

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

IN RE THE MEETING OF THE )  
BAY-DELTA ADVISORY COUNCIL )  
\_\_\_\_\_)

ORIGINAL

Correction:

Bu1 Mary & Luke not a PDAC  
member anymore!

REPORTED BY: MELINI A. CARREON, CSR NO. 7511

PORTALE & ASSOCIATES DEPOSITION REPORTERS  
211 East Weber Avenue  
Stockton, California 95202  
(209) 462-3377

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

IN RE THE MEETING OF THE )  
BAY-DELTA ADVISORY COUNCIL )  
\_\_\_\_\_)

ORIGINAL

TRANSCRIPT OF PROCEEDINGS

Burbank Airport Hilton & Convention Center  
2500 Hollywood Way  
Burbank, California

Friday, March 20, 1998, at 8:41 a.m.

REPORTED BY: MELINI A. CARREON, CSR NO. 7511

PORTALE & ASSOCIATES DEPOSITION REPORTERS  
211 East Weber Avenue  
Stockton, California 95202  
(209) 462-3377

1 COUNCIL MEMBERS PRESENT:

2  
3 MICHAEL MADIGAN, Chairperson, California Water  
4 Commission

5 SUNNE McPEAK, Co-Chairperson, Bay Area  
6 Council

7 LESTER SNOW, Executive Director

8 ROBERTA BORGONOVO, League of Women Voters of  
9 California

10 DON BRANSFORD, Glenn-Colusa Irrigation District

11 RYAN BRODDRICK, California Department of Fish  
12 and Game

13 BYRON BUCK, California Urban Water Agencies

14 E.Z. BURTS, Los Angeles Area Chamber of  
15 Commerce

16 MARTHA DAVIS, Sierra Nevada Alliance

17 ROGER FONTES, Northern California Power Agency

18 HOWARD FRICK, Friant Water Authority/Arvin  
19 Edison Water Supply District

20 TOM GRAFF, Environmental Defense Fund

21 DAVID GUY, California Farm Bureau Federation

22 ERIC HASSELTINE, Contra Costa Council

23 ALEX HILDEBRAND, South Delta Water Agency

24 RICHARD IZMIRIAN, California Sportfishing  
25 Protection Alliance

1 COUNCIL MEMBERS PRESENT: (cont'd)

2  
3 ROSEMARY KAMEI, Santa Clara Valley Water  
4 District

5 ROBERT MEACHER, Regional Council of Rural  
6 Counties

7 ANN NOTTHOFF, Natural Resources Defense Council

8 PIETRO PARRAVANO, Pacific Coast Federation of  
9 Fishermen's Association

10 STUART PYLE, Kern County Water Agency

11 BOB RAAB, Save San Francisco Bay Association

12 JUDITH REDMOND, Community Alliance with Family  
13 Farmers

14 MARCIA SABLAN, City of Firebaugh

15 MARY SELKIRK, East Bay Municipal Utility  
16 District

17 MIKE STEARNS, San Luis Delta Mendota Water  
18 Authority

19 PATRICK WRIGHT, Federal Representative

20  
21 ----o0o----

1 (All parties present, the following proceedings were had  
2 at 8:41 a.m.)

3

4 CHAIRPERSON MADIGAN: Good morning.

5 If members of the BDAC could take their seats,  
6 we'll get underway.

7 EXECUTIVE DIRECTOR SNOW: We're almost  
8 there.

9 CHAIRPERSON MADIGAN: Thank you for  
10 your -- or almost everybody, right?

11 Thank you, again, for all of your  
12 participation yesterday. I know that two-day meetings are  
13 a real burden for -- for a lot of you, but I thought that  
14 yesterday was worthwhile and that your -- your comments  
15 and your participation was most helpful.

8:42A

16 This is the Friday meeting of the two-day  
17 March Bay-Delta Advisory Council. It's 8:30, and so we're  
18 underway.

19 Item number one on the agenda this morning is  
20 a status report on the State Water Resource Control Board  
21 Bay-Delta water rights hearing.

22 Lester actually has a brief report, and then  
23 I'd be happy to open it up to questions, since I know that  
24 at least several of you have questions in that regard.

25 Lester.

1 EXECUTIVE DIRECTOR SNOW: Thank you,  
 2 Mr. Chairman.  
 3 I have an extremely brief report. I want to  
 4 make reference to a letter to me from Walt Pettit, dated  
 5 yesterday, and an attached letter to -- from the Chairman  
 6 of the State Water Resources Control Board to  
 7 John Garamendi, Deputy Secretary, and an attached time  
 8 line which starts chronicling the schedule that the  
 9 State Board is following and how they plan on laying out  
 10 these issues and when they plan on resolving them, which,  
 11 as you may recall, was a matter of discussion at our last  
 12 council meeting.  
 13 I'm not sure I have much more to add. The  
 14 schedule kind of speaks for itself, at least how they're  
 15 laying out the work effort at this point.  
 16 Marv, are there any specific points we need to  
 17 draw attention to?  
 18 COUNCIL MEMBER SELKIRK: I think that if  
 19 you note on -- on the top of page two in the letter to  
 20 John Garamendi that John Caffrey reiterates and puts in  
 21 writing what Walt Pettit had discussed with BDAC at the  
 22 meeting in January, which is that the -- the Board is now,  
 23 in writing, committing to the Department of Interior that  
 24 the -- the '85 water quality control plant standards will  
 25 be in place after it expires at the end of December

1 through the completion of the water rights hearings, so...  
 2 CHAIRPERSON MADIGAN: Tom.  
 3 COUNCIL MEMBER GRAFF: Yeah, I just would  
 4 like to note that one consequence of the Water Board's  
 5 unwillingness to do its job and to postpone essentially  
 6 indefinitely its -- its exercise of its water rights  
 7 responsibility is that we are surely going to enter a  
 8 situation later this year where, once again, the  
 9 Central Valley project and particularly its west-side  
 10 contractors will be asked to -- to pick up most of the  
 11 burden of meeting water quality standards well into 1999  
 12 and probably beyond.  
 13 What's happened, as a result of that and --  
 14 and the C.V.P.I.A. is that they are the entity within  
 15 California water who are most aggressively attacking  
 16 environmental objectives, and the rest of the water  
 17 community sort of happily falls in behind them, since they  
 18 aren't on the hook for much, if anything.  
 19 I mean the State Water Project is on the hook  
 20 for a little bit, but the way this is played out, it's  
 21 basically been two-thirds C.V.P. and all of that  
 22 essentially San Luis unit and one-third S.W.P. and zero  
 23 for anyone else having to meet water quality standards,  
 24 and looking forward here, you know, that's the way it's  
 25 going to be indefinitely, and that's not a good basis upon

1 which this program should proceed.  
 2 CHAIRPERSON MADIGAN: Comments, questions  
 3 by other members of the BDAC?  
 4 Responses, Patrick.  
 5 COUNCIL MEMBER WRIGHT: Let me just add a  
 6 couple of things from the -- from the Federal perspective.  
 7 We are probably, as part of our comments, too,  
 8 as part of the State Board's process, going to put  
 9 together a letter also expressing some concerns with the  
 10 schedule.  
 11 As most of you know, when we originally  
 12 established the Bay-Delta standards and the framework  
 13 agreement, the expectation was that the water rights  
 14 process would be completed within two years of when the  
 15 Accord was signed, namely midsummer of 1997. That, in  
 16 turn would have provided plenty of time for the impacts of  
 17 the Board's decision analysis to be fully implemented and  
 18 incorporated into the CALFED process, particularly the  
 19 impacts.  
 20 Fortunately that didn't happen. As most of  
 21 you know, the Board didn't release its EIR on the water  
 22 rights process until, I think, November of '97. Shortly  
 23 after that, they announced -- in fact, the Governor  
 24 himself announced that they would -- would establish a new  
 25 deadline of the end of '98.

1 Based in large part upon that commitment,  
 2 State and Federal governments agreed to extend the  
 3 Bay-Delta Accord, and as -- as many of you know there are  
 4 a number of different deadlines that have been established  
 5 that are consistent with that schedule. The biological  
 6 opinions are triggered by the end-of-year schedule.  
 7 This program, to a large extent, I think there  
 8 was certainly an expectation that the next phase will be  
 9 completed by the end of the year. The Accord will have to  
 10 be extended or not extended by the end of the year.  
 11 So we have significant concerns that, if the  
 12 Board's process is now the only one that's off that track,  
 13 we need to have discussions now about both how to make  
 14 sure that it is largely completed by the end of the year,  
 15 and we certainly support the idea of facilitating  
 16 negotiated agreements to make sure it is done, for the  
 17 most part, by the end of the year, but also begin  
 18 discussing now the implications of not making that  
 19 schedule for this process and all the related programs  
 20 that have been built around that expectation, so that we  
 21 don't have a train wreck at the end of the year.  
 22 So we hope, in the next several weeks,  
 23 particularly at or following the Board's workshop on the  
 24 status of those negotiated agreements, to have some more  
 25 in-depth discussions with the State and Federal agencies

1 and stakeholders about how we can provide as many  
2 incentives as we can, to make sure their process stays on  
3 schedule, so it doesn't disrupt CALFED and the other  
4 processes that are underway.

5 We -- we simply have too much at stake here to  
6 allow an indefinite delay of the water rights process to  
7 cause problems for CALFED and -- and the bigger programs  
8 that -- that we need to get on with.

9 CHAIRPERSON MADIGAM: Thank you.  
10 Sunne.

11 CO-CHAIRPERSON McPEAK: Was somebody  
12 else -- Tom, were you going to comment?

13 COUNCIL MEMBER GRAFF: (Shakes head.)

14 CO-CHAIRPERSON McPEAK: Oh, okay.

15 The -- the concern or -- or the difficulty I'm  
16 having on the water rights proceeding issues and the  
17 timetable is the following:

18 The need for water rights decision really  
19 should be driven by what is the restoration of the estuary  
20 or what water is needed on the environment, as I view it,  
21 and the expectation, as Patrick has just gone through,  
22 would have been that we would have been on a different  
23 timetable.

24 Okay. The Racennalli decision really sort of  
25 is, I think, the foundation for the water rights

9

1 proceeding, and in the absence of the -- a water rights --  
2 a new water rights decision, we have both the  
3 responsibility of the two water projects and now  
4 C.V.P.I.A. has sort of augmented that.

5 I don't know how we get to a water rights  
6 decision until we've had a definitive decision on the -- I  
7 would say the E.A. -- E.R.P.P., but it's more than that.  
8 It's the performance standards on the estuary -- there you  
9 are. I'm looking at Roberta -- to know the -- to know  
10 things like outflow at what timing.

11 I mean does that not effect the water rights  
12 decision?

13 It should not -- shouldn't it not be a  
14 scientifically based decision or that that should be the  
15 underpinnings on the -- on the water rights decision.

16 So my difficulty is that's what I'm currently  
17 laboring under, either the understanding or misconception  
18 on, and the difficult -- and then you -- I understand you  
19 have problems with the slippage of a timetable.

20 Roberta, you're shaking your head "no." Then  
21 please explain and enlighten me.

22 COUNCIL MEMBER BORGONOVO: I think that  
23 one of the things that we've -- we've argued and  
24 established all along is that the -- the standards of the  
25 Accord are the basis upon which everything is built,

10

1 both -- both that and the C.V.P.I.A., and so their  
2 implementation is supposed to be the base, and then a lot  
3 of those flows are on top of that, so it's really  
4 independent, and so the whole issue of the responsibility  
5 to meet even those flows is -- is what is at issue.

6 And I think that when we talk about  
7 assurances, that's -- that's very important to the  
8 environmental community that those assurances that are  
9 part of the base are there.

10 And -- and then even yesterday we had the  
11 argument over how you would meet flows over and above  
12 that, using ecosystem dollars, so I -- I think that it's a  
13 very important decision, and it's -- it's one of these --  
14 these issues that doesn't get resolved, and then we're all  
15 trying to stay at the table and work here.

16 Everybody will get drawn off over into there,  
17 or even if they're not drawn off, because it's not going  
18 forward, there's no way to see how it's resolved to make  
19 this process go forward.

20 CO-CHAIRPERSON McPEAK: Can I ask a  
21 follow-up, Mr. Chairman?

22 CHAIRPERSON MADIGAM: (Nods head.)

23 CO-CHAIRPERSON McPEAK: Then are -- are  
24 you working with the assumption that the Accord is the  
25 baseline standard?

11

1 COUNCIL MEMBER BORGONOVO: CALFED has  
2 said that it is.

3 CO-CHAIRPERSON McPEAK: And you would not  
4 expect a subsequent water right proceeding?

5 COUNCIL MEMBER BORGONOVO: We expected  
6 the substantive water right proceeding.

7 CO-CHAIRPERSON McPEAK: No. I mean you  
8 would go through this water right proceeding based on that  
9 baseline --

10 COUNCIL MEMBER BORGONOVO: Right.

11 CO-CHAIRPERSON McPEAK: -- and that  
12 would -- that would be the -- the end of the water rights  
13 proceeding?

14 COUNCIL MEMBER BORGONOVO: I'll -- I'll  
15 let Tom speak to that. I'm not -- I'm one of your lay  
16 people following that, but we all -- we all have followed  
17 that process. We all -- we followed the deadline. We put  
18 in our intent to appear. We all expected the whole issue  
19 of who meets -- who has the obligation to meet the water  
20 would be taken care of, and it has brought implications,  
21 as you said, because of the Racennalli decision, and --  
22 and it's not -- it shouldn't be just the Federal project  
23 and just the State project, and so part of the -- the  
24 dilemma is it -- it seems that even the State and Federal  
25 project users would want that resolved, but that's not the

12

1 case.

2 CHAIRPERSON MADIGAN: Lester.

3 EXECUTIVE DIRECTOR SNOW: Yeah. I just  
4 want to lay out a couple of issues just so we make sure  
5 we're all talking about the same thing.

6 The water quality standards that we're talking  
7 about emanated from the Accord and were adopted by the  
8 State Board in order 95-6 in early 1995 to implement the  
9 Accord, and at the time the Accord was put together,  
10 these -- these standards represented the best thinking at  
11 that time of how to protect the ecosystem, so at that  
12 point in time, it was everybody's understanding of what  
13 was necessary to protect the system, and then the water  
14 rights proceeding that's going on now is simply to try to  
15 allocate responsibility for meeting those standards and  
16 not, in fact, changing the standards in any way.

17 However, there -- there is a tri-annual review  
18 set up to review water standards every three years. I'm  
19 not sure it always takes place quite that promptly on a  
20 three-year basis, but nonetheless it is there, and so I  
21 think there is some expectation that -- particularly after  
22 CALFED makes some decision, that you would review and  
23 perhaps modify those standards, but what we're faced with  
24 right now is that the standards are being complied with  
25 because of the agreement under the Accord and not by a

13

1 water rights order, and that's how they're trying to work  
2 through this process, so that's this issue. It goes all  
3 the way back to '94.

4 It's kind of like the category three issue,  
5 where it looks like we're implementing the CALFED  
6 ecosystem program, but, in fact, we're actually complying  
7 with a pre-existing obligation.

8 That's the same situation with the water  
9 rights proceeding, a proceeding to comply with a  
10 pre-existing obligation.

11 I don't know if that helps or confuses.

12 CO-CHAIRPERSON McPEAK: Both.

13 CHAIRPERSON MADIGAN: Okay. Worked  
14 again.

15 Okay. All right. Thank you for that.

16 While the next item on the agenda is a  
17 presentation by Mary Scoonover on -- on the issue of  
18 assurances, I want to take a moment, Mary, for public  
19 comment first, because John Mills yesterday indicated that  
20 he wished to -- to say something as a part of the panel  
21 discussions of yesterday afternoon, and John had to leave.

22 So, John, let me call on you and ask if this  
23 is -- if this time suits you.

24 MR. MILLS: Yes.

25 CHAIRPERSON MADIGAN: Okay. Good.

14

1 Thanks.

2 MR. MILLS: Mr. Chairman and Members of  
3 BDAC, thank you for having this two-day session down here,  
4 and -- and we've heard from a number of folks down here  
5 who -- who represent this end of the pipeline, and we are  
6 the other end of the pipeline. By "we," I mean the  
7 Regional Council of Rural Counties, who I'm representing  
8 in these proceedings. We are 27 Northern California  
9 counties that collectively supply a little over 80 percent  
10 of the water that comes into the Delta.

11 We look at this proceeding as kind of  
12 Lester's -- Lester's outpatient clinic. Everyone is here  
13 to get better, theoretically and -- and -- and -- and what  
14 becomes disquieting for us, at times, is to be looked at  
15 not as a patient but as an organ donor, and so one of the  
16 things we -- we urge the folks in Southern California is  
17 "Please cool the rhetoric." We don't -- we don't want to  
18 be running out of the building. We'd like to stay in this  
19 process. We're committed to it, and we don't want to be  
20 an organ donor.

21 We have been anticipating in BDAC since its  
22 inception. I've participated in the ecosystem roundtable.  
23 We're also committed to the -- to the ag-urban process.  
24 We are doing outreach with those environmental interests  
25 that -- that we can, but we had -- but -- but I'm here as

15

1 a member of the ag-urban process to urge that the  
2 environmental folks participate in that process, if they  
3 can.

4 We are working with all other groups we can.  
5 We have been -- we have been sending folks down here to  
6 learn about Southern California. Some of our elected  
7 officials up north have been coming down here to find out  
8 what other people's problems are, and I think that's one  
9 of the things that -- that this -- that this process is  
10 different than the State Board proceeding, as we try and  
11 find out what each other's problems are, not what each  
12 other's weaknesses in our legal position is, and although  
13 I understand the need for a State Board proceeding, I also  
14 understand the difference between negotiations and war,  
15 and I think that's one of the things we have to be very  
16 careful of here.

17 We want to take this -- this opportunity,  
18 also, to thank the folks in the Met, Metropolitan Water  
19 District, who have been very cooperative in informing our  
20 folks about what their needs are, what the specific  
21 problems of Southern California are.

22 Tim Quinn and his staff have been doing a  
23 yeoman's job of -- of explaining the details of the  
24 problems down here, and likewise, they have been coming  
25 north and trying to learn about our problems, and I think

16

1 that is -- that is indicative of the type of cooperation  
 2 that -- that this CALFED process has stimulated. It  
 3 wasn't there before.  
 4 We -- we do have some concerns, though, and --  
 5 and I -- and I -- and since this was about  
 6 Southern California issues, I wanted to use this  
 7 opportunity to raise some of our concerns, and -- and some  
 8 of the things I heard yesterday -- because I, also, was  
 9 revising my comments as all of this went along -- was that  
 10 I heard a number of speakers yesterday talk about  
 11 statewide standards, that we need statewide standards, and  
 12 that these need to be implemented every place, and we  
 13 have -- we are not a large urban area.  
 14 We -- we don't have the 25 million people, but  
 15 we do have some counties that rival -- whose -- whose --  
 16 whose economies rival that of some third-world villages,  
 17 but in any event, we -- we have some concerns about --  
 18 about transfers being touted as the -- the solution.  
 19 Transfers is part of it, but it's not all of it.  
 20 Ground water, for example, is totally  
 21 different down here than it is in the Sierra Nevadas. You  
 22 don't have a ground water table in the Sierra Nevadas.  
 23 You have fractures in granite, and you find it where you  
 24 can. I personally know that, on having drilled a half a  
 25 mile of -- of holes in the ground this year to get 20

17

1 gallons a minute, so it is -- it is gambling at -- at the  
 2 highest order, for ground water in the mountains.  
 3 The economy of scale of doing water  
 4 conservation measures is totally different up there.  
 5 We have counties with 50,000 people and 150  
 6 water purveyors, and -- and some of them, believe it or  
 7 not, are still having their water delivered through a  
 8 ditch system that was built in 1852. It hasn't changed  
 9 much.  
 10 So when -- when you talk about statewide  
 11 standards, let's be careful, because we could impose  
 12 some -- some statewide standards that we have that I'm  
 13 sure you wouldn't like down here, and -- and so I think  
 14 we -- we want to look carefully and -- and -- and what the  
 15 environmentalists say all the time, which is "Think  
 16 globally and act locally," so let's act locally on some of  
 17 these programs.  
 18 We also have a need for the -- using the  
 19 keywords of yesterday, an affordable, reliable  
 20 high-quality water supply. Many of our counties don't  
 21 have that. Many of our counties don't even have water  
 22 rights. They simply have agreements to buy water from  
 23 other folks and really have no assurance at all that they  
 24 will have a water supply for their own people into the  
 25 future.

18

1 One of the things we -- we are concerned about  
 2 is watershed restoration. We now see that it's a common  
 3 program and note that the highest value of resource in the  
 4 Sierra Nevadas, as found by the Sierra Nevada ecosystem  
 5 project report commissioned by Congress, was water. It  
 6 was not timber or recreation or any of the usual suspects,  
 7 but water, and -- and -- and as the -- as the place that  
 8 most of that water comes from, the Sierras and the  
 9 Cascades want to see some watershed restoration done up  
 10 there, and watershed management, and we want to see the  
 11 watershed program move along at the same speed of all of  
 12 the other CALFED trains that are leaving the station.  
 13 Assurances are our most important issue. We'd  
 14 like to say we trust everybody in this room, but we don't,  
 15 not yet, but assurances are the issue for us.  
 16 What we hear people saying is "We need this  
 17 for this reason. We need that for that reason." What we  
 18 need is to be sure that what you need is not going to  
 19 affect what we need, and -- and so these discussions have  
 20 to continue.  
 21 The -- the ag-urban process is a -- is a  
 22 flushing out of that. This is a more formalized program,  
 23 but we have been working very closely with the  
 24 Sierra Nevada alliance, Martha Davis's group in the  
 25 Sierras, to try to come to closure on some issues that

19

1 we've had at odds in the past, but believe me, assurances  
 2 and the assurance package from CALFED raises some serious  
 3 concerns, and there were a number of points raised in  
 4 the -- in the E.W.C. letter that -- that was part of your  
 5 package that we agree with.  
 6 We -- staff has been doing a really good job  
 7 trying to get this wrapped, but -- but we have a long way  
 8 to go yet, and I do think that the E.W.C. letter  
 9 underscores where those shortcomings are, and we have to  
 10 have those answered before we can move onto a solution.  
 11 I do want to say that some of the things said  
 12 yesterday about -- about Chairman Machado's comments about  
 13 the schedule also frighten us. We don't think 75 days for  
 14 this EIR is adequate. Notwithstanding how much we can all  
 15 read everyday, we're taking this course for credit, and --  
 16 and when you're taking it for credit, you read it more  
 17 slowly and more carefully, and you underline things, and  
 18 so -- so -- yeah, we could all get through this document  
 19 in a week and a half, but we know we're going to be tested  
 20 on it, so we want to see more than 75 days.  
 21 I certainly don't think that a hundred and  
 22 twenty days is unrealistic, and I -- and I believe that --  
 23 that you'll probably be getting requests to extend that  
 24 schedule.  
 25 We would also take this opportunity to note

20

1 that on May 14th we're having a BDAC meeting up in  
 2 Redding, the other end of the pipe, and -- and I would  
 3 like to take this opportunity to invite not only the  
 4 members of BDAC from Southern California but other folks  
 5 from Southern California to take the time to come to  
 6 Redding and hear some of the things that people in  
 7 Northern California have to say about this process and how  
 8 committed they are to fixing not just the Delta but the  
 9 whole Delta ecosystem.

10 Thank you. I'd be glad to enter in -- answer  
 11 any questions you have.

12 CHAIRPERSON MADIGAN: Thank you, John.  
 13 Well said.

14 Are there questions?  
 15 Byron.

16 COUNCIL MEMBER BUCK: Not really a  
 17 question for John, but more to -- on behalf of my urban  
 18 southern members to return the compliment.

19 John has been a real bridge builder between  
 20 communities in this process and has taken great pains to  
 21 see all sides of things and has helped us really come  
 22 together to understand each other.

23 His comments on watershed management, it's not  
 24 just a -- a local watershed issue for their benefits.  
 25 There's a lot of win-win potential there with forestry

21

1 management to get a more natural under-story, which can  
 2 have water quality improvements and water yield  
 3 improvements, and this is something that -- that my  
 4 organization has budgeted some money to -- to work with  
 5 John's folks on in trying to come together with those  
 6 things, so we are -- we are, too, pleased that CALFED has  
 7 separated out the watershed management function, because  
 8 there's a lot of opportunity there that can be explored  
 9 that -- for mutual benefit of both regions.

10 CHAIRPERSON MADIGAN: Yeah. I -- I  
 11 agree. It makes sense to me.

12 Anybody else?

13 Okay. Thanks. Thanks, John. That was --  
 14 that was helpful.

15 Before we move on, let me just acknowledge the  
 16 arrival in the audience of Margaret -- Margaret Clark, who  
 17 is a council member from the City of Rosemead and also a  
 18 member of SCAG, and we appreciate the interest of SCAG and  
 19 the opportunity to meet with you, and thank you very much  
 20 for your attendance today.

21 Mary, where did you go?

22 There you are.

23 Assurances.

24 MS. SCOMOVER: Well, I have good news  
 25 and bad news. The good -- the good news is that because

22

1 we previewed some of the information, particularly about  
 2 staging yesterday, my presentation today will be more  
 3 brief than I had intended.

4 Bad news is that there are a few people here  
 5 who may not have seen some of my earlier overhead  
 6 transparencies, and so some of you are going to have to  
 7 bear with me, and we're going to kind of start from  
 8 scratch just a little, to make certain that everybody is  
 9 kind of up to speed.

10 I have -- aside from the brief kind of  
 11 introduction to the topic of assurances, I have three  
 12 issues that I wanted to discuss with you today. The first  
 13 is kind of an orientation to this document and this  
 14 concept that we're calling the implementation strategy.  
 15 It is an appendix to the EIR/EIS. It's also included in  
 16 draft form in your package material that was mailed out in  
 17 advance. It is the place where we pull together a number  
 18 of pieces from assurances, finance, and individual program  
 19 component implementation plans. It's a strategy at this  
 20 point. It is not a final plan. It has to be more  
 21 complete by the time we get to a final EIR/EIS, obviously,  
 22 and I'm going to walk you through some of the pieces of  
 23 that today just to orient you.

24 In addition -- in addition, there are some  
 25 issues that we discussed at the last BDAC meeting and that

23

1 we continue to discuss at the assurances work group  
 2 concerning implementing entities, and we've identified  
 3 those in the past as the concern over who implements the  
 4 ecosystem restoration program and who's going to oversee  
 5 the program and how do stakeholders get representation in  
 6 the future, so we'll spend a few minutes on some  
 7 information that we've produced to help answer some of  
 8 those questions, and -- and then finally we'll touch  
 9 just -- I'll -- I'll touch just briefly, again, on -- on  
 10 some of the staging issues, so you can get a feel for the  
 11 nature of the assurances work group discussions.

12 Now there are a number of BDAC members here  
 13 who actively and regularly participate in the work group  
 14 discussions, Stu, Alex, Rosemary, and others, and I would  
 15 encourage any of you to jump in and help me out.

16 Hap Dunning was unable to be here today, so  
 17 you all are going to have to keep an eye on me to make  
 18 sure I am at least accurate.

19 Okay. Assurances: What -- assurances have  
 20 been defined in a variety of ways, in a variety of  
 21 different settings, and we have defined assurances, for  
 22 the purposes of this program, as assuring implementation,  
 23 assuring that the long-term solution, whatever it is, can  
 24 be implemented and operated as agreed.

25 We've also recognized the fact that you can't

24

1 plan for every eventuality. There are going to be  
2 unforeseen circumstances, so a key component is setting up  
3 a contingency planning process, what do you do if you  
4 don't -- can't implement the program as you had  
5 anticipated, so the contingency planning process is kind  
6 of the other piece.

7 Just quickly, the needs for assurances:  
8 Again, we're looking at a -- a program that's going to be  
9 implemented over as much as potentially 30 years. There  
10 are certain activities that will be ready to go the day  
11 after the EIR/EIS is certified. There are other  
12 activities that will have to be the subject of potentially  
13 site specific environmental documentation, additional  
14 negotiations, planning, investigation, that can't be  
15 implemented until some ways -- some distance down the  
16 road.

17 The concern then is how do you allow the  
18 program to go forward in an orderly fashion that makes  
19 sense, but making certain that everyone has a stake in  
20 every step along the way.

21 Who implements is a big question. How do you  
22 know -- how -- how can you determine whether or not the --  
23 the plan is more likely than not to be successful has a  
24 lot to do with who is making the decisions, who is vested  
25 with the authority.

25

1 Different components have differing needs for  
2 assurance. The kinds of assurances that attach to a water  
3 supply facility, for example, may be very different from  
4 the kinds of needs of assurances for the adaptive  
5 management component of the ecosystem restoration program,  
6 and finally, there are a variety of stakeholder concerns  
7 that arise, both depending on the long-term alternative  
8 that is implemented or that is selected, as well as  
9 concerns about secondary impacts.

10 The idea may sound good, but what is its real  
11 and ultimate effect on my interest going to be in the long  
12 run, and there are a variety of stakeholders with a  
13 variety of interests and issues, and that's why we're  
14 looking at assurances.

15 We've undertaken kind of an interesting  
16 approach to trying to take what has been a very  
17 theoretical discussion or debate and reduce it to  
18 something that's practical.

19 We started with the program elements, looking  
20 at what the particular needs were, identified a variety of  
21 stakeholder issues and concerns, looked at the variety of  
22 tools that were available. Although some are going to be  
23 easier to implement than others, nothing was off the  
24 table. That's why we have constitutional amendments, for  
25 example.

26

1 And then we looked at management structures,  
2 everything from -- a broad spectrum, from existing  
3 entities to totally new entities, as well as some  
4 reconfiguration of existing entities or authorities, and  
5 we looked at a variety of alternatives with respect to a  
6 case study that the work group had been talking about, and  
7 then we get to the guidelines.

8 There are a set of guidelines and -- that the  
9 work group has identified that any assurance package needs  
10 to meet or needs to be measured against, and we'll talk  
11 about that a little bit, with the idea that in the end we  
12 would come out with a preliminary package of assurances.

13 Now where are we today?

14 COUNCIL MEMBER GRAFF: Mary, I have a  
15 question.

16 Why do you not have a bond covenants in that  
17 list?

18 MS. SCOONOVER: This is an abbreviated  
19 list. Bond covenants are, indeed, in the implementation  
20 strategy and are discussed. I think we talked about them  
21 as financing mechanisms here. There are a variety of  
22 financing mechanisms, both incentives as well as bond  
23 covenants and others that we are actively investigating.  
24 This is just a -- a summary of, you know, a much more  
25 detailed paper.

27

1 So the implementation strategy that's in your  
2 package and that is in the EIR/EIS and that we are  
3 continuing to develop is made up of a number of pieces,  
4 and I want to talk to you about each of those pieces today  
5 so that you understand, when we talk about program element  
6 implementation plans, what it is we mean. It's also  
7 important to understand in terms of how we begin to put  
8 together a staging plan, to understand, again, these --  
9 the variety of pieces.

10 So under assurances I've identified four  
11 elements: Program element implementation plans,  
12 program-wide coordinated implementation plan, staging  
13 plan, the contingency planning process, and then  
14 financing.

