

Exhibit H

STATE WATER RESOURCES CONTROL BOARD
PUBLIC WORKSHOP
MODESTO, CALIFORNIA

IN RE:)
)
MANAGEMENT AND DISPOSAL)
OF FOOD PROCESSING AND)
WINERY WASTE THROUGH LAND)
APPLICATION AND OTHER)
MEANS.)
_____)

**CERTIFIED
COPY**

REPORTER'S TRANSCRIPT OF AUDIOTAPED PROCEEDINGS
Modesto, California
Proceedings dated
Monday, July 11, 2005

BIEHL & BELL, ET AL.

CERTIFIED SHORTHAND REPORTERS

Transcribed by:

LAURIE HELD-BIEHL

CSR No. 6781

JOB No. 205851

tel: 714.634.4800

fax: 714.634.4790

toll free: 800.208.6494

www.biehlandbell.com

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

STATE WATER RESOURCES CONTROL BOARD
PUBLIC WORKSHOP
MODESTO, CALIFORNIA

IN RE:)
)
MANAGEMENT AND DISPOSAL)
OF FOOD PROCESSING AND)
WINERY WASTE THROUGH LAND)
APPLICATION AND OTHER)
MEANS.)
_____)

REPORTER'S TRANSCRIPT OF
AUDIOTAPED PROCEEDINGS, said
proceedings dated Monday, July 11,
2005, proceedings conducted at the
Stanislaus County Board of
Supervisors Chambers,
1010 10th Street, Modesto, California,
transcribed Wednesday, August 10,
2005, transcribed to the best of her
ability, not having been personally
present, by LAURIE HELD-BIEHL,
Certified Shorthand Reporter No. 6781.

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

APPEARANCES :

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD:

**ARTHUR G. BAGGETT, JR., Chair
TAM M. DODUC**

**CALIFORNIA CENTRAL VALLEY REGIONAL WATER
CONTROL BOARD:**

**KARL E. LONGLEY, Vice Chair
ALSON B. BRIZARD**

1 Monday, July 11, 2005

2 12:00 p.m.

3 Modesto, California

4
5 CHAIRMAN BAGGETT: Good morning, or good
6 afternoon, I guess. Welcome to the special workshop
7 we're doing on practices for management, disposal of
8 food processing and winery waste through land
9 application and other means. And we do appreciate
10 the attendance today.

11 There's a number of questions in the notice,
12 I think you're all aware of, and this is mainly a
13 fact-finding mission. My colleague, Tam Doduc, and
14 with two regional board members, Karl Longley and
15 Al Brizard, from the Central Valley Regional Board,
16 that we asked to sit up here today, then their chief
17 counsel, Craig Wilson. And who else is here? Danny
18 Merkley, our staff on ag issues is also here and a
19 number of other staff.

20 First I'd like to ask the supervisor --

21 Jeff Grover, we'd like to thank you for
22 helping us put this together and your assistants, and
23 Andy, I know, helped us out a lot.

24 UNIDENTIFIED SPEAKER: If I could just take a
25 moment to welcome you here on behalf of the

1 Stanislaus County Board of Supervisors. We're very
2 appreciative of the time that you're taking and the
3 investment of time and staff to look into these very
4 important issues for us.

5 I know that here in Stanislaus County part
6 of this issue is very, very important. Our food
7 by-products, recycling program has grown over the
8 last 17 years to effectively recycle 300,000 tons of
9 food by-product and is not a wastewater issue; so we
10 think that will come out.

11 We'd like to commend Sonia Ericfeld in the
12 Department of Environmental Resources, our ag
13 commissioner, Dennis (inaudible) and his folks, the
14 food processors in our area, and the Lyons family on
15 developing that very effective program; so thank you
16 for coming and spending the time and welcome.

17 CHAIRMAN BAGGETT: Okay. And thank you for
18 helping today in this important issue to Stanislaus
19 County.

20 So today we've also got a matrix interview,
21 seeing that we tried to summarize what the nine
22 regional boards different programs are and there's a
23 summary, I think it's available on the outside -- or
24 back table. If there are any people that haven't got
25 this -- sitting on the corner over there for anybody

1 that hasn't got it.

2 Any of my colleagues here have any opening
3 comments, anything you want --

4 Karl.

5 MR. LONGLEY: Yes, Art. Thank you very much for
6 asking Al and I to join you today. Certainly the
7 input that we get is very beneficial and important to
8 us as we go forward on this issue which seems to be
9 causing a considerable amount of problems, if you
10 will.

11 CHAIRMAN BAGGETT: Okay. With that, maybe
12 briefly before we hear from a number of panels and
13 groups that want to speak today, Ted here is -- to
14 look at this from the State Board's perspective to
15 ask a number of questions and maybe I'll just go over
16 this real quickly.

17 They were written in the notice but just so
18 you realize, there'll be some give and take, like
19 we'll ask some questions, we aren't making any
20 decisions, we're just trying to understand this issue
21 better from a statewide perspective.

22 So the first question was does the land
23 application of food processing and winery waste
24 threaten groundwater quality and beneficial uses of
25 groundwater?

1 Should there be statewide consistency --

2 This, I think, is an important question,
3 given this is a State Board workshop.

4 Should there be statewide consistency in
5 regulating food processing and winery waste rather
6 than allowing regional and environmental variations
7 and differences? If there should be consistent
8 statewide regulations of food processing and winery
9 waste, how should that consistency be developed?

10 Should food processors and wineries be
11 encouraged to develop practices and guidelines for
12 the management and disposal of wastes that are
13 protective of groundwater?

14 Should there be third-party certification of
15 food processing and winery waste management and
16 disposal plans to help interface with our program?

17 And are there economical ways to address the
18 salt loading issues associated with food processing
19 and winery waste disposal, which I think we all are
20 aware is a condition here.

21 With that, we are fortunate to have the
22 Undersecretary of California Department of Food and
23 Ag, A.J. Yates.

24 MR. YATES: Thank you, Chairman Baggett, for
25 convening this public workshop regarding management

1 of agricultural by-products resulting from processing
2 activities that literally feed our nation and the
3 world.

4 I'm A.J. Yates, the Undersecretary of the
5 Department of Food and Agriculture.

6 California's food processing industry is as
7 skilled and diverse as its farmers and ranchers.
8 It's an integral part of a sophisticated system, to
9 borrow a phrase, to use everything but the shade.
10 By-products of food processing are valuable nutrients
11 from plants and animals and soil amendments that
12 maintain tilt and reduce erosion.

13 In the past some have referred to these
14 by-products as industrial waste and required the
15 material to be land filled or otherwise treated and
16 disposed. I would argue that agriculture wants to do
17 the right thing by our environment and the land that
18 sustains us. Farmers and ranchers are indeed our
19 nation's first conservationists; therefore, let us
20 proceed along evidence-based lines backed by science
21 and understanding of the true nature of the land and
22 its condition.

23 Without an evidence-based reasonable
24 approach, significant costs would occur to the
25 processors and the valuable cost-effective resource

1 would be lost to beneficial uses. From an economic,
2 environmental and energy standpoint, it simply
3 doesn't make sense.

4 There's no question that water quality must
5 be protected. The question is how best to do it.
6 Characterizing a resource as a waste is not how.

7 The California food processing industry
8 provides 45 percent of the world's supply of
9 processed tomato products, 100 percent of the
10 domestic supply of canned peaches, fruit cocktail and
11 olives.

12 The industry is also the major producer of
13 dried and frozen fruits and vegetables. The region
14 also produces nearly 90 percent of the grapes grown
15 in California, about 80 percent of the grapes grown
16 in the United States. A large majority of these
17 grapes are processed into raisins, wine and juice.

18 The solid and liquid by-products of these
19 processing facilities contain naturally occurring
20 constituents that, when used properly, provide
21 nutritional benefits to livestock and poultry and
22 improve soil quality. Of course, if they're overused
23 the accumulation of these substances, such as salt
24 and nitrates, can have an adverse impact on water
25 quality.

1 The key is to determine where and why a
2 problem exists and provide the technical and
3 scientific support to address what we need to do.
4 Recycling of these by-products and nutrients,
5 conserving and reuse of our precious water supplies,
6 is part of a natural and necessary process that keeps
7 local food production viable.

8 The key is to recycle these by-products
9 using appropriate, best management practices to
10 assure application at agronomic rates. Doing so not
11 only protects the environment but also makes the most
12 economic sense. This is no different than leaving a
13 crop in the field if it is uneconomic to harvest
14 turning it back to the soil.

15 I would also point out that another
16 management tool that is emerging from the toolbox is
17 the use of these by-products in the production of
18 renewable energy. Biomethane, biodiesel and fuel
19 ethanol are already on the marketplace. The
20 production of these fuels may make economic sense in
21 some situations. Environmental regulations across
22 air, water and soil should be coordinated to allow
23 these emerging environmental beneficial products to
24 enter the marketplace.

25 Efforts such as the Stanislaus County Food

1 Processing Residue Program should be used as a model
2 and refined as necessary. This program provides the
3 local oversight and accountability while recognizing
4 local conditions, the cost of by-product management
5 and the value of those by-products to agriculture
6 producers. More research may be required to provide
7 the information necessary to characterize appropriate
8 loading rates. Any regulation program needs to be
9 based on the best science available.

10 Thank you, Mr. Chairman, for the opportunity
11 to speak this group.

12 CHAIRMAN BAGGETT: Thank you for making the trip
13 down. We appreciate the comments.

14 Any questions?

15 All right. I don't see any sitting members
16 of the Assembly or -- I know we've got Gail here, an
17 Assembly member, but you don't wish to speak.

18 Any other members or staff that want to make
19 any comments?

20 With that, I think what we'll do is allow
21 the regional boards to sort of make some opening --
22 whatever comments they want to make on the programs
23 they've got going and then we'll pick out a panel of
24 food processors and we've got -- we've got
25 environmental issues and we'll sort of try to keep

1 the group like that and maybe come back to questions
2 later, if we feel the need to.

3 With that, Mr. Pincos, executive officer of
4 the Central Valley Regional Board.

5 MR. PINCOS: Thank you, Mr. Chair. Mr. Chairman
6 and members of the board, I'll make my comments very
7 brief. We did submit a written statement addressing
8 the questions.

9 I guess probably one primary reason we're
10 here today is because of the presentation that my
11 staff gave to my regional board back in January of
12 this year. We also addressed the regional board back
13 in March of the year 2000 based on the same topic
14 where we outlined what our approach would be with
15 respect to food processors.

16 Our purpose in addressing the board in
17 January was to basically bring the board up to date
18 as to where we'd been and where we think we're going
19 and what our strategy is. As perhaps as indicated in
20 the spreadsheet that you passed out, in the Central
21 Valley we have 360 regulated food processors, a third
22 of these discharge to POTWs and two-thirds of them
23 discharge to land, either under requirements or a
24 waiver.

25 Our prior permitting focus was always

1 addressed towards the waste to the land, assuming
2 that the soil would break down the organics and the
3 focus was on the organics and the nutrients as
4 opposed to the inorganic constituents. And that's
5 where I think some of the shift is in our thinking in
6 being concerned about the inorganics, i.e., the salts
7 or the nitrates.

8 We've reviewed our groundwater monitoring
9 data and we have 105 food processors that are about
10 half, in fact, monitoring groundwater. Of these, the
11 data indicate that 40 percent are polluting or
12 degrading the groundwater and that to date the
13 industry guidelines that we've been using really have
14 not been adequate to protect water quality. We have
15 in our basin plans certain guidelines that again in
16 the past addressed nuisance and odor conditions and
17 not the kind of concerns that we have today.

18 So our approach has been with our staff to
19 update monitoring and reporting programs to get
20 information to work with those dischargers that
21 currently have waste discharge requirements to ensure
22 that they're in compliance.

23 What we're doing is not proposing any new
24 regulations. It's been alleged that we are. We're
25 working strictly within the confines of the existing

1 statutes, regulations and policies.

2 Since January we've met with various
3 industry groups, we tried to respond to requests for
4 information, we are in the process of preparing a
5 waiver for Stanislaus County regarding their solid
6 waste food by-products operation. We're slowly
7 moving to update monitoring reporting programs and
8 we're slowly taking enforcement where enforcement is
9 appropriate at various facilities.

10 The simple answer to the five or six
11 questions, one being somewhat compound, is basically
12 yes; the answers are yes, that basically groundwater
13 quality is threatened. Again, with the 212 food
14 processors that we have under requirements, we have
15 19 percent with confirmed impacts, we have about
16 56 percent we believe that impacts either are
17 threatened or, in fact, occurring.

18 Statewide consistency, definitely. And
19 again, we believe that the regulations and policies
20 and statutes and working with them provide the
21 consistent framework and all it takes is to implement
22 those and work up through the process, i.e., the
23 regional board and the state board make various
24 decisions to ensure consistency happens.

25 One of the things we've done internally

1 under my predecessor was to implement a consistency
2 advisory group; so within the Central Valley alone,
3 within the three offices we have, we are making a
4 concerted effort to try to achieve consistency
5 throughout the valley.

6 Should industry help to develop guides?
7 Yes, no question about it. We are working with the
8 California League of Food Processors as well as the
9 Wine Institute with respect to the various manuals of
10 good practices that they are developing, our staff is
11 providing comment in working with both of those
12 groups.

13 Third-party certification. Our simple
14 answer to that is yes, to the extent that it assists
15 the regional board. Like, for example, the dairy
16 quality assurance program. If we have facilities
17 that are able to assure some kind of compliance or
18 level of performance that allows the regional board
19 to establish its priorities, that is a great help to
20 us.

21 Now, if one would argue to have third-party
22 certification to act as a surrogate regional board
23 regulation, no. We have to do our job, we have to
24 regulate, but certainly some kind of third-party
25 certification can assist us in dealing with the large

1 regulatory community that we have.

2 CHAIRMAN BAGGETT: In regards to that, I
3 think -- we're working with Merced County on the
4 dairy program which isn't before us today at all,
5 but -- where they've got a health officer who's doing
6 a lot of the inspections and so on; so it's quasi --
7 I mean, it's in the regional board's regulation but
8 does that type of program work when you've got an
9 independent body, like a county health --
10 environmental health officer going out and certifying
11 that they're meeting the requirements that the
12 regional board lays out?

13 MR. PINCOS: Yeah, I -- I'm really not sure how
14 exactly the dairy quality assurance in --

15 CHAIRMAN BAGGETT: This is only in Merced
16 County --

17 MR. PINCOS: In Merced County --

18 CHAIRMAN BAGGETT: -- the trial that we did.

19 MR. PINCOS: Can any of the staff here provide
20 an answer to that for me? A more specific answer,
21 please?

22 Nobody's got anything else.

23 CHAIRMAN BAGGETT: I mean --

24 MR. PINCOS: What I'm thinking about is, for
25 example, I mean, we work with local agencies all the

1 time in the underground tank program --

2 CHAIRMAN BAGGETT: Right.

3 MR. PINCOS: And I notice each -- each
4 arrangement is a little different.

5 CHAIRMAN BAGGETT: Right.

6 MR. PINCOS: But again here, to the extent that
7 we can have a health officer or ag commissioners or
8 somebody assisting us in monitoring what's going on
9 out in the field, and to the extent that we can reach
10 a certain level of confidence that a number of
11 facilities certainly have a -- I'll call it a Good
12 Housekeeping Stamp of Approval --

13 I mean, I will tell you personally I don't
14 want my limited staff to be spending time --

15 CHAIRMAN BAGGETT: Right.

16 MR. PINCOS: -- at facilities that are doing
17 well. But that doesn't mean that they'll never see
18 us.

19 CHAIRMAN BAGGETT: Right. I'll agree.

20 MR. PINCOS: So -- but I'll get back on the
21 dairy program to see exactly how that's been working.

22 Last question, economical ways to address
23 salt loading. Certainly spending some money up front
24 to prevent rather than have to deal with it after
25 there's a problem is economical.

1 We would argue that trying to prevent it,
2 sometimes source control, trying to deal with the
3 problem up front is much more economical than waiting
4 for a problem to happen than having to deal with
5 what's in the groundwater and surface waters.

6 I've given kind of simple answers to
7 somewhat simple questions but the answers are much
8 more complex than I'm obviously presenting to you
9 now. But I guess in the end the bottom line for the
10 regional board is we sure do want to work with the
11 industry, I think our track record shows that we want
12 to do that, and try to find a mutually satisfactory
13 solution. But in the meantime, we have quite a bit
14 of work to do.

15 And I have a lot of staff here that could
16 maybe answer some specific questions if the board had
17 one.

18 CHAIRMAN BAGGETT: Any questions from these
19 folks? No?

20 MR. PINCOS: Thank you.

21 CHAIRMAN BAGGETT: The purpose here I don't
22 think is to get into the details of every line of the
23 permit requirements but ask those broader policy
24 questions.

25 Does the Region 3 have -- do you have any

1 comments? Harvey?

