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MEETING
STATE OF CALIFORNIA
CENTRAL VALLEY REGIONAL
WATER QUALITY CONTROL BOARD

CENTRAL VALLEY REGIONAL
WATER QUALITY CONTROL BOARD
11020 SUN CENTER DRIVE #200
SACRAMENTO, CALIFORNIA

APRIL 7, 2011

LISA SCHAFER, CSR 12723
CERTIFIED SHORTHAND REPORTER

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APPEARANCES

- Ms. Kate Hart, Chairperson
- Mr. Lyle Hoag
- Mr. Karl Longley
- Ms. Sandra Meraz
- Ms. Soapy Mulholland
- Mr. Dan Odenweller

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- Ms. Pamela Creedon, Executive Officer
- Mr. Ken Landau, Assistant Executive Officer
- Mr. Fredrick Moss, Asistant Executive Officer
- Mr. David Coupe, Legal Counsel
- Mr. Alex Mayer, Legal counsel
- Mr. Patrick Pulupa, Legal Counsel
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- Ms. Kathy Harder, Staff Engineer
- Mr. Jim Marshall, Senior Engineer
- Ms. Diane Messina, NPDES Program Manager &

Supervising Engineer

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APPEARANCES CONTINUED

ALSO PRESENT

AGRICULTURE PANEL

- Mr. Joe Karkoski
- Mr. Adam Lapute
- Ms. Megan Smith
- Mr. Jim Gates
- Mr. Bill Thomas
- Ms. Carrie Fisher
- Mr. Teft Dunn, Esq.

ENVIRONMENTAL PANEL

- Mr. Mike Lozo
- Mr. Ely Moore
- Ms. Rose Francis

QUESTIONS FROM PUBLIC ATTENDANCE CARDS

- Mr. John Harrant
- Ms. Juliette Smith
- Dr. Mark Brockwell
- Ernest Cotant

TESTIMONY OF PUBLIC OFFICIALS

- Mr. Richard Price

AGRICULTURE POLICY PANEL

- Mr. Bruce Halshett
- Mr. Peri Galawson
- Mr. David Orath

1 Mr. Mike Whiteman
2 ENVIRONMENTAL JUSTICE POLICE PANEL
3 Ms. Cardalena Valdez
4 Ms. Jennifer Clarity
5 Ms. Laural Firestone
6 CLEAN WATER ACTION
7 Ms. Virgina Menuins
8 Ms. Betty Welder
9 Mr. Grady Jordon
10 PUBLIC ATTENDANCE CARDS
11 Mr. Bill Jennings
12 Mr. Steven Bond
13 Ms. Joanne Kipp
14 Mr. Richard Mcttenry
15 Ms. Erma Medadien
16 Ms. Veronica Mendoza
17 Ms. Sumona Magana
18 Mr. Ernesto Duran
19 Ms. Jessica Sanchaez
20 Ms. Cathrine Davis
21 Mr. Luis Menaneen
22 Ms. Maria Rega
23 Mr. David Cory
24 Mr. Larry Domanigy
25 Ms. Patricia Chipperly

1 Mr. John Garner
2 Ms. Patricia Shipery
3 Ms. Pam Giacomini
4 Ms. Carol Delvis
5 Mr. Juan Tramedes
6 Ms. Vicki Dolly
7 Mr. Bob Blakely
8 Mr. Richard Pool
9 Mr. Sean Buckwell
10 Mr. Larry Boyd
11 Mr. Daniel Gleason
12 Ms. Valierie Statner
13 Mr. John Zetner
14 Ms. Martha Guzman
15 Ms. Candy Manheart
16 Mr. Jazz Orany
17 Ms. Pam Paien
18 Ms. Roxanne Kessler
19 Mr. Mark Rockwell
20 Mr. Justin Oilfield
21 Ms. Reverend Lindsey Ramson
22 Ms. Gail King Dellahan
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Ms. Roxanne Kessler

Mr. Mark Rockwell

Mr. Justin Oilfield

Ms. Reverend Lindsey Ramson

Ms. Gail King Dellahan

CLOSING STATEMENTS

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1 PROCEEDINGS

2 CHAIRPERSON HART: Item 6.

3 Now, we will move to Item 6, which is the
4 environmental impact report for long-term Irrigated
5 Lands Regulatory Program.

6 The Board will be hearing three separate items
7 related to the Irrigated Lands Regulatory Program
8 today.

9 This is the time and place for a public hearing
10 to consider adoption of a resolution for certification
11 of the final program, EIR, or long-term Irrigated Lands
12 Regulatory Program.

13 Following this hearing will be hearings for
14 consideration of the Framework and renewal of the
15 current conditional waiver.

16 Staff has provided a meeting procedure summary,
17 which can be found on the table as you come into the
18 hearing room.

19 If you wish to provide testimony, please review
20 that summary to get a better understanding of what you
21 should testify, your oral comments will only become
22 part of the record for this item or for the item for
23 which you testify.

24 You can indicate on your blue card, and time
25 constraints as I discussed earlier to the extent

1 feasible we'll try to accommodate those time
2 constraints.

3 This hearing will be conducted in accordance
4 with the meeting procedures published with the meeting
5 agenda and the applicable notice of public hearing.

6 Before we begin, I'd like to ask if there are
7 any Board members disclosures on this item.

8 MR. KARL LONGLEY: I have none.

9 CHAIRPERSON HART: Dan?

10 MR. DAN ODENWELLER: None.

11 CHAIRPERSON HART: Sandra?

12 MS. SANDRA MERAZ: None.

13 CHAIRPERSON HART: Lyle has none.

14 I have one, with respect to the EIR. On
15 March 30th, I had coffee with Tim Johnson and
16 Mr. Thomas regarding the CEQA document and some
17 concerns -- the concerns which are outlined in the
18 correspondence to the Board, which is currently in the
19 record.

20 With this -- at this time, evidence should be
21 introduced on whether the final program EIR should be
22 certified. All persons' expecting to testify, please
23 stand at this time, raise your right hand, and take the
24 following oath.

25 Anyone who will be speaking on this item, if

1 you could stand:

2 Do you swear the testimony you are about to
3 give is the truth; if so, say, I do.

4 AUDIENCE: I do.

5 CHAIRPERSON HART: Thank you.

6 While we're on the staff presentation, there
7 will be an opportunity for public testimony; the total
8 times allowed for testimony are as follows: There will
9 be an agricultural panel for 20 minutes, combined
10 environmental justice and environmental panel for 20
11 minutes, and public officials will have three minutes.

12 All other interested persons shall limit their
13 testimony to three minutes, and the timer will be used.

14 Please state your name, address, and
15 affiliation and whether you have taken the oath when
16 you come before the Board to testify.

17 And, at this time, Alex, do we have any legal
18 issues to discuss?

19 MR. ALEX MAYER, ESQ.: No, Madam Chair, we do
20 not.

21 CHAIRPERSON HART: Thank you.

22 And, Joe, we will now begin.

23 AGRICULTURAL PANEL

24 MR. JOE KARKOSKI: Good morning, Chair Hart and
25 members of the Board. My name is Joe Karkoski, and I

1 am the manager of the Irrigated Lands Regulatory
2 Program. I worked for the Central Valley Regional
3 Water Quality Control Board, and my address is here.

4 I have taken the oath.

5 Before we begin our discussion of that Program
6 Environmental Impact Report, I would like to provide
7 some context and background for the three agenda items
8 on the irrigated lands regulatory program.

9 For this agenda item, you will be considering a
10 resolution that would certify the program EIR as
11 required under the California Environmental Quality Act
12 or CEQA. By certifying the program EIR, you would not
13 be selecting a specific alternative.

14 For the next agenda item, you will consider a
15 resolution approving the irrigated Lands Regulatory
16 Program framework. The staff recommended framework is
17 built from the program EIR alternatives. The
18 resolution would provide direction to staff in drafting
19 orders that implement the Framework, but the provisions
20 of the Framework would not be binding on the Board.

21 Following discussion of the framework, the next
22 agenda item will consider a resolution renewing the
23 current conditional labor. Development of orders to
24 implement the new program or take some time. To ensure
25 continued regulatory coverage of discharges to surface

1 waters, an extension to the current conditional waiver
2 will be required.

3 In the Central Valley there are between seven-
4 and eight-million acres of irrigated agricultural land,
5 which is about 80 percent of the irrigated ag land in
6 the State. There are 33- to 35,000 irrigated ag
7 operations. Major crops by acreage include orchard
8 crops, alfalfa, rice, and grapes.

9 The current program only addresses discharge to
10 surface water and includes about 5 million-acres and
11 25,000 operations. The scope of the program includes
12 both irrigated crops and managed wetlands.

13 As we are going through the three agenda items,
14 it will be to keep in mind types of the waste discharge
15 that are of concern. Waste from irrigated lands
16 discharged to surface water can include pesticides,
17 nutrients, pathogens, and sediments. And the pathway
18 can be direct runoff or indirect discharge for
19 processes such as aerial drift.

20 Wastes from irrigated agriculture can also
21 reach groundwater through leaching of nutrients, salts,
22 and pesticides. Surface runoff containing wastes can
23 also reach groundwater through conduits such as
24 abandoned wells.

25 With that brief overview of the items before

1 you today, I would like to turn things over to Adam for
2 discussion of the program environmental impact report.

3 MR. ADAM LAPUTZ: Good morning, Madam Chair and
4 Board members.

5 My name is Adam Laputz. I am the lead staff
6 for the Central Valley Water Board's Long-term
7 Irrigated Lands Program. I have taken the oath. And
8 my office address is here in Rancho Cordova.

9 During my presentation I will provide a
10 background on the irrigated lands program EIR, discuss
11 stakeholder involvement and the Program EIR development
12 process, and summarize the alternatives described and
13 analyzed in the program EIR. The draft and final
14 program EIR was developed for the Board by ICF
15 International. Following my presentation, Ms. Megan
16 Smith, from ICF International, will provide further
17 information on the program EIR.

18 Your agenda packages for this item contain the
19 proposed resolution certifying the program EIR, the
20 draft and final program EIR, and a report titled:
21 Draft Technical Memorandum Concerning the Economic
22 Analysis of the Irrigated Lands Regulatory Program.
23 The Economics Report has been prepared by
24 subcontractors to meet Water Code requirements and
25 support the development of the irrigated lands program.

1 I call attention to the Economics Report at
2 this time, primarily to note that the report is not a
3 part of the EIR, but did in fact support the analysis.
4 Because the reports primary purposes are to meet policy
5 requirements and inform program development, the
6 findings of the report will be summarized during the
7 next irrigated lands item proposing approval of the
8 staff developed program framework.

9 In 2003, the Central Valley Water Board adopted
10 a conditional waiver of waste discharge requirements
11 for discharges from irrigated lands. The 2003 waiver
12 program was designed to reduce waste discharge from
13 irrigated agricultural sites to Central Valley surface
14 waters. As part of the waiver program, the Board
15 directed staff to prepare an environmental impact
16 report for A long-term irrigated lands program that
17 would protect state waters from waste discharges.

18 The 2003 waiver program was considered an
19 interim program and set to expire in 2006. In 2006,
20 the Board reviewed the interim program, and reviewed it
21 until June of 2011.

22 In 2007, the California Sportfishing Protection
23 Alliance in San Francisco Baykeeper filed a petition
24 for writ of mandate challenging the Central Valley
25 Water Board's issuance of the waivers without any

1 admission of liability, the Board entered into an
2 agreement to resolve all of the claims of the action.
3 The stipulated judgment requires that staff present and
4 recommend Board vitrification of the final
5 environmental impact report for a long-term program by
6 April 8th of this year.

7 The current program is focused on protection of
8 the surface waters and does not explicitly regulate
9 waste discharge to groundwater. Although, it is
10 important to note that many of the practices that
11 operations may implement to protect surface waters,
12 would also work to protect groundwater.

13 The program relies on third-party water quality
14 coalition groups as lead entities, working directly
15 with the Board, conducting regional monitoring,
16 developing water quality management plans, and
17 communicating requirements to individual growers.
18 Individual operators must implement management
19 practices to achieve water quality goals and maintain
20 enrollment in a coalition.

21 This slide shows the boundaries of the eight
22 water quality coalition groups that have formed under
23 the current Irrigated Lands Program. These groups
24 include, generally from north to south, the Goose Lake
25 Coalition, Sacramento Valley Coalition, the California

1 Rice Commission, which is currently our only
2 "Commodity-based" coalition, San Joaquin County and
3 Delta Coalition, East San Joaquin Coalition, Westside
4 San Joaquin River Coalition, Westlands Water District,
5 and the Southern San Joaquin Valley or Water Quality
6 Coalition.

7 As one of the first steps in developing the
8 program EIR, the Board completed an Existing Conditions
9 Report for Central Valley irrigated agricultural
10 operations. The report was developed to establish
11 baseline conditions for estimating potential
12 environmental and economic effects of program
13 alternatives.

14 Also, in March and April 2008, staff conducted
15 a series of CEQA scoping meetings to gather
16 recommendations on the scope and goals of the long-term
17 program. During these meetings, staff gathered input
18 on how stakeholders would like to be involved in the
19 program development. At these meetings stakeholders
20 expressed a desire to be actively engaged in program
21 development.

22 The long-term Irrigated Lands Program
23 Stakeholder Advisory Workgroup was formed to provide
24 stakeholders and staff the opportunity to work together
25 in development of the long-term program. The workgroup

1 is compromised of participants representing federal,
2 State, and local government agencies: Agricultural
3 groups, environmental and environmental justice groups.

4 The main goal of the workgroup was to provide
5 the Board with input on the development of the program.
6 A list of workgroup members has been provided to you
7 this morning, and there are copies on the table outside
8 this room. The list describes official workgroup
9 members. These are members that committed to meet
10 multiple times over the course of nine months, spending
11 numerous hours developing and reviewing program
12 proposals. The list also identifies participants as
13 those that attended at least one meeting. You will
14 hear from a number of the workgroup members today.

15 Over the course of nine months, staff and the
16 workgroup developed long-term program goals and
17 objectives and a range of alternatives for
18 consideration in the program EIR. In the next slides I
19 will summarize the program goals and objectives and
20 describe the range of alternatives developed with the
21 workgroup.

22 Program goals include requirements to restore
23 and maintain the highest reasonable water quality,
24 considering the demands on such waters, minimizing
25 waste discharge, it could affect water quality,

1 maintain economic viability of agriculture, and ensure
2 that waste discharges do not impair residents and
3 communities access to safe and reliable drinking water.

4 Program objectives include protection of
5 beneficial uses by meeting water quality objectives,
6 encourage implementation of water quality management
7 practices, provide incentives to minimize waste
8 discharge, and promote coordination with other
9 regulatory and non-regulatory programs to minimize
10 duplicative regulations.

11 The workgroup staff had worked together to
12 develop five long-term program alternatives. These
13 five alternatives include the no-change alternative of
14 continuing the current program. At the final workgroup
15 meeting, the worker came to consensus that the range of
16 alternatives should be evaluated equally in the
17 Environmental Impact Report. Unlike the typical CEQA
18 process, where an agency develops the recommended
19 project up front and provides in-depth evaluation of a
20 project with a lesser focus on the alternatives. In
21 this process, the workgroup and staff developed the
22 alternatives up front. At the request of the
23 workgroup, the original five alternatives were
24 evaluated equally against program goals and objectives,
25 State policy and law, and considered in the program EIR

1 in addition, staff developed a sixth alternative,
2 previously described as the draft Staff Recommended
3 Program.

4 The five original alternatives were developed
5 prior to in-depth environmental policy and cost
6 analysis. In fact, staff -- in fact, staff policy
7 analysis, described in volume two of program EIR,
8 describes that none of the five original alternatives
9 achieved complete consistency with program goals and
10 objectives and required State policy. As a result,
11 staff utilized the CEQA process, staff policy analysis,
12 stakeholders comments, and cost considerations to
13 inform the development of the sixth alternative from
14 the elements of the original five problematic
15 alternatives from the elements of the original five
16 alternatives --

17 This alternative represents staff's initial
18 attempt to utilize the elements of the alternatives to
19 create a program that fulfills goals and objectives,
20 required policy, and minimizes environmental and
21 economic affects. Alternative six is the basis for the
22 long-term irrigated lands regulatory Framework, which
23 will be discussed as part of next irrigated lands
24 agenda item.

25 The six alternatives are evaluated in the

1 program EIR are summarized in this slide. These are
2 the same alternatives presented to the Board during the
3 September 2010 irrigated lands information item. Main
4 components of each alternative include the type of lead
5 entity, regional or individual management plans, and
6 regional or individual monitoring. Lead entity
7 describe the mechanism for Water Board interaction with
8 agriculture operations. The main options include
9 working through third-party groups that do not have
10 direct responsibility for the waste discharge, but
11 represent the operations or a Water Board lead entity,
12 referred to as direct oversight.

13 It is important to note that regardless of the
14 lead-entity structure, Board enforcement authorities
15 would not be diminished.

16 In the next few slides, I'll be reviewing the
17 main points of each alternative, if evaluated, in the
18 Program EIR.

19 The first alternative is considered the
20 no-change or CEQA no-action alternative. Under
21 alternative one, the current waiver program would be
22 continued. Coalition third-party groups will continue
23 to function as lead entities. Coordinating between the
24 Water Board and irrigated agricultural operations, just
25 as in the current program, regional management plans

1 would be required for ambient water quality monitoring
2 identifies exceedences or water quality objectives.

3 Alternative one is the only alternative of the
4 six that does not include active Central Valley Water
5 Board requirements for the protection of groundwater
6 quality.

7 Alternative 2 would continue the current
8 coalition lead entity program for service water with
9 additional requirements for groundwater protection.
10 This alternative also includes a low-threat option for
11 service water that would focus on the management
12 practice implementation with reduced monitoring.

13 Alternative 2 proposes regional surface and
14 groundwater management plans and regional monitor.
15 Also, this alternative provides a mechanism for
16 coordination with local integrated regional water
17 management.

18 Alternative 3. Under Alternative 3,
19 individuals would develop and implement farm water
20 quality management plans to minimize waste discharge
21 surface in groundwater. These plans would be submitted
22 to the Water Board or implement an entity for approval
23 and certification. This alternative includes limited
24 individual visual monitoring and reporting
25 requirements.

1 Alternative 4. Direct oversight with regional
2 monitoring. Under Alternative 4, the Central Valley
3 Water Board would assume the lead role of working with
4 irrigated agriculture. The alternative includes
5 requirements to protect ground and surface waters.
6 This alternative was only based on the Central Coast
7 Water Board's current Irrigated Lands Program, with the
8 Water Board directly working with growers, a mandatory
9 education program, the requirements to develop farm --
10 individual farm water quality management plans, and
11 optional regional monitor.

12 This alternative would establish a threat-based
13 tiering system for regulation of discharges from
14 irrigated agriculture. In concept, the tiering system
15 has been designed to allow the Board and agriculture to
16 focus limited resources on operations with a higher
17 threat to water quality.

18 Alternative 5. Direct oversight with farm
19 monitoring. Similar to Alternative 4, Alternative 5
20 includes requirements to protect surface and
21 groundwater. Alternative 5 is based on the Water
22 Board's Dairy Program, with the Board working directly
23 with irrigated agricultural operations, requirements to
24 develop individual farm water quality management plans,
25 required nutrient management plans, and individual

1 monitoring and reporting.

2 Alternative 6 would include requirements to
3 protect surface and groundwater quality. Under this
4 alternative, the third party coalition groups, similar
5 to those described under alternatives 1 and 2, would
6 act as lead entities. Under this alternative, 8-12
7 geographic commodity-based orders would be developed.
8 It is intended that these orders would provide focus
9 with requirements tailored to the operations and
10 geologic factors common to an area.

11 These orders would also be aimed to coordinate
12 with existing programs such as Department of Pesticide
13 Regulation and local groundwater management plans.

14 Alternative 6 also includes a two-tier
15 prioritization system, based on the goals of the
16 low-threat and tiering systems of Alternatives 2 and 4.
17 The alternative includes requirements for regional
18 surface and groundwater management plans where there
19 are water quality problems and monitoring similar to
20 the monitoring described under Alternatives 2 and 4.

21 At the request of the workgroup, the Board has
22 evaluated each of the alternatives and the Program EIR.
23 Because of the Program EIR evaluation's broad range of
24 alternatives provides flexibility to construct an
25 alternative from the components of the alternatives.

1 The Program EIR was developed for the Central Valley
2 Water Board by ICF International. At this point in the
3 presentation, I would ask Ms. Megan Smith from ICF to
4 speak on the Program EIR.

5 MS. MEGAN SMITH: Thank you, Adam. Good
6 morning. I am Megan Smith. I am an employee of ICF
7 International, formerly Jones & Stokes Associates.

8 Our address is in the record, on the face of
9 the EIR documents. And I have been sworn.

10 I have worked on this project as the project
11 manager for production of the Environmental Impact
12 Report. So, I directed the efforts of our technical
13 staff in preparing this document. I was assisted by my
14 Mike Russian (phonetic spelling) our project director.

15 First, I wanted to discuss the purposes of the
16 CEQA analysis. And the comments we received, made it
17 evident that this was something that would be of
18 interest and I wanted to discuss it up front.

19 As you well know, the purpose of a CEQA
20 document is disclosed to the public: "The potential
21 adverse environmental impacts of a discretionary action
22 by a lead agency."

23 The purpose of the preparation of the document,
24 also, is to serve the policy making decisions, and to
25 inform those decisions by the lead agency.

1 This document, as in most projects and
2 programs, represent only a small part of the
3 information that will be considered in forming --
4 making policy decisions.

5 In this instance, to suit most directly the
6 needs of the lead agency, we chose to prepare a Program
7 EIR. And a Program EIR is a document that exams -- is
8 used most often to examine a regulatory change, such as
9 a general plan or a specific plan.

10 It examines the alternatives from a -- what we
11 often refer to as 15,000-foot level of analysis. Where
12 all of the on-the-ground specific project level changes
13 are not yet known.

14 The purpose of this document is to provide CEQA
15 coverage to future program activities, where the
16 Program EIR has adequately described those activities.
17 So, in the future, the CEQA coverage of this document
18 may make -- may mean that there is no need for any
19 additional CEQA, it also may mean that it can provide a
20 basis on which to build a more limited CEQA analysis in
21 the future as a program is developed.

22 Moving forward, project level activities
23 conducted under this program will be examined for and
24 disclosed impacts, this is often done using a checklist
25 method, as was used in the biosolids program, where a

1 staff member, considering a project level activity,
2 will answer a number of questions that will draw to
3 their attention any potential for undisclosed
4 environmental impacts. If any are discovered, then
5 additional CEQA would be -- build from your program
6 document at that time.

7 One of the interesting -- one of the unique
8 things that we did with this program document was we --
9 we addressed the need of the lead agency to maintain
10 flexibility in developing the alternatives and the
11 future program.

12 So, we accomplished that by using the
13 flexibility that CEQA allows us to not designate a
14 proposed or preferred program alternative within the
15 draft and final EIR. So, we took each of the
16 alternatives that were presented, and analyzed them
17 fully using a equal level of detail, often times in
18 CEQA documents a preferred or proposed program will
19 receive a greater level of attention; in this instance,
20 that was not done though.

21 And the purpose of that flexibility was to
22 allow the analysis to disclose to the decision maker
23 what the potential impacts of the different elements of
24 the alternatives would be; and then to allow a
25 pick-and-choose approach, in which the ultimate

1 framework or program would be assembled from pieces of
2 the alternatives that were analyzed.

3 So, this makes sure that all of the potential
4 impacts from each of the alternatives, and their
5 elements, have all been fully analyzed and then can be
6 assembled as needed to meet policy goals.

7 In this instance, the program baseline was
8 determined to be the program baseline environmental
9 condition, is defined within the existing condition
10 report which was finalized in 2008.

11 Though, this baseline condition was defined to
12 include discharges by irrigated agriculture, and it
13 also includes legacy water quality impairments that
14 existed at the time.

15 The no project alternative in this instance,
16 one of the alternatives considered, was defined using
17 the CEQA guidelines, as a continuation of the existing
18 program. It is also defined in the Program EIR as
19 Alternative 1. It is the continuation and full
20 implementation of that program into the future as the
21 guidelines direct us.

22 So, CEQA's focus on analysis is often
23 misunderstood; it's important to understand that the
24 EIR -- or CEQA directs us to consider the impacts that
25 are physically caused by the program, either directly,

1 indirectly, or cumulatively, though.

2 While the continual existing harmful conditions
3 are considered by Le (phonetic) Agency in the staff in
4 developing the program, the existing water quality and
5 forcing water quality conditions are not considered by
6 the EIR to be part of the program. So, it's important
7 to understand the purpose of the EIR is to analyze the
8 effects of the program itself.

9 So, we did not consider or discuss, in great
10 length, continuing harmful practices that are not
11 caused either directly or indirectly, by the program.
12 So, to determine the methodology, sometimes with a
13 Program EIR, it sometimes takes some work.

14 In this instance, we determined that the
15 program is most likely to affect the physical
16 environment through what we termed foreseeable
17 compliance actions. This is a indirect affect of the
18 program, in which we expect the regulated community to
19 respond to the program, by taking particular actions.

20 In this instance, the most likely actions are
21 management practices, that will have a physical affect
22 on the environment. So, although, the program may have
23 policy implications, it may have costs that the Board
24 must consider under the Water Code from a physical
25 environmental perspective. The adverse environmental

1 affects of this program would come from management
2 practices.

3 So, in order to determine the effects of those
4 practices, we first identified general classifications
5 of most common management practices. And we considered
6 in the existing condition report, many different types
7 of management practices, and isolated 7 that are most
8 commonly used and classified several -- or describe in
9 a basic since, some of the practices that would be
10 expected. And they are listed here, including nutrient
11 management plans, irrigation water management, cover
12 crops, wellhead protection; and each of these
13 management practices were analyzed in depth in the
14 draft and final EIR to determine the physical affects
15 of the program.

16 So, these management practices write the way in
17 which the program has an affect, as we say, on the
18 ground. So, during the public comment period, we
19 received a hundred and 45 distinct comment letters
20 containing over 1,100 individual comments.

21 We also received a number of form letters,
22 which -- from agencies and G.O.'s and individuals, all
23 of the unique comments that were received are contained
24 within the text of the final EIR; they've all been
25 stand and reproduced there.

1 So, now I'd like to summarize the impacts that
2 were found. And as I mentioned, um, while the issues
3 of failing to remedy or stop an existing or worsening
4 condition is an important policy consideration for the
5 Board, it is not one of the recognized CEQA impacts.
6 In other words, the program itself does not consider
7 that issue, within the EIR, though.

8 So, all of the six alternatives had roughly the
9 same environmental impacts, although, some would vary
10 in severity, understanding that it is expected that
11 similar management practices would be implemented under
12 each of the six alternatives. That the regulating
13 community would respond in the similar manner under
14 each alternative, though, with varying levels of
15 severity.

16 And the nature of many impacts are location
17 specific. So, while this is a program document, one of
18 the things we were unable to do with a great deal of
19 specificity, was to indicate physical impacts in any
20 particular physical location.

21 The impacts that were found in the final EIR,
22 to be significant and unavoidable. Even with
23 mitigation, impact to agriculture resources, primarily
24 represents the potential for a loss or a change in
25 existing cropping patterns on agriculture lands.

1 Lands significant with mitigation, affects to
2 cultural resources, this is, for example, disturbance
3 of previously undisturbed land during the
4 implementation of a management practice that might
5 discover -- that might affect historic resources in
6 agriculture areas.

7 Noise from increased practices, air quality
8 affects from increased practices, um, vegetation and
9 wildlife impacts through disturbance of habitat
10 presently occupied by sensitive resource -- biological
11 resources and fisheries. Again, affects to fisheries,
12 the potential which could be caused by changes in
13 stream flows or loss of shading near streams that
14 provides habitats.

15 And all of these impacts were able to be
16 mitigated, either through conditions on general orders
17 or through the responsibilities of other agencies that
18 monitor these resources. Impacts found to be
19 cumulatively considerable. Or to contribute to
20 cumulatively considerable condition. Greenhouse gas
21 emissions contributing to global climate change,
22 impacts or vegetation and wildlife.

23 This, specifically, speaks to areas in which
24 habitat for endangered or threatened species would be.
25 The impact of this program management implementation

1 could be combined on a spot-specific basis, with
2 similar practices that are already in place or would
3 continue. And cumulative impacts to cultural
4 resources, again, through cropping and changes and land
5 used change. So, on the final EIR, we included, again,
6 all unique comment letters, we discussed master
7 responses and provided clarifications and corrections,
8 which we'll discuss briefly upcoming.

9 So, master comment responses typically use,
10 within a final EIR, to address at length some of the
11 key issues that were raised repeatedly through
12 comments. So, we can provide those primary concerns
13 with more focus and more analysis.

14 I wanted to summarize some of the commonly
15 encountered themes that dealt specifically with
16 environmental impacts. Now, there are several master
17 comment responses that dealt with some of the Board
18 policy issues, and choice of enacting mechanisms, and
19 this slide deals with those addressed environmental
20 issues.

21 Though, we discussed our choice of no project
22 as Alternative 1 and a selection of baseline, and we
23 discussed the infraction of Alternative 6 and why it
24 was not selected or identified as a proposed program,
25 as to the greenhouse gas analysis and the focus of CEQA

1 on impacts over benefits, we received several comments
2 from folks saying, "Well, you didn't take the time to
3 rank the environmental benefits or identify the
4 environmentally superior alternative of the impacts,"
5 and the adequacy of the cumulative impacts analysis is
6 in this programmatic document.

7 In response to comments, we provided many
8 clarifications and corrections to the document text;
9 those are contained in the final EIR in chapter 4 of
10 the IROTA (phonetic) chapter.

11 Most, importantly, to note from chapter 4, we
12 do not identify any new impacts following the
13 consideration of public comment.

14 We did, after consideration of public comment,
15 determine that one impact, which was identified in the
16 draft, was actually improperly identified, it was
17 removed. It is the hydrology and groundwater impact
18 related to Alternative 1. It had previously been
19 described as less than significant with mitigation.
20 The rationale behind identifying that impact initially,
21 in the draft, was that Alternative 1, which has no
22 groundwater element, would not be as protective of
23 groundwater, as alternatives two through six. So, it
24 was determined to have potential for an impact to
25 groundwater. And after consideration of our assignment

1 of baseline, in light of the public comment, it was
2 determined that that impact while -- while it is very
3 likely that Alternative 1, or it's true, Alternative 1
4 would not be as protective of groundwater, to identify
5 that as an impact caused by the program, to say
6 Alternative 1 worsened groundwater was incorrect. That
7 Alternative 1 does not accomplish the policy goal of
8 benefiting or protecting groundwater to the same extent
9 is accurate. But that the program itself did not cause
10 a discharge that would worsen groundwater or that
11 would -- that would supplement the existing worsening
12 condition through the program itself. A nuance, but
13 importantly, CEQA's distinction when identifying an
14 impact. So, that impact was removed.

15 We did discuss the potential for produced
16 infiltration in IRATA, chapter 4, which was one of the
17 comments that we received. And also discussed carbonocy
18 frustration and an explanation of that issue was
19 provided in the IRATA chapter, as well.

20 MR. ALEX MAYER, ESQ.: So, to summarize, the
21 Board went beyond what is normally done, by equally
22 evaluating all the alternatives advanced by our
23 stakeholder advisory workgroup.

24 The potential adverse environmental impacts of
25 the alternatives are similar, since the impacts are

1 generally driven by the practices, growers will
2 implement in response to our program.

3 By certifying the program, EIR, the Board, need
4 not select a specific alternative, but may build a
5 program from the alternatives evaluated.

6 The comments provide on the Program EIR
7 revealed, no knew potentially significant adverse
8 impacts. The EIR was prepared consistent with CEQA
9 requirements and case law. And any orders that the
10 Board issues will still require CEQA analysis, but may
11 rely in whole or part on the Program EIR.

12 In adopting the resolution, the Board would
13 certify that it has reviewed and considered the
14 Environmental Impact Report. The EIR reflects the
15 Board's independent judgment, and the Program EIR
16 complies with CEQA.

17 With that, I would recommend that the Board
18 certify the final Program EIR by adopting the proposed
19 resolution. I would also like to enter all of our
20 files in this presentation into the record. I and my
21 panel of esteemed colleagues would be happy to answer
22 any questions you may have.

23 CHAIRPERSON HART: Thank you.

24 MR. DAN ODENWELLER: This is just generally
25 directed to you. I had a problem -- when I was working

1 through the material, dealing with Alternative 1, and I
2 understand that you had problems with it. Um, how do
3 you continue if you have -- Alternative 1 was going to
4 continue the waivers program into the indefinite
5 future, when there's no indication on my side, anyway,
6 that that's an unacceptable way to proceed. And, so,
7 can Alternative 1 really be a valid alternative or
8 no-project alternative?

9 And then, how do you define a beneficial
10 existing or worsening condition, which is not
11 recognized?

12 And I picked those words off of a couple of
13 slides, but how do you handle it philosophically?

14 MR. ALEX MAYER, ESQ.: Okay. I'll give it a
15 shot, then I'll call for a pinch hitter if I don't
16 answer it to your satisfaction. So, on the first issue
17 of Alternative 1 is no project alternative. CEQA
18 basically says, "When you're looking at an existing
19 program, an existing regulatory program, which is what
20 we have with Alternative 1, you consider the note
21 project alternative to be a continuation of that
22 existing program."

23 So, that's pretty much right out of CEQA
24 guidelines.

25 Now, you know, one of the issues that was

1 raised was that the conditional waiver would expire,
2 right?

3 So, the Board would have to take an action to
4 renew it, right? But if you imagine that being carried
5 out, what would happen if the conditional waiver did
6 expire?

7 We're not -- um, for some period of time there
8 would be no regulatory program, but then the Board
9 would be required to ask for reports of waste
10 discharge. Once the Board got those reports of the
11 waste discharge, we essentially need back to where we
12 are now, which is, "What direction do we go in terms
13 of, you know, to regulate each one individually, as
14 part of the general WDR, under conditional waivers
15 similar to what we have now?"

16 So, it seemed most reasonable to say that the
17 continuation of the current regulatory program was a
18 logical no-project alternative.

19 Did you want to add anything to that one?

20 And then the second question. This one is
21 harder to wrap your mind around, that's why we
22 initially, you know, had a different position in the
23 draft. And that is, knowing that with the no-project
24 alternative, if we're not addressing discharge to
25 groundwater, you would keep having degradation, right,

1 basically -- and, again, this is sort of a nuance of
2 CEQA, is that the no-project alternative wouldn't
3 change the degradation rate.

4 Okay. You're not increasing the amount of
5 loading -- the loading rate, so, the mass per year that
6 would be going to groundwater is not increasing with
7 the no-project alternative. Okay. It would be
8 remaining -- the assumption is, that sure you have
9 degradation, but that no project alternative isn't
10 increasing the rate of degradation.

11 So, again, you know, as Megan said, that's an
12 important policy consideration once we get to the
13 discussion of the next agenda item, in terms of how do
14 we want to proceed, you know, whether the Board would
15 want to keep with a surface water only program or also,
16 um, include discharges to groundwater.

17 Do you all have anything else? Okay.

18 MR. DAN ODENWELLER: Thank you. Thank you.

19 MR. KARL LONGLEY: I'd like to go back to
20 the -- and I'm sorry, I didn't get the slide number.
21 Back to the first bullet of the summary.

22 MR. DAN ODENWELLER: Yes; is that under the
23 summary?

24 Go forward one, maybe that was it.

25 MR. KARL LONGLEY: Yeah. That's not what I was

1 looking at. It was the first bullet somewhere, which
2 explained that you didn't -- you didn't evaluate actual
3 impacts, and if you would provide the slide number, I
4 would appreciate it or find the slide.

5 And I would like -- I'd like to go through that
6 a little bit further.

7 MR. DAN ODENWELLER: Do you recall that?

8 MR. KARL LONGLEY: There, that's right, 37.

9 MR. DAN ODENWELLER: Yes. Um, I appreciate
10 making good -- delve a little deeper into that.

11 MS. MEGAN SMITH: Would you like me take the
12 podium or respond from here?

13 Of course and this deals somewhat with the same
14 issue that -- that Joe was just discussing; it has to
15 do with CEQA's definition of causation of impact.

16 What we're looking at when we analyze a program
17 is, "How will this program in its implementation make
18 an existing environmental condition, create an
19 environmental impact," so, this program itself, in
20 having -- has very limited impacts on the physical
21 environment.

22 The only way in which this program really
23 touches the ground, or touches the environment, is
24 through the implementation of these management
25 practices, implementing or installing new irrigation

1 systems, creating tail water recovery systems. And
2 those have a physical impact on the environment, when
3 you move dirt, when you run diesel engines.

4 Through carrying out those management
5 practices, the program and its implementers, the
6 community of irrigators does not -- while they fail to
7 rectify an existing legacy condition or slow the speed
8 at which water quality -- a groundwater quality is
9 worsening, that failure isn't something that the
10 program CEQA recognizes as an impact.

11 Because it doesn't create a condition, it fails
12 to rectify a condition which is within the, you know,
13 which is a condition that the regional Board wants to
14 address and discuss. It's just simply not something
15 that's discussed within the bounds of CEQA.

16 When we say adverse environmental impacts we're
17 talking about, what physical direct affects on the
18 ground will the program have. And the program does not
19 create new groundwater problems through its
20 implementation, it fails to fix, and fails to slow
21 Alternative 1, specifically, existing problems.

22 It's a -- it's a causation distinction that may
23 not seem logical in this -- in the context of
24 implementation of this program, because that's the
25 purpose of the program. So, it's failure to do that,

1 would be a clear failing of the program. But it
2 doesn't create a new environmental adverse impact that
3 must be addressed in the program document.

4 I recognize that that's a twisted logic, and
5 I'm happy to follow-up if you have more questions.

6 MR. KARL LONGLEY: But in fact, this is -- what
7 you did here is normal practice; is that correct?

8 MS. MEGAN SMITH: Absolutely, yes. We want you
9 to look at what does the program cause, not what does
10 the program fail to fix. What it fails to fix is a
11 legitimate concern, and one that needs to be addressed,
12 but is not identified as a CEQA impact specifically in
13 the in the EIR.

14 MR. KARL LONGLEY: And I think you pointed out
15 that that's the policy issue.

16 MS. MEGAN SMITH: That's correct. That is
17 addressed elsewhere.

18 MS. PAMELA CREEDON: And Dr. Longley, it needs
19 to be addressed under our anti-degradation and the
20 California water code, which are different policies.
21 This Board still has to comply with that. They spent
22 hours with me trying to explain this. I -- I had to
23 get my hands around it, it's hard to understand.

24 MR. KARL LONGLEY: I understand it, and I think
25 it's important these are on the record. Thank you.

1 MS. MEGAN SMITH: You're welcome.

2 CHAIRPERSON HART: Any changes?

3 MR. JOE KARKOSKI: It seems like you added a
4 little meat to your twisted logic answer. Um, I think,
5 I understand the legal procedural reason for the action
6 that you just described. But everyone in this room is
7 more interested in the benefits, the values of
8 implementing the program. So, just for my information,
9 at what point does CEQA require -- or does in fact CEQA
10 ever require an analysis of the benefits of
11 implementation of that program?

12 MS. MEGAN SMITH: CEQA, actually, does not
13 require that. That's not part of the purpose of this
14 statute. And in this instance, CEQA played a very
15 limited role. It is certainly and must be part of the
16 bodies consideration, but it's simply not part of the
17 CEQA document itself. CEQA is interested in disclosing
18 adverse environmental impacts, and that's it's only
19 concern.

20 MR. JOE KARKOSKI: So, it's the distinction of
21 great interest to the lawyers, but not necessarily --

22 MS. MEGAN SMITH: It is, and the benefits
23 are -- will be well discussed and considered, just not
24 within the Environmental Impact Report.

25 MR. JOE KARKOSKI: Let's move to another

1 question, to another area. I'm favorably impressed
2 with the quality of the technical work on these
3 documents, and I don't have any real further questions
4 on those. But, of course, we're all thinking about the
5 legal and procedural aspects, so, I'd like to ask some
6 related things, which will probably require some legal
7 input.

8 First, I want to understand what it is the
9 Board is -- will be doing when it certifies the PEIR?
10 Will it be certifying that -- that all CEQA
11 requirements are met for this total program. And it's,
12 I guess, six alternatives, and will it be -- in the
13 gist of this then -- you can answer that one, but then
14 the gist of this goes to the follow on, "What does that
15 certification mean to the CEQA qualifications of
16 alternative seven or the recommended framework.

17 I know your tendency is to want to separate
18 these two, because they are two separate items in our
19 agenda, but I don't think we can totally separate and
20 come to a meaningful understanding, and finally, to a
21 decision here. So, if my question is clear, both of
22 its parts, could somebody please explain to me how it
23 works?

24 MR. ALEX MAYER, ESQ.: I'll give it a shot.
25 Um, since we're both engineers I'll give you the

1 engineer explanation, then you can hear the lawyer
2 explanation, if that's not adequate.

3 So, basically, by certifying the Program EIR,
4 we're dealing with a couple things. Normally, we
5 didn't -- I don't think we talked about this too much.
6 Normally, if there's a WDR that's brought before you,
7 that's a project -- projects specific CEQA analysis
8 would be done. In this case, we're developing a
9 Program EIR, because we're anticipating a series of
10 actions, and it's important to consider those potential
11 actions as a whole.

12 So, now what we did in moving forward, is we
13 looked at, "Well, what are the sort of range of
14 possible actions that the Board could undertake?" So,
15 that's captured in this Program EIR. And that's why,
16 you know, we've been emphasizing that the Program EIR,
17 itself, does not require the Board to go in a given
18 direction.

19 Now, when the Board issues orders in the
20 future -- so, we bring, say, waste discharge
21 requirements in front of you, or conditional waiver
22 waste discharge requirements, we still need to go
23 through a CEQA analysis. Now, to the extent that the
24 requirements in those orders fall within the range and
25 scope of the Program EIR, we can rely on the Program

1 EIR as having completed our CEQA requirements.

2 Now, we're still going to do an independent
3 analysis for each of those orders, and if there's
4 something in the order that might say, "Reveal a new
5 adverse environmental impact that we had not considered
6 in the Program EIR," we would need to disclose that to
7 the Board and to the public.

8 So, basically, you know, it's a way of being
9 more administratively efficient so that we don't -- we
10 won't necessarily have to do sort of brand-new CEQA
11 analyses for each of these subsequent orders from the
12 ground up. We've got a starting point.

13 MR. JOE KARKOSKI: So, to the extent that those
14 future actions fall within the scope of this certified,
15 hopefully, EIR, they don't require reanalysis, they can
16 lean on this one.

17 So, many commenters have -- have pointed to
18 features of the Framework, which in their opinion, do
19 not -- are not covered by this EIR. And if that's
20 found to be the case, it may well, then does -- do you
21 do a whole new EIR process, CEQA process, on those new
22 features?

23 AGRICULTURAL PANEL: What would happen in that
24 instance is that that type of a finding does not affect
25 the legitimacy of a certified EIR. It would simply be

1 a statement that there were impacts that are not
2 considered with an EIR and that need to be considered
3 in a public -- in a public way.

4 So, typically, those impacts would be disclosed
5 and circulated. If they're fully mitigated, they could
6 be done in a form of a mitigated negative declaration
7 or some other public disclosed document that explains
8 what was not contained within the EIR, and then
9 analyzes those impacts, if that were to be the case.

10 So, it does not affect -- it doesn't affect
11 legitimacy of the EIR.

12 MR. JOE KARKOSKI: So, later in the day, when
13 we are asked to vote on the Framework, we will not be
14 finding that the Framework that we're approving has
15 satisfied all the CEQA requirements; we will not be
16 making that finding?

17 AGRICULTURAL PANEL: That's not correct. I
18 tend to agree with the recommended Framework, there --
19 as part of the resolution, there are CEQA findings
20 associated with that. And, you know, again, I'm not
21 sure how much I should, you know, anticipate our next
22 agenda item, but the bottom line is that, you know, in
23 our opinion, the -- both the Alternative 6 and then
24 this recommended Framework as both from Alternative 6,
25 falls well within the scope of the Program EIR.

1 CHAIRPERSON HART: I think, just for some
2 clarification, I might be able to help. It is that if
3 in fact the Framework were challenged, under -- in the
4 argument being that CEQA -- that the program did not
5 study some aspect of the Framework, a Court could in
6 fact decertify some portion of the EIR or all of it, or
7 say, "Leave it in place," but say, "Go study this
8 additional impact." So, I think that could occur. I
9 think it was more to you.

10 AUDIENCE MEMBER: Madam Chair, that is correct,
11 and I apologize if I created any confusion in response
12 to your question, I was -- I jumped forward to the
13 remedies issue, which sometimes lawyers are wanting to
14 do. So, I apologize for that.

15 We strongly feel and support the Boards and
16 staff determination in that the Framework is fully
17 analyzed within the program EIR that's here.
18 Certification of the EIR and adoption of the Framework
19 are two separate processes. And the EIR can be
20 certified and then the Framework adopted, as we believe
21 that the Program EIR is fully adequate.

22 I simply, as madam Chair pointed out, jumped
23 ahead. If there were a future determination, the
24 framework is not fully supported by the prior EIR,
25 which we do not foresee. That finding would not

1 necessarily decertify the EIR or affect it's
2 legitimacy, but it could cause a need for future CEQA
3 consideration.

4 MR. LYLE HOAG: Thank you. When we get to that
5 point. We are mingling with two issues, again, sorry.
6 When we get to that point, I will turn to our worthy
7 counselor and ask for an explicit recommendation to us
8 to clarify the legal issues.

9 CHAIRPERSON HART: Thank you.
10 Any other Board questions right now?
11 Seeing none.

12 MR. ALEX MAYER, ESQ.: Madam chair.

13 MR. STPHAOEUPLT: Yes, Mr. Mayer.

14 MR. ALEX MAYER, ESQ.: Yes, it appears there is
15 no further questions of staff. So, I thought that this
16 would be the appropriate time to raise an issue of
17 procedure, in terms of a late comment letters that we
18 received via fax last night?

19 CHAIRPERSON HART: Okay.

20 MR. ALEX MAYER, ESQ.: From the San Juan River
21 exchange contractors. It is a two-page letter that
22 discusses both the Framework and -- which is item --
23 the next item and this EIR certification. So, they
24 contain non-evidentiary policy statements. And in
25 light of the fact that we received these written

1 comments prior to the Boards acting on the
2 recommendation, I -- it's my recommendation that the
3 Board accept this -- this comment letter, and take an
4 opportunity to review it as you so chose. That's my
5 recommendation.

6 CHAIRPERSON HART: And I'll accept that
7 recommendation. And if he could make the letter,
8 obviously, available to our Board members for review
9 prior to the final consideration on this item, and any
10 of the members of the public who wishes to see the
11 letter, um, we will do that.

12 So, if anyone who wants a copy of this letter,
13 late faxed letter, may approach staff and we will get
14 you a copy.

15 So, it will be entered into the record.

16 MR. ALEX MAYER, ESQ.: Thank you. I'll give
17 these copies to Karen right now.

18 CHAIRPERSON HART: We would next normally go to
19 our agricultural panel, but I have a card from a
20 Mr. Jim Gates that indicates that he has to leave in
21 approximately ten minutes. So, I will take his comment
22 now out of order, Mr. Gates.

