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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF SAN BERNARDINO

DEPARTMENT S-1

HON. STANFORD E. REICHERT, JUDGE

)
CHINO BASIN MUNICIPAL WATER DISTRICT,)

PETITIONER,)

VS.)

CITY OF CHINO,)
_____)

CASE NO.

RCVRS51010

REPORTER'S TRANSCRIPT OF MOTION HEARING

FRIDAY, JUNE 26, 2020

PAGES 1 THROUGH 49

CERTIFIED TRANSCRIPT

D'ANNE GOATCHER
COURT REPORTER PRO TEMPORE
SAN BERNARDINO, CALIFORNIA

1 FRIDAY, JUNE 26TH, 2020, DEPARTMENT 1, 2020.
2 SAN BERNARDINO, CALIFORNIA

3 **THE COURT:** SO THIS IS JUDGE REICHERT SPEAKING. GOOD
4 AFTERNOON, EVERYBODY.

5 THIS IS AN UNUSUAL SITUATION INSOFAR AS WE
6 HAVE A LOT OF PEOPLE ON COURTCALL AND A NUMBER OF ATTORNEYS
7 HERE IN THE COURTROOM. AND MY USUAL PROCEDURE IS TO TAKE
8 APPEARANCES HERE IN THE COURTROOM FIRST AND THEN MOVE TO
9 APPEARANCES ON COURTCALL.

10 LET ME REMIND YOU, PLEASE, FOR THOSE OF YOU
11 ON COURTCALL, THERE IS A DELAY BETWEEN WHEN YOU STOP TALKING
12 AND WHEN THE SIGNAL IS RELAYED. IT REMINDS ME A LITTLE BIT
13 OF THE DAYS WHEN I USED TO WATCH WORLD WAR II MOVIES AND
14 PEOPLE IN THE AIRPLANES ON THE RADIO WHEN THEY WOULD STOP
15 TALKING AND SAY "OVER." I FOUND OUT THAT WAS SO THE PERSON
16 ON THE RECEIVING END WOULD KNOW THE SPEAKER WAS DONE AND IT
17 WAS HIS TURN TO TALK. IF IT GETS TOO COMPLICATED, I MAY TRY
18 TO INSTITUTE THAT EVEN THOUGH IT SOUNDS A LITTLE BIT ODD.
19 BUT WE HAVE TO TRY TO COME UP WITH A WAY TO KEEP THE RECORD
20 CLEAR AND ONLY HAVE ONE PERSON TALKING AT A TIME. BOTH SO
21 THAT I CAN HEAR AND UNDERSTAND YOU AND THAT MY COURT
22 REPORTER CAN MAKE A CLEAR RECORD.

23 SO LET'S START WITH APPEARANCES HERE IN THE
24 COURTROOM. AND I START TO MY LEFT HERE AT THE FRONT TABLE,
25 GO AHEAD PLEASE.

26 **MR. GAGEN:** GOOD AFTERNOON, YOUR HONOR. ANDREW GAGEN
27 ON BEHALF OF MONTE VISTA WATER DISTRICT, OPPOSING PARTY --

28 **THE COURT:** OKAY.

1 **MR. GAGEN:** -- TO THE AG. POOL'S MOTION TO AMEND THE
2 JUDGMENT.

3 **THE COURT:** ON THE AG. POOL MOTION?

4 **MR. GAGEN:** YES.

5 **THE COURT:** ALL RIGHT. AND THEN BEHIND YOU.

6 MR. HERREMA.

7 **MR. HERREMA:** BRAD HERREMA ON BEHALF OF CHINO BASIN
8 WATERMASTER.

9 **MR. SLATER:** GOOD AFTERNOON. SCOT SLATER, S-L-A-T-E-R,
10 ON BEHALF OF WATERMASTER.

11 **THE COURT:** OKAY.

12 **MS. EGOSCUE:** GOOD AFTERNOON, YOUR HONOR. TRACY
13 EGOSCUE, E-G-O-S-C-U-E, ON BEHALF OF THE AG. POOL.

14 **THE COURT:** OKAY. AND THERE IS SOMEONE SITTING BEHIND
15 YOU. IS THAT SOMEONE WHOSE APPEARANCE I SHOULD GET?

16 **MR. CROSLY:** GOOD AFTERNOON, YOUR HONOR. MY NAME IS
17 DAVID CROSLY, C-R-O-S-L-E-Y. I'M THE CITY OF CHINO'S WATER
18 MANAGER.

19 **THE COURT:** OKAY. THANK YOU.

20 HANG ON JUST A SECOND.

21 OKAY. THEN COMING UP HERE IN THE FRONT IN
22 THE JURY BOX AND UP BEHIND YOU.

23 **MR. KAVOUNAS:** GOOD AFTERNOON, YOUR HONOR. PETER
24 KAVOUNAS, CHINO BASIN WATERMASTER GENERAL MANAGER.

25 **THE COURT:** GOOD AFTERNOON.

26 AND YOUR APPEARANCE, PLEASE.

27 **MR. KENNEDY:** GOOD AFTERNOON. STEVE KENNEDY, THREE
28 VALLEYS MUNICIPAL WATER DISTRICT.

1 **THE COURT:** OKAY. AND IN THE JURY BOX HERE CLOSEST.

2 **MR. FOSTER:** EDGAR TELLEZ FOSTER WITH THE CHINO BASIN
3 WATERMASTER.

4 **THE COURT:** OKAY. CAN I GET YOUR NAME AGAIN, PLEASE?

5 **MR. FOSTER:** EDGAR TELLEZ FOSTER, T-E-L-L-E-Z, FOSTER.
6 WITH THE CHINO BASIN WATERMASTER.

7 **THE COURT:** OKAY.

8 **MR. GUTIERREZ:** JIMMY GUTIERREZ, G-U-T-I-E-R-R-E-Z,
9 REPRESENTING THE CITY OF CHINO ON THE AG. POOL MOTION TO
10 AMEND THE JUDGMENT AND ALSO AS TO THE WATERMASTER MOTION TO
11 RESET THE SAFE YIELD.

12 **THE COURT:** GOT IT. THAT WRAPS UP EVERYBODY -- ONE
13 MORE IN THE COURTROOM HERE.

14 **MR. SCHATZ:** JOHN SCHATZ, S-C-H-A-T-Z. APPROPRIATE
15 POOL COUNSEL.

16 **THE COURT:** OKAY. MR. SCHATZ, YOUR CLIENT AGAIN?

17 **MR. SCHATZ:** APPROPRIATE POOL. THANK YOU.

18 **THE COURT:** APPROPRIATE POOL. THAT'S RIGHT. THANK
19 YOU.

20 OKAY. AND BEHIND YOU?

21 **MR. WILDERMUTH:** GOOD AFTERNOON, YOUR HONOR. MARK
22 WILDERMUTH, W-I-L-D-E-R-M-U-T-H, FOR WILDERMUTH
23 ENVIRONMENTAL.

24 **THE COURT:** THANK YOU --

25 OKAY. I THINK THAT IS EVERYONE HERE IN THE
26 COURTROOM. SO LET'S START WORKING ON THE PHONE. AND I HAVE
27 A LIST. SO LET ME CALL OUT NAMES SO THAT WE DON'T HAVE
28 EVERYONE TRYING TO CHIME IN AT ONCE.

1 SO DO I HAVE ON THE PHONE CAROL BOYD OF THE
2 CALIFORNIA DEPARTMENT OF JUSTICE?

3 **MS. BOYD:** PRESENT, YOUR HONOR. THANK YOU.

4 **THE COURT:** AND THEN FROM THE CALIFORNIA -- AGAIN FROM
5 THE CALIFORNIA DEPARTMENT OF JUSTICE, MARILYN LEVIN?

6 **MS. LEVIN:** YES, YOUR HONOR. THANK YOU.

7 **THE COURT:** AND MR. FUDACZ, REPRESENTING THE CITY OF
8 ONTARIO?

9 **MR. FUDACZ:** YES, YOUR HONOR. GOOD AFTERNOON.

10 **THE COURT:** THANK YOU.

11 AND MR. -- LOOKS LIKE -- MR. BOWCOCK, ARE YOU
12 ON THE LINE?

13 **THE CLERK:** NO CHECK-IN.

14 **THE COURT:** OKAY. THANK YOU.

15 AND THEN WE HAVE GOT BOB KUHN FROM BROWNSTEIN
16 HYATT.

17 **MR. KUHN:** YES, YOUR HONOR. I'M HERE.

18 **THE COURT:** THANK YOU.

19 AND DON -- LET'S SEE, THAT'S NOT A CHECK-IN.
20 HANG ON JUST A SECOND.

21 **MR. GALLEANO:** THAT WOULD BE GALLEANO, YOUR HONOR.

22 **THE COURT:** DON GALLEANO. OKAY. THANK YOU. I HAVE
23 GOT THAT.

24 AND JEFF PIERSON FROM BROWNSTEIN HYATT.

25 **MR. PIERSON:** YES, YOUR HONOR. PRESENT.

26 **THE COURT:** THANK YOU.

27 AND THEN MR. GIBBNEY ON BEHALF OF CUCAMONGA
28 VALLEY.

1 **MR. GIBBNEY:** I'M JUST MONITORING. I'M NOT SPEAKING.

2 **THE COURT:** WELL, THANK YOU. BUT I'M TRYING TO FIND
3 OUT WHO IS LISTENING IN.

4 AND THEN MR. HUBSCH FROM LOBE AND LOBE.

5 **MR. HUBSCH:** GOOD AFTERNOON, YOUR HONOR. THIS IS ALLEN
6 HUBSCH. THANK YOU.

7 **THE COURT:** THANK YOU.

8 AND BRIAN GEYE, ALSO -- G-E-Y-E, ALSO FROM
9 LOBE AND LOBE.

10 **MR. GEYE:** YES. BRIAN GEYE ON THE PHONE. THANK YOU,
11 YOUR HONOR.

12 **THE COURT:** THANK YOU.

13 AND THEN JANINE WILSON? ARE YOU THERE?

14 **MS. WILSON:** YES. THANK YOU.

15 **THE COURT:** THANK YOU.

16 AND COURTNEY JONES FOR THE CITY OF ONTARIO?

17 **MS. JONES:** YES, YOUR HONOR. I'M HERE.

18 **THE COURT:** THANK YOU.

19 AND SCOTT BURTON ALSO FOR THE CITY OF
20 ONTARIO?

21 **MR. BURTON:** YES, YOUR HONOR. SCOTT BURTON HERE.
22 THANK YOU.

23 **THE COURT:** THANK YOU.

24 AND THEN WE HAVE MR. FEENSTRA?

25 **MR. FEENSTRA:** PRESENT, YOUR HONOR.

26 **THE COURT:** THANK YOU.

27 AND THOMAS BUNN FROM LAGERLOF ON BEHALF OF
28 THE CITY OF POMONA?

1 **MR. BUNN:** HERE, YOUR HONOR. GOOD AFTERNOON.

2 **THE COURT:** THANK YOU.

3 AND, LET'S SEE, JUSTIN SCOTT-COE OF MONTE
4 VISTA WATER DISTRICT?

5 **MR. SCOTT-COE:** PRESENT, YOUR HONOR. THANK YOU.

6 **THE COURT:** AND KRISTINA ROBB OF CITY OF CHINO?

7 **MS. ROBB:** I AM HERE, YOUR HONOR.

8 **THE COURT:** THANK YOU.

9 AND MR. CHIGOYENETCHE OF J.C. LAW FIRM ON
10 BEHALF OF INLAND EMPIRE UTILITIES AGENCY?

11 **MR. CHIGOYENETCHE:** YES, YOUR HONOR. JEAN
12 CHIGOYENETCHE. I'M HERE.

13 **THE COURT:** THANK YOU.

14 AND CHRIS BERCH? CHRIS BERCH?

15 **MR. BERCH:** YES, YOUR HONOR.

16 **THE COURT:** AND ROBERT DONLAN OF -- ON BEHALF OF JURUPA
17 COMMUNITY SERVICES DISTRICT.

18 **MR. DONLAN:** HERE, YOUR HONOR. THANK YOU.

19 **THE COURT:** THANK YOU.

20 AND, LET'S SEE, SHAWNDA GRADY, ALSO FROM
21 JURUPA COMMUNITY SERVICES DISTRICT.

22 **MS. GRADY:** HERE, YOUR HONOR.

23 **THE COURT:** AND THEN GENE TANAKA, FROM BEST BEST &
24 KRIEGER ON BEHALF OF CUCAMONGA VALLEY WATER DISTRICT.

25 **MR. TANAKA:** HERE, YOUR HONOR. THANK YOU.

26 **THE COURT:** THANK YOU.

27 IS THERE ANYONE WHOM I'VE MISSED? GOING
28 ONCE --

1 **MS. COKER:** YOUR HONOR, AMANDA COKER FOR THE CITY OF
2 CHINO.

3 **THE COURT:** THANK YOU. COULD YOU SPELL YOUR NAME FOR
4 ME, PLEASE.

5 **MS. COKER:** SURE. AMANDA IS A-M-A-N-D-A. COKER IS
6 C-O-K-E-R.

7 **THE COURT:** THANK YOU.

8 ANYONE ELSE THAT I MISSED?

9 **MR. SLATER:** YOUR HONOR, IF I MIGHT, I JUST WOULD LIKE
10 TO CLARIFY FOR THE RECORD THAT WE HAD THREE DIRECTORS FROM
11 THE CHINO BASIN WATERMASTER WHO ARE ON THE CALL -- BOB KUHN,
12 DON GALLEANO AND JEFF PIERSON -- AND THEY IDENTIFIED AS
13 BROWNSTEIN. WE JUST ARRANGED FOR THEIR PARTICIPATION.
14 THEY'RE IN FACT WATERMASTER BOARD MEMBERS.

15 **THE COURT:** THANK YOU. IT WAS A LITTLE CONFUSING TO ME
16 AS I WAS READING OFF THE LIST WHO WERE THE ATTORNEYS AND WHO
17 WERE THE CLIENTS. SO I APPRECIATE THAT, MR. SLATER.

