

BEFORE THE STATE OF CALIFORNIA
REGIONAL WATER QUALITY CONTROL BOARD
SANTA ANA REGION

ITEM NO. 12)
)
RESOLUTION NO. 93-72 -)
KAISER RESOURCES, INC.,)
SALT OFFSET PROGRAM)
_____)

TRANSCRIPT OF PROCEEDINGS

LOCATION: REGIONAL BOARD OFFICE
2010 IOWA AVENUE
SUITE 100
RIVERSIDE, CALIFORNIA

DATE: THURSDAY, OCTOBER 21, 1993

TRANSCRIBED BY:
CLAUDETTE D. RUFFIN,
C.S.R. (NO.6253)

JOB NO. 00009

INLAND VALLEY COURT REPORTERS

A P P E A R A N C E S

BOARD MEMBERS PRESENT:

JERRY A. KING, CHAIRMAN

WILLIAM HARDY

ANITA SMITH

ALAN REYNOLDS

JOHN WITHERS

ROGER LUEBS

MELODY HENRIQUES

TRUMAN JOHNSON

ROBERT HUNTLEY

SANTA ANA STAFF PRESENT:

GERARD J. THIBEAULT, EXECUTIVE OFFICER

TED COBB, LEGAL COUNSEL

KURT BERCHTOLD, ASSISTANT EXECUTIVE OFFICER

JOANNE E. SCHNEIDER, ENVIRONMENTAL PROGRAM
MANAGER

KAREN BELTON, EXECUTIVE ASSISTANT

(800) 927-1449

INLAND VALLEY COURT REPORTERS

1 RIVERSIDE, CALIFORNIA; THURSDAY, OCTOBER 21, 1993

2

3

4

BOARD MEETING PROCEEDINGS

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

MR. CHAIRMAN KING: I'D LIKE TO TURN TO ITEM
NUMBER 12, IF I COULD, PLEASE.

IF WE COULD HAVE ITEM NUMBER 12,
MR. THIBEAULT.

MR. THIBEAULT: THANK YOU, MR. CHAIRMAN.

THIS ITEM WILL BE PRESENTED BY KURT
BERCHTOLD.

MR. BERCHTOLD: GOOD EVENING. I'M KURT
BERCHTOLD WITH THE BOARD STAFF. THIS IS THE THIRD
TIME IN THE LAST YEAR THAT I'VE BEEN UP IN FRONT OF
YOU SPEAKING ON THE SAME TOPIC.

MR. CHAIRMAN KING: SEE IF YOU CAN GET IT RIGHT
THIS TIME.

MR. BERCHTOLD: I'M GOING TO TRY.

I DID WANT TO GO THROUGH SOME OF THE
BACKGROUND ON THIS, THOUGH, FOR THE BENEFIT OF THE NEW
BOARD MEMBERS.

FROM 1943 TO 1983, KAISER RESOURCES,
INCORPORATED, WHICH WAS FORMERLY KNOWN AS "KAISER

INLAND VALLEY COURT REPORTERS

1 STEEL CORPORATION," OPERATED THE STEEL MANUFACTURING
2 FACILITY IN FONTANA. UNTIL THE EARLY '70'S, BRINE
3 WASTE WATERS FROM THE FACILITIES WERE DISCHARGED TO
4 UNLINED SURFACE IMPOUNDMENTS.

5 IN 1983, KAISER INITIATED A GROUNDWATER
6 INVESTIGATION, AND IN THE COURSE OF THAT
7 INVESTIGATION, THEY IDENTIFIED A PLUME ABOUT 12,000
8 FEET LONG AND ABOUT 3,000 FEET WIDE THAT WAS EMANATING
9 FROM THE
10 FACILITY.

11 THE PRIMARY CONSTITUENTS OF THAT PLUME
12 WERE TOTAL DISSOLVED SOLIDS AND TOTAL ORGANIC CARBON.
13 TDS WAS PRESENT UP TO ABOUT 1200 MILLIGRAMS PER LITER.
14 TOC WAS PRESENT UP TO ABOUT 70 MILLIGRAMS PER LITER.
15 THERE WERE NO HEAVY METALS NOR VOLATILE ORGANIC
16 COMPOUNDS OR ANY OTHER PRIORITY POLLUTANTS THAT WERE
17 DETECTED IN THE PLUME.

18 IN 1987, THE BOARD ISSUED CLEAN-UP AND
19 ABATEMENT ORDER NUMBER 87-121, WHICH REQUIRED KAISER
20 TO CONDUCT FURTHER INVESTIGATION AND CLEAN-UP OF THAT
21 PLUME. KAISER COMPLETED THE INVESTIGATION THAT WAS
22 REQUIRED BY THE ORDER AND BEGAN EVALUATING CLEAN-UP
23 OPTIONS.

24 IN 1990, KAISER BEGAN DISCUSSING THE
25 POSSIBILITY OF CONDUCTING AN OFFSET PROGRAM AS AN
26

INLAND VALLEY COURT REPORTERS

1 ALTERNATIVE TO THE TRADITIONAL PUMP AND TREAT
2 REMEDIATION METHODS THAT THEY HAD UP 'TIL THAT TIME
3 BEEN CONSIDERING.

4 IN RESPONSE TO THAT, THE BOARD ADOPTED
5 ORDER NUMBER 91-40 WHICH GRANTED KAISER ADDITIONAL
6 TIME TO EVALUATE THAT OPTION. THE BASIC CONCEPT OF
7 THE OFFSET PROPOSAL THAT KAISER BEGAN CONSIDERING AT
8 THAT TIME INVOLVED SOME FORM OF CONTRIBUTION TO
9 SAWPA'S CHINO BASIN DESALTER PROGRAM WHICH WOULD FUND
10 SALT REMOVAL LOWER IN THE BASIN RATHER THAN DOING IT
11 DIRECTLY WITHIN KAISER'S PLUME.

12 FOR ABOUT THE LAST YEAR, STAFF HAS
13 BEEN WORKING WITH KAISER AND ALSO WITH SAWPA TO
14 DEVELOP A DETAIL OFFSET PROPOSAL. AS PART OF THAT
15 WORK, ESTIMATES OF KAISER'S SALT LIABILITY, IF YOU
16 WILL, WERE PREPARED. AND THOSE ESTIMATES RANGE
17 FROM ABOUT 47,000 TONS TO ABOUT 104,000 TONS.

18 AND IN WORKING WITH KAISER AND SAWPA, WE
19 WERE ABLE TO DEVELOP A PROPOSAL THAT COVERED THE UPPER
20 END OF THAT RANGE. IN THAT PROPOSAL, THE SALT
21 VALUATION OF THAT PROPOSAL WAS PRIMARILY BASED ON
22 SAWPA'S CALCULATIONS OF THE VALUE OF KAISER'S PROPOSED
23 CONTRIBUTION TO THEIR OFF -- TO THEIR DESALTER
24 PROJECT.

25 THE BASIC ELEMENTS OF KAISER'S
26

INLAND VALLEY COURT REPORTERS

1 CONTRIBUTION WAS PROPOSED TO BE ONE-AND-A-HALF
2 MILLION DOLLARS IN CASH, PLUS RIGHTS TO 1,000
3 ACRE FEET OF WATER PER YEAR FOR 25 YEARS. THE
4 PRESENT WORTH VALUE OF THAT OFFER WAS CALCULATED
5 AT \$8.6 MILLION.

6 THE REASON THAT THE WATER RIGHTS WERE
7 VALUED TO THE PROJECT WAS THAT THE DESALTER PROJECT AS
8 PROPOSED DID NOT HAVE WATER RIGHTS WITHIN THE CHINO
9 BASIN WHICH IS AN ADJUDICATED BASIN AND, THEREFORE,
10 POTENTIALLY WOULD BE SUBJECT TO SOME REPLENISHMENT
11 OBLIGATION FOR THE WATER THEY PUMP AS PART OF THAT
12 PROJECT.

13 SO, BASED ON THAT OFFER, STAFF AND
14 KAISER NEGOTIATED THE DRAFT AGREEMENT THAT WAS
15 PRESENTED TO THE BOARD AND WAS APPROVED BY THE BOARD
16 ON MARCH 5TH OF THIS YEAR.

17 THAT AGREEMENT SPECIFIED THAT IF IT WAS
18 NOT IMPLEMENTED WITHIN SIX MONTHS, IT WOULD EXPIRE.
19 AND IT HAS NOT BEEN FULLY IMPLEMENTED AND SIX MONTHS
20 HAVE ELAPSED AND THAT PRIOR AGREEMENT HAS, THEREFORE,
21 EXPIRED.

22 THE PRIMARY REASON THAT THE
23 AGREEMENT WAS NOT IMPLEMENTED WAS DUE TO THE WAY
24 THAT THE WATER RIGHTS TRANSFER WAS SET UP WITHIN
25 THE AGREEMENT. BASICALLY, THE WATER RIGHTS
26

INLAND VALLEY COURT REPORTERS

1 TRANSFER, AS IT WAS IDENTIFIED IN THE AGREEMENT,
2 COULD NOT HAVE BEEN ACCOMPLISHED WITHIN THE CHINO
3 BASIN WATER MASTER RULES AND REGULATIONS AS THEY
4 WERE WRITTEN AT THE TIME THE BOARD ADOPTED THE
5 AGREEMENT, WHICH WE UNDERSTOOD AT THAT TIME, BUT WE
6 WERE EXPECTING THAT CHANGES WOULD BE OCCURRING TO
7 THE RULES AND REGULATIONS WITHIN THE SIX-MONTH
8 WINDOW THAT WOULD ALLOW THE TRANSFER TO TAKE
9 PLACE.

10 HOWEVER, THOSE PROPOSED CHANGES TO
11 THE RULES AND REGULATIONS WERE NOT APPROVED BY THE
12 COURT THAT HAS JURISDICTION AND, THEREFORE, THAT
13 TRANSFER COULD NOT -- WATER RIGHT TRANSFER COULD NOT
14 OCCUR AND THE AGREEMENT COULD NOT BE FULLY
15 IMPLEMENTED.

16 SO, SINCE THAT PRIOR AGREEMENT HAS
17 EXPIRED, STAFF AND KAISER HAVE NEGOTIATED A NEW
18 AGREEMENT WHICH IS WHAT WE'RE CONSIDERING HERE
19 TODAY.

20 THE NEW AGREEMENT INCLUDES THE SAME
21 BASIC ELEMENTS AS THE PRIOR AGREEMENT; THE
22 ONE-HALF MILLION DOLLARS AND THE THOUSAND ACRE
23 FEET PER YEAR FOR 25 YEARS. BUT THE STRUCTURE OF
24 THAT TRANSFER HAS BEEN CHANGED TO BE ACCOMMODATED
25 WITHIN THE WATER MASTER'S EXISTING RULES AND
26

INLAND VALLEY COURT REPORTERS

REGULATIONS.

UNDER THE TERMS OF THE AGREEMENT, KAISER
WOULD ABANDON THOSE RIGHTS TO THE WATER MASTER
PROVIDED THAT THE WATER MASTER DEVELOPS A PROGRAM TO
SATISFY ANY REPLENISHMENT OBLIGATION OF THE DESALTER
PROJECT.

AND, IN FACT, THE WATER MASTER HAS
ALREADY ADOPTED A RESOLUTION THAT ESTABLISHES THE
FRAMEWORK OF SUCH A PROGRAM. SO, IT APPEARS THAT
PROGRESS IS BEING MADE ON THAT FRONT.

THE AGREEMENT ALSO SPECIFIES THAT IF
THIS REPLENISHMENT PROGRAM IS NOT WORKED OUT WITHIN A
YEAR, KAISER WILL CONTRIBUTE AN ADDITIONAL
ONE-AND-A-HALF MILLION INSTEAD OF THE 25,000 ACRE
FEET OF WATER. WITH THAT SORT OF FALL-BACK
POSITION INCLUDED IN THE AGREEMENT, THE EXPIRATION
DATE OF THE AGREEMENT HAS BEEN ELIMINATED IN THIS NEW
VERSION.

THE NEW AGREEMENT ALSO INCLUDES THE
REQUIREMENT THAT KAISER MITIGATE ADVERSE IMPACTS ON
EXISTING DOMESTIC OR MUNICIPAL WELLS THAT MIGHT BE
CAUSED BY THE PLUME. THE OLD AGREEMENT INCLUDED A
SIMILAR PROVISION, BUT WE HAVE CLARIFIED THAT
REQUIREMENT IN THE NEW AGREEMENT.

THE NEW AGREEMENT SPECIFIES THAT KAISER

INLAND VALLEY COURT REPORTERS

1 IS NOT RESPONSIBLE FOR EFFECTS OF THE PLUME ON WELLS
2 THAT ARE POLLUTED BY OTHER SOURCES. IN OTHER WORDS,
3 IF THE WELL IS SHUT DOWN DUE TO SOME OTHER CONTAMINANT
4 NOT ATTRIBUTABLE TO KAISER AND KAISER'S PLUME CAUSES
5 SOME AFFECT ON THAT WELL, THAT KAISER DOESN'T HAVE TO
6 GO IN AND FIX WHAT WAS ALREADY BROKEN BEFORE THEY GOT
7 THERE.

8 BOARD MEMBER HARDY: KURT, --

9 MR. BERCHTOLD: YES?

10 BOARD MEMBER HARDY: -- IF SUBSEQUENTLY
11 WHATEVER THE CONSTITUENT IS THAT'S CONTAMINATING THAT
12 WELL, OTHER THAN WHAT KAISER HAS CLEANED UP, THEN
13 KAISER HAS AN OBLIGATION?

14 MR. BERCHTOLD: EXACTLY. YEAH, IF THE WELL
15 WERE TREATED OR THAT OTHER CONSTITUENT DISAPPEARED,
16 THEN KAISER WOULD BE BACK ON THE HOOK FOR MITIGATING
17 THE TDS EFFECT.

18 WE HAVE ALSO SORT OF PINNED DOWN
19 THE -- OR BETTER DEFINED WHAT WOULD CONSTITUTE AN
20 ADVERSE EFFECT ON THE WELL WITH RESPECT TO TDS.
21 AND WE'VE SPECIFIED A TDS INCREASE OF A HUNDRED
22 MILLIGRAMS PER LITER AS BEING AN INDICATOR OF AN
23 ADVERSE EFFECT.

24 AND THEN, UNDER THE TERMS OF THE
25 AGREEMENT, THE BOARD WOULD RELEASE KAISER FROM ITS
26

INLAND VALLEY COURT REPORTERS

1 RESPONSIBILITIES UNDER CLEAN-UP AND ABATEMENT
2 ORDER NUMBER 87-121 AND ORDER NUMBER 91-40 ONCE
3 KAISER FULFILLS ITS RESPONSIBILITIES UNDER THE
4 AGREEMENT.

5 WE HAVE RECEIVED SOME COMMENTS ON
6 THE AGREEMENT THAT I'D LIKE TO BRIEFLY
7 DISCUSS.

8 THE FIRST ONE I WANT TO MENTION WAS
9 PROVIDED BY THE CITY OF ONTARIO. THE CITY OF
10 ONTARIO HAS BEEN CONCERNED ABOUT THIS AGREEMENT
11 BECAUSE THEY HAVE WELLS THAT ARE IN THE GENERAL
12 VICINITY OF THE PLUME. IN FACT, THEY HAVE ONE
13 WELL THAT HAS ALREADY BEEN AFFECTED BY THE
14 PLUME.

15 THE TDS IN THAT WELL HAS INCREASED
16 SIGNIFICANTLY AND THE DISTRIBUTION OF SALTS
17 REFLECTS THE SIGNATURE OF THE KAISER PLUME. IT
18 APPEARS TO BE AFFECTED BY THE KAISER PLUME.
19 HOWEVER, THAT WELL HAS BEEN SHUT DOWN FOR SOME TIME
20 BECAUSE IT EXCEEDS THE DRINKING WATER STANDARD FOR
21 MERCURY.

22 SO, UNDER THE TERMS OF THE AGREEMENT
23 THAT WE ARE PROPOSING NOW, KAISER WOULD NOT BE
24 REQUIRED TO MITIGATE THAT AFFECT UNLESS THE CITY OF
25 ONTARIO DID SOMETHING TO CORRECT THE MERCURY
26

INLAND VALLEY COURT REPORTERS

1 PROBLEM OR SOME OTHER FACTORS TO TRY TO CORRECT THE
2 MERCURY PROBLEM IN THAT WELL.

3 QUESTION?

4 BOARD MEMBER LUEBS: I TAKE IT THAT KAISER
5 WOULDN'T HAVE TO MITIGATE THAT UNDER THIS AGREEMENT.
6 BUT WOULDN'T THE CITY OF ONTARIO HAVE WHATEVER RIGHTS
7 IT MIGHT HAVE TO FORCE MITIGATION REGARDLESS OF WHAT'S
8 IN HERE?

9 MR. BERCHTOLD: YEAH. I WAS GOING TO GET BACK
10 TO THAT.

11 THIS AGREEMENT DOESN'T AFFECT ANY RIGHTS
12 OR REMEDIES OF THIRD PARTIES. AND IN STAFF'S VIEW, IT
13 MERELY PROVIDES AN ADDITIONAL RECOURSE TO THE CITY TO
14 PURSUE KAISER FOR ANY EFFECTS THAT KAISER MIGHT CAUSE
15 ON THEIR WELLS.

16 THE CITY IS ALSO CONCERNED -- I DON'T
17 WANT TO SPEAK FOR THEM. THEY ARE HERE TODAY AND CAN
18 ADDRESS THEIR COMMENTS DIRECTLY.

