

BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF APPLICATION)
FOR PERMIT NO. 63-32573 IN)
THE NAME OF M3 EAGLE LLC)
ASSIGNED TO THE CITY OF EAGLE)
_____)

DEPOSITION OF MATHEW WEAVER
SEPTEMBER 22, 2011

REPORTED BY:
JEFF LaMAR, C.S.R. No. 640
Notary Public

1 THE DEPOSITION OF MATHEW WEAVER was taken on
2 behalf of M3 Eagle LLC at the offices of Idaho
3 Department of Water Resources, 322 East Front Street,
4 Suite 600, Boise, Idaho, commencing at 8:57 a.m. on
5 September 22, 2011, before Jeff LaMar, Certified
6 Shorthand Reporter and Notary Public within and for the
7 State of Idaho, in the above-entitled matter.

8

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APPEARANCES:

10 For M3 Eagle LLC:

11

GIVENS PURSLEY LLP

12

BY MR. JEFFREY C. FEREDAY

13

MR. MICHAEL P. LAWRENCE

14

601 West Bannock Street

15

P.O. Box 2720

16

Boise, Idaho 83701-2720

17

For City of Eagle:

18

MOORE, SMITH, BUXTON & TURCKE, CHARTERED

19

BY MR. BRUCE M. SMITH

20

950 West Bannock Street, Suite 520

21

Boise, Idaho 83702

22

For Protestants:

23

ALAN SMITH

24

3135 North Osprey Road

25

Eagle, Idaho 83616

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APPEARANCES (Continued):

For Idaho Department of Water Resources:

OFFICE OF ATTORNEY GENERAL

BY MR. JOHN W. HOMAN

322 East Front Street

P.O. Box 83720

Boise, Idaho 83720-0098

Also Present:

Steve Holt

Jason Smith

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MATHEW WEAVER,
first duly sworn to tell the truth relating to said
cause, testified as follows:

EXAMINATION

BY MR. FEREDAY:

Q. Good morning, Mat. I'm Jeff Fereday, as I
think you know, and with me today is Mike Lawrence.
Also here is Dr. Steve Holt, who did some of the
calculations for water use at the M3 portion of the
city. Also here is Bruce Smith with the City, and
Jason and Alan Smith.

This is a deposition where we just want to
ask you some questions about the work you did in this
matter having to do with the M3 portion of the city of
Eagle. And if you don't understand a question or if
you want it repeated, you know, feel free to say so.

A. Okay.

Q. It's possible that there will be objections
from time to time. And if there are, it's probably
advisable for you to hold off in making an answer until
you've conferred with your lawyer, John here, or
otherwise received instructions.

Okay?

A. Okay.

1 Q. So, Mat, could you just give us a sketch of
2 your educational background and how long you've been at
3 the Department.

4 A. Yeah. I have a bachelor's of science in
5 civil engineering. I have a master's in earth science,
6 hydrologic sciences. And I've been with the Department
7 almost four years now.

8 Q. Okay. What has been your involvement in
9 this matter which concerns obtaining a future-needs
10 water right for the portion of the city of Eagle
11 commonly known as the M3 development?

12 A. Yeah, I was asked last spring, I think, to
13 review a submittal by the City of Eagle where they did
14 some support for an RAFN for the entire city of Eagle,
15 and then to compare that or put that in context with
16 what had already been done by M3 and, I guess, evaluate
17 the overall reasonably anticipated future needs with
18 all the various components of that.

19 Q. Okay. With regard to reasonably
20 anticipated future needs, sometimes we may refer to
21 that as an R-A-F-N or a "RAFN."

22 Is that okay with you to refer to it that
23 way?

24 A. Yes.

25 Q. Okay. You understand that the reasonably

1 anticipated future needs comes out of a statutory
2 program whereby municipal providers are entitled to
3 obtain a water right with a longer development horizon
4 than the normal five-year horizon? Do you understand
5 it that way?

6 A. I do.

7 Q. Okay. What knowledge do you have of the
8 purpose of the hearing in which we're preparing for
9 today? Do you know the scope of that hearing, what
10 it's focused on?

11 A. No.

12 Q. Okay. Have you reviewed the order from the
13 District Court sending this matter back to the
14 Department for a further hearing?

15 A. I have not.

16 Q. Okay. So overall, your review, then, was
17 based on evaluating the reasonably anticipated future
18 needs that the city will have for this portion of the
19 city known as M3; is that correct?

20 A. Yeah, I think the review was to evaluate
21 the reasonably anticipated future needs for the city of
22 Eagle, thereby framing the context for which the M3 may
23 have been a portion of or, you know, all of. I guess
24 that was the evaluation that we conducted.

25 Q. Okay. And that evaluation resulted in

1 something called "RAFN Evaluation for the City of Eagle
2 in Connection with Application for Permit 63-32573";
3 correct?

4 A. Correct.

5 Q. And I'd like to mark that as an exhibit
6 here, I guess Exhibit 1, and show you that.

7 (Exhibit 1 marked.)

8 Q. (BY MR. FEREDAY): Do you recognize that,
9 Mat?

10 A. I do.

11 Q. This is the Department's RAFN evaluation
12 about which you've just spoke dated June 1, 2011;
13 correct?

14 A. Correct.

15 Q. I may refer to this as the "IDWR report" or
16 the "Department's report."

17 Is that okay with you to refer to it that
18 way?

19 A. Sure.

20 Q. Okay. Overall your conclusions about the
21 City's M3 RAFN are contained in this report; is that
22 correct?

23 A. They are, yeah, specific to the M3 portion
24 of it.

25 Q. Yeah.

1 A. Yeah.

2 Q. Specific to the M3 portion of the city?

3 A. Right.

4 Q. And your report did not attempt, did it, to
5 evaluate once and for all what the City's RAFN might be
6 for that portion of the city outside of M3; correct?

7 A. Correct.

8 Q. Okay. I note that the first page of the
9 Department's report notes that this evaluation, that it
10 contains quote, "May also be useful for a second RAFN
11 application that may be filed by the City of Eagle in
12 the near future," end quote.

13 What's your understanding of that?

14 A. Well, I think there was a lot of
15 back-and-forth between the City of Eagle and ourselves
16 in preparing this. And so certainly that dialogue that
17 we had in preparing this I think would be useful in
18 them moving forward.

19 But then also specifically some of the
20 population analysis that was done looked at service
21 areas within the city of Eagle, United Water, Eagle
22 Water Company, and then the remainder of the service
23 area, and then M3.

24 So just that approach of how, you know --
25 how we framed where M3 is in the larger sense of the

1 City of Eagle RAFN, I think that approach would be
2 useful for the City of Eagle in the future.

3 Q. But this, as you said, does not define what
4 the City of Eagle's --

5 A. That's correct.

6 Q. -- future evidence might be or what
7 constraints the City might have in presenting that
8 evidence; would that be correct?

9 A. That's correct.

10 Q. Okay. I note that the report has five
11 appendices, A through E.

12 Of those, which ones did you prepare, Mat?
13 And just to refresh your recollection, perhaps, I note
14 that Appendix A is the protocol for approaching the
15 Department's RAFN analysis.

16 Would that be a fair characterization?

17 A. Yeah.

18 Q. And B is the service area overlap analysis;
19 C is the population forecast; D, a review of the demand
20 at the M3 portion of the city; and E, review of the
21 city demand analysis that the City supplied to the
22 Department.

23 Is that your understanding?

24 A. Yes. And I'll just quickly look through
25 them.

1 Q. Yeah, take your time, by the way.

2 A. So Appendix A was primarily prepared by
3 Shelley Keen, but I did assist in that. But I would
4 say that he's the author of that document.

5 B was prepared by myself. You can see that
6 in the memo heading.

7 Appendix C was prepared by Dr. Don Reading.

8 Appendix D was prepared by myself, as was
9 Appendix E.

10 Q. Who prepared what I'll call the summary
11 report, which is the first several pages in front of
12 the appendices, that is, pages 1 through 5. I'll call
13 that the summary report.

14 Is that okay with you?

15 A. Uh-huh. I'd say that was a joint effort
16 between Shelley, myself, and Dr. Reading. Probably
17 Shelley had -- Shelley started it. He was the initial
18 author of the document, and then Don and I corroborated
19 in that effort.

20 Q. And again, what were your instructions in
21 preparing the Department's report?

22 A. Well, specifically my instructions were to
23 review the demand analysis of M3, the City of Eagle. I
24 think that's where it started. And I guess provide a
25 technical review of that.

1 Also, before Dr. Don Reading was brought on
2 board, I did some work with population data. And then
3 in the end that kind of resulted in Appendix B, where I
4 attempted to define the population basis for each of
5 the water service providers in the city of Eagle.

6 In addition to that, I think my
7 responsibilities maybe grew to, you know, in general
8 putting together a report that reviewed a RAFN
9 application, you know, maybe a protocol, in a way to
10 review a RAFN-type application for M3, but certainly
11 also with the idea that we could use it in the future
12 for additional RAFN applications.

13 Q. So that protocol you would see as some type
14 of template that might be useful for the Department in
15 the future?

16 A. Uh-huh. Yes.

17 Q. But again, it was not an attempt to dictate
18 to the City any specific data that it might submit in
19 the future in its future RAFN application; correct?

20 A. That's correct.

21 Q. Okay.

22 A. It could be considered, I guess, an example
23 of how the Department might approach this problem.

24 Q. Okay. Would it be fair to say that with
25 regard to the overall conclusions of the Department's

1 report that the Department found that there is
2 sufficient evidence of, at least at this stage --
3 obviously understanding we haven't gone to hearing yet,
4 but there is sufficient evidence to show that the City
5 of Eagle's current portfolio is not large enough to
6 serve both the M3 portion of the city and other
7 portions of the city as those areas might grow? Is
8 that a fair statement?

9 A. That's a fair statement.

10 Q. Okay. Would you agree that the amount of
11 future need for the portions of the city outside of the
12 M3 planned community has been defined in this report as
13 perhaps -- it hasn't been defined, but it has been
14 identified in this report as a number of around 3 cfs?
15 Do you recall that?

16 A. So I'm sorry. Can you repeat the question?

17 Q. Yeah. That wasn't very well done, was it?

18 A. Yeah.

19 Q. I read the report as saying that based on
20 the information that the City provided that it is a
21 fact that the City does not now have enough portfolio
22 to serve the M3 portion of the city; is that correct?

23 A. Correct.

24 Q. And based on the information that the City
25 has provided so far, the City needs at least another

1 slightly more than 3 cfs above whatever M3 needs to
2 serve other portions of the city in this planning
3 horizon?

4 A. Correct. So if you evaluate the existing
5 portfolio of water rights and add to that the M3 RAFN
6 permit which is going to the City of Eagle, then
7 there's an additional need -- well, this report
8 identifies a potential need of an additional 3 cfs,
9 3.08 cfs.

10 Q. The Department does not consider that 3 cfs
11 a final number, does it?

12 A. It does not.

13 Q. Okay. And it understands that as the City
14 submits a further application, that number could well
15 change upward; isn't that correct?

16 A. Absolutely.

17 Q. Okay. What documents did you rely on in
18 your production of the Department report?

19 A. So with each of the appendixes that I
20 prepared specifically, there is a bibliography with
21 each of those. And the attempt of that bibliography is
22 to cite every technical reference that I relied upon in
23 doing my review.

24 In addition to that, I reviewed M3's
25 submittal material as it related to laying out the

1 demand. And that was, I believe, one or two reports,
2 one of which included a large spreadsheet tool that
3 went through and kind of did a -- not kind of, it did a
4 very good analysis of the demand for the projected
5 project.

6 And I also reviewed one or two, I think two
7 in the end, documents from the City where they
8 addressed their -- that was their initial submittal --
9 "submittal" isn't even the right term. That was their
10 initial document where they were looking at their
11 future RAFN, big picture, you know, larger than just
12 M3.

13 Q. Let's focus for a moment on the City's
14 submittals.

15 As I recall, the City submitted, in
16 response to a request from the Department, two versions
17 of something called the "Reasonably Anticipated
18 Future-Needs Water Right Analysis for the City of
19 Eagle."

20 Do you recall that?

21 A. I do.

22 Q. Okay. And you see them here. We're going
23 to mark these. I'm going to hand you what is, I
24 believe, the second version, which was a slightly
25 updated version, and ask if you recognize that.

1 We'll mark that as Exhibit 2.

2 MR. BRUCE SMITH: Counsel, do you have copies of
3 these for everybody else?

4 MR. FEREDAY: Yes, we do.

5 (Exhibit 2 marked.)

6 THE WITNESS: I guess I can't say for sure if
7 it's a second submittal. It's not dated. It doesn't
8 have the planning information, so I guess -- you said
9 this is the second submittal or the resubmittal?

10 Q. (BY MR. FEREDAY): That's what I understand
11 it to be, but perhaps we'll have further information as
12 this deposition goes forward.

13 But do you recognize basically this
14 document?

15 A. I do.

16 Q. Okay. I believe it was submitted in April
17 of 2011.

18 Do you recall that?

19 A. I've got it here with a date on it from
20 when it was given to me. I can compare that.

21 Q. Okay. If you have a copy --

22 MR. BRUCE SMITH: Wait. Jeff, hold on a minute,
23 please.

24 MR. FEREDAY: Yeah.

25 MR. BRUCE SMITH: If the witness is going to

1 refer to other documents that he brought and you're
2 giving him one document and he's talking about this and
3 he's now going through a stack of documents, for the
4 purposes of the record I'd like to make sure we all
5 have the same document and know what the questions are.

6 So if he uses the exhibits that you're
7 handing him to talk about, that's fine. We at some
8 point will need to go through the list of documents he
9 brought to get this record clear, because when he says
10 "this" and is going to other documents, we're going to
11 have no idea what he's referring to.

12 MR. FEREDAY: Yeah, and we will get to that,
13 Bruce. I appreciate that.

14 Q. Mat, you're currently looking at another
15 version of what appears to be the same document that
16 you had in the materials you brought today?

17 A. Right. Which I think were made available
18 to everyone.

19 Q. Yes.

20 A. Yeah. So it looks like the same document,
21 and I do have it dated April 27th, 2011.

22 Q. The version that you brought, let's mark
23 that as Exhibit 3, please.

24 Can you mark that, please.

25 (Exhibit 3 marked.)

1 THE WITNESS: So this was the first one that I
2 received. This is the --

3 MR. FEREDAY: Let's go off the record for a
4 moment, please.

5 (Discussion.)

6 MR. FEREDAY: Let's go back on the record.

7 Q. Mat, we'd like to clarify these exhibits
8 that contain the City of Eagle's presentation, written
9 presentation to the Department.

10 You've identified Exhibit 2, which is the
11 clean version of the document that you recognized was
12 received on or about April 27th, 2011, from the City;
13 correct?

14 A. That's correct.

15 Q. Exhibit 3, could you describe what
16 Exhibit 3 is. And if it's another version of this
17 document, please say so.

18 A. Exhibit 3 is a prior version to Exhibit 2
19 that I received on or around March 22nd, 2011. It has
20 my handwritten comments in the margin.

21 Q. Okay.

22 MR. BRUCE SMITH: Counsel, just a moment.

23 Did you say Exhibit 3 is the prior version,
24 the March version?

25 THE WITNESS: (No audible response.)

1 MR. BRUCE SMITH: So Exhibit 2 is the April 27th
2 clean version Mr. Fereday handed you, Exhibit 3 is the
3 March 22nd, 2011 version that you brought to the
4 deposition?

5 THE WITNESS: That is correct.

6 MR. BRUCE SMITH: Okay.

7 Q. (BY MR. FEREDAY): Mat, is it fair to say
8 that the Department ultimately found that the City's
9 presentation, at least for purposes of this hearing, in
10 Exhibit 2 was adequate to show what you previously
11 testified to, that they did not have the current
12 portfolio and that there would be more growth than they
13 could serve with their current portfolio? Would that
14 be a fair statement?

15 A. It showed the bottom line was the same,
16 that they needed additional water.

17 Q. Okay. It's also true, isn't it, that the
18 Department had some criticisms of the City's
19 presentation, Exhibit 2?

20 A. I wouldn't use the term "criticism." But
21 we did -- we did have feedback for them and
22 suggestions.

23 Q. Would you anticipate that those suggestions
24 would be taken up by the City in a future water right
25 application seeking a RAFN?

1 A. That would be my hope, yes.

2 Q. Okay. In the Department's report the
3 Department suggested that the full future need for the
4 M3 portion of the city might not be the full 23.18 cfs
5 of instantaneous maximum flow sought in that M3
6 application.

7 Do you recall that?

8 A. I do recall it.

9 Q. And the Department in the report suggested
10 that the number might only be 22.19 cfs.

11 Do you recall that?

12 A. I do.

13 Q. On page 4 of the summary portion of the
14 Department's report, I will quote: "IDWR reviewed M3's
15 assumptions and methods and suggests a diversion rate
16 of 22.19 cfs to supply 6,535 acre-feet annually," end
17 quote.

18 You recognize or have agreed, have you not,
19 that the 6,535 acre-feet of annual volume is a
20 reasonable number for that part of the city; isn't that
21 correct?

22 A. Correct.

23 Q. Where does the 22.19 cfs come from? And
24 I'll note that that's a .99 cfs reduction from 23.18.
25 Where does that come from?

1 A. Would you like me to generally answer that
2 or dig through here and find the spreadsheet where the
3 math is done?

4 Q. I would like you first to generally answer
5 it, and then we'll go to the spreadsheet. And I note
6 that you're referring to one of the documents that you
7 brought to the deposition today. So if you could
8 generally explain.

9 A. Generally, the population estimate at the
10 end of the planning horizon, as identified by the
11 Department's consultant, Dr. Don Reading, differed from
12 the ultimate build-out population that M3 had
13 identified in their material. And the difference in
14 those populations at the end of the planning horizon is
15 what is responsible for the discrepancy.

16 Q. So your conclusion, then, was that because
17 at the end of the planning horizon there would not be
18 quite as many people living in this M3 portion of the
19 city as previously projected, that the peak
20 instantaneous diversion needed to come down by that
21 4.3 percent; is that right?

22 A. Correct.

23 Q. Was that a 4.3 percent reduction in
24 population, or do you know how that 4.3 percent or
25 .99 cfs was derived?

1 A. The difference is strictly in population,
2 yes.

3 Q. Okay.

4 A. As it was applied to the demand, it only
5 affected that part of the demand that was for in-home
6 residential use. So the community water needs were not
7 decreased.

8 Q. You said you had a spreadsheet that
9 illuminates this.

10 A. (No audible response.)

11 Q. Can you show that to us today?

12 A. I believe I can.

13 All right. I found it in what I've brought
14 today.

15 Q. Perhaps we can take a look at that and
16 confirm that it's what we received last night. We're
17 looking at a one, two, three -- five-page document.

