

CONDENSED TRANSCRIPT OF
ROBERT BEEBY, P.E.

Date: May 15, 2006

Case: SANTA MARIA VALLEY WATER v. CITY OF SANTA MARIA

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SANTA CLARA

SANTA MARIA VALLEY WATER)	SANTA MARIA
CONSERVATION DISTRICT,	)	GROUNDWATER
	)	LITIGATION
	)	(Assigned to Judge
Plaintiffs,	)	Jack Komar For All
	)	Purposes)
v.)	
	)	LEAD CASE
CITY OF SANTA MARIA, et al.,	)	NO. CV 70214
	)	(CONSOLIDATED FOR
	)	ALL PURPOSES)
Defendants.)	
)	

DEPOSITION OF ROBERT G. BEEBY, P.E.

Monday, May 15, 2006

Santa Barbara, California

INVOICE NO.: 10602-06

REPORTED BY: KAREN LEE CLARK, RPR, CSR No. 11919

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

4	SANTA MARIA VALLEY WATER	)	SANTA MARIA
	CONSERVATION DISTRICT,	)	GROUNDWATER
5		)	LITIGATION
		)	(Assigned to Judge
6	Plaintiff,	)	Jack Komar For All
		)	Purposes)
7	v.)	
		)	LEAD CASE
8	CITY OF SANTA MARIA, et al.,	)	NO. CV 770214
		)	(CONSOLIDATED FOR
9		)	ALL PURPOSES)
	Defendants.)	
10	_____)	

Deposition of ROBERT G. BEEBY, P.E., taken at
10:06 a.m. and ending at 11:51 a.m., on Monday, May 15,
2006, at 525 Anacapa Street, Santa Barbara, California,
before Karen Lee Clark, RPR, Certified Shorthand
Reporter No. 11919 for the State of California.

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14 MR. GEORGE J. ADAM

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23 --ooOoo--
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I N D E X

WITNESS	EXAMINATION BY	PAGE
ROBERT G. BEEBY P.E.	MR. ZIMMER	5

E X H I B I T S

DEPOSITION	PAGE
A Photocopy of a document entitled Memorandum, to Jeff Dunn, Esq., from R. G. Beeby, dated May 15, 2006; 4 pages	6
B Photocopy of a document entitled Second Continued Notice of Taking Deposition of Expert Witness, Robert G. Beeby, and Request to Produce Documents, Santa Clara Superior Court Case No. CV 770214 (Consolidated); 8 pages	11
C Photocopy of documents generated by Mr. Beeby's work (Retained by the witness.)	13
D Photocopy of documents described as the calculations upon which Mr. Beeby based his opinions; 5 pages	21

1 ROBERT G. BEEBY, P.E.,
2 a witness herein, having been first duly sworn, was
3 examined and testified, as follows:
4

5 EXAMINATION

6 BY MR. ZIMMER:

7 Q. Please state your name for the record and spell
8 your last name, if you would.

9 A. Robert G. Beeby, B-e-e-b-y.

10 Q. Mr. Beeby, I have a copy of your resume. Could
11 you simply let us know whether this is a complete,
12 up-to-date copy?

13 A. Yes, it is.

14 Q. Okay. Thank you, sir.

15 A. I do have extra copies, if you need that.

16 Q. All right. Thank you. Mr. Beeby, I assume
17 you've had your deposition taken as an expert multiple
18 times in the past?

19 A. Yes.

20 Q. You know that everything that's said here is
21 written down by the court reporter. You'll have a
22 chance to change any testimony you would like to change,
23 if you think that's necessary. It's generally a better
24 idea not to do that. You know it's under oath, and it
25 could be used at trial, correct?

1 A. Yes.

2 Q. Mr. Beeby, have you been retained for purposes
3 of the phase five trial by the purveyor of parties to
4 render certain expert opinions in this case?

5 A. Yes.

6 Q. And what expert opinions, sir, do you intend to
7 offer at trial of this matter?

8 A. I've prepared a memorandum showing those, which
9 I am happy to hand out. You might want to mark it.

10 MR. ZIMMER: Okay. We can mark this as Exhibit
11 A to Mr. Beeby's deposition.

12 (Deposition Exhibit A was marked
13 for identification by the court
14 reporter.)

15 Q. BY MR. ZIMMER: Mr. Beeby, we have just marked
16 as Exhibit A a memorandum to Jeff Dunn from you, dated
17 May 15, 2006. Does this contain the opinions -- all of
18 the opinions that you intend to offer at the phase five
19 trial of this matter?

20 A. Yes.

21 Q. Let's go through those opinions.

22 Before I get to that, have -- have you reviewed
23 anything for the purposes of rendering these opinions
24 that you have listed in Exhibit A?

25 A. Yes.

1 Q. Can you tell us the materials you have reviewed
2 to form these opinions?

3 A. Certainly the stipulated judgment, the data
4 provided to C. H. Dunhill that was contained within the
5 court record, the data contained by Joe Scalmanini also
6 was part of the court record, and I reviewed my previous
7 testimony, and I also reviewed some urban
8 water-management plans prepared by the various
9 communities.

10 Q. Okay. Any other items that you have reviewed
11 or you relied upon for purposes of forming your opinions
12 you intend to offer --

13 A. Not that come to my mind right now.

14 Q. -- in phase five?

15 A. No, not that come to mind right now.

16 Q. And you reviewed the --

17 A. Excuse me. I did review the testimony of
18 Dennis Williams, Bob Wagner, I think Dwayne Chism too.
19 So I looked those -- at their depositions or their
20 testimony at trial.

21 Q. When you say "at trial," you are talking about
22 at the phase four trial?

23 A. Yes. Well, I think that's what it was, yes.

24 Q. Okay. Let's go through your opinions. Let's
25 start with number one.

1 Let me ask you first, were you asked to do
2 anything in particular for phase five?

3 A. Well, I was asked to review the stipulated
4 judgment, yes.

5 Q. Who did you interface with? Who was the person
6 asking you to do that?

7 A. Best, Best & Krieger.

8 Q. When did you first learn that you might be a
9 witness in phase five?

10 A. It was earlier this year. I think maybe
11 December, January. Something like that.

12 Q. Was that by virtue of contact by Best, Best &
13 Krieger with you?

14 A. Yes.

15 Q. And what were you asked to do at that time?

16 A. Again, review the stipulated judgment, render
17 opinions as to the -- as to whether it would work or not
18 from an engineering standpoint, whether the contesting
19 parties would be adversely affected if the stipulation
20 were entered into judgment, what the impact of any new
21 developments might be on the conditions within the Santa
22 Maria groundwater basin.

23 Q. Okay. You were asked to give an opinion
24 whether the stipulation would work from an engineering
25 standpoint. And the second -- the second thing you were

1 asked to do was determine whether it would adversely
2 impact the stipulating parties?

3 A. No, not whether the stipulation would, but
4 whether the contesting parties would be adversely
5 affected by implementation of the stipulation.