2 I don't know if we have any other regional
3 boards here. I think Region 3 I think is the only
4 (inaudible).

5 MR. PACKARD: My name is Harvey Packard. I'm
6 with the Central Coast Water Quality Control Board.

7 You have the information that we provided in
8 the matrix, but I'd like to expand a little bit on a
9 few of those areas.

10 We have about 250 wineries in our region.
11 The Paso Robles area alone has about 70. Winery
12 development is increasing quite a bit in our region
13 due to large increases in vineyard acreage. Mostly
14 they're small, family operated wineries that produce
15 less than 5,000 cases of wine annually. We only have
16 about 10 to 15 wineries that are what we consider
17 large, producing more than 100,000 cases of wine.

18 We have about 25 regulated food processors
19 and probably similar numbers that aren't regulated,
20 either because they -- primarily because they
21 discharge in the community treatment systems.

22 Most of our food processors are vegetable
23 packers, we have some that process fruits and
24 mushrooms. A few of these food processors just
25 started to surface while they're under NPDES permits

1 but the majority discharge to land. No wineries
2 discharge to surface water. Some wineries are
3 located in urban areas and discharge into community
4 sewer systems, but the majority are in rural areas
5 and have on-site wastewater systems.

6 The smaller wineries typically use septic
7 systems, larger ones use lined aerated ponds to
8 stabilize the wastewater before recycling it under
9 their vineyards for irrigation of crops, frost
10 protection or dust control. Medium sized wineries
11 use a combinations of these technologies. Some are
12 now using constructed wetlands.

13 Spreading basins are rarely used at large
14 wineries in the Central Coast Region. The big reason
15 is because they require a lot of real estate which is
16 fairly valuable. Solid waste generated at these
17 facilities are usually composted on the properties or
18 hauled to regional composting operations. Solids --
19 we do have solids to be -- composted solids to be
20 incorporated back into crop land.

21 We have a general order that regulates
22 wineries and a separate general order for other food
23 processors. The effluent limitations limit -- limit
24 POD application to about 300 pounds per day per acre.
25 We also require the use of screens to remove solids

1 and lined aeration ponds to treat organic loads.
2 Ideally, wastewater is recycled for crop irrigation
3 or dust abatement.

4 Our prior concern with winery process
5 wastewater is salts. There's no treatment technology
6 that's economically feasible to remove salts from the
7 wastewater. Our general order focuses on source
8 control, minimizing chemical and water usage, not
9 using self-regenerating water softeners and
10 minimizing the use of water softeners.

11 The general order is designed to encourage
12 wineries to recycle wastewater into the largest area
13 possible to spread out the water and prevent
14 localized impacts to water.

15 Medium to large wineries that use spreading
16 basins and could pose a threat to groundwater will
17 typically require groundwater monitoring. We use --
18 we can use groundwater monitoring to -- as a tool to
19 require more recycling or promote more recycling. If
20 a facility recycles its wastewater, we might not
21 require as much groundwater monitoring.

22 And as for the specific questions, we didn't
23 talk about these previously but our answers
24 correspond with what Mr. Pincos said previously; we
25 do agree that land application of wastewater can

1 threaten groundwater, especially if the management of
2 the waste is not appropriate for the environmental
3 setting.

4 As far as consistency, there should always
5 be as much consistency statewide as possible. But
6 again, there's usually regional variations among the
7 regions that require some specifics for the regions.

8 We continue to encourage food processors,
9 such as the Wine Institute, to develop guidelines for
10 wastewater disposal. We found those to be useful in
11 our region.

12 And again, the most economical way to
13 address to salt loading issues are source control and
14 recycling.

15 In summary, in the Central Coast Region we
16 consider groundwater to be extremely valuable. Close
17 regulation of food processing facilities is important
18 in maintaining water quality. We require both source
19 control of potential pollutants and treatment of
20 solid and liquid wastes; we require groundwater
21 monitoring where in our judgment conditions of waste,
22 its treatment and disposal and the disposal location
23 require such monitoring.

24 CHAIRMAN BAGGETT: Any questions?

25 UNIDENTIFIED SPEAKER: I just got one.

1 Water softeners always pricks my interest
2 having dealt with it so much from the board's
3 perspective in Southern California.

4 Is that a significant issue with food
5 processing, the use of water softeners?

6 MR. PACKARD: Um, it can be. I understand it is
7 with wineries. If they can use self -- or the
8 (inaudible) regeneration, that definitely cuts down
9 on the salts.

10 UNIDENTIFIED SPEAKER: Save that for the winery
11 folks maybe. (Inaudible). Okay.

12 UNIDENTIFIED SPEAKER: If I can make a comment.

13 I think the water softener issue extends
14 beyond ag into -- into the urban area also. We have
15 a real problem with salts in this valley and I think
16 we have to look at it realistically.

17 CHAIRMAN BAGGETT: Thank you. Thank you.

18 Before we go to the processors' panel, I've
19 got Robert Holmes from the Integrated Waste Board who
20 wants to make some comments. Since one of our sister
21 agencies does have something to say about recycling
22 of wastes, it's appropriate to hear your comments.

23 MR. HOLMES: Good afternoon, Chairman. Thank
24 you.

25 Just briefly hit on two points that align

1 with our two basic charges at the Integrated Waste
2 Management Board: One is the oversight of the
3 landfill diversion mandate with a 50 percent
4 diversion that each jurisdiction must implement; and
5 secondly, the -- our charge to protect public health
6 and safety in the environment from the disposal of
7 solid wastes.

8 As you know, we have -- we oversee the
9 50 percent diversion mandate. We are charged with
10 implementing the waste management hierarchy which is
11 to promote in this order source reduction to
12 recycling and composting, and third, if those two
13 elements aren't achievable, then the environmentally
14 safe disposal of solid waste.

15 We also have a self-produced hierarchy for
16 food waste in general which make up approximately
17 16 percent of the overall waste stream. That, again,
18 is along those lines to prevent the waste in the
19 first place; secondly to feed people with that waste
20 if it's possible; third to convert to animal feed or
21 rendering and then finally composting, in that order.

22 With regard to our regulatory public health
23 rule, Stanislaus County is one of five jurisdictions
24 that the waste board acts as the local enforcement
25 agency for solid waste. And when we took over that

1 role in the early '90s, we became aware of the
2 county's recycling program at that point and felt
3 that it was a very well-run program. We haven't
4 found any need to assert our authority for solid
5 waste in any shape or form with regard to that. We
6 haven't had any complaints.

7 And then lastly, in terms of land filling in
8 general, if it is determined that one of the options
9 would be landfill for this -- this material, we are
10 concerned, number one, for the decrease in landfill
11 capacity that that waste would represent. The
12 increased production of leachate at the landfills,
13 the moisture content of this waste, the increase in
14 decomposition gases, that may result from that and
15 the special handling needs of the waste again with
16 regard to the moisture content.

17 And finally, with respect just to Stanislaus
18 County specifically, I just want to throw out
19 composting as an option. You already heard that some
20 of this is happening at the wineries and indeed, if
21 we need to go there, there are currently seven active
22 sites in Stanislaus County alone, but the combined
23 the capacity of about 250,000 cubic yards on site at
24 any one given time, so there's that existing
25 capacity.

1 There are two proposed facilities as well,
2 and we are willing to assist in any way we can with
3 increasing that capacity should we need it.

4 Questions?

5 CHAIRMAN BAGGETT: Any questions?

6 Thank you. Thanks for coming up.

7 Back to the processing group. Michel
8 Bocodoro, we appreciate you, I guess, coordinating
9 this presentation so we can -- I think it more
10 efficient and put it all into a more conducive
11 package; so it's all yours.

12 MR. BOCODORO: Thank you very much,
13 Mr. Chairman, members. I'm Michael Bocodoro and I'm
14 here today representing the California Food
15 Production and Processing Coalition.

16 And just by way of background, I'm going to
17 give you a little bit of brief history about the
18 coalition since it is fairly recent.

19 It includes the state's leading ag and food
20 processing industry associations and it was born
21 primarily out of concern over recent developments and
22 regional regulations as it relates to wastewater
23 discharges, and the coalition has been coordinating
24 actively at the regional level and the state level to
25 bring about some statewide policy direction to this

1 critically important issue.

2 In that vein, we thank you very much for
3 this long overdue opportunity to address what we
4 think is a critical issue and it's a critical
5 juncture, if you will, not just for the industry but
6 we believe for the regulatory community as well.

7 We view today's workshop as a starting
8 point, not by any stretch of the imagination an end
9 point, a necessary first step in what will hopefully
10 be the development of a statewide process. It can
11 involve a broader group of experts, including
12 academics and industry experts, environmental
13 engineers, to bring about some clarity to some of the
14 critical issues facing food processors and
15 particularly the issue of salt management that we'll
16 talk a lot about today.

17 The coalition did file formal comments last
18 Wednesday, we have put together several panels to
19 provide each of you today with a brief overview of
20 those comments.

21 Let me just start by providing a brief
22 introduction to those comments before I introduce the
23 next two speakers.

24 Protecting our state's water resources is a
25 top priority for the industry. I want to make that

1 point perfectly clear. We work diligently at the
2 regional level and at the statewide level to ensure
3 that water quality, which we depend on as an industry
4 both in the production and the processing side of it,
5 continues to be of top quality.

6 Development of best management practices has
7 been another stalwart of the industry in terms of how
8 we have stepped forward. We are going to have
9 several panelists today talking about the best
10 management practices that have been developed by the
11 League of Food Processors and the Wine Institute.

12 Successful implementation of land
13 application is another example of how the industry
14 has worked diligently. We have two panelists today
15 from Pacific Coast Producers and Frito-Lay, we're
16 going to share some industry experiences on how an
17 application can be an integral component of dealing
18 with our water discharge issues.

19 I also want to stress that we are in no way
20 suggesting that industry should not be regulated. We
21 are, however, greatly concerned about how that
22 regulation has progressed in recent years and more
23 importantly in recent months. There's clear and
24 convincing need to develop coordinated statewide
25 goals, objectives and approaches to water discharge

1 regulation. We have some significant issues that are
2 developing. We need significant solutions to help
3 deal with those issues and those are going to best be
4 developed on a statewide basis.

5 This is not a problem that's unique to the
6 Central Coast or the Central Valley or Northern
7 California. Salt management is an issue that is
8 unique to the State of California in one sense and
9 needs to be addressed on a statewide basis.

10 Current regulatory direction at the regional
11 level to some degree is disjointed and inconsistent,
12 and that's driven by the issuance of individual
13 permits. And that leads to in our mind a lot of that
14 disjointed nature in which these rules have come
15 together and how industry is regulated. It sort of
16 happens on a permit-by-permit basis as we move from
17 one processor to another.

18 It's lacking statewide coordination with
19 other state water policies, including water recycling
20 and conservation policies. It's unsustainable from
21 an economic and environmental standpoint.

22 We use the example of reverse osmosis and we
23 would agree with the Central Coast representative
24 that spoke earlier that no cost effective treatment,
25 economically effective treatment, technology exists

1 for dealing with salt management at the food
2 processor level. We would add to that not only is it
3 economically undoable at this point, it's
4 environmentally unsustainable.

5 I think as you're well aware with reverse
6 osmosis at the statewide level you create two very
7 distinct water strains: One that has been treated
8 and is appropriate for land application and drinking
9 water quality levels; and two, a highly concentrated
10 brine that currently no outlet for that brine exists
11 in the Central Valley.

12 I believe that is consistent with what
13 Dr. Longley has discussed at regional board meetings
14 and in a paper that he recently presented -- a
15 statement that he recently presented to the regional
16 board. We need to find a solution to the salt
17 management issue in the Central Valley and no outlet
18 for the salts once they are contained currently
19 exists for that process.

20 Third, we believe the current direction that
21 the regional boards are heading precludes beneficial
22 land application. To the degree that we're requiring
23 extensive mineral reduction and it's going to make it
24 much more difficult and impossible for beneficial
25 land application to play the significant role that

1 it's going to need to play if these policies are
2 going to be economically sustainable for the
3 industry.

4 And fourth, and this you'll hear in a few
5 moments from Corny Gallagher, makes a great deal of
6 uncertainty and discourages economic development in
7 the Central Valley.

8 The food processing industry and the
9 production ag industry are the cornerstones of the
10 economy in the Central Valley and we need to ensure
11 that we have certainty in the regulatory structure
12 moving forward so that economic development can
13 continue; it plays a significant role providing high
14 quality, well-paying jobs for Central Valley
15 residents.

16 I'd like to take a few moments to introduce
17 two other gentlemen this morning, Michael Campos, who
18 is with Stoel Rives in Sacramento and has been
19 working with the coalition, and Corny Gallagher from
20 Bank of America who will be our next two panelists to
21 discuss the policy and economic implications of some
22 of the issues that are currently before us.

23 CHAIRMAN BAGGETT: Thank you.

24 Any questions at this time?

25 UNIDENTIFIED SPEAKER: Mr. Bocodoro, I have a

1 few questions. It's about the point that you made
2 that individual permits issued by the regional boards
3 can lead to inconsistency.

4 And as you may be aware, several years ago
5 the state water board was given authority by the
6 legislature to issue general permits in certain areas
7 and that authority, in fact, has been exercised on
8 several occasions. There are statewide permits
9 dealing with industrial storm water, construction
10 storm water and most recently a general permit was
11 issued for biosolids discharges.

12 Would your group have any position on
13 whether the state board should consider that type of
14 an approach to this industry?

15 MR. CAMPOS: Yes. My name is Mike Campos, I'm
16 an attorney with Stoel Rives in representing the
17 coalition. If I could, I'd like to respond to that
18 question.

19 The -- one of the things that we're looking
20 at, and you'll see a lot of the speakers -- what you
21 have is a salt issue and you need an overall
22 comprehensive salt management plan.

23 To get from where we're at today to a
24 comprehensive salt management plan is going to take
25 some time. And we're looking at -- you know, one of

1 the solutions to that could be something like the
2 general permit that's used in the storm water program
3 or for the biosolids.

4 But we don't have any specifics or ideas to
5 present here today, but a general permit like that to
6 serve as a general permit in the interim could be a
7 possible solution; so we would support something like
8 that.

9 UNIDENTIFIED SPEAKER: Thank you.

10 MR. CAMPOS: Mr. Chairman, I will be addressing
11 the policy issue and, you know, one of the issues
12 facing the food processing production industry is
13 the -- involves the generation of salts. But this
14 issue is not unique to just the food processors.

15 Publicly owned treatment works, that we'll
16 probably refer to as POTWs, also have this same
17 issue. And I understand they may have a panel that's
18 going to be presenting to you here today.

19 The dilemma, though, that the food
20 processing industry is facing is that they're being
21 forced into unworkable and costly treatment
22 technologies with high energy demands and without
23 consideration of what do you do with this
24 concentrate, you know, once you treat the waste
25 water. There's no effective disposal.

1 You know, the problem faced by the food
2 industry in dealing with this is not unique, and nor
3 is it unique just to the Central Valley. A lot of
4 the attention of the press has been focused on the
5 Central Valley. The Central Valley is not unique in
6 coping and dealing with salts. It's a statewide
7 issue. And it's something that is long overdue.

8 Most of you, if you're old enough, you
9 remember at one time the state had a solution for
10 dealing with salts, at least in the Central Valley.
11 It was a master drain. I'm not here to advocate, you
12 know, bringing that back. It's -- it's something
13 that is not very politically favored. But we do need
14 a comprehensive look.

15 And the water board, in accordance with the
16 authority granted to you under the Water Code,
17 specifically section 13140, you know, is charged with
18 the responsibility for taking action where the
19 welfare, the health and the viability of the state is
20 impacted. And it is impacted in this particular
21 case. Something needs to be done.

22 What you have is with the salt management
23 issue that affects anybody that uses water degrades
24 it. There's no way that you can use water and not
25 degrade it. That the -- you know, it's important

1 that there be a comprehensive overview coordination
2 which only the state board can provide.

3 One of the things that the industry has
4 found itself is that there are statewide policies
5 that appear to be pulling in different directions.
6 The Department of Water Resources and the Department
7 of Food and Ag for some time have been pushing their
8 constituency to conserve water. This is still
9 important, and conservation of water, though, creates
10 a wastewater that is -- has greater concentration of
11 salts.

12 I don't think we want to back away from
13 conserving water. You know, we don't have enough to
14 meet our demands to the -- into the 2020 year time
15 frame. In fact, the department, in their Bulletin
16 160 series, has indicated that in order to meet the
17 state's needs, we're going to have to start using our
18 wastewater. We cannot afford to throw it away.

19 The other issue is in terms of other
20 statewide policies that has the governor's task force
21 on water recycling two years ago issued a recycling
22 report. And it provided for -- provided some policy
23 direction to encourage water recycling.

24 What is occurring with the regional board's
25 concern with the impact of salts and underlying

1 groundwaters, the requirements that they've come up
2 with discourages the reuse of waste water, if not an
3 all-out prohibition.