19 BUT THE CITY IS ALSO CONCERNED BECAUSE
20 THEY HAVE ADDITIONAL WELLS THAT ARE IN THE GENERAL
21 VICINITY OF THE PLUME THAT THEY'RE CONCERNED MIGHT BE
22 AFFECTED IN THE FUTURE.

23 BASED ON STUDIES THAT HAVE BEEN DONE BY
24 KAISER, IT DOESN'T APPEAR TO US THAT IT'S LIKELY THAT
25 THOSE WELLS WILL BE AFFECTED. BUT IF THEY ARE, KAISER
26

INLAND VALLEY COURT REPORTERS

1 WOULD CLEARLY HAVE MITIGATION RESPONSIBILITY UNDER OUR
2 AGREEMENT.

3 AND THESE OTHER WELLS DON'T HAVE
4 MERCURY PROBLEMS OR ANY OTHER WATER QUALITY PROBLEMS
5 THAT WE ARE AWARE OF. SO, IF THESE OTHER WELLS WERE
6 AFFECTED BY SALTS ATTRIBUTABLE TO KAISER'S PLUME, THEN
7 KAISER WOULD BE REQUIRED TO MITIGATE THAT UNDER THIS
8 AGREEMENT.

9 ONE OF THE KEY REQUESTS MADE IN THE
10 CITY'S COMMENT LETTER WAS THAT AN E.I.R. BE PREPARED
11 WITH RESPECT TO THIS AGREEMENT. AND IT'S THE OPINION
12 OF LEGAL COUNSEL THAT THERE'S NO PROJECT UNDER CEQA
13 THAT EXISTS HERE THAT WOULD REQUIRE ANY FORM OF CEQA
14 COMPLIANCE BY THE BOARD IN THIS MATTER. SO, STAFF
15 WOULD NOT RECOMMEND THAT AN E.I.R. OR ANY FORM OF CEQA
16 COMPLIANCE BE CONDUCTED HERE.

17 WE ALSO RECEIVED COMMENTS FROM
18 CALIFORNIA STEEL INDUSTRIES, INCORPORATED.

19 AS YOU MAY RECALL, CSI ALSO COMMENTED ON
20 THE ORIGINAL AGREEMENT. AND THEY DID, IN FACT, APPEAL
21 THAT AGREEMENT TO THE STATE BOARD WHERE THAT APPEAL
22 WAS DISMISSED.

23 SUBSEQUENTLY, CSI FILED LITIGATION
24 REGARDING THE AGREEMENT WHICH IS TECHNICALLY STILL
25 PENDING. HOWEVER, WE BELIEVE THAT THAT LITIGATION IS
26

INLAND VALLEY COURT REPORTERS

1 EFFECTIVELY MOOT BECAUSE THAT PRIOR AGREEMENT HAS
2 EXPIRED.

3 IN RESPONSE TO CSI'S COMMENTS, STAFF HAS
4 DEVELOPED SOME ADDITIONAL LANGUAGE THAT I'LL PASS
5 AROUND. AND WE WOULD RECOMMEND THAT THE BOARD INCLUDE
6 THIS LANGUAGE WITH ITS MOTION IN ADOPTING THE
7 RESOLUTION IN THIS MATTER.

8 THE LANGUAGE IS BRIEF, SO I'LL READ IT
9 FOR THE BENEFIT OF THE AUDIENCE:

10 "THE BOARD WILL NOT REQUIRE
11 CALIFORNIA STEEL INDUSTRIES,
12 INCORPORATED, TO CONDUCT CLEAN-UP OR
13 ABATEMENT ACTIVITIES PURSUANT TO
14 CALIFORNIA WATER CODE SECTION 13304 FOR
15 THE PLUME OF SALT AND TOTAL ORGANIC
16 CARBON DEGRADED GROUNDWATER
17 SPECIFICALLY DELINEATED IN THE
18 SETTLEMENT AGREEMENT WITH KAISER
19 RESOURCES, INCORPORATION."

20 IN OTHER WORDS, WHAT WE ARE SAYING HERE
21 IS THAT WE'RE LETTING KAISER -- WE ARE PROPOSING TO
22 LET KAISER OFF THE HOOK FOR THE SALT PLUME. WE ARE
23 NOT GOING TO PURSUE CSI REQUIRING THEM TO CLEAN UP
24 THIS SAME PLUME.

25 BOARD MEMBER LUEBS: WHY DO WE HAVE TO AGREE TO
26

INLAND VALLEY COURT REPORTERS

1 THAT WITH CSI IF WE ARE NOT OTHERWISE ENTERING INTO AN
2 AGREEMENT WITH THEM?

3 MR. BERCHTOLD: WELL, YOU DON'T HAVE TO.
4 WE'RE --

5 BOARD MEMBER LUEBS: WOULD YOU ALSO PROMISE
6 THAT YOU ARE NOT GOING TO PURSUE ME ON THAT SALT
7 PLUME?

8 MR. BERCHTOLD: WELL, YOU CAN INCLUDE THAT IN
9 YOUR MOTION.

10 THE SECOND ITEM HAS TO DO WITH WATER
11 RIGHTS. AND THERE ARE SOME PENDING ISSUES WITH
12 RESPECT TO WATER RIGHTS BETWEEN KAISER AND CSI. AND
13 WE ARE PROPOSING THAT THE BOARD MAKE A STATEMENT, AS
14 INDICATED HERE, "NOTHING IN THE SETTLEMENT AGREEMENT
15 SHALL BE CONSTRUED TO REPRESENT AN OPINION OF THE
16 BOARD REGARDING THE EXISTENCE OR NATURE OF THE WATER
17 RIGHTS OF KAISER RESOURCES, INCORPORATED, OR ANY OTHER
18 ENTITY."

19 MR. CHAIRMAN KING: KURT, I HAVE A QUESTION
20 FOR THE OTHER WELLS THAT FROM TIME TO TIME HAVE BEEN
21 THOUGHT TO BE THREATENED, OR WHATEVER.

22 WHO CONTROLS THE DRAW-DOWN RATE ON
23 THAT WATER SODIUM, SO IF THERE'S AN INCREASE IN
24 PUMPING FROM A PARTICULAR AREA THAT MAY, IN FACT,
25 CHANGE THE FLOW OF THE PLUME, IS THAT A
26

INLAND VALLEY COURT REPORTERS

1 POSSIBILITY, OR DO YOU ENVISION THAT THAT COULD
2 OCCUR IN A DROUGHT SITUATION WHERE EVERYBODY DRAWS
3 THEIR WELLS DOWN; JUST THE NATURE OF MOVING THAT WATER
4 AT A MORE RAPID RATE?

5 MR. BERCHTOLD: THERE ARE NOT A LOT OF WELLS IN
6 THE AREA WHERE THE PLUME CURRENTLY EXISTS AND WHERE
7 IT'S MIGRATING, SO I WOULDN'T EXPECT --

8 MR. CHAIRMAN KING: JUST IN THE PATH OF, BUT
9 NOT IN CLOSE PROXIMITY?

10 MR. BERCHTOLD: WELL, THERE ARE SOME KIND OF
11 AROUND THE PERIMETER, IN EFFECT, AND PUMPING FROM
12 THOSE WELLS AROUND THE PERIMETER COULD ACT TO SORT OF
13 PULL IN THE PLUME INTO THAT WELL.

14 IF THAT HAPPENED, KAISER WOULD BE
15 RESPONSIBLE FOR MITIGATING THAT.

16 MR. CHAIRMAN KING: THEY WOULD BE?

17 MR. BERCHTOLD: THEY WOULD BE.

18 I DON'T -- BECAUSE THERE'S NOT A WHOLE
19 LOT OF WELLS IN THAT AREA, I WOULDN'T FORESEE ANY KIND
20 OF MORE REGIONAL EFFECTS ALONG THOSE LINES WHERE THE
21 PLUME WOULD SUBSTANTIALLY SHIFT FROM WHAT DIRECTION
22 IT'S COME.

23 MR. COBB: ISN'T IT TRUE THAT KAISER'S STUDIES
24 WERE DONE DURING THE MIDST OF A BAD AS DROUGHT AS WE
25 ARE LIKELY TO LOOK AT ANYWAY? SO, WHATEVER INFLUENCES

26

INLAND VALLEY COURT REPORTERS

1 MR. KING IS CONCERNED ABOUT WOULD BE EXHIBITED IN
2 STUDIES.

3 MR. BERCHTOLD: I THINK THAT'S PROBABLY
4 ACCURATE.

5 MR. CHAIRMAN KING: THANK YOU.

6 MR. THIBEAULT: MR. KING, ALSO THE CHINO BASIN
7 DIRECTOR OF WATER MASTER SERVICES IS HERE TONIGHT,
8 TOO. SO, IF YOU'D LIKE TO ASK HIM THOSE QUESTIONS, HE
9 COULD PROBABLY ADDRESS THEM, ALSO.

10 MR. BERCHTOLD: SO, THAT REALLY CONCLUDES MY
11 PRESENTATION. STAFF WOULD RECOMMEND ADOPTION OF
12 RESOLUTION NUMBER 93-72 APPROVING THE SALT OFFSET
13 PROGRAM AND SETTLEMENT AGREEMENT WITH KAISER. AND WE
14 WOULD ALSO RECOMMEND THAT THE BOARD INCLUDE THOSE TWO
15 SPECIFIC ITEMS IN ITS MOTION.

16 MR. CHAIRMAN KING: OKAY.

17 DOES THE BOARD HAVE ANY QUESTIONS?

18 ALAN.

19 BOARD MEMBER REYNOLDS: I WOULD AGREE WITH
20 ROGER. I'M NOT SURE WHY CSI NEEDS TO COME INTO IT IF
21 WE ARE MAKING AN AGREEMENT WITH KAISER RESOURCES; HIS
22 OFFHANDED COMMENT ABOUT THE POINT SEEMS TO MAKE
23 SENSE.

24 MR. BERCHTOLD: WE ARE NOT PROPOSING TO ADD
25 THIS LANGUAGE TO THE AGREEMENT OR EVEN TO THE
26

INLAND VALLEY COURT REPORTERS

1 RESOLUTION ITSELF. WE'RE MERELY ASKING THE BOARD FOR
2 A STATEMENT OF INTENT ON THAT POINT.

3 TECHNICALLY, I THINK YOU COULD MAKE THE
4 ARGUMENT THAT CSI BEARS SOME LEGAL RESPONSIBILITY FOR
5 THE PLUME DUE TO THE FACT THAT THEY CURRENTLY OWN THE
6 PROPERTY FROM WHICH THE PLUME IS EMANATING. AND I
7 THINK THEY ARE MERELY ASKING HERE THAT YOU INDICATE TO
8 THEM THAT YOU AREN'T MERELY LETTING KAISER OFF THE
9 HOOK SO THAT YOU CAN MAKE THEM CLEAN IT UP, WHICH IS
10 CLEARLY NOT OUR INTENT.

11 BOARD MEMBER LUEBS: WHAT IF KAISER FOR SOME
12 REASON DOESN'T PERFORM OR WHATEVER? THEN I MAY WANT
13 TO GO AFTER THEM.

14 MR. COBB: THE AGREEMENT ITSELF PROVIDES FOR
15 WHAT HAPPENS IF KAISER DOESN'T PERFORM, KAISER IS BACK
16 ON THE HOOK.

17 BOARD MEMBER LUEBS: YEAH. BUT THEY CAN GO
18 BANKRUPT TOMORROW. I DON'T UNDERSTAND WHY THIS
19 POTENTIAL RESPONSIBLE PARTY WITH WHOM OR OTHERWISE
20 NOT ENTERING ANY AGREEMENT, RECEIVING NO
21 CONSIDERATION IS TRYING TO EXTRACT SOME CONCESSIONS
22 FROM US RELATIVE TO THEIR OBLIGATIONS. I MIGHT BE
23 MISSING SOMETHING. MAYBE WE ARE RECEIVING SOME
24 CONSIDERATION.

25 MR. CHAIRMAN KING: LET ME -- I THINK IN THE
26

INLAND VALLEY COURT REPORTERS

1 SPIRIT OF TRYING TO GET AN AGREEMENT, I THINK WHAT HAS
2 TRANSPIRED WITH THE HELP OF OUR STAFF IS THAT WE WERE
3 TRYING TO CLEAR THE PATH SO THAT WE CAN GET THE
4 DESALTERS UNDERWAY. AND WHAT -- CORRECT ME, PLEASE,
5 IF I'M WRONG. I THINK WHAT WE WERE AIMING TO DO IS
6 GET AGREEMENT ON THE PART OF ALL PARTIES WITH RESPECT
7 TO PLACING THE LIABILITY, RESOLVING THE ISSUE OF WHO
8 PAYS FOR WHAT, AND THEN REMOVING THE THREAT OF
9 ADDITIONAL LITIGATION SO THAT WE CAN GET THE DESALTERS
10 UNDERWAY.

11 MR. THIBEAULT: AS YOU'LL PROBABLY HEAR
12 TONIGHT, CSI AND KAISER ARE LITIGATING ON WATER
13 RIGHTS ISSUES AND A NUMBER OF OTHER THINGS. AND AS
14 YOU HEARD FROM MR. MUSICK LAST TIME, HE'S -- THEY
15 KEEP USING THE PHRASE, "THEIR CLIENTS ARE CONCERNED
16 WITH" OR "THEY ARE JUST PROTECTING THEIR CLIENT'S
17 INTEREST." I THINK THESE ISSUES ARE FAR-FETCHED, BUT
18 THEY DON'T.

19 AND SO, IT'S REALLY YOUR CALL IN THIS
20 RESPECT. CSI FILED SUIT LAST TIME ON AN AGREEMENT
21 THAT NOW NO LONGER EXISTS. AND I DON'T KNOW IF THEY
22 HAVE ANYTHING APPEALABLE IN THIS AGREEMENT, BUT ONE OF
23 THE THINGS YOU ARE LOOKING AT HERE IS PERHAPS THIS
24 STATEMENT OF INTENT KEEPS AN APPEAL FROM OCCURRING,
25 BUT IT MIGHT NOT.

26

INLAND VALLEY COURT REPORTERS

1 MR. CHAIRMAN KING: THE LONGER WE DELAY, THE
2 WORSE THE PROBLEM GETS. AND WE JUST WANT TO GET THE
3 THING -- WE WANT TO GET THE DESALTERS BUILT AND GET
4 THE AREA CLEANED UP.

5 BOARD MEMBER LUEBS: WELL, IT MAY BE THE
6 EXPEDIENT THING TO DO, BUT I WAS JUST TRYING TO
7 UNDERSTAND WHAT WE ARE DOING.

8 MR. CHAIRMAN KING: OKAY.

9 BOARD MEMBER LUEBS: I HAVE ANOTHER
10 QUESTION.

11 AS I RECALL IN ONE OF YOUR EARLIER
12 PRESENTATIONS, YOU INDICATED THAT IN DEVELOPING
13 THIS AGREEMENT, YOU TRIED TO GET YOUR ARMS AROUND WHAT
14 THE PROBLEM WAS AND HOW MUCH IT MIGHT COST TO CLEAN UP
15 THE PROBLEM WITHOUT CONSIDERING ANY IN LIEU OF
16 PERFORMANCE.

17 IN OTHER WORDS, IF KAISER WERE TO CLEAN
18 UP THE SALTS THAT KAISER IS ALLEGED TO HAVE
19 CONTRIBUTED TO THE BASIN, MORE DIRECTLY WOULD COST A
20 CERTAIN AMOUNT OF MONEY, OR WHATEVER.

21 AND I WAS TRYING TO COMPARE THAT TO
22 THE CONSIDERATION WE'RE RECEIVING FROM KAISER 'CAUSE
23 WE REALLY HAVE KIND OF TWO ALTERNATIVE
24 CONSIDERATIONS. WE'VE GOT 8.6 MILLION IF WE GET THE
25 WATER RIGHTS, BUT IF FOR SOME REASON THE ABANDONMENT
26

INLAND VALLEY COURT REPORTERS

1 OF WATER RIGHTS DOESN'T WORK, THEN WE GET THREE
2 MILLION.

3 AND I WANTED TO COMPARE BOTH OF THOSE
4 NUMBERS TO WHAT WE THOUGHT KAISER'S WORST CASE
5 EXPOSURE WAS ON THE CLEAN-UP.

6 MR. BERCHTOLD: KAISER DID EVALUATE A RANGE OF
7 CLEAN-UP ALTERNATIVES. AND I DON'T OFF THE TOP OF MY
8 HEAD REMEMBER THE ESTIMATED COSTS OF THOSE
9 ALTERNATIVES, BUT I'M SURE THAT PEOPLE IN THE AUDIENCE
10 CAN ADDRESS THAT QUESTION.

11 MR. WILDERMUTH: IF THEY WERE TO CLEAN UP THE
12 ENTIRE --

13 MR. CHAIRMAN KING: COULD YOU JUST HOLD THAT
14 COMMENT UNTIL YOU COME FORWARD AND GIVE US YOUR NAME
15 SO WE CAN GET A STATEMENT, IF YOU DON'T MIND?