6 Q. Are you a lawyer, sir?

7 A. No.

8 Q. Do you have any legal training?

9 A. Other than what I've gained by being an expert
10 witness, no.

11 Q. In other words, you haven't gone to law school?

12 A. No.

13 Q. You don't hold a law degree?

14 A. No.

15 Q. Have you ever been paid to draft or review
16 contracts?

17 A. I don't think contracts, but memorandums of
18 understanding, principals for an agreement that relate
19 to groundwater banking, those types of things that
20 require some sort of technical input as to the terms and
21 conditions of such things, yes.

22 Q. But not as -- you haven't been paid to draft or
23 interpret contracts?

24 A. I don't -- I don't think so, in that context,
25 no.

1 Q. You are, by trade, a hydrogeologist?

2 A. I am a professional engineer.

3 Q. A professional engineer.

4 Are you a registered civil engineer?

5 A. Yes, also agriculture.

6 Q. And I think the third thing you said you were
7 asked to do was to determine something about new
8 developments?

9 A. The impact of new developments, yes, on water
10 demands.

11 Q. Were you provided any materials to assist you
12 in performing this task?

13 A. Yes.

14 Q. Were you provided with the materials that you
15 identified earlier?

16 A. Yes.

17 Q. And have you been asked to do anything else by
18 Best, Best & Krieger, or any other purveyor, in this
19 matter?

20 A. No, other than to be ready for testifying,
21 which is part of the same thing.

22 Q. Do you know how long -- how many hours you've
23 spent in preparing for phase five?

24 A. No.

25 Q. Do you have a copy of the billings and time

1 that you've spent on this matter?

2 A. Yes. We would have copies of that. I don't
3 have it with me.

4 Q. We would need that under the depo notice.

5 I will mark a copy of the deposition notice as
6 Exhibit B to the deposition.

7 (Deposition Exhibit B was marked
8 for identification by the court
9 reporter.)

10 MR. MARKMAN: For the record, if he bills at
11 the end of the month, I'm sure that there's unbilled
12 time floating around. I'm sure we -- we have no
13 problems producing the bills and giving you a copy as --
14 as they are -- as they are -- the statements are
15 provided to BBK. I am not sure that they have one yet
16 on this particular work. They certainly don't have it
17 all billed yet.

18 THE WITNESS: No, but we bill monthly, and so
19 we would have copies of the monthly statements. At the
20 break, I can have them produced for you.

21 Q. BY MR. ZIMMER: I am less concerned about the
22 total bill, whether it's completed or not, as I am about
23 what tasks you have undertaken and what you've done, and
24 how much time you've spent doing various things.

25 MR. MARKMAN: We will provide that at the

1 break, and then we will also provide you --

2 You bill at the end of this month?

3 THE WITNESS: We bill at the end of each
4 period. And SAIC'S billing system is based on 13
5 periods per year, like every four weeks, so I can't say
6 that it's precisely at the end of the month. But
7 generally, it coincides to the end of the month.

8 Q. BY MR. ZIMMER: Do you charge on an hourly
9 basis?

10 A. Yes.

11 Q. What do you charge BBK on an hourly basis?

12 A. \$210 an hour. But my services -- there's a fee
13 schedule attached to the contract.

14 Q. If I sat with a copy of the contract and what
15 activities you have done to date, I can pretty much
16 figure that out, whether you have generated a final bill
17 or not.

18 MR. MARKMAN: Then, we'll provide that at the
19 break, I guess.

20 Do you have the contract here too?

21 THE WITNESS: The -- yes.

22 MR. MARKMAN: Okay.

23 BY MR. ZIMMER: Okay. So we marked as Exhibit
24 B a copy of the deposition notice. As Exhibit C, let's
25 mark a copy of any material that you have generated in

1 this matter. I guess we've got the opinions marked as
2 Exhibit A.

3 (Deposition Exhibit C was marked
4 for identification by the court
5 reporter.)

6 Q. BY MR. ZIMMER: In terms of your file, is there
7 anything else in your file other than what we've marked
8 as Exhibit A?

9 A. Yes.

10 Q. In other words, do you have any handwritten
11 notes and an analysis or --

12 A. I brought my notebooks with me. I also brought
13 the back-up calculations that support the opinions
14 there.

15 Q. Okay. Let's see what the notebooks consist of,
16 and then we can figure out what portions of those, if
17 any, we want to copy.

18 Go ahead. I'm sorry. You were going to start
19 describing what they are. That's fine.

20 We can stay on the record.

21 A. We can start with this big, black notebook
22 that's about a 3-1/2-inch size notebook. It contains
23 most of the data I was provided to review, including
24 testimony and reports and those kinds of things.

25 Q. Sir, do you make notations or highlight, or

1 anything like that, on the -- on that material that you
2 have reviewed?

3 A. Sometimes, yes.

4 Q. So there would be some highlighting and
5 underlining in there?

6 A. Yes. There might be. I don't know for sure if
7 there are in this batch or not. But that is my style.

8 Q. Is that the material, sir, that you identified
9 earlier in terms of materials you had been provided by
10 Mr. Dunn?

11 A. Yes. That's part of it.

12 Q. That's part of it?

13 A. Okay. Sure.

14 Q. Let me take that binder for you.

15 You guys can look at this and see what you want
16 to copy.

17 What would we have next, sir?

18 A. The next thing would be the project notebook.
19 It's a white notebook, 1-inch, entitled Santa Maria
20 groundwater litigation, phase five.

21 Q. In terms of organization, Mr. Beeby, is that --
22 is this the support data in the black notebook?

23 A. Yes.

24 Q. And then, the white notebook, you called that

25 a --

1 A. A project notebook.

2 Q. A project notebook. What does that mean to
3 you?

4 A. It contains the contract. It would have
5 contained the monthly reports, had I printed them out
6 and put them in here. And that's about it, just
7 basically the contracts. Basically, an
8 administrative-type notebook.

9 Q. And when you say "monthly progress reports,"
10 would that have what you were doing during a particular
11 month and what conclusions you had found or made during
12 that particular time?

13 A. Typically, it wouldn't contain conclusions.
14 Typically, we would say that our invoices are who worked
15 on the job, what their hourly rate is, what the total
16 cost is, and then any direct costs, such as copying,
17 transportation, that kind of thing, would be all
18 summarized in an invoice. And then my style is to take
19 the invoice and send it to the client with -- along with
20 a transmittal letter explaining what was done.
21 Typically, conclusions are not in there. It would just
22 say I reviewed the CH-2 report or data from Scalmanini.
23 Those are the typical things I would include in the
24 monthly report.

25 Q. That would be generally all it would say? It

1 wouldn't have your comments or feelings or opinions?

2 A. No.

3 Q. So this -- this project notebook is simply a
4 billing notebook? Is that --

5 A. Well, that's typically what it is. I think the
6 thing that is germane to this are contracts in here
7 which you -- so you might want to take a look at that.