4 What you need is a consistent approach.
5 There's the -- one of the oldest policies of this
6 particular board is the antidegradation policy. And
7 the interpretation from the regional boards vary that
8 the antidegradation policy doesn't provide for zero
9 discharge or zero contamination of underlying
10 groundwaters but it provides that some contamination
11 can be allowed if it serves the public good. And
12 there needs to be a consistent policy on this. This
13 appears to be the driving mechanism.

14 You'll hear some of the speakers today tell
15 you that they're being forced to treat their
16 wastewater to a level that is higher than underlying
17 groundwater; that, to me, was not the intent of the
18 antidegradation policy.

19 I'd also like to -- I wasn't aware that
20 Dr. Longley was going to be on the hearing panel. I
21 read his statement of June 23, 2005, in which he
22 indicates that there's a compelling need for
23 interested parties to come together to find solutions
24 for mitigating the salt impacts waters of the Central
25 Valley. I would echo and support that statement.

1 And I would go beyond that, that it's not
2 just the Central Valley. We have to look at this
3 from a whole statewide standpoint.

4 In pursuing a salt water management plan, I
5 think it's important also that we identify what the
6 process should be. We would like to follow the
7 process under Administrative Procedures Act that is a
8 rule making process that state agencies are required
9 to follow.

10 Important in this is consideration of
11 economic and social impacts that the regulations are
12 going to cause. And adherence to strict rule making
13 prospects that the effect of this is that the people
14 that are going to be impacted, stakeholders, will be
15 given an opportunity to participate. And I think as
16 the food industry is well represented here today
17 indicates to you the need is now and it's very
18 critical and they're prepared to participate fully.

19 That -- the concern that we have, the
20 consequence of inaction that the various regional
21 boards have their charge and they cannot delay the
22 process of doing their duties. The only way that we
23 can come up with a meaningful solution is for the
24 state board to take control of this and to initiate a
25 process to deal with the salt management issue.

1 That we sort of view that today's hearing is
2 sort of a first step in doing that; that the effect
3 of inaction will be that the food processing industry
4 and other industries will sustain irreparable harm
5 unless something is done very soon.

6 I'd be happy to answer any questions that
7 you have.

8 CHAIRMAN BAGGETT: Questions? Thank you.

9 Who's next? Take it away.

10 MR. GALLAGHER: Thank you very much.

11 My name is Cornelius Lawrence Patrick
12 Gallagher but everybody in the room here can call me
13 Corny.

14 Huh? My mike is off (inaudible) push the
15 button is not working.

16 Thank you. I apologize for the
17 technicality.

18 For the record, my name is Cornelius
19 Lawrence Patrick Gallagher, but you can all call me
20 Corny. I am the chair of the California Bankers
21 Association Ag Lending Committee, and I'm sorry your
22 viewer is behind you, I apologize for that.

23 UNIDENTIFIED SPEAKER: There's a monitor there
24 but I guess it doesn't --

25 MR. GALLAGHER: Oh, you can see it?

1 UNIDENTIFIED SPEAKER: No.

2 UNIDENTIFIED SPEAKER: It doesn't work.

3 Turn it around.

4 MR. GALLAGHER: Second time around.

5 We represent all the major players in
6 California's agricultural lending, about 20 billion
7 in total commitments. We issued a letter on
8 June 14th to Governor Arnold Schwarzenegger where we
9 expressed our concerns about the uncertainty created
10 surrounding the regulatory shifts in discussions that
11 were going on the state. It's not that we don't
12 support the industry, it's not that we don't support
13 the state or the environment; in fact, we do. And we
14 are willing to commit funds to make those
15 improvements. I just want to have some certainty
16 that when we do it, that we're making progress both
17 on the cost and the long-term productivity side.

18 We have a solid record of supporting
19 sustainability, both in the environment as well as in
20 the economic side and the social responsibility.

21 Mike, next slide, please.

22 Ag, as most of you know, is a large part of
23 the economy and I thought it would be interesting for
24 everybody to take a look at the size and scale as you
25 would look down at it from a satellite.

1 As you can see, you have the greater Central
2 Valley, about 440 some odd miles long and 50 miles
3 wide. I think the important part is that when you
4 look at that, 18.2 percent of the jobs in the State
5 of California are tied to agricultural production in
6 some way, whether that be from the farm all the way
7 up to the fork.

8 And more importantly, it adds 12.7 percent
9 to the state's gross national product, our state
10 product; so when we put a dollar in economic activity
11 in agriculture, you get a dollar 28 more from the
12 state's economy. If you put 100 jobs in ag, you get
13 94 additional jobs in the other part of the economy.

14 I'm going to be going through some technical
15 and detailed data that's available, I think all of
16 you have it. There's extensive backup material
17 available to support these comments.

18 Next slide, please.

19 Most of you know that we work in an
20 urbanizing state but the way I show where the people
21 are is to take a shot of California at night. And as
22 you can see, we're sitting in Modesto; it's pretty
23 clear to see, I don't have my laser with me, but you
24 can see the growing prevalence of lights going up and
25 down the San Joaquin Valley, which of course are an

1 important part of it. But you also have to think
2 that that darker spot as you can see on the slide is
3 one of the unique areas in the world.

4 Next slide, please.

5 If you looked at the California land
6 acreage, and I decided to do it on a bar chart rather
7 than in a slide or in a photograph, there's about
8 10 million acres of harvested land, 20 million of it,
9 as you can see, is in orchards and vineyards, another
10 million in vegetables and melons, so that 40 percent
11 of it is in intensive crop, most of which goes into
12 food processing in one form or another, or winery
13 production.

14 Next slide, please.

15 This is a dramatic display of showing how
16 California agriculture fits at a lower assessment;
17 that is, it's a little different than my opening
18 comment, but as you can see, it's 7 percent of the
19 jobs in California.

20 (Tape 1, side 1, ends.)

21 MR. GALLAGHER: ...greater Central Valley,
22 that's the 450 miles, 24 percent. But as you zero in
23 the San Joaquin Valley, 37 percent.

24 So I guess the point I want to make with
25 this is that it is a significant part of the state's

1 income, but it becomes additionally significant as
2 you zero into the rural regions and more particularly
3 here in the San Joaquin Valley.

4 Next slide, please.

5 The concept of global competitiveness has to
6 do with the fact that if you can see that little tiny
7 green spot in the United States on the West Coast,
8 the darker green, that should show you the
9 significance of California agriculture in a global
10 context.

11 When you realize that 19 percent of the
12 United States' gross domestic product in ag comes
13 from that little green spot, it ought to tell you
14 something about the strategic importance in a global
15 sense of California agriculture.

16 But the bottom line is if we're not globally
17 competitive, there's plenty of dark green stuff in
18 Brazil; it's covered by clouds but there's plenty of
19 dark green stuff in Chile and Argentina, and if we're
20 not low-cost competitive, our production, our
21 processing, can be moved. And the only way you
22 assure global competitiveness is to be a low-cost
23 producer.

24 Next slide, please.

25 California, as I said, is 19 percent of the

1 U.S. ag gross domestic product. But more
2 importantly, it's in the top six ag economies in the
3 world. And if you took an assessment of what's
4 happening to us on a cost side, you'd be a bit
5 concerned that we're losing the battle of being a
6 low-cost producer.

7 Next slide, please.

8 Just to zero in on a couple of the
9 industries, the dairy industry contributes
10 35 billion, the wine industry contributes 45 billion,
11 obviously you can see it's important to jobs, but it
12 also brings about 15 million visitors to the state,
13 both in tourism and buying our fine wines.

14 Next slide, please.

15 The wine industry --

16 This one must click three times, Mike, go
17 ahead and click it.

18 The wine industry has done a lot of work on
19 sustainability, both at the grape production level as
20 well as at the winery level. And in fact, we
21 compliment them on adopting a code of sustainability.
22 It's made up of environmentally sound, economically
23 feasible and socially equitable concepts.

24 Next slide, please.

25 One of the things that we want to be sure

1 that we can accomplish from all of this is the space
2 to innovate. Innovation comes from need and trying
3 to figure out what we do next.

4 Granted, this is a slide from the
5 sustainability and innovation in the grape production
6 sector, but it's equally true we think in the
7 processing sector where these industries need the
8 opportunity to figure out what works, what's cost
9 effective and what will sustain us environmentally
10 but economically as well.

11 Industry needs a strong regulatory
12 environment; so our simple answer to your question is
13 do we want statewide consistency, yes. How do we
14 accomplish that? We think it's appropriate for you
15 to manage the statewide process.

16 The food industry, the food processing
17 industry, the winery industry, the grape growing
18 industry has been developing sustainable practices
19 and we fully support the process that they've been
20 going through in their process of updating that.

21 Just a summary, California is the number one
22 ag producer in the nation, yet it has the fastest
23 growing population. Ag producers supply numerous
24 environmental benefits beyond just their economic
25 drivers, some of that you can see on the slide.

1 Industry must be sustainable just as any other
2 industry would be to remain globally profitable and
3 competitive.

4 If we're not, we're going to have reduced
5 farm profits, we'll have increased imports from other
6 states and more importantly, the food processing
7 industry would be driven out of California.

8 I'd be happy to entertain any questions.

9 CHAIRMAN BAGGETT: Any questions at this point?
10 None at this point.

11 Thank you very much.

12 UNIDENTIFIED SPEAKER: If I may, I was going to
13 introduce our next four panelists, they're going to
14 talk about some of the best management practices in
15 the industry and the development of those.

16 We have Ed Yates in the California League of
17 Food Processors, Mike Felasco with the Wine
18 Institute, Bob Crowback with Kennedy Jenks
19 Consultants, and Ron Crites and Bob Beggs with
20 Brown & Coldwell.

21 MR. YATES: Thank you. Mr. Chairman and
22 members, for the record, I'm Ed Yates, California
23 League of Food Processors. I'll attempt to not
24 repeat what has been said previously but I do want to
25 take a few moments and focus and highlight on some

1 things that are very (inaudible) in the industry.

2 First of all, we do believe that the state
3 board should take the lead in addressing a number of
4 these very important issues that have broad,
5 long-term implications. Again, forgive me for
6 repeating but from the California League of Food
7 Processors' position, we agree with everything that
8 the coalition put forward. We think you need to --
9 and thank you, Dr. Longley, that was an excellent
10 paper and we agree with it.

11 We know there's not going to be any
12 solutions in the short term and certainly it is a
13 visionary thing to begin addressing in long term. In
14 the meantime, obviously we have some impacts that
15 happen to folks when they go get a permit,
16 particularly in relationship to the antidegradation
17 policy and the impact that that has.

18 And very simply for -- I'm sure you folks
19 are aware of it, but for the public, the -- what we
20 do is we monitor the first water that you come to.
21 And often in California the first water that you come
22 to isn't worth very much for any kind of use, yet
23 it's regulated as if it were drinking water.

24 We also believe that the state board, in
25 partnership with the industry and others, should

1 conduct an analysis to ascertain what, if any,
2 sustained impact is taking place to the groundwater
3 now.

4 Now, this is a confusing era -- this is a
5 confusing area because much of the groundwater
6 monitoring information that has been provided and is
7 on -- in the record of the regional board is there
8 and it depends on upon how you look at it and what
9 conclusions you draw from it.

10 In some cases you can look at a five-year
11 segment of 20 years' worth of data and statistically
12 you'll draw a different conclusion than if you looked
13 at the 20 years' of data. We're still not convinced
14 that on a wholesale as alleged basis that there's a
15 lot of harm that's going on. Certainly in certain
16 instances there have been.

17 We believe that the state board should
18 develop a general order for land application of food
19 processing wastewater and by-products.

20 On the by-product residual issue, this is a
21 technique that the league was involved in back in the
22 late '60s, early '70s, when the canneries in the
23 San Jose/Santa Clara area were prohibited from taking
24 their residual by-products to the landfill; so an
25 alternate had to be developed and in cooperation with

1 the public health department, et cetera, et cetera,
2 there was a whole lot of work done on developing the
3 management practices.

4 As mentioned earlier, this is merely taking
5 food which is unsuitable for various reasons to be
6 processed and sold to the public, it's still the same
7 organic material that came out of the field.

8 I think, and I think that the -- I think
9 that we ought to have a general order rather than
10 going the waiver, waiver, waiver route, so that
11 everybody's on the same -- under the same sorts of
12 consistent regulatory approaches.

13 I think that we need to establish a
14 timeline, not only for the salt thing, but for the
15 resolution of some of these issues.

16 And let me quickly turn, and I don't want to
17 belabor this, but very quickly and for the public
18 consumption, as Mr. Pincos mentioned in the year 2000
19 when the regional board made a report on the
20 industry, it didn't taste very good from our
21 standpoint. But we listened. And we got busy and we
22 began developing a manual of good practices for the
23 land application of processed rinse water.

24 And I won't go into all the details other
25 than to say that the thing bogged down, and because

1 of the interest generated and the opportunity
2 provided by an informational hearing in January, I'm
3 pleased to report that at least we've resumed some
4 discussions and are making some headway in resolving
5 the differences that exist between our experts and
6 the, quote, experts in the regulatory agency.

7 I enlist the participation of the state
8 board, because this has statewide implications. It's
9 not just a manual of good practices for Central
10 Valley, we believe it has utility throughout the
11 state.

12 I've included -- I've provided a manual -- I
13 did provide some additional information and I'll get
14 that to you, Dr. Longley, Mr. Brizard; I included some
15 anecdotal information and I thought I would share
16 that with you just to give you --

17 By the way, I did include the minutes from
18 the Jan -- the April 20th meeting and it basically
19 lays out the scope of work.

20 It's going to cost us as much or more to
21 revise the manual as it took in the first place. But
22 so far we have green lights to move forward with
23 that; we're hopeful that we'll be able to do so.

24 But I thought I would share with you, and
25 I've included a table in the handouts. We took a

1 look at 11 existing permits and we looked at just
2 groundwater monitoring requirements. Okay?

3 Of the 18 constituents that the regional
4 board is requiring to look at for groundwater,
5 there's hardly any consistency as to whether you look
6 at it weekly, monthly, quarterly or annually or at
7 all. Now, I don't know what that means except people
8 compare permits. And if you have to look at TDS
9 weekly and five don't have to, it brings the
10 questions why are you looking at TDS?

11 And I know we're not getting into the
12 technical side of this but we're more than willing to
13 work on that over time.

14 Another table that we provided, and I guess
15 this is a -- and again, for the public and others, we
16 have four-page table. We took one permit and we
17 listed all of the requirements for that land
18 application situation. You add up all the
19 requirements and it totals 1,034 reports or analyses.

20 Now, this is a land application of process
21 rinse water from a food processing operation. It is
22 not a publically owned treatment works, they handle
23 no sanitary waste; we obviously are scratching our
24 heads as to why much of this is required. Why do you
25 need to look at coliform in groundwater when you

1 aren't putting any coliform on the land in the first
2 place? It's issues like that that come up.

3 More importantly I think it goes to the
4 public at large. There's 1,034 requirements. If you
5 miss those for ten days, that's 10,000 violations in
6 the eyes of the regulatory community. And certainly,
7 in the eyes of the public if it's advertised that
8 way, so to speak.

9 The last two things that I've included is
10 some of our suggestions about what ought to be looked
11 at, not only for water going onto land but also some
12 of the things we ought to be looking at in the
13 future. And without belaboring all the information,
14 my last --

15 And Tom, forgive me, I still have to say
16 this, we were upset because we thought -- and
17 continue to be upset because we thought and read the
18 staff report that was presented back in January as a
19 new regulatory approach.

20 We're upset because it did not go through
21 any prior workshops, it did not go through due
22 process. And we're hopeful that the state board will
23 provide us with those opportunities, not only from a
24 policy standpoint but a technical standpoint with
25 working groups or whatever else you might deem

1 appropriate to really get into this stuff because we
2 think it's a good, good thing.

3 Again, I think it's important that we
4 emphasize once more that the food processing industry
5 was told you folks better start reusing and recycling
6 water and so in most cases, they've used it three,
7 six, eight times. As a result, it obviously becomes
8 a little more soiled than it otherwise would with a
9 single pass.

10 We think these conflicts as we perceive them
11 ought to addressed and resolved. We're not about to
12 suggest that we go back to using four to six to eight
13 times more water than we are now just so -- to avoid
14 having to address these kinds of issues.

15 And with that, we appreciate your time and
16 very much encourage your attention focused in the
17 future on these.

18 CHAIRMAN BAGGETT: Questions?

19 UNIDENTIFIED SPEAKER: At the beginning -- at
20 the beginning of your statement you mentioned
21 something to the effect that the application of waste
22 is being regulated to -- being required to meeting
23 drinking water standards. Could you clarify that?

24 MR. YATES: My observation is that -- in fact,
25 they published a chart which basically lists drinking

1 water standards and they look to those kinds of
2 levels as the levels that should exist for receiving
3 water under the ground.

