

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT SSC 10

HON. WILLIAM F. HIGHBERGER, JUDGE

SANTA BARBARA CHANNELKEEPER, A)
CALIFORNIA NON-PROFIT)
CORPORATION,)
)
PETITIONER,)
)
V.) NO. 19STCP01176
)
STATE WATER RESOURCES CONTROL)
BOARD, A CALIFORNIA STATE)
AGENCY, ET AL.,)
)
RESPONDENTS.)
)
)
AND RELATED CROSS-ACTION.)
)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

NOVEMBER 15, 2021

1:51 P.M.

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1 CASE NUMBER: 19STCP01176
2 CASE NAME: SANTA BARBARA CHANNELKEEPER V.
3 STATE WATER RESOURCES CONTROL
BOARD
4 LOS ANGELES, CA MONDAY, NOVEMBER 15, 2021
5 DEPARTMENT SSC-10 HON. WILLIAM F. HIGHBERGER, JUDGE
6 APPEARANCES: (AS HERETOFORE NOTED.)
7 REPORTER: RONALD L. COOK, CSR NO. 13928
8 TIME: 1:51 P.M.

9

10 THE COURT: REMAIN SEATED.

11 WE'RE ON THE RECORD ON 19STCP01176.

12 I'LL LOG ONTO THE L.A. COURTCONNECT JUST
13 NOW.

14 AND DO I HAVE MATTHEW HAFFNER WITH US?

15 MR. HAFFNER: YES. GOOD AFTERNOON, YOUR HONOR.
16 MATTHEW HAFFNER, FOR CROSS-DEFENDANT SUSAN MOLL.

17 THE COURT: SO, MR. HAFFNER, I ASSUME IF THE
18 MOTION IS GRANTED, EVERYBODY ASSOCIATED WITH YOUR
19 OFFICE IS GOING TO BE RELIEVED AND THE CLIENT WILL BE
20 SELF-REPRESENTED. THAT'S THE INTENT, CORRECT?

21 MR. HAFFNER: YES, YOUR HONOR.

22 THE COURT: OKAY.

23 AND IN THIS CASE ANYTHING FILED WITH THE
24 COURT IS SUPPOSED TO BE SERVED ON FILE & SERVEXPRESS.
25 WE, AT LEAST, DIDN'T SHOW THE COURT BEING SERVED. DID
26 YOU SERVE LIKE ALL THE OTHER PARTIES AND JUST LEFT THE
27 COURT OFF YOUR SERVICE LIST, OR DID YOU, FOR SOME
28 REASON, NOT SERVE THEM AT ALL?

1 MR. HAFFNER: I APOLOGIZE, YOUR HONOR. THE
2 COURT WAS SERVED AS WELL ELECTRONICALLY. EVERYONE WAS
3 SERVED ELECTRONICALLY EXCEPT FOR THE CLIENT, WHO WAS
4 SERVED WITH PAPER COPY.

5 THE COURT: WELL, I UNDERSTAND THE CLIENT HAS TO
6 BE SERVED WITH PAPER COPIES, BUT WHY DON'T I FIND ANY
7 INDICATION OF A SERVICE COPY OF YOUR MOTION WHEN I LOOK
8 AT MY FILE & SERVE ACCOUNT?

9 MR. HAFFNER: I HAVE A CONFORMED COPY, YOUR
10 HONOR. I DON'T UNDERSTAND WHY THERE ISN'T ONE IN YOUR
11 FILE.

12 THE COURT: WELL, DID YOU LIKE SERVE CITY OF
13 VENTURA THROUGH BEST BEST & KRIEGER AND MANY OF THE
14 GAZILLION OTHER PEOPLE BUT SOMEHOW DIDN'T CHECK THE BOX
15 FOR L.A. SUPERIOR WHEN YOU DECIDED TO DO THE SERVE ON
16 AUGUST 6 -- EXCUSE ME -- ON OCTOBER 6TH OR THEREABOUTS?

17 MR. HAFFNER: I'M NOT SURE, YOUR HONOR. I KNOW
18 WE SERVED EVERYONE ON THE SERVICE LIST AND THAT I
19 PROMPTLY FILED THE MOTION.

20 THE COURT: YOU PRACTICE AS HAFFNER LAW OFFICES,
21 RIGHT?

22 MR. HAFFNER: CORRECT, YOUR HONOR.

23 THE COURT: AUGUST -- EXCUSE ME. OCTOBER 4,
24 BEST BEST & KRIEGER; OCTOBER 6, FILE & SERVEXPRESS;
25 DITTO OCTOBER 6; OCTOBER 8TH, BEST BEST & KRIEGER;
26 OCTOBER 12, BEST BEST & KRIEGER; OCTOBER 12TH,
27 BARTKIEWICZ KRONICK & SHANAHAN. THESE ARE THE PEOPLE
28 WHO HAVE SERVED THINGS. THAT'S MS. JACOBSON FROM THE

1 CITY OF OJAI.

2 NOTHING FROM HAFFNER LAW OFFICES ON MY END.

3 MR. HAFFNER: I DON'T UNDERSTAND, YOUR HONOR.
4 WE DID SUBMIT THROUGH THE FILE & SERVE ON ALL PARTIES.

5 I ALSO INDIVIDUALLY E-MAILED EVERYONE
6 MYSELF, AND THEN FILED IT WITH THE COURT.

7 THE COURT: IF YOU DON'T CHECK THE BOX FOR THE
8 COURT, IT DOESN'T GET TO THE COURT, SO YOU DO HAVE TO
9 CHECK EVERYBODY, NOT ALMOST EVERYBODY.

10 MR. HAFFNER: ALL RIGHT.

11 THE COURT: DID BEST BEST & KRIEGER GET
12 MR. HAFFNER'S MOTION?

13 MR. HAGERTY: YES, YOUR HONOR, WE DID.

14 THE COURT: OKAY.

15 I'LL OVERLOOK THAT, BUT IF YOU WERE TO
16 REMAIN IN THE CASE, MR. HAFFNER, TRY TO BE MORE
17 METHODOICAL, INCLUDING THE COURT ON THE SERVICE LIST
18 GOING FORWARD.

19 MR. HAFFNER: I APOLOGIZE, YOUR HONOR.

20 THE COURT: OKAY.

21 HAVE YOU HEARD ANYTHING FROM YOUR CLIENT IN
22 RESPONSE TO THE MOTION, SIR?

23 MR. HAFFNER: I HAVE SPOKEN TO MY CLIENT BECAUSE
24 WE HAD OTHER CASES, AND I CONFIRMED THAT SHE HAD THE
25 MOTION AND SHE WAS NOT OPPOSING IT. I'VE SPOKEN TO HER
26 OVER THE PHONE.

27 THE COURT: DO YOU HAVE ANY SENSE IF SHE'S
28 TRYING TO HIRE OTHER COUNSEL OR IS JUST GOING TO

1 PROCEED ON HER OWN?

2 MR. HAFFNER: MY UNDERSTANDING IS THAT SHE IS
3 PROCEEDING ON HER OWN, AS SHE IS IN THE OTHER CASES
4 THAT I'VE WITHDRAWN FROM AS WELL.

5 THE COURT: IS SHE RIPARIAN OR JUST A FEE SIMPLE
6 OVER THE GROUNDWATER?

7 MR. HAFFNER: GROUNDWATER, YOUR HONOR.

8 THE COURT: FAIR ENOUGH.

9 OKAY. I'M GOING TO TAKE A MOMENT TO FIND
10 THE PAPERWORK I NEED TO APPROVE ELECTRONICALLY, AND
11 WE'LL TAKE THE NECESSARY STEPS TO COMPLETE IT.

12 REMEMBER, SIR, THAT YOU HAVE TO STILL GET A
13 CONFORMED COPY OF THE ORDER, SERVE IT ON YOUR CLIENT,
14 MS. MOLL, M-O-L-L, VIA U.S. MAIL, AND THEN GENERATE
15 THAT PROOF OF SERVICE AND FILE IT WITH THE CLERK OF
16 COURT, AND AT THAT POINT YOU FINALLY GET YOUR FREEDOM.
17 UNDERSTOOD?

18 MR. HAFFNER: YES. THANK YOU, YOUR HONOR.

19 THE COURT: OKAY.

20 IN BOX 2 AFTER MR. HAFFNER'S NAME, I'M
21 SIMPLY ADDING, QUOTE, "AND MANY OTHERS; SEE MINUTE
22 ORDER OF NOVEMBER 15, 2021, FOR FULL LIST OF
23 APPEARANCES." OTHERWISE I'D BE HERE TILL MIDNIGHT
24 ENTERING ALL THE NAMES OF THE LAWYERS.

25 ON BOX 9B I'M ADDING "RE PHASE 1 BENCH
26 TRIAL" AFTER THE CURRENT REFERENCE TO THE FEBRUARY 14
27 TRIAL DATE.

28 YOUR CLIENT'S A NATURAL PERSON, RIGHT,

1 MR. HAFFNER?

2 MR. HAFFNER: I'M SORRY, YOUR HONOR. I COULDN'T
3 HEAR THAT.

4 THE COURT: YOUR CLIENT IS A REGULAR LIVING,
5 BREATHING HUMAN BEING, NOT A FICTITIOUS --

6 MR. HAFFNER: YES. THANK YOU, YOUR HONOR.

7 THE COURT: OKAY.

8 DID ANYBODY ELSE'S NAME APPEAR ON PAPERS
9 ASSOCIATED WITH HAFFNER LAW DURING THE TIME THAT YOU
10 HAD THE CASE, SIR?

11 MR. HAFFNER: SORRY. I'M HAVING TROUBLE HEARING
12 THE COURT.

13 THE COURT: ARE YOU A SOLO OR IS THERE ANYBODY
14 ELSE ASSOCIATED WITH YOUR PRACTICE IN VENTURA CITY?

15 MR. HAFFNER: I'M SORRY. THERE'S TWO LAWYERS
16 HERE.

17 THE COURT: OKAY. SO YOU DO INTEND THE GRANT OF
18 THIS MOTION TO TOTALLY CUT THE CORD AS TO EVERYBODY IN
19 THE PRACTICE?

20 MR. HAFFNER: CORRECT, YOUR HONOR. THANK YOU.

21 THE COURT: I'LL EDIT THE REFERENCE TO MAKE THAT
22 CLEAR TO MS. MOLL.

23 IT'S HAFFNER LAW GROUP, SIR?

24 MR. HAFFNER: YES. THANK YOU.

25 THE COURT: LLC, LLP, OR JUST HAFFNER LAW GROUP?

26 MR. HAFFNER: JUST HAFFNER LAW GROUP.

27 THE COURT: OKAY. I'VE MADE THE NEEDED ENTRIES,
28 SIR. THE MOTION WILL BE PROCESSED BY THE RELIEF

1 JUDICIAL ASSISTANT AND WILL APPEAR AS PART OF THE
2 OFFICIAL RECORDS OF THE COURT, AND THIS DOCUMENT, YOU
3 SHOULD ABLE TO PULL IT OFF OF OUR PUBLIC WEBSITE FOR A
4 MODEST FEE, ONLY ASSOCIATED WITH THE COST OF PROVIDING
5 THE SERVICE, AND THEN PROCEED TO SERVE IT ON YOUR
6 CLIENT. UNDERSTOOD, MR. HAFFNER?

7 MR. HAFFNER: THANK YOU VERY MUCH, YOUR HONOR.
8 I APPRECIATE IT.

9 THE COURT: GO IN PEACE. OKAY.

10 SO I HAVE THE JOINT REPORT RENDERED BY CITY
11 OF SAN BUENAVENTURA. I DON'T HAVE ANY OTHER
12 FREESTANDING REPORTS SPECIFIC FOR TODAY, AS I
13 UNDERSTAND IT, ALTHOUGH I HAVE A GAGGLE OF BRIEFS FILED
14 IN REGARD TO THE ISSUES TO BE TRIED IN THE PHASE 1
15 TRIAL. BUT SPECIFIC TO THE ISSUES FOR TODAY'S STATUS
16 CONFERENCE, I'VE DEALT WITH MR. HAFFNER'S MOTION.

17 IT'S BEEN POINTED OUT TO ME THAT THE
18 COURT'S UNAVAILABILITY ON DECEMBER 20TH WAS PREVIOUSLY
19 NOTED BUT NO SOLUTION WAS PROVIDED. COUNSEL HAVE
20 SUGGESTED THAT THEY WOULD PROPOSE COMING IN ON
21 DECEMBER 13. THAT CALENDAR IS PRETTY MUCH CHOCKABLOCK
22 FULL, BUT I WOULD HAVE GOOD AVAILABILITY TO TALK TO YOU
23 ON DECEMBER 9TH, A THURSDAY, THE 10TH, A FRIDAY, OR
24 TUESDAY THE 14TH, WITH A SLIGHT PREFERENCE FOR THE 9TH
25 OR 10TH, BUT THE 14TH IS AVAILABLE.

26 DO YOU WANT TO TAKE A RECESS AND CAUCUS?
27 DO YOU HAVE ANY IMMEDIATE REACTION AS TO WHICH IS BEST?
28 WHO GOES FIRST? VENTURA, THROUGH

1 MR. HAGERTY?

2 MR. HAGERTY: I THINK WE WOULD BE FINE -- I
3 WOULD BE FINE WITH EITHER THE 9TH OR THE 10TH, YOUR
4 HONOR.

5 THE COURT: AND WOULD YOU PREFER MORNING OR
6 AFTERNOON, SIR?

7 MR. HAGERTY: AFTERNOON ON THE 9TH WOULD BE MY
8 PREFERENCE IF WE CAN SET IT FOR THAT.

9 THE COURT: I COULD DO IT. I WOULD DO IT AT
10 2:30 P.M., AND WE'D HAVE THE WHOLE REST OF THE DAY
11 FREE.

12 DOES ANYBODY OBJECT TO ADVANCING THE
13 DECEMBER 20TH HEARING TO DECEMBER 9TH AT 2:30 P.M.?

14 HEARING NO OBJECTION, THE DECEMBER 20TH
15 PROCEEDING IS ADVANCED TO DECEMBER 9TH AT 2:30 P.M.,
16 WITH DEFENDANT AND CROSS-COMPLAINANT CITY OF VENTURA TO
17 GIVE NOTICE.

18 OKAY. YOUR DEFAULTARAMA SEEMS TO BE
19 PROCEEDING. ANY CONCERNS YOU WANT ME TO TAKE UP WITH
20 OUR CLERK'S OFFICE ABOUT THE 564 THAT ARE STILL
21 PENDING, MR. HAGERTY AND MR. PISANO?

22 MR. HAGERTY: NO, YOUR HONOR.

23 THE COURT: ROBIN, I ASSUME YOU'VE NOT HEARD ANY
24 COMPLAINTS FROM MANAGEMENT?

25 THE COURTROOM ASSISTANT: THAT'S CORRECT.

26 THE COURT: SO FAR SO GOOD. SHOWN SOMEWHERE
27 OVER THE HORIZON.

28 SO DIFFERENT POINT. I GOT A COURTESY

1 COPIES OF THESE BRIEFS ABOUT PHASE 1 FROM CERTAIN
2 PARTIES, BUT, MR. HAGERTY AND MR. PISANO, YOUR STAFF
3 SEEMS TO HAVE FALLEN OUT OF THE PRACTICE OF PROVIDING
4 THE COURT WITH COURTESY COPIES, AND YOUR MOST RECENT
5 MISSIVE IS SOMETHING LIKE 63 PAGES. I PRINTED THE
6 FIRST 36 PAGES. I'M NOT OF A MIND TO PRINT SOMETHING
7 THAT'S 60-SOME PAGES. AND AS FAR AS YOU WORKED ON YOUR
8 BRIEF, I ASSUME YOU WANT TO MAKE IT AS EASY AS POSSIBLE
9 FOR THE COURT AND THE RESEARCH ATTORNEY TO ACTUALLY
10 REVIEW YOUR PROSE WITH GREAT CARE, TRUE?

11 MR. HAGERTY: YES, YOUR HONOR.

12 THE COURT: I WOULD STRONGLY RECOMMEND THAT YOU
13 RESUME AND HAVE IT ROUTINELY SERVING TWO COURTESY
14 COPIES OF ANYTHING THAT'S MORE SUBSTANTIVE THAN A
15 TWO-PAGE PROOF OF SERVICE BY HAVING IT DELIVERED HERE
16 TO DEPARTMENT 10 AT THE SPRING STREET COURTHOUSE IF YOU
17 HAVE PRIDE IN YOUR WORK, BECAUSE IT'S NOT COMING TO US.
18 AND AS IMPORTANT AS THIS CASE IS TO YOUR CLIENT, I
19 WOULD THINK YOU WOULD WANT TO TRY TO ACCOMMODATE THE
20 COURT BY PROVIDING COURTESY COPIES.

