

Transcript of Proceedings  
February 10, 2025

Mojave Pistachios  
vs.  
Indian Wells Valley Water District



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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF ORANGE, CIVIL COMPLEX CENTER

DEPARTMENT CX101

MOJAVE PISTACHIOS, LLC, ET AL., )  
 )  
 PLAINTIFFS, )  
 )  
 VS. ) NO. 30-2021-01187275  
 )  
 INDIAN WELLS VALLEY WATER DISTRICT, )  
 ET AL., )  
 )  
 DEFENDANTS. )  
 )  
 \_\_\_\_\_ )  
 AND CROSS-RELATED ACTIONS. )  
 \_\_\_\_\_ )

HONORABLE WILLIAM D. CLASTER, JUDGE PRESIDING

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FEBRUARY 10, 2025

JOB NO.: 10157383

JAIME PLY, CSR #13323  
 COURT REPORTER PRO TEMPORE  
 (REPORTED VIA VIDEOCONFERENCE)

1 APPEARANCES OF COUNSEL:

2

3 FOR INDIAN WELLS VALLEY WATER DISTRICT: MURPHY & EVERTZ, LLP  
BY DOUGLAS J. EVERTZ, ESQ.  
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SUITE 550  
5 COSTA MESA, CA 92626

6

7 FOR INDIAN WELLS VALLEY GROUNDWATER AUTHORITY: RICHARDS, WATSON & GERSHON  
BY KYLE BROCHARD, ESQ.  
350 SOUTH GRAND AVENUE  
8 37TH FLOOR  
LOS ANGELES, CA 90071

9

10 FOR SEARLES VALLEY MINERALS, INC.: BEST BEST & KRIEGER  
BY JEFFREY V. DUNN, ESQ.  
11 18101 VON KARMAN AVENUE  
SUITE 1000  
12 IRVINE, CA 92612

13

14 FOR CITY OF RIDGECREST: ALESHIRE & WYNDER  
BY KEITH LEMIEUX, ESQ.  
2659 TOWNSGATE ROAD  
15 SUITE 226  
WESTLAKE VILLAGE, CA 91361

16

17 FOR COUNTY OF KERN: KERN COUNTY OFFICE OF COUNTY  
18 COUNSEL  
BY PHILLIP W. HALL, ESQ.  
19 1115 TRUXTUN AVENUE  
4TH FLOOR  
20 BAKERSFIELD, CA 93301

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C H R O N O L O G I C A L I N D E X

PLAINTIFFS' WITNESSES: (NONE.)

DEFENSE WITNESSES: (NONE.)

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A L P H A B E T I C A L I N D E X

WITNESSES: (NONE.)

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E X H I B I T S

JOINT EXHIBITS: (NONE.)

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MONDAY, FEBRUARY 10, 2025

AFTERNOON SESSION

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THE COURT: GOOD AFTERNOON. WE'RE HERE FOR A STATUS CONFERENCE IN ALL OF THE INDIAN WELLS VALLEY WATER CASES. WE HAVE FOLKS IN COURT AND ALSO THOSE ON ZOOM.

I'LL ASK THE FOLKS IN COURT TO MAKE AN APPEARANCE, BUT TO THOSE WHO ARE APPEARING BY ZOOM, YOU DON'T NEED TO MAKE AN APPEARANCE, BUT IDENTIFY YOURSELF AND WHO YOU REPRESENT IF YOU WANT TO ADDRESS THE COURT.

SO FOR THOSE IN COURT, WHO DO WE HAVE TODAY ON THE PLAINTIFFS' SIDE? I GUESS THE PLAINTIFFS' SIDE BEING SOMETIMES ON THE PLAINTIFFS' SIDE, SOMETIMES ON THE DEFENSE SIDE, BUT WHO DO WE HAVE, I GUESS, FOR THE DISTRICT TODAY?

MR. EVERTZ: GOOD AFTERNOON, YOUR HONOR. DOUG EVERTZ FOR THE INDIAN WELLS VALLEY WATER DISTRICT.

THE COURT: ALL RIGHT. AND FOR SEARLES, I SUPPOSE.

MR. DUNN: YES, YOUR HONOR. JEFFREY DUNN ON BEHALF OF SEARLES. GOOD AFTERNOON.

MR. HOFFMAN: DEREK HOFFMAN FOR THE MEADOWBROOK DAIRY ENTITIES, YOUR HONOR.

THE COURT: ALL RIGHT. VERY GOOD.  
FOR THE GROUNDWATER AUTHORITY.

1 MR. BROCHARD: GOOD AFTERNOON, YOUR HONOR.

2 KYLE BROCHARD ON BEHALF OF INDIAN WELLS VALLEY  
3 GROUNDWATER AUTHORITY.

4 MR. HALL: GOOD AFTERNOON, YOUR HONOR. PHIL  
5 HALL ON BEHALF OF COUNTY OF KERN.

6 MR. LEMIEUX: GOOD AFTERNOON, YOUR HONOR.  
7 KEITH LEMIEUX, L-E-M-I-E-U-X, ON BEHALF OF THE CITY OF  
8 RIDGECREST.

9 THE COURT: OKAY. THANK YOU ALL.

10 THE REPORTER: THIS IS THE COURT REPORTER,  
11 JAIME PLY, CSR 13323.

12 THE COURT: ALL RIGHT. THANK YOU. IF YOU  
13 CAN'T HEAR SOMEONE, JUST LET ME KNOW, AND WE'LL GET THEM  
14 TO REPEAT OR SPEAK MORE SLOWLY.

15 LET ME START WITH THIS QUESTION ON THE PHASE 1  
16 TRIAL, WHICH IS SCHEDULED TO START IN ABOUT THREE  
17 MONTHS.

18 ANY PROGRESS OR CHANGE IN TERMS OF SETTLEMENT  
19 DISCUSSIONS?

20 I'LL START WITH YOU, MR. EVERTZ.

21 MR. EVERTZ: I'LL DEFER TO MR. DUNN ON THIS  
22 ONE, YOUR HONOR.

23 MR. DUNN: AND I'M GOING TO PASS IT OVER TO  
24 MR. HOOD, BUT I CAN ANSWER THE COURT'S QUESTION.

25 I THINK THAT ON THE SETTLEMENT FRONT THERE HAS  
26 BEEN NO CHANGE, BUT I'LL QUICKLY ADD THAT THE PARTIES

1 HAVE BEEN WORKING, IN MY VIEW, VERY WELL IN TERMS OF  
2 PREPARING FOR THE PHASE 1 TRIAL.

3 IT'S BEEN GOING VERY SMOOTHLY, AND THERE'S BEEN  
4 A GOOD AMOUNT OF COOPERATION. AND I'LL PASS IT TO  
5 MR. HOOD.

6 THANK YOU, YOUR HONOR.

7 THE COURT: ALL RIGHT. MR. HOOD, WHO DO YOU  
8 REPRESENT?

9 MR. HOOD: MEADOWBROOK DAIRY, YOUR HONOR. GOOD  
10 AFTERNOON. I AGREE WITH WHAT MR. DUNN SAID. THERE ARE  
11 NO CURRENTLY ONGOING SETTLEMENT DISCUSSIONS.

12 IF I WERE A BETTING MAN, WE'LL SEE YOU IN TRIAL  
13 IN THREE MONTHS, FOUR MONTHS. ALTHOUGH, I GUESS WE'RE  
14 CERTAINLY STILL OPEN TO HAVING THOSE DISCUSSIONS SHOULD  
15 THEY RESUME. BUT, OTHERWISE, WE'RE PLANNING TO SEE YOU  
16 ON THE 28TH OF APRIL.

17 THE COURT: DID YOU SAY THE 20TH OR THE 28TH?

18 MR. HOOD: 28TH, YOUR HONOR.

19 THE COURT: THAT'S WHAT I THOUGHT.

20 ALL RIGHT. WHO DO WE HAVE TODAY APPEARING ON  
21 BEHALF OF THE U.S. GOVERNMENT?

22 MS. COLEMAN: GOOD AFTERNOON, YOUR HONOR. THIS  
23 IS JUDITH COLEMAN FOR THE UNITED STATES. MR. GEHLERT IS  
24 NOT AVAILABLE TODAY.

25 THE COURT: ARE YOU IN A POSITION TO ADD TO  
26 THIS DISCUSSION AS TO THE PROGRESS OF THE CASE AND/OR

1 SETTLEMENT?

2 MS. COLEMAN: NOT TO ADD, JUST TO SECOND THAT  
3 THE PARTIES HAVE BEEN WORKING WELL TOGETHER.

4 THE COURT: OKAY. AND IS THE ESTIMATE -- I  
5 THINK THE ESTIMATE I WAS GIVEN WAS 10 COURT DAYS.

6 DO THE PARTIES AGREE THAT'S STILL A RELATIVELY  
7 ACCURATE ESTIMATE, OR DO YOU THINK THAT'S TOO LOW, TOO  
8 HIGH?

9 MR. HOFFMAN: WE THINK SO, YOUR HONOR. WE  
10 THINK THAT'S THE CORRECT AMOUNT OF TIME. I'LL INVITE MY  
11 COLLEAGUE, MR. HOOD, TO COMMENT ON THAT. I THINK WE  
12 HAVE A CLARIFICATION FOR YOU TODAY.

13 THE REPORTER: WHO IS SPEAKING?

14 MR. HOFFMAN: THIS IS DEREK HOFFMAN FOR  
15 MEADOWBROOK.

16 THE COURT: YOU NEED TO IDENTIFY YOURSELF  
17 BEFORE YOU SPEAK.

18 MR. HOOD, GO AHEAD.

19 MR. HOOD: THANK YOU, YOUR HONOR. SEAN HOOD  
20 AGAIN FOR MEADOWBROOK DAIRY.

21 SET FOR 10 DAYS. OUR UNDERSTANDING IN  
22 COMMUNICATING WITH YOUR CHAMBERS, YOUR HONOR, IS IT'S  
23 THREE DAYS PER WEEK. AND SO WE WANTED TO CONFIRM THE  
24 ACTUAL DAYS THAT WE ALL OUGHT TO HAVE BLOCKED OUT.

25 BY MY COUNT IT WOULD BE APRIL 28TH THROUGH 30TH  
26 IN THAT FIRST WEEK. MAY 5 THROUGH 7 THE NEXT WEEK. MAY

1 12TH THROUGH 14. AND THEN, IF NEEDED, THAT 10TH DAY  
2 WOULD CARRY OVER TO MAY 19TH.

3 I THINK 10 DAYS IS SUFFICIENT. HOPEFULLY WE  
4 CAN FINISH IT SOONER. I WOULD NOT PROPOSE TO GIVE YOU  
5 BACK ANY OF THOSE DAYS AT THIS TIME. IT'S BETTER TO  
6 HAVE THEM AND NOT NEED THEM, IN MY VIEW.

7 AND PART OF THIS, YOUR HONOR, I WOULD PROPOSE  
8 ON BEHALF OF MEADOWBROOK DAIRY THAT RATHER THAN SET  
9 ASIDE TIME FOR ORAL CLOSING ARGUMENTS, WE PLAN TO SUBMIT  
10 WRITTEN CLOSINGS. A CASE LIKE THIS CRIES OUT FOR THAT,  
11 IN MY VIEW.

12 I HAVEN'T TALKED ABOUT THAT WITH MS. COLEMAN,  
13 BUT THAT WOULD BE OUR PROPOSAL. WITH THAT, I BELIEVE,  
14 WE WOULD BE FAIRLY CONFIDENT WE CAN GET THIS DONE IN THE  
15 ALLOTTED TIME.

16 THE COURT: ALL RIGHT. WELL, YOU ACCURATELY  
17 STATED THE DAYS THAT I THINK WE'LL BE IN TRIAL.

18 ONE OF THE ADVANTAGES OF A COURT TRIAL VERSUS A  
19 JURY TRIAL, IF SOMETHING COMES UP AND WE NEED TO SKIP A  
20 DAY OR MOVE A DAY, WE'VE GOT THAT FLEXIBILITY, BUT PLAN  
21 ON THOSE DAYS.

