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STATE OF LOUISIANA
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF CONSERVATION

GROUND WATER RESOURCES COMMISSION
19TH REGULAR MEETING
MONDAY, MARCH 14, 2011
11:00 A.M.
LASALLE BUILDING
FIRST FLOOR
LABELLE ROOM
617 NORTH 3RD STREET
BATON ROUGE, LOUISIANA 70802

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OFFICE OF CONSERVATION

STATE OF LOUISIANA

GROUND WATER RESOURCES COMMISSION MEETING

Report of the Commission meeting held by the
Ground Water Resources Commission, on Monday, March
14, 2011, in Baton Rouge, Louisiana.

COMMISSIONERS PRESENT:

SCOTT A. ANGELLE, Secretary and Chairman

KYLE BALKUM, Department of Wildlife and Fisheries

BO BOLOURCHI, Louisiana Department of Transportation
and Development

JAMES BURLAND, Louisiana Chemical Association,
Mid-Continent Oil and Gas, LABI,
Pulp and Paper Association

WILLIAM DOWNS, Engineer with expertise in ground
water management

PAUL FREY, Louisiana Landowners Association

JACKIE LOEWER, Louisiana Rice Producers Group

MICKEY MAYS, Police Jury Association of Louisiana

PAUL MILLER, Department of Environment Quality

TED MCKINNEY, Sparta Groundwater Conservation
District

EUGENE OWEN, Capital Area Ground Water Conservation
Commission

1 (COMMISSIONERS PRESENT) (CONTINUED) :
2 BRAD SPICER, Vice Chair
3 JAMES WELSH, Commissioner of Conservation
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19TH REGULAR MEETING

MONDAY, MARCH 14, 2011

* * * *

SECRETARY ANGELLE:

Good morning. We'll go ahead and call the March 14th meeting of the Ground Water Resources Commission to order and ask for the staff to make a roll call.

MR. ADAMS:

Please acknowledge when I call your name. Scott Angelle.

SECRETARY ANGELLE:

Here.

MR. ADAMS:

Kyle Balkum?

MR. BALKUM:

Present.

MR. ADAMS:

Bo Bolourchi?

MR. BOLOURCHI:

Here.

MR. ADAMS:

1 James Burland.

2 MR. BURLAND:

3 Here.

4 MR. ADAMS:

5 Glenn Cambre.

6 (NO RESPONSE)

7 MR. ADAMS:

8 Elliott Colvin?

9 (NO RESPONSE)

10 MR. ADAMS:

11 William Downs?

12 MR. DOWNS:

13 Here.

14 MR. ADAMS:

15 Paul Frey?

16 MR. FREY:

17 Here.

18 MR. ADAMS:

19 Dan Hollingsworth?

20 (NO RESPONSE)

21 MR. ADAMS:

22 Jimmy Johnston?

23 (NO RESPONSE)

24 MR. ADAMS:

25 Charles Killebrew?

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(NO RESPONSE)

MR. ADAMS:

Jackie Loewer?

MR. LOEWER:

Here.

MR. ADAMS:

Mickey Mays?

MR. MAYS:

Here.

MR. ADAMS:

Ted McKinney?

MR. MCKINNEY:

Here.

MR. ADAMS:

Paul Miller?

MR. MILLER:

Here.

MR. ADAMS:

Eugene Owen?

MR. OWEN:

Present.

MR. ADAMS:

Kelsey Short?

(NO RESPONSE)

MR. ADAMS:

1 Brad Spicer.

2 MR. SPICER:

3 Here.

4 MR. ADAMS:

5 James Welsh?

6 MR. WELSH:

7 Here.

8 MR. ADAMS:

9 Mr. Chairman, we have 13 members
10 present. That is sufficient for a quorum; so we do
11 have a quorum.

12 SECRETARY ANGELLE:

13 Thank you very much. I'd just like
14 to announce that we have a couple of folks here with
15 us, some of them which will be on the agenda a
16 little bit later, but with the Attorney General's
17 Office, Mr. Ryan Seidemann. Thank you, Ryan, for
18 being here. I appreciate your help.

19 From the House of Representatives
20 Committee on Natural Resources, Mr. Tyler MacLeod.
21 Thank you, Tyler, for your great work over in the
22 House of Representatives.

23 And from the House of
24 Representatives, a member of the Natural Resources
25 Committee, State Representative Richard Burford from

1 DeSoto Parish. Thank you very much, sir, for your
2 help, and probably more than just Desoto, right?
3 Your district includes Desoto and part of Caddo.
4 Thank you for being here. We appreciate your
5 efforts to manage conservative natural resources of
6 Louisiana.

7 We'll go to Item Number 2, which is
8 Adoption of the Meeting Summary that happened on
9 October the 6th. Mr. Adams?

10 MR. ADAMS:

11 Yes, sir. Thank you, Mr. Chairman.
12 All of you have a copy in your packet, and you were
13 also e-mailed last week a copy of the Meeting
14 Summary from the 18th Regular Meeting that, as the
15 Chairman said, took place on October 6th, 2010.

16 At this time, the staff would
17 entertain a motion to approve that meeting summary.

18 MR. OWEN:

19 Motion.

20 MR. SPICER:

21 Second.

22 SECRETARY ANGELLE:

23 Motion by Spicer -- I'm sorry.
24 Motion by Owen. Second by Spicer. Any objections
25 to that motion? Any discussion? Hearing none, that

1 motion is adopted.

2 Item 3, Sale of Running Waters of the
3 State Update from Mr. Ryan Seidemann with the
4 Attorney General's Office. Thank you for being
5 here.

6 Just a couple of comments.
7 Certainly, many of you were aware in March or April,
8 I believe it was, a total of about four Attorney
9 General opinions were issued relative to the Running
10 Waters of the State of Louisiana, which are
11 obviously surface waters, not particularly in our
12 area of jurisdiction, but certainly we have all
13 thought as we strive to come up with a sound Ground
14 Water Management Plan that -- in fact, even House
15 Resolution Number 1 last year directed us to look at
16 surface water features as a possible solution to
17 some of our ground water concerns.

18 So in an effort to keep everyone
19 abreast of those opinions, I thought it would be a
20 good idea to have the Attorney General's Office
21 here. And, then, as well, there was at least two
22 more opinions that were issued within the last 90
23 days; one of them on November 23, and one of them on
24 February 22nd. So I do want to go ahead and get
25 some information on that.

1 And I do see my colleague from the
2 Louisiana Department of Environmental Quality,
3 Secretary Hatch is here. Again, thank you for your
4 efforts in the Resource Management of the State of
5 Louisiana.

6 So, Mr. Seidemann.

7 MR. SEIDEMANN:

8 Thank you, Mr. Chairman. Let's see.
9 Well, thank y'all for having me here today. I am
10 Ryan Seidemann. I run the Lands and Natural
11 Resources Section of the AG's Office; and so it's
12 been my staff attorneys that have been responsible
13 for authoring the Attorney General's Opinions on
14 Surface Running Water over the last few years.

15 And the Chairman is correct; since
16 November of last year, there have been two AG
17 opinions that directly addressed issues related to
18 running surface water, and there's been a third
19 opinion requested by and directed to the Sabine
20 River Authority that does have a little pertinent
21 language related to surface waters; so I've included
22 that in the presentation as well.

23 The first one is Attorney General
24 Opinion 10-0173. And I can certainly make these
25 available upon request, the actual documents, or the

1 slide presentation for that matter.

2 It deals with Alligator Bayou in Red
3 River Parish, which is this little spit of water
4 here, and you can only see it on the aerial by the
5 trees surrounding it up there; so it's a real small
6 waterway. It's not state claimed. And in this
7 request, there were three specific questions asked:
8 Must the authority -- must authority be sought from
9 both riparian owners to withdraw surface - running
10 surface water? So, in other words, both sides of
11 the Bayou were owned by different people, and it was
12 a private ownership on either side. Must these
13 riparian owners be compensated for the withdrawal?
14 So, in other words, if there are two different
15 owners on either side, do both of them have to be
16 compensated when there is a withdrawal? And what
17 authority does the State have to regulate such
18 withdrawals? So those are the questions we were
19 presented with.

20 And basically how this one came down
21 was that we said the land owner -- well, back up.
22 The basic facts, a land owner on one side of the
23 Bayou witnessed the withdrawal of nearly all of the
24 running water from the Bayou by a bump. And,
25 apparently, this waterway had been used as a

1 boundary between the two land owners to keep cattle
2 on different sides. So when this thing was almost
3 drained by one of the riparian owners, the cattle
4 started walking across the bed.

5 So under the Civil Code, running
6 water is not allowed to be pumped - or to be taken
7 out of a channel in a volume that would impair the
8 rights of any riparian owners. Well, I think we can
9 see in this scenario that we've probably got a
10 riparian with a complete - or a nearly complete
11 draining of the waterway.

12 But as between the private parties,
13 that's really not something the State can get
14 involved in. But what we did analyze was whether or
15 not this would be considered an unreasonable use of
16 the water under the Surface Water laws of the State.

17 And we said the riparian owner may
18 access and use the running water for his estate,
19 which is clearly set forth in the Civil Code, but
20 that water remains a public thing and owned by the
21 State under Louisiana law.

22 SECRETARY ANGELLE:

23 Mr. Seidemann, I just want to jump
24 in. I know on one of the previous slides you
25 indicated that the water bed, the water bottom, was

1 not claimed by the State.

2 MR. SEIDEMANN:

3 Correct.

4 SECRETARY ANGELLE:

5 But are you making a distinction
6 that, in fact, the running water here would be a
7 public thing?

8 MR. SEIDEMANN:

9 That's correct. That's what our
10 opinions said, that even if you've got a private
11 waterbed, if it is "running water" stated under the
12 Civil Code, our opinions have said that that's a
13 public thing.

14 SECRETARY ANGELLE:

15 Thank you.

16 MR. SEIDEMANN:

17 And, so, we go into a little bit of a
18 discussion of what riparian owners can do. Riparian
19 owners have the right to physically access the water
20 for the purposes contemplated in Revised Statutes
21 9:1101 and to use the water for reasonable
22 agricultural, aquacultural, and other riparian uses.

