

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

CITY OF BARSTOW, et al.,)
)
 Plaintiffs,)
)
 vs.)
)
 CITY OF ADELANTO, et al.,)
)
 Defendants.)
)
 _____)
 AND RELATED CROSS-ACTIONS.)
 _____)

No. CIV208568

REPORTER'S TRANSCRIPT OF PROCEEDINGS

Proceedings of Friday, June 13, 2014,
before the Honorable Gloria Connor Trask,
Judge, Department 3.

APPEARANCES:

For Defendant/
Cross-Complainant:
Mojave Water Agency

BRUNICK, McELHANEY & KENNEDY PLC
By: William J. Brunick, Esq.
1839 Commercenter West
Post Office Box 13130
San Bernardino, California 92423-3130

For California
Department of Fish
and Wildlife:

OFFICE OF THE ATTORNEY GENERAL
OF THE STATE OF CALIFORNIA
By: Marilyn H. Levin, Deputy
300 South Spring Street, Suite 1700
Los Angeles, California 90013

For Defendant:
Mitsubishi Cement Corp.;
Silver Lakes Association

GRESHAM SAVAGE
By: Derek R. Hoffman, Esq.
550 East Hospitality Lane, Suite 300
San Bernardino, California 92408

Patricia L. Hanson, CSR 2329
Riverside Superior Court
4050 Main Street, Department 3
Riverside, California 92501

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PROCEEDINGS OF FRIDAY, JUNE 13, 2014

BEFORE THE HONORABLE GLORIA CONNOR TRASK

THE COURT: Good morning, Ladies and Gentlemen.
Calendar call for Department 3.

Number 1 on calendar, City of Barstow versus City of Adelanto.

MR. BRUNICK: Good morning, Your Honor.
Bill Brunick appearing for Mojave Water Agency.

THE COURT: Oh, you need to speak up, Mr. Brunick.

MR. BRUNICK: Bill Brunick appearing for Mojave Water Agency, Your Honor.

MS. LEVIN: Marilyn Levin, Deputy Attorney General, appearing for the Department of Fish & Wildlife.

MR. HOFFMAN: Good morning, Your Honor.

Derek Hoffman of Gresham, Savage, Nolan & Tilden for Mitsubishi Cement Corporation and Silver Lakes Association.

THE COURT: Mr. Hoffman, you didn't submit any pleadings.

MR. HOFFMAN: That's right, Your Honor.

We're here to -- We support the Watermaster's motion and recommendations. Our client has a longstanding business interest in how their basin is managed, and so I'm just here to represent our client as needed and aware of firsthand of the court's decision on the recommendation for the Oeste Subarea.

THE COURT: All right. Very well. How quickly the years go by.

MR. BRUNICK: Didn't they. I hate to....

THE COURT: Frightening.

1 This matter's on calendar for a motion to review and
2 consider the Watermaster's recommendation for the year 2014-15.

3 I have a question for you, Mr. Brunick. We looked at
4 a five-year period, and that five-year period expires 2015; is
5 that correct?

6 MR. BRUNICK: That's correct.

7 THE COURT: What's the plan for beyond?

8 MR. BRUNICK: The State and Mojave Water Agency are
9 working on that. They're conducting a study the Baja area.
10 And --

11 THE COURT: But it was a five-year plan for the entire
12 area, correct?

13 MR. BRUNICK: Just for the Baja area.

14 THE COURT: Just for Baja. And then we're just going
15 to take it year by year for all of the areas?

16 MR. BRUNICK: Hopefully the State and Mojave will have
17 a joint recommendation for next year as to how to manage the
18 Baja area.

19 THE COURT: All right.

20 MS. LEVIN: Your Honor, there are -- there are pilot
21 programs that are being put into effect in the Baja area at the
22 Camp Cady Wildlife Area. We -- We reference that in our
23 declaration. And so the two, the Mojave Water Agency and the
24 Department of Fish & Wildlife, are hoping to have our engineers
25 and hydrologists work together in supporting some sort of study
26 with respect to what would be the recommendation next year for
27 a rampdown.

28 THE COURT: Okay.

1 MS. LEVIN: So we're hoping that we will come in with
2 some sort of joint proposal. That's our -- That's our goal and
3 our plan; and we actually started working together about three
4 months or four months ago on that.