22 WE HAVEN'T TALKED ABOUT OPENING STATEMENTS,  
23 CLOSING ARGUMENTS, BRIEFING, AND SO FORTH, BUT MY STRONG  
24 PREFERENCE WOULD BE TO HAVE, FIRST OF ALL, PRETTY DECENT  
25 PRETRIAL BRIEFS SO I HAVE A -- PRETTY MUCH A ROADMAP AS  
26 TO WHERE THE PARTIES THINK WE'RE GOING TO BE GOING IN

1 TERMS OF THE -- BOTH THE FACTS AND THE LAW.

2 AND THEN IN A CASE LIKE THIS, WHICH IS GOING TO  
3 INVOLVE A LOT OF TECHNICAL INFORMATION, I ASSUME, I  
4 DON'T SEE MUCH BENEFIT IN HAVING ORAL ARGUMENT AND THEN  
5 HAVING THE LAWYERS JUST SORT OF RECOUNT HOW CREDIBLE  
6 THEIR WITNESSES WERE AND HAD LESS CREDIBILITY THAN OTHER  
7 WITNESSES. SO I THINK A POST-TRIAL BRIEF PROBABLY IS IN  
8 ORDER TOO.

9 I JUST DON'T THINK THAT THE TYPICAL CLOSING  
10 ARGUMENT MAKES SENSE IN A CASE LIKE THAT. SO IF SOMEONE  
11 THINKS DIFFERENTLY, YOU CAN LET ME KNOW. WE DON'T HAVE  
12 TO DECIDE THAT TODAY AS A FINAL DECISION, BUT THAT'S  
13 CERTAINLY MY LEANING.

14 MS. COLEMAN: YOUR HONOR, THIS IS JUDY COLEMAN  
15 FOR THE UNITED STATES.

16 MAY I COMMENT?

17 THE COURT: SURE.

18 MS. COLEMAN: I THANK MR. HOOD FOR THAT. WE  
19 ACTUALLY HAD SOME QUESTIONS ALONG THE SAME LINES. I'LL  
20 TRY TO GO THROUGH THEM.

21 ON THE 10 DAYS IT DOES SEEM REASONABLE, BUT WE  
22 DO HAVE SOME QUESTIONS JUST TO MAKE SURE WE GET -- SORT  
23 OF LOOKING AT OUR HOURS' COUNT CORRECTLY.

24 AND ONE OF THOSE QUESTIONS IS, HOW MANY PARTIES  
25 ARE GOING TO BE ENGAGING IN CROSS-EXAMINATION OF OUR  
26 WITNESSES?

1                   AND OBVIOUSLY WE UNDERSTAND THAT MEADOWBROOK  
2                   AND SEARLES WILL -- WE JUST ASSUME THEY ARE ASKING  
3                   QUESTIONS, BUT WE ARE NOT -- A NUMBER OF PARTIES FILED A  
4                   NOTICE OF INTENT TO PARTICIPATE.

5                   SO WE'D LIKE SOME CLARITY ON HOW MANY ARE  
6                   ACTUALLY GOING TO PARTICIPATE TO THE EXTENT OF CROSS.

7                   THE COURT: LET ME FIRST SAY THIS: WE'RE NOT  
8                   GOING TO HAVE MULTIPLE PARTIES ASK OVERLAPPING QUESTIONS  
9                   ON EVERY WITNESS.

10                  I WOULD HOPE THAT THE NON-GOVERNMENT PARTIES  
11                  COULD DESIGNATE ONE LAWYER PER WITNESS AS THE LEAD  
12                  LAWYER, WHICH WOULDN'T PRECLUDE SOME FOLLOW-UP  
13                  QUESTIONING.

14                  BUT RATHER THAN HAVING EVERYONE PREPARE TO  
15                  START FROM SCRATCH ON THEIR EXAMINATION OR  
16                  CROSS-EXAMINATION OF A WITNESS, YOU SHOULD REALLY FIND  
17                  ONE LAWYER TO TAKE THE LEAD.

18                  AND TO THE EXTENT THERE'S SOME FOLLOW-UP THAT  
19                  THE OTHER LAWYERS HAVE THAT HASN'T BEEN COVERED THAT'S  
20                  RELEVANT, I'D BE INCLINED TO ALLOW THAT. BUT THAT'S NOT  
21                  SOMETHING WE'VE TALKED ABOUT SO FAR, BUT THAT WOULD BE  
22                  MY INCLINATION.

23                  WELL, LET ME ASK THE THREE LAWYERS ON WHAT I  
24                  CONSIDER THE PLAINTIFFS' SIDE OF THE BENCH TODAY, THE  
25                  DISTRICT, MEADOWBROOK, AND SEARLES.

26                  ARE YOU ALL GOING TO BE PARTICIPATING IN THIS

1 CASE? YOU'RE ALL NODDING AFFIRMATIVELY.

2 MR. DUNN: YES, YOUR HONOR.

3 THE COURT: ARE ANY OF YOU -- I WANT TO PHRASE  
4 THIS CORRECTLY, AND I'M NOT LIMITING IT TO THE THREE OF  
5 YOU, BUT HAS ANYONE STEPPED UP AND SAID, "I CAN HELP  
6 ORGANIZE THINGS SO WE DON'T HAVE A LOT OF PEOPLE  
7 STEPPING ON EACH OTHER'S TOES"?

8 MR. DUNN, YOU'RE NODDING "YES," BUT IT LOOKS  
9 LIKE -- MR. HOFFMAN.

10 MR. HOFFMAN: DEREK HOFFMAN FOR MEADOWBROOK.

11 I WOULD EXPECT A COORDINATED, THOUGHTFUL  
12 APPROACH.

13 THE COURT: I WOULD TOO.

14 IS SOMEONE GOING TO TAKE THE LEAD, OR ARE YOU  
15 GOING TO JUST ARM WRESTLE WHEN WE GET TO TRIAL?

16 MR. DUNN: THIS IS MR. DUNN, YOUR HONOR.

17 NO. WE'LL HAVE IT ORGANIZED. WE'VE TAKEN THAT  
18 ORGANIZED APPROACH WITH THE DEPOSITIONS SO FAR, AND SO I  
19 WOULD FULLY EXPECT THAT TO CONTINUE.

20 WE'VE COMPLETED THE PERCIPIENT DEPOSITIONS, AND  
21 WE'RE GETTING READY NEXT WEEK TO DO EXPERTS. SO I THINK  
22 WE'LL HAVE A BETTER IDEA.

23 BUT I CAN SAY WITH CONFIDENCE THAT FOR THE  
24 THREE OF US AND THE FIRMS THAT WE REPRESENT, WE'LL HAVE  
25 THIS COORDINATED AND WORKED OUT.

26 THE COURT: OKAY. SO, MS. COLEMAN, THAT

1 DOESN'T DIRECTLY ANSWER THE QUESTION YOU POSED, WHICH  
2 IS, WHO IS GOING TO ACTUALLY PARTICIPATE, BUT DO YOU  
3 WANT TO FOLLOW UP ON THAT AT ALL? DO YOU WANT ACTUALLY  
4 A LIST OF EVERY -- A LIST WOULDN'T HELP YOU. WHAT ELSE  
5 DO YOU WANT TO KNOW?

6 MS. COLEMAN: WE'RE OBVIOUSLY QUITE FAMILIAR  
7 WITH THE -- I CAN'T REALLY SEE THE COURTROOM WELL, BUT I  
8 ASSUME IT'S THE THREE PARTIES. I ASSUME WHICH THREE  
9 PARTIES ARE THERE.

10 BUT I KNOW THAT A NUMBER OF ENTITIES THAT HAVE  
11 NOT SHOWN UP AT DEPOSITIONS OR SHOWN UP TO WATCH BUT NOT  
12 ASK OR ONLY ASK ONE QUESTION OR TWO ARE ON THERE.

13 AND IT'S SORT OF -- I JUST DON'T WANT TO BE  
14 SURPRISED BY A LINE OF QUESTIONING FROM SOMEONE WHO  
15 HASN'T BEEN PART OF THE COORDINATED GROUP THAT WE'VE  
16 BEEN DEALING MOST WITH.

17 THE COURT: I DON'T KNOW HOW YOU CAN GUARANTEE  
18 YOU WON'T GET SOMETHING OUT OF THE BLUE BY SOMEONE WHO  
19 DIDN'T PARTICIPATE IN DEPOSITIONS. SO I DON'T KNOW WHAT  
20 YOU'RE ASKING.

21 IF YOU'RE REALLY ASKING THOUGH, ARE WE GOING TO  
22 HAVE TO DEAL WITH 12 DIFFERENT LAWYERS ASKING A WHOLE  
23 HOST OF SOMEWHAT RELATED, SOMEWHAT UNRELATED QUESTIONS?  
24 I HOPE NOT.

25 AND I'LL CERTAINLY LEAN ON THE NON-GOVERNMENT  
26 LAWYERS TO DO WHAT MR. DUNN IS REPRESENTING AND

1 MR. HOFFMAN IS REPRESENTING THEY PLAN TO DO IS TO HAVE  
2 SOMEONE TAKE THE LEAD TO AVOID THAT.

3 MS. COLEMAN: OKAY. THANK YOU.

4 ON THE TRIAL BRIEFS, THANK YOU FOR THE  
5 CLARIFICATION ABOUT THAT. I THINK WE WOULD BE  
6 INTERESTED IN HAVING A PAGE LIMIT SET.

7 AND TO THE EXTENT THERE'S ANY MORE SPECIFIC  
8 GUIDANCE THAT WOULD -- ABOUT WHAT WOULD BE MOST HELPFUL  
9 FOR THE COURT, WE WOULD WELCOME THAT.

10 THE COURT: WELL, I'M USUALLY A BIG FAN OF PAGE  
11 LIMITS PARTICULARLY WITH MOTIONS BECAUSE IT REALLY TAKES  
12 A LOT OF TIME TO READ IT ALL AND TO COMPREHEND IT.

13 IN A TRIAL BRIEF THOUGH I'M WONDERING THIS:  
14 FIRST OF ALL, I ASSUME WHAT I'M GOING TO GET IS A  
15 SUMMARY OF EACH SIDE'S EVIDENCE OR WHAT THEY THINK THE  
16 EVIDENCE IS GOING TO SHOW.

17 AND I'D LIKE TO KNOW WHAT KIND OF EVIDENCE  
18 WE'RE GOING TO GET. AND AS AN ASIDE, I WOULDN'T HAVE A  
19 PROBLEM IF YOU CAN STIPULATE TO AS MUCH AS YOU CAN  
20 STIPULATE TO, WHICH MAY NOT BE A LOT, BUT I'D LIKE TO  
21 SEE WHERE WE CAN GET TO IN STIPULATIONS.

22 AND THEN I THINK THAT IN TERMS OF THE FEDERAL  
23 GOVERNMENT RESERVE RIGHT, I DON'T HAVE A LOT OF  
24 INFORMATION ON THAT.

25 I'VE SEEN IT REFERENCED IN SOME CASES, BUT  
26 PRESUMABLY EACH SIDE NEEDS TO SET FORTH WHAT THEY THINK

1       THEY NEED TO PROVE OR WHAT NEEDS TO BE PROVEN.

2               SO I DON'T KNOW THAT WE NEED TO SET A PAGE  
3       LIMIT.   HOPEFULLY THIS CAN BE DONE IN A REASONABLE  
4       AMOUNT OF PAGES, BUT ON A TRIAL BRIEF I'M NOT INCLINED  
5       TO SAY, "WELL, NO MORE THAN 10 PAGES OR 12 PAGES."

6               I HAVE NO IDEA WHAT THE EVIDENCE IS GOING TO  
7       BE, AND I DON'T KNOW WHAT, IF ANY, CONTROVERSIAL LEGAL  
8       ISSUES THERE ARE.

9               LET ME ASK YOU, MS. COLEMAN, AS FAR AS YOU  
10      KNOW, ARE THERE ANY TRULY DISPUTED LEGAL ISSUES, OR IS  
11      THIS TRIAL GOING TO BE MOSTLY A FACTUAL DISPUTE, AS FAR  
12      AS YOU KNOW?

