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PUBLIC MEETING  
SANTA BARBARA COUNTY  
CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD

Amendment of Waste Discharge )  
Requirements, the National )  
Pollutant Discharge Elimination )  
System Permit No. CA0048143 )  
for the City of Santa Barbara, )  
El Estero Wastewater Treatment )  
Facility Order No. R3-2010-0011 )  
\_\_\_\_\_ )

TRANSCRIPT OF PROCEEDINGS  
Santa Barbara, California  
Thursday, January 29, 2015

Reported by:  
ADRIANA PATRON,  
CSR No. 13834

Job No.:  
3947WQSLO

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2  
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4  
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7 Kathleen Thomasberg, Board Member  
8 Jeffrey S. Young, Board Member  
9 Karina Cervantez, Board Member  
10 Michael Johnston, Board Member  
11 Bruce Delgado, Board Member  
12 Ken Harris, Executive Officer  
13 Michael Thomas, Assistant Executive Officer,  
14 Tammie Olson, Clerk to the Board  
15 Tamarin Austin, Board Counsel  
16 Lori Okun, Board Counsel  
17 Steven Moore, State Board Liaison  
18 Peter von Langen, Board Staff  
19 Megan Powers  
20 Shawn Hagerty, Counsel for the City  
21 Rebecca Bjork  
22 Joe Monaco  
23 Helene Schneider, Mayor of Santa Barbara  
24 Phil Wyles, Assistant Chief Counsel for State Water Board  
25 Victoria Whitney, Deputy Director of Water Board

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3 CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD  
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7 Requirements, the National )  
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9 System Permit No. CA0048143 )  
10 for the City of Santa Barbara, )  
11 El Estero Wastewater Treatment )  
12 Facility Order No. R3-2010-0011 )  
13 \_\_\_\_\_ )  
14  
15 TRANSCRIPT OF PROCEEDINGS, taken at  
16 105 East Anapamu Street, Fourth Floor,  
17 Santa Barbara, California, commencing at  
18 11:09 a.m. on Thursday, January 29, 2015,  
19 reported by ADRIANA PATRON, CSR No. 13834,  
20 a Certified Shorthand Reporter in and for  
21 the State of California.  
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1 Santa Barbara, California, Thursday, January 29, 2015  
 2 11:09 a.m.  
 3  
 4  
 5 MR. WOLFF: Since we are now starting Item 9 I will  
 6 close the speaker cards at this time. So if you have a  
 7 speaker card, please provide it right now for this Item 9,  
 8 because after the commencement of Item 9, I will not accept  
 9 additional speaker cards for this particular topic.  
 10 Mr. Harris, will you please introduce the item?  
 11 MR. HARRIS: Before I introduce the item, a couple  
 12 things: I want to mention that the State Board Division of  
 13 Drinking Water is with us today. So in the event you have  
 14 any questions regarding the drinking water aspect of this,  
 15 he's here to answer your questions. Also, after I do the  
 16 introduction, Ms. Austin has some procedural issues she  
 17 needs to go over.  
 18 So Item 9 is an Amendment of Waste Discharge  
 19 Requirements, the National Pollutant Discharge Elimination  
 20 System Permit Number CA0048143 for the City of Santa  
 21 Barbara, El Estero Wastewater Treatment Facility Order  
 22 Number R3-2010-0011.  
 23 Dr. Peter von Langen is the staff person who will  
 24 give a brief overview to the amendment to the NPDES permit  
 25 for the City of Santa Barbara Wastewater Treatment Plan and

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1 Charles Meyer Desalination Facility. This amendment is to  
 2 facilitate the city in its efforts to start up a  
 3 desalination facility in the drought emergency in compliance  
 4 with the drafts of the State Water Board's Desalination  
 5 Policy Amendment to the California Ocean Plan.  
 6 At this time I'll turn it over to Ms. Austin.  
 7 MS. AUSTIN: Thank you. I just want to draw the Board's  
 8 attention to a handout that was placed in front of you  
 9 during the break. This is a copy of the Notice of Public  
 10 Hearing in the City of Santa Barbara water rights.  
 11 You all received this last week; is that correct,  
 12 Mr. Young?  
 13 MR. YOUNG: Can you repeat that? Mr. Robertson was  
 14 asking me something and it's hard for me to do two things at  
 15 once.  
 16 Did you want me to discuss this flyer?  
 17 MS. AUSTIN: I just wanted you to confirm your receipt  
 18 of this last week; is that correct?  
 19 MR. YOUNG: I'm a resident of the City of Santa Barbara.  
 20 I drink the city's water. I may be drinking the city's  
 21 desal water and whatever comes with that.  
 22 I've received in the mail a notice of public  
 23 hearing involving potential water rate increases. This is  
 24 the notice of the public hearing, and in the back -- this is  
 25 a two-page front and side flyer. And there was on the back

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1 part of this a City of Santa Barbara drought frequently  
 2 asked questions. In here there are some comments --  
 3 questions and comments made of the desal plant.  
 4 I thought because it touches on the desal plant, I  
 5 brought it to Council's attention and let them make a  
 6 decision as to whether it should be part of the record.  
 7 They said, "Yes, definitely." That's where this came from.  
 8 MS. AUSTIN: Just to confirm, you received that last  
 9 week?  
 10 MR. YOUNG: It may be before last week. I may have  
 11 gotten it a couple weeks ago and it sat on my kitchen table  
 12 and I just stared at it after I read it and thought of what  
 13 to do with it, thinking it might be something I might want  
 14 to read as I was actually reading the staff terms. It's  
 15 been a couple of weeks.  
 16 MS. AUSTIN: So for our records, we are making this part  
 17 of the record consistent with Government Code Section  
 18 1143050. Ms. Olson has additional copies of this document  
 19 if there are folks in the audience who would like to review  
 20 this.  
 21 Also for our record today -- this is with respect  
 22 to our supplement that we provided -- there was an e-mail  
 23 from Joe Monaco. It's dated December 17th to Megan Powers  
 24 and it concerns the permitted capacity of the plant. And  
 25 just to clarify for our record that this is part of the

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1 record.  
 2 Those are my procedural notes and feel free to --  
 3 MR. WOLFF: Also for the record, is counsel still --  
 4 MS. AUSTIN: Yes.  
 5 MR. YOUNG: Mr. Chair, would this be the time where any  
 6 contacts would be disclosed?  
 7 MR. WOLFF: Yes.  
 8 MR. YOUNG: Just to be safe, I have not spoken to  
 9 anybody about this flyer, but I did want to say a number of  
 10 months ago, I did have a discussion with Rebecca Bjork. It  
 11 had very little to do with desal and mostly had to do with  
 12 seeing what the City could do in terms of increasing its use  
 13 of recycled wastewater. I think at the time the desal issue  
 14 may not have been agendized. We really didn't get into it  
 15 at all.  
 16 Separate from that contact, maybe about a week ago,  
 17 I gave Mike Jordan a call mainly to wish him a belated happy  
 18 New Year and tell him I was going to miss him being on the  
 19 Water Board. And he had mentioned something about he would  
 20 be appearing today and speaking on behalf of the City. We  
 21 had a very brief chat about CEQA and what this process  
 22 looked like.  
 23 It was a very general discussion. I didn't learn  
 24 anything from Mr. Jordan that would persuade me one way or  
 25 the other about this. But it was very little exchanged

1 about this in particular, and it was really a call I made  
2 just to say hello. I just wanted that to come out.

3 MR. WOLFF: Any other comment before we proceed,  
4 Mr. Harris?

5 MR. HARRIS: I have nothing further, Mr. Chair.

6 MR. WOLFF: So ready for the staff presentation.

7 DR. VON LANGEN: Chair Wolff, I'm Peter von Langen,  
8 Water Board Staff, and I'll be giving this presentation on  
9 Item 9 regarding Charles Meyer Desalination Facility and  
10 Water Treatment Plan. Along with me is California Sea Grant  
11 working with the State Water Board, Dr. Megan Powers.

12 The big question is why we are here today? It's to  
13 propose an amendment to the NPDES permit to the Charles  
14 Meyer Desalination Facility. The NPDES permit is necessary  
15 findings -- for California Water Code Section 13142.57(b).

16 This amendment finds and clarifies that the  
17 facility is considered existing. A brief overview and  
18 timeline for the NPDES facility is the following, and the  
19 City can address this in their presentation following. This  
20 desalination facility was first permitted and constructed in  
21 the early 1990s. The facility was put into a long-term  
22 storage once the rains occurred in 1992 or so. The storage  
23 was put after that, in 1996, as part of the City's long-term  
24 water supply plan.

25 There's been several renewals since the permit of

1 the desalination facility was first done in 1991. There's  
2 been about four renewals and the latest was 2010 for the  
3 renewal of the El Estero Wastewater Plant that included the  
4 desalination facility. The City, again, wants to reactivate  
5 this desalination facility due to the drought that we're now  
6 incurring in California.

7 A brief summary about the desalination facility and  
8 wastewater treatment plant locations on the coast east of  
9 Stearns Wharf and Santa Barbara Harbor: The desalination  
10 facility is just across the street from El Estero Wastewater  
11 Treatment Plant and these facilities share a discharge  
12 approximately 1.65 miles offshore in the Pacific Ocean,  
13 Santa Barbara Channel, where it discharges in about 70 feet  
14 of water through the multi-diffuser, over 60 diffuser ports.

15 The intake for the desalination facility is  
16 approximately half a mile up-shore in about 30 feet of  
17 water. This intake pipe used to be the former discharge  
18 pipe of the wastewater treatment plant.

19 We're dealing today with the intake of the facility  
20 because there are impacts to the marine environment from  
21 intakes of seawater, industrial uses of seawater. One of  
22 the main impacts is called impingement, whereby fish are  
23 trapped against screens if the loss of the intake is great  
24 and so the fish can't swim away and get trapped and die.

25 Another impact is entrainment, whereby smaller

1 larvae can fit through the slot size of the screen, get  
2 entrained and pass through the industrial process and killed  
3 in that process. Other impacts in the marine environment  
4 occurring from ocean intakes are the construction-related  
5 impacts from building pipes or building subsea floor intake  
6 systems.

7 You can disturb sandy floor habitat, which is less  
8 biodiverse with less organisms than, let's say, a rocky  
9 beach habitat where kelp can thrive -- all barnacles  
10 associated with kelp. So the impacts can disrupt the  
11 breeding grounds, vegetation during this construction.

12 The specific Water Code Section, 13142.5(b), that  
13 we're addressing today that the permit amend is that for  
14 each new or expanded facility, several measures need to be  
15 looked at to minimize mortality in intake of marine life.  
16 The best combination of these measures, meaning the site,  
17 design, technology and mitigation, have to be looked at as a  
18 whole to look at the best overall intake for a facility  
19 using industrial seawater.

20 This amendment provides a finding based on the  
21 information that was available back when the desalination  
22 facility was first constructed in the early 1990s. There  
23 were four types of measures, again, site, design,  
24 technology, and mitigation, that was used in this draft  
25 amendment. First the site was chosen adjacent to the El

1 Estero Wastewater Facility because it was decided that it  
2 was the best in minimizing the mortality of marine life  
3 because it leaves the existing infrastructure of the outfall  
4 and intake parts. This limited environmental impacts an  
5 constructed pipes elsewhere.

6 These intake and outfall parts are located in sandy  
7 marine habitat, which is less biodiverse and less sensitive  
8 compared to rocky beach structures where some of the other  
9 sites were looked at by the City. They also chose the site  
10 because the existing water distribution system was near El  
11 Estero so it made it easier to distribute water after  
12 desalination throughout the area.

13 The reason the designs that were looked at for the  
14 facility were that the location of El Estero Wastewater  
15 Treatment Plant, again, allowed the use of the existing  
16 intake and outfall structures. It allowed brine, which is  
17 denser than seawater to be mixed with fresh water from the  
18 wastewater plant and more easily dispersed and diluted in  
19 the ocean outfall. The outfall was also constructed with a  
20 60-port diffuser system to increase the dispersion of the  
21 brine.

22 And finally, the intake structure was designed in a  
23 way to have a very slow intake of .1 feet per second, which  
24 would virtually eliminate impingement from the ocean  
25 environment.

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1 The technology was chosen in the early 1990s based  
2 on the feasibility and hydrologic studies of subsurface  
3 intakes offshore. They found out there wasn't enough water  
4 from the multi-beach wells to get enough water for the needs  
5 of the city and, at that point, the needs of the -- the  
6 technology used of the outfall is another aspect looked at  
7 to consider this best technology at the time. Again, the  
8 low velocity screen intake system was the best technology to  
9 minimize mortality of the marine layer.

10 There was no mitigation proposed in the early  
11 1900s. The impingement effects were considered  
12 insignificant, below the screen intakes, and the unavoidable  
13 entrainment impacts were also considered insignificant due  
14 to the relatively high productivity of the area and there  
15 would be no impact discernable on plankton populations.

16 The City is volunteering to do the following  
17 environmental projects today: They're proposing to  
18 construct wedge wire screens on the intake, which will  
19 eliminate impingement and have some reduction to  
20 entrainment. This is considered a newer technology than the  
21 existing screens that are on there now.

22 The City is also volunteering to spend \$500,000 for  
23 the Devereux Slough Project about ten miles west of the  
24 facility on the west part of the UCSB campus. It's an  
25 important local habitat for intertidal species and there's a

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1 nexus with flowing into the ocean during winter months.

2 They are also proposing to do a study by 2017 to  
3 assess the feasibility of subsurface intakes and potable  
4 reuse, and they're going to present this at our future  
5 Regional Board meeting.

6 So in conclusion, there should have been 13142.5(b)  
7 finding, but there wasn't one. The facility would be  
8 considered existing per this finding and the amendment is to  
9 find that this finding would have been done back in 1990 and  
10 1991 when the facility was first built and permitted.

11 And finally, the City volunteers beneficial  
12 environmental projects with this amendment. So the  
13 recommendation is to adopt the NPDES order today and the  
14 amendment and the supplement sheets.

15 MR. WOLFF: Thank you for this presentation. And  
16 because this topic is very technical, what we will do is  
17 have the Board ask questions after the presentation. So in  
18 this instance, we have the presentation from staff and we  
19 will have the presentation from the City and then public  
20 comments, because I think it will allow us to be more  
21 specific when things are fresh in our mind.

22 So at this time, looking at my left here, do we  
23 have questions? Mr. Delgado?

24 MR. DELGADO: Thank you.

25 How much money, approximately, will the City invest

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1 to reopen this facility?

2 DR. VON LANGEN: I believe it's somewhere around  
3 20 million, but the City would be better to answer that  
4 question.

5 MR. DELGADO: That's fine. What's the point of  
6 assessing subsurface intake alternatives by 2017, let's say,  
7 if there's already been significant financing, 20 million or  
8 whatever it is, put into reopening the facility before that  
9 happened -- before 2017?

10 DR. VON LANGEN: That's another question -- the City  
11 should answer that question.

12 MR. DELGADO: I'll wait on that one.

13 So the only thing I have left to ask is: It said  
14 in one of your slides and in our staff report that as of  
15 1990, it wasn't expected there would be an impact -- a  
16 significant impact to plankton communities or other marine  
17 life from entrainment.

18 Has it been confirmed that that is still true some  
19 20 years later?

20 DR. VON LANGEN: As staff, I would assess that the  
21 entrainment levels are relatively small when you look at the  
22 volumetric approach, when you compare something like this  
23 to, say, a large power plant that takes 2.4 billion gallons  
24 a day. All the scientific studies from over the decades  
25 still cannot discern an environmental impact from these

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1 types of studies.

2 So it would be very difficult to find any impact  
3 from a small desal facility based on the entrainment study.  
4 There's been one done up in Santa Cruz for a pilot project  
5 that was for the Santa Cruz proposed desalination project.  
6 This was done with the oversight of the technical field crew  
7 and the findings of that year-long study showed minimal to  
8 non-detectable -- or not detectable on the environmental  
9 side. You can see minimal effects from entrainment.

10 MR. DELGADO: I understand that impingement is not  
11 significant because of the low velocity intake, but then  
12 later you mentioned there would be wire screens put up to  
13 reduce impingement.

14 Why is it necessary if there's not a lot to begin  
15 with?

16 DR. VON LANGEN: These wire screens are looked at as the  
17 best available technology for power plant intakes from the  
18 316(b) rules of the Clean Water Act. It is proposed in the  
19 State Board Desalination Policy to require screens that  
20 function in subsurfaces, but it's not feasible.

21 MR. DELGADO: That's a new requirement that is not  
22 required here, but the proposal is to do it anyway?

23 DR. VON LANGEN: The City is volunteering to do it.

24 MR. DELGADO: Thank you.

25 MR. WOLFF: Mr. Johnston?

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1 MR. JOHNSTON: Thank you, Mr. Chair. I have a few  
2 questions.  
3 I've heard several different numbers tossed around  
4 as far as the acre-feet-per-year capacity of the plant. I  
5 heard a 10,000 acre-foot as the original studies were done  
6 up. The 7,500, which I think is what it's permitted for --  
7 I'm reading the City's flyer. It says they're planning on  
8 opening at 3,125, I think, and potentially expanding it  
9 later to 7,500.  
10 Can you explain how those numbers fit together?  
11 DR. VON LANGEN: Originally, the facility was permitted  
12 for 10,000 acre-foot in early 1990s. I think Megan Powers  
13 would be able to explain this better or the City's  
14 consultants will get into the details of that. The City  
15 would be a better source.  
16 MR. JOHNSTON: I see in their statement it's permitted  
17 for 7,500. Your understanding is it's permitted for 10,000?  
18 DR. VON LANGEN: There was different permits over the  
19 years, but I believe originally the permit was 7,500  
20 acre-feet and that was expanded to 10,000 in the early  
21 1990s. But I think the City should answer that question.  
22 MR. JOHNSTON: Okay. But from our perspective, is it  
23 currently permitted for 10,000?  
24 DR. VON LANGEN: Yeah. Our discharge of the brine is up  
25 to 12 and a half MGE. If you do the math to calculate to

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1 acre-feet, it turns out to be the 10,000 acre-feet a year.  
2 MR. JOHNSTON: So our permitting was based on the amount  
3 of discharge rather than on the amount of water produced,  
4 clean water produced?  
5 DR. VON LANGEN: Yes. I think our permits have the  
6 discharge volume in there, and they have 12 and a half MGE.  
7 If you double that, more or less, to get the total volume  
8 that's taken in by the intake, factor that being reverse  
9 osmosis water and add discharge, that calculates to about  
10 10,000 acres per year.  
11 MR. JOHNSTON: Is that based on the -- I know that the  
12 RO systems are becoming dramatically more efficient.  
13 Is that based on '90s technology or current  
14 technology, that concept of doubling the discharge to get  
15 the intake?  
16 DR. VAN LANGEN: That's just a good rule of thumb to  
17 have.  
18 MR. JOHNSTON: So when we initially permitted this, were  
19 we -- I'm trying -- someone told me that -- I forget if it  
20 was in a briefing or what -- that we didn't issue a  
21 finding -- what is it? A 131425(b) or whatever it is  
22 initially because at the time those were being issued only  
23 for power plants. And I guess until somebody sued around in  
24 the 2000s, they weren't looked at for desal plants.  
25 Is that more or less true?

19

1 DR. VON LANGEN: Yes, that's a good assessment.  
2 MR. JOHNSTON: So when we initially permitted this, were  
3 we permitting the intake as well as the discharge? I see  
4 our permit looking at siting and I see it talking about the  
5 siting and such, but was that -- was our permit focused just  
6 on the discharge or was it equally focused on the intake?  
7 DR. WON LANGEN: The intake was included in the permits  
8 as being mentioned, and the environmental documents that  
9 were looked at back then, probably by staff at the time,  
10 would have considered the intakes, but I don't know if  
11 they -- they didn't put a finding in the permit because that  
12 wasn't the normal procedure back then. Every section of the  
13 Water Code isn't spelled out.  
14 MR. JOHNSTON: Certainly the environmental impact  
15 documents talked about the intake as well as the discharge  
16 because those documents were used for a variety of  
17 permitting, not just our permits.  
18 I guess my question is: Did our staff consider the  
19 intake, or were they really looking at the outfall?  
20 DR. VON LANGEN: I would venture that since it was  
21 mentioned in the permit -- the original permits about the  
22 intake, that it was considered.  
23 MR. JOHNSTON: Now, I see that there was -- the initial  
24 environmental documents referenced in the staff reports that  
25 back in '91, infiltration galleries or beach wells were not

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1 considered practical because they didn't have the ability,  
2 given the geology, to generate the amount of water they  
3 needed.  
4 Has that changed? Has that technology changed? I  
5 mean, would that still be the case or what's the deal on  
6 that?  
7 DR. VON LANGEN: There are now examples of infiltration  
8 galleries at the scale that could potentially supply the  
9 water to this size of desalination facility if the geology  
10 was suitable for that type of technology.  
11 MR. JOHNSTON: From the reading of staff reports,  
12 apparently the assertion was made at the time that the  
13 geology was not -- wouldn't accommodate those infiltration  
14 galleries.  
15 Is that old technology or do we know?  
16 DR. VON LANGEN: Well, the infiltration gallery is a  
17 newer type of technology. They looked at the old beach  
18 wells, which was a more standard technology back then. But  
19 the beach wells -- they couldn't get enough water through  
20 the beach wells for the size that they were proposing to  
21 make for the desalination facility.  
22 MR. JOHNSTON: Just for my information, is an  
23 infiltration gallery something they put subsea floor as  
24 opposed to on the beach?  
25 DR. VON LANGEN: Yes. It goes out under the sea floor

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1 and has a sand layer above it.  
2 MR. JOHNSTON: So I think you may have answered this for  
3 Mr. Delgado. I'm not sure. If it were -- if they were  
4 currently in a situation where it were not feasible to use  
5 undersea floor intake, would the entrainment and  
6 infiltration protections provided by the existing design,  
7 plus the modifications that the City proposes to make, meet  
8 our current standards?  
9 DR. VON LANGEN: Current, yes. And it depends on what  
10 goes on with the State Board Policy down the road.  
11 MR. JOHNSTON: We don't know if the State Board is going  
12 to impose a higher standard or if they're discussing a  
13 higher standard. I understand they're discussing, where  
14 feasible, undersea floor intake, and that's the big question  
15 that the City is looking at.  
16 But where that's not feasible, is the  
17 State Board -- do we know if the State Board is looking at a  
18 higher standard than would be -- than is going to be applied  
19 to this intake?  
20 MR. HARRIS: I just want to remind the Board that we do  
21 have State Board staff here, so if you want to, you can  
22 direct your questions to Mr. Wyles.  
23 MR. JOHNSTON: I would love that, and I believe so would  
24 you.  
25 MR. WYLES: Thank you. Good morning. I'm Phil Wyles.

22

1 I'm an assistant chief counsel with the State Water Board  
2 and I advise the State Board on water quality issues. Just  
3 to be clear, I'm not acting as your attorney here. You have  
4 two very capable attorneys here that are advising you,  
5 Tamarin Austin and Lori Okun on the telephone.  
6 With me is Victoria Whitney. She's the Deputy  
7 Director of the Division of Water Quality. We are both  
8 working with the State Board as it develops this Ocean Plan  
9 Amendment for desalination facilities.  
10 I can answer your question specifically,  
11 Mr. Johnston, which is that the Ocean Plan Amendment, which  
12 has not been adopted by the State Board, does contemplate  
13 for new facilities that there would be a fairly thorough  
14 level of analysis to ensure that the combination, as  
15 Dr. Von Langen explained, of site and design and technology  
16 and mitigation is the best available, feasible combination  
17 for new facilities.  
18 I don't think it's possible to say whether --  
19 assuming subsurface for this Santa Barbara facility is  
20 determined not to be feasible, whether the rest of the site  
21 and design and mitigation and technology would or would not  
22 meet what the State Board is ultimately going to adopt  
23 because it essentially anticipates a process to evaluate all  
24 of those factors and to evaluate whether or not -- as a new  
25 facility is proposed whether or not it would meet current

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1 standards for site, design, technology and mitigation.  
2 I think the bottom line is we would not be able to  
3 tell, without doing a thorough analysis, whether this  
4 facility would meet the current standards for a new facility  
5 under the proposed Ocean Plan Amendment.  
6 MR. JOHNSTON: Finally, I think this is back to you,  
7 Doctor. The City is talking about reopening it at  
8 3,125 acre-feet per year. I'm hearing from you that our  
9 permitting is based on how many million gallons of brine  
10 they put out. So I'm assuming that even if they open it at  
11 that level, which is a lower level than they operated at  
12 decades ago, and later expanded it to 7,500 or 10,000 or  
13 whatever, that as long as it were within the permitted range  
14 of gallonage, we would not consider that an expansion; is  
15 that correct?  
16 DR. VON LANGEN: Yes, that's my understanding.  
17 MR. JOHNSTON: Have you got something different?  
18 MR. WYLES: No. I just want to point out that maybe it  
19 would be useful for the Board for me to put this in context  
20 in terms of how this action relates to the Ocean Plan  
21 Amendment and generally why this is for the Regional Board.  
22 But the short answer is the Ocean Plan Amendment  
23 does contain a proposed definition for an expanded facility.  
24 And under a circumstance where the facility is originally  
25 approved, permitted, and the original determination of this

24

1 Water Code Section 13142.59(b) anticipates this future  
2 expansion, in that circumstance there would be no further  
3 need to go back and look at whether that future expansion  
4 triggers a new determination under 13142.5(b).  
5 MR. JOHNSTON: The order that the State Board is  
6 contemplating similarly measures desal plants by the brine  
7 discharge; is that correct?  
8 MR. WYLES: Maybe I should take a moment and explain the  
9 general context because we're hitting on individual points.  
10 MR. JOHNSTON: Sure. Then I'll give up the microphone  
11 here.  
12 MR. WYLES: I want to -- what's really critical here,  
13 both for the State Board and the Ocean Plan Amendment, and  
14 the reason this situation is before you is because the Water  
15 Code Section that we're talking about, 13142.5(b), is,  
16 frankly, unique in terms of the statutes that the Water  
17 Boards administer under the terms.  
18 The terms of that section -- first of all, they  
19 don't -- there's not a clear statement we actually are  
20 supposed to issue permits for intakes. There's a -- there's  
21 a limitation that it applies only to new or expanded coastal  
22 power plants or other industrial installations that use  
23 seawater for cooling, heating, or industrial processing.  
24 The key is new or expanded. This Board is used to  
25 having continuing jurisdiction over any type of discharge of

1 waste you might have authorized in the past and is used to  
2 being able --

3 (Interruption in the proceedings)

4 MR. WYLES: She's heard this before. I'll continue.

5 We're talking primarily about the intake of  
6 seawater. The discharge of waste, the legislature has  
7 granted to the Regional Board continuing authority to  
8 oversee and regulate that discharged waste and as technology  
9 evolves, as our thinking about the impacts of those  
10 discharges of waste evolve, this Regional Board has clear  
11 authority to continue to ratchet down, continue to require  
12 new technologies to apply to those existing discharges of  
13 waste, and even to say, "We used to let you discharge waste  
14 here, and now we're not going to anymore and you need to  
15 take the expense and time to find another way to take care  
16 of your wastewater issues."

