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**Subject:** RE: SDWA Parties Rebuttal Testimony  
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The SWC object to this surprise testimony. What was agreed to today was related to the locations of certain salinity data and correcting the table or the map location as they clearly did not match. SWC did not agree, nor did the Hearing Officers grant permission, to update fundamentally underlying data for Mr. Burke's channel bathymetry cross sections. The further impermissible revisions to Mr. Burke's testimony related to his DSM2 Channel Comparison Charts fundamentally change his testimony, are unrelated to the changes discussed today and are surprised testimony.

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**Subject:** SDWA Parties Rebuttal Testimony

Dear Hearing Officers and Service List:

Before the lunch break today Ms. Morris identified an inconsistency between the table and figures prepared by Mr. Burke on pages 8-10 of SDWA – 323 revised. To make her cross examination of Mr. Burke more efficient, and the record more clear, Ms. Morris requested that an errata be submitted this evening correcting the identified error. I did not object and our agreement was put on the record before just before lunch. At about the same time I received notice from Mr. Burke that there may be a computational error in his testimony. Mr. Burke has now confirmed that in preparing his DSM2 Channel Comparison Charts he used NAVD 88 for both the DSM2 channels and the survey channels. Mr. Burke is now aware that the older version of DSM2 being used by petitioners is based on the NGVD 29. The difference between NAVD 88 and NGVD is approximately 2.3 feet. Mr. Burke is preparing revised Channel Comparison Charts which we will serve on the Service List along with the above discussed errata. Mr. Burke will make the corresponding revisions to his written testimony and his PowerPoint on the record tomorrow unless the Hearing Officers favor a different approach.

The revisions to the Channel Comparison Charts lessen the difference between the actual channel configurations and that which is assumed in DSM2. Thus, there is no prejudice to any party since the revisions pertain only to the order of magnitude of the effect.

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