21 MR. HAGERTY: YES, YOUR HONOR. WE WILL DO THAT.

22 THE COURT: AND THAT'S A SORT OF TELLING
23 OVERSIGHT IN RECENT PAST TO NOT BE SERVING THESE
24 THINGS.

25 MR. HAGERTY: YES, YOUR HONOR.

26 THE COURT: POINT CLEAR ENOUGH?

27 MR. HAGERTY: YES, YOUR HONOR.

28 THE COURT: I DON'T NEED TO BE MORE FIRM?

1 MR. HAGERTY: NO, YOUR HONOR.

2 THE COURT: YOU HAVE A MESSAGE FOR THE STAFF
3 WHEN YOU GET BACK ON THE, "OOPS, YOU'VE EMBARRASSED
4 ME"?

5 MR. HAGERTY: YES, IT'S VERY CLEAR, YOUR HONOR.

6 THE COURT: OKAY. THAT WAS THE INTENT.

7 I DID, FROM THE STATE AG, FISH & GAME, AND
8 WATER RESOURCES, GET A COURTESY COPY, WOOD-CLAEYSSSENS
9 GAVE A COURTESY COPY, AERA ENERGY, THROUGH MANATT
10 PHELPS, PROVIDED A COURTESY COPY, EAST OJAI GROUP,
11 THROUGH MUSICK PEELER, PROVIDED A COURTESY COPY, BUT
12 THAT WAS AS FAR AS IT WENT.

13 NOW, I CONFESS I WAS FRANTICALLY BUSY LATE
14 LAST WEEK WORKING WITH JUDGE KUHL TO PUT ON A
15 CONFERENCE OF (INAUDIBLE) ON ISSUES HAVING GENERALLY TO
16 DO WITH THE BROAD TOPIC OF CIVIL CASE MANAGEMENT, BUT
17 THAT TOTALLY PREOCCUPIED ME AT THE END OF LAST WEEK,
18 AND THEN THE WEEKEND WAS EQUALLY BUSY WITH OTHER
19 DISTRACTIONS.

20 SO I HAVE IN HAND A PORTION OF THE CITY OF
21 VENTURA'S BRIEF ON ISSUES OF FACTS AND LAW FOR PHASE 1
22 TRIAL AND SUBMISSIONS FROM VARIOUS OTHERS, INCLUDING A
23 FEW THAT I'VE PRINTED FROM FILE & SERVEXPRESS INTO THE
24 COURT'S RECORDS, SUCH AS THE NOVEMBER 10TH SUBMISSION
25 BY CITY OF OJAI THROUGH MS. JACOBSON.

26 I DON'T THINK I HAVE THEM COMPLETE, AND
27 I'LL BE THE FIRST TO TELL YOU I HAVEN'T READ THEM FOR
28 CONTENT. ARE YOU ALL HERE HOPING THAT WE'RE GOING TO

1 HAVE AN EXTENDED DISCUSSION OF THE PHASE 1 TRIAL ISSUES
2 THIS VERY AFTERNOON?

3 MR. HAGERTY: YOUR HONOR, IT'S ENTIRELY UP TO
4 THE COURT. I THINK WE -- THERE ARE A COUPLE ISSUES WE
5 CAN KNOCK OUT REGARDLESS OF WHERE THE COURT'S BEEN IN
6 TERMS OF THE READING OF THE BRIEFS. BECAUSE --

7 THE COURT: I'M NOT FAR ENOUGH DOWN THE ROAD TO
8 BE ABLE TO DO MUCH.

9 MR. HAGERTY: WELL, BUT THERE ARE TWO ISSUES I
10 DO THINK WE COULD ADDRESS AND USE THE COURT'S TIME AND
11 THE PARTIES' TIME WISELY TODAY, AND MAYBE WE DEFER THE
12 REST TO A FUTURE MEETING.

13 BUT THE TWO ISSUES WHERE I THINK THERE'S
14 SOME CONSENSUS, OR AT LEAST THERE'S KIND OF A BUDDING
15 CONSENSUS, IS ON THE QUESTIONS OF THE BOUNDARIES OF THE
16 WATERSHED AS WELL AS THE BOUNDARIES OF THE FOUR BASINS,
17 THE PARTIES WHO HAVE ADDRESSED THAT IN THE BRIEFS, AS
18 THE COURT WILL EVENTUALLY SEE, AGREE THAT THE PARTIES
19 SHOULD EITHER STIPULATE OR THERE SHOULD BE A PROCESS BY
20 WHICH WE CAN EXPEDITE THE FIXING OF THOSE BOUNDARIES,
21 AND THAT WOULD TAKE TWO ISSUES OFF THE TABLE FOR THE
22 PHASE 1 TRIAL THAT WOULD SIGNIFICANTLY IMPROVE THE
23 PHASE 1 TRIAL AND ALLOW US TO FOCUS ON THE CRITICAL
24 ISSUES.

25 AND SO WHAT WE HAVE SUGGESTED, AND THE
26 STATE HAS ALSO SUGGESTED A SIMILAR PROCESS, WOULD BE
27 TO -- WHAT WE PROPOSE IS ESSENTIALLY TO PUT OUT A
28 NOTICE SAYING, HERE ARE THE -- HERE'S THE BOUNDARIES OF

1 THE WATERSHED, HERE ARE THE BOUNDARIES OF THE BASINS,
2 AND ESSENTIALLY DO SOME FORM OF ALMOST AN ORDER TO SHOW
3 CAUSE, AND INVITE PEOPLE TO MAKE ANY OBJECTIONS THAT
4 THEY WISH TO MAKE, AND EITHER RESOLVE THOSE OBJECTIONS
5 OR, HEARING NO OBJECTIONS, FIX THOSE AS THE BOUNDARIES
6 OR AT LEAST LIMIT THAT AS AN ISSUE OF SIGNIFICANT TIME
7 TO BE SPENT ON AT THE PHASE 1 TRIAL.

8 DURING OUR CASE IN CHIEF WE COULD INTRODUCE
9 THE PREVIOUSLY DETERMINED BOUNDARIES JUST SO THERE'S A
10 FULL RECORD, BUT THAT WOULD BE -- THAT'S OUR PROPOSAL,
11 AND I THINK MAYBE MR. MELNICK CAN SPEAK TO HIS VERSION
12 OF THAT PROPOSAL, BUT HE MADE SOMETHING SIMILAR, AND
13 MS. JACOBSON INDICATED THAT THE PARTIES SHOULD
14 STIPULATE. SO I THINK THAT'S ONE ISSUE WE COULD TRY TO
15 ADDRESS TODAY, YOUR HONOR.

16 THE COURT: GIVEN THE NUMBER OF PARTIES IN THE
17 CASE, I HAVE TO CONFESS, ALTHOUGH A STIPULATION FROM
18 SOME OF THE PARTIES IS A GOOD SIGNAL THAT IT'S PROBABLY
19 TRULY A CONSENSUS DOCUMENT, TO REALLY EXPECT A
20 STIPULATION FULLY EXECUTED BY ALL OF THE HUNDREDS OF
21 PEOPLE WHO HAVE APPEARED IS AN INCREDIBLE PAPER CHASE,
22 AND YOU'VE ALREADY GOT YOUR STAFF BURNED OUT TO A
23 FAIRLY WELL, WHICH IS PROBABLY WHY THEY DON'T THINK TO
24 DO COURTESY COPIES, BECAUSE YOU'VE GOT THEM DREDGING
25 AROUND DOING ALL SORTS OF OTHER THINGS. SO THEY
26 PROBABLY DON'T SMILE AT YOU WHEN THEY SEE YOU IN THE
27 OFFICE IF YOU EVER GO IN THE OFFICE.

28 MR. HAGERTY: THEY DO NOT, YOUR HONOR. BUT I

1 THINK THAT'S WHY WE PROPOSE --

2 THE COURT: BUT SAY AN OSC THAT COMES AFTER A
3 STIP IS THE WAY TO SORT OF NAIL DOWN ALL THOSE OTHER
4 PEOPLE WHO HAVE APPEARED BUT HAVE NOT SEEN FIT TO GIVE
5 YOU A JOHN HANCOCK.

6 MR. HAGERTY: THAT WAS THE IDEA, YOUR HONOR,
7 BECAUSE WE AGREE THAT GETTING 297 PEOPLE TO SIGN THE
8 STIPULATION BEFORE SOMETIME IN DECEMBER IS NOT GOING TO
9 BE FEASIBLE, SO WE HAD PROPOSED SORT OF JUST, YOU KNOW,
10 INQUIRING TODAY IF ANYONE HAD ANY OBJECTION, BECAUSE WE
11 HAVEN'T HEARD ANY, AND THEN --

12 THE COURT: AS A POINT OF CURIOSITY, FOR THE
13 FOUR GROUNDWATER BASINS, HAS ONE OR ANOTHER STATE
14 AGENCY HERETOFORE HAD OCCASION TO ISSUE WHAT THEY
15 CONSIDER TO BE A GOOD MAP, AND YOU'RE BASICALLY JUST
16 GOING TO POINT TO A MAP FROM 1956 OR 1988 OR 2007 AND
17 SAY, "THAT'S THE MAP, WE AGREE. WHO IS DISAGREEING?"
18 OR DO YOU HAVE A DIFFERENCE DIFFERENT REFERENCE POINT?

19 MR. HAGERTY: THE MAPS ARE A LITTLE HARDER, I
20 THINK. THE BULLETIN 118 HAS MORE DESCRIPTIONS, BUT WE
21 DO -- WE DO HAVE MAPS THAT WE HAVE SUGGESTED THAT ARE
22 THE FULL DEPICTIONS OF THE BASIN BOUNDARIES AS
23 DESCRIBED IN 118.

24 THE COURT: PRESUMABLY WITH METES AND BOUNDS, SO
25 YOU CAN KNOW WHETHER IT'S UNDER SOMEBODY'S FEE SIMPLE
26 ENTIRELY OR PERCHANCE THEY'RE AT THE BOUNDARY.

27 MR. HAGERTY: WE HAVE NOT DONE A METES AND
28 BOUNDS DESCRIPTION, YOUR HONOR. I THINK THAT WOULD BE

1 MORE THAN WHAT WE HAD CONTEMPLATED AT THIS POINT IN
2 TIME.

3 THE COURT: IT'S SORT OF A WORD PICTURE, BUT
4 IT'S LIKE -- IT GOES WEST OF DOWNTOWN OJAI UNTIL IT
5 RUNS INTO CLAY OR SOMETHING LIKE THAT?

6 MR. HAGERTY: THERE'S A VERBAL DESCRIPTION AS
7 WELL AS, AGAIN, WE HAVE DRAWN THE -- THE BOUNDARIES ARE
8 DRAWN ON A MAP THAT IS --

9 THE COURT: BUT NOT AT THE LEVEL OF A PROPER
10 SURVEYOR'S METES AND BOUNDS, THAT WOULD ALLOW YOU TO
11 LOCATE AN EXACT FENCE LINE.

12 MR. HAGERTY: CORRECT, ALTHOUGH WE CAN DRILL
13 DOWN, AND I THINK THERE'S TOOLS THAT THE STATE HAS AS
14 WELL, WHICH WE'VE DONE THROUGHOUT THIS PROCESS, BECAUSE
15 THERE HAVE BEEN QUESTIONS ABOUT AM I IN OR OUT, AND WE
16 HAVE WORKED WITH PARTIES TO -- WE CAN DRILL DOWN TO A
17 PARCEL LEVEL AND SHOW WHERE THE LINE IS. AND THERE ARE
18 PARCELS --

19 THE COURT: SAY GOOD WITHIN A HUNDRED FEET OR A
20 HUNDRED YARDS BUT NOT 10 INCHES?

21 MR. HAGERTY: CORRECT.

22 AND MAYBE THE STATE MAY WISH TO COMMENT,
23 BECAUSE, OBVIOUSLY, THEY HAVE INSIGHT IN THAT AS WELL.

24 BUT THAT WOULD BE -- IN TERMS OF OUR
25 PROPOSAL, WOULD BE TO -- AND IF WE COULD DO IT ON
26 DECEMBER 9TH, WE'D BE HAPPY TO ESSENTIALLY PROVIDE
27 NOTICE TO ALL PARTIES THAT --

28 THE COURT: SO LET'S JUST STAY WITH THE FOUR

1 GROUNDWATER BASINS FIRST; THEN LET'S TURN TO RIPARIAN.
2 BUT LET'S KEEP IT SIMPLE. WE'RE TALKING ABOUT THE FOUR
3 GROUNDWATER BASINS.

4 SO WE START WITH BULLETIN 118 OR WE START
5 WITH SOMETHING ELSE?

6 MR. HAGERTY: WE WOULD START -- WE WOULD SEND
7 OUT THE NOTICE HAVING THE FOUR PORTIONS OF BULLETIN 118
8 THAT DESCRIBE THE FOUR BASINS.

9 THE COURT: BECAUSE THAT IS THE REFERENCE POINT
10 OF WHAT YOU IN GOOD FAITH BELIEVE TO FAIRLY DESCRIBE
11 THE BOUNDARIES OF THESE FOUR GROUNDWATER BASINS.

12 MR. HAGERTY: CORRECT, AND, YOUR HONOR, I THINK
13 THE PARTIES IN THEIR BRIEFING HAVE POINTED OUT THAT'S
14 WHAT AT LEAST THE COMPREHENSIVE ADJUDICATION STATUTE
15 AND SGMA REQUIRE THE COURT TO USE UNLESS THERE'S A
16 CHANGE, SO WE WOULD START THERE. THERE'S A DEPICTION
17 OF THAT MAP THAT GOES WITH IT THAT JUST SHOWS THE
18 WATERSHED AND WHERE THE BOUNDARIES ARE.

19 AND SO WE WOULD PUT THAT OUT, AND I DON'T
20 THINK THERE'S ANY DISAGREEMENT ABOUT THESE ISSUES, BUT
21 THAT'S WHAT THIS PROCESS WOULD HELP TO DETERMINE, SO
22 THAT WE DON'T HAVE TO WASTE THE COURT'S TIME IN
23 PHASE 1.

24 THE COURT: AND IN YOUR MIND'S EYE, THE MAPPING
25 WOULD BE GOOD ENOUGH THAT YOU'D KNOW WHETHER SOME OR
26 ALL OF THE GIVEN PERSON'S FEE SIMPLE, WHETHER IT'S A
27 TENTH OF AN ACRE, QUARTER OF AN ACRE, OR THREE ACRES,
28 IS WHOLLY IN THE GROUNDWATER BASIN, PARTIALLY IN THE

1 GROUNDWATER BASIN, OR NOT AT ALL IN THE GROUNDWATER
2 BASIN?

3 MR. HAGERTY: YES. WE COULD -- WITH OUR TOOLS
4 AND THE STATE'S TOOLS, THAT CAN BE DETERMINED BY WHAT
5 WE WOULD PUT OUT, YOUR HONOR.

6 THE COURT: AND VIA THE NOTICE AND/OR LINK TO A
7 WEBSITE, EVERYBODY ELSE WHO IS INTERESTED IN THE SAME
8 QUESTION COULD DRILL DOWN AND SEE HOW THE GROUNDWATER
9 BASIN IMPACTED THEIR FEE SIMPLE?

10 MR. HAGERTY: CORRECT.

11 THE COURT: MR. MELNICK?

12 MR. MELNICK: I AGREE, YOUR HONOR. I MEAN, I
13 THINK, AS FAR AS THE GROUNDWATER BASINS, IT'S AS
14 DESCRIBED IN BULLETIN 118. AND MR. HAGERTY IS RIGHT.
15 IT'S NOT A METES AND BOUNDS DESCRIPTION, BUT I THINK
16 IT'S DEFINITIVE ENOUGH THAT PEOPLE CAN KNOW WHETHER
17 THEY'RE IN OR OUT.

18 I DON'T KNOW THAT THAT'S REALLY RELEVANT
19 FOR PHASE 1, BUT IT GIVES A DESCRIPTION SO THAT WE CAN
20 MOVE FORWARD.

21 THE COURT: WELL, I WOULD THINK FOR SOMEBODY TO
22 KNOW WHETHER THIS COULD IMPACT THEIR WATER RIGHTS WOULD
23 BE AN ASPECT OF PHASE 1 THAT COULD BE OF INTEREST TO
24 ME. IF I THOUGHT I WAS SOMEHOW NEAR BUT BEYOND THE
25 EDGE OF THE BOUNDARY, HYPOTHETICALLY ON THE FAR, FAR
26 EAST, EAST SIDE OF THE UPPER OJAI BASIN, AND CONCERNED
27 ABOUT YOUR LITIGATION, BUT THEN WHEN I DISCOVER YOU
28 CAN'T IMPACT MY RIGHT TO PUMP BECAUSE I'M OUTSIDE THE

1 BASIN, THEN IN THEORY WHATEVER I HAVE -- HOWEVER I GET
2 THE WATER OUT OF THAT WELL IS NOT GOING TO BE IMPACTED
3 BY THE SUIT BECAUSE MY FEE SIMPLE IS NOT IN THE
4 GROUNDWATER BASIN, RIGHT?

