

BEFORE THE CENTRAL COAST REGIONAL
WATER QUALITY CONTROL BOARD
STATE OF CALIFORNIA

Public Hearing in the Matter of:)
)
CENTRAL COAST REGIONAL)
WATER QUALITY CONTROL BOARD)

)

PARTIAL TRANSCRIPT OF PROCEEDINGS

Watsonville, California

Thursday, July 13, 2017

Reported by:

LUIS R. HERNANDEZ
Hearing Reporter

Job No.:
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PARTIAL TRANSCRIPT OF PROCEEDINGS, taken at
275 Main Street, Fourth Floor, Watsonville,
California, commencing on Thursday,
July 13, 2017, heard before the WATER QUALITY
CONTROL BOARD, reported by LUIS R. HERNANDEZ,
Hearing Reporter.

1 APPEARANCES :

2 Presenters: DR. JEAN-PIERRE WOLFF
3 Central Coast Regional
4 Water Quality Control
5 Board

6 MICHAEL JOHNSTON

7 BRUCE DELGADO
8 Mayor of Marina

9 JANE GRAY

10 JEFF YOUNG

11 KARINA CERVANTEZ

12 JOHN ROBERTSON
13 Executive Officer

14 JESSICA JAHR
15 Staff Counsel

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ENFORCEMENT ITEMS

9 - Informational Item on Cambria Community Services District, Emergency Water Supply Project, Cambria, San Luis Obispo County, Settled Administrative Civil Liability Complaint Order No. R3-2017-0015 6

10- Cambria Community Services District, Emergency Water Supply Project, Cambria, San Luis Obispo County, Consideration of Cease and Desist Order No. R3-2017-0016 47

1 Watsonville, California, Thursday, July 13, 2017

2 (Partial Transcript)

3
4
5 CHAIR WOLFF: So then we move to the next item which
6 is an enforcement item and, Mr. Robertson, please introduce
7 item nine.

8 MR. ROBERTSON: Thank you, Chair Wolff. As a general
9 comment, items nine and 10 are both associated with the
10 Cambria Community Services District Emergency Water Supply
11 Project. To provide some clarity and foundational
12 understanding, Water Board staff member Jon Rokke will
13 provide a brief overview of the emergency water supply
14 project and the different components and orders associated
15 with the operation of the system.

16 Item 9 is an information item not -- not needing
17 a Board action. Following Mr. Rokke's overview, we'll
18 proceed with item nine and provide -- Mr. Rokke will
19 provide details on the settled Administrative Civil
20 Liability Complaint of six late reporting violations for
21 late submittal of monthly self-monitoring reports. These
22 late reports were required by Cambria CSD's. Waste
23 Discharge Requirements for injection of treated water into
24 the San Simeon aquifer.

25 The Cambria CSD submitted full payment of the

1 liability amount and waived their right to a hearing
2 thereby resolving the violations alleged in the ACL
3 complaint. Although there is no action or decision
4 required by the Board on this item, Thea Tryon, this
5 region's Enforcement Coordinator, will provide a brief
6 summary of this settled item and then following that,
7 we -- we may here from the CSD as well and members of the
8 public, and of course, the Board can ask questions at any
9 point along the way. And with that I'll -- I'll move it
10 over to Jon Rokke.

11 CHAIR WOLFF: And as we move to staff comments, the
12 speaker cards for this item nine are now closed. But we
13 have one late arrival and -- but that's it. Oh, you're
14 excused. Please proceed.

15 MR. ROKKE: Good morning, Chair Wolff and members of
16 the Board. My name is Jon Rokke. I'm the staff person
17 assigned to oversee most of Cambria Community Services
18 District's permits for the Water Board. At this time, I'd
19 like to introduce Paul Ciccarelli. He's an attorney with
20 the Office of Enforcement and is helping the Prosecution
21 Team on these two cases.

22 This morning, we're going to present two
23 uncontested enforcement items related to the emergency
24 water supply project in Cambria and the associated class
25 II surface impoundment. Thea Tryon and I will be

1 presenting these items today in three stages.

2 First, I'll set the stage with a brief refresher
3 about the facilities and then Thea will provide an
4 informational overview of the resolved ACLC administrative
5 civil liability complaint Item number 9. After Item 9 has
6 concluded, I'll present Item 10, proposed Ceased and
7 Desist Order for the surface impoundment.

8 As we will explain, the administrative civil
9 liability complaint is resolved and no further action is
10 needed by the Board. The proposed Cease and Desist Order
11 is uncontested. Cambria CSD has agreed to the proposed
12 terms which are before you today. Both parties are
13 recommending that the Board adopt the proposed Cease and
14 Desist Order.

15 So to begin, this slide shows Cambria's
16 approximate location along California's Central Coast.
17 This aerial view zoomed in a little closer shows the
18 projects location relative to the town and the town's
19 waste water treatment plan. The project is located
20 approximately three miles north-northwest of the municipal
21 waste water plant and the Hearst San Simeon State park
22 located just to the west of the advanced plant site.

23 This aerial view zoomed in a little bit closer
24 shows -- oh, sorry, this emergency water supply facility
25 was designed to treat impaired groundwater to Title 22

1 standards and then reinject the treated water into the
2 aquifer to augment the district San Simeon well field.

3 It was designed to produce 700,000 gallons a day
4 of reverse osmosis treated water and 65,000 gallons a day
5 of brine. This view is looking directly north of the
6 facility and as you can see it's a relatively compact
7 modular operation.

8 Okay. Now, zooming in a little more, this
9 graphic shows where the project sits in relation to the
10 state park camp grounds over here to the left. And to the
11 lower right. There's actually two camping facilities on
12 either side. And the San Simeon well field up here on the
13 upper right. Emergency water supply facility is this
14 hatched gray rectangle right here and it's located in
15 between Van Gordon Creeks which are unfortunately a shade
16 of brown and the San Simeon Creek.

17 The whole project is adjacent to environmentally
18 sensitive areas. I'd like to point out that this project
19 was permitted under the umbrella of the governor's drought
20 emergency executive orders. Meaning that the project was
21 fast tracked without the normal environmental reviews.
22 Cambria Community Services District now has a supplemental
23 environmental impact report and an adaptive management
24 plan is currently being reviewed by the public but their
25 Board has yet to certify those documents.

1 Zooming in still further, this map shows where
2 the surface impoundment is in green, the big green blob
3 here and again the gray hatched rectangle is the emergency
4 water supply plant itself. The blue pipe extending from
5 -- rectangle. Sorry. Here we go. This carries treated
6 water to the injection well up here in the upper right
7 corner. The green pipe down here carries brine and waste
8 from the emergency plant to the brine pond. The yellow
9 line coming down here carries mitigation water to the San
10 Simeon Creek lagoon.

11 The short purple pipe coming off the side of the
12 facility takes membrane filtrate water and puts it into
13 percolation pond. This orange pipe next to the purple
14 pipe takes water from well 9P7, and this is the source
15 water for the plant, extracts it out of the ground, sends
16 it into the plant, and then along the blue pipe for
17 injection. The red pipe along the top and going down,
18 that's the distribution pipe for the city's water supply.

19 In November 2014, the Regional Water Quality
20 Control Board adopted permits to regulate the Emergency
21 Water Supply Project and the associated surface
22 impoundment under the umbrella of the governor's executive
23 orders allowing projects to proceed without the normal
24 environmental review.

25 Overall, Emergency Water Supply Project currently

1 has three permits from the regional Board, four if you
2 want to count the waste water treatment plant. It's
3 important to understand that the administrative civil
4 liability complaint is regarding the Title 22 order and
5 the cease and desist orders regarding a Title 27 order
6 which regulates a surface impoundment.

7 Further to set the stage, it's important to get
8 the flavor of the compliance challenges the staff has
9 experienced with this project. Water Board Staff's focus
10 is always on protecting water quality and thereby
11 protecting the environment and human health. This slide
12 is intended to illustrate events that have preceded our
13 meeting here today. Okay.

14 Now, in order to put the actions before you today
15 into context, I want to show the enforcement actions that
16 have been undertaken to date. Again, our focus is always
17 on water quality. The blue bubbles are considered to be
18 informal enforcement actions and the light purple bubbles
19 are considered to be formal enforcement actions. All of
20 these were taken with the goal of achieving the protection
21 of water quality.

22 Water Board Staff uses what's deemed a
23 progressive enforcement strategy. I guess to say our
24 enforcement actions become more strident over time if
25 compliance is not achieved. Today's items are the result

1 of this progression. So that's some background on this
2 project. And at this point, I'll hand off to Thea who
3 will tell you about Item 9.

4 MR. DELGADO: Can I ask a brief question? On that
5 very last -- I'm colorblind so, are the -- which are the
6 three purple?

7 MR. ROKKE: Oh, I'm sorry. Up here at the top, this
8 ACLC for discharges to the creek. Down here about 9:00
9 o'clock, the complaint that's before you today, Thea's
10 about to speak about. And then about 10:00 o'clock here
11 is the Cease and Desist Order, that's Item 10.

12 MR. DELGADO: Got it. Thank you very much.

13 MS. TRYON: Good morning, chair Young -- I mean, Chair
14 Wolff, members of the Board. My name is Thea Tryon and
15 I'm the Enforcement Coordinator for the Water Board, and
16 I'm here today to provide you an overview of the resolved
17 Administrative Civil Liability Complaint that was issued
18 to the Cambria Community Services District, or Cambria CSD
19 as we'll refer to it for late reporting violations.

20 As Jon showed in the previous slides, the
21 Complaint only addresses a small portion of the violations
22 for the overall Emergency Water Supply Project and it's
23 focused on late reporting violations for the WDR that
24 authorizes Cambria to treat and reinject treated
25 groundwater into the drinking water aquifer.

1 Since start up of the Cambria CSD's Emergency
2 Water Supply Project in January 2015, the CSD has been
3 consistently failing to submit reports on time. The
4 groundwater that is treated is essentially recycled water,
5 and monitoring and timely recording in accordance with the
6 WDR is very important because after that treated water is
7 injected, it takes about two months before that water
8 travels to the wells that pull water out of the ground for
9 serving potable water to the community of Cambria.

10 The WDR that authorized Cambria to reinject the
11 treated recycled water was adopted by the Board in
12 November 2014. Among other reporting requirements, the
13 WDR requires regular reporting and testing of the treated
14 water and treatment system on a monthly, quarterly, and
15 annual basis.

16 For just these regular monitoring reports, the
17 CSD reported 70 percent of these required reports. I have
18 shown them in the next slide. So just focusing on these
19 late reports that are required regularly between the time
20 period of January 2015, when the treatment system started,
21 and to the end of last month, June 2017.

22 The first column shows the report monthly,
23 quarterly, and annual. The second column are the number
24 of reports that have been due during this timeframe, and
25 then the next column shows the number of reports that were

1 late, and then the last column shows the cumulative number
2 of days -- of late days or late violations. There are
3 many other additional late reporting violations associated
4 with the Emergency Water Supply Project permits but
5 they're not summarized here. These focus on the regular
6 monitoring for just the reinjection of the WDR.

7 So how did permitting staff work with Cambria CSD
8 to try to get them into compliance with their permits? To
9 start, permitting staff did a detailed walkthrough of all
10 the requirements that Cambria CSD staff needed to comply
11 with for all their permits to properly manage and operate
12 their Emergency Water Supply Project shortly after the
13 WDRs were adopted in November 2014.

14 The systems started operating on January 20th,
15 2015, and from the beginning, reports were not submitted
16 on time. After enough data was received to warrant a
17 reduction in sampling, permitting staff revised the MRP in
18 October 2015 to reduce -- reduce the amount of sampling.
19 Cambria CSD continued to submit late self-monitoring
20 reports, and throughout this time, permitting staff would
21 email, send reminders, and even to the point in October
22 2016, where they developed a spreadsheet for the CSD to
23 help them manage their due dates, but late reporting
24 continued.

25 So then in November 2017, we issued three notices

1 of violation that documented many violations, including
2 the late reports. The Enforcement Team also issued this
3 Administrative Civil Liability that we're discussing today
4 in April 2017 to address a limited portion of the
5 lating [sic] -- late reporting requirements.

6 The enforcement team selected six late monitoring
7 reports for this complaint as they were the most important
8 reports to submit on time. The monthly reports are
9 essential in determining whether the treated water that
10 was reinjected into the drinking water aquifer will meet
11 drinking water standards at the location where the potable
12 water is extracted for direct use by the community.

13 The six late reports selected were due after the
14 October 2015 monitoring program revisions and only for
15 those periods of time when the system was in operation.
16 These six late reports represent 77 days of late reporting
17 violations. The enforcement team's limited -- limited the
18 enforcement to the six identified with the goal of having
19 a large enough deterrent for the -- so that Cambria CSD
20 will achieve compliance with their permits, especially
21 late reporting.

22 The Enforcement Team issued this complaint for a
23 penalty amount of \$53,596, which was derived using the
24 penalty methodology outlined in the State Water Resources
25 Control Board's Water Quality Enforcement Policy. Cambria

1 CSD agreed not to contest the ACL complaint, waived the
2 right to a hearing before the Water Board, and submitted a
3 check for the full liability amount on May 3rd, 2017. The
4 CSD's submission of the full payment of the liability
5 amount and waiver of the right to a hearing is considered
6 the Final Settlement Agreement that resolves the
7 violations alleged in this complaint.

8 The Enforcement Team's intent with this initial
9 limited enforcement action was to achieve compliance
10 while not relieving the CSD of potential liability for
11 past violations not addressed by this complaint;
12 therefore, going forward, if Cambria CSD does not comply
13 with Water Board orders, the Enforcement Team will
14 consider other outstanding violations in a progressive
15 enforcement approach, unless directed otherwise by the
16 Board or the executive officer.

17 CHAIR WOLFF: And just as a note, we do have a
18 reporter who is taking notes of this meeting, and so I'd
19 like to remind everyone when we ask questions to speak
20 relatively slowly so we're not causing cramping. Thank
21 you. Yes.

22 MR. YOUNG: You want us to hold questions until they
23 have given the presentations or how do you want to handle
24 it?

25 CHAIR WOLFF: Do you have more to add in your

1 presentation.

2 MS. TRYON: I do not have more to add for Item 9.

3 CHAIR WOLFF: Okay. So at this time, certainly, we
4 can ask questions and then I have a couple of speaker
5 cards, which I will have -- if a couple folks come to the
6 podium a little bit later, so I'll start with Mr. Young.

7 MR. YOUNG: Thank you, Mr. Chair. Thea, what -- what
8 is, of the six dates, the most recent is what?

9 MS. TRYON: The latest late monitoring report?

10 MR. YOUNG: Yeah.

11 MS. TRYON: The latest monitoring report that was
12 submitted was mid-June of 2017.

13 MR. YOUNG: And had there -- you did make the comment
14 that they're continuing to be late. What --

15 MS. TRYON: We issued the Notice of Violations in
16 February 2017 after -- that incorporated the January
17 monthly monitoring report. After that, they did submit
18 their reports on time, but the system was not in operation
19 so the -- the amount of information included in the
20 monthly monitoring reports is not as onerous.

21 MR. YOUNG: What are they -- are they currently late?

22 MS. TRYON: They're not currently late.

23 MR. YOUNG: With any reports.

24 MS. TRYON: Right.

25 MR. YOUNG: Okay.

1 MS. TRYON: But we did issue a Notice of Violation for
2 the latest one that was submitted in May 2017 because
3 there were missing groundwater quality information, 67
4 missing data points.

5 MR. YOUNG: And that's what the -- the mid-June --

6 MS. TRYON: That was the --

7 MR. YOUNG: -- NOV was add --

8 MS. TRYON: -- May monthly report, I believe.

9 MR. YOUNG: Thank you.

10 CHAIR WOLFF: Ms. Cervantez.

11 MS. CERVANTEZ: I was wondering if you could just
12 update me on the Government Executive Orders that allow
13 for the expedited permitting processes, because I'm also
14 wondering if their intent to repurpose the impoundment is
15 also going to come under that expedited process.

16 CHAIR WOLFF: Isn't that really Item 10?

17 MS. CERVANTEZ: Oh, it is? Okay.

18 MR. ROBERTSON: Yeah. I think --

19 CHAIR WOLFF: So I would like to --

20 MS. CERVANTEZ: So I'll hold.

21 CHAIR WOLFF: -- if you don't mind, hold that for Item
22 10. Thank you. Ms. Gray.

23 MS. GRAY: Yes. I just have one question: In your
24 opinion, is this a particularly sensitive or difficult
25 system to operate?

1 MR. ROKKE: I guess I'll take that question. These
2 types of advanced treatment systems are more difficult
3 than the standard waste water treatment plant.

4 MS. GRAY: And so what type of operator would -- would
5 you need?

6 MR. ROKKE: I think it's a Grade III at least, or
7 maybe even a Grade IV. It -- it's -- Jerry, do you know
8 the -- the grade? It's a Grade III.

9 MS. GRAY: It's a Grade III. Okay. And is there a
10 Grade III operator?

11 MR. ROKKE: Yes.

12 CHAIR WOLFF: Yes, Mr. Robertson.

13 MR. ROBERTSON: One part -- I'd like to respond to
14 that, too. You touched on a great topic, Ms. Gray. With
15 respect to living in a region that has a lot of small CSDs
16 and communities, this is a challenge. Sort of the -- the
17 technical component, the managerial component, and to a
18 lesser degree, the financial component of owning and
19 operating these types of systems is super challenging, and
20 that probably doesn't give it its due. And so on
21 some level, I was actually going to hold my comments on
22 this to 10, but I think you opened this issue and it
23 deserves a little bit of a response.

24 There is a larger picture issue here with respect
25 to small communities operating technically advanced

1 projects, and having the capacity, and I mean that from a
2 technical aspect, and really to own and operate that
3 system such that it stays in compliance. That's a real
4 challenge in this region, and I don't think we should see
5 necessarily Cambria in isolation.

6 I think we -- we have to figure out
7 collectively -- us included -- strategies for helping them
8 stay in compliance, and not just see ourselves as a
9 permitter here, but a little more strategically, you know.

10 Understanding that we were under -- all of us
11 collectively, Cambria, this Board -- we're under the gun
12 to get something done. This -- this community was running
13 out of water in this circumstance, but we can probably be
14 more prudent about how we do that such that we don't set
15 them up for these types of issues, and I'm not speaking
16 singularly of this community. I'm speaking on a larger
17 context here.

18 MS. GRAY: Thank you. I appreciate that. I've been
19 borne witness to lots of small entities in our region that
20 just do not have the capacity to operate higher level
21 types of waste water treatment systems and water treatment
22 systems, and so I think if consolidation isn't a fix for
23 us on the -- on the Central Coast level in terms of
24 getting communities into compliance, we do need to come up
25 with something else, so I appreciate you recognizing that.

1 MR. ROBERTSON: There's -- there's a parallel here,
2 too, and you heard us talk about this on the water supply
3 side. The same condition exists of -- of the ability or
4 inability to operate these systems. For instance, a
5 nitrate treatment system or some sort of treatment system
6 for the water supply side to -- we run into this on both
7 sides; waste water and water supply.

8 MS. GRAY: Thank you.

9 CHAIR WOLFF: Mayor Delgado?

10 MR. DELGADO: Yes. Is there any controversy or
11 disagreement on the resolution of this item?

12 CHAIR WOLFF: It's an informational item, but please
13 respond.

14 MR. DELGADO: Have you had any objections to the staff
15 recommendation?

16 MR. ROBERTSON: So there -- there are public comments
17 on both sides of this issue with respect to this being too
18 harsh an action and with respect to this being spot on or
19 perhaps not harsh enough an action, and you will see that
20 in the supplemental -- actually, that's the supplemental
21 for Item 10; right?

22 MR. DELGADO: So as far as the 53,000, that's really
23 the issue here; correct?

24 MR. ROBERTSON: Well, this actually is a resolved
25 issue.

1 MR. DELGADO: Right.

2 MR. ROBERTSON: That the CSD has agreed to pay -- has
3 already paid and waived the right to a hearing, so that --
4 and the CSD can actually speak for themselves on -- on
5 whether this is -- they're comfortable with this issue.

6 MR. DELGADO: Okay. So the objection's that -- that
7 we have in our -- our -- is for the next item?

8 MR. ROBERTSON: Correct. It's related to the Cease
9 and Desist Order --

10 MR. DELGADO: I just want to be sure. I want to be
11 clear, too. Okay. So there's really no oppositions
12 publicly submitted yet to this item; correct?

13 MS. TRYON: This item is already resolved, so we can
14 take public comment, but it's already done.

15 MR. DELGADO: Right. But it's been on the agenda and
16 there hasn't been any public comment in objection to being
17 resolved.

18 MS. TRYON: Yes. We post -- this was all posted
19 publicly.

20 CHAIR WOLFF: Yeah. And we -- and I have a couple of
21 speaker cards for Item 9.

22 MR. DELGADO: Okay. And then my last item is a
23 question. I -- I understand from your presentation the
24 importance of timely reports in this regard -- in this
25 matter. In hindsight, now you have the reports that were

1 late -- lately submitted, was there any harm done to the
2 environment from the operation of this facility during
3 these months of late reports?

4 MR. ROKKE: There were two instances: One where
5 nitrogen exceeded the limits. It was injected back into
6 the groundwater and once the lab results came back from
7 that and it was discovered that the levels were too high,
8 they immediately shut down the system. There was a second
9 incident where the chlorination system went down and
10 wasn't caught so -- what's called off-spec water or not
11 properly disinfected water was injected into the aquifer.

12 That occurred in December during a rainy period,
13 unfortunately, so DDW considered that injected water was
14 probably diluted sufficiently so as to not raise alarm.
15 So those were the -- the two instances other than early on
16 when chlorinated water was discharged to Van Gordon Creek,
17 so I guess three instances in all.

18 MR. DELGADO: Okay. And those are the kinds of
19 incidents that are better addressed sooner than later, so
20 you want the timely reports.

21 MR. ROKKE: That's correct.

22 MR. DELGADO: Okay. Thank you.

23 CHAIR WOLFF: Mr. Johnston?

24 MR. JOHNSTON: Just a comment and a question. My
25 comment is I recall shortly after the division of drinking

1 water was merged into the water Board and we had a
2 presentation from the -- the Regional Director of Drinking
3 Water -- I'm not sure the title -- and he was talking
4 about -- about direct connect of -- of potable recycled
5 water and he said his -- he said, "My concern isn't, you
6 know, a big system like is being put together in -- in --
7 down in Orange County with huge amounts of money behind it
8 and huge resources behind it.

