

CHINO BASIN WATERMASTER

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In Re )  
 )  
OPTIMUM BASIN MANAGEMENT PROGRAM )  
 )  
Special Referee Workshop, )  
Interim Plan for Management of )  
Subsidence. )  
 )

REPORTER'S TRANSCRIPT OF ORAL PROCEEDINGS

DATE AND TIME: THURSDAY, AUGUST 29, 2002  
11:00 A.M. TO 3:10 P.M.

PLACE: CHINO BASIN WATERMASTER  
8632 ARCHIBALD AVENUE  
SUITE 109  
RANCHO CUCAMONGA, CA 91730

REPORTED BY: WINIFRED S. KRALL, C.S.R. #5123

OUR JOB NO.: WK-24742

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SPECIAL REFEREE WORKSHOP

August 29, 2002

ATTENDEES

NAME/ TITLE

AFFILIATION

SPECIAL GUESTS

Anne Schneider, Special Referee Ellison & Schneider  
Joe Scalmanini, Technical Expert Ludhorf & Scalmanini  
Judy Schurr, Assistant to Attorney  
Special Referee

WATERMASTER BOARD MEMBERS

Terry Catlin, Municipal Water Inland Empire Utilities  
District Representative Agency  
Geoffrey Vanden Heuvel, Ag Pool Dairy  
Steve Arbelbide, Non-Ag Pool California Steel  
Industries, Inc.

WATERMASTER ADVISORY COMMITTEES

Overlying (Agricultural) Pool  
Robert DeBerard, Crops

Overlying (Non-Agricultural) Pool  
Steve Arbelbide, California Steel Industries

Appropriative Pool

Dave Crosley City of Chino  
Mike Maestas City of Chino Hills  
Bill Thompson City of Norco  
Mohamed El-Amamy City of Ontario  
Henry Pepper and Raul Garibay City of Pomona  
Robert DeLoach and Rita Kurth Cucamonga County Water  
District  
Gerald J. Black Fontana Union Water  
James T. Bryson Fontana Water Company  
Carole McGreevy Jurupa Community  
Services Dist.  
Bill Stafford Marygold Water Company  
Mark Kinsey Monte Vista Water Dist.  
J. Arnold Rodriguez San Antonio River Water  
Company  
Charles Moorrees San Antonio Water Co.  
R. Pete Hall State of California, CIM

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ATTENDEES (continued)

NAME/ TITLE	AFFILIATION
STAFF - CHINO BASIN WATERMASTER	
John Rossi,	Chief Executive Officer
Traci Stewart,	Chief of Watermaster Services
Mary Staula,	Administrative Assistant
Sheri Rojo,	Accountant/Office Manager
COUNSEL TO CHINO BASIN WATERMASTER	
Scott Slater,	General Legal Counsel
Michael Fife,	General Legal Counsel
WATERMASTER CONSULTANT STAFF, WILDERMUTH ENVIRONMENTAL	
Mark Wildermuth,	President/Principal Engineer
Andy Malone	
Francis Riley	
INTERESTED PARTIES, CITY OF CHINO	
Patrick Glover,	Director of Public Works
Jim Hill,	Assistant Director of Public Works
Yoshi Moriwaki,	GeoPentach Consultant
INTERESTED PARTIES, CITY OF CHINO HILLS	
Doug LaBelle,	City Manager
Ron Craig,	RBF Engineering
Tom Harder,	Geoscience Consultants, Inc.
Dennis Williams,	Geoscience Consultants, Inc.
OTHER INTERESTED PARTIES	
Diane Sanchez,	Department of Water Resources
Josephine Johnson,	Monte Vista Water Company
Craig Stewart,	Geometrix Consultants, State of California
Dave Milbrandt,	Daily Bulletin
ATTORNEYS	
James D. Ciampa	City of Pomona
James E. Erickson	City of Chino
Burton J. Gindler	Fontana Water Company
Mark Hensley	City of Chino Hills
Boyd Hill	Monte Vista Water District
Tom McPeters	Fontana Water Company District/ San Antonio Water Company
John Schatz	Jurupa Community Services District

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RANCHO CUCAMONGA, CALIFORNIA

THURSDAY, AUGUST 29, 2002, 11:00 A.M.

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MR. SLATER: Good morning. My name is Scott Slater. I'm the General Counsel for the Chino Basin Watermaster. We are now a little beyond the appointed time for having our workshop today with the Referee. Referee with us is Anne Schneider, Special Assistant Joe Scalmanini, and Judy Schurr who is working in connection with the Referee.

Again, the subject matter of the workshop today is Watermaster proposed the interim plan that's been filed with the Court. And we're waiting on some printouts that are to be distributed which are reflective of the slide presentation that Watermaster is going to make in a moment.

But for the purposes of the record, it would be useful if everybody were to identify themselves for the court reporter and to which entity they are aligned.

Again, I'll start. Scott Slater, General Counsel to the Chino Basin Watermaster.

MR. FIFE: Michael Fife, General Counsel for the Chino Basin Watermaster.

MR. ROSSI: John Rossi, Chief Executive Officer of the Chino Basin Watermaster.

1 MS. STEWART: Traci Stewart, Chief of  
2 Watermaster Services for the Chino Basin Watermaster.  
3 MR. MALONE: Andy Malone with Wildermuth  
4 Environmental.  
5 MS. STAULA: Mary Staula with Chino Basin  
6 Watermaster.  
7 MR. BOYD HILL: Boyd Hill, Counsel for Monte  
8 Vista Water District.  
9 MR. SLATER: Pardon me, Madam Court Reporter,  
10 would it be better if they spelled their names for you?  
11 THE REPORTER: I think I might have a list of  
12 the names. I'll call if I need it.  
13 MR. HALL: Pete Hall, CIM, State of California.  
14 MR. STEWART: Craig Stewart, Geometrix  
15 Consultants, on behalf of the State.  
16 MR. ARBELBIDE: Steve Arbelbide, Chino Basin  
17 Watermaster, board member.  
18 MR. DeBERARD: DeBerard, Ag Pool.  
19 MR. CRAIG: Ron Craig, RBF Consulting,  
20 representing the City of Chino Hills.  
21 MR. MOORREES: Charles Moorrees, San Antonio  
22 Water Company. M-o-o-r-r-e-e-s.  
23 MS. SANCHEZ: Diane Sanchez, California  
24 Department of Water Resources.  
25 MR. GARIBAY: Raul Garibay, City of Pomona.

1                   MR. STAFFORD:   Bill Stafford, Marygold Mutual  
2 Water Company.  
3                   MR. RODRIGUEZ:   Arnold Rodriguez, Santa Ana  
4 River Water Company.  
5                   MS. KURTH:   Rita Kurth, Cucamonga County Water  
6 District.  
7                   MS. MCGREEVY:   Carole McGreevy, Jurupa  
8 Community Services District.  
9                   MR. SCHATZ:   John Schatz, special counsel to  
10 Jurupa Community Services District.  
11                   MR. KINSEY:   Mark Kinsey, Monte Vista Water  
12 District.  
13                   MR. CATLIN:   Terry Catlin, Chino Basin  
14 Watermaster, board member.  
15                   MR. RILEY:   Francis Riley, Wildermuth  
16 Environmental.  
17                   MR. ERICKSON:   Jim Erickson, Attorney for the  
18 City of Chino.  
19                   MR. CROSLEY:   David Crosley, City of Chino.  
20                   MR. MORIWAKI:   Yoshi Moriwaki, GeoPentach, City  
21 of Chino.  
22                   MR. GLOVER:   Pat Glover with the City of Chino.  
23                   MR. MAESTAS:   Mike Maestas with the City of  
24 Chino Hills.  
25                   MR. EL-AMAMY:   Mohamed El-Amamy with the City of

1 Ontario.

2 MR. McPETERS: Tom McPeters. I've been  
3 designated a person of interest. I'm here on behalf of  
4 Fontana Union Water Company and San Antonio Water  
5 Company.

6 MR. BLACK: Gerald Black, Fontana Union Water  
7 Company.

8 MR. GINDLER: Burton Gindler representing  
9 San Gabriel Valley Water Company and the Fontana Water  
10 Company division.

11 MR. BRYSON: Jim Bryson with Fontana Water  
12 Company.

13 MR. LaBELLE: Doug LaBelle, City of Chino Hills.

14 MR. HARDER: Tom Harder with Geoscience  
15 representing Chino Hills.

16 MR. WILLIAMS: Dennis Williams, Geoscience,  
17 representing City of Chino Hills.

18 MR. HENSLEY: Mark Hensley, City Attorney, Chino  
19 Hills.

20 MR. SLATER: I think that there were a couple  
21 elements of housekeeping for the workshop today that we  
22 hoped might be acceptable to the Referee. Watermaster  
23 has a presentation to make to the Referee and the parties  
24 with regard to the proposed interim plan that has been  
25 filed. It would consist primarily of an introduction by

1 me followed by a technical summary by Mark and Andy and  
2 then our offering technical representatives as well as  
3 Watermaster staff open for questions that the Referee  
4 might have. And following that, we would open it up to  
5 any member of the producers group who wanted to make a  
6 supplementary or additional presentation to the Referee.

7           We would hope that, again, it would be  
8 understood that this is a workshop; it's not a hearing.  
9 We're not swearing in witnesses, and we're not looking  
10 for cross-examination of people who are providing  
11 information today. And we would hope that that was the  
12 acceptable way to proceed, and I think that is.

13           THE REFEREE: I think that is. I want to  
14 emphasize that this is a workshop, and it is pursuant to  
15 Judge Gunn's order of June 19th of this year. And the  
16 purpose is limited. The purpose is to give the  
17 Watermaster an opportunity to present to the Court  
18 through the Special Referee the details of the interim  
19 plan. It is not a fact-finding hearing of any kind  
20 concerning the cause or causes of subsidence. That is  
21 not an issue to be addressed today at all.

22           But it is expected that there -- that a factual  
23 basis will be provided to explain how the interim plan  
24 will accomplish its goals. And one of those goals is to  
25 minimize subsidence and fissuring while new information



1 is collected in order to assess the causes and to develop  
2 an effective long-term management plan which is stated in  
3 the implementation plan and numerous other places. So  
4 it's very important, in order to conclude today, that  
5 everyone adhere to that limited scope of the workshop.

6 Just as a matter of reference, I am to file with  
7 the Court by September 18th my report and comments on the  
8 interim plan. And then any comments or objections to the  
9 report I file have to be filed with the Court by  
10 September 30th. And then any responses or objections to  
11 those responses or objections have to be filed by  
12 October 10 leading up to a hearing on the interim plan.  
13 And my report is scheduled for October 17th at  
14 1:00 o'clock in Judge Gunn's court.

15 Now, at that hearing there are still pleadings  
16 that are outstanding, and at the hearing the Court will  
17 also determine whether it needs to set a briefing  
18 schedule for the City of Chino's motion under  
19 Paragraph 15 of the judgment. And then any motion by the  
20 Watermaster that it may want to make instructing it to  
21 proceed in accordance with the interim plan has to be  
22 filed and served by September 30th.

23 So those are details that are all in the judge's  
24 last order, but that's the schedule that we're looking at  
25 right now.

1                   MR. BOYD HILL: Will your report include any  
2 fact-finding?

3                   THE REFEREE: Let me just go back to this again.  
4 The purpose of the workshop, and therefore the scope of  
5 my report, is to advise the Court on the interim plan.  
6 And there may be a need to understand the factual basis  
7 that led to the plan in order to understand it. But that  
8 would be the extent of it, literally to explain what it  
9 means.

10                  MR. BOYD HILL: Thank you.

11                  THE REPORTER: May I ask if people are speaking  
12 out here that they identify themselves. I have names,  
13 but I couldn't get them all memorized.

14                  MR. BOYD HILL: Mr. Hill.

15                  THE REPORTER: Thank you.

16                  THE REFEREE: Did everyone hear that request? I  
17 think I also can barely hear people who have identified  
18 themselves. So if when you talk, you would be louder  
19 and --

20                  MR. ERICKSON: Would you restate what was being  
21 said, please. We didn't hear it.

22                  THE REFEREE: I'm sorry?

23                  MR. ERICKSON: Would you restate what was being  
24 said. We can't hear back here at all.

25                  THE REFEREE: The request is reiterated that we

1 all speak more loudly and, when you speak, identify for  
2 the reporter who you are.

3 And with that, Scott, I turn it over to you to  
4 go ahead. We will hold our questions until each of you  
5 has finished, unless there's something initial that  
6 you're going to talk about.

7 MR. SCOTT: We would hope that anybody who has  
8 additional questions would direct them to the Referee,  
9 who can deal with your question in an orderly fashion.

10 THE REFEREE: It's a bit territorial, but this  
11 is the workshop that we set up so we can get the  
12 information we need. If some of you have questions, if  
13 you would just address them to me and we can discuss  
14 whether it's within the scope of what we're hoping to do  
15 here to pursue those questions, that would be the way I'd  
16 like to handle that. But that's down the line, so first  
17 we will hear from Scott and Mark and Andy and have our  
18 questions and then get to yours.

19 I also understood that at some point Chino and  
20 Chino Hills have indicated that they have information  
21 that they want to provide related to the interim plan.  
22 Is that still true?

23 MR. HENSLEY: Yes.

24 MR. GLOVER: Yes.

25 MR. SLATER: Chino Hills is saying yes and Chino

1 is as well.

2 THE REFEREE: Can somebody give me some idea of  
3 the time that you would require to make a presentation?  
4 Each of you.

5 MR. HENSLEY: No. I can tell you it's difficult  
6 to know at the moment. I've not seen this presentation.  
7 We really didn't know what to expect today as far as how  
8 the format would work. We have a study that's been  
9 prepared by Dr. Williams that we have a lot of background  
10 to. We can just simply give it to the Watermaster, the  
11 Special Referee, and anybody else that wants a copy.

12 THE REFEREE: So when you get to this point, the  
13 key issue is related to the interim plan. So if what we  
14 want to ask or talk about relates to the interim plan,  
15 that's fine. How about Chino?

16 MR. GLOVER: Because we were at the workshop  
17 that we had previous to this, a dry run, a lot of the  
18 information that we had brought forth is contained in the  
19 presentation, so ours will be very brief, maybe five  
20 minutes.

21 THE REFEREE: Great.

22 MR. SLATER: We apologize on the delay in the  
23 printing. It will be with us shortly. I just wanted to  
24 again remind everybody that this is the interim plan that  
25 we're here to discuss today. It's not the long-term

1 plan. The long-term plan was envisioned to come out or  
2 be a byproduct of the interim plan which we are now  
3 initiating.

4           First slide, please. The subject areas for the  
5 Special Referee's workshop were suggested by the Special  
6 Referee, and our presentation today is designed to parse  
7 on and respond to each one of these elements of the  
8 outline. It will include a problem description and  
9 problem area and interim plan components, the interim  
10 plan constraints, and the interim plan implementation  
11 status. I'm going to begin with an introduction and to  
12 do that, in order to provide some context for why the  
13 plan, where the plan is going, and how do we evaluate its  
14 adequacy.

15           To begin with, we didn't just decide about  
16 having to do an interim plan yesterday. This actually  
17 comes from the OBMP. This is OBMP Program Element 4,  
18 which provides the genesis for why we're doing this plan.  
19 Again, the origin of the genesis of the plan was the  
20 Peace Agreement. And the Peace Agreement had various  
21 covenants and obligations among all of the producers to  
22 the judgment, and then those were embraced by  
23 Watermaster, and Watermaster agreed to carry those  
24 covenants forward to the best of its ability.

25           And with regard to the interim plan,

1 specifically the interim plan and not the long-term plan,  
2 there were specific goals. And one of those goals was to  
3 minimize subsidence and fissuring -- when? -- in the  
4 short term. No, we didn't put a number of years as to  
5 what "short term" meant, but it's definitely less than a  
6 ten- or a twenty-year program.

7           Secondly, a goal was to collect information  
8 necessary to understand the extent and causes of --  
9 what? -- subsidence and fissuring. Not just subsidence  
10 but subsidence and fissuring. Why? Because fissuring,  
11 we think, has caused some stresses on buildings and  
12 caused other management-related problems within  
13 Management Zone 1 generally.

14           And then what was the final goal was to come up  
15 with a long-term management plan. Without defining what  
16 all of its elements were going to be, the idea was that  
17 we were going to have an effective long-term management  
18 plan come out of the interim plan.

19           So in order to provide a bridge to that  
20 long-term plan and as a measure of implementing the  
21 interim plan or judging its adequacy, there were certain  
22 prescribed components that were to be in the interim  
23 plan. And one of those elements included voluntary -- I  
24 stress the word voluntary -- a voluntary modification of  
25 groundwater production. That was to be a component. So

1 when judging the adequacy of our interim plan, one test  
2 would be, Is there such a modification possible or  
3 presented?

4           Secondly, it was to incorporate the recharge  
5 elements that were otherwise carried out under the OBMP.  
6 And we think it's important that we not lose sight of the  
7 fact or forget that the OBMP recharge components include  
8 among other things an introduction of 6500 acre-feet of  
9 wet water into Management Zone 1 for a five-year period.

10           Third, it was designed to determine gaps in  
11 knowledge: What did we not know that we needed to know  
12 about subsidence and fissuring?

13           And then once we had some handle on that, we  
14 needed to put in place a process which was designed to  
15 fill those gaps. And knowing how we've tried to do  
16 things in the Chino Basin for at least the last two years  
17 is we tried to do it on a consensus basis. So what was  
18 going to be the best program to get the widest  
19 dissemination and analysis of the information necessary  
20 to develop a better plan?

21           And then finally, we had to have some mechanism  
22 to develop a long-term plan.

23           So the plan ultimately transmitted to the  
24 Court -- and Mark and Andy are going to be going through  
25 this in greater detail -- but the plan transmitted to the

1 Court was designed to go about these tasks in various  
2 ways. It was designed to create a method for Watermaster  
3 to determine gaps in its knowledge base. So that is, in  
4 the first instance, a Watermaster responsibility, a  
5 Watermaster responsibility to identify what needs and  
6 requirements may exist.

7 Through the process of trying to get our arms  
8 around a rather difficult issue, we had come to the  
9 conclusion as Watermaster that we needed to have a  
10 broader buy-in from technical representatives and to  
11 create a place for the technical representatives from  
12 each of the parties to come and to fairly express their  
13 points of view.

14 I think we would be remiss if we didn't  
15 acknowledge, at least, the parallel or existing --  
16 although not directly a part of, necessarily,  
17 Watermaster's function -- but there is litigation  
18 occurring outside of Watermaster. There are concerns  
19 generally about subsidence and claims of potential  
20 responsibility. And we wanted to find a way to create  
21 the best information and the best approach for  
22 Watermaster that would be supported by the producers.

23 Which led us to, How are we going to implement a  
24 process? And for things as simple as the extensometer  
25 and the piezometer, we had to reach agreements with



1 various producers on how we were going to get access to  
2 locate the facilities. And those were deemed to be  
3 instrumental in filling data gaps.

4           So we began implementing a process, gee, as far  
5 back as first part of this year which then generated the  
6 interim plan that we transmitted to the Court. And its  
7 core elements include the idea that we're going to form a  
8 technical group -- indeed, we are going to execute  
9 agreements and have done so for the extensometer and  
10 piezometer -- and that Watermaster is going to provide  
11 the necessary study and analysis to be presented to this  
12 technical group for bedding.

13           The plan that we transmitted to the Court needs  
14 to have voluntary modifications in pumping, and indeed  
15 this was going to require a commitment from Watermaster  
16 and the producers to reach out to substitute water  
17 supplies that were available. So we had to identify  
18 substitute water supply sources, and we had to also make  
19 sure that they were going to be provided at a comparable  
20 cost and quantity at the locations the people needed. We  
21 couldn't very well tell people to turn down pumping if we  
22 couldn't keep them whole, at least we didn't think that  
23 was an appropriate basis to start.

24           And then we also wanted to have a process in our  
25 plan that would allow or accommodate future voluntary

1 measures that could be identified by Watermaster working  
2 in connection with the technical group. I think one of  
3 the things that people all brought to the table over the  
4 last several months is, we don't have all the answers  
5 now. We're not even sure that we have all the abilities  
6 or all the pathways identified to get all the answers,  
7 but we think we're on the right track. We wanted to  
8 leave open the prospect that other voluntary measures  
9 could be incorporated.