5 MR. MELNICK: WELL, BUT -- IF YOU'RE WITHIN THE
6 WATERSHED, THEN YOU'RE WITHIN THE JURISDICTION OF THE
7 COURT, AND THAT MAY BE RELEVANT LATER --

8 THE COURT: NOW, IS THAT --

9 MR. MELNICK: -- EVEN IF YOU'RE OUTSIDE THE
10 GROUNDWATER BASIN.

11 THE COURT: IS THAT BECAUSE OF THE RIPARIAN
12 OVERLAY?

13 MR. MELNICK: RIGHT.

14 THE COURT: WELL, THAT'S A DIFFERENT QUESTION,
15 ASSUMING THAT THE RIPARIAN IS FOUND TO BE CONNECTED,
16 WHICH YOU AND CITY OF VENTURA ARE GOING TO ARGUE FOR
17 BUT OTHERS MAY NOT EQUALLY SHARE THAT CONCLUSION.

18 MR. MELNICK: AGREED.

19 THE COURT: AND AT A MINIMUM, IF I WERE TO LEARN
20 THAT MY FEE SIMPLE SITS A HUNDRED YARDS TO THE EAST OF
21 THE UPPER OJAI BASIN'S EASTERN BOUNDARY, THEN I KNOW
22 SOMETHING, BECAUSE YOU'RE ONLY GOING TO CATCH ME NOW ON
23 A RIPARIAN THEORY, YOU'RE NOT GOING TO CATCH ME BECAUSE
24 MY WELL GETS TO THE GROUNDWATER BASIN, TRUE?

25 MR. MELNICK: I'M NOT SURE -- I MEAN,
26 MR. HAGERTY MIGHT BE ABLE TO ANSWER THAT, BECAUSE I'M
27 NOT SURE WHAT THEY'RE GOING TO SHOW AT TRIAL. SO --

28 MR. HAGERTY: WELL, IT -- THERE ARE NAMED

1 PARTIES WHO ARE GROUNDWATER PUMPERS WHO ARE OUTSIDE THE
2 BASIN BUT WE'VE NAMED THEM. SO IT'S NOT JUST RIPARIAN,
3 BUT THE BULK OF THE PARTIES THAT ARE OUTSIDE THE BASIN
4 ARE RIPARIAN PARTIES.

5 SO THAT'S WHY, YOUR HONOR, I STARTED WITH
6 THE TWO -- THE TWO THINGS WE CAN COVER TODAY, I THINK,
7 AT LEAST COME UP WITH A PROCESS, WOULD BE FIRST THE
8 BOUNDARIES OF THE WATERSHED AND THEN THE BOUNDARIES OF
9 THE BASIN.

10 THE COURT: WELL, MAYBE I STARTED ON THE WRONG
11 APPROACH BY ASKING ABOUT THE BASIN BEFORE I ASKED ABOUT
12 THE WATERSHED. I'LL PUT THE GROUNDWATER BASINS ASIDE.

13 SO LET ME THINK WATERSHEDS. I'M TALKING
14 ABOUT THE VENTURA RIVER AND ITS TRIBUTARIES. SO
15 THIS --

16 MR. BAGGERLY: YOUR HONOR, CAN SOMEBODY ELSE
17 SPEAK HERE?

18 THE COURT: I DON'T WANT AN INTERRUPTION JUST
19 NOW. SAVE YOUR COMMENT. I'M THE JUDGE. I GET TO TALK
20 IN MY COURT WHEN I WANT TO.

21 IS THIS MR. BAGGERLY?

22 MR. BAGGERLY: THE AUDIO IS HORRIBLE. WE CAN
23 HARDLY HEAR ANYBODY.

24 THE COURT: I'M SORRY ABOUT THAT, AND THAT IS A
25 FAIR INTERRUPTION.

26 WE HAD A COMPLAINT EARLIER ABOUT A BUZZY
27 SOUND IN OUR AUDIO ON A DIFFERENT CASE THAT HAD MANY
28 LESS PARTICIPANTS. IN THE COURTROOM IT'S NICE AND

1 CLEAN, SO UNFORTUNATELY THAT LEAVES ME HARD-PRESSED TO
2 DIAGNOSE WHAT YOUR PROBLEM MAY BE REMOTELY.

3 MS. JACOBSON: YOUR HONOR, THIS IS MS. JACOBSON.

4 THE COURT: GO AHEAD, MS. JACOBSON.

5 MS. JACOBSON: I WOULD JUST LIKE TO SAY THAT I
6 DO HEAR SOME STRANGE BUZZY NOISE, BUT MORE IMPORTANTLY,
7 I THINK IF MR. MELNICK -- IF HE COULD SPEAK CLOSER TO
8 THE MICROPHONE, I THINK THAT WOULD HELP ME PERSONALLY.

9 THE COURT: FAIR ENOUGH. THE TABLE MIC IS
10 GETTING CLOSER TO HIM.

11 NOW, I LOST MY TRAIN OF THOUGHT, BUT LET ME
12 TRY TO PICK IT UP AGAIN.

13 AND THE COURTROOM IS OPEN, SO WE HAVE TWO,
14 FOUR, SIX LAWYERS TODAY AND A COURT REPORTER. WE COULD
15 CERTAINLY HAVE 20 OR 30 PEOPLE. SO IF YOU WANT TO COME
16 TO COURT IN THE FUTURE, FEEL FREE TO COME TO COURT,
17 BECAUSE WE HAVE LOTS OF CAPACITY THAT WOULD WORK
18 WITHOUT, TO MY MIND'S EYE, PUTTING YOU AT RISK OF
19 HEALTH PROBLEMS. BUT THAT'S YOUR CHOICE AS LITIGANTS
20 AND LAWYERS.

21 SO THE GROUNDWATER BASIN -- EXCUSE ME. THE
22 RIVER BASIN. SO THIS IS AN ANALYSIS OF ANYWHERE WHERE
23 THE RAINFALL WILL FLOW INTO THE VENTURA RIVER IN DUE
24 COURSE?

25 MR. HAGERTY: THAT'S RIGHT, YOUR HONOR. THERE'S
26 A DATABASE THAT I THINK EVERYONE -- OR AT LEAST NO
27 ONE'S EXPRESSED ANY OBJECTION TO THAT FIXES THE
28 BOUNDARIES OF THE WATERSHED.

1 THE COURT: SO THAT'S PROBABLY BROADER THAN THE
2 PEOPLE WHO HAVE RIPARIAN RIGHTS, TRUE?

3 MR. HAGERTY: IT COVERS THE WHOLE AREA, YOUR
4 HONOR. AND NOT EVERYONE IN THAT WATERSHED HAS BEEN
5 NAMED. WE'VE NAMED ALL KNOWN RIPARIANS AND PUMPERS WHO
6 ARE OUTSIDE OF THE BASINS, WE'VE NAMED, AND THEN
7 OBVIOUSLY, AS THE COURT IS AWARE, WE'VE NAMED PEOPLE
8 WITHIN THE BASINS, AND WE'VE ALSO NOTICED PEOPLE WITHIN
9 THE BASINS. SO --

10 THE COURT: BY THE SAME TOKEN, ALTHOUGH THE
11 FEDERAL GOVERNMENT, THROUGH FORESTS AND THE REST --
12 NATURAL FORESTS -- HAS QUITE A BIT OF THE LAND, THEY
13 ARE, BY THEIR SOVEREIGNTY, TOTALLY EXCLUDED FROM THIS
14 LEGAL PROCEEDING.

15 MR. HAGERTY: THEY'RE NOT A NECESSARY PARTY, IN
16 OUR VIEW. WE HAVEN'T BROUGHT THEM IN, YOUR HONOR.

17 THE COURT: BUT THEY DO HAPPEN TO OWN A LOT OF
18 LAND IN THE WATERSHED.

19 MR. HAGERTY: THEY DO, BUT UNLIKE OTHER AREAS,
20 LIKE IN ANTELOPE VALLEY, WHERE THEY WERE A VERY
21 SIGNIFICANT USER OF THE WATER, IN THIS WATERSHED THEY
22 ARE JUST -- THEY DON'T REALLY USE THE WATER, AND SO WE
23 DID NOT BELIEVE THEY WERE A NECESSARY PARTY; WE DID NOT
24 BRING THEM IN.

25 THE COURT: WELL, THE WATERSHED FOR THIS PURPOSE
26 IS GOING TO BE A LOT BROADER THAN JUST LOOKING AT A MAP
27 OF WHERE THE RIPARIAN PARCEL GOES.

28 MR. HAGERTY: ABSOLUTELY, YOUR HONOR. AND SO,

1 AGAIN, THE IDEA HERE IS JUST TO SORT OF SLOWLY DRILL
2 DOWN INTO THE KEY ISSUES, AND SO THE WATERSHED FIXES
3 THE OUTER LIMITS OF THE COURT'S JURISDICTION AND WHAT
4 WE WOULD PROPOSE AS PART OF THE PHYSICAL SOLUTION. THE
5 COURT WOULDN'T HAVE JURISDICTION OVER EVERYONE IN THE
6 WATERSHED BECAUSE WE'VE ONLY NAMED -- YOU KNOW,
7 PHYSICALLY BROUGHT TO COURT SOME OF THOSE PARTIES.
8 WE'VE ALSO USED THE BASIN PROCESS TO BRING IN OTHER
9 PARTIES.

10 SO EVERYONE, THOUGH, THAT IS EITHER
11 PERSONALLY SERVED OR HAS APPEARED WITHIN THE WATERSHED,
12 THE COURT WOULD HAVE JURISDICTION OVER, AND OUR
13 PHYSICAL SOLUTION IS PROPOSED ON THE WATERSHED BASIS.

14 AND THEN YOU WOULD DRILL DOWN INTO THE
15 BASINS. AND SO THAT'S WHAT -- AGAIN, OUR PROPOSAL
16 WOULD BE TO ESSENTIALLY JUST PUT OUT WHAT WE THINK IS
17 UNDISPUTED DESCRIPTIONS AND MAPPING OF THE WATERSHED IN
18 THE BASINS, AND MAYBE THE COURT COULD -- YOU KNOW, WE
19 COULD ENTERTAIN OBJECTIONS ON THE 9TH IF THE COURT WERE
20 OPEN TO THAT. AND IF THERE ARE NO OBJECTIONS, THEN
21 WE'VE KNOCKED OUT TWO ISSUES THAT WOULD OTHERWISE HAVE
22 HAD TO BE ADDRESSED AT THE PHASE 1 TRIAL.

23 THE COURT: SO IF I HAVE A NON-U.S. GOVERNMENT
24 PARCEL THAT IS TOO REMOTE FROM THE STREAM TO BE
25 RIPARIAN, AND ALSO NOT OVER GROUNDWATER, IF MY NAME HAD
26 BEEN BROUGHT INTO THE CASE, HIGHBERGER, THROUGH THE
27 COURT WILL HAVE JURISDICTION, IF I OTHERWISE FIT THAT
28 PROFILE, HOW WOULD I GET JURISDICTION TO TRY TO LIMIT

1 THEIR USE OF THE WATER IN THE FUTURE?

2 MR. HAGERTY: WELL, SEE, THAT'S -- WE'VE TRIED
3 TO NAME EVERYONE, INCLUDING PUMPERS, BECAUSE THERE ARE
4 PUMPERS OUTSIDE THE BASINS, YOUR HONOR. THERE ARE
5 AREAS WHERE GROUNDWATER IS PRODUCED EVEN THOUGH IT'S
6 NOT TECHNICALLY WITHIN THE DESCRIPTION OF THE 118
7 BULLETIN BASIN. SO WE'VE NAMED THOSE PEOPLE THAT WE
8 KNOW ABOUT.

9 THE COURT: BECAUSE YOU, IN YOUR OWN MIND'S EYE,
10 THINK THERE'S SOME FURTHER CONNECTIVITY, AND THAT MAKES
11 THEIR USE OF THE WATER IMPORTANT TO YOUR CONCERNS.

12 MR. HAGERTY: THAT'S CORRECT, YOUR HONOR.

13 AND SO IN THEORY, I MEAN, IF THIS PROCEEDS
14 THE WAY WE HOPE IT PROCEEDS, THERE WOULD BE A PHYSICAL
15 SOLUTION. THE COURT WOULD HAVE CONTINUING
16 JURISDICTION, SO IF PEOPLE WOKE UP FIVE YEARS FROM NOW
17 AND REALIZED THERE WAS A VERY LARGE PUMPER THAT NO ONE
18 NAMED AND WE DIDN'T KNOW ABOUT AND WE COULD TRY -- OR
19 THE COMMITTEE OR THE ENTITY THROUGH THE COURT'S
20 CONTINUING JURISDICTION COULD BRING IN THAT PARTY AND
21 ADDRESS THAT PARTY'S INTERESTS. IF THAT HAPPENED IN
22 THE FUTURE.

23 THE COURT: BUT IF THEY WERE NAMED AT SOME
24 FUTURE TIME, THEY'D HAVE TO HAVE A DUE PROCESS RIGHT TO
25 BE PROPERLY SERVED AND COME BEFORE THE COURT, AND,
26 PRESUMING YOU'RE RIGHT, TO LITIGATE WHAT IF ANYTHING
27 SHOULD HAPPEN TO THEIR HISTORIC WATER USAGE, WHICH THEY
28 WOULD CONSIDER TO BE PROBATIVE OF THEIR WATER RIGHTS

1 BEFORE SOMEBODY SAYS, "OH, TURN OFF YOUR WELL."

2 MR. HAGERTY: CORRECT, YOUR HONOR.

3 THE COURT: OKAY. SO FAR SO GOOD.

4 HAVE YOU HAD A CHANCE TO AIR THIS PROPOSAL
5 PROCEDURALLY WITH PEOPLE WHO SEEM TO BE MORE YOUR
6 ADVERSARIES THAN YOUR COHORTS, SUCH AS MS. JACOBSON OR
7 MR. PATTERSON?

8 MR. HAGERTY: I HAVE NOT BEEN ABLE TO DISCUSS IT
9 WITH THEM.

10 I READ IN MS. JACOBSON'S BRIEF THAT THERE
11 WAS A DESIRE TO EXPEDITE THE -- THESE TWO ISSUES, SO IT
12 WOULD BE NICE TO HEAR FROM HER ABOUT WHETHER SHE
13 CONSIDERS THIS AN APPROPRIATE PROCESS OR NOT, BUT WE
14 HAVEN'T DISCUSSED IT, YOUR HONOR.

15 THE COURT: MS. JACOBSON, INsofar AS YOU'VE BEEN
16 ABLE TO HEAR AND UNDERSTAND ANY OF THIS, WITH THE
17 LIMITATIONS OF OUR REMOTE TECHNOLOGY, ASSUMING YOU HAVE
18 BEEN ABLE TO COMPREHEND THIS DIALOGUE, DO YOU CARE TO
19 COMMENT?

20 MS. JACOBSON: YES, YOUR HONOR. THE ONLY THING
21 I'D SAY IS I -- THE BOUNDARIES AREN'T NECESSARILY IN
22 DISPUTE, I DON'T THINK. THE PROBLEM IS THIS IDEA OR
23 CONCEPT THAT DETERMINING OF WATERSHED BOUNDARIES
24 THEREFORE RESULTS IN THE COURT'S JURISDICTION OVER ALL
25 PARTIES WITHIN THE WATERSHED AND THAT THE PHYSICAL
26 SOLUTION CAN BE APPLIED TO ALL PARTIES IN THE WATERSHED
27 SIMPLY BY THE NATURE OF THE FACT THAT THEY'RE IN A
28 WATERSHED IS NOT AGREEABLE. AND IF THAT'S WHERE THIS

1 IS GOING, THERE COULD BE A PROBLEM.

2 THE COURT: WELL, FAIR ENOUGH, AND THAT'S WHY I
3 ASKED THE QUESTION ABOUT MY HYPOTHETICAL NON-FEDERAL
4 FEE SIMPLE OWNER WHO IS NOT RIPARIAN AND IS ALSO
5 SOMEWHERE REMOVED BY AN INCH OR A MILE FROM ONE OF
6 THESE DEFINED GROUNDWATER BASINS. AND I THINK I HEARD
7 MR. HAGERTY SAY, RIGHT NOW, IF THEY'RE NOT NAMED, WE
8 HAVE NO JURISDICTION TO LIMIT THEIR RIGHTS, BUT IF IT
9 TURNED OUT THAT THEIR USAGE WAS MATERIAL AND WE
10 ESSENTIALLY HAD MISSED THEM FROM THIS EXERCISE, WE IN
11 SOME LATER CHAPTER IN SOME KIND OF LEGAL EPILOGUE WOULD
12 HAVE TO WAIT FOR THE PARTIES TO ADD THEM AS ADDITIONAL
13 PROPOSED CROSS-DEFENDANTS, BRING THEM BEFORE THE COURT,
14 AND THEN SEE WHAT IS TO BE DONE, IF ANYTHING, TO THEIR
15 HISTORIC USAGE.