17 13142.5(b) is different. It's for new or expanded  
18 facilities. You can look at it as if we get one bite at the  
19 apple and is when a proposal comes forward for either a new  
20 facility or expansion of a facility.

21 Because it's so key that it has those terms, the  
22 proposed State Board Ocean Plan Amendment has proposed  
23 definitions for those terms. That's essentially the genesis  
24 of why we're here. The City of Santa Barbara, at the State  
25 Board hearing in summer, objected to the definitions we were

1 proposing. Let me read to you what the main definition is  
2 so you get a sense of it. We create a distinction between a  
3 new or existing facility in the proposed amendment. We also  
4 have a definition for expanded facilities, which I can  
5 mention if you like, but we really, in this proceeding, are  
6 talking about new versus existing.

7 Essentially, every facility would be either new or  
8 existing. If it's not existing, it's new. The proposed  
9 definition says, in part, an existing facility does not  
10 include a facility for which permits and approvals were  
11 issued and construction commenced after the effective date  
12 of this Water Code Section if the Regional Water Board did  
13 not make any determinations under this Water Code Section.

14 So the proposal is to say that a facility was  
15 permitted, was constructed, but these factors were not  
16 considered at the time and we're not going to treat it as an  
17 existing facility. We will instead treat it as a new  
18 facility and require that that analysis be done, even though  
19 the facility has already been constructed and may be  
20 operating at this time.

21 I should point out that this is not a final  
22 definition. The State Board may well change it, but what  
23 happened in summer of 2014 is the City stood up and objected  
24 to this and said, "Wait a minute. We have the Charles Meyer  
25 facility. It was permitted. It has been constructed. It's

1 been on standby." They'll tell you more about this.

2 What this proposed definition -- it does create  
3 uncertainty about whether or not we can reactivate this  
4 facility in this time of trial. The State Board members at  
5 the hearing were sympathetic to that concern, certainly the  
6 drought concern, and asked its staff, myself, and Victoria  
7 and her staff to see if we couldn't reach a resolution with  
8 the City that would preserve the proposed language to the  
9 Ocean Plan Amendment, but also creates certainty for the  
10 City of Santa Barbara in terms of its plans to reactivate  
11 the facility in the time of trial.

12 We talked to the City, and frankly, the best we  
13 could come up with at a staff level was to go back and look  
14 at the record of all of the permits and the CEQA  
15 documentation, whatever was available to the Regional Water  
16 Board back in the early '90s, and determine whether or not  
17 the Regional Board could, today, say that the information  
18 that was available back in the '90s -- using the lens of  
19 what was the best available, feasible site, design,  
20 mitigation and technology, whether at the time, it met the  
21 13142.5(b) determination.

22 I will be the first to admit this is unusual --  
23 this procedural posture is unusual. I think it's probably  
24 unprecedented, but it's the most appropriate way we figured  
25 we could address the issue to let the City move forward with

1 its desalination reactivation.

2 The City did authorize -- as Dr. von Langen  
3 explained, it did offer to do some additional work. These  
4 are not things we are proposing the Regional Board mandate,  
5 but we're proposing the Regional Board recognize these are  
6 the City's plans in terms of the screens, in terms of the  
7 mitigation.

8 Essentially, then, what we plan on doing is  
9 reporting back to the State Water Board as it continues to  
10 consider the Ocean Plan Amendment, whether or not they're  
11 able to resolve this issue such that the City could move  
12 forward with its facility and whether or not the State Board  
13 should consider any changes to the amendment on this issue.

14 I do understand this is odd. This is unusual.  
15 There are concerns about whether this even makes sense. I  
16 want to say that I understand those concerns. I will say,  
17 though, that I don't see this as providing much of any kind  
18 of dangerous precedent because of the nature of what we're  
19 dealing with here. We're dealing with a statute that's  
20 unique in the sense that it's not continuing jurisdiction.

21 We've taken a look and this really is -- first of  
22 all, it's the only facility that objected to the proposed  
23 definition. But more importantly, it's the only facility we  
24 know of that fits in this sort of category of being a major  
25 portion of a region's long-term water supply portfolio in

1 this drought circumstance. And falling into this sort of  
2 odd situation where we're -- we're not looking at this issue  
3 back in the '90s, and we're looking at it much more closely  
4 now.

5 MR. WOLFF: Thank you. Ms. Cervantez?

6 MS. CERVANTEZ: Thank you. My questions is -- I just  
7 have one question and it has to do with figuring out the  
8 timelines of all these various different events regarding  
9 the permit allocation and some of the renewals and some of  
10 the conversations around the Ocean Plan Amendments. Staff  
11 made a presentation regarding the renewal permit that came  
12 to the Board in 2010 and within that there was already  
13 mention about desal discharge.

14 So I'm wondering, within that permit and that  
15 conversation with the Board then, how much was it clear that  
16 the City of Santa Barbara would be seeking to reactivate the  
17 desal facility? And if that was obvious to the Board that  
18 that was going to be the intent of the City, why wasn't the  
19 City seeking a determination of findings then in 2010? I do  
20 see in some of the documentations from the City of Santa  
21 Barbara that it is part of their general plan -- part of the  
22 plan for their long-term water supply. I'm wondering why  
23 the conversation about determining the findings and  
24 compliance wasn't started then.

25 DR. VON LANGEN: I didn't work on that permit, but the

1 City -- it's in a permit that they were planning on using  
2 this desalination facility as needed for droughts back then  
3 and that preceded the drought.

4 MS. WHITNEY: I can respond to that. We didn't have a  
5 definition in our Ocean Plan of an expanded facility at that  
6 time. I don't think it was really on the radar of the City  
7 or of the Regional Board staff. It wasn't until after that  
8 that we realized that in order to implement that Water Code  
9 Section, we had to define what an expanded facility and an  
10 existing facility and what a new facility is.

11 Sorry. Victoria Whitney, Deputy Director of Water  
12 Quality for the State Board.

13 MR. WOLFF: Thank you. Mr. Young?

14 MR. YOUNG: Mr. Wyles, this is very unique. This is a  
15 very unprecedented situation. I don't know that we've  
16 had -- except for EPA staff joining us when we had certain  
17 permits, I don't think we've had the pleasure of having you  
18 or seeing your State Water Board staff. So the whole thing  
19 is kind of like a conundrum in a way, trying to make this  
20 kind of work out as best we can.

21 My initial question to you is: Why don't you just  
22 exempt the City in the plan amendment and just kind of get  
23 rid of this if the State Board staff is so comfortable with  
24 what has been done before?

25 DR. VON LANGEN: Totally fair question. Frankly, like I

1 said, I don't know what the end result will be with the  
2 State Board when it finally adopts the Ocean Plan Amendment.  
3 I don't know what will happen after that in terms of whether  
4 we've satisfied people -- that's all not knowable today.

5 But I can tell you that I would not be comfortable  
6 writing in a single industry -- or single facility exemption  
7 into -- or proposing that the State Board turn it into a  
8 rule-making proceeding. Now, it's possible -- and a lot of  
9 times you'll see the legislature write general laws where  
10 there is a fairly obvious but not explicit exemption.  
11 Generally speaking, when we adopt the Water Quality Control  
12 plans, like the Ocean Plan, we try to come up with rules of  
13 general application, not specific application.

14 MR. YOUNG: What is the timing for the Ocean Plan  
15 Amendment to be finalized? Is the State Board flexible when  
16 that might happen, such that the Board determines, "You know  
17 what? Maybe we're onboard with this, but we need to add  
18 some additional language, requirements"?

19 You know, to me it looks like some of the factors  
20 actually were studied and considered. I don't feel, at this  
21 point, comfortable with that, but I'm going to be asking  
22 some of the staff to explain some of their studies. Maybe  
23 if we feel mitigation wasn't really addressed maybe the way  
24 we would have addressed it 20 years ago, let's say that  
25 takes some time for us to do, is the State Board flexible on

1 its calendar for finalizing this Ocean Plan Amendment?

2 MS. WHITNEY: This project is one of the projects that  
3 the State Board members have identified as a high priority  
4 for the Division of Water Quality staff. We have a number  
5 of those projects. Some of them have been completed. So  
6 we're trying to get this done as quickly as we can.

7 Our current schedule calls for the staff to bring  
8 it to the Board later this spring. We are -- the current  
9 status is we've had numerous workshops on the desal  
10 amendments. We've prepared a CEQA document. It's been out  
11 for public comment. The environmental document drafted --  
12 this is the planning activity. The desal amendments have  
13 been out for comment and we're preparing the responses to  
14 comments. The responses to comments on the desal amendment  
15 itself are substantially completed and undergoing management  
16 and legal review. We're still working on the responses to  
17 comments on the CEQA SED. It's pretty imminent.

18 We didn't think, at the time we were having the  
19 conversations with Santa Barbara last summer and last fall,  
20 that we were going to have the Ocean Amendment completed  
21 prior to the time that they needed to go out for bid on  
22 their contracts for their construction in order to get the  
23 desal facility operating by next water year, which is what  
24 their timeline called for based on their water supply  
25 studies.

1 They do have contracts with the State Water  
 2 Project. I don't know if you guys know this. The State  
 3 Water Project is oversubscribed in terms of the contracts,  
 4 in part because when it was originally -- the water was  
 5 supposed to be diverted from the Eel River to the Sacramento  
 6 River Basin. President Reagan, in his past life, killed  
 7 that project.

8 So the Department of Water Resources does not have  
 9 adequate supplies to fulfill all of its contractual  
 10 agreements. Folks, like in Santa Barbara, who have  
 11 contracts for water often don't get enough of the water that  
 12 they had contracts for, which is one of the factors, as well  
 13 as the drought, that figures into their water supply  
 14 portfolio concerns.

15 MR. YOUNG: Have you noticed the Ocean Plan Amendment  
 16 agenda item yet?

17 MS. WHITNEY: No.

18 MR. YOUNG: Okay. So there is a little bit of  
 19 flexibility there as to which Board meeting you actually  
 20 get?

21 DR. VON LANGEN: I think we heard earlier this morning  
 22 we were aiming for April. I think it's fair to say that's  
 23 the earliest we can get.

24 MR. YOUNG: Are there other entities similar to  
 25 Santa Barbara and they didn't object? Are they out there?

1 information to support that conclusion or is that something  
 2 the City should speak to?

3 DR. VON LANGEN: Yes. Recent studies that were done  
 4 by -- up at the Santa Cruz Plant, where they did impingement  
 5 studies. So a 7-million-gallon-a-day intake showed no  
 6 impingement from using -- they documented it with camera  
 7 footage and by other studies.

8 MR. YOUNG: Is it based on the same anticipated intake  
 9 flow?

10 DR. VON LANGEN: It's approximately the same. It's a  
 11 7 million gallon a day intake at the Santa Cruz project,  
 12 about 20 million gallons a day at the Santa Barbara Project.  
 13 So it's comparable. The intake velocities are comparable  
 14 to -- the intake velocity at the Santa Barbara is supposed  
 15 to be less than .1 feet per second, which is dramatically  
 16 slower than the proposed statewide policy and for the  
 17 Federal Clean Water Act.

18 MR. YOUNG: Did they look at entrainment?

19 DR. VON LANGEN: Yes. The Santa Cruz project looked at  
 20 entrainment as well.

21 MR. YOUNG: What is the mesh size of those?

22 DR. VON LANGEN: I believe they used 1- or 2-millimeter  
 23 intake mesh, offhand. So it was -- the proposed project  
 24 here is 1-millimeter less. It's more protected than the one  
 25 used in Santa Cruz or equal.

1 Would they fall under this new amendment language and be  
 2 forced to do studies?

3 DR. VON LANGEN: The answer is, I believe, yes. There  
 4 are some, and there's a list of approximately ten in our  
 5 staff report. And looking through that list, none of them  
 6 seem to fit the sort of characteristics of the City of  
 7 Santa Barbara where it really is a potentially significant  
 8 amount and needed for the region for water supply  
 9 reliability. They are much smaller in nature. Monterey Bay  
 10 Aquarium, for example, is, I believe, in something like  
 11 .04 million gallons per day for their visitors, nothing in  
 12 this sort of scope and nature that the Regional Water Supply  
 13 has at this point.

14 MR. YOUNG: This is the largest one?

15 DR. VON LANGEN: Yes.

16 MR. YOUNG: Okay. Thank you.

17 MR. WOLFF: Could I just ask a favor from all of you.  
 18 We have a court reporter and some of us have a tendency of  
 19 speaking very fast, and I see you trying to -- really being  
 20 challenged in taking notes. So if we can just make sure  
 21 that we speak a little more slowly, that would be  
 22 appreciated. Thank you.

23 MR. YOUNG: You have said that -- this is slide 9 --  
 24 that impingement will be eliminated from the screen  
 25 mechanism. I just wanted to know, do you have any

1 MR. YOUNG: Then you just said they looked at  
 2 entrainment. In that study up there, what were the  
 3 conclusions on entrainment?

4 THE DR. VON LANGEN: The conclusion that the most  
 5 entrained species is the white croaker, a sandy bottom fish.  
 6 It would be expected that would be the most entrained  
 7 species around here as well. Yearly entrainment of larvae  
 8 were found to be less than .06 percent of the source of the  
 9 area around the intake pipe.

10 It was basically scaled up to make the equivalent  
 11 of larvae entrained -- one white croaker adult female would  
 12 have in its offspring in their lifetime. So one fish is the  
 13 most --

14 MR. YOUNG: One adult fish, that was the equivalent.  
 15 The entrainment study is just looking at larvae and eggs?  
 16 That's all that can get through?

17 DR. VON LANGEN: Yes.

18 MR. YOUNG: Do you have the other subsection to the  
 19 statute, Subsection D? Can you put that on the screen?

20 DR. VON LANGEN: I don't have a slide of that.

21 MR. YOUNG: I'd like to explore that. I think that's  
 22 part of the discussion. It's the one that basically says  
 23 there should be some baseline studies done to assess  
 24 environmental loss.

25 MS. AUSTIN: Would you like me to read it into the

1 record? Would that be helpful?  
 2 MR. YOUNG: Subsection D, as in David.  
 3 DR. VON LANGEN: I can read it into the record if you  
 4 like.  
 5 MR. YOUNG: Well, we have a projector here. It helps  
 6 the public if we can display this so we all know what we're  
 7 talking about.  
 8 DR. VON LANGEN: We're using 1991 technology with this  
 9 cable.  
 10 MR. WOLFF: While they're setting up, do you have  
 11 perhaps another question?  
 12 MR. YOUNG: I do. What I want to get into is that I  
 13 see, from reading the source documents that were provided by  
 14 staff, that the City did do oceanographic studies back in  
 15 '88, '89. The only study that they have relied upon to  
 16 assess any kind of loss to marine life was the Ormond Beach  
 17 study.  
 18 It looks to me like the statute that I'm asking you  
 19 to put up on the ELMO requires that a site-specific study be  
 20 done to assess loss of marine life. I just wanted to get  
 21 staff's reaction to that.  
 22 DR. VON LANGEN: I reviewed the work that was done in  
 23 1991 and 1994 that looked at the site assessments of the  
 24 area. And the plankton studies that were done in Ormond  
 25 Beach were similar types of plankton concentrations that you

1 would expect to find here. I think the consultant for the  
 2 City would better explain the details of that. Overall,  
 3 there is a lot of work at the old intake location of the --  
 4 and other work that was done in that region.  
 5 MR. YOUNG: I know that's what they relied upon. What  
 6 I'm trying to get at is shouldn't we be looking at something  
 7 specific to the site? That's what the statute speaks to.  
 8 Ormond Beach is out in Ventura. It's not here. I didn't  
 9 see any of the results of the study. I just saw conclusions  
 10 in the staff report.  
 11 So if we had been doing this 20 years ago, we  
 12 wouldn't be asking these questions about, "Okay. What are  
 13 the studies? What were the results? What were the  
 14 impacts?" What I got back from my comments to staff was a  
 15 list of species that were probably impinged and entrained.  
 16 I'd like more information about those in terms of  
 17 percentages and identifying which ones are offshore species.  
 18 DR. VON LANGEN: They didn't do an entrainment study  
 19 back in those days.  
 20 MR. YOUNG: What kind of study was it?  
 21 DR. VON LANGEN: It was an assessment of how much  
 22 plankton and larvae would have been taken -- it was plankton  
 23 tows.  
 24 MR. YOUNG: That's what I thought. It's a different  
 25 kind of study. Someone went out in a boat with a plankton

1 net and did some tows and then looked at what was in the  
 2 tows.  
 3 Was it done monthly? Over a year period? Was it  
 4 done one time?  
 5 MS. POWERS: Megan Powers, State Water Board.  
 6 I read the study and it's a pretty basic  
 7 oceanographic study. They did the plankton tows over three  
 8 years from 1982 to 1984. They were able to capture  
 9 variability and also capture -- it was a pretty standard  
 10 procedure using standard volumetric net tows.  
 11 From my knowledge, I would expect that -- even if  
 12 it's 40 miles down the coast, I would expect very similar  
 13 species would also exist in Santa Barbara. They did not --  
 14 the study was done at Ormond Beach offshore, and they did  
 15 transect. They did four different stations along the pike.  
 16 MR. YOUNG: Over a three-year period?  
 17 MS. POWERS: Yes, 1982 to 1948.  
 18 MR. YOUNG: How frequently did they do these studies? I  
 19 ask these questions because plankton and larvae vary year to  
 20 year.  
 21 MS. POWERS: It depends --  
 22 MR. YOUNG: It's seasonal.  
 23 MS. POWERS: In the same study they also did studies on  
 24 nutrients and looking at trying to understand why is  
 25 plankton different in one area and not the others. They did

1 about four or five sampling events each year.  
 2 MR. YOUNG: Each year. So they kind of take a  
 3 quarterly? So about 12 events over the course of a  
 4 three-year study?  
 5 MS. POWERS: Roughly.  
 6 MR. YOUNG: Why is the City voluntarily offering to do  
 7 anything if there's going to be no impingement? And it  
 8 looks like the entrainment, then, is negligible from what  
 9 we're being told. Why offer to do anything?  
 10 MS. POWERS: You mean why offer to do any mitigation?  
 11 DR. VON LANGEN: The City is environmentally conscious,  
 12 and they can speak to it more than I can.  
 13 MR. YOUNG: In the plankton tows that were done over a  
 14 three-year period, what was the percentage of offshore  
 15 species versus inshore?  
 16 MS. POWERS: They didn't look -- they looked at just  
 17 volumetric. They actually -- well --  
 18 MR. YOUNG: Even by volume, if they look at species,  
 19 they would know where -- just by identification, where the  
 20 species' habitats are.  
 21 MS. POWERS: This was done offshore. So a lot of these  
 22 areas are, like, pelagic type. They were done -- an oblique  
 23 tow where they throw the net in the water and then they tow  
 24 it back up to the surface.  
 25 MR. YOUNG: So what the City is proposing is \$500,000

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1 towards the Devereux project. Wouldn't that primarily just  
2 help intertidal species and it would not benefit offshore  
3 species?  
4 MS POWERS: I think there are some species that  
5 probably -- larvae, fish larvae, that take refuge in wetland  
6 areas. I don't think you make that comparison to  
7 oceanographic species. But I think it's really difficult to  
8 have these -- how to actually create an oceanographic  
9 environment and recreate that environment someplace else.  
10 One of the best options would be a wetlands kind of  
11 recovery, in my opinion, because it will also offer habitats  
12 for other intertidal species that live in the area.  
13 MR. YOUNG: So what you're saying is there's a loss of  
14 offshore species that we just don't have a good tool for  
15 mitigating and all we can do is help intertidal species?  
16 MS. POWERS: Yeah, I would say that. It's very  
17 difficult to mitigate for those kind of open-ocean  
18 environments.  
19 MR. YOUNG: An infiltration gallery, is that the same as  
20 subsurface intake?  
21 MS. POWERS: That's a technical question.  
22 MS. WHITNEY: It is one kind of subsurface intake. You  
23 can have plant wells, infiltration galleries. An  
24 infiltration gallery, if you wanted to visualize it is where  
25 you go in and dig out the ocean bottom and put in a square

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1 series of filters. And then you put all the pipes  
2 underneath and then you put the ocean bottom materials back  
3 on top of it. And the ocean bottom acts as a filter as the  
4 water is being pulled in. We have an environmental  
5 engineering design firm that is working with the City, and I  
6 expect he can answer your questions.  
7 MR. YOUNG: It's more like a square area that is dug up  
8 and a matrix is put down. A subsurface intake the way we're  
9 now thinking of is more like an intake line buried in the  
10 sand with ports in it.  
11 MS. WHITNEY: In Monterey, you're looking a series of  
12 slant wells, which are basically exactly what they sound  
13 like, the wells that you drill at an angle.  
14 Infiltration galleries used in Japan -- there's one  
15 facility there but not as big as the one that's being  
16 proposed in Carlsbad. There are different technologies you  
17 can use and which one you pick depends on the circumstance  
18 of how much water you need to intake, et cetera.  
19 MR. YOUNG: So you have the statute up there.  
20 So does staff feel we don't need to comply with  
21 that section? Can you use your pointers?  
22 DR. VON LANGEN: It says, "Independent baseline studies  
23 of the existing marine system should be conducted in the  
24 area that could be affected by a new or expanded industrial  
25 facility using seawater in advance of the carrying out of

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1 the development."  
2 MR. YOUNG: It's a "should," not a "shall," but it does  
3 contemplate some kind of independent study being done at the  
4 site. My concern is whether that has been done or not or  
5 whether it should be done.  
6 MR. WYLES: If I can, the proposed Ocean Plan Amendment  
7 actually does require an analysis of any proposed new  
8 facility and a lot of that analysis does require the  
9 collection of baseline data. And so certainly we are using  
10 that same concept in Subdivision D to support the  
11 requirements that new facility proponents actually go out  
12 and study things.  
13 In some cases, we had proposed up to three years of  
14 independent baseline studies. That may change, but we're  
15 certainly adding some areas where the current proposal is  
16 for a year's worth of study prior to conducting the analysis  
17 of the data to determine whether that facility will be the  
18 site design, technology and mitigation that most feasible  
19 for here.  
20 I think -- you know, my view is that certainly this  
21 section was -- this subdivision was in existence back in the  
22 early '90s. I suspect -- I think what I heard from  
23 Dr. Powers is that the type of baseline studies that were  
24 conducted at that time may have been somewhat different than  
25 the types of studies we would be requiring today.

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1 Certainly I agree with the premise that ideally  
2 those studies would have been undertaken back in the '90s to  
3 support the proposal for the desalination facility. Some  
4 studies were done in the 2000s, but your question was about  
5 the types of studies.  
6 MR. YOUNG: I would think we would have done something.  
7 Looking back 20 years, we didn't have this mindset on. So  
8 we didn't have that filter on. We weren't thinking of  
9 entrainment and impingement. How can we be thinking about  
10 what would be an applicable study to comply with the  
11 statute?  
12 MR. WYLES: As they tried to explain, we are in large  
13 part suggesting that we use what we think were our, you  
14 know, current standards for studies, site design,  
15 mitigation, everything, what we think those were back in the  
16 early '90s to see whether or not today the Board can decide  
17 that "Yeah, this project actually did satisfy what we think  
18 were the standards back then." It's a bit of a conundrum.  
19 MR. YOUNG: What currently is the State Board  
20 contemplating as policy in terms of compliance with  
21 Subsection D? In other words, I'm curious, without having  
22 the intake in place doing its take on species, how do you  
23 ever get a baseline study? I don't know if plankton towing  
24 going around in the channel or the ocean necessarily tells  
25 you exactly what's going to be impinging. Maybe it does.

1 That would be my question.

2 MR. WYLES: If you give me a moment, I can point -- or  
3 read to you the sections that require baseline studies in  
4 the proposed Open Ocean Plan Amendment.