8 Q. Okay. That's the white notebook, the project
9 notebook.

10 Okay. What else?

11 A. Let's go to this other notebook called -- it's
12 a black, 1-inch notebook with a cover sheet entitled
13 stipulation and legal documents, Santa Maria groundwater
14 litigation, phase V, Roman numeral five.

15 Q. That is a smaller black notebook. What, sir,
16 is this intended to contain?

17 A. It -- well, it does contain the stipulation.
18 It contains the notice of deposition, some handwritten
19 notes that I made, and the stipulation, and all the
20 exhibits.

21 Q. When you're talking about the stipulation,
22 you're talking about the stipulation between the
23 settling landowner parties?

24 A. Yes.

25 Q. Would those be the exhibits to the stipulation?

1 A. To the extent that I had them, yes.

2 Q. Other than the one stipulation between the
3 parties, were you provided with any side agreements
4 between any of the parties?

5 A. No.

6 Q. So you just have the one stipulation that
7 consists of 30- -- 35 pages?

8 A. Yes. I think it's dated June 30th at the
9 front.

10 Q. In the very first -- oh, June 30th. Right.

11 A. I think, yes.

12 Q. It says, paren, June 30, 2005, end paren.

13 I notice in this document there are some
14 underlines in pencil. Would those have been made by
15 you, sir?

16 A. Yes.

17 Q. Since we are on this document, there is some
18 handwriting in some of the margins. For example, on
19 page two there is some handwriting on the side margin,
20 here. Can you read what that says?

21 A. Yes. It says -- at line 16 it says "other SWP
22 supplies, check."

23 Q. What does that mean?

24 A. Well, it was a note that I made when I reviewed
25 it.

1 MR. MARKMAN: Maybe we should -- we haven't
2 identified this. It's not marked for the record. No
3 one has copies of it. So if you want to get into the
4 substantive questions on this, is it better to do it
5 after we've done all that --

6 MR. ZIMMER: It doesn't matter, Jim.

7 MR. MARKMAN: -- because there is going to
8 be -- you will thumb it through, and there are going to
9 be several.

10 MR. ZIMMER: A bunch of them?

11 MR. MARKMAN: Yeah.

12 MR. ZIMMER: Well, we can do that. It would be
13 easier. In any event, we have the stipulation in there
14 and the exhibits to the stipulation.

15 Q. The next document, or next notebook, sir, that
16 you have? And on the top, sir, you have some notes on a
17 yellow page. Are those notes you made regarding the
18 stipulation?

19 A. Let me see what that is, please.

20 Those are some notes I made based on a
21 conversation with Joe Kimmelshue. He was -- was one of
22 the experts for -- well, he works for CH-2, so he was a
23 Santa Maria expert.

24 Q. All righty. The next notebook?

25 A. The next notebook is an easy one. It contains

1 depositions, or, I guess trial testimony is what is more
2 correct. And it's entitled Wagner, Chism testimony, but
3 it does contain more than just those two. It's a white
4 notebook without a title page.

5 Q. Okay. It's a white notebook without the title
6 page and simply has deposition -- strike that -- copies
7 of trial testimony that you were given, apparently, by
8 Mr. Dunn's office, Best, Best & Krieger.

9 A. Right. And I don't remember whether I was
10 given that or I printed it off the Internet, off the
11 court website. I don't remember.

12 Q. In any event, you got a copy of it?

13 A. Yes.

14 Q. You have some tabs that are on that. Did you
15 place those tabs on there, the pink and orange tabs?

16 A. Yes, I did.

17 Q. One more notebook?

18 A. Yes. This is another white notebook entitled
19 phase five, Santa Maria groundwater litigation, Best,
20 Best & Krieger. It's also called a project notebook.
21 But in this case, these are the calculations and back-up
22 calculations to the conclusions -- or to my opinions.
23 Excuse me.

24 Q. Okay. There are some graphs in here, and data,
25 a map and things in here. Okay. So this -- this is

1 probably the most important document in terms of your
2 data, coupled with the opinions?

3 A. Correct.

4 Q. And everything else is kind of support data
5 that you've looked at in addition?

6 A. Well, except for the administrative notebook,
7 which is not really support data. But yes, in general
8 you are correct.

9 Q. The administrative notebook which was --

10 A. The project notebook where I had the contract
11 and that kind of thing.

12 Q. Okay. Do you have copies of these?

13 Mr. Markman, I know, brought up a good point. It would
14 be nice to have other copies so that counsel can look at
15 it while we're discussing about it.

16 A. I don't have copies of all of that notebook,
17 but I do have copies of some spreadsheets from that
18 notebook that I have --

19 MR. MARKMAN: The last notebook?

20 THE WITNESS: The last notebook. Excuse me.

21 Yes.

22 MR. MARKMAN: Let's go off the record.

23 MR. ZIMMER: That's fine.

24 (Discussion off the record.)

25 (Recess.)

1 MR. ZIMMER: We had a little chat off the
2 record. Mr. Beeby identified a packet of documents that
3 he had made copies of, or multiple copies of, for
4 everyone.

5 Q. And it's my understanding, sir, that this --
6 these documents came out of the last binder that we
7 talked about, which is the back-up computations and maps
8 and such for the opinions that appear on Exhibit A?

9 A. Yes, that's correct.

10 Q. And what you've copied here was the most
11 important documents out of that folder?

12 A. Right. They were the documents that led to my
13 conclusions.

14 Q. So the documents on --- what we will mark as
15 Exhibit D -- as Exhibit D -- a copy for the court
16 reporter -- what we are marking as Exhibit D are the
17 calculations upon which you have made your opinions
18 which are expressed in Exhibit A?

19 A. Yes.

20 (Deposition Exhibit D was marked
21 for identification by the court
22 reporter.)

23 Q. BY MR. ZIMMER: Let's turn, Mr. Beeby, to the
24 opinions in Exhibit A, taking them in order.

25 The first opinion says "The stipulated judgment

1 adequately provides for the management of the water
2 resources, both surface and groundwater of Santa Maria
3 Basin." Can you tell me what that means?

4 A. What it means, from the engineering standpoint,
5 from the management standpoint, is that technical
6 committees of professionals will be made and will be
7 formed for each of the three management areas. And
8 those technical committees will be charged with the
9 responsibility of monitoring both surface and
10 groundwater resources with land use, and will be
11 preparing an annual report reporting on the condition of
12 each of the three subareas.

13 And these reports will then guide whether or
14 not measures need to be taken to either sustain the
15 resource, whether -- whether additional recharge should
16 be required, whether there are water-quality issues that
17 may or may not be developing, and, essentially, give a
18 sense -- a report of the health of each of the
19 management areas to the court.

20 So if adverse circumstances do appear to be
21 occurring, we will have advance -- we, the technical
22 committee -- I'm assuming that I might be part of
23 that -- would be given advance notice and could make
24 changes to the way water demands are used -- or water is
25 used, I should say, maybe changing pumping patterns,

1 doing those kinds of things that would affect the
2 physical health of the basin.