13              MS. COLEMAN:   WELL, WE ASKED THE OTHER PARTIES  
14      IN DISCOVERY IF THEY WERE PLANNING TO CONTEST THE  
15      EXISTENCE OF A FEDERAL RESERVE WATER RIGHT, AND THEY ALL  
16      DEMURRED AND SAID THEY COULDN'T TELL US.

17              SO WE'RE HOPING THERE'S NO DISPUTE ABOUT THE  
18      EXISTENCE OF A FEDERAL RESERVE WATER RIGHT.   IF THERE  
19      IS, THAT WOULD BE A SIGNIFICANT LEGAL ISSUE.

20              OTHER THAN THAT, I THINK IT'S A FACTUAL MATTER  
21      AND MAYBE SOME QUESTIONS ABOUT WHAT'S IN AND WHAT'S OUT.

22              THE COURT:   OKAY.   LET ME ASK YOU, MR. HOFFMAN  
23      AND MR. DUNN, WHAT ARE THE LEGAL ISSUES IN THIS CASE AS  
24      YOU SEE IT AS YOU SIT HERE TODAY?

25              MR. HOFFMAN:   I WILL DEFER TO MR. HOOD ON THIS,  
26      YOUR HONOR, MY COLLEAGUE.

1 THE COURT: MR. HOOD.

2 MR. HOOD: THANK YOU, YOUR HONOR. SEAN HOOD  
3 AGAIN FOR MEADOWBROOK DAIRY.

4 SO YOU'RE GOING TO HEAR TESTIMONY FROM A NUMBER  
5 OF WITNESSES. THERE WILL BE SOME FACTUAL DISPUTES.  
6 MOST OF THOSE DISPUTES ARE GOING TO BE ABOUT THE FUTURE.

7 AND I THINK WE'VE ALLUDED TO THIS IN PAST  
8 STATUS CONFERENCES WITH YOU, YOUR HONOR. THE PRESENT  
9 DAY WATER USE AND WATER NEEDS, THERE'S NOT GOING TO BE A  
10 WHOLE LOT OF DISPUTE THERE. THERE WILL BE SOME THINGS  
11 AROUND THE EDGES THAT MAYBE AREN'T AGREED UPON.

12 WHAT REALLY IS GOING TO DRIVE THIS DECISION,  
13 YOUR HONOR, IS, DOES THE GOVERNMENT HAVE THE EVIDENCE  
14 NECESSARY TO DEMONSTRATE THAT THEY NEED SEVERAL  
15 MULTIPLES OF THE VOLUME OF WATER THAT THEY'VE USED IN  
16 RECENT HISTORICAL PERIODS FOR FUTURE SCENARIOS THAT WE  
17 BELIEVE ARE UNSUPPORTED? THAT'S GOING TO BE THE NATURE  
18 OF THE TRIAL.

19 THE COURT: ALL RIGHT. BUT TO BE A LITTLE BIT  
20 MORE SPECIFIC, AS FAR AS YOU KNOW, AS YOU SIT HERE  
21 TODAY, ARE THERE ANY SIGNIFICANT LEGAL ISSUES THE COURT  
22 IS GOING TO HAVE TO DECIDE AS OPPOSED TO FACTUAL ISSUES?

23 MR. HOOD: I THINK IT'S GOING TO BE MORE ABOUT  
24 APPLYING THE LAW TO THE FACTS, YOUR HONOR, THAN LEGAL  
25 DISPUTES.

26 THE LEGAL REGIME IS FAIRLY WELL-DELINEATED FROM

1 THE UNITED STATES SUPREME COURT AND BY A HOST OF COURTS  
2 THAT HAVE INTERPRETED THOSE CASES.

3 THE FEDERAL RESERVE RIGHT DOCTRINE AND THE  
4 MINIMAL NEED DOCTRINE THAT THE GOVERNMENT NEEDS TO PROVE  
5 THE MINIMAL AMOUNT OF WATER THAT IS SUFFICIENT TO FILL  
6 THE PURPOSES OF THE RESERVATION, ALL OF THAT LAW IS VERY  
7 WELL-ESTABLISHED.

8 THERE WON'T BE DISPUTES THERE. I HAVE EVERY  
9 EXPECTATION THAT THERE MIGHT BE SOME DISAGREEMENT ABOUT  
10 HOW THAT APPLIES TO THE FACTS.

11 THE COURT: OKAY. BUT I'M TAKING THAT ANSWER,  
12 SOMEWHAT LONG ANSWER, TO RESPOND TO MS. COLEMAN'S  
13 QUESTION THAT THERE'S NO DISPUTE THAT THERE IS SUCH A  
14 THING AS A FEDERAL RESERVE WATER RIGHT.

15 MR. HOOD: I'M NOT IN A POSITION RIGHT NOW TO  
16 SAY THAT WE DON'T CONTEST THAT THERE'S THE FEDERAL  
17 RESERVE RIGHT FOR THE BASE. I DON'T HAVE THAT AUTHORITY  
18 AS I STAND HERE RIGHT NOW.

19 I'M NOT PREPARING THAT TO BE OUR CASE IN APRIL.  
20 SO IF THAT'S AN -- AN INDIRECT WAY OF SAYING, YOUR  
21 HONOR, THAT'S NOT THE CASE I PLAN TO PUT ON, BUT I DON'T  
22 HAVE CLIENT AUTHORITY TO SAY, "YES. THEY HAVE A FEDERAL  
23 RESERVE RIGHT."

24 WE PLAN TO COME IN IN APRIL AND DESCRIBE WHAT  
25 WE BELIEVE IS THE MINIMAL AMOUNT OF WATER NECESSARY TO  
26 FULFILL THE PURPOSES OF THE RESERVATION.

1 THE COURT: ALL RIGHT. WELL, IT'S A LITTLE BIT  
2 OF A NONANSWER. AND FOR THE LAWYER WHO PRESUMABLY HAS  
3 EXPERTISE IN WATER LAW TO SAY, "GEE, MY CLIENT HASN'T  
4 LET ME MAKE THAT ARGUMENT," IS -- AND I'M NOT SAYING  
5 THIS IN A MEAN WAY, BUT IT'S A LITTLE DISINGENUOUS  
6 BECAUSE YOU'RE GOING TO ADVISE THE CLIENT AS OPPOSED TO  
7 THEM ADVISING YOU.

8 SO LET ME SAY THIS: THIS TRIAL HAS BEEN SET  
9 FOR NINE OR 10 MONTHS, AND NO ONE HAS EVER TOLD ME IN  
10 ANY OF THE STATUS CONFERENCE STATEMENTS OR IN THE TRIAL  
11 ORDER THAT THERE WOULD BE AN ISSUE AS TO WHETHER THERE  
12 EVEN WAS A FEDERAL RESERVE WATER RIGHT THAT EXISTED.

13 AND SO NOT THAT THAT ISSUE NECESSARILY HAS BEEN  
14 WAIVED, BUT YOU WOULD THINK THAT AS WE PREPARE FOR A  
15 10-DAY TRIAL, IF IT DIDN'T EXIST, ONE OF THE MANY  
16 PARTICIPANTS WOULD SAY, "JUDGE, WE THINK THERE'S A HUGE  
17 ISSUE HERE THAT WE SHOULD BRIEF AND DECIDE WHETHER  
18 THERE'S EVEN SUCH A THING."

19 SO BARRING SOMEONE MAKING A LAST-MINUTE MOTION,  
20 WHICH I'M NOT EVEN SURE I HEAR, I'M GOING TO ASSUME THAT  
21 THERE IS SUCH A THING AS A FEDERAL RESERVE WATER RIGHT.

22 AND TO THE EXTENT THAT SOMEONE SHOWS UP AND  
23 SAYS, YOU KNOW, "GOSH, WE DON'T THINK ONE EXISTS," I'M  
24 GOING TO TELL YOU I THINK IT'S TOO LATE GIVEN EVERYTHING  
25 THAT'S HAPPENED.

26 OKAY. MS. COLEMAN, WHAT ELSE ON YOUR END?

1 MS. COLEMAN: I TAKE YOUR POINT THAT YOU DON'T  
2 WANT TO SET A LIMIT ON TRIAL BRIEFS.

3 I THINK WE WOULD, RESPECTFULLY, SUGGEST A  
4 20-PAGE LIMIT JUST TO KEEP IT UNDER CONTROL, OR IT COULD  
5 BE GUIDANCE, 20-PAGE GUIDANCE, IF THAT'S BETTER, JUST SO  
6 WE'RE NOT SEEING A 60-PAGE JOINT FILING.

7 THE COURT: I'M NOT SURE WHAT A 60-PAGE JOINT  
8 FILING WOULD INCLUDE OTHER THAN EVERY PIECE OF EVIDENCE  
9 THEY INTEND TO PURSUE, BUT THINK ABOUT IT.

10 ASIDE FROM THE FACT THAT YOU'D HAVE A 60-PAGE  
11 BRIEF YOU'D HAVE TO READ, PRESUMABLY IF THEY WANT TO GO  
12 THAT ROUTE, THEY'D HAVE TO REVEAL EVERY PIECE OF  
13 EVIDENCE THEY ARE GOING TO PUT ON, WHICH ACTUALLY MIGHT  
14 BE IN YOUR BENEFIT TO KNOW EVERYTHING THEY ARE GOING TO  
15 DO.

16 MS. COLEMAN: THAT'S TRUE.

17 THE COURT: I'M NOT TRYING TO SELL IT, BUT I  
18 THINK OF THE TRIAL BRIEFS AS SOMETHING THAT'S BENEFITING  
19 ME, NOT YOU. I DON'T MEAN THAT THE WAY THAT SOUNDS.

20 BUT I WANT THE ROADMAP SO I KNOW WHERE THE  
21 EVIDENCE IS GOING TO GO AND WHAT EACH SIDE IS TRYING TO  
22 PROVE SO HOPEFULLY IT CAN BE DONE IN A SUCCINCT WAY.

23 HOPEFULLY IT'S NOT 60 PAGES, BUT IF THAT'S WHAT  
24 IT TAKES TO LAY OUT ALL THE EVIDENCE, THAT'S FINE. I  
25 DON'T REALLY NEED EVERY PIECE OF EVIDENCE LAID OUT, BY  
26 THE WAY.

1 MS. COLEMAN: THANK YOU FOR THAT.

2 ONE OTHER -- SO JUST GOING THROUGH MY LIST OF  
3 PROCEDURAL THINGS. AS YOU MAY BE AWARE, YOUR HONOR, WE  
4 HAVE THREE NAVY OFFICERS TESTIFYING AS WITNESSES, AND  
5 TWO OF THEM WILL BE COMING DOWN FROM RIDGECREST TO  
6 TESTIFY AND ONE COMING UP FROM SAN DIEGO.

7 SO WE HAVE CONFERRED WITH THE OTHER PARTIES  
8 ABOUT OUR NEED TO HAVE THEIR DATE FOR TESTIMONY SET SO  
9 THEY CAN SCHEDULE THEIR OTHER IMPORTANT WORK AROUND  
10 THAT.

11 WE WILL PROPOSE A SCHEDULE TO THE OTHER  
12 PARTIES. IN PARTICULAR, ONE OF THOSE -- OUR TWO  
13 ADMIRALS HAS VERY LIMITED AVAILABILITY AND SO WOULD NEED  
14 TO GO ON MAY 14TH.

15 SO TO THE EXTENT THAT THESE THINGS ARE GOING TO  
16 SHIFT OUR DAYS OF THE WEEK, OUR ESTIMATES, WE JUST  
17 WANTED TO HAVE THAT NOTED IN ADVANCE.

18 ANOTHER POINT IS THAT THERE IS ANOTHER FIELD  
19 TRIAL GOING IN THE CUYAMA ADJUDICATION, THE BOLTHOUSE  
20 MATTER BEFORE JUDGE HIGHBERGER IN LA SUPERIOR.

21 MR. DUNN COULD SPEAK TO THIS MORE, BUT IT'S A  
22 TWO-DAY PROVE-UP-TYPE TRIAL, AS I UNDERSTAND IT, ON MAY  
23 12 AND MAY 13TH.