16 MR. WILDERMUTH: SURE. I --

17 MR. CHAIRMAN KING: DOES THE BOARD HAVE ANY
18 OTHER QUESTIONS, BECAUSE WE DO HAVE SOME SPEAKERS WHO
19 WISH TO SPEAK?

20 BOARD MEMBER HENRIQUES: I DO.

21 KURT, THAT WITHIN ONE YEAR, WHEN DOES
22 THAT END, WHEN WILL THAT YEAR BE UP?

23 MR. BERCHTOLD: THAT WILL START WHEN THE BOARD
24 APPROVES THE AGREEMENT.

25 BOARD MEMBER HENRIQUES: WHEN THE BOARD
26

INLAND VALLEY COURT REPORTERS

1 APPROVES THE AGREEMENT. OKAY.

2 MR. THIBEAULT: HOWEVER, KURT, I THINK THAT
3 WHAT THE WATER MASTER HAS ALREADY DONE HAS
4 ELIMINATED THAT ONE-YEAR PROVISION BECAUSE
5 THEY'VE ALREADY ADOPTED A RESOLUTION THAT SAYS,
6 "WE WILL ELIMINATE THE REPLENISHMENT REQUIREMENT
7 FOR THE DESALTERS BY THE MEMBERS OF THE WATER
8 MASTER ADVISORY COMMITTEE DOING A NUMBER OF THINGS
9 TO ACTUALLY PROVIDE FOR THE REPLENISHMENT WATER
10 THAT DESALTERS WOULD NORMALLY NEED." CHINO BASIN
11 IS GOING TO TRY TO RECLAIM TREATED WASTE WATER IN
12 THE BASIN. THERE IS RISING WATER AT THE LOWER
13 PART OF THE BASIN THAT THESE DESALTERS WILL
14 INTERCEPT.

15 AND THE ADVISORY COMMITTEE HAS ALSO
16 ADOPTED A RESOLUTION TO IMPOSE A BASIN-WIDE EQUITY
17 ASSESSMENT UPON ITSELF. IF THE OTHER METHODS FOR
18 REPLENISHMENT DON'T PROVIDE FULLY FOR THE
19 REPLENISHMENT REQUIREMENT OF THE DESALTER, THEN THE
20 APPROPRIATE POOL WILL PROVIDE FOR THE UNCOVERED AMOUNT
21 OF REPLENISHMENT.

22 SO, I THINK THEY'VE ALREADY DONE WHAT
23 THAT ONE-YEAR REQUIREMENT WAS IN THERE FOR. SO, I
24 THINK THAT'S SET AND COMPLETED.

25 MR. CHAIRMAN KING: ANY OTHER QUESTIONS FROM
26

INLAND VALLEY COURT REPORTERS

1 THE BOARD?

2 OKAY. WE DO HAVE SEVERAL SPEAKERS WHO
3 WISH TO COME FORWARD.

4 FROM THE CITY OF ONTARIO, MOHAMED
5 EL AMAMY.

6 MR. AMAMY: I HAVE SOME HANDOUTS.

7 MEMBERS OF THE BOARD, MR. THIBEAULT,
8 LADIES AND GENTLEMEN, GOOD EVENING.

9 I FEEL THAT I WAS PRE-EMPTED BY KURT.
10 HE BASICALLY SAID WHAT I CAME HERE TO SAY. BUT
11 PLEASE BEAR WITH ME. I WILL GO OVER MY NOTES
12 ANYWAY.

13 MR. COBB: COULD YOU SPEAK LOUD? SHE IS TRYING
14 TO TAKE IT DOWN.

15 MR. AMAMY: ALL RIGHT.

16 MY NAME IS MOHAMED EL AMAMY. I'M
17 AN ENVIRONMENTAL ENGINEER WITH THE CITY OF
18 ONTARIO.

19 I WOULD LIKE TO ADDRESS THE BOARD ON
20 BEHALF OF THE CITY OF ONTARIO REGARDING THE PROPOSED
21 RESOLUTION NUMBER 93-72 WHICH DEALS WITH THE SALT
22 OFFSET AGREEMENT BETWEEN THE BOARD AND KAISER STEEL
23 RESOURCES, INC.

24 BEFORE I START, I WOULD LIKE TO
25 THANK MR. THIBEAULT AND HIS STAFF. THEY HAVE BEEN
26

INLAND VALLEY COURT REPORTERS

1 WORKING WITH US FOR THE PAST FIVE MONTHS ON THIS
2 ISSUE.

3 I'D ALSO LIKE TO THANK MR. ROB HARTMAN
4 AND HIS STAFF. WE'VE BEEN MEETING REGULARLY FOR THE
5 PAST COUPLE OF MONTHS. IF NOTHING CAME FROM THIS
6 MEETING, AT LEAST WE CAME WITH THE UNDERSTANDING THAT
7 KAISER STEEL CORPORATION CONTRIBUTED TO THE PLUME THAT
8
9 CAUSED SOME IMPACT ON THE GROUNDWATER OF THE CITY OF
10 ONTARIO.

11 AS KURT MENTIONED, ONE OF OUR WELLS,
12 WELL NUMBER 330, HAS BEEN SHUT DOWN FOR ABOUT A YEAR.
13 IT'S TRUE THAT PART OF THE REASON IS THE PRESENCE OF
14 MERCURY AT VERY LOW LEVELS, JUST LIKELY ABOVE THE
15 MAXIMUM CONTAMINANT LEVEL. BUT SALT ITSELF HAS
16 DOUBLED FROM 300 PARTS PER MILLION, WHICH IS THE
17 BACKGROUND FOR THAT AREA, TO ABOUT 600 PARTS PER
18 MILLION.

19 WITH REGARD TO THE MERCURY ISSUE,
20 FIRST OF ALL, WE DON'T KNOW THE SOURCE OF THAT
21 MERCURY. AS FAR AS I KNOW, THE STEEL INDUSTRY AND
22 COAL BURNING PLANTS ARE NOT FOREIGN TO GENERATING THAT
23 TYPE OF POLLUTANT TO THE ATMOSPHERE AS WELL AS IN THE
24 WASTE GOING INTO THE GROUNDWATER. IT HAS BEEN
25 OBSERVED IN OTHER WELLS IN THE AREA IN ADDITION TO
26

INLAND VALLEY COURT REPORTERS

WELL 30.

THE LEVEL, AS I SAID, IS VERY LOW. SO,
IT'S REALLY NOT THE MAIN ISSUE. THE MAIN ISSUE IS
THAT OUR WELL HAS BEEN IMPACTED TO A SIGNIFICANT
DEGREE -- AS YOU DEFINED SIGNIFICANCE OF THE
IMPACT -- BY THE LEVEL OF THE EXCESS TDS OVER THE
BACKGROUND WITH A HUNDRED PARTS PER MILLION. OUR
LEVEL HAS BEEN INCREASED BY 300 PARTS PER MILLION.
SO, OBVIOUSLY, THE WELL HAS BEEN IMPACTED TO A
SIGNIFICANT DEGREE.

LET ME GO OVER MY NOTES AND PLEASE BEAR
WITH ME. SOME OF THE COMMENTS HAVE ALREADY BEEN
PRESENTED BY YOUR STAFF.

IF YOU TAKE A LOOK AT THE MAP THAT I
JUST HANDED OUT -- AND FIRST OF ALL, LET ME GIVE A
CREDIT TO MR. MARK WILDERMUTH. HE'S THE PERSON WHO
PUT THIS MAP TOGETHER AS PART OF A STUDY DONE BY
MONTGOMERY ENGINEERING SEVERAL YEARS AGO.

THIS MAP, AT THE NORTHEAST CORNER, THE
KAISER STEEL RESOURCES SITE -- THE KAISER STEEL
CORPORATION SITE. THE MAP SHOWS THE KAISER SITE
WHICH PROVIDES ABOUT 1100 ACRES OF LAND SITUATED IN
TWO ADJACENT PARCELS, EAST AT ETIWANDA AVENUE AND
NORTH I-10.

THE MAP ALSO SHOWS THAT KAISER

INLAND VALLEY COURT REPORTERS

1 GROUNDWATER CONTAMINATION PLUME. AND ONTARIO
2 WELLS IN THE VICINITY OF THE PLUME. GROUND
3 FLOWS IN THIS AREA IS SOUTHWESTERLY DIRECTION TOWARD
4 PRADO DAM.

5 HISTORICALLY, GROUNDWATER QUALITY IN
6 THIS SUBBASIN IS EXCELLENT. MEASUREMENT DATING BACK
7 TO THE 1930'S SHOW SALT LEVEL OF APPROXIMATELY 300
8 PARTS PER MILLION.

9 DURING THE PERIOD OF 1943 TO 1982,
10 KAISER STEEL CORPORATION OWNED AND OPERATED THE STEEL
11 MANUFACTURING FACILITY. WASTES ORIGINATING FROM THE
12 KAISER FACILITY WERE DISPOSED OF ON-SITE.

13 UNTIL THE EARLY 1970'S, LITTLE
14 CONTROL WAS EXERCISED OVER THE PERCOLATION OF
15 WASTEWATER, AND MANY OF THE DISPOSAL AREAS CONSISTED
16 OF UNLINED PITS.

17 THESE WASTES HAD HIGH SALT CONTENT; AS
18 HIGH AS TEN TIMES THE BACKGROUND LEVELS. THEY ALSO
19 CONTAINED SIGNIFICANT AMOUNTS OF TAR, OIL AND
20 GREASE, PHENOLS, AMMONIA, SULFIDES, CYANIDES,
21 SUSPENDED SOLIDS, AND OTHER INORGANIC AND ORGANIC
22 CONTAMINANTS.

23 IN THE EARLY 1980'S, HIGH SALT LEVELS
24 WERE DETECTED IN THREE WELLS ON-SITE. AS A RESULT,
25 A STUDY WAS DONE TO DETERMINE THE NATURE AND EXTENT
26

INLAND VALLEY COURT REPORTERS

1 OF ANY ENVIRONMENTAL DAMAGE RESULTING FROM THE
2 WASTEWATER DISPOSAL PRACTICES. THE STUDY IDENTIFIED
3 28 DISPOSAL AREAS WHICH CONTRIBUTED THE PRESENCE OF
4 ORGANIC COMPOUNDS AND ELEVATED SALTS IN THE
5 GROUNDWATER.

6 THE STUDY PRODUCED A MODEL WHICH IS
7 SHOWN IN THIS GRAPH WHICH DETERMINED THE EXTENT OF
8 GROUNDWATER CONTAMINATION DOWN-GRADIENT INTO THE
9 KAISER SITE. THE MODEL PREDICTED THAT THE
10 CONTAMINATED GROUNDWATER PLUME WILL REACH THE PROPOSED
11 LIMITATION SITE AFTER THE YEAR 2070.

12 WITH RESPECT TO ONTARIO GROUNDWATER, THE
13 MODEL PREDICTED THAT THREE CITY WELLS -- NUMBER 27,
14 NUMBER 30 AND NUMBER 31 -- LOCATED DOWN-GRADIENT OF
15 THE SITE COULD BE ADVERSELY IMPACTED BY THE PLUME
16 RENDERING THE WELLS UNUSABLE. THE REPORT PREPARED BY
17 MONTGOMERY ENGINEERS STATED THE
18 FOLLOWING:

19 "WELL NUMBER 30 WOULD BE IMPACTED
20 BY THE PLUME SOMETIME BETWEEN THE YEAR
21 1995 AND THE YEAR 2000. ONCE IMPACTED,
22 THE WELL WOULD BE SHUT DOWN FOR AT LEAST
23 20 YEARS."

24 LADIES AND GENTLEMEN, WELL NUMBER 30 IS ALREADY
25 IMPACTED AND BEEN SHUT DOWN FOR APPROXIMATELY A YEAR
26

INLAND VALLEY COURT REPORTERS

1 NOW.

2 THE BOARD ISSUED A CLEAN-UP AND
3 ABATEMENT ORDER NUMBER 87-121 TO KAISER STEEL
4 CORPORATION ON AUGUST 26, 1987, TO INVESTIGATE
5 AND REMEDIATE THE GROUNDWATER CONTAMINATION
6 PLUME.

7 THE BOARD REQUIRED KAISER STEEL
8 CORPORATION TO COMMENCE WORK ON THE PHASE IV
9 INVESTIGATION TO ACHIEVE THE FOLLOWING OBJECTIVES BY
10 THE END OF 1988:

11 "NUMBER 1, TO DETERMINE THE
12 CURRENT LOCATION AND EXTENT OF THE TDS
13 CONTAMINATION;

14 "TWO, TO INVESTIGATE POTENTIAL
15 HAZARDOUS CONSTITUENT IN THE OFF-SITE
16 PLUME;

17 "THREE, TO DETERMINE AND VERIFY
18 THE SOURCE OF THE TOC PLUME;

19 "FOUR, TO DEVELOP AND SCREEN
20 REMEDIAL ACTION ALTERNATIVES; TO
21 DEVELOP AND DESIGN THE SELECTED
22 ALTERNATIVES."

23 THESE TASKS WERE NOT COMPLETED.

24 INSTEAD, IN APRIL OF 1990, KAISER STEEL RESOURCES,
25 INC., PROPOSED CONDUCTING A FEASIBILITY STUDY FOR A
26

INLAND VALLEY COURT REPORTERS

1 SALT OFFSET ALTERNATIVE IN LIEU OF DIRECT MITIGATION
2 OF THE PLUME.

3 SINCE CLEAN-UP AND ABATEMENT ORDER
4 87-121 DID NOT PROVIDE FOR CONSIDERATION FOR AN
5 OFFSET ALTERNATIVE, CLEAN-UP AND ABATEMENT
6 ORDER 87-121 WAS AMENDED BY ORDER NUMBER 91-40 ON
7 MARCH 15, 1991.

8 ORDER NUMBER 91-40 REQUIRED KAISER STEEL
9 RESOURCES TO SUBMIT A FEASIBILITY STUDY REPORT
10 INCLUDING PLUME MIGRATION STUDIES TO ESTIMATE THE
11 WATER QUALITY IMPACTS OF ELIMINATING DIRECT MITIGATION
12 OF THE KAISER PLUME.

13 HOWEVER, THE REPORT FAILED TO
14 ADEQUATELY ADDRESS THE ADVERSE IMPACTS BY ELIMINATION
15 OF THE REMEDIATION MEASURES REQUIRED BY THE PREVIOUS
16 ORDERS.

17 CONSIDERING THE PATH AND THE CHEMICAL
18 COMPOSITION OF THE KAISER PLUME AND THE RECENT
19 GROUNDWATER QUALITY MONITORING DATA, TDS AND SULFATE
20 FROM WELL NUMBER 30 AND WELL NUMBER 31 LED US TO
21 CONCLUDE THAT THE KAISER PLUME HAS ALREADY IMPACTED
22 THE CITY WATER SUPPLY.

23 THE MAGNITUDE OF THIS IMPACT AND THE
24 REQUIRED REMEDIAL ACTION ARE YET TO BE DETERMINED AND
25 MUST BE ADDRESSED.

26

INLAND VALLEY COURT REPORTERS

1 THE PROPOSED AGREEMENT DOES NOTHING TO
2 CORRECT THE GROUNDWATER QUALITY PROBLEMS FACING
3 ONTARIO. PRIOR TO APPROVAL OF THE KAISER STEEL
4 AGREEMENT, ONTARIO DEMANDS AN E.I.R. BE PREPARED TO
5 ADDRESS THAT ADVERSE ENVIRONMENTAL IMPACT TO ONTARIO
6 WATER SUPPLY.

7 I UNDERSTAND THE POINT RAISED BY KURT
8 THAT THERE'S NO PROJECT, THEREFORE THERE'S NO REQUIRED
9 E.I.R. AND WE ACCEPT THAT POSITION. HOWEVER, WE FEEL
10 THAT THIS AGREEMENT LEAVES THE CITY OF ONTARIO OUT IN
11 THE COLD.

12 WE JUST HEARD A FEW MINUTES AGO THAT
13 SINCE THERE'S MERCURY, YOU HAVE TO FIX THE MERCURY
14 BEFORE YOU CAN DO ANY CLEAN-UP. SO, BASICALLY,
15 THEY ARE TELLING US THAT WE CAN'T DO ANY FOR
16 YOU.

17 AND THIS IS OUR BIGGEST CONCERN. WE
18 HAVE NO PROBLEM WITH THE CONCEPT OF THAT AGREEMENT AS
19 FAR AS PARTICIPATING IN A SALT OFFSET PROGRAM. BUT WE
20 FEEL THAT AS A RESULT OF THIS AGREEMENT TO RESCIND THE
21 EXISTING CLEAN-UP AND ABATEMENT ORDER, THAT WILL LEAVE
22 ONTARIO WITHOUT ANY KIND OF SUPPORT FROM THE REGIONAL
23 BOARD TO PURSUE ANY KIND OF SETTLEMENT WITH KAISER
24 STEEL RESOURCES.

25 THANK YOU.
26

INLAND VALLEY COURT REPORTERS

1 MR. CHAIRMAN KING: DOES THE BOARD HAVE ANY
2 QUESTIONS, COMMENTS AT ALL?

3 BOARD MEMBER HARDY: THE MERCURY IS IN WELL 30
4 OR 31?

5 MR. AMAMY: THIRTY.

6 BOARD MEMBER HARDY: WELL 30.

7 MR. AMAMY: YES.

8 BOARD MEMBER HARDY: IS ONTARIO PLANING ON
9 DOING SOME KIND OF WORK WITH THAT WELL TO GET RID OF
10 THE MERCURY?

11 MR. AMAMY: THE MERCURY LEVEL IS SO LOW. THE
12 LIMIT IS 0.002 PARTS PER MILLION. THE LEVEL IS
13 USUALLY 0.003. SO, THE LEVEL OF IT DOESN'T WARRANT A
14 TREATMENT SYSTEM TO REMOVE THAT AMOUNT OF MERCURY.

15 HOWEVER, WE HAVEN'T REALLY CONSIDERED
16 ANY KIND OF REMEDIATION UNTIL WE PURSUE THIS
17 SETTLEMENT WITH KAISER FIRST.