5 MS. WHITNEY: Actually, I want to augment what Phil is  
6 looking for. We have three places where we require studies.  
7 In two of those places, the studies are required only if  
8 someone is proposing alternative technologies. We set up  
9 preferences in the Ocean Plan Amendment for subsurface  
10 intakes. There's an out, if you will, where a subsurface  
11 intake isn't feasible. It's where people are proposing  
12 something other than a subsurface intake that we're  
13 requiring studies.

14 The same thing goes for discharges. We have a  
15 preference for high pressure diffusers as a discharge  
16 technology. If somebody wants to use something other than  
17 that, they have to do studies to show the discharge will  
18 achieve the same levels of environmental protection that the  
19 pressure diffusers would achieve.

20 So it isn't a situation where -- the reason we  
21 wrote it that way is because we recognize that some of these  
22 facilities are very small. Some of the communities may be  
23 cash strapped. Based on the information we had available to  
24 us, which was developed in part by three expert panels that  
25 reconvened over the last few years, it looked like the

1 operator submit a report to the Regional Water Board -- I'm  
2 sorry -- to the Regional Water Board projecting the marine  
3 life mortality resulting from construction and operation of  
4 the facility.

5 That report shall include a detailed entrainment  
6 study. Entrainment study period shall be at least 36  
7 consecutive months and should be designed to account for  
8 variation in oceanographic conditions and larval abundant in  
9 diversity, such that abundance in the studies will be  
10 accurate. That's a three-year baseline study in terms of  
11 what the impacts will be for the purposes of figuring out  
12 what kind of mitigation is necessary to deal with those.

13 And Vicki wants me to emphasize that's the current  
14 staff proposal. It's consistent with the notion in  
15 Subdivision D that we do want to require, going forward,  
16 that, at least new facilities and expansions of facilities  
17 that they do these baseline studies. We would hold them to  
18 what we believe today is the right way to do those studies.

19 MR. YOUNG: Thank you. I don't have any more questions.

20 MR. WOLFF: Thank you. Dr. Hunter?

21 MS. HUNTER: I'm going to pursue a little bit further  
22 some of the issues raised by Mr. Young.

23 So in your presentation, I noted, in part, the  
24 determination that there was insignificant impact associated  
25 with current design of this facility in part is related to

1 subsurface technologies were the better technologies if they  
2 were feasible.

3 We didn't see any point in making folks go through  
4 and do the high levels of studies if they were going to  
5 conclude they were going to put in a subsurface intake  
6 anyway, so long as there was some study to determine whether  
7 or not subsurface intakes were feasible for other reasons.  
8 It's much harder, for instance, to put a subsurface intake  
9 in a rocky outcrop than in a sandy bottom kind of situation.

10 But they're not required in every situation by our  
11 policy simply because we're relying on the work and the  
12 advice that was given to us by the expert panels.

13 MR. YOUNG: If someone in the future proposed to do a  
14 subsurface intake, would they not have to do any baseline  
15 studies?

16 MR. WYLES: They would, I believe. Let me just read to  
17 you the general provisions for baseline studies. There's a  
18 general provision that says the Regional Board consulting  
19 with State Water Board staff -- there's some additional  
20 ocean expertise the State Board -- can require the owner or  
21 operator of one of these new or expanded facilities to  
22 provide any additional studies or information as needed,  
23 subject to the approval of the Regional Water Board.

24 The main study is for mitigation and the  
25 provision -- the proposed provision is that the owner or

1 the fact there are high larval populations known for that  
2 area. I agree with that statement to the extent we saw a  
3 very extended process associated with identifying highly  
4 productive fishery areas associated with the Marine  
5 Protection Act and the establishment of marine protected  
6 areas.

7 The Santa Barbara Channel area, in particular,  
8 underwent -- in addition to that, the Channel Islands  
9 National Sanctuary conducted its 20-year review of its  
10 National Plant and established a number of marine protected  
11 areas based on the value of the Channel for fishery  
12 production.

13 Again, getting to what Mr. Wyles just mentioned,  
14 that baseline studies would incorporate specific diversity  
15 of oceanographic and ocean population, I have the same  
16 problem that Mr. Young has raised in looking, for example,  
17 at Santa Cruz, which is not necessarily, in my view -- my  
18 understanding in following the process, considered highly  
19 productive and valued for its commercial fishery potential.

20 So I think that the assumption that those higher  
21 larval populations is insignificant -- somehow we have extra  
22 population there we can consider insignificant, I think it's  
23 just the opposite. If we have a higher larval population  
24 and you were to actually do the studies required or you  
25 would find information that could give us some idea of what

1 is the density of the larval population in that area, then  
2 we might see the entrainment is actually significant because  
3 it is a high and rich and diverse ocean environment.

4 So by association with the State's study of its  
5 marine resources, we may find there are studies that have  
6 been done that could contribute to our -- what is the  
7 potential significant impact from entrainment. So that  
8 would be one issue.

9 I'm not going to ask -- I think you did respond to  
10 Mr. Young in that way. I just want to reiterate that. I  
11 don't see the studies that we're relying on -- and I heard  
12 the word "assumption" being used a number of times to say we  
13 assume that because this study shows a low impact, that a  
14 study -- has the same type of impact based on the design and  
15 system, not based on the oceanographic conditions.

16 The second issue I have, and maybe this is for  
17 Mr. Wyles, concerns the issue of expansion. And my question  
18 is something I haven't heard addressed and that regards the  
19 original permit that was issued. And I'm seeing this in  
20 several ways, and I have not found it in the permit itself.

21 If the original permit was issued for a temporary  
22 facility and now the City is shifting and considering this  
23 facility as part of its permanent water portfolio, would  
24 that be considered an expansion? Because I'll give you two  
25 things that made me raise this question. In this flyer, on

1 the last page under the heading "Is the desalination plant a  
2 regional facility?" In the first line, it reads, "When the  
3 temporary desalination plant was constructed in 1991." The  
4 City is referring there to the temporary desalination plant.

5 In the next section it says, "What would be the  
6 alternative if the desalination plant is not reactivated?"  
7 In the second line it says that the program includes "the  
8 conversion of the temporary emergency facility to a  
9 permanent part of our water supply," and that this has been  
10 approved by the City Planning Commission, the California  
11 Coastal Commission, and the City's El Estero Wastewater  
12 discharge permit. So now we're talking about going from  
13 something that was considered temporary to something that  
14 was considered -- to something we can now regard as  
15 permanent.

16 I also want to bring into this point that I'm  
17 raising in Attachment 4 in response to comments, response  
18 No. 9, the staff also -- I'm not sure who completed this  
19 document, if this was a combination of Regional Board staff  
20 with State Water Board staff. I don't know. This also  
21 refers to the City -- does not -- towards the bottom of  
22 paragraph 9 response, "Furthermore, the City currently does  
23 not intend to operate this facility continuously."

24 So we've got staff calling it a temporary facility.  
25 You have -- the original permit, I believe, would show it

1 was a temporary facility as described by the City itself.  
2 And then you have the statement in this flyer that this now  
3 is going to become part of the City's permanent water  
4 portfolio.

5 So is that an expansion under the definition?

6 MR. WYLES: First of all, let me acknowledge -- let me  
7 acknowledge that Victoria and I did work with your staff to  
8 help draft the proposal, help look through the comments and  
9 draft responses to comments. We had a difficult time,  
10 frankly, trying to understand the history of this project.  
11 I think we have it right, but certainly we should confirm  
12 with the City we have it right.

13 In both the first paragraph of Attachment G and  
14 also in response No. 9 to the question, what we say is that  
15 it was originally permitted as a temporary facility. That  
16 was in 1991. Temporary operation of the facility was the  
17 original permit. And then in 1996, it was permitted for  
18 permanent operation. Now, all along it has, I believe, been  
19 intended to be used only intermittently.

20 I believe the City will tell us today that that is  
21 still their intent to only operate this desalination  
22 facility intermittently when their water needs get to the  
23 point where they have to operate it. Again, let's confirm  
24 that with the City.

25 Now, your question was does that constitute an

1 expansion? And I will tell you that if the State Board does  
2 adopt the amendment to the Ocean Plan as currently  
3 drafted -- let me do the easy one first. What if it were a  
4 new facility that someone was dreaming of today and coming  
5 to the Regional Board for approval today. The answer is  
6 that it would depend on what the Regional Board actually  
7 analyzed when it did this Water Code 13142.5(b) to determine  
8 if the analysis assumed and took into account some type of  
9 operation that was intermittent.

10 And certainly we would talk about how many gallons  
11 per day would be taken in through the intakes. And if the  
12 project proponent later, after that determination was  
13 concluded, decided to increase the amount of time that the  
14 facility was operating or decided to bring in more water  
15 when it was operating, then the Ocean Plan Amendment would  
16 certainly consider that to be an expansion and require a new  
17 13142.5(b) determination prior to initiating that expansion.

18 How does that apply to this facility? Frankly, I  
19 think the way I'm viewing it is that I think we have it  
20 right in terms of the analysis and I think the information  
21 in the record does support viewing this as not an expansion  
22 from what was originally contemplated in early 1990s. But  
23 it's absolutely a good question.

24 If I can, while I have the microphone, the issue  
25 about marine protected areas. I just wanted to point out

1 that that is certainly an issue for us, not in terms of how  
2 to calculate the mortality from entrainment, but the current  
3 draft does have a specific provision dealing with MPAs. So  
4 our current thinking anyway is that the language reflects --  
5 the intake structures cannot be located within an MPA and  
6 the discharge must be located sufficiently far from an MPA  
7 so there would be no impact from the discharge on the MPA.  
8 Certainly today, we are focused on protecting those areas.

9 MR. WOLFF: Thank you, Dr. Hunter.

10 Most of my questions I'm going to hold off until I  
11 hear the presentation from the City. One question I have is  
12 a somewhat peripheral question relating to jurisdictional  
13 authority.

14 Does the Coastal Commission have any input on this  
15 in terms of what's happening to the plant, the discharge,  
16 the location, the change of application, the screen,  
17 et cetera?

18 DR. VON LANGEN: I can answer that briefly. The City  
19 can do a better job of the details, but their -- first  
20 permitted this back in the '90s and it's considered an  
21 existing facility to the Coastal Commission, but there is a  
22 maintenance permit required for the intake structure  
23 changes.

24 MR. WOLFF: I'll ask a few more questions of the City,  
25 actually, on the topic of maintenance of the system.

1 Without duplicating questions from my colleagues, I  
2 still struggle with the insignificant impact. I realize  
3 "insignificant" is not the same as nonexistent, but if the  
4 State is looking at subsurface technologies -- and  
5 Ms. Whitney gave a brief introduction of the different  
6 technologies contemplated -- that to me is implicit that  
7 there is an impact when you have the kind of technology that  
8 is currently proposed. So I'm still struggling with that  
9 aspect.

10 In regards to the Devereux Slough Project, and  
11 perhaps this is a better question for the City, why that  
12 site? Has there been a robust analysis of what other  
13 potential mitigation sites could have been chosen?

14 MS. POWERS: The amount of -- the restoration project  
15 was based on a review of the need for support of projects  
16 within the Santa Barbara region. And staff identified the  
17 Devereux Slough Project with the Salinas Wetland Recovery  
18 Project. So we looked at different projects within the area  
19 of the city and basically made a determination about that  
20 project based on its scale, need for funding, and location.

21 So the scale is such that hopefully the amount the  
22 City has provided for the project will mitigate past the  
23 impact that the facility will be operational. The  
24 restoration project -- we found support to help restore  
25 wetlands within the general area of the water body. It's

1 ten miles up the coast by UCSB campus.

2 The larvae and things that will be protected and  
3 restored in this area won't be entrained by the intake  
4 system that's down -- down in the desalination intakes.  
5 That's the basis for how we came up with the --

6 MR. WOLFF: The last question, for now, that I have is  
7 for Dr. Von Langen. We talked about well tests that had  
8 been done many years ago and the fact that the yield was  
9 insufficient to meet the expected amount of daily gallonage  
10 needed, but I'm not too clear on how extensive, you know,  
11 the site study was done. Did they pick one location and  
12 say, "Let's see what happens there," or was there a very  
13 good, detailed study looking at various locations and  
14 actually performing some of the exploratory wells in various  
15 locations or it became site specific in locations where they  
16 concentrated or actually tested?

17 DR. VON LANGEN: There were several studies and the  
18 first study was approximately a mile of beach where --

19 MR. WOLFF: Could you repeat that?

20 DR. VON LANGEN: There were several studies. I believe  
21 the first study was approximately one mile of beach along  
22 the beach wells. And based on the hydraulics -- they would  
23 take 100 to 200 wells. That wouldn't be enough to get the  
24 3,000-plus that they were looking at originally.

25 And subsequent to that, they decided to get a

1 bigger intake project just after they did the study. It  
2 wouldn't be suitable for that as well.

3 MR. WOLFF: That means just one location. It's almost  
4 the analogy of when you perform tests for septic systems.  
5 You just don't pick one location and say, "That didn't  
6 work." You use often other locations as well.

7 If I understand you correctly, there was really  
8 only one location where these tests were performed and  
9 physically there were no other locations where these tests  
10 were being performed. Do I understand correctly?

11 DR. VON LANGEN: I recall that further studies looked up  
12 and down at other locations along East Beach and closer to  
13 Stearns Wharf. I think the City's consultant can go into  
14 much more detail and specifics.

15 MR. WOLFF: I will hold off further on asking questions  
16 on that topic until we have a chance to hear from the City.

17 You know, I see a motion from my colleagues here.  
18 What I'd like to propose is that unless there is a real key  
19 question that you have still, we will take our break after  
20 the series of questions and then we'll reconvene after that  
21 with the City.

22 So did you have one?

23 MR. YOUNG: It's kind of key to me. This might help us  
24 frame how we're going to be analyzing this. Let me get my  
25 question out, and our attorneys can answer this. I

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1 shouldn't be looking at you, Mr. Wyles.  
2 We're being asked to look back in time 20 years and  
3 make these findings now as though they were made then.  
4 Would it be just as appropriate for us to have, upon the  
5 five-year renewal for this NPDES -- every time it came up  
6 for a renewal that we renewed it, would it have been  
7 appropriate at those five-year increments to have also gone  
8 through this process but then looked at the current  
9 technology at that point in time?  
10 It was done in 1991 and 1996 and then 2001. Could we  
11 have done this and just go with what we had technology-wise?  
12 MS. AUSTIN: The issue of the Code Section is the new  
13 and expanded language. That's why we go to 1991. So  
14 conceivably in the abstract, could we have made these  
15 findings? I guess we could have, but it boils down to  
16 reasons that we stated, which I think, as Mr. Wyles  
17 explained earlier, having to do with the more recent  
18 litigation and this coming to the floor as an issue  
19 pertaining to desalination plans and not just -- but, in the  
20 abstract, we could have. But the reason we look back today  
21 to 1991 as opposed to another cycle is that is when the  
22 facility was new.  
23 MR. YOUNG: Fair enough.  
24 MR. DELGADO: I had one question. Up in Monterey, State  
25 Water Facility Control Board told California American Water

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1 to prove that slant well technology is infeasible before  
2 going ahead with open intake.  
3 So my question is: If we're seeing today some  
4 studies showing that the -- not studies, but the  
5 recommendation that the open intake mortality due to  
6 infringement -- entrainment is so minimal, then why does the  
7 State Water Resource Control Board make an estimate of  
8 5 million on a feasibility study of slant well technology?  
9 MR. WYLES: Let me -- the project -- for better or  
10 worse, we're looking at that at the beginning of the  
11 project, not hindsight 20 years later. My assumption is  
12 that what you're referring to is that it would be considered  
13 a new facility under the Ocean Plan Amendment as long as the  
14 State Board adopts it.  
15 MR. DELGADO: Right. I'm trying to get to -- I'm sorry  
16 to interrupt you. This insignificant impact to larvae, if  
17 it's insignificant here, then why -- why have a  
18 preference -- or why designate a subsurface intake as  
19 environmentally preferable if it's insignificant?  
20 MS. WHITNEY: I don't think you can conclude that the  
21 impact is insignificant all along the coast. Monterey is  
22 proposing to put their intake in the National Marine  
23 Sanctuary.  
24 For one thing, it's highly productive and has a lot  
25 of ocean life. The expert panel that we convened on intake

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1 issues concluded that you can't, whatever you do -- except  
2 for subsurface technology because you can't use the ocean  
3 floor as a screen. You can't mitigate for 100 percent of  
4 the impacts from the open-water intakes, which is why they  
5 have the ETM/APF methodology for determining what the  
6 responsibility of the desal facility should be in terms of  
7 mitigation.  
8 And one of the things that we have been struggling  
9 with is the same thing that you addressed earlier,  
10 Mr. Young, which is that you -- any time mitigation seems to  
11 be pretty much impossible in certain circumstances, if the  
12 intake is to species -- but if it's to sandy bottom habitat,  
13 nature determines where the sandy bottom habitat exists.  
14 And of course the ocean has more impact on that  
15 than a mitigation project that we could conceive of, at  
16 least at this time. We are having discussions with our  
17 Board members about whether they want to continue to  
18 propose, in time, mitigation in the Ocean Plan. That's  
19 something that might change based on the realities of the  
20 situation. I think it is incorrect to assume it's  
21 insignificant everywhere. It is site specific.  
22 MR. WYLES: If I could add a little to that. The  
23 approach we're taking in the current Ocean Plan proposed  
24 amendment is not based on levels of significance in terms of  
25 impact. We're reading the statute now to say essentially

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1 that the project proponents need to use the best feasible  
2 site design technology available to minimize mortality.  
3 We are then saying once we've done that under the  
4 proposed amendment, we want you to go out and essentially do  
5 mitigation that will replace the remaining marine life.  
6 We're not taking the position we're only going to require  
7 mitigation for significant impacts. We're trying to create  
8 an approach under the section today that requires minimizing  
9 mortality and then applying mitigation to take care of all  
10 of the remaining impacts.  
11 The point we're trying to make in Appendix G is  
12 that that was not an approach that was in vogue in the early  
13 '90s. In the early '90s, mitigation was conceived as -- not  
14 using 13142.5 generally, but using CEQA generally. You only  
15 mitigate significant impacts. That's the distinction for  
16 what we project would have been the analysis in the '90s  
17 versus what we're proposing the State Board adopt as a rule  
18 for how we do that now.  
19 MR. WOLFF: So thank you, Ms. Whitney and Mr. Wyles, for  
20 your assistance. I think at this time it is appropriate to  
21 take a lunch break.  
22 We will have a closed session, so we do need an  
23 hour. The good news, however, is the rest of the afternoon  
24 is pretty much dedicated to this item. We will have ample  
25 time.

1 MR. HARRIS: A couple of announcements. Item No. 10 is  
2 going to be pulled from the agenda due to illness.

3 The enforcement report we can push until tomorrow,  
4 and Item 12, which is closed session, we'll deal with during  
5 lunch. So you are correct.

6 Also, Ms. Austin has to make a statement on the record.

7 MS. AUSTIN: Just announcing we will be meeting pursuant  
8 to Government Code 11126E2A regarding Items 13 and 14 on the  
9 agenda. Thank you.

10 MR. WOLFF: Thank you.

11 (Lunch recess)

12 MR. WOLFF: Please go ahead.

13 MS. BJORK: My name is Rebecca Bjork. I'm for the City  
14 of Santa Barbara and presenting with me today is Joe Monaco,  
15 who has been working on this project with the City and he's  
16 with the firm of Duedeck, and our honorable mayor,  
17 Helene Schneider.

18 I just wanted to take a few minutes to give some  
19 background and some setting as to our role in this  
20 presentation. The State Board and the Regional Board have  
21 been working to make our permanent facility consistent with  
22 a future proposed policy. The City is supportive of that  
23 action. We believe it adds clarity to the permanent status  
24 of our facility and that it helps to support the State  
25 Board's proposed policy.

1 However, we do also believe we have done what we  
2 needed to do in turning our plant -- I do want to take some  
3 special time to appreciate the work of the State Board staff  
4 and the Regional Board staff on this project. Our city has  
5 been putting huge resources into desal and it really has  
6 helped our ability to accomplish some of our other work. We  
7 certainly appreciate the work that the State Board and  
8 Regional Board have put to our desal issue as well.

9 This is an important issue to us because it  
10 addresses the unique circumstances of trying to implement a  
11 plan that's part of our long-term plan during a time of  
12 evolving policy. As was indicated, the State Board is  
13 updating and adopting a policy that hasn't historically  
14 existed. Past practices for permitting did not include  
15 certain findings that are now being proposed to be standard.  
16 And so we believe that this is a creative way to help  
17 resolve some of those evolving policy issues.

18 We also think this is consistent with the Govern's  
19 drought declaration in that it helps our facility, our city  
20 and community implement its long-term water supply plan in  
21 support of our residents and visitors. I do want to take  
22 some time because I think it's important to understanding  
23 why we're pursuing desal, to understand the role it plays in  
24 our city's water supply plan.

25 Desal is being discussed and pursued in Santa

1 Barbara in part because of our very limited local water  
2 resources since the late 1980s. I do want to just mention  
3 that water has shaped the development of Santa Barbara from  
4 the very beginning with the first aqueduct being built in  
5 the 1700s by the missionaries.

6 In 1991, the question of whether to make desal a  
7 permanent part of the city's water supply was put to a vote  
8 to the public and was overwhelmingly supported. Over 80  
9 percent of our population voted to make desal a part of our  
10 long-term water supply plan. Council took action in 1994  
11 and formally adopted desal into this long-term water supply  
12 plan, and the City Council has continued to affirm that  
13 during its update of its general plan and long-term water  
14 supply plan processes. Those are all public processes that  
15 have extensive public involvement.

16 In 2011, the most recent long-term water supply  
17 plan was adopted, including desal as a drought supply. I'm  
18 going to spend some time on this slide because it's really  
19 important to the understanding of how we anticipate using  
20 desal.

21 So this is our water supply planning chart. It's  
22 the basic tool we use to try to communicate with our council  
23 and our public about how we are planing on using our water  
24 supply going forward. At the very bottom is our recycled  
25 water. You can see it's a tiny sliver here. We've been

1 having some difficulty with the technology of our recycled  
2 water, even before we went into the current drought.

3 As a result, we have been in the process of  
4 replacing that plant. We are actively under construction  
5 right now and anticipate having that plant back online this  
6 year. The timing is unfortunate. We were rushing to get to  
7 it, hoping we would have it done ahead of the next drought.  
8 Unfortunately, this drought came fast and hard.

9 We are right here near year four. I'm going to go  
10 back to year one. It is important to us because it's how we  
11 manage water supplies. As soon as Cachuma stops filling, we  
12 assume we're in year one of drought, and we start managing  
13 our water supplies with an eye to preserving and conserving  
14 water so we will be able to respond to later years of  
15 drought.

16 You can see that this Cachuma box represents a  
17 substantial part of our supply in year one. It was a very  
18 dry year. We had higher than average demand. But we also  
19 have a lot of water in Cachuma and we've been able to  
20 conserve a substantial amount in the past to be able to  
21 carry it forward.

22 This is Gibraltar, our other surface water supply,  
23 our groundwater supply, and State Water. Year two is  
24 interesting because you see no State water. We typically  
25 are required to take a certain amount of state water in

1 order to supply it in exchange with another agency.

2 We didn't need the water that year, but we had an  
3 opportunity to store it in San Luis Reservoir. So we were  
4 concerned we might need it in the future years. So we made  
5 a deal with somebody else to make that exchange. Instead,  
6 we preserved our water supply and banked it for future  
7 droughts.

8 Year three, last year, you can see we used a  
9 substantially diminished amount of Cachuma water allocation  
10 and instead relied on water from our previous year's  
11 allocations we had not used in order to make up the  
12 difference. We are sort of banking and carrying forward  
13 water in our Cachuma account to try to make up and get us as  
14 far through the drought as possible.

15 MR. WOLFF: You're speaking pretty fast for our court  
16 reporter, and I missed the last sentence that you said.

17 MS. BJORK: We really rely on trying to keep -- we get a  
18 certain allocation of Cachuma water each year. And each  
19 year we work very hard to use less than that so we can save  
20 it for future years.

21 In year three, we did use some of that water, but  
22 you can see we still have more water that we're planning to  
23 carry forward even as we get into more severe drought. The  
24 gray is our Gibraltar Reservoir, and our infiltration is  
25 virtually dry at this point and giving us very little water.

1 Yellow is groundwater. Green is State water. You  
2 can see the State water we have been saving elsewhere in the  
3 state we were able to import. And then in March of last  
4 year, our Council declared Stage 2 drought and asked for  
5 exceptional conservation. Our populace responded extremely  
6 well, conserving 20 percent from the time of the Stage 2  
7 drought declaration. We did see substantial extraordinary  
8 conservation last year.

9 We're now in year four. Water year four starts  
10 October 1. We're in year four. This is our plan going  
11 forward of how we expect to meet our demands should this  
12 extremely dry weather persist. You can see our dependence  
13 on allocated water from Cachuma has dropped to a very small  
14 part of our supply. We are still carrying water that we  
15 have saved from past years forward. Our Gibraltar -- we are  
16 hopeful that we will get some small amounts of water to  
17 Gibraltar that will be able to provide supplies.

18 We are drawing more heavily on our groundwater  
19 basins. I do want to say that our groundwater basins are  
20 not large. One of the basins is used by a number of  
21 different users and is somewhat already reduced in its  
22 capacity, although the one basin that is controlled by the  
23 City of Santa Barbara alone is at this time full because we  
24 do try to use that as a groundwater supply bank.

25 We will have a couple of years of being able to

1 pull more heavily on that basin than on others.

2 Unfortunately, it's also the basin that is subject to  
3 seawater intrusion. It's right next to the ocean downtown.  
4 We have to manage that supply very carefully or we will have  
5 intrusion that will affect the supply for many years to  
6 come.