3 Q. And this is based upon current information that
4 you have available to you?

5 A. Well, it's based on current information and my
6 understanding of what the responsibility of the
7 technical committees for each subarea, or each
8 management area, will be assigned to do, yes.

9 Q. Okay. Number two, why don't you just read that
10 for us and tell us what that means?

11 A. "In general, the availability of local surface
12 water, local groundwater and imported water, along with
13 the existing infrastructure, is sufficient to meet the
14 water demands of the Basin through 2030. This opinion
15 is based on implementation of technically-sound
16 management principles and maintenance as set forth in
17 the stipulation."

18 Q. The basin currently is meeting demands,
19 correct?

20 A. It's my understanding, according to
21 Mr. Scalmanini's testimony, and my review of the whole
22 thing that, yes, there is no long-term overdraft, which
23 is another way of saying that the basin's current
24 demands are being met.

25 Q. Can you read item number three for us and tell

1 us what that means.

2 A. Okay. Item three, "Local areas may require
3 special attention from the technical experts on the
4 three management committees because of differing
5 hydrogeologic characteristics among the three management
6 areas."

7 Q. And what does that mean, sir?

8 A. Well, it means that each of the three
9 management areas were defined because there are
10 differing hydrogeologic characteristics. And because
11 they're different, they can't be managed, necessarily,
12 using a standard cookbook that would apply to all.

13 Q. And why is that? In other words, you couldn't
14 just treat it all as one big, large basin --

15 A. Not in my opinion, no.

16 Q. -- to manage it?

17 A. No, you could not.

18 Q. And why is that?

19 A. Maybe I should back up to say that you could --
20 you could manage the principals. I mean the principals
21 could be set to manage the whole basin. But the
22 individual subareas are unique, and, therefore, you
23 wouldn't apply the same techniques to each.

24 For example, in Nipomo Mesa area, its source of
25 water is principally rainfall, and it gets no -- no

1 recharge from Twitchell. It has no imported water
2 supply right now, although they have an agreement to
3 have one. So consequently, that is totally different
4 than the Santa Maria basin where there may be some
5 slight differences in rainfall. But Twitchell certainly
6 has an impact on the water supplies of Santa Maria basin
7 that is covered in the stipulate -- in the stipulation.
8 The northern cities are fairly independent in that they
9 are served primarily by Lopez. So each of the three are
10 unique. And that's basically what I am trying to convey
11 by my item three, here.

12 Q. So the -- the source of water in the various
13 areas is different? The hydrogeologic structures in
14 those areas are different? Essentially, what makes
15 water rise and fall in the groundwater basins in those
16 areas is different?

17 A. With regard to the source of supply, yes. I
18 would hesitate to say that the demands are essentially
19 different. In other words, there is urban and ag uses
20 in both or all three subareas, or all three management
21 areas. And both urban and ag require a certain amount
22 of water. While climatic differences may be fairly
23 close, they aren't exactly the same. But essentially,
24 you still have to pump for urban demand and for ag
25 demand in all three basins.

1 Q. So the sources of water are different?

2 A. Right.

3 Q. Are the demands different in terms of urban
4 versus ag in the different areas?

5 A. They probably are, but it's minor. In that
6 sense, we pretty much used overall figures, weighted
7 average numbers for the agricultural demand and the
8 urban demand in the three areas.

9 Q. Across the board?

10 A. Across the board, yes.

11 Q. And what about the hydrogeologic structures in
12 those areas? Is there any difference that is
13 significant between the areas in that respect?

14 A. Well, yes. The principal sources of recharge
15 in the Santa Maria basin are infiltration from the river
16 channels, the Sisquoc, the Santa Maria, and the Cuyama,
17 where they come together. There is an aquitard near the
18 coast in the Santa Maria basin. Treatment of waste
19 water is pretty much the same in that it is treated and
20 used for recharging for all basins. The Nipomo Mesa
21 area, the bulk of it, not counting the sand dune area,
22 is substantially higher in elevation than either the
23 northern cities area or the Santa Maria Valley area. I
24 think all are subject to sea-water intrusion if the
25 basins are not -- or the management areas are not

1 managed to preclude that. That's all I can think of at
2 the moment.

3 Q. Okay. Let's move on to number four.

4 A. Number four says "It is highly unlikely that
5 the availability of groundwater resources to the
6 contesting parties will be significantly impacted by
7 anticipated growth in the Nipomo or Santa Maria
8 Management Areas."

9 Q. You used that term "contesting parties." What
10 does that mean?

11 A. What it means to me is the parties that did not
12 sign the stipulation.

13 Q. So they're -- you understand they are not
14 actually contesting the stipulation? They don't have
15 any problem with people entering into the stipulation if
16 they want to?

17 A. Again, it's just my understanding that they are
18 the parties who did not sign the stipulation.

19 Q. So really, what the -- when the word
20 "contesting" is used in these opinions, it means the
21 nonstipulating parties?

22 A. Yes. It would be an engineering definition of
23 a legal term, I suppose.

24 Q. You are saying here it's unlikely that the
25 availability of groundwater resources to the stipulating

1 parties would be significantly impacted by the
2 anticipated growth in Nipomo or Santa Maria?

3 A. That's correct.

4 Q. Explain to me what the basis of that one is.

5 A. Basically, there's limited
6 potentially-developable land in either of those two
7 management areas. That means native vegetation that
8 might convert either to agriculture or to rural use. So
9 there's not very many acres, number one, that could be
10 developed into, quote, new land that would create new
11 water demand. Secondly, as urban growth continues, it
12 will largely take place on existing agricultural land
13 where the demands are already being experienced in the
14 basin. And according to the stipulation, any additional
15 urban growth will be provided for by the urban purveyors
16 through either the imported supply or the use of their
17 allocation to the Twitchell supplies. So when you
18 convert from ag to urban, you move the supplier from the
19 groundwater to the -- the responsibility for supplying
20 water, you move it to the urban purveyors, leaving the
21 water that the ag guys did pump for the remaining ag
22 pumpers.

23 Q. Are you saying here, in shorthand version, that
24 the -- the stipulation is not going to take water from
25 the nonstipulating parties?

1 A. Well, I think so. Yes.

2 Q. Okay. What's number five? Can you read that
3 and tell us what that means?

4 A. Sure. Five, "There are presently 2,500,000 (as
5 of 2002) from Alroth, acre-feet in groundwater storage
6 above mean sea level in the Santa Maria basin. This
7 would meet projected water demands at 2030 levels for 15
8 years without replenishment. There has never been zero
9 recharge or rainfall for any annual period for the
10 entire period of record."

11 Q. And that's based on a projected water demand
12 for the year 2030?

13 A. The projection of 15 years of supply in the
14 underground storage is based on 2030 levels of demand,
15 yes.

16 Q. So you are saying there is enough water in the
17 Santa Maria basin to meet all water demands, even
18 projected out at 2030 levels, year 2030 levels, for
19 15 years without any replenishment at all?

