

Before the Idaho Water Resource Board
of the State of Idaho

REPORTER'S TRANSCRIPT OF AUDIO RECORDING OF PROCEEDINGS

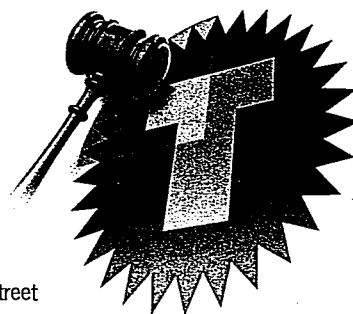
Meeting No. 7-09

April 30, 2009, 10:00 a.m.

before The Idaho Water Resource Board

Gary M. Chamberlain
Bob Graham
Charles "Chuck" Cuddy
Leonard Beck
Roger W. Chase
Vince Alberdi
Jerry R. Rigby

Reported by
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CSR No. 754



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1 ---oOo---
 2 MS. McGOURTY: April 30, meeting 07.
 3 THE CHAIRMAN: Let's take your seat. We're
 4 going to call this meeting to order.
 5 MR. RIGBY: Mr. Chairman, do I put on a tie?
 6 THE CHAIRMAN: I don't care if you do. If
 7 you want to put on a tie or not, that's up to you.
 8 MS. McGOURTY: It's not done on the tape.
 9 THE CHAIRMAN: We'll stall them for a minute
 10 while Mr. Rigby puts on his tie.
 11 MR. RIGBY: No, please don't. Please go
 12 right ahead.
 13 THE CHAIRMAN: Mr. Uhling hasn't showed up
 14 yet. I'm sure he'll be along any minute. Let's
 15 go ahead and get started. We've got a long day
 16 ahead of us.
 17 Let the record show that the Idaho Water
 18 Resource Board Meeting No. 7-09 is now in session.
 19 Role call.
 20 MS. McGOURTY: Mr. Cuddy.
 21 MR. CUDDY: Here.
 22 MS. McGOURTY: Mr. Alberdi.
 23 MR. ALBERDI: Here.
 24 MS. McGOURTY: Mr. Chase.
 25 MR. CHASE: Here.

1 MS. McGOURTY: Mr. Beck.
 2 MR. BECK: Here.
 3 MS. McGOURTY: Mr. Chamberlain.
 4 MR. CHAMBERLAIN: Here.
 5 MS. McGOURTY: Mr. Graham.
 6 MR. GRAHAM: Here.
 7 MS. McGOURTY: Mr. Rigby.
 8 MR. RIGBY: Here.
 9 MS. McGOURTY: Chairman Uhling, not yet.
 10 Seven present.
 11 THE CHAIRMAN: Is there any public comment?
 12 Anyone that's not going to be on the agenda that
 13 would like to address the Board at this time?
 14 Yes, sir. Please come forward.
 15 MR. HAZEN: My name is Bill Hazen. I work
 16 with the Idaho Water Alliance. I don't know when
 17 the proper place to address the Board is, but this
 18 is the time, I guess right now. It's a public
 19 comment. And I'm as public as it gets.
 20 I visited with Vince Alberdi the other day
 21 regarding what is the proper format. And so I'll
 22 just try to bring you up to date.
 23 The Idaho Water Alliance, of course, works
 24 with aquifer recharge issues in the Magic Valley,
 25 primarily, but also all over the state. They've

1 been quite active in the last few months trying to
 2 get some things going. And it's all because of
 3 Board Member Leonard Beck. A couple of years ago
 4 we met with him and he said -- you know, we asked
 5 him, Leonard, is the Board going to really get
 6 active and actually find and develop some of these
 7 recharge sites? And he said, hmm, probably not.
 8 So what are you going to do? And he said, we'll
 9 just come to a super plan. And so that's what
 10 we've kind of done.
 11 The Board, as you know, has a water right on
 12 the Little Wood, Big Wood for 800 CFS. We've only
 13 really got one spot that we can use that water in.
 14 And it's felt locally that if we can figure out
 15 some kind of a way to get water out of the Little
 16 Wood River at Dietrich -- or excuse me, at
 17 Richfield going towards Dietrich. What we're
 18 talking about, gentlemen, is Silver Creek water.
 19 That's what the Little Wood is in the fall and
 20 wintertime is Silver Creek water, probably our
 21 premier Trout stream in the country.
 22 So currently, a group, including the Magic
 23 Valley Groundwater District, the Lower Snake River
 24 Aquifer Recharge District and the Idaho Water
 25 Alliance, each ponied up some dollars to drill

1 some exploratory test holes along the Dietrich
2 canal. We dug three of them two weeks ago.
3 Eaton's drilled those. IDWR geologist Lynn
4 Campbell was there to make sure that we had the
5 good well logs that we need to make these kind of
6 decisions. Monday, two of them went up there and
7 videoed those holes to see if, in fact, we had
8 enough cracks and fractures and cinders and stuff
9 like that in order to proceed. And on two of the
10 three, we will be taking water -- potable water up
11 there in BLM trucks to see what kind of water will
12 go down. And once we've done that, we'll make
13 some kind of a decision as to where to go.

14 Gooding, Lincoln and Jerome counties are all
15 interested as counties of trying to see if they
16 can help in providing the infrastructure to
17 perpetuate and get some recharge going. So we're
18 trying to get some of this stuff put together so
19 that we can maybe include some bore holes or some
20 more, actually, injection wells that the counties
21 would fund.

22 I do encourage you, as you talk about the
23 implementation of the CAMP plan, to recognize the
24 extreme need to have grunts on the ground to see
25 these things are done. We can have committee

1 meetings; we can have all kinds of things. But
2 unless you actually formulate and decide how
3 you're going to get those plans in effect, and
4 those people that are on the ground tell you where
5 the good spots are, who's the people that are
6 players, how we can get this done, it will never
7 happen. So please, please consider the grunt end
8 of the deal when we get down to actually getting
9 implementation plans done.

10 Thank you.

11 THE CHAIRMAN: Thank you for your comments.
12 Any other public comment?

13 Idaho Power Swan Falls Settlement Agreement.

14 HAL ANDERSON: Mr. Chairman, members of the
15 Board, first of all, I want to make sure that
16 everybody has the documents that we have included
17 for your consideration here. You should first
18 have a copy of a resolution. It says, "In the
19 Matter of a Memorandum of Agreement Regarding the
20 Implementation of Managed Recharge Under the
21 Eastern Snake Plain Aquifer Management Plan and
22 State Law." So you should have the resolution,
23 that is the resolution for the Board's
24 consideration today.

25 You should also have a Framework Reaffirming

1 the Swan Falls Settlement Agreement. That is the
2 agreement that was signed between the attorney
3 general, the Governor, and Idaho Power that was
4 the framework associated with this agreement that
5 the State and Idaho Power has reached, which calls
6 for this Memorandum of Agreement. Mr. Chairman,
7 that has -- which is the subject of our discussion
8 primarily today.

9 The Board has been briefed by Mr. Clive
10 Strong, who's been negotiating on behalf of the
11 Board and the State with the -- with the Idaho
12 Power Company on this -- on this agreement. And
13 given that, Mr. Chairman, I would like to turn the
14 time over to Mr. Strong and let him go through the
15 details of the agreement for the Board and provide
16 opportunity for the Board to ask any questions
17 they might have.

18 THE CHAIRMAN: Mr. Strong, please.

19 MR. STRONG: Mr. Chairman, members of the
20 Board, what we're here today to do is to address
21 the -- one of the conditions for the
22 implementation of the Swan Falls reaffirmation
23 framework.

24 As you recall, the framework reaffirming the
25 Swan Falls Agreement itself is not a settlement

1 document, but rather lays forward a suite of
2 measures that, if taken, would ultimately
3 constitute the settlement. And those suite of
4 measures are, one, signing reaffirmation
5 framework, which was done. Second was passage of
6 three pieces of legislation, one dealing with the
7 Board's review of managed recharge projects in
8 excess of 10,000 acre feet on an average annual
9 basis. The second modification of 42-234 and
10 42-4201A to remove the 1984 amendments and reflect
11 the fact that managed recharge is an appropriate
12 state tool to move forward with. And then
13 finally, implementation of legislation that would
14 reaffirm the same protections to Idaho Power
15 Company that are received under the original Swan
16 Falls Agreement in terms of PUC consideration of
17 whether entry into the Swan Falls Agreement itself
18 constitutes something that's contrary to the
19 public interest.

20 Those three measures were signed last Friday
21 by the Governor. And so the remaining steps that
22 need to be taken, one is the Board and the
23 Governor's approval of the Memorandum of
24 Agreement, which I will discuss in more detail in
25 a moment. And then the final step would be

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1 submission of the proposed form of final decrees
 2 to the SRBA District Court for approval.
 3 If those remaining two actions occur, then
 4 as between the company and the State of Idaho,
 5 that would constitute a resolution of the action
 6 brought by Idaho Power Company challenging the
 7 Swan Falls -- the State's implementation of the
 8 Swan Falls Agreement. I emphasize that that's an
 9 agreement between the State and Idaho Power
 10 Company, because other water users may have
 11 different opinions or interests in this matter.
 12 And they certainly have their right to participate
 13 in each of these forums, and to make their views
 14 known on the adequacy of the settlement.
 15 MR. CHASE: You know, Mr. Chairman --
 16 THE CHAIRMAN: Mr. Chase.
 17 MR. CHASE: I might note too, you know, I
 18 probably have a conflict of interest on this
 19 subject. And so, I'm going to listen to the
 20 debate, but I probably won't be able to vote on
 21 this one.
 22 THE CHAIRMAN: Thank you for your --
 23 MR. CHASE: I've talked to attorneys about
 24 that, and that's what they told me I should
 25 probably do.

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1 THE CHAIRMAN: Thank you for your candor,
 2 Mr. Chase.
 3 MR. CHASE: Okay.
 4 MR. RIGBY: Well, Mr. Chairman, while we're
 5 on that subject, obviously, I'm one of the counsel
 6 that represents the Upper Snake River users. And
 7 we were party participants in the actual hearings
 8 themselves. And although I've not spoken to
 9 Mr. Strong, I know that today I've been
 10 participating because I've not felt that conflict.
 11 But if -- if anyone is concerned of this, or if
 12 Mr. Strong, on behalf of the State is, then I will
 13 need to withhold as well.
 14 THE CHAIRMAN: Okay.
 15 MR. STRONG: Mr. Chairman, members of the
 16 Board, from a conflict standpoint, if you're
 17 adverse -- if your clients are adverse to the
 18 State, then that would be a provision that would
 19 require disqualification. My understanding,
 20 though, is that your clients have indicated that
 21 they are supporting of the agreement. If that's
 22 the event, then I would say conflict them in. It
 23 depends upon where you're at with your clients.
 24 MR. RIGBY: And Mr. Chairman, Mr. Strong,
 25 obviously, the -- we've had a lot of dialogue just

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1 in a last little while, both your office, mine and
 2 other counsel that are representing the
 3 independent, I guess, party participants.
 4 Obviously, with the condition that Idaho Power
 5 confirmed the letter of -- that you'll be
 6 discussing, then I can represent to this Board and
 7 to you that we are in agreement.
 8 THE CHAIRMAN: Thank you, Mr. Rigby.
 9 Mr. Strong.
 10 MR. STRONG: Mr. Chairman, members of the
 11 Board, which having said that, I've laid out the
 12 framework. I don't intend to revisit the
 13 framework. Instead, I'll now focus primarily on
 14 the Memorandum of Agreement to which the Board is
 15 being asked to consider approval.
 16 The Memorandum of Agreement is -- it's
 17 important to set out what it does and what it
 18 doesn't do. The Memorandum of Agreement is
 19 intended to reflect understandings between the
 20 State and Idaho Power Company with respect to how
 21 we would move forward -- we the State would move
 22 forward with managed recharge.
 23 As I've previously advised the Board, under
 24 the Swan Falls -- proposed Swan Falls settlement,
 25 if it's implemented, there would be an

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1 acknowledgment from the company that the issue of
 2 how managed recharge is conducted is a state
 3 policy issue. And what this Memorandum of
 4 Agreement attempts to do is to reflect the fact
 5 that, between the power company and the State,
 6 that there needs to be some dialogue that goes
 7 back and forth on these particular issues. Not
 8 that the company has a right to control the state
 9 process, but it's reaffirmation of its rights to
 10 participate like other users in decisions that are
 11 made through the State process, and also
 12 reaffirmation of the fact that we do have a
 13 contract with the company that reflects an
 14 understanding with regard to minimum flows that
 15 would be established at the Murphy Gauge and at
 16 the Milner Gauge. And that, as the State moves
 17 forward with its management actions, those actions
 18 can have implications of -- in terms of the
 19 implementation of that underlying Swan Falls
 20 Agreement that we are committing ourselves under
 21 this MOA to have a dialogue on those issues short
 22 of going forward with litigation.
 23 Now, nothing in the Memorandum of Agreement
 24 would preclude or change any parties' position,
 25 either the Board or the company's right to seek

3 (Pages 9 to 12)

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1 judicial relief. It's simply an expression of the
2 goodwill and intent that we should attempt to
3 dialogue on those issues before we have to resort
4 to litigation.

5 Having said that, the Memorandum of
6 Agreement has certain whereas clauses. Those
7 whereas clauses, if you go back and follow the
8 pedigree of them, can be traced back to the
9 original Swan Falls Agreement, to the Swan Falls
10 framework, which was the conceptual structure for
11 the Swan Falls Agreement that was entered into
12 back in 1984, and then provisions of the State
13 water plan that were amended by this Board back in
14 1985 to reflect the Swan Falls Agreement.

15 Just I'm going to note issues as we go
16 along. One concern has been expressed by some of
17 the party participants in the litigation is the
18 fact that this -- these whereases only reference,
19 primarily, the recharge issue, and concern that,
20 by not referencing other provisions of the
21 original Swan Falls Agreement, that somehow those
22 have a lesser standing. And I'd represent to the
23 Board that that is not the intent. In fact, among
24 the documents I've provided to you is a joint
25 statement from the Idaho Power Company and the

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1 State of Idaho that goes into this issue in more
2 depth.

3 But basically, the reason these provisions
4 were called out was we were trying to put the
5 framework of how this relates back to the Swan
6 Falls -- the original Swan Falls Agreement, how
7 this is consistent with those original
8 understandings and intent. And it is not intended
9 to reflect any change in terms of State policy, or
10 the agreements that were reached in the context of
11 the original Swan Falls Agreement. In fact, in
12 the framework, we have an express provision that
13 reaffirms all aspects of the original Swan Falls
14 Agreement.

15 Turning from the whereas clauses to the
16 therefore clauses, which are the critical ones,
17 let's walk through those. Paragraph No. 1 on page
18 2 is a codification of what I just expressed to
19 you, the idea that we, as a State, and Idaho Power
20 Company, entered into an agreement back in '84.
21 We're reaffirming that agreement, and recommitting
22 ourselves to work cooperatively to implement the
23 principles of the Swan Falls Agreement, not to
24 change them, but to implement them. And from a
25 fundamental public policy standpoint, it makes

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1 sense that, when you have a contractor, when you
2 have an agreement with a party, that you sit down
3 and you try to work cooperatively through those
4 issues. And that's what paragraph 1 attempts to
5 recognize.

6 Paragraph 2 is an understanding about the
7 ESPA CAMP process, which I should mention for the
8 purposes of the record that the CAMP legislation
9 was approved and signed into law by the Governor.
10 And under CAMP, as you're -- as this Board is well
11 aware, it provides for a managed recharge of up to
12 a hundred -- between 150,000 and 250,000 acre feet
13 on the average annual basis. But it provides that
14 that's going to be phased in over time, and that
15 the original intent was to phase in a hundred
16 thousand acre feet of recharge on the average
17 annual basis in the first ten-year period.

18 And so what we're reflecting here is that
19 the State water plan represents, as a matter of
20 law, what the State's policy is with regard to
21 recharge at this time. Doesn't mean that it can't
22 be changed in the future. In fact, the framework
23 makes clear that it can. But as it's presently
24 implemented, that provision of State law in CAMP
25 reflects what our recharge policy would be in the

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1 Upper Snake River Basin. And it's an
2 acknowledgment that, if we, as a state, choose to
3 change that policy in the future, that that would
4 constitute a requirement to go back through and
5 amend the State water plan pursuant to state law.
6 So again, it's just a reflection of an
7 understanding that that's what CAMP means. And
8 that's the process that we would use to change
9 those targets.

10 Paragraph 3 deals with ESPA CAMP 1 phase-in.
11 One of the kind of important issues in terms of
12 management of the waters of Snake River is to
13 recognize that -- and something we haven't done as
14 adequately as we should have in the past is that
15 one action affects other rights in the river. And
16 so, to extent that we implement recharge in the --
17 pursuant to the CAMP process, that will
18 necessarily mean that the waters that flow down
19 through the Snake River above Milner, for example,
20 will be altered, depending upon where we do that
21 recharge. The return flows from that recharge
22 will impact flows in various segments or reaches
23 of the river. And in particular, it could affect
24 the flows that currently unregulated flows that go
25 over the Milner Dam, and are available pursuant to

1 the Swan Falls Agreement for use for hydropower
 2 generation at those facilities.
 3 And again in the Swan Falls Agreement, it's
 4 the State's -- State has the authority to use
 5 those waters above Milner, and to use them in a
 6 way for recharge without violating the Swan Falls
 7 Agreement. But as a consequence of that, if we
 8 take water out during certain times of the year
 9 immediately above Milner, that means, in terms of
 10 meeting the 3900 CFS -- 3900 CFS flow in the
 11 irrigation season, or 5600 CFS flow in the winter
 12 season, that we have to be cognizant that that
 13 action could impact what happens at those reaches.
 14 And so what we're expressing here is an
 15 understanding that we're all going to be committed
 16 to moving forward with phase 1. The company has
 17 fully expressed its support for moving forward
 18 with phase 1. But it wants to be able to
 19 participate in how we implement that to try to
 20 minimize those impacts, and to avoid future
 21 potential conflicts between us.
 22 And so, from that perspective, there's an
 23 understanding that, as the Board moves forward,
 24 we're going to look at that hundred thousand acre
 25 foot target for the first ten-year period. We

1 recognize that adaptive management needs to be a
 2 part of the CAMP process. And so built into this
 3 is the notion that during that ten-year period,
 4 we're not going to go more than 75,000 acre feet
 5 above the hundred thousand acre foot target
 6 without coming back to the Board and going through
 7 a process and evaluating the consequences of that
 8 decision. Again, it's your decision to make.
 9 It's a process paragraph that we have there.
 10 Paragraph 4 is the recognition, No. 1, that
 11 by entering into this agreement, the company is
 12 not waiving any of its rights to participate
 13 pursuant to state law as any other citizen would
 14 to come before the Board or to come before the
 15 legislature and to express its views with regard
 16 to managed recharge and what implications it may
 17 have on generation of hydropower at those
 18 facilities below the Milner Dam. It also
 19 recognizes that the Board will work with the
 20 company to sit down and to work through those
 21 issues, to receive information from the company,
 22 and to try to make -- use that information in a
 23 meaningful way to make better decisions in terms
 24 of water management.
 25 Oftentimes, the major problem we've had with

1 water management in the Snake River basin is that
 2 we move forward independently of one another
 3 without taking into account the implications from
 4 a particular decision, and then we revisit those
 5 problems in subsequent litigation or conflicts
 6 that arise. And the idea here is that, rather
 7 than allow issues to build, let's talk about them
 8 up front. Let's work through them in a
 9 constructive way.
 10 Paragraph 5 is one that bears a significant
 11 amount of description for the reason that there is
 12 a concern that, by having the Board and the
 13 Governor work in good faith and cooperate with the
 14 company and support the company's attempt to get
 15 regulatory relief from the implications or impacts
 16 of managed recharge, that that somehow makes the
 17 Board or the Governor an institutional adversary
 18 of the other water users in the basin,
 19 particularly the groundwater users. And that's
 20 been a concern from Mr. Rigby's clients, from
 21 Idaho groundwater users, and from the City of
 22 Pocatello. And first, I describe what the
 23 understanding is between the State and Idaho Power
 24 Company, and then how we have attempted to remedy
 25 or reconcile those concerns with the other

1 affected water users.
 2 When this provision was being developed, the
 3 concern from the company's perspective, and from
 4 my opinion rightfully so, was that, okay, if we as
 5 a company are going to agree that the State could
 6 move forward and make decisions about managed
 7 recharge, that if you make those decisions, you
 8 ought to own the decision you made. In other
 9 words, if our decision is we want to use water
 10 above Milner, and that's going to impact flows
 11 below Milner, and the ability to make energy from
 12 that water, that we ought to acknowledge that
 13 we're making that decision, and what the
 14 consequences of that decision are. And that was
 15 all that was really intended. Because, oftentimes
 16 in these battles, you get into them, what happens
 17 is we make a decision, and then when someone seeks
 18 relief, then they're viewed as a culprit for that
 19 particular problem.
 20 And what this is intended to do is to simply
 21 have us acknowledge as a government what the
 22 consequences of our decisions are. It's not
 23 intended to have the Board or the Governor be in a
 24 position of being an advocate for a particular
 25 proposal for the PUC. It's not intended to

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1 deprive the PUC of it's authority to make
 2 decisions about the adequacy of the requests being
 3 made of the PUC, nor is it intended to have the
 4 Governor or the Board take a position with regard
 5 to that specific request. It's simply an
 6 acknowledgment that we will recognize, based on
 7 our own independent determinations what we think
 8 the impact of the decisions we're making are so
 9 that that can be part of the public record.

10 The concern is focused on the word support
 11 and the view that that could be interpreted more
 12 broadly. And in response to that, in
 13 conversations with various counsel and with others
 14 that are concerned, the State and Idaho Power
 15 Company put together a joint summary of this
 16 particular MOA and the framework, and expressly
 17 addressed this issue, and I would represent
 18 reflect with comments I just made to you that this
 19 is intended to simply be an acknowledgment by the
 20 State of the consequences of its decisions as
 21 opposed to taking a particular position before the
 22 PUC.

23 As the legislation was moving forward
 24 through the legislature, that concern continued to
 25 resonate, and as a consequence, we received the

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1 letter that I've provided to each of you, and I
 2 would ask be made part of the record for Mr. Randy
 3 Budge, that on behalf of the water users who
 4 express their concerns over this particular
 5 provision and the legislation.