18 Is that what you have here?

19 A. It is.

20 Q. And the first legend on it at the top of
21 the first page is "Eagle City Water System Usage"?

22 A. That's correct.

23 Q. And then there are two charts, scatter
24 charts on that first page; correct?

25 A. Correct.

1 MR. FEREDAY: Let's mark this as Exhibit 4.

2 MR. BRUCE SMITH: Just so we don't hold this
3 thing up, can you tell me -- here's my stack. Can you
4 tell me which one you all are talking about?

5 MR. FEREDAY: This one (indicating).

6 MR. BRUCE SMITH: Okay.

7 THE WITNESS: We're on that page.

8 MR. FEREDAY: That whole thing is Exhibit 4.

9 (Exhibit 4 marked.)

10 Q. (BY MR. FEREDAY): Mat, with regard to
11 Exhibit 4, could you walk us through that and explain
12 how this exhibit demonstrates the .99 cfs reduction in
13 the peak flow.

14 A. I can. So on the right-hand side of the
15 document there's a --

16 Q. Which page of the --

17 A. I'm sorry. On page 2 of Exhibit 4. The
18 title of that is "Analysis of M3 Diversion Rate at End
19 of 30 Years Versus Ultimate Build Out."

20 So on the right-hand side there's a table
21 with one value that says "Ultimate Population," there's
22 an asterisks there that says "As estimated by Dr. Don
23 Reading in Appendix C."

24 There's another column in there that is the
25 30-year planning horizon population, and that is

1 footnoted as the John Church population forecast,
2 Exhibit 40, Table 1, page 12.

3 The difference in those two population
4 estimates is 1,201 people. And the ratio is -- you
5 could say that at the end of the 30-year planning
6 horizon the population will be 93 percent of ultimate
7 build-out.

8 On the left-hand side there's a table that
9 compares water demand values in one column for the
10 ultimate build-out and the water demand values at the
11 end of the 30-year planning horizon. That ratio of .93
12 was applied to the indoor residential and the outdoor
13 residential uses or water demand.

14 What I've called community uses, which
15 includes indoor commercial, outdoor commercial, public
16 area nonpotable irrigation, reused water, and
17 evaporation from the aesthetic and operational ponds
18 have not been decreased by that ratio.

19 Q. Mat, the reason that the community uses
20 were not decreased is what?

21 A. Well, my reasoning in that was that -- I
22 don't know exactly when, but certainly prior to
23 ultimate build-out. All of the infrastructure and
24 amenities that are needed for the community as a whole
25 would be in place.

1 Q. Okay. Understood. So you felt that it was
2 appropriate to focus just on the indoor and outdoor
3 residential in terms of applying that 93 percent
4 factor?

5 A. I did.

6 Q. Okay. What else in this Exhibit 4 helps us
7 to understand this .43 percent reduction?

8 A. So Exhibit 4 is a print of a spreadsheet
9 that I have on my computer. And the title of that
10 spreadsheet is "Miscellaneous Calculations." And so it
11 was just a working document where I did miscellaneous
12 calculations.

13 So as I review this document, none of the
14 other tabs -- in that spreadsheet each page represents
15 a tab -- were calculations that pertained to the matter
16 at hand.

17 Q. Okay. But these may pertain to other
18 matters discussed in the Department's report?

19 A. They might, yeah.

20 Q. Okay. Do you recall any of importance or
21 note here, sitting here today?

22 A. Well, on other matters?

23 Q. Yes.

24 A. Well, I can just walk through it and give
25 you a few thoughts, if that would be helpful.

1 Q. Sure.

2 A. The first page --

3 MR. BRUCE SMITH: Can I ask the witness what
4 document you're referring to now?

5 THE WITNESS: I'm still referring to Exhibit 4.

6 MR. BRUCE SMITH: Okay. Clarification for the
7 record, I thought you were talking about the
8 spreadsheet on his computer.

9 MR. FEREDAY: No. We're talking about
10 Exhibit 4. He described what it is. He has a
11 spreadsheet on his computer that he printed.

12 MR. BRUCE SMITH: Okay. Now, I think he said he
13 has a spreadsheet on his computer that contains a lot
14 of other information, and that this is basically a
15 subset of that information from that spreadsheet; is
16 that correct?

17 THE WITNESS: No, that's not correct.

18 MR. BRUCE SMITH: This is the spreadsheet?

19 THE WITNESS: Yes. I think that spreadsheet, if
20 you open it, has five tabs or workbooks, and each one
21 of those is represented by a printout.

22 MR. BRUCE SMITH: Thank you very much. I
23 appreciate that.

24 Q. (BY MR. FEREDAY): And you testified a
25 minute ago that you call this on your computer

1 "Miscellaneous Calculations."

2 It was your workbook to think about various
3 issues as you went through preparing the Department
4 report; correct?

5 A. Correct.

6 Q. Okay. And I asked you with regard to this
7 Exhibit 4 whether there are other portions of this
8 exhibit that would help us understand some other
9 portions of the Department's report. And you said
10 "Maybe, and let's look at it."

11 A. Yeah.

12 Q. So I guess that's what we're doing now.

13 A. Okay. So page 1 is just as you identified,
14 two X/Y scatter plots of City of Eagle's water usage,
15 and I was just kind of looking to see if the water
16 demand varied seasonably, as you would expect, and also
17 if it was increasing with time, as you would expect.
18 That was just general information for myself in
19 reviewing the material that the City sent me.

20 Page 2 is the document we already
21 discussed.

22 Page 3 is a comparison of demand amongst
23 the different water service users within the city of
24 Eagle, United Water Idaho, Eagle Water Company, City of
25 Eagle, and then I have a couple of different methods

1 there of calculating it. I don't think ultimately any
2 decision was made based on this information.

3 Q. Okay. And on that page 3, just so I
4 understand your acronyms, what's "ADD:MDD PF" on the
5 second page?

6 A. Yeah, that would be average day demand to
7 maximum day demand, peaking factor.

8 Q. Okay. Continue.

9 A. The next page is just where I put some data
10 that I received from the American Communities Survey
11 for Eagle City, Idaho. It reports household size or
12 the number of people per household. And I got data
13 from 1990, from 2000, and then I had an average value
14 from 2005 to 2009. And I just used that to convert
15 back and forth in my calculations between single-family
16 residence and population.

17 Q. The 2005 to 2009 number, 2.77 people per
18 household, was that a number derived by the American
19 Communities Survey?

20 A. It was.

21 Q. Okay. And then tab 5 or page 5?

22 A. So this is just comparing two methods for
23 arriving at a future population base for city of Eagle
24 with all of its resident water providers. And again, I
25 don't think that that was used in any, you know, final

1 decision or component.

2 Q. Okay. Thank you.

3 With regard to the 4.3 percent reduction
4 from 23.18 to 22.19, would you agree that that's a
5 number that's probably within the margin of error in
6 projecting water needs?

7 A. This is a fairly specific -- M3's approach,
8 their forecast in water demand, is fairly specific.
9 And it's done a good job of eliminating a lot of the
10 margin of error that would be associated with this type
11 of forecasting. As such, I don't have a good feel for
12 what the margin of error is in something along these
13 lines.

14 Q. Good. I appreciate your answer on that.

15 Now, I would like to refer you, please, to
16 the reference on page 2 of Exhibit 4 to the John Church
17 population forecast, Exhibit 40, Table 1.

18 I'm going to hand you what we'll mark as
19 Exhibit 5, which I'll represent to you is that forecast
20 by Dr. Church.

21 And let's go off the record while we get
22 this marked and distributed.

23 (Exhibit 5 marked.)

24 MR. FEREDAY: Let's go back on the record.

25 Q. Mat, we're looking at what I've had marked

1 as Exhibit 5, which is page 13 of Exhibit 40 from the
2 M3 hearing.

3 Do you recognize that?

4 A. I do.

5 Q. I note that on your Exhibit 4 you describe
6 this as page 12.

7 Was that just a typo, do you think?

8 A. It looks like I just made an error.

9 Q. Okay. Do you recognize that that Table 1,
10 which is entitled "M3 Eagle Development Projected Total
11 Occupied and Vacant Housing Units, Households and
12 Population at Year End," is a 20-year forecast?

13 A. I do.

14 Q. And do you note that it also lists vacant
15 housing units?

16 A. Yes.

17 Q. Do you know whether you or Dr. Reading
18 accounted for existing but vacant houses in deriving
19 the .43 percent reduction?

20 A. The 17,455 number, as you pointed out, does
21 account for the residents at any given time that are
22 occupied within the community.

23 The number that Don Reading gave me came
24 out of his analysis, and I couldn't speak to whether he
25 made that same consideration in his analysis.

1 Q. But you were aware of it, correct, the
2 existence of vacant housing units in M3's numbers?

3 A. Yes.

4 Q. Would you agree that a vacant home still
5 must have full water service capability?

6 A. Yeah, I could concede to that.

7 Q. With regard to Exhibit 4, page 2, you note
8 the 30-year planning horizon population at 16,254;
9 correct?

10 A. Correct.

11 Q. I'd like to show you what I'll represent to
12 you is a copy of M3 Eagle's Exhibit 60 from the hearing
13 and ask you if you've seen that previously.

14 Let's get these guys copies over here.

15 MR. JASON SMITH: What's Exhibit 60 again?

16 MR. FEREDAY: Exhibit 60, I'll represent to the
17 group here, is part of Dr. Church's 30-year analysis,
18 as opposed to his earlier 20-year analysis, showing
19 population data.

20 MR. JASON SMITH: Okay.

21 MR. FEREDAY: This has been marked as Exhibit 6.

22 THE WITNESS: I'm sorry. I forgot the question
23 if there was one.

24 MR. FEREDAY: Let's mark this as Exhibit 6.

25 (Exhibit 6 marked.)

1 Q. (BY MR. FEREDAY): So did you note that you
2 recognized this?

3 A. I don't think I've seen this before.

4 Q. Oh, okay. All right. I would like you to
5 refer to year 25 in the lower right-hand half of this
6 Exhibit 6, please. You'll note that the projected
7 total population line, three lines up from the bottom,
8 is there.

9 Do you see that?

10 A. I see that.

11 Q. If you follow along to year 25, the number
12 is 16,524; correct?

13 A. Correct.

14 Q. Your number was 16,254; correct?

15 A. Correct.

16 Q. Do you think it's possible that in pulling
17 a number from M3's information provided at hearing that
18 the Department, perhaps Dr. Reading or someone else,
19 transposed "524" into "254"?

20 A. I don't think that's the case.

21 Q. Okay. And why do you think it's not?

22 A. Because the value -- the 16,254 number that
23 I've attributed to an estimation by Don Reading in
24 Appendix C, as I recall that document, he did a
25 calculation there of the estimating population at the

1 end of the planning horizon.

2 Q. So your view is that this 16,254 number was
3 independently derived by Dr. Reading?

4 A. That's my understanding.

5 Q. Is there a place in Appendix C, which is
6 Dr. Reading's portion of the report, that that's
7 displayed, or do you know?

8 A. I could look through it. I don't have the
9 same familiarity with that document that I do with the
10 ones I was the primary author of.

11 Q. Okay. It sounds to me like we need to talk
12 to Dr. Reading about this.

13 MR. JASON SMITH: Tomorrow.

14 MR. FEREDAY: Right.

15 Q. Mat, you noted in your Appendix D of the
16 Department's report that nothing that has been proposed
17 in the M3 Eagle numbers can be considered unreasonable.

18 Would you say that M3's demand calculations
19 were reasonable?

20 A. I would.

21 Q. Would you agree that those demand
22 assumptions in many cases are actually conservative,
23 that is to say, they tend to state less or project less
24 water production than might otherwise be within a
25 reasonable range?

1 A. That was my conclusion.

2 Q. Okay.

3 A. Just -- I feel it's worth elaborating on
4 that.

5 Q. Go ahead.

6 A. Certainly in comparison to published values
7 and references that exist, it was conservative. In
8 comparison to contemporary practices in desert
9 environments -- I don't know if it's contemporary or
10 maybe just the standard or the norm. So certainly
11 conservative in standards of practices across the
12 entire country and, you know, in older references.

13 Q. So it is conservative in that sense.

14 And in the sense of comparing with desert
15 environment numbers, it's more or less the norm; would
16 you say that's correct?

17 A. Yes.

18 MR. FEREDAY: Go off the record for just a
19 moment.

20 (Discussion.)

21 MR. FEREDAY: Let's go back on the record.

22 Q. Mat, with regard to Appendix D of the
23 Department's report, on page 2 of that appendix, you
24 discuss the sprinkler-irrigated landscape and
25 drip-irrigated landscape that M3 proposes.

1 Do you recall that?

2 A. I do.

3 Q. You note in paragraphs numbered 6 on the
4 top of that page 2 that M3's "...values do not seem
5 overly high or contrary to other residential
6 subdivisions within the Treasure Valley."

7 Do you still agree with that?

8 A. I do.

9 Q. Then you go on to say, "However, these
10 values may be high in light of M3's goal to maximize
11 water conservation principles within the development,
12 with specific reference to," and then you're quoting
13 here, "'mandating xeric landscaping and minimal lawn
14 sizes,'" end quote. And you cite there to the water
15 right application, Attachment A, page 4. I'm going to
16 hand you that page.

17 I just want to make sure that we're clear
18 on what that page said. I'm going hand you that, and
19 that will be Exhibit 7.

20 (Exhibit 7 marked.)

21 Q. (BY MR. FEREDAY): I'll represent to you
22 that this is a portion of the M3 Eagle, now City of
23 Eagle, water right application narrative, the
24 Attachment A to the application. And where we're
25 discussing the language here, we're down at "Water

1 conservation measures" on page 4 of that exhibit.

2 Do you see that?

3 A. I do.

4 Q. And I'll just quote from the exhibit and
5 just point this out to you and see what your reaction
6 is. It says, quote, "These programs" -- these
7 conservation programs -- "may include measures such as
8 mandating xeric landscape and minimal lawn sizes,"
9 close quote, period.

10 I take it that in your statement about
11 referencing mandating xeric landscaping and minimal
12 lawn sizes you weren't suggesting that there was an
13 absolute commitment by M3 to mandate xeric landscaping
14 across the board; would that be a fair statement?

15 A. That's fair. I fully recognize that these
16 were programs that may -- you know, I was aware of the
17 term "may" be included.

18 Q. Okay. Good. Thank you.

19 I'd like to turn now to page 4 of
20 Appendix D.

21 MR. BRUCE SMITH: May I ask a question, Jeff?

22 MR. FEREDAY: Yes.

23 MR. BRUCE SMITH: Was this Second Amended
24 Application for Water Right marked as an exhibit to the
25 deposition?

1 MR. FEREDAY: Yes, it was. Exhibit 7.

2 MR. JASON SMITH: Is Exhibit 7 just Attachment A
3 or the whole water right application?

4 MR. FEREDAY: Just Attachment A along with the
5 form water right application.

6 MR. JASON SMITH: Okay.

7 Q. (BY MR. FEREDAY): Mat, on Appendix D of
8 the Department's report at page 4, paragraph 14, you
9 discuss "...winter effluent and irrigation season
10 effluent volumes" and note that those seem reasonable
11 and appropriate.

12 Do you still agree with that?

13 A. I do.

14 Q. You note, though, that the
15 evapotranspiration or ET loss is something that you
16 have some questions about.

17 Could you describe what your concern was
18 there.

19 A. One moment.

20 Well, without diving into the calculations
21 that supported the numbers in this paragraph, as I
22 recall, there was an ET rate proposed by M3 that was
23 associated with maybe the maximum day ET rate from a
24 summer month. And that had been applied to the pond
25 surface over the entire calendar year.

1 An approach that I'm more familiar with
2 would be to come up with an average ET for each month
3 of the year, determine your loss for the month, and
4 then sum the losses for each month.

5 And in so doing, that's a more -- it's a
6 more conservative approach than the one that's been
7 proposed, because your ET is substantially less
8 obviously in winter months and cooler months than it is
9 in the summer.

10 Q. Did you recognize that the information
11 provided by M3's expert at the hearing calculated
12 158 acre-feet of evaporation or ET from those storage
13 ponds, based on just the irrigation season evap?

14 A. You're asking if I made that distinction?

15 Q. Yeah, whether you're familiar with that
16 fact.

17 A. I thought -- I was under the impression
18 that it was for the entire year. That is my
19 recollection.

20 Q. Okay. All right. Staying with Appendix D,
21 paragraph 11, which is back on page 3, you suggest that
22 M3 may have assumed a student population that was
23 somewhat too large at 5,480 students compared to a
24 number that would be assumed if one used the U.S.
25 Census figures for Idaho.

1 Can you describe your thinking there.

2 A. So you're referring to paragraph 11?

3 Q. Yes.

4 A. I'm sorry. One moment while I read that.
5 (Reviews.)

6 So the first part of that paragraph I'm
7 noting that, again, with respect to published values,
8 that number per student is right on.

9 Q. M3's number is?

10 A. Yeah, M3's number. No concern there.

11 However, if you take that per-student
12 demand and apply it towards a total student body
13 population, it just seemed like there was a disconnect
14 between the students that you would get if you took the
15 total demand for the school divided by the number of
16 students and the likely student population if you
17 looked at U.S. Census data.

18 It's -- it was a means by which I could
19 check the number. And that's what I was looking for,
20 an alternative calculation to verify the one that had
21 been presented.

22 Q. Now, Mat, obviously I don't want to make
23 too big an issue out of this. You yourself point out
24 that this is a minor contribution, this demand is a
25 minor contribution, and that in fact it is a planning

1 estimate. "I am not recommending that the water demand
2 associated with school use be modified."

3 And you stand by that today; correct?

4 A. I do.

5 Q. But still, did you review Dr. Church's
6 work, such as in Exhibit 40 from the M3 hearing, which
7 projected the number of school-age children in the city
8 of Meridian? Do you remember reviewing that as you
9 went through these calculations?

10 A. In the city of Meridian?

11 Q. Did I say Meridian?

12 A. Yeah.

13 Q. I'm sorry. The city of Eagle.

14 A. I read that document in its entirety. So
15 at some point I did consider it. I don't have instant
16 recollection of it now.

17 Q. And that would be in the Meridian School
18 District, correct, the city of Eagle?

19 A. I'm not sure.

20 Q. Okay.

21 A. I don't know the school districts well.

22 Q. Okay. Would it surprise you to learn that
23 Dr. Church estimated that the students in this area, in
24 the M3 area, would be about over 5,400 students?

25 A. I wouldn't say that it would surprise me.

1 It would just be contrary to the U.S. Census data
2 specific for that area.

3 MR. FEREDAY: Okay. Let's go off the record.

4 (Recess.)

5 MR. FEREDAY: Let's go back on the record,
6 please.

7 Q. Mat, I take it that the reason for the
8 4.3 percent reduction is that you projected or you and
9 Dr. Reading projected that at the end of a 30-year
10 planning horizon beginning in 2010 the M3 portion of
11 the city would not be completely built; correct?