23 If the Ag panel could get prepared to come
24 forward after Mr. Gates speaks, that would be helpful.

25

1 AUDIENCE MEMBER: My name is Jim gates. I'm an
2 organic grower for Nevada County.

3 CHAIRPERSON HART: Welcome.

4 AUDIENCE MEMBER: I just wanted to put in my
5 comment that this program has already put some people
6 out of business in Nevada County. And every time we
7 lose a irrigated acre in Nevada County, the fire
8 suppression costs goes right out of sight. The last
9 fire cost over \$40 million, and we just need to make
10 sure that the fees associated with this don't cause to
11 lose any more produces there.

12 If you stood on the fire line and watched the
13 fire come at you and then watch it go out, because of
14 the cross-irrigated land, there's no substitute for
15 that feeling or relief when you see that fire all of a
16 sudden is gone. I just wanted that to make sure that
17 that's in the economic impacts affecting, not only
18 Nevada County, but every Foothill community.

19 Thank you.

20 CHAIRPERSON HART: Thank you, sir. And,
21 Pamela, correct me if I'm wrong. These are set for
22 this program or set by the State Board; is that
23 correct, we don't set the fees.

24 MS. PAMELA CREEDON: It is through the State
25 Board, yes.

1 CHAIRPERSON HART: If you do have concerns
2 regarding fees in this program, it would be extremely
3 helpful for you to send correspondents to the State
4 Board, it will of course be part of this record, as
5 well.

6 AUDIENCE MEMBER: Okay. Thank you.

7 CHAIRPERSON HART: Thank you.

8 Okay. Now, we will move on to our agricultural
9 panel. If those folks could come forward.

10 AGRICULTURAL PANEL

11 AGRICULTURAL PANEL: Madam Chair and members, I
12 am Bill Thomas. I represent the South San Joaquin
13 Water Quality Coalition. The -- we have divided
14 responsibilities, so, we're actually all speaking on
15 behalf of all of the ag in the valley.

16 And the Board chair announced that they -- that
17 CEQA processes would be commenced relative to irrigated
18 lands, a program in mid '05, about six years back. We
19 had numerous scoping meetings, discussions for years
20 resulting in the staff casting five alternatives,
21 approximately, two years ago, which was deemed to
22 capture the full range of regulatory approaches.

23 It then became the discussion point, through
24 most of that two years, over those five alternatives
25 that were CEQA evaluated and had been the subject of

1 economic analysis. CEQA's then process was concluded
2 and the documents prepared. And for the first time
3 then attached to that, was the staff preferred
4 alternative, which was none of the five alternatives
5 that had been CEQA evaluated. It was only attached
6 thereto and later was referred to as Alternative 6.

7 The economic evaluation in CEQA evaluation
8 never dealt with that document. Since that time,
9 there's been two additional substantive documents.
10 One, is the new approach to control the third party
11 coalitions, that had different organizational and
12 operational components. And then a couple weeks back,
13 your next agenda item surfaced, which was the
14 Framework.

15 So, we have those three significant components:
16 Staff alternative, the number six, the coalition
17 documents, and the recent Framework. And through these
18 three documents, there are many new and additional
19 substantive issues that were not evaluated in CEQA.
20 Some of those include an entire different tiering
21 process, where this tier two was birthed, that would
22 move all tier one irrigated lands into the regulated
23 component that was never so envisioned through the
24 original two-tier system. We had had no evidence of
25 how those tiers would work.

1 And we have asked for a better part of a year
2 for information on that. Until we walked into this
3 room and saw this map on the back, there had been no
4 evidence or no answers to questions about tiering.

5 Also, the new program envisions a remarkable
6 new approach where there be a general order across the
7 entirety of the coalition, and then embedded therein,
8 or exempted therefrom, unclear, there would be a number
9 of waivers inside the general order. Waivers for
10 pasturelands, waivers for some foothill lands, for
11 organic operations, and the Tulare lake bottom.

12 It is very unclear how this three-tier system
13 and these multiple waivers on top of a general order
14 will be able to be administered.

15 It, also, had new provisions, that if you were
16 going to be exempt for groundwater, or if you were
17 going to qualify for tier one, extensive new monitoring
18 obligations would be following, so, you could prove
19 that you were there under.

20 Also, the new farm plan called "Farm Evaluation
21 Process", where all your management practices on the
22 farm would have to be identified, and those could be
23 publically-available documents.

24 Also, the public issue and public involvement,
25 in the surface water management plan, which is very new

1 and is to be distinguished from the existing management
2 plans and the groundwater plan, beyond the requirement
3 that dealing with the nutrient balance, that you would
4 have to test your water inputs and other inputs, the --
5 there is a new prescription that says in your
6 subsequent production year, you will be limited to the
7 amount of nitrate fertilizer you can put on next years
8 crop to the amount of nitrate that is in the farm crop
9 you remove the prior year.

10 In field corn, it depends on the soil, it might
11 take you 150 units of nitrate. And in the kernels of
12 corn that you would remove, there's about .7 pounds of
13 nitrate in those kernels, the rest of the nitrates
14 tied up in the vegetable, their product.

15 The -- consequently, you would not be able to
16 farm with less than a pound of nitrate, any corn in the
17 subsequent area. Those sort of prescriptions, all new,
18 huge impact, no evaluation, and frankly, it's probably
19 beyond your jurisdiction. We think there are many
20 defects, others will speak to some of the specifics,
21 and the -- that befall this CEQA document.

22 The -- these new substantive impacts, this
23 bifurcated approach, the fact that this CEQA is going
24 to be that, which is going to be the relied upon CEQA
25 for general orders and waivers that are not yet even in

1 discussion.

2 Thus, I think this Board should do as your
3 expert kind of suggested earlier, you should pull this
4 back, take these new inputs, do the -- an appropriate
5 evaluation that allows input into those, the -- and
6 some dialogue. This Framework things only been around
7 for a couple of weeks, it's a significant issue.

8 I think you should fix it now, over the next
9 couple of months, or we're going to have to challenge
10 it into other forms, because this will be the only
11 opportunity we have to do so.

12 Thank you.

13 AGRICULTURAL PANEL: Hi, I'm Carrie Fisher,
14 with the California Farm Bureau Federation. I'm going
15 to expand on some of the things Mr. Thomas just spoke
16 on, specifically, with regard to the alternatives and
17 the analysis within the CEQA documents.

18 As Mr. Thomas previously said, that draft EIR
19 contained five alternatives that were stemming from the
20 stakeholder advisory group, what is now been dubbed as
21 six alternatives. The staff-recommended program was
22 debut at the same time as this draft EIR; however, it
23 was not contained within the EIR and, also, was not
24 analyzed within the EIR.

25 As your staff presentation just showed you,

1 they used a pick-and-choose approach; however, this
2 approach does not allow for proper and adequate analysis
3 of the impact of Alternative 6, specifically, the
4 cumulative impacts of all of the requirements that have
5 been merged together into Alternative 6.

6 In addition to this lack of seeking compliance,
7 two additional alternatives were developed after all
8 environmental review was completed. I'll say that
9 again. You have two new alternatives, Alternative 7,
10 the one that was with regard to the coalition
11 requirements, and Alternative 8, which is the Framework
12 document, which is your next agenda item they have
13 recently released and done after all environmental
14 review and CEQA review was completed.

15 This Framework, Alternative 8, is a
16 fundamentally new alternative, although, it may contain
17 some portions of alternatives 1 through 5, it also
18 contains numerous brand-new regulatory requirements
19 that were never publically released, discussed, or
20 analyzed at any time within any CEQA review.

21 As Mr. Thomas just went over, the Framework
22 contains specifically new information, it's not a near
23 variation of Alternatives 1 through 5 or even
24 Alternative 6. And it contains a new tiering
25 structure, new farm specific evaluations, new nutrient

1 management plan requirements for specific operations,
2 and it includes an entirely new regulatory structure
3 for all discharges covered under the program. This is
4 beyond the original scope of the CEQA notice.

5 Given this new information, and the program
6 scope, the new program or the new Framework -- excuse
7 me -- has a potential to significantly impact the
8 environment, including the direct/indirect cumulative
9 impacts on agricultural resources, including increased
10 costs, economic burdens, loss of agricultural land,
11 loss of land under Williamson contracts, conversion of
12 lands to other land uses, decreased irrigation return
13 flows, decreased in groundwater recharge, and lots of
14 habitat lands from migrating waterfowl, just to name a
15 few impacts that have not been analyzed.

16 Given the new Framework and it's scope and it's
17 resulting impacts, the draft EIR project description is
18 thus unstable and inadequate.

19 In addition, this new information triggers
20 CEQA's recirculation requirement. Specifically,
21 stating, CEQA is -- if significant new information is
22 added, this draft EIR must be recirculated for
23 additional commentary and consultation. Here, changes
24 in forms of fundamental additions have deprived the
25 public meaningful opportunity comment on the impacts

1 and suggest feasible alternatives to this Framework.
2 The revised -- the EIR must be readvised when they're
3 subject to the same critical evaluation that occurs in
4 all draft stages of the random review.

5 The public can be apprized an opportunity to
6 test, asses, and evaluate data, and make an informed
7 judgment as to the validity of the conclusions drawn
8 therefrom; therefore, the EIR must be reviewed,
9 reanalyzed, recirculated for additional public comment
10 period, and a new notice of availability.

11 We, also, have concerns if CEQA complied in
12 regards to economics, although, an economic analysis
13 was completed under poor (inaudible) requirements.

14 The cost analysis does need to be done, in this
15 case, under CEQA. CEQA case law makes it clear that in
16 certain situations, such as adoption of an expansive
17 regulatory irrigated lands discharge program, economic
18 and social affects of the project must be determined,
19 must be used to determine the significant affects on
20 the environment.

21 Here, the long-term irrigated lands program and
22 the Framework document -- excuse me -- proposed a
23 dramatic and severe impacts on the agricultural
24 industry that has had a significant affect on the
25 economic and social environment of the region. This

1 analysis, especially, the cumulative impact analysis of
2 the social and economic affects must be done.

3 Additionally, we have some other new
4 requirements of concern within the Framework. These
5 new ideas relate to the expansion of authority given
6 the executive officer, and their discretion to make
7 changes without Board approval. Fundamental components
8 of the Framework are now left up to the executive
9 officer to make with no oversight.

10 These arbitrary changes can have a significant
11 impact on irrigated agriculture. Some examples are:
12 The executive officer has the authority to make
13 amendments to this -- the Surface Water Quality
14 Management Plans or the Groundwater Quality Management
15 Plans; the executive officer can impose additional
16 requirements, such as best management practice field
17 studies, and can update the tiering criteria and who is
18 within each tier, without any oversight or anything
19 coming back before the Board or for public comment
20 period.

21 AGRICULTURAL PANEL: Because two lawyers are
22 never enough. Teft Dun (phonetic) with (inaudible),
23 also, here on behalf of the Central Valley Agricultural
24 Community. And pick-and-chose, is that kind of like
25 Pick-and-Pull at the auto dismantler place, I think

1 it's just down the road here on Sunrise? As a matter
2 of fact, I've been there before.

3 I think Adam said it well. Adam said that this
4 was unlike a typical CEQA process. And in fact, so
5 much so, that we don't have a project here today,
6 folks. What we have is a final problematic EIR, and a
7 specific, you know, comment made as actually, any
8 resolution that you are to consider in the next item,
9 that specifically says that the Framework is
10 non-binding and is not necessarily the approval of a
11 project within the meaning of CEQA.

12 So, staff has agreed that the Framework is not
13 a project. But we have a problem, because you don't do
14 any EIR unless you're looking to adopt the
15 discretionary project. So, you have a program advocate
16 EIR here today that you're asked -- are being asked to
17 certify, and within five days to have the staff file a
18 notice of determination. But, yet, we have no project.
19 And we do think there is a fundamental problem and
20 fundamental concern that may be problematic for this
21 Board later on.

22 And with that, not only are you adopting a
23 final problematic EIR with no project, you're also
24 being asked to adopt a mitigation monitoring or
25 recording program for the no project. So, again,

1 another problem that we will have in a MRP, as
2 supposedly required under for the CEQA guidelines, but
3 no project for which the MRP is actually attached to.

4 And, I do want to remind you, you know, there
5 is some discussion, and maybe Mr. Lozo will comment on
6 this. You do have a consent decree, it was mentioned
7 earlier, and under that consent decree are stipulated
8 judgments or whatever you want to frame it as. You are
9 required to consider certification of a final EIR by
10 tomorrow. You are not required to adopt that final EIR
11 by tomorrow. The requirement of the stipulated
12 judgment was to bring it to you for consideration.

13 So, you are not bound by that stipulated
14 judgment to make a final decision today to adopt it, if
15 you think it's fundamentally flawed, as many of us has
16 stated, and suggest that perhaps you should think about
17 recirculating it to include some analysis of the 6, 7,
18 and 8 alternatives, as well as, maybe it's better
19 determined, "What is this project that you're looking
20 to adopt?"

21 So, um, I think that's all I needed to add.
22 Oh, I know, one other thing. Have I some time left,
23 no? I think the other thing, too, if you do talk to
24 this no project with this final problematic EIR, we do
25 think you have some kind of environmental concerns,

1 that you have this Framework that is guided by staff,
2 apparently, but is non-binding and is
3 non-discretionary, but yet at the same time, if it is a
4 project for your CEQA purposes, this Framework, I think
5 arguably you have an underground regulation.

6 What is this Framework that is being adopted?
7 And I think you might have some issues and concerns
8 under the APA, with this being an underground
9 regulation into the extent that that is then used in
10 the future to go and say, "Well, sorry folks, we
11 adopted this Framework and it says we're going to do X,
12 Y, and Z in the next general orders."

13 Well, if that is direction to staff, and it is
14 direction, then it is a regulation. And it has not
15 been adopted pursuant to your requirements, even your
16 limited requirements, under the State's APA. So, I
17 think, there's also some underground regulations
18 concerns with the Framework today if it is adopted.
19 Thank you.

20 MR. ALEX MAYER, ESQ.: May I make a comment
21 here before we proceed to the next panel. When we
22 structured this hearing, today's three agenda items, we
23 separated an item for certification of the programmatic
24 EIR and the very next item will be consideration of
25 a -- of the approval of a proposed Framework. And this

1 last panel discussion I heard was -- was -- included
2 quite a bit of discussion of the issues related to the
3 Framework and not the programmatic EIR, which is an
4 analysis of six alternatives as Framework -- is a
5 separate alternative, Alternative 7. And I believe
6 that that it's important to stress to the commenters,
7 that we want to -- wanted a discussion on whether or
8 not it is appropriate for the Board to certify the EIR,
9 and whether they can make the findings proposed in the
10 resolution as to whether they have independently
11 considered the information in the programmatic EIR,
12 whether it has reviewed and considered that
13 information, and whether it complies with CEQA.

14 And our -- if you do want to follow-up
15 discussion on it, on timing or with our consultant,
16 programmatic EIR's are designed to handle future
17 projects down the road. So, by certifying a
18 programmatic EIR, the Board is putting something in to
19 place where it can take these further actions down the
20 road, and it can certify the programmatic EIR before it
21 does take the subsequent actions. In fact, that's the
22 design of the other EIR.

23 So, if the Board had any other questions on
24 that, I believe our consultant might be able to answer
25 some of those.

1 CHAIRPERSON HART: Thank you.

2 I think that this panel was attempting to
3 address the CEQA issues and their concerns, but they
4 had to relate back to the Framework, because that's our
5 understanding of what's being studied. But I think you
6 make a good point, which I was going to make, which is
7 my understanding is that Program EIR is meant to
8 address future orders and waivers that may be
9 considered by this Board. And replacing the
10 potentially continued existing waiver that's currently
11 in place. So, that in fact the Framework is not the
12 project being considered. It is in fact future orders
13 and waivers that may or may not be issued with respect
14 to irrigated lands. And, so, Alex, thank you for
15 attempting to clarify that.

16 And, Lyle, you have a question.

17 MR. LYLE HOAG: I respect Mr. Mayer's advise
18 and will try to do that, but to the extent that
19 bringing agenda item 7 into this discussion helps
20 inform us, then I will be willing to listen to some of
21 that.

22 Let me ask Mr. Thomas and team. We are being
23 told and will be asked to certify this PEIR on its own
24 scope and merits as being complete for what it is, an
25 important step in the whole process of course. Then,

1 following that, if there's -- we will consider the
2 recommended Framework if it turns out that the
3 recommended Framework has CEQA defects, they will be
4 approached on their particular merits. Why do you --
5 why do you seem to oppose that process, wouldn't it be
6 better for all the parties to get this out of the way
7 if in fact it meets the requirements of the law, and
8 then get on with the discussion and debate about the
9 follow on Framework, if in fact it needs to take place.

10 AGRICULTURAL PANEL: Well, in part -- is this
11 on? In part, Mr. Hoag, the -- through several years of
12 the analysis over the alternatives, there was a great
13 deal of coordination, as well as analysis, with the
14 staff over all these elements. The -- here in the last
15 month, a number of new things, these new issues have
16 jumped up in the Framework, the -- and this new
17 coalition document arose. There hasn't been that
18 opportunity for that type of exchange, that's very
19 unfortunate. We think you should seriously consider
20 that potential defects in your CEQA approach open it up
21 to purify that process, now allow those exchanges to go
22 on. I would say the kind of trailing that -- that if
23 there is a CEQA challenge, it's not going to just be on
24 this Alternative 6, it will be on all of that
25 collection of stuff that you're voting on today that

1 the -- would be brought into that CEQA challenge.

2 So -- and they are absolutely tied together.

3 AGRICULTURAL PANEL: And I just want to add.
4 And it sounds like based on it's discussion then, what
5 between what we were advised is that the Framework is
6 irrelevant, right? The Framework is not a project now.
7 The CEQA document is only for the general orders and
8 the projects that may incur sometime in the future.
9 And, so, basically, we just determined that the
10 Framework itself has no real value as any type of
11 action by this Board.

12 So, I guess I am a little confused as to then
13 what are we doing here today? We have a final program
14 EDIR that we've just been told that -- and we have
15 Framework, but we've just been told the final EIR is
16 really unrelated to the Framework because it is for --
17 will be used for the general orders and the waivers
18 that will be adopted later on, and that the Framework
19 is not the project for the purposes of CEQA.

20 So, I just, you know, we do have a little bit
21 of an oddity here, as is to what has occurred.

22 MR. KARL LONGLEY: Madam Chair, I, for one,
23 don't find the discussion of the Framework to be very
24 beneficial at this point in time. I'd like to keep the
25 discussion on the programmatic EIR.

1 CHAIRPERSON HART: Well, I think it -- the
2 question is whether the -- what the EIR pertains to in
3 this item is regarding the EIR. So, that discussion
4 has to occur to some extent. But, I think, hopefully
5 everyone's clear, so far, and we'll move on where we
6 are exactly, except for the raised issue, as to her
7 concern on what the Framework is and that agree for the
8 next item which they will be able to address.

9 So, now we will move on to the environmental
10 justice, environmental panel, if those folks could come
11 forward.

12 ENVIRONMENTAL PANEL

13 ENVIRONMENTAL PANEL: Madam Chair, thank you.
14 My name is Mike Lozo, I'm with Lozo Jury in Oakland,
15 California, 4110 12th Street, to be precise. And I'm
16 affiliated with California Sport Fishing, as their
17 attorney, as well, as Seawin.

18 I did take the oath, though, I am not sure I'm
19 giving any factual evidence here.

20 But, um, I wanted to start. I think the EIR
21 has brought -- has brought the community together to
22 some extent, to -- but only insofar as we're sharing a
23 few comments that point out the same flaws, in
24 particular, the absence of a project built into the EIR
25 from which you could base the entire analysis and

1 compare the other alternatives.

2 Um, and we also have show the same concerns
3 with the no-project alternative. Sometimes I wanted to
4 call up the steak holders, because, you know, it looks
5 like all time we're just trying to drive a stake
6 through these things. But Sea-spun (phonetic) and
7 others do want to see if we can get an effective
8 program in place and with a legitimate EIR that
9 actually help you pick the proper mix for that program.
10 And a defensively EIR, I think, should also be high on
11 your minds here.

12 I will -- I would respond to -- the agreement
13 we have does not require you to certify things today or
14 tomorrow. Um, I do think you have a deadline coming up
15 that's equally important, July 1st, when the waiver
16 does terminate. So, I would envision in your fixes,
17 you know, I would hope you can do a supplemental or
18 recirculation by that time, so you can rely on that in
19 order to make your ultimate decision. But, there's
20 nothing binding you to adopt any EIR that, I think,
21 unanimously at least for some reasons folks believe is
22 inadequate.

23 Let me start by, on that project description
24 piece, the staff has had seven years to come up with a
25 proposal and have a clear since of where they would

1 like to recommend this Board go. We would hope in that
2 time we would have that built into the core of the EIR.

3 In terms of Dr. Longley's question, I wanted to
4 quickly follow-up on that, as I start. Um, and this
5 was about what -- the scope of impacts that the EIR
6 should evaluate, and I'm always interested in the word
7 nuance, and I -- nuance means it's -- it's probably
8 nuance because it's wrong, I do believe. And then I
9 think that and the project alternative would help to
10 clarify this.

11 But I do believe that, um, some of the
12 alternatives that are scoped out in this PAIR may, and
13 in any fair argument, have an impact on the environment
14 from increasing discharges. So, Alternative 1, for
15 example, in the current state of affairs nobody knows
16 exactly what's happening out there, could maybe
17 increase discharges. People could increase and you
18 wouldn't know. And you're authorizing these
19 discharges, it's not a passive action that you're
20 taking here. You're saying, "It's okay for you to
21 discharge under this program, that's what the project
22 is."

23 So, I do think that things like the amount of
24 pollution that might result from any of the
25 alternatives that to you're doing is a direct,

1 actually. At least indirect affect of your action that
2 you're going to take.

3 So, if you pick -- if you said, "No condition.
4 Just go ahead, do whatever you want," obviously, that
5 would increase discharges.

6 I hope that's not one of the alternatives.
7 Maybe Alternative 1 comes close, but alternatives 1
8 through 4, I think, arguably all have a fair chance of
9 increasing discharges. You won't even know about it in
10 most instances, it's the first two alternatives.

11 The only one that you might be able to get away
12 with, it won't increase discharges is Alternative 5,
13 that's least discussed in the program. So, that would
14 be my take on that question Dr. Longley asked.

15 Um, in terms of, I think, the main substantive
16 issue which, you know, is all about your ability to
17 make a good decision later today, is that the EIR fails
18 to give you a comparative analysis of these -- the five
19 alternatives in their, never mind staffs,
20 recommendations; however, many there are at this point.
21 I think that -- that was really what we were hoping to
22 get out of this EIR process.

23 Right now, treating all five alternatives in
24 their equal seems obviously wrong and internal to the
25 document itself, it actually, by the time you get to

1 Alternatives 4 and 5 you start to acknowledge, you
2 know, that fisheries in fact might be a little less
3 because Alternative 4 and 5 will guarantee much more
4 management practices in place than, for example,
5 Alternative 1.

6 So, I do think there are differences in these
7 five alternatives in each EIR's notion that they're all
8 equally the same and will all result in the same
9 management practices is absolutely wrong. For one,
10 which pretty much mimics, will be out of place. There
11 is no evidence of what management practices are out
12 there. Nobody's ever monitored them directly to see
13 how effective they are, so, staff has no evidence to
14 base any kind of conclusion that Alternative 1 is going
15 to result in an implementation of any management
16 practices, for example.

17 So, I do think that that's flawed, because it
18 should recognize some kind of range of effectiveness in
19 there, which it doesn't. The other thing -- these are
20 all just quick summaries of the comments we've written
21 in some length on programmatic EIR. Another important
22 point, I think, to bring up is that the Board can't --
23 and in the EIR document, the Board can't approve
24 alternatives, that would violate the law.

25 And in our comments, we go through how those

1 first four alternatives would violate the
2 anti-degradation policy on -- the only thing I'll say
3 about anti-deg, is in the high-quality water policy, in
4 particular, it was adopted in 1968. So, you don't look
5 at what high quality means as circuit 2011. The policy
6 was put in place in 1968. As of that date, all
7 high-quality waters at that time had to be protected
8 from degrading. That, obviously, hasn't happened, but
9 just because something's degrading now, does not mean
10 you don't have high-quality waters. This is obvious,
11 for pesticides, many of which didn't exist in 1968.
12 So, I don't see -- you can't claim that these are not
13 high-quality waters because it is contaminated by
14 pesticides, is the obvious example. I thinks it's also
15 true of most of the other elements you're dealing with,
16 the irrigated lands program.

17 We, also, go through at some length in our
18 comments, how the alternatives, the first 4 in
19 particular, I think 5 is the only one that doesn't --
20 isn't inconsistent with the nonprofit source policy.

21 When I say 5 is consistent, that's not saying
22 that we thought it was a good idea, we thought 5 went
23 over the top.

24 Um, we do have an alternative listed out in our
25 comments that we thought was more measured, that would

1 still get us to the fundamental pieces that we want to
2 get to, which is farm plans on each farm, monitoring by
3 each farm edge of field, at least to the extent that it
4 would give you a decent view of what's going on there.
5 Um, reporting on what their BMPs are, actually in
6 place, the staff will know which ones by the number
7 they are.

8 So, I think, actually, we present the
9 alternative that you should be looking at. In -- in
10 the EIS document. So, the non-point source policy, I
11 would just emphasize two of the pieces. Um, first of
12 all, it's just the general standard in order to claim
13 any of these alternatives are consistent. With a
14 non-point source policy, you'd have to be able to be
15 convinced that there is high likelihood that the
16 money -- that the management practices embedded in
17 there will be successful.

18 After seven years since the -- this process
19 started, it's been 11 years since Bill and I wrote the
20 first petition that got rid of all the old waivers and
21 petitioned this Board to do something different, um,
22 you have no idea whether the management practices are
23 working, even though they are supposedly happening out
24 there. And, also, one other key element I would
25 emphasize on this, would be that a non-point source

1 solution to control the program has to include
2 sufficient feedback mechanisms.

3 The staffs reliance on regional monitoring,
4 exclusively, fails to do that. There's no way you can
5 monitor a stream 10 miles, 20 miles down the stream and
6 be able to say, some management practice or best
7 practical control technology, no less, 20-miles up
8 stream is working, especially, if you are defecting
9 something. It's just meaningless. You have to have
10 some component that measures these practices where
11 they're happening, and at least tell you that they are
12 happening; you don't have that at this point, at least,
13 not in any reasonable detail.

14 So, in terms of alternatives, I would -- we
15 have a long diatribe on those, but I would just
16 emphasize that we did put forth what we thought was an
17 alternative that was the appropriate follow on to
18 what we've -- we've learned some things, we just don't
19 have a lot more data on a regional level, and -- but,
20 we also agree that, um, there's limits to how much
21 monitoring you can require.

22 I certainly don't agree that people should have
23 to start digging wells immediately here. There are
24 wells in place that people could look at to look at
25 their groundwater levels.

1 Um, and the last thing is, if you want to try
2 to follow-up on Mr. Ondenweller's comments, in terms of
3 the no project alternative. Um, and I think on Joe's
4 responses if it's terminated, what happens?

5 I think the existing program would be an
6 Alternative 1 to be looked at, and we can assume in an
7 alternative that goes on into the future, but your no
8 project alternative, should set the framework of what
9 would really happen if you did nothing. And I think
10 that scenario, which is everything goes away July 1st,
11 that's the no project alternative. And if you actually
12 scope that out as to what does that mean, it would
13 provide the Board a meaningful baseline to evaluate the
14 four or five other alternatives you might have on the
15 table.

16 So, I do think that it's not a meaningless
17 exercise, it's important to know, you know, what would
18 happen without anything in place, actually. So, with
19 that, I'm going to turn it over to my colleagues for
20 the second half of our presentation.

21 ENVIRONMENTAL PANEL: Good morning. Thank you
22 for the opportunity to speak. My name is Ely Moore
23 with the Specific Institute in Oakland, California.
24 And I'd like to help flush out some of the benefits
25 that the Board members have been expressing interest

1 in.

2 Over the last two years of direct research
3 projects focused on nitrate contamination and drinking
4 water in the San Joaquin Valley. I'd like to present
5 the report, summarizing the research finding. I
6 brought copies for each member of the Board. And that
7 contains everything in my presentation and lot more.

8 Is there somebody I could give this to?

9 CHAIRPERSON HART: Patrick.

10 Thank you.

11 ENVIRONMENTAL PANEL: So, my interest in this
12 program is that it may help reduce exposure to
13 dangerous levels of nitrate in drinking water. When
14 you look at the drinking water systems across this San
15 Joaquin Valley, there are -- in the past five years,
16 there were 92 that had wells that had nitrate levels
17 above the legal limit. Um, those systems serve around
18 1.3 million people. Then you add the domestic wells,
19 the state monitoring program on domestic wells, an
20 estimate, there are about 60,000 in California that
21 were affected by nitrate contamination, and they serve
22 somewhere around 169,000 people. Those are highly
23 concentrated in San Joaquin Valley. They've done --
24 they looked closely to our county and found that
25 40 percent of the domestic wells in Tulare County were

1 contaminated with nitrates.

2 So, the reason why nitrates are regulated with
3 the clean water act is because of the potentially fatal
4 affect that disclosure can have on infants. If an
5 infant is fed formula with tap water that is
6 contaminated with nitrates, they can die from it or
7 have lasting health consequences. There's, also, other
8 health defects, gastrointestinal problems and several
9 chronic health affects that are listed here
10 pancreatitis, several related to the nervous system,
11 birth defects, and some concerns have been linked to
12 nitrate exposure. We did a survey, and (inaudible) who
13 were served by drinking water systems in violation for
14 their nitrate levels, and found that among those
15 randomly selected households, 48 percent were consuming
16 the tap water. So, these were four systems: One of
17 them had been in violation for nitrates for a decade;
18 one for 13 years; the shortest period of time is four
19 years. Um, so, there -- there's some long, long
20 lasting potential exposures here that are happening.
21 So, this is directly related to the economic analysis
22 that was conducted on the program.

23 They're significant economic benefits that
24 should be considered, in that this program could reduce
25 exposure to nitrates -- can reduce nitrate

1 contamination. We found that families in these nitrate
2 contaminated drinking water systems were spending up to
3 4.6, or on average, 4.6 with their medium household
4 income on getting safe water, that's -- that's three
5 times the EPA threshold for affordable water. That's a
6 cost that they have to pay to have safe drinking water.
7 That if their drinking water was not contaminated or
8 there were no nitrates, they would not have to pay.

9 And then, for the exposure on any health
10 affects that are happening, there are causes related to
11 diagnosis and treatment, not to mention, pain and
12 suffering.

13 Domestic well owners have to drill new wells,
14 they have to install treatment technology on their own,
15 as an effect of nitrate contamination. Um, when you
16 look at the community level cost, the drinking water
17 systems themselves, there are a hundred right now on
18 waiting lists for state funding, because they can't
19 afford the costly measures they need to remove the
20 nitrates or dig new wells. They're -- the price tags
21 on those projects is \$150 million.

22 I'm going to speed through the rest, because
23 I'm taking more time than I should. This is the
24 Framework that you have right now for that economic
25 analysis. What we suggest is that you would -- that's

1 really hard to see. But, basically, you've excluded
2 the potential economic benefits to communities, to tax
3 payers, and to households and drinking water consumers.

4 Lastly, there's been no recognition, and
5 nitrate levels are increasing. We looked at all the
6 monitored wells in Kern County, and found that over the
7 last ten years, looking at 18,000 observations of water
8 quality, over the last ten years, there have been
9 increases significantly, such that the number of wells
10 contaminated with nitrates above the MCL will double in
11 the next ten years if they -- if they continue along
12 this trend line. And I'll end there, thank you.

13 CHAIRPERSON HART: Mr. Moore, we have a
14 question for you.

15 MR. LYLE HOAG: The question is for Ely. I
16 read your report when it first came out, and it's a
17 good job, and it conveys a very important message.

18 ENVIRONMENTAL PANEL: Thank you.

19 MR. LYLE HOAG: But I am -- I'm not sure it's
20 directly coupled with the -- what we're dealing with
21 here. What is your best guess as to how much time it
22 would take for most conservative, of all alternatives,
23 to correct the nitrate accedence in half of the
24 communities that you listed?

25 ENVIRONMENTAL PANEL: I couldn't answer that.

1 That's a -- that would be a significant study in and of
2 itself. There are some recent studies coming out of
3 Europe where they looked at the lag time between
4 groundwater improvements to groundwater quality and the
5 best management practices that were adopted. So, there
6 is some data from localities, I could share that
7 information with you, but I don't have it on hand.

8 MR. LYLE HOAG: I guess part of the point here
9 is that no one should believe that this -- these kind
10 of programs that we're discussing here would replace
11 the need for alternative corrective actions in these
12 communities; is that correct?

13 ENVIRONMENTAL PANEL: I think there are
14 short-term solutions and long-term solutions. What you
15 have the opportunity to do here is to relay the
16 foundation for long-term solutions. The State does
17 need to fund water, drinking water improvement
18 projects, so that people could have safe water next
19 year. But, we also need to improve groundwater
20 quality, or digging a new well isn't gonna -- it's just
21 going to be something we will have to do again in five
22 years, because the levels are increasing.

23 CHAIRPERSON HART: Thank you.

24 MS. PAMELA CREEDON: Madam Chair, member Hoag
25 pointed it out that the report you received, you all

1 received from -- I sent copies to all of you when it
2 first came out; I hope you all had those.

3 So, thanks for providing them, again, but he
4 only had three minutes left, so...

5 ENVIRONMENTAL PANEL: Good morning, members of
6 the Board. Rose Francis for Community Water Center
7 from Visalia, California. I'm just going to reiterate
8 a couple of points that have been made by a number of
9 attorneys and members of the Board and staff and
10 consults today. And I just find that it is simply
11 extremely important to be able to compare the relative
12 benefits or the delayed impacts upon the different
13 program alternatives. And this will allow for informed
14 decision making. And I actually would politely
15 disagree with the characterization that that's not
16 require by CEQA. CEQA does -- the entire purpose of
17 CEQA is to allow for informed environmental decision
18 making, and part in parcel of that, is identifying an
19 environmentally superior alternative, as you can see,
20 the appellate Court in the state has recently
21 articulated. And this does require evaluating the
22 impacts on water quality under different alternatives,
23 and the greater levels of management practices and
24 limitations the Courts will lead to, in the long term,
25 the greater water quality we anticipate.

1 And, so, in terms of looking at the
2 effectiveness of the program, that would be looking at
3 how long it takes to (inaudible), as well as the
4 interim costs of continued water quality segregation
5 until we reach that point. And so, again, we're not
6 suggesting that you need to toss out EIR today, but we
7 do think that as proposed orders are rolled out, this
8 is something that you can take an account of at a later
9 stage in this -- the tiered EIR process that a staff
10 has chosen to conduct.

11 MR. KARL LONGLEY: Actually, I am familiar with
12 the precedence you put out, the Watsonville precedence
13 that was, as my memory recalls, that's a very specific
14 project. He said he was wanting to do some development
15 in the airport area, as apposed to -- as I understand,
16 what we have here is described 50,000 --

17 ENVIRONMENTAL PANEL: Right.

18 MR. KARL LONGLEY: -- foot view is a
19 programmatic EIR, where as that was CEQA for a very
20 specific project.

21 ENVIRONMENTAL PANEL: And that's a great point.
22 And what I'm trying to emphasize, is that as the Board
23 moves forward with the project level, in terms of
24 implementing the general orders, that is something that
25 you see taking into account of. Thank you.

1 CHAIRPERSON HART: Okay.

2 ENVIRONMENTAL PANEL: So, the state
3 anti-degradation policy is -- I just wanted to
4 reiterate something that Adam Laputz, your staff
5 member, pointed out today. Which is, that the primary
6 purpose of the EIR alternatives is the meet policy
7 requirement, of course, and so, these EIR alternatives
8 do need to satisfy the State and degradation policy.
9 And under this policy, the Board is charged with
10 determining what level of degradation is in the best
11 interest of the People of the State. And what's
12 entitled in that is making a determination of baseline
13 groundwater quality, and that's identifying how much
14 degradation will occur, where it will occur, who's
15 going to be affected by that. And that's something
16 that has not been yet been performed.

17 so, this again, is something that is going to
18 need to be done at the project level as the individual
19 orders are ruled out. And I think that was three
20 minutes.

21 CHAIRPERSON HART: Thank you.

22 Do we have Board member questions for the
23 interim on the panel right now?

24 No staff questions regarding the interim right
25 now?

1 Oh, yes, Lyle.

2 MR. LYLE HOAG: I -- quickly, just to be clear
3 in my mind. As among the views we've heard, do -- does
4 everyone on this panel agree that the Board has, as of
5 right now, satisfied it's April 8th deadline?

6 CHAIRPERSON HART: Yes, I think they agree to
7 that.

8 ENVIRONMENTAL PANEL: As I recall, I haven't
9 looked at this this morning, but, yeah, to the extent
10 the staff has made a recommendation and the Board is
11 considering it, um, you're probably on fine ground,
12 especially where we're commenting that you should
13 probably relook at some of the pieces.

14 Um, I would emphasize, though, you do have your
15 ultimate deadline, which is the current waiver will
16 terminate July 1, and in order to make any decision
17 that that's going to be the one you pick, even for six
18 months or a year, you're going to have to provide --
19 you're going to have to satisfy CEQA, as well.

20 So, I would recommend you finish this EIR
21 process. In order to be in a position to do that or
22 to -- I would prefer you pick another alternative, but
23 that's the ultimate deadline, really.

24 CHAIRPERSON HART: Carl, do you have something?

25 MR. KARL LONGLEY: No.

1 CHAIRPERSON HART: Thank you. Carl.

2 MR. KARL LONGLEY: I like your (inaudible),
3 "Probably on the firm ground." I love it when
4 attorneys tell me probably.

5 CHAIRPERSON HART: Okay. We're gonna to take a
6 ten-minute break and then come back to hear from any
7 public officials.

8 (Recess.)

9 CHAIRPERSON HART: I am going to public
10 attendance cards. Any public officials?

11 No.

12 The first card I have is for John Harrant
13 (phonetic) with South Dealta Water Agency.

14 QUESTIONS FROM PUBLIC ATTENDANCE CARDS

15 AUDIENCE MEMBER: Thank you board members, John
16 Harrant (phonetic), South Delta Water Agency.

17 Since there's three items, I will be very very
18 brief. I join in the comments of the agricultural
19 panel with regards to the defects and the EIR process.
20 I just want to note, that the reason we have to get the
21 EIR in good shape at this point, and not through
22 subsequent EIR's, is that now that we know that all of
23 my area is tier three, and we require extensive work
24 when we are working out those waste discharge
25 requirements in the program, and we have a problem with

1 it, any subsequent environmental review, I'm sure, will
2 be alleged to have been with -- have been within the
3 original environmental view AND will be a month -- or A
4 year past the time to challenge that Court.

5 So, we do have a year, right, and I agree with
6 the panels description of the deficiencies, thank you.

7 CHAIRPERSON HART: From a legal perspective, I
8 think the answer is, when we have a programmatic EIR,
9 even if we were to certify it today, when you have a
10 project subject to that EIR, you have to repose your
11 notice of determination, with respect to this specific
12 project being approved, pursuant to the EIR. And when
13 that's the case, then a new litigation timeframe opens
14 up, again, and there's a whole new 30-day period which
15 recommences after the notice of determination is
16 posted. Would legal counsel agree?

17 MR. ALEX MAYER, ESQ.: I would agree with that
18 statement.

19 CHAIRPERSON HART: Thank you.

20 Okay. Let's move on. And I didn't pay him to
21 say that, even.

22 Let's move on to Juliette Christian Smith of
23 the Pacific Institute.

24 PUBLIC ATTENDANCE CARDS: Good morning. Thank
25 you very much for the opportunity to comment. I'm here

1 on behalf the Pacific Institute, also, as an executive
2 board member of the Agriculture Water Management
3 Counsel, a steering comity member of the California
4 Round Table Act, agriculture and water. Also, on the
5 agricultures sticklers (phonetic) comity, that's
6 advising the Department of Water Resources on the
7 implementation of the new water legislation SP7F7.

8 Bringing all that to bear today, I wanted to
9 connect this process to several other processes that
10 are going on in the state at the moment. For one,
11 SP7F7, the water conservation act of 2009, is now
12 requiring many agriculture water suppliers to prepare
13 agriculture water management plans. These plans have
14 two required best management practices, they are to
15 measure water and to price it at least, in part,
16 volumetrically. And then they have a variety of other
17 best management practices that are very similar to the
18 practices that you're looking at: Improved irrigation
19 management, tail water recovery, different --
20 irrigation technologies. So, in complying with the new
21 legislation, I think, many of the costs will be born,
22 in part, by the implementation of SP7F7, and also, the
23 new requirement for groundwater monitoring through
24 SP7F7. This should be reflected in economic analysis.

25 And in addition, there are many farmers who are

1 already taking on these practices for their own
2 reasons, and I'd like to submit to the Board our recent
3 publication, California Farm Water Success Stories. We
4 here highlight about 15 different growers, many of
5 which are in the Central Valley that are already
6 implementing practices, because they see it improving
7 their bottom line or helping to market their products.
8 So, I'd like to submit that.

9 And, finally, I'd like to suggest that a
10 broader approach be taken on more comprehensive and,
11 ultimately, helpful approach to the economic analysis;
12 it really does integrate the co-benefits that we see.
13 Every time we do an analysis on one factor, it's always
14 connected to many others. And we see this in terms of
15 the costs that are born by communities, currently, many
16 of them low income and are paying three times the
17 affordability index for safe drinking water in their
18 communities.

19 Reduced costs to tax payers for the most --
20 mostly publicly funded through bonds, grants that are
21 going to treat nitrate when people are drinking
22 contaminated -- nitrate contaminated water, and also,
23 reduced water use, and reduced energy use that are
24 related to many of these practices that you're looking
25 at. So, incorporating those co-benefits into economic

1 analysis would be very useful thanks.

2 CHAIRPERSON HART: Thank you.

3 Seeing no questions.

4 Dr. Mark Brockwell, of the Endangered Species
5 Coalition.

6 PUBLIC ATTENDANCE CARDS: Good morning. I'm
7 Dr. Mark Brockwell. I work with the Northern
8 California Counsel Federation of Fly Fishers in the 31
9 clubs that we have from Fresno to Redding. So, smack
10 dab in the middle of your area of responsibility. And
11 I'm also the State's representative for the Endangered
12 Species Coalition in the 53 organizations in California
13 that we represent.

14 Um, it's seemed to us that, currently, we have
15 a situation where agriculture pollution and runoff is
16 the leading contributor to toxicity flowing into the
17 Central Valley Waterways. And in the Delta, toxicity
18 is one of the three primary identified drivers of the
19 ecosystem decline in the crash of the Delta fisheries,
20 including, anadromous fish, salmon, and steelhead.

21 And it seems to me -- it seems to us, and it's
22 been identified, that within the toxicity levels in the
23 valley waterways, that certainly agricultures of
24 primary contributors are certainly not the only
25 contributor.

1 We've had eight years, frankly, since the start
2 of the programs that you all have overseen and
3 developed to fix these toxic levels and valley
4 waterways. And really, I think, we have not had much
5 substantive improvement over that eight-year period.
6 Um, the waiver process, frankly, simply hasn't shown,
7 in our opinion at least, to be beneficial, nor, that's
8 corrected problems that we see. And to extend that
9 waiver of process would simply be irresponsible, given
10 the basic admission of the Water Board and the need to
11 recover the Delta ecosystem.

12 We have two primary drivers, I think, one is a
13 50,000-foot look that you talk about, and I think one
14 of those is meeting mission of the Water Board. And
15 beyond that, we need to recover the Delta ecosystem and
16 toxicity is the primary driver there.

17 So, we would recommend -- that means
18 recreational fishes, like fly fishers, as well as the
19 endangered species community, to simply let the waiver
20 terminate on July 1st.

21 CHAIRPERSON HART: Sir, we're not quite to the
22 waiver item.

23 PUBLIC ATTENDANCE CARDS: I realize that.

24 CHAIRPERSON HART: Do you have comments on the
25 EIR?

1 PUBLIC ATTENDANCE CARDS: Yes, I do. And,
2 I think, if you did that, it would make this whole CEQA
3 process and EIR process much easier. Because all
4 communities within have to meet the same requirements
5 as anybody else does in the State of California,
6 including agriculture. And you can use the CEQA
7 process, that we're down to develop the regulations
8 around -- around industrial discharges, as well as,
9 construction discharges, so, that way everybody would
10 be under the same program.

11 It would be a democratic process, you wouldn't
12 have to have a waiver for a specific community, and we
13 would have the ability to reduce the toxic load coming
14 through the waterways. Thank you.

15 CHAIRPERSON HART: Thank you.

16 Last card I have is Ernest Cotant, various
17 water districts.

18 PUBLIC ATTENDANCE CARDS: Madam chairman and
19 Board members, this will be very brief. I just wanted
20 to -- my name is Ernest Cotant. I'm here on behalf of
21 Art Henson Water Storage District, Hert Clair Water
22 Districts (phonetic), North Clair Water Storage
23 Districts, (inaudible), which are -- makeup about over
24 half a million acres in Kern County, all of which, is
25 painted purple today.

1 And, um, I filed a letter that should be part
2 of the record on March 31st, on behalf of these
3 clients. I join in comments that were made by the
4 agricultural panel and with respect to the EIR, itself,
5 that would point out that there are many inaccuracies
6 and statements that were not adequately addressed, in
7 our judgment. An example of that would be that, um, in
8 the -- there was an attachment to Dave Worths
9 (phonetic) letter of September 27th, commenting on the
10 EIR itself, where we retained Promose & Printer
11 (phonetic) engineers and hydrogeologists to evaluate
12 some of the information in the EIR and address the
13 issues about the interrelationship of soils and
14 groundwater; it is comment letter number 111, and I
15 will just point out as an example, many of the issues
16 addressed there are simply not addressed in response to
17 comments.

18 Again, to echo what some of the prior speakers
19 have indicated, we would very much ask that this EIR
20 not be certified, and that you step back and reevaluate
21 where to go with this process.

22 Thank you.

23 CHAIRPERSON HART: Thank you.

24 I have another card.

25 MR. LYLE HOAG: Could I clarify one additional

1 housekeeping item?

2 The previous commenter had attempted to submit
3 a March 2010 report from the Pacific Institute for the
4 Board's consideration. And I recommend that the Board
5 do accept that report. And we have the copies that I
6 can distribute, if you agree with that recommendation.

7 CHAIRPERSON HART: Yes. That's final, yes.

8 I have a procedural question for you,
9 Mr. Mayer, Mr. Coupe. I have a card for -- indicating
10 this person may need to leave by 1:00 p.m. on Agenda
11 Item 8. We are currently in Agenda Item 6, right.
12 It's -- I see David shaking his head, no we cannot take
13 this because we're not to this item yet, and for the
14 hearing and for the record purposes, that would be
15 problematic.

16 That person has submitted comments in writing,
17 are comments too late to be submitted in writing if
18 they have not been so far for Agenda Item 8, that's the
19 waiver?

20 MR. KARL LONGLEY: Possibly you could have
21 somebody read it into the record.

22 CHAIRPERSON HART: I believe it's a Pamela,
23 maybe if you could just indicate your comments to a
24 neighbor or somebody who can speak for you, on your
25 behalf, when the Agenda Item 8 comes forward. We're

1 sorry for the inconvenience.