10           Next slide. Against these ideas that -- or  
11 components that we wanted to include in the plan, and  
12 indeed were required to, we had some constraints. And  
13 those constraints included a recognition that people in  
14 Management Zone 1 needed water, they have existing  
15 demands, and we couldn't very well shut down a community  
16 or shut down an existing business and ask them to support  
17 the program.

18           Simultaneously, we had an existing  
19 infrastructure in place that we had to deal with, an  
20 existing supply, so we needed to know a little bit about  
21 what the supplies were, how we could move them around and  
22 use existing conveyance systems to do so.

23           And then finally, we had the constraints  
24 associated with substitute water. If substitute water  
25 was easily obtained and plentiful, it would be a

1 no-brainer, but that's not the case.

2           Next slide. So, again in a brief introductory,  
3 summary fashion, the plan that was transmitted to the  
4 Court includes a provision for voluntary pumping  
5 reduction.

6           Watermaster at great -- with great effort and  
7 attempt to consensus-build on the best way to achieve a  
8 voluntary pumping reduction met with producers for many  
9 months in trying to come up with a method to create the  
10 broadest possible participation.

11           We transmitted -- we adopted a recommendation  
12 which included a schedule which was an attachment to the  
13 interim plan, and we recommended that Chino participate  
14 at the level of 1500 acre-feet for a period of three  
15 years from specific wells. And we made a comparable  
16 recommendation for Chino Hills for 1500 acre-feet from  
17 specific wells, all within Management Zone 1.

18           The offer to Chino and Chino Hills received the  
19 following result. The City of Chino has accepted the  
20 Watermaster proposal as it exists in the interim plan  
21 today and proposed to take 1500 acre-feet of substitute  
22 water and modify their production from the wells  
23 identified by Watermaster and to do so for a period of  
24 three years.

25           The City of Chino Hills filed a -- what is

1 tantamount to a rejection and a counteroffer. They  
2 suggested that they indeed would participate at the  
3 1500 acre-foot level but wanted to do so for a one-year  
4 period and chose to use other wells or have discretion  
5 from which wells that they would include, and then  
6 attached an additional requirement that the City of  
7 Pomona also participate. So they have responded that  
8 they're willing to take part but under different  
9 conditions.

10           Then with regard to the substitute supply, we're  
11 pleased to announce today that IEUA and Metropolitan have  
12 contractually agreed in writing to make the water  
13 available at \$233 per acre-foot which was in accordance  
14 with the requirements of the plan. So we now have the  
15 water to back up the commitment.

16           Then we also have a commitment from the  
17 producers to begin a monitoring program for Management  
18 Zone 1. We are hamstrung here a little bit. We had  
19 hoped to already have our technical group meetings, which  
20 would allow this monitoring program to proceed a little  
21 further. That's actually a further bullet item down, but  
22 I'll cover it here.

23           And in an effort to break the logjam, we have  
24 proposed a stipulation which we think is going to be  
25 acceptable to the parties. We have every reason to

1 believe it's acceptable because we've discussed it at  
2 various meetings.

3           But the desire here is when the technical group  
4 representatives come to the technical group meetings so  
5 they can discuss the monitoring programs, they can  
6 provide input, and they can help Watermaster build a  
7 better trap, we want to have an assurance that when they  
8 come to these meetings that the things that they say are  
9 privileged and confidential and that they don't end up in  
10 a pleading or in litigation between the parties.

11           And so we asked as a pre-condition of  
12 participating in the technical group, which is again the  
13 springboard to the monitoring program and making it as  
14 good as it can be, that they sign an acknowledgement that  
15 when they come to these meetings that the things that are  
16 going to be said are going to be privileged.

17           And we also want an understanding that when they  
18 bring information which is otherwise privileged -- for  
19 example, if the City of Pomona had hired a consultant who  
20 was an expert to the City of Pomona and they brought that  
21 information to the meeting -- would otherwise be  
22 privileged as work product privilege. By sharing it with  
23 the technical group, they are not waiving any privilege  
24 that otherwise exists to that material. Therefore we  
25 hope that all of the producers will have the opportunity

1 to fully participate at a technical level.

2           And then, third, we provided a catchall which  
3 provides an open door for something else to be privileged  
4 that is in writing and presented but only if all of the  
5 parties agree to the technical group process, that it is  
6 of such an importance and of such utility that they want  
7 to protect it. And we don't know precisely what that  
8 might be, but we feel as if everybody agrees that it  
9 ought to be privileged, that we ought to respect the  
10 wishes of the participants.

11           What we specifically don't want to have happen  
12 is we don't want people reaching into their files  
13 bringing masses of unprivileged material to the technical  
14 group meetings, and then dumping them into the process  
15 with the intention of trying to create a privilege over  
16 that information. And we don't believe that's anybody's  
17 intention, but we want to make sure for Watermaster's  
18 protection and for the protection of the parties that  
19 this proposed stipulation is on the record and known and  
20 understood.

21           Again, we have been informed that if this  
22 representation and stipulation was made to the Referee  
23 today and acknowledged by the other parties that we could  
24 begin our meetings of the technical group, presuming that  
25 the acknowledgements that are carried out in Exhibit A

1 are satisfactory and signed by all the parties.

2 So it would be actually useful to us today to  
3 hear if there are any objections to this proposed  
4 stipulation because otherwise we think we've satisfied  
5 this problem.

6 THE REFEREE: I have a few questions about this.  
7 Are there representatives here from all of the entities  
8 that would have a participant on the technical group?

9 MR. SLATER: I believe that most everybody, but  
10 I would not say it's uniform. I see Monte Vista, Chino,  
11 Chino Hills are here. Pomona is here.

12 MS. STEWART: the State.

13 MR. SLATER: The State's here. I guess the only  
14 one probably not is Southern California Water Company.

15 MR. ROSSI: And maybe Upland.

16 MR. SLATER: And Upland. But I have had contact  
17 with Upland's lawyer, Pomona's lawyer who has no problem  
18 with this.

19 THE REFEREE: For the record, if anyone has a  
20 problem who is here, would you say so now.

21 Hearing none, I have a few questions for you,  
22 Scott.

23 MR. SLATER: Sure.

24 THE REFEREE: I guess my questions go to what  
25 would likely be included as confidential and what would

1 not, just so that the record can reflect what you would  
2 anticipate now. Are any of the data that the Watermaster  
3 collects or that are collected under agreement with the  
4 Watermaster in any way going to be able to be  
5 confidential?

6 MR. SLATER: There is no intention to cloak  
7 Watermaster data with privilege. Watermaster data is  
8 open and available to the Court, to the extent that it is  
9 an arm of the Court presently, and there is no intention  
10 to shield Watermaster data under a privilege. This  
11 privilege is designed to protect the parties. And to the  
12 extent that the parties generate data and produce it, it  
13 would not be used against them.

14 THE REFEREE: So if the Watermaster produces  
15 data and takes it into the technical group for  
16 discussion, that doesn't affect it?

17 MR. SLATER: Absolutely not.

18 THE REFEREE: What if the Watermaster enters  
19 agreements to do pump testing, for example? Would that  
20 information be --

21 MR. SLATER: On the face of it, this would not  
22 provide for a pump test exclusion. So no, it would be  
23 Watermaster data that would otherwise be available to the  
24 Court and the parties to the judgment.

25 THE REFEREE: And then from a different angle,



1 if someone, say if a party submits information to you and  
2 then that information is used in the technical group, it  
3 stays public?

4 MR. SLATER: If information is transmitted to  
5 Watermaster in the context of the technical group so  
6 Watermaster is chairing the technical group meeting, the  
7 technical group comes together, and a party produces it  
8 at that meeting and it is otherwise privileged, we would  
9 respect the privilege. If it is not, then no, it would  
10 not be privileged.

11 THE REFEREE: It would not be if it had already  
12 been submitted too?

13 MR. SLATER: That's correct.

14 THE REFEREE: Can you give an example of the  
15 sort of thing that would be kept confidential or category  
16 of thing that might be kept confidential in the technical  
17 group?

18 MR. SLATER: Sure. Let's run through each of  
19 the three items or the possibilities.

20 The first one is a representative from the City  
21 of Upland comes to the technical group meeting and says,  
22 Well, I've seen the data but my own opinion is that the  
23 real cause of subsidence is the -- this is a  
24 hypothetical -- that the real cause is, (a) a well that  
25 we own and operate and we've been operating and we've

1 known that it's caused subsidence in our backyard for the  
2 last five years and we've got data to prove it, and makes  
3 such an oral disclosure. That oral disclosure is  
4 protected. It is not an admission against interests and  
5 cannot be released.

6           The second scenario is, again hypothetical, the  
7 representative from Upland comes and says, Not only did I  
8 say that but here's the written report which was prepared  
9 for us by XYZ Consultants in which they've analyzed well  
10 data over the last hundred years and come to the  
11 conclusion that, by God, it's our well in the backyard  
12 that's causing this problem. And that report itself,  
13 which is otherwise work product, does not become  
14 discoverable and nonprivileged simply because they  
15 disclosed it.

16           And the third category is there is some  
17 information or a study, perhaps, that a party -- let's  
18 again pick on Upland because they're not here -- that  
19 Watermaster wants and the technical group thinks that  
20 Upland ought to perform. Upland hasn't got the  
21 information yet, it hasn't retained a consultant to do  
22 it, and it does so at the request of Watermaster and at  
23 the request of the technical group. They generate the  
24 data, and Watermaster wants them to do it, but they're  
25 otherwise reluctant to do it because they just don't want

1 the answer. They say, Why would we want to develop that  
2 information because it could hurt us? So Watermaster  
3 says and the technical group says, Well, then perhaps we  
4 ought to privilege the outcome.

5 THE REFEREE: What do you do now if you want  
6 data and someone doesn't want to get it for you?

7 MR. SLATER: Well, it depends on the powers of  
8 Watermaster in the judgment and the specific data  
9 request. Typically what we try to do is work  
10 consensually and by agreement to get the data we need.

11 THE REFEREE: I'm still not clear on what sort  
12 of things you see that you need data or information on  
13 that would only be acquired through this privileged  
14 technical group process.

15 MR. SLATER: It's a bit of a stretch for us as  
16 well, but we thought we ought to equip the technical  
17 group with at least the possibility to deal with some  
18 information that should come to their attention or should  
19 they decide that they want it in the event that the  
20 integrity of the plan or the benefit of the plan is  
21 compromised by not having the information.

22 THE REFEREE: Bottom-line question is, Are you  
23 sure that the confidentiality aspect of the technical  
24 group won't interfere or undermine Watermaster's  
25 responsibility to collect and analyze data, whether or

1 not subsidence or anything else?

2 MR. SLATER: Are we sure? We certainly hope  
3 not. I would say it's incumbent -- the benefit and the  
4 prospects for implementing this plan are dependent upon  
5 having participation from the producers. And we think  
6 it's in everybody's best interests for us to develop a  
7 good long-term plan, and we hope that people are  
8 forthcoming with information.

9 We have our own independent ability to conduct  
10 tests, monitor, and we plan to do that. And the  
11 extensometers and the piezometers are going forward  
12 without regard to future agreements. So we believe we'll  
13 have an information base to carry out the interim plan  
14 and develop a long-term plan.

15 We would -- there is the prospect that a party  
16 could elect to shield data from us that will hinder the  
17 long-term plan. I mean, that's a possibility. We hope  
18 that's not the case, and we don't think it will preclude  
19 the development of a plan.

20 I know that's not -- it's not the best answer  
21 that I might give, but it's an honest one. To the extent  
22 that we have powers under the judgment to secure data, we  
23 plan to pursue those to the full extent of our powers in  
24 the judgment. But there are some limits.

25 So my five-minute presentation is extended here.

1 So let me quickly sum up and say that the timing and  
2 schedule for reports is something that we're very  
3 sensitive to. We're hopeful that we would have regular  
4 reports, both the technical committee and to the Court.

5 We're hopeful, again, to have an actual proposed  
6 program for study to the Court and approved by  
7 October 1st. And that means us getting our first  
8 technical group meeting together, like, tomorrow. We  
9 regret not being able to have an earlier meeting, but we  
10 think with this confidentiality behind us, that Mark and  
11 John and Traci can sit down with the technical group and  
12 at least have a good start on that program, maybe not the  
13 complete program, but a good start on it approved by  
14 October 1.

15 And then finally the interim plan status is --  
16 the whole purpose, again, for having the technical group  
17 is to make it an adaptive iterative process. We're  
18 starting today. This is Day One. Or October 1st, if you  
19 would, would be Day One of the plan. And we don't plan  
20 to be stuck on any specific element or measure and say  
21 that that's the universe of what we intend to do. If the  
22 group in consensus lead us to do other things that are  
23 for the benefit of the Basin and for benefit of the  
24 long-term plan, we hope to accommodate that.

25 So I think, with that, we're ready for Mark and

1 Andy to go through the balance of our presentation.

2 MR. MALONE: We tried to follow your outline as  
3 best we could that we received. And the first part of  
4 your outline was more background information, the problem  
5 description and the problem area, and so we'd start with  
6 the historical observations of the nature, extent, and  
7 location of subsidence. And the type of data that we'll  
8 be reviewing here are ground level surveys as  
9 commissioned by the City of Chino from 1987 to the  
10 present, ground fissuring documentation, and InSAR  
11 mapping, which is remotely sensed data.

12 This is a figure of measured subsidence as  
13 measured by ground level surveys commissioned by the City  
14 of Chino from 1987 to 1999. This is an older figure from  
15 the Phase I OBMP report. Basically what these contours  
16 show are equal lines of subsidence from 1987 to 1999.  
17 And our area of interest right here, this is Central  
18 Avenue, Eucalyptus, and Edison in Management Zone 1 on  
19 the southwest portion of the Chino Basin.

20 The purple lines represent zones of fissuring as  
21 documented in the 1994 report by the State. And the  
22 green dots here are various wells owned by the City of  
23 Chino and Chino Hills. What's missing here are some  
24 production wells owned by the State here on CIM property  
25 down in this region here.

1           As you can see by the contours, that there's a  
2 main trough of subsidence that occurred during this time  
3 period along Central Avenue, maximum subsidence measured  
4 of about 26 inches, so a little over 2 feet over that  
5 time period. These contours also terminate here at the  
6 extent of the ground level surveys but indicate the  
7 subsidence was occurring further to the west during this  
8 time -- or further to the north during this time period.

9           MR. ROSSI: Andy?

10          MR. MALONE: Yes.

11          MR. ROSSI: Just to let you all know, we're  
12 making a few more copies. We'll have enough for everyone  
13 in just a few minutes.

14          MR. MALONE: In this figure we zoomed out to  
15 look at almost the entire extent of Management Zone 1,  
16 and we have left the ground level survey contours on  
17 here. What we've added is the InSAR mapping data. And  
18 what these colors mean, the red means maximum subsidence  
19 of about 15 centimeters, I believe that says there, along  
20 Central Avenue and extending further north, as the  
21 contours from the ground level survey suggest, and  
22 extended on further north in Management Zone 1 as well  
23 and even over into Management Zone 2.

24          MR. ROSSI: 15 centimeters in inches is what? 6?

25          MR. MALONE: Now, this is an InSAR image from

1 1993 to 1998 so it doesn't coincide exactly with the  
2 magnitude of subsidence as measured by the ground level  
3 surveys over the 1987-to-present time period. But they  
4 do corroborate each other in their location and their  
5 relative magnitude of subsidence so it's two independent  
6 forms of evidence that corroborate each other nicely in  
7 this figure. The dots -- the remaining dots in here show  
8 production wells by various producers.

9           The outline also asked for some comment on  
10 changes in subsidence rates over time. We can look to  
11 the ground level surveys and the InSAR mapping to  
12 illustrate this phenomenon. This is that same figure we  
13 were looking at. And we have a profile along A-A' Prime  
14 here, which is along Central Avenue, that the City of  
15 Chino has measured ground level surveys from time to time  
16 from 1987 to the present, like we said earlier.

17           We're going to look at that time history in this  
18 chart here, which shows subsidence beginning at zero up  
19 here down to 3 feet on the X -- on the Y axis and then  
20 this is distance along this cross section A-A' Prime.  
21 Each one of those dots represents a benchmark and  
22 subsidence measured at that benchmark over time.

23           We started in 1987 datum where we have zero  
24 subsidence, and then our next measurement is June 1993.  
25 You can see along this profile that we've had maximum



1 subsidence of a little bit over a foot at the  
2 intersection of Eucalyptus and Central and at Schaefer  
3 and Central from 1987 to 1993.

4           Then from 1993 to 1995 we had another almost  
5 foot of -- approximate foot of subsidence at these same  
6 locations. And then from 1995 to 1999, we see that the  
7 rate of subsidence at these benchmarks is slowing  
8 considerably and that continues -- that trend continues  
9 on into 2000 and 2001.

10           So what this is showing us here is the ground  
11 level surveys are showing that most of the subsidence  
12 since 1987 occurred prior to 1995 and has since slowed  
13 down to the present.

14           The InSAR data mimics this, only we have data  
15 over different time periods. This is an InSAR image of  
16 the western part of Chino Basin that represents the time  
17 period from October 1993 to December 1995. Again the red  
18 zone in here represents subsidence of about  
19 15 centimeters.

20           When we look at time periods following 1995 --  
21 this is January of '96 to October 1997 -- we still see  
22 subsidence in this general area, but it's somewhere on  
23 the order of more than zero but less than 5 centimeters.

24           MR. WILDERMUTH: 2 inches.

25           MR. MALONE: This is another InSAR image from

1 September 1996 to January 1999. Again, subsidence in the  
2 same general area but somewhere between zero and  
3 5 centimeters over this time period.

4           So again the InSAR -- I guess the point to take  
5 away from this is as far as rates of subsidence, the  
6 InSAR and the ground level surveys are corroborating each  
7 other in this area.

8           The outline also called for some comment on  
9 future rates of subsidence expectations. What we can say  
10 on that point is that the recent data, as we just  
11 discussed, indicates a slowing of subsidence rates over  
12 time to the present. We have experiments under way,  
13 specifically the extensometer and the piezometer, that  
14 are going to more closely monitor subsidence rates and  
15 the forcing functions that drive subsidence. And that,  
16 specifically we're talking about pore pressure  
17 distributions within the aquifer and changes in pore  
18 pressure distributions over time.

19           Stop me when you have questions.

20           THE REFEREE: We were holding our questions till  
21 you're through.

22           MR. MALONE: Okay. The outline also calls for  
23 some summary description of the hydrogeology within  
24 Management Zone 1, and specifically what we're going to  
25 be talking about here is hydrogeology of the southern

1 portion of Management Zone 1 where subsidence has been  
2 most acute.

3           The aquifer system in general, we have an  
4 abundance of saturated fine-grained sediments especially  
5 relative to other areas of the Basin such as further  
6 north towards the mountain front and further east in  
7 Management Zone 3 -- 2 and 3.

8           We have evidence in Management Zone 1 of a  
9 multiple aquifer system consisting of both confined and  
10 unconfined aquifers, and we'll review some of that data.  
11 And we also are in an area here of former flowing  
12 artesian conditions so under virgin conditions when wells  
13 were drilled here, water flowed without pumping, the  
14 pressures were so high.

15           Since those virgin conditions, groundwater level  
16 time histories show us that we've had lowering of  
17 piezometric levels in comparison to those early years.  
18 We'll review some of those time histories.

19           Again, in terms of the saturated fine-grained  
20 sediments, we see generally in this area that the upper  
21 hundred feet of sediments is fine-grained in nature,  
22 mostly consisting of silts and sands.

23           At a depth of 250 feet we encounter a thick  
24 fine-grained unit, which could be classified as a major  
25 aquitard. It's generally 150 to 250 feet thick. In

1 places it's almost entirely fine-grained consisting of  
2 silts and clays, but in other places not too far distant  
3 it becomes more interbedded with coarse-grained sands and  
4 gravels. And we have a figure to illustrate that.