20 A. That's what the numbers show, but I wouldn't
21 recommend they do it that way. But yes, there is enough
22 in the underground storage that you could ride through a
23 drought with limited recharge. And if there was no --
24 no recharge, which is just the assumption we used for
25 this, it would last 15 years before you dropped the

1 water level below mean sea level and then started to
2 have problems, serious problems, with sea-water
3 intrusion.

4 Q. So in other words, you could go through a
5 15-year drought, and assuming things picked back up
6 after that, you wouldn't have a problem?

7 A. I wouldn't say you wouldn't have a problem.
8 Clearly, you would have increased pump cost, and there
9 may be quality changes in the groundwater. I'm just
10 saying that in terms of wet water, you could meet the
11 demands for that period of time, yes.

12 Q. And there have been time periods in the past in
13 the Santa Maria basin where there has been more water,
14 less water, drought?

15 A. Correct.

16 Q. How many periods of drought have there been
17 historically in the Santa Maria basin?

18 A. I don't recall.

19 Q. Do you recall any drought period for ten years?

20 A. Well, there was a drought period from -- again,
21 I -- don't hold me to the years, but there was about a
22 five-year drought period from '86 to '90, something like
23 that. There was a dry period in the '70s. There may
24 have been three or four in the period that we looked at
25 for the Nipomo Mesa area.

1 But the main thing is that the water levels do
2 go up and down based on recharge, and it does, as you
3 say, go up and down. And you don't deal with averages
4 in this business. It's nice to say that you have an
5 average of 10,000 acre-feet, but you still have to
6 provide for the year when your demands are higher and
7 your supply is lower.

8 Q. All right. And that's normal?

9 A. That's perfectly normal, yes. And that's what
10 the management committees will be considering when they
11 determine whether there should be any change in the way
12 the water resources are managed.

13 Q. When I say "normal," it's normal for the area
14 to go through periods of heavy rainfall, less rainfall,
15 drought. That's normal?

16 A. Yes, that's normal.

17 Q. Number six.

18 A. It's a parallel statement for Nipomo Mesa.
19 Number six reads, "There are presently 84,000 acre-feet
20 (year 2000) in groundwater storage above mean sea level
21 in the Nipomo Mesa management area. This would meet
22 projected water demands at 2030 levels for five years
23 without replenishment. There has never been zero
24 recharge or rainfall in any annual period for the entire
25 period of record."

1 Q. With the same comments that -- in the
2 discussion we just had with regard to item number five,
3 the Santa Maria basin, in terms of, you know, the
4 analysis of this, would it be the same for this section?

5 A. Yes. Yes.

6 Q. Okay. Let's take item number seven.

7 A. Item number seven says "When agricultural lands
8 within the spheres of influence of the municipal users
9 are converted to urban use, the municipal users are
10 responsible for importing sufficient water to meet the
11 new urban demand. The historical pumpage that occurred
12 on agricultural lands converted to urban uses remains
13 available for landowners who continue to use the
14 groundwater for agriculture."

15 Q. That doesn't sound like an engineering opinion.
16 It sounds like your interpretation of the stipulation.
17 Would that be correct?

18 A. It's my interpretation of the stipulation in
19 the sense that the urban -- or municipal providers would
20 be required to import water to meet demands if there was
21 inadequate local supplies.

22 Q. Right. You have read the stipulation, and you
23 are giving your opinion on what that stipulation means
24 in that regard?

25 A. In that sense, yes.

1 Q. Okay. How about item number eight?

2 A. Eight, "Unit water deliveries for urban uses in
3 the Santa Maria Basin for agriculture are about 65
4 percent of deliveries for agriculture." And then
5 there's a little formula that says 1.47 feet, paren, UR,
6 which stands for urban, divided by 2.24 feet, paren, ag,
7 which would be ag unit use. You divide those two, and
8 you get .65, which is the 65 percent. So basically,
9 what this says is pumpage for agriculture is higher than
10 pumpage for municipal use.

11 Q. And this would be about 65 percent of current
12 agricultural use?

13 A. Correct, using deliveries, yes.

14 MR. MARKMAN: Is there a typo in that sentence
15 after the word "basin" where it says "for agriculture"?
16 Is that just something that got in there that doesn't
17 belong in that sentence, because it doesn't make sense
18 to me?

19 MR. ZIMMER: Where?

20 MR. MARKMAN: Right on the first line of
21 paragraph eight.

22 THE WITNESS: Yeah. "For agriculture" should
23 be struck. Sorry.

24 Q. BY MR. ZIMMER: Unit water deliveries for urban
25 uses in the Santa Maria basin --

1 A. Basin, and then strike "for agriculture."

2 Q. Oh.

3 THE WITNESS: Thank you, Jim.

4 MR. MARKMAN: I try to be a little helpful.

5 Q. BY MR. ZIMMER: And when you say "deliveries,"
6 deliveries by who?

7 A. In the case of the urban municipal users, it
8 would be deliveries by the Santa Maria -- City of Santa
9 Maria. In the case of the ag people, it would be their
10 well pumpage that they pump and deliver to their fields
11 for agriculture.

12 Q. And what data are you taking and using for
13 purposes of the pumping, their ag pumping?

14 A. These were general data. I think it was more
15 of a compilation between what was presented by CH-2 and
16 Mr. Scalmanini in his report on the Santa Maria basin.
17 Both had pumpage figures. Both had unit areas for both
18 urban and ag.

19 Q. So you are simply repeating here what either
20 Scalmanini said or what somebody from another
21 organization said?

22 A. No, I wouldn't say I am repeating it. What I
23 am doing is taking their data and making the division in
24 order to compute a unit water demand. I don't know for
25 certain that they've said this, and, therefore, I'm not

1 just quoting what they said. I did the arithmetic.

2 Q. Is there a place where you did the arithmetic
3 on Exhibit D?

4 A. I'm not sure if there is or not. We can look
5 at that when we go through there. I know the sources of
6 the data are in the big, 4-inch, black notebook, which
7 contains both the Scalmanini and CH-2 data that we had.

8 Q. That's the data for the well pumping in the
9 big, black notebook?

10 A. They had total pumpage. They had land use.
11 There is quite a number of things they had in there that
12 we looked at.

13 Q. I'm trying to figure out where the numbers came
14 from, precisely, for the urban pumping.

15 A. Yeah. And again, we'll get into that when we
16 go through the -- through the --

17 Q. The chart?

18 A. -- the chart marked as Exhibit D. But as I
19 recall, both the acreage and the pumpage figures are
20 contained within that notebook.

21 Q. Okay. All right. Let's move on to number
22 nine.

23 A. Number nine, "The return flow of imported water
24 supplies delivered to urban developments would augment
25 the groundwater supplies if not repumped by the urban

1 users within one year."

2 Q. First, let me ask you what you mean by "return
3 flow"?

4 A. The way I use the term "return flow" is it's
5 the amount of water not consumptively used that returns
6 back to the groundwater. In other words, it's
7 deliveries minus consumptive use equals return flow.

