

1 BEFORE THE ARIZONA CORPORATION COMMISSION
2
3 IN THE MATTER OF THE APPLICATION)
4 OF ICR WATER USERS ASSOCIATION,)
5 INC., FOR A PERMANENT RATE) DOCKET NO.
6 INCREASE.) W-02824A-07-0388
7)
8)
9)
10) EVIDENTIARY HEARING
11 _____)

9 At: Phoenix, Arizona
10 Date: December 2, 2008
11 Filed: December 23, 2008

14 REPORTER'S TRANSCRIPT OF PROCEEDINGS
15 Volume II
16 (Pages 164 through 219, inclusive)

20 ARIZONA REPORTING SERVICE, INC.
21 Court Reporting
22 Suite 502
23 2200 North Central Avenue
24 Phoenix, Arizona 85004-1481

23 By: TERESE HEISIG
24 Prepared for: Certified Reporter
 Certificate No. 50378

1 INDEX TO EXAMINATIONS

2

3 WITNESS PAGE

4

ROBERT M. BUSCH

5

Cross-Examination by Mr. Taylor 171

6

7

8

9

INDEX TO EXHIBITS

10

11 NO. DESCRIPTION IDENTIFIED ADMITTED

12 ICR-1 Application 85 **

13 ICR-2 Rebuttal Testimony of
Thomas J. Bourassa 89 **

14 ICR-3 Rebuttal Testimony of
15 Robert M. Busch 87 150

16 ICR-4 Supplemental Rebuttal
17 Testimony of Robert M.
Busch 87 150

18 ICR-5 Supplemental Rebuttal
19 Testimony of Thomas J.
Bourassa 89 **

20 ICR-6 Additional Supplemental
21 Testimony of Thomas J.
Bourassa 89 **

22

23

24

25

1 INDEX TO EXHIBITS

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

NO.	DESCRIPTION	IDENTIFIED	ADMITTED
ICR-7	Additional Supplemental Testimony of Robert M. Busch	87	150
ICR-8	Notice of Filing Additional Supplemental Rebuttal Testimony of Thomas J. Bourassa on Behalf of ICR Water Users Association Inc., and Additional Supplemental Rebuttal Testimony of Robert M. Busch on Behalf of ICR Water Users Association	88	150
ICR-9	Water Service Agreement	93	150
ICR-10	First Amendment to Water Service Agreement	96	150
ICR-11	Notice of Filing Environmental Compliance Status Reports	91	150
ICR-12	11/21/08 Memorandum from Mr. Bozzo to Docket Control	116	150
ICR-13	E-Mail Correspondence	94	150
T-1	Monthly Comparison Report ICR Water Users Association March 2006	172	**
T-2	Monthly Comparison Report ICR Water Users Association August 2006	172	**
T-3	Hydrant Meter Users Instruction Sheet	183	**

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

INDEX TO EXHIBITS

NO.	DESCRIPTION	IDENTIFIED	ADMITTED
T-4	Results of the 3-Day Test of TRR Well Field	194	**
T-5	ICR Water Users Association Board Meeting Minutes November 13, 2007	200	**

1 BE IT REMEMBERED that the above-entitled and
2 numbered matter came on regularly to be heard before the
3 Arizona Corporation Commission, in Hearing Room 1 of
4 said Commission, 1200 West Washington Street, Phoenix,
5 Arizona, on December 2, 2008, at 9:37 a.m., before
6 TERESE HEISIG, Certified Reporter No. 50378 for the
7 State of Arizona.

8

9

10 BEFORE: MARC E. STERN, Administrative Law Judge
KRISTIN K. MAYES, Commissioner

11

12 APPEARANCES:

13 For the Applicant:

14

SNELL & WILMER

By: Mr. Jeffrey W. Crockett

15

By: Mr. Robert J. Metli

One Arizona Center

16

400 East Van Buren Street, Suite 800

Phoenix, Arizona 85004

17

18 For Talking Rock Golf Course, L.L.C.:

19

FENNEMORE CRAIG, P.C.

By: Mr. Jay L. Shapiro

20

3003 North Central Avenue, Suite 2600

Phoenix, Arizona 85012

21

For Dayne Taylor:

22

MR. DAYNE TAYLOR

23

13868 North Grey Bears Trail

Prescott, Arizona 86305

24

25

1 APPEARANCES:

2 For the Arizona Corporation Commission Staff:

3 ARIZONA CORPORATION COMMISSION
4 Legal Division
5 By: Mr. Kevin O. Torrey
6 1200 West Washington Street
7 Phoenix, Arizona 85007

6

7

TERESE M. HEISIG
Certified Reporter
Certificate No. 50378

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 ALJ STERN: In the application of ICR Water
2 Users Association for rate increase and in Docket Number
3 W-02824A-07-0388. And we will take appearances in just
4 a second. For the applicant today.

5 MR. METLI: Good morning, Your Honor.
6 Robert Metli with the law firm of Snell and Wilmer on
7 behalf of the Applicant. As Your Honor knows, you had a
8 discussion with my co-counsel Mr. Crockett. He
9 indicated he will be here a little later and that was
10 acceptable to you.

11 ALJ STERN: Right.

12 And for Talking Rock parties.

13 MR. SHAPIRO: Jay Shapiro from Fennemore Craig
14 on behalf of Talking Rock Golf Club.

15 ALJ STERN: The Golf Club, not all the parties,
16 I guess?

17 MR. SHAPIRO: Yeah, the only intervenor in the
18 case is Talking Rock Golf Club. The other entities are
19 parties to the agreement.

20 ALJ STERN: Next intervenor.

21 MR. TAYLOR: Dayne Taylor, resident.

22 ALJ STERN: And for Staff?

23 MR. TORREY: Kevin Torrey appearing on behalf of
24 Commission Staff.

25 ALJ STERN: All right. We left off yesterday.

1 We were ready to start cross-examining the witness from
2 the Applicant. Want to come back and be on the hot seat
3 today?

4 Go ahead, Mr. Taylor.

5 You've been previously sworn, sir, so go ahead,
6 Mr. Taylor.

7 MR. TAYLOR: Thank you, Your Honor. There was a
8 comment, Mr. Busch, that you made yesterday regarding
9 the water use between Talking Rock and Inscription
10 Canyon Ranch, and, Your Honor, I have some information
11 that I would like to hand out to --

12 ALJ STERN: Okay. What exactly -- what
13 information do you have?

14 MR. TAYLOR: Comparison reports from Mr. Busch.

15 ALJ STERN: Okay. Mr. Taylor, do you have
16 copies for all the attorneys?

17 MR. TAYLOR: Yes, I do, sir.

18 ALJ STERN: And a copy for me?

19 MR. TAYLOR: Yes, sir.

20 ALJ STERN: Why don't you hand them out and we
21 will hand them out. We need one for the court reporter,
22 too. We will mark this exhibit. Is it two separate
23 reports?

24 MR. TAYLOR: That's correct, Your Honor.

25 ALJ STERN: We will mark these as monthly

1 comparison reports for March of 2006 and August of 2006,
2 and we will mark the March 2006, T-1, and the
3 August 2006 report, T-2. Go ahead, Mr. Taylor.