5           And then again former -- we're in an area of  
6 former flowing artesian conditions. The point there is  
7 that the fine-grained sediments in this area are acting  
8 as confining layers and that under virgin conditions the  
9 sedimentary column was nearly 100 percent saturated  
10 before pumping began.

11           MR. SCALMANINI: Andy, the upper 100 feet starts  
12 at the ground surface?

13           MR. MALONE: At the ground surface. We're  
14 talking depth, yes.

15           This is a map that illustrates -- first of all,  
16 this orange area, the general area, of measured  
17 subsidence from the ground level surveys conducted by the  
18 City of Chino. This polygon here was 1905 -- comes from  
19 a 1905 map of the former artesian area. So this is where  
20 we had flowing wells in 1905.

21           You've seen this figure here before, but we've  
22 just added a cross-section in here to help support our  
23 next figure, which we're going to look at the sediments  
24 at depth and specifically the thick aquitard unit at  
25 depth.

1           These are three deep wells that have a lot of  
2 lithologic and geophysical data that allowed us to  
3 construct this cross-section. Basically you can see this  
4 interval that's shaded is our delineation of the thick  
5 aquitard unit that begins at about 250 feet, to a  
6 250-foot depth, and is about 200 feet thick. And you can  
7 see over in these wells here that the E-logs are showing  
8 us that it's fairly consistent all the way through  
9 fine-grained sediments, but as we move further to the  
10 north, we get some interbedding of some coarser-grained  
11 units within this general aquitard.

12           When we speak of the shallow aquifer systems,  
13 we're generally speaking of this area above this aquitard  
14 unit, and when we speak of the deep aquifer systems,  
15 we're speaking of the aquifers within and below this  
16 aquitard unit.

17           So when we move to our discussion of groundwater  
18 level time histories, in the shallow zone from the '40s  
19 to 1978, we had substantial lowering of water levels in  
20 the shallow zone. We have since recovered somewhat, and  
21 we'll show you a time history of that. Recently from  
22 about 1988 to present, we've had a substantial increase  
23 in production from deeper aquifer zones.

24           This is the same artesian map that we had, but  
25 I'm showing you the locations of the wells shallow --

1 wells that are perforated in the shallow aquifer system,  
2 their locations for this time history here, which also  
3 comes from the Phase I OBMP report.

4           What we have here is water level elevation on  
5 the Y axis and time on the X axis from 1935 to about  
6 1998. The thick gray line here represents the cumulative  
7 departure from mean precipitation curve, the thick gray  
8 line. A negative slope means a relative wet period, a  
9 positive slope means -- did I say that right? I'm sorry.  
10 Negative slope, relative dry period; positive slope,  
11 relative wet period. Thanks for catching that.

12           MR. SCALMANINI: You're welcome.

13           MR. MALONE: Our ground surface elevation is  
14 approximately 690 for all these wells. So you can see  
15 back in the '30s that water levels were near surface.  
16 Since about the mid '40s we entered this dry period here  
17 and more wells and production come into the Basin, and  
18 groundwater levels drop pretty dramatically here to about  
19 1978. And we're looking at, let's say, over a hundred  
20 foot, maybe 150-foot drop in groundwater levels in the  
21 shallow aquifer zone.

22           Since 1978 we enter a relatively wet period.  
23 This also coincides with the commencement of the  
24 judgment, and we have a recovery of water levels here but  
25 not back to original conditions. We're still about

1 100 feet lower than original conditions in this part of  
2 the Chino Basin for the shallow zone.

3 Now, in reference to the deep zone, the next  
4 time history chart we're going to look at is for these  
5 two wells down here. And one of these wells is  
6 perforated in the shallow aquifer system and another well  
7 is perforated in the deep aquifer system. So we're going  
8 to see a comparison between the two.

9 Again, water level elevation in feet above mean  
10 sea level -- this is 1982 to about the year 2000 on this  
11 axis. This time history is for the shallow well. It's  
12 perforated from 166 to 317 feet below ground surface.  
13 This water level time history is for the deep well, was  
14 perforated from 440 to 1180 below ground surface.

15 I think you can see here in the shallow zone you  
16 have some seasonal fluctuation in water levels in this  
17 well, but in the deeper zone you have a much more  
18 pronounced seasonal fluctuation in water levels due to  
19 production.

20 So the main point here is that we have evidence  
21 here for two very different responses to pumping which  
22 leads us to believe that we are in a multiple aquifer  
23 system. We have distinct aquifers in the shallow zone  
24 and distinct aquifers in the deeper zone.

25 This is also corroborated by water quality data.

1 These deeper wells are generally lower in concentration  
2 in TDS and nitrogen than the shallower wells. The  
3 converse is true for arsenic. In the deeper wells you  
4 have higher concentrations of arsenic as compared to the  
5 shallower wells. So the water quality and the hydraulic  
6 response to pumping indicate multiple aquifer units in  
7 this area.

8 I think that ends our summary discussion of the  
9 hydrogeology and the history of subsidence in Management  
10 Zone 1. If you had questions on this part, we're going  
11 to go into the monitoring program now. But if you had  
12 questions on that, we could take that now.

13 THE REFEREE: We'd rather you finish the  
14 presentation, and we'll come back.

15 MR. MALONE: Okay. The monitoring program for  
16 Management Zone 1 consists mainly of three different  
17 elements. One is the extensometer and piezometer that  
18 we're installing in the south of Chino in Ayala Park.  
19 We're going to use this facility to establish  
20 relationships between the pore pressures in the aquifer  
21 and the aquifer system deformation, the mechanical  
22 response in the aquifer system. So we want to establish  
23 the relationships between those two.

24 The ground level surveys that we have planned  
25 will monitor the vertical and horizontal ground surface



1 deformation at specific benchmarks located along specific  
2 profiles in Chino Basin. We've got some figures to show  
3 you that illustrate that.

4           Then the InSAR mapping is remote sensing using  
5 space satellites to map ground surface deformation over  
6 the entire basin. We want to move into a quarterly time  
7 step on acquisition of that data, and we'll discuss that  
8 in more detail later.

9           MR. SCALMANINI: Andy?

10          MR. MALONE: Yes.

11          MR. SCALMANINI: I'll save the other question.  
12 Where it says monitoring program, that's just like a  
13 global monitoring program. That is not unique to an  
14 interim plan or a long-term plan or anything else. It's  
15 just a monitoring program. Is that fair to say?

16          MR. MALONE: Yeah. I would say --

17          MR. SCALMANINI: This wasn't crafted uniquely  
18 for the interim plan, and it's not crafted uniquely to  
19 exclude it. It covers both bases of the ongoing  
20 investigation.

21          MR. MALONE: Right, yeah. Parts of this, the  
22 extensometer -- did you want to --

23          MR. WILDERMUTH: We elaborate a little bit  
24 later.

25          MR. SCALMANINI: Okay. Good. Sorry.

1           MR. MALONE: Our objectives here, briefly, for  
2 the piezometer and extensometer specifically -- we're  
3 going to concentrate on this now for a while -- is to  
4 derive essential data in order to describe and  
5 characterize the aquifer system, which will then help us  
6 in our development of the long-term management plan. The  
7 analysis of this data that we obtain from the piezometer  
8 and extensometer will be used to predict future rates and  
9 extents of subsidence caused by future management  
10 activities.

11           Another objective is to monitor the performance  
12 of the long-term management plan with this data. The  
13 data will allow us to distinguish between elastic and  
14 inelastic aquifer system compaction resulting from  
15 current production regimes. It will also permit us to  
16 identify residual compaction from long-term past historic  
17 drawdowns. And we'll also use the data to validate and  
18 improve the long-term management plan. We'll get on  
19 those points in more detail later.

20           In terms of location, this is an air photo.  
21 This comes from an earlier presentation as well. We were  
22 talking about potential extensometer locations, but we've  
23 zeroed in and now we are beginning construction at this  
24 site right here. This, again, is Central Avenue, and  
25 we've overlaid the ground level survey contours onto the

1 air photo and the distribution of historic ground  
2 fissuring, and this is going to be the location of the  
3 piezometer and the extensometer. We've also located some  
4 of the wells that you've seen on earlier figures here.  
5 And then the CIM wells are located down here.

6 As far as schedule goes, the multi-piezometer is  
7 currently under construction. Our expected completion  
8 date is the end of September so in about one month. We  
9 will then enter into three months of intense monitoring  
10 where -- this is the stage where we're really going to  
11 ask for the assistance of the surrounding producers,  
12 specifically Chino Hills, Chino, and CIM but not --  
13 specifically but not excluding others in Management  
14 Zone 1. We're going to ask for their help in especially  
15 monitoring the production.

16 During this three-month period, data that we  
17 collect and the monitoring that we do will assist in the  
18 design of the extensometer. The specifications will be  
19 written during this three-month period for the  
20 extensometer and will go to bid.

21 For the dual extensometer, this we're going to  
22 push back to February. I should have changed this before  
23 this presentation. But the construction will begin  
24 probably in February as opposed to -- we have written  
25 January here. And the completion we're expecting in

1 April of 2003, at which point in time we go into another  
2 round of more intense aquifer system characterization  
3 testing. The testing that we do during this three-month  
4 period will help us design the testing program that will  
5 be initiated after the extensometer is installed.

6 This is a photograph of the piezometer drill  
7 site. This was taken last week. This is at Ayala Park,  
8 and we have fenced off the area here to separate it from  
9 the rest of the park. And here is the reverse  
10 circulation mud rotary drill rig that we've got a better  
11 image of here.

12 This is CIM property right here so this is the  
13 southern end of Ayala Park, and we're working on the  
14 first and the deepest piezometer right here. This is the  
15 second piezometer that will be shallower. We anticipate  
16 putting in five completions within each hole at different  
17 depths throughout the aquifer system. So we're going to  
18 have a good idea about pore pressure distribution  
19 vertically throughout the aquifer system at this  
20 location.

21 I might add that these piezometers are not only  
22 going to be completed in the aquifer units, the  
23 coarse-grained units, but we're also attempting to  
24 complete them within the fine-grained units that are  
25 normally responsible for a high percentage of the

1 inelastic, nonrecoverable aquifer system compaction.

2           So our monitoring plan for the first three  
3 months of the piezometer, we will continuously record  
4 pore pressures in the multi-depth piezometers, again in  
5 the aquifer and in the aquitard units.

6           And then in the surrounding production wells we  
7 want to monitor production and water levels. And  
8 specifically for production we're most concerned with the  
9 pumping periods, when the well turns on, when the well  
10 turns off, and at what rate is the well pumping. The way  
11 we can do that is to insert continuously recording water  
12 level transducers into the production wells, and that  
13 will give us a continuous record of when the well's off  
14 or its static water level. And then when the well turns  
15 on, we will have a pumping water level, and we'll have a  
16 good idea as to how long that well was turned on, when it  
17 turned off. We're going to need the help of the  
18 producers to tell us at what rates were these wells  
19 pumping during those periods.

20           There's also a number of other wells surrounding  
21 the area that aren't pumping. They're either dedicated  
22 monitoring wells such as on CIM property. They have a  
23 lot of dedicated monitoring wells, and there's other  
24 abandoned wells in the area that we hope to use as  
25 observation points for our testing program.

1           This is one concept of the testing program for  
2 the first three months that we're throwing around right  
3 now. Generally what this figure shows is our piezometer  
4 site and then in red our wells that we would put water  
5 level transducers in for the first month. The blue would  
6 be for the second month, and the green would be for the  
7 third month. So we would be tracking production at all  
8 wells but specifically zeroing in and focusing on these  
9 wells on a by-month basis.

10           Another idea is to just let's attack it all at  
11 once for the entire three months. But we're right now  
12 discussing that internally as to the best approach.

13           And again, cooperation of the surrounding  
14 producers. As you can see, we're dealing with Chino  
15 Hills wells, Chino wells, and CIM wells. So we're  
16 depending on the cooperation of the surrounding producers  
17 to pull this monitoring program off.

18           As far as the data obtained and the uses of the  
19 data, from both the piezometer drilling and the  
20 monitoring program for the first three months we're going  
21 to obtain detailed stratigraphic descriptions -- a  
22 detailed stratigraphic description of the aquifer system  
23 sediments. We also are going to get depth-specific water  
24 quality and temperature from the piezometer. And then  
25 we're going to determine how drawdowns at the surrounding

1 pumping wells propagate radially and vertically within  
2 the aquifer system to our piezometer site.

3           The way we're going to use this data is to  
4 refine our existing conceptual model of the aquifer  
5 system. That in turn will help us design the  
6 extensometer completion depths and then also help us  
7 design the future aquifer system tests that we're going  
8 to perform once the extensometer is in place.

9           Another piece of data that was kind of reviewed  
10 already but the piece of data that we'll get from the  
11 piezometers are the current distribution of pore  
12 pressures within both the aquifers and the aquitards.  
13 When an aquifer is adjacent to an aquitard, we'll be able  
14 to determine the current nonequilibrium between the pore  
15 pressures in the aquifers and the aquitards. And this  
16 may reveal potential management goals for the water  
17 levels in the aquifers.

18           So to elaborate on this point here, when a water  
19 level in an aquifer is lower than the water levels or the  
20 pore pressures in an aquitard, the aquitard is going to  
21 drain in order to equilibrate with the lower piezometric  
22 level in the aquifers.

23           This draining of the aquitard leads to some  
24 compaction within the aquitard. So ideally we want the  
25 water levels in the aquifers to be equal to the water

1 levels in the aquitard. That could be a potential  
2 management goal. It could be derived from the piezometer  
3 reading.

4           Once the extensometer goes in -- it's a dual  
5 extensometer. What an extensometer does is it  
6 continuously records changes in the thickness of the  
7 aquifer system. And for our dual facility here, we're  
8 going to have two extensometers, one that's going to be  
9 completed within -- one that's going to be completed  
10 deep, and that will be anchored below the deepest pumping  
11 wells, and one that's going to be anchored shallow at the  
12 base of the shallow aquifer system. We're going to  
13 determine that through our monitoring that we do for  
14 these first three months at the piezometer.

15           This is a schematic of what the extensometer  
16 will look like. Basically we have the ground surface  
17 here, and we have the dual extensometer system here. An  
18 extensometer is basically a steel pipe that rests on a  
19 concrete pad at the bottom of a cased hole. And as the  
20 aquifer system expands and contracts, you'll see the top  
21 of the pipe appear to move up and down out of the ground.

22           We have a stable instrument datum at the ground  
23 surface that we measure that movement of the pipe  
24 relative to the stable data. And we have continuous  
25 recording devices that measure the pipe moving up and



1 down out of the ground. But what's actually happening is  
2 the ground is moving up and down. The pipe is stable.  
3 So we're measuring the compaction that's occurring within  
4 the aquifer system.

5           With the dual extensometer, we have one deep  
6 that measures compaction over the total thickness of the  
7 sedimentary section. The shallow extensometer measures  
8 compaction within only the shallow aquifer system. The  
9 difference between the two is the aquifer system  
10 compaction and expansion that's occurring within the deep  
11 aquifer system. So that's the general setup of our  
12 facility.

13           As far as the data obtained and the uses of the  
14 data, we will be obtaining piezometric data from our  
15 extensometer -- or from our piezometer and also the  
16 surrounding wells that we have water level data coming  
17 from. And then at the -- and that's really the stress  
18 that the aquifer is feeling, the piezometric levels, the  
19 pore pressures.

20           Then at our extensometer we're measuring  
21 compression and expansion, or the mechanical response to  
22 the piezometric level changes, and that's the strain that  
23 the aquifer system is feeling. So with these two -- or  
24 the strain that it's undergoing.

25           With these two sets of data, we can determine

1 elastic versus inelastic compaction within the aquifer  
2 system. We can determine residual compaction that may be  
3 occurring from prior drawdowns in the aquifer system. We  
4 will be able to derive aquifer system parameters that we  
5 can input into models. And all of this analysis of the  
6 data will be used to predict future rates and extents of  
7 subsidence caused by management activities.

8           These are some graphs of data that was obtained  
9 from similar facilities, extensometer and piezometer  
10 facilities, in other locations. And we have Francis  
11 Riley here who's familiar with this data. I think that I  
12 will attempt an explanation at some of this. And,  
13 Francis, be sure to chime in and elaborate where I'm  
14 lacking.

15           In these two graphs here, we have water level  
16 elevation -- or actually this is in depth -- water level  
17 depth, a time history at a well. Then we have an  
18 extensometer located near that well that's measuring  
19 compaction. So compaction is increasing within the  
20 aquifer system in this axis. This is from 1966 to 1969  
21 so this is our time period.

22           As you can see, here we're having water level  
23 decline and at the same time we are having aquifer system  
24 compaction. And they mimic each other almost perfectly.  
25 Whenever there's a little decline in water level, the

1 pore pressures are decreasing within the aquifer system  
2 and the aquifer system matrix is compacting in on itself.

3           When the water levels increase, the pore  
4 pressures in the aquifer systems increase, and the  
5 aquifer system matrix expands. And this is a perfectly  
6 elastic response to pore pressure changes in the aquifer  
7 system. So that's what this is showing here is that  
8 cause and effect relationship, the pore pressure change  
9 and the mechanical response in the aquifer system to  
10 those pore pressure changes.

11           This is that same data that's graphed together  
12 with depth to water on this axis and compaction in feet  
13 on this axis. And you can see the perfectly elastic --  
14 not perfectly, but the somewhat elastic response here, as  
15 water level -- as depth to water increases, compaction  
16 increases. And as depth to water decreases,  
17 compaction -- expansion occurs. This goes back and forth  
18 in this direction.

19           The slope of this line, Francis, I'd like you to  
20 elaborate a little bit on. It's an aquitard system  
21 parameter that we hope to also derive with our  
22 experiments.

23           MR. RILEY: Okay. What that slope is actually  
24 showing is the gross storage coefficient for the  
25 thickness that is penetrated and monitored by that

1 instrument. In this particular case I think it turns out  
2 to be 3 times 10 to the minus 3. Is that what --

3 MR. MALONE: Yes.

4 MR. RILEY: In any event, that basically means  
5 that for every foot of water level decline, we are seeing  
6 3,000ths of a foot of aquifer system compaction, and this  
7 basically is the water that is being yielded by the  
8 wells. At least it's the so-called skeletal component of  
9 that storage capacity.

10 There is an additional component that is derived  
11 simply from the fact that the water expands as it is  
12 reduced in pressure and brought to the surface. But the  
13 dominant component in this case is due to the expansion  
14 and contraction of the aquifer system as a whole.

15 Because this is largely elastic, the  
16 contribution of the fine-grained sediments does not  
17 entirely dominate it as it would in the case of an  
18 inelastic process, but it probably constitutes something  
19 well in excess of 50 percent, maybe on the order of  
20 75 percent of the total change that we are seeing here.

21 MR. MALONE: This is similar data from a more  
22 recent site in Albuquerque, New Mexico, where we have  
23 applied stress and water level, depth to water, on this  
24 axis and compaction on this axis. So the green is  
25 compaction, and the water level is in blue. And this is

1 a controlled pumping test where water level is declining  
2 here, initially rapidly and then leveling off, and  
3 compaction occurs rapidly within the aquifer system and  
4 then continues but levels off. At the end of the pump  
5 test, water levels recover almost to their original  
6 level, and compaction recovers substantially but not  
7 totally.

8           So what we're seeing here is in part an elastic  
9 response in the aquifer system but partly an inelastic  
10 response where we're having some nonrecoverable  
11 compaction occur within the aquifer system over the  
12 course of this, say, 50-day pump test at this facility.  
13 So again, the water level is being recorded at the  
14 piezometer, the compaction being recorded at the  
15 extensometer.

16           Then the well goes into its normal daily  
17 operational period where it's turning off and on,  
18 compaction and expansion are doing the same thing, and so  
19 we see this time history over time is really  
20 distinguishing between inelastic and elastic compaction.

21           We have a similar graph down here as to our  
22 previous slide that's showing these two data sets grafted  
23 against each other. So it's really the cause and effect  
24 relationships that are being charted here.

25           MR. RILEY: Andy, I can't see the numbers from

1 here, and I don't remember exactly what they are. But  
2 you might want to call off just the scale of the  
3 processes there which illustrates the sensitivity of the  
4 extensometer.