8 Q. Isn't there a difference in terms of how it's
9 redelivered, so to speak, to the -- to the groundwater
10 in terms of how much actually goes back into the -- into
11 the basin, for example?

12 A. I'm not sure I understand the question.

13 Q. You said you have deliveries. That's delivered
14 water.

15 A. Correct.

16 Q. Let's say you have current state water project
17 water. You deliver it. That's either delivered to
18 homes directly or it's put into spreading ponds and put
19 into the basin?

20 A. Yes.

21 Q. So in terms of what comes in, you are going to
22 have various factors that affect how much you actually
23 get back. You've got evapotranspiration. I mean
24 it's --

25 A. I see. If you are asking me if there's a

1 uniform return flow number for different types of use,
2 no, that is not the case.

3 Q. So this -- this statement, here, item number
4 nine, this is a very generalized statement of --

5 A. No. It's focussed on return flows from urban
6 development. So if -- if -- if water is delivered for
7 urban use, it has a particular component of it that goes
8 to the return flow. That was testified to by
9 Mr. Wagner.

10 Q. And what do you mean "a particular component of
11 it"?

12 A. Well, like I said before, you deliver 100
13 acre-feet, and you use 45 or 35, and 65 goes to the
14 underground.

15 Q. Okay. So this is that varying figure. I think
16 his testimony was that it varied. That 65 percent was
17 the amount that they got back?

18 A. Correct. That actually went to recharge,
19 correct.

20 Q. That they got back, and then they put it out
21 into the spreading ponds?

22 MR. MARKMAN: Objection. That is not a correct
23 recitation what of Wagner testified to. His testimony
24 was that 62 to 68 percent actually got back into the
25 groundwater basin. He excluded evapotranspiration from

1 the ponds, but he also excluded exterior use in his
2 calculation; that is, people putting water on lawns that
3 got back in the basin. So his net conclusion was
4 65 percent return flow was a good number.

5 MR. ZIMMER: I think that does misstate his
6 testimony.

7 MR. MARKMAN: No, it doesn't.

8 MR. ZIMMER: Well, we can disagree. But I
9 think he testified 65 percent comes back to the
10 treatment plant and is available for spreading ponds.
11 He didn't discuss evapotranspiration. He didn't discuss
12 any net figures. His was all gross. And you can look
13 through his testimony, but -- I mean we can argue about
14 that later. It is what it is.

15 Q. You haven't done calculations on that yourself?

16 A. No, sir.

17 Q. This is a generalized statement that return
18 flows -- that there is some amount that comes back from
19 what you import?

20 A. Yes. But, perhaps, I should clarify that
21 answer. For my work in phase five, I did no
22 calculations of return flow from urban.

23 Q. I understand.

24 A. Okay.

25 Q. All right. That's good because then you and I

1 don't have to argue about it.

2 Let's go to item number 10.

3 A. Ten, "Historically, new development, both
4 agricultural and urban, has typically occurred on lands
5 not previously developed (native vegetation). This
6 trend will likely continue until urban growth,
7 specifically in the spheres of influence of the existing
8 municipalities, is forced to take place on lands now
9 devoted to agriculture."

10 Q. So what you are saying there is that
11 historically, when they have developed a new area, they
12 haven't done it on agricultural lands or existing urban
13 development; they have looked for this native ground and
14 developed that?

15 A. Well, this does get a little confusing, and,
16 hopefully, it will get clarified as we go through some
17 of these exhibits later. But many times what happens is
18 the native vegetation, or the native undeveloped land,
19 will be converted to agriculture. If it's close to or
20 within a sphere of influence of the city, then the ag
21 land then will convert to urban. So it goes kind of
22 from ag to urban -- or from native to ag to urban. And
23 sometimes it goes directly to urban. But mostly, I
24 think it goes from ag to urban -- native to ag to urban.

25 Q. Well, what is the significance of that item,

1 number ten?

2 A. It has to do with -- with whether or not there
3 would be an increased water demand on the resources of
4 the basin as a result of new development. So if new
5 development occurs on land outside of the sphere of
6 influence, and it goes to agriculture, then, likely,
7 there would be an increased demand on the water supplies
8 of the basin.

9 Q. In other words, it seems fairly obvious, if you
10 develop new land, and you're not taking over something
11 that was ag already, then you are going to have
12 increased demand?

13 A. That's correct. In the case of when that --
14 when that takes place in the spheres of influence of the
15 cities -- in other words, there is ag land within the
16 sphere of influence of the city, so when that ag land
17 converts to urban within the sphere of influence, the
18 city assumes the responsibility for providing the water
19 supply. So the demand on the groundwater, then, is
20 greater -- or is less -- excuse me -- because that land
21 that did rely on the groundwater is now getting its
22 water supply from the city because of an urban
23 development.

24 Q. When you say "within the sphere of influence,"
25 what do you mean by "sphere of influence"?

1 A. I mean the area that might be potentially
2 developed for urban use within the city. I think
3 they're -- I forget the name of the exhibits, but they
4 are part of the stipulation showing the various areas of
5 the various communities.

6 Q. Okay. Let's go on to item number 11.

7 A. Number 11, "The approximate area of native
8 vegetation within the Nipomo Mesa Management Area and
9 the Santa Maria Management Area, subdivided into areas
10 suitable for development and areas that will likely
11 remain in native vegetation are shown in the table
12 attached hereto as Appendix A."

13 Q. That is included in the Exhibit D?

14 A. No. It's the next page of the opinions, page
15 three of four of the opinions. Attached hereto is what
16 I was trying to imply there.

17 Q. That's the appendix?

18 MR. MARKMAN: Appendix A.

19 MR. ZIMMER: Appendix A. Right.

20 Q. So what you've done is somehow determined that
21 some of the areas in the Santa Maria area and Nipomo
22 area are suitable for development and some are not?

23 A. Correct.

24 Q. How did you make that determination?

25 A. By reviewing aerial photography, field

1 investigation, but mainly aerial photography, computing
2 the areas that were indicated to be in native
3 vegetation, and then taking a look at whether or not
4 that could be developed. An example might be in the
5 Nipomo management area there is a considerable area of
6 sand dunes to the west of the main mesa area, so that
7 would be included as -- which is now included in the
8 Nipomo Mesa management area, but would not be
9 developable.

10 Q. Now, did you make those determinations as to
11 what you thought was developable, or did you take that
12 from some other source?

13 A. I made those determinations.

14 Q. Based on aerial photographs?

15 A. And field inspections.

16 Q. All right. Now, this isn't -- Appendix A is
17 not actually a map. Do you have any kind of map that
18 would show the areas that you have determined are not
19 developable?

20 A. We have -- excuse me. The calculations that
21 support Appendix A are contained in the white notebook
22 with the back-up calculations, and there are sketches.
23 I wouldn't necessarily call them maps. But there are
24 sketches and showing our analysis, showing the areas,
25 and how we computed these areas.