4 UNIDENTIFIED SPEAKER: But those standards are
5 not currently being applied, or to mean -- proposed
6 to be applied to the actual wastewater right now.

7 MR. YATES: The way it's explained to us is
8 those waters could potentially be looked to as a
9 source of drinking water at some date in the future.

10 Or, unless you went to the work to prove
11 exclusively that that first water that you come to is
12 perked and the earth beneath it is impermeable and
13 there will be no further potential beneficial use,
14 then you might be able to convince them to do that.

15 That's our impressions of the strictness of
16 what's being applied.

17 When you take water that is 800 to 1,000 EC
18 out of the ground and you don't add anything to it
19 and they want you to limit it to 800 or 600 going
20 back in, it's because you touch it as it goes through
21 the food processing plant, you can pump on the ground
22 and go irrigate with it. But the moment you touch it
23 it becomes a, quote, waste. And they're imposing --
24 they're making you clean up the water that's there,
25 in short. Or want you to in many cases.

1 It's a dilemma. And it's driven by the
2 antidegradation policy, the source of drinking water
3 policy and the basic land and the way they're being
4 interpreted, and there's not much we can do about it
5 except on a more holistic basis or on a sustainable
6 basis.

7 We disagree with the way they interpret some
8 of these things. Not much we can do about it unless
9 we haul them into court.

10 CHAIRMAN BAGGETT: Question?

11 UNIDENTIFIED SPEAKER: Yeah. So you're
12 advocating a change in the antidegradation policy?

13 MR. YATES: I'm requesting --

14 UNIDENTIFIED SPEAKER: Okay.

15 MR. YATES: -- that it be looked at in view of
16 modern times and modern technology and the due base
17 of knowledge that we have relative to when that was
18 originally established years and years and years ago.

19 CHAIRMAN BAGGETT: Anyone else?

20 UNIDENTIFIED SPEAKER: I pass.

21 CHAIRMAN BAGGETT: Thank you.

22 MR. YATES: Thank you.

23 MR. FELASCO: Ladies and gentlemen, I'm Mike
24 Felasco. I'm with the Wine Institute. We represent
25 about 750 wineries in the State of California that

1 produce about 90 percent of all of the wines coming
2 from California. And our members here in the Central
3 Valley produce about -- well, our members produce
4 80 percent of the wine in the United States market
5 out of the Central Valley to give you some contextual
6 situation.

7 I'm here with a couple documents and if you
8 don't mind, my wife says that I'm lanier (phonetic),
9 I'd like to go through the questions very briefly
10 with brief answers. That's how I function.

11 First of all, the first question that was
12 asked of us was does the land application of what we
13 call process water threaten groundwater quality in
14 beneficial uses of the groundwater. While our study
15 is still in peer review, the copy of the draft, it is
16 our opinion that you can apply the process water
17 coming off of wineries at agronomic rates without
18 causing degradation.

19 Our study, something we worked with
20 Dr. Longley and Mr. Brizard at the regional board and
21 the board staff, Mr. Pincos, we've had numerous
22 meetings. The draft, the study has gone through
23 phase 1, this is phase 2, and now it's -- the state
24 board has sent it to independent peer review. We're
25 told that the UC panel of three experts will have

1 your opinions to the state board hopefully by the
2 middle of next month. We encourage that be done
3 promptly.

4 At the same time, we have initiated another
5 study. This is specifically to salt load issues.
6 Because the study that's in peer review does not
7 really go into those issues and how to ameliorate a
8 situation. We focus on things like BOD and nitrogen
9 and iron in this first study.

10 As you mentioned, Dr. Longley, last month,
11 Don Pincos and Al Brizard, it is our hope to have the
12 salt load study back to the regional board by the end
13 of the first quarter of next year, end of March. And
14 that, too, we would -- without being presumptuous, we
15 would hope we could then have it sent to peer review.

16 In our opinion it's kind of a foundation of
17 where we approach this issue and all of our issues
18 because of our code is that peer-review science lead
19 for the regulations whenever possible. It is not a
20 guarantee that it's the best way but it's a method
21 that you will get a great deal of buy-in from the
22 regulated community.

23 The second question, should there be
24 statewide consistency? Yes.

25 Third question, how should this consistency

1 be developed? I just mentioned peer-review science
2 before regulation as much as possible.

3 And then in the fourth question you asked of
4 us and the food processors was should the industry be
5 encouraged to develop their own practices, their own
6 guidelines? I thank Corny Gallagher for highlighting
7 the three circles. This is the document that he's
8 referring to. (Inaudible) sustainable wine growing
9 practices. It is a living document.

10 When we get, for example, the peer-review
11 science back, that will be incorporated in the book.
12 And it's meant for the industry to do all that it can
13 to sustain itself economically and environmentally.

14 The fifth question was about third-party
15 certification. We're open to the idea.

16 Lastly, there's the general question about
17 salt loading issues and I think it's -- we associate
18 ourselves with comments raised before; I think it's
19 very important for maybe the members of the audience
20 to realize that there are salt management issues with
21 the water that we accept as wineries that comes into
22 the plant. We have no control over that. And it's a
23 problem that's been endemic in the State of
24 California for over 100 years and there has been
25 no -- there is no solution.

1 Now, to that end we're not saying well,
2 let's just wash our hands of it and walk away. We
3 believe that the new study that we're working on will
4 help provide us with some new and better management
5 practices how we control and reduce the amount of
6 salt that we ourselves contribute when the water
7 leaves the winery.

8 With that, I'll be glad to entertain any
9 questions.

10 UNIDENTIFIED SPEAKER: Quick one.

11 Do you see a series of general permits like
12 one for the wine processing as opposed to tomatoes or
13 other crops, or do you think we can do this -- you
14 can do one general permit and cover all types of
15 processes?

16 MR. FELASCO: You could probably do one general
17 but it's going to be awful, awful general. I --
18 there may be regional factors. There probably are
19 different constituents in tomatoes than in wine. An
20 ag guru could answer that question but maybe Bob
21 Crowback, who is our consultant, could answer it.

22 But yes, I do think you could tackle it with
23 a general permit. I do think there's a very
24 important need for consistency because some of the
25 wineries that are in the Central Valley are also in

1 the Central Coast and they ask why is it different.

2 UNIDENTIFIED SPEAKER: Thank you.

3 MR. FELASCO: Thank you.

4 UNIDENTIFIED SPEAKER: I just want to say that
5 the Wine Institute, I thank them for taking this salt
6 issue and kind of taking a lead to it. I really
7 appreciate it at the board and I know Dr. Longley
8 does. It has certainly expanded our view of things,
9 mainly on food processing and wineries.

10 MR. FELASCO: Thank you.

11 UNIDENTIFIED SPEAKER: Well, I'll go beyond
12 that.

13 When we met last I was surprised -- very
14 pleasantly surprised when you started talking about
15 going to source control and breaking out which part
16 of the winery was it that generate problems. I think
17 that's something to be used by others as a model.

18 MR. FELASCO: Hopefully will be.

19 MR. CROWBACK: Good afternoon. Bob Crowback
20 with Kennedy Jenks Consultants and I'd -- rather than
21 repeating a lot of what you've already heard, I want
22 to touch on a couple of the highlights that I think
23 are important to restate.

24 And that is number one and foremost, we
25 believe properly managed controlled land application

1 processes are indeed sustainable. You have to factor
2 in the constituents you're dealing with on that
3 particular process to make sure it's sustainable for
4 the long term, but indeed it can be. And there have
5 been numerous studies, and some of the work that has
6 been done and is currently under peer review,
7 demonstrates that some of that can be handled.

8 And as we stated, there's the Wine Institute
9 and some of the other food processing industries have
10 taken the next step to look at the salt issues and
11 what do you do about that. And primarily that issue
12 is a source reduction issue is the most economical
13 way to do that.

14 If you don't get the salts into the process,
15 that is if you only use what you need for sanitation
16 purposes, for after all we are all talking about
17 human consumption of these products and so forth,
18 that there is a need for sanitation. A lot of the
19 sanitation chemicals require the use of salts to
20 accomplish that; so if you can minimize and optimize
21 that use and reduce, that's the best bet to keep the
22 salts down.

23 When you are left with the remaining process
24 water to deal with, it is a very complex issue. And
25 I appreciate the recognition of the fact that it

1 is -- it is more of a holistic review of this needs
2 to happen, that it's a statewide issue and it needs
3 to be looked at as the long-term sustainable side of
4 that.

5 Another point I'd like to just touch base
6 with you on is the issue of consistency. Consistency
7 is very important not only from a technical
8 perspective to deal with or to respond to permits or
9 permit conditions or evaluate situations but it also
10 has an economic impact as well. And there is some
11 differences in the way the different boards look at
12 the processes.

13 For example, the wine industry is handled
14 very differently in the San Francisco Bay region and
15 the North Coast region versus the Central Coast and
16 the Central Valley. If you look at the general
17 permits, there are some significant differences in
18 those. And it would be very helpful if those could
19 be looked at more holistically. And perhaps the good
20 and the bad of all, get those all on the table
21 discussed and get general permits that work more
22 across the board and maybe more overreaching.

23 The next area I'd like to comment on is
24 again emphasize the science-based approach to
25 studying the regulations and making sure that peer

1 review or third-party review, whatever may be
2 necessary to make sure that the science indeed makes
3 up the important part of the regulations going
4 forward.

5 And thank you for your time.

6 CHAIRMAN BAGGETT: Questions?

7 Thank you.

8 MR. CRITES: Good afternoon. My name is Ron
9 Crites, I'm with Brown and Caldwell Engineers in
10 Davis, California.

11 As the contractor for the California League
12 of Food Processors, I was the senior author of the
13 design manual that you have there and I was also
14 senior author of the EPA land treatment manual.

15 And one of the things between those two
16 documents that we produced was a new approach towards
17 looking at organic loading to the land. And we want
18 to separate the organic loading to the land from the
19 salt loading to the land because we think those are
20 distinctly different processes and that by removing
21 organics before you go to land, you do not enhance
22 any of the salt removal capability of the soil; in
23 fact, it makes no difference.

24 So to reduce organics which again requires a
25 very expensive and environmentally unsustainable

1 process of energy used for removing that BOD before
2 you put into the land, that can be offset by looking
3 at the salts separately and then by source control
4 for the salts and by allowing the soil to take the
5 organics which it does very nicely and also helps it
6 remove the nutrients and other constituents in the
7 process of land treatment; so that's one of our
8 points.

9 Secondly, the consistency between the
10 boards. We work with a number of small food
11 processors, both in the Central Valley and in the
12 North Coast and San Francisco Bay area, and we're
13 finding that the board -- the approaches of the staff
14 to those small discharges is quite different and the
15 larger ones would probably be consistent a little bit
16 more but the smaller ones, it's quite a hardship on a
17 very small discharger.

18 You have to go through a very extensive
19 program of determining what their waste constituents
20 are in every instance when they're going to have a
21 very minor impact, if anything, on an acre or so of
22 land application.

23 So, with that, that's my two points. Thank
24 you.

25 CHAIRMAN BAGGETT: Question?

1 UNIDENTIFIED SPEAKER: Yes, sir.

2 You speak of the fact that you're the senior
3 author on this manual and also I guess responsible
4 for the EPA manual.

5 This really gets to the issue of the type of
6 waste being found in the land and how it may differ
7 from one type of food processor to another. To what
8 degree does the -- what factors does the
9 nitrogen/phosphorus ratio impact the efficacy of
10 disposal on land? Are things like that important or
11 are they not?

12 MR. CRITES: Um, they can be. The nitrogen and
13 phosphorus ratio to the -- to the organics is a
14 measure of how you feed the bacteria that could
15 remove the organics. And they need nitrogen and
16 phosphorus as well as the plants.

17 So if you're putting on something that is
18 very high in organics and low on nitrogen, you're
19 going to remove nitrogen biochemically without the
20 plants themselves; so the whole business of nitrogen
21 and phosphorus has to be looked at carefully in
22 determining whether or not your -- the plants are
23 going to remove it or your denitro genefication
24 processes will remove it.

25 UNIDENTIFIED SPEAKER: So would this mean that

1 land application of wastes is something that has to
2 be --

3 Since I'm an engineer, I don't want to seem
4 like I'm using the word too heavily, but engineer it
5 very carefully.

6 MR. CRITES: Yes, I would say so.

7 UNIDENTIFIED SPEAKER: And it would -- it will
8 vary from one type of waste.

9 To what degree does the land type, without
10 being -- I don't want a real detailed answer, but a
11 broader answer. To what --

12 Does the type of land this is being applied
13 to, type of soil as an example, have an influence on
14 disposal practices?

15 MR. CRITES: Yes, it does. The drainability of
16 the soil, the ability to remove things like
17 phosphorus and clay soil will be absorbed very
18 rapidly, where in a sandy soil it will not; so, yeah,
19 the type of soil does have a (inaudible).

20 UNIDENTIFIED SPEAKER: By the way, I'm a
21 proponent of land disposal but what I think what I
22 wanted to get at, and apparently we're on the same
23 level here, it's a complex practice that has to be
24 looked very carefully; is that correct?

25 MR. CRITES: Correct.

1 UNIDENTIFIED SPEAKER: Thank you.

2 CHAIRMAN BAGGETT: Thank you.

3 Got any more?

4 MR. BATES: Thank you, Mr. Chairman, members.

5 My name is Robert Bates, I'm also with Brown and
6 Caldwell.

7 I'm going to talk about keeping issues in
8 perspective, first addressing question number one,
9 threats to groundwater.

10 Land application has been practiced for many
11 decades on numerous sites throughout the state and
12 others have addressed salts and I'm going to talk in
13 regards to this question about nitrates and iron and
14 manganese.

15 There have been increases in nitrate
16 concentrations in shallow groundwater at a few sites;
17 however, under the vast majority of food processing
18 land application sites it has been our experience
19 that the concentrations of nitrate in groundwater
20 have actually been lower than in the surrounding
21 area.

22 Also, and I've been in this business about
23 20 years, Ron maybe 30 years, and we're trying to
24 remember if there had been any documented cases of
25 nitrate impacts to actual beneficial users of

1 groundwater and we couldn't think of one. There may
2 have been one but as a result of food processing
3 wastewater land application, we're not aware of any.

4 Second, the regional board recently has been
5 concerned regarding indirect increases in iron and
6 manganese in groundwater as a result of land
7 application of food processing wastewater and again,
8 we're not aware of a single case where beneficial
9 users have been impacted as a result of land
10 application practices.

11 So that's just something as you're moving
12 forward to keep this in perspective. It's not like
13 these, you know, cases where you have toxic solvents
14 that have gotten into groundwater that are impacting
15 users, you know, right away and all over the state.
16 It's just been very few cases where impact to
17 beneficial users have actually occurred as a result
18 of these practices.

19 Jump to question number three, how to
20 develop consistency and regulation, and I'm going to
21 echo the other speakers, it really needs to be based
22 on sound science. And we would suggest that a
23 university-based panel of experts be convened to
24 review and develop the science and -- and guidelines.

25 And good examples of this are the UC Davis

1 research of impacts from dairy manure practices, the
2 university review of the manuals of practice, and you
3 know, we think that's very important as a basis for
4 this and for sound science moving forward.

5 And that same panel or another panel could
6 also look at the cost implications of some of the
7 treatment alternatives that have been proposed. And
8 this would provide a foundation for developing
9 guidelines for use in practices, for general order
10 and for basin plan (inaudible) if necessary.

11 The last question, question six, are there
12 economical ways to address the salt loading issues.
13 And the most effective and economical ways to control
14 salts are -- we believe are source control and in
15 some cases enhanced seasonal drainage. Source
16 control others have talked about but it includes
17 the -- minimizing the use and then reusing salts and
18 chemicals.

19 And another point that we think is important
20 is source control also includes substituting good
21 minerals for bad minerals. And for example, calcium,
22 magnesium, phosphorus and potassium are generally
23 very desirable in irrigation water and they're
24 beneficial. And substituting those minerals for
25 sodium-based minerals is source control, and some of

1 the policies and the way they've been applied by the
2 regional board actually encourage just the opposite.

3 Some of these food processors are trying to
4 minimize their total mineral salts and in the process
5 they're -- they're cutting down on some of these
6 beneficial cations and increasing the negative
7 cations; so we think that is something important to
8 consider.

9 And moving toward looking at alternatives
10 that are economical, enhance seasonal drainage. At
11 some sites with appropriate geology, it may be
12 possible to manage shallow groundwater to enhance the
13 salt balance. And I won't go into any of the
14 technical details because they're very specific.

15 Finally, aerobic treatment and reverse
16 osmosis. Those are very energy and resource usage
17 intensive, and we've done some internal evaluation of
18 what the impacts are and we believe that the indirect
19 environmental impacts of aerobic treatment and
20 reverse osmosis of food processing wastewater
21 probably greatly exceed the benefits to potential
22 beneficial users of groundwater.