5 MR. MALONE: We're talking here of 200ths of a  
6 foot is the magnitude of this scale here on the Y axis  
7 for compaction. So what Francis is pointing out here is  
8 the sensitivity of these extensometers is extremely  
9 precise. Did you have anything else, Francis?

10 MR. RILEY: No. I think you've covered it.

11 MR. MALONE: Francis, we might have a question  
12 on this chart here. But what we're showing here are  
13 various piezometer water levels, three in fact, at a site  
14 where we also have an extensometer. This is the water  
15 level data, and this is the depth to water, from 134 to  
16 156, on this axis. And this is compaction as measured at  
17 the extensometer from zero to .4 feet as measured at the  
18 extensometer. And this is the extensometer data here  
19 that's showing compaction booming along here as water  
20 levels increase and decrease over time. 1990 is our  
21 scale down here to 1997.

22 The point here, I believe -- and, Francis, you  
23 can elaborate -- is that although we have seasonal water  
24 level variations, the overall water levels aren't  
25 declining significantly. But we still have compaction

1 that's occurring continuously along this -- as measured  
2 by the extensometer within the aquifer system.

3           And the interpretation of this, I believe -- and  
4 Francis, you can chime in here -- is that this compaction  
5 that's occurring is in response to historic drawdowns  
6 that occurred prior to 1990, and what we're seeing here  
7 is residual compaction within the aquitard responding to  
8 lower water levels in the aquifer unit.

9           MR. RILEY: One minor addition to that, Andy,  
10 would be the fact that this extensometer is monitoring  
11 one very thick aquitard and several thinner ones. The  
12 very thick one is the one which was probably responsible  
13 for that long-term trend of residual compaction because  
14 the pore pressures changes are migrating into the middle  
15 of it so slowly, whereas the thinner ones probably  
16 account for most of the little wiggle that you see on  
17 that long-term trend. They are responding in  
18 considerable part elastically to the seasonal  
19 fluctuations in pore pressure.

20           MR. MALONE: I think, Pat, that was the answer.

21           MR. GLOVER: That's what I wanted to hear.

22           MR. MALONE: I think that this gives you, Anne  
23 and Joe, some flavor of the types of data that we expect  
24 to see -- we may or may not see but that we expect to see  
25 from the extensometer and piezometer site.

1           Some of the parameters that we're going to  
2 derive -- aquitard parameters that we're going to derive  
3 are elastic compressibility, inelastic compressibility to  
4 specific storage of the aquitard units, the threshold  
5 pore pressure at which we break over into inelastic  
6 compression of the aquifer system, and the vertical  
7 hydraulic conductivity. And these parameters will help  
8 us predict the rates and extents of subsidence caused by  
9 past and future management activities.

10           As far as InSAR mapping goes, we were  
11 considering this quarterly time step of InSAR data  
12 acquisition. This is an InSAR image from November 1999  
13 to April 2000. It's the raw data. This is 71,  
14 Highway 71, and Highway 60 and Highway 10. This is  
15 showing the subsidence that's going on in the Chino area.

16           Historically we've had trouble getting  
17 resolution in the InSAR data in the southern part of  
18 Chino Basin. When we moved to time steps in the InSAR  
19 data that are shorter, they're not years apart but  
20 they're months apart, we get better resolution down in  
21 this area here. That's one reason for going to a shorter  
22 time step in our acquisition of the InSAR data. And  
23 again, as you can see, we're measuring subsidence over  
24 broad regions of the Chino Basin.

25           The ground surface surveys -- I put a "I" here



1 because there is a "II" that follows this -- in "I" we  
2 want to establish vertical control survey lines of  
3 closely spaced benchmarks. We're going to use the  
4 extensometer as the datum for these ground level surveys.  
5 It will be anchored deep within the sedimentary column.  
6 Hopefully no aquifer system compaction is moving that  
7 datum, that top of that pipe, it's stable. And so we  
8 will use it as that datum for all of our ground surface  
9 surveys. We can use the data to calibrate the InSAR  
10 data, and we can use the data to facilitate tie-in with  
11 other local survey networks that exist out there.

12           And this is a schematic from the ISOB which  
13 shows the approximate locations of these proposed ground  
14 survey lines.

15           And lastly for "II", we want to establish a  
16 horizontal and vertical control survey line of closely  
17 spaced monuments through the extensometer and the fissure  
18 zone, most importantly. Again, we use the deep  
19 extensometer as the datum, and with these horizontal  
20 control survey lines, we'll be able to monitor the  
21 horizontal and the vertical deformation in response to  
22 various pumping regimes over time.

23           MR. SLATER: I think this concludes our formal  
24 presentation. I have two observations. We've been going  
25 at it for about an hour and roughly 30 minutes, and the

1 court reporter has not had a break yet. And also to  
2 identify that food has been brought in.

3 Would it be possible for us to take a quick  
4 break, and maybe people could eat, and we can take up  
5 with your questions.

6 THE REFEREE: Sounds good.

7 MR. SLATER: So about fifteen minutes, then?

8 (Recess in proceedings)

9 MR. SLATER: We thought we'd use the rest of our  
10 time together to allow the Referee and her assistants to  
11 ask further questions that they may have.

12 THE REFEREE: Are we asking questions of Andy  
13 and Mark?

14 MR. SLATER: You have carte blanche with regard  
15 to Andy, Mark, or staff or anything you want.

16 THE REFEREE: We will ask and whoever wants to  
17 answer. I have some questions about the technical group.  
18 Has it been formed yet?

19 MR. SLATER: The technical group has been  
20 formed. The representatives have been nominated. We  
21 have not been able to have a meeting because we got  
22 together and it was an acknowledged precondition of the  
23 first meeting that they execute an acknowledgement of  
24 confidentiality regarding the content of the meeting. So  
25 we sent the group away to execute their acknowledgements.

1                   And then intervening there was a concern about  
2 what was meant by confidentiality, and it was felt that  
3 we ought not to proceed further until we resolved it so  
4 the technical group --

5                   MR. ROSSI: We had a formation meeting.

6                   MR. SLATER: Formation meeting, but no content.

7                   THE REFEREE: Because I understood from Andy, I  
8 guess, that October 1 you hope to have a monitoring  
9 program, a monitoring program to the Court. And so that  
10 would be something that the Watermaster would prepare and  
11 take to the technical group for an advisory review. Is  
12 that --

13                   MR. SLATER: Correct. The program, again, is  
14 Watermaster's. The purpose of the technical group is to  
15 provide peer review.

16                   THE REFEREE: But the Watermaster is going to  
17 prepare the plan, the monitoring plan?

18                   MR. SLATER: That is correct.

19                   MR. HENSLEY: My understanding from the  
20 technical group or our representative, they asked  
21 questions about the monitoring plan and what was going to  
22 occur several weeks ago, and we've gotten no -- received  
23 no information in response to that.

24                   MR. SLATER: I believe that we will unveil  
25 our monitor- -- we'll talk to Mark and ask him what his

1 schedule is, but we would hope to have that before the  
2 technical group at the first offer.

3 MR. WILDERMUTH: The specific request that was  
4 made by Chino Hills to make a presentation --  
5 (inaudible) --

6 THE REPORTER: I can't hear.

7 MR. WILDERMUTH: -- and that meeting was  
8 canceled.

9 MR. GINDLER: The reporter says she can't hear.

10 THE REPORTER: I'm sorry. I didn't hear what  
11 you said.

12 MR. WILDERMUTH: Sure. The specific request by  
13 Chino Hills for a progress report or some explanation of  
14 what Watermaster was up to was supposed to be presented  
15 at a technical committee meeting that would happen last  
16 month. I can't remember the exact date, but that meeting  
17 was canceled.

18 MR. MALONE: That was this month, on the 21st.

19 MR. WILDERMUTH: 21st of August.

20 MR. ROSSI: 21st, two weeks ago.

21 THE REFEREE: One of the things that I wasn't  
22 very clear about in the interim plan was the role of the  
23 technical group, especially compared to the role of the  
24 Watermaster in preparing the monitoring plan. So I guess  
25 the clarification, then, is that the Watermaster prepares

1 the monitoring plan and then the technical group has an  
2 advisory role. Is that correct?

3 MR. ROSSI: Yes. We hope to incorporate, to the  
4 extent we can, suggestions that come out of it. I guess  
5 maybe I could comment, too, I think there's two pieces to  
6 that October 1st completion deadline. And that is the  
7 Watermaster's technical consultant move quickly, as you  
8 saw most of the outline today, on the monitoring plan.  
9 That goes to that group, get the comments we can get  
10 built in, and work individually with each of the two  
11 agencies that we talked about on the pump testing, get  
12 their comments. And then of course we have to wait for  
13 their responses in terms of cooperation or other needs  
14 they might have. We hope to accomplish all that by  
15 October 1st.

16 THE REFEREE: Now, the pump testing was just  
17 briefly discussed by Andy. Can you describe where you  
18 are in discussing the pump testing agreements with the  
19 pumpers that we need to have agreements with and whether  
20 that will be part of this interim plan or monitoring  
21 plan.

22 MR. MALONE: We're in the process of setting up  
23 meetings with the individual producers, specifically CIM,  
24 Chino Hills, and Chino, to first of all figure out how  
25 they pump their wells, their schedule for pumping their

1 wells, under what constraints are we going to operate  
2 under to adopt specific pump tests.

3           If it's not possible to do, it's not possible to  
4 construct specific pump tests, then how are we going to  
5 monitor your production when the well turns on, when the  
6 well turns off, those sorts of specifics we want to  
7 discuss at the individual meetings.

8           THE REFEREE: So I guess the question for John,  
9 when you get to October 1, will there be agreements for  
10 pump testing or the kind of monitoring that you  
11 discussed, that Andy discussed that you'll need to  
12 evaluate this first three months of --

13           MR. ROSSI: You know, I had envisioned that we'd  
14 actually have per se written agreements and get that  
15 formal. But we put up kind of a straw man, if you will,  
16 through these meetings, and this is what we'd like to  
17 accomplish and here's the cooperation we need from you.  
18 Here's the equipment we put in at this duration, this  
19 time frame; is that okay with you? I am expecting that  
20 they'll go back and then come back to us, Well, we need  
21 to do this and we have these concerns, but let's work  
22 with that.

23           We would then produce an outline, if we get to  
24 that point and we agree, on the first part Andy talked  
25 about which is a specific pump test with their

1 cooperation. This is how we're going to put it together  
2 and this is how we're going to do it. Get that done by  
3 October 1st.

4 In the event that for any reason an agency says,  
5 No, we really are not comfortable with the controlled  
6 pump test where we turn wells on and off in specific time  
7 frames, but we don't have a problem with you monitoring  
8 what we'd otherwise pump anyway, then we'll outline that  
9 protocol, if you will, and submit that.

10 But we certainly are shooting for and  
11 Wildermuth's is working on a protocol that would have a  
12 specific element of pump testing with their cooperation.

13 THE REFEREE: The technical group will continue  
14 in existence, it would appear, through the creation of a  
15 long-term plan. Is that right?

16 MR. ROSSI: That's right.

17 THE REFEREE: There's a provision in the interim  
18 plan related to the technical group that calls for  
19 consensus and the use of a facilitator if necessary. And  
20 I'd like someone to discuss the concept there because I'm  
21 not sure what triggers a facilitator having to be  
22 involved and how that affects the ability of Watermaster  
23 to proceed on a timely basis. What was that provision  
24 intended to address and when was it? The long-term  
25 program or even this monitoring program?

1           MR. SLATER: Let me see if I can try. First of  
2 all, there is no veto by a technical group over the  
3 actions of Watermaster. Watermaster is obliged to carry  
4 out an interim plan and is going to do so. Watermaster  
5 is obliged to carry out a long-term plan and intends to  
6 do so.

7           The technical group is designed to keep, at the  
8 front end, Watermaster on track in terms of developing  
9 the program that carries out the will of the parties most  
10 affected. So we intend to seek unanimity where possible  
11 by members of the technical group about where Watermaster  
12 is going and how it's going to go there.

13           To the extent that we can, we're going to work  
14 very hard at doing that, and if it is useful to us to  
15 bring in a facilitator because one or more parties  
16 believes that that would be beneficial to developing  
17 unanimity as opposed to consensus, we'll do that.

18           MR. ROSSI: For the recommendations from the  
19 committee.

20           MR. SLATER: To develop a unanimous  
21 recommendation. We're also mindful that unanimity is  
22 difficult to come by. So we are obliged to get input and  
23 peer review; we are not obliged to get unanimity before  
24 we move forward again. No member of the technical group  
25 has a veto. Responsibility of the Watermaster staff



1 would be then after vetting with the group to go through  
2 the Watermaster process and carry out its program?

3 THE REFEREE: Thanks. That helps.

4 I had hoped to get an idea of something like a  
5 laundry list of what will be included in the monitoring  
6 program. And I'm not sure that that's what you did in  
7 this presentation. Sort of contemporaneously can you  
8 give me some sort of a laundry list of what you will be  
9 doing.

10 Let me give you an example. I understand that  
11 there are InSAR data from 1987 on and when you base-line  
12 your analysis, you would use 1987, it sounds like. Is  
13 this study going to try to look at pre-1987 subsidence?  
14 For example, in the report how far back do you go? How  
15 far forward are you projecting? And in addition to  
16 ground level monitoring and InSAR and piezometers and  
17 extensometers, is there a laundry list of other things  
18 that you're going to be looking at?

19 MR. ROSSI: Probably turn that question over to  
20 Mark or Andy.

21 THE REFEREE: Can there be --

22 MR. WILDERMUTH: What you just said was pretty  
23 comprehensive.

24 MR. ROSSI: Mark, you have to speak up a little  
25 bit.

1           MR. WILDERMUTH:  What you just stated was fairly  
2  comprehensive.  The things we'll do, in addition to that,  
3  there are still some benchmark data from foregone days  
4  we'd like to collect.  But on a go-forward basis, there  
5  will be other groundwater level production and water  
6  quality programs that we'll also be using in this as part  
7  of Watermaster's normal monitoring that would help us  
8  out.  It will be for research -- is that the question?  
9  As much as we can.  We have done some in that capacity.  
10 We were stopped by the complexity of the process as I  
11 mentioned earlier.

12           THE REFEREE:  So when you do the monitoring  
13 program, it should -- it would seem to include a  
14 comprehensive scope of what you will be including in this  
15 interim plan work?

16           MR. SLATER:  What the Referee is asking is, will  
17 you have a checklist of all the available information.  
18 And the answer is we will; right?

19           MR. WILDERMUTH:  We will.

20           THE REFEREE:  And so the question that maybe  
21 precedes that is, In your view what is the scope of what  
22 all that information should cover?  That would be a  
23 horizontal versus a vertical checklist.  Will you be  
24 doing that?

25           MR. WILDERMUTH:  Yes.

1           MR. SLATER: Do you have anything more about  
2 what -- again to summarize, what would be in the universe  
3 of data that you're going to be looking for?

4           MR. WILDERMUTH: I'm not trying to be  
5 argumentative.

6           THE REFEREE: Maybe Joe can ask the question. I  
7 guess the other thing that I wonder about in terms of the  
8 monitoring program, it's going to have a schedule of  
9 priorities of what you would like to do in that?

10          MR. WILDERMUTH: Yes.

11          MR. SCALMANINI: Is there anything you wanted to  
12 say?

13          THE REFEREE: That concludes my questions on  
14 that part of it.

15          MR. SCALMANINI: I brought some prepared  
16 questions, and I brought some that I just sort of evolved  
17 as you went along. I'll look at you if that's okay.

18          MR. MALONE: Okay.

19          MR. SCALMANINI: You can punt it if you want to.

20          MALE VOICE: Can you speak up. I don't think  
21 the court reporter can hear you.

22          THE REPORTER: Just barely. But it really would  
23 help.

24          MR. SLATER: That's unusual.

25          MR. SCALMANINI: That's very unusual, yes. But

1 I'll try to take them in order, I believe, the way we  
2 went through the slides. If you want to put them back  
3 up, it's your choice. There's one that -- this one,  
4 Andy.

5 MR. MALONE: Okay.

6 MR. SCALMANINI: It's a lot closer to the  
7 beginning, if I remember correctly.

8 MR. WILDERMUTH: 9 or 10. There it is.

9 MR. SCALMANINI: The '87 datum is nominally  
10 80 years after what Mendenhall reported as having  
11 static water levels, quote, unquote, at the ground  
12 surface, or something close to that, for water levels in  
13 the area. Is there anything -- so everything in the way  
14 of plots below that is relative to the '87 data?

15 MR. MALONE: Right.

16 MR. SCALMANINI: Do you know or are you going to  
17 look at any information that would document subsidence  
18 that could be possibly associated with the, I'll say,  
19 nominally 70-ish years of water level change in  
20 Management Zone 1 prior to the judgment given, that  
21 they've kind of recovered or stayed black since then?

22 MR. MALONE: Go ahead, Mark.

23 MR. WILDERMUTH: We have done a really thorough  
24 data dump of NGS -- (inaudible) --

25 THE REPORTER: I can't hear.

1           MR. SLATER: You have to talk louder.

2           MR. WILDERMUTH: I'm sorry. We have done a  
3 pretty rigorous dump of benchmark data from the National  
4 Geodetic Survey and have looked into getting other local  
5 survey data. The problem we have is getting that data  
6 uncorrected. In other words, it comes corrected. Many  
7 of the surveys aren't from stated benchmarks; they're  
8 floating benchmarks. But there is some data out there  
9 which we can go back and get some estimates of what the  
10 past history was like. We didn't spend a time on that  
11 when we got into it because it didn't seem to be very  
12 reliable. And our effort thus far has been on a  
13 go-forward basis, pretty much. Our monitoring program  
14 that we're set up for now is a go-forward basis to come  
15 up with the data we need to develop the management plans.

16           However, if we can get that data from the past  
17 and identify it and find uncorrected, unadjusted survey  
18 data, if we can get the survey notes and try and adjust  
19 it ourselves, that would be useful. But there really  
20 isn't very much of it. That's our sort of speculation  
21 base. Someone else did the same analysis in the past, I  
22 think back in the '60s, and the USGS came to that  
23 conclusion in Chino Basin.

24           MR. SCALMANINI: Then.

25           MR. WILDERMUTH: Yes. There may have been

1 some -- someone may have done a study we don't know  
2 about. Hopefully that will surface and they've done a  
3 good job on the survey.

4 MR. SCALMANINI: So the answer is you're looking  
5 and your expectation is you probably won't find very  
6 much. I'm not going to quote you back at yourself. I'm  
7 just trying to -- (inaudible) --

8 MR. WILDERMUTH: My qualified response is that I  
9 don't think it would be as useful to coming up with a  
10 management plan in the future as it will be to  
11 concentrate on getting high quality data from this point  
12 forward.

13 MR. SCALMANINI: Andy, the lithologic, slash --  
14 what was it called? The lithologic cross-section that  
15 also shows well completions, can you put that up for a  
16 second. I was trying to take notes and interpret the  
17 black and white version while you were talking.

18 MR. MALONE: Yeah. Hard to see in black and  
19 white.

20 MR. SCALMANINI: The blue column to the far left  
21 is a range of water levels in the wells?

22 MR. MALONE: In that well there, yeah.

23 MR. SCALMANINI: In that particular well?

24 MR. MALONE: In that particular well. And it  
25 didn't come out on the other ones here.

1           MR. SCALMANINI: Is that the straight line  
2 that --

3           MR. MALONE: The straight line on the side,  
4 yeah. So the range of water levels. And I would assume  
5 that some of those are pumping water levels.

6           MR. SCALMANINI: I see what this is. It says  
7 range and static. But that's to be investigated in more  
8 detail?

9           MR. MALONE: Yeah.

10          MR. SCALMANINI: I've just been handed a color  
11 version of that. I can see lithology and well completion  
12 details, and those lines are now blue. That answers the  
13 question.

14          MR. MALONE: In the Program Element 4  
15 memorandum, there are bigger drawings, 11 by 17. So if  
16 you have that memorandum --

17          MR. WILDERMUTH: It's in your 6-foot stack of  
18 papers.

19          MR. SCALMANINI: Yeah, I think I do.  
20                The water level histories or the hydrographs,  
21 the groupings of the hydrographs, you have one for  
22 shallow wells and one for -- a couple of deep -- or I  
23 guess one deep well and one shallow well.