1 Q. And which notebook would that be in, Mr. Beeby?

2 A. It's the notebook entitled project notebook,
3 but not to be confused with the administrative project
4 notebook. This is entitled phase five, colon, Santa
5 Maria groundwater litigation, Best, Best & Krieger, May
6 2006. It's a 1-1/2-inch notebook.

7 Q. And show me the sketches that you're referring
8 to.

9 A. Within the notebook there are blue divider
10 pages, and following the divider pages -- I am looking
11 at the one entitled Orcutt -- there is a schematic map
12 of the Orcutt area.

13 Q. And you have some yellow and pink highlighting
14 on that --

15 A. Correct.

16 Q. -- map. Is the yellow -- it says --

17 A. The -- as shown at the top of the map, the
18 yellow area indicates the portion that is developable,
19 and the pink indicates the area that is undevelopable.

20 Q. Okay. And you have one of those for each
21 different section that you looked at?

22 A. Each of the basic communities, yes.

23 Q. Okay. And then on Appendix A -- Appendix A
24 sets this out in a table format with potentially
25 developable and undevelopable in the Nipomo area, and

1 separately for the Santa Maria, Guadalupe, Orcutt, and
2 Santa Maria areas?

3 A. That's correct.

4 Q. Okay. And your purpose in doing that was to
5 somehow forecast what you think water demands may be in
6 the future. Does that bear on, for example, an opinion
7 you have in items number five and six where you are
8 talking about available water supply?

9 A. Yes. It does have to do with -- particularly
10 on Appendix A, the line we would look at would be other,
11 which is other potentially developable land outside the
12 spheres of influence of Guadalupe, Orcutt, or Santa
13 Maria. That constitutes, in my opinion, a special -- I
14 mean an additional new use of water. The others would
15 be mostly conversions from ag use to urban use.

16 Q. I guess what I am saying, for purposes of
17 generating the opinions that you have listed as five and
18 six, you have taken the developable land issue into
19 consideration?

20 A. I wouldn't quite characterize it that way
21 because five and six have to do with the amount of
22 available water in storage presently. That's kind of
23 like setting up the worst-case scenario. How long could
24 you last if the respective management committees sit
25 around on their hands and don't do anything? That's not

1 a realistic assumption. I would say that --

2 Q. In other words, if they did nothing and had a
3 complete drought, and absolutely no rainfall, that's how
4 long it would last?

5 A. Yes. Yes. And it doesn't really directly
6 relate back to Appendix A. Basically, what I am trying
7 to do there is show that -- I think it's more in line
8 with item two, where I am saying the availability of
9 local surface and local groundwater, and so forth.

10 Q. Okay. All righty. That -- that leaves us with
11 item number 12.

12 A. Item 12, "The general effects of land use
13 conversions on pumpers who continue to rely on the
14 groundwater to meet agricultural demands are illustrated
15 in the matrix attached hereto as Appendix B." So if we
16 look at Appendix B, which is page four of four of this
17 memorandum --

18 Q. Let me -- before you get to that, "land use
19 conversions" means development?

20 A. Yes, from one land use to another.

21 Q. And it says "on pumpers who continue to rely on
22 the groundwater"?

23 A. Yes.

24 Q. Are -- are those pumpers any pumpers or are
25 they pumpers -- nonstipulating pumpers? Are they

1 stipulating pumpers? Or is there any distinction there?

2 A. I did not make a distinction. It's just anyone
3 who continues to pump groundwater.

4 Q. Okay. And Exhibit B --

5 A. Appendix B.

6 Q. -- sets forth what those general effects are?

7 A. Correct.

8 Q. So let's take that first box there. It says
9 "agriculture" on the left. So this is a conversion of
10 agriculture to urban to native? I thought we would go
11 native, agriculture, urban. Or maybe I am reading this
12 wrong, going the wrong direction?

13 A. It's not necessarily sequential. Maybe I
14 should explain the matrix and that would help us.

15 Q. Go ahead. Please do.

16 A. The left-hand column is land use, converting
17 from, and then there are three rows from agriculture,
18 from urban, from native vegetation. And across the top
19 there is agriculture, urban, and native vegetation. And
20 right under that it's to -- to -- t-o, that is.

21 Q. So in the top, left corner would be agriculture
22 to agriculture?

23 A. Yes.

24 Q. Or agriculture, going to the right, to urban,
25 or agriculture to native?

1 A. To urban and to native vegetation, right. So
2 with this little matrix, you can see if native veg
3 converts to native veg, obviously, there is no impact.
4 But the idea of it is that if you look at any one of
5 these developments, you look at how it converts, and
6 then that's the result.

7 Q. And again, when you say "contesting parties,"
8 you're -- you're meaning nonstipulating parties?

9 A. I think so, yes.

10 Q. Okay. Okay. Any other opinions, Mr. Beeby,
11 that you intend to offer at the phase five trial of this
12 matter?

13 A. No.

14 MR. ZIMMER: Let's take a break there.

15 MR. MARKMAN: Sure.

16 MR. ZIMMER: Then I can consult with my
17 comrades-in-arms and get some fresh air.

18 (Recess.)

19 MR. ZIMMER: It was a longer break that I
20 anticipated, but I think the questions will be shorter
21 than anticipated.

22 Q. You used the term, Mr. Beeby, "wet delivery."
23 What do you mean by that?

24 A. I'm not sure where I used that term.

25 Q. I think you used it with reference to return --

1 let's see. Wet water? Wet water. I'm sorry.

2 A. Did I refer to that in my testimony or in my
3 opinions?

4 Q. I think in your testimony. And I --

5 A. Okay.

6 Q. -- so I was just taken by the wet water versus
7 dry water. It's probably a term of art in what you do.

8 A. Well, yeah. Typically, it has to do with water
9 transfers. And typically, wet water means water that is
10 actually capable of being delivered. And paper water is
11 typically water that's -- that's characterized by, say,
12 an entitlement.

13 In other words, in a state water project,
14 there's table A entitlement water. And some people
15 trade or transfer table A entitlement water. But if
16 they read the contract carefully, they will see that
17 that's not a guaranteed firm supply. So it's only
18 available.

19 Q. So wet water is really something different than
20 saying paper water?

21 A. Yes.

22 Q. Okay. In terms of the urban water plan that
23 you relied on, I don't know if you ever identified
24 those.

25 A. I don't recall that I did. The ones I looked

1 at are in the big, black binder, there, that
2 Mr. Schneider is looking at.

3 Q. Okay. We can bring that down here, and we can
4 have you identify those.

5 And this big, black binder is where the data
6 was also?

7 A. Yes. Unfortunately, it doesn't have a title or
8 a name, or anything, but it's the big, black binder that
9 is about 4 inches.