6 Now, in addition to his letter, you will see
 7 in the materials I provided, and I ask to be made
 8 part of the record as well, a response that our
 9 office, the Office of the Attorney General
 10 prepared in conjunction with the Governor's office
 11 to reflect our understanding of this provision as
 12 well as others. And it's about a 19-page letter.
 13 And it has that statement of concern attached to
 14 it as well.

15 MR. RIGBY: Excuse me, Mr. Strong, that's
 16 the April 13th?

17 MR. STRONG: That's correct.

18 So what we're proposing is to have those
 19 issues made part of the record. We have -- in
 20 order to also give the other parties a comfort
 21 level that, in fact, the representations that I am
 22 making to you today, and that I am assuming
 23 Mr. Tucker will make to you as well, are reflected
 24 in the resolution for approval of the MOA. And
 25 hopefully, with that, we'll address at least the

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1 concerns of some of the groundwater users. I'll
 2 let them speak from their own perspective. But my
 3 understanding, at least from Mr. Budge on that, on
 4 behalf of his clients, making these a part of the
 5 record, along with the resolution, would
 6 adequately address their concerns about the
 7 interpretation of this particular paragraph.

8 Paragraph 6 is one that -- from the -- from
 9 your perspective and Governor's perspective is an
 10 important one. It's an acknowledgement both by
 11 the company and the State that managed recharge is
 12 fundamentally a public policy issue that needs to
 13 be decided pursuant to state law. It's not a
 14 matter of contract. It's a matter of state law.
 15 And so as a matter of state law, it's subject to
 16 change or modification in the future based upon
 17 the policy directions that you or the legislature
 18 adopt.

19 And then finally, paragraph 7. Paragraph 7
 20 is an acknowledgment to the company that, by
 21 entering into this MOA, and entering into the
 22 general agreement, that they do have the right,
 23 pursuant to state law, to continue to participate,
 24 and that neither the Swan Falls Agreement nor this
 25 MOA or the reaffirmation agreement precludes them

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1 from exercising those rights that are available
 2 pursuant to state law to express their views and
 3 concerns with regard to managed recharge.
 4 So Mr. Chairman, members of the Board, in
 5 summary, what we're bringing to you today, in my
 6 opinion, is a Memorandum of Agreement that
 7 reflects a process for coordination, cooperation
 8 between the company, between the State on managed
 9 recharge. It's not intended to create a new
 10 forum, but instead, it's intended to reflect
 11 understandings that will allow us to move forward,
 12 implement the policies of the State of Idaho with
 13 regard to managed recharge in terms of CAMP. It
 14 will allow the company to exercise its right in
 15 the public forum with everyone else.

16 And so with that, Mr. Chairman, I would
 17 stand for questions.

18 THE CHAIRMAN: Any questions of Mr. Strong?

19 MR. BECK: Mr. Chairman?

20 THE CHAIRMAN: Mr. Beck.

21 MR. BECK: Thank you, Mr. Chairman.

22 Mr. Strong, from this memorandum, it appears
 23 that there is a tremendous -- or I shouldn't say
 24 tremendous, but a concern for the decrease of
 25 flows because of recharge. Certainly on the other

1 hand, there has to be an approach, or an effort to
2 notice that the recharge would be to increase the
3 aquifer levels, which would greatly reduce deep
4 well pumping. And in those levels being raised,
5 it might also cause more flow in the river.

6 Are we -- I'm more concerned about the
7 negativism versus the positive what a recharge
8 would look on it.

9 MR. STRONG: Mr. Chairman, Mr. Beck, perhaps
10 in my presentation, I was too -- too much pointing
11 on the downside, because that's the concerns that
12 have been expressed. But the reality is you're
13 correct. Recharge has both positives and
14 negatives. And to the extent that recharge may
15 not be going over Milner, it's certainly
16 augmenting the aquifer. It provides a more stable
17 supply, and it will help in those springs. And so
18 it's a balancing act we're going to go through on
19 recharge.

20 I think really what's been kind of the heart
21 of debate on recharge over the last few years is
22 everybody is looking at it from the worst case
23 scenario. I think the reality, and what the
24 future will show us is that recharge is a tool,
25 not the only tool, but a tool that can be used in

1 conjunction with other tools to try to bring the
2 aquifer back into balance.

3 And I think that's reflected in your CAMP
4 proposal. And I think as we go forward and
5 implement it, it's going to be incumbent upon us
6 to document what are the consequences of the
7 decision we make. And it may be that we find more
8 benefits than we do negatives. But from a company
9 standpoint, they're concerned about the negatives
10 because that impacts their ability to generate.

11 From a positive standpoint, having enhanced
12 spring flows is going to enhance their ability to
13 generate with a more reliable flow, below Thousand
14 Springs. And I think it's that realization -- and
15 I'll allow Mr. Tucker to speak to that -- but I
16 think it's that realization that recharge isn't
17 something you can view as either a positive or a
18 negative. It's got a balance. And we need to
19 consider that as we implement it and do it in a
20 way that's most effective to optimizing the
21 resources.

22 THE CHAIRMAN: Thank you.
23 Anything else Mr. Beck?
24 Anyone else? Questions of Mr. Strong?
25 What?

1 (Unintelligible).

2 MR. RIGBY: Mr. Chairman and Mr. Strong, I
3 don't want to get out of order here. Just that,
4 as I indicated before, for me to proceed, the only
5 condition that I really have is the confirmation
6 by Idaho Power of documents that they haven't
7 heretofore already executed, one of which is the
8 April 13, 2009 letter. Obviously, not having
9 executed, my understanding is Idaho Power is
10 prepared to confirm your response in that letter.
11 And I guess that's what I'm saying. I don't
12 want to push this out of order. I know that Idaho
13 Power will be before the pulpit -- or the stand --
14 you tell us -- go back to my church days here --
15 and address this. But I just want to make sure
16 that's still on the Board.

17 MR. STRONG: Mr. Chairman, members of the
18 Board, it would be my recommendation to you that
19 not only do we hear from Idaho Power Company, but
20 we hear from other water users. Though, I have
21 presented to you here what I believe to be the
22 benefits of moving forward with this, not everyone
23 shares those views. And I think it's important in
24 making public policy decisions that everyone has
25 an opportunity so that you have the information

1 necessary to make an informed decision.

2 And so from that perspective, I would
3 encourage you to invite, not only Idaho Power
4 Company, but other participants here in the group
5 that may have other concerns or issues they'd like
6 to have addressed.

7 THE CHAIRMAN: Thank you, Mr. Strong.
8 Any other questions of Mr. Strong?
9 Clive, thank you.

10 Mr. Tucker, I see you just itching to get to
11 the pulpit.

12 MR. TUCKER: Mr. Chairman, thank you. No, I
13 wasn't really itching to get up here, but I
14 suspect that I perhaps should.

15 THE CHAIRMAN: We appreciate it.

16 MR. TUCKER: I do not have any prepared
17 remarks today. I suspect that I might be on the
18 agenda, so I do have a few things to say.

19 First of all, let me confirm what Mr. Strong
20 said. Mr. Strong and I have appeared in various
21 forums over the last month or so, including the
22 legislature on several occasions before various
23 committees. And the representations from
24 Mr. Strong on the general outline of the
25 agreement, the framework, the MOA is correct. We

1 certainly generally confirm and participated in
 2 the summary that was done. And I confirmed the
 3 letter that he sent. The letter that he sent, the
 4 September 13th letter or the April 13th letter,
 5 generally concur with that letter. No problems
 6 with the letter.

7 What I want to do this morning is talk a
 8 little bit broader than perhaps what this MOA
 9 talks about. It's focused obviously on recharge.
 10 But one of the first things that, when we sat down
 11 with the State to talk about trying to resolve the
 12 Swan Falls litigation, we agreed upon was a
 13 litigation was not an appropriate forum to really
 14 resolve complex public policy issues. We've been
 15 in litigation with the State for several years on
 16 issues that really we're not going to get to the
 17 bottom line. And the bottom line being how do we
 18 take care of the Snake River Plain Aquifer? How
 19 do we implement CAMP? And how do we go forward to
 20 see if we can't resolve some of the issues that
 21 have been plaguing the State of Idaho over the
 22 last several decades? Litigation wasn't going to
 23 solve that. So we agreed upon that, and we agreed
 24 to move forward.

25 Now recharge, in that litigation, was a hot

1 button issue. It was a hot button issue because
 2 of what occurred two or three or four, five years
 3 ago, 2006. We all remember House Bill 800? The
 4 acrimony that came out of that debate, that fight,
 5 if you will, which really blossomed into this
 6 litigation. But as we went through that
 7 litigation, we found that the end result was not
 8 really going to even resolve that issue, because
 9 we knew -- Idaho Power knew, and I think the State
 10 knew that, in the context of the CAMP process, we
 11 were going to proceed with some recharge.

12 As Clive, recharge is a fundamental tool of
 13 water management. It was recognized as a
 14 fundamental tool back in 1984, when the original
 15 framework was signed for Idaho Power and the
 16 State. The problem was no one knew how it was
 17 going to be implemented or what it was going to
 18 do. So as a consequence -- Clive is right -- it
 19 became somewhat of a boogy man, if you will, in
 20 the context of -- at least in the company's
 21 perspective early on, how big was this going to
 22 be? What impact it was going to have.

23 Mr. Beck makes a very good point, though.
 24 As you start to look at recharge, you can see
 25 pluses and minuses on both sides. So in that

1 context, we felt we've got to move forward in a
 2 cooperative manner under the CAMP and look at
 3 recharge in the same context as all the other
 4 water management tools we have. What benefits
 5 will it bring. What attributes does it have that
 6 might foster some public policy debates about how
 7 much we should use recharge and where we should
 8 use it. That's what this agreement really does
 9 and sets the stage for. Sets the stage for Idaho
 10 Power Company to be a partner with the State in
 11 the context of the CAMP and water management
 12 processes.

13 Now, there's various other partners in that
 14 process. Some of them are in the room. There are
 15 other potential partners that we haven't even
 16 talked to yet in the context of CAMP. But we
 17 think it's recognized under CAMP that there has to
 18 be a leadership role from the State of Idaho. And
 19 frankly, this Board is going to have to take the
 20 leadership role in that context. To really direct
 21 CAMP, and direct these measures forward, and make
 22 sound public policy choices as to what measures
 23 are in the best interests of the State of Idaho,
 24 the Snake River, and the Eastern Snake Plain
 25 Aquifer.

1 What this framework does, and these
 2 documents do is put Idaho Power in a position
 3 where we can come before this Board, and we can
 4 present our information, our data, our science,
 5 and be involved in this process so that this Board
 6 can make those sound public policy choices that
 7 need to be made. This is going to be a long
 8 process. This first phase is expected to take ten
 9 years. I may not be around for the end of that.

10 Though, it's got to start in a rational,
 11 reasonable way with leadership from the State, and
 12 leadership from this Board. And we, through this
 13 agreement, are taking the position we want to be
 14 part of that. We want to be an active member, an
 15 active participant in that. And that's what the
 16 agreement kind of clears the way for. It gets rid
 17 of the litigation, and hopefully puts us in a
 18 place where we'll be an active partner with the
 19 State in moving forward on these issues.

20 So, again, I don't -- I think all too often
 21 in this context of this settlement agreement, we
 22 look at recharge as being kind of the -- everybody
 23 talks about recharge, recharge, recharge.
 24 Recharge is an important management tool.
 25 Mr. Hazen makes the point that recharge, we need

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1 to worry about boots on the ground, or grunts on
 2 the ground. I agree. We need to worry about how
 3 we're going to implement these various measures.
 4 But they have to be implemented. And I think this
 5 whole context of what we put together under the
 6 legislation is they should be implemented under
 7 the CAMP process. And there's a lot of work to be
 8 done that -- I just saw Mr. Barch come in --
 9 there's a lot of work to be done in the context of
 10 setting up the implementation committee, how that
 11 committee's going to consider measures to move
 12 forward with, how its a going to bring those
 13 measures to this Board to get approved, and how
 14 this whole process is going to work. A lot of
 15 details to be worked out. We'd like to be a
 16 partner in helping to work out the little details.
 17 So with that, I'll answer questions if you
 18 have specific questions about that. I just want
 19 to give a little bit broader context.
 20 THE CHAIRMAN: I believe that the fear of
 21 the unknown is what is holding all of us back. It
 22 is too bad that we can't look into a crystal ball
 23 and see ten years from now how worthwhile these
 24 decisions we're making today are going to be.
 25 Are there any questions for Mr. Tucker?

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1 Mr. Cuddy?
 2 MR. CUDDY: Thank you, Mr. Chairman.
 3 I take it from this, you and Clive both
 4 believe that with the MOU and the April 13th
 5 letter being an integral part of it, that it still
 6 leaves you the latitude to move up and down the
 7 necessary process that may occur in the Snake
 8 River Plain to properly manage it without
 9 restriction?
 10 MR. TUCKER: Mr. Cuddy, Mr. Chairman, when
 11 you say you, Mr. Cuddy, I don't want to -- I don't
 12 want to answer that in the context of Idaho Power,
 13 because Idaho Power obviously is not the water
 14 manager up and down the Snake River. It wants to
 15 be a participant in those water management
 16 decisions. This sets the framework for Idaho
 17 Power along with other interested parties to
 18 participate in that.
 19 MR. CUDDY: Well, that's what I mean. And I
 20 see it, with this, you become a part of the
 21 management process.
 22 MR. TUCKER: That's our hope. And again,
 23 not to raise our level. I don't want to give
 24 people paranoia to think that Idaho Power is
 25 stepping out and has some super priority

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1 someplace, because we don't. But we are -- as
 2 with any other citizen, we have -- we have the
 3 ability and the opportunity to come before this
 4 Board and talk about the measures that are going
 5 to be put in place, and how those measures should
 6 best address all of the various issues this Board
 7 should be concerned with with respect to water
 8 management.
 9 THE CHAIRMAN: Any other questions?
 10 Mr. -- Mr. Rigby.
 11 MR. RIGBY: Mr. Chairman.
 12 MR. CHAIRMAN: I knew that.
 13 MR. RIGBY: I'm sorry.
 14 Mr. Tucker -- and again, this is the
 15 attorney in me, but I just need to ask this
 16 question.
 17 In response to the April 13th, 2009 letter,
 18 I heard you say general agreement. I guess I
 19 would ask you, is there anything specific in that
 20 letter -- I'm assuming you've read it numerous
 21 times. Is there anything specific in that letter
 22 that you have any problem with?
 23 And again, I don't want to beat a dead
 24 horse, but I want you to understand that I'm
 25 concerned about my position on this Board. And

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1 the only -- in voting on this, the only way I can
 2 is a clear agreement of Idaho Power to that
 3 response, because I believe that response
 4 addresses the concerns of my particular clients in
 5 a -- obviously, there were many other concerns.
 6 But having gone through the litigation and dealt
 7 with the minutia of certain terms, that's why I'm
 8 beating this dead horse. And I apologize, but I
 9 guess I really don't apologize. I need to have a
 10 response to that.
 11 MR. TUCKER: Mr. Rigby, Mr. Chairman, I'm
 12 only smiling, Mr. Rigby, because it is the
 13 attorney in you, and it's cross-examination. And
 14 if I had my counsel here, he might object.
 15 But Mr. Rigby, Mr. Chairman, Board Members,
 16 we have no problems with the representations in
 17 that September 13th letter. I use the word
 18 generally only because I'm an attorney also.
 19 Okay? But we've been through the letter. We've
 20 talked to Mr. Strong about it I've talked to
 21 Mr. Budge about it. I haven't talked with you
 22 about it. I apologize for that. Certainly
 23 willing to do that. We've offered to go and sit
 24 down with groundwater users boards, which I think
 25 we're going to do in the next month or two months,

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<p>1 and talk about not only the settlement, but the 2 whole process of moving forward with CAMP, and try 3 to get kind of an understanding, relationship, and 4 so we can, you know, communicate better. Be happy 5 to do that with your clients also. 6 MR. RIGBY: Mr. Chairman? 7 THE CHAIRMAN: Yes, Mr. Rigby. 8 MR. RIGBY: Mr. Tucker, we would really 9 appreciate that. I think that would be very 10 helpful. And you and I have had this discussion 11 about meeting with my particular groups in the 12 past. I think it would be very, very worthwhile. 13 MR. TUCKER: Be happy to do that. 14 MR. RIGBY: Thank you. I will no longer 15 cross-examine. 16 MR. TUCKER: Thank you. May I step down 17 now? 18 THE CHAIRMAN: Just one second, Mr. Tucker. 19 Are there any other questions by other Board 20 Members of Mr. Tucker? 21 Hearing none, thank you, Mr. Tucker. 22 MR. TUCKER: Thank you, Mr. Chairman. 23 Thank you. 24 THE CHAIRMAN: Who else would like to weigh 25 in on the Memorandum of Agreement?</p>	<p>1 the Court was almost -- was ready to issue was put 2 on hold. And that's currently the status. All 3 the argument and briefing has been done. And the 4 Court has held back its order on summary judgment. 5 And then this settlement occurred. 6 It's important to know, and I know 7 Mr. Strong did say, that the other parties have 8 not agreed to the settlement entirely. We still 9 have some concerns about the framework and other 10 issues relating to the settlement, and haven't 11 made a decision on whether or not we will agree 12 with the settlement ultimately that's before 13 this -- of the litigation that's pending in the 14 SRBA District Court. That's why we wanted to make 15 sure that our April 9th letter that discusses 16 those questions and some of the things involved 17 there is in the record as well as Mr. Strong's 18 April 13th response, which now Idaho Power has 19 joined in, from my understanding of the dialogue 20 between Mr. Rigby and Mr. Tucker. 21 But I did want to just make that clear that 22 there is still pending litigation. And we haven't 23 made a decision entirely on the resolution of 24 litigation. But as far as the Memorandum of 25 Agreement that you guys are to act on today, the</p>
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<p>1 MS. McHUGH: Thank you, Mr. Chairman. My 2 name's Candice McHugh. I represent the Idaho 3 Groundwater Appropriators. And we're here today 4 to just, I guess, confirm some of the documents 5 that Clive -- or Mr. Strong has put into the 6 record. 7 I understand you have Mr. Budge's April 9th 8 letter that set forth some concerns not only about 9 the Memorandum of Agreement, but also about the 10 framework. We're here today, I understand, for 11 the Board to discuss the Memorandum of Agreement. 12 And specifically in that letter, we had a concern 13 with paragraph 5. I understand the Board is going 14 to be adopting a resolution that will address our 15 concerns about that paragraph. Mr. Strong's 16 already gone over that. So as far as the 17 Memorandum of Agreement goes, at this time, the 18 Groundwater Appropriators are satisfied, provided 19 the resolution is adopted. 20 There are some other background information 21 I think is important to put on the record. The 22 settlement came about because of litigation before 23 the SRBA District Court. The parties briefed the 24 matter on summary judgment. And at the request of 25 Idaho Power and the State of Idaho, the order that</p>	<p>1 resolution accomplishes -- or addresses our 2 issues. 3 And with that, I would stand for any 4 questions. 5 THE CHAIRMAN: Thank you, Miss McHugh. 6 Any questions of the Board Members for 7 Ms. McHugh? 8 MS. McHUGH: Thank you. 9 THE CHAIRMAN: Thank you. 10 Mr. Graham. 11 MR. GRAHAM: I'd like to ask Clive a 12 question on paragraph 5 on page 3. 13 (Unintelligible). The way I understand -- 14 understood you commenting on that seems to differ 15 with the word and support on that second line. 16 The way I'm reading paragraph 5 is that the 17 Governor and/or the Board will support Idaho Power 18 in any proceedings. When you talked about that 19 particular paragraph, it sounded like there was a 20 hedge on and support. 21 MR. STRONG: Mr. Chairman, Mr. Graham, no, 22 there's not a hedge on the word support. It's any 23 time you use words, they're not like a 24 mathematical equation. They can be interpreted 25 differently. And that's what the real issue has</p>

10 (Pages 37 to 40)

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1 been. There's been this issue about what is meant
2 by the word and support. And I would reflect
3 again to the Board that as between the company and
4 the State, it was our understanding that and
5 support means that we will come forward, and as
6 the company's making its request, acknowledge what
7 we determine to be the, both the benefits and
8 impacts for recharge. If we implement a program,
9 we ought to be able to acknowledge what the
10 consequences of that decision are. So that's what
11 paragraph -- from our perspective what paragraph 5
12 means.

13 And it's because of that concern that, in
14 your resolution, we have language that's intended
15 to try to address that. Specifically on the
16 second page, the second whereas clause, it says,
17 "whereas, the Memorandum of Agreement provides
18 that the Board would cooperate and inform the
19 Public Utilities Commission of any direct effects
20 the Board determines may arise from implementation
21 of managed recharge and hydropower generation
22 capacity." So that's what we understand the word
23 support to mean. And when we sign it, that's
24 going to be -- if the Board approves it, that's
25 going to be the understanding that that's what it

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1 meant.

2 Then, "whereas, nothing in this memorandum's
3 intended to divest or interfere with Public
4 Utilities Commission's authority to independently
5 evaluate the effects of managed recharge and
6 hydropower generation to pass the -- or the
7 appropriateness of any requests by Idaho Power
8 Company to address any such effects."

9 So again --

10 MR. GRAHAM: What paragraph are you reading
11 from on the resolution?

12 MR. STRONG: It's the second page of your
13 resolution.

14 HAL ANDERSON: The second whereas on that
15 page starts -- second and third.

16 MR. GRAHAM: Oh, okay. Thank you.

17 MR. STRONG: And then the third one is
18 intended to address the concern about what the
19 State would do in those proceedings. And it says,
20 "whereas, the memorandum does not require the
21 Board to take any affirmative position on whether
22 a specific request by the Idaho Power Company
23 seeking relief for the alleged effects of managed
24 recharge is appropriate or necessary, or on how
25 any resolving rate impact should be allocated."

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1 So these three paragraphs are intended to
2 confirm the representations that I have made to
3 you about the meaning of that particular
4 provision, and will be part of the history of this
5 particular agreement if it is approved by the
6 Board.