15 And Zach will be up to talk to you about  
16 financing later this morning.

17 Let's start with the program element  
18 implementation plan, so you understand what I mean, and  
19 that is we're going to be putting together, for each  
20 program component, an implementation plan that will  
21 include a complete description of the program: What is it  
22 that the program is trying to -- is made up of; what does  
23 it consist of; a fairly explicit description of the goals,  
24 objectives, and targets for each program; the priority of  
25 actions, what things need to happen first; what are the

28

1 most important actions; the schedule for implementing.  
 2 You know, if within each program manager's or  
 3 each area's world, if they could control everything, which  
 4 action would be implemented first and in what time frame.  
 5 The monitoring and measures of success is  
 6 probably the most important for our -- from our staging  
 7 discussion yesterday. What specific monitoring activities  
 8 are necessary, for example, for the water quality  
 9 component or for the ecosystem restoration component, and  
 10 how do each -- how does each program manager measure  
 11 success, and it's, again, going to vary by program, and  
 12 then any other information that's necessary to understand  
 13 each one of the program components.  
 14 Now these program implementation plans, the  
 15 individual implementation plans, are being put together at  
 16 a staff level and through the work group system by the  
 17 specific staff person working on that, so the  
 18 implementation plan for the ecosystem restoration plan is  
 19 the strategic planning process, and it's had a lot of work  
 20 group involvement and some outside scientific experts.  
 21 The other program elements are the same way.  
 22 We're looking at beginning to craft this information  
 23 within the context of each one of the individual programs,  
 24 because there are differing issues and differing  
 25 priorities, but the next then is: Okay. How do we take

29

1 each of these individual programs and tie them together in  
 2 a way that makes sense and is consistent program-wide,  
 3 because we're not implementing a series of individual  
 4 actions. We're implementing a program, or at least that's  
 5 the goal, and we need to make certain that it makes sense,  
 6 and if everybody is going to get better together, we have  
 7 to assure that there is some connection and some  
 8 consistency.  
 9 So the program-wide coordinated implementation  
 10 will have a variety -- a number of elements, including a  
 11 comprehensive monitoring and research program, so we won't  
 12 have individual monitoring programs set up for each of the  
 13 program elements.  
 14 Now there may be issues within each program  
 15 element that require some special kind of monitoring or  
 16 some special scientific input, and that's fine, but it  
 17 will be woven together in a way that makes sense from a  
 18 program-wide perspective, so that you have agreements on  
 19 protocol and procedure and -- and feedback and what you're  
 20 going to do with the information and how the information  
 21 is going to be accessible to the public, so that's one of  
 22 the key components.  
 23 And then the other is the assurance  
 24 mechanisms, to make certain that all of these little  
 25 pieces fit together and that they do so consistently, and,

30

1 again, we have identified a variety of tools, and Tom  
 2 picked up some that weren't on the short list, but are  
 3 clearly included in our longer list; what are the  
 4 mechanisms we're going to use to assure that these  
 5 programs actually fit together.  
 6 From a staff perspective, we have been doing  
 7 some minor shifting to make certain that there is a staff  
 8 person who is looking at how each of these individual  
 9 program components -- or program implementation plans fit  
 10 together, so again that consistency concern is -- is  
 11 definitely one that is of issue for us.  
 12 The third element under assurances is this  
 13 staging plan, and we've talked about, in the work group  
 14 and at a staff level, a number of steps that are necessary  
 15 in order to get to a staging plan. First we have to  
 16 identify what the discreet stages are and try to define  
 17 them in terms of reasonable periods of time, what  
 18 actions -- what stages fall out logically, and, for  
 19 example, in the assurances work group, we've been talking  
 20 about a stage that actually is underway now, what needs to  
 21 happen between now and the certification of the final  
 22 document in order to assure that the program can be  
 23 implemented and that there won't be, you know, a  
 24 several-year lag time while you're trying to put all the  
 25 pieces together, in order trying to -- in other words,

31

1 trying to position ourselves in order to be in a position  
 2 to implement as soon as possible after the agreement is  
 3 struck and the final documentation is completed.  
 4 We need to specify actions or the pieces of an  
 5 action that need to go in each of the individual stage --  
 6 stages and what needs to be completed within that stage.  
 7 If an action just has to be begun in -- in a particular  
 8 stage, but can be complete in a later stage, that needs to  
 9 be very clearly laid out, so people understand, again,  
 10 what to expect in each of the stages.  
 11 Third, a list -- a schedule for the stages  
 12 and -- and actions within each stage.  
 13 You know, we've not yet settled on -- on that  
 14 stages will be of a set duration of -- you know, a precise  
 15 duration throughout the entire period of the plan, and  
 16 there may be -- it may be logical to have a staging plan  
 17 that is -- in the first year, there are distinct  
 18 activities that have to take place in each one of the  
 19 first years, but at some point in the future we may have a  
 20 five-year plan, and the activities that have to occur  
 21 within that five-year plan, again, ought to be specified.  
 22 Finally, the milestones, you know, again --  
 23 and it goes back to the individual program implementation  
 24 plans: How do you measure success in water quality; how  
 25 do you measure success in ecosystem round -- restoration,

32

1 and tying them into the staging plan; what are the  
2 measurable criterias? What are the ways we can identify  
3 whether or not we have succeeded, and if we haven't  
4 succeeded, if we've missed a milestone, what are the  
5 consequences of that?

6 And that kicks into the contingency planning  
7 process, which is specifying triggers for that contingency  
8 planning process, which is where we'll go next.

9 The contingency planning process is intended  
10 to, again, address unforeseen circumstances, things we  
11 just can't predict, and -- and admit that we don't have  
12 all of the answers and clearly can't have all of the  
13 answers to govern this program for the next 30 years.

14 What we can produce is a process that has some  
15 durability, a chance -- a process that everyone  
16 understands going into it and has faith that actually will  
17 lead to resolution of -- of problems in the future.

18 We're trying to identify categories of  
19 contingencies. In other words, there may be certain  
20 milestones that, if they're missed, are absolutely  
21 critical to the overall implementation of the plan. There  
22 may be other milestones that are relatively minor and --  
23 and missing them shouldn't have the same consequences or  
24 shouldn't necessarily trigger the same kind of response  
25 from the program.

33

1 So in the work group we've begun discussions  
2 on looking at substantive and non-substantive commitments,  
3 irretrievable commitments versus retrievable commitments,  
4 trying to wrestle with a way of articulating major changes  
5 and identifying a process in which all of the stakeholders  
6 communities and the CALFED agencies would be brought back  
7 together to work through them, as well as just minor  
8 adjustments, things that happen that are not necessarily  
9 going to change either the focus, the goals, the targets,  
10 or the outcome of the project, but may, in fact, require  
11 some change from what we had anticipated when the  
12 agreement or when the -- the EIR was certified, and that  
13 may be a smaller process or a -- you know, a less open,  
14 lengthy process, but rather, you know, a -- an abbreviated  
15 process.

16 Again, trying to identify major versus minor  
17 and set up appropriate procedures is not an easy thing  
18 when we're speculating about, you know, death and  
19 disaster, which is kind of what we're doing. I guess  
20 that's why they put me in charge, worst-case scenarios and  
21 all that.

22 Anyway, finally, what we're trying to do is to  
23 specify the appropriate program response, which is not  
24 just -- this is a big deal and so everybody needs to be  
25 included, but the actual protocols and procedures.

34

1 What does this mean?

2 If there is no financing available to complete  
3 the levee program, what does that mean, and if it is a  
4 significant -- if it -- if it meets the criteria for being  
5 a significant issue, what kind of a process is triggered  
6 by that, what kind of procedures, so that stakeholders and  
7 agencies know what to expect and at least get some sense  
8 of how to work through it, so that, plus what Zach will  
9 describe to you about the financing plan, is what we are  
10 describing as the implementation strategy, and that's the  
11 written materials -- those are the written materials that  
12 were sent out in advance of the program.

13 Any questions on those elements, or should we  
14 move on to the implementing entity questions?

15 CHAIRPERSON MADIGAN: I would just say  
16 that I -- for the first time, the assurances vision is  
17 beginning to become clear to me. You guys have made a lot  
18 of progress on this, and I am impressed by the thought  
19 that's gone into it. Good for you.

20 Questions, anybody, at this point?  
21 Byron.

22 COUNCIL MEMBER BUCK: Just an echo of  
23 that, and while this is -- this is good and a lot of good  
24 thinking, it's still at an abstract state and just for  
25 this group, as a suggestion, that as you pick off, say, a

35

1 particular assurance issue, like levees or maintenance of  
2 a conservation effort, and think through that, at least to  
3 the point of having that assurance issue may be pretty  
4 well lined out and where the linkages are, if that could  
5 be brought back to us to give us some concrete examples of  
6 how this works in the broader strategy, I think that would  
7 help us engage a little better.

8 MS. SCOONOVER: You bet.

9 CHAIRPERSON MADIGAN: Martha.

10 COUNCIL MEMBER DAVIS: Number one, I --  
11 I -- I agree with the comment that -- that this structure  
12 and the way that it's coming together for me finally puts  
13 the pieces together and is very helpful in thinking about  
14 how we can approach this problem.

15 The one question I've got is: In the  
16 materials I've noted that the program element plan, and I  
17 assume the other elements that you've laid out here, the  
18 program-wide coordination, the implementation plan,  
19 staging plan, and contingency plan, are all elements that  
20 are going to need to be completed before the certification  
21 of the final EIR/EIS, and in thinking through the amount  
22 of work that this represents, how does this fit back into  
23 the schedule that we have in front of us. In particular,  
24 the -- where does this material come out for public review  
25 and comment.

36

1 We have a draft EIR/EIS on the table right  
 2 now, and this seems to me a major component of what that  
 3 draft -- that this -- this needs to be integrated in that  
 4 draft for the public to really understand and comment on  
 5 how these programs are going to be implemented.

6 MS. SCOONOVER: You bet.

7 The draft implementation strategy that  
 8 accompanies the draft EIR/EIS describes the process that  
 9 we've used, to date, how the work groups have -- have  
 10 worked, how the information has been discussed in public  
 11 settings, and explains the building blocks, explains what  
 12 we -- how we have defined the problem, what we know so  
 13 far. It also identifies the issues yet to be resolved and  
 14 lays out some processes to do that.

15 Yes, there has to be an implementation  
 16 strategy before, I think, anyone is going to be satisfied  
 17 saying, "Yes, this is an appropriate way to proceed."

18 The question of how much is enough is one that  
 19 we've not yet concluded.

20 Will there be proposed Federal legislation,  
 21 draft language for people to contemplate before the end of  
 22 the -- the -- the EIR/EIS phase? Probably not.

23 Will there be a recognition that legislation,  
 24 or whatever the tool is, is necessary and that it will  
 25 address the following issues? Yes, probably.

37

1 And that's part of the reason that one of the  
 2 things we're looking at is a stage that begins now and  
 3 trying to define what has to be completed between now and  
 4 the certification of the final document.

5 It's a tremendous effort, and it's part of,  
 6 you know, the -- the work plans that we've undertaken  
 7 between here and end of Phase II.

8 All of the information, as it's being  
 9 developed, is being developed through the assurances work  
 10 group and, therefore, fed back through this group, as  
 11 well. All of the information will come through you. You  
 12 get the meeting summary notes from those groups, as well  
 13 as any of the written documents or published materials.

14 In addition, there will probably be other  
 15 needs to discuss assurances in some of the workshops that  
 16 are going to occur throughout the State, so we're not  
 17 planning on a special assurances-focused workshop or  
 18 implementations-focused workshop, but there is clearly a  
 19 need to educate and to include, you know, a broad array  
 20 of -- of public.

21 COUNCIL MEMBER DAVIS: I -- I understand  
 22 that, and I appreciate the amount of work that's in front  
 23 of us. I -- I -- let me make my question a little bit  
 24 more specific.

25 For example, for the water efficiency

38

1 component, there remains a lot to be specified in that  
 2 element as to what we are going to do specifically to  
 3 achieve that element. That is not currently part of the  
 4 EIR/EIS. We know we need to do that work, to put meat on  
 5 the bones of these programs.

6 Will that program element be submitted then to  
 7 the public for public review later on?

8 MS. SCOONOVER: From an assurance's  
 9 perspective, we can't solve inadequacies in other  
 10 programs. We take the programs as they're given to us and  
 11 try to assure implementation.

12 Now you will see how we propose to implement  
 13 those elements, and there may be a way, through  
 14 assurances, to shore up people's faith that what people  
 15 say is going to happen actually is going to happen, but if  
 16 there's some concern about one of the programs, the  
 17 assurances work group and the assurances discussion is not  
 18 necessarily the place to resolve those concerns.

19 Those issues should be identified, especially  
 20 in the Phase II report, as issues for future discussion,  
 21 and there are proposals for how those issues are going to  
 22 be addressed between now and the end of Phase II.

23 CHAIRPERSON MADIGAN: Summe.

24 CO-CHAIRPERSON McPEAK: I'd -- I'd like  
 25 to respond to Martha's question, as I would understand it,

39

1 and see, Mary, if that makes sense to you.

2 I understood the question to be: Would there  
 3 be opportunity for public comment and review on assurances  
 4 after the adoption of the EIR/EIS?

5 COUNCIL MEMBER DAVIS: Not too much on a  
 6 comment on the assurances, but what I'm struck by in this  
 7 presentation is -- in a way it answers a question I've  
 8 had. I'm going to be reviewing the EIR/EIS, and I'm going  
 9 to be looking at the water-efficiency element, and I know  
 10 that within the water-efficiency element there's a lot of  
 11 information that needs to be filled in, and that's the  
 12 work that we're going to be doing now through September or  
 13 through this year.

14 As we fill in the components of the water  
 15 element, does that go back to the public for public  
 16 review?

17 It -- it isn't so much an assurances issue.  
 18 It's part of the package of both knowing what we're  
 19 implementing and then the assurances structure giving us  
 20 the capability of assuring ourselves that we will do it.

21 See the two pieces?

22 CO-CHAIRPERSON McPEAK: I do.

23 COUNCIL MEMBER DAVIS: Okay.

24 CO-CHAIRPERSON McPEAK: And perhaps I  
 25 misstated as part of the assurances program, but I -- I

40

1 thought the more general question is: How is there a  
2 continuing public input process, and even, remembering  
3 Mr. Machado's comments yesterday, legislative oversight?

4 Part of what I think is entirely possible, as  
5 well as appropriate, is to spell out in the final EIR/EIS  
6 exactly that kind of a process.

7 There's going to be a lot that unfolds. We'll  
8 have to follow it. We'll have to follow the adoption of  
9 programmatic EIR/EIS, and to the extent that there may be  
10 further details that are generated, either after the  
11 comment period is -- is -- is finalized -- remember we're  
12 talking about the 75 days of the comment period, after  
13 which there is a response to all of the comments and  
14 following on deliberations to the -- the full package both  
15 of draft and the -- and the comments and, at some point,  
16 certification or adoption.

17 COUNCIL MEMBER DAVIS: I -- I think that  
18 the concern that -- that I have -- and -- and we'll just  
19 continue working it out -- is that there's a lot of  
20 substance that we know we need to include in these plans  
21 that is not currently presented to the public, but we've  
22 identified, in a process sense, how we intend to address  
23 some of these issues, and I think my concern is that, as  
24 we start filling in the blanks, that we won't have an  
25 adequate EIR/EIS until we present that substance to the

41

1 public for their review.

2 MS. SCOONOVER: If I could, I'll drop  
3 into my legal advisor role for a minute; that is that what  
4 we are producing is a programmatic environmental impact  
5 statement and report, and programmatic documents are, by  
6 nature, general.

7 What we've discovered in this effort is that  
8 there are some elements that people aren't satisfied with  
9 dealing at a programmatic level, and we've taken them to  
10 greater levels of specificity, the ecosystem restoration  
11 program, for example, and some of the other programs.

12 As detail is added to the plans, there may be,  
13 in Phase III, a need for additional environmental review  
14 and additional site specific documentation. That's  
15 clearly on the radar screen. It's clearly part as what we  
16 see as a necessity of the -- of the Phase III.

17 Now there is always a chance that information  
18 will be produced during the course of the public comment  
19 period that so changes the program, the generic program,  
20 that you have to go back out for public information, for  
21 recirculation or a supplemental document. That's always  
22 an option, and that's always on our screen.

23 The hope is to avoid getting into kind of a  
24 dual loop of recirculation, supplements, because it can go  
25 on forever.

42

1 By starting at a programmatic level, the  
2 attempt was to cover the cumulative impacts of any of the  
3 individual actions that would come later and then allow  
4 you to tier off of that broad programmatic document in  
5 more site specific documents prior to implementation, if  
6 it's necessary, so a programmatic document is a general  
7 document.

8 You know, we've -- we're definitely getting as  
9 much detail as we can, and we're going to continue to  
10 refine in this process, but it won't answer all of our  
11 desires, I think, for certainty, or as much certainty as  
12 we would all like to see.

13 If we stop and turn -- kind of transmute this  
14 into a -- a project-level document, you know, we'll be  
15 having the same conversation ten years from now, and the  
16 document won't yet be final.

17 With a program this big, there's got to be  
18 some level of narrowing, and that's been the attempt here.

19 It is a possibility. Recirculation is a  
20 possibility. Supplemental documents are a possibility.  
21 This is a broad public-based process, and if the public  
22 isn't comfortable with what's going on, you know,  
23 implementation becomes impossible.

24 CO-CHAIRPERSON McPEAK: I think, Mary, on  
25 the -- your comments of what's possible, recirculation, if

43

1 you have something that's very dramatically different or  
2 so altered because of its detail that it meets the test of  
3 when you do recirculation, of course that's always a  
4 possibility.

5 In addition to that option or in contrast to  
6 that option, there's also, I think -- and that's what I  
7 was trying to -- to comment on back to Martha -- the  
8 possibility of setting up a process of pub -- of further  
9 public review of elements that are developed in Phase III,  
10 as well as public hearings.

11 I mean we could specify a certain process that  
12 says, "Okay. We've got water efficiency component that is  
13 going to be further elaborated on detail. There will be a  
14 public hearing process"; we can specify what that is, and  
15 that that has to be implemented before there is final  
16 approval of that plan or that component of the common  
17 element -- common -- common program by the CALFED  
18 agencies --

19 MS. SCOONOVER: Yes.

20 CO-CHAIRPERSON McPEAK: -- including  
21 legislative oversight.

22 MS. SCOONOVER: Yes. Likewise in the  
23 variable components --

24 CO-CHAIRPERSON McPEAK: Yeah. Right.

25 MS. SCOONOVER: -- before -- even if --

44

1 if surface -- new surface storage is a part of the  
2 long-term solution that -- that this group reaches at the  
3 end of Phase II, it will be stated explicitly that  
4 site-specific environmental documentation will be  
5 necessary before that reservoir can be built, because  
6 we're not doing a site-specific analysis now. I mean  
7 that's not the level of detail that we're at.

8           So there will be additional environmental  
9 review processes. They won't all be specified by the end  
10 of the -- of Phase II, but there will some -- there will  
11 be some, I think, that will become critical to include in  
12 this overall assurances package, and some of you will want  
13 to know that a certain action described at a programmatic  
14 level now, before it is implemented, will go through  
15 another environmental review process, and I think that's  
16 entirely likely and -- and anticipated.

17           CHAIRPERSON MADIGAM: Okay. I have  
18 Mary Selkirk and then Alex, then Roberta, then Ann, then  
19 Tom.

20           COUNCIL MEMBER SELKIRK: I had, I think,  
21 a two-part comment and question.

22           Yesterday, Mary, you presented a couple of  
23 examples of how different elements of the overall program  
24 or actions of -- in -- in the program from different  
25 elements of the common program would be linked in -- in

45

1 staging, and we had a little bit of discussion about that  
2 yesterday, based on Lester's introducing the concept of  
3 how different programs would have to be linked to one  
4 another, in order to ensure that there is -- there's  
5 achievement of some specified level of effort or some -- a  
6 standard on -- in all program areas, whether it's water  
7 quality linked to -- to ecosystem restoration, et cetera,  
8 all of them linked in some way yet to be defined, prior to  
9 permitting of any new storage, was the example you used  
10 yesterday, but as I read the implementation strategy, I  
11 didn't see that there was any development of that -- that  
12 particular concept of staging, that what was in the  
13 implementation strategy was more a chronologic staging  
14 plan, and so two things:

15           I -- I wondered whether EDAC members had some  
16 more comment on what you had presented yesterday, which I  
17 think was an attempt to -- to create the third dimension  
18 of assurances, which is how -- how different programs have  
19 to be inextricably linked to one another to create the  
20 kind of assurance that would allow one interest group to  
21 support one program because it also meant the -- that  
22 there would be progress on another one that was of greater  
23 interest to them, so that -- that was one question, was  
24 that I wanted to hear more thoughts from EDAC, but also,  
25 getting back to my first question to you, to what extent

46

1 will there be some more detailed discussion of linkages of  
2 program actions in the final implementation strategy.

3           Do you predict that that will be part of this?

4           MS. SCOONOVER: Yes.

5           COUNCIL MEMBER SELKIRK: All right.

6           MS. SCOONOVER: I mean that's --

7           COUNCIL MEMBER SELKIRK: Okay.

8           MS. SCOONOVER: -- that's obviously going  
9 to be critical.

10           In the assurances work group, we have spent a  
11 significant amount of time addressing the issue of  
12 linkages, what is an appropriate linkage and what needs to  
13 be linked to what other program elements, and in  
14 discussing a case study, you know, we picked one of the  
15 alternatives to try to come up with an assurance proposal  
16 for it, just because we needed to, again, get from  
17 theoretical to something specific, and in some of our  
18 exercises over the past year, we have come up with a  
19 variety of linkages.

20           They were not presented in the implementation  
21 strategy, because they've not been aired broadly enough or  
22 have gotten enough buy-in that the people can say, "Yes,  
23 those are the" -- "Those are the items. Those are the  
24 lists," so they are in the works. They are in a lot of  
25 materials that we have sent to -- to this group and to

47

1 others, and they are, you know, the topic of conversation  
2 repeatedly.

3           What we were doing before is -- the assurances  
4 staffing and consultants who were working on this were  
5 speculating, to a certain extent, and -- and what we've  
6 tried to do now is go back to the individual program  
7 managers and say, "How do you measure success? Where,  
8 along your implementation plan, is it logical to identify  
9 a milestone?"

10           If we can't get past this point, then we can't  
11 successfully implement the program, and start linking  
12 those milestones together in a way that makes sense across  
13 the program.

14           So, again, we were doing this kind of exercise  
15 with a case study within the assurance work group, had a  
16 really interesting debate and discussion, but now we're  
17 trying to take it back to a -- and we've identified some  
18 ground rules, and we'll get to those in a minute, but now  
19 we're trying to take it back to the "Okay. Now the  
20 programs have all been developed to a stage at which we  
21 ought to be able to get specific answers to those  
22 questions," and working with those program managers can  
23 come up with more specific examples of linkages and come  
24 back to you with them and say, you know, "Here's" --  
25 "here's the beginning. Here" -- "Here's the framework as

48

1 what we're giving you today," and there will be added  
2 levels of detail.

3 From what you and Virginia told me recently,  
4 we're going to be discussing assurances at every  
5 meeting -- every BDAC meeting between now and the end of  
6 the year, so you'll have, I hope, plenty --

7 COUNCIL MEMBER SELKIRK: I --

8 MS. SCOONOVER: -- of opportunities.

9 COUNCIL MEMBER SELKIRK: I would imagine  
10 that that will be of a paramount interest for BDAC members  
11 from -- from now on in. I don't know that, you know.

12 CHAIRPERSON MADIGAN: It seems safe.

13 MS. SCOONOVER: So I was planning to move  
14 to the implementing entity question and then get to  
15 staging, but we can do staging first, if you'd rather,  
16 Mary.

17 COUNCIL MEMBER SELKIRK: No, I don't  
18 mind.

19 CHAIRPERSON MADIGAN: Well, let's get the  
20 questions that we have out here, and then we can figure  
21 out where to go.

22 Alex.

23 COUNCIL MEMBER HILDEBRAND: Yeah, I'd  
24 like to make the -- the comment here.

25 First, I've worked with Mary since long before

1 CALFED was invented. I've always found her to be  
2 extremely confident, objective, and articulate, so I'm  
3 confident that the assurance packages that she and the  
4 people she works with come up with will be the best that  
5 we can do, but we shouldn't let that obscure the fact that  
6 the subject of assurances is so complicated that there are  
7 no very good assurances for many things.

8 If we're talking about the assurances for what  
9 may be done in the near -- next few years with monies that  
10 are already assured, that's one thing, but if you're  
11 talking about assuring an environmental outcome that may  
12 be frustrated by exotic species, for example, as we  
13 mentioned yesterday, or if you're talking about assurances  
14 that will build some storage facility which we can't get  
15 the finances for at this time and which may not be  
16 permitted when the time comes, or if we're talking about a  
17 peripheral canal for which there is no legal -- you know,  
18 legally enforceable way to guarantee the construction and  
19 operation, then the assurances really don't amount to  
20 much, and there's been a tendency, I think, to believe  
21 that we can decide what we'd like to do and then come up  
22 with a way of assuring that that will happen.

23 I don't think that's very realistic, and I  
24 think we have to approach those -- the idea that we can  
25 assure things with great caution.

48

50

1 CHAIRPERSON MADIGAN: All right. Thank  
2 you.

3 Roberta.

4 COUNCIL MEMBER BORGONOVO: I wanted to go  
5 back to something you said, Mary, that the assurances  
6 can't solve the inadequacies of the other programs, but  
7 one of the positive things I thought, coming out of this  
8 strategy, is the quantifiable performance standards, so I  
9 just don't see them in many of the other common programs  
10 which I think are very important, so the whole way in  
11 which those performance standards are put into place, the  
12 fact that we may have panels coming in to take a look at  
13 those program and -- and part of their work needs to be  
14 incorporated also goes back to Martha's question.

15 When you have the programmatic EIR/EIS, it's  
16 so huge that if that's the end point and -- and the public  
17 doesn't have a chance to review it, we also don't have a  
18 chance to review those quantifiable performance standards  
19 and see if we -- we think that those elements can work  
20 together, so I think that that's very important that there  
21 at least be the possibility of a -- a redraft that has  
22 this public comment period, but I also think that the  
23 whole issue of time line keeps coming up over and over  
24 again.

25 I -- I was struck by Assemblyman Machado's

1 point of view that I have to read 48 pages every day, and  
2 that's on top of everything else, so I'll probably not  
3 even be able to carry it around with me, even on BART, no  
4 matter what I do to get through it, so the time line is  
5 important, but also the linkages before we move to the  
6 next stage, so -- so I'm very interested in that, too.

7 That question that Eric asked yesterday  
8 morning, I -- I don't think has been totally answered, the  
9 way in which you would see the staging.

10 What happens if performance standards are not  
11 met? Does that really hold everything up?

12 How do you see that everything does move  
13 forward together?

14 MS. SCOONOVER: Those are -- those are  
15 all really good questions, and -- and just to give you,  
16 again, framework for today, details, oh, in Redding maybe  
17 or somewhere later this summer.

18 First, I want to be very careful in describing  
19 milestones and measures of success to not give the  
20 impression that what we're contemplating is across the  
21 board numeric standards. You know, what we have to have  
22 are measurable criteria, but that may be very different  
23 from saying, "And here's 'X' number that we have to  
24 achieve in water quality," or something else.

25 Measurable criteria are going to vary among

51

52

1 the programs, because measures of success for the programs  
 2 are going to be different, so in assurances, again, we're  
 3 not going to be taking the program and reinterpreting it.  
 4 The programs themselves are going to be describing how  
 5 they measure success, and we're going to be keying off of  
 6 their measurable targets and goals, so they are obviously  
 7 linked, and it is going to be an ongoing -- an iterative  
 8 process, and you will hear a lot both from the  
 9 programmatic -- the substantive programmatic end as well  
 10 as the assurances end of things.

11 In terms of an opportunity for public comment,  
 12 all of this is being developed in a public setting, and --  
 13 and, again, you know, the -- the assurances staff can go  
 14 back in a corner and come up with what we think is a  
 15 bang-up assurances plan, but we don't have any illusions  
 16 that that means it's going to be broadly accepted, so the  
 17 concern about, in a very short amount of time, producing  
 18 information, getting comments, revising plans, and coming  
 19 up with an implementation strategy in which people have  
 20 faith is -- is a daunting task, but we've also been very  
 21 careful not to talk about certainty, you know.

22 There are no guarantees in this process.  
 23 There are no guarantees or few guarantees in life, so  
 24 we're not setting up this standard for ourselves that is  
 25 impossible to achieve. We are trying to make it more

1 certain than not, give people high enough confidence that  
 2 they believe the program will be implemented and operated  
 3 as agreed.

4 COUNCIL MEMBER BORGONOVO: I think one of  
 5 the problems in several of those other common programs in  
 6 which I participated is there really was no -- there were  
 7 no measures of success. I mean there -- there may have  
 8 been an idea of how we might get there, but without those  
 9 measures of success in the other common programs, that's  
 10 what worries me, because it leaves so many details  
 11 unspecified that the -- the uncertainty is -- is not being  
 12 narrowed, and I understand not having certainty, but I  
 13 think you also have to have confidence that you are -- are  
 14 at least on the right track, so --

15 MS. SCOONOVER: Right. And each of those  
 16 programs is doing individual implementation plans. Each  
 17 one is developing an implementation plan in which they  
 18 will wrestle with these exact questions.

19 COUNCIL MEMBER BORGONOVO: And they will  
 20 come back through those work groups and then come back  
 21 out?

22 MS. SCOONOVER: Either through individual  
 23 work groups or it more make -- it may make more sense to  
 24 have, you know, a program-wide work group discussion or a  
 25 EDAC workshop at which we die -- or a EDAC meeting at

1 which we discuss these elements. They will all be brought  
 2 through you and the -- through you, the EDAC members, and  
 3 what other pieces of the public information arena they'll  
 4 be played in, I think is still on the -- the drawing  
 5 board.

6 CHAIRPERSON MADIGAN: Ann.  
 7 COUNCIL MEMBER NOTTHOFF: There's maybe a  
 8 couple of examples, and it seems like there are some real  
 9 threshold decisions that we're going to have to make, like  
 10 one of them is, you know, shall there be a new entity to  
 11 carry out the ecosystem restoration. There are some, you  
 12 know, really key high visibility type of decisions that I  
 13 think are under consideration. You've identified these in  
 14 your report as something that needs additional work, but  
 15 how -- is that something that -- I mean is assurances work  
 16 group adequate to coming up with recommendations to the  
 17 EDAC, to EDAC, or how is that -- how are those kind of  
 18 major threshold decisions going to be made?

19 What's the process for doing that?  
 20 MS. SCOONOVER: Well, if we can, I'd like  
 21 to drop into, then, the discussion of the implementing  
 22 entity, so you can see how -- because each of the issues  
 23 is being addressed in a slightly different process, and if  
 24 we could start talking about that one, I can give you some  
 25 sense of the specific --

1 CHAIRPERSON MADIGAN: Mary, I have one  
 2 more -- I have one more question and then --

3 MS. SCOONOVER: Okay.  
 4 CHAIRPERSON MADIGAN: -- we -- and then  
 5 we'll get to it.

6 Ton.  
 7 COUNCIL MEMBER GRAFF: I don't know.  
 8 Let -- let's have mercy on Mary and let her go ahead.

9 CHAIRPERSON MADIGAN: Okay.  
 10 MS. SCOONOVER: Thanks, Ton.

11 We've discussed, at the previous EDAC meeting  
 12 and again in other context, that there are a number of  
 13 questions -- a number of issues that are raised by the  
 14 question of who implements, and there are a number of  
 15 stakeholders who have made their views very clear that a  
 16 new entity is necessary in order to implement the  
 17 ecosystem restoration program.

