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STATE OF LOUISIANA
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF CONSERVATION

WATER RESOURCES COMMISSION
2ND MEETING, 2018

THURSDAY, NOVEMBER 29, 2018
11:00 A.M.

LASALLE BUILDING
1ST FLOOR - LABELLE ROOM
617 NORTH 3RD STREET
BATON ROUGE, LOUISIANA 70802

REPORTED BY:
LISA M. NEALY, CCR, RPR
BATON ROUGE COURT REPORTERS, LLC

1 COMMISSION MEMBERS IN ATTENDANCE:

2

3 KYLE F. BALKUM

4

5 EDWARD "MICHAEL" BOPP

6 Crescent River Port Pilots' Association

7

8 GLENN L. BRASSEAU

9

10 DAVID B. CULPEPPER

11 NanoFex, LLC

12

13 MARK S. DAVIS

14 Tulane University Law School

15

16 ANTHONY J. DUPLECHIN, JR.

17 Capital Area Groundwater Conservation District

18

19 JOHAN FORSMAN

20 Louisiana Department of Health & Hospitals-Office

21 of Public Health

22

23 WARREN L. FOUNDS, III

24 Sabine River Authority

25

1 COMMISSION MEMBERS IN ATTENDANCE:

2

3 BRANDON MARK FREY

4

5 KAREN K. GAUTREAUX

6 The Nature Conservancy of Louisiana

7

8 LINDSAY K. GOUEDY

9

10 JIM T. HARPER

11

12 THOMAS HARRIS

13 Secretary of the Department of Natural Resources,

14 Governor's Office

15

16 RICHARD P. IEYOUB, SR.

17

18 CHRISTOPHER P. KNOTTS, PE, FASCE

19 Louisiana Department of Transportation and

20 Development, Public Works & Water Resources

21

22 BENJAMIN J. MALBROUGH

23

24 BRADLEY E. SPICER

25 Louisiana Department of Agriculture & Forestry

1 COMMISSION MEMBERS IN ATTENDANCE:
2
3 JOHN PAUL STOSHAK
4
5 CHARLES SUTCLIFFE
6
7 ELLIOTT B. VEGA
8 Department of Environmental Quality
9

10 GLENN J. VICE
11 JMB Companies, Inc.
12

13 PATRICK WITTY
14 LED Small Business & Community Services
15

16 FREDERICK C. ZAUNBRECHER
17
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CALL TO ORDER

MR. HARRIS:

We'll get started.

Would you call the roll, please?

MR. REONAS:

Sure. All right, so, for the roll,
Mr. Balkum?

MR. BALKUM:

Here.

MR. REONAS:

Mr. Bishop? Mr. Bopp?

MR. BOPP:

Here.

MR. REONAS:

Mr. Brasseaux?

MR. BRASSEAUX:

Here.

MR. REONAS:

Mr. Chabert? Mr. Cormier? Mr. Culpepper?

MR. CULPEPPER:

Here.

MR. REONAS:

Mr. Davis?

MR. DAVIS:

Here.

1 MR. REONAS:
2 Mr. Duplechin?
3 MR. DUPLECHIN:
4 Here.
5 MR. REONAS:
6 Mr. Forsman?
7 MR. FORSMAN:
8 Here.
9 MR. REONAS:
10 Mr. Founds?
11 MR. FOUNDS:
12 Here.
13 MR. REONAS:
14 Mr. Frey?
15 MR. FREY:
16 Here.
17 MR. REONAS:
18 Ms. Gautreaux?
19 MS. GAUTREAU:
20 Here.
21 MR. REONAS:
22 Ms. Gouedy?
23 MS. GOUEDY:
24 Here.
25 MR. REONAS:

1 Mr. Gray? Mr. Harper?

2 MR. HARPER:

3 Here.

4 MR. REONAS:

5 Secretary Harris?

6 MR. HARRIS:

7 Here.

8 MR. REONAS:

9 Commissioner Ieyoub?

10 MR. IEYOUB:

11 Here.

12 MR. REONAS:

13 Mr. Knotts?

14 MR. KNOTTS:

15 Here.

16 MR. REONAS:

17 Mr. Malbrough?

18 MR. MALBROUGH:

19 Here.

20 MR. REONAS:

21 Mr. Rabalais? Mr. Spicer?

22 MR. SPICER:

23 Here.

24 MR. REONAS:

25 Mr. Stoshak?

1 MR. STOSHAK:

2 Here.

3 MR. REONAS:

4 Mr. Sutcliffe?

5 MR. SUTCLIFFE:

6 Here.

7 MR. REONAS:

8 Mr. Vega?

9 MR. VEGA:

10 Here.

11 MR. REONAS:

12 Mr. Vice?

13 MR. VICE:

14 Here.

15 MR. REONAS:

16 Mr. Witty?

17 MR. WITTY:

18 Here.

19 MR. REONAS:

20 And Mr. Zaunbrecher?

21 MR. ZAUNBRECHER:

22 Here.

23 MR. REONAS:

24 So a very full house indeed. So,

25 we're...

1 MR. HARRIS:

2 Thank you, Matt. I assume that's a
3 quorum?

4 MR. REONAS:

5 Oh, yes, that is a quorum. Absolutely.

6 MR. HARRIS:

7 Very good.

8 INTRODUCTION OF NEW MEMBERS

9 MR. HARRIS:

10 We do have a couple of new members I'd
11 like to introduce. Sitting to my right here is
12 Glenn Vice, is replacing Paul Frey as the
13 representative of the Louisiana Land Owners
14 Association on the -- he's on the LLA Board of
15 Directors. Mr. Vice is the president and CEO of
16 JMB, who owns interest in over 300,000 acres of
17 land in Louisiana, Texas, and Florida.

18 Glenn, would you like to say --

19 MR. VICE:

20 Yeah. It's an honor for me to serve. I
21 represent Louisiana Land Owners. And I understand
22 I got big, huge shoes to fill with Paul Frey.
23 Thank you.

24 MR. HARRIS:

25 You're welcome. Thank you.

1 Also with us today a new member, Paul
2 Witty, with Louisiana Economics -- uh, Department
3 of Economic Development. He's the designee of the
4 secretary, and he's also executive director of
5 LED's Community Competitiveness and Small Business
6 Services Division. Welcome. Would you like to say
7 a few words?

8 MR. WITTY:

9 I don't need to say anything. Thank you
10 so much for the opportunity.

11 MR. HARRIS:

12 Thank you for being here.

13 Finally, Ben Malbrough is back with us,
14 formerly an appointment of Representative Bishop,
15 now an appointment of Senator Chabert.

16 Would you like to say anything, Ben?

17 MR. MALBROUGH:

18 Thank you.

19 MR. HARRIS:

20 Thank you for being here.

21 I believe our next order of business is
22 approval of the minutes?

23 ADOPTION OF THE PREVIOUS MEETING SUMMARY

24 MR. REONAS:

25 Yes, that's correct. So we have the --

1 did everyone have a chance to review the minutes?
2 It's a transcript, obviously; we have a court
3 reporter here. Are there any corrections or
4 changes that need to be made? Did anybody note any
5 of those? Of course our staff went through them as
6 well, based on our notes, but.

7 MR. SPICER:

8 Make a motion to approve the minutes.

9 UNIDENTIFIED SPEAKER:

10 I second.

11 MR. HARRIS:

12 All in favor?

13 BOARD MEMBERS:

14 Aye.

15 MR. HARRIS:

16 All opposed? Those minutes are approved.
17 Thank you, Matt.

18 WORK GROUP OF OUT-OF-STATE SALE OF SURFACE WATER:

19 MR. HARRIS:

20 Our next agenda item, we have the report
21 from our work group, which was formed last year.
22 And it's been a lot of work done, and I want to
23 thank all of you who participated and -- and also
24 Seth Irby and -- and Blake Canfield, who -- Blake
25 is executive counsel. The mike is yours.

1 MR. IRBY:

2 Great. So we sent you this report this
3 week, and we just want to walk through that Power
4 Point on the screen to walk through at a high level
5 the contents of the report, and then open it up for
6 questions. I'm going to talk through a little bit
7 about how the study came together, the background,
8 the working group members, and the research that
9 went into it, and then Blake will walk you through,
10 uh, really the summary of findings that you'll find
11 as -- as the guts of the report.

12 So, as many of you know, in 2011 --

13 MR. REONAS:

14 Sorry, Seth. One quick announcement. So
15 we do have copies of the Power Points. We were
16 having some technical difficulties with our other
17 projector and screen, but we have it projected
18 there and everybody has copies of the presentations
19 as well. So.

20 MR. IRBY:

21 As many of you know, in 2011, the sale of
22 surface water out of state to Texas was considered
23 by the State of Louisiana. At that time, after
24 much research, they decided not to pursue that
25 sale. But in 2018, in January of 2018, this

1 Commission passed a resolution to form a working
2 group to further study the possibility,
3 implications, and mechanisms for the out-of-state
4 sale of publicly owned surface water in Louisiana
5 and provide recommendations to this group. So
6 we've worked over the last six or eight months to
7 do so.

8 And one of the first things that this
9 group did was narrow the focus to the Toledo Bend
10 area. Because of the proximity to Texas and the
11 likelihood that that's where this will be coming
12 from, the group decided to focus on that body of
13 water.

14 You'll see on the screen the members of
15 this working group. Many of them spent a lot of
16 time outside of our primary meetings, providing
17 research and commentary that went into the
18 development of this report. We had a diverse
19 group, we had many different backgrounds, and we
20 felt that it gave us a comprehensive look at this
21 issue.

22 So the scope of work, we started with
23 research. We looked into all of the current bodies
24 of work on this issue and asked working group
25 members to provide that research. And we met four

1 times, in February, in June, in September and in
2 November. And each time, we would dive into
3 several key questions that we wanted to tackle, and
4 then research took place between meetings with
5 working group members communicating via email.

6 Big thanks to Mr. Mark Davis, who
7 provided a lot of outside research and a lot of
8 help to our team as we went through this process.
9 So, you'll see some key questions in the document
10 towards with the beginning that we really focused
11 on. We broke them up into four different
12 categories: Process, legal, impacts, and benefits.
13 And the working group sought to find answers to
14 each one of these questions. We assigned them out
15 based on the experience, um, and really interests
16 of the working group members, and the working group
17 members came back to the group and provided their
18 proposed answers. As we got into the last several
19 months we started to narrow down that list of
20 questions, and the answers to those questions are
21 really where you find the -- the recommendations in
22 the report.

23 Before I turn it over to Blake, just a
24 quick look at the outside research that we
25 considered, most of which was the survey of law

1 from other states and a lot of the research from
2 Mark Davis and his students. But as you'll see,
3 very helpful facts on Toledo Bend, and thank you to
4 Mr. Founds for helping us through that process.

5 Blake?

6 MR. CANFIELD:

7 Thank you, Seth.

8 So, my name is Blake Canfield, executive
9 counsel for the Department of Natural Resources,
10 and I'm going to do my best to go through the
11 report's findings, give a summary, and -- and
12 starting off, we have a breakdown of some of the
13 key findings. These are the legal limitations and
14 requirements for a sale out of state out of Toledo
15 Bend; procedural requirements associated with such
16 a sale; minimal water level and downstream release
17 requirements; benefits of the potential sale; a
18 term on the potential sale -- in other words, the
19 time period for which a sales agreement would be
20 good for; precedential value, what maybe effects
21 would this have on other water bodies on future
22 sales proposals within the state; and finally,
23 documentation supporting whatever decision the
24 Sabine River Authority comes to.

25 Starting with the legal limitations, um,

1 I think it's important to recognize that
2 Louisiana's law is -- is somewhat sparse when it
3 comes to either statutory or case law dealing with
4 sales of surface water. Likewise, most other
5 states do not have any -- anything comparable to a
6 water sale as such.

7 That being said, we have done our best to
8 identify where the law is unclear, where is law is
9 unclear. We've done our best to draw analogies to
10 similar decision-making processes within the state,
11 as well as how other states, other jurisdictions,
12 handle surface water transfers for non-riparian
13 use.