7 The green water is the State water allocation that  
8 has been made secure. You may note it's a 15 percent  
9 allocation. That amounts to about 500 acre-feet of water  
10 for us. Then the orange is water we have been able to  
11 purchase and expect to be able to have delivered through our  
12 State water pipes.

13 The next bar is water that we have purchased, but  
14 we aren't sure we will have capacity to deliver because we  
15 only have the rights to a certain amount of capacity in  
16 those pipes. If everyone else is using their capacity, we  
17 may not be able to have that water delivered to us.

18 Then the top is the 20 percent extraordinary  
19 conservation that we are very fortunate to be able to accept  
20 from our customers because I know others have been much more  
21 challenged in getting conservation out of their customers.

22 So looking forward to year five, you can see it  
23 looks more or less the same, with increased reliance on  
24 carry-over water. No new water allocations, but our  
25 recycled water being more fully online. Recycled water is a

1 great resource, but it doesn't fully replace bottled water  
2 in that you can't drink it or use it inside. It's only  
3 useful for irrigation.

4 Then looking out at the out years, which is when we  
5 would start to need desal. This is our desal block right  
6 here. You can see we really are limited. We have not  
7 secured State water for those years. We might be able to.  
8 Even if we are able to secure it, we only have the capacity  
9 to supply about the amount that we still have in shortage.  
10 We don't know what the State water market will be like if  
11 this drought persists for another two years. So we  
12 really -- even with desal in year six, we are really going  
13 to be challenged for our water supply.

14 We are hopeful. This is a very conservative  
15 approach to water supply planning, so we're hopeful that  
16 this water shortage will resolve itself. If not, we would  
17 really be in a critical situation and taking the desal away  
18 would put us in an even more critical situation.

19 I think the one thing I want to emphasize at this  
20 point is a lot of people say, "Why don't you just buy  
21 spot-market water and get through this drought?" The  
22 problem is this capacity issue. We can't get it here. We  
23 can't get it here in time. That's really where desal comes  
24 in. As I said, the long-term supply plan does have it as a  
25 policy as a drought supply and use it as late in the drought

1 as possible. Doing so makes it even more reliant on having  
2 it ready if and when we need it.

3 I just want to illustrate that it has been a part  
4 of our developed water supply. Over the last 16 or so  
5 years, we spent over -- almost \$2.3 million doing routine  
6 maintenance and repair of the desal plant.

7 In addition, we have maintained our permits for the  
8 desal plant. We do have current active permits for the  
9 desal plants that will allow operation of the plan. As I  
10 said earlier today, action recommended by your staff is  
11 really to resolve this evolving policy issue about how it  
12 was made at the time.

13 So just to touch on our schedule for desal based on  
14 the water supply review, we will be receiving proposals from  
15 design-build operators to construct and operate the plant in  
16 March. We would accept or award a contract in June and  
17 begin production in the summer of 2016. So you can see  
18 we're really coming quickly to making a decision about  
19 desal. If we are lucky, it will rain cats and dogs and we  
20 will be able to put this off for a year or more, but at this  
21 point in time, it's kind of very much of the essence for us.

22 With that, I'd like to turn it over to Joe Monaco  
23 to talk about some of the technical issues.

24 MR. MONACO: So I'd just like to walk through some of  
25 the basic features of the desal plant, the schematic, which

1 is provided with the material the Board has been provided in  
2 the past. It shows the basic flow diagram. It starts with  
3 the intake structures, the existing intake structures, the  
4 filter feed, pump. You then push the water through the  
5 media filters that are onshore, and then a second pass  
6 through cartridge filters, and then finally through the RO  
7 trains.

8 Those first two filter processes generally remove  
9 the suspended solids. And the finished water would then be  
10 produced with -- flush and backwash required as an -- in  
11 order to maintain the media filters. And then finally a  
12 brine pump station to dispose of the hypersaline brine.

13 So basically, this is the plan or the design and  
14 essentially how it is currently in place today. At the  
15 point when the City made the determination to put the plan  
16 into long-term storage mode, some of the more perishable  
17 materials, like the membrane filters and so forth, were  
18 removed. And in addition to that, the proposed repair and  
19 maintenance activities include refurbishing and updating  
20 some of the technology.

21 This slide, I want to highlight that a substantial  
22 amount of analysis was conducted, some of which you heard a  
23 little bit about earlier this morning. Basically, different  
24 desalination technologies, locations and capacity levels  
25 were analyzed at the outset, prior to the construction of

1 the plant. All of these studies are included in the  
2 materials that are part of the record and have been  
3 submitted to the Board and also to the State Board and  
4 Channelkeeper as well.

5 So in terms of timelines, these studies then  
6 preceded the decision to construct the project. The permit  
7 that was issued by the Regional Board in 1991 in conjunction  
8 with the NPDES permit for the El Estero Wastewater Treatment  
9 Plant was subsequently renewed in '92, '99, 2004 and finally  
10 in 2010.

11 In 1992, the plant being again in operation for a  
12 brief period of time. Then the rains came, which gave  
13 drought relief. In 1996, the council directed staff to  
14 place the plan into long-term standby mode. About that same  
15 time, the plant was made part of the long-term water supply,  
16 for the City recognized it would be needed in the future.  
17 As I mentioned, 2010 was the latest renewal of the NPDES  
18 permit. In 2011, it was confirmed for a long-term water  
19 supply commitment.

20 So this next slide, I want to spend a little more  
21 time on the -- because there were a lot of questions related  
22 to this. These are the basic conclusions of the subsurface  
23 tests that were performed. And in all, there were a series  
24 of four tests or technical memos that addressed subsurface  
25 intakes, three different kinds of subsurface intakes: Deep

1 wells, shallow wells, and subsurface infiltration galleries.

2 The deep wells were initially determined infeasible  
3 and dismissed because of the use with well production deals  
4 as well as potential for impacts on the groundwater basin.  
5 Through the series of the three additional studies that came  
6 after that, there was testing and reconfirming of the  
7 hydraulic conductivity of the materials, leading to the  
8 conclusion in the final memo that you see on the slide here  
9 that for a production level of 3,500 acre-feet a year, which  
10 is the production level that was being considered at the  
11 time of these studies -- obviously, the plant was permitted  
12 at 10,000-acre per year. So between 100 to 200 wells using  
13 the shallow well which will be needed along the coast line.  
14 That is dependent upon how close to shore those are located.

15 And then infiltration galleries were determined to  
16 be technically feasible but extensively more costly, and at  
17 the time, were an unconventional technology and had not been  
18 tested. The one large-scale infiltration gallery in  
19 place -- in the world was in Japan and had not been  
20 constructed at that point.

21 So also, we had some discussion on impingement and  
22 entrainment. There were extensive studies that were  
23 conducted. We know that it's 13142.5(b). I think there's  
24 evidence that suggests that 13142.5(b) is also satisfied  
25 through those studies to the extent that that subsection

1 refers to information on the existence -- which were pretty  
2 extensively characterized, you know, well beyond the  
3 entrainment effects. The characteristics of water quality,  
4 other marine habitats and other effects of the project other  
5 than entrainment were addressed and characterized through  
6 those studies.

7 Those supported findings that staff has presented  
8 in the draft amendment that's before you today. They also  
9 supported the findings of the Coastal Commission made in the  
10 two separate coastal developments occurring, basically  
11 finding that the plan operation is consistent in all the  
12 coastal life policies in place.

13 With that I will turn it over to the mayor.

14 MS. SCHNEIDER: Thank you. My name is Helene Schneider.  
15 I'm mayor of the City of Santa Barbara. Welcome to Santa  
16 Barbara and thank you for holding this particular hearing  
17 here in Santa Barbara.

18 I think the one issue I really want to take home  
19 here and emphasize is that it's always been City Council  
20 policy and is currently that the desalination plant and the  
21 use of it is a last resort. The issue is that we are at the  
22 last resort. Considering the planning we've had in front of  
23 us, we are now at that point.

24 Our City water customers have been tremendous in  
25 their extraordinary conservation efforts that have been

1 shown. In fact, since the last drought, the city per capita  
2 is using 20 percent less water now than it did before the  
3 last drought. We take it very seriously in looking to see  
4 what we can do in conservation efforts as much as we can.

5 We were an early adopter of recycled water with the  
6 recycled water facility in 1989 and we support the staff  
7 recommendation and the Board's decision to amend the City's  
8 NPDES permit to provide clarity of how the State's evolving  
9 policy applies to the city's existing facility and achieve  
10 beneficial regulatory certainty.

11 Our residents made a long-term investment, as was  
12 mentioned before, in a diversified water supply portfolio,  
13 including the planning for, constructing and maintaining the  
14 desalination plants as part of its permanent supply. The  
15 investment is very significant, as you have seen earlier.  
16 It was \$34 million to build the facility back in 1991. You  
17 saw almost 2.3 million since then in terms of keeping its  
18 permits up to date and maintained, and also the additional  
19 cost it will have to take on in order to bring it back fully  
20 into production.

21 The voters, as mentioned, have supported this in  
22 addition -- in the beginning. It's this planning and major  
23 commitment and investment and support that has allowed the  
24 City to defer the use of the facility until the time comes  
25 for a long-term shortage.

1 So it's now time for the City to use its  
2 investment, to implement this long-term plan. This is  
3 crucial to avoid potentially catastrophic results of a  
4 long-term drought to the city. We all wish and hope it will  
5 rain, but we can't guarantee that at all. That's what the  
6 planning is for, and we believe we're using the desalination  
7 plant, as was mentioned in the long-term water supply plan,  
8 as a last resort.

9 As part of the process placing the plant back into  
10 the production, we're committed to the additional measures  
11 as reflected in Attachment G. We also unanimously last year  
12 directed the staff to study the use of subsurface intakes as  
13 well as increase in the City's current water reuse program  
14 that is currently part of the direction from Council to  
15 staff.

16 So we urge the Board to adopt the amendment as  
17 presented and asking previous Board action to evolving State  
18 policy. I thank you for your time. We're at the  
19 20 minutes, and we'll be open for any questions you may  
20 have.

21 MR. WOLFF: If you need just a couple more seconds to  
22 complete, I don't want to stop you.

23 MS. SCHNEIDER: Thank you. I usually cut people off  
24 when I run meetings, so I wanted to acknowledge the time.

25 I'll just end by saying how vital it is for the

1 City to move forward with implementing its long-term water  
2 supply plan by placing this facility back into production.  
3 You're a key component in making that happen. We're not  
4 taking this decision lightly. It's a very serious one.  
5 It's an expensive one, but it's obviously one that we really  
6 need to have for our residents to have adequate water  
7 supply.

8 MR. WOLFF: So now could you turn the lights up?

9 What I propose now is for our Board to ask  
10 questions to the City. As a refresher, the next speakers we  
11 will have after that is Channelkeeper and they'll have an  
12 opportunity to clarify questions. I'll start on my right.

13 Mr. Young?

14 MR. YOUNG: Thank you, Mr. Chair.

15 Does the City have an estimate of what it would  
16 cost if it went ahead and just decided to do subsurface  
17 intake installation with the refurbishment and upgrade of  
18 the facility at this point?

19 MS. BJORK: Mr. Young, we do not -- have not done the  
20 studies to evaluate whether a subsurface intake is feasible  
21 at this time. So we do not have an estimate of the cost,  
22 but the committee may be able to answer that better, as well  
23 as describe a little bit more about a subsurface  
24 infiltration gallery, which is what the last remaining issue  
25 really is.

1 MR. MONACO: Certainly. So a subsurface infiltration  
2 gallery, generally speaking, is a series of perforated pipes  
3 that are connected and laid within an excavated area of  
4 seabed and then covered with either an engineered media or  
5 the native materials if they are suitable. And then the  
6 water is collected through that, as I believe, Ms. Whitney  
7 indicated, through the seabeds. The filtering happens  
8 through the seabeds. The pressure is dispersed over a  
9 larger area.

10 Generally speaking, it does require a fairly large  
11 area of seabed to produce the volumes of water that we're  
12 talking about here. It makes sense because you're trying to  
13 reduce the pressure over that large area. So the water is  
14 taken in and that becomes your intake.

15 One of the important considerations with the  
16 infiltration gallery is to what extent the currents and  
17 existing wave action and so forth can clear away the debris  
18 that gets filtered out, the flow rate through the  
19 infiltration gallery and, of course, the currents.

20 MR. YOUNG: What you're describing is the same type of  
21 subsurface system that Mr. Wyles was describing that the  
22 State Board amendment to the Ocean Plan is considering?

23 MR. MONACO: Correct.

24 MR. YOUNG: Do you have an idea of cost?

25 MR. MONACO: It's really hard to estimate cost. There

1 is a piece of information out in the public right now based  
2 on studies that are being done for the Huntington Beach  
3 project. In that case, it's a process that the Coastal  
4 Commission has engaged with the applicant for that  
5 particular project to examine this particular issue.

6 They've done extensive studies on the technical  
7 feasibility of subsurface intakes. They've engaged an  
8 independent science panel to review those studies. And  
9 their determination was that the concept is technically  
10 feasible, and if -- I believe I'm getting my statistics  
11 right. For 154-million-gallon-per-day intake, which is what  
12 is required for that particular project, that a 40-acre  
13 seabed would need to be constructed.

14 There were some issues with the construction  
15 methods and the time frame for construction and so forth.  
16 The expert panel basically then conveyed those issues to  
17 another panel that will consider all of those, as well as  
18 economic and social issues as well.

19 So the process for that has not been confirmed yet,  
20 so I don't want to speculate too much on cost. It would be  
21 in line with the estimates that were at the time of --

22 MR. YOUNG: That's 150 million gallons per day?

23 MR. MONACO: Yes.

24 MR. YOUNG: So the City's operation will be smaller than  
25 that?

1 MR. MONACO: Correct.

2 MR. YOUNG: So if that's 40 acres, we're talking about  
3 five acres? Four acres?

4 MR. MONACO: I wouldn't go as far as to say we can  
5 necessarily scale it that way, I just don't have the  
6 information to support that at this time. But the intake  
7 for this facility at maximum permitted capacity would be 24  
8 to 25 million gallons a day.

9 MR. YOUNG: There's sufficient sandy bottom beyond the  
10 harbor area to accomplish this?

11 MR. MONACO: Generally, that is the area in the vicinity  
12 of the existing intake sandy bottom habitats.

13 MR. YOUNG: Rebecca, you put a table up of the routine  
14 maintenance costs that the City has incurred over the past  
15 20 years. Could you go back to that, please?

16 I'm interested -- I thought the plant was totally  
17 mothballed because filters were sold off and their  
18 components were missing because they've been sold.

19 So how is it that you have costs, electrical costs?

20 MS. BJORK: We have. The public perception is that  
21 there is nothing there. In actuality, we've done our best  
22 to maintain the portions of the plant that have a longer  
23 life: our filter vessels. We have pumps there that we have  
24 gone and rotated the pumps to keep them operational. We do  
25 have some basic electrical and watering needs to keep the

1 site secure and the landscape maintained.

2 Just as we would a well we take offline, even  
3 though it's not producing water, we still have some basic  
4 maintenance for that, whether it's pulling the pump or  
5 replacing the pump. We have actively maintained this as  
6 standby mode as opposed to -- I know the terminology makes  
7 you think it's off on its own, but we've had an active  
8 maintenance program throughout in order that we can preserve  
9 the facility in a way we can put back online.

10 MR. YOUNG: But the plant has not had the ability to do  
11 any kind of desalination?

12 MS. BJORK: I'm sorry. Repeat the question.

13 MR. YOUNG: The plant has not had the capacity or  
14 ability to desalinate any water?

15 MS. BJORK: The filter membranes were sold. They had a  
16 very short life, and we were able to recoup some of our  
17 investment. We would have had to have replaced those  
18 anyway.

19 MR. YOUNG: Mr. Monaco, if we can get back to -- I think  
20 what we're supposed to be doing with the scenery in terms of  
21 looking at what was known back in '91 or so is the  
22 feasibility analysis that we were supposed to do then, we're  
23 going to do now. Can you take us through the shallow beach  
24 well studies that were done with specificity? I have read  
25 through -- I put the -- there's a 1989 document that was

1 provided to me called "July 31 TM3 Report on Preliminary  
2 Testing on East Beach." I've looked at a 1991 March '01  
3 report called "Desal Feasibility." That's my knowledge of  
4 what was done. I didn't find anything after that because it  
5 looked like an EIR was generated after that point. I just  
6 assumed that I reviewed what was available.

7 Is that right?

8 MR. MONACO: Well, there are some studies in between  
9 those.

10 MR. YOUNG: If you can highlight and go through what --  
11 the shallow beach well analysis that we should be looking  
12 at.

13 MR. MONACO: So the Technical Memo 2 you referenced from  
14 1989 was where these four intake options were first laid  
15 out. As I mentioned, the deep well was dismissed based on  
16 information that was available at that time and concerns  
17 over groundwater consumption and things like that.

18 So that left the two subsurface intakes  
19 alternatives as well as the open intakes. And at the time  
20 these were all being evaluated based on technical  
21 feasibility and cost. And there were cost concerns over the  
22 open intake, given the design, at the time, involved  
23 basically establishing a new pipeline adjacent to an  
24 existing outfall.

25 The City was looking very carefully at the

1 subsurface intake alternatives. The assumption in that 1988  
2 Technical Memo 2 is that a rate of about 200 feet per day  
3 could be achieved with the shallow wells. That was  
4 recommended for further testing, and there was subsequent  
5 Technical Memorandum 3 in 1989 where some testing was  
6 actually conducted in the East Beach area, and that resulted  
7 in hydraulic -- that's the 20 feet per day figure.

8 MR. YOUNG: That was done in the worst-case location,  
9 the worst place, from my reading; right? The City at that  
10 time wanted to look at the Shores Beach area and the worst  
11 geology and test for, bottom line, what the minimum would  
12 be?

13 MR. MONACO: So there was -- because of that, there was  
14 a sense that there may be -- we need to look at better  
15 productivity in other areas. Additional testing was  
16 recommended. Also, in that technical --

17 MR. YOUNG: Where was that additional testing done?

18 MR. MONACO: That came in -- let's see, two studies away  
19 from that. First there was a feasibility study that was  
20 conducted in 1990, and that's where the ocean -- between 20  
21 and 200 feet per day could be achieved with those shallow  
22 wells.

23 So additional testing was recommended. The test  
24 area was expanded to east-west in the beach areas.  
25 Approximately two and a half miles of shoreline were tested,

1 and the result of that was that -- that's basically what I  
2 showed you on the slide, the 100 to 200 wells, depending on  
3 the well placement, would be needed for that 3,500 acre-feet  
4 of production volume. Again, you're looking at -- which is  
5 what was -- one of the options that was being considered at  
6 the time. Keep in mind the City was looking at a variety of  
7 alternatives from capacities to intakes and so forth.

8 MR. YOUNG: What hydraulic conductivity was that  
9 estimated at?

10 MR. MONACO: I can look that figure up and get that for  
11 you, but essentially, for the yield of that 3,500 acre-feet  
12 it was the 100 to 200 wells within 50 to 100 feet of  
13 shoreline.

14 MR. DELGADO: You say 50 to 100 feet from shoreline?

15 MR. MONACO: Correct. So depending on where the wells  
16 were placed, the yield would vary. So the closer they are  
17 to the water source, the better yield was achieved, so fewer  
18 wells were necessary closer to the beach.

19 But, again, there are issues associated with  
20 feasibility of drilling in those areas in the location  
21 involved. That's why it was presented in terms of a range  
22 of options.

23 MR. YOUNG: One of the reports -- maybe it's the second  
24 one we looked at -- came up with an average hydraulic  
25 conductivity of 110 feet per day.

1 How was that determined?

2 MR. MONACO: That was in the feasibility study in 1990.

3 MR. YOUNG: I think --

4 MR. MONACO: I can go back and get the details on that.  
5 That's where they took that range of between 20 to 200 feet.  
6 We still believe that they could achieve better than that  
7 minimum. The feasibility study was more of an estimate,  
8 more of a desktop exercise based on what could potentially  
9 be if they expanded the well field. That's the 110 feet per  
10 day from -- the empirical testing came later than the  
11 hydraulic testing.

12 MR. YOUNG: Well, all this discussion really just  
13 focuses on an ability to only get through 500 acre-feet;  
14 right? And the plan is for 10,000 acre-feet. So even if  
15 you could get 300 feet out of 200 beach wells, where could  
16 the City get 10,000 acre-feet out of beach wells? I don't  
17 know that it's feasible.

18 MR. MONACO: Correct. I don't know the specific  
19 sequence of decision making, but I believe the decision to  
20 forgo the wells and go with the open intake was made prior  
21 to that determination of range up to 10,000 acre-feet per  
22 year.

23 MR. YOUNG: Rebecca, one of the other slides you had,  
24 you had a desal pumping in to the City's water supply.  
25 Is that 3,500 acre-feet?

1 MS. BJORK: I think it's 3,125.  
 2 MR. YOUNG: Really what we're looking at -- I mean, any  
 3 other coastal community is faced with the same thing except  
 4 they don't have the desal option. So they're really faced  
 5 with lesser options.  
 6 MS. BJORK: There's a huge variability in water supplies  
 7 in coastal communities. Even in southern Santa Barbara  
 8 County, they have a substantially larger groundwater basins  
 9 than the City does. Montecito has the fewest.  
 10 We have, since the 1980s, really diversified our  
 11 water supply. In the late 1980s, we had Gibraltar and  
 12 Cachuma and our wells. We now have Gibraltar, Cachuma,  
 13 State water, a really successful and substantial  
 14 conservation program. In the 1980s, our average annual  
 15 demand was greater than 16,000 acre-feet. Our average  
 16 annual demand is now less than 14,000 acre-feet, despite  
 17 population growth.  
 18 We can still count on our customers to do  
 19 extraordinary conservation. We've really worked hard to  
 20 diversify to try and drought-proof ourselves. This  
 21 unprecedented drought has really sped up our water supply  
 22 horizon.  
 23 In fact, when we most recently updated the  
 24 long-term supply plan, we moved from a five-year planning  
 25 horizon to a six-year planning horizon to really try to push

1 was a one-time study, so it doesn't fully take into account  
 2 all the sea form variation and things like that. It was  
 3 consistent with the data collected previously.  
 4 There was also reference to a number of previous  
 5 studies that had been done over the years within the project  
 6 area, both in terms of plankton density as well as the  
 7 environment and effects that might result from both  
 8 construction and operation in the plan.  
 9 MR. YOUNG: Is this the three-year study we heard about  
 10 earlier?  
 11 MR. MONACO: No, it's not. There was additional data  
 12 that was collected specifically for the EIR in 1991 related  
 13 to plankton, as well as -- they did a diet survey,  
 14 essentially so they characterized the marine environment in  
 15 general and provided a plankton count as well.  
 16 MR. YOUNG: How did they do the plankton count, with  
 17 these plankton tows that were done?  
 18 MR. MONACO: I believe so. There isn't a lot of data on  
 19 the methodology of the study, but the results are contained  
 20 in the EIR.  
 21 MR. YOUNG: Do you have a handle on the results of what  
 22 they indicated to being not significant in terms of loss?  
 23 MR. MONACO: The results are quantified in terms of,  
 24 again, characterizing the existing baseline in numbers per  
 25 cubic meter -- those are the primary of plankton. The rest

1 off desal to year six because we get three-year droughts  
 2 pretty often. But it's unusual to get a four-year drought  
 3 and we knew we needed at least a year to get the desal plant  
 4 back online and we didn't want to get going with that if  
 5 it's just going to rain.  
 6 We're now well into year four. It's drier -- as  
 7 you heard your staff say, it's the driest January on record  
 8 in many parts of the state. We need the plan much sooner in  
 9 our planning than we had expected.  
 10 MR. YOUNG: My last question is for Mr. Monaco. You  
 11 made a statement that you thought that the statute dealing  
 12 with Subsection D -- that sufficient studies had been done  
 13 back in the '90s to address the entrainment issues.  
 14 Could you elaborate on that?  
 15 MR. MONACO: Sure. We provided a summary. The  
 16 environmental impact report that was prepared for the  
 17 original construction of the facility in 1991 provided an  
 18 extensive characterization of the marine environment in two  
 19 different areas. One was related to marine water quality as  
 20 it relates to the discharge and the effects on marine  
 21 biology as a result of that. The other was related to the  
 22 intake.  
 23 There was -- in addition to the Ormond Beach data  
 24 that was mentioned earlier, there were additional volumetric  
 25 plankton data collected that was site specific for EIR. It

1 were less than 100 percent in numbers.  
 2 In terms of how they were used for characterizing,  
 3 I would say generally that was done consistent with how  
 4 these studies were conducted back in 1991 and that includes  
 5 those studies that -- and obviously, for facilities like  
 6 this, there weren't many samples to look to. But there  
 7 were -- within the power plant, once the cooling permitting  
 8 process -- these studies was very common and this  
 9 methodology was very similar and consistent with the  
 10 methodology at that time.  
 11 MR. YOUNG: So you mentioned -- did they do any fish  
 12 identification of the plankton?  
 13 MR. MONACO: Yes. That's part of the less than one  
 14 percent. The group that composed less than 1 percent  
 15 included larval fish.  
 16 MR. YOUNG: Do you have something you can project?  
 17 MR. MONACO: I don't. This is just my notes and  
 18 summary.  
 19 MR. YOUNG: Could you tell us what the percentages were  
 20 made up of? Do you have that in your notes?  
 21 MR. MONACO: I don't have them as percentages. I don't  
 22 believe they were presented as percentages in the EIR.  
 23 MR. YOUNG: Okay. Do you have questions?  
 24 MR. HARRIS: You need to get closer to the mike.  
 25 MS. THOMASBERG: You answered my question about the

1 increase in water leakage. My concern was that once you get  
2 this operational, then your population will outgrow the  
3 capacity of the plant.