16 CORRECT, MR. HAGERTY?

17 MR. HAGERTY: YES, YOUR HONOR. AND JUST TO BE
18 CLEAR, I UNDERSTAND WHAT MS. JACOBSON IS SAYING. YOU
19 KNOW, THERE ARE LEGAL ISSUES THAT STILL WOULD NEED TO
20 BE RESOLVED. THIS IS REALLY JUST AN EXERCISE IN
21 DRAWING THE INITIAL BOUNDARIES TO START FOCUSING THE
22 PARTIES. SO PEOPLE COULD, YOU KNOW, STILL MAKE LEGAL
23 CONTENTIONS TO THE COURT, AND LIKELY WILL, ABOUT WHAT
24 THOSE BOUNDARIES MEAN, BUT THIS WOULD JUST BE AVOIDING
25 A CONTENTIOUS ISSUE WHERE WE THINK WE'RE ALL IN
26 AGREEMENT ON WHAT THE BOUNDARIES ARE.

27 THE COURT: MS. JACOBSON, ANY FURTHER COMMENTS?

28 MS. JACOBSON: I WOULD JUST SAY I INVITE

1 MR. HAGERTY TO MAYBE MEET AND CONFER WITH ME AND OTHER
2 PARTIES ON THAT, AND MAYBE WE CAN GET SOMETHING
3 TOGETHER ON IT.

4 THE COURT: THANK YOU.

5 MR. PATTERSON, FOR EAST OJAI GROUP, DO YOU
6 WISH TO COMMENT, ASSUMING YOU CAN HEAR US AND
7 PARTICIPATE?

8 MR. PATTERSON: GOOD AFTERNOON, YOUR HONOR.

9 I THINK THAT WE CAN PROBABLY COME TO SOME
10 AGREEMENT ON THE BOUNDARIES BOTH WITH RESPECT TO THE
11 BASINS AND THE WATERSHED. I THINK IT'S JUST GOING TO
12 TAKE A LITTLE BIT OF WORDSMITHING, SO I THINK -- I
13 DON'T THINK THAT THOSE TWO ISSUES ARE GOING TO BE HOTLY
14 CONTESTED WITHIN THIS CASE, AND I THINK WE CAN GET TO A
15 RESOLUTION, YOUR HONOR.

16 THE COURT: OKAY.

17 ARE THERE OTHERS, WHETHER THEY BE LAWYERS
18 OR SELF-REPRESENTED PERSONS, WHO WISH TO COMMENT ON THE
19 SAME QUESTION OF THE POSSIBILITY OF TRYING TO
20 ANTICIPATE AND RESOLVE IN ADVANCE OF THE NOMINAL TRIAL
21 DATE --

22 MR. BAGGERLY: YOUR HONOR, THIS IS CLAUDE
23 BAGGERLY.

24 THE COURT: GO AHEAD, MR. BAGGERLY.

25 MR. BAGGERLY: IN REGARDS TO THE TOOLS THAT THE
26 CITY OF VENTURA'S ATTORNEYS HAVE, I'M A LITTLE
27 UNCOMFORTABLE WITH THAT. I THINK THAT THERE SHOULD BE
28 VERIFIED COPIES OF BULLETIN 118 TO VERIFY THE

1 BOUNDARIES OF THE FOUR BASINS.

2 THAT'S ALL. THANK YOU.

3 THE COURT: I ASSUME I SHOULD TRY TO TAKE
4 JUDICIAL NOTICE OF THE PROPER RECORD OF THE RELEVANT
5 PORTION OF BULLETIN 118. I'M NOT SURE IT'S GOING TO BE
6 SWORN TO BY SOME REPRESENTATIVE OF THE STATE AGENCY
7 THAT PRODUCED IT IN THE FIRST INSTANCE, BUT OBVIOUSLY
8 WE OUGHT TO GET A BONA FIDE CORRECT EXCERPT OF THIS
9 RATHER LENGTHY DOCUMENT.

10 AS I UNDERSTAND IT, IT HAS ALL THE
11 GROUNDWATER BASINS IN THE WHOLE STATE FROM MEXICO TO
12 OREGON, SO IT'S A VERY VOLUMINOUS DOCUMENT.

13 MR. HAGERTY: CORRECT. WE WEREN'T THINKING OF
14 PUTTING OUT THE WHOLE -- WE COULD PROVIDE A LINK TO THE
15 WHOLE BULLETIN 118, BUT WE WOULD DO EXACTLY WHAT
16 MR. BAGGERLY SUGGESTED, IN THE SENSE OF WHAT WE WOULD
17 PUT OUT IN A NOTICE WOULD BE THE EXACT VERSION OF THE
18 DESCRIPTION IN BULLETIN 118 OF THE FOUR BASINS, AND IF
19 ANYONE WANTS TO PROOFREAD IT AND MAKE SURE THAT THERE
20 ARE NO PROBLEMS WITH IT, THAT WOULD BE THE BASIS OF
21 PUTTING THAT AS NOTICE. THEN WE COULD AGREE THROUGH
22 THIS PROCESS THAT THAT'S IT, AND PUT THAT ISSUE ASIDE.

23 THE COURT: THAT SOUNDS REASONABLE, WITH THE
24 LINK TO THE FULL 118, WITH THE SOURCE FROM THE SPONSOR
25 GOVERNMENT AGENCY PROVIDED, FOR ANYBODY WHO WANTS TO
26 CAREFULLY PROOFREAD THE WORK.

27 MR. HAGERTY: YES, YOUR HONOR.

28 THE COURT: OKAY.

1 ANYONE ELSE WISH TO BE HEARD PRO OR CON ON
2 THIS PROPOSAL?

3 MR. DUCHESNEAU: YES, YOUR HONOR. THIS IS PETE
4 DUCHESNEAU, ON BEHALF OF CROSS-DEFENDANT AERA ENERGY.

5 THE COURT: BEAR WITH ME ONE MOMENT.

6 SO, MR. COURT REPORTER, IT IS DUCHESNEAU,
7 D-U-C-H-E-S-N-E-A-U, CORRECT, SIR?

8 MR. DUCHESNEAU: THAT'S RIGHT, YOUR HONOR.

9 THE COURT: FIRST NAME PETER.

10 GO AHEAD, SIR.

11 MR. DUCHESNEAU: THANK YOU, YOUR HONOR.

12 AS WE BRIEFED THE COURT IN OUR FILING, AERA
13 ENERGY IS A RATHER UNIQUE PARTY IN THIS MATTER, AND WE
14 HAVE BEEN WORKING WITH THE CITY ON AN ISSUE RELATED TO
15 THE BOUNDARIES WITH REGARD TO AERA AS WELL. AERA
16 ENERGY OPERATES OIL AND GAS WELLS IN THE VENTURA OIL
17 FIELD, AND THE ISSUE FOR AERA ENERGY IN REGARD TO THE
18 BOUNDARIES IS THAT IT'S THREE-DIMENSIONAL. SO THE
19 ISSUE OF BOUNDARIES FOR AERA IS THE DEPTH OF THE -- OF
20 THE GROUNDWATER BASIN, THE LOWER VENTURA RIVER
21 GROUNDWATER BASIN. SO -- AND AERA'S WELLS THAT THEY
22 HAVE ARE THOUSANDS OF FEET, THEY CONTEND, BELOW THE
23 BASIN.

24 SO WE HAVE BEEN WORKING WITH THE CITY. WE
25 BELIEVE THAT WE WILL FIND A WAY TO REACH A STIPULATION
26 WITH THEM, BUT I JUST WANTED TO RAISE THIS WITH REGARD
27 TO THIS PROCESS, THAT WE WOULDN'T BE FOREGOING OUR
28 ABILITY TO OBJECT TO THE DEFINITION OF THE BASIN IF

1 THAT'S WHAT IT ENTAILED TO DO.

2 THE COURT: YEAH, AS I UNDERSTAND, OIL
3 PRODUCTION DOES HAPPEN SOMEHOW MUCH DEEPER THAN THE
4 RELEVANT GROUNDWATER BASIN, AND INSOFAR AS WATER IS
5 EXTRACTED WITH THE PETROLEUM OR INSERTED BACK INTO THE
6 WELLS FOR FRACKING OR OTHER PURPOSES, IT IS CONSIDERED
7 TO BE ENTIRELY DISCONNECTED FROM THE GROUNDWATER BASIN.
8 AT LEAST THAT'S THE HYPOTHESIS I THINK I'VE BEEN GIVEN
9 FROM THE LAWYERS WHO HAVE APPEARED IN FRONT ME SO FAR.

10 HAVE I HEARD YOU CORRECTLY AS FAR AS THE
11 DISCONNECTION OF THE DEEP-WATER PETROLEUM ACTIVITIES,
12 MR. HAGERTY?

13 MR. HAGERTY: WITH A QUALIFICATION, YES. I
14 MEAN, THERE IS A -- THERE'S A STATE AGENCY AND THEN
15 THERE'S THE EPA, AND THERE'S A PROCESS BY WHICH CERTAIN
16 DEEP AREAS OF THE UNDERGROUND CAN BE DETERMINED TO BE
17 SOMETHING CALLED AN EXEMPT AQUIFER, AND THERE ARE
18 STANDARDS THAT MUST BE MET, SO AERA OPERATES IN A PART
19 OF THE UNDERGROUND WORLD THAT HAS BEEN DETERMINED TO BE
20 THIS EXEMPT AQUIFER.

21 WE WOULD -- AND AS PETER MENTIONED, WE ARE
22 TRYING TO WORK OUT A STIPULATION TO MAKE IT CLEAR THAT
23 FOR PURPOSES OF PHASE 1, WE DON'T THINK THAT THEY'RE A
24 RELEVANT PLAYER, THAT THEY -- THEY HAVE AN EXPERT, THEY
25 WOULD PUT ON THAT EXPERT. WE DON'T THINK THAT THAT'S
26 NEEDED, AND WE WILL -- WE'RE WORKING TO PREVENT THAT
27 FROM OCCURRING AND ADDRESS THAT ISSUE.

28 I THINK WE COULD MAKE SURE THAT THE NOTICE

1 IS CLEAR THAT THERE'S SOME REFERENCE TO THAT.

2 THEY'RE STILL TECHNICALLY IN THE BASIN IN
3 A -- AT LEAST ON A --

4 THE COURT: KIND OF A FEE SIMPLE, IN ALL
5 PROBABILITY, ON TOP OF ALL OF WHAT'S BELOW THE SURFACE
6 OF THE --

7 MR. HAGERTY: WELL, THEY -- I DON'T THINK THEY
8 ACTUALLY OWN FEE SIMPLE. I THINK THEY HAVE, YOU KNOW,
9 RIGHTS TO THE OIL.

10 BUT, YOUR HONOR, I THINK THAT -- I GUESS
11 THE SHORT STORY IS -- IT GETS A LITTLE COMPLICATED, BUT
12 I'M -- I'M CONFIDENT WE CAN WORK THIS OUT AND NOT
13 DERAILED THIS STREAMLINED EFFORT TO JUST TRY TO DRAW THE
14 LINES CORRECTLY. AND SO I THINK THE KEY THING THERE IS
15 THAT THERE ARE -- HAVE BEEN REGULATORY DETERMINATIONS
16 ABOUT THIS PARTICULAR AREA, AND IT IS ON A DIFFERENT
17 FOOTING UNDER THE SAFE DRINKING WATER ACT AND THE STATE
18 EQUIVALENT OF THAT, SO I THINK IT'S VERY EASY TO PUT
19 THEM IN A SEPARATE CATEGORY FOR PURPOSES OF PHASE 1.

20 THE COURT: MR. MELNICK?

21 MR. MELNICK: WITH THE OIL PUMPING AND WATER USE
22 FOR THAT, THERE'S TWO ISSUES, YOUR HONOR. ONE IS
23 BULLETIN 118 IS JUST HORIZONTAL GEOGRAPHIC LIMITATION;
24 IT DOESN'T HAVE A VERTICAL COMPONENT. THAT'S MY
25 UNDERSTANDING. SO, YOU KNOW, IF YOU HAVE A WELL THAT
26 GOES, YOU KNOW, 10,000 FEET BELOW SURFACE, YOU'RE STILL
27 A WELL WITHIN THAT BASIN.

28 THE SECOND -- THE OTHER ISSUE --

1 THE COURT: SO MR. HAGERTY POSITS THAT COMPETENT
2 GOVERNMENT AUTHORITIES HAVE THEN SOMEHOW DECIDED TO
3 DETERMINE THAT IF YOU GO BELOW SOME LEVEL, YOU BECOME
4 AN EXEMPT SEPARATE AQUIFER.

5 MR. MELNICK: YEAH, AND IT'S -- IT'S FOR A
6 DIFFERENT PURPOSE, YOUR HONOR -- AND I'M HOPING THAT WE
7 DON'T HAVE TO BRIEF THIS AT SOME POINT AND WE'LL BE
8 ABLE TO WORK THIS OUT AMONGST THE PARTIES, BUT THAT'S
9 FOR AN ENTIRELY DIFFERENT PURPOSE THAN WHAT WE'RE
10 TALKING ABOUT HERE.

11 AND THE REAL ISSUE WITH THESE OIL WELLS IS
12 HOW GOOD THE INTEGRITY IS WITH THOSE WELLS. SO IF YOU
13 HAVE A GOOD WELL THAT'S NOT PERFORATED UNTIL IT GETS
14 TWO MILES BELOW THE SURFACE, THEN, FINE, YOU'RE TOTALLY
15 SEPARATE; WE DON'T REALLY CARE WHAT YOU'RE DOING.

16 THE COURT: BUT IF IT'S IN THE FIRST 600 FEET
17 AND CONTAMINATES THE AQUIFER, YOU'VE GOT SOMETHING TO
18 CARE ABOUT.

19 MR. MELNICK: EXACTLY.

20 THE COURT: OKAY.

21 MR. DUCHESNEAU, ANYTHING FURTHER YOU WANT
22 TO SAY? OR DUCHESNEAU?

23 MR. DUCHESNEAU: THANK YOU, YOUR HONOR.

24 I HAD A DIFFICULT TIME HEARING THE WATER
25 BOARD'S COUNSEL, BUT WE DO RESPECTFULLY DISAGREE WITH
26 THEM THAT THERE'S NOT A THREE-DIMENSIONAL ASPECT TO THE
27 BASIN. IT MAY BE THAT THE PARTIES CAN REACH AN
28 AGREEMENT THAT CAN GET AROUND THAT OR NOT, BUT WE

1 RESPECTFULLY DISAGREE WITH REGARD TO THAT.

2 I WOULD ALSO NOTE THAT THESE WELLS ARE
3 HIGHLY REGULATED BY CALIFORNIA'S AGENCY, CALLED CALGEM,
4 BUT IN ANY EVENT, WE'LL LOOK TO TRY TO RESOLVE THIS
5 FIRST THROUGH STIPULATION OR AGREEMENT WITH THE CITY,
6 WITH THE STATE BOARD IF NECESSARY AS WELL, BUT, AGAIN,
7 I WANTED TO MAKE SURE TO THE COURT THAT WE WERE NOT
8 SOMEHOW EXCLUDING OUR ABILITY TO INCLUDE THAT IN
9 PHASE 1 IF NECESSARY.

10 THE COURT: I'M GOING TO INVITE MORE COMMENTS,
11 BUT FROM A PROCESS POINT OF VIEW, I'M GOING TO OFFER A
12 POSSIBILITY, AND THAT IS, I WOULD BE PREPARED TO BRING
13 YOU FOLKS IN FRIDAY OF THIS WEEK TO SEE WHAT PROGRESS
14 YOU'RE MAKING, IF THAT'S NOT TOO SOON -- AND IT MAY
15 BE -- IN SEEING IF THE MAIN PLAYERS WOULD ESSENTIALLY
16 STIPULATE, SO THAT WE THEN CAN SET UP AN ORDER TO SHOW
17 CAUSE TO TRY TO BIND EVERYBODY.

18 AND IF THIS FRIDAY IS TOO SOON, IS THERE
19 ANY REASON TO THINK THAT THIS COMING MONDAY AFTERNOON
20 WOULD BE ANY BETTER? OR TUESDAY AFTERNOON, THE 23RD?

21 IF THOSE DON'T WORK, I COULD BRING YOU IN
22 ON SOME AFTERNOON THE WEEK IMMEDIATELY AFTER
23 THANKSGIVING, PARTICULARLY MONDAY THROUGH THURSDAY, TO
24 TRY TO SEE WHAT PROGRESS WE'RE MAKING IN REGARD TO
25 THIS.

26 THAT'S SEPARATE FROM THE QUESTION OF
27 WHETHER OR NOT I CAN GET MY ARMS AROUND ALL OF THESE
28 MANY BRIEFS ABOUT PHASE 1 ISSUES AND GIVE YOU A GOOD

1 BLOCK OF TIME TO HAVE SOME ARGUMENT ON THAT TOPIC THAT
2 HAPPENS EARLIER THAN DECEMBER 9TH AND HAPPENS EARLIER
3 THAN FEBRUARY 14TH. INsofar AS A MORE EXTENDED
4 DISCUSSION ON SORT OF HOW TO ORGANIZE THE PHASE 1 TRIAL
5 SEPARATE AND APART FROM THESE SPECIFIC ISSUES OF
6 WATERSHED DELINEATION AND THE FOUR GROUNDWATER BASIN
7 DELINEATION IS A RELATIVELY SMALL PART OF THAT SAME
8 PROCESS.