18 OKAY. SO LET ME START BY POINTING OUT THAT
19 THE COURT HAS CONFUSION TODAY. AND THE CONFUSION COMES IN
20 BECAUSE WHEN THE COURT STARTED PREPARING THIS -- PREPARING
21 FOR THIS HEARING TODAY, THE COURT DISCOVERED THAT THERE WERE
22 A NUMBER OF PLEADINGS THAT I HAD -- THAT I HAVE THAT HAD
23 BEEN PREVIOUSLY COPIES DELIVERED TO MY COURTROOM BUT WERE
24 NOT ON THE REGISTER OF ACTIONS. SO IT LED ME TO START
25 WONDERING EXACTLY IF I HAD ALL OF THE MOVING PAPERS OR NOT.

26 AND SO WHAT THE COURT DID WAS PREPARE A
27 DOCUMENT WHICH WAS ENTITLED WATERMASTER PLEADING SUMMARY AND
28 IT'S DATED YESTERDAY. IT INCLUDES EVERYTHING ON THE -- THAT

1 I THINK IS RELEVANT ON THE REGISTER OF ACTIONS EXCEPT --
2 JUST A MOMENT -- THE CITY OF CHINO'S OPPOSITION TO THE
3 AGRICULTURAL POOL'S EX PARTE MOTION TO STRIKE CITY OF
4 CHINO'S REPLY TO AGRICULTURAL POOL OPPOSITION TO WATERMASTER
5 MOTION REGARDING 2020 SAFE YIELD RESET AMENDMENT OF THE
6 STATED JUDGMENT PARAGRAPH 6, WHICH WAS FILED TODAY. BUT
7 THAT IS ON THE REGISTER OF ACTIONS, WHICH I HAVE UP HERE IN
8 THE COURTROOM JUST SO EVERYONE KNOWS THAT GOT INCLUDED.

9 THE COURT IS GOING TO ATTACH TO THE MINUTE
10 ORDER TODAY THE PLEADING SUMMARY THAT THE COURT PREPARED AND
11 THE PRINTOUT FROM THE REGISTER OF ACTIONS THAT THE COURT
12 PRINTED OUT AND MODIFIED OR -- ADDED TO. IF YOU GO TO THE
13 COURT WEBSITE, YOU WILL SEE THE REGISTER OF ACTIONS PRINTOUT
14 WITH NUMBERS TO THE LEFT OF SOME OF THE DOCUMENTS. AND AS
15 THE COURT WAS GOING THROUGH THE REGISTER OF ACTIONS, WHAT I
16 DID WAS START NUMBERING THE DOCUMENTS. THOSE NUMBERS YOU
17 SEE I HANDWROTE ON THE REGISTER OF ACTIONS. AND THEN IF YOU
18 LOOK AT THE WATERMASTER PLEADING SUMMARY THAT I PREPARED,
19 THOSE NUMBERS ARE BRACKETED. SO YOU CAN USE -- SO YOU CAN
20 CROSS RELATE THE TWO DOCUMENTS.

21 SO IT LED ME TO WONDER WHAT ELSE I MIGHT BE
22 MISSING. AND IN THE WATERMASTER PLEADING SUMMARY THE COURT
23 PREPARED, I BOXED THE DOCUMENTS THAT I COULD NOT FIND IN THE
24 REGISTER OF ACTIONS. AND THEY ARE AN AG. POOL MOTION TO
25 STRIKE JOINDERS OF POMONA I.E.U.A., CUCUMONGA VALLEY WATER
26 DISTRICT AND FONTANA UNION WATER COMPANY, J.C.S.D. AND THREE
27 VALLEYS COMMUNITY WATER DISTRICT.

28 AND THAT LEADS ME TO SAY WHAT STARTED ME ON

1 THAT IS I GOT THE INLAND EMPIRE AGENCY'S OPPOSITION TO THAT
2 MOTION AND THEN I STARTED TRACKING DOWN THE MOTION, WHICH I
3 HAD, BUT IT WAS NOT -- I COULD NOT FIND IT IN THE REGISTER
4 OF ACTIONS.

5 ALSO THERE WAS A JOINDER BY WESTERN MUNICIPAL
6 WATER DISTRICT AND A JOINDER BY THREE VALLEYS MUNICIPAL
7 WATER DISTRICT AND THE WATERMASTER RESET THAT I COULD NOT
8 FIND IN THE REGISTER OF ACTIONS. AND AN AG. POOL MOTION TO
9 STRIKE THE CITY OF CHINO'S REPLY TO THE AG. POOL OPPOSITION
10 THAT I COULD NOT FIND IN THE REGISTER OF ACTIONS. AND
11 FINALLY, AN AG. POOL TO STRIKE THE APPROPRIATE POOL'S REPLY
12 TO THE AG. POOL OPPOSITION ALSO NOT IN THE REGISTER OF
13 ACTIONS.

14 SO IN ORDER TO TRY TO SOLVE THIS PROBLEM, I'M
15 GOING TO MAKE TWO REQUESTS. FIRST, FOR THE PARTIES WHO HAVE
16 THE -- I WILL CALL IT THE BOXED DOCUMENTS ON MY PLEADING
17 SUMMARY, WITH QUESTION MARKS BY THE WORD "FILED," TO PLEASE
18 REFILE THOSE DOCUMENTS AND PUT IN YOUR CAPTION THE TITLE OF
19 THE DOCUMENT FILED BY ORDER OF JUDGE REICHERT ON
20 JUNE 26TH, 2020. BECAUSE IF SOMEWHERE THESE DOCUMENTS ARE
21 LURKING IN THE CLERK'S OFFICE AND THEY POP INTO THE REGISTER
22 OF ACTIONS, IT'S POSSIBLE THE CLERK WOULD NOT TAKE A SECOND
23 DOCUMENT UNLESS THERE IS A SPECIFIC ORDER TO DO SO.

24 SO WITH RESPECT TO ALL OF THE DOCUMENTS IN MY
25 PLEADING SUMMARY THAT ARE BOXED, IDENTIFIED WITH THE WORDS
26 FILED AND FOUR QUESTION MARKS, PLEASE FILE THOSE -- REFILE
27 THOSE -- OR FILE THEM AGAIN, I DON'T KNOW WHAT HAPPENED TO
28 THEM, WITH THE CLERK'S OFFICE WITH THAT SPECIFIC ORDER

1 INDICATED IN THE TITLE.

2 AND REGRETTABLY FOR SOME REASON, MS. EGOSCUE,
3 A NUMBER OF THEM ARE YOURS, NOT ALL OF THEM, BUT THAT NEEDS
4 TO BE DONE SO WE HAVE A CLEAR RECORD.

5 AND THEN I STARTED TO WONDER IF EVERYBODY GOT
6 THESE DOCUMENTS BECAUSE IF THEY'RE NOT IN THE REGISTER OF
7 ACTIONS, MAYBE THEY WERE -- THERE WAS SOME OTHER PROBLEM
8 WITH THE SERVICE.

9 MS. EGOSCUE, I SEE YOU STANDING. SO WOULD
10 YOU LIKE TO ADDRESS THE COURT, PLEASE?

11 **MS. EGOSCUE:** YOUR HONOR, MAY I, PLEASE?

12 **THE COURT:** YES. COME UP TO THE MICROPHONE, PLEASE.

13 **MS. EGOSCUE:** THANK YOU.

14 **THE COURT:** FEEL FREE TO BE SEATED.

15 **MS. EGOSCUE:** SO MANY MONTHS AGO, YOUR HONOR -- THIS IS
16 TRACY EGOSCUE ON BEHALF OF THE AG. POOL -- YOU ISSUED AN
17 ORDER THAT REQUIRED ALL OF OUR FILINGS TO BE THROUGH
18 WATERMASTER.

19 **THE COURT:** OKAY.

20 **MS. EGOSCUE:** AND ALL OF THESE FILINGS, INCLUDING THOSE
21 THAT WERE FILED BY OTHER ATTORNEYS, WERE INDEED FILED
22 THROUGH THAT PROCESS. AND I DO HAVE A LIST OF WHEN THEY
23 WERE FILED, BUT THE LAST ONE WAS FILED ON THE 23RD OF JUNE.
24 SO THESE FILINGS WERE FILED BY WATERMASTER, SERVED ON THE
25 PARTIES. WE RECEIVED E-MAILS THROUGH THE WATERMASTER.

26 AND I WILL ALSO NOTE THAT WE DID NOTICE THAT
27 YOUR DOCKET WAS NOT RECEIVING A LOT OF THESE FILINGS IN A
28 TIMELY MANNER AND WE WERE CONCERNED. HOWEVER, I BELIEVE IT

1 MUST BE SOMETHING THAT IS RELATED TO THE CONSTRAINTS THAT
2 THE COURT IS OPERATING UNDER RIGHT NOW. BUT I CAN INDICATE
3 TO YOU AND REPRESENT TO YOU THAT EVERY SINGLE ONE OF THESE
4 FILINGS IN THE BOX -- AND I DON'T REPRESENT WESTERN OR THREE
5 VALLEYS. THEY ARE ABLY REPRESENTED. BUT I CAN REPRESENT TO
6 YOU THEY WERE ALL FILED PURSUANT TO YOUR ORDER TO GO THROUGH
7 THE WATERMASTER PROCESS.

8 **THE COURT:** OKAY. I APPRECIATE THAT. THANK YOU.

9 IT MAY BE SOME INTERNAL PROBLEM WITH THE
10 COURT. THERE WAS -- DURING THE COURT CLOSURE, I UNDERSTAND
11 THERE WAS A REALLY HUGE BACKLOG OF MAIL AND FILINGS. AND
12 ALTHOUGH THESE CAME IN AFTER -- IT LOOKS LIKE THESE CAME IN
13 AFTER THE COURT OPENED, IT'S POSSIBLE THEY GOT SHELVED. AND
14 SO I'M NOT -- I SAY THIS WITHOUT ANY KIND OF REPROACH OR
15 REBUKE TO ANYONE. I JUST NEED TO MAKE SURE THAT EVERYONE
16 HAS THE SAME PAPERWORK AND EVERYONE IS LITERALLY ON THE SAME
17 PAGE IN TERMS OF WHAT DOCUMENTS ARE FILED. SO IF THERE IS A
18 PROBLEM GOING FORWARD, THERE IS A COMPLETE CLERK'S RECORD OF
19 WHAT WAS FILED.

20 AND SO I SEE MR. HERREMA WAITING TO ADDRESS
21 THE COURT. BUT LET ME -- ARE YOU FINISHED, MS. EGOSCUE?

22 **MS. EGOSCUE:** THANK YOU, YOUR HONOR. I WAS JUST GOING
23 TO NOTE THAT WE WOULD AGAIN RESUBMIT THROUGH THE WATERMASTER
24 PROCESS WITH THIS NOTE ON THE FILINGS PER YOUR INSTRUCTIONS
25 AS YOU'VE INDICATED.

26 **THE COURT:** THANK YOU.

27 MR. HERREMA?

28 **MR. HERREMA:** YOUR HONOR, BRAD HERREMA --

1 **THE COURT:** SIT DOWN AND SPEAK INTO THE MICROPHONE,
2 PLEASE. THANK YOU FOR STANDING, BUT IT'S ABSOLUTELY
3 ESSENTIAL THAT EVERYONE SPEAK INTO THE MICROPHONE TODAY.
4 AND IT SHOULD BE ON. YEAH. BELIEVE IT OR NOT, WHEN THE
5 LIGHT IS OFF, THE MICROPHONE IS ON.

6 **MR. HERREMA:** OKAY. BRAD HERREMA ON BEHALF OF THE
7 WATERMASTER.

8 I WOULD CONCUR WITH MS. EGOSCUE THAT ALL OF
9 THESE BOXED DOCUMENTS WERE FILED THROUGH WATERMASTER'S
10 FILING MECHANISM. THE PARTIES SEND THEIR DOCUMENTS TO
11 WATERMASTER, AND WE ENGAGE WITH A SERVICE THAT COMES AND
12 DROPS THEM OFF. AND WE SERVED THEM ALL BY E-MAIL AND SOME
13 FOLKS BY MAIL. ALL THESE DOCUMENTS HAVE BEEN SERVED. THEY
14 HAVE ALL BEEN DISTRIBUTED TO ALL THE PARTIES, AND THEY ARE
15 ALSO HOSTED ON WATERMASTER'S LEGAL FILING WEBSITE.

16 **THE COURT:** OKAY. THANK YOU. ALL RIGHT.

17 **MR. HERREMA:** WHEN YOU ARE READY, YOUR HONOR, IN
18 REGARDS TO GOING THROUGH THE PLEADINGS, I HAVE A HANDFUL OF
19 OTHER UNOPPOSED MOTIONS THAT WERE FILED PRIOR TO THE TWO
20 PRIOR HEARINGS THAT WERE CONTINUED.

21 **THE COURT:** YES. I THINK I MAY HAVE LISTED THOSE,
22 NUMBER FIVE MISCELLANEOUS, ON THE SECOND PAGE.

23 **MR. HERREMA:** I SHOW A FEW MORE ON MY LIST.

24 **THE COURT:** OKAY.

25 **MR. HERREMA:** AND ALSO JUST ONE OTHER NOTE WHILE WE'RE
26 LOOKING AT THE SUMMARY. I THINK WHAT MAY HAVE HAPPENED IN
27 THE DOCUMENTS BEING SENT FROM THE FILING BACK UP HERE OR
28 BECAUSE OF THE BACKLOG IS THAT SOME OF THE DATES SHOWN ON

1 HERE FOR FILINGS ARE NOT THE DATE THAT WE SERVED AND FILED
2 ON SOME OF THESE DOCUMENTS. SO THERE MAY HAVE BEEN A DELAY.

3 **THE COURT:** OKAY. THE DATES THAT I PUT IN MY SUMMARY
4 PLEADING WERE STRICTLY TAKEN FROM THE DATE INDICATED IN THE
5 REGISTER OF ACTIONS. SO IF -- I'M NOT SURPRISED THAT THE
6 SERVICE DATE MAY BE QUITE A VARIANCE FROM THE DATE THAT THEY
7 ACTUALLY SHOWED UP IN THE REGISTER OF ACTIONS.

8 **MR. HERREMA:** THANK YOU, YOUR HONOR.

9 **THE COURT:** THANK YOU, MR. HERREMA.