9 My -- my concern is, you know, small communities
10 putting together systems and how those systems are going
11 to be functioning 20 years down the road, and so I think
12 Mr. Robertson's point is, and my Ms. Gray's point is well
13 taken.

14 My question is, you know, there's a huge number
15 of late reports. How much of the time since permitting
16 was this system in operation, out of operation? How many
17 of these violations were when the system was out of
18 operation? And what are the negative ramifications of
19 late reporting when the system is out of operation?

20 MR. ROKKE: Well, the -- the system -- the first
21 question, to answer that, the system has been, basically,
22 operational for three periods since permitting; from
23 January through April of 2015, from September to December
24 of 2015, and then from September through December of 2016.

25 So there's a couple of big blocks in between

1 those periods. The system is not yet been operational
2 this year in 2017 and my understanding is it may not
3 become operational this year due to the large amount of
4 rainfall that we had. So when the -- the system is
5 operating and treated water is being injected into the
6 aquifer, the concern is that timely reports are needed
7 because we need to know if something is going amiss so we
8 can immediately address it, rectify it, before the -- the
9 public's health is endangered.

10 For the periods when the system is not
11 operational, the monitoring mainly involves groundwater
12 monitoring to keep track of what's going on in the aquifer
13 beneath that. So timeliness is not such a big issue
14 there.

15 But still, in general, you know, we want to see
16 reports submitted when they're due, and we've done our
17 utmost to try to help them do that and we recognize that
18 it's a big challenge for them because it's a -- it's a
19 massive amount of monitoring. We've even reduced some of
20 that monitoring as Thea described. But you can only
21 reduce it so much. We -- we really need to keep track of
22 what's going on there to protect the public.

23 MR. JOHNSTON: Of those -- what? Seventy-some later
24 reports -- I don't have the number in my head, exactly --
25 approximately, how many of them were when the system was

1 in operation and how many were when it was out of
2 operation?

3 MS. TRYON: I looked at the monthly reports and six of
4 those while in operation were late. The quart -- I didn't
5 look at the quarterly and annual because the monthly are
6 the more important ones to catch things before the water
7 reaches the supply wells.

8 MR. JOHNSTON: Okay. Thank you.

9 CHAIR WOLFF: All right. And I would -- yes,
10 Mr. Robertson.

11 MR. ROBERTSON: First, I want to explain -- and this
12 will become more apparent with the next item -- by virtue
13 of separation of functions, I'm not included in the --
14 because I'm the Advisor to the Board -- I'm not included
15 in much of this administrative civil liability process.
16 So some of the questions are -- are my own opportunity to
17 look into this issue, too, to lay it out for -- for you
18 such that you have more information, and -- and as I said,
19 that will become more apparent in the next item.

20 On this slide, Thea, the total value of the ACL
21 is \$53,500. Did you calculate the total value of all of
22 those liabilities that we see on this table and what is
23 that number?

24 MS. TRYON: So I did not include another late report,
25 which is the start-up report, which was 71 days late. So

1 what -- if you calculate the total number of days --
2 because our violations are based on a thousand dollars per
3 day that the report is late, so the original count of how
4 many late days times a thousand was 46 -- 4,000 --
5 \$466,000. So 466 late days.

6 MR. JOHNSTON: And -- and just to reiterate, so the
7 value of the ACL is 50 -- 53,500, approximately, and that
8 was 466,000 was the total liability.

9 MS. TRYON: Yes. So if you just look at this figure
10 right here, if you calculate the total number of days
11 late, which is 395, our maximum allowable penalty would
12 have been \$395,000.

13 MR. CICCARELLI: Paul Ciccarelli, Staff Counsel. I
14 would just to like clarify that the maximum penalty for
15 the alleged violations is \$77,000 because those are 77
16 days late in total over those six reports. The -- the
17 total count in that large \$466,000 maximum penalty would
18 be for the total reporting violations and not -- which
19 include, but are also excluded from that \$77,000 that are
20 alleged in the complaint.

21 CHAIR WOLFF: Okay. So before -- I'm having a couple
22 of speaker cards -- could you put the slide that listed
23 all of the different violations? You -- you had a slide
24 that had, you know, 360. Here we go. Yeah. That one.

25 You know, there were comments made by, you know,

1 some of my colleagues about, you know, small -- small
2 systems and the challenges and the limitations. I think
3 we need to reflect on that and realize, yes, on one hand
4 it is correct that smaller systems, you know, have more
5 limited human resources, but on the other hand, within our
6 region, we do have well over a hundred systems.

7 And in fact, to answer the question a little bit
8 earlier to Michael, how many systems we have, he said
9 maybe a hundred fifty. And I -- I think, in any system
10 that we operate -- maybe a water treatment plant, maybe
11 oil extraction facility, a landfill -- we all need to know
12 our limits and our -- our resources. And we all need to
13 understand risk management.

14 So I'm not going to go through each and every one
15 of these, but I would submit to you that many of these
16 violations do not require Level III in order to resolve
17 these. Some of these are just not doing the daily job and
18 letting things slide.

19 So I -- I do sympathize with -- with, you know,
20 resource limitations, but the fact is, you know, it's
21 licensed to operate a plant and there's some expectations
22 and that is probably why also Staff has, I think,
23 exercised, you know, fair amount of patience here, meaning
24 they didn't come with the hammer down.

25 So I think we took into account the fact that,

1 you know, there -- there are limitations, and in terms of
2 operator staff to provide us the -- the proper timely
3 reports accuracy, et cetera, but there are certain things
4 in there that I would say -- there's not a whole lot of
5 excuse for it. So that's my take, and I'm speaking more
6 in this area from an engineering management aspect of the
7 project.

8 So having said that, I would like to ask
9 Tina Dickason. You have three minutes. Thank you.

10 MS. DICKASON: Tina Dickason, Cambria. Thank you,
11 Chair and members of the Board and Staff, and thank you
12 for this opportunity to speak on this item. In addressing
13 the accumulated NOV fines, which I had assumed were
14 597,000, so the 124,000 I didn't hear mentioned in the
15 presentation, maybe was not included in this particular
16 item; however, even if it's 466,000, I believe the
17 Regional Board's decision to reduce that amount to a total
18 of \$53,596 shows a significant amount of leniency toward
19 the District.

20 The CCSD should consider itself fortunate and I
21 would think extremely grateful. As a member of this
22 community of Cambria and a ratepayer, I wish to express my
23 gratitude the Regional Board for this huge savings to the
24 District.

25 When I read comments from Cambria residents

1 complaining about the fines and the costs to -- which is
2 number 10, the cost to remove the brine waste from the
3 impound -- the surface impoundment -- I was reminded that
4 the District set aside a fund of one million dollars to
5 issue -- for issues related to the Emergency Water
6 Facility, or as they now refer to it, the Sustainable
7 Water Facility.

8 The District then has that -- those funds set
9 aside. The District -- in its rushed to judgment, as in
10 this case -- and since you brought other items up, I'm
11 going to address it -- the rush to judgment, within six
12 months, this plant was built, a sophisticated plant.

13 And they have not been able to manage it. The
14 costs are way over the projected initial funding for this
15 and it is frustrating for -- as -- for me and others in
16 the District to see what has happened as a result. But
17 the District is now looking at spending almost a million
18 dollars on an office space for themselves, so there's no
19 -- the District is in way over its head while the
20 ratepayers continue to foot the bill for spending that is
21 out of control. They simply are not up to the job. Thank
22 you very much.

23 CHAIR WOLFF: Thank you for your comment. And the
24 next speaker card is listing Item 9 and 10, and we need to
25 split them, so I don't have to have this item co-mingled

1 with 10. So having saying that, I would like Mr. Jerry
2 Gruber to come and specifically limit yourself to Item 9.
3 Thank you.

4 And you're welcome, you know, on Item 10 to come
5 back.

6 MR. GRUBER: Thank you, Chairman Wolff and Board
7 members and Regional Water Quality Control Board Staff.
8 I'm Jerry Gruber. I'm the General Manager for the Cambria
9 Community Services District, and it's very difficult to
10 sit here and -- and to review these violations and, on the
11 flip side, very humbling. I was sat before you a couple
12 years ago in -- in San Luis Obispo with the community, and
13 you were gracious enough to -- to give us a Title 22 and
14 Title 27 from -- a permit for this sustainable water
15 facility.

16 We've made significant improvements regarding the
17 administrative portion of these violations. The
18 complexity associated with the reporting is something that
19 we recognized after we met with the Regional Water Quality
20 Control Staff on February 1st, and the -- the violations
21 were discussed, and so we hired a full-time person,
22 specifically, to address the reporting components of -- of
23 both the Title 22 and Title 27.

24 That person will later on be giving a brief
25 PowerPoint presentation with me. She's highly qualified.

1 She has a master's degree and -- and we've -- we've spoken
2 briefly about limits on our resources, and I think that's
3 one thing that we've learned from this, is that we do have
4 limits, but as Chairman Wolff said, that's no excuse.

5 So with that being said, we do have a full-time
6 person who is handling -- handling the administrative
7 portions of these. The operational component is the Board
8 authorized as part of the 2017-2018 budget a full-time
9 CPO, a chief plant operator, to run the facility.

10 Again, recognizing the complexity associated with
11 it, and I think your Executive Director articulated very
12 well, along with Board Member Gray on -- on the challenges
13 associated with complex systems and limited resources with
14 small districts, or small cities, for those matters.

15 I think this type of system is going to be a
16 system that you're going to see more frequently throughout
17 California, especially some of the rural areas, like --
18 like Cambria. And so as -- as Mr. Rokke indicated that
19 their goal as staff is water quality, and I think as we
20 look back at the water quality results for -- for this
21 particular project, especially since it's indirect reuse,
22 we see that the water quality being produced from that
23 facility is -- is meeting all the necessary requirements.

24 With that being said, I'm hoping at some point in
25 time, after maybe a year of -- of operation, collectively,

1 we can sit down and we can reduce some of those sampling
2 requirements that would thus reduce some of the -- the
3 reporting requirements. Thank you very much for your
4 time. I appreciate it.

5 CHAIR WOLFF: Thank you. And I just received another
6 speaker card which was for Item 9 and 10. I have closed
7 Item 9, so I will then include the speaker card for Item
8 10, but thank you very much.

9 So at this time, I do not have any more cards for
10 this particular item, so any further comment from my
11 fellow Board members? Mr. Young.

12 MR. YOUNG: Thank you. So, Thea, I see some comments
13 in the letters that we have from some community members
14 requesting that the Regional Board better supervise the
15 District going forward, and I'm just wondering what could
16 be done in that respect in kind of a novel way. I mean, I
17 don't think we're there to hold anyone's hand. They're
18 supposed to hire professionals that know what they're
19 doing.

20 It's their responsibility to adhere to the terms
21 of the permits. But is there anything that can be done in
22 terms of require -- requiring them to possibly report back
23 to us certain events that take place that might help to
24 keep their feet on schedule?

25 MS. TRYON: So I think I will hand that off to Jon,

1 who's the permitting staff and handles the day-and-day. I
2 kind of deal with things as they violate -- when the
3 permitting staff want to take enforcement. I'd like
4 this -- from an enforcement perspective, I would like to
5 see how the reporting goes once the operation of the
6 treatment system starts up again.

7 When it's not in operation, the monitoring
8 requirements are not as important and not as tedious, so
9 I'd like to see how they do moving forward, but that is
10 the biggest question is, can they handle this system and
11 can they operate in a manner that is compliant with our
12 permits and --

13 MR. YOUNG: Is it a matter of just not having enough
14 man-hours to do this or is -- are there complexities
15 presented by operating a system like this that requires a
16 lot of continual fine-tuning to get it to operate the way
17 it should operate?

18 MR. ROKKE: It is a complicated system. When it's
19 running, there's a number of monitoring points throughout
20 the system that -- that get monitored and reported to us
21 in addition the water going into the ground, the water
22 coming out of the ground, all that stuff. And as a -- as
23 a staff person who's been working on this for a couple of
24 years now, the challenge for me is, I don't want to layer
25 more requirements on them when they're struggling to

1 already meet the requirements they have.

2 So, you know, we thought about that and we
3 pondered in various ways to try help to them do a better
4 job. I think that because this is an indirect potable
5 reuse system, there -- there is some minimum level of
6 monitoring that's always going to be required. I know the
7 District's, you know, is eager to sort of reduce that as
8 an answer to some of the reporting problems, but I -- I'm
9 less convinced that really the answer to doing this.

10 So it's a difficult question. How to better
11 facilitate them. And I will say that in hindsight, I
12 don't think that they were served very well by me trying
13 to sort of understand and -- and help them along
14 initially. I think it probably would have been better if
15 I sort of drawn a hard line and said, you know, every time
16 you are late or every time you miss a monitoring data
17 point, or you know, whatever it is, you're going to get a
18 Notice of Violation, just so that the tone is set right in
19 the beginning that the expectations are high for these
20 kinds of facilities as they should be.

21 So you know, going forward with other facilities
22 that are going come on-line that are similar to this in
23 the future, that's going to be my approach is, you know,
24 telling them right up front, this is -- there's sort of a
25 no-tolerance situation for being late. Yeah. We know

1 it's a -- a big burden on you, but this is part of, you
2 know, what you've taken on here with this project and you
3 need to live up to the permit's requirements.

4 MR. YOUNG: So I don't think I really had my question
5 answered, and that is, it sounds like you're telling me
6 it's more of a function of lack of resource to collect all
7 the monitoring and get it collected into the reporting. I
8 didn't really hear you say this is so sophisticated, the
9 system, that requires fine-tuning continually and so
10 there's a lot of moving parts.

11 MR. ROKKE: Well, in terms of the fine-tuning, now,
12 there's a lot of monitoring points, but once they, you
13 know, have the system up and running, it runs. Somebody
14 needs to be there to sort of make sure that nothing goes
15 awry as the day, the week, and the month, you know, moves
16 on and the system is operational, but there's not a lot of
17 tweaking and fine-tuning that I'm aware of.

18 MR. YOUNG: So then, it's a function of needing more
19 resources to -- to do and collect the monitoring. Is that
20 what it is?

21 MR. ROKKE: I -- I think that's right. And I -- I --
22 I've kind of come to the conclusion that a district like
23 Cambria has so many diverse things that they're trying to
24 manage -- in addition to the Advanced Treatment Plant --
25 that is really tough for them. I mean, they're doing

1 ambulances and fire and water and waste water treatment
2 systems and collection systems.

3 All this stuff and the emergency water water
4 supply system and it's -- it's tough to keep all that
5 stuff going, because, you know, you'll develop a water
6 leak in town, and naturally, your focus goes on, you know,
7 finding that leak, but everything else is not clearly in
8 focus during those times.

9 So maybe the answer is some kind of a special
10 District situation or something that's dedicated just to
11 this facility and has the resources that are dedicated
12 exclusively to that facility and are not performing
13 multiple duties.

14 MR. YOUNG: Is the monitoring being done timely?

15 MR. ROKKE: Since our meeting in February of this
16 month, all the reports have been on time.

17 MR. YOUNG: No. My -- my questions was not are the
18 reports getting filed timely. Is the monitoring being
19 done when it's supposed to be done?

20 MR. ROKKE: We did just recently issue another Notice
21 of Violation for a missed monitoring for the groundwater.
22 There was, I believe, 67 data points that were missed in
23 a -- in a recent submittal.

24 MR. YOUNG: Is that the first time this has happened?

25 MR. ROKKE: No.

1 MR. YOUNG: Why isn't that something that's been
2 brought to our attention?

3 MR. ROKKE: Well, it is being brought to your
4 attention in -- in the presentation as it unfolds today.

5 MR. YOUNG: Okay.

6 MR. ROKKE: And in -- this latest one was very recent,
7 and these Notices of Violations -- as I explained in that
8 earlier slide -- those are considered to be informal
9 actions that don't necessarily come before the Board.

10 MR. ROBERTSON: Mr. Young, as -- as you know, we issue
11 Notices of Violation all the time, and it's part of the
12 process of -- of escalating enforcement to compliance.
13 That -- that's the earliest -- Jon referenced as
14 informal -- that's the earliest version and lightest touch
15 of the -- sort of progressive steps into enforcement.

16 MR. YOUNG: So Mr. Gruber spoke of hiring somebody to
17 help with the report filing. We're going to be hearing a
18 presentation. Did that help them become more timely and
19 what is your experience with interacting with this person?

20 MR. ROKKE: I've had a very good experience
21 interacting with her, and -- and that was a positive step
22 forward on the District's part to hire her to help make
23 sure these reports are in on time, and all the data was
24 properly collected.

25 He also mentioned hiring a full-time operator for

1 the plant, and in my mind, I'm wondering how that's going
2 to work for their organization since there are large
3 chunks of time when this plant isn't operating, and I'm
4 not sure, you know, what that person is going to do during
5 all that time, so it's, you know, just another of the
6 challenges the District has.

7 MR. YOUNG: Dr. Wolff spoke of what? Over a hundred
8 similar systems just in our region?

9 CHAIR WOLFF: Michael?

10 MR. THOMAS: I don't know the exact number, but yes
11 there are many of these types of systems.

12 CHAIR WOLFF: And, you know, one thing, too, you know,
13 kind of a bigger picture here, you know, Mr. Young asked,
14 you know, if we provided quite a bit of help, and I was
15 Chair when this whole plant permitting took place, and
16 this was when your predecessor, Mr. Ken Harris, was the
17 EO. We brought the Office of Emergency in order to get
18 things moving.

19 You know, there was about 90 days of potable
20 water reserved in that facility. At one time, we had on
21 and off, 12 staff working to help Cambria. Twelve. We
22 actually stopped other projects to provide quite a bit of
23 help, you know, this is -- this was a disproportionately
24 very large amount of resource that we put in. We also
25 realized that the District really had -- was struggling

1 with the permittings [sic] of the various permits that
2 were involved, so we said, "We're going to help you."

3 So actually, we went beyond our roles as
4 regulators by -- by being the facilitators and helping
5 them with their permits, including some of the consultants
6 they had say, "Hey, you need to turn right or you need to
7 turn left." So I'm, you know, I'm kind of looking back
8 also at the history here because right now we have a
9 snapshot of the present, but, you know, our Board went
10 above and beyond the call of duty -- and I want to make
11 sure that's understood -- to help this project get off the
12 ground.

13 So, you know, having said that, that -- that's
14 why also I have a little bit of a residual expectation
15 that, you know, we -- we disproportionately helped this
16 particular facility, I mean, we could -- we cannot do this
17 with everybody else, you know, there's just not enough of
18 staff -- ours -- to do it, but I just want to share this,
19 you know, for general background -- call it a little bit
20 of a wallpaper here in the room as -- as we discussed this
21 item, so -- sorry. Any other input or comment?

22 MS. GRAY: I guess I just have a comment since this,
23 you know, this project pre-dated my involvement on the
24 Board and I appreciate all of that. I -- I guess I'm
25 concerned that -- and I'm happy that we facilitated.

1 I think it's -- it's good that in our role as
2 quote/unquote, "regulators," are also helping people on
3 the way. We're humans, not automatons, so I think it's
4 appropriate that we engage, but I certainly am concerned
5 that we're enabling something that potentially wasn't
6 right, but I understand that it was, you know, an
7 emergency situation and there's lots of complexities.

8 And I live in the realm of gray, that's my name,
9 but black and white is can you operate the system or not?
10 And that's what we're really concerned about. And so
11 there really needs to be some rubber meeting the road, not
12 only in the monitoring, but is there the ability to -- to
13 operate the system and if there are similar systems,
14 perhaps there's -- there are operators that can, you know,
15 come in on a rotating basis.

16 There's got to be the ability to have some, you
17 know, creative solutions if -- if -- if this system is to
18 move forward, so that's just my general comment.

19 CHAIR WOLFF: I would say, Ms. Gray, that, you know,
20 this plant now is beyond the, you know, characterizes for
21 shake-down crews. I think this system is in a
22 steady-state operation. All the -- pretty much, you know,
23 so it's not that's every day, "Whoops, you know, we're
24 going to have to change this."

25 It -- it's -- it's a system that is in balance,

1 you know, in terms of its mechanical functions and
2 operating functions and monitoring functions, so the, you
3 know, and I think you alluded to that a little bit when
4 you used the term, "there's not a whole lot of tweaking
5 that has to take place." And, I mean, even if you take a
6 conventional plant, I mean, there are certain minor
7 changes and adjustments you have to make.

8 Even in this conventional plant, if you winter
9 months versus summer months with sewer discharge. If you
10 take facilities that have a high amount of tourism
11 industry, you know, you all of a sudden have all the
12 hotels which have full occupancy, that impacts the burden
13 of the plants. So, I mean, everybody has those
14 constraints; right?

15 MR. ROKKE: Yes. And -- and I would like to clarify
16 that the District has made changes to the system along the
17 way, so for instance, initially when they had this
18 Enforcement Discharge of chlorinated water to Van Gordon
19 Creek, they installed a dechlorination system so that that
20 wouldn't happen again.

21 In response to the disinfection problems they had
22 in December that I mentioned, the District, I believe is
23 either installing or is in the process of installing an
24 automatic shutdown system so that when that occurs in the
25 future, water doesn't get injected into the well.

1 So I don't really think of those as tweaks.
2 Those are sort of process changes that they've installed
3 as they went along and encountered problems. But you're
4 correct, there are, you know, little turning -- turnings
5 of valves here and there, tweaking. That's what I
6 consider tweaking as the system is operational.

7 So now there's been three big chunks of time that
8 this system has been operated for and I -- I think I would
9 agree with your characterization that it's in a steady
10 state now. Aside from these, you know, the automatic
11 shutoff that they've installed. So they, I mean, they
12 should be running along as good as it's going to go now.

13 CHAIR WOLFF: Okay. Thank you. So I'd like to bring
14 this item to conclusion. Any further comment or input
15 from my fellow Board members? Okay. I see none. So this
16 was an informational item, and you have one more comment
17 to make, Mr. Robertson.

18 MR. ROBERTSON: No. Just on the -- on the overall
19 item itself. So -- so the role of enforcement is to
20 achieve compliance and protect water quality, not to find
21 financial restitution, and I -- I think the -- the
22 evaluation of the potential liability relative to the
23 assessed liability of what ultimately was paid by the
24 District reflects the staff as measured in their
25 assessment and approach here, balancing all of those

1 things.