7 Now, let's -- what we're really dealing with
8 here -- and I think Mr. Tucker is correct -- that
9 we have a relationship, one that is kind of like a
10 family relationship, where issues of trust have
11 arisen over time, and there's concerns about
12 making sure that we all have the same
13 understanding so we don't get into other
14 litigation down the road. And so that's why these
15 provisions are here, and rightly so.

16 The water users that have been before you
17 have expressed concern. Want to make sure that
18 there's that understanding so that we don't
19 unnecessarily or inadvertently cause conflict down
20 the road in terms of if implementation goes
21 forward. What we really need to do, and what I
22 think Mr. Tucker's point was well made this
23 morning, is when you get into these issues of
24 trust, you've got to start somewhere. And this is
25 what this is intended to do. It's intended to be

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1 an agreement that starts us down the road to
2 where, rather than viewing ourselves as
3 adversaries, we're going to try to view ourselves
4 as people who have interests that sometimes
5 conflict, and sometimes converge. And so, try to
6 manage those in a way that avoids the necessary --
7 the conflict that we've had in the past. And
8 obviously, because of the trust issues, it's
9 difficult to get there. But at the beginning of
10 the process, if you don't make some
11 representation, if you're going to go down that
12 process, you never get there anyway.

13 And so what we're really trying to do with
14 this MOA is to reflect that understanding. We're
15 going to try to find that cooperative relationship
16 that has existed in the past, restore ourselves
17 back to that. At the end of the day, this MOA is
18 merely the statement of intent between Idaho Power
19 Company and the State. We cannot, as a matter of
20 state law, and the company recognizes this, we
21 cannot, matters of state law, bind the Board to a
22 particular position, we can't bind the Governor to
23 a particular position. As a government, you have
24 a right to make those decisions. There may be
25 another Governor that comes down the road that has

11 (Pages 41 to 44)

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1 a different point of view. But what this is
2 intended to do is to the extent of showing the
3 goodwill, good faith effort to try to reconstruct
4 that constructive relationship that will lead us
5 to a more effective water management process in
6 the future.

7 MR. GRAHAM: Does Mr. Tucker agree with
8 that?

9 THE CHAIRMAN: Go ahead, Mr. Tucker.

10 MR. TUCKER: Mr. Chairman, Mr. Graham, yes,
11 I agree with that. And just to put this, maybe,
12 you know, again, in context, you know, I think we
13 realize, given what's happened over the last three
14 or four or five years with CAMP, that we -- you
15 know, we're in a zero sum game here. You know,
16 which means, if you take water from one place --
17 one place -- Clive said this earlier -- and you
18 put it someplace else, it impacts various things.
19 When we started again, the discussions with the
20 Governor's office and the AG's office, all we
21 asked in the context of this provision was that
22 if, again, the public policy choice is made to
23 move water from one part, one place to another
24 place that has impacts upon hydrogeneration, let
25 the state acknowledge that they made that public

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1 policy choice with knowledge of what it was going
2 to do.

3 You know, Idaho Power Company's not the
4 enemy here. We provide energy to the State, to a
5 portion of the State. We provide energy to the
6 State. And we try to do it on a low cost basis.
7 And if public policy choices are made that impact
8 that ability, or make choices that we have to make
9 to go, either, build a new plant or something
10 else, all we ask from the State in this context is
11 that the State acknowledge, so we don't go to
12 the -- we don't go to the PUC alone. The State
13 acknowledge we made a public policy choice we
14 understand has energy ramifications. That's it.
15 You know, PUC still has jurisdiction to do
16 whatever they want to do. It's not that the
17 Governor comes in with a heavy hand and directs
18 the PUC to do something particularly with respect
19 to rates or otherwise. It's simply an
20 acknowledgment that that public policy choice was
21 made. That's all. That's really all that
22 provision does.

23 THE CHAIRMAN: Thank you, Mr. Tucker.
24 Miss Beeman.

25 MS. BEEMAN: Mr. Chairman and members of the

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1 Board, I'm Jo Beeman of Beeman & Associates. And
2 I represent the City of Pocatello in the two Swan
3 Falls matters at the SRBA court. As part of the
4 record today, Candice McHugh provided the April
5 9th letter from the groundwater users. I wanted
6 to ask if that letter had the attachment, which I
7 believe is an order -- there was an attachment to
8 that letter that was an order.

9 MS. McHUGH: No.

10 MS. BEEMAN: Okay. What I would like -- and
11 I have copies with me today -- to include in the
12 record for the Board's consideration of the
13 Memorandum of Agreement is a notice that the City
14 of Pocatello filed in the Swan Falls litigation.
15 And in addition, in that notice is a reference to
16 the subtext of what we've been talking about this
17 morning, the third party beneficiaries of the Swan
18 Falls Agreement. And in the litigation,
19 Miss McHugh and Mr. Rigby represent the
20 groundwater users. And Pocatello is a
21 representative the face of the municipal water
22 users who are groundwater users in the state.

23 And in the context of the state policy, and
24 what the interface we have here between these
25 extremely important policy decisions, and the

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1 boundaries established by the litigation in the
2 '80's, and now the litigation before the SRBA
3 court with the Swan Falls matter, is that we
4 can't, in making policy decisions, escape the fact
5 that we have had 24 to 25 years of Swan Falls.
6 And unfortunately -- and this is something that
7 Pocatello will be bringing to the floor and has.
8 The litigation at the SRBA court, the framework
9 and the legislation is intended to address did not
10 include any evidence or discovery on the numbers
11 of how the Swan Falls flow has been measured, how
12 the flow at Milner Dam has been measured, and the
13 interplay of Milner and Swan Falls with the
14 operational decisions of Idaho Power.

15 I've had conversations with the Attorney
16 General's Office, because, of course, with what
17 Pocatello filed that we'll make of record today,
18 the notice that they filed, there was concern
19 about could Pocatello put something in writing to
20 express its concerns. And I said, what -- I said,
21 we probably won't, because the notice states the
22 City's general concern. But what we would like to
23 have from the State is the data that shows what
24 those Idaho Power fluctuations have been in the
25 dams between Milner Dam and Swan Falls. Because,

1 part of this framework -- a core part of this
 2 framework sets forth in black and white a formula
 3 about how those minimum flows are going to be
 4 measured. And we're going forward without the
 5 data of what has happened the last 24 years. That
 6 is Pocatello's concern.
 7 And so my response to the State was, can you
 8 provide us that data? I have begun to look at it.
 9 And I have to thank Miss McHugh's firm. They've
 10 had one of their experts looking at these issues
 11 as well. And we have talked about it. But we
 12 simply don't have the data. And the thing about
 13 the certainty and the trust going forward that
 14 everybody wants to support is that we have
 15 2 million acres of land in this state irrigated
 16 with groundwater. And we have two things that are
 17 very uncertain going forward to this framework.
 18 One is the Department's rules of appropriation,
 19 which came out of the Swan Falls Agreement have at
 20 their very end a map, which has a line that
 21 designates if you're inside this line and the Swan
 22 Falls flows are not met, you're going to be
 23 curtailed if your priority date is junior to 1984
 24 and 1985. We don't know if that line is going to
 25 stay the same.

1 I think anybody who's worked on Swan
 2 Falls -- you could probably ask Director
 3 Tuthill -- will tell you that's not a hydrologic
 4 line. And if, as we go forward with this
 5 framework -- and this is stated in the
 6 documents -- that there is a desire to make that
 7 more correct. Well, I don't think anybody could
 8 stand before you and say, in making that line
 9 correct, we're going to have a smaller group of
 10 groundwater users. No. If anything, that line
 11 will get larger. That's concern No. 1.
 12 No. 2 is, if you don't have the data about
 13 what was going on at Swan Falls -- and by that, I
 14 mean -- this is an engineering term -- being able
 15 to disaggregate how much of that flow is because
 16 the variations in Idaho Power operations -- I
 17 think there are five or six dams. And most of
 18 them run at the river. How much is from Bureau of
 19 Reclamation programs, how much is from rental
 20 water, and what have we been doing in the past?
 21 Has the determination of those minimum flows been
 22 this is what the Murphy Gauge reads. And all of
 23 the water is the same color. We count it the
 24 same. The framework that is going forward, and
 25 the legislation -- which is why Pocatello -- I

1 know it's been signed, but 1169 makes public
 2 policy of the exhibits to the framework. Those
 3 exhibits include the decrees. The decrees have a
 4 formula. We don't know if that formula is, in
 5 fact, what the State has done for the last 24
 6 years. And in large measure, we don't know,
 7 because we don't have the data.
 8 That's my concern, that we're going forward
 9 with a formula that says you look at the Murphy
 10 Gauge, and you've got to know what color the water
 11 is. If it's red, we don't count it. If it's
 12 green, we do. That's the concern that Pocatello
 13 has. And the document I'm making of record is
 14 just a notice to the SRBA court that there are
 15 five parties to the litigation. Two have signed
 16 the framework, and that Pocatello joined. It
 17 initiated one of the basin-wide issues on Swan
 18 Falls for the benefit of the third party
 19 beneficiaries. The framework here that we're
 20 talking about, and the Memorandum of Agreement
 21 addressed the other piece of the Swan Falls
 22 litigation. Pocatello came into that expressly as
 23 a third party beneficiary of the Swan Falls
 24 Agreement.
 25 And that's the capacity in which I'm

1 speaking to all of you today on behalf of the City
 2 of Pocatello. If anyone has any questions, I'd --
 3 THE CHAIRMAN: Any questions of Miss Beeman?
 4 MR. RIGBY: Mr. Chairman, I don't have any
 5 questions. I just want the record to be clear,
 6 Miss Beeman said that my group, and I want to make
 7 sure maybe there is a confusion. My group in the
 8 litigation were groundwater users. In fact, they
 9 were not. They are two from each of my -- what I
 10 call my three regions as representative clients,
 11 irrigation companies and canal companies, each of
 12 whom, however, do have, within their membership,
 13 certain groundwater users. But the actual
 14 entities themselves entities are surface water
 15 users. I just wanted to make that --
 16 MS. BEEMAN: Mr. Chairman -- Mr. Rigby,
 17 excuse me.
 18 MR. RIGBY: No, that's fine. I just want to
 19 make sure --
 20 MS. BEEMAN: I appreciate your correcting
 21 the record.
 22 THE CHAIRMAN: The attorney in all of us.
 23 Any other questions of Miss Beeman?
 24 Miss Beeman.
 25 MS. BEEMAN: This is maybe a little out of

1 character, but you know, when they say the first
 2 thing you need to do is to kill all the attorneys?
 3 You know what the context of that statement is?
 4 If you want to destroy democracy, the first thing
 5 you do is kill all the attorneys.
 6 And I thank you gentlemen.
 7 MR. RIGBY: Here, here.
 8 THE CHAIRMAN: I think we all realize how
 9 enjoyable it is to have attorneys in the room.
 10 Is there anyone else who would like to
 11 address this before the Board takes action?
 12 I would entertain an acceptance of the
 13 resolution before us to approve the Memorandum of
 14 Agreement.
 15 MR. BECK: So moved, Mr. Chairman.
 16 THE CHAIRMAN: Mr. Beck has made the motion
 17 to approve the Memorandum of Agreement that's
 18 before us.
 19 Do I hear a second?
 20 MR. GRAHAM: I'll second it.
 21 THE CHAIRMAN: Mr. Graham has seconded it.
 22 Any discussion by the Board?
 23 This is important enough, I think we need a
 24 roll call vote. Miss McGourty.
 25 MS. MCGOURTY: Mr. Cuddy.

1 MR. CUDDY: Aye.
 2 MS. MCGOURTY: Mr. Alberdi.
 3 MR. ALBERDI: Aye.
 4 MS. MCGOURTY: Mr. Chase.
 5 MR. CHASE: I'm going to abstain.
 6 MS. MCGOURTY: Okay. Mr. Beck.
 7 MR. BECK: Aye.
 8 MS. MCGOURTY: Mr. Chamberlain.
 9 MR. CHAMBERLAIN: Aye.
 10 MS. MCGOURTY: Mr. Graham.
 11 MR. GRAHAM: Aye.
 12 MS. MCGOURTY: Mr. Rigby.
 13 MR. RIGBY: Aye.
 14 MS. MCGOURTY: Chairman Uhling is absent.
 15 So we have six ayes.
 16 THE CHAIRMAN: Six aye's and one abstain?
 17 MS. MCGOURTY: One abstain, one absent.
 18 THE CHAIRMAN: One absent.
 19 Motion passes. The resolution passes,
 20 excuse me.
 21 Mr. Strong.
 22 MR. STRONG: Mr. Chairman, if I can make one
 23 remark, we -- with this, I want to re-emphasize
 24 there's still the issue of working out decrees.
 25 And from the State's perspective, we're committed

1 to working with the parties to get that
 2 accomplished. And I would announce now -- I'll
 3 send out an e-mail later -- but I'll announce now
 4 that last night I met with the director. And we
 5 have set up two meetings, two workshops. One will
 6 be on May 6th. The purpose of the May 6th meeting
 7 will be to share information with regard to the
 8 number of water rights that the Department has
 9 concluded would enjoy the benefit of the
 10 subordination and those that would be deemed to be
 11 diverting from trust water.
 12 The next workshop would be on May 12th. And
 13 both of these are in the afternoon at 1:00
 14 o'clock. The May 12th workshop, will focus on the
 15 issue that Miss Beeman has raised about --
 16 UNIDENTIFIED SPEAKER: Phone is ringing.
 17 MR. STRONG: -- how we measure flows at the
 18 Murphy Gauge. And so hopefully we'll be getting
 19 that information out --
 20 MS. MCGOURTY: Is that Bob's phone?
 21 UNIDENTIFIED SPEAKER: I don't know. It's
 22 in the bag here. It's Bob's.
 23 MS. MCGOURTY: Bob --
 24 UNIDENTIFIED SPEAKER: Could someone find
 25 their phone?

1 MS. MCGOURTY: Bob?
 2 UNIDENTIFIED SPEAKER: Bob?
 3 THE CHAIRMAN: Mr. Graham, have you got a
 4 phone? You didn't put it on silent.
 5 I forgot how hard of hearing Mr. Graham is.
 6 Mr. Strong.
 7 MR. STRONG: Mr. Chairman, Members of the
 8 Board, I'm not sure what I need to go back over.
 9 Anyway --
 10 UNIDENTIFIED SPEAKER: 'Cause we all make
 11 sure it's on silent.
 12 THE CHAIRMAN: Start with May 12th,
 13 Mr. Strong.
 14 MR. STRONG: Okay. The May 12th meeting is
 15 for the purpose of addressing the issue that
 16 Ms. Beeman's raised with regard to how flows are
 17 measured at the Murphy Gauge. Our intent would be
 18 to have the information there to go back through
 19 the record and all the information that the
 20 parties seek.
 21 As you might suspect, any issue of this
 22 complexity, with all the different issues, it's
 23 not surprising that as you go forward, people want
 24 to get a surety of -- that this is, in fact, what
 25 it's represented to be. And that is a

1 reaffirmation of Swan Falls Agreement is not an
 2 intent to change it. For example, one issue
 3 Miss Beeman raised was the issue of whether the
 4 trust water line is going to change. I can
 5 represent to you here as I did before the
 6 legislature that this agreement does not
 7 contemplate any change any change in the trust
 8 water line. It will stay where that's at. The
 9 agreement's been based upon that.

10 Our objective from the State's perspective
 11 is to make sure that the agreement is implemented
 12 as intended back in 1984. That's not to say that
 13 we agree that all aspects of that agreement were
 14 necessarily the best decision to make at the time,
 15 but nonetheless, they do, as Miss Beeman suggests,
 16 represent what we've been doing for the past --
 17 over 25 years. And so, as a reality, we need to
 18 make sure that we all have a clear and complete
 19 understanding of that.

20 I was reading a letter the other day that I
 21 thought was kind of apropos where somebody said,
 22 well, we need to record this because, as time goes
 23 by, our memories fade. And I can assure you that
 24 is happening. And hopefully this will give us an
 25 opportunity to refresh our memories.

1 Thank you.

2 THE CHAIRMAN: Clive?

3 These meetings will be held where,
 4 Mr. Strong?

5 MR. STRONG: They're going to be held here
 6 at the Department of Water Resources.

7 THE CHAIRMAN: Okay.

8 UNIDENTIFIED SPEAKER: What time?

9 MR. STRONG: 1:00 o'clock.

10 UNIDENTIFIED SPEAKER: 1:00 o'clock.

11 THE CHAIRMAN: Any other questions?

12 Everybody understands, then.

13 Mr. Anderson.

14 Are we done with No. 3?

15 MR. ANDERSON: Mr. Chairman, Members --
 16 we're done with No. 3, yes.

17 Mr. Chairman, agenda item 4, at the last
 18 Water Board meeting, the Board made a decision to
 19 put the Board's Palisades storage contract water
 20 right in the water supply bank for rental for
 21 2009. Mr. Chairman and Members of the Board,
 22 Director Tuthill had a conflict and was not able
 23 to participate in that discussion. And Director
 24 Tuthill asked for some time with the Board so he
 25 could understand and also bring some issues to the

1 Board's consideration about the uses of those
 2 storage -- of that storage water, particularly in
 3 light of some of the negotiations that he's been
 4 involved in recently. So this is an agenda item
 5 that Director Tuthill has requested.

6 THE CHAIRMAN: Director Tuthill, please.

7 DIRECTOR TUTHILL: Thank you, Mr. Chairman.
 8 And I'm very pleased that the Board does have
 9 5,000 acre feet of storage in Palisades. I think
 10 it gives the state a great capability in
 11 addressing water needs. Of course, as soon as
 12 that water is acquired, many possible uses come
 13 up. It is my understanding that the Board has
 14 assigned this water to the rental pool for this
 15 year.

16 I did want to address one issue that has
 17 come up as a potential use for this water and as a
 18 primary use. And that is to assist with the State
 19 meeting its obligation for minimum in-stream flows
 20 at Swan Falls. And in line with the issue that
 21 Ms. Beeman raised as far as computations and flows
 22 at Swan Falls, we do recognize that on occasion,
 23 we have come very close to not meeting that
 24 minimum stream flow. It's 3900 cubic feet per
 25 second in the summer, 5600 cubic feet per second.

1 in the winter. So far, to my knowledge, there has
 2 not been even one day when that flow has not been
 3 met. For a time, it appeared that there was one
 4 day when it was not met, but the record was
 5 subsequently corrected. So that date does not
 6 reflect that the flow was not met.

7 However, in the future, there would possibly
 8 be times when the flow would not be met. It is an
 9 obligation of the State. And one potential use
 10 that's been discussed of the 5,000 acre feet of
 11 storage in Palisades is to augment the flow to
 12 ensure that that minimum flow is met. So I did
 13 want to bring that before the Board. It appears
 14 that, for this year, we're probably okay. It's --
 15 at this point, the forecast for minimum flows in
 16 the Mid Snake would describe that we won't be
 17 violating that minimum flow this summer.

18 But I would ask that the Board consider
 19 putting a caveat on the water that's put in the
 20 rental pool, that if it appears that water is
 21 going to be needed to augment the minimum flow
 22 over Swan Falls, that that water be available to
 23 be withdrawn by the Board for that purpose. So I
 24 put that out as a request for consideration by the
 25 Board for that purpose which is very important.

1 It's been discussed various times. And had I been
2 here for the year end discussion, I would have
3 mentioned that.

4 THE CHAIRMAN: What's the pleasure of the
5 Board?

6 Mr. Rigby?

7 MR. RIGBY: Mr. Chairman, Mr. Director,
8 obviously, we recognize -- or at least I certainly
9 recognize that as being one of the potentials.
10 And, in fact, even the Idaho groundwater, they
11 were also not present at the very time and have
12 asked -- request that we do something with this
13 water and may it help them.

14 I think, at least in my voting the way we
15 did, the reason for it was just for this year
16 only. In other words, recognizing that until we
17 get a handle on what's happened with CAMP, with
18 everything else, that all of these are potential.
19 And obviously, that is an extremely important one.
20 You can recognize, at least from my past, how
21 important I'd want -- I want to make -- as you, I
22 would want to ensure that that is met.

23 Having said that, I didn't -- I certainly
24 didn't vote with the idea that this is going to be
25 what we're going to do for the future. That, in

1 essence, during this year, we get a handle on it,
2 we get an understanding of what the possibilities
3 are, that the legislation hadn't yet passed, all
4 of those things. But for the future, that may
5 very well be something I would support. But I
6 didn't think it was necessary this year. That's
7 why I voted the way at least I did at the times I
8 thought we won't need it this year. But certainly
9 in the future, that's a very good idea of, maybe,
10 one of the arguments.

11 The only problem is that creates for someone
12 that is -- if we were to lease it to them, not
13 firm water. So those are the kind of issues. But
14 I just felt like for this year and voting the way
15 I did, that we're okay for this year. Let's get a
16 handle on it. Then the next year, we go into
17 something that may very well require that.

18 THE CHAIRMAN: With the water supply that
19 we've got this year, I don't really see any reason
20 to put the caveat in there for that. But I sure
21 think it's something we want to entertain for the
22 future.

23 Any other comments by any other Board
24 Members?

25 Mr. Tominaga.

1 MR. TOMINAGA: Mr. Chairman, members of the
2 Board, when EGWA came and approached the Board to
3 try and lease the water for this year, we were
4 with the understanding that that caveat would be
5 included in our rental, because we know that there
6 are higher uses of the water that needs to be
7 done. And our membership would be very amenable
8 to trying to work some -- some kind of language
9 out that would allow for that caveat. But we also
10 know that we probably won't pay a premium for that
11 water every year either, because it's not always
12 going to be available. So there's a tradeoff.
13 But that's -- we were always under the
14 understanding that that -- that water would have
15 that caveat in it.

16 THE CHAIRMAN: Thank you, Mr. Tominaga.
17 Any other comments?

18 DIRECTOR TUTHILL: Thank you, Mr. Chairman.
19 And the second issue related to the 5,000 acre
20 feet, relates to some of the discussions that have
21 been taking place involving the Fort Hall
22 Agreement. As you all are aware, we have been,
23 over the past about three or four years, been
24 discussing the Fort Hall water rights, and their
25 water rights related to the other water uses in

1 the Blackfoot River Basin in an attempt to
2 negotiate solutions to objections that the Fort
3 Hall -- the Shoshone Bannock tribes filed to the
4 Basin 27, Blackfoot River Basin water rights.