10 SO PERHAPS IT WOULD BE BEST IF WE COULD TURN
11 TO SOME UNOPPOSED MOTIONS FIRST UNLESS SOMEONE HAS A BETTER
12 SUGGESTIONS. YOU KNOW, I'M ALWAYS OPEN TO SUGGESTIONS.

13 **MR. SLATER:** THANK YOU, YOUR HONOR. THIS IS
14 SCOT SLATER.

15 BRAD HERREMA HAS, I THINK, A HELPFUL TIDY
16 LIST TO WALK THE COURT THROUGH WHAT IS UNOPPOSED.

17 **THE COURT:** THANK YOU.

18 MR. HERREMA?

19 **MR. HERREMA:** THANK YOU, YOUR HONOR.

20 WE HAVE A -- I WILL GO IN CHRONOLOGICAL ORDER
21 IF THAT'S OKAY.

22 **THE COURT:** SURE, PLEASE.

23 **MR. HERREMA:** WE HAVE A WATERMASTER REQUEST FOR THE
24 COURT TO RECEIVE IN THE FILE THE WATERMASTER SEMIANNUAL OBMP
25 STATUS REPORT, NUMBER 2019-1.

26 **THE COURT:** YES.

27 **MR. HERREMA:** THAT WAS FILED ON OCTOBER 2ND. AND
28 THAT'S UNOPPOSED. IT WAS ADDITIONALLY SET FOR HEARING LAST

1 DECEMBER.

2 **THE COURT:** YES. SO THE COURT HAVING RECEIVED NO
3 OPPOSITION AND NO OBJECTION TODAY, THE COURT WILL RECEIVE
4 THE 2019-1 OBMP UPDATE PLAN AND APPROVES IT.

5 **MR. HERREMA:** I HAVE A PROPOSED ORDER WITH ME. IT'S
6 THE SAME PROPOSED ORDER THAT WE FILED BACK IN OCTOBER. THE
7 DATE WAS THE INITIAL HEARING DATE.

8 **THE COURT:** THANK YOU. I WILL MAKE THE MODIFICATION
9 RIGHT NOW AND SIGN THE ORDER. GIVE ME JUST A MOMENT,
10 PLEASE.

11 **MR. HERREMA:** THANK YOU, YOUR HONOR.

12 **THE COURT:** YES. SO THE COURT IS GRANTING THE REQUEST
13 AND RECEIVING THE WATERMASTER SEMIANNUAL OBMP STATUS REPORT
14 2019-1. AND I'M GIVING THAT TO MY COURT JUDICIAL ASSISTANT
15 TO PROCESS RIGHT NOW.

16 MR. HERREMA. GO AHEAD, PLEASE.

17 **MR. HERREMA:** WE HAVE A WATERMASTER MOTION FOR COURT
18 APPROVAL OF AMENDMENTS TO RESTATED JUDGMENT REGARDING
19 COMPENSATION OF ADVISORY AND POOL COMMITTEE MEMBERS. THAT
20 WAS FILED ON OCTOBER 31ST, 2019. AGAIN, I HAVE A PROPOSED
21 MOTION HERE WHICH IS THE SAME COPY WE FILED AND HAS THE DATE
22 OF THE ORIGINAL HEARING DATE.

23 **THE COURT:** THANK YOU. THE COURT HAS RECEIVED NO
24 OPPOSITION AND GRANTS THAT MOTION.

25 LET ME GET THE ORDER AND SIGN IT FOR YOU
26 RIGHT NOW, PLEASE. I'M GOING TO INDICATE -- CHANGE THE DATE
27 FROM DECEMBER 13, 2019 TO 6-26-20, AND SIGN IT TODAY.
28 6-26-20. AND I'M GIVING THAT RIGHT NOW TO MY JUDICIAL

1 ASSISTANT TO PROCESS.

2 **MR. HERREMA:** THANK YOU, YOUR HONOR.

3 **THE COURT:** THANK YOU, MR. HERREMA.

4 NEXT, PLEASE.

5 **MR. HERREMA:** I HAVE A WATERMASTER MOTION FOR COURT TO
6 RECEIVE AND FILE A GROUND-LEVEL MONITORING COMMITTEE ANNUAL
7 REPORT THAT WAS FILED ON NOVEMBER 26TH, 2019. AND THAT
8 PROPOSED ORDER STILL SHOWS A MARCH 20 HEARING DATE.

9 **THE COURT:** THANK YOU. I'LL MAKE THAT AMENDMENT. AND
10 LET THE RECORD REFLECT THE COURT HAS RECEIVED NO OPPOSITION
11 AND IS GRANTING THAT MOTION.

12 OKAY. THAT ORDER IS SIGNED. I'M GIVING IT
13 TO MY JUDICIAL ASSISTANT TO PROCESS.

14 **MR. HERREMA:** THANK YOU, YOUR HONOR.

15 NEXT IS A WATERMASTER MOTION FOR COURT TO
16 RECEIVE AND FILE THE 42ND ANNUAL REPORT THAT WAS FILED ON
17 JANUARY 31ST. AND AGAIN, THIS PROPOSED ORDER HAS A MARCH 20
18 HEARING DATE ON TOP.

19 **THE COURT:** THANK YOU. I WILL JUST NOTE FOR THE RECORD
20 THAT MARCH 20 WAS THREE DAYS AFTER THE COURT CLOSED. SO
21 THAT'S WHY WE ARE GETTING THESE NOW.

22 OKAY. YOUR ORDER GRANTING YOUR REQUEST AND
23 RECEIVING THE 42ND ANNUAL REPORT I'VE SIGNED AND GIVEN TO MY
24 JUDICIAL ASSISTANT TO PROCESS.

25 **MR. HERREMA:** YOUR HONOR, THOSE ARE THE FOUR UNOPPOSED
26 MOTIONS THAT HAD BEEN ON CALENDAR FOR THE PREVIOUS HEARING
27 DATE.

28 **THE COURT:** YES.

1 **MR. HERREMA:** THERE ARE TWO OTHERS THAT ARE LISTED IN
2 YOUR MISCELLANEOUS LIST.

3 **THE COURT:** YES.

4 **MR. HERREMA:** THEY'RE NUMBERS 15 AND 16. THEY WERE
5 ACTUALLY FILED ON MAY 29TH. I KNOW THEY SHOW ON YOUR LIST
6 AS BEING PUT ON THE REGISTER OF ACTIONS ON JUNE 15. WE
7 FILED THOSE ON THE 29TH WHEN THE COURT REOPENED.

8 **THE COURT:** THANK YOU.

9 **MR. HERREMA:** THEY ARE UNOPPOSED. AND I DO HAVE
10 PROPOSED ORDERS FOR EACH. THEY DO SHOW TODAY'S HEARING
11 DATE.

12 **THE COURT:** THANK YOU. I'M READY TO GRANT THOSE
13 MOTIONS. SO IF YOU HAND THE ORDERS UP, I WILL SIGN THEM.

14 **MR. HERREMA:** OKAY. THANK YOU, YOUR HONOR.

15 **THE COURT:** THANK YOU. SO LET THE RECORD REFLECT THAT
16 I HAVE THE ORDER GRANTING THE REQUEST TO APPROVE THE
17 INTERVENTIONS AND THIS IS ALL IN ORDER.

18 OFF THE RECORD.

19 (A DISCUSSION WAS HELD OFF THE RECORD.)

20 **THE COURT:** BACK ON THE RECORD.

21 I'M GRANTING THE REQUEST FOR THESE TWO
22 INTERVENTIONS. GIVE ME JUST A MOMENT.

23 I'VE SIGNED THE ORDER ON THE INTERVENTIONS.
24 I'M GIVING THAT TO MY JUDICIAL ASSISTANT TO PROCESS.

25 AND THEN I HAVE THE ORDER GRANTING REQUEST TO
26 RECEIVE THE WATERMASTER SEMIANNUAL OBMP STATUS REPORT,
27 2019-2. AND SIGNING THAT RIGHT NOW.

28 **MR. HERREMA:** THANK YOU, YOUR HONOR.

1 **THE COURT:** GOT IT.

2 OKAY. THANK YOU.

3 **MR. HERREMA:** YOUR HONOR, THAT WAS IT FOR THE UNOPPOSED
4 MOTIONS. WE DID HAVE AN OBMP UPDATE STATUS REPORT THAT WAS
5 INITIALLY FILED IN AUGUST.

6 **THE COURT:** I REMEMBER THAT.

7 **MR. HERREMA:** AND IT'S BEEN SUPPLEMENTED A COUPLE OF
8 TIMES. IT WAS ON THE DECEMBER AND THEN THE MARCH HEARING
9 CALENDARS AS WELL. THERE IS NO PROPOSED ORDER FOR THAT. IT
10 WAS INTENDED TO BE A REPORT FOR THE COURT.

11 **THE COURT:** WHICH I RECEIVED AND REVIEWED. THANK YOU.

12 **MR. HERREMA:** I THINK WE'RE --

13 **MR. SLATER:** YOUR HONOR, IF I MIGHT.

14 **THE COURT:** YES, MR. SLATER. GO AHEAD, PLEASE.

15 **MR. SLATER:** AGAIN, THIS IS UNOPPOSED. THERE IS NO
16 ORDER THAT IS BEING SOUGHT -- MAYBE I NEED TO LEAN IN.

17 **THE COURT:** THERE YOU GO.

18 **MR. SLATER:** I'LL LEAN. CAN YOU HEAR ME? OKAY. GOOD.

19 **THE COURT:** OFF THE RECORD.

20 (A DISCUSSION WAS HELD OFF THE RECORD.)

21 **THE COURT:** BACK ON THE RECORD.

22 **MR. SLATER:** THANK YOU, YOUR HONOR. I APPRECIATE THAT.

23 SO AS MR. HERREMA INDICATED, THERE WERE THREE
24 SEPARATE STATUS REPORTS. AND BECAUSE WE SEEM TO COME TO
25 YOUR HONOR WITH A BIG PILE OF STUFF FROM TIME TO TIME AND
26 YOUR HONOR IS FORCED TO SORT OF SORT THROUGH IT, IN THIS
27 INSTANCE WE HAD FILED THE STATUS REPORTS REGARDING THE OBMP
28 UPDATE. BECAUSE THIS IS A NEW ACTIVITY, A NEW UNDERTAKING

1 BY WATERMASTER, AND WE WANTED TO TAKE A COUPLE MINUTES TO
2 HELP YOU UNDERSTAND THE CONTEXT FOR THESE FILINGS.

3 **THE COURT:** THANK YOU.

4 **MR. SLATER:** SO YOUR HONOR IS AWARE THAT THE ORIGINAL
5 OBMP WAS DONE IN 2000. WE GOT A -- QUITE OF BIT OF TRACK
6 RECORD AND A LOT OF SUCCESSES AS YOUR HONOR IS AWARE. NOT
7 WITHSTANDING THAT AND NOT WITHSTANDING THE FACT THAT WE DO
8 HAVE A STRUCTURAL COMMITMENT TO GO FORWARD AND TO RESPECT
9 THE AGREEMENTS THAT WERE PREVIOUSLY MADE, THE CIRCUMSTANCES
10 IN WHICH WE DO BUSINESS IN AN ADAPTIVE MANAGEMENT WORLD, YOU
11 HAVE TO KEEP PACE WITH WHAT'S GOING ON. THERE HAVE BEEN
12 CHANGES IN THE PHYSICAL AND REGULATORY ENVIRONMENT, AND THE
13 NOTION THAT THE EARLIER WORK DONE IN 2000 WAS SUPPORTED BY
14 ENVIRONMENTAL CONSIDERATIONS AND CONCERN THAT THE ORIGINAL
15 CEQA, CALIFORNIA ENVIRONMENTAL QUALITY ACT REVIEWS THAT WERE
16 UNDERTAKEN HAD GROWN STALE.

17 THERE IS NOTHING THAT I'M TALKING ABOUT OR
18 THAT'S PRESENTED IN THE REPORTS AS COMPULSORY. THIS IS
19 REALLY ABOUT WHAT THE ORIGINAL OBMP THAT WAS ORDERED BY
20 JUDGE GUNN WAS INTENDED TO DO AND THAT WAS TO ACHIEVE AN
21 OPTIMUM BASE IN MANAGEMENT PROGRAM. AND SO A PROCESS WAS
22 BEGUN, A VOLUNTARY PROCESS, WITH THE INTENTION OF DOING
23 BETTER ON A FORWARD BASIS, AND IN AN EFFORT NOT TO PREJUDICE
24 THE OUTCOME BUT TO TAKE INPUT FROM THE PARTIES AND TO
25 PROVIDE A CONCEPTUAL DIRECTION ON WHAT MIGHT BE AGREED AMONG
26 THE PARTIES.

27 AND IF YOU WOULD THINK ABOUT IT, THE OBMP IS
28 SORT OF THE GENERAL PLAN OF WATERMASTER OR THE BUSINESS

1 PLAN. IT IS THE UMBRELLA UNDER WHICH VARIOUS INITIATIVES
2 ARE HOUSED. AND THEY MUST BE CONSIDERED AS AN INTEGRATED
3 WHOLE. AND FOR THEM TO BE ENFORCEABLE AND IMPLEMENTABLE,
4 THIS COURT WILL ULTIMATELY HAVE TO BE INVOLVED IN THE
5 UNDERSTANDING, REVIEW AND ENFORCEMENT OF COMMITMENT SHOULD
6 THEY BE FORTHCOMING.

7 ONE OF THE PRIME EXAMPLES THAT DESERVES
8 ATTENTION AND IS GETTING ATTENTION NOW WITHIN THAT OVERALL
9 EFFORT IS THE SUBJECT OF STORAGE MANAGEMENT. AND I USE THAT
10 NOT AS A SPECIFIC MEANINGFUL TERM BUT MORE OR LESS AS A
11 CONCEPT THAT IS BEING PURSUED. WE ALREADY HAVE A PEACE
12 AGREEMENT. THE PEACE AGREEMENT PROVIDES EXPRESS RULES ON
13 HOW TO MANAGE STORAGE, WATER IN AND OUT, TRANSFERS, PARTIES'
14 BURDENS OF PROOF. ALL OF THAT IS AVAILABLE TODAY. BUT WE
15 ARE SORT OF AT A PLACE WHERE WE NEED TO ANSWER TWO
16 QUESTIONS, AND PART OF THIS IS THAT WE ARE A VICTIM OF OUR
17 OWN SUCCESS. AND THAT IS IF YOU GO BACK AND YOU LOOK AT THE
18 ASPIRATIONAL GOALS OF THE OBMP IMPLEMENTATION PLAN WHEN IT
19 WAS ADOPTED, IT REALLY HAD AN ASPIRATIONAL GOAL OF STORING A
20 HALF A MILLION ACRE-FEET.