14 To begin with, the surface water is
15 defined as a public thing under Louisiana law.
16 This is Civil Code Article 450. And as such, it's
17 also subject to public use. The -- I think the key
18 is that Louisiana law, despite it being public, has
19 consistently recognized certain nonpublic uses of
20 surface water. Most notably, because Louisiana is
21 a riparian state, the most notable example of this
22 would be riparian use. So under Louisiana law,
23 riparian landowners, adjacent property owners to
24 flowing streams, are allowed to use the water for
25 private purposes. And this is because it's

1 recognized as providing a public good, or something
2 of public value to the state.

3 It also historically makes sense because,
4 you know, not long ago, agricultural uses were
5 probably the primary and main use that we would
6 associate with surface water use. So that is
7 clearly allowed under Louisiana law. An additional
8 example would be, um, water use for, you know,
9 municipal supply. In New Orleans, for instance,
10 water has been taken from the Mississippi River for
11 a very, very long time. Again, there was a public
12 good or a thing of public value associated with
13 that use.

14 So that is kind of the big picture of
15 where Louisiana law -- how Louisiana law treats
16 transfers and use of surface water.

17 The Sabine River Authority is actually
18 very unique. They are specifically authorized to
19 sell water from the Toledo Bend reservoir, and it
20 specifically says to sell either in state or out of
21 state, uh, that water. They are also allowed to
22 control it for transfers, for conservation, for
23 other uses as well.

24 Because there, again, is not a ton of
25 clarity within the law, either statutory or case

1 law regarding limitations, you know, we have looked
2 at other states, and in so doing we found that
3 Sabine River Authority is the, um, is the
4 primary -- about the only example we could find of
5 such an authority to sell the surface water.

6 Again, looking to other legal
7 jurisdictions and how they have treated these types
8 of sales, we have found many considerations. Types
9 of challenges to water sales, we have looked at
10 those and have highlighted those areas and what the
11 courts have found in other jurisdictions regarding
12 transfers and use of water. And hopefully, through
13 highlighting these considerations, it will help
14 both the Sabine River Authority of Louisiana as
15 well as the other decision makers in this process,
16 the Water Resources Commission being one of those
17 decision makers, to identify areas that we need to
18 be aware of, potential legal challenges that may
19 arise if a water sale is approved by the Sabine
20 River Authority.

21 Here is a list of some of these
22 conditions. These are, again, primarily conditions
23 that we found are -- run across all riparian
24 states. And one of the sort of common denominators
25 for all riparian use is the finding that the use

1 has a beneficial purpose, there's a beneficial
2 purpose to the water transfer.

3 And again, this goes back to this idea of
4 public value. Most states will allow, you know,
5 riparian use, again, because of the public value,
6 so long as it's reasonable and does not damage the
7 resource and does not negatively impact downstream
8 riparian users. So, that is very similar, I think
9 here, that you have to have some sort of beneficial
10 purpose, it has to be some type of reasonable use.

11 Another consideration, this is specific
12 to the SRA, would be that it be consistent with
13 SRA's public purpose, as well as legal authorities.
14 If you, you know, go through -- I'll try to get the
15 exact citation, Revised Statute 38:2325, it lays
16 out many of the public purposes and -- as well as
17 the authorities of the Sabine River Authority. So
18 to the extent that the transfer helps support those
19 purposes, that's going to be a positive, um, for,
20 um, you know, supporting a -- a proposed sale.

21 Next, coordination with state natural
22 resource agencies. As I'll discuss a little bit
23 later in this slide, the Public Trust Mandate, the
24 requirement that we protect and conserve
25 environmental and ecological resources of the

1 state, I highly -- strongly suggest that we need to
2 work with the other state resource agencies when
3 coming to the decision. And so the Sabine River
4 Authority, working with agencies such as DNR, DEQ,
5 DHH, you know, with Wildlife & Fisheries, would be
6 very helpful, just so that it can be shown that
7 we're making sure to meet the public mandate
8 requirements, the protection of the environment,
9 uh, environmental requirements.

10 Other considerations. And these are
11 considerations that are both found in Louisiana
12 case law and in other states who are looking at
13 impacts of any type of withdrawal or any type of
14 transfer on existing water users. That term,
15 "water users," should be considered pretty broadly.
16 So this would not just be other people that are
17 transferring the water out similar to a sale. This
18 could be members of the public recreationally using
19 Toledo Bend, it could be businesses that rely on,
20 you know, customers who recreationally use Toledo
21 Bend. It could be all the many things that SRA
22 does, you know, the benefits that SRA provides. So
23 looking at it from that type of, um, perspective, I
24 think it would be important.

25 You know, finally, one of the benefits

1 that was definitely identified is, uh, for a
2 potential sale out of the Sabine River Authority,
3 is a potential funding source. And insofar as that
4 is your primary or your only benefit, then one of
5 the questions that would likely be asked in a legal
6 challenge is whether or not the Sabine River
7 Authority has considered alternatives for revenue.
8 So being able to answer these questions, having
9 considered these questions, you know, we believe to
10 be very important.

11 Moving on to the public trust that the
12 state has, in Article IX Section 1 of the State
13 Constitution, the state -- well, first off, water
14 is among the things that the state is required to
15 protect, to conserve, and to replenish to the
16 degree possible. And in addition to the public
17 trust mandating supporting many of those
18 considerations that I just went through, there is a
19 line of Supreme Court cases and appellate court
20 cases in Louisiana, all flowing from the Save
21 Ourselves decision by the Supreme Court, which sets
22 for what are known as IT factors. And IT is the
23 name of the company whose permit was challenged in
24 that Save Ourselves case. And to summarize it as
25 much as possible, the case essentially requires

1 that there be a finding that the -- any impacts to
2 the environment or ecological resources of the
3 state are outweighed by non-environmental benefits,
4 social and economic benefits. But breaking it down
5 a little bit more specifically, the case requires
6 that the governmental entity that's making the
7 decision on whether to go forward with a project,
8 or in this case with a transfer, has to determine
9 that that transfer is going to avoid real and
10 adverse environmental impacts to the maximum extent
11 possible; two, that it -- there's a cost-benefit
12 analysis, essentially, again, where the benefits
13 outweigh the environmental and ecological impacts;
14 and three, that there are no alternative projects
15 or sites or mitigating factors that are measures
16 that could be put into place, um, that would offer
17 more environmental protection without unduly
18 curtailing the benefits. So that is a very, I
19 guess I'd say more specific requirement, one that
20 we feel more strongly about because it has been
21 upheld and put forth by, uh, many iterations by
22 Louisiana's courts.

23 Finally -- and I know this is not the
24 answer that any of us wanted. I think when we
25 started, we had hoped that it would be a lot more

1 clarity on this issue, is the fact that there's
2 continuing legal uncertainty. As I started off,
3 when I mentioned the fact that the law is sparse,
4 as -- you know, many of the laws that do exist in
5 Louisiana are untested. There's not a ton of case
6 law on the statutory provisions that do exist
7 regarding, um, transfers and specifically sales of
8 surface water.

9 The two issues I kind of wanted to touch
10 on, to continuing with legal uncertainties, are,
11 one, as many of you probably know, the State Law
12 Institute created a Water Code Commission, and this
13 committee -- I'm sorry, Water Code Committee, is
14 tasked with studying and recommending comprehensive
15 water law for the state. And that work is
16 currently ongoing.

17 And so, I think you can -- you need to be
18 aware of it for two reasons. One, anything that's
19 said in this report obviously will be affected by
20 changes to the law that may come out of that
21 committee's report. Two, when the committee comes
22 out with its findings, with its recommendations, it
23 will likely provide additional guidance, for this
24 very issue.

25 And secondly, another issue that was

1 brought up, and in fact in our last meeting, was,
2 you know, whether or not there is a distinction to
3 be drawn with waters that are within a reservoir,
4 stored within a reservoir, as opposed to waters
5 that are, you know, in a river that is not dammed,
6 you know, in -- in, I guess, a more natural
7 setting.

8 And we did look through the case law and
9 the statutory law and could not find such a
10 distinction. The law is essentially silent on
11 that. And we, you know, do not think that the fact
12 there is a reservoir makes the water a private
13 thing. It's still a public thing. But I would say
14 that there is, um, you know, reason to believe
15 because of the highly regulated nature of the water
16 that's within Toledo Bend, the vast amount of data
17 that Toledo Bend -- you know, water on Toledo Bend
18 we already have, suggests that the Sabine River
19 Authority may be further along with collecting the
20 kinds of information you would need to support a
21 decision than is the case with most other
22 waterways. So that is something, too, that perhaps
23 deserves additional study.

24 Procedural requirements, um, so, the
25 Sabine River Authority of Louisiana is the one that

1 ultimately has to initially approve or make a
2 decision regarding a water sale, an out-of-state
3 water sale. They have to approve, even if it's not
4 a sale, if it is some sort of agreement for
5 utilization or transfer, that's where it starts.
6 After that, the law requires that the Sabine River
7 Authority's decision find concurrence from the
8 Governor, the Senate Committee on Natural
9 Resources, House Committee on Natural Resources and
10 Environment, the Water Resources Commission, and at
11 least two-thirds of the governing authorities of
12 the parishes within the territorial jurisdiction of
13 the SRA.

14 As I said previously, you know, we hope
15 that this report provides all the different
16 variables and considerations that need to be taken
17 into account. And we do think, to the extent that
18 the SRA is able to document the reasons behind its
19 decision and to have gone through these
20 considerations, that will make the job of all the
21 other decision-makers more -- more easy. But also
22 it will make the decision more defensible.

23 One of the issues that created a lot of
24 back-and-forth is the idea of Fair Market Value.
25 The, uh, several AG opinions, um, specifically

1 state that Louisiana Constitution Article 7 section
2 14 requires that surface water -- because surface
3 water is a thing of value owned by the state, that
4 if it is going to be used for anything other than a
5 public purpose, it has to be purchased for fair
6 market value. One of the issues that was
7 identified within the study group is the fact that,
8 um, unlike many other items of commerce, surface
9 water is not a commodity. It is not something that
10 you have a large market, uh -- you know, market
11 data on to come up with a determination of fair
12 market value in the traditional sense.

13 The thing I will note, however, is that,
14 you know, even within the statute, statutory
15 language that's adopted the fair market value, uh,
16 you know, language of these AG opinions, and the AG
17 opinions themselves, identify that this decision or
18 this determination shall include economic
19 development, employment, and increased tax revenue.
20 And I will suggest that, you know, to a certain
21 degree, that broader definition of fair market
22 value does, at least to me, seem like it is a
23 little bit closer to the public value, the public
24 good, that is required in other states. And so, it
25 -- I think it gives a little bit more wiggle room

1 to consider the other -- the benefits of a
2 potential sale. But, you know, it is, obviously,
3 a -- a specific requirement that has to be
4 addressed, and at a minimum, you know, staff, um,
5 for SRA should do their best to try to compare any,
6 you know, existing sales, any past sales, sales
7 history from Toledo Bend, any comparable sales from
8 other water bodies that they identify in trying to
9 determine what would be a fair market value for
10 surface water out of Toledo Bend.

11 A major, um, issue when we were dealing
12 with many, many of these considerations were
13 minimal water levels, downstream release
14 requirements. You know, if we're talking about
15 impacts on interested parties, talking about
16 impacts on the environment or the ecology, these
17 minimal water level and release requirements are
18 going to play a large role in determining whether
19 or not the transfer or sale can be supported.

20 One major benefit I think that you have
21 with the Sabine River Authority is that there is
22 already a FERC license where it has gone through
23 the process of public comments and consideration.
24 They do have a drought contingency plan that's been
25 approved by FERC. But, you know, going through the

1 specifics -- and the report lays out a lot of the
2 specifics -- again, thank you, Mr. Founds, for all
3 the information on that -- you know, it's important
4 that any agreement, um, has the ability from the
5 SRA to either curtail or maybe in extreme cases, to
6 stop withdrawals. Because the sale is going to
7 have to be subordinate to larger public good
8 considerations. You know, the -- based on the
9 information we provided, it doesn't sound like
10 those types of situations arise very frequently at
11 all. It sounds like they do have plans already in
12 place to do this, but it would be important for the
13 agreement to identify that authority within the
14 SRA, either by itself, SRA-Louisiana, or in
15 conjunction with the Texas SRA.