2 PUBLIC ATTENDANCE CARDS: There is a correction
3 there. It was for Item 6, and I am not leaving.

4 CHAIRPERSON HART: It's all solved. That's
5 wonderful.

6 PUBLIC ATTENDANCE CARDS: Thank you.

7 CHAIRPERSON HART: I have no more cards then on
8 Item 6, and she wanted to speak on Item 6.

9 Sorry, do you want to speak on Item 6?

10 You're not leaving, but we're taking cards now.
11 So, come forward, thank you.

12 PUBLIC ATTENDANCE CARDS: Excuse me, Madam
13 Chair, it was No. 7.

14 CHAIRPERSON HART: Okay. But you're not
15 leaving so, it does not matter. Thank you.

16 Okay. We have no more cards on Item 6. So, I
17 will take a closing statement by staff.

18 CLOSING STATEMENTS BY STAFF

19 STAFF: Thank you, Madam Chair. First we got a
20 number of comments on the economic analysis, we will be
21 discussing that economic report for the next agenda
22 item. So -- and keep in mind that our -- the primary
23 driver for the cost estimates is actually related to
24 our Porter-clone obligations.

25 Now, the economic analysis did help inform the

1 relative impacts on agriculture resources, that's
2 reflected in the EIR, in terms of certain alternatives
3 that have higher costs could lead to greater loss of
4 agricultural production. So, I was interested to hear
5 all of the comments on the Framework, and I will not
6 respond to those specific comments now, since that's
7 not the subject for this particular agenda item.

8 So, I think it's important to point out that we
9 could have today just brought to the Board the Program
10 EIR, that was our only legal obligation. We didn't
11 need to bring to you a Framework, the condition -- the
12 renewal of the conditional labor that go here later.

13 So, I think you can, for now, set aside the
14 specific comments that you heard on the Framework, they
15 are not actually relevant to the decision you're making
16 right now. They may be relevant to the decision you're
17 making, should we get to Agenda Item No. 7.

18 CHAIRPERSON HART: Let's hope we get there.

19 STAFF: I hope so, too.

20 The other thing that I wanted to point out is,
21 you know, we talked about the stake holder advisory
22 worker that we formed. You know, again, the reason we
23 formed that is when we did the CEQA scoping meetings in
24 early 2008, we had folks saying we would really like to
25 be engaged with you, as staff, as you develop the

1 alternatives. Now, that's not a legal requirement
2 under CEQA. We just merely, you know, had gone back to
3 the office, taken the scope comments, develop a
4 staff-preferred alternative, analyzed some other
5 options to a lesser degree, sent that out for a 45-day
6 comment period, I think that's the minimum required,
7 and then come to you. We could have frankly been here,
8 probably, nine months to year and a half ago if we had
9 done that; however, we felt it was important to engage
10 with your stakeholders and, you know, went along with
11 their request to form the stakeholder advisory
12 workgroup.

13 Now, as we went through that process, you know,
14 there are a number of them that spent a lot of time
15 developing their own alternatives and advancing them,
16 and that was part of the stakeholder process. When we
17 got to the end of that process, there was a consensus
18 on two things. One, are the goals and objectives that
19 you see to your left. So, everybody agreed that these
20 were important goals and objectives that every
21 alternative should go towards. And that's part of the
22 basis for our EIR analysis.

23 As well, in addition to the policy analysis, is
24 knowing that the goals and objectives we're shooting
25 for are the same across the different alternatives.

1 The other thing is, when we came to that -- came to
2 that point, reached consensus on the range of
3 alternatives to evaluate, we specifically asked that
4 question, "Is there anything that we could have missed
5 here?" You know, "Is there -- have we basically
6 bracketed what the Board could do?"

7 And there was consensus that, yes, we had
8 bracketed what the Board could do. And we had
9 stated -- and I -- we could go back to the minutes for
10 these meetings. We had stated multiple times that one
11 of the things that we would consider doing is looking
12 at the best elements of each alternative and
13 structuring, a preferred or recommended alternative,
14 from that which we did. And that was part of the July
15 draft that was circulated and everybody had a chance to
16 comment on and that alternative. It was actually part
17 of the EIR document, the Program EIR document. So,
18 this is Alternative 6.

19 CHAIRPERSON HART: Alternative 6.

20 STAFF: Yeah, at the time we staff recommended
21 alternative.

22 CHAIRPERSON HART: And it's Independence Day?

23 STAFF: It's Independence Day, which is part of
24 the EIR --

25 CHAIRPERSON HART: Right.

1 STAFF: -- which was circulated and -- the
2 final EIR includes responses to comments on that
3 Alternative 6, as well.

4 So, anyway, I think the Board has heard a
5 number of times from us, and you know, of course our
6 legal counselor can go over it again. What we're doing
7 here is asking that the Board, you know, certify this
8 program EIR, and we will, when we bring to you the
9 specific orders, we'll need to see if that EIR
10 adequately addresses the issues in those specific
11 orders. And, again, if it doesn't, we'll have to do
12 some additional analysis.

13 And, so, I think that does it. I think we
14 pretty much done what the law requires. I think we've
15 gone much beyond that, in terms of engaging with your
16 stakeholders, and I think we're basically right to move
17 forward and certify this program EIR.

18 Is there anything else?

19 MS. PAMELA CREEDON: Yeah, just a couple other
20 things. The point is at the request of the
21 stakeholders, they requested that we evaluate equally
22 all the alternatives. And we've done that, and now
23 you're hearing today, "Well, they didn't do a superior
24 project," whatever the term is, "preferred project,"
25 thank you. And we -- under the programmatic EIR

1 approach, that's not required. So, what we've done --
2 we've done exactly as we were requested to do, advise
3 the stakeholders that we have fully evaluated each
4 alternative exactly, and have done that analysis; and
5 that's what's before you. So, like -- and we are not
6 proposing a preferred project today, the projects that
7 will be applied will be in the future.

8 So, the next item that you're going to hear is
9 about a Framework. That is not the preferred project,
10 it is not being proposed to the Board to adopt it as
11 part of a sequel or an alternative.

12 I have to correct. Alex referred to it as
13 Alternative 7, it is not Alternative 7. It is simply
14 our efforts to have a very public foramen on where we
15 may be showing the public and having some input from
16 the Board on where we think we'll be going, in terms of
17 future permits on waivers or other regulatory control
18 measures for future implementations of the project.

19 Today, what you hear right now, this item is
20 simply on the Program EIR as recommended by all of your
21 stakeholders on how we should have proceeded with the
22 program EIR.

23 CHAIRPERSON HART: I just want make sure
24 everyone is on Board and clear on that. Right now, is
25 everyone understanding that the EIR did not study the

1 Framework? Everyone, can I get a yes?

2 Okay. And, so -- and that the -- what the EIR
3 is attempting to do is create an overarching view of
4 potential environmental impacts for orders that will --
5 orders and/or waivers that may be adopted by us
6 sometime later, preferably, this year. Okay. I think
7 we're all on Board on that. Okay.

8 Thank you, Joe.

9 Pamela, do you have any additional comments?
10 No. And I would just add that at the time we assessed
11 any orders or waivers brought to us for adoption, the
12 issue of CEQA will again arise, and whether or not this
13 programmatic document actually analyzed the impacts,
14 that will result from those waivers or orders. And we
15 will be required to do either a subsequent or an
16 amended or some other dec to tier off of, which is a
17 CEQA term of this problematic document.

18 Okay. So, additionally, an environmental
19 review will be conducted if required.

20 Yes, Lyle.

21 MR. LYLE HOAG: The only thing really clear to
22 me is that I would have been more comfortable, in the
23 perfect world, with a more conventional EIR process
24 which -- which did the conventional analysis and lead
25 toward a preferred alternative. But, we're not in a

1 perfect world here, we are -- we have gotten here
2 through some legal, procedural, and workload
3 constraints that we've all heard about.

4 But, before voting on this, I would like to
5 hear our counsel say, unequivocally, that this document
6 that we're about to certify is a full and proper
7 satisfaction of the law, or what it does, understanding
8 we're separating the Alternative 7, but for what it
9 does is a full and proper satisfaction of the CEQA law.

10 MR. ALEX MAYER, ESQ.: Board member Hoag, you
11 asked for me to comment on the adequacy of this
12 program, EIR, in terms of whether or not it satisfies
13 the requirements of CEQA. And because this
14 programmatic EIR identifies six different alternatives,
15 and because that EIR identifies the potential adverse
16 impacts associated with all of those six alternatives
17 equally, and because that programmatic EIR identifies
18 potential mitigation measures to reduce the substantial
19 impacts that were identified, I believe that this
20 document fully complies with CEQA. The requirements
21 for the analysis of potential adverse environmental
22 impacts was accomplished by this document. So, I can
23 whole heartily attest to that belief.

24 MS. PAMELA CREEDON: If I could also point out,
25 and I don't want to put our attorney on the spot, but

1 that the -- for the California Water Code, for any
2 action under that code, we must comply with CEQA. So,
3 even if we didn't come back with having to do
4 supplemental, we'd have to make the proper finding, and
5 so, the public and the Board will be fully aware of
6 future actions involving compliance with CEQA for
7 subsequent projects.

8 CHAIRPERSON HART: I understand, yes.

9 MR. KARL LONGLEY: Mr. Meyer, for I guess this
10 a simple engineer, I recognize you're an attorney. The
11 answer to the question was yes; is that correct?

12 CHAIRPERSON HART: Yes.

13 MR. ALEX MAYER, ESQ.: Yes.

14 MR. KARL LONGLEY: Thank you.

15 CHAIRPERSON HART: Yes, it's his belief, since
16 he's not the final say the Court is, but anyway.

17 I will now close the hearing and entertain
18 Board discussions, unless -- I'm sorry, Deann, did you
19 have a comment?

20 I'll go ahead and close the hearing, and open
21 it up for Board discussion.

22 HEARING CLOSED

23 OPENED BOARD DISCUSSION

24 CHAIRPERSON HART: Go ahead, Dan.

25 MR. DAN ODENWELLER: I want to introduce some

1 merit in tabling the action on this item until we
2 finish hearing the next two, and then dealing with the
3 votes on all three of them. It seems to be
4 interrelated and yet not lay intertwined, and I'm
5 sitting here wondering what I'm going to hear in the
6 next presentations that might affect how I vote on this
7 one or not. I'm just wondering if doing something like
8 that might be appropriate.

9 CHAIRPERSON HART: Okay.

10 MR. KARL LONGLEY: Madam Chair, yes, I would
11 prefer not to do that. I think that the discussion on
12 the next item will be driven somewhat by what we do on
13 this.

14 I think we need to make a decision. Are we
15 going to certify it or not and move on?

16 Um, I heard from the ESA community, that they
17 want us to put everybody on the same level, wanted to
18 do -- don't want to us to defend the waiver system.
19 And let's not act on this today.

20 As I understood their comments, and I think
21 really what is really difficult for a lot of folks here
22 is, "How do you get a handle around this pretty easy?"
23 But, you see, once you get out in the field, it's a
24 very complex and diverse agriculture and environmental
25 setting that we're dealing with, all the way from the

1 north to the south and east to the west. And even from
2 one area to the other, in a local area, we can have
3 completely different soil types, completely different
4 habitats, and things of that sort. And that's why one
5 size fits all, quite frankly, doesn't work. And it
6 would be nice if it did, in the so-called perfect
7 world, it would.

8 I think another thing that kind of scares me
9 here is I hear Michael Lozo and (inaudible) saying the
10 same thing. I don't know -- quite know how to handle
11 that, but the -- I think that Joe Karkoski, what he
12 said is absolutely the truth. We've done what the law
13 requires, that the staff has done what the law
14 requires, and they've presented to us, not only that,
15 but a lot more.

16 This is a programmatic EIR. And as I have
17 looked at it, spent a measurable amount of time trying
18 to get my arms on, I think, successfully to some degree
19 around this, I understand the -- to use the word to
20 particularly care for the -- I'll try to pronounce the
21 notiz (phonetic) of this. I think I do -- I do have an
22 appreciation of them.

23 With that said, I'll move that we certify the
24 EIR.

25 CHAIRPERSON HART: We have a pending motion,

1 but I don't want to let your comment go unnoted,
2 because I -- I had some concerns and confusion, as
3 well, on the applicability of this Framework scenario.

4 And I think that Joe and Pamela attempted to --
5 or Joe attempted to address it, in that what comes to
6 mind for me is, "No good deed goes unpunished." I
7 think what we're attempting to do is -- we'll talk
8 about this in the next agenda item -- is that the
9 Framework is attempting to sort of lay out for
10 everyone, and open up for discussion what's being
11 considered for future actions that will be the subject
12 to this EIR document. So, in affect, what Carl said is
13 correct.

14 And, insofar as the other stuff we do today,
15 really has no baring on whether we adopt a problematic
16 EIR, and with respect to the future orders on the ag
17 waivers and/or ag orders that we may adopt.

18 So, I don't know if that clarifies or confuses
19 things any further, but what I do have --

20 Is there further discussion for anyone?

21 We do have a pending motion that needs a
22 second, but any other discussion?

23 Lyle or Sandra.

24 MR. LYLE HOAG: I will second the motion.

25 CHAIRPERSON HART: Thank you.

1 And I will say, that I realized, having
2 practiced CEQA for sometime now, that it's a document
3 that's always just right for litigation. So, there's
4 really no essential revisions and extra revisions that
5 will resolve everyone's issue here. And, so, at some
6 point in time it may just have to be a court issue.

7 So, with that, in attempting to move this
8 program forward and attempting to resolve the greater
9 issues at hand, I will call for a vote, and I will be
10 voting to approve the EIR.

11 So, there is a role call or voice vote?

12 All those in favor, say, "I" any opposed say,
13 "Nay"?

14 Motion carries four to one.

15 Mr. Odenweller is voting no.

16 We will recess for lunch. And the next item
17 number will be agenda Item 7.

18 STAFF: Madam Chair, you just announced the
19 closed session would be penitent to Item I, that's
20 Garland versus Central Valley Water Board.

21 CHAIRPERSON HART: Thank you.

22 In an effort -- we'll make it 45 minutes,
23 because I know folks have to rush. But we will have a
24 lot of testimony later this afternoon. I don't want
25 folks to be here all night long.

1 So, 45 minutes for lunch.

2 (Recess.)

3 CHAIRPERSON HART: Agenda Item 7. This is a
4 resolution adopting a Framework for a long term
5 irrigated lands regulatory program. The time and place
6 for a public hearing to consider that resolution.

7 This hearing will be conducted in accordance
8 with the meeting procedures, published with the meeting
9 agenda, and the applicable notice of the public
10 hearing.

11 Before we begin, I'd like to ask if there are
12 any Board member disclosures on this item?

13 Yes, Carl.

14 MR. KARL LONGLEY: Yes. And I said I had none
15 on the previous item. Actually, on the -- and during
16 the Board member comment, I stated on the first 11th of
17 Feb that I met with the Fresno office and together the
18 executive officers, those people (inaudible). That
19 conversation apply's to both the previous item and this
20 item.

21 CHAIRPERSON HART: so, someone will have to
22 make a special check on the minutes to make sure that
23 that is correctly reflected.

24 Thank you.

25 Any other disclosures on this item?

1 I have two disclosures, the first of which
2 is -- I met, again, well at the same time, Tim Johnson
3 and Phil Thomas on March 30th, to discuss a few of
4 their concerns regarding the Framework. I, also,
5 received a phone call yesterday from assemblyman, Dan
6 Load, regarding his concerns on tiering and
7 restriction -- potential restrictions on water and
8 cattle and watering cattle. So, it was a very brief
9 discussion. So, that was the item, and I took his
10 comment.

11 So, those are my disclosures. Seeing none from
12 Lyle and Sandra and Dan, I will continue with the
13 procedures.

14 At this time, evidence will be introduced on
15 the proposed long-term program Framework. All persons
16 expecting to testify, if you would please stand at this
17 time.

18 So, anyone who wishes to speak on this item and
19 testify, if you could stand. And, you know, you could
20 just stand for the fun of it and raise your right hand
21 and tell me you swear to tell the truth.

22 AUDIENCE MEMBERS: I do.

23 CHAIRPERSON HART: Do you swear?

24 You all swear, that's excellent.

25 Okay. Involving the staff presentation -- you

1 may be seated. Following the staff presentation, there
2 will be an opportunity for public testimony. The total
3 time allowed for testimony are as follows:

4 Public officials will receive 3 minutes;
5 Agricultural Policy Panel will receive 30 minutes; the
6 Environmental Justice Policy Panel will receive 20
7 minutes; and the Environmental Policy Panel, which is
8 apparently different than the EJ panel, get's 20
9 minutes; and all other interested persons shall admit
10 their testimony to 3 minutes.

11 If limited numbers of interested persons who
12 need to leave early will be allowed to speak between
13 the panels and presumably folks have identified on
14 their cards, which I'll be reviewing, if there were
15 earlier time issues.

16 When you come to testify, before the Board, if
17 you would state your name, address, and affiliation,
18 and whether you have taken the oath, that would be a
19 appreciated.

20 And Mr. Meyer, do we have any legal issues at
21 this time?

22 MR. ALEX MAYER, ESQ.: No, Madam Chair, we do
23 not.

24 CHAIRPERSON HART: Thank you.

25 And Mr. Karkoski, we will begin the staff

1 presentation.

2 MR. JOE KARKOSKI: Thank you.

3 STAFF PRESENTATION

4 MR. JOE KARKOSKI: Good afternoon, Chair Hart,
5 and members of the Board. My name is Joe Karkoski. I
6 am the program manager for the Irrigated Lands
7 Regulatory Program. I work for the Central Valley
8 Regional Quality Control Board and my business address
9 is here.

10 I have taken the oath.

11 Today, staff is bringing, for your
12 consideration, a recommended Framework to carry out the
13 long-term Irrigated Lands Regulatory Program. The
14 documents associated with this item include: The draft
15 resolution with attachments; proposed late revisions to
16 Attachment A of the resolution; the Recommended
17 Framework staff report; the economics report that was
18 released in July of last year; and the comments we have
19 received on this item.

20 For our presentation, we will go over:

21 Why we are proposing a Framework; how the
22 Framework was developed; a description of the
23 Framework; the economic analysis and costs estimates,
24 which we referred to in the previous agenda item; how
25 we are in compliance with CEQA and State Board

1 policies; a summary of some of the major comments or
2 themes we were able to glean from the comments
3 submitted, we have a few late revisions to go over in
4 response to some of those comments; and finally, we
5 will go over the options the Board has today.

6 We have heard two general themes from our
7 stakeholders regarding the long-term program:

8 1) the program should be flexible to recognize
9 differences in the water quality issues associated with
10 agriculture in different parts of the Valley; and.

11 2) there should be consistency in how the
12 program is carried out.

13 The Framework provides staff with consistent
14 direction for developing subsequent orders to be
15 brought before the Board; however, the Board is not
16 bound by the Framework.

17 If there are elements of the Framework that
18 don't make sense for a given order, the Board need not
19 include that element.

20 If additional elements not in the Framework are
21 needed, the Board can include those in the particular
22 order. When considering those subsequent orders, the
23 public will have an opportunity to provide comments and
24 weigh-in on the applicability of Framework provisions.

25 Since the Board is not bound by the Framework,

1 the Framework is not a regulation or policy that the
2 Board must follow. There are no rules being created
3 that will apply to every subsequent irrigated lands
4 order issued by the Board.

5 Staff had considered proceeding with a rule
6 making, which would be done through our basin planning
7 process. Such a rule making would also provide
8 direction to staff; however, the Board would be bound
9 by those rules in issuing any future orders and would
10 have less room to adapt to the issues specific to a
11 given order.

12 As discussed earlier, we engaged our
13 stakeholders in a process to develop a range of
14 alternative approaches for the long-term program.
15 Throughout that process, we told our stakeholders that
16 we might recommend one of the alternatives or put
17 forward a recommendation that included elements of
18 multiple alternatives. After conducting the required
19 CEQA and policy analysis of the five alternatives,
20 staff created a recommended alternative constructed
21 from the best performing elements of the five
22 alternatives advanced by the workgroup.

23 The public provided comments on Alternative 6,
24 which was released with the Program EIR in July, and we
25 made a number of changes in response to comments that

1 we received. We conducted a CEQA and policy analysis
2 on the revised recommended Framework, which we are
3 presenting for your consideration.

4 I will now describe some of the key features of
5 the Framework. The scope includes all irrigated lands,
6 including managed wetlands. Both, discharge to surface
7 water and groundwater, would be addressed -- either due
8 to runoff or non-runoff processes, such as drift. In
9 addition, irrigated lands under existing orders, such
10 as NPDES permits, would be expected to address all
11 waste discharges from the irrigated crop land -- either
12 as part of the existing order or an order issued under
13 the irrigated lands program. The goals and objectives
14 of the Framework are those that were adopted by the
15 Stakeholder Advisory Workgroup, and again, they are to
16 my right and your left, on the wall. They include:
17 Protecting beneficial uses and meeting water quality
18 objectives; minimizing the discharge of waste;
19 maintaining the economic viability of agriculture;
20 ensuring discharge does not impair access to safe and
21 reliable drinking water; and promoting coordination to
22 minimize duplicative efforts.

23 Promoting coordination is one of the underlying
24 themes throughout the Framework. We want to be able to
25 take advantage of available information to minimize the

1 cost of collecting additional data. We, also, want to
2 take advantage of existing regulatory efforts.

3 Coordination will occur both internally with programs
4 such as CV-SALTS, TMDLs, and dairies, as well as data
5 collection efforts under the Surface Water Ambient
6 Monitoring Program, and the Groundwater Ambient
7 Monitoring and Assessment Program.

8 Our external coordination will include agencies
9 such as: The Department of Pesticide Regulation, the
10 Department of Food and Agriculture, County agricultural
11 commissioners UC Cooperative Extension, Natural
12 Resources Conservation Service. And we will also work
13 with the Integrated Regional Water Management Planning
14 Efforts.

15 It will take awhile to transition from the
16 current program to a new program, so, we have
17 identified some major milestones in that transition.
18 Three months from approval of the framework, we would
19 identify the third party groups and the orders that
20 staff plan to bring to the Board. Twelve months from
21 approval of the framework, we anticipate the Board
22 would issue the orders implementing the new program.
23 Within 18 months of issuance of the those orders, all
24 growers not in a current program would need to have
25 regulatory coverage. And within two years of the

1 issuance of the orders, all of the new requirements
2 would be fully in affect.

3 The fundamental approach of the framework is to
4 a-line the regulatory requirements with what is known
5 of the water quality threats. In this, and the
6 following slides, I will introduce the terms we are
7 using in the approach to determining the appropriate
8 requirements.

9 Based on available data, we would evaluate the
10 threat posed by irrigated agriculture for each
11 constituent in a given area. Separate evaluations
12 would be conducted for groundwater and surface water.

13 When I refer to a constituent, it could be a
14 general parameter, like nutrients or a specific
15 pesticide, an area could be a watershed or a
16 groundwater basin, or sub-basin.

17 A water quality problem exceeds applicable
18 objectives, or degradation is defined by applicable
19 anti-degradation requirements. A low fresh water
20 quality means we have sufficient data to conclude that
21 agriculture is not contributing to water quality, a
22 problem for that constituent in that area. An unknown
23 threat means there's a water quality problem, but
24 whether there is an ag contribution is unknown. Or the
25 data are not sufficient to determine whether there is a

1 water quality problem.

2 A high thresh water quality means we have
3 sufficient data to conclude there is a water quality
4 problem, and irrigated agricultural is -- or is likely
5 to cause or contribute to that problem. This figure
6 depicts how the assessment of data would result in a
7 tier classification for a given constituent.

8 So, starting with the assessment by constituent
9 in an area, if the information available is not
10 adequate to characterize a threat, then tier two
11 requirements, for source analysis or further
12 characterization, would apply. If the data are
13 adequate, and there's a threat from irrigated
14 agriculture, then tier three monitoring and management
15 practice implementation provisions would apply. If the
16 data are adequate and there are no water quality
17 problems associated with irrigated agriculture, then
18 tier one requirements would apply through the
19 (inaudible) process shown in the figure. The goal
20 would be for all irrigated agriculture to eventually be
21 in tier one for all constituents.

22 A given area might have constituents that fall
23 into each of these tiers. For example, an area may
24 have high nitrate levels in groundwater, which would
25 fall under tier three. An unknown contribution of

1 agriculture to E. Coli surface water, which would fall
2 under tier two; and no pesticides in groundwater, which
3 would fall under tier one.

4 As I discussed in the previous figure,
5 assigning tiers is a method for classifying threats and
6 identifying associated requirements. Some of those
7 requirements will be associated with the tier
8 classification for a given area. An area will be
9 referred to as tier one, if all the constituents in
10 that area are classified as low threat; the area will
11 be considered tier two, if one or more of the
12 constituents in the area pose an unknown threat and
13 there are no high-threat constituents; and a tier three
14 area will be those with one or more constituents that
15 pose a high threat.

16 CHAIRPERSON HART: Joe, just stop for a second.
17 So, if you're in a high nitrate, high threat -- you're
18 in a high threat area for nitrates?

19 MR. JOE KARKOSKI: Yes.

20 CHAIRPERSON HART: But you have no threat for
21 E. coli, you're still in a Tier 3?

22 MR. JOE KARKOSKI: Yeah. And my additional
23 slides will show what that means.

24 CHAIRPERSON HART: Sorry, just -- okay.

25 MR. JOE KARKOSKI: Yeah. Yeah. So, there are

1 requirements based on the area classification, as well
2 as how the parameter is classified.

3 For all areas, farm self evaluations would be
4 required. These evaluations would require the grower
5 to evaluate their practices and identify opportunities
6 to improve those practices and minimize the discharge
7 of waste.

8 A management objectives plan would be required
9 for tier one and tier two areas. These plans would
10 include objectives to continue protecting water quality
11 and identify practices to achieve those objectives. A
12 summary of management practices for tier one and tier
13 two areas would also be required with updates every
14 five years. There would be no monitoring requirements
15 for dischargers in tier one areas, but the Board would
16 periodically review available data to determine whether
17 the classification should be changed.

18 Study plans would need to be prepared and
19 implemented for tier two areas, to address data gaps
20 and for source identification in surface waters.

21 Tier 3 areas would be required to conduct
22 general assessment monitoring every three years for
23 surface waters. That's if the Tier 3 classification is
24 due to surface water quality problems.

25 Regional groundwater monitoring would be

1 required to establish baseline conditions and track
2 friends. Such monitoring could rely in whole or in
3 part on existing groundwater quality monitoring
4 networks, if approved by the executive officer.

5 Tier 3 years would be under waste discharge
6 requirements for WDR's.

7 Tier one and tier two areas could either be
8 under WDR or a conditional waiver of WDR's.

9 For Tier 3, groundwater or surface water
10 parameters requirements include implementation
11 management practices to address the constituents of
12 concern, a regional groundwater or surface water
13 quality management plan, and special studies to
14 evaluate the effectiveness of practices.

15 Tier two surface water parameters would require
16 the source identification studies discussed previously.
17 For nitrates in groundwater, the requirements will
18 include the preparation of a certified farm specific
19 nutrient plan, similar to what is currently required in
20 our dairy program.

21 For all tier three parameters, individual farm
22 water quality management plans must be prepared, if
23 inadequate progress has been made in the regional
24 efforts or a grower has failed to provide information
25 or implement practices to address the constituent of

1 concern.

2 Do you want me to go over any of that tiering
3 discussion at this point; do you have questions?

4 CHAIRPERSON HART: Just go back to that last
5 slide, maybe.

6 MR. JOE KARKOSKI: Okay.

7 CHAIRPERSON HART: And then maybe go over it
8 one more time and then...

9 MR. JOE KARKOSKI: This one?

10 CHAIRPERSON HART: Yeah.

11 MR. JOE KARKOSKI: Okay. Actually, I'll
12 probably seg-way into one of my next slides, which is
13 posted up here.

14 So, as an example for Tier 3, nitrates in
15 groundwater, we'd be identifying vulnerable groundwater
16 areas. All right. And this, again, just to caveat it
17 for everybody, this is very preliminary. We're not
18 asking you to take any sort of action on the specifics
19 here. The action -- any action you would take would be
20 when you're issuing the order; that's when we get into
21 the details. But it gives you a general idea of what
22 this would look like in that red area, and again, this
23 was developed from readily available data sources, the
24 State Board's vulnerability analysis, (inaudible) water
25 ground protection areas, some available nitrate data.

1 Those sections of land would be considered tier 3, so
2 any irrigated land operations in that area would be
3 required.

4 So, to have a certified farm specific nutrient
5 management plan; that's just to deal with the nitrate
6 issue in groundwater. And, again, that's pretty much
7 what we have for the dairy program for all dairies.

8 CHAIRPERSON HART: Are they going to have to
9 have an individual farm floodler quality management
10 plan, as well?

11 MR. JOE KARKOSKI: No. The only circumstances
12 in which they would need to have an individual farm
13 management plan, a general one, and I'll move on to the
14 surface water. So, here this is what the Tier 3
15 sections would look like for groundwater, and again, I
16 want to emphasize this is a preliminary assessment of
17 our surface water quality tiers based on the
18 information we have available to us at this point.

19 So, as an example, in a tier three watershed,
20 if the Board -- the Board would be establishing
21 compliance schedules for achieving water quality
22 objectives in those watersheds where the objectives are
23 not met. So, if the objectives are not met within the
24 compliance timeframe, and the Board makes a
25 determination that inadequate progress is being made,

1 then we would require those growers in that specific
2 area, not the whole coalition, but just in that
3 specific area, to prepare an individual farm water
4 quality management plan.

5 MR. KARL LONGLEY: While you have this slide
6 up, it makes the point, when we're talking about
7 surface waters, nearly 5 million acres would initially
8 be in tier two?

9 MR. JOE KARKOSKI: Right.

10 MR. KARL LONGLEY: What kind of a timeframe?
11 I know this is a little bit of crystal ball
12 gazing.

13 MR. JOE KARKOSKI: Yes.

14 MR. KARL LONGLEY: But you do a lot of that,
15 you're good at it. What is the timeframe that you
16 would think we could move a substantial amount of this
17 acreage, either into tier one or Tier 3?

18 MR. JOE KARKOSKI: Do I dare guess?

19 Well, you know, a lot of that is happening now,
20 because the coalitions are already doing a lot of that
21 work. You know, a lot of this data is from our current
22 program, you'll hear later they're folks that don't
23 think anything's happened, but actually, there's been a
24 lot of monitoring done. There's been a lot of
25 movement, and one of the things that we're seeing is

1 with some of these parameters where it's uncertain
2 whether there's an irrigated ag contribution, we're
3 starting to get the data to allow us to say, "Yeah,
4 there's a water quality problem associated with that,"
5 or, "No, it doesn't look like there's an irrigated add
6 contribution."

7 So, frankly, we already have this system in
8 place, we just don't refer to it in the same way.

9 And, the other thing that we don't have right
10 now, is we don't have that default of, "Oh, what if
11 there is failure to address the water quality
12 objectives, that particular problem, what do we do?"

13 MR. KARL LONGLEY: But this is not something
14 that happens in a year or two; am I correct?

15 MR. JOE KARKOSKI: Yeah, I never answered.

16 MR. KARL LONGLEY: You need sufficient data to
17 be able to make this. So, five years might be a short
18 answer, ten years might be a long answer; would that
19 be --

20 MR. JOE KARKOSKI: Yeah, yeah. And I would
21 say, you know, a lot of it will depend on how we set
22 our priorities, too. Because if we -- if we have a
23 number of water quality problems that we feel like we
24 need to get on and deal with right away, we'll probably
25 establish compliance schedules to focus on those

1 efforts first, whereas, the source identification or
2 dealing with unknowns, we may want to give more time.

3 But I would say the, you know, reasonable,
4 that -- that five-to-ten year timeframe for addressing,
5 you know, the surface water quality unknowns is about,
6 right.

7 MR. KARL LONGLEY: Thank you.

8 MR. JOE KARKOSKI: Okay. So, I've gone off
9 script, and I'll get back on script, unless there are
10 any more questions.

11 MR. KARL LONGLEY: Sorry.

12 MR. JOE KARKOSKI: No. No. No. We're here
13 for you.

14 MR. KARL LONGLEY: I'll just write that down,
15 okay?

16 MR. JOE KARKOSKI: That's what I tell my staff
17 all the time.

18 CHAIRPERSON HART: We're being recorded, Dr.
19 Longley.

20 MR. JOE KARKOSKI: And I did take an oath, too.
21 So, it's true.

22 So, one of the things that's important to note
23 is that the implementation of the framework will
24 benefit other Board programs. The implementation of
25 the framework will result in implementation of

1 practices that were reduced discharge of constituents,
2 such as pesticides and loading of nitrates and salts.
3 These are important steps in meeting the ultimate goals
4 that will be identified in our CD salts and TNBL
5 efforts. Those planning efforts will also benefit from
6 the information collected on practices and on water
7 quality. This -- I already talked about this, and I
8 just wanted to add a couple other sort of caveats to
9 this. Besides the fact that it's a preliminary
10 assessment, we're not deciding on whether this
11 particular configuration is appropriate. But as you
12 see, there's about three million acres of ag land that
13 would fall under Tier 3 for groundwater, of that
14 3 million, some amount is actually under our dairy
15 program already. So, there's about 500,000-acres of
16 irrigated lands in our dairy program.

17 We weren't able to, before the meeting, parse
18 out, exactly how much of the dairy land is in the
19 same -- is in this red area you see. And so, that's --
20 as we mentioned earlier, that's about 3 million out of
21 seven to seven-and-a-half million total acres.

22 And you have seen the slides. So, we're
23 looking at, you know, that 300,000 acres that we would
24 have at this time, based on this initial review, be
25 able to classify it as tier one, about a half million

1 in tier two and, you know, a little over 2 million in
2 tier three. And, again, our dairy program lands are
3 within those areas, so, the framework also identifies
4 responsibilities that will apply to third parties that
5 represent growers.

6 You'll hear reference -- or you heard refence
7 in the previous item to a seventh and eighth
8 alternative. At one point we were floating and
9 discussing with the coalition, some changes, to the
10 third-party responsibilities in Alternative 6; that was
11 not a separate fold alternative, that was a very
12 narrowly focused review of third-party
13 responsibilities. So, those responsibilities include
14 providing an organizational structure and description
15 of finances that are transparent to the members of the
16 coalition, or organization, and the Board.

17 This isn't something the Board would act on
18 approving, with financing and other given coalition,
19 it's just a transparency issue, tracking and evaluating
20 effectiveness of management practices, conducting any
21 required monitoring and assessment, informing growers
22 through education and outreach any water quality
23 problems and methods to address them, and identifying
24 members who have been dropped for failure to implement
25 the program or support third-party activities.

1 The responsibilities of irrigated ag operators
2 include obtaining appropriate regulatory coverage
3 participating in outreach events, implementing
4 practices to protect water quality, and prevent
5 nuisance conditions and providing information requested
6 by the third party or Board.

7 When implementing practices, they would also
8 need to either avoid impacts to sensitive resources or
9 mitigate those impacts.

10 CHAIRPERSON HART: Jim, just before you go on
11 real quickly. On slide 19, if you go -- so the third
12 party -- so, third party is being referenced,
13 generally, maybe as Coalitions, right?

14 MR. JOE KARKOSKI: Yes, right.

15 CHAIRPERSON HART: So we currently have eight
16 Coalitions?

17 MR. JOE KARKOSKI: Right.

18 CHAIRPERSON HART: Is it expected that, by
19 staff, that under any new order or waiver, additional
20 Coalitions would be formed, assuming we don't do away
21 with the third party Coalitions?

22 MR. JOE KARKOSKI: There's that possible, yeah.
23 So, we've also outlined in the framework a process for
24 getting approval as a third party, which includes
25 current Coalitions.

1 CHAIRPERSON HART: And my second question is,
2 to some extent the Coalition's already doing all this,
3 right?

4 MR. JOE KARKOSKI: They are doing a lot of
5 that?

6 CHAIRPERSON HART: Yeah?

7 MR. JOE KARKOSKI: Yes.

8 CHAIRPERSON HART: Okay. Thank you.

9 When you say doing a record of that, what
10 aren't they doing?

11 MR. JOE KARKOSKI: When I make the statement,
12 I'm not going to say this is true, in general. It's
13 true in certain specific circumstances, is that
14 transparency issues, I don't think, are always
15 consistent, um, in terms of -- because frankly that's
16 one of the calls we often get is, "Why am I paying five
17 dollars an acre?"

18 We'll get that call from growers and, you know,
19 they think the Sate is charging that fee, but it's
20 often the Coalition.

21 So, part of this, and I'm sure many of the
22 Coalitions are, you know, are already providing that
23 information, but we're just wanting to make it clear
24 that that's a clear responsibility. And, um, I don't
25 think that the education and outreach, at this point,

1 is consistent across the region. So, I think it's just
2 important to have those sorts of provisions to make it
3 understood that, you know, in addition to, say,
4 conducting monitoring, that education outreach is
5 clearly an expectation of the third party or Coalition
6 groups.

7 MR. KARL LONGLEY: And you took the next
8 question out of my mouth, because I was comparing what
9 they are not doing. And once, again, this is not all
10 Coalitions, relative to the dairy program, quality
11 insurance program.

12 MR. JOE KARKOSKI: Yeah. You know, there's,
13 also, um, you know, I'm sure you'll hear from the
14 Coalitions, education and outreach is not just
15 something that the Coalitions do, we have, you know,
16 NRCS, we have the ag commissioners, and so, we have
17 different entities that are trying to get the word out.
18 And this is just trying to clarify what the
19 expectations of the Coalitions will be.

20 CHAIRPERSON HART: I would expect that it says:
21 "Identify members who's membership is revoked." I
22 would expect, also, we need to know from the Coalitions
23 who, in their area, has not joined, so, that we can
24 indicate to those farmers that we will be issuing
25 individual WDR's to them.

1 MR. JOE KARKOSKI: Yeah, and that is -- well,
2 our proposal's that a general WDR, that would apply
3 to --

4 CHAIRPERSON HART: Anyone within?

5 MR. JOE KARKOSKI: Anyone who's not part of a
6 third party. But, um, yeah that's something we worked
7 with the Coalitions -- some Coalitions on that issue.

8 There's always the concern of, you know,
9 they're taking on an enforcement role. In general,
10 when the Board required participant lists from the
11 coalitions, we're able to take the participant list,
12 compare them to tax assessor roles and other data we
13 have, to figure out who has not joined. But that
14 certainly -- I mean, it's in the interest of the
15 Coalitions, because they are -- you know, their members
16 are paying more into the pot, individually, if there
17 are fewer participants.

18 MS. PAMELA CREEDON: But you're right,
19 Ms. Hart, this does not say to identify or to notify of
20 non-violaters. And that's certainly a workload for the
21 Board staff, if they don't just come stright out and
22 tell us that it's a non-filer.

23 So, you know, if that's the Boards wish, we
24 could add -- or just add that to a responsibility for
25 Coalition. The current ag waiver program does not

1 really specify what our expectations are, around the
2 coalitions, and I think that's very important. Because
3 we -- we -- I don't want to get in -- some are doing
4 more than this, and others are doing less. And, so, at
5 least that's the minimum playing field we expect from
6 all the coalitions, regardless of their location.

7 CHAIRPERSON HART: Right. And I understand
8 that, because it may have been, you know, failure on
9 our part to identify, and not knowing just what we
10 really need to see and what we don't.

11 But, certainly, for those Coalitions who are
12 attempting to get everyone in their area to comply, um,
13 having them provide us with a list of people who aren't
14 joining, um, would seem to me to provide incentive and
15 assistance to the Coalitions themselves to get members
16 to join and get some cooperation on that end.

17 MR. JOE KARKOSKI: Yeah, I mean, you are
18 exactly right. You know, one of the values of the
19 coalitions is having that local presence. So, when
20 we -- when our staff look into this issue, a lot of --
21 you know, often times what we're doing is we're doing
22 an initial assessment, say, using aerial photographer
23 and that sort of thing. Um, but that doesn't
24 necessarily tell you, "Is that actually an irrigated ag
25 operation?"

1 So, the Coalitions who are more local, would be
2 able to, "No/yes, that farm is in my Coalition, the one
3 next to it, clearly an irrigate and ag operation, it's
4 not."

5 So, that would help us tremendously, if that
6 were one of their responsibilities. Again, in the
7 past, there -- there's been concern on the part of the
8 Coalitions to take on that role. I concur with you,
9 Chair Hart.

10 CHAIRPERSON HART: Well, thank you.

11 MR. JOE KARKOSKI: I think this is where I left
12 off. The framework, also, identifies the beneficial
13 uses and parameters that will be the initial focus of
14 our irrigated lands efforts over the next five-to-ten
15 years. That's not to say other parameters and uses
16 will be ignored.

17 Compliant assigned schedules for all issues
18 will be established in the orders -- in subsequent
19 orders, and the goal will be to ultimately achieve and
20 maintain objectives for all parameters. Well, that's
21 pretty much done.

22 That concludes the framework description. That
23 covered a lot of material, so, before I turn things
24 over to Adam, I'd be happy to answer any additional
25 questions you have at this point.

1 MR. KARL LONGLEY: A small question. A couple
2 times you used the word "drinking water quality".
3 There's obviously water quality concerns to other
4 organized uses, other than drinking water, industrial
5 and so on. Are they included, and is there any reason
6 why you used the term "drinking water quality"?

7 MR. JOE KARKOSKI: Yeah, and the reason we're
8 focused on drinking water, especially for the
9 compliance time schedule, is that those uses would be
10 our initial focus, because there's a potential human
11 health impact that we would want to get addressed
12 right -- right away.

13 That's not to say, if there's another
14 industrial or agriculture or that sort of use, that we
15 would exclude addressing those uses. It's more of a
16 matter of what would be the focus of our initial
17 efforts.

18 MR. KARL LONGLEY: Good. Thank you.

19 My concern was simply that you don't leave
20 something out of the wordings going into the program,
21 so that it -- it's a basis of a lot of argument later.

22 MR. JOE KARKOSKI: Exactly. And I -- we
23 addressed that, because there was that concern raised.

24 CHAIRPERSON HART: Thanks, Joe.
25

1 included consideration of costs that some central
2 valley small communities are facing due to high
3 nitrates in their drinking water, which is in line with
4 Irrigated Lands Program Goal 4. There are three
5 components to the economic analysis: Cost estimate,
6 impact of cost on production, and impact of cost and
7 production changes on the regional economy. Also, the
8 report identifies potential sources of financing, and
9 considers the costs that small communities may need to
10 bear in order to obtain safe drinking water, economic
11 analysis limitations. Similar to the EIR, a major
12 component of the costs estimate involved estimating
13 implementation of water quality management practices to
14 address water quality problems throughout the Central
15 Valley.

16 Because the program would not specify a set of
17 required practices, estimating costs of the practices
18 is complex and unprecise. As a consequence,
19 assumptions were made to estimate the types of
20 practices that operations would likely implement to
21 solve existing water quality problems. For example, in
22 areas with multiple surface water quality problems, it
23 is assumed that aggressive source control managers, such
24 as pressurized irrigation and tail water return
25 systems, would be implemented. Also, the analysis is

1 assumed that potential agricultural sources would need
2 to implement practices and watersheds with identified
3 water quality problems.

4 What this means is, in a watershed with an
5 identified problem in the analysis that was conducted,
6 the assumption was that everyone in that watershed
7 would participate by implementing a practice. It's --
8 that assumption is a conservative assumption, but it
9 was very difficult to tell at the problematic level
10 where the practices would actually need to go into
11 place. At the program -- I just went over that.

12 It is generally assumed that the operations
13 initially would select the least expensive types of
14 practices to be in compliance. These practices solve
15 the water quality problem, potentially, more expensive
16 structural practices would not be necessary. Because
17 it's entered in at the decision making process, in
18 which less expensive practices are implemented first,
19 it could not be captured fully in the cost analysis.

20 The estimated cost for the analysis may be
21 high. These are also -- these include the -- there
22 are, also, other concerns that could not be considered
23 in this analysis. These include costs associated with
24 additional water quality problems found under future
25 surface and groundwater monitoring. As a result, the

1 estimated costs should be considered an estimate of
2 potential, not required costs for program
3 implementation.

4 The difficulty in estimating the costs of
5 practices must be considered in reviewing the economic
6 report and the proposed alternatives. Costs and
7 impacts could vary significantly by region and type of
8 operation.

9 A range of the costs would have provided a more
10 complete picture of limitations of this analysis and
11 the potential costs of the program. This component of
12 the analysis could not be completed due to the tight
13 time and budget constraints of this project.

14 Because the framework has been developed from
15 the range of proposed program alternatives, the results
16 of the economics report have been used in estimating
17 the potential costs of implementing framework. A cost
18 range has been estimated for the framework where the
19 cost will be on the low end, if the third party lead
20 entity is successful, the existing groundwater
21 monitoring is adequate, irrigated pasture operations
22 will not need to implement hardware management
23 practices, such as tailwater return systems. Existing
24 implementation of water quality management practices is
25 greater than what has been estimated, and where tier

1 two constituents, such as E. coli or unknown toxicity,
2 do not have an irrigated agricultural contributions.

3 Cost will be on a higher end where the third
4 party lead entity is not successful. In these cases,
5 the Board would need to implement an administrative
6 cost structure, similar to Alternative 5 with
7 individualized farm plans and monitoring.

8 Also, costs will be on the high end of the
9 estimated range, where irrigated pasture operations
10 need to implement structural or hardware management
11 practices, existing implementation of management
12 practices is similar to what has been estimated, and
13 where tier two constituents have an irrigated
14 agricultural contribution. When I say, "Also," it's to
15 provide a little additional clarity where existing
16 implementation of management practices is similar to
17 what has been estimated.

18 What we're talking about here, is in the
19 economics report, we tried to figure out the
20 baseline -- or from the types of practices that were
21 already in place across the Central Valley. So, when
22 we say in a watershed, certain practices would be
23 implemented. If 80 percent of the growers in that
24 watershed had already implemented that practice, the
25 cost would be quite a bit less. But in our analysis,

1 if we -- the baseline of practice information that we
2 knew because it was from the early 2000's.

3 so, we don't have a real good picture right
4 now for how much additional practices have been put
5 into place. This line summarizes the main cost
6 categories for Alternative 1 through 5 in the
7 framework.

8 Alternative 6 has been left out of the slide in
9 order to ensure that the slide text is readable. The
10 estimated costs and effects of Alternative 6 are
11 estimated to be within the range of the framework.
12 Cost categories include: Administration, monitoring,
13 and management practices.

14 As you can see, the main component of the costs
15 is estimated to be implementation of management
16 practices. For now, please take a look at the row
17 titled "Percent Change" from Alternative 1. Note, that
18 the estimated costs for Alternative's 1, 2, 4 and the
19 lower end of the framework, costs are similar with less
20 than 10 percent difference. Estimated costs of
21 Alternative's 3, 5, and the upper end of the framework
22 are much higher. This is partially due to the
23 individualized management of tens of thousands of
24 operations under these alternatives and increased
25 management requirements.

1 MR. KARL LONGLEY: I have a question here.
2 When you did this analysis, particularly on Alternative
3 5, because it is somewhat in line -- this was mentioned
4 in early testimony -- with what some of the folks here
5 would like to see?

6 In other words, they are not particularly
7 sympathetic with the idea of using Coalitions, and they
8 would like to see the staff of this Board be
9 responsible for the day-to-day operations of the
10 program. In that estimate, when you put that together,
11 what kind of staff levels were you anticipating and
12 what did you base those staff levels on?

13 MR. ADAM LAPUTZ: Yeah, the estimate right now,
14 because I don't have that number right in front of me,
15 but we estimated about over 300 -- about 340 staff
16 would be needed.