5 Part of the discussion has involved the 1990
6 Fort Hall agreement, which provided that the uses
7 of water from the Blackfoot River would be
8 superior to the uses by the -- of the tribe.
9 Effectively, grandfathering in the existing uses
10 on the Blackfoot River on what's called the north
11 side, the nontribal lands that divert from the
12 Blackfoot River. The placeholder that was placed
13 in the agreement was 45,000 acre feet as an
14 estimate of the amount of water that was diverted
15 by the Blackfoot users with words in the agreement
16 stating that, if it turns out after adjudication
17 that the amount diverted is in excess of 45,000,
18 there would be an equitable adjustment to the
19 agreement.

20 So we've discussed considerably what that
21 equit- -- how much that equitable adjustment
22 should be, or whether -- and how this would be
23 enacted. The tribes have wanted to solve this
24 issue along with the other adjudication issues at
25 the same time, recognizing that the equitable

1 adjustment is not, per se, an SRBA issue. It's
 2 related to the agreement. But that's been
 3 discussed along with the other SRBA issues.
 4 In a meeting last month with the parties
 5 involved in Pocatello, we were looking at
 6 potential resolutions for this equitable
 7 adjustment. And at this point, it appears that,
 8 through proper management in Water District 27,
 9 the amount of water, on average, diverted will
 10 likely be about 50,000 acre feet. Some 5,000 acre
 11 feet more than the placeholder in the agreement.
 12 So the discussion has revolved around how to find
 13 5,000 acre feet per year to add to the tribal
 14 right as the equitable adjustment.
 15 We recognize that we're installing measuring
 16 devices, and there's a water measurement plan, and
 17 now a water management plan that's been drafted
 18 for the Blackfoot River. So we're moving toward
 19 better management. And we'll, over time, have a
 20 better understanding of how much water really is
 21 diverted, recognizing that this particular water
 22 district, historically, has not been one where
 23 good water measurements were taken.
 24 In coming up with this agreement, where
 25 we're at right now is that the parties are willing

1 to accept, I believe, this agreement on an
 2 eight-year basis while we add measuring devices
 3 and improve the measuring systems. If there is
 4 some equitable adjustment during that eight-year
 5 period, the concept would be, after eight years,
 6 to take another look at the actual diversions, and
 7 make a more long-term solution. So, you know,
 8 it's my understanding that if we were to find
 9 5,000 acre feet per year for the next eight years,
 10 we could find a resolution to this issue that's
 11 on -- before us right now, and resolve the
 12 adjudication issues for the most part in the
 13 Blackfoot River Basin.
 14 In the context of this negotiation, one
 15 suggestion that came up is potentially to use the
 16 Board's 5,000 acre feet. It happens to be the
 17 same number by chance, totally by chance. But
 18 people are aware that the Board has acquired this
 19 water. And I made one proposal for consideration,
 20 stating that I certainly don't have authority to
 21 do anything with the Board's water right. That's
 22 up to the Board. But I suggested that one
 23 possible resolution for this next eight years
 24 might be that, to the extent that the Board would
 25 decide to put the water in the rental pool, as

1 with this year, and to the extent that the Board
 2 didn't need the water for another use, for
 3 example, to provide for minimum flows over Swan
 4 Falls, and to the extent that, perhaps, the United
 5 States would pay for the water, and to the extent
 6 that the committee of nine would put this as part
 7 of their procedures, rental pool procedures,
 8 perhaps this would be a source in some years for
 9 the 5,000 acre feet.
 10 When I made that suggestion, immediately the
 11 United States said they weren't going to pay for
 12 the water. Immediately, the tribes said they
 13 needed the water every year, not just when it's
 14 available. So that suggestion didn't take root.
 15 But I did want to describe to the Board the nature
 16 of that conversation, the basis of it, the fact
 17 that I did mention this as part of a possible
 18 solution, not speaking for the Board, but
 19 recognizing that, to the extent that the Board
 20 would decide to put the water in the rental pool,
 21 and recognizing that this Board would have an
 22 interest in helping to find a resolution to the
 23 tribal issue, that this might be a possibility.
 24 So I don't have anything to bring before you
 25 today. You might hear about the discussion of the

1 5,000 acre feet related to the tribal discussions.
 2 And I did want to provide that explanation to you.
 3 So thank you Mr. Chairman.
 4 THE CHAIRMAN: Thank you, Mr. Tuthill.
 5 MR. RIGBY: Mr. Chairman?
 6 THE CHAIRMAN: Mr. Rigby.
 7 MR. RIGBY: Thank you.
 8 Mr. Director, again, for the record,
 9 obviously, the Committee of 9 is involved. I'm
 10 involved with one of the firms -- one of the two
 11 firms -- actually three firms on this big a one
 12 that is involved with mediation for and on behalf
 13 of the Committee of 9. I'm also involved as a
 14 result of Water Board itself. I represent a few
 15 clients within Basin 27. I've got many conflicts
 16 in this one.
 17 Having said that, I do believe with
 18 sincerity that the Water Board be represented
 19 there. And whether we direct the director on our
 20 behalf to be there -- in other words, come back to
 21 the Board as he has here, and be our negotiator,
 22 if you will, or someone else within the Board.
 23 Certainly not me. I think it's imperative because
 24 I think this is a group effort and a resolution.
 25 The Committee of 9 is fully represented. Basin 27

1 is now, I think, up to speed in being represented.
 2 Obviously, the tribe is represented. The Feds are
 3 represented. I guess the one that is missing
 4 right now in an apparent position, although the
 5 director is certainly there, but without the, I
 6 guess, confirmed authority to act and work on
 7 behalf of the Board, we may want to do that, or at
 8 least consider it. That would be my suggestion.

9 THE CHAIRMAN: What's the pleasure of the
 10 Board?

11 Mr. Tuthill, would you be willing to report
 12 back to us?

13 I am very appreciative of the report that
 14 you just gave. It goes a long ways towards
 15 diffusing any problems that may arise from
 16 misinterpretation of information.

17 DIRECTOR TUTHILL: Thank you, Mr. Chairman
 18 I'm pleased to continue to report to the Board on
 19 the activities. Right over this next month or
 20 two, there will be -- it's a critical time in this
 21 negotiation.

22 Thank you, Mr. Chairman.

23 THE CHAIRMAN: Thank you.

24 Mr. Anderson.

25 MR. ANDERSON: Mr. Chairman.

1 presentation regarding ideas for your
 2 consideration in regards to how we -- how we get
 3 started with the tasks that are outlined in House
 4 Bill 264 and the ESPA plan. And to do that, do a
 5 little background what the components of the plan
 6 are. So the draft implementation committee
 7 purpose, function and composition, including the
 8 idea, the concept of working groups, I want to
 9 re-emphasize here that this is just a starting
 10 point for discussion. And for your discussion, to
 11 talk a bit about the work plan, along with some
 12 time frames, and then get some direction from you
 13 as the Board.

14 Background, where we started from was when I
 15 was -- when I was originally hired, it was a
 16 question about whether we're going to do anything
 17 different in terms of managing this resource. And
 18 that was -- we crossed that bridge when we did the
 19 framework. And we convened -- you convened the
 20 advisory committee. And that advisory committee
 21 was trying to figure out what to do in terms of
 22 how -- what to do to manage the resources, the
 23 measures, the locations, the principles, including
 24 the principles around funding.

25 It seems to me where we are now with the

1 THE CHAIRMAN: It's a Palisades storage.

2 MR. ANDERSON: Members of the Board,
 3 Mr. Jonathan Barch is here. The next agenda item
 4 is the ESPA CAMP implementation. I would suggest
 5 we take a five-minute break while we get him set
 6 up. He's going to be presenting with power point
 7 presentation.

8 (Break taken.)

9 THE CHAIRMAN: We're going to bring this
 10 meeting back to order for about two minutes.
 11 We're going to go ahead and break for lunch. Our
 12 meals have got here. And I know that Jonathan is
 13 going to be lengthy enough that we're not going to
 14 wait to take our meal. So let's break for lunch
 15 until about a quarter after 12:00. And then we'll
 16 reconvene the meeting.

17 (Lunch break taken.)

18 THE CHAIRMAN: Gentlemen, let's go.

19 Let the record show that meeting No. 7-09
 20 has been reconvened at 12:15. And we are at
 21 agenda item No. 5, ESPA CAMP implementation.
 22 Jonathan Barch.

23 MR. BARCH: Mr. Chairman, Members of the
 24 Board, it's a pleasure to be here with you. My
 25 intent would be to walk through a power point

1 adoption of House Bill 264 is that we're in the
 2 question -- we're in the place of how do we go
 3 about implementing the plan. And so, how do we
 4 establish a solid foundation for the work that's
 5 based on good science, that's consistent, that's
 6 coordinated, and while at the same time is not
 7 being rigid. And so the challenge about getting
 8 and moving forward now is about how do we go about
 9 developing these implementation plans; how do we
 10 go about operationalizing with enough specificity
 11 to ensure success for what -- the good work that's
 12 been done in the ESPA plan. So that's a bit of
 13 the background there.

14 As you'll remember, as you all know, the
 15 overall long-term goal is a 600,000 acre foot
 16 water budget change, 20-year time frame, \$600
 17 million cost, \$30 million annually, and where we
 18 spent the bulk of the time was on phase 1, which
 19 is that one to ten years with a hydrologic target
 20 of 2 to 300,000 acre foot change, water budget
 21 change, actions that what we're trying to do is
 22 increase the aquifer levels, the spring and reach
 23 levels, distribute that equally, or geographically
 24 across the ESPA, and set in motion the
 25 institutional confidence with this long-term plan

1 implementation.

2 The actions there, you've seen surface --

3 groundwater, surface water conversions,

4 management, and incidental aquifer recharge,

5 demand reduction, pilot weather modification, as

6 well as other additional actions, including the

7 CAMP implementation committee. And we're going to

8 be talking specifically about that. Continuing to

9 integrate environmental considerations. The

10 clearing house, evaluate options to implement that

11 flexible market-based approach to connecting

12 willing participants in this, in the water

13 management projects.

14 Outreach and education. So outside of the

15 outstanding work that -- and leadership that

16 you've provided as a board in terms of educating a

17 broader range of interests than had previously

18 been done, how do we both develop and fund a broad

19 water education and outreach effort, management

20 and flexibility, as well as the downstream

21 transfer policy. And those are the plan -- the

22 highlights. And I guess I should say that I'm

23 staying at a pretty high level in terms of where

24 we are, and including the -- my ideas around the

25 implementation committee. And we can get into

1 more specifics later.

2 So my draft purpose and function for this

3 implementation committee, which again, I just want

4 to overemphasize that this is an idea -- these are

5 ideas as to -- but consistent with the plan is to

6 develop consensus recommendations to you all. The

7 Board, of course, remains, and is the

8 decision-maker on the ESPA planned projects, which

9 is the phase 1 funding collection mechanisms.

10 That's top of the list in terms of identifying,

11 and the task that's going to be on a fast track in

12 terms of needing to have something done earlier in

13 this 12-month process that we're talking about.

14 Implementation criteria, plans and

15 priorities, early action projects. My

16 indications, and I think -- and I'd like some

17 feedback from you all later -- is that it's great

18 to have plans, criteria, protocols. And within

19 the next 12 months, we're going to need some

20 successes. We're going to need some actions on

21 the ground to demonstrate that and to build that

22 overall confidence. And so then there's the

23 foundation for -- for the plan of implementation

24 that's strategically coordinated, consistent and

25 transparent, similar to the process that you've

1 employed for the last number of years that has

2 resulted in the ESPA plan.

3 Again, the draft tasks are similar.

4 Collection mechanisms, criteria and priority,

5 goals and implementation plans, analysis and

6 incorporation of work group proposals. And I'll

7 talk about what I'm thinking about with the

8 working groups. Ensuring implementation,

9 coordination, consistency, monitoring and

10 reporting, and then any necessary legislation, if

11 any, to go about implementing the plan.

12 So here's where I'll stop for a moment and

13 talk about the who. My vision -- or my thought is

14 that what is needed is a swift, easy and smooth

15 transition from the good work that's been done on

16 the advisory committee into those tasks that I've

17 just outlined. My thought here is that previous

18 advisory members and alternates who are willing

19 and are able would be -- comprise the

20 implementation committee. If they're unable to

21 serve, then you would identify a replacement

22 through a solicitation process, and we'd have the

23 similar number of broadly represented interest

24 groups. You've made this investment in terms of

25 education. The sense of broad buy-in to the plan

1 I think is going to be as important, if not more

2 important as we have had water users and others

3 contributing financially to the plan. That we

4 would have agency participants continue to be --

5 to have an active role in committee deliberations.

6 Ultimate decisions, obviously, will be made

7 by the Board. What you're looking for from this

8 group, as I understand it, is a consensus

9 recommendation by implementation committee

10 members. So when we are making decisions on

11 the -- on recommendations, it's not the alternates

12 or the agency participants, but it's those key

13 representatives, similar to the advisory

14 committee. That we would meet-- originally I had

15 thought -- and my discussions with Mr. Anderson

16 and with others, that the implementation committee

17 could meet on a quarterly basis. Based on

18 discussions, it's unlikely that that's going to be

19 enough time to help to -- to provide that policy

20 guidance. And so, what I was thinking was that we

21 would start with a bi-monthly meeting, and

22 potentially then afterwards, less frequently.

23 We'd establish a consistent schedule. And one

24 suggestion was to do that to make sure that the

25 implementation committee meets prior -- to

1 coordinate, basically, with the Board schedule, so
 2 that there would be timely updates to you about
 3 the deliberations and the progress of the advisory
 4 committee.
 5 Now, what I've heard is concerns that the
 6 existing advisory committee, and if we have the
 7 implementation committee be a mirror image of that
 8 is too large and unwieldy. And I would agree with
 9 that in terms of developing proposals, specific
 10 proposals, ideas. And that's why we're suggesting
 11 a working -- a working group structure. Now, the
 12 working groups would be -- their purpose would be
 13 to develop those specific plan, recommendations
 14 and proposals for the implementation committee
 15 review, refinement and adoption. These would be
 16 truly working groups in the sense that we'd be
 17 looking for resources and assets that would help
 18 us to develop the implementation plans around
 19 recharge or the funding collection mechanisms.
 20 And this would be -- they would include committee
 21 members, but it would also be broad enough to
 22 include those specific resources and bring those
 23 resources to bear in order to bring solidly based,
 24 informed and technically sound proposals to the
 25 group.

1 The -- each implementation committee member
 2 would have a choice in participating in up to two
 3 working groups. Assignments would be made based
 4 on interests and expertise. I've spoken with
 5 Mr. Anderson about the fact that each -- that the
 6 Board staff will be assigned to each working
 7 group. The working groups can also, as I've
 8 already mentioned, include other staff resources
 9 as necessary.
 10 The funding committee working group is the
 11 exception to this. And what we're thinking is
 12 that the funding working group be comprised only
 13 of those representatives of interest groups that
 14 have phase 1 funding participation targets. So
 15 the -- the working groups themselves -- and I'll
 16 go into which ones they are in a moment -- would
 17 be open to -- except for the funding working group
 18 that would be brought -- and again, the funding
 19 working group, and that key issue of developing
 20 the agreement on the collection mechanism would be
 21 made up of those who have funding participation
 22 targets. We'd meet on -- the working groups would
 23 meet monthly and on an as-needed basis. And the
 24 idea is that, in addition to in-person meetings,
 25 that we'd use the use of teleconferencing and/or

1 web conferencing to help to -- both to manage the
 2 budget as well as to manage people's lives.
 3 The working groups include funding. And so
 4 these recommendations from the funding working
 5 group need to be developed in rapid order. So
 6 that's the collection mechanism for the phase one
 7 commitments. And that would be in conjunction
 8 with the interim legislative committee as well as
 9 the Board and the Governor's office, proactive
 10 pursuit of the additional resources for the plan
 11 as well. So it's how do we expand the pie here?
 12 How do we pursue those?
 13 And then you'll see the other working groups
 14 are those -- are those -- are the key elements
 15 that have been outlined in the plan, groundwater,
 16 surface water, conversions, manage and incidental
 17 recharge, demand reduction, weather modification.
 18 What will be needed in order to make these working
 19 groups successful is consistency, a structure, and
 20 some consistent -- and the consistency about both
 21 the work products and the parameters and the side
 22 boards upon which they are working.
 23 And so, the overall work plan -- and if I'm
 24 moving too quickly, please stop me -- is to, in
 25 about a month or two, adopt operating protocols,

1 approve the work plan, and develop -- and develop
 2 these working groups into groups that are actually
 3 functioning, that will produce a product at the --
 4 along the way. So the working groups will then
 5 work with proposals and plan recommendations.
 6 Some of these are going to be on a faster time
 7 frame than others. But estimated two to six
 8 months. The integration of the working group
 9 proposals and recommendations, an estimate of two
 10 to four months. And again these are not -- it's
 11 not sequential. There will be interaction and
 12 there will be work and interaction between the
 13 working groups and this larger implementation
 14 committee. Again, the idea is that the
 15 implementation committee, that broad-based group
 16 that would sort of look to refine, to adopt and to
 17 make recommendations to you through the support of
 18 this.
 19 So my questions to you are what
 20 modifications, changes do you suggest regarding
 21 the implementation committee purpose, function and
 22 composition, the work plan modifications,
 23 additions or areas of emphasis do you suggest?
 24 And then the final question to you is about after
 25 a year -- and although I recognize this is not a

1 year project. This is a long-term proposal. But
2 what we're looking to do in this first year is to
3 set a solid foundation for the implementation over
4 time here. How would you define success after one
5 year? What are the kinds of things that, when I'm
6 standing here a year from now, you want to say,
7 this is what was accomplished or you'd like to see
8 done.

9 So let's start with the first question,
10 Mr. Chairman, Members of the Board, unless there
11 are other things about ideas or questions about
12 the implementation committee purpose, function and
13 composition.

14 THE CHAIRMAN: Mr. Rigby.

15 MR. RIGBY: Mr. Chairman, you know, it's
16 interesting -- not on the committee, and it would
17 be nice to hear from committee members, especially
18 that are here on the Board first, and others that
19 are in the room. But it's kind of interesting.
20 As you know, when we first set this up, we thought
21 that the Board would be -- I mean, the committee
22 would be unwieldy if we had more than 15, 17,
23 whatever. Then all of a sudden it doubled because
24 the committee itself would find the alternates.
25 And then, you add to that the agencies. And they

1 allowed them the same participation.
2 It's interesting and some of the comments
3 I've heard back is that we need to reduce it, but
4 don't reduce me. And it's one of those -- which
5 is typical. And I don't fault that at all. I can
6 totally appreciate that. I do think that one
7 thing is -- ought to maybe be reconsidered, from
8 what I'm hearing from them. And that is their own
9 protocols, or their own rules that allow first for
10 the committee -- and if we're talking about the
11 alternates as well -- for them to really be the
12 ones that are actively involved.

13 And agencies -- I know I'm going to get in
14 trouble with my agency friends, but don't have
15 them equal in the sense of participation. I guess
16 if I heard one complaint, it was maybe there was a
17 little too much -- I don't want to say domination,
18 but a little too much participation by agencies
19 when maybe it kept it off track of some of the
20 other areas that the committee wanted to go. I
21 just throw that out as what I have heard.

22 MR. BARCH: Yeah.

23 MR. RIGBY: I do agree that the only -- if
24 you're going to continue that way with the whole
25 committee, and the alternates -- and again, I

1 don't know how you would reduce it, because it
2 would be that same problem, that same dichotomy --
3 is the working groups. And that is truly the
4 answer to this is having the working groups,
5 because just as before, that's what got this thing
6 turned around. And I like your idea of having
7 only two, because, again, there are those who
8 would want to be on every working group. So there
9 again, it becomes too large.

10 MR. BARCH: Right.

11 MR. RIGBY: So I guess what I'm saying is
12 that I -- the only thing I'm seeing there -- and
13 I've kind of already gone over this, so I kind of
14 knew where you were coming from. The only thing I
15 see there that I think I would recommend to the
16 committee or maybe the Board has to do it so that
17 the committee doesn't get in trouble with
18 themselves and those that are participating, is
19 requiring it to go back to just the committee and
20 alternates as the acting participants, and having
21 the others be there for their purposes and their
22 call.

23 UNIDENTIFIED SPEAKER: All of them?

24 MR. RIGBY: Alternates and active. I --
25 okay. Again, my thoughts, and just what I've

1 heard, and especially those who were alternates.
2 Again, we were trying to make the committee so it
3 wasn't too large to begin with. So we named the
4 alternates. But as a practical matter, in almost
5 every case, that alternate represents a group or a
6 contingency that the main one does not. And if
7 you now limit that -- and again, I want to hear
8 from you guys. But if you limit that to only the
9 active -- or the main one and not the alternate,
10 I'm afraid you'll have some major push back.

