLE WHO WILL NOT TOUCH IT.

1 THE COURT: YOU EXPECT A HUNDRED PERCENT
2 RESPONSE RATE TO SOMEBODY WHO'S BEEN SUED? THIS IS
3 LIKE DIRECT MAIL FOR POLITICAL ADVERTISING.

4 MR. MELNICK: I UNDERSTAND. I UNDERSTAND.

5 THE COURT: I MEAN, IT IS A FIRST VERSION OF
6 SUMMONS AND COMPLAINT. A LAYMAN WHO GETS IT IS GOING
7 TO BE, SOMEBODY WANTS TO TANGLE.

8 MR. MELNICK: THEY PROBABLY WOULDN'T KNOW THAT
9 UNTIL AFTER THEY SIGNED IT. FORTUNATELY OR
10 UNFORTUNATELY.

11 THE COURT: IT DEPENDS ON WHAT YOU PUT ON THE
12 ENVELOPE AND HOW THIS IT IS.

13 MR. MELNICK: YES.

14 MR. TANAKA: YOUR HONOR ALSO RAISED -- IF
15 WE'RE THROUGH WITH WHAT YOU WANTED TO HEAR FROM ME. I
16 WANTED TO COME BACK TO YOUR OPENING COMMENTS, ALL OF
17 WHICH I THINK WE AGREE WITH.

18 AND I SUSPECT ALL THE PARTIES WILL TOO. I
19 THINK A SCIENCE DAY COULD BE VERY HELPFUL TO THE COURT.
20 WE CAN -- IF THE COURT PROBABLY HAS SOME SPECIFIC IDEAS
21 OF TOPICS HE WANTS US TO COVER, THEN WE CAN HELP FOCUS
22 IT AND REACH AN AGREEMENT WITH THE PARTIES ON HOW TO GO
23 ABOUT IT.

24 THE COURT: IT'S CONCEIVABLE, TO BE HONEST,
25 THAT IF WE DO IT IN A PUBLIC OFF-THE-RECORD
26 NON-ADVOCACY SETTING, THAT PARTICULARLY IF YOU'RE NOT
27 ALL SETTLED UP, YOU'LL NEED A SCIENCE DAY FOR THE FACT
28 YOU'RE NOT ALL SETTLED UP.

1 YOU MIGHT WANT TO INVITE SOME OF THE
2 STAKEHOLDERS TO ATTEND THE SAME SESSION. BECAUSE
3 WHAT'S EDUCATING ME MIGHT EDUCATE THEM AND PERHAPS
4 BETTER INFORM THEM WHY -- IF EVEN YOU'RE NOT FLOATING A
5 COMPROMISE DIRECTLY IN FRONT OF THEM NECESSARILY, THEY
6 HAVE ENOUGH CONTEXT THAT THEY MIGHT BE ABLE TO GO BACK
7 TO THEIR OWN DELIBERATIONS WITH THE GOVERNMENT ENTITY,
8 OR CHARITY, AN INDIVIDUAL LANDOWNER, OR PUMPER, AND BE
9 MORE DISPOSED TO COOPERATING WITH THE SETTLEMENT.

10 I'M CERTAINLY WILLING TO SHARE THE SPACE WITH
11 OTHERS, IF YOU THAT IS SOMETHING THAT IS INTENDED TO BE
12 EDUCATIONAL. I TOOK CHEMISTRY WHEN I WAS 18. THAT WAS
13 ABOUT 51 YEARS AGO, I THINK. SO YOU KNOW YOU'RE GOING
14 TO HAVE TO DO THE KEEP-IT-SIMPLE APPROACH.

15 MR. TANAKA: I HADN'T THOUGHT ABOUT THAT. I
16 DO THINK IT'S A GOOD IDEA, FOR SEVERAL REASONS. FIRST
17 OF ALL, IF WE REACH AN INTERIM AGREEMENT WITH
18 CHANNELKEEPER, I'M ANTICIPATING THAT'S COMING IN THE
19 FORM OF A STIPULATED SETTLEMENT AGREEMENT AND ORDER FOR
20 THIS COURT. SO THAT WILL BE IN FRONT OF THE COURT.