23 What constitutes a reasonable use, I
24 suspect, is probably going to be a question to be
25 answered by the courts. But in this situation, we

1 said because the State owns the running water, the
2 question of whether both landowners around the Bayou
3 should be compensated is an important one, but
4 because the water itself is owned by the State, this
5 question doesn't involve compensation for the
6 withdrawal; in other words, the withdrawal of the
7 water and the value of the water itself is - because
8 it's public resource, it is a question of whether or
9 not the State has been impoverished. But the
10 question of what the rights are as between riparian
11 owners is a different one; and that's whether or not
12 riparian owners have been damaged because of the
13 action of one or the other.

14 And, again, that's going to largely
15 be a question for a court to answer because these
16 are two private parties. Even if the state was
17 involved, that would be the case as well. But we
18 did say the riparian owner can charge for the
19 necessary access to his property and facilities --
20 I'm sorry, to facilitate such State uses and sale.

21 So what do we say here? We said
22 basically that as between two private landowners, if
23 one overuses a - if one riparian overuses a
24 waterway, then the other riparian may have an action
25 against that guy for damages. But in terms of the

1 damages for their use as a riparian, that's a
2 private matter the State - that the State won't get
3 involved in.

4 However, the use of the water itself
5 is something that should be regulated by the State,
6 as we'll get to in a second under Act 955, and the
7 riparian under 955, et cetera, can charge for
8 various things related to a State permitted use,
9 that being access across their property, et cetera.
10 And, again, the calculation of any damages in this
11 thing would be a private cause of action for the
12 court to determine.

13 So that -- I thought that was the
14 substance of that. Okay. So who has the authority
15 to issue permits for the draining of a body of
16 water? Act 955 provides that the Secretary of DNR
17 has that authority for cooperative endeavor
18 agreements for any person seeking to withdraw
19 running surface water.

20 If the company removing the water or
21 the person who acted of its own accord without the
22 State's permission, what recourse does the State
23 have? If you recall, this was the third question in
24 this opinion request.

25 The State can seek recompense for an

1 unauthorized use of the water or injunctive relief
2 to stop an ongoing, unauthorized use. In this
3 situation, we at the AG's Office would have to defer
4 to, really, the expert agency, DNR, to determine if
5 something significant has happened, if there's been
6 an overuse of the water or something like that, but
7 then -- and that kind of rests on their - on DNR's
8 authority under 955 to permit and control this kind
9 of stuff.

10 Beyond that, either the local
11 District Attorney or the AG has the authority to
12 pursue criminal or civil actions against any
13 violators, but that is a discretionary allowance.
14 That's the substance of that one.

15 SECRETARY ANGELLE:

16 Okay. Before you move on, I'm
17 assuming this one is the second opinion.

18 MR. SEIDEMANN:

19 Correct.

20 SECRETARY ANGELLE:

21 Okay.

22 MR. BURLAND:

23 Mr. Chairman, can I question before
24 we move on to the next opinion? Would you then
25 consider a riparian owner who does not inter into a

1 cooperative agreement, would you consider that an
2 unauthorized use of the taking of their water?

3 MR. SEIDEMANN:

4 A riparian owner that doesn't enter
5 into a cooperative agreement? I think in that
6 scenario -- you know, and that's becoming a real
7 difficult situation. We've had -- we've issued an
8 opinion that touches on those issues for the City of
9 Shreveport, where it was a riparian owner. I
10 believe that was maybe early last year we issued
11 that one.

12 MR. BURLAND:

13 What did you conclude there?

14 MR. SEIDEMANN:

15 In that situation, we concluded that
16 the riparian owner's rights in the volume that they
17 were contemplating, if I recall correctly, was, if
18 it was going to be a significant volume, then Act
19 955 will control and they would have to seek
20 authority, if, in fact, it's going to "diminish" the
21 flow of the waterway or otherwise be a significant
22 drawdown. We didn't think that that was
23 contemplated by riparian uses in the Civil Code.

24 MR. BURLAND:

25 Well, wait a minute. I mean, what

1 about uses that have been going on for hundreds of
2 years?

3 MR. SEIDEMANN:

4 There's no question that there have
5 been historic uses, and the opinions that we've
6 issued, we haven't commented on that. We've not
7 been asked to.

8 MR. BURLAND:

9 Well, have you asked in the situation
10 where it might be a corporate riparian owner that
11 might be drawing water for industrial use off of
12 their own property?

13 MR. SEIDEMANN:

14 We haven't been asked that question.

15 MR. BURLAND:

16 On their facility?

17 MR. SEIDEMANN:

18 We haven't been asked that question.

19 SECRETARY ANGELLE:

20 But there would be no difference.
21 I'm assuming there's no difference from a corporate
22 riparian or a riparian --

23 MR. BURLAND:

24 But there's a potential there might
25 be an unauthorized use.

1 SECRETARY ANGELLE:

2 Well, I want to just follow up on
3 that question, because I think I can make it a
4 little bit clearer. While on the previous slide,
5 you referenced Act 955 as a legislative act that
6 allows for the cooperative endeavor agreement.
7 Specifically, my concern here is that nothing in Act
8 955 requires --

9 MR. SEIDEMANN:

10 That's correct.

11 SECRETARY ANGELLE:

12 That a cooperative endeavor
13 agreement -- what Act 955 is and was and remains to
14 be in my opinion is a process-oriented for - a
15 process-oriented piece of legislation for someone
16 who believes that the opinions that have been
17 previously issued create a risk for their taking
18 water, and, therefore, 955 is a potential solution
19 or mitigation of that risk.

20 MR. SEIDEMANN:

21 Correct.

22 SECRETARY ANGELLE:

23 So I get -- I'm trying to avoid where
24 the fine public policy line is between, again, now
25 total of about six opinions that have said that -

1 not this particular law, but six opinions that have
2 been granted by the - issued by the Attorney
3 General, taking a look at the whole body of law and
4 says that the running waters of the State of
5 Louisiana are a public thing, and, therefore, a
6 non-riparian owner must compensate the State of
7 Louisiana for the use of those waters.

8 It is not Act 955 that said that; it
9 is the six opinions --

10 MR. SEIDEMANN:

11 That's correct.

12 SECRETARY ANGELLE:

13 -- you know, that opine on what the
14 whole body of law that was prior to that. Again,
15 what Act 955 says, if you -- I mean, the Attorney
16 General made it very clear that these are the
17 running waters of the State, and if you want to use
18 them, you must have a process.

19 There was nothing in the law that
20 provided for that process, and I was very concerned,
21 having been given the authority in those opinions or
22 been cited as the person with some authority in
23 those opinions to provide a process. I didn't want
24 to have a process that was, you know, dreamed up
25 over here as much as having one with the

1 transparency and the legislative approval, and so we
2 did that, and, you know, what that does is it
3 creates a process.

4 My concern, again, would have been
5 for a company that would read - or a person that
6 would read those bodies of opinion -- and I don't
7 have an opinion on those opinions. They are what
8 they are. I take them at face value, and I don't
9 have the luxury of ignoring them.

10 So if you had a company who was
11 interested in the use of surface water in the State
12 of Louisiana and were - after reading these series
13 of opinions, said, well, where do I go to mitigate
14 my risks now that I have to enter into a written
15 contract? Well, you go to the Department of Natural
16 Resources, and this statute clearly provided that.

17 Some folks are clearly participating
18 and entering into cooperative endeavor agreements,
19 and others are ignoring the opinion of the Attorney
20 General. Okay. I just wanted to make sure I --

21 MR. SEIDEMANN:

22 Yes, sir.

23 MR. MCKINNEY:

24 I have a two-part question and one
25 may be -- in a corporate ownership, there is a

1 process by which the corporate owner would apply to
2 use that water. Am I understanding that correctly?

3 SECRETARY ANGELLE:

4 Under Act 955, yes, sir.

5 MR. MCKINNEY:

6 Now, then, my next question is: What
7 do you constitute a substantial quantity of water?
8 You used that word.

9 MR. SEIDEMANN:

10 Yeah, and, you know, in that regard,
11 I'm not a water scientist; and so that's something
12 that I can't make a determination of and -- you
13 know, again, we get into these real fact-intensive
14 questions that generally would be within the
15 province of the court to determine, based on expert
16 testimony, et cetera.

17 But I think when called upon to
18 enforce something, our Office, I think, would at
19 least initially look to the folks at the Department
20 of Natural Resources that are available and that
21 have some knowledge about this just for an informal
22 inquiry about whether or not a waterway has been
23 substantially impacted or whether or not the volumes
24 constitute a significant quantity.

25 But in terms of whether it does or

1 not, a determination of that -- you know, that's
2 often going to be a court determination based on
3 expert evidence; and so that's really -- it's not
4 something that we have the ability to definitively
5 answer. It's going to depend on various factors
6 with the waterway we're talking about, et cetera, et
7 cetera.

8 I mean, in this situation, it was
9 very clear. They drained the pipe. I mean, I think
10 you can really apply common sense to that but -- and
11 I know, you know, what you're getting at, the larger
12 waterways and the lesser uses and what is going to
13 constitute an unreasonable use. I don't know the
14 answer to that. I really don't.

15 MR. LOEWER:

16 Did you take into account that in the
17 Act it says may enter into a cooperative agreement
18 rather than shall enter into?

19 MR. SEIDEMANN:

20 Yes.

21 MR. LOEWER:

22 Is that problematic?

23 MR. SEIDEMANN:

24 I guess the way that our opinions
25 have dealt with that language is -- as the Chairman

1 noted, you know, the opinions are out there.
2 They're an analysis of a broad body of law and the
3 Act was kind of a response to those opinions in part
4 to provide for a mechanism if folks wanted to
5 subject themselves to it.