24          MR. MALONE: Right.

25          MR. SCALMANINI: Let's take the shallow

1 hydrograph first.

2 MR. MALONE: Okay.

3 MR. SCALMANINI: No, no, no. Sorry. Go forward  
4 to the one that has the deep -- that one. I'll say it;  
5 then you can interpret it as a question. It's possible,  
6 I think, to tie the shallow hydrograph with those that  
7 you just had up, for example, to develop a reasonable  
8 picture of what the shallow aquifer looked like  
9 historically for some lengthy period of time. And the  
10 problem, I think, is that if this starts in the late  
11 '80s, that's about the time that deep wells were first  
12 constructed.

13 MR. WILDERMUTH: Middle '80s.

14 MR. SCALMANINI: Is there any anecdotal, I don't  
15 know, or other data that suggests what the head was on  
16 that deeper aquifer when it was first penetrated, quote,  
17 unquote, by man 20 years ago, 15 to 20 years ago.

18 MR. MALONE: There are -- the City of Chino has  
19 a deep well that was in operation prior to City of Chino  
20 Hills constructing their wells.

21 MR. SCALMANINI: I wasn't picking on anybody's  
22 in particular well, just what does it look like.

23 MR. MALONE: So there is some deeper data that  
24 extends back prior to 1988. I can't tell you off the top  
25 of my head what it looks like. But as I recall, that



1 well is also perforated in shallower zones too so it  
2 might be more of a composite water level.

3 MR. SCALMANINI: I was trying to get some feel  
4 'cause in a couple other places we've encountered, you  
5 know, the first time into a deep aquifer that truly is  
6 well-confined, despite the fact that that's, quote,  
7 unquote, decades after man's been pumping from shallower  
8 horizons, you find this uniquely high piezometric  
9 surface. I was just curious to see if there was some  
10 semblance of that because that water level is 630 to --  
11 nominally 200 feet below the ground surface. Does that  
12 sound about right?

13 MR. MALONE: Yeah.

14 MR. SCALMANINI: And if we had artesian  
15 conditions once upon a time, did those preserve  
16 themselves? Is the confinement good enough to preserve  
17 that despite the decline in the shallow area?

18 MR. MALONE: We may in our piezometer  
19 completion, if we're successful in completing some of  
20 these piezometers in the interior of these aquitards, we  
21 may see more virgin core pressures that have not been  
22 influenced by pumping in the aquifer.

23 MR. SCALMANINI: This is just jumping ahead. It  
24 doesn't take a repeat of any of your illustrations. In  
25 the drilling operation that's going on today, a little

1 more detail on the status just at that stage. First you  
2 said, just your words -- and I don't mean to get hung up  
3 on what you said -- here you see the reverse circulation  
4 mud rotary rig.

5 My curiosity question is, which one is it? I  
6 couldn't tell from the picture quick enough. Are you  
7 drilling with mud or drilling in reverse? Or do you  
8 drill in reverse with mud?

9 MR. MALONE: With mud. Reverse with mud.

10 MR. SCALMANINI: Okay. Have you completed what  
11 would be a building of a test hole or a first pass, or do  
12 you have a log today of the profile?

13 MR. MALONE: Today, as it stands today, we've  
14 hit the bottom. We've drilled as far as we're going to  
15 drill. We've run the geophysical logs this morning.

16 MR. SCALMANINI: This morning?

17 MR. MALONE: Yeah, this morning. and so we're  
18 beginning completion of the first piezometer, the deepest  
19 piezometer today.

20 MR. SCALMANINI: It's an unfair question in  
21 light of that time, but I'll ask it anyway. Have you had  
22 a chance to, in effect, corroborate the cross-section  
23 that we just had up here or have questions -- I realize  
24 you're looking in more detail than was shown on the  
25 cross-section.

1           MR. MALONE: Not in detail, but in general, yes,  
2 as we've been going through the sediments. Yes, it more  
3 or less corroborates what we were expecting to see.

4           MR. SCALMANINI: Okay. Now I'll try to pick up  
5 on Anne's question about other data. At this point --  
6 which was the next slide after that. The headline  
7 "Monitoring Program." This is where I interrupted you  
8 and asked, you know, is this sort of global to just, I'll  
9 call it the investigation of subsidence, or is it unique  
10 to the interim plan? I think we got to the answer that  
11 it's kind of both. It's just global. It works for  
12 whatever is going on.

13          MR. MALONE: Uh-huh.

14          MR. SCALMANINI: On the list is the  
15 extensometer, slash, piezometer. And then later you  
16 describe how the piezometer would be done in nominally a  
17 month and then there'll be this three-month intense  
18 period, and then you'll design the details of the  
19 extensometer and put that in, et cetera. There's ground  
20 surface surveys and there is InSAR mapping. That's all  
21 that's on this list.

22                 So at the time I wrote in the margin, what about  
23 other data? And then later you got to, you know, this  
24 I'll call it cooperative effort. And then we  
25 subsequently talked a little bit about pump testing,

1 whatever that means. I want to come back to the pump  
2 testing in a second.

3 But I think what I heard was that -- later I  
4 went back and I wrote down myself, I wrote Q and W L. So  
5 you are going to monitor pumpage on hopefully a  
6 cooperative basis --

7 MR. MALONE: Yes.

8 MR. SCALMANINI: -- including pumping cycles,  
9 starts and stops, pumping cycles? You are going to  
10 monitor water levels, static and dynamic conditions, in  
11 some network of wells, I'll say radially around the  
12 location of the extensometer.

13 MR. MALONE: Right.

14 MR. SCALMANINI: Is that a good summary of that?

15 MR. MALONE: Yes.

16 MR. SCALMANINI: Intensely for three months,  
17 whatever "intensely" means, and then on an ongoing basis  
18 after that, you think?

19 MR. WILDERMUTH: That's the intent.

20 MR. SCALMANINI: That's the intent.

21 MR. WILDERMUTH: You know, I think part of  
22 what's happened here -- this is not an apology -- is that  
23 the content of the workshop snuck up on us. Short  
24 notice. So there may be a few omissions at times when  
25 you ask questions, we won't know.

1           MR. SCALMANINI: We timed it on purpose, Mark,  
2 so it would get here the day you came back from vacation.  
3 No problem. I understand.

4           The cooperators are logically the State/Chino  
5 Institute, Chino Hills, and Chino as being the closest  
6 around. So that's who you're having these discussions  
7 with now about pump cycles.

8           MR. MALONE: We haven't had any discussions yet,  
9 but we're initiating the process.

10          MR. SCALMANINI: Okay. I'll switch over to the  
11 sort of outline I made for myself before I came down  
12 here. Could you discuss the term "pump testing" a little  
13 bit. I mean, that has a meaning sort of as a term of art  
14 to people like you and me, but I want to make sure that  
15 we're interpreting it the same way.

16          MR. MALONE: I think generally what we'd like to  
17 do is stress certain aquifers at one time and so --

18          MR. SCALMANINI: What might normally be called  
19 an aquifer test, you mean?

20          MR. MALONE: Yeah.

21          MR. SCALMANINI: Recover the static, turn it on  
22 constant rate, that kind of thing?

23          MR. MALONE: Right. And so it would be  
24 hopefully a controlled test where we might be able to  
25 limit the amount of pumping that is in one aquifer zone

1 and stress one aquifer zone in an isolated manner and see  
2 how that propagates through the system towards our  
3 piezometer and the other monitoring points that we have  
4 out there. Then switch and stress another aquifer zone.  
5 That's optimally what we'd like to do in a controlled  
6 way.

7 MR. SCALMANINI: Oh, as a function of how  
8 existing wells are completed?

9 MR. MALONE: Exactly.

10 MR. WILDERMUTH: It may not be practical to do  
11 this, but we have to work that out. In an ideal world,  
12 that's what we'll do. Just people have to supply water,  
13 and that may be difficult.

14 MR. SCALMANINI: These are the kinds of things  
15 that are good candidates for wintertime things to do when  
16 the demand is down, a little more flexibility in the  
17 operation system, et cetera. It has to do with the  
18 individual systems, not with us sitting here and saying  
19 this is what we're going to do.

20 I guess the last kind of global thing, to segue  
21 over to some other questions, is that what I took away  
22 from the description of everything from start to finish  
23 was a very thorough investigation of subsidence, period.

24 And then what I also took away was almost no  
25 nexus with what is, quote, the interim plan. And so can

1 we try to close that loop a little bit. In particular,  
2 if I read the interim plan as submitted literally, that  
3 hopefully on this October 1st it will start and there'll  
4 be a voluntary reduction of pumpage, and there'll be a  
5 substitute water supply. And what I heard today was  
6 pretty close to October 1st the piezometers are going to  
7 be ready to go to work, so to speak.

8           And so how does the yet to be specifically  
9 defined voluntary reduction in pumpage that will play  
10 into, I'll call it, a fall-winter-spring water demand by  
11 those who participate have an effect on or be factored  
12 into the monitoring that you're doing, I'll say, as a  
13 global investigation on the subsidence problem?

14           MR. MALONE: I'm going to punt on that one.

15           MR. WILDERMUTH: It may make it more difficult  
16 to do this short-term testing, yeah. But I think there's  
17 got to be some way to get some of this done. There's got  
18 to be some flexibility. Hopefully that will be the case.  
19 If not, we're going to go into a different mode of  
20 capturing the data, which is going to take longer to  
21 do . . . overdemand/signal analysis.

22           THE REFEREE: So is it the case that the  
23 forbearance of pumping and use of the substitute water  
24 just in an interim plan is sort of on a different track  
25 than your continued work on your monitoring program in

1 that in an optimal world you might not have people  
2 forbearing from pumping and instead be doing pump tests  
3 in your monitoring work?

4 MR. WILDERMUTH: I think the forbearance, it has  
5 potentially a limitation as to a certain well you want to  
6 use. But it also has a benefit in that it may reduce the  
7 stress on the system so that we pick up the stress from  
8 the wells we want to test better. I don't know if that  
9 make sense.

10 THE REFEREE: Is there flexibility in mind in  
11 this monitoring -- I mean in the interim plan that would  
12 allow you to do pump testing with a well that was  
13 otherwise in the forbearance program?

14 MR. WILDERMUTH: There may be some wells that we  
15 would like to do that might be limited by it, but we  
16 would have to look for some way or some exception to it.  
17 I don't think we'll know for sure.

18 MR. MALONE: I think that's a good point.

19 MR. WILDERMUTH: It's something we've thought  
20 about for a long time 'cause when we reduce production,  
21 we have trouble testing. And I think the way it's set  
22 up, it looks pretty flexible. I've got to believe that  
23 as a technical committee and the group, if it's of value  
24 to run a certain test, we will run that test.

25 MR. SLATER: Again, I go back to what we started



1 with. There are three prongs to this plan. One prong is  
2 study and data and collection of data and analyzing data  
3 for purposes of learning more. It's an iterative interim  
4 plan. It's not a long-term plan; it's not the final  
5 interim plan. That's the purpose of having a technical  
6 group, and it is only of the duration for three years.  
7 It can be rolled over and extended if necessary.

8           So the three elements are study, monitor, and  
9 analysis. There's that grouping. The second is  
10 modification -- voluntary modifications of production.  
11 And in the beginning we wanted to pursue an avenue in  
12 which no party was harmed by participation, and we  
13 thought that the easiest way to do that was to offer  
14 backup or substitute water. So we linked the commitment  
15 to forbear to having an available substitute supply.

16           That doesn't mean if the technical group and  
17 Watermaster come to the conclusion that a pump test  
18 without securing substitute water is a good idea to  
19 include in the data development program or is an  
20 otherwise harmless modification of pumping, that we  
21 couldn't pursue that. We just don't have enough  
22 information or commitment to do it at the initiation of  
23 the plan.

24           Then I'd say, again, the third part of this  
25 program of our interim plan is creating an atmosphere of

1 discussion and peer review and collaboration to get us to  
2 the long-term plan.

3           So those are really the three prongs, and we see  
4 the interim plan that we submitted matching up with that.

5           THE REFEREE: When you were introducing the  
6 subject of this whole workshop this morning you talked a  
7 little bit about participation in the forbearance  
8 program.

9           MR. SLATER: Yes.

10          THE REFEREE: In reading the interim plan, it  
11 appears on its face to be very important to have full  
12 participation in the forbearance program.

13          MR. SLATER: We agree with that.

14          THE REFEREE: But the presentation today that  
15 Andy gave hasn't mentioned that as any element in the  
16 collection of information. So my question is, Is my  
17 understanding correct that there is a track that is to  
18 minimize subsidence, that includes the forbearance  
19 program, and that track is separate and apart from the  
20 work to create a monitoring program and carry it out?

21          MR. SLATER: I'll try and let the others answer  
22 as well. I think there is an obvious overlap. But the  
23 plan itself includes a requirement, or as designed by  
24 Program Element 4, we were to seek an effort to  
25 voluntarily reduce production in the vicinity of recent

1 groundwater -- or ground fissures, which is what our  
2 forbearance is primarily aimed at doing.

3 THE REFEREE: Correct.

4 MR. SLATER: It may provide other benefits for  
5 purposes of studying, monitoring, and analysis. But we  
6 were obliged to find voluntary modification -- or pursue  
7 voluntary modification that accomplished the first goal,  
8 which is what the primary directive was, but obviously  
9 there is overlap.

10 THE REFEREE: So on the forbearance track full  
11 participation would better achieve the goal expressed in  
12 Program Element 4 in various places of minimizing a  
13 problem.

14 MR. SLATER: Correct.

15 THE REFEREE: On the other hand, if you get less  
16 than full participation in your forbearance program, that  
17 will not necessarily adversely affect your ability to  
18 thoroughly complete a monitoring program.

19 MR. SLATER: I would ask Andy and Mark to answer  
20 that, but I understand -- well, I want you to answer.

21 MR. WILDERMUTH: I don't think either way having  
22 the forbearance or -- with or without the forbearance  
23 would really affect the monitoring program. We may have  
24 to find some other way of doing things or collecting  
25 data, but for the most part it won't affect the utility

1 of the work.

2 MR. SCALMANINI: In going through the interim  
3 plan as submitted, describing the things that basically  
4 what you described today, the first piece was the  
5 formation of a technical group. And reviewing what the  
6 technical group's going to do, we get down towards the  
7 end, and it says it's going to develop with Watermaster  
8 an interim plan and a long-term plan.

9 Now, if you read that literally, there is still  
10 an interim plan to be developed, but if you listen today,  
11 the interim plan is this. And I'm not picking on  
12 anybody's writing skills here. I just want to make sure  
13 I have it straight.

14 MR. SLATER: Again, perhaps if words on paper  
15 have created a different impression than what I  
16 articulated today, I guess you could call that to my  
17 attention, and I'll try to explain it better. But I  
18 believe it is as I have stated.

19 This is a Watermaster program which is to be  
20 generated by Watermaster, taken to the technical group  
21 from the ground up, and worked on to develop buy-in in  
22 this technical group process, at which point it will be  
23 day-lighted. It will be day-lighted through the  
24 Watermaster process and then adopted through the  
25 traditional pool advisory committee board process.

1           MR. SCALMANINI: That describes the interim  
2 plan?

3           MR. SLATER: That describes what has previously  
4 happened to file this interim plan with you. Now, it is  
5 an adaptive and iterative plan because this group is  
6 going to be meeting frequently and Watermaster is  
7 collecting data. And as it collects data and learns  
8 more, there may need to be new elements added or  
9 corrections changed -- corrections made and directions  
10 changed. And the group is very strong that they didn't  
11 want to commit to an extensive five- or seven-year  
12 program now before they knew more.

13           MR. SCALMANINI: I'm okay with that, Scott.  
14 Here's what I read. "The technical group and Watermaster  
15 shall develop the interim and long-term plans consistent  
16 with the Peace Agreement and OBMP."

17           When I read "shall develop," I read future  
18 tense. Then I read interim plan next. So my question is  
19 just simply, Is there really some interim plan to be  
20 developed in the future by the technical committee, or is  
21 this the interim plan and that's just an accident of  
22 words to bring in the, quote, unquote, consistency with  
23 the Peace Agreement and OBMP?

24           MR. SLATER: I think it is -- you use the words,  
25 the phrase "accident of words." The intention clearly is

1 that this is the interim plan, but the interim plan is  
2 adaptive and iterative and the technical group can  
3 provide input and Watermaster can correct.

4 MR. SCALMANINI: Okay. Under Monitoring Program  
5 there's, you know, a discussion of the extensometers and  
6 piezometers. And then there's a section called "Initial  
7 Wells Included Within Study Zone." Then there is an  
8 attached exhibit which is a list of wells. And when you  
9 go to the exhibit, it's exactly that. It's a list of  
10 wells. Is there some significance to it? What is it? I  
11 mean, there is a pumpage history attached to the list of  
12 wells but nothing as regards anything else in the  
13 associated monitoring plan.

14 MR. SLATER: I'll look for backup on this, and  
15 I'll venture the legal answer, and the technical group  
16 can fill in around.

17 The legal answer on why the list of wells is  
18 that there were varied points of view in the technical  
19 community about wells that might be eligible for study  
20 and eligible to provide useful information. So we took  
21 an expansive view and tried to grab a list of wells which  
22 were in an area -- going back to our Program Element 4  
23 directive, which were in an area that was for which we  
24 could seek a voluntary reduction and which would also  
25 have the prospect of providing useful information if we

1 were to associate them with the forbearance agreement.

2           And then so we started with that landscape  
3 first. And then we took that list, and we applied a  
4 test, ultimately select wells for participation in the  
5 forbearance program, so a list of wells generically  
6 eligible.

7           And then we had to say okay. For which of those  
8 wells can we actually get them substitute water from Met  
9 and IEUA that matches on a cost basis, and that's the  
10 next list.

11           THE REFEREE: Let me ask, the Exhibit E, which  
12 is the schedule for participating producers, is that the  
13 list of wells for which you supply substitute or  
14 alternate water?

15           MR. SLATER: Yes. Recall that a fundamental  
16 precept of the voluntary program was that of like quality  
17 and quantity. And the only way that we knew that we  
18 could efficiently and economically make substitute water  
19 available, frankly, was through an offer from IEUA, which  
20 was only recently confirmed by the Metropolitan this  
21 week, that they could make water available at \$233 per  
22 acre-foot under their program.

23           So we knew we had those costs and quality  
24 constraints, and then we had to look at how we could  
25 actually move the water into the zone.

1           THE REFEREE: Just for my edification, 'cause  
2 this is fact-finding, can you put up something and just  
3 show me quickly where the C wells are and the D wells  
4 are.

5           MR. SLATER: The list on the big C, and then  
6 within that where the participating wells would be.

7           MR. WILDERMUTH: I don't think we can really see  
8 it on there very good. Could we have that map handout we  
9 brought?

10          MR. ROSSI: Sure. It's right here, if we could  
11 pass that out, Mary. There's 50 of them.

12          MR. SCALMANINI: Andy, when you had this map of  
13 the piezometer monitoring plan, which is described as  
14 something, I think, you were starting to kick around, is  
15 there some nexus between this map and either Exhibit C or  
16 E?

17          MR. MALONE: No. That's a very recently  
18 generated map.

19          MR. SCALMANINI: This seems to be a lot more  
20 local than Exhibit C or E.

21          MR. MALONE: Right.

22          MR. SCALMANINI: The substitute water supply,  
23 3,000 acre-foot per year, can you -- can somebody  
24 elaborate on that? Let's start with just the source of  
25 the number and then work our way up from there.



1           MR. SLATER: Sure. Again, the 3,000 acre-feet  
2 was probably a triage or a combination of various factors  
3 that led us to the number. First is availability. We  
4 were initially hamstrung by not having access to water at  
5 such a low rate, and so we were perplexed on how we were  
6 actually going to entice people into the program to  
7 forbear.

8           And Rich Atwater from IEUA was gracious enough  
9 to suggest that under a preexisting program from  
10 Metropolitan that they might be able to secure a nominal  
11 amount of water that could be used in connection with  
12 this program in the event that we were able to achieve a  
13 compromise.

14           There were also opportunities discussed in the  
15 context of a broader in-lieu program or storage and  
16 recovery project, frankly, that were premature. And no  
17 one felt that it was desirable to make such a delivery  
18 part of that program.