21 BUT WE WILL STILL NEED TO UNDERSTAND THE
22 LARGER ISSUES FOR A PHYSICAL SOLUTION. AND I THINK ON
23 THAT, WE'VE DONE A LOT OF WORK ALREADY. SO IF WE CAN
24 TIE THAT UP SOMETIME AFTER THAT, THEN IT WOULD BE VERY
25 HELPFUL. BOTH THERE'S A NEED, BECAUSE THERE WOULD BE
26 OPEN ISSUES, AS WE WORK TO A PHYSICAL SOLUTION.

27 SECONDLY, WE NEED TO BUILD STAKEHOLDER
28 SUPPORT; BECAUSE IF WE HAVE THAT, THAT'S GOING TO MAKE

1 LOT OF THINGS A LOT EASIER.

2 THE COURT: SO I STILL LIKE GETTING BACK IN
3 TWO MONTHS. NOW, IN TWO MONTHS YOU MAY JUST KNOW YOU
4 HAVE AGREEMENT TO YOUR FORM, AND NOTICE DRAFT ANSWER.
5 YOU HAVEN'T EVEN CAUSED IT TO BE SENT YET, BUT I WOULD
6 LIKE TO TOUCH BASE.

7 MR. TANAKA: SURE.

8 THE COURT: AND SCIENCE DAY WOULD BE SOMETIME
9 IN THE FUTURE. AND YOU HAVE WHATEVER REPORT YOU DO
10 HAVE FROM KOMAR. IF YOU TELL ME SOME REASON WHY THREE
11 MONTHS IS BETTER THAN TWO MONTHS, I'M NOT TRYING TO BE
12 ADAMANT ABOUT ANY PARTICULAR DATE. I'M ACTUALLY PRETTY
13 BUSY IN THE MONTH OF OCTOBER.

14 SO IF I SAW YOU IN OCTOBER, I WOULD LIKE
15 OCTOBER 28 OR 29TH, IF YOU CAN WAIT FOR THAT. I GUESS,
16 YOUR POINT OF VIEW, OF COURSE, IT CAN WAIT.

17 MR. TANAKA: YOUR HONOR, WE'RE STILL GOING TO
18 HAVE THAT CALL IN TWO WEEKS.

19 THE COURT: YES.

20 MR. TANAKA: SO THE MOST PRESSING ISSUE FROM
21 OUR END IS IF WE CAN -- WE EITHER HAVE A STIP --
22 STIPULATION.

23 THE COURT: RIGHT. IF YOU DON'T HAVE
24 AGREEMENT, I WOULD BE WILLING TO LET THE
25 CROSS-DEFENDANTS GET THEIR MOTION FOR STAY ON CALENDAR
26 WITH REASONABLE DISPENSE.

27 MR. TANAKA: I WANTED TO CHECK MY CALENDAR.
28 WHAT DAY WAS YOUR HONOR THINKING?

1 THE COURT: TO FOR THE TWO-MONTH STATUS,
2 MONDAY 28 OR TUESDAY OCTOBER 29.

3 MR. TANAKA: OCTOBER 29 WOULD BE BETTER IF
4 IT'S OKAY WITH THE COURT.

5 MR. COOPER: I'M IN TRIAL IN FEDERAL COURT
6 STARTING THE 14TH, I THINK. IS THAT MONDAY? THE 15TH,
7 WE SHOULD BE DONE. BUT YOU KNOW HOW THAT STUFF GOES.
8 SO WEDNESDAY OR THURSDAY WOULD BE SAFER FOR ME, EVEN
9 FRIDAY.

10 THE COURT: WHAT ABOUT FRIDAY, NOVEMBER 1?

11 MR. COOPER: SURE.

12 THE COURT: IS THAT OKAY, MR. TANAKA?

13 MR. TANAKA: IT IS, YOUR HONOR.

14 THE COURT: ANYBODY OBJECT TO FRIDAY, NOVEMBER
15 1? AT 1:30 P.M. ANYBODY SEE A NEED TO DO IT IN
16 VENTURA COUNTY, OR YOU JUST ASSUME TO COME HERE?