12 A. That's correct.

13 Q. There would be some number of homes that
14 would still have yet to be built; correct?

15 A. Correct.

16 Q. Do you have any reason to assume today that
17 those homes ultimately would not be built?

18 A. No. We made the distinction between
19 ultimate build-out and the end of the 30-year planning
20 horizon. So...

21 Q. So in other words, this would be a case
22 where the City properly projected water use and
23 properly projected population but simply ran out of
24 planning horizon time to get all that done? Would that
25 be an accurate way of putting it?

1 A. When you say "the City," you mean M3 and
2 the City as a --

3 Q. Yes.

4 A. Right. Yes, that's correct.

5 Q. And you do recognize, do you not, that this
6 is now the City's application, that it has been
7 assigned to the City?

8 A. I knew that that's where we were headed. I
9 did not know that it had been assigned.

10 Q. Do you think it would be reasonable for the
11 City to come to the Department at a certain time in the
12 future, let's say ten years before the end of the
13 planning horizon, and seek an extension of the planning
14 horizon to accommodate the overhang, if you will, of
15 those houses that could not be built within the period
16 prior to 2040?

17 A. As I'm aware of Idaho statute, that's not
18 afforded the applicant or permit holder. They could do
19 that when they submit their notice of beneficial use.
20 At that point my understanding is the Department will
21 receive an update on the reasonably anticipated future
22 needs package, which will include revision of the
23 planning horizon, the service area.

24 The only element of the RAFN that couldn't
25 be adjusted at that point, you couldn't enlarge the

1 rate or the volume.

2 Q. Okay.

3 A. But as I understand matters, that's the
4 final moment in time that that matter could be
5 revisited under that water right.

6 Q. Okay. But at least under even that
7 analysis, the City would be able to say "By the way, we
8 think we're going to need another 3.7 years to complete
9 all these homes within this area of our city, and
10 therefore we would want an additional period of time to
11 cover that"?

12 A. I think the Department anticipates that,
13 yes.

14 Q. Okay. With regard to the start of the
15 planning horizon, you chose or Dr. Reading chose 2010.

16 Is there a reason for that date?

17 A. When we prepared this document, I was more
18 familiar with Dr. Reading's material. Prior to the
19 first time I was supposed to be deposed, I went through
20 and reviewed it again. I did not get a chance to
21 review it this time.

22 Q. Okay.

23 A. And so some of these details I just don't
24 recall.

25 Q. Okay. But you would agree that if the

1 planning period were to start in say 2012 that the end
2 date would be 2042; correct?

3 A. Correct.

4 Q. And that would change the numbers, would it
5 not, that you have assumed here based on a 2016 start
6 date for construction?

7 A. I guess if you're comparing the start of
8 construction to ultimate build-out to a planning
9 horizon that's being established with this permit, and
10 what I think you're saying is if you shift out the
11 construction period, would the planning horizon also
12 shift out?

13 Q. No, that actually isn't my question.

14 A. Okay.

15 Q. My question was, if we assume that the
16 construction period, as you assume, will start in 2016,
17 then a planning horizon of 2040 provides 25 years of
18 construction before they run out of planning horizon;
19 right?

20 A. Correct.

21 Q. But if the construction season or start did
22 commence in 2016 but the planning horizon extended to
23 2042 because it began in 2012, then they would have two
24 extra years; correct?

25 A. I agree, yes.

1 Q. And that would have changed the numbers
2 that we're talking about here today; correct?

3 A. That's correct.

4 Q. Okay. You brought some documents with you
5 today that we have not yet discussed.

6 Could you please identify each of them, and
7 I'd like to mark each as an exhibit just so that we
8 have them cataloged here.

9 And perhaps Mr. Smith or Mr. Smith would
10 like to discuss them, and we'll have them marked.

11 So I believe the next number is Exhibit 8.

12 Would you describe what Exhibit 8 is,
13 please.

14 A. Exhibit 8 is going to be all of these
15 documents?

16 Q. No, the first --

17 A. Do you want me to break it out?

18 Q. I would like you to break them out into
19 logical groupings.

20 A. Exhibit 8 is an Excel spreadsheet titled
21 "Population Data."

22 MR. BRUCE SMITH: Hang on a minute.

23 THE WITNESS: That title --

24 MR. BRUCE SMITH: Mat, excuse me.

25 I don't know if this is going to work this

1 way. How do we know what document he's referring to?

2 MR. FEREDAY: He's going to describe it, and
3 we're going to mark it.

4 MR. BRUCE SMITH: Off the record a minute, Jeff.

5 MR. FEREDAY: Let's go off the record.

6 (Recess.)

7 (Exhibits 8 through 20 marked.)

8 MR. FEREDAY: Let's go back on the record.

9 Q. Mat, we've taken a break here and marked as
10 exhibits all of the documents that you were kind enough
11 to bring with you today. And I appreciate that.

12 I'd like to just step through each of these
13 so that you can describe them to us. And I understand
14 that, as to a few of these, you originally had a yellow
15 sticky note on the document that has a little bit more
16 information on it. And where that's the case, I'd like
17 you to explain that.

18 So let's start back with Exhibit 8, which I
19 think we've already marked or talked about. Could you
20 start with that and tell us what that is, please, just
21 briefly.

22 A. So Exhibit 8 has a yellow sticky on it.
23 And the yellow sticky says, "Excel: Population data."
24 And that's referring to the Excel file title name.

25 Q. On your computer?

1 A. On my computer.

2 And this is a compilation of all the
3 different spreadsheet tabs within that file.

4 On the first page is calculations that I
5 used in arriving at the base populations for the
6 various service areas within city of Eagle. I was
7 using U.S. Census block data from 2010, and not all of
8 those blocks fit nicely within a service area boundary.
9 Some of those larger blocks straddled the boundary. So
10 this is my accounting of going through and delineating
11 from that census block what people are within what
12 service area.

13 Q. I note that you have Detail A through K or
14 A through I or a similar notation on various charts
15 here.

16 Are those details described somewhere else
17 in the materials you provided today?

18 A. They are. They're -- if we refer to
19 Appendix B from Exhibit 1, which is the overview of
20 applicable service areas and contemporary population
21 bases, at the end of Exhibit B there's one, two,
22 three -- four maps. The second map is titled
23 "Figure 2 - City of Eagle Active Service Area," and you
24 can see the correlating detail.

25 So if you look on my spreadsheet for City

1 of Eagle --

2 Q. Spreadsheet Exhibit 8?

3 A. Yes.

4 And we go down to City of Eagle Active
5 Service Area table which in the lower right-hand
6 corner, Detail A, population zero. That correlates to
7 the map.

8 Q. In Appendix --

9 A. -- B.

10 Q. Of the --

11 A. -- Department's report, right.

12 MR. BRUCE SMITH: Excuse me.

13 MR. FEREDAY: Yes, Bruce.

14 MR. BRUCE SMITH: Can we go through exactly -- I
15 thought he was looking at Exhibit 11.

16 You were referring to a map in the report?

17 THE WITNESS: That's correct.

18 MR. BRUCE SMITH: Okay.

19 THE WITNESS: So what this first page is is it's
20 the underlying calculations for the information that's
21 presented in the maps attached with Exhibit B.

22 Q. (BY MR. FEREDAY): The first page in
23 Exhibit 8?

24 A. That's correct.

25 Q. So to summarize, Exhibit 8's first page has

1 detail designations that in turn refer to the
2 Department's report, which is Exhibit 1, Appendix B?

3 A. Correct.

4 Q. Okay. Could you continue through
5 Exhibit 8, please.

6 A. Page 2 I believe is maybe outdated
7 calculations, doing the same thing as page 1 of
8 Exhibit 8, but on service areas that I had not
9 delineated to the certainty that I did at the end of
10 the project.

11 Page 3 is a table that summarizes my
12 population -- I guess summarizes my efforts in
13 delineating a population base -- a current population
14 base for each of those service areas.

15 Q. And by the way, Mat, I note that these
16 pages are not actually numbered. You're just calling
17 them pages 1, 2, 3, and so forth; correct?

18 A. That's correct.

19 The remaining six pages of that document,
20 which are not numbered, are various population
21 calculations that I did for various groups. Everything
22 that I did here was supplanted by Don Reading's work.
23 So this is my efforts prior to him coming on board and
24 also maybe my efforts in parallel to what he was doing
25 as a double-check, for lack of a better term.

1 Q. Okay. Thank you.

2 MR. BRUCE SMITH: Point of clarification, when
3 you're saying these were also supplanted by Don, is
4 that all of Exhibit 8?

5 THE WITNESS: No. That was just the last six
6 pages of Exhibit 8.

7 Q. (BY MR. FEREDAY): Let's turn now to
8 Exhibit 9, please.

9 A. I have a yellow sticky on Exhibit 9, which,
10 again, refers to the file document name as it exists on
11 my computer, or the Department's computer. And the
12 title is "App D_calculations_April 24th, 2011."

13 Q. And what is Exhibit 9?

14 A. Again, Exhibit 9 is my working calculations
15 for the discussion that I have in the various
16 paragraphs within Exhibit D. We referred to some of
17 those numbers previously.

18 Q. Now, when you say "Exhibit D," do you mean
19 Appendix D?

20 A. I'm sorry. I misspoke. Appendix D from
21 Exhibit 1.

22 Q. Okay. Exhibit 1 or the Department's
23 report; correct?

24 A. Correct.

25 Q. Okay. Exhibit 10?

1 A. Exhibit 10 has a yellow sticky on it, again
2 referring to the file name as it exists on the
3 Department's computer. That file name is "Res
4 demand_resources."

5 And what this file is is it's my resource
6 of various water demand issues. It has citations, the
7 published documents. It has tools or calculations. So
8 I'll just go through this page by page.

9 The first page is a spreadsheet that's
10 contained in a design file note published by the
11 Department of Environmental Quality. This is their
12 methodology for calculating community demands when you
13 don't have historical data to draw upon.

14 The second page is a table that compares
15 the Department's methodology from Application
16 Processing Memo 22 which is the Department's only
17 guidance for calculating a demand associated with a
18 community. It compares that to the DEQ methodology and
19 to the IDAPA rules for public -- safe public drinking
20 water systems. I don't recall the full name of that
21 rule.

22 The third page is a table -- or I'm sorry,
23 is a graph that depicts, again, the comparison of those
24 various public published methodologies for zero to 120
25 homes.

1 The next page is a graph from zero to 1200
2 homes depicting the same relationships.

3 The next is a table that works out the flow
4 rates that you would get if you used the methodology in
5 Application Processing Memo 22.

6 The next two pages are summaries of water
7 demand data published by the USGS as they relate to all
8 the states in the country.

9 The next page has a table on it, and the
10 title of that is "Table 2: Summary of Published Values
11 of Peaking Factors." And this is, again, the work that
12 underlies the table that appears in Exhibit 1.

13 The next page has two tables on it: One is
14 called "Table 1: Summary of Published" -- or I'm
15 sorry, it has two titles. We'll use the lower title.
16 "Table 1: Summary of Recommended Planning Horizon
17 Periods." And the next table is titled "Table 2:
18 Summary of Actual Water Planning Documents and their
19 Respective Adopted Planning Horizon Periods." Again,
20 those are the underlying working document that provided
21 the tables that appeared in Exhibit 1 and its
22 appendices.

23 It looks like the next page is carryover
24 from the previous page. It didn't print all on one
25 page.

1 The next page after that has three tables
2 on it. The uppermost table is titled "Table 2:
3 Summary of Published Values of Average Residential
4 Daily Consumption," then there's one that says
5 "Treasure Valley Water Demand Study," and third one's
6 titled "Summary of Local Average Residential Daily
7 Consumption Values." And again, this is my underlying
8 work, supporting tables and figures that were included
9 in Exhibit 1 in the appendices.

10 Q. And, Mat, did you create these tables,
11 these three tables, or did you paste them in from some
12 other source?

13 A. No, I created all of those tables.

14 Q. Okay.

15 A. And the last page -- I'm sorry. Maybe
16 that's confusing. The next page has just two blips of
17 words on it that were carried over from the previous
18 page.

19 And then the last page again has three
20 tables on it. In the upper left-hand corner it says,
21 "Breakdown of Water Use in Commercial Establishments,"
22 then there's a table titled "Commercial Water Use," and
23 the third one is "Daily Commercial Water Consumption
24 Rates." And again, as before, these are my underlying
25 work for some of the tables and numbers that I used in

1 Exhibit 1.

2 Q. Mat, have you done this kind of work before
3 in putting together these kinds of tables, or was this
4 your first experience doing this at the Department?

5 A. I've done this kind of work before.

6 Q. Okay. And so you're familiar with
7 Lindeberg, Dewberry, and other sources that you cite
8 throughout this report; is that right?

9 A. That's correct.

10 Q. Okay. And now Exhibit 11?

11 A. Exhibit 11 is some screenshots of some
12 ArcGIS work that I did. And this represents my work.
13 Well, all three of these represent my work in
14 estimating the existing service base for United Water
15 Idaho in city of Eagle.

16 And I was unable to find this data
17 elsewhere. United Water couldn't provide it. PUC
18 couldn't provide it. So this was my attempt at that.
19 It has not been verified by United Water.

20 MR. BRUCE SMITH: Is this all Exhibit 11 that
21 you're referring to?

22 THE WITNESS: Yeah. There was three map
23 documents there.

24 Q. (BY MR. FEREDAY): Okay. Exhibit 12?

25 A. Exhibit 12 is a summary page from a

1 document for the Eagle Water Company on file with the
2 PUC, and it summarizes their demand in their most
3 recent report.

4 Q. This is a document prepared by Eagle Water
5 Company; is that correct?

6 A. Yes.

7 Q. And it was just on file, you just copied it
8 from the PUC?

9 A. Yeah.

10 Q. Okay. Exhibit 13?

11 A. Exhibit 13 is a comparison of, I guess,
12 various methods for considering population growth and
13 build-out for the M3 population.

14 Q. That is the M3 portion of the City of
15 Eagle?

16 A. That's correct.

17 Q. Could you explain what's intended by E-x-p.
18 What does that mean? What's the contraction?

19 A. Exponent or exponential growth.

20 Q. Exponential?

21 A. Yeah.

22 Q. And the same for E-x-p-o-n over on the
23 right?

24 A. Yeah.

25 Q. Same thing. Okay.

1 A. So you've got the projected population over
2 20 years, you've got an exponential growth rate plotted
3 with the purple Xs, you've got the actual annual growth
4 rate with the red diamonds, you have an average annual
5 growth rate with the green line.

6 Q. Okay.

7 A. To my knowledge, Don Reading did not use
8 anything on this in his ultimate document --

9 Q. Okay.

10 A. -- that appeared in Exhibit 1.

11 Q. Okay. Exhibit 14?

12 A. So part of the analysis that you have to do
13 for RAFN is you have to evaluate whether the proposed
14 service area is currently being serviced -- or not even
15 being serviced. Whether there's planning documents for
16 adjacent municipalities or communities within the
17 proposed service planning area. So you're looking for
18 areas of overlap between conflicting planning
19 documents.

20 And this has all of the planning maps that
21 I referred to in doing that overlap analysis.

22 Q. And by "this," you're referring to
23 Exhibit 14?

24 A. That's correct.

25 Q. So Exhibit 14 is a series of these planning

1 maps that you obtained from these various
2 jurisdictions?

3 A. That's right.

4 Q. And are these up to date, to your
5 knowledge?

6 A. Well, planning document maps change quickly
7 in some instances. At the time that I got all of
8 these, it was my understanding that they were the most
9 current.

10 Q. Okay. And you got these sometime around
11 March/April of 2011; correct?

12 A. That's right.

13 Q. Okay. Exhibit 15?

14 A. During that same time period, March/April,
15 I went and met with Eagle Water Company to discuss
16 their service area and their demand. And these next
17 two maps that are contained in -- I forget what exhibit
18 number. I didn't write it down.

19 Q. 15.

20 A. -- 15 represent the notes and my
21 understanding based on that meeting.

22 So there were portions within their service
23 area that they did not in fact service as well as
24 portions outside of their service area that they did in
25 fact service. And so this was me just establishing the

1 difference between the service area as identified on
2 their water right and their actual service area.

3 Q. Okay. Exhibit 16?

4 A. Another component in evaluating a RAFN
5 water right is the understanding of the existing water
6 right portfolio. Exhibit 16 represents all of the
7 water rights and/or water right permits and/or water
8 right applications for permits that I am aware of for
9 the City of Eagle.

10 Q. Thank you.

11 Exhibit 17?

12 A. Exhibit 17 is all of the material prepared
13 and submitted by M3 Eagle -- for the M3 Eagle planned
14 community that I felt was of sufficient use and
15 reference that I made a physical copy of it and kept it
16 at my desk.

17 Q. I note that this includes a very large,
18 multipage spreadsheet, which is denoted as Exhibit 5.7.

19 Do you recognize that?

20 A. I do.

21 Q. That portion of Exhibit 17 has many
22 handwritten notations and arrows and so forth on it.

23 Do you recognize those?

24 A. Yes. That's my notation.

25 Q. Okay. Did you find that this Exhibit 5.7,

1 which is reproduced as part of Deposition Exhibit 17,
2 to be useful to you?

3 A. I did.

4 Q. And do you have any significant
5 disagreements with its overall direction or approach?

6 A. I don't.

7 Q. Okay. Thank you.

8 Let's go to Exhibit 18.

9 A. When I was asked to be involved in this, I
10 was given a document by the City of Eagle titled
11 "Reasonably Anticipated Future Needs Water Right
12 Application," which we've marked as Exhibit 3. Based
13 on Exhibit 3 I wrote a series of comments and returned
14 those to the City of Eagle regarding Exhibit 3.

15 Q. And Exhibit 3 was the draft of the City of
16 Eagle's RAFN information to the Department; correct?

17 A. The draft of their initial information
18 presented to the Department, yes.

19 Q. Yes. Thank you.

20 Continue.

21 A. Exhibit 18 is the -- their second submittal
22 based on the comments that I gave them regarding
23 Exhibit 3. And it is very similar, but it has expanded
24 and addressed a lot of the comments that we gave them.
25 And it also contains my handwritten notes in the margin

1 from my initial reading of the document.

2 Q. Okay. Thank you.

3 Exhibit 19?

4 A. Exhibit 19 is the review comments that I
5 referred to regarding Exhibit 3. So Exhibit 3 was the
6 initial draft RAFN submittal to the Department. I went
7 through and reviewed that and put together a series of
8 questions that are all represented in Exhibit 19.

9 Q. Okay. So this is all your work,
10 Exhibit 19, not Dr. Reading's?

11 A. That's correct.

12 Q. Or Shelley Keen's?

13 A. No, Shelley was involved in this document.
14 He didn't write any of it, but he reviewed it before it
15 went out.

16 Q. Okay. How about Exhibit 20?

17 A. So Exhibit 20 is a -- these three documents
18 came out of the first meeting that I had with Shelley
19 and Don, Dr. Don Reading, and myself. And the first
20 page is some notes based on the thoughts that we had at
21 that time. This is all very initial.

22 The second page is a flow chart that
23 Shelley Keen prepared with the intent to help the
24 applicant kind of navigate what the Department is
25 looking for.

