

EXHIBIT A

1 So through a series of steps, we identified,
2 through a random process, which class members would be
3 willing to participate, and then we -- I conducted the
4 series of interviews with each class member to obtain
5 data to document what their use -- groundwater use had
6 been.

7 Typically the way it went was the identified
8 class members were first contacted by Mr. McLachlan, he
9 did a preliminary interview, collected some preliminary
10 data, sent me an e-mail with the name of the class
11 member, contact information, and any of the preliminary
12 information he was provided by them. And then I
13 followed up with one or more phone calls and
14 occasionally e-mails to the class members. I call them
15 participating class members in my report.

16 Q Yeah, I saw in your report the designation
17 PCM.

18 A Yeah. Correct.

19 And then through that process, I was able to
20 get the information I needed to calculate the
21 groundwater usage for each of the participating class
22 members for the years 2011 and 2012. And then I used
23 that data and pulled it together into a series of data
24 tables to analyze the respective groundwater usage for
25 each of those class members, and I typically would

1 entailed? So how did you collect those members that
2 are PCMs in here?

3 A I took the database and used a random number
4 generator to create a different random number for every
5 class member and then sorted that and picked a
6 different grouping -- because there was three episodes
7 of that. Because of the limited response, we had to do
8 multiple episodes.

9 Q Right. As I recall, you did an initial mailer
10 for 400?

11 A Correct.

12 Q And then a second mailer for 300?

13 A Uh-huh. Correct.

14 Q "Yes"?

15 A Yeah.

16 Q And then another mailer for 200 class members?

17 A That sounds correct.

18 Q Okay. Did you receive responses -- how many
19 responses -- strike that.

20 How many responses did you receive from the
21 first mailer?

22 A I don't recall. The responses all came to
23 Mr. McLachlan's office. That's -- as I think we said
24 here, that's the way the process was established, so...

25 Q Who sent the mailer?

1 A Mr. McLachlan's office.

2 Q Who did the random selection of those?

3 A I did that.

4 Q So you provided Mr. McLachlan, for example on

5 the first mailer --

6 A Uh-huh.

7 Q -- the 400 --

8 A Yeah.

9 Q -- you provided Mr. McLachlan a list of 400

10 names?

11 A Yes.

12 Q And then Mr. McLachlan sent out the mailer?

13 A Yes.

14 Q What was that mailer, by the way? What was --

15 is the copy of the actual mailer in the appendix?

16 A No.

17 Q Where is a copy of that mailer?

18 A That was included -- I think that's on

19 court -- the court website with all the documents.

20 Q Is that here today at all in your documents

21 that you produced?

22 A No.

23 Q Could I get a copy of that mailer that was

24 sent out to the class members?

25 MR. McLACHLAN: No, you cannot. You're asking

1 for a letter from me to my clients. I sent a letter to
2 400 of my clients, and if I understand correctly, you
3 want a copy of that. So I'm going to assert -- I have
4 to assert the attorney/client privilege over that
5 letter.

6 MR. KALFAYAN: Okay.

7 MR. McLACHLAN: I don't think I ever sent it
8 to Mr. Thompson for that reason.

9 BY MR. KALFAYAN:

10 Q Okay. Mr. Thompson, have you ever seen the
11 mailer?

12 A I don't recall.

13 Q As you sit here today, do you know if there's
14 a copy of that mailer in your office?

15 A I don't -- I don't recall if I have that.

16 Q The mailer was sent by Mr. McLachlan, and then
17 he received the responses, Mr. McLachlan received the
18 responses?

