

STATE OF CALIFORNIA
WATER RESOURCES CONTROL BOARD
PUBLIC HEARING

In the Matter of:

Byron Bethany Irrigation District
(BBID) and The West Side Irrigation
District (WSID) Joint Hearing

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VOLUME 2

JOE SERNA, JR./CALEPA BUILDING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
1001 I STREET, SECOND FLOOR
COASTAL HEARING ROOM
SACRAMENTO, CALIFORNIA
TUESDAY, MARCH 22, 2016
9:00 A.M.

Reported by:
PETER PETTY

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Ms. Frances Spivy-Weber, Vice Chair

WATER BOARD STAFF:

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Mr. Ernie Mona, Water Resource Control Engineer

Ms. Jane Farwell-Jensen, Environmental Scientist

Mr. Rich Satkowski, Senior Water Resource Control Engineer

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P R O C E E D I N G S

1
2 March 22, 2016

9:00 a.m.

3 CO-HEARING OFFICER DODUC: And we're going to
4 resume. Again, I'm Tam Doduc, State Water Board Member and
5 Hearing Officer for the BBID ACL.

6 To my left, Vice Chair Frances Spivy-Weber, and
7 Hearing Officer for West Side Irrigation District, Draft
8 Cease and Desist Order.

9 Assisting us, to my right, Staff Counsel Nicole
10 Kuenzi. To her right, Jane Farwell-Jensen. To the Vice
11 Chair's left, Rich Satkowski and Ernie Mona. Also
12 assisting us today, Michael Buckman.

13 We have our court reporters here. A reminder
14 that this is being recorded, webcast, so please speak into
15 the microphone. Begin by identifying yourself and who you
16 represent.

17 Evacuation reminder, if an alarm sounds, we are
18 required to evacuate. Please take your valuables. Take
19 the stairs, not the elevators, down to the first floor
20 exit, and our meeting location is J. Neely Johnson Parking
21 and Community Center Garden, located at 516 11th Street, on
22 11th Street, between E and F.

23 And please take a moment, put your cell phone on
24 silent, mute. Check it, even if you think it is on.

25 All right, before we get to Mr. Kelly and BBID's

1 case in chief, I need to do a little correction,
2 housekeeping correction.

3 At the end of the day yesterday, after Mr.
4 Tauriainen had completed his redirect, I asked if the BBID,
5 et al party, wanted to recross. We got into a little
6 exchange with Mr. Kelly. And then someone asked a question
7 about the locking up this room.

8 And I believe I moved from that to the exhibits,
9 without asking the other parties if you wanted to recross
10 the redirect of Ms. Mrowka. No one voiced any objections.
11 So, I assumed there was none.

12 But for the record, let me go ahead right now and
13 go through and ensure that that is the case.

14 So, San Francisco, did you want to recross Ms.
15 Mrowka on her redirect?

16 MR. KELLY: Not here.

17 CO-HEARING OFFICER DODUC: I will take that as a
18 no.

19 Mr. O'Laughlin, San Joaquin Tributaries
20 Authority?

21 MR. O'LAUGHLIN: Nope.

22 CO-HEARING OFFICER DODUC: Department of Water
23 Resources? I heard a no, thank you. All right.

24 The State Water Contractors?

25 MS. ANSLEY: No, thank you.

1 CO-HEARING OFFICER DODUC: Westlands Water
2 District?

3 All right, that is now for the record and thank
4 you for indulging my slight moment of confusion there,
5 yesterday.

6 Ms. Spaletta?

7 MS. SPALETTA: Good morning. Actually, we didn't
8 get to recross Ms. Mrowka, despite the request. So, is
9 that going to be -- is that an opportunity that will be
10 provided?

11 CO-HEARING OFFICER DODUC: I was under the
12 impression that when I asked for recross, Mr. Kelly asked,
13 on behalf of Respondent, on behalf of the BBID, West Side,
14 Central, South Delta, Banta-Carbona and Patterson in saying
15 no. Was that not the correct assumption?