18 A number of stakeholders have also weighed in  
 19 on the fact that they want meaningful and timely input  
 20 throughout the period of implementation, and how that is  
 21 accommodated is -- is one of the big questions, and then  
 22 finally, how do we assure -- you can't create the -- the  
 23 ecosystem restoration implementing entity in isolation.

24 How it fits into the rest of the program is --  
 25 is critical to its success to being able to accomplish the

1 tasks it's set out for itself or meet the targets that  
 2 it's identified, so these questions that we've been  
 3 kicking around both here and in the work group and in  
 4 other forums have -- have troubled us for quite some time,  
 5 and we have been working on a variety of ways to address  
 6 them.

7 What I'd like to take just a brief minute to  
 8 do is -- is to remind you of some of the work group  
 9 guidelines that they've identified, against which any  
 10 assurance proposal should be measured, and I think these  
 11 guidelines also help in terms of answering the question  
 12 about where you begin, kind of what your -- the -- the  
 13 rules are with respect to crafting an assurance package  
 14 and addressing questions like implementing entity.

15 The first is -- the first guideline is  
 16 obviously that the program solution principals have been  
 17 to be satisfied, specifically issues of implement-ability  
 18 and durability; no significant redirected impacts fall  
 19 within the assurances purview. I mean they're -- they're  
 20 program-wide, but those are ones that we feel particular  
 21 attachment to.

22 Second is that we have to provide confidence  
 23 that all actions will be taken and programs will be  
 24 operated as agreed, ensure that the solution contained  
 25 clearly articulated performance criteria and proposed

57

1 schedules for attaining program goals.  
 2 Specify that the written description of the  
 3 solution constitutes the entire agreement, so that we  
 4 don't have problems or we reduce the -- the -- the chances  
 5 of having problems in the future, that we have differing  
 6 interpretations of something that's not written down.

7 Structure the solution to be self-executing so  
 8 there -- that there won't be a whole lot of other actions  
 9 or discretionary actions that can intercede and  
 10 potentially derail the process.

11 Include recovery mechanisms, and that's the  
 12 contingency planning process, so if a piece can't be  
 13 implemented, the whole deal doesn't fall apart. We  
 14 actually have a way of dealing with it.

15 Provide for implementation of the entire  
 16 program, and that's the staging that we've talked about.

17 Allow for adaptive management wherever current  
 18 knowledge is inadequate to make definitive choices now.

19 Allow for variations and the need for  
 20 certainty among and within the programs, and there are  
 21 certain program elements that are critical. There are  
 22 other program elements that would be nice to have, if we  
 23 could get them. They may, therefore, require different  
 24 levels of certainty, different kinds of assurances.

25 Work within existing statutes, regulations,

58

1 and institutions where feasible. It's much easier to do  
 2 it that way, and if we've got something that works, make  
 3 use of it.

4 Involve the public in decision making.

5 Craft an integrated package of assurances that  
 6 work well together, and finally, minimize costs.

7 You know, if we can be satisfied with some  
 8 kind of an agreement, as opposed to Federal legislation,  
 9 it's going to be quicker, easier, probably less expensive  
 10 to use that agreement as the assurance, as opposed to  
 11 going to the highest level of assurance for every element  
 12 in the package.

13 So those are the general guidelines.

14 Now how are we addressing the implementing  
 15 entity issue, for example?

16 You have gotten, in the last couple of months,  
 17 three different documents from the assurances work group  
 18 or from the CALFED staff, and I want to just take a minute  
 19 to -- to describe them to you, although we won't go into  
 20 any detail.

21 On February 11th, we released a draft  
 22 evaluation of program characteristics for the Chesapeake  
 23 Bay Program, Columbia River Gorge National Scenic Area,  
 24 and Columbia River Gorge Commission, and the South Florida  
 25 Ecosystem Restoration Task Force, and Everglades Forever

59

1 Act. We discussed this at the last EDAC meeting. I gave  
 2 you a sense that it would be out. It is out. You should  
 3 all have copies.

4 The copies were mailed -- were distributed  
 5 fairly broadly. Members of the public, there may be some  
 6 additional copies here; if they're not and you want one,  
 7 just put your name down, and we'll be glad to send you a  
 8 copy.

9 There are also two reports from the  
 10 Natural Resources Law Center in Boulder, Colorado, that  
 11 focused specifically on the implementing entity question,  
 12 and those are where I'd like to focus today.

13 One was sent out at the end of February. It's  
 14 kind of an introduction to the topic, and we'll talk a  
 15 little bit about some of their -- of the conclusions, and  
 16 the other was a short memo that was included in your red  
 17 folder yesterday, and there are copies available out on  
 18 the table, if you haven't gotten one, kind of identifying  
 19 the next step.

20 So how are we going to resolve or get our arms  
 21 around this implementing question?

22 Betsy Rieka, former Undersecretary in the  
 23 Department of the Interior, and Doug Kenney, a colleague  
 24 of hers at the Natural Resources Law Center, have been  
 25 asked to look at this implementing entity question and to

60

1 kind of key then altogether, not only who implements  
 2 E.R.P.P. but also stakeholder involvement throughout the  
 3 implementing period, and how do we assure that all of the  
 4 pieces make sense together.

5 The implementing entity question is addressed  
 6 program-wide, as well as element specific, and they came  
 7 up with some ten lessons learned from past regional water  
 8 management efforts that were included in the February  
 9 report, and I would like to just walk through them briefly  
 10 with you, and I think I only have overheads of some of the  
 11 ten, unfortunately, but we can -- we can walk through  
 12 them, just so that you understand kind of the basic ground  
 13 rules from which they're beginning and also understand,  
 14 also, that the concepts that they've addressed in these  
 15 first two papers are going to be further developed in the  
 16 next paper.

17 We expect, by the April 28th assurances work  
 18 group meeting, to have a more detailed paper.

19 Betsy is also doing outreach to stakeholders,  
 20 so some of you may have heard from her, or some of you  
 21 will be hearing from her, as well as to agencies alike,  
 22 because the agencies have a particular interest in this  
 23 entity question.

24 First, consider the political viability.  
 25 Political viability should influence all organizational

1 design decisions, since the most common source of failure  
 2 for regional water organizations is resistant from  
 3 politically powerful entities, especially other agencies.

4 Second is let function dictate structure.  
 5 Decisions about organizational structure should be made  
 6 only after the intended functions of the new regional  
 7 organization are precisely defined.

8 Broad trends: Consider broad trends in  
 9 federalism and inter-governmental relations, and I will --  
 10 you all have the report, and I'll let you go through them,  
 11 but there are: Foster a regional perspective; use a  
 12 problem shed orientation. In other words, don't isolate  
 13 key elements of the problem from your discussion of the  
 14 solution. Otherwise, you set up a process that may not be  
 15 durable.

16 Use a process orientation, especially when  
 17 you're dealing with a program this big. If you don't know  
 18 the precise answer, at least describe the process and get  
 19 buy-in that you have developed a good process, so that the  
 20 emphasis is on moving forward and trying to reach  
 21 constructive goals.

22 And then the last four that didn't make it to  
 23 overheads, for whatever reason: Don't burden  
 24 administrative bodies with fundamental policies issues.  
 25 In other words, it may be important to set up entities who

1 have very clearly designated tasks and let them do their  
 2 jobs and have the broad policy discussions in other  
 3 arenas. There may be more -- it may be more appropriate  
 4 to have small focused groups implementing pieces of the  
 5 puzzle and have a broad oversight group that has broad  
 6 representation debating the policy decisions and giving  
 7 direction to the small entity, rather than have everybody  
 8 around the table for every decision.

9 Recognize the importance of conflict  
 10 resolution; again, emphasis on our contingency planning  
 11 process.

12 Design mechanisms for accountability, so that  
 13 the public and other agencies know who is responsible for  
 14 making the decisions, and how do we know that the  
 15 decisions are being made in a timely manner.

16 And, finally, promote flexibility and  
 17 creativity. What we don't want to create is some kind of  
 18 an entity that is so restricted in what it can and cannot  
 19 do that you're limited in your ability to be creative in  
 20 the future, to deal with some circumstance that may arise.

21 So the Natural Resources Law Center, as I  
 22 said, is producing a more detailed report. You have  
 23 the -- I think it's a four- or five-page -- four-page  
 24 summary identifying the issues they are going to be  
 25 addressing. You also have Betsy and Doug's names and

1 telephone numbers, and if you want to weigh in on this  
 2 issue, I strongly encourage you to or participate through  
 3 the assurances work group meeting, and we're going to be  
 4 getting into these implementing entity questions in quite  
 5 a bit more detail.

6 Again, there won't be any final decisions made  
 7 by the time they're -- of your next meeting in May. It  
 8 will be more of a status report, kind of ongoing efforts  
 9 and what this refined information looks like, as well as  
 10 what the assurances work group's discussions have  
 11 produced, and in general, in the assurances work group,  
 12 what we're trying to do is area -- identify areas of  
 13 agreement, and where there are areas of disagreement,  
 14 provide options.

15 I believe that that's the kind of  
 16 recommendations that will be coming back through you.

17 If there's consensus, it will be clearly  
 18 called out as a consensus. If there's not, you will see  
 19 the options and some reason or discussion as to why the  
 20 options were presented and by whom, who -- who is  
 21 advocating for each of these options.

22 And then, finally, staging is the only other  
 23 issue, and we did most of that yesterday, so I'll just  
 24 remind you briefly of the guidelines for staging that the  
 25 work group has identified, and, again, we're still talking

1 at a fairly broad level of -- framework level here. We  
2 haven't gotten down to the specific linkages, which is, I  
3 know, where we all want to go, but we have to have  
4 agreement on the framework before we can get to that  
5 refined stage, and that is the -- the general ground rules  
6 are that each stage should be completed before the next  
7 one is begun.

8 Each interest group should have strong  
9 inducements to support the completion of every stage, and  
10 program elements which are outside of the control of the  
11 CALFED agencies should be implemented as early as possible  
12 to reduce uncertainty.

13 Finally, the work group has identified a list  
14 of things that a staging plan should do.

15 A staging plan should identify discrete  
16 stages, specify which actions or portions of actions are  
17 to be completed in each stage, articulate the schedule for  
18 the stages and actions within each stage, describe  
19 milestones and consequences of missing those milestones,  
20 and finally, specify the triggers that will be used to  
21 activate the contingency planning process.

22 That's what I wanted to talk to you about  
23 today. If there are more questions, I'm glad to try to  
24 answer them. This is a work in progress, so any input you  
25 have, either in this formal setting or in comments to the

65

1 work group or in your participation to the work group, is  
2 really accepted. If anybody has the answer, please, we're  
3 all ears.

4 CHAIRPERSON MADIGAN: David, first, and  
5 then Byron, then Stu, and then Roberta.

6 COUNCIL MEMBER GUY: Just a couple of  
7 comments and maybe a question.

8 Mary, I'm a little confused in your  
9 February 15th document here that's in our Board package.  
10 Under stage one you talk about a draft implementation  
11 document.

12 Now is that this document here?

13 Is that what is in the programmatic EIS/EIR,  
14 or is it something separate that you're developing?

15 MS. SCOOVER: That document that you  
16 have in your hand is a draft of what it is in the  
17 programmatic EIR/EIS, so there have been some minor  
18 modifications to it, but that is, in effect, what's in the  
19 EIR/EIS.

20 COUNCIL MEMBER GUY: Okay.

21 MS. SCOOVER: That document lays out  
22 the framework for ---

23 COUNCIL MEMBER GUY: Okay.

24 MS. SCOOVER: -- what the  
25 implementation plan or implementation strategy will

66

1 eventually become. It's not a detailed proposal of a  
2 plan, but it identifies the pieces, what we know about  
3 those pieces so far, and the process we're going to use to  
4 try to answer the questions or, you know, fill in the  
5 detail on those pieces.

6 COUNCIL MEMBER GUY: So that will be a  
7 dynamic document, I assume, that will be evolving  
8 continuously.

9 MS. SCOOVER: Yes.

10 COUNCIL MEMBER GUY: It won't --

11 MS. SCOOVER: Yes.

12 COUNCIL MEMBER GUY: Okay. And then just  
13 a couple of comments, if I could.

14 On the Natural Resources Law Center work, it  
15 seems to me, especially after -- in light of Mr. Machado's  
16 comments yesterday that this ought to be something that  
17 you continuously share with the legislators on both the  
18 State and Federal level.

19 I just know from -- from our experience that  
20 if you decide what this entity is going to look like and  
21 then all of a sudden you drop it in their lap that that  
22 will be ugly, and so I would think that would be something  
23 that you might want to solicit comments from them all  
24 along the way, if you haven't done so already.

25 And then just another -- maybe a minor

67

1 comment, but one that's not minor to us, I guess, and  
2 that's on page ten of what is in the package there, you  
3 talk about certain assurances for water users. This is  
4 specifically under the endangered species assurances, but  
5 I guess what I'm saying is even a little broader.

6 I think assurances aren't only limited to the  
7 water users. I think there's going to be assurances  
8 needed for landowners also. I think that's noticeably  
9 absent in this. I think, as you know, there's lots of  
10 concerns out there from landowners that are going to be  
11 part of this process, not only as the result of what could  
12 happen under an H.C.P., but also under eminent domain, all  
13 kinds of landowner issues, so I guess I would just urge  
14 everybody to broaden the inquiry a little bit and  
15 recognize that assurances are going to be needed for  
16 landowners even -- whether they're water users or not.  
17 MS. SCOOVER: We have landowners on our  
18 radar screen.

19 Again, this document that you have in front of  
20 you is a summary of reams of documentation, and that  
21 clearly was an oversight and should have been included.  
22 I'll be interested in your ongoing involvement, David, to  
23 ensure that we have adequately the concerns of your  
24 constituency, especially the landowners.

25 CHAIRPERSON MADIGAN: Let's see.

68

1 David -- Byron.

2 COUNCIL MEMBER BUCK: My comment is  
3 really on common programs, but the issue appears in your  
4 finance and assurances paper on page 36, and it's under  
5 the water-use efficiency program. It indicates that this  
6 program is going to cost about 750 million and 96 dollars,  
7 and that we'd need probably 25 million dollars a year for  
8 this program for the first ten years.

9 The program itself -- let me go to the  
10 Phase II document -- is looking at about a million acre  
11 feet of new water recycling to meet the -- the rough water  
12 balance that CALFED is looking for.

13 Based upon the last three big recycling  
14 projects that have just been completed in California, in  
15 San Jose, Central and West Basin, down south of here and  
16 in San Diego, 25 million dollars a year buys you 50,000  
17 acre feet of recycling, so either the numbers are vastly  
18 underestimated here, or we're talking about this is just a  
19 CALFED share, and all that other money is going to be paid  
20 by somebody else, but in reading both this document and  
21 the Phase II report, you -- I get a sense that they're  
22 talking about -- or CALFED's talking about this is the  
23 total cost, so that needs to be run to ground.

24 You do the simple math for the million acre  
25 feet of reclamation. It's ten billion dollars that we're

69

1 going to need to do that much recycling, based upon  
2 today's costs of recycling, the reality of the projects  
3 that have been built.

4 MS. SCOONOVER: The good news in doing a  
5 joint presentation is that you can pitch certain questions  
6 to the person who is going to be speaking next on finance,  
7 but I will -- and so Zach can field this, but I -- I will  
8 let you know that within the Phase II document we've made  
9 a very strong attempt to not only identify total costs but  
10 also to describe reasonable expenditures, what can we do,  
11 what can be implemented in a single year, and trying to  
12 figure out what is a reasonable budget for each of the  
13 program elements, each of the necessary program elements  
14 over the course of the implementation of the program.

15 So there is both an -- an effort to -- to  
16 quantify the entire cost, as well as an effort to break it  
17 down into reasonable bite-size pieces, but for more  
18 detailed responses, I'll defer you to Zach.

19 COUNCIL MEMBER BUCK: I'm not antic --  
20 asking for a response on the number right from you, Mary,  
21 it's just a highlight to the rest of the staff, so we need  
22 to make sure we're -- we're all communicating and we have  
23 the number right, because we need to know, because  
24 obviously recycling is a big component, and we need to  
25 know what it's going to cost.

70

1 MS. SCOONOVER: I understand.

2 CHAIRPERSON MADIGAN: Mr. Yeager.

3 MR. YEAGER: Let me just make a quick  
4 response to Byron. It won't be comprehensive, but in many  
5 of our programs we do have these added costs that the  
6 water agencies and other interest groups will have -- have  
7 to make up.

8 For instance, in the water quality area,  
9 there's this whole realm of costs associated with higher  
10 levels of treatment. We're going to some analysis there  
11 to try to identify what that might be, and it will be  
12 identified in the cost estimates as kind of a sidebar  
13 that -- beyond the cost for the water quality at the --  
14 the pumps that we're going to achieve with the particular  
15 alternative. There is this additional cost associated  
16 with that, and in the water-use efficiency program, and we  
17 recognize that there are -- are water agency costs that  
18 are going to be associated beyond those that CALFED would  
19 be addressing with technical planning and -- and other  
20 kinds of -- of support.

21 So we will try to identify those where --  
22 where we know they exist, but our approach has been to try  
23 to confine our cost estimates to strictly the part of the  
24 program that -- that CALFED can influence and can directly  
25 implement.

71

1 COUNCIL MEMBER BUCK: In that event, we  
2 definitely need some discussions, because 25 million  
3 dollars out of CALFED for ultimately a program that will  
4 cost 500 million dollars a year isn't much of a share and  
5 won't be enough stimulus to make a lot of these projects  
6 cost effective on a local level.

7 CHAIRPERSON MADIGAN: Sure. Sunne.

8 CO-CHAIRPERSON McPEAK: Byron, what is --  
9 what is the cost per acre foot that most of your members  
10 say is -- is now the -- the reasonable -- not that they  
11 would pay the cost effective basis, but what is it costing  
12 them now for a reclamation project?

13 COUNCIL MEMBER BUCK: Well, two  
14 numbers --

15 CO-CHAIRPERSON McPEAK: Including --

16 COUNCIL MEMBER BUCK: -- for --

17 CO-CHAIRPERSON McPEAK: -- distribution.

18 COUNCIL MEMBER BUCK: Capital cost to  
19 develop a recycling project is about \$18,000 an acre foot.  
20 That's not the water cost. The water cost, amortized over  
21 time, ranges between about 500 to \$900 --

22 CO-CHAIRPERSON McPEAK: Yeah.

23 COUNCIL MEMBER BUCK: -- an acre foot.

24 CO-CHAIRPERSON McPEAK: I just ran the  
25 number. I -- I -- that's exactly the number -- the

72

1 range --  
 2 COUNCIL MEMBER BUCK: Yeah.  
 3 CO-CHAIRPERSON McPEAK: -- that we had  
 4 used with the State Water Conservation Coalition in '83  
 5 to --  
 6 COUNCIL MEMBER BUCK: Right.  
 7 CO-CHAIRPERSON McPEAK: -- to deliver --  
 8 or '82 -- deliver the report to the State Water Resources  
 9 Control Board to, and that -- you know, the number was  
 10 much higher. I would -- I would look at -- you know,  
 11 we -- we were at 750,000 to a million acre feet at a  
 12 billion.  
 13 COUNCIL MEMBER BUCK: Well, we're looking  
 14 at -- again, we're --  
 15 CO-CHAIRPERSON McPEAK: For development  
 16 costs.  
 17 COUNCIL MEMBER PEAK: Yeah, development  
 18 cost is ten billion dollars, roughly, to get the million  
 19 acre feet.  
 20 CO-CHAIRPERSON McPEAK: That -- that's  
 21 what I -- that's the number I'm questioning, and then  
 22 you're telling me -- but so explain. You're telling me  
 23 it's about 500 to a thousand amortized.  
 24 COUNCIL MEMBER BUCK: Amortized for each  
 25 acre foot of water, but --

73

1 CO-CHAIRPERSON McPEAK: Right.  
 2 COUNCIL MEMBER BUCK: -- Just the --  
 3 the -- how much money would you need to create that water  
 4 supply is ten billion dollars, lump sum. That's the  
 5 cost -- that's what then you would spread over 20 years,  
 6 and then when you pay that back and amortize it, the  
 7 actual water you get out of it is -- is running between  
 8 500 and 800 an acre foot, depending upon the project.  
 9 CHAIRPERSON MADIGAN: Stu.  
 10 COUNCIL MEMBER PVLE: Yes. Just as a  
 11 general comment and working with the assurances work  
 12 group, I think the thing that is most difficult to get  
 13 into step with is the -- addressing this from the  
 14 programmatic level. I think everybody wants to jump right  
 15 into what's called the tools on the -- on the thing, and  
 16 talk about legislation, talk about how do you set up  
 17 structures, contracts, costs, and a whole lot of things,  
 18 but, anyway, this -- I think this is a good exercise, and  
 19 it's -- it's moving ahead pretty well.  
 20 The one thing -- a question I had the other  
 21 day was -- was kind of on a -- on a detail on the two  
 22 slides you just had up on here, Mary, and I know I could  
 23 save this for the work group, but I thought I would just  
 24 bring it up today, and -- and the one before that, where  
 25 you say "Each stage must be completed before you move

74

1 ahead," and then -- and you may not need to put that on,  
 2 but in -- in view of this, that each stage is subject to  
 3 these measurements and milestones and contingencies and  
 4 triggers and so forth, it seems like we need another term  
 5 for "completed," but as you see most of these program  
 6 elements move ahead, completion of the element is going to  
 7 be kind of hard to get to.  
 8 Completion of a stage is going to be  
 9 contingent on these achievements and milestones and  
 10 contingencies, et cetera, so I just -- I just wonder --  
 11 MS. SCOONOVER: Yeah. You --  
 12 COUNCIL MEMBER PVLE: -- can we find a  
 13 word that softens "completed"?  
 14 MS. SCOONOVER: You've -- you've keyed  
 15 into what is a very difficult issue, and -- and the  
 16 concept is that within each program element there are a  
 17 variety of actions, and there may be -- those actions may  
 18 be able to be broken down even further into constituent  
 19 parts, and so stages may include constituent parts through  
 20 one through three of a particular action, and then the  
 21 next stage may include the conclusion of, or the  
 22 completion of, the remaining constituent parts that make  
 23 up that action.  
 24 So by "completion," it's not necessarily  
 25 completion of an entire program element or even entire

75

1 action, it's completion of what we have specified in the  
 2 laundry list of things that have to be completed in that  
 3 stage so that it's clear what we mean.  
 4 Completion may be proposed legislation.  
 5 Completion may mean funding at "X" level, where the real  
 6 total level of funding necessary is, you know, much  
 7 greater than "X," but it will be divided, hopefully, into  
 8 bite-size pieces that make sense within that particular  
 9 stage.  
 10 So when we say "completed," we don't mean the  
 11 element has to be completed, or even total actions, but  
 12 whatever we think or whatever the program managers and --  
 13 and the public thinks is then appropriate completion. How  
 14 we define completion is going to be changed.  
 15 We -- we wrestled with some other words, and  
 16 it ended up kind of softening the concept of there are  
 17 certain set things that we need to agree to up front.  
 18 It's something that we definitely should talk about some  
 19 more, and I'm open to --  
 20 COUNCIL MEMBER PVLE: Yeah.  
 21 MS. SCOONOVER: -- suggestions.  
 22 COUNCIL MEMBER PVLE: That's -- I think  
 23 it's going to be a problem all the way through, and it's  
 24 kind of the same thing that Alex was talking about  
 25 yesterday of setting goals, and are we -- are we going to

76

1 achieve goals, or are we going to execute programs, you  
2 know, and whatever happens happens, so -- but it is a  
3 thing that --

4 MS. SCOONOVER: Especially in the early  
5 stages we're looking at tying these stages to actions that  
6 are within our ability to implement, so not achieving  
7 ultimate goals of a program within the first five years,  
8 or whatever the time frame may be, but actually actions we  
9 have control over, whether or not they are implemented --

10 COUNCIL MEMBER PVLE: Yeah.

11 MS. SCOONOVER: -- and being fairly  
12 rigorous about how they're defined.

13 COUNCIL MEMBER PVLE: Mr. Chairman, may I  
14 also address the comment of Richard, who I sat with  
15 yesterday, and the fact that I moved over here, it's  
16 nothing personal. There's no hard feelings. It has  
17 nothing to do with representation, or whatever. I just  
18 like to look straight ahead, instead of continually  
19 looking over my shoulder.

20 COUNCIL MEMBER IZMIRIAN: No offense  
21 taken.

22 CO-CHAIRPERSON McPEAK: Tom noticed you.  
23 He actually mentioned that to me, and I said it was out of  
24 respect. You wanted to see the -- you wanted to see him  
25 straight on.

77

1 CHAIRPERSON MADIGAN: Roberta.  
2 COUNCIL MEMBER BORGONOVO: On page 38,  
3 when you talk about a description of the program element,  
4 your program element would be defined as all of the  
5 integrations of all the programs, and then, again, when  
6 you did discuss eminent domain and easements, that's not a  
7 given. It's just one of the tools that you put in the  
8 toolbox.

9 MS. SCOONOVER: Yes. Yes. And -- and  
10 not only potentially a desirable tool, but many of the  
11 CALFED agencies have the powers of eminent domain, and  
12 people are concerned about how those powers could be  
13 executed in order to implement the plan, so it's both  
14 looking at it as a tool for implementation, as well as  
15 looking at it from the stakeholder concern perspective  
16 about how might existing powers of eminent domain affect a  
17 stakeholder's particular interest.

18 CHAIRPERSON MADIGAN: Bob.

19 COUNCIL MEMBER RAAB: I have a comment on  
20 the -- the document that came from the Natural Resources  
21 Law Center. They gave examples of entities that have  
22 jurisdiction over the Chesapeake Bay and so forth, and it  
23 seemed to me that none of those entities captured the  
24 geopolitical complexities that are involved here in  
25 CALFED, and so that I don't -- I didn't see any great

78

1 promise in what -- what those examples offer, as far as  
2 being picked up and -- and pasted on to what we're trying  
3 to accomplish.

4 I've given this matter eight or ten minutes  
5 thought in the last several months, and I keep thinking  
6 that the -- the key to getting a good DERA here, an  
7 environmental restoration agency governance, that polit --  
8 that political insulation is the key, and it would be  
9 useful, I think, to get some examples to us of governances  
10 that are -- that work and are almost bullet proof.

11 Nothing is going to be bullet proof, but there are  
12 several -- I can think of one or two Federal examples and  
13 one or two State examples of governances, and there are  
14 probably more out there, and they may -- and I think you  
15 need to look into not just to administrative branches, but  
16 also is there, out there somewhere, Judicial authorities  
17 that might be applicable to -- that might be some kind of  
18 a special master that would be judicially appointed.

19 We had one in Marin County who was almost  
20 bullet proof. A Judge was appointed to oversee one of the  
21 largest community foundations in the nation, and he did  
22 something very controversial, and many of the people in  
23 the county hated him for it. Some loved him, but the  
24 point was he was bullet proof. We couldn't touch him,  
25 those of us that disagreed with him, and that was -- that

79

1 came from a Judicial decision to have this kind of special  
2 master.

3 So I would just like to put in a plea for  
4 getting some more examples from around the country that  
5 are broader in scope than what we saw in Betsy Rieke's  
6 paper.

7 MS. SCOONOVER: The -- the February  
8 paper, I think the one you're referring to, that talks  
9 about the Chesapeake and the other efforts, was actually a  
10 CALFED staff effort.

11 We have an executive fellow working with us  
12 this year. Her name is Sue Lurie, and she took what we  
13 had identified as three fairly complex natural resource  
14 management issues and tried to analyze both the  
15 institutional and financial mechanisms that they had used  
16 to approach their problems.

17 Now it wasn't that any one of those is going  
18 to be directly applicable to us. Nothing is directly  
19 applicable to us. It's both our curse and our challenge,  
20 but the idea was that there were things we could learn,  
21 both from their successes and from their failure, and that  
22 was her attempt.

23 The more specific items that you're asking  
24 for, issues about what has worked in other sectors, what  
25 hasn't worked in other sectors, and looking at specific

80

1 examples is, indeed, the work that Betsy Rieke and  
2 Doug Kenney are undertaking, and they, over the next few  
3 months, are going to be producing papers that hopefully  
4 will answer or at least raise some additional information  
5 that will help us answer our questions.

6 We haven't ruled out the possibility of some  
7 kind of a judicial decree as one of the tools that we're  
8 looking at; again, not believing that an assurance package  
9 is going to rest on one tool and one tool only, but  
10 looking at it as part of the ultimate solution.

11 The one item that they did make me take off  
12 the list was the idea of a Czarina, and so I think that's  
13 the only --

14 CO-CHAIRPERSON McPEAK: Well, I'd like to  
15 have it back on the list.

16 MS. SCOONOVER: Fine.

17 CHAIRPERSON MADIGAN: Tom.

18 COUNCIL MEMBER GRAFF: This is somewhat  
19 relevant to this, but it goes back to something Sunne said  
20 about a half hour ago, and actually more to what  
21 Assemblyman Machado said yesterday.

22 Sunne used the term "legislative oversight" of  
23 this next round of decision. What I heard the assemblyman  
24 say, and he's only one legislator, but a key one, was that  
25 he saw the necessity for legislative action in adopting --

81

1 and I'm not quite sure what, but an alternative,  
2 particularly an alternative that chooses, in -- in the  
3 Burns-Porter terminology, a "Delta facility," quote --  
4 quote, unquote, and we never really heard a response to  
5 that from Mike or Lester yesterday, as to whether they  
6 agree with that, and we almost had the situation a few  
7 months ago where the program picked a, quote, "preferred  
8 alternative" that, in simplified terms, would have been  
9 viewed as a choice of one Delta facility or another.  
10 EXECUTIVE DIRECTOR SNOW: Well, I mean I  
11 guess I'll -- I'll start.

12 I mean I think that's an interesting issue  
13 about what will the role of the legislature be when we  
14 have screened down to a preferred alternative. In my  
15 opinion, it's a issue that cannot be resolved at this  
16 time, and in no small part is an issue on the local scene  
17 between the Governor and the Legislature and on the  
18 national scene between the President and the Congress and  
19 not necessarily an issue for us at this point in time, and  
20 I have had that discussion with Mr. Costa and Mr. Machado  
21 and others, and I think we need to keep the legislature in  
22 the loop, keep them briefed, but in terms of deciding, at  
23 this point in time, exactly what their action point should  
24 be and what it should encompass, I think is premature and  
25 probably argumentative, without being able to resolve it

82

1 at this point.

2 CHAIRPERSON MADIGAN: Yeah, I -- this is  
3 an interesting subject, and I don't want to try to  
4 predetermine how it -- how it comes out right now. I  
5 think the process has great value, for -- for process sake  
6 here, but we are heading toward one or two or three of the  
7 most difficult issues in this entire program, and that is,  
8 to me, will the -- will -- in the -- in the classic sort  
9 of federalist papers notion of representative government  
10 and things like that, at both the State and Federal level,  
11 those State and Federal elected officials be willing to  
12 grant a sufficient amount of power to an implementing  
13 entity for this program that the program has a chance of  
14 long-term success.