19           So we had some discussions with IEUA about what  
20 was achievable, and preliminary indications were it may  
21 be in the 2,000 acre-foot range was possible.

22           We had some further discussion with the group  
23 and tried to evaluate what was possible in terms of  
24 conveyance as opposed to supply. What could we actually  
25 move through existing conveyance facilities and, given

1 existing contractual entitlements and limitations,  
2 primarily the WFA, whether we could move additional water  
3 into the zone.

4           And then a third consideration really related to  
5 the ability of somebody to take that water in lieu and  
6 what their other demand scenario looked like. In other  
7 words, did they need to pump ground water from their  
8 wells during peak demand periods to meet their needs?

9           We considered those three elements. And then I  
10 guess Burt Gindler's in the room, and he would admonish  
11 me if I didn't mention this. There was a fourth  
12 consideration which is the cost of securing that  
13 available supply from Metropolitan. It was very  
14 important in how that cost was going to be distributed  
15 because many of the other producers, while they wanted to  
16 see the study program go forward, they did not want to  
17 incur huge costs associated with making large quantities  
18 available in the zone.

19           So ultimately the 3,000 was settled on over a  
20 period of months in trying to get us to a position of  
21 what could we convey, what could parties take on demand,  
22 meet from a peak demand standpoint in the zone, and what  
23 would Met provide.

24           MR. SCALMANINI: Is it available on a year-round  
25 basis or nine-month-only basis?

1           MR. SLATER: It is -- I believe, John and Traci,  
2 it's available beginning October 1, correct, on an annual  
3 basis. So it would be available for twelve months.

4           MS. STEWART: No.

5           MR. SLATER: No?

6           MS. STEWART: Nine

7           MR. SLATER: Availability is nine months?

8           MR. ROSSI: I believe it's only the non-peak  
9 months. Nine or ten.

10          MR. SLATER: Nine or ten. And then there is the  
11 overlay of peak demands within the summer months  
12 essentially, high demand periods.

13          MR. SCALMANINI: Well, in the interest of  
14 following my own outline, I'd like to come back to that  
15 peak demand thing.

16          MR. ROSSI: Sure.

17          MR. SCALMANINI: Okay? John, could I ask, can  
18 we verify the -- get rid of the "I think it's only  
19 available" at some time after this?

20          MR. ROSSI: Sure. I know it's within the period  
21 that we have now in the interim plan.

22          MR. SCALMANINI: I know that too. I can read  
23 that. What I'm trying to get at is, ultimately what the  
24 plan kind of says is that we want to minimize subsidence  
25 through or not make it worse by forbearing some pumping;

1 okay? And there's a little bit of, I'll call it,  
2 intuitive conflict to me that says, But we'll go back to  
3 pumping during the time of year when we pump the hardest,  
4 which is when we would lower the water levels the most.

5           So what I'm trying to get at, you know, is the  
6 3,000 acre-foot limitation to nine months a year driving  
7 the fact that we have to go back to pumping in the  
8 summertime? Or is it that there's some other factor in  
9 the overall delivery scheme that drives it? So I want to  
10 come back to that later.

11           MR. SLATER: I think we have Mark Kinsey who is  
12 prepared to provide some additional elaboration. Mark.

13           MR. SCALMANINI: Let me save that for a few  
14 minutes. I want to stay where I am at. I'll get back to  
15 you, Mark. Are you Chino or Chino Hills, Mark?

16           MR. KINSEY: Neither.

17           MR. SCALMANINI: I'll just say this rather than  
18 ask a question. When I read this as regards, you know,  
19 the reduction in pumping, there was a discussion here  
20 that we're going to monitor conditions in Management  
21 Zone 1, but I think today served to clear up the fact  
22 that that's a pretty general description of what  
23 monitoring means.

24           Is there any vision today of what some other  
25 so-called, quote, "voluntary measures," unquote, might

1 be?

2 MR. SLATER: Well, actually I thought your  
3 questions were going to one, which would be inducing or  
4 encouraging people to engage in pump tests to the extent  
5 that they were not receiving substitute supply. That  
6 might be a forbearance ultimately within the management  
7 zone where somebody isn't receiving a substitute supply.  
8 That's not on the plan. That's not possible -- or it's  
9 not contemplated presently because we haven't had an  
10 opportunity to go out and visit with each of the well  
11 producers within Management Zone 1 and to inquire as to  
12 whether or not that's appropriate.

13 MR. SCALMANINI: Do you have to have a  
14 substitute supply to run a pump test?

15 MR. SLATER: Probably not.

16 MR. SCALMANINI: The answer is no, yeah, so --

17 MR. SLATER: Wait a second. If the pump test  
18 means the water supply is unavailable to me and my  
19 business for three weeks or a month, you know, then we  
20 have some practical constraints.

21 MR. SCALMANINI: Why don't we discuss the  
22 details of pump testing off the record. Okay?

23 MR. SLATER: Check.

24 MR. SCALMANINI: Been there, done that too many  
25 times.

1           THE REFEREE:  What would be a logical duration  
2 of a pump testing that you would have to be doing?

3           MR. WILDERMUTH:  I'm going to have to refer to  
4 Francis.  Would you like to respond?

5           MR. RILEY:  I'm sorry.  Excuse me.  I really  
6 couldn't hear the question.

7           MR. WILDERMUTH:  What kind of pump test would  
8 you like to do right now in the first three months of the  
9 piezometers?

10          MR. SLATER:  What is the duration?

11          MR. RILEY:  I think we can get by with  
12 relatively short-term testing during that first three  
13 months because our primary goal is to establish the  
14 responses for the different depth numbers and use those  
15 responses to design the extensometer.  And also to give  
16 us some preliminary ideas about how to design a more  
17 comprehensive and longer running, possibly, test once the  
18 extensometer is in place to measure the responses to that  
19 test.

20          MR. WILDERMUTH:  Francis, define short.

21          MR. RILEY:  Let's say a week.

22          MR. SCALMANINI:  Maybe we have already discussed  
23 the Exhibit C and E.

24          Well, is there an anticipated result from the  
25 interim plan forbearance as it's drafted today?  Does the

1 plan have a goal?

2 MR. WILDERMUTH: Can you repeat the question.  
3 I'm not sure I understand it. I'll try to restate it.

4 MR. SCALMANINI: Is there an anticipated result  
5 of the interim plan? The way Scott has summarized it  
6 this morning was nominally 1500 acre-feet of forbearance  
7 by one pumper for three years and nominally  
8 1500 acre-feet forbearance by another pumper for a year,  
9 with all the flexibility we could extend, et cetera,  
10 et cetera. Is there an expected result of that?

11 MR. WILDERMUTH: Of the forbearance?

12 MR. SCALMANINI: Yeah.

13 MR. WILDERMUTH: I crafted that part of the  
14 OBMP, and the concept was that we needed time to develop  
15 a plan that we could get our arms around and support and  
16 do for the long term.

17 MR. SCALMANINI: Long term, yes.

18 MR. WILDERMUTH: But there was also concern that  
19 if we considered to continue the status quo, that that  
20 might lead to unacceptable subsidence and fissuring.

21 So the concept was what can we reasonably do to  
22 minimize that potential subsidence? What could we agree  
23 to? That's what you have in front of you, the  
24 forbearance plan. Is it going to reduce subsidence, or  
25 is it going to increase subsidence? Hopefully it will

1 have a beneficial impact in the short term. That's the  
2 anticipated result.

3 MR. SLATER: To add, still we want to make sure  
4 that we do as little harm as possible while we are  
5 trying -- while we analyze and develop a long-term plan  
6 that works.

7 MR. ROSSI: Joe, does your question include all  
8 the things it might do during this study, during this  
9 plan, or just the forbearance part?

10 MR. SCALMANINI: Well, this isn't a good answer  
11 back at you, John, but the word you just used "study,"  
12 you know, strikes me as a better word than "plan." There  
13 is a study going on, and my impression is that the  
14 forbearance is an action kind of embedded in the  
15 long-term study plan. Simplest way I can state it.  
16 Okay?

17 When we've asked about the nexus between all the  
18 monitoring that was described this morning, et cetera,  
19 pump testing, measuring water levels, monitoring pump  
20 cycles, routine operation of wells, as well as the very  
21 focused stuff like the extensometers when they're there  
22 and the piezometers starting in about a month -- that all  
23 has a global, ongoing focus of figuring out the  
24 subsidence phenomenon and ultimately crafting what we  
25 call the long-term plan, which I suspect is synonymous



1 with a hoped-for solution.

2 But there is no specific anticipated objective  
3 of forbearing 1500 to 3,000 acre-feet of pumpage. Andy's  
4 plot here earlier today suggests that the rate of  
5 subsidence has drastically calmed, has changed, has  
6 slowed down.

7 And so is this just an action, you know, along  
8 the way which I've heard Mark and Andy say they can sort  
9 of monitor around or monitor through. Whatever the  
10 system does, it will do. And if it happens to include  
11 ongoing pumping without this action, they'll be  
12 monitoring that. If it happens to include that action,  
13 they'll be monitoring that, and they'll be, along with  
14 some focused efforts like pump testing, trying to figure  
15 out how the aquifer system works.

16 So I've had difficulty from the first read, you  
17 know, of what's this intended to accomplish? And  
18 ultimately landing on is this more an action than it is a  
19 plan. I kind of want to look to Mr. DeLoach over Andy's  
20 shoulder and laugh about some debate between the words  
21 "program" and "plan" as regards to something called an  
22 OBMP two or three years ago. You know, what is this?  
23 But that's just a fun recollection for Mr. DeLoach.

24 So back to this point, you know, is this really  
25 an interim plan that has some specific focus to it, or is

1 it just something along the way that's certainly not a  
2 bad idea, probably a good idea given the -- I don't  
3 know -- the picture, the physical picture that's out  
4 there. I'll stop it there. Is it a study and then has  
5 this little piece that's embedded in it?

6 MR. ROSSI: Well, I guess if you ask the  
7 question -- the reason I asked that question was simply  
8 that I think that the most significant outcome of this  
9 plan is a long-term plan or a long-term implementation  
10 program. In different words, the ability to study, to  
11 gain the data necessary to have the group come together  
12 on what the long-term plan would be. In the meantime we  
13 all agree forbearance is more than just a good idea. I  
14 don't know if that answers your question.

15 MR. SLATER: Let me -- I'll go back to my  
16 opening. It is -- you say what is the plan? Is it just  
17 a study and an element and an action item? And the  
18 answer is that's what it is today. We're launching this  
19 puppy here helpfully in October, and it includes a study  
20 program. There is reluctance, broad reluctance to  
21 designate a long-term course until the study is  
22 completed. So there's that.

23 Then there is a measure that there is consensus  
24 behind, that that will -- it will do no harm and it may  
25 do much good, and that is reducing pumping in a defined

1 area. There's some quarrel about how broad that  
2 reduction needs to be and how the burden of cost and  
3 expenses associated with that production would be  
4 implemented.

5           So our initial measure of nominally  
6 3,000 acre-feet could grow, could broaden, could lessen,  
7 or could be redirected depending on what information is  
8 developed in the first area.

9           And there may be other things that the technical  
10 group decides are material on the interim basis. We  
11 don't have any measures that have leaped to the front of  
12 our minds, but that's what the technical group is  
13 designed to do, and we recognize that there is a spirited  
14 debate among the technical people about what else might  
15 be employed by Watermaster. So it is at least study plus  
16 action and the ability to pull in other things.

17           MR. WILDERMUTH: I don't mean to be  
18 argumentative, but you can call it whatever you want to  
19 call it. You can call it bus. What we said we were  
20 going to do, we're going to do some kind of -- we call it  
21 forbearance, voluntary reduction. And then we said we're  
22 going to do monitoring and subsequently develop a plan.  
23 So if it's a bus, it's a bus. If it's the interim plan,  
24 than it's called the interim plan.

25           MR. SLATER: It is what the Program Element 4

1 states.

2 THE REFEREE: This sort of brings to my mind  
3 questions about timing and how fast you will learn what  
4 management actions are required. You've explained that  
5 in three months, if all goes well, you should be able to  
6 obtain enough information that you can put the  
7 extensometer in and then use that to gain even further  
8 information with or without pump testing and all your  
9 other data collection ongoing.

10 I guess the question is, how fast in an optimal  
11 world with optimal participation by the parties can you  
12 get to the point where you can identify management  
13 actions? I don't see anywhere in the presentation that  
14 there's any inkling of when you get to a long-term  
15 management plan. I don't even want to ask you what might  
16 be in that plan because that's pretty obvious from  
17 reading Program Element 4, from reading OBMP, and  
18 everything else, that's going to be a difficult set of  
19 issues.

20 But when do we get there? Is it a year? If  
21 it's more than a year before you have a pretty good idea  
22 of what management actions you could at least look at as  
23 alternatives, then I would think it gets more and more  
24 important to have actions or buses, as Joe is describing  
25 it, to minimize potential effects or to take other

1 actions in some interim period.

2 The interim period is going to last as long as  
3 you let it last, in some ways. On the other hand, it's  
4 going to have to last as long as it takes for you to get  
5 the information you need.

6 So the question is, if everything were done  
7 optimally with optimal agreement on all sides, when would  
8 you have a good sense that you could start developing a  
9 long-term plan?

10 MR. WILDERMUTH: The challenge with the question  
11 is that we have to have the end in mind to know what that  
12 is. I can't give you the real defined answer. I'm  
13 thinking three to five years, be done.

14 When you start coming up with management  
15 concepts, I think those discussions need to happen right  
16 away. Definitely. Some of the first things we do is  
17 talk about how do you manage to stop subsidence. Well,  
18 we get the technical work done and figure out what the  
19 problems are and the system to manage it.

20 For example, the kind of question you're going  
21 to have to answer is how much of subsidence can you take,  
22 how much are we willing to accept? Is there -- maybe we  
23 don't want any subsidence. Those things define  
24 management actions.

25 We will get some preliminary information early

1 with the piezometers. Those kinds of things might be,  
2 well, like a year. But we still got to get two or three  
3 years of data showing data that will be useful to  
4 understand, come up with a hypothesis.

5 The other part is pretty straightforward. The  
6 part that might not be straightforward is getting people  
7 to agree on a management plan and how to pay for it. I  
8 can't begin to speculate on all of that.

9 THE REFEREE: So I'm seeing a plan to do data  
10 collection and analysis but no segue to how to get to a  
11 long-term plan yet. Is that something that needs to be  
12 addressed further as you work on this interim plan and  
13 get some of the up-front issues resolved?

14 MR. SLATER: Absolutely. I think if I could  
15 unpack your question into two pieces, and that is what is  
16 the minimum time period that people believe would be  
17 necessary for data development.

18 And you wouldn't be surprised to learn that  
19 there are different points of view about the minimums  
20 necessary. There's at least one point of view that's  
21 been expressed that we have enough information to go  
22 tomorrow. And there's another point of view that's  
23 expressed that it's not obtainable within a decade of  
24 study and analysis.

25 So I think Mark used three to five years on the

1 data development side. When do we have enough  
2 information to know how to spend our money wisely?

3           And then there's a second piece about what  
4 people are willing to do in order to implement it, what  
5 kind of cost structure are they willing to assemble. And  
6 that would probably follow -- if it's three to five years  
7 to have the data, the business deal probably follows soon  
8 thereon, and one would expect maybe twelve months to wrap  
9 that piece up.

10           I think that is a fair answer, is if it's three  
11 to five years on data, give yourself twelve months to  
12 take that data and implement it in a workable plan.

13           THE REFEREE: Meanwhile you could have five or  
14 six years, then, where you have partial participation in  
15 a forbearance program which is the only element in this  
16 interim plan to address minimizing the problem while you  
17 study it.

18           MR. SLATER: It is the only measure that there  
19 is a consensus to support at present.

20           MR. ROSSI: We should note that the agreement  
21 calls for a three-year term so I believe we know we will  
22 be around the table in less than three years to get to a  
23 point where we have something that goes from there.

24           MR. SLATER: I will say that we're -- we  
25 shouldn't suggest to you that we're devoid of

1 opportunities or ideas. We have a desalter project which  
2 is soon to be up and running, up and running in some  
3 context. It's going to be more prolific soon, and there  
4 are opportunities for other supplemental or substitute  
5 supplies of water. We are just presently constrained by  
6 conveyance and Met water.

7 But as we move forward, there will be  
8 opportunities that identify themselves, and hopefully  
9 opportunities are paralleling advances in information.

10 So that again, I go back to the fact that we're  
11 doing 3,000 today doesn't mean to Watermaster and  
12 shouldn't mean to the Referee of the Court that just  
13 because that's where we are today that we're expecting to  
14 pass for five years. We're not.

15 We're expecting to launch this now, to develop  
16 an interim iterative process, and report to you what our  
17 progress is. So I think it should be understood in that  
18 context. We're not saying, See you later and in five  
19 years we'll come back to you. That's not what we're  
20 saying.

21 THE REFEREE: That helps, because I at least  
22 didn't get the sense of it being an iterative process  
23 with this particular bus action from the documents.

24 MR. SLATER: I feel certain that no one thinks  
25 that this is the last stroke on this, that there is much



1 more art work that's coming.

2 MR. HENSLEY: I don't feel that certain. I  
3 don't share that certainty when you said that you feel no  
4 one -- I looked at this as being the final plan.

5 THE REFEREE: So I guess the question is, this  
6 is an interim plan, it's not a final plan, it's certainly  
7 not a long-term plan --

8 MR. HENSLEY: Final interim.

9 THE REFEREE: -- but it's not a final interim  
10 plan, and there is a chance to go back-- is that  
11 correct, Scott? -- and maybe clarify some of these  
12 issues.

13 MR. SLATER: There would be no purpose -- well,  
14 sorry -- there is a dual purpose for the technical group  
15 which is written in, and I think, Gerry, you were citing  
16 from. The purpose is we're filing -- we've launched a  
17 plan, we've filed it with the Court. We said -- we did  
18 exactly what we were supposed to do within the context,  
19 the contours of Program Element 4.

20 But the purpose of the technical group is to  
21 provide input to Watermaster so that it is iterative.  
22 And if we need to make course corrections and do other  
23 things, we will on an interim basis because we also  
24 recognize we don't want to commit to a long-term program  
25 until it's right. So it's not intended to be the final

1 word.

2 MR. HENSLEY: May I?

3 THE REFEREE: What's your question?

4 MR. HENSLEY: Scott made the point about the  
5 3,000 acre-feet might grow with changes or might need to,  
6 based upon the circumstances, if the area grows and  
7 expands as far as study. It's not written that way. And  
8 Chino Hills' perspective was we were willing to sign up  
9 on a year-by-year basis depending on where it was headed,  
10 were the studies moving forward, was everybody moving  
11 forward in good faith.

12 What I heard Scott describe it is exactly what  
13 we wanted to do, but that's not how the plan was drafted.  
14 There's a buy-in for three years. You had to designate  
15 everything now. We thought that made no sense. And  
16 so --

17 THE REFEREE: I'll ask you a question, then.  
18 Does it make sense as Scott just described it?

19 MR. HENSLEY: Certainly makes a lot more sense  
20 to me to be an iterative plan where every year, maybe  
21 it's more often than every year, maybe it's every three  
22 months, six months, there are changes depending on the  
23 information that's developed. That was one of our big  
24 concerns.

25 We also have the concern that we don't want to

1 be three years in a program where nothing is occurring.  
2 We signed up, and there's no -- candidly, we think  
3 Watermaster needs to have his feet to the fire and keep  
4 moving and doing things. I expect it's the one area  
5 where Chino and Chino Hills agree, that this thing needs  
6 to move along.

7 MR. SLATER: May I respond?

8 THE REFEREE: Would you respond, Mr. Slater.

9 MR. SLATER: The rationale behind the  
10 3,000 acre-feet, again, this is a legislative process at  
11 Watermaster. And Watermaster through the advisory  
12 committee and the board were trying to be responsive to a  
13 number of concerns.