23 And so we don't believe reverse osmosis is
24 either a sustainable nor a practical treatment for
25 the great majority of food processing wastewaters.

1 And any questions? Yes.

2 UNIDENTIFIED SPEAKER: Yes, sir.

3 When you refer to regional board, are you
4 referring to a specific board or is that boards in
5 general?

6 MR. BATES: Generally the Central Valley board.

7 UNIDENTIFIED SPEAKER: Okay. Thank you.

8 UNIDENTIFIED SPEAKER: And finally, we have Mona
9 Schulman from Pacific Coast Producers and Robert
10 Turkile with Frito-Lay to talk briefly about their
11 experiences with land application.

12 MS. SCHULMAN: Hello. I'm Mona Schulman with
13 Pacific Coast Producers and we are a food processor.
14 Sometimes I feel like I need to cringe when I say
15 that, but we are a grower-owned cooperative, we have
16 165 approximately grower owners who grow peaches,
17 pears, grapes, tomatoes and apricots.

18 We submitted some comments in response to
19 the questions posed by the state board but I'm here
20 today just to talk about our experience with land
21 application.

22 We view ourselves as striving to be an
23 environmentally responsible company and a good
24 steward of the land. It benefits us as well as
25 society. We've been at our Butte County facility for

1 approximately 30 years and a land application site;
2 about 20 years ago we retained and developed a
3 relationship with the state university to assist us
4 in managing our facility.

5 We've had plant research plots to test the
6 uptake of nutrients and the impact of the cannery
7 water on plant growth. We have five monitoring wells
8 there. It's set out with wheel line and canon
9 irrigation as well as some field flood irrigation for
10 our tree fields.

11 We have grasses that we grow and crop for
12 cattle feed, and after 30 years of applying water
13 that is -- has organics and salts from the caustic
14 peeling that we do with the peaches and pears, we
15 believe, and I believe our regional board staff
16 concurs, that there have been no degradation -- there
17 has been no degradation of groundwater at the site.

18 We manage our loading rates. We rotate
19 irrigation fields. We separately disc in our
20 by-product into soil amendment and I think it shows,
21 if anything, we're nitrogen deficient in our -- in
22 our plants.

23 We have done best practices and treatment
24 and control studies to reduce sources of salts and
25 inorganics in our plant and I believe we've been very

1 successful at that. And, you know, our conclusion is
2 that land application can work and does work at our
3 facility.

4 I'd be happy to answer any questions that
5 you might have but otherwise I'm just here to say
6 that it can work if it's properly done.

7 CHAIRMAN BAGGETT: Thank you.

8 MS. SCHULMAN: Thank you.

9 MR. TURKILE: Chairman Baggett, other board
10 members, thank you for this opportunity to address
11 you on this very important topic. I appreciate you
12 all taking the time to discuss it.

13 My name is Robert Turkile, I'm a corporate
14 environmental manager for Frito-Lay. I'm here today
15 to discuss our Bakersfield facility that land applies
16 all of our process water.

17 This manufacturing facility discharges
18 approximately 1.2 million gallons of water per day,
19 and I believe it's an excellent example of how land
20 applications work. To prove this fact, Frito-Lay
21 commissioned an independent study by Brown and
22 Caldwell in 2003 and of the conclusions in the
23 report, the number one conclusion was that we are in
24 compliance with our regional board order. And the
25 other conclusions in the report point to the fact

1 that there has been no degradation of groundwater to
2 the local area.

3 Frito-Lay submitted written comments prior
4 to this meeting with this report and I encourage you
5 all to look at that report for additional
6 information.

7 Again, I'm here to point to the fact that
8 land application works, if properly managed and
9 monitored.

10 I'd like to encourage the state board to
11 recognize this fact and to take on the
12 decision-making process as it pertains to the
13 regulations of land application processes. Leaving
14 this decision-making process in the regional hands
15 will only lead to inconsistencies between the regions
16 and confusion for food processors and other land
17 application systems.

18 I'd also like to encourage the state board
19 to form a working committee made up of the state
20 board members, regional boards, food processors,
21 other regulated entities, so that we may work
22 together as a partnership as we move forward with
23 deciding how to properly regulate and move forward in
24 this process.

25 Thank you.

1 CHAIRMAN BAGGETT: Thank you.

2 Any questions? No.

3 Thank you for your valuable report.

4 UNIDENTIFIED SPEAKER: That concludes the food
5 processing industry. We also have the -- to get the
6 public on treatment works perspective; we have up in
7 the Central Valley the Clean Water Association,
8 Warren Tellison and Tess Dennon who is here as well
9 to give that perspective.

10 CHAIRMAN BAGGETT: Why don't we take a
11 five-minute break and then we'll come back for POTWs.
12 Thank you.

13 (Recess.)

14 (End of tape 1, side 2.)

15 CHAIRMAN BAGGETT: I think when we left, Tess --
16 Okay, As soon as you come up, it gets quiet.
17 I like that. Now we'll bring in the big guns here.

18 Take it away.

19 MS. DENNOM: Thank you. Tess Dennon here today
20 on a number of POTWs throughout the Central Valley,
21 various clients. I'm with Larry Walker Associates.
22 And also today will be Warren Tellison, executive
23 director of the Central Valley Clean Water
24 Association, which is the association of POTWs
25 throughout the Central Valley.

1 And I think the main point that POTWs wanted
2 to bring here today is that we share your pain. And
3 in fact, you know, the POTWs are affected really in a
4 couple of different ways.

5 One, first and foremost, is those POTWs that
6 are doing themselves land disposal dischargers,
7 they're facing some of the same critical issues with
8 regards to groundwater objectives and trying to meet
9 groundwater objectives in order to maintain their
10 land disposal processes for their wastewater.

11 Our POTWs are also affected to the extent
12 that if the food processors would be discouraged from
13 land disposing, they have to look for alternatives.
14 One of those alternatives, of course, becomes local
15 sewage agencies, of which some food processors do
16 sewer their wastewater.

17 Now, for a local agency, of course, they
18 receive their permit limits and they have to enforce
19 them to local limits on the industrial dischargers to
20 their system; so just having food processors, if land
21 disposal became an option that wasn't viable, it
22 doesn't help them to go straight to a sewer agency
23 because the sewer agency is going to end up putting
24 local limits on them in order for the agency to meet
25 their permit limits and we're in the same quandary

1 with the same issues.

2 The POTWs are facing the same salt issues as
3 the food processors and the wine industry. I don't
4 think anybody can underestimate the fact that salt
5 has been an issue in the valley since, you know, the
6 '60s, when we first started the delta standards and
7 the basin plans. And the issues have been around and
8 they continue to be around and they continue to be
9 around and unfortunately we haven't found that
10 sustainable viable solution that allows all of us to
11 go forward economically and environmentally and to
12 maintain the communities that we live in to offer
13 sewage systems to be able to discharge wastewater
14 from food processing and sewer agencies, whether it's
15 to land, to use wastewater for recycling purposes.

16 And we are here today to support the
17 proposed -- or the discussions that the state board
18 is taking on the issue of a statewide salt management
19 plan and the issues associated with it.

20 We don't see how the state can continue to
21 deal with the salts on a permit-by-permit basis,
22 which is kind of where we're at today.

23 I know I'm sure the state board is tired of
24 getting appeals from different dischargers based upon
25 the salt limits that they're getting. It's something

1 you see continuously and I think it's because the
2 regional board feels that their hands are tied
3 because of the basin plan standards that they're
4 dealing with.

5 And we need to look at it from a broader
6 statewide prospective. Thank you.

7 CHAIRMAN BAGGETT: Thank you.

8 MR. TELLISON: As Tess mentioned, I'm Warren
9 Tellison, executive officer of the Central Valley
10 Clean Water Association.

11 She also stole most of my thunder in what I
12 was going to say, so I won't repeat it. But we did
13 submit some written comments last week and basically
14 we are -- for all the things she just mentioned, are
15 an interested party in everything that's going on.
16 And we encourage the state board to renew the salts
17 issues and -- broadly and comprehensively, and to get
18 moving on it as soon as we can and involve us all in
19 the process.

20 CHAIRMAN BAGGETT: Thank you.

21 That's it from the -- so let's move to the
22 California Farm Bureau, as Tony's here and then
23 Carolyn Brickey from Protected Harvest.

24 SPEAKER TONY: Thanks. Good afternoon, Chairman
25 Baggett, board members and Vice Chair Longley and

1 regional board members.

2 I wanted to first of all thank the board,
3 the state board, the regional board and their staffs
4 for putting this together. I think it was an
5 excellent opportunity for an exchange of ideas and
6 discussion today.

7 The Farm Bureau wants to second and
8 wholeheartedly enthusiastically support the comments
9 that were made earlier about a coalition, various
10 analysts who spoke.

11 I think fundamentally we hope this is the
12 beginning of a process that will get to kind of a
13 holistic solution that will deal with a lot of these
14 issues in a scientific and technically accurate
15 manner. It takes advantage of a lot of scientific
16 and technical advice that's available to the board
17 from other agencies, from the university, et cetera,
18 et cetera.

19 One of the issues that I wanted to call out
20 and bring to the board's attention is the issue of
21 standards. And I think it really starts to address
22 the first question that's in the board's list, which
23 is are the land applications impairing beneficial
24 uses, one way to look at it.

25 And I think that where the rubber hits the

1 road on that is what are the standards, whether
2 they're effluent limits or exceeding water limits,
3 they're applied to the facilities that are doing land
4 application. And one of our concerns is that in
5 practice a lot of the permit standards are being
6 taken off the shelf by staff as interpretations of
7 basin plan are quality objectives which we don't feel
8 is in compliance with Porter Cologne in the 13241 and
9 242 standards.

10 And our view is that the process that's
11 envisioned in 13241 of the Water Code sets the
12 balance between appropriate protection of the
13 environment and appropriate interest in economic
14 development, provision of housing and all the other
15 beneficial uses.

16 And without using that process to arrive at
17 the numbers that are in the permits, through some
18 process, then that balance is disrupted and you lose
19 the ability to advance on all fronts to provide
20 housing, to ensure that agriculture's viable, to
21 provide for the economic liability, without which
22 we're really not going to get environmental
23 protection that we really want.

24 So I just wanted to call that issue out to
25 the board. I'll be happy to take questions. Just

1 thank the board for the time and the effort today.

2 CHAIRMAN BAGGETT: Questions?

3 Thank you.

4 Carolyn and then Bill Jennings on deck.

5 MS. BRICKEY: Thank you, Mr. Chairman, members
6 of the board and all these people that are in the
7 audience for an opportunity to speak today.

8 My name is Carolyn Brickey, I'm executive
9 director of Protected Harvest. Our project is only a
10 few years old but I am a lawyer, which some of us
11 still think is good, and I've been involved in food
12 and agricultural policy for about 25 years. That has
13 nothing to do with my age, by the way.

14 I represent Protected Harvest, which is a
15 third-party certifier; so those of you in the
16 audience can keep in mind that everything I say today
17 will be biased in that direction.

18 We are involved in promotion and
19 implementation of sustainable standards that can
20 include development of an ecolabel which can allow
21 the partner that we're working with to make an
22 environmental claim in the marketplace. Here in
23 California we're working with stone fruits,
24 strawberries, processed tomatoes, wine grapes,
25 processed vegetables and we just found out very

1 recently, citrus. We'll be developing standards for
2 citrus very shortly.

3 We're very proud that we will be certifying
4 Lodi Woodbridge wine grapes this fall.

5 The case I heard today for input reduction
6 and cross media protection is about as strong as I've
7 heard anywhere before. And I have to tell you that
8 the picture's a little bit blurry and discouraging in
9 that regard because I worked on Capitol Hill for
10 almost six years and we wrestled with the problem
11 there.

12 I will say that this state group moves
13 things along a little more quickly, though. When you
14 testify at a hearing at Washington you usually have
15 to wait an hour to have all committee members make
16 their statements.

17 So, with that in mind, I'll try to be brief.

18 Our process and our approach is to be
19 collaborative. We believe that the best way to
20 develop standards that will get buy-in from all those
21 who participate, and also will result in a work
22 product and a plan that can allow the implementation
23 of those standards.

24 What we do is we bring the stakeholders to
25 experts, the environmentalists, whoever the relevant

1 parties are together, and we develop standards that
2 are science based and peer reviewed. But also
3 economically feasible and will work.

4 And our board represents the kind of
5 diversity and interest and expertise that allows that
6 to happen. And we believe that fundamental to this
7 process is to develop a three- to five-year plan
8 because that's what's going to be successful.

9 Progress, as we know, if it's true and real,
10 is always going to be incremental. We think that
11 this process offers a lot of opportunity for
12 innovation and rewards which I've also heard talked
13 about today.

14 For those who want to step out of the pack
15 and take a position and get a certification program
16 going, this is a good way to go.

17 Also, though, I think that the relevance of
18 Protected Harvest for this group today is that we can
19 certify those food processors and wineries that work
20 with us on sustainable standards for the crops that
21 they're processing; so we can do a combined approach
22 that also allows us to incorporate regulatory
23 requirements into our standards.

24 Do we then become the regulators? No,
25 thankfully we don't, and we'll leave that joy and

1 pleasure to all of you. But what we do is we certify
2 that the standards are being met, and if the
3 standards include the provisions that are required by
4 regulators, then the company can demonstrate that the
5 company is meeting its requirements for regulation.

6 So we think this is a good way to go. It
7 offers rewards, as I said, it allows the client to
8 make a claim in the marketplace; so that standard can
9 also be communicated to the consumer as well as to
10 others in the market and to the regulators.

11 Now, so far I've been talking mostly about
12 food crops, but I want to make it clear that we will
13 work with wineries and with food companies.

14 For example, if you look at the code of
15 sustainable wine grape growing, you'll note that that
16 is an excellent start for developing standards for
17 wineries. And we would certainly want to take
18 advantage of that opportunity and work with those
19 wineries who are interested to develop those
20 standards.

21 The code itself is a starting point because
22 there's no -- unless there is an independent source
23 to say that you're doing what you say you're doing, I
24 don't think that works. It's not credible. So you
25 do need that third party to step in and say yes, the

1 standards are being followed.

2 So as I said, I'm not a neutral party. I
3 do think this is the direction that food companies
4 and wineries ought to go. We think we're on the cusp
5 of this issue and that the trend will increase for
6 more and more of this opportunity to develop.

7 The important thing is not to have just a
8 standard. You can have the greatest standard in the
9 world but unless you can show that somebody's
10 implementing it, then you're not getting
11 environmental protection. The cook can have the
12 greatest recipe in the world but unless you know that
13 the cook is actually baking the recipe that way,
14 making it work, you still don't have the program that
15 you need.

16 We also think that this is a valuable option
17 because it will save taxpayers' money ultimately if
18 you folks don't have to send out regulators to check
19 on what people are doing. It will allow you to focus
20 on those people who may not be -- who may not be
21 performing well, the poor performers. And it allows
22 you to make your regulations highly targeted and cost
23 effective, which we think is important; so
24 enforcement can be limited and used in a way that
25 will capture poor performers and not have you looking

1 at those who are doing well.

2 Our goal is to help those who are or want to
3 do it right get credit for that in the marketplace.
4 If we can assist our partners in demonstrating
5 regulatory compliance, we can offer our model as one
6 that works for everybody involved.

7 Are there any questions?

8 UNIDENTIFIED SPEAKER: You had mentioned peer
9 review.

10 MS. BRICKEY: Yes.

11 UNIDENTIFIED SPEAKER: I'm curious. Could you
12 describe a little bit more about your peer-review
13 process?

14 MS. BRICKEY: Well, in the process of developing
15 the standards we involve experts in those particular
16 areas; air, water quality and soil quality, which
17 some people have discussed here today, is also a very
18 important way to protect the environment.

19 Then after the standard's developed, we send
20 it off to other experts who have not at all been
21 involved in our process and we ask them for an
22 independent review of the standards so that we know
23 that we're addressing the problem adequately, that
24 we're taking into account state-of-the-art technology
25 that might be available and we're doing the most cost

1 effective thing in billing standards.

2 UNIDENTIFIED SPEAKER: And are these experts
3 with the university, how are they --

4 MS. BRICKEY: Generally we like to work with
5 universities in our process and I think that in every
6 one of our standards we are.

7 UNIDENTIFIED SPEAKER: Who is your board?

8 MS. BRICKEY: Well, we have several experts in
9 crop production and sustainability on our board. We
10 also have three representatives from mainstream
11 environmental groups on our board. When I say that,
12 it always scares growers.

13 But the point is if they say a standard is
14 good and our board approves it, the standard is good;
15 so you get some very important buy-in in that process
16 that we think is fundamental to having a good
17 stakeholder process.