16 And again, like I mentioned, this
17 agreement should consider and mitigate potential
18 impacts to recreational use of the reservoir. So
19 we talked a lot about the impacts it may have on
20 the environment, the ecology, and -- and, you know,
21 things that we feel, uh, you know, pretty strongly
22 that it -- it's already able to do.

23 The item that's a little bit more
24 difficult to determine is who has the vested
25 interest of some sort within the Toledo Bend

1 Reservoir, because that would be constantly
2 changing. You know, the people that live long the
3 reservoir, businesses that are there, change over
4 time. So that is something that has to be taken up
5 at -- you know, prior to the decision being made
6 for a specific proposal.

7 Benefits of the potential sale. Because
8 we do not have a specific proposal to consider --
9 in other words, we do not know who it would be that
10 is purchasing the water, we do not know how the
11 water would be used, we do not know the volume
12 amounts that we're talking about, we're really only
13 able to consider the one benefit that would exist
14 across any and all potential sales, which would be
15 the money that would come from the sale. And that
16 is -- is not necessarily an insignificant benefit,
17 you know, as, uh, we found. The SRA is looking at
18 such a sale as a potential revenue source. The
19 goal, as it was stated, would be for the SRA to
20 track a large water sale to be shared by both
21 Louisiana and Texas's SRAs, uh, that this would
22 still maintain the water reserve. So in other
23 words, the amount of water that is allocated to the
24 Louisiana side would not all be used up within the
25 sale. You'd have a -- a water reserve for future

1 use. And it would also not compromise other
2 recreational and economic attributes of Toledo
3 Bend.

4 Additionally, what was stated was,
5 essentially, the energy contracts that were there,
6 the long-term contract, the energy generation
7 contract, had run out, that there was recently a
8 new contract for five years. And there is
9 concern -- and then that contract covers roughly
10 about 50 percent, I think, of the funding of
11 SRA-Louisiana. And so, a major concern is, because
12 it's such a short term on this new contract, what
13 happens if it is not renewed for purposes of
14 funding SRA. And obviously, a decrease in the
15 funding for SRA will have -- you know, potentially
16 lead to some extreme impacts on SRA and its ability
17 to maintain the reservoir and the parks and a lot
18 of the things that drive the economy up there. And
19 Louisiana's failure to agree to such a sale would
20 not necessarily prevent the Texas SRA in the future
21 from entering into a sales agreement itself.

22 So one concern or consideration from
23 Louisiana SRA is the fact that they may end up
24 experiencing -- Louisiana may end up experiencing
25 all the negatives of the sale without any of the

1 benefits of the sale. So it is definitely, um, you
2 know, something that has to be, I guess,
3 reconsidered once there's a specific proposal,
4 because there may be other benefits that could be
5 identified which we're not able to identify at this
6 point.

7 Term of an agreement. You know, as was
8 mentioned when we were talking about potential
9 impacts, it's important to have a term. If the,
10 you know, the term -- a reasonable term. If a term
11 is too long, then you may have changes in the
12 interested parties and people that are affected by
13 this. And that could, you know, have unforeseeable
14 impacts over time. On the other side, if the term
15 is too short, you may not have any interest in
16 signing a -- for any type of sale due to the amount
17 of money that would have to be invested in
18 infrastructure and the like. It also would
19 obviously potentially affect the price that would
20 be negotiated. So the term and renewal structure
21 is very important. And correct me if I'm wrong,
22 but (inaudible), I believe you were telling me that
23 the existing contracts for transfers and sales, uh,
24 with SRA were for about 30 years? Does that sound
25 right? With the ability for, like, three to

1 five-year extensions.

2 Um, another example -- just by way of
3 example, I guess I should say, the voluntary
4 cooperative endeavor agreement that is at DNR for
5 water transfers elsewhere, says that those
6 agreements are only for two years, with two-year
7 extensions up until a date certain. I think it's
8 December of 2030? I could be wrong on that but I
9 believe that's the time. So trying to find that
10 balance is going to be difficult. But it's
11 definitely something that needs to be considered.

12 Precedential value. When we were going
13 through this and talking about Toledo Bend being
14 the most likely, um, source of water moving out of
15 state, one of the things that is intriguing, or
16 unique, is the unique nature of Toledo Bend. And
17 so it is subject to an interstate compact. You
18 have the, um, Sabine River Compact, which means
19 it's federal law, and -- and based on some
20 relatively recent U.S. Supreme Court decisions,
21 being within that compact I think actually protects
22 the Sabine River Authority's ability to regulate
23 the water. So long as it's consistent with this
24 compact, it protects it from challenges to
25 interstate commerce violations on the federal

1 level. So that is, you know, definitely a plus.
2 You know, this reservoir is currently operated, as
3 I said earlier, pursuant to a FERC license, so
4 there is a lot more information, a lot more
5 engineering going on in the management of the
6 reservoir than there would be for many other
7 waterways.

8 It provides a boundary between the two
9 states. So I think combining all three of these
10 make it a unique waterway. And then also, because
11 of that uniqueness, it may help distinguish it from
12 other proposals that you have in other waterways.

13 One of the concerns would be the
14 unforeseen consequences. You know, if a sales
15 agreement is entered into by the Sabine River
16 Authority, that probably will be used by someone if
17 they want to propose a sales agreement out of
18 Mississippi or out of other waterways. So we felt
19 it was very important to be able to document what
20 distinguishes a proposed sale out of Sabine, and
21 specifically out of Toledo Bend, from other
22 waterways so that we can retain as much as possible
23 for the state ability to regulate waters elsewhere.

24 So in summary, you know, there are
25 several legal requirements, many legal

1 considerations. There's a lack of clarity, as we
2 mentioned earlier, on many of the topics. The Fair
3 Market Value determination is -- is not going to be
4 an easy one, but it's, you know, one that has to be
5 grappled with. The benefits of the sale need to
6 outweigh any potential negative impacts to the
7 environment or to ecology. Reasonable term limits
8 on an agreement needs to be placed. A clearly
9 stated authority of the SRA to either curtail or
10 stop sales or transfers is needed in the event that
11 you have some overarching, um, public concern that
12 is being affected. You know, the one that
13 obviously pops to mind is a severe drought. That
14 would need some sort of the immediate response.

15 And I, you know, again, mention
16 documenting, um, the decision. Being able to
17 support the decision is paramount, both for it to
18 be legally defensible, as well as it to be
19 distinguished from potential proposals in the
20 future, and to retain the state's ability to
21 regulate water transfers or use in other watersheds
22 and even within Toledo Bend, going forward.

23 So, with that, I'd be happy to answer any
24 questions.

25 MR. HARRIS:

1 Thank you, Blake. Thank you, Seth. I
2 would like to point out, I think that was a great
3 description of what this report is. I would like
4 to point out a couple of things that the report is
5 not. It's not a decision, it's not a determination
6 of whether or not the state should sell surface
7 water out of state. It doesn't take into account
8 any, um, of the specifics of any potential future
9 sale.

10 But what it is, is, um, a resource
11 document for decision-makers, including this body,
12 House Natural Resources, Senate Natural Resources
13 and the Governor's Office, to have all of the --
14 that we could find -- all of the potential legal,
15 technical, or public policy questions that should
16 be considered when evaluating the specifics of a
17 potential sale of Louisiana surface waters. It
18 does make some recommendations on important factors
19 that should be considered, and potential legal
20 obstacles that may need to be overcome.

21 But, again, thank you for -- thank you
22 and thank all of the members who participated, um,
23 and made this, hopefully, a success.

24 Any questions? Chris?

25 I don't know if anyone can operate this

1 better than I can. I hit the "all mikes on."

2 MR. KNOTTS:

3 I'll just talk loud.

4 I have two issues. The first one I'll
5 ask, and I'll ask Mr. Founds if you would correct
6 me if I'm wrong. But the SRAs of both Louisiana
7 and Texas have a built-in compact to sell excess
8 waters, (inaudible) excess water. I don't know if
9 "excess" has ever been defined.

10 UNIDENTIFIED SPEAKER:

11 We have (inaudible) annual yield and firm
12 annual yield. The firm annual yield is about two
13 million acre-feet. So each half, we just say
14 normally we have about a million acre-feet that
15 Louisiana could sell or that Texas could sell.
16 Average annual yield is about four million
17 acre-feet. Firm yield is what you would have in a
18 period of drought. You know, that you would be
19 able to sell. And -- and so, I guess one of the
20 unique -- I heard you, Blake. (Inaudible), and the
21 word "unique" came several times. And it is
22 unique. You know. But, I don't want to get into
23 your part Chris, but, we do have --

24 UNIDENTIFIED SPEAKER:

25 That -- and that's what the Sabine River

1 Compact is. It assures the competing sharers of
2 the waters, once it hits the state lines, between
3 Texas and Louisiana, that Texas and Louisiana share
4 equally.

5 MR. KNOTTS:

6 My point was, this study focused on our
7 share of that excess and the -- and Texas we know
8 can take their share.

9 MR. CANFIELD:

10 Correct. Yes, so, obviously we did not
11 seek to, uh, you know, look into or research the
12 Texas authority. I do know that they have, um, you
13 know, more laws, tighter regulations generally.
14 Not necessarily talking about Sabine, but just
15 generally, regarding water use and water
16 regulations. So, yeah, this focuses solely on the
17 Louisiana share, the Louisiana allocation of the
18 Sabine.

19 MR. KNOTTS:

20 So, I know you specifically said it was
21 focused on Toledo Bend, but I -- I can think of two
22 instances, one in the Houston area, and I can
23 remember a second one where Texas came to try to
24 get Mississippi River water through Louisiana.
25 More recently, and I can remember this because we

1 had a coordinated response, they went through the
2 state of Arkansas and then asked just above the
3 state line to pull over all -- because the last
4 two, I believe -- I know the Sabine River and the
5 Arkansas one, maybe the last Texas one, I can't
6 remember -- were off the Dallas area. In
7 engineering circles, it's well known that Dallas
8 intends to get to Toledo Bend by 2050 or sooner,
9 and have a series of reservoirs north and south of
10 a conduit line. That's where that Arkansas water
11 was going. And did anything in the research lend
12 some light as to what our legal response could be
13 to stop them from pulling Mississippi River water?
14 Even if it goes through Arkansas.

15 MR. CANFIELD:

16 Right. So, you know, one of the reasons
17 that we focused specifically on the Sabine River
18 Authority, and despite the fact that I mentioned
19 all the unknowns, was that there are more
20 (indiscernible) than Sabine, that you do have that
21 compact that gives you a little bit more clarity,
22 um, especially regarding interstate commerce.

23 But the -- there's still a requirement
24 for several levels of approval for any out-of-state
25 transfer from Louisiana. The challenge, I think,

1 you know, as far as the scenario you brought up
2 with Arkansas, is that it's not something we would
3 directly be able to effect through some type of
4 regulatory process. It would have -- likely have
5 to be in that case some type of, like, lawsuit to
6 try to fight that. Yeah.

7 MR. KNOTTS:

8 Right. Yeah. And so Arkansas, just
9 through the relationship with other water-based
10 commerce compacts, reached out to us, but, you
11 know, if I'm pulling the water -- somebody's
12 pulling the water out above me, it's a resource I
13 don't have available to me. And I know Mark and I
14 have talked about this several times. We don't
15 really have right now -- I don't think we have a
16 real good, tight plan to defend that.

17 MR. CANFIELD:

18 Yeah, the Mississippi --

19 MR. KNOTTS:

20 Yeah.

21 MR. CANFIELD:

22 I couldn't disagree with you. I don't
23 know if --

24 MR. KNOTTS:

25 We're not going to solve anything.

1 UNIDENTIFIED SPEAKER:

2 And, where the flows hit in the
3 boundaries between Texas and Louisiana, it's only
4 36 feet per second or something. You know, so it's
5 a small amount. And that's what kind of -- but
6 that small amount is what governs all of this
7 stuff.

