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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. 4 HON. JACK KOMAR, JUDGE

COORDINATION PROCEEDING	)	
SPECIAL TITLE (RULE 1550B)	)	
	)	JUDICIAL COUNCIL
ANTELOPE VALLEY GROUNDWATER CASES	)	COORDINATION
	)	NO. JCCP4408
	)	
PALMDALE WATER DISTRICT AND	)	SANTA CLARA CASE NO.
QUARTZ HILL WATER DISTRICT,	)	1-05-CV-049053
	)	
CROSS-COMPLAINANTS,	)	
	)	
VS.	)	
	)	
LOS ANGELES COUNTY WATERWORKS,	)	
DISTRICT NO. 40, ET AL,	)	
	)	
CROSS-DEFENDANTS.	)	
	)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS

TUESDAY, FEBRUARY 1, 2011

APPEARANCES:

(SEE APPEARANCE PAGES)

GINGER WELKER, CSR #5585
OFFICIAL REPORTER

1 A COULD YOU BREAK THAT DOWN, PLEASE.

2 Q THIS CURVE SHOWN ON EXHIBIT 60 -- I DON'T
3 WANT TO USE THE WORD "SURPRISING," BUT IT IS -- YOU
4 WOULD EXPECT THAT, WITH THE NATURAL RECHARGE BEING IN A
5 DROUGHT AND THE MAXIMUM EXTRACTION OF WATER FROM THE
6 WATER RESOURCE AND THE AQUIFER SYSTEM OCCURRING, THAT
7 YOU ARE GOING TO HAVE SUBSTANTIAL CHANGES IN STORAGE IN
8 THE SATURATED PORTION OF THE ALLUVIUM; TRUE?

9 A YOU WOULD EXPECT -- IF YOU ARE PUMPING
10 SIGNIFICANTLY MORE THAN THE SAFE YIELD, YOU WOULD EXPECT
11 SOMETHING LIKE THIS.

12 Q WELL, YOU ARE NOT PUMPING MORE THAN THE SAFE
13 YIELD AT THIS POINT. YOU ARE PUMPING MORE THAN THE
14 NATURAL RECHARGE.

15 A EXCUSE ME. NATURAL RECHARGE; CORRECT.

16 Q YEAH. THE NATURAL RECHARGE TO THE BASIN,
17 YOU ARE IN A DROUGHT, AND YOU ARE AT PEAK EXTRACTIONS.
18 YOU ARE GOING TO TAKE THE WATER OUT OF THE RESERVOIR;
19 CORRECT?

20 A WOULD YOU HAVE A DECREASE IN STORAGE; THAT'S
21 CORRECT.

22 Q IT IS NOT DISSIMILAR TO SOMEONE WHO HAS A
23 LOW INCOME AND HAS A HIGH LEVEL OF EXPENDITURES AND A
24 BIG BANK ACCOUNT. HE'S GOING TO HAVE TO MEET THOSE HIGH
25 LEVEL OF EXPENDITURES BY TAKING IT OUT OF THE BANK;
26 CORRECT?

27 MR. DUNN: OBJECTION. THAT IS NOT A RELEVANT
28 ANALOGY. IT IS ARGUMENTATIVE.

1 MR. WILLIAM KUHS: I'M SORRY.

2 Q NOW, TO SOME EXTENT, ISN'T THAT THE WAY THAT
3 AQUIFER SYSTEMS ARE TO WORK -- THAT IS, AS A
4 RESERVOIR -- WHEN YOU DEVELOP THE WATER RESOURCES OF AN
5 AQUIFER SYSTEM LIKE THE ANTELOPE VALLEY?

6 MR. DUNN: I'M SORRY. OBJECTION, IN TERMS OF
7 VAGUE --

8 THE COURT: SUSTAINED.

9 MR. WILLIAM KUHS: THE RESERVOIR.

10 THE COURT: WHY DON'T YOU MAKE IT A COMPLETE
11 QUESTION.

12 MR. WILLIAM KUHS: OKAY. LET ME WITHDRAW IT.
13 I'LL SAVE THAT FOR CLOSING.

14 THE COURT: GOOD.

15 BY MR. WILLIAM KUHS:

16 Q NOW, IN CONNECTION WITH YOUR REPORT, OR THE
17 REPORT THAT YOU CO-AUTHORED, IS IT ACCURATE THAT YOU DID
18 A SENSITIVITY ANALYSIS?

19 A IT WAS A SENSITIVITY ANALYSIS -- EXCUSE ME.
20 WE DID A SENSITIVITY ANALYSIS AS TO LAG TIME.

21 Q LAG TIME FOR WHAT?

22 A AGRICULTURAL RETURN FLOWS. AND WE DID A
23 SENSITIVITY ANALYSIS OF LAG TIME FOR SEPTIC TANK
24 RETURNS.

25 Q DID YOU DO ANY SENSITIVITY ANALYSIS WITH
26 RESPECT TO OUTFLOWS FROM THE AQUIFER SYSTEM?

27 A NO.

28 Q DID YOU DO ANY SENSITIVITY ANALYSIS WITH

1 RESPECT TO SPECIFIC YIELDS?

2 A NO.

3 Q IF THE AVERAGE SPECIFIC YIELD IN THE BASIN
4 WAS 10 PERCENT INSTEAD OF 14 PERCENT, WOULD THAT AFFECT
5 YOUR NATURAL RECHARGE ESTIMATE?

6 A YES.

7 Q AND EARLIER IN YOUR -- YESTERDAY, WHEN WE
8 WERE CHATTING, YOU ESTIMATED -- OR YOU CALCULATED ON AN
9 ANNUALIZED BASIS THAT WITH A CHANGE OF STORAGE OVER YOUR
10 STUDY PERIOD OF 5.2 MILLION-ACRE FEET, THAT WAS
11 ANNUALIZED OVER 59 YEARS, AND IT WOULD BE A MINUS 88,135
12 ACRE FEET. DO YOU RECALL THAT TESTIMONY?

13 A YES.

14 Q NOW, IF, IN FACT, THE SPECIFIC YIELDS WERE
15 10 PERCENT AND NOT 14 PERCENT, WHAT WOULD THAT
16 ANNUALIZED NEGATIVE CHANGE IN STORAGE BE?

17 A IT WOULD BE 5/7 OF THE 5.2 MILLION.

18 Q WHAT IS THAT NUMBER?

19 A OH, BOY.

20 Q DO YOU HAVE YOUR CALCULATOR?

21 A I DO.

22 Q SEE IF THAT IS 62,954-ACRE FEET PER YEAR.

23 A OKAY.

24 (USES CALCULATOR.)

25 ABOUT 63,000.

26 Q AND THAT DIFFERENCE IN CHANGE IN STORAGE ON
27 AN ANNUALIZED BASIS WOULD INCREASE YOUR ESTIMATE OF
28 NATURAL RECHARGE BY THE SAME AMOUNT; CORRECT?

1 PERIOD IS IN THE FIRST HALF OF THE CYCLE, THAT THAT
2 WATER SHOWS UP IN THE WATER TABLE DOWN WHERE YOU ARE
3 DOING YOUR ANALYSIS THAN IT IS IF THE WET PERIOD IS AT
4 THE END OF THE STUDY PERIOD?