11 THE CHAIRMAN: Mr. Alberdi.

12 MR. ALBERDI: Mr. Chairman, Jonathan, you
13 know, when you look at the surface water group,
14 the whole surface water area, I think one of the
15 reasons that the success was -- the success that
16 we had was that we had folks from the upper valley
17 as well as from the lower valley that had an
18 opportunity to come together. And I think,
19 whether it's groundwater or it's surface water,
20 that we have to have representatives, one from up
21 valley and one from down valley. Because, if we
22 take that as a group and say, well, we're going to
23 do surface as one, we're going to do groundwater
24 as one, but then you have to find balance of how
25 many can we have and still move and operate and

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1 make the decisions necessary. It's got one real
 2 big plus. We don't have a lot of money, but we
 3 got a good water year.
 4 MR. BARCH: That's true.
 5 MR. ALBERDI: And we've all been through
 6 these good water years when the water year slips
 7 by, and then the next year isn't quite as good.
 8 So I'm thinking that we talked on Mr. Rogers web
 9 hit, but we talked a lot about the low-lying
 10 fruit. And I think the momentum we've got in that
 11 group has to continue for this to be a success.
 12 And we need to identify the low-lying fruit. And
 13 I see that, when you look at the number of things
 14 we can do, realistically, the working committees
 15 can come up with some programs relatively easy
 16 because there aren't that many things we're going
 17 to do.
 18 MR. BARCH: Right.
 19 MR. ALBERDI: And the detriment that we
 20 could create by being very careful here is not
 21 come up with some plans that we can do with the
 22 limited amount of money, if the Board puts the
 23 money in that we may be able to. Because, I'm
 24 with Jonathan that we need to have some successes,
 25 because a ten-year period, we need to kick that

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1 thing off. So I'm not thinking we need a lot of
 2 people. And I had the same comments on my
 3 telephone. We don't want too many people on this
 4 group, because we want to be nimble. We want to
 5 be able to make decisions. But I want to be
 6 included.
 7 MR. BARCH: Yeah.
 8 MR. ALBERDI: So the thought process that
 9 I've gone through is that if you're paying, you're
 10 inclusive. If you're putting dollars into the
 11 pot, then you've got to have a representative. So
 12 anybody, whether it's groundwater, surface water,
 13 the power company, the cities, the well drillers,
 14 those folks -- I don't know about the well
 15 drillers, because they're not putting anything in
 16 there, I guess. But they were, but now they're
 17 not.
 18 UNIDENTIFIED SPEAKER: We can ask them --
 19 MR. ALBERDI: Those people that are paying
 20 have to have the representation. And the working
 21 groups -- I don't think the working groups need to
 22 have a lot of time, 'cause we -- we've beat this
 23 horse to death. We kind of know what the
 24 alternatives are, what we can do, what we can't
 25 do. We've got a water year here -- and the thing

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1 about water, it's inversely related -- the
 2 quantity of water is inversely related to the
 3 price. The more water you've got available, the
 4 less money -- the less it costs for that
 5 incremental amount. Next year, if we go too slow,
 6 we may not have as much water, and the director
 7 knows it's worth a lot more. So we got those
 8 challenges here that, without a lot, we may be
 9 able to do something.
 10 THE CHAIRMAN: Mr. Chase, would you like to
 11 weigh in?
 12 MR. CHASE: Well, I agree with Vince that we
 13 need to find successes right off. It's amazing
 14 the group got where it got. And I think if we
 15 don't have successes, it will unravel pretty
 16 rapidly.
 17 I never looked at the group as too
 18 burdensome. I think it kind of separated itself
 19 that those who didn't show up didn't show up. And
 20 I don't know if they'd still want to stay on, but
 21 you know, I thought we made pretty good progress.
 22 So I don't know who we would eliminate, because
 23 I -- you know, I haven't had a lot of calls on
 24 this, but anybody that's called me wants to stay
 25 on the Board. So I think that becomes a problem

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1 when you start eliminating.
 2 But to me, the two most important factors
 3 are that you've got to do it this year. You need
 4 to start collecting the money. And I agree with
 5 Vince that, if you're paying money, you're going
 6 to want to sit on that -- that group.
 7 And there is low -- there's low-hanging
 8 fruit out there that's -- we could do this year
 9 very easily.
 10 THE CHAIRMAN: So can we take a good look at
 11 the makeup of the committee and eliminate some
 12 people just on the basis that they're not paying
 13 anything into the advancement of it?
 14 MR. CHASE: Well, you know, I argued that
 15 argument when the well drillers -- I said, if
 16 you're not paying, I don't see why you can sit
 17 at -- how you sit at the table. I was pretty up
 18 front about that, that it's kind of hard to be at
 19 the table if you're not participating. That's
 20 part of the problem.
 21 That's probably a pretty narrow view from my
 22 perspective. That's why the City stepped up and
 23 wanted to make sure we were paying, though, quite
 24 frankly. It was so that we couldn't be removed
 25 from the table.

1 So you know, I don't know if you could make
2 that a caveat.
3 THE CHAIRMAN: Well, it's the Board's choice
4 who's going to be on there.
5 MR. CHASE: Yeah. And as far as agencies, I
6 guess what agencies are we going to eliminate? I
7 mean, I -- You know, to me, you need to have fish
8 and game at the table on this, because those are
9 issues we have to deal with in DEQ's.
10 So when I'm sitting there, I'm trying to --
11 there's only one group I could see that we could
12 eliminate. And I -- that didn't come a lot. And
13 that actually was IACI wasn't there very often.
14 But I don't know if you can eliminate IACI.
15 MR. RIGBY: Mr. Chairman, maybe we need to
16 clarify what I said about that (unintelligible).
17 THE CHAIRMAN: Mr. Rigby, go ahead.
18 MR. RIGBY: Mr. Chase -- Mr. Chairman and
19 Mr. Chase, I did not mean in any way to eliminate
20 the agencies. What I talked -- what I was
21 referring to was the acting participation as any
22 other member. In other words, just as we
23 attempted to -- as we worked through this with the
24 Board, I, as chairman, attempted to allow Board
25 Members to have the first go around. Once the

1 Board had exhausted its questions, then I
2 generally resorted to you in the back and other
3 members. That's all I'm saying is that, as I saw
4 the group, and the complaint I've heard, is that
5 an agent -- one agent -- the agency member that
6 wanted to dominate or to deal with it had as much
7 right to participate as anyone else during that
8 initial go around. That's all I was suggesting.
9 Not that we eliminate them. No. You're
10 absolutely right. Most of those agencies, in the
11 end, you will need to have their objectives.
12 That's not what I inferred at all, or meant to say
13 at all.
14 UNIDENTIFIED SPEAKER: Mr. Chairman?
15 THE CHAIRMAN: Trevor.
16 UNIDENTIFIED SPEAKER: I think the agencies
17 are very important to keep that momentum going,
18 because any time people are eliminated, you get
19 that fallout. But that doesn't mean that they
20 have to have a voting right either. They can be
21 ex officio members and be involved in the process.
22 But when it comes to making the decisions in
23 voting, then I think it's -- goes back to the
24 paying members, or the voting members.
25 MR. CHASE: And Mr. Chairman, if I may

1 make -- because I was an alternate, but I probably
2 spoke more on behalf of the cities than the
3 others. But I tend to talk too much at times too,
4 I admit.
5 THE CHAIRMAN: All right. Mr. Jonathan.
6 MR. BARCH: Well, I think there are a number
7 of ways that -- let's start with the agency
8 participation. I think that the operating
9 protocols which govern the advisory committee was
10 the first decision the advisory committee made.
11 And we're going to need to readopt them and make
12 modifications. Can call out specifically about
13 the participation of representatives, alternates
14 and agencies, and whether that specifically is
15 about that the agencies aren't at the table, and
16 are only called upon as a resource. That's
17 something that you can -- you can decide.
18 I think in terms of the -- so I think the
19 operating protocols is where -- where, with your
20 guidance, we establish -- establish, basically,
21 those ground rules. I think, coming to the issue
22 of composition, recognizing that there are -- that
23 there are interest groups that are going -- that
24 have phase 1 funding participation targets, my
25 suggestion, or my proposal here was that they be

1 the only ones to be part of that funding working
2 group, that that's them. But that on a whole, we
3 don't get into trying to reconstitute the entire
4 implementation -- entire advisory committee. So
5 that was my attempt to say how do we recognize the
6 role that funding -- funding -- certain
7 stakeholders have in terms of the funding
8 participation targets, while at the same time as
9 creating and building on what we've done before.
10 And I -- I tend to agree with Mayor Chase
11 that I think that, in fact, that this -- this
12 is -- this was a successful group. That this was
13 a group that, from when I started, when you hired
14 me on here, people said you won't be able to get
15 anything done on this issue or with this group.
16 And I think that they've proven you wrong. Where
17 I come from, if it's not broken, or it's not -- it
18 ain't broke in Pennsylvania where I'm from, you
19 don't fix it. And so the idea is how do we build
20 on that success and that momentum while making
21 adjustments for more efficient -- and that's
22 really where the working groups come into play,
23 which is smaller groups, really task-oriented,
24 less -- more frequency than the implementation
25 committee itself. But not to -- not on the

1 implementation committee to start to take away
 2 names or interest groups because I think what it
 3 does is it will detract from the difficult work
 4 that you have in front of us in terms of a very
 5 short period of time.
 6 And I think many -- Mr. Chairman, Members of
 7 the Board, you remember how we convened advisory
 8 committee. And that was not necessarily the
 9 easiest process in the world. My hope would be
 10 that we use the energy, the time, and the focus
 11 that we have amongst the advisory committee
 12 members to get started with doing the work. And
 13 so that's kind of my interest -- overall interest
 14 is getting on with the tough work in front of us
 15 versus get bogged down in who's in and who's out,
 16 and why am I out, and why are they -- other folks
 17 not out. So -- but at the same time, recognizing
 18 that the funding -- those who are contributing
 19 financially have a different role in particular as
 20 it comes to the funding collection mechanism, and
 21 that funding working group. So that's just so
 22 we're clear about kind of where -- what I'm
 23 thinking.
 24 THE CHAIRMAN: Mr. Graham.
 25 MR. GRAHAM: I think that makes a lot of

1 sense that funding group would be the people that
 2 are paying. But you must have some idea,
 3 Jonathan, on target numbers for the implementation
 4 committee and the two working groups.
 5 MR. BARCH: Mm-hmm.
 6 MR. GRAHAM: Do you have target numbers in
 7 mind?
 8 MR. BARCH: Well --
 9 MR. GRAHAM: Total advisory group?
 10 MR. BARCH: That's what I'm suggesting,
 11 which is that the advisory committee be
 12 reconstituted in almost a mirror image, with some
 13 exceptions, that become the implementation
 14 committee. They don't meet as frequently. Their
 15 role is continued to be more of an oversight,
 16 again. And that the real question about how --
 17 how to go implement the plan, from a technical
 18 perspective, from an economic perspective, is done
 19 in those working groups. And they're fed back
 20 to -- the options in the proposals are fed back to
 21 that for their policy -- the overall policy
 22 direction, because I think that's where that can
 23 serve you well.
 24 So that -- the implementation committee I
 25 would say is 16 members, plus their alternates.

1 For those who are unwilling or unable to continue
 2 to serve, that they -- that there be a nomination
 3 for just those -- those categories. It limits
 4 your decision-making to versus the whole thing.
 5 We keep the same interest groups there. And then
 6 in terms of the working group, that there's likely
 7 to be more interest in certain working groups than
 8 others. But those have to be small. They have to
 9 be focused. And there has to be the kind of
 10 expertise so that we can actually develop viable
 11 work plans that give us that consistent view
 12 across about how we're going to implement this.
 13 That, including the monitoring and developing
 14 those types of protocols, that we're able to
 15 really start with that, that foundation.
 16 I think this is a real important year in
 17 terms of setting -- setting the overall program up
 18 for success. And we're going to need resources
 19 outside of those who can provide policy direction.
 20 So I'm hoping I'm being clear about what I'm
 21 thinking. And again, I want to qualify all that
 22 with this is your process and your decision. I'm
 23 just providing some input.
 24 MR. GRAHAM: What's your recommendation on
 25 the numbers for the two working?

1 MR. BARCH: For the two working groups?
 2 MR. GRAHAM: How many members on each group?
 3 MR. BARCH: Right. So there's -- let's talk
 4 about the funding piece -- the funding
 5 mechanism -- funding working group, which --
 6 MR. GRAHAM: That would make me -- seems to
 7 me that would make sense, your recommendation that
 8 those that are obtained be that group.
 9 MR. BARCH: Right. So there would be seven.
 10 So there would be a representative from irrigated
 11 agriculture -- probably eight. So groundwater and
 12 surface water, Idaho Power, municipal, spring
 13 users, industrial and commercial users, as well as
 14 the State. In addition -- so those would be the
 15 core folks. And then we're going to need
 16 economists. We're going to need folks to --
 17 resources to basically develop realistic viable
 18 options so that we're -- that things that are
 19 actually going to be able -- to be able to
 20 implement those. But that's -- that's my vision.
 21 And that's a small -- small group that can be
 22 charged with developing a proposal.
 23 And I think this is -- this is the time
 24 where -- well, I'll just back up. Sometime -- and
 25 a little bit of diversion, but -- is that we were

1 able to make some substantive recommendations in
 2 this plan. Other things, we outlined the process
 3 for. This is the time now, and this committee and
 4 these groups to actually to start -- to gnaw on
 5 and develop actual -- the substantive solutions to
 6 how we're going to go about implementing this.
 7 These are going to be tough decisions to be made.
 8 And I think that's where my job, as I understand
 9 it, is to do -- is to drive them, and drive these
 10 groups to making those tough decisions on the
 11 parts where we couldn't get there as part of the
 12 plan. So the short answer --
 13 MR. GRAHAM: Operational people.
 14 MR. BARCH: Yeah.
 15 MR. GRAHAM: Would the same number seven be
 16 your target for the second group? I assume that,
 17 in the funding group, that seven would be the
 18 voters. And the other individuals that you
 19 mentioned would be resource advisors being seven.
 20 UNIDENTIFIED SPEAKER: Probably be eight,
 21 because --
 22 MR. BARCH: Probably eight. Seven or eight.
 23 And then, let me just clarify. My proposal to you
 24 is not to vote. It's to use an interest-based
 25 process. You're the ones who are actually going

1 to be making the decision. So what these folks
 2 are going to do is develop ideas, proposals, and
 3 try to get to a -- as close a consensus as they
 4 can on how we go about forward. If they can't do
 5 that, of course -- of course, the decision's
 6 always in your hands. But if they can't do that,
 7 what we'll do is to summarize the areas of
 8 agreement or disagreement, and then that will be
 9 an informed way upon which you, as the Board, can
 10 make choices about which direction or not, but
 11 that it's not a 50 plus 1 type, or even a super
 12 majority.
 13 MR. GRAHAM: Do the working groups make
 14 their recommendations to the implementation group,
 15 or to the Board.
 16 MR. BARCH: To the implementation
 17 committee --
 18 MR. GRAHAM: And then they get --
 19 MR. BARCH: So you get one.
 20 UNIDENTIFIED SPEAKER: And they kind of
 21 piece it all together.
 22 MR. BARCH: And they look at the program as
 23 a whole, right? So you know, the recharge working
 24 group may have some -- there will be influences
 25 on, you know, the conversions, the recharge, the

1 demand reduction. And the implementation
 2 committee is meant to -- that's who you'll get
 3 your -- the recommendations from, not from the
 4 working groups.
 5 THE CHAIRMAN: Mr. Cuddy.
 6 MR. CUDDY: Thank you, Mr. Chairman.
 7 Jonathan, I guess what I think I'm hearing
 8 is that agencies that financially contribute or
 9 individuals should be the formation of this
 10 committee. Agencies or whomever that do not
 11 financially contribute to it would only be in an
 12 advisory capacity, and that you'll feel pretty
 13 confident that you can put together a seven-member
 14 group that can come forward with some proposals.
 15 MR. BARCH: So everything in terms of this
 16 committee, whether the implementation committee or
 17 working group, are all advisory. Right? They're
 18 advisory to you. Right? So -- and what I'm
 19 suggesting is that whether or not an interest
 20 group has a direct funding participation target in
 21 phase I, that if they are part of -- if that
 22 interest group was part of the advisory committee,
 23 they become part of the implementation committee.
 24 And that the one group that's different is the
 25 funding group, which is made up only of those who

1 have funding participation targets, as well as the
 2 resources to help to support that.
 3 That's -- that's the recommendation that I'm
 4 making. I'm not making the distinction outside of
 5 that funding working group about who pays or who
 6 doesn't. Because, I think it's in -- you've
 7 created a broadly represented -- representative
 8 advisory committee. There's value in that.
 9 There's power in that. And there's a -- and that
 10 it was -- it wasn't necessarily always pretty.
 11 And I know from direct experience that it wasn't
 12 necessarily easy. But it was effective in terms
 13 of creating a broadly-based and supported plan.
 14 And I think that's what you're going to need as we
 15 move forward as well, which is implementation
 16 plans that have broad support from a policy level
 17 that are supported by good, sound science, and
 18 that have a -- and that have the backing of a
 19 broad range of folks. So just for clarification
 20 about my proposal.
 21 THE CHAIRMAN: Mr. Beck.
 22 MR. BECK: Thank you, Mr. Chairman.
 23 Jonathan, I guess just a couple of comments.
 24 One is the funding group eight, I really struggle
 25 with that, but I don't know how to get past that.

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1 And that is, for irrigated ag to provide over a
2 third of the funding, and with two
3 representatives, where other entities are not
4 providing anywhere near the funding, still have an
5 equal vote, I struggle with that. And then we
6 throw in the State with their funding with one
7 vote, then maybe that's fair. But I just struggle
8 with that ratio there.

9 The second is we keep talking about the
10 advisory group and the amount of effort that went
11 forth, and that positive (unintelligible) in that
12 advisory group, we need not lose sense -- or lose
13 the focus that there was a smaller group that kept
14 CAMP process going.

15 MR. BARCH: Mm-hmm.

16 MR. BECK: And for us to say that the
17 advisory group comes back as a whole because of
18 the effort that they put forth, we're really
19 cutting those -- that smaller numbered group down
20 and not giving them the credit to keep the CAMP
21 going. And so we need to keep focused, but we
22 need men of census building -- or I shouldn't say
23 men, but men and women of consensus building
24 efforts that have a vision of where this thing's
25 going, instead of now letting the advisory group

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1 hope for is full agreement or broadly-based
2 agreement on the direction. Absent that --
3 because, even if this group voted and it was
4 unanimous, that -- it's still --

5 MR. BECK: Still on our shoulders.

6 MR. BARCH: It's still the Board's decision.

7 MR. BECK: Right.

8 MR. BARCH: But so -- but absent that, what
9 you need is solid information about, and
10 understanding about the interests, the concerns
11 and the needs, and the areas of diversion, B
12 points, and the why behind it, and the areas of
13 agreement and the reasons why behind it which will
14 give you a basis, a solid foundation for making
15 ESPA plan decisions. And so that's -- that's the
16 one thing.

17 And then, I think you're absolutely right
18 that there was a smaller group of stakeholders
19 that met and helped to break the deadlock, if you
20 will, or to make some substantial and substantive
21 progress in this. And I don't think that that is
22 a group that is -- that group can still be -- can
23 still be convened. I think that's on a -- my
24 vision would be that we would use that group, if
25 needed, on an as-needed basis to help to break

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1 come back together, and then having individual
2 items of importance on their plate wanting to
3 bring forth and stop this process of any momentum.

4 MR. BARCH: Yeah, I think those are --
5 Mr. Chairman and Mr. Beck, I think those are good
6 comments. I think that as a precondition for
7 being on whatever the composition of this group is
8 that there has to be a commitment to figuring out
9 the how. It's not about -- again, it's not about
10 whether we're going to do something, or even what
11 we're going to do. I think those have been
12 established in the framework and in the plan. The
13 composition of folks on there has to be -- there
14 has to be a commitment to figuring out -- and
15 there could be a wide range of different ways in
16 which we move forward on the how question, about
17 how we go about implementing the plan. But I
18 think that's got an A as a precondition for
19 anybody to serve in this capacity.

20 In terms of the funding participants and the
21 ratio of their votes, I think that matters a lot
22 if you have a voting process, not a consensus
23 process upon which we'll -- because, you are the
24 decision-makers. And you'll continue to be the
25 decision-makers. What you need -- what you would

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1 some deadlocks and to move the process forward if
2 it needs be. But there's value in the
3 transparency and the broadly represented as well.
4 But -- so I think that's still an option.

5 And I think your point is that credit should
6 be given to that group, and that's true. They
7 helped to really to move this thing forward. So I
8 think that it's possible that we can still do that
9 in this -- in this -- and it is probably the --
10 you know, what I tried to do when we were pulling
11 together that small group. I think everybody
12 agreed that what we needed to do was to bring that
13 small group together. And what we did is I
14 told -- we talked about it as part of the Board.
15 We talked about it as part of the committee. And
16 so that even though that was a smaller group
17 there, it was an attempt to be as transparent as
18 possible. And then, of course, we brought those
19 recommendations back to the full group.

20 So I think it's possible and it's envisioned
21 within this process to have a smaller set of
22 folks. I've even debated about whether that
23 should be a formal group. Should that be an
24 executive committee? Should that be an advisory
25 committee? It seems to me that we -- the

26 (Pages 101 to 104)

1 option -- where I came down was that we used those
 2 on an as-needed basis, and that we don't
 3 necessarily call that out in a formal, formal way.
 4 But this, again, is your -- is your process.
 5 THE CHAIRMAN: Mr. Chase.
 6 MR. CHASE: Thank you, Mr. Chairman.
 7 Jonathan, as I understand, just from the
 8 conversation going on here today, we had the
 9 regular large committee, then that committee would
 10 have the discretion -- not necessarily there would
 11 be two committees, that there may be a finance
 12 committee, there may be an implementation
 13 committee, there may be an executive committee.
 14 But is what you're seeking to have that discretion
 15 of that Board, as we have before, as committees
 16 are needed, we set them up. And to me, that made
 17 a lot of sense, instead of restricting them to
 18 just a couple, because you don't know what's going
 19 to happen.
 20 The second thing, on the side of the money
 21 issue -- which was a tough issue. A lot of people
 22 had to really bite down hard to swallow with what
 23 happened with the money. But I think two things
 24 happened. For instance, the City's perspective,
 25 we put in more than we used. Now, there are a

1 couple of reasons for that. One was because we
 2 think in the future, we may use more as cities.
 3 Second, there's probably different value in water
 4 for cities than there was elsewhere, so we felt it
 5 was worth our effort to get it going to come up
 6 with a larger portion than anyone else, because we
 7 could see the benefits.
 8 But my caution would be there is once you
 9 start going down that trying to divide the money
 10 up any different, the payment thing, I think, is
 11 going to be very difficult, because it was hard
 12 enough to get where we were. And I'm worried if
 13 you go back and open that, you may lose something
 14 there.
 15 The second side of that, the same thing
 16 would be a caution I'd give this group would be
 17 that there are also people wanting credits for
 18 stuff and so forth. And I think the more you try
 19 to broaden out what we settle, the bigger chance
 20 that this group has to fall apart. So the other
 21 thing I would hope that we would do is to kind of
 22 keep the mission to what we would find in our
 23 original agreement, and don't go back and reopen
 24 issues. Because, I think once you do this, we
 25 will fall apart very rapidly.