9 MR. HAGERTY: YOUR HONOR, WE ARE BACK HERE ON
10 THE 23RD, I THINK IN THE MORNING, ON SOME
11 DISCOVERY-RELATED MOTIONS OR EXPERT MOTIONS.

12 THE COURT: INDEED, THE LATE DESIGNATION
13 REQUESTS.

14 MR. HAGERTY: SO IF WE COULD -- WHAT I WAS
15 HOPING IS THAT WE COULD SET THE -- AT LEAST TENTATIVELY
16 SET THE 9TH AS SORT OF THE OSC, BECAUSE I DO BELIEVE
17 THAT THE ISSUES SHOULD BE SOMETHING THAT WE CAN
18 RESOLVE. THEY'RE NOT COMPLICATED.

19 THE COURT: I DON'T QUARREL WITH MAKE THE OSC
20 RETURNABLE ON THE 9TH, BUT I DON'T WANT TO JUST LEAVE
21 YOU ALONE AND HAVE YOU WANT SOMETHING RETURNABLE ON THE
22 9TH THAT DOESN'T LOOK LIKE IT HAS A FAIR CHANCE OF
23 SUCCESS.

24 MR. HAGERTY: CORRECT. AND MAYBE --

25 THE COURT: SO I'D LIKE TO SORT OF CHECK IN WITH
26 YOU AT LEAST NO LATER THAN THE 23RD, WHICH IS JUST A
27 WEEK FROM TOMORROW.

28 MR. HAGERTY: YES.

1 THE COURT: AND SEE IF ITS SEEMS LIKE YOU HAVE A
2 VIABLE PROCESS.

3 MR. HAGERTY: YES, YOUR HONOR.

4 THE COURT: FOR EXAMPLE -- NO CRITICISM MEANT.
5 I THINK THIS HAS BEEN HELPFUL, AND INDEED YOU'RE BEING
6 RESPONSIVE, IF I UNDERSTAND RIGHT THE SUGGESTIONS BY
7 MS. JACOBSON, BUT GIVEN THAT YOU AND MS. JACOBSON AND
8 MR. PATTERSON AND PEOPLE LIKE MR. BAGGERLY HAVE NOT YET
9 HAD A CHANCE TO CONSULT ON THIS, I THINK THERE WILL BE
10 SOME VALUE OBTAINED IF YOU CAN HAVE SUCH A
11 DISCUSSION -- IF IT ISN'T HAPPENING THIS AFTERNOON IN
12 OPEN COURT, AT LEAST HAVE IT HAPPEN IN SOME FASHION IN
13 THE NEAR FUTURE.

14 MR. HAGERTY: YES, YOUR HONOR. IF WE COULD
15 ADDRESS THIS ON THE 23RD, WE CAN REPORT ON HOPEFULLY
16 CONSENSUS, IF NOT PROGRESS, AND THEN IF TENTATIVELY WE
17 CAN SET THE 9TH AS A DATE TO HAVE ANY ADDITIONAL
18 OBJECTIONS HEARD, WE CAN PROVIDE NOTICE MAYBE AFTER THE
19 23RD OF THE SPECIFIC DOCUMENTS THAT WE'VE AGREED TO PUT
20 OUT TO THE REST OF THE PARTIES.

21 THE COURT: SO ARE THERE OTHER APPEARING PARTIES
22 THIS AFTERNOON WHO WANT TO BE HEARD TO SAY THAT NO WAY,
23 SHAPE OR FORM DO THEY THINK THAT THESE TWO
24 BOUNDARY-DRAWING EXERCISES CAN HAPPEN ESSENTIALLY BY
25 CONSENSUS? IF SOMEBODY WANTS TO SAY THIS DOG DOESN'T
26 HUNT.

27 THERE'S NO RESPONSE. THAT'S A GOOD SIGN,
28 MR. HAGERTY, SO HOPEFULLY WE'RE ON TO SOMETHING.

1 MR. HAGERTY: YES, YOUR HONOR.

2 THE COURT: OKAY. SO THAT WAS AN IDEA OF
3 SOMETHING USEFUL TO DO TODAY. WE'LL TAKE A PROGRESS
4 REPORT A WEEK FROM TOMORROW, THE 23RD, ON THIS TOPIC,
5 AND I WILL ACCEPT THE PROGRESS REPORT THAT IS SERVED ON
6 NOON ON THE 22ND, SEPARATE FROM ANY OTHER ADVANCED
7 PAPERWORK I MAY GET, TO GIVE YOU AS MUCH TIME AS
8 POSSIBLE TO SEE HOW CLOSE YOU CAN GET TO HARMONY.

9 MR. HAGERTY: YES, YOUR HONOR.

10 THE COURT: OKAY.

11 WAS THERE ANOTHER THING YOU FELT WE COULD
12 USEFULLY DO THIS AFTERNOON, WHEN I HAVEN'T HAD A CHANCE
13 TO DO MY HOMEWORK?

14 MR. HAGERTY: NO, I THINK THAT'S IT, YOUR HONOR.
15 I THINK THAT THE PARTIES DID SIGNIFICANT BRIEFING. I
16 THINK IT WOULD BE BENEFICIAL TO DISCUSS THOSE ISSUES --
17 ADDITIONAL ISSUES AFTER THE COURT'S HAD AN OPPORTUNITY
18 TO LOOK AT EVERYTHING. WE'LL PROVIDE A COURTESY COPY
19 SO YOU HAVE THE FULL PACKET FROM THE CITY, AND
20 APOLOGIZE FOR THAT, BUT I DO THINK IT'S IMPORTANT TO
21 HAVE THE COURT LOOK AT THE ISSUES PRESENTED BY THE
22 PARTIES BECAUSE I DO BELIEVE IT HELPS MOVE US FORWARD,
23 AND THERE ARE SOME DECISION POINTS THAT THE COURT WILL
24 NEED TO MAKE THAT WE CAN DISCUSS ON THE 9TH.

25 THE COURT: WELL, BETWEEN NOW AND NEXT TUESDAY,
26 THE 23RD, ARE THERE ANY MORE BRIEFS THAT YOU UNDERSTAND
27 ARE GOING TO BE COMING IN ON THIS QUESTION OF TRYING TO
28 BETTER DEFINE THE ISSUES OF FACTS AND LAW TO BE

1 DETERMINED AT THE PHASE 1 TRIAL, OR IS IT BASICALLY NOW
2 THE BALL'S IN MY COURT AND IT'S TIME FOR ME TO DO MY
3 HOMEWORK?

4 MR. HAGERTY: I THINK THE BALL IS IN YOUR COURT
5 WITH, YOU KNOW, OUR ABILITY TO DISCUSS IT ON THE 9TH.

6 THE COURT: ANYBODY THINK THAT MORE BRIEFS ARE
7 YET TO COME IN, OR IS IT JUST A QUESTION OF HIGHBERGER
8 TO DO HIS HOMEWORK?

9 SO LET ME PROPOSE THIS. BEFORE YOU LEAVE
10 TODAY, MR. HAGERTY, I WILL LOAN TO YOU WHAT I HAVE
11 PULLED OFF AND ASK YOU TO TRY TO FIGURE OUT WHAT ALL
12 THINGS SEEM TO BE MISSING, BECAUSE, FOR EXAMPLE, SOME
13 PEOPLE DO APPEAR TO HAVE LIKE DECLARATIONS AND OTHER
14 SORT OF ANCILLARY PAPERWORK THAT'S COME IN, AND WHAT
15 I'D LIKE TO GET WOULD BE, I GUESS BY THIS THURSDAY --
16 I'LL BE OUT WEDNESDAY AND THURSDAY, BUT IF YOU COULD
17 DELIVER TO COURT BY CLOSE OF BUSINESS THURSDAY A FULL
18 READING STACK, I THEN COULD USE THE WEEKEND,
19 ESSENTIALLY, TO DO MY HOMEWORK, BECAUSE I HAVE SPARE
20 TIME THIS COMING WEEKEND AS COMPARED TO THE LAST
21 WEEKEND, WHICH WAS HELLACIOUS WITH OBLIGATIONS, SO THAT
22 I REALLY AM ON TOP OF IT AND READY TO HAVE SOME
23 EXTENDED ARGUMENT A WEEK FROM TOMORROW.

24 ARE YOU WILLING TO AT LEAST FIGURE OUT
25 WHAT'S MISSING?

26 I DON'T EXPECT YOU TO USE BEST
27 BEST & KRIEGER'S RESOURCES TO NUDGE OTHER PEOPLE TO GET
28 ME THE COURTESY COPIES, BUT IF YOU CAN FIGURE OUT

1 WHAT'S NOT HERE AND THEN NUDGE THE RELEVANT PARTIES TO
2 PROVIDE IT, SO THAT I THEN KNOW I HAVE A FULL READING
3 STACK BY THURSDAY OF THIS WEEK, THAT WOULD BE GREATLY
4 APPRECIATED.

5 MR. HAGERTY: YOUR HONOR, WE'RE HAPPY TO PROVIDE
6 A FULL BINDER WITH ALL OF THE MATERIAL THAT --

7 THE COURT: SO MUCH THE BETTER.

8 MR. HAGERTY: YEAH. AND THEN, YOU KNOW, WE'LL
9 MAKE SURE WE SEND IT TO EVERYONE SO THEY SEE WHAT WE
10 PROVIDE. BUT WE WILL --

11 THE COURT: PROVIDE TWO, ONE FOR ME AND ONE FOR
12 THE RESEARCH ATTORNEY.

13 MR. HAGERTY: YES, YOUR HONOR.

14 THE COURT: OKAY. CLOSE OF BUSINESS THURSDAY OR
15 FIRST THING ON FRIDAY MORNING.

16 MR. HAGERTY: YES, YOUR HONOR.

17 THE COURT: OF THIS WEEK.

18 MR. HAGERTY: YES.

19 THE COURT: OKAY.

20 SO I WOULD ANTICIPATE SPENDING QUITE A BIT
21 OF TIME WITH YOU ON THIS TOPIC A WEEK FROM TOMORROW.
22 ARE LAWYERS READY TO INVEST THE TIME OR IS THIS IS
23 GOING TO GOBBLE UP TIME THAT PEOPLE DIDN'T EXPECT TO
24 HAVE TO PROVIDE TO THE COURT ON THE 23RD?

25 BECAUSE THIS COULD GO ON FOR HOURS, I
26 THINK.

27 MR. HAGERTY: WELL, YOUR HONOR, I THINK --
28 MAYBE -- MY UNDERSTANDING OF THE PROCESS WE'VE JUST

1 LAID OUT WOULD BE ON THE 23RD WE DEAL WITH THE TWO
2 MOTIONS THAT ARE PENDING --

3 THE COURT: AND THAT'S FAIRLY CLEAN AND SIMPLE.
4 THAT'S MY EXERCISE OF DISCRETION ABOUT LATE
5 DESIGNATIONS OF EXPERTS AND WHAT, IF ANY, MITIGATING
6 TECHNIQUES I MAY BE AUTHORIZED TO USE TO AVOID
7 PREJUDICE TO CITY OF VENTURA IF I DO ALLOW A LATE
8 DESIGNATION, BECAUSE THESE CONTINUE TO BE HOTLY
9 CONTESTED MOTIONS, CORRECT, MR. PISANO?

10 MR. PISANO: CORRECT, YOUR HONOR.

11 THE COURT: OKAY. FAIR ENOUGH.

12 SO I'LL THEN HAVE TO FIGURE OUT IF THERE'S
13 ANY POSSIBLE WAY THAT, THROUGH THE PRUDENT EXERCISE OF
14 DISCRETION, I CAN THEN MITIGATE THE PREJUDICE TO CITY
15 OF VENTURA SUCH THAT LATE DESIGNATION MIGHT BE POSSIBLE
16 OR IF IT'S JUST IMPOSSIBLE TO SUFFICIENTLY MITIGATE THE
17 PREJUDICE, AND IN THAT CASE NOT ALLOW THE LATE
18 DESIGNATION.

19 MR. HAGERTY: YES, YOUR HONOR.

20 AND I THINK THE OTHER THING ON THE 23RD --

21 THE COURT: BUT THAT'S NOT HOURS. THAT'S MAYBE
22 AN HOUR, IF THAT.

23 MR. HAGERTY: CORRECT.

24 I GUESS WHAT I -- TO CUT TO THE CHASE, I
25 WAS SUGGESTING THAT MAYBE THE 23RD ISN'T THE DAY THAT
26 WE SPEND HOURS. MAYBE THE 9TH IS THE DAY THAT --

27 THE COURT: I CAN LIVE WITH THAT.

28 MR. HAGERTY: YOU KNOW, THERE WERE MULTIPLE

1 BRIEFS FILED, YOU KNOW, THERE'S A LOT OF MATERIAL FOR
2 THE COURT TO LOOK AT. IF WE'RE GOING TO SPEND THE TIME
3 AND GO THROUGH IT, IT WOULD BE BEST TO GIVE THE COURT
4 SUFFICIENT TIME TO READ THE PAPERS FULLY, AND THEN WE
5 COULD ADDRESS IT ON THE 9TH.

6 THE COURT: THE 9TH WILL BE FINE FROM MY POINT
7 OF VIEW. THEN I'LL HAVE LOVELY STUDY TIME, BECAUSE I'M
8 ON A PANEL IN NEW YORK CITY EARLIER THAT WEEK ON PHARMA
9 PRODUCT LIABILITY CASE ISSUES THAT DON'T HAVE MUCH TO
10 DO WITH THIS CASE, ALTHOUGH THEY'RE INTERESTING LEGAL
11 QUESTIONS. BUT I'M ACTUALLY GOING TO TAKE AMTRAK FROM
12 HERE TO NEW YORK, WHICH IS A THREE-DAY TRIP, WHICH WILL
13 GIVE ME PLENTY OF TIME TO READ WHEN I'M SITTING IN MY
14 LITTLE CABIN ON AMTRAK.

15 MR. HAGERTY: YOU'LL HAVE LOTS OF MATERIAL TO
16 READ, YOUR HONOR.

17 THE COURT: IT WILL BE A PERFECT MATCH.

18 MR. HAGERTY: YES.

19 THE COURT: WATCHING KANSAS GO BY DOES GET
20 BORING SOMETIMES.

21 BUT VERY RESTFUL. I LOVE LONG TRAIN TRIPS,
22 SO IT'S SELF-INFLICTED.

23 OKAY. WHAT ELSE, IF ANYTHING, SHOULD WE
24 TAKE UP THIS AFTERNOON? MR. HAGERTY?

25 MR. HAGERTY: WE HAVE NOTHING FURTHER, YOUR
26 HONOR.

27 THE COURT: MR. MELNICK?

28 MR. MELNICK: I'M IN A BIT OF AN UNCOMFORTABLE

1 SITUATION BECAUSE I THOUGHT TODAY WE WERE GOING TO
2 SPEND A LOT OF TIME TALKING ABOUT THIS COULD GO TO
3 TRIAL, BUT YOUR HONOR OBVIOUSLY WANTS TO DO THAT LATER,
4 WHICH IS --

5 THE COURT: I'M NOT PREPARED TO DO IT
6 COMPETENTLY TODAY, TO BE BLUNT, SO I APOLOGIZE, BUT --

7 MR. MELNICK: THERE'S ONE ISSUE THAT I THINK HAS
8 A TIMING COMPONENT, WHICH MAYBE WE WON'T TALK ABOUT
9 TODAY BUT I'LL MAKE AN EFFORT --

10 THE COURT: WHAT DO YOU WANT ME TO KNOW IN TWO
11 MINUTES THAT YOU WANT TO HAVE HAPPEN THAT CITY OF
12 VENTURA DOESN'T WANT TO HAVE HAPPEN?

13 MR. MELNICK: THE CITY OF OJAI HAS RAISED A
14 LEGAL ISSUE, AT LEAST THAT I --

15 THE COURT: YOU'RE FISH & GAME, RIGHT?

16 MR. MELNICK: NO, I'M STATE WATER RESOURCES
17 CONTROL BOARD.

18 THE COURT: OKAY.

19 MR. MELNICK: THE CITY OF OJAI HAS RAISED AN
20 ISSUE, WHICH I BELIEVE IS A LEGAL ISSUE -- I THINK
21 THERE'S SOME DISPUTE AS TO THAT -- WHICH IS WHETHER YOU
22 CAN ADJUDICATE MORE THAN ONE BASIN IN ONE CASE. AND I
23 THINK -- I THINK THAT'S A LEGAL ISSUE.

24 I THINK IT WOULD BE GOOD TO RESOLVE THAT
25 ISSUE SOONER RATHER THAN LATER, AND I THINK THE -- THE
26 COURT MIGHT BENEFIT FROM US BRIEFING THAT NOW, SO MAYBE
27 YOU COULD RESOLVE IT ON DECEMBER 9TH.