4

5

CROSS-EXAMINATION

6

7 BY MR. TAYLOR:

8 Q. On the T-1 report, I'm just doing -- Mr. Busch,
9 I would like for you to share with the Court the numbers
10 that we see there where it says, number of accounts.
11 Would you -- for the month of March, would you read that
12 for us, please?

13 A. Which column are you asking?

14 Q. It is the number of accounts for ICR Water/WC?

15 A. 242.

16 Q. And for Talking Rock?

17 A. 94.

18 Q. And the average use for active meter?

19 A. For which one?

20 Q. For both. For both columns, please?

21 A. Says, 5,015 gallons for ICR Whispering Canyon
22 and 3,444 for Talking Rock.

23 Q. All right. As we go down the chart where it
24 says, over 50,000 and down to 2,000, could you give us a
25 summary of the amount of water used or -- well, I would

1 say, explain the usage gallon by category, meaning --
2 well, what I'm saying is, can you explain to the Court
3 the 81- -- for example, where it says, 40,001 to 50,000
4 gallons, on the left-hand column under "usage group
5 gallons"?

6 A. Okay.

7 Q. All right. Can you explain that 81,190 gallons
8 for the second category, 40,001 to 50,000 gallons?

9 A. Would you clarify?

10 MR. METLI: Is Mr. Taylor asking the witness to
11 read the columns?

12 ALJ STERN: I guess.

13 Mr. Taylor, I mean, I don't understand this, the
14 bottom portion of this at all, so, and you can't
15 testify. You are asking questions of the witness, so
16 perhaps you would like to ask Mr. Busch a question such
17 as, Mr. Busch, would you please explain the bottom
18 portion of the monthly comparison report for March of
19 2006 that is set off by the squares? Would you like
20 something like that?

21 MR. TAYLOR: That is fine, that is fine.

22 ALJ STERN: Can you explain that in squares what
23 that represent s, for starters at least?

24 THE WITNESS: The information on the left is
25 usage groups gallons. That just categorizes the usage

1 in each of those systems, in the ICR Whispering Canyon
2 and the Talking Rock systems. It categorizes the usage
3 by -- or the amount of gallons consumed by usage groups.
4 In other words, we have 16 customers that use no -- had
5 no water usage at all in the Inscription/Whispering
6 Canyon subdivision in March.

7 ALJ STERN: Wait a minute.

8 THE WITNESS: Down at the bottom where it says,
9 zero usage.

10 ALJ STERN: Right.

11 THE WITNESS: So there is a 16 in "number of
12 accounts." That says that there were 16 customers, or
13 6.61 percent of the total number of accounts, that had
14 zero usage for the month. Likewise, in the Talking Rock
15 section, there were 19 customers, or 20.21 percent of
16 the number of accounts, in the Talking Rock system that
17 used zero gallons for that month, and then you go up,
18 kind of up the chart from there. We had 53 customers
19 that used from 1 to 2,000 gallons in the Inscription
20 system, and their total gallon usage was 48,951 gallons.

21 ALJ STERN: Okay.

22 THE WITNESS: In the Talking Rock system, there
23 were 45 such customers that used a total of 24,801
24 gallons and, of course, on the far right, the percent of
25 that usage is 8 percent of the total usage for the

1 customers in the Talking Rock system.

2 ALJ STERN: What do these squares represent in
3 -- are they just showing that -- where the larger
4 percentages of use are?

5 THE WITNESS: It just shows the spread of the
6 usage in the system. Kind of like I said, groups
7 customers by the water they use and gives the Board that
8 kind of information.

9 ALJ STERN: This is just for the month of March;
10 right?

11 THE WITNESS: That's correct.

12 ALJ STERN: So if I look over in that right-hand
13 block where it says, Talking Rock, and it shows 323,761
14 gallons; right?

15 THE WITNESS: Correct.

16 ALJ STERN: At the bottom, and that represents
17 the usage by the residential users in Talking Rock; is
18 that correct?

19 THE WITNESS: Yes.

20 ALJ STERN: Are there any commercial customers
21 or anything?

22 THE WITNESS: Yes, I meant to say that that
23 "residential" means it includes what I call
24 "nonresidential customers." It includes, what I would
25 say, commercial and landscape usage in the Talking Rock

1 subdivision.

2 ALJ STERN: Perhaps they must have a sales
3 office?

4 THE WITNESS: Yes.

5 ALJ STERN: But where it goes down to the very
6 bottom of this square, below the 323,761, it shows
7 3,082,761. What does that stand for?

8 THE WITNESS: If you look over on the left, it
9 says that that is the total, including the golf course.

10 ALJ STERN: Right.

11 THE WITNESS: The very first entry at the top
12 says, golf course, 2,759,000 gallons.

13 ALJ STERN: Okay.

14 THE WITNESS: Up at the top.

15 ALJ STERN: I see that, okay.

16 THE WITNESS: So that 3,082,761 is the total of
17 everything in the Talking Rock system that was delivered
18 to the customers.

19 ALJ STERN: Go ahead, Mr. Taylor.

20 MR. TAYLOR: Thank you, Your Honor.

21 BY MR. TAYLOR:

22 Q. Go over to the August report. I think that was
23 identified as T-2. And we have very comparative
24 information, golf course using 12,940,000 gallons, first
25 line in that rectangle there at the bottom. The total

1 use in Talking Rock of -- at the bottom of that column,
2 is 14,103,000, which as we compare the two water
3 systems, as it is understood, doing a comparison to show
4 the usage between the two entities.

5 And my point being that the conversation or the
6 testimony yesterday --

7 MR. METLI: Your Honor, he is making a point.
8 Can we keep this question and answer.

9 ALJ STERN: Yeah, Mr. Taylor, essentially, I
10 guess, this is the most difficult part of doing what you
11 are doing probably, because you don't know how to ask
12 questions of a witness. So what you have to do is ask
13 Mr. Busch questions that he can answer. You are, in a
14 sense, testifying as to what you want him to answer, and
15 I guess you could say, well, Mr. Busch, what does that
16 show about the usage in terms of gallonage between the
17 two different customer classes between Talking Rock
18 customers, with and without the golf course, and
19 Inscription Canyon Ranch and Whispering Canyon
20 customers.

21 MR. TAYLOR: Thank you, I understand, Your
22 Honor.

23 BY MR. TAYLOR:

24 Q. My question is: Do these reports confirm that
25 ICR uses twice the amount of water than Talking Rock

1 does?

2 ALJ STERN: ICR uses twice the amount?

3 MR. TAYLOR: That exact -- that was the comment
4 yesterday, yes.

5 MR. METLI: Your Honor, what was testified to
6 yesterday was the Talking Rock side, the residential
7 customers and Talking Rock side, used twice as much
8 water as the residential customers on Whispering
9 Canyon -- half as much, I'm sorry.

10 ALJ STERN: Your testimony was that they used
11 half as much as the ICR Whispering Canyon customers?

12 THE WITNESS: Yes. My recollection is that the
13 residential customers on the Talking Rock side use about
14 half of the amount of water that the residential
15 customers on the Inscription Canyon, Whispering Canyon
16 system use.

17 ALJ STERN: Okay. So I guess what you want to
18 do, do these -- it looks to me like this report confirms
19 what he is saying as far as not counting the golf
20 course.