4 So I think you're okay as far as I can see.

5 MS. BJORK: If you're okay, maybe I won't say anything.

6 MS. HUNTER: I just have a few questions. One more on  
7 the studies that were done.

8 Who conducted those studies?

9 MR. MONACO: Are you referring to the subsurface intake  
10 studies?

11 MS. HUNTER: The plankton tow. You said you didn't know  
12 what the methodology was. I'm just wondering, was it UCSB?

13 MR. MONACO: I believe it was. I'll look at the  
14 records. I believe it was Ecolab for the city for the  
15 one-day study I was referencing.

16 MS. HUNTER: That's a contracted service provider to the  
17 city?

18 MR. MONACO: Correct.

19 MS. HUNTER: Do they do other kinds of work like this or  
20 that was just a request specific to this project? I'm just  
21 curious. If you're citing a study that you're relying on to  
22 say, "We're satisfied that we've learned what we need to  
23 know about the potential for this area," there needs to be  
24 some scientific factors that you can rely on and say,  
25 "This is the methodology and this is -- these are the

1 percentages of what we saw," and those kinds of things are  
2 typically reported out. Maybe that's something that you  
3 don't have at hand. That's why I was asking who did this  
4 study.

5 MR. MONACO: There were approximately a dozen or so data  
6 sources that were referenced in that study. I guess the  
7 point I was trying to make on the site-specific --  
8 project-specific data were just that. That in addition to  
9 the existing data, there was a site-specific study through  
10 the EIR contractor.

11 MS. HUNTER: I'll roll forward to the -- one of the  
12 three actions that are identified -- pardon me. Identified  
13 in Attachment G that note there are three actions the City  
14 is undertaking, including upgrading the screens and the  
15 mitigation funding. And the third is to conduct -- the  
16 following April, to begin exploring a range of alternatives,  
17 including subsurface intakes.

18 I'm going to take the third one and the second one.  
19 The third one, can you tell me, then, what -- or do you have  
20 a plan for what type of studies you're going to conduct and  
21 where those studies are going to occur? Are you currently  
22 in the process of preparing for that which would include  
23 literature review of the -- not most recent, but recent,  
24 like, the last five years?

25 I know a lot of research has been put into the

1 fishery value -- value of the fisheries to the State of  
2 California. That particular location, the Santa Barbara  
3 Channel, is the point at which the northern currents and  
4 southern currents circulate. It's highly rich in its  
5 environment. I suspect that UCSB, among others, have  
6 conducted a number of studies.

7 I'd be interested to know if you or your  
8 consulting/contracting services have joined to condense from  
9 the fact that this data is being developed and collected on  
10 a statewide level to assess the value of the fisheries. The  
11 Channel Islands represents a huge fishing ground that  
12 stretches from Monterey to San Pedro. The fisheries that  
13 come to the Santa Barbara Channel are long-standing for that  
14 very reason.

15 So I'm curious where you are in the process of  
16 assessing what studies you'll do and what existing  
17 information can you help to build that?

18 MR. MONACO: I think I'll start by saying the direction  
19 from City Council and from staff was to -- at that point in  
20 time when the contract documents came, if the plant were  
21 moving forward, the direction would be --

22 MS. SCHNEIDER: And also, the direction that Council  
23 was -- irregardless (sic) if we said yes or no to the  
24 contracts, that we wanted to have those studies document  
25 and -- both on the subsurface intake and on other portable

1 reuse options.

2 So even if there was another March Miracle, for  
3 example, we knew there would be another drought in the  
4 future. So thinking long-term, we knew we needed to start  
5 looking at those options. The Council, when we made that  
6 decision, was a combination of practical timing of where we  
7 were in the drought in the current facility versus a longer  
8 term policy consideration.

9 MS. HUNTER: So that is entire reasonable and logical.  
10 I'm asking, does that mean that the April period is when you  
11 envision and you'll begin to organize or create your  
12 strategy and plan for who you're going to hire to do the  
13 studies?

14 MS. SCHNEIDER: The answer is detailed. I can tell you  
15 the thought behind the motion of the Council was that the  
16 amount of time and energy and resources at that time that it  
17 would take to get to getting the contract before us, we  
18 understood that that was the primary focus.

19 Of course we've been talking about it ever since we  
20 made that motion. In terms of the depth of research at this  
21 point, we didn't expect too much of that until the contract  
22 was ready for the Council to consider.

23 MS. HUNTER: So you're not at that stage yet?

24 MS. BJORK: I will say that our intention is to return  
25 to Council -- as the mayor has indicated, we've been very

1 much focused on getting to a point where we can be ready to  
2 go forward with the desal plant because that was our  
3 emergency plan. We've been making that plan for the  
4 emergency and now enacting it.

5 Once we get to the point where that plan is well  
6 underway, that can take us to the next level, which is  
7 "Okay. If we want to do things differently, what does that  
8 look like? If we want to do a subsurface intake, what does  
9 that look like? If we want to try to get away from  
10 desalination through portable reuse, is that feasible? What  
11 would it look like?" Those are the type of studies we  
12 expect to be returning with. We have not anticipated  
13 looking at impact on fisheries because the idea was to move  
14 away to evaluate what alternatives would take us away from  
15 that.

16 MS. HUNTER: Okay. But you will be looking at the  
17 potential -- the feasibility of subsurface --

18 MS. BJORK: That's correct. That's what we've been  
19 directed by Council to return with.

20 MS. HUNTER: Then to the mitigation. I'm interested in  
21 understanding the thinking behind the amount that you  
22 developed. Typically, mitigation is determined with some  
23 definition of what the impacts are, you know, some way of  
24 correlating the level of impact to the mitigation, as well  
25 as the nexus between those species being affected.

1 reinforce that we're thinking about desal on the south coast  
2 because of the projects that are out there in the public  
3 right now. They're large-scale projects that are expected  
4 to operate 24/7 from now on. Somehow we still didn't  
5 contemplate having a plan of that kind. Our Council policy  
6 remains that this is a drought supply.

7 MR. MONACO: I'll just offer a point of clarification  
8 in terms of mitigation costs and the expert panel, where  
9 this was one of the early expert panels that the State Board  
10 had assembled to look at entrainment impacts as part of the  
11 Ocean Plan Amendment, and they did look at a mitigation fee  
12 concept. The State Board staff determined for a variety of  
13 reasons not to carry that recommendation forward, but we  
14 felt that -- again, this is all on the City's side. We were  
15 just looking for ideas on what kind of contribution would be  
16 meaningful. We thought there was good guidance provided in  
17 that expert panel. So we used that as a guideline, and the  
18 actual number we came up with was substantially larger.

19 MS. HUNTER: I agree. Thank you for helping to open  
20 this up a little bit in terms of where you think you're  
21 headed.

22 I agree it is very complicated to try to move back  
23 and forth in time and consider the options and steps that  
24 have been taken. It's really hard to unring the bell. We  
25 are in a place where we have -- that's a tremendous effort

1 MS. BJORK: Right. As indicated, we aren't really  
2 considering mitigation. There was not known a need to do  
3 mitigation. We consider this an environmental project.

4 I think it's very attractive to staff because it  
5 allows us to put money to an ecosystem that we know is  
6 highly productive. There will be no conserve (inaudible)  
7 for juvenile marine species. It's also one of our most  
8 critically endangered habitats. There's a project underway,  
9 well defined, and likely to come to fruition, which is  
10 always hard in mitigation or environmental restoration  
11 projects that we could contribute meaningfully to.

12 I'm not as familiar as Joe with the expert panels,  
13 but we do look at the expert panels' evaluations for  
14 mitigation. They weren't drastically substantial. We  
15 wanted to make a meaningful contribution that would actually  
16 result in habitat.

17 One of the reasons to do it is that I think that  
18 some of the things you're struggling with are some of the  
19 things we struggled with, which is it's hard to go back in  
20 time. And so this question of what is feasible for the  
21 marine environment may not be able to be clearly defined  
22 through the lens we would have looked at back in time.

23 We think that we can provide a beneficial effect  
24 that hopefully will go -- be offset, hopefully more than  
25 offset, but what negative effects might occur. I do want to

1 in the stakeholder processes to better understand our marine  
2 environment.

3 Certainly, the Santa Barbara coastline, it stands  
4 out. It's a jewel. So I think the considerations in  
5 looking at the context of now understanding our marine  
6 resources and the importance of sustaining those marine  
7 resources -- you know, this is something we understand a  
8 great deal more about.

9 I'm hoping to see the benefit of that work put into  
10 your process going forward so that there is some connection.  
11 You're not -- you really do have a great deal of  
12 information, I believe, that you're going to find available  
13 to you that's very specific to the questions before us in  
14 terms of impacts to sea life.

15 And so that would be my -- that's my kind of hope  
16 is that the work that you undertake is not so narrowly  
17 defined that you don't help to contribute to the constant  
18 building of our understanding. The value to the community  
19 in Santa Barbara and its tourism, I would think, is another  
20 dimension of your concerns, looking at economic liability of  
21 the City and maintaining its resources.

22 MS. SCHNEIDER: I think a lot of what you said is in the  
23 minds of both staff and the Council and time has been the  
24 kind of conflicting factor here. So thank you for those  
25 comments.

1 MR. WOLFF: Mr. Delgado?  
 2 MR. DELGADO: Yeah, thank you.  
 3 Looking at your website, it seems to indicate that  
 4 the plant was built for approximately a \$34 million cost to  
 5 the City but has only been operated from March to June in  
 6 1992; is that correct?  
 7 MS. BJORK: Yes. There was what's become known as the  
 8 "March Miracle," which in the space of one month, Lake  
 9 Cachuma went from basically a lake bed to spilling. So a  
 10 few months later, the Council decided at that point, for a  
 11 number of reasons, to go back to looking to our water supply  
 12 from Lake Cachuma rather than continuing producing water  
 13 from the desalination plant.  
 14 MR. DELGADO: So the March Miracle was in 1991?  
 15 MS. BJORK: 1992. Oh, sorry.  
 16 MR. DELGADO: So March Miracle was in 1991, and then a  
 17 year later, this plant started operation for a few months  
 18 and then stopped and hasn't reopened since?  
 19 MS. BJORK: Correct.  
 20 MR. DELGADO: What's the point -- we kind of got to it,  
 21 so it's okay if you tell me you already answered that  
 22 question. You'll start in the future studies looking at  
 23 subsurface after potentially spending up to \$40 million to  
 24 reopen this plant.  
 25 So let's say you spend 30 to 40 million, and you

1 going through the permitting process with a newer facility,  
 2 however long that would take. And so it was a timing issue,  
 3 as well, of why this looks like it's the cart before the  
 4 horse.  
 5 MR. DELGADO: All right. That makes sense.  
 6 MS. SCHNEIDER: It's about \$2 million of that 30 to \$40  
 7 million for the that intake, just to put in context the  
 8 whole picture of the amount.  
 9 MR. DELGADO: Are there studies done about actual  
 10 mortality during operation of intake flow? You talked about  
 11 estimating it by index means, but how about actual  
 12 operation?  
 13 MR. MONACO: The studies that were done -- again, they  
 14 were volumetric based, as indicated by Regional and Staff  
 15 Board. We don't have -- they're not done in the same  
 16 methodology of studies -- entrainment studies that are done  
 17 today where you look at a percentage of losses on a  
 18 species-by-species basis. It's the total volume of larvae  
 19 that would be taken in and lost associated with the volume  
 20 of water being taken in. So that was basically the method  
 21 of how that could happen.  
 22 MR. DELGADO: Joe, you mentioned that cost of subsurface  
 23 would change depending on proximity to shore.  
 24 Does it get more expensive farther out or closer  
 25 in?

1 started doing some studies, and in about a two- to  
 2 three-year period of time after you reopen this plant, your  
 3 studies show that wells or something else was feasible.  
 4 What's the point of doing them after you spend up to 40  
 5 million?  
 6 MS. SCHNEIDER: I'll start and maybe Ms. Bjork can get  
 7 into more detail. The 30 to \$40 million is not just about  
 8 the intake. There's -- a significant portion of that cost  
 9 is going to be about the filters and the processes on site.  
 10 So that won't change.  
 11 It's the change, potentially, of the intake valves,  
 12 whether it's above surface or subsurface. It's not like  
 13 these 30 to \$40 million will be completely irrelevant in  
 14 terms of what we constructed at the desal plant because of  
 15 the materials and equipment needed to run it. Plus some of  
 16 the funding is also actually production of the water, the  
 17 3,125 acre-feet of water.  
 18 So I think you have to parse out which part of the  
 19 contract will cost for how much. The other piece, again,  
 20 has to do with time. The thought process was the time it  
 21 would take to do the studies to see if something is feasible  
 22 would not give us the time by 2017, when we basically would  
 23 absolutely need desal as part of our water supply.  
 24 It would be too late -- it would be about that time  
 25 when we would even know whether or not it was feasible than

1 MR. MONACO: I believe the farther away the well is from  
 2 the water source is what required additional wells. That's  
 3 what would cost -- the additional cost.  
 4 MR. DELGADO: So in Monterey, they just put in some  
 5 slant wells, and you described a lot of detail about  
 6 infiltration galleries.  
 7 Are they one and the same?  
 8 MR. MONACO: No, they're not. That's a good point.  
 9 Slant wells are not a technology that were considered at the  
 10 time. It is -- I'm not completely up on the technology. It  
 11 is fairly new technology. Essentially, you're familiar with  
 12 how a slant well works. It's similar to a vertical well.  
 13 It's put in at an angle. So you get more surface area,  
 14 essentially, in the well casing and the water is drawn  
 15 through a larger surface area of the well. So you generally  
 16 get better yields through a slant well if you have the  
 17 appropriate conditions.  
 18 MR. DELGADO: So it's my understanding CAL-AM is  
 19 spending \$5 million to install a slant well that's currently  
 20 operating, just started a few weeks ago. For two years,  
 21 they'll be testing the water they're getting out of that,  
 22 and it goes about 800 to 1,000 feet offshore. But that's  
 23 not something that's been evaluated yet as an alternative at  
 24 this point in time, going back 20 years, in the case of  
 25 Santa Barbara's desal history?

1 MR. MONACO: Correct. At the time it was really just  
2 those two alternatives that I mentioned: the deep well,  
3 shallow wells, the beach wells and the infiltration gallery.

4 MR. DELGADO: Then 20 percent of extraordinary  
5 conservation, how did it end up being 20 percent and not  
6 18 percent?

7 MS. BJORK: That's a great question. It's been pretty  
8 close to 20 percent as we assimilated. We've had -- the  
9 first month or so I think it was 18. In December we had  
10 32 percent. In our plan moving forward we're still getting  
11 that 20 percent is what we're planning on. That's  
12 consistent with the State Drought Declaration and what's is  
13 asked of the community.

14 The City's long-term supply plan, based on our  
15 experience in the last drought -- the last drought was  
16 pretty devastating to the City of Santa Barbara. So  
17 learning from that, the long-term supply plan actually calls  
18 for 10 percent extraordinary conservation. When we renewed  
19 that in 2011, we thought we could ask a little more from our  
20 customers. We adopted a policy of 15 percent.

21 This drought, as you know, is historic. In order  
22 to address the very severe water supply and climate issues,  
23 we ask for more but also, importantly, to be consistent with  
24 the State policy.

25 MR. DELGADO: The reason I ask that, as you pointed out,

1 water. At this point in time, we cannot count on those. We  
2 have not identified them. We would hope that there would be  
3 some rainfall. Again, we can't count on that. That's why  
4 that blank is there. As we get closer to that time, we have  
5 to figure out how to fill that gap. One option is to  
6 increase the size of the desal plant. We certainly would  
7 hope to plan not to do that.

8 MR. DELGADO: You mentioned an 84-gallon per day per  
9 capita. Monterey is similar in tourism being big. They're  
10 in similar straits. They're down to -- it's been reported,  
11 to 58 gallons per day. I don't know what that saves if  
12 you're able to get down to 70 gallons per day. But it seems  
13 like rather than desal being the last resort, it seems like  
14 there could be some sharing in last resort being more  
15 conservation.

16 That's all I have.

17 MR. WOLFF: Mr. Johnston?

18 MR. JOHNSTON: Thank you, Mr. Chair. I'm still -- I  
19 think we have -- maybe in the interest of clarity of record,  
20 I asked the staff what the permitted capacity of the plant  
21 was. And the response was 7,500 acre-feet per year, and the  
22 City has been consistently saying 10,000. When I look at  
23 the first page of Attachment G of our draft revised order,  
24 it speaks to a 10,000-gallons-per-day capacity. I don't  
25 want a fuzzy record where nobody really knows what we're

1 you showed what looked to my eyes to be a white blank where  
2 at the top you still have a water shortage.

3 Would one of your options in the future be to  
4 increase the conservation to above 20 percent in sort of a  
5 mandatory fashion?

6 MS. BJORK: I believe we would be severely challenged to  
7 do so. Our gallon per capita per day is currently about 84.  
8 And so you're looking at another -- these two bars represent  
9 about 20 to 25 percent. Understand, the way we generate  
10 gallons per capita per day is based on water use and  
11 population.

12 Santa Barbara is a little unique. We're heavily  
13 tourist-dependent. We get 5 million visitors per year.  
14 They're not included in that calculation. Similarly, we are  
15 a community for work. We have 25,000 people a day come into  
16 the city. They're not included in that calculation. So it  
17 makes you understand how far we've gone already.

18 If the drought persists, I'm worried about our  
19 cultural landscape. We have a lot of -- just really  
20 important landscape that will also not be able to be  
21 supported. So I think relying solely on additional  
22 conservation and rationing may have adverse effects for the  
23 community that would be difficult to bear. Of course, that  
24 would be a policy decision.

25 We would be continuing to pursue purchases of

1 talking about.

2 MS. BJORK: It's 10,000 acre-feet per year.

3 MR. JOHNSTON: Let me just ask, the way you anticipate  
4 running this plant is in drought mode. I'm assuming that  
5 that's running it 24/7, basically, for 12 months?

6 MS. BJORK: During the drought period? I don't think  
7 so. Part of it is we haven't gotten the proposals yet, but  
8 part of that would be based on how the proposers want to  
9 submit -- I would guess they would want to be running it  
10 full-time and having the least capital investment.

11 MR. MONACO: I would agree with that.

12 MR. JOHNSTON: So when I look at our proposed draft  
13 order, it speaks to a 10,000-gallon permitted capacity of  
14 production and a 12-and-a-half-million-gallon-per-day  
15 average -- monthly average brine limitation. When I use our  
16 staff's rough number, that the brine that would come out is  
17 roughly equal to the fresh water produced amount, it seems  
18 like you could do that at 10,000 gallons a day -- 10,000  
19 acre-feet a year. It seems you could do a little better  
20 than that.

21 So is that your sense as well that your brine  
22 production is about equal to your fresh water production?  
23 Because it is a limitation in permit.

24 MR. MONACO: There are certain assumptions that are  
25 being made as to the brine but again, when the bids come in

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1 with greater specification on design and operation, we'll  
 2 have a better sense of what the recovery rates will be from  
 3 the filtration process, as well as the utilization  
 4 percentage of the plant. In terms of what we can do with  
 5 the limitations of permit, they are at a 10,000 acre-feet  
 6 per year production capacity and the 12.5 discharge.  
 7 MR. JOHNSTON: On an average monthly basis?  
 8 MR. MONACO: Correct.  
 9 MR. JOHNSTON: Okay. Thank you.  
 10 MR. WOLFF: So the couple of questions that I have, one  
 11 of them is associated with the maintenance. You touched  
 12 base a little bit earlier before the lunch break that you  
 13 had a maintenance program. Since now your intake is going  
 14 to be a different configuration, I have not seen, in the  
 15 information I received, any reference to the maintenance  
 16 program you'll have as far as this permit.  
 17 MS. BJORK: Mr. Chair, the maintenance we've been doing  
 18 has been on the onshore facilities. The intake facilities,  
 19 at the time they were permitted through the Coastal  
 20 Commission, the permitting included and anticipated that  
 21 those would be removed and maintained offshore, which is  
 22 very similar in pumps and screens.  
 23 We could potentially clean screens through diving,  
 24 but that's going to be a new activity. All of those things  
 25 are covered in our Coastal Commission permit. The operation

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1 and maintenance of the plant and the maintenance of the  
 2 offshore facilities, we are, as indicated, seeking a Coastal  
 3 Commission Maintenance and Repair Permit for the conditions  
 4 about anchoring the boat and cleaning the intake structures  
 5 and those types of things at this time.  
 6 MR. WOLFF: The reason I ask that question is not to be  
 7 picking on what the Coastal Commission does. We've had  
 8 significant conversation about impingement, et cetera. If  
 9 you're going reduce a screen from 28 to one millimeter,  
 10 obviously, there's going to be perhaps a little more  
 11 potential clogging and requiring some regular maintenance  
 12 program.  
 13 MR. MONACO: Again, we will be gathering more  
 14 information when the bids come in with respect to the  
 15 specific screen design. But in terms of the commitment of  
 16 the City in terms of the technology upgrade, the proposal is  
 17 for a one-millimeter wedge wire slot opening.  
 18 The reason is -- we worked with State Board staff  
 19 in developing that. It falls within the range of slot-sized  
 20 openings that are addressed in the draft of the Ocean Plan  
 21 Amendment. I believe the State Board staff has been  
 22 soliciting comments from the desal proponents community in  
 23 terms of what tests have been done and so forth.  
 24 Our understanding is that in terms of the empirical  
 25 testing for various sizes, there is one study that has been

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1 referenced at West Basin Municipal Water District. They did  
 2 find there was substantial clogging at slants less than a  
 3 millimeter. One millimeter seems to be the minimum where  
 4 you have the fewest maintenance problems and still give the  
 5 smallest slot opening.  
 6 MR. WOLFF: Okay. If you do an impartial -- you  
 7 increase the velocity in the remaining surface area of the  
 8 screen, which is going to increase the amount of potential  
 9 impingement -- could you put on the screen the plot plan of  
 10 the plant? Could you highlight the portions that will  
 11 require upgrades? Because I understand you have problems.  
 12 You have incoming electrical, power, infrastructure,  
 13 et cetera. Can you point out to me what is going to be new  
 14 within this plot plan that you have?  
 15 MR. MONACO: So starting with the intake, as we  
 16 mentioned, the screens have currently been removed. They do  
 17 need to be replaced by the new technology. In addition to  
 18 that, there are offshore pumps that draw the water through  
 19 the screens and wiring -- electrical wiring and  
 20 communication cables that serve those that need to be  
 21 replaced.  
 22 In the immediate filtration area, I believe the  
 23 basic infrastructure there, the media -- filter media would  
 24 obviously be replaced, as well as the cartridge filters. We  
 25 mentioned that those perishable elements, including the RO

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1 filters and so forth, have been removed. Those would be  
 2 replaced.  
 3 I believe there were also some check valves and  
 4 other facilities that would be upgraded. And the onshore  
 5 pumps would be updated. Part of the reason for that is that  
 6 some of these older models are difficult to get parts for.  
 7 MR. WOLFF: So what about your INC and EFDs, and control  
 8 variables? You're talking -- if I did the math right,  
 9 that's 20-year-old technology. In today's standard -- you  
 10 know, no offence, but some of it today is museum-grade if  
 11 you look at the current technology.  
 12 MR. MONACO: I should clarify. I'm not the design  
 13 engineer, so my knowledge is a little bit limited. I  
 14 believe the full project description that was submitted with  
 15 the permit application was also provided to the State Board.  
 16 We can certainly provide that to you.  
 17 MR. WOLFF: Last question that I have: You know, the  
 18 screen -- obviously, there was a lot of thought going  
 19 through reducing the size of the screen and whether or not  
 20 one millimeter was adequate and what we calculated the  
 21 velocity would be with one millimeter and the effect all  
 22 that would have on impingement.  
 23 Looking at the enhancement of putting a smaller  
 24 screen, a tighter screen, versus looking at options of  
 25 subsurface, is there any other alternative considered on

1 modification of the intake without going to, you know,  
2 subsurface technologies, et cetera?

3 MR. MONACO: We're not aware of any technology, other  
4 than screen design, that could provide any differences in  
5 terms of protection of the marine environment.

6 MR. WOLFF: For example, performing engineering -- small  
7 study -- one example would be, for instance, to take the end  
8 and install a wide connection with a one-millimeter  
9 screen -- you know, same technology, but if you have a wad  
10 that is extended to a certain distance, you actually reduce  
11 the velocity in half because you still have the same amount  
12 of water intake, more or less, because, you know, friction  
13 losses.

14 MR. MONACO: I believe that the design contemplates that  
15 in terms of the size of the slot opening and the surface  
16 area that's required to get the required water draw. The  
17 problem from a marine environment protection standpoint is  
18 that anything smaller than that slot opening would go  
19 through, regardless of the velocity of the flow.

20 MR. WOLFF: That's correct, but you would significantly  
21 reduce the clogging effect because you could use velocity.  
22 And I guess the point I'm missing, you're saying the pipe --  
23 the size of the pipe -- well, the size is determined because  
24 you're using an existing pipe. So we're -- you're not  
25 modifying it.

1 MR. WOLFF: You acknowledge the need to enhance the  
2 intake by reducing the mesh size from three-eighths to one  
3 millimeter. And there's -- so in good engineering practice,  
4 when you make an improvement, often without necessarily  
5 compromising the grandfather clause of having an existing  
6 facility, you still can have an enhancement.