8 UNIDENTIFIED SPEAKER:

9 So if I could, Mr. Chairman, I want to
10 make a motion, or you want to keep discussing about
11 it, we can -- there are a couple of things I'd say.

12 MR. HARRIS:

13 I think we have a few more questions.

14 UNIDENTIFIED SPEAKER:

15 Why is Texas not using their water, their
16 share, why they want to buy ours --

17 MR. CANFIELD:

18 So there are -- and this is me definitely
19 going beyond my level of expertise, so a huge grain
20 of salt understanding of this, is, is Texas law
21 regarding water transfers, to transfer water
22 outside the basin the surface water is coming from
23 requires, um, I guess, permitting or approval above
24 and beyond what would be required within the base,
25 the reservoir, or the basin. And so, it sounds

1 like it's just way more difficult, if not
2 impossible -- it may be like -- if you read the
3 law, it says you can do it and you have to jump
4 through all these hoops, but it also sounds like
5 maybe in practice, it's nearly impossible. And
6 there is some talk, though, of that law being
7 changed or revised in the future. But I'd be happy
8 to be corrected by anyone more knowledgeable.

9 UNIDENTIFIED SPEAKER:

10 But I mean, it's not an infinite thing.
11 If we don't do it, Texas will.

12 MR. FOUNDS:

13 I think it is in their plans. Toledo
14 Bend is a water conservation project for them.
15 They will enact -- and Chris, maybe you've heard
16 this before, I think you mentioned it. 2050 is --
17 probably by 2050 before they come to Toledo and try
18 to use it as a (inaudible). So, several things we
19 -- we can go on and on and on about this all day,
20 but, um, Texas does use part of their water. They
21 don't use as much out of the reservoir as Louisiana
22 does. We sell about 27,000 acre-feet a year on the
23 Louisiana side. And the bulk of that is it to two
24 industries. It's, um, International Paper is a box
25 plant, and then we have the Cleco (inaudible)

1 plant, that's an energy plant, that takes the bulk
2 of the water out of the -- from the -- you know,
3 it's about 80 percent of the water sales out of
4 Toledo Bend for Louisiana. And then, um, they have
5 about 3,000 out of Toledo Bend. So we're probably
6 about ten times more. The amount of water is
7 minuscule compared to, we're talking about
8 (indiscernible), it's miniscule to what's in Toledo
9 Bend. This firm -- firm annual yield. And then
10 down below a diversion canal, we have a diversion
11 in the southwestern part of the state. We take
12 about twice as much there from selling to industry
13 as what the Texas side of it. So they are taking
14 their share, they're just taking with -- but this
15 amount is, you know, just a small fraction of this
16 firm annual yield.

17 A couple things I would like to say, just
18 for so the commission knows, and certainly the
19 audience, this focused -- I'd like to -- once
20 again, you did a great job talking about it. We
21 narrowed the -- I think the focus was going to be a
22 statewide deal but we narrowed it to Toledo Bend
23 because the obvious sale is going to be to the west
24 of us. It's probably not going to be to
25 Mississippi or Arkansas. So the easiest place to

1 get it would be a reservoir. Somebody that is
2 holding it, that has it, and in quantities that you
3 could build pipelines and get to it and all that.
4 So, that's probably why we, you know, narrowed the
5 focus to Toledo Bend. And of course you mentioned
6 several times that we're under FERC license, which
7 is, you know, a lot of these things we're talking
8 about, environmental impacts and all this stuff,
9 we're in bed with ourselves now. We're in bed with
10 Wildlife & Fisheries. We don't do anything without
11 going through all these -- these -- one point I
12 want to make is Sabine River Authority is a
13 self-funded agency, so we operate on the funds that
14 we're able to drive. We don't come to Baton Rouge
15 asking for funds. So, I'm sure -- I wasn't there
16 when this past water sale came and everybody looked
17 (inaudible), you didn't worry about whether or not
18 you had power sales from Toledo Bend. You could
19 operate everything you need to with water sales.
20 That didn't go through. Our power sales right now
21 are, um, like you said, Blake, about 40 percent of
22 our revenues to operate the authority. Water sales
23 are increasing. And, um, again, all of our
24 decision is then on a water sale out of Louisiana.
25 We don't have this for a water sale in Louisiana.

1 We just, we just go to the table and say here's our
2 price, and we sell it. You know, that's the way we
3 do it every day. Been doing it for 40 years,
4 selling water. But, um, I did want to make those
5 two points. And the point about -- of us asking is
6 there a difference between stored water and running
7 water -- because there is certainly a price to have
8 stored water. A FERC license is a price at close
9 to a million dollars a year, that somebody has to
10 come up with and meet all these obligations and
11 stuff.

12 So, the river authority would look to
13 this as a sale. I think we've learned a lot this
14 past year of, you know, if there ever was a sale
15 again, if there is -- or someone comes from the
16 other side of the river and asks for it, I think we
17 got a good group working here. I'm certainly glad
18 to see that it's here with the people that have the
19 knowledge to deal with it. I think there are a lot
20 of legal issues that have been brought up through
21 the years. 50 years ago I think that the folks
22 that were sitting down here when we created the
23 river authority, they gave it totally to the body.
24 And through the years it was changed to what we
25 have today, with this list of people that would

1 have to approve any water sale. And I'm not saying
2 that's bad. I think certainly having a Water
3 Commission is good thing. Um, but, um, those were
4 just a couple of points.

5 I think the deal about having the
6 reservoir, with the stored water, there is a price
7 associated with that. The stored water is also
8 what feeds our diversion canals now, both on the
9 Texas side and the Louisiana side. So, the Sabine
10 River Diversion Canal would only be good when the
11 river had water in it. Fifty years ago, so if you
12 were in a drought, those companies would have to
13 find water somewhere else. We do control the
14 Sabine River now from the dammed water. We keep it
15 at whatever level we want to keep it with, with
16 this stored water. So, the benefit to the state,
17 certainly, is obvious. You know, anybody that is
18 in South Louisiana and sees a new plant going in,
19 that's -- it's there because they have the water
20 available to it.

21 So, again, we can go on and on about
22 this.

23 Mr. Chairman, I would like to make a
24 motion that we accept this report.

25 MR. HARRIS:

1 And at the appropriate time. Thank you.
2 I believe we have a couple more questions, I
3 believe, Mr. Davis?

4 MR. DAVIS:

5 I just want to make a point of
6 clarification, because the question was raised
7 about the Mississippi River and also why Texas
8 doesn't use their own water for this. Um, those,
9 quite frankly, have to be answered. And the
10 question about Texas is because Texas law wouldn't
11 allow interbasin transfers of this sort right now.
12 That could change. But also, the only sale we've
13 ever seen proposed was the one a couple of years
14 ago. And that was not the state of the Texas.
15 Those were water brokers. Private people who
16 wanted to buy water so they could sell it as a
17 commodity. Texas does not allow it. No state that
18 I am aware of allows that because that is a
19 speculative purpose. Public purpose -- and, you
20 know, wide definitions of that. And I think that's
21 an issue that we would have to deal with. So if
22 Texas came to us with a deal to make, my guess is
23 there's some -- there's greater latitude. But when
24 somebody wants to come and essentially privatize a
25 public resource, those are different rules. And

1 that's one of the reasons that -- it was easier to
2 come to Louisiana, where there's less law, less
3 history, and ask for our half of the Sabine to mark
4 it as a commodity than you could in Texas. I don't
5 believe Texas would have allowed it.

6 Also, the issue of the Mississippi, I
7 mean, for example, interbasin transfers in Arkansas
8 are allowed with surplus water, however you define
9 that. They do not have a mechanism for declaring
10 surplus in the Mississippi, in part because it's
11 such a -- it's a national river. So that proposal
12 would likely not go much of anywhere. But it's
13 there for a reason, to essentially flush out the
14 conditions upon which water brokering might begin.
15 And that could happen in Louisiana. And it doesn't
16 have to be a pipeline and it doesn't have to be
17 Texas. Keep in mind the Great Lakes ended up with
18 a compact in 2008 because of a proposal for tankers
19 to come in from around the globe, fill up, and
20 leave. And they wouldn't get paid a penny, really.
21 So I'm just saying that you have to -- the
22 fundamental thing that we should always keep in
23 mind is, why is it valuable? And if it's valuable
24 enough for someone else to go to this trouble, then
25 maybe we should ask why is it not more valuable to

1 us? Or are we putting the right value on it.
2 Texas covets water and -- and our rivers, in part
3 because they need water to grow. Water for
4 agriculture, water for industry, and without water,
5 they can't grow. Some of you may or may not be
6 aware of it, but about three or four weeks ago the
7 state of Utah got a letter from Moody's, the bond
8 rating folks, saying, You're a really strong state,
9 great financial fundamentals, but you are growing
10 beyond what we think your water budget allows, and
11 we're starting to worry that you're growing beyond
12 the ability for you to repay bonds because there
13 won't be enough water there to sustain your growth.

14 They either will stop growing or start
15 conserving more, or they're going to import water.
16 Those are the things we just need to know. We have
17 a natural advantage and we have -- again, these
18 laws do not compel wisdom. But they do compel at
19 least an ordered approach to thinking about things
20 that public -- that are fundamentally public. And
21 that, I think, is what we always have to keep in
22 mind when we are hearing these proposals. And one
23 is in a very special spot, because they are
24 required to generate their own revenue. And if
25 that's the hand we've dealt them, we can't except

1 them not to play it. That's part of the
2 conversation I think the rest of the people of
3 Louisiana have to think through, is our -- are the
4 ways we're approaching it, do they make the most
5 sense?

6 So I think this is one of the things that
7 is on the table. I mean, Pat Forbes will tell us
8 about the Louisiana Watershed Initiative, which is
9 another -- and again, the work that the Louisiana
10 Law Institute and my shop are doing with the water
11 code, all look at these things. But I just wanted
12 to give you an idea of why the Mississippi is in
13 play. Let's be very clear about that. The
14 Mississippi river is in play in the minds of many.
15 And there's a difference between a sovereign coming
16 to us and asking for water for a clearly public
17 purpose and essentially a private interest trying
18 to privatize it. And that is one of the reasons, I
19 think, as Blake noted, you have to understand the
20 fundamentals of each proposal. The answer isn't
21 always the same, but the questions you have to
22 answer are. Thank you.

23 By the way, thanks for the holiday cheer.

24 MR. HARRIS:

25 Are there any other questions or

1 comments?

2 MR. FORSMAN:

3 I just want to comment, there are several
4 stakeholders identified in the report, and they
5 should be considered for any decision. I didn't
6 see anything about supply in there. And we have,
7 in the two parishes, we have over 25,000 people
8 that depend directly on the Toledo Bend reservoir
9 for the drinking water and five public water
10 systems. And only one of those can partially
11 supplement the groundwater. I think that is pretty
12 important as far as a stakeholder group. If
13 something would happen to the resource, they have
14 to move. It's as simple as that. Or we'd have to
15 engage in some other large-scale water (inaudible)
16 operations. And I would hope that is in the
17 report, as well as a guidance document for decision
18 making.

19 MR. HARRIS:

20 Thank you. Karen?

21 MS. GAUTREAUX:

22 And I want to commend all of the people
23 who put together this report that indicates the
24 complexity of all of these issues. It's a great
25 job of explaining the many things that had to be

1 looked at. One of the things that -- I think Blake
2 had said in your overhead, sales outweigh the
3 environmental benefit. And I think the
4 environmental benefit must outweigh the sale. I
5 mean, the overall benefits.

6 One of the things that I think we keep
7 coming back to is that issue of access, in terms of
8 what is the access to the state. And I know the
9 example of the Sabine River, um, we know that
10 little tweaks -- that area is not, um -- doesn't
11 have the benefit of a lot of rivers flowing through
12 it, and a little tweak upstream could have
13 environmental impacts. And we know that the oyster
14 population is an example. We would be happy to
15 help with any of the tools that we have to look at
16 those flow issues.