24 AND WE WANTED TO UNDERSTAND IF THERE WAS ANY --  
25 IF THE PARTIES WERE STILL INTENDING TO DO TRIAL IN THIS  
26 CASE ON THOSE DAYS OR WHETHER IT WOULD MAKE SENSE TO

1 SORT OF BE DARK ON THOSE TWO DAYS DURING THE CUYAMA  
2 TRIAL.

3 THE COURT: I'LL GET TO YOU, MR. DUNN, IN A  
4 MOMENT.

5 WHAT I'D SAY ON YOUR FIRST POINT IS THERE'S NO  
6 REASON IN A CASE LIKE THIS THAT THE PARTIES SHOULDN'T  
7 COOPERATE IN TERMS OF WHAT WITNESSES CAN TESTIFY AND  
8 WHAT DAY REGARDLESS OF WHETHER THEY ARE BROUGHT BY THE  
9 GOVERNMENT OR OTHER PARTIES.

10 I ASSUME THE GOVERNMENT HAS THE BURDEN OF PROOF  
11 IN THIS CASE. IN OTHER WORDS, YOU GO FIRST. SO IF YOU  
12 WANT THE OTHER SIDE TO ACCOMMODATE YOUR WITNESSES, JUST  
13 TELL THEM WHO AND WHEN, AND I'M GENERALLY OKAY WITH IT.

14 THE 14TH IS AN INTERESTING DAY OF MAY BECAUSE  
15 THAT TRIAL COULD BE ALMOST OVER OR OVER BY THEN, BUT I  
16 SUPPOSE WE CAN JUST SHOW UP FOR THAT ONE WITNESS IF  
17 NEED-BE, BUT THE PARTIES JUST NEED TO WORK ON THAT.

18 MR. DUNN, WHAT ABOUT THE CASE BEFORE JUDGE  
19 HIGHBERGER?

20 MR. DUNN: YES. JUDGE HIGHBERGER IS AWARE OF  
21 THIS CASE AND ITS TRIAL DATE ON APRIL 28TH. THIS IS A  
22 FAIRLY RECENT DEVELOPMENT WITH JUDGE HIGHBERGER, A  
23 RESOLUTION OF THE SECOND PHASE OF TRIAL IN THAT CASE,  
24 WHICH IS SAFE YIELD.

25 I HAVEN'T HAD A CHANCE TO TALK TO THE OTHER  
26 ATTORNEYS, SOME OF WHOM ARE ON THIS VIDEO CONFERENCE,

1 BUT I SUSPECT THAT, GIVEN THE AMOUNT OF TIME THAT WE HAD  
2 PREVIOUSLY RESERVED FOR JUDGE HIGHBERGER, THERE'S MORE  
3 FLEXIBILITY ON HIS CALENDAR.

4 AND WHAT I WOULD PROPOSE, AND WE CAN GET BACK  
5 TO THE COURT ON THIS, IS THAT WE KEEP THE TRIAL DATES  
6 THAT WE HAVE HERE AND SEE IF WE CAN COME BACK TO JUDGE  
7 HIGHBERGER A LITTLE BIT LATER WITH WHAT WE NEED TO DO  
8 THERE.

9 AGAIN, NONE OF THIS HAS BEEN DISCUSSED YET WITH  
10 THE OTHER PARTIES OR JUDGE HIGHBERGER. I THINK, GIVEN  
11 MY EXPERIENCE NOW IN THIS CASE AND WITH JUDGE  
12 HIGHBERGER, I THINK THAT'S THE MORE LIKELY SOLUTION  
13 HERE.

14 I WANT TO QUICKLY ADD THAT IN TERMS OF  
15 SCHEDULING THE WITNESSES FOR THE GOVERNMENT, WE'VE  
16 INITIATED THAT CONVERSATION WITH THEM AFTER EVERY  
17 DEPOSITION AND HAVE INDICATED WE HAVE GREAT FLEXIBILITY  
18 OR MAXIMUM FLEXIBILITY TO ACCOMMODATE THESE THREE  
19 OFFICERS' SCHEDULES.

20 SO ESSENTIALLY WHATEVER IT TAKES THAT THEY  
21 NEED, WE'LL DO THAT. IF WE HAVE TO TAKE PEOPLE OUT OF  
22 ORDER, WHATEVER.

23 WE ARE IN COMPLETE AGREEMENT WITH THE NEED TO  
24 COORDINATE THESE THREE PERSONS' SCHEDULES GIVEN THEIR  
25 RESPONSIBILITIES.

26 SO THERE'S NO -- THERE WILL BE NO ISSUE ON OUR

1 END IN TERMS OF SCHEDULING. WE'RE JUST WAITING TO HEAR  
2 BACK FROM THE UNITED STATES ON WHAT THEY NEED.

3 THE COURT: OKAY. MS. COLEMAN, WHAT ELSE ON  
4 YOUR LIST?

5 MS. COLEMAN: OPENINGS. WE -- SIMILAR TO OUR  
6 DISCUSSION OF CLOSINGS, WE ARE INTERESTED IN THE COURT'S  
7 PREFERENCE ON HAVING OPENING STATEMENTS IN ADDITION TO  
8 THE TRIAL BRIEFS OR WHETHER THEY ARE NECESSARY AS WE TRY  
9 TO FIGURE OUT THE HOURS THAT ARE AVAILABLE TO US ON THAT  
10 FIRST DAY ON THE 28TH.

11 THE COURT: WELL, I'M GOING TO ASSUME I'M GOING  
12 TO GET FAIRLY THOROUGH BRIEFS FROM YOU, WHICH WILL BE  
13 VERY HELPFUL.

14 ASSUMING THAT, I REALLY DON'T NEED AN OPENING.  
15 SOMETIMES I'VE HAD LAWYERS SAY, "WELL, YOU'VE GOT THE  
16 BRIEF, BUT WE'D LIKE TO MAKE AN OPENING ANYWAY," PERHAPS  
17 BECAUSE A CLIENT IS GOING TO BE IN ATTENDANCE.

18 SO I WOULD ALLOW SHORT OPENINGS, 15 OR 20  
19 MINUTES, IF THE PARTIES REALLY WANT IT, BUT I'M NOT  
20 ENCOURAGING IT BECAUSE I'M ASSUMING I'M GOING TO GET  
21 GOOD BRIEFING.

22 AND I'LL HAVE BASICALLY THE LAW AND A SUMMARY  
23 OF WHAT EACH SIDE THINKS THE FACTS ARE IN FRONT OF ME,  
24 AND THAT'S WHAT A GOOD OPENING WOULD BE ANYWAY.

25 SO DON'T NEED AN OPENING, BUT IF YOU REALLY  
26 WANT TO DO IT BECAUSE THERE'S -- MAKE AN APPEARANCE FOR

1 YOUR CLIENT BECAUSE THEY ARE GOING TO BE IN ATTENDANCE ,  
2 I'LL ALLOW A SHORT ONE, 15 TO 20 MINUTES.

3 MS. COLEMAN: OKAY. THANK YOU.

4 I THINK THAT COVERS -- JUST ONE -- I'M SORRY,  
5 ONE MORE THING. CONNECTED TO THE SCHEDULING OF THE  
6 OFFICERS, WE MIGHT END UP IN A SITUATION WHERE THERE  
7 WOULD BE A GAP.

8 IF A WITNESS IS TESTIFYING IMMEDIATELY BEFORE  
9 AN OFFICER FINISHES EARLIER THAN WE EXPECTED, WE ARE --  
10 IT'S NOT CLEAR THAT WE'LL NECESSARILY HAVE SOMEONE IN  
11 THE BULLPEN READY TO GO TO FILL IN THAT COUPLE HOURS. I  
12 KNOW THAT WOULD BE MOST JUDGES' PREFERENCES TO JUST KEEP  
13 ROLLING, BUT I JUST WANTED TO FLAG THAT.

14 THE COURT: NOT UNLIKE MOST COURTS, THE PARTY  
15 PRESENTING THE EVIDENCE SHOULD HAVE A WITNESS IN THE  
16 BULLPEN, SO TO SPEAK, OR SOMEONE OUTSIDE READY TO GO IF  
17 A WITNESS GOES FASTER THAN ANTICIPATED.

18 I GET THE FACT THAT WE NEED TO MAKE SOME  
19 ACCOMMODATIONS FOR THE NAVAL OFFICERS, SO I'M OKAY WITH  
20 THAT.

21 BUT AS A GENERAL RULE, I WANT THE PARTIES WHO  
22 ARE CALLING WITNESSES TO TELL THE OTHER SIDE WHO THE  
23 WITNESSES ARE AT LEAST 24 HOURS IN ADVANCE.

24 AND ALSO TO ANTICIPATE THAT MAYBE A WITNESS  
25 WON'T TAKE AS LONG AS HAD BEEN THOUGHT AND THAT THERE'S  
26 ANOTHER WITNESS SO WE DON'T HAVE HUGE GAPS.

1 NOT QUITE AS URGENT AS WHEN YOU HAVE A JURY,  
2 BUT I STILL WANT TO USE OUR TIME EFFICIENTLY SO WE CAN  
3 GET THE TRIAL DONE WITHIN THE 10 DAYS THAT HAVE BEEN  
4 ALLOTTED.

5 MS. COLEMAN: OKAY. WE UNDERSTOOD, I THINK,  
6 FROM THE CLERK THAT THE TRIAL DAYS GO FROM 9:00 A.M. TO  
7 4:00 P.M.; IS THAT CORRECT?

8 THE COURT: CORRECT. THERE'S A LITTLE  
9 FLEXIBILITY, BUT WE TYPICALLY START AT 9:00. GO UNTIL  
10 10:30. TAKE A 15-MINUTE BREAK. GO UNTIL NOON.

11 WE'RE IN RECESS FROM NOON UNTIL 1:30. THEN GO  
12 ABOUT 1:30 TO EITHER A QUARTER TO 3:00 OR MAYBE 3:00,  
13 AND THEN STOP AT 4:00 TO 4:15.

14 MS. COLEMAN: THANK YOU.

15 OKAY. I HAVE SOME PRETRIAL MATTERS TO DISCUSS  
16 NEXT IF I MAY CONTINUE, WITH THE COURT'S INDULGENCE.

17 THE COURT: GO AHEAD.

18 MS. COLEMAN: SO THE DISCOVERY CUTOFF DATE IS  
19 FEBRUARY 20TH. THE UNITED STATES WOULD LIKE TO REQUEST  
20 A LIMITED EXTENSION OF TWO WEEKS FOR THE SOLE PURPOSE OF  
21 COMPLETING OUR DOCUMENT DISCLOSURES.

22 THESE ARE NOT THE EXPERT DISCLOSURES THAT WE  
23 WOULD BE MAKING LATE. THIS IS JUST SORT OF GETTING THE  
24 LAST BITS OF CUSTODIAN DOCUMENTS OUT THAT MIGHT BE  
25 RESPONSIVE TO THE REQUESTS AND IDENTIFYING THOSE  
26 APPROPRIATELY.

1 WE ARE, JUST FOR THE OTHER PARTIES' SAKE, GOING  
2 TO BE DISCLOSING THE -- MR. BYSON'S DOCUMENTS THIS WEEK,  
3 SO THIS WON'T AFFECT HIS DEPOSITION. THIS IS JUST SORT  
4 OF CLEANING UP DOCUMENT PRODUCTIONS.

5 THE COURT: OKAY. SO TO UNDERSTAND, YOU'VE  
6 PRODUCED A LOT OF DOCUMENTS PRESUMABLY?

7 MS. COLEMAN: YES.

8 THE COURT: AND WHAT YOU'RE SAYING IS IN  
9 RESPONSE TO A DISCOVERY REQUEST, YOU'VE FOUND SOME OTHER  
10 DOCUMENTS THAT YOU THINK ARE RELEVANT, OR YOU DECIDED  
11 THERE ARE CERTAIN OTHER DOCUMENTS YOU WANT TO USE IN  
12 EVIDENCE, AND YOU WANT TO DISCLOSE THEM OR SHARE THEM  
13 WITH THE OTHER SIDE; RIGHT? IS THAT IT?