17 MR. TANAKA: IT'S MORE CONVENIENT HERE, YOUR
18 HONOR, AT THIS POINT. MAYBE THE SCIENCE DAY SHOULD GO
19 FORWARD UP IN VENTURA.

20 THE COURT: FINE BY ME. ANY OBJECTIONS TO LOS
21 ANGELES? HEARING NONE. IT WILL BE HERE IN DEPARTMENT
22 10 ON NOVEMBER 1 AT 1:30 P.M. WITH A JOINT REPORT DUE
23 ON OCTOBER 25.

24 IF YOU HAVE PEOPLE WHO ARE SLOW OR
25 RECALCITRANT TO RESPOND TO THE PREPARATION OF THE JOINT
26 REPORT, I'LL ACCEPT IT IF IT'S NOT FULLY COMPLETE BY
27 THOSE WHO ARE RESPONSIBLE AND COOPERATING.

28 AND ANYBODY ELSE WHO FOR SOME REASON IS

1 STANDOFFISH CAN FILE A UNILATERAL REPORT BY OCTOBER 25
2 IF THEY WANT. ANYBODY APPEARS ON THE CASE NEEDS TO
3 SIGN UP FOR FILE AND SERVE EXPRESS.

4 IT IS AN INTERESTING QUESTION AS WE GO
5 FORWARD, THERE MAY BE ONE SITUATION WHERE A WEBSITE MAY
6 IN TERMS OF A CASE THAT STARTS TO BRING IN HUNDREDS OF
7 THOUSANDS OF INDIVIDUAL HOMEOWNERS AND RANCHERS,
8 WHETHER IT'S REASONABLE TO EXPECT THEM TO SIGN UP AND
9 PAY FILE AND SERVE EXPRESS FEES, AS OPPOSED TO HAVING
10 AN ALTERNATIVE VEHICLE.

11 I'M AGNOSTIC AT THE MOMENT ABOUT THE RIGHT WAY
12 TO HANDLE IT. THIS IS APPARENTLY, TO MY UNDERSTANDING,
13 GOING TO BE ONE OF THE FIRST TIMES PEOPLE ACTUALLY
14 LITIGATED UNDER THIS STATUTE, WHICH IS STATUTORY IN THE
15 PENDENCY OF THIS CASE.

16 I HAVE ONE LAWSUIT WHERE 61 DIFFERENT LAW
17 FIRMS, AS TO THIS RISPERDAL PRODUCT, BROUGHT IN 18,800
18 INDIVIDUAL PLAINTIFFS. AND IT IS A NIGHTMARE TO KEEP
19 TRACK OF THEM, PARTICULARLY WITH OUR OLD SOFTWARE.

20 I DON'T KNOW IT'S GOING TO BE MUCH FUN WITH
21 THE NEW SOFTWARE, ALTHOUGH WE DO HAVE THEORETICALLY NEW
22 SOFTWARE THAT'S SUPPOSED TO KEEP TRACK OF PARTIES.

23 BUT MY LORD, THE PARTIES IN THIS CASE IS GOING
24 TO GO ON IN THE THOUSANDS OF NAMES, CORRECT?

25 MR. TANAKA: THAT'S CORRECT, YOUR HONOR.

26 THE COURT: SO THAT WILL BE AN INSTITUTIONAL
27 BONE CRUSHER FOR COURT RESOURCES.

28 MR. TANAKA: YOUR HONOR, PERHAPS I MIGHT

1 SUGGEST THAT THE QUESTION OF THE WEBSITE. ALSO THE
2 PROTECTIVE ORDER, WHICH I THINK WE'VE TENTATIVE AGREED
3 TO, ALTHOUGH I'M NOT SURE EVERYBODY WILL RECALL THAT WE
4 HAD. WE CAN PUT THAT ALL INTO THE JOINT REPORT LEADING
5 UP TO THE TWO MONTH STATUS CONFERENCE.