5 A I GUESS I HAVE NO OPINION ON THIS.

6 Q OKAY. TURN TO APPENDIX C IN EXHIBIT S101
7 AND TAKE A LOOK AT TABLE C28.

8 A (LOCATES DOCUMENT.)

9 Q ARE YOU THERE, MR. WILDERMUTH?

10 A I AM.

11 Q AND THESE ARE -- TABLE C28 IS ESTIMATES OF
12 NATURAL RECHARGE DONE BY MR. DURBIN FOR THE PERIOD 1949
13 THROUGH 2005; IS THAT TRUE?

14 A YES.

15 Q IF THESE NUMBERS ARE ACCURATE, IN 1998,
16 MR. DURBIN ESTIMATED NATURAL RECHARGE AT NEARLY
17 120,000-ACRE FEET. DO YOU SEE THAT?

18 A YES.

19 Q THAT IS TWICE YOUR ESTIMATE OF NATURAL
20 RECHARGE; CORRECT?

21 A YES.

22 Q IN 2005, MR. DURBIN ESTIMATED NATURAL
23 RECHARGE AT 226,500-ACRE FEET. DO YOU SEE THAT?

24 A YES.

25 Q THAT IS FOUR TIMES YOUR ESTIMATE OF NATURAL
26 RECHARGE; CORRECT?

27 A YES.

28 Q DID ANY OF THAT 226,500-ACRE FEET, IF THAT

1 WAS AMOUNT IN 2005, SHOW UP IN THE GROUNDWATER TABLE
2 BEFORE -- DURING YOUR STUDY PERIOD?

3 A I DON'T KNOW.

4 Q IF YOUR STUDY PERIOD ENDED IN 2009, IT
5 WOULD -- ALL THAT WOULD HAVE TO GET DOWN THERE IN FOUR
6 YEARS; IS THAT TRUE?

7 A YES.

8 Q IS IT LIKELY THAT IT GOT DOWN THERE IN FOUR
9 YEARS?

10 A I DON'T KNOW.

11 Q WELL, YOU ARE USING LAG TIMES OF 15 TO 20
12 YEARS FOR IRRIGATION RETURN FLOWS. IF YOUR LAG TIME FOR
13 IRRIGATION RETURN FLOWS IS ACCURATE, THEN WOULD IT
14 LIKEWISE FOLLOW THAT THAT NATURAL RECHARGE NEVER REACHED
15 THE WATER TABLE DURING YOUR ANALYSIS?

16 A NOT NECESSARILY. THESE ARE VERY FOCUSED
17 HIGH FLUX RECHARGE EVENTS IN AREAS THAT RECEIVE THESE
18 FLUXES FROM TIME TO TIME, SO THE CONDITIONS TO GET DOWN
19 RELATIVELY QUICKLY ARE THERE. BUT I HAVE NOT DONE THAT
20 ANALYSIS.

21 Q OKAY. NOW, IF THE SPECIFIC RETENTION WERE
22 14 PERCENT, ON AVERAGE, THROUGHOUT THE STUDY AREA, AND
23 IF THE UNSATURATED AQUIFER HAD A DEPTH OF 350 FEET, HOW
24 MUCH WATER WOULD BE STORED IN THE UNSATURATED ZONE?

25 A DO YOU WANT ME TO CALCULATE IT?

26 Q YES.

27 A (USES CALCULATOR.)

28 300 FEET.

1 Q 350 FEET?

2 A LET ME CHECK MY CALCULATION.

3

4 (DISCUSSION HELD OFF THE RECORD.)

5

6 MR. WILLIAM KUHS: WE WOULD LIKE TO MARK TEJON'S
7 NEXT IN ORDER, WHICH I UNDERSTAND IS D22.

8 THE COURT: ALL RIGHT.

9

10 (TEJON RANCH EXHIBIT D22
11 MARKED FOR IDENTIFICATION.)

12

13 MR. DUNN: IS THERE A QUESTION PENDING?

14 MR. WILLIAM KUHS: YEAH. WELL, THAT'S FINE.

15 Q DO YOU GET -- WE PUT D22 UP ON THE SCREEN.
16 DO YOU GET THE SAME NUMBER THAT WE GET?

17 A I DO, MR. KUHS.

18 Q THANK YOU. AND THAT NUMBER IS SOMETHING IN
19 EXCESS OF 27-MILLION ACRE FEET?

20 A THAT'S THE STORAGE IN A SPECIFIC RETENTION,
21 27 MILLION.

22 Q THAT'S THE WATER THAT -- IF THESE
23 ASSUMPTIONS ARE ACCURATE, THAT IS THE WATER THAT IS IN
24 THE UNSATURATED -- 350 FEET OF THE UNSATURATED ALLUVIUM
25 IN THE AQUIFER SYSTEM IN THE STUDY AREA?

26 A IT'S THE POTENTIAL STORAGE CAPACITY IN THE
27 SPECIFIC RETENTION. THERE MAY NOT BE WATER THERE.

28 Q WELL, WHEN YOU DEWATER AN AQUIFER, YOU DON'T

1 THAT'S A CHANGE. WE JUST DIDN'T PUT THEM ON THOSE
2 EXHIBITS, ON THE MAPS THAT ARE IN THE SUMMARY EXPERT
3 REPORT.

4 THEN THERE WERE SOME CHANGES IN THE LINE
5 WEIGHTS. BY THAT I MEAN SOMETIMES THE LINES ARE SHOWN
6 AS DASH LINES IN THE SUMMARY EXPERT REPORT. ON THE MAP
7 EXHIBITS FOR TRIAL, THERE ARE NO DASH LINES. THEY ARE
8 ALL SOLID LINES.

9 Q WHAT'S THE SIGNIFICANCE OF DASH VERSUS
10 SOLID?

11 A IN THE COMPUTATION OF STORAGE -- CHANGE OF
12 STORAGE, THERE'S NO SIGNIFICANCE.

13 Q WELL, WHAT'S THE PURPOSE OF SHOWING IT AS
14 DASH VERSUS SOLID, THEN?

15 A WHEN WE THINK THERE'S MORE OF AN
16 APPROXIMATION THERE THAN, SAY, THE GENERAL BODY OF
17 CONTOURS.

18 Q ALL RIGHT. WERE THERE OTHER CHANGES? I
19 THINK YOU MENTIONED THE CLIPPING OF --

20 A CORRECT. AGAIN, THAT WAS MORE OF A
21 HOUSEKEEPING THING. TO CLEAR UP CONTOURS THAT WERE NOT
22 USED IN THE STORAGE CHANGE COMPUTATION, THEY WERE
23 REMOVED WHEN THEY WERE NOT IN THE AREA OF STORAGE
24 CHANGE -- OF COMPUTED STORAGE CHANGE.

25 Q OKAY. WHAT WAS THE PURPOSE OF THE EXHIBITS
26 THAT YOU USED AT TRIAL?

27 A THE PURPOSE OF EXHIBITS AT TRIAL WERE TO
28 BE -- TO ILLUSTRATE WATER LEVELS IN SPECIFIC YEARS; AND

1 THEN, IN COMPARING THOSE, HOW THE WATER LEVELS CHANGED
2 IN SPECIFIC YEARS.

3 Q OKAY. SO AS BETWEEN THE EXHIBITS IN THE
4 SUMMARY EXPERT REPORT, AS A GROUP, AND THE EXHIBITS
5 SHOWN AT TRIAL, WHICH SET MORE ACCURATELY DEPICTS THE
6 DATA THAT YOU USED IN YOUR CALCULATION?