1 And then the last page is just maybe some
2 footnotes or notes for the flow chart.

3 Q. Okay.

4 A. I would say that this was our initial
5 understanding or thoughts on the matter and that we
6 evolved quite a bit from here.

7 Q. Okay. Thank you.

8 Referring back to Exhibit 1, the
9 Department's report, Appendix E. Appendix E is a memo
10 from you.

11 Did you prepare this, then?

12 A. I did.

13 Q. On or about June 2nd, 2011?

14 A. Yes.

15 Q. On page 3 at the very end of that
16 Appendix E, you state, "Overall I have found all of the
17 water demand forecasting details presented by the City
18 and discussed in this memo to be reasonable."

19 Is that your position today?

20 A. It is.

21 Q. "My review," you continue, "was limited to
22 the material submitted by the City and does not
23 consider water demand associated with other potential
24 and legitimate justifications that could potentially be
25 identified in a more rigorous disaggregate-requirements

1 based analysis," close quote. We spoke about this
2 earlier in this deposition.

3 But is this another way of saying that the
4 Department's view, or at least your view, is that you
5 expect that the City will come back and fill a number
6 of holes or answer a number of questions in its second
7 or follow-on RAFN application?

8 A. That's correct.

9 MR. FEREDAY: Okay. No further questions.

10 Let's go off the record for just a moment.
11 (Discussion.)

12 MR. FEREDAY: We're back on the record.

13 Judge Smith?

14 MR. ALAN SMITH: Back on the record. The
15 protestants have no questions.

16 MR. BRUCE SMITH: Off the record for a minute,
17 Jeff.

18 MR. FEREDAY: Yes.

19 (Recess.)

20 MR. BRUCE SMITH: Back on the record.

21

22 EXAMINATION

23 BY MR. BRUCE SMITH:

24 Q. Mat -- can I call you "Mat"?

25 A. Please.

1 Q. I'm Bruce Smith. I'm the City of Eagle's
2 attorney. And I think during your earlier questioning
3 by Mr. Fereday he indicated to you that M3's
4 application for permit has been assigned to the City.

5 And I think you indicated you weren't aware
6 of that; is that correct?

7 A. That's correct.

8 Q. But you understand that that's what was
9 contemplated, and I guess that's why the City of Eagle
10 is here now; correct?

11 A. Correct.

12 Q. All right. I have a number of questions
13 that I want to ask you about your report and some of
14 the information you provided. But while it's fresh on
15 your mind -- it's now 11:15 -- on some of the points
16 and the questions Mr. Fereday had, I want to get a
17 clarification of them. I was taking some notes as you
18 went through on your testimony. Let me make sure I've
19 got them, these last documents that you were referring
20 to.

21 Now, one other point: The notice that was
22 given to us about your deposition said that you would
23 bring all the information you relied upon in preparing
24 the Department's report; correct?

25 A. Correct.

1 Q. And are the documents that we've now
2 attached to the deposition as exhibits all the
3 information and all the documents and all the records
4 that you relied upon in preparing that report?

5 A. Obviously published documentation I made
6 reference to in my bibliographies and they're not
7 included. But of all the working documents that I
8 relied upon, they're here.

9 Q. So all the notes that you took are in here?

10 A. No. I do keep a -- I guess a log with
11 handwritten notes from meetings. But that has not been
12 provided.

13 Q. Okay. Mr. Homan, could we make
14 arrangements to get a copy of that?

15 Well, let me ask the question before.

16 Did you rely upon that in preparing any of
17 this information in your report?

18 A. You know, the notes are important points
19 from meetings that I had with you and with Eagle Water
20 Company. To what regard I relied upon them
21 specifically, I couldn't say. They helped form my
22 understanding of what my task was and what I was doing.

23 MR. BRUCE SMITH: Okay. With that, Mr. Homan, I
24 would request that we get a copy of them.

25 MR. HOMAN: We can go back and review those, and

1 you can revisit whether or not you relied on that. And
2 to the extent that you did, then we can get those to
3 Mr. Smith and the rest of the parties.

4 THE WITNESS: Okay.

5 MR. BRUCE SMITH: Okay.

6 Q. Anything else besides your -- did you say
7 field notes, or what did you call it?

8 A. It's just a logbook.

9 Q. Logbook. Anything else?

10 A. Nothing comes to mind.

11 Q. Okay. At any time during this deposition
12 if you think of something that you relied upon and you
13 did not produce it in these attached exhibits and it's
14 not in your log, would you let me know that and so we
15 can discuss and decide whether we need to see it or
16 not?

17 A. I will.

18 Q. Okay. And do you understand that as part
19 of the hearing that we're going to have in October the
20 City will be submitting its RAFN analysis?

21 A. Yes.

22 Q. Okay. Mr. Fereday asked you some questions
23 about the report and the idea that the City could
24 submit additional information at a subsequent hearing.

25 Do you recall that?

1 A. I do.

2 Q. And let me ask this question: There's
3 nothing that would prohibit the City from submitting
4 its RAFN analysis as part of this hearing; is that
5 correct?

6 A. Not that I'm aware of.

7 Q. Okay. I don't know that we will or won't,
8 but I just want to make sure that if we do that it's
9 not a problem.

10 So would you look at your Exhibit No. 20,
11 which is your City of Eagle RAFN meeting notes and the
12 flow chart, please.

13 A. I have it.

14 Q. Okay. In Mr. Fereday's questioning you
15 made note that these were the notes associated with the
16 flow chart and with regard to the City of Eagle RAFN
17 processing options. And I believe you made the
18 comment, "Our thinking has evolved since then
19 considerably," or something to that effect.

20 Do you recall that?

21 A. I do recall that I said our thinking -- let
22 me rephrase that. Our thinking may have evolved since
23 then. Hopefully I didn't use the word "considerably."

24 Q. Well, let's look at that for a minute.
25 Number one, you're saying it may have evolved. I don't

1 know if that means it has or has not.

2 Clarify that, has it or has it not evolved?

3 A. Certainly my understanding of the RAFN
4 process has been revised and honed throughout the going
5 on four months that I've dealt with this. When I was
6 brought in to deal with this, I had a much more
7 rudimentary understanding of the statutes, of the
8 process, and of, you know, the history of the
9 Department doing this than I do now. So my
10 understanding without question has evolved.

11 Q. When you're talking about you versus the
12 Department, can I assume that when you say you it is
13 the Department versus your only personal opinion?

14 MR. HOMAN: I think the Department will make its
15 own decision. I mean you can just testify to what your
16 belief is, speaking for yourself.

17 THE WITNESS: Yeah, when I say myself, that is
18 my understanding of the Department's position.

19 Q. (BY MR. BRUCE SMITH): Okay.

20 A. Or thoughts on the matter.

21 Q. Okay. So going back to this Exhibit 20,
22 when you're saying "Our thinking has evolved," is that
23 referring to your thinking or the Department's
24 thinking?

25 A. I'll say both. I think my thinking, as I

1 said, has definitely evolved. And I think that also
2 the people that were involved from the beginning,
3 specifically Don and Shelley, I think our understanding
4 of what we were doing and the Department's position on
5 certain aspects of our RAFN has probably evolved or
6 changed.

7 Q. Can you describe for me in what way.

8 A. An example?

9 Q. Uh-huh. Let me help you with this. Okay?
10 And let me give you a little commentary, and then you
11 help me understand it.

12 The City has submitted two RAFN analyses;
13 correct?

14 A. Correct.

15 Q. Okay. You looked at both of those, I think
16 you and Mr. Keen looked at them.

17 You had some comments; correct?

18 A. I provided comments, I believe, on both of
19 those.

20 Q. Correct. Have the comments that you
21 submitted and the information you asked for, has that
22 been provided to you now?

23 A. So I would say that there hasn't
24 necessarily been a formal reply by the City of Eagle,
25 you know, comment by comment. But certainly the City

1 of Eagle has responded in some form to most of my
2 concerns and addressed probably the most critical ones.

3 Q. Okay. Are there any that haven't been
4 addressed?

5 A. It seems like there were several that
6 weren't ever addressed to my satisfaction, but I
7 couldn't give you a specific example at this point.

8 Q. Okay. With regard to Exhibit 20, when the
9 City is preparing its RAFN information, should we give
10 consideration to Exhibit 20? Does it matter anymore?

11 A. I think the flow chart is still useful.

12 Q. In what way?

13 A. Because this outlines the path -- I guess
14 maybe not. Let me restate that.

15 Now that the permit has been assigned
16 completely to the City of Eagle, which is what this was
17 identifying, how can that get assigned to the City of
18 Eagle and then how can we move forward with that RAFN
19 review. So maybe it's not. Maybe because it's already
20 been assigned, it's not as useful of a document as it
21 was at the time.

22 Q. Is there anything in Exhibit -- take your
23 time, look through Exhibit 20, in particular your
24 notes.

25 Is there anything in here that we need

1 to -- the City, I'm saying "we," the City needs to give
2 consideration to in preparing its RAFN analysis?

3 THE COURT REPORTER: I need you to speak up,
4 Counsel, because I can't hear you.

5 MR. BRUCE SMITH: Counsel, I'd appreciate Mat
6 answering.

7 MR. HOMAN: Well, we're trying to figure out a
8 date for this.

9 MR. BRUCE SMITH: Okay.

10 THE WITNESS: You know, I think most -- I've
11 tried to read it just now. It's hard to read it in
12 this environment --

13 Q. (BY MR. BRUCE SMITH): Sure.

14 A. -- and take in everything that it's saying.
15 But I think for the most part this has been supplanted
16 by the report that we filed, Exhibit 1, and by the fact
17 that the water right permit has been assigned to the
18 City of Eagle, and that this was our thoughts and our
19 understanding when we first took on the task of how we
20 could proceed forward and getting it assigned to the
21 City and what considerations we needed to make in
22 evaluating the RAFN.

23 Q. Okay. If you look at item 7 down there, it
24 says, "What else does the City need to resubmit or
25 recharacterize for IDWR to move forward with the

1 review."

2 A. Uh-huh.

3 Q. It kind of goes back to my question about
4 is there anything else that the City needs to be
5 submitting to you and the Department that you haven't
6 already seen in order to submit a RAFN analysis?

7 A. So what's your specific question?

8 Q. Is there anything else that we need to be
9 submitting?

10 A. So you and I have shared e-mails. I guess
11 I'm going to call it a third document, but I don't know
12 that there was a document like these. But after the
13 permit got assigned, you and I have shared some e-mails
14 where you've said "Here's how the City is going to go
15 about evaluating the remainder of the RAFN."

16 I've given I comments on those. I've not
17 seen a formal response to those, but we've had dialogue
18 on some of the key ones. But I think where that
19 ended -- and I'd have to go back and look at our
20 correspondence -- was that there was some critical
21 items that I still felt it would be nice for the
22 Department to review.

23 One was how the planning or population
24 forecasting had been done. We saw an overview of that
25 in a slide show, but we've never been provided the

1 underlying methodology and calculations for that. And
2 it is substantially different from the approach that
3 the Department would take in the projections that we've
4 made.

5 I believe I had some specific questions
6 regarding the irrigation demand spreadsheet or table
7 that was submitted to me. And I'm not sure that those
8 have been addressed.

9 And if there were some other elements of
10 it, I don't recall. I think we had a fairly involved
11 back-and-forth, and that was -- what? -- back in August
12 maybe or July. So I don't recall if there were other
13 issues. But I'm pretty sure I've never seen the
14 planning information. I'm pretty sure I've never seen
15 the irrigation information.

16 Q. Okay. "Planning," you're referring to
17 population?

18 A. Yes. Sorry.

19 Q. And you said that the City's methodology
20 was substantially different from IDWR's approach.

21 Could you explain that.

22 A. I don't know what the methodology was. I
23 haven't reviewed the methodology. But the end result,
24 the end forecasted population, was different, if I
25 recall by an order of two times.

1 Q. Okay. And you said the other critical
2 factor was the irrigation demand; is that correct?

3 A. Yes.

4 Q. And I think the City did provide you with a
5 irrigation-demand analysis; correct?

6 A. Correct.

7 Q. And what was missing from that?

8 A. Well, I'd have to go back and look. But it
9 seems like I had a few questions. Maybe on the
10 classification of your different irrigated types.
11 Again, this is based off memory.

12 It seems like you were classifying certain
13 irrigated areas with titles that I was not sure what
14 they meant. It seems like you had done a calculation
15 for drip irrigation that covered a large area of
16 ground. And I was just asking for details on how that
17 was done. I can't recall if there were other points or
18 not. But I certainly -- those two seem to stand out.

19 Q. Okay. There's no critical information
20 other than this population forecasting explanation and
21 the irrigation demand; is that correct?

22 A. I would say the irrigation demand is not
23 critical. That's minor details. I would say the
24 discrepancy in the population estimation value is a big
25 deal.

1 Q. Okay.

2 A. "Critical" was your term.

3 Q. And when you're saying that, I want to make
4 sure I understand, you're talking about the difference
5 in the population at the end of the planning period
6 calculated by the City versus by Mr. Reading; is that
7 correct?

8 A. That's correct.

9 Q. Okay.

10 A. And I'm not suggesting that yours is
11 incorrect. It's just I don't know the underlying
12 methodology.

13 Q. Okay. I don't want to oversummarize your
14 report that you did. But if I'm mischaracterizing it,
15 tell me.

16 But basically the report identifies the
17 four components of a RAFN; correct?

18 A. We're talking about Exhibit 1, that report?

19 Q. Yes.

20 A. Yes.

21 Q. Okay. And as I read the report, you
22 concluded that the City's determination of its service
23 area was reasonable; correct?

24 A. Correct.

25 Q. That the planning horizon was reasonable,

1 the 30-year planning horizon --

2 A. Correct.

3 Q. -- is that correct?

4 The population projection you didn't
5 understand so you don't really know why the difference
6 between Mr. Reading and the City's determinations; is
7 that correct?

8 A. So again, I'm getting a little bit
9 confused. Our report was in response to the first two
10 submittals that you made. And when I was previously
11 describing to you our concern with the discrepancy in
12 the population forecast at the end of planning horizon,
13 that's between the effort that you had done after this
14 document was completed.

15 So the question that you're asking me, are
16 you referring to the original population work that was
17 done by I believe her name is Nichoel Baird --

18 Q. Spencer.

19 A. -- Spencer that was attached to that
20 March 22nd report? Is that the population forecasting
21 that you're referring to?

22 Q. Well, I'm trying to get you to explain to
23 me what population forecasting you were referring to
24 when you're saying there's a difference.

25 Am I clear?

1 A. Yes. And I apologize if I have not been
2 clear. So I'm going to identify a few different
3 population estimates that were done by the City.

4 One was done initially with the March 22nd
5 report. The other one was done after Exhibit 1 was
6 finalized, and it was shared with the Department
7 informally in a meeting. The Department, I guess, has
8 a concern with both of those population estimates.

9 The first population estimate Don Reading
10 addressed in his exhibit, the one that was attached to
11 the March 22nd exhibit. And I think for all the
12 reasons that Don expounds upon in his appendix -- I'm
13 not sure what appendix it was -- Appendix C of
14 Exhibit 1, you know, he's explained the Department's
15 position on why that population forecast is not
16 acceptable to the Department.

17 Now, the second population forecast that
18 I've referred to, the one that you shared with us after
19 Exhibit 1, the Department has not seen the methodology
20 underlying that. The value that you arrived at is
21 almost twice the value that we have arrived at in
22 Exhibit 1. So the Department is not yet comfortable
23 with that value either.

24 So does that answer your question?

25 Q. I think so. But it raises another

1 question.

2 Exhibit 1, which is your report, was
3 prepared -- I mean I don't think it has a date on it,
4 does it?

5 MR. FEREDAY: Yes, it does.

6 MR. BRUCE SMITH: Oh, June 1st.

7 Q. So it was prepared in response to the first
8 submission, first submission by the City; is that
9 correct?

10 A. You know, I'm not sure what it was prepared
11 in response to. I guess. That seems logical.

12 Q. Okay.

13 A. I was called in and originally tasked with
14 a very specific item, review M3's demand and City of
15 Eagle's demand. And it kind of grew there to a more
16 multipurpose involvement.

17 So I'm not sure what this report was in
18 response to initially. But what it was intended to do
19 was provide direction to the City of Eagle on
20 establishing their RAFN.

21 Q. Okay. Did you refer to the City's second
22 submission, which I believe was in April, in order to
23 prepare Exhibit 1?

24 A. I think so. Yeah, certainly.

25 Q. Okay. So on the four components we covered

1 the service area, and you said that was acceptable as
2 reasonable, the planning horizon was reasonable, the
3 population you said you're still not clear on exactly
4 how the City calculated its approach --

5 A. Their most recent approach.

6 Q. Excuse me. Approach, you're not sure how
7 the City calculated its population; correct?

8 A. The most recent one.

9 Q. And the fourth component is water demand.

10 And I believe the report says that you believe the
11 City's calculation of its water demand is reasonable;
12 correct?

13 A. Correct.

14 Q. So really the only difference between what
15 the City has submitted and your position today lies
16 solely within this population-projection component; is
17 that correct?

18 A. That's correct.

19 Q. Okay.

20 A. We mentioned a few minor demand issues, but
21 I think the details and understanding some of the
22 demand-related calculations are -- I don't want to say
23 insignificant, but not of the same concern as the
24 discrepancy in the population forecast.

25 Q. Mr. Weaver, let me say something. One of

1 the helpful things that you could provide today -- and
2 I hope you will do this -- the City submitted these two
3 RAFN analyses, as you discussed, the Department's
4 approach, if you will, has evolved; correct?

5 A. (No audible response.)

6 Q. So the City would like to submit something
7 that the Department finds acceptable. So one of the
8 things I had in mind today was have you tell me what it
9 is you think the City needs to be submitting so that we
10 go through and prepare the information for you in both
11 a format and substantive style that you would find
12 reasonable.

13 So when I'm asking these questions, about,
14 you know, "Tell me what else you need," that underlies
15 those questions.

16 Is that okay?

17 A. Yeah. So certainly the intent of Exhibit 1
18 was to give you that kind of feedback and direction and
19 critical review. Maybe we failed at some level in
20 doing that.

21 But as I review things now, it seems like
22 we have outlined a methodology for forecasting
23 population here by Dr. Don Reading. And he even, I
24 think, describes one to four steps on an approach that
25 he thinks is reasonable for a city, maybe even beyond

1 reasonable that he thinks is appropriate and maybe a
2 standard. I'm not sure.

3 What my understanding is of the population
4 forecasting technique that you've done currently after
5 Exhibit 1 was done is in no way similar to what was
6 outlined in Exhibit 1.

7 So not to say that what you did was wrong.
8 It's just that we gave you guidance and said here's a
9 way that the Department is comfortable with you
10 forecasting the population, and you've gone and done
11 something different. And we don't understand the
12 "different."