6 THE COURT: THAT'S MY VIEW. WE'VE BEGUN THE
7 DIALOG. GIVEN THAT COUNSEL IS TAKING A MEASURED PACE,
8 I'M HAPPY TO PUT THOSE THINGS OFF UNTIL NOVEMBER 1.

9 MR. TANAKA: SO WE WILL PUT THAT IN THERE,
10 YOUR HONOR.

11 THE COURT: YES. WHAT ELSE DO YOU WANT TO
12 TAKE UP WITH THE COURT, MR. TANAKA?

13 MR. TANAKA: I DON'T BELIEVE SO I HAVE
14 ANYTHING ELSE, YOUR HONOR.

15 THE COURT: MR. MELNICK?

16 MR. MELNICK: YOUR HONOR, THIS IS ALL
17 SATISFACTORY FROM US.

18 THE COURT: REMIND ME, THE LADY WHO STOOD UP
19 FOR SOME OF THE CROSS-DEFENDANTS, YOU ARE?

20 MS. ZOLEZZI: JEANNE ZOLEZZI. HERUM,
21 CRABTREE, SUNTAG.

22 THE COURT: YES. AND WHICH WATER DISTRICT DO
23 YOU HAVE?

24 MS. ZOLEZZI: VENTURA RIVER WATER DISTRICT AND
25 MEINERS OAKS WATER DISTRICT.

26 THE COURT: VENTURA RIVER WATER DISTRICT IS
27 THE MAJOR TAKER -- THE CITY IS THE TAKER THAT'S BEING
28 CHALLENGED?

1 MS. ZOLEZZI: RIGHT.

2 THE COURT: THE WATER DISTRICT IS THE SMALLER
3 TAKER?

4 MS. ZOLEZZI: RIGHT. TWO SMALLER DISTRICTS
5 UPSTREAM.

6 THE COURT: OKAY. SO YOU'RE ONE OF THE MOVING
7 CROSS-DEFENDANTS ON THE STAY ISSUE?

8 MS. ZOLEZZI: YES. ON THE STAY.

9 THE COURT: SO WHAT DO YOU WANT TO TAKE UP
10 WITH THE COURT THAT YOU HAVEN'T ADDRESSED ALREADY?

11 MS. ZOLEZZI: WE HAVE NOTHING TO ADD, YOUR
12 HONOR. WE THINK THE APPROACH IS WELL REASONED.

13 THE COURT: OKAY. OPEN SEASON. ANYBODY ELSE
14 WANT TO BE HEARD? ANYBODY ON THE PHONE WANT TO BE
15 HEARD? OKAY.

16 MR. BLATZ: RYAN BLATZ. THE ONLY OTHER ISSUE,
17 IN OUR ORIGINAL CASE MANAGEMENT STATEMENT, A NUMBER OF
18 THESE USERS ARE GOING TO BE A VERY, VERY LOW-LEVEL
19 USERS. ONE OF THE -- CASE MANAGEMENT STATEMENT IN SAN
20 FRANCISCO IS THAT WE WOULD CREATE A DE MINIMIS USER
21 CUTOFF.

22 I'M VERY HOPEFUL, BECAUSE THERE ARE SO MANY
23 USERS THAT ARE GOING TO FALL INTO THAT CATEGORY. I
24 JUST WANT TO MAKE SURE IF THERE'S ANY WAY TO AVOID THEM
25 HAVING TO INCUR ANY ADDITIONAL COSTS. WHAT ARE THE
26 EASIEST WAY TO GET FROM POINT A TO POINT B.

27 IF THEY'RE GOING TO BE DISMISSED UNDER DE
28 MINIMIS BASIS, I JUST WANT TO MAKE SURE THERE'S

1 ACCOUNTING FOR THAT, EASY AND STREAMLINE AND
2 COST-EFFECTIVE.

3 THE COURT: MR. BLATZ, YOU MAKE A GOOD POINT.
4 WHY DON'T THE PARTIES TALK BETWEEN NOW AND THEN. I
5 DON'T KNOW UNDER THE STATUTE THE EXTENT TO WHICH I
6 COULD CARVE OUT DE MINIMUS. BUT IF I CAN, OR IF
7 THERE'S NO REASON WHY I CAN'T.