21 BY MR. TAYLOR:

22 Q. Let me ask the question this way: On the T-2
23 report, the number of accounts, next line down, the
24 average user of activity -- of active meters. The
25 number between ICR 11,504 and Talking Rock 10,391, does

1 that confirm twice as much use by the residential owners
2 as the Inscription Canyon Ranch?

3 A. For the month of August, no.

4 Q. Okay.

5 ALJ STERN: What about for the month of March?

6 THE WITNESS: It is close, but it is not exactly
7 half.

8 ALJ STERN: It is not half, but it is 5,000 for
9 the Inscription Canyon, Whispering Canyon side and 3,444
10 gallons for --

11 THE WITNESS: I would like to further clarify by
12 stating that the numbers that you see there include all
13 users of the Talking Rock system, not just the
14 residential customer. So the numbers are -- on the
15 Talking Rock side are higher because they include those
16 other users.

17 ALJ STERN: What about the Inscription Canyon,
18 Whispering Canyon side, don't they have the same thing?

19 THE WITNESS: They have users other than
20 residential, but they are typically low uses.

21 ALJ STERN: Such as?

22 THE WITNESS: Such as the ICR Sewer District
23 uses, you know, 2,000 to 3,000 gallons a month. There
24 is a landscape meter that uses maybe -- well, depends on
25 the season, but it is probably somewhere annually within

1 the average, so I wouldn't consider that those two
2 customers distort the numbers significantly.

3 ALJ STERN: Is it fair to say the various
4 customers -- disregard the golf course, that from your
5 knowledge of the system -- how long have you been doing
6 this?

7 THE WITNESS: Since mid-2005.

8 ALJ STERN: Okay. From your knowledge of the
9 system from mid-2005 up to now, is it generally, based
10 on the monthly comparisons, there is a little bit more
11 usage on the ICR side than on the Talking Rock side for
12 the other general usage? You know what I'm saying,
13 residential, whatever?

14 THE WITNESS: I'm sorry. I'm not quite clear on
15 your question.

16 ALJ STERN: Is more water -- it is not twice as
17 much water that is used on the ICR side, is it,
18 generally?

19 THE WITNESS: I think it is pretty close, Your
20 Honor.

21 ALJ STERN: But representative of these two
22 months, there is little difference.

23 THE WITNESS: If you include all uses on both
24 sides of the road, that statement is not true.

25 ALJ STERN: And these systems aren't

1 interconnected at all, are they?

2 THE WITNESS: No.

3 ALJ STERN: Essentially, they run on their own,
4 the ICR system, Whispering Canyon system is one system?

5 THE WITNESS: That's correct.

6 ALJ STERN: The Talking Rock system is another
7 system?

8 THE WITNESS: Right.

9 ALJ STERN: And they are not interconnected?

10 THE WITNESS: That are not interconnected.

11 ALJ STERN: Water doesn't go from one side of
12 the road to the other?

13 THE WITNESS: No, it does not.

14 ALJ STERN: Go ahead.

15 BY MR. TAYLOR:

16 Q. The landscape meter in Talking Rock, does that
17 exceed 10?

18 A. The number?

19 Q. Yes.

20 A. I don't recall exactly, but I don't think so.

21 Q. Thank you.

22 Does Whispering Canyon have more than three
23 irrigation meters?

24 A. No.

25 Q. Do you believe, as the manager of this

1 information, you might want to know how many meters of
2 each category there are?

3 A. I'm sorry, would you restate the question,
4 please.

5 Q. As the manager, would it be beneficial for you
6 to know how many irrigation meters there are?

7 A. I do know that. I don't have that information
8 in front of me, but I do know it.

9 Q. How much water in Talking Rock is used for
10 irrigation, for landscape irrigation?

11 A. How much?

12 Q. Yes.

13 A. For what period of time and...

14 Q. In a yearly -- in an annual time?

15 A. I don't have that information in front of me. I
16 can't tell you right off the top of my head.

17 Q. Okay. Is landscape a large user of the
18 residential or the smaller meters?

19 A. I'm sorry, would you restate that for me.

20 Q. Is the landscape meters a large user of water in
21 Talking Rock?

22 A. Compared to residential users, yes.

23 Q. Can you share with us the percentage?

24 A. I don't have that information in front of me,
25 either. I don't know.

1 Q. How many categories of water rates do we have in
2 Inscription Canyon, or in ICR, sorry?

3 A. I'm sorry, I didn't --

4 Q. How many categories or rate categories do we
5 have for ICR water?

6 A. Are you asking about the tariff?

7 Q. Yes.

8 A. We have a -- one tariff covers everything right
9 at the moment.

10 MR. TAYLOR: Your Honor, I have another handout
11 that I would like to submit.

12 ALJ STERN: Okay. You have to give one to each
13 of the attorneys and the court reporter, and
14 Commissioner Mayes is now present, so give her a copy,
15 too.

16 ALJ STERN: Okay. We will mark as exhibit T-3 a
17 sheet that Mr. Taylor just handed out marked "Hydrant
18 Water Users Instruction Sheet." Apparently, it is from
19 ICR Water Users Association.

20 Go ahead, Mr. Taylor.

21 BY MR. TAYLOR:

22 Q. Since I only have six copies of that, I will
23 just have to say that I did not provide Mr. Busch one of
24 those, but you will see on there a unique reading of \$10
25 per 1,000 for a water rate.

1 Mr. Busch, are you aware of that special water
2 rate of \$10 per 1,000?

3 A. Yes.

4 Q. Is that consistent with the residential water
5 users rate?

6 A. No.

7 Q. Has that rate been approved by the Commission?

8 A. No. Not to my knowledge.

9 Q. Who authorized to set this rate?

10 A. I did.

11 Q. Is this -- do we have other rates that are
12 similar or something of this nature within ICR that you
13 are the only one to know about?

14 A. No.

15 Q. Has this been a Board decision to set this rate?

16 A. Not this particular rate, no.

17 Q. Could you share where the water is used?

18 A. To my knowledge, it is used within the area --
19 generally, it has been used by contractors on roads or
20 on development.

21 Q. Is it -- the address of that person on that
22 invoice, can you tell me where that person lives?

23 A. I can read the address on the paper. I don't
24 know if that is where he lives.

25 Q. Would you read that address?

1 A. The company name says, Rafter Z. It is on Cielo
2 Grande.

3 Q. Is that a street somewhere within the service
4 area?

5 A. Not to my knowledge.

6 Q. Can you explain what that person is doing with
7 that water?

8 A. I don't know.

9 MR. METLI: Your Honor, I just want to point out
10 that this exhibit contains either customer information
11 with an address -- and it will be a public document.
12 Maybe we might have some concerns about publicizing the
13 name of this and the address and phone number of this
14 customer.

15 ALJ STERN: I don't know whether it is a
16 customer -- it says, company name. I don't know if it
17 is a residential customer, per se, but...

18 MR. METLI: Your Honor, I'm not making an
19 objection. I'm just pointing out a concern I have with
20 the personal information on this document.

21 ALJ STERN: Okay.

22 MR. METLI: I don't know this individual or
23 company.

24 ALJ STERN: Well, I guess you can ask your
25 witness about it after -- on redirect.

1 MR. METLI: Okay.

2 ALJ STERN: I guess that would be the best way
3 to do it.

4 Okay. Mr. Taylor.

5 BY MR. TAYLOR:

6 Q. Mr. Busch, in a previous board meeting, was
7 there a discussion about someone hauling water from ICR
8 for watering cattle?