21 AND, YOUR HONOR, YOU CAN GOOGLE THIS OR LOOK
22 THIS UP ON YOUR OWN, BUT I REPRESENT TO YOU THAT A HALF A
23 MILLION ACRE-FEET OF GROUND WATER IN STORAGE IS A LOT. AND
24 I'M NOT AWARE OF ANYBODY IN THE METROPOLITAN SERVICE AREA IN
25 THE SIX COUNTIES THAT'S ACHIEVED THAT KIND OF SUCCESS. SO
26 STORAGE ON THE ONE HAND IS GREAT. IT'S A BLESSING. THE
27 PARTIES DID A LOT TO DO THAT.

28 THEN THERE IS A SECONDARY QUESTION ASSOCIATED

1 WITH THAT WHICH IS MAKING SURE THAT WHEN THE WATER IS PULLED
2 OUT OF STORAGE THAT NO HARM IS CREATED. AND HENCE WHAT WE
3 HAVE IS WE HAVE A PEACE AGREEMENT AND OBMP IMPLEMENTATION
4 PLAN, RULES AND REGULATIONS, WHICH TELL WATERMASTER EXACTLY
5 WHAT TO DO WITH 500,000 ACRE-FEET. WHAT THEY DON'T TELL US
6 WHAT TO DO IS WHAT DO -- HOW DO WE ADDRESS QUANTITIES IN
7 EXCESS OF 500? HOW ARE IMPACTS TO BE EVALUATED? HOW ARE
8 IMPACTS TO BE MITIGATED? HOW ARE BENEFITS TO BE
9 DISTRIBUTED? AND IT IS NOT IMPERMISSIBLE FOR PARTIES AND
10 WATERMASTER TO ENABLE STORAGE IN EXCESS OF 500. IT'S JUST
11 THAT WE DON'T HAVE CLEAR DIRECTION YET AS TO HOW TO MANAGE
12 THAT.

13 SO AGAIN, CONTENTION, CONSERVATION OF WATER
14 IS A GOOD THING. STORAGE OF WATER IS A GOOD THING. HAVING
15 DRY YEAR RELIABILITY IS A GOOD. WE ALL KNOW WHAT'S
16 HAPPENING WITH THE COLORADO RIVER AND SAN JOAQUIN AND
17 SAN FRANCISCO BAY DELTA. IT IS A PHENOMENAL ASSET FOR US TO
18 HAVE STORAGE AVAILABLE TO US. ON THE OTHER HAND, WE HAVE TO
19 MAKE SURE THAT IN THE PROCESS OF WITHDRAWING WATER, IT IS
20 DONE WITHOUT CAUSING HARM.

21 SO IN THE CONTEXT OF THE OBMP UPDATE, WHAT WE
22 HAD TO DO IS ALSO CONTEMPLATE CEQA. AND YOUR HONOR MAY
23 RECALL THAT IN 2000, WATERMASTER IS NOT A PUBLIC AGENCY. IT
24 IS NOT SUITABLE TO RUN A CEQA PROCESS. WE NEEDED TO FIND A
25 CEQA SPONSOR WHO HAD THE CLOSEST NEXUS TO THE ENTIRETY OF
26 THE ORIGINAL PEACE AGREEMENT OBMP AND THAT WAS IUA.

27 SO IUA PERFORMED THE ORIGINAL PROGRAMMATIC
28 ENVIRONMENTAL IMPACT REPORT FOR THE ENTIRETY OF THE OBMP.

1 AGAIN, THE CEQA DOCUMENT DOES NOT COMPEL ANY PROJECT
2 THEREUNDER. IT WAS AN INVENTORY OF ENVIRONMENTAL IMPACTS
3 FOR THE WHOLE OF THOSE THINGS BEING CONTEMPLATED.

4 SO THEY ALSO DID -- WHEN WE CAME TO
5 JUDGE GUNN TO AUTHORIZE THE OLD PROJECT HYDRAULIC CONTROL --
6 WHICH BY THE WAY, OKAY, IS WE HAVE 40 MGD OF DESALTER
7 CAPACITY UP AND RUNNING, AND IT IS OPERATING AS EXPECTED.
8 WE DID A SUPPLEMENT AT THAT TIME TO THE EARLIER
9 ENVIRONMENTAL IMPACT REPORT. AND SO THE SAME PATTERN IS
10 BEING FOLLOWED IN THIS INSTANCE WHERE IUA IS GOING TO BE
11 ASKED TO APPROVE A SUPPLEMENTAL ENVIRONMENTAL -- OR, SORRY,
12 ENVIRONMENTAL IMPACT REPORT. SO THAT PROCESS IS UNDERWAY.
13 WATERMASTER IS WORKING WITH IUA TO PREPARE A DOCUMENT THAT
14 WILL ENABLE THE ACTIVITIES THAT ARE CONTEMPLATED WITHIN AN
15 OBMP -- A NEW OBMP OR AN UPDATE TO THE EARLIER ONE.

16 PROGRESS IS SLOW BECAUSE PEOPLE WANT TO BE
17 CAREFUL. THEY WANT TO DO THE RIGHT THING. THEY WANT TO
18 MAKE THE RIGHT DECISIONS AND NOT HAVE TO UNWIND THEIR
19 DECISIONS LATER. AN INCREMENTAL STEP HAS BEEN TAKEN BY THE
20 APPROVAL -- NOT WITHOUT OBJECTION, BUT WITH THE APPROVAL OF
21 THE BASE CONCEPT -- BASIC CONCEPTS, GOALS AND OBJECTIVES IN
22 WHAT IS CALLED A STORAGE MANAGEMENT PLAN. NOW THAT'S --
23 THAT LABEL STORAGE MANAGEMENT PLAN IS WITHOUT LEGAL AFFECT.
24 IT IS A STATEMENT OF GOALS AND OBJECTIVES. AND I WANT TO BE
25 CLEAR, IT'S NOT A -- IT'S NOT UNANIMOUSLY SUPPORTED AMONG
26 THE PARTIES. NEVERTHELESS, IT WAS DEEMED TO BE INCREMENTAL
27 PROGRESS ON THE ROAD OF GOALS AND OBJECTIVES.

28 AND HERE IS THE IMPORTANT PART. TO IMPLEMENT

1 WHATEVER VISION THAT WATERMASTER AND THE PARTIES OPENLY
2 AGREE UPON, THERE WILL NEED TO BE LEGAL INSTRUMENTS THAT
3 WILL FIND THEIR WAY TO YOUR HONOR. AND THOSE LEGAL
4 INSTRUMENTS, WE HOPE, WILL BE UNANIMOUS IN THEIR SUPPORT.
5 BUT THEY MAY NOT BE. WE DO NOT HAVE ANY PROPOSAL TO BE
6 MAKING OR LANGUAGE TO BE SHARING WITH YOU. WE ARE
7 IDENTIFYING FOR YOU THIS IS AN EFFORT THAT IS UNDERWAY. THE
8 PARTIES ARE WORKING HARD. THERE IS AN APPROVAL OF GOALS AND
9 OBJECTIVES. IT IS NOT BINDING. WE SAID THIS A NUMBER OF
10 TIMES AND I WANT TO MAKE IT CLEAR TO YOUR HONOR. IT IS NOT
11 BINDING ON ANY PARTY. IT IS NOT BINDING ON ANY POOL. IT IS
12 NOT BINDING ON THE WATERMASTER ITSELF. IT IS AN EFFORT TO
13 MAKE INCREMENTAL PROGRESS, TO ENCOURAGE FURTHER DISCUSSION
14 TO GET A STORAGE MANAGEMENT PLAN ULTIMATELY IN PLACE WHICH
15 MEANS COULD BE AMENDMENTS TO THE PEACE AGREEMENT, COULD BE
16 AMENDMENTS TO THE OBMP IMPLEMENTATION PLAN AND IT COULD BE
17 OTHER THINGS THAT THE PARTIES DEFINE THAT WE'RE NOT AWARE OF
18 YET.

19 SO WE HAVE A PROCESS WHICH IS, I WOULD SAY,
20 MORE OR LESS POLICY DRIVEN WHICH HAS BEEN COMPLETED IN TERMS
21 OF THE GOALS AND OBJECTIVES. NOW THERE IS ACTIVE
22 DISCUSSIONS ABOUT HOW PORTIONS OF THAT VISION OR ALL THAT
23 VISION CAN BE IMPLEMENTED THROUGH LEGAL INSTRUMENTS. AND
24 THEN THERE IS A HOSTING ENVIRONMENTAL DOCUMENT. AND ALL
25 THOSE THINGS ARE HAPPENING, LITTLE BIT OF TRIAGE. BUT THEY
26 ULTIMATELY WILL COME HERE. AND WE DIDN'T WANT TO WAIT UNTIL
27 IT WAS ALL DONE TO HAVE AN OPPORTUNITY TO EXPLAIN TO YOUR
28 HONOR WHAT WE ARE WORKING ON AND WHY WE ARE WORKING ON IT.

1 20-YEAR-OLD OBMP NEEDS SOME WORK, REFRESHING, AND WE WANT TO
2 DO THAT, WE WANT TO DO IT CONSENSUALLY. A PROCESS IS
3 UNDERWAY. AND IF WE ARE SUCCESSFUL, WE WILL BE BACK TO YOU
4 TO DISCUSS HOW THAT WILL BE IMPLEMENTED IN THE FORM OF
5 INSTRUMENTS AND ULTIMATELY A COURT ORDER.

6 LAST POINT I HAVE IS BECAUSE WHILE WE ALWAYS
7 HOPE TO ACHIEVE OUR OBJECTIVES, SOMETIMES WE ARE A LITTLE
8 SLOWER, AND WE DO HAVE A MANAGEMENT CHALLENGE BECAUSE OF OUR
9 EARLIER SUCCESS IN STORAGE. SO IF OUR TIMELINE SLIPS, IT
10 COULD BE THAT WE EXCEED THE QUANTITY THAT HAS HISTORICALLY
11 BEEN EXPRESSLY AUTHORIZED, MEANING THAT THERE ARE RULES WITH
12 WHAT WE DO WITH IT. THAT MEANS THAT WE MAY NEED TO
13 EITHER -- WE MAY NEED TO DO SOMETHING WITH THE EXISTING
14 RULES TO MAKE THEM ACCOMMODATE OUR OVERAGES.

15 SO IF WE HAVE COVERAGE FOR 500,000
16 HYPOTHETICALLY AND WE HAVE 620 SITTING IN THE BANK, WHAT ARE
17 WE DOING WITH THAT? WHAT ARE THE RULES THAT ARE COVERING
18 THAT? AND SO IN THE EVENT THAT WE CAN'T DO THE WHOLE THING,
19 WE MAY HAVE AN INTERIM STEP WHERE WE COME BACK TO YOU AND
20 SAY, OKAY, THERE IS A LITTLE MORE THAN WE AUTHORIZED IN THIS
21 ACCOUNT. WE HAVE TO HAVE SOME BASIS TO ENSURE NO HARM TO
22 THE BASIN AND ENSURE THE PARTIES THAT THEY CAN GET THEIR
23 WATER OUT.

24 AND SO I WANT TO ALSO REPRESENT TO THE COURT
25 THAT THERE IS INTENTION OF HARMING ANYBODY IN AN INTERIM
26 RESOLUTION, BUT WE MAY NEED SOMETHING SMALLER THAN THE BIG
27 TO GET US BY UNTIL WE GET THE BIG DONE.

28 **THE COURT:** I APPRECIATE THAT. I HAVE A COUPLE OF

1 QUESTIONS.

2 **MR. SLATER:** SURE.

3 **THE COURT:** WHAT DID YOU MEAN BY HOSTING AN
4 ENVIRONMENTAL DOCUMENT?

5 **MR. SLATER:** SO WATERMASTER UNDER THE PEACE AGREEMENT
6 AND COURT ORDER DOES NOT PERFORM CEQA, BUT IT MUST FIND THAT
7 CEQA HAS BEEN PREPARED, COMPLIANCE HAS OCCURRED FOR ANY
8 PROJECT THAT GOES THROUGH THE WATERMASTER PROCESS. SO WE
9 HAVE AN OBMP ORIGINAL PROGRAMMATIC ENVIRONMENTAL IMPACT
10 REPORT THAT COVERED STORAGE AND ALL THE IMPACTS ASSOCIATED
11 WITH IT. SO NOW, IF WE ARE GOING TO DO SOMETHING DIFFERENT
12 OR MORE, WE HAVE TO -- IN ORDER FOR US TO SATISFY OUR
13 OBLIGATION TO YOU, YOUR HONOR, WE HAVE TO FIND THAT CEQA
14 COMPLIANCE WAS DONE BY SOMEBODY.

15 AND SO WHEN I SAY HOST, THE INTENTION IS
16 THE -- I USED THE WORD UMBRELLA EARLIER. MAYBE IT'S A
17 VESSEL. IT HAS TO BE -- IT HAS TO BE -- WE HAVE TO FIND
18 SOMEPLACE THAT THE COVERAGE WAS DONE IN ORDER FOR US TO
19 SATISFY OUR OBLIGATION. AND TO AGAIN PUT THIS IN CONTEXT OF
20 WHY IUA DID IT ORIGINALLY, CAN YOU IMAGINE 32 DIFFERENT
21 PARTIES DOING THEIR OWN ENVIRONMENTAL AND THEN DOING WHAT?
22 DRAWING FIRE FROM EACH OTHER ABOUT THEIR ENVIRONMENTAL
23 DOCUMENTS. SO THE INTENT HERE IS TO CREATE HARMONY WITHIN
24 THE FAMILY, HAVE A UNIVERSALLY APPLICABLE DOCUMENT THAT
25 OTHERS USE.