17 MR. KARL LONGLEY: That's over what you have
18 now. I think the estimate was 360, in fact. But you
19 have 15 staff now, so, you're looking --

20 MR. ADAM LAPUTZ: I'm close. But the way we
21 estimated it, was we took the ratio of the dairy
22 program, which is this -- this Alternative 5 is really
23 based on the dairy program. And so, we took the ratio
24 and utilized that to compute what we think would be
25 necessary for -- for a similar Irrigated Lands Program.

1 MR. KARL LONGLEY: And if you had 345
2 additional individuals -- I'm putting you on the spot
3 now, and I apologize for that, but what kind of annual
4 dollar value might that be?

5 MR. ADAM LAPUTZ: You know what, I -- I can't
6 answer that right now. But I know I can answer it in a
7 few moments, if --

8 MR. JOE KARKOSKI: Yeah. So, basically, the
9 cost of a staff position, depending on their
10 classification of range from \$130 to \$250,000 a year,
11 is what we were using, which includes salary, benefits,
12 overhead, that sort of thing.

13 So, you can use a \$200,000 multiply it by, you
14 know, 300 or so, whatever that number would be.

15 MR. KARL LONGLEY: And you're talking in the
16 order of \$70 million a year, am I correct?

17 MR. JOE KARKOSKI: Yeah.

18 MR. KARL LONGLEY: Thank you.

19 MR. LYLE HOAG: Following on the question of
20 these cost tables. Um, with the magnitude of the
21 program, when it's fully in place, I don't understand
22 how several of the costs could be significantly lower
23 than the current cost. Oh, the management practices
24 going from 466 million down to 199; what accounts for
25 those reductions in several -- it's not in several

1 categories. A couple of categories are about the same,
2 others go down. I'm surprised at that because of the
3 magnitude of the fully implemented plan.

4 MR. ADAM LAPUTZ: Under the -- are you speaking
5 under the framework for management practices where
6 there's a star after the 199?

7 MR. LYLE HOAG: Yes.

8 MR. ADAM LAPUTZ: Yeah, that's actually when we
9 went to take a look at the framework and do an analysis
10 of what we think it may cost. Some of the concerns
11 that we had seen in our comment responses, or our
12 comments on the draft reports, some of the big comments
13 were, I tried allude to this earlier, that we really
14 mischaracterized the number of practices that were
15 already in place throughout the Central Valley. And,
16 so, what we did was we assumed that there would be a
17 much higher amount that needed to be put in with this
18 program, or at least that was -- our information was
19 from, like I say the early 2000's, so, what we tried to
20 do was get a little closer to or a little better
21 estimate.

22 And that's how -- that's one of the reasons why
23 there's a lower number there, too. And I think Joe
24 wants to jump in, too.

25 MR. JOE KARKOSKI: Yeah, um, so, for example,

1 we received a lot of comments saying that irrigated
2 pasture really wasn't contributing to water quality
3 problems. And the initial economic analysis was,
4 especially a lot of the effects on the amount of
5 productive land was due to implement -- the assumption
6 that irrigated pasture would have to implement
7 practices that would take them from, you know, being
8 able to have a profit to not being able to maintain a
9 profit, so, there's a loss of production.

10 So, when we got the comment saying, "Well, we
11 think irrigated pasture is protecting water quality,"
12 we said, "Well, what would that look like, cost wise,
13 then if we change our assumptions and rather than
14 assuming that irrigated pasture would have to put in
15 tail water recovery systems and those sorts of things
16 that cost a lot, um, we assume that that they wouldn't
17 or there would be a lesser amount of acreage that would
18 need to implement those higher-end practices."

19 So, that's why we're saying, some of the
20 assumptions in the framework are different than in the
21 original analysis, and a lot of that was based on some
22 comments we received.

23 MR. LYLE HOAG: So, the numbers in 1 through 5
24 have a different basis than the number given for the
25 framework, and they should not be compared. Further,

1 the last line percent change from the current program,
2 that's -- that would be deceptive for that reason, the
3 1.4 percent, for example.

4 MR. JOE KARKOSKI: Yeah, the one -- the fact --
5 yeah, that's why we -- actually, when we did the range
6 of percent change to keep it -- you know, it's hard to
7 explain everything in one PowerPoint slide, but the low
8 end of the range, you know, compared to Alternative 1,
9 it would actually be a negative percent intra-cost
10 savings.

11 But just to keep the basis of comparisons
12 similar, we said the low end of the range for the
13 framework is going to be similar to Alternative 2,
14 which is essentially maintaining the Coalition group
15 approach, assuming that works. The high end of the
16 range is going to be similar to Alternative 5, which is
17 direct Regional Board Regulation of individuals.

18 So, it gives you, I think, a decent relative
19 comparison, and also, it shows that the framework
20 really can go from one end to the other, you know, it
21 really depends on are growers really able to protect
22 water quality as part of the third-party group, that's
23 the low end, cost wise. And -- and we need to step in
24 and regulate directly, that's the high-end cost wise.

25 The Central Valley production model was used to

1 estimate the effects of increased costs on agricultural
2 production and the regional economy.

3 Alternative 1 represents full implementation of
4 the current program. The economic analysis compares
5 Alternative 1 to an existing base condition of
6 irrigated crop production and income that reflects the
7 early 2000's, prior to substantial implementation of
8 the current program. Under (inaudible) limitation of
9 the current program or Alternative 1, the value of
10 annual production is estimated to decline by
11 approximately 336 million, or two-and-a-half percent,
12 compared to the existing condition. The overall
13 reduction and estimated production acreage and value
14 associated with this alternative would be concentrated
15 on low value crops, such as irrigated pasture, some
16 small grains, and hay.

17 Management practices assume to be implemented
18 for the analysis are relatively expensive, especially,
19 for lower-revenue crops. As a result, field forage and
20 grain crops would have difficulty supporting such
21 costs. The analysis indicated large reductions in
22 their acreages, in the regions where these costs were
23 incurred. Irrigated pasture, hay, and other field
24 crops accounted for over 95 percent of the predicted
25 reduction. To the extent growers of these crops could

1 identify less expensive ways to comply, the revenue
2 impacts would substantially reduced.

3 From the prospective of the regional
4 agriculture economies, reductions in agricultural
5 production, and increases in compliance spending under
6 Alternative 1, would result in agricultural related
7 loss of over 2,000 jobs. Most of the job losses would
8 occur in field, forage, and grain crops sector. These
9 agricultural-related losses would be offset somewhat by
10 increased spending in other industrial sectors driven
11 by program compliance and management practice and
12 implementation. Because cost estimates in the
13 management practices may be on the high end resulting
14 affect on crop value may be overestimated.

15 Nevertheless, the analysis has provided insight
16 into the potential affects of increasing costs, as well
17 as the crops that could be most greatly impacted. We
18 have therefore crafted the framework to provide
19 flexibility to mange geographic areas where
20 commodities, such as irrigated pasture lands, based on
21 the unique issues in those areas. This table
22 summarizes the changes in total value production for
23 Alternative's 2 through 5, and the framework for full
24 implementation of the current program.

25 As is shown, each of the alternatives would

1 extend the predicted losses shown in Alternative 1,
2 minimally, for alternatives 2, 4, and the lower-cost
3 range of the framework, with a more noticeable decrease
4 under Alternatives 3, 5, and the higher cost end of the
5 framework.

6 This table summarizes the changes in jobs
7 associated with each Alternative with full
8 implementation of the current program. Alternatives 2,
9 4, and the lower cost range of the framework are
10 predicted to have relatively similarly affects on
11 employment as Alternative 1.

12 Alternatives 3, 5, and the upper-cost range of
13 the framework would significantly extend the predicted
14 loss of employment estimated under Alternative 1. Note
15 that Alternative 4 is predicted to have a smaller
16 employment loss than Alternative 1 by nine jobs. This
17 is because increase in client spending in this case
18 could lead to additional localized jobs.

19 One of the goals in a long-term program is to
20 ensure that irrigated agricultural discharges do not
21 impair Central Valley communities and residents access
22 to safe and reliable drinking water. One concern in
23 the development of the program has been the quality of
24 drinking water. There are a number of small
25 communities throughout the Central Valley that find it

1 difficult to obtain safe and reliably water because of
2 nitrate pollution. Because of the limited number of
3 residents, individuals in small communities have to
4 face a major expense in developing safe drinking water
5 supplies. Based on limited information provided, staff
6 have attempted to quantify costs for these communities.
7 These costs are estimated to be between 20-and-a-half
8 to 47-and-a-half million. This estimate only considers
9 small communities with current violations of state
10 maximum contaminant levels for nitrates, and did not
11 consider costs of larger municipalities, or systems
12 with levels that are near the maximum contaminant
13 level. While the exact sources of nitrate pollution
14 are currently unknown, it is generally accepted that
15 fertilizer use is one potential source. Other sources
16 include dairies and septic systems and food processors.
17 I take it that's an annual cost.

18 MR. ADAM LAPUTZ: That's actually not an annual
19 cost. There's a portion of it that's a one-time cost
20 for drilling the wells, but there isn't -- it's a --
21 mainly, the cost estimate that we had done was just to
22 drill new wells, not for --

23 You know, some more background on this, too, is
24 the -- we didn't consider school systems or, you know,
25 systems where they may be close to the MCL and already

1 need to start to do some work.

2 MR. KARL LONGLEY: So, could we correctly state
3 this cost is quite low?

4 CHAIRPERSON HART: Yes.

5 MR. KARL LONGLEY: Thank you.

6 MR. ADAM LAPUTZ: We have received extensive
7 comments on the economic analysis. There were comments
8 that suggested that cost estimates and economic impacts
9 have been overestimated. Examples include: Concerns
10 that the analysis is not adequately considered positive
11 economic affects of cleaner water into the future;
12 positive economic affects of improved management in the
13 water use efficiency; and that the analysis
14 overestimates the actual costs of individual practices.

15 There were also components suggesting that the
16 costs estimates and economic impacts have been
17 underestimated, examples include: Concerns that the
18 (inaudible) does not adequately capture the added cost
19 of labor, as far and from practice of change,
20 groundwater monitoring costs and well drilling costs;
21 also, (inaudible) expressed concerns that the estimated
22 costs to drinking water systems are (inaudible).

23 Even considering the limitations of the
24 economic analysis, it is important to note that the
25 analysis provides a good relative comparison between

1 alternatives and the cost estimates reflect the best
2 available information. Staff agree that with
3 additional research, information on practices, and more
4 site specific information, the analysis would provide a
5 more accurate representation of potential IRRP impacts
6 across the Central Valley; however, we do consider the
7 analysis sufficient to meet Water Code requirements to
8 estimate costs and identify potential sources of
9 financing.

10 Before I move on, do you have any questions I
11 can answer, regarding the costs and economic
12 considerations?

13 CHAIRPERSON HART: Nothing.

14 MR. ADAM LAPUTZ: CEQA analysis. While the
15 framework was not expressly analyzed in the Program,
16 EIR components of the framework have been. As
17 described in the Program EIR, the alternatives would
18 not directly cause environmental impacts.

19 Environmental impacts are projected considering
20 potential reaction of regulated operations to the
21 irrigated land program requirements. Similar to
22 Alternatives 1 through 6, the framework does not
23 specify required practices for operations; therefore,
24 it is impossible to accurately determine what practices
25 individual operations will implement, but it is

1 reasonable to expect, increased implementation of
2 practices to product water quality. The framework
3 includes the same approach as for establishing
4 requirements to meet water quality objectives, as the
5 Program EIR alternatives. For, example, the framework
6 would require regional water quality management plans
7 and individual nutrient management plans to be
8 implemented to ultimately meet water quality
9 requirements. This approach is described and evaluated
10 in Alternatives 2, 4, and 6 of the Program EIR.
11 Because the requirements of the framework are taken
12 from among the alternatives, the potential
13 environmental impacts would be the same as those
14 described in the Program EIR.

15 An analysis of the framework indicates that the
16 provisions are within the range of the alternatives
17 evaluated in the EIR, also, an analysis of the unique
18 combination of requirements in the framework from among
19 the alternatives, does not reveal any new environmental
20 impacts that have not been considered. As Mr. Karkoski
21 described, the framework may require -- may work to
22 reduce costs through tiering of requirements and
23 commodity specific orders. This reduction in cost may
24 mitigate some of the agricultural resource impacts
25 associated with other alternatives.

1 Should the Board approve the framework, the
2 Board would also be making CEQA findings associated
3 with the framework; this is in attachment B to the
4 resolution. Those findings are consistent with the
5 analysis contained in Program EIR. Certain mitigation
6 measures would be incorporated into the orders that
7 would implement the framework. Those mitigation
8 measures are associated with the cultural resources,
9 vegetation and wildlife, and fisheries. Other
10 mitigation measures fall within the jurisdiction of
11 other agencies, those mitigation measures are
12 associated with noise and air quality. There are some
13 impacts that we will not be able to avoid or
14 substantially lessen through mitigation. Those impacts
15 require the Board to make a statement of overriding
16 consideration to move forward, despite those impacts.
17 The costs associated with the program can indirectly
18 lead to loss of productive farmland. That loss would
19 be in addition to loss of the farmland due to other
20 factors resulting in accumulative impact. The
21 framework tries to minimize those impacts by reducing
22 the regulatory burden; however, the potential impact
23 cannot be fully eliminated. Although, greenhouse gas
24 emissions will likely decrease due to the use of less
25 fertilizer and irrigation water, they will also

1 increase, due to additional construction activity and
2 use of pumps for pressurized irrigation systems. The
3 impacts of the framework on greenhouse gas emissions
4 and climate change are expected to be small, but
5 combined with other emissions are considered to be
6 cumulatively considerable or significant.

7 Vegetation and wildlife impacts from
8 disturbance of habitat in response to the program are
9 expected to be mitigated to less than significant
10 impact; however, any potential for loss of habitat
11 critical to threaten our endangered species, combined
12 with other similar nearby habitat losses, is considered
13 to be cumulatively significant.

14 CHAIRPERSON HART: I'm sorry, Adam. I'm not
15 exactly clear why we're going over this right now,
16 because I have no inclination to adopt this framework
17 today; I will just throw that out there for everybody.
18 But secondly, we just talked about the fact, in the
19 previous item, that this isn't a project being
20 approved, it's not binding, it's not a regulation, so,
21 I'm not -- I'm just confused.

22 MR. JOE KARKOSKI: You were right in saying
23 Alex.

24 CHAIRPERSON HART: Good.

25 MR. ALEX MAYER, ESQ.: Thanks, Joe. And I

1 turned on the power to my microphone.

2 That's a good question that we struggled with
3 internally over. And the proposed resolution,
4 approving this framework, has a finding 19 to talk
5 about the fact that it's not clear.

6 You know, at the time that this proposal came
7 forward, staff didn't feel it was clear that this
8 framework would be considered a project under CEQA.
9 And in the abundance of -- but there was also a belief
10 that some folks might believe that an approval of the
11 framework would constitute a project. So, in the
12 abundance of caution, we decided that it would be
13 prudent to include these findings required by CEQA
14 without conceding that it was or was not a project.

15 So, that was the approach taken. And that's
16 not set in stone, that was just the approach that we
17 took at this point in time.

18 CHAIRPERSON HART: Okay. So, what I'm
19 understanding, just for the benefit of my Board members
20 and audience, of course, is that -- well, you can
21 discuss these items regarding CEQA were not
22 necessarily -- I mean, we are still consideration of
23 whether we would even adopt a resolution, right?

24 So, you guys are just throwing this out there.
25 Great. Okay. Yes, Lyle.

1 MR. LYLE HOAG: I have a question. On the same
2 line of reasoning. If the framework is a project,
3 which has CEQA requirements, then essentially a whole
4 knew CEQA process is to be done. And I guess staff is
5 telling us that, yes, it needs to be done and it is
6 done by this document. So, your approval of this
7 document constitutes the approval certification of an
8 entire CEQA process; is that -- could we stop right
9 there and say yes or no?

10 MR. ADAM LAPUTZ: That was the -- without
11 conceding that it is or not a project, that would be
12 the steps you would take if it were considered a
13 project. And that's why we would want to make those
14 findings now rather than, you know, later.

15 MR. LYLE HOAG: Okay. If the framework is not
16 a project, and as we have been told by counsel and
17 staff, the elements of it are fully encompassed by the
18 PER that we adopted this morning, then why do we do all
19 this stuff in the framework?

20 If it's not a project, its impacts have been
21 fully covered, what more is to be done?

22 MS. PAMELA CREEDON: Nothings to be done, and I
23 apologize to the Board. This was never intended to be
24 a project, it's intended to be a very public process
25 that normally is done between staff and managers on how

1 we would proceed once the Board approved the EIR,
2 certified the EIR.

3 We wanted to make this a very public process,
4 it was meant to be an information item to get feedback
5 from the Board. It's not -- it's not intended to be a
6 project, it's intended to give the Board an opportunity
7 to give us feedback and direction: "Are we headed in
8 the right direction?" In terms of how we develop a
9 long-term program. This is not a project, it is not a
10 project.

11 CHAIRPERSON HART: So, if I can skip ahead way
12 in advance of this hearing, just quickly, my
13 understanding is what our executive officer would
14 likely be recommending to us down the line, after we
15 hear from everyone, because we do want to hear from
16 everyone, is that in fact this -- that adoption of
17 resolution not occur, that in fact we're just moving
18 through this process for purposes of getting things out
19 on the table for discussion to hear what the public has
20 to say, so, that the Board can help inform staff on how
21 to move forward on specific WDR's and/or waivers in the
22 future. Excellent. Carl.

23 MR. KARL LONGLEY: Yes. And as I understood
24 this, this was pointed out earlier, it's not binding.
25 But, I presume the executive officer wants some

1 approval from this Board in the direction they will be
2 perceiving, and that's why it was asked to be made a
3 resolution rather than simply an information; am I
4 correct on that or not?

5 MS. PAMELA CREEDON: We go both ways with the
6 Board. And -- but, it's not unusual for us, on big
7 projects such as this, to come to the Board to seek
8 your guidance and general nod of approval in the
9 direction we're going. And something of this size and
10 magnitude with the obvious public interest in the
11 program, it's very appropriate for to us come to the
12 Board. And I apologize for all the confusion that's
13 made for the public around this, but, I think it's a
14 good time, since everyone's in the room over the EIR to
15 discuss how we want to proceed now that we have the EIR
16 behind us, at least in terms of this proceeding. I'm
17 sure we have many proceedings to go through in the
18 future.

19 CHAIRPERSON HART: Yes.

20 MR. LYLE HOAG: Related question. Some of my
21 friends would call it a dumb question, but I understand
22 there's no such thing. Will there be a huge amount of
23 work to be done in the next year and three years and
24 beyond?

25 Will that work go forward immediately, in the

1 same way and at the same pace, regardless of what
2 action or no action we take on the framework today?

3 MS. PAMELA CREEDON: Yes.

4 CHAIRPERSON HART: That was not a stupid
5 question. It was a good question.

6 MS. PAMELA CREEDON: It was a very good
7 question.

8 MR. KARL LONGLEY: It was a good question.

9 MR. JOE KARKOSKI: Chair Hart.

10 CHAIRPERSON HART: Yes.

11 MR. JOE KARKOSKI: It seems like we're not
12 going to be moving forward with adopting resolution. I
13 can skip to the comments rather than going through our
14 analysis of the consistency of the framework with the
15 non-point source program and anti-degradation.

16 CHAIRPERSON HART: Let me get my Board members
17 input on that. That's certainly my preference. Carl.

18 MR. KARL LONGLEY: I prefer a resolution.

19 CHAIRPERSON HART: Okay. And, Dan.

20 MR. DAN ODENWELLER: Doesn't matter. Either
21 one will do.

22 CHAIRPERSON HART: Okay. Sandra or Lyle.

23 MR. LYLE HOAG: I think a resolution has value,
24 so long as it doesn't further muddy the CEQA
25 requirements issues.

1 CHAIRPERSON HART: I think it definitely
2 further muddies everything and is a huge problem. And
3 since no one seems to be able to say something either
4 way, then I will make the call and we will not be
5 adopting the resolution.

6 I think we can direct staff, as necessary, to
7 say -- or we can still take a vote -- I mean, does
8 anyone -- even if we don't adopt a resolution, does
9 everyone still want to hear about the CEQA analysis?

10 MS. PAMELA CREEDON: The issue is whether you
11 wanted to hear about anti-degradation and non-point
12 source policy compliance.

13 CHAIRPERSON HART: (Inaudible). We were
14 talking about CEQA.

15 No, we definitely need to hear about the
16 anti-dreg strong-water thing, so, we can go forward on
17 that.

18 But is that related to the CEQA analysis that
19 you're going through right now?

20 MR. ADAM LAPUTZ: I don't fully understand what
21 you're asking. It's part -- we did do, like we did
22 with all the alternatives, we did a policy analysis to
23 look at whether or not we felt the alternative met the
24 non-point source policy and the (inaudible) degradation
25 policy, but it's not a part of the CEQA analysis. I

1 would say the seg-way is, um -- the CEQA part is you
2 would be making a statement of overriding
3 considerations, that's what we have currently in the
4 resolution, that's in the draft before you.

5 And, so, some of the considerations are
6 associated with us complying with the state policies
7 and law. But our -- our discussion -- we can just go
8 ahead with the discussion of anti-degradation complex
9 source policy (inaudible).

10 CHAIRPERSON HART: Let's just do that. Okay.

11 MS. PAMELA CREEDON: But could we just make a
12 clarification, Chair Hart. This says an item about a
13 proposed resolution, and so, the Board would have to
14 just make -- I don't think that the chair can
15 unilaterally --

16 CHAIRPERSON HART: We would take a vote.

17 MS. PAMELA CREEDON: Okay.

18 CHAIRPERSON HART: Yeah. Okay. The irrigated
19 lands program is a nine-point source program, it must
20 meet the requirements of the State Water Board's
21 non-point source policy. The non-point source policy
22 requires that the regional Board non-point source
23 programs include five key elements: First element
24 requires that the purpose of the program be explicitly
25 stated, and that programs must address pollution in a

1 matter that achieves and maintains water quality
2 objectives and then (inaudible) including any
3 applicable anti-degradation requirements. The goals
4 and objectives of the framework explicitly state the
5 purpose of the program. The goals include that water
6 quality objectives and (inaudible) be maintained.

7 Also, the framework includes requirements to
8 meet applicable state anti-degradation provisions. Key
9 Element 2, requires that the program include a
10 description of management practices expected to be
11 implemented. The process to be used to develop the
12 management practices, and a process to be used to
13 verify proper practice implementation. The framework
14 includes requirements for development of water quality
15 management plans. These plans will describe the types
16 of practices to be implemented and include an approach
17 for evaluating effectiveness. Where time is necessary
18 to achieve water quality requirements.

19 Key Element 3 establishes that non-points worth
20 programs must include time schedules. The framework
21 establishes the general time schedule, and further
22 details will be developed under orders issued that
23 implement the framework.

24 Key Element 4 requires that programs include
25 feedback mechanisms to determine whether the programs

1 achieving its stated purpose. Water quality monitoring
2 and tracking of management practice implementation and
3 effectiveness under the framework would work to achieve
4 this key element.

5 Key Element 5, establishes that non-point
6 source programs must make clear potential consequences
7 for failure to achieve the program's stated purpose.
8 Consistent with this key element: The framework
9 describes failure of third party lead entity structures
10 will lead to individual regulation by the Board. The
11 State's anti-degradation policy requires that high
12 quality waters be maintained, unless limited
13 degradation is authorized, according to the policy.
14 Where discharge may degrade high quality water, the
15 policy generally requires the best practical treatment
16 or control of the discharge be implemented. And that
17 the authorized degradation be in the best interest of
18 the people of the State. Also, the policy states the
19 degradation cannot exceed water quality objectives.
20 The framework includes requirements that would
21 implement best practicable treatment or control where
22 there is degradation of a high quality water, and
23 establishes that beneficial uses must be protected.

24 Also, the programmatic level anti-degradation
25 analysis conducted by staff, in volume two appendix A

1 of the Program EIR, describes the degradation of some
2 high-quality waters associated with irrigating waste
3 discharges, would be in the best interest of the people
4 of the State, as long as objectives -- water quality
5 objectives are met.

6 Thank you for this opportunity to speak. This
7 concludes my portion of the presentation. I can answer
8 any questions you have at this time.

9 I don't see any questions. Okay.

10 MR. JOE KARKOSKI: Since we released the
11 framework, we received a number of comments. I will go
12 over some of the issues that appear to be a primary
13 concern. We received a comment that there was
14 ambiguity regarding the ultimate compliance standard
15 for groundwater; we have made a labor (inaudible) -- to
16 clarify that. Compliant with achieving and maintaining
17 water quality objectives, and complying with
18 anti-degradation requirements. There was a request to
19 establish a mitigation fund for drinking water impasse.
20 We reviewed the suggestions and did not feel that
21 there's a clear and affective legal mechanism to
22 provide such funding. We, also, had comments regarding
23 the need to report fertilizer application. The
24 framework includes requirements for analyzing the
25 discharge of nitrates to groundwater, which may include

1 fertilizer reporting. We received comments at the
2 anti-degradation that an analysis was not adequate. We
3 believe the analysis is appropriate for the
4 programmatic and non-binding nature of the framework.
5 We have requests about increase and limit access to
6 information and public involvement in the
7 implementation of the framework. The degree of public
8 involvement and access to information will depend on
9 available tools, resources, and schedules to complete
10 tasks.

11 For example, the timeframe for showing the
12 orders will not allow for a great deal of public
13 involvement, prior to the release of the draft orders
14 for Board consideration. We received comments to both
15 require and not require electronic data submittal by
16 growers. Staff believe that direct grower submittal of
17 information should facilitate compliance efforts, since
18 we'll know directly who has met their (inaudible)
19 requirements.

20 Having the information in one database should
21 facilitate assessment use. And when a grower is
22 submitting data directly to the Board, they will
23 certainly have an awareness of the Board and the water
24 quality of requirements that apply to their operation.

25 We have made a late revision to clarify that

1 access to any data submitted would be provided in
2 accordance with the public records act, including the
3 disclosure exemptions. We, also, recognize that we
4 need to provide alternative means of data submittal for
5 operators without the capability to submit data
6 electronically. The comments to abandon the Coalition
7 approach and directly regulate growers. We believe
8 that the Coalition approach can be effective in
9 protecting water quality and minimizing costs; however,
10 the framework provides for a direct regulation if the
11 Coalition approach is not working. We, also, had
12 comments to not require farm evaluations for tier one
13 and tier two areas. We believe that such an
14 evaluation, a minimal imposition in growers to ensure
15 that their practices are protecting water quality and
16 minimizing discharge of waste to the states waters. We
17 have requests for clarifications or questions regarding
18 how the framework would be applied in certain
19 circumstances.

20 Staff will develop a Q-and-A document should
21 the Board approve the framework. Many of the specific
22 questions raised will be addressed, based on the
23 information available for specific orders. We also
24 receive comments that multiple orders under single
25 third party would be difficult to administer. It's

1 worth noting that the first step in implementing the
2 framework will identify the orders to develop, so, we
3 can address those issues at that time. You should have
4 staff's proposed late revisions, we are suggesting
5 changing two of the footnotes to indicate that the
6 conditions applicable to irrigated pasture and organic
7 farms may include those conditions mentioned in a
8 footnote, rather than will include. And as I mentioned
9 previously, we have additional discussion regarding
10 electronic data submittals, and have clarified the
11 compliance language. In summary, the framework would
12 provide a clear direction to staff, but not require the
13 Board to include a specific provisions in the
14 subsequent orders that would be adopted. Those orders
15 would include binding requirement -- those orders would
16 include the binding requirements and would be issued as
17 part of the Board hearing with opportunity for public
18 comment.

19 The framework elements are clearly reflected in
20 the CEQA analysis that was part of the Program EIR.
21 There are no new adverse impacts that would come from
22 implementing this framework. And the framework
23 complies with State Board non-point source and
24 anti-degradation policies. The framework provides
25 flexibility, so, the Board can adapt as new information

1 as brought into the process of developing the orders.
2 By proving this framework moving forward, we will take
3 important initial steps in reducing the groundwater
4 impacts from irrigated agricultural operations
5 discharges while continuing our surface water quality
6 protection efforts.

7 The Board has several options, some of which
8 are listed here. You may approve the recommended
9 framework, approve the recommended framework with
10 additional Board changes, or provide direction to staff
11 to bring back a different framework or alternative for
12 consideration. At this time I would ask that the Board
13 adopt the resolution approving the recommended
14 framework with lake provisions, or I would say
15 alternatively provide us with direction consistent with
16 the framework.

17 I'd also like to enter all of our files in this
18 presentation into the record. And we'd be happy to
19 answer any additional questions you might have at this
20 time.

21 CHAIRPERSON HART: I don't see any other Board
22 questions right now. Next, we will take testimony --
23 testimony of public officials, and I only have one card
24 for a public official, and that is for Richard Price.

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TESTIMONY OF PUBLIC OFFICIALS

PUBLIC OFFICIALS: Good afternoon, Chair, members of the Board, good to see you again.

I'm Richard Price, I'm the agriculture commissioner in Butte County. And with me today I have several other ag commissioners from the Central Valley. Stand up so, you can be seen here: Jeff (inaudible) Joe (inaudible), who's a new ag commissioner in Colusa County, and there's Jim (inaudibly), he's an ag commissioner in Glen County, next to him is Louie Mendoza from Butte County, and in the back I have Jeff (inaudible) who's the commissioner in Placer County.

Did I miss anybody?

So, we're here to show our interest. This program -- obviously, we are engaged with agriculture and all the things that are pertinent to agriculture. Our chief role is -- I see it in this framework here, is to be the facilitator. We are mentioned several times as the (inaudible) outreach, we are engaged with the Coalitions currently, we're engaged with industry on a day-to-day basis, obviously. Our chief charge and authority come from the Food and Agriculture Code to deal with pesticide use enforcement as number one. But, we also deal with agriculture commodities, we deal

1 with crop statistics, we're the depository for a lot of
2 data information, including pesticide use enforcement,
3 pesticide use recording, restricted material permits,
4 all those kinds of data that the technical folks had
5 put together as part of this framework. And, actually,
6 part of the CEQA document came from, actually, from us.
7 So, we're entrusted. And I say entrusted, because they
8 have to live with us for the growers. You know, we're
9 the regulators, but we also are -- we hear a lot of
10 issues that are down the road.

11 Our chief charge agricultures promote and
12 protect agriculture, and many times to, you know, to
13 the, you know, the shin grin of agriculture that other
14 people would have to protect, and protect them from
15 themselves. And, so, we share that charge that you
16 folks have.

17 So, when I look at -- over here at the
18 objectives, on objective number five, one of our jobs
19 here is to help minimize, indicate regulatory oversight
20 while ensures program effectiveness will not and lists
21 one of those he cans R-FL the make that process happen.
22 Um, as you know under M O U at and Glenn put just we,
23 with and programs and I last ask me many is rep is the
24 manufacture those gaps and up suction says many \aim\I
25 am out that program. Um, but all the ag commissioners,

1 we're concerned about the program, obviously, how it's
2 going to affect agriculture industry, and all the
3 things that are related to agriculture, but we also
4 have our limitations as agriculture commissioners.

5 Part of that has to do with -- obviously,
6 funding is number one. Authority is number -- is right
7 up there, the same time, but on the other hand we
8 need -- we are going to be part of the process, because
9 we are the repository of regulatory authority and also
10 all the things that for interfacing with agriculture.
11 And that outreach piece is important to us for
12 maintaining a healthy agriculture for all the citizens
13 of California.

14 CHAIRPERSON HART: Thank you. Yes, Lyle.

15 MR. LYLE HOAG: Mr. Price, when you come before
16 us, I always listen up, because you have not only your
17 boots but your ear to the ground. Um, let me ask you
18 just one aspect of this. What's your take on the
19 difficulties and benefits of growers reporting directly
20 to the Board versus to the Coalitions?

21 PUBLIC OFFICIALS: There's several problems,
22 because we deal with that issue now. That was part of
23 the (inaudible) process was to try to vent some of
24 that. When you had data and information that's not
25 netted or followed up with, you get a lot of erroneous

1 things that come over the -- through the process.
2 Currently, we have a similar process of pesticide use
3 recording, where we get data directly, that goes to the
4 Department of Pesticide Regulation, and if you don't
5 get a chance to review it and see some of the validity
6 of that process, you will end up spending far more time
7 than you normally would in the first place.

8 And the data he has does have its merit, but as
9 far as validity and Far as far as following up and on
10 other pieces of data that you may need to fulfill that
11 data set, that you end up sometimes spending more time
12 than you should. And it's more expense than you
13 should -- to making that data value, as far as
14 completeness.

15 CHAIRPERSON HART: Thank you, very much.

16 PUBLIC OFFICIALS: Thank you, Board.

17 CHAIRPERSON HART: We're going to go ahead and
18 let's take the Ag Panel, the Agricultural Policy Panel,
19 right now.

20 Five minutes. (Recess.)

21 CHAIRPERSON HART: Okay. So, Ag Panel is up.

22 AGRICULTURAL POLICY PANEL

23 AGRICULTURAL PANEL: Thank you, Chair Hart and
24 members of the Board. My name is Bruce Halshelt. My
25 daytime job is to work with growers and agricultural

1 organizations for the Sacramento Valley, which goes
2 from Delta Islands all the way to Alturas.

3 I appreciate the opportunity to come before you
4 today. I want to start with some unprepared
5 off-the-cuff comments. I think that we would support
6 the idea that the framework, the resolution, not be
7 adopted today. Because, you'll here from a number of
8 growers and agricultural organizations, and like in my
9 part of the world, about concerns about the framework.

10 I'll go fast, because Peri is clocking me. So,
11 you know, this morning we heard a number of views about
12 the lack of monitoring data and about the lack of
13 information on management practices. And, my role here
14 on this panel is to shed some sunshine on the
15 management practices, on the documentation, on the
16 monitoring results that are provided to the Board on --
17 the Regional Board staff on a monthly, quarterly, and
18 annual basis. I had the -- I had the executive staff's
19 distribute to you our 2010 annual monitoring report,
20 this is the results from our 2010 monitoring season,
21 which shows all of the data from the 25 to 35
22 monitoring sites, all our outreach and education, and
23 all the information that's provided.

24 This is a second year we provided it under the
25 Sacramento Valley Coalition specific order, and it is a

1 wealth of information. It is on your website, it is
2 probably available information. I'd invite those who
3 were not familiar with the amount of data that are
4 submitted, is submitted, by the Coalitions to visit the
5 regional Board website. They will find it answers a
6 lot of their questions on the monitoring data, on the
7 management practices. And, you know, I joked with my
8 liaison that I was going to subpoena him on this issue
9 of documentation and information and management
10 practices. Because, this year we have a schedule of
11 deliverables of 140 items that will be coming to the
12 Regional Board.

13 So, anyway, I just wanted to open with those
14 comments, so that you can understand the enormity of
15 the information that's provided to your Regional Board
16 staff who are trained professionals, and protect the --
17 represent all the public interest. You've seen this
18 before here at all the Coalitions, and Coalition leads
19 in the 7 million acres that are the Central Valley.
20 I'm going too fast here.

21 You know, I think the important thing is that
22 information that Coalitions have been gathering were
23 now close -- I think we started on our eighth year at
24 monitoring 31.8 million collectively around the Central
25 Valley. And the growers agricultural organizations

1 have been actively engaged in and providing to the
2 Regional Board to characterize agricultural inputs in
3 the -- in this area.

4 You can see water sediment. As I mentioned,
5 Regional Board reports, of course it pays .12 an acre
6 to the State -- this is going way too fast. I
7 apologize for my inability to operate this. Um,
8 anyway, here's some dirty details. I mean, here's
9 right down into the details. 212 water waste monitor;
10 244,000 water and sediment analysis performed; we
11 contract with EPA Certified Labs for quality assurance
12 and quality control, our lab in Sac County has been
13 certified.

14 We adjust and monitor the programs based on
15 coordination, active coordination, with your staff; we
16 meet on quarterly bases with our liaisons, so, they can
17 tell us what is appropriate, what's deficient, what
18 additional information they need; and we don't stop
19 there. We have -- you know, we retained a nationally
20 recognized scientific expert to advise us, in his
21 opinion, his learning opinion, how we're doing.

22 So -- and we take that as the next step.
23 Outreach and education you'll hear from some of the
24 growers in the organizations who have been actively
25 involved in this process. Actively involved from the

1 stakeholder process. And I want to stop right there
2 and say -- I want to thank Regional Board staff,
3 Regional Board Members self for having put together
4 this stakeholder process. It was a very -- it was a
5 very information intense process, it helped all the --
6 all the parties who participated, not all parties
7 participated, but it helped those who participate
8 understand the information that is out there.

9 We heard from state experts and various state
10 agencies who provided this information and, um -- and I
11 think that was a very very important process to how we
12 got here today. We still have a lot of questions. It
13 was an important process. And I wanted to stop and
14 thank your staff and you for having the foresight to
15 put that process in place, so, we could spend a year
16 going through all the information, and we could all at
17 least argue -- express our views from an informed point
18 of view.

19 I mentioned the strategical alliance, it's not
20 us, as (inaudible) but it is the RCD, the Resource
21 Conservation Districts, add commissioners who have an
22 important link with our growers, cooperative extension
23 through documents, management practices, even when
24 there aren't even water quality issues, commodity
25 groups and others who active -- are actively engaged in

1 assuring the growers understand the programs.

2 So, again, I'm cannot function here. Um, you
3 know, we have -- as you well know, if they're two or
4 more things like dissolved oxygen or PH (inaudible) or
5 pesticides, that triggers a management plan. We have a
6 hundred waterways across seven million acres that are
7 in management plans. As part of that, the
8 implementation element is a good source evaluation.

9 Another place, in which you receive information
10 on management practices, (inaudible) management
11 practices. We serve air growers, we prioritize those,
12 and as I mentioned earlier, we provide annual
13 monitoring reports, which you have, management plan
14 progress reports, and source evaluation reports.

15 We just submitted, in Sac Valley, source
16 evaluation reports on -- the path of (inaudible) with
17 24-foot water bodies, based on survey results that we
18 did on our growers ourselves.

19 Um, I think last slide is the most important.
20 We're committed to improving water quality. Water
21 quality is important to agriculture, and so, you're
22 going to hear later from about 25 of the folks who are
23 the actual growers and ag organizations and partners in
24 this strategic alliance that -- makes sure that it
25 works on behalf of all of the folks in the area.

1 And I'm just failing at this. So, commitment
2 is to continue our active participation. As I said, we
3 were involved in the five alternatives, and we're going
4 to continue to provide comments as we go along. I
5 would just point out, we saw these preliminary surface
6 water tiers for the first time, I know with interest
7 that Redding, a very urban area is tier one. Um, when
8 we were in the stakeholder process, we learned a lot
9 about the mixing bowl that exists in the Central
10 Valley. Point source and the non-point sources that
11 all contribute to water quality. So, we're working
12 hard to identify agriculture's contribution and input
13 to that and to the source evaluation reports to
14 identify areas in which we will make -- take actions to
15 improve water quality. I'll just note that, you know,
16 the tier two areas of unknown areas include areas where
17 we have largely VOPH, E. coli, things that we're
18 actively working on as we speak. And Peri is standing,
19 that means it's my turn to sit.

20 CHAIRPERSON HART: Thank you, Bruce.

21 AGRICULTURAL PANEL: Peri Galawson (phonetic)
22 with the East San Joaquin Water Quality Coalition.
23 Address is 1201 L Street in Modesto. And I have sworn;
24 I didn't say any bad words, though.

25 Okay. Bruce is going to start a trend here

1 with hitting the wrong buttons on this. It's a
2 roll-down. Okay.

3 Okay. I want to explain to you, just briefly,
4 a trend analysis that was prepared for us. And I will
5 be providing an extended report to you by Dr. Lynn
6 Woodhall (phonetic) from the University of Maryland.
7 And the reason we did that work is because we've been
8 hearing and reading in the press, and we hear
9 continually that we're not doing anything to correct
10 water quality.

11 And I would beg to differ with that. Because
12 as Bruce cited in his slides, we have done tens of
13 hundreds of thousands of samples in the last seven
14 years. We spent 30 million dollars of growers money to
15 do analysis in our Coalition region. So, I don't think
16 that's a small amount to be critical of. We took --
17 Dr. Lynn Woodhall (phonetic) did a trends analysis for
18 us. He took data from 2004 to 2009, because 2010
19 wasn't available yet.

20 He looked at 24,000 (inaudible) tests, 1,800
21 one thousand eight hundred diazone measurements, and
22 2,300 (inaudible) measurements to do a trend. And I
23 think even -- well, many people could read this and
24 understand what's happening since 2004. We are seeing
25 that downward trend in diazone, I think when we started

1 the program it -- this was a key pesticide that was
2 showing up in surface water. And I want to just not
3 exaggerated the point that we are seeing an increased
4 adoption of management practices, changes of management
5 practice, to address these accedences.

6 The other product that's been showing up in
7 water, especially in the '90s is (inaudible). We're
8 seeing a positive trend in that, as well. We have an
9 incredibly low standard, 15 parts per trillion, so, the
10 point is on both of these slides, and our two main
11 pesticides that we've had problems, we're going in the
12 right direction. And this is a direct result, we
13 believe, on the Coalitions activities. A scientist
14 will tell you 6 years is not a trend make, but I would
15 definitely assert that this is a trend that's in the
16 positive right direction. And then even more
17 importantly, (inaudible) or water flee tests that we're
18 doing and bio-essays, again, a similar trend. We're
19 showing downward amounts of seaduvia (phonetic)
20 toxicity. At the east side Coalition, we had one last
21 year. So, it's -- it's a downward trend that we
22 believe we're influencing through the program that you
23 adopted. And I got to take a little time to talk about
24 the East San Joaquin Coalition, just briefly, we have
25 22 management plans in our (inaudible) Coalition

1 because of the same thing I talked to you about that
2 earlier. When we did our focused outreach, we have --
3 we're able to go to three priority watersheds, two of
4 them had no pesticide accedences for two years in a row
5 after our outreach. We had four priority watersheds
6 that we did business to growers in 2010. Again, know
7 accedences after our visits. We are going to continue
8 to cover the management plans and work to improve water
9 quality in our Coalition regions. And I talk East San
10 Joaquin, but many of the Coalitions, we're doing a
11 similar approach, a typical watershed looks like this,
12 sampling sites on the bottom, and even yet it may be
13 10-miles from the watershed sampling site to the
14 Foothills, but we focus on talking to the landowners
15 that are right along these waterways and encourage them
16 to change the practices so, they can -- so, they can
17 eliminate any kind of discharges, drift or other sorts
18 of pathways, for pesticides to get into the waterway.

19 We, also had, when we passed this Irrigated
20 Lands Program, the Sacramento valley TMVL, Sacramento
21 Feather River (inaudible) TMVL adopted in 2003. We
22 don't even find no diazinon accedences in the
23 Sacramento valley any longer. So, I think that's --
24 again, that's a tremendous testimony to the work that
25 the water -- that the growers are doing, as well as

1 rarely seeing toxicity in the Sacramento Valley
2 tributaries or the mainstream Sacramento River.

3 So, I just would end by saying that we believe
4 the Coalition approach is working. We're making
5 progress, addressing surface water quality, and we'll
6 make an equal commitment to addressing groundwater
7 qualities where ag has been identified as a
8 contributing source. Thank you.

9 AGRICULTURAL PANEL: Good afternoon. I am
10 David Orath (phonetic). I am the Sterning Committee
11 coordinator for the southern San Joaquin Valley Water
12 Quality Coalition representing the Kings, Quia
13 (phonetic), Tulare, and Kern sub-watersheds within the
14 Tulare Lake Hydrologic Region.

15 And I have taken the oath.

16 I appreciated the discussion today, to kind of
17 put in context what the framework is and isn't. And
18 yet, well, I think everybody in the room now recognizes
19 that it's a guiding document that Boards not bound,
20 that we're going to have a series of orders and
21 conditional waivers that are derived out of it.
22 Frankly, we're at a crossroads. We're at a crossroads
23 at deciding whether or not we're going to continue to
24 build on the successes of the Coalitions, which the
25 panelist have already demonstrated to you or whether or

1 not we're going to use that framework to shift to a
2 very aggressive on farm regulatory program. And,
3 frankly, there's some elements within the draft
4 framework that I think point us very strongly in that
5 direction.

6 Just like Bruce, um, I think we've demonstrated
7 a record of success. We have good faith participated
8 in the development of this program since the early
9 days, since 2002 I believe, when our South Valley
10 Coalition was formed. We've monitored and
11 aggressively, we've made significant financial
12 investment, and we've created efficiencies for both
13 this Board, your staff, the State of California, and
14 our farmers. And we focused on solutions that are
15 address problems as they're identified in the field.

16 The framework of -- unfortunately, creates some
17 uncertainty and some unnecessary complexity. I think
18 the overlapping of tiers with waivers and exemptions
19 create a potential level of multiple classes and layers
20 that are only going to confuse us. It's going to
21 confuse our growers. Or growers have struggled with
22 how we interface the dairy general order with irrigated
23 land regulatory program. So, let's stack five more
24 things on top of that. I think the map, frankly, while
25 I appreciate it, I asked for it about eight months ago,

1 begin some dialogue on how the data was going to be
2 used to assess water quality conditions and tier
3 applications within the south valley. Unfortunately, I
4 think -- um, I have to question what I've been doing
5 for the last eight years. We've spent five plus
6 million dollars, we sampled over 200 location -- or
7 selected over 200 samples, tens of thousands of
8 constituents evaluated.

9 In the conclusion today, is that we don't have
10 enough data to characterize whether or not Ag is
11 influencing surface water quality within your region.
12 It's going to be hard to account for that at home. The
13 extent and scope of monitoring that falls out of this
14 and is yet to be defined. And I think, as we've
15 indicated, and some of our testimony the attempts to
16 connect all surface application water to ground quality
17 to groundwater is technically unsupportable.

18 Let me give you just a quick example of
19 complexity. We had a great map, but I couldn't pull it
20 off quickly enough to have it be the quality that you
21 deserve. But within our south valley region, we --
22 looking at the framework, there's a provision for the
23 implementation of a Foothill conditional waiver, an
24 irrigated pasture conditional waiver, an organic
25 conditional waiver, and conditional waiver for the

1 Tulare lake bottom, exception in those areas where
2 there's a demonstration that there's no impact on
3 surface or groundwater quality. And then we're going
4 to have three different tiers for surface water. Three
5 different tiers of groundwater, potentially, although
6 the map shows little or no tier one.

7 And then we have the potential of geographic
8 areas and crop or specific applications.

9 MR. KARL LONGLEY: May I interrupt?

10 I hear your pain. I guess my -- my concern is
11 on some of these, as an example, the Foothill
12 conditional waiver.

13 Within your geographical area, you have various
14 types of landings, not all of them having the same
15 threat. And I get back to my earlier comments, that
16 one size does not fit all. So, I guess, maybe not
17 today, but as we go through the dialogue, we've got to
18 figure out how we can address that issue that not one
19 size fits all.

20 AGRICULTURAL PANEL: I appreciate that. I
21 understand the objective. Frankly, I'm not sure that
22 we completely solved the problem with what we have
23 today, before the -- what we had in place on the ground
24 today.

25 But I don't know that we need to get this level

1 of overlap and complexity. So, maybe your point is
2 that as we move forward with the development of the
3 specific general order for our region, we need to
4 recognize and understand this complexity. It goes
5 without saying that this confusion and uncertainty is
6 going to lead to some threats, some uncertainty. I
7 think, the additional requirements are going to
8 threaten the cooperation that's been developed, I
9 think, you know, frankly --

10 (Medical personnel was called for an
11 emergency. Recess.)