7 So the difference between -- and I'm not suggesting  
8 that, you know, the wider screens is the answer. I'm just  
9 giving you this as an example of bad engineering as part of  
10 this project. I also recognize that time is of the essence.  
11 I think that's pretty clear. That's well respected in the  
12 current drought situation we have.

13 By having some possible alternatives or small  
14 enhancements that do not require time-consuming, very  
15 extensive, very expensive solutions -- to have those  
16 considered. I was just exploring if you had looked beyond  
17 the wire mesh itself and some other alternatives that could  
18 be implemented.

19 I think, you know, you recognize the fact that  
20 there are some; otherwise, you would not have offered half a  
21 million dollars to help offset this project. If you have  
22 some other, smaller enhancements you could make, it  
23 certainly would help ultimately mitigate some effects to the  
24 environmental impact by reducing the velocity.

25 MR. MONACO: One thing I think is important to note is

1 MS. BJORK: I think the point here is that -- I think it  
2 speaks very much to the point of this hearing is that we  
3 have a permitted plant, and we're trying to work within the  
4 framework of that permitted plant. The issue that we're  
5 here to assess today is really the alignment of the policy  
6 of the State Board on how they're going to do permitting in  
7 the future with the way our plant was permitted in the past.

8 If we start to make substantial design  
9 modifications, our plant will need additional permits that  
10 we'll need additional time to get. We are trying to  
11 incorporate those pieces of technology that we have found to  
12 be developed that we know are improvements for the way our  
13 plant will behave in the environment into any preexisting  
14 permit and design at this time.

15 And then, as directed by Council, and as you heard  
16 that we've been directed by Council, we also intend to go  
17 back, look again with the understanding of all the things  
18 that have changed in the time we have permitted those  
19 plants, identify whether those are where the City needs to  
20 be going, and begin that whole process after we get through  
21 this emergency.

22 I think in answer to your question, a lot of the  
23 considerations about what we have and have not been able to  
24 do, considered in this particular reactivation, are driven  
25 by the current status of our permits.

1 that through the design process, we expect that some of what  
2 you've identified in the hearing would occur and that --  
3 (Interruption in the proceedings)

4 MR. WOLFF: Make sure they're not texting you about me.

5 MR. MONACO: Also to address your point, I believe the  
6 conceptual design from the contractors who provide their  
7 bids will mimic some of the concepts you're talking about.  
8 The intake pipe itself is adequately sized. It's just a  
9 question of how do you ensure that the through-screen  
10 velocity is maintained at that optimal rate and doesn't  
11 degrade over time. There are a couple things that may come  
12 through this design process, including technology such as a  
13 system to remove debris. The materials themselves are made  
14 out of copper nickel alloy. It was also part of the West  
15 Basin study and other studies that have been conducted. I  
16 think Santa Cruz did a study on the -- screen material.

17 The idea is to create a design that will continue  
18 to perform at optimal performance specifications for this  
19 facility.

20 MR. WOLFF: Thank you. I appreciate your explanations  
21 and flexibility and answering these various questions we  
22 have. I will give another little opportunity for questions  
23 and then I would like to proceed with Channelkeeper after  
24 that.

25 Mr. Johnston?

1 MR. JOHNSTON: I noticed that the City has proposed  
2 three different things: One, that they would go to a  
3 one-millimeter screen. Two, they would put half a million  
4 dollars into a watershed project. And three, that in 2017,  
5 they would study alternatives to the open intake, including  
6 under seabed and portable reuse.

7 And I also -- my question is, what would the City's  
8 reaction be were that to be included as mandatory as well in  
9 the order?

10 MS. SCHNEIDER: Well, I'm one of seven council members,  
11 so I certainly can't speak on behalf of my colleagues, but  
12 certainly that is worth a discussion, and I think the issue  
13 of those issues -- we've been saying all along about  
14 conservation being important, about the environmental -- the  
15 environment project at the Slough was very important. We  
16 were very serious in our motions about moving forward with  
17 the alternatives.

18 So I think it's worth having that conversation. I  
19 think that would be looked at very seriously. I can't  
20 account for my colleagues and their vote. If that's what it  
21 says, we'll work with what we can work with.

22 MR. HAGERTY: My name is Shawn Hagerty. I'm counsel for  
23 the City on this particular issue.

24 To answer your question, maybe Mr. Wyles or others,  
25 the counsel for the Board, can add that while the City has

1 volunteered to do those three items -- and they're not  
2 relevant to the findings that are part of the Water Code  
3 Section -- if this Board were to approve the recommendation  
4 and if the City were to go forward with the desalination  
5 facility based upon those findings, the City would do those.  
6 They would have to do those three items. They're written in  
7 such a way that they're mandatory.

8 They're not mandatory if the project doesn't go  
9 forward, but if it does go forward, those things have to  
10 occur. They are mandatory. They're not conditions under  
11 the Water Code, but they would be required to be performed  
12 as part of the operations of the facility.

13 MR. JOHNSTON: So if I understand you correctly, you're  
14 saying that it's your view that the draft order, as written,  
15 would require the City to perform those actions if they were  
16 to go forward with the project?

17 MR. HAGERTY: Correct. At the time set forth in the  
18 order itself, they would have to perform those functions.

19 MS. AUSTIN: Is there anything within Santa Barbara's  
20 own resolutions or other authorizations of this project that  
21 would require those three things?

22 MR. HAGERTY: As the project moves forward to various  
23 decision points with the City subject to this action and  
24 other actions, those would be locked in. So they would be  
25 requirements either of -- for example, the screens. If they

1 were part of the contract, they would have to be  
2 reinstated. With regard to the funding, it actually says  
3 in the order itself that that funding has to occur before  
4 the production occurs.

5 And with regards to the studies, there is the  
6 outside time frame to report back to this Board in 2017. So  
7 they would be further implemented as requirements in the  
8 City's agreements. We view those requirements to be  
9 requirements if the Board were to approve them, not that  
10 somehow we could choose not to do them and still go forward.  
11 We would have to do them if we went forward.

12 MR. JOHNSTON: Just a quick question: Let's assume for  
13 the sake of argument that we approve this as written and  
14 that elections happen, you could have a different City  
15 Council in a couple years, and that those studies are never  
16 done. This is -- you know, as somebody said, you can't  
17 unbreak the egg.

18 Would we have any recourse at that point?

19 MR. HAGERTY: I think the studies are probably the most  
20 difficult issue. We could not go forward with the other  
21 two -- with the production unless those other two items  
22 occurred.

23 With regard to the studies, there's no specific  
24 recourse that would be in there. That, in essence, is more  
25 of a commitment from the City to perform those studies. If

1 the order does go forward, we would have to report back and  
2 make that commitment. That one is the one that is probably  
3 the most significant.

4 MS. SCHNEIDER: I'll just add that the seven council  
5 members that made that motion and passed it 7-0 will be the  
6 same Council members that will definitely be still in office  
7 between now and January of next year because we won't have  
8 an election until this November. So at least -- we can  
9 initiate that process starting this April. I can't imagine,  
10 even with a seat change of Council into next year, should  
11 there be one with an election, that -- the public wants  
12 this. Our constituents want us to be able to do these  
13 studies. It would be very difficult to unring the bell if  
14 we started something in April, to then say we're no longer  
15 going to do studies on something that may be feasible in the  
16 future. So as a practical matter, I don't see us moving  
17 backwards after initiating studies that have already been  
18 directed by Council to the staff.

19 MR. YOUNG: If I'm hearing you correctly, that means if  
20 we take these things the City is willing to do on its own,  
21 then we really shouldn't have an issue or dispute?

22 MS. SCHNEIDER: I just want to say something that  
23 legally might -- I'm going to --

24 MR. YOUNG: It sounds like --  
25 (Speaking simultaneously)

1 MR. HAGERTY: I think they are in here. Say, for  
 2 example, the screens. The screens have to be in place and  
 3 properly maintained at all times. We can't do anything with  
 4 the desalination facility unless we meet this requirement.  
 5 And the mitigation has to be done by the reactivation date  
 6 or before, at the City's discretion. And the studies --

7 MR. YOUNG: The studies were the most interesting.

8 MR. HAGERTY: The studies have -- you heard the  
 9 commitment from the mayor. The studies are basically -- we  
 10 would be required to report back at the date certain,  
 11 January 30, 2017.

12 MR. YOUNG: Mr. Hagerty, let me get this part from you.

13 Is it your position that this Water Board doesn't  
 14 have authority or you would contest us putting in these  
 15 additional provisions in this permit if we were to amend it?  
 16 In other words, is your position -- I don't want you guys to  
 17 look back 20 years ago. And our position is the studies  
 18 that were done then are sufficient and that -- don't have  
 19 the right to go ahead and insert any of these volunteer  
 20 efforts that the City has suggested they would do into the  
 21 permit. I don't want that done. Is that --

22 MR. HAGERTY: No. We don't think they're relevant to  
 23 the analysis under the Water Code provision. We do think it  
 24 would be inconsistent with the way the Code section is  
 25 written and the way it's presented in this lens of 1991

1 MR. MONACO: Correct.

2 MR. YOUNG: Okay. Thank you.

3 MR. WOLFF: This should wrap up the questions we have to  
 4 the City. I would like to thank you very much for your  
 5 willingness to answer all our questions. I do have next the  
 6 speaker card requesting eight minutes from Kira Redmond of  
 7 the Santa Barbara Channelkeeper.

8 After this presentation from Channelkeeper, if our  
 9 Board has questions, we will address those and then take a  
 10 break before we get to the public comments,

11 MS. REDMOND: Since I only have eight minutes, I'm going  
 12 to speak fast so I can stay within my eight minutes.

13 MR. WOLFF: She's going to have difficulty.

14 MS. REDMOND: I'll hand her this when I'm done.

15 I've been an environmental policy advocate for 22  
 16 years and I've seen some farfetched policy-making in my  
 17 time, but this one takes the cake. It seems as though your  
 18 staff thinks there is a time machine and you can go back to  
 19 1991 to fix the mistake of failing to determine that  
 20 Santa Barbara complied with Section 13142.5(b) of the Water  
 21 Code when the desal plant's brine discharge was first  
 22 permitted.

23 There's no such thing as a time machine, and,  
 24 unfortunately, the proposed fix doesn't fix the mistake at  
 25 all and would actually make a far worse mistake. You can't

1 analysis we're going through to include that in the  
 2 findings.

3 In my mind, if you adopt this order as presented  
 4 and add it to those permits, those two provisions you're  
 5 absolutely including as requirements. It will be part of  
 6 the provisions that are now part of our permit.

7 With regards to the studies, I would need to defer  
 8 to the City with regard to whether that's acceptable to them  
 9 or not.

10 MR. YOUNG: I was just curious whether you felt that was  
 11 something you would contest if we made it a mandatory part  
 12 of the permit because they weren't relevant to the findings  
 13 that needed to be made 20 years ago.

14 MR. HAGERTY: I think it's appropriate to include the  
 15 provisions that are reflected in the determination. By  
 16 definition, they'll be included as part of the permit. I  
 17 don't think that -- I contest the inclusion of it as part of  
 18 the analysis, but whether they can, through the discussion  
 19 of being included in the permit, you could do that.

20 MR. YOUNG: My last question is: What is the mesh  
 21 material made of?

22 MR. MONACO: The proposed screen?

23 MR. YOUNG: Yeah.

24 MR. MONACO: It's copper nickel alloy.

25 MR. YOUNG: So you will not have BioFalls?

1 contrive a retroactive determination of compliance now based  
 2 on information that's 24 years old. The implications of  
 3 such a decision will not occur 24 years ago, but today and  
 4 for decades to come.

5 Desal technology has changed, as has our knowledge  
 6 of the harmful impacts of open ocean intakes on the marine  
 7 environment, and as such, State policy to address those  
 8 impacts.

9 We recognize that Santa Barbara is in panic mode  
 10 and rushing headlong into desal in a scramble to meet  
 11 projected water supply shortfalls. And the Water Boards  
 12 want the Santa Barbara problem to go away before the Ocean  
 13 Amendment on desal is enacted so the City doesn't sue and  
 14 delay the policy, since Santa Barbara's desal plant is  
 15 considered new under the current draft and would have to  
 16 comply with Section 13142.5(b).

17 Nobody wants Santa Barbara to derail the State  
 18 policy, but we don't want to be the sacrificial lamb either.  
 19 You're trying to sweep us under the rug with this fatally  
 20 flawed retroactive Water Code analysis, which would leave us  
 21 stuck with an open ocean intake that is clearly not the best  
 22 available technology and will harm marine life in the Santa  
 23 Barbara Channel, which is of enormous value to this  
 24 community and to the State of California.

25 There's no legal precedent for what is being

1 proposed. You can't pretend to know what would have  
 2 occurred had the proper analysis been done in 1991, and  
 3 trying to fabricate a retroactive analysis is dubious at  
 4 best. Let's pretend for a moment that we accept the notion  
 5 that you could feign Water Code compliance today as if it  
 6 were 1991. Even so, the proposed analysis doesn't come  
 7 close to proving that the City used the best available site,  
 8 design, technology and mitigation measures feasible to  
 9 minimize the intake and mortality of marine life in 1991 as  
 10 the Water Code requires.

11 The draft amendment says various other sites were  
 12 examined and rejected in the City's 1991 EIR. But the City  
 13 did not examine the best available site feasible to minimize  
 14 intake and mortality of marine life because CEQA doesn't  
 15 require it. Section 13142.5(b), however, does. The staff  
 16 report from the 1991 EIR examined the best available design  
 17 feasible. Again, a CEQA document is inappropriate and not  
 18 equivalent to what's required under the Water Code.

19 In terms of technology, the draft amendment cites  
 20 studies prepared for the 1991 EIR and findings made by the  
 21 Coastal Commission in determining compliance with the  
 22 Coastal Act, but CEQA and the Coastal Act do not require the  
 23 use of best available technology feasible to minimize the  
 24 intake and mortality of marine life.

25 The EIR concluded a screened intake would not

1 that permit is adequate, it nonetheless provides an example  
 2 of what a real 13142.5(b) analysis looks like.

3 The San Diego Regional Board required Poseidon to  
 4 submit a Flow, Entrainment and Minimization Plan to address  
 5 each of the requirements of Section 13142.5(b), both  
 6 separately and together, and required several revisions  
 7 before approving the NPDES permit three years later. They  
 8 required restoration of 55.4 acres of wetlands as  
 9 mitigation, despite the fact that the project's EIR found  
 10 the facility would not cause significant adverse  
 11 environmental impact.

12 The minimization plan and the Regional Board's  
 13 order both contain extensive analyses of the feasibility of  
 14 alternatives to the proposed site, design and technology.  
 15 The San Diego Regional Board did a 236-page responsiveness  
 16 summary with separate chapters for each of the four pillars  
 17 of Section 13142.5(b) and conducted several public hearings  
 18 before approving the permit. This is all laid out in the  
 19 *Surfriders v. San Diego Regional Board* court decision, which  
 20 is cited in your response to comments. The paltry six pages  
 21 put forward here obviously pales in comparison.

22 We understand why Santa Barbara is pushing so hard  
 23 for this. We don't agree with their aggressive pursuit of  
 24 desal before exhausting other less expensive and  
 25 environmentally harmful supply-and-demand management

1 result in a significant depletion of certain marine  
 2 organisms but again, this is not the appropriate standard.  
 3 The draft cites a plankton study using data from Ormond  
 4 Beach 40 miles south of here from 30-plus years ago, which  
 5 concluded that no mitigation was required. However, the  
 6 Water Code requires the best available mitigation to  
 7 minimize the intake and mortality of all forms of marine  
 8 life.

9 Not only did the City not look at all forms of  
 10 marine life, just plankton, but it did not do any  
 11 mitigation. Clearly, no mitigation is not the best  
 12 mitigation feasible. Moreover, there are scientific and  
 13 policy guidelines for determining appropriate mitigation.  
 14 The \$500,000 offered by the City and proposed to your staff  
 15 to be accepted as mitigation has no relation whatsoever to  
 16 the actual mortality which will occur from the City's use of  
 17 the open ocean intake because this has never been assessed.

18 Not only does the City not comply with each of the  
 19 four individual elements required under 13142.5(b), but it  
 20 didn't analyze what combination of site, design, technology  
 21 and mitigation would minimize intake and mortality as  
 22 required by the Water Code.

23 Further evidence of the inadequacy of what's being  
 24 proposed can be found in the San Diego Regional Board's  
 25 permit for the Carlsbad desal plant. While we don't think

1 alternatives. But we appreciate the dilemma, and unless it  
 2 rains a lot really, we have no choice but to swallow the  
 3 desal pill, which Santa Barbara Channelkeeper reasonably  
 4 asked the City to include a subsurface intake feasibility  
 5 analysis in its request for proposals for the contract to  
 6 design, build and operate the desal plant.

7 The City Council voted unanimously no to do so.  
 8 They did, however, make a different, second, token,  
 9 non-committal gesture to direct their staff to begin  
 10 exploring the possibility later. So they know it's the  
 11 right thing to do. They just need to be bound to do it.  
 12 Simply asking the City to share their findings with you two  
 13 and a half years from now, as the proposed amendment does,  
 14 is way too squishy.

15 We get that Santa Barbara is a unique situation and  
 16 presents a quandary for you and the State Board. One could  
 17 argue that Santa Barbara's desal plant is existing because  
 18 you can point to a physical structure. One could more  
 19 convincingly argue that spending \$40 million to turn it back  
 20 on and produce any quantity of water constitutes an  
 21 expansion from its current zero production.

22 Whether the plant was designed 25 years ago to  
 23 potentially produce up to 10,000 acre-feet or has a  
 24 20-year-old Coastal Development Permit or a permit to  
 25 discharge brine is irrelevant. It is not fair to the people

1 of Santa Barbara who care about healthy marine resources  
 2 in the Santa Barbara Channel, whose livelihoods depend on  
 3 them and who work hard to protect them, to excuse Santa  
 4 Barbara from doing what the State Board is set to require of  
 5 every other desal plant in California based on a highly  
 6 tenuous pretense that would allow them to use outdated and  
 7 environmentally harmful technology and inadequate  
 8 mitigation.

9 To adopt the amendment as currently drafted is  
 10 slipshod and downright bad policy. It would set a dangerous  
 11 precedent and begs a legal challenge which would cost  
 12 everyone a lot of precious time and money. We offer a  
 13 multipart solution to avoid that. First, we urge you to  
 14 reject the proposed amendment and instead amend the City's  
 15 permit to authorize the temporary operation of the desal  
 16 plant with the open ocean intake only as a drought emergency  
 17 measure to be rescinded as soon as the drought emergency is  
 18 lifted.

19 The City now intends to continue operating the  
 20 facility at some point after this drought is over and the  
 21 requested amendment -- and requested this amendment so it  
 22 can move ahead with reactivating its desal facility quickly  
 23 as a drought response measure, so this should be acceptable.

24 Second, we urge you to add a condition to the  
 25 permit binding them to begin a subsurface intake feasibility

1 MR. DELGADO: So basically, do the studies and then  
 2 based on the conclusions, modify the infrastructure.

3 MS. REDMOND: If feasible.

4 MR. DELGADO: Most of my questions based on what we just  
 5 heard would be to hear staff response, but maybe others have  
 6 questions of you.

7 MR. WOLFF: Share your perspective with me again?

8 MR. DELGADO: The questions I have based on her  
 9 statements would be directed to staff to ask their response  
 10 to statements she made.

11 MR. WOLFF: Well, what we plan on doing, when we wrap  
 12 up, we will have staff response and we'll do it in one set  
 13 of responses rather than piecemeal. I think it will be more  
 14 efficient.

15 Any questions on my right?

16 MR. YOUNG: Yes. Are you going down the line?

17 MR. WOLFF: Oh, we went down the line.

18 MR. YOUNG: You essentially went through the factors  
 19 within the statute, siting, design, technology, mitigation.  
 20 And you're making a point you feel the City 20 years ago did  
 21 not look at the superior elements of each of those that had  
 22 currently been put forth at that time, I think, because they  
 23 did an EIR analysis and not an analysis the way we would  
 24 under this statute.

25 MS. REDMOND: Correct.

1 analysis now. The City has already expressed its intention  
 2 to begin exploring this this spring. We believe it's your  
 3 responsibility to require them to do so and that the City,  
 4 in a show of good faith, should voluntarily accept such a  
 5 requirement as a condition of the permit.

6 Third, we ask you to direct your staff to work with  
 7 the City to conduct a thorough present-day 13142.5(b)  
 8 analysis based on best site, design, technology and  
 9 mitigation available today, as required by the Water Code.  
 10 We would then expect future actions requiring the City to  
 11 implement the best available measures found feasible through  
 12 that analysis.

13 We think this is an extremely reasonable compromise  
 14 solution to the Santa Barbara problem that everyone could  
 15 live with, and we hope you proceed as such. Thank you.

16 MR. WOLFF: Thank you. Do we have questions?

17 Mr. Delgado.

18 MR. DELGADO: After basically using current standards to  
 19 perform -- citing studies, et cetera, what was the fourth  
 20 piece of that multipart solution?

21 MS. REDMOND: That was actually something I was  
 22 requesting you to do today, but I said we would then expect  
 23 future actions to require the City to comply with the best  
 24 available measures found feasible through that present-day  
 25 13142.5(b) analysis.

1 MR. YOUNG: Isn't there information in the studies they  
 2 have done that can be taken out and looked at in terms of  
 3 them being superior? If we go back in time, we weren't  
 4 looking at subsurface intakes, except for infiltration  
 5 galleries or shallow sand wells.

6 Is it fair to the City, who has really done nothing  
 7 in this -- it was the Water Boards that didn't recognize  
 8 they should invoke this statute back then.

9 Is it fair to the City that they be bootstrapped up  
 10 in the present and be made to comply with current standards?

11 MS. REDMOND: This is an extremely unusual thing that  
 12 you're proposing to do. It's virtually impossible. You  
 13 cannot turn back the clock and pretend it's 1991 and presume  
 14 to know what would have happened then.

15 So mitigation is a good example. They didn't do  
 16 any mitigation because CEQA doesn't require it, but you're  
 17 saying they complied with Section 13142.5(b) because they  
 18 did all they could to minimize the intake?

19 MR. YOUNG: I don't know that they did mitigate. That's  
 20 one thing I can preserve right now because I think that's  
 21 still a question mark in my mind. Mitigation was never  
 22 considered, so something may be appropriate.

23 But in terms of the technology and the siting, are  
 24 there any other sites they should have considered?

25 MS. REDMOND: I wasn't here in 1991, and I wasn't

1 considering the Water Code at that time, which is what  
2 you're trying to do right now.

3 MR. YOUNG: I understand. It makes sense that the site  
4 that they have picked is probably the most feasible.

5 MS. REDMOND: I think technology and the mitigation are  
6 the main issue.

7 MR. YOUNG: Okay. Not the siting?

8 MS. REDMOND: Right. Arguably, the technology that was  
9 looked at was looked at based on CEQA, not based on  
10 minimizing the intake and mortality of all forms of marine  
11 life, which is what you're trying to say today that they did  
12 then. I'm saying they didn't do that. You can't make  
13 findings they did.

14 MR. YOUNG: Okay. You made a comment, I think, they may  
15 be more aggressive in pursuing desal.

16 What else could the City be doing in terms of  
17 securing water?

18 MS. REDMOND: I think we can point to many large  
19 facilities south of us who are aggressively pursuing recycled  
20 water and strong-water capture and conservation. I think  
21 we're beyond that point now. The City is already kind of  
22 far down the path from when we were first initially talking  
23 about this. I understand we -- desal is the last resort  
24 after we've exhausted everything else. We don't believe  
25 that's the case.

1 MR. YOUNG: If we amended this permit and secured a  
2 requirement that they conduct the subsurface feasibility  
3 study, would that be satisfactory to Channelkeeper, or is  
4 that just the first step? You want to see something that  
5 says if it is feasible, that it be pursued?

6 MS. REDMOND: Obviously, we would like to see that.  
7 That was one part of our request. I think the more  
8 important thing here is that trying to pretend you can go  
9 back in time and say the City complied with the Water Code,  
10 you can't do that. It's bad policy. It's a bad precedent.  
11 So we would like to see a present-day 13142.5(b) be enacted  
12 based on technology, site, design, feasible today.

13 MR. YOUNG: Thank you.

14 MR. WOLFF: We'll take a short ten-minute break and  
15 reconvene just a little bit before 4:00.

16 (Recess)

17 MR. WOLFF: Okay. We're going to reduce the time for  
18 each person to two minutes. I know it's tight, but this  
19 will give an opportunity for all of you to speak to us and  
20 get a response from the Board.

21 So I will call two, three names in advance so you  
22 can queue and that will make the process a little bit more  
23 efficient.

24 So I would like to start with Ray Stokes. Then  
25 we'll have Robert Sulnick, and we'll have Leslie Wiscom.

1 MR. STOKES: My name is Ray Stokes, and I'm the  
2 Executive Director for the Central Coast Water Authority, the  
3 agency responsible for treating and delivering water from  
4 the California State Water Project to 13 cities, water  
5 districts, and other entities in Santa Barbara County.

6 The City of Santa Barbara is one we need to  
7 preserve -- the State Water Project. As a member of CCWA,  
8 the City of Santa Barbara has taken steps from prior years  
9 to maximize the use of available state water supplies. With  
10 a contract in the amount of 3,300 acre-feet per year from  
11 the State Water Project, the City has been in a position to  
12 store State water that was considered to be in excess of  
13 it's current needs. For example, in 2013, the City was able  
14 to utilize it's other local sources of water, delivery and  
15 demands, which enabled the City to store approximately 2,600  
16 acre-feet of its 2013 water, for use in calendar year 2014.