18 BOARD MEMBER HARDY: THE WELL, AS I
19 UNDERSTOOD IT, WAS NOT BEING USED BECAUSE THE MERCURY
20 LEVEL WAS HIGHER THAN THE -- THE WATER -- THE DRINKING
21 STANDARD.

22 MR. AMAMY: AS WELL AS THE SALT LEVEL IS
23 600 PARTS PER MILLION WHICH EXCEEDS OUR LIMIT EVEN
24 FOR DISCHARGE TO THE SEWER. EVEN IF WE TAKE THE
25 WATER DIRECTLY FROM THE WELL AND DUMP IT IN THE
26

INLAND VALLEY COURT REPORTERS

1 TREATMENT PLANT, WE WILL BE VIOLATING OUR NPDES
2 PERMIT.

3 BOARD MEMBER HARDY: QUESTION. HOW LONG --
4 LET'S JUST SAY THEY DECIDED THEY WANT TO DO
5 SOMETHING ABOUT THE MERCURY. HOW LONG WILL IT TAKE
6 KAISER TO GET IN THERE TO DO SOMETHING ABOUT THE TDS
7 OR TOC?

8 MR. THIBEAULT: I THINK IT WILL BE DONE VERY
9 QUICKLY.

10 BOARD MEMBER HARDY: I MEAN, QUICKLY, 20
11 YEARS?

12 MR. THIBEAULT: OH, NO. NO. I THINK
13 MONTHS. IN A FEW MONTHS. I THINK WHATEVER IT
14 TAKES TO GET CONNECTIONS MADE TO WATER SYSTEMS
15 TO --

16 BOARD MEMBER HARDY: HOW LONG WILL IT TAKE TO
17 GET THE MERCURY OUT?

18 MR. THIBEAULT: WELL, IT ALL DEPENDS ON WHAT
19 KIND OF SYSTEM THEY WANT TO USE TO REMOVE THE
20 MERCURY. THERE ARE SHELF UNITS AVAILABLE IN
21 DEALING WITH THAT KIND OF PROBLEM. BUT THIS IS A
22 VERY LARGE WELL. IT'S GOING TO BE A VERY EXPENSIVE
23 SYSTEM -- A VERY EXPENSIVE PROPOSITION TO REMOVE THAT
24 MERCURY.

25 AND OUR POSITION IS THAT AS SOON AS THEY
26

INLAND VALLEY COURT REPORTERS

1 ADDRESS THE MERCURY, THEN WE WILL -- IF THIS
2 AGREEMENT IS ADOPTED BY THE BOARD -- WE WILL THEN
3 REQUIRE KAISER TO IMMEDIATELY BEGIN MITIGATING THE TDS
4 AND --

5 BOARD MEMBER HARDY: YEAH.

6 MR. THIBEAULT: AND I JUST WANT TO SAY ONE MORE
7 THING ABOUT THE MERCURY IN THAT THIS -- THIS AREA OF
8 THE PLUME HAS BEEN PIN-CUSHIONED WITH WELLS. THERE
9 ARE A LOT OF WELLS. HUNDREDS OF SAMPLES HAVE BEEN
10 TAKEN, AND THE MERCURY CANNOT -- IT CAN'T BE SHOWN
11 ANYWHERE THAT THE MERCURY IS IN ANY WAY RELATED TO
12 THIS PLUME.

13 WE HAVE ALL THE DATA. WE'VE LOOKED AT
14 IT. ESPECIALLY WHEN ONTARIO RAISED THE ISSUE ABOUT
15 THE MERCURY. WE WENT BACK AND PULLED ALL THE DATA
16 BACK OUT AGAIN AND LOOKED THROUGH IT. AND WE
17 STILL -- I MEAN, WE BELIEVE THERE'S NO WAY TO TIE
18 MERCURY INTO THIS PLUME.

19 IT MAY COME FROM SOMEWHERE ELSE IN THE
20 KAISER SITE. WE ARE NOT SAYING THAT. BUT WE ARE
21 SAYING WITH RESPECT TO THIS PLUME, THE MERCURY IS
22 NOT -- IS NOT RELATED TO WHAT WE SEE IN THE
23 GROUND.

24 MR. COBB: MR. HARDY, ALSO --

25 MR. AMAMY: MAY I COMMENT ON THAT?
26

INLAND VALLEY COURT REPORTERS

1 WE ALSO REVIEWED ALL KINDS OF LAND USES
2 DATING BACK ALL THE WAY TO THE EARLY 1900'S IN THE
3 AREA. WE COULD NOT IDENTIFY ANY SOURCE OF POLLUTION
4 EXCEPT THE KAISER PLUME IN THAT AREA AND MERCURY
5 HASN'T BEEN IN THE WELL BEFORE.

6 IF YOU HAVE A LOCAL SOURCE OF POLLUTION
7 FOR THAT TYPE OF PERSISTENT POLLUTANT, YOU WON'T SEE
8 JUST ALL OF A SUDDEN COINCIDING WITH THE INCREASE IN
9 THE TDS LEVEL. THE TWO CAME TOGETHER. AS SOON AS THE
10 TDS LEVEL STARTED INCREASING, WE STARTED SEEING THESE
11 MERCURY LEVELS HIGHER THAN THE MCL.

12 MR. BERCHTOLD: YOU CAN ALSO ARGUE BASED ON
13 THAT SAME FACT THAT THEY ARE FROM SEPARATE SOURCES
14 BECAUSE MOBILITY IN MERCURY IN GROUNDWATER IS MUCH
15 LESS THAN MOBILITY IN SALT.

16 THERE ARE OTHER FACTORS RELATED TO
17 THE DISTRIBUTION OF MERCURY BOTH IN THE AREA
18 AROUND THIS WELL AND WITHIN THE WELL ITSELF THAT
19 ARE INCONSISTENT WITH A TYPICAL PLUME-TYPE
20 DISTRIBUTION.

21 WE DON'T SEE OTHER WELLS IN THE
22 UP-GRADIENT AREA OF THIS WELL THAT SHOW ANY LEVELS
23 OF MERCURY. WE -- IN FACT, THE CITY OF ONTARIO HAS
24 DONE SOME FAIRLY EXTENSIVE SAMPLING WITHIN THAT
25 WELL ITSELF, BOTH DEPTH-SPECIFIC SAMPLING WITHIN THE
26

INLAND VALLEY COURT REPORTERS

1 WELL.

2 THE WELL IS SCREENED OVER A VERY LONG
3 INTERVAL. THEY'VE ALSO DONE TIME SAMPLING WHERE THE
4 WELL AFTER BEING SHUT DOWN THE SAMPLE STARTED UP, AND
5 THEN IT'S PUMPED OVER A PERIOD OF TIME.

6 AND BOTH OF THOSE DEPTH-SPECIFIC SAMPLES
7 AND THE TIME SAMPLES SHOW RELATIVELY UNIFORM
8 CONCENTRATIONS OF MERCURY OVER TIME AS IT'S PUMPED,
9 WHICH KIND OF TELLS YOU THAT THEY ARE NOT LIKE PULLING
10 IN A PLUME OR SOMETHING LIKE THAT.

11 AND IT ALSO SHOWS SOME VERTICAL
12 DISTRIBUTION OF MERCURY WITHIN THE WELL, WHICH WOULD
13 NOT BE TYPICAL OF A SURFACE SOURCE CAUSING A PLUME
14 THAT YOU WOULD TYPICALLY EXPECT TO BE IN THE UPPER
15 ZONE OF GROUNDWATER.

16 SO, WE ARE SORT OF PUZZLED BY THE
17 PRESENCE OF MERCURY IN THAT WELL, AND THE FACT
18 THAT IT'S NOT CONSISTENT WITH WHAT WE SEE IN THE
19 REACH. AND IT DOESN'T REALLY SEEM TO REFLECT ANY
20 SORT OF PLUME-TYPE DISTRIBUTION THAT WE ARE FAMILIAR
21 WITH.

22 MR. THIBEAULT: THE ONLY OTHER MERCURY
23 INCIDENT THAT WE HAVE SEEN IS SOUTHERN CAL EDISON
24 WELL UP-GRADIENT -- I MEAN, NORTH OF THE SITE,
25 NOT NECESSARILY UP-GRADIENT IN WATER DIRECTION, BUT
26

INLAND VALLEY COURT REPORTERS

1 NORTH OF THE SITE. AND THERE WAS SOME MERCURY
2 IN -- THIS IS AN AREA WEST OF THE KAISER SITE, BY THE
3 WAY. IT'S NOT ON THE KAISER SITE. THIS IS AN AREA
4 WHERE MERCURY SHOWED UP IN SOME OF THE SOUTHERN CAL
5 EDISON WELLS.

6 BUT IF YOU CONSIDER THE GROUNDWATER
7 MOVEMENT IN THAT AREA, YOU WOULD EXPECT THAT MERCURY
8 TO TRAVEL WEST OF THE WELL IN QUESTION, SO THAT VIEW
9 IS PUZZLING.

10 MR. AMAMY: LET ME POINT OUT ANOTHER FACTOR
11 THAT WE ARE DEALING HERE NOT JUST WITH THE TDS
12 PLUME. WE ARE DEALING ALSO WITH TOTAL ORGANICS
13 PLUME OR SOME ORGANIC ACIDS. AND HAVING THIS
14 POLLUTANT EITHER ORGANIC OR INORGANIC GO INTO THE
15 SOIL, IT COULD HAVE STARTED -- OR IT COULD HAVE
16 INITIATED THE MIGRATION OF THE MERCURY TO THE
17 WELL.

18 WE DON'T KNOW THAT. WE DON'T KNOW
19 WHETHER OR NOT IT ORIGINATED FROM THAT. BUT WE DON'T
20 KNOW, ALSO, ANY OTHER SOURCE THAT CONTRIBUTED TO THIS
21 MERCURY LEVEL.

22 AND AT THIS STAGE, WE -- MY POINT IS
23 THAT IF YOU LOOK AT THIS MODEL HERE AND YOU LOOK AT,
24 THIS IS WHERE THE POLLUTANTS ARE; THIS IS WHERE THEY
25 ARE SETTING TODAY. THEY ARE GOING TO BE IN THIS AREA
26

INLAND VALLEY COURT REPORTERS

1 WHERE YOU ARE GOING TO REMEDIATE THEM IN THE YEAR
2 2070. I DON'T KNOW ABOUT YOU, BUT I'M NOT GOING TO BE
3 AROUND THAT TIME. THIS IS WHERE IT SHOULD BE
4 REMEDIATED.

5 MR. COBB: MR. CHAIRMAN, THIS WHOLE
6 DISCUSSION HAS NO RELEVANCE WHAT'S GOING ON OR
7 NOT. THIS AGREEMENT SPECIFICALLY SAYS THAT IT IS
8 CONFINED TO THE CONSTITUENTS TO FIND IN THE
9 AGREEMENT. IF IT TURNS OUT THAT KAISER DID PRODUCE
10 THIS POLLUTANT WITH MERCURY, THEY HAVE TO CLEAN
11 IT UP. THERE'S NO QUESTION ABOUT THAT. AND THIS
12 DISCUSSION REALLY IS NOT TAKING US ANYWHERE. IT'S A
13 QUESTION OF PROOF, AND THE PROOF APPARENTLY DOESN'T
14 PAN OUT.

15 AND ANOTHER THING, JUST TO BE CLEAR,
16 KAISER DOES NOT HAVE TO CLEAN UP A WELL. THEY CAN
17 PROVIDE AN ALTERNATIVE WATER SOURCE. THEY CAN
18 DILUTE IT. THEY CAN HIRE SPARKLETTS TO BRING IN
19 WATER, WHATEVER, AS LONG AS THEY PROVIDE WHAT THE
20 CITY WOULD OTHERWISE BE GETTING OUT OF THE WELL.

21 MR. CHAIRMAN KING: SAME QUANTITY AND
22 QUALITY.

23 MR. COBB: IT'S THEIR CHOICE OF THE METHOD AS
24 LONG AS IT'S QUANTITY AND QUALITY.

25 MR. BERCHTOLD: THAT'S WHY, IN RESPONSE TO YOUR
26

INLAND VALLEY COURT REPORTERS

1 EARLIER QUESTION, THE CORRECTION OF A TDS PROBLEM
2 WOULD BE ACCOMPLISHED RATHER QUICKLY IF KAISER MERELY
3 CONNECTED ONE OF THEIR EXISTING WELLS TO THE CITY
4 SYSTEM.

5 MR. CHAIRMAN KING: MY UNDERSTANDING, COUNSEL,
6 IS IF A NEW CONSTITUENT OR ANYTHING ELSE WAS
7 DISCOVERED, WE CAN COME BACK AND TAKE AN ACTION
8 AGAINST THAT AS A SEPARATE ACTION --

9 MR. THIBEAULT: YES.

10 MR. CHAIRMAN KING: -- WITH RESPECT TO
11 CLEAN-UP?

12 MR. THIBEAULT: THIS AGREEMENT ONLY DEALS WITH
13 TOC, TOTAL ORGANIC CARBON, AND SALTS.

14 MR. CHAIRMAN KING: ALL RIGHT.

15 MR. COBB: IT DEALS WITH THE PLUME AS DEFINED
16 BOTH IN TERMS IN CONSTITUENTS AND IN TERMS OF
17 GEOGRAPHY. IF THE PLUME TURNS OUT TO BE SOMEWHERE
18 WE DIDN'T KNOW IT WAS BEFORE OR CONTAIN SOMETHING
19 WE DIDN'T KNOW IT HAD BEFORE, THAT'S A DIFFERENT
20 ISSUE.

21 MR. CHAIRMAN KING: IF IT MIGRATES TO A
22 DIFFERENT LOCATION. RIGHT. OKAY.

23 MR. AMAMY: THANK YOU.

24 MR. CHAIRMAN KING: THANK YOU VERY MUCH,
25 SIR.

26

INLAND VALLEY COURT REPORTERS

1 I HAVE ANOTHER SPEAKER, MARK WILDERMUTH
2 A CONSULTANT TO KAISER.

3 MR. WILDERMUTH: I WAS GOING TO SPEAK IF YOU
4 HAD QUESTIONS.

5 MR. CHAIRMAN KING: OKAY. DID YOU WISH TO MAKE
6 THE COMMENT THAT YOU WERE GOING TO MAKE EARLIER IN
7 RESPONSE TO ONE OF THE BOARD MEMBERS?

8 MR. WILDERMUTH: MAYBE I SHOULD --

9 MR. CHAIRMAN KING: IT'S A LONG WAY TO ASK YOU
10 TO REMEMBER TO DO THAT.

11 MR. WILDERMUTH: IF YOU CAN REMEMBER THE
12 QUESTION, I'LL ANSWER IT.

13 BOARD MEMBER LUEBS: YEAH. I'LL TRY TO
14 REMEMBER IT. THE THRUST OF IT WAS, THAT I WAS TRYING
15 TO GET A HANDLE ON HOW WE COMPARE THE DIRECT CLEAN-UP
16 PROJECT COST THAT KAISER WOULD HAVE INCURRED HAD THE
17 BOARD -- IF THE BOARD WERE CORRECT IN ALL ITS
18 ASSUMPTIONS WITH RESPECT TO KAISER'S LIABILITY TO THE
19 AMOUNT OF CONSIDERATION THAT THE BOARD IS EXTRACTING
20 FROM KAISER AS A SETTLEMENT.

21 AND I WANT TO PARTICULARLY COMPARE THAT
22 TO THE \$8.6 MILLION NUMBER AND THE \$3 MILLION NUMBER
23 SINCE WE ARE NOT QUITE SURE YET WHAT WE ARE GOING TO
24 END UP WITH, ALTHOUGH JERRY SEEMS TO THINK THAT 8.6 IS
25 WHAT WE ARE TALKING ABOUT.

26

INLAND VALLEY COURT REPORTERS

1 SO, CAN YOU ENLIGHTEN ME ON THAT?

2 MR. WILDERMUTH: YES.

3 BOARD MEMBER LUEBS: WELL, GO AHEAD.

4 MR. WILDERMUTH: WE LOOKED AT -- IN THE
5 PHASE IV STUDY, WE LOOKED AT SEVERAL ALTERNATIVES TO
6 MITIGATE MOST OF THE PLUME. THE PORTIONS WE KNEW ALL
7 ABOUT. THOSE RANGE IN COST SEVEN TO \$9 MILLION TO
8 BUILD THEM. AND THEY HAVE OPERATIONAL COST, ANNUAL
9 COST OVER 20-YEAR PERIOD ARE RUNNING ABOUT ONE
10 POINT TWO TO \$1.5 MILLION.

11 AND IF YOU PRESENTLY WORK THAT BACK, IT
12 WOULD BE A LOT OF MONEY.

13 BOARD MEMBER LUEBS: HOW MUCH IS IT?

14 MR. WILDERMUTH: MAYBE 20 MILLION.

15 BOARD MEMBER LUEBS: SO, YOU ADD 20
16 MILLION TO 9 MILLION, SO YOU ARE TALKING ABOUT 30
17 MILLION?

18 MR. WILDERMUTH: NO, TWENTY MILLION WOULD BE
19 THE PRESENT VALUE OF THE WHOLE THING.

20 BOARD MEMBER LUEBS: OF THE WHOLE THING?

21 MR. WILDERMUTH: THAT'S THE ANNUAL COST -- THE
22 ANNUAL COST INCLUDING AMORTIZATION.

23 NOW THAT YOU GOT ME UP HERE, CAN I MAKE
24 A COUPLE MORE COMMENTS?

25 MR. CHAIRMAN KING: YES. PLEASE DO.

26

INLAND VALLEY COURT REPORTERS

1 MR. WILDERMUTH: OKAY.

2 JERRY WAS ASKED A QUESTION ABOUT HOW
3 LONG IT WOULD TAKE TO CLEAN UP MERCURY -- OR I GUESS
4 SOMEONE FROM THE BOARD DID -- AND THE MERCURY PROBLEM
5 HASN'T BEEN CHARACTERIZED. IT REALLY ISN'T A FUNCTION
6 OF A WELL CAPACITY. WE'VE GOT TO KNOW HOW MUCH IS OUT
7 THERE IN THE GROUND AND WHERE IT'S GOING.