10 Q. The big, black binder?

11 A. Yes, the big, black binder.

12 Q. As you are going through there, I was curious
13 as to what data you have relied on, as opposed to other
14 people's opinions in terms of what actual -- you know,
15 raw data. So if you could show me, as you are going
16 through that binder, what --

17 A. I have a problem with the "relied upon"
18 concept. What we did was essentially an independent
19 evaluation here, using old-fashioned methods of
20 computing areas, and that kind of thing. We didn't go
21 GIS and all these fancy computer activities. And so
22 when I -- when we came up with our numbers, say, for the
23 entire area of the Santa Maria groundwater basin by our,
24 quote, old-fashioned, end quote, method, I then used
25 data that had been produced by CH-2 or Scalmanini,

1 whichever is appropriate, to see whether we were in the
2 ballpark.

3 And recognizing that we did it in a different
4 way than they did, my main concern was is the
5 old-fashioned method, crude, simple, quick, is that
6 giving reliable results. And so that's how I relied on
7 their data because if their data, which they did very
8 precisely, was close to ours, then I said "Okay, ours is
9 good enough."

10 Q. Okay. So you did your own analysis and
11 computations?

12 A. Correct.

13 Q. So you weren't relying on their opinions as a
14 basis for your data, for example?

15 A. I was relying on their data to confirm that our
16 calculations were in the ballpark. In that sense, yes.
17 In other words, I didn't adopt their area and say "Okay.
18 That's their area."

19 Q. All right. You did data -- you had your own
20 data independent of relying on any data they had?

21 A. Yes.

22 Q. Where is that data located?

23 A. That data is in the small, white notebook
24 entitled phase five, Santa Maria groundwater litigation,
25 Best, Best & Kreiger. And the date on the cover of that

1 is May 2006.

2 Q. So you did all of your own calculations based
3 upon your own data to form your conclusions and
4 opinions?

5 A. Yes. And when I say "I," I mean my staff and
6 I, yes.

7 Q. No. I understand that.

8 A. Okay.

9 Q. And all the data that you relied on that you
10 and your staff put together for the opinions that you
11 have expressed here today is in this binder?

12 A. Yes, that's correct.

13 Q. And that's the small, white binder entitled
14 project notebook, phase five, Santa Maria groundwater
15 litigation, Best, Best & Krieger, May 2006?

16 A. Correct. Yes.

17 Q. Okay. And you were going to identify the urban
18 water plans.

19 A. The ones we have copies of, the first one is
20 City of Santa Maria urban water management plan update.
21 The date on this is December 2000. The next one I have
22 in here is called the Orcutt Community Plan. The dates
23 on that are adopted, July 1997; amended, July 2001;
24 printed, December 2002. Those are all that are in this
25 book, so those would be the main ones I relied upon.

1 Q. Okay.

2 (Discussion off the record.)

3 MR. ZIMMER: Let's go outside.

4 (Recess.)

5 MR. ZIMMER: We've had a little discussion off
6 the record. Exhibit C was going to be a copy of all the
7 expert's materials, but in lieu of that, we are going to
8 leave the exhibit -- exhibits that have actually been
9 identified as the ones that have been identified. We
10 are going to get a copy of all of his materials simply
11 for our use.

12 MR. SAPERSTEIN: So to be clear, C is
13 withdrawn?

14 MR. ZIMMER: Correct.

15 MR. MARKMAN: So stipulated.

16 MR. ZIMMER: I assume that you would tell us.
17 You are not going to just add to whatever is out there?

18 MR. MARKMAN: No, only on the areas you asked
19 questions. No. I am just -- we wouldn't.

20 MR. ZIMMER: Maybe a cleaner way to do it is to
21 mark these notebooks as the exhibit. We'll agree that
22 the expert can keep those, the originals of those
23 exhibits, and we'll take a copy of it. We don't need a
24 copy attached to the record.

25 MR. DUNN: So stipulated. Okay.

1 MR. ZIMMER: All righty.

2 MR. DUNN: Do you want to put a --

3 MR. ZIMMER: Oh, the stipulation. I forgot.

4 We'll relieve the court reporter of her duties
5 under the Code. She can transcribe the deposition
6 transcript in the ordinary course of things.

7 Give the transcript directly to Mr. Beeby.

8 MR. DUNN: He is going to be out of town
9 starting Wednesday. He's going out of the country for a
10 couple of weeks. So we want -- you might want to send
11 it to Mr. Markman.

12 MR. ZIMMER: Mr. Markman can't do anything with
13 it.

14 MR. DUNN: We'll make arrangements. If you
15 send it to us, we'll figure out a way to get it, maybe,
16 to Mr. Beeby.

17 MR. MARKMAN: I will fly it to London so he
18 can -- just kidding.

19 MR. ZIMMER: Mr. Beeby, when will you be back
20 in from wherever you're going to be?

21 THE WITNESS: June 1st.

22 MR. ZIMMER: He's back June 1st, and we are
23 June 5th. Okay.

24 Can you take a look at that within a couple of
25 days of when you get back?

1 THE WITNESS: I am sure I could, yes.

2 MR. ZIMMER: Let's say that you can notify
3 Mr. Dunn or Mr. Markman of any change to the deposition
4 within -- by June 3rd?

5 THE WITNESS: Yes. I agree to that.

6 MR. ZIMMER: And if, for any reason, we are not
7 notified, that a copy can be used with the full force
8 and effect of the original.

9 MR. DUNN: Well, it will only take you a half
10 hour to read it. It's a short deposition.

11 MR. ZIMMER: My proposed stipulation is to send
12 it to Mr. Beeby. It will be waiting for him when he
13 gets -- when he returns.

14 Mr. Beeby, if you can just notify Mr. Markman
15 and Mr. Dunn of any changes. If we are not notified of
16 any changes by the 3rd, we'll assume no changes were
17 made. Otherwise, sign it under penalty of perjury, and
18 it will be a done deal.

19 MR. MARKMAN: So stipulated.

20 MR. ZIMMER: And if it's not signed, we'll just
21 use the original copy as if it was the original, signed.

22 MR. DUNN: So stipulated. Okay.

23 MR. SAPERSTEIN: So stipulated.

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I hereby declare, under penalty of perjury,
that the foregoing testimony is true and correct.

Dated this _____ day of

_____, 2006, at
_____, California.

ROBERT G. BEEBY, P.E.

REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) ss.
COUNTY OF VENTURA)

I, KAREN LEE CLARK, a certified Shorthand Reporter, in the County of Santa Barbara, for the State of California, hereby certify:

That, prior to being examined, the witness named in the foregoing deposition, to wit, ROBERT G. BEEBY, P.E., was by me duly sworn to testify the truth, the whole truth, and nothing but the truth;

That the deposition of the witness in this proceeding was taken down by me in stenotype at the time and place therein named and thereafter reduced to typewriting by computer-aided transcription under my direction.

I further certify that I am not interested in the event of the action.

WITNESS my hand this ____ day of _____, 2006, at Thousand Oaks, California.

KAREN LEE CLARK, CSR, RPR
Certified Shorthand Reporter
CSR No. 11919