26 **THE COURT:** IN OTHER WORDS, PEACE IN THE VALLEY AGAIN?

27 **MR. SLATER:** WE HAVE HIGH ASPIRATIONS, YOUR HONOR.

28 **THE COURT:** I APPRECIATE THAT. THANK YOU.

1 ANOTHER QUESTION I HAVE IS ON THE SURFACE IT
2 SOUNDS A LITTLE BIT LIKE SOME OF THE MANAGEMENT IDEAS THAT
3 CAME UP IN CITY YIELD RESET AGREEMENT FROM 2015. ARE THERE
4 SIMILARITIES TO THAT?

5 **MR. SLATER:** WELL, I THINK THAT WAS A -- HAVING SOME --
6 BE VERY CAREFUL WHEN I DESCRIBE THAT BECAUSE I REPRESENT
7 WATERMASTER HERE AND WAS AN ADVOCATE FOR THOSE CHANGES. I
8 THINK THAT WAS VASTLY MORE SWEEPING BECAUSE IT INVOLVED MANY
9 MORE ISSUES THAN ARE PRESENT IN THIS INSTANCE. I THINK WE
10 HAVE -- IN THE FILINGS, YOUR HONOR, YOU'LL SEE THE SPECIFIC
11 ELEMENTS BUT THE SIGNIFICANT ELEMENTS OF THIS, AS IN THE
12 OBMP, ARE STORAGE MANAGEMENT AND HOW THAT'S ADDRESSED. AND
13 I DON'T BELIEVE -- I DON'T HAVE ANY RECOLLECTION OF US
14 TRYING TO DEAL WITH THESE OUTER LIMITS OF STORAGE IN THAT
15 ENVIRONMENT.

16 **THE COURT:** OKAY.

17 **MR. SLATER:** AND THEN WHAT I WOULD CALL BACKGROUND
18 CONDITIONS BEING -- WE HAVE ALL THESE VARIABLE CONDITIONS
19 THAT OCCUR, PARTICULARLY MAYBE IN THE AREA OF WATER QUALITY.
20 AND I AM GOING TO BE VERY CIRCUMSPECT AS TO HOW I DESCRIBE
21 THIS, AND I WILL EXPLAIN WHY. OUR EFFORT HERE IS TO TRY TO
22 ASCERTAIN WHETHER WE CAN HAVE PROJECTS AND UNDERTAKE
23 PROJECTS THAT DON'T -- IN LIGHT OF THE MOVING VARIABLES IN
24 WATER QUALITY, IN TRYING TO UNDERSTAND EXACTLY WHAT THE
25 BACKGROUND CONDITIONS ARE SO THAT WHEN WE DO PLANS AND
26 PROGRAMS AND DO THINGS LIKE STORAGE, TRANSFERS, RECHARGE
27 THAT WE HAVE A GOOD HANDLE ON WHAT THOSE ARE.

28 NOW WHAT I WANT TO SAY IS REALLY IMPORTANT

1 BECAUSE THERE ARE PEOPLE LISTENING ON THE PHONE IN THIS
2 ROOM.

3 I'M NOT TALKING ABOUT GOVERNMENT'S DECISIONS.
4 I'M NOT TALKING ABOUT HOW DECISIONS GET MADE TO IMPLEMENT
5 VARIOUS PROVISIONS. AND I WILL GIVE YOU AN EXAMPLE, YOUR
6 HONOR. WE HAVE A COMMITTEE STRUCTURED THAT TACKLES SUBJECTS
7 LIKE LAND SUBSIDENCE WHERE THE COURT, THROUGH WATERMASTER,
8 HAS DELEGATED -- THROUGH AGREEMENT HAS DELEGATED
9 RESPONSIBILITY TO DISCRETE MEMBERS OF WATERMASTER TO MANAGE
10 AN ISSUE WHICH IS MOST NEAR AND DEAR TO THEM.

11 SO WHEN I SAY SOMETHING IS WITHIN THE VESSEL
12 OR WITHIN THE UMBRELLA OF THE OBMP, WE'RE NOT PREDETERMINING
13 TODAY HOW THAT GETS MANAGED OR WHETHER IT'S THE WATERMASTER
14 BOARD OR SOME SUBSITE THAT MAKES DECISIONS ABOUT THAT. THAT
15 HAS TO BE CUSTOMIZED TO WHAT THE ISSUE IS AND THE DESIRES OF
16 THE PARTIES. AND AN ASPIRATIONAL GOAL IS NOT A FAIT
17 ACCOMPLI; RIGHT? SO I JUST WANT TO BE CAREFUL. WE WANT TO
18 DO THINGS RIGHT, WE WANT TO DO THINGS THE RIGHT WAY, BUT BE
19 MINDFUL THAT THERE ARE MANY TIMES DIFFERENT WAYS TO
20 ACCOMPLISH THE SAME RESULT.

21 **THE COURT:** I UNDERSTAND THAT. REASONABLE MINDS CAN
22 DIFFER.

23 I REMEMBER WHEN WORKING WITH JUDGE GUNN, 20
24 YEARS AGO, ON THE ORIGINAL -- WHEN I WORKED WITH HIM ON
25 WATERMASTER CASE THEN AS A RESEARCH ATTORNEY, HE HAD -- I
26 BELIEVE IT WAS MS. SCHNEIDER --

27 **MR. SLATER:** CORRECT, YOUR HONOR.

28 **THE COURT:** -- AS A REFEREE?

1 **MR. SLATER:** AND MR. SCALANI.

2 **THE COURT:** OKAY. ARE THESE -- WHILE WE'RE TALKING
3 GENERALITIES AND PROPOSALS, WOULD THIS BE SOMETHING
4 SIGNIFICANT ENOUGH WHERE THE COURT SHOULD START THINKING
5 ABOUT GETTING A REFEREE TO EVALUATE THEM?

6 **MR. SLATER:** WELL, YOUR HONOR, I AM GOING TO SAY -- OR
7 I AM GOING TO REPRESENT TO YOU THAT THE PARTIES ARE WORKING
8 AND MAKING PROGRESS IN THIS REGARD. I HOPE NOT.

9 **THE COURT:** OKAY.

10 **MR. SLATER:** I THINK YOUR HONOR HAS SHOWN THE CAPACITY
11 TO WORK WITH THE PARTIES, LISTEN TO THE PARTIES. AND IF
12 THEY DECIDE, IF WE GET TO A PLACE, AN IMPASSE, WHERE WE
13 COULD USE SOME ASSISTANCE, I THINK WE WOULD BE WISE TO LET
14 YOU KNOW. BUT I THINK THAT MY OBSERVATION, HAVING
15 REPRESENTED WATERMASTER, BEEN A FACILITATOR FOR THIS GROUP
16 IN A VARIETY OF CONTEXTS, PEOPLE ARE WORKING. AND I HAVE
17 EVERY HOPE THAT THEY WILL GET TO A SOLUTION THAT MAKES
18 SENSE.

19 **THE COURT:** THANK YOU. I APPRECIATE THAT.

20 **MR. SLATER:** THANK YOU, YOUR HONOR.

21 **THE COURT:** ON THIS ISSUE, BEFORE WE LEAVE IT, ANYONE
22 WANT TO CHIME IN NOW? I SEE MS. EGOSCUE RAISING HER HAND.
23 COME ON UP, PLEASE.

24 **MS. EGOSCUE:** THANK YOU, YOUR HONOR. TRACY EGOSCUE ON
25 BEHALF OF THE AG. POOL.

26 I JUST HAD TWO MINOR COMMENTS AND
27 OBSERVATIONS. THE FIRST WAS YOUR HONOR'S QUESTION REGARDING
28 THE SAFE FIELD RESET AND WHETHER OR NOT IT ADDRESSED ANY OF

1 THESE ISSUES THAT MR. SLATER SO ELOQUENTLY DISCUSSED JUST
2 NOW. I WOULD JUST LIKE TO BRING TO THE COURT'S ATTENTION
3 THAT STORAGE WAS A COMPONENT OF THE SAFE YIELD RESET
4 AGREEMENT. AND DURING ARGUMENT AND DISCUSSIONS IN YOUR
5 COURT, THERE WERE REPRESENTATIONS MADE TO YOU -- AND THERE
6 IS A TRANSCRIPT SO WE CAN GO BACK AND PULL IT OUT -- THERE
7 WERE REPRESENTATIONS MADE THAT STORAGE WAS NOT AN ISSUE AND
8 DID NOT NEED TO BE ADDRESSED AT THE TIME.

9 I WOULD ALSO LIKE TO OPINE ON BEHALF OF THE
10 AG. POOL THAT YOUR QUESTION REGARDING A SPECIAL MASTER OR
11 SPECIAL REFEREE IS A VERY GOOD QUESTION. WE ARE HOPING THAT
12 AT THE END -- BY THE END OF TODAY THAT YOU MIGHT HAVE A MORE
13 EDUCATED VIEW OF WHETHER OR NOT THAT IS NECESSARY. THESE
14 ARE HIGHLY COMPLEX AND TECHNICAL ISSUES, AND WE ARE READY TO
15 ADDRESS THE COURT TO EXPLAIN HOW COMPLEX THEY HAVE BECOME.

16 **THE COURT:** OKAY. THANK YOU.

17 **MS. EGOSCUE:** I JUST WANTED TO ALSO NOTE, YOUR HONOR,
18 THE AG. POOL HAS A POOLING PLAN AMENDMENT THAT'S BEEN
19 PENDING. WE WERE ORIGINALLY GOING TO HAVE A HEARING IN
20 DECEMBER. IT WAS MOVED BY ORDER OF YOUR COURT TO MARCH. I
21 JUST WANTED TO MAKE SURE THAT SEEMS LIKE WE MIGHT BE DIVING
22 INTO SAFE YIELD, BUT I WOULD LIKE TO BE HEARD ON OUR POOLING
23 PLAN AMENDMENT THAT MY CLIENT HAS BEEN WAITING FOR.

24 **THE COURT:** I UNDERSTAND AND WE WILL GET TO THAT. IT'S
25 ON THE AGENDA.

26 **MS. EGOSCUE:** APPRECIATE THAT, YOUR HONOR.

27 **THE COURT:** THANK YOU.

28 ANYONE ELSE HERE IN THE COURTROOM WANT TO

1 CHIME IN ON THIS BEFORE WE MOVE ON? I DON'T SEE ANY HANDS.

2 ANYBODY ON THE PHONE WANT TO CHIME IN ON THIS
3 BEFORE WE MOVE ON? GOING ONCE. GOING TWICE. CLOSED.

4 OKAY. THANK YOU.

5 LET'S MOVE ON TO THE RECENT MOTION. AND LET
6 ME TELL YOU RIGHT NOW, THE INDICATED RULING ON THAT IS TO
7 GRANT THE MOTION TO CONTINUE. THERE WERE DOCUMENTS FILED --
8 GIVE ME JUST A MINUTE. LET ME GET THAT SET OF DOCUMENTS.

9 AND THIS WAS JUST FILED WITH THE COURT
10 JUNE 16, 2020. THIS WAS JURUPA COMMUNITY SERVICES DISTRICT
11 JOINDER TO AND REQUEST FOR CONTINUANCE OF THE CHINO BASIN
12 WATERMASTER MOTION REGARDING THE 2020 SAFE YIELD RESET. AND
13 WHOM DO I HAVE ON THE PHONE FOR JURUPA COMMUNITY SERVICES
14 DISTRICT.

15 **MS. GRADY:** GOOD MORNING, YOUR HONOR. THIS IS
16 SHAWNDA GRADY.

17 **THE COURT:** OKAY. MS. GRADY. PLEASE -- I SAY THIS
18 WITHOUT A HINT OF REPROACH. BUT PLEASE DON'T COMBINE TWO
19 ISSUES AGAIN IN ONE DOCUMENT. WHEN I HAD TO TRY --

20 **MS. GRADY:** I'M SORRY, YOUR HONOR.

21 **THE COURT:** THANKS. WHEN I HAD TO TRY TO SORT THIS OUT
22 TO FIND OUT WHO WAS OPPOSING, WHO HAD FILED, WHO HAD JOINED,
23 WHO OPPOSED AND WHO WAS DOING SOMETHING ELSE, IT GOT QUITE
24 CONFUSING. I MUST SAY -- AND, REMEMBER, I DO ALL OF THIS
25 MYSELF, TO FIGURE THIS OUT.

26 SO THAT MOTION -- WHILE I CALL IT A MOTION,
27 IT WAS A REQUEST -- WAS APPARENTLY SERVED JUNE 15 AND THEN
28 THERE WAS -- BEAR WITH ME A MOMENT WHILE I GO BACK TO MY

1 SUMMARY -- AN OBJECTION BY JURUPA COMMUNITY SERVICE DISTRICT
2 TO THE REQUEST FOR CONTINUANCE AND THAT WAS -- WAS THAT
3 MR. CHIGOYENETCHE? WAS THAT YOU?

4 **MR. CHIGOYENETCHE:** NO, SIR. THAT WAS NOT ME.

5 **THE COURT:** HANG ON. LET ME GET THE PAPER THEN. GIVE
6 ME JUST A MOMENT.

7 **MS. GRADY:** I BELIEVES IT WAS MS. EGOSCUE, THE
8 AG. POOL.

9 **THE COURT:** OKAY. MS. EGOSCUE, WOULD YOU LIKE COME UP
10 AND ADDRESS THIS, PLEASE.

11 **MS. EGOSCUE:** THANK YOU, YOUR HONOR.

12 **THE COURT:** YOU'RE WELCOME.

13 **MS. EGOSCUE:** TRACY EGOSCUE ON BEHALF OF THE AG. POOL.
14 WE DID FILE AGAINST THE REQUEST FOR
15 CONTINUANCE. HOWEVER, IN LIGHT OF THE INCOMPLETE FILE
16 BEFORE YOUR HONOR, WHICH OBVIOUSLY PREJUDICES MY CLIENT MOST
17 OF ALL, I THINK THAT WE WOULD HAVE TO SUPPORT YOUR
18 INDICATION TO CONTINUE THIS MATTER.

19 **THE COURT:** THANK YOU, MS. EGOSCUE.