1 So I would envision this to be a group
 2 that's the major group that we had set up with sub
 3 groups needed -- as needed. And keep the focus on
 4 what we've already done. Don't re-invent
 5 anything.
 6 MR. BARCH: And Mr. Chairman and Mr. Chase,
 7 I think that the groups that we at least envision
 8 now are those major categories that have been
 9 outlined in the plan. And again, I want to come
 10 back to what I said to Mr. Beck, which is that
 11 this is a -- this is not re-opening what we're
 12 going to do, or even including the participation
 13 targets. It's about how to go about -- how are we
 14 going to go about collecting those funding
 15 contributions that have been established and are
 16 now a part of law.
 17 So it's a -- again, it's not a -- we
 18 don't -- I think it's an important screen not to
 19 have people on this committee that aren't
 20 believers in figuring out, and problem solvers in
 21 terms of figuring out how we go about doing or
 22 wanting to reopen things. Because, what I see is
 23 this is a stake in the ground. The framework was
 24 the first stake in the ground, a milestone, if you
 25 will. And the ESPA plan is the next one. And now

1 getting implementation plans, the specific ones is
 2 the next one: And we're marching the ball toward
 3 that water budget change that that's been
 4 envisioned and it's desired for all of the reasons
 5 that we've -- that we've articulated. So --
 6 THE CHAIRMAN: Mr. Shannon, please.
 7 MR. SHANNON: Thank you, Mr. Chairman.
 8 If I can just make one recommendation. As
 9 we thought about this and thought about the
 10 deliberations that the Board's going to have on
 11 it, I think you probably need one other working
 12 group. And it's to address maybe the most thorny
 13 subject other than funding. That came up in
 14 the -- in the CAMP process. And that is a group
 15 to sit down and think about recommending to the
 16 Board what the criteria would be as you look at
 17 projects. What criteria would the Board use as
 18 their ranking or selecting projects.
 19 I can tell you from sitting in the
 20 Governor's office and seeing the thousand requests
 21 come in for stimulus dollars that totalled
 22 6 billion when we had 44 million that was
 23 available, that I guarantee you, as soon as we're
 24 ready to start receiving proposals, we are going
 25 to receive an unbelievable number, and a myriad of

1 ideas. And I think there would be a great deal of
 2 value in having a small working group that would
 3 think through and struggle with what type of
 4 criteria that they feel, is the word I'll use, and
 5 then bring those recommendations to you folks to
 6 struggle with as well --
 7 UNIDENTIFIED SPEAKER: What will give the
 8 State of Idaho the most bang for their buck.
 9 MR. SHANNON: Yes, sir.
 10 THE CHAIRMAN: Thank you, Mr. Shannon.
 11 Jonathan.
 12 MR. BARCH: Mr. Chairman and members of the
 13 Board, as we typically do, we have ESPA advisory
 14 committee members here and others. And I guess it
 15 might be a good time for them to weigh in on --
 16 THE CHAIRMAN: We would love to hear from
 17 them.
 18 MR. BARCH: -- on the perspectives, so I'll
 19 step to the side here.
 20 THE CHAIRMAN: Who's first?
 21 MR. GIBSON: I guess I'll go first. I
 22 didn't intend coming here to speak. I come here
 23 for another reason. But while I'm here, I thought
 24 of a couple of things. One of them, I'd agree
 25 with you, it's very important that we move fast on

1 this. I mean, we've got some momentum going.
 2 Even though it's been nice to have a few months
 3 without meetings, it's -- we need to get going.
 4 And I think one of the important reasons is
 5 there's some government money out there right now.
 6 For example, if you want -- you know, Mr. Alberdi
 7 spoke of the low-hanging fruit. You know, there's
 8 some government money out there to maybe help fund
 9 some conversions. And construction costs of some
 10 of these conversions right now are as low as
 11 they've been in years. And so there are some real
 12 opportunities now to go forward. And I guess
 13 that's one of the things I'd say.
 14 And the other one -- and it comes back to
 15 what Mr. Hazen said when he was here. You know,
 16 this is a big project, and we're going to have to
 17 have some staff. And I hate to ever say this, but
 18 I -- you know, I don't want to say another
 19 bureaucracy, but we're going to have to have a
 20 level of staff. And there's going to have to be
 21 people that are going to be able to work on this
 22 full time with a lot of -- with some resources
 23 behind them. Because, you know, we know as a
 24 committee, we go out there, and we've got the view
 25 at 30,000 feet, and we think this is -- you know,

1 we like these ideas, but when it comes down to all
 2 the work on the ground, you know, the committee
 3 isn't going to be able to do it. We're going to
 4 have to have, you know, some real competent staff.
 5 And we've got some good people that have
 6 shepherded us along with Brian and a lot of really
 7 good people from the department. But you know,
 8 this is a -- this is going to be a big job.
 9 And I guess that's all I have to say, if
 10 anybody has any questions.
 11 THE CHAIRMAN: Thank you, Mr. Gibson.
 12 Anyone else? Come on, Jim. I've never
 13 known you to be at a loss for words.
 14 MR. TUCKER: I am kind of at a loss for
 15 words.
 16 Mr. Chairman, Members of the Board, I
 17 struggle a little bit. I had a discussion with
 18 Jonathan the other day. And my first reaction,
 19 when thinking about this implementation committee,
 20 was probably like a lot of people. Keep it small
 21 and keep it nimble so it can act fast, and get the
 22 job -- get things moving rather quickly. But then
 23 when you listen to what has been discussed today,
 24 and some of Jonathan's considerations, I can see
 25 it's -- it's going to be difficult. You certainly

1 can't exclude people from this process. There was
 2 enough interest, as we saw over the months, from
 3 people that came to those meetings, that at the
 4 very least, I would expect, even if you had a
 5 relatively small committee, you'd still have a lot
 6 of people in the room. And it would be difficult
 7 to exclude them.
 8 So I don't -- I mean, Jonathan's ideas here,
 9 I think deserve consideration. It sounds like
 10 it's workable. Jonathan and I have talked a
 11 little bit. I think the first thing that an
 12 implementation committee needs to do is develop
 13 structure and protocols so that, even if you do
 14 have 16 or 32 people in the room, you've got --
 15 you know, as this Board knows, you've got to
 16 conduct business. You've got to move forward with
 17 business. And that's going to be the first thing
 18 that that committee probably has to do. And it's
 19 a little more difficult when you have that many
 20 more people. But nonetheless, as Mr. Chase says,
 21 we did it before, we can probably do it again.
 22 So --
 23 THE CHAIRMAN: Well, you have a good leader
 24 in Jonathan, you know that.
 25 MR. TUCKER: He did. He did a fine job.

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1 Once we beat up on him enough.
 2 Thank you, Mr. Chairman.
 3 THE CHAIRMAN: Thank you, Mr. Tucker.
 4 Anyone else?
 5 Randy McMillan. Mr. McMillan, please.
 6 MR. McMILLAN: Well, Mr. Chairman and
 7 Members of the Board, I think Jonathan has really
 8 captured the best approach. And that is to have
 9 the flexibility for him, as the facilitator, to
 10 make decisions whether or not we need a small
 11 group or a large group or -- it's kind of the idea
 12 of the plan itself is adaptive management. And
 13 what Jonathan's proposed here with the working
 14 groups, and perhaps with the core group, is to be
 15 able to make that decision that we need to move to
 16 the core group to resolve some issues. So I'm in
 17 favor of what Jonathan's proposed.
 18 I think it's really critical that we keep
 19 this process moving forward. And we don't need to
 20 get bogged down, in my view, in the composition of
 21 the implementation -- yeah, the implementation of
 22 the committee itself very much, because I think
 23 that the intensity of the meetings will probably
 24 ultimately limit the number that are really able
 25 to participate. It's -- at the same time, it's

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1 really critical to keep this open, the whole
 2 process open, keep -- make sure that people in the
 3 public feel like they can come to the meeting and
 4 offer their ideas. And we really need to look
 5 long term. If we start to close down on
 6 participation, then when we get to phase 2 of the
 7 plan, if we ever get there, the public's going to
 8 be -- they may be very jaundiced about trying to
 9 do that, if they haven't felt welcome in this
 10 process.
 11 So -- so I -- I'm in favor of what Jonathan
 12 has proposed here. And I think that as long as we
 13 can keep some flexibility and nimbleness in
 14 deciding how to proceed, we'll get through it.
 15 And as Jonathan said and others, we have a lot of
 16 hard work to do here, and some difficult decisions
 17 to make. So I think that we need to make sure
 18 that people like Mr. Hazen feel welcome to
 19 participate. They do offer some real expertise
 20 that all of us could, perhaps, profit from.
 21 So thank you.
 22 THE CHAIRMAN: Thank you, Mr. McMillan.
 23 Mr. Tominaga.
 24 MR. TOMINAGA: Mr. Chairman.
 25 THE CHAIRMAN: Best for last.

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1 MR. TOMINAGA: Best for last.
 2 We provided some comments. And I don't know
 3 if the Board had received them or not. But we can
 4 live with Jonathan's proposal, I believe. There
 5 are some things that came up that Jerry -- we had
 6 some problems with CAMP in the state legislature.
 7 One of them was is folks in the Upper Snake that
 8 believe that the group did not address incidental
 9 recharge. And we almost didn't get it out of
 10 committee because of that. And so we need to make
 11 sure that we address the incidental recharge
 12 issue, because it's going to come back.
 13 And I agree with Jerry's recommendation that
 14 not only the participating members, but the
 15 alternates should be able to come in and
 16 participate in any of the working groups. I think
 17 that will make sure that you get full
 18 participation from everyone that's involved. They
 19 might have a different point of view than that
 20 member. But at least they're not excluded from
 21 participating. And then that way, everybody
 22 that's involved, we can point to those
 23 individuals, saying they were appointed to that
 24 group. It was up to them not to come and
 25 participate, or not be involved with that

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1 particular working group. And I think that will
 2 solve some of the issues, because the impression
 3 that was given at the state legislature was that
 4 the group from the Upper Snake was not actively
 5 participating, or were not part of the
 6 implementation group. They were. But nobody at
 7 the state legislature knew that. And that's what
 8 they preyed upon.
 9 The other thing they preyed upon, and it's
 10 something that Jerry tried to address a little
 11 bit, was that, with a large number of working
 12 folks, Fish and Game, US Fish and Wildlife, Bureau
 13 of Reclamation, that group again pointed to that
 14 group and said, these were the folks that led this
 15 group, not the participants, which was not --
 16 again, not true. But again, when you have
 17 somebody that's sitting down with those state
 18 representatives that are from Northern Idaho, from
 19 Southwestern Idaho, they don't know. And we had a
 20 lot of problems trying to convince those folks
 21 that they were a minor player. They were there
 22 because of their jurisdictional abilities over the
 23 water management or Fish and Wildlife issues that
 24 were associated with water management.
 25 And again, you have representatives that are

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1 very distrustful of State and Federal agencies.
 2 And Mayor Chase knows that very well, especially
 3 in our state legislature. And Representative
 4 Cuddy, he knows -- he also knows that too, that
 5 they preyed upon those fears. And that's why we
 6 had a hard time getting that bill out of committee
 7 because they preyed upon those fears. How do you
 8 get rid of those? Well, I think the way Jonathan
 9 has set this up, it's inclusive, but yet,
 10 hopefully the major decisions and implementation
 11 will avoid that. And by having more
 12 participation, will do that. But again, one of
 13 the issues that need to be -- need to be addressed
 14 will be the incidental recharge.

15 Also, the legislative interim committee is
 16 one that needs to be addressed too. The members
 17 of the Interim Natural Resource Committee believe
 18 that they're -- they are going to play a major
 19 role with the implementation committee. And so
 20 that needs to have some kind of connection also,
 21 because members of that committee that I visited
 22 with believe that they are -- they believe that
 23 being on that committee, they will have a major
 24 role in this process. So that also has to be
 25 addressed.

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1 So, yeah, you guys got your work cut out for
 2 you. And the groundwater users will be there to
 3 make sure this process hopefully is very
 4 successful.

5 THE CHAIRMAN: Thank you, Mr. Tominaga.
 6 Jonathan?

7 MR. BARCH: Mr. Chairman and Members of the
 8 Board, what I was -- the direction that I'm
 9 looking for from you is to, say, to extend the
 10 invitation to those existing advisory committee
 11 members to become part of the implementation
 12 committee. And for those who are unable or
 13 unwilling to continue with that commitment, to
 14 then there would be a -- to solicit some
 15 nominations.

16 THE CHAIRMAN: Or a decision made whether
 17 they're necessary.

18 MR. BARCH: Or decision --

19 THE CHAIRMAN: That position is necessary.

20 MR. BARCH: Yeah, right, right.

21 So that -- I mean, basically, in terms of
 22 the overall approach about how the implementation
 23 committee, the purpose, the working group, and how
 24 they would -- how -- groups and how they would
 25 function, I'm looking for some direction from you

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1 in terms of -- and Mr. Anderson and Patsy -- I'm
 2 not sure -- I don't think we need to vote, but I
 3 do -- I may be wrong about that, but --

4 UNIDENTIFIED SPEAKER: No.

5 MR. BARCH: But we need some kind of
 6 indication that we're on the right track --

7 UNIDENTIFIED SPEAKER: Confirmation.

8 MR. BARCH: -- here, and that we should
 9 proceed with -- and the plan would be that late
 10 May, early June, we get -- we get started with
 11 first implementation committee meeting. We get --
 12 and the plan is then to get them in terms of adopt
 13 that operating protocols, get a work plan, develop
 14 the structure around the working groups. And I've
 15 deliberately left some of this at a 30,000 foot
 16 level in part because I think it's important for
 17 the committee to weigh in and have ownership about
 18 the specific task -- tasks and those kinds of
 19 things. But I'm looking for you for direction and
 20 getting started with this late May.

21 THE CHAIRMAN: Is there anybody on the Board
 22 that has a problem with what Jonathan has
 23 proposed?

24 Do we have any additions to what he's
 25 proposed?

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1 MR. CHASE: Mr. Chairman?

2 THE CHAIRMAN: Mr. Chase.

3 MR. CHASE: One -- thank you, Mr. Chairman.

4 One question I'd have, Jonathan, the
 5 staffing issue within the plan itself, there
 6 wasn't money set aside for staffing. Would you
 7 come back with a recommendation early on to tell
 8 us what type of staffing is involved? Would that
 9 be one of the first tasks, I would assume?

10 MR. BARCH: So building on -- so building on
 11 kind of the -- some of the comments, which is,
 12 well, nobody wants a bureaucracy that -- the type
 13 of change that we're talking about, these are
 14 major projects, and that there are going to need
 15 to be resources that are identified. And I
 16 believe that that would be a product of the
 17 working groups, which include -- so how -- getting
 18 as specific as we can in terms of the nuts and
 19 bolts, which is, not only what are we going to do,
 20 and when we're going to do those, and -- but who's
 21 going to do those, and with what resources. I
 22 think that's -- that's part of what would come out
 23 of this, and whether that's in the -- you know, in
 24 the first two months, or in the second -- you
 25 know, the next four months, when that -- that

1 comes up.
 2 To me it seems like you need to know what
 3 we're going to be doing, and how we're going to be
 4 doing that. So the scale to the targets that have
 5 been identified and the hydrologic targets that
 6 have been identified in the phase 1 plan before,
 7 then, you can get into it. So it seems -- but,
 8 you know, that could be an accelerated item,
 9 Mr. Chairman and Mr. Chase.
 10 THE CHAIRMAN: Mr. Rigby.
 11 MR. RIGBY: Mr. Chairman, without putting
 12 you on the spot, Mr. Director and Hal, do you want
 13 to at least address that particular issue? In
 14 other words, what do you perceive as your -- you
 15 and your staff's availability? And is this
 16 perceived need truly necessary?
 17 In other words, if we're -- if you felt like
 18 all along you were going to handle it in the first
 19 place, maybe we need to at least present that to
 20 them. If you felt like, yeah, it would be nice to
 21 have the extra staff, which I think it would be,
 22 but I'd like to hear from you.
 23 THE CHAIRMAN: Mr. Tuthill.
 24 DIRECTOR TUTHILL: Thank you, Mr. Chairman
 25 Mr. Rigby, when we received the funding

1 allocation for the \$20 million over the course of
 2 several years to be used at a rate of about \$3
 3 million per year for the aquifer planning fund, we
 4 received three staff positions to go along with
 5 that. So basically, one staff position per
 6 million dollars per year.
 7 MR. RIGBY: Out of that money?
 8 DIRECTOR TUTHILL: Out of that money, yes.
 9 And the funding came from the aquifer money. And
 10 also along with that came authorization for three
 11 new positions. That's challenging as it is to
 12 have -- because, with those positions, we're
 13 contracting and doing a variety of things. But I
 14 would see that as a minimum of one person per
 15 million dollars per year.
 16 What we're finding right now, as you know,
 17 with our 11. million percent reduction, plus 5
 18 percent reduction in salary, we'll be undergoing,
 19 for the first time in my 33-year career,
 20 reductions in force. We had one fellow that was
 21 reduced in force 25 years ago. This coming month
 22 we'll have another process for that. Some of the
 23 staff reductions that we've had already are in the
 24 planning bureau. Right now, Brian is short three
 25 people in his bureau. So we are very, very short

1 on staff. We are facing 7 to \$10 million per year
 2 through this planning project.
 3 I appreciated the comments of Mr. Stevenson
 4 on the need for staffing effort. My expectation
 5 is that we will be identifying need for staffing
 6 effort. We don't have it now in the department.
 7 And this 7 to \$10 million per year is going to
 8 have to partly be dedicated towards staffing
 9 effort. So I appreciate the comments. It's very
 10 true that we are strapped right now, and do not
 11 have excess staff to support this project.
 12 THE CHAIRMAN: Okay. Jonathan.
 13 MR. BARCH: So it sounds to me like this is
 14 actually one of the -- you know, in terms of I
 15 have a list of issues, substantive issues --
 16 THE CHAIRMAN: Is this one of the issues
 17 that we have to cover?
 18 MR. BARCH: We've been talking a lot about
 19 process. This is going to be one of the
 20 additional -- not an additional one, but one that
 21 maybe has more of an emphasis, and it could be an
 22 earlier emphasis about how is it that we can
 23 balance these two things. One is a really strong
 24 desire on stakeholder's part to have an efficient
 25 and lean and nonbureaucratic approach, and at the

1 same time, about being able to have the
 2 organization to really -- to create the -- keep
 3 coming back to this -- the foundation for being
 4 able to implement this over a period of time. And
 5 I think that's going to be -- that's going to be
 6 one of the issues that we're -- that you're going
 7 to need policy direction from this -- from the
 8 implementation committee on. So --
 9 THE CHAIRMAN: Mr. Graham.
 10 MR. GRAHAM: Mr. Chairman, in order to move
 11 things on, I hope, I understood your presentation
 12 to say that the staffing issue was going to be one
 13 of the first chores of the working groups. If --
 14 rather than have to settle the staffing issue
 15 today, it looks like we would first want the input
 16 from --
 17 MR. BARCH: From the implementation
 18 committee.
 19 MR. GRAHAM: From the working groups.
 20 MR. BARCH: I think that's right.
 21 THE CHAIRMAN: Okay. Do you want to move on
 22 to the last point that you have, and what factors?
 23 MR. BARCH: Yeah.
 24 MR. CHASE: Mr. Chairman?
 25 THE CHAIRMAN: Sure, Mr. Chase.

1 MR. CHASE: One quick question before you
 2 move off of that. And I guess from my
 3 perspective -- and I may be way out of line on
 4 this -- I believe you've got to look to find the
 5 staffing within the money that the group itself
 6 produces. I think to go try to find new found
 7 money is going to be very difficult.
 8 MR. BARCH: Mm-hmm.
 9 To the seven -- Mr. Chairman, Mr. Chase, the
 10 seven to, you know, to whatever million dollars a
 11 year, that there's a portion of that that your
 12 suggestion would be that it's a portion of that
 13 would be helping to administer this. And I think
 14 that's -- I think that's useful input.
 15 THE CHAIRMAN: Definitely.
 16 MR. BARCH: So what are you going to define
 17 as -- what are the kinds of things you want to see
 18 at the end of the -- end of the year, recognizing
 19 this is -- you know, decades long piece. And what
 20 we're trying to do is in this first year is get a
 21 really solid foundation, the protocols, the -- so
 22 that -- not saying it's going to run itself, but
 23 that we have a much clearer direction about how
 24 we're going to move forward.
 25 THE CHAIRMAN: I think the main thing that

1 all of us are looking forward is suggestions as to
 2 how we're going to raise the monies necessary to
 3 get the staffing, to provide the monies for
 4 recharge, to build new dams and everything else
 5 that we need to do. I think that would be one of
 6 the main things we have to look at as we move
 7 forward.
 8 MR. BARCH: Okay.
 9 THE CHAIRMAN: Mr. Graham.
 10 MR. GRAHAM: I think another thing would be
 11 going back to some of the distinctives, probably,
 12 and some others and you have made that we need to
 13 get some results soon. And a year from now, we
 14 would like to see some of those results,
 15 productive results.
 16 MR. BARCH: So to make it concrete, then,
 17 maybe it's a -- maybe it's a project that you can
 18 actually physically visit that will demonstrate
 19 that on the ground. Okay?
 20 MR. GRAHAM: Mm-hmm.
 21 THE CHAIRMAN: Other comments?
 22 MR. BARCH: Okay.
 23 THE CHAIRMAN: I think you've got your
 24 marching orders.
 25 MR. BARCH: Thank you very much,

1 Mr. Chairman, Members of the Board.
 2 HAL ANDERSON: Mr. Chairman, Members of the
 3 Board, we have one other housekeeping item on
 4 that. But before we go there, you should have
 5 a -- you should have a resolution. It says a
 6 resolution to authorize a funding commitment.
 7 THE CHAIRMAN: It's in the blue folder.
 8 HAL ANDERSON: Yes. But I'd like -- I will
 9 say that I'll be working with Mr. Barch between
 10 now and the Water Board meeting on May, and we
 11 will probably come back with some more specifics
 12 on the implementation committee to make sure that
 13 all that is approved, embedded by the Board. And
 14 we'll be working hard over the next month with the
 15 Governor's office, and with the advisory committee
 16 and others to make sure that we get this advisory
 17 committee up and figure out who's -- who's in and
 18 who's not. And we can bring all that before the
 19 Board on the May 8th.
 20 THE CHAIRMAN: Our May meeting.
 21 UNIDENTIFIED SPEAKER: Yeah.
 22 THE CHAIRMAN: I would entertain a motion
 23 for the resolution to go forward.
 24 MR. CHASE: So moved.
 25 MR. RIGBY: Second.