28 THE COURT: SO YOU PERCEIVE THAT THE CURRENT SET

1 OF BRIEFS DEFINE THE ISSUE BUT DON'T ARGUE THE ISSUE?

2 MR. MELNICK: THAT'S CERTAINLY THE WAY OUR BRIEF
3 IS.

4 AND I THINK MR. PATTERSON DIDN'T BRIEF THE
5 ISSUE. MS. JACOBSON SORT OF BRIEFED THE ISSUE, BUT I
6 SUSPECT NOT COMPLETELY.

7 THE COURT: WHOSE BRIEFS WOULD I READ BETWEEN
8 NOW AND NEXT TUESDAY TO GET THE FLAVOR OF THE ISSUE,
9 MR. MELNICK? OJAI'S, OBVIOUSLY?

10 MR. MELNICK: AND THE CITY OF SAN BUENAVENTURA,
11 I THINK.

12 THE COURT: IS THERE A THIRD OR A FOURTH?

13 MR. MELNICK: WELL, WE MENTIONED THE ISSUE, BUT
14 WE DIDN'T DISCUSS THE LEGAL ASPECTS OF IT.

15 THE COURT: IS THERE A THIRD OR A FOURTH OR A
16 FIFTH BRIEF YOU THINK THAT WOULD SHED ANY LIGHT ON THE
17 ISSUE?

18 MR. MELNICK: NOT THAT WERE FILED FOR TODAY.

19 THE COURT: SO IT WOULD BE OJAI'S BRIEF,
20 VENTURA'S BRIEF, AND STOP?

21 MR. MELNICK: WELL, OTHER PARTIES WOULD WANT TO
22 SAY SOMETHING ABOUT THAT, AND THAT'S WHY I'M SUGGESTING
23 IT MIGHT MAKE --

24 THE COURT: IF I DECIDE I WAS WILLING TO DECIDE
25 BEFORE FEBRUARY 14TH, IF I WOULD ALLOW THE
26 FEBRUARY 14TH TRIAL BEING ADJUDICATION OF FOUR WATER
27 BASINS, I MIGHT DO THAT ON DECEMBER 9TH, I MIGHT DO
28 THAT AT THE FINAL STATUS CONFERENCE, I MIGHT DO IT

1 SOMETIME IN JANUARY, BUT IF I DID DECIDE TO TEASE OUT
2 THAT QUESTION AND ESSENTIALLY BIFURCATE IT FOR A
3 PRETRIAL MOTION, THEN I WOULD, OF COURSE, LET ALL THE
4 PARTIES LITIGATE THE MERITS OF THAT PRETRIAL MOTION,
5 BUT THE QUESTION I WOULD ADDRESS NEXT TUESDAY WOULD
6 SIMPLY BE: IS THIS A WORTHY THING TO TEASE OUT AND SET
7 ESSENTIALLY FOR A PRETRIAL MOTION HEARING RATHER THAN
8 WAITING FOR FEBRUARY 14TH?

9 MR. MELNICK: YES. I WOULD AGREE COMPLETELY,
10 YOUR HONOR.

11 THE COURT: WHAT IF I DO THIS, MR. MELNICK?
12 WHAT IF I SET AN ORDER TO SHOW CAUSE HERE RETURNABLE ON
13 NOVEMBER 23 AT 9:00 A.M. WHY I SHOULDN'T DETERMINE
14 WHETHER THE FOUR GROUNDWATER BASINS CAN BE ADJUDICATED
15 AT THE SAME TIME, AND INVITE PEOPLE WHO OPPOSE THAT
16 CONCEPT TO FILE SOMETHING BY, SAY, THURSDAY OF THIS
17 WEEK, AND INVITE THOSE WHO SPEAK IN FAVOR OF IT, WHICH
18 IS OJAI, APPARENTLY, TO SPEAK IN FAVOR OF IT BY MONDAY
19 THE 22ND, AND THEN ON THE 23RD DECIDE THE PROCESS
20 QUESTION, WHICH IS ONLY A PROCESS QUESTION OF WHETHER
21 TO TEASE OUT THAT ISSUE AND GET IT ON CALENDAR SOMETIME
22 EARLIER THAN FEBRUARY 14?

23 MR. MELNICK: WELL, IF YOUR HONOR WANTS TO SET
24 THOSE DATES FOR NEW BRIEFING, YOU CAN, BUT I DON'T KNOW
25 THAT THAT'S NECESSARY, YOUR HONOR. I THINK WE COULD
26 TALK ABOUT IT TODAY. MR. HAGERTY --

27 THE COURT: YOU MENTIONED THAT A RELATIVELY FEW
28 PEOPLE HAVE SPOKEN TO THE QUESTION, GIVEN ALL THE

1 PEOPLE WHO SAW FIT TO FILE A BRIEF. OJAI SPOKE TO IT,
2 VENTURA SPOKE TO IT. YOU HAVE SUCH PASSING REFERENCE
3 TO IT IN YOUR OWN BRIEF THAT YOU CHARACTERIZE IT MORE
4 AS JUST A KIND OF PASSING KNOWLEDGE THAT THERE'S A
5 BUZZARD ON THE HORIZON OR SOMETHING EQUIVALENT TO THAT,
6 BUT NOT REALLY AN ARGUMENT --

7 MR. MELNICK: WE SUGGESTED THAT IT BE BRIEFED
8 BEFORE TRIAL, BUT WE DIDN'T BRIEF IT.

9 THE COURT: BUT MY THOUGHT ABOUT SETTING THIS UP
10 AS A CLEAR QUESTION POINT IS IF I AM GOING TO TAKE
11 SOMETHING AND PULL IT AHEAD OF FEBRUARY 14 AND DECIDE
12 IN ADVANCE OF FEBRUARY 14, I THINK PEOPLE ARE DUE
13 NOTICE, WHICH IS WHY I WOULD BE INCLINED TO GIVE PEOPLE
14 A CHANCE TO SQUAWK IF THEY WANT TO BETWEEN NOW AND A
15 WEEK FROM TOMORROW, SO THAT IF IT TURNS OUT THAT I AM
16 GOING TO ALLOW BRIEFING ON THE MERITS OF THIS QUESTION,
17 THAT I CAN HAVE IT RIPENED EITHER FOR DECEMBER 9TH OR
18 SOMETIME IN JANUARY THAT'S NOT YET SET ON CALENDAR,
19 BUT, IN ANY CASE, FAR ENOUGH IN ADVANCE OF FEBRUARY 14
20 THAT IT'S A PRACTICAL UTILITY TO ANSWERING THE QUESTION
21 IN ADVANCE.

22 BECAUSE, CANDIDLY, IF I SAY I CAN'T
23 ADJUDICATE THE FOUR GROUNDWATER BASINS, IT GOES TO
24 TOTAL SPANNER AND EVERYTHING, AS BEST AS I CAN IMAGINE.
25 IT MAY BE THE LEGALLY CORRECT CONCLUSION, BUT I WOULD
26 THINK IT'S A TOTAL SPANNER IN MR. HAGERTY'S THEORY OF
27 HIS CASE.

28 THE SPANNER BEING A BRITISH REFERENCE TO A

1 WRENCH.

2 MR. HAGERTY: WE -- WE'RE NOT SUPPORTIVE OF THE
3 OSC APPROACH, YOUR HONOR, BUT WE CAN JUST QUEUE THIS UP
4 FOR DISCUSSION ON THE 23RD. WE CAN DISCUSS IT, AND IF
5 THE COURT IS INCLINED TO SET A BRIEFING SCHEDULE AND A
6 DATE, WE'RE OKAY WITH THAT.

7 BUT I DON'T THINK THE OSC APPROACH MAKES A
8 LOT OF SENSE HERE. I THINK THE COURT SHOULD TAKE A
9 LOOK AT THE BRIEFS ON THIS QUESTION --

10 THE COURT: DO YOU AGREE THAT I BASICALLY JUST
11 READ YOUR BRIEF AND MS. JACOBSON'S BRIEF, AND THAT'S --

12 MR. HAGERTY: I THINK THERE -- MR. SLATER'S
13 BRIEF, WHICH IS A JOINDER BRIEF, BUT IT ADDS SOME
14 DETAIL THAT I THINK IT WOULD BE WORTH TO TAKE A LOOK
15 AT.

16 THERE ARE SOME ISSUES THAT ARE RAISED IN
17 MS. JACOBSON'S BRIEF THAT WE THINK NEED TO BE
18 ADDRESSED. SO THAT'S WHY WE'RE NOT --

19 THE COURT: SPECIFIC TO THIS 4 V 1 QUESTION?

20 MR. HAGERTY: CORRECT. YOU KNOW, WE FILED
21 EVERYTHING ON THE SAME DAY SO WE HAVEN'T HAD AN
22 OPPORTUNITY TO REPLY. THAT'S WHY WE DON'T SUPPORT THE
23 OSC APPROACH.

24 BUT WE CAN AT LEAST TEE IT UP FOR FURTHER
25 DISCUSSION ON THE 23RD.

26 THE COURT: WHAT'S BAD ABOUT THE OSC? DOESN'T
27 IT INVITE YOUR ADVERSARIES TO TALK TO THEM?

28 MR. HAGERTY: THE PREMISE IS YOU'RE GOING TO DO

1 IT UNLESS WE CONVINCED YOU OTHERWISE. WE DON'T
2 PARTICULARLY THINK YOU NEED TO DO IT AT ALL --

3 THE COURT: YOU WANT ME TO WAIT TILL
4 FEBRUARY 14TH AND TELL YOU ON FEBRUARY 14TH THAT THE
5 CASE IS HERE TO BUMP?

6 MR. HAGERTY: WELL, OUR POSITION IS YOU NEED TO
7 HEAR ALL THE EVIDENCE BECAUSE, WHILE THERE MAY BE LEGAL
8 ISSUES THAT YOU CAN DECIDE ESSENTIALLY AGAINST THE
9 ARGUMENT, IF YOU'RE CONSIDERING WHETHER YOU NEED TO
10 SEPARATE THINGS OUT, YOU NEED TO HEAR ALL THE EVIDENCE
11 ABOUT INTERCONNECTION.

12 SO THAT'S WHY WE DON'T THINK IT'S A PURE
13 LEGAL ISSUE. AT LEAST IN TERMS OF THROWING THIS BANNER
14 IN THE CASE, AS YOU SAID, YOUR HONOR. WE DON'T THINK
15 YOU CAN DO THAT UNLESS YOU HEAR ALL THE EVIDENCE,
16 BECAUSE IT ALL COMES DOWN TO THE QUESTION OF
17 INTERCONNECTION, AND THAT'S WHAT'S GOING TO BE TRIED IN
18 PHASE 1, AND IT'S NOT GOING TO BE VERY EFFICIENT IF WE
19 TRY TO BUILD UP THESE HURDLES, AND IN THE END YOU'RE
20 JUST GOING TO HAVE TO HEAR THE EVIDENCE AND MAKE A
21 DETERMINATION. THAT'S OUR POSITION, THAT'S WHAT WE
22 ARTICULATE IN OUR BRIEF IN TERMS OF SEQUENCING.

23 SO WE'RE HAPPY TO HAVE THE LEGAL
24 DISCUSSION, BUT IN THE END WE THINK YOU'RE GOING TO
25 HAVE TO HEAR THE EVIDENCE, AND WE THINK THAT'S THE BEST
26 APPROACH. AND SO THAT'S WHY WE DON'T SUPPORT THE OSC
27 APPROACH, YOUR HONOR.

28 THE COURT: SO LET'S SEE. THIS IS MR. HERREMA?

1 MR. SLATER: THIS IS MR. SLATER, YOUR HONOR.

2 THE COURT: MR. SLATER. OKAY.

3 YOU'RE CASITAS OR WOOD-CLAEYSSSENS?

4 MR. SLATER: WOOD-CLAEYSSSENS, YOUR HONOR.

5 THE COURT: OKAY. GO AHEAD.

6 MR. SLATER: IT'S -- TRULY HAVING READ THE
7 BRIEFS -- OR THE PAPERS, IT'S NOT CLEAR TO ME THAT
8 THERE REALLY IS A QUESTION ABOUT SIMULTANEOUS OR
9 CONCURRENT DETERMINATIONS. THERE'S -- WITHOUT DELVING
10 INTO GREAT ARGUMENT, THERE ARE SUPREME COURT CASES,
11 SEVERAL, AT WHICH THERE WAS CONCURRENT DETERMINATIONS,
12 ADJUDICATIONS OF RELATED BASINS. THEY'RE EASY TO FIND.

13 THE MOST RECENT IS THE MOJAVE CASE. THERE
14 WERE FOUR BASINS, OESTE, BAJA, CENTRO, AND THEY --
15 THOSE BASINS WERE CONCURRENTLY ADJUDICATED UNDER -- IN
16 A SINGLE PROCEEDING. THE SAN FERNANDO BASIN HAD
17 VARIOUS GROUNDWATER BASINS WHICH WERE CONCURRENTLY
18 ADJUDICATED.

19 I THINK THE QUESTION IS WHETHER YOU'RE
20 ATTEMPTING AT ONE POINT TO IN AGGREGATE DETERMINE ALL
21 RIGHTS VIS-A-VIS EACH BASIN. AND THAT IS A DIFFERENT
22 QUESTION THAN THE QUESTION OF CONCURRENT DETERMINATION
23 OF RIGHTS IN EACH BASIN.

24 AND SO I'M NOT SURE THAT IF THE QUESTION
25 WERE FRAMED IN THAT FASHION, THAT THERE WOULD BE AN
26 OBJECTION. I WOULD BE ACTUALLY INTERESTED TO HEAR WHY
27 THIS WOULD BE DIFFERENT THAN THE SUPREME COURT
28 PRECEDENT.

1 I DO THINK THERE -- MR. HAGERTY IS MAKING
2 THE POINT THAT THERE MAY BE REASON FOR CONCURRENT AND
3 INTERRELATIONSHIP OBLIGATIONS BETWEEN THE BASINS THAT
4 FLOW FROM THE INTERCONNECTION ARGUMENT, BUT INSOFAR AS
5 YOUR JURISDICTION AND AUTHORITY TO CONCURRENTLY
6 DETERMINE RIGHTS IN ALL BASINS, I CAN'T BELIEVE THAT
7 THAT'S -- THAT IS AN ARGUMENT TODAY THAT PEOPLE WANT TO
8 MAKE. IF THEY DO, THEN WE'LL VISIT IT AT YOUR
9 DISCRETION. BUT IT'S THE FRAMING OF IT THAT I WONDER
10 ABOUT, AND PERHAPS IT'S -- THAT COULD BE RESOLVED.

11 THE COURT: MS. HOLLY JACOBSON, I'D BE PLEASED
12 TO HEAR FROM YOU, PARTICULARLY IN RESPONSE TO
13 MR. SLATER'S SKEPTICISM TOWARDS YOUR POSITION. AT
14 LEAST WHAT I PERCEIVE TO BE HIS SKEPTICISM.

15 MS. JACOBSON: YES, YOUR HONOR. AND I THINK
16 READING THE BRIEFS WILL SHED SOME LIGHT ONTO SOME OF
17 THESE ISSUES, BUT THE SUPREME COURT CASES THAT
18 MR. SLATER IS REFERRING TO DID NOT ADJUDICATE
19 GROUNDWATER RIGHTS IN BULLETIN 118 SEPARATELY DEFINED
20 BASINS. THE MOJAVE CASE IN PARTICULAR DEALT WITH
21 SUBBASINS AND SUBAREAS. AND THERE WAS EVIDENCE -- AND
22 BURDEN OF PROOF WAS MET, EVIDENCE THAT SOME OF THESE
23 WATERS WERE CONNECTED, AND THAT'S KIND OF -- THESE ARE
24 THE KEY FOUNDATIONAL ISSUES INTERLOCKING HERE.

25 VENTURA AND MEMBERS JOINING WITH THEM, I
26 BELIEVE IT'S WOOD-CLAEYSSENS, WANT THIS COURT TO ASSUME
27 CONNECTIVITY WITHOUT ANY EVIDENCE. AND THEY WANT TO
28 PUSH THROUGH A PHYSICAL SOLUTION BASED ON AN ENTIRE

1 WATERSHED BECAUSE THESE AREAS ARE WITHIN A WATERSHED
2 AND NOTHING MORE. AND FACTUALLY THE CASES ARE VERY
3 DISTINGUISHABLE.

4 SO I THINK THAT'S LAID OUT IN THE BRIEFS IN
5 TERMS OF A VERY GENERALIZED EXPLANATION, BECAUSE THE
6 COURT INVITED THE PARTIES TO PROVIDE SHORT CONCISE
7 EXPLANATIONS OF THESE BROAD TOPICS.

8 IF WE'RE GOING TO GET INTO FURTHER
9 BRIEFING, I COULD SEE THAT, BUT WHAT WE HAVE HERE ARE
10 ISSUES OF LAW AND ISSUES OF FACT, AND IT'S VERY
11 IMPORTANT TO UNDERSTAND THE DIFFERENCES BETWEEN THESE
12 ARGUMENTS.