7 A THE EXHIBITS AT TRIAL.

8 Q AT YOUR DEPOSITION, DID YOU PRODUCE THE
9 COMPUTER FILES CONTAINING THE DATA USED IN YOUR
10 CALCULATIONS?

11 A YES.

12 Q AND IF SOMEONE SUCH AS ANOTHER EXPERT
13 WITNESS WANTED TO RECREATE YOUR STORAGE CHANGE
14 CALCULATIONS, WOULD THAT PERSON USE THE PRINTED EXHIBITS
15 OR THE DATA FILES PRODUCED IN YOUR DEPOSITION?

16 A HE SHOULD USE THE DATA FILES FROM THE
17 DEPOSITION.

18 Q HAVE THE COMPUTER FILES THAT YOU USES TO DO
19 YOUR CHANGE IN STORAGE COMPUTATION CHANGED AT ALL SINCE
20 YOUR DEPOSITION?

21 A NO.

22 Q DID YOU REDO YOUR CALCULATIONS SINCE YOUR
23 DEPOSITION?

24 A NO.

25 Q HAS YOUR OPINION REGARDING CHANGE OF STORAGE
26 CHANGED SINCE YOUR DEPOSITION?

27 A NO.

28 Q HAS YOUR OPINION REGARDING NATURAL RECHARGE

1 CHANGED SINCE YOUR DEPOSITION?

2 A NO.

3 MR. BUNN: OKAY.

4 THE COURT: THAT IS IT?

5 MR. BUNN: THAT'S IT ON THAT TOPIC.

6 THE COURT: I THOUGHT YOU WERE DONE.

7 MR. BUNN: NO, NOT QUITE, YOUR HONOR. BUT I DON'T
8 HAVE TOO MUCH MORE.

9 Q NEXT, I WOULD LIKE TO TALK ABOUT HYDRUS,
10 H-Y-D-R-U-S. IT'S ALL CAPS.

11 MR. JOYCE AND MR. ZIMMER BOTH ASKED YOU
12 QUESTIONS CONCERNING HYDRUS. WHAT IS HYDRUS?

13 A HYDRUS IS A MODEL, A COMPUTER SIMULATION
14 TOOL, TO ESTIMATE FLOW AND TRANSPORT IN THE UNSATURATED
15 ZONE, FLOW AND WATER QUALITY -- OR CHEMICAL CONSTITUENT
16 TRANSPORT.

17 Q WHAT DID YOU USE IT FOR?

18 A WE ATTEMPTED TO USE IT TO ESTABLISH A LOWER
19 BOUND ON LAG TIME FOR IRRIGATION RETURN FLOWS.

20 Q DO YOU CONSIDER THE LAG TIMES COMPUTED BY
21 HYDRUS IN THE ANTELOPE VALLEY TO BE RELIABLE?

22 A NO.

23 Q WHY NOT?

24 A THE PRIMARY REASON IS THAT HYDRUS IS NOT SET
25 UP TO CALCULATE -- DO THIS KIND OF COMPUTATION ON A
26 BASIN SCALE. IT IS MORE APPROPRIATE -- IT'S MORE
27 ANALOGOUS TO COMPUTING FLOW AND CHEMICAL ISSUES IN A
28 PACKED COLUMN, LIKE IN A LABORATORY COLUMN.

1 THE CONDITIONS THAT ARE PREVALENT IN THE
2 VADOSE ZONE IN THE ANTELOPE VALLEY -- APPLYING IT FOR
3 THAT PURPOSE IS INAPPROPRIATE.

4 Q COULD WE LOOK AT EXHIBIT 63, PLEASE.
5 CAN YOU ILLUSTRATE WHAT YOU WERE JUST
6 TALKING ABOUT ON THIS EXHIBIT 63?

7 A YES. HYDRUS AND MODELS LIKE HYDRUS
8 SIMULATE --

9 MR. WEEKS, I WARN YOU, I'VE GOT THE LASER
10 RIGHT ABOVE YOUR HEAD.

11 -- SIMULATE A FLOW DOWN A COLUMN LIKE THIS.

12 Q PLEASE DON'T BURN OUT MR. WEEKS' EYES WITH
13 THE LASER POINTER.

14 MR. WEEKS: I JOIN.

15
16 (LAUGHTER)
17

18 THE WITNESS: SO WHEN WATER COMES IN, IN A
19 SIMULATION MODEL, WHEN YOU PUT THE WATER IN, IT MUST
20 FLOW STRAIGHT DOWN. AND IF IT ENCOUNTERS A LOW
21 HYDRAULIC CONDUCTIVITY SEDIMENT, LIKE A CLAY, IT JUST
22 PILES UP ON TOP, SATURATES THE CLAY, AND CONTINUES
23 STRAIGHT DOWN.

24 SO IT WILL COME UP WITH SOME ESTIMATE OF
25 TRAVEL TIME BASED ON THAT KIND OF CALCULATION OR THAT
26 KIND OF CONCEPTUALIZATION; BUT IN THE REAL WORLD, WHICH
27 IS WHAT THIS LARGER CROSS-SECTION SHOWS, YOU HAVE MANY
28 FINE-GRAIN SANDS AND SILT LAYERS INTERSPERSED IN THE

1 VADOSE ZONE, IN THE UNSATURATED ZONE.

2 AS THIS WATER COMES DOWN, IT CAN LOOK --
3 EXCUSE ME, IT CAN FLOW HORIZONTALLY THROUGH GRAVELS AND
4 SANDS MUCH QUICKER THAN IT CAN TRY TO GET THROUGH --
5 MUCH EASIER THAN IT CAN GET THROUGH THE CLAY OR THE
6 FINE-GRAINED UNITS.

7 BY MR. BUNN:

8 Q I'LL INTERRUPT YOU HERE BECAUSE YOU DID
9 DISCUSS THIS IN YOUR DIRECT TESTIMONY. I JUST WANTED TO
10 RELATE HYDRUS TO WHAT YOU HAD DONE HERE, AND I THINK YOU
11 HAVE DONE THAT.

12 A OKAY.

13 Q SO DID YOU USE HYDRUS TO ARRIVE AT YOUR
14 ESTIMATE OF LAG TIME?

15 A NO.

16 Q ALL RIGHT. MOVING ON, THEN, I WOULD LIKE TO
17 LOOK AT EXHIBIT 68. MR. SLOAN WALKED YOU THROUGH THE
18 NATURAL RECHARGE ESTIMATES FOR VARIOUS PERIODS APPEARING
19 IN THE FAR-RIGHT COLUMN.

20 AND HE POINTED OUT, FOR EXAMPLE, THAT IF YOU
21 HAD USED 1951 TO 1962 AS YOUR BASE PERIOD, YOU WOULD
22 HAVE COME UP WITH A NATURAL RECHARGE OF 4,974-ACRE FEET
23 PER YEAR. AND IF YOU HAD USED 1971 TO '78 AS YOUR BASE
24 PERIOD, YOU WOULD HAVE COME UP WITH A COMPLETELY
25 DIFFERENT NUMBER, 117,386-ACRE FEET PER YEAR.