20 I SEE MR. HERREMA AND MR. SLATER CONFERRING.
21 ANYONE WANT TO -- WE COULD TAKE A SHORT RECESS IF YOU NEED
22 TO CONFER WITH YOUR CLIENTS OR CONFER WITH EACH OTHER ABOUT
23 WHAT THE PROPOSAL MIGHT BE? I WOULD BE HAPPY TO DO THAT,
24 YOU KNOW, TO TRY TO BE COOPERATIVE.

25 **MR. SLATER:** YOUR HONOR, SCOT SLATER.

26 WE ARE MINDFUL THAT THERE WAS A REQUEST FOR
27 CONTINUANCE AND WE WERE PREPARED WALKING IN HERE TO MAKE THE
28 CASE THAT WE'RE PREPARED TO GO FORWARD. BUT GIVEN THE

1 IRREGULARITIES IN THE RECORD, WE ARE INDEED CONCERNED. SO I
2 THINK IF WE COULD HAVE A FEW MINUTES TO CONFER WITH COUNSEL
3 OUTSIDE AND SEE IF WE CAN COME TO SOME UNDERSTANDING AND
4 THEN RETURN TO YOU.

5 **THE COURT:** THAT WOULD BE GREAT. AND HOW ABOUT THIS:
6 I'M GOING TO TAKE A RECESS BUT LEAVE THE -- WE'LL TAKE A
7 FULL-ON COURT RECESS OF ABOUT 10 MINUTES OR 15 MINUTES, BUT
8 I'M GOING TO LEAVE THE BENCH SO YOU USE THE COURT SYSTEM TO
9 TALK ON THE PHONE IF YOU NEED TO TALK TO OTHER COUNSEL.

10 **MR. SLATER:** OKAY. THAT'S FAIR. THAT'S A GREAT
11 SUGGESTION, YOUR HONOR.

12 **THE COURT:** AND IT WILL BE -- I WILL BE ON THE
13 10TH FLOOR BACK IN CHAMBERS. I WON'T HEAR YOU A BIT. FEEL
14 FREE TO TALK FREELY. AND I WILL BE BACK AT -- I CAN NEVER
15 SEE THE CLOCK AT THE BACK OF THE COURTROOM. IT LOOKS
16 LIKE -- I'VE GOT 2:30 STRAIGHT DOWN, SO TO SPEAK. I'LL BE
17 BACK IN 15 MINUTES.

18 **MR. SLATER:** THANK YOU.

19 **THE COURT:** THANK YOU EVERYBODY. COURT'S IN RECESS.

20 (A BRIEF RECESS WAS TAKEN.)

21 **THE COURT:** BACK ON THE RECORD IN OUR WATERMASTER CASE.

22 MR. SLATER, DID YOU HAVE ENOUGH TIME TO TALK?

23 **MR. SLATER:** YES, YOUR HONOR. THANK YOU FOR THE
24 OPPORTUNITY TO CONFER.

25 AFTER SPENDING AND TAKING THE OPPORTUNITY TO
26 TALK WITH COUNSEL, WE THINK THAT -- WE WOULD PREFER THAT ANY
27 IRREGULARITY THAT'S ARISEN FROM THE FACT THAT THERE ARE SOME
28 DISCREPANCIES IN WHAT MAY HAVE BEEN DELIVERED TO YOUR HONOR

1 AND THE ABILITY OF THE PARTIES TO BE FULLY HEARD ON THE SAFE
2 YIELD RESET, THAT WHAT WE WOULD SUGGEST SUBJECT TO YOUR
3 CALENDAR, YOUR HONOR, IS THERE IS A -- I WOULD START WITH
4 THERE'S A STRONGLY HELD VIEW THAT RAMPING UP AGAIN FOR THIS
5 HEARING CAUSES PEOPLE A LOT OF INCONVENIENCE AND ADDITIONAL
6 EXPENSE. AND FROM WATERMASTER'S PERSPECTIVE, WE WOULD
7 REALLY LIKE TO GET THIS HEARD AND GET A SAFE YIELD NUMBER
8 FOR OUR OPERATION.

9 SO CONSEQUENTLY, HAVING CONFERRED, WE THINK
10 THAT IF YOUR HONOR WOULD BE PREPARED TO PROCEED TWO WEEKS
11 FROM TODAY, ON JULY 10TH, IN THE AFTERNOON, FRIDAY
12 AFTERNOON, WE WERE -- WE'VE CANVASED EVERYBODY AND EVERYBODY
13 IS AVAILABLE TO APPEAR ON THAT DATE IF THAT'S SUITABLE FOR
14 YOUR HONOR. IF NOT THAT DATE, AS SOON THEREAFTER AS
15 POSSIBLE. WE RECOGNIZE THE DIFFICULTY OF WHAT THAT MEANS
16 FOR YOUR CALENDAR, YOUR HONOR. WE ARE WILLING TO TRY TO GET
17 HERE AND GET IT DONE IF WE CAN.

18 AND FURTHER TO -- WE HAVE A STIPULATION AMONG
19 COUNSEL THAT THEY WILL FILE NO MORE PAPER ON THIS MATTER.

20 **THE COURT:** ALL RIGHT. THANK YOU.

21 **MR. SLATER:** THE MATTER OF THE FILE WILL BE STILL FOR
22 YOUR HONOR IN PREPARATION SO THAT YOUR HONOR NEED NOT RAMP
23 UP AGAIN.

24 **THE COURT:** AND I SEE MS. EGOSCUE WANTS TO ADD
25 SOMETHING.

26 **MS. EGOSCUE:** WITH JUST THE EXCEPTION OF THOSE FILINGS
27 THAT YOU HAVE NOT RECEIVED. THOSE WILL BE COMING IN.

28 **MR. SLATER:** UNDERSTOOD, THAT IF SOMETHING HAS BEEN

1 PREVIOUSLY FILED.

2 **MS. EGOSCUE:** YES.

3 **THE COURT:** OKAY. ON THE BOXED ITEMS IN MY RESET I
4 HAVE THOSE. I JUST DON'T KNOW IF EVERYBODY HAS THEM. I
5 LISTED THEM. SO YOU DON'T NEED TO GET THEM TO ME AGAIN FOR
6 THE NEXT HEARING. I'VE GOT THEM. THAT'S HOW I KNEW TO PUT
7 THEM ON THE LIST. WHAT I WAS CONCERNED ABOUT IS THE FAMOUS
8 ADAGE FROM DONALD RUMSFELD, THE UNKNOWN UNKNOWNNS. BECAUSE I
9 KNEW NOW THAT I HAD SOME KNOWN UNKNOWNNS WHICH WERE ITEMS
10 THAT I HAD THAT DON'T SHOW UP ON THE REGISTER OF ACTIONS AND
11 I KNOW THEY EXIST. THEN I STARTED WORRYING ABOUT THE
12 UNKNOWN UNKNOWNNS IN CASE THERE WAS SOMETHING ELSE THAT
13 REALLY DIDN'T GET FILED, DIDN'T SHOW UP ON THE ROA AND I
14 DIDN'T GET.

15 SO I WOULD REQUEST COUNSEL TO BY ONE WEEK
16 FROM TODAY -- I AM GOING TO SET A DEADLINE. OKAY? BY
17 NOON -- ONE WEEK FROM TODAY IS THE 4TH OF JULY -- OR THE
18 HOLIDAY IS THE 3RD OF JULY. BY NOON THURSDAY, JULY 2ND, TO
19 E-MAIL OR PHONE MY JUDICIAL ASSISTANCE AND SAY IF YOU HAVE
20 SOMETHING ELSE THAT NEEDS TO BE FILED, AND ALERT ME TO IT
21 AND GET IT TO ME BY THE FOLLOWING MONDAY. AND IF I HEAR
22 NOTHING, AS THE SAYING GOES, QUI TACET CONSENTIERE. DIDN'T
23 WORK TOO WELL FOR THOMAS MORE, BUT I HOPE IT WORKS WELL FOR
24 US. SILENCE IMPLIES CONSENT. AND IF I DON'T HEAR ANYTHING,
25 GREAT ACTUALLY. I KNOW I HAVE EVERYTHING. BUT IF YOU'VE
26 GOT SOMETHING, THAT'S THE DEADLINE TO LET ME KNOW. AND I
27 WILL GRANT THE MOTION TWO WEEKS FROM TODAY WHICH IS JULY 10
28 AND I WILL MOVE WHATEVER I HAVE GOT IN THE AFTERNOON SO WE

1 CAN GET THIS GOING. IT'S A TOP PRIORITY FOR ME NOW.

2 **MR. SLATER:** THANK YOU, YOUR HONOR.

3 **THE COURT:** YOU'RE WELCOME. THANK YOU, EVERYONE, FOR
4 WORKING TOGETHER TO GET A NEXT DATE. WE WILL BE READY TO
5 GO. SO --

6 **MR. SLATER:** YOUR HONOR, I HAVE ONE MORE THING -- AND I
7 THINK THE ONLY THING LEFT IS THE AG. POOL MOTION. BUT I
8 HAVE ONE MORE THING. IN PRESENTING THE SITUATION ON THE
9 OBMP, I THOUGHT WE MIGHT HAVE THE OPPORTUNITY FOR A FURTHER
10 ORDER ARISING OUT OF THE SAFE YIELD RESET WHICH WOULD COVER
11 WHAT I THINK WE NEED, WHICH IS AN OPPORTUNITY TO COME BACK
12 TO YOU ON THE OBMP ELEMENT IN SEPTEMBER, OCTOBER TIME FRAME.
13 WE HAVE A LOT OF THINGS THAT WE ARE WORKING ON IN FRONT OF
14 US, AND WE WOULD APPRECIATE AN OPPORTUNITY TO SEE YOUR HONOR
15 IN THE SEPTEMBER, OCTOBER TIME FRAME ON THE PROGRESS OF THE
16 OBMP.

17 **THE COURT:** OKAY. SO WHAT I'LL DO IS WHEN WE GET
18 TOGETHER AGAIN ON THE 10TH OF JULY, I'LL GIVE YOU -- WORK
19 OUT A DATE. I'LL GIVE YOU A COUPLE.

20 **MR. SLATER:** PERFECT.

21 **THE COURT:** EVERYTHING SEEMS TO BE BETTER ON A FRIDAY
22 AFTERNOON, I HOPE FOR YOU. IT WORKS PRETTY WELL FOR ME.
23 AND FOR THOSE OF YOU WHO ARE TRAVELING A DISTANCE, SORRY.

24 **MR. SLATER:** YOU KNOW, YOUR HONOR, IT'S ACTUALLY
25 PREFERABLE. IT'S A GOOD DAY FOR US. THANK YOU.

26 **THE COURT:** THANK YOU. SO WE WILL WORK OUT A DATE.
27 I'LL LOOK AT MY CALENDAR. AND WHILE I'M LOOKING AT DATES,
28 WOULD YOU PREFER SEPTEMBER OR OCTOBER? JUST SO I HAVE A

1 LITTLE BIT -- A RANGE OF OPTIONS.

2 **MR. SLATER:** YOUR HONOR, I THINK WE'D PREFER TO SPLIT
3 IT AND WE SAY LATE SEPTEMBER WOULD BE GREAT.

4 **THE COURT:** OKAY. GOT IT. SO WE WILL SHOOT FOR THE
5 LAST COUPLE OF FRIDAYS -- I WILL LOOK AT MY CALENDAR FOR THE
6 LAST TWO FRIDAYS IN SEPTEMBER AND EVERYBODY ELSE DO THE SAME
7 SO THAT WE CAN COME TO AN AGREEMENT. AND I'LL SET A FUTURE
8 HEARING. IT WILL BE ONE OF THE LAST FREE FRIDAYS IN
9 SEPTEMBER FOR FURTHER HEARING. AND WE CAN SET THAT DATE ON
10 JULY 10 WHEN EVERYBODY COMES BACK.

11 **MR. SLATER:** PERFECT, YOUR HONOR. THANK YOU VERY MUCH.

12 **THE COURT:** OKAY. HERE IN THE COURTROOM, ANYTHING
13 FURTHER ON WHAT I CALL THE WATERMASTER RESET MOTION? HERE
14 IN THE COURTROOM, ANYTHING FURTHER TODAY? NO HANDS. OKAY.

15 ON THE PHONE, ANYONE ELSE WANT TO CHIME IN?
16 GOING ONCE. GOING TWICE. ALL RIGHT. THAT IS ALL THAT WE
17 WILL DO TODAY ON THE WATERMASTER RESET MOTION.

18 THE HEARING IS FIRM THEN, JULY 10 AT 1:30. I
19 WILL JUST INDICATE THAT THE HEARING AGAIN WILL BE HERE IN
20 THIS COURTROOM -- OOPS, I WILL NOT INDICATE THAT IT'S GOING
21 TO BE HERE IN THIS COURTROOM BECAUSE I HAVE TO RESERVE THIS
22 COURTROOM. AND SO I WILL TRY TO MAKE SURE THAT WE ARE IN
23 ANOTHER LARGE COURTROOM. THERE ARE SEVERAL HERE ON THIS
24 FLOOR. WITH A LITTLE LUCK, WE WILL BE BACK HERE IN S-1. IF
25 IT'S NOT AVAILABLE, WE WILL DO THE BEST WE CAN IN MY INITIAL
26 COURTROOM ON THE TENTH FLOOR, S-35, AND PICK IT UP FROM
27 THERE. BUT JUST WANT TO LET YOU KNOW, LOGISTICALLY, I HOPE
28 TO HAVE IT HERE IN S-1. AND IT WILL BE POSTED ON THE DOOR

1 IN S-35 IF WE ARE HAVING IT SOMEPLACE ELSE. SO TENTATIVELY
2 SCHEDULED IN S-35. IF IT'S -- AND SO YOU ALL KNOW WHERE TO
3 GO AT LEAST INITIALLY. AND IF YOU WANT TO -- I SHOULD KNOW
4 A DAY OR TWO AHEAD OF TIME WHERE THE ACTUAL LOCATION IS
5 GOING TO BE IF YOU WANT TO CHECK ON THAT AND SAVE YOURSELF
6 AN ELEVATOR RIDE HERE IN SBJC.