16 MS. SPALETTA: No, he asked to recross and I
17 believe you indicated you were not inclined to allow it,
18 but never actually ruled. But I could be confused.

19 CO-HEARING OFFICER DODUC: Oh, to recross.

20 MS. SPALETTA: He was not allowed to ask the
21 questions of Ms. Mrowka that he proposed to ask.

22 CO-HEARING OFFICER DODUC: I'm sorry, did you
23 have questions of Ms. Mrowka? My understanding was that
24 you did not, but you had a question to get clarification
25 from Mr. Yeazell --

1 MR. KELLY: Yeah.

2 CO-HEARING OFFICER DODUC: -- the technical
3 person, about a question that was asked by the State Water
4 Contractors?

5 MR. KELLY: So, yes. So, after we cross-examined
6 Ms. Mrowka, other parties cross-examined Ms. Mrowka.

7 CO-HEARING OFFICER DODUC: Ah.

8 MR. KELLY: Based in part on questions that we
9 had asked on cross. And then, Mr. Tauriainen redirected
10 her on discrete issues.

11 My requested recross was to address questions
12 that had come up after I had the opportunity -- and answers
13 that were provided after I had the opportunity to cross
14 her.

15 So, they weren't related precisely to what Mr.
16 Tauriainen had asked her, but were related to issues that
17 came up following our cross.

18 CO-HEARING OFFICER DODUC: But you did ask me --

19 MR. KELLY: And I made an offer of proof and I
20 believe that the Chair ruled that I was -- I should not ask
21 those questions. We engaged in a limited discussion and
22 then the Chair said that's enough, we're done with that
23 topic.

24 CO-HEARING OFFICER DODUC: Thank you. Thank you
25 for refreshing my memory and clarifying.

1 Yes, I did rule against -- I denied your request
2 to recross. The one question that you did raise with
3 respect to clarifying an answer in response to the State
4 Water Contractor's question, we did have a back and forth.
5 I believe that is in the record. And with that, I think we
6 have clarified what happened yesterday.

7 MR. KELLY: That is my recollection, yes.

8 CO-HEARING OFFICER DODUC: So, the answer to your
9 question, Ms. Spaletta, is that is a no to all parties on
10 recross.

11 MS. SPALETTA: Thank you for the clarification.

12 MR. KELLY: And if I can just make sure, because
13 I just want to make it clear that I represent the Byron
14 Bethany Irrigation District in these proceedings. And I
15 don't want anything that I say with respect to waiving the
16 right to cross-examine people to be attributed to other
17 parties that may have distinct interests from BBID.

18 CO-HEARING OFFICER DODUC: Ah, all right.

19 MR. KELLY: And so, while I appreciate generally,
20 when we're questioning a lot of our direct witnesses are in
21 common, it perhaps would be a good idea for the record to
22 make sure that all of the parties are finished, instead of
23 relying on one of us to represent the interest of all of
24 us.

25 CO-HEARING OFFICER DODUC: All right. In that

1 case, then, let me ask whether West Side wished to recross
2 the redirection of Ms. Mrowka?

3 Central Delta?

4 MS. SPALETTA: We think the issue has been
5 muddied, but it can be cleared up later on, so we'll just
6 leave it for that.

7 CO-HEARING OFFICER DODUC: Bless you, thank you.

8 South Delta?

9 MR. RUIZ: No, we don't have any.

10 CO-HEARING OFFICER DODUC: Banta-Carbona and
11 Patterson?

12 MS. ZOLEZZI: No, thank you.

13 CO-HEARING OFFICER DODUC: And thank you all.
14 So, that completes all of the parties declining to recross
15 the redirect of Ms. Mrowka.