18 UNIDENTIFIED SPEAKER: Just one more thing.

19 The handout that you gave, I only have the
20 first page, I don't know if there was supposed to
21 be --

22 MS. BRICKEY: Oh, I gave some extra copies to
23 Craig. He's probably got it.

24 We'll put our statement up on our website,
25 which is www.protectedharvest.org. If anybody here

1 wants to contact me, you can reach me through my
2 e-mail address which is carolyn@protectedharvest.org.

3 And I also want to emphasize, which I
4 haven't before, we're not organic. We are not
5 competing with organic, we think that's a buying
6 choice in the marketplace, but we are working with
7 conventional agriculture and conventional companies.
8 And our goal is to put as many acres under
9 sustainable programs as possible.

10 UNIDENTIFIED SPEAKER: Carolyn, I have one
11 question. How do you envision that this
12 certification program working with the regulatory
13 program will be with the state and regional board?
14 Are you envisioning that if someone is certified that
15 they would somehow still fall within -- under some
16 permit or would be exempt from that or how would
17 you --

18 MS. BRICKEY: Well, it would really depend on
19 what kind of incentives that you wanted to provide to
20 that party. You -- you could certainly do it that
21 way and provide that incentive, or you could have
22 some kind of consultation with the company and make
23 sure that you felt that the provisions in the
24 standards satisfy your regulatory requirements.

25 But in any event, I think the incentives

1 part from you is an important component to making
2 this work.

3 UNIDENTIFIED SPEAKER: So I guess the incentive
4 could be like we do with the FDS permit in Merced
5 County dairies, you got a 50 percent fee break,
6 because Merced County Environmental Health is doing
7 inspections and certifying the fact that they're
8 compliant with the regional board and FDS
9 requirements.

10 I guess you could also -- maybe it's
11 something you could look at -- it could also be a
12 permit term, instead of two years, you get four
13 years, which should provide some incentive, for three
14 years to five or whatever length the permit would be,
15 I guess would be an incentive. I guess that's the
16 kind of thing --

17 MS. BRICKEY: That would be an incentive.

18 The other thing that I think would be an
19 incredibly important incentive is to offer a
20 certainty so that person or that company knows that
21 if these standards are being followed, they -- that
22 company is meeting regulatory requirements. That
23 way, the company can stop second-guessing what the
24 regulators want to do, et cetera, et cetera. We've
25 heard a little bit about that here today.

1 But that certainty in knowing that you've
2 met the standard and you're set is, I think, really
3 important to companies as well.

4 CHAIRMAN BAGGETT: Any questions?

5 UNIDENTIFIED SPEAKER: Yeah.

6 On the business of standards and whatever,
7 your regulators are faced, it seems to me, with
8 changing or constantly fine-tuning of -- of things
9 that come down from EPA, whatever. And what was
10 valid two or three years ago now is no longer valid
11 because -- simply because we're able to measure more
12 closely. How would you allow for that?

13 MS. BRICKEY: Well, there's really three ways:
14 One way would be if somebody contacts our board --
15 contacts us through our website and says you want to
16 update your standard and include X, Y and Z, then
17 that's something the staff on our project would look
18 at.

19 Another way is for the partner to come to us
20 directly and say we need a -- we need to update or
21 amend our standard and show that it reflects this new
22 thing that we need to do.

23 Another way would be, you know, working
24 with -- in consultation with folks in government,
25 those folks that would -- you know, your standards

1 meet our standards -- our requirements but you need
2 to update them to include the following.

3 So we would go back to our collaborative
4 process as much as need be to make sure that those
5 modifications were made. It's a pretty streamlined
6 process.

7 UNIDENTIFIED SPEAKER: Okay. I -- maybe I might
8 look at that as being more serious than what maybe
9 you seem to make it. It just seems our ability to
10 measure things and to do whatever is so different
11 today than it was ten years ago.

12 MS. BRICKEY: Yes.

13 UNIDENTIFIED SPEAKER: Who knows what it's going
14 to be in ten years from now?

15 MS. BRICKEY: You know, I could give a long
16 answer to that question but I would incur the wrath
17 of the chair probably.

18 The short answer is that -- you know, that
19 by using the experts that we use and by working with
20 our partners, we can determine as best we can what
21 kind of requirements are going to meet the changing
22 requirements. I mean, what else can you do?

23 You know, a new technology that wasn't
24 available two years ago might be available three
25 years from now, or it might be less costly; so those

1 are the things you have to look at.

2 CHAIRMAN BAGGETT: You got a question?

3 Thank you.

4 MS. BRICKEY: Thank you.

5 Okay. Bill Jennings and then Laurel
6 Firestone.

7 MR. JENNINGS: Well, good afternoon, Chairman
8 Baggett, gentlemen. Bill Jennings representing
9 (inaudible) Chapter, San Joaquin Audubon, California
10 Sport Fish and Protection Alliance. And certainly
11 the environmental wires did burn in the last few days
12 (inaudible) and so forth in discussing this issue.
13 And I suspect as we go forward, it will -- it will
14 punch a hot button.

15 I want to -- probably I should first suggest
16 that we not confuse standards with -- with management
17 measures or requirements, specific requirements for
18 conditions. I mean, standards are a formal process
19 as a result of a -- of a formal process. And
20 standards have already incorporated the economic
21 balancing. And we don't have to continually go
22 through that every time we -- we issue that in a
23 permit as a requirement.

24 I'm a little confused, frankly, with this
25 purpose of the workshop. I mean, you know, the

1 Central Valley Region 5 Regional Board in January
2 conducted a workshop and acknowledged at that
3 workshop that 76 percent of regulated food processors
4 in the valley are known to believe to have already
5 polluted or degraded groundwater, and 64 percent of
6 these have historically required some sort of an
7 enforcement action that the board had previously
8 failed to implement longstanding laws and regulations
9 protecting groundwater. And then consequently the
10 board was now proposing or staff was now proposing to
11 the board to begin a phased approach to begin
12 enforcing the law.

13 In response to this, the industry, or at
14 least that part of the industry that has been
15 improperly disposing of its wastes and polluting
16 groundwater, has turned to its legislative advocates
17 and the state board in an effort to preserve their de
18 facto exemption from laws protecting groundwater,
19 laws that have long been applicable to
20 municipalities, to non-ag industry, to mom and pop
21 businesses.

22 And so it almost seems as if the food
23 processing industry is pleading -- issuing a plea to
24 Art somehow save them from the wicked clutches of Tom
25 or those two radicals sitting to the left of you.

1 And I can think -- in the aftermath of the
2 Hilmar fiasco, I can think of few actions by the
3 state board that would do more to galvanize the
4 statewide environmental community and place the board
5 in the crosshairs of public scrutiny than actions
6 that could rightly or wrongly be perceived as an
7 attempt to delay or restrain the regional board from
8 finally enforcing longstanding laws.

9 Between 25 percent and 40 percent of
10 California's water supply comes from groundwater.
11 That figure can rise to as much as two-thirds during
12 critically dry years. 50 percent of California's
13 population depends upon groundwater for part of their
14 drinking water supply.

15 And if you want to know why the regional
16 boards are concerned about groundwater is that
17 74 percent of the state's groundwater demand is in
18 the Central Valley. And that 61 percent of the
19 surface water demand is in the Central Valley.
20 65 percent of the total water demand is in the
21 Central Valley according to Bulletin 118. And yet
22 data from the water boards and USGS, the Department
23 of Health, DPR and others demonstrate that
24 groundwater has been severely degraded.

25 Thousands of public drinking water wells

1 have been closed. For example, Fresno recently
2 had to close seven wells capable of supplying
3 16,000 families because of nitrates.

4 California has over 71,000 agricultural
5 irrigation wells, many are degraded or polluted.
6 USGS data collected over a ten-year period
7 demonstrates that, for example, 70 percent of the
8 wells sampled in Fresno County exceed the secondary
9 MCL and the agricultural goal for total dissolved
10 solids. And that data is available for up and down
11 the valley.

12 Even the state board's own admittedly
13 questionable data indicates that more than a third of
14 the area extant of groundwater assessed in California
15 is so polluted that it cannot fully support at least
16 one of its intended uses and at least 40 percent is
17 either impaired or pollution is threatened by
18 impairment.

19 The California Department of Water Resources
20 has concluded that water from California's
21 groundwater basins, quote, have been the most
22 important single source contributing to the present
23 development of the state's economy, unquote.

24 It's past time to begin implementing
25 long-established regulations enacted to protect

1 groundwater resources.

2 Let me respond specifically to the
3 questions.

4 Does land application for food processing
5 and water waste threaten groundwater quality and
6 beneficial uses? Obviously yes, as the regional
7 board has amply documented.

8 A review of the groundwater monitoring data
9 from the 105 food processing sites that have been
10 required to install monitoring wells found that
11 40 percent of the sites are polluting or degrading
12 groundwater, 75 percent of the food processing sites
13 that are regulated have either confirmed or suspected
14 groundwater degradation or pollution.

15 Should there be statewide consistency in
16 regulating food process and water waste rather than
17 allowing for regional environmental variations and
18 differences? Well, the only reason this issue is
19 before us is because Region 5 has historically
20 ignored state policy. Now that the regional board
21 proposes to follow state policy, those parties who
22 have enriched themselves from not being -- for its
23 not being implemented are complaining that it's
24 unfair.

25 The Water Code, Title 27, basin plans, the

1 state board's (inaudible) source of drinking water
2 and cleanup policies per presidential decisions, the
3 2004 strategic plan, all of this whole process that's
4 been vetted, publically litigated, approved, provide
5 all of the needed consistency that's required.

6 These regulations have long applied to
7 municipalities, to industry, to businesses in the
8 nonagricultural sector, and it's time they were
9 applied to food processors.

10 Attempts to delay implementation under the
11 smokescreen of reconsideration or a new process will
12 be vigorously opposed, and I can't imagine that
13 squandering limited resources on developing a whole
14 new approach that will then likely be litigated by
15 both sides. I mean --

16 UNIDENTIFIED SPEAKER: (Inaudible) answer the
17 question, should --

18 You saw the chart, nine regional boards all
19 over -- very, very choicy, very different approach to
20 the same even --

21 MR. JENNINGS: Well, I understand and have we --
22 we --

23 UNIDENTIFIED SPEAKER: So --

24 MR. JENNINGS: -- have we examined the
25 concentration? I mean, I notice that what, three and

1 five are perhaps a little slower -- I mean, some of
2 these do --

3 Are there even any food processors in the
4 North Coast or the desert? I mean, I don't know. I
5 mean, you know, but the question --

6 UNIDENTIFIED SPEAKER: To be clear, on the
7 chart --

8 MR. JENNINGS: No, but what we do know is that
9 most of the groundwater is in the -- is in the
10 Central Valley.

11 UNIDENTIFIED SPEAKER: The question, I guess,
12 the one that is posed, is it worth looking at a
13 general -- like wineries, which I would argue the
14 majority isn't there. They are in other regions as I
15 think we're all aware.

16 Do you have any thought?

17 MR. JENNINGS: Well, our -- I think maybe --

18 UNIDENTIFIED SPEAKER: Is that more efficient?

19 I mean, you're talking about efficiency
20 (inaudible) --

21 MR. JENNINGS: Well, no. The policies are
22 there. I mean, maybe they're not being applied
23 uniformly or implemented uniformly, maybe there needs
24 to be some guidance from the -- from the board.

25 But do you really want to scrap that and go

1 through and start developing a whole new -- a
2 process? I think -- I mean, the policies are there.
3 Everything we need is there --

4 UNIDENTIFIED SPEAKER: The alternative, as
5 you're well aware, is that a petition-by-petition
6 basis setting state policy based on petitions.

7 MR. JENNINGS: Well, if you want to do that. I
8 mean, most of --

9 UNIDENTIFIED SPEAKER: That's what happens.

10 MR. JENNINGS: Most of the -- of the -- most of
11 these statutes, you know, the Porter Cologne, I mean,
12 whether the state board policies on any day -- you
13 know, I mean I suppose that people can appeal every
14 one of them.

15 I don't know that a new permit, a new
16 general order, will lessen the number of petitions
17 that come up to the state board. I mean, because
18 nobody's going to be with -- with it. But it's going
19 to be a very contentious process in an election year.
20 I mean, you know --

21 And remember that there are, you know,
22 35 million Californians --

23 UNIDENTIFIED SPEAKER: I don't think that's --

24 MR. JENNINGS: -- that's taking groundwater.

25 UNIDENTIFIED SPEAKER: I don't think that it's

1 probably fair to say that the evidence tends to
2 influence the lack of controversy for either the
3 regional or state boards. The year doesn't seem to
4 matter. It's always there.

5 A couple other questions --

6 MR. JENNINGS: Yeah, there's several others.

7 The food processors --

8 UNIDENTIFIED SPEAKER: I've got other questions,
9 if you want to answer those.

10 MR. JENNINGS: I'll be glad to.

11 UNIDENTIFIED SPEAKER: I guess one of the
12 challenges I'm having is we've got this water
13 conservation, you know, Bulletin 116, the State Water
14 Conservation Plan, we've encouraged as a state over
15 the last 20 years using less water to do more.

16 And when you do that, I think it was pointed
17 out, and everyone in the room knows, you concentrate
18 things the more you use it, there's no -- no
19 dilution; so I guess the alternative is to use more
20 water so you have that dilution. Is that something
21 that you would --

22 MR. JENNINGS: I mean, how to we get there?

23 UNIDENTIFIED SPEAKER: You know that --

24 MR. JENNINGS: You know that the San Joaquin
25 River Quality Management Group has to come to you

1 with an alternative to the salt TMDL, that's cut off
2 even more water --

3 UNIDENTIFIED SPEAKER: -- I mean --

4 MR. JENNINGS: -- and create a string of
5 Kestersons. I mean, you know, I mean --

6 UNIDENTIFIED SPEAKER: So what's the solution?
7 I guess that's the challenge we're faced with.

8 If you take -- if you can reuse water to
9 grow crops, then you can allow the colder, say better
10 water in the Stan river, for example, to be used for
11 environmental fish flows, instead of, you know,
12 letting it all through the fields and then back into
13 the river and warming it up and you know the problems
14 that causes. And you can allow more water to stay in
15 the river as opposed to being diverted back into the
16 river.

17 MR. JENNINGS: We -- we advocated that -- that
18 water conservation would -- would increase reservoir
19 storage and allow greater flows but that never got
20 very far. In any of these --

21 UNIDENTIFIED SPEAKER: That's a separate
22 discussion. I'm just trying --

23 MR. JENNINGS: Competing policies.

24 UNIDENTIFIED SPEAKER: But -- but -- but --

25 MR. JENNINGS: Why not remove it? I mean, you

1 know, everyone says oh, there are no technologies and
2 yet we are -- we do have the technology -- we do have
3 a problem with how to dispose of brine and -- and
4 maybe that's a technical solution. I don't know that
5 it's a --

6 UNIDENTIFIED SPEAKER: So do you have a solution
7 for that?

8 MR. JENNINGS: Well, I mean, maybe it's a cost
9 of -- of -- maybe that's the cost of doing business.

10 UNIDENTIFIED SPEAKER: Of disposing --

11 Where would you dispose it, I guess is the
12 challenge? Kettleman City?

13 MR. JENNINGS: Well, not Kettleman City, but I
14 think that -- that -- that we need to discuss that.
15 I mean, what we do need to see is -- is a process
16 that lays that out and analyzes each of the -- the
17 available options.

18 UNIDENTIFIED SPEAKER: So maybe --

19 MR. JENNINGS: I've had that.

20 UNIDENTIFIED SPEAKER: So maybe --

21 I guess one thing, they can be forwarded and
22 we haven't heard from everybody. We've got a few
23 more yet, but -- so maybe that's the next step is
24 looking into at some extent at food processors, but
25 what we've heard overwhelmingly today is the salt

1 issue.

2 And maybe that's something I think we
3 clearly do need to tackle on a statewide basis is
4 have some --

5 MR. JENNINGS: Well, we've been wrestling with
6 the salt water problem on the San Joaquin for -- for
7 decades and haven't gotten anywhere -- (inaudible) a
8 machine and takes it away. I mean --

9 UNIDENTIFIED SPEAKER: I'm suggesting we make
10 that --

11 MR. JENNINGS: Somebody is -- somebody is going
12 to have to pay, you know, for that. I mean, you
13 know, that's -- that's -- that's part of our economic
14 system is that you internalize waste streams and
15 establish a level playing field.

16 And -- and -- and there are obviously food
17 processors, and I'll speak to that in a minute, that
18 are -- that are going to a POTW and maybe that POTW
19 will have to go to a -- to an RO or a system. But it
20 is being -- you know, it is not the entire industry
21 that is faced with this.

22 I mean, I would just simply say that, you
23 know, when you talk about -- well, let's talk about
24 encouraging the development of practice and
25 guidelines for management and disposal of waste. I

1 mean, you know, development of managers is necessary,
2 we applaud proactive industry efforts but that can't
3 be employed in lieu of compliance, accountability or
4 consequences. Self regulation has never worked.