2 CHAIR WOLFF: Okay. Thank you. So this closed this
3 item, and what I'd like to suggest before we move to Item
4 10, which is going to take -- take a while, is -- it's
5 10 -- five to 10:00 and take a little 15-minute break
6 before the next item and reconvene at 10 past 10:00.

7 Thank you.

8 (Recess)

9 CHAIR WOLFF: Okay, everyone. We'll now resume here
10 and cover Item 10. And before starting this item, I -- I
11 have an opening statement that I would like to make.

12 At this time and place for a Hearing of a Central
13 Coast Regional Water Quality Control Board to consider
14 adoption of a Cease and Desist Order for the Cambria
15 Community Service District. This hearing will be
16 conducted in accordance with the hearing procedures that
17 were provided to the parties. Because the Cambria
18 Community Service District is not contesting the proposed
19 Cease and Desist Order, the hearing has been abbreviated
20 and will be less formal.

21 Designated parties are as follows: The Regional
22 Board prosecution team and the Cambria CSD. Each
23 designated party may make a presentation if they choose of
24 up to 30 minutes. Board members, Advisory Team, and Staff
25 Counsel may ask questions at any time to either party and

1 all interested person will be allowed up to three minutes
2 to provide a public comment.

3 As Chair, I may provide additional time at my
4 discretion and a timer will be used. For the purpose of
5 this hearing, the functions of Staff and Counsel are
6 separate. Prosecution Staff who are proposing this
7 action, have had no communication with the Board members
8 or the Board's advisors, other than for non-controversial
9 procedural matters.

10 The Board Counsel has not advised the Prosecution
11 Team in this Matter. And for this hearing, the
12 Prosecution Team consists of Mr. Michael Thomas, Assistant
13 Executive Officer; Thea Tryon, Todd Stanley, and Jon
14 Rokke. They are advised by Paul Ciccarelli, Counsel from
15 the State Water Resource Control Board, Office of
16 Enforcement.

17 And for this hearing, the Board Advisory Team
18 consists of Jessica Jahr, Counsel for the State Water
19 Resource Control Board of Chief Counsel; Mr. John
20 Robertson, Executive Officer; Ms. Angela Schroeter, and
21 Martin Fletcher.

22 Each person who testifies at this hearing shall
23 begin by stating his or her name and address, and by the
24 way, address is optional. And all person who may testify
25 at this hearing, please stand, and if you do not plan to

1 testify but are involved in this Matter, I would like you
2 to stand up and raise your right hand and take the
3 following oath.

4 Okay. Do you solemnly swear that the testimony
5 which will be given in this Matter is the truth? Answer I
6 do.

7 PUBLIC: I do.

8 CHAIR WOLFF: Thank you very much. At the close of
9 the hearing, the Board members and Advisory Team may
10 adjourn to closed session to deliberate on the evidence as
11 authorized by Government Code Section 11126. After the
12 conclusion of the deliberation, the Board will resume open
13 session and provide its ruling.

14 And then please state your name, address as an
15 option, affiliation and where you have taken the oath
16 before testifying. And at this time, evidence shall be
17 introduced on the following issue: Whether the Regional
18 Water Quality Control Board should issue, reject, or
19 modify the proposed CDO order. I will now begin the
20 hearing. Mr. Robertson?

21 MR. ROBERTSON: Thank you, Chair Wolff. My name is
22 John Robertson, and I'm the Executive Officer of the Water
23 Board. I do that because we have a court reporter here
24 and that's the expectation of all who speak, and don't
25 speak too rapidly.

1 Item 10 is an enforcement hearing for the
2 tentative Cease and Desist Order for Cambria Community
3 Services District Surface Impoundment, which contains
4 reverse osmosis brine waste produced by Cambria's
5 Emergency Water Supply Project and we had an overview
6 provided by Jon Rokke about the totality of the water
7 supply system at the start of Item 9.

8 Prosecution Team has developed a Cease -- a
9 tentative Cease and Desist Order in response to alleged
10 Violations of Waste Discharge Requirements for that
11 impoundment. The Cease and Desist Order provides Cambria
12 CSD the option to either rehabilitate the surface
13 impoundment and demonstrate its compliance with
14 containment and siting requirements prior to recommencing
15 waste storage operations or discontinue using,
16 decommission the surface impoundment for waste storage.

17 The order of the proceedings were referenced by
18 Dr. Wolff, but essentially the Prosecution Team will
19 present, followed by the Cambria CSD and then public
20 comment. And then, of course, Board members can ask
21 questions into that, as can Advisory Team Members.

22 Following the conclusion of the process, the
23 Board Advisory Team will provide the Board a
24 recommendation on tentatives -- on the tentative Cease and
25 Desist Order and the Board can deliberate its decision as

1 discussed in the Chair's statement, and I believe we
2 stated we had 30 minutes for both parties.

3 CHAIR WOLFF: For each party, yeah.

4 MR. ROBERTSON: And are we okay with the tracking of
5 that time?

6 CHAIR WOLFF: Yes. Our Clerk of the Board will keep
7 track of the time, and as a reminder, I closed public
8 comments speaker cards at this time.

9 MS. OLSON: If you can just let us know when to start
10 and stop. Do we stop when people ask questions as part of
11 the 30 minutes?

12 CHAIR WOLFF: Yes.

13 MR. ROBERTSON: Questions are not part of the time.

14 MS. OLSON: Okay.

15 CHAIR WOLFF: Right. And, you know, being informal, I
16 would suggest that if some of my colleagues have
17 questions, you know, we can stop and you can ask a
18 question and that way we're not waiting for 30 minutes and
19 then perhaps ask some question out of sequence. I think
20 it will make the process a little more fluid.

21 MR. ROBERTSON: Okay. And just to be clear for the
22 timekeeper, the question and the response will not draw
23 from the party's time.

24 MS. OLSON: Okay. So the 30 minutes is only the
25 presentation; is that correct?

1 MR. ROBERTSON: Correct.

2 CHAIR WOLFF: Yes. I will help you along.

3 MS. OLSON: Thanks. There's two of us. Hopefully
4 we'll get it.

5 CHAIR WOLFF: Oh, we'll get this figured out.

6 MR. ROBERTSON: With that said, we're ready to
7 proceed.

8 MR. ROKKE: Good morning, again, Chair Wolff and
9 members of the Board. My name is Jon Rokke. I'm a Water
10 Resources Control Engineer at the Regional Board. I'd
11 just like to say up front that I'm -- it's going to be
12 tough for me to struggle between the 30-minute limit and
13 talking slowly for the court reporter. I have about
14 20-some slides, so just forewarned.

15 With that, I'm here to present Item 10 for the
16 Prosecution Team, a Ceased and Desist Order regarding the
17 Title 27 permit for the surface impoundment. As noted
18 earlier, the surface impoundment was designed to accept
19 reverse osmosis brine and other waste generated from the
20 emergency water supply facility and evaporate that liquid
21 in a pond.

22 Again, it's important to note that the proposed
23 Ceased and Desist Order relates to the surface impoundment
24 only. We've heard from some members of the public that
25 seem to believe we're trying shut down the larger

1 emergency water supply system which is not the case. This
2 is about the brine pond only.

3 The Ceased and Desist Order is necessitated by
4 problems that were discovered as a result of flooding of
5 the facility in January of this year. Staff became aware
6 of the flooding at the impoundment when a local citizen
7 reported it on January 9th. The District Staff never
8 acknowledged that the impoundment was filling up with
9 storm water until Water Board staff conducted an
10 inspection on January 11th.

11 This timeline illustrates some of the
12 communication problems we've had and some aspects continue
13 to have with the District. In -- in fact, when Water
14 Board Staff called to set up the inspection on January
15 11th, District -- CCSD District Staff -- made no mention
16 of the ponds being flooded and it wasn't until we were
17 actually on the site that the extent of the flooding was
18 finally acknowledged to us.

19 This photo shows the pond level on January 11th.
20 Barely at the minimum free Board level, which I'll explain
21 a few slides from now, but for right now, please note that
22 the impoundment is required to maintain just under three
23 feet of free Board. This photo shows -- and I hope you
24 can see it -- there's a lot of standing water right here
25 and saturated ground right next to the impoundment. This

1 was also taken January 11th.

2 This photo shows sandbags and some additional
3 flooding that was going on. This photo was from February
4 17th when I was out there doing it, an inspection of the
5 site. And this is from March 20th. You can see how full
6 the pond is there. There, at this point, they're
7 exceeding their allowable free Board limits.

8 Oh, I should -- I should say that from the first
9 date that we noted that the free Board requirements were
10 not being met, which was in January through March 20th,
11 when they got back into compliance -- no, not March 20,
12 June 24th, excuse me -- there was a total of a hundred and
13 forty-one days where they were out of compliance with the
14 free Board limit.

15 CHAIR WOLFF: And can we stop the timer for a moment.
16 Thank you. And, you know, let's make sure we make eye
17 contact so we keep track of that.

18 Could you go back a couple of slides. Here we
19 go. Stop here. Where there looks like on the right of
20 the picture there's a ladder.

21 MR. ROKKE: Yes.

22 CHAIR WOLFF: Okay. Is that a trench dug and do we
23 know where that's going?

24 MR. ROKKE: Yeah. That was a trench dug by the
25 District to help divert water. It was actually going to a

1 drainage to the south. This is kind of looking roughly
2 west, and I believe the trench extended all the way to the
3 far of the pond into another drainage on the other side
4 there, so it was trying to get rid of the water in two
5 directions.

6 DR. WOLFF: Okay. Thank you. Can -- Mr. Young.

7 MR. YOUNG: So, Jon, in that photograph, that's just
8 rainwater that's flooding; right?

9 MR. ROKKE: It's storm water is how we --

10 MR. YOUNG: Okay. Storm water.

11 MR. ROKKE: Yeah. It's just -- yeah. It's basically
12 rain water that's accumulated in the property of the
13 north, came over to the road, and is inundating the
14 facility.

15 MR. YOUNG: So how is that accumulation that we're
16 seeing a violation of a permit?

17 MR. ROKKE: It's not a violation until they exceed
18 their minimum free Board levels.

19 MR. YOUNG: Which is different than just the ponding
20 of storm water.

21 MR. ROKKE: Right. This -- this water standing here
22 behind the sand bags, that's not a violation.

23 MR. YOUNG: Right. It's just the amount of water
24 within the impoundment.

25 MR. ROKKE: That's correct.

1 MR. ROBERTSON: So, Jon, what's the purpose of free
2 Board? Explain the purpose of free Board.

3 MR. ROKKE: The purpose of free Board is to make sure
4 that there's no danger of overtopping the facility. If it
5 overtops, then you have spillage of that water, obviously,
6 out of the pond and potentially endangers the berms via
7 erosion, and if the berms get substantially eroded, then
8 you can have a catastrophic -- catastrophic situation
9 potentially, with a big release.

10 MR. ROBERTSON: And -- and Jon -- thank you. In that
11 picture, prior to the installation of the sandbags, was
12 water flowing from that location into the containment
13 structure?

14 MR. ROKKE: Yes, it was. That -- that's how the
15 impoundment got filled up, basically, it was from the
16 flood waters.

17 MR. YOUNG: And so that's one of the design flaws in
18 their system?

19 MR. ROKKE: Yes.

20 CHAIR WOLFF: Okay. Thank you. Please resume.

21 MR. ROKKE: So as Mr. Young noted, we consider that
22 this facility has a couple of design flaws that were
23 illuminated by the flooding. The first one that I want to
24 touch on is liquid in the vadose zone.

25 Title 27 requirements are that a five-foot of

1 separation be maintained between the bottom of the liner
2 system or at the leachate collection and recovery
3 system -- that's what we call the bottom of the system --
4 and the top of the -- the groundwater level.

5 That separation needs to be maintained so that
6 there's time to react if there is a leak in the liner
7 before the pollutants reach the groundwater level. So
8 monitoring was first detected -- well, let me -- let me
9 explain this first. I'll back up to that slide.

10 At this point, I want to show you a drawing of
11 the liner system to explain the leak detection system and
12 how that works. This -- this drawing is not to scale. On
13 the top there, you see the blue -- blue colored area.
14 That represents the waste that are in the pound. This
15 first green line on the top here represents the first
16 liner. This is -- this facility has multi-liners. The
17 second green line is the second HDPE liner.

18 This purple line represents the clay liner that
19 underlies both the top two plastic liners. This red area
20 here is the leachate and collection and recovery system
21 which is encapsulated in both the plastic liners, and
22 underneath there, that yellow, is the vadose zone
23 monitoring system.

24 That's basically a pan lysimeter that has HDPE on
25 the bottom, and as I said, there's required to be five

1 foot of separation between the bottom of the leachate and
2 collection and recovery system and the top of the
3 groundwater surface.

4 So now -- now, excuse me. Let me back up to this
5 earlier side. So on -- as a result of the flooding, Staff
6 requested the monitoring logs from the discharger
7 regarding the daily inspections they do at the facility.

8 We when read those logs, we discovered that on
9 multiple occasions, water had appeared in the vadose zone
10 monitoring system -- that was that yellow system at the
11 bottom of the pan lysimeter -- and it was noted in the log
12 books, but what did not happen was the requisite alarm
13 bells going off stating that something's going wrong here;
14 you may have a potential leak. That was our first concern
15 when we noted the water in the system was that there may
16 be a leak in the liner.

17 Our second major concern about that was that the
18 District did not recognize that that's what was going on.
19 After we reviewed further records, we discovered that
20 there was water in that vadose zone monitoring system from
21 a period between January 24th and March 7th.

22 Okay. So on March 14th, we requested from the
23 District that they report the levels in the monitoring
24 wells surrounding the impoundment and when they e-mailed
25 us the result of that, those measurements, we realized

1 that two of the three wells that surround the impoundment
2 showed levels indicating that the five-foot of separation
3 had been violated, and in fact, one of those wells
4 indicated that the water level had risen to the point
5 where it was in contact with the liner.

6 That's that on the bottom. That negative point
7 five, one foot means you have negative distance. This
8 shows the location of the monitoring wells with respect to
9 the -- to the liner. At this point, I'd like to point out
10 that the surface impoundment was built on the site of an
11 old percolation pond, which was insufficient in size to
12 contain all the waste that was projected to come from the
13 emergency water supply system.

14 So to compensate for the under-sizing, the
15 Cambria Community Services District installed five blowers
16 alongside the impoundment with the intent to aerosolize
17 the brine and enhance the evaporation rate. This was
18 advised against by Water Board Staff, but the District
19 chose to install these blowers anyway. They ended up
20 shutting them down because it was just unworkable. The
21 brine was drifting too far. It was going outside the
22 impoundment.

23 So once the blowers were shut down, we were just
24 relying on purely the natural evaporation rate to get rid
25 of the liquids there. I'd also like to point out that

1 when they made that choice, it was in the context of --
2 that Porter-Cologne precludes us from dictating the manner
3 of compliance with our requirements, so that was their
4 choice to make, and we rely on the dischargers to make
5 informed choices in determining which technologies to
6 employ when they build their facilities.

7 This illustrates again how the groundwater level
8 rose up to where it was actually in contact with the
9 liner, the bottom of the leachate and collection recovery
10 system. It now appears that the liquids that appeared in
11 the vadose zone monitoring system were most likely
12 groundwater, not a leak from the liner; although, there's
13 a statistical procedure for evaluating whether or not the
14 water in that vadose zone monitoring system is similar
15 enough to what's in the leachate collector -- the leachate
16 collection system to make the definitive statement that a
17 leak has occurred, and that statistical analysis has not
18 been yet produced by the District.

19 MR. ROBERTSON: Can you stop the time. Jon, is there
20 water in the -- I think I heard you say that the vadose
21 zone monitoring system had fluid from the 24th of January
22 through the 7th of March, so it does not have fluid in it
23 right now.

24 MR. ROKKE: It -- it currently does not have fluid.

25 MR. ROBERTSON: But they're still a head in the pond

1 right now?

2 MR. ROKKE: That's correct.

3 MR. ROBERTSON: So what's the -- is that where you're
4 headed right here?

5 MR. ROKKE: Yeah. That -- that's why we think it was
6 most likely groundwater.

7 MR. ROBERTSON: That there's likely not a leak.

8 CHAIR WOLFF: And then to follow up on that question,
9 is there a water quality test that can be reasonably
10 accomplished to compare the -- at the time to compare the
11 sample from the water in the pond versus the water that
12 was leaching out and basically using a fingerprint
13 comparison to see if there was cross contamination.

14 MR. ROKKE: Title 27 actually specifies the
15 statistical methodology that's supposed to be employed to
16 make that determination.

17 CHAIR WOLFF: So when you say "statistical," I mean,
18 this includes water analysis.

19 MR. ROKKE: That's correct, yeah. They collect data
20 from both systems -- the concentration in each system and
21 then compare those.

22 CHAIR WOLFF: Thank you. Okay. So the answer is yes,
23 you do perform water quality measurements to look for the
24 constituents and then make a comparison and see if you
25 have a certain dilution rate, which would indicate that

1 some of it was leaks from the membrane or some of it --
2 most of it was from groundwater rising. Okay. Got it.

3 MR. ROBERTSON: To be clear, so what you're going to
4 compare is -- or what the CSD will compare is what was in
5 the vadose zone system they sampled down, and compare that
6 to the pond?

7 MR. ROKKE: No. They compare it to what's -- the
8 water in the leachate and recovery system.

9 MR. ROBERTSON: Okay.

10 MR. ROKKE: The red box versus the yellow area there.

11 CHAIR WOLFF: Okay. Thank you. Timer.

12 MR. ROKKE: Okay. So now, I want to talk a little bit
13 about what we refer to as Design Flaw Number Two. The
14 second flaw in the impoundment was exposed during the
15 January storms and it began with a hydrological
16 assessments produced by the dischargers consultants to
17 support the design permitting and construction of
18 this impoundment.

19 Waste Discharge Requirements at the surface
20 impoundment have the capacity to absorb a one thousand
21 year, 24-hour storm event, which is defined in the permit
22 as 10.2 inches of rain fall within a 24-hour period, as
23 opposed to take that much water and still have two feet of
24 free Board after that.

25 The largest 24-hour rain event that occurred

1 early this year deposited approximately 2.7 inches of
2 water on January 3rd. The discharge's consultant produced
3 a series of design reports to support the design
4 construction, a curating of the surface impoundment and
5 one of those reports submitted evaluated the physical
6 setting and the potential for runoff from neighboring
7 properties, and concluded, quote, "There's no anticipated
8 storm water flow into the evaporation pond," unquote.

9 Another designed report detailed the results of
10 hydrologic modeling used to construct the facility and
11 determine that groundwater would not come within five feet
12 of the bottom of the surface impoundment.

13 This is a diagram submitted by the discharger
14 showing where San Simeon Creek Road flooded in relation to
15 culvert. It's hard to see on this one, but there's a red
16 line along the roadway here. Water flowed from up above,
17 came across the road here, and entered the pond. There is
18 another red line, hopefully you can see it on your screen.
19 It's better than this big one, but the culvert that was
20 supposed to handle that storm water flow is located up
21 here to the left on San Simeon Creek Road.

22 This is a plot of daily rainfall data from the
23 Santa Rosa at main rain gauge for the month long period
24 beginning December 24th through January 24th, 2016, into
25 2017. The dates along the horizontal axis are at the

1 bottom and the columns represent 24-hour rainfall totals.
2 The nearest other rain gauge is at San Simeon which showed
3 similar rainfall totals.

4 The cumulative rainfall from December 29th
5 through January 13th, a 15-day period, totaled 8.32
6 inches. So this was more than two weeks and cumulatively
7 it was still less than the 24-hour thousand year event.
8 The fact that the impoundment is subject to flooding
9 during heavy rains represents, in our estimation, a
10 serious design flaw.

11 This is a photo of the flooding as I saw it in
12 February -- on February 17th. You could see the flooding
13 coming across the road and then up above up here you can
14 see where the culvert is located that was supposed to
15 handle that flood water.

16 This is a photo of day laborers hired by the
17 district that were filling sandbags on February 17th when
18 I visited -- this was during another fairly heavy rain
19 event and I found that the sandbags were still being
20 filled in the impoundment to keep it from flooding and
21 this was a month after the initial flooding occurred.

22 CHAIR WOLFF: Stop the timer, please. So when you
23 came, had you received any communication from the District
24 of still the challenges that were taking place?

25 MR. ROKKE: I don't recall that I did, but I knew it

1 was raining heavily up there, and I wanted to go up there
2 and take a look and see how it was being handled.

3 CHAIR WOLFF: Okay. Timer.

4 MR. ROKKE: This is another photo from February 17th.
5 Either there's a pump on the pond side of the sandbags
6 which is pumping water over to the right to the other side
7 of the sandbags trying to keep more water from entering
8 the pond. This is District Staff on that same day,
9 February 17th, working to fight back the flood water.

10 So as an overview of the Ceased and Desist Order,
11 it really presents the District with two options: Either
12 rehabilitate the pond and return it to service as a Title
13 27 impoundment for waste or discontinue the use -- it's
14 function in that capacity.

15 So the District is not contesting the Ceased and
16 Desist Order as it's proposed and they've informed us that
17 they plan to discontinue the use they actually plan to
18 repurpose that pond into a raw potable water storage pond.

19 The Cease and Desist order also requires they
20 submit a work plan to us within 30 days of adoption that
21 outlines the plan timeline and milestones for
22 accomplishing the task of getting the waste out of there
23 at the earliest possible date. One of the options that we
24 became aware of that the District is contemplating is just
25 letting the waste just sit there and evaporate.

1 The evaporation rates used by the consultants in
2 the construction of this facility -- led to the
3 installation of those blowers that didn't work -- was an
4 annual evaporation rate of 600,000 gallons per year.
5 That's assuming just average rainfall. So at that rate,
6 it would take close to eleven years to evaporate what's in
7 there already.

8 If they were allowed just simply evaporate, the
9 liquids in there, the wastes that are contained in the
10 pond don't go anywhere. They just become more and more
11 concentrated over time. And that pond has been an ongoing
12 -- basically, an attractive nuisance for wildlife. The
13 birds seem to flock there.

14 There's all kinds of animal issues surrounding
15 that, and I would like to point out that if they were
16 allowed to evaporate -- simply evaporate the liquids, the
17 pond would be continuously not in compliance with Title 27
18 during that time because it can no longer be said that we
19 don't anticipate the groundwater level rising. It's now
20 shown that the groundwater level does rise.

21 This slide illustrates the attractive nuisance
22 feature that I talked about. I just really would like to
23 point out what the bottom of this thing looks like. This
24 photo was taken on January 29th of 2016 and the water
25 level was fairly low, and you could see accumulated salt

1 and other pollutants on the bottom.