16 Now, Ms. Spaletta?

17 MS. SPALETTA: I have one housekeeping issue. I
18 made a statement about the burden of proof that the
19 prosecution has in my opening. And I went back and looked
20 at the rough transcript and realize that I misspoke. I
21 left out a couple words. And this is actually very
22 important to, I think, your task, and so I want to make
23 sure I correct my misstatement.

24 It's also described on page 2 to 3, of our
25 pretrial legal issues brief.

1 I said that it's not the preponderance of the
2 evidence standard, that it's a no reasonable doubt
3 standard. That was incorrect.

4 CO-HEARING OFFICER DODUC: I actually noted that.

5 MS. SPALETTA: Yes. What I mean to say is that
6 it's the standard in between the two, which is the clear
7 and convincing evidence standard that applies when
8 important interests are at stake.

9 So, it doesn't go all the way to the extreme of
10 beyond a reasonable doubt, which is typically a criminal
11 proceeding standard. It is higher than a preponderance of
12 the evidence standard, and the name given to it is the
13 clear and convincing evidence standard.

14 And again, the citations for that for that are on
15 page 2 to 3 of our pretrial legal issues brief. And I
16 apologize for the misstatement.

17 CO-HEARING OFFICER DODUC: Thank you.

18 Mr. O'Laughlin?

19 MR. O'LAUGHLIN: Since the Prosecution Team has
20 rested their case, I'd like to move for a nonsuit at this
21 time. We've raised these issues and I know the Motions to
22 Dismiss are under consideration, and you were allowing the
23 Prosecution Team --

24 CO-HEARING OFFICER DODUC: Mr. O'Laughlin, I'd
25 ask you to get closer to the microphone.

1 MR. O'LAUGHLIN: Yes, thank you. So, at this
2 time we'd like to move for a nonsuit on the basis that we
3 raised in our Motions to Dismiss.

4 In regards to the Opening Statement made by the
5 Prosecution Team yesterday, Mr. Tauriainen stated that he
6 would prove two things. One, that the water right priority
7 system had been violated and there was injury. And two,
8 that senior water rights were impacted and that there was
9 injury.

10 And yesterday, so we had the witnesses up
11 yesterday, and we can truthfully say that Mr. Coats, Mr.
12 Yeazell and Mr. Nemeth had nothing to say about injury.
13 Ms. Mrowka did.

14 And it's very interesting what Ms. Mrowka said
15 yesterday, when you go through the injury analysis. So,
16 the first one was injury to the water right priority
17 system. Ms. Mrowka stated that in general there has been a
18 trespass or injury to the water right priority system.

19 Well, the problem with that is that a trespass
20 does not occur in the abstract. And the case law is pretty
21 clear on this, and we provided this to you.

22 And so, hypothetically, let's say, I walk across
23 your lawn in the morning to pick up my paper --

24 CO-HEARING OFFICER DODUC: Mr. O'Laughlin?

25 MR. O'LAUGHLIN: Yes.

1 CO-HEARING OFFICER DODUC: I'm not willing to
2 entertain oral arguments at this time. Your request, your
3 motion is noted.

4 Mr. Tauriainen, do you wish to object to the
5 motion or --

6 MR. O'LAUGHLIN: I have one more add on to my
7 motion, it's a two-part.

8 CO-HEARING OFFICER DODUC: All right. Without
9 getting into oral arguments, please.

10 MR. O'LAUGHLIN: Sure. Okay, the first one,
11 then, is no impacts and no injury.

12 The second one is, I think based on the testimony
13 yesterday, by Mr. Yeazell and Mr. Coats, it's very clear
14 that based on what they said yesterday is that if there's
15 2,200 CFS of return flow and 1,700 reduction in demand,
16 that the line --

17 CO-HEARING OFFICER DODUC: And so, your motion
18 is?

19 MR. O'LAUGHLIN: My motion is there's no basis to
20 find that there was a shortage of water in June because the
21 line for supply was over demand.