6 So the question about whether or not
7 the opinions deal in the may or shall language, is
8 that, the opinions have really dealt in a shall
9 language scenario, because our interpretation of the
10 law doesn't have that - the wiggle room. And, of
11 course, Act 955 provides for a mechanism to avoid
12 what we see as problems with the law.

13 The question -- and this is what's
14 beginning to come up with the more recent requests
15 is, the question is, well, if people decide not to
16 subject themselves to that process, then what? And
17 we're getting questions and enforcement from local
18 law enforcement and things like that saying, do we
19 have to go arrest these people, you know, et cetera,
20 et cetera.

21 Of course, our response is, well, you
22 can read the laws as well as we can, but, you know,
23 we think it is a violation. To my knowledge, no one
24 has ever been arrested, to my knowledge. I'm not
25 sure if that answers your question.

1 MR. BALKUM:

2 Mr. Seidemann, the Department of
3 Wildlife and Fisheries, as stewards of the
4 Department's fish and wildlife - or the State's fish
5 and wildlife, is there a role for our agency? A
6 body of water privately owned or State owned is
7 drained; all that water is taken, is there a role
8 for our agency in seeing that impairment is
9 mitigated?

10 MR. SEIDEMANN:

11 I think we certainly welcome input
12 and thoughts from any of the trustees - the public
13 trustee and agencies of the State in terms of
14 whether an impairment has occurred; so, you know,
15 we -- like I said, I think traditionally we've
16 looked to the Department of Natural Resources out of
17 habit, perhaps, but we've certainly had decent
18 working relationships with Wildlife, with DEQ, et
19 cetera, and it's not exclusively a DNR decision in
20 my mind.

21 It's a question of adherence to
22 Article 9, Section 1 of the constitution, which, you
23 know, Wildlife and Fisheries falls into that as a
24 trustee and agency for the State as well.

25 So, no, we'd certainly be happy to

1 have thoughts and input from you guys. And this
2 whole thing is a learning process. You know, it's a
3 new area of law, certainly for Louisiana, not really
4 a new area of law, but new questions.

5 SECRETARY ANGELLE:

6 In Section 9, it speaks to the whole
7 public trustee situation. What I take from you,
8 there is no specific statute that says the
9 management of the State surface water shall be under
10 the direction of the Department of blank --

11 MR. SEIDEMANN:

12 Correct.

13 SECRETARY ANGELLE:

14 -- or the Department of X or Y, but
15 perhaps from some habit in some migration, if you
16 would, of ground water management, perhaps some
17 surface water management opportunities there.

18 And, again, I would certainly say
19 that our vest is wide open to our other two major
20 resource agencies in the state, DEQ and Wildlife and
21 Fisheries, both on which are represented on this
22 particular Commission to help. Because, again,
23 over, certainly, the next coming years and perhaps
24 the next decade, this is going to be an issue that
25 is going to be a public policy debate I believe that

1 is going to be pretty forthcoming.

2 MR. SEIDEMANN:

3 I agree. But, no, to answer your
4 question, there's no specific language in the
5 constitution.

6 SECRETARY ANGELLE:

7 Any other questions on the previous
8 opinion? Mr. Owen?

9 MR. OWEN:

10 Yes, sir, I have one question.
11 Mr. Seidemann, you have defined something in terms
12 of its own language. Would you give us a concise
13 definition of riparian uses?

14 MR. SEIDEMANN:

15 Riparian uses are actually defined in
16 the Civil Code. I'm going to have to confess. Off
17 the top of my head, I'd be lying if I told you what
18 the exact language is.

19 But riparian uses in the Civil Code
20 are something along the lines of, can use it for
21 the water - for the water of your estate or for
22 "other uses." The other uses is not defined in the
23 Code.

24 With that said, there is another code
25 provision that says a riparian owner cannot diminish

1 the flow of a waterway as it traverses its property;
2 so we would -- I guess we conclude from that that
3 even though there is a "other uses" permitted
4 besides watering your estate by the Civil Code, that
5 any of the uses are subject to the obligation to
6 return to the flow of the water that you used, I
7 think, in a broad sense.

8 And, you know, the problem with that
9 is we're dealing with largely 200-plus-year-old
10 language that didn't contemplate the modern uses of
11 these waters that we're seeing today. But what we
12 take from that is, you know, you cannot -- riparian
13 owners have a right to use water that passes across
14 or adjacent to their property, but they also have an
15 obligation to return an equal amount of water or
16 return the water itself to the flow as it leaves
17 their property; so we take that to be kind of a
18 non-diminishment provision in the law, if you will.

19 And I don't know if that specifically
20 answers your question, but unfortunately with the
21 law, it's difficult to give solid answers.

22 MR. OWEN:

23 Thank you.

24 MR. SEIDEMANN:

25 But that's our impression.

1 MR. FREY:

2 Mr. Chairman?

3 SECRETARY ANGELLE:

4 Yes, sir.

5 MR. FREY:

6 This is more -- I guess this is a
7 scientific question rather than a legal question,
8 but could I assume that Alligator Bayou is
9 impounded? You mentioned cattle crossing, and, so,
10 once the water was drained, there was no surface
11 water left in the bed of the Bayou.

12 MR. SEIDEMANN:

13 From my vague recollection of the
14 facts, I don't think it was impounded, but I think
15 they must have pumped it out so fast that it wasn't
16 recharging fast enough from whatever the source was.
17 If I recall, it is connected to something else on
18 one end.

19 MR. FREY:

20 So it's fed by runoff from rainwater,
21 that type of thing, no -- well, that's what I'm
22 trying to determine in my mind, if it is, in fact,
23 a --

24 MR. SEIDEMANN:

25 Running water?

1 MR. FREY:

2 -- running water. Yes.

3 MR. SEIDEMANN:

4 Yeah. And I don't know -- I don't
5 know what it's connected to on the other end, but it
6 is connected to another stream at the other end.
7 And I guess for the purposes of this opinion, it was
8 assumed by our office that it was "running water"
9 just to answer the specific legal questions
10 presented.

11 MR. FREY:

12 So with ample rainfall, it could
13 recharge, and then the other riparian owner could
14 have access to the water at some point. It could be
15 a timing issue between property owners and --

16 MR. SEIDEMANN:

17 That may very well be.

18 SECRETARY ANGELLE:

19 Okay. Very good. I want to go ahead
20 and -- I saw Larry Ardoin with DOTD. Larry, thank
21 you for your help. And my office is here. Thank
22 y'all for being here. I appreciate y'all work on
23 this issue. Go ahead, Ryan.

24 MR. SEIDEMANN:

25 All right. Okay. That brings us to

1 the other real substantive AG opinion on this issue
2 since late last year, and that's Opinion Number
3 10-0280, and it relates to the Cane River Waterway
4 System in and around Natchitoches.

5 You can see Natchitoches here on the
6 quad map, and then it comes down. This is the Cane
7 River here. Again, the City of Natchitoches and the
8 Cane River here; so that's the area we're talking
9 about.

10 The request in this case came from
11 the Cane River Waterway Commission I think it's
12 called. And the questions presented were: "May the
13 Commission regulate the removal of water from the
14 Lake, Cane River Lake, when the Lake reaches a
15 certain level below its pool state, and may the
16 Commission regulate and/or enjoin the pumping of
17 water from the Lake by a non-riparian landowner?"

18 So those were the two specific
19 questions. We first looked to the authority of the
20 Cane River Waterway District, which is in Title 34,
21 and it provides that the Commission in the District
22 have the authority to effectuate and maintain proper
23 depths of water to accommodate the business of the
24 Commission and to regulate the use of water from the
25 waterway.

1 So this is the statutory language,
2 and from this -- you know, it said that this
3 authority establishes regulatory control over the
4 waters within the district, but it does not grant
5 the district any rights with regard to the actual
6 charging for the water and selling the waters at
7 issue.

8 It gives them a regulatory right to
9 control the water depth, et cetera, which is similar
10 to, if I recall, one of our older opinions on - I
11 believe it was Lake Claiborne, which was the same
12 type of language. Again, their jurisdiction related
13 to regulation of depth and not to the sale of the
14 water.

15 So, anyway, we then said:
16 "Therefore, while the District holds regulatory
17 authority over the waters within its District, it
18 should consult or notify DNR of any issues involving
19 the withdrawal and/or sale of surface water from
20 Cane River Lake by non-riparian owners." And what
21 we're getting at there is essentially go through the
22 955 process.

23 Riparian landowners clearly have the
24 ability to withdraw and/or use the running waters
25 for the benefit of their estate. And this is kind

1 of what I was getting at a minute ago with Code
2 language. Not in a volume, though, that will impair
3 the rights of other riparian owners. Not in such a
4 manner that will abrogate other laws; for example,
5 regulatory jurisdiction of the Cane River Lake
6 Commission or Cane River Water District.

7 And in that situation, we've got, you
8 know, a potential conflict where riparian owners
9 could run afoul of the District's ability to
10 regulate or - I guess, mandate, really, to regulate
11 the water levels of the Lake; and, so, we suspect
12 that in that scenario those provisions are going to
13 become secondary to the District's authority.

14 Such uses also cannot unduly or
15 unreasonably impair the resources itself under
16 Article IX, Section 1 of the Constitution, or amount
17 to such a volume that would constitute a divestiture
18 of State things pursuant to the Constitution on
19 Article VII, Section 14(A).

20 SECRETARY ANGELLE:

21 Ryan, let me jump in real quick.

22 MR. SEIDEMANN:

23 Sure.

24 SECRETARY ANGELLE:

25 So generally, notwithstanding this

1 law in that particular area, the riparian owner
2 would have the right to use water not in a volume
3 that would impair the rights of any riparian owners.
4 That would be the case everywhere.

5 MR. SEIDEMANN:

6 Correct.

7 SECRETARY ANGELLE:

8 Okay. But since the legislature
9 spoke to the creation of this District and gave it
10 the right to regulate the use of water, the
11 regulation - or the authority that's provided in
12 that body of law somewhat trumps the individual
13 riparian owner's right to use without regulation?