12 AGRICULTURAL PANEL: Thank you, Madam chair.
13 Incidents like that tend to give us kind of a different
14 perspective on the significance of what we're doing.
15 So, let me make just a couple more points, as our
16 thoughts try to move away from the hopes for safety and
17 health of that individual.

18 Um, in this slide, I think the only point I
19 wanted to make on this slide is it's important if we're
20 going to continue to build on the successes of
21 coalitions, that we maintain them as a viable business
22 proposition for the grower. The more regulatory
23 burden, the more cost we place on the individual
24 grower, the less viable Coalition will be for them.
25 And I think for the -- either, maybe not intentionally,

1 migrate to an on-farm regulatory program that will move
2 the Coalitions out of the way. We still continue to
3 believe that the Alternative 2, that was identified in
4 the Program EIR that built on the successes of
5 Coalitions and built on a monitoring and response
6 strategy, rather, then a direct on-farm regulatory
7 approach made more sense.

8 Frankly, I think the implementation of
9 groundwater monitoring and protection through existing
10 local groundwater management plans and integrated
11 planning processes made a lot of sense to us. And I
12 think Alternative 2 was much clearer in that regard
13 than the current framework document is.

14 Just two quick slides here to wrap up my point.
15 This is a map of the Integrated Regional Water
16 Management Plan Coverage throughout the State of
17 California. And you'll see the Central Valley region
18 is blanketed. There are just a couple of very small
19 portions throughout your -- your region that do not
20 have developing IWMP's. And like staff before IWMP's
21 report IWMP can serve a very important role in working
22 with -- working with your Board and your staff on
23 addressing and responding to water quality problems.

24 The State legislative policy relative to
25 groundwater management is that it be managed locally.

1 I recognize that the State legislative policy relative
2 to groundwater quality protection is that it be handled
3 through this Board. There's opportunities for us to
4 work collaboratively or independently, I've tried to
5 make this point before, that there are many groundwater
6 management plans in place in this state that have a
7 water quality component where objectives had been
8 identified, and monitoring strategies are being
9 implemented. IRPMP's all have a groundwater quality
10 monitoring requirement now, under the regional
11 acceptance process administered by the State Department
12 of Water Resources. And I, frankly, am encouraged by
13 the staff acknowledgment that they should participate
14 in that process. Unfortunately, our IWMP has been in
15 place for many years, and with the exception of
16 Dr. Longley -- of Dr's attendance. With the exception
17 of Dr. Longley's attendance, we have not seen Regional
18 Board staff there. I understand there are resource
19 issues, I'm not sure what is going to change, frankly,
20 as a result of my implantation with this framework, but
21 I would hope that the staff would engage us through our
22 IWP.

23 Finally, just let me close with lots of
24 questions; lots of confusion; lots of certainty, it's
25 causing our Coalition, really, and where we are at,

1 where we going. We would encourage the Board to give
2 staff direction to continue to work with us to build on
3 the successes that we have, and I, too, would support a
4 general direction rather than a resolution today.

5 Thank you.

6 CHAIRPERSON HART: We have a question, Dave?

7 MR. LYLE HOAG: Dave, there's been several
8 comments about the costs and difficulties of the direct
9 reporting versus Coalition reporting. Could you just
10 comment on your views on the quality and usefulness of
11 data that will result from those two optional pathways.

12 AGRICULTURAL PANEL: Well, as I understand it,
13 again, every farmer is going to be required to prepare
14 a farm management plan, and the nutrient management
15 areas. They have got a nutrient management reporting
16 requirement that goes on top of that in Tier 3 surface
17 or ground areas where nitrate was concerned.

18 We really don't understand how we're going to
19 manage that administrative, I think, there's also some
20 concern about the proprietary notes, some of the
21 information that may be required.

22 I certainly appreciate, but the objective is to
23 have a farmer go through an analysis of what they are
24 doing, but that might very well be administered by an
25 un-farmed check list with a box checked that I did

1 this, and subject to, much like a tax return filing, as
2 opposed to providing lots and lots of information.
3 Which, I think, the Ag Commissioner here mentioned,
4 unless it's quality controlled it may be an
5 administrative burden with significant lack of
6 relevance.

7 So, I think we've got to be very careful about
8 what we're asking for and how we're going to use it.

9 MS. SANDRA MERAZ: Yes, I have. I don't have a
10 number on your slides, so, the one that you mentioned
11 in the groundwater on supportable -- can we go back to
12 that slide?

13 AGRICULTURAL PANEL: There's the intent to
14 connect all surface waters.

15 MS. SANDRA MERAZ: Can you explain that to me,
16 what -- I read it, but...

17 AGRICULTURAL PANEL: This was mentioned earlier
18 by -- during the public comment on the EIR by
19 Mr. Cotant, who pointed out that -- like in our
20 testimony, our written comments, if you will, to the
21 EIR that were submitted last September. There was
22 technical analysis attached to there, too, by an
23 engineering firm who pointed out due to soil types, due
24 to impermeable clay layers, due to depth to
25 groundwater, and due to overlying irrigation practices,

1 it's not appropriate to assume that every surface water
2 application is going to result in groundwater
3 pollution.

4 In portions of Western Kern County, for
5 example, the depth to groundwater is 800 plus feet.
6 The depth to usable groundwater is 800 plus feet. The
7 overlying irrigation may be micro drip. And, so, it's
8 hard for us to see, technically, how, um, there's a
9 direct connection there.

10 So, I think this assumption that virtually all
11 surface water irrigators contaminate or potentially
12 pollute groundwater is a stretch, that is not
13 technically enforceable or supportable; that was my
14 point.

15 MS. SANDRA MERAZ: So you're under oath. Is it
16 your testimony that agriculture practices or activities
17 do not degrade water quality in some of those areas; is
18 what you're saying?

19 AGRICULTURAL PANEL: That's what I believe our
20 technical analysis will say. And in certain areas,
21 surface water application does not contaminate
22 groundwater quality.

23 MS. SANDRA MERAZ: Thank you.

24 AGRICULTURAL PANEL: My name is Mike Whiteman.
25 I represent the San Joaquin County Delta Water

1 Coalition. I'm up here to add -- to talk about the
2 concerns we have with the framework. And whether you
3 adopt it as a resolution, or direction to staff, I
4 think that these concerns permeate throughout the
5 framework, and actually one of them Mr. Hoag, actually,
6 touched upon a little bit about it was, um -- it's on
7 another slide as we go forward. Was that what kind
8 of -- I mean, I'm trying to figure out what kind of
9 information you want to the Board. I mean, what is
10 that information?

11 Farmers can supply you with all kinds of stuff.
12 The question is, whether or not that is going to be
13 useful information in actually addressing the water
14 quality. And that -- that is a concern as we go
15 forward, and I'll address it a little bit further in
16 round two.

17 I have a slide up here just to go off what they
18 said, talking about -- Alternative 2 gives us the best
19 way, as a mechanism, to address water quality concerns.
20 Also, it is a regulatory and education outreach,
21 because within the agriculture community, as you have
22 heard, we have seen remarkable improvements, acceptance
23 to the program through the growers.

24 Growers are coming up to us now and asking,
25 "Okay. What have you found in the water?"

1 What have we done?

2 Has it improved the water?"

3 so, there is an acceptance right now with the
4 program that we had been working forward. One of the
5 other things that the farm's specific evaluation and
6 this is where you get -- I put up here, "A waste of
7 resources and excessive paperwork." And that's what
8 this could get to.

9 Okay. If you go down and require every farm,
10 whether they have an impact on water quality or not, to
11 submit online or a bunch of different documents and a
12 lot of different information, what good is that
13 information?

14 It is much more efficient, much more efficient
15 to have us, the Coalitions, work with the growers and
16 identify those areas that are having impacts on water
17 quality. Have us address those areas with a limited
18 recourses we have, because you saw the figures up
19 there, I mean, you're talking a billion dollars at the
20 high end to implement some of this.

21 I started writing, you know, some figures down
22 on a piece of paper as I was sitting there, on some of
23 these farm management plans or evaluation plans. And
24 from the dairy aspect, talking to dairymen, they're
25 talking \$5,000 to \$10,000 per dairy on some of these.

1 On the low end, up to \$50,000 on some of these nutrient
2 management practices and stuff. That comes out to
3 almost \$20 million, just in San Joaquin -- with our
4 growers of San Joaquin County.

5 That's \$20 million out of the industry, which
6 could be going out to -- a lot of that is paperwork.
7 Okay. Which is a lot of that could be going to
8 improving water while -- by the way, our reach and
9 education to growers, using that money to implement new
10 management practices.

11 Another big concern is how this information
12 becomes public information, if it's submitted. And
13 that is something that growers have always had a
14 concern. They've had a comfort level with the
15 Coalitions, that that information goes to the Coalition
16 and we know what's going on on the grounds and that
17 that information stays with the Coalition. It is
18 become -- if you have it submitted by electronic data
19 to the Regional Board, I think you're going to have
20 concerns throughout agriculture and acceptance of the
21 program is going to be a real concern.

22 Again, I talked about this, the Tier 3 farms
23 specific nutrient management, the plans, you look up
24 there, you see a lot of the red, there's a lot of
25 nutrient management plans that are going to have to be

1 developed; and that is just a preliminary fear fact.
2 And the idea that we don't evaluate as agriculture, I
3 mean, I am a farmer, I have 1,400 acres, we grow grapes
4 and alfalfa and dry land crops. We evaluate what we
5 are doing every day of the year. And the ID in this
6 notion, which is being put out there, that we are not
7 evaluating what's going on, and we don't know what's
8 going on on our property, and on our farms, is
9 concerning. And maybe that is something that us in the
10 agriculture community haven't really sent out there.

11 But we evaluate -- we know what's going on in
12 the industry and we know what's growing on a farm. I
13 live on my ranch, I drink the same water everybody else
14 is on our farm. So, my kids drink it. So, we are
15 concerned what's happening out there. But in order to
16 address some of these issues, we have to have the
17 ability, as Coalitions, to go out and talk and educate
18 and bring new management practices in. And the idea of
19 having these farm-specific programs, farm evaluation
20 programs, I don't think, is a help in any way of
21 addressing water quality.

22 Another concern we have is Tier 2. This is one
23 of these nebulous things out there, Tier 2. It says,
24 well, we have to study it. We have to keep studying
25 it, and we have to determine what's out there. Our

1 concern is are we going to have endless studies on Tier
2 2?

3 So, that is just something that we are really
4 concerned about within the framework. Another concern,
5 is input on management plans. Again, we're concerned
6 about privacy of information; again, we think that the
7 process, if you have public input on every management
8 plan that we have developed, currently in our program,
9 we have 15 management plans that we have gone through
10 and developed, we can be cumbersome and efficient. And
11 we're not saying that other stakeholders shouldn't have
12 a similar process, other stakeholders have a say within
13 the WDR process. If you're adopting the WDR or if
14 you're adopting the waiver, that's where the other
15 stakeholders are going to have their say, when it comes
16 before you, again.

17 And, also, um, we believe the Regional Board is
18 acting on the public's behalf. That is your job, your
19 job is for water quality. And we believe you are doing
20 your job. Again, we talked about privacy concerns, and
21 this isn't only about privacy, it's about concerns what
22 is going to the Regional Board. But what comes out
23 during public -- what type of information could be used
24 to impose individual lawsuits we have seen this on the
25 federal level, and is a huge concern that we might open

1 the door up here on the state level to have individual
2 growers having to go out and defend themselves
3 individually through the process.

4 We know that the current state law does not
5 allow for that, for individual types of suits that
6 (inaudible) -- I'm a lawyer, so, you can correct me if
7 I'm wrong, um, but it is a concern for us. So, I
8 think -- again, I think to finish up, and I am going to
9 do it within the time, I think the thing is, that us in
10 agriculture are doing the job. We have huge concerns
11 about the groundwater portion of this program, and I
12 think Dave hit the nail on the head when it's like
13 determining where water goes when it comes to
14 groundwater, is a huge process. We have groundwater
15 management plans, which are in the local area, which
16 are addressing some of these issues. And we need to be
17 able to continue to move forward and address those
18 issues and put resources -- the limited resources we
19 have, both in agriculture and through the State
20 government, with grants and those types of things that
21 many of groundwater management plans use to address
22 those issues within those areas we know that have
23 concerns. But having a broad overall -- having
24 everybody do farm management plans, having everybody do
25 nutrient management plans, is a huge concern.

1 Let's take the pinpoint approach and address
2 those issues we know we have.

3 AGRICULTURAL PANEL: Nice timing. Do we have
4 questions or comments from Board members right now?

5 None right now. Thank you, gentlemen.

6 AGRICULTURAL PANEL: Thank you for the
7 opportunity.

8 CHAIRPERSON HART: I would now like to, and I
9 think the Board would like to hear from the
10 Environmental Justice Policy Panel.

11 ENVIRONMENTAL JUSTICE POLICY PANEL

12 ENVIRONMENTAL PANEL: Good afternoon. Thank
13 you to the Board for letting me speak. My name a
14 Cardalena Valdez (phonetic), I am a Ph.D. candidate at
15 the Energy and Resources Group at the University of
16 California Berkeley. Okay. So, I'd like to sort of
17 step back and provide some broad fresh strokes of the
18 importance of adopting a strong program today. The big
19 picture, I believe, it's important to regulate
20 irrigated lands because there are significant health
21 risks and health costs and economic costs, as we heard
22 already, to individual communities and tax payers, and
23 in particular, I'll talk about nitrate today just to
24 make the point that nitrate is the key contaminant
25 driving from agriculture. It's contamination is

1 widespread, it's increasing, and it increasingly
2 impacts cities and towns with key impacts on low income
3 communities. And even though I talk about nitrates,
4 and it signals the presence of other ag components in
5 our groundwater and the importance of looking at all
6 constituents. So, a lot of this is probably already
7 known, but I'll just sort of make these points of why
8 it's important to have this effective program that
9 would monitor nitrate.

10 Ag is a major source of nitrate. This Map from
11 the USGS shows the San Joaquin Valley over here in
12 California. It's -- in relation to other sources of
13 nitrate, Ag is one of the key contributors. In the San
14 Joaquin Valley, zooming in here on the right,
15 fertilizer is the main source of nitrate contamination,
16 followed by the manure applications, even though sewage
17 and other sources are present, it's actually nothing in
18 comparison to fertilizer and manure application.

19 Nitrate contamination in the San Joaquin Valley
20 is widespread. This is a map from 2007 showing, um,
21 the red are sources that over the nitrate MCL, which is
22 the legal health limit. And yellow is sources of
23 approaching that MCL from 10-to-45 milligrams per
24 liter. So, nitrate is not only present, it's also
25 increasing. Again, if we look at California, it's one

1 of the reddest regions, and in the San Joaquin Valley
2 the percentage change of fertilizer use went from 10 to
3 200 percent, in counties in the San Joaquin valley in
4 that ten-year timeframe. This increase means that it's
5 impacting an increasing number of systems and sources;
6 this is data from the Department of Public Health
7 indicating the number of community water systems that
8 have exceeded federal limits from '93 to 2007. And
9 California, as a whole nitrate as a key contaminant,
10 but the valley makes up almost two-thirds these systems
11 in any year that you look at. So, we have ten percent
12 of the population in California, but nearly two-thirds
13 of the people in the state that are impacted by nitrate
14 MCL's are in the valley. We see a similar trend if we
15 look at sources with previous exceedences, not just
16 water systems. And USGS studies have indicated that
17 this trend is likely to worsen as elevated
18 concentrations and deeper wells take longer to appear,
19 even though in shallower wells they appear on a shorter
20 timeframe.

21 So, all of this means there's a cost of
22 contamination to valley residence. We can talk about
23 the small communities, which is one piece of it, but
24 there is also cities, like Fresno and Modesto that have
25 nitrate exceedences. So, big cities and small cities

1 have to deal with this, and this means the cost of
2 contamination is not warranted by polluters, but by the
3 residence living in these areas. A few other points,
4 just in relation to what was talked about previously in
5 terms of costs. It's at least a hundred and fifty
6 million dollars of, you know, funded projects currently
7 from the state revolving fund and prop 84, that doesn't
8 include what cities are paying out of -- out of sort of
9 other sources of money. And it, also, does not include
10 the cost of private wells that aren't captured in those
11 federal grants and State grants.

12 So, in addition to impacting large and small
13 cities and residence across the valley, whether you
14 live on a farm, or live in a city, or in a small town,
15 the research that I conducted with colleagues at UC
16 Berkeley shows that nitrate contamination impacts all
17 residents, but it falls particularly heavily on
18 vulnerable groups.

19 What this figure here shows is on the "Y" axis.
20 As you increase in the percent, "Latino of the
21 community," there's more community water systems that
22 are yellow and red, those are systems that are either
23 over half the MCL or over the MCL, so, this is a
24 vulnerable population that is dealing with some of the
25 heaviest contaminations. And our statistical analysis

1 also showed this association between the demographics
2 of the community in the nitrate concentration. In its
3 conclusion, I wanted to just leave the Board with the
4 following quote from this USGSW 2010 saying that
5 long-term consistent monitoring can provide insight for
6 evaluating progress towards water quality goals
7 anticipating where action may be necessary to prevent
8 degradation of water resources and planning for
9 effective remediation strategy.

10 I think that adopting the strong strategy and
11 programs as really being a model for the State and the
12 country in moving forward. Thank you. Good afternoon.

13 ENVIRONMENTAL PANEL: My name is Jennifer
14 Clarity (phonetic), I'm a policy analyst for Clean
15 Water Action. My business address is in San Francisco.

16 And I took the oath.

17 Thank you, very much. I just want to start by
18 thanking the Board and also the staff for including us
19 in this process. It's extremely helpful to, um, to
20 have been -- to have participated, to listen to all of
21 the presentations, to have been included in this iterum
22 process of creating, um -- of creating alternatives.

23 And, so, we do have a lot of opinions, but I'll
24 try to get through them quickly. So, basically, what
25 we're here today is to talk about a program which has,

1 in our opinion, has these basic components. One needs
2 to set clear benchmarks, you have to know what you're
3 aiming for, and we've been told today that you set
4 water quality standards as an objective, that's great,
5 as long as you have one. Then the question is, what
6 are your benchmarks on your way to getting there?

7 Um, next is what are you going to do to get
8 there?

9 What are the farm-level practices that are
10 going to improve water quality, and how are you going
11 to measure their effectiveness?

12 And, so, the collection of basic information is
13 really a critical component. You, also, need strong
14 over-site and enforcement, and that goes hand-in-hand
15 with the objective you choose, because you don't have a
16 strong objective, you can't enforce it.

17 And, finally, um, I know that staff said that
18 they couldn't figure it out, but we still think that
19 cleanup and abatement of ongoing or continuing
20 contamination is a critical part of this.

21 (inaudible) groundwater here. I know that
22 surface waters has been going on for a long time, but
23 the decision to include groundwater in this program has
24 been very recent. And one signal of that is the fact
25 that there really isn't a lot of data, I assume it's

1 across numerous programs and processes. And one that
2 I'll just mention is the Central Valley solidity
3 project CV Salts, and they had just done a remodeling
4 process to figure out what -- you know, kind of --
5 figure out if they could predict salt balances. And
6 as -- so, they did the model as a private project, and
7 it resulted in this technical committee, kind of
8 reviewing the process and how they could improve it.

9 And, one of things they talk about is data
10 gaps. And, so, what they have said in their draft
11 report, is data gaps exists with regard to soil
12 processes, quantities, and quality of groundwater that
13 discharged as surface water, groundwater levels,
14 groundwater solidity, and nitrate concentrations,
15 agricultural, or well pumping rates, agricultural
16 return flow rates, and well construction records. So,
17 it's pretty much everything. There's a lot that we
18 don't know.

19 And, then that thing I thought was most
20 interesting, is that in preparing this report, they
21 noted that in the Tule River piolet study, only one of
22 21 irrigation districts provided groundwater quality
23 data on request. And that leads me to believe that the
24 voluntary process does not really work. And, so, we
25 have to do something. And then just to say that when

1 we were talking about data collection, something I've
2 been working on for several years, is that Gamut
3 Program, which is the State Water Board's Groundwater
4 Tracking Program that you're all familiar with. This
5 didn't come out very well. It's a screen print of
6 environmental monitoring wells in the Central Valley,
7 in region five, and just the ones that exceed the
8 nitrate MCL, which I think is about 360 out of 2,800.

9 And I just list -- one reason I even put those
10 there, is because we don't have a record of data on
11 shallow groundwater, and that's what we really need to
12 focus on, in terms of measuring the effectiveness of
13 the program. Because we understand that it's going to
14 take a very long time to get the nitrate out of the
15 deep groundwater wells, the public supply wells. But,
16 20 percent of Central Valley residents rely on domestic
17 wells, and they're pretty much using shallow wells,
18 there's no test.

19 You're their only protection, in terms of water
20 quality, so, you really need to focus on that. So,
21 just to say that we do appreciate some of the changes
22 that have been made, the tier system, which we've been
23 supporting for a long time, is very important because
24 we really want you to focus on the problems. And
25 groundwater is not a problem in every part of the

1 valley, but in some parts of the valley it's a real
2 problem; and we really want you to focus your efforts.

3 The nutrient management plans, we definitely
4 differ from Ag on this, because we think nutrient
5 management plans are critical. And particularly
6 fertilizer reporting is critical, it's just basic math.

7 Currently, fertilizer sales are reported, but
8 not fertilizer application. And it's just, I don't
9 know, math, plus and minus. If you're applying a lot
10 of fertilizer, you're more likely to increase your
11 loading. The regional water quality plans, we think
12 are critical, we think they should be public, and we
13 think that they should include more than just a local
14 agricultural districts.

15 Individual grower responsibilities, we think
16 that the individual farm evaluations are essential, we
17 could talk about how -- um, how detailed they need to
18 be. But they are essential, and something like this --
19 maybe I misunderstood, but something like this was
20 proposed, um, in the Central Coast in the Ag plan.

21 so, maybe I misunderstood what they were
22 saying, but the way I heard it, they were proposing
23 individual farm plans, best practices, and to do
24 outreach and education. So, maybe -- I'm sure they'll
25 correct me, but that's what I heard. But we still

1 think that they are critical components missing. Tier
2 22, we agree, is really problematic. Our proposal has
3 always been that if you don't know what you're
4 regulating, you should find out as quickly as possible
5 and regulate it. So, the three-year time period for
6 implementing these programs, we consider to be the time
7 period during which you pigeonhole your unknowns and
8 decide what you're going to regulate. What information
9 is public, I know there's a lot of discussion about
10 third-party Coalitions and, truthfully, I just want a
11 program. You guys can fight about whether you want
12 Coalitions, I want you to start regulating now. And I
13 am just going to keep saying that.

14 So, we think that there should be some public
15 information. I know there's concerns about privacy, I
16 know that people don't like telling people what they're
17 doing, but the fact of the matter is unless we have
18 publically label information, we can't evaluate the
19 success of the program, and that has to be part of it.

20
21 And, accountability, one problem with the
22 Coalitions is that you're being paid by the farmers,
23 and so, you have less incentive to turn them in if they
24 are doing something wrong. I don't really mean turn
25 them in, but if they are not complying with the terms

1 of the order, we have to be able to enforce that. And
2 are the third-party coalitions going to be a barrier to
3 enforcement of this; and how does staff plan to
4 overcome that?

5 And then compliance. We want to understand
6 what demonstrated improvement and water quality means.
7 And one of our big problems with the Tier 22 and with
8 the vague improvement and water quality, is we don't
9 understand what we're going to expect.

10 So, we're going to have a three-year period
11 for adoption, for getting everyone on Board and
12 creating the orders, and then we are going to have five
13 years, and that means eight years from now, what are we
14 going to know?

15 If someone -- if our nitrate levels had gone
16 from 47 to 44, is that -- is that enough?

17 So, we really need to have an understanding,
18 and our suggestion is that if you measure in shallow
19 groundwater, that shallow groundwater should not exceed
20 drinking water standards within that five-year
21 timeframe. And, I think, in -- finally, we think that
22 you can have consequences from ongoing impact. So,
23 those that continue to contaminate groundwater should
24 be made to be -- should be funding a supplemental and
25 vital program, so, fines for not complying with the

1 program go into that account. It's just a targeted
2 funding program. And, um, finally, we would really
3 like you to adopt -- to take action today. We think
4 that everyone here has taken action, we've been
5 participating for several years, we think it's time for
6 the Board to take a position and we'd really like you
7 to vote on the resolution today.

8 LAURAL FIRESTONE: Thank you. Yes. I'd like
9 to -- my name is Laurel Firestone. I am with the
10 Community Water Center based in Visalia.

11 I have taken the oath.

12 I wanted to talk -- we brought a number of --
13 we brought copies, which we can submit to you, of
14 proposed changes in the resolution. Pretty simple.
15 But overall, you know, Jennifer went over there's lots
16 of problems, lots of things we don't agree with the
17 current framework proposal. But, overall, we feel
18 like, you know, at this point, we've all invested a lot
19 of time, a lot of input in getting to this point; this
20 is a compromise. It's definitely not perfect, there's
21 some things missing, but we need this Board to give
22 direction to staff, that we need to move forward, and
23 we need to do it quickly.

24 We can't afford to continue to delay and delay
25 this, especially on groundwater. And, you know, I

1 think we've gone through enough to be able to move
2 forward. So, I really encourage the Board to vote
3 today on a resolution.

4 We are supplying some changes we feel like are
5 basic to be able to move forward and go over.

6 Or, even if you don't adopt the current
7 resolution, I hope that you all provide some strong
8 guidance to staff that this needs to move forward,
9 inconsistent with these basic principals of what
10 Jennifer went over, of, um, of what a factor program
11 needs to be.

12 So, there's four things we would like to --
13 that we would like you to get some clear advice to
14 staff on, it isn't included in a current resolution at
15 first. Is just to recognize the fact that there's a
16 need for a groundwater program. The importance of this
17 program for community drinking water sources, and
18 specifically -- sorry -- specifically, recognizing the
19 importance of groundwater is a community drinking water
20 source.

21 The significance of groundwater impact from
22 agriculture, it's true that there are cases where
23 agriculture may not be a major issue, as you can see
24 for groundwater, but there are a lot of places where
25 there are -- you know, 3 million-acres is a huge huge

1 area and, actually, where most of the population
2 centers are.

3 So, the other thing is communities have had to
4 pay the costs of these impacts. Historically, continue
5 to -- as long as there isn't any mechanism to allow for
6 polluters to pay, which would need to be created by
7 this Board or the legislature, they are communities
8 that are the least able to pay for this and are going
9 to continue to have to bear those costs.

10 And, so, you know, we drafted a very simple
11 recognition of those facts, which we feel like need to
12 be recognized and be enforced by this Board to staff,
13 that those are very important to recognize.

14 Specifically, however, we'd like you to give --
15 we'd like you to give guidance to staff, that they
16 should investigate or pursue formal cleanup and
17 abatement mechanisms and mitigation mechanisms that
18 allow discharges who continue to pollute or contribute
19 to pollution of community -- of groundwater on the use
20 of a source of drinking water on -- to have to pay for
21 providing communities with safe drinking water, at
22 least contribute to that supply or those solutions, so,
23 that we really feel like if the Board says that this is
24 important that staff needs to hear that.

25 It is specifically in our goals and objectives

1 to restore and obtain the highest reasonable quality of
2 the State. And to ensure that valley communities
3 (inaudible) about the fact that the safe drinking is
4 not impaired. And so, you know, I think it's -- it's
5 part of the -- this -- the purpose of this program is
6 to include mitigation and cleanup abatement.

7 You know, even if it's not part of this
8 framework, I think the Board can still provide guidance
9 to staff that they need to pursue how are we going to
10 restore the drinking water supplies and the groundwater
11 quality for even legacy problems.

12 I know that the staff doesn't want to address
13 that here, but let's hear from the Board that they need
14 to look at this. That needs to be -- that, to me,
15 that's consistent with the goals and objectives. It's,
16 also, clearly within the jurisdiction, and authority of
17 this Board, there's many -- um, you know, I have a list
18 of the codes, you can (inaudible) compliance orders,
19 and obviously you can see, abatement orders. There's a
20 lot of challenges to doing this, through individual
21 enforcement, there's no (inaudible) for groundwater
22 and, you know, these are non-point sources, so, it's --
23 so, we really rely on staff.

24 Lastly, or two last points are, one, we need
25 clear compliance standards. We feel like without clear

1 compliance standards he can't have enforcement. We
2 don't think last-minute revisions were very clear and
3 useful for that. And, finally -- and we feel like
4 there's clear legal requirements to have that. And,
5 finally, we -- we heard from staff that they moved
6 forward to draft these orders, just working with the
7 discharges. And we have put in a lot of times an
8 effort to working for a state process.

9 And, really, the effectiveness of this program
10 is going to be in the details, and that's going to
11 happen in the orders.

12 So, we really think it's important that you
13 provide guidance to staff that they include other
14 stakeholders in the drafting of these orders and don't
15 just work with the discharges. I think that -- that's
16 also true for providing you as a Board with good
17 information, in terms of adopting the orders to make
18 sure that they provide you with full anti-degradation
19 information, that you can evaluate how much degradation
20 really is in the best interest of the people of the
21 state with each individual order.

22 I would be happy to answer questions. Sorry, I
23 didn't get through it very well. These are the -- and
24 these are the -- this is the writing on -- we'd be
25 happy if you had a different language, but those are

1 the basic principals and ideas that we'd like you to
2 consider. Thank you.

3 CHAIRPERSON HART: Yes, Lyle.

4 MR. LYLE HOAG: Ms. firestone, you and your
5 colleagues have strongly emphasized the nitrate
6 problem, it is a serious problem, it's been well
7 defined and discussed in the specificness through the
8 report. And it's been acknowledged here that the
9 problem has sort of two components, the short-term and
10 the long-term. Nothing we do here today or in the next
11 three years will have much impact on the short-term
12 problem, it's with the -- hopefully what we do will,
13 over time, resolve the problem. But you've suggested,
14 also, that we set up and manage and since we finance
15 mitigation makers.

16 In every one of the communities that I've read
17 about that has a nitrate problem, it's all public water
18 supplies as legally defined, some do not. There's lots
19 of alternative ways to resolve it. Some cases there's
20 as many as five or six or eight ways to go about
21 resolving it in the short-term. Would you have us get
22 in the water supply evaluation business, or what is it
23 that you would have the regional water control Board
24 do?

25 ENVIRONMENTAL PANEL: Thank you. That's a

1 great question. I definitely would not have you get in
2 the water supply business or figure out for communities
3 what is the best option. Really, what we're asking for
4 is the ability to collect fees or do compliance orders
5 that would direct payment by polluting or, you know,
6 polluting entities to help support -- to help finance
7 projects that would be determined by the districts and
8 themselves. And, so, for example, there was an order
9 by this Board approved for -- I may get the name
10 wrong -- but I think Tipton Milk Processing had a
11 number of violations.

12 Through their enforcement order, they provided
13 money to the Pixley Public Utility District to help pay
14 for a new well, or at least supply a solution for that
15 communities drinking water supply. That's the type of
16 model, or in a central coast, they have -- they say
17 that they can -- that they -- that part of the
18 enforcement order could be to supply drinking water
19 supplies, like bottled water, to domestic wells in the
20 area, for example.

21 So, there is a number of different potential
22 solutions out there, and it's true each one is
23 different, and it may be some are more short-term and
24 some are more long-term.

25 But the point is, that unless this Board

1 creates a mechanism to do that, it's -- it's going to
2 continue to fall on the people that can't afford it.
3 And, really, all we're looking for is some guidance
4 from the Board to tell staff that it's important to
5 pursue how this might be possible, and look -- you
6 know, the central coast is looking at a number of ways
7 that this Board could pursue, it's done it for a number
8 of other orders, there's supplemental environmental
9 programs that could create a sort of pilots. And --
10 and I think that -- that, ultimately, that's not gonna
11 be possible if -- if what you have for the framework
12 is -- is essentially one that says that you're in
13 compliance if there's any improvement at all. That
14 doesn't have to do with drinking -- with meeting
15 drinking water standards, because then, you know,
16 you're not going to have any enforcement, you're not
17 going to be meeting the legal standards of insuring
18 that Ag is not contributing to or causing accedence of
19 the water quality objective.

20 So, if that sort of goes part and parcel with
21 needing clearer on enforcement and compliance
22 requirements.

23 CHAIRPERSON HART: Thank you. So, before we
24 move on to the Environmental Policy Panel, I have card
25 for a Marry Helen Dougherty; did she already leave or

1 is she here?

2 ENVIRONMENTAL PANEL: She did leave but I have
3 her comments. I can make them later.

4 CHAIRPERSON HART: We can wait until
5 afterwards. Thank you, and I apologize for not
6 catching that sooner. Now, we'll move on to the
7 Environmental Panel.

8 If you would indulge me, folks, there is a
9 group from Clean Water Action that says they have to
10 leave by 4:00. I just saw their card. You guys can
11 stay there, but if I can call them up to give their
12 comments I would appreciate it. Virginia Menuino.

13 CLEAN WATER ACTION

14 CLEAN WATER ACTION: Good afternoon, madam
15 chair, vice chair members. Virginia Menuino, and I did
16 take the oath.

17 I'm just here to -- again, in looking at your
18 logo, The State of California Regional Water Quality
19 Control Board, that word, quality, absolutely
20 essential.

21 In working with Clean Water Action, I have
22 actually met a lot of people whose lives have been very
23 much impacted by lack of quality, so, I'm here to
24 support those communities and support your efforts.

25 I know that your job is not going to be a very

1 easy one, but I'm hoping that you will take into
2 account, again, the number of people that have come
3 today to, again, address the issue of nitrate
4 contamination in their wells, and how we could possibly
5 help them.

6 So, with that, thank you very much for your
7 time.

8 CHAIRPERSON HART: Thank you. I appreciate
9 that. And Grady Jordon and Betty Welder.

10 CLEAN WATER ACTION: Good afternoon. I'm here.
11 My name is Betty Welder. I live at 7707 Point Avenue,
12 Ceres, California, and I live in the Monterey Park
13 Track, um, area. And all I really wanted to say is
14 that the residence of Monterey Park Track, just like
15 all of the residence of California, are entitled to
16 safe clean drinking water, um, even ice cubes. It
17 doesn't sound like much, but when you have to buy water
18 just to make ice cubes or to make a pot of soup, it
19 gets costly after a while. Thank you.

20 CHAIRPERSON HART: Thank you.

21 CLEAN WATER ACTION: I'm Grady Jordan from
22 Monterey Park Track. And I can also relate to what
23 she's talking about, because we've lived there quite a
24 few years. And when we first moved in that area, the
25 water quality was pristine; that was almost 50 years

1 ago. But now, it's -- we have nitrates and arsenic,
2 and in the beginning it was, um, the requirements was
3 lower. And since then they have raised the
4 requirements up, so, as Betty was saying, that we --
5 we're having to pay two water bills. I have to buy
6 water to cook and drink, then another to do your
7 cleaning and, um, so, it's very costly for the
8 residents of that area. It would sure be nice to get
9 this kind of a thing under control. Thank you.

10 MS. SANDRA MERAZ: Thank you, sir. Sir, I'm
11 not sure where Monterey Park --

12 CHAIRPERSON HART: Tracy.

13 MS. PAMELA CREEDON: It's in Tracy.

14 CLEAN WATER ACTION: Monterey Park Track is
15 nine miles south of Modesto, California.

16 MS. PAMELA CREEDON: Okay. Thank you.

17 CLEAN WATER ACTION: It's also 9-miles east of
18 Patterson. So, that gives you a pretty good --

19 CHAIRPERSON HART: Thank you. Okay. Now, we
20 will move on to the Environmental Policy Panel. Thank
21 you.

22 MR. ALEX MAYER, ESQ.: Madam Chair, may I
23 interrupt you one second, please. The Environmental
24 Policy Panel gave us a stack of written letters just
25 now to -- for distribution. I wanted to clarify that

1 we received that letter last night that had already
2 distributed to the Board members. If you want, we can
3 bring up those copies right now for your convenience,
4 otherwise, if you already have them --

5 CHAIRPERSON HART: I have mine and I read it,
6 but I don't know other Board members need a copy.

7 I'm seeing none. If you want to make them
8 available for the public folks.

9 PUBLIC ATTENDANCE CARDS: I just brought them
10 as a courtesy knowing staff got in a lot of things in
11 last night.

12 CHAIRPERSON HART: Yes, thank you.

13 PUBLIC ATTENDANCE CARDS

14 PUBLIC ATTENDANCE CARDS: Good afternoon, Madam
15 Chair, Board members, Bill Jennings, California Sport
16 Fishing Protection Alliance. And I would first like to
17 mention that that -- as to the letter, somehow the
18 restoration federation citizens complete the refuge and
19 grizzly fight, but paid craw fishers did not get on
20 there, they signed up later so, that it's more.

21 But, I wanted to include it in the reference.
22 In the late 1980's Mike (inaudible) and myself prepared
23 the initial petition, filed the initial lawsuit, wrote
24 the legislation that, as chartered, Sunset existing the
25 1982 waivers. Eighty-eight, almost eight years ago, I

1 testified before this Board that the proposed 2003
2 conditional waiver was flawed, would not improve water
3 quality, just some (inaudible) work. Today this Board
4 cannot quantify a single molecule pollution has been
5 prevented; a single BMP would have been implemented, or
6 a single management measure that has been affected --
7 effective. And I might refer to that, that it's --
8 let's not keep in mind that the use of guideline
9 collapsed when the cheaper more toxic rethoids came on
10 to the market. That means that the Coalition had
11 nothing to do with that.

12 After -- after (inaudible) years, the best
13 phase supervisor charges a program, can pronounce a
14 record that says, and I quote, "It's difficult to just
15 say if things improved or have they not. I would say
16 it's too early to really quantify how much things have
17 improved, and we're not seeing poor quality getting
18 worse," unquote.

19 Well, but it's bad. The board (inaudible)
20 reporting knowledge is a virtual (inaudible) monitor
21 sites downstream of agricultural areas of L.A. water
22 quality standards, 63 percent of the experienced
23 toxicity, often from multiple species, pesticides
24 standards been exceeding more than half the sites often
25 from multiple pesticides, metal violating criteria,

1 66 percent metal (inaudible), in '87 in more than 80
2 percent of the sites violated general parameters.

3 You know, the proposed framework is a
4 bureaucratic Taj Mahala that's being proposed is simply
5 ineffective. Under its Board can't know, (inaudible)
6 specific basis. So, what is discharging, what or how
7 much is being discharged, the localized impacts?

8 If being BMP's had been implemented or if the
9 implemented BMP's are affected, it will not provide the
10 information necessary to establish and evaluate
11 milestone, performance measures, feedback groups, or
12 consequences for noncompliance. I mean, these are the
13 necessary -- necessary information you need for
14 compliance with an ongoing source policy. This
15 (inaudible) framework is unaccountable.

16 Coalitions have served as shields, preventing
17 this Board from identifying which farmers are doing the
18 right things from the bad actors. The framework is
19 unenforceable as Board's enforcement powers are limited
20 to actual dischargers. Staffs enforcement, to date,
21 has been limited to requiring farmers to join
22 Coalitions where they disappear behind a shield of
23 anonymity. And behind that shield, no farmer has ever
24 been held accountable for failing to implement measures
25 to reduce pollution.

1 The proposed framework is unarguable,
2 pollution's not free, someone always pays, and their
3 health, and their pocketbook, and their (inaudible)
4 environment. Their proposed framework is simply a
5 transference of adverse production costs from farmers
6 to the general public.

7 This Board recently required the citizens of
8 Stockton to spend more than a billion dollars to
9 improve their Waste Water Treatment Plant. It required
10 a similar outlay from the City of Stockton, and the
11 results were dramatic and immediate. We went from
12 30-to-35 milligrams a liter of ammonia to the low
13 single digits. We saw that immediate results in
14 dissolved (inaudible) levels in the deep water channel.
15 Every other Sacramento society has to monitor
16 discharges and document measures taken to reduce or
17 eliminate pollution. Everybody but agriculture, which
18 gets a free ride, a license to pollute.

19 Regulation works. I mean, drive past a
20 construction site and you'll see the BMP's. Exam the
21 Board files and you'll find monitor results in the
22 measure implemented by municipalities, by industry, or
23 by the junkyard down the street. I mean, we maintain a
24 docket of storm water enforcement cases against bad
25 actors, but, you know, for every case we file, we find

1 dozens of businesses in compliance; they can document
2 their BMP's and demonstrate reductions in pollutant
3 loading. Irrigated agriculture remains a (inaudible)
4 unaccountability, black hole. The Coalitions produced
5 a blivit of reports: (inaudible), inflated claims,
6 wishful hope, but we have no documented progress. Our
7 water ways are polluted, Central Valley Fisheries are
8 collapsing, the Delta's aquatic tapestry is
9 disintegrating, it's time for this Board to adopt a
10 single, simple regulatory program. Thank you.

11 PUBLIC ATTENDANCE CARDS: Good afternoon. My
12 name is Steven bond. I'm a member of the California
13 Sport Fishing Protection Alliance. Their address is
14 part of the record. And I have taken the oath. I'm
15 also a (inaudible) geologist, I specialize in water
16 quality, water chemistry groundwater, engineering
17 (inaudible), and I got professional licenses for these
18 practices. And I have a (inaudible). 11 of those
19 years were in the (inaudible) of this regional board.
20 My experience includes the development, preparation
21 modeling in review of hundreds of water quality
22 monitoring programs involving surface water,
23 groundwater systems, capacity of a regulator, as a
24 consultant, and as an expert before State and Federal
25 Courts. And I have several opinions I'd like to share

1 with you.

2 It is my professional opinion that the IRP, as
3 an enforceable program, is without merit, it lacks
4 (inaudible). The polluters are in effect and not
5 accountable for actions or inactions; it is without
6 actual monitoring, associated with the sources of
7 pollution.

8 The identity of a location of the discharges of
9 pollution are allowed to hide behind the Coalition
10 shield and are identified only through third-party
11 groups who are, themselves, not accountable. In
12 contrast, traditional monitoring does have merits.
13 Traditional monitoring is enforceable. It holds the
14 makers of pollution accountable for their pollutants
15 within a structure of goals and time schedules with
16 milestones for compliance. And these are some of the
17 things which the hierarchy does not have.

18 Now, regarding monitoring, my professional
19 opinion is that one cannot protect water quality
20 without representative monitoring. Protecting water
21 quality is the function of the ability to determine the
22 condition of the State's waters and comparing contrast
23 or quality with the standards and goals to find in the
24 basin plan, as if you didn't know that.

25 It is not possible to protect the beneficial

1 uses of waters in the State without monitoring waters
2 on the pollutants (inaudible) and yet the current plan
3 proposes no representative monitoring. It is my
4 professional opinion that one cannot evaluate the
5 effectiveness of a technology or practice without
6 measurement. Evaluation requires that the change in
7 water quality attributable to the specific practice or
8 technology be measured, but this program fails to
9 require this basic requirement.

10 My professional opinion is that it is not
11 possible to evaluate the effectiveness of a water
12 trutin (phonetic) system or of a management practice
13 from distant downstream monitoring location. In such
14 cases (inaudible) other sources of pollution made
15 changes in the water quality or a practice in
16 technology that is discernable at the edge of the field
17 are masked within a suit of other waters and pollution
18 and the performance of the practice the BMP essentially
19 unknowable, and yet, that is the State and condition of
20 this program.

21 It's not surprising that most of the waters
22 fall into Tier 2. My professional opinion is that it
23 is a complex -- that it's in a complex watershed
24 composed of sub watersheds. Water samples from distant
25 downstream locations such as -- most of the marking

1 locations in this program are not valid representations
2 of the water quality in any or all of the visible sub
3 watersheds. While gross average conditions may be
4 observed, downstream, the condition of individual
5 upstream sub watersheds will remain unknowing. Between
6 the downstream monitoring station and the various
7 upstream watersheds, mixing and dilution occurs and a
8 condition at any upstream point are obscured to a
9 downstream monitoring location, and yet, that is the
10 state of majority of the programs monitoring. The most
11 basic step of rectifying the condition of (inaudible)
12 waters is to identify it. The points of discharge, all
13 of the points of discharge, and monitor the quality and
14 quantity of those waters from the edges of the fields.

15 Traditional monitoring is enforceable, holds an
16 acre of pollution accountable for the pollution within
17 a structure of goals and time schedules for compliance.

18 PUBLIC ATTENDANCE CARDS: Hello, Board members,
19 my name is Joanne Kipp. I am on the Sea-saw Advisory
20 Counsel, and I have taken the oath.

21 I'm a California Registered Civil Engineer, and
22 I worked for the Central Valley Water Board for over 12
23 years in the NTBES and WDR regulatory programs. As a
24 senior water resource control engineer, I supervise
25 staffs presentation, preparation of waste is our

1 department, for service water and land discharges. And
2 I supervisor staff evaluation and enforcement of
3 discharges compliance of these requirements. This is
4 my professional opinion that the frameworks recommended
5 program will not protect beneficial uses.

6 To be effective, a regulatory program must
7 include the following: It must identify the
8 dischargers, and directly regulate the person's
9 responsible for discharging the waste; it must require
10 that you characterize their waste for both quality and
11 quantity in order to yield mass pollutant loading; it
12 must require that they comply with waste discharge
13 requirements designed to protect water quality; it must
14 require them to submit a representative and reliable
15 data characterizing the source water, the discharge,
16 edge of field, and receiving water at specified
17 locations.

18 This data is critical to evaluate a discharges
19 effect on receiving water conditions and a discharges
20 compliance with water quality objectives. And most
21 importantly, it must subject them to enforcement,
22 should they violate Board issued orders. The
23 frameworks recommended program C, the Board's
24 regulatory responsibility to third parties. It defers
25 waste characterization indefinitely. It relies on an

1 inadequate regional monitoring scheme that cannot and
2 will not provide information to this Board necessary to
3 characterize current conditions, let alone, monitor the
4 effectiveness of best management practices as these are
5 implemented. And perhaps, most importantly, it makes
6 enforcement against those dischargers responsible for
7 causing the pollution improbable.

8 Without enforceability, the frameworks
9 recommended programs essentially voluntarily one that
10 cannot and will not protect water quality. Because
11 irrigated agriculture has caused a wide spread
12 groundwater nitrate pollutions, in my professional
13 opinion, that the program must consider all irrigated
14 agricultural operations as opposed to a high risk to
15 groundwater, unless and until proven otherwise.

16 The program should require all growers to
17 submit data on their supply wells for nitrate and other
18 constituents of concern. This data is necessary to
19 establish baseline conditions and to evaluate the
20 effectiveness of improved nutrient management.

21 PUBLIC ATTENDANCE CARDS: Chair Person Hart,
22 Board members, I'm Richard McHenry. I am civil
23 engineer, I'm here today representing the California
24 Sportfishing Protection Alliance.

25 And I have taken the oath.

1 I work for the State and Regional Water Board's
2 for about 23 years. Much of that time was spent as a
3 senior engineer in the MPDS unit overseeing permits for
4 waste water discharges to surface waters. My final
5 assignment with the Board was as senior engineering
6 specialist in the Office of Enforcement and the State
7 Water Board. I have considerable experience in
8 developing waste water discharge permits, investigating
9 water quality issues, and developing enforcement
10 actions for both permitted and un-permitted discharges.