8 I'M OPEN TO THE CONCEPT, BUT YOU NEED TO TRY
9 TO COME TO A CONSENSUS OF WHAT IS DE MINIMUS. YOU
10 KNOW, 1 ACRE A FOOT A YEAR; 1/2 ACRE FOOT A YEAR; A
11 TENTH ACRE FOOT A YEAR SO THAT YOU CAN FIGURE WHAT YOU
12 CUTOFF, AND HOW DO YOU KNOW IN ADVANCE THAT SOMEBODY IS
13 DE MINIMIS, IS IT ON TRUST, OR GIVE AWAY A LOT OF
14 ONE-TENTH OF AN ACRE FOOT RIGHTS TO ALL SORTS OF PEOPLE
15 WHO NEVER CAME BEFORE THE COURT.

16 PARTICULARLY IF YOU'RE TRYING TO SAY, WELL,
17 YOU CAN KEEP USING A TENTH-ACRE FOOT A YEAR, EVEN
18 THOUGH YOU WEREN'T IN THE LAWSUIT. FROM A DUE-PROCESS
19 POINT OF VIEW, IT'S A LITTLE HARD TO SAY YOU CAN'T TAKE
20 TWO-TENTHS AN ACRE A FOOT IF YOU WEREN'T IN THE CASE.

21 YET IN THEORY YOU GIVE AWAY A LOT OF ONE-TENTH
22 OF AN ACRE FOOT TO A LOT OF PEOPLE, AT SOME POINT IT
23 ADDS UP TO REAL MONEY. AS EVERETT DIRKSEN USED TO SAY,
24 "A BILLION HERE, A BILLION THERE, IT ADDS UP TO REAL
25 MONEY."

26 MR. TANAKA: YOUR HONOR, IT'S IN OUR INTEREST
27 AS WELL TO STREAMLINE IT. WE WILL WORK WITH MR. BLATZ
28 AND THE OTHER CROSS-DEFENDANTS. THE STATUTE DOES ALLOW

1 TO SET A PRESUMED DE MINIMIS NUMBER.

2 THE PROBLEM IS THE LAST POINT YOUR HONOR
3 RAISED, WHICH IS WE'VE JUST GOT TO SEE HOW MANY OF THE
4 SMALL USERS ARE IN THE AGGREGATE TO SEE WHETHER WE NEED
5 TO KEEP THEM IN. EVEN THEN, WE WANT TO KEEP THIS AS
6 SIMPLE OF POSSIBLE FOR THEM. WE WILL PROBABLY NEED
7 SOME CLARIFICATION HOW POTENTIAL SIMPLIFY IT LATER ON.

8 THE COURT: THE GOOD NEWS IS WE HAVE ENOUGH
9 PUBLIC ENTITIES THAT RESPOND TO THE HUMAN CRY OF
10 VOTERS. THERE WILL BE SOME INFLUENCES HERE.

11 ANYTHING ELSE, MR. BLATZ.

12 MR. BLATZ: RYAN BLATZ, YOUR HONOR. SINCE THE
13 ORDER ANTICIPATES REQUIRING NOTICES BY SEPTEMBER 3RD.
14 MY QUESTION IS, FOR THOSE THAT MAY BE DE MINIMUS, IF WE
15 CAN FIGURE OUT -- I DON'T KNOW YET. WE HAD PRELIMINARY
16 DISCUSSIONS, OBVIOUSLY NOTHING FORMAL.

17 IF WE CAN COME TO -- THAT'S WHAT I HAVEN'T
18 FIGURED OUT YET. DO THEY NEED TO APPEAR AND THEN THEY
19 BECOME DE MINIMIS FROM A DUE PROCESS STANDPOINT BY
20 APPEARING AND THEN BEING DISMISSED, OR OBVIOUSLY
21 THERE'S SOME OF THESE DE MINIMUS USERS ARE GOING TO END
22 UP ACQUIRING FILING FEES, COSTS, OR SOMETHING. THEY
23 ARE TRYING TO AVOID AND THEY ARE TRYING TO PUT THAT
24 MONEY TOWARDS A SOLUTION WHEN THEY USE SO LITTLE WATER.