13 Q. And when you say "different," though, are
14 you referring to the number or the methodology?

15 A. Both.

16 Q. Clarify for me, if you will. I thought you
17 said you didn't understand or know what the methodology
18 was.

19 A. Well, the methodology was presented
20 verbally to us at that meeting.

21 Q. Okay.

22 A. So I have a gist of what the methodology
23 is, but that's it.

24 Q. Okay. What is --

25 A. And every day that passes I understand it

1 less.

2 Q. Excuse me for speaking over you.

3 What is your gist, what is your
4 understanding of the City's approach?

5 A. My understanding is that you're relying on
6 I'll say Treasure Valley-wide population data compiled
7 by COMPASS, and that rather than relying on population
8 data specific to the city of Eagle, you're applying
9 some type of ratio between city of Eagle population and
10 the Treasure Valley population at large, and you're
11 applying that to the growth rates that have been
12 established by COMPASS for the entire Treasure Valley.
13 That's -- I guess that's the extent of my understanding
14 of it.

15 Q. Okay. So you think it would be appropriate
16 for the City to use Eagle-specific information to
17 calculate the population; is that fair?

18 A. What I think is that the Exhibit 1 gives
19 you a methodology for calculating population forecasts
20 that the Department has thought about, has hired an
21 expert to help us develop and that we're comfortable
22 with, and that you've done something different.

23 I'm not going to say if it's right or
24 wrong, better or worse. I don't understand it, and
25 I've not seen it in detail. And even if I had, I'm

1 probably not the best person to evaluate it. Dr. Don
2 Reading would be.

3 Q. And actually my next question is, do you
4 think Dr. Reading is a better person to address the
5 question of population calculation?

6 A. Without doubt.

7 Q. Because you don't have a lot of experience
8 at it or you think something else?

9 A. I don't have his experience.

10 Q. Okay. So just real quickly to sum up,
11 going back to the four components, the City's
12 submissions are reasonable as to calculated value and
13 protocol, except for population?

14 A. (No audible response.)

15 Q. You have to say "yes." You can't nod your
16 head.

17 A. Sorry.

18 Q. That's okay. Okay. I want you to explain
19 one other thing to me.

20 As I read your report, you tend to separate
21 your analysis of the M3 submissions from the City's
22 submissions; is that correct?

23 A. The analysis of demand?

24 Q. Uh-huh.

25 A. Yes, I conducted two different analysis of

1 demand: one specific to M3 and one the City of Eagle.

2 Q. Okay.

3 A. City of Eagle.

4 Q. One of the questions we've discussed is the
5 City is submitting a RAFN analysis.

6 Okay. What do you see as the difference,
7 if any, in a RAFN report supplied by a municipality
8 versus a RAFN analysis prepared by somebody like M3 or
9 another developer? Is there a difference?

10 A. Is there a difference in the analysis that
11 underlies the RAFN? Certainly, yeah.

12 Q. And what is that difference?

13 A. For -- I'm going to say a subdivision, not
14 to imply that -- you know, Eagle M3 is much more than a
15 subdivision. But if we think of it in terms of a
16 subdivision outside of the incorporated limits of a
17 city, there's a very specific vision and plan and
18 hopefully preliminary plat and planning documents
19 supporting that.

20 Housing density has been established. You
21 can just go in and determine demand to a much greater
22 level of detail than you can for say City of Eagle,
23 which has an existing incorporated limits. It has an
24 area of impact. And the way we get from where we are
25 to where we're going isn't nearly as -- nowhere near as

1 constrained to the level that a subdivision is or a
2 planned community.

3 So when it comes to forecasting demand, you
4 have potentially two different methods there. There's
5 something called, as I understand it, a
6 disaggregate-requirements based approach to forecasting
7 demand, which works very well for M3.

8 "Disaggregate" means you go in and you
9 identify, you know, to the last cubic foot what -- how
10 much water is going to be required for each use.

11 For the City of Eagle, it's not easy to do
12 that. For any municipality, it's not easy to do that,
13 because you don't know how and where it's going to
14 grow.

15 So what you have to do there is you have to
16 forecast a demand based on some historical variables
17 that you can tie that into. And one such way to do
18 that is population. So just the underlying approach is
19 the forecast and demand can be very different.

20 Q. Would it be fair to characterize the
21 difference as a city or a municipality would use a more
22 generalized approach as opposed to a very specific
23 approach used by a development?

24 A. Yeah, you could say that.

25 Q. I mean that's a reasonable approach?

1 A. Uh-huh.

2 Q. I want you to look at your RAFN report on
3 page 3 of Appendix A.

4 Do you see that "Water Demand" section at
5 the very top?

6 A. I do.

7 Q. Okay. Would you read that first sentence
8 to yourself, please.

9 A. "There are a number of" --

10 Q. You don't need to read it out loud. I want
11 you to be familiar with it.

12 A. Oh, I'm sorry.

13 (Reviews.)

14 I've read it.

15 Q. Okay. You identify one, two, three,
16 four -- five different approaches; correct?

17 A. Yeah.

18 Q. I'm interested, how did you identify those
19 five different approaches? What did you look at to
20 figure those as the approaches for a RAFN?

21 A. I looked at a multitude of water demand
22 planning resources.

23 Q. Okay. So let me ask you this. And this
24 is, I guess, for you and for the Department.

25 Are all of these approaches acceptable?

1 A. I don't think so.

2 Q. Okay. I want you to go through these, and
3 I want to you look at them and tell me which ones are
4 acceptable, which ones aren't, and why or why not.

5 So let's start with judgment-based
6 predictions.

7 A. I don't think the Department would accept
8 that.

9 Q. Why not?

10 A. We wouldn't be doing our due diligence if
11 we just allowed someone to walk in and say "I'm going
12 to tie up however many acre-feet of water for the next
13 30 years because I think that's what we need."

14 Q. So underlying that conclusion that it would
15 not be acceptable is the assumption that you'd be
16 relying upon someone else's professional judgment?

17 A. Unsubstantiated professional judgment.

18 Q. What if they were substantiated, I guess is
19 the question?

20 A. Well, that's different. Then they're going
21 to have a methodology that they're relying upon to
22 forecast their demand.

23 Q. Okay. What you're saying is that for
24 somebody to come in and say "I'm an expert and this is
25 what I think we'll need" is not acceptable?

1 A. Correct.

2 Q. Okay. "Time extrapolation," what is that?

3 A. Time extrapolation basically is in 1980 we
4 needed 10,000 acre-feet, 1990 we needed 20,000
5 acre-feet, so in 2000 we need 30,000 acre-feet. The
6 only thing you're correlating it to is chronology. And
7 that probably is not acceptable to the Department
8 either. It wouldn't be acceptable to me if I were
9 reviewing it.

10 Q. Okay. "Single-coefficient model
11 development"?

12 A. So there you're tying it into a single
13 historical variable. The one that's used most commonly
14 is population, but you can tie it into, you know,
15 average market value of the residential lots, whatever.
16 But you're relying only on a single variable to predict
17 demand.

18 Q. Is that acceptable?

19 A. I think so. And I think certainly for
20 smaller communities that's the one that's most readily
21 within their means to pursue to identify their future
22 demand.

23 Q. Okay. In doing a RAFN analysis, is the
24 resources of a city, is that a relevant criteria?

25 A. My perspective is yes, it should be.

1 They're pursuing less of the resource. So yeah, it is
2 different. If City of Plummer comes in here and asks
3 for a half cfs RAFN versus United Water coming in here
4 and asking for 50 cfs of RAFN water, it -- that's
5 different.

6 Q. Based on the amount of water being sought?

7 A. Yeah.

8 Q. And what about --

9 A. Among other things.

10 Q. What other things?

11 A. Well, geographic location.

12 Q. How does that affect --

13 A. City of Plummer is in a region -- to use my
14 example, city of Plummer is in a region that receives
15 much more rainfall. They're not in an area with a
16 resource that's being -- that's under contention by
17 different water users like we are in the Treasure
18 Valley. I just think that there's a host of
19 differences.

20 Q. I think the question, the lead-in to the
21 question was about the distinction between the
22 resources available to the applicant.

23 Does that factor in?

24 A. And when you say "resource," are you
25 referring to a water resource?

1 Q. Let me put it this way: Financial and
2 experts. I mean let me give you a hypothetical.

3 City of Plummer comes in and asks for
4 50 cfs of future needs water rights; United Water comes
5 in and asks for the same 50, is there a distinction
6 there based upon resources available to the two
7 applicants?

8 A. I guess I would say that the more water
9 that you're pursuing to tie up in a RAFN, the more that
10 that needs to be scrutinized. Financial means of the
11 City, I'm not sure that that in and of itself should be
12 a factor. It seems like the one would go with the
13 other. If you're asking for more of the water
14 resource, you probably have more of the financial
15 resource.

16 Q. Is there a standard protocol for analyzing
17 and submitting RAFN applications to the Department that
18 the Department uses to evaluate?

19 A. We have not published that document yet.

20 Q. Do you have one?

21 A. We do. I've been working diligently on it
22 since this concluded at the end of June.

23 Q. What stage are you in with completing it?

24 A. 95 percent completion.

25 Q. Does it reflect what's in this report that

1 you prepared?

2 A. Yes.

3 Q. So the information in your document you're
4 preparing was used to prepare this?

5 A. I'm sorry?

6 Q. This report or whatever -- what do you
7 characterize it as?

8 A. We're calling it a handbook.

9 Q. The handbook. Okay. Was the handbook used
10 to prepare this?

11 A. Well, in part.

12 Q. "This" being Exhibit 1.

13 A. In part.

14 Q. In what part?

15 A. I was asked -- I was asked to work on the
16 handbook maybe a year to a year and a half ago. It was
17 a low priority issue. So I had done some work on that
18 handbook prior to this coming up. When this came up,
19 we received several other RAFN applications within
20 several weeks of this one.

21 So that prompted urgency to that task that
22 hadn't been there beforehand. And so part of what I
23 did prior to this influence, what was done here, but
24 mostly I would say it's the other way around, that the
25 effort and work that came out of this is influencing

1 that handbook.

2 Q. So this report becomes the protocol for the
3 handbook; is that what you're telling me?

4 A. I don't know if "protocol" is the right
5 word.

6 Q. Well, this is a protocol; correct?

7 A. It informed the handbook, yeah.

8 Q. Okay.

9 A. I mean they're similar.

10 MR. BRUCE SMITH: Okay. Mr. Homan, can we get a
11 copy of the handbook?

12 MR. HOMAN: Mat, that's in draft stage, isn't
13 it, yet?

14 THE WITNESS: Yeah.

15 MR. HOMAN: It hasn't been approved.

16 MR. BRUCE SMITH: Well, the problem is that it
17 was used for this.

18 MR. HOMAN: Well, I don't think it's evolved.
19 I'll check into it, Bruce.

20 MR. BRUCE SMITH: Okay.

21 MR. HOMAN: But won't commit right now.

22 MR. BRUCE SMITH: Okay.

23 Q. Is the handbook different from what you
24 described here?

25 A. It's much more involved. It gives

1 examples, so it is different.

2 Q. Is that handbook purely your work product?

3 A. For the most part.

4 Q. Okay. Who else might have had input into
5 it?

6 A. No one's actively written any of it other
7 than myself. I received critical feedback from a
8 number of people: Shelley Keen, of course; Jeff
9 Peppersack; Dr. Don Reading, although not specifically
10 to the document, more generally regarding population
11 forecasting. That's it.

12 Q. Okay. I think we were on the
13 single-coefficient model development.

14 You said that's one variable that
15 determines the underlying protocol for the RAFN
16 analysis?

17 A. Correct.

18 Q. Okay. If you have a multi-coefficient
19 model, what does that mean?

20 A. Similar to the single-coefficient model,
21 only you're using multiple predictor variables,
22 maybe -- you know, population often isn't used in
23 multiple variable because they're relying on other
24 things that kind of speak to the same thing that
25 population does. But you're forecasting based on more

1 than one coefficient -- or I'm sorry, more than one
2 explanatory variable.

3 Q. Can you give me an example of
4 multi-coefficient variables.

5 A. An example of one that's in use in the
6 state or an example of variables? I'm not --

7 Q. One that's in the state. That's fine. I'm
8 trying to understand what you're describing.

9 A. I am not aware of a multi-variable means of
10 forecasting water demand as used by anyone in the
11 state. I have not reviewed one in association with a
12 municipal water right in my time at the Department.

13 Q. Okay. You made mention that you got a
14 number of RAFN applications about the same time as this
15 one.

16 Is that the M3 application?

17 A. At the same time I was asked to work on the
18 M3 application.

19 Q. Okay. Do you recall who those were from?

20 A. City of Plummer, that's why they came to
21 mind. City of Nampa.

22 Q. Okay.

23 A. Then there's one in eastern Idaho. I don't
24 recall who.

25 Q. Okay. And do they have a standard protocol

1 that those applications involve?

2 A. City of Kuna is another one. City of
3 Plummer, when they submitted their material, it was
4 relatively small and simple compared to the City of
5 Eagle.

6 And so I used the protocol that's
7 Appendix A here to go through and just write a memo,
8 review memo, specific to City of Plummer.

9 City of Nampa, we have not given them
10 anything yet. They kind of are in waiting to see what
11 comes out of our handbook. And I also just owe them
12 some correspondence that I haven't yet followed up
13 with.

14 City of Kuna, I've been in talks with the
15 professional engineer there, and I've given them my
16 correspondence on the City of Plummer matter. And
17 they've also asked that as soon as the handbook is made
18 available that I copy them on it.

19 And then I think St. Charles, actually, is
20 the municipality in eastern Idaho. I'm not in direct
21 correspondence with them. That's coming through our
22 eastern regional office.

23 Q. Okay. So at this point with those
24 applications you don't have a standard protocol that
25 you would apply to analyze those applications; is that

1 correct?

2 A. Well, I think the method that's in
3 Exhibit 1 I used with City of Plummer. With the other
4 two entities, I'm hoping that we can get them the
5 handbook and they can use that. They are -- my
6 understanding is they are ready to submit. They're
7 just simply waiting on me to get the material to them.

8 Q. Okay. So do you recall, are those
9 approaches single-coefficient model approaches?

10 A. City of Plummer was, because I had their
11 material to review and comment on. City of Kuna, City
12 of Nampa, and St. Charles I've only had discussions.
13 I've not seen anything specific.

14 Q. Okay. Is there any benefit from using a
15 multi-coefficient model as opposed to a
16 single-coefficient model?

17 A. I think so, yeah. I think it's a more
18 accurate -- it can be a more accurate means of
19 forecasting water demand.

20 Q. Okay. The "econometric demand model
21 development," what is that?

22 A. That's the one I'm least familiar with. It
23 is recognized in most of the references that I've
24 reviewed. It's the one that if you go and do a review
25 of peer-reviewed published articles right now in a lot

1 of the journals, it's the one that seems to see the
2 most attention in that setting.

3 My understanding is that United Water
4 employs this method for forecasting water. And
5 basically what you're doing there is rather than
6 concerning yourself, I guess, with historical variables
7 to project the future, you're saying "If we price and
8 make available this water in such a way, how is the
9 consumer going to react to that, and how is his
10 demand -- or his, their demand going to react to that?"
11 But again, that's the methodology that I understand
12 least. I've never employed it myself, nor reviewed it.

13 Q. You indicated at the very beginning that
14 you were given direction to prepare this report.

15 Who provided that direction to you?

16 A. Jeff Peppersack is my supervisor.

17 Q. What direction did he give you with regard
18 to preparing this?

19 A. As I recall, he initially just asked me to
20 review the demand component of the M3 application and
21 the -- I forget what exhibit it is, but the March 22nd
22 document that the City of Eagle submitted to us.

23 Q. But I'm specifically talking about your
24 report that you prepared.

25 Who told you to prepare this report?

1 A. I guess, John, did you specifically tell me
2 to prepare that report? I'm not sure.

3 You know, we were meeting and we were
4 addressing this. And I guess I'll say this, that as
5 Shelley Keen and myself and Dr. Reading met and
6 reviewed the material and the specific tasks that we
7 had, we felt that this document would be most
8 appropriate in conveying the review that we'd done and
9 a protocol for determining our RAFN.

10 So in that sense maybe we tasked ourselves
11 to do that, as we felt it would be the best way to
12 convey the messages that we had.

13 Q. Okay.

14 MR. FEREDAY: And that's Exhibit 1 you're
15 referring to?

16 THE WITNESS: It is.

17 That was your question, was Exhibit 1?

18 Q. (BY MR. BRUCE SMITH): Correct. I was
19 wondering how Exhibit 1 came to be. And as I hear you
20 describe it, you and Mr. Reading and Mr. Keen decided
21 to do it; is that correct?

22 A. Yes.

23 MR. HOMAN: Let me clarify, if I may, Bruce.

24 Was that report authorized by the
25 Department?

1 THE WITNESS: Yes. Yeah.

2 Q. (BY MR. BRUCE SMITH): Okay. When you say
3 "by the Department" --

4 A. Gary Spackman, specifically.

5 Q. The Director did it. The Director
6 authorized or approved you to do this report?

7 A. Correct.

8 Q. Okay. Mr. Homan's question helps elucidate
9 the question I had earlier about you versus the
10 Department.

11 One of the issues that I know that you and
12 I have discussed, and I think you've discussed with the
13 City, is the idea of segregating irrigation demand from
14 the rest of the RAFN analysis; correct?

15 A. Yeah, we've talked about that. Yes.

16 Q. Is that the Department's position, that
17 that needs to be done?

18 A. No.

19 Q. Okay. So that's not an approach that would
20 be used to determine whether the report or the
21 information was reasonable or not?

22 A. Correct.

23 Q. Okay. Are you familiar with the
24 Department's Processing Memo 18?

25 A. I am.

1 Q. Does that have any applicability in the
2 RAFN analysis?

3 A. I think it does, yes.

4 Q. In what way?

5 A. Well, I think if you do choose to
6 individually determine the water demand associated with
7 irrigation or pond evaporation, that if you're going to
8 be using ET data the Department has a memo out there
9 that says you will use the Allen-Robison published data
10 from 200- -- is it 6 or 7. I'm not sure which.
11 They've since supplanted that with published data in
12 2009.

13 We do not have a memo out saying that you
14 should use the 2009 data, but I think that's our
15 position. And quite frankly, I don't think they vary
16 enough that it would be a concern.

17 Q. Okay. And I think you made note of that in
18 the report, I think in the M3 section about the --

19 A. I did.

20 Q. -- update of the Robison material.

21 Going back to the idea that the City would
22 submit a more generalized analysis or a RAFN
23 application, unless the City was preparing -- the City
24 itself was preparing to irrigate certain areas or to
25 create ponds, then that information wouldn't have much

1 relevance to the City's analysis, would it?

2 A. Correct.

3 Q. I want to clarify one point. We went
4 through the four components; correct?

5 A. We did.

6 Q. Population was one area that you said that
7 you needed more information -- or basically you needed
8 information to understand what the City did; correct?

9 A. Correct.

10 Q. With regard to your conclusions on the
11 other three components and the information submitted by
12 the City, did you uncover anything in the independent
13 work you did that would alter your conclusions as to
14 those three components?