15 I don't know the answer to that. I don't  
16 think we have even begun to explore that in any depth with  
17 the people who will ultimately be making the decisions,  
18 but it is -- it is -- that will be a very difficult thing  
19 to ask an elected official to do.

20 Ann.

21 COUNCIL MEMBER NOTTHOFF: But relevant to  
22 the assurances discussion, certainly some alternatives  
23 are, you know, in -- in selecting an alternative, one of  
24 the key criteria is going to be whether or not you can  
25 assure the damn thing, right?

83

1 MS. SCOONOVER: Yes.

2 COUNCIL MEMBER NOTTHOFF: And so that's  
3 the kind of analysis that you're coming up with as to what  
4 you can assure and what you can't assure. That's getting  
5 played into the alternative selection and analysis, so  
6 that's what's generating the -- you know, this alternative  
7 scores higher on the ability to assure, and this  
8 alternative scores lower.

9 I mean is that -- that -- it's that public  
10 process and -- that's feeding back into that. I mean --  
11 and, well, I guess I'm just having a hard time  
12 conceptualizing the timing of that. I mean that we're in  
13 such -- the infancy of trying to figure out how we would  
14 assure some huge public works project or something.

15 How is that going to be -- how do you propose  
16 to tie that back into the alternative selection process in  
17 a time to meet the kind of timing deadlines we're  
18 currently under?

19 Is that...

20 MS. SCOONOVER: Oftentimes, in a process  
21 like this, it is sequential and not concurrent, you know,  
22 they figure out what -- entities figure out what it is  
23 they want to do, and then they figure out how to  
24 implement --

25 COUNCIL MEMBER NOTTHOFF: Right.

84

1 MS. SCOONOVER: -- it.  
 2 Because of the nature of this program and  
 3 because there's so much history, we can't wait to discuss  
 4 assurances, but what it means is we have these concurrent  
 5 processes going way -- going underway, where you're  
 6 developing programs at the same time you're trying to  
 7 determine can you assure each of the programs.  
 8 It's an interactive process. We have constant  
 9 back and forth within -- at the program level and in  
 10 public forums like this. You know, how we pull it all  
 11 back together is part of the reason that we're trying to  
 12 pull together these implementation strategies, the  
 13 individual implementation strategies with a program-wide  
 14 implementation strategy, so you tie the technical  
 15 substantive pieces of the program to the assurance pieces,  
 16 and at a certain point, it will be presented in a way  
 17 where the CALFED agencies, members of the public, BDAC  
 18 members will have an opportunity to say, "We don't think  
 19 it's going to work. We don't think what you've presented  
 20 is implementable," or "We believe that this is an  
 21 appropriate way to proceed. We think there are enough" --  
 22 "there is enough here, both substantively and  
 23 assurance-wise, that we're willing to take the risk and  
 24 take the next step." You know, obviously we're shooting  
 25 for the latter.

85

1 Quite honestly, I thought they had said, "Go  
 2 off and don't bother us, until you can get your act  
 3 together," so I was toiling out here thinking, "Okay.  
 4 That's what we're doing," and, wow, they sort of knocked  
 5 me upside the head with a two-by-four and said, "No way  
 6 are we going to accept what you're" -- "what you're doing.  
 7 It's time to involve us."  
 8 I've heard the Chairs of the two committees  
 9 use the word "oversight," Mr. Machado more often than  
 10 Senator Costa, without really specifying that, so I don't  
 11 know what -- what they have in mind, and I'm not sure  
 12 exactly how that gets worked out in the assurances  
 13 package, but my simplistic political counsel would be to  
 14 have the right kind of tension as we're going forward in  
 15 working out an assurance package and some of the details  
 16 for implementation.  
 17 The question that you raised, Bob, about  
 18 political insulation is a very tough one, because, of  
 19 course, it's just fine as long as everybody agrees with  
 20 the decisions of the body, and as soon as things start  
 21 going south, then the question is "Well, why isn't such a  
 22 body more responsive?"  
 23 Now the reason that I don't spend any time  
 24 thinking about the organizational structure -- and I trust  
 25 the rest of you to do that, but until we have specificity

87

1 CHAIRPERSON MADIGAN: Sunne.  
 2 CO-CHAIRPERSON McPEAK: Mr. Chairman, if  
 3 Bob Raab has spent eight or ten minutes thinking about it,  
 4 on the structure of the organization, that's a lot more  
 5 than I have, and you have personally enlightened me a lot  
 6 this morning about your thinking.  
 7 I do want to comment on the assurances and the  
 8 staging as it relates to an agency and the -- some of  
 9 the -- the question, Tom, you raised about Burns-Porter,  
 10 and then, Ann, you're raising about the decision on  
 11 assurances.  
 12 The first is that I think, in all reality,  
 13 political, public policy reality, that we cross the  
 14 threshold of whether or not there's going to be public  
 15 legislative body involvement in the decision on a Delta  
 16 facility in 1982. I personally don't think that either  
 17 the Legislature or Congress could make a decision such as  
 18 that without a stakeholder process such as that we're  
 19 engaged in and a very broad consensus, nor could we,  
 20 stakeholders, think that we can substitute a good faith  
 21 dialogue negotiation process among stakeholders for the  
 22 public trust vested in elected officials, and, boy, that  
 23 has been brought home pretty clear to me in the kind of  
 24 reaction ranging from resentment to suspicion to hostility  
 25 from legislators as to what we were doing.

86

1 on performance of the estuary and what we're trying to do,  
 2 the organizational structure, in my opinion, is  
 3 rearranging the deck chairs, and the one principal that  
 4 was up there from the institute -- I guess is what it was  
 5 called -- that spoke to that is "Let the structure follow  
 6 the function."  
 7 That's not to minimize the importance of what  
 8 the organizational structure and powers will be, but I  
 9 think part of the assurances that are very important --  
 10 and I don't know how it's all going to work, but, Ann, you  
 11 raise that -- is when we're talking about staging, if  
 12 we're not clear about as much of the thresholds or the  
 13 decision points, milestones, I guess is a term you're  
 14 using here, being objective and observable and getting  
 15 away, as much as possible, from subjective decisions that  
 16 could hang up the whole implementation, then any agency  
 17 entity that's supposed to implement is going to be caught  
 18 up once again in the same kind of political dynamics that  
 19 we've seen historically.  
 20 So I would just like to underscore first that  
 21 there needs to be a process that continues between any  
 22 entity and legislators, back and forth communication;  
 23 obviously continued stakeholder input of some kind, even  
 24 with a new entity that might be put in place, and that, in  
 25 order to have success of any entity, I think it really has

88

1 to depend on clear performance standards or objectives of  
 2 this program, with those being as explicit, observable, in  
 3 an objective way, therefore quantitative to the extent  
 4 possible, as we can make them. That's going to help a  
 5 lot, I think.

6 CHAIRPERSON MADIGAN: Thank you, Sunne.

7 All right. Thank you all very much.

8 If there are members of the audience who would  
 9 like to speak on this issue -- I don't know that we have  
 10 speaker cards, but we'd be happy to hear from you; if not,  
 11 we're going to take a break. Be back at 10:45, and we  
 12 will resume with finance.

13 (A break was taken from 10:31 a.m. to 10:46 a.m.)

14 CHAIRPERSON MADIGAN: I wonder if I can  
 15 ask members of the BDAC to take their seats and get  
 16 started.

17 All right. Let's go ahead and get started.

18 The next item on the agenda is the about-to-be  
 19 looming question of finance, and I want to ask Eric to  
 20 introduce the subject.

21 COUNCIL MEMBER HASSELTINE: Okay. Thank  
 22 you. Thank you, Mr. Chairman. Thank you very much,  
 23 Mr. Chairman.

24 We're going to proceed now with the discussion  
 25 about some of the aspects of the financing program.

89

1 As I related to the Council last month, in  
 2 bringing you up to date with the finance working group, we  
 3 have been struggling with the benefits-based approach and  
 4 trying to formulate a -- a program of financing that --  
 5 that makes some logical sense, and we're running into many  
 6 of the problems that have been discussed here today with  
 7 assurances and were discussed yesterday about the program  
 8 in general, that at certain points there are just some  
 9 decisions that have to be made as to how you're going to  
 10 proceed further, and unfortunately we have become somewhat  
 11 bogged down, as I described to you last month, on a couple  
 12 of key issues about, you know, who should pay and how  
 13 much.

14 The overall difficulty with the benefits-based  
 15 approach is that many of the benefits, especially of the  
 16 ecosystem restoration program, are not -- are not  
 17 quantifiable and very difficult to put a dollar figure  
 18 on -- on what -- what those benefits are worth. That then  
 19 becomes very -- and then it becomes increasingly difficult  
 20 to then assign the costs of that project out to the  
 21 various parties who are considered to be beneficiaries.

22 So we posed some questions to you last month  
 23 that I think BDAC, as a whole, needs to address. One of  
 24 those is going to be addressed now in some detail by  
 25 Zach McReynolds, our -- our staff person, and -- and then

90

1 following his presentation on one of the -- one of the  
 2 details here, which is on the question of user fees, I'd  
 3 like to get back and -- and perhaps at least set the stage  
 4 for some further discussion on -- on some of the broader  
 5 issues that -- that pertain, and the basic question  
 6 that -- that we're going to want to look at, at some  
 7 point, is that -- that one that is posed at the bottom of  
 8 page 15 in the -- in the packet, within the assurances and  
 9 finance issues paper.

10 So, for now, let's get -- let's get started on  
 11 a fairly detailed discussion of how the concept of user  
 12 fees may -- may enter into the overall finance program,  
 13 and for that, I will turn it over to Zach McReynolds,  
 14 until we get done with Mr. Graff's question --

15 COUNCIL MEMBER GRAFF: Yeah. Well --

16 COUNCIL MEMBER HASSELTINE: -- that is.

17 COUNCIL MEMBER GRAFF: -- just one point.

18 Yesterday, you may recall, I asked the  
 19 question of whether we were going to have Governor's bond  
 20 proposal on the agenda, and then there's been silence  
 21 since then, and maybe some of the people here don't  
 22 realize why, and basically what happened was  
 23 Mary Scoonover came to me and said it wasn't noticed on  
 24 the agenda, therefore it couldn't formally be discussed,  
 25 but I just wanted to note that it is very closely related

91

1 to what we're about to discuss, and so, since we're not  
 2 going to meet again until May, a lot of what happens on  
 3 the bonds may happen between now and May, and so I just  
 4 want to say, at least to some extent, we can't avoid  
 5 talking about the two of them in concert.

6 COUNCIL MEMBER HASSELTINE: Fine with me.  
 7 Zach.

8 MR. McREYNOLDS: Thank you, Eric.

9 It's possible that my presentation may  
 10 actually fit these two things together; if not, I'm sure  
 11 that we can figure out how that's supposed to work, but  
 12 let me step back to sort of the fundamentals of what we've  
 13 talked about before, in terms of financial strategy.

14 I'm glad we got to take a break before we  
 15 started, because otherwise I was thinking about like  
 16 having everybody do callisthenics, because you know how  
 17 the -- exciting this finance stuff is and everybody just  
 18 sort of, you know, snaps --

19 CHAIRPERSON MADIGAN: Now Zach --

20 MR. McREYNOLDS: -- awake the instance  
 21 that you start talking about it, but --

22 CHAIRPERSON MADIGAN: Zach, you need  
 23 to --

24 MR. McREYNOLDS: Yes.

25 CHAIRPERSON MADIGAN: -- understand

92

1 that -- that -- and -- and frankly it's very impressive.  
 2 Here is a group that has willingly undertaken the notion  
 3 of having a sugar fix in order to stay alert and effective  
 4 during these conversations.

5 I've noticed all of you forcing yourselves to  
 6 pick up the red licorice and the -- the chocolate, and --  
 7 and I'm in -- and I'm impressed with your commitment to  
 8 the process that would allow you to do that.

9 MR. McREYNOLDS: We could probably get  
 10 some more M&Ms in here, too, if we needed them. Let me  
 11 know how that works.

12 The financial strategy: Now I know this is a  
 13 little bit broad and general, but the financial strategy  
 14 is to answer the question "How are you going to pay for  
 15 this whole thing," and the answer is we're going to pay  
 16 for it with a mix of Federal, State, and user, or  
 17 end-user, funds. That's pretty broad and general, but  
 18 that's the strategy, and in the absence of specific  
 19 numbers, how much these things are going to cost, it was  
 20 really hard to come up with specific cost allocations for  
 21 who's going to pay how much, because I mean as soon as you  
 22 make this first statement -- I've got to have my little  
 23 laser thing.

24 As soon as you make this first statement that  
 25 it's going to be a mix of Federal, State, and end-user

1 funds, the next thing is "Well, how much for each," and  
 2 where we've gone is to say, "Well, we" -- "we don't have  
 3 the specific numbers right now, but we can lay out some  
 4 principals, some guidelines that will constrain the  
 5 answer," so that when you start trying to divide it up  
 6 later you've got some rules to play by.

7 So that's what we have been working on, and  
 8 that's what Eric discussed last month, or this set of  
 9 rules or -- wow, thanks -- this set of rules or guidelines  
 10 that would tend to constrain the answer, when you start  
 11 trying to figure out who's going to pay how much of those  
 12 three sources.

13 I'm not going to rehash this whole  
 14 presentation, because I really want to get to a level more  
 15 detail in this presentation, but this is more a matter of  
 16 context for what I'm going to talk about later in this  
 17 presentation, is our -- our background of where we've come  
 18 so far, and, you know, CALFED has a Hall of Fame for  
 19 classic overheads that we've presented to you, and I don't  
 20 know if you remembered last month, but Chairman Madigan  
 21 called one of my charts, I believe, a wiring diagram for a  
 22 pentium chip, and that one is now in the CALFED Hall of  
 23 Fame, and I've -- this is the 286 chip, and -- I'm  
 24 sorry -- the colors came out a little muddled.

25 I'm disappointed. I took this over to Kinko's

1 and had it printed out, and it didn't come out the same  
 2 quality that we normally get, but this is the same -- this  
 3 is the pentium chip simplified, and the whole point that  
 4 that chart last month was trying to make relates to --  
 5 here's our program, the yellow boxes. That's the  
 6 alternative, all the pieces put together, and the theory  
 7 is that benefits flow out of, for instance, storage and  
 8 conveyance to end users and also to the public; that's a  
 9 theory, and that benefits throw -- flow from --

10 CHAIRPERSON MADIGAN: Don't anybody --

11 MR. McREYNOLDS: -- the common --

12 CHAIRPERSON MADIGAN: -- react too  
 13 quickly just yet.

14 MR. McREYNOLDS: Yeah. I -- I know where  
 15 some of the complaints are on this stuff --

16 CHAIRPERSON MADIGAN: Yeah.

17 MR. McREYNOLDS: -- so I'm --

18 CHAIRPERSON MADIGAN: Yeah.

19 MR. McREYNOLDS: -- trying to cover  
 20 myself in advance.

21 Benefits flow out of the common programs to  
 22 end users and to the public, and -- I don't know if you  
 23 can see these very well.

24 See these big, fat green lines and this big,  
 25 fat green dollar sign?

1 That's where the money comes from. Money  
 2 comes from the public to go back and pay for those  
 3 programs, so that's the simplified version. That's all --  
 4 that's all that chart last month was trying to say was  
 5 that there's benefits flowing out to people, and the money  
 6 is coming back, and this is important, because as  
 7 you'll -- as you'll see later, we can zoom in on parts of  
 8 this and get into some more detailed questions.

9 Okay. When we -- when we talked about these  
 10 principals in our finance work group, we kept hitting up  
 11 against some of the same couple of questions over and  
 12 over, and one key issue, one of the -- one of the two big  
 13 friction points that we keep bumping up against is the  
 14 idea of user funding for the common programs, and where  
 15 that fits into this, same chart, but we're just now taking  
 16 the magnifying glass and zooming in on this region.

17 Should end users pay for part of the common  
 18 programs? That's one of the four quadrants here.

19 That doesn't mean that the other four  
 20 quadrants don't exist, but this is the one I'm going to  
 21 focus on today in this presentation, this sort of  
 22 northeast quadrant here, and that's what this -- this  
 23 controversy is about.

24 Now before I get too much farther into this,  
 25 Mary Selkirk has asked me to put up, so that you can think

1 about them, the questions that I would like to pose at the  
2 end of this presentation, sort of, you know, the -- the  
3 general question to me is, "Well, what do you expect out  
4 of BDAC? What" -- "What questions do you want them to  
5 answer for you? What kind of feedback do you want? What  
6 are you trying to get out of this?"

7 Well, here's the questions that I'd like to  
8 talk about when I'm finished.

9 First question: Should a water-user charge be  
10 used to fund a portion of the common programs?

11 Is the Delta watershed the appropriate  
12 geographic reach for such a charge?

13 Should an across-the-board charge be used that  
14 includes all users?

15 Should so-called ability-to-pay concerns be  
16 considered, and if so, how?

17 And the last question, if we just have lots of  
18 time left over at the end, can this approach be  
19 generalized?

20 And I'll explain what I mean by that if we --  
21 if -- if we get to that, but quickly, what that means is  
22 that I'm focusing on water users and the common programs,  
23 and I'm wondering if the approach can be generalized to be  
24 any type of user for any type of program, and I don't know  
25 if we'll have time for that or if there will be any

97

1 interest, but that's the idea of that last question.

2 Okay. So kind of memorize those. That's kind  
3 of what you're going to be hit with at the end of this  
4 presentation as -- as questions back to you.

5 Okay. First of all, we're talking about user  
6 funding for the common programs.

7 Now we acknowledge here that there are lots of  
8 different types of potential end users. You have water  
9 users, property owners, fisheries users, recreational  
10 users, water dischargers, power users, and potentially a  
11 whole list of others that -- I always put others on there,  
12 because I usually forget one important one, and this keeps  
13 me from looking like I forgot, but I don't know what's in  
14 here. I tried to put all the ones I could think of in  
15 there.

16 If you can think of some others, let us know,  
17 because the idea is to have sort of the whole universe up  
18 on the screen to begin with.

19 I put that chart up because I was going to  
20 put -- I was going to put this chart up, and I didn't want  
21 you to think that I had forgotten about the others, but  
22 this presentation really is only focusing on water users.  
23 That doesn't mean that the others aren't there. It's that  
24 I -- we're trying to get some focus on this particular  
25 issue.

98

1 First question, in my mind, was: What's the  
2 rationale for having water users pay for a portion of the  
3 common programs? What's your -- what's your logical  
4 justification for having that happen?

5 We talked about three of them. The first one  
6 has to do with our benefits-based principal, which is  
7 really what's reflected in this chart on the left.

8 If you have benefits flowing out of the common  
9 programs that go to the end users, then the benefits-based  
10 principal says they ought to be paying part of the costs.

11 The second possible rationale -- and these are  
12 separable. These are -- there's -- these are connected by  
13 "or"s, so it could be one or more of the following  
14 rationales might give you a basis for having this kind of  
15 a charge on end users, but the second rationale might  
16 be -- and this is sort of ala Racennall decision, where  
17 everybody that's part of the problem needs to contribute  
18 to find the solution. Another justification may be  
19 that -- that end users are part of the problem and,  
20 therefore, they should somehow be contributing to the  
21 solution.

22 And in our discussions in the finance work  
23 group, one of the -- one of the reasons that this was  
24 important from a -- a -- an economic standpoint, was this  
25 concept of internalizing costs, which is -- it may be best

99

1 defined by an example, but it's generally the idea that  
2 when you're making a decision on how to use water, the  
3 costs that you're thinking about should include your  
4 impacts on the ecosystem, as well as just the costs of the  
5 pumping or the pipes or the actual water purchases. You  
6 need to think about the -- the overall effects of your  
7 actions and internalize or bring those kinds of costs or  
8 impacts into your decision-making process.

9 And the third justification for having an  
10 end-user charge is really a practical consideration, and  
11 this little box at the bottom is trying to illustrate  
12 that, and, once again, this is separate from the other two  
13 reasons, but it turns out that user funding is one of the  
14 ways that you can get a stable source of revenue for  
15 "O" and "M."

16 If you look at the other sort of legs of the  
17 stool, if you look at the State and Federal general fund  
18 appropriations, which is what the -- the Bay-Delta Act,  
19 the Federal money that's coming in right now, is an annual  
20 appropriation from Congress. That can be used for either  
21 capital or "O" and "M," but it can hardly be called  
22 stable, because it's subject to appropriation risk every  
23 year. You're never quite sure how much you're going to  
24 get or if you're going to get it.

25 State G.O. bonds, which is what Prop 204 is,

100

1 sort of the second leg of the stool that we've got in  
 2 place right now, that's stable; approved by the voters.  
 3 You can -- you can do it. It can be used for capital, but  
 4 you can't use tax-exempt bond proceeds for "O" and "M," so  
 5 if you're looking for a stable source for "O" and "M,"  
 6 you've got to look somewhere else, and it turns out that  
 7 these kinds of end-user charges, put in place correctly,  
 8 can be stable and are fundable. They can be used for  
 9 either capital or "O" and "M."

10 I would point out that this isn't the only  
 11 source that you can get this kind of money. There are  
 12 other places that you can get stable sources of  
 13 "O" and "M" funding, but this one is an obvious one, and  
 14 it's a good one, so I'm not sure to what extent we need  
 15 to -- to develop others, but this -- one of the practical  
 16 reasons for putting something like this in place may be  
 17 the question of "Well, how else are you going to get  
 18 stable funding for "O" and "M" without something like  
 19 this?"

20 So that's the three reasons why -- why this  
 21 kind of discussion may make sense, and I think if you  
 22 assume that there is such a charge, which is already a  
 23 leap -- I mean we don't know if there's going to be a  
 24 charge like this, but if you assume that there is going to  
 25 be a charge, that -- that one -- that, for some reason,

181

1 one of these three rationale that I've just gone over  
 2 results in a charge, a bunch of questions coming up, and  
 3 these are the kind of questions we discussed in the  
 4 finance work group, and that's where -- I'm going to go  
 5 through them one at a time, so I think what I'll do is  
 6 I'll leave these questions up over here, as I step through  
 7 them, to try to sort of keep my place with where I am.

8 First of all, the first question I've kind of  
 9 already answered: What would the money be used for?

10 The specific focus of this discussion is  
 11 this -- this money would be used for the common programs,  
 12 and there is a -- there's a concern among people that if  
 13 you're going to raise money from this kind of a charge and  
 14 dedicate it to common programs that you have to make sure  
 15 that that's what it's spent for, that the -- that the  
 16 kitty doesn't get raided somehow, and that's sort of a  
 17 governance question which comes up, but generally the  
 18 answer to this kind -- this question is we're talking  
 19 about user money for common programs, so that's the answer  
 20 to the first question for this little quadrant, that  
 21 northeast quadrant of that chart.

22 The second question is: Who would pay it?

23 The concepts we talked about there, there are a  
 24 couple of different dimensions to this "Who would pay?"  
 25 The first has to do with geography.

182

1 What kind of area are you talking about?

2 This chart -- this is actually an another  
 3 CALFED Hall of Fame chart that I pulled out of the  
 4 archives. This is our little problem area, and then this  
 5 is the solution scope, but the general idea of this blue  
 6 area here, this defines the geographic extent of the  
 7 watershed for the Bay-Delta, plus the service areas, plus  
 8 a lot of the ocean out here, but, frankly, I couldn't  
 9 figure out how to wipe that off, but that's -- so if you  
 10 ignore that part out in the ocean, this part is the -- the  
 11 part that's on land right here was sort of the -- the  
 12 starting place for what kind of -- what the geographic  
 13 reach should be.

14 The only other alternative that we really  
 15 discussed in the finance work group was the whole state.  
 16 That seemed to be the two -- the two choices. Either you  
 17 get this kind of an area or you -- you somehow encompass  
 18 the whole state. And this one, in our discussions, looked  
 19 like the most attractive, the most logical, so in answer  
 20 to this question "Who would pay," generally -- and let  
 21 me -- since I'm about to sort of indicate a consensus  
 22 here, let me indicate that the work group didn't take a  
 23 vote on any of this stuff, and the representation at the  
 24 work group changes for every meeting, so you can't take  
 25 anything particularly that comes up here as being some

183

1 sort of a ringing, unanimous endorsement from this work  
 2 group that you sent off to do the work, but this is  
 3 generally the kinds of -- the consensus was forming around  
 4 the ideas I'm going to be talking about here, and then the  
 5 idea is to bring the questions back to BDAC, but generally  
 6 this looked like -- this kind of a region looked like  
 7 where the consensus was -- was heading, as opposed to a --  
 8 an overall statewide-type charge, more sort of a  
 9 connection to the -- to the problem type rationale than  
 10 anything else.

11 The second dimension of that question "Who  
 12 should pay" had to do with the -- the type of water right,  
 13 and there are lots of different types of water rights out  
 14 there, and ignoring for now the practical and political  
 15 and legal complexities of making this statement, generally  
 16 the work group said, "It shouldn't matter. If you're  
 17 talking about a fee for common programs, it shouldn't  
 18 matter what kind of water right you" -- um -- "the type of  
 19 water right that you get your water under. It should  
 20 apply universally."

21 Making that kind of statement is fraught  
 22 with -- fraught with complexity, and I'll discuss a little  
 23 bit of that later, but if you ask people sort of in  
 24 isolation, "What's the right answer," this is kind of what  
 25 they came up with. It shouldn't matter. You're talking

184

1 about using the water, not the legal basis under which you  
2 use it, and so you should -- you should ignore that.  
3 That sort of answers the "Who would pay"  
4 question.

5 This is the geographic reach, and it's anybody  
6 who uses water in that area. That's the water users  
7 you're talking about of "Who should pay?"

8 The next set of questions has to do with "How  
9 would the charges be determined," "What kind of things  
10 would you consider in setting the charge," sort of, in  
11 English, "How much per person?"

12 The first thing that people jumped in with was  
13 that it probably needed to be a mandatory-type fee, since  
14 you're talking about common programs, that a mandatory  
15 structure made the most sense.

16 The first thing that people said should be  
17 considered would -- in all likelihood, would be the  
18 quantity of use, and the concept there was -- and this is  
19 related somewhat to the next one, return flow. The  
20 quantity there was: How much water was used and didn't  
21 find its way back into the watershed?

22 So you're talking about -- and I don't know  
23 if -- I don't know what this means in legal terms, or if  
24 it has a meaning in legal terms, but the concept that  
25 people were talking about was the depletion concept, so if

185

1 you're -- if you're putting some of the water back in,  
2 you -- that's somehow taken into consideration.

3 The next thing that people said should be  
4 considered would be return flow, quantity of return flow,  
5 which relates back to what I just said; quality of return  
6 flow; location of the return flow.

7 The idea there is that the higher up in the  
8 watershed you put the water back in, the more benefit it  
9 has all the way down the river, and so you might want to  
10 take that into consideration in determining what your fee  
11 is.

12 And then the timing, and the timing goes back  
13 to our sort of time value of -- of water concept, where  
14 using water at one time has a different impact than using  
15 water at a different time, and your fee should probably  
16 reflect that, for the return flow, as well as the next  
17 one, which is time of use, and as I sort of -- time of use  
18 I kind of explained here, but it's -- these -- these are  
19 all three sort of related.

20 The things that people suggested probably  
21 shouldn't be considered at first are maybe as important.  
22 The priority of use and the type of use, and the -- the  
23 type of use relates to whether it's water for municipal  
24 and industrial purposes or for agricultural purposes or  
25 for environmental purposes. It's that -- what you're

186

1 using the water for, in the absence of considering  
2 these -- its impacts on these other sort of things, really  
3 doesn't matter, and your priority of use, your legal  
4 priority of use, really doesn't matter for this kind of a  
5 charge.

6 That -- this is a -- this is a tough order to  
7 fill, because this is sort of -- in an ideal world, if you  
8 could construct a fee without worrying about legalities or  
9 prior law or technical considerations, this is sort of  
10 what people think. You sit them in a room and you say  
11 "What should the fee look like for this sort of a  
12 purpose?" This is what they come up with, but it's a  
13 tough order. It's hard, and we can talk about some of  
14 that in a minute, but that's generally the answer.

15 How would charges be determined?

16 They'd be determined based on, I guess -- jump  
17 back. The charge would be the same for everybody, except  
18 for variations based on differences in these items, so if  
19 the fee's going to be different for different people, it's  
20 going to be because they have different characteristics on  
21 either the amount they use, how it returns back to the  
22 system, or the time they use it.

23 The next thing we talked about was starting  
24 and ending, when -- when would such a fee begin and end.

25 This is a -- this is -- this is actually a --

187

1 we didn't have a real specific answer to this, but we --  
2 once again, we had sort of some -- some parameters, some  
3 ideas on -- on what should -- what should you take into  
4 consideration when you're starting to -- when you're  
5 talking about the starting date.

6 The first one is the practical needs, which  
7 essentially, if you put it into English, "Well, when do  
8 you need the money?"

9 I mean if you're going to use it for common  
10 programs, when do the common programs start, and how much  
11 do you need, when, so you have to take that into  
12 consideration.

13 There's also some discussion that people  
14 shouldn't start paying such a fee until they're starting  
15 to get some kind of benefit related to it, so you probably  
16 need to think about when the benefits start, as in terms  
17 of when such a fee should start.

18 And the last one has to do with the topic that  
19 I think Lester and Mary Scoonover touched on yesterday and  
20 then a little bit again this morning, which is: This kind  
21 of a fee might be part of an overall assurances package,  
22 and that's kind of what this little graphic here is  
23 referring to.

24 Part of the assurances deal, part of your --  
25 your complex negotiation of linking all the components

188

1 together and tying them together may -- may have financial  
 2 aspects to it, like when this fee might start, and what  
 3 I've shown here is just a conceptual example of -- let's  
 4 say you have a certain common program that you're trying  
 5 to fund. You might have some period of time that --  
 6 that -- that -- the concept here is you'd be going for the  
 7 first, you know, five or ten years with a low level of  
 8 fee, and then you have some sort of assurance trigger that  
 9 kicks in and says, "Okay. Now you can move forward on" --  
 10 "on a storage-type option."

11 Well, one of the -- one of the triggers to  
 12 that or one of the conditions to that is that you ramp up  
 13 the user fee, and that's how you connect the two.

14 So notice that the years aren't labeled and  
 15 the dollars amounts aren't labeled, so it's a -- it's --  
 16 it's more of a conceptual idea than it is a specific  
 17 example, but it's one of the things that might effect when  
 18 such a fee might begin, is how it's worked into the  
 19 overall assurances plan.

20 Ending date, there were a lot of comments that  
 21 you -- any type -- any fee like this you put into place  
 22 needs to have built-in sunset provision, and then the sort  
 23 of the counterpoint to that is "Well, yeah, but the  
 24 "O" and "M" costs don't have an end date" -- "end date."  
 25 They keep going on."