25 SO THAT WOULD BE MY ONLY QUESTION, IS DOES
26 THAT NEED TO BE ONLY PENDING AN AGREEMENT THAT WE HAVE
27 TO DISMISS THEM, OR IS THERE A WAY THAT THE COURT -- OR
28 CAN WE WORK WITH THE PLAINTIFFS TO MAYBE CARVE OUT THE

1 DE MINIMIS USERS TO WAIVE THE FILING FEES BUT STILL
2 ENABLE THEM TO BE HANDLED ON THAT DE MINIMUS BASIS?

3 THE COURT: BETWEEN NOW AND AUGUST 26TH, THE
4 ONLY REAL QUESTION IS, IS THERE AN AGREEMENT TO A STAY
5 THAT'S AGREEABLE TO ALL PERSONS PRESENT? IN WHICH
6 CASE, I WON'T ENTERTAIN A STAY MOTION, BUT WE WILL VERY
7 MUCH PROCEED WITH NOTICE GIVEN. BECAUSE IT APPEARS
8 THAT ONE OF THE COURT TERMS OF THE LIMITED STAY IS
9 NOTICE GIVEN WOULD PROCEED.

10 AND I WILL NEED TO GET THE MOTION ON FILE,
11 WHICH COULD BE HEARD NO EARLIER THAN NOVEMBER 1 OR IF
12 THE CITY OF VENTURA WANTS TO HAVE IT HEARD BEFORE
13 NOVEMBER 1, I WOULD BE OPEN TO ENTERTAINING MOTION TO
14 RECRUIT MEMBERS BEFORE NOVEMBER 21, BUT IT WON'T BE
15 AUGUST 26TH.

16 IN THAT CASE MR. BLATZ RAISES A GOOD POINT,
17 WHICH IS IF WE JUST GO BY STATUTORY NOTICE CONTEMPLATED
18 BY CODE OF CIVIL PROCEDURE SECTION 830 ET SEQ,
19 EVERYBODY IS GOING TO HAVE TO JOIN THE PARTY FIRST AND
20 THEN MAYBE WE WILL GIVE EXCUSES AFTER PEOPLE JOIN THE
21 PARTY.

22 BUT FROM A DUE PROCESS POINT OF VIEW, IF WE
23 DON'T HAVE IT BEFORE THE COURT, WE DON'T HAVE
24 JURISDICTION. AND IT'S VERY DANGEROUS TO START
25 EXCUSING PEOPLE FROM A FAR WHEN YOU DON'T KNOW WHAT
26 THEIR REAL WATER USE ATTRIBUTES ARE.

27 SO I'LL LET THE LAWYERS TALK ABOUT IT IN THE
28 SHORT RUN, BUT IT'S PROBABLY WHEN I GET THE CITY OF

1 VENTURA'S MOTION FOR APPROVAL OF NOTICE IN THE FORM OF
2 ANSWER THAT THE QUESTION OF ANY CARVE-OUTS WILL FIRST
3 BE BEFORE THE COURT.

4 AND I WILL TAKE OBJECTIONS OR CAUTIONARY
5 ADMONITIONS FROM ANYBODY WHO WANTS TO SHARE WITH THE
6 COURT, MR. BLATZ, IF THE CITY IS IN SOME VIEW THE
7 NOTICE COULD BE AVOIDED; BUT FROM A DUE PROCESS POINT
8 OF VIEW, OVER NOTICING SEEMS TO BE THE KIND OF DEFAULT
9 PRESUMPTION.

10 WHETHER I WOULD GIVE A REFUND \$435 TO SOMEBODY
11 WHO TURNS OUT TO BE A DE MINIMIS USER, THAT'S QUITE
12 POSSIBLE. I WOULD BE OPEN TO THAT. BUT I NEED TO KNOW
13 WHOSE BEING ROPED IN FOR USING SOME WATER TO FEED THE
14 GOAT IN THE BACK OR WHATEVER WHOSE TRULY DE MINIMIS.