8 AND AS JERRY MENTIONED, WE REALLY
9 HAVEN'T SEEN IT ANYWHERE IN KAISER OF ANY
10 SIGNIFICANCE. WE HAD SOME POSITIVES WAY IN THE PAST
11 WHICH WERE NEVER VERIFIED. WE SUBSEQUENTLY WENT BACK
12 AND COULD NEVER FIND THEM.

13 ONTARIO HAS BEEN EXPERIENCING THAT
14 MERCURY ANOMALY SINCE 1990, WHICH IS QUITE A LONG
15 TIME AGO. AND THEY ARE BEING BRUSHED -- IS
16 PROBABLY THE BEST WAY TO DESCRIBE IT -- WITH
17 KAISER'S PLUME. THAT WAS ALSO KNOWN AND MENTIONED IN
18 THE PHASE IV REPORT. SO, THERE WERE NO SURPRISES
19 THERE.

20 WHAT MOHAMED WAS REFERRING TO ABOUT THE
21 PROJECTION BEING IN '95, THAT PROJECTION WAS DONE IN
22 '84. WITH MODELS AND THINGS, YOU REALLY DON'T QUITE
23 KNOW EXACTLY WHERE IT'S GOING TO GO; WHEN IT'S GOING
24 TO HIT. YOU CAN GET WITHIN A FEW YEARS. IT'S
25 ACTUALLY A FAIRLY ACCURATE -- FAIRLY ACCURATE
26

INLAND VALLEY COURT REPORTERS

1 PROJECTION.

2 ONE OTHER COMMENT WITH RESPECT TO
3 MERCURY AND SCE IS THAT WHILE THE REGIONAL FLOW
4 PATTERN WOULD SUGGEST THAT THAT MERCURY WOULD GO TO
5 THE WEST OF ONTARIO 30, IT IS ALSO VERY CLOSE. THOSE
6 WELLS ARE FAIRLY CLOSE PROXIMITY.

7 AND WHILE -- YOU KNOW, THESE REGIONAL
8 FLOW PATTERNS ARE DEVELOPED WITH A HALF-DOZEN WELLS.
9 AS WE LOOKED AT THE ELEVATIONS AND WE DRAW CONTOURS,
10 VERY SMOOTH CONTOURS. BUT WHEN YOU LOOK AT THE
11 GEOLOGY IN THE MICRO SENSE IN THAT AREA, YOU CAN MAKE
12 A VERY EASY ARGUMENT TO SHOW THAT IT COULD HAVE COME
13 FROM THAT.

14 AND I'M NOT ACCUSING ANYBODY OF BEING A
15 SOURCE, BUT THEY HAVE THE SIGNATURE OF BEING A SOURCE.
16 THEY USED SUBMERSIBLE PUMPS WHICH ARE NOTORIOUS FOR
17 MERCURY GETTING IN THE GROUNDWATER, EVEN FROM THEIR
18 OWN SAMPLES.

19 SO, THE TIME WHEN THIS MAJOR HIT IN THAT
20 WELL WAS FOUND, IT IS IN THE SCE WEST WELL. THE PUMP
21 WAS OUT TO BE REBUILT AND THEY BAILED THE SAMPLE AND
22 CAME UP WITH A SAMPLE A HUNDRED TIMES OVER THE MCL,
23 SOMETHING LIKE THAT. NOW THEY GO BACK, AND THEY WENT
24 BACK AND PURGED IT OUT REAL WELL; IT SEEMS TO
25 DISAPPEAR. BUT IN ORDER TO GET A SAMPLE OF MERCURY

26

INLAND VALLEY COURT REPORTERS

1 THAT DEEP IN THE AQUIFER VERTICALLY, YOU ALMOST NEED
2 TO HAVE A DEEP SOURCE.

3 AND SO, THEY ARE A LIKELY CANDIDATE
4 BEING THAT WE DIDN'T SEE IT THERE AND CONSIDERING THE
5 FACT THAT THE GEOLOGY CAN BE THAT COMPLICATED THAT
6 CLOSE; THAT IT MAY -- THE PATH MAY BE ZIGZAGGING. YOU
7 EVER SEEN AN ALLUVIAL FAN AND LOOK AT THE CHANNELS ON
8 AN ALLUVIAL FAN? THAT'S WHAT TUG GROUNDWATER IS
9 FLOWING ON UP THERE. IT'S A LAYER CAKE OF THESE
10 ALLUVIAL DEPOSITS. IT'S NOT AN ALL SAND WITH A CLAY
11 AND A SAND. IT'S VERY COMPLICATED.

12 SO, THAT'S ALL I HAD.

13 MR. CHAIRMAN KING: ALL RIGHT. THANK YOU.

14 DOES THE BOARD HAVE ANY OTHER
15 QUESTIONS?

16 ARTHUR LITTLEWORTH FROM KAISER, DO YOU
17 WISH TO MAKE A COMMENT, SIR?

18 MR. LITTLEWORTH: WELL, I THINK I MAYBE CAN
19 WAIT AND SEE IF THERE ARE OTHER QUESTIONS THAT NEED TO
20 BE RESPONDED TO.

21 MR. CHAIRMAN KING: ALL RIGHT.

22 ROB HARTMAN, DIRECTOR OF ENVIRONMENT
23 PROJECTS FROM KAISER, DO YOU WISH TO MAKE A
24 COMMENT?

25 MR. HARTMAN: UNLESS THERE ARE QUESTIONS, I'LL
26

INLAND VALLEY COURT REPORTERS

1 WAIVE, TOO.

2 MR. CHAIRMAN KING: OKAY.

3 AND VICKIE LONG, YOU WISH TO COME
4 FORWARD AND MAKE A COMMENT?

5 MS. LONG: I JUST HAD A COUPLE OF QUESTIONS AND
6 MAYBE A COMMENT TO THE BOARD.

7 IN READING THROUGH THIS AGREEMENT THAT
8 YOU ARE LOOKING AT RIGHT NOW TO ACCEPT TONIGHT, THE
9 AGREEMENT CITES JCSD AS ONE OF THE BENEFICIARIES. AND
10 I WAS JUST THUMBING THROUGH AND LOOKING AT SOME OF THE
11 INFORMATION FROM KAISER. AND IT LOOKS AS THOUGH THE
12 REASON THAT WE ARE GOING TO BE THE BENEFICIARY IS
13 BECAUSE IT WILL POLLUTE THE WELLS FOR THE DESALTER OR
14 WHAT?

15 MR. THIBEAULT: MR. CHAIRMAN, CAN I
16 RESPOND?

17 MR. CHAIRMAN KING: YES. MR. THIBEAULT, PLEASE
18 RESPOND TO THAT.

19 MR. THIBEAULT: WE LISTED JCSD, WHICH IS THE
20 JURUPA COMMUNITY SERVICE DISTRICT, AS A POTENTIAL
21 BENEFICIARY WHICH WE DID THAT BECAUSE AT ONE TIME
22 THERE WAS SOME DOUBT THAT SAWPA WOULD BE ABLE TO
23 IMPLEMENT THE DESALTERS.

24 THERE ARE SOME CONCERNS WITH WATER
25 RIGHTS AND THE CHINO BASIN. THERE ARE SOME CONCERNS
26

INLAND VALLEY COURT REPORTERS

1 WITH SOME OF THE DIRECTORS OF THE WATER DISTRICT ABOUT
2 THE PROJECT.

3 SO, IF SAWPA WAS NOT GOING TO DO THE
4 PROJECT, JCSD HAD COMMITTED TO DO IT. SO, SINCE SAWPA
5 IS GOING TO DO IT, JCSD DROPS OUT.

6 MS. LONG: SO, THAT'S NO LONGER AN ISSUE IN
7 THIS RESOLUTION?

8 MR. THIBEAULT: IT DOESN'T APPEAR TO BE AS
9 LONG AS SAWPA PROVIDES THE BOARD WITH A RESOLUTION,
10 AND IT WILL, FROM WHAT I UNDERSTAND, THAT SAYS THEY
11 INTEND TO BUILD THE DESALTERS. AND THEY ARE SPENDING
12 A LOT OF MONEY IN PROCEEDING TO BUILD THE DESALTERS
13 NOW. THEY WILL RECEIVE THE BENEFITS FROM THIS
14 AGREEMENT.

15 MS. LONG: OKAY.

16 MR. THIBEAULT: SAWPA WILL RECEIVE THEM.

17 MS. LONG: SO, THEN, I HAVE ANOTHER QUESTION,
18 THEN, ON SORT OF THAT POINT.

19 THE GENTLEMAN PRIOR TO ME SAID THAT AN
20 ALLUVIAL FAN HAS A ZIGZAG TO IT. WE ARE NOW
21 EXPERIENCING SOME REAL HIGH NITRATES IN SALTS IN A
22 WELL THAT HAS BEEN REAL PURE UNTIL NOW. AND IT JUST
23 HAS AUTOMATICALLY STARTED SPIKING AND SALTS.

24 IF THAT'S THE CASE, THEN, WOULD OUR
25 AGENCY -- JUST OUR DISTRICT THEN BE RESPONSIBLE
26

INLAND VALLEY COURT REPORTERS

1 INSTEAD OF THIS GOVERNING BODY TO THEN SEEK WHERE
2 THAT POLLUTANT IS COMING FROM, OR WOULD IT BE THIS
3 BODY?

4 MR. THIBEAULT: WELL, THERE ARE A LOT OF
5 SALT AND NITRATE PROBLEMS THROUGHOUT THE AREA
6 WHERE JCSD WELLS ARE. YOU ARE TALKING ABOUT JCSD
7 AGAIN?

8 MS. LONG: UH-HUH.

9 MR. THIBEAULT: YEAH. YOU'VE GOT A LOT OF SALT
10 AND NITRATE PROBLEMS THAT ARE BEING ADDRESSED IN A
11 NUMBER OF WAYS. RIGHT NOW THERE IS A CHINO BASIN
12 GROUNDWATER MANAGEMENT TASK FORCE THAT IS DEVELOPING A
13 VERY COMPLEX THREE-DIMENSIONAL COMPUTER MODEL THAT
14 WILL BE ABLE TO -- THAT WILL ALLOW US TO PREDICT THE
15 MOVEMENT OF POLLUTANTS THROUGHOUT THE BASIN. AND WE
16 CAN IDENTIFY WHAT'S HAPPENING WITH SALTS AND DESALT
17 NITRATE CONTAMINATION PROBLEMS IN THE -- THROUGHOUT
18 THE CHINO BASIN.

19 AND WE CAN EXPECT TO HAVE THE BASELINE
20 RUNS IN THE NEXT FEW MONTHS, MARK.

21 AND SO, THAT MODEL WILL BE UP AND
22 RUNNING SOON. AND WE ARE GOING TO BE ABLE TO IDENTIFY
23 WHERE SOME OF THESE PROBLEMS ARE AND WHERE THEY MIGHT
24 BE GOING AT THAT TIME.

25 MS. LONG: SO, -- BUT MY QUESTION IS, WOULD IT
26

INLAND VALLEY COURT REPORTERS

1 BE THIS BODY THAT WOULD BE THE GOVERNING BODY TO THEN
2 LITIGATE ANY PROBLEMS IF THEY ARE FOUND TO BE FROM THE
3 KAISER PLANT?

4 MR. THIBEAULT: IF IT'S FROM -- IF IT'S
5 FROM -- WELL, FIRST OF ALL, -- YOUR WELLS ARE SO FAR
6 SOUTH OF KAISER THAT I JUST CAN'T BELIEVE THAT KAISER
7 CAN BE ASSOCIATED WITH YOUR AREA YET. IN A HUNDRED
8 YEARS, IT MIGHT BE. BUT NOW YOU ARE TOO FAR SOUTH TO
9 BE AFFECTED BY KAISER. YOU ARE AFFECTED BY A HUNDRED
10 YEARS OF IRRIGATED AGRICULTURE AND, YOU KNOW, --

11 MS. LONG: SO, --

12 MR. THIBEAULT: -- POSSIBLY DAIRIES.

13 MS. LONG: SO, IT WOULDN'T BE THIS BODY THAT WE
14 WOULD GO THROUGH?

15 MR. THIBEAULT: IT ALL DEPENDS WHAT YOU ARE
16 GOING ABOUT. I DON'T UNDERSTAND THE QUESTION.

17 MS. LONG: I AM JUST SAYING WE HAVE ONE
18 WELL THAT IS APPARENTLY DOING EXACTLY WHAT
19 ONTARIO'S WELL IS DOING WITHOUT THE MERCURY. AND
20 SO, I'D LIKE TO KNOW IF WE GO THROUGH THIS BODY TO
21 FIND OUT WHAT THE CAUSE OF IT IS, OR IF WE DO IT ON
22 OUR OWN AS JCSD.

23 AND THE OTHER THING, I JUST WANTED TO
24 BRING UP TO THIS BOARD IS THAT WE DO HAVE -- AND I SEE
25 IT'S ON YOUR AGENDA -- A NOTORIOUS DUMP SITE, THE
26

INLAND VALLEY COURT REPORTERS

1 STRINGFELLOW ACID PIT.

2 AND IN THE PRELIMINARY STUDIES, THEY
3 ESTIMATED SOME COSTS THAT WERE VERY MINUTE COMPARED TO
4 WHAT THEY ARE ACTUALLY HAVING TO SPEND TO CLEAN THAT
5 SITE UP.

6 SO, IN THIS AGREEMENT, IT SAYS SOMETHING
7 ABOUT 25 YEARS DOWN IN THE FUTURE. AND I DON'T KNOW
8 THAT A MILLION-AND-A-HALF DOLLARS IS GOING TO BE
9 ENOUGH TO MITIGATE SOME OF THE PROBLEMS THAT COULD BE
10 CAUSED FROM THE KAISER SITE.

11 SO, I JUST -- I JUST WANTED TO MAKE THAT
12 COMMENT. THANK YOU.

13 MR. CHAIRMAN KING: THANK YOU VERY MUCH.

14 DOES THE BOARD HAVE ANY COMMENTS OR
15 QUESTIONS?

16 ANYONE ELSE IN THE AUDIENCE?

17 YES, SIR, WOULD YOU COME FORWARD AND
18 STATE YOUR NAME.

19 MR. MUSICK: I'M SORRY. I HAD NOT INTENDED TO
20 SPEAK. I WANTED TO ADD ONE LITTLE POINT TO WHAT KURT
21 HAD BROUGHT UP.

22 MY NAME IS JOHN MUSICK. I REPRESENT
23 CALIFORNIA STEEL INDUSTRIES, INCORPORATED.

24 KURT, I HAD FORGOTTEN THAT PARAGRAPH 4
25 AND 5 OF THE AGREEMENT REFERS NOT ONLY TO TDS AND TOC,
26

INLAND VALLEY COURT REPORTERS

1 BUT ALSO TO SULFATE, BOTH PARAGRAPHS 4 AND 5.

2 AND IF IT WOULD BE ACCEPTABLE TO YOU FOR
3 THE LANGUAGE THAT YOU DRAFTED FOR THE BOARD AND IF IT
4 WOULD BE ACCEPTABLE TO THE BOARD, I WOULD LIKE TO HAVE
5 THE LANGUAGE MODIFIED TO SAY THAT CSI RECEIVED THE
6 BENEFITS OF PARAGRAPHS 4 AND 5 AS OUTLINED IN THE
7 PROPOSED AGREEMENT, SPECIFICALLY WITH REGARD TO TDS,
8 TOC AND SULFATE.

9 MR. COBB: I DON'T KNOW WHAT HE IS REFERRING TO
10 BECAUSE IT DOESN'T SOUND LIKE ANYTHING LIKE THE
11 LANGUAGE THAT YOU GAVE US.

12 MR. MUSICK: YES, HE REFERS TO TDS AND TOC, BUT
13 NOT SULFATE.

14 MR. COBB: IT SAYS "PLUME OF SALT AND TOTAL
15 ORGANIC CARBON." IT SHOULD SAY "COMMA, AND
16 SULFATE."

17 BOARD MEMBER REYNOLDS: SULFATE IS THE
18 SALT.

19 MR. BERCHTOLD: SULFATE IS SPECIFICALLY
20 MENTIONED IN THE AGREEMENT BECAUSE IT IS ONE OF THE
21 SIGNATURES OF THE KAISER PLUME, AND WE HAVE SEEN HIGH
22 SULFATE AS A GOOD INDICATOR OF THE PLUME.

23 BOARD MEMBER LUEBS: SO, THE PROPOSED
24 CHANGE TO YOUR LANGUAGE IS "PLUME SALT," COMMA,
25 "TOTAL ORGANIC," COMMA, "AND SULFATE DEGRADIENT
26

INLAND VALLEY COURT REPORTERS

1 GROUNDWATER"?

2 MR. BERCHTOLD: CORRECT.

3 MR. MUSICK: AND THEN, FOLLOWING THE END OF
4 THAT AND THE BENEFITS AS REFERENCED IN
5 PARAGRAPHS 4 AND 5, BECAUSE THERE ARE BENEFITS
6 ACCORDED TO THOSE CONSTITUENT ELEMENTS IN THOSE
7 PARAGRAPHS, AND CSI SIMPLY WANTS TO BE ON THE SAME
8 FOOTING AS KAISER.