1 THE CHAIRMAN: Mr. Chase. And Mr. Rigby
 2 seconded.
 3 Roll call vote.
 4 MS. MCGOURTY: Mr. Cuddy.
 5 MR. CUDDY: Aye.
 6 MS. MCGOURTY: Mr. Alberdi.
 7 MR. ALBERDI: Aye.
 8 MS. MCGOURTY: Mr. Chase.
 9 MR. CHASE: Aye.
 10 MS. MCGOURTY: Mr. Beck.
 11 MR. BECK: Aye.
 12 MS. MCGOURTY: Mr. Chamberlain.
 13 MR. CHAMBERLAIN: Aye.
 14 MS. MCGOURTY: Mr. Graham.
 15 MR. GRAHAM: Aye.
 16 MS. MCGOURTY: Mr. Rigby.
 17 MR. RIGBY: Aye.
 18 MS. MCGOURTY: Seven aye's. Motion passed.
 19 THE CHAIRMAN: Thank you, Patsy.
 20 MS. MCGOURTY: Mm-hmm.
 21 THE CHAIRMAN: Mr. Anderson.
 22 MR. ANDERSON: Mr. Chairman, members of the
 23 Board, you have -- we have a request from the
 24 groundwater districts for a loan. This is in the
 25 matter -- you should have a memo to that effect

1 from Mr. Brian Patton. And Mr. Patton will lead
 2 that discussion.
 3 (Unintelligible).
 4 THE CHAIRMAN: Mr. Patton, go ahead.
 5 MR. PATTON: Mr. Chairman, Members of the
 6 Board, the North Snake and Magic Valley
 7 Groundwater Districts are jointly requesting a
 8 \$500,000 loan to construct a pipeline project to
 9 satisfy their mitigation responsibility to the
 10 Snake River Farm Facility, which is owned by Clear
 11 Springs Foods. In response to a delivery call
 12 made by Clear Springs Foods for that facility, in
 13 2005, Director Dreher issued an order requiring
 14 mitigation by the junior priority groundwater
 15 users within these two districts for the impact
 16 that their pumping causes on the senior surface
 17 flows utilized by Clear Springs Foods at this
 18 facility.
 19 After determined accounting for the
 20 mitigation provided by the districts through CREP
 21 and conversion projects, IDWR determined that the
 22 districts have to provide 1.99 CFS to -- at the
 23 Snake River Farm headgate. If this is not
 24 provided, and a curtailment order actually has to
 25 be carried through, that could affect up to 41,000

1 acres of land served by groundwater within these
 2 two districts.
 3 The district submitted a plan to construct
 4 this project to deliver this water, which was
 5 found acceptable by Director Tuthill by order he
 6 issued on March 26th, 2009. As per that order,
 7 the project must be completed by June 2nd, 2009,
 8 or the districts owe a \$10,000 per day penalty.
 9 The project the districts are proposing to
 10 construct consists of taking several wells located
 11 above the rim above the Snake River Farm Facility
 12 that are currently used to deliver irrigation
 13 water to about a thousand acres, and then no
 14 longer delivering irrigation water, but instead,
 15 delivering that water from those wells into a
 16 pipeline system that would carry it over the rim
 17 right to Snake River Farm.
 18 The -- and again, those wells would no
 19 longer be used for irrigation. So those lands
 20 would no longer be served by groundwater. This
 21 project has been estimated by the district's
 22 engineering consultants to cost around \$500,000.
 23 This Board has made several prior loans to both
 24 North Snake and Magic Valley as shown there on
 25 page 2 of the memorandum, starting back in 2003

1 with a \$300,000 loan for the similar Sandy
 2 Pipeline Project, all the way through until last
 3 year with the Board loaned them \$10 million for
 4 their participation in the Pristine Springs
 5 Project. A number of other mitigation projects
 6 and other things along the way. All loans have
 7 been repaid either on time or ahead of schedule.
 8 In looking at the effect that this loan
 9 would have on the actual assessment rates, we
 10 can't do that yet 'cause there's still some things
 11 in play in regard to the \$10 million note
 12 regarding how much some other districts such as
 13 Southwest are going to pick up. But in running
 14 through the numbers, the 500,000 -- this \$500,000
 15 loan, if it's approved at 5 and a half percent for
 16 10 years would result in a \$66,000 per year
 17 repayment to the Board, which, spread out over the
 18 220,000 acres encompassed in these two districts
 19 results in about 30 cents per acre per year for
 20 the cost of the loan. If the Board chose to
 21 follow its precedent of loaning the money at 4
 22 percent to the groundwater districts, that would
 23 result in an annual payment of about \$61,600 a
 24 year, and then would result in about 28 cents per
 25 acre per year cost for the loan.

1 UNIDENTIFIED SPEAKER: So only about two
 2 cents difference --
 3 MR. PATTON: Two cents difference --
 4 UNIDENTIFIED SPEAKER: -- in the cost per
 5 year.
 6 MR. PATTON: -- that's correct. That's
 7 correct.
 8 In conclusion, this is a -- this is a
 9 project that is necessary for the groundwater
 10 districts in order to meet the mitigation
 11 requirements that are required of them. The
 12 project has been found acceptable by the director
 13 as an acceptable means of meeting the mitigation
 14 requirements. These two districts have an
 15 excellent prior repayment history in past
 16 operations with the Board. And for that reason,
 17 the staff recommends that you go ahead and
 18 authorize this \$500,000 loan to the districts
 19 jointly.
 20 MR. GRAHAM: At what percent?
 21 MR. PATTON: Mr. Chairman, Mr. Graham,
 22 that's at the Board's discretion. If the Board
 23 follows its prior precedent, it would be 4
 24 percent. There's no reason that the Board would
 25 have to continue with that precedent, however.

1 MR. GRAHAM: Do we have the money?
 2 MR. PATTON: Yes, sir. Yes, you do.
 3 MR. GRAHAM: Don't have the sheet show
 4 (unintelligible).
 5 MR. PATTON: I'm aware. We were trying
 6 to -- trying to be sensitive to the concerns about
 7 too large of e-mails being sent out prior to the
 8 meeting.
 9 The Board does have the funds. It would
 10 actually have to be, however, a combination of
 11 funds from the Eastern Snake Plain sub account and
 12 the May account. But that's -- that's a
 13 bookkeeping item that we can handle in-house.
 14 Would like to note we do have
 15 representatives of the two districts here today.
 16 THE CHAIRMAN: Let's hear from them.
 17 UNIDENTIFIED SPEAKER: I think Brian pretty
 18 much said kind of what our story is here. Is
 19 there any -- first off, is there any questions
 20 that we have?
 21 UNIDENTIFIED SPEAKER: Do you see a 5 and a
 22 half percent being an encumbrance on the trial
 23 voter at 2 cents a break.
 24 UNIDENTIFIED SPEAKER: Probably not. I
 25 mean, it's -- it's a number we always -- you know,

1 we would prefer -- we would always prefer cheaper.
 2 UNIDENTIFIED SPEAKER: I understand that,
 3 but somewhere down the road you'd like to borrow
 4 some more money, and --
 5 UNIDENTIFIED SPEAKER: Right, right.
 6 UNIDENTIFIED SPEAKER: -- the more money
 7 that we have come in, the more we've got to loan.
 8 UNIDENTIFIED SPEAKER: Right. And we
 9 understand that. We -- you know, we're -- at some
 10 point, we'll probably have to borrow more money,
 11 you're exactly right. But I don't see that as a
 12 real issue.
 13 THE CHAIRMAN: Any questions by the Board
 14 Members?
 15 Mr. Cuddy.
 16 MR. CUDDY: Thank you, Mr. Chairman.
 17 If I understand correctly, then, no one this
 18 year will suffer crop damage because of this
 19 movement of this water over the hill?
 20 DEAN: That's correct. That's if we get,
 21 you know, getting everything in place. We've got
 22 the water lined up for the replacement water. I
 23 mean, with this year, that's not been a problem.
 24 And it essentially takes about 3500 acre feet of
 25 water to supply those conversions to, you know, do

1 the water swap, essentially, is what it is. And
 2 then, so that's -- and in the long term, that's
 3 not a -- I mean, even in tough years, we can find
 4 3500. 35,000 is harder. We've been down that
 5 road before.
 6 THE CHAIRMAN: Mr. Cuddy.
 7 MR. CUDDY: What's the added -- is there an
 8 added expense to this water exchange, then?
 9 DEAN: Well, we have the cost of lifting
 10 water, about -- I think about 80 feet. And then
 11 we'll have the cost of, you know, maintenance.
 12 And you know, those are costs. And as pumpers,
 13 we're all aware of -- that's kind of the business
 14 we're in. And so we're aware of those costs and
 15 what those operating costs would be and what's
 16 required.
 17 MR. CUDDY: But that takes care of the
 18 problem of like water for like water.
 19 DEAN: Right.
 20 MR. CUDDY: You're not getting the surface
 21 water --
 22 DEAN: Well, there's still some questions on
 23 that. But that's -- I mean, it's essentially --
 24 the wells are within a half mile of the spring
 25 source. So we assume that --

1 MR. CUDDY: So you assume the quality will
 2 be --
 3 DEAN: We assume the quality's -- I mean, if
 4 it's not -- if it's different water, we'd sure
 5 like to know that.
 6 THE CHAIRMAN: Mr. Graham.
 7 MR. GRAHAM: Can you make the -- do you plan
 8 on making that June date? Can you get this done
 9 by --
 10 DEAN: Well, we've been involved in some
 11 negotiations that --
 12 MR. GRAHAM: For the penalty?
 13 DEAN: No -- well, on the -- we've been
 14 involved in some negotiations for some other
 15 alternatives. But, you know, we've got the
 16 engineering work going forward, the engineering --
 17 we haven't started the construction of this
 18 portion of it, but we've got engineering --
 19 engineering people on (unintelligible).
 20 MR. GRAHAM: Are you anticipating having to
 21 pay that fine, then?
 22 DEAN: Not at this point, but --
 23 MR. GRAHAM: And then there's no term on
 24 this suggested --
 25 MR. PATTON: Mr. Chairman and Mr. Graham,

1 again, that would, I think be the Board's
 2 discretion, but --
 3 MR. GRAHAM: What do they want?
 4 THE CHAIRMAN: Ten years.
 5 MR. PATTON: I would throw out ten years as
 6 a starting point.
 7 THE CHAIRMAN: Yes, sir.
 8 MR. CARLQUIST: Mr. Chairman, I'm Lynn
 9 Carlquist that determined the North Snake
 10 Groundwater District. And the reason we need the
 11 loan is we had a short period of time to
 12 accomplish this work. And the conversion part of
 13 the process is already probably 90 percent done.
 14 All that work is done. But the project of getting
 15 the pipeline actually over the rim is not yet
 16 underway. All the engineering has been done in
 17 terms of getting -- the easement -- most of the
 18 easements have been obtained. And most of the
 19 engineering work has been done. But as Dean said,
 20 there has been some negotiations ongoing between
 21 the parties at a different arrangement. But we
 22 don't yet have anything in place, so we still feel
 23 like we need have this loan done.
 24 The groundwater districts did not have
 25 enough available money to finance this thing all

1 by ourselves. Our ability to raise money through
 2 our assessments is about a year and a half process
 3 out. And I think a ten-year loan would be nice,
 4 'cause then we could spread the cost out a little
 5 more over a period of time. But we could even do
 6 it at less time, I think, if we had to. It's just
 7 the amount that we have to assess our membership.
 8 THE CHAIRMAN: As we look back at the
 9 history, though, of the groundwater users, almost
 10 all of your loans have been paid off --
 11 MR. CARLQUIST: Yes.
 12 THE CHAIRMAN: Far quicker than what they
 13 were supposed to.
 14 MR. CARLQUIST: Well, I think --
 15 THE CHAIRMAN: So I really don't have a
 16 concern.
 17 MR. CARLQUIST: -- quicker or within the
 18 time limits that was assessed on them. Now, of
 19 course, we've had -- the two loans that our
 20 district has outstanding now, one was for the
 21 participation -- the groundwater districts were
 22 with the implementation of the CREP. And I don't
 23 remember Magic Valley's, but our share of that is
 24 about \$75,000 that we have set up be paid over 10
 25 years. And of course, the big one is the Pristine

1 Springs loan that you loaned us to purchase the 10
 2 CFS, if that's the Pristine Springs.
 3 THE CHAIRMAN: Mr. Alberdi, did you have --
 4 MR. ALBERDI: Yeah, Mr. Chairman, Dean, with
 5 regards to the project that you're doing, is there
 6 any contingency in the event that you need to
 7 provide Clear Springs more water, is this a
 8 standalone project, or can it be expanded?
 9 DEAN: It can be scaled.
 10 MR. ALBERDI: It can be scaled?
 11 DEAN: I mean, we're obviously looking -- in
 12 the design, we're looking -- we're looking at the
 13 size of the pipe. I mean, for example, eight-inch
 14 pipe would provide the CFS very easily. But you
 15 know, right now we're oversizing things that would
 16 take more -- we're designing -- and with our
 17 engineering people, we're designing bigger. You
 18 know, it's scalable is what I guess what I'm
 19 saying.
 20 MR. ALBERDI: And that's covered with the
 21 500,000.
 22 DEAN: That would be the initial. You know,
 23 obviously, to scale up would be -- we'd have more
 24 things we'd have to do with the system. But we --
 25 you know, that's what our initial engineering work

1 is that it would be -- you know, it's kind of
 2 lucky right now we're finding that contractors
 3 right now are quite easy to come by. And they're
 4 being quite competitive in what they will bid for
 5 work. And plastic prices, which were the pipe,
 6 would be -- they're at probably a ten-year low.
 7 So I mean --
 8 THE CHAIRMAN: Best time to do a project.
 9 DEAN: Yeah, this -- and you know, just like
 10 I said in the CAMP proposal too, I mean, there's
 11 some -- there are some real opportunities now
 12 people that want to do work, so that's what we
 13 found.
 14 THE CHAIRMAN: Mr. Graham.
 15 MR. GRAHAM: And you could handle the 5
 16 percent?
 17 DEAN: Yeah.
 18 MR. GRAHAM: Mr. Chairman, I'd make a motion
 19 that we approve the resolution and fill in the
 20 blanks at 5 percent for ten years.
 21 THE CHAIRMAN: Motion is made for 5 percent
 22 and ten years on the resolution before us.
 23 Do I hear a second?
 24 MR. BECK: Second it.
 25 THE CHAIRMAN: Mr. Beck has seconded it.

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1 Any discussion?
 2 MR. BECK: Mr. Chairman?
 3 THE CHAIRMAN: Mr. Beck.
 4 MR. BECK: I didn't know if Mr. Graham's
 5 motion was intended to cut off discussion, or if
 6 he had other interests.
 7 MR. GRAHAM: I'm very anxious to get into
 8 this ethics subject.
 9 MR. BECK: Excited or not, I'll take time to
 10 ask some questions.
 11 THE CHAIRMAN: Please do, Mr. Beck.
 12 MR. BECK: Thank you, Mr. Chairman.
 13 Dean, and perhaps -- Snake River Farm, have
 14 they bought off agreeable to what you're
 15 proposing?
 16 Is there anybody here from the Snake River
 17 Farms?
 18 DEAN: Snake River Farms is here, but
 19 there's been a motion filed that opposes this.
 20 You know, to stop the construction of the
 21 pipeline. So there is some issues. We have -- we
 22 have our plan approved by the director. And
 23 that's, at this point, the one we really have --
 24 he seems to be the most important one to approve.
 25 MR. ALBERDI: I've got three or four

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1 questions.
 2 THE CHAIRMAN: Go ahead, Mr. Alberdi, here.
 3 UNIDENTIFIED SPEAKER: Who does it go to?
 4 MR. ALBERDI: So the ground that's going to
 5 be, I guess, converted to -- from deep well to
 6 what, other deep well?
 7 DEAN: Surface water.
 8 MR. ALBERDI: And how far away are you from
 9 the surface water that you apply to those lands?
 10 DEAN: There's a what -- lateral is that.
 11 UNIDENTIFIED SPEAKER: The S Cooley --
 12 DEAN: The S Cooley.
 13 UNIDENTIFIED SPEAKER: -- goes right through
 14 the -- and it's Northside (Unintelligible) Company
 15 has approved transporting the water, delivering
 16 the water to these sites and or helping to find
 17 canal shares that we can use to deliver the water.
 18 MR. ALBERDI: Okay. And then, over on the
 19 paragraph that's numbered 5.0 financial analysis,
 20 you mentioned that you're in negotiations with the
 21 Carey Valley groundwater districts and the
 22 Southwest Irrigation Districts for the
 23 participation in Pristine Springs.
 24 DEAN: Mm-hmm.
 25 MR. ALBERDI: Is that for their

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1 participation for mitigation efforts or --
 2 DEAN: Yes. What it is is there's -- we did
 3 the purchase because of the time frame, the two
 4 largest players in the Pristine purchase were
 5 Magic Valley and North Snake. And this was to
 6 solve -- they call it Blue Lakes. And Blue Lakes,
 7 for us, was really the bigger issue. I mean, the
 8 Blue Lakes call, for example, this only affects
 9 about 15 -- well, between 10 and 15 percent of
 10 Magic Valley Groundwater District. But we have to
 11 go forward and protect our -- but it had a far
 12 reaching effect.
 13 And because of the way the time frame came
 14 together, the two groundwater districts took on
 15 the loan. There was some obligations that come
 16 from southwest. There's some folks in Water
 17 District 140 outside of irrigation district.
 18 There's some folks at Carey. There's a couple
 19 of -- at Arco -- even as far away as Arco that had
 20 obligations in the Blue Lakes call. And the
 21 difficulty was is trying to figure out who owed
 22 what. And that's what we're in the process of
 23 doing right now. The department -- Al Wiley's
 24 done some analysis. And we're in the process of
 25 meeting with him in determining truing up on

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1 figuring out who owes what on the Blue Lakes.
 2 MR. ALBERDI: So one last question,
 3 Mr. Chairman, if I could.
 4 THE CHAIRMAN: Mm-hmm.
 5 MR. ALBERDI: So if those negotiation with
 6 those two entities do not come forward, does that
 7 leave you with extra mitigation water for future
 8 use or --
 9 DEAN: No, it's -- I think the negotiations
 10 with those entities will come forward. It will
 11 mean -- it's going to be a matter of internally
 12 between how to move mitigation credits around.
 13 But I don't know. There may be at some point some
 14 excess water. Right now there's excess water
 15 in -- we're over mitigated on Blue Lakes to the
 16 tune -- I think of about 2 CFS because of our
 17 conversion credit. And so we've got -- it's the
 18 Blue Lakes, and it's not the Snake River Farm. So
 19 we're overmitigated one spot, undermitigated in
 20 another. But that's how life works, so --
 21 THE CHAIRMAN: Any other questions?
 22 Mr. Chase.
 23 MR. CHASE: Thank you, Mr. Chairman.
 24 Dean, I want to understand this penalty.
 25 This \$10,000 a day. So if you're not done in,

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1 what, 32 days, you're going to get fined \$10,000 a
 2 day?
 3 DEAN: Yeah. But I think the director has
 4 the ability, if we're making progress, to waive
 5 that. I'm not going to --
 6 MR. CHASE: Well that's kind of, I guess,
 7 where my question's going, because if you're five
 8 days late, you're into this a hundred thousand
 9 dollars, which, I just want it make sure you get
 10 the money to pay that, I guess is my question.
 11 UNIDENTIFIED SPEAKER: It's actually
 12 \$50,000.
 13 UNIDENTIFIED SPEAKER: 50,000 a day.
 14 MR. CHASE: Oh, sorry.
 15 UNIDENTIFIED SPEAKER: For five days, yeah.
 16 UNIDENTIFIED SPEAKER: That was the Board's
 17 take on that, right?
 18 UNIDENTIFIED SPEAKER: Yeah, don't --
 19 UNIDENTIFIED SPEAKER: We get half. They
 20 get half.
 21 MR. CHASE: But 50,000, I mean, I just hope
 22 that you understand that. I guess that concerns
 23 me because that could add up real fast. Unless
 24 they do construction faster in the Magic Valley
 25 than they do in Pocatello.

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1 THE CHAIRMAN: It would add up faster if
 2 they don't do anything, if they don't even start
 3 the construction.
 4 MR. CHASE: Yeah.
 5 UNIDENTIFIED SPEAKER: Yeah.
 6 MR. CHASE: Okay.
 7 UNIDENTIFIED SPEAKER: So --
 8 THE CHAIRMAN: Any other comments,
 9 questions?
 10 Patsy, roll call vote, please.
 11 MR. SIMPSON: Mr. Chairman, if I could
 12 comment.
 13 THE CHAIRMAN: Mr. Simpson.
 14 MR. SIMPSON: Thank you.
 15 Mr. Chairman, John Simpson representing
 16 Clear Springs.
 17 THE CHAIRMAN: Yes.
 18 MR. SIMPSON: And Mr. Beck did ask a
 19 question how Snake River Farms feels about the --
 20 this proposed mitigation. And I would comment
 21 that, first of all, in response to what Mr. Patton
 22 said, it's replacement water. It's not mitigation
 23 water. The rules are very clear that there's
 24 mitigation plans under the Conjunctive Management
 25 Rules Wilson. This has been identified as

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1 replacement water under a replacement water plan
 2 that's been approved by the director. And that
 3 issue is on appeal to the District Court right
 4 now. We had arguments this week on it.
 5 And I'm not going to go into that issue.
 6 But what I did want the Board to know is that
 7 Clear Springs did file a motion this week to stay
 8 construction of this project, that it would accept
 9 for 2009 the conversions that Mr. Patton
 10 represented, and the groundwater district
 11 represented as identified as adequate mitigation
 12 for 2009. Because, we have concerns over whether
 13 or not the project should be built, how it should
 14 be built, whether it is adequate water. Or
 15 someone on the Board asked the question is this
 16 like water? Well, there's no data to identify
 17 whether it is like water in similar quality to the
 18 water coming out of the springs or not. There
 19 isn't the data. The data that they have is a
 20 distance away.
 21 So until those issues are resolved, until we
 22 have an opportunity to go through a hearing, a
 23 mitigation hearing that's been at least noticed up
 24 and protested and has yet to be scheduled, we have
 25 concerns about whether the project should go

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1 forward.
 2 In light of that, we felt like it's the best
 3 use of everybody's time and money not to build the
 4 project, not to be exposed to, quote, penalties if
 5 those penalties are real, that jeopardize whether
 6 or not the groundwater districts are able to
 7 satisfy the replacement plan obligation, whether
 8 Clear Springs, Snake River Farms gets adequate
 9 water. Not just quantity, but quality. And
 10 instead, let's proceed through this in a logical
 11 manner. Let's go to hearing. Let's identify
 12 whether this is the right type of mitigation that
 13 we should be proceeding with.
 14 Instead of racing to the finish line, if you
 15 will, based upon a plan that was filed a month and
 16 a half ago, approved a month ago, and is set to be
 17 completed or the time -- deadline for completion
 18 is June 1st. So in light of that, what we've
 19 offered up -- Clear Springs has offered up is a
 20 window, if you will, to accept the conversions,
 21 which, as they expressed, are 90 to 95 percent
 22 complete for this year. And let's go through a
 23 logical process to determine whether this over the
 24 rim, with a pipe being built over the rim
 25 delivering water down to an aquaculture facility

37 (Pages 145 to 148)

1 is proper mitigation.