17 Similarly, the City has banked almost 1,500  
18 acre-feet in earlier years with other State Water Project  
19 contractors, which may be able to be drawn upon as needed in  
20 2015. In 2014, the City requested additional water supplies  
21 to supplement the 2,600 acre-feet of water it had stored for  
22 2015. We were successful in acquiring those 3,100 acre-feet  
23 on behalf of the City.

24 While the supplemental water purchases were  
25 essential in enabling the City to meet its water needs in

1 2014 and 2015, over the long term, purchases of supplement  
2 water delivered to the facility will not be sufficient to  
3 meet the City's needs.

4 As we can see, the feasibility to deliver water to  
5 the project participants is limited to about 15,000  
6 acre-feet per year in total for the cities of Santa Barbara,  
7 Montecito (inaudible). Santa Barbara's annual advance is  
8 around 14,000 acre-feet per year, a guaranteed share of  
9 15,000 -- around 3,000 acre feet per year.

10 As another component of the City's water supply  
11 portfolio, the proposed desalination plant appears to be  
12 prudent for the City of Santa Barbara.

13 MR. WOLFF: Thank you for your comments.

14 Robert Sulnick, please.

15 MR. HAGGMACK: I'm here on behalf of Robert Sulnick. He  
16 had to get going. He left me with his notes and comments,  
17 which I will submit for the record. Robert Sulnick is a  
18 constituent of Santa Barbara, a resident, and he has working  
19 knowledge of desal plants, state of research on subsurface  
20 intakes and he was here as a citizen to speak with you.

21 Santa Barbara is in a water crisis. The drought  
22 continues in 98 percent of the state. Lake Cachuma has  
23 fallen below 70 percent capacity. The Sierra Snowpack is at  
24 46 percent of the normal.

25 There is no data or scientific evidence for a

1 full-scale desal plant anywhere in the world which supports  
 2 the position that it's an environmentally superior form of  
 3 intake. Those advocating the position should show you their  
 4 data and tell you which of the nine different types they are  
 5 talking about. Only existing data, small-scale and  
 6 (inaudible) are experimental at this point. The one in  
 7 Japan has no valid data that supports superior option of  
 8 subsurface.

9 The State Water Board's position is not that open  
 10 intakes are default technology. The draft Ocean Plan states  
 11 that subsurface has constructability problems excavating  
 12 areas of ocean bottom. Viability is dependent on  
 13 site-specific conditions and hydrology. It may be overly  
 14 restrictive and requiring subsurface as the only intake may  
 15 result in eliminating desal as an option for some  
 16 communities.

17 The Independent Scientific Technical Advisory  
 18 Panel, which is working on the Huntington Beach project, has  
 19 been looking at nine subsurface alternatives; seven they  
 20 have found to have fatal flaws and two are moving forward  
 21 for further research. More information should be known  
 22 about those two options this summer, hopefully providing  
 23 some insight into potential other applications.

24 That's it.

25 MR. WOLFF: Thank you very much for your comments.

1 historic and specimen trees, provide pleasant walking and  
 2 cycling environments with shade protection. And our parks  
 3 provide comfortable and safe places to recreate, relax and  
 4 play.

5 We have a thoughtful, professional, long-term water  
 6 supply plan and the City and community have stepped up to  
 7 meet our aggressive conservation goals. We have implemented  
 8 an urban force management plan in 2014 that helps us protect  
 9 the precious resource, our public trees. To complement  
 10 these successes, the desal plant is a critical component  
 11 moving forward and in planning for inevitable future drought  
 12 cycles.

13 Without the desal plant, we can sustain permanent  
 14 damage to some of the important civic and horticulture  
 15 treasures in our community. We hope you will keep the  
 16 process of restarting the desal plant moving forward without  
 17 delay. Thank you for your time.

18 MR. WOLFF: Thank you for your comments.

19 Next I have Susan Jordan and Joe Geever and  
 20 Conner Everts.

21 MS. JORDAN: Susan Jordan. I'm the Director of the  
 22 California Coastal Protection Network. I've been working on  
 23 desalination in California for roughly 20 years. I was one  
 24 of the leads on the Poseidon Project before the Coastal  
 25 Commission -- where they withdrew their contract and were

1 MR. YOUNG: What was the speaker's name? He said he was  
 2 speaking on behalf of someone, but I didn't hear his name.

3 MR. HAGGMACK: Joshua Haggmack.

4 MR. WOLFF: Good catch, Mr. Young. Leslie Wiscom,  
 5 please.

6 MS. WISCOM: Good afternoon, Mr. Chair and members of  
 7 the Board. My name is Leslie Wiscom. I'm not here to  
 8 address the technical aspect of the desal permit, although  
 9 as a retired landscape architect who was lead on water  
 10 quality projects such as wetland restoration, I found  
 11 today's meeting quite interesting.

12 I'm here as the City of Santa Barbara's Parks and  
 13 Recreation Commissioner, as the UCCE Master Gardener of  
 14 Santa Barbara County, and as a resident of Santa Barbara.  
 15 The Master Gardeners are partners with the City of Santa  
 16 Barbara to develop and present free public workshops to help  
 17 educate our community on water saving practices for the home  
 18 gardener. High attendance at these workshops is testimony  
 19 to our residents' commitment to reduce their water usage.

20 Santa Barbara has a rich horticulture heritage and  
 21 a great climate. It's a combination of these things that  
 22 make it a great place to live, work, and play. While our  
 23 parks, landscape, parkways and tree-lined streets contribute  
 24 to the city's beauty, they also provide immeasurable health  
 25 benefits for our community. Our trees, including our

1 told to look back into subsurface studies as required by the  
 2 Coastal Commission.

3 I want to make very clear that if you're about to  
 4 approve a permit based on 1991 data, I want you to think  
 5 about the future and how do you get a grip on conditioning  
 6 this permit as it moves forward. I want you to think about  
 7 the challenge for the next 20, 30, 40, 50 years. There's no  
 8 saying that this facility will ever go away.

9 How do you get Santa Barbara to bring it into  
 10 current technology? I understand the crisis and we're  
 11 sympathetic, but we have some ideas here and it's a  
 12 compromise, not that we're too happy about it. We believe  
 13 with the Stage 3 drought emerging in April, that this  
 14 amended permit should be viewed much as the CCC, the Coastal  
 15 Commission, views an emergency permit, with a beginning and  
 16 a reopener, and that the City be allowed to operate until  
 17 the emergency subsides; that you require, as part of this  
 18 amended permit, that the City conducts a subsurface  
 19 feasibility study now to be evaluated within a new Section  
 20 13142.5(b) analysis once the drought subsides.

21 It has to be -- that requirement has to be in your  
 22 amended permit. The language in there, as their attorney  
 23 basically told you, you get the first two, you maybe get the  
 24 third, which are the studies and are extremely important.

25 For the \$500,000, I'm not sure it should go to the

1 Devereux Slough. I don't believe there is as liberative,  
 2 open, transparent process there. Let them put that towards  
 3 starting the subsurface studies now.  
 4 Should the drought continue beyond a specified  
 5 period of time, I'd like to see the City and your Board  
 6 complete the subsurface study and the new Section 13142.5(b)  
 7 analysis no later than 2020.  
 8 We're sympathetic. We want to help. It's a  
 9 compromise. We don't like it, but we're willing to work  
 10 with the City. Thank you.  
 11 MR. WOLFF: Joe Geever, please.  
 12 MR. GEEVER: Thank you. My name is Joe Geever, and I  
 13 was the Water Programs Manager for Surfrider from 2000 to  
 14 2014. In that capacity -- before I started the Surfrider  
 15 Foundation, I worked on seawater (inaudible) federal cooling  
 16 water regs. It also included desal at one point and working  
 17 on these intake technologies for 20 years and the law,  
 18 enforcing them.  
 19 So we knew for years that the Santa Barbara problem  
 20 was coming. We knew this permit wasn't issued properly and  
 21 we knew it was going to collide with the State regs. We  
 22 know there has to be a solution to this.  
 23 Let's be clear, the Water Code was passed in '77.  
 24 They were required to enforce this law in '91. You know,  
 25 that law requires finding on the intake. It was a huge

1 Group. Like my colleague, Joe Geever, I've worked on  
 2 numerous desal proposals in California and have spent many  
 3 years working on the Ocean Plan Amendment for desal.  
 4 I was in the area during the long drought that led  
 5 to Santa Barbara building the desal facility. I reviewed  
 6 the proposal for Ventura for Patagonia, actually, to  
 7 consider a desal facility at the time, but we chose to  
 8 address the emergency with stricter conservation measures  
 9 and maximizing local water resources, including recycled  
 10 water.  
 11 That choice has served the area well during wet and  
 12 dry weather. It's an option Santa Barbara should seriously  
 13 consider first. When I served on the Casitas Municipal  
 14 Water District for Ojai, we learned that lesson as well.  
 15 It's not something you can insist Santa Barbara do, but  
 16 we're talking about the opportunities within this permit. I  
 17 mention it because it seems like much of this discussion is  
 18 driven by a sense of urgency, the same sense of urgency that  
 19 created the problems in the 1991 permit that you're  
 20 attempting to resolve with this amendment.  
 21 Sure, people have to conserve more, but that's the  
 22 reality for the rest of the state as well. We've seen  
 23 demand go down. We have examples in Marin, Santa Cruz, Long  
 24 Beach and even the city of Los Angeles that chose to do that  
 25 rather than desal. Decisions made in panic mode will

1 mistake not to put those findings in the permit in '91. You  
 2 can't go back now and pretend that that happened. I've  
 3 heard a lot of questions about what the technology may have  
 4 been.  
 5 There was some discussion about horizontal wells  
 6 and all these things. If we had had that debate and invited  
 7 the public to comment on it, a lot of this may have been  
 8 discovered. You can't go back and pretend you know what may  
 9 have happened. Everyone knows this is pure speculation.  
 10 You're undermining the public process and the benefits.  
 11 Look, I don't know -- I think that is a hard thing  
 12 to do, but if you take the Keepers up on their solution, you  
 13 get a lot of things. One, you stop the City from going  
 14 forward and dealing with this drought emergency. You don't  
 15 make any findings on definition of new or whatever that  
 16 may -- legal complications that may have. You ensure that  
 17 you've gone back and done the public process that didn't  
 18 happen in '91.  
 19 Look, this is a reasonable thing to do. Just doing  
 20 studies doesn't get you there. The studies lead to an  
 21 impact or an enforcement analysis. Whatever that analysis  
 22 that this Board is deciding on, that's mandatory.  
 23 Thank you.  
 24 MR. WOLFF: Thank you. Conner Everts.  
 25 MR. EVERTS: My name is Conner Everts, Desal Response

1 invariably cause problems down this road you're about to  
 2 take.  
 3 I want to add another comment to Joe's about the  
 4 flawed reliance on CEQA findings as a substitute for  
 5 findings in compliance with the Water Code. Joe is right  
 6 that CEQA is not the same, and the argument in the draft  
 7 amendment is flawed. But what Joe didn't say is that the  
 8 errata sheet now documents the EIR findings were based on  
 9 inaccurate numbers. The EIR was flawed. Nonetheless, the  
 10 revised draft findings argue that even though the EIR was  
 11 based on intake volumes that were dramatically  
 12 underestimated, the conclusion of no significance would have  
 13 been adopted back then.  
 14 I strongly urge you to deny the proposed amendment.  
 15 I believe there is a way to settle the problems in the  
 16 permit without resorting to this unacceptable amendment  
 17 process. An acceptable compromise --  
 18 MR. WOLFF: Can you wrap up?  
 19 MR. EVERTS: Yes -- along the lines of what  
 20 Channelkeeper is recommending. Thank you very much.  
 21 MR. WOLFF: Thank you for your comments.  
 22 The next speaker will be Sheila Lodge and then  
 23 we'll have Russel Ruiz and then Michael Cohen.  
 24 MR. YOUNG: This is former Mayor Lodge, Mr. Chair.  
 25 MS. LODGE: Thank you, Mr. Young. Good afternoon,

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1 Chair Wolff and members of the Board. I am Sheila Lodge,  
2 former mayor of Santa Barbara 1981 to 1993, which included  
3 six years of drought.  
4 The City responded admirably. Our citizens ended  
5 up competing with themselves to see how little water they  
6 could use. The City gave out \$80 rebates on every toilet  
7 that was replaced. We handed out free low-flow showerheads  
8 and anything else we could think of that would help reduce  
9 water use.  
10 Water use was reduced by 45 percent. That  
11 reduction resulted in a permanent reduction in demand by  
12 about 2,000 acre-feet per year. As you heard, it was over a  
13 16,000 acre-feet demand before the drought, and it's now,  
14 even with increased population, about 14,000 acre-feet.  
15 This makes it a little difficult to do more than the  
16 20 percent in addition to what the public is doing.  
17 In 2011, the City's plan showed a declining water  
18 use, given all the modern State requirements of that time  
19 about plumbing and water conserving, even with the increase  
20 in population. However, the City's water sources are  
21 limited. They all depend on rain. Desal is the only water  
22 source that is not dependent on rain.  
23 Given that we're facing possibly permanent change  
24 in climate -- this morning's news included a report that  
25 2014 was the warmest year ever in California, as long as

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1 records have been kept. We need to have this kind of water  
2 resource. It's the only resource that's going to be there  
3 no matter what, unless the ocean dries up. It's a source  
4 that's under the City's control. It's flexible, and it's a  
5 source that's used only when needed.  
6 Tourism is very important to Santa Barbara's  
7 economy. A city with dead and dying trees is not one that's  
8 going to be attractive to the tourists.  
9 So I urge you to -- it was very carefully  
10 considered what alternatives to pursue back in 1991. We  
11 picked the desal plant because of its reliability and  
12 flexibility. I urge you, please, adopt the amended --  
13 proposed amendment to the existing order.  
14 Thank you.  
15 MR. WOLFF: Thank you for your comments. Russel Ruiz.  
16 MR. RUIZ: Good afternoon, members of the Board and  
17 welcome to Santa Barbara. My name is Russel Ruiz. I've  
18 been asked to speak today in my capacity as a member of the  
19 City of Santa Barbara Water Commission.  
20 The Water Commission is appointed by the City  
21 Council. Pursuant to the City Charter, we have oversight  
22 authority over the City's water and wastewater system, and  
23 we are active in an advisory capacity to the City Council on  
24 those subjects.  
25 We are a Brown Act body. We hold regular noticed

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1 public meetings. Our meeting agendas and all our agenda  
2 material is posted on the city website. And at our regular  
3 public meetings, we strongly encourage public input. In  
4 fact, Ms. Redmond, on behalf of Channelkeeper, has attended  
5 several of our meetings.  
6 The focus of my comment is the fact that for well  
7 over 20 years now, the City, in a very open and public  
8 manner and in complete good faith, has described our  
9 existing desal facility as a permanent part of our long-term  
10 water supply plan that would be used to meet our minimum  
11 health and safety requirements when we were -- encounter an  
12 extreme and prolonged drought and here we are.  
13 I actually beat the mayor to the term, but she used  
14 it before I got to it. It is our water supply of last  
15 resort. I know I'm not telling you anything you don't know,  
16 but I'm not such a young man anymore. I've lived here all  
17 my life. The Cachuma Reservoir is at its lowest level it's  
18 ever been in my lifetime. Gibraltar Reservoir, also a  
19 vitally important part of our water supply, is effectively  
20 dry. If the drought continues, there are scenarios that say  
21 Cachuma may be effectively dry by the end of this year.  
22 All we ask is that you please take an action that  
23 is consistent with your staff's recommendation and do not  
24 delay our implementation of our long established Drought  
25 Water Supply Plan.

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1 MR. WOLFF: Thank you for your comments.  
2 MR. RUIZ: I brought my desalinated water, but I ran out  
3 of time.  
4 MR. WOLFF: Looked like a very good vintage.  
5 So Mr. Michael Cohen.  
6 MR. COHEN: Hello, everyone. My name is Michael Cohen.  
7 I operate Santa Barbara Adventure Company. I'm a tour  
8 operator here in town with 16 years' experience. We take  
9 about 10,000 people out on tours. I'm also a member of  
10 Visit Santa Barbara Board of Directors, which is a tourism  
11 board, as well as on the Channel Island National Marine  
12 Sanctuary Advisory Council.  
13 I'm here to talk about the desalination plant and  
14 just show my support for Channelkeeper's recommendation.  
15 I've seen several inservices about the current projects,  
16 particularly those in Monterey. I feel there are 18  
17 projects in the pipeline, some 290 million gallons of  
18 seawater that's going to be sucked up every day once these  
19 projects are all put into place.  
20 This project is talking about 10 million to 20  
21 million gallons of water per day, and that's going to have  
22 some effect on tourism. We have to have a healthy marine  
23 environment. So many of our organizations are tied to that.  
24 Outfitters and operators, which is myself, whale watching  
25 industries, school groups and outdoor education programs,

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1 hotels, all depend on the health of the marine environment.  
 2 We cannot see taking up all of these without having some  
 3 negative effect on the marine environment.  
 4 I think having watched several of these debates  
 5 and -- I think Dr. Hunter was correct in the value of the  
 6 sanctuaries in Santa Barbara Channel with the marine habitat  
 7 there is so vital to our economy that we have to be very  
 8 measured in taking these marine organisms out of the water.  
 9 So this subsurface intake system seems to be the most  
 10 superior. I really do support Channelkeeper's  
 11 recommendations be included into the proposition. Thank  
 12 you.  
 13 MR. WOLFF: Thank you for your comments.  
 14 Mr. Tom Mosby.  
 15 MR. MOSBY: Good afternoon, members of the Board. I'm  
 16 the general manager of the Montecito Water District.  
 17 The following letter is being submitted by the  
 18 Montecito Water District Board of Directors to the Central  
 19 Coast Regional Water Quality Control Board for the  
 20 administrative record and to voice the District's support  
 21 for the City of Santa Barbara's desalination project.  
 22 The City's foresight and leadership on the south  
 23 coast has led to the building of a vibrant and charming  
 24 community and a destination for travelers from all around  
 25 the world. The ambiance, attraction and health of

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1 Santa Barbara is dependent on having a reliable water supply  
 2 for the public health and safety needs.  
 3 The City's water supply and Montecito Water  
 4 District rely primarily on surface water and are threatened  
 5 during the period of drought. We are -- the crippling  
 6 drought, which has reached emergency levels affecting water  
 7 supplies statewide. Such droughts have become more the norm  
 8 than the exception.  
 9 In planning for its future, the City recognized  
 10 that desalination would be an important and necessary  
 11 component of its water supply portfolio. In the early  
 12 1990s, along with Montecito and the Goleta Water Districts,  
 13 built a regional desalination facility. Even with the  
 14 arrival of the State water in 1997, the City has continued  
 15 to maintain and identify the water supply in its long-term  
 16 water supply plan, although Montecito and Goleta  
 17 discontinued participation.  
 18 The Water Supply Plan also includes an aggressive  
 19 conservation program. The City's success cannot be  
 20 overstated as the current water levels are 20 percent lower  
 21 than in the 1980s. The City's pursuit of a long-term,  
 22 reliable, environmentally sound facility is vital in  
 23 upholding the value of Santa Barbara. With the south coast  
 24 water agencies sharing regional water supplies available to  
 25 our communities, having desalination in operation will also

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1 become a regional asset and provide a regional benefit  
 2 during periods of water shortages.  
 3 Montecito Water requests you affirm, and through  
 4 the City, permit the desalination facility as a permanent  
 5 water supply facility, recognizing that the planned use will  
 6 provide for future water supply security and offset the  
 7 continued degradation and unreliability of previously  
 8 dependable sources of water supply. Thank you.  
 9 MR. WOLFF: Thank you for your comments.  
 10 MS. AUSTIN: Mr. Chair, I have a quick comment.  
 11 Normally when we have late submissions, there is an analysis  
 12 and a petition by the Chair as to whether or not to accept  
 13 those into the record.  
 14 MR. WOLFF: That's why I suggested that he read it  
 15 aloud, his letter.  
 16 MS. AUSTIN: Are you accepting the letter as well?  
 17 MR. WOLFF: No.  
 18 MS. AUSTIN: Okay. Thank you.  
 19 MS. HUNTER: I think it's about the transcript.  
 20 MS. AUSTIN: We are not accepting actual letters for the  
 21 record, but the comments are in the record on the  
 22 transcript.  
 23 MR. WOLFF: Correct.  
 24 MS. REES: I thought you were finished. I'm sorry. I  
 25 thought perhaps my card did not make it into the stack.

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1 MS. HUNTER: Your card was entered into the Heal the  
 2 Ocean, so it was set aside. It said Heal the Ocean, but she  
 3 did submit it.  
 4 MR. WOLFF: This is -- you are to speak on this  
 5 particular item?  
 6 MS. REES: Yes, No. 9. I'm sorry. I put it in this  
 7 morning, and I thought maybe it didn't make it in. Thank  
 8 you.  
 9 Good afternoon, Regional Board. My name is  
 10 Kate Rees. I'm the former general manager Cachuma Operation  
 11 and Maintenance Board, also known as COMB, and also former  
 12 manager for the Cachuma Conservation Release Board, known as  
 13 CCRB.  
 14 COMB is primarily responsible for the operation and  
 15 maintenance of the water delivery system from Lake Cachuma  
 16 on the south Santa Ynez River, through (inaudible) to the  
 17 South Coast Conduit. It's also responsible for orientation  
 18 of the fisheries program on the lower Santa Ynez River per  
 19 the terms of the Cachuma Biological Opinion for Steelhead  
 20 Trout.  
 21 CCRB is responsible for protection of its other  
 22 agency's water rights -- Cachuma water rights with the State  
 23 Water Resources Control Board, and it fully supports  
 24 development of supplemental water sources, as the Cachuma  
 25 Project is really unable to provide sufficient water to meet

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1 demands during severe drought. CCRB is also responsible for  
2 negotiating a new biological opinion with the National  
3 Fisheries Service.  
4 All of these activities affect water supply and  
5 they must be managed and coordinated carefully to maximize  
6 water for people, agriculture, and also balancing the needs  
7 of endangered species and species that you're addressing  
8 today.  
9 The City of Santa Barbara is a member agency of  
10 COMB and CCRB and has been a leader in accomplishing these  
11 goals. However, as a result of the longest drought in our  
12 history, Gibraltar Reservoir and Lake Cachuma have been  
13 severely depleted and alternative water sources must be  
14 considered to meet demands, even with the exemplary water  
15 conservation already achieved.  
16 I also served on the City's Water Commission with  
17 Mr. Ruiz for a while. I was there ten years and during that  
18 time, witnessed firsthand how carefully water supply  
19 planning is done for the city. During my time as the Water  
20 Commission, I participated in the development of long-term  
21 water supply plans, annual water supply planning,  
22 maintaining the water delivery system, and encouraging  
23 conservation, establishing a water recycling system, and  
24 rehabilitation of the State's groundwater rules --  
25 MR. WOLFF: Can you wrap up?

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1 MS. REES: I'm sorry.  
2 All of the City's water sources are important to  
3 the City's long-term supply planning. However, the desal  
4 plant has always been considered an emergency supply and  
5 will continue to be an emergency supply.  
6 To prevent substantial shortage in 2016 and 2017,  
7 reactivation of the desal plant is really necessary.  
8 Therefore, I urge the Regional Board to adopt the amendment  
9 to the permit and its findings. Thank you.  
10 MR. WOLFF: Thank you very much. Dr. McGowan is not  
11 here. So last but not least is Mr. Mike Jordan. And we  
12 wanted to have a lasting impression here. So we'll have you  
13 come to the podium, and we will make sure that Mr. Young  
14 does not interrupt you and he promised to be listening and  
15 learning.  
16 MR. JORDAN: Those kind words you had about being  
17 concise and right to the point earlier, you can forget  
18 those. I'm not really sure which is less painful, out here  
19 or up there.  
20 Despite my baggage, I'm just here as a resident of the  
21 City of Santa Barbara and most of my points today have  
22 already been made by your staff, the State Water Board  
23 staff, and our City staff.  
24 A State of California oversight 20 years ago has  
25 led to a vested permit and a vested operational permit of

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1 the facility in the city, one that is \$35 million into asset  
2 development and is looking at another \$30 million investment  
3 to get it up to what they expect to be a running facility,  
4 and another \$5 million a year to operate.  
5 I don't have a time machine, but I don't think you  
6 need one. Clearly, the case has been made that you don't  
7 need to go back in time. You just need to ask yourself, was  
8 adequate data available back in 1991 to make what would have  
9 been a couple paragraphs worth of findings that weren't made  
10 at that time due to an oversight?  
11 Multiple EIRs, multiple volumes of studies, all  
12 talking about feasibility and analysis, all coming to the  
13 same conclusion that there was less than a significant  
14 environmental impact, all analyzing multiple locations,  
15 multiple techniques, multiple types of technologies and  
16 coming to the same conclusion that the most feasible and the  
17 one with the less impact than what is out there today.  
18 I'd encourage you to pass the amended order or  
19 resolution making the findings for staff. The one thing I'm  
20 a little shocked at is to hear the consternation and the  
21 questions involved about the City's offer of their three  
22 items. I think Mr. Johnston asked why is the City doing  
23 that. The quick answer to that is because this city has  
24 been and continues to be one of the leaders, if not the  
25 leader in your region, of cities that are onboard with your

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1 mission.  
2 The City has not just followed your mission, but  
3 has many times led your mission by example. That's why you  
4 see those offers on the end. They might have a different  
5 answer, but from a perspective as a resident of this city  
6 and former Water Board member, it's plain to see that that's  
7 the reason.  
8 Thank you for your time. Thanks for the day of  
9 entertainment.  
10 MR. WOLFF: Thank you. Are you going through  
11 withdrawals? Thank you very much.  
12 I would like to request Counsel Austin to help us  
13 strategize a little bit with the time allowance that we  
14 have, a little bit with the time that we have, where we  
15 could go from here in moving forward.  
16 MS. AUSTIN: There are several possible options. One,  
17 of course, is to deliberate in the next 23 minutes and come  
18 up with a solution one way or the other. This could be put  
19 over and continued until tomorrow for additional  
20 conversation and discussion.  
21 I would just want to inform the Board that if there  
22 is a desire by the Board to amend the permit to more clearly  
23 state the three measures, which sometimes have been called  
24 voluntary measures, but counsel for Santa Barbara is saying  
25 they may be required measures. If there is a desire to

1 clearly state those three measures and conditions to the  
2 permit, that is something I would recommend we take that  
3 back with staff and spend time working on good, well-written  
4 conditions, and that is something we could bring back in the  
5 March meeting.