2 CHAIR WOLFF: And hold that slide, please. When we
3 talk about attractive nuisance, my recollection was that
4 there had been also a history of breach of access through
5 the fencing area.

6 MR. ROKKE: There was one occasion I viewed a
7 photograph of deer inside the impoundment there and that
8 was a big concern because if they decided they were going
9 to down to the liquid and try to refresh themselves, their
10 hooves could potentially damage the liner, so there had
11 been deer inside the facility.

12 They discovered a small hole in the fence where
13 they were squeezing through and the birds flocking
14 regularly and then they've had an ongoing problem with
15 burrowing animals that are undermining the integrity of
16 the berms around this thing.

17 CHAIR WOLFF: Was it a ground squirrel that --

18 MR. ROKKE: Yeah. And gophers.

19 CHAIR WOLFF: And as part of the design, wasn't there
20 supposed to be a protection system below ground to prevent
21 burrowing animals.

22 MR. ROKKE: There was. A -- a gopher fence that was
23 installed. I believe it goes 50 -- or four feet below the
24 ground surface. The problem was is that it didn't come up
25 sufficiently above the ground surface and so it looked

1 like they were just going over the thing. The District
2 has then fixed that.

3 Their Consultant came in and -- and added more
4 height to the fence so precludes any more animals from
5 entering in there; the burrowing variety, but there's a
6 bunch in there and getting rid of them is a challenge and
7 then, you know, filling in the -- the burrows and dens
8 that they've made is another issue, too.

9 CHAIR WOLFF: So that was part of the design flaw,
10 also.

11 MR. ROKKE: That wasn't -- I would turn that more of
12 an implementation flaw. They recognized that they needed
13 this fence, it just wasn't installed high enough.

14 THE COURT: Okay. Thank you, please resume.

15 MR. ROKKE: So at this point, I'd to like address some
16 of the comments that we received about the Cease and
17 Desist Order. Main point that seems to come through is
18 that people in the area believe that it's going to be
19 prohibitively expensive to do anything other than just let
20 the waste evaporate there. What I'd like to point out
21 that the District has not submitted a work plan to us yet
22 detailing, you know, how they plan to get rid of the waste
23 there.

24 We expect to work with them. When they do submit
25 a work plan to come up with an effective methodology. The

1 time range of options for removing waste seems to be
2 defined as about 50 days that the District's consultant
3 initially said it would take to empty a full pond and
4 truck it all to Kettleman for disposal versus the 10-plus,
5 almost 11 years that it would take if we just agreed to
6 let it evaporate.

7 Kettleman is about an hour and 35 minutes away by
8 truck and the District recently entered into a contract
9 with South San Luis Obispo County Sanitary District to
10 send brine down there, which is a little bit closer. It's
11 just over an hour to truck brine that direction.

12 Commenters also seem to think that this facility
13 presents no threat to the environment or public health.
14 Prior to flooding, concentrations levels measured in the
15 pond water exceeded the maximum contaminant limits for
16 multiple constituents, including boron. Selenium was
17 three times the maximum contaminant limit. Arsenic was
18 double the maximum contaminant limit. And as I mentioned,
19 boron was actually a hundred times the maximum contaminant
20 limit.

21 Even after flooding, in the top foot of the water
22 that's there, a lot of the rain water -- they still --
23 whoops. Excuse me -- they still exceed the basin plan
24 limit for boron, so I contend that this water does
25 represent a threat to the environment if it gets loose.

1 Again, birds are naturally drawn to this facility
2 and dead birds have been removed from the pond in the
3 past. Some of the commenters stated that it seemed that
4 the Regional Board was punishing the District and that
5 their previous violations were only for late reporting. To
6 that, I can only reply with this slide and showing that,
7 you know, we've had multiple challenges, and it's just not
8 late reporting.

9 This is, again, just for perspective here. And
10 I'd like to touch on the time we spent. Chairman Wolff
11 mentioned the time spent in developing the permits. For
12 myself personally, I wasn't here when the permits were
13 developed, but since I've been here, I estimate that
14 somewhere between 25 and 30 percent of my entire time here
15 has been spent dealing with the District's permits and
16 compliance issues.

17 I worked that out to be about 255 hours a year,
18 and when I compared to other facilities that I have, and I
19 have over 300 facilities in total, typically, they take me
20 about eight hours a year to review the permits, maybe talk
21 to them on the phone once or twice, so, you know, the
22 resources consumed are -- continued to be very
23 disproportionate to other facilities.

24 So to conclude, it's now undeniable that
25 groundwater can and did rise in violation of the five-foot

1 separation requirement of Title 27, and continued
2 operation of the facility is really not an option. Title
3 27 is specific about that five-foot requirement.

4 The Ceased and Desist Order requires that
5 Discharger, again, propose a plan to remove waste from the
6 impoundment at the earliest possible date. Again, we'll
7 work with them towards figuring out what that is. And
8 once again, the District is not contesting this action.

9 So this concludes the Prosecution Team's
10 presentation. We hope you found it to be persuasive and
11 informative and we recommend that you adopt the Ceased and
12 Desist Order. So at this time, I'd to like entertain any
13 questions you might have and be happy to announce that I
14 made it in under 30 minutes.

15 CHAIR WOLFF: Yes. And nine minutes and six seconds
16 to spare. Very good. Mr. Robertson.

17 MR. ROBERTSON: Mr. Rokke, I'd like to ask a few
18 questions here. So with respect to the run-on slash
19 inundation issue, have -- was there any prior evidence
20 suggesting this might become a problem in previous -- I
21 believe the impoundment has been in place for -- you know,
22 prior to the events of earlier this year about two
23 years -- was there any indication or evidence that
24 suggests there might be a problem in that area?

25 MR. ROKKE: As I said, I wasn't here for the

1 permitting, but -- so, I believe, that Staff relied
2 extensively upon the Discharger Consultant's hydraulic
3 modeling and their technical memos which -- which analyze
4 the situation.

5 In hindsight, I would say that locals living in
6 the area have reported to me that that thing floods every
7 time it rains real hard.

8 MR. ROBERTSON: The road there in that area?

9 MR. ROKKE: Yeah. So that's -- that's, you know, in
10 the anecdotal observations.

11 CHAIR WOLFF: Yeah. To supplement that, and I know
12 Mr. Young has a question, but you had a slide that was
13 showing the water running across the road. Here we go.
14 Stop.

15 Now, there is a culvert, but if the arrow shows
16 the location, that's above, and water doesn't run uphill,
17 so kind of -- makes question, just looking at the
18 topography of the soil here, the wisdom of relying on a
19 culvert, which is in much higher elevation but doesn't
20 require a lot of engineering to see that.

21 MR. ROKKE: And I think that this photo is a little
22 bit deceptive because where that arrow was pointing is an
23 extremely brush area and there's, in fact, I think, a drop
24 off over there. The county is responsible for maintaining
25 the drainage there. That's really their culvert, and

1 since this flooding, my understanding is they've been out
2 there and regraded that in an attempt to get water to flow
3 to the culvert. But you're right, just looking at it in
4 this photo, it looks like they were asking the water to
5 run uphill.

6 CHAIR WOLFF: Okay. Mr. Young.

7 MR. YOUNG: Thank you. So of these two design flaws,
8 one of them appears to be correctable to me; the other one
9 does not appear to be correctable. The flooding could be
10 corrected simply by regrading or putting in some type of a
11 surface conduit to take water away so it doesn't enter
12 into the pond. Is that a fair --

13 MR. ROKKE: I think that is very fair.

14 MR. YOUNG: Okay. The second one is groundwater
15 levels. And I think no matter how much you remove the
16 surface flow and heavy rain, you're still going to have
17 water penetrating into the ground and moving down slope.

18 MR. ROKKE: That's our concern as well.

19 MR. YOUNG: And -- now, didn't we know that this area
20 had water table levels high enough that that was a
21 possibility?

22 MR. ROKKE: The analysis that was done by the
23 District's Consultant concluded, in hindsight erroneously,
24 that the main threat to the rising groundwater level came
25 from the rising creeks -- the neighboring creeks there,

1 and they looked at the -- at the well logs from the area
2 and determined that there was an impervious layer down
3 that was going to keep the water from rising up in the
4 event of a rising creek, never really fully contemplating
5 the possibility of water coming down from above, hitting
6 that same confining layer and filling up. So it was a
7 serious flaw in the analysis.

8 MR. YOUNG: So then, tell me, when you have water
9 reaching into the red box on your screen, that's the
10 vadose zone monitoring system?

11 MR. ROKKE: Actually, I think it was the yellow box.

12 MR. YOUNG: Yellow box. Okay.

13 MR. ROKKE: Yeah. The red box is what we call the
14 leachate and collection system and that one -- that
15 collection area or that sump -- has water in it routinely.

16 MR. YOUNG: Right.

17 MR. ROKKE: Because when the pond gets full, there are
18 these little microscopic holes in the liner that can't be
19 detected that they allow a certain amount of leakage
20 through that top green layer, it gets collected in, and
21 the red area and then pumped back into the impoundment.
22 The yellow area, the vadose zone monitoring system, is
23 supposed to signal when there's a problem with both the
24 plastic liners and the clay liner and water escapes and
25 gets into that yellow box there, and that's supposed to be

1 the trigger that, "Whoa. Something is going wrong here.
2 We need to take a good close look at it."

3 MR. YOUNG: Well, so that's the in-correctable design
4 flaw -- is the water table level ability to rise and
5 compromise the vadose zone monitoring system.

6 MR. ROBERTSON: So these -- these are actually
7 correctable either by groundwater break prior to the
8 installation of a system or potentially an ongoing pump
9 system to dewater beneath the impoundment. I mean,
10 there -- there's a -- there's a reactionary and a
11 proactive strategy available to -- to maintain a five-foot
12 separation. Now we're only in the reactive stage and
13 facilities are already in place, but you could pump and
14 dewater beneath that and -- and some landfills actually
15 have to do that.

16 MR. ROKKE: Yeah. Mr. Robertson is correct. I
17 wouldn't say it's -- if money were no object, it -- it's
18 not uncorrectable.

19 MR. ROBERTSON: It's expensive.

20 MR. YOUNG: Okay. How many cubic yards of material
21 need to be removed? Do we know?

22 MR. ROKKE: I believe there's currently just over six
23 million gallons in the pond.

24 MR. ROBERTSON: Mr. Rokke, can you tell us if there
25 has been any subsequent grading in the area to remedy the

1 run-on/inundation issue.

2 MR. ROKKE: Yeah. Yeah. I believe I mentioned that
3 the County has been out there since and regraded that
4 drainage on the other side of San Simeon Creek Road in an
5 attempt to get the water to go --

6 MR. ROBERTSON: Promote flow of the culvert.

7 MR. ROKKE: Right.

8 MR. ROBERTSON: Right. Okay. In the Prosecution
9 Team's opinion, is that adequate to prevent inundation?

10 MR. ROKKE: I mean, short of us going out there and --
11 and surveying it, I -- I have to rely on the County's
12 expertise, but the reality is we won't know until we get a
13 heavy rain event.

14 MR. ROBERTSON: Were there any indications of
15 groundwater separation intrusion, you know, the five-foot
16 separation in prior wet weather seasons? Acknowledging
17 that we were at the back end of a drought.

18 MR. ROKKE: Yeah. Not -- not that I'm aware of, no.
19 And I pointed out that those three monitoring wells that
20 we're measuring were installed as part of this facility,
21 so we don't have a lot of historical data there.

22 CHAIR WOLFF: Okay. Mr. Johnston.

23 MR. JOHNSTON: Mr. Rokke, you stated at the outset
24 that contrary to the perception of some of the commenters,
25 that the point of this action was not to shut down the

1 system as a whole but the -- the -- the operation of the
2 pond. How does the system operate without the pond?

3 MR. ROKKE: Well, the District's current plan, as I
4 stated, was to repurpose this pond into a raw portable
5 water storage area. But in terms of dealing with the
6 brine, they would install, I believe, they're calling for
7 four baker tanks to be installed at the facility which
8 would be filled with brine and then trucked off
9 periodically as the brine accumulated.

10 MR. JOHNSTON: So in terms of the question of the --
11 and how much of that -- do we have any sense of how much
12 of that six million gallons that's in that pond right now
13 is rain water as opposed to brine? I mean, there must be
14 -- there must be a sense because I'm assuming they're
15 logging how much brine goes into it.

16 MR. ROKKE: Yeah. I would say just very rough
17 ballpark is probably at least half of it is flood water.
18 I showed pictures of, you know, what it looked like. I
19 think it was back in November or August of last year, so
20 it was perhaps half full but the -- the geometry of the
21 pond is such that as you go up every foot of rise
22 accumulates more water than the previous foot. So I would
23 say at least -- my estimation is at least half of it is
24 flood water.

25 MR. JOHNSTON: So if they get these baker tanks and

1 truck it off then the cost that commenters are talking
2 about, about trucking out the current contents of the pond
3 -- would continue to accrue as a -- as they store brine in
4 the future. They wouldn't be trucking away flood waters
5 but they would be trucking away the brine.

6 MR. ROKKE: That's correct.

7 MR. JOHNSTON: Okay. And was there an alternate of
8 piping to a -- to a nearby outfall? Wasn't there a San
9 Simeon outfall? I'm trying to remember back to when we
10 permitted this.

11 MR. ROKKE: San Simeon does have an outfall, and we've
12 had decisions with the District about potentially sending
13 the brine up there but San Simeon has some challenges with
14 the permitting of its facility as it sits. So at the
15 moment, I think that connecting up there with a -- either
16 a pipeline or trucking it up there is not really an option
17 due to the permitting issues they have. Not to say they
18 can't be rectified in the future, but at this moment,
19 that's not an option.

20 MR. JOHNSTON: Okay. Thank you.

21 THE COURT: All right. Any further question at this
22 time? Yes, Mr. Robinson.

23 MR. JOHNSTON: This is just kind of off the fly. So,
24 I would like to hear the Prosecution Team's thoughts
25 around transitioning out of the pond and the timing of

1 that and -- and what's your expectations there,
2 acknowledging the supplemental that has the response --
3 the comments in response to comments.

4 Because we're in this tricky balance of they have
5 to have the pond until they can move all the water out of
6 the pond, so, in effect, the pond is still in place and
7 under regulation by us in the transition period out of the
8 pond. What are your thoughts about timing of that? And,
9 you know, just to explore that.

10 MR. ROKKE: Well, as the Ceased and Desist Order
11 states, we would like it to be done at the earliest
12 possible date. Now, that includes a lot of realities
13 about --

14 MR. ROBERTSON: Right. And I'm teasing this out.
15 What is the earliest possible date mean?

16 MR. ROKKE: Yeah. So that's something that we intend
17 to work out with the District. They propose something
18 and we say, "Have you thought about this or that?" One of
19 the things that I've -- I'm considering that hasn't been
20 brought up yet is the possibility of treating that water.
21 You can actually recover water from that facility,
22 concentrate the waste, and thereby reducing the amount of
23 truck trips it takes to get rid of it. So far, the
24 discussion has been framed of either we truck or we
25 evaporate it, but I think there are other treatment --

1 possibilities that should be explored there.

2 CHAIR WOLFF: You -- I mean, this facility has an RO
3 system and it's not constantly in operation as discussed
4 earlier, so when it's off operation for, you know, potable
5 water use, there would be an opportunity to operate the
6 system to actually extract, you know, the water and then
7 capture the brine. Is that where you're going?

8 MR. ROKKE: Well, that seems the obvious solution --
9 you do have a treatment facility right there.

10 CHAIR WOLFF: Exactly.

11 MR. ROKKE: And other facilities, I mean, I kind of
12 keep track of the literature of what's going on in other
13 parts of the state and around the world, and the trend now
14 seems to be to do multiple passes because water is such a
15 valuable commodity.

16 They don't want to waste a high percentage of it
17 discharging it as brine, so they'll run it through twice,
18 sometimes even three times to get as much usable water out
19 of it as they can.

20 CHAIR WOLFF: So based on your previous comment of,
21 you know, since -- as you indicated, the trapezoidal
22 design is such that, you know, we do have a large surface
23 area that capture rainwater and about 50 percent is
24 rainwater, 50 is brine. Right off the bat, 50 percent can
25 be, you know, fresh water and then in the remaining 50

1 percent of the brine, you know, often you can further
2 reduce that by up to 50 percent, so now we're getting into
3 a very, very small amount compared to the initial six
4 million gallons; correct.

5 MR. ROKKE: That's -- I think that's a very -- it's a
6 doable scenario.

7 CHAIR WOLFF: So I'm going to reserve more questions,
8 you know, after hearing the CSD, but you know, one
9 question mark that I'll leave out there is with all the
10 previous issues that we have had, you know, what's our
11 level of confidence of turning this into a potable water
12 holding facility, you know. So that -- that's something
13 to discuss when we -- we'll get into the debate. So to --
14 one more question?

15 MR. ROBERTSON: One more question, yeah. So -- so
16 acknowledging that there is water to be harvested
17 potentially in the pond or that's a real technically
18 doable thing, in terms of time, I -- I'm guessing the
19 prosecution is -- is hoping to get the CSD out of that as
20 soon as possible -- that being the impoundment --
21 potentially even before the next rainy season or that's
22 coming into consideration for -- going back to my earlier
23 question -- about what does "as soon as possible" mean to
24 the Prosecution Team. Have you had any discussions with
25 the CSD about the harvesting of water, using their RO

1 system and how long that might take to reduce it
2 sufficient that they could be out by -- prior to the rainy
3 season?

4 MR. ROKKE: We have not had those discussions with the
5 District yet. You know, we anticipate waiting for their
6 proposal to us and then working that all out. But I would
7 note that the emergency water facility is capable of -- of
8 treating up to 700,000 gallons, I believe. So it -- per
9 day which is a lot of water, so they could, you know,
10 handle this fairly quickly, I think.

11 You know, there's a lot of engineering that
12 would have to go into it and piping and, you know, Baker
13 Tank installation, a bunch of stuff would have to be
14 worked out, but once all that's in place, I think it could
15 happen fairly quickly.

16 MR. ROBERTSON: Okay. That helps, you know, that --
17 that flashlight on the capacity of the system actually
18 helps, thanks.

19 MR. CICCARELLI: I would just like to add furtherance
20 to that, I may. I think the as-soon-as-possible date is
21 dependent upon the work plan as proposed by the
22 Discharger. And my communications with Cambria's Counsel,
23 I believe we're going to hear four options today and will
24 be putting before the Board as potential work plan to
25 resolve this matter.

1 It's just a remainder that this is an uncontested
2 item and they have agreed to the terms of this order. I
3 know that their preference is evaporation; however, it is
4 the prosecution's team's position that evaporation would
5 not be in compliance with the terms of the CDO because
6 that is not the earliest possible date, but that is yet to
7 be determined because we have to understand the work plan
8 in order to develop the timeline.

9 CHAIR WOLFF: But to supplement Mr. Robertson's
10 comment about what is "as soon as possible," as soon as
11 possible, you have four months left before the next rainy
12 season, okay. And we need to keep that in mind, assuming
13 that we will get rain in November because as we leave this
14 room it's not like there's going to be a work plan. So if
15 the idea as it was discussed to do this before for next
16 rainy season, and we're in July, so putting things in
17 perspective.

18 MR. ROKKE: I believe the verbiage in the Cease and
19 Desist Order is: "At the earliest possible day," which
20 seems very close to as soon as possible, but, you know,
21 when you consider the possibilities there, you know, we're
22 not advocating that a continuous line of trucks line up
23 there and hall water off until it's done. That's not
24 really a feasible, workable solution, so somewhere in
25 between that 50 days and the 10 plus years, taking into

1 account all the -- all the feasible options is what we're
2 looking for. The best methodology there.

3 CHAIR WOLFF: Well, okay. Well, I think I have three
4 years left in my appointment from the governor. I sure
5 would love to see this done before, but moving along, I
6 think, we'd like to now to hear from the CSD and -- oh,
7 yes. Please go ahead.

8 MR. JOHNSTON: Just on the topic we were just
9 discussing of the timeline for emptying the pond. So as I
10 understand it, it would be in violation -- in continuing
11 violation, as long as it's got water in it or waste in
12 it -- I guess is more appropriate -- and how does that
13 work? They continue to be in violation of -- of -- is
14 there enforcement potential? Have we waived the
15 enforcement potential with this Cease and Desist Order? I
16 don't quite understand how that works.

17 MR. CICCARELLI: The -- the purpose of the Cease and
18 Desist Order will amend the provisions of the permit for a
19 period of time, so as long as they're in compliance with
20 the tentative Cease and Desist Order, they're in
21 compliance with the permit, so the importance of the
22 Ceased and Desist Order is to give them an appropriate
23 amount of time to return to compliance with their permit.

24 The option that they selected to return to
25 compliance is to shut the pond down. So the tentative

1 Ceased and Desist Order will set the schedule by which
2 they remove that waste from the pond to be in compliance
3 with Title 27 and the WDR.

4 MR. JOHNSTON: Okay. But at this point, the schedule
5 in the tentative Ceased and Desist Order is pretty vague,
6 so if we pass -- if we issue that order today, does it
7 then come back to us to approve the schedule? How does
8 this work? Because obviously, what we don't want to do
9 is -- we don't want to, you know, go through a whole
10 decision that involves a lot of angst on both sides and
11 then down the road have people disagreeing on what that
12 decision means.

13 MR. CICCARELLI: Yes. So the work plan is due within
14 the 30 days of adoption this Ceased and Desist Order for
15 the Executive Officer's approval. Upon the Executive
16 Officer's approval, that timeline will be enforceable.

17 MS. GRAY: So I have a question. So what precludes
18 Board Staff from providing a little bit more clarity and
19 contours on the -- the timing of that as opposed to
20 turning it over to the District to provide that
21 information?

22 MR. ROKKE: Because of the -- the array of options
23 there and because --

24 MS. GRAY: And I'm sure you can outline some options
25 and a timeline in a reactionary manner and -- and the

1 District can weigh those as well. Is there an opportunity
2 for both parties to outline options?

3 MR. ROKKE: Absolutely. Yeah. That's what we're
4 proposing they submit to us in their work plan and then we
5 anticipate there'll be a give-and-take back and forth
6 before a final work plan is agreed upon.

7 MS. GRAY: No. I guess my question is: Isn't that
8 the opportunity for Staff to come up with some options, as
9 well as District Staff to come up with some options, in
10 terms of what's feasible in a timeline? Simultaneously.