26 SO MY QUESTION FOR YOU IS, WOULD IT HAVE
27 BEEN APPROPRIATE TO HAVE USED EITHER OF THESE AS A BASE
28 PERIOD?

1 A NO.

2 Q WHY NOT?

3 A WELL, IN MY EARLIER TESTIMONY, I LAID OUT
4 FIVE OR SIX CRITERIA THAT WE WOULD USE TO SELECT A BASE
5 PERIOD. THESE TWO ARE -- DO NOT REPRESENT -- ARE NOT
6 HYDROLOGICALLY REPRESENTATIVE, AND THEY ARE VERY SHORT.
7 SO THEY WOULD NOT BE APPROPRIATE -- NOT BE AN
8 APPROPRIATE BASE PERIOD.

9 Q AND WHEN YOU SAY "NOT HYDROLOGICALLY
10 REPRESENTATIVE," MAYBE IT WOULD BE EASIER IF WE LOOKED
11 AT THE CUMULATIVE DEPARTURE FROM THE MEAN CURVE, WHICH
12 IS EXHIBIT 7.

13 CAN YOU EXPLAIN WHAT YOU MEAN WHEN YOU SAY
14 THESE PERIODS ARE "NOT HYDROLOGICALLY REPRESENTATIVE."

15 A OKAY. I'LL USE MY LASER POINTER.

16 THIS LOOKS LIKE 1951 HERE, AND THIS COMES
17 DOWN TO 1963 SOMEWHERE HERE. THIS IS A VERY DRY PERIOD.
18 IT DOESN'T HAVE WET PERIODS OR DRY -- IT DOESN'T BOTH
19 WET AND DRY PERIODS. IT'S NOT CLOSE TO REPRESENTING AN
20 AVERAGE RECHARGE CONDITION IN THE CASE OF THIS -- OR
21 DISCHARGE IN THE CASE OF THIS EXHIBIT.

22 AND THE OTHER ONE WAS '71. WHERE AM I?

23 '71 TO '78, RIGHT HERE. SO THIS WOULD BE A
24 VERY WET PERIOD -- WELL, NOT -- A WET PERIOD.

25 Q OKAY. NOW, LET'S GO TO EXHIBIT 8.

26 MR. ZIMMER POINTED OUT THAT IN YOUR CHANGE
27 IN STORAGE CHART, WHICH I'M NOT GOING TO PUT ON THE
28 SCREEN, YOU HAD TWO PERIODS OF POSITIVE CHANGE IN

1 STORAGE. AND THOSE PERIODS WERE FROM 1985 TO 1991 AND
2 FROM 1992 TO 1997. AND HE LINKED THAT POSITIVE IN
3 CHANGE IN STORAGE TO THE LOWER PUMPING AS SHOWN ON THIS
4 EXHIBIT THAT IS IN FRONT OF YOU, EXHIBIT 8.

5 MY QUESTION IS: DO YOU HAVE AN OPINION AS
6 TO WHETHER THAT POSITIVE CHANGE IN STORAGE RESULTED
7 SOLELY FROM THAT LOWER PUMPING DURING THAT PERIOD OF
8 TIME?

9 A YES.

10 Q WHAT IS YOUR OPINION?

11 A WELL, IF YOU ASSUME A 15-YEAR LAG TIME ON
12 IRRIGATION RETURNS, THEN WOULD YOU BE -- YOU WOULD HAVE
13 RETURN FLOWS FROM A PERIOD PRIOR TO THE PERIOD YOU
14 DISCUSSED, PRIOR TO '85, REACHING THE WATER TABLE DURING
15 THAT SAME PERIOD.

16 SO IF YOU LOOKED AT -- WHAT WAS THE PERIOD,
17 AGAIN?

18 Q HIS PERIOD 1985 TO 1997.

19 A OKAY. ROUGHLY A 15-YEAR PERIOD. IF YOU GO
20 BACK TO 1970'S PRODUCTION, WHICH WAS ABOUT -- AG.
21 PRODUCTION WAS AROUND 300,000; AND GO TO -- WELL, IT'S
22 IN 1985, AND YOU'RE A LITTLE OVER 100,000. THAT IS
23 ABOUT, SAY, 200,000-ACRE FEET A YEAR OF AG. PRODUCTION,
24 ON AVERAGE.

25 AND ASSUMING A 25 PERCENT RETURN FLOW, THAT
26 WOULD PRODUCE AN AVERAGE OF 50,000-ACRE FEET OF
27 IRRIGATION RETURN FLOWS ARRIVING AT THE SAME TIME THIS
28 LOWER PUMPING IS OCCURRING.

1 Q AND WOULD THIS ADD TO THE CHANGE IN STORAGE
2 BY "ADD," I MEAN MOVE IT POSITIVELY?

3 A YES. YES.

4 Q OKAY. AND THEN NUMBER FOR THE RETURN FLOWS
5 FOR THAT PERIOD -- I'M SORRY. WHAT DID YOU ESTIMATE
6 THAT TO BE?

7 A UM --

8 Q AND I UNDERSTAND THIS IS JUST A
9 BACK-OF-THE-ENVELOPE KIND OF THING.

10 MR. WILLIAM KUHS: I OBJECT, IF IT'S A "BACK OF
11 THE ENVELOPE," YOUR HONOR. IT CALLS FOR SPECULATION.
12 IT'S NOT RELEVANT IN THIS CASE.

13 MR. BUNN: I WITHDRAW THE "BACK OF THE ENVELOPE."

14 THE COURT: ALL RIGHT.

15 BY MR. BUNN:

16 Q TELL ME WHAT YOU ESTIMATED THE --

17 A WHAT I DID WAS I LOOKED AT THE PRODUCTION IN
18 1970, WHICH IS ABOUT 300,000, AND THE PRODUCTION IN
19 1985, WHICH IS ABOUT 100,000. I JUST AVERAGED THOSE
20 TWO. THAT GIVES YOU ABOUT 200,000-ACRE FEET OF
21 AGRICULTURAL PRODUCTION IN THIS 15-YEAR PERIOD.

22 25 PERCENT RETURN FLOW, THAT WOULD BE
23 50,000-ACRE FEET OF IRRIGATION RETURNS. THOSE ARE
24 OCCURRING ON AVERAGE IN THAT SAME 15-YEAR PERIOD THAT
25 YOU REFERRED TO, STARTING IN 1985. IT IS ACTUALLY A
26 17-YEAR PERIOD.

27 SO YOU WOULD HAVE 50,000-ACRE FEET FROM THE
28 PERIOD OF HIGH PRODUCTION, RETURN FLOWS ORIGINALLY

1 STARTING OUT AS PUMPING IN THIS HIGH-PRODUCTION PERIOD
2 AND ARRIVING AT THE WATER TABLE AFTER 1985.

3 Q SO -- I'M SORRY.

4 A IT IS ALMOST COMPARABLE TO THE PRODUCTION
5 THAT WAS OCCURRING BETWEEN '85 AND '97.

6 Q SO DURING THIS PERIOD OF 1985 TO 1997, IS IT
7 YOUR CONCLUSION THAT APPROXIMATELY 50,000-ACRE FEET OF
8 THAT POSITIVE CHANGE OF STORAGE WAS DUE TO AGRICULTURAL
9 RETURN FLOWS?

10 A SOMETHING ON THAT ORDER, YES.

11 Q OKAY. MR. KUHS ASKED YOU ABOUT THE WELL
12 LOCATIONS THAT WERE SHOWN IN THE USGS DATABASE AND ASKED
13 YOU WHETHER THOSE WELLS WERE ACCURATELY LOCATED ON THE
14 GROUND. DID YOU DO ANY EFFORT TO VERIFY WHETHER, IN
15 FACT, THAT WAS THE CASE?