14 MS. COLEMAN: GENERALLY, YES.

15 THE COURT: WELL, IS YOUR QUESTION THIS: IF  
16 YOU DON'T -- UNDER THE CURRENT REGIMEN, IF YOU DON'T  
17 GIVE THEM ALL THE DOCUMENTS BY FEBRUARY 20TH, DO YOU  
18 THINK THE COURT WILL BAR YOU FROM USING THEM? IS THAT  
19 WHAT YOU'RE CONCERNED ABOUT?

20 MS. COLEMAN: THAT WOULD BE THE CONCERN, YES.

21 THE COURT: OKAY. YOU REFERRED TO CLEAN-UP  
22 DOCUMENTS.

23 ARE THESE -- WHAT ARE CLEAN-UP DOCUMENTS?

24 MS. COLEMAN: WELL, I MEAN, WE HAVE A NUMBER OF  
25 CUSTODIANS WHOSE DOCUMENTS WE'VE GONE THROUGH, AND SOME  
26 OF THEM ARE VERY -- THEY ARE NOT EXACTLY TARGET-RICH

1 CUSTODIAN SETS.

2 MIGHT BE A STRAY E-MAIL HERE AND THERE THAT'S  
3 ARGUABLY RESPONSIVE TO THE VERY BROAD DISCOVERY REQUESTS  
4 WE GOT. WE WANT TO DO OUR DILIGENCE AND GET THESE  
5 DOCUMENTS OUT.

6 BUT THEY ARE NOT -- I WOULDN'T NECESSARILY CALL  
7 THEM THE EXHIBITS THAT WE WOULD BE LOOKING TO USE.  
8 WE'RE JUST TRYING TO BE RESPONSIVE AND COMPLETE OUR  
9 REVIEW.

10 THE COURT: SO YOU SAID FEBRUARY 20TH IS THE  
11 DEADLINE FOR WHAT?

12 MS. COLEMAN: THAT'S THE DISCOVERY CUTOFF.

13 THE COURT: YOU THINK YOU'LL NEED WHAT, ANOTHER  
14 TWO WEEKS BEYOND THAT?

15 MS. COLEMAN: YEAH, AT MOST.

16 THE COURT: YOU SAID, "AT MOST"?

17 MS. COLEMAN: AT MOST, YES.

18 THE COURT: OKAY. ANYBODY OBJECT TO THAT?

19 MR. HOOD: YOUR HONOR, SEAN HOOD FOR  
20 MEADOWBROOK DAIRY.

21 NO OBJECTION TO THE CONCEPTUAL PROPOSAL.

22 OBVIOUSLY, WE RESERVE THE RIGHT, TO THE EXTENT THAT ANY  
23 OF THESE DOCUMENTS GIVE US GOOD CAUSE, TO DO FOLLOW-UP  
24 DISCOVERY OF OUR OWN. WE DON'T WAIVE THAT RIGHT TO  
25 PURSUE THAT, BUT, OTHERWISE, NO OBJECTION.

26 THE COURT: ALL RIGHT. THAT MAKES SENSE THEN.

1 SO SHOOT FOR THE END OF THE MONTH, WHICH WOULD BE  
2 FEBRUARY 28TH, BUT THE FULL TWO WEEKS WOULD BE MARCH  
3 6TH.

4 I THINK MR. HOOD'S POINT IS WELL-TAKEN. IF  
5 THERE'S SOME GEM AMONG THE CLEAN-UP DOCUMENTS AND THEY  
6 NEED TO FOLLOW UP, THEY CERTAINLY WILL HAVE THAT RIGHT.

7 OKAY. ANY OTHER PRETRIAL MATTERS, MS. COLEMAN?

8 MS. COLEMAN: NO, THANKS, NO.

9 THE COURT: ALL RIGHT. LET ME JUST MAKE A NOTE  
10 HERE.

11 LET ME JUST SAY TOO, I KNOW WE'VE SET DEADLINES  
12 FOR EXHIBITS AND WITNESS LISTS AND SO FORTH, BUT JUST IN  
13 TERMS OF EXHIBITS, I WANT -- I'M PROBABLY REPEATING  
14 MYSELF -- JUST A SINGLE LIST OF EXHIBITS THAT COVERS  
15 EVERYBODY'S EXHIBITS.

16 AND BASED ON A RECENT TRIAL I HAD, A SIMPLIFIED  
17 NUMBERING SYSTEM. SO THE RECENT TRIAL I HAD INVOLVING A  
18 LOT OF MEDICAL RECORDS, THEY WOULD TAKE AN EXHIBIT  
19 NUMBER LIKE 200, AND THERE WOULD BE 200-1, PAGES 99  
20 THROUGH WHATEVER, AND THEN THERE WOULD BE EXHIBIT 200-2,  
21 PAGES SO-AND-SO TO SO-AND-SO.

22 SO WE HAD BASICALLY 50 EXHIBITS LISTED AS  
23 EXHIBIT 200 EVEN THOUGH THEY WERE REALLY 200-1, 200-2.  
24 SO MAKE IT SIMPLE FOR ME AND REALLY FOR YOU. ONE  
25 EXHIBIT NUMBER PER EXHIBIT.

26 OKAY. ANYTHING ELSE WE NEED TO TALK ABOUT ON

1 THE PHASE 1 TRIAL BEFORE WE MOVE ON TO OTHER ISSUES?

2 MR. DUNN: YOUR HONOR, CAN I JUST FOLLOW UP ON  
3 THE EXHIBIT NUMBERING?

4 THIS IS MR. DUNN.

5 THE COURT: SURE.

6 MR. DUNN: WOULD IT BE ACCEPTABLE WITH THE  
7 COURT -- WE'LL WORK THIS OUT WITH THE UNITED STATES, BUT  
8 LIKE PLAINTIFFS CAN HAVE LIKE 1 THROUGH 200, AND WE  
9 TAKE -- YOU SEE WHERE I'M GOING WITH THAT?

10 THE COURT: THAT'S TYPICALLY THE WAY THE  
11 PARTIES DO IT. YOU PICK ONE GROUP OF NUMBERS. THEY  
12 PICK ANOTHER GROUP.

13 BUT I'M SAYING TO BOTH SIDES, TRY AND LIMIT  
14 EACH EXHIBIT NUMBER TO ONE EXHIBIT AS OPPOSED TO USING A  
15 NUMBER AND THEN SUBPARTS TO COVER MULTIPLE EXHIBITS.

16 MR. DUNN: AND ONE OTHER MATTER ON THE  
17 PRETRIAL.

18 I HAD SOME DISCUSSION WITH MS. COLEMAN AND HER  
19 COLLEAGUES LAST WEEK IN SAN DIEGO AT THE CONCLUSION OF  
20 THE DEPOSITION ON THIS.

21 UNITED STATES WILL GO FIRST WITH THEIR  
22 WITNESSES. PARTICULARLY WITH THE NAVY OFFICERS, THERE  
23 IS A REAL NEED TO COORDINATE THEIR SCHEDULES.

24 WHAT WE DON'T WANT TO HAVE IS FOR THEM TO HAVE  
25 TO GO BACK AND FORTH. SO THEY WILL TAKE THE STAND AS  
26 PART OF THE UNITED STATES' CASE.

1 WE WOULD ANTICIPATE NEEDING THOSE SAME  
2 WITNESSES TO SOME EXTENT IN OUR CASE. SO WE'D CALL THEM  
3 AS AN ADVERSE.

4 WHAT I'D PROPOSE TO MS. COLEMAN, AND I'M NOT  
5 NECESSARILY LOOKING FOR THE ANSWER TODAY, BUT TO INFORM  
6 THE COURT, WE WOULD CONSIDER JUST HAVING THEM APPEAR  
7 ONCE.

8 WE WOULD DO THE CROSS-EXAM AND THE LIMITED 776  
9 ADVERSE EXAMINATION SO THAT THEY ARE ON AND OFF THE  
10 STAND JUST ONCE.

11 THE COURT: THAT'S MY STRONG PREFERENCE.

12 MR. DUNN: OKAY. THANK YOU.

13 THE COURT: THE ONE CONCERN I HAVE IS THE MAY  
14 14TH WITNESS. AND THE MAY 14TH WITNESS -- WELL, YOU  
15 PROBABLY KNOW WHAT HE'S GOING TO TESTIFY TO, SO MAYBE  
16 IT'S NOT GOING TO BE AN ISSUE.

17 BUT IF HE BRINGS UP SOMETHING THAT NEEDS A  
18 RESPONSE, AND THE QUESTION IS, WILL WE BE ABLE TO GET  
19 THAT RESPONSE EITHER THAT DAY OR THE NEXT TRIAL DATE?

20 YOU DON'T HAVE TO ANSWER THAT, BUT I WANT YOU  
21 TO BE COGNIZANT OF THAT. IF THAT'S THE ONLY DAY THAT  
22 PERSON CAN TESTIFY, WE MAY HAVE TO JUGGLE THINGS A  
23 LITTLE BIT.

24 OKAY?

25 MR. DUNN: YOUR HONOR, I'LL SAY THAT WE'LL  
26 CONTINUE TO DISCUSS THIS WITH MS. COLEMAN AND HER

1 COLLEAGUES AND GET WHAT WE THINK ARE REASONABLE TIME  
2 ESTIMATES FOR BOTH DIRECT AND THE -- I'LL CALL IT CROSS.

3 THE COURT: I WOULD SAY THIS: IF THE  
4 GOVERNMENT DOESN'T HAVE A DAY FULL BECAUSE OF WITNESS  
5 AVAILABILITY, I HAVE NO PROBLEM WITH THE OTHER SIDE,  
6 I'LL CALL THEM THE DEFENDANTS IN THIS PORTION OF THE  
7 CASE, PUTTING ON SOME OF THEIR WITNESSES OUT OF ORDER.  
8 JUST GIVEN THE NATURE OF THE CASE, THAT WOULD MAKE  
9 SENSE.

10 OKAY. ANYTHING ELSE ON THE PHASE 1 TRIAL THAT  
11 WE HAVEN'T COVERED? AS I SEE THINGS, WE HAVE A TRIAL  
12 READINESS CONFERENCE ON APRIL 4TH.

13 AND SO I DON'T THINK THERE'S ANY NEED FOR US TO  
14 HAVE A FURTHER STATUS CONFERENCE IN THIS CASE PRIOR TO  
15 THAT UNLESS THERE'S SOME DEVELOPMENT THE PARTIES WANT  
16 THE COURT TO ADDRESS. I WON'T SCHEDULE ANYTHING OTHER  
17 THAN -- BESIDES THE APRIL 4TH TRIAL READINESS  
18 CONFERENCE.

19 OKAY. BEFORE I GET TO THE PHASE 2 TRIAL AND  
20 SOME OF THE ISSUES THAT HAVE ARISEN THERE, ON THE MOJAVE  
21 PISTACHIOS SETTLEMENT, IS THAT IN PROGRESS, OR ARE WE  
22 WAITING FOR SOMEONE TO APPROVE IT? WHAT'S THE STATUS?

23 MR. BROCHARD: IT SHOULD BE DONE THIS WEEK,  
24 YOUR HONOR.

25 THE REPORTER: WHO WAS JUST SPEAKING?

26 MR. BROCHARD: THIS IS KYLE BROCHARD.

1 THE COURT: OKAY. SO WE'LL TALK NOW BRIEFLY  
2 ABOUT THE PHASE 2 TRIAL. AND WHAT I RECEIVED FRIDAY  
3 AFTERNOON WAS A REQUEST BY THE DISTRICT TO ADJUST THE  
4 DISCLOSURE OF ITS GROUNDWATER MODEL, THE DATE OF  
5 DISCLOSURE.

6 AND THEN WHAT I RECEIVED TODAY IS AN OBJECTION  
7 BY THE GROUNDWATER AUTHORITY TO THAT SUPPLEMENT, NOT  
8 LISTED AS AN OBJECTION, BUT THEY OPPOSE THE REQUEST TO  
9 EXTEND THINGS FOR THREE MONTHS OR SO, WHICH I THINK IS  
10 WHAT THE DISTRICT WANTED, AND THEY RAISE A COUPLE OF  
11 GOOD POINTS.