15 A. And when you say "independent work," what
16 are you referring to?

17 Q. Well, you went out and interviewed Eagle
18 Water Company. Okay? You did a lot of independent --
19 correct?

20 A. Okay.

21 Q. And you did a lot of independent research
22 to prepare this report, which is Exhibit 1; correct?

23 A. Correct.

24 Q. You did a lot of your own independent
25 investigation; correct?

1 A. Correct.

2 Q. You went and looked at the Arc view maps;
3 correct?

4 A. Uh-huh.

5 Q. And you made your own discretionary calls
6 about where the populations were; correct?

7 A. Correct.

8 Q. You looked at service areas for Eagle Water
9 Company; correct?

10 A. I did.

11 Q. And United Water --

12 A. I did.

13 Q. -- correct?

14 You looked at the boundaries for the
15 surrounding cities; correct?

16 A. I did.

17 Q. So when you did all of this work and you
18 basically reached the conclusions that you did in your
19 report, is there anything that you found in the work
20 that you did that would alter your conclusions with
21 regard to the components of planning horizon, water
22 demand --

23 A. Service area.

24 Q. -- service area, other than just the
25 population question?

1 A. So service area, I don't think the
2 Department has a problem with.

3 Q. Okay.

4 A. Planning horizon, I think is consistent and
5 reasonable. The methodology that you used to forecast
6 water I think is reasonable. However, that methodology
7 relies on an underlying population base to forecast
8 forward on.

9 I'm not sure where we left it, if we were
10 in agreement or not whether that population base should
11 include people that are already receiving water from
12 other water suppliers.

13 Q. Okay.

14 A. So the methodology we have no problem with.
15 The population base, if this is year one in
16 2011, I'm not sure that we're in agreement on that. I
17 don't recall where you left -- where the City left
18 that.

19 Q. Okay.

20 A. And then the population forecast, of course
21 the methodology we don't understand yet and aren't
22 ready to bless, I guess, for lack of a better term.
23 But also we need to understand that population base
24 that we use as the initial point for forecasting
25 forward.

1 Q. Okay. But with regard to the population
2 question, you don't think it's reasonable to use
3 information say on a valleywide basis; is that correct?

4 A. No, I never said that I don't think that's
5 reasonable.

6 Q. Okay.

7 A. I said that I think that's different than
8 the approach that we outlined in our document and that
9 the Department has presented and feels most comfortable
10 with.

11 Q. Well, let me help you recall something.
12 The first information that was submitted to you in I
13 think it's in one of the exhibits, the first RAFN
14 analysis by the City, and it had a Nichoel Baird
15 Spencer's assessment on it.

16 Do you recall that?

17 A. I do.

18 Q. And do you remember Nichoel took
19 information from a number of reports, looked at
20 population growth figures, percentages, and then added
21 them up and came up with an average? Correct?

22 A. I do recall that.

23 Q. Is that the difference that you disagree
24 with is using that approach?

25 A. So I think what Nichoel initially did is

1 maybe more in line with what we proposed in Exhibit 1,
2 which is that you go out and you do a survey of
3 existing population studies, and you throw out the ones
4 that are not applicable or that are redundant. And so
5 you critically evaluate that survey and you pare it
6 down to something.

7 You then look at a high limit and a low
8 limit of that population study, and you allow that as
9 bounds, an upper and a lower limit bounds. And then
10 you go out and you do your projection, your population
11 projection, based off of your survey. And hopefully
12 that should be constrained somewhere within those
13 bounds. That's what we've outlined in the Exhibit 1.

14 Q. If I understood what you just said, you
15 agree with the approach used by Nichoel in the first
16 submission?

17 A. I think it was a start. It was the start
18 of what we would propose. So I'm not sure that --
19 these questions are probably best answered by Dr. Don.
20 But I think that it is the start of what we would hope
21 to see.

22 Q. Okay. Look at your Exhibit 14.

23 MR. JASON SMITH: 14?

24 MR. BRUCE SMITH: 14.

25 Q. That's your maps of the different areas.

1 A. I have them in front of me.

2 Q. Okay. My notes, when you described
3 Exhibit 14, you said part of the analysis for RAFN is
4 looking at overlap of service areas.

5 Does that sound like consistent with what
6 you said?

7 A. That may have been what I said. But maybe
8 to be more clear, it needs to include an evaluation of
9 overlapping plan use documents, I believe is how the
10 statute refers to it. Maybe they even use the term
11 "comprehensive plan use documents." I don't recall
12 exactly.

13 Q. I think it does. And that kind of goes to
14 what I'd like to ask you some questions about.

15 You took the work reflected in Exhibit 15,
16 that was part of your analysis on overlapping planning;
17 is that a fair characterization?

18 A. That's correct.

19 Q. Where did you get these, these documents
20 that are shown in Exhibit 15 -- 14? Excuse me.

21 A. Garden City and City of Meridian, I called
22 and coordinated with their planner and received them
23 directly. In the case of Garden City, they had to
24 refer me to their consulting engineer.

25 Q. Okay.

1 A. City of Eagle, I think the most recent one
2 was provided by you, maybe, or Nichoel. But I don't
3 think Nichoel actually ever provided it to me.

4 United Water, I don't recall where that
5 came from specifically.

6 City of Star, I think I called and talked
7 to their planner, and she pointed me to it online. And
8 I actually downloaded those two from online. I think
9 that's all of them.

10 Q. Okay. So how did you proceed to take these
11 documents that you have? And I think what you're
12 describing is you took all the area around Eagle and
13 started gathering up these documents that are reflected
14 in Exhibit 14; correct?

15 A. Correct. So what --

16 Q. So how did you approach that analysis?

17 A. Well, with our GIS, doing spatial analysis
18 of the service area as it was proposed by the City of
19 Eagle and the service area and planning areas as they
20 have been spatially delineated in these maps.

21 Q. Is it fair to say that if you took these
22 documents that are reflected in Exhibit 14 and if there
23 was some overlap between the map shown for a specific
24 entity in 14, Exhibit 14, and there was an overlap
25 between that map and the City of Eagle's water service

1 area, you excluded that from the area under
2 consideration for the population growth for the City of
3 Eagle?

4 A. That's correct.

5 Q. So did you undertake any analysis to look
6 at whether there was a conflict between those planning
7 areas and the planning area for the City of Eagle?

8 A. I did not, no. I just looked at the
9 conflicting spatial delineation of the planning areas.

10 Q. So you assumed that if there was an overlap
11 there was a conflict?

12 A. That's right.

13 Q. And that was true for the municipalities;
14 correct? That's what you did?

15 A. Uh-huh.

16 Q. And for United Water; correct?

17 A. Well, United Water is a little bit
18 different. It is different than all the other ones
19 here. If you look at United Water on this map, their
20 service area overlaps greatly Eagle Water Company and
21 city of Eagle and does not reflect their service areas
22 that's described on their water rights.

23 So I -- so for United Water specifically,
24 that's why we have these other exhibits in here, I
25 worked from their service areas that's defined by their

1 water rights, and I went in and I delineated, you know,
2 based off maps what was being served.

3 Q. So you didn't use the map that's in
4 Exhibit 14, you used the places of use on the water
5 rights?

6 A. Specific to United Water, that's true.

7 Q. Okay.

8 A. That's what I did in the end.

9 Q. Okay. And what did you use for Eagle Water
10 Company?

11 A. Eagle Water Company, I used the findings
12 based on my meeting with them and review of their
13 service area.

14 Q. So you used the place of use for United
15 Water's water rights but you used the service area for
16 Eagle Water Company?

17 A. Correct. Well, wait a minute.

18 Can you repeat that question?

19 Q. Well, you told me for United Water when you
20 analyzed the overlapping area you used the place of use
21 from their water rights.

22 A. That's correct.

23 Q. Okay. You said, "When I met with Eagle
24 Water Company, I looked at their service area that they
25 described."

1 And I assume you did a map or something and
2 then excluded that; is that correct?

3 A. Yeah. You've actually uncovered a
4 discrepancy in my method, which I didn't even realize
5 until right now. When I did my population-base
6 analysis, I relied upon the information that they gave
7 me, that is --

8 Q. Whoa, whoa, whoa. Wait. When you say
9 "they" --

10 A. I'm sorry.

11 Q. -- you lost me.

12 A. Eagle Water Company.

13 Q. Okay.

14 A. However --

15 Q. As a matter of fact, let's focus on Eagle
16 Water Company. I think that's what you're doing, but
17 just to be clear.

18 Go ahead.

19 A. However, when I looked at conflicting plan
20 use area, I relied upon their service area.

21 Q. Their service area defined as what?

22 A. Well, they don't have planning documents
23 that I'm aware of, so I relied upon the service areas
24 that's defined by their water rights.

25 Q. So you used the same approach for United

1 Water and for Eagle Water, then?

2 A. Correct.

3 Q. Okay.

4 A. For identifying planning area overlap.

5 Q. Okay. So there's a map in here for United
6 Water, but there's no map for Eagle Water Company;
7 correct?

8 A. I don't think so. I don't think they have
9 such a thing.

10 Q. Okay. But quite frankly, if I wanted to
11 duplicate it, if I wanted to go back and look at this,
12 I'd take the place of use for the water rights and that
13 defines the boundaries of the, quote, "planning area"
14 that you used for purposes of determining whether there
15 was overlap?

16 A. I believe that's true.

17 Q. Okay. For the cities you used their
18 comprehensive plan map, is that correct, or you used
19 what's attached to Exhibit 14?

20 A. Yeah.

21 Q. Okay. But again, going back to it, if
22 there was any overlap in the maps that you drew, then
23 you just excluded that area from the City of Eagle's
24 service area?

25 A. That's correct.

1 Q. Okay. And you did not look for conflict
2 between the plans?

3 A. That's correct.

4 Q. Okay. Mat, I want to ask you a question.
5 I got a note from Mr. Homan in describing the
6 Exhibit 1, the report. And let me just read what
7 Mr. Homan had told me. He said, "Nor did the
8 Department consider any water that might be needed to
9 address operational overlaps between the City's service
10 area and the service area of other municipal providers
11 and the City."

12 Do you understand that?

13 A. I think I do.

14 Q. Would you tell me what that means.

15 A. I think that means that if you want to
16 provide water to Eagle Water Company we said "You can't
17 do that." We just didn't consider it. They're already
18 getting water. It would be redundant for me to give
19 them water.

20 There might be a justifiable reasonable for
21 you to do that, but that case wasn't made by you in any
22 of the documents we received, so we took the position
23 that we did.

24 Q. So "operational overlaps" refers to the
25 City of Eagle providing water to some other provider?

1 A. That's how I understand that term.

2 Q. Okay. When you did your overlap
3 analysis -- I'll call it that. You understand what I'm
4 talking about?

5 A. (No audible response.)

6 Q. -- the only area that you excluded was
7 Eagle Water Company, United Water, and Star; correct?

8 A. Correct.

9 Q. And I think you ended up putting 193 people
10 in the overlap with Star?

11 A. That's correct.

12 Q. Okay. Did you look at the Star comp plan?

13 A. I think I did, yeah.

14 Q. Okay. When you looked at it, you looked at
15 the map in relation to the city of Eagle's map?

16 A. Right. Yeah, I compared the boundaries.

17 Q. Okay.

18 A. I do recall that I contacted the Eagle --
19 is it Eagle Water and Sewer. I think that's who
20 provides water -- not Eagle. Star Water and Sewer
21 provides water there, and they did not have any
22 planning maps for me.

23 Q. The City of Star does not supply water.
24 Do you understand that?

25 A. That's why I said Star Water. Is it Star

1 Water and Sewer District?

2 Q. Correct.

3 A. Yeah.

4 Q. So for the overlap analysis you used the
5 City of Star's comp plan map; correct?

6 A. That's right, the boundary.

7 Q. But the City of Star supplies no water;
8 correct?

9 A. But does their comprehensive plan, I think,
10 address the fact that they will provide utilities? I
11 don't know either. I read it a long time ago.

12 Q. This is where I ask you questions. I
13 honestly don't know. I'm trying to figure out what you
14 did in this situation with Star.

15 So you had no map from Star Water and
16 Sewer, so you used the comp plan map from the City of
17 Star?

18 A. Correct.

19 Q. In the context of RAFN water rights, what
20 do you do in these overlap areas? If you can't get a
21 RAFN, I think what you're saying is you can't get a
22 RAFN water right in an area that overlaps with a comp
23 plan, according to your analysis, correct?

24 A. Well, I think the statute says that. My
25 understanding is -- not to pose another question to

1 you --

2 Q. I won't answer it, but that's okay.

3 A. The statute says that you shall exclude
4 areas of overlapping comprehensive plan use, so...

5 Q. So how are those areas served?

6 A. What areas?

7 Q. How do you get a water right in these
8 overlapping areas?

9 A. Well, I would suspect that the area of
10 overlap needs to be addressed by the two parties, and
11 that they need to come to some resolution on who's
12 going to provide water there, and then modify their
13 planning documents accordingly.

14 Q. Okay. But how do you get the water right
15 to serve it?

16 A. Once you would -- once you've taken care of
17 the discrepancy and there's no longer a conflicting
18 use, then whoever has been determined that's going to
19 provide water would get the water right at that point.

20 Q. So at that point you could get a RAFN water
21 right because there's no conflict?

22 A. Right.

23 Q. Okay. And if there's no agreement, there's
24 no RAFN water right; is that correct?

25 A. For that portion, I guess. You know, I

1 just don't think we've ever had to really think that
2 hardly about that issue. So, you know, just taking our
3 guidance from statute, I think that's what it
4 indicates.

5 Q. Okay. But this Exhibit 1 reflects your
6 interpretation of that statute; correct?

7 A. Yes.

8 Q. Okay.

9 A. And if you know the author of that statute,
10 please introduce me, because I got a lot of questions.

11 Q. Why is that? Why do you have a lot of
12 questions?

13 A. Just -- I just think that they could have
14 defined things better in instances. I don't have a
15 specific example.

16 Q. You think parts of it are unclear?

17 A. Potentially, yeah.

18 Q. Okay. If you'll look at page 5 of
19 Exhibit 1.

20 MR. FEREDAY: Excuse me, Bruce, is that page 5
21 of the overview or one of the appendices?

22 MR. BRUCE SMITH: Jeff, it's actually page 5
23 from the very beginning.

24 MR. FEREDAY: Okay.

25 MR. BRUCE SMITH: So it's the area where the

1 water demand is calculated.

2 Q. Mat, do you see that?

3 A. I'm on page 5, yes.

4 Q. Okay. Notwithstanding the calculation,
5 don't worry so much about them, but that last line that
6 says "Minus the City of Eagle's existing water rights
7 of 5.48 cfs."

8 Do you see that?

9 A. I do.

10 Q. As I understood what you did, you just said
11 here's how much total demand the City of Eagle would
12 have, and you subtract out the 5.8; correct?

13 A. Yeah, the 5.48, that's right.

14 Q. 5.48. What if there turns out not to be
15 5.48 cfs? How does that affect your analysis?

16 A. What if there turns out not to be?

17 Q. Uh-huh.

18 A. Meaning the supply can't meet that need or
19 do you mean that --

20 Q. If there's not 5.48 cfs.

21 A. Yeah, I guess if we look at the existing
22 portfolio of water rights and that's less than 5.48,
23 then it would increase the 3.08 number.

24 Q. Okay. When you're doing arithmetic, you're
25 saying here's the total, here's what we're subtracting,

1 here's what we need, and you're looking at the current
2 portfolio, do you look beyond anything other than the
3 diversion amount?

4 A. Well, I think if there's volume limitations
5 you would have to consider those as well.

6 Q. Okay. Did you consider volume limitations
7 when you --

8 A. I did not in this, no.

9 Q. Appendix A of your document is entitled
10 "Protocol for Evaluating Reasonably Anticipated Future
11 Water Needs for the City of Eagle."

12 Is this protocol what's reflected in this
13 handbook that you're talking about? Are they one and
14 the same?

15 A. No. I mean no, this is specific to City of
16 Eagle.

17 Q. Okay. If you go down -- we're on
18 Appendix A, page 1.

19 A. Uh-huh.

20 Q. And you go down to the one, two, three --
21 fourth paragraph, there's a statement in here that said
22 "There may be a difference between the supply of water
23 sufficient to sustain an urban population and the
24 supply desirable to keep costs low or provide aesthetic
25 amenities."

1 Do you see that sentence?

2 A. I do.

3 Q. Did you write that sentence?

4 A. I don't think so.

5 Q. When they're talking about "desirable" --
6 okay? -- who decides what's desirable, I guess is the
7 fundamental question here?

8 A. I guess the City or the applicants making
9 that assessment.

10 Q. Okay. And that's what I needed to have
11 clarified, because as Mr. Fereday asked this morning
12 about M3 developing and doing details, specific
13 calculations for their specific water needs, the
14 developer in that instance looked at what was desirable
15 for its project.

16 And so I want to make clear that when we're
17 looking at these types of questions, it's the interest
18 of the applicant that is being applied; is that
19 correct?

20 A. Yeah, I think that that's true, in part.

21 Q. What part's not true?

22 A. Well, I think that -- I guess the
23 Department also has a role there to protect the
24 resource. So --

25 Q. Let me give you a hypothetical. M3 comes

1 in and says "We need an aesthetic pond over here for
2 our development." So their desire is to have an
3 aesthetic pond.

4 Do you think it's the Department's role to
5 say that that's not a desirable, in the context of this
6 sentence, use of that water?

7 A. Specifically in that example, no. But I
8 think there are areas in the state where we might have
9 a role there.

10 Q. So you have areas in the state where you
11 tell them they couldn't have a pond; is that what
12 you're saying?

13 A. Certainly, without mitigating we say that.

14 Q. Okay. But aside from the mitigation
15 question, I mean you wouldn't tell somebody "You can't
16 use the water for that purpose"?

17 A. That's correct.

18 Q. Okay.

19 A. Would you mind if I got some more water?

20 Q. Absolutely not. Do you need a break? It's
21 12:30.

22 Quite frankly, if you all want to go to
23 lunch, I'm more than glad to --

24 MR. FEREDAY: It might be a good idea, Bruce.

25 MR. BRUCE SMITH: Yeah. Let's go off the

1 record.

2 (Lunch recess.)

3 (Mr. Holt not present.)

4 MR. BRUCE SMITH: Okay. For the record, it's
5 1:30. We took an hour break for lunch from 12:30 to
6 1:30.

7 Q. Mat, during Mr. Fereday's questioning when
8 we were talking about the difference between the
9 22.19 cfs and 23.18 cfs you made the comment that
10 community water needs were not decreased.

11 What did that mean?

12 A. Well, water that goes towards the community
13 demand for irrigating common space for commercial and
14 industrial use, water features that are for the
15 community, you know, any water demand that serves the
16 community at large and not a specific single residence.