11 MR. ROKKE: Yeah. Absolutely. Yeah. That's right
12 and that's why I brought up the possibility for the
13 treating of water. That's -- that's one of my ideas. In
14 terms of the time it's going to take, I mean, I guess we
15 can invest the time to try to do, like, feasibility
16 studies for different options, but usually the way we deal
17 with these situations is we put the onus on the Discharger
18 to -- to come up with those analysis. If the Board wanted
19 to direct us to do that, we can certainly do that.

20 MS. JAHR: Let me speak on it. We can certainly have
21 discussions with them after the CDO is passed to work with
22 them on options that we believe might be feasible for
23 them, but the ultimate choice on what to do is theirs. We
24 can't dictate the manner of their compliance, and so we
25 can't tell them what to do. We can tell them what would

1 not get approved if they chose to move forward with that,
2 so we can certainly work with them on what options we
3 would find feasible and then they can, kind of, decide
4 what they would prefer to do and then work out a work plan
5 from there.

6 MS. GRAY: Thanks. That's the clarity I was looking
7 for.

8 CHAIR WOLFF: And just -- also, we are well into Item
9 10, so I'm not going to accept any more speakers cards,
10 okay. One more clarification because this -- basically,
11 we're -- we're discussing a couple of phase. Phase one is
12 for Cease and Desist and what, you know, and basically, no
13 longer using the pond for brine storage and then all the
14 questions of how long is soon enough, you know, but the
15 other portion is the next phase is using this pond for
16 potable use.

17 So my question is: Is that use part of the
18 discussions that we can have today or that's going to be
19 for another day? So I'd like to get the clarification, if
20 that's going to be part of what the Board here's going to
21 be debating on as well, is the future of the pond. That's
22 going to be -- or is that something separate? So can I
23 have clarification?

24 MR. PACKARD: This is Harvey Packard. I can try and
25 answer that. I would think that's a discussion for

1 another day. The CDO -- the draft CDO requires that they
2 take the impoundment out of service. It's silent on what
3 is to be done with it in the future. It appears the
4 District does have some ideas about what to do, but how we
5 permit that, if it's needed, that, I think, we can discuss
6 it another time.

7 MR. ROBERTSON: And I'll just tag onto that -- that
8 we, you know, we regulate the discharge of waste. The
9 Division of Drinking Water would potentially regulate a
10 raw water source or something of that manner. It would
11 depend on what the District was proposing for the -- for
12 the -- the repurposing, as to whether we would permit it
13 at all, so it may not ever come back to us, depending on
14 what --

15 CHAIR WOLFF: Okay. But then you do have a period
16 where, basically, this pond is empty and only collecting
17 rainwater until we figure out what to do next, but that is
18 outside of our regulatory purview; correct.

19 MR. PACKARD: As long as there's no waste in it.

20 CHAIR WOLFF: Okay. Just want to, you know, I wanted
21 to frame this that way we stay grounded with -- with, you
22 know, the phase one future of this present, I should, of
23 this -- this pond. So thank you.

24 So next, I would like to provide the 30 minutes
25 to the CSD.

1 MR. CARMEL: Tim Carmel, I serve as District Counsel
2 for the Cambria Community Services District. That's a
3 wonderful discussion that you're having, and it's sort of
4 the end of what I was going to say. This is really what
5 we were hoping for. We're not contesting the Order.

6 What's really at issue now is the closure plan.
7 We have four options at this point, but obviously, we'd
8 like to make this collaborative. We'd like to work with
9 Staff to identify what really is the most effective,
10 quickest way to empty this pond within feasible measures,
11 looking at sort of cost and timing and safety. But that's
12 really what we're looking -- looking to you for, some
13 direction.

14 Obviously we're going to rely to a certain extent
15 on staff and our consultants. We have four current
16 possibilities but they -- they could be analysts what I'm
17 hearing today aren't amongst the four so we can probably
18 move that up to six or seven at this point.

19 And you'll hear a presentation from Jerry Gruber,
20 the General Manager, in a minute, that will at least give
21 you anything overview as to what we are thinking about at
22 this point in time. And I did want to thank your staff.
23 They've put in an enormous amount of work into this
24 matter.

25 It's appreciated. We all recognize there were

1 severe problems with the impoundment basin and I wanted to
2 thank Paul Ciccarelli particularly because he's been very
3 good to work with. I'd be glad to answer any questions if
4 they come up.

5 MS. OLSON: Should we pause the timer?

6 CHAIR WOLFF: Yes.

7 MR. GRUBER: Good morning, Chairman Wolff and Board
8 members. Again, thank you. I don't think we're going to
9 take the 30 minutes unless there's some questions also. I
10 also have Carolyn Winfrey and during my earlier comment
11 when I referenced that individual who's taken over the
12 reports, it's hers. It's -- it's -- she's the one that's
13 doing it.

14 And I have her because I kind of had a conceptual
15 idea of the PowerPoint presentation but she was actually
16 the one that did it. So I think when giving credit to
17 somebody, they deserve to be part process, so we're going
18 to tag team on this.

19 I'm going go ahead and discuss some of the items
20 and just clarify a few things with regards to some of the
21 comments that Mr. Rokke had said, but I think more than --
22 more importantly than anything that whatever is determined
23 as a feasible option, it is a collaborative effort and
24 that we come to any agreement on on what that represents
25 from an environmental standpoint also from an economic

1 standpoint from the -- for community of Cambria.

2 With regards to the pond, we have made
3 improvements, significant improvements regarding the
4 concerns relating to animals getting into the pond. We no
5 longer have that; we've repaired the fence and what we did
6 is we have a gopher barrier fence and we have a frog
7 fence. That gopher barrier fence has been re-excavated
8 and extended beneath the ground deeper so we no longer
9 have the issue of burrowing animals, and so we repurposed
10 that fence and it doesn't seem to be a problem anymore.

11 The other thing is we've went ahead and hired an
12 exterminator and when I use that word I use it loosely.
13 He's -- he's using a product that's been approved by Fish
14 and Wildlife that is safe for the environment to address
15 some of the rodents that were currently or previously
16 burrowing. Have we completely eradicated them? Probably
17 not, but we're working aggressively to address those
18 issues.

19 And then thirdly, with regards to the birds,
20 since that pond has been into -- since that pond's been
21 activated, that impoundment basin, there's been two
22 incidents with birds. One we -- in both instance, we
23 contacted our biologist and in one of the instances, it
24 had a broken beak and so what we figured happened was
25 there was a wire that was suspending the pumps. We

1 removed that wire, and so we haven't had a problem with
2 any more birds or wildlife getting into that pond.

3 And then finally as our EIR -- our SCIR states,
4 we do plan on incorporating a bird net so if evaporation
5 or a combination of evaporation or repurposing that water
6 was an option, we -- we have things in place that would
7 address some of the concerns that the Regional Water
8 Quality Control Board Staff has brought up.

9 So with that, I'll go ahead and start the
10 presentation. Of three consecutive winter storm events,
11 Governor Brown declared three separate major disasters due
12 to winter storms and flooding in January and February of
13 2017. Mr. Rokke touched on this. The first was FEMA
14 30431-DR. incident period was January 3, 2017, to January
15 12th of 2017.

16 The second one was FEMA Order 2305-DR. incident
17 period was January 18 through 2017 to January 23rd of
18 2017. And the fourth was FEMA 4008, incident period
19 February 1, 2017, to February 23rd of 2017. So with that
20 being said, we are very thankful for the rain. So we
21 needed it. Everybody needed it. It ended a lot of
22 drought periods, but, again, it was an unprecedented
23 amount of precipitation that we received in that area.

24 This is the CCSD's response to the storm events
25 in January and February. As -- as Mr. Rokke indicated,

1 there's our culvert that he referenced that was clogged.
2 The other spot is the -- approximate lowest spot in the
3 San Simeon Creek Road.

4 The -- the county has come out and graded that
5 area and they -- they've cleaned out that area, and we
6 feel that that's not going to be a problem anymore. I
7 agree with Mr. Rokke, you know, time will tell. We won't
8 know until finally -- until the rains come again. And
9 then we've done a trenched area. This is a trench -- a
10 temporary trenching area that we put in under on Emergency
11 Coastal Development Permit with the County.

12 We're in the process of designing a permit
13 trenching that would do away with the temporary trenching,
14 and thus, hopefully, eliminate any future flooding that
15 would happen. And then again, the sandbags as was
16 indicated by the photograph.

17 As you can see, this photograph was taken prior
18 to the rains and you can see some brine concentration in
19 there along with the -- the deposits that are left in
20 there. If you look closely on the left-hand side, you'll
21 see those blowers that Mr. Rokke referred to and those
22 will eventually be coming out of the pond.

23 The next slide. You want to go ahead and touch
24 on this one?

25 MS. WINFREY: Cambria CSD. So this is an -- the

1 estimated volume in gallons of the impoundment basin going
2 from January 1st through July 12th of this year. As you
3 can see, the impoundment basin was out of compliance due
4 to the storm events and gained compliance -- as far as
5 Free Board is concerned -- in June. Approximately, June
6 24th.

7 MR. GRUBER: Four options for the impoundment basin
8 closures, and again, the purpose of today's meeting is for
9 the closure of the -- but not necessarily to agree on the
10 terms and conditions associated with them, and Mr. Rokke
11 indicated there -- there may be some other options. We
12 have hired a consultant and -- to help us on that work
13 plant. We talked about limited resources in the past, and
14 so we -- we understand that we're going to need some help
15 on this.

16 But here's some of the options that we're looking
17 at -- at least -- at least today. Evaporation allowed the
18 contents of the basin to remain in place and evaporate
19 naturally over the course for approximately one to five
20 years.

21 Based on our calculations that we did on -- on
22 Cambria weather, we're looking at February of 2022. It
23 was indicated earlier that it was a 20-year period or
24 significant amount of time more than that, so our
25 calculations -- and we -- and we can discuss that with the

1 Regional Water Quality Control Staff, so we're looking at
2 February of '22.

3 Also, well, that's just -- that's based on
4 average rain for Cambria and average temperature. One of
5 the things that was discussed is repurposing of the water
6 through the existing -- existing facility. We'd have to
7 work with our consultants to see if that is a viable
8 option, but one of the things we are looking at is -- is a
9 portable ion exchange unit to remove the boron so the
10 pound [sic] water can be discharged over CCSD's waste
11 water percolation ponds. These are just ideas at this
12 point in time.

13 DOW does make a product. An ion-exchange unit, a
14 resin-exchange unit that you would pump the water from the
15 pond through this unit and you would capture the
16 concentrates and the membrane and then dispose of that
17 membrane. It might be easier option than trying to
18 repurpose, permit, monitor, sample the existing facility
19 and -- and do the capital improvements -- would probably
20 be necessary to put that system in -- into place.

21 So that's one of the options we're -- we're
22 looking at, and it's been mentioned about capturing that
23 water and repurposing it, as opposed to hauling it away to
24 some other jurisdiction. What we would gain by doing this
25 as a viable option is that water will go directly down

1 back into the aquifer and eventually we'll be using that
2 water again, extracting it from the 9P7 well and using it
3 for the -- the sustainable water facility.

4 The reverse flow from the CCSD's Waste Water
5 Treatment Plant, this will allow pumping of the pond water
6 from the impoundment base into the waste water treatment
7 plant via the plant -- plant's influent line.

8 What this proposal is suggesting is that we would
9 take the existing line from the waste water treatment
10 plant that goes to our perc ponds and we'll tap into it
11 and we would take the pond -- the impoundment basin water
12 and pump it reverse back through the existing force main.

13 There's some operational challenges associated
14 with this, but it is an option, and we would have to do it
15 during the night hours and we would have to have it
16 accomplished before the wet season came into play. And
17 then trucking -- trucking the pond water to CCSD waste
18 water treatment plant and blending the pond water with
19 influent -- the plant influent. If we were to --

20 CHAIR WOLFF: Could you hold off.

21 MR. GRUBER: Oh, yes, sir. Sorry.

22 MR. ROBERTSON: Mr. Gruber. Over here. Can you stop
23 the time. Can you put times? Anticipated or estimated
24 times to how long it would take for each of those options.

25 MR. GRUBER: Sure. The evaporation is -- is based in

1 our calculations in a difference from Regional Water
2 Quality Control Board's Staff estimation, we're looking at
3 February 2022 for evaporation. The ion-exchange, we would
4 have to work again with our consultants but -- but
5 mobilizing that system into place probably wouldn't take
6 that much time.

7 I don't -- I haven't gotten into the specifics
8 relating to this. The waste water flow to the
9 treatment -- back to the treatment plant would be -- would
10 be fairly time-consuming because it would have to be an
11 amount that would -- that would have to be -- a certain
12 amount would have to be sent to the waste water treatment
13 plant every day and we'd have to monitor the
14 concentrations in there.

15 And then the trucking, the -- so the trucking, if
16 we did -- we estimate 1,600 loads of -- in -- and we can
17 work with Regional Staff on this -- if we were to haul
18 five loads a day for seven days a week, which I don't know
19 if we could, and we're referring to the South County
20 Sanitation District Site, not the Kettleman Site. That
21 would take roughly 320 days.

22 If we were to take five trip-loads a day at --
23 at -- for five days, and not seven days, and not have the
24 weekends, that would take roughly 64 weeks. I didn't
25 break that down today, so as you look at -- as you look at

1 trucking, that's a -- that's a pretty -- has a significant
2 environmental impact, but it would also take quite a bit
3 of time.

4 The ion-exchange would probably be a relatively
5 short period of time if there would be a willingness on
6 the Regional Water Quality's Control Boards to allow us to
7 do that, and then the evaporation would be until up to
8 February of 2022.

9 CHAIR WOLFF: And if I may piggyback a little bit on
10 the question here. We live in an era of climate change,
11 and if you can predict average rainfall and temperature in
12 Cambria for the next five years, congratulations. I'm not
13 trying to be facetious, but the fact is, you know, these
14 are big assumptions being made here.

15 MR. GRUBER: They are. Absolutely. I couldn't agree
16 with you more. They are assumptions. And the plan --
17 although the plan will consist of a lot of technical
18 information, there's going to have to be some assumptions
19 made on -- on weather patterns and things like that.
20 You're absolutely right.

21 CHAIR WOLFF: And lastly, you know, I'm -- I don't
22 want to become prescriptive here, but wouldn't there be
23 Item 5, which is a combination of some of these other
24 items? In other words, not all or nothing.

25 MR. GRUBER: Yes. We -- we came -- we just came with a

1 brief outline, and I think -- I think working together
2 with our consultants and working collaboratively with the
3 Regional Water Quality Control Board Staff, we'll probably
4 yield more and maybe even a combination of more, so we're
5 receptive to that.

6 What we want to be able to do is -- is get that
7 pond out, empty it in a reasonable amount of time that's
8 economically feasible to the community, environmentally
9 friendly, and -- but also, that -- that meets the criteria
10 of a reasonable timeline, whatever that may be.

11 CHAIR WOLFF: Okay. And then earlier, you were
12 talking about rodent and control but you mentioned frogs
13 also. Do you have red-legged frogs in that area?

14 MR. GRUBER: Yes, Chairman Wolff. We have --
15 biologists have identified red-legged frogs and there's a
16 separate fence for that that does not allow them to go
17 through or jump over, and then the gopher barrier fence is
18 something separate altogether.

19 It wasn't installed originally correctly, so we
20 had the contractors come out and install that at no extra
21 charge. So both those, we feel now as part of our
22 biological monitoring is done properly, in addition to the
23 fence being repaired that the -- that the deer got into.

24 CHAIR WOLFF: Okay. Thank you.

25 MR. GRUBER: You're welcome.

1 CHAIR WOLFF: Mr. Johnston.

2 MR. JOHNSTON: I'm a little confused about your option
3 four on this slide. You were talking about trucking it to
4 the South County Waste Water Treatment Plant. The slide
5 seems to refer to trucking it to your Waste Water
6 Treatment Plant.

7 MR. GRUBER: That's correct. The calculation that I
8 used on the 320 days -- five days per trip -- was the
9 assumptions of -- of -- it's inconsistent with this and I
10 apologize -- that's referencing the South County
11 Sanitation District. We do have a permit, and we do have
12 an agreement with them, the South County Sanitation
13 District in anticipation of closing this facility to haul
14 brine down there.

15 That agreement is a first-come-first-served type
16 of arrangement -- as with all their clients -- so we can't
17 necessarily assume that we would be able to haul all of
18 the contents of this pond to South County Sanitation.
19 They have capacity limits for their facilities. They can
20 only take so many gallons of brine.

21 This -- this, we're going to have to do some more
22 analysis on, to be honest with you, because if we haul it
23 to our Waste Water Treatment Plant, there are -- we need
24 to make sure that we don't impact the effluent
25 requirements for boron.

1 In other words, if we truck the contents of that
2 pond to our Waste Water Treatment Plant and introduce it
3 into the influent of the plant gradually, we need to make
4 sure that it doesn't impact the effluent requirements
5 outlined by our WDR with our Waste Water Treatment Plant.

6 We don't want to be recycling it, is what we
7 don't want to do, so -- but it is an option here today.
8 And we -- I think it would be an option that we should
9 look at, but it may take a little bit longer than -- but
10 it is more cost-effective, also.

11 So these are just some ideas that we wanted -- we
12 wanted -- we wanted to show the Regional Water Quality
13 Control Board that we're committed to coming up with some
14 solutions. We narrowed this down. We had several more,
15 but we narrowed it down to just these right now; so --

16 CHAIR WOLFF: Okay. Please proceed.

17 MR. GRUBER: Thank you.

18 MS. WINFREY: So when Jerry was mentioning the 2022
19 estimate for evaporation on the pond, that's assuming
20 average rainfall, average wind speeds, temperature, and
21 our current evaporation rate of about -- we're losing
22 about 0 -- 0.15 inches since April on average, so that is
23 what this slide is demonstrating. Again, this is just a
24 rough estimate and obviously different than the Water
25 Board's estimates.

1 MR. GRUBER: This is a mirror of what Mr. Rokke showed
2 and so I won't go into a lot of detail, but this is -- and
3 he covered it quite well in his slide. I think you
4 already know what the -- what the components of the
5 surface water impoundment basin are -- that you have
6 slides that you've already seen regarding this. Anything
7 you want to add to this in particular? I can't see the
8 language; so --

9 MS. WINFREY: No, I believe Jon Rokke covered this
10 pretty accurately in his presentation. So this is the
11 average -- the green bars represent the average
12 groundwater elevation in relation to the pond bottom, and
13 we used the monitoring wells -- one, two, and three --
14 their water levels to calculate this, so you can see that
15 the groundwater table around January when storms happened,
16 that rose significantly, and has been slowly dropping off
17 since.

18 MR. GRUBER: And this collaborates with what Mr. Rokke
19 said that he believes the infiltration and -- and the
20 elevation rise -- significant elevation rise and the three
21 monitoring wells that perimeter the -- the impoundment
22 basis -- were directly proportional to the storm events
23 and -- and not an issue as it relates to the integrity of
24 the pond itself.

25 MS. WINFREY: This is the volume of water pumped per

1 week from the LCRS and VZMS. As you can see, just as Jon
2 Rokke said, there has been no water pumped from the VZMS
3 or the four-inch pipe since March 7th. We continue to get
4 a very small amount, usually about three to four gallons
5 from the LCRS pipe.

6 MR. ROBERTSON: Can you stop the time. So when the
7 Prosecution Team was sitting there, we talked to them
8 about the concept of fingerprinting the two waters. That
9 which is in the vadose zone monitoring system and that
10 which is in the leachate collection system. Where is the
11 District at in -- with respect to the evaluating the -- to
12 determine if there's a leak? This is to determine whether
13 the system is leaking.

14 MS. WINFREY: So any time water is pumped out of
15 either of those pipes, that water is sent for analysis.
16 We have done some preliminary comparison of that water to
17 the surface water impoundment basin, as well as the
18 monitoring well any time the monitoring wells are sampled.

19 And my next slide, this is just a boron
20 concentration comparison. In September 8th -- when the
21 pond was fairly empty -- the surface water impoundment
22 basin had quite a bit of boron that was from the
23 preserve-all solution that's used to treat the -- micro
24 filtrate membranes during recirculation. That water got
25 put into the surface water impoundment basin. It was not

1 discharged anywhere else.

2 There, with the mixture of storm water that
3 entered the impoundment basin, that concentration is about
4 4.4 milligrams per liter; however, in our -- in the VZMS
5 on March 7th, that was 0.54 milligrams per liter, and the
6 LCRS, also in March 7th, was 0.75. The average
7 concentration of boron for monitoring wells 1, 2, and 3
8 was 0.24 on March 16th.

9 MR. GRUBER: And a little elaboration, if I may, on
10 the boron concentration. What Carolyn was saying is --
11 is -- there is a product that is used to preserve the
12 membrane filters and that's -- that's where the boron
13 concentration has come from, and so there's -- there's a
14 direct correlation, so it's not naturally occurring or we
15 don't -- we don't have a -- we don't have a problem with
16 boron being discharged from the brine itself into the
17 pond. And so that's -- we've tracked that down, and
18 that's where we believe the constituent is coming from.

19 MR. ROBERTSON: Did you analyze for any other
20 constituents other than boron?

21 MS. WINFREY: Yes. We have analyzed for quite a
22 number of different constituents. I just don't have that
23 data with me.

24 MR. ROBERTSON: Okay. And I didn't phrase that quite
25 right. Did you do a statistical analysis? I know you did

1 the chemical analysis. Did you do the statistical
2 analysis for --

3 MS. WINFREY: I am currently working on that.

4 CHAIR WOLFF: Please proceed.

5 MR. GRUBER: Thank you. Progress made to date. All
6 self-monitoring reports have been submitted on time since
7 2/15/2017. Daily, weekly, and monthly monitoring
8 requirements are being met. The CCSD has attended a
9 bottle-sampling training class on 6/22/2017 in Abalone
10 Coast Analysis.

11 If -- if I may, just for a minute, so when we do
12 get our sample bottles delivered, even when the facility's
13 not running, there's eight -- eight ice -- eight large ice
14 chests full of sample bottles, so there's quite a bit of
15 sampling, but, again, we -- we completely understand why
16 that's required. It's an indirect reuse.

17 And then the fourth one is CCSD Staff continues
18 to improve internal procedures, including regular
19 training, database management, and communication amongst
20 ourselves. That's the last slide. If there's any
21 questions that we can answer, we'd be more than happy to
22 at this time. And thank you for your time.