16 A THERE WAS A LIMITED EFFORT, FROM TIME TO
17 TIME, WHEN WE WERE TRYING TO FIND A WELL. WE WOULD USE
18 AIR PHOTOS TO FIND THE WELL. AND THEY WOULD HAVE USGS
19 LOCATION AIR COORDINATES AND LAT-LONG, AND YOU'D PUT
20 THEM INTO THE -- IN OUR G.I.S.

21 Q EXCUSE ME. YOU SAID "LAT-LONG"?

22 A SORRY. LATITUDE AND LONGITUDE.

23 AND WE WOULD PULL THIS UP INTO OUR G.I.S.
24 WITH MODERN AIR PHOTOS TO TRY TO FIND THE WELLS. SO
25 SOME OF THESE WELLS, WE ACTUALLY VERIFIED LOCATIONS --
26 OR WERE NOT VERIFIED; THEY WEREN'T THERE IN OUR
27 ANALYSIS.

28 Q BASED ON THAT, DO YOU HAVE A CONCLUSION

1 ABOUT THE ACCURACY OF THAT USGS DATA BASE?

2 A WE'RE PRETTY CONFIDENT THAT THEY'RE
3 ACCURATELY LOCATED.

4 Q MR. FIFE AND MR. SLOAN BOTH TALKED WITH YOU
5 ABOUT MARGIN OF ERROR. IS IT POSSIBLE TO DETERMINE THE
6 MARGIN OF ERROR IN YOUR CALCULATIONS?

7 A NO.

8 Q WHY NOT?

9 A WELL, THERE ARE SIMPLY JUST NOT ENOUGH DATA
10 FOR THE VARIOUS COMPONENTS THAT WE WORKED ON FROM WHICH
11 WE COULD DETERMINE MEASUREMENT ERROR. FOR EXAMPLE, IF
12 WE WANTED TO PICK A REPRESENTATIVE GROUNDWATER ELEVATION
13 IN A GIVEN YEAR, WE WOULD NEED A GREAT DEAL OF DATA FROM
14 THAT YEAR TO DETERMINE -- IF WE PICK ONE VALUE THAT --
15 TO BE ABLE TO CHARACTERIZE ERROR AROUND THAT VALUE.

16 SO IF WE HAD 20 OBSERVATIONS, AND WE PICKED
17 A VALUE, AND WE SAY THAT VALUE IS REPRESENTATIVE OF THAT
18 YEAR, THERE'S VARIABILITY DURING THAT YEAR.

19 IF WE HAD 20 OBSERVATIONS AND NOTHING ELSE
20 WAS CHANGING, IT WAS A STATIC ENVIRONMENT, WE COULD
21 ACTUALLY COMPUTE A RANGE OF ERROR BASED ON SOME
22 PROBABILITY: THERE'S A 90 PERCENT CHANCE IT'S WITHIN
23 PLUS OR MINUS A FOOT. WE COULD DO SOMETHING LIKE THAT.
24 BUT WE JUST SIMPLY DON'T HAVE THAT DATA.

25 AND WE DON'T HAVE THE ABILITY TO GENERATE AN
26 ERROR ASSESSMENT OR A MARGIN OF ERROR ASSESSMENT ON OUR
27 CONTOURING AND OUR KRIGING OF THAT INFORMATION. WE
28 WOULD NEED IT FOR EVERY WELL ON EVERY MAP. WE WOULD

1 NEED THE SAME KIND OF ANALYSIS FOR A SPECIFIC YIELD.

2 THAT DOES NOT EXIST. THE DATA SIMPLY DOES
3 NOT EXIST TO DO IT.

4 Q NOW, YOUR CONCLUSIONS REGARDING CHANGE OF
5 STORAGE AND NATURAL RECHARGE ARE ESTIMATES; CORRECT?

6 A YES.

7 Q EVEN THOUGH THEY ARE ESTIMATES, DO YOU HAVE
8 CONFIDENCE IN THEM?

9 A YES.

10 Q WHY?

11 A WELL, WE LOOK AT ALL THE AVAILABLE DATA --
12 FOR THE STORAGE CHANGE COMPUTATION, WE LOOKED AT ALL THE
13 AVAILABLE DATA THERE WAS. AND IT WAS A VERY RIGOROUS
14 ANALYSIS. WE CULLED OUT DATA WE DID NOT BELIEVE IN OR
15 DID NOT WANT TO RELY ON.

16 OUR BASIC METHOD, USING THIS HYDROLOGIC
17 BUDGET METHOD, IS SOUND. IT'S BEEN USED IN THE PAST.
18 WE'VE USED IT IN THE PAST OURSELVES MANY TIMES.

19 IN THE SENSITIVITY WORK WE DID DO, AS TO LAG
20 TIME -- IT'S NOT VERY SENSITIVE TO LAG TIMES, REASONABLE
21 LAG TIMES.

22 I GUESS MY FINAL COMMENT WOULD BE THAT THIS
23 ANALYSIS IS COMPLETELY INDEPENDENT OF THE WORK DONE BY
24 DR. DURBIN, COMPLETELY INDEPENDENT, AND HE CAME UP WITH
25 AN ALMOST IDENTICAL ANSWER.

26 MR. JOYCE: I DIDN'T HEAR THE LAST PART.

27 THE WITNESS: "AN ALMOST IDENTICAL ANSWER."

28 MR. BUNN: OKAY. THANK YOU. I HAVE NO FURTHER

1 QUESTIONS.

2 THE COURT: YOU HAVE FIVE MINUTES. IS THERE ANY
3 FURTHER PROPER CROSS-EXAMINATION?

4
5 CROSS-EXAMINATION

6 BY MR FIFE:

7 Q GOOD MORNING, MR. WILDERMUTH.

8 A GOOD MORNING.

9 Q DURING YOUR CROSS-EXAMINATION, YOU WERE
10 ASKED TO IDENTIFY PUBLICATIONS THAT DISCUSSED YOUR
11 METHOD OF ORDINARY KRIGING. AND YOU IDENTIFIED ONE BY
12 DAVIS; IS THAT CORRECT?

13 A YES.

14 Q DID YOU PROVIDE THE TITLE OF THAT
15 PUBLICATION?

16 A I DON'T KNOW IT OFF THE TOP OF MY HEAD. IT
17 IS CITED IN THE SUMMARY EXPERT REPORT.

18 Q DO YOU KNOW WHERE IN THE SUMMARY EXPERT
19 REPORT IT IS CITED, JUST SO WE CAN FIND IT?

20 A EITHER AS A FOOTNOTE, OR IT IS IN THE
21 REFERENCES.

22 Q YOU DON'T KNOW THE TITLE?

23 A I DO NOT.

24 Q AND YOU ALSO SAID THAT THERE WERE OTHER
25 PUBLICATIONS THAT DISCUSS YOUR METHOD OF KRIGING. DID
26 YOU PROVIDE THE CITATION TO THOSE DURING YOUR DIRECT
27 EXAMINATION?