14 MR. SEIDEMANN:

15 Our suspicion is that it probably is
16 a later pronouncement by the legislator - the
17 legislature and that it would probably trump the
18 riparian rights to use the water to the extent that
19 it impacts or undermines, I guess, the District's
20 ability to regulate pool stage.

21 SECRETARY ANGELLE:

22 Thank you.

23 MR. SEIDEMANN:

24 Sure.

25 MR. LOEWER:

1 Mr. Chairman?

2 SECRETARY ANGELLE:

3 Yes, sir.

4 MR. LOEWER:

5 In this case, wouldn't the District
6 have the authority to regulate the level but not the
7 use.

8 MR. SEIDEMANN:

9 It is the -- let me back up. The
10 language says, "To effectuate and maintain proper
11 depths of water to accommodate the business of the
12 commission and to regulate the use of water from the
13 waterway." So it's a dual thing here, but I think
14 that most of their, most of their, work deals with
15 maintaining. And so I think that's -- you know,
16 when we were talking about whether or not there was
17 conflict between their organic legislation and
18 riparian rights to use the water, it's more tailored
19 to that depth regulation.

20 All right. So, going on, we also
21 noted that riparian owners have the right to
22 physically access the public waters, like Cane River
23 Lake, for the purposes contemplated by Civil Code
24 Article 657 - that's riparian rights - and 9:1101
25 which is in the Civil Code ancillaries. It deals

1 with rights to run the water. And to use these
2 waters for reasonable agricultural, aquacultural,
3 and other riparian uses pursuant to 9:1104.

4 Then it says that the District's
5 authority to control the use of the waters of Cane
6 River Lake is a regulatory function that, in
7 essence, may encumber certain property rights
8 established in the Civil Code. The encumbrance is
9 for the benefit of all landowners around the Lake.

10 And that's it. That one wasn't
11 necessarily as complex that dealt with a public
12 waterway as the one prior to.

13 The last one that I did mention, and
14 this is real brief. This is not a whole lot that's
15 relative to Act 955 and surface running waters, is
16 Opinion Number 10-0297. This was an opinion
17 requested by and issued to the Sabine River
18 Authority, and y'all can see the Toledo Bend
19 reservoir up there. It's the big blue spot on both
20 aerials and quad.

21 And the question in this -- or the
22 question from this one that is, I think, important
23 for purposes of this discussion is broadly the
24 opinion related to what State laws, the SRA, had to
25 comply with to sell its water. Did it have to

1 comply with public bid laws? Did it have to comply
2 with public sale or lease laws, et cetera, et
3 cetera?

4 For our purposes for this today,
5 that's not overly relevant; so I haven't included
6 that in here. But what we did note in this opinion
7 towards the end was Act 955 of 2010, Number 1. It
8 does not apply to or affect the SRA's authority to
9 enter into any contracts or other agreements. SRA,
10 through its special statutory creation, is exempted
11 out of things like 955.

12 With that in mind, we did say, look,
13 SRA, we do still think that it's probably in the
14 best interest of the people in general to at least
15 make the folks at DNR who are now analyzing things
16 pursuant to 955 aware of agreements for sale, et
17 cetera, that you guys are entering into so that all
18 of the trustee agencies in the State can have a
19 better appreciation of how water is being used in
20 the State for making a determination pursuant to
21 Article IX, Section 1.

22 So it's not a legal requirement, but
23 it's certainly, we feel like, advisable for all of
24 the water-use agencies to be talking to each other.
25 And so that's really the part of 297 that's relevant

1 to this, and that's all we said about it.

2 That's all I've got. Those are the
3 three opinions. If y'all are interested in seeing
4 the text of those opinions, I can certainly provide
5 those to you.

6 For whatever reason, I always forget
7 to put my e-mail in these slide presentations, but I
8 can certainly make myself available through John,
9 through Gary, through --

10 SECRETARY ANGELLE:

11 John, if you could get them, and
12 we'll just go ahead and make sure that all of the
13 members have them.

14 MR. ADAMS:

15 Yes, sir. And as a point of
16 information, all of those opinions are available
17 through the Department of Natural Resources' website
18 under the Conservation Ground Water section.

19 SECRETARY ANGELLE:

20 All right. Let's go ahead and e-mail
21 them to all of the members.

22 MR. ADAMS:

23 Yes, sir.

24 MR. BALKUM:

25 Mr. Seidemann, we keep using the

1 phrase "running waters." Are public lakes
2 reservoirs, or would they fall within --

3 MR. SEIDEMANN:

4 Public lakes "and" reservoirs "or?"

5 MR. BALKUM:

6 And/or.

7 MR. SEIDEMANN:

8 Okay. Again, you know, we get back
9 to this real, I guess -- what's the word I'm looking
10 for; inartful way of phrasing the law? When the
11 Civil Code was drafted in - the original; was it
12 1808? You know, I don't think -- well, regardless,
13 I don't think that they contemplated these problems;
14 and so they did use this term "running waters." And
15 there is, I guess, some question today as to whether
16 or not a lake constitutes a "running water."

17 The way we've at looked at that, is
18 that, in some way, shape, or form, most of the lakes
19 or large impoundments of the State are probably
20 going to fall under the classification of running
21 water because stuff is running into them, running
22 out of them, et cetera.

23 But I think ultimately it comes down
24 to a judicial determination as to -- you know, it's
25 going to ultimately be a battle of the experts for a

1 court to decide. We have issued some of the earlier
2 opinions related to surface water use. It did deal
3 specifically with impoundments, and in those
4 situations -- one of them was Clear Lake and I think
5 Smithport Lake, both impoundments.

6 In that situation, we had grants of
7 authority back to the State by the private
8 landowners, saying State, you cannot only, you know,
9 control the level of the water but all of the other
10 impoundment rights. That was an easy one for us.
11 The other one is Lake Claiborne, I believe. And in
12 that situation, it was an impoundment, but there was
13 specific statutory authority related to the sale,
14 even though the Claiborne - Lake Claiborne
15 Commission didn't have any authority to sell it.
16 There was some recommendation in the law that was a
17 running water.

18 But, yes, it's going to be a factual
19 question for those. And I think when you get down
20 to the smaller waterways, the more isolated things,
21 you're going to run into a real judgment call that,
22 more likely than not, is going to end up in the
23 courts.

24 MR. BALKUM:

25 Thanks.

1 SECRETARY ANGELLE:

2 Okay. Thank you very much, Ryan, for
3 that presentation. A couple of comments. Again,
4 obviously, as we look to ground water solutions and
5 look to the tools that are in the toolbox, one of
6 the tools that we have is this unbelievable amount
7 of surface water in the State that can lend some
8 assistance to some of the ground water deficiencies
9 in the State.

10 The reason I wanted Mr. Seidemann to
11 go through this with you is to see just how complex
12 it is. It is not as though actually just going into
13 the toolbox and getting a different tool that comes
14 to you with no regulation and no attachments and no
15 strings and no concerns, and there's a great deal of
16 it.

17 You know, it's incredible to think,
18 and it is ours to observe, I should say, that we
19 have a variety of lake districts, all of which have
20 some authority, some authority as broad as Sabine
21 River Authority to into enter into contracts for the
22 sale of water, notwithstanding anything other than
23 the review, if you would, by the State.

24 Other districts have the right to
25 regulate the use, and I think that was the one from

1 Cane River, but don't have the right to sale; so
2 there are different varieties, if you would, of lake
3 districts.

4 There are a variety of lake
5 districts, all having different authorities, all
6 having management regimens that are somewhat
7 different; and so as we look to the solutions, I
8 think it's going to be very important for us to
9 understand those tools, if you would; i.e. surface
10 water in the toolbox. We're going to have to figure
11 out how we grab those to make the kind of necessary
12 comprehensive recommendations to the legislature for
13 that.

14 You know, I would say maybe a week
15 doesn't go by where I don't get a call from some
16 lake district that's trying to, you know, grapple
17 with this whole situation themselves, and all of
18 them are doing the good work that they've been asked
19 to do.

20 You know, we didn't have these
21 questions being asked three years ago. We have
22 very, very little surface water management
23 legislation on the books. We tend to be, you know,
24 a state that has not regulated that. Whether or not
25 we move to that is, you know, left for others to

1 help decide, but certainly it is critical to ground
2 water management solutions that we understand what
3 availability of surface water we have to be able to
4 help with the recommendations.

5 So, again, I will continue to bring
6 these things up to you so that you can be best
7 prepared to make the recommendations that you think
8 are appropriate public policy.

9 Any other questions or discussions on
10 this issue? Okay. Seeing none, we will -- thank
11 you very much, Mr. Seidemann. I appreciate it.

12 MR. SEIDEMANN:

13 Thank you.

14 SECRETARY ANGELLE:

15 Thank you for your good work. And we
16 will go to Item Number 4, which is an update for the
17 Ground Water Resources program, and ask Mr. Gary
18 Snellgrove to present. Thank you, sir.

19 MR. SNELLGROVE:

20 We're just going to go through our
21 routine as we have in the past. We've got a few
22 items that we're going to splinter off into, but
23 generally we're going to follow the same flow that
24 we have before.

25 We'll start off and look at the

1 Evolution of the Water Well Driller Program, where
2 we are, provide an update to that activity. We'll
3 look at the Sparta Aquifer. We're going to revisit
4 the map that we had presented before about water
5 recovery in that area, North Louisiana, and we'll
6 talk about an observation well that's drawing some
7 interest on the water level decline. We'll provide
8 some conclusions on our investigation on that
9 matter.

10 We'll give you an update on the
11 Katrina and Rita water well damage. We have a
12 contract now with OCD Disaster Recovery Unit. It's
13 a part of the Division the Administration. And
14 we're moving towards securing contracts in that
15 regard to go ahead and begin the actual work to
16 repair or plug and abandon these wells that have
17 been damaged.

18 We'll give you an update on the
19 Haynesville Shale Frac Water Supply. We're tracking
20 that. We do it with water use in the area. Mr. Lou
21 Buatt will provide an update to the Corporate
22 Endeavor Agreement process that Mr. Seidemann
23 alluded to earlier, and then we'll go through our
24 audit and enforcement for our water well
25 notification. And, lastly, but not least, we'll go

1 through the latest of our public outreach and
2 education efforts.