23 CHAIR WOLFF: Looking at my left. Looking at my
24 right. You know, the -- just a comment here is that you
25 started your presentation quoting the Governor's

1 declaration of an emergency and quoted three or four FEMA
2 events, but as a reminder, the design of a pump was for 10
3 inches of rain in one day, and we were way, way below
4 that. We were at 2.75. So I -- I would tend to dilute a
5 little bit. That's -- argument that you made.

6 MR. GRUBER: Understand.

7 CHAIR WOLFF: Mr. Robertson.

8 MR. ROBERTSON: Yeah. In the interpretation of the
9 order, you -- you are not at the 24-hour, thousand-year
10 storm.

11 MR. GRUBER: Understood. We -- Staff understands it.

12 MR. ROBERTSON: So I -- I asked this to the
13 Prosecution Team because they have proposed a tentative
14 order -- Ceased and Desist Order -- I'll ask this of you:
15 What is the earliest possible for the Cambria CSD to get
16 out of that impoundment?

17 MR. GRUBER: I think -- I think to, you know, we have
18 financial constraints and I -- I know that's something
19 that needs to play into it. We are a relatively small
20 District.

21 There was a statement made earlier that we set a
22 million dollars aside and that million dollars is for
23 mitigation measures, such as lawsuits in the future and
24 things like that and unforeseen events and changes to the
25 system that may need to be made, and that's down to about

1 \$840 -- \$840,000 right now.

2 So I -- I don't really have an answer to that.
3 I'm hoping that we can come to that answer at some -- at
4 some point in time. I think, you know, on paper, or in
5 conversation, at least, it seems -- it seems doable to --
6 to pump that water out, run it through the system, you
7 know, from -- from an engineering standpoint, an
8 operational standpoint.

9 But from an administrative standpoint and knowing
10 some of the challenges that we -- that we've had related
11 to monitoring and sampling and operations, I don't want to
12 set us up for failure. I -- I can appreciate the Regional
13 Water Quality's Control Board's Staff recommendation
14 regarding the evaporation.

15 I don't necessarily agree with everything in that
16 -- in there -- in its entirety, but I think from my
17 standpoint, it -- it -- it makes at least the most
18 economic and environmentally sense to me.

19 So we're going to have work through these things.
20 I think -- I think what I don't want is for us to not come
21 to a mutually acceptable agreement and -- and come to a --
22 come to a place where we can address your concerns and get
23 that pond emptied out as soon as we possibly can.

24 You know, I have to work with our consultants.
25 Ion Exchange could happen in a relatively short period of

1 time. If that portable system was set up on the banks and
2 we were allowed to pump that water into our percolation
3 ponds with the assurances that we weren't degrading the --
4 the water quality in the existing basin, then I think that
5 could be a relatively simple solution, as opposed to
6 trying to take our existing facility and run water through
7 it that maybe it wasn't necessarily designed to do.

8 But I do like the concept of repurposing that
9 water and not just trucking it away. I like the concept
10 and reintroducing it at some level back into our basin so
11 we can use it at a future point in time.

12 MS. RICE: Mr. Chair, Amanda Rice, President of the
13 Cambria Community Services District Board, and I was sworn
14 in at the beginning of this hearing.

15 I just wanted to provide some additional clarity.
16 Our Board is a hundred percent behind solving the issues
17 relating to the Notices of Violation. It's one of the
18 things we've committed to in approving a position to run
19 the plant when it needs to be run, and in ensuring that
20 Carolyn is available to do the reporting so that we don't
21 have more late reports.

22 And we took bold action to get this plant in
23 place and we are -- we remain committed to making sure
24 that it's running in a way that's responsible, both to
25 provide sufficient water for the community and

1 environmentally. And I just want to make sure that you
2 also know that the EIR is scheduled on our July 27th Board
3 meeting for certification, and we've been working through
4 the certification process on it, so I didn't want you to
5 think that it's just being, kind of, wishy-washy around.
6 We're we are on track to do that and in the middle of the
7 Coastal Development Permitting process process.

8 I'm here for questions if you have any, but I
9 just wanted to -- I mean, we want to solve this as much
10 as -- as the Regional Board Staff and -- and yourselves.
11 I'm sure.

12 CHAIR WOLFF: Thank you.

13 MS. OLSON: Excuse me. Can you please state your name
14 and spell it for the transcriptions.

15 MS. RICE: Amanda, A-M-A-N-D-A, Rice, R-I-C-E.

16 MS. OLSON: Thank you.

17 CHAIR WOLFF: Thank you. And before we -- and thank
18 you for your, you know, your input. Before we move to the
19 next step, I have a question which I think can be answered
20 by our Executive Officer rather than the Prosecution Team
21 because it's more an umbrella question.

22 This facility and the pond, isn't there a Storm
23 Water Industrial Permit in the facility? Somebody can
24 answer?

25 MR. ROBERTSON: So -- so the Waste Water Treatment

1 Plant likely is covered, but it -- we do not think that
2 the Water Supply plant is.

3 CHAIR WOLFF: Okay. So -- and, you know, that would
4 be strange; just personal view. But because, you know,
5 our facilities have to have an Industrial Storm Water
6 Permit and I was thinking back at the earlier slide, you
7 know, showing, obviously, a significant amount of storm
8 water impacting this facility and I would think that the
9 footprint of this pond is part of the bigger picture of a
10 whole facility and not parceled out.

11 The same as if I take Industrial Storm Water
12 Permits with food processing facility. The -- the ponds
13 are part of a Storm Water Permit, so my question is: Are
14 we overlooking the Storm Water Permit compliance in, you
15 know, this particular -- in this discussion? So that's
16 something for Staff to think about and respond.

17 MR. ROBERTSON: Okay. So I think we have some
18 homework to do on -- on your question to find out the
19 obligation here.

20 CHAIR WOLFF: Okay. All right. We got all day. So
21 at this time, what I'd like to do is to start, perhaps
22 with, you know, some of the speaker cards that we have. I
23 have about 18 speaker cards, so we're not going to cover
24 them all continuously but in -- in efficiency of time, you
25 know, we'll go a little bit past noon at sometime in point

1 and then we'll reconvene, but I'd like to make a global
2 comment in regard to the speaker cards.

3 My global comment is that there is a significant
4 amount of speakers from Cambria and residents, so I'd like
5 to express our appreciation for all of you to come from
6 Cambria to be here today, and, you know, being patient
7 with us, you know, spending a better part of your day at
8 these hearings, so I just wanted to share that with all of
9 you before we actually bring you to the podium. So thank
10 you.

11 So I would like to start, and this will be three
12 minutes. I would like to start with Clive or Cleve
13 Metric, please.

14 MS. OLSON: And please remember to state your name
15 clearly when you begin to speak and to spell it for our
16 transcriptionist. Thank you. And speak slowly.

17 MR. METTRICK: Hi. My name is Clive Mettrick. That's
18 C-L-I-V-E, M-E-T-T-R-I-C-K. I live at 1601 Berwick in
19 Cambria.

20 Thanks for the opportunity to speak today. I'll
21 be brief. I just wanted to let you know that you're going
22 to hear a lot of comments from Cambria residents and, you
23 know, we all believe in our community and we're all
24 concerned, and I just wanted frame this a little bit. I
25 understand there's a large silent majority that you

1 usually won't hear from. They support the water plant.
2 They wanted access. They want the water plant to be able
3 to run in the future.

4 And there's another group that's not so silent
5 that you'll hear from occasionally -- probably today --
6 that has -- really has been against the water plant from
7 day one, and they will do and say anything they can to get
8 it stopped.

9 So as you're listening to comments, kind of keep
10 that in my mind. That's what's been going on in Cambria.
11 I don't know if you, you know, keep apprised of that sort
12 of thing, read the local papers. The main point I wanted
13 to make today is to encourage you to work with the CCSD to
14 come up with the most cost-effective solution to emptying
15 the pond.

16 We talked about a number of things today.
17 Evaporation certainly is one of the things that should be
18 considered. I understand some of the issues with that,
19 but, you know, the average age Cambrians is just shy of 60
20 years old. We have a lot of people here in the community
21 on fixed incomes and if the solution you choose is a very
22 costly one, it's not the CCSD who bears the cost;
23 ultimately, it's the people who live there.

24 So anytime you're thinking about solutions or
25 fines, please keep that in mind, and again, I want to

1 thank you for the opportunity to speak.

2 CHAIR WOLFF: Thank you for your comment. And I will
3 announce, then, the next three speaker cards, that way we
4 have an easy-flow of this process. The first one will be
5 Mr. Shimek and then after will be Tina Dickason and then
6 we'll have Constance Gannon.

7 MR. SHIMEK: Good morning, for the next 10 minutes.
8 Steve Shimek, S-T-E-V-E, S-H-I-M-E-K. I'm with Monterey
9 Coast Keeper and the Otter Project.

10 And first of all, I -- I want to what is that I'm
11 very familiar with the challenges in Cambria over water.
12 My father lived there for many years, and -- and I've in
13 and out of that community a lot. Let's not lose sight of
14 the fact that this system was first conceived as an
15 emergency system and it was fast-tracked, as far as the
16 permitting process.

17 So by making the CDO permanent and accepting the
18 Staff's recommendation, you essentially will be bringing,
19 in my mind, this back into the normal design and
20 permitting system so that they have to follow the normal
21 process, which I think would serve this system well. So I
22 encourage you to support the Staff recommendation. Thank
23 you.

24 CHAIR WOLFF: Thank you, Mr. Shimek. And Tina next
25 and then Constance after.

1 MS. DICKASON: Thank you, Board Chair.

2 Tina Dickason. I'm changing my comments after what I
3 heard CCSD --

4 CHAIR WOLFF: Could you spell -- could you spell --

5 MS. DICKASON: Oh, the name? D-I-C-K-A-S-O-N. So
6 after listening to CCSD's Staff's report and the Board's
7 report, I have a couple of -- I've changed my comments and
8 I have some different questions or thoughts.

9 First of all, the District failed to pay
10 attention to the Regional Board's September 21th, 2016,
11 Wet Weather Preparedness Notification, which served as a
12 reminder to agencies in preparing for the upcoming rainy
13 season by October 1st, 2016. The District responded to
14 the notice February 2nd, 2017, four months after receiving
15 it.

16 By then, serious flooding, as we all know, had
17 occurred in early January at the surface impoundment. The
18 District's modus operandi appears to be reactive rather
19 than proactive in almost every infrastructure issue it
20 encounters. The band-aid approach is often the solution
21 to any of the town's infrastructure issues that seem to
22 surface on an almost daily basis.

23 The District also, as you've mentioned, I do -- I
24 have the -- the permit from the South Sanitation District
25 to truck 21,061 gallons per day, but the permit limit for

1 South San is 50,000 gallons, so as -- as Mr. Gruber
2 mentioned, maybe they can't get everything trucked that
3 needs to be trucked there.

4 But I'm -- I'm curious about the testing of the
5 brine waste in the lower part of the pond. We don't
6 really know what's there. I don't think tests are
7 available -- data, from that part of the pond. And so I
8 also do not believe that they should be allowed to dry out
9 over several seasons. I just -- as I discovered in the
10 errata portion of the FSEIR, not in the main body of the
11 errata, but in the notes after. That should not be
12 allowed.

13 I also have a question on what Mr. Rokke said
14 about the boron level. So if the boron level, he
15 mentioned 80, now, I know it was up to five in the
16 evaporation pond and that was why they could not take --
17 pipe the water from the impoundment to the percolation
18 ponds because of the boron content being so high.

19 So I see Mr. Gruber is still advocating that as
20 an option. I -- I personally I -- I think if the boron
21 level has gone up to 80 or a hundred, I don't see how
22 that's entirely possible or even taking it to the Waste
23 Water Treatment Plant.

24 I firmly believe that -- I just want to say this:
25 The District continues to be in violation of its reporting

1 requirements and the District must be held accountable for
2 its negligence and irresponsibility; unreported and
3 unattended issues pertaining to the surface impoundment's
4 Title 27 permit can no longer be tolerated.

5 As Board members -- Board members, as you
6 deliberate this Matter, I ask that careful consideration
7 be given to the substance of Staff's findings and
8 recommendation and that the Board take decisive and
9 meaningful action by issuing a permanent Cease and Desist
10 Order. Thank you very much.

11 CHAIR WOLFF: Thank you. And as a reminder, we need
12 to speak slowly because I think we're going to lose our
13 court reporter here, otherwise. So thank you. So next,
14 Constance Gannon, please, and then Mary Webb and then
15 Christine Heinrichs.

16 MS. GANNON: Good morning, Board members. My name is
17 Constance Higdon Gannon. And I am the Executive Director
18 of Green Space, the Cambria Land Trust -- yes. You want
19 me to spell it? Okay. C-O-N-S-T-A-N-C-E, H-I-G-D-O-N,
20 G-A-N-N-O-N. Did you get it?

21 I am here to speak for Green Space today in the
22 Matter of the Cease and Desist Order to the Cambria
23 Community Services District regarding the brine waste
24 impoundment at their Emergency Water Supply Facility on
25 San Simeon Creek Road, north of Cambria.

1 Green Space has -- as one of its key missions --
2 the protection and restoration of local natural resources,
3 including our unique Monterey Pine Forest and our two
4 crucial watersheds: Santa Rosa and San Simeon Creeks.
5 Both are critical steelhead habitat and home to the
6 endangered and threatened red-legged frog and tidewater
7 goby.

8 I am here today for two reasons. First, to
9 heartedly thank the RWQCB Staff for their hard work in, A,
10 trying to help the CCSD comply with environmental and
11 project reporting requirements and, B, for reviewing the
12 CCSD several compliance failures carefully before imposing
13 the current temporary Ceased and Desist Order.

14 As was noted in responses to comments on the
15 Order, your Staff can no longer spend such an inordinate
16 amount of time assisting the District with fundamental
17 compliance requirements.

18 Second, we are here to request that the Board
19 vote to make the brine impoundment Cease and Desist Order
20 permanent, to extend it -- and/or to extend it until such
21 time as CCSD can, A, carry out a rapid removal of the
22 toxic contents of brine waste impoundment, and, B, provide
23 a viable long-term solution to the brine waste generated
24 by the reverse osmosis and membrane filtration systems.

25 By viable, we mean one that does not endanger

1 creek or lagoon health or allow percolation of toxic
2 chemicals. Incidentally, removal of boron doesn't remove
3 selenium and some of the other chemical compounds that
4 were mentioned by Mr. Rokke. We do not consider
5 evaporation in situ, which staff reports could take up to
6 ten years to be a viable solution, nor do we find ocean
7 outfall into the offshore marine park or marine sanctuary
8 acceptable given the presence of chlorine, boron, and
9 other wildlife toxins in the waste water.

10 To leave the impounded waste water to evaporate
11 in place creates an immediate and ongoing threat to
12 wildlife, exacerbating the attractive nuisance issue.
13 Activities connected with the construction and operation
14 of the plant have already resulted in the deaths, at
15 least, of water fowl sea birds, native riparian birds, and
16 possibly the last steelhead to be seen in the lower San
17 Simeon water shed.

18 CCSD can do better than this. They can create an
19 EIR that does not refer simultaneously and disingenuously
20 to multiple projects. They can create an EIR which
21 provided consistent and verifiable basin and flow data and
22 which offers mitigation that addresses directly the damage
23 done to San Simeon Creek -- Creek and Lagoon by
24 construction and operation of the plant. Thank you from
25 the large Cambria silent majority who have major concerns

1 about the functionality of this plant.

2 CHAIR WOLFF: Thank you. And next, Mary Webb. And
3 then Christine Heinrichs and Becky Steinbruner if I'm not
4 misspelling. And so please spell your name and then after
5 the names are spelled then we'll activate the timer.

6 MS. WEBB: Mary Webb, President of Green Space.
7 M-A-R-Y, W-E-B-B. Thank you for the opportunity to speak.
8 I'll be brief.

9 What the problem -- one of the problems I think
10 we're having right now, like Mr. Shimek said, is that this
11 was fast-tracked, so all agencies have not weighed in on
12 this project.

13 There are multiple problems with the project, not
14 just the water quality problem, and these are the problems
15 that you're not addressing and you're not necessarily
16 seeing. There was flooding in the other part of the well
17 field, not just the part where the impoundment basin is,
18 and the flooding in the rest of the well field caused
19 problems.

20 People smell chlorine gas out there. All kinds
21 of issues are happening in our town, and now we have
22 issues that are happening with our regular water supply.
23 Pipes are breaking; infrastructure is breaking. Our water
24 department staff -- great staff employees -- are running
25 around putting out emergencies kind of all over town now.

1 So I want you to keep that in my mind when you're making
2 your deliberations.

3 There's a lot to look at here. The EIR has had
4 multiple comments from agencies and citizens and Green
5 Space that were never responded to for years and now this
6 final EIR has not been certified yet. We don't have
7 answers to a lot of the questions similar to the ones you
8 were asking today about the storm water management plan.

9 I don't know myself was there ever an SWPP by the
10 county. I really don't know the answer to that question.
11 These are questions that must be answered. Last time I did
12 a field trip on the San Simeon well field there was a dead
13 cow laying near the reinjection well because the flood had
14 just occurred. The District engineer didn't seem
15 concerned that was laying there.

16 When I went into the RO container units, there is
17 rust on the units because the expensive equipment was
18 never covered properly because they didn't have enough
19 money to cover it and inside the RO units there was liquid
20 and that's inside the C train containers themselves. What
21 liquid was there? We don't really know the answer to
22 that.

23 We learned way more at these meetings, agency
24 meetings, than we ever learned at a CSD meeting and that's
25 why it's so important for our community to come forward

1 and get the rest of the agencies weighing in on this
2 project.

3 I don't think the -- the brine pond is -- is --
4 at -- it's in -- it's wrong -- it's wrong in the wrong
5 location. It's a wetland location. The brine waste needs
6 to be -- gotten out of there as soon as possible. We
7 support the Staff's Cease and Desist and want to make it
8 permanent and we need a cost analysis of all the proposals
9 that were just put up there today.

10 It may be possible that the brine waste trucking
11 to San -- South San -- San -- San Luis Obispo Sanitation
12 District is -- is the cheapest option. We really don't
13 have any idea. Thank you.

14 CHAIR WOLFF: Thank you for your comment. And next
15 will be Becky Steinbruner.

16 MS. OLSON: Oh. Is that the one that -- never mind.

17 MS. HEINRICHS: This is Christine Heinrichs.
18 C-H-R-I-S-T-I-N-E, H-E-I-N-R-I-C-H-S, from Cambria.

19 The brine pond situation illustrates the failure
20 the previous CSD to plan, construct, or manage this
21 emergency water project. The only reason we are
22 discussing the repurposing of the pond is that it never
23 should have been built. We are now pressed to find some
24 use for it after spending a substantial sum to create what
25 is now an expensive problem.

1 The blower fans that were part of the original
2 plan, which were going to blow the water into mist, are
3 now just expensive pieces of scrap. The brine pond
4 situation effectively examined by the Water Board
5 illustrates the problems this project has caused.

6 Initially proposed and given an emergency, never
7 a permanent, permit as temporary relief from drought under
8 the Governor's Emergency Declaration, was a pretext to
9 construct a project to fuel growth that could never been
10 constructed under the usual standards.

11 Other projects constructed under the Emergency
12 Declaration are small-scaled well replacements and
13 upgrades, the kind of emergency project that addresses a
14 temporary emergency situation. Instead, the District
15 rushed forward with poorly thought out plans from a
16 contractor who is not required to compete with other
17 contractors for the project.

18 Mr. Gruber's comments on limited resources should
19 be heard in light of the District's cost overruns that
20 have increased costs beyond the original 1.5 million to 4
21 million dollars to now over 13 million dollars and more
22 for a community of 6,000 people. Other problems in the
23 community have not been addressed. The fire hydrants have
24 not been tested in an area that's been subject to drought.

25 The fan -- this fanciful hi-tech dream was never

1 needed for existing residents. Cambrians came through the
2 drought without any water from this plant at all. Aging
3 infrastructure has been leaking all along and replacing
4 the old water pipes would have done more to use our
5 limited water efficiently than this project can ever do.

6 They spent money on this project instead. The
7 CSD has re-branded the project as sustainable, although
8 they have nothing to justify that name. At this time,
9 without Staff that are able to manage it and their
10 continuing inability to meet reporting requirements, it is
11 anything but sustainable.

12 The CCSD's demonstrated inability to operate and
13 manage the plant, even as an emergency facility, dictates
14 taking a cautious approach to extending its use to
15 permanent status as a supplemental water source to serve
16 additional users.

17 I am grateful to the Water Board for the support
18 they have extended to the CCSD Staff to bring this project
19 into compliance. I appreciate the Board's understanding
20 of the reasons for the District failing to cope but the
21 the entire plant was built under deceptive rationale. Its
22 original emergency permit limited the project to serve
23 existing residents during emergencies, not for permanent
24 operation for new additional residents that exceed the
25 area's carrying capacity. Thank you.

1 CHAIR WOLFF: Thank you, Ms. Heinrichs. And Becky is
2 next, and then Robin McDonnell and then Tom Gray. She had
3 to leave? So Robin McDonald, please. Thank you.

4 MR. THOMAS: Mr. Chairman.

5 CHAIR WOLFF: Yes.

6 MR. THOMAS: Michael Thomas, Assisting Executive
7 Officer.

8 CHAIR WOLFF: Oh, sorry. I got distracted.

9 MR. THOMAS: You called Ms. Sebastian, I believe, a
10 moment ago. She had to leave and she mentioned to me on
11 her way out that she was hoping her questions or comments
12 that she turned in could be read into the record.

13 CHAIR WOLFF: Which I -- I have put it in the back and
14 then I'll -- I'll cover that, yeah. But thanks for the
15 reminder.

16 MS. MCDONNELL: Robin McDonnell, R-O-B-I-N, McDonnell,
17 M-C, capital D-O-N-N-E-L-L.

18 As a resident of Cambria, I'm hoping that the
19 Board take into consideration that we are a very small
20 town, and we suffered greatly over the years from water
21 supply issues.

22 Those issues were exasperated by our very long
23 drought. Our community has reduced our water use
24 significantly, and we support the sustainable water
25 project. We're finally moving forward by taking a big

1 step in solving our water supply problems. Please
2 consider that the funding that the -- the flooding
3 occurred in the brine pond was out of the control of our
4 community and the District.

5 We are hoping that you work with our District to
6 find a solution to emptying the pond that will protect the
7 environment, as well as not placing an undue burden on the
8 ratepayers. Thank you.