19 A That's correct.

20 Q And then Mr. McLachlan communicated with you
21 the name of the person that responded?

22 A Correct, by e-mail. And those e-mails always
23 included a cc to Mr. Fife or Mr. Dunn.

24 Q Did that response -- did that e-mail that came
25 to you have a copy of the mailer?

1 A No.

2 Q What would be -- what was the information that
3 was given to you by Mr. McLachlan when the individual
4 responded?

5 A The name and phone number of the person -- of
6 the class member and any preliminary information he
7 gathered during his initial conversation. Sometimes it
8 was, you know, his typed notes from the conversation,
9 and some cases there was actually some data, such as
10 pump records or electrical -- you know, Southern
11 California Edison records.

12 Q Okay. From the initial 400 mailer, do you
13 know how many individual class members were given to
14 you as respondents to the mailer?

15 A I don't remember that number.

16 Q Can you estimate for me that number? Out of
17 the 400, was it more than 100?

18 A No.

19 Q Out of the 400, was it more than 50?

20 A Probably not.

21 Q Was it more than 10?

22 A Yes, between 10 and 50 is a reasonable --

23 Q Okay.

24 A -- range.

25 Q From 400, between 10 and 50 responded,

1 correct, about?

2 A Something like that.

3 Q And so a determination was made whether or not
4 that was enough of -- enough people responding for you
5 to make -- to provide an opinion regarding the water
6 use, correct?

7 MR. McLACHLAN: I'm going to object to the
8 form of the question.

9 BY MR. KALFAYAN:

10 Q So -- you made a decision that that wasn't
11 enough, for whatever reason, that these -- there wasn't
12 enough people responding to the mailer for you to
13 make -- to arrive at an opinion; is that correct?

14 A Yes.

15 Q Okay. So another mailer was sent out?

16 A Yes.

17 Q This time for 300?

18 A Yes.

19 Q And was the same process used for the 300?

20 A Yes.

21 Q Okay. Do you know how many respondents came
22 back, how many e-mails -- or I shouldn't say e-mails.
23 Did the e-mail from Mr. McLachlan include individual --
24 a list of people or just one name and the information
25 for one particular class member?

1 mean?

2 A In this case, I would say the idea of a random
3 selection, there was no selection bias, there wasn't
4 any -- any influence on which class member was selected
5 for the -- for this activity.

6 Q Okay. When you chose the 217 individual
7 members that already responded to the initial mailer,
8 isn't that selection bias?

9 A I considered it not selection bias because it
10 was -- there was no selection bias in determining which
11 ones of the overall class responded to those -- to that
12 initial mailer, the initial class notice that went out.
13 So it seemed to me that it was rand- -- that was a
14 random result of the whole class of who was willing to
15 respond to that initial class notice.

16 Q But the group that you chose to send that
17 second mailer to were the 217 that have already
18 responded to the initial notice, correct?

19 A Yes.

20 Q So isn't that a bias in and of itself?

21 A We were not getting enough respondents to the
22 previous three, the 400, the 300 and the 200 mailers,
23 to have a substantial -- a sufficient number of -- of
24 class members to do the survey, so we needed to get
25 more information to be able to do an adequate survey.

1 households in the class use more than 5 acre feet per
2 year of groundwater?

3 A I think that would be -- if you're careful in
4 the phrasing, and that it's based on these years, then
5 that is -- and based on the approach and the method
6 used in the study, then I think that's a good -- it
7 could be considered accurate.

8 Q Okay. Great. Thank you.

9 On page 5 of your report, in the first
10 sentence of the 3.2 --

11 A Uh-huh.

12 Q -- it talks about how "All class members that
13 responded affirmatively to the mailings requesting
14 participation initially were contacted by class counsel
15 and informed of the nature of the adjudication
16 proceedings."

17 Do you see that?

18 A Uh-huh. Yes.

19 Q Okay. Do you know what Mr. McLachlan or class
20 counsel said to these responding -- to those class
21 members responding to the mailings?

22 A I don't know what he said regarding the nature
23 of the adjudication. I know that he did request, as an
24 initial request, if they had basic information
25 regarding their well or their water usage or if they

1 had any documentation of their historical water use for
2 2011 and 2012. But I don't know the full extent of
3 what his conversations were.