6 So again, these are options for you to decide how  
7 you would like to proceed. I do want to mention if you are  
8 contemplating amending the permit, that is something we  
9 could get direction from the Board today and that's  
10 something we could come back at a later date as opposed to  
11 trying to scramble.

12 MR. WOLFF: Thank you very much. Do we have any  
13 comments back from staff at this time, or could we entertain  
14 input from my colleagues here?

15 MR. PACKARD: Ideally, we'd have a few minutes to talk  
16 about a recommendation and summation. I'd hesitate to get  
17 into that without having a few minutes to do that.

18 MR. WOLFF: So what I'll do at this time -- you heard  
19 some options that are proposed by counsel. I think what we  
20 want to do is -- being able to make good, sound decisions.  
21 You know, this item took quite a bit of time, but I think it  
22 is complex. It's an important issue. I think at the same  
23 time we all recognize the urgency of making decisions, but  
24 we need to make good decisions.

25 I'd like you to -- open to input from my fellow

1 plant on when it wants to. I just want to make sure we have  
2 covered ourselves in terms of the right review as to the  
3 technology it should be investigating and what type of  
4 mitigation would be appropriate.

5 I think we need time to flesh that out, and I would  
6 like staff to get back to us. Really, your recommendation  
7 is one way. Once you've heard from all of us, I would like  
8 to expand the recommendations that are possible. Anyway, I  
9 agree with more time. I agree with having staff weighing in  
10 and giving us some direction.

11 MS. HUNTER: Yes. Mr. Packard, I would like to hear  
12 from staff, and I think you do need -- we have heard a lot  
13 of information, a lot of perspectives today, including the  
14 time travel thing. I would -- I don't know if it would be  
15 appropriate if we have staff at least make summary comments,  
16 perhaps carry this over until tomorrow morning and give you  
17 a chance to prepare some possibilities for what you see  
18 coming out of the discussion today to help us in determining  
19 where we -- how we map this going forward.

20 I think more time is going to reform or allow for  
21 all of us to consider what the different urgencies are.  
22 Some of them are short-term and some are long term. I  
23 consider them to be equally critical. I don't know -- of  
24 course, we want to understand what parameters we have in  
25 order to move this forward in the most expedient way

1 Board members on which direction you would like to go in  
2 deciding.

3 MR. YOUNG: Well, I would -- I do need to hear from  
4 staff. We've heard a lot of things. It seems like we have  
5 this most bizarre situation of having a permit that was  
6 issued, supposedly fully issued, but now there's a problem  
7 with it. Was it ever really completed?

8 You know, there's a piece missing there. That  
9 piece needs to get put into it. I don't know how we even,  
10 say, grant some kind of temporary permit because the State  
11 Water Board is going to do its policy within, like, 90 days,  
12 and if this language in Attachment G is not in this permit,  
13 the City is going to, by default, have to do -- be treated  
14 as a new facility.

15 I'm very sensitive to the City's position. I don't  
16 think the City has done anything wrong at this point in  
17 time. Perhaps it could have come forward ten years ago and  
18 asked for this thing to be fleshed out and amended then.  
19 Now we're backed up against the wall. I think it's kind of  
20 a legal fiction for us to go back in time and speculate as  
21 to what the Water Board would have done then based on what  
22 we are looking at now through our eyes sitting here 24 years  
23 later. I have a problem with that.

24 I'm just contemplating how to reconcile these  
25 things. I want the City to have the ability to turn the

1 possible, but I don't want to take any shortcuts.

2 MR. HARRIS: I think I can provide some clarification.  
3 I think really the issue here is whether the items that the  
4 City is proposing are a mandatory part of the program or  
5 not. We've come to the conclusion that they are not. And I  
6 think, at least on this side of the room, we would like to  
7 have a chance to make them -- ensure they are a firm  
8 requirement of the City.

9 I think by doing that, and listening to the other  
10 speakers, I think that's the concern too that the studies  
11 get done and the City makes a good-faith effort towards  
12 looking at the technology. I don't think that would prevent  
13 the City moving ahead on their timeline if, for example, the  
14 Board gave direction to the staff to go back and revise the  
15 permit. If we were to bring it back to the Board in March,  
16 I think the City, from what I understand, they can move  
17 ahead with their -- what they need to do to get the  
18 engineering work done.

19 This Regional Board has supported this city even  
20 most recently with Lake Cachuma and the emergency pumping  
21 barge, where we did a permit so they can excavate the last  
22 intake on their intake structure. I suspect we're going to  
23 continue to support them. It's just a matter of clarity in  
24 the permit.

25 I don't think -- having done this many times at the

1 State Board, what you don't want to do is rush through  
2 trying to revise a permit at the last minute, in the  
3 eleventh hour, because you ultimately end up with a bunch of  
4 mistakes. It's very difficult.

5 Consistent with one of the options that Ms. Austin  
6 proposed -- I think one you should strongly consider is  
7 direction to staff to take those three items, incorporate  
8 them into the permit and then bring it back for a vote in  
9 March.

10 MR. WOLFF: Before I comment, we'll have my colleagues  
11 give input. Mr. Delgado and then Mr. Johnston.

12 MR. DELGADO: I would like staff response to public  
13 comment, but specifically how CEQA compares to 13142.5(b).  
14 That was a lot of the Channelkeeper's testimony, such as  
15 whether that Code requires the best siting, and CEQA does  
16 not; whether that Water Code requires a combination of  
17 siting and technology and the best combination of those;  
18 whether San Diego required many minimization actions that  
19 have not been posed here. Anyway, just staff comment on  
20 public comments we heard.

21 And I'm unclear if there's been any mitigation done  
22 in the 1992 plant. If it was the \$34 million desal project  
23 that had zero mitigation -- if we're going to go back in  
24 time and try to fix some things, I don't think it's  
25 unreasonable to include mitigation. If they're going to put

1 have the last three paragraphs of that permit looked at to  
2 see if there's a way we can create some comfort level by  
3 making those mandatory. I understand the City's position  
4 that the first two really are as a point of fact.

5 You know, as far as what was proposed by numerous  
6 commenters, that not only should a study be done, but if  
7 either, as a commenter said, under seabed intake was  
8 feasible, or frankly, as the City's study proposes, if  
9 direct portable reuse is feasible because they're proposing  
10 studying that as well.

11 You know, it's been proposed by commenters that we  
12 put into this permit something that's along the lines that  
13 says this is provisional, that this is temporary, that if  
14 the study shows it's feasible, they have to go back and do  
15 that stuff. It's not clear to me how that fits legally with  
16 what we're actually doing here because this is not a normal  
17 renewable permit. This is sort of a one-time shot at  
18 findings.

19 I'm not sure how I feel as a Board member about  
20 that and whether I would vote to impose that as well with  
21 the potential challenges that might come with that. I would  
22 be willing to look at it. I would first like to hear from  
23 counsel, and if possible, maybe hear tomorrow before we give  
24 directions some analysis of is that even really feasible  
25 within the context of what we're doing here with the

1 another 30 to 40 million into it, there needs some sort of  
2 commensurate mitigation. I don't see how you can do a desal  
3 into the ocean without having some sort of mitigation.

4 We're not talking about zero mitigation. But I  
5 think that we should go a little bit further than the three  
6 voluntary actions that have been talked about today. I  
7 agree they should somehow be made concrete. I also don't  
8 believe that studies done does anything. Once the studies  
9 are done, you can throw them in the trash (inaudible) had we  
10 not done the studies, as far as this particular case.

11 So I would like Council and staff to consider what  
12 kind of conditions we legally could include, such as having  
13 the studies completed by time certain, having some  
14 discussion of what kind of studies we're talking about and  
15 some kind of implementation of the studies -- conclusions of  
16 the studies' recommendation by a time certain. If the  
17 studies' recommendations and conclusions aren't enacted,  
18 then it's just a paper exercise to reopen the plant forever  
19 without coming up to today's standards. Those would be my  
20 comments.

21 MR. WOLFF: Mr. Johnston?

22 MR. JOHNSTON: Thank you, Mr. Chair. I would certainly  
23 be comfortable with -- I would be comfortable with approving  
24 this draft permit as written. I would prefer to have -- as  
25 counsel suggested was possible, to have the permit be -- to

1 upcoming Ocean Plan with the fact that this is not really an  
2 element of a renewable permit, but instead a finding on  
3 13142.5(b), whatever the heck it is. I'd like to hear on  
4 that.

5 As I said, I'm not sure I would support that or  
6 not, but if it's not an option, I don't have to think about  
7 it.

8 MS. AUSTIN: Let me be clear. It's whether or not we  
9 can put additional conditions in the permit?

10 MR. JOHNSTON: Whether or not, as numerous commenters  
11 suggested and as my colleague Mayor Delgado just inferred,  
12 whether or not we can actually say we're going to approve  
13 something that has the study down the road that requires  
14 them in the future to implement the results of that study if  
15 shown to be technically feasible.

16 I don't even know if that's within the boundaries  
17 of what we're able to do here. If it's not, I don't want to  
18 spend a lot of time talking about it. If it is, then we  
19 have to decide if that's the approach we want to take. I'd  
20 like to get some guidance maybe tomorrow before we tell you  
21 guys where we want you to go on that question.

22 I'm hearing that from my colleague Mayor Delgado,  
23 and, you know, the threshold is, is it even something that's  
24 within the realm of what we can do.

25 MR. WOLFF: So, you know, I'm a little concerned about

1 moving this item until tomorrow. I'm not convinced that  
 2 overnight staff will have the opportunity to calibrate the  
 3 time machine and -- I mean, there's a long list of questions  
 4 here. There are also certain questions that will require a  
 5 little more legal counsel review, and those answers may not  
 6 be available necessarily tomorrow morning.

7 I think Mr. Harris's suggestion of requesting staff  
 8 to come back at the next meeting with answers, and we'll  
 9 have had the time to frame a little bit better how we could  
 10 amend this, making sure we're on solid ground, i think  
 11 that's one point.

12 The other point that I would like to assure  
 13 myself -- and I'm asking these questions to the State  
 14 Board -- is if we did postpone a decision to the next March  
 15 meeting, is this going to jeopardize in any way the progress  
 16 work that the City of Santa Barbara has done? I know  
 17 there's issues of timing that were brought up. I would like  
 18 to make sure that we do not have any unintended consequences  
 19 here causing overlapping of the final ruling from State  
 20 Board --

21 MR. HARRIS: Mr. Chair, if it's the Board's desire to  
 22 carry this over, I would be -- I would ask the staff here to  
 23 transmit to the Board members of the State Board not to move  
 24 ahead with the desal policy necessarily before we come back  
 25 and make a final decision. I think that's a reasonable

1 direction is. Our preference would be to have this done  
 2 today or tomorrow because our timing is very tight.

3 MS. BJORK: I think your comments about engineering are  
 4 correct. We are waiting for a proposal to be submitted to  
 5 us. What we are still working hard on and working with  
 6 another branch of the State Board is financing, whereas we  
 7 are fairly certain we have a valid -- we would like to make  
 8 sure that we have our I's dotted and our T's crossed and  
 9 that we are not out of step with the State. And the  
 10 financing issue is what's put at risk by waiting until  
 11 March.

12 So I agree that if we can move on the process  
 13 now -- we've tried to work hard to get this earlier in the  
 14 process -- I would just say that in 2009, we did do fairly  
 15 extensive study of our desal plant and what it would take to  
 16 put it back online, including looking at whether the permits  
 17 were all valid. At that time, this issue was not  
 18 identified. So it really has caught us unaware and it's a  
 19 major hiccup for us. We're really worried about being able  
 20 to deliver to our customers.

21 MR. HARRIS: Mr. Chair, a couple items: We certainly  
 22 can work with the Division of Financial Assistance to  
 23 minimize any impact to the City.

24 There must be something in the water here in Santa  
 25 Barbara. It seems like every time we come down here, we end

1 request.

2 MR. WOLFF: I think we need to be fair with the City.  
 3 The City is obviously trying to do their best. It's sort  
 4 of -- they're trying to do their best. We're in a bit of an  
 5 unusual situation here. So I think you showed a good-faith  
 6 effort. If there was a way to have the assurance that if we  
 7 delay this to March, it is not going to have a negative  
 8 impact on the decision and if you can currently proceed with  
 9 some of the engineering work, maybe that's a possibility.

10 UNIDENTIFIED SPEAKER: Two of us will address some of  
 11 those concerns. One thing from my perspective is I'd be  
 12 happy to work -- to counsel and staff, I don't know that the  
 13 changes with regard to making the three measures that the  
 14 City has committed to doing -- making those part of the  
 15 permit or more enforceable to provide the Board a heightened  
 16 level of certainty, I don't know that those are significant  
 17 changes. Maybe they are. I don't think they are. We read  
 18 them as being requirements.

19 Clearly, on the subsurface issue, we would have to  
 20 flesh out a time frame and some milestones. And I think the  
 21 City is willing to discuss those. So I think from a timing  
 22 perspective from a legal point of view, it would be great to  
 23 try to make some progress and bring something back tomorrow.  
 24 Maybe it's not adopted if it's not perfect, but at least  
 25 there's a heightened level of certainty about where the

1 up with these very long sessions that tend to impact the day  
 2 before we have a very contentious act, which is tomorrow.

3 So I am a little concerned about trying to get this  
 4 done before we deal with tomorrow, which will very likely  
 5 run just as long.

6 I'm again going to recommend we not try to make  
 7 adjustments to the permit tonight and continue it to March,  
 8 and we can work with the City Division of Financial  
 9 Assistance and the State Board to try to minimize any impact  
 10 on the City.

11 MR. WOLFF: Mr. Johnston.

12 MR. JOHNSTON: The problem I have with that, with what  
 13 Mr. Harris just said, is that we've got two distinctly  
 14 different threads that have come out of the Board discussion  
 15 here. One is let's tweak the language here to make those  
 16 three items that the City's already proposed stronger, and  
 17 the other is let's discuss a somewhat different framework  
 18 that has mandatory -- it's either on a temporary basis and  
 19 gets revisited or has mandatory, if feasible, changes to the  
 20 infrastructure down the road.

21 You know, I think in fairness to the City, it would  
 22 be good if we could at least -- I understand what counsel  
 23 was saying. You don't necessarily have to see a resolution  
 24 out, but they want to get a sense of where we're going on  
 25 that. In terms of efficiency of staff time, if we can

1 resolve which of those two directions we're going, then  
2 we're creating a lot less work for you folks and we're  
3 giving the City some certainty down the road.

4 So I wasn't proposing we revisit this tomorrow and  
5 pass a resolution tomorrow. I was just proposing we hear  
6 back -- and maybe counsel's prepared to answer right now --  
7 on the question of whether it is practical to do something  
8 to require future stuff down the road on the basis of a  
9 study or not, within the frame where we're working with  
10 them.

11 We have to give some sense of direction to both the  
12 staff and City where we're going on this.

13 MS. AUSTIN: We do that all the time. There are  
14 frequently actions by the Board where we adopt a permit  
15 which requires a study with the intent of implementing the  
16 result of that study.

17 Obviously, the criteria and what the expectations  
18 are and the fuzzy language about "to the extent feasible,"  
19 which inevitably brings these types of provisions, that kind  
20 of thing would need to be worked out. The general concept  
21 of having a permit study something and later implement the  
22 results of that study, that is not a novel concept.

23 MR. JOHNSTON: Even in the context of what we're doing  
24 here is essentially a -- I forget a number of the section  
25 findings?

1 to definitively state that this is a new facility as of  
2 today. I think the proposal that is being queried about  
3 whether the Regional Board could say today -- could do a  
4 feasibility study for intakes and if it's determined,  
5 presumably by the Regional Board or by the City, that detail  
6 has to be worked out.

7 If it is determined that it is feasible, then the  
8 City is required to install subsurface intakes. The only  
9 way the Regional Board might be able to get there is by  
10 saying that this is a new, non-existing facility. I'm not  
11 saying you can or you can't. That would be the only way to  
12 impose that kind of requirement would be to say this is a  
13 new facility.

14 MR. WOLFF: I'd like to circle back a little bit into  
15 the organizational aspect of this meeting.

16 MR. HARRIS: Mr. Chair, it's 5:00 o'clock. We have got  
17 to get out of here.

18 MR. WOLFF: I'm very uncomfortable looking at continuing  
19 this item tomorrow because what will happen is that is going  
20 to be a half a day discussion. Having my experience, this  
21 is going to be another four hours. There are a lot of  
22 questions asked, and I think it would be -- would do a  
23 disservice to ourselves and also to the City by trying to  
24 say, "Well, we'll cover this tomorrow," because there are  
25 quite a few issues there that still will require staff

1 MS. AUSTIN: I want to be cautious about what we're  
2 talking about doing is a potential permit amendment to a  
3 condition of the permit, which is completely separate from a  
4 finding.

5 In terms of requiring something, I think that's  
6 been sort of the conversation here about whether or not this  
7 is something that's an enforceable condition of the permit.  
8 That's the sense of staff, that it would make sense to amend  
9 the permit to more clearly state it as a condition or  
10 requirement of the permit.

11 MR. HARRIS: So we have to do it now and you adopt the  
12 permit. We can't put off making a requirement later after  
13 we adopt the permit.

14 MR. JOHNSTON: What you're saying is, for example, we  
15 could say if we chose to, you know -- the deliverables on  
16 the studies, and if the studies find that there are  
17 technically feasible superior ways to do the intake, either  
18 under sea floor or whatever, that the City would be required  
19 to do that and we could put that all in the amendment?

20 MS. AUSTIN: You could draft permit conditions along  
21 those lines.

22 MR. WOLFF: I think that, Mr. Wyles, you had comments?

23 MR. WYLES: Phil Wyles. Let me put a slightly finer  
24 spin on this. I think, frankly, what we've come to you with  
25 here is a proposal that does not require the Regional Board

1 interpretation and comments.

2 I think ultimately, if we do not harm the City by  
3 having these delays and we have assurance from the State  
4 Board, as suggested by Mr. Harris, that they will work with  
5 the timing so it does not cause challenges with the  
6 regulations, I think that having it delayed to March would  
7 be possible.

8 MS. HUNTER: I think we're all considering the impact to  
9 the City, but we have many stakeholders today that came to  
10 also share the urgency that they feel. I don't want to  
11 overlook the possibility that they also want an opportunity  
12 to -- that deliberation will continue in a way that allows  
13 us to deal with these complications. So I don't want to  
14 just say this is about the City. This is about the  
15 stakeholders that came forward today representing many  
16 different --

17 MR. WOLFF: When I use the term "the City," it's a  
18 holistic term because it is implicit to all the stakeholders  
19 and the City.

20 So, Ms. Whitney, I think you wanted to add a  
21 comment.

22 MS. WHITNEY: I'm quite sure the State Board is not  
23 going to act on the desal amendment by March. That said,  
24 Megan Powers, who's been assisting your staff in writing  
25 these conditions, her last day is the day -- Monday, and so

1 she'll be leaving. And, you know, my directions with the  
2 desal amendment are get it to the Board as quickly as I can.

3 Mr. Harris's comments notwithstanding, I'm going to  
4 follow the direction from the Board's executive director.  
5 They're anxious to get this done in no small part because we  
6 have an executive order from the Governor to direct the  
7 State Board to work with local entities to address water  
8 supply shortage issues and resolve them. We issued a  
9 statewide recycled water order recently in record time  
10 following that directive. We're compelled to get this stuff  
11 wrapped up too.

12 MR. WOLFF: Another important element was the grant.  
13 You suggest, Mr. Harris, that possibly --

14 MR. HARRIS: You mean the DFA? I'd like to respond to  
15 Ms. Whitney in that our staff and their staff, we've worked  
16 very hard to try to bring this to you in a timely manner  
17 working with the City. The Board has brought up a number of  
18 issues, as have the stakeholders. And so the outcome is the  
19 outcome today. We have tried very hard and will continue to  
20 work hard with everyone involved.

21 MR. WOLFF: So do my colleagues agree not to bring this  
22 to tomorrow and basically request staff and legal counsel to  
23 take the inputs -- the questions we had and finalize this in  
24 March?

25 MR. JOHNSTON: I would still like to see if we can give

1 fourth step and say, essentially, and if the result of the  
2 subsurface feasibility study is that some entity determines  
3 it is feasible to do subsurface intakes, then the City must  
4 install subsurface intakes, my view is that the only way  
5 that would be consistent with the Board's jurisdiction is to  
6 say that this is a new or expanded facility and the Board  
7 gets a second bite at the apple now.

8 MR. YOUNG: Well, that's what our staff would need to  
9 come back with and advise us on. That would be a  
10 consideration as to how we approach that.

11 MR. JOHNSTON: I think we need to give them some  
12 direction. First of all, I'd like to hear from our counsel,  
13 because I respect your opinion, but you're not representing  
14 us. I'd like to hear from our counsel. I don't know if  
15 you're comfortable right now, or if you'd rather do that  
16 tomorrow morning.

17 Secondly, I would like for us to give direction to  
18 staff before today -- or today and tomorrow is over as to  
19 what we want them to come back with. I don't want them to  
20 bring us back a whole Chinese menu and have another day of  
21 discussion and meanwhile the City has no idea where we're  
22 going.

23 MR. YOUNG: Can we come back tomorrow morning, Mr.  
24 Chair?

25 MR. WOLFF: What I'd like to see tomorrow is us giving

1 staff a little clearer direction as to where we want them to  
2 go. Are we directing them to sit with the City and see if  
3 they can rewrite the draft to simply concrete more the three  
4 offers or are we directing them to go back and create a  
5 somewhat different framework in terms of mandatory  
6 conditions on the study?

7 MR. YOUNG: We do need to come back in the morning -- at  
8 some point tomorrow and we do need to give staff better  
9 direction. It's too loose at this point, and I've got more  
10 to say on these three measures and what I think is  
11 acceptable and what isn't.

12 I don't want staff running off right now on one  
13 tangent when I think some of these things need a little more  
14 clarification in terms of what we are thinking of doing.

15 We just heard from Mr. Wyles, who I believe just  
16 said if we condition the permit, we're essentially declaring  
17 it a new facility. Am I correct? If we condition the  
18 permit with the three requirements at the tail end of  
19 Attachment G, we're essentially saying it's a new facility?

20 MR. WYLES: No, that's not what I meant. If the three  
21 conditions at the end of Attachment G -- that's easy.  
22 Somebody suggested, and I agree with them, we can rewrite  
23 them as true permit conditions. But that's not what you're  
24 looking at right now.

25 The question about whether you can take another

1 directions, not basically reopening a debate back and forth  
2 to staff. I'm totally comfortable to better articulate  
3 tomorrow direction to staff. If we do this tomorrow  
4 morning, with that in mind, I'm also totally fine with that.

5 MS. AUSTIN: We do have the option to closing the  
6 hearing to additional public comments. We can restrict this  
7 conversation to deliberations and a specific clarification.

8 MR. WOLFF: I think that will be the best approach to  
9 manage our time tomorrow morning. As Mr. Harris said, we  
10 have a busy agenda and we want to be fair with the other  
11 parties coming tomorrow.

12 MR. DELGADO: Would it make more sense to hear this item  
13 in the afternoon than to hear the item in the morning?

14 MR. HARRIS: I would suggest that we come back in the  
15 morning because there's continuity, and we try to limit it  
16 to an hour or something. I hope we can do it in an hour.  
17 The ag issue is going to be there. Everything else we can  
18 push off the table if we need to.

19 MR. DELGADO: My concern is that in the interest of  
20 getting this wrapped up, we're not going to get a very  
21 thorough response to the public comment and we're going to  
22 be in the mode of making a decision without having heard all  
23 the information that kind of got us in the problem in the  
24 first place. It wasn't a completed process back in the '90s  
25 on. The difference between CEQA and the 13142.5(b), I don't

1 know if staff has the time to answer that question. If so,  
2 great.

3 MS. AUSTIN: I'll have that answer tomorrow morning.

4 MR. HARRIS: We're not proposing for this to go for a  
5 vote tomorrow.

6 MR. YOUNG: Just direction.

7 MR. WOLFF: If there is further clarification, then we  
8 can also get that information. And that way we still  
9 accomplish the end result.

10 I would like to -- on that note, to close today's  
11 meeting. It is ten past 5:00, and we will reconvey tomorrow  
12 morning for approximately an hour on this.

13 MR. YOUNG: At what time?

14 MR. HARRIS: The agenda says 9:00, so we have to come  
15 back at 9:00.

16 MR. WOLFF: Thank you very much, everyone.

17 (Meeting adjourned at 5:15 p.m.)  
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