9 A. I do not recall.

10 Q. If you authorized -- you did say you authorized
11 this contractor to haul water; am I correct?

12 A. I'm sorry, would you restate your question,
13 please?

14 Q. You previously stated that you had authorized
15 this or set this rate for this water hauler?

16 MR. METLI: Your Honor, is Mr. Taylor referring
17 to Mr. Rafter or the Rafter or the cattle? I'm not
18 clear.

19 ALJ STERN: I'm not sure.

20 BY MR. TAYLOR:

21 Q. Did --

22 ALJ STERN: Mr. Taylor, let me try to ask the
23 witness a couple of questions.

24 Mr. Busch, are you familiar at all with this
25 particular company, contact name, or anything on this

1 document?

2 THE WITNESS: I am not, Your Honor.

3 ALJ STERN: Not at all?

4 THE WITNESS: Not at all.

5 ALJ STERN: You don't -- do you know if ICR has
6 had a customer named Rafter Z or Cory Prichard?

7 THE WITNESS: I do not know that at the moment,
8 Your Honor. I suspect it is in our records in our
9 office, but I do not recall.

10 ALJ STERN: Okay. But does ICR have an
11 unapproved rate for water haulers or construction uses?

12 THE WITNESS: I guess I would have to answer
13 that "yes."

14 ALJ STERN: Okay. Is that \$0.01 per gallon?

15 THE WITNESS: I believe we are charging them \$10
16 per 1,000 for water that they get out of a hydrant.

17 ALJ STERN: How do they do this? Do they just
18 go up and open up the hydrant and take the water without
19 going to the office?

20 THE WITNESS: Well, we've had a problem with
21 theft, Your Honor, in the area, and so in an attempt to
22 try to bring the theft issue under control, we put in
23 some actual meters on a specific fire hydrant in the
24 area.

25 ALJ STERN: How many meters are there like this?

1 THE WITNESS: There is two. There is one in the
2 Inscription subdivision and one in Talking Rock. And in
3 order to try to encourage people to take water legally
4 instead of stealing it, we put the meters in, and I set
5 a rate that I thought was reasonable, under the
6 circumstances. We don't have a lot of it. We get users
7 like this occasionally who legally want to use some
8 water, so we are trying to facilitate that. To the
9 extent that rate is illegal or hasn't been approved,
10 that's correct.

11 ALJ STERN: In terms of rates, though, it is
12 not, compared to what the gallonage charge is for your
13 existing residential customers or other customers, let's
14 say, it is not a bargain rate, is it, at \$10 per 1,000?

15 THE WITNESS: No. Our current rate for
16 residential users is \$2.80 per 1,000.

17 ALJ STERN: This is similar, I guess, to a sand
18 pipe rate, possibly, if you had one that was in your
19 tariff and approved?

20 THE WITNESS: Right.

21 ALJ STERN: How many hydrants are there in the
22 two areas, or three areas?

23 THE WITNESS: I don't have that on the tip of my
24 tongue, either, but I would estimate that we have around
25 250.

1 ALJ STERN: Between all of your service areas?

2 THE WITNESS: Yes.

3 ALJ STERN: So any of these construction, water
4 hauler-type people can just pull up to a hydrant, pull
5 the --

6 THE WITNESS: Unfortunately, yes, and it has
7 been done.

8 ALJ STERN: Okay. And there is no way to stop
9 them?

10 THE WITNESS: No.

11 ALJ STERN: And, then, the only way you can have
12 fire protection is to have the hydrants; right?

13 THE WITNESS: Yes. So we were trying to
14 encourage people to do it legally, and we have had
15 people like this that would -- that will do it, and
16 theft still goes on.

17 ALJ STERN: Okay. Are you requesting approval
18 of this rate in this proceeding, do you know?

19 THE WITNESS: I'm sorry, I do not know that.

20 ALJ STERN: Okay. If I told you you can't
21 charge for this water unless the rate is approved, do
22 you understand that?

23 THE WITNESS: Yes.

24 ALJ STERN: Okay. So until that rate gets
25 approved, maybe in this case, you can't charge for that

1 water.

2 THE WITNESS: All right.

3 ALJ STERN: I don't know whether our Staff is
4 aware of it. I don't know how much the gallonage is
5 included, but then if you have people stealing your
6 water, it is even tougher.

7 THE WITNESS: Yes.

8 ALJ STERN: Go ahead, Mr. Taylor.

9 BY MR. TAYLOR: .

10 Q. The meter, is that one that in the document says
11 it is an honor system; is that correct?

12 A. It is.

13 Q. Is there -- was that water taken from a metered
14 hydrant or an unmetered hydrant?

15 A. I believe it is a metered hydrant, but I'm just
16 going by recollection. I may not be correct in that.
17 Our intention was that they take it from a metered
18 hydrant.

19 Q. Did I hear you say that there is one metered
20 hydrant in Inscription?

21 A. That is my recollection.

22 Q. Do you have any recollection of the location?

23 A. Yes.

24 Q. Can you tell me where that is at?

25 A. It is across from the sales office at

1 Inscription canyon Drive.

2 Q. And there is a meter there?

3 A. That is my understanding.

4 Q. Thank you.

5 The -- I would like to move to a subject
6 regarding the wells. Mr. Busch, you referred to a test
7 of the Talking Rock well fields October 27th yesterday;
8 is that correct?

9 A. Yes.

10 Q. The test range for three days and all the three
11 wells pumping at the same time; is that correct?

12 A. Yes.

13 Q. Was this test conducted because the water demand
14 at Talking Rock during premonsoon season required two of
15 the wells to be pumped nearly 24 hours each day, and the
16 third well to be pumped about 12 hours each day?

17 A. I can't say that that was the only reason for
18 the test. It was one of the reasons for the test.

19 Q. Do you know the -- can you tell me the other
20 reasons?

21 A. I don't know all of the reasons, but that was
22 certainly one of them.

23 Q. In other words, the productive capacity of the
24 well field was nearly maxed out and the Board was
25 concerned about this; is that correct?

1 A. Yes.

2 Q. How many residents in Talking Rock are receiving
3 water during the premonsoon season?

4 A. Today?

5 Q. Correct.

6 A. I don't have that information in front of me.
7 My recollection is around 160, perhaps 170 now.

8 Q. Okay. How many residents will there be at
9 Talking Rock at build out?

10 A. My understanding, somewhere in excess of 2,300.

11 Q. In Talking Rock?

12 A. In Talking Rock.

13 ALJ STERN: Are you talking residents,
14 Mr. Taylor, or houses or...

15 MR. TAYLOR: Houses.

16 THE WITNESS: I don't know the exact number,
17 what is going to be there. I don't know.

18 BY MR. TAYLOR:

19 Q. Is Mr. Meyer a current board member?

20 A. Yes.

21 Q. Is Mr. Meyer here today?

22 A. Yes.

23 Q. Do you know what his professional background is?

24 A. He said he is a hydrologist.

25 Q. Okay. Did Mr. Meyer summarize the results of

1 the October 20th well field test in a report provided to
2 the board of directors?

3 A. Yes.

4 MR. TAYLOR: I have him -- I have one copy of
5 this report. I did file it earlier in one of my
6 filings. Can I provide this to Mr. Busch to ask him a
7 few questions?