22 CO-HEARING OFFICER DODUC: Thank you.

23 MR. KELLY: And BBID will join.

24 CO-HEARING OFFICER DODUC: Mr. Kelly?

25 MR. KELLY: BBID will join in that motion as to

1 the Administrative Civil Liability Complaint against BBID
2 for June the 13th through June the 25th?

3 CO-HEARING OFFICER DODUC: Any others?

4 MS. ZOLEZZI: Yes, West Side Irrigation District
5 will join in the motion, as well.

6 CO-HEARING OFFICER DODUC: Others?

7 MR. VERGARA: Yes. Hearing Officer Doduc, I also
8 want to reiterate my --

9 CO-HEARING OFFICER DODUC: I'm sorry, you are?

10 MR. VERGARA: Mike Vergara, I'm sorry, for BBID.
11 I also want to reiterate my motion that these proceedings
12 should never have been commenced because we have pending
13 motions to dismiss, which go to the very jurisdiction of
14 this court -- or, I'm sorry, this Board.

15 CO-HEARING OFFICER DODUC: Thank you, noted.

16 Ms. Spaletta?

17 MS. SPALETTA: Central Delta will join in the
18 motions for nonsuit for failure of the Prosecution Team to
19 put forth evidence sufficient to meet the clear and
20 convincing evidence standard for no proof on water
21 availability for both proceedings.

22 CO-HEARING OFFICER DODUC: All right. Any other
23 parties in support? Let's hear anyone in opposition. I'm
24 sorry, City of San Francisco? I'm sorry. South Delta,
25 sorry.

1 MR. RUIZ: South Delta joins in those motions,
2 as well.

3 CO-HEARING OFFICER DODUC: Thank you.

4 MR. TAURIAINEN: Andrew Tauriainen for the
5 Prosecution Team. We oppose the motion or motions on a
6 couple of grounds. First of all, they seem to be rooted
7 primarily in legal issues that have been briefed.

8 CO-HEARING OFFICER DODUC: I don't necessarily
9 need to have your arguments right now. I think that will
10 be enough. I just wanted your opposition on record.

11 Anyone else?

12 MS. MC GINNIS: DWR opposes the motion. Robin
13 McGinnis for California Department of Water Resources.

14 CO-HEARING OFFICER DODUC: Anyone else in
15 opposition?

16 Hearing none, we will take that under advisement.

17 Mr. O'Laughlin?

18 MR. O'LAUGHLIN: Sorry, Tim O'Laughlin, San
19 Joaquin Tributaries Authority. I just want to object, just
20 for the record, and this will be short and sweet, that
21 continuing to take things under advisement denies BBID and
22 West Side Irrigation District a fair trial in this process.
23 Thank you.

24 CO-HEARING OFFICER DODUC: Noted and I assume all
25 the other parties who supported Mr. O'Laughlin's initial

1 motion is in support of that objection, as well.

2 MR. KELLY: Thank you.

3 CO-HEARING OFFICER DODUC: All right, noted.

4 And not seeing any other hands, one sort of a
5 heads up. I did say, yesterday, that we will try to break
6 early, around noon or so, or at around the lunch break
7 time, for those who are observing Good Friday. A heads up
8 that depending on how things progress between now and
9 Friday, I might want to start very early on Friday in order
10 to make up for that early dismissal. So, perhaps we might
11 be starting around 8:00, instead of 9:00. I'll make that
12 decision on Thursday, right.

13 With that then, Mr. Kelly, if there are no other
14 housekeeping from staff, Mr. Kelly, you may present your
15 witnesses.

16 MR. KELLY: Thank you, Hearing Officer Doduc.
17 Daniel Keely, Byron Bethany Irrigation District, and I have
18 Dean Ruiz, with South Delta Water Agency.

19 And as provided in our Notices of Intent to
20 Appear, and our submittals, BBID, Central and South Delta,
21 and West Side are relying upon the same witnesses in our
22 case in chief.

23 And so what we're going to do, instead of
24 duplicating this multiple times, we're going to have our
25 shared expert witnesses come up as a panel, and present

1 that as a group, so you can hear it all at once.