9 WE PURCHASED PROPERTY THAT KAISER USED
10 TO OWN, AND WE WOULD LIKE TO BE ON THE SAME FOOTING --
11 LEVEL PLAYING FIELD, IF YOU WILL.

12 MR. COBB: IN KURT'S SUGGESTED WORDING THE
13 PHRASE "USED" IS A VERY BROAD ONE. IT SAYS "CLEAN-UP
14 AND ABATEMENT ACTIVITIES."

15 I REGARD THAT AS A SUMMARY OF WHAT GOES
16 ON IN THOSE TWO PARAGRAPHS. THE SPECIFICITY IN THOSE
17 TWO PARAGRAPHS IS INTENTIONAL, OBVIOUSLY. BUT KURT'S
18 SUMMARY OF IT CLEARLY EXPRESSES THE BOARD'S INTENTION
19 OF TREATING THEM IN THE SAME WAY.

20 THE ISSUE HERE IS IF WE ARE GOING TO LET
21 KAISER NOT DO SOME THINGS, ARE WE GOING TO MAKE CSI DO
22 THOSE SAME THINGS IN KAISER'S ABSENCE?

23 AND THE CLEAR ANSWER IS, NO.

24 AND I THINK THE RECORD WILL REFLECT THAT
25 IN TONIGHT'S MEETING FROM THE BOARD'S DISCUSSION. I
26

INLAND VALLEY COURT REPORTERS

1 THINK THIS LANGUAGE REFLECTS IT. ANYWAY, -- I
2 SYMPATHIZE WITH HIS POSITION. I THINK IT'S ADEQUATELY
3 COVERED.

4 BOARD MEMBER LUEBS: I CAN UNDERSTAND WHAT
5 PEOPLE ARE TRYING TO DO. I AM REALLY UNCOMFORTABLE
6 DRAFTING A DOCUMENT BY COMMITTEE HERE IN THIS
7 ENVIRONMENT. IT WOULDN'T BE THE FIRST TIME I'VE
8 BEEN SNOOKERED BY SOME SHARP LAWYERS TRYING TO
9 CLOSE A DEAL AT THE LAST MINUTE, BUT I WANTED TO
10 ASK MR. MUSICK -- I'M PROBABLY GETTING INTO WHAT I WAS
11 SAYING WE SHOULDN'T GET INTO, BUT I -- ONE OF MY
12 CONCERNS WAS RELEASING OR APPARENTLY RELEASING
13 CALIFORNIA STEEL INDUSTRIES, INC., IN CONNECTION WITH
14 THIS AGREEMENT.

15 AND I THOUGHT IT MIGHT BE APPROPRIATE,
16 IF WE WERE GOING TO INCLUDE THE LANGUAGE THAT THE
17 STAFF SEEMS TO FEEL COMFORTABLE WITH, TO PREFACE THAT
18 PARAGRAPH.

19 HAVE YOU SEEN THAT, BY THE WAY, WHAT I'M
20 REFERRING TO, THE STAFF LANGUAGE?

21 MR. MUSICK: WHAT YOU HAVE, YES, I'VE SEEN THAT
22 JUST BEFORE I CAME UP.

23 BOARD MEMBER LUEBS: OKAY. AT THE VERY
24 BEGINNING, PREFACES IT WITH SOMETHING LIKE "PROVIDED
25 KRI FULLY COMPLIES WITH ITS OBLIGATIONS UNDER THE
26

INLAND VALLEY COURT REPORTERS

1 SETTLEMENT AGREEMENT," COMMA, "THE BOARD WILL NOT
2 REQUIRE." IS THAT OKAY?

3 MR. MUSICK: THAT'S WHAT WE ARE TRYING TO
4 AVOID. THAT'S NOT OKAY. I RESPECT WHERE YOU ARE
5 COMING FROM, BUT THAT IS NOT OKAY. THAT IS EXACTLY
6 WHAT CSI IS TRYING TO AVOID.

7 IF YOUR AGREEMENT WITH KAISER SATISFIES
8 YOU -- LET'S GO BACK TO SQUARE ONE.

9 BOARD MEMBER LUEBS: IT SATISFIES ME IF THEY
10 PERFORM.

11 MR. MUSICK: LET'S GO BACK TO PRINCIPLES. YOU
12 CITED KAISER FOR ACTIVITIES ON THE FULL 2,000 ACRES
13 THAT KAISER ONCE OWNED. CSI NOW OWNS APPROXIMATELY
14 500 ACRES OF THAT, GIVE OR TAKE A FEW ACRES.

15 YOU EXHAUSTED YOUR ADMINISTRATIVE POWERS
16 IN THAT REGARD. YOU TARGETED THE CANDIDATE THAT YOU
17 FELT WAS THE ONE THAT WAS RESPONSIBLE. YOU ISSUED TWO
18 CLEAN-UP AND ABATEMENT ORDERS. SUBSTANTIAL STUDIES
19 WERE DRAFTED. ADMISSIONS OF LIABILITY WERE CONTAINED
20 IN THOSE STUDIES.

21 AND ALL CSI WOULD LIKE TO DO IS TO PUT
22 TO REST THIS ISSUE FOR ITSELF REMEMBERING THAT CSI IS
23 FULLY COVERED BY VOLUNTARY ENFORCEABLE AGREEMENT; THAT
24 IT HAS NEGOTIATED WITH THE DEPARTMENT OF TOXIC
25 SUBSTANCE CONTROL FOR REMEDIATING OTHER PROBLEMS AND
26

INLAND VALLEY COURT REPORTERS

1 POSSIBLY THESE THAT WERE ON THE PROPERTY THAT IT
2 PURCHASED FROM KAISER.

3 IT IS ALREADY BOUND BY ANOTHER AGREEMENT
4 WITH ANOTHER AGENCY.

5 BOARD MEMBER LUEBS: BUT THAT'S FOR ANOTHER
6 PROBLEM. THAT DOESN'T REALLY MATTER TO ME TONIGHT,
7 MR. MUSICK. I'M TALKING ABOUT THIS PROBLEM AND
8 WHETHER I, AS A BOARD MEMBER RESPONSIBLE FOR MAKING
9 SURE THAT PROBLEM IS CLEANED UP, HAVE PRESERVED ALL
10 THE RIGHTS AND REMEDIES THAT I SHOULD.

11 AND IT SEEMS TO ME THAT WE MAY HAVE
12 IDENTIFIED KAISER AS THE SOURCE OF THE PROBLEM. I'M
13 NOT AWARE THAT WE'VE RELINQUISHED THE RIGHT TO PURSUE
14 OTHER RESPONSIBLE PARTIES. IF WE HAVE, YOU SHOULDN'T
15 CARE ABOUT IT. IF WE HAVEN'T, THEN WHY ARE YOU ASKING
16 US TO GIVE IT UP AT THIS POINT?

17 MR. COBB: MR. MUSICK IS ACTUALLY ASKING FOR A
18 BETTER DEAL THAN KAISER IS GETTING.

19 BOARD MEMBER LUEBS: RIGHT.

20 MR. COBB: AND I THINK HIS LAST COMMENT IS
21 DIRECTLY DISINGENUOUS ON THAT SCORE. IF HE'S ASKING
22 THAT AS LONG AS KAISER IS OFF THE HOOK, WE NOT, THEN,
23 TURN TO CSI AND ASK THEM TO DO SOMETHING WITHOUT
24 ASKING KAISER TO DO, AND THAT'S ALL HE IS ASKING, THEN
25 THIS LANGUAGE YOU SUGGEST IS PERFECTLY APPROPRIATE.
26

INLAND VALLEY COURT REPORTERS

1 IF HE IS SAYING IF KAISER MESSES UP AND
2 WE GO AFTER KAISER BECAUSE THE MITIGATION NEVER
3 HAPPENED AND WE WANT THE CLEAN-UP DONE INSTEAD, IN
4 THAT CASE, THAT WE NOT BE ABLE TO LOOK TO CSI AS THE
5 LANDOWNER WHICH OVERLIES THE PROBLEM, THEN THAT'S
6 COMPLETELY CONTRARY TO WHAT THIS BOARD IS SITTING HERE
7 TO DO.

8 MR. MUSICK: THAT'S EXACTLY WHAT WE ARE ASKING
9 FOR. AND THAT IS EXACTLY FAIR.

10 BOARD MEMBER LUEBS: WAIT A SECOND.

11 ARE YOU SAYING WHAT HE SAID IS FAIR, OR
12 ARE YOU SAYING WHAT YOU SAY IS FAIR?

13 MR. MUSICK: WHAT I SAY IS FAIR.

14 BOARD MEMBER LUEBS: WELL, IF YOU WERE GOD,
15 THAT WOULD BE EASY.

16 MR. MUSICK: REGRETTABLY, YOU SIT AS GOD THIS
17 EVENING. AND YOU HAVE EXHAUSTED YOUR GODLY-LIKE
18 POWERS ON KAISER AND NOW YOU WISH TO REGENERATE
19 THOSE FOR CSI. AND WE ARE ASKING YOU TO LET THIS
20 ISSUE DIE. YOU HAVE STRUCK A DEAL WITH KAISER
21 WHICH I THINK, IF YOU LISTEN TO SOME OF THE COMMENTS
22 BY THE OTHER PEOPLE IN THIS ROOM, HAS ITS PLUSES AND
23 MINUSES.

24 WE FEEL THE STAFF HAS LABORED VERY, VERY
25 HARD ON THIS. WE FEEL -- AND SUPPORT KAISER IN WHAT
26

INLAND VALLEY COURT REPORTERS

1 THEY HAVE DONE AND HAVE LABORED VERY, VERY HARD.

2 WE FEEL THAT ON BALANCE A FAIR
3 RESOLUTION HAS BEEN CONDUCTED FOR THE BASIN, AND IT
4 SHOULD COVER CSI, PERIOD, ONCE AND FOR ALL. IF YOU
5 ARE RETAINING THE ABILITY TO ROPE CSI BACK IN, THAT'S
6 NOT FAIR.

7 BOARD MEMBER LUEBS: YOU ARE SAYING THAT
8 STAFF HAS WORKED THIS; AT LEAST OUR STAFF COUNSEL
9 HAS TOLD US THAT HE UNDERSTANDS THE TERMS OF THE
10 AGREEMENT EVEN AS SUPPLEMENTED BY THIS LANGUAGE
11 THIS EVENING TO BE MORE AKIN TO WHAT I'VE
12 SUGGESTED, WHICH SEEMS TO ME THAT A LOT OF FOLKS
13 HERE IN THIS ROOM THAT HAVE ONE UNDERSTANDING OF
14 WHAT WE ARE BEING ASKED TO DO, AND YOU HAVE A
15 DIFFERENT UNDERSTANDING. AND I JUST WANT TO MAKE
16 SURE WE ALL KNOW THAT.

17 MR. MUSICK: THE LANGUAGE THAT THE STAFF
18 ORIGINALLY DRAFTED WITHOUT YOUR PROPOSED MODIFICATION
19 IS THE LANGUAGE THAT WE FEEL IS ACCEPTABLE. IF YOU
20 ADD YOUR PROPOSED MODIFICATION, WE DO NOT FEEL THAT IS
21 ACCEPTABLE OR FAIR, ESPECIALLY AT THIS LATE DATE,
22 ESPECIALLY IN VIEW OF THE SUBSTANTIAL CONCESSIONS MADE
23 IN GOOD FAITH BY ALL OF THE PARTIES; KAISER AND THE
24 STAFF INCLUDED.

25 YOU HAVE A VERY FINE RELATIONSHIP.

26

INLAND VALLEY COURT REPORTERS

1 WE DON'T WANT TO TRIFLE WITH IT, BUT WE DO WANT TO
2 BE LEFT ALONE AND TO TEND TO OUR STEEL-MAKING. AND
3 THE WAY THE STAFF HAS DRAFTED IT ALLOWS US TO DO
4 THAT.

5 THE LANGUAGE YOU PROPOSE TO ADD DISRUPTS
6 THAT. WE ASK YOU RESPECTFULLY NOT TO ADD THAT
7 LANGUAGE.

8 BOARD MEMBER REYNOLDS: JUST TO CLARIFY HOW I
9 READ THIS, IS THAT THE -- ON THIS SPECIFIC ISSUE ON
10 THIS SPECIFIC PLUME ON THOSE SPECIFIC SALTS, SULFATES
11 AND TOTAL ORGANIC CARBON, IS THE ONLY ISSUE YOU ARE
12 TALKING ABOUT?

13 MR. MUSICK: THAT'S CORRECT.

14 BOARD MEMBER REYNOLDS: OTHER THINGS THAT COME
15 UP WOULD NOT BE INVOLVED AND --

16 MR. MUSICK: AS I SAID, WITH REGARD TO THE
17 BENEFITS ACCORDED IN PARAGRAPHS 4 AND 5, IT SPELLS
18 THEM OUT. MR. COBB CLEARLY EXPLAINED THAT. THAT'S
19 CORRECT.

20 BOARD MEMBER REYNOLDS: AND I SYMPATHIZE WITH
21 YOUR COMMENTS AND WOULD AGREE TO THOSE. HOWEVER,
22 STATE LAW AND FEDERAL LAW PROHIBITS US FROM ALLOWING A
23 LANDOWNER TO NOT -- TO NOT RETAIN SOME OF THOSE
24 LIABILITIES WITH OWNERSHIP OF THAT LAND. IF
25 KAISER DEFAULTS, THEN WE ARE REQUIRED TO GO TO
26

INLAND VALLEY COURT REPORTERS

1 SOMEBODY.

2 HOWEVER, I DO SYMPATHIZE WITH YOUR --
3 WITH YOUR THOUGHTS ON IT.

4 MR. COBB: LET ME SEE IF I CAN MAKE THIS AS
5 SIMPLE AS POSSIBLE.

6 LET'S SAY PERSON "A" OWNS A PARCEL OF
7 LAND AND PERSON "B" LEASES THE LAND FROM THEM AND
8 POLLUTES THE LAND, CAUSES A PROBLEM.

9 WE WOULD GO TO PERSON "B" AND SAY,
10 "CLEAN IT UP." AND WE WOULD SAY TO PERSON "A," "AS
11 LONG AS PERSON "B" IS CLEANING IT UP, YOU ARE OKAY.
12 DON'T BOTHER DOING ANYTHING. BUT IF PERSON "B" GOES
13 BANKRUPT AND DISAPPEARS, WHATEVER, WE ARE GOING TO
14 LOOK TO YOU TO CLEAN IT UP."

15 NOW, IN THIS CASE, WHAT WE HAVE IS --
16 FOR ALL PRACTICAL PURPOSES, KAISER IS PERSON "B" AND
17 CSI IS PERSON "A" FOR THIS ANALOGY HERE. AND WE TOLD
18 KAISER, "CLEAN IT UP. BUT WAIT A MINUTE. WE HAVE A
19 BETTER IDEA. THERE'S ANOTHER THING THAT YOU CAN DO
20 THAT WE WILL DEEM TO BE THE EQUIVALENT OF CLEANING IT
21 UP."

22 WHAT WE ARE REALLY SAYING TO CSI IN THIS
23 CASE IS, "AS LONG AS KAISER IS DOING THE THING THAT WE
24 HAVE TOLD THEM TO DO WHICH IS JUST AS GOOD AS CLEANING
25 IT UP, YOU ARE OKAY. DON'T WORRY ABOUT IT. BUT IF
26

INLAND VALLEY COURT REPORTERS

1 KAISER DOESN'T DO WHAT THEY ARE SUPPOSE TO DO, THEY
2 DON'T PROVIDE THE MITIGATION AND THEY DON'T CLEAN IT
3 UP, THEY DON'T DO ANYTHING; KAISER GOES BANKRUPT;
4 KAISER DISAPPEARS, THEN YOU ARE IN NO DIFFERENT
5 POSITION THAN YOU WOULD HAVE BEEN IF THIS WAS JUST NOW
6 BEGINNING. KAISER HAS DONE NOTHING TO INSULATE
7 THEMSELVES OR YOURSELF FROM LIABILITY; THEREFORE,
8 YOU, AS THE LANDOWNER, HAVE OBLIGATIONS AS A
9 LANDOWNER."

10 KAISER'S ACTION PROTECTS CSI.
11 KAISER'S FAILURE TO ACT PUTS BOTH KAISER AND CSI BACK
12 ON THE HOOK. AND THAT'S THE WAY THE LAW IS INTENDED
13 TO OPERATE, AND HE IS ASKING THAT THEY BE GIVEN SOME
14 SPECIAL DISPENSATION.