14 And I go back to again picking on Burt Gindler,  
15 but there were many parties to the process who were  
16 concerned about Watermaster committing to purchase water  
17 from an outside independent agency, first IEUA and then  
18 Metropolitan, making a financial commitment, and then  
19 securing the supply. And so the thought was, is that we  
20 needed a commitment from the parties to then turn around  
21 and incur a subsequent financial commitment with IEUA and  
22 Met. That was one piece.

23 And the second was, I think, actually what some  
24 of Joe's questions were with regard to the nominal 1500  
25 or nominal 3,000 acre feet, the thought was here at least

1 as a showing of good faith for this program which may  
2 indeed last more than three years and which may have  
3 additional bells and whistles, that at least there would  
4 be a firm commitment of 3,000 acre-feet for three years.

5 So it was seen as being a material commitment,  
6 not burdensome, and also to satisfy other parties about  
7 Watermaster getting on the hook, to buy the supplemental  
8 water without a commitment from somebody to take it.  
9 That's what went into the 3,000.

10 THE REFEREE: So it's an iterative process, but  
11 you would have to engage in that same process again to  
12 come up with more water?

13 MR. SLATER: That's correct.

14 THE REFEREE: I guess the question for Chino  
15 Hills would be, isn't it better to have 3,000 than less?

16 MR. HENSLEY: Well, actually our position is  
17 that the study area is too small, that it needs to be  
18 enlarged. There needs to be more participants. We were  
19 willing to participate at some level, but we wanted it to  
20 be annual. We wanted to keep the Watermaster's feet to  
21 the fire. We wanted to make sure it actually made sense.

22 It could be after a year and we do this and  
23 determine there is no need for us to be in some sort of  
24 voluntary program. We don't know. We're willing to  
25 participate, but we think it's flawed from the

1 perspective of the study area. It's not big enough,  
2 there's not enough. We have historical data, and maybe  
3 not as much as everyone would like to have, but at least  
4 we can look back into that. We have reports that are, I  
5 think, much more thorough than the ones we've seen today.  
6 And it's flawed initially. Just the study area is not  
7 large enough.

8           There should have been -- I think that  
9 Mr. Scalmanini asked the question about, Well, what are  
10 these other voluntary measures, what are other parties  
11 going to do? We asked the same questions, and I find the  
12 answers to be unsatisfactory. It's, well, we don't know.  
13 Maybe somebody will do something.

14           What was written in the plan is incredibly  
15 ambiguous, and I don't see any commitment by any other  
16 parties to step forward and do anything so far.

17           We are willing to participate so long as it's on  
18 an annual basis, the plan is making sense, and people are  
19 working at it, they are looking at all the options, and  
20 they are not just studying one small area. In fact, our  
21 data shows that the area they are studying isn't even  
22 necessarily the area where most of the subsidence or the  
23 greater area of subsidence is.

24           THE REFEREE: So am I hearing this right, you're  
25 willing to participate in the forbearance program and in

1 the technical group, going in with the view that it's not  
2 an adequate description of the study area but that it's  
3 an iterative process, and maybe you can convince people  
4 to change the study over time as it starts getting --

5 MR. HENSLEY: So long as we don't have to make  
6 more than the annual commitment to the program as far as  
7 reduction. It was Watermaster's original recommendation  
8 two days before this was adopted that it be an annual  
9 program. I don't know why exactly it got changed at the  
10 last minute, but it did.

11 THE REFEREE: But now you would do it if it were  
12 an annual program?

13 MR. HENSLEY: If we could opt in and out  
14 annually, we would participate. We've made that clear  
15 for the better part of five months.

16 THE REFEREE: You'll participate in the  
17 technical group?

18 MR. HENSLEY: We've always made that clear,  
19 regardless of whether we forbear or reduce our pumping in  
20 that area, that we're going to participate in the  
21 technical group. We've never said that we would not do  
22 that.

23 We've been participating already. One of the  
24 things we're a little concerned about while there's  
25 discussion of the piezometers and the extensometers and

1 getting the buy-in of everyone, some of that work's  
2 already being done and we don't have any of the  
3 information respecting that. We'd certainly like to have  
4 been involved a little bit more before they got to where  
5 they are today.

6 THE REFEREE: Will you play catch-up?

7 MR. HENSLEY: We have been playing catch-up  
8 since February or March, which is a separate issue,  
9 although I would like to address it briefly. You know,  
10 it was a year and a half that went by before anything was  
11 done.

12 THE REFEREE: You know, I'm worried that if you  
13 address it briefly, I will have to hear some brief  
14 addressing by everybody. Joe had a couple questions.

15 MR. HENSLEY: Anyway, we've been playing  
16 catch-up a long time.

17 MR. SCALMANINI: When you said a minute ago we  
18 think the study area is too small and we have data that  
19 shows certain things, et cetera, et cetera, is that  
20 information that you -- is that basically what you  
21 offered earlier today when you said I have reports that  
22 you've given copies of?

23 MR. HENSLEY: Absolutely.

24 THE REFEREE: Before you do that --

25 MR. HENSLEY: We have a lot of copies.

1           THE REFEREE: I think it's great that you're  
2 going to give copies of that to the Watermaster. I think  
3 that's great, but I'd prefer that you didn't do it as  
4 part of this workshop because we are trying very hard to  
5 not have this be an evidentiary proceeding of any sort.  
6 So if you would just transmit it to the Watermaster for  
7 dissemination or you could file a pleading and file it in  
8 court if you wanted. Either way.

9           MR. HENSLEY: We may do that. The only thing I  
10 would note is, the presentation made today, this is the  
11 first time we've seen that. And so there's been sort of  
12 an evidentiary presentation already that's never been, to  
13 my knowledge, shown to the group.

14          THE REFEREE: But I've tried hard to draw a  
15 distinction. I'll try one more time. The presentation  
16 that we asked them to do was to describe for us so we can  
17 describe to the Court the interim plan. And at least I  
18 think my questions and Joe's have been trying to figure  
19 out for ourselves what it is we read and how that matches  
20 or doesn't with what is going on in a more global way  
21 with the monitoring program and everything else.

22          Just for the record, I think the more  
23 information that can be made available on the substantive  
24 issues, the better. I am one who just always thinks it's  
25 a good idea to share data and analyses and day-light



1 everything possible.

2           It's one of my concerns -- or the source of one  
3 of my concerns about a technical group is the  
4 confidential agreement. I understand perfectly why that  
5 has to happen, but the more information that can be  
6 shared, the faster you can probably reach some kind of an  
7 understanding together on what to do next. I think it's  
8 good that you are considering handing that material over  
9 to the whole group to benefit everyone.

10           MR. HENSLEY: You asked a question -- that's  
11 fine. I appreciate that. You asked the question earlier  
12 about the confidentiality of information and what not.  
13 And briefly I would only say that we were very concerned  
14 with meetings generally attended by lots of attorneys.  
15 I'm an attorney. I think these meetings would be much  
16 better if no attorneys attended them and they were done  
17 solely by the technical people.

18           And the reason we want -- we support having the  
19 provision about confidentiality is so that people aren't  
20 showing up with questions loaded from their attorneys for  
21 purposes of litigation. We're more interested in getting  
22 a result that makes sense to solve this problem.

23           We have grave concern that that has not been  
24 everybody's intentions coming to those meetings. So  
25 that's one of the reasons I think it's important that

1 decision be there. Ultimately people can gather whatever  
2 data they want and litigate about the things they want.  
3 At least these meetings should be aimed toward the  
4 technical people trying to come up with solutions.

5 THE REFEREE: It sounds to me that is consistent  
6 with Mr. Slater's comments earlier. Do you have more  
7 questions, Joe?

8 MR. SCALMANINI: Yeah. I wanted to come back to  
9 the water demand stuff and the timing of delivery. But  
10 as a preface to that, is it fair to say that the focus of  
11 the interim plan and the ongoing study is basically on  
12 the relationship between groundwater production, water  
13 levels, and subsidence?

14 MR. WILDERMUTH: In current hypothesis.

15 MR. SCALMANINI: And that is -- in effect you  
16 said, Mark, the hypothesis on which it's based, I think  
17 you say conclusion, that a voluntary reduction in pumpage  
18 can't do any harm and could do some good.

19 So, John, back to the, when is the water  
20 available. It continues to be counter-intuitive to me,  
21 then, why would we not want to try to do this on a  
22 year-round basis if we can. So if the answer to the  
23 question -- in this case 3,000 acre-feet, but whatever  
24 amount of volume of water we might ever be talking  
25 about -- if it's time-constrained during the year, then

1 there's no point to talking about other things that  
2 constrain it.

3           Scott went through this sort of triage and ended  
4 up with four factors that you considered in what we can  
5 get delivered. One of those was conveyance capacity, and  
6 the other was, the way I wrote it, impact of other  
7 delivery demand factors, what the purveyor needs to meet.

8           So, John, if the answer comes back that it is  
9 only available nine months a year, then all the rest of  
10 what I want to go into in the next few minutes is kind of  
11 academic. But if the answer comes back that it is  
12 available or could be available in the future, you know,  
13 twelve months a year, then I'd like to pursue some of the  
14 following to get a feeling for whatever the constraints  
15 are on being able to meet water demand when you have a,  
16 quote, substitute water supply. Which in its simplest  
17 form says if I don't pump the well, I'm just taking the  
18 water from someplace else, but there must be some factors  
19 that constrain it if the purveyor says it doesn't work  
20 for me. I'd like to get an understanding of that, if  
21 that's okay.

22           MR. ROSSI: Sure, absolutely. My understanding  
23 of the Met program is they have a new rate structure  
24 going in, that the program is going to change. Currently  
25 they have a program that's nine months' availability.

1 But the policy allows the general manager of Metropolitan  
2 Water District to allow for water in other periods of  
3 time. So it could be twelve months in a given year based  
4 on what he might do.

5 And then there is ongoing discussions with this  
6 program -- we don't know where that will end up -- but  
7 there is a possibility, there's been discussions, it  
8 could be a 12-month program.

9 So to answer your question, there's a  
10 probability -- I don't know exactly what it is -- that in  
11 the next three-year interim plan period there could be a  
12 twelve-month availability.

13 MR. SCALMANINI: Then in the interest of maybe  
14 saving a chunk of time, is it fair to say right now if  
15 that were the case, that is, water were available on a  
16 year-round basis, that there are other constraints that  
17 keep it from being taken as a bona fide substitute supply  
18 during peak demand periods?

19 MR. ROSSI: That is my understanding.

20 MR. SCALMANINI: Can we spend some time  
21 understanding that. You knew I was interested so if you  
22 have something that you want to just --

23 MR. SLATER: No. I think that Watermaster has  
24 received representations from the producers. We have not  
25 gone behind the producers' representations to know the

1 intricacies of their system so I think you have to be --  
2 the affected producers are here today and could respond  
3 to any questions, I presume.

4 MR. SCALMANINI: Is it fair to say the affected  
5 producers, as far as --

6 MR. SLATER: Chino and Chino Hills.

7 MR. SCALMANINI: Chino and Chino Hills. You  
8 mentioned Mr. Kinsey. Since I know he doesn't work for  
9 either one of those entities -- at least the last time I  
10 was here, he didn't.

11 MR. SLATER: I think he's our expert on the WFA.

12 MR. KINSEY: Conveyance capacity.

13 MR. SCALMANINI: I put it together in the order  
14 of looking at water demands first and then thinking about  
15 delivery capacity. If you have something that is, I'll  
16 call it, organized that you can just tell me about  
17 constraints in that regard, you know, without me trying  
18 to flush it out with questions, I'd be happy to listen.

19 MR. KINSEY: What we did as part of the analysis  
20 was that when we identified the Water Facilities  
21 Authority as a potential supply source, alternate or  
22 supplemental supply source, we evaluated the demands that  
23 are currently being placed on the Ramona feeder, which is  
24 jointly, obviously, Montclair and the city of Chino  
25 Hills, in terms of deliveries of water versus available

1 capacity.

2           And what we found looking at historical usage is  
3 that during the peak demand periods, as you'd expect  
4 typically June through, I think, September, in that time  
5 frame, is that the pipe is basically full given a  
6 retarded flow rate, 40 or 50 over five -- (inaudible) --

7           THE REPORTER: I'm sorry. I can't hear.

8           MR. KINSEY: Keep the velocities down in the  
9 pipeline to a reasonable number. So when we analyzed it,  
10 it was during this nine-month window that there was  
11 surplus conveyance capacity available to move the water  
12 through that system to the user.

13           MR. SCALMANINI: It's not demand; it's delivery  
14 capacity that's the constraint?

15           MR. ROSSI: On that piece.

16           MR. SCALMANINI: On that piece of the hardware.  
17 Okay. Just to take it the rest of the way, so you've got  
18 whatever, a 5- or 10-foot-per-second constraint on the  
19 pipeline that says if I try to shove more water through  
20 it, I'm going to operate it at too high a velocity.  
21 That's undesirable. That limits my ability in the peak  
22 months bringing water to these, I'll call it, new  
23 turnouts.

24           MR. KINSEY: Existing turnouts, yes, correct.

25           MR. SCALMANINI: Then global question, either

1 one first, at Chino and Chino Hills, if that constraint  
2 weren't in place, is there a constraint in the  
3 distribution system of either one of those that says, I  
4 couldn't take the water during the months of July,  
5 August, and September or June through September, whatever  
6 the peak demand period is.

7 MR. HENSLEY: We probably wouldn't be in this  
8 position today, as I understand it, if the pipeline  
9 project was completed.

10 MR. KINSEY: The Monte Vista -- (inaudible) --

11 MR. HENSLEY: Right.

12 MR. KINSEY: That's correct. In terms of the --

13 MR. HENSLEY: We actually tried to fix this  
14 problem, held up by some litigation. We're now moving  
15 forward with the south end of that pipeline project. So  
16 once that's done, it does give us additional capacity as  
17 far as transmission. I'll let either Ron or Mike Maestas  
18 address the second part of your question.

19 MR. MAESTAS: It's like Mark was saying -- Mike  
20 Maestas, City of Chino Hills -- we currently do have some  
21 restraints on it. Summertime, as Mark indicated, we can  
22 currently take around 16 mgd through there. With the new  
23 42-inch pipeline, the last section we're putting in, it's  
24 been designed to carry 43 inches. So it more than  
25 doubles the capacity.

1           MR. SCALMANINI: "Through there" means through  
2 the connection?  
3           MR. MAESTAS: Actually through the pipeline  
4 itself into Chino.  
5           MR. SCALMANINI: To go from 16, what did you  
6 say, to 42 mgd?  
7           MR. MAESTAS: It was designed at 43.  
8           MR. SCALMANINI: Do you know concisely what  
9 average day and max day water demands are?  
10          MR. MAESTAS: Through the City of Chino Hills,  
11 summertime max day is around 25 mgd, approximately.  
12          MR. SCALMANINI: Let me come back to source  
13 capacity in just a second. How about Chino? Same kind  
14 of questions.  
15          MR. CROSLY: Max day demand currently is  
16 approximately 55 acre-feet per month -- max month demand.  
17 Max day demand is approximately 66 acre-feet.  
18          MR. SCALMANINI: Max monthly, what did you say  
19 again?  
20          MR. CROSLY: 55.  
21          MR. SCALMANINI: 55. And what about your  
22 ability to take water, I guess -- I don't know all the  
23 plumbing that well -- so ultimately from the WFA into  
24 your system, are there constraints in terms of pipe sizes  
25 or anything else that would allow you -- keep you from



1 being able to distribute the water if you got it at a  
2 high enough capacity?

3 MR. CROSLEY: There are constraints, Joe. We  
4 feel that during the off peak time of the year, we could  
5 take perhaps as much as 2,000 acre-feet.

6 MR. SCALMANINI: Oh, distribute it through the  
7 other nine months.

8 MR. CROSLEY: Yes.

9 MR. SCALMANINI: But it could only take zero in  
10 the other three months?

11 MR. CROSLEY: No, that's not what I mean.

12 MR. SCALMANINI: I wasn't trying to put words in  
13 your mouth. I'm just --

14 MR. CROSLEY: During the other three months we  
15 could take the 2,000 acre-feet as well.

16 MR. SCALMANINI: It's just distributed over  
17 twelve months as compared to nine?

18 MR. CROSLEY: I'm not sure I understand the  
19 question.

20 MR. SCALMANINI: What I thought I heard you say  
21 was you could take 2,000 acre-feet over the course of a  
22 year. A year could be nine months long or a year could  
23 be twelve months long. Your system will take it either  
24 way.

25 MR. CROSLEY: Yes.

1           MR. SCALMANINI: That's what I thought you said.

2           THE REFEREE: Would you like to take a break?

3           (Recess in proceedings from 2:23 to 2:35 p.m.)

4           MR. SLATER: Okay. I think we're ready to get  
5 back going again.

6           I think, Joe, you had a question on the floor.  
7 Or actually had you finished? You had gotten a response?

8           MR. SCALMANINI: I think we got enough of a  
9 response. Maybe one back to Mark Kinsey.

10          When you talked about no surplus capacity in the  
11 summertime --

12          MR. KINSEY: Yes.

13          MR. SCALMANINI: -- can you put a number on what  
14 the capacity was in the non-summertime in terms of  
15 available capacity?

16          MR. KINSEY: I would have to go back and look.  
17 What we did is when we saw numbers around 17 or 18 mgd,  
18 we said there is no more surplus capacity; we've utilized  
19 the capacity in the pipeline. So when you got into the  
20 June, July time frame, you were getting flow rates up  
21 there and they were at that level throughout the  
22 summertime or even a little higher.

23          MR. SCALMANINI: So my question is that, then,  
24 as you come out of the peak period -- and what was the  
25 flow rate you just said?

1           MR. KINSEY: We looked nominally 18, 19 mgd,  
2 somewhere in that --

3           MR. SCALMANINI: That is the pipeline capacity?

4           MR. KINSEY: Yes.

5           MR. SCALMANINI: So when the demand on the  
6 pipeline gets to that number, the pipeline is max'd out.  
7 My question is, How much surplus capacity gets generated  
8 in terms of pipeline capacity when you come out of the --  
9 when you come into the October, November --

10          MR. KINSEY: It varies. It varies.

11          MR. SCALMANINI: Is there -- if you looked at  
12 it, is there a summary of the results of looking at it,  
13 some simple form summarizing that?

14          MR. KINSEY: I would say probably get numbers as  
15 low as 4 and 5 mgd in the wintertime.

16          MR. SCALMANINI: Of surplus capacity?

17          MR. KINSEY: Total flow.

18          MR. SCALMANINI: Of demand on the pipeline?

19          MR. KINSEY: Yes.

20          THE REFEREE: I asked for a map that's  
21 disappeared, a map that shows the ground water production  
22 facilities.

23          MR. WILDERMUTH: Anybody else needing a --

24          THE REFEREE: And then I got off track. I  
25 didn't finish asking my questions. Can you generally

1 show me on that map which of the wells are the  
2 Exhibit E wells that would be part of the 3,000 acre-feet  
3 forbearance and substitute water supply.

4 MR. ROSSI: Here's the laser, Mark.

5 MR. WILDERMUTH: Yes. If you look at the  
6 Exhibit E, if you look at the City of Chino, their wells  
7 4 and 6 are right in here.

8 THE REFEREE: 4 and 6?

9 MR. WILDERMUTH: There is a well up in here, up  
10 in here.

11 THE REFEREE: One of those four?

12 MR. WILDERMUTH: Yes. It's the one in the upper  
13 left. Okay. Chino Hills, I'm starting out with well 19.  
14 Well 19 is right about here. And you have well 17 which  
15 is right here. Well 15-B, which is -- you have Chino  
16 Hills doing this. Well 14 down here.

17 MR. ROSSI: You had it. It's on the other side.  
18 It's over here.

19 MR. WILDERMUTH: 16, it's up here. And then 1-A  
20 and 1-B down in this area. 7-A and 7-B are over in this  
21 cluster over here.

22 THE REFEREE: Before you leave, would you show  
23 me where the two Pomona wells on list C are.

24 MR. WILDERMUTH: Sorry. There's one here and  
25 one here, 26 and 29.

1 THE REFEREE: 26 and 29.

2 Can I go back to a question for Chino Hills. So

3 you are willing to participate in a forbearance program

4 for a year with these wells. And is there some -- is

5 that right?

6 MR. HENSLEY: There are other conditions, but

7 yes. There are other conditions.