17 Q. Okay. So the .99 cfs reduction was only
18 related to the number of houses built?

19 A. That's right.

20 Q. Okay. I need you to clarify something for
21 me, please. Mr. Fereday was inquiring about the fact
22 that the permit had been assigned to the City, and
23 there was a discussion about what would happen at the
24 end of the planning horizon if the total number of
25 houses has not been completed.

1 Do you recall that?

2 A. I remember him talking something along
3 those lines, yes.

4 Q. Okay. My notes said that the question
5 posed was "Do you think it would be reasonable for the
6 City to come to DWR to get an extension of the planning
7 horizon to allow the additional homes to be built?"
8 Now, I have your response being "No, that's not allowed
9 by statute."

10 Is that correct? Did I take that down
11 correctly?

12 A. I think specifically what Mr. Fereday asked
13 is if you would revisit it ten years prior to the end
14 of the planning horizon. And I don't know if it's not
15 allowed by statute; I just don't think the statute goes
16 out of its way to afford that.

17 So it's not -- the statute just doesn't
18 address that. And the only place that the statute does
19 address that is it says at the time you file your proof
20 of beneficial use you get to revisit the matter. So I
21 don't know. I'm not -- I'm not an expert on all things
22 that have to do with the statute.

23 Q. Well, I see somewhat of a disconnect on
24 what the questioning has been, then, because I think
25 what Mr. Fereday was saying is you come along towards

1 the end of say the 30 years and there are some homes
2 that haven't been built yet, would it be reasonable for
3 the City to come in and ask for that period to be
4 extended? Would you agree that that would be
5 reasonable for the City to do that?

6 A. Well, it's one thing whether it would be
7 reasonable for the City to do it. The question is, do
8 the statutes allow the Department to revisit that
9 matter at that time. When you file proof of beneficial
10 use and the water right is licensed, that typically is
11 the final word on that water right.

12 And I'm not aware that statute allows you
13 to amend a water right once it's been licensed, except
14 in issuances of transfer or, you know, select matters.

15 Q. Do you know when the date for the proof of
16 beneficial use on this particular application would be?

17 A. I do not.

18 Q. So if you were beyond the proof of
19 beneficial use period, it would not be reasonable for
20 the City to approach asking for additional time for the
21 development to be completed; is that what you're
22 saying?

23 A. I'm saying I don't think the Department
24 would revisit it after the license has been issued.
25 I'm sorry if I'm not answering your questions clearly.

1 Q. No, I'm trying to make sure I understand
2 this because, quite frankly, it's an important point
3 that Mr. Fereday was raising vis-à-vis this water
4 right, because we've got a 30-year planning horizon,
5 the Department made a determination that it would not
6 start until 2016, so the period in which the 30 years
7 ends becomes important.

8 And so if the development is not completed
9 by the end of the 30 years, what do you do about that?
10 That's the question. So what would you do?

11 A. At five years you have to file -- at most,
12 at five years you have to file a proof of beneficial
13 use or you need to file an extension. You can file an
14 extension for up to five years.

15 Q. Okay.

16 A. So best-case scenario is at ten years out
17 you'll get a second look at the RAFN material. And I
18 believe statute even says -- and if it doesn't, it's
19 certainly been interpreted by this Department -- that
20 at that ten years, you know, if you extend it out as
21 far as you could, you can revisit service area,
22 planning horizon, population projections, but you can't
23 enlarge the rate.

24 And so that would be the last opportunity
25 that the City would have to revise upward their

1 planning horizon for their future population
2 projection.

3 Q. At five or ten years?

4 A. At five or ten years.

5 Q. Okay. I want you to look at your RAFN
6 report, please. It's Exhibit 1. And if you would,
7 turn to Appendix A, page 3.

8 MR. JASON SMITH: Page what?

9 MR. BRUCE SMITH: 3.

10 THE WITNESS: I'm there.

11 Q. (BY MR. BRUCE SMITH): You say in the
12 middle of the page, it says, "For Application 63-32573,
13 the RAFN is either."

14 Do you see that?

15 A. I do.

16 Q. It's got No. 1 or No. 2. What do you mean
17 by this particular section of the report? I mean let
18 me say this: It looks like it says the RAFN amount is
19 going to be either 1 or 2. Which is it, and how do we
20 decide that? How does the Department decide it?

21 A. Well, as you recall, the Appendix A was the
22 protocol that we established prior to finalizing the
23 report. So it -- you know, if you were to progress
24 forward through how we did things, it was the first
25 document that we completed. And we said, "Here's our

1 blueprint for moving forward."

2 At that time we had not reviewed M3's
3 demand, so we did not know if we were going to agree
4 with their total demand number.

5 Q. Okay.

6 A. The options were that we would recognize
7 that they needed that full amount or that we would
8 recognize that they needed something less than that.
9 So if they needed something less than that, the City of
10 Eagle, as the permit holder now, could then justify the
11 discrepancy between what they'd asked for and what we
12 found.

13 And if they could show a need for that or a
14 demand for that in their RAFN planning, then that need
15 would make up the difference and allow for the
16 permitting of the full amount.

17 Q. Mr. Fereday asked a question about the
18 City's draft analyses that were submitted thus far.

19 And the Department's review of them has
20 established that the City needs -- I'll call it a RAFN
21 water right to some extent beyond that allowed for the
22 M3 project; correct?

23 A. Correct.

24 Q. Would it be possible -- and not prejudging.
25 But if the Department adheres to its 22.19 cfs

1 determination -- okay? -- would it be possible, based
2 on this analysis, as set forth on this page, for the
3 23.18 to still be granted, since that was the
4 application, for use by the City to fill up the RAFN in
5 excess of the M3 project? Do you understand what I'm
6 asking?

7 A. I believe I do, yes. That isn't the
8 conclusion of our report. And I believe the reason for
9 that conclusion is the fact that that need would have
10 to be within the service area identified by M3.

11 Q. No. That's not the question I'm asking.
12 Okay. I mean M3's applied for 23.18, M3 determined
13 that that's what they needed, the City has looked at
14 that, they think it's reasonable, and they think that's
15 what's needed for the project. You've taken an
16 independent look at, and based on your calculations you
17 said only 22.19. But the fact remains that the
18 application is for 23.18.

19 So my question is, since you've agreed that
20 the City needs in excess of the M3 project demands for
21 future water rights, is there a reason the Department
22 could not allow the 23.18 for use by the City as part
23 of its RAFN water right?

24 A. Yes, there's a reason for that.

25 Q. Why is that?

1 A. I just tried to explain, wherein the need
2 that you showed, the three-point whatever, was for a
3 service area that already excluded M3.

4 And so the only way you could be given that
5 water is if you were to then put it in use within the
6 service area of M3, the development boundaries of M3.
7 But we've already established the need for that
8 boundary.

9 Q. So the City couldn't transfer that portion
10 out of the service area of M3 --

11 A. I don't believe so, no.

12 Q. -- out of the place of use?

13 Okay. If you'll look at Appendix B,
14 page 2. The section that you're talking about the U.S.
15 Census data breakdown, generally what that paragraph
16 talks about is you were using ArcMap to sum population
17 of census blocks.

18 I assume you were using the Department's
19 version of ArcMap; is that correct?

20 A. Yes, the software package itself is
21 licensed to the Department.

22 Q. But is that a Department-specific package,
23 or is that a generic ArcMap version?

24 A. Well, there is a data layer that's the U.S.
25 Census data layer. And any Arc platform could import

1 that data layer and work with it.

2 So while we have a licensed version of
3 ArcGIS and ArcMap specific to the Department, that data
4 layer comes specifically from the U.S. Census, and they
5 distribute it -- I don't know if they distribute it to
6 us or we go out and get it, but we don't originate that
7 data.

8 Q. Okay. You used the word "centroid" in this
9 paragraph.

10 What are you talking about?

11 A. So the centroid is the center of mass of a
12 shape. So if you have a square, obviously the centroid
13 is going to be in the very center of that. If you have
14 something that's not symmetrical across both axes, you
15 know, the centroid is going to be offset somewhere.

16 So basically what it is is it's the center
17 of mass of that shape. It's an engineering term.
18 Maybe not the best one to use there.

19 Q. Well, I have a Droid cell phone. I wanted
20 to make sure it wasn't the same thing.

21 No, but as I read through what you were
22 doing with the determination of populations for the
23 Eagle Water Company, United Water, and City of Eagle,
24 you were going through and looking at that and making
25 the calculations to determine how many people were

1 within each of those centroids; is that correct?

2 A. Uh-huh. Well, I was using the centroid, I
3 believe -- well, let me just read it really quick.

4 MR. FEREDAY: Excuse me, which page are you
5 referring to?

6 MR. BRUCE SMITH: We're still on page 2 of
7 Appendix B.

8 MR. FEREDAY: D, as in "dog"?

9 MR. BRUCE SMITH: Pardon?

10 MR. JASON SMITH: B.

11 MR. FEREDAY: B, as in "bravo"?

12 MR. BRUCE SMITH: Yes, Jeff.

13 THE WITNESS: So ArcMap has different ways that
14 you can select data within ArcMap. And one way that
15 you can do that is you can say "Here's a boundary. I
16 want everything that's inside that boundary, or I want
17 everything that's outside of it, or I want everything
18 that touches the boundary." But you have to -- you
19 have to give it some direction on how it's going to go
20 out and select and grab the data sample that you're
21 interested in.

22 And so all I've done here is my selection
23 criteria was if the centroid of that shape is within
24 the boundary, it goes out and grabs it and pulls it in.
25 So that's what I'm referring to in that sentence.

1 Q. (BY MR. BRUCE SMITH): Okay. But that's
2 your discretionary call on determining that centroid;
3 correct?

4 A. Right. And that's imperfect.

5 Q. It's what?

6 A. That's an imperfect -- you know, if I had
7 stopped there, that would have been an imperfect
8 selection of the underlying population.

9 Q. Okay. But you used that to then calculate
10 how many people are going to fall into which service
11 area; correct?

12 A. In part, yes.

13 Q. Explain why you mean "in part." What else
14 is involved?

15 A. Well, it's an easy calculation. It's a
16 push of a button to go grab every census block that
17 centroid is within that boundaries, but that obviously
18 grabs some census blocks that straddle the boundary.
19 So you're either potentially getting people that don't
20 belong in that group, or you're not getting people that
21 belong in that group, depending on which way it
22 straddled the boundary.

23 So the exhibits that I prepared, the map
24 exhibits that identified all the details, that's where
25 I went in and I counted the lots within those blocks,

1 and said "Okay, this many lots are within; this many
2 lots are without."

3 And depending on whether that had been
4 pulled in or pushed out, I either added it or
5 subtracted it from the population count. So you use
6 the centroid selection method to grab your initial
7 number. But then you need to go in and fine-tune that
8 by evaluating each census block that straddled the
9 line.

10 Q. Are you suggesting by doing that that in
11 order to file a RAFN analysis or RAFN application that
12 an applicant has to go through that?

13 A. I'm not suggesting that. That's my method.

14 Q. That's your method. Okay. If you'll look
15 on the next page, there was a reference to the number
16 of lots outside the boundary versus multiplying the lot
17 count by 2.7.

18 When you're using the term "lot," what are
19 you referring to?

20 A. Tax lots, as they're identified by the
21 county tax assessor.

22 Q. Okay. So you saw a tax lot, no matter what
23 size it is, and you multiplied it by 2.7?

24 A. Well, a census block typically incorporates
25 say a subdivision or the first three phases of a

1 subdivision.

2 Q. Okay.

3 A. Well, that's one data layer that pulls up
4 the census block. And I can look at that shape. But I
5 have another data layer that's all the tax lots, and I
6 can pull that up.

7 And so then I say "Hey, inside this census
8 block, there's 50 lots: 25 are inside the boundary, 25
9 are outside the boundary." And it's just, you know,
10 potentially tedious. I didn't have a lot of it to do,
11 so I sat down and did it.

12 Q. But why do you multiply a lot by 2.7
13 people, I guess is the question?

14 A. Well, one of the pages we looked at in here
15 was the number of people were per household. And so I
16 assumed that a tax lot in a subdivision had a house on
17 it. And if it had a house on it, that's how many
18 people lived in it.

19 Q. I got you. Okay. You did a fairly
20 detailed report here on looking at the M3 demand
21 information. When I read Appendix D, what it appeared
22 to me you did was to look at a range for any
23 particular -- they used the disaggregate component
24 method.

25 A. Correct.

1 Q. So if there was, for instance, irrigation
2 demand, you looked at a published range of values and
3 then determined whether the determination by M3 fit
4 within that published range of values; is that correct?

5 A. That's what I did, yes.

6 Q. Okay. And that's how you reached the
7 conclusion it was reasonable, because it fit within the
8 range of published values?

9 A. Yes.

10 Q. Okay. How did you go about deciding what
11 published values to look at? What criteria did you
12 apply?

13 A. In M3's case I believe they referenced
14 published values, and I don't remember to what extent.
15 So I had several there that I could look upon. Just
16 through my own engineering practice, I have
17 accumulated -- I don't know -- somewhere between six
18 and twelve different engineering references that
19 address this in some form or another.

20 So I pretty much limited myself to some of
21 the references that M3 had, the references that I had.
22 And then if there was something, you know, that maybe
23 is considered seminal in the field, I tried to track it
24 down. It is not exhaustive.

25 Q. But that's using your judgment as an

1 engineer to do that; correct?

2 A. Yes.

3 Q. Okay. When a city is doing general
4 planning for water demand, we talked about the
5 different options that you had identified, the
6 disaggregate variable analysis.

7 Does a disaggregate variable analysis work
8 when you're doing general planning like a city would
9 do?

10 A. I think it's tough to apply. So the
11 disaggregate requirements, as M3 did it, that -- you
12 know, a lot of city of Eagle you could do that to, but
13 a lot of it you couldn't. And even if you were to make
14 assumptions based off of planning zones and kind of try
15 and extrapolate out into the future, those aren't
16 fixed. Those are open to change. So I don't think
17 that method lends itself as well to like a general
18 municipality forecast.

19 Q. Okay. So the Appendix E, page 3, it says
20 "Summary of Review." And Mr. Fereday had asked you
21 questions about this paragraph. Second sentence talks
22 about your review being "...limited to the materials
23 submitted by the City and does not consider water
24 demand associated with other potential legitimate
25 justifications that could potentially be identified in

1 a more rigorous disaggregate-requirements based
2 analysis."

3 Do you recall that?

4 A. I do.

5 Q. Are you suggesting that the City should be
6 doing a disaggregate-based analysis, even if it doesn't
7 readily apply?

8 A. No. I think there's potential there to do
9 a hybrid demand forecasting methodology. So for areas
10 that you're unsure of, you take the standard
11 single-coefficient method, as you proposed. But maybe,
12 as an example in the foothills, you anticipate having
13 an irrigation need up there that's not going to be
14 serviced by surface water. Now, that is going to be
15 serviced by irrigation. Ground water irrigation,
16 likely.

17 Now, down below in the valley where you
18 have surface water, if you use your single-coefficient
19 forecasting methodology, that's relying on a demand
20 specific to those -- the people living down there. And
21 they're living with surface water irrigation. So that
22 demand per household isn't going to be right for
23 households where they need ground water irrigation.

24 So there's an opportunity there for you to
25 evaluate the irrigation needs on those lots in the

1 foothills where you're going to be using ground water
2 where the single-coefficient variable method isn't
3 going to account for that water need.

4 Q. And when you're saying "lots," you're not
5 talking about specific lots, you're talking about the
6 area in general?

7 A. Yeah, I think I was saying residential
8 lots. But say you've identified -- you know, however
9 you may have identified some open area that's going to
10 be irrigated, whether it be common space, parks, golf
11 courses, half-acre lots that have a lot of irrigation.
12 I'm not sure. Whatever the case may be.

13 Q. Well, the problem with that is the City
14 doesn't do development. So the City doesn't have a
15 park, any common area that is typically associated with
16 a project that comes in. So what the City has is open
17 space, and based on their planning and zoning they can
18 determine what type of development might be there. But
19 it still depends upon an applicant to come in.

20 So my question is, in using this approach
21 that you're outlining, this hybrid approach where you
22 don't have specific lots and you don't have a specific
23 subdivision and you don't have a pond, is there
24 anything unreasonable about the City taking the
25 approach of using the bare acreage in determining what

1 the irrigation requirements for that might be?

2 A. Well, it seems like you're overestimating,
3 if I understand you. But somehow you need to do that.
4 And as long as your method's reasonable, I think that
5 demand is reasonable.

6 Q. Okay. Would you look at Exhibit 10,
7 please.

8 Now, all of the pages in Exhibit 10, you
9 generated those yourself; correct?

10 A. Page 1 is not my work. That's a
11 spreadsheet that you can obtain from DEQ. All the rest
12 of it is summary of data that I put together.

13 Q. Okay. Tell me again what Exhibit 10 is.
14 What you were trying to do here?

15 A. So this is a spreadsheet that I already had
16 that is --

17 Q. When you say "spreadsheet," what are you
18 referring to?

19 A. A Microsoft Excel file --

20 Q. Okay.

21 A. -- that I've called "Residential demand
22 resources," and it's my repository for anything that
23 comes across my desk or that I read about or that I
24 think about that I think has to do with residential
25 demand. And I kind of go and I put it there so that I

1 know where to go to look for information. That's what
2 this spreadsheet is, this file.

3 Q. Okay. So if you look at the second page,
4 is this something you put together or --

5 A. It is.

6 Q. Okay. As I heard you explain what
7 Exhibit 10 is, it was a comparison of DEQ requirements
8 with DWR requirements.

9 A. You're referring specifically to page 2 in
10 Exhibit 10?

11 Q. Yes.

12 A. Yeah.

13 Q. Well, I heard it on Exhibit 10. But I was
14 actually looking at page 2 when I wrote this note down,
15 or you wrote.

16 A. So I am aware -- and there may be more.
17 But I am aware of three resources that, for lack of a
18 better term, have been adopted by the State in
19 forecasting demand. One is the rules, IDAPA 58.01.08;
20 another one is the design file note by DEQ, which
21 they've adopted as policy; and the other is our AP Memo
22 No. 22, which we've adopted as policy.

23 So there's the only three resources that I
24 know that say here's a way that you can calculate
25 residential demand. And what this table is is it's a

1 comparison of the three different methods there.

2 So you take a lot count, number of homes --
3 I'm sorry -- one through 5,000, and then you say "Okay,
4 I'm applying the IDAPA rules to it. Now I'm applying
5 the DFN to it. Now I'm applying the AP 22," and then
6 compare the results of those methods.

7 Q. Do you get different numbers, different
8 results?

9 A. Yeah, you do. And that's what the next
10 page indicates.

11 Q. That graph depicts the differences in
12 requirements from DEQ versus DWR, doesn't it?

13 A. I don't know if you can use the term
14 "requirements." But if you use these default
15 methodologies in the way that they have put them forth,
16 you do get different values.

17 Q. How does the Department of Water Resources
18 reconcile the differences when -- in regard to an
19 application for a water right, how does the Department
20 of Water Resources reconcile its adopted planning
21 values versus DEQ's?