28 A I DID NOT.

1 Q COULD YOU GIVE US SOME KIND OF IDEA OF THE
2 TITLES OR ANY KIND OF CITATION TO THOSE?

3 A NO.

4 Q SO THERE ARE PUBLICATIONS, BUT YOU CAN'T
5 IDENTIFY THEM FOR US?

6 A NOT OFF THE TOP OF MY HEAD.

7 Q DO YOU KNOW, IS THERE ANY WAY WE COULD FIND
8 THOSE AT ALL SO THAT WE COULD GO --

9 THE COURT: THIS IS NOT DISCOVERY.

10 MR FIFE: I KNOW, BUT HE IS CITING TO PUBLICATIONS
11 AS SUPPORT OF HIS WORK, BUT HE CAN'T EVEN GIVE US --

12 THE COURT: WELL, HE ANSWERED THE QUESTION.
13 BY MR FIFE:

14 Q SO AT WHAT POINT -- LET ME BREAK THIS DOWN.
15 YOU BEGAN YOUR ANALYSIS WITH WATER LEVELS
16 AND -- OR SPECIFIC WATER LEVELS FROM WELLS, AND FROM
17 THAT YOU GENERATED CONTOURS; IS THAT CORRECT?

18 A YES.

19 Q BUT YOU DIDN'T USE KRIGING TO GO FROM THE
20 SPECIFIC POINTS TO THE CONTOURS; IS THAT CORRECT?

21 A WE DID NOT USE KRIGING TO DEVELOP THE
22 CONTOURS.

23 Q AND THEN FROM THE CONTOURS, YOU DEVELOPED
24 YOUR RASTER GRID; IS THAT CORRECT?

25 A YES.

26 Q AND IS THAT THE STEP IN THE PROCESS WHERE
27 YOU USED YOUR KRIGING?

28 A YES.

1 Q AND HOW WAS THE KRIGING USED TO GO FROM THE
2 CONTOURS TO THE RASTER GRID?

3 THE COURT: I THINK I WILL LET YOU ANSWER THAT
4 AFTER LUNCH.

5 WE'LL TAKE OUR NOON RECESS. BE HERE AT
6 1:30.

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8 (THE NOON RECESS WAS TAKEN.)
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1 Q YOU RELIED UPON THE DAVIS INFORMATION THAT
2 WE HAVE PREVIOUSLY DISCUSSED?

3 A YES.

4 Q NOW, THE DAVIS INFORMATION WE PREVIOUSLY
5 DISCUSSED, THOSE SPECIFIC YIELDS WERE ALL IN THE UPPER
6 200 FEET OF THE SAN JOAQUIN AQUIFER; CORRECT?

7 A THAT IS HOW THEY WERE APPLIED.

8 Q YES. OKAY. THEY MAY KNOW WHILE ECKIS MADE
9 ADJUSTMENTS FOR HIS EXAMINATION TO COME UP WITH HIS
10 TABLE, DAVIS MADE NO ADJUSTMENTS IN HIS INVESTIGATION TO
11 COME UP WITH THE TABLES THAT YOU USED FOR SPECIFIC
12 YIELDS FOR YOUR ANALYSIS; CORRECT?

13 A I DON'T RECALL.

14 Q OKAY.

15 THE COURT: ALL RIGHT. MR. KUHS, HOW MUCH MORE
16 TIME DO YOU NEED?

17 MR. WILLIAM KUHS: VERY LITTLE, YOUR HONOR.

18 THE COURT: IN FIVE MINUTES?

19 MR. WILLIAM KUHS: YES. IF I DON'T, YOU CUT ME
20 OFF, AND I'LL SIT DOWN.

21 THE COURT: WE WILL STOP AT THAT POINT.

22 BY MR. WILLIAM KUHS:

23 Q WITH RESPECT TO YOUR ESTIMATE OF DRAINAGE
24 FROM THE COMPACTION OF FINE SEDIMENT -- FINE-GRAINED
25 SEDIMENTS, THE 229,000-ACRE (SIC) FEET; DO YOU RECALL
26 THAT?

27 I'M GOING BACK TO THE -- THE IKEHARA AND
28 PHILLIPS DISCUSSION?

1 A OKAY. 229 DOESN'T SOUND FAMILIAR.

2 Q 429,000-ACRE FEET?

3 A OH, 429, YES.

4 Q WHAT PORTION OF THAT 429,000 IS ELASTIC, AND
5 WHAT PORTION HAVE IT IS INELASTIC.

6 A THAT WOULD ALL BE INELASTIC?

7 Q HOW DO YOU KNOW THAT?

8 A BECAUSE IT IS COMPUTED FROM SUBSIDENCE.

9 Q BUT IF THE WATER LEVELS IN THE VICINITY OF
10 THAT SUBSIDENCE INCREASED, IS IT NOT POSSIBLE THAT SOME
11 OF THAT SUBSIDENCE THAT YOU MEASURED AND CALCULATED IS
12 INELASTIC?

13 A WE -- NO.

14 Q IT IS NOT POSSIBLE?

15 A NO.

16 Q OKAY.

17 MR. WILLIAM KUHS: THAT IS A GOOD PLACE TO STOP.
18 I HAVE ONE MORE SERIES OF QUESTIONS, BUT I WON'T FINISH
19 IN TIME.

20 THE COURT: ALL RIGHT. TAKE A 15-MINUTE BREAK:

21
22 (A RECESS WAS TAKEN.)

23
24 THE COURT: MR. KUHS.

25 MR. WILLIAM KUHS: THANK YOU, YOUR HONOR.

26 Q MR. WILDERMUTH, WE PUT UP ON THE SCREEN A
27 COPY OF YOUR EXHIBIT 63 WHICH IS A SCHEMATIC. AND IT IS
28 LABELED PATH OF IRRIGATION RETURN FLOWS TO GROUNDWATER.

1 BUT IF YOU CHANGE THAT AND SAID, FOR EXAMPLE, PATH OF
2 NATURAL RECHARGE TO GROUNDWATER AS A SCHEMATIC, IT WITH
3 LOOK IDENTICAL; CORRECT?

4 A CONCEPTUALLY IDENTICAL.

5 Q WATER IS WATER WHETHER IT'S RETURN FLOW FROM
6 IRRIGATION OR WHETHER IT IS NATURAL RECHARGE, CORRECT,
7 FOR THE PURPOSES OF DEMONSTRATING THE FLOW PATH THROUGH
8 THE UNSATURATED ZONE TO THE AQUIFER; CORRECT?

9 A YES.

10 Q SO DURING REDIRECT EXAMINATION, MR. BUNN
11 ASKED YOU A QUESTION ABOUT THAT 20-SOME-ODD MILLION ACRE
12 FEET THAT WE HAD PUT UP ON THE SCREEN RELATIVE TO THE
13 WATER IN THE UNSATURATED ZONE THAT WAS THERE BECAUSE OF
14 SPECIFIC RETENTION.

15 BUT IN THAT UNSATURATED ZONE, YOU ALSO HAD
16 THESE OTHER SOURCES OF WATER, NAMELY, RETURN FLOW FROM
17 IRRIGATION AS WELL AS THE INFILTRATION OF NATURAL
18 RECHARGE; TRUE?