3 So starting off on the top with the
4 onset of March of last year, 2010, nearly over a
5 year ago, we began -- we implemented the programs
6 from DOTD as it was provided for in the statutory
7 amendments. In doing so, we've, you know,
8 accomplished a few things since then.

9 Predominantly here of note, we've
10 discovered that we needed to put more resources on
11 this particular effort with the water well
12 construction registration, enforcement, all things
13 plugging and abandonment, monitoring wells,
14 predominantly in regard to the database management
15 in getting the information - paper in and out of the
16 office and into the database. So, with that said,
17 we implemented some division - some staff changes to
18 ramp up in that area so that we can approach in a
19 more effective and efficient way of how we go about
20 resolving some issues there.

21 And, then, secondly, we've
22 implemented several - or in the process of
23 implementing several regulatory amendments that
24 would help us to achieve the improvements that we
25 see we need to do to be able to get this database in

1 a manner that's more - that provides the information
2 more timely, more quickly to both us and to the
3 users on the outside.

4 This slide right here shows the
5 Division before January of this year. I've
6 highlighted the things that are of significance that
7 I wanted to express here. As you can see, we had
8 the two positions over here that are highlighted,
9 engineering intern over here, were what we had - are
10 the positions that had come to us by way of DOTD and
11 through DOTD funding; and so what we wanted to do
12 was - on the structure here is take positions and
13 move them more over to that side, because that's the
14 side where we're doing the - predominantly doing the
15 driller construction registration program effort.
16 So we moved into this direction here, where we've
17 taken and had direct line to the Division
18 Administration under the supervision now of
19 Conservation Program Manager and have changed one
20 engineering position into an environmental impact
21 specialist, along with bringing along into that
22 column another environmental impact specialist
23 position that was vacated earlier this year or -
24 yeah, this year; so that's our structure now. And
25 we've got one position left to fill, and hopefully

1 we will have that filled here before the end of the
2 week.

3 On the topic of regulatory
4 amendments, these are the highlights. I'll go
5 through them very quickly here. Title 56 is the
6 Driller Construction Registration, et cetera, the
7 former DOTD regulations, and what we did there was
8 we identified an area where we could improve on the
9 speed and, perhaps, you know the flow of the
10 registration forms into the Agency and link them to
11 the database.

12 We recognize that there is a delay,
13 and we believe -- well, we know that the delay is
14 due to the handling of the form as it comes into the
15 Agency and then it goes out back into the field, and
16 a DOTD inspector goes out and he populates the
17 longitude and latitude information, the GPS
18 information, and then it comes back to our agency,
19 and then we input it into the computer and finalize
20 it, and that takes time.

21 And so what we've done is we've --
22 we're near completion of promulgation of regulations
23 that require the water well drillers to put that
24 information in lieu of the DOTD inspector; and so
25 that's what that driller registration, GPS lat/long

1 site engineer's route.

2 And, of course, along with that,
3 there were many administrative provisions that were
4 required due to the changeover from DOTD to DNR, a
5 lot of cosmetic, a lot of changes of, you know
6 recognizing different agencies in the right places;
7 and so that was part of also what we did here to get
8 that cleaned up.

9 Secondly, Title 43, Ground Water
10 Management Regulations, the predominant change that
11 we've looked at there is to allow for a water well
12 owner -- this is under -- Title 43 is under
13 Conservation; so this would be the regulations that
14 we - prior to adopting the DOTD requirements we
15 implemented for water well owners.

16 In that regulation -- and also
17 that -- you know, that was promulgated after the
18 statutory requirements were put into effect. It
19 required well owners to provide these notification
20 forms in to the Agency; so we found two areas that
21 were very lacking, and it was a large amount of data
22 that was coming into the office and we -- so we
23 provided some clarification as to - in an effort to
24 try to bring both the driller's responsibilities
25 along with the water well owner's responsibilities

1 more consistently - or molded together, if you will.

2 And, so, long story short, what we
3 did was, we allowed for the water well owner in the
4 registration that is submitted by the driller when a
5 water well is drilled to suffice as his - you know,
6 his being the well owner's registration or
7 notification to our agency. Okay. So that's what
8 Title 43 changes, you know, in essence are going to
9 do. Not only is it just for the water well owner of
10 domestic wells, okay, now, this is with domestic
11 wells and oil and gas and drilling rig supply well
12 owners.

13 Now, if the drilling rig supply well
14 is going to be used for frac water supply purposes,
15 this does not by any means exonerate or allow for
16 the operator of the water - of the drilling rig
17 supply well to not provide to us our 60-day prior
18 notification. Again, it's only applicable to
19 domestic and driller supply -- yes, sir.

20 SECRETARY ANGELLE:

21 So in as much as when we looked at,
22 again, that Comprehensive Ground Water Management
23 plan as we're trying to grind through it and get
24 there, I know that registration was one of the --
25 you know, it's one of the fundamental things for

1 managers to be able to manage whatever it is.
2 Whether it's a church or water resources, you've got
3 to know who your members are.

4 And, so, while we are trying to grind
5 through some of those recommendations, and our
6 workshop talked about some of the changes or
7 improvements that we could make on registration,
8 knowing, again, that that's a fundamental foundation
9 for us to be able to manage the resource, these are
10 some of the changes that you've been able to propose
11 that would improve registration issues while we are
12 grinding through in a more comprehensive manner; is
13 that correct? This allows us to get going on some
14 of these issues.

15 MR. SNELLGROVE:

16 That is correct. Yes, sir.

17 SECRETARY ANGELLE:

18 And, so, on the Title 43, was the
19 problem in as much as -- it probably made a whole
20 bunch of common sense for you to accept the
21 information by the driller to suffice for the owner
22 as opposed to having folks do the work.

23 The law or the regulation spoke to
24 the owner, and you had to go ahead and amend that to
25 allow the owner, if you would, out of that statutory

1 requirement or rule requirement and allow it to be
2 the work of the driller to suffice.

3 MR. SNELLGROVE:

4 Yes, sir. Basically recognizing that
5 the water well - domestic water wells are small in
6 the sense of things. They don't -- we're not
7 required -- they're not required to provide any
8 prior notification; it's only after the fact.

9 Considering that there's only one
10 piece of information between the two registrations
11 that differs, which whenever the data that's being
12 used from the domestic domain -- I say USGS or those
13 who are crunching numbers. They're making
14 assumptions anyway that are universally used.

15 All things considered, yes, it was a
16 clarification to the regulation. It just allows for
17 these well owners to basically have the driller
18 serve on their behalf, as their representative or
19 authorization.

20 SECRETARY ANGELLE:

21 In the absence of this rule change,
22 would this have continued to put you in the spot to
23 be able to live up to your oath that you were going
24 to continue to have to track down domestic water
25 well owners who failed to fill out paperwork, that

1 the law said that they should do, then you would,
2 perhaps, be audited on that issue?

3 And I know that -- and you all
4 probably have heard. I mean, there were a lot of
5 letters that went out. So, you know, we have a lot
6 of land owners - I mean well owners who, for
7 whatever reason, had not registered, and this
8 should -- once we get that caught up, right? Once
9 we get that caught up, then this change in
10 management or policies should help us not create a
11 backlog of unregistered wells, correct?

12 MR. SNELLGROVE:

13 That's correct. And it also provides
14 for a common-sense approach to allowing the well
15 owners themselves to be in compliance.

16 SECRETARY ANGELLE:

17 Right.

18 MR. SNELLGROVE:

19 And, then, thirdly --

20 SECRETARY ANGELLE:

21 Does anybody have any questions on
22 that issue? I mean, I'm sure y'all heard about it,
23 and y'all probably got some of those letters
24 yourselves. Okay. Go ahead, Mr. Snellgrove.

25 MR. SNELLGROVE:

1 Thank you. The third set of
2 amendments, it's really bundled up into one
3 announcement that we made previously. I think it
4 was last year. I think it was September maybe. But
5 what we did, we had -- since we had gotten involved
6 with the driller's construction, registration,
7 monitoring wells, what have you, we've received a
8 lot of feedback, interested parties, and it's both
9 internal and external.

10 We went in and we looked at the rules
11 and read them and found some areas that we felt we
12 could revise and bring up to date, perhaps, instead
13 of granting some - you know, some certain types of
14 exceptions on a frequent basis, and perhaps the
15 exception is more now the most common-way sense to
16 approach and still protect the environment.

17 So what we did was, we wanted to
18 be -- the ones that we did earlier were things that
19 we felt were almost an emergency-type of situation.
20 We got to correct this problem with the GPS. We
21 need this information into the computers quicker.
22 We need to be able to access this information
23 quicker so that we can do our evaluations without
24 overlooking, perhaps, a well owner that's already in
25 existence, a well that's already there. So those

1 things were more of immediate needs.

2 These other items - I think there
3 were 19 amendments that we had proposed - were
4 things that we certainly feel warrant attention and
5 have some merit, certainly some more than others,
6 but we wanted to have -- we wanted to send it out,
7 since these regulations hadn't been amended
8 substantively in some time. We wanted all involved
9 in this process to be able to have some input so
10 that we can learn along with - you know, and update
11 as we go.

12 So Title 56, we have sent it out to
13 all interested parties. I can't remember the total
14 number of e-mail addresses that we've sent out in
15 the past. I think it's over 400 so -- 600 John
16 tells me.

17 So we've been very open about this.
18 Louisiana Ground Water Association has been - has
19 also taken that information and sent it out to their
20 network, and we have received comments. And we're
21 adjusting the regulations accordingly, and we
22 hope -- the bottom line is that we hope that before
23 the end of this year we will have the amendments --
24 you know, we would have made our final decision and
25 we would begin the final rule promulgation process

1 to get these amendments into effect to move forward.