22 A. I'm not sure that we make an attempt to
23 reconcile them. There is language in the rules that
24 allow -- I don't know how familiar you are with those
25 rules, but one rule says that the average day demand

1 per house shall be 800 gallons per day.

2 Q. That's footnote 1 on your page 2.

3 A. But if -- but when you model your system,
4 you have to use something called the maximum pump
5 capacity. And in doing that analysis, you take out the
6 primary source or the primary pump station. And you
7 have to have storage to make up the difference between
8 that analysis scenario and the 800 gallons per day.

9 So I liken that to the similar scenario
10 that if your water right supply does not meet the
11 800 gallons per day, that's not forbade by the Idaho
12 statute. You just have to have -- I'm sorry, by the
13 rule, not the statute. You just have to have storage
14 to make up that difference.

15 The second way --

16 Q. Let me ask about that. If you don't have
17 storage, what do you do?

18 A. Well, then I think DEQ's position would be
19 that you need the storage.

20 Q. I think DEQ's position would be that you
21 have to meet their requirements.

22 A. Uh-huh.

23 Q. And if you don't have storage, you have to
24 meet the higher pumping volume; correct?

25 A. I guess that's another way of saying what I

1 just said.

2 Q. Okay. Okay. Go ahead.

3 A. The second caveat, if you will, in those
4 rules is that the 800 gallons per day should only be
5 used in the event that you don't have historical data
6 that shows something else.

7 Now, 800 gallons per day as an in-home use
8 is incredibly high, maybe as much as four times as high
9 as what is the standard now in the Treasure Valley.
10 And that number comes directly out of a federal housing
11 and urban development pamphlet from 1967. And so it's
12 very dated.

13 So if you have historical information that
14 says that the demand in your home is less than that,
15 then you should be relying on that in the first place.

16 Q. Okay.

17 A. So I think in those two ways, what the
18 Department's saying and what DEQ's saying aren't
19 strictly in, I guess, conflict with each other. And
20 I'm not saying this very well because I've never been
21 asked to articulate this before.

22 Q. Well, my question is this: DEQ has
23 planning requirements -- and you're correct about the
24 800 gpm. DWR does not -- as a matter of fact, I don't
25 believe DWR accepts that. And you're also correct that

1 if you have site-specific data that you could use the
2 800, that you could do that.

3 But as the applicant you go in, if you
4 don't have site-specific data acceptable to DEQ, you're
5 still going to need the 800; correct?

6 A. From DEQ's perspective? I'm sorry. Yes, I
7 think that's correct.

8 Q. Yes. And from a regulated entity or like a
9 municipal system, they still are going to have to meet
10 that; correct?

11 A. They would have to, I guess, yes, that's
12 right. If they don't have -- yes.

13 Q. Okay. When they come over to DWR, DWR does
14 not apply that 800 gpm, does it?

15 A. No, we don't recognize that as a
16 requirement.

17 Q. Okay. So you could end up with a water
18 right from DWR that doesn't fit with the requirements
19 that DEQ would impose; am I correct?

20 A. I have two thoughts on that. The first
21 thought is if you read AP Memo 22, I believe it does
22 say in there that "This is our guidance. And if you
23 don't feel it's appropriate, you can submit something
24 else." So first of all, we're not locking you into the
25 values that you would get from AP Memo 22.

1 The second part of that is you're assuming
2 that there is no storage.

3 Q. Correct. I am.

4 I'm still on Exhibit 10. Third page from
5 the back.

6 A. I'm there.

7 Q. In the middle it says, "Treasure Valley
8 Water Demand Study" and "Summary of Local Average
9 Residential Daily Consumption Values."

10 Do you see those?

11 A. I do.

12 Q. Where is that information from?

13 A. So if you look at the last page of
14 Exhibit 1, it's a bibliography for Appendix E.

15 Q. Okay.

16 A. And the last reference on that list --

17 Q. Hang on just a second. The last page?

18 A. The last page of Exhibit 1.

19 Q. Okay.

20 A. The last reference in that list says,
21 "Treasure Valley Future Water Remand. Submitted by
22 WRIME, Incorporated, for Idaho Water Resources Board,
23 November 16th, 2010."

24 Q. That's the CAMP report?

25 A. Yes, that's right. Well, let me say that

1 I'm not sure, actually. There have been two studies
2 done.

3 If you also look on that same list, the
4 second one down prepared by Zena Cook, et al.,
5 "Domestic, Commercial, Municipal, and Industrial Water
6 Demand Assessment and Forecast in Ada and Canyon
7 Counties," I would have to go back -- I did a poor job
8 of referencing that table, and I would have to go back
9 and look and see if that data is from one or the other
10 reports.

11 Q. Thank you.

12 Did you calculate a population growth rate
13 for M3?

14 A. What do you mean? I think I looked at the
15 projections that were given. I think I looked at the
16 population growths from one year to the next.

17 Q. Well, the City of Eagle in this submission
18 on the RAFN analysis used growth rate for the City of
19 about 4 to 4.39, something in that range.

20 Did you calculate something similar for M3?

21 A. I don't know. I don't recall
22 calculating --

23 Q. You didn't use it, though?

24 A. Yeah.

25 Q. When you were looking at the City's service

1 area you ended up excluding the overlap area with Star,
2 the Eagle Water Company, and the United Water service
3 areas.

4 What was the basis for excluding Eagle
5 Water and United Water?

6 A. They're providing water in those areas
7 already. So if you're basing your demand on a need for
8 domestic water and that demand is already being met,
9 the logic is that we don't need a redundant demand
10 there.

11 Q. Okay. How are contingencies handled in
12 RAFN analyses?

13 A. You'll have to define "contingencies."

14 Q. Contingencies are the things that you don't
15 really have control over, things that could happen.
16 Let me give you an example.

17 Eagle Water Company, they have a service
18 area, they supply water, but historically they have had
19 problems in which they could not serve their customers.

20 A. Uh-huh.

21 Q. Do you think it is unreasonable for the
22 City to look at that as a contingency and build that
23 into their RAFN analysis?

24 A. I do not.

25 Q. You don't think it's unreasonable?

1 A. I do not.

2 Q. Okay. But you went ahead and excluded it
3 anyway?

4 A. I did.

5 Q. Okay. So I mean that's an example of a
6 contingency.

7 If there are other contingencies, do you
8 think it's unreasonable for a city to take those into
9 account?

10 A. That word just means so many things to me.
11 If that's your example of a contingency, you know,
12 examples similar to that I don't think are
13 unreasonable. Another contingency might be that I'm
14 going to calculate my value and then add 25 percent
15 because I think that's a necessary contingency. Now,
16 that I think I'd have more of a problem with.

17 Q. If you approach your planning from the
18 standpoint of trying to be conservative, conserve the
19 resource -- okay? -- you end up on the lower end of a
20 scale. So for instance, in financial planning you'll
21 often build in contingencies for those things over
22 which you have no control.

23 Are you aware of that?

24 A. I am.

25 Q. Okay. Does contingency analysis have -- is

1 it a valid consideration in developing a RAFN analysis?

2 A. I think it is.

3 Q. Okay. Do you have any ideas or thoughts on
4 how you would approach that? And "that" being
5 contingency analysis in a RAFN process.

6 A. I think it has to be well founded and there
7 has to be an argument for it, for its inclusion. To
8 simply go out and say "I know of a community in
9 California that has 25 percent leakage out of their
10 system, therefore we're going to bump this up by
11 25 percent," you know, you've given me a reference, but
12 I don't know that it's appropriate.

13 On the other hand if you come back and were
14 to say "Here's five publications on forecast and
15 demand, and they all recommend 5 to 10 percent leakage
16 adjustments, and we know that our city has had this
17 amount of leakage in the past and" -- you know, you'd
18 have to qualify it and say it's not already being
19 accounted for in some other way.

20 So if you have a per-home demand that is
21 based on the historic period in which you were dealing
22 with those leakages, well, then, you've already
23 accounted for that contingency. So I think contingency
24 is appropriate. It just has to be well founded and
25 well described, and you have to make sure that you're

1 not double-dipping, for lack of a better term.

2 Q. Okay. But the statute doesn't prevent the
3 assessment of contingencies, does it?

4 A. I don't think it does.

5 Q. Okay. There was some discussion, I think,
6 in one of your comments about the use of a 12-hour
7 irrigation rotation schedule.

8 A. In my most recent round of comments with
9 you?

10 Q. Quite honestly, I don't recall. I remember
11 that, I think, M3 used a 12-hour rotation. And there
12 was a question from you at some point -- I don't know
13 if it was in a comment -- about that.

14 Is that acceptable?

15 A. Using a 12-hour or 24-hour?

16 Q. I think we used 12-hour. Well, let me put
17 it this way: Tell me what you want, 12 or 24. Which
18 one do you like?

19 A. You know, I'm trying to remember. I had
20 the same conversation with M3, and I'm trying to recall
21 that conversation. And I think where we ended up there
22 is with M3 they have capped themselves with an annual
23 volume. So we weren't as concerned with the diversion
24 rates. And if you limit your irrigation -- daily
25 irrigation window to something less than 24 hours, you

1 have to compensate by having a larger diversion rate to
2 do the same irrigation.

3 Now, in their instance, because they have
4 an annual volume limitation, we're not as concerned
5 about that because the resource is being protected
6 through the volume and not the rate.

7 In a true municipal RAFN that is without
8 volume limitation, I think the Department would have to
9 consider that matter, and I haven't been confronted
10 with that. So I'm not sure what the right answer is.

11 Q. Okay. I was trying real quickly to go
12 through these exhibits.

13 But which exhibit's got your calculations
14 where you show the projected population levels for
15 Eagle Water, United Water, and the City?

16 A. I think what I gave Don Reading was current
17 population basis based off my efforts. The projection
18 of individual populations within those service area --
19 I did do that, but I don't think it was ultimately used
20 by Dr. Don Reading.

21 Q. So what you gave Don was present
22 populations, and then any projected increase Don took
23 care of that?

24 A. Right.

25 Q. Okay. So it's not in any of these

1 documents you gave us? because I went through them real
2 quickly, and I could not find it.

3 A. The method that was relied on by Dr. Don to
4 do the ultimate calculation is not in this stack of
5 papers (indicating).

6 Q. Okay. So this is kind of related to the
7 Arc view question.

8 But when you were doing your assessment,
9 did you use any proprietary information or data or
10 programs that are specific to the Department of Water
11 Resources?

12 A. I do not -- I do not think so. And in
13 instances where I've developed, you know, something
14 that I used, I'd be perfectly willing to share that
15 with anyone who needs it --

16 Q. Okay.

17 A. -- or wants it.

18 Q. Actually, what I'm thinking about is if you
19 have the applicant who comes in who hasn't been through
20 what we've been through, how do they know about that?
21 How would they approach it in using those types of
22 protocols or databases and information to develop a
23 RAFN application to submit to the Department?

24 A. Well, as I mentioned, I'm working on the
25 handbook. And the position of that handbook is that

1 the applicant needs to come up with their own means for
2 doing this. And in many instances the applicant should
3 have an expertise there in doing that and should have
4 methods for doing that.

5 Now, I've also provided several tools that
6 are going to be distributed or that can be requested in
7 conjunction with that handbook. And those tools we can
8 distribute to the public and the public can use it in
9 instances where the Department feels it's okay to use
10 those.

11 So one thing I've used is a population
12 forecasting tool that I've put together. Another one
13 is a water demand tool that's been put together. So --
14 so when there's not adequate data or, I guess,
15 expertise there -- and we haven't finalized any of
16 this, so this is just -- this is not necessarily the
17 Department's point of view, but my point of view,
18 because we haven't talked about it. In small rural
19 communities where there's a hardship and they don't
20 have the ability or the expertise to do some of this,
21 then they could use this as a last resort.

22 Q. Okay. Are you familiar with the other RAFN
23 water rights the Department's issued to date?

24 A. Somewhat.

25 Q. Do you know how many there are?

1 A. I don't know an exact number, no.

2 Q. I think it was five.

3 A. Yeah, I was going to say less than ten, for
4 sure.

5 Q. Okay. Has the evaluation methodology by
6 the Department been consistent on any of those thus
7 far --

8 A. All I can tell --

9 Q. -- from one to the other?

10 A. -- you, it's been consistent since I've
11 been involved.

12 Q. Which is how long?

13 A. City of Eagle. Starting with the City of
14 Eagle. I was not involved in the other RAFN.

15 Q. So you don't know if it was consistent with
16 regard to the other four or five or not?

17 A. Huh-uh.

18 Q. Okay. Well, that question about the
19 storage that you were referring to awhile ago, you told
20 me "I was assuming no storage."

21 Do you agree that it's the decision of the
22 applicant with regard to the construction of storage?
23 I mean the Department doesn't require storage; right?

24 A. That's true, the Department does not
25 require storage.

1 Q. Would you look at Exhibit 4 for me.

2 A. I have it.

3 Q. The last page, it's got "Method 1" and
4 "Method 2."

5 A. I see it.

6 Q. Can you tell me what that was. My notes
7 weren't very clear when you were describing it.

8 A. I think these -- again, prior to Don coming
9 in and formalizing the approach that was included in
10 the exhibit, these were two methods that I was looking
11 at for projecting future population.

12 Q. Okay. What is Method 1?

13 A. Method 1 looks like -- it's what I would
14 consider to be the simpler approach, whereas you
15 project out using exponential growth and the parameters
16 given there of T of 2040, a present value of 24,035,
17 and a growth rate of 3 percent, you project a future
18 population, and you deduct out the full build-out
19 populations of Eagle Water Company, United Water Idaho,
20 and M3 to arrive at a future population base.

21 Q. And then Method 2, can you tell me what
22 that one is.

23 A. So Method 2 is you take the existing
24 population base, you subtract out the existing service
25 areas, that leaves you with the City of Eagle service

1 population, and then you take that and grow with it
2 exponential growth at 3 percent.

3 Q. But again, you said this last page is
4 irrelevant at this point?

5 A. It was not used in Exhibit 1.

6 Q. Okay. Next could you look at Exhibit 19,
7 please. This is some of the comments that you
8 submitted to the City.

9 A. Okay. I have it.

10 Q. Would you look at comment No. 6. And No. 6
11 in the second sentence it talks about "The Department
12 would prefer that a growth rate be based on an
13 independent analysis of conditions and circumstances
14 unique to the City of Eagle."

15 Is that another way of saying that you want
16 the City of Eagle to come up with a growth rate based
17 on its own specific information in the city of Eagle?

18 A. I think you need to consider the timing of
19 this document. This document came out very early in
20 the process, and it came out prior to Dr. Don Reading
21 coming on board.

22 Q. Okay. Well, let me ask you this question,
23 maybe cut to the chase: Does this still apply?

24 A. No, this has been superseded by the
25 protocol or methodology that's outlined in Exhibit 1.

1 Q. Okay. So a single estimated growth rate is
2 no longer relevant?

3 A. Only as it's called for in Exhibit 1.

4 Q. In Dr. Reading's Appendix C?

5 A. Yes.

6 MR. BRUCE SMITH: I don't think I have any
7 further questions. Thank you. I appreciate your time,
8 and I'll get you out of here by 3:00.

9 By the way -- I don't know if anybody else
10 has any other questions -- I would like to get a copy
11 of, at least since the log was used in preparing the
12 report and the -- I guess the handbook was as well, at
13 whatever stage it's in right now, I would like to at
14 least have the opportunity to look at them and see if
15 there's anything relevant in it with regard to the
16 report and what we'll have to be doing here.

17 So I want to reserve the right, if we get a
18 chance to look at it, to sit down with Mat again to go
19 through probably very few questions about those. But
20 as of today, I'm satisfied with having a chance to talk
21 to him.

22 MR. HOMAN: I had Mike -- or Mat look at those
23 notes during the lunch hour.

24 And you can --

25 THE WITNESS: I did. I went back and looked at

1 the notes and my logbook, and mostly what those notes
2 are -- or almost exclusively what those notes are are
3 tasks that I took away from the meeting on something I
4 needed to focus on or information that I needed to get
5 to people attending the meeting.

6 I didn't see anything in there that
7 informed the effort that was done here on a specific or
8 substantial level.

9 Q. (BY MR. BRUCE SMITH): Well, for instance,
10 is that the record of your notes with your meeting with
11 the Eagle Water Company?

12 A. I don't have any -- that -- the notes from
13 that meeting are on those two map exhibits. And it
14 might be hard to see, but you can see that I was
15 writing in Sharpie on those.

16 So I looked at my logbook, and I do not
17 have anything in my logbook recording the Eagle Water
18 Company meeting.

19 Q. Is that Exhibit 11?

20 A. I don't have it numbered. It's this one
21 here, though.

22 So that's the extent of my service area.
23 "South of river not done." So that's the extent of my
24 notes from that meeting.

25 MR. JASON SMITH: I think that's Exhibit 15.

1 MR. FEREDAY: Is that Exhibit 15 you're
2 referring to?

3 THE WITNESS: Mine is not numbered.

4 MR. HOMAN: It is 15.

5 MR. BRUCE SMITH: Jason's correct.

6 Q. So these two maps that are Exhibit 15 is
7 all the information you have from your meeting with
8 Eagle Water Company?

9 A. That's all of it.

10 MR. BRUCE SMITH: Okay. Thank you.

11 Do you have any further questions?

12 MR. FEREDAY: No further questions.

13 THE WITNESS: Thank you.

14 MR. ALAN SMITH: None.

15 MR. HOMAN: I don't have any.

16 (Deposition concluded at 2:35 p.m.)

17 (Signature requested.)

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CERTIFICATE OF MATHEW WEAVER

I, MATHEW WEAVER, being first duly sworn, depose and say:

That I am the witness named in the foregoing deposition; that I have read said deposition and know the contents thereof; that the questions contained therein were propounded to me; and that the answers contained therein are true and correct, except for any changes that I may have listed on the Errata Sheet attached hereto.

DATED this ____ day of _____ 20__.

CHANGES ON ERRATA SHEET YES___ NO ___

MATHEW WEAVER

SUBSCRIBED AND SWORN to before me this
____ day of _____ 20__.

NAME OF NOTARY PUBLIC
RESIDING AT _____

MY COMMISSION EXPIRES_____

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ERRATA SHEET FOR MATHEW WEAVER

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REPORTER'S CERTIFICATE

I, JEFF LaMAR, CSR No. 640, Certified Shorthand Reporter, certify:

That the foregoing proceedings were taken before me at the time and place therein set forth, at which time the witness was put under oath by me.

That the testimony and all objections made were recorded stenographically by me and transcribed by me or under my direction.

That the foregoing is a true and correct record of all testimony given, to the best of my ability.

I further certify that I am not a relative or employee of any attorney or party, nor am I financially interested in the action.

IN WITNESS WHEREOF, I set my hand and seal this 30th day of September, 2011.



JEFF LaMAR, CSR NO. 640
Notary Public
Eagle, Idaho 83616

My commission expires December 30, 2011