5 Should there be third-party certification of
6 food processors and winery management and disposal
7 plans? Again, third-party voluntary certification
8 efforts have been helpful, we encourage them, but
9 they cannot serve in place of statutory, regulatory
10 requirements.

11 The history of voluntary efforts to control
12 pollution in the absence of an enforceable regulatory
13 framework has been a dismal record of unremitant
14 failure.

15 Are there economical ways to address salt
16 loading issues associated with food process?
17 Obviously, the 119 food processors that have already
18 been long properly disposing of their wastes are
19 still in business. It would be more pertinent to ask
20 is it fair to those who obey the law should be placed
21 in a competitive and financial disadvantage to those
22 who ignore the law.

23 Is the state board going to ensure a level
24 playing field, you know, is it going to have equal
25 compassion to -- to the victims -- to the owners of

1 the public trust of our groundwater in California to
2 those generations that are going to have to
3 increasingly rely upon it for future water supply?

4 And so the real question that needs to be
5 asked today is whether this board is going to support
6 its regional board and provide it with the necessary
7 staff buttressed by an appropriate fee structure to
8 protect groundwater resources.

9 I mean, to weigh and failure is to provide
10 support and adequate resources is simply going to be
11 perceived as a reward for those who pollute
12 groundwater and punishment for those who don't. I
13 mean, the -- the fact is Region 5 set forth a phased
14 approach, you know, dealing sites specific,
15 understanding the problems that individual food
16 processors have. But requiring an assessment of
17 groundwater and requiring those measures to be
18 implemented so that groundwater doesn't become
19 polluted. That seems pretty basic to me.

20 And -- and -- and suddenly we have an
21 industry that has long escaped regulation, you know,
22 angry that it's being again drug slowly under the
23 regulatory, you know, tent. And I think that's the
24 issue here.

25 And I guess the question I have is is it

1 appropriate for the state board to undercut its
2 regional boards? I mean, you know, again it might be
3 appropriate for the state board to provide some
4 guidance on the existing state policies and how --
5 and help the regional boards maintain a consistency
6 because you have processes that are trying to
7 generate consistency between the regional boards.

8 You know, but do you want to create the
9 appearances of providing radical for an industry that
10 has long escaped regulation?

11 Thank you.

12 UNIDENTIFIED: Yes. Thank you.

13 Bill, you mentioned about the fact that the
14 board is increasing its enforcement activities on the
15 food processing industry and this brings us to --
16 every time I wrestle with this problem I come up with
17 this salt issue that you were talking about.

18 Do you think that we can maintain economical
19 vitality in the food -- in the agricultural industry
20 in the Central Valley, particularly in the southern
21 and San Joaquin Valley, and at the same time have an
22 in-valley solution to the salt problem?

23 MR. JENNINGS: I'm not sure that there's a
24 low-cost in-valley solution to the salt problem.
25 That may be an intractable problem.

1 There are certain -- there are certainly
2 things that can be done. I mean, you know, I would
3 suggest that some change of some water rights would
4 certainly help the San Joaquin enormously, but -- but
5 I think that there are some technical solutions
6 that -- that would --

7 Look. We just can't keep putting salt into
8 the ground. I mean, without -- without destroying
9 our future. I mean, at some point we have to
10 recognize that there are -- that there are limits
11 to -- to, you know, messing in your own nest.

12 UNIDENTIFIED SPEAKER: Thank you.

13 There's nothing that is working, as I think
14 you are aware.

15 Any other questions?

16 Laurel Firestone and then Rich Stull.

17 MS. FIRESTONE: Thanks for the opportunity to
18 comment today. My name is Laurel Firestone. I'm an
19 attorney with the Center on Race, Poverty and the
20 Environment in Delano. I run the rural property
21 water project there, which -- and I work with a
22 number of extremely poor and disadvantaged
23 communities in the southern half of the Central
24 Valley.

25 Through my work I've seen the high costs

1 that groundwater --

2 UNIDENTIFIED SPEAKER: The Central Valley or the
3 San Joaquin Valley?

4 MS. FIRESTONE: Well, specifically I work in
5 four counties, Kern, Tulare, Fresno and Kings; so I
6 do --

7 UNIDENTIFIED SPEAKER: The San Joaquin Valley.
8 A lot of people seem to be -- to connect the two
9 together. They're two different valleys.

10 MS. FIRESTONE: Thank you.

11 So I -- through my work I've worked with a
12 number of disadvantaged communities and have been
13 able to see the high cost that groundwater pollution
14 has had on -- on the most disadvantaged people of our
15 state.

16 While food processing waste disposal on land
17 is not the only cause of widespread contamination of
18 groundwater in the Southern San Joaquin Valley, the
19 little data that is available from the Central
20 Valley's STOP reports clearly present that land
21 application is a cause of groundwater contamination,
22 particularly bar contaminants that most threaten
23 drinking water in the Southern San Joaquin Valley,
24 specifically nitrate and arsenic.

25 I want to take this opportunity to support

1 the need for more effective and consistent
2 enforcement of current regulations and policies of
3 food processing and waste disposal on -- food
4 processing waste disposal on land regulations, and
5 specifically call for increased on-site groundwater
6 monitoring and reporting as recommended by the
7 regional board so that contamination can be detected
8 early while it can still be stopped and prevented
9 from contaminating public groundwater and drinking
10 water systems.

11 Secondly, I want to stress the need for
12 increasing enforcement of the state's cleanup
13 policies as also recommended by the regional board so
14 that the polluters and not residents of the poorest
15 communities in our state have to bear the cost of
16 groundwater contamination.

17 And just to follow up on some questions that
18 were presented to Mr. Jenkins. I think that if
19 anyone is going to come up with the technology and
20 solutions to some of these problems, it's going to be
21 people with the resources and manpower that were
22 shown today, and not the poor communities that are
23 left to try and solve this problem on their own
24 today.

25 And already millions of people in California

1 do not have access to safe drinking water and many,
2 if not most of those people, are in the Central
3 Valley. Two of the most common groundwater
4 contaminants in the Southern San Joaquin Valley, at
5 least, are nitrate and arsenic, both -- both of which
6 are caused or increased due to food processing waste
7 applications to land.

8 In fact, as of the last annual violations
9 report from California to Utah, 72 percent of the
10 people whose drinking water has unsafe levels of
11 nitrate live in Tulare and Kern Counties. Nearly all
12 of the systems of those systems, in the counties I
13 work in, rely on groundwater.

14 Nitrate contamination of groundwater has
15 caused the closure of more public wells than any
16 other contaminant in California. A contaminant -- a
17 contaminated wells costs the average small community
18 in the Southern San Joaquin Valley \$600,000 to
19 replace, and that's assuming they can find an
20 uncontaminated groundwater source which in many areas
21 is just not possible.

22 Treatment of nitrate or arsenic, should they
23 not be able to find an uncontaminated groundwater
24 source, can cost between 500,000 and a million
25 dollars in equipment and construction costs for a

1 small disadvantaged community and then another one
2 dollar per 1,000 gallons in ongoing maintenance costs
3 for that treatment.

4 The majority of communities facing nitrate
5 and arsenic contamination are small poor communities,
6 often predominantly Latino, that simply cannot afford
7 these costs and often cannot obtain sufficient
8 government funds to secure safe water once
9 groundwater has become contaminated.

10 Thus, unless groundwater pollution is
11 prevented and cleaned up, tens of thousands of
12 residents in the valley will continue to not have
13 safe and affordable water in their homes because the
14 state board is not responsible for regulating
15 drinking water.

16 And I also want to note that the (inaudible)
17 is not here today to bring in that perspective.

18 It may not be obvious that communities are
19 facing a crisis due to the rising level of
20 groundwater contamination in the San Joaquin Valley.
21 California relies on you all and the regional boards
22 to protect our groundwater, and it's time that
23 mechanisms be put in place and effectively
24 administered to do that.

25 Thank you for the opportunity to comment

1 today and I look forward to working with you all to
2 put toxins out and clean up the groundwater of the
3 San Joaquin Valley so that all residents in all
4 regions of the state can have safe and affordable
5 drinking water in their homes.

6 Questions?

7 UNIDENTIFIED SPEAKER: From your testimony, I
8 gather you're inferring that just -- that the use of
9 land disposal of food processing puts arsenic into
10 the groundwater; is that correct?

11 MS. FIRESTONE: No. Actually I was referring to
12 the STOP's reports on findings that -- sorry, the
13 Central Valley STOP report's findings. It's actually
14 a more indirect process, right? So the increased
15 alkalinity causes arsenic, that may be already not
16 fully occurring, has become more soluble and
17 therefore increase the levels in the ground -- in the
18 drinking water on -- that -- in the groundwater that
19 communities that have traditionally relied on; so
20 it's not direct, it's more of an indirect process.

21 UNIDENTIFIED SPEAKER: Thank you.

22 Rich Stull and then Dan Henricks.

23 MR. STULL: Good afternoon. My name is Rich
24 Stull and I'm with Ecologic Engineering and I appear
25 before you today on behalf of the City of Merced.

1 Merced has already provided comments to the
2 specific questions raised by the state board and I'm
3 here to speak very briefly to supplement that and
4 I'll just be -- you know, read a statement into the
5 record.

6 The City of Merced uses groundwater as its
7 water supply and therefore is directly concerned with
8 groundwater quality. Equally, the city is concerned
9 about maintaining agricultural and food processing
10 industries because its residents must eat and agro
11 business is still an important aspect of Merced's
12 economy.

13 The city believes the critical issue is
14 clearly degradation, and we've certainly heard that
15 enough today, by ag and food processing, and the city
16 believes the issue needs to be resolved by a
17 stakeholder process in phases over many years to
18 maximize equity of the solution. In other words,
19 that's as the city moves forward, equity in the
20 solution, which is necessary, is what we're calling
21 for.

22 A starting point from Merced's perspective,
23 we're just suggesting, because it wasn't one of the
24 six points that the state board brought forward, was
25 clarification of law. As an example, I'd just like

1 to take you and the audience through this simple
2 (inaudible) experiment, sort of Einsteinian, as it
3 were, in how we start to think about relativity.

4 A farmer, which in our case, happens to be
5 the City of Merced, is subject to certain statutes.
6 A farmer chooses to use shallow groundwater entering
7 his property with an EC, electrical conductivity, for
8 the audience, of 1500 microsiemens per centimeter to
9 irrigate his alfalfa crop.

10 As a result of (inaudible) by the crop,
11 water reaching out of the root zone has an EC of
12 about 3,000, again the salt was left behind in the
13 crop, sending pure water in the atmosphere. And that
14 resulted in some degradation in the shallow
15 groundwater leaving the farmer's property.

16 This practice by the farmer, to the best of
17 the city's knowledge, is more or less unregulated
18 unless it happens to be on a watershed 303D listed
19 for salinity; so now the farmer decides to replace
20 the 1500 microsiemen per centimeter groundwater with
21 1500 microsiemen per centimeter recycled water, in
22 concert with California Water Code Section 13551.
23 And so now we have the exact same level of
24 groundwater degradation but the water qualities are
25 the same.

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

(End of tape 2, side 1.)

MR. STULL: ...to -- to F1, so the groundwater impairment is the same.

Now, the critical question is is that impairment now regulated? And if the answer is no, then you believe that that point would need to be made clear. And if the answer is yes, then of course, we would like that point to be made clear.

And on the yes answer, I think the dischargers, where again the city is that farmer, that is switching out (inaudible) qualities of water, as it were, then they would be looking for that yes answer complies with Water Code Section 13510, 512 and 551.

In closing, the other concerns that the city has is moving forward -- trying to move forward with clarity under the law is Water Code Section 13523.5, the notorious, infamous salinity exception which reads -- it's only one line: A regional board may not deny issuance of water reclamation requirements to a project which violates only the salinity standard in the basin plan.

The intent of the legislature in Section 523.5 seems to be clear, then how the state board and the regional boards implement this intent is less

1 clear; so again, clarity more or less on the law as
2 we, the city, see it, as the industries we regulate
3 see it, we're looking for clarity and we think that's
4 very much something that this board can do in talking
5 with the legislature as we move forward this overall
6 program.

7 And we that, that's all we came to say.

8 CHAIRMAN BAGGETT: Questions?

9 Thank you.

10 MR. STULL: Thank you.

11 CHAIRMAN BAGGETT: Dan Henricks and then Trent
12 Cave.

13 MR. HENRICKS: Good afternoon. My name is Dan
14 Henricks. I'm D.H. Engineering and have a Power
15 Point presentation.

16 My presentation will focus a little bit more
17 on the technical issues rather than the Water Code
18 issues, but at the end I want to tie it into what I
19 think would be a good program to improve on the
20 wastewater disposal and reclamation by food
21 processors and wineries.

22 I currently --

23 By the way, I commend the regional board on
24 their -- it's called a waiver for small food
25 processors and wineries. I sometimes think that's a

1 misnomer but I guess you have to call it that for
2 some code or legal reasons, but it's really a
3 simplified permit. And it's a great program.

4 Besides, about four wineries that have had
5 to do this, because they're either new or they've
6 received letters from a regional board, I have
7 another four that are going at it voluntarily.
8 They're getting out of their old septic systems on
9 their own and getting into the program, which I think
10 is terrific, so good comment there.

11 In answer to your questions here, does land
12 application of food processing and winery wastewater
13 threaten groundwater quality and beneficial uses of
14 groundwater? Well, yeah, it can, if you want -- if
15 you mess it up. You can have the best automobile in
16 the world but you might wreck it too.

17 And I think that's where we're at.

18 We have two food processors testify about
19 their systems and I know them somewhat remotely just
20 by reviewing literature but they've got excellent
21 programs; so it can be done and it can be done
22 economically.

23 One thing I do take issue with is on this
24 point of water conservation increasing wastewater
25 strength. Not necessarily. Switch to dry cleanup.

1 Don't use any water. The difference is you got a
2 worker out there with a thumb on the end of their
3 hose washing solids down the drain and other
4 material.

5 Now, to go to another winery and they're
6 cleaning up with shovels first. Getting all the
7 material out that way before it gets hosed off and
8 then they'll do a high pressure water.

9 Secondly, the important point of these
10 constituents when we land apply is how many pounds
11 per acre, not the concentration necessarily. I think
12 that's -- that's a real important issue.

13 All my wineries and food processing
14 clients -- I've got somewhere between 18 and
15 20 wineries and half a dozen food processors, and
16 every single one of them, the first thing I do when I
17 go onto the property is go through their facility and
18 look for ways for them to source control and
19 wastewater minimization, and of course the nice thing
20 about the regional boards, Central Valley Regional
21 Board's program, is you force wastewater -- or waste
22 reduction because you have 100,000 gallon for your
23 limit; so that's one of the nicest things about that.

24 The regional board staff two years ago
25 showed wastewater production ranged from two to eight

1 gallons of wastewater per gallon of wine produced.
2 That's a huge variation and -- that's a huge
3 variation and that's part of our problem is this
4 variation. It's not necessary.

5 If we could go through these slides.

6 We all have heard this repeatedly, the
7 ni- -- the constituents' concern for groundwater,
8 nitrate salts, then we have our high-strength
9 organics.

10 Next slide, please.

11 Nitrates, as one of our previous speakers
12 talked about that, food processing wastewater
13 generally is -- you don't have nitrates. The
14 nitrates are formed through subsequent actions in the
15 soil or in the waste itself. And dropping down to
16 that last bullet, the nitrogen is generally
17 immobilized due to high carbon nitrate ratio in the
18 food processing wastewater.

19 I find that one of my municipal clients who
20 processes land applies untreated food processing
21 wastewater coming from five industries, they've been
22 extremely successful, there's -- they're monitored
23 and actually nitrogen -- nitrates in the groundwater
24 are about -- they were less than 10 as in all three,
25 whereas the neighboring wastewater coming on is up

1 around 40 or 50. A huge difference there.

2 Another municipal client, however, has some
3 problems in that area, but it's tough to distinguish
4 between them and the dairy that's next door.

5 Next slide.

6 Salts. That's a huge -- huge issue and I've
7 not heard, except for one speaker, no one's talked
8 about well, what are we -- what are salts? What are
9 we talking about?

10 Again, with my clients the first thing he
11 needs is to go in and let's do a -- get rid of the
12 sodium, get rid of the caustic -- got to use
13 caustic (inaudible), you got some kind of caustic you
14 use for cleanup. Why not use potassium hydroxide
15 instead? It does increase the salt concentration so
16 yeah, that's not a good idea, but the crops use huge
17 amounts of potassium. It's a benefit to the crop as
18 opposed to a problem with the crop; so substitute
19 salts, those come up with beneficial salts.