15 BOARD MEMBER LUEBS: THEY WANT A BETTER DEAL
16 THAN KAISER.

17 MR. COBB: EXACTLY.

18 BOARD MEMBER LUEBS: THEY WANT A BETTER DEAL
19 THAN KAISER. BECAUSE IF KAISER CAN'T PERFORM, WE
20 STILL HAVE SOME -- MAYBE SOME RIGHTS -- BUT THEY ARE
21 EXEMPTED. THEY ARE PROTECTED, INSULATED, THE DAY WE
22 SIGN THIS. IF KAISER FILES A CHAPTER 7 THE NEXT DAY
23 AND GETS ITS OBLIGATION -- OR CHAPTER 11 AND GETS ITS
24 OBLIGATION DISCHARGED OR A 7 AND GETS ALL OF ITS
25 OBLIGATIONS DISCHARGED, WE DON'T HAVE ANYBODY TO LOOK
26

INLAND VALLEY COURT REPORTERS

1 TO.

2 NOW, IF COUNSEL IS TELLING ME AND
3 STAFF IS TELLING ME THAT CSI'S RESPONSIBILITY IS A
4 PRP FOR THIS PROBLEM IS SO REMOTE IS TO BE
5 IMMATERIAL, OR WHATEVER, THEN ALL I'M DOING IS BEING A
6 ROYAL PAIN IN THE BUTT TONIGHT BY MAKING A BIG DEAL OF
7 IT. FINE.

8 BUT IF THEY ARE POTENTIALLY RESPONSIBLE
9 AND THEY HAVE GIVEN ME NO CONSIDERATION FOR ASKING FOR
10 THIS RELEASE, AND PARTICIPATED IN NO WAY IN SOLVING
11 THE PROBLEM, WHY SHOULD I RELEASE THEM?

12 MR. COBB: GOOD QUESTION.

13 BOARD MEMBER LUEBS: WELL, WHY DID YOU
14 RECOMMEND IT?

15 MR. COBB: IN RETROSPECT, I WOULD RECOMMEND
16 YOUR LANGUAGE INSTEAD.

17 BOARD MEMBER LUEBS: THANK YOU.

18 MR. THIBEAULT: OR NO LANGUAGE. THAT'S A GOOD
19 POINT. EXACTLY.

20 MR. MUSICK: LET ME TAKE YOU TO THE NEXT STEP
21 AS WE PLAY OUT YOUR SUGGESTION. KAISER IS GONE FROM
22 THE SCENE FOR WHATEVER REASON.

23 NOW, YOU WISH TO SEEK OUT CSI, AND
24 ASSUMING THAT YOU HAVE THE ABILITY TO DO THAT,
25 WOULD CSI BE AFFORDED THE BENEFITS OF THIS

26

INLAND VALLEY COURT REPORTERS

1 AGREEMENT, OR WOULD IT HAVE TO COME UP WITH THE \$20
2 MILLION PLUS COST TO REPLENISHMENT THE WATER WHICH
3 EQUALS \$35 MILLION?

4 NOW, DOES CSI GET WHAT IS A VERY
5 FAVORABLE AGREEMENT, HARD FOUGHT BY THE STAFF, OR IS
6 THERE ANOTHER AGREEMENT WHICH IS IMPOSED ON CSI
7 BECAUSE IT'S A VERY PROFITABLE COMPANY WITHOUT A
8 THREAT OF BANKRUPTCY?

9 BOARD MEMBER LUEBS: YOU WANT TO SIGN THIS
10 AGREEMENT NOW, YOU CAN PROBABLY GET THE BENEFIT OF
11 IT.

12 MR. MUSICK: WE ARE ASKING TO BE GIVEN THE
13 BENEFITS OF THE AGREEMENT RIGHT NOW.

14 BOARD MEMBER LUEBS: WITH NONE OF THE
15 OBLIGATIONS?

16 MR. MUSICK: THAT'S CORRECT.

17 WE HAVE OUR OBLIGATIONS BEING TAKEN CARE
18 OF IN ANOTHER VENUE ENTIRELY.

19 BOARD MEMBER LUEBS: WITH ALL DUE RESPECT, YOU
20 GIVE NEW MEANING TO THE WORD "HUTZPAH."

21 MR. THIBEAULT: MR. CHAIRMAN, I WOULD SUGGEST
22 THAT WE COULD ASK THE KAISER REPRESENTATIVES HERE
23 ABOUT THE -- WHAT WOULD OCCUR TO THEIR WATER RIGHTS IN
24 THE EVENT THAT ONE OF THE SCENARIOS THAT MR. LUEBS
25 DESCRIBED HAPPENS. AND WE HAVE TALKED ABOUT THIS A
26

1 LOT AS PART OF OUR SETTLEMENT AGREEMENTS, AND I THINK
2 THEY CAN ADDRESS THAT.

5 MR. LITTLEWORTH: I'M NOT EXACTLY SURE WHAT I
6 AM SUPPOSE TO BE ADDRESSING HERE.

14 WE WANT TO TRY TO -- THERE'S OTHER
15 LITIGATION BETWEEN KAISER AND CSI, AND WE REALLY
16 DON'T WANT THAT TO BE COMING OVER AND AFFECTING THIS
17 KIND OF A SITUATION. WE WOULD VERY MUCH LIKE TO SEE
18 THIS SALT OFFSET PROGRAM WORK AND THE DESALTER GET
19 GOING.

26

INLAND VALLEY COURT REPORTERS

1 BUT I THINK THAT THE BASIC PROBLEM THAT
2 YOU ARE FACING RIGHT NOW, YOUR COUNSEL HAS EXPLAINED
3 PRETTY CAREFULLY. AND IT'S A DECISION FOR THE BOARD
4 TO WEIGH HERE.

5 AS WE UNDERSTOOD THE THING
6 ORIGINALLY, IT WAS CSI'S CONCERN THAT IF -- IF --
7 THEY WOULD NOT GO AFTER CSI FOR THE SAME ISSUE
8 THAT KAISER WAS RESPONSIBLE FOR. AND I DON'T SEE
9 KAISER NOT BEING ABLE TO PERFORM. THE MONEY IS
10 AVAILABLE AND THE WATER RIGHTS BASICALLY HAVE BEEN
11 SET ASIDE.

12 THE PROBLEM THAT WE RAN INTO LAST TIME
13 WAS THAT THE WATER RIGHTS PART OF THE AGREEMENT
14 REQUIRED TWO APPROVALS; ONE WAS OF THE COURT, AND CSI
15 BECAME INVOLVED IN THOSE PROCEEDINGS AND ULTIMATELY
16 WERE NOT ABLE TO GET THAT APPROVAL.

17 AND, SECONDLY, IT REQUIRED THE
18 APPROVAL OF THE WATER MASTER -- THE CHINO BASIN WATER
19 MASTER.

20 THE WAY IT'S BEING STRUCTURED NOW, IT
21 DOES NOT REQUIRE A COURT APPROVAL AND THE CHINO BASIN
22 WATER MASTER HAS ESSENTIALLY APPROVED IT ALREADY.
23 THERE MAY HAVE TO BE SOME DETAILS, BUT THE BASIC
24 RESOLUTION OF THE APPROVAL HAS ALREADY BEEN ADOPTED,
25 SO I DON'T SEE KAISER DEFAULTING.

26

INLAND VALLEY COURT REPORTERS

1 AND AS A MATTER OF FACT, THE ONLY THING
2 THAT KAISER HAS TO BE ABLE TO DO IS TO CONTINUE TO
3 DEDICATE A PORTION OF THE WATER THAT IT HAS IN
4 STORAGE TO THIS PROJECT AND ON AN ANNUAL BASIS FOR
5 THE 25 YEARS. THERE'S ALMOST ENOUGH WATER IN THE
6 STORAGE ACCOUNT NOW TO DO THAT; NOT QUITE, BUT
7 ALMOST. AND SO, THE BANK ACCOUNT IS THERE. WE WOULD
8 HAVE TO PAY IT OUT.

9 SO, I DON'T REALLY THINK THAT THERE IS
10 ANY REALISTIC THREAT THAT KAISER WILL NOT BE ABLE TO
11 PERFORM IN THIS SITUATION.

12 BOARD MEMBER LUEBS: WHEN WILL THAT BECOME A
13 NON-ISSUE ENTIRELY? AT SOME POINT THERE WILL BE A
14 DETERMINATION THAT THE WATER MASTER ACCEPTED YOUR
15 ABANDONMENT. THERE'S A BASIS FOR ELIMINATING THE
16 REPLENISHMENT OBLIGATION.

17 MR. LITTLEWORTH: AND THAT'S -- THERE'S A
18 ONE-YEAR PERIOD FOR THEM TO FINALIZE ALL OF
19 THAT.

20 BOARD MEMBER LUEBS: WHEN WILL THAT HAPPEN? IS
21 THIS GOING TO SOLVE ITSELF IN THREE WEEKS, IN A MONTH,
22 AND THEN IT BECOMES MOOT. I NO LONGER HAVE AN
23 EXECUTORY CONTRACT WITH YOU FOLKS.

24 MR. LITTLEWORTH: YOU GOT -- THEN THE
25 OBLIGATION IS -- KAISER'S OBLIGATION TO PUT A THOUSAND
26

INLAND VALLEY COURT REPORTERS

1 ACRE FEET PER YEAR OF ITS STORED WATER INTO -- WHETHER
2 IT'S GOING TO SAWPA OR TO THE WATER MASTER OR JURUPA,
3 OR WHEREVER IT'S GOING TO GO, BUT THAT'S A CONTINUING
4 OBLIGATION THAT KAISER HAS TO MEET.

5 NOW, IF KAISER --

6 BOARD MEMBER LUEBS: BUT YOU DON'T REALLY HAVE
7 ANYTHING TO DO IN THAT REGARD. ISN'T IT KIND OF A
8 BOOK TRANSFER? IT'S NOT LIKE YOU PHYSICALLY --

9 MR. LITTLEWORTH: YES. RIGHT. ALL WE HAVE TO
10 DO IS WE WRITE A CHECK, BASICALLY, ON OUR STORAGE
11 ACCOUNT.

12 MR. THIBEAULT: THE 1.5 MILLION IS TRANSFERRED
13 ESSENTIALLY IMMEDIATELY.

14 BOARD MEMBER LUEBS: RIGHT. CASH.

15 MR. LITTLEWORTH: YEAH.

16 BUT THE WATER RIGHT WOULD BE SIGNED
17 OVER, OVER A PERIOD OF TIME.

18 BOARD MEMBER LUEBS: WELL, I GUESS WHAT'S
19 BOTHERING ME IS THAT KAISER HAS POTENTIALLY A
20 \$20 MILLION PROBLEM HERE, AND WE'RE ACCEPTING A
21 MILLION-AND-A-HALF TO SOLVE IT AND PLUS SOME
22 WATER RIGHTS, AND WE'RE LETTING ANOTHER POTENTIAL
23 RESPONSIBLE PARTY ENTIRELY OFF THE HOOK.

24 AND I -- I MEAN, I BELIEVE IN THIS
25 OFFSET PROGRAM. I THINK THIS HAS BEEN TREMENDOUS

26

INLAND VALLEY COURT REPORTERS

1 WORK AND, OBVIOUSLY, SOME VERY CREATIVE MINDS HAVE
2 COME UP WITH A GOOD APPROACH TO DEALING WITH THIS, BUT
3 I'M CONCERNED THAT SOME OF THE DETAILS MAY COME BACK
4 TO EMBARRASS US.

5 MR. LITTLEWORTH: LET ME GO BACK TO THE FIGURES
6 AGAIN JUST FOR A SECOND.

7 THE EVALUATION OF THE WATER RIGHTS IN
8 THE PICTURE BRINGS THE KAISER CONTRIBUTION TO THE 8.6.
9 WE DIDN'T MAKE THAT EVALUATION. SAWPA MADE THAT
10 EVALUATION OF THE WATER RIGHTS.

11 AND IF THEY DON'T HAVE WATER RIGHTS,
12 WHAT THEY'VE GOT TO BE DOING IS PAYING REPLENISHMENT
13 COSTS TO CHINO FOR THE WATER THAT THEY PUMP OUT TO GET
14 FOR THE DESALTER. SO, THE WATER RIGHTS ARE A VERY
15 VALUABLE THING TO THEM.

16 AND THEY EVALUATED THE PRESENT VALUE OF
17 THOSE AT THE 8.6. THAT'S IN THE REALM OF THE CAPITAL
18 COSTS THAT IT WOULD COST US IF WE WERE GOING TO
19 APPROACH THIS DIFFERENTLY AND PUT DOWN SOME WELLS AND
20 PUT IT IN THE BRINE LINE OR TRY AND TREAT IT AND SELL
21 THE TREATED WATER OURSELVES, OR DO SOMETHING, OR PUMP
22 IT OUT AND USE IT FOR INDUSTRIAL PURPOSES ON OUR
23 REMAINING LAND, SOMETHING LIKE THAT.

24 SO, WE ARE IN THE BALL PARK OF THE
25 CAPITAL COST. WHEN YOU START LOOKING TO GET AT THE 20
26

INLAND VALLEY COURT REPORTERS

1 MILLION, YOU ARE LOOKING AT OPERATING COST OUT OVER
2 20, 30 YEARS, SOMETHING LIKE THAT.

3 SO, YOU'VE GOT TO TAKE WHAT WOULD BE
4 THE PRESENT VALUE OF THAT AND BRING IT BACK. AND
5 THAT'S -- THEN YOU ARE LOOKING AT THE
6 MILLION-AND-A-HALF, OR ULTIMATELY, -- WELL, YOU ARE
7 LOOKING AT THAT -- THAT COST, PLUS THEN THE 8.6 OF THE
8 WATER RIGHTS.

9 BOARD MEMBER LUEBS: I HEARD MARK SAY THE 20
10 MILLION REPRESENTED THE PRESENT VALUE.

11 MR. WILDERMUTH: THAT'S ALL COSTS.

12 MR. LITTLEWORTH: THAT'S ALL COSTS WITH,
13 YOU KNOW, OPERATING COSTS BEING OUT THERE IN THE
14 FUTURE.

15 BOARD MEMBER LUEBS: DISCOUNTED. LET'S MAKE IT
16 CLEAR. THEY ARE SAYING DIFFERENT THINGS.

17 MR. WILDERMUTH: THEY ARE ALL DISCOUNTED.

18 MR. LITTLEWORTH: I THOUGHT THAT THAT WAS NOT A
19 DISCOUNTED FIGURE.

20 THE OTHER POINT THAT YOU MADE, THOUGH,
21 AND THIS AGREEMENT HAS BEEN BASED ON THE FACT OF
22 VIRTUALLY SAYING A HUNDRED PERCENT LIABILITY OF KAISER
23 CERTAIN THING FOR MAXIMUM AMOUNT; BELIEVE ME, THERE
24 ARE PLENTY OF ARGUMENTS ABOUT THAT POINT.

25 BOARD MEMBER LUEBS: RIGHT.
26

INLAND VALLEY COURT REPORTERS

1 MR. LITTLEWORTH: AND WE HAVE NOT MADE THEM
2 HERE BECAUSE WE THINK THAT WE'VE GOT A WORKABLE
3 SOLUTION, BUT THAT 20 MILLION IS NOT A SOLID FIGURE,
4 I'LL TELL YOU.

5 BOARD MEMBER LUEBS: I UNDERSTAND THAT. AND I
6 AM ONE WHO BELIEVES A BIRD IN THE HAND IS WORTH A LOT
7 IN THE BUSH.

8 MR. CHAIRMAN KING: WE'LL COME BACK TO
9 MR. THIBEAULT FOR A MINUTE AND DISCUSS SOME
10 STAFF.

11 MR. THIBEAULT: THERE'S ONE POINT THAT I'D LIKE
12 TO MAKE FOR MR. LUEBS. THAT \$20 MILLION DEALS WITH
13 THE SAME PROBLEM -- SAME AMOUNT OF PROBLEM THAT \$8.6
14 MILLION DEALS WITH.

15 BOARD MEMBER LUEBS: RIGHT.

16 MR. THIBEAULT: SO, IT ISN'T LIKE THERE IS --
17 YOU KNOW, THERE'S A 20 MINUS \$8.6 MILLION BEING LEFT
18 UNDONE OUT THERE. YOU HAVE "X" AMOUNT OF SALT BEING
19 TAKEN OUT. YOU CAN DO IT FOR 8.6 MILLION, OR YOU CAN
20 DO IT FOR 20 MILLION WITH THE DIRECT REMEDIATION
21 PROJECT.

22 SO, IT'S -- WE'RE TALKING TONS VERSUS
23 TONS; ONE IS \$8.6 MILLION. ONE OTHER ALTERNATIVE IS
24 \$20 MILLION. SO, --

25 MR. COBB: ANOTHER THING TO REMEMBER, THERE'S
26

INLAND VALLEY COURT REPORTERS

1 AN UNKNOWN QUANTITY OF OTHER REMEDIATION WHICH MAY BE
2 REQUIRED OF KAISER PURSUANT TO THE DISCUSSION WE HAD
3 WITH ONTARIO HERE EARLIER. IT'S "X." I DON'T KNOW
4 WHAT IT IS, BUT IT IS THERE.

5 MR. THIBEAULT: AND ALSO, THE -- ONE OF THE
6 LOWEST COST ALTERNATIVES, I RECALL, IS TO PUMP THIS
7 WATER OUT OF THE PLUME AREA; PUT IT IN THE BRINE LINE
8 AND SEND IT ON DOWN TO THE OCEAN.

9 THE ALTERNATIVE THAT WE ARE SUGGESTING
10 BE ENTERED INTO HERE IS TO PUMP OUT THE DEGRADED WATER
11 IN THE LOWER PART OF CHINO BASIN, DESALT IT AND
12 PROVIDE THAT WATER AS A WATER SUPPLY FOR BOTH CHINO
13 HILLS AND THE JURUPA CSD.

14 SO, RATHER THAN HAVE THAT WATER LOST,
15 IT'S BEING RE-USED WITHIN THE BASIN. AND THE
16 AGREEMENT PROVIDES SUPPORT THAT SAWPA NEEDS TO
17 IMPLEMENT THE DESALTER PROGRAM NOW AS OPPOSED TO SOME
18 YEARS IN THE FUTURE.