2 And now at this time we'll go
3 through -- I'm going to show you a map, and we'll
4 talk about the Sparta Aquifer.

5 SECRETARY ANGELLE:

6 Okay. Before you do that, that
7 completes your presentation on Item 4A; is that
8 correct?

9 MR. SNELLGROVE:

10 Yes, sir.

11 SECRETARY ANGELLE:

12 Does anybody have any questions on
13 Item 4A and the discussions that Mr. Snellgrove had?

14 (NO RESPONSE)

15 SECRETARY ANGELLE:

16 Very good. Item 4B.

17 MR. SNELLGROVE:

18 Yes, sir. This map here is a revised
19 depiction of what we had provided probably about six
20 months now, and I think it was in our August 2010
21 meeting that we had. We showed a map with a bunch
22 of dots - or circles, and the circles represented
23 water levels at these USGS observation wells. We
24 have since gone back and reviewed the information,
25 updated the data to make it current, and essentially

1 we found that there's been very little change in
2 what we had originally reported.

3 We've also consulted with USGS
4 following the August meeting. They concurred with
5 our conclusions, and they concurred that the data is
6 accurate in the way that we were viewing it and
7 reporting it.

8 And here recently we've also passed
9 this map by USGS, and we are -- for the most part,
10 we are in agreement. And I'll talk about this in a
11 little bit more detail here as we go through.

12 But as you can see, the darker the
13 blue represents -- the darker the blue shaded areas,
14 the more that there has been a noted or reported
15 water level increase since 2000. So going from dark
16 blue down - moving down towards the central part of
17 the map, you can see that there has been - that
18 there is noted recovery that is taking place up
19 there.

20 Looking in the very center part of
21 the map, you can see a white area --

22 SECRETARY ANGELLE:

23 Excuse me. Not being able to see the
24 legend and I'm speaking for members of the audience
25 as well, can you just generally tell me from your

1 legend just into the record what the dark blue --
2 and I know it represents an increase, but I'm sure
3 there's a corresponding number to that.

4 MR. SNELLGROVE:

5 Yes, yes. The dark blue is a water
6 level increase that's been shown from nine feet-plus
7 since 2000.

8 SECRETARY ANGELLE:

9 All right.

10 MR. SNELLGROVE:

11 The next shade of blue depicts an
12 area - the areas where water level has increased by
13 six to nine feet since 2000. The next shade is
14 increases noted three to six feet since 2000. The
15 next shade of blue -- the last shade of blue depicts
16 a zero to 3-feet increase in water levels since
17 2000.

18 And now into the white area, what
19 we're seeing there is basically that the water
20 levels have stabilized since 2000. The green area
21 on the map shows an area where there has been a
22 water level decrease - a decline that has decreased
23 over time since 2000; in other words, the rate of
24 decline is lessening. So it's moving towards more
25 of a flattening or a stabilization.

1 And this brown area down here, which
2 is just, you know, sitting down in Caldwell Parish,
3 it's an area where they're showing that there is a
4 decline, and I believe on that particular situation
5 we're not -- you know, us nor USGS are quite sure,
6 but we're not concerned with that, because in that
7 area there is -- the water quality there is
8 getting -- now you're getting into more of a saltier
9 part of the aquifer; so it is something that we're
10 going to continue to watch and review.

11 Maybe we'll be able to, you know,
12 figure out, you know, why there's pumping there
13 that's occurring. You know, we've asked USGS to,
14 and I'm some they will at some time, maybe evaluate
15 that well and see - make sure that there's not
16 anything wrong mechanically with the well itself.

17 SECRETARY ANGELLE:

18 I'm assuming you're going to share
19 your observations of why you believe positives and
20 negatives and stabilization, or is that part of this
21 presentation?

22 MR. SNELLGROVE:

23 Oh, yeah, absolutely. Well, it's --

24 SECRETARY ANGELLE:

25 I don't want to take you off of your

1 game.

2 MR. SNELLGROVE:

3 That's okay. All right. No, sir.
4 Well, it's what the data -- you know, the USGS
5 reports this data from all of these - the circles,
6 you know, L-26 the Un-84, the alphabet is the parish
7 that it's going to be in, and, of course, the number
8 is the well number that it's been assigned.

9 But each of these wells have been
10 observed. They're observation wells, and they've
11 been -- water levels have been reported over time
12 from each of these wells; so it -- you know, what we
13 see is what the data is reporting.

14 SECRETARY ANGELLE:

15 Yes. I guess my question is, is it
16 because it's good luck or is it good management?

17 MR. SNELLGROVE:

18 Well, we're going to go to --

19 SECRETARY ANGELLE:

20 Oh, okay. I'm sorry.

21 MR. SNELLGROVE:

22 Yes, sir. We're going to get to the
23 good in a bit. But setting the stage, if you will,
24 we need to show you, and I think this is the best
25 way to do it here, is graphically showing you that

1 there are all of these good things happening in the
2 Sparta Aquifer recovery. And we're watching the
3 areas where the recovery -- you know, we're showing
4 still a decline - a less than regular decline.

5 Now, over to the left part of the
6 map, where we have Bi-144, Bi-166, Bi-16, and Ja-49,
7 I'm going to talk about those right now. Those
8 are -- they're unique in that we are not able to
9 include them into the shaded colors of recovery
10 because of some conditions that exist.

11 Let's see. Number Bi-144, that
12 particular area where that well has been drilled and
13 water levels have been taken from it is an area
14 where there's a locally thin aquifer sand, and we
15 know this, and I'll get into detail on that with the
16 slides coming forth, but that's a condition there
17 that makes it difficult for us to include it without
18 skewing the display.

19 The triangle well over here, the one
20 that's got a triangle, that well is Bi-216, and it's
21 a shallower well than the others; and so it's more
22 susceptible to surface changes, rainwater, rainfall,
23 drought, and what have you. So its graph is all
24 over the place. It's going up and down, and it's
25 reacting to what's happening to surface conditions.

1 And, then, of course, this star in
2 one of the areas of ground water concern, Ja-49,
3 this starred location, that well is an observation
4 well, and it's located very near to an existing
5 Smurfit-Stone water well that they're drawing; so
6 this well is basically inside the cone of depression
7 for another operating well. So it's not accurately
8 depicting the area because it's being, you know,
9 influenced by this drawdown that is occurring very
10 nearby.

11 SECRETARY ANGELLE:

12 Which one was drilled first?

13 MR. SNELLGROVE:

14 Actually, Ja-49 was drilled first by
15 Smurfit-Stone. And they decided at some point that
16 they no longer wanted that well; they would drill
17 another one. And so they offered this well to USGS
18 as an observation well, and USGS inherited it; and
19 so that's how they --

20 SECRETARY ANGELLE:

21 So that asset by the USGS was not
22 identified as a spot on the map that they wanted to
23 have monitoring from here. Are you telling me that
24 it was a gift that, you know, was too good to turn
25 down but not necessarily one that the taxpayers

1 would have paid to get information from because of
2 the influence of the other Smurfit well?

3 MR. SNELLGROVE:

4 It was not a USGS strategic location
5 that they, you know, spent money for. No, sir.
6 That's correct. It was transferred -- ownership was
7 transferred over from Smurfit to USGS.

8 SECRETARY ANGELLE:

9 I might suggest whatever that's
10 worth, and, certainly, I'm no expert on it, but when
11 we have monitoring wells that are - that show good
12 things and there's a reason they're showing good
13 things that are not accurate, we ought to -- and we
14 have monitoring wells - so-called monitoring wells
15 that were not strategically located that are showing
16 bad things that are not accurate, we ought to try to
17 perhaps work with our federal partners to create
18 maybe a different class of definition for those
19 wells.

20 If there's a well that's showing
21 there's this unbelievable recharge and that is used
22 as spin, then we ought not - we ought not use that.
23 We ought to, you know -- I mean, I certainly
24 understand the need to accept a free monitoring well
25 and for what some value that may provide, but I'm

1 sure there are, you know, on both sides of the
2 equation wells that show bad things that create a
3 resource reaction - or a resource management
4 reaction that ought not happen and perhaps some
5 concern. And I'm not at all saying that that's not
6 what's happening here, but I am saying that we ought
7 to try to identify those that have those special
8 characteristics if they don't have any value to us
9 as managers of the resource.

10 MR. SNELLGROVE:

11 Yes, sir. Case in point of one going
12 perhaps the other way is Bi-166. It looks like a
13 bulls eye right there in that same general vicinity.

14 SECRETARY ANGELLE:

15 Which one are you pointing to? I'm
16 sorry.

17 MR. SNELLGROVE:

18 Bi-166. Right here. Both USGS and
19 our staff are not able at this time to explain why
20 there was a radical increase in the water level. We
21 don't believe that USGS is reporting to us that they
22 don't believe the well itself is mechanically
23 failing. We suspect that it may have been an
24 unregistered water well nearby that turned off the
25 pump; and so it went from -- you know, it went from

1 one line of data tracking across, and then in one
2 sampling event to the next, it went up I forget how
3 many feet. Chris? About 25 feet? Chris is
4 reporting about 25-foot level of increase.

5 And, then, now it's pulling the same
6 that it was doing prior to that increase; so we
7 probably -- in consultation with USGS -- we didn't
8 have time to change this map, but that was one area
9 that we probably would change the depiction as being
10 this bulls eye to probably another dot with a symbol
11 so that we can explain it.

12 Over time, if this well continues to
13 report stability, if you will, or whichever way it
14 goes, up or down, if there's no radical change, then
15 we'll probably put it back on the map.

16 SECRETARY ANGELLE:

17 Was it a strategically-acquired or
18 strategically-located well, or was this one that
19 was, again, showing up in the portfolio but not
20 strategically located?

21 MR. SNELLGROVE:

22 We believe -- we'll have to check on
23 that to be confident in responding, but we believe
24 that it may have been one that the USGS drilled.

25 SECRETARY ANGELLE:

1 Okay.

2 MR. SNELLGROVE:

3 So we are going to continue to
4 discuss with USGS that particular situation, but I'm
5 thinking that we've -- you know, we've already
6 internalized and thought maybe we need to change
7 that from - and watch it and see what happens. It
8 could be that we can put it back.