17 Again, I'm really glad that this report
18 points out the many considerations that have to be
19 taken. And also, I was thinking from the budgetary
20 standpoint, also I agree with Mark, if this is
21 driving sales and (inaudible), we have a duty to
22 look at how that public resource is funded.

23 MR. HARRIS:

24 Thank you, Ms. Gautreaux. Are there any
25 other questions from board members?

1 MR. DUPLECHIN:

2 I have one comment. I'm glad that this
3 Commission decided to finally go ahead and address
4 this problem. As most of you know, I used to work
5 for Dallas Conservation. And back in about 2005,
6 some individuals in the Dallas area approached the
7 Department of Environmental Development. Giving
8 y'all all the money in the world for the water in
9 Toledo Bend. And we figured it out, and it came
10 out to pennies for a million acres, over a 50-year
11 period. And ultimately, the state decided not to
12 pursue this. They rattled their (inaudible), said
13 they had gone to the, um, some of the big players
14 on some other things, and said, um, We told the
15 mayor of Dallas we didn't get our way with this new
16 stadium, we were going to change the name of the
17 team to the Arlington Cowboys. So.

18 But unfortunately the state didn't
19 knuckle under. Louisiana didn't knuckle under.
20 And earlier, as Mark said, they're looking to get
21 water out of the Toledo Bend to send down to
22 Houston. Big water (inaudible) in Houston. But
23 I'm glad we've finally moved ahead with this and
24 are looking at it as an issue (inaudible).

25 MR. HARRIS:

1 Any other questions or comments? Are
2 there any questions or comments from the public?
3 Hearing none -- where we are right now, we have a
4 motion on the floor to approve this report as
5 filed, um --

6 MR. STOSHAK:

7 I second.

8 MR. HARRIS:

9 We have a second. All in favor, signify
10 by saying aye.

11 BOARD MEMBERS:

12 Aye.

13 MR. HARRIS:

14 All opposed?

15 The motion carries. Thank you.

16 LOUISIANA WATERSHED INITIATIVE

17 MR. HARRIS:

18 Our next agenda item is Patrick Forbes,
19 Louisiana Office of Community Development. He's
20 going to give us an update on the Louisiana
21 Watershed Initiative.

22 Good morning, and thank you, Mr. Forbes,
23 thank you for being here.

24 MR. FORBES:

25 Good morning. Thank you for having us.

1 Is this on? Y'all hear this?

2 MR. HARRIS:

3 To the best of my ability to turn it on,
4 yes, it is.

5 MR. FORBES:

6 Okay. I'm joined by Alexandra Carter,
7 who leads the Watershed Initiative for us. I'll
8 just talk a little bit until slides start showing
9 up up there.

10 As everybody here knows, the state was
11 whacked in 2016 by two major floods that impacted
12 56 out of 64 of our parishes with presidential
13 disaster declarations. Shortly thereafter, the
14 Governor got several of our agencies together and
15 said, We have to do a better job of managing flood
16 risk.

17 We have been talking and working since
18 then to accomplish that objective --

19 It sounds like I'm on a microphone now.
20 All right.

21 MR. REONAS:

22 Yeah, sorry about that.

23 MR. FORBES:

24 And -- oh-oh. Okay.

25 MR. REONAS:

1 Is that good?

2 MR. FORBES:

3 That's good. I'll just move my head
4 back.

5 And so we have been working to accomplish
6 that objective. One offshoot of that, one result
7 of that, is the Louisiana Watershed Initiative.
8 The purpose of the Watershed Initiative is -- is
9 multifaceted, but it is primarily to reduce flood
10 risk for the state, to ensure the continued natural
11 function of the waterways in the state while we do
12 that; to do that economically, efficiently, and
13 wisely; and to move the state towards managing
14 flood risk on a watershed basis rather than our
15 current approach, which is a jurisdictional basis.

16 Thank you. So, that concludes my
17 presentation.

18 (Chuckling)

19 So, why a watershed initiative? I've
20 touched on this already. We really can't
21 reasonably expect to manage flood risk around
22 jurisdictional boundaries. Water does not respect
23 jurisdictional boundaries, as we all know, if I'm
24 stating the obvious. And so we're going to have to
25 start working together on that, in ways that we

1 haven't in the past, quite frankly, if we're going
2 to manage flood risk appropriately and efficiently.

3 You can look at some jurisdictional
4 boundaries we have in the state, alongside some of
5 our watershed boundaries. On the left, you can see
6 the Regional Planning Commissions. Not a terrible
7 match, but it's certainly not perfect. And then
8 you can see the parishes on the right. And it
9 becomes quite clear that we're going to have to
10 work a lot more closely together within these
11 watersheds if we're going to be effective at doing
12 this.

13 Our mission, again, reducing flood risk
14 and improving flood plain management across the
15 state, including maximizing the natural and
16 beneficial functions of the flood plain.

17 So we have sort of a dual approach to
18 this right now. First, aligning all the pieces
19 that are in place. And of course, that is where
20 the state agencies that the Governor has tasked
21 with this, which I will say are Transportation &
22 Development, Mr. Knotts sits on the council with
23 us, CPRA, um, GOHSEP, and Wildlife & Fisheries.
24 And we are also engaged in other, uh, obvious
25 partners, DEQ, reaching out to Ag & Forestry, FPNC,

1 all of whom are spending money on things that
2 impact this. And that goes to this alignment,
3 looking at not only state resources, but local
4 resources, federal resources, to make sure that we
5 align those and ensure their most efficient use and
6 application. At the same time, we have to move
7 towards this watershed-based approach to flood
8 plain management.

9 Just for purposes of timeline, I will hit
10 a few things here. Alluded to the floods already,
11 to the work we started doing at the Governor's
12 request. In May of this year, um, the Governor
13 actually signed an executive order that created the
14 Watershed Council from those agencies that I just
15 mentioned. And so, we have been working for nearly
16 two years now and -- and continue that process, and
17 it continues to evolve.

18 Strategic areas of focus. None has
19 priority over the other. Every one is critical to
20 successful implementation of this process, and they
21 are all completely intertwined with each other.

22 Data, I will start with. It has been one
23 of our initial focuses. And that in essence means
24 figuring out what data we have, what the gaps are,
25 what modeling capability we have, what the gaps are

1 there, and how do we make that more uniform across
2 the state so that local, regional, state, federal
3 agencies are all working together with a common
4 playbook and a common set of facts around what the
5 flood risks are.

6 We have, uh -- some areas are obviously
7 better than others in terms of what data we have
8 relative to river stages, rainfall, all the
9 different data that we would need to do this work.

10 Capability and capacity. Again, this
11 varies widely around the state, depending on what
12 legal jurisdiction you go to, how much capacity
13 they have and how much capability they have to take
14 on something like this. You can't do this -- we
15 recognize quite clearly we can't do this without
16 having be -- be not only engaged, but led from the
17 local level. So part of this, um, initiative is to
18 build that capacity and capability at the local
19 level so folks have tools and resources available
20 to them to make the smart decisions that -- that
21 they can make with those resources.

22 Funding. Um, we have, this year, been
23 allocated \$1.2 billion specifically for mitigation
24 of future flood risk. This is based on the 2016
25 floods. We have yet to receive the guidance

1 related to that funding from HUD, so we can't start
2 spending it yet. We can't even present a plan to
3 HUD to start spending it yet, because they have to
4 tell us the rules first. But we know that money is
5 coming. But that's not the reason for this
6 initiative. We got started on this before that
7 money was ever appropriated, because we have to be
8 better at managing flood risk in this state.

9 And there are other funding sources.
10 There are other federal funding sources. Every
11 parish in this state, every city in this state,
12 spends money on trying to manage and reduce flood
13 risk every year. How we marshal all those
14 resources and marshal them through a science-based,
15 engineering approach, that's what makes the
16 difference in helping us get better at this.

17 Integrated planning. We're not going to
18 get anywhere without starting to plan around these
19 watersheds. And that means top to bottom, again,
20 including local, state, federal resources, private,
21 public, it's all hands in the cook.

22 Engagement. Of course, we haven't done
23 this before. This is probably the biggest part of
24 the undertaking so far, is engaging with folks at
25 the local level, at the federal level, in other

1 states, um, so that we can learn from them where
2 they have been, what mistakes they've made. But
3 the engagement piece is really going to be one of
4 the biggest drivers, because this is a mindset
5 change for everybody in the state. So we've got to
6 be able to educate, we've got to give people the
7 resources they need to be able to start making
8 those smart decisions.

9 And then standards. This goes to the
10 data. If we're going to have people trying to
11 manage a watershed together across their
12 jurisdictional boundaries, they're going to have to
13 have some common set of standards that they have
14 agreed to, whether that's standards for the
15 modeling that they do, or the data they collect, or
16 the ordinances that they institute in their
17 watershed. So, creating a common set of standards
18 for everybody to use as they see fit, is going to
19 be critical.

20 Existing efforts. We have written an
21 action plan to the best of our knowledge, um, based
22 on what we expect the Federal Register notice to
23 say, but of course we can't finalize that until we
24 get the Federal Register notice. We are working
25 towards statewide modeling. I'll talk to you in a

1 moment about a listening tour that we just did
2 around the state that was largely focused on
3 speaking with engineering firms, university folks,
4 about the data and models that exist out there now
5 and what their experiences are. Again, data
6 improvement and engagement.

7 We went to eight cities around the state
8 in a little over a month. These were all-day
9 meetings, except we engaged in three different
10 meetings. The mornings were taken with, um,
11 technical folks, engineers, professors, just really
12 hearing from them what their experiences were, what
13 their knowledge is already around the watersheds in
14 which they operate. But then we also talked to
15 local officials, implementation officials,
16 inspectors, folks like that, and then we talked to
17 local officials at the end, because we know the
18 buy-in and contribution from all those folks is
19 going to be important.

20 Again, the morning sessions, we made each
21 one a little bit different. And so, um, we had
22 those on, um, webinars, and I think they're still
23 available -- so that folks can go back and watch
24 them. Each one gives a slightly different
25 technical angle of everyone around the state so

1 that we can have specific conversations.

2 What we heard on engagement, first and
3 obviously, locals want to be involved in this
4 process. We understand, and the Governor has said
5 from the very beginning that this cannot be a
6 top-down driven approach. It's going to have to
7 engage the local folks, and that's clear and
8 obvious for so many reasons. There is a need for
9 that capacity-building at the local level. There
10 is tons of local expertise in some places, in
11 others, not so much. And so, again, with capacity
12 building, we've got to make sure that's available.
13 We can't have haves and have-nots across the state
14 in terms of flood management because a particular
15 community or watershed doesn't, um, happen to have
16 the resources available to them, or the expertise.
17 And the jurisdictions were very supportive of the
18 outreach at the local level.

19 Next steps. We're pulling everything
20 that we have taken from this listening tour,
21 synthesizing that into a report that will help
22 us -- help guide us for what the next steps are.
23 This will be an evolving process; we've never done
24 it before. So this will continue to evolve,
25 continue to require engagement at every level.

1 Next steps will likely be another round
2 of listening tours, but with individual --
3 including public individual meetings, so we can
4 start together and put -- from folks who live in
5 these watersheds.

6 MS. CARTER:

7 I was just going to add for the
8 Commission that we were really successful. Right?
9 So we spent all day with -- with engineers and
10 architects and planners, and -- and what Pat is
11 getting at is the first step of this is to model
12 the state. Right? To get all the data on the
13 ground. And before we have the money to do that,
14 we've engaged with all of the people who would be
15 interacting with these models. Right? So we're
16 introducing them to the idea of decision-making at
17 a watershed level. And so, it wasn't just, like,
18 you know, we have this money, we're going to do
19 these models, and here you go. You know, it was,
20 we went down at the local level, talked about the
21 models, talked about the initiative, about this
22 transition in thinking. And at every stop, we
23 heard great, great things about what we were
24 proposing. And a lot of times we heard "Thank you,
25 thank you" -- and this is because of the people we

1 were engaging. Right? And largely, it was
2 modelers. It was engineers. It was public works
3 directors. It was planners. And we -- we have to
4 shift from that. Right? We're going to shift and
5 start engaging with developers and the building
6 community. But we started knowing we needed this
7 group of scientists and the experts in the field
8 that were going to be interacting with these models
9 and making the decisions, or helping to make
10 decisions based on the models' outputs.