12 SO LET ME ASK YOU THIS, MR. EVERTZ.

13 MR. EVERTZ: SURE.

14 THE COURT: THE DEADLINE FOR DISCLOSING THE  
15 GROUNDWATER MODELS IS FEBRUARY 20TH; CORRECT?

16 MR. EVERTZ: THAT'S CORRECT, YOUR HONOR.

17 THE COURT: IN YOUR SUPPLEMENTAL STATEMENT YOU  
18 SAY YOU JUST LEARNED AFTER FEBRUARY 3RD THAT ONE OF ITS  
19 MODELERS HAS RESIGNED UNEXPECTEDLY.

20 THAT'S GOING TO THROW THINGS OFF IN DISCLOSING  
21 THE MODEL FOR THREE MONTHS. THIS IS RAISED BY THE  
22 GROUNDWATER AUTHORITY.

23 HOW COULD SOMEONE LEAVING IN THE LAST WEEK OR  
24 TWO THROW THINGS OFF BY THREE MONTHS? IN OTHER WORDS,  
25 THAT MODEL PRESUMABLY WAS USED PREVIOUSLY TO PREPARE A  
26 REPORT, AS I RECALL.

1 MR. EVERTZ: THAT'S NOT CORRECT, YOUR HONOR.

2 THE COURT: ANYWAY, ANSWER THE FIRST QUESTION,  
3 WHICH IS, HOW CAN SOMEONE RESIGNING LAST WEEK MEAN IT'S  
4 GOING TO TAKE THREE MORE MONTHS TO GET THE GROUNDWATER  
5 MODEL?

6 MR. EVERTZ: YOUR HONOR, THE PERSON THAT  
7 RESIGNED WAS ONE OF THE LEAD MODELERS AND ALSO WAS GOING  
8 TO BE A DESIGNATED EXPERT WITNESS AT TRIAL.

9 WE NEED TO FIND -- WE, THE DISTRICT, NEED TO  
10 FIND A REPLACEMENT FOR THAT MODELER. THAT PROCESS IS  
11 ACTIVELY ONGOING.

12 AND I'M OPTIMISTIC THAT WE'LL HAVE SOMEONE  
13 ONBOARD IN THE NEXT FEW WEEKS OR SO, BUT THAT PERSON,  
14 THAT NEW MODELER, WILL NEED TO GET INTO THE MODEL AND  
15 MAKE SURE -- I WOULD WANT -- IF I'M GOING TO BE AN  
16 EXPERT WITNESS, I WOULD WANT TO MAKE SURE THAT  
17 EVERYTHING IN THERE CONFORMS WITH MY OWN PERSONAL  
18 OPINIONS BEFORE IT'S DISCLOSED.

19 SO, YES, THE MODEL IS LARGELY DONE. THERE ARE  
20 SOME TWEAKS THAT NEED TO BE DONE, BUT WE NEED TO HAVE  
21 WHOEVER THIS NEW EXPERT WITNESS IS GOING TO BE HAVE AN  
22 OPPORTUNITY TO, NO. 1, BE RETAINED BECAUSE WE DON'T HAVE  
23 THAT PERSON NOW; AND, NO. 2, HAVE A SUFFICIENT  
24 OPPORTUNITY TO EVALUATE THE MODEL, GET INTO THE DETAILS  
25 OF IT, AND THEN BE PREPARED TO EXCHANGE IT.

26 WE HAVE A TRIAL DATE THAT IS MARCH 30TH OF

1 2026, SO I DON'T SEE WHAT THE PREJUDICE IS HERE TO  
2 ANYONE IF WE POSTPONE THINGS A BIT.

3 THE COURT: WELL, I'M JUST THINKING OUT LOUD  
4 HERE FOR A MOMENT. I'M SURE THE PERSON WHO RESIGNED  
5 WASN'T THE ONLY PERSON WORKING ON THE MODEL.

6 MR. EVERTZ: THAT'S TRUE.

7 THE COURT: AND IT SOUNDS LIKE, FROM WHAT YOU  
8 SAID, AND I'M NOT SURPRISED, THAT THE MODEL IS LARGELY  
9 COMPLETE. IT SOUNDS LIKE THERE IS MAYBE SOME TWEAKING  
10 THAT NEEDS TO BE DONE.

11 AND I'M THINKING TO MYSELF, WHAT IF THE NEW  
12 PERSON COMES IN AND SAYS, "THIS IS NOT THE RIGHT KIND OF  
13 MODEL. WE NEED TO DO THIS OR THAT AND BASICALLY START  
14 FROM SCRATCH"?

15 MR. EVERTZ: I'M NOT ANTICIPATING THAT WILL  
16 HAPPEN, YOUR HONOR.

17 THE COURT: OF COURSE YOU'RE NOT ANTICIPATING  
18 THAT, BUT YOU DON'T KNOW WHAT THE PERSON IS GOING TO  
19 NEED OR SAY BECAUSE YOU DON'T HAVE THE PERSON YET.

20 IN OTHER WORDS, HOW LONG HAS THAT MODEL BEEN IN  
21 PROGRESS? IT'S NOT SOMETHING THAT CAN BE DONE  
22 OVERNIGHT.

23 MR. EVERTZ: YOUR HONOR, IT'S BEEN A TREMENDOUS  
24 AMOUNT OF WORK THAT A NUMBER OF PEOPLE HAVE SEEN AND  
25 EVALUATED.

26 BUT, AGAIN, AS I KNOW THE COURT WILL

1 APPRECIATE, IF SOMEONE IS GOING TO TESTIFY BEFORE YOUR  
2 HONOR, THAT PERSON NEEDS TO BE WELL-INFORMED BEFORE THEY  
3 PROVIDE THAT TESTIMONY.

4 AND I'D LIKE THAT PERSON TO BE ABLE TO EVALUATE  
5 THE MODEL, MAKE ANY CHANGES, IF NECESSARY, OR PROPOSED  
6 CHANGES.

7 I ALWAYS HATE TO ARGUE AGAINST MYSELF. THE MAY  
8 30TH DATE THAT WAS PROPOSED IN THE SUPPLEMENTAL  
9 DOCUMENTS WAS A DATE THAT I CAME UP WITH BECAUSE I  
10 THOUGHT IT WORKED FINE GIVEN THAT THE EXPERT DISCLOSURES  
11 ARE MAY 30TH.

12 I DID SPEAK WITH OUR EXPERT CONSULTANTS SHORTLY  
13 BEFORE STEPPING INTO COURT TODAY AND WAS TOLD THAT APRIL  
14 30TH WOULD BE DOABLE. SO MAYBE I CAN MODIFY THE REQUEST  
15 TO GO TO APRIL 30TH.

16 THAT WILL HAVE OUR GROUP WORKING VERY HARD OVER  
17 THE NEXT FEW MONTHS, BUT WE THINK THAT'S DOABLE. AND  
18 AGAIN, I COME BACK TO THE PREJUDICE. WE HAVE A MARCH  
19 30, 2026 TRIAL DATE.

20 AND IF WE DELAY THE DISCLOSURE OF THE MODEL,  
21 WHICH IS, AGAIN, I SHOULD SAY, INDEPENDENT OF THE SAFE  
22 YIELD PAPER THAT WAS RELEASED SOME TIME AGO, THAT  
23 THERE'S NO PREJUDICE TO ANYONE HERE, AND WE CAN GET THE  
24 MODEL OUT, I WOULD SAY, BY APRIL 30TH.

25 THE COURT: DOING IT BY APRIL 30TH PUTS A MONTH  
26 IN BETWEEN THAT DATE AND THE EXPERT DISCLOSURES.

1 MR. EVERTZ: YES, YOUR HONOR.

2 THE COURT: MR. BROCHARD, WHAT DO YOU THINK?

3 MR. BROCHARD: YOUR HONOR, WE CONTINUE TO  
4 OPPOSE THAT REQUEST. MR. EVERTZ DOESN'T EVEN HAVE THE  
5 EXPERT ONBOARD YET, SO HOW CAN HE SAY APRIL 30TH IS THE  
6 DATE IF HE DOESN'T KNOW -- HIS EXPERT HASN'T LOOKED AT  
7 THE MODEL YET AND HASN'T SAID ANYTHING?

8 WHOEVER HE GETS TO COME ONBOARD IS GOING TO  
9 HAVE TO WORK WITH THE TOOLS AVAILABLE TO HIM AND THE  
10 REPORTS THAT HAVE BEEN DONE BY OTHERS. I DON'T THINK  
11 THAT THERE'S ANY NEED TO WASTE THIS TIME HERE.

12 MR. EVERTZ IS CORRECT THAT WHOEVER THIS EXPERT  
13 IS, HE'S GOING TO HAVE TO LOOK AT THAT MODEL, AND IT'S  
14 GOING TO TAKE A WHILE.

15 AND THEY ARE GOING TO HAVE TO LOOK AT THE  
16 MODEL -- THE OTHER MODELS THAT HAVE BEEN PREPARED, AND  
17 THAT IS GOING TO TAKE A WHILE.

18 THAT'S WHY THE SCHEDULE WAS DESIGNED THIS WAY  
19 IS TO PROVIDE THE MODELS EARLY AND DISCLOSURES OF THE  
20 WITNESSES MONTHS AFTER AND DISCLOSURE OF THE REPORTS A  
21 COUPLE WEEKS AFTER THAT SO THERE'S PLENTY OF TIME.

22 I STILL DON'T THINK IT'S ENOUGH TIME TO  
23 ACTUALLY LOOK INTO A COMPLEX MODEL LIKE THIS, BUT THIS  
24 WAS A COMPROMISE TO TRY AND PROVIDE A REASONABLE AMOUNT  
25 OF TIME TO REVIEW THESE MODELS AND TO KEEP US ON TRACK.

26 MR. EVERTZ: YOUR HONOR, I VIEW THIS AS AN

1 ATTEMPT TO TAKE AN -- USE THIS OPPORTUNITY AND  
2 UNFORTUNATE SITUATION DEALING WITH OUR EXPERTS. IT'S  
3 NOT SOMETHING THAT I ANTICIPATED.

4 IT'S SOMETHING THAT WE CAN READILY DEAL WITH  
5 PROCEDURALLY WITHOUT PREJUDICE TO A SINGLE PARTY IF THEY  
6 WORK WITH THAT APRIL 30TH DATE.

7 THE COURT: WELL, I GUESS YOU'RE LINKING THE  
8 MODEL WITH THE EXPERT, AND I DON'T KNOW THAT THEY HAVE  
9 TO BE LINKED.

10 IN OTHER WORDS, APPARENTLY SOMEONE HAS BEEN  
11 SPENDING A LOT OF TIME, A LOT OF HOURS, PUTTING TOGETHER  
12 A MODEL.

13 I ASSUME IT INVOLVES LOTS OF TECHNICAL  
14 HYDROLOGICAL INFORMATION IN TERMS OF THE SIZE OF THE  
15 UNDERGROUND AQUIFER AND SO FORTH.

16 SO I JUST ASSUME THAT THERE'S A LOT OF BASIC  
17 FACTS THAT ARE THERE, AND I'M CONCERNED THAT THE EXPERT  
18 IS DRIVING THE MODEL AS OPPOSED TO THE OTHER WAY AROUND.

19 IT SEEMS TO ME THAT THE MODEL NEEDS TO BE  
20 PREPARED BECAUSE YOU'VE GOT ALL -- WHATEVER TECHNICAL  
21 WORKING GROUP HAS PUT TOGETHER.

22 AND NOW YOU'RE SAYING SOMEONE OUTSIDE THAT  
23 GROUP HAS TO COME IN AND BLESS THE MODEL OR SAY, "WELL,  
24 THIS ISN'T THE WAY I WOULD HAVE DONE IT."