15 BUT WE ALMOST NEED TO KNOW THAT THERE BEFORE
16 THE COURT THEY ONLY USE 50 GALLONS A YEAR. AND BECAUSE
17 THEY ONLY USE 50 GALLONS A YEAR, ANY JUDGMENT WE ISSUE
18 IS GOING TO CONTINUE TO LET THEM USE 50 GALLONS A YEAR.
19 AND IF THEY AGREE TO THAT, AND IF EVERYONE ELSE AGREES
20 TO 50 GALLONS A YEAR, WE THEN LEAVE THEM ALONE AND SAY
21 YOU DON'T NEED TO COME BACK TO THE COURTHOUSE.

22 BUT IF THEY WANT TO USE SOMEWHERE BETWEEN 50
23 AND A THOUSAND GALLONS A YEAR, DEPENDING ON WHETHER OR
24 NOT THEY WANT TO PUT IN AN AVOCADO ORCHARD OR THE NEXT
25 OWNER WANTS TO PUT IN AN AVOCADO ORCHARD BECAUSE IT'S
26 THEIR HOBBY FARM AND THEY JUST WANT TO MAKE AVOCADOS,
27 THEN ALL OF A SUDDEN IT'S NOT 50 CUBIC FEET A YEAR,
28 IT'S A THOUSAND. AND MAYBE THAT'S ENOUGH IT STOPS

1 BEING DE MINIMIS.

2 AND SOMEBODY THAT TAKES 50 CUBIC FEET AWARE
3 WANTS IT CAP NEVER USE MORE THAN 50 IF WE CATCH YOU
4 USING MORE THAN THAT YOUR SUCCESSOR-IN-INTEREST IS
5 VIOLATING JUDGMENT.

6 SO IT'S CONCERNING WE'RE GUINEA PIGS
7 APPARENTLY. DID THEY PREVIOUSLY LITIGATE BY HAVING ALL
8 THE FEE SIMPLE OR IS THIS THE LEGISLATURE IDEA OF
9 HAVING EXTREME ALL IN FRONT OF THE COURT AT THE SAME
10 TIME.

11 MR. TANAKA: I'M NOT SURE WHETHER THEY'VE
12 ROPED IN ALL THE PROPERTY OWNERS. BUT WE HAVE DONE
13 THESE WITH MASSIVE CASES WITH GROUNDWATER USERS.

14 ALL THE CONCERNS YOUR HONOR RAISES ARE VALID.
15 I THINK WE HAVE TO GET THEM IN. WE CAN DISCUSS THIS
16 WITH MR. BLATZ? ONCE THEY ARE IN, WE CAN TRY TO
17 CURTAIL THE AMOUNT OF WORK THEY HAVE TO DO.

18 THE COURT: I'M OPEN TO SUGGESTIONS
19 TECHNOLOGICAL AND OTHERWISE. BUT DUE PROCESS DOES
20 REQUIRE ADEQUATE NOTICE IF WE'RE GOING TO RENDER A
21 JUDGEMENT IMPACTING SOMEBODY, THEY HAVE A RIGHT TO
22 PARTICIPATE AT ALL TIMES, EVEN THOUGH THEY MAY FIND
23 PARTICIPATION IN SOME BIG FIGHT BETWEEN THE THATCHER
24 SCHOOL WITH OTHERS AS SOME KIND OF FIGHT THEY'D RATHER
25 STAND ASIDE FROM, BECAUSE THEY ARE NOT A --

26 MR. BLATZ: YOUR HONOR, THE ONLY THING I WOULD
27 ASK IS THAT WITH A HARD DEADLINE OF SEPTEMBER 3RD, AND
28 JUST TRYING TO FIGURE THAT OUT, I DON'T KNOW IF WE WILL

1 HAVE AN ANSWER. I WOULD HATE TO PUT MY CLIENTS IN A
2 POSITION OF FEELING LIKE THEY NEED TO PAY. SOME ARE DE
3 MINIMIS USERS ARE SOME OF THEM THAT HAVE ALREADY
4 APPEARED WHO ARE GOING TO BE SADDLED WITH A \$935
5 CHARGE. I WOULD RATHER SPEND THAT MONEY ON A SOLUTION.