109

1 So if you're going to use this for  
 2 "O" and "M," then you need to have this kind of a fee  
 3 on -- on tap to be able to pay for those "O" and "M" costs  
 4 for as long as you expect those things to be around, and  
 5 that's a -- that's a tension that we can't really resolve  
 6 at this point, because we don't have the specific enough  
 7 application of this kind of a fee, but I think that those  
 8 are the kinds of -- of things, dynamics, that you need to  
 9 think about in terms of an ending date for this kind of a  
 10 fee.

11 Next question: How would the fee be  
 12 collected?

13 You've got some -- some easy ones and some  
 14 hard ones. You -- one way that you can collect this kind  
 15 of a fee would be under some sort of an amendment to  
 16 existing contractual relationships.

17 Once again, I'm not suggesting that any of  
 18 this is easy, but here's the roster.

19 The second thing could be, as part of your  
 20 implementation agreement or package, whatever set of  
 21 things that Mary just talked about that you end up putting  
 22 in place to get the whole deal moving, whether that's  
 23 State legislation or Federal legislation or signed  
 24 contracts or bond covenants or whatever it is, you can --  
 25 you might be able to find a way to legally impose such a

110

1 fee on the correct group of people through this kind of an  
 2 implementation package.

3 You might also be able to make it in terms of  
 4 when people sign up for program benefits. If people, for  
 5 instance, opt in to some storage facility, they say,  
 6 "Yeah, I like this particular storage facility. I'm going  
 7 to sign up," well, one of the things that they might sign  
 8 up for at the same time is this kind of a fee. It's like  
 9 a possible tool.

10 And the last bullet point sort of goes without  
 11 saying. I don't know the exact structure of how this  
 12 would be worked out, but these are the -- some of the  
 13 kinds of tools that you can use to put this in place.

14 CHAIRPERSON MADIGAN: Byron.

15 COUNCIL MEMBER BUCK: Question, Zach.

16 I don't see legislation up there for a  
 17 mechanism, or is that just --

18 MR. McREYNOLDS: It's hidden in here.

19 COUNCIL MEMBER BUCK: In there? Okay.

20 MR. McREYNOLDS: It's hidden under

21 implementation agreement, slash, package. It's a  
 22 programmatic term, but that's -- that's where it's  
 23 supposed to be.

24 CHAIRPERSON MADIGAN: Alex.

25 COUNCIL MEMBER HILDEBRAND: For me, it

111

1 would take a major bureaucracy to implement it. You'd  
 2 have to, under this scenario, determine the efficiency of  
 3 water use of every single party here, whether they be a  
 4 contract water user or a riparian water user. You'd have  
 5 to determine whether he was degrading the water quality in  
 6 terms of merely concentrating the load that's in it or  
 7 whether he's adding load to it or whether the load he's  
 8 adding is detrimental or not.

9 I think it's just a quagmire.

10 CHAIRPERSON MADIGAN: Eric.

11 COUNCIL MEMBER HASSELTINE: Well, you're  
 12 absolute -- you're absolutely right, Alex. It is a  
 13 quagmire, and it's a quagmire before we even get into your  
 14 quagmire, and it all starts with trying to calculate the  
 15 benefits to everyone and then allocate the costs of -- of  
 16 the action, in proportion to the benefits received, so I  
 17 mean there's an endless, endless number of calculations  
 18 that could be assigned to this program, part of which  
 19 you've just indicated.

20 It's our feeling that we have to come to grips  
 21 with some basic principals that would apply here that  
 22 would govern the way in which this is financed, and then  
 23 through some sort of judgmental process, without doing  
 24 those detailed calculations, try to come down to some sort  
 25 of reasonable allocation of the cost of the program back

112

1 to the people of the State of California, whether you call  
2 them the public, through their taxes, or you call them the  
3 users, through the water they use, and -- and within --  
4 and then the user fees, of course, apply only to the  
5 geographical area that -- that Zach showed on the map,  
6 which is -- I don't -- I don't know. It looked like about  
7 80 percent of the state, whereas the taxes would apply to  
8 everybody, and there's -- there's arguments on both sides  
9 of that.

10 But nevertheless, we're looking for some  
11 reasonable way to get some sort of an allocation formula  
12 out on the table so that all the parties involved in the  
13 end can come together, as we all expect and anticipate, to  
14 more or less negotiate this thing out, and the -- I don't  
15 know how big that table is going to be, but certainly the  
16 stakeholders are going to be involved, and then, from what  
17 we heard yesterday, the legislature is probably going to  
18 be involved, and -- and a lot of other people are going to  
19 be involved, because everybody is affected, but, you know,  
20 in the end, it -- it has to be not so much what can be  
21 demonstrated mathematically or philosophically to be fair  
22 and equitable to meet everything else, but the final  
23 result is what's going to be acceptable to the people of  
24 California.

25 CHAIRPERSON MADIGAN: Maybe we could --

113

1 COUNCIL MEMBER HASSELTINE: And --  
2 CHAIRPERSON MADIGAN: -- contract with  
3 the I.R.S. Their auditors seem to be --  
4 COUNCIL MEMBER HASSELTINE: There you go.  
5 CHAIRPERSON MADIGAN: -- in that kind of  
6 a mind-set.  
7 COUNCIL MEMBER HASSELTINE: But --  
8 COUNCIL MEMBER HILDEBRAND: Like you --  
9 COUNCIL MEMBER HASSELTINE: But --  
10 COUNCIL MEMBER HILDEBRAND: -- say --  
11 COUNCIL MEMBER HASSELTINE: But --  
12 COUNCIL MEMBER HILDEBRAND: -- let's not  
13 establish a new I.R.S. We've --  
14 COUNCIL MEMBER HASSELTINE: No.  
15 COUNCIL MEMBER HILDEBRAND: -- got one.  
16 COUNCIL MEMBER HASSELTINE: Well, all  
17 we're trying to do is to get some sort of reasonable  
18 financing program on the table to be determined and -- and  
19 adopted or -- or modified, whatever, by whatever final  
20 process it will follow the BDAC process, because I -- I'm  
21 sure we all know that whatever we come up with here, as an  
22 advisory commission, is not the final deal, and -- and so  
23 we don't see anything really to be gained by doing massive  
24 detailed calculations of benefits and/or the types of  
25 things that -- that you just brought up, Alex, in terms

114

1 of, you know, exposure to -- to user charges or the  
2 criteria on which user charge might be based, if you were  
3 going to do that type of a technical discussion.

4 CHAIRPERSON MADIGAN: Byron and then  
5 Howard and then Bob.

6 COUNCIL MEMBER BUCK: Eric made a point  
7 which really resonated me is the basic principals for  
8 this, and it gets right back to Alex's quagmire, and  
9 this -- this is really Public Administration 101, and,  
10 Mike, you can probably help me on this, but if I recall,  
11 sort of basic principals for fee structures or taxing in  
12 general is equity, ease of collection, and simplicity, and  
13 we need to balance those --

14 CHAIRMAN MADIGAN: Right.

15 COUNCIL MEMBER BUCK: -- things. We  
16 can't get --

17 CHAIRMAN MADIGAN: Right.

18 COUNCIL MEMBER BUCK: -- in our pursuit  
19 of equities, so detailed that we get a structure that is  
20 so complicated that we end up in quagmires and  
21 bureaucracies, like Alex fears. We really have to balance  
22 those three objectives and -- and achieve it with that  
23 balance.

24 CHAIRPERSON MADIGAN: Howard.

25 COUNCIL MEMBER FRICK: Why would you

115

1 include areas of the State that have no hydrologic -- no  
2 hydrologic connection to the Delta, either supply-wise or  
3 use?

4 MR. McREYNOLDS: Okay. Actually that --  
5 that point was brought up in the work group directly, and  
6 the sort of immediately res -- immediate feedback was,  
7 "Well, that doesn't make a lot of sense," so if you had a  
8 fee or some sort of a charge that was statewide, you might  
9 get in -- in a complex situation of having to figure out  
10 where the money came from and try to put it back into that  
11 region, and for that -- that's one of the reasons that  
12 people sort of moved away from that statewide concept  
13 towards the -- well, how -- you described it well, the  
14 hydrologic connection, somehow.

15 COUNCIL MEMBER HASSELTINE: I think  
16 that's what we were trying to do, Howard. We were -- we  
17 were trying to, in fact, delineate the areas that  
18 specifically related to who was getting the water from the  
19 Delta system, and that's what the map was on the -- on the  
20 board. The darker areas on that -- on that map delineated  
21 those, and those would be the areas in which the user  
22 charges were pertained, but it is -- it is also our  
23 feeling -- and as we've seen to date, the only way we've  
24 gotten this program moving is with the aide of State and  
25 Federal funds, and there will still be a component of

116

1 State and Federal funding, there will have to be, to make  
 2 this program work.  
 3 There's no way that you could raise the money  
 4 just from -- from user charges for this -- for the program  
 5 that we anticipate, so -- and -- and the only point I was  
 6 making, when I talked about the whole state, was that if  
 7 we -- if we are using State and Federal tax money or other  
 8 funding for this program, then, enact, we are essentially,  
 9 you know, taxing the entire State of California.  
 10 COUNCIL MEMBER FRICK: I could see the  
 11 component for the whole state, but when you eliminate any  
 12 of it, I -- I would -- I would assume you would have to  
 13 eliminate the Salinas Valley, Kern River, those that  
 14 really have no connection.  
 15 COUNCIL MEMBER HASSELTINE: Don't know.  
 16 I mean what we -- what we did was we took the -- the map  
 17 that was shown earlier today as to what's been the  
 18 geographical area that -- that is sort of the -- has --  
 19 has impacts on this program, or on which the program has  
 20 impacts.  
 21 CO-CHAIRPERSON McPEAK: And you're  
 22 questioning that, right, Howard, that you --  
 23 COUNCIL MEMBER FRICK: My question is how  
 24 the Salinas Valley, for instance, would be affected.  
 25 MR. McREYNOLDS: So you're saying I had a

117

1 bad map?  
 2 CO-CHAIRPERSON McPEAK: Yes.  
 3 MR. McREYNOLDS: I can buy --  
 4 CO-CHAIRPERSON McPEAK: Yes.  
 5 MR. McREYNOLDS: -- that.  
 6 COUNCIL MEMBER FRICK: Yeah.  
 7 CO-CHAIRPERSON McPEAK: Yeah.  
 8 COUNCIL MEMBER FRICK: Okay.  
 9 MR. McREYNOLDS: Okay. Bad map.  
 10 I -- I was -- I -- I -- I -- I pulled the map  
 11 out of our archives as --  
 12 COUNCIL MEMBER FRICK: I --  
 13 MR. McREYNOLDS: -- a historical map.  
 14 COUNCIL MEMBER FRICK: I took it too  
 15 literally. Excuse me.  
 16 MR. McREYNOLDS: The concept -- I -- I  
 17 think the concept is that in the -- in the watershed, I  
 18 think -- and Eric said this, I think, well at the work  
 19 group, that people who use water that flows into the Delta  
 20 or otherwise would have flowed into the Delta, that's the  
 21 people -- that's the watershed we're talking about, and  
 22 that -- and the service area are for people who pull water  
 23 out of the Delta watershed, so sorry. Bad map.  
 24 CO-CHAIRPERSON McPEAK: Alex.  
 25 COUNCIL MEMBER HILDEBRAND: I think, from

118

1 what you described there, you'd have to go down to each  
 2 individual residential user, because some of his water  
 3 goes back in the system and some of it doesn't.  
 4 MR. McREYNOLDS: Yeah. I --  
 5 COUNCIL MEMBER HILDEBRAND: And he --  
 6 MR. McREYNOLDS: I --  
 7 COUNCIL MEMBER HILDEBRAND: He puts --  
 8 MR. McREYNOLDS: I have to --  
 9 COUNCIL MEMBER HILDEBRAND: --  
 10 contaminants in it or he doesn't and how much, so you'd  
 11 have to analyze it for every single water user in the --  
 12 COUNCIL MEMBER HASSELTINE: Well --  
 13 COUNCIL MEMBER HILDEBRAND: -- in that  
 14 whole area.  
 15 COUNCIL MEMBER HASSELTINE: Yeah, we do  
 16 that, Alex, but we do that through the water agencies  
 17 through which they get their water or the waste water  
 18 treatment agency through which, you know, they -- you  
 19 know, get rid of the water.  
 20 COUNCIL MEMBER HILDEBRAND: You've got to  
 21 distinguish between the guy that has a half an acre of  
 22 garden and the one who doesn't.  
 23 MR. McREYNOLDS: Yeah, I think that's an  
 24 excellent point, and that's -- the reason I threw this  
 25 last overhead of the presentation up there was that --

119

1 really to -- to capture the point that Byron made, which  
 2 is you've got to -- you've got to figure out what's  
 3 practical here.  
 4 What I described was sort of the -- the ideal  
 5 structure, ignoring the complexities of how you would  
 6 actually do such a thing, and there are some real concerns  
 7 about the implementation which have to do with things like  
 8 practical measurement of usage and political and legal  
 9 challenges, but I think that -- that the stage that -- and  
 10 I guess, to respond directly, I think that you could  
 11 easily, if you tried to follow these rules as sort of  
 12 mindlessly, you could easily get to a situation where  
 13 you'd have a hopeless complexity of -- of analysis that  
 14 you could never work your way through.  
 15 So what you're going to have to do is decide  
 16 which things to pitch overboard and which things to sort  
 17 of make sacrifices on for practical expedience, and so  
 18 what we're laying out is kind of the -- the guidelines,  
 19 but your -- your comments are -- are well taken that --  
 20 that such a perfect structure would lead to a -- an  
 21 incredible amount of calculation.  
 22 That -- I don't think that -- by the way, that  
 23 necessarily means you throw the whole idea out, but you  
 24 might have to make compromises or -- or tradeoffs on some  
 25 of the specific things that people talked about, in order

120

1 to make the fee or charge even practical, but there are  
 2 some other -- I mean beyond your concerns, there were some  
 3 other concerns that people raised in talking about this.  
 4 Assuming you had a charge and you put it  
 5 together, even roughly, as I just described, the concerns  
 6 that people had were really the affordability of that kind  
 7 of a fee, and that has a couple of different -- couple of  
 8 different sort of sub-themes.  
 9 One is whether or not that kind of a fee or  
 10 charge results in direct benefits back to the people who  
 11 are paying it. That's a concern.  
 12 The second is that some of the benefits, as --  
 13 as Eric described earlier, some of the benefits are -- are  
 14 difficult to quantify, and even if you can quantify some  
 15 of them, some of those you can't quantify in dollar terms.  
 16 You can't somehow monetize them, so even if you can figure  
 17 out what you're doing, you can't translate that easily  
 18 into dollars.  
 19 That makes it even harder to have a direct  
 20 link between this kind of a charge and a direct benefit in  
 21 the -- that you can match up on a dollar-per-dollar basis.  
 22 And then the other affordability question  
 23 that's referred to here relates to type of use, which the  
 24 affordability question may vary depending on the type of  
 25 use. You have different levels of potential affordability

1 for different types of uses.  
 2 And then this whole roster of -- of concerns  
 3 that -- that -- you've picked off one, Alex, which is how  
 4 would you practically implement such a thing, and you'd  
 5 have to -- you'd have to come up with something you can  
 6 actually do, without creating a new I.R.S. to make it a  
 7 good idea to follow up on, and the -- the point I sort of  
 8 referenced earlier, which is that you'd -- there's a lot  
 9 of concern about the future management of the funding.  
 10 How would you take care of it and make sure it  
 11 was spent the way it was intended to be spent?  
 12 Who would be making the future decisions on  
 13 priorities and -- and where the money would go?  
 14 So that -- that was the sort of list of  
 15 concerns that we came up with.  
 16 Now sort of --  
 17 CHAIRPERSON MADIGAN: We've got -- we've  
 18 got another couple of questions here.  
 19 Bob.  
 20 MR. McREYNOLDS: Yeah. I'm -- I'm  
 21 finished.  
 22 COUNCIL MEMBER RAAB: Mine could wait  
 23 until Zach is finished.  
 24 CHAIRPERSON MADIGAN: All right.  
 25 Okay. Judith.

1 MR. McREYNOLDS: I actually am finished  
 2 with the presentation, and it's sort of time to -- time to  
 3 throw it, I think, open to -- to questions, and what I --  
 4 the reason I put this back up is I just wanted to remind  
 5 you that we have -- which way does this need to go?  
 6 This way.  
 7 We have other discussions to be had, I think,  
 8 in some of these other quadrants, but I would -- I -- I  
 9 think the work group, and certainly I, as a -- as a staff  
 10 person, would really appreciate some feedback focused on  
 11 this quadrant, and these are the kinds of questions that  
 12 I've tried to pose that would provide really useful  
 13 feedback in trying to get this sub-issue clarified.  
 14 CHAIRPERSON MADIGAN: Okay. Bob, do you  
 15 want to go ahead?  
 16 COUNCIL MEMBER RAAB: Okay. This is a --  
 17 an overall comment on the finance committee.  
 18 I have been attending the committee meetings  
 19 from the start, and this discussion is something that we  
 20 should have had a year ago. We should have been past this  
 21 and into the serious matter of who pays how much.  
 22 In my mind, Zach has been a racehorse with a  
 23 400-pound jockey, and that -- that jockey --  
 24 MR. McREYNOLDS: Which one am I?  
 25 COUNCIL MEMBER RAAB: Pardon me?

1 MR. McREYNOLDS: Which one am I?  
 2 COUNCIL MEMBER RAAB: I said you were the  
 3 racehorse.  
 4 And that jockey -- the composition of this  
 5 committee has been about 80 percent water districts, urban  
 6 and agriculture, and every time we get to user fees, we  
 7 never get into any -- anything more than three or four  
 8 inches of water, because then the urban districts start  
 9 talking about "Oh, user fees, well, that means a rate  
 10 increase, and then our Board of Directors become afraid,  
 11 because if we" -- if they raise the rates, the Board will  
 12 be recalled, and they give examples of Boards that have  
 13 been recalled because they raised the pay -- fee maybe  
 14 even a modest amount.  
 15 Agriculture says, "Okay. User fees, that  
 16 means a higher operation cost. That means our -- not only  
 17 will our Board be recalled in our irrigation district, but  
 18 we'll all go bankrupt," not all, but a lot.  
 19 So the result is that we've never really had  
 20 in-depth discussion of who pays how much.  
 21 The CAL roundtable and Bay Area Council came  
 22 up, about three or four years ago, with a model, and  
 23 they -- of this matter of who pays how much, and I have  
 24 been hoping that we would get into the -- to the kind of  
 25 statistics that they developed that would apply -- well,

1 let me backtrack a minute.

2 I thought that what they did was -- what they  
3 proposed, they proposed user fees for agriculture, which I  
4 thought were way too high, and they proposed user fees for  
5 urban districts, which I thought was way too low, but the  
6 point is they did something, and I feel that we haven't  
7 shown the kind of willingness -- our water districts  
8 haven't shown the kind of willingness to engage in this  
9 fundamental thing that we have to come to grips with, and  
10 so I'm hoping that -- this is another quagmire. I hope we  
11 can get out of this one soon.

12 CHAIRPERSON MADIGAN: Thank you.

13 I have Judith and then Byron.

14 COUNCIL MEMBER REDMOND: I just have a  
15 thought about the user fees which seem like there's going  
16 to have to be some sort of user fees, and framing it as  
17 somehow punitive that it's related to the -- the fact that  
18 users have been a part of the problem seems like it could  
19 defeat the purpose of -- that we have, which is to try to  
20 get farmers and urban districts -- ag -- ag and urban  
21 districts to cooperate with the common programs, and I  
22 wonder if the user fee couldn't somehow be coupled with  
23 the success and the degree of cooperation that was  
24 achieved by various districts with various common  
25 programs; in other words, framing it in more of a

125

1 solution-oriented way.

2 The degree of cooperation or the degree of  
3 success in the common programs would potentially be  
4 somehow linked to the user fee, that the common programs  
5 are going to start at a certain point and -- and move  
6 along and that we can sort of call that the zero point.

7 I mean I -- I do think that you need to get  
8 out of this quagmire of figuring out how much harm  
9 everyone has done, because you end up starting in an  
10 acrimonious position.

11 CHAIRPERSON MADIGAN: Okay.

12 Okay. Byron, Tom, Roberta, and then Sunne.

13 COUNCIL MEMBER BUCK: Echoing Judith's  
14 comments, let me first -- first emphatically support the  
15 fundamental philosophy as expressed on page 15, that its  
16 costs will be paid by beneficiaries of the actions, as  
17 opposed to seeking payment from those over time  
18 responsible for causing the problems. I think moving  
19 forward and deciding who benefits is fundamentally the way  
20 to go. Trying to assign costs based upon alleged past  
21 sins, given the myriad of problems out there and our lack  
22 of true understanding as to share is just a fundamentally  
23 unproductive strategy and won't -- won't lead to anywhere,  
24 and we do need to get to solution.

25 Now Bob's comments on -- on water districts,

126

1 let me -- let me go to that, and first let me clearly put  
2 on my urban hat and clearly put on the hat that -- this is  
3 sort of at a staff level at this point participating in  
4 the work group and -- and Amy Fowler is here with us, and  
5 I welcome her to correct me if I get this wrong in any  
6 way.

7 We haven't had any policy level buy-in on  
8 this, but to get to -- to Zach's question, "Should a water  
9 user charge be used to fund a portion of the common  
10 programs." I think we're willing to support that to some  
11 degree.

12 As a practical matter, as came up in the  
13 recycling example, the conservation example, we will be  
14 funding most of those things, because they are -- we have  
15 benefits from them. However, we're also willing to  
16 consider, say, funding through a user fee a portion of,  
17 say, the ecosystem program, because we indirectly will get  
18 benefits from that.

19 We fundamentally believe that ecosystem  
20 restoration is part of water supply reliability, and that  
21 we're not going to get quality and reliability unless we  
22 have a healthy ecosystem, so there is a connection for us  
23 there, albeit somewhat of an indirect one.

24 Is the watershed the appropriate geographic  
25 reach for the charge?

127

1 I think that's the symmetry of the program  
2 overall. Beneficiaries and -- and causes of problems in  
3 the system are -- are watershed related and export-area  
4 related, and so that -- that has a symmetry that works  
5 within the conservation program, as well.

6 Across the board, that probably gets to the  
7 simplicity, so we're probably supportive of that on a --  
8 on a water-fee basis.

9 Ability to pay, that ought to be considered;  
10 if so, how? I don't know yet. If there are problems  
11 going too far in one direction anywhere there, but I think  
12 we do have to realize that -- that not everybody has the  
13 same rate capacity out there.

14 At that point, I'd welcome Amy to add any  
15 supplementary comments, if she wishes to.

16 Is she still here?

17 Are you shaking your head, Amy?

18 I can't see you from here.

19 MS. FOWLER: Do I need to fill out a  
20 card?

21 COUNCIL MEMBER BUCK: Or Steve or any of  
22 my policy level people, you can now get out the rope and  
23 hang me.

24 MS. FOWLER: I'm Amy Fowler from  
25 Santa Clara Valley Water District. I'm definitely not

128

1 reflecting any kind of policy decision, because, like  
2 Byron indicated, most of the policy folks, at least in the  
3 urban area, have not fully engaged on this discussion yet.

4 But I -- what I'd like to emphasize is, even  
5 though we in the urban sector recognize that we have a  
6 certain obligation in paying into maybe a portion of the  
7 common program or a portion of the -- of the whole  
8 program -- but we need to also see that it is really  
9 linked to benefits received.

10 We, in the urban areas, have a certain fear  
11 that everybody looks at us as the -- as the deep pocket.  
12 We're the richest people around, so let's stick it to  
13 them.

14 We have to go back to our constituents and  
15 say, "This is what we would need to pay, and these are the  
16 benefits that you can expect out of this whole program,"  
17 and then our rate payers will make that judgment as to  
18 whether the benefits received is worth the payments that  
19 we are going to incur, so I would just like to make that  
20 point, and it is something that we will be constantly  
21 watching.

22 CHAIRPERSON MADIGAN: Thank you.

23 Eric.

24 COUNCIL MEMBER HASSELTINE: If I could  
25 interject comments.

129

1 Some of the comments so far I do want to  
2 respond to, but I want to sort of save it, and perhaps for  
3 wrapup at the end, in order to provide some direction of  
4 where we're going to be going next, but just -- I want to  
5 thank Byron for going through the list of questions here,  
6 because I mean we -- we do need answers to these things,  
7 in order for the -- for the committee to proceed, and  
8 that's one of the reasons, Bob, why -- why we brought it  
9 here today, as you're absolutely right.

10 We haven't been able to get to some of these  
11 issues that we really want to get to in the committee,  
12 because we've been hung up on -- on philosophical and  
13 policy questions, but Byron has just gone through and, I  
14 think, laid out a set of answers to these questions that  
15 probably reflect pretty closely what the -- what the  
16 consensus of the committee itself is.

17 So for those of you that are going to speak on  
18 the issue, I just wonder if you would do us the favor on  
19 perhaps commenting on the way in which you may disagree  
20 with the answers that -- that Byron has just put forth to  
21 these questions, as well as, of course, whatever other  
22 comments you were going to make, but, you know, we -- we  
23 would like to get some sort of feeling from BDAC as to  
24 what you really feel the answers are.

25 So thank you, Mr. Chairman.

130

1 CHAIRPERSON MADIGAN: Thank you, Eric.

2 Tom.

3 COUNCIL MEMBER GRAFF: One thing that  
4 struck me, when I read this -- the finance materials in  
5 the -- in our agenda packet and that actually came up  
6 again as I was listening to Zach, is that there's nothing  
7 in here about history. I mean this -- there -- there --  
8 we have a -- for better or worse, often worse, established  
9 ways of -- of financing water projects at the State and  
10 Federal levels, and I think one place we ought to have  
11 started, and maybe it -- it's somewhere else and it wasn't  
12 in the materials this time, is -- is what have we  
13 learned -- what -- what -- what are the current ways of  
14 doing it, and, you know, where do problems arise as a  
15 result, perhaps, as well.

16 And one thing that struck me is that this  
17 question that -- particularly the northeast quadrant that  
18 Zach addressed today, there's a very good history -- I  
19 mean a -- a very good example of where this was addressed  
20 by the United States Congress, and that was in the  
21 C.V.P.I.A., where it reached decisions on many of these  
22 specific questions and points that are somewhat -- as I  
23 was thinking and listening to Zach, are somewhat  
24 inconsistent with the way he framed the answers, and --  
25 and I mean, for example, he said there was -- there's

131

1 consensus that the depletion charge should be across the  
2 board.

3 Well, when Congress considered the question,  
4 they decided that the depletion charge should be \$6 an  
5 acre foot for ag and \$12 an acre foot for urban. Now, you  
6 know, that's a programmatic consideration. The acre --  
7 you know, the molecules are the same in both cases, but  
8 some combination of political power and -- and ability to  
9 pay, whatever, resulted in -- in a variation between the  
10 two.

11 The Friant users were charged an extra amount  
12 beyond what other ag users were charged, and the  
13 ostensible rationale for that is that they weren't  
14 contributing water, whereas, elsewhere in the C.V.P.I.A.,  
15 the -- the ag users were contributing water.

16 One that I didn't much like in the way that  
17 Congress came out was that transferees of waters  
18 transferred within the C.V.P. in the future or C.V.P.  
19 water to be transferred were charged a whole lot extra,  
20 well beyond even these charges.

21 The -- I see Roger nodding over there.

22 The -- the division between the water users  
23 and the power users continues to be a controversial issue,  
24 and that's somewhat beyond this quadrant, but when you get  
25 beyond the water users, which he pointed -- Zach pointed

132

1 out at the beginning, and we get to the other,  
 2 contributors, that becomes a very controversial item.  
 3 And another big one was that the contract  
 4 users were charged, but the settlement and exchange users  
 5 were not.  
 6 So, you know, there are -- we -- there's a --  
 7 there's a list of -- past list of kind of issues that were  
 8 addressed by Congress and one way or another were  
 9 resolved. Now people have differing views about how well,  
 10 but I -- I think we probably ought to review all that  
 11 history at some point and sort of figure out "Does this  
 12 have general application beyond C.V.P.I.A., or doesn't  
 13 it?"  
 14 CHAIRPERSON MADIGAN: Thank you.  
 15 Yeah, Zach.  
 16 MR. McREYNOLDS: Can I make one -- is  
 17 this on?  
 18 Yeah, one small clarifying remark, just to  
 19 make sure that I'm understanding your comments correctly.  
 20 There's two ideas there: One is that -- what  
 21 I meant to say by "across the board" had to do more with  
 22 who you included versus how much you charged, so  
 23 variations in fees, \$6 versus \$12, is -- was not what I  
 24 was trying to pick up by "across the board."  
 25 What I was trying to pick up by "across the

133

1 board" would mean all different types of -- of water  
 2 rights, you know, whatever --  
 3 CHAIRPERSON MADIGAN: Okay.  
 4 MR. McREYNOLDS: -- whatever -- whatever  
 5 legal basis. Enough clarification.  
 6 CHAIRPERSON MADIGAN: Thank you.  
 7 Roberta.  
 8 COUNCIL MEMBER BORGONOVO: I think that  
 9 it is important to have this discussion, because many of  
 10 us have been frustrated in not getting to some of the  
 11 issues, but for example when there was general agreement  
 12 on a benefits-based approach, there was this very --  
 13 CHAIRPERSON MADIGAN: Roberta, pull the  
 14 microphone a little closer, would you?  
 15 Thanks.  
 16 COUNCIL MEMBER BORGONOVO: There was this  
 17 strong sentiment from many of us that that would be  
 18 legitimate if you had all of the parties at the playing  
 19 field and one of the parties, of course, was the  
 20 environment, so there was this sense that the environment  
 21 wasn't at a level playing field, and it's -- it's -- it's  
 22 really one of those basic disagreements, and I -- I guess  
 23 it -- it comes down to the issue of should there be some  
 24 mitigation, and we did also decide early on that certainly  
 25 you didn't want to take away certainly mitigation

134

1 responsibilities -- I guess we'd call it the smoking  
 2 gun -- because that's also part of our history.  
 3 But there were some suggestions that were put  
 4 forth, for example, by David Yardee from the  
 5 Environmental Defense Fund, and -- and -- and one of these  
 6 suggestions was that when you look at the way CALFED has  
 7 done storage and conveyance, even if storage is, quote,  
 8 "being used for the environment," the idea is that really  
 9 you are not enhancing the environment by taking water out  
 10 and storing it and then putting it back; that that's  
 11 really a mitigation to allow ag and urban users.  
 12 So he just put out the idea as a way of  
 13 simplifying that issue that if storage and conveyance were  
 14 paid for by the users then we could move on.  
 15 It's not that we expected anybody to agree to  
 16 that, but, of course, what happened is it never got  
 17 discussed, and it's directly related to the water bond,  
 18 because that issue wasn't discussed, to have it then  
 19 sorted out in a water bond discussion in the legislature,  
 20 without having this fundamental issue described here was  
 21 very troubling.  
 22 So I think that one of the issues that we  
 23 looked at is -- we did look at trying to spread the user  
 24 fees on a very broad base, because, in effect, there are  
 25 all kinds of users that impact the Bay-Delta system, and

135

1 so the idea was that, if you were able to do that, it  
 2 wouldn't be a burden.  
 3 As far as the ability to pay, we agreed in  
 4 principal that the fee should be -- to start out with,  
 5 they should be equal across the board. It isn't that you  
 6 wouldn't go back and look at some of those issues.  
 7 Tom has mentioned some -- some of the  
 8 political clout, but also some of the real ability -- the  
 9 difference to spread costs much, much broader in an urban  
 10 sector than in the ag sector, but we agreed that that  
 11 should be done on a case-by-case basis; that it should be  
 12 clear that to a certain -- to a certain extent, if you do  
 13 that, you are having one sector or the public subsidizing  
 14 another sector, but these issues, I think, might be able  
 15 to be resolved if we could talk about them, but we just  
 16 never got to the point where we really got into the  
 17 nitty-gritty.  
 18 CHAIRPERSON MADIGAN: Thank you.  
 19 Sunne and then Mike and then Rosemary, Alex.  
 20 CO-CHAIRPERSON McPEAK: Well, I'm, too,  
 21 sort of frustrated by where we're not and how far we still  
 22 have to go, and I'm not sure what the dynamic is not being  
 23 able to get in to discuss the stuff, and I'll fully admit  
 24 that I probably oversimplify all of this, because of my, I  
 25 guess, simplenindedness, but I think we've tried to make,

136

1 as I told Chairman Madigan, rocket science out of  
2 elementary chemistry here, and that a lot of the -- a lot  
3 of the fundamental decisions are going to be pretty  
4 practical, based on some principals and then some  
5 dialogue.