11 And so, you know, it's a lot of meetings,
12 but they were really successful. And I think it's
13 going to mean, once we're finished with the models,
14 that they -- they'll be used. Right? That they'll
15 actually be utilized by locals, because from the
16 very beginning their input was brought in to the
17 process and they feel -- and I mean, I had people
18 tell me too, "This is like a democracy. You're
19 actually getting our feedback."

20 So it was very successful. It was a
21 laborious effort on the state's part to engage,
22 but -- and even though it's the first time we've
23 done it, it was very well received. You know, we
24 all understand that there's limits to that, but
25 it's exciting for the state to -- to be out there

1 on the front lines talking about, thinking about
2 flood risks at a watershed level and how we change
3 the way we think.

4 MR. FORBES:

5 Yeah, our biggest fear has so far been
6 that this change of approach is going to be
7 resisted, because it's a change and people tend to
8 resist change. But this round of listening tours
9 gave us exactly the opposite impression. Everybody
10 that came there said, "This is great. Do more."

11 And so it's, um -- it was really
12 eye-opening for us. Now, granted it was a
13 self-selected audience, but, um, still, the
14 response so far has been amazing.

15 MS. CARTER:

16 And I'll just add that we're not naive to
17 think that the conversations that we've had with
18 developers aren't difficult. But the idea is that
19 the models are going to help to reduce the tensions
20 we already experience between communities and
21 developers. Right? Because you inject truth.
22 Right? And so there isn't as much fear and
23 confusion about the ramifications of local
24 decision-making if we can provide them with the
25 tools to make smarter decisions.

1 So there is a conversation that we think
2 we can have with both sides of the table and find a
3 really plausible, effective middle ground that
4 acknowledges the existing natural environment.

5 MR. HARRIS:

6 My apologies for not properly introducing
7 you, but would you identify yourself, please?

8 MS. CARTER:

9 Yes. My name is Alex Carter. I'm the
10 resilience planning manager with the Office of
11 Community Development.

12 MR. HARRIS:

13 Thank you.

14 MR. FORBES:

15 Okay. Modeling and procurement. As
16 we've been discussing, this is going to require
17 essentially hydrologic and hydraulic models across
18 the state. We're planning to pay for that out of
19 the \$1.2 billion. But how do we go about doing
20 that? It -- it's not a simple question. What we
21 heard was, um, the folks at the local and regional
22 level absolutely want to be engaged in development
23 and procurement. We understand there are economies
24 of scale to having folks do a larger watershed. We
25 also know that we can't have probably one firm do

1 all. We also don't want to do 59 different
2 contracts and tiny models and worry about how to --
3 how to, um, put those together.

4 So, um, this is still a work in progress
5 as we move towards how we're going to do this. But
6 this is one of the very next steps for us, will be
7 procurement of modeling. We have a model for it,
8 if you will, on the Amite River basin, which we
9 funded a couple of years ago. And that product
10 will be out in the next couple of months, I think.

11 Next step will be establishing how we go
12 about that at the state/local partnership level
13 to -- to procure those services.

14 On data, um, what we heard was
15 establishing those standards that I talked about
16 earlier, how critical that is, and we're starting
17 to understand that even establishing standards is
18 not simple, because every single topography, as
19 it -- as they differ from coast up to hillier
20 country, um, drives some of those -- where some of
21 those standards have to go to. So there's a --
22 there's a trick to it.

23 Live model with QA/QC and continued
24 updating. Um, why the data and -- and the
25 standards and models are needed, and then focus on

1 using funds efficiently. I can promise you, the
2 Governor made it clear from the very beginning, and
3 everybody at these meetings made it clear, that it
4 doesn't make sense for us to get \$1.2 billion and
5 spend half of that on data and modeling. We've got
6 to be able to go implement some things that make
7 the people of the state safer from floods. And so,
8 we've got to be efficient in how we go about
9 procuring and using these services.

10 On policy, um, we heard that some
11 guidance and models from the state will be helpful
12 to locals. Nobody -- we don't -- there's no need
13 for us to go re-invent the wheel every time
14 somebody wants to write an ordinance or a standard
15 for their watershed. And so some help, by
16 providing options for them that they can choose
17 from, would be effective. Enforcement, potentially
18 from the state or from the watershed jurisdiction
19 that may be created. And then best practices
20 and -- and model ordinances made available to the
21 locals.

22 Minimal framework for watersheds to
23 follow. In other words, what does a watershed plan
24 look like for -- for that entity that is working
25 together to develop it. Funding decisions, help

1 with -- as that entity, as that watershed, as that
2 group of parishes and cities, if you will, gets
3 together and talks about what projects are we going
4 to build, what ordinances are we going to do, some
5 guidance about how to make those decisions so that
6 they are fact-driven, engineering-driven,
7 science-driven.

8 Integrating local plans with state plans,
9 and, um, and specific pre-disaster planning. I
10 think that's the, here we are post-flood, we're
11 coming up with a new way to manage flood risk. The
12 effort needs to be pre-flood, obviously, which is
13 where we're trying to go now. We want to ignore
14 the floods of 2016 and plan for all the disasters
15 that may come at us. We can't plan for disasters
16 that have already occurred.

17 On projects, we heard a couple of
18 different things. One, we want to go start
19 spending some money now. Two, that's difficult at
20 times because we don't have the data, we don't have
21 the models out there to help us in a lot of cases.
22 So, um, we've got to sort of look at projects from
23 two different perspectives. Ones that we call "no
24 regrets projects," which have a very high potential
25 of reward with very low potential of risk, but then

1 also those that we know we're going to need
2 modeling and better data on before we can go make
3 decisions about big investments. And even then
4 some smaller investments. There are a lot of
5 things that we've seen was we've gone around the
6 state that help us understand that even things that
7 seem like a no-brainer, are not. They can have
8 impacts upstream and downstream. They can be
9 detrimental both to water quality, but also to
10 flood risk, and so, we've got to have that model in
11 place for a lot of things, but we've also got to
12 figure out some things that we can go do now that
13 are going to start making folks in Louisiana safer.

14 Funding through sound criteria. So this
15 goes back to the standards that we talked about.
16 We're going to have to help locals. We're also
17 going to have, at the state, level criteria for
18 deciding about projects. We have got to
19 depoliticize the process in the same way that
20 CPRA's work in coastal Louisiana has depoliticized,
21 to the extent possible, investments in -- in
22 coastal land laws. We've got to do the same thing
23 here, and that means getting objective criteria in
24 a place that people can use to do that.

25 MS. CARTER:

1 I was just going to add, when we talk
2 about program alignment as the other, sort of, half
3 of this at the state agency level, that includes
4 taking this criteria that's watershed initiative
5 based and incorporating it into all the agencies'
6 philosophies.

7 So as funding is expended at all levels
8 across the state, these criteria are being met, so
9 smarter decisions are being made with state dollars
10 beyond this point, not just in isolation for this
11 initiative, but throughout all the agencies that
12 are participating.

13 MR. FORBES:

14 Yep. That goes to back to the whole
15 funding thing. We are spending money all over the
16 state all the time, and doing that in a way that's
17 consistent with what we learned through this
18 process, is going to be part of the future funding
19 resource. The \$1.2 billion, we're going to spend
20 it, we're going to be done with it, and it's
21 probably not coming again. But every other penny
22 that we spend, keeping it aligned with the
23 strategies that we developed through this process,
24 will make us better and mor efficient as we go,
25 forever.

1 Next steps. Modeling, we've already
2 alluded to. Engagement strategy and project
3 evaluation --

4 MS. CARTER:

5 And I would just, I would add, too, we're
6 also developing a regional capacity building grant
7 program, so as we will be reaching out to, you
8 know, regions in January, February, and March, and
9 discussing what they have in terms of capacity to
10 be at (inaudible) with us and providing them with
11 the resources they need to actively engage, so we
12 can get and start building that coordination at the
13 regional level to start facilitating this type of
14 thinking and decision-making and strategizing. But
15 it'll help that we're going to talk with them about
16 their -- their procurement strategy for the models
17 in their region, to bring them that -- we'll be
18 discussing all these different things and also
19 providing them an opportunity to have resources at
20 their ready, so they can continue to actively
21 engage with us, and that communication is
22 maintained, and they're not, you know, suffering as
23 a result of the time we need to spend with them to
24 make sure we're meeting their needs.

25 MR. FORBES:

1 I want to talk about this Project
2 Evaluation Criteria and Round 1 Application, just
3 because we get a lot of questions from folks.
4 People have projects they want to do right now.
5 So, we -- we are compiling lists of projects that
6 people have sent us. And that's helpful to us
7 because we can look at the sorts of things that
8 people are thinking about right now, stage of
9 readiness of those projects. But we will also do
10 an announcement of availability of the funds so
11 that folks can send formal applications when we get
12 to that point.

13 But if people have projects they're
14 working on at the local, state level, whatever,
15 that they think might be appropriate, we're glad to
16 take those now and start taking a look at them.

17 MS. CARTER:

18 And I'm just going to add, all of these
19 different strategies are going to be proposed at
20 the next council meeting on January 30th. So
21 you'll be able to -- some of those will be posted
22 online for public comment as well. And that, um,
23 for the project criteria and the Round 1
24 Application, we're planning to do a webinar. So we
25 have, like, 2,500 people that are on our mailing

1 list. We're going to blast this information out,
2 the notice of funding opportunity, and then have a
3 webinar that walks through the application, the
4 criteria, and get where we can answer those
5 questions in advance of the -- the window opening,
6 so we can sort of provide as much information on
7 the front end to reduce any confusion during the
8 application process and release some of that
9 pressure. So there will be more information
10 coming.

11 MR. FORBES:

12 Any questions?

13 UNIDENTIFIED SPEAKER:

14 Do you see a problem with permitting
15 this, (inaudible), for any these projects with the
16 Corps of Engineers?

17 MR. FORBES:

18 I think anybody who is familiar with the
19 Corps of Engineer's permitting processes knows that
20 that is a challenge we'll have to address, yes.

21 MS. CARTER:

22 And they are a partner, so they have been
23 working with us.

24 MR. FORBES:

25 Sure. Yeah, we've had the Corps, FEMA,

1 USGS, all those guys are -- are working with us
2 now. And they all recognize that they have a role
3 in this. They also all recognize that this is a
4 seed change, not only for Louisiana, but most
5 places in the country are not taking this approach.
6 And so they're extremely eager and have been
7 extremely supportive in helping us advance this
8 idea. So hopefully that's going to pay some
9 dividends.

10 MR. HARRIS:

11 Ms. Gautreaux?

12 MS. GAUTREAUX:

13 First of all, I had an opportunity to go
14 to the Baton Rouge planning session, and I was
15 incredibly impressed by the level of interest in
16 the public and the receptivity of the staff. I
17 mean it was truly an impressive meeting. I want to
18 get to, um -- I'll just mention two things -- well,
19 three. Number one, I think having the strong
20 science foundation is going to be critical in being
21 able to have a good base foundation, set the
22 precedent, and have projects that do a little bit
23 about what -- you know, as we're expecting.

24 On the permit front, um, I really want
25 to, and I'm sure you plan on doing this, but, um,

1 make sure that there is, like CPRA has, a public
2 process. Not only the announcement, but when
3 there's, um, projects are pre-selected, there's an
4 opportunity for public input, because we were told
5 a few times, in certain settings, Well, don't
6 worry, when it goes up for a permit, you'll have an
7 opportunity to comment on the permit. But in fact,
8 some things might not require certain permits that
9 are very well worth the public being aware of and
10 an opportunity to comment on.

11 The third thing, um, are you -- this is
12 a -- a quandary I'm seeing more and more. A local
13 planning group will say okay to certain
14 developments that may be, say, within vast lands,
15 within hurricane storm surge zones. Are y'all
16 coordinating with the local planning and zoning
17 commissions in your work?