2 And that was set forth when we submitted the
3 Revised Notices of Intent to Appear, with all of the
4 proposed testimony.

5 CO-HEARING OFFICER DODUC: And the time for this
6 presentation would be from BBID's case in chief time.

7 MR. KELLY: It's combined and maybe we -- I want
8 to make sure I understand how the time is going to be. I
9 understood that the times that were providing in the order,
10 and I could be mistaken, and so I'm asking for
11 clarification, were that it was per witness or per panel of
12 witnesses, not an amount of time for a complete case in
13 chief.

14 Was the time in the order the total time to
15 present a case in chief?

16 CO-HEARING OFFICER DODUC: That was my intention.

17 MR. KELLY: So, what we're going to do, then, is
18 we're going to combine BBID, West Side, Central and South
19 Delta, and Patterson, and Banta-Carbona's time for a case
20 in chief.

21 CO-HEARING OFFICER DODUC: Central did not -- did
22 not -- I'm sorry, did they?

23 MR. KELLY: I apologize.

24 CO-HEARING OFFICER DODUC: So, you are requesting
25 to combine BBID, West Side, and South Delta.

1 MR. KELLY: Patterson and Banta-Carbona, Ms.
2 Zolezzi? Do they have direct or are they just cross-
3 examine, only?

4 CO-HEARING OFFICER DODUC: No, they do not.
5 Cross.

6 MR. KELLY: So, if I can get clarification on
7 what the combined time for the case, total case in chief
8 would be, I would appreciate that clarification.

9 MR. BUCKMAN: It's 210 minutes.

10 MR. KELLY: 210 minutes.

11 (Discussion off the record)

12 CO-HEARING OFFICER DODUC: Does your request
13 still stand?

14 MR. KELLY: I'm sorry?

15 CO-HEARING OFFICER DODUC: Are you still making
16 that request?

17 MR. KELLY: Yes, we will make that request and
18 we're just -- I want to let you know how much time we're
19 going to request here, so the clock is right. And so,
20 we're going to try to get this panel, our first panel done
21 in one hour.

22 So, let me ask how this is going to work, so I
23 guess everybody here knows what to expect. We're going to
24 have several panels.

25 Our first panel is going to be Dr. Susan Paulsen

1 and Mr. Burke. Doctor Burke? Mr. Burke. I wanted to make
2 sure. They're going to be our first panel.

3 And then following them, we're going to have Greg
4 Young and Nick Bonsignore as a separate panel that we
5 expect to go for an hour.

6 And then, I would expect to have Mr. Gilmore, and
7 depending on Mr. Pattison' availability, Mr. Tauriainen and
8 I talked about the possibility of having him get all of his
9 testimony in now. But that will be another separate panel.

10 And so, since our total case in chief time is
11 that 210 minutes, how are we going to handle the cross-
12 examination time that all the parties have? Do they have a
13 total of one hour for all panels?

14 CO-HEARING OFFICER DODUC: So, I've been asked to
15 be mindful that you don't speak for all the other parties.
16 The panels that you have outlined, would those also -- does
17 that comprise the entirety of all of the witnesses for all
18 the three agencies represented?

19 A nod from Ms. Spaletta.

20 MR. RUIZ: Yes, it does.

21 CO-HEARING OFFICER DODUC: Okay, so those are all
22 the panels. There will be no additional panels from the
23 three of you?

24 MR. KELLY: Ms. Zolezzi, do you have any
25 additional fact witnesses?

1 MS. ZOLEZZI: Not for Phase 1.

2 CO-HEARING OFFICER DODUC: My preference is --
3 well, you know what, let me toss it out to the other
4 parties to hear whether they have any objections or
5 concerns, before I make my decisions on this.