9 CHAIR WOLFF: Thank you for your comment. And I found
10 the comments from Becky Steinbruner, who had to leave, so
11 I will read these comments and then take Tom Gray next.

12 "I cannot stay for the public comment but would
13 like to make sure that the lag time between tests
14 indicating system failure problems and when the
15 contaminated water injection was shut down. What records
16 were kept of these constituents and the lab monitoring
17 results?" Question mark. "Are customers immediately
18 given this information when problems have occurred?"
19 Question mark. And that's -- was the comment. You try.
20 I -- I will -- I will ask Clerk of the Board to, you know,
21 spell the name. Do you have it?

22 MS. OLSON: B-E-C-K-Y, last name,
23 S-T-E-I-N-B-R-U-N-E-R.

24 CHAIR WOLFF: Perfect.

25 MS. OLSON: Thank you.

1 CHAIR WOLFF: I just didn't want to misspell myself --
2 the name -- so, Mr. Gray, thank you for your patience.

3 MR. GRAY: Thank you. My name is Tom Gray, T-O-M,
4 G-R-A-Y and I'm a resident of Cambria, and I'd like to
5 thank the -- Chairman Wolff, the Board and the Staff for
6 allowing me this -- us to -- opportunity to speak, and
7 also, someone who witnessed the process of the system EWS
8 being permitted, built and approved by the Water Board,
9 among others, in 2014.

10 I do appreciate how deeply much work went into it
11 and how much effort, extra effort the Staff went into and
12 how helpful the Board was. And I think -- what I hope now
13 is and I see now, actually, in your -- many of your
14 questions, your comments, that you are still wanting to
15 help, help the community of Cambria deal with this water
16 situation -- and -- and get the project so that it's going
17 forward smoothly and without violation.

18 So in that spirit, I wanted to talk a little bit
19 about the issue that's really before us now. It has to do
20 with the decommissioning of the pond. What -- how -- what
21 the best way to do that is. What the most cost-effective
22 way to do that is, and in particular, as a ratepayer in
23 Cambria, what way is the most -- the fairest to the
24 ratepayers, and costs the least for the benefit.

25 After hearing all the comments and the, you know,

1 the cases made on both sides, and the background, I -- I
2 still think that the -- what the CCSD proposes in the way
3 of evaporation -- letting evaporation takes its course,
4 generally, maybe with some clean up at the end, is still a
5 very viable option. The alternatives that are suggested,
6 some seem to require some very, you know, untried
7 engineering and some repurposing of the -- of the water of
8 the treatment facility.

9 I also know and I did some research based on
10 figures that are -- are available to the District as well
11 about the trucking option. Trucking to South County,
12 which is what -- they wouldn't have to do Kettleman -- but
13 trucking to South County would also be extremely expensive
14 because South County charges a fee -- 11 cents a gallon.

15 There is -- if they had 4,000-gallon trucks
16 going -- filling, you know, emptying out that 6 million
17 gallons that's there now, it would be about 1,600-1,500
18 truck trips, overall cost of more than a million dollars
19 and -- and the District does not have that money. More to
20 the point, people of Cambria, ratepayers here in Cambria,
21 do not have that money at hand. They'd have to pay about
22 \$250 per customer.

23 So going back to the evaporation, some of the
24 things that were -- some of the points that were brought
25 out -- some of the facts that were brought out about the

1 water, one is that -- one, I think, is kind of crucial is
2 that the water that's in the pond now is not the pure
3 brine that came out of the treatment facility. It is
4 actually a mix of rain water -- fresh water with the
5 brine.

6 So that the idea that it would concentrate to
7 some dangerous level if you let it go for a couple of
8 years down to a -- a much lower level seems to be
9 counteracted by the fact that the water there now is, in
10 fact, a much fresher water than is normally in that pond.

11 Another point that was made, I think, pretty well
12 is that the -- the flood control steps that were taken
13 have been probably successful in that the threat of
14 flooding in the pond -- wells, evaporating is perhaps not
15 that much. So I'll just say in conclusion, give
16 evaporation consideration for the sake of the -- of the
17 ratepayers and the sake of the environment. Thank you.

18 CHAIR WOLFF: Thank you. So next we have
19 Barbara Bronson Gray, and then Cindy Steidel and then
20 Ted Key.

21 MS. GRAY: That's two Grays in a row and another Gray
22 up there, so you got a lot of Grays.

23 CHAIR WOLFF: Yes. You're taking over this meeting.

24 MS. GRAY: My name is Barbara Bronson Gray,
25 B-A-R-B-A-R-A, B-R-O-N-S-O-N, Gray, G-R-A-Y. No hyphen.

1 MS. OLSON: Thank you.

2 MS. GRAY: Good afternoon. I'd like to put our
3 discussion into some greater community context. We are
4 the people who would be picking up the tab for remedial
5 actions prescribed in the evaporation pond. I should have
6 told you, by the way, I'm a Director at the Cambria
7 Community Health Care District, and by the way, that
8 Board, which doesn't do very much, unanimously passed a
9 resolution to support the community's water project, both
10 for the health and for the safety of our community.

11 This -- if the Staff's preferred plan would be
12 approved it would cost about \$250 per ratepayer. Let me
13 tell you about Cambrian's. Many are widows and widowers
14 living alone and on fixed incomes. Some are new to the
15 county, trying to work two or three jobs to just put food
16 on the table. Many are struggling to find accessible
17 health care, and most specifically for their kids, even
18 basic dental care for their children near enough that they
19 can get it.

20 As you may know, Cambria got a pretty big hit
21 from the storm and I wanted to give you a sense of what
22 that looks like. We've had to evacuate our ambulance
23 quarters -- by the way, the health District does ambulance
24 not the not the services District -- because of a slope
25 failure that happened at the same time of the big storm

1 that's affecting the pond we're talking about.

2 We're working with FEMA to try to get help to fix
3 that problem but right now our ambulance crews are staying
4 in private homes in residential areas, one home. The
5 major landslide and bridge failure in Big Sur has really
6 affected our shop owners, our motel owners, restaurants
7 and it has greatly reduced coastal access along the whole
8 north coast. There's a big economic challenge happening
9 in Cambria right now.

10 Santa Rosa Creek Road is still closed to through
11 traffic. Very difficult for the neighbors and the people
12 who live there to access, and a true emergency challenge
13 there. And we're still conserving water. Most of us are
14 still not flushing our home toilets after every visit.
15 When our neighbors come, we run into our toilet rooms and
16 flush real quickly.

17 The evaporation pond did not overflow, the water
18 did not go anywhere. I toured it Tuesday morning and it's
19 gradually evaporating. It's not threatening anything or
20 anybody. Cambrian's feel pretty beat up these days. To
21 face a \$1,000,000 clean-up tab after all this would feel a
22 little bit like punishment. But for what?

23 None of the Cambrian's and the District did not
24 do anything wrong. We want to put our money towards
25 fixing our real problems that occurred during the storm.

1 Please consider the people who live here and the people
2 who actually pay the bills. You can't stick it to the
3 man. We're the man. Thank you.

4 CHAIR WOLFF: Thank you. Cindy Steidel, Ted Key, and
5 then (inaudible) --

6 MS. STEIDEL: Good afternoon. Name is Cindy Steidel,
7 C-I-N-D-Y, S-T-E-I-D-E-L. Chairman and members of the
8 Board, thank you for the opportunity to speak to you
9 today. I'm a 20-year, full-time resident of Cambria.
10 I've supported the Cambrian Community Services District's
11 emergency water supply project and now the sustainable
12 water facility since the inception of the project. I
13 would like to briefly discuss the project's history that
14 bears directly on the issues before you, the nature of the
15 compliance with the proposed Cease and Desist Order, and
16 the amount of penalties levied against the CCSD. In 2014,
17 Cambria faced a prolonged drought which threatened the
18 very existence of our community. We had to create a
19 supplemental water supply, and we had to do it fast.
20 Thankfully, the CCSD acted responsibly and decisively.

21 The District engaged a world-renowned engineering
22 firm, CDM Smith, having extensive experience designing
23 reverse osmosis plants like ours, while the residents of
24 our small town committed the resources necessary to permit
25 design and construct the EWS. The project became

1 operational in less than a year.

2 Significantly, we solved our crisis in large part
3 because of the skill and cooperation of this Board and
4 it's staff and for that, we in Cambria are very grateful.
5 The project supplements our natural water supplies with
6 clean, safe water while preserving our natural
7 environment. As it might be expected from any plant, let
8 alone one that was fast-tracked, DWS has some bumps in the
9 road including the events leading to this hearing. The
10 evaporation pond successfully contained the plant's brine
11 waste, but during the very heavy rains last winter, and
12 with the further impact of adjacent property flooding, the
13 pond did not maintain specified margins for a period of
14 time.

15 In response, the District has elected to close
16 the pond and use alternate means of waste disposal. The
17 CCSD is also budgeted a new, full-time position dedicated
18 to plant operations and compliance. These are expensive
19 fixes but they are necessary, and the community supports
20 them.

21 In point of reference, the pond itself has
22 returned to the established free board constraints and
23 offers no immediate threat. To add additional cost for
24 rapid brine waste disposal on top of the steps the
25 District's already taken would be excessive and

1 unnecessary. Although actions of this Board may be taken
2 or directed to CCSD, please keep in my mind that they are
3 in result imposed on the people of our community. Thank
4 you again for the opportunity to speak.

5 CHAIR WOLFF: Thank you. Ted Key.

6 MR. KEY: Good morning. My name is Ted Key. Spelling
7 T-E-D, K-E-Y.

8 I am a resident of Cambria. I would like to --
9 good morning, Water Board members. I thank the Board for
10 all the diligence and hard work it has required to deal
11 with this project. I am completely in agreement with your
12 Staff commentary and strongly support making the Cease and
13 Desist Order permanent. This is a very high-tech project.
14 It's very likely beyond the capacity of the CCSD based on
15 the many late reports, your April 13th letter adding 162
16 additional violations, an incredibly delinquent EIR, and a
17 failed discharge system. The Webb petition has close to
18 200 signatures supporting the CDO becoming final.

19 Some have used a small but vocal characterization
20 towards those critical of the CCSD. Small is simply an
21 accurate characterization given these responses and noting
22 that the last CCSD election where the incumbent president
23 was unseated. Your Staff response to the brine waste
24 impoundment was very thorough.

25 Since evaporation is not a reasonable solution,

1 we must not allow this toxic stew to concentrate in the
2 open impoundment. The effluent must be trucked out as
3 soon as possible. There are ongoing questions regarding
4 intrusion and environmental impact as an open water source
5 for animals. The leak detection system has not been
6 properly monitored. This only amplifies the reporting
7 issues with the CCSD, which have resulted in \$53,000 in
8 fines.

9 We deserve complete verification that zero
10 intrusion is occurring. I'm concerned that even if
11 low-level boron contaminant is included in the regular
12 CCSD waste stream, the waste will eventually go to the
13 same location inside the sanctuary. Dilution is not a
14 solution to pollution and we are not sure what this waste
15 actually consists of when you add animal feces and
16 remains, et cetera.

17 I also question the repurposing of the
18 impoundment pit for firefighting since use -- since access
19 would present a whole new set of inefficiencies for the
20 emergency agencies. Given the impoundment location, the
21 best solution would be to return to its original state.

22 While costs are not central to this discussion,
23 they have been addressed in the supplemental comments.
24 Cambrians need to know how much this ongoing trucking is
25 going to cost so that we can have input on how this plant

1 is used. The trucking of this waste should have been done
2 during the test phase.

3 The CCSD needs to recognize that this plant is
4 only an emergency water source and should not be used as a
5 project for growth. The SWF was never authorized by
6 public vote.

7 Additionally, I cannot agree more that it is
8 simply outrageous for your Staff to devote over 25 percent
9 of its time to hand-hold the CCSD any further. Please
10 make the order permanent and require a timeline plan to
11 resolve this out-of-compliance impoundment. Thank you.

12 CHAIR WOLFF: Thank you. Next is Lee, then Karen
13 Dean, and then Leslie Richard. And we're almost at the
14 end here. So just want to go through all the speaker
15 cards.

16 MR. LEE: Hello, Board. My name is Dewayne Lee.
17 D-E-W-A-Y-N-E, L-E-E.

18 I'm a full-time resident of Cambria, and I've
19 lived there almost five years. I've come to this meeting
20 today to thank you and your Staff for issuing the
21 tentative Cease and Desist Order requiring the Class II
22 surface impoundment to be discontinued and urge the Board
23 to make this a permanent order.

24 This action helps to ensure that our environment
25 is not damaged further and in so doing protects the health

1 of the citizens of Cambria. The result of the existing
2 impoundment is an excellent example of why projects should
3 have an environmental impact report before such projects
4 are started rather than after they're completed.

5 This surface impoundment clearly was not
6 engineered properly and was constructed in an area subject
7 to flooding adjacent to the San Simeon State Park in
8 Washburn Campground. The blowers installed to increase
9 the evaporation of this impoundment created an intolerable
10 noise for the guests and nearby residents of the state
11 park and have -- were deemed unworkable.

12 You have all the evidence showing how this
13 impoundment has failed and triggered massive fines to the
14 CCSD. The CCSD has acknowledged that the impoundment
15 design was a failure.

16 I urge the Board to issue a permanent Cease and
17 Desist Order to protect our environment and require that
18 the CCSD submit a final closure plan and time for closing
19 the impoundment because concentrations of multiple
20 pollutants have clearly exceeded MCLs. Any Discharge of
21 the impoundment content would result in groundwater being
22 degraded, a risk Cambria cannot afford.

23 I support a final closure to be implemented as
24 soon as possible to help ensure no further environmental
25 damage is done to this beautiful and special area of our

1 California coast. Thank you very much.

2 CHAIR WOLFF: Thank you for your comment. And Karen
3 Dean and then Leslie Richards.

4 MS. DEAN: Good afternoon. I'm Karen Dean; K-A-R-E-N,
5 D-E-A-N. And I'm a full-time resident of Cambria.

6 First of all, I'd like to thank all of you to
7 your attention to this matter and I strongly support the
8 Cease and disorder -- Cease and -- yeah, this word. And
9 the emptying of the brine pond. I have some concerns
10 about the method of evaporation.

11 The District is presently paying almost \$72,000
12 for performance a bond on this impoundment basin. This
13 will continue until the basin is empty and no longer in
14 use. The monitoring, testing, and reporting will continue
15 to be required as well, and with this, brings the
16 possibility of more violations and fines.

17 The impoundment basin liner has only a five-year
18 warranty. We're already three years into that warranty
19 period. It will take longer than the remaining two years
20 of that warranty to empty the basis by evaporation. The
21 longer this basin is allowed to sit with any brine waste
22 effluent, the more we are at risk of a liner failure or
23 leak or possible threat to our water supply and our
24 environment.

25 When CDM Smith presented the plans for this

1 surface impoundment basin in 2014, it was noted that
2 because of our cool, foggy climate, sufficient evaporation
3 would not occur to allow use of this basin for longer than
4 approximately two consecutive dry seasons of use of the
5 facility, hence the need for the evaporation blowers which
6 can no longer be used.

7 Cambria is not like the San Joaquin Valley where
8 they have long 90 to a hundred plus degree summers that
9 would aid in evaporation. The basin has evaporated a foot
10 or so since the rain stopped in April, so it is now in
11 compliance with the free board level.

12 It may very well evaporate another foot or so
13 before the rainy season begins, but if we get even a
14 normal rainfall of 22 inches this coming season -- let
15 alone the over 40 inches of this past winter -- we will be
16 right back above the Free Board level again and this can
17 go -- be yo-yo effect that can go on for years.

18 In the meantime, the elephant -- elements in the
19 brine waste effluent concentrate -- and there's more than
20 just boron -- they have not been fully analyzed. Birds
21 land and feed there. Other wildlife are attracted to the
22 water as well as possible damage to that liner from
23 gophers, et cetera.

24 And I would like to say that I drive past the
25 impoundment basin about once a week and I have never

1 driven past it when there have not been birds in the
2 water.

3 I support the Cease and Desist Order and I
4 strongly support requiring the RO Brine Waste Impoundment
5 Basin be cleaned out ASAP, rather than allowing it two
6 years to evaporate on its own.

7 I thank you for your diligent oversight of this
8 project and your concern for the health and safety in
9 our -- our environment. I would also like to say to those
10 who say that the cost of trucking would be a hardship, it
11 wasn't a hardship when CCSD decided that they -- they
12 could spend \$800,000 for a library building for a new
13 office or to buy a fire truck or any a number of other
14 things that they've decided to spend our ratepayer monies
15 on. Thank you.

16 CHAIR WOLFF: Thank you very much. Next is Leslie
17 Richard.

18 MS. RICHARDS: I have some additional on here
19 (inaudible), so I'm going to try to read that to you.
20 Leslie Richards. L-E-S-L-I-E, R-I-C-H-A-R-D-S.

21 Good afternoon. CCSD's request to allow the
22 impoundment pond to naturally evaporate over several
23 seasons is unacceptable for two reasons: One, high levels
24 of boron have been detected and samples taken from the
25 waste product are currently stored in the impoundment.

1 CCSD Staff have stated the source of this elevated boron
2 is due to the pickling agent used to preserve RO and MF
3 filters when the AWTP is non-operational.

4 One chemical mentioned by the district is the
5 preservative cocktail -- in this preservative cocktail is
6 sodium bisulfate; high concentration solution of sodium
7 bisulfite was banned in 1986 by the EPA for human
8 consumption due to multiple fatalities associated with
9 ingestion of treated salad greens at a number of
10 restaurants.

11 This chemical may have been sprayed from the
12 evaporation blowers in the impoundment basin during a
13 96-hour stress test run by CDM Smith for the District in
14 February of 2015. During this event, three individuals
15 living and working within 500 yards of the overspray
16 coming from the impoundment blowers experienced symptoms
17 of adverse side-effects as a direct result of inhalation.

18 These included difficulty breathing, asthma
19 attacks, rash, coughs, loss of voice, nosebleed, and
20 sudden onset of bronchitis. Once impoundment blowers were
21 permanently shut off by the District, all symptoms
22 subsided. The chemical constituents of the antiscalants
23 and RO preservatives, including sodium bisulfite, were not
24 documented by the District and the reports submitted to
25 RWQCB during the original 2000 -- November 2014

1 permitting process.

2 These dangerous chemical cocktails are legally
3 deemed proprietary properties and thus are kept secret by
4 CDM Smith, which is allowed by regulatory agencies like
5 the EPA. To date, we do not know exactly what chemical
6 compounds have been dumped into the impoundment waste pond
7 by the District or by their subcontractors, CDM Smith.

8 Two, currently, the impoundment pond is an
9 attractive nuisance for wildlife and has issues arising
10 from the District's lack of vector controls in its
11 management protocols. Flocks of swallows, ducks, and
12 shorebirds have been witnessed feeding on a large
13 population of insects in the impoundment pond. Avian
14 fecal matter has accumulated combined with other waste
15 products produced by AWTP operations to create a smelly,
16 putrid mess.

17 This smell will only grow worse over time,
18 adversely impacting the surrounding community, including
19 San Simeon State Park Campground.

20 In conclusion, to delay removal of the brine
21 currently stored in the impoundment could be dangerous to
22 humans and the environment. Please vote yes for the Cease
23 and Desist Order with no modifications.

24 I'd to like add on two statements made here by
25 comments. I like the idea of possibly using the RO system

1 to repurpose the water. The only problem is it's only
2 operational during Emergency Stage III and we're no longer
3 in Emergency Stage III, so we are not allowed to use the
4 actual plant unless -- that point. Thank you so much.

5 CHAIR WOLFF: Thank you very much. And, you know, the
6 last speaker card I had was also from Mr. Jerry Gruber
7 where he had Item 9 and 10, but I question having you
8 speak now because, you know, you had your 30 minutes
9 period and I don't think that would be fair. Okay. Just
10 wanted to clarify and acknowledge that.

11 So we have now covered all the speaker cards and
12 this is due time for a recess and -- one hour? And do we
13 have close session item?

14 MS. JAHR: We do have close session. We're going to
15 be discussing Item 10. So the other we can do -- if this
16 Board would like -- is during lunch, we could do Board
17 deliberations on this item as well during close session.

18 CHAIR WOLFF: Well --

19 MS. JAHR: Or we can do it afterwards.

20 CHAIR WOLFF: Okay. I -- I think -- and speaking for
21 myself and I've noticed one of my colleagues taking a lot
22 of notes -- that we probably have some additional
23 questions that we're going to have to staff which have
24 been the Prosecution Team and CSD that are prompted by the
25 public comments, so I don't think this would be --

1 MS. JAHR: Not ready for deliberations yet.

2 CHAIR WOLFF: No.

3 MS. JAHR: Okay.

4 MR. YOUNG: How many more speakers do we have?

5 CHAIR WOLFF: This is it.

6 MR. YOUNG: Okay. Because you said 18 (inaudible)
7 something.

8 CHAIR WOLFF: I -- guessed. So we are in agreement?
9 I -- yes. So we are in agreement? I -- I have more
10 questions. Now, what we can do, I -- do you have more
11 questions.

12 MS. GRAY: I'm ready.

13 MR. YOUNG: I'm ready also.

14 CHAIR WOLFF: So then I'll just have my questions now
15 quickly and that way we can deliberate. How's that? Fair
16 enough? So my -- my question goes -- goes back to the
17 storm water permit, you know, there had been a little bit
18 of time here. Do we have any answer on that?

19 MR. ROBERTSON: Working on it. I got the one-minute
20 sign.

21 MR. THOMAS: The Cambria -- Michael Thomas, Assistant
22 Executive Officer. The Cambria Waste Water Treatment
23 Facility is -- is enrolled under the Storm Water Permit;
24 the Potable Water System is not. Potable water systems
25 are generally -- those -- those potable water systems that

1 are enrolled are generally larger systems; quite a bit
2 large than the Cambria system.

3 CHAIR WOLFF: And so potable water systems are exempt
4 from storm water permits.

5 MR. THOMAS: There is a size limit that has to do with
6 the number of connections. I'm not sure if Cambria is
7 exempt. I would have to check into that.

8 CHAIR WOLFF: So --

9 MR. THOMAS: I know -- I do know that we got -- I got
10 a response back from our Storm Water Staff that the
11 potable water system in Cambria is not enrolled.