25 THERE'S FURTHER EXAMINATION THAT NEEDS TO BE  
26 DONE. SO IT'S HARD FOR ME TO GET MY ARMS AROUND WHAT

1 THIS PERSON IS GOING TO DO.

2 IT SOUNDS LIKE YOU DON'T KNOW FOR SURE EITHER  
3 OTHER THAN HOPING THAT IT WILL BE NOTHING MORE THAN SOME  
4 TWEAKS.

5 MR. EVERTZ: YOUR HONOR, I'VE GOT TO BE CAREFUL  
6 ABOUT DELVING INTO A TECHNICAL AREA THAT I'M NOT  
7 KNOWLEDGABLE, BUT IT'S CLEAR THAT PROFESSIONAL JUDGMENT  
8 WILL GO INTO THIS ANALYSIS.

9 IF THERE WASN'T PROFESSIONAL JUDGMENT, ALL THE  
10 EXPERTS AND ALL THE PARTIES ON ALL THE SIDES WOULD BE  
11 COMING UP WITH THE SAME NUMBER.

12 SO WHERE I'M GOING WITH THIS IS THAT WHOEVER  
13 THIS NEW MODELER IS GOING TO BE NEEDS TO BE ABLE TO  
14 EXERCISE SOME PROFESSIONAL JUDGMENT BEFORE THE MODEL IS  
15 RELEASED.

16 THIS EXPERT MAY NOT CHANGE A THING, BUT HE OR  
17 SHE MAY WANT TO MAKE SOME TWEAKS BASED UPON PROFESSIONAL  
18 JUDGMENT.

19 AND IT WOULD SURE BEHOOVE AND BE IN THE BEST  
20 INTERESTS OF ALL THE PARTIES TO HAVE THAT DONE BEFORE WE  
21 RELEASE A DOCUMENT OR MATERIAL THAT HAS BEEN REVIEWED BY  
22 THAT PERSON.

23 THE REPORTER: THIS IS THE REPORTER.

24 WHO WAS SPEAKING?

25 MR. EVERTZ: DOUG EVERTZ.

26 MR. BROCHARD: YOUR HONOR, KYLE BROCHARD FOR

1 THE GROUNDWATER AUTHORITY.

2 WE'RE GOING TO DESIGNATE AN EXPERT WHO IS GOING  
3 TO PROVIDE A REPORT AND WILL TESTIFY. THAT PERSON IS  
4 NOT THE PERSON WHO CREATED THE MODEL.

5 THE MODEL IS CREATED BY OUR GROUNDWATER  
6 RESOURCE MANAGER AND BY EXPERTS AT DRI. THE DISTRICT IS  
7 IN THE SAME POSITION AS THE GROUNDWATER AUTHORITY IS  
8 GOING TO BE IN.

9 YOU HAVE A MODEL THAT WAS CREATED, YOU VIEW THE  
10 MODEL, AND THEN SOMEBODY ELSE IS GOING TO LOOK AT THAT  
11 AND WRITE AN EXPERT REPORT USING THAT TOOL AND ALL THE  
12 OTHER TOOLS AVAILABLE AND THEN TESTIFY ON IT. I'M NOT  
13 GOING TO BRING IN A SEPARATE EXPERT TO CHANGE THE MODEL.

14 THE COURT: WHAT MR. BROCHARD JUST SAID,  
15 MR. EVERTZ, IS A MORE ARTICULATE WAY OF WHAT I WAS  
16 THINKING.

17 WHY DO YOU HAVE TO HAVE SOMEONE -- YOU'VE  
18 WORKED SO HARD, NOT YOU, BUT YOUR TEAM HAS WORKED SO  
19 HARD ON PREPARING THE MODEL.

20 WHY DOES THE PERSON WHO IS GOING TO BE YOUR  
21 EXPERT HAVE TO AGREE WITH EVERYTHING IN YOUR MODEL? WHY  
22 CAN'T YOUR EXPERT SAY, "THIS IS A GREAT MODEL. I WOULD  
23 HAVE TWEAKED IT BY DOING X AND Y, BUT, ESSENTIALLY, IT'S  
24 FINE EXCEPT FOR ONE OR TWO THINGS"? WHY DOESN'T YOUR  
25 EXPERT DO THAT?

26 MR. EVERTZ: I SHOULD CLARIFY, YOUR HONOR. THE

1 MODEL IS BEING PREPARED ON BEHALF OF THE DISTRICT. IT  
2 IS THE DISTRICT'S MODEL. IT IS THE DISTRICT'S MODELING  
3 EXPERT THAT HAS RESIGNED.

4 WE NEED TO REPLACE THAT PERSON. WE NEED TO  
5 REPLACE THAT MODELER. AGAIN, IT'S -- THEY ARE COUPLED  
6 TOGETHER IS WHERE I'M GOING WITH THIS.

7 I JUST HEARD THE GA INDICATE THAT THEY ARE  
8 GOING TO HAVE A MODEL, BUT THEY ARE NOT GOING TO HAVE A  
9 PERSON TESTIFY ABOUT HOW IT WAS BUILT AND DEVELOPED. I  
10 FIND THAT ODD.

11 WE INTEND TO HAVE A PERSON COME IN, WHO  
12 ACTUALLY WORKED ON DEVELOPING THAT MODEL, TO BE A  
13 TESTIFYING EXPERT IN ADDITION TO OTHER EXPERTS THAT WILL  
14 TESTIFY.

15 BUT, AGAIN, IT SEEMS ODD TO ME THAT EXPERT WORK  
16 IS DISCLOSED BEFORE THE ACTUAL EXPERT HAS A CHANCE TO  
17 LOOK AT IT.

18 THE REPORTER: THIS IS THE REPORTER.

19 WHO WAS SPEAKING?

20 MR. EVERTZ: I APOLOGIZE, DOUG EVERTZ.

21 THE REPORTER: THANK YOU.

22 MR. EVERTZ: AGAIN, YOUR HONOR, I COME BACK TO  
23 THE CONCEPT HERE IS WE'RE TALKING ABOUT APRIL 30TH FOR A  
24 TRIAL THAT'S A YEAR AWAY OR MORE THAN A YEAR AWAY.

25 MR. BROCHARD: YOUR HONOR, THIS IS KYLE  
26 BROCHARD FOR THE AUTHORITY.

1 THE SCHEDULE WAS CURRENTLY SET UP TO ALLOW THE  
2 EXPERTS ENOUGH TIME TO DO THE WORK. YES, THE TRIAL  
3 ISN'T UNTIL NEXT YEAR, BUT EXPERT DISCLOSURES AND  
4 DEPOSITIONS AND REBUTTAL REPORTS ARE ALL GOING TO BE  
5 HAPPENING IN 2025.

6 AND ANY DELAY IN PRODUCING THE MODEL TO EITHER  
7 SIDE IS GOING TO PREJUDICE THE OTHER PARTIES' ABILITY TO  
8 EVALUATE THE BEST EVIDENCE AVAILABLE IN COMING UP WITH  
9 THEIR REPORTS.

10 THE COURT: I'M LOOKING AT THE SCHEDULE.

11 MR. HOOD: YOUR HONOR, MAY I BE HEARD ON THIS  
12 BRIEFLY? THIS IS SEAN HOOD FOR MEADOWBROOK DAIRY.

13 YOUR HONOR, THIS IS THE WATER DISTRICT'S MODEL,  
14 BUT, OF COURSE, THE TECHNICAL WORKING GROUP HAS BEEN  
15 COORDINATING ON THIS. I WANT TO UNDERSCORE A POINT THAT  
16 MR. EVERTZ MADE, BUT IT SEEMS TO BE GETTING LOST IN THE  
17 SHUFFLE.

18 THIS RESIGNATION OCCURRED -- THE MODEL IS NOT  
19 DONE. IT'S NOT IN A CAN WAITING FOR SOMEBODY TO COME IN  
20 AND SAY, "YEAH, THAT LOOKS GOOD." IT'S NOT DONE YET.

21 WE NEED MORE TIME. THE DISTRICT NEEDS MORE  
22 TIME TO GET THIS DONE, PERIOD. THERE'S NOTHING TO  
23 SUBMIT ON THE 20TH.

24 SO THE QUESTION IS, HOW MUCH TIME IS  
25 REASONABLE? WE DON'T HAVE RESPONSIVE REPORTS.  
26 MR. BROCHARD DOESN'T HAVE TO SUBMIT A RESPONSIVE REPORT

1 UNTIL SEPTEMBER 5.

2 I FEEL LIKE WE'RE GETTING JAMMED UP HERE A  
3 LITTLE BIT. AGAIN, TO CIRCLE BACK TO ONE OF  
4 MR. EVERTZ'S COMMENTS, THIS DOESN'T SEEM TO BE A  
5 GOOD-FAITH EFFORT TO COOPERATE GIVEN THAT WE FACED A  
6 RESIGNATION BY A KEY MEMBER OF THE MODELING TEAM.  
7 THAT'S WHAT HAPPENED. AND THE MODEL IS NOT DONE.

8 MR. BROCHARD: YOUR HONOR, KYLE BROCHARD AGAIN.  
9 JUST TO MAKE SURE WE'RE ALL WORKING WITH THE  
10 SAME TIMELINE, IN SEPTEMBER OF LAST YEAR THE DISTRICT  
11 TOLD US THAT THEIR MODEL -- THEY WANTED EXPERT REPORTS  
12 AND MODELS TO BE DISCLOSED BY NEXT TUESDAY.

13 SO THE IDEA THAT A COUPLE -- YOU KNOW, THIS  
14 LITTLE AMOUNT OF TIME AND TRIAL IS NEXT YEAR, IT DOESN'T  
15 MATTER.

16 THEY HAVE BEEN WORKING ON THE MODEL FOR --  
17 PRESUMABLY BEFORE LAST SEPTEMBER WHEN THEY SAID THEY  
18 WERE GOING TO BE READY TO GO.

19 AND THEY'VE BEEN DOING IT FOR THE LAST FIVE  
20 MONTHS. AND NOW THEY ARE SAYING IT'S STILL NOT READY,  
21 ALTHOUGH MR. EVERTZ SAID IT'S ALMOST READY.

22 SO I'M NOT SURE WHICH IT IS. BUT I'M SURE IT  
23 COULD BE READY, IF NOT BY THE 20TH, BY VERY SHORTLY  
24 THEREAFTER.

25 THE COURT: WELL, I GUESS WE COULD GET INTO A  
26 DEBATE ON WHAT "READY" MEANS. IT DOESN'T REALLY ADVANCE

1 THE BALL TO DO THAT.

2 I CAN SAY THAT -- LET ME ASK YOU THIS,  
3 MR. EVERTZ: WHEN DID YOU FIND OUT THE INDIVIDUAL WAS  
4 RESIGNING?

5 MR. EVERTZ: TUESDAY OF LAST WEEK, I BELIEVE IT  
6 WAS, YOUR HONOR.

7 THE COURT: OKAY. AND CAN YOU DISCLOSE WHAT  
8 ENTITY THE EXPERT WORKED FOR, THE PERSON WORKED FOR? IS  
9 IT A LARGE GROUP?

10 MR. EVERTZ: YES, YOUR HONOR, BUT WE'VE ONLY --  
11 BUT, AGAIN, THIS PERSON THAT RESIGNED WAS THE PERSON --  
12 WAS A SENIOR MODELER THAT WAS -- I DON'T WANT TO SAY THE  
13 PRINCIPAL IN CHARGE, BUT A KEY PERSON OF THE TEAM.

14 MS. COLEMAN: YOUR HONOR, THIS IS JUDY COLEMAN  
15 FOR THE UNITED STATES.

16 MAY I BE HEARD?

17 THE COURT: SURE.

18 MS. COLEMAN: ON THE (INAUDIBLE) OF PREJUDICE,  
19 LET ME JUST, FIRST OF ALL, SAY WE APPRECIATE THE  
20 (INAUDIBLE) THINK OF A COMPROMISED WAY TO ADDRESS IT.

21 BUT I THINK THE -- HAVING A MODEL DISCLOSED ON  
22 APRIL 30TH ON THE THIRD DAY OF A TRIAL INVOLVING THE  
23 ENTIRE UNITED STATES TEAM IS NOT -- IS PREJUDICIAL TO US  
24 IN TERMS OF HAVING TO COORDINATE WITH OUR EXPERTS.