7 ALL RIGHT. LET'S TURN NOW TO MS. EGOSCUE'S
8 MOTION. GIVE ME A MOMENT WHILE I GET THAT PAPERWORK.

9 HERE WE GO AGAIN. IN MY LOOKING THROUGH THE
10 PAPERWORK, IT LOOKED TO ME LIKE, MS. EGOSCUE, YOUR NOTICE OF
11 MOTION AND MOTION TO STRIKE JURUPA COMMUNITY SERVICES
12 DISTRICT'S JOINDER TO MONTE VISTA WATER DISTRICT AND CITY OF
13 ONTARIO'S OPPOSITION AND REQUEST TO SUBMIT A SUR-REPLY
14 DIDN'T MAKE IT IN THE ROA.

15 **MS. EGOSCUE:** YES, YOUR HONOR. I'M GLAD THAT YOU
16 CAUGHT THAT AS WELL. I ALSO THINK -- AND IT'S HARD BECAUSE
17 THERE HAVE BEEN SO MANY FILINGS, THAT WE MIGHT BE MISSING
18 TWO MORE. I DID A ROUGH COUNT. SO I THINK WE, IN THE
19 INTEREST OF JUSTICE, SHOULD NOT HEAR THIS MOTION. WE SHOULD
20 TAKE THE TIME TO MAKE SURE THAT ALL THE FILINGS ARE IN.
21 THERE IS DEFINITELY NOT THE MOTION TO STRIKE THEIR JOINDER.
22 AND BECAUSE OUR FILING WAS DONE SO LONG AGO, THAT MIGHT BE
23 PART OF IT IS THAT THE JURUPA FILING CAME IN JUST -- WELL, I
24 THINK IT WAS LAST WEEK.

25 **THE COURT:** BECAUSE THERE WAS A JURUPA -- THIS IS
26 MS. GRADY. YOUR FILING, JURUPA COMMUNITY SERVICES
27 DISTRICT -- SERVICES DISTRICT'S JOINDER TO MONTE VISTA WATER
28 DISTRICT AND CITY OF ONTARIO'S OPPOSITION AND REQUEST TO

1 SUBMIT A SUR-REPLY ALSO DIDN'T SHOW UP IN THE ROA. SO CAN I
2 JUST ADDRESS THIS, THE SUR-REPLY ISSUE SO WE CAN GET THE
3 PLEADINGS BECAUSE WHAT I WOULD REALLY LIKE TO DO IS SEE IF I
4 CAN RULE ON THIS ON JULY 10 AS WELL AND GET -- FINALLY GET
5 THIS ISSUE RESOLVED. CAN SOMEONE GIVE ME SOME INSIGHT AS TO
6 WHAT'S GOING ON? PERHAPS YOU, MS. GRADY, AS A START.

7 **MS. GRADY:** YES, YOUR HONOR. SO AS NOTED IN THE
8 OPPOSITION THAT WAS FILED BY MONTE VISTA AND ONTARIO AT THE
9 END OF LAST YEAR, THEY HAD, AMONG OTHER THINGS, A TIME-OUT
10 TO SEE IF THESE ISSUES COULD BE RESOLVED TRYING TO DETERMINE
11 THE PURPOSE OR THE DESIRE OF AG. POOL'S REQUEST TO
12 INCORPORATE A PORTION, BUT NOT ALL, OF SECTION 5.4 FROM THE
13 PEACE AGREEMENT INTO THE POOLING PLAN WHICH, AS YOUR HONOR'S
14 AWARE, IS PART OF THE JUDGMENT THAT CONTROLS AND IS, YOU
15 KNOW, ON A DIFFERENT LEVEL THAN THE CONTRACTUAL AGREEMENT
16 AMONG THE PARTIES.

17 SO DURING THAT PERIOD OF TIME -- AND I WOULD
18 DEFER TO LET THE OTHER PARTIES WHO ARE ENGAGED IN SPECIFIC
19 CONVERSATIONS SPEAK TO THOSE -- SOME CONVERSATIONS CONTINUED
20 BUT CONCERNS WERE RAISED ON BEHALF OF JCSD WHOM WE REPRESENT
21 ABOUT THE COST AND THE SCOPE, AS ADDRESSED IN THE SUR-REPLY,
22 OF THE FEES WHAT THE APPROPRIATE POOL IS BEING ASKED TO PAY
23 FOR ON BEHALF OF THE AGRICULTURAL POOL. THIS WAS AN ISSUE
24 THAT WAS TOUCHED UPON IN THE OPPOSITION PAPERS. AND JCSD,
25 WE FOUGHT TO SUBMIT A SUR-REPLY JUST TO PROVIDE FOR THE
26 CONTEXT TO THE COURT REGARDING AN ISSUE. IT DOES NOT
27 PROVIDE ANY INFORMATION, PER SE, THAT'S NEW TO THE COURT OR
28 THAT, YOU KNOW, THE OTHER PARTIES WOULDN'T OTHERWISE BE

1 AWARE OF. JUST CONTACT AROUND THE PARTICULAR CONCERNS THAT
2 JCSD HAS IN RELATION TO THIS MOTION.

3 AND IN ANSWER TO THE ISSUE RAISED IN THE
4 AG. POOL'S MOTION TO STRIKE, I CAN GO FURTHER INTO THE
5 MOTION TO STRIKE. BUT WE WOULD JUST ASSERT THAT THE MOTION
6 TO STRIKE WAS IMPROPER PROCEDURALLY. A MOTION TO STRIKE
7 DOESN'T APPLY TO THIS TYPE OF DOCUMENT OR FILING, AND THAT
8 THE REQUEST TO FILE A SUR-REPLY IS EXACTLY THAT, IT'S A
9 REQUEST TO THE COURT. AND THE COURT HAS DISCRETION TO
10 ACCEPT OR DENY ANY FILING THAT'S OUTSIDE OF THE TYPICAL
11 THREE DOCUMENTS SUBMITTED. AND A SUR-REPLY IS NOT UNUSUAL
12 AND WE WOULD PROVIDE THAT THERE HAS BEEN TIME FOR THE
13 AG. POOL TO RESPOND. AND IF THIS IS BEING CONTINUED,
14 THERE'S CERTAINLY MORE TIME.

15 **THE COURT:** GOT IT. THANK YOU, MS. GRADY.

16 MS. EGOSCUE.

17 **MS. EGOSCUE:** YOUR HONOR, CONTRARY TO WHAT JCSD'S
18 ATTORNEY JUST TOLD YOU, THEIR SUR-REPLY ACTUALLY DOES ARGUE
19 A PARTICULAR IN LIMINE INTERPRETATION OF THE PEACE
20 AGREEMENT, AND THERE IS NO MOTION CURRENTLY PENDING FOR THE
21 COURT'S INTERPRETATION OF THE AGREEMENT WHICH JCSD'S
22 ATTORNEYS ALSO ADMIT IN THEIR FILING.

23 THIS FILING IS SPURIOUS. IT IS LATE. IT IS
24 NOT APPROPRIATELY BEFORE THE COURT. THIS MOTION WAS
25 COMPLETE IN TERM OF FILING MANY MONTHS AGO. AND THE AG.
26 POOL WOULD LIKE TO MOVE FORWARD.

27 I AGAIN REITERATE THAT I DO NOT THINK WE
28 SHOULD BE HEARING THIS MOTION TODAY DUE TO THE INCOMPLETE

1 RECORD. BUT SINCE THE ATTORNEY FOR JCSD OPENED THE DOOR, SO
2 TO SPEAK, I MUST RESPOND.

3 **THE COURT:** GO AHEAD, PLEASE.

4 **MS. EGOSCUE:** THE AG. POOL WAS SEEKING TO AMEND ITS
5 POOLING PLAN TO REFLECT THE PRACTICE OF THE AG. POOL FOR
6 MANY YEARS. THIS PRACTICE PROCEEDED WITHOUT OBJECTION BY
7 ANY PARTY. THIS WAS A MINISTERIAL ACT. THIS MOTION
8 REFLECTS THE AG. POOL SEEKING TO UPDATE THE RULES AND
9 REGULATIONS WHICH CANNOT BE DONE IN CONTRAVENTION OF THE
10 POOLING PLAN. SO THEY BOTH HAVE TO MOVE TOGETHER.

11 THE AG. POOL WITH EXTRAORDINARY AND EXTRA
12 NOTICE TO THE PARTIES BROUGHT THE PROPOSED AMENDMENT THROUGH
13 THE POOLS IN OCTOBER IN ADDITION TO THE PROPOSED AMENDED
14 RULES AND REGULATIONS. AT THAT TIME, THE NON-AG. POOL
15 APPROVED BOTH. THE APPROPRIATIVE POOL DID NOT TAKE A
16 POSITION. AND, IN FACT, THE AG. POOL DID OBVIOUSLY APPROVE
17 THAT AND DIRECTED ME TO FILE WITH THIS COURT.

18 I FILED ON HALLOWEEN AND THEN WE SAW SOME
19 OPPOSITIONS COME IN. THERE WAS A MOTION TO STRIKE THAT WAS
20 FILED AGAINST CHINO'S OPPOSITION WHICH WENT UNANSWERED, I
21 WILL NOTE, WHICH MEANS THAT IT IS NOW NO LONGER ACTIVE. AND
22 THE AG. POOL SUBMITTED A REPLY THAT ACTUALLY IS IN CONCERT
23 WITH WHAT THE APPROPRIATIVE POOL FILED WHICH IS THAT THE
24 POOLING PLAN AMENDMENTS DO NOT IN ANY WAY, SHAPE OR FORM
25 AMEND THE PEACE AGREEMENT. IT'S CLEAR ON THE FACE OF THE
26 AMENDMENT TO THE POOLING PLAN. AND IT'S CLEAR IN THE
27 FILINGS BEFORE THIS COURT.

28 **THE COURT:** OKAY. I SEE -- DID A HAND COME UP?

1 GO AHEAD, PLEASE, COUNSEL. CAN I GET YOUR
2 APPEARANCE, PLEASE.

3 **MR. GAGEN:** YES. THANK YOU, YOUR HONOR. ANDREW GAGEN
4 ON BEHALF OF MONTE VISTA WATER DISTRICT, OPPOSING PARTIES.

5 **THE COURT:** YES. GO AHEAD, PLEASE.

6 **MR. GAGEN:** THE VERY ACTION OF CARVING OUT LANGUAGE
7 FROM SECTION 5.4 OF THE PEACE AGREEMENT AND ELEVATING IT TO
8 THE JUDGMENT IS AMENDING THE PEACE AGREEMENT. THE COURT
9 DOES NOT HAVE TO LOOK ANY FURTHER THAN SECTION 4.4 IN THE
10 PEACE AGREEMENT WHICH ALLOWS FOR THREE, AND THREE ONLY,
11 PROVISIONS WITHIN THE PEACE AGREEMENT TO BE ELEVATED TO THE
12 JUDGMENT.

13 THE DRAFTERS OF THE PEACE AGREEMENT, THE
14 PARTIES THAT SIGNED THE PEACE AGREEMENT INCLUDING AG. POOL,
15 AGREED AT THAT TIME FOR THREE AND THREE ONLY PROVISIONS TO
16 BE ELEVATED TO THE JUDGMENT.

17 WHAT THE AG. POOL IS PROPOSING TODAY IS TO
18 CARVE OUT LANGUAGE FROM THE PEACE AGREEMENT IN SECTION 5.4
19 AND ELEVATE IT TO THE JUDGMENT. THAT WOULD BE NOW ITEM
20 NUMBER 4 IN SECTION 4.4 TO BE ELEVATED TO THE JUDGMENT WHEN
21 THE PEACE AGREEMENT DOES NOT ALLOW FOR ANYTHING OTHER THAN
22 THE THREE PROVISIONS THAT ARE IN SECTION 4.4 OF THE PEACE
23 AGREEMENT.

24 **THE COURT:** GOT IT. THANK YOU FOR THAT SUCCINCT
25 ARGUMENT.

26 I CAN SEE ANOTHER HAND COMING UP.
27 MR. SCHATZ.

28 **MR. SCHATZ:** THANK YOU, YOUR HONOR.

1 JUST TO CLARIFY SOMETHING THAT MS. EGOSCUE
2 JUST SAID. THE APPROPRIATE POOL POSITION IS THAT SO LONG AS
3 THE IMPORT REMAINING INTERPRETATION APPLY IS NOT CHANGED BY
4 RESULT OF ELEVATION OF JUDGMENT, THEN WE ARE NOT OPPOSED.
5 WE WOULD BE OPPOSED IF IT DOES.

6 **THE COURT:** OKAY. I GOT THAT.

7 ALL RIGHT. SO DO I NEED A SUR-REPLY?

8 **MR. FUDACZ:** YOUR HONOR?

9 **THE COURT:** SOMEONE ELSE, PLEASE?

10 **MR. FUDACZ:** YES, YOUR HONOR. FRED FUDACZ ON BEHALF OF
11 THE CITY OF ONTARIO.

12 I WOULD REINFORCE THE COMMENTS MADE BY
13 MR. GAGEN THAT THIS IS SIMPLY A MATTER OF CONTRACT LAW. WE
14 HAVE A PROVISION IN THE PEACE AGREEMENT THAT SAYS, THOU
15 SHALT NOT ELEVATE ANYTHING EXCEPT THESE THREE PROVISIONS
16 INTO THE JUDGMENT, WHICH IS IN EFFECT OUR CONSTITUTION. IT
17 GOES BEYOND ANY AGREEMENT AMONG THE PARTIES. AND THEY ARE
18 SEEKING TO DO THAT IN THE FACE OF THAT PROVISION.

19 SO IT'S -- AND WE ARE NOT TALKING ABOUT A
20 THEORETICAL LEGAL ISSUE HERE. APPROPRIATE POOL MEMBERS ARE
21 BEING ASKED TO PAY HUNDRED OF THOUSANDS OF DOLLARS OF
22 ATTORNEY'S FEES THAT JUST AREN'T BEING INCURRED CONSISTENT
23 WITH THE PEACE AGREEMENT AS A WHOLE. SO HOWEVER
24 CHARACTERIZED BY THE AG. POOL, THIS CLEARLY IS AN AMENDMENT.
25 AND WHEN YOU AMEND AN AGREEMENT, AND PARTICULARLY IN THIS
26 CASE WHERE IT'S REQUIRED UNDER THE SECTION APPLICABLE TO
27 AMENDMENTS IN THE PEACE AGREEMENT THAT EVERYONE CONSENT, YOU
28 CAN'T DO THAT. THERE HASN'T EVEN BEEN AN ATTEMPT HERE TO

1 AMEND THE AGREEMENT BY CONSENT. WE DID TRY TO MEET AND
2 CONFER. YOUR HONOR SHOULD BE AWARE THAT WE DIDN'T GET
3 ANYWHERE. SO THAT'S WHY WE ARE HERE BEFORE YOU.