6 Mr. Tauriainen?

7 MR. TAURIAINEN: Andrew Tauriainen for the
8 Prosecution Team. I have no objection to them --

9 CO-HEARING OFFICER DODUC: Closer to the
10 microphone, please.

11 MR. TAURIAINEN: I have no objection to the
12 separate panels, three panels. I do note that your
13 procedural ruling of February 18th indicates that the
14 cross-examination time limits are per panel of witnesses.
15 That's how read it at least, so I'd ask clarification to
16 make sure. Which would, my read of the procedural ruling
17 would be then the prosecution team gets 60 minutes per
18 panel.

19 CO-HEARING OFFICER DODUC: That's a nice try,
20 Mr. Tauriainen. But my intention was that the time limit
21 would be -- the panel, as I envisioned it, was the panel of
22 the entirety of the case in chief.

23 MR. TAURIAINEN: Okay.

24 MS. AKROYD: Rebecca Akroyd for Westlands. I
25 would agree with Mr. Tauriainen's interpretation. On the

1 February 18th --

2 CO-HEARING OFFICER DODUC: Microphone, please.

3 MS. AKROYD: Sorry. On the February 18th order,
4 it says, "In Phase 1, cross-examination will be conducted
5 according to the stated time limits per witnesses or, in
6 the case of multiple witnesses, per panel of witnesses."

7 Which indicates that for each panel, for example,
8 Westlands would get 10 minutes for each panel.

9 CO-HEARING OFFICER DODUC: Any other parties
10 wishing to comment?

11 Ms. McGinnis?

12 MS. MC GINNIS: DWR agrees with Westlands and
13 the Prosecution Team's interpretation.

14 CO-HEARING OFFICER DODUC: State Water
15 Contractors?

16 MS. ANSLEY: Jolie-Anne Ansley, we also agree
17 with Westland's interpretation.

18 CO-HEARING OFFICER DODUC: Westlands?

19 MS. ANSLEY: Westland's Water District, I'm
20 sorry, yes.

21 CO-HEARING OFFICER DODUC: Ms. Kuenzi, I saw you
22 moving towards the microphone. Did you wish to add
23 something?

24 MR. KELLY: And I just want to respond, perhaps,
25 to that object or interpretation. What that would do is

1 that would mean I have -- that BBID would have an hour and
2 a half, if it was just BBID's case, to put on its case in
3 chief, and then be subject to three hours of cross-
4 examination by Mr. Tauriainen, three hours by Ms. Akroyd --

5 CO-HEARING OFFICER DODUC: Thank you.

6 MR. KELLY: -- three hours --

7 CO-HEARING OFFICER DODUC: I understand.

8 MR. KELLY: Thank you.

9 CO-HEARING OFFICER DODUC: I understand.

10 My ruling for now will stand on the
11 interpretation that the time limits are for the entirety of
12 each party's cross-examination of these witnesses.

13 Keep in mind, though, that if I'm understanding
14 my math correctly, for example, Mr. Tauriainen, you had
15 your cross-examination time was 60 minutes. Yes. So, it
16 was 60 minutes for each case in chief and they've combined
17 their cases in chief.

18 So, if my math is correct, you have 60 minutes
19 for cross-examining BBID. You have 60 minutes for cross-
20 examining West Side. And you have 60 minutes -- wait, hold
21 on, on cross. Yes, 60 minutes for cross-examining South
22 Delta. Did I do that right?

23 Yes, my wise counsel has suggested that we break
24 to do some math, given this new arrangement of witnesses.

25 Ms. Zolezzi?

1 MS. ZOLEZZI: Just to add something, Hearing
2 Officer --

3 CO-HEARING OFFICER DODUC: Oh, please, simplify.

4 MS. ZOLEZZI: As we've combined our panels, we
5 have combined and used the same witnesses. It would be
6 different if we had multiple witnesses. But we not just
7 have combined our time, we have combined by using the same
8 witnesses. So, allowing them to triple the time to cross-
9 examine, as if we had different witnesses for each party,
10 would seem excessive.