8 THE REFEREE: But you're willing to participate

9 with these wells for one year; is that correct?

10 MR. HENSLEY: Make sure the wells -- are those

11 the right wells, Mike?

12 Also including well 7-A and -B.

13 THE REFEREE: Yeah. I got 7-A and -B on that

14 list that Mark has.

15 MR. HENSLEY: Again, subject to other

16 conditions.

17 THE REFEREE: That's my question. What are the

18 other conditions?

19 MR. HENSLEY: We wanted Monte Vista to commit to

20 not produce out of the wells. Pomona -- I'm sorry?

21 THE REFEREE: That's a vision.

22 MR. SLATER: Mark's having a heart attack.

23 Sorry.

24 MR. KINSEY: My ears perked up.

25 THE REFEREE: I was enjoying it.

1                   MR. HENSLEY: It would be our city would make a  
2 determination as to which wells and how much out of which  
3 wells to be produced.

4                   THE REFEREE: That's the group we're talking  
5 about?

6                   MR. HENSLEY: Right. The other issue relates to  
7 the Rule 15-B motion filed by Chino. We don't see the  
8 point of voluntarily reducing our wells while at the same  
9 time litigating having them shut down. We're going to  
10 participate, we're not also going to be in litigation  
11 with Chino over shutting the wells down.

12                   THE REFEREE: I'll go back to that question.  
13 What about the comment about Pomona's wells?

14                   MR. HENSLEY: Correct. We wanted on an annual  
15 basis for them to commit for the next year they would not  
16 produce out of 26 and 29.

17                   THE REFEREE: Is Pomona here?

18                   MR. PEPPER: Yes.

19                   THE REFEREE: So you heard this condition. Is  
20 Pomona pumping these wells now?

21                   MR. PEPPER: Yes, they are. Either or both at  
22 different times.

23                   THE REFEREE: Okay. So you have responded to  
24 this request. You have or have you not?

25                   MR. PEPPER: Verbally at meetings. I don't know

1 specific meetings.

2 MR. CIAMPA: I know of no formal written request  
3 that has been made to Pomona. So we have not formally  
4 responded in writing. We are not agreeable to that.

5 THE REFEREE: Are these wells and locations  
6 where you could get a substitute supply from this  
7 program?

8 MR. PEPPER: No.

9 MR. HENSLEY: It was our understanding they  
10 weren't pumping out of those wells for the last couple of  
11 years.

12 THE REFEREE: So there is some question about  
13 how much you've produced with those wells in recent  
14 history currently. Do you have that information?

15 MR. PEPPER: Have that with you? The  
16 information on 26 -- both wells.

17 MR. GARIBAY: No, I don't have it.

18 MR. PEPPER: We'd have to research and report  
19 back.

20 MR. GARIBAY: It should show seven years. I  
21 don't have it with me. Last seven or eight years.

22 THE REFEREE: So there's another unknown too.

23 MR. SLATER: To help here and provide a little  
24 context in foundation for the answer, again, we started  
25 with the original list. We applied a test to it of

1 whether we could get supplemental water. And these wells  
2 did not -- this portion of the Pomona service area did  
3 not qualify to be able to get supplemental water. So  
4 that was one consideration why we didn't transmit an  
5 offer to them.

6 In terms of their production history, I believe  
7 we all settled on a seven-year band to look at historical  
8 production and compare the forbearance against that. And  
9 I believe for these wells, Pomona had not pumped recently  
10 but that it had expressed a desire to move them into its  
11 rotation. Is that roughly accurate, Henry?

12 MR. PEPPER: Yes. Is that true, Raul?

13 MR. GARIBAY: Yes.

14 MR. PEPPER: Yes.

15 MR. SLATER: So they had to pump recently, but  
16 they were planning to move the wells through their normal  
17 production cycle.

18 THE REFEREE: So unless the criteria that led to  
19 the interim plan were changed, then those wells can't be  
20 in that program.

21 MR. SLATER: We have no present ability to ship  
22 them substitute supply at those locations.

23 MR. HENSLEY: I'm not certain it's been really  
24 adequately looked at, the ability for them to cut back in  
25 that area and other arrangements to be made. I think



1 that that should be discussed further. There were  
2 different settlement discussions, and I don't want to get  
3 into those. I think we need to respect those  
4 discussions. But I think it's an area that bears more  
5 discussion.

6 THE REFEREE: Seems that this could be discussed  
7 in a technical group. And if this weren't able to be  
8 accomplished in the first year with Chino Hills  
9 participating for this year and try to figure it out for  
10 next.

11 MR. HENSLEY: Potentially. That was another  
12 issue that we had raised. Right now CIM doesn't have  
13 apparently, any other alternative. But perhaps in a year  
14 there may be other alternatives. That was one of the  
15 reasons again we wanted an annual iterative process. Are  
16 other parties doing their share of trying to participate  
17 in this program? Are we doing enough to motivate the  
18 other parties to participate? And so right now Pomona  
19 seemed like at least a potential. Next year it could --  
20 might not be this year; maybe it's next year. We should  
21 be looking at CIM also.

22 THE REFEREE: I guess the question is, would you  
23 consider participating for this year if one of the  
24 iterations to be included in the interim plan work is to  
25 consider those additional pumping facilities?

1           MR. HENSLEY: I think that, again, it's  
2 something that we have to discuss. I would expect as  
3 long as there's progress being made including other  
4 producers in the future looking at whether that makes  
5 sense or not, but, yes, again if it's for a one-year  
6 period.

7           THE REFEREE: Okay. Those were my questions  
8 about Exhibit C and E. Joe, do you have more questions  
9 in general, because I'd like to move on so Chino and  
10 Chino Hills can ask their questions and say what you want  
11 that's brief about the implementation or the interim  
12 plan.

13          MR. SCALMANINI: One quick one. Dave, do you  
14 know how much water you use in a year?

15          MR. CROSLEY: Yes. Just a moment.

16          MR. SCALMANINI: Chino Hills know the same  
17 thing? Annual water demand as compared to max daily.

18          MR. MAESTAS: City of Chino Hills is just  
19 slightly over 17,000 acre-feet a year.

20          MR. SCALMANINI: That's a year?

21          MR. CROSLEY: City of Chino's annual demand is  
22 approximately 15,600 acre-feet per year.

23          MR. SCALMANINI: Thank you.

24          THE REFEREE: So Chino and Chino Hills. Was  
25 there anyone else who wanted to ask a question?

1                   MR. MAESTAS:    Joe.  I gave you a wrong number.  
2   That was from my projected number for this next year.  
3   Actually it's about sixteen-four.

4                   THE REFEREE:  Was there anyone other than those  
5   two thumper parties who would like to ask any questions?  
6   Well, who wants to start?

7                   MR. GLOVER:  We had a power point presentation  
8   all ready for you.  And when you initially talked about  
9   we're going to make sure we stayed focused, we don't go  
10  through any concepts or causation or anything, my  
11  presentation got down to two slides so that will serve in  
12  getting us out of here much faster.

13                   We prepared a document that went through many of  
14  the exact slides that were brought forth in the power  
15  point by Wildermuth Engineering.  In fact, some of them  
16  are exact copies of curves and maps so we'll go ahead and  
17  skip to the points we want to make.

18                   The two slides we want to show -- we're not even  
19  going to bother setting up the power point on it, are  
20  just -- I don't know if you've seen it before, but what a  
21  fissure is.  I know we have blue lines on the maps, but  
22  this one ran directly through a single family dwelling on  
23  12th Street and made it uninhabitable.

24                   So what we're dealing with is real openings in  
25  the earth, and it is a serious matter in the City of

1 Chino. We've been monitoring this all along. We were  
2 the ones who worked with JPL doing the first InSAR data.  
3 We've done all the survey work. We've paid a lot of  
4 money to research this and we were participating in the  
5 plan all along.

6 We support the interim plan. It's not what we  
7 wanted. We wanted it to go much further, but we  
8 understood the constraints. We were compromising  
9 constantly for the many months that this process was  
10 going on.

11 The last slide we had was what we feel should  
12 occur to mitigate subsidence. And when we get to the  
13 plan, that's a decrease to our original position. It was  
14 done through many months of compromise.

15 We just want to say we do support the plan  
16 because it gets us started. We feel our system can  
17 participate and can deliver the water. We could be held  
18 whole by the water that's been made available. We think  
19 as many details as could be worked out for this plan have  
20 been.

21 And we just wanted to state that we did hire  
22 Dr. Yoshi Moriwaki to do a lot of work for us in the soil  
23 mechanics of subsidence. He's produced reports that we  
24 made available all along to Wildermuth Engineering, and  
25 in discussions with Andy, those have been helpful.

1           So we're just here to answer any questions that  
2 you may have, and Joe's already asked some questions  
3 today about our system. And that's basically it in a  
4 nutshell. We do have a copy of this presentation, but if  
5 you thumb through it, you'll see just about everything  
6 that was said in the original presentation is contained  
7 in that.

8           Our city council has supported this plan. The  
9 Watermaster, as you know, unanimously supported the plan.  
10 And if we're getting into a process where we're going to  
11 change that document, we'd definitely need to go take  
12 that back to our city council and back to Watermaster.

13           That was it. Basically those are our points we  
14 wanted to bring out. And I think Jim Erickson has a  
15 couple of additional points.

16           MR. ERICKSON: I'll try to be brief as well. I  
17 appreciate the opportunity to stand up. Sitting down is  
18 always tiresome.

19           However, I wanted to point out and try to  
20 simplify what I think is some of the issues that were  
21 addressed in the engineering goodspeak that I don't  
22 really understand. Let me tell you what they are.

23           Watermaster has been and will be conducting  
24 studies of subsidence. They've been doing it for years  
25 and will continue to do it for years in the future. It

1 has little, if anything, to do with the interim plan  
2 that's being proposed. This is stuff that's been going  
3 on and has been planned for a long time.

4           The only -- in my view as a lawyer and a  
5 simplified engineer, the only thing of value in the  
6 interim plan is the production reduction. To the best of  
7 our knowledge, based on all the credible evidence that we  
8 have studied, there is one cause for the subsidence in  
9 the City of Chino, and that is production from the deep  
10 aquifer wells of the City of Chino Hills. If that is not  
11 the cause, it certainly is the one of the significant  
12 possibilities.

13           And as a result, the interim plan was intended  
14 to primarily mitigate or abate, if possible, subsidence  
15 during the studies that had been going on and will be  
16 going on. That abatement or that mitigation is  
17 attributable only to one thing, and that is the reduction  
18 of production. If it doesn't occur, there isn't going to  
19 be that mitigation or abatement.

20           The mitigation or abatement has another purpose  
21 that hasn't been discussed, at least in my understanding  
22 so far. That is, it gives you a database to determine  
23 whether or not that particular production is the cause of  
24 subsidence. If you don't reduce the production, you  
25 don't find out. And I think we're falling short. That's

1 my point.

2 THE REFEREE: Thanks.

3 MR. HENSLEY: Briefly I think I addressed a  
4 number of your issues we wanted to address. I do want to  
5 respond briefly to Chino's points.

6 First, while they say they support the plan, I  
7 note that at every meeting the board member makes a  
8 motion to make the voluntary program involuntary. And I  
9 understand that another special meeting is being called  
10 for that purpose in the near future. So I don't think  
11 they do support the plan.

12 Second, with respect to the cause of subsidence,  
13 which I thought we weren't going to get into --

14 THE REFEREE: No, we're not.

15 MR. HENSLEY: Chino has pumped 400 percent more  
16 water out of the deep aquifer than the City of Chino  
17 Hills in the last 20 years.

18 THE REFEREE: We're not going to go into  
19 evidentiary areas.

20 MR. HENSLEY: I know, but I had to sit and  
21 listen to what the cause was.

22 THE REFEREE: But if you have comments about the  
23 interim plan, that would be helpful.

24 MR. HENSLEY: The interim plan, there are three  
25 points. I think specifically Paragraph G in recitals and

1 paragraph 3-C are inconsistent with one another when it  
2 deals with cost. One seems to reserve the rights of the  
3 parties to -- and I've broached the subject with Scott in  
4 the past.

5 THE REFEREE: Recital G?

6 MR. HENSLEY: Recital G, when you compare it  
7 with paragraph 3-C.

8 THE REFEREE: All right.

9 MR. HENSLEY: The recital seems to reserve the  
10 right of the different members to challenge the cost  
11 allegations. And then 3-C seems to have an agreement on  
12 the cost allocation as it refers to taking the  
13 alternative water supply. I would like to see that  
14 clarified, that there is no right to challenge. If we  
15 were to buy into the program and forbear the water,  
16 someone can't then come in later and sue us and say no,  
17 we didn't agree with the cost of that. So I think that's  
18 an area that needs to be clarified.

19 THE REFEREE: Do you want --

20 MR. SLATER: Yeah. I'll clarify it on the  
21 record now. It is not -- they are not inconsistent.  
22 C is a recital, and it relates to -- actually which  
23 recital was it, Mark?

24 MR. WILDERMUTH: G.

25 MR. SLATER: That recital was added as a



1 telegraph that this plan and the commitments made in this  
2 plan are only what they are with regard to cost. And  
3 that anything new or different coming down the road is  
4 subject to being contested by any producer on the basis  
5 that it violates the judgment, it's unfair, or is  
6 otherwise inequitable. And that is designed to be a  
7 placeholder and a protective mechanism to allow fair  
8 bargaining on future cost allocations.

9           With regard to the substantive element, which  
10 is -- I believe it's 3-C, there's an expressed reference  
11 to an exhibit which provides for the cost allocation, and  
12 it is an express agreement on how that allocation is to  
13 occur. So there is no redoing that, but new deals are  
14 subject to new deals.

15           MR. HENSLEY: I'm glad to hear what your intent  
16 is and I agree with that intent. I just know the parties  
17 don't always agree at the end of the day on what the  
18 language says so that's a concern that I have.

19           THE REFEREE: Do you have a recommendation on  
20 how to clarify the language? Would it be --

21           MR. HENSLEY: I would say with the exception --  
22 I've given language to Scott in the past.

23           THE REFEREE: For the record, is there language  
24 that would go into Exhibit F, then?

25           MR. HENSLEY: No. I think it would go into the

1 recital to clarify that there could be no challenge to  
2 cost allocation set forth in paragraph 3-C in the  
3 attendant exhibits.

4 THE REFEREE: And that would satisfy --

5 MR. SLATER: Except for. In other words, except  
6 for as provided in 3-C in Exhibit F.

7 THE REFEREE: That would satisfy that?

8 MR. HENSLEY: Correct.

9 The next issue we've already addressed as far as  
10 the three-year election as far as it being annual, the  
11 reasons for that.

12 And then finally paragraph 6 is, to me,  
13 hopelessly ambiguous as far as there ought to be more  
14 teeth as far as what the Watermaster is going to try to  
15 attempt the other parties to do in the future with  
16 respect to the plan. We made the point about the  
17 parties, there ought to be commitments by the Watermaster  
18 to look at potentially widening the area of study, trying  
19 to study other ways of producing, either monitor the  
20 subsidence levels at their wells and/or reduce the  
21 production from those wells. It ought to be broader than  
22 it is.

23 THE REFEREE: Well, those sound like issues that  
24 you have taken in through the technical group to the  
25 process.

1           MR. HENSLEY: Well, potentially, but this is the  
2 plan. This is the agreement that we're moving forward  
3 with, and I would like to see it be more specific about  
4 what was going to be done.

5           THE REFEREE: So you're asking for more  
6 definition in this other voluntary measure paragraph?

7           MR. HENSLEY: Yes.

8           THE REFEREE: Do you have language there?

9           MR. HENSLEY: I have presented it to Scott in  
10 the past. I did not bring it with me today, and I'll be  
11 happy to send him more language.

12          THE REFEREE: Okay.

13          MR. HENSLEY: Finally, I want to say that we do  
14 support the technical aspect committee of the plan, the  
15 plan to participate. We hope that the parties are all  
16 going to participate in good faith. We will. We hope it  
17 ends up resolving the problems some day in the future,  
18 but we have been participating.

19          MR. SLATER: I have -- if I can -- I have  
20 nothing to offer with regard to the other measures. I  
21 think that the intention here is to -- the point to the  
22 technical group and Watermaster staff can continue to  
23 reply to the extent the measures come up, great.

24                 With regard to the monitoring program and the  
25 breadth of the program, I call the Referee's attention to

1 paragraph 2 which says that the monitoring program will  
2 be for all of Management Zone 1 and that we're putting in  
3 the extensometers and the piezometers, and that the  
4 initial wells identified within the study zone are  
5 carried out in B. But there's no limitation on the  
6 technical group and what they decide to do. The study  
7 can go where the technical group and Watermaster staff  
8 wants it to go.

9 MR. ERICKSON: May I respond. 30 seconds of  
10 comments.

11 THE REFEREE: Is it a response related to the  
12 interim plan?

13 MR. ERICKSON: It's a response related to the  
14 interim plan. The representation was made by the City of  
15 Chino's representative on the board of directors of  
16 Watermaster has opposed the interim plan and suggested  
17 that a substitution of a different one. The contrary is  
18 true. The representative on the board along with all  
19 other members of the board of directors of the  
20 Watermaster approved this plan. 80 percent or more,  
21 which is the mandatory vote of the advisory committee on  
22 which these parties also sit, approved the plan. Chino  
23 has endorsed the plan.

24 Chino has also opted to reduce its production,  
25 an option afforded to it under the plan as approved by

1 the board up until August the 1st. That date's gone by.  
2 We decided to participate. We elected to participate.  
3 Chino Hills did not. Chino Hills to the contrary said we  
4 will participate in the endorsement plan if, and if it's  
5 only for one year, if we get to choose which wells we  
6 reduce our production from, if we determine how much  
7 reduction we want, and if Chino dismisses its motion  
8 under paragraph 15 of the judgment, and if Pomona reduces  
9 its production as well. I don't think that's an  
10 unqualified and enthusiastic endorsement.

11 THE REFEREE: I think we've tried to ask some  
12 questions to figure out how we can narrow down the areas.

13 MR. ERICKSON: We spent 17 weeks on weekly  
14 meetings trying to do that very same thing without  
15 success.

16 THE REFEREE: Thank you.

17 MR. SCALMANINI: Do Pomona, Monte Vista, Chino,  
18 Chino Hills, and Chino Institute have what could be, as  
19 they are generally called, a water system master plan  
20 type document?

21 MR. HENSLEY: Chino Hills does.

22 MR. PEPPER: Pomona does.

23 MR. KINSEY: Monte Vista does.

24 MR. SCALMANINI: Like to get those.

25 MR. CROSLY: Chino has a draft.

1 MR. SLATER: Want me to collect those for you?

2 MR. SCALMANINI: Can you get those?

3 MR. SLATER: We'll collect what they have.

4 THE REFEREE: Well, I'd like to close this  
5 workshop now. I appreciate everyone coming here and  
6 sitting all day long. As I mentioned before, we have a  
7 very short time before we have to provide the report, and  
8 it will be served on everyone, my report and comments on  
9 the interim plan. That's the 18th, I think, of  
10 September.

11 And then again there's a more elaborate process  
12 now as we go to this next court hearing. I'm sorry  
13 Mr. Kidman is not here. As he pointed out, that where  
14 referees actually hold hearing-like events, which this  
15 workshop is, that there are rules now that apply so that  
16 everyone has ample time to read our report and comments  
17 on them and then respond, to comment on the comments. So  
18 I hope that everybody is mindful of that schedule that's  
19 in the last court order. So thank you very much. I  
20 appreciate. I've heard quite a bit. You've probably  
21 heard a lot of this many times but I have not. I  
22 appreciate it. Thanks.

23 (The proceedings concluded at 3:10 p.m.)

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REPORTER'S CERTIFICATE

I, Winifred S. Krall, a certified shorthand reporter licensed by the State of California, hereby certify:

That the foregoing oral proceedings, taken down by me in stenotype, were thereafter reduced to typewriting by computer-aided transcription under my direction;

That this typewritten transcript is a true record of the foregoing oral proceedings.

I further certify that I am not in any way interested in the outcome of this action and that I am not related to any of the parties thereto.

Witness my hand the 10th day of September, 2002.

WINIFRED S. KRALL, C.S.R. #5123