6 And I thought the history, Tom, that you  
7 reviewed for the C.V.P.I.A. is very instructive, but  
8 originally, when I asked to speak, the history I wanted to  
9 comment on was on the common programs. Those are not  
10 co -- coequal in the way they have been approached and  
11 historically financed, and while I think what I understood  
12 that you had put up, Zach, was that you were working at a  
13 principal level of a charge or a user fee, rather, for the  
14 common programs; that you really need to start looking at  
15 each of them in a little bit more detail.

16 To give an example, let's take ecosystem  
17 restoration. There's actually funding streams that have  
18 been dedicated so far.

19 On efficient use, we have funding streams or  
20 potential funding streams for the way we're handling urban  
21 conservation. That's now done as a matter of the M.O.U.,  
22 and very likely, I would expect, as a part of assurances,  
23 users will all be required to implement certain programs  
24 in order to continue to enjoy their current water rights  
25 or have the opportunity to participate in future supplies.

137

1 There's dialogue happening right now on the  
2 water bond measure around reclamation. A lot of us who  
3 have spent the last decade trying to get water recycling  
4 have proposed shared programs of matching grants in order  
5 to get the reclamation on line that's necessary.

6 Levee maintenance and restoration already has  
7 a program and a formula in place of 65/35, so my point  
8 being that on the common program, that it will be  
9 worthwhile for the work group to bring a series of the --  
10 this his -- review the history -- I don't want to make  
11 this very complicated -- and talk about how some of the  
12 existing revenue streams and/or requirements for  
13 participation in the -- continuing to participate in their  
14 own -- their own water right might get us to  
15 implementation of the common programs.

16 We don't have, right now, one in place for  
17 watershed management, except for some -- some programs  
18 that haven't been linked into CALFED and may need to be  
19 dis -- may need to be discussed, but there's already some  
20 history behind each of those elements of the -- of the  
21 common program.

22 I wanted to re -- to respond, Byron, to you in  
23 terms of this notion of "don't pay for past sins." I have  
24 a very peculiar way, maybe, of approaching that, in that I  
25 think, in response to the question, Roberta, you've raised

138

1 around baseline, there is pretty -- there is actually a  
2 practical baseline that -- that I would -- that -- that I  
3 think of it. It may not be the right one, and maybe  
4 nobody else will agree, but there is the current -- the  
5 standards in the agreement, and there's 2X and for all --  
6 and C.V.P.I.A.

7 For all practical purposes there's only two  
8 other opportunities, probably, for what I think is  
9 reasonable mitigation. That will occur in the water  
10 rights proceedings where there's additional contribution  
11 to restoration of the estuary, and I happen to think that  
12 any improvement in the conveyance mechanism should be  
13 considered mitigation. That's a user-fee based, and  
14 that's probably -- I mean that's what I lay on the table.

15 What I would suggest is that the committee  
16 have some discussion in terms of principals. If that's  
17 not right, then what is right, trying to come up with a  
18 mix.

19 The last one that is really a bug-a-boo is  
20 what about storage and -- the storage component.

21 I'd like to go back and suggest yesterday that  
22 none of this is going to fly, unless the due diligence is  
23 done to ask, in addition to -- is there a benefit from  
24 storage to the environment. I think there is. Others  
25 think there's not. We'll have that dialogue. Separate

139

1 that out from if there is additional yield from storage,  
2 who's going to buy it, and either somebody is going to buy  
3 it or they aren't.

4 You know, it's pretty simple, folks. Either  
5 the current contractors and users are going to pay for it,  
6 or they're not. Put out the range, Lester, and start  
7 figuring out how do we secure some reasonable, reliable  
8 commitments on paying the full costs.

9 That's how we would approach it from the  
10 business side.

11 CHAIRMAN MADIGAN: All right.

12 COUNCIL MEMBER BORGONOVO: I just wanted  
13 to go back to what I think is the key. I -- that was in  
14 our packet, and maybe Zach put up the financial friction.

15 Did you leave that slide in there, or was that  
16 up there?

17 But it really came down to the user funding  
18 for the con -- the program elements, common program  
19 elements, and then public funding for storage and  
20 conveyance, and part of -- part of the thinking from  
21 environmental community is that when it comes to storage,  
22 it is also sending the right economic signal, and that's a  
23 big part of it, so that -- that whole economic signal  
24 that -- that many of us think needs to be part of the  
25 whole way in which we move forward, it just -- it doesn't

140

1 show up in a number of different areas.  
 2 But I just wanted to go back to that public  
 3 funding for storage and conveyance. That -- that is  
 4 really a key decision that we have to talk about.  
 5 CO-CHAIRPERSON McPEAK: What did you  
 6 disagree with in terms of what I just said?  
 7 If it's --  
 8 COUNCIL MEMBER BORGONOVO: Well, I  
 9 think --  
 10 CO-CHAIRPERSON McPEAK: -- user phase for  
 11 the conveyance facility?  
 12 COUNCIL MEMBER BORGONOVO: But I think  
 13 that when you look at -- if you look at the -- conveyance,  
 14 I understand that's not the issue, but when --  
 15 CO-CHAIRPERSON McPEAK: Okay.  
 16 COUNCIL MEMBER BORGONOVO: -- you look at  
 17 storage, it is the fact that storage is a third -- it has  
 18 been -- it has been put forward by CALPED as a third for  
 19 the environment, a third for urban, and a third for ag,  
 20 and therefore, the implication of that is that a third  
 21 will be paid for by public funds. That's the issue.  
 22 CO-CHAIRPERSON McPEAK: Okay.  
 23 CHAIRPERSON MADIGAM: All right.  
 24 Thank --  
 25 COUNCIL MEMBER BORGONOVO: And I think

1 you agree with that, Sunne. You agree with that, that  
 2 that should be the split and that should be the way it's  
 3 paid for.  
 4 CO-CHAIRPERSON McPEAK: Yeah. Actually,  
 5 I didn't realize that CALPED agreed with me, that I said  
 6 so, if that's the range. I guess I didn't read that page  
 7 yet.  
 8 But that has to -- that has to do with a -- a  
 9 discussion, Roberta, on do -- could we conclude over --  
 10 over time and dialogue, that it is important to the  
 11 environment to have those additional flows at a time  
 12 different than when they're through the system on a  
 13 sporadic basis now.  
 14 That's -- that's sort of the threshold  
 15 question on whether or not there's any value to the  
 16 environment from -- from storage.  
 17 COUNCIL MEMBER BORGONOVO: I think it  
 18 goes back to the -- what -- what those -- those of us who  
 19 care about saving the ecosystem in the long-term, for 50  
 20 years, a hundred years, really want to go back to the way  
 21 in which you manage, and so if you move water into  
 22 storage, and you will be moving it in -- by diversions, by  
 23 dams, if you were doing that, you are going to be causing  
 24 some harm to the environment.  
 25 So to say that it has a direct environmental

1 benefit, many of us think that it is truly mitigation.  
 2 It's what allows you to continue to do business for ag and  
 3 urban, but -- but the real -- the real question comes  
 4 down to who will pay for it.  
 5 If the public pays for a lot of the storage,  
 6 you end up having the ability to have a much larger  
 7 storage component than you would have otherwise, and we  
 8 still do think that that will influence the amount of  
 9 money that will go into the common programs for  
 10 conservation and reclamation and conjunctive use. I mean  
 11 because there will still be this -- this battle over how  
 12 much money and where it goes, and that's -- that -- that's  
 13 the thinking that needs to be discussed.  
 14 CHAIRPERSON MADIGAM: Okay. I have Mike,  
 15 Rosemary, Alex, Stu, and Tom.  
 16 COUNCIL MEMBER STEARNS: Just quickly, I  
 17 wanted to say that I agree that I think water users should  
 18 pay, but the key to this whole thing, to be successful, is  
 19 it's got to be affordable. The ability to pay, including  
 20 the end cost to the user, I think Byron brought this up  
 21 earlier.  
 22 In our water conservation efforts, the cost of  
 23 the water has become a small part, compared to the  
 24 investment and the debt that we've incurred for drip  
 25 irrigation and those type of things that -- that has

1 raised the cost to the user tremendously, and I -- I  
 2 guess, as a question, I -- I think I -- I'm wondering if  
 3 the actual end user cost is being considered in this, when  
 4 you attempt to look at the purpose and use of water as to  
 5 how you'd structure a fee.  
 6 Ag, for example, can't pass along their cost  
 7 to increase. I mean it's all based on demand, as far as  
 8 their -- their product income goes, and then Tom brought  
 9 up the other issue that I wanted to suggest, and that is  
 10 that C.V.P.I.A. is directly linked to this process and  
 11 it -- that it, I think, should be looked at as one  
 12 existing user fee that ought to be looked at as part of a  
 13 way to structure these fees.  
 14 CHAIRPERSON MADIGAM: Thank you.  
 15 Rosemary.  
 16 COUNCIL MEMBER KAMEI: I guess I always  
 17 have a real problem with this one, because my public is my  
 18 end user and my end user is my public, and I know that  
 19 Zach wanted to stay within that first quadrant, but when  
 20 you ask people to pay through pump tax, when you ask  
 21 people to pay through their property tax, when you ask  
 22 them to pay in many different ways, it is the same public,  
 23 no matter which way you put it.  
 24 As a municipal agency, we're asking the same  
 25 people to pay more, and it's -- it's very difficult to go

1 back and -- and make that sort of distinction and say,  
2 "Well, this is because it's a general benefit, and this is  
3 because it's a specific benefit." That just doesn't  
4 translate.

5 One of the things that has -- we've gone over  
6 and over at the -- at the finance work group is "What do  
7 you mean by water user?"

8 Traditionally I think we've always thought of  
9 the ag and the urban. I think that we need to make a  
10 decision here, and I'd like to hear more discussion as to  
11 whether or not -- Zach put up there "assuming there's a  
12 charge."

13 Is there going to be a charge? Yes or no?

14 I've made that question at our work group  
15 three times. There was no objection, so today I think  
16 that we ought to decide, if there is a charge, if we say  
17 "Yes, BDAC believes there is going to be a charge," it's  
18 going to be a general all across-the-board charge for  
19 everyone, because everyone is going to benefit from this  
20 program.

21 It isn't just a matter of saying that the  
22 water districts are going to have water and the ag and the  
23 urban are going to have water. The environment will also  
24 have water, and we ought to look at it in a more holistic  
25 sense, as opposed to saying "The water user is only the ag

145

1 and urban."

2 We have to look at it -- begin to look at it  
3 in a very different way than it has been traditionally.

4 Traditionally it's always been "Well, the  
5 water users are only the municipal agencies," or "The  
6 water users are the ag" -- "ag" -- "agricultural users  
7 who," you know, you can sort of say "are using the water,"  
8 but the environment also uses the water.

9 So, somehow, I think we ought to have more  
10 discussion, more discussion, and I'm not saying this is --  
11 this is exactly correct, and no -- no one would agree, but  
12 if there is a water charge, should it be across the board.

13 I think that it should be across the board,  
14 that there is a charge, because we haven't -- we haven't  
15 made a decision on that question.

16 If there is a charge, I'm not saying what it  
17 should be, but it should be across the board.

18 CHAIRPERSON MADIGAN: Alex.

19 Thank you.

20 COUNCIL MEMBER HILDEBRAND: I was  
21 impressed by Sunne's analysis of this, to start with.

22 As regards the capital cost for new water  
23 storage or new water conveyance, it seems to me that's  
24 really not going to be handled this way. That's going to  
25 be handled by bonds, and the bond conditions are going to

146

1 say how it's going to get reimbursed, so that I -- I sort  
2 of looked at this set of questions applying to the  
3 operating "O" and "M," rather than the -- the capital  
4 cost.

5 Having said that, it was agreed that the thing  
6 that was first outlined here may sound good in principal,  
7 but it's a morass to try to implement it, and until we  
8 know how much you have to reduce the morass in order to  
9 make it acceptable, it's a little hard to say to what  
10 degree those five items should be involved. If you try to  
11 do all five of them, maybe it's a morass. Maybe you have  
12 to reduce it.

13 And in principal I don't object to having the  
14 general concept that all the water should -- users should  
15 pay, but I don't know how you do that without having a  
16 morass or without having obvious inequities. It's a  
17 little simpler when you just look at the C.V.P.I.A.,  
18 because that's a selected list of people who are operating  
19 under a -- pretty much under a single water right, and  
20 that's not the same as trying to apply this to pre-1914's  
21 and riparians and everything else.

22 So I'm skeptical as to whether there's any way  
23 to have an across-the-board charge that isn't a morass to  
24 administer, but if there's some way we can, we can look at  
25 it, but we haven't been presented with something that

147

1 avoids the morass.

2 CHAIRPERSON MADIGAN: Sunne.

3 CO-CHAIRPERSON McPEAK: You know, the  
4 question of across-the-board fee and then when we talk  
5 about bonds maybe does need to be discussed a little -- a  
6 little more.

7 What -- what I react to, when I hear  
8 "across-the-board fee," is two things. It's, one, whether  
9 or not that's appropriate, but let's separate that out,  
10 because I think what Rosemary and Mike are talking about,  
11 in part, is everybody who's going to benefit should pay in  
12 some way, but also I want to, you know, sort of echo what  
13 Byron said about the -- about the Principals of  
14 Management 101.

15 The last thing I want is to collect a fee,  
16 route it through a bureaucracy and put it back into a  
17 program. There's also always a friction lost, if there's  
18 a more efficient way of applying resources to a solution.

19 So I just had this gut, you know, reaction  
20 to -- to collecting fees, putting it through a bureaucracy  
21 and back into a system of some sort.

22 Where I think we are going to see a lot more  
23 spread of con -- of, if you will, contributing a broader  
24 contribution to restoration is going to come, quite  
25 honestly, in the water rights proceeding when -- when

148

1 there is looking at who contributes to an ultimate  
2 solution. That's going to be an implicit indirectly in  
3 which there is a contribution, so that's why I had  
4 mentioned it.

5 On bonds, sometimes we've used that a general  
6 obligation bond to be the mechanism by which the public  
7 contributes, and we have sort of worked on the principal  
8 that the environment is something that every -- everyone  
9 benefits from a healthier environment. Therefore, the  
10 general taxpayer and public pays.

11 However, on a user-pay basis, as well, as Alex  
12 Just referenced, I think it's very likely that a G.O. bond  
13 measure will be used and repaid through the mechanism  
14 of -- of what essentially would be the revenue bond, you  
15 know, bond covenant. That's how, in fact, the State Water  
16 Project has been financed. There -- we've criticized, in  
17 the past, that not all the fees have been contribu -- you  
18 know, re -- recouped, that there is the financing cost  
19 that haan't been recouped, but there is a much different  
20 way in which the general obligation bonds for the  
21 State Water Project have operated than what we have done  
22 with, say, passing 204, which is everyone paying into a  
23 fund, and it's the good faith and full credit of the  
24 State of California that's backing it.

25 So what I want to talk about is, you know,

149

1 there are several ways in which everyone will contribute  
2 that's not absolutely going to require someone paying in a  
3 fee and it gets collected by a bureaucracy and gets routed  
4 out.

5 Secondly, on bond financing, it either can be  
6 a financing mechanism or a funding mechanism, and even on  
7 a user-pay basis, it's likely to be the financing  
8 mechanism, and we generate revenue streams from  
9 contractors through bond covenants that will be the  
10 funding mechanism.

11 CHAIRPERSON MADIGAN: Stu.

12 COUNCIL MEMBER PVLE: There are  
13 enumerable things to talk about in this.

14 I -- I think, from what Tom Graff pointed out,  
15 on looking at the -- the history of what -- what's been  
16 going on now, I think we have -- probably ought to look a  
17 little more deeply into the history of water payments, not  
18 just C.V.P. and so forth, but at some point you get into  
19 the case of equity, one of Byron's points here on payment,  
20 that there ought to -- there ought to be some total look  
21 at what -- what is the total input into the support of  
22 this water resources system to the Delta, and that  
23 includes a lot of things, you know, what the Department of  
24 Water Resources uses, as derived from contractors, what  
25 they use as derived from the legislature.

150

1 We know in recent times, maybe not so recent,  
2 the State Board found a severe problem in not being able  
3 to adequately administer water rights in the field,  
4 because it didn't have the money and the personnel, but  
5 it -- it seems to me that we ought to have a total look at  
6 what that is, State Board, Fish and Game, Department of  
7 Water Resources, whoever else is in there, and I'm sure  
8 Dennis O'Connor, sitting in the back of the room  
9 someplace, can probably pop this out without a whole lot  
10 of trouble. I think he's done some of that in the past.

11 And then one -- one of the other things that  
12 is a concern, I think, is what -- what qualifies to  
13 receive money under these programs.

14 I don't think you can just say common  
15 programs, per se. We're talking about major funding going  
16 into the ecosystem restoration, which has already kind of  
17 indicated to have money coming in from other place --  
18 places.

19 If you take levee programs, there's probably  
20 some of that that deserves support from this type of a  
21 program. Other of it has traditional ways to go back in  
22 but -- but it seems to me that there are -- are a lot of  
23 things that we have to sort out here in kind of the equity  
24 of who pays and the equity of which programs qualify.

25 CHAIRPERSON MADIGAN: Thank you.

151

1 Tom.

2 COUNCIL MEMBER GRAFF: I think Byron  
3 helped us by pointing out that we could learn things from  
4 Public Administration 101. I think we can learn some  
5 things from Resource Economics 101, as well, and --

6 CHAIRPERSON MADIGAN: Is this for credit,  
7 too? Okay.

8 COUNCIL MEMBER GRAFF: Actually, the  
9 credit I was going to give was to Mr. DiGrocce yesterday,  
10 who -- who gave us a little bit of a Worton, slash,  
11 environmental perspective, and I don't think it's punitive  
12 to say two things.

13 One is in Zach's report, although not  
14 featured. He does say the following -- he puts in the  
15 following sentence, "The underlying need is to incorporate  
16 the costs of ecosystem impacts in the price of water to an  
17 extent sufficient to reflect ecosystem costs of water use  
18 decisions." That's one aspect of Resource Economics 101.

19 The other that isn't so much mentioned, but  
20 would be part of a history, if we got it on the table, is  
21 that we have, over the last century and certainly in the  
22 last 50 years, put a lot of public money into structures,  
23 water structures, dams and canals, that have not been  
24 fully paid for by those who have benefited from them.

25 So in addition to the -- the uncompensated

152

1 impacts on the environment that are past and future,  
2 there's a lot of past -- there have been a lot of  
3 decisions made, for better or worse, to subsidize the use  
4 of structures which has resulted, I would argue, in an  
5 overuse of -- of water at the expense of the environment,  
6 as well, and that that, too, is part of Resource  
7 Economics 101 --

8 COUNCIL MEMBER REDMOND: But in terms  
9 of --

10 COUNCIL MEMBER GRAFF: -- and -- and  
11 then -- and does bear on the bond discussion we're about  
12 to have in other forums.

13 COUNCIL MEMBER REDMOND: Yeah. Just  
14 in -- I guess internalizing the costs, I was just  
15 proposing that maybe internalizing the -- there's nothing  
16 wrong with trying to internalize the costs, but maybe that  
17 could be done in linkage with the common program, rather  
18 than in linkage with some past history that we're all  
19 going to have to argue around -- about for decades before  
20 we -- I mean so let's talk about Poli-Sci 101, too, you  
21 know.

22 CO-CHAIRPERSON McPEAK: That's good.  
23 I want Home Ec 101.  
24 Is it lunchtime?

25 CHAIRPERSON MADIGAN: Eric, you're up.

1 Yeah.

COUNCIL MEMBER HASSELTINE: Okay.

3 First thing that's clear is that we could  
4 probably talk about this the rest of today and the rest of  
5 the whole weekend and whether or not we'd be any closer to  
6 a solution, I'm not sure, and I -- and that really raises  
7 a major question, I think, for -- for BDAC and Lester and  
8 Mike and Sunne.

9 You know, I -- it's not clear to me how we  
10 resolve questions like this, and -- and this is probably  
11 just, you know, one facet of the whole program, with these  
12 kinds of issues. Clearly there is a -- a fairly  
13 diversified spread of opinion on the answers to these  
14 questions and -- and how the financing should be applied,  
15 and that's probably going to apply to assurances and other  
16 things, so somehow I -- it's not clear to me how -- how  
17 BDAC is going to come to grips and come up with the  
18 answers.

19 But setting that aside for the moment, what we  
20 have just been through is pretty indicative of what the  
21 finance work group has been going through every month, and  
22 so there is a sense of frustration, I think amongst all of  
23 us, that has participated. Bob Raab expressed it in  
24 indicating that -- that he wanted to get to the issue,  
25 basically, of who pays, you know, how much, and that's

1 exactly what we have been trying to get to.

2 The reason why we haven't been able to get to  
3 who pays how much is that we haven't been able to clearly  
4 define what it is that -- that people are going to be  
5 paying for, and that gets to the issue that Roberta has  
6 raised and now that everybody else has commented on, is  
7 basically whether or not we're starting from where we are  
8 today with the Delta and -- and instituting our program to  
9 improve and enhance the Delta from what it is today,  
10 whether or not that represents purely an enhancement that  
11 then is to be paid for by all of those who benefit from --  
12 from those actions or whether or not, in fact, there is  
13 some mitigation component in which those who are  
14 responsible who -- for having degraded or abused the Delta  
15 over the years, that now causes the need for this action,  
16 should have to initially come up with some sort of  
17 funding, in effort to -- to sort of offset that before  
18 everybody else starts to kick in with -- with paying for  
19 the enhancement.

20 And the fundamental philosophy, that -- that I  
21 think we have been proceeding on thus far, is that we're  
22 not going to try to do that; that we are going to -- to  
23 deal with basically a benefits-based approach starting  
24 from now.

25 Now that clearly is -- is not universally

1 accepted around this table. There is difference of  
2 opinion. That's one of the differences of opinion that  
3 somehow we've got to resolve. We've got to have a method  
4 for resolving that, and we've got to resolve it before we  
5 can really get into who pays for what and how much.

6 The comments that -- that have been made today  
7 I -- I think are very instructive and -- and certainly  
8 there are a couple of new avenues for investigation that  
9 do need to be pursued, but -- and one other thing I wanted  
10 to comment on was this -- the question about the storage  
11 and -- and on the chart up there, we're in the upper  
12 right-hand quadrant of, you know, how much the users are  
13 going to pay for their common programs.

14 The other side of the coin is the lower  
15 left-hand quadrant and how much the public pays for  
16 storage and conveyance, which Sunne addressed and -- and  
17 Roberta commented on.

18 I -- I don't think there's a danger here in --  
19 in somehow undermining the funding for the conservation  
20 and recycling components.

21 If you'll remember yesterday, the chart that  
22 was put up that -- that showed the supply demand and it  
23 showed the long-term demand for water in the State and --  
24 and the fact that supply was -- was way below that in its  
25 projections and then what we could do to try to, number

1 one, reduce the demand, which was the conservation and the  
 2 recycling aspects of it, and then what we could do to  
 3 increase the supply, which was the storage aspect, the --  
 4 the magnitudes of those contributions, as are currently  
 5 being projected, are pretty significantly in favor of the  
 6 conservation and recycling. In fact, they are about four  
 7 times greater.

8 It's expected that four times greater water  
 9 can be achieved through conservation and recycling than  
 10 through storage. You have some very definite limitations,  
 11 physically, on what you can do with storage, and as is now  
 12 being pointed out, there are also some definite  
 13 implications financially, so talking about putting some  
 14 public money into storage for the public benefits I think  
 15 does not undermine, in any way, the ability to finance or  
 16 the willingness and importance of financing conservation  
 17 and recycling.

18 We need to move ahead in a finance work group  
 19 to get down to actual cost allocation techniques and try  
 20 to come out with some sort of a -- of commentary and  
 21 recommendation back to BDAC on -- on the overall financing  
 22 program, and so, you know, I -- I don't know exactly how  
 23 to move ahead, at this point, any differently than we have  
 24 in the past, but we can't keep going ahead without  
 25 resolving these issues at some point, and that's why we

157

1 brought it to the -- the full commission, and frankly,  
 2 we -- we need some -- some direction, and I -- you know,  
 3 I -- if I were to sum up basically what -- what's happened  
 4 here today, it seems to me that basically everybody's in  
 5 agreement that some sort of user fee makes sense.

6 In a way, it's probably the only way to really  
 7 do it, but on the other hand how we -- you know, how --  
 8 what proportions of -- of the program are paid for by user  
 9 fees and then how that's spread amongst the users are  
 10 things we're going to have to get into, but I -- you know,  
 11 if nothing else, either at this meeting today or next  
 12 meeting, I would really love to get this baseline  
 13 discussion behind us.

14 You know, either we are going to say, "Yes,  
 15 there has to be a mitigation component to this program,"  
 16 or "No, there's not going to be a mitigation program. The  
 17 practical aspects of that are too difficult to deal with  
 18 and probably in the long run don't really affect how the  
 19 whole financing formula is going to work anyway," so...

20 CHAIRPERSON MADIGAM: Thank you, Eric.

21 I have Judith, Richard, Byron, and Rosemary.

22 COUNCIL MEMBER REDMOND: I'll pass.

23 CHAIRPERSON MADIGAM: Pass.

24 Richard.

25 COUNCIL MEMBER IZMIRIAN: I think that

158

1 this only has to be a quagmire for those who -- who want  
 2 to make it that way. I don't think it's going to be that  
 3 difficult. I agree with Sunne that we're over compli --  
 4 complicating this thing.

5 I do want to remind ourselves that -- that  
 6 water, for the most part, is the environment here, and I  
 7 think the only thing that allows this benefits-based  
 8 strategy to work is to allow the internalization of those  
 9 externalized costs.

10 CHAIRPERSON MADIGAM: Thank you.

11 Byron.

12 COUNCIL MEMBER BUCK: Eric has really  
 13 asked for help in as to how do we get there, and to maybe  
 14 help him sleep a little better, to remind us we are an  
 15 advisory body. We don't necessarily always have to agree  
 16 on every last little detail, and as Sunne says, we could  
 17 probably talk about this one until the cows come home.

18 We're here to deliberate and more often than  
 19 not we probably just fibrillate, but I think what we  
 20 really have to step back from is look at -- you know,  
 21 there's going to be something in this overall package we  
 22 can all hate and we can all love, as Felicia Marcus said  
 23 on Monday.

24 We need to talk about individual elements as  
 25 they come along, but step back from that. Let staff do

159

1 their work. Ultimately the decision is CALFED agency is  
 2 going to be ratified by larger stakeholder groups.

3 I think the important test is going to be when  
 4 we have the full package on the table, what does this  
 5 group say, and what kind of indication does that give.

6 I suggest the staff's really got enough input,  
 7 and they ought to move forward.

8 CHAIRPERSON MADIGAM: Thank you.

9 Rosemary.

10 COUNCIL MEMBER KAMEI: Yeah. I think  
 11 that Eric summarized it really, really well.

12 I just wanted to say that my comments on  
 13 putting an across-the-board charge was to see if we could  
 14 stimulate some more discussion on this, because when you  
 15 talk about some of these charges it is difficult, and I  
 16 think that we're looking to the BDAC for more of your  
 17 input in -- in -- in helping us get our arms around this.

18 I mean we've been going around and around and  
 19 around and -- and talking about the same thing for quite  
 20 some time now, and -- and it's just difficult to get our  
 21 hands around it, so we do need help in this area, and I  
 22 guess, from an urban perspective, the only thing that I'n,  
 23 you know, really concerned about is that we don't get  
 24 stuck paying, you know, so much of the bill that it's  
 25 almost impossible to get back to my constituents and let

160

1 them know that, you know, not only do they have to pay  
2 through the -- the public side, but they also have to pay  
3 through the water-user sides, and -- and it just becomes  
4 an enormous amount of -- of just fees and charges, one on  
5 top of the other, so it just becomes very difficult. It's  
6 just very, very difficult.

7 CHAIRPERSON MADIGAN: Thank you.

8 I have one more request to speak, and that's  
9 from Laura King, who indicated she'd like to comment on  
10 this, as well.

11 Laura.

12 MS. KING: Thank you, Mr. Chair.

13 I'm Laura King with the San Luis and Delta  
14 Mendota Water Authority.

15 I wanted to just make a couple of comments.

16 First I wanted to emphasize what Mike Stearns --  
17 Stearns mentioned regarding the restoration fund, and I --  
18 I was kind of surprised that there isn't a bullet in there  
19 that talks about the existence of other user fees that  
20 have already been established, and maybe you have it on  
21 a -- ah. Oh, see, it's there.

22 Okay. I feel better. Thank you.

23 The second point I wanted to make is that I  
24 thought the baseline discussion in your paper, Zach, was  
25 really very good. I don't know if people have had a

161

1 chance to read through that, but the -- the notion that  
2 the baseline issue is really a proxy for some other  
3 concerns, I thought it did justice to the agricultural  
4 community's concerns, and I don't know whether it did  
5 justice to the environmental community's concerns, but I  
6 think that's something that we all -- all ought to be  
7 looking at is what are the underlying things that the  
8 baseline is really a fight about, and -- and maybe that's  
9 a way that we can move forward on that issue.

10 And the last comment, I agree with Tom Graff's  
11 remarks that internalizing costs is not punishment, but I  
12 liked Judith's response to that, and I'd just like to echo  
13 our support for the notion that we find a way to  
14 internalize costs that is not a punishment but is a way of  
15 providing the appropriate incentive for -- for benefits  
16 which environmental restoration is a benefit.

17 Thanks.

18 CHAIRPERSON MADIGAN: Thank you.

19 That, Zach, appears to be it. Thank you.

20 Eric, thank you.

21 I hope this has been helpful. If we need to  
22 bring it, we will.

23 COUNCIL MEMBER HASSELTINE: May I have  
24 the envelope now with --

25 CHAIRPERSON MADIGAN: With the answers?

162

1 Yeah, sure. Yeah, check with me after lunch,  
2 would you?

3 We're going to break for lunch now. Let me  
4 make one -- one last comment before we break for lunch,  
5 and that is to, well, recognize that Sharon Gross's last  
6 day is today. She is returning to Washington to a job at  
7 Interior, and I will tell all of you that I will really  
8 miss her. She has been very, very, very helpful in all  
9 this, and I am sorry to see her go, but she has assured me  
10 that there are ways in which she will continue to stay  
11 involved, and I appreciate that, and I appreciate all  
12 you've done, Sharon.