8 ALJ STERN: Well, if that is what you want to
9 do, why don't we take a minute, and I will run off some
10 copies so we are all on the same page. So we will
11 recess.

12 How many pages is it? How many pages is it?

13 MR. TAYLOR: Nineteen pages.

14 ALJ STERN: Nineteen pages. I will run off some
15 copies so everyone can know what you are talking about.

16 THE WITNESS: Okay.

17 ALJ STERN: Are you going to have a lot of
18 exhibits like this?

19 MR. TAYLOR: No, this is the only one. My
20 computer -- my printer broke this morning, so...

21 ALJ STERN: Okay. Let me have it and I will
22 have to get us some copies. We will go off the record
23 for a few minutes.

24 (Recess from 10:10 a.m. until 10:21 a.m.)

25 ALJ STERN: Returning to the record, let's see,

1 we have two new documents from Mr. Taylor. We will mark
2 as T-4 something that is captioned, "Report on the
3 Results of the Three-Day Test of the TRR Well Field."

4 MR. METLI: Your Honor, I would like to raise an
5 objection at this point. With respect to the water
6 report, maybe Mr. Taylor can lay a foundation. My
7 concern is what the intent of the report is. If the
8 intent is to verify specific capacities in wells, I may
9 need to retain a hydrologist, if possible, to refute
10 this. If the questions are going to be associated with
11 something that the Board did with respect to this, then
12 I wouldn't have an objection.

13 ALJ STERN: Okay. Mr. Taylor, T-4, what are you
14 using this -- because, first of all, this witness isn't
15 a person to testify -- he can testify about maybe a
16 discussion at the Board if that is what you want
17 possibly, but the person who prepared the document is
18 the person who usually is questioned about the
19 documents.

20 MR. TAYLOR: Your Honor, I understand, and my
21 other next document that I provided clarifies that
22 action as it was taken up with the Board.

23 ALJ STERN: Okay. Whatever. Let's proceed and
24 see what you are going to do with this. I don't know
25 what you are going to ask the witness, but we are

1 talking about T-4, the three-day test at the TRR well
2 field.

3 Are there questions that you want to ask this
4 witness about this document?

5 MR. TAYLOR: Yes, Your Honor.

6 BY MR. TAYLOR:

7 Q. Would you, please, Mr. Busch, verify the -- what
8 this report -- front page of this report is?

9 MR. METLI: Your Honor, is Mr. Taylor asking him
10 to read the title of the report?

11 BY MR. TAYLOR:

12 Q. The title of the report, yes.

13 A. It says, Report on the Results of the Three-Day
14 Test of the TRR Well Field, October 24th through
15 October 27, 2007, by William Meyer. And it is for the
16 board of directors ICR Water Users Association,
17 December 10th, 2007.

18 Q. Would you please turn to page 5 of that report?
19 State the well yield that is documented in that report,
20 the second paragraph, please.

21 MR. METLI: Your Honor, I would object to that.
22 He's laid no foundation. Mr. Taylor is asking about
23 information contained in the report itself as an expert
24 report.

25 ALJ STERN: I don't know who -- I don't know who

1 prepared the report. Other than this gentleman
2 Mr. Meyer. I don't know anything about Mr. Meyer. That
3 is part of the problem. And I'm not sure if this report
4 is reliable, sir. I don't know. I mean...

5 MR. TAYLOR: Your Honor, this report was
6 prepared for --

7 ALJ STERN: Wait, sir. I understand what you
8 are going to tell me. All we know is that this report
9 was prepared for the Board. It was prepared by somebody
10 named William Meyer. You can't necessarily testify
11 about Mr. Meyer's qualifications, per se. If you want
12 to call Mr. Meyer as a witness possibly, then it is a
13 whole different ball game.

14 MR. TAYLOR: Thank you, Your Honor. I
15 appreciate that. I will, if I may?

16 ALJ STERN: Well, this is the witness that is on
17 the stand, so...

18 MR. TAYLOR: I understand. Thank you.

19 MR. METLI: Your Honor, if Mr. Taylor is going
20 to call Mr. Meyer, again, I would say that we may need
21 to call a hydrologist to refute the report.

22 ALJ STERN: I understand. If that is his
23 intent, I guess, we will see.

24 What is the purpose of calling this gentleman
25 Mr. Meyer if you are going to use him as a witness? Are

1 you trying to show something?

2 MR. TAYLOR: What I'm trying to present is the
3 need for the Company to have all three wells in their --
4 under their management, under their control in order to
5 meet the water demands for Talking Rock Ranch.

6 ALJ STERN: Wait a minute. If I understood what
7 he said yesterday -- I may have missed the boat, that
8 happens a lot. As I understood it, I'm not sure the
9 Commission will approve the agreement between Talking
10 Rock parties and your utility company, because that is
11 an issue here.

12 However, it appears from that agreement between
13 those two parties, if I understood what went on
14 yesterday, I think Well Number 2 and 3 are already
15 transferred to the utility; correct, Mr. Busch?

16 THE WITNESS: That's correct.

17 ALJ STERN: Well Number 1, which is the big
18 gusher, let's say, at least I thought it was a couple
19 years ago, and that is what I wanted transferred. If I
20 understood what they are all trying to do here, if Well
21 Number 1 is, hey, we will give you Well Number 1, just
22 adopt Staff's rates, which we can live with. We are not
23 going to be -- we are now going to be a customer of the
24 water utility. We are not a special user or anything.
25 We are not in a special category. There is your three

1 wells. Do we have to go into the fact that the Company
2 needs all three wells?

3 MR. TAYLOR: Well, Your Honor, you asked -- you
4 made the right statement to verify which is the gusher,
5 because in this report, Well Number 1 is 379 gallons,
6 Well Number 2 is 451 gallons, and Well Number 3 is
7 132 gallons. And my point is deficiency or the margin
8 of reliability for the residential consumers in Talking
9 Rock well 3 is now -- was turned over to the users, to
10 ICR water users. Well 2 was turned over in May, but in
11 order to sustain the water supply, all three wells must
12 be in the control of ICR water users.

13 ALJ STERN: Well, see, that is what they seem to
14 be saying here. That is what he said yesterday. We
15 will get well 3 if we can at least know that the rates
16 are going to be what Staff is recommending, which is
17 higher for them than they recommended, but they are
18 willing to live with it and they are going to be a
19 customer of the company, okay. And then there will be a
20 five-year rate freeze under the terms of that agreement,
21 which I don't know what Staff's position is on that.
22 They might agree or they might not. But they are -- the
23 Company is not prohibited, if there is an emergency,
24 from coming back for a rate increase. So, I mean, I
25 don't know where you are going with this line of

1 testimony. That is all I'm saying.

2 If you want to call the hydrologist, you are
3 just going to prolong the agony here. Sorry. Didn't
4 mean to say that. It is just that, you know, in terms
5 of, look, you have a company here. They are in the
6 water business. If your company needs more water, they
7 have ways to get more water. If they have to drill
8 another well somehow, some way, there are ways to obtain
9 financing, and then it is put into your rate base and
10 your rates may have to go up or something or they may
11 not. You may have enough cash flow that you can afford
12 to pay for a well. I don't know. I mean, this is --
13 that is pure speculation at this point. But it is your
14 choice. If you want to call this hydrologist, that
15 is -- I assume that is what he is.