19 A YES.

20 Q NOW YOU ACCOUNTED OR TRIED TO ESTIMATE OR
21 YOU DID ESTIMATE -- LET ME WITHDRAW THAT. YOU DID
22 ESTIMATE RETURN FLOWS FROM IRRIGATION AND ACCOUNTED FOR
23 THEM IN YOUR -- DURING THE STUDY PERIOD. BUT AS OF THE
24 BEGINNING OF YOUR STUDY PERIOD, 1951, YOU EARLIER -- WE
25 EARLIER TESTIFIED THAT YOU HAVE MADE NO ESTIMATE OF THE
26 WATER IN THE UNSATURATED ZONE ATTRIBUTABLE TO SPECIFIC
27 RETENTION. BUT IS IT TRUE THAT LIKEWISE YOU MADE NO
28 ESTIMATE OF THE WATER IN THE UNSATURATED ZONE

1 ATTRIBUTABLE TO NATURAL RECHARGE?

2 A YES.

3 Q AND THE SAME QUESTION SAME ANSWER WITH
4 RESPECT TO END OF YOUR STUDY PERIOD; TRUE?

5 A YES.

6 MR. WILLIAM KUHS: NO FURTHER QUESTIONS, YOUR
7 HONOR.

8 THE COURT: ALL RIGHT. THANK YOU. IS THERE
9 ANYONE ELSE? IS THERE ANY FURTHER DIRECT, MR. BUNN,
10 CAUTIOUSLY?

11 MR. BUNN: NO, YOUR HONOR, I HAVE NO QUESTIONS. I
12 WOULD LIKE TO RENEW AT THIS TIME MY MOTION TO ADMIT
13 MR. WILDERMUTH'S EXHIBITS 2 THROUGH 75. AND AS TO
14 EXHIBIT 75, I WILL LIMIT -- HAVE TO LIMIT IT TO THE
15 ILLUSTRATION AND NOT THE TEXT PURSUANT TO OUR DISCUSSION
16 THIS MORNING.

17 THE COURT: IS THERE ANY OBJECTION?

18 MR. ZIMMER: YES, YOUR HONOR. I EXPECT WE WILL
19 HAVE NUMEROUS DIFFERENT OBJECTIONS. AND, PERHAPS -- I
20 DON'T KNOW WHEN THE COURT WANTS TO TAKE THOSE UP. BUT I
21 KNOW JUST TRYING TO MOVE THEM ALL IN AT ONCE IS PROBABLY
22 NOT --

23 MR. JOYCE: YOUR HONOR?

24 THE COURT: YES.

25 MR. JOYCE: AS TO EXHIBITS 20 THROUGH 28, I WOULD
26 OBJECT ADMISSION ON THE BASIS THAT THESE ARE
27 SUBSEQUENTLY NEW WATER LEVEL CONTOURS FROM THOSE WHICH
28 WERE PRODUCED IN CONNECTION WITH THE DEPOSITION OF AN

1 EXPERT.

2 AND I THINK MR. WILDERMUTH HIMSELF CONCEDED
3 THAT HE WAS UNAWARE OF THE ERROR UNTIL I BROUGHT IT TO
4 HIS ATTENTION DURING THE INITIAL DIRECT -- INITIAL
5 CROSS-EXAMINATION AND ON THE VERY FIRST PORTION OF THE
6 TRIAL.

7 AND THEY CONSTITUTE POST-EXPERT DEPOSITION
8 NEW OPINIONS BECAUSE THEY ARE SUBSEQUENTLY DATA. AND
9 DATA USED TO FORMULATE THE CALCULATION. AND ON THAT
10 BASIS, I WOULD MOVE TO HAVE THEM EXCLUDED FROM
11 ADMISSION.

12 AND IF THE COURT IS DISINCLINED TO GRANT MY
13 OBJECTION TO THE ADMISSION, THEN, I WOULD ASK THAT THE
14 COURT RESERVE THE RIGHT TO HAVE IT STRICKEN. AND I
15 INTEND TO HAVE MR. BACHMAN GO BACK TO MR. WILDERMUTH'S
16 FILES. AND IF HE CAN DUPLICATE THESE, WE MAY HAVE A
17 DIFFERENT DISCUSSION. IF HE CANNOT DUPLICATE THESE, WE
18 WILL HAVE A DIFFERENT DISCUSSION.

19 MR. BUNN: WHILE WE ARE DISCUSSING THIS, CAN
20 MR. WILDERMUTH SIT DOWN?

21 THE COURT: OH, SURE.

22 MR. ZIMMER: BEFORE HE --

23 THE COURT: YOU MEAN SOMEWHERE ELSE?

24 MR. BUNN: IN THE COURTROOM. THAT IS A PRETTY HOT
25 SEAT UP THERE, YOUR HONOR.

26 THE COURT: SURE.

27 MR. ZIMMER: HE IS NOT BEING RELEASED AT THIS
28 MOMENT?

1 LEAST -- AND I THINK OTHERS -- WHICH ONES OF THOSE
2 EXHIBITS WERE -- ACTUALLY CAME FROM HIS DEPOSITION OR
3 CAME FROM THE SUMMARY EXPERT REPORT.

4 I ASKED MR. DUNN SEVERAL TIMES. CAN YOU
5 JUST TELL ME WHICH EXHIBITS ARE NEW. TELL ME IF THEY
6 HAVE BEEN CHANGED. IF SO JUST TELL ME HOW THEY HAVE
7 BEEN CHANGED. I MET WITH CONTINUED REFUSALS TO EVEN
8 TELL ME IF THEY WERE NEW OR TELL ME IF THEY HAVE BEEN
9 CHANGED.

10 AND THE WAY IT IS MEANINGFUL TO YOU IS
11 THAT -- THAT CAUSES TO SPEND A LOT MORE TIME THAN IS
12 NECESSARY. I HAVE GOT OBJECTIONS ON MANY QUESTIONS THAT
13 PROBABLY AT THIS POINT I WOULD WITHDRAW SIMPLY BECAUSE
14 AFTER THE FACT I HAD TO GO THROUGH THEM AND FIGURE OUT
15 WHAT WAS NEW. AND I'M IN A BETTER POSITION TO DO THAT.

16 BUT TO HAVE TO GO THROUGH ALL THAT, THAT'S
17 GOING TO TAKE AN INORDINATE AMOUNT OF TIME. THERE IS
18 PROBABLY AN HOUR AND A HALF I SPENT WITH MR. SCALMANINI
19 BECAUSE MR. DUNN WOULD NOT TELL ME WHICH WERE NEW ONES
20 AND WHICH WEREN'T. HE WOULD TELL ME, WELL, LOOK IT UP
21 FOR YOURSELF.

22 SO I WOULD TRY TO ASK MR. SCALMANINI, "WHICH
23 ONES OF THESE ARE NEW?" AND THAT TURNED INTO A BIG
24 CONFRONTATION, IF YOU WILL, OF, WELL, YOU KNOW, I DON'T
25 KNOW WHAT YOU ARE TALKING ABOUT, AND I DON'T KNOW WHAT
26 YOU MEAN BY THAT. AND IT IS REALLY A BUNCH OF WASTE OF
27 TIME IN RETROSPECT.

28 BUT IT SEEMS TO ME THAT THIS TRANSCRIPT THAT

1 WE ARE GOING TO HAVE THE COURT WATCH THERE COULD BE SOME
2 STIPULATIONS ON HIS QUALIFICATIONS, FOR EXAMPLE, WHICH
3 WILL PROBABLY CUT OUT AN HOUR. IF I HAVE A CHANCE TO GO
4 BACK AND LOOK AT IT, I WOULD STIPULATE THAT SOME OF THIS
5 CROSS WHERE MR. SCALMANINI AND I ARE ENGAGING IN THIS,
6 YOU KNOW, IDIOTIC, FOR LACK OF A BETTER WORD, BACK AND
7 FORTH ABOUT THESE EXHIBITS WITH ME TRYING TO UNDERSTAND.