5 THE COURT: Okay.

6 Well, I know that Baja is of considerable concern, but
7 also Oeste is a problem as well because they are still
8 overproducing.

9 MR. BRUNICK: That's correct, Your Honor.

10 One of the major problems with Oeste is there's a well
11 located outside of the County of San Bernardino and outside
12 this court's jurisdiction.

13 THE COURT: Well Number 14.

14 MR. BRUNICK: Correct.

15 THE COURT: But you seem to include it.

16 MR. BRUNICK: We have tried to include it. And the
17 court in Los Angeles County has set that matter for trial in
18 August. Whether that particular issue will be tried in August
19 as to where that well is located and where the production
20 should be charged, I guess, is --

21 THE COURT: Give us just a moment.

22 MS. LEVIN: Oh, no. It's all right. I'll get another
23 pen.

24 THE COURT: Take a moment. We had a pen explosion.

25 MR. BRUNICK: You can't take her anywhere.

26 MS. LEVIN: I wasn't even on a -- I think I was on a
27 plane and took it with me. So thank you.

28 THE COURT: Do you need -- Do you need --

1 MS. LEVIN: No. No, no. I'm absolutely fine.
2 THE COURT: -- a paper or a napkin, some trash?
3 MS. LEVIN: No, I'm good.
4 THE COURT: We'll give you a trash can.
5 MS. LEVIN: I'm fine. I have another pen.
6 MR. HOFFMAN: It could be much worse.
7 THE COURT: Deputy, maybe I have a couple of paper
8 towels.
9 MS. LEVIN: No, no, I'm good. I'm good. Let's
10 proceed. It's all right. Thank you.
11 No, no, I'm good.
12 THE COURT: He'll take it for you.
13 MR. HOFFMAN: Don't wipe your nose right now.
14 MS. LEVIN: All right. Luckily my shirt is blue so it
15 will match if it gets on it.
16 Okay. Hopefully this isn't my last time appearing in
17 this court. How ignominious.
18 THE COURT: Your reputation --
19 MS. LEVIN: Thank you.
20 THE COURT: -- is really in front of this entire --
21 MS. LEVIN: And I really liked that pen.
22 THE COURT: And when I teach Bridge the Gap, I say
23 everyone in the audience is watching you and judging your
24 conduct. So we're here. You're fine.
25 All right. Let's go back. We were talking about
26 Oeste and the problems with Oeste.
27 MR. BRUNICK: Yeah. The -- the well, if -- if Well 14
28 production is not included in Oeste, Oeste is in balance. If

1 you take the production that is outside the County of
2 San Bernardino and add that to the current production within
3 Oeste, then they're out of balance. So what the Watermaster
4 and Mojave has been waiting for is the adjudication by the
5 court in the Antelope Valley Basin to determine where that well
6 is actually going, where -- and hopefully that will be resolved
7 soon. I think the Attorney General also -- this young lady is
8 also involved in that adjudication.

9 But what the Watermaster has recommended to this court
10 is that we -- 80 -- you know, the rampdown should be 80 percent
11 for Ag., 60 percent stayed for M&I, with a cap of 3921 for
12 production within -- in the Oeste Basin. And I think that that
13 will do it. Hopefully we'll have a firm recommendation next
14 year because the court in Los Angeles County will have decided
15 where that production is to be counted.

16 THE COURT: Okay.

17 And when do you expect that to go to trial?

18 MR. BRUNICK: August 4th.

19 THE COURT: Okay.

20 Is that one of the issues to be determined?

21 MR. BRUNICK: Yes, it is, Your Honor.

22 THE COURT: Okay.

23 So we'll have a better idea of how to deal with Oeste
24 hopefully next year.

25 MR. BRUNICK: God willing, yes.

26 Like you said, the time marches on in these
27 adjudications. But that -- that is our hope, that we -- And
28 the Water- -- hopefully the same format is being requested by

1 the court, the court appoint a Watermaster in the Antelope
2 Valley Area, contin- -- reserve continuing jurisdiction. And
3 then the two Watermasters be -- the Mojave and the Antelope
4 Valley Watermasters can really work out where the production is
5 going.

6 THE COURT: No chance it would be the same person?

7 MR. BRUNICK: No. It's a separate Watermaster. It
8 will be a Watermaster board composed of Antelope Valley folks.
9 And Mojave has it composed of the Mojave Water Agency, and the
10 Engineer really controls the Mojave Watermaster.