4 **THE COURT:** ALL RIGHT. OKAY. SO THE QUESTION I HAVE
5 GOT NOW IS DO I NEED A SUR-REPLY AFTER THIS ARGUMENT?
6 SOMEONE LIKE --

7 **MS. EGOSCUE:** YOUR HONOR, WE'RE QUITE A LITIGIOUS BUNCH
8 AND SINCE THE RECORD IS NOT QUITE CLEAR, I THINK THAT WE
9 SHOULD CONTINUE THE MATTER AND BE BEFORE YOU AGAIN IN TWO
10 WEEKS TO HAVE A DECISION WHEN WE ARE ASSURED THAT THERE IS A
11 COMPLETE RECORD.

12 THE MOTION NEEDS TO BE PRESERVED AS IT WAS
13 FILED. IF COUNSEL WOULD LIKE TO BRING IN OTHER EVIDENCE OF
14 FACTUAL ASSERTIONS OR STATEMENTS, THAT IS A DIFFERENT
15 MOTION. MR. FUDACZ WAS STARTING TO DISCUSS FEES AND THE
16 COST OF THOSE. THAT'S NOT WHAT IS BEFORE THIS COURT. WHAT
17 IS BEFORE THE COURT IS SOMETHING THAT THE AG. POOL HAS BEEN
18 DOING FOR A DECADE. AND THEY WERE ASKED TO CLEAN UP THEIR
19 RULES AND REGULATIONS IN THEIR POOLING PLAN, AND THEY HAVE
20 ATTEMPTED TO DO SO. THIS ISN'T ELEVATING ANYTHING. IT'S
21 NOT CHANGING THE IMPORT. IT'S SIMPLY REFLECTING LEGALLY
22 WHAT HAS BEEN DONE IN THE WATERMASTER PROCESS.

23 BELIEVE ME, YOUR HONOR, I THINK THAT THE
24 OTHER ISSUES THAT ARE ELUDED TO WILL BE BEFORE YOU SHORTLY.
25 BUT IT IS NOT PART OF THIS, NOR IS IT APPROPRIATE TO THIS
26 MOTION.

27 **THE COURT:** OKAY. MR. GAGEN, GO AHEAD, PLEASE.

28 **MR. GAGEN:** THANK YOU, YOUR HONOR.

1 SOMETHING THAT THE COURT SAID IN REGARDS TO
2 THE 2017 RESET IN ITS ORDER, THE APRIL 2017 RESET ORDER, IN
3 REGARDS TO SOMETHING THAT WATERMASTER HAD DONE. THE COURT
4 SAID THIS: EVEN THOUGH SOMETHING HAS BEEN DONE WRONG FOR A
5 LONG TIME DOESN'T MAKE IT RIGHT.

6 AND SO THAT IS AN ARGUMENT THAT WE WOULD
7 ASSERT AGAINST THE AG. POOL'S ASSERTION THAT THIS IS
8 SOMETHING THAT HAS BEEN GOING ON FOR A LONG TIME, SO
9 THEREFORE IT'S OKAY TO DO WHAT ITS TRYING TO DO WHICH IS
10 AMEND THE PEACE AGREEMENT.

11 **THE COURT:** I GOT IT. OKAY.

12 I SEE MR. GUTIERREZ. YES, MR. GUTIERREZ, GO
13 AHEAD, PLEASE.

14 **MR. GUTIERREZ:** YOUR HONOR, ON BEHALF OF THE CITY OF
15 CHINO. I DON'T ACKNOWLEDGE THAT THE CITY OF CHINO'S JOINDER
16 IS NOT BEFORE THE COURT. I RECOGNIZE THAT THE AG. POOL
17 FILED A MOTION TO STRIKE, BUT I WOULD LIKE TO POINT OUT THAT
18 THE MOTION TO STRIKE IS NOT AUTHORIZED BY THE STATUTES THAT
19 ARE MENTIONED IN THAT MOTION.

20 NEXT I WOULD LIKE TO STATE THAT THE CITY OF
21 CHINO CONCURS WITH THE STATEMENTS MADE BY MR. GAGEN AND
22 MR. FUDACZ AND MR. SCHATZ.

23 **THE COURT:** GOT IT.

24 CAN I COME BACK TO MY QUESTION: DO I NEED A
25 SUR-REPLY NOW? I HAVE HEARD QUITE A BIT OF ARGUMENT.
26 SOMEONE LIKE TO CHIME IN?

27 **MS. GRADY:** YOUR HONOR, THIS IS SHAWNDA GRADY.

28 I WOULD STILL RESPECTFULLY REQUEST THAT THE

1 COURT ACCEPT THE FILINGS OF THE SUR-REPLY TO ACKNOWLEDGE --
2 AND I THINK TO FOLLOW IN THE HISTORY OF THIS COURT'S
3 PRACTICE WHICH IS PROVIDING THE PARTIES OPPORTUNITY TO BE
4 HEARD ON MATTERS THAT IMPACT THE PARTIES MOVING FORWARD.
5 JCS D IS PARTLY CONCERNED ABOUT THE IMPACT OF THE AG. POOL'S
6 REQUEST. I WOULD DISAGREE WITH THE CHARACTERIZATION OF MY
7 REPRESENTATION OF PAPERS -- WASN'T AN ADMISSION BUT AN
8 ACKNOWLEDGMENT THAT THE MATTER BEFORE THE COURT PRESENTLY IS
9 NOT THE DISPUTE OF FEES. I WOULD AGREE WITH MS. EGOSCUE
10 THAT I ANTICIPATE IS SOMETHING THAT WE WILL BE COLLECTIVELY
11 VISITING SOONER RATHER THAN LATER.

12 HOWEVER, I THINK AS ARTICULATED IN THE
13 PAPERS, IT'S RELEVANT TO THE COURT'S CONSIDERATION AND
14 UNDERSTANDING ABOUT THE PARTIES' CONCERN OF ELEVATING THIS
15 PORTION OF THE PEACE AGREEMENT INTO THE JUDGMENT. AND I
16 THINK, FINALLY, YOU KNOW, THAT IS AN OBLIGATION FOR THE
17 AG. POOL TO ESTABLISH THE NEED FOR THAT TO OCCUR. AND OUR
18 SUR-REPLY JUST PROVIDES FURTHER COMMENTARY ON WHAT THE
19 CONCERNS ARE OF THE OTHER PARTIES IN THAT REGARD.

20 **THE COURT:** OKAY. ANYTHING FURTHER?

21 **MR. TANAKA:** YOUR HONOR, THIS IS GENE TANAKA FOR
22 RANCHO CUCAMONGA VALLEY WATER DISTRICT.

23 YOUR HONOR, I'M A LITTLE UNCLEAR IF YOU'RE
24 PLANNING TO CONTINUE IT BUT I DON'T WANT TO MISS THE
25 OPPORTUNITY -- I'LL WITHHOLD ANY COMMENTS IF YOU'RE GOING TO
26 CONTINUE IT, BUT IF YOU WANT TO HEAR COMMENTS AS PART OF
27 MAKING THE DECISION TO CONTINUE, THEN I WILL GO AHEAD AND
28 SET FORTH THE POINT I WOULD LIKE TO MAKE ABOUT MY OPPOSITION

1 TO THE MOTION.

2 **THE COURT:** I'M GOING TO CONTINUE IT.

3 **MR. TANAKA:** OKAY. SO THEN I WILL SAVE THE COURT AND
4 THE PARTIES TIME AND HOLD OFF.

5 **THE COURT:** OKAY. THE QUESTION I HAVE GOT THEN, IT
6 SOUNDS LIKE, IS TO ALLOW A SUR-REPLY. AND I AM GOING TO
7 ALLOW A SUR-REPLY ON ONE HAND. ON THE OTHER HAND, I NEED TO
8 FIGURE OUT SOME WAY TO STOP THE BRIEFING ON THIS SO WE ARE
9 NOT INTO A SUR-REPLY, SUR-OPPOSITION, A SUR-SUR-SUR-REPLY, A
10 SUR-SUR-SUR-OPPOSITION, AND BRING IT TO A CLOSE SOMEHOW.
11 AND I'M OPEN TO SUGGESTIONS ON HOW I MIGHT BE ABLE TO DO
12 THAT AND STILL KEEP THE HEARING ON THIS SET FOR JULY 10 WHEN
13 EVERYBODY ELSE IS GOING TO BE HERE, QUOTE, ANYWAYS, CLOSE
14 QUOTE.

15 MR. GAGEN.

16 **MR. GAGEN:** YES, SIR. YES, YOUR HONOR.

17 SIMILAR TO WHAT THE COURT ORDERED WITH THE
18 MOTION TO APPROVE THE SAFE YIELD RESET, CAN WE JUST AGREE TO
19 HAVE THE MATTER DEEMED NO MORE PAPERS TO BE FILED?

20 **THE COURT:** WELL, THAT WAS -- IF I DO A SUR-REPLY, THEN
21 SOMEBODY COULD BE ABLE TO RESPOND TO THE SUR-REPLY. AND
22 SO --

23 **MR. GAGEN:** YOU ARE REFERRING TO JURUPA'S?

24 **THE COURT:** YEAH. YEAH. SO I'M THINKING -- ONE
25 THOUGHT THAT OCCURRED TO ME IS THAT I LIMIT THE SUR-REPLY OF
26 JURUPA TO FIVE PAGES. SO IT'S NOT LENGTHY. AND THEN
27 MS. EGOSCUE, YOU ADDRESS IT ORALLY AT THE HEARING. AND HOW
28 DOES -- I CAN'T -- AT LEAST WE WILL HAVE -- EVERYBODY WILL

1 HAVE A CHANCE TO BE HEARD AT LENGTH AT THE HEARING AND YOU
2 CAN GET YOUR PAPERWORK FILED AND THE COURT'S DUE PROCESS
3 OBLIGATIONS ARE MET. AND I'M OPEN TO ANY OTHER SUGGESTIONS,
4 MR. GAGEN.

5 **MR. GAGEN:** THANK YOU, YOUR HONOR. IS THERE A
6 MISUNDERSTANDING BECAUSE THE JCSD HAS ALREADY SUBMITTED ITS
7 SUR-REPLY?

8 **THE COURT:** IT HAS. OKAY. YES, THAT'S RIGHT.

9 **MR. GAGEN:** IT WAS ATTACHED TO THE REQUEST.

10 **THE COURT:** IT WAS. THANKS. OKAY. I HAVE GOT IT.

11 SO YOU WANT TO REPLY, MS. EGOSCUE?

12 **MS. EGOSCUE:** I HAD -- DID THE REPLY, YOUR HONOR. IT'S
13 NOT BEFORE YOU. SO THE FILING -- I DIDN'T RESPOND TO
14 JURUPA'S FILING WHICH IS -- FURTHER UNDERSCORES THE NEED TO
15 CONTINUE --

16 **THE COURT:** OKAY.

17 **MS. EGOSCUE:** -- THE HEARING. BUT I WOULD ALSO SUPPORT
18 NO FURTHER BRIEFING OR EVIDENCE BEFORE YOUR HONOR ON THIS
19 MATTER. IT'S BEEN LONG OVERDUE. AND WE KNOW WHAT'S COMING
20 AND THEY CAN FILE ANOTHER MOTION TO ADDRESS IT.

21 **THE COURT:** OKAY. IN THAT EVENT, NO FURTHER BRIEFING.

22 **MS. EGOSCUE:** THANK YOU.

23 **THE COURT:** YOU'RE WELCOME. THANK YOU, EVERYONE.

24 I WILL HEAR THE MOTION. I HAVE GOT THE
25 SUR-REPLY. I HAVE GOT THE RESPONSE OF MS. EGOSCUE. THAT'S
26 A WRAP ON THE MOTION ON THE POOLING PLAN.

27 I SEE MR. SLATER ARISING TO ADDRESS THE
28 COURT. MR. SLATER.

1 **MR. SLATER:** YES, YOUR HONOR. JUST TO -- WAS GOING TO
2 OFFER TO PROVIDE NOTICE AS A COURTESY FOR THE ORDERS GIVEN
3 TODAY BY THE COURT.

4 **THE COURT:** THANK YOU SO MUCH, MR. SLATER. I
5 APPRECIATE YOUR WILLINGNESS TO DO THAT AND GRANT THAT
6 REQUEST GRATEFULLY.

7 ANYTHING ELSE I NEED TO ADDRESS TODAY BEFORE
8 WE ALL RECONVENE ON JULY 10TH? GOING ONCE. GOING TWICE.

9 COURT IS IN RECESS. THANK YOU EVERYONE FOR
10 ALL OF YOUR HELP. SEE YOU ON THE 10TH AT 1:30.

11 / / /

12 **(PROCEEDINGS FOR THE DAY WERE CONCLUDED.)**

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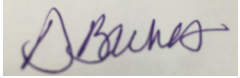
STATE OF CALIFORNIA)
 : SS.
COUNTY OF SAN BERNARDINO)

I, D'ANNE GOATCHER, PRO TEM REPORTER FOR THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SAN BERNARDINO, DO HEREBY CERTIFY:

THAT AS SUCH REPORTER, I REPORTED IN MACHINE SHORTHAND THE PROCEEDINGS HELD IN THE FOREGOING CASE;

THAT MY NOTES WERE TRANSCRIBED INTO TYPEWRITING UNDER MY DIRECTION AND THE PROCEEDINGS HELD ON JUNE 26, 2020, CONTAINED WITHIN PAGES 1 THROUGH 49, ARE A TRUE AND CORRECT TRANSCRIPTION.

DATED THIS 5TH DAY OF JUNE, 2020.



D'ANNE GOATCHER
CSR NO. 11726