16 MR. TAYLOR: I stated my point regarding the
17 three wells of -- the output of the three wells based on
18 this well test.

19 ALJ STERN: Well, again, it is not necessarily
20 established. I don't think you are qualified as an
21 expert to testify as to how many wells you need to
22 provide water to X number of people, but perhaps you
23 might ask Mr. Busch, he is the manager of the Company,
24 whether the Board believes or what they have learned is
25 adequate or inadequate.

1 MR. TAYLOR: Your Honor, let's go to T-5.

2 ALJ STERN: Okay.

3 BY MR. TAYLOR:

4 Q. Page 3.

5 COMM. MAYES: Mr. Taylor, do you have an extra
6 copy of these?

7 ALJ STERN: Mr. Taylor, I think I made enough
8 copies for her to have.

9 COMM. MAYES: I apologize. He wasn't here when
10 you handed them out, Dayne.

11 BY MR. TAYLOR:

12 Q. I would like to pick up, Mr. Busch, would you
13 please read in total paragraph C of -- which is under
14 "old business" of the meeting minutes. That would be on
15 what is page 3 and -- sorry, page 2 and part of page 3.

16 A. Under "well testing"?

17 Q. Yes, sir.

18 A. You want me to read that?

19 Q. Yes, please.

20 A. Bill Meyer, or Bill, reported on the joint
21 ICR/WA Harvard well test completed in late October on
22 the TRR well field. The test was conducted with all
23 three wells pumping 24 hours per day for three days.
24 The water depth in each well pumping rates and air
25 entrapped in the pumped water was -- were measured

1 periodically during the test. Water levels were also
2 measured in TRR Well Number 4 during the test. All
3 parties received all data collected during the test.
4 The water levels and pumping rates for each -- from each
5 well declined throughout the test period. Bill prepared
6 a report for the Board in which he concluded, and I
7 quote, if the problem with the aerated water is
8 neglected, the test results indicate that the well field
9 can meet domestic demand at TRR at full build-out or
10 demand associated with irrigation of golf course
11 throughout the year, but the well field cannot meet both
12 demands at all times of the year. Or if a well should
13 fail, given this, the results also indicate that the
14 utility and Harvard Investment need to revise a well
15 agreement to reflect the limitations of the well
16 field -- the well field. Meeting will be requested with
17 Harvard to discuss the test and its implications.

18 Q. Are you the author of these meeting minutes?

19 A. I can't say for sure. There were times when I
20 was the author of the minutes. Other times, we had a
21 recorded secretary, and I can't tell you whether I
22 authored these or not.

23 Q. Thank you.

24 Are the minutes accurate?

25 A. As far as I know, yes.

1 COMM. MAYES: Mr. Taylor, can I interrupt you
2 and ask a question?

3 ALJ STERN: Sure.

4 COMM. MAYES: Thank you.

5 Mr. Busch, what happened? Were you at this
6 meeting? Sorry, maybe Mr. Taylor asked that.

7 THE WITNESS: I was at this board meeting, yes.

8 COMM. MAYES: Do you know what happened after
9 this meeting? The next line down says, a meeting will
10 be requested with Harvard to discuss the test and its
11 implications.

12 Do you know if that happened?

13 THE WITNESS: Yes, it did.

14 COMM. MAYES: And what came out of that meeting;
15 do you know?

16 THE WITNESS: It was a general review of the
17 tests. It was jointly attended by both parties. The
18 engineering firm that was up from Harvard that was
19 involved in doing the test was also there, and they kind
20 of compared results and conclusions from the test.

21 COMM. MAYES: And that test is the same test
22 that is referred to in Mr. Taylor's exhibit authored by
23 Mr. Meyer?

24 THE WITNESS: Correct.

25 COMM. MAYES: Okay. And do you know -- so

1 Mr. Krumwiede would also be able to answer questions
2 about this test and its results?

3 THE WITNESS: I --

4 COMM. MAYES: It says, Earl will contact
5 Harvard, in parenthesis, Craig Krumwiede?

6 THE WITNESS: Yes.

7 COMM. MAYES: What was your reaction to that --
8 I mean, what is your reaction or what was your reaction
9 to the statement, but the well field cannot meet both
10 demands at all times of the year, or if a well should
11 fail? Does that concern you?

12 THE WITNESS: My interpretation of that?

13 COMM. MAYES: Yeah, what is your interpretation
14 of that?

15 THE WITNESS: My interpretation is at full build
16 out, the well field will be able to serve the
17 residential customers in Talking Rock or the golf
18 course, but not both.

19 COMM. MAYES: So something would have to be
20 done?

21 THE WITNESS: Yes.

22 COMM. MAYES: Such as what?

23 THE WITNESS: Such as another well, another
24 water source someplace.

25 COMM. MAYES: But then the minutes also go on to

1 state that Bill concluded -- I guess that means
2 Bill Meyer?

3 THE WITNESS: Right.

4 COMM. MAYES: Bill Meyer concluded that the
5 results indicate that the utility and Harvard
6 Investments need to revise the well agreement to reflect
7 limitations of well field yield. What does that mean?
8 What was your take on that?

9 THE WITNESS: My understanding is that the well
10 agreement references the production rates of each well
11 that are not the numbers that are experienced during the
12 three-day test. They are below that. So the well field
13 does not produce, in my opinion, what the well agreement
14 says the well field is capable of doing, because each
15 well has a GPM rate given in the well agreement. I
16 believe that when the well agreement was put together,
17 it was contemplated that that well field would, in fact,
18 serve all the users, both the golf course and the
19 residents. In fact, that probably will not happen,
20 because there isn't enough capacity in those wells. So
21 another water source has to be found someplace
22 ultimately.

23 COMM. MAYES: Is that what he meant by "revise
24 the well agreement," or would you revise the well
25 agreement to -- I don't know, increase the cost of the

1 water or decrease the -- what you are providing to the
2 golf course?

3 THE WITNESS: I suspect there are a number of
4 things that that could mean, but at the minimum, it
5 would mean probably revising the production numbers and
6 recognizing that the production numbers listed in the
7 well agreement are not, you know, cannot be achieved.

8 ALJ STERN: Is that in the water service
9 agreement or...

10 THE WITNESS: No, it is in the earlier well
11 agreement that was signed back in 2003.

12 ALJ STERN: That one that was filed with the
13 Commission?

14 THE WITNESS: That's correct.

15 ALJ STERN: Okay. That was the compliance
16 document originally?

17 THE WITNESS: Yes.

18 ALJ STERN: Okay.

19 COMM. MAYES: Does this mean that -- well, in
20 your opinion, at what point would the yield from the
21 existing wells not be adequate to meet both the golf
22 course and the homes?

23 THE WITNESS: Commissioner Mayes, that is a
24 tough question, and I'm not qualified to answer that.
25 It is a moving target, in my opinion, and like I say,

1 I'm not qualified to answer it, because demand from that
2 well field varies substantially during the year. In
3 wintertime, it is very low. And so we can meet
4 everybody's needs in the wintertime. It is the
5 premonsoon time of April through July where demand goes
6 way up and stays up and, so, during peak periods--

7 COMM. MAYES: Everybody is in Prescott.

8 THE WITNESS: Yeah, everybody wants water, and
9 so, you know, what day that is going to run out or not
10 going to be enough, I can't answer that question. And I
11 don't know if anybody could, to be quite honest. There
12 was a period of time where prudence would say, we need
13 to get additional water in there, and it may be sooner
14 than we think, but I don't know that. I'm not really
15 qualified to say.