12 CHAIR WOLFF: Well, I mean, you do have quite a few
13 connections. You have 6,000 residents, so that's not, you
14 know, a small number. So I think -- I think this still
15 requires --

16 MR. THOMAS: Definitely more follow-up.

17 CHAIR WOLFF: Yeah.

18 MR. THOMAS: This is the initial response that I have.

19 CHAIR WOLFF: And what I wanted to, basically, set
20 here is that there may be some unfinished business
21 associated with the storm water impact to the footprint of
22 the water reclamation facility. I mean, we saw the
23 pictures. I mean, that's pretty evident, so this may need
24 to be addressed at some other time, you know, but I -- I
25 don't want it to go away.

1 I mean, personally, because we don't have a
2 decisive answer here.

3 MR. THOMAS: Right. We'll follow-up and determine if
4 the facility should be enrolled by law and facilities
5 like -- like this one. This one and others.

6 CHAIR WOLFF: Correct. And then if it is found that
7 that's the case, we can address it some other time; what
8 took place, or you're saying, "No, it was not permitted."
9 So we cannot make this retroactive. Is that what you're
10 saying.

11 MR. ROBERTSON: I think there's an unresolved issue
12 there of whether they should be covered by a permit.
13 They're not presently covered. Whether they should be is
14 an unanswered question right now and then we can follow
15 that once we know.

16 CHAIR WOLFF: Okay. All right. So that rests that.
17 And then my last quick question is, you know, in -- in the
18 deliberation, you know, certainly there's going to be
19 discussions about, you know, how much time, et cetera, but
20 is Staff ready to also set some additional compliance
21 conditions, you know, hypothetically. In deliberation, it
22 is agreed, "Okay. We're -- we're going to extend for, you
23 know, one year up to get rid to -- drain the pond."

24 Since most likely whatever measure is going to
25 take will overlap the next rainy season because it's going

1 at least a month just to get a report and, you know,
2 you're not going to get this accomplished in three months.
3 I can't see that. So is Staff ready to have some
4 additional measures that would, you know, set some
5 parameters to prevent ourself going -- coming back next
6 year and say, "Whoops, you know, we had another incident.
7 We need more hearings."

8 And, you know, basically, having more -- more
9 constraints -- regulatory constraints saying, "Well, if
10 you're going to have another event like this, you know,
11 there's going to be subject to fines" and -- and built --
12 build a more robust set of requirements beyond allowing a
13 Ceased and Desist associated with a timeline.

14 MR. ROBERTSON: So I'm -- I'm going to maybe think
15 this out loud a little bit. So -- so what we could -- one
16 option that the Board could create is the expectation that
17 within the decommissioning plan for the impoundment, there
18 also be consideration for -- given that the timeline might
19 span one or multiple winter seasons -- counter measures be
20 also written into that plan that address some of the
21 critical failures that are observed that brought us to the
22 Cease and Desist order. So that -- that could be a
23 recommendation or an expectation that the Board directs of
24 Staff in the presence of Cambria CSD.

25 CHAIR WOLFF: Okay.

1 MR. ROBERTSON: As part of the decision on this CDO.

2 CHAIR WOLFF: And then at that time, you know, Staff
3 will work in further refining these requirements.

4 MR. ROBERTSON: Right, right.

5 CHAIR WOLFF: All right. I just wanted to --

6 MR. ROBERTSON: As -- as the plan comes forward.

7 CHAIR WOLFF: Right.

8 MR. ROBERTSON: -- you know, in the discussion about
9 the plan.

10 CHAIR WOLFF: Right. Because since, you know, we're
11 going to be debating among ourselves without the benefit
12 of Staff, you know, I want it to be a little bit clearer
13 on -- on what our options are.

14 MR. YOUNG: Can't we deliberate when we come out
15 and -- all we're being asked for are recommendations;
16 right? Can't we come back out and have questions for
17 Staff?

18 MS. JAHR: Certainly.

19 MR. YOUNG: Okay. So why don't we just do that.
20 Let's sit and talk, and we'll come out and get more
21 questions answered.

22 CHAIR WOLFF: I wanted to -- I'm satisfied because now
23 I can deliberate having a little more background --

24 MR. YOUNG: Okay.

25 CHAIR WOLFF -- on what I want to deliberate.

1 MR. YOUNG: Okay.

2 CHAIR WOLFF: Okay. So one hour and we'll reconvene
3 in one hour, so it will be a quarter to 2:00.

4 MS. JAHR: I would just say that if the Board is
5 deliberating, we will come back no earlier than one hour
6 but it could possibly take longer for deliberations.

7 (Lunch recess.)

8 CHAIR WOLFF: Okay, folks. I'd like to -- everyone to
9 sit down, please. Thank you and -- okay, back of the
10 room, no more hugging. Thank you. So we are reopening
11 this Item 10, and at this time, I'd like to open my
12 colleagues here for any further comments and questions you
13 may have.

14 We had deliberation, but this is another
15 opportunity to, you know, further discuss this matter.

16 MR. YOUNG: I don't have anything else to discuss.

17 CHAIR WOLFF: Okay. Ms. Gray?

18 MS. GRAY: No. I have nothing else.

19 CHAIR WOLFF: Mr. Johnston.

20 MR. JOHNSTON: Nope.

21 CHAIR WOLFF: All right. And I do not either and --
22 and Mayor Delgado is back, but because he did not
23 participate with the earlier session he will --

24 MR. DELGADO: Abstain.

25 CHAIR WOLFF: He will abstain.

1 MS. JAHR: So based on the Board's discussion during
2 deliberations, I have the following proposal and one
3 addition change to the CDO and then also Board direction
4 for this Board to give to the Executive Officer, and the
5 change in the language is on page four.

6 The -- in the third paragraph after, "It is
7 hereby ordered: The work plan should include a timeline
8 for removing all wastes from the surface impoundment at
9 the earliest possible date, but not to exceed five (5)
10 years, regardless of whether option one or two is -- below
11 is chosen." So that would make -- add a time limit to the
12 CDO.

13 The other is for Board direction to the Executive
14 Officer to the effect of, "Any work plan approval must be
15 of sufficient detail to ensure that all current permit
16 terms will be met at all times. If the pond continues
17 into the reason -- the rainy season, the work plan must
18 also incorporate the technical requirements of option one
19 listed in the CDO."

20 CHAIR WOLFF: Okay. Very good.

21 MR. YOUNG: To be delivered, though. I thought to be
22 delivered to the EO. It -- it sounds --

23 MS. JAHR: It should be in the work plan that is
24 submitted to the EO.

25 MR. YOUNG: Okay. Did you state "in sufficient

1 detail," or the EO --

2 MS. JAHR: You want me to resaid -- restate it?

3 MR. YOUNG: Yeah. Could you restate it.

4 MS. JAHR: Yeah. "Any work plan approval must be of
5 sufficient detail to ensure that all current permit terms
6 will be met at all times. If the pond continues into the
7 rainy season, the work plan must also incorporate the
8 technical requirements of Option 1 listed in the CDO."

9 CHAIR WOLFF: All right. So at this time, I didn't
10 hear any more comment. I'd like to see if we have a
11 motion.

12 MR. JOHNSTON: So moved.

13 MS. GRAY: I'll second.

14 CHAIR WOLFF: And any further discussion.

15 MR. JOHNSTON: And my motion incorporates both the
16 Amendment and the Board direction.

17 CHAIR WOLFF: Okay. Any further comment? I'm looking
18 on my right and my left.

19 MR. YOUNG: Why don't we hear from their attorney,
20 just in case there's something that maybe we should just
21 consider at the last minute, Mr. Chair.

22 CHAIR WOLFF: Yes, Mr. Young.

23 MR. CARMEL: I'm Tim Carmel, District Counsel. My
24 Board authorized -- me and the General Manager -- to not
25 contest the Order that's in the packet, and I'm not sure I

1 even heard the changes that you're proposing and how they
2 relate to the order themselves -- itself, but those are
3 material changes to the Order and I don't have the
4 authority to not contest the Order in that state, so I
5 believe we need to start the process over again if that's
6 the case.

7 Again, we didn't contest the Order that's in
8 front of you. That's not the Order that you're talking
9 about and as a result, we certainly object, and I'd love
10 you to hear from Prosecution Counsel and your Counsel
11 about this because we don't -- we don't consent to this
12 particular Order that you're talking about, and certainly
13 don't without it sitting in front of me. We have an
14 opportunity to read it and understand it.

15 CHAIR WOLFF: All right. So at this time, I'm going
16 to ask our Counsel to comment.

17 MS. JAHR: The Board has two options: The first is to
18 approve the CDO as discussed. The Board has the ability
19 during any hearing to make any changes it desires,
20 regardless of whether the item is contested or not. The
21 second option would be to delay it and allow the parties
22 to provide comments on the proposed direction if the Board
23 would like. But as I stated, the Board has the ability to
24 move forward today.

25 CHAIR WOLFF: Okay. Mr. Johnston.

1 MR. JOHNSTON: Question for Counsel. My question is:
2 If the -- if there was an agreement not to contest and we
3 amended the Order, does that give the District a leg up to
4 appeal the Order that they did not otherwise have? Second
5 part of the question is: Do we walk around that by simply
6 moving the five years to Board direction?

7 MS. JAHR: Well, if you moved it to Board direction,
8 it would not be -- it would not amend the language of the
9 CDO, so technically, then, they may not contest it, but
10 they may feel that Board direction is of sufficient nature
11 that they still would need to appeal it, but the language
12 of the CDO would be the same; so --

13 MR. JOHNSTON: And -- I would to like amend my motion,
14 and simply take that five years, not amend the CDO with
15 the five year language, and simply include in the Board's
16 direction to Staff that our expectation of what we, as a
17 Board, think that is the maximum of a reasonable time is
18 five years.

19 CHAIR WOLFF: So any other comment, Mr. Young.

20 MR. YOUNG: Mr. Carmel, if you could please come back
21 up to the podium. Is that the issue? The five-year limit
22 of compliance?

23 MR. CARMEL: Candidly, I -- we didn't have a chance to
24 read it. We heard it in a muffled way, and I'm not sure I
25 really fully understood. The five years, I don't think we

1 had a great deal of problem with.

2 MR. YOUNG: Okay.

3 MR. CARMEL: I understood it it was the four --

4 MR. YOUNG: Hang on.

5 MR. CARMEL: And again, I don't have all this material
6 in front of me -- it was the four prongs that were a part
7 of keeping the facility open, which meant hiring a
8 geologist, hiring an engineer; is that what we're talking
9 about.

10 MR. ROBERTSON: So that was direction from the Board
11 to the Executive Officer about the Board's expectations
12 with what a plan -- that I would approve would contain.

13 MR. CARMEL: Right.

14 MR. ROBERTSON: It's not contained in the Cease and
15 Desist Order. That's direction from --

16 MR. CARMEL: Right. You mean at the last round that
17 we just heard.

18 MR. ROBERTSON: Right. And what you just enumerated;
19 the -- the four aspects of the -- the four aspects of the
20 ongoing operation of the facility. That was direction to
21 me.

22 MR. CARMEL: Well, we do have problems with, I think,
23 two of those components because it requires us to install
24 a drain -- a very expensive drain, redo our lysimeter --
25 whatever it's called. I'm pretty much an idiot on this

1 stuff. Those are very expensive items. They're truly
2 unnecessary under these circumstances and it's a pretty --
3 pretty big burden. The five years is not an issue. I
4 mean, that's a very -- although I'm talking without any
5 authority. The five --

6 MR. ROBERTSON: If I could interrupt. The five years
7 is consistent with the evidence you put in front of the
8 Board about that timeline to evaporate.

9 MR. CARMEL: That's not an issue. I mean -- and I
10 talked about it with the General Manager. It's -- it's
11 really the cost associated with unnecessary components of
12 those four, and I haven't had a chance to review them.
13 You have them in front of you, don't you? Oh.

14 CHAIR WOLFF: Do we need to put --

15 MS. JAHR: Yes. Which has the four requirements.

16 MR. CARMEL: Right. We just need -- if maybe we could
17 take a -- a five-minute break or two-minute break so that
18 we can distill this a little better and understand what
19 its impact is on us.

20 CHAIR WOLFF: Yeah. That's fine.

21 MR. CARMEL: Is that okay?

22 CHAIR WOLFF: I'll give you, you know, five minutes.
23 If you need 10 minutes, I mean, we spent a lot of time so
24 far so I would like to still be able to -- hopefully, you
25 know, bring this to a conclusion today.

1 MR. CARMEL: And we appreciate the Board's
2 consideration. I mean, this is an important issue.

3 CHAIR WOLFF: Do you need 10 minutes.

4 DR. CARMEL: We could do it in five. I'm pretty sure.

5 MR. JOHNSTON: Mr. Chair, I just want to make clear
6 that this is only if the -- if the option selected to
7 empty the pond goes into the rainy season.

8 MR. CARMEL: Right.

9 MR. JOHNSTON: That's because in the last rainy
10 season -- well, we all heard and saw what happened in the
11 last rainy season.

12 MR. CARMEL: Right. But there's been a lot of
13 subsequent measures taken to make sure that that's not
14 going to happen again, and I do understand that.

15 CHAIR WOLFF: Go ahead and --

16 MR. CARMEL: Thank you.

17 MR. JOHNSTON: Jessica, are you able to print out the
18 added language to the CDO so that they could -- they could
19 read it?

20 MS. JAHR: I can type it and see if I can get it
21 printed.

22 CHAIR WOLFF: Okay. So we're on a 10-minute recess.

23 (Recess).

24 CHAIR WOLFF: And I was just going to do public
25 comments and they have two simultaneous sessions, and I

1 was just being told that everybody is ready to finish this
2 item, so a little more patience I will appreciate from the
3 folks who had speaker cards for public comments and I
4 appreciate your indulgence.

5 MS. JAHR: So if you can throw that up on the screen.
6 This is the Board direction that I -- we are recommending
7 that you provide to the Executive Officer for this item.
8 We have changed the language a little bit to potentially
9 make it less onerous on them, provided we are satisfied
10 with what they've already done to ensure that they meet
11 all the the permit requirements, including the
12 thousand-foot -- the thousand-year storm and the five-foot
13 separation.

14 So what it would be now is, they still have to
15 meet, kind of, those technical requirements for option one
16 if it goes into the rainy season, but they can do that for
17 the second and the fourth requirement of those four
18 requirements by a third party demonstrating that they will
19 meet the thousand-year storm and the five-foot separation,
20 instead of having to actually either do it -- the work
21 plan or to construct something. If they can demonstrate
22 that they already met that requirement, they're good.

23 The third requirement may be satisfied by
24 demonstration that the VZMS has not leaked, which negates
25 needing to fix it because there's no leak, and they can do

1 that through their statistical analysis, and then it also
2 adds the five-year limitation on there.

3 MR. ROBERTSON: One thing I'll ask --

4 MR. PACKARD: Can I make one technical point here?
5 There's an allegation that these -- this is
6 Harvey Packard speaking -- there's no allegation that VZMS
7 is leaking. That's the monitoring system. It's the LCRS,
8 I think.

9 MS. JAHR: Okay. Let me change it. LCRS?

10 MR. PACKARD: Yes.

11 MS. JAHR: Okay. Thank you.

12 CHAIR WOLFF: That's why Harvey gets the big bucks.
13 Okay. He gets partial credit.

14 MR. ROBERTSON: And I was going to add to that that
15 the third party receives prior approval by the Executive
16 Officer. The third party who would be doing the
17 evaluations.

18 CHAIR WOLFF: So I'd like to ask, then, simply what is
19 changed from our original recommendation? What is
20 different than this?

21 MR. ROBERTSON: One element that's different is the
22 addition of the fourth requirement, so if you go to the
23 draft Cease and Desist Order, and it's on page four of the
24 -- of the tentative Cease and Desist Order, the Roman
25 numeral one task to be completed before recommencing

1 surface impoundment operations. There are four sub-tasks.
2 The fourth one has been added to the direction, so it's
3 right -- actually, both the second and the fourth,
4 where -- so a third party evaluation can suffice there.

5 MS. JAHR: If the third party can demonstrate that the
6 changes they've already made are sufficient to protect the
7 pond from the thousand-year storm and maintain the
8 five-foot separation, then no further changes need to be
9 made.

10 CHAIR WOLFF: And those are -- will be recommendation
11 from a third party based on what has already been done?

12 MR. ROBERTSON: Correct. An evaluation of what has
13 already been done in -- in the case of the grading
14 improvements.

15 MS. GRAY: So it would be a peer review of the items
16 that are currently in place?

17 MR. ROBERTSON: It could -- correct. It could be a --
18 it could be a field evaluation of what's been done, too.
19 I mean, not just like what I heard in my brain is that it
20 wouldn't -- I wouldn't constrain it to just be a
21 literature review or calculation review simply, but also a
22 field evaluation of grading improvements that have been
23 done.

24 MS. GRAY: So the grading improvements that were
25 conducted by the county and then the trenching that

1 occurred?

2 MR. ROBERTSON: Correct.

3 CHAIR WOLFF: And the sandbags.

4 MR. CARMEL: If I can just interject, we will be doing
5 significantly more drainage improvements. They're not
6 just what's done. We will complete that process so that
7 we have, you know, a fully-engineered drainage system that
8 works and that has to be demonstrated to the satisfaction
9 of this third party that your Executive Officer chooses.

10 CHAIR WOLFF: Yeah. Because one of the things that's
11 kind of following up on a thing on the train of thought
12 that Ms. Gray has, is that we're not talking about, you
13 know, it's hard to put it in simple terms -- hiring a
14 consultant to see what had been done in the past and say,
15 "Yeah. This year it's going to work." I guess that's
16 what I'm asking.

17 It's going to include additional measures, you
18 know, that are going to be taken to prevent surface water
19 inflow.

20 MR. ROBERTSON: So -- so part of the discussion that
21 occurred during the break was, we already have engineered
22 opinion -- opinions of -- by engineers regarding the
23 sufficiency of prior grading and -- and design elements
24 and they have proven not to be sufficient to comply with
25 the five-foot separation and the inundation requirements

1 in Title 27. We don't want to just have another paper
2 saying, "Yeah. We're good." We'd like to have a higher
3 level of confidence.

4 CHAIR WOLFF: Okay. And I saw -- Mr. Johnston, you
5 had raised your hand.

6 MR. JOHNSTON: Yeah. So I assume that then -- the --
7 kind of the presumption here is that the failure to
8 maintain a five-foot distance between the bottom of the
9 pond and the groundwater was a function of the -- was --
10 was quite possibly a function of the inundation by surface
11 water and that we're open to a demonstration that the
12 changes in handling of storm water on the surface will
13 prevent that from happening in the future, as opposed to
14 requiring the drilling of -- of, you know, if that can be
15 demonstrated, as opposed to requiring the drilling of
16 dewatering wells underneath the pond; is that correct?

17 MR. ROBERTSON: Correct. And that -- that's the gist
18 of the discussion that went on around that element, right.
19 The one acknowledge -- I believe it's the Staff report --
20 a component of the Staff report developed by the
21 Prosecution Team acknowledges that there's connectivity
22 between the pond -- the historic pond and the surface
23 water features in the vicinity suggesting that there's
24 pretty high permeability out there, so, you know, in a
25 kind of a round-about way of saying yeah.

1 I think if you take -- the likelihood is if you
2 adequately give the water a place to go, it won't
3 necessarily consume the five-foot separation.

4 CHAIR WOLFF: Okay. So I'd like to look at the rest
5 of our -- do you have any more questions? I'm sorry.
6 Ms. Gray?

7 MS. GRAY: No. I'm satisfied, thank you.

8 CHAIR WOLFF: Mr. Young.

9 MR. YOUNG: Well, I just wanted to hear from
10 Mr. Carmel that his prior objection has been taken off the
11 table to our proceeding.

12 MR. CARMEL: We're very comfortable with -- with the
13 language that's there -- comfortable with the process.

14 MR YOUNG: Okay. Thank you.

15 MR. CARMEL: And we really do thank you for your
16 consideration of allowing us to do that. It saves a lot
17 of time and energy.

18 CHAIR WOLFF: His body language was showing that he
19 was smiling, so any -- okay. So at this time, we had a
20 motion. We had a second, and we had discussions, and so
21 we have an amendment that's being proposed. Mr. Johnston.

22 MR. JOHNSTON: I will accept the amendment as the
23 maker of the motion.

24 CHAIR WOLFF: Okay.

25 MS. GRAY: And I'll second it again.

1 CHAIR WOLFF: All right. Any further discussion?
2 Okay. So now we can bring this to a vote, so I would like
3 to ask for roll call.

4 MS. OLSON: Dr. Wolff?

5 CHAIR WOLFF: Yes.

6 MS. OLSON: Doctor Hunter? Ms. Cervantez?

7 MS. CERVANTEZ: Yes.

8 MS. OLSON: Mr. Delgado?

9 MR. DELGADO: Same.

10 MS. OLSON: Ms. Gray?

11 MS. GRAY: Aye.

12 MS. OLSON: Mr. Johnston?

13 MR. JOHNSTON: Yes.

14 MS. OLSON: Mr. Young?

15 MR. YOUNG: Yes.

16 MS. OLSON: Thank you.

17 CHAIR WOLFF: All right. So thank you very much. So
18 this concludes Item 10, and then we will promptly move to
19 public comment. I appreciate the patience of everyone.

20 (Items 9 and 10 concluded at 3:27 p.m.)

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1 REPORTER'S CERTIFICATION

2
3 I, the undersigned, a Certified Shorthand
4 Reporter of the State of California, do hereby certify:

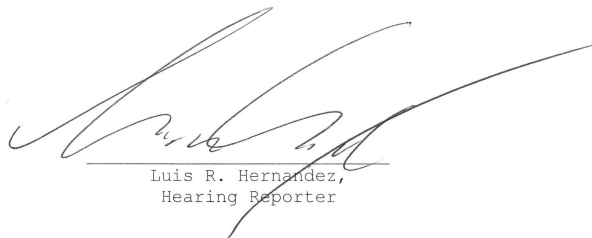
5 That the foregoing proceedings were taken before
6 me at the time and place herein set forth; that any
7 witnesses in the foregoing proceedings, prior to
8 testifying, were duly sworn; that a record of the
9 proceedings was made by me using machine shorthand, which
10 was thereafter transcribed under my direction; that the
11 foregoing transcript is a true record of the testimony
12 given.

13 Further, that if the foregoing pertains to the
14 original transcript of a deposition in a federal case,
15 before completion of the proceedings, review of the
16 transcript was was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee of any
19 attorney or party to this action.

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

22 Dated: July 28, 2017

23 
24 Luis R. Hernandez,
25 Hearing Reporter

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