6 THE COURT: THE PEOPLE WHO HAD ALREADY
7 APPEARED, I'VE MADE MY ORDER. THEY ARE GOING TO HAVE
8 TO PAY. IF THEY WANT TO FILE INFORMAL FEE WAIVER. IF
9 THEY QUALIFY FOR A FEE WAIVER, AND THEN I'LL HAVE TO
10 WORRY ABOUT WHERE I GET THE LAST \$18,000 SOMEBODY ELSE
11 SO BE IT.

12 AND IF IT'S ONE OF THESE CROSS PAYMENT SECOND
13 18 TO THE FIRST 18, IT'S MORE A MATTER OF CONTRACT
14 ENFORCEABLE SHORT RUN BECAUSE FIRST INSTANCE. ANYTHING
15 ELSE?

16 SHOULD I TALK TO KOMAR OR NOT? I DON'T FEEL I
17 NEED TO. IF YOU DON'T WANT ME TO, I WON'T.

18 MR. COOPER: I'M NEUTRAL. IF YOU DON'T FEEL
19 LIKE YOU NEED TO, THEN DON'T.

20 I THOUGHT -- I'M IN A CAUSE RIGHT NOW, A
21 GROUNDWATER ADJUDICATION CASE. I'M ON THE SIDELINES
22 WITH JUDGE KERWIN. SO I WOULD ENCOURAGE YOU TO TALK
23 WITH HIM ABOUT HOW HE MANAGED THAT ENORMOUS DOCKET.

24 THE COURT: WHAT'S IT CALLED?

25 MR. COOPER: IT'S CALLED IN RE: TWITCHELL
26 DAM, T-W-I-T-C-H-E-L-L.

27 THE COURT: ABOUT THE LOWER REACHES OF THE
28 CUYAMA RIVER.

1 MR. COOPER: THAT'S EXACTLY RIGHT.

2 THE COURT: NEVER SEEN IT FULL OF WATER.

3 MR. COOPER: THEY LET IT OUT INTO THE BED OF
4 THE SANTA MARIA WHERE IT PERCOLATES FOR GROUNDWATER
5 AUGMENTATION. SO IT'S NEVER INTENDED TO BE FULL. IT
6 JUST RETAINS THE RIVER FLOW AND THEN LET'S IT GO AT A
7 LATER AREA. THAT WOULD BE MY THOUGHTS.

8 THE COURT: MR. MELNICK, SENTIMENTS MY CALLING
9 KOMAR?

10 MR. MELNICK: THAT'S UP TO YOU, YOUR HONOR. I
11 DON'T HAVE A PROBLEM WITH IT.

12 MR. TANAKA: I WOULD RECOMMEND YOU DON'T.

13 THE COURT: I'LL AVOID TALKING TO HIM. KEEP
14 MY DISTANCE FROM KOMAR. I'M READY TO RECESS.

15 MR. COOPER: THAT'S IT, YOUR HONOR.

16 THE COURT: COURTS IN RECESS. THANK YOU.

17 MR. MELNICK: THANK YOU, YOUR HONOR.

18 MR. TANAKA: THANK YOU, YOUR HONOR.

19 (PROCEEDINGS ADJOURNED AT 11:46 A.M.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 10 HON. WILLIAM F. HIGHBERGER, JUDGE

SANTA BARBARA CHANNELKEEPER,)	
)	
PLAINTIFF,)	
)	
VS.)	CASE NO.
)	19STCP01176
STATE WATER RESOURCES CONTROL)	
BOARD,)	
)	
DEFENDANTS.)	
_____)	

I, AURORA BOWSER, 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 73, COMPRISE A FULL, TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS AND TESTIMONY TAKEN IN THE MATTER OF THE ABOVE-ENTITLED CAUSE ON AUGUST 12, 2019.

EXECUTED THIS DAY, AUGUST 19, 2019, AT LOS ANGELES, CALIFORNIA.

Aurora D. Bowser

AURORA BOWSER, CSR NO. 12801

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