8 WHEN YOU HAVE GOT THESE EXHIBITS THAT MAY
9 HAVE TWO OR 300 ENTRIES ON IT, IT IS PRETTY DARN
10 DIFFICULT TO FIGURE OUT WHAT MAY HAVE BEEN CHANGED. ONE
11 OF THE EXHIBITS THAT HAD BEEN CHANGED, THEY SIMPLY TOOK
12 OUT MR. LEFFLER'S NAME OFF THE BOTTOM OF AN EXHIBIT; AND
13 NO ONE WOULD BE ABLE TO PICK THAT UP.

14 THAT BRINGS ME TO A THIRD ISSUE THAT IS A
15 PRETTY BIG ISSUE. AND THAT IS WITH REGARD TO
16 MR. LEFFLER, MR. LEFFLER DID, ESSENTIALLY, TWO DIFFERENT
17 THINGS: HE DID BEDROCK INFILTRATION ANALYSIS, BUT HE
18 ALSO DID A RECYCLED WATER ANALYSIS, RECYCLED WATER
19 INCLUDING ALL MUNICIPAL RETURN FLOWS AND IMPORTED RETURN
20 WATER FLOWS, ET CETERA.

21 AND WHEN I NOTICED MR. LEFFLER'S DEPOSITION,
22 I GOT AN OBJECTION FROM CHRIS SANDERS WHO REPRESENTS LA
23 COUNTY SANITATION. I GOT AN OBJECTION FROM LOS ANGELES
24 COUNTY WATERWORKS 40. AND THOSE OBJECTIONS STATED THAT
25 MR. LEFFLER WAS ONLY DESIGNATED ON THE ISSUE OF BEDROCK
26 INFILTRATION. I SAID, FINE, AS LONG AS YOU ARE
27 REPRESENTING THAT THERE IS NOT GOING TO BE ANY TESTIMONY
28 ABOUT RECYCLED WATER; THEN, I DON'T NEED TO TAKE

1 MR. LEFFLER'S DEPOSITION.

2 AT THE DEPOSITION, MR. LEFFLER WAS CONFIRMED
3 ONCE AGAIN THAT HE WOULD SIMPLY BE GIVING TESTIMONY
4 ABOUT BEDROCK INFILTRATION AND NOT ON THE ISSUES OF
5 RECYCLED WATER. THERE ARE NUMEROUS EXHIBITS THAT DEAL
6 WITH RECYCLED WATER, AND HE IS THE ONE THAT DID THAT
7 ANALYSIS. AND TO THE EXTENT THAT THERE ARE ISSUES WITH
8 REGARD TO RECYCLED WATERS, I THINK THOSE EXHIBITS SHOULD
9 BE -- SHOULD NOT COME INTO EVIDENCE.

10 BUT GETTING BACK FOR THE MOMENT, I DON'T
11 WANT TO BE SANDBAGGED AND SUDDENLY WE HAVE A CLAIMED
12 BASIS FOR RECYCLED WATER WHEN WE WERE PREVENTED FROM
13 TAKING THIS WITNESS'S DEPOSITION BASED UPON THOSE
14 ASSERTIONS --

15 THE REPORTER: MR. ZIMMER, PLEASE SLOW DOWN AND
16 RESTATE THE LAST PART.

17 MR. ZIMMER: -- SANDBAGGED ON THOSE ISSUES OF
18 SUDDENLY TRYING TO BRING IN THAT EVIDENCE WHEN WE ARE
19 PRECLUDED FROM TAKING HIS DEPOSITION WHEN IT WAS AGREED
20 THAT WE WOULDN'T BASED ON THOSE REPRESENTATIONS AND
21 THOSE OBJECTIONS. BUT GETTING BACK FOR A MOMENT TO
22 SCALMANINI'S TESTIMONY, I MEAN, IF THE COURT COULD ORDER
23 TO MEET AFTER WE ARE DONE HERE TODAY JUST TO SEE IF WE
24 CAN STIPULATE TO ANYTHING.

25 I MEAN, THE COURT HAS HEARD MR. SCALMANINI'S
26 TESTIMONY BEFORE. AT A BARE MINIMUM, HE DOESN'T NEED TO
27 TESTIFY TO HIS QUALIFICATIONS AGAIN. THE LAST THING I
28 WOULD RAISE IS I'M NOT SURE IF WE HAVE AN OFFICIAL

1 TRANSCRIPT OF HIS DEPOSITION AND EXHIBITS. I DON'T HAVE
2 ANY OFFICIAL TRANSCRIPT. I DON'T HAVE EXHIBITS. AND
3 THE EXHIBITS WERE TORN APART DURING THE DEPOSITION.
4 THERE WERE NUMEROUS CHANGES IN EXHIBITS AND COPIES MADE
5 AND NEW ONES BROUGHT IN. AND, CERTAINLY, WE NEED TO BE
6 ABLE TO HAVE AN OFFICIAL TRANSCRIPT, AND WE NEED TO BE
7 ABLE TO SEE WHAT THE EXHIBITS ARE. THOSE ARE MY
8 COMMENTS, YOUR HONOR.

9 THE COURT: OKAY.

10 MR. JOYCE: YOUR HONOR, I WOULD HAVE AN INQUIRY IN
11 THAT SAME LINE, AND THAT IS SIMPLY IS THE CERTIFIED
12 VIDEOTAPE HERE WITH THE COURT? AND IS THE CERTIFIED
13 TRANSCRIPT LIKEWISE HERE WITH THE COURT?

14 MR. DUNN: YES. THAT IS HOW WE ARE GOING TO
15 PROCEED TOMORROW.

16 MR. JOYCE: I DON'T HAVE A COPY. WHY AM I OUT OF
17 THE LOOP?

18 MR. DUNN: I SUPPOSE YOU NEED TO CONTACT THE
19 COMPANY THAT DID THE OFFICIAL VIDEOTAPE AND THE
20 TRANSCRIPT AND GET A COPY.

21 MR. JOYCE: I ORDERED A COPY AT THE CONCLUSION OF
22 MR. SCALMANINI'S DEPOSITION.

23 MR. DUNN: I'M SORRY. YOU ARE NOT ASKING THE
24 RIGHT PERSON YOUR QUESTION.

25 MR. JOYCE: ARE ALL THE ORIGINAL EXHIBITS AS
26 MAINTAINED BY THEIR --

27 MR. DUNN: THEY ARE ALL HERE.

28 THE COURT: ALL RIGHT. MR. DUNN.

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DEPARTMENT NO. 4

HON. JACK KOMAR, JUDGE

ANTELOPE VALLEY GROUNDWATER CASES)

JUDICIAL COUNCIL
COORDINATION
NO. JCCP4408

SANTA CLARA CASE NO.
1-05-CV-049053

CROSS-COMPLAINANTS,

VS.

LOS ANGELES COUNTY WATERWORKS,
DISTRICT NO. 40, ET AL,

CROSS-DEFENDANTS.

[illegible]

I, GINGER WELKER, OFFICIAL REPORTER OF THE
SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
TRANSCRIPT DATED FEBRUARY 1, 2011 COMPRISES A FULL,
TRUE, AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD IN
THE ABOVE ENTITLED CAUSE.

DATED THIS 4TH DAY OF FEBRUARY, 2010.

OFFICIAL REPORTER, CSR #5585