25 WE ARE PLANNING TO PUT ON AN EXPERT AT THIS  
26 PHASE, AND WE THINK THAT THE BETTER ANSWER HERE IS TO

1 PUSH DATES BACK INTO PHASE 2 CMO.

2 THE COURT: HOLD ON. MS. COLEMAN, YOU BROKE UP  
3 A LITTLE BIT THERE. THE BEST WAY TO DO THAT IS TO TURN  
4 YOUR CAMERA OFF FOR THE MOMENT. THANK YOU.

5 SO YOUR SUGGESTION IS COMPROMISE BY MOVING SOME  
6 OF THE DATES IN THE CMO. I GET THAT. BY THE WAY, LET  
7 ME LOOK AT SOMETHING HERE.

8 ALL RIGHT. SO, MR. BROCHARD, YOU SAY IN YOUR  
9 SUPPLEMENT THAT YOU REALLY DON'T OBJECT TO A TWO- OR  
10 THREE-WEEK EXTENSION, BUT IF THERE'S GOING TO BE A  
11 LONGER EXTENSION IN OTHER DATES, THEN THE CMO NEEDS TO  
12 BE MODIFIED.

13 AND THEN YOU GO ON TO SAY, "NOTHING SHOULD BE  
14 MODIFIED BECAUSE WE'RE PREJUDICED BY THE DELAY IN  
15 TRIAL."

16 I THINK THAT'S THE ESSENCE OF WHAT YOU SAID IN  
17 YOUR SUPPLEMENTAL PAPERS; CORRECT?

18 MR. BROCHARD: THIS IS KYLE BROCHARD FOR THE  
19 AUTHORITY.

20 YES, YOUR HONOR. I ALSO SAID THAT NOTHING  
21 SHOULD BE CHANGED WITHOUT GOOD CAUSE, WHICH WAS THE MAIN  
22 PART.

23 AND, AGAIN, YOU KNOW, HAVING ANOTHER MODELER --  
24 HAVING SOMEONE ELSE COME IN AND SAY, "I DON'T LIKE THE  
25 MODEL. I WANT TO CHANGE IT," I DON'T KNOW THAT THAT'S  
26 GOOD CAUSE.

1           YOU'VE BEEN BUILDING IT. YOU SPENT A MILLION  
2 DOLLARS ON IT. YOU'VE BEEN BUILDING IT FOR A YEAR, YOU  
3 KNOW.

4           WE'RE GOING TO BE TALKING -- AT THIS POINT,  
5 HOWEVER THE MODEL LOOKS RIGHT NOW, WE'RE GOING TO BE  
6 TALKING ABOUT IT AT TRIAL, BECAUSE THE ASSUMPTION IS  
7 GOING TO BE THAT SOMEBODY ON THE DISTRICT SIDE OR  
8 MEADOWBROOK SIDE DOESN'T LIKE WHAT IT SAYS NOW AND THAT  
9 THEY ARE BRINGING IN SOMEBODY ELSE TO CHANGE IT BECAUSE  
10 IT DOESN'T WORK.

11           THE COURT: THAT'S QUITE AN ASSUMPTION. I  
12 DON'T KNOW THAT YOU CAN ASSUME THAT.

13           WHY DO YOU ASSUME THAT?

14           MR. BROCHARD: BECAUSE THERE'S NO OTHER REASON  
15 TO SAY THAT IT'S ALMOST DONE, BUT WE NEED MORE TIME TO  
16 BRING IN SOMEBODY ELSE TO RELOOK AT THE WHOLE THING AND  
17 FINISH IT.

18           THE COURT: I THINK THAT'S GIVING SHORT SHRIFT  
19 TO WHAT THEY ARE SAYING. THEY ARE SAYING THAT THEY  
20 NEED -- THIS IS THE PERSON THEY ARE GOING TO CALL AS AN  
21 EXPERT AT TRIAL.

22           HE OR SHE IS GOING TO BE ASKED ABOUT THE MODEL,  
23 AND THEY APPARENTLY WANT TO MAKE SURE THAT THEY ARE  
24 COMFORTABLE WITH THE MODELING. SINCE THEY DON'T HAVE  
25 THE PERSON, THEY DON'T KNOW WHAT THE PERSON IS GOING TO  
26 SAY IN TERMS OF THE MODELING.

1 MR. BROCHARD: WELL, THAT PERSON IS NOT GOING  
2 TO BE THE PERSON WHO BUILT THE MODEL. THE MODEL HAS  
3 BEEN UNDER CONSTRUCTION FOR OVER A YEAR.

4 IF THEY BRING SOMEONE IN NOW, THEY ARE NOT  
5 GOING TO BE ABLE TO TESTIFY AS TO EVERY SINGLE THING  
6 THAT'S HAPPENED OVER THE PAST YEAR.

7 THE COURT: RIGHT, RIGHT. HERE'S WHAT I'M  
8 THINKING. I'M THINKING OF A SHORT EXTENSION, BUT I  
9 THINK MR. BROCHARD IS RIGHT.

10 WHATEVER DATE WE'RE GOING TO GIVE YOU IS GOING  
11 TO BE THE DATE. AND IF THEY THINK THAT THE MODEL NEEDS  
12 TO BE COMPLETELY CHANGED, YOU'RE OUT OF LUCK.

13 MR. BROCHARD: YOUR HONOR, THAT'S NOT GOING TO  
14 HAPPEN. WHAT I ENVISION IS THAT THE NEW EXPERT THAT  
15 COMES IN, NEW MODELER, WILL LOOK AT FINAL CALIBRATIONS,  
16 AND THERE ARE LITTLE TWEAKS HERE AND THERE THAT THAT  
17 PERSON IS GOING TO WANT TO LOOK AT. IT'S NOT GOING TO  
18 BE -- I CAN ASSURE YOU IT'S NOT GOING TO BE A REDO.

19 THE COURT: HERE'S WHAT I'M INCLINED TO DO:  
20 I'M INCLINED TO GIVE -- I'LL CALL THEM THE TECHNICAL  
21 WORKING GROUP -- 60 DAYS MORE. SO MOVE IT FROM FEBRUARY  
22 20TH TO APRIL 20TH.

23 MR. BROCHARD, IF YOU WANT OTHER DATES ADJUSTED,  
24 I'M ALL EARS. I'M WILLING TO ADJUST OTHER DATES TO  
25 ACCOMMODATE YOU IF YOU WANT.

26 MR. BROCHARD: YES. THANK YOU, YOUR HONOR.

1 KYLE BROCHARD.

2 I'M GOING TO WANT TO PUSH BACK THE EXPERT  
3 DISCLOSURES AND THE DISCLOSURE OF THE REPORTS AND THE  
4 REBUTTAL REPORTS.

5 THE COURT: DO YOU WANT TO GIVE ME SOME DATES  
6 NOW SO WE CAN TRY AND DISCUSS THAT?

7 MR. BROCHARD: IF WE CAN DO THE SAME 60-DAY  
8 EXTENSION FOR THOSE.

9 THE COURT: OKAY. SO LET ME LOOK AT THE ORDER  
10 FOR A MOMENT. RIGHT NOW THE EXPERT DISCLOSURES -- THE  
11 MODEL DISCLOSURE IS FEBRUARY 20TH. I MOVED THAT TO  
12 APRIL 20TH.

13 THE EXPERT DISCLOSURE IS MAY 30TH. I MOVED  
14 THAT TO JULY 30TH. AND THEN THE EXCHANGE OF EXPERT  
15 REPORTS IS JUNE 13TH. WE CAN MOVE THAT TO AUGUST 13TH.

16 SO I GUESS, AS I GO THROUGH THIS, YOU'RE GOING  
17 TO NEED TO ADJUST ALMOST ALL THE DATES AFTER THAT; IS  
18 THAT RIGHT?

19 MR. BROCHARD: I THINK SO, YOUR HONOR.

20 THE COURT: OKAY.

21 THE REPORTER: WHO WAS JUST SPEAKING?

22 THE COURT: THAT WAS MR. BROCHARD.

23 OKAY. WELL, HERE'S WHAT I'D SAY: WORK ON  
24 THAT. I'M GOING TO GIVE YOU THE APRIL 20TH DATE FOR THE  
25 MODELING, BUT THE PARTIES NEED TO WORK OUT THEN A  
26 REVISED CMO BASED ON THAT DATE.

1           AND, AGAIN, IF THE GROUNDWATER AUTHORITY SAYS,  
2     "I WILL GIVE THEM AN ADDITIONAL 60 DAYS ON MOST OF THE  
3     DEADLINES," I DON'T KNOW THAT THAT MEANS WE HAVE TO  
4     CONTINUE THE TRIAL DATE THOUGH.

5           IF YOU ALL WANT, WE CAN CONTINUE THE TRIAL DATE  
6     THOUGH FOR AN EQUAL AMOUNT OF TIME, 60 DAYS.

7           MR. EVERTZ: YOUR HONOR, DOUG EVERTZ.

8           WE'D LIKE TO HOLD THE CURRENT TRIAL DATE.

9           THE COURT: OKAY. WELL, I'LL LEAVE THAT TO  
10    YOU, MR. BROCHARD, TO WORK OUT WITH THE OTHER SIDE.

11          MR. BROCHARD: YES, YOUR HONOR.

12          THE COURT: SO YOU NEED TO COME BACK TO THE  
13    COURT. GIVE THE COURT A PROPOSED STIPULATED CMO.

14          IF YOU CAN'T AGREE, CALL THE COURT AND SET UP  
15    AN INFORMAL DISCOVERY CONFERENCE, AND I'LL TRY AND COME  
16    UP WITH A DATE. I'D RATHER YOU TRY AND WORK IT OUT  
17    BEFORE I GET IN THE MIDDLE OF IT.

18          MR. EVERTZ: DOUG EVERTZ.

19          WE'LL DO THAT, YOUR HONOR.

20          THE COURT: OKAY. AND WE SHOULD PUT A DEADLINE  
21    ON THAT.

22          CAN YOU DO THAT IN THE -- I'M GIVING YOU APRIL  
23    20TH ON THE MODELING, SO HOPEFULLY BY THE END OF  
24    FEBRUARY IF YOU CAN COME UP WITH A NEW CMO.

25          MR. EVERTZ: YES, YOUR HONOR.

26          MR. BROCHARD: YES, YOUR HONOR.

1 KYLE BROCHARD.

2 THE COURT: OKAY. ALL RIGHT. THAT WAS ALL THE  
3 ITEMS ON MY LIST TO DISCUSS IN BOTH PHASE 1 AND PHASE 2  
4 TRIALS.

5 ANY OTHER ISSUES THE PARTIES WANT THE COURT TO  
6 ADDRESS TODAY?

7 OKAY. LET ME LOOK AT ONE OTHER THING IN TERMS  
8 OF SCHEDULING. AS A PLACEHOLDER I'LL SET A FURTHER  
9 STATUS CONFERENCE IN ALL OF THE CASES, THE MOJAVE  
10 PISTACHIOS CASE, THE SEARLES CASE -- AND I GUESS THIS  
11 CASE WILL BE IN TRIAL BEFORE THEN, BUT I'LL SET IT OUT  
12 FIVE OR SIX MONTHS.

13 SO UNLESS THE PARTIES HAVE AN ISSUE THAT THEY  
14 NEED TO ADDRESS BEFORE THEN, THIS WILL BE THE NEXT  
15 STATUS CONFERENCE. WE'LL SET IT FOR JULY.

16 ALL RIGHT. WE'LL SET IT FOR JULY 15TH, 2025 AT  
17 TEN O'CLOCK WITH A JOINT STATUS CONFERENCE STATEMENT TO  
18 BE SUBMITTED ON OR BEFORE JULY 8TH. THAT WILL BE IN ALL  
19 THE CASES.

20 MR. EVERTZ, WOULD YOU GIVE NOTICE OF THAT?

21 MR. EVERTZ: I WILL, YOUR HONOR, YES.

22 THE COURT: OKAY. ALL RIGHT. UNLESS THERE'S  
23 ANYTHING ELSE, THANK YOU, EVERYONE.

24 ALL COUNSEL: THANK YOU, YOUR HONOR.

25 (PROCEEDINGS CONCLUDED)

26



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