20 Next slide.

21 Here's a typical composted fruit punice.
22 Look at the calcium, magnesium, potassium and sodium;
23 sodium's only 1.3 percent of the total. That's the
24 problem one. That particular site is in -- it's near
25 Live Oak, that would be what? Sutter County, I

1 believe. And you go out there right after a heavy
2 rain, which I did this winter, there are fields where
3 he has his walnut and fruit orchards, no standing
4 water. All his neighbors has standing water. Well,
5 the calcium and magnesium are countering the sodium
6 in the soil so he's got good drainage and it's
7 (inaudible) pretty simple.

8 Next slide, please.

9 High-strength organics. This is one that's
10 quite a contentious issue from a couple points of
11 view. One of them is daily loading to minimize
12 odors, there's a formula out there based on soil
13 porosity. That's pretty simple to do and that's a
14 real common-sense thing, not a problem there.

15 Very important that you provide rest periods
16 between the loadings to allow neutralizations. Most
17 of the food -- most of the acid in food processing or
18 food processing wastewater or winery wastewater, it's
19 their organic acids, so they're pretty easily broken
20 down in the topsoil.

21 Very important, don't apply to bare or foul
22 land, put it on some crops, grow some crops with it.
23 We've got lots of good examples of that.

24 It all comes back to how do you drive that
25 car so you don't have a wreck. Grow a crop and --

1 and apply the wastewater that's going to take up
2 those constituents of concern so you don't have
3 excess constituents which get into the groundwater.

4 Actually crops provide a friendly
5 environment for wastewater stabilization. If you're
6 cropping an area, you've got a rich topsoil, you're
7 going to have a higher cation exchange capacity and
8 there's a lot of benefits there.

9 One of the biggest things I deal with,
10 especially on municipal clients, is that I go out
11 there and they say we want to improve the crop out
12 here. And -- we're in the business of getting rid of
13 wastewater. I say okay. If you want to get rid of
14 more wastewater, produce a better crop. (Inaudible.)

15 Two municipal clients that I have that do
16 both, had very similar applications in wastewater,
17 one of them has a problem and one does not. And the
18 one that has -- that's doing really well with our
19 groundwater results, they -- they've enhanced their
20 crop through ag practices.

21 Another slide, please.

22 This is along the same line. Applications,
23 sometimes I'm seeing places where they're applying
24 the same plot of ground over and over again. Bad
25 idea.

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

Next slide, please.

UNIDENTIFIED SPEAKER: Yeah, we want to --

MR. HENRICKS: I'm going to break right now.

UNIDENTIFIED SPEAKER: We don't need the technical stuff.

MR. HENRICKS: I'm about ready to close here.

And my recommendations are continue the current supervised programs for small food processors and wineries. I think that's really important. And possibly even expand on it, to go to larger food processors, general permit is a possibility there. But it's a -- a real good way to get a handle on this.

I liked the presentation earlier, the fellow with slides with the certifications. Sonoma County has a certified green program that they do over there that's real -- works with wastewater for a lot of things.

And eliminate the subsurface disposal systems unless well treated and then provide plans to do crop growth management.

I think it's important that we have consistency throughout the state, very important. I work in several regional boards.

Number two, I think it's important that we

1 have management plans put in place. When you go to
2 get a permit or whatever type of process you use, put
3 in a management program which includes optimizing
4 crop growth which will also optimize uptake of
5 constituents in wastewater that we're concerned
6 about.

7 That's all I have to say.

8 CHAIRMAN BAGGETT: Questions?

9 Thank you. Trent Cave and then John Koutz
10 is on deck.

11 MR. CAVE: Good afternoon. I'm Trent Cave,
12 director of environmental management for Napa County.
13 I've been employed by Napa County for 32 years,
14 21 years as the director of environmental management.

15 For 23 of those years, the County of Napa
16 had had a memorandum of understanding with the
17 San Francisco Regional Board for the regulation of
18 winery process waste and waste disposal. In
19 addition, we regulate hundreds of winery waste
20 subsurface disposal systems.

21 I'm here today to speak in opposition to new
22 statewide regulation. Like many of the wine growing
23 regions in Appalachia, weather and soil types define
24 the techniques, methods and standards for winery
25 waste disposal. Regional Water Quality Control

1 Boards have the ability to apply regional standards
2 to land application of winery waste.

3 For example, actually Napa County resides in
4 two regional boards. We have two watersheds, the
5 Lake Berryessa watershed is regulated by the Central
6 Valley Regional Board. They've developed a standard
7 for the containment of wastewater ponds that include
8 the 100-year rainfall.

9 When you think about that particular
10 watershed with its high evaporation, low rainfall and
11 the particular need to protect Lake Berryessa, a
12 drinking water supply for many of us in Northern
13 California, it seems appropriate to apply those
14 standards.

15 The Napa Valley watershed, regulated by the
16 San Francisco Bay Region, applies a ten-year design
17 criteria. High rainfall and discharge to
18 San Francisco Bay make it a standard that is more
19 appropriate for that particular region. In fact, if
20 we -- if we apply the 100-year standard in Napa
21 Valley, we may have more acreage in wastewater ponds
22 than we actually have in grape production.

23 I know the issue today has mainly been a
24 discussion about salts. There has been some
25 implication that it's a state problem. It probably

1 is a state issue but you have to remember that the
2 North Bay and the North Coast gets a tremendous
3 amount of rainfall. We have not seen in that region
4 a buildup in salts in any of our land disposal
5 applications. In fact, we redid our MOU with the
6 San Francisco Bay Region in 1991 and we dropped total
7 dissolved solids. That's one of the constituents
8 that we monitor. Recognizing that after nine years
9 of monitoring that, we didn't really see a need to
10 continue with that monitoring.

11 So, again, we're opposing statewide
12 regulations because I think there are regional
13 differences and we need to recognize those regional
14 differences. Thank you.

15 CHAIRMAN BAGGETT: Any questions?

16 Thank you for your comments.

17 I have two more cards. John, do you have
18 any --

19 And then Stan County.

20 MR. KOUTZ: Thank you, Mr. Chairman, board. I'm
21 John Koutz from Lodi, a farmer all my life.

22 I also have been heavily involved in
23 agricultural organizations all my life as past
24 president of the State Board of Food and Ag for
25 11 years. I also started the integrated pest

1 management program at Lodi Woodbridge Wine Grape
2 Association Commission which led to the sustainable
3 book that you're looking at currently.

4 One of the things that I see is today is ag
5 under attack. At all levels, at all areas. The
6 water, the air, all these regulations. We are
7 literally under attack at a time when ag has gone
8 through some very, very difficult financial times.
9 Now, we have fought to do things to the benefit of
10 the public, ag, and always have been at the forefront
11 of innovation and trying to improve what we're doing.

12 In this instance, I think you really need to
13 look at the statement by A.J. Yates, who really is --
14 you've got to find the solutions and do it in a
15 scientific method. Because if we go off on emotion,
16 you're going to be doing things that are wrong and
17 then have to come back and try to recorrect them.

18 We have three wineries as well. And I know
19 in one instance they wanted a pH regulator to be put
20 in. We spent \$20,000 putting that pH regulator in
21 and all it did was is increase our problems with salt
22 content; so we need to know how to do it correctly
23 first.

24 We have been applying our wastewater to our
25 vineyards. And -- and it is -- to me, it is -- the

1 only way to really solve the problem is don't
2 concentrate it, but apply it over broad areas and
3 spread it out and just keep moving it around so that
4 you utilize it.

5 And if you concentrate and put in ponds, as
6 I have seen in my past history with like Tri-Valley
7 Growers in Old Verde Olive, we put in the
8 state-of-the-art program and what did it do? It
9 literally broke the company 20 years later.

10 So let's keep the material on the ground.

11 You know, we use tons and tons of turkey
12 manure, chicken manure as soil condiments to improve
13 the soils. We use our grape pumice to improve our
14 soils. We're using our grape seed program on
15 spreading it on our roads for dust control and it's
16 doing a great job on dust control.

17 We are working in every way possible to
18 solve some of these problems we're discussing but if
19 they come down on the industry with the regulatory
20 actions that are unscientifically proved, you're
21 putting an industry out of business that has
22 far-reaching consequence.

23 So I truly hope that you give agriculture
24 some time, get the science involved in it and put
25 together your committees or whatever to really study

1 the problem and try to get to the solution to the
2 problem. Thank you.

3 CHAIRMAN BAGGETT: Thank you.

4 Questions.

5 Stanislaus County, and any other cards?

6 It's the last one I've got here. And I have to
7 apologize, but I think I'm going to have to leave or
8 I'm going to miss a flight judging from (inaudible).

9 I can just say, at least from my
10 perspective, Tam and I will be taking all this under
11 consideration and bringing back recommendations to
12 our colleagues on what we think we need to do based
13 on all the comments written and our oral today. And
14 again, I appreciate everyone for taking the time, but
15 I have to go to L.A.

16 MS. HEARD: Good afternoon. Sonia Heard, field
17 director of Stanislaus County, Department of
18 Environmental Resources.

19 Thank you for the opportunity to provide an
20 overview this afternoon on Stanislaus County Food
21 Processing and By-Product Program. My comments are
22 going to be limited to by-products of processing
23 fruits and vegetables.

24 Stanislaus County has been regulating the
25 reuse of food processing by-products for more than

1 20 years. The program was formed through a
2 cooperative effort between the food processing
3 industry, the by-products haulers, the agricultural
4 community in Stanislaus County.

5 This program provides for an annual reuse of
6 300,000 tons of food processing by-products. The
7 material is recycled or reused at 15 permitted sites
8 throughout Stanislaus County, 12 of those are direct
9 feed sites where food processing by-products are fed
10 to livestock, 2 are applicationers -- land
11 applicationers, spread and disc, and we have
12 1 dehydration and composting site.

13 Stanislaus County's program is a true reuse
14 program and not a disposal or storage program. Food
15 processing by-products are cull tomatoes, cull
16 peaches, cull pears and culls of other fruits and
17 vegetables including skins, stems, seeds and other
18 organic material.

19 This program does not include wastewater.
20 It does not include meat or poultry processing or
21 milk and cheese processing.

22 Currently the Central Valley Regional Water
23 Quality Control Board defines all food processing
24 material as industrial waste and allows for no -- and
25 allows for no differentiation between the different

1 types or uses of material.

2 Stanislaus County has guidelines for its
3 food processing, by-product programs. The program
4 guidelines address each -- each of these is working
5 with the food processing industry, the end users,
6 county staff, and county staff has made several
7 revisions to our program guidelines. This includes
8 new setback requirements and increased product and
9 soil testing.

10 Inspections are a very important part of
11 this process. Site inspections are conducted either
12 once or twice weekly during the food processing
13 season. Inspections include ensuring on-site
14 supervision, that delivery records are kept current
15 and that the frequency and the depth of application
16 is consistent and that there are no flies, vectors
17 present or odor problems or standing water.

18 Stanislaus County Food Processing By-Product
19 Program has many benefits. The City of Modesto and
20 the regional solid waste planning agency received a
21 diversion credit from the California Integrated Waste
22 Management Board. This is a benefit to all of the
23 communities of Stanislaus County.

24 The program is a cost-effective alternative
25 to disposal, food processing by-products are an

1 alternative to commercial fertilizers and is an
2 organic soil supplement.

3 In addition, food processing by-products
4 provide an alternative for livestock feed. The
5 beneficial uses of by-products help to keep our food
6 processing industry competitive. This program is
7 self-supporting through fees and it's a true
8 recycling program.

9 Stanislaus County has testified before the
10 Regional Water Quality Control Board in January and
11 the Senate Ag Committee in February. At the January
12 meeting, the Central Valley Regional Board directed
13 their staff to bring back in June a proposal to
14 consider a general order or conditional waiver for
15 the food processing program. Due to regional board
16 staff workload, this has been deferred until possibly
17 August or September.

18 We believe that when food processing
19 by-products are applied in an agronomic rate that
20 this activity provides no greater threat to
21 groundwater than any other well-managed farming
22 operation.

23 I do have a small video that if you're
24 interested that -- or a short video that shows you
25 what our program actually entails, it gives you an

1 example of the land application, the direct feed
2 application. It's about 11 minutes long if you're
3 interested.

4 UNIDENTIFIED SPEAKER: Is it something you can
5 leave with us?

6 MS. HEARD: I can get you a DVD copy. I only
7 have one VHS copy.

8 UNIDENTIFIED SPEAKER: That would be great; if
9 you could send it to Mr. Merkley, then.

10 MS. HEARD: Thank you.

11 UNIDENTIFIED SPEAKER: Any questions?

12 UNIDENTIFIED SPEAKER: Yeah, I have a question.

13 Does the county in their oversight of this
14 operation do any groundwater monitoring?

15 MS. HEARD: We do not dig groundwater
16 monitoring, we --

17 UNIDENTIFIED SPEAKER: So you don't know --

18 You don't really know what's happening to
19 the groundwater underneath?

20 MS. HEARD: No, but we do do soil testing to
21 determine -- but no, we do not do groundwater
22 monitoring.

23 UNIDENTIFIED SPEAKER: Do you do some sort of
24 monitoring for salt?

25 MS. HEARD: Yes, we do. What we do is -- the

1 product, when it's -- prior to delivery, the products
2 are tested by the food processors and based on the
3 nutrients in that product, that determines the
4 application rate that it's applied as well as the
5 crop it's going to be growing after the material is
6 land applied.

7 So the idea -- the most -- the constituent
8 of concern that presents the greatest risk to
9 degradation of groundwater is the one that limits the
10 amount -- the application rate that's applied to
11 the -- that's applied to the land.

12 UNIDENTIFIED SPEAKER: Thank you.

13 We actually have one final speaker, Mr. Ben
14 Hall.

15 MR. HALL: Good afternoon. My name is Ben Hall.
16 I'm the plant manager for Musco Family Olive Company
17 in Tracy, California. I guess since I'm the last
18 speaker, I have to make it very fast.

19 First of all, I would like to point out that
20 this is not just a food processing industry problem.
21 There was a recent -- well, a 1999 paper by the
22 Bureau of Reclamation and Municipal Water District
23 indicated with the salinity buildup in Southern
24 California, half of it just came from the imported
25 water through the (inaudible) state water project and

1 the Colorado River project; so we can regulate the
2 food processors out of existence in the State of
3 California and you're still going to have a buildup
4 of salinity in Southern California and the
5 San Joaquin Valley.

6 A different newspaper article said just by
7 opening up the sprinklers on the west side of the
8 valley, two million tons of salts are imported into
9 the west side of the San Joaquin Valley every year.
10 Again, it's far more than just an industry problem
11 and the solutions are going to involve far more than
12 just regulations on any industry or set of
13 industries.

14 It's going to take collaboration between all
15 the different stakeholders, all the different state
16 agencies. You're importing state water, you're
17 importing federal water, there should probably be
18 some federal input on this. It's their salts too.

19 I mean, it's going to be a very expensive
20 problem to solve and I see no reason why the
21 congressional delegation from California shouldn't be
22 involved in this.

23 Previous testimony, we also heard things
24 presented as fact. It's so many percentages of food
25 processors are contaminating groundwater. Those

1 facts are strongly opposed by the food industry --
2 those facts --

3 Excuse me.

4 Those allegations are strongly opposed by
5 the professional engineers that monitor their
6 groundwater. And to have them expressed as fact in a
7 hearing like this, we feel is detrimental to the case
8 and has not undergone peer review, and this is the
9 reason in the January meeting that the food industry
10 was so adamantly opposed to those allegations being
11 made without peer review.

12 And we see a reason today as to why we were
13 so strongly opposed to that and continue to be
14 opposed to that; so we do look forward to a
15 collaborative process.

16 The industry I think as a whole looks
17 forward to working with the state board and any other
18 agencies that have an impact in it. And thank you
19 very much for your time.

20 UNIDENTIFIED SPEAKER: Thank you.

21 Questions? Any closing remarks.

22 Let me just echo Art's comment and thank you
23 all for coming and providing us with valuable
24 information and have a good evening.

25 /

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

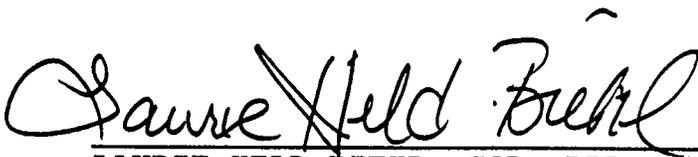
I, the undersigned, a Certified Shorthand Reporter of the State of California, do hereby certify:

The foregoing audiotaped proceedings were transcribed before me at the time and place herein set forth; that a verbatim record of the audiotaped proceedings was made by me using machine shorthand, to the best of my ability, based on the quality of the audiotape, and same was thereafter transcribed under my direction; further, that the foregoing is an accurate transcription of said audiotaped proceedings, again, to the best of my ability, and not having personally been in attendance at said audiotaped proceedings.

I further certify that I am neither financially interested in the action nor a relative or employee of any attorney of any of the parties.

IN WITNESS WHEREOF, I have this date subscribed my name.

Dated: 8-15-05



LAURIE HELD-BIEHL, CSR, RPR, CRR
CSR No. 6781