13 (Applause.)

14 CHAIRPERSON MADIGAN: Lunch is by the  
15 pool. We are adjourned. It's 12:25. Let's try to get  
16 back about ten minutes after 1:00.

17 Thank you.

18 (A lunch break was taken from 12:25 p.m. to 1:17 p.m.)

19 CHAIRPERSON MADIGAN: If members of the  
20 HDAC would resume the duty position, yeah, we'll wrap this  
21 sucker up.

22 Okay. Let's declare the afternoon in session  
23 here, get underway.

24 The next title on the agenda is the issue  
25 identified as public involvement strategy and activities.

163

1 Judy, do you want to introduce this for us?

2 MS. KELLY: Sure. I'll be happy to  
3 introduce it and just send my apologies from Kim Canevari,  
4 who, of course you all know, is our public outreach  
5 director. She, unfortunately, became quite ill this  
6 morning and could not make the meeting, but -- so what I  
7 just want to do today is remind you that you did get a  
8 draft public involvement strategy or an evolving strategy  
9 as part of the packet. I hope you have had a chance to  
10 look at that, and then reiterate the fact that there's  
11 lots of wonderful opportunities on the horizon for each  
12 and every one of you to participate in all of these things  
13 that are outlined in the strategy, and I hope that both  
14 our Chair and Vice-Chair will -- will take that  
15 conversation a little bit further in the next few minutes.

16 We will be sending all of you a packet of the  
17 press coverage that we've gotten on Monday's event. I  
18 think that will be of interest to all of you, so we  
19 will -- we will probably start collecting those Monday and  
20 put them in the mail to you, so you get a sense of, up and  
21 down the State, what people have said about the event and  
22 the process so far.

23 And then just a reminder, we do have this set  
24 of public hearings that are already agendaized. They are  
25 included, I believe, in your packet, but with the caveat

164

1 that there will be, based on Lester's experience at the  
 2 legislature the other day, there will be undoubtedly  
 3 additional hearings set, so we will keep you apprised of  
 4 that as it -- that -- as that evolves, and obviously,  
 5 given where we are in this program, we have to nail those  
 6 down pretty quickly, given -- given time constraints.  
 7 So there's at least three key opportunities  
 8 for all of you to participate. The public hearings, we're  
 9 hoping to get EDAC attendance at -- at all of those public  
 10 hearings, so I'll probably have Kim and the staff contact  
 11 each of you directly as to which ones you could attend.  
 12 Obviously, we have no expectation that everyone will  
 13 attend all of them, but if you can manage to make one or  
 14 even two, that would be tremendously helpful to all of us.  
 15 We'll also be asking you if you'd be willing  
 16 to co-write or author some Op Ed pieces, as we move down  
 17 the road here. We have some outlines and formats of those  
 18 developed, so we'll follow up with each of you on that  
 19 item, and opportunities like talk radio, which we have  
 20 been trying to develop relationships with, as we schedule  
 21 public meetings and public hearings in various geographic  
 22 areas.  
 23 We have been lucky enough to have  
 24 participation from the local communities on helping us get  
 25 the word out and amplifying the points that we have been

1 making in the public meetings through -- through that  
 2 medium, and it's been very helpful to us, so that's  
 3 another area where we will be looking for your assistance,  
 4 so -- there are many others, and I'm sure you'll come up  
 5 with your own set of opportunities and look forward to  
 6 being able to facilitate that from our end any way we can.  
 7 We understand that we put a lot of requests on  
 8 you for speaking and otherwise, and guess what, it's not  
 9 going to get any easier in the next six to nine months, so  
 10 we appreciate your efforts so far and look forward to your  
 11 continuing active participation, so with that I look  
 12 forward to further discussion of those opportunities.  
 13 CHAIRPERSON MADIGAN: Thanks, Judy.  
 14 Let me -- let me go through a few things here.  
 15 Number one, I understand there's an  
 16 orientation to the environmental impact report April 3rd,  
 17 9:00 to noon in Sacramento. Okay. So that's -- that's  
 18 been set.  
 19 I mean one of the issues here, obviously, is  
 20 that if you would like to have one of these community  
 21 forums in your area that you need to let somebody know,  
 22 and today would be a good time, obviously, but if you --  
 23 if you want to call in with it or if you're going to wait  
 24 until somebody gives you a call, this is the chance to get  
 25 that scheduled. Your participation, obviously, is

1 desirable.  
 2 The participation of EDAC, in general, as Judy  
 3 said, is always desirable at these hearings simply by  
 4 virtue of, you know, demonstrating the importance of  
 5 the -- of the meeting and your being able to listen to  
 6 the -- the comments that the people make, so as these are  
 7 in your area or as you desire some sort of a mini vacation  
 8 in one of the far-flung corners in the State and want to  
 9 let the -- the EDAC staff know this is an opportunity.  
 10 There are, obviously, a great many  
 11 opportunities upcoming for conversations with your  
 12 legislators, both at the local and the State level.  
 13 That, I would think, Lester, should be  
 14 coordinated with EDAC for purposes of -- of those meetings  
 15 being discussions and presentations of what's going on in  
 16 EDAC, so that we're not stepping on each other.  
 17 Obviously, you all have your own  
 18 relationships, as well, and your own points of view, and  
 19 the effort isn't to -- to co-op that, but to the extent  
 20 that -- that you have the opportunity and the time to meet  
 21 with local and State legislators, that's very, very  
 22 helpful.  
 23 COUNCIL MEMBER SELKIRK: Can --  
 24 CHAIRPERSON MADIGAN: Would -- yes --  
 25 COUNCIL MEMBER SELKIRK: -- I just speak

1 to that --  
 2 CHAIRPERSON MADIGAN: -- Mary.  
 3 COUNCIL MEMBER SELKIRK: -- Mike?  
 4 Dan McCarroll is our legislative coordinator.  
 5 He's here in the audience today, and so if -- if you know,  
 6 as a EDAC member, if you have a relationship with a --  
 7 with a local legislator or a State legislator or would  
 8 like to have an opportunity to brief any of those folks in  
 9 Sacramento or -- specifically in Sacramento, if you'd let  
 10 me or Dan know -- I think it's important that Dan knows  
 11 what's going on, because he's -- he's sort of -- he's the  
 12 watchful eye over all the coordinated CALFED effort on  
 13 the -- on the legislature front, so please just let him or  
 14 me know either how CALFED can help you do that or, you  
 15 know, if -- if you have any specific plan to meet with  
 16 people either in their district offices or up in  
 17 Sacramento.  
 18 CHAIRPERSON MADIGAN: Sunne.  
 19 CO-CHAIRPERSON McPEAK: Following on  
 20 Judy's invitation for us to elaborate and Mary's reminder  
 21 of our need to have continuing discussion with the  
 22 legislators, I want to sort of underscore the opportunity  
 23 that the public hearing present to us to invite State and  
 24 Federal representatives to the hearing.  
 25 In fact, I think our goal should be that every

1 one of the hundred and twenty State legislators and fifty,  
 2 what, two, four, whatever it is, of the Congressional  
 3 delegation are invited to one or more of those hearings,  
 4 and if they're not able to be present, that we ask their  
 5 staff to be present, that in particular, if they are, that  
 6 we ask them just to make comments about thanking the  
 7 public for showing up and -- and participating in the  
 8 CALFED process, and again trying to continue to keep  
 9 things in the discussion and dialogue mode, so that would  
 10 be the -- the one I would ask.

11 Rosemary has -- has agreed to come to the  
 12 meeting with -- that we had to put in in Silicone Valley,  
 13 and I'll look to other members from -- of BDAC from the  
 14 Bay area to come join us on that, so -- I'm looking  
 15 around -- at least four of you.

16 COUNCIL MEMBER SELKIRK: You're talking  
 17 about a -- another community forum --

18 CO-CHAIRPERSON McPEAK: Well --

19 COUNCIL MEMBER SELKIRK: -- or a hearing.

20 CO-CHAIRPERSON McPEAK: -- or a public  
 21 hearing, yeah, right.

22 I've talked to Lester about it, because  
 23 Assembly Member Honda agreed, yes, he would be present,  
 24 and I think that was a -- we were trying to sort of set  
 25 the -- the example there before the two committees on

169

1 Tuesday about their -- their engagement.

2 And the request that you had, Mary, briefing  
 3 legislators, I do think that's going to be a very  
 4 important aspect of us going forward, having the  
 5 discussion with our representatives.

6 What I don't want to do is leave the  
 7 Federal -- the Federal people out of it, even though  
 8 they're in Washington most of the time, trying to get them  
 9 back into it, and if at all possible, with State and  
 10 Federal legislators in the same room, actually, because  
 11 they're not talking to each other, because there's no way.  
 12 There's no set-up mechanism for them to talk to each  
 13 other.

14 So, you know, Mike needs to get all the  
 15 San Diego people with San Diego or Southern California  
 16 representatives of BDAC in the same room and just have  
 17 some general discussion, so --

18 CHAIRPERSON MADIGAN: Yeah, good idea.

19 CO-CHAIRPERSON McPEAK: -- they're set up  
 20 to start thinking about these issues, sort of orientation  
 21 around the executive summary is a very good reason to have  
 22 the dialogue.

23 CHAIRPERSON MADIGAN: Excellent.

24 If -- if you can't make the April 3rd meeting  
 25 in Sacramento and you would like an alternate time for a

170

1 briefing and orientation on the EIR, let BDAC staff know  
 2 that. We've now set the meeting in Fresno, but not set  
 3 the date yet. It could be the -- the 18th or the 19th.

4 COUNCIL MEMBER SELKIRK: We're looking at  
 5 the 19th -- or I mean the 18th --

6 CHAIRPERSON MADIGAN: 18th.

7 COUNCIL MEMBER SELKIRK: -- which is a  
 8 Wednesday --

9 COUNCIL MEMBER NOTTHOFF: June?

10 COUNCIL MEMBER SELKIRK: -- of June.

11 CHAIRPERSON MADIGAN: 18th is a Thursday,

12 I think.

13 COUNCIL MEMBER SELKIRK: No, I think it's

14 the 19th.

15 CHAIRPERSON MADIGAN: Is it -- is it a

16 Wednesday?

17 COUNCIL MEMBER SELKIRK: No. I'm sorry

18 the -- whatever the Wednesday --

19 CO-CHAIRPERSON McPEAK: These meetings

20 are not --

21 COUNCIL MEMBER SELKIRK: -- is.

22 Is that the 17th?

23 CO-CHAIRPERSON McPEAK: 17th is the

24 Wednesday.

25 COUNCIL MEMBER SELKIRK: 17th.

171

1 CO-CHAIRPERSON McPEAK: So you think  
 2 we're going to be in Wednesday -- Wednesday, the 17th, and  
 3 not the -- not Thursday and Friday?

4 COUNCIL MEMBER SELKIRK: We haven't set  
 5 anything yet. I just --

6 CO-CHAIRPERSON McPEAK: Oh, okay.

7 COUNCIL MEMBER SELKIRK: Mike had said  
 8 that --

9 CHAIRPERSON MADIGAN: Yeah.

10 COUNCIL MEMBER SELKIRK: -- that Friday

11 was not good for him.

12 CO-CHAIRPERSON McPEAK: For him.

13 CHAIRPERSON MADIGAN: Right.

14 CO-CHAIRPERSON McPEAK: Okay.

15 COUNCIL MEMBER SELKIRK: And it's not

16 good for Judith either.

17 CHAIRPERSON MADIGAN: Well, there you

18 are.

19 COUNCIL MEMBER SELKIRK: Sunne, I know

20 you had raised the issue earlier that -- about whether or

21 not we would want to have two-day meetings at any of the

22 other sites that we've set up for BDAC meetings over the

23 next several months, which I know is a big time

24 commitment, but --

25 CO-CHAIRPERSON McPEAK: Well, might I --

172

1 I -- yeah, I'm -- you can all blame me, but it takes a --  
 2 it takes a while to travel to Redding and -- and Fresno,  
 3 and I love those places, being a Valley Girl, but I'd like  
 4 to just stay a little longer than -- I mean think, being  
 5 very serious, that it's helpful when we have the time to  
 6 hear from the community as we did and also to have enough  
 7 discussion among ourselves and that there's likely to be  
 8 more need for discussion among ourselves and that -- as we  
 9 go forward, and if we're going to make the effort to  
 10 travel some distance, then I'd like to take advantage  
 11 of -- of having done that. That's why I was proposing  
 12 Redding and Fresno today.

13 COUNCIL MEMBER NOTTHOFF: I would say  
 14 maybe take advantage of the fact that we're going to some  
 15 of the solution areas --

16 CHAIRPERSON MADIGAN: Right.

17 COUNCIL MEMBER NOTTHOFF: -- and get out  
 18 of the meeting room and go out and see --

19 COUNCIL MEMBER SELKIRK: Well, that --

20 COUNCIL MEMBER NOTTHOFF: -- some things.

21 COUNCIL MEMBER SELKIRK: -- that would be  
 22 the point.

23 CO-CHAIRPERSON McPEAK: Good.

24 CHAIRPERSON MADIGAN: Okay.

25 CO-CHAIRPERSON McPEAK: Right.

173

1 COUNCIL MEMBER SELKIRK: As I said  
 2 yesterday, one thing we're thinking -- I don't know if  
 3 this will work out, but in terms of a meeting in Fresno,  
 4 there was an offer from some water district folks in  
 5 Orange County to fly EDAC members down to -- back down  
 6 here the following day, after the Fresno meeting to look  
 7 at -- tour some reclamation projects down in the  
 8 Orange County area, but one of the purposes of meeting in  
 9 Fresno is to give people an opportunity to get out of the  
 10 meeting room and out into some of the farmlands around  
 11 Fresno to look at on-the-ground --

12 CHAIRPERSON MADIGAN: Okay.

13 COUNCIL MEMBER SELKIRK: -- practices, so  
 14 it may be --

15 CHAIRPERSON MADIGAN: There --

16 COUNCIL MEMBER SELKIRK: -- that --

17 CHAIRPERSON MADIGAN: There seem to be  
 18 heads nodding, and so we ought to --

19 COUNCIL MEMBER SELKIRK: So it may be --

20 CHAIRPERSON MADIGAN: -- look at that.

21 COUNCIL MEMBER SELKIRK: -- more than

22 likely that it's going to be possible -- that it would

23 make more sense, especially if we're going to be dealing

24 with the breadth of issues that we have in the last two

25 days, that we should stick to trying to take advantage of

174

1 being in Fresno --

2 CHAIRPERSON MADIGAN: All right.

3 COUNCIL MEMBER SELKIRK: -- and maybe  
 4 doing an afternoon before and then a full day following --

5 CHAIRPERSON MADIGAN: Would this --

6 COUNCIL MEMBER SELKIRK: -- like doing

7 a --

8 CHAIRPERSON MADIGAN: -- similar

9 conversation apply to Redding --

10 COUNCIL MEMBER SELKIRK: Yes.

11 CHAIRPERSON MADIGAN: -- on the 14th of

12 May?

13 Okay. All right.

14 COUNCIL MEMBER SELKIRK: Yes.

15 CHAIRPERSON MADIGAN: Be -- be advised.

16 COUNCIL MEMBER SELKIRK: So I -- finally

17 I -- can I just --

18 COUNCIL MEMBER HASSELTINE: Does that

19 mean it's a two-day meeting --

20 COUNCIL MEMBER SELKIRK: Can I just --

21 COUNCIL MEMBER HASSELTINE: -- or not a

22 two-day meeting?

23 CO-CHAIRPERSON McPEAK: It is.

24 CHAIRPERSON MADIGAN: It might be --

25 COUNCIL MEMBER SELKIRK: Or a day and a

175

1 half.

2 CHAIRPERSON MADIGAN: -- a day-and-a-half

3 meeting.

4 COUNCIL MEMBER SELKIRK: Overnight

5 meeting.

6 COUNCIL MEMBER HASSELTINE: A day and a

7 half.

8 CHAIRPERSON MADIGAN: Yeah.

9 CO-CHAIRPERSON McPEAK: 14th, 15th.

10 COUNCIL MEMBER HASSELTINE: So --

11 COUNCIL MEMBER SELKIRK: Thursday,

12 Friday.

13 CHAIRPERSON MADIGAN: Thursday --

14 COUNCIL MEMBER HASSELTINE: The afternoon

15 of the day before --

16 CHAIRPERSON MADIGAN: Maybe the afternoon

17 of the day before on that evening with -- we could come up

18 in the morning, yeah.

19 Alex.

20 COUNCIL MEMBER HILDEBRAND: Go back and

21 explain a little more what's going to happen on April 3rd.

22 I wasn't clear just what's going to happen.

23 EXECUTIVE DIRECTOR SNOW: April 3rd is

24 our scheduled orientation session on EIR/EIS and the

25 Phase II report, and it's to kind of just -- to try to get

176

1 people up to speed and familiar with the documents before  
 2 we start the hearing process.  
 3 COUNCIL MEMBER HILDEBRAND: Is the  
 4 meeting sort of aimed at legislators or what?  
 5 EXECUTIVE DIRECTOR SNOW: No, the public.  
 6 We've done mass mailings on the notification of that, so  
 7 that -- and, in fact, I think we're holding it in the  
 8 Convention Center, and it's intended to be an orientation  
 9 workshop, just to familiarize people with the process and  
 10 the documents, to aid them in preparing their comments.  
 11 COUNCIL MEMBER HILDEBRAND: So it's going  
 12 to be a presentation, rather than a discussion-tape  
 13 meeting.  
 14 EXECUTIVE DIRECTOR SNOW: There will be  
 15 quite a bit of presentation. I'm sure we'll allow some  
 16 "Q" and "A."  
 17 CHAIRPERSON MADIGAN: Okay. Anything  
 18 else on the matter of public involvement, BDAC  
 19 involvement?  
 20 COUNCIL MEMBER PYLE: What are the  
 21 dates --  
 22 CHAIRPERSON MADIGAN: Stu.  
 23 COUNCIL MEMBER PYLE: -- of the meeting,  
 24 now that you changed it to one-day or two-day?  
 25 Have you picked those yet?

1 CO-CHAIRPERSON McPEAK: Which? The --  
 2 the Redding?  
 3 COUNCIL MEMBER FRICK: Well, Redding and  
 4 Fresno.  
 5 Have you determined --  
 6 COUNCIL MEMBER SELKIRK: Sunne has  
 7 proposed for Redding Thursday, Friday, March 14th, 15th.  
 8 CO-CHAIRPERSON McPEAK: May.  
 9 COUNCIL MEMBER FRICK: Okay.  
 10 CHAIRPERSON MADIGAN: May.  
 11 COUNCIL MEMBER SELKIRK: What did I say?  
 12 COUNCIL MEMBER FRICK: May 14th and --  
 13 CHAIRPERSON MADIGAN: "March."  
 14 COUNCIL MEMBER FRICK: -- 15th.  
 15 COUNCIL MEMBER SELKIRK: May.  
 16 And for Fresno, we didn't make a decision, but  
 17 we should. The -- some people are proposing Thursday,  
 18 Friday. That -- that means Mike cannot be there, and  
 19 Judith cannot be there on Friday.  
 20 CO-CHAIRPERSON McPEAK: So Thursday --  
 21 COUNCIL MEMBER SELKIRK: So the other --  
 22 CO-CHAIRPERSON McPEAK: -- Wednesday,  
 23 Thursday.  
 24 COUNCIL MEMBER SELKIRK: -- option would  
 25 be Wednesday, Thursday.

1 CO-CHAIRPERSON McPEAK: Yeah.  
 2 MS. LAYCHAK: Pietro cannot make it on  
 3 Friday.  
 4 COUNCIL MEMBER SELKIRK: So -- okay. So  
 5 I would propose then we look at the afternoon of the 17th,  
 6 all day on the 18th.  
 7 COUNCIL MEMBER HASSELTINE: Say that  
 8 again.  
 9 COUNCIL MEMBER HILDEBRAND: June 17th and  
 10 18th?  
 11 COUNCIL MEMBER SELKIRK: In Fresno.  
 12 COUNCIL MEMBER HASSELTINE: Is that all  
 13 day?  
 14 CHAIRPERSON MADIGAN: No. Afternoon of  
 15 the 17th, and then --  
 16 COUNCIL MEMBER HILDEBRAND: Afternoon of  
 17 the 17th.  
 18 CHAIRPERSON MADIGAN: -- and then all day  
 19 on the 18th.  
 20 COUNCIL MEMBER SELKIRK: That gives  
 21 people a chance to get there, without having to be away  
 22 two days.  
 23 CHAIRPERSON MADIGAN: Yeah.  
 24 COUNCIL MEMBER SELKIRK: Is that  
 25 reasonable?

1 CHAIRPERSON MADIGAN: Yeah, that's  
 2 reasonable, to me anyway.  
 3 All right. Next question.  
 4 CO-CHAIRPERSON McPEAK: Ann has her hand  
 5 up.  
 6 CHAIRPERSON MADIGAN: Stu. Oh, then Ann.  
 7 COUNCIL MEMBER PYLE: Lester, what --  
 8 what's the format for your public hearings?  
 9 Are you the hearing officer, and if BDAC  
 10 members go, do we sit in the audience, or are you looking  
 11 for people for people to talk to, "A" --  
 12 CO-CHAIRPERSON McPEAK: Targets --  
 13 COUNCIL MEMBER PYLE: -- and "B" --  
 14 CO-CHAIRPERSON McPEAK: -- for tomatoes.  
 15 COUNCIL MEMBER PYLE: -- "B" -- yeah,  
 16 targets -- and "B," if --  
 17 CHAIRPERSON MADIGAN: That's Lester.  
 18 COUNCIL MEMBER PYLE: -- if an agency is  
 19 diligently preparing its comments for presentation in  
 20 June, why should they bother to come saying anything in  
 21 April?  
 22 CHAIRPERSON MADIGAN: Might learn  
 23 something. You never know.  
 24 COUNCIL MEMBER PYLE: But I --  
 25 MS. KELLY: You -- if you want to address

1 the format issue, they are going to be formal public  
 2 hearings, and that's very different, frankly, than -- than  
 3 the way we have structured our public events up to this  
 4 point. There will be a formal hearings officer. There  
 5 will be a court reporter. There will be represent --  
 6 representatives from the CALPED agencies, representatives  
 7 from the staff at each one of the meetings, and the  
 8 emphasis will really be on listening to the public's  
 9 comments, as opposed to some of the previous informational  
 10 meetings, where the emphasis largely has been on imparting  
 11 information about early aspects of the program.

12 So there's a -- sort of a shift there in  
 13 emphasis and a much stronger formality than have -- than  
 14 we have had up to this point, so, again, the emphasis  
 15 really will be on having people come forward, or whatever  
 16 setting we -- we work it out, but emphasis will be on the  
 17 public's discussion of the program.

18 And you had another question --

19 CHAIRMAN MADIGAN: Lester.

20 MS. KELLY: -- about agencies or --

21 COUNCIL MEMBER PYLE: Yeah, just -- just  
 22 about the -- why -- if an agency is going to prepare  
 23 extensive formal comments to go in at the end of the  
 24 period in June, is there a percentage in making a  
 25 statement at this time?

181

1 MS. KELLY: Two opportunities.  
 2 EXECUTIVE DIRECTOR SNOW: Well, I -- I  
 3 think what we typically find in here -- I mean in the  
 4 normal course of events, you always hold hearings before  
 5 the deadlines for comments, and typically what you  
 6 experience is entities that are -- are going through a  
 7 detailed evaluation will come in and hit major points in a  
 8 public meeting, what they are going to address, and that  
 9 does not substitute them for the -- maybe the detailed  
 10 43-page comments that come in on the day that they're due.

11 CHAIRPERSON MADIGAN: Okay. We'll have  
 12 Ann and then Byron.

13 COUNCIL MEMBER NOTTHOFF: First, I think  
 14 it's -- I'm saying it sounds like a great idea to do that,  
 15 the EIR/EIS orientation.

16 I wanted to compliment Lester. I think he did  
 17 a really good job last week of meeting with a lot of  
 18 different interest groups and giving people preparation  
 19 for what to expect in the draft that was released this  
 20 week, and I think this is an opportunity to do some more  
 21 of that kind of explanation. It sounds like a good idea.

22 I had a couple of thoughts. I note that -- so  
 23 we're not meeting in April, so that at least BDAC members  
 24 don't have to go to a BDAC meeting in April, so they ought  
 25 to go to at least -- to one of these public hearings,

182

1 instead.  
 2 CHAIRPERSON MADIGAN: That would be good.  
 3 COUNCIL MEMBER NOTTHOFF: And it does  
 4 seem to me that -- a couple of points. One is on the  
 5 format for these public hearings, that it would probably  
 6 be very good for the program if we had some formal way of  
 7 representing the multi-stakeholder input that has gone  
 8 into this process to date, so that if you'd really look  
 9 and see -- you know, if you can have three  
 10 representatives, one of each of the major stakeholder  
 11 groups, present at each one of those public hearings, I  
 12 think that would be an effort worth making, so that you  
 13 can convey to the public that there have -- this is --  
 14 hasn't been completely a top-down process.

15 The other thought on doing some information  
 16 imparting to the political types, and one suggestion is  
 17 that we might -- if CALPED or if the -- if you might  
 18 schedule a day in Sacramento, make meetings with all of  
 19 the relevant polit -- political -- politicians and have --  
 20 we can have a couple of delegations that just knock off  
 21 politicians in a day in meetings. I mean --

22 CHAIRPERSON MADIGAN: In a matter of  
 23 speaking, you know.

24 CO-CHAIRPERSON McPEAK: Three days and  
 25 they're all gone.

183

1 COUNCIL MEMBER NOTTHOFF: Yeah, we can  
 2 just knock them off, but I mean it's that type of -- I  
 3 mean because I encounter repeatedly in Sacramento from  
 4 political leaders that I work with on a regular basis a  
 5 degree of surprise and -- I mean Assemblyman Machado's  
 6 mystification of what's going on in CALPED is not  
 7 atypical, to put it lightly, and if, at this point, now  
 8 that we've rolled out this draft, I think it makes perfect  
 9 sense for us to get together in some lobbying teams or  
 10 information teams, or however you want to characterize  
 11 them, and do that. I think that would be much more  
 12 effective than just asking people to talk to whoever they  
 13 know.

14 If you would help us set up some structure to  
 15 communicate with the political leaders, I think that would  
 16 certainly -- we'd get a lot further there.

17 CHAIRPERSON MADIGAN: Good. Thank you.  
 18 Byron.

19 COUNCIL MEMBER BUCK: Actually, I had my  
 20 question answered, but Ann's point I think is an  
 21 absolutely excellent one, if we can get, you know, two or  
 22 three or one, even, from each sort of major interest group  
 23 to go around and do it, I think that would be a great  
 24 message to send, particularly if the message is "Yes,  
 25 there are still issues on the table, but we have very

184

1 great hopes for the process and want to stay in it," and  
 2 they see that at once, rather than being hit individually.  
 3 I think that will help our issues with the legislature  
 4 greatly.  
 5 COUNCIL MEMBER SELKIRK: Can I -- can I  
 6 just see a show of hands of who -- who of you would be  
 7 willing and interested in doing that?  
 8 CHAIRMAN MADIGAN: Doing what?  
 9 COUNCIL MEMBER SELKIRK: Doing --  
 10 CO-CHAIRPERSON McPEAK: Legislative  
 11 briefing.  
 12 COUNCIL MEMBER SELKIRK: Doing  
 13 legislative briefing, possibly in teams with like two  
 14 other BDAC members meeting with legislators.  
 15 Okay.  
 16 CHAIRPERSON MADIGAN: What --  
 17 COUNCIL MEMBER SELKIRK: So a number of  
 18 people.  
 19 CHAIRPERSON MADIGAN: Okay. Here -- let  
 20 me --  
 21 COUNCIL MEMBER SELKIRK: Okay.  
 22 CHAIRPERSON MADIGAN: Let me -- let me  
 23 pass on the duty qualifier on all this.  
 24 Obviously we are a governmental entity.  
 25 Our -- our -- our role is to provide information to

1 legislators, not to lobby them, and our approach to them  
 2 would be in that guise. We will need to observe all of  
 3 the appropriate niceties of the rules regarding how many  
 4 of us can pay visits to individual legislators, but -- but  
 5 given those cautions, it is, in fact, useful that the  
 6 process of briefing our legislators continues on the  
 7 matter of the progress of -- of the Bay-Delta, and  
 8 certainly, at the end of it all, we don't want anybody to  
 9 be surprised by what it is that we're doing by lack of  
 10 attention, so your participation and involvement is very,  
 11 very helpful.  
 12 Lester.  
 13 EXECUTIVE DIRECTOR SNOW: A couple of  
 14 points I want to make, and it may be kind of legalistic,  
 15 but I think it's important to understand.  
 16 We're embarking on a phase now that we haven't  
 17 been in, which we're establishing a legal administrative  
 18 record, offering the public an opportunity to comment  
 19 legally under NEPA and CEQA, and there are two ways to get  
 20 on that official record. One is to come to a  
 21 formally-announced public hearing and provide testimony.  
 22 The other is to submit written comments by hard copy to  
 23 us, not E-Mail, not casual phone conversations.  
 24 We try to respond to all of those. We try to  
 25 respond to hallway concerns that we hear, but there's only

1 two ways to get into the NEPA/CEQA official record, at a  
 2 public hearing and by written comments submitted to us on  
 3 hard copy.  
 4 Now there's two reasons I want to mention  
 5 that. One, as you run into people that want to give you  
 6 their comments real quick, go ahead and listen to what  
 7 they have to say, but then remind them to put it in  
 8 writing and send it to CALFED. That's the only way it  
 9 will end up in the record, and two, we're at a point where  
 10 we don't have too many casual public meeting, and so when  
 11 we talk about adding several meetings -- and right now  
 12 we're talking about adding three -- we're going to need to  
 13 make sure we structure those so we have a court reporter  
 14 and we're opening the record, taking the testimony, and  
 15 closing the record at those hearings, and that's just an  
 16 important point, but we need to have a very clean  
 17 administrative record on this.  
 18 We don't want people to be confused that  
 19 because they talked to Mike and Lester they think they've  
 20 made their comments on the CALFED program, and we just  
 21 have to keep saying that over and over, every time we're  
 22 in a public setting.  
 23 COUNCIL MEMBER HILDEBRAND: Lester.  
 24 CHAIRPERSON MADIGAN: Alex.  
 25 COUNCIL MEMBER HILDEBRAND: To what

1 extent does that apply to the BDAC members?  
 2 We not on a public record, unless we submit  
 3 something in writing?  
 4 EXECUTIVE DIRECTOR SNOW: That's correct,  
 5 in terms of the administrative record underneath NEPA and  
 6 CEQA --  
 7 COUNCIL MEMBER NOTTHOFF: So BDAC --  
 8 EXECUTIVE DIRECTOR SNOW: -- or at --  
 9 COUNCIL MEMBER NOTTHOFF: -- meetings  
 10 don't count as the formal public hearings?  
 11 You have to make your comments at the public  
 12 hearing --  
 13 CHAIRPERSON MADIGAN: You would be right.  
 14 COUNCIL MEMBER NOTTHOFF: -- and writing.  
 15 CHAIRPERSON MADIGAN: You would be right.  
 16 COUNCIL MEMBER NOTTHOFF: Yeah.  
 17 COUNCIL MEMBER RAAB: Are we subject to  
 18 any rocks that we throw at the government officials when  
 19 we speak from now on?  
 20 Are there any hazards?  
 21 Could we get in trouble?  
 22 CHAIRPERSON MADIGAN: Yeah.  
 23 MS. SCOONOVER: All right. All right. I  
 24 can't resist.  
 25 You are a citizens advisory committee.