11 THE COURT: All right.

12 Is there anything further?

13 MS. LEVIN: No, Your Honor.

14 THE COURT: It's the court's intention obviously to
15 approve the Watermaster's recommendation for the year
16 2014-2015.

17 MS. LEVIN: Thank you, Your Honor.

18 MR. BRUNICK: Thank you, Your Honor.

19 THE COURT: Thank you.

20 MR. HOFFMAN: Just a question -- I'm sorry,
21 Your Honor. Just a question. So as between the two
22 alternatives, which are we --

23 MR. BRUNICK: The cap of 3921.

24 MR. HOFFMAN: That would be the second alternative --

25 MR. BRUNICK: Correct.

26 MR. HOFFMAN: -- as listed?

27 THE COURT: The Watermaster's recommendation.

28 MR. HOFFMAN: I'm just trying to clarify. I believe

1 that was the alternative recommendation.

2 THE COURT: It was.

3 MR. HOFFMAN: Okay.

4 THE COURT: So I want to be clear.

5 MR. HOFFMAN: Thank you.

6 MR. BRUNICK: Thank you, Your Honor.

7 THE COURT: Wait. Wait one second. I want to be
8 clear because the Phelan/Pinion Hills is the one that
9 recommended the -- the lesser amount. And I am adopting and
10 accepting the Watermaster's recommendation. And that is -- Let
11 me find it.

12 MR. HOFFMAN: Your Honor, I -- I don't mean to
13 interrupt. But I see the two options pretty clearly laid out
14 on Page 11 --

15 THE COURT: Thank you.

16 MR. HOFFMAN: -- of the motion.

17 MR. BRUNICK: And, Your Honor, I was directed to make
18 both recommen- -- submit both recommendations, but the
19 Watermaster Board suggested that we could -- could live with
20 the alternative to the FPA to set at 80 percent with a cap at
21 3921. Pinion Hills dropped a number of other of their
22 requests, and this was the requirement that the -- the
23 Watermaster Board recommended that we submit to you.

24 THE COURT: All right. Well in that case I prefer --
25 That's a little more restrictive, correct? Or your
26 think it's a little less?

27 MR. BRUNICK: No, it is restrictive in that it caps
28 the production within the Oeste area.

1 THE COURT: I think it's better to be a little more
2 restrictive. So I would -- I would be happy to allow you to
3 put that -- the more restrictive Pinion Hills recommendation as
4 the -- as the -- as the order for Oeste.

5 MR. BRUNICK: Thank you, Your Honor.

6 THE COURT: Thank you for that clarification, --

7 MR. HOFFMAN: Thank you, Your Honor.

8 THE COURT: -- Mr. Brunick.

9 MS. LEVIN: Thank you, Your Honor.

10 THE COURT: Thank you. Good day.

11 Do we need to -- One second. Housekeeping. Do we
12 need to set an OSC re receipt of -- I forget what it's called,
13 amended judgment, recommendation? I forget the name of the
14 document you've prepared for me.

15 MR. BRUNICK: We prepare an order. And then -- It's
16 just a simple order. There's no -- no hearing normally that is
17 set.

18 THE COURT: All right.

19 THE CLERK: No, Your Honor, we don't need to set them
20 on calendar.

21 THE COURT: Okay.

22 It's the -- What you will prepare is the order
23 granting motion for -- to adjust Free Production Allowance for
24 the year 2014-2015.

25 MR. BRUNICK: That's correct.

26 THE COURT: All right.

27 MR. BRUNICK: Thanks.

28 THE COURT: Thank you.

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MS. LEVIN: Thank you, Your Honor.

THE COURT: Thank you.

MR. HOFFMAN: Thank you, Your Honor.

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STATE OF CALIFORNIA)
) ss.
COUNTY OF RIVERSIDE)

I, PATRICIA L. HANSON, a Certified Shorthand Reporter,
Number 2329, do hereby certify:

That on June 13, 2014, in the County of Riverside, State
of California, I took in shorthand a true and correct report of
the proceedings had in the above-entitled cause and that the
foregoing transcript is a true and accurate transcription of my
shorthand notes, taken as aforesaid.

DATED: Riverside, California, June 13, 2014.

Patricia L. Hanson, CSR 2329