9 So that's the general layout of the
10 well data that's reported by USGS and what we know
11 today to be accurate data that shows water levels
12 increasing in a large way in the northern part of
13 the State. And certainly the efforts by --

14 SECRETARY ANGELLE:

15 I'm sorry.

16 MR. MAYS:

17 Can I make a comment, please?

18 MR. SNELLGROVE:

19 Sure.

20 MR. MAYS:

21 The green area says water level
22 decline decreased since 2000. Does that mean it's
23 decreasing at a lesser rate? I don't know if I
24 understand.

25 MR. SNELLGROVE:

1 That's correct.

2 MR. MAYS:

3 Okay.

4 MR. SNELLGROVE:

5 It was declining at a more rapid rate
6 prior to 2000. Post 2000, it's tending more towards
7 flattening, or the rate has at least -- you know,
8 rate of decline has decreased. The rate --

9 SECRETARY ANGELLE:

10 In your business, that would be not
11 losing as much money as fast as we were before.

12 MR. MAYS:

13 That's -- and government is. You
14 know, our budget deficit is not increasing as fast
15 as it once was.

16 SECRETARY ANGELLE:

17 You didn't have to take that
18 personally.

19 MR. MAYS:

20 One other point. And I know you're
21 getting ready to get to some contributions, but the
22 reality of it is, as you get darker going up this
23 map is because Arkansas has done what they needed to
24 do to fix the Sparta.

25 SECRETARY ANGELLE:

1 I'll comment on that. I certainly
2 believe that observation is the number one thing for
3 us to do and to try to find out exactly that
4 question, what specifically led to the improvement?
5 And, then, how do we take those improvements and
6 repeat them, if you would, or expand them to get as
7 much dark blue as we possibly can on the map? So
8 I'm assuming that you're going to talk about it, and
9 I'm assuming that the Union County situation in
10 Arkansas is one of the things you'll talk about.

11 MR. SNELLGROVE:

12 Yes, sir.

13 MR. BOLOURCHI:

14 Mr. Chairman?

15 SECRETARY ANGELLE:

16 Yes, sir.

17 MR. BOLOURCHI:

18 Two comments. The term "monitoring"
19 is really not applicable to what we're talking
20 about, but by definition, it should be called
21 observation wells. Monitoring usually means a
22 shallow well around a service station, for example.

23 A monitoring well usually is for
24 certain studies trying to see several trends in
25 contaminated movements, transport and that type of

1 things.

2 The purpose of USGS observation
3 well -- and we fund roughly 40 percent of it, is
4 really observation. Observation simply means depth.
5 Some have been observed for 30 years is basically
6 looking to see what the aquifer is as far as the
7 height of water.

8 MR. SNELLGROVE:

9 Well noted. I appreciate that.
10 We'll make the change. We're going to continue to
11 update this map and present it to keep everybody
12 informed, and we'll definitely -- that's a good
13 point.

14 MR. BOLOURCHI:

15 And one other comment, that that well
16 is not necessarily going through Geological survey.
17 It belongs to whoever is the owner of the property.
18 In this case, I'm assuming it is a plant.

19 Ordinarily, USGS always is interested
20 in additional wells to be observed, because this
21 type of well, depending on the depth, may cost
22 anywhere from \$100,000 to \$200,000. So it's better
23 if the water well owner would allow the federal and
24 state agencies to observe. And the reason that
25 that's close, obviously, the closer the observation

1 well to the center of the pumpage, the more depth to
2 the water level, and that's the reason that we're
3 looking at one well. It doesn't necessarily give
4 you what you're looking for. You need a number of
5 them from the center of the pumping to the outlining
6 areas.

7 MR. BURLAND:

8 Mr. Chairman, I just have one
9 question.

10 SECRETARY ANGELLE:

11 Go ahead.

12 MR. BURLAND:

13 Gary, with regard to Ouachita well,
14 Ou-80, can you tell me where that might be located?
15 Is that showing an improvement in the cone of
16 depression over in the Monroe area?

17 MR. SNELLGROVE:

18 It is. It's near the Monroe or West
19 Monroe area. We have looked at that very hard here,
20 you know, as we did with Bi-166, and we don't see
21 that there's anything -- other than what the data is
22 reporting, it's not a radical -- you know, no
23 significant change overnight.

24 It could be due to conservation
25 efforts or, you know, other types of industry

1 going - you know, using other sources of water. We
2 know that -- we fully expect this to skyrocket too
3 when Graphic packaging is online with their project
4 too.

5 MR. BURLAND:

6 Right.

7 MR. SNELLGROVE:

8 But we're confident that the data is
9 showing what you see there, that recovery --

10 MR. BURLAND:

11 But that well isn't necessarily in
12 the cone as you've stated from the other well in -
13 that one in Smurfit.

14 MR. SNELLGROVE:

15 No, sir. Yes, that is correct. It's
16 in that area of ground water concern, but if it
17 wasn't a cone of depression, it would probably be
18 showing more of a -- it wouldn't be blue; it would
19 be more green or white or something in that area,
20 blown perhaps, even.

21 MR. BOLOURCHI:

22 Mr. Chairman, one other comment. For
23 the reason of water level going up or down, the
24 water in this report, that USGS has put together is
25 due shortly. I'm expecting hopefully before the end

1 of the year. That way the water levels could be
2 looked at and see perhaps some owners give more
3 conservation.

4 I know in the Baton Rouge area, a
5 number of industries have taken steps. In fact,
6 they've been awarded from the Capital area for
7 conserving water; so that would be another thing
8 that you can look at.

9 SECRETARY ANGELLE:

10 Just picking up, that leads me to,
11 you know, again, one other component for us of a
12 sound ground water management plan. Not only do we
13 talk about registration, the other one is reporting.
14 And, you know, that's something that we're going to
15 have to look at to see whether or not we want to
16 make that recommendation.

17 But, again, it would seem to me there
18 should be some requirement somewhere along the line
19 by some of the abusers to report on some regular
20 basis so that managers have that information on a
21 regular basis.

22 Did somebody else have a question?

23 MR. WELSH:

24 My question was answered. Thank you.

25 SECRETARY ANGELLE:

1 All right. Go ahead, sir.

2 MR. SNELLGROVE:

3 Certainly we know that there's been
4 positive impact - very positive impact by the
5 efforts of Arkansas and, you know, what they did in
6 their - with their program, and we're benefiting
7 from that, but we -- you know, we have to challenge
8 ourselves and say, well, what have we done in
9 Louisiana? And these are things that we as an
10 agency believe are positive contributors.

11 We may not know exactly to what
12 extent they're contributing, but we certainly
13 believe and it's logical to consider that they would
14 have a contribution to improvement in the Sparta
15 Aquifer.

16 And reading down to this, certainly,
17 you can't ignore the fact that in the '80s,
18 legislation was passed that required water well
19 registration, water well construction, and driller
20 licensing. That obviously had brought something
21 that was either very little regulated or maybe not
22 at all in certain areas of the state. It brought an
23 awareness, you know, that you have to go through a
24 process and be -- you know, that a licensed driller
25 has to drill that well; so I think it brought, you

1 know, a level of understanding and kind of put it on
2 the radar.

3 And, secondly, along comes the Ground
4 Water legislation that was passed in 2001, which, of
5 course, is still ongoing. Again, bringing ground
6 water and ground water resources management to the
7 forefront, once again, for users and the public to
8 see.

9 I recall, although I wasn't involved
10 back in that time, it was in the paper; it was
11 well -- it was discussed a lot, both inside and
12 outside of the Agency. It had a lot of -- there was
13 a level of tension to the ground water. So we have
14 to believe that there's, again, an awareness, if
15 nothing else.

16 But then, second and thirdly, of
17 course, the program - the Office of Conservation
18 Ground Water Resources Program was implemented and
19 the enforcement of that program began since 2001.
20 And, you know, it stands to reason that that has
21 impacted water well owners and users, and that prior
22 evaluation and our prior notification procedure for
23 large volume wells was in effect and allowed the
24 Agency to regulate it, to manage the resource.

25 And, then, of course, Item Number 4,

1 the Commissioner of the Office of Conservation
2 issued the three areas of ground water concern in
3 the Sparta area - in the Sparta Aquifer which
4 requires conservation efforts and mandate reporting
5 by certain types of users in the area, basically all
6 the domestic users.

7 And fifth we have certainly industry
8 has come to - they put forth effort there, too, as
9 far as conservation practices, and perhaps it was
10 because of legislation that was passed previously
11 that was mentioned or bringing us to the forefront
12 of public ed and outreach and all things there
13 educating. Industry has stepped up, and a prime
14 example of that is what graphics packaging is doing.
15 There are others and we're aware of who the others
16 are, and we're tracking that too. We've seen that
17 industry has responded to conservation efforts in
18 the Sparta area.

19 Certainly there was legislation that
20 created the Sparta Ground Water Commission in their
21 mission, in their outreach, in their efforts to
22 educate both at the elementary level in the
23 education systems, but also to industry and
24 partnering with industry, assisting our agency and
25 other agencies that have responsibilities to ground

1 water management. So Item 6 and 7 discusses that.
2 It's certainly a contributor.

3 Louisiana Tech has had a good public
4 ed and outreach program and activities that they
5 provide to the community in the Ruston area. And,
6 then, last, certainly all of the other agencies,
7 federal, state, local, the media, in assisting to
8 get the word out on ground water conservation, you
9 know, agencies such as Conservation, DEQ, USGS,
10 Louisiana Geological Survey, NRCS, LSU's Ag Center,
11 the Louisiana Rural Water Association, OPH, Office
12 of Public Health, in the media, the Ruston Leader,
13 the City of West Monroe, and there are countless
14 others. And all of these have all contributed to -
15 in some way, in some fashion to the recovery or the
16 improvement that we're seeing up there.