4 Q So you never saw a script of what was said to
5 these class members?

6 A No.

7 Q No. And what about verbally, did
8 Mr. McLachlan ever explain to you as the expert "This
9 is what I'm telling the class members regarding the
10 nature of the adjudication proceedings"?

11 A He didn't tell me.

12 Q And then if I understand your earlier
13 testimony correctly, you never saw the actual mailing
14 that went out to these class members, correct?

15 A I provide -- correct, I didn't see the actual
16 mailing, that I recall. I provided a list of some
17 topics to include in the mailing, like, you know --

18 MR. McLACHLAN: Counsel, we're not covering
19 this ground again.

20 MS. BRENNAN: Counsel, this has not been gone
21 into.

22 MR. McLACHLAN: The question was asked and
23 answered. Very clearly.

24 BY MS. BRENNAN:

25 Q This list of topics you provided to

1 Mr. McLachlan, is that included in the materials you
2 provided today?

3 A No.

4 Q Okay. We would need that list of topics that
5 you provided to Mr. McLachlan, please.

6 A Yes.

7 Q Thank you.

8 Did you ask Mr. McLachlan to see if you could
9 see the mailing that he was sending out?

10 A I don't recall.

11 MR. McLACHLAN: Counsel, it was a
12 four-sentence -- four sentences, literally, there may
13 have been a fifth sentence, letter from my office to
14 them asking them simply to participate. There was no
15 questions for them, nothing else.

16 MS. BRENNAN: Well, you asserted the waiver
17 earlier -- not waiver. You asserted the privilege.
18 Are you going to waive the privilege and show it to us
19 or not? That's your decision.

20 MR. McLACHLAN: No, actually, it's the
21 client's decision. The clients hold the privilege.
22 You can look that one up. It's still California law.

23 MR. KALFAYAN: That's okay. Let's just go on.

24 MS. BRENNAN: No, if he wants to clarify and
25 say what was on the mailing, then that's --

1 anonymous or if their driver's license was -- it would
2 depend a lot --

3 Q Okay. All right. Fair enough.

4 A -- what the risk -- their personal risk was to
5 be telling the truth or not.

6 Q Okay. So then put it in the context of this
7 case --

8 A Uh-huh.

9 Q -- if a class member received a survey in the
10 mail and they know that they are pumping 10 acre feet
11 per year but they -- so they're using a lot of water
12 and they only own one house, in your expert opinion,
13 wouldn't that person be less likely to want to
14 voluntarily respond to the survey?

15 A That's a complicated question. It depends on
16 an individual's understanding of the nature of the case
17 and whether it's, you know, to their own value or to
18 the extent that they feel that they want to help their
19 community, to help the case do better, and whether they
20 would try and say actually what they use or bias it up
21 or bias it down completely depends on what they
22 understand about water law, which typically is very
23 little.

24 Q Okay. So -- and their understanding of the
25 case, then, that they learn through class counsel would

1 be important to whether they wanted to respond to the
2 survey or not, correct?

3 A Yes.

4 Q So would you agree that any owner of a parcel
5 of land not connected to any municipal water source has
6 no other recourse to obtain a water supply except to
7 install water wells and pump groundwater?

8 A Have you been -- have you been to the Antelope
9 Valley? There's no other water options.

10 Q Right. So you would agree with that
11 statement?

12 A That's what I wrote in my report?

13 Q Yes. You want to go to page 6. But without
14 referring to that report, do you agree with that
15 statement? Or if you need to refer to your report,
16 please do so.

17 A The -- that sentence that says "each class
18 member has no other recourse to obtain a water supply,
19 except to install water wells and pump groundwater"?

20 Q Correct. The last sentence in the paragraph
21 stating "These data."

22 A Yes.

23 Q "Yes," you agree that pertains to any
24 landowner in the Antelope Valley, correct?

25 A If they're not in an area that is served by