13 THE COURT: MS. JACOBSON, DO YOU HAVE ANY
14 SENTIMENTS AS TO WHETHER MY PROPOSAL OF PUTTING AN
15 ORDER TO SHOW CAUSE ON CALENDAR FOR NEXT TUESDAY,
16 INVITING FURTHER BRIEFING ON THE QUESTION OF THE
17 PROPRIETY OF MAKING THIS LEGAL ADJUDICATION, IS OR IS
18 NOT A GOOD IDEA?

19 I DO UNDERSTAND MR. HAGERTY THINKS IT'S A
20 BAD IDEA, BUT THAT'S ALSO CONSISTENT WITH HIS THEORY
21 THAT THE FACTS OF THE CIRCUMSTANCES AS HE UNDERSTANDS
22 THEM WILL, OF NECESSITY, REQUIRE ME TO ADJUDICATE ALL
23 FOUR GROUNDWATER BASINS IN A SINGLE PROCEEDING.

24 MS. JACOBSON: YOU KNOW, I'D HAVE TO GIVE IT
25 MORE THOUGHT, YOUR HONOR, BUT I'M LEANING TOWARDS
26 DISAGREEING WITH THE OSC APPROACH, AT LEAST ON THIS
27 SCHEDULE. WE ARE GOING TO HAVE DEPOSITIONS IN THE
28 BEGINNING OF DECEMBER, AND MAYBE THOSE DEPOSITIONS WILL

1 PROVIDE EVIDENCE THAT COULD BE USED ON A PRETRIAL
2 MOTION PRIOR TO FEBRUARY 14TH. I'M NOT SURE.

3 THE COURT: BUT REMEMBER THAT THE OSC IS NOT
4 ASKING FOR BRIEFING ON THE MERITS OF THE QUESTION. IT
5 WOULD ONLY BE WHETHER OR NOT TO SET IT TO BE HEARD IN
6 ADVANCE OF FEBRUARY 14TH.

7 IF I DO DECIDE TO HEAR IT IN ADVANCE OF
8 FEBRUARY 14TH, I THEN WOULD PLAN OUT A WHOLE DIFFERENT
9 BRIEFING SCHEDULE, AND, AS YOU SAY, ON ACCOUNT OF
10 FUTURE DISCOVERY JUST EXPECTED IN THE FORESEEABLE
11 FUTURE, IT MAY BE THAT, HEY, JUDGE, DON'T TRY TO DO
12 THIS ON DECEMBER 9, DON'T TRY TO DO IT ON
13 DECEMBER 23RD, DON'T TRY TO DO IT ON DECEMBER 29TH. WE
14 NEED THIS DISCOVERY AND IT WON'T BE AVAILABLE UNTIL,
15 SAY, JANUARY 5TH OR JANUARY 10TH. SO THE EARLIEST YOU
16 CAN REASONABLY EXPECT TO DO THIS IS MAYBE JANUARY 20TH
17 OR JANUARY 25TH OR SOMETHING LIKE THAT.

18 I WOULD FACTOR THAT INTO A BRIEFING
19 SCHEDULE, BUT THE QUESTION IN MY MIND'S EYE IS SIMPLY
20 WHETHER I ISOLATE THIS QUESTION FROM THE FEBRUARY 14TH
21 TRIAL AND GIVE IT THE CHANCE TO BE HEARD IN ADVANCE,
22 WHICH, IF I UNDERSTOOD RIGHT, IS A BASIC SUGGESTION YOU
23 ARE MAKING IN YOUR BRIEF, MS. JACOBSON?

24 MS. JACOBSON: CAN YOU REPEAT THE LAST PART OF
25 THAT, YOUR HONOR?

26 THE COURT: IS IT YOUR POSITION THAT IT WOULD BE
27 FOR THE GOOD OF THE ORDER IF I DECIDE THE QUESTION OF
28 WHETHER IT'S LEGALLY PERMISSIBLE TO ADJUDICATE ALL FOUR

1 GROUNDWATER BASINS AT THE SAME TIME AND TO DECIDE THAT
2 SOMETIME IN ADVANCE OF FEBRUARY 14?

3 MS. JACOBSON: I DO BELIEVE IT IS SOMETHING THAT
4 NEEDS TO BE DETERMINED AT LEAST AT THE BEGINNING OF
5 FEBRUARY 14TH. WHETHER IT'S DETERMINED BEFORE THAT, I
6 WOULD NOT OPPOSE THAT, NECESSARILY, BUT I DO WORRY
7 ABOUT HOW FAR IN ADVANCE THAT WOULD BE DETERMINED AND
8 WHAT THE BRIEFING SCHEDULE WOULD BE LIKE.

9 THE COURT: SO LET ME GET BACK TO MR. MELNICK.
10 MR. MELNICK, HAVING JUST HEARD WHAT MS. JACOBSON SAYS,
11 ARE YOU STILL OF THE VIEW THAT I OUGHT TO DECIDE IT
12 SOMETIME SOONER THAN FEBRUARY 14?

13 MR. MELNICK: I THINK MS. JACOBSON IS TALKING
14 ABOUT SOME FACTUAL ISSUES, WHICH I WASN'T PROPOSING TO
15 TEE UP EARLY. THERE ARE FACTUAL ISSUES. THOSE NEED TO
16 WAIT FOR TRIAL, RIGHT? WE'RE GOING TO -- WE'RE GOING
17 TO HAVE A TRIAL ABOUT WHETHER WATER FLOWS FROM THE
18 GROUNDWATER TO THE SURFACE AND BACK, AND THROUGH THIS
19 WHOLE WATERSHED, RIGHT? THAT'S THE PURPOSE OF THE
20 TRIAL.

21 BUT SHE HAD RAISED A LEGAL ISSUE, WHICH IS
22 WHETHER -- UNDER THE 2015 STATUTE, WHETHER YOU CAN
23 ADJUDICATE MORE THAN ONE BASIN AT A SINGLE -- IN A
24 SINGLE ACTION.

25 MY UNDERSTANDING WAS THAT THAT WAS A LEGAL
26 ISSUE.

27 IF SHE'S NOT PREPARED TO MAKE THAT AS A
28 STRICT LEGAL ISSUE, THEN I DON'T KNOW WHY WE WOULD --

1 IT'S HER ARGUMENT. I DON'T KNOW WHY WE WOULD DO IT IN
2 ADVANCE, IF SHE'S NOT PREPARED TO DO THAT.

3 THE COURT: WHEN YOU RAISED THE QUESTION TODAY,
4 WERE YOU DESIROUS OF ME DETERMINING THAT IT WAS A BAD
5 LEGAL ARGUMENT AND, THEREFORE, I SHOULD PROCEED WITH
6 ALL FOUR GROUNDWATER BASINS IN A SINGLE TRIAL, OR WERE
7 YOU RESERVING THE POSITION ON THAT, OR WERE YOU SHARING
8 HER IMPLIED POSITION THAT I CAN'T ADJUDICATE ALL FOUR
9 GROUNDWATER BASINS AT THE SAME TIME?

10 MR. MELNICK: NO, WE THINK THAT YOU CAN
11 ADJUDICATE ALL FOUR BASINS AT THE SAME TIME.

12 THE COURT: BUT YOU'D LIKE ME TO SWAT DOWN WHAT
13 YOU PERCEIVE TO BE A LEGAL ARGUMENT AND SAY WRONG.

14 MR. MELNICK: I THINK IT WOULD BE GOOD TO DECIDE
15 IT. IT'S A NOVEL ISSUE, IT'S, YOU KNOW, ISSUE OF FIRST
16 IMPRESSION, AND IT WOULD BE GOOD TO GET THAT DECIDED.

17 THE COURT: SO, MS. JACOBSON, IS THERE, IN YOUR
18 MIND'S EYE, A PURE LEGAL QUESTION THAT DOESN'T NEED A
19 DEPO THAT I CAN AND SHOULD REACH BEFORE FEBRUARY 14, OR
20 ON FURTHER CONSIDERATION, IS IT SOME KIND OF MIXED
21 QUESTION OF FACT AND LAW THAT MUST AWAIT THE OPENING UP
22 OF A FACTUAL RECORD?

23 MS. JACOBSON: WELL, I ORIGINALLY BELIEVED IT TO
24 BE A PURE LEGAL ISSUE; HOWEVER, MATTERS THAT HAVE BEEN
25 RAISED IN OTHER PARTIES' BRIEFING AND THEIR POSTURE OF
26 THE CASE MAKE ME QUESTION THAT. AND I'M ALSO HESITANT
27 TO SHIFT THE BURDEN FROM THE CROSS-COMPLAINANT CITY OF
28 VENTURA OVER TO OJAI FOR ADDITIONAL BRIEFING AND WORK

1 IN THIS CASE WHEN, AS EXPLAINED IN OUR BRIEF, IT'S
2 REALLY VENTURA'S BURDEN OF PROOF THAT WE ARE
3 CONSISTENTLY CHALLENGING.

4 ESSENTIALLY YOU DON'T GET TO BRING A
5 GROUNDWATER ADJUDICATION ACTION IN A BASIN IN WHICH YOU
6 HOLD ABSOLUTELY NO GROUNDWATER RIGHTS AT ALL IN ORDER
7 TO PURSUE WHAT ESSENTIALLY IS A STREAM WATER
8 ADJUDICATION, WHICH SHOULD HAVE PROCEEDED UNDER WATER
9 CODE SECTION 2500. AND SO THAT'S KIND OF WHERE WE'RE
10 COMING FROM. AND IT'S THEIR BURDEN OF PROOF TO EXPLAIN
11 TO THE COURT WHY THEY CAN DO IT.

12 SO THAT'S MY HESITANCY IN TRYING TO SET
13 FURTHER BRIEFING AND, YOU KNOW, OBLIGATIONS ON THE CITY
14 OF OJAI.

15 THE COURT: OKAY.

16 WELL, THAT'S ENOUGH TO NIX MY OSC IDEA.
17 THIS ISN'T GETTING TRACTION ANYWHERE. SO I'LL PUT THAT
18 ASIDE AND RECOGNIZE THAT PERHAPS THE MOST IMPORTANT
19 THING IS FOR ME TO DO MY STUDY HALL THIS COMING WEEKEND
20 AND THEN PEPPER YOU WITH QUESTIONS NEXT TUESDAY.

21 MR. MELNICK, THAT WAS AN INTERESTING
22 DIGRESSION. ANY OTHER NEW ISSUES YOU WANT TO TAKE UP
23 THIS AFTERNOON?

24 MR. MELNICK: THANK YOU, YOUR HONOR.

25 NO, I DON'T -- I DON'T THINK THERE'S
26 ANYTHING MORE WE CAN TALK ABOUT UNTIL YOU, AS YOU SAID,
27 DO YOUR HOMEWORK AND ARE READY TO TALK ABOUT WHAT WE
28 FILED.

1 THE COURT: OKAY.

2 MR. HAGERTY, YOU'RE STILL STANDING, SO
3 THERE'S PROBABLY SOMETHING ON YOUR MIND.

4 MR. HAGERTY: ONE ISSUE, YOUR HONOR. AND WE CAN
5 ADDRESS THIS, I GUESS, IN OUR PROGRESS REPORT OR SOME
6 REPORT BEFORE THE 23RD, BUT JUST WITH REGARD TO THE
7 REFERENCE TO MOJAVE -- WE'LL PUT THIS IN FRONT OF THE
8 COURT, BUT MOJAVE ACTUALLY INVOLVES NINE SEPARATE DWR
9 BULLETIN 118 BASINS.

10 IT'S A LITTLE AWKWARD BECAUSE THE CASE WAS
11 DECIDED BEFORE THERE WAS BULLETIN 118, AND WE'LL
12 EXPLAIN THAT TO THE COURT, BUT JUST TO BE CLEAR, WE
13 DISAGREE WITH MS. JACOBSON'S CHARACTERIZATION OF THAT
14 ISSUE, AND WE'LL PRESENT OTHER EVIDENCE SHOWING THAT
15 THERE HAVE BEEN BASINS AND SUBBASINS THAT HAVE BEEN
16 ADJUDICATED.

17 BUT I THINK THIS DISCUSSION SHOWS YOU HOW
18 COMPLICATED IT IS AND HOW IT'S REALLY NOT RIPE, AS THE
19 COURT I THINK JUST CONCLUDED, FOR FULL DISCUSSION ON
20 THE 23RD.

21 THE COURT: DIFFERENT QUESTION. FEBRUARY 14.
22 HOW MANY DAYS FOR COURT TRIAL SHOULD I BE RESERVING?

23 THAT'S A DIFFERENT QUESTION THAN HOW MANY
24 DAYS THE COURT SHALL (INAUDIBLE).

25 IT LOOKS LIKE I'VE RESERVED 10 DAYS, WHICH
26 MAY NOT BE ENOUGH.

27 BEAR WITH ME.

28 NO, ACTUALLY, I'VE RESERVED THROUGH

1 MARCH 4TH. WE'VE GOT ONE PUBLIC HOLIDAY IN THE MIDDLE
2 OF THAT.

3 BUT ARE 13 AND 14 COURT DAYS LIKELY TO BE
4 ENOUGH, IN YOUR VIEW, MR. HAGERTY, OR IS THIS MORE
5 LIKELY 25 OR 30 OR 48 DAYS?

6 MR. HAGERTY: I'M GOING TO LET MR. PISANO
7 ADDRESS THAT QUESTION.

8 MR. PISANO: YOUR HONOR, AND WE DID -- I KNOW WE
9 HAD -- IN OUR SCHEDULE THAT WAS PART OF OUR PRIOR
10 REPORT NOTICE OF RULING, I BELIEVE WE TALKED ABOUT A
11 10- TO 15-DAY COURT DAY ESTIMATE. SO YOUR 12, 13 IS A
12 NICE SWEET SPOT. I THINK THAT IS DOABLE, ESPECIALLY IF
13 WE CAN RESOLVE THE ISSUES OF THE WATERSHED BASIN
14 BOUNDARIES WITHOUT HAVING TO HAVE EXPERTS GET UP AND
15 LAY A FOUNDATION FOR THAT.

16 CERTAINLY THERE ARE, AS I SEE IT, A LOT OF
17 FACTS THAT REALLY ARE NOT IN DISPUTE. OBVIOUSLY IT IS
18 A CHALLENGE TO GET EVERYBODY TO STIPULATE, BUT MY
19 VISION IN ALL OF THIS WAS, NOW THAT WE'RE COMING UP TO
20 THE POINT WHERE WE'RE GOING TO START DEPOSING EXPERTS
21 AND WE HAVE THESE REPORTS, IS PUTTING A LIST OF FACTS
22 TOGETHER THAT PERHAPS WE CAN ALL AGREE ARE STIPULATED
23 FACTS THAT DON'T NEED TO BE PROVED. AND FOUNDATION --

24 THE COURT: RAIN COMES DOWN FROM HEAVEN AND
25 PERCOLATES INTO THE SOIL. EXCUSE ME. RAIN COMES DOWN
26 FROM THE SKY AND PERCOLATES INTO THE GROUND, AND THEN
27 GOES SOMEWHERE, BUT PROBABLY YOU DON'T GET TOO FAR IN
28 THE NARRATIVE BEFORE YOU START GETTING POINTS OF

1 DISAGREEMENT.

2 MR. PISANO: TRUE, BUT AS I'M READING ALL OF THE
3 REPORTS, IT LOOKS LIKE THE HOT ISSUE IS WHAT'S COMING
4 OUT OF THE OJAI BASIN AND WHETHER THERE'S THIS CLAY
5 LAYER, AND IS IT PERMEABLE OR NOT PERMEABLE, BUT I
6 DON'T SEE A WHOLE LOT OF OTHER REALLY HOT ISSUES, AS I
7 WOULD CALL IT, WHERE YOU'RE GOING TO HAVE MAJOR POINTS
8 OF CONTENTION AND DISAGREEMENT AMONGST THE PARTIES.

9 I COULD BE WRONG ON THAT, BUT THAT WAS MY
10 READ -- YOU KNOW, MY INITIAL READ AFTER READING ALL OF
11 THE EXPERT REPORTS.

12 AND I -- YEAH. I THINK 10 TO 15 DAYS IS
13 DOABLE. OTHERS MAY DISAGREE, BUT THAT WAS MY SORT OF
14 HUMBLE THOUGHT WHEN I GOT THROUGH ALL OF THE -- ALL THE
15 REPORTS, YOUR HONOR.

16 THE COURT: MR. MELNICK, DO YOU PERCEIVE
17 YOURSELF TO BE ALIGNED HERE WITH THE CITY OR DO YOU
18 FANCY YOU'RE MORE OF AN ADVERSARY FOR PURPOSES OF THE
19 PHASE 1 TRIAL?