1 Although you are a Federally chartered citizens advisory  
 2 committee, because you are jointly appointed by both the  
 3 State and the Federal agencies, we're kind of a unique  
 4 beast, but -- but basically you provide advice to the  
 5 agencies. The document is the agency's document, so you  
 6 don't have personal or professional liability for what  
 7 happens in the document.  
 8 You do, however, have some political potential  
 9 liability, and I won't go there, because that's not my  
 10 area of expertise, so what we're trying to do is encourage  
 11 you all, through your representation through your own  
 12 constituencies to make comments that you think are  
 13 necessary to be made on the EIR/EIS during the course of  
 14 these formal hearings or in writing. You don't have to do  
 15 both. One or the other will suffice.  
 16 If you submit written comments, there's no  
 17 need to show up at a -- at a -- one of the live hearings  
 18 in order to give testimony. The comments won't be  
 19 weighted any differently. As a matter of fact, we're  
 20 going to sort similar comments and try to provide  
 21 responses.  
 22 That's the other point that I think needs to  
 23 be made about public hearings.  
 24 Usually people ask us questions in our  
 25 meetings, and we try to respond to them. We are really,

1 in these hearings, going to be taking testimony. There  
 2 may be a 15-minute introduction to CALFED and EIR/EIS and  
 3 laying out the ground rules. There will not be extensive  
 4 debate. There will not be extensive question and answer,  
 5 as there has been in the past.  
 6 We really are satisfying the legal  
 7 requirements for the EIR/EIS for -- under NEPA and CEQA,  
 8 so it's -- it's a -- it's a different kind of an animal  
 9 than we've dealt with before.  
 10 CHAIRPERSON MADIGAN: Good.  
 11 MS. SCOOVER: Thank you.  
 12 CHAIRPERSON MADIGAN: Thank you.  
 13 Questions.  
 14 All right. Lester, anything else for the good  
 15 of the order?  
 16 EXECUTIVE DIRECTOR SNOW: No.  
 17 CHAIRPERSON MADIGAN: Anybody else?  
 18 We are adjourned. Thank you very much.  
 19 EXECUTIVE DIRECTOR SNOW: Did you call  
 20 for public comment?  
 21 CHAIRPERSON MADIGAN: Public comment,  
 22 anybody -- public comment. I'm sorry. I -- I -- I did  
 23 neglect that, and that's a mistake on my part. We have a  
 24 public comment period, and I should invite those of you  
 25 who are in the public to do that, and let me ask you to

1 give your name and address for the record, since we  
 2 apparently didn't have sign-up slips here today.  
 3 Sir.  
 4 MR. KIRIAKOS: Well, I'll give it a try  
 5 first here.  
 6 The -- basically I'd like to provide an  
 7 additional environmental perspective on the part of some  
 8 of the other components of the Southern California  
 9 environmental community, not entirely --  
 10 CO-CHAIRPERSON McPEAK: You are?  
 11 MR. KIRIAKOS: -- different from -- from  
 12 what was said before, but I'll try to -- I'll try to add  
 13 some and identify myself.  
 14 I'm Pete Kiriakos from Redlands,  
 15 California, and I'm the conservation chair of the  
 16 San Geronimo chapter of the Sierra Club, which covers the  
 17 Riverside and San Bernardino counties, an area which  
 18 extends from the Colorado River back to the urbanized area  
 19 that you see here behind L.A. and -- and Orange County,  
 20 roughly -- let's call it 200-by-200-mile square, so it's  
 21 quite a diversity.  
 22 Additionally, as far as experience with water  
 23 issues, I'm president of the San Mateo Green Way  
 24 Conservancy. This is about a 35-mile stream feeding into  
 25 the San Diego River, and we've been dealing with issues of

1 the watershed, flood control, and water quality and water  
 2 supply.  
 3 Background, I'll say that I'm a retired Air  
 4 Force strategic planner, military, dealing with different  
 5 parts of the world, and a geographer, both by college  
 6 training and my military career, and I, myself, was born  
 7 in Northern California, on the San Francisco Bay, right at  
 8 the mouth of the -- the Delta, as we know, and early on I  
 9 did natural resource work in my summer college employment  
 10 with the National Forests in Northern California and  
 11 Lassen National Park, so I've -- I've got a pretty good  
 12 handle on some of the geography up there.  
 13 And after my Air Force career, basically I've  
 14 come back into environmental work. This started with  
 15 attending a crash course at the Smithsonian Center for  
 16 Conservation Research and -- and getting a crash course in  
 17 conservation biology, and this kind of launched me off  
 18 into some of my environmental efforts upon my retirement  
 19 from the Air Force.  
 20 So trying to move along, my observations on  
 21 Southern California, I'd like to, I think, readdress some  
 22 of the descriptions that we've had of Southern California.  
 23 This is not a desert, which we consider waterless. There  
 24 are two deserts, but ecologically probably most of you  
 25 realize that we -- we have three standard regions, the

1 majority, where the population are, are in what's called  
 2 the South Coast ecological region. This is an area of  
 3 coastal sage scrub with about 12 inches of rainfall. It's  
 4 not arid, and depending upon how you cut it, we have  
 5 significant mountain resources in Southern California  
 6 which add to the -- to the water availability.

7 As far as the mountains, you may or may not be  
 8 aware we have a mountain system between the San Bernardino  
 9 and San Jacinto Mountains with numerous peaks which are  
 10 10,000 foot and over and two peaks which are just short of  
 11 12,000, so the water -- water supply for certain areas is  
 12 significant, and the largest watershed in  
 13 Southern California is the Santa Ana River, and this --  
 14 this does add some native capability.

15 The problems for water supply: The problems  
 16 that exist, as were mentioned by earlier speakers are the  
 17 pollution, which is -- which has occurred in these  
 18 watersheds, L.A., San Gabriel, and especially the -- the  
 19 Santa Ana River watershed, through -- through various  
 20 pollution that's been caused by agriculture and industry  
 21 activity, particularly aerospace, which has left a lot of  
 22 remnants.

23 So while there's -- there's fantastic water  
 24 supply we have immense problems with the water table, and  
 25 efforts, State and Federal, to clean this up are quite

193

1 significant to -- to readdressing this balance.

2 I started off addressing the ecological  
 3 regions. We do have this area of rainfall, and there are  
 4 two desert areas, ecological regions, the Mojave Desert  
 5 which you generally know as the high desert, and it -- it  
 6 has the Mojave River, as was mentioned, which goes into  
 7 the ground, but that does provide the water for the water  
 8 table up there, although that's going down because of  
 9 the -- the growth and population there, and there was  
 10 mention earlier by a San Bernardino County Supervisor, I  
 11 guess, of a feeder line which has come down to -- to give  
 12 then basically an increased water supply.

13 And the second desert region is the Sonora  
 14 and/or Colorado Desert, the area from Palm Springs to the  
 15 Colorado River, and the only stream there is the white  
 16 water. This flows into the Salton Sea, and again, trying  
 17 to paint a -- an environmental picture, the -- this is a  
 18 major waterfowl area.

19 You're probably mostly aware that the  
 20 Salton Sea isn't a totally natural occurrence. This  
 21 happened when water, which was from the Colorado River and  
 22 going into a canal, basically broke out and filled the  
 23 Salton Sea, and it's been there ever since. It's become a  
 24 major resource for the environment and wildlife, avian  
 25 and -- and waterfowl, and I guess a comment there, based

194

1 upon a presentation we had by a biologist and natural  
 2 resource manager, was that his forecast of what the water  
 3 diversion that will occur there, that eventually -- and it  
 4 may take many years -- the -- both the quality and size of  
 5 the Salton Sea will deteriorate, so we have our own  
 6 environmental restoration problems, which we may be  
 7 contributing to at this point in time.

8 Okay. I have addressed your ecological  
 9 regions.

10 Some of the problems that -- that I see in  
 11 Southern California, with -- with my experience as a  
 12 planner, and -- and the obvious one is urbanization and  
 13 all the impacts of that. The population growth is  
 14 forecast to be greater in Southern California. It's  
 15 forecast, particularly in our inland areas or inland  
 16 valleys, to double in the next 25 years, and this is  
 17 somewhat above the State average. I know it's supposed to  
 18 increase significantly throughout the State, but it's  
 19 higher here.

20 Consequently, the obvious thing is that the  
 21 water use is obviously high. That hardly needs to be  
 22 stated. The water use that goes on here, and you're --  
 23 you're well aware of the multiple source of the  
 24 Colorado River, the Eastern Sierra, and -- and the other  
 25 Northern California resources from the Central Valley.

195

1 The -- this urbanization has led to  
 2 accelerated habitat loss, and functionally throughout the  
 3 Los Angeles/Orange County basin, outside of my area of  
 4 specific concern, it -- the majority of it's gone, unless  
 5 it's on Federal lands, and in some cases we have this new  
 6 M.C.C.P. reserve.

7 Habitat loss relative to this body here  
 8 is significant, as far as the -- the water retention.  
 9 When you have that open space, you have the capability to  
 10 store and convey water, and additionally, habitat, I  
 11 think, is -- is -- is the real focus of -- primary focus  
 12 also of -- of your charter in Northern California, but we  
 13 have related problems down here, and as habitat is lost,  
 14 we also have the -- the loss of the ability to store  
 15 water, as I think I just mentioned, and also for cleaning  
 16 water and helping with water quality.

17 Another problem is -- is a political one, and  
 18 it's the difficulty, because of the multiple political  
 19 jurisdictions, in having an enforceable and realistic  
 20 public planning, which goes across artificial political  
 21 lines. Most typical in Southern California -- and this is  
 22 held as a world example -- the automobile has driven  
 23 planning and sprawl, resulting directly from the  
 24 automobile, has been nearly unlimited since World War II,  
 25 and it's a worldwide example of the problems of sprawl.

196

1 Nearly 50 percent or far over 50 percent of  
 2 every dollar goes to direct and indirect cost of the auto.  
 3 In solving our environmental and water problems, part of  
 4 the equation is trying to change this paradigm, and we  
 5 basically need a change in the way the government process  
 6 works through Southern California, and this does -- this  
 7 does impact, I think, the planning for water.

8 Let's see. The additional thing, as far as  
 9 the public planning process -- and this just goes  
 10 throughout the State -- I'm dealing with land-use issues  
 11 out -- out my way. The amount of open space you have  
 12 is -- is actually significant, as far as your water  
 13 retention, and -- and your water quality. I'd like to  
 14 point out that the State standard for parks -- we're  
 15 dealing with a lot of new development and trying to focus  
 16 on how that happens out our way. State requirements are  
 17 for only five percent of the land to be dedicated to parks  
 18 and open space, and this is -- this is totally  
 19 insignificant.

20 So this is -- this is something that really, I  
 21 think, impacts through the rest of the State, because  
 22 urbanization is a problem in areas of the Central Valley.  
 23 It's growing somewhat out of control in the areas of  
 24 Bakersfield and Fresno and the -- and the southern portion  
 25 of the Central Valley.

197

1 Some of the solutions for Southern California,  
 2 particularly a focus of mine, we need to change the  
 3 paradigm from flood -- flood control to flood management,  
 4 and -- and this is part of the problem. This was alluded  
 5 to earlier by another speaker for the Southern  
 6 California's Los Angeles, San Gabriel watersheds. The  
 7 traditional thought pattern of building concrete-lined  
 8 flood control systems for the major rivers denies the  
 9 opportunity to -- to recharge, and it takes away wetlands,  
 10 which are part of the habitat.

11 This paradigm needs to be changed. There are  
 12 new systems being built still, to this day, even though  
 13 we've been somewhat successful in my smaller stream for --  
 14 in changing this pattern, and more concrete is being  
 15 poured on the Santa Ana River even to this day. This  
 16 needs to change.

17 Some of the other things, as far as the  
 18 planning process and solutions for Southern California, we  
 19 need to have urban limit lines to help with this open  
 20 space and this ability to store water. We need to have  
 21 separation between cities, which is a social problem but  
 22 it's also an environmental problem and it ties into the --  
 23 to the water -- the water process.

24 You've heard good words about water recycling  
 25 and conservation. I won't repeat that. That's positive.

188

1 Zero-scaping I think is something that could  
 2 help immensely in Southern California. In addition, if  
 3 this was more encouraged, it might be something useful for  
 4 the rest of the State, as far as affecting the water  
 5 balance.

6 And I think additionally there needs to be  
 7 more focus in the planning of new cities and reworking old  
 8 cities and having more water-recapture facilities.

9 So trying to wrap this up, I don't have a lot  
 10 new really to say, as far as input to CALFED.

11 We strongly agree with the position of the  
 12 environmental water caucus, the Sierra Club California  
 13 certainly is a part of that.

14 We strongly support, in Southern California,  
 15 the ecosystems restoration in the -- and the  
 16 San Francisco -- in the San Francisco Bay-Delta.

17 We also would strongly recommend that whatever  
 18 alternative and program elements are chosen, they should  
 19 be simple, and they should be close to natural in design,  
 20 and this keeps the long-term risk of failure and -- and  
 21 loss of public expenditure the lowest.

22 The -- we do support spreading the cost to all  
 23 users of the water. All of us users are part of the  
 24 problem, and so, consequently, we should all be a part of  
 25 the solution, primarily based upon usage, and we certainly

189

1 support, overall, for the process, water recycling and  
 2 conservation, and additionally agriculture water-saving  
 3 technology.

4 We -- we support agriculture, because it  
 5 preserves open space, but because they are the largest  
 6 water users, we hope they'll become a strong partner, and  
 7 there will be some -- some measurement rules for -- for  
 8 how well that's done.

9 So that kind of wraps it up. I wanted to just  
 10 give you a slightly different perspective from the  
 11 environmental community.

12 Thank you.

13 CHAIRPERSON MADIGAM: Thank you very  
 14 much.

15 Sir, did you have your hand up?

16 MR. HAYDOCK: Thank you, Mr. Chairman.

17 CHAIRPERSON MADIGAM: You're on.

18 MR. HAYDOCK: My name is Irwin Haydock,  
 19 and I live at 11570 Aquamarine Circle in Fountain Valley.

20 CHAIRPERSON MADIGAM: Thank you.

21 MR. HAYDOCK: I appreciate your -- your  
 22 hearing me today, because I stayed up all night and I  
 23 drove an hour. It will probably take me two hours to get  
 24 home, so it's nice to be able to do that.

25 I would appreciate it if my typed comments

200

1 could be placed in today's minutes and in the EIR/EIS  
 2 product, so that they might be seen by the millions of  
 3 others that are concerned and also that -- but were unable  
 4 to attend, and also all of the BDAC members.

5 I'm here representing a somewhat different  
 6 constituency, my four children and my eight grandchildren.  
 7 If you do the math, that's what much of California's  
 8 growth is really about. I represent them because they  
 9 could not be here today, being home doing the normal  
 10 things that people of that age do, or at work. I hope my  
 11 efforts will contribute to leaving enough resources behind  
 12 to satisfy their future need for water, food, and a  
 13 healthy and diverse environment.

14 I have survived in California for six decades,  
 15 half stationed in the north and half in the south. Born  
 16 in Bakersfield, raised in the Bay area, and educated in  
 17 State schools, and currently living in Orange County.

18 CHAIRPERSON MADIGAN: And that must make  
 19 you as genuine a Californian as anybody I know.

20 MR. HAYDOCK: Yeah, I would -- I'm not a  
 21 native, but I am a Californian.

22 I graduated from high school in --  
 23 Sequoia High School in Redwood City and enjoyed summers  
 24 working as a glass-bottom boat gondolier in  
 25 Pacific Grove's famed marine gardens, which have been

281

1 substituted now by the Monterey Bay Aquarium, so we know  
 2 something of the problem.

3 I also represent one of six generations of  
 4 California pioneers of which I will subsequently speak.

5 My avocation over the past 40 years has been  
 6 to study the State's water resources, both salt and fresh,  
 7 and the possibilities for their conjunctive use by the  
 8 environment and human population. Clearly, this is the  
 9 boon or bane of California's most important looming.

10 As a graduate student studying estuaries and  
 11 oyster cultures in Northern California, I had the pleasure  
 12 of being invited by Don Kelly to the very first study of  
 13 the Delta, done at the time the California Water Project  
 14 was initiated, was being initiated. I was honored to be  
 15 able to tag along with my professor, Joel Hedgpeth, at  
 16 that time, and over the next decades I remained in  
 17 frequent contact with the project and was able to keep  
 18 track of what was going on.

19 The initial of the Delta subsequently led to a  
 20 lifelong historic -- reading of historic writings about  
 21 our continuing north/south and even east/west water wars.  
 22 Recall Mark Twain's statement about "Whiskey is for  
 23 drinking; water is for fighting over."

24 A decade as chair for the Huntington Beach  
 25 Environmental Board led to tickets to some wonderful tours

282

1 of State Water Projects, C.V.P. and Colorado River  
 2 facilities and D.W.P. -- even D.W.P.'s Los Angeles  
 3 aqueduct, and the most highly coveted of all, Southern Cal  
 4 Edison's trip to Big Creek to look at hydroelectric power  
 5 generation.

6 Mostly recently, I was honored to serve as one  
 7 of the scientific technical advisory committee members for  
 8 the BDOC, that more limited process to fix the broken  
 9 Delta that preceded your own BDAC efforts. This certainly  
 10 stands out as my own personal favorite experience to date  
 11 in the California water scene.

12 Professionally, I left Davis for my first real  
 13 job as project manager of the Salton Sea project for two  
 14 years, studying the problems of the sea, which is now  
 15 being studied again. I guess I didn't do it right.

16 And then three years as a senior ecologist for  
 17 the Southern California Coastal Water Research Project and  
 18 studying the effects of humans on the Southern -- the  
 19 entire Southern California bight. That led to 25 years of  
 20 work in the field of water treatment and water reclamation  
 21 and water research, but primarily as supervisor and then  
 22 director of ocean monitoring and research programs.

23 My focus has always been to translate  
 24 scientific understanding into appropriate regulatory and  
 25 management decisions protective of the environment and the

283

1 public's health

2 At any rate, this should give you some idea of  
 3 my education, experience, and dedication to good public  
 4 works.

5 Now I want to go back and briefly discuss my  
 6 own family tree and to demonstrate how we typify -- typify  
 7 the human reflection of California's waters, past,  
 8 present, and future. I have -- I actually have a lovely  
 9 slide dramatically illustrating this point, showing a  
 10 young -- a man holding the hand of a young boy in the  
 11 background, with the foreground listing the six  
 12 generations of our family.

13 I believe that their bios best demonstrate  
 14 changes water -- in water use all of us have witnessed or  
 15 at least read about. Of course lest history repeat  
 16 itself, we need to take care that future changes do not  
 17 exacerbate those of the past. I introduce my family only  
 18 as an example. Each, in their own way, contributed hard,  
 19 honest, and honorable work to mold a better California for  
 20 their offspring.

21 First, my great grandfather, T.B. Dawson,  
 22 following the Donner Party over the Sierras. In 1856, he  
 23 pioneered the fruit canning industry in San Jose. Fruit  
 24 pulp eventually led to pollution of South San Francisco  
 25 Bay and ruination of magnificent runs of salmon and

284

1 steelhead in local streams.  
 2 Second, my grandfather, Irwin Edgar Pomeroy,  
 3 he managed the family orchards in Sunnyvale, now  
 4 Silicon Valley, growing the best peaches, prunes,  
 5 apricots, and cherries I've ever tasted. This operation  
 6 required digging the well ever deeper and then contributed  
 7 to ground water depletion and subsequent land subsidence  
 8 that reduced the Santa Clara Basin capacity for precious  
 9 and renewable water storage.  
 10 Third, my father, John Wesley Haydock, his  
 11 father Job in Redding was to help clear the title for  
 12 Shasta Dam, the keystone in the Federal Central Valley  
 13 Project. He once bragged to me that his Job was done so  
 14 well that the land titles would never be broken, nor the  
 15 dam either, for that matter.  
 16 Fourth, myself, my lifelong passion has been  
 17 to scientifically know both nature's ways and that of the  
 18 people, helping both to live in concert with renewable but  
 19 finite water resources.  
 20 Fifth, my son, James Wesley, is an engineering  
 21 technician in ground water remediation, and my daughter,  
 22 Marina Dee, is a hydrogeologist dealing with contaminants,  
 23 water basin science, and monitoring of water wells. Both  
 24 work hard in Orange County to clean up some of the messes  
 25 left by previous generations and to ensure the water

1 supplies of future generations.  
 2 Sixth, my grandsons, Daniel West, Miles, and  
 3 Ryan Haydock, and their sisters and siblings, they all  
 4 worked hard today at school, playing and in sort of a lull  
 5 before the eventual storms of life.  
 6 I can only predict what the next hot  
 7 profession might be, but I know it's in water, because it  
 8 will be our most critical job-one of the future.  
 9 If I can leave you with one lesson I have  
 10 learned from my own family's experience, it would be that  
 11 you think outside the box on water. We must each think as  
 12 a Californian, not as a Southern or a Northern subspecies  
 13 grade or "cline." We must consider what can be and what  
 14 we want to remain of California's aquatic environment, not  
 15 just about to which each stakeholder group belongs.  
 16 We must follow nature's way, not that of a  
 17 single species. Anything less will again bring Pogo's  
 18 cry, "We have met the enemy, and he is us."  
 19 Some stakeholder groups might win in one --  
 20 one or two of the battles, but they'll lose -- we will all  
 21 lose the war. If so, the few survivors might envy the  
 22 dead.  
 23 I found CALFED's attempt to include all  
 24 linkages in ecosystem components refreshing. In Cal -- in  
 25 Orange County, we have taken a similar approach on a

1 smaller scale. We call it "pines to palms," and find that  
 2 it still involves hundreds of relevant stakeholders in an  
 3 organized way.  
 4 This leads to my final thought, the process by  
 5 which watersheds enrich the coastal zone is natural and  
 6 vital to the overall system. We can no longer afford the  
 7 idea that every drop reaching the sea is wasted. Nothing  
 8 could be further from the truth and is conceptually  
 9 counterproductive to thinking outside of the box.  
 10 Time is running out. CALFED must embrace its  
 11 task of choosing a scenario that will set the stage for  
 12 California's water future, or not, in the next century.  
 13 The next stage should involve water experts and all the  
 14 relevant and interested stakeholders. It should heavy-up  
 15 on thinking, not to putting our thinking caps on before we  
 16 put our hardhats on, and it should concentrate on already  
 17 existing data taken lovingly over a long period by all  
 18 those that have worked in the Delta, and I think we should  
 19 really save pouring the concrete over the steel for the  
 20 next generation.  
 21 I suspect that many of us here in the room  
 22 will not see the end of this important business. I wish  
 23 you good luck. It is essential that we be able to all  
 24 live with the outcome.  
 25 Thank you for the opportunity to present these

1 thoughts, and I would --  
 2 CHAIRPERSON MADIGAN: Thank you, sir.  
 3 MR. HAYDOCK: -- like to give you this  
 4 copy to --  
 5 CHAIRPERSON MADIGAN: Please do.  
 6 MR. HAYDOCK: -- enter in the record.  
 7 CHAIRPERSON MADIGAN: Before you  
 8 distribute it, I want everyone to know there will be a  
 9 quiz on Mr. Haydock's family tree.  
 10 MR. HAYDOCK: I -- I -- I can't  
 11 distribute it, but I'll give it to --  
 12 CHAIRPERSON MADIGAN: Thank you.  
 13 MR. HAYDOCK: -- whoever I should give --  
 14 CHAIRPERSON MADIGAN: I'm kidding.  
 15 MR. HAYDOCK: -- it to, and I suppose  
 16 Lester --  
 17 CHAIRPERSON MADIGAN: Thank you very  
 18 much. I appreciate your input.  
 19 MR. HAYDOCK: Okay.  
 20 CHAIRPERSON MADIGAN: Was there anybody  
 21 else from the audience. Yes, na'an. Oh, sure. Of  
 22 course. Come up, please.  
 23 MS. CLARK: I'm Margaret Clark,  
 24 Rosemead City Council. I serve on several environmental  
 25 committees with the State League of Cities, the

1 National League of Cities, and the SCAG,  
2 Southern California Association of Governments, and the  
3 San Gabriel Basin Water Quality Authority, which oversees  
4 the ground water cleanup of our ground -- of our basin,  
5 but I'm speaking as an individual and I -- first of all, I  
6 just have some questions, and I'm -- am I allowed to ask  
7 questions, or is this just --

8 CO-CHAIRPERSON McPEAK: Yeah, but you'd  
9 be mistaken if you thought we had answers.

10 CHAIRPERSON MADIGAN: Right.

11 MS. CLARK: Well, the whole thing this  
12 morning was on how it was going to be paid for, and my  
13 question is: Is that going to have to be legislated by  
14 the State or Federal body, and -- and/or would it just --  
15 I mean somehow, if it was going on the user fees, based on  
16 water rights or whatever, that would have to be legislated  
17 by somebody, wouldn't it?

18 CHAIRPERSON MADIGAN: The answer is all  
19 of the above and then some.

20 MS. CLARK: Oh.

21 CHAIRPERSON MADIGAN: I mean there  
22 have -- there have been public bond issues, both voted on  
23 and proposed.

24 MS. CLARK: Right.

25 CHAIRPERSON MADIGAN: There will be State

209

1 and Federal legislative actions, and there will  
2 undoubtedly be a great many actions by local agencies as  
3 well.

4 MS. CLARK: How does Proposition 218 come  
5 into -- I know there was exemptions for water, but does  
6 that -- is that anything you put on the water bill, or is  
7 this -- does anybody know that, the right to vote on  
8 taxes?

9 CHAIRPERSON MADIGAN: I suspect that we  
10 will learn much of that and know little.

11 MS. CLARK: Okay. Because my suggestion,  
12 if it does have to go -- if there's anything that has to  
13 go to a vote of the people, it's going to have to be very  
14 simple, and I agree with Ann that the legislators will  
15 have to be brought up to speed, and I would -- my  
16 suggestion -- and I would suppose this would have to go to  
17 the -- the CALFED Board, but that the three alternatives  
18 be very simply outlined with pros and cons, because -- and  
19 who might be opposed to them, and I know we all -- as  
20 politicians, we like to avoid that, but if it's going to  
21 come out in the public, in general, they're going to find  
22 out anyway, so it's better -- my opinion, it's better to  
23 address them up front and -- and see how they can be  
24 mitigated.

25 The other question that I had is -- let's see.

210

1 Will there be opportunity for questions at the  
2 public hearings, or will it be just basically "This is it,  
3 and you can comment"?

4 Because I think -- I think -- this morning was  
5 just fascinating to me, the -- the -- the input that  
6 everybody had on -- on how the financing would take place,  
7 and I loved hearing the -- the -- the pros and cons and --  
8 and -- and that's what's going to be the meat of what  
9 comes out of this, so I'm wondering are those hearings  
10 going to be interactive like that, or is it just a --

11 EXECUTIVE DIRECTOR SNOW: No, the  
12 hearings are for the purpose of taking testimony from the  
13 public. However, we do expect our -- our BDAC meetings to  
14 become more and more like --

15 MS. CLARK: Good.

16 EXECUTIVE DIRECTOR SNOW: -- the  
17 discussion we had the last two --

18 MS. CLARK: Great.

19 EXECUTIVE DIRECTOR SNOW: -- days, and  
20 so --

21 MS. CLARK: Okay.

22 EXECUTIVE DIRECTOR SNOW: -- I would  
23 suggest that's really the place to focus --

24 MS. CLARK: Okay.

25 EXECUTIVE DIRECTOR SNOW: -- your

211

1 attention or people that you're aware of who want to get  
2 involved to really start getting an understanding of what  
3 the issues are and what the different views are --

4 MS. CLARK: Okay.

5 EXECUTIVE DIRECTOR SNOW: -- on those  
6 issues.

7 MS. CLARK: Because I have several  
8 questions, just reading the executive summary, and how  
9 would I get those answered if the public hearings aren't  
10 for the --

11 CHAIRPERSON MADIGAN: Sunne.

12 MS. CLARK: And I don't think you want to  
13 stay and listen to me, listen to my questions.

14 CO-CHAIRPERSON McPEAK: Well, just a  
15 comment to elaborate on what Mary reported on yesterday,  
16 Mr. Chairman, the Southern California Association of  
17 Governments, which has, I think, 14 subregional groups and  
18 as well as the environmental policy group -- I may not be  
19 using the right term, but -- that Margaret serves on has  
20 indicated an interest in being a forum that can be  
21 interactive, that can have some dialogue.

22 The reason that the -- you can ask questions  
23 at the public hearings. We just can't answer them,  
24 because that's a formal, you know, legal --

25 MS. CLARK: Yes, I know.

212

1 CO-CHAIRPERSON McPEAK: -- proceeding,  
2 and we -- and there will be a formal process for  
3 responding to all of the comments that come in during  
4 those public hearings and in writing.  
5 But in addition to everything else we've  
6 talked about earlier, Lester, regarding public outreach, I  
7 think the interest that SCAQ has expressed this week is an  
8 opportunity that we should further explore, in order to  
9 have an interactive dialogue, discussion, answering  
10 questions, and that's what I hope would come about, but I  
11 think Mark is going to, Mark Pisano, the executive  
12 director, who's planning to somehow follow up with you,  
13 Lester, on, and I think, Mary, that's also what you also  
14 had --  
15 CHAIRPERSON MADIGAN: I would think it's  
16 an invitation --  
17 MS. CLARK: I know I think that --  
18 CHAIRPERSON MADIGAN: -- that we ought to  
19 accept --  
20 MS. CLARK: I hope --  
21 CHAIRPERSON MADIGAN: -- with alacrity.  
22 MS. CLARK: Right.  
23 CHAIRPERSON MADIGAN: That would be  
24 great.  
25 MS. CLARK: Well, I hope that does

1 happen, because myself, as a politician, when we've held  
2 public hearings in the City, for example, often the people  
3 don't know what the issues are, and so you say, "Well,  
4 nobody showed up, so they must not care." Well, the fact  
5 is they don't understand, and I think that if we're going  
6 to be able to say the public knows, they understand, and  
7 then will support whatever they're going to have to  
8 support, they're going to have to know, and they're going  
9 to have to have it very simply stated, because water, as  
10 you know, is very complex, so...  
11 I appreciate your staying and hearing me.  
12 Thank you.  
13 CHAIRPERSON MADIGAN: Thank you very  
14 much.  
15 Does that complete the public testimony?  
16 All right. Thank you all very much for  
17 sticking around. We're adjourned.  
18  
19 (End of proceedings: 2:14 p.m.)  
20  
21 \* \* \* \* \*  
22  
23  
24  
25