18 MR. FORBES:

19 Yeah. I think -- and Alex, feel free to
20 jump in -- but I mean, that is going to be
21 absolutely critical at the local level, is when
22 these parishes get together and decide, Okay, we're
23 going to have certain development codes here, well,
24 it's not going to be okay for one to allow those
25 codes to be ignored and one to follow them. And

1 that's the whole point of managing that as a
2 watershed. And so it will be critical.

3 Now, how does that happen? Does it
4 happen by a watershed entity created in law? Or do
5 they cooperate? These are questions that have to
6 be answered.

7 MS. CARTER:

8 And I would just add that we -- we have
9 engaged the planning department directors, their
10 staff, floodplain managers, in that afternoon
11 session at the listening tour. It was geared
12 specifically towards them. And we were also
13 engaged with a lot of the associations, and the
14 American Planning Association was one of them. We
15 continue to reach out, um -- I think we'll be doing
16 a session with them specifically about the
17 initiative. But that, in the coming months, we'll
18 continue to reach out and discuss with them how
19 this is going to impact them. And in my previous
20 work, that was what it involved, primarily. So
21 that's where the rubber meets the road.

22 So, um, we absolutely want to make sure
23 that they remain engaged and we're using their
24 input throughout the application.

25 MR. HARRIS:

1 Ms. Gouedy?

2 MS. GOUEDY:

3 If I could just make a brief statement.
4 Thank you, guys, for your presentation. I, too,
5 participated in the Monroe listening tour, very
6 well received, and was at your last council
7 meeting. I spoke with you briefly afterwards.

8 I hope that y'all move forward,
9 especially into the modeling, that you sit back and
10 are able to, um, take it outside of the parish. Of
11 course we know these watersheds don't really follow
12 our boundaries. So, if we have parishes creating
13 their own modeling, we have it within the startup.
14 We have 16 parishes, and I've got several parishes
15 doing different water-related things. But they --
16 they're all intertwined, they're all connected.
17 But the studies are -- they're different.

18 I would encourage y'all to -- to consider
19 a way to, as you just alluded to, whether it is a
20 development of watershed, and we've got districts
21 galore throughout the state, so I feel like there
22 is something you can tap into. But when it comes
23 to funding, when it comes to the modeling, and
24 especially my neck of the woods, I would strongly
25 encourage some way to -- to link the region, not

1 just within the parish.

2 MR. FORBES:

3 Absolutely. It will not be done by an
4 individual parish. The modeling will be done on a
5 watershed basis. It's the only way we can approach
6 it. It's similar to if -- if we look at the Amite
7 Basin modeling that we're just about to complete,
8 obviously we've got five, six parishes there.
9 They -- they -- um -- each of them may have
10 modeling work going on within their parish, but
11 it's all going to have to feed to the master model
12 for the Amite River Basin. If that makes sense.

13 MS. GOUEDY:

14 Yes. Good.

15 MS. CARTER:

16 And just to build on that, we did hear a
17 lot of times that the models were really limited,
18 because they were project-focused. Right? They --
19 they're developed in response to a project. These
20 models are different because they're developed at
21 the watershed level and they're intended to be able
22 to knit together. So the boundary issue shouldn't
23 be an issue. In discussing with our modelers, even
24 just establishing the boundaries of the contracts
25 themselves, they've advised, even that isn't going

1 to matter, because contracts should be able to knit
2 together.

3 MR. HARRIS:

4 Mark?

5 MR. DAVIS:

6 Just to follow on that, because, you
7 know, we've talked about some of the water code
8 work that, you know, the -- is going on in the
9 Louisiana Law Institute and, you know, we have our
10 own issues that come up here. I think one of the
11 challenges we're going to have as we do all of
12 this, is we're trying to manage without data. Or
13 the data we have is not matched up with the other
14 data sets that we have. And so, you know, I
15 realize that, you know, for funding purposes, you
16 may need models with a certain amount of band
17 width. But if we can coordinate a bit, say
18 we're -- we're raising everyone's vote, because
19 again, the idea that, again, in-stream flows are
20 the only things that matter, or that, you know,
21 coastal issues are the only ones that matter, and
22 right now we have models for the coast, we have
23 models for in-stream flows, we have some models for
24 groundwater, and they have yet to be actually
25 plugged together in a useful way, even though it's

1 often exactly the same water. Um, you know, we
2 would be delighted, um, to be partners in any way
3 in making sense out of that.

4 MR. FORBES:

5 Okay. Thank you.

6 UNIDENTIFIED SPEAKER:

7 This looks like a very comprehensive
8 project. Do you have a certain time frame in mind
9 that you would see any accomplished goals?

10 MR. FORBES:

11 Yeah, I -- I'll let Alex talk to the --
12 the immediate time frame. I'll tell you about the
13 CBDG money, which is that we have to get it spent
14 within six years. So, um, that's one piece of it,
15 but it's not the whole thing.

16 MS. CARTER:

17 Right. And there are multiple tracks,
18 right? So there's a project track, so we're
19 looking at, you know, breaking ground on projects
20 as soon as we can. Right? And that's why we're
21 developing all the criteria, the webinars,
22 everything we can, before we even can send in our
23 action plan. So that is going to happen as soon as
24 possible.

25 So we have a technical group that's just

1 focused on projects. We have another technical
2 group that is just focused on data. And the data
3 has two different tracks. It has a data track that
4 deals with collecting and monitoring and retaining
5 data in a smart and efficient way, and it has a
6 modeling track that deals with management and
7 procurement and how we get these models done in a
8 very efficient and timely manner so we can form
9 long-term projects.

10 We'll have a strategy for data -- for the
11 modeling and procurement by January of '19. We'll
12 have over the resilient -- I keep wanting to say
13 resilience, but it's regional, the regional
14 capacity building program, so people can be at the
15 table. And we might be hiring staff -- right? --
16 in these regions so that somebody is there to
17 answer the phone and engage and identify community
18 leaders, partners, expertise, that also needs to be
19 involved at a local level to build capacity for
20 this type of work. Or support capacity. I mean, I
21 think a lot of regions, and Pat alluded to this, is
22 a lot of people are doing a lot of great work
23 already. We have to understand that so we don't
24 duplicate those efforts.

25 And then in terms of -- so that was

1 projects, data. Engagement. So, we've done the
2 listening tours, we're going to reaching out to
3 regions about procurement. Right? You want them
4 to be at the table talking about these contracts so
5 you don't isolate them from the process, um, in
6 January. So we'll start that then, in anticipation
7 that none of these contracts are going to hit the
8 ground until March, or the summer. So everybody
9 will have enough time to really understand and ask
10 questions, and we'll get the feedback.

11 But that -- there was one other thing.
12 I'm losing my train of thought.

13 MR. FORBES:

14 Modeling and engagement.

15 MS. CARTER:

16 Oh, engagement strategy. So y'all talked
17 a lot about Texas and your neighboring people who
18 are -- who are sharing our interests. Right? We
19 heard a lot about that. And it's not unique.
20 Right? We share a lot of watersheds with Texas,
21 Arkansas, Mississippi. And so, what we need to do
22 is understand their relationship to their
23 watersheds and bring them in, to understand how
24 they affect our -- our watersheds.

25 And so we'll have an interstate summit

1 in, um -- which is going to be like a one-day
2 listening tour. And these tours are really
3 effective in the way they were built up. We're not
4 going to re-invent the wheel, we're doing something
5 similar. Bring in the states around us in March.
6 And then in February we're going to be doing a best
7 practices summit, because we want to learn --
8 because we're not the only ones doing this. Around
9 the country, other states have had, sort of,
10 adaptations of this. They're usually more narrowly
11 focused. We have a unique opportunity from a large
12 amount of funding to do a lot at once. And that's
13 going to make -- it's going to depend on us being
14 able to manage a lot of pieces simultaneously. So
15 we'll be having the best practices summit in
16 February. That'll form our interstate summit with
17 our neighboring states in March. And then we're
18 looking to have a federal summit in the summer,
19 where we, after we've done that and the models are
20 on the ground and projects are being approved and
21 contracts are being issued, we're going to sit down
22 with the federal partners and say, Look, this is
23 all the things that are going on in Louisiana, how
24 can we help with your goals, and how can you help
25 us meet our goals. We need it to change in the

1 short time to make this work better for everybody.
2 And then long-term, to make it work better for
3 Louisiana on the regional level. So we're actually
4 making decisions at a watershed level.

5 So we have a lot of immediate things that
6 we are planning, but, like, I think shovel-ready,
7 we're looking at spring and summer, for both models
8 projects. But I think this is bigger than that.
9 And that's the important thing, is we don't lose
10 focus on the longer-term goal, that's shifting the
11 way we manage water.

12 MR. HARRIS:

13 Okay, the board is clear. Thank you so
14 much for coming here today.

15 MR. FORBES:

16 You bet. Thank you for the opportunity.
17 Our, as I said earlier, our biggest challenge right
18 now is engaging with people and helping educate
19 folks about what we're trying to accomplish and
20 what that's going to take and who all needs to be a
21 part of it. So this is a big help for us as well.
22 There are other ways to stay engaged with us. We
23 have a website and social media sites, and you can
24 keep up with us, you can get emails from the
25 website about what we're doing if you like. But

1 thank you for having us.

2 MR. HARRIS:

3 Thank you.

4 MISSISSIPPI ALLUVIAL PLAIN (MAP) STUDY

5 MR. HARRIS:

6 Our final agenda item for the day, we're
7 very fortunate to have Jeannie Barlow with
8 USGS. Dr. Barlow is the assistant director of the
9 Lower Mississippi and Gulf Water Science Center,
10 including Texas, Arkansas, Alabama, Louisiana, and
11 Mississippi.

12 Welcome and thank you, Dr. Barlow.

13 DR. BARLOW:

14 Thank you guys for having me. Can you
15 hear me okay? Great.

16 So, while Matt is kindly loading the
17 presentation, I'll just go ahead and intro. I'm
18 going to give you an update on the USGS study in
19 the Mississippi alluvial plain, in which we are
20 using a stakeholder-driven approach to optimize
21 monitoring and modeling in the Mississippi Alluvial
22 Plain, largely targeting the alluvial aquifer.

23 So a lot of what you just heard, I was
24 really excited about, you're probably going to hear
25 in this talk too. We are also trying to move into

1 kind of a participatory science world. And I am
2 very thankful that we are, because I think it will
3 really allow us to do a lot more meaningful
4 science.

5 Thanks, Matt. For those of you who won't
6 be able to see, hopefully I think you've got your
7 packets so you can see your figures there.

8 So the USGS has been embarking in those
9 large regional groundwater availability studies for
10 some time, and now we have, you know, 50, 60
11 percent of the nation covered in these models.
12 We've just started one in the Mississippi Alluvial
13 Plain that started in FY-17. And what is unique
14 about this is that we are actually trying to start
15 with our stakeholders and partners to find out what
16 they actually need this model to do, and then use
17 that information to design it. This study is
18 slated to go through FY-21. We are working with
19 over 60 people from across the nation, so it's not
20 just coming out of our water science center which
21 covers five states in the southeast region. These
22 people come from everywhere. So we're trying to
23 bring all the experts to the table to answer these
24 local questions. And we also have a large group of
25 local, state, and other federal partners that we

1 meet with quite regularly.

2 So, we all know the alluvial aquifer is
3 one of the most used aquifers in the nation, and
4 this is largely because of irrigation withdrawals
5 for agriculture. However, when we look at --
6 however, this has had a result of water level
7 declines in the alluvial aquifer, and there is
8 concern that this might be reaching an
9 unsustainable level. So, we look at the water
10 budgets of the three most-used aquifers for
11 irrigation in the nation, we do notice that the
12 alluvial aquifer is rather unique. So I have some
13 pie charts there, and what the colors are showing
14 you there, is the green and red represent recharge
15 and runoff, and the big blue areas are
16 evapotranspiration. So basically,
17 evapotranspiration is lost to us, but the green and
18 red areas represent water that we can actually use.
19 And you'll notice that the alluvial aquifer is
20 unique in that it has a larger area of those green
21 and red colors, so we have more water available to
22 us.