20 MR. MELNICK: FOR PHASE 1, WE ARE ALIGNED WITH
21 THE CITY OF SAN BUENAVENTURA.

22 THE COURT: DO YOU SHARE THEIR DURATION
23 ESTIMATE?

24 MR. MELNICK: I -- I DON'T KNOW, YOUR HONOR.
25 BECAUSE -- THE REASON I DON'T KNOW IS BECAUSE IF IT'S
26 THE SIX OF US LAWYERS AND MR. PATTERSON AND
27 MS. JACOBSON INVOLVED IN THAT, I THINK 10 DAYS IS FINE,
28 BUT WE HAVE OVER 200 PARTIES WHO HAVE A RIGHT TO ASK

1 QUESTIONS, AND I DON'T KNOW HOW THAT'S GOING TO GO.

2 AND I DON'T -- AND I -- ALL THOSE PEOPLE
3 HAVE A RIGHT TO BE HEARD, HAVE A RIGHT TO ASK
4 QUESTIONS, HAVE A RIGHT TO ARGUE, AND THAT IS AN
5 IMPORTANT PART OF THIS, BUT IT MAY MAKE THIS QUITE
6 LENGTHY.

7 THE COURT: I GUESS, YOU KNOW, THAT RAISES AN
8 INTERESTING QUESTION, BECAUSE, ALTHOUGH I HAVE WHAT IN
9 NORMAL CONCEPTION IS A VERY LARGE COURTROOM, IF I
10 ACTUALLY HAVE 247 PEOPLE WHO NEED TO LITIGATE IN
11 PERSON, I DON'T HAVE A LARGE ENOUGH COURTROOM, AND THEN
12 WE HAVE TO FIGURE HOW WE RENT THE CONVENTION CENTER OR
13 SOMETHING.

14 SO SOMEWHERE IN THE NOT-TOO-DISTANT FUTURE
15 WE'VE GOT TO FIGURE OUT WHO WANTS AN ACTIVE ROLE IN
16 TRIAL AND WHO IS GOING TO LET SOMEBODY ELSE CARRY WATER
17 FOR THEM.

18 SO I GUESS WHAT I WOULD ASK IS THAT BY
19 DECEMBER 2, IN ADVANCE OF THE DECEMBER 9TH EVENT, ANY
20 PARTY THAT WANTS TO ACTIVELY PARTICIPATE EITHER WITH
21 THEIR HIRED ATTORNEY OR ACTING AS A SELF-REPRESENTED
22 LITIGANT, WITH THE RIGHTS OF A SELF-REPRESENTED
23 LITIGANT TO QUESTION WITNESSES AT TRIAL, FILE A NOTICE
24 OF INTENT TO ACTIVELY PARTICIPATE IN THE PHASE 1 TRIAL
25 AND TO SERVE AND FILE THAT DOCUMENT IN THIS DOCKET BY
26 THURSDAY, DECEMBER 2.

27 IF YOU ARE USING A LAWYER AND THE LAWYER
28 HAS MULTIPLE CLIENTS, IT WOULD BE APPRECIATED IF THE

1 LAWYER WOULD SIMPLY FILE THAT DOCUMENT AND IDENTIFY THE
2 VARIOUS CLIENTS ON WHOM HIS BEHALF SHE OR HE IS GOING
3 TO APPEAR SO THAT WE DON'T GET A TRIPLE OR QUADRUPLE
4 COUNT, WHEN FUNCTIONALLY IT'S JUST ONE LAWYER COMING IN
5 PERSON. BUT IF IT'S A SELF-REPRESENTED LITIGANT THAT
6 WANTS THOSE RIGHTS, IT WOULD BE IMPORTANT TO KNOW SO
7 THAT WE CAN START TO CONTEMPLATE IT.

8 THERE ARE SOME THEORETICAL OPPORTUNITIES
9 FOR REMOTE PARTICIPATION, BUT AS WE WITNESSED SOME OF
10 THE TECHNICAL PROBLEMS HERE TODAY, A HYBRID, PART
11 IN-PERSON, PART REMOTE TRIALS, SEEM TO BE THE MOST
12 DIFFICULT SPECIES. A TOTALLY REMOTE TRIAL SEEMS TO GO
13 BETTER THAN A HYBRID, SOME OF EACH, TRIAL, AND AN
14 IN-PERSON TRIAL SEEMS TO GO BETTER THAN A HYBRID TRIAL
15 LIKEWISE.

16 BUT LET'S AT LEAST START COUNTING NOSES ON
17 DECEMBER 2 IN ADVANCE OF DECEMBER 9 TO KNOW WHAT
18 LOGISTIC PROBLEMS WE'RE GOING TO HAVE ON FEBRUARY 14.

19 MS. JACOBSON, YOU PROBABLY ARE NOT GOING TO
20 BE ALIGNED WITH THE CITY BY FEBRUARY 14TH, ALTHOUGH IT
21 WOULD BE WONDERFUL IF PEACE BROKE OUT. WHAT DO YOU
22 THINK ABOUT THE LIKELY DURATION OF TRIAL, AS BEST AS
23 YOU KNOW AT THIS JUNCTURE?

24 MS. JACOBSON: WELL, YOUR HONOR, I THINK THAT 10
25 TO 15 DAYS IN GENERAL WOULD BE A REASONABLE ESTIMATE.
26 THERE ARE FACTORS IN THIS CASE, AS MR. MELNICK
27 RECOGNIZED, THAT MAKE IT HARD TO SAY FOR SURE. AND
28 WHETHER OR NOT WE DO ACTUALLY MOVE FORWARD WITH

1 DETERMINING MATTERS OF LAW AHEAD OF TIME, AS PREVIOUSLY
2 DISCUSSED, YOU KNOW, MAYBE -- MAYBE NEXT WEEK WE BRING
3 THAT OSC ISSUE BACK UP. I'M NOT SURE AT THIS POINT.
4 BUT THAT'S -- I'M JUST QUALIFYING, I GUESS, MY
5 STATEMENT THAT 10 TO 15 DAYS UNDER NORMAL CIRCUMSTANCES
6 DOES SEEM REASONABLE.

7 THE COURT: MR. PATTERSON, FOR THE EAST OJAI
8 GROUP, YOUR SENTIMENTS ON THE SAME QUESTION?

9 MR. PATTERSON: WELL, I THINK THAT THE 10- TO
10 15-DAY TRIAL IS PROBABLY APPROPRIATE. I DO THINK THAT
11 TRYING TO EDUCATE THE COURT AND BRIEF THE COURT BETWEEN
12 NOW AND SOMETIME IN DECEMBER ON SOME OF THE ISSUES THAT
13 HAVE BEEN DISCUSSED IS GOING TO BE VERY DIFFICULT TO BE
14 FULLY EXPRESSED BY EVERYBODY.

15 SO THERE MAY BE A POINT WHERE WE'RE GOING
16 TO HAVE TO HAVE SORT OF A CHECK AND SEE IF THE COURT'S
17 FULLY BRIEFED, IF ALL THE PARTIES FEEL THEY'RE FULLY --
18 HAVE FULLY BEEN ABLE TO DISCUSS THIS WITH THE COURT.

19 YOU KNOW, WE TALKED A LONG TIME AGO ABOUT
20 THE FACT THAT THIS IS A PRETTY AGGRESSIVE SCHEDULE, AND
21 I'M A LITTLE WORRIED, GIVEN THE HOLIDAYS AND ALL THE
22 STUFF THAT'S COMING UP, THAT SOME FOLKS AREN'T GOING TO
23 BE ABLE TO FULLY EXPRESS, YOU KNOW, THEIR POSITIONS
24 WITH RESPECT TO WHAT'S GOING ON.

25 I FULLY, YOU KNOW, RESPECT THE FACT THAT
26 THE COURT IS TRYING TO MOVE THIS ALONG, AND I GET IT,
27 BUT THERE'S A LOT OF FOLKS OUT THERE THAT -- YOU KNOW,
28 THAT DON'T HAVE, YOU KNOW, TWO YEARS OR THREE YEARS IN

1 THIS CASE AND A BUNCH OF LAWYERS TO WORK ON IT. SO
2 IT'S AN ISSUE, YOUR HONOR. I MEAN, IT'S AN ISSUE, FROM
3 MY PERSPECTIVE.

4 I THINK THAT -- YOU KNOW, WITH RESPECT TO
5 THE FIRST TWO ISSUES, I THINK THAT WE PROBABLY -- I
6 THINK THE PARTIES CAN PROBABLY COME TO A RESOLUTION ON,
7 YOU KNOW, THE SCOPE OF THE BASINS AND THE WATERSHED,
8 AND I DON'T THINK THAT'S GOING TO BE A SIGNIFICANT
9 PROBLEM. I HAVE A HARD TIME HEARING MR. MELNICK, AND
10 SO I'M NOT SURE ABOUT THE ISSUES HE RAISED WITH RESPECT
11 TO THE TIMING AND WHAT HAVE YOU, BUT I -- WE CAN SHOOT
12 FOR FEBRUARY 14TH AND MAYBE DO A GUT CHECK, YOU KNOW,
13 MID-JANUARY, AND MAKE SURE THAT WE'RE ALL ON BOARD WITH
14 GETTING THAT IN PLACE.

15 THE COURT: THANK YOU.

16 ANYBODY ELSE WHO WANTS TO BE HEARD AS TO
17 THEIR GUESSTIMATES ON LIKELY TRIAL DURATION?

18 OKAY. NO RESPONSE, WHICH IS FINE.

19 I THINK I'VE TOLD YOU BEFORE, BUT IT'S
20 WORTH TELLING YOU AGAIN, THAT HEAVEN FORBID THERE WAS A
21 DELAY IN THE TRIAL, I HOPE TO BE OUT OF THE COUNTRY
22 FROM MARCH 16 TO MARCH 31, THEORETICALLY ON A TRIP TO
23 EGYPT, SO WE'LL SEE WHAT PUBLIC HEALTH PERMITS IN TERMS
24 OF THE PRUDENCE OF THAT, BUT IT'S MY HOPE THAT THAT
25 WILL BE VIABLE.

26 SO WHO ELSE WANTS TO BE HEARD THIS
27 AFTERNOON WHO HASN'T TALKED ALREADY?

28 NO RESPONSE.

1 OKAY. SO OTHERWISE WE'RE BACK A WEEK FROM
2 TOMORROW AND WE'LL BE HERE ON DECEMBER 9. CITY OF
3 VENTURA IS GOING TO GIVE NOTICE?

4 MR. HAGERTY: YES, YOUR HONOR.

5 THE COURT: WHAT ELSE, IF ANYTHING, DO YOU WANT
6 TO TAKE UP WITH THE COURT BEFORE WE RECESS,
7 MR. HAGERTY?

8 MR. HAGERTY: NOTHING FURTHER, YOUR HONOR.

9 THE COURT: ANYBODY ELSE HAVE ANY LAST THING TO
10 BRING UP BEFORE WE RECESS?

11 MS. JACOBSON: YOUR HONOR, THIS IS HOLLY
12 JACOBSON.

13 THE COURT: YES, MA'AM.

14 MS. JACOBSON: CAN WE JUST GO OVER EXACTLY WHAT
15 IS TO BE ACCOMPLISHED ON NOVEMBER 23RD?

16 THE COURT: I'M GOING TO DECIDE WHETHER THE
17 MOTION OF CASITAS WATER DISTRICT AND MS. BLISS AND
18 PERHAPS OTHERS FOR A LATE DESIGNATION OF EXPERTS WILL
19 BE PERMITTED, AND IF SO, ON WHAT CONDITIONS, WHICH
20 COULD CONCEIVABLY IMPACT THE TRIAL DATE, SINCE ONE OF
21 THE POSSIBLE MITIGATIONS FOR THE PREJUDICE ASSERTED BY
22 CITY OF VENTURA COULD BE CONCEIVABLY A CONTINUATION OF
23 THE TRIAL, BUT THAT'S INHERENT IN ANY ATTEMPTED LATE
24 DESIGNATION OF EXPERTS.

25 WE'LL ALSO FIGURE OUT IF CITY OF VENTURA IS
26 MAKING ANY PROGRESS IN TRYING TO SIMPLIFY THE TRIAL OF
27 THE WATERSHED BASINS AND THE FOUR GROUNDWATER BASINS IN
28 SOME FASHION THAT WILL BE A STIPULATION WITH THE MAIN

1 PLAYERS, AND THEN SET UP AN ORDER TO SHOW CAUSE AS TO
2 THE MULTITUDE OF OTHER SCORES OF LITIGANTS WHO ARE
3 INVOLVED IN THIS CASE.

4 AND I WILL HAVE GOTTEN MY READING FILE FROM
5 MR. HAGERTY BY THURSDAY LATE OF THIS WEEK AND HOPEFULLY
6 WILL BE MUCH DEEPER INTO REVIEWING THE BRIEFS, AND
7 ALTHOUGH I DON'T ANTICIPATE SURPRISING ME WITH EXTENDED
8 ARGUMENT ON THE 23RD ABOUT THE MERITS OF THE BRIEF,
9 I'LL PROBABLY BE IN A BETTER POSITION TO SET UP THE
10 THINGS THAT HAVE CAUGHT MY CURIOSITY THAT WILL BE MOST
11 GERMANE, IN MY VIEW, FOR ARGUMENT ON DECEMBER 9TH, WHEN
12 WE HAVE A BIG BLOCK OF TIME RESERVED TO LET YOU EDUCATE
13 ME ON HOW TO GET THIS CASE ORGANIZED AS BEST AS
14 POSSIBLE FOR TRIAL.

15 I THINK THAT'S THE GIST OF IT.

16 WE ALSO THEN HAVE THIS DECEMBER 2 DEADLINE
17 TO JUST START GIVING OUT ADMISSION TICKETS FOR ACCESS
18 TO THE COURTROOM TO KNOW HOW MANY PEOPLE ARE ACTUALLY
19 GOING TO NEED TO COME TO COURT ON FEBRUARY 14 FOR THE
20 PHASE 1 TRIAL.

21 MS. JACOBSON: THANK YOU.

22 THE COURT: YOU'RE WELCOME.

23 MR. PATTERSON: YOUR HONOR, THIS IS GREG
24 PATTERSON.

25 I AM HAVING SOME DIFFICULTY HEARING
26 EVERY --

27 THE COURT: YOU'RE BREAKING UP HUGELY,
28 MR. PATTERSON. I REALLY HAVEN'T HEARD A WORD OF WHAT

1 YOU'VE SAID.

2 WOULD YOU TRY ONCE AGAIN FROM THE TOP?

3 MR. PATTERSON: I SHOULD BE ON. CAN YOU HEAR
4 ME?

5 THE COURT: PROCEED.

6 MR. PATTERSON: CAN YOU HEAR ME?

7 THE COURT: SORT OF, YEAH.

8 MR. PATTERSON: THE ISSUE THAT I HAVE IS I THINK
9 I HAVE THE DATES, BUT PERHAPS SOMEBODY CAN JUST GIVE
10 NOTICE.

11 THE COURT: OH, CITY IS VENTURA IS GOING TO GIVE
12 NOTICE, DEFINITELY.

13 MR. PATTERSON: THANK YOU, YOUR HONOR.

14 THE COURT: EXCELLENT.

15 OKAY. HEARING NOTHING, COURT IS IN RECESS.

16 SORRY TO DISAPPOINT YOU, MR. MELNICK.

17 MR. MELNICK: THAT'S OKAY, YOUR HONOR.

18 MR. PISANO: THANK YOU, YOUR HONOR.

19 MR. MELNICK: THANK YOU, YOUR HONOR.

20 (THE PROCEEDINGS WERE CONCLUDED AT
21 3:14 P.M.)

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA
2 FOR THE COUNTY OF LOS ANGELES
3 DEPARTMENT SSC 10 HON. WILLIAM F. HIGHBERGER, JUDGE
4 SANTA BARBARA CHANNELKEEPER, A)
CALIFORNIA NON-PROFIT)
5 CORPORATION,)
))
6 PETITIONER,)
))
7 V.) NO. 19STCP01176
))
8 STATE WATER RESOURCES CONTROL)
BOARD, A CALIFORNIA STATE)
9 AGENCY, ET AL.,)
))
10 RESPONDENTS.)
))
11))
AND RELATED CROSS-ACTION.)
12))

REPORTER'S CERTIFICATE

14 I, RONALD L. COOK, CSR, CCR, CRR, RDR, FAPR,
15 CSR NO. 13928, OFFICIAL PRO TEM COURT REPORTER OF THE
16 SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
17 COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
18 FOREGOING PAGES, 1 THROUGH 60, INCLUSIVE, COMPRISE A
19 TRUE AND CORRECT TRANSCRIPT OF THE PROCEEDINGS TAKEN IN
20 THE ABOVE-ENTITLED MATTER REPORTED BY ME ON MONDAY,
21 NOVEMBER 15, 2021.

23 DATED: NOVEMBER 22, 2021.

24 
25 _____
26 _____

27 RONALD L. COOK, CSR NO. 13928
28 OFFICIAL PRO TEM COURT REPORTER

TRANSCRIPT OF PROCEEDINGS

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