11 CO-HEARING OFFICER DODUC: Right. Well, it's a
12 good thing I brought extra coffee this morning.

13 We will take a break until 9:30, so we can go
14 over the time construct for this new coordinated effort.

15 (Off the record at 9:23 a.m.)

16 (On the record at 10:03 a.m.)

17 CO-HEARING OFFICER DODUC: Thank you for your
18 patience. We'll go back on the record.

19 I'm going to announce some change for today's
20 proceedings, in fact, some change for the entire
21 proceeding.

22 We are going to suspend the hearing for today.
23 We will reconvene at 9:00 tomorrow, when we will hear oral
24 arguments on the Motion for Nonsuit or Dismissal. We will
25 allow 45 minutes for respondents to present their oral

1 arguments. That's a combination, all of you, 45 minutes on
2 the Motion for Dismissal, with citations, references to
3 exhibits, testimony, et cetera, to support your argument.

4 We will then hear 45 minutes from the Prosecution
5 Team and other parties, who are objecting or in opposition
6 to the Motion for Nonsuit.

7 We will then provide five minutes of rebuttal
8 testimony for the moving parties.

9 And a request to BBID, or whomever that is
10 providing the court reporter, if you would, please, make
11 available to all the parties, or at least give them access
12 to arrange for the overnight transcript that has been
13 produced to date. That would be greatly appreciated in
14 helping to move the arguments along tomorrow?

15 MR. KELLY: May, Hearing Officer?

16 CO-HEARING OFFICER DODUC: Yes.

17 MR. KELLY: Dan Kelly, for BBID. Yes, we can do
18 that. We actually already had an agreement with the
19 Prosecution Team, and they've already been provided a copy,
20 I believe, of yesterday's.

21 And just so the record's clear, it's a rough
22 transcript. It's not a certified transcript of the
23 proceeding. But the Prosecution Team has it. Is that
24 correct? And we will provide it to any other party. Will
25 get them a copy.

1 CO-HEARING OFFICER DODUC: And to us.

2 MR. KELLY: And we will get you a copy as well,
3 yes.

4 CO-HEARING OFFICER DODUC: All right. Any other
5 questions? Ms. Zolezzi?

6 MS. ZOLEZZI: Hearing Officer, I don't mean to be
7 dense, but the 45 minutes, is that a collective time for
8 the moving party?

9 CO-HEARING OFFICER DODUC: Yes, total for all in
10 favor of the motion. And 45 minutes total in all, in
11 opposition to the motion.

12 MS. ZOLEZZI: Thank you.

13 CO-HEARING OFFICER DODUC: All right, thank you
14 all.

15 MR. KELLY: Thank you.

16 (Off the record at 10:05 a.m.)

17 (On the record at 10:06 a.m.)

18 MR. TAURIAINEN: Andrew Tauriainen for the
19 Prosecution Team.

20 CO-HEARING OFFICER DODUC: Hold on. Okay.

21 MR. TAURIAINEN: I would ask, for the sake of
22 clarifying what the motion was this morning, I jotted down
23 some notes, but I want to make sure we address it precisely
24 in argument tomorrow.

25 CO-HEARING OFFICER DODUC: You'll get it in the

1 transcript.

2 MR. TAURIAINEN: Could we possibly get the rough?

3 CO-HEARING OFFICER DODUC: You'll get it in the
4 transcript. What would the estimated time today be for
5 that?

6 (Discussion off the record)

7 MR. TAURIAINEN: Much appreciated, thank you.

8 CO-HEARING OFFICER DODUC: Very, very
9 appreciated. Thank you.

10 That's all, folks.

11 * * *

12 (Thereupon the hearing recessed at
13 10:06 a.m.)

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REPORTER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of April, 2016.



PETER PETTY
CER**D-493
Notary Public

TRANSCRIBER'S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were transcribed by me, a certified transcriber.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of April, 2016.



Barbara Little
Certified Transcriber
AAERT No. CET**D-520