11 The recommended irrigated lands regulatory
12 program framework proposes that regional monitoring be
13 conducted, not monitoring at individual discharge
14 points. My professional opinion is that enforcement
15 against an individual discharger cannot be based on
16 regional monitoring, it must be proved that if the
17 specific discharger caused this specific problem or
18 violation. In this case, regional impacts could then
19 cause, by any number of upstream dischargers or
20 circumstances, and cannot be directly linked to any
21 specific discharge point.

22 Based on the regional monitoring that is being
23 proposed, I cannot see any reasonable means of taking
24 enforcement against individual dischargers to
25 effectively protect water quality. I cannot -- I can

1 also not see any means of utilizing the regional
2 monitoring to evaluate the effectiveness of the farms
3 specific invest management practices. In summary,
4 there is currently sufficient data showing that
5 agricultural discharges are degrading water quality.
6 But the data is insufficient to show the precise
7 discharge points causing the problems or to determine
8 if any corrective measures are effective.

9 Regional Board has qualified engineers,
10 geologists, and scientists. And given the right tools,
11 they have the ability to solve these water
12 (inaudible)problems. They do not have the proper tools
13 now, and the proposed program does not give them the
14 proper tools.

15 Under the proposed programs, it is unlikely
16 that progress will be made to improve water quality.
17 Thank you.

18 PUBLIC ATTENDANCE CARDS: Members of the Board,
19 I've already identified myself, and I've given you my
20 location.

21 Just for the record, I wanted to exhaust the
22 point that the framework is subject to CEQA. It is a
23 project, it is a program. Whether it's by direction or
24 resolution, a proposition will be subject to CEQA.

25 As you can tell, we're not big fans of the

1 Coalition, proposal still, we've never been a fan of it
2 from the getgo, ten years ago or maybe seven years ago
3 when it was proposed. Um, and I just want, on that
4 point, to make sure we're clear that Dr. Longley
5 pointed to Alternative 5 and suggested someone in this
6 room wanted Alternative 5 to happen. And I don't think
7 that anybody in this room, including us, who wants
8 Alternative 5.

9 MR. KARL LONGLEY: You pointed Alternative 5 of
10 being kind of like in a sense of what you're -- what
11 you envision would happen. It was within that, "Yes,
12 sir. That's what you said," and we can go back, look
13 at the tape, if you want.

14 PUBLIC ATTENDANCE CARDS: It's the only
15 alternative that would comply with some of your
16 policies, like non-points.

17 MR. KARL LONGLEY: There we go. There we go.

18 PUBLIC ATTENDANCE CARDS: But that's not our
19 position as to what's necessary.

20 MR. KARL LONGLEY: I didn't tell you I approved
21 Alternative 5, I was given it as an example. We can go
22 on on this forever.

23 PUBLIC ATTENDANCE CARDS: Well, Alternative 5,
24 let me just be clear. It's doesn't -- you know, one
25 it's having people dig wells, which we're not

1 proposing, it has a whole bunch of monitoring, which we
2 don't think is necessary and is overkill. And those
3 staff projections are simply over the top. You can
4 look to any of the programs that Bill mentioned, the
5 Storm Water Program has less than a dozen staff
6 implementing it. We're not telling -- we're not
7 suggesting that staff has to move in with the farmers
8 in order to get some kind of compliance, we're just
9 looking for something like the Storm Water Program.
10 And it's classic (inaudible) to the extent those are
11 the numbers that are being thrown around as a potential
12 cost of an actual complying program that does comply
13 with (inaudible) policy as well as (inaudible) which
14 the first four alternatives don't. That's -- that's
15 just definitely unclear to us from the record.

16 In terms of farm management plans, we think
17 every farm should be required to have a farm management
18 plan. I think we heard from the Coalitions that
19 they're doing things every day. That they have all
20 kinds of stuff done. So, it's amazing to me that
21 they -- we don't know anything about it whatsoever, we
22 have absolutely no information. On the level of
23 genialities, we've heard in this presentation as much
24 as you have from the management plans, the regional
25 management plans that you're getting. That's about the

1 quality of -- of what we know, even if stuff's
2 happening.

3 Um, so, then we also have on top of that the
4 concerns about, say, privacy; well, if you're doing
5 stuff you should just tell us what you're doing. We're
6 saying the farm water quality management plan, there is
7 an appropriate way to do that. In terms of the
8 monitoring component of the that, we only had proposed
9 for basic parameters which we layout in our letter.
10 We're not looking for a Ph.D. science project here.
11 We're looking for something like the Storm Water
12 Program, which by now is two samples, (inaudible) would
13 like to see a few more samples along the lines that I
14 think some of the staff report covered in some the
15 alternatives.

16 Um, the farm evaluations, we don't think,
17 looked like they are going to be the level of
18 management plan that we have in mind. We think staff
19 had it better with the framework it proposed along with
20 the EIR, I guess. At page 8-32 they actually go
21 through what the management plan would look like. We
22 think it looks like a pretty reasonable thing, not
23 overly burdensome. The evaluation looks like the
24 checklist, you know, will be not much better off than
25 we are now, is our take on that. We're concerned about

1 the compliance schedules in here, and the bills are
2 already run through the timelines we've dealt with.

3 Maybe not everybody in the room has a same
4 level of patience, perhaps, because this has been going
5 on for ten years, we were assured well before that, but
6 the first waivers in the '80's and then for 20 years
7 people said there was no problem.

8 We started this, the first petition to this
9 Board. The reaction was, you know, we don't think
10 there's a problem; at least we're beyond that. But
11 it's been a long time. We don't think we have another
12 three years to go, and five to ten more after that to
13 get to compliance. Either these things worked already,
14 this is -- that's what we were told seven years ago,
15 let's try this out. If they haven't worked, you should
16 give up on it, is basically our take, and go to a
17 farm-specific type of program. Give up on the
18 Coalitions because it's had its day, it had a good
19 seven-year run to try it out, good faith's effort, but
20 it didn't work.

21 CHAIRPERSON HART: But do you guys honestly
22 think that nothing's been done, that doing nothing is
23 better, I mean, honestly?

24 PUBLIC ATTENDANCE CARDS: I am sure it's
25 different from farmer to farmer. I'm sure some farmers

1 are great. I'm sure some farms are awful, but nobody
2 knows. The whole idea of a regulatory program isn't
3 just hoping that something's happening out there.

4 CHAIRPERSON HART: I agree. I agree that
5 there's -- there's absentee and that maybe you
6 shouldn't be there, but, I mean, fundamentally, there's
7 got to be some level of agreement that there's been an
8 increase in water quality. And you can't point to it,
9 necessarily, but are you saying --

10 PUBLIC ATTENDANCE CARDS: No evidence. You
11 have to have evidence.

12 PUBLIC ATTENDANCE CARDS: Can't quantify, can't
13 document.

14 PUBLIC ATTENDANCE CARDS: I mean the two charts
15 we saw are the two that are easiest to debone, because
16 it's carrefours, and it's --

17 CHAIRPERSON HART: I know. And I know.

18 PUBLIC ATTENDANCE CARDS: You don't know. That
19 Measurment does not tell you if there were any
20 management practices doing anything now.

21 But we know that the use of the those declined
22 drastically, and they were replaced with (inaudible)
23 which posed their own set of problems. I guess I'm
24 respectfully going to have to disagree with you,
25 absolutely, disagree with you. Because I have been

1 very Close to this program, I was in the TIC Committee,
2 I have been seeing what's been going on.

3 I have a -- we must be in different countries
4 looking at programs. Your analysis is completely
5 lacking, from what I see. You come in here and
6 discredit yourself by what you're saying.

7 PUBLIC ATTENDANCE CARDS: Dr. Longley, if
8 you're -- whatever you're seeing out there is actually
9 put into a management plan or practice that the public
10 could come in and look at, then maybe I could agree
11 with you. But maybe you seen something we haven't been
12 told about, you're putting together a regulatory
13 program, it's not supposed to be based on if one Board
14 member happened to go out and see some things or, you
15 know, somebody happened to walk by a field. It's
16 supposed to be --

17 MR. KARL LONGLEY: (Inaudible) spent an awful
18 lot of time looking at -- looking at data, working on
19 how to gather data and that sort of thing, an extremely
20 complex program. And what you're talking about is --
21 the reason I went on -- on the -- on the Alternative 5
22 issue, was what you're proposing, unfortunately,
23 wouldn't work just on a dollar basis. Mr. Jennings and
24 I had this conversation discussion before, and he made
25 a comment, "Well, we raise fees." In this State, at

1 this point in time, given the budget conditions we
2 have, if we go out and even ask for doubling or
3 tripling the staff that we have right now, we'd be
4 laughed out of the room. And really what we need in
5 here, if you folks think this is what we need, we need
6 legislative support. We have to raise -- we're going
7 to raise money, and then we're going to raise bodies.

8 And I don't see that today. I don't see a
9 legislature hear saying, "You have to do this. And
10 I'll work for you to get that." And until you do that,
11 you have no credibility, in my book.

12 PUBLIC ATTENDANCE CARDS: Dr. Longley, I got to
13 tell you. We had a setup years ago, early, and --
14 and -- and if the -- we tried to get the State Board to
15 ask for it, because we had it paid. They would have
16 given you virtually any number of people you asked for,
17 and we couldn't get the State Board to give it. They
18 never requested it from the legislature. And it was
19 after your own staff, when Bill Coil was here, said,
20 "When do you need it?" And we went to legislatures and
21 we got a private okay, get the State Board to give --
22 ask it, we'll give it.

23 PUBLIC ATTENDANCE CARDS: And I wrote the
24 letter, Dr. Longley.

25 PUBLIC ATTENDANCE CARDS: You think can do that

1 today?

2 PUBLIC ATTENDANCE CARDS: I'm sure, you know,
3 we can always ask for more money, but that's not -- I
4 don't think you need as much money as you think. We're
5 not proposing Alternative 5. The industrial --

6 MR. KARL LONGLEY: I understand that,
7 thoroughly. What you're talking about, on the order of
8 the resources, falls in line with Alternative 5.

9 PUBLIC ATTENDANCE CARDS: It doesn't. No, it
10 doesn't at all.

11 MR. KARL LONGLEY: Then excuse me for my
12 concern, because I really think that I'm misreading
13 what you're proposing. I would like to see it laid out
14 with the kind of resources you think it would take.

15 PUBLIC ATTENDANCE CARDS: We wrote a 63 year or
16 48-page letter. I didn't see that in there. I wrote
17 it. And I read it again last night, unfortunately.

18 PUBLIC ATTENDANCE CARDS: Well, in any event.
19 Listen, you know how many people you have in this
20 office doing the whole in General Industrial Permit
21 Program for the whole central part, the region two.
22 The thing functions, if you can believe it. One person
23 running -- one person in Redding, one person down
24 South, that's it. That's all you have. And the
25 program functions, you know why, because every single

1 discharger has a storm water pollution prevention plan,
2 there's enforcement mechanisms, they pay a reasonable
3 fee, I guess, and the thing functions.

4 It's not perfect, and it's not -- it's not like
5 a scientific project. They take some samples, and
6 those samples are informative, and that's what we're
7 talking about here. And I think that, obviously, this
8 is going to continue on, and we're going to be working
9 on -- or staff is going to be working on a number of
10 different estimates to take this program forward.

11 We certainly need an awful lot of dialogue,
12 because I'm going to have to see something I haven't
13 read here. Maybe I didn't read -- maybe I missed a
14 page, but I need to see something I didn't see to
15 understand what you're saying, because we're not on the
16 same planet. I'm sorry.

17 PUBLIC ATTENDANCE CARDS: Well, that's too bad.
18 All that I am saying is the framework is what we're
19 criticizing here; and that's not going to work any
20 better than the Coalition's worked the last seven
21 years.

22 If there's any evidence, that's the evidence is
23 you cannot point to one management plan that describes
24 for me someone who's not visiting the fields every day,
25 and on any decent regulatory program, I should be able

1 to walk in to your office cold, and be able to
2 understand what's going on out there. And you cannot
3 do that. There's no way you could do that.

4 MR. KARL LONGLEY: Actually, I would like to
5 see watershed programs. I would like to see something
6 along the line of what was talked about earlier, with
7 more authority given the Irim(phonetic), and I would
8 like to see the Irim maybe organize themselves as JPAs
9 and pick up some police powers. And I think that would
10 give you Local Watershed Programs.

11 But short of that, I -- we need some sort of a
12 local program like we have now. As far I see can
13 determine. Thank you.

14 PUBLIC ATTENDANCE CARDS: (Inaudible) for
15 Localists, because we're down to the farm, is actually
16 what we are proposing, that's as local as you can get.
17 We do think that the farmwork, also, is in violation of
18 the non-points source policy. We do go through all of
19 that.

20 It's quite clear that doesn't supply any of
21 that criteria that it has some serious efficiencies.
22 And we do think that, if adopted, if the framework or
23 whatever directions the Board's going to give, is where
24 you go, that that will continue to guarantee what I
25 think is technically degradation under the High Quality

1 Waters based on how the water's probably looked in
2 1968. That we're going to see continuation of what we
3 see now, which is there's still a lot of data out there
4 showing a lot of Water Quality Center violations, and
5 those two trend things are the least -- the least
6 convincing than anything is improving, from best
7 management practices that are being implemented as part
8 of the current waiver program.

9 So, let me see if I have anything else. I was
10 rushing and crossing out sections thinking I'm not
11 going to have enough time.

12 MR. KARL LONGLEY: It didn't count against you.

13 PUBLIC ATTENDANCE CARDS: I guess I thank you
14 for that, Dr. Longley, the rest wasn't as enjoyable. I
15 think I'll just leave it at that. If you have any
16 questions, I will certainly be willing to continue the
17 dialogue here.

18 CHAIRPERSON HART: Thank you. Do we have any
19 Board member questions right now for this panel?

20 Seeing none. Thank you, all.

21 I have a number of cards for folks, and so, I
22 will start taking comments from interested parties.
23 And if I could kindly request folks really try to keep
24 their comments limited and where you have the exact
25 same comments as someone else, just feel free to come

1 on up and state your name and say, "Just what he or she
2 before me said," and we would greatly appreciate it.

3 I'm going to call a group of cards for folks
4 who look like they have carpooled from a very long way
5 together. The first person is Erma Medadien, if I
6 pronounced that name correctly.

7 PUBLIC ATTENDANCE CARDS: Good afternoon. My
8 name is Erma Medadien and I'm going to practice my
9 English today because I think it's important we
10 understand. And I came from a small community in Clara
11 County, Lindsey, and, um, I, also, I work as community
12 organizer (inaudible). Least (inaudible) water. So,
13 maybe it's not important for this Board to take some
14 resolution or include water problems we face in our
15 communities.

16 And I'm -- but for a hundred people live in the
17 affected communities it's important. So, I know your
18 work is regulated that (inaudible) is a big source of
19 contamination it has paid for that.

20 Today, our poor communities we have to pay a
21 lot of money. We pay as we are (inaudible). But, um,
22 we -- and I understand that agriculture is a big source
23 of support for us, because that give us the work. But
24 at the same time, we don't receive wage for our work.
25 It's not nothing enough to pay, because of the water,

1 tap water, in our houses. And additional to that, we
2 have to pay bottled water for drink. So, nobody
3 guarantee us, we have a very good help. So, probably
4 this affect the (inaudible), but the water
5 contamination affect our health and our lives. Thank
6 you.

7 CHAIRPERSON HART: Thank you. Veronica Mendoza
8 and then Sumona Magana, and then after Sumona, Ernesto
9 Heran.

10 PUBLIC ATTENDANCE CARDS: Good afternoon. My
11 name is Veronica Mendoza, I'm from Clara County. Um,
12 I'm here today because in my community we are having
13 problems contamination water with DVCP. This
14 particular fertilizer is -- don't use for 30 years, but
15 we have in our water. So, we can't drink the water, we
16 have to pay for the water, we can't drink it. So, this
17 is ridiculous. And this place is supposed water
18 control quality. And in my community, my water is not
19 quality. So, that's my comment, thank you.

20 CHAIRPERSON HART: Thank you.

21 PUBLIC ATTENDANCE CARDS: Good afternoon. I'm
22 going to translate for her: Good afternoon. My name
23 is Sumona Magana and I live in Visala. I'm a private
24 well owner and the water in my well is contaminated.
25 And I have been living in that community for 38 years.

1 What we're asking for is to have safe drinking water,
2 because it is costly to have to spend money to purchase
3 bottled water for things and for cooking. Thank you.

4 CHAIRPERSON HART: Thank you.

5 PUBLIC ATTENDANCE CARDS: Good afternoon,
6 members of the Board. My name is Ernesto Duran. I
7 come from Porterville, it's between Bakersfield and
8 Fresno. It's very important that right now anybody
9 responsible for something. It's time now or we're
10 going to be in trouble in the next 10, 20 years. So,
11 you, the member of the Board, you need to take action
12 now, or we're going to be drinking water, contaminated
13 water. So, now is the time, now. Thank you.

14 CHAIRPERSON HART: Thank you. Jessica Sanchez
15 and after Jessica, Catarina Davis, and after Ms. Davis,
16 Louise Medadien, and then Maria Herrera.

17 PUBLIC ATTENDANCE CARDS: Good afternoon. My
18 name is Jessica Sanchez and I'm from East Rosvy. My
19 community is in Tulare County.

20 I basically came all the way to Sacramento to
21 ask you guys that, um -- this, um, is a little -- well,
22 I lived in my community for 11 years, and I'm here
23 today because I believe water shouldn't be a privilege,
24 it should be a right. This right should be followed by
25 good regulations to protect our water. Not only do I

1 believe it's a right, it's also a safety issue, and my
2 community, because of the water contaminants affecting
3 our people in the community, only because regulations
4 are not being followed.

5 All in all, you should amend the proposed
6 framework to reflect the needs of our community and
7 adopt it today. So, thank you.

8 CHAIRPERSON HART: Thank you.

9 PUBLIC ATTENDANCE CARDS: Hi, my name is
10 Catarina Davis and I live in Visalia. And I organize
11 (inaudible) Pixley community, which is in Tulare
12 County. And I'm currently a Fresno State student
13 studying social work and prelaw. I'm here to talk
14 about the value of safe drinking water, which is a
15 human right.

16 I'm also here to talk about the contaminants,
17 because in our low economic communities, a lot times
18 they're impacted, not only because of the contamination
19 in the water, but there are health issues, as well,
20 which it results into having multiple health concerns.
21 And even though it happens in their backyard, it is not
22 their problem, it is our problem.

23 And, so, in this -- my concern is that if we
24 remain having water that is unregulated, we have -- we
25 take a risk of us paying higher bills or higher cost

1 for water that not only we can drink, but a lot of
2 times in our communities, even when we bathe and think
3 we are clean, we have to use, um, alternative measures
4 to get the contaminants off of our skin, which is
5 something that happens in my home. As I said, I live
6 in Visalia. But I still have to endure the impacts of
7 the contaminations on our skin, as well, which is a
8 health concern in our family.

9 With that, I just want to elaborate, and excuse
10 me, I'm kind of nervous, as you could tell. With that,
11 I just emphasize that this is something that's
12 preventable. This is something that we can all come
13 together at the table and talk about, and dialogue, and
14 come up with something that is more -- I mean, what I
15 saw today and what I heard is two divisive plans going
16 in two different directions. But I think that's
17 something we need to do, because for me, um, it's not
18 enough to have separate Boards, because in our local
19 communities, if you have a doctor on the Board saying
20 that it's safe to drink this water, then we have other
21 concerns, because if the water isn't safe to drink, but
22 we have a doctor saying it is, then how do we make sure
23 that appropriate regulations is being met.

24 And these are things that are happening in our
25 community. We thought we need you to step up and say,

1 "Hey, there's something that needs to be done," outside
2 of tripping up the Board members who the farmers will
3 do the right job. We need you to step up and say,
4 "Hey, we need to make sure that the regulations are
5 made and that they are there and that, um, we are all
6 safe."

7 Because contamination is, you know, our food.
8 We eat the food. Thank you.

9 CHAIRPERSON HART: Thank you.

10 PUBLIC ATTENDANCE CARDS: Good afternoon,
11 members of the Board. My name is Luis Menaneen. I
12 work with the (inaudible) an organization in
13 California, Central Valley. And I'm here to express my
14 concerns.

15 As a community organizer we do go around and
16 visit communities. We work closely with Sandra Morales
17 (inaudible), and she knows firsthand what these
18 communities are going through, as water -- as water
19 goes. You know, Civile, their water, I mean -- Becky
20 Santana, she could not be here today, but we've gone
21 out time and time again and she's showed us pictures,
22 she's showed us their water lines, she's brought out
23 her filter from her mom's house, and that filter,
24 probably two or three-inches of sand at the bottom; and
25 all around the filter was just moss, green, green moss

1 all around the container. And, you know, time and time
2 again we can't stress how much we need the water to be
3 a basic human right. And it's not a something that we
4 can -- well, a lot of people can't afford to buy
5 bottled water. You know, you said -- I said, again --
6 you said, "Come up here," and I support what they said.
7 But I think you need to hear time and time again until
8 you get Board, because you do need to hear it time and
9 time again.

10 We need -- do need clean drinking water, and
11 it's -- it's a necessity. A basic human right. It's
12 not something that we should be paying a hundred, \$200,
13 \$300, I mean, that's what some people make a week. You
14 know, some people can afford to spend another \$30 to
15 \$40 on bottled water. Some people don't have rides to
16 go to the store and buy water every day or every week
17 or, you know, just can't afford gas, it's going up
18 again right now. And it's -- it's just you, know,
19 something that we need. That we can -- not we, but a
20 lot of people import ridiculous amounts of money and,
21 you know, again, we're here to -- we can get your
22 attention a lot more now, you know, what's going on.

23 Please, we ask for your support. And hopefully
24 that -- hopefully that you -- one of these days you can
25 live by what you (inaudible). Thank you.

1 CHAIRPERSON HART: Thank you.

2 PUBLIC ATTENDANCE CARDS: Good afternoon,
3 members of the Board. My name is Maria Rega, and I'm
4 Community Outreach Coordinator with the Community water
5 Center, but I'm also here as a Valley resident of
6 Central Valley.

7 I lived in the valley since the age of three,
8 so, it's little over 25 years. Um, and I also took the
9 oath.

10 As you heard, many communities (inaudible) a
11 basic human rights, something basic that we all take
12 for granted here, especially here in the State of
13 California. But, unfortunately, for some of the
14 poorest communities of the state, we don't have that
15 luxury of being able to go to our tap and cook meals
16 for our kids or give simply one of our child a glass
17 of water without fearing whether or not they are going
18 to get sick.

19 Many mothers, like myself, and my mother before
20 me, had to tell -- raise their children telling them
21 not to drink the water from the tap because it's
22 unsafe. Have had to use hard earned money. Many --
23 many of us, hard money that was earned out in the
24 fields, to then go and purchase alternative water
25 sources just to keep our families safe. Today you

1 heard about costs to the industry, but I want to talk
2 to you about the costs that my family and many families
3 of the valley bear on an everyday basis and have, in
4 some cases, for over a decade.

5 We are talking about some communities one --
6 most communities are farm workers on a yearly bases
7 make around \$16,000 a year who are having to pay twice
8 for water, once for water that's unsafe to drink and
9 then, again, when they're traveling to neighboring
10 communities to get safe sources. We, also, are talking
11 about, you know, our schools. Our schools are also
12 impacted by this issue. Many of our schools are having
13 to take from other educational money to purchase
14 bottled water and risk half the drinking water for
15 students or the teachers that work there.

16 I also want you to know that it also impacts
17 local development in our communities. Our communities
18 are not able to grow or attract businesses, because
19 who's going to want to invest in a community that
20 doesn't have safe water. Again, earlier, there was a
21 comment mentioned about the cost of drilling the wells,
22 and I want to -- I just want to make a point on that.
23 I think it's important to talk about solutions, but I
24 think what's important for the Board to recognize is
25 that we're not just talking about costs now, to just do

1 away with the problem. If the Board does not act today
2 and secure -- and ensure that we can begin to regulate
3 the (inaudible) entities, the days going to come and
4 we're not going to be able to seek another source. I
5 know that that's happened in some communities.

6 (Inaudible) is an example, they try secure a safe
7 drinking water in their community and are forced to
8 drill deeper wells or drill in laboring locations where
9 it's successful, because all the groundwater around
10 them is contaminated.

11 So, I think that the sense of urgency is
12 already here, the Board has a mandate to protect our
13 drinking water and it is really frustrating for -- for
14 residents who, like me and many others who take time
15 off work or leave their family behind to travel long
16 distances to see a change, and we know that it's not
17 going to happen tomorrow. But, we need to see the
18 action from the Board today. If you don't act today,
19 you're basically allowing more families, like mine, to
20 continue to bear these -- these costs. And, also, you
21 are putting many more communities at risk to have
22 contaminated water. Thank you.

23 CHAIRPERSON HART: Thank you. Just a second
24 before you leave.

25 MR. KARL LONGLEY: You mentioned Chuliville,

1 and I think it's good you did. Can you address the
2 issue when communities like that that cannot find good
3 groundwater go to surface water since it's a fresh
4 current?

5 Well, the issue being -- the issue being the
6 fact that -- that water needs treatment also. And the
7 first cost money, typically, you can get to drill a
8 well. Maybe not easily, but you can get the well.

9 The issue becomes the ongoing costs after that,
10 the operation and maintenance costs; that's the issue
11 that has to really be addressed.

12 PUBLIC ATTENDANCE CARDS: Right.

13 MR. KARL LONGLEY: So, that people can have
14 affordable safe drinking water.

15 PUBLIC ATTENDANCE CARDS: Well, I know that,
16 you know, treatment is really not an option for our
17 community, because we know that it's very costly.

18 MR. KARL LONGLEY: That's correct.

19 PUBLIC ATTENDANCE CARDS: And many of our
20 communities will not afford. Our type of communities
21 will right now just -- districts are providing
22 contaminated water -- are charging residents \$60 a
23 month sometimes.

24 Now, if you have to include treatment, that's
25 only going to raise rates, and people can't afford

1 those costs. And the surface water, I mean, it's a
2 complicated issue in order to even have access to the
3 water. So, many times our communities are just stuck
4 with the source that they have. Thank you.

5 CHAIRPERSON HART: Thank you. Mr. Cory.

6 PUBLIC ATTENDANCE CARDS: Chairman Hart,
7 members of the Board, David Cory, representing the San
8 Joaquin Valley (inaudible). I guess I have to say I
9 took an oath, although, I am not used to saying that.
10 So, I'll try not to lie this time.

11 I was, um -- I was confused when I listened to
12 Mr. Jennings' presentation and the groundwater
13 communities presentation. I'm sure that I must have
14 read the wrong framework document, because I didn't see
15 in there that this program was voluntary, and I didn't
16 see in there that the Board didn't get the names of the
17 dischargers. I also am not aware that the current
18 program's not -- is voluntarily, or that we're not
19 currently giving you our names and, you know, who the
20 discharges are. But I'm confused by that. Um, but
21 I'll move on and assume that what I read was actually
22 the framework document the staff put together. My
23 decision is we are making progress in the irrigated
24 lands program, we made a lot of progress in the past,
25 we're going to continue to make progress, he got a long

1 ways to go. We want to continue to make progress we've
2 done and keep the structures close to as the current
3 program that we have so we can continue to momentum.

4 I do want address one issue that Chair hart and
5 member Longley discussed early on, I don't know if this
6 is going to become an issue or not, but you talked
7 about the reporting of non-filers and whether there
8 would be a requirements for Coalitions and basically
9 turn in folks who aren't -- aren't joining the
10 Coalitions. And I want to let you know that -- that
11 has taken place already on a voluntary basis. That
12 there is an incentive for Coalitions to divulge the
13 names of folks who are not complying with the program
14 that are causing water quality problems.

15 We're judged on our water quality data, the
16 monitoring data, and the folks aren't complying with
17 the orders, and it causes an impact, that's a black
18 mark on us. So, we have an incentive here to disclose
19 on noncompliant folks. But including that as an
20 affirmative requirement for the Coalitions to go out
21 and seek out noncompliance and file that creates major
22 political problems for the Coalitions, as well as some
23 practical problems. The Coalitions and the growers
24 really don't want to become the water cops, that really
25 is the Regional Board's job. If you put this -- this

1 affirmative requirement in there, it's going to be a
2 poison pill that's going to be able to create sort of a
3 distrust of this whole program and really could serve
4 to under-mind the progress we would be making in
5 getting the support from the Ag districts and those
6 folks that help fund it.

7 So I really urge you to not include that
8 requirement in there, it will really cause some
9 problems with me for me to continue the progress we
10 made on the west side.

11 There's also some practical considerations as
12 to what does that mean. Do we look right next door to
13 our Coalition, do we -- how do we do that?

14 So, I'll say it once again, I'm sorry. I think
15 you guys are going to have to step up to the plate.
16 Maybe it's a poison pill, then you -- you're going to
17 force the Board to go the step which you really can't
18 afford to go. And you're putting the Board in a very
19 hard place. It can't afford programs clear over here
20 in the extreme, but a lot of staff people, but you guys
21 aren't ready to step up to the plate.

22 PUBLIC ATTENDANCE CARDS: We stepped up, and
23 we'll tell you -- first we will give you the names of
24 everybody who's a member. It's not that difficult to
25 figure out who's not, you know, for the Regional Board

1 staff to do that. But we have trouble when we have
2 people who aren't complying with the program. It's
3 causing water quality problems, Coalitions have stepped
4 up and reported those folks to the Board. We'll
5 continue to do that, it will be continually -- the
6 Coalitions will recognize that that is in their self
7 interest to do that. That will happen. It's
8 inevitable that it will happen. If you force it, as an
9 affirmative requirement to go out and seek out which
10 lands are -- you know, seek out those folks who haven't
11 joined the Coalition, it's gonna create a large
12 political problem. Which could undermined the effort
13 that we've done.

14 I think when you look at the cost and the
15 benefit of that, it doesn't balance out.

16 MR. KARL LONGLEY: EIS technology may be
17 something that allows us to get there and do that.

18 PUBLIC ATTENDANCE CARDS: I think, as I recall,
19 we give GIS data of the areas. We could look at maps
20 and you can see it's not a big secret as to who is not
21 in and who is not in; we're not trying to hide that
22 from anybody. There's a difference between having a
23 requirement that we go out and seek them out. The
24 other question is, practically, what does that mean?
25 Do we look at just those noncompliant folks who were

1 adjacent to our border; do we go out within five miles;
2 do we go upstream; do we go downstream; how far a range
3 do you want us to look for these noncompliant folks, I
4 mean, do we search all over the state? I don't know.
5 I mean, it's -- practically and politically, I think,
6 it's a difficult task for you to have from us.

7 MR. KARL LONGLEY: Obviously, there's going to
8 be some very interesting discussions over the next
9 year.

10 CHAIRPERSON HART: Well, you guys have the
11 Coalition areas and boundaries, right?

12 PUBLIC ATTENDANCE CARDS: We do.

13 CHAIRPERSON HART: So, you wouldn't be forced
14 to go beyond your boundary, I would assume; it's not
15 your job.

16 PUBLIC ATTENDANCE CARDS: It tells you even if
17 it goes outside of their boundary if they're impacting
18 the watershed.

19 CHAIRPERSON HART: Well, you should, because
20 you should care.

21 PUBLIC ATTENDANCE CARDS: We do. We do care.
22 And we will. And we will turn that information over
23 from our own self-interest standpoint. Do you
24 understand the political problems that I'm going to
25 have to face if that's a program required, and in the

1 program for us to become the enforcers?

2 CHAIRPERSON HART: I don't think the Regional
3 Board wants you to be enforcers, we need to do the
4 enforcement.

5 PUBLIC ATTENDANCE CARDS: Okay.

6 CHAIRPERSON HART: We just need to know who to
7 enforce against, and why we need the data.

8 PUBLIC ATTENDANCE CARDS: I think you have the
9 data to do that.

10 CHAIRPERSON HART: Well, we --

11 PUBLIC ATTENDANCE CARDS: You know, who's in
12 the program, right? Am I wrong about that? Do you
13 know who's in the program.

14 MS. PAMELA CREEDON: David -- David -- David,
15 could we just be a little honest here and it would save
16 us a lot of staff time if you would just give us a name
17 and we will go do the enforcement; and that's really
18 what's the truth. Right now we can find them, but it
19 takes staff time and a lot of effort.

20 PUBLIC ATTENDANCE CARDS: It would take our
21 staff the same amount of time to figure that out,
22 wouldn't it?

23 MS. PAMELA CREEDON: The easiest and quickest
24 approach is just give us the name. Give us what name
25 on the letter.

1 PUBLIC ATTENDANCE CARDS: We will do that when
2 it's a problem to enforce against. But there's a lot
3 of practical issues involved in that.

4 CHAIRPERSON HART: We definitely understand
5 your point of view, and that obviously an issue that
6 we'll have to get worked out. But we're clear on the
7 political stress position that it puts you in; we
8 understand that, we do.

9 PUBLIC ATTENDANCE CARDS: Okay.

10 CHAIRPERSON HART: I want to tell Karen that we
11 will definitely be here for dinner, so, go ahead and
12 order that. Let's -- I'm going to try to -- there are
13 folks who sent me cards who said we want to be heard
14 together, and there's like 40 cards, and that just
15 can't happen. I will try and group folks and then I'm
16 going to also try to feed in people who are from
17 further away, so, if you don't want to stay for the
18 remainder of the hearing, which could be very long, you
19 may go once you've spoken.

20 So, I'll try and do that. So, I will go ahead
21 and start with Larry Domanigy (phonetic.)

22 PUBLIC ATTENDANCE CARDS: Good afternoon. My
23 name is Larry Domanigy (phonetic). My address is 606
24 East Walnut Street, Willows. I have taken the oath.

25 I am a third-generation farmer in the Willows

1 are, and I am here today as a president of the Colusa
2 Glenn Watershed Program. We are composed 1,740
3 members, we're linked 286,000 irrigated acres in Glenn
4 and Colusa Counties. We are a part of the Sacramento
5 Valley Water Quality Coalition. I first spoke here at
6 the December 2002 hearing, at the beginning of this
7 program. Then as now, we have heard and will hear a
8 variety of comments concerning water quality in the
9 Central Valley. This is expected to, given the large
10 spectrum of diversity verses the huge area as the
11 central valley. What is different from then to now is
12 that we have developed an extensive database of surface
13 water quality data. What also is different from then,
14 is that we have helped to build a proven program that
15 is identified and is solving surface water quality
16 problems, and those problems are few in Glenn and
17 Colusa counties. The current program is a success
18 story for us, it is an efficient and effective method
19 of enhancing surface water quality.

20 What are some of the components of our success?
21 We have built strong partnerships between our members
22 and the local Ag commissioners, resource conservation
23 districts, natural resource conservation services,
24 cooperative extension services, county farm bureaus,
25 and others.

1 We have conducted monitoring and assessments,
2 identified water quality issues, and are solving
3 surface water quality problems. We have raised
4 awareness of water quality issues among, not just our
5 members, but also our elected officials and the public
6 at large. We are implementing management plans that
7 are solving problems and enhancing surface water
8 quality. A big component of this process has been a
9 surveying of our members under current management
10 practices, and implementing management practices that
11 contribute to the enhancement of surface water quality.

12 Another component of our management plan
13 implementation is a securing of grant funding to help
14 our members. This has all been accomplished in
15 conjunction with our partners. We all share the same
16 goal, good water quality.

17 We have a proven program in Glenn and Colusa
18 counties that is a success story and is performing
19 effectively and efficiently. The proposed framework
20 may be a solution, but not for us. The framework is a
21 steep way solution for a local problem, from our
22 prospective. Implementing the framework with this
23 requirement for farming evaluations, electronic
24 submittal, involvement of other interesting
25 stakeholders and the introduction of multiple tiers

1 will divert us from our goal in enhancing water
2 quality.

3 After many years of building working relations
4 with many groups, making our own partnerships,
5 educating our members and the public on water quality,
6 we are now enjoying success. The proposed framework
7 will stop your progress, the irrigated lands regulatory
8 program is a success, including, Colusa counties.

9 Please allow us to continue with the current
10 program and to finally add the groundwater component
11 that will be as successful. We want, we need, good
12 quality water for our farms and our homes. Thank you.

13 CHAIRPERSON HART: Thank you so much.

14 I'm going to call Patricia Chipperly
15 (phonetic). And I hope she can get home through the
16 snow.

17 PUBLIC ATTENDANCE CARDS: You know, I have a
18 PowerPoint. I don't know if it could come up. I'm
19 Patricia Chipperly (phonetic) and I provided some
20 comments, which I have extra copies for. I am here on
21 behalf of (inaudible) river, Quality Conservation
22 League, and Pacific Coast Federation of Fisherman
23 Association. I live at 15652 Olive Road in Truckee,
24 California. And I have authored: "Is the water safe to
25 drink, Toxic Pit Cleanup Act, Leaching Fields, and a

1 program that toxics all for the research."

2 Today I'm good to work on being unpopular and
3 discredited. If I could bring the slide show up, I
4 don't know if it is, I want to talk about an issue --
5 is it here? Somebody else could go.

6 CHAIRPERSON HART: Okay. Let -- we could have
7 John Garner come up while they're figuring that
8 scenario out. And you could come to this podium right
9 here. Thank you so much. Thank you.

10 We need to make sure the microphones on,
11 please, too.

12 PUBLIC ATTENDANCE CARDS: Are we on now? Okay.
13 John Garner. I just want to follow-up. I live in
14 Colusa County. In Northern California. I'm a part of
15 the (inaudible) team. I have been involved with the
16 process from its inception. And I kind of just wanted
17 to lay a little history out in reference to what Larry
18 was talking about. I've been farming for 42 years,
19 back in the late or late '80s and early '90s,
20 agriculture was deem (inaudible) by, let's say, many of
21 our population, saying that we used every chemical
22 that -- on every crop to the full extent, and it meant
23 there was six chemicals to kill water grass, and we use
24 all six of them at the full label. And we really had
25 no data to back that up.

1 We came forward, the growers and agricultural
2 members were proactive, came forward with a solution,
3 and came with the full reporting of what we applied:
4 The notice of intents to apply chemicals, and notice of
5 application debunked the whole TMDL thing. We were
6 just supposedly putting names and counts of chemicals
7 into the rivers. Ninety's and 2000, we were demonized
8 again saying that the groups brought suit against you
9 saying that we were polluting everything, dumping
10 millions of pounds of pesticides and chemicals into the
11 rivers. And so, we, again, as a proactive group, the
12 agriculture came together and worked with your Board
13 and staff to come up with this plan, that's working
14 quite well, and in fact, giving you plenty of seven
15 years of data that, again, debunked these thousands of
16 tons of chemicals going into the system.

17 So, we have a good -- the new program might
18 just be a little overkill. The fact is, we've got a
19 fairly good system in our area, we've got 92 percent
20 participation. As far as turning in the people who
21 aren't in, um, we're not real sure who those are,
22 because we have our membership, which is 92 percent of
23 the growers, and so, you know, if somebody's hiding out
24 there, we kind of rely on this overlay map or whatever.
25 I don't know, we'll have to work on that.

1 But I just wanted to let you know, that
2 agriculture really has a lot to gain from being
3 proactive. It really wants to fix this problem, nobody
4 wants to pollute the water, and it's part of our
5 livelihood. Thank you.

6 CHAIRPERSON HART: Any questions? Thank you.

7 PUBLIC ATTENDANCE CARDS: I am Patricia
8 Shiperly (phonetic) (inaudible) Berkeley, California.
9 And I took the oath.

10 And I am here on behalf the Friends of the
11 River, planning conservation league, Sierra Club, and
12 Pacific Coast Federation of Fishermen.

13 One of the things I wanted to talk with you
14 about today is how there was another regulatory program
15 that you're very familiar with and you like a lot. It
16 is the West Side Program to control solidum. And,
17 basically, we've had a program here in force for almost
18 a decade and a half, and what we have here is a
19 discharge from groundwater, we have irrigation imported
20 in causing the problem, and applied surface supplies
21 that are causing the groundwater contamination, and we
22 have discharged to this federal San Luis drain that
23 goes through wetland areas, and also, through National
24 Wildlife Refugees and State Refuges, we then discharged
25 to Mud Slew and then we go into the San Joaquin River.

1 Basically, we have a almost a decade and a half
2 of showing that we haven't complied with water quality
3 standards. I caution you, from using just MCL's as
4 your standards. And here we see that the discharge
5 itself, which is monitored some 30 -- 50 to 130-miles
6 away, basically, doesn't comply with either the clean
7 waters standards and at times, actually, MCL's. But,
8 as you know, there are very few MCL's, especially, for
9 many of the pesticides that are being used.

10 DVCP was a very big problem, when I was at the
11 legislature; it is not used as much now, but it is a
12 legacy, and it's going to last for a long time. This
13 is going to be a legacy that we will have with us,
14 selenium, along with the other contaminants coming off
15 the west side.

16 Here we are here at Mud Slew, where we see we
17 don't comply with water quality standards, and yet,
18 there's been no enforcement. Here we are at the San
19 Joaquin River, again, we're violating MCL's in this
20 case, but we're definitely violating water quality
21 aquatic standards.

22 This is creating an unsafe condition for
23 salmon. We have predictions of mortality anywhere from
24 10 to 40 percent, depending those concentrations.
25 Right now the measurement of loads by themselves is

1 misleading. When you compare a 1997, which is a
2 flood-year load, with 2009, which is a critically dry
3 year, of course you're going to get less loads. But
4 you have high concentrations, and they stay in the
5 system. You right now are seeing in the San Joaquin --
6 the San Joaquin is known for it's the -- providing the
7 greatest amount of selenium into the San Francisco,
8 Sacramento, San Joaquin, Delta, an estuary. Compared
9 to the Sacramento River and the oil refineries, it's
10 very large, so, as a result we're suggesting that you
11 try and enforce and make enforceable actions.

12 Thank you very much.

13 CHAIRPERSON HART: Thank you. Pam Giacomini
14 (phonetic) and then McArthur and Carol DAVIS
15 (phonetic).

16 PUBLIC ATTENDANCE CARDS: Thank you, Chair
17 Hart, members of the Board. My name is Pam Giacomini
18 (phonetic), you did very good, it's not easy. I am
19 here representing the Northeast California Water
20 Association, as well as myself. I'm a member and a
21 grower. My family has been managing our lands for four
22 generations, over a hundred years. I live at 41363
23 Updyke Lane in Hat Creek, California. And I have taken
24 the oath.

25 First, I'd like to start by thanking

1 Dr. Longley for recognizing that one size does not fit
2 all. And I'm going to echo Larry in these statements,
3 but I'm going to focus my comments all on our
4 Northeastern California area. Agriculture and Ag
5 watersheds is different than the valley floor. Our
6 growing season is shorter, the number of irrigated
7 acres is limited, and pesticide use is virtually
8 nonexistence. The quality of water is more likely to
9 be impacted by the contributions from the natural
10 environment, than from our ranchers and growers.

11 We, in the upper watersheds, from the very
12 beginning of this program, has sought recognition that
13 are impacted on water quality or different than other
14 parts of the central valley region. We thank the Board
15 for hearing that. And for the inclusion the Tier 1 and
16 framework; however, as we look at the map, to your
17 left, I don't see much green there. I see pretty much
18 all Tier 2. Consideration of the intensity of
19 operations per the staff recommendations, would include
20 information such as the relative amount of irrigate
21 agricultural use as compared to other land used in the
22 geographic area, as well as pesticide use.

23 For example, in our area, only 8 percent of our
24 2.7 million acres is in irrigated agriculture. Like
25 other areas, I, our growers and ranchers, have spent

1 hundreds of thousands of dollars on monitors and
2 reporting requirements. We have secured grant money
3 for special studdies to show what the source of the
4 water quality impacts are, and in the end have found
5 our management plan requirements limited to E. coli.
6 Yet, with all of our monitoring, showing that there's
7 no time to agriculture for any of the accedences, there
8 are sections of the framework which would eliminate the
9 possibility of us qualifying for Tier 1.

10 Footnote six on page A4 leads us to believe
11 that if there's a 303D listed water body, then Tier 1
12 designation is not possible. Which may be why we see
13 the map that way, I don't know. But, I guess, I would
14 question staff and then ask the Board to follow-up on
15 that, would that be the case? The only accedences of
16 water quality objectives in the upper watersheds have
17 been a triggered set of plans, all have significant
18 contributions for the natural environment: E. coli, PH,
19 and desalt oxygen. I would ask the Board, how is
20 preparing a farm evaluation, a value to the Board, when
21 our monitoring results clearly show that management --
22 that what we're doing in agriculture is not impacting
23 water quality. Are there any management practices that
24 could be applied to PH or is it a function of geology?

25 So, I would thank the Board very much.

1 PUBLIC ATTENDANCE CARDS: I'm Bob McArthur
2 (phonetic) I live in McArthur, California, I am the
3 fourth generation farmer/rancher in the area. I'm also
4 the current president of the Northeastern California
5 Water Association, covering northeastern California.

6 I would like to give the Board copies of our
7 management survey that was sent out and our growers
8 completed.

9 STAFF COUNSEL: May I interrupt here one
10 second, I apologize to the speaker. This is the staff
11 counsel over here speaking. In our notice of public
12 hearing for this framework item, the instructions were
13 that we would be accepting written comments prior to --
14 received prior to the hearing. And I don't know that
15 that was submitted prior to the hearing, but we have
16 another letter from the previous speaker that was --
17 that was given to me, and so, I just wanted to note
18 that those are technically late comment letters, but
19 the Chair has the discretion on whether or not she
20 wants to admit those late comment letters.

21 So, I just wanted to point that out in regards
22 to, perhaps, these items and the prior comment letter
23 submitted by the Sierra Club, from the (inaudible)
24 group.

25 CHAIRPERSON HART: Okay. Can we deal with the

1 procedural issue after we finish this round of speakers
2 and have a break.

3 MR. ADAM LAPUTZ: Absolutely.

4 CHAIRPERSON HART: Thank you for raising that
5 issue.

6 PUBLIC ATTENDANCE CARDS: My point to all that
7 is we had pretty much a good response from our growers,
8 and I'd like to take a little bit of credit for it, I'm
9 sure that alphabet soup of a government agencies would
10 like to take credit for all of the stuff our growers
11 are doing, but probably the biggest point is, the
12 drought we just came out of and increase cost of
13 inputs, energy and fertilizer, probably have has much
14 to do with the farmers taking actions they are doing to
15 conserve water, concern of their inputs, and improve
16 their water quality. Thank you.

17 CHAIRPERSON HART: Thank you.

18 PUBLIC ATTENDANCE CARDS: Thank you, members of
19 the Board. My name is Carol Delvis (phonetic) and I'm
20 from the Upper Feather River watershed group and my
21 comments pretty much echo Pam's from the prospective of
22 small upper elevation watershed. And that being, she's
23 covered most of my points, but the one I did want to
24 make is that our 105 members are also small families
25 and run ranches, we have low-profit margins in our

1 area, and yet we've spend \$50 to \$60,000 a year on this
2 water quality program. And now -- even though we only
3 comprise six percent of the watershed area, it appears
4 that we now be asked to repeat this routine for the
5 groundwater program. So, I encourage the Board to
6 maintain flexibility and economic reality for the few
7 program orders, especially in areas where agriculture
8 is an extremely small portion of the watershed, and
9 where natural elements play a large role in the water
10 quality picture. And, also, Madam Chairman, our
11 director of our Sierra County Department of Public
12 Works has submitted a blue card, but he did not get
13 called during the last section, and he asked if it
14 would be appropriate for me to turn in his comment
15 letter.