23 So, often, it's really a distribution
24 issue. And that's a good thing. That gives us
25 opportunities. So what we are doing here is we've

1 started with an existing hydrologic model. We're
2 using that model to help guide data collection
3 efforts through data worth and uncertainty
4 analysis. For example, when we started out, we saw
5 that uncertainty that we had in the model's ability
6 to predict water levels was related to actually the
7 uncertainty in our understanding of
8 groundwater/surface water exchange. So that
9 movement of water between the stream bed, both
10 groundwater going to the streams and water from the
11 streams going back to the aquifer.

12 And so that led us to start a very large
13 geophysical mapping campaign, where we are trying
14 to better understand the fabric of those stream
15 beds that really control how much water can move
16 between them. Right? And also, the fabric of the
17 aquifer itself. Because we need to understand that
18 to know how water can move through it. And that
19 can be very difficult when you just have boreholes
20 to look at it and you're trying to connect the dots
21 in an alluvial system that's very heterogeneous.

22 So, we're also using the model to help
23 guide water level monitoring efforts, so where
24 we're going to collect water level data and how
25 frequently. And we're also moving into more

1 advanced water use monitoring. So we're starting
2 to collect water use data on a realtime basis so
3 that we could really understand this data, because
4 water use is such an important driver of the models
5 since it's one of the largest, um, kind of,
6 outputs.

7 We developed a water budget model as
8 well. And this helps us to parse out things like
9 runoff, evapotranspiration, and recharge, and
10 there's also a surface water model that we're
11 developing that will basically allow us to route
12 that surface water over from the land surface to
13 the stream, and then the interaction with the
14 aquifer itself.

15 And then finally, all of this will be
16 linked in a web-based decision support system that
17 will be linked to an economic model. And so this
18 is really going to help us get at the cost, which
19 oftentimes in the, at least the hydrologic world,
20 we're able to tell you a lot about the water,
21 right, but we can't really tell you about the value
22 of it or how much that might cost. So we want to
23 link those two things together, and we do have some
24 economists on our team helping us to do that.

25 So all of these pieces and parts have to

1 work together, and it is an iterative cycle. And I
2 really liked the use of a living model, because we
3 very much see this as a living model. We don't
4 want to develop a model that's just going to be put
5 on a shelf.

6 So I'm going to give you just a couple of
7 updates on some of the monitoring and mapping
8 efforts that we're currently working on. And I'll
9 start with the water use monitoring.

10 I think this is pretty exciting, because
11 right now, the Mississippi Alluvial Plain is pretty
12 much leading the nation in water use monitoring.
13 We have a network -- and this is over -- over
14 50-something sites across the Mississippi Alluvial
15 Plain. We're having to work with the producers,
16 and the producers are welcoming us to their land,
17 allowing us to add data collection platforms to
18 their meters, so that we can actually see their
19 data on a realtime basis. And this lets us
20 understand more the drivers of water use, so the
21 climatic drivers of water use, but also what it
22 allows us to do is have much smaller stress periods
23 in our model. We'll be able to eventually get to
24 estimating daily water use. That's our goal right
25 now.

1 Another exciting data collection
2 component that is going on right now is our
3 geophysical mapping to help better understand the
4 hydrogeologic framework, which is very important
5 when you're trying to develop a model like this,
6 especially in an alluvial system where it varies so
7 much from place to place.

8 And so, we are using geophysical methods
9 that are much like an MRI, that really allow us to
10 see the subsurface, which can be quite difficult.
11 And one method that we are using is airborne
12 geophysics. And we've started that here recently.
13 And this really allows us to cover a lot more
14 ground in a much shorter amount of time, much less
15 money per the area that we are surveying.

16 But we can also do this on land, so we
17 tried out -- before we went to the air, we did try
18 out several methods on the ground, before we spent
19 a whole bunch of money sending an airplane up for
20 collecting data. So we've done this on the land
21 surface, we can do this in the water, with
22 waterborne geophysical methods. For example, we
23 did this on the Ouachita River recently, and here
24 is some of the data that we got back on the
25 Ouachita. And what these colors are showing you is

1 basically, um, you can kind of relate it to the
2 permeability of the materials, or what those
3 materials are. So the bluer colors are lower
4 resistivity, and that's going to correlate with
5 more fine-grain materials like a clay, so water is
6 not going to want to move through those. And the
7 redder colors are more coarse-grain, correlate with
8 sand. And I am not a geophysicist, but this is the
9 color scheme that they like to go to. I think it
10 should be opposite, actually, so.

11 But here, it's really interesting, with
12 the Ouachita we see that actually it's made up of
13 most what we're interpreting to be clay, so there's
14 a low potential for groundwater/surface water
15 exchange here. So now we know that. And then the
16 other parts of the Ouachita that have a higher
17 potential for groundwater/surface water exchange.

18 And I'll talk about a few scenarios that
19 we've already analyzed, but this could be useful as
20 you're thinking about projects or management of
21 your resource, to know where these areas are.

22 We're also finding that these geophysical
23 mapping data collection efforts not only benefit
24 the model -- and that was our main purpose, was to
25 collect data for the model. But because we are

1 using the stakeholder-driven approach and we're
2 constantly talking with our stakeholders about what
3 we are doing, we've been able to find a lot of
4 additional benefits to this data and put it to use,
5 and we want to do that here in Louisiana as well.

6 For example, we're using it for our
7 purposes to look at things like recharge,
8 groundwater/surface water exchange, and update the
9 framework itself, but it's also being used to help
10 guide infrastructure projects, such as a
11 groundwater transfer and injection project pilot
12 site that is currently going on in Mississippi. So
13 the data that we are collecting is helping them to
14 site where they are going to put the extraction and
15 injection wells, which has been really helpful.

16 The data is also being used by the Corps
17 of Engineers to look for places in the streams
18 where we could actually add weirs and enhance
19 recharge back into the aquifers. So again,
20 that's -- we want places that have a -- more
21 potential to have groundwater-surface water
22 exchange.

23 And this is really exciting. We've been
24 working with the Corps testing our capability to
25 survey the Mississippi River levee itself. And our

1 results have been very comparable to the Corps'
2 cone penetrometer results, which are just one point
3 value; right? But now we're able to help them
4 connect all those dots along the levee and we're
5 going to talk to them now about potentially doing a
6 fire levee. And there's a lot of benefit to that.

7 Currently, we do have a helicopter in the
8 air. It is flying the entire Mississippi Alluvial
9 Plain. But I will say it's not the southern part
10 of that that goes over the coastal aquifers, but we
11 do hope to get to that part eventually, so it is
12 within our scope.

13 You can actually, in your handout, you'll
14 see there's a little link there where you can go
15 and see the flight lines and where the helicopter's
16 going to be and what region it's in right now. So
17 we have that set up. And this may not work, but
18 this is a video of the helicopter recently. And
19 you can kind of see this torpedo-like thing, which
20 we were quite concerned about, but that is what is
21 being flown over and collecting all the geophysical
22 data. It's an electromagnetic tool.

23 So finally, I wanted to end with kind of,
24 Well, why are we doing this? You know, what's the
25 practical application of all this effort, this

1 helicopter in the air and everything? And I think
2 the practical application is that we can work with
3 our partners to help them provide that, kind of,
4 sound, scientific foundation for making management
5 decisions. That's not what we do. As the USGS, we
6 are here to provide the science. But we can work
7 with our partners to make sure that we are doing
8 that science in a manner that's helpful to them,
9 rather than just kind of doing the science to them.

10 So, for example, in the Mississippi
11 Delta, we recently went through an exercise where
12 we held several workshops. We met with all the
13 local experts that had project ideas for
14 alternative water supply scenarios. We gathered
15 all that information into one place and we started
16 to work with those technical experts to develop
17 scenarios for the model to be able to analyze those
18 scenarios. And our primary goal was to be able to
19 take the output from the model in each of those
20 scenarios and feed it into an economic model in
21 order to get the cost per acre-foot of additional
22 water that you would see from that scenario, to
23 really help them to kind of see what's the value of
24 each of these projects.

25 So we looked at different scenarios.

1 Looked at some that would decrease groundwater
2 withdrawals -- for instance, irrigation efficiency.
3 So, using, like, your polypipe planner and your
4 pole selection, soil moisture sensors and things
5 like that. We looked at in-stream weirs to
6 actually increase the amount of surface water that
7 would be available to use for irrigation to switch
8 from groundwater to surface water. And we also
9 looked at tailwater recovery and on-site farm
10 storage, again, to add additional surface storage
11 to get off of the groundwater system.

12 Another scenario we looked at was
13 interbasin transfer. Again, this is another;
14 you're adding surface water hoping that the
15 producers will use the surface water rather than
16 the groundwater.

17 And then we also looked at this project
18 to actually extract water from one place, an area
19 where we have plenty of water, near one of our
20 larger streams, the Tallahatchie River, and convey
21 it over to where the water level declines are the
22 most severe, and directly inject it back into the
23 aquifer.

24 So basically what we did, we did kind of
25 a relative comparison. So we run a base scenario

1 for 50 years. And if you imagine your water level
2 is at one point when you start that scenario, and
3 after you pump for about 50 years, it's at another
4 point. Right? It's lower. And then we would run
5 the alternative scenario. Now, all the alternative
6 scenarios are essentially adding water to the
7 system in one way or another. So that alternative
8 scenario, after 50 years, is probably going to have
9 a slightly higher water level.

10 And the difference between that
11 alternative scenario and the base scenario is what
12 we're calling the water level response. That is
13 the amount of water that you gain from that
14 scenario. And then we're feeding that information
15 into a very detailed economic model that has all
16 the costs for the project, and that gives us the
17 cost per acre-foot of water level response.

18 This is a very busy table, but this
19 table, which shows you various iterations of the
20 scenarios -- we didn't just look at each scenario.
21 We ran about 27 total, because, like, for each of
22 these, we wanted to look at different things like
23 adoption rate. We can't assume for these surface
24 water augmentation projects that 100 percent of the
25 producers are going to switch from groundwater to

1 surface water, so we had to look at various rates
2 of adoption. And for the enhanced aquifer recharge
3 scenario, we looked at different amounts of
4 injections, or injecting different amounts of water
5 into the ground, because of course, as you're
6 injecting more, that requires more pump stations,
7 which is going to increase the cost of the project,
8 so we're trying to find that sweet spot there.

9 So this information was then used by a
10 task force in Mississippi to help them kind of work
11 on, Hey, what projects do we want to move into
12 pilot stage on? And based on this information,
13 that's why the groundwater transfer -- one reason
14 why the groundwater transfer injection project went
15 forward into pilot phase. So that is currently
16 going on now. They will start construction, I
17 think they're hoping in next month.

18 But the other thing that we definitely
19 realize, was that there's not at silver bullet
20 here. There was not one scenario that fixed all
21 the problems. So it's going to take a combination
22 of efforts to really come to a sustainable water
23 resource (indiscernible). And so, our next phase,
24 we are moving into optimization. So instead of
25 telling the model what to do, we're going to tell

1 the model, Okay, here's the constraints, here's the
2 things we got to have, here's some possible
3 options. You run that, and then it will give you a
4 suite of options to consider. So that's kind of
5 where we're moving now, working in conjunction with
6 the Mississippi Alluvial Plain water availability
7 study that I just described.

8 So, that's all I have today. I will
9 say -- and I should have said this in the
10 beginning -- this study, the lead is Wade Kress.
11 His email is there and the web page for the study
12 is there as well. He is always very open to emails
13 or questions. If you have any, feel free. And if
14 you have any for me, feel free to ask now.

15 MR. HARRIS:

16 Any questions or comments from the
17 public? Thank you very much, Dr. Barlow. Thanks
18 for coming.

19 Is there any new business or anything any
20 board members would like to discuss? Do I hear a
21 motion to adjourn?

22 UNIDENTIFIED SPEAKER:

23 I move we adjourn.

24 UNIDENTIFIED SPEAKER:

25 Second.

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MR. HARRIS:

Hearing no objection, this motion carries. The meeting is adjourned. Everyone, I hope you have a Merry Christmas.

(Whereupon, the meeting was adjourned.)

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C E R T I F I C A T E

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