19 BOARD MEMBER HUNTLEY: MR. CHAIRMAN?

20 MR. CHAIRMAN KING: YES?

21 BOARD MEMBER HUNTLEY: IN AN EFFORT TO FURTHER
22 CONFUSE THE ISSUE, I'M GOING BACK TO CALIFORNIA STEEL
23 INDUSTRIES' REQUEST. I WAS ABOUT TO REQUEST TO ASK
24 YOU IF I COULD ASK COUNSEL A QUESTION, --

25 MR. CHAIRMAN KING: SURE.
26

INLAND VALLEY COURT REPORTERS

1 BOARD MEMBER HUNTLEY: -- BUT I SEE SOMEBODY
2 ELSE IS DOING THAT.

3 MR. COBB: I'M SORRY.

4 MR. LITTLEWORTH: AM I DISCHARGED HERE?

5 MR. CHAIRMAN KING: YES, SIR. THANK YOU.

6 MR. COBB: I'M SORRY.

7 BOARD MEMBER HUNTLEY: WITH RESPECT TO THE CSI
8 REQUEST, WOULD YOU MAKE AN EFFORT TO CHARACTERIZE THE
9 SIMILARITIES OR DIFFERENCES WITH THE CASE CONSIDERED
10 AT OUR LAST MEETING, THE EMERALD OIL CASE, WHERE THE
11 OWNER OF THE PROPERTY FOR A PERIOD OF TIME WAS
12 DISCHARGED FROM RESPONSIBILITY, AS I RECALL?

13 MR. COBB: THERE'S -- IN THE -- THE STATE
14 BOARD HAS ISSUED 12 OR 15 ORDERS DEALING WITH WHAT WE
15 CALL "THE RESPONSIBLE PARTY PROBLEM."

16 THE STATE BOARD HAS CONSISTENTLY SAID
17 THAT, AS OPPOSED TO THE TAXPAYERS PICKING UP THE COST
18 OF THE CLEAN-UP, THAT THE CURRENT OWNER OF A
19 PROPERTY -- A PROPERTY TO WHICH CONTAINS THE PROBLEM
20 CAN BE REQUIRED TO CLEAN IT UP AND HAS CONSISTENTLY
21 ORDERED THAT THEY BE REQUIRED TO DO SO.

22 A DISTINCTION TO THAT WOULD BE SOMEONE
23 WHO USED TO OWN THE PROPERTY AND DID NOT CAUSE THE
24 PROBLEM AND NO LONGER OWNS IT. THE PERSON WHO NOW
25 OWNS THE PROPERTY, BUT DID NOT CAUSE THE PROBLEM HAS
26

INLAND VALLEY COURT REPORTERS

1 SERVED THE LAST LINE OF DEFENSE BEFORE THE TAXPAYERS
2 HAVE TO PICK UP THE TAB. THE PRIOR OWNER IS NOT IN
3 THAT SAME POSITION.

4 BOARD MEMBER HUNTLEY: THAT'S AN EXCELLENT
5 ANSWER. THANK YOU.

6 MR. COBB: THE PRIOR OWNER IS NOT IN THAT SAME
7 POSITION.

8 BOARD MEMBER HUNTLEY: THANK YOU.

9 MR. BERCHTOLD: THE EMERALD OIL CASES, IN
10 FACT, IS AN EXAMPLE OF WHAT MR. LUEBS IS TRYING TO
11 GUARD AGAINST. IN THAT CASE, ALL OF THE OPERATORS OF
12 THE SITE ARE EITHER BANKRUPT OR DISSOLVED AND THE
13 PROPERTY OWNER IS THE ONE WHO'S PAYING FOR THE
14 CLEAN-UP.

15 BOARD MEMBER HUNTLEY: THANK YOU, KURT.

16 MR. CHAIRMAN KING: MR. THIBEAULT, CAN WE
17 GET SOME STAFF COMMENTS ON THE SUGGESTED
18 LANGUAGE?

19 MR. THIBEAULT: THANK YOU, MR. CHAIRMAN.

20 BASED ON WHAT MR. LUEBS SUGGESTED, AND
21 TED'S CONCURRENCE, STAFF WOULD RECOMMEND -- NO LONGER
22 RECOMMENDS THIS LANGUAGE.

23 HOWEVER, KURT HAS SOME ALTERNATIVE
24 LANGUAGE THAT WE THINK CAN ADDRESS THE CONCERNS OF
25 MR. LUEBS AND ALSO PROBABLY CSI. SO, IF WE COULD ASK
26

INLAND VALLEY COURT REPORTERS

1 HIM TO --

2 MR. BERCHTOLD: FOR CLARIFICATION, I
3 WASN'T CLEAR WHAT YOU WERE SUGGESTING ABOUT
4 THIS -- THIS ADDITION, YOU WERE GOING TO ELIMINATE
5 THAT?

6 I DID HEAR MR. MUSICK SAY EARLIER THAT
7 HE WAS HOPEFUL THAT HIS CLIENTS COULD BE AFFORDED THE
8 SAME DEAL THAT KAISER IS GETTING HERE.

9 THERE'S A PROVISION IN THE PROPOSED
10 RESOLUTION ITEM 2 DOWN TOWARD THE BOTTOM OF PAGE 2
11 THAT CURRENTLY READS AS FOLLOWS: --

12 MR. THIBEAULT: HOLD ON A SECOND, KURT. WAIT
13 UNTIL WE CATCH UP.

14 MR. COBB: PAGE 2, THE ORDER ITSELF.

15 MR. BERCHTOLD: RESOLUTION 93-72.

16 WHAT IT SAYS IS:

17 "PARTIAL PERFORMANCE OF KRI'S
18 OBLIGATION WAS TAKEN INTO
19 CONSIDERATION BY THE BOARD IN
20 APPROVING ANY FURTHER ENFORCEMENT
21 ACTION ON SUBSEQUENT SETTLEMENT
22 AGREEMENT WITH KRI."

23 ONE THING THAT OCCURS TO ME IS THAT WE
24 COULD -- BY MAKING A MINOR MODIFICATION TO THAT --
25 SORT OF EXTEND THAT OPTION TO CSI OR ANY OTHER PARTIES

26

INLAND VALLEY COURT REPORTERS

1 IF WE JUST STRUCK WITH KRI AT THE END AND HAD IT READ
2 "ANY FURTHER ENFORCEMENT ACTION OR SUBSEQUENT
3 SETTLEMENT AGREEMENT RELATIVE TO THE TDS, TOC AND
4 SULFATE PLUME ADDRESSED IN THIS SETTLEMENT
5 AGREEMENT."

6 BOARD MEMBER LUEBS: I DON'T HAVE A LOT OF
7 PROBLEM WITH THAT. I'VE GOT TO GO BACK TO MY ORIGINAL
8 COMMENT. I'M NOT SURE WHY WE SHOULD BE GIVING ANY
9 BENEFITS EXPLICITLY UNDER THIS AGREEMENT THAT DON'T --
10 AREN'T CREATED AS A MATTER OF OPERATION OF LAW TO CSI
11 WHICH IS NOT A PARTY TO THE AGREEMENT. IF THEY WOULD
12 LIKE TO COME IN AND BECOME A PARTY, LET'S MAKE AN
13 AGREEMENT WITH THEM.

14 IT SOUNDS TO ME LIKE, YOU KNOW, IT
15 WOULDN'T BE TOO DIFFICULT OF A THING TO DO. I'M
16 BOTHERED BY THE FACT THAT THE FIRST TIME WE HAD THIS
17 BEFORE US, COUNSEL FOR CSI CAME UP AND SAID IT DIDN'T
18 REALLY HAVE ANY PROBLEMS WITH IT. WE WERE DOING THE
19 RIGHT THING, "BUT A COUPLE OF SUGGESTIONS THAT MIGHT
20 HELP THE AGREEMENT FROM OUR POINT OF VIEW, YOU KNOW,
21 SOME EDITORIAL COMMENTS. THANK YOU."

22 AND WE APPROVED SOME AGREEMENT. AND
23 THE NEXT THING WE KNOW, WE GOT SUED BY CSI. I
24 CAN'T IMAGINE -- AND I CAN'T IMAGINE THAT THAT
25 LAWSUIT OR CLAIM HAS ANY MERIT. AND THERE COMES A
26

INLAND VALLEY COURT REPORTERS

1 POINT WHERE YOU STAND UP AS A BOARD AND SAY, "SUE
2 ME."

3 AND I'M NOT INCLINED, AND NEVER HAVE
4 BEEN, TO HAVE SOMEONE KIND OF THREATEN ME THAT -- THE
5 WAY THAT I FEEL THAT WE'VE BEEN THREATENED WITHOUT ANY
6 GROUNDS IN THIS THING. IT JUST REALLY SEEMS
7 INAPPROPRIATE TO ME.

8 SO, UNLESS PEOPLE FEEL WE ARE REALLY
9 JEOPARDIZING THIS THING AND WE ARE REALLY HURTING A
10 GOOD THING, YOU KNOW, I DON'T LIKE TO CUT OFF MY NOSE
11 TO SPITE MY FACE, SO I'D JUST SAY TAKE OUT ALL OF THIS
12 STUFF ON CSI. KAISER HAS ACTED RESPONSIBLY. OUR
13 STAFF HAS ACTED VERY APPROPRIATELY, AND LET'S GET ON
14 ABOUT SOLVING THIS PROBLEM.

15 MR. CHAIRMAN KING: OKAY. THANK YOU.

16 I DO HAVE ONE MORE SPEAKER.

17 JAN SANCHEZ, WOULD YOU LIKE TO MAKE A
18 COMMENT BEFORE WE CLOSE THE HEARING?

19 MS. SANCHEZ: JUST A LITTLE.

20 FIRST, I'M INTERESTED TO NOTE WHO WILL
21 BE MONITORING THIS PLUME 50, 70 YEARS DOWN THE ROAD,
22 WHAT BODY?

23 JERRY, -- IS IT "JERRY"? "GERALD"?

24 MR. CHAIRMAN KING: THE REGIONAL WATER QUALITY
25 CONTROL BOARD.
26

INLAND VALLEY COURT REPORTERS

1 MS. SANCHEZ: OKAY.

2 ALSO OF INTEREST TO ME IS THIS WATER
3 WE'RE DISCUSSING, THIS THOUSAND ACRE FEET OF WATER PER
4 YEAR FOR 25 YEARS.

5 IS THIS NON-POTABLE WATER OR IS THIS
6 POTABLE WATER? THIS IS CLEAN WATER?

7 MR. THIBEAULT: YES.

8 MR. CHAIRMAN KING: IT'S LITERALLY A
9 BOOKKEEPING TRANSFER AGAINST THE ACCOUNT OF
10 KAISER. THEY HAVE "X" AMOUNT OF CREDIT ACCUMULATED,
11 AND THEY LITERALLY TRANSFER THAT TO WHATEVER AGENCY
12 IS GOING TO BE -- END UP BEING THE RECIPIENT OF THAT
13 CREDIT.

14 SO, IF IT WERE YOURSELF, AS AN EXAMPLE,
15 YOU WOULD BE ABLE TO DRAW OFF THAT CREDIT FOR YOUR OWN
16 USE ONCE IT'S TRANSFERRED.

17 MS. SANCHEZ: OKAY. THE WATER IS CLEAN,
18 THOUGH?

19 MR. BERCHTOLD: THERE'S NOT ANY ACTUAL PHYSICAL
20 TRANSFER OF WATER.

21 MS. SANCHEZ: THIS IS WATER ON PAPER?

22 BOARD MEMBER LUEBS: IT'S WATER RIGHTS.

23 MR. CHAIRMAN KING: OKAY.

24 I'D LIKE TO BRING IT BACK TO THE
25 BOARD.

26

INLAND VALLEY COURT REPORTERS

1 MR. COBB: LET ME JUST SAY ONE OTHER THING. I
2 DON'T KNOW IF CSI CARES ABOUT THIS, BUT THE FACT OF
3 THE MATTER IS ANY TIME THE BOARD TAKES ENFORCEMENT
4 ACTION, YOU ARE NOT BOUND BY -- IT'S NOT LIKE WE CAN
5 DO SOMETHING NOW THAT IMPLICATES THEM LATER WITHOUT
6 THEIR ABILITY TO CHALLENGE IT. THEY CAN CHALLENGE IT
7 AT THE TIME WE TAKE ACTION AGAINST THEM. IT ISN'T
8 LIKE THERE'S SOME SORT OF ESTOPPEL ARGUMENT THAT
9 THEY HAVE TO DO IT TONIGHT OR THEY CAN NEVER DO IT
10 OR THEY HAVE TO DO IT IN THIS CONTEXT OR CAN NEVER
11 DO IT.

12 BOARD MEMBER LUEBS: SURE.

13 MR. CHAIRMAN KING: WITH THAT, I'D LIKE TO HAVE
14 A MOTION FROM THE BOARD, IF I COULD, PLEASE.

15 BOARD MEMBER LUEBS: I'LL MOVE THE STAFF
16 RECOMMENDATION, EXCEPT I WILL NOT MOVE THE ADDITIONAL
17 LANGUAGE THAT WAS HANDED OUT HERE THAT PERTAINS TO
18 CSI.

19 MR. CHAIRMAN KING: IS THERE A SECOND TO THAT
20 MOTION?

21 BOARD MEMBER HENRIQUES: I'LL SECOND.

22 MR. COBB: THERE'S A STAFF RECOMMENDATION
23 INCLUDING WHAT KURT JUST SAID WITH MODIFICATION TO
24 PARAGRAPH 2.

25 BOARD MEMBER LUEBS: NO. NONE OF THE CSI
26

INLAND VALLEY COURT REPORTERS

1 STUFF.

2 MR. CHAIRMAN KING: IS THERE ANY FURTHER
3 DISCUSSION ON THE MOTION? WE HAVE A MOTION AND A
4 SECOND FOR APPROVAL OF 93-72? ANY FURTHER
5 DISCUSSION?

6 BOARD MEMBER REYNOLDS: MY ONLY COMMENT WOULD
7 BE THAT I THINK KAISER HAS ACTED RESPONSIBLY. I THINK
8 KAISER IS SHOWING GOOD FAITH IN THE EFFORT. STAFF HAS
9 WORKED HARD ON THIS. I DON'T WANT TO SEE IT FAIL.
10 THIS KIND OF THING IS WHAT WE OUGHT TO STRIVE FOR
11 RATHER THAN PUNITIVE DAMAGES; WORKING OUT SOME KIND OF
12
13 COMPROMISE.

14 AND ALTHOUGH I UNDERSTAND CSI'S PROBLEM
15 WITH IT, I THINK THE LAW IS TYING OUR HANDS ON, EVEN
16 IF WE COULD DO -- WE CAN'T EVEN DO SOMETHING
17 LIKE WHAT YOU WANT NO MATTER HOW WE MIGHT FEEL ABOUT
18 THAT.

19 ANYWAY, THAT'S MY COMMENT. I'D SURE
20 LIKE TO SEE THIS GO THROUGH.

21 MR. CHAIRMAN KING: OKAY. THANK YOU.

22 BOARD MEMBER SMITH: MR. CHAIRMAN?

23 MR. CHAIRMAN KING: YES.

24 BOARD MEMBER SMITH: I FEEL IT'S A GOOD PLAN.
25 WE'VE WORKED ON IT AN AWFUL LONG TIME. AND THE LONGER
26

INLAND VALLEY COURT REPORTERS

1 WE DRAG OUR FEET, THE WORSE IT'S GOING TO GET. AND
2 THE SOONER WE ACT ON THIS, THE SOONER WE CAN GET THIS
3 PLUME CLEANED UP.

4 MR. CHAIRMAN KING: JOHN, ANY COMMENT?

5 BOARD MEMBER WITHERS: NO.

6 MR. CHAIRMAN KING: OKAY.

7 WITH THAT, I'D LIKE TO TAKE A VOTE.

8 ALL IN FAVOR OF THE MOTION AS STATED,
9 SAY "AYE."

10 BOARD MEMBER WITHERS: AYE.

11 BOARD MEMBER SMITH: AYE.

12 BOARD MEMBER HARDY: AYE.

13 BOARD MEMBER LUEBS: AYE.

14 BOARD MEMBER REYNOLDS: AYE.

15 BOARD MEMBER HENRIQUES: AYE.

16 BOARD MEMBER JOHNSON: AYE.

17 BOARD MEMBER HUNTLEY: AYE.

18 MR. CHAIRMAN KING: ANY OPPOSED?

19 THERE BEING NONE OPPOSED, THE MOTION
20 PASSES UNANIMOUSLY.

21
22 (WHEREUPON, AT THIS TIME, THIS AGENDA ITEM WAS
23 CONCLUDED.)
24
25
26

FORM LASER UO10 A PERKADHIDY 1 810 U11 1987

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

R E P O R T E R ' S C E R T I F I C A T E

I, CLAUDETTE D. RUFFIN, A CERTIFIED
SHORTHAND REPORTER, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES COMPRISE A FULL, TRUE, AND CORRECT
TRANSCRIPTION OF THE PROCEEDINGS HAD AND THE TESTIMONY
TAKEN AT THE HEARING IN THE HEREINBEFORE-ENTITLED
MATTER OF ITEM NO. 12, RESOLUTION NO. 93-72 - KAISER
RESOURCES, INC., SALT OFFSET PROGRAM.

DATED THIS 5th DAY OF March, 1993,
AT MURRIETA, CALIFORNIA.



CLAUDETTE D. RUFFIN, CST NO. 6253