16 CHAIRPERSON HART: What's that person's name?

17 PUBLIC ATTENDANCE CARDS: Tim Beale
18 (phonetic)Sierra County.

19 MR. STPHAOEUFPLT: Did he leave already?

20 PUBLIC ATTENDANCE CARDS: He had to leave.

21 CHAIRPERSON HART: I'm sorry. I didn't see a
22 card that was not marked public official. So, if you
23 would submit the letter to our counselor so, we can
24 ascertain, I'll make a ruling on all these late letters
25 in just a minute.

1 PUBLIC ATTENDANCE CARDS: So, finally, as a
2 member of the Upper Elevation Watershed, and as a
3 brazing operation and potential for a pasture order, I
4 want to thank the Board for recognizing that there are
5 differences in the different watershed regions, and
6 that hopefully that new program will address some of
7 the concerns that we have in our upper watershed areas.
8 Thank you.

9 CHAIRPERSON HART: Thank you. The Board needs
10 to take a five-minute break. I'm really holding it to
11 five minutes, otherwise, it looks like we'll be here a
12 very very long time.

13 (Recess.)

14 PUBLIC ATTENDANCE CARDS: Thank you. First,
15 I'm going to be very brief. My name is Juan Tramedes
16 (phonetic) from Fresno, California, 25 South Agio,
17 Fresno 92727. I took the oath. I'm going to be very
18 brief because my group is leaving. So, I just wanted
19 to say one second, thank you. And, you know, it's very
20 sad. From Sierra Lake Foundation, California Rural
21 Legal Assistant Foundation, we work with a lot of
22 unincorporated communities, low income communities in
23 the Central Valley that are having this huge problems
24 of not having safe drinking water. And the main
25 source, you already heard, is the pesticide in the

1 water, as well as nitrate. If it is true, agriculture
2 is not the only source of water contamination in a
3 region; however, it is the main source of water
4 contamination.

5 So we're hoping that this Board will take some
6 action, not just so much as creating some coalitions,
7 but also regulating, working with coalitions, working
8 with farmers that are not -- that are not complied. so,
9 because, you know, it's very sad to see that some
10 irrigator staff for waivers, but however, the low
11 income families have to pay a high, high price for
12 water, most of the time. And, you know, at the end of
13 the day the grower -- the members of the coalition,
14 they are going to go back home -- thank you. They are
15 going to go back home, they going to drink nice safe
16 clean water, but most of our communities, they are
17 going to go home not having the safe water to drink,
18 safe water to shower on, because a lot of our
19 communities also experience health issues because of
20 water contamination. So, once again, we really hope
21 this Board is going take a more active solution, take
22 that pretty much the penalties in to those people
23 contaminate water. We don't know, what's -- again,
24 people are coming to say, "We just need to open more
25 wells. All of those wells, all of the groundwater in

1 the region is polluted. And as you already heard,
2 people cannot pay for water treatment. So, that's
3 mistake.

4 Thank you very much. And I wish you good luck
5 here tonight.

6 CHAIRPERSON HART: Thank you.

7 PUBLIC ATTENDANCE CARDS: Hi. I'm Vicky Dolly.
8 (phonetic). I'm the District Manager of the Tehama
9 County Resource Conservation district. My address is 2
10 Sutter Street, Suite D, Red Bluff, California. I have
11 taken the oath. So, in addition to being the district
12 manager of the Resource Conservation District, I also
13 am an irrigator and a member of my local coalition, and
14 today I'm here to talk to you about the Shasta/Tehama
15 Coalition. So, we're in the northern most part of the
16 Sacramento Valley Water Quality Coalition. We're up
17 there where there's some green and a lot of purple.
18 And I'm not going to go over this same concerns that
19 you've heard from other people. I'll just tell you, my
20 concerns are that there is so much purple, we really
21 expected we would see more Tier 1, in the Shasta and
22 Tehama coalition area. And we're concerned about the
23 individual farm plans. Then I'll just tell you a
24 little bit about the Shasta Tehama area, that you won't
25 have heard, and you probably won't hear. To give you a

1 little background, when you start thinking about the
2 one size doesn't fit all. Solutions you're going to
3 have to come up with. First of all, we know that our
4 water quality is good. In the Shasta/Tehama coalition.
5 Our only accedences have been for E. coli and PHNDO,
6 similar to EQUIA and the upper Feather River.

7 And so, then what has been going on in the
8 Shasta Tehama Coalition area since the inception of the
9 irrigated lands program in 2002, is that there were
10 over eight-and-a-half million dollars spent that
11 effected over 30,000 acres on projects that directly
12 improve the water quality. so, there's a list of
13 projected that you've already heard today: Tail water
14 ponds, (inaudible), cover cops, all those types of
15 projects. This is not an exhaustive list, by any
16 means, but it's an impressive tool considering that our
17 membership includes 70,000 irrigated acres. So
18 30,000-acres affected of best management practices
19 since 2002. We have 70,000 acres of irrigated acres.
20 We also know about our membership, is that we have over
21 1,200 members and 68 percent of them irrigate 25 acres
22 or fewer. In our experience, these growers, these
23 smaller growers, tend to be less sophisticated and
24 they've taken a fair amount of hand holding and working
25 with them to get them to understand the program as it

1 is. Just sending them an invoice, for quite a while,
2 caused us a tremendous amount of staff time just to get
3 through that, because people will have forgotten from
4 one year to the next, why they were getting this in the
5 mail. So, the thought of taking these over 800 people
6 and implementing an individual farm plan is kind of a
7 nightmarish thought to us. And only 500 of our members
8 have given us e-mail addresses. That does not mean
9 we're the only people that have computers, but it gives
10 you a pretty good inclination. That was it. I was
11 done.

12 CHAIRPERSON HART: Fantastic. Good timing.
13 Bob Blakely (phonetic).

14 PUBLIC ATTENDANCE CARDS: Good evening,
15 Chairmen of the Board, members of the Board, I
16 appreciate the opportunity to come before you this
17 evening.

18 My name is Bob Blakely (phonetic) I'm director
19 of industrial evaluations for California Citrus
20 Neutral, based in (inaudible) California, and I have
21 taken the oath. California Citrus neutral is a
22 voluntary association of California Citrus Growers with
23 over 1,400 grower members. Producing over 60 percent
24 of California citrus, and primarily made up of small
25 family farmers. Citrus Neutral participated with the

1 development of these proposed alternatives and in ANR
2 the agreement with the comments expressed earlier with
3 the ag panel. (inaudible) a citrus plan would give
4 this recommended framework and could impact citrus
5 growers.

6 There are over 272 thousand acres of citrus in
7 California, and 70 or 80 percent of that citrus is
8 located up against the foothills along the east side of
9 Fresno, Tulare, and Kern Counties. Where an estimated
10 425,000 to 450,000 crop acres are within designated
11 groundwater protection areas, with citrus comprising
12 over a 131,000 acres of those defined groundwater
13 protection areas. Citrus growers farming within these
14 groundwater protection areas have acute awareness of
15 how their farming practices have the potential to
16 impact water and have for almost ten years now have
17 been modifying practices and implementing mitigating
18 measures to counteract and prevent their operations
19 from impacting water. The groundwater protection area
20 program will achieve a high degree of compliance, first
21 of all, because it was implemented with flexibility,
22 without layers of overly burdensome regulation and
23 without additional regulatory cost. Farmers by nature
24 are good stewards of their land. No business is closer
25 to a natural resources than farming, and farmers depend

1 on healthy resources for their livelihood. Heighten
2 awareness of impacts and economics are two forces that
3 drive producers toward stewardship. In recent years
4 nitrates have been identified at high levels in
5 groundwater, and some would like to unfairly blame
6 hope, which is wholly on the backs of farmers. There
7 are many others sources of -- natural manmade sources
8 of nitrates. And the case of groundwater, these
9 sources are hard to identify, and there is no vertical
10 connection necessarily between the groundwater and the
11 land above it.

12 What's under growers farm today bated somewhere
13 else two years Ag. so, it's going to be very hard to
14 pinpoint sources.

15 I think it's more important to fix focus on
16 fixing the problem than it is on fixing the blame. I
17 do know that over the past 10-to-15 years, many citrus
18 growers along the east side installed low volume drip
19 irrigation systems to conserve water. They modified
20 their nutrient practices to officially apply more rates
21 of fertilizers in (inaudible) and this has been done to
22 reduce inputs, maximize utilization for the trees and
23 prevent nutrients from being lost from leaching and to
24 control their costs. We agree that natural resources
25 must be protected, and the (inaudible); however, we

1 believe the goal can better be accomplished through
2 education, cooperation, implementation of good farming
3 practices and third party oversight. Without
4 burdensome costly regulations. University study of the
5 compliance, the cost of the compliance on citrus
6 growers in 2008. Included that cost to be over \$356
7 per acre. Compare that to \$30 per acre for a
8 comparable citrus grower in Texas.

9 So the recommended framework being suited here
10 today states annualized costs at \$176 per acre and
11 knowledges that farm acreage will go out on production.

12 I submit that this Board, this is not
13 acceptable, and that through cooperation and focusing
14 on fixing the problem rather than the blame, we can
15 come up with a better alternative. Thank you.

16 CHAIRPERSON HART: Thank you. Richard Pool
17 (phonetic). And after Richard we're going to hear from
18 David Nethmeth (phonetic) and then Sean Boatwell. And
19 just to give folks in the audience an update on timing.
20 We will break for dinner at around 6:00, which I have
21 as being about 40 minutes.

22 PUBLIC ATTENDANCE CARDS: My name is Richard
23 Pool (phonetic), I'm here on behalf of the salmon
24 fishing industry. My office is in Concord, California,
25 and I took the oath. I'm here, as I say, on behalf of

1 the salmon industry, and I'm going to ask for some
2 help. The salmon fishing industry is totally dependent
3 on water, principally, fresh water. And those of you
4 that have followed it know that the salmon runs over
5 the Central Valley have been crashed terribly. The
6 fall run has crashed 97 percent, which is the largest
7 crash of any salmon run in U.S. history. It has
8 devastated us economically, from Morrow Bay to Crescent
9 City, small communities are dependent on the salmon
10 fishing industry. Um, we are linked to the Delta, and
11 we survive the smolts of the salmon industry must get
12 through the Delta. The Water Board did us a great
13 favor in creating a flow setting that says how much
14 water has to flow through the Delta. The other degree
15 of help we need is one of the high stressors,
16 dis-toxics in the Delta. And I listened very intently
17 and I have great sympathy for all the people in this
18 room, I have great sympathy for the job you are doing.

19 Our wish list says simply: "We need to improve
20 the toxics in the Delta," and I don't know how you do
21 that. It's a combination of all the things you heard.

22 And we would also like recognition of our
23 economics. I heard a lot of data on economics of the
24 agriculture industry. The cost of the shutdown,
25 three-year shutdown, in the salmon history was 1.4

1 billion dollars a year, 23,000 jobs. We have people
2 that are destitute, people lost their houses, their
3 boats, their income, their life savings, and one group
4 I know, two ladies left on a Greyhound bus, totally
5 broke.

6 So we are hurting and we are hopeful for your
7 help. Thank you very much.

8 CHAIRPERSON HART: Thank you. Mr. Nethmeth.

9 PUBLIC ATTENDANCE CARDS: David had to leave.

10 CHAIRPERSON HART: I'm sorry. Sean Buckwell
11 (phonetic).

12 PUBLIC ATTENDANCE CARDS: Good evening, Board.
13 My name is Sean Buckwell (phonetic), I'm from Walnut
14 Creek, California, and did I take the oath. Today I'm
15 here on behalf of the California Coast Keeper Lines,
16 which represents 12 organizations from San Diego all
17 the way up to the Oregon border.

18 On behalf of the California Coast Keeper Lines,
19 we would urge that this board object the proposed
20 framework. I'll make this pretty quick. In order for
21 the Board to make meaningful reductions in irrigated Ag
22 runoff, there's five steps or changes that need to be
23 done to the framework. First, you need to eliminate
24 third-party coalitions, they don't work. Second,
25 require monitoring for all Ag dischargers. Third,

1 require individual farm water quality management plans.
2 Four, require near-term compliance with water
3 standards, not something in the future, five, ten
4 years. We need to start getting towards water
5 standards now. And, five, require the framework to be
6 consistent with anti-degradation policies. Without
7 these changes, irrigation Ag is going to continue to be
8 the number one pollution source in California. Thank
9 you, very much.

10 CHAIRPERSON HART: Thank you.

11 Now, next we'll hear from Larry Boyd (phonetic)
12 and then Jim Gleason (phonetic), Ganell Gleason
13 (phonetic), Valerie Zenfer (phonetic).

14 PUBLIC ATTENDANCE CARDS: Good evening, madam
15 Chair, and members of the Board. My name is Larry Boyd
16 (phonetic), I am a district manager at the Sutter
17 County Resource Conservation District. I have also
18 been coordinator for the Butte Yuba/Sutter Water
19 Quality Coalition, and I work in Yuba City, California.
20 And I did take the oath. The Butte/Yuba Sutter Water
21 Quality (inaudible) watershed is within the Sacramento
22 Valley Water Quality Coalition, and we have a
23 membership of over a thousand producers. On about
24 430,000-acres of irrigated lands. And our members are
25 very much in support of implementing those management

1 practices to improve water quality. And I do also want
2 to mention that I support the comments that were made
3 by Larry Dominigigi (phonetic) and by Vicky Dolly, and
4 I appreciate what they said. Because a lot of what I
5 was going to say, they already said. So I am just
6 going to do about half of what I have on this page
7 here, and that is what I want to call the Ag producers
8 success story. And, um, I hope this is considered a
9 legitimate claim, nothing inflated about it, it's
10 factual. In 1994 the U.S. EPA uses the lower Feather
11 River for a (inaudible) for a non-impairment under the
12 clean water act section 319303D. And then in 2003, the
13 Regional Board established a GMBO for diazinon.

14 In 2010, Sutter County Resource Conservation
15 District completed a four-year project called the
16 implementation of the Feather River, total maximum
17 daily load for orchards. This resulted in over 3,500
18 acres of vegetative covered crops, filter strips on 48
19 orchards in the sub-watershed.

20 And in the partnership with the coalition for
21 Urban and Rural Environmental Stewardship, we had nine
22 sprayer calibration workshops, 23 sprayers were
23 calibrated, and over 4,000 nozzles were cleaned and/or
24 replaced.

25 Now, also in partnership with Coors, produced a

1 handbook on best management practices, it's been a very
2 popular document that has been distributed to our
3 members, and it's very thorough, and they follow these
4 very closely. So, the overall efforts since 2006 to
5 the present, through voluntarily programs and producers
6 implementing these water quality BMP's, it has resulted
7 in the 2010 Regional Board recommendation to delist the
8 lower Feather River fork. So, let me say, that not
9 only is that a success story, but actually appeared in
10 an article in the EPA section 319, non-point source
11 success story. So, it received national attention.
12 One last comment, I don't think anybody mentioned.
13 Don't forget water's very important and we all need it
14 to live, but farmers grow food, you don't just get it
15 as Safeway.

16 Thank you very much.

17 CHAIRPERSON HART: Thank you.

18 PUBLIC ATTENDANCE CARDS: My name is Daniel
19 Gleason, I am from Roseville, California. I don't have
20 any fancy titles, but my husband Jim and I are a fifth
21 generation California ranching families in Sacramento,
22 Placer, and Sierra counties. And since the mid 1800's
23 our families have endured and survived droughts and
24 floods and depressions and recessions, and some very
25 marginally sustainable market prices, but now our

1 greatest threat is a bureaucratic one. California has
2 always been the leader in the nation's agriculture
3 community, and the proposal before you will not
4 eliminate California Agriculture in our state. But I
5 think it will restrict it so, severely that the only
6 surviving agriculture will be corporate farming and
7 ranching, because only large operations will be able to
8 afford the compliance regulations and the ensuing
9 litigations; and why would this happen?

10 This proposal if, for one thing, if the public
11 access to individual business plans goes through, it
12 could unleash little -- excuse me. Could unleash,
13 legalize, extortion by agriculturally unfriendly
14 entities upon us. And the individual and family-owned
15 operations that farms and ranches will be extinct. I
16 never hear anything this in EIR. I don't hear -- I
17 hear about fishes, I hear about the water, which is
18 essential to all of us especially to ag, but I don't
19 hear about the extension of people. And their
20 livelihoods and their lifestyles that have been hit for
21 hundreds of years. And as the gentleman just before me
22 said, people don't just exist on water, they need food.
23 Thank you.

24 CHAIRPERSON HART: Thank you.

25 PUBLIC ATTENDANCE CARDS: My name Valerie

1 Statner (phonetic). I'm with the El Dorado County Farm
2 Bureau, 2460 Heddington Road in Placerville. And did I
3 take the oath. I first of all want to thank the
4 staff for listening and noticing on our comments and
5 trying to address some of the concerns that we had when
6 we submitted our comments the draft last fall. But my
7 legacy here started about eight years ago when we talked
8 about this program in the first case, and we said, "One
9 size does not fit all. We didn't want you to apply
10 this to the mountain counties, because we are really
11 different. And I later returned to the Board and said,
12 "Please let us have coalition, because that was
13 important to us. We have many small farmers, we knew
14 that we really couldn't do the on-site monitoring, as
15 was being originally proposed. So, we have proven over
16 the last five years of monitoring that we have no
17 exceedences that were attributed to agricultural
18 sources; so what was said was correct. We are
19 different. We don't have issues with the pollution
20 there, and the Coalitions are working for us. So,
21 there is some flexibility within the framework, and we
22 appreciate that, but the specific details are
23 (inaudible) and we're going to have to work very hard
24 in a development specific orders. We have no defined
25 groundwater basins in our county. Agriculture, so, we

1 have no area where representative samplings had
2 occurred. So we would like to be considered to be
3 included in tier one, because we really have no way to
4 comply with that.

5 But the pathways between Tier 2 to Tier 1 need
6 to be better defined. The coalitions are working in
7 our little county. We have a lot of small farms and
8 ranches, the average size of our farmers parcels are
9 under a coalition.

10 Our coalitions are run by a board of volunteers
11 and they represent the commodities that we grow. We're
12 focused on education outreach, we're practice based, we
13 do field meetings, we have workshops, we have
14 conferences, and we found our people have been breaking
15 out, they're talking about it, they're planning for it,
16 they are thinking about it.

17 We have (inaudible), we have transparency, they
18 know who we are, they talk to us in the grocery store.
19 We can't even get away from the program when we want
20 to. Multiple orders for us would be problematic, we
21 have organic people, we have irrigated pasture, we have
22 traditional crop farming, but we only have 3,300 acres
23 in our little county there, and irrigated agricultural
24 out of 1.1 million acers of a county; so we're pretty
25 darn small. But to try to manage all of those orders

1 under one roof would be really challenging for our
2 administration. So along those lines, the other party
3 is communicating directly to the Board; it could
4 undermine our abilities as a Coalition group and the
5 efficiencies that we have in getting new data.

6 It also could cause confusion, and a lot of our
7 farmers and ranchers, they don't point and click, it's
8 really hard to get that electronic submittal across the
9 board. And I just think it's an unnecessary step; we
10 don't need to go there. Thank you.

11 CHAIRPERSON HART: Thank you. I will take
12 comments from John Zetner (phonetic) and then Nick
13 Goddy, you're waiving it right? Yes. Yes. Sorry
14 about that. And then after Mr. Zetner will be
15 Christopher Valdez and Martha Guzman and Walter
16 Ramirez. Good evening.

17 PUBLIC ATTENDANCE CARDS: Good evening, Chair
18 Hart and Board members. Thank you for the opportunity.
19 I was hoping to go in front of my wife -- my name is
20 John Zetner, and I live in Fair Play American --
21 viticultural area of El Dorado County. And I'm also
22 the vice president of our 501C5 Mutual Benefit
23 Corporation which is formed in response to this as --
24 in order to comply with the regulation, the existing
25 regulation.

1 Again, my wife stole all my thunder so I'll
2 just say I'll agree with everything she said. We're
3 here --

4 CHAIRPERSON HART: Ladies first.

5 PUBLIC ATTENDANCE CARDS: Yes, I understand.
6 We're here, although, she's representing the farm
7 bureau, I'm representing our sub-coalition. But,
8 again, echoing, we'd like to give credit to the staff
9 for listening, the one size fits all does not work, we
10 proven that in El Dorado County, I think, during --
11 during the existing waiver. We one of the questions
12 that I've been asked and I think we need to find out is
13 if an existing management plan has been signed off as
14 complete by the executive tib officer, our -- does that
15 mean we can be in tier one for that constituent, and
16 specifically, we have a toxicity management plan for
17 one of our sites, and agriculture was deemed not the
18 source of the toxicity; it cost us a lot of money to
19 prove that negative. But we would like to make sure
20 that that allows -- that doesn't keep us out of being
21 tier one for surface water. so, when orders are coming
22 forward, we would like that to be considered.

23 The other thing is groundwater, especially in
24 the foothills, and I've been a thorn in Joe's side
25 since this subject of groundwater first came up.

1 Because if you look at the DWR Board 118, it
2 identifies -- let's see. It identifies
3 12.2 million-acres as being in sub-basins and basins
4 out of the 14.4 million-acres in your -- under your
5 jurisdiction.

6 That means, that possibly 30 percent of the
7 area that you have jurisdiction over, does not have
8 identified map, unconfined aquifers where -- and along
9 those lines, I would suggest any of you that want to
10 get an education, a quick education on water,
11 groundwater, and surface water; this is put out by UC
12 Davis Agricultural and Natural Resources, it's a 2008
13 book, it's put out by senior professor Thomas Harter
14 and it talks about everything that's been discussed
15 here today.

16 And I don't understand a lot of it, but I now
17 understand the difference between aquifers and
18 aquatars. And it's kind of interesting, because what
19 you would think is intuitive if water goes down, it
20 doesn't, it runs in any direction that -- that you
21 geology tells it it should. Thank you, very much.

22 CHAIRPERSON HART: Thank you. Is Christopher
23 Valadez here?

24 It does not look like. It. Is Martha Guzman
25 here?

1 MS. GUZMAN: Walter was after me, you let him
2 speak earlier, so...

3 CHAIRPERSON HART: I sure did.

4 MS. GUZMAN: Martha Guzman, I'm a California
5 Rural Legal Assistance Foundation. First of all, I
6 wanted to also thank your staff for the process that
7 was -- took place for the last year or so. It was
8 something that did allow, so nobody's all happy with
9 framework, it did allow us to get some of our points in
10 and some of the facts that just weren't getting heard
11 for a long time, we finally get enough space at the
12 table. And, in fact, that's -- that public process
13 that took place is what -- one of the most concerning
14 pieces of what's going to be going forward now. With
15 these 12 -- with the development of these 12 orders.
16 There is a huge need for public involvement, assuming
17 you're going to go with the order approach on the
18 Coalitions, and just as an example, Board Member Lyle,
19 you brought up the question of mitigation. And it is
20 true that public process, where we will be able to talk
21 about how in each of these Coalitions there are going
22 to be distinct and innovative approaches for dealing
23 with the immediate need in the interim of 20 or 40 or
24 50 years when our groundwater gets drinkable again.
25 Um, it's no question that the contamination is going to

1 get worse, according to all the data that was reviewed
2 through this process, even if the loading stays the
3 same or even if the loading increases. Because of the
4 legacy issue. So, we do need to do something about the
5 problem now; it is an urgent problem. We waited for
6 decades, let's get together, these are the right
7 players, these are the surface water holders these are
8 the managers, they know how to figure this out. And in
9 some cases, this has already happened. So, it's
10 another reason for the need for really public involved
11 process for the development of these orders. And I was
12 going to give some examples of that, but I'll be more
13 than happy to share those with you later. I did also
14 want to say that in terms of the goal, um, it's -- it's
15 everybody's goal, I think, to get to a point of
16 drinking water, and I think we need to be very explicit
17 in each order that one of the drinking water goals is
18 the MCL for nitrate; I just think that's a really basic
19 thing that needs to be explicit. I think that, um,
20 there's -- anyway, I think the big thing, because of
21 how this seems to be working out today, is that we do
22 really need to be -- you need to direct your staff,
23 more than anything, since there's going to be direction
24 given, I guess, as to how to deal with this mitigation
25 and how to have the public involved. Thank you.

1 CHAIRPERSON HART: Thank you. Is Larry Lloyd
2 still here?

3 PUBLIC ATTENDANCE CARDS: Yes.

4 CHAIRPERSON HART: You already spoke. And did
5 Tom Avalar?

6 PUBLIC ATTENDANCE CARDS: Tom had to leave.

7 CHAIRPERSON HART: Okay. I wish you would have
8 told me. Connie Manheart -- Candy Manheart.

9 PUBLIC ATTENDANCE CARDS: Madam Chair, members
10 of the Board, thank you for having me. My name is
11 Candy Manheart. I'm the executive officer of the Glen
12 County Resource Conservation District, and there's been
13 a few words spoken here over the day, and I just want
14 to touch on those words so, that way you have something
15 to take home with you and think about, um, when you
16 have to make your decision. And that's outreach and
17 education, and what we're doing on the ground at the
18 local level. And to expand on that, I just want to
19 share the partnership with the RC and the Colusa/Glen
20 Watershed Program, and what we do for your members and
21 growers to meet regulations. First, I want to expand
22 on the grant funding that we've acquired. To implement
23 management practices. Through the agriculture water
24 enhancement program, which is funded through the USDA
25 Natural Services -- Natural Resource Services Program,

1 we secured six mill million dollars in Colusa and Glenn
2 counties over the next five years, and that's going to
3 put conservation and best management practices on the
4 ground. And that \$6 million is part of the larger
5 13 million within the Sacramento Valley region that
6 addresses water quality, on the surface and the
7 groundwater levels. And those numbers don't include
8 that equipped funding that we've acquired either,
9 that's Environmental Quality and Sentence program,
10 which also puts best management practices on the
11 ground.

12 And I must say, that growers are knocking on
13 our doors every day trying to get that funding, because
14 they want to do good to the land. So, there's plenty
15 of growers out there implementing those -- those
16 practices that we all know how to do to protect our
17 water quality. Lastly, I just want to acknowledge the
18 response when there is impact on water quality and the
19 how we respond. We have phone calls, we have letters,
20 we have workshops, we submit newsletters annually, and
21 we are constantly in front of our growers reminding
22 them of the importance of groundwater quality and
23 surface water quality. And when necessary, we do
24 mandatory surveys, we make sure that they are submitted
25 within a timely manner. So I just want to close that

1 RCD is a link between the growers and the government,
2 and we are seeing them implement best management
3 practices to protect our water quality surface and
4 ground level.

5 And so, if any of you want more information on
6 the outreach and education that we provide in Northern
7 California, I'd love to set up a tour and provide that
8 for you and your staff. We're more than willing to
9 share our farms with you guys. So, thank you.

10 CHAIRPERSON HART: Thank you. Jazz Orany
11 (phonetic) and the Pamela Pain (phonetic) for afternoon
12 Pamela, Roxann Kessler, and Jim Salisbury.

13 PUBLIC ATTENDANCE CARDS: Good evening. I was
14 planning on saying good morning, but thank you for the
15 opportunity to speak. I wanted to thank you, also, and
16 staff.

17 CHAIRPERSON HART: Could you state your name
18 for the record.

19 PUBLIC ATTENDANCE CARDS: I'm Jazz Orany. I am
20 with the Shasta/Tehama Watershed Education Coalition,
21 and I'm in Red Bluff, California and I took the oath.
22 I want to start off by saying, thank you for this staff
23 work that they done. I've only been with this
24 organization for two years, but I think the openness of
25 the ability to feedback with your staff has really

1 helped understand, explain to our members, what's going
2 on and where we're going. Because the membership is
3 really nervous about where we're going. A lot of
4 people touched on what I was going to talk about, so my
5 list is short. Um, I wanted to -- someone mentioned a
6 connection with members. And I heard that Coalition
7 sort of identifies members and they -- this is not
8 what's happening in our area. You know, we are up in
9 the sticks but, um, we have good water quality, and we
10 have good connection with our members. We had a
11 hundred percent participation with your members within
12 a month and a half, two months. Um, and we found that
13 every member was using a minimum of three of the E.
14 coli BMP's with the average of 5.5 for all of them.
15 So, there's a lot work being done.

16 I'm actually going to a irrigation management
17 workshop, pasture workshop, on Saturday, to give a
18 presentation about the program. Our Board has extended
19 the funds to use for education and outreach, they see
20 that it's working, they see that it's useful. My last
21 checkmark, I just saw this map with all the purple for
22 first time today, and um, purple is mud. And it's --
23 it's very muddy. Your comment earlier was very much
24 appreciated, about that this particular framework is
25 very muddy; I hope you'll take time to consider it and

1 consider options. Thank you.

2 CHAIRPERSON HART: Thank you. Pamela.

3 PUBLIC ATTENDANCE CARDS: High, I'm Pam Paien,
4 thank you for taking the time to hear me today. I did
5 receive late today late revisions that you have here,
6 um, on number ten on page A9; and I was going to speak
7 on that today. I did see that you did -- the
8 conditions, it read before: "Conditions may include
9 minimizing tailwater, storm water runoff, keeping
10 cattle from water courses with designated contact, to
11 recreational or drinking water uses. And I see you
12 changed the wording from conditions "may" to "will"; is
13 that correct?

14 CHAIRPERSON HART: Vice versa.

15 PUBLIC ATTENDANCE CARDS: It's from "will" to
16 "may". Okay. And I was going to speak to you today on
17 that, because I am a rancher and large landowner in
18 Sacramento County since our family for five generations
19 and Sierra and Plumas counties. One of my concerns
20 was -- and we raise beef cattle on irrigated and
21 non-irrigated meadows, with (inaudible) hey production;
22 however, the broad definition of water course, in the
23 footnote on page A9, will result in impossible
24 management criteria for several of our large vast
25 ranches with native metal lands, which are crisscrossed

1 by expansive systems of water courses, including:
2 Rivers, streams, channels, marshes, and conveyance
3 ditches. This requirement has potential to remove
4 thousands of productive privately owned 4H acreage from
5 these ranches. We acknowledge that prescribed fencing
6 can be a practical management tool for many
7 circumstances; however, it is important to take into
8 consideration the local watershed characteristics to be
9 sure we identified management practices that are
10 sub-sustainable and do not degrade habitats and other
11 valuable watershed services that are provided by these
12 privately stewarded open spaces of our native Sierra
13 mountain meadows. And, personally, I'm speaking of
14 almost 20,000 acres of our meadows that I own. In
15 light of this we ask the Board to make a minor but
16 crucial edit and remove footnote number ten on page A9.
17 These details can be developed in the order itself when
18 Regional Board's staff works with third parties and
19 local resource professionals to develop a sub-sustainable
20 management plan that does protect unique regional
21 characteristics and culture. And I, also, want to let
22 the Board know, too, that as a native California to
23 this state, I am very committed in conserving and
24 protecting our water quality. Thank you.

25 CHAIRPERSON HART: Thank you. Roxann Kessler.

1 PUBLIC ATTENDANCE CARDS: My name is Roxann
2 Kessler, and I am a resident of Stockton and San
3 Joaquin county. As a biologist, a fishery biologist, I
4 am frequently in the field of observing the environment
5 and I am keenly aware of the demise of the health of
6 our ecco system and the decline in our fish
7 populations. Just as the folks from Tulare County made
8 comments how the pollution of groundwater is affecting
9 their lives, I want to be a reminder of that, many
10 other species are also affected. By the improvement,
11 over time, in quality of our water. They cannot buy
12 bottled water as a safe alternative. They end of
13 paying with the health -- with their health, the health
14 of their offspring, and the quality of their lives. We
15 are dependent upon farmers to feed us, and I am deeply
16 respectful of this, but fish feed us, too. And if we
17 can better control agriculture pollution, then -- then
18 let's do it. I urge you to remember these individuals,
19 fish, and other species, as well, at that don't have a
20 voice. And I hope that we can work together to better
21 control and protect our water quality.

22 We are all dependent on the choices you will be
23 making after today. Thank you.

24 CHAIRPERSON HART: Thank you. Is Jim Salisbury
25 still here?

1 I don't see him here, but his card indicated
2 that his family has been ranching in the Delta since
3 1850, and cost and regulations are strangling his
4 ability to keep going. And he's conservation minded
5 and has proven his ability to be safe. Someone -- I
6 think that's safe.

7 In any event, is Roger Ingrahm still here?

8 And then Dr. Mark Brockwell could be ready to
9 speak after him.

10 PUBLIC ATTENDANCE CARDS: Thank you for the
11 opportunity to come and speak before you. I'm Roger
12 Ingraham. I'm a fund adviser with the University of
13 California (inaudible) of extension service, and also,
14 county director in Placer and Nevada counties.

15 I want to echo the comments made by Pam
16 Giacomini and Carol Delvis and Vicky Dolly. You heard
17 some things about how outreach -- some things about
18 where I'm at in the Foothills, just east here, of --
19 Sacramento is, under fact, that it is a very small
20 scale of agriculture, or 80 percent of the farms, or
21 less than 50 acres in size. A lot of those are more
22 like ten acres in size. The amount of pesticide usage
23 is extremely low, as well as fertilizer usage, as well.

24 I think that there is a lot of outreach that is
25 occurring. And I think maybe that -- you know, maybe

1 getting that better organized would better help the
2 Board to understand the outreach that is going on
3 ourselves. Myself, as a livestock adviser and a
4 horticulture advisor, put on probably close to 40
5 workshops a year. There's a orchard workshop happening
6 on Tuesday, which we will be talking about soil
7 management, irrigation, water management, and those
8 types of things.

9 So, that's kind of integrated into programming.
10 And I'll be teaching a grazing school in about three
11 weeks for a couple of days getting into a lot of
12 issues, as far as maintaining a hundred percent
13 ground-cover, and developing outside water, those types
14 of things that could help improve water quality.

15 So, there's those kinds of things happening,
16 there's resource conservation district is doing
17 outreach, and, also, NRCS, maybe that's getting better
18 information to the Placer and Nevada groups for them to
19 better -- get a better picture of the outreach that is
20 occurring. Because I don't think that this needs to be
21 totally focused on this sub watershed group, I think,
22 it's just them being integrated into what are the
23 existing things going out there and then their annual
24 meeting speaking on best management practices.

25 Um, I think that -- I think this point about Ag

1 viability is huge. We are -- a lot of our efforts are
2 going to training beginning farmers to try and get a
3 new generation as Ag.

4 So, I think, this balance of having the water
5 quality, but also having the -- that economic
6 viability, is something to keep in the forefront. And
7 I think the individual farm plans, and the reporting of
8 that, those are kind of easy things to say, but can be
9 kind of hard on the implementation type of a thing.

10 Another thing, is that, um, I think that as
11 things go on that agriculture wants to stay at the
12 table, talking through, helping, working through the
13 framework and get down to the details, and those type
14 of things. And, I think, with the Placer, Nevada,
15 south Sutter, and Northern Sacramento group over the
16 last several years, they've spent over \$300,000 on
17 monitoring costs, and the results are similar to what
18 you heard, as far as very little impacts. So, you they
19 point fingers -- there's been a lot of effort for
20 outreach and a lot of effort on (inaudible), as well.
21 Thank you, very much.

22 CHAIRPERSON HART: Thank you.

23 PUBLIC ATTENDANCE CARDS: I'm Mark Rockwell
24 with the Federation of Fly Fishers and the Endangered
25 Species Coalition and I did take the oath. So -- and I

1 appreciate the opportunity to give comments to the
2 Water Board. It's a difficult thing. I know we're all
3 kind of suffering through the day. But, I think -- the
4 comments that I have, as I was caught by the staff's
5 slide that was put up by the, I don't know, it seems
6 like countless hours ago now, but in those slides
7 showing the different teared acreage, I was just struck
8 by 95 percent of the irrigated lands are still in tier
9 two or Tier 3, either unknown or serious threats. And,
10 I was just also struck that, you know, we've had seven
11 years of Coalition monitoring during that period, as
12 well as, other actions that the Coalition have been
13 doing to try to correct problems, but yet, we still
14 have over 7 million-acres with unknown or serious
15 threats to the system. And the -- during that same
16 seven-year period, as Dick Pool eloquently spoke, too,
17 the salmon fishery has declined by 97 percent. And I
18 want to bring to you, you know, 95 percent or
19 50 percent or whatever it might be is hard to see.
20 But, essentially, that is a salmon fishery decline from
21 780,000 fish to 48,500. 780,000 is about the
22 population of San Francisco city and county. And if in
23 a seven-year period the population of San Francisco had
24 gone from 780,000 to 48,000, I think we would all be
25 stunned, frankly. And that's kind of the way I see the

1 fishery declines, to try to bring it into some reality.

2 And as Dick so eloquently said, those declines
3 have impacts that come with them, that's all the
4 communities, fisherman, coastal communities that have
5 been affected negatively, loss of business, and et
6 cetera. So -- and with those fisheries, we know from
7 all the studies that have been done, the toxicity in
8 the system is one of the three major drivers to this
9 decline. So, you know, we would -- we would hope that
10 the Board will not continue this Coalition process.
11 Not the people aren't working up at the farm community
12 isn't doing good things, I think that they are in many
13 areas, but they are not all areas. And I've not heard
14 really any input of substance today from the red areas
15 on your map. You know, we had a lot from communities
16 that are outside, you know, Shasta County and Sierra
17 Foothills, which are not significantly impactable
18 communities. But, we've had a significant level of
19 silence from those red areas on that map. And I'm just
20 going to say that we don't believe those red areas are
21 doing their job in the Coalition or in any other form.
22 Solidity levels for the west San Joaquin are extremely
23 high, the delta -- the fisheries in the delta are in
24 the system. So, you know, please for the fish and the
25 thousands of family businesses that have been affected.

1 Do the right thing here. Have -- have more stringent
2 requirements. Don't do it with local coalitions on
3 what seems like a volunteer basis, there has to be more
4 regulation involved in that. Thank you.

5 CHAIRPERSON HART: Thanks. I had a card from
6 Mary Helen Dougherty, and I believe she had left, but I
7 believe there's someone here to speak on her behalf.

8 While this person's making their way up, I have
9 about 10 remaining cards, most of the folks are from
10 Sacramento, but there are a few -- is it there anyone
11 here not from Sacramento who has to leave before we --
12 John, you have already spoken. You want to speak
13 again?

14 PUBLIC ATTENDANCE CARDS: I put down for
15 number -- Item 6, since they were different topics.

16 CHAIRPERSON HART: I'm sorry, I didn't see a
17 card for you. I will call you next.

18 Is there anyone else in the audience who is not
19 from this area that needs to leave and get back?

20 PUBLIC ATTENDANCE CARDS: I'm pretending to be
21 Mary Helen Dougherty. So, I think she took the oath.
22 Madam chair. And the board members, thank you for the
23 opportunity to speak to you. My name is Mary Helen
24 Dougherty and I'm a resident of Sacramento. I spoke to
25 you today as a member of the board of directors of

1 Development Corporation. We are a nonprofit
2 organization that works in partnership with large --
3 with local communities to improve a neighborhood social
4 and economic well being. For the last three years, our
5 primary work has been to provide access to locally
6 grown produce purchased from small farmers in the
7 Sacramento region. We offer urban farm stands in local
8 parks in low-income communities in Sacramento and Yolo
9 counties. I'm here to ask for your support of the
10 framework resolution. The quality of our water impacts
11 the quality of the produce we sell, and the health and
12 well-being of the low-income children and families we
13 serve.

14 We, also, share the concerns shared by your
15 colleagues here today for the quality our drinking
16 water and the negative human health impacts that will
17 occur when water quality problems failed to be
18 prevented. Thank you.

19 CHAIRPERSON HART: Thank you. And we will hear
20 from John Herrick, and then we're going to take a break
21 for dinner.

22 Thank you, very much.

23 PUBLIC ATTENDANCE CARDS: Thank you very much.
24 John Herrick, South Delta Water Agency 4255, Stockton
25 California 95207.

1 I am not able, but I am a Paradione of vertue
2 and honesty.

3 CHAIRPERSON HART: Oh, no, no, no. You're
4 getting ready to go, so, I thought I would give a
5 little bit of --

6 PUBLIC ATTENDANCE CARDS: No, no.

7 First of all, in regard to the economic
8 analysis costs. Sorry.

9 The cost analysis didn't quite give us what we
10 need. And by that I mean, right now the coalition that
11 I'm a member of, we assess \$2 or .25 or something like
12 that. If that goes up to \$40 an acre, we might as well
13 not consider this. It doesn't matter what should
14 happen or shouldn't happen, I can't get that done. So,
15 I need to know, for an area that's already red and
16 blue, for everything, we need to know an estimate
17 before we go too much farther down this road what it's
18 going cost, because literally, if I have to send out a
19 voluntary assessment, that's 20 times more than what we
20 do now, it just won't work. I can't make it woke.
21 That's the thrust of my presentation is we have to
22 something that those of us who were hurting the cats
23 can make work. My next point has to do with the tiered
24 system. As you can see in the delta always is the
25 bad -- bad party, and then that's blue around that, or

1 I'm color blind, purple, something.

2 I just wanted to say a couple things. In San
3 Joaquin County, working with USGS, they did a sampling
4 of wells and they found 45,000 year old water at one
5 depth and a little deeper a little ways away, they
6 found 25 year old water. So, when you come to me and
7 say, develop a plan to characterize the area to see and
8 you're effecting anything, it's an impossible task for
9 me. The strata -- I just can't -- you know, it
10 requires scores of wells and testing; I can't do that.
11 Now, shift that to the Delta. The groundwaters 1 foot
12 below the surface in some areas, and would be above it
13 if we don't drain it. So, I'm going to get into the
14 negotiations with staff sooner they are going to say,
15 "Mr. Harrick, you're applying salty water to this and
16 it's going to meet to the ground waters right there,
17 it's touching the channels, right away, which is a
18 public health issue." And they are going to make me
19 solve the river salt problem. I can't do that. So...

20 CHAIRPERSON HART: John, can't means won't.

21 PUBLIC ATTENDANCE CARDS: That is correct.

22 But, when you get -- when you get a situation where
23 I've got to force people who can't store or have kale
24 water systems to make sure they comply with all of the
25 existing water quality standards, it just falls apart.

1 So, as we progress -- we're not there yet, but
2 as we progress in this process, I just want everybody
3 to know, I'm going to be back before you saying, "I'm
4 being asked to do impossible tasks. I can't -- I can't
5 have people putting tailwater recovery systems when
6 they're below sea level; it does not work. Thank you,
7 very much. I appreciate being able to slip right in
8 before everybody gets to eat dinner.

9 CHAIRPERSON HART: We're going to break for
10 dinner. I'm tempted to just say a half hour, but you
11 want to say an hour.

12 PUBLIC ATTENDANCE CARDS: Can we finish now?

13 CHAIRPERSON HART: No, I wish we could. We
14 have issues regarding certain Board member needs, and
15 so, we can't finish now. We don't have just a half
16 hour to go, unfortunately. (Dinner recess.)

17 CHAIRPERSON HART: So, we're back on the
18 record. Alex, we had a procedural item we were going
19 to discuss regarding item eight, which is the waiver.

20 MR. ALEX MAYER, ESQ.: That's correct. The --
21 when I was able to speak with you briefly about the
22 item eight and the time of night we're at, which is
23 7:15, and I believe that you want -- you had a -- a
24 proposal to take that item off of our April agenda.

25 CHAIRPERSON HART: Yes.

1 PUBLIC ATTENDANCE CARDS: And in light of the
2 time constraints that we're facing right now. And I
3 was going recommend to you that you mention that here,
4 and ask if the other Board members had any comments or
5 objections to that idea. And if we did take it off of
6 the April agenda, um, most likely resolved or you could
7 even ask staff to put it on the agenda for the June
8 meeting.

9 CHAIRPERSON HART: Correct. Okay. So, do any
10 Board members have objections to remove the Item 8 and
11 then directing staff to re-agendize it for our
12 June meeting?

13 Seeing no objection. Oh, yes, Mr. Hoag.

14 MR. LYLE HOAG: It seems a little risky if
15 we -- we have a forum now, but we -- some (inaudible)
16 we were supposed to have a forum then, so, if it's
17 worth the risk.

18 CHAIRPERSON HART: Mr. Hoag brings up a good
19 point, though. We don't know how long we would meet at
20 a forum if somebody gets sick or whatever.

21 Am I hearing objections or because my
22 preferences -- and I think some of the public's
23 preference, is to remove the items from the agenda?

24 so, if I hear objections, then we won't do
25 that. But, if I'm not hearing any objections and just

1 slight concerns, then my preference is to take it off
2 the agenda.

3 MR. ADAM LAPUTZ: I will not object. I just
4 want to make that point.

5 CHAIRPERSON HART: I recognize --

6 MR. ADAM LAPUTZ: Life is risky.

7 CHAIRPERSON HART: I appreciate that concern.
8 So, we will go ahead and remove Item 8.

9 MR. DAN ODENWELLER: Is there anybody in the
10 audience here all day for that?

11 CHAIRPERSON HART: Yes, sir.

12 AUDIENCE MEMBER: I am one.

13 CHAIRPERSON HART: Are you here to speak on
14 this item or just Item 8?

15 It's not that we're not having a hearing on the
16 waiver, if we remove it from this agenda. We're
17 definitely still having a hearing, it would just happen
18 in June. It would be re-agenized. We have full
19 comment period. so, unless there's some -- Okay. So,
20 I'm going to remove that item.

21 I am directing staff, if you would please,
22 itemize the agenda, item eight waiver for the June
23 agenda, and we will now continue our hearing on item
24 seven, which is the framework; and I have about ten
25 cards remaining. And I'm first going to hear from

1 Chris McKenzie, and then next if Justin Oldfield would
2 be prepared to speak.

3 Mr. McKinzie, thank you for waiting.

4 PUBLIC ATTENDANCE CARDS: Thank you. Thank
5 you, Board and Madam Chairman, I appreciate the
6 opportunity of being able to be here as a very
7 independent small farmer.

8 Um, my son is the fifth generation to be
9 farming our land in south Sutter County. I farm
10 primarily rice and wild rice. I'm a member of the
11 PNSS, CNSSS, NSS. And I can never remember all the N's
12 and S's in that one, but anyway. And, um, at the
13 initiation of the water programs, what five/six years
14 ago, we were quite puzzled that you had the daunting
15 task of trying to figure out what it was you were
16 supposed to do and how you were going to do it.

17 And, since the legislative law that passed,
18 that created your responsibility didn't have any
19 funding, it was either going to be sun-setted or was
20 passed on to the farmers; that's the point of history.
21 Anyway, so, we get a bill. From the PSNS NSS and
22 you -- and, again, I find that in seven years, you have
23 delineated much of the purple area, and from what I can
24 tell from the staff's testimony, those areas we can't
25 find anything wrong, but we don't want to admit it, and

1 we want to continue to regulate it. The studies were
2 done in our area, and with the exception of E. coli,
3 and I have photographs that I can share with you
4 individually, I have prepared a slide of that, when I
5 have about 150,000 duck days on our rice fields after
6 season, and they do what ducks do. And, um, it
7 occurred to me that depending on the implementation and
8 the exact rules and regulations, I could be in
9 violation of water quality if I let the rainwater that
10 fell on the land, and let the wild beasts do their
11 thing, with your regulations. And I could go to jail,
12 and I could loose the family farm. It is the most of
13 toxic thing I do, is allow the water foul to be there
14 and farm organically. I have organic farming, and the
15 worse thing that ever is gone in my tailwater is, um,
16 residue from organic fertilizers. I have concern that
17 your plan still doesn't know where it's going, but has
18 the potential of creating a humongous bureaucracy. My
19 main concern is for California agriculture, that the
20 regulation, without focus and without limits on
21 expenses, is going to put me out of business, and most
22 of everyone else in California.