2 In light of that motion, if they would
3 accept that motion to stay, the Board wouldn't
4 have to determine whether or not it has funds in
5 one account or another account to loan to the
6 groundwater districts. That could be put off for
7 another day. That could realistically be put off
8 to determine after we determine whether it's an
9 appropriate mitigation plan instead of using our
10 replacement plan concept, whether the project
11 should go forward.

12 So I am not going to weigh in any further on
13 Clear Springs' positions on the elements of the
14 plan, but simply we presented in a motion to the
15 director the opportunity to set this program aside
16 for a period of time and proceed in a logical
17 manner.

18 Thank you for that.

19 THE CHAIRMAN: Thank you, Mr. Simpson.

20 DIRECTOR TUTHILL: Mr. Chairman.

21 THE CHAIRMAN: Mr. Tuthill.

22 DIRECTOR TUTHILL: Thank you, Mr. Chairman
23 To respond to Mr. Simpson, I did receive the
24 motion. And this motion to which he refers is
25 Clear Springs Foods' motion for a partial stay of

1 implementation of directors March 26, 2009 order
2 approving groundwater district's replacement water
3 plan for 2009. This was filed earlier this week.
4 And it is true that there is a proposal by Clear
5 Springs. This motion does request a status
6 conference to be set.

7 Normally, the process that we use is to hear
8 from the other side before taking immediate
9 action. My expectation is to conduct a status
10 conference next week on this motion to see how the
11 other side feels about this proposal. And it is
12 possible that this stay will occur. I can't say
13 whether it will or not. I can say that I'm very
14 serious about the June 1st, 2009 date for
15 implementation of this replacement water. And as
16 Mr. Simpson suggests, this is a replacement plan
17 compared with a mitigation plan.

18 The groundwater districts did file both
19 jointly a replacement plan and simultaneously a
20 mitigation plan that has been advertised. So
21 we're moving forward with the process on these
22 plans. In my view, if the process is stayed, then
23 perhaps a loan won't be required. If, on the
24 other hand, it is not stayed, there is only about
25 a month of time for this project to be completed.

1 Now, I have required a weekly status update
2 since the order was issued on March 26th. Those
3 have been timely filed. My assessment is that the
4 groundwater districts have been moving forward
5 appropriately to install this water. Why the
6 urgency? The reason is because the alternative to
7 this plan is curtailment. The alternative to
8 providing replacement water is curtailing. And
9 the groundwater districts proposed this plan as an
10 alternative to curtailment. That has been
11 accepted.

12 So this replacement plan for 2009 has been
13 accepted. But with this short time frame, our
14 engineering staff evaluated the proposal and
15 determined that it could be built in 49 days, if
16 there were urgency. My expectation is still what
17 contractors are doing. It's not that big a
18 project, that it is feasible to construct this by
19 June 1st. I'm expecting that it will be. If both
20 sides agree, or, depending on the outcome of the
21 status conference next week, I'll consider the
22 proposal. But right today, I'm expecting that
23 water will be delivered in accordance to the plan
24 proposed by the groundwater districts by June 1st.

25 THE CHAIRMAN: Thank you, Mr. Tuthill.

1 Mr. Stevenson, do you have anything else to
2 say?

3 MR. STEVENSON: Yeah. I believe as they
4 comment, Lynn, feel the need to chime in.

5 You know, what the director says, you know,
6 if we don't -- if it comes to the point we don't
7 need to build a pipeline, you know, we won't
8 borrow money. Even though we are farmers, and we
9 love to borrow money, that's what we do, but we --
10 we won't -- if we don't have to, you know,
11 encumber our districts for this debt, if it does
12 become necessary -- not necessary that we build
13 the pipeline, we won't do it. But we need to have
14 the money available if things go in a position we
15 can't fill ourselves in a spot that -- I assume
16 the Water Board's going to expect payment on this
17 big note from last year this fall, so we need to
18 get this one -- have this one available. So --

19 THE CHAIRMAN: Thank you, Mr. Stevenson.

20 UNIDENTIFIED SPEAKER: Mr. Chairman, I might
21 make a comment.

22 There is a little bit of a problem with the
23 time frame because we've been in negotiations with
24 representatives from Clear Springs the last two
25 weeks. We initially tried to work out a

1 stipulated agreement between the groundwater
 2 districts and Clear Springs Foods. And we weren't
 3 able to reach an agreement that each side felt
 4 like they could sign. And so, just late last
 5 week, this motion, which the director has referred
 6 to, Mr. Simpson referred to has been filed with
 7 the department. In the last two weeks, everything
 8 has kind of been put on hold in terms -- all the
 9 engineering work has been done. And the
 10 easement -- most of the easements have been
 11 signed, and that's all been done. But we have not
 12 started construction, which would have happened
 13 before now, because we've been trying to see if we
 14 could reach either a stipulated agreement, or see
 15 where we'll go with this motion that's been filed.
 16 Mr. Tuthill said that he would not have a status
 17 hearing on that until next week. And I don't want
 18 to start digging the project until we know where
 19 we have to be.
 20 Now, representatives from Clear Springs
 21 Foods said that they would indicate to the
 22 department that they would give us more time
 23 beyond the June 1st because we have kind of put
 24 this thing on hold now for two weeks. So I think
 25 we're going to have to work. If the project does,

1 in fact, end up going forward, it will be
 2 difficult for us now to meet the over-the-rim
 3 portion of the project in -- by June 1st, because
 4 we've been on hold now for over two weeks. Now,
 5 they finished up the engineering work that they
 6 have done and so forth. But the engineers we've
 7 been working with, and the contractors were all
 8 ready to go. But we told them hold up and let's
 9 see what happens here.
 10 So that's where we're at in terms of that
 11 time frame.
 12 THE CHAIRMAN: Thank you.
 13 Gentlemen, we have a motion before us.
 14 Patsy, would you call the roll, please.
 15 MS. MCGOURTY: Mr. Cuddy.
 16 UNIDENTIFIED SPEAKER: Mr. Chairman, are you
 17 saying that the discussions are ended? Or do we
 18 have an opportunity for further discussion?
 19 THE CHAIRMAN: Would you like to have
 20 another -- some more discussion?
 21 UNIDENTIFIED SPEAKER: I would.
 22 THE CHAIRMAN: Okay. Please.
 23 UNIDENTIFIED SPEAKER: And this question is
 24 for Mr. Simpson.
 25 So your willingness to stay, are you

1 thinking, then, that the conversions will handle
 2 the mitigation? Or you're just not in favor of
 3 the supply of water that would be pumped through
 4 the pipeline?
 5 MR. SIMPSON: The conversions don't satisfy
 6 the mitigation obligation. Clear Springs doesn't
 7 feel as though the number that's been identified
 8 in the order that we're working with as of today
 9 is the correct number. That's part of what the
 10 appeal process is. As a part of the orders that
 11 were issued by the department, final order, which
 12 references the hearing officer's order, it
 13 identified that additional work needed to be done
 14 on better quantifying the relationship between
 15 what appears in a spring versus what appears in
 16 the reach gained as a result of the groundwater
 17 model.
 18 Clear Springs has done some of that work.
 19 The modeling committee is looking at some of that
 20 work. So, for example, we may have an obligation
 21 today that looks like it's 2 CFS. Once we've
 22 refined that work, it may be 1 CFS, or it may be
 23 12 CFS. If it's 12 CFS and we've built this
 24 over-the-rim project, then it's just phase 1 of an
 25 over-the-rim project that has to be expanded six

1 times or so. Is that the best use of our money?
 2 Likewise, we haven't -- we, Clear Springs,
 3 hasn't had an opportunity to present to a hearing
 4 officer whether we are in favor of the
 5 over-the-rim project or not. It's being imposed
 6 upon us against our will. We came to the director
 7 at his suggestion in March, and we voiced our
 8 concerns over this over-the-rim project, whether
 9 it was the right quantity, quality, whether from a
 10 business perspective, that was good for Clear
 11 Springs to accept water through a pipeline that's
 12 piped over the rim down to them from a quality
 13 business perspective. But it's being imposed upon
 14 us.
 15 In lieu of having it imposed upon us, we're
 16 saying we're willing to accept the conversions
 17 which allow the water coming through the aquifer
 18 to continue to come through the aquifer and just
 19 be discharged out of the springs, whatever amount
 20 that is that isn't pumped out that comes out of
 21 that spring that satisfies Snake River Farms,
 22 they're willing to accept this year, because they
 23 feel so strongly that they're being denied due
 24 process, being denied the opportunity to have a
 25 hearing on the plan as to the adequacies of the

1 plan. They're just simply willing to back away
2 and say, it is what it is. But let's not move
3 forward in a manner in which might waste folks'
4 money. The dollar's being spent on a project
5 which we may find out to be inadequate.

6 Further, I mean, let's be honest. Let's
7 stand here and say groundwater district's spent
8 half a million dollars to build this project
9 pursuant to the director's order. That's as Brian
10 Patton said. We determined that that's a good
11 project, that's adequate. What's the likelihood
12 of Clear Springs getting a fair and open hearing
13 on the adequacy of the plan after it's built? In
14 our view, that's a good question to ask. We
15 haven't got a good answer to it yet.

16 So that's our position.

17 THE CHAIRMAN: Mr. Rigby.

18 MR. RIGBY: Mr. Chairman, I guess my concern
19 is that I think it's a slippery slope for us to be
20 caught up and involved in litigations as a board.
21 By that I'm saying, I don't proceed, and I will
22 not be bullied based upon the arguments of whether
23 or not -- all of which are good arguments on both
24 sides -- whether or not one should prevail or
25 otherwise. In other words, I don't view us as the

1 judge here or the director. That's for a whole
2 different forum, a whole different body to deal.

3 I view our vote here as a water user asking
4 for a loan, and using our general criteria, do
5 they qualify. Whether or not they perceive,
6 especially with the arguments that have been made
7 here -- all of which are good arguments -- is up
8 to them. And if it's a waste of their money, then
9 we have to look to their ability to repay. Is it
10 a worthy project in and of itself under the
11 general criteria outside of the litigation? Yes.
12 Does that mean they should go ahead with it? I
13 don't think we should go there.

14 THE CHAIRMAN: I agree with you, Mr. Rigby.
15 And that's the reason I'm calling for the motion
16 is the fact that they have come here in good faith
17 asking for a loan, and we're basing this loan on
18 their criteria. What takes place outside of this
19 room, we have no control over. And we have no say
20 in it.

21 If there's no more discussion --

22 MR. GRAHAM: Mr. Chairman?

23 THE CHAIRMAN: Mr. Graham.

24 MR. GRAHAM: Mr. Stevenson --

25 THE CHAIRMAN: No, Mr. Cuddy, Mr. Graham

1 first.

2 MR. GRAHAM: Let me see if I can figure out
3 just exactly where we are right now on this. I
4 understand from two districts that you will not be
5 doing anything until after this meeting next week,
6 right, and possibly the Board decision; is that
7 correct? You will not start digging?

8 MR. STEVENSON: Well, our intent will
9 probably be not to start the actual digging until
10 we determine where director will go with this
11 motion that has been filed.

12 MR. GRAHAM: Next week.

13 MR. STEVENSON: Well, we have to be in a
14 position -- you know, we have to be in a position
15 to move on this fairly fast if we --

16 MR. GRAHAM: But on that point, I understood
17 this gentleman to say, because of the two-week
18 delay already, and more time looking at next week
19 sometime, you probably are not going to make the
20 June 2nd date anyway.

21 MR. STEVENSON: We will not. I don't think
22 we can make the June 1st date. We will have to
23 ask for an extension of that because of the
24 extenuating circumstances that have come forth.
25 Because, if we had continued right with the

1 project going forward, we could have made that
2 June 1st date.

3 MR. GRAHAM: But with the \$10,000 fine
4 starting on June 2.

5 MR. STEVENSON: The director has the option
6 to hold that fine, as I understand it, our
7 agreement, based on extenuating circumstances.
8 That fine does not have to be imposed by the
9 director based on extenuating circumstances, which
10 I think have taken place. And I've had verbal
11 conversations with Clear Springs Foods that they
12 would also agree to that extension, because of the
13 negotiations that we've been involved with.

14 THE CHAIRMAN: And this really isn't a
15 concern for the Board. This is between the
16 director and groundwater users.

17 MR. STEVENSON: That's correct.

18 MR. GRAHAM: But couldn't we not wait until
19 after this meeting next week to have a telephone
20 conversation on --

21 THE CHAIRMAN: There's really no reason to
22 wait to have a vote on the motion, because if they
23 don't need it, they're not going to use it. And
24 this is -- we've done this before. We've approved
25 loans they haven't used the entire amount of the

1 loan, or they haven't used the loan. That's not a
 2 problem.
 3 UNIDENTIFIED SPEAKER: Mr. Chairman, our
 4 CREP loan that was approved by the Board that's
 5 similar to that, the number of acres that signed
 6 into CREP wasn't as large as anticipated, and that
 7 loan was not fully used.
 8 THE CHAIRMAN: Right.
 9 Mr. Cuddy.
 10 MR. CUDDY: Thank you, Mr. Chairman.
 11 Brian, if we approve this loan today, when
 12 does the interest rate start on it.
 13 MR. PATTON: Mr. Chairman, Mr. Cuddy, what
 14 happens on a normal loan that the Board approves
 15 is disbursements from the loan are made based upon
 16 the needs of the construction project. Okay. So
 17 we make construction progress payments as the
 18 project proceeds. Given the time frame, it will
 19 probably all happen in one lump sum here.
 20 Normally, the interest kicks in on the amount
 21 that's outstanding. Okay. So on a \$500,000 loan,
 22 if they borrow half as a construction installment,
 23 then they're paying interest on half of that for
 24 that period of time until more is disbursed, and
 25 so on.

1 MR. CUDDY: Starting with the time they got
 2 the money?
 3 MR. PATTON: Starting with the day they get
 4 the money; that's correct.
 5 MR. CUDDY: The time we pass the motion.
 6 MR. PATTON: That's correct. In fact, there
 7 have been loans that you have approved that have
 8 never been drawn.
 9 UNIDENTIFIED SPEAKER: I think that's what
 10 Mr. Cuddy's question.
 11 MR. PATTON: Right. And my expectation is
 12 that if an agreement is reached or the director
 13 does stay his order, then the groundwater
 14 districts would probably not draw the loan, and it
 15 becomes a moot issue.
 16 THE CHAIRMAN: Anybody else want to say
 17 anything?
 18 UNIDENTIFIED SPEAKER: Well, Mr. Alberdi,
 19 and then I'm next.
 20 THE CHAIRMAN: Mr. Alberdi.
 21 MR. ALBERDI: Mr. Chairman, I always like to
 22 do business as a good businessman. And if there
 23 was a cloud over an issue, I'm new to both. I
 24 don't know how to proceed with this. But it seems
 25 like there should be a mechanism from here -- I

1 realize it may not be our -- in our best interest.
 2 And I don't know who our attorney is, whether
 3 Clive's around or not --
 4 THE CHAIRMAN: He's right over there.
 5 MR. ALBERDI: Clive, some counsel for the
 6 Board? I have a difficult time approving
 7 something that's got so many issues, question
 8 marks on it.
 9 MR. STRONG: Mr. Chairman, members of the
 10 Board, I think the advice that you were receiving
 11 from Mr. Rigby's the correct advice. The question
 12 you have before you is, in any of these kind of
 13 controversies, there's going to be issues about
 14 who's right or who's wrong. Those need to be
 15 decided in the administrative forum. And they
 16 will. I mean, the director's going to make his
 17 independent determination. And we can't -- we
 18 can't influence that.
 19 I think the decision that's before you today
 20 is you have an application before you. Does the
 21 application comply with your requirements. And in
 22 your judgment, if it does, are they able to repay
 23 the loan? And if they do, that's the decision
 24 that's before you. And these other decisions have
 25 to be handled in the forum in which they're

1 appropriately addressed.
 2 MR. ALBERDI: One follow-up -- not for you,
 3 Clive, but for Brian.
 4 If we make this \$500,000 loan, how much
 5 money have we got left to loan?
 6 MR. PATTON: Yes, sir. Mr. Chairman,
 7 Mr. Alberdi, based on the fact that you allocated
 8 a hundred thousand dollars to continue with CDR's
 9 contract, if you move forward and allocate this
 10 \$500,000 loan, that leaves you with, as of today,
 11 about \$150,000 available. That does not count --
 12 first, that does not count interest hydropower
 13 revenues or payment streams coming back in over
 14 the next several months. That would be a snapshot
 15 as of today. May, you know, you have a hundred
 16 thousand dollars in repayment coming in in May,
 17 150 coming in in June, et cetera.
 18 (Unintelligible).
 19 THE CHAIRMAN: Mr. Beck.
 20 MR. BECK: I had heard the comment
 21 replacement. Is this replacement water or
 22 mitigation water?
 23 UNIDENTIFIED SPEAKER: Mr. Chairman, I'd
 24 defer to the director for that.
 25 THE CHAIRMAN: Mr. Tuthill.

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1 DIRECTOR TUTHILL: Mr. Chairman, this is
 2 replacement water.
 3 THE CHAIRMAN: All right. Then we need to
 4 change mitigation in the third paragraph,
 5 "whereas, the Idaho Water Resource funds would be
 6 used to construct a replacement project consisting
 7 of a pipeline to deliver groundwater to the Snake
 8 River."
 9 UNIDENTIFIED SPEAKER: Mr. Chairman, I'd
 10 encourage us to add the word replacement water
 11 project.
 12 THE CHAIRMAN: So noted.
 13 Would the maker of that motion be acceptable
 14 to that change?
 15 UNIDENTIFIED SPEAKER: Yeah, whatever it
 16 takes to make that change.
 17 THE CHAIRMAN: Okay. We've moved first.
 18 And a second.
 19 UNIDENTIFIED SPEAKER: I will second it,
 20 yes.
 21 THE CHAIRMAN: Patsy, roll call vote,
 22 please, before anybody else speaks.
 23 MS. MCGOURTY: Mr. Cuddy.
 24 MR. CUDDY: Aye.
 25 MS. MCGOURTY: Mr. Alberdi.

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1 MR. ALBERDI: Aye.
 2 MS. MCGOURTY: Mr. Chase.
 3 MR. CHASE: Aye.
 4 MS. MCGOURTY: Mr. Beck.
 5 MR. BECK: Aye.
 6 MS. MCGOURTY: Mr. Chamberlain.
 7 MR. CHAMBERLAIN: Aye.
 8 MS. MCGOURTY: Mr. Graham.
 9 MR. GRAHAM: Aye.
 10 MS. MCGOURTY: Mr. Rigby.
 11 MR. RIGBY: Aye.
 12 MS. MCGOURTY: Seven aye's. Motion passed.
 13 THE CHAIRMAN: Motion passes.
 14 Gentlemen, I think it's time for a break.
 15 And then we will get into the moment that we've
 16 just all been waiting so wonderfully bored.
 17 UNIDENTIFIED SPEAKER: We're out of here.
 18 (Unintelligible).
 19 THE CHAIRMAN: The meeting's back in
 20 session.
 21 The next part of this meeting does not need
 22 to be recorded, so I would request an official
 23 close of the open meeting.
 24 Entertain a motion?
 25 UNIDENTIFIED SPEAKER: I move that we --

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1 THE CHAIRMAN: Adjourn?
 2 UNIDENTIFIED SPEAKER: Adjourn, and nothing
 3 was accomplished.
 4 THE CHAIRMAN: Do I hear a second?
 5 Mr. Beck?
 6 Anyone opposed?
 7 Meeting's adjourned. Thank you, Patsy.
 8 (End of audio recording of proceeding.)

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1 REPORTER'S CERTIFICATE
 2
 3
 4 I, Debora Ann Kreidler, Certified
 5 Shorthand Reporter, State of Idaho, hereby
 6 certify:
 7 That I am the reporter who transcribed
 8 the audio recording of proceedings had in the
 9 above-entitled action in machine shorthand and
 10 thereafter the same was reduced into typewriting
 11 under my direct supervision; and
 12 That the foregoing transcript contains
 13 a full, true, and accurate record of the audio
 14 recording of the proceedings had in the above and
 15 foregoing cause, which was heard at Boise, Idaho.
 16 IN WITNESS WHEREOF, I have hereunto set
 17 my hand June 5, 2009.

22 Debora Ann Kreidler, CSR No. 754
 23
 24
 25

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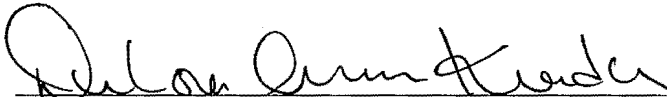
R E P O R T E R ' S C E R T I F I C A T E

I, Debora Ann Kreidler, Court Reporter
Pro Tempore, County of Ada, State of Idaho, hereby
certify:

That I am the reporter who transcribed
the proceedings had in the above-entitled action
in machine shorthand and thereafter the same was
reduced into typewriting under my direct
supervision; and

That the foregoing transcript contains a
full, true, and accurate record of the proceedings
had in the above and foregoing cause, which was
heard at Boise, Idaho.

IN WITNESS WHEREOF, I have hereunto set
my hand this *8th of June*, 2009.


Debora Ann Kreidler, Court Reporter Pro
Tempore
CSR No. 754