16 COMM. MAYES: Is that -- did Mr. Meyer come to a
17 conclusion on that, or was he asked to look at that?

18 THE WITNESS: I honestly don't know or don't
19 recall. I just recall that conclusion that says, we can
20 serve one or the other, the golf course or the
21 residents, but we can't serve both at full build out.

22 COMM. MAYES: Do you know who Bill Meyer is?

23 THE WITNESS: Certainly.

24 COMM. MAYES: Who is he?

25 THE WITNESS: He is a board member. He has been

1 a board member for at least the last two years.

2 COMM. MAYES: And he is a hydrologist?

3 THE WITNESS: He says he is a hydrologist, yes.

4 COMM. MAYES: Is he a professional hydrologist?

5 THE WITNESS: I believe he is.

6 COMM. MAYES: He lives in Prescott?

7 THE WITNESS: Yes, he lives in the subdivision.

8 He was one of the parties that was participating during
9 the well test. The other was an engineering firm.

10 COMM. MAYES: Which firm?

11 THE WITNESS: Southwest Groundwater.

12 ALJ STERN: Pardon me, Commissioner Mayes.

13 MR. TAYLOR: Mr. Meyers is in the audience.

14 COMM. MAYES: Okay. That is interesting. Well,
15 I mean, and I appreciate the discussion on this, because
16 it is, you know, it is obviously something that the
17 Commission -- if the Commission should be concerned
18 about this, then it is something we ought to address in
19 this case. We've had other cases -- Mr. Shapiro is a
20 lawyer on a case in Pine where they want to run out of
21 water every summer, also. We've had many, many, many
22 hearings here on that case, and...

23 MR. SHAPIRO: Not this summer,
24 Commissioner Mayes, thank the Lord, but other summers,
25 and hence the Commission has asked that company to come

1 up with additional sources of water. It is a
2 controversial affair, but anyway, I guess -- I don't
3 know.

4 I don't know how we get at that, Your Honor, but
5 it is certainly an interesting issue that popped up.

6 ALJ STERN: Yes, it is.

7 Do you want to continue with your
8 cross-examination, Mr. Taylor?

9 MR. TAYLOR: Yes.

10 BY MR. TAYLOR:

11 Q. Mr. Busch, what are the terms in the water
12 service agreement regarding well 2? Can you --

13 A. Sorry, would you restate that for me.

14 Q. In the water service agreement, it is stated
15 that the pump size will be changed --

16 MR. METLI: Your Honor.

17 BY MR. TAYLOR:

18 Q. -- the well pump?

19 MR. METLI: Sorry, Your Honor. Maybe we could
20 get a copy of that in front of Busch and he can refer to
21 the language Mr. Taylor is referencing.

22 ALJ STERN: Yeah, do you have a copy of that?
23 Is it ICR 9 or ICR 10 that has the correct information,
24 because 9 is the water service agreement and 10 is that
25 amendment, so I don't know where it is.

1 MR. METLI: Nine.

2 ALJ STERN: Okay. ICR 9, do you know what -- do
3 you want to restate your question, Mr. Taylor?

4 BY MR. TAYLOR:

5 Q. Is well 2 pump going to be replaced?

6 A. According to the water service agreement, yes.

7 Q. And do you know what size pump will be put in,
8 what the replacement size will be?

9 A. I do not.

10 Q. Why is the pump to be replaced?

11 A. My understanding is that it is possibly for two
12 reasons, one of which is that the well, the current pump
13 may overpump the well or pull in air to could cause some
14 deterioration of the motor, and the smaller pump would
15 eliminate that problem and possibly reduce the air
16 production in that well, as well.

17 I'm giving you what my understanding of that is.
18 I'm not the engineer involved here, but...

19 Q. In the event that that pump is replaced with a
20 smaller, a new pump is smaller, will that affect -- will
21 that affect the yield of the well field?

22 A. I presume so. I'm not an engineer. I can't
23 tell you.

24 Q. Thank you.

25 So if we need all three wells to meet the

1 domestic demands at full build out, does it matter which
2 two wells are transferred to ICR, assuming they don't
3 have the third well?

4 A. I'm sorry, state that again for me.

5 Q. So if you need all -- if we have all three wells
6 to meet the domestic demand, as was indicated in the
7 well test, at full build out, which two wells would be
8 beneficial for us to have if we did not have three
9 wells? If we did not have the three wells that were
10 shown required in the test to meet the build out, which
11 of the two wells would be better for us to have if we
12 only had two wells in and Talking Rock had one well?

13 A. If we are going to be short at full build out,
14 I'm not sure it matters which wells we owned. We are
15 going to be short.

16 ALJ STERN: Are you asking him which of the --
17 of the three wells, which two would be his choice?

18 BY MR. TAYLOR:

19 Q. Would be the better producers?

20 A. Yeah, I guess given my drothers, I would rather
21 the ones that produce more.

22 Q. Which are?

23 A. Right now, they are wells 1 and 2.

24 Q. Thank you.

25 I would like to go to 64360. Decision 64360 is

1 a document that I have filed.

2 ALJ STERN: Does he have a copy of it up there?
3 I won't make it an exhibit. We will take notice of it.

4 MR. TAYLOR: Does his counsel have a copy that
5 he could use?

6 ALJ STERN: I would imagine. Do you have a copy
7 he can use?

8 MR. METLI: I do. If you don't mind me looking
9 over his shoulder, I will share.

10 MR. TORREY: Your Honor, I have some extra
11 copies of that.

12 ALJ STERN: Okay. Staff to the rescue.

13 MR. TORREY: Your Honor, do you need a copy of
14 that?

15 ALJ STERN: No, I have a copy.

16 Just so everyone knows, we are looking at
17 Decision 64360, dated January 15th at 2002.

18 Go ahead and ask your question.

19 BY MR. TAYLOR:

20 Q. On finding of fact 20, page 4, line 10, would
21 you read that line, please?

22 A. Harvard has drilled two test ones, one of which
23 produces approximately 700 gallons of water per minute,
24 however, water production, it has been lowered to
25 525 gallons of water per minute because the ranches

1 demand's at full build-out, including the golf course
2 and all residential units are projected at 523 gallons
3 of water per minute. Additionally, Harvard will utilize
4 the second well as a backup emergency well and has the
5 ability to add a third well, if needed.

6 Q. Did I understand you to read, two test wells,
7 has drilled two test wells?

8 A. That is what it says, yes.

9 Q. Okay. Can we go to page 5, finding of fact 34,
10 line 26?

11 A. Want me to read that?

12 Q. Yes, please?

13 A. However, we are concerned with the fact that ICR
14 does not have or -- sorry. ICR does not own or have its
15 own water production facilities, and that the issue is
16 not addressed adequately. We believe that as an
17 additional condition for the extension of the
18 certificate herein, as part of the agreement, Harvard
19 should include in its advance the wells which it has
20 drilled for the purpose of providing water to the
21 extension area described in exhibit A to ensure that the
22 utility has adequate water for its customers and to
23 ensure that they are not subject to relying for their
24 water on a third party or which the Commission lacks
25 jurisdiction.