23 The berries I had this morning the,
24 blackberries said: "Made in Mexico." And as an
25 ex-bank examiner and MBA of finance and some other

1 stuff, I know the reason for that is not that we can't
2 produce blackberries in California. It's that we can't
3 produce blackberries in California and pay for owner's
4 regulations. If you have a problem, I think we should
5 focus on it, you, and address the problem, figure out a
6 way to cure it. The NRCS, the U.S.D.A., the California
7 Farm of UC extension people are all excellent. They
8 could do a much better job of working with us, they
9 already do. It seems like much of what you're
10 anticipating is duplication, and you're -- many of us
11 small people would who can't afford to go through
12 another bureaucracy. Thank you.

13 CHAIRPERSON HART: Thank you, very much.

14 PUBLIC ATTENDANCE CARDS: Good evening, madam
15 Chair, Board members. I guess I got to kneel down here
16 to talk in this thing. Justin OilField with
17 Cattlemen's Association. I just wanted to hit on one
18 quick point, it's already been hit on before, but,
19 since I staid here until 7:15, I'm going to go ahead
20 and do it, if you don't mind.

21 CHAIRPERSON HART: Go ahead.

22 PUBLIC ATTENDANCE CARDS: I first wanted to --
23 we appreciate Dr. Longley's comments related to,
24 specifically, to this "It's not a one size fits all
25 approach." We have commented in the past, as well as

1 you heard from individual ranchers, that they have some
2 issues dealing economically with the -- with the
3 program, the way it's been setup. We appreciate staff
4 looking at a tiered approach. I know there's a lot of
5 issues that we need to work out details, there's a lot
6 of complexities to it, and nevertheless, I think we do
7 want to continue to explore a conditional waiver for
8 irrigated pasture. For a couple of reasons, I think
9 it's going to help address some of our concerns and the
10 concerns for individual ranchers. In the program
11 region, as well as, I think, we are comfortable in
12 saying irrigated pasture has a very minimal impact on
13 water quality, and most people are not putting on
14 pesticides, herbicides, very rarely people put
15 fertilizer on.

16 And then really, you know, when you look at it
17 from a cost prospective, I am a great farmer at home,
18 as well as cattle, we generate about \$4,500 an acre
19 with our grapes being generated between \$20 and \$30 an
20 acre with cattle, you know, larger land masses, you
21 know, small animals on the land to sustain it. so, just
22 it's a very different type of agriculture compared to
23 intensive farming. That being said, you know, what
24 you do with the framework tonight, I know that there's
25 been some indication that you may not be doing with it.

1 We did have some big concerns with what was put in it.
2 We talked to staff, me and Joe, and he did change a
3 word in the footnote on page A9, and did provide some
4 clarification there. I think it's still our preference
5 that comes out entirely. We want to make sure that
6 BMTs that are associated with conditional waiver for
7 irrigated pasture are based on sound signs and
8 research. There's been a lot that's gone into that.
9 With the IEC Cooperative Extension and others, and,
10 frankly, exclusion from water courses.

11 There's lots of other things rangers can do
12 can. Do to maintain water quality, rather than just
13 fence increase, that's one option that's certainly not
14 the option. And, so, we'd like to see that struck.

15 And if you don't act on the framework tonight,
16 certainly, we would want you to take this back, look at
17 it, and then convene the right group of stakeholders to
18 have a discussion about irrigated pasture, away from
19 the setting, so, we can assure the EMP's that are
20 associated, and any of the conditions you put on it are
21 appropriate and necessary and based on sound signs.

22 So, with that. Thank you.

23 CHAIRPERSON HART: And then after Whitney if
24 Carmon Meyer is still here, and Barbara Hopkins.

25 PUBLIC ATTENDANCE CARDS: so, Madam Chair and

1 members of the Board, I am Reverend Lindsey Ramson. I
2 did take the oath, but I was also resigned 25 years Ag,
3 I'm hoping that might count, too, for being able to be
4 responsible for telling the truth. I'm here on behalf
5 of the (inaudible), and, also, Unitarian Universal
6 Service Comity, which is a national organization.

7 We want to really encourage you to fully
8 utilize your authority to protect groundwater in the
9 Central Valley from contamination by irrigated
10 agriculture.

11 It does seem that in the time of climate change
12 that, you know, we're going to be needing to rely on
13 groundwater even more heavily, and so, in addition no
14 all of the issues that you've heard about in small
15 communities and drinking water, which are very very
16 important, um, there is additional urgency to stop
17 pollution of our shared water resources. I don't want
18 to repeat a lot of things that others have said, um,
19 but I do want to say that I think that clarity is going
20 to be really important, as you step forward into the
21 groundwater arena even more strongly, I hope you do
22 take a position, um, and move the framework forward. I
23 think that comparative efforts among growers to support
24 mutual education and better management practices are
25 really to be commended, but you know, regulation with

1 actual measurable outcomes, timelines, enforcement, is
2 something that can provide a kind of structure in
3 clarity that any industry needs to make the necessary
4 investments to move to the next level of to safety and
5 accountability. Implementing clear rules that will
6 protect our groundwater will, also, help to assure that
7 responsible growers will not be the competitive
8 disadvantage with those who take less care to avoid
9 polluting our water. And, also, I want to heighten and
10 lift up that there are a lot of (inaudible)
11 communities, not just the universal who are moving more
12 strongly into understanding the responsibilities around
13 eating ethically and purchasing ethically and the
14 transparency question of what is an individual farmer
15 reveal can also go the other way. People want to
16 invest their dollars in buying food that's responsibly
17 grown and is not polluting the water for future
18 generations. When we look at groundwater, we really
19 are in an situation of -- of generational injustice.
20 Because what we do now is something that will have an
21 impact on our kids by the time the decision we make now
22 get all the way down into that deep groundwater. So,
23 we hope that you will act on the behalf of clarity,
24 that you will actually bring this to a vote, that you
25 won't encourage transparency.

1 And, lastly, there are many big communities
2 also involved in the movement for really recognizing
3 the human rights to water and had the privilege of
4 being here in March when the independent expert from
5 the United Nations on the human right to water and
6 sanitation was here, Ms. Sevil, and when she went back
7 and submitted her report, her initial report, which her
8 final report will come out in September, I'll just
9 briefly say. She says: "We have done a lot of
10 (inaudible) and it's very important what's happened so
11 far in a positive way," but she says: "The holistic
12 systems approach is required whereby the water sectors
13 is not viewed in isolation from agricultural, chemical,
14 industrial, and energy sectors, and a stronger
15 (inaudible) should be put in place to (inaudible)
16 pollution surface water, groundwater, and to ensure
17 affordability."

18 We know that everybody has a positive
19 intention, and we hope that you will help us really
20 implement the human right to water.

21 Thank you, so much, for your time.

22 CHAIRPERSON HART: Thank you. Barbara Hopkins,
23 are you still here?

24 I don't see her. Gail Dellahan.

25 PUBLIC ATTENDANCE CARDS: Great job. My maiden

1 name is a lot easier, King. I'm Gail King Dellahan
2 from Western Growers Association. Our association
3 grows, packs, and ship's about 50 percent the of
4 nations fresh fruits, vegetables, and tree nuts. Our
5 members are all throughout California, and Yuma,
6 Arizona.

7 We are a very forward thinking innovated bunch
8 of people. We were at the forefront of the leafy green
9 agreement, when the outbreak occurred. And we are at
10 the forefront of sustainable agriculture, because
11 frankly, our buyers demand it. We are here to support
12 the coalition approach and Alternative 2, because we
13 believe it is the best way to achieve water quality.
14 Thank you.

15 CHAIRPERSON HART: Thank you. For waiting all
16 day to tell us that, we really appreciate it. Last,
17 but certainly not least, is Roberta.

18 PUBLIC ATTENDANCE CARDS: You know what, I'm
19 going to pass.

20 CHAIRPERSON HART: What, you cannot be serious?

21 Okay. Do I have any other speaks whom I do not
22 have a card for?

23 Seeing none. Would you -- we will take closing
24 statements by staff.

25

1 CLOSING STATEMENTS

2 MR. JOE KARKOSKI: I will try to keep this
3 brief, so, I will.

4 CHAIRPERSON HART: I thought you were going to
5 pass.

6 MR. JOE KARKOSKI: Would you rather have are
7 a -- I better a give the closing statement. I think,
8 essentially, you know, after hearing all of these
9 comments you really heard sort of two different
10 philosophies on how we should move forward, right.

11 One, is for us to regulate growers directly and
12 individual monitoring, individual management plans, et
13 cetera. The other is for us to have a essentially
14 Coalition only approach. What our framework tries to
15 do, and what staff thought about, was what is most
16 efficient in terms of administration, and effective, in
17 terms of protecting water quality as we move forward.
18 We did believe that the Coalition approach has shown a
19 lot of progress in water quality protection, but we
20 don't want to hang our hat on that as we go into the
21 future; that's why we have setup -- or framework that
22 allow us to move from that third party approach to more
23 direct regulation, based on the evidence that we're
24 getting through the information collection, either of
25 management practices, or of water quality data. So,

1 you know, with that, obviously, you know, I think that
2 you have heard those different philosophies, I think
3 what staff has tried to do is recognize that there are
4 merits in both. We don't really feel like there's
5 evidence at this point to abandon the coalition
6 approach. One of the things you heard, is that we're
7 actually leveraging a lot of other resources through
8 the Coalitions that we just, as staff, would not have
9 ready access to. And we I think it's important to
10 continue that into the -- into the future. So, you
11 know, I'd be happy to take any questions of yours, if
12 you'd like me to respond to any of the, you know, five
13 hours of comments you've heard, and be happy do that.
14 But still, as staff, we appreciate whether by
15 resolution or some other direction, if we can get an
16 idea of what you would like us to do for you next, in
17 terms the irrigated lands regulatory program.

18 CHAIRPERSON HART: Thanks, Joe.

19 Do we have any questions for Joe right now,
20 because now is the time to ask them?

21 Yes, Lyle.

22 MR. LYLE HOAG: Joe, I do this in the spirit of
23 trying to give guidance, which is the main purpose for
24 the -- the proceeding we have now. I think, I'm
25 convinced by the testimony and evidence and the

1 thousand pages that we read, that the Coalition
2 approach is the best for us to base our program on,
3 it -- no reason why it can't be made to work, and we
4 need to make it work. The -- contemplate the system
5 and the bureaucracy that would be required to replace
6 it, is -- is a nightmare, in my mind, and probably
7 wouldn't occur at anytime soon, given that financial
8 difficulties that we're in and the work to be done. so,
9 I'm prepared to support the Coalition approach. I also
10 am concerned that we do everything we can to make it
11 work, and that raises several questions, and you've
12 been through all these, but I haven't, so, I'm going to
13 try to -- making it clear what we do where there's
14 noncompliance. Where if there is instances where the
15 Coalition program is not functioning properly, not
16 getting the job done, then obviously, we have the duty,
17 and presumably the power, to step in. It needs to be
18 clear, perhaps clearer, than I have in my mind how that
19 happens and how we do it. One other issue, I think,
20 remains is the question of direct reporting from the
21 grower to the Board. It sounds good and has some
22 advantages, but I'm worried about the impact of the
23 those direct reporting requirements on the Coalition
24 system and its success. I think, we probably, at least
25 in the abstract, we all have the desire to strike

1 the -- the coalition program and make it work in any
2 way we reasonably can. So, I wonder whether there's
3 been a adequate review of alternatives for reporting.
4 In other words, if you're going to have reporting not
5 direct but through the Coalitions, then there needs to
6 be a program of verification sampling analysis in one
7 of our famous California political leaders to trust
8 verify, and that's what we need to do here, trust and
9 verify. And I don't know. I can't tell from what I
10 have read and heard to what degree that kind of a
11 verification monitoring program is built in. It takes
12 some work, costs some bucks, but it may be better than,
13 you know, alternative. The -- we've heard testimony
14 about the and difficulty of quality control of
15 monitoring data, of reporting mechanics, you know, go
16 all the way from the 30 percent don't have computers to
17 you've got to have a review of every piece of data at
18 some level in order to assure quality control; who's to
19 do that?

20 Again, I don't -- I haven't heard about staff
21 analysis of the pros and cons and the costs and the
22 probability of success of various alternative pathways
23 of reporting. And I would -- one way I would do it, if
24 I was working, sitting down working with you directly,
25 I'd ask you to put together a memo report that looks at

1 the pros and cons of alternative approaches to
2 monitoring data submission and handling, and just try
3 to, you know, sort of compare the pros and cons and the
4 costs and probabilities of success of the several
5 approaches that have been good discussed here. So,
6 that would take some additional work, but perhaps
7 you've done 90 percent of it already. So, that's a --
8 having to do with the other problem, I'm going to hold
9 my secondary comment for a little bit.

10 MR. KARL LONGLEY: I concur with my fellow
11 Board members comments. What I would like to see is,
12 obviously, a continuation of the TIC. TIC is the
13 Technical Issues Comity, which has basically been the
14 comity that has oversight putting together the QAQC
15 program and addressing a number of other very
16 complicated issues having to do with monitoring. It's
17 been invaluable, it has brought about a level of
18 coordination, which is important for the program to
19 succeed, and it's such small things as -- one issue is
20 when the dischargers and the staff agreed on one part
21 of a program at one time, the lab folks got all excited
22 because they said the way he planned to do it is
23 inundate us with samples, we can't handle it.

24 The point I'm getting at is it takes this kind
25 of coordination to put a program together and make sure

1 that -- what you're doing is you stick with the QAQC
2 requirements that you need to make the program data
3 acceptable. Um, I support the -- it has always been a
4 issue of considerable discussion, but I do -- I do
5 support the Coalition contempt. I am very concerned
6 about, on the one hand, if I personally don't believe
7 we get the staff, to run a program that has been
8 outlined here as -- you know, on paper it's a beautiful
9 program, but I don't think it's practical. And we
10 won't be able to get the resources, if we went that
11 direction, the program would literally sink. If we got
12 the resources, on the other hand, it is so, onerous and
13 costly that it is going to put the small and medium
14 size growers out of business. We're going to end up
15 dealing with corporate agriculture, which fine, that's
16 fine, we deal with a lot of corporate agriculture now.
17 But, I -- I certainly hate to see the smaller medium
18 guys go by the way side, that quite frankly, in my
19 opinion, is the heart of agriculture. The -- maybe I'm
20 wrong on that. And I would like to see if I'm wrong on
21 those costs. I'd like to see that demonstrated. I'd
22 like to see a program that can work in this world today
23 that, such as, has been outlined by Cal Squaw and
24 others that would be a program that we could keep small
25 and medium Ag in business. The big guys are going to

1 stay in business, we know that. It's the small and
2 medium sized guys I'm concerned about. And if we can
3 do that and operate that program, then I'll bow you,
4 Mr. Jennings, and give you my congratulations. But, I
5 don't see it now. Um, the -- certainly the framework
6 is a starting point, but you've heard a lot of things
7 here today, and the one report that was put together, I
8 think, had some -- many good points in it, was the
9 report written by the Community Water Center. There is
10 a need for accountability, and we have to find a way to
11 get accountability into the report. There has been
12 talk about Jennifer Clary (phonetic) and it was also in
13 the CWC report. It talked about setting up a target
14 funding for SEP (phonetic). I don't know what's --
15 what is possible and what's not possible, that's for
16 staff to come back and tell us. But, I would like to
17 have that explored and, that we could discuss that.
18 Quite frankly, from my experience in just separately
19 from all of this, through the CSU system, I am working
20 on the EJ issues. I think that we need to adopt rural
21 water systems, much on the way that what you see in
22 South Dakota and in other parts of the mid west. And
23 we are questioning those numbers and putting those
24 numbers together. It's something that -- in fact, the
25 first week of May I'm going to be in DC talking about

1 those kinds of things. It's something I put my heart
2 into. So, we have to find answers, so, people have
3 safe drinking water. The whole issues not getting
4 money so, they can build a system, they can't operate
5 it afterwards. It's the operation and maintenance. We
6 have to find ways around those issues. Some of that is
7 outside of the purview of this Board. It's not outside
8 my purview, you know my other -- other efforts, but
9 certainly, it's outside the purview of this Board
10 and -- but the bottom line is we need to provide safe
11 drinking water. The other -- I could go on, but I
12 think at this point I will leave -- as my fellow Board
13 members said, I have some secondary issues that I'll
14 get back from at this point.

15 CHAIRPERSON HART: Okay. Yes, Lyle.

16 MR. LYLE HOAG: Add a footnote to it. Carl's
17 comments about drinking water. I spent most of my
18 career in drinking water, urban drinking water,
19 actually. And I feel very strongly about water,
20 drinking water quality, and about the issues that have
21 been brought before us. California has a long
22 established fairly very elaborate drinking water
23 regulatory system, by and large it works. It works
24 differently for the real small water users than it does
25 for the water companies in organized districts, but it

1 works. And it breaks my heart to have people come,
2 drive up from San Joaquin Valley to this meeting, stand
3 before us and plead with us to solve the short-term
4 drinking water problem. They -- I don't think -- they
5 have no idea that the little involvement and
6 responsibility that we have to regulate drinking water
7 quality. We may be -- we may have a role, in terms of
8 using the contempt, but I hope that happens, and that's
9 something that we should be prepared to respond to them
10 on. Several of them asked for that, but I think
11 we're -- we at least have a responsibility to be
12 informative, and I would like to have you at some time
13 at your leisure, get together with the folks from
14 Deputy of Public Health, drinking water folks, put
15 together a two-page memorandum which outlines in simple
16 form the way drinking water is regulated in California.
17 From the large companies to the -- down to the
18 residents size. So, that you can hand it to people
19 before they drive 200-miles up here to testify, if
20 they're interested, and explain how the drinking water
21 regulatory system works. So, that they can focus
22 their -- their time and their energy or effort in the
23 right place.

24 CHAIRPERSON HART: Pamela.

25 MS. PAMELA CREEDON: I -- if I can just

1 clarify. It is -- they do get confused with the boards
2 and they hear water. The issue here though, members,
3 is the fact that their drinking water is groundwater.
4 And most of them, that's their only source of drinking
5 water, and that source has been polluted by activities,
6 not by the people drinking the water, and that's where
7 our role comes in. So, it's the source that they're --
8 that although they're talking about -- sometimes they
9 get confused, they talk about their water distribution
10 systems and what not, so, we hear them all. But, it's
11 really those that have nitrates and some with their
12 pesticides that are caused by others -- and there could
13 be some of their own contributions from their septics,
14 but are other sources that are contributing to their
15 groundwater being contaminated. And that's -- that is
16 our role.

17 MR. LYLE HOAG: This is the point. The
18 folks -- many of the folks that have appeared before us
19 and have written on this are looking -- they understand
20 there's a long-term problem and that we have a primary
21 role in solving that problem. We accept that
22 responsibility. We acknowledged it. We've talked
23 about it. But, they're looking for short-term
24 solutions. We're not -- this agency is not going to
25 provide short-term solutions to drinking water quality

1 problems in the San Joaquin Valley. We're going to
2 provide, hopefully, larger term solutions.

3 These folks need an immediate solution, and
4 they're not going to get that here. So, all I was
5 saying is we ought to be helpful in trying to direct
6 them with respect to the short-term component of their
7 problem, direct them in an area I can find some help.

8 MS. PAMELA CREEDON: We are convening a meeting
9 in the Fresno -- or Tulare area, to have the Ag
10 industry, the dairy industry, the of Department of
11 Public Health. Local health departments, State Board,
12 um, and our staff, of course, meet with these to talk
13 about -- of course, our programs, our long-term
14 programs, are to what will happen to abate the impacts,
15 reduce the impacts, and have long-term recovery. But,
16 we are going to have a discussion with them on what do
17 we do with them in the short-term, because they -- the
18 environmental justice community have raised a very good
19 point. This Board does have some authority to go after
20 those who have impacted groundwater. We do have that
21 authority to ask them about how we can address those
22 issues and remediate or deal with that issue. We have
23 that authority and we're going to begin having those
24 discussions with those -- those that have contributed
25 to the problem.

1 CHAIRPERSON HART: Dan.

2 MR. DAN ODENWELLER: My perception is somewhat
3 different. I think we got people -- a group of
4 desperate people. We're looking to any forum trying to
5 get attention on the problem and I think it's a simple
6 moral requirement, on my part, to help -- try to help
7 them along and do what we can to see that their problem
8 gets taken care of.

9 I first got introduced into this problem when I
10 discovered that we were taking -- being trained on any
11 (inaudible) and mixing it with stile water from the
12 fields to dirty up the (inaudible) in the water bank.
13 And least if you are trying to drink the groundwater
14 that was coming out of the property, and I made the
15 observation that it seemed to me that it would be
16 possible to trade the groundwater from the canal water
17 and solve the drinking water problem.

18 MS. PAMELA CREEDON: He said they would have to
19 pay to clean -- to pay for treatment on the Kern canal
20 river. And they, there is -- there is --

21 MR. DAN ODENWELLER: Kern --

22 MS. PAMELA CREEDON: We have to look at all
23 possible and have that discussion.

24 MR. KARL LONGLEY: That water has THM problems.

25 MS. PAMELA CREEDON: I was going to tell the

1 Board in the end that we were convening this meeting
2 to, um, withstand the meeting with the State Board, and
3 so, they will be participating in it is, as well. To
4 start having those discussion. Because, you're right,
5 we -- we have a groundwater basin that's been polluted,
6 that's not -- and the beneficial uses are impaired or
7 impacted or not -- it's not being able to be used for
8 what it's designated, and this Board does have an
9 obligation to respond to that.

10 MR. DAN ODENWELLER: I concur. That's the
11 nations representatives perspective, that this is a
12 society wide problem, and it's not necessarily
13 attributable to any particular individual, it's an
14 obligation that we have to the group that's being
15 damaged by the situation, as a society, without taking
16 care of it. And they wanted me to talk to legislature
17 on that point.

18 MS. SANDRA MERAZ: We've heard a lot of things
19 today. And one of the things that stuck in my mind is
20 how these \$30 million is spent on the coalitions part,
21 but, also, the \$47 million that cost to the
22 communities. So, that -- we don't want to bend the
23 coalition, it seems to be working, but, how do we
24 enforce that?

25 You can take away the individual reports. What

1 do we do to get better quality?

2 The short-term that figured, I concur with
3 Dr. Longley on some issues, but -- is because they're
4 in the long-term. They've had all these years to get
5 their contaminated water, to the grounds being
6 contaminated. So, there was also talk about growing --
7 we need food, but we also need clean safe water. So,
8 what can we tell me, Mr -- can I call you Joe, I can't
9 pronounce your last name.

10 MR. JOE KARKOSKI: Sure, that's okay.

11 MS. SANDRA MERAZ: You started out in the
12 morning fishing and to keep the water quality, and then
13 you turn to a -- not abandoned Coalition, so, what can
14 you -- more can you tell me on those two -- on that one
15 issue.

16 MR. JOE KARKOSKI: Specifically, on individual
17 grower responsibility and reporting.

18 MS. SANDRA MERAZ: Yeah.

19 MR. JOE KARKOSKI: The way we identified it in
20 the framework, just to clarify, is we've got a couple
21 of items to try to ensure individual grower
22 accountability: One, is that every Ag operation would
23 do a farm evaluation. Now, the way we've put it in the
24 framework was, you know, we don't want to get 35,000
25 pieces of paper. So, what we said was if there were an

1 information management system that could handle
2 electronic data submittal, it seems like that would be
3 a more efficient way of conveying the information to
4 the Board, as well as allowing us to readily determine
5 compliance with that -- at least that kind of minimal
6 recording requirement. See that they're reporting, and
7 that they understand that there's some practices that
8 they either have put in place to protect water quality
9 or would put in place. So, I would say that's one
10 component of having that individual accountability.
11 The other component is with respect to the certified
12 nutrient management plan. So, once we go through the
13 data and identify those specific Tier 3-three
14 groundwater areas, then the individual farm operations
15 would need to have, you know, a certified nutrient
16 management plan. Now, again, part of -- I think what
17 the Board has to think about and, you know, Mr. Hoag
18 asked us to bring something back on pros and cons is,
19 you know, to the extent that information is coming
20 directly to the regional board it's easier for us to
21 assess whether somebody at least, you know, can we see
22 a check they submitted or a report, and that's one
23 determination of compliance and enforcement. Now, you
24 also mentioned the other issues of PLAZA report
25 complete, you know, that's another thing, and is the

1 report accurate. Now, normally when folks submit
2 reports to us directly, you know, they have to certify
3 under the penalty of perjury that what they're
4 reporting is accurate, you know, sort of an additional
5 level of possibly of assurance that, again, accurate
6 information. so -- but, on the other hand, we can
7 prepare a memo that can expand on these issues, you
8 know, that if that information is coming to the
9 coalition, (inaudible) work obviously. But, from the
10 Coalitions, we would need to know who are those
11 growers; who did not submit the information; or who
12 submitted the incomplete information; or when we did,
13 let's say they do some level of verification. When we
14 did the verification, who appeared to not provide
15 accurate information. Now -- but again, part of the
16 testimony I think you heard, is there's a reluctant on
17 the Coalitions part, to be, you know, say an
18 enforcement arm or appear to be an enforcement affirm
19 of the Regional Board. So, again, we can kind of
20 expand on these, but that's in terms of compliance and
21 individual accountability, you know, it's more readily
22 apparent to me how we can have some level of
23 accountability, if we're getting some of that
24 information directly from the grower. You know, there
25 are other methods where individual accountability can

1 still work through the Coalitions, though.

2 MR. LYLE HOAG: And I think I heard here today
3 from Coalition leaders, people like Dave Worth and the
4 commissioner, have answers to each of those problems.
5 What I haven't seen is the analytical balance among
6 them, you know, how much -- how much would it cost to
7 do the (inaudible) program at an adequate level?

8 How much would it do -- cost to do quality
9 control of submitted data if it's being done by your
10 staff?

11 All of those for "what/if's" and ancillary
12 services that would have to go along. I haven't seen a
13 clear comparison of them, but I certainly heard from
14 the coalition leaders they believe they have answers to
15 all of the objections.

16 MR. JOE KARKOSKI: Right. And, you know, I
17 guess fundamentally, though, um, one of the things the
18 Board could consider as part of the framework is kind
19 of setting aside for now the question as to whether any
20 information would be submitted directly to the Regional
21 Board. But, you know, at least initially, making sure
22 that information is being developed and prepared by the
23 grower, I think would be an important step. Because we
24 have said, in absence of electronic data submittal
25 system, we would expect the growers to have their farm

1 evaluation or their individual nutrient management plan
2 available on site. Should, you know, the Board do an
3 inspection, we would be able to, you know, ask for
4 that -- that information. One of the things to
5 remember, and you weren't here throughout the history
6 of this, but this program and some of the subsequent
7 changes to it especially the recent provisions to the
8 monitoring program really put an emphases on management
9 practices on the farm. And in those are -- those are
10 the -- that is the program in order for to us do the
11 appropriate protection of water quality. We have to
12 have some way of knowing what their doing on the farm.
13 And in Bill's made that point, and I agree with him. I
14 mean, that is the only mechanism we have. And, so, how
15 do we go about that?

16 If it's not going to be this farm evaluation,
17 some way we have to find out. The quest by the Board
18 to secure that information has been in every one of our
19 waivers t so, obtain that information on what are they
20 doing, what are the management practices. And in part
21 of it, Joe brought me the current waiver, and I have to
22 take exception to what Bill was saying, we do ask a lot
23 of information upfront, in terms of what are the
24 management practices they're doing?

25 And when they have a management plan, they

1 actually have to go out and survey. so, we are getting
2 this information. We do have it. Um, but I think it's
3 important that we identify -- we need to know this,
4 because it's -- it's the foundation of our program, how
5 we go about it. Your right, we're going to have to
6 decide what's the best way and, you know, I'm going
7 to -- since we're probably going to take this back and
8 have better discussions, we'll figure out what is the
9 best way. But we do need it.

10 I would hope the Board would direct us to
11 gather that information.

12 CHAIRPERSON HART: Do we have any other
13 questions, comments.

14 MS. SANDRA MERAZ: Thank you.

15 CHAIRPERSON HART: Okay. Well, I support the
16 coalition concept, because I think that they've made
17 great strides in attempting to -- most of them, in any
18 event, to put into place good best -- best management
19 practices, um, and have made a great effort in -- at
20 great expense, to attempt to improve water quality.
21 And at the same time, I also, agree that we still need
22 to do more. Because we still have big water quality
23 issues. Not just nitrates, but all kinds of other
24 issues. So, I would agree, Pamela, that we need ensure
25 that we get the information with respect to how --

1 what's being implemented. And the framework to me is
2 still too vague, it needs to be more specific as to
3 what exactly -- what are enforcement is, is it exactly
4 as member Hoag and Longley have indicated, and what the
5 accountability is, keeping in mind though, that we
6 still were doing a balancing act. We're doing a
7 balancing act between getting the best quality water
8 for the most efficient price without trying to put
9 people out of business. And it's very tricky. It's
10 very difficult. But there's got to be a way it could
11 been done.

12 I am a little concerned about all that purple
13 that I'm seeing on this chart. I don't understand how
14 we still have those two tiers placed with all the
15 monitoring that's been going on. So, where is that
16 data?

17 Why -- what's happening with it?

18 Why hasn't it been processed in a way our staff
19 knows whether stuff is Tier 1 or Tier 3. And I would
20 request that staff be clearer on the tiering. Because
21 there's a lot confusion -- about how this is going to
22 work. And multiple plans. And I don't have a concept
23 now. I -- I have -- we've got the (inaudible) telling
24 us that there's going to be 6,000 plans required.

25 Is -- really, is that true? And then we got the EJ and

1 (inaudible) folks saying, you know, you have to require
2 more information.

3 And, so, I just -- we need -- the Board needs
4 to understand better, as does the public, what exactly
5 would be required and when; and for whom; and do you
6 really need that information?

7 So, let's focus on -- and I'd also like to
8 understand, we got a lot of discussions about irrigated
9 Ag and drip systems and groundwater being at 800 feet
10 versus like 1 foot, and don't we have an idea somehow?
11 I mean, I know groundwater vary all over the valley.
12 But don't we have some idea, some mapping somewhere of
13 how deep the groundwater is in certain places?

14 so, we've got some people nodding. I mean, we
15 must have that information to some extent.

16 MS. PAMELA CREEDON: And I don't want to
17 interrupt you, because I like your points. But many --
18 the thing you're asking for would actually be the
19 detail we would go into when doing individual orders,
20 instead of the framework.

21 CHAIRPERSON HART: I know.

22 MS. PAMELA CREEDON: We understand that, I
23 mean, in talking to staff, they -- the coalition is
24 correct. There are certain areas where the threat to
25 groundwater is very minimal, and so, those analysis

1 still need to take place. But, that would take place
2 in the individual orders, and not so much in the
3 framework that we're developing.

4 CHAIRPERSON HART: Let's move past the
5 framework and let's get to the orders. Let's -- let's
6 get moving, that's what I want to see. I want --
7 really want to see us move. We're -- we don't need a
8 framework, in my mind, everybody -- I think, the Boards
9 given a pretty clear direction, the environmental group
10 is saying what they can work with, we got Ag saying
11 what they can work with and what they can't work with.
12 Let's get something out there. On the ground. Way far
13 on advance of the hearing, so we can get a lot of --
14 even more input than we've got know, but on more
15 specific things. Because times a tickin, we've had
16 seven years on this, we need to just -- everyone needs
17 to get some resolution. We need to move forward. Yes,
18 Lyle.

19 MR. LYLE HOAG: It sounds good, but that
20 worries me, that's the notion you just sort of
21 throwaway the framework here, get busy, let's do it.
22 This is a huge and very complex program. There's going
23 to be, eventually, dozens of professional staffers
24 working on it, thousands of hours each. Um, it seems
25 to me having the document, if indeed we're happy with

1 it and it addresses the issues that we've talked about
2 properly, having the framework, whatever you want to
3 call it, is a worthwhile exercise. And, again, I think
4 90 percent of the work has been done on it. Just so,
5 that it's there on the shelf in front of everyone of
6 those dozens of professionals that are going to get
7 involved in this thing. so, I would be reluctant to
8 just toss it out.

9 MR. KARL LONGLEY: I have to agree. It's a
10 starting point. It provides an awful lot of discussion
11 today. Maybe I shouldn't call it a starting point,
12 it's a departure point. And I think that certainly
13 we've given some feedback on our viewing on various
14 points, certainly not about's -- that's a huge
15 document. But certainly it's going to be -- it's going
16 to be, I feel, that departure point as we go forward.
17 And I expect to see considerable changes. I think it's
18 going to be a lot clearer when he start doing the site
19 specific, if you will, the individual WDR's, because
20 this is such a huge gigantic thing we're talking about,
21 the whole Central Valley, bigger than many states.
22 And, so, I -- I would agree we can't just throw
23 framework out. It's a point of reference. It's a
24 point of departure.

25 MS. PAMELA CREEDON: If the framework is giving

1 the general philosophical approach we were putting out
2 there as how we think we will proceed with the
3 individual approach to regulation. It's not going to
4 be exactly as that, so, it's just -- to me to the
5 Board, how much more work do you want on this framework
6 when the real work will be when we start moving forward
7 with the individual orders?

8 CHAIRPERSON HART: That's exactly my point.

9 MS. PAMELA CREEDON: Every one of those orders
10 we develop we can come back in a workshop format and
11 discuss the details with the Board. And it probably --
12 that would probably be a better discussion for everyone
13 to have. And that would also satisfy you, member Hoag,
14 in terms of the connection to the EIR.

15 CHAIRPERSON HART: Do we have any more
16 questions or direction for staff before we take
17 recommendations from Pamela.

18 I'm seeing none. Pamela.

19 MR. LYLE HOAG: One other question I have or
20 concern, is given the huge amount of work that this is
21 going to entail, both the sort of revisions of the
22 framework or whatever we're going to call it. Um, and
23 getting on with the -- with the orders, which we'll
24 start as you explained earlier, we'll start immediately
25 regardless of what we do with the framework. And

1 proceed at pace. I still can't concede in my mind how
2 that work can be done in one year. So, we're not going
3 to deal with it tonight. We're going to -- the
4 extension is going to come back next time, extension of
5 the waivers. I don't understand how it can be done
6 in -- in close to being done in one year. So, I want
7 to know, is that a problem?

8 Is there any legal or procedural constraints,
9 if it isn't happening, can we simply act to extend it
10 for another year or another whatever months.

11 MS. PAMELA CREEDON: Well, I cease father to
12 say no, but, I mean, yes, there's a problem. They
13 don't want to be extended and I feel challenge it.
14 But, at the alternative, we will have nothing. It will
15 expire, we'll have nothing until staff does the work to
16 implement the additional orders to regulate Ag. And I
17 don't think that's a solution. And I would hope that
18 that cease (inaudible). But, you know, staff will
19 start working diligently.

20 A lot of -- a lot of -- some of the
21 foundational parts of the -- of orders will look
22 similar, it's just site specific conditions that we'll
23 be putting on there. So, it's a -- that's a lot of
24 lost work ahead.

25 Um, I'm not willing to say we can't do it in a

1 year, it -- but, that also means that we will be
2 dedicating nearly all of our Ag staff towards writing
3 orders, as opposed to doing some of the day-to-day work
4 we're doing now on the current waiver program.

5 So, you know, if the -- we have a commitment to
6 re -- to issue new orders to replace the waiver for the
7 existing program. So, that's where our focus and
8 priorities will be. We will -- which will be at a cost
9 to the existing waiver program. We will have to keep
10 some -- some staff assigned to the current program, but
11 the majority of our staff will be dedicated to writing
12 orders.

13 MR. LYLE HOAG: Let's see if what I heard is
14 correct.

15 MS. PAMELA CREEDON: Well, 12 months is, um,
16 aggressive. So, But, I'm -- for me to tell you it's
17 going to take five years, I don't want to do that
18 either, I would prefer to be on the more aggressive
19 side and deliver within 12 to 18 to 24 months as
20 opposed to three to five years from now.

21 MR. LYLE HOAG: You're recommending that we
22 keep the twelve-month extension period to keep the heat
23 on, but if we -- if it doesn't happen it's not a
24 drop-dead situation.

25 MS. PAMELA CREEDON: I would hope -- I would

1 hope that the Board would see wisdom in that. But,
2 yeah, I don't -- the Board extends to for 12 -- 12
3 months or 18 months that I -- you know, that's set
4 discretion of the Board, you know, and I -- I --

5 CHAIRPERSON HART: That's item 8, now removed.
6 It will happen in June.

7 MR. KARL LONGLEY: I'm sorry.

8 CHAIRPERSON HART: That was --

9 MS. PAMELA CREEDON: Let me lay the framework.
10 We had that. We would have the orders back.

11 MR. KARL LONGLEY: Let me see. What would
12 happen is you're going to start writing orders, and if
13 they're not done in a year, certainly, we would expect
14 that some orders would be done. So, if we have to
15 renew the waiver, it would not be for the whole valley.
16 Some would be offering in orders for those that we
17 still have to finish up. That would be the hope.
18 That's the hope. Well, you know, we've been pretty --
19 we've got very diligent staff. I know it's a lot of
20 work, but so far we have done pretty good in meeting
21 some pretty big initiatives in this region, and staff
22 works really hard on those. And I, I think, you know,
23 I'm not willing to say we can't do it. But there also
24 has to be the recognition that it will come at the
25 expense of some of the things we are currently doing.

1 CHAIRPERSON HART: Dan seems to have a
2 question.

3 MR. DAN ODENWELLER: It's not going to prevent
4 us from preparing a budget change, because before we
5 know it we're going to get shot down but having done
6 that --

7 MS. PAMELA CREEDON: But I can't tell you.

8 MR. DAN ODENWELLER: We've made efforts to
9 achieve the goal and, I mean, you don't make it. But
10 you made a good faith effort, and that's what we ought
11 to be striving for, doing the very best we can.

12 MR. KARL LONGLEY: We can't --

13 MS. PAMELA CREEDON: I can't tell you if we
14 have one in the works or not, they are confidential.

15 CHAIRPERSON HART: So, Pamela, do we have a
16 re-recommendation?

17 MS. PAMELA CREEDON: Well, we brought this item
18 to you to recommend a resolution. My recommendation is
19 we not do a resolution. I think we have gotten some
20 feedback from the Board on the direction, the general
21 direction and agreement, with the remaining in the
22 coalition approach, um, and that we will proceed in
23 using -- well, I guess -- Mr. Hoag you want some
24 information brought back. I could recommend -- I don't
25 know what to recommend you. I recommend not adopting

1 the resolution or approving the resolution at this
2 time, and that we move forward with the framework.

3 And at your recommendation, we can bring
4 revised framework back to the Board for discussion, to
5 make sure that there's some agreement with the
6 framework, in general, but otherwise we will begin
7 working on the individual orders now.

8 CHAIRPERSON HART: Good. so, from a legal
9 perspective, do -- I'm not sure why we have to take a
10 vote on the resolutions, on the proposed resolution,
11 but Mr. -- I mean, I see David saying you don't have
12 to -- I don't know why we would have to, but we'll take
13 legal recommendations on whether we have to vote on
14 this or not.

15 MR. ALEX MAYER, ESQ.: I'll defer to Mr. Coupe.

16 MR. DAVID COUPE: Madam Chair, the Board can
17 choose to do or not do what it wants to do in issues.
18 Take up a motion to adopt a resolution.

19 CHAIRPERSON HART: Thank you. Okay. So, I
20 think, if we just had -- I'll go ahead and we have a
21 recommendation from the executive officer, and I'm
22 close the hearing, and if we have four discussions, we
23 take the recommendation and the executive officer; is
24 everyone happy with that? Everyone happy.

25 So, we won't be taking a vote on the framework.

1 We will be receiving information back, you will come
2 before us again as requested by the Board member
3 comments. And, yes, Pamela.

4 MS. PAMELA CREEDON: I'm sorry. We do have
5 some administrative works.

6 MR. DAN ODENWELLER: If we tabled the framework
7 until the June meeting, we're going to deal with the
8 other remaining items. We could not deal with it then,
9 but in the meantime keep it in suspense.

10 CHAIRPERSON HART: That, we can table it, too.
11 That's definitely another option that might be
12 preferable.

13 MR. KARL LONGLEY: I move to table.

14 CHAIRPERSON HART: I have a motion to table.

15 MS. PAMELA CREEDON: Table it to bring a
16 resolution back or just to discuss the framework?

17 CHAIRPERSON HART: Yeah.

18 MR. KARL LONGLEY: We're moving to table it,
19 period. Pain it is unlikely to get it off the table
20 anyway, unless it falls on the floor.

21 CHAIRPERSON HART: We need to be clear. With
22 what staff is being directed to do. I would like
23 some -- what do you mean by table it? That we bring
24 back the resolution, that we don't bring back the
25 resolution or.

1 MR. KARL LONGLEY: We notice the resolution
2 and, I think, there is some concern here about -- what
3 I'm hearing, is some concern about the correct
4 parliamentary procedure.

5 CHAIRPERSON HART: No, there's no concern. The
6 Board does not have take action.

7 MR. KARL LONGLEY: Good. The Board does not
8 have to take action. I'll withdraw my table.

9 CHAIRPERSON HART: Okay. So, we just do want
10 staff to bring information back and the final framework
11 back. I guess, the majority of the Board wants it to
12 happen. So, do we want to take a vote tonight for not
13 taking a vote on a framework or the resolution and --
14 yes, Alex, you are dying to tell me something.

15 MR. ALEX MAYER, ESQ.: Well, now, that
16 everything's on the table, I'm not exactly --

17 CHAIRPERSON HART: It's not. It's withdrawn.

18 MR. ALEX MAYER, ESQ.: It's been withdrawn. I
19 was going to say, talk about entering these letters
20 into the record.

21 CHAIRPERSON HART: Those were late received?

22 MR. ALEX MAYER, ESQ.: Those were late comment
23 letters that were received.

24 CHAIRPERSON HART: Yeah, well, everyone else
25 had to comply with the timeframe, so, I am actually

1 going to rule to keep them out.

2 MR. ALEX MAYER, ESQ.: Okay.

3 CHAIRPERSON HART: Thank you for reminding me.

4 MR. ALEX MAYER, ESQ.: Thank you for the
5 reminder, David. There was another issue --

6 CHAIRPERSON HART: Yes, I haven't --

7 MR. ALEX MAYER, ESQ.: -- that might come,
8 depending on the final decision of the word.

9 CHAIRPERSON HART: Do you mean on the
10 framework?

11 MR. ALEX MAYER, ESQ.: On the -- this
12 framework, well, it appears that decision has been
13 made, correct?

14 CHAIRPERSON HART: That's correct.

15 MR. ALEX MAYER, ESQ.: In light of that, there
16 is a -- there's a statement made in our previous
17 resolution.

18 CHAIRPERSON HART: For Item 6. Item 6 on
19 resolution.

20 MR. ALEX MAYER, ESQ.: Now, that's depended on
21 the idea that the framework resolution would be
22 adopted. So, if we reopen the hearing, is that -- to
23 correct that, then we could -- then the Board could
24 make a motion to reconsider that -- that vote.

25 CHAIRPERSON HART: So, I need a member to file

1 a motion to -- motion to reconsider the resolution of
2 Item 6. And I believe the reference is to directing
3 staff to file a notice of determination with respect to
4 the adoption of the framework, which has not occurred.

5 MR. ALEX MAYER, ESQ.: Madam chair, let's have
6 the Board take a motion on whether in fact they ought
7 to reconsider the vote on Item 6. And then after that
8 decision is made, then he can go back and deal with the
9 substantive matters.

10 CHAIRPERSON HART: I kind of explained to them,
11 that's what we're doing, put the motion on the table.

12 All those in favor say aye.

13 Any opposed?

14 Any extensions?

15 Thanks. Okay.

16 MR. ALEX MAYER, ESQ.: Motions passed. They
17 will we reconsidering the motion.

18 MR. KARL LONGLEY: No. No. No. No. That's
19 not as I understand it. I'm sorry.

20 MR. ALEX MAYER, ESQ.: The motion to
21 reconsider.

22 MR. KARL LONGLEY: Has not been made yet.

23 CHAIRPERSON HART: It has been made.

24 MR. ALEX MAYER, ESQ.: It has been made,
25 seconded, and voted on it with the number of aye votes.

1 I believe.

2 MR. KARL LONGLEY: David, tell me what you said
3 besides aye?

4 CHAIRPERSON HART: We were reconsidering the
5 resolution.

6 MR. ALEX MAYER, ESQ.: You're reconsidering the
7 vote that you made pertaining to Item 6.

8 MR. KARL LONGLEY: First motion I made was
9 reconsidered.

10 CHAIRPERSON HART: I wanted to -- wanted to
11 take a vote on it.

12 Yes.

13 COURT REPORTER: Please, wait. Wait.

14 (Everyone talking at the same time.)

15 MR. ALEX MAYER, ESQ.: Now, as the Board voted
16 on that, and so, now the vote -- the Board has decided
17 that it will reconsider the motion that that approved
18 the program EIR.

19 CHAIRPERSON HART: Resolution.

20 MR. ALEX MAYER, ESQ.: Now that the Board has
21 voted to reconsider that motion, the rules of Sterges
22 say that the original -- it is as if the Board never at
23 all voted on the original motion. So, but the main --
24 but the motion is still active from earlier in the day,
25 where the Board had moved to adopt the resolution as

1 proposed by staff.

2 So, the reason we want to reconsider this
3 resolution is to make an amendment to the motion. So,
4 if the Board wanted to address this error, and it's
5 paragraph two in the -- in the motion where there's a
6 reference to staff being directed to file a notice of
7 determination, one of the Board members would need to
8 make a motion that -- to amend the motion to adopt the
9 resolution by supplying that the amendment, which would
10 be to delete paragraph two of that amendment.

11 MR. KARL LONGLEY: I move to delete paragraph
12 two of the amendment. I move to amend the motion by
13 removing paragraph two.

14 MR. ALEX MAYER, ESQ.: Okay. Great. If that
15 gets a second, then the Board can vote on it.

16 MR. KARL LONGLEY: It does not need a second.

17 MR. ALEX MAYER, ESQ.: It does not specifically
18 need one?

19 CHAIRPERSON HART: We don't need one.

20 David, do you have a comment on that?

21 MR. DAVID COUPE: There needs to be a second on
22 the motion for reconsideration, but not on the main
23 motion.

24 CHAIRPERSON HART: Right. Okay. Thank you.

25 So, all of those in favor of amending the

1 resolution to delete the requirement to file a notice
2 of determination say, "Aye."

3 Any opposed?

4 Any abstentions?

5 Motion carries 50. Thank you.

6 I am going to adjourn this hearing.

7 (Whereupon, the hearing concluded.)

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA)
) SS.
COUNTY OF SACRAMENTO)

I, LISA SCHAFER, hereby certify that I am a Certified Shorthand Reporter, and that I recorded verbatim in stenograph the proceedings had: April 7, 2011, in the matter of STATE OF CALIFORNIA CENTRAL VALLEY REGIONAL WATER QUALITY CONTROL BOARD fully and accurately to the best of my skill and ability, that I have caused my stenotype notes to be transcribed into typewriting, and the foregoing pages constitute a complete and accurate transcript of said stenotype notes taken at the above-mentioned proceedings.

LISA SCHAFER, CSR NO. #12723