1 Q. With what you have read, does it indicate that
2 they had drilled more than one well?

3 A. I believe paragraph 20 says, drill two wells.

4 Q. Does this indicate that the timing -- if the
5 wells were drilled prior to 64360?

6 A. I presume so from what is written here.

7 Q. All right. Thank you. All right. That is all
8 I have to cover on that portion.

9 Let's go to line 4 -- page 4, line 11. Would
10 you please read that, starting with the yield. Page 4,
11 line 11, again, the yield of the wells.

12 A. Part of what I read before?

13 Q. M'hum.

14 A. Line 11 says, of water per minute, however,
15 water production from it has been lowered to 525 gallons
16 of water per -- how much of that do you want me to read?

17 Q. That is fine.

18 Is it your opinion that this is the preferred
19 well for ICR?

20 A. I'm not sure I understand your question.

21 Q. Is this a better producing well for ICR water
22 than well 3, of which I discussed previously with -- in
23 Mr. Meyer's report?

24 A. Is your question asking me whether a 523-gallon
25 a minute well or 525-gallon would be better than well 3?

1 Q. Yes.

2 A. Yes.

3 Q. Thank you.

4 COMM. MAYES: Mr. Busch, could I ask, is this
5 well that is referred to on line 11, page 4 currently in
6 the hands of ICR?

7 THE WITNESS: I don't know, Your Honor,
8 Commissioner Mayes. I don't know which wells are
9 referred to. The numbers are not the same here as the
10 numbers we are using currently, so I can't tell you for
11 sure which well is which from this testimony.

12 COMM. MAYES: Do you have an educated guess?

13 THE WITNESS: My guess is that they may be
14 referring to well 1, because it was probably drilled
15 first.

16 COMM. MAYES: Is that the one in the hands of
17 ICR now?

18 THE WITNESS: No.

19 COMM. MAYES: That hasn't been transferred?

20 THE WITNESS: That has not been transferred.

21 COMM. MAYES: Thank you, Mr. Busch.

22 BY MR. TAYLOR:

23 Q. I would like to discuss assets, and I'm not
24 going to belabor this subject, because, I'm sorry, I
25 haven't made copies of it, but this is a report that is

1 filed to the Commission, and I do have six copies of
2 this report that I would like to --

3 ALJ STERN: Is that the -- is that the annual
4 report?

5 MR. TAYLOR: Yes, Your Honor.

6 ALJ STERN: We could sort of take notice of it.
7 What particular thing did you want to refer to in there?

8 MR. TAYLOR: The portion there that is a concern
9 of mine is the amount of pumps that are disclosed in
10 that document.

11 ALJ STERN: I see. Okay. What year annual
12 report is that, the 2007?

13 MR. TAYLOR: 2006.

14 ALJ STERN: That was filed in 2007? Look at the
15 date on it.

16 MR. TAYLOR: It does say, 2006.

17 ALJ STERN: Is -- it is a 2006 annual report
18 that was filed in 2007. Usually, the year report is
19 filed the following year, April 15th of the following
20 year.

21 MR. TAYLOR: I would assume so. I can't put my
22 finger on it.

23 ALJ STERN: Do you have -- one of these copies
24 that I can take a look at real quick?

25 MR. TAYLOR: Yeah, I do. Let me get to the

1 front page of it.

2 ALJ STERN: I will tell you, why don't we take a
3 break right here while you are looking for it, give the
4 court reporter a little break. I have to review some
5 orders that are going out today for our deadline. That
6 may take me a little bit longer than the usual 10
7 minutes, so I would say we will have about 20 minutes.
8 You can find your copies, whatever. If we need it for
9 purposes of making it an exhibit, you can run copies
10 over in docket control. Or if you have six, I can run a
11 couple extras for you.

12 Okay. We will take a recess.

13 (Recess from 10:57 a.m. until 11:25 a.m.)

14 ALJ STERN: It is taking me a little longer to
15 finish up this matter that I'm dealing with, and what I
16 want to do is give you a lunch break right now until
17 1 o'clock or thereabouts, and we will come back at 1:00
18 and resume Mr. Busch under cross. How much more cross
19 do you have?

20 MR. TAYLOR: I hope I can be done in an hour.

21 ALJ STERN: Okay. We will see you at 1 o'clock.

22 (Recess from 11:26 a.m. until 4:00 p.m.)

23 ALJ STERN: All right. We are back on the
24 record just briefly. I've been informed by counsel for
25 Staff that the parties are engaged in ongoing

1 discussions and will continue to be talking to each
2 other during our recess after this session a little bit
3 today and then what we are going to do is resume
4 tomorrow at 9:30.

5 Now, tomorrow we will be in room -- the
6 Commission's conference room on the second floor. If
7 you come off the elevators just around to your right.
8 Now what I will say, too, is that we will -- if you
9 reach some sort of -- of an agreement and you don't want
10 to have a session tomorrow, I will leave it up to
11 Mr. Torrey to notify us in the morning so we can
12 possibly head off our court reporter coming down here.

13 Okay, Mr. Torrey?

14 MR. TORREY: I can do that, Your Honor.

15 ALJ STERN: Is that okay with you, Mr. Taylor?

16 MR. TAYLOR: Sure is.

17 ALJ STERN: Mr. Shapiro?

18 MR. SHAPIRO: It is. I agree with Mr. Taylor.
19 I think the party's goal is to advise you, if we can
20 reach an accord, to come in tomorrow and put it on the
21 record and then hopefully close the record.

22 ALJ STERN: Well, perhaps you might want to put
23 something in writing, which is something that --

24 MR. SHAPIRO: I think we hope to do that
25 tonight.

1 ALJ STERN: If you could do that tonight
2 possibly, I don't know.

3 MR. SHAPIRO: We would also like, if we reach
4 that position, maybe we could let Commissioner Mayes
5 know. She had questions we wanted to -- we want to
6 address her concerns as best we can before we close the
7 record.

8 ALJ STERN: I think there is an opening meeting
9 tomorrow, so I don't know if she will be available
10 tomorrow. That is another issue. If you want to keep
11 the record open for that, then I'm not sure what can be
12 resolved, perhaps. You can check with her office, if
13 you want. Okay.

14 MR. SHAPIRO: We will maybe see if they can let
15 us know what their concerns are.

16 ALJ STERN: I think we are contacting her office
17 to pick this stuff up, since we have to be out of here
18 for tomorrow. With that, we will recess and we are
19 scheduled for 9:30 tomorrow in the Commissioners'
20 conference room upstairs, so with that, we are in
21 recess.

22 (The hearing recessed at 4:03 p.m.)

23

24

25

1 STATE OF ARIZONA)
) ss.
2 COUNTY OF MARICOPA)

3
4
5

6 I, TERESE HEISIG, Certified Reporter No. 50378
7 for the State of Arizona, do hereby certify that the
8 foregoing printed pages constitute a full, true and
9 accurate transcript of the proceedings had in the
10 foregoing matter, all done to the best of my skill and
11 ability.

12

13 WITNESS my hand this 15th day of December, 2008.

14

15

16

17


TERESE HEISIG
Certified Reporter
Certificate No. 50378

18

19

20

21

22

23

24

25