17 SECRETARY ANGELLE:

18 Okay. Before you do that, I want to
19 give Mr. Mays an opportunity. Okay. So there is no
20 question that -- it's certainly not debatable that
21 those items that you just mentioned, 1 through 9,
22 combined in some kind of way and aggregate the
23 incremental changes and improvement.

24 And, you know, I don't necessarily
25 think that we could put plus one or a minus one on

1 each one of them in terms of which one did what, but
2 certainly management and effort and attention helps.

3 I think that the -- with regards to
4 the Sparta Aquifer, the \$64,000 question is: How do
5 we -- and that's why I want to engage you for a
6 second, is -- again, these are all fine. I
7 compliment the Commission and the Staff and the
8 State for making, you know, some awareness and
9 certainly progress.

10 How do we, in a sense, maybe put it
11 on steroids and maybe capture some of the positive
12 things that have been done in Arkansas as, perhaps,
13 a lesson learned and maybe now begin to focus the
14 next level of accomplishment on some of the things
15 that they did, like maybe getting the
16 identification. And I know we had -- is it Sammy?
17 I'm trying to remember the management person with
18 the Union Country that was there.

19 So do you have any -- you know, I
20 know that you've been very passionate and very, you
21 know, concerned about this issue. Perhaps you on
22 the Arkansas situation could help, and I'm certainly
23 thinking that here before too long we would want to
24 get the Arkansas folks in our -- and maybe our next
25 meeting will be in North Louisiana, where Arkansas

1 management could actually come and be a part of a
2 presentation.

3 MR. MAYS:

4 I have two comments. One, to answer
5 your question, industry and the people of Union
6 County got together a number of years ago and
7 realized that they had a problem and identified it.

8 One of the things that they did was
9 to come up with tax incentive alternative water
10 sources out of the Ouachita River and a cost
11 associated with the pumping out of the Sparta.

12 They've been very active for a number
13 of years on those, and it would be great if we could
14 get Cheryl down here and let her explain what
15 Arkansas has done, because we're certainly
16 benefiting by what they have done up there.

17 Additionally, Mr. Secretary, at this
18 time, I would like to present to you Phase II study
19 of the Lincoln-Union Water Initiative, which is a
20 study that in today's dollars 110 million would be
21 the cost of going from Lake Darbonne to Ruston with
22 the processed water.

23 I would like to add -- I would like
24 to ask you to make this a part of this Commission's
25 minutes, number one, and number two is to make all

1 the members of this Commission realize that, as
2 you've said, Lincoln Parish is the epicenter for
3 ground water problem. We have no river. We have
4 not another aquifer. We have to do something.

5 As Past President of the Police Jury
6 myself and you, we've been spending approximately
7 \$50,000 a year for some years to try to come up with
8 an alternative, and this is the Phase II study.

9 If you would, accept this and make
10 this part of the minutes for all of the members of
11 this Commission to realize what a fight we've been
12 putting up to try to have an alternative water
13 source.

14 SECRETARY ANGELLE:

15 I certainly accept that, and perhaps
16 ask the staff as well to make the copies to give to
17 the members of the Commission so you can have it as
18 well.

19 Just a couple of questions on that.
20 So, Mr. Mays, the study here, if you would, help me
21 just to kind of from a summary standpoint, speaks to
22 the alternative source being Lake Darbonne as the
23 solution and puts a general price tag to construct
24 that project to get that alternative source of water
25 into Lincoln; is that correct?

1 MR. MAYS:

2 That's correct.

3 SECRETARY ANGELLE:

4 Okay. In addition to Lincoln, any
5 other parishes are certified by this particular --

6 MR. MAYS:

7 Yes. This was a Union-Lincoln
8 initiate. We've been partners on this for a number
9 of years, and the plan itself is to build a
10 processing plant to - at Lake Darbonne to process
11 the water and send the water already processed to
12 Lincoln Parish and into Farmerville in Union Parish.

13 SECRETARY ANGELLE:

14 And I'm assuming that it would take
15 resources other than the resources that are
16 available - financial resources other than the
17 resources that are available, obviously, in those
18 two parishes to fund something of this magnitude.

19 MR. MAYS:

20 A hundred and ten million is not
21 manageable for our small parishes.

22 SECRETARY ANGELLE:

23 Correct. I wanted to get it on the
24 record. I certainly share that. And, again, I'm
25 pleased because, again, this is consistent with one

1 of the tasks of the Ground Water Commission. When
2 we set out to engage our consultant, we asked to
3 look at incentives as -- you know, again, ground
4 water management is not only about registration and
5 enforcement and monitoring, but it's also about the
6 long-term ability to have access to water.

7 And one of the things that, you know,
8 is, you know, we're grinding through right now is -
9 you know, cost share funding to assist in developing
10 surface use alternatives, credit system, a credit
11 system for alternative users, so, therefore, to help
12 make it feasible for folks to use alternative
13 sources. And, of course, we're grinding through
14 that process, and you all will be given a copy of,
15 you know, some of the workshop recommendations.

16 Obviously, these have fiscal impacts
17 to the State of which, you know, other folks above
18 our pay grade will be making. But certainly this is
19 consistent with a overall ground water management
20 plan; and so I'm pleased to take it and make it a
21 part of our minutes, and certainly we will get a
22 copy of it out to you.

23 MR. MCKINNEY:

24 I want to go back to the Arkansas
25 question.

1 SECRETARY ANGELLE:

2 Yes, sir.

3 MR. MCKINNEY:

4 There was a very excellent
5 collaborative effort between industry and the public
6 citizens of that particular area, particularly after
7 several counties in Arkansas were declared critical
8 ground water areas.

9 And another point I would like to
10 make is that the Sparta Commission receives
11 absolutely no funding from any source other than
12 volunteer. So in that instance up in Arkansas,
13 Cheryl can share with you how there was some
14 fundings that occurred between industry and the
15 users of the water that lasted for about two years I
16 believe it was and then expired.

17 But I want to make it clear, there
18 was an unheard of collaborative effort that went
19 about by all of those concerned citizens up there to
20 solve this problem, and they did it.

21 SECRETARY ANGELLE:

22 Well, that's good. I appreciate
23 that. Let's go ahead and reach out. Would you all
24 say it would be more appropriate to reach out to
25 Cheryl for our next meeting, or would it be as

1 appropriate to reach out to Cheryl and members of a
2 state organization in Arkansas? And I would defer
3 to you all for advise on that. Yes, sir, Mr.
4 McKinney.

5 MR. MCKINNEY:

6 It's rather interesting that you say
7 that, because the Sparta Commission will meet
8 April the 21st, and the keynote speaker at our next
9 meeting will be a gentleman by the name of Dennis
10 Carman who is the engineer and director of the White
11 River Irrigation District which is located in Hazen,
12 Arkansas. And he is the person that is the
13 responsible person to contact regarding the U.S.
14 Corp of Engineers and their endeavor to create a
15 \$400-plus million project to irrigate and get off of
16 the Sparta and the Mississippi Alluvial, the rice
17 and soybean fields for some 250,000 acres in
18 Stuttgart-Hazen area. And he will be our keynote
19 speaker.

20 And that was one of the reasons for
21 the project; and so I want to make an announcement
22 for all of you to be invited to come up on the 21st
23 to hear his presentation. But that is, again,
24 another example of what or Arkansas is doing to
25 alleviate the attraction of the ground water within

1 the state.

2 SECRETARY ANGELLE:

3 So would it be -- would you all,
4 perhaps -- maybe could I task you out to identify
5 who you believe to be the most appropriate folks to
6 make a presentation to the Committee on the
7 comprehensive nature that Arkansas did to approach
8 and come up with their solution?

9 And I think we're getting to a point
10 in this process that we need to start, you know,
11 herding those cats.

12 MR. MCKINNEY:

13 Personally, I think due to the
14 proximity of Union Country to North Louisiana that
15 Cheryl would probably be the appropriate person to
16 do that, to make the contact, and then she can go
17 from there.

18 SECRETARY ANGELLE:

19 Okay. Good. I appreciate that. So
20 let's make sure for the next meeting we're setting
21 that up and then we're back in touch with folks to
22 confirm it. Thank you very much.

23 MR. BURLAND:

24 Mr. Chairman?

25 SECRETARY ANGELLE:

1 Yes, sir.

2 MR. BURLAND:

3 While we're acknowledging Louisiana
4 contributions, I think it would be remiss if we
5 didn't publicly state on the record that there's
6 been quite a few public and private partnerships
7 that have been set up to deal with the ground water
8 issue, and even before this Board was constituted,
9 companies like Smurfit-Stone over in Hodge reduced
10 their ground water consumption by more than
11 five million gallons a day, and I think we need to
12 continue to recognize those historical incidents
13 where we've gotten to the improvement we see today.

14 I know that we can't list everything
15 that's occurred since the 1980's on your slide, but
16 I hope that you have at least within the Department
17 a record of those kind of achievements as people
18 inquire as to how we got from there to here.

19 Also, with respect to Graphic, by the
20 way, it's Graphic without the "S," but we should
21 also acknowledge and be deeply grateful for the City
22 of West Monroe, Mayor Dave Norris, the West Monroe
23 Water District, because it's really -- 80 percent of
24 the project has been on their back.

25 And, also, lastly, but not least, the

1 State of Louisiana in their Capital Outlay program.
2 Although it's lengthy and it took several years to
3 achieve, I believe six or seven million was used
4 from State Capital Outlet money to complete this
5 project, which will be completed, I think, within
6 the year which will divert up to about seven or
7 eight million gallons a day from the ground water
8 use by our Graphic packaging by utilizing the West
9 Monroe water wells and then using the Graphic
10 packaging outflow to be, you know, legally permitted
11 by EPA for the outfall into the waterway.

12 And that's another influence, I
13 think, Mr. Chairman, that we're not quite aware of.
14 EPA has tightened down quite substantially on
15 municipal and local government release discharges in
16 the waterways and that has, in turn, quite honestly,
17 set some standards that certain communities cannot
18 meet. And that really initiated the partnership
19 between the paper mill and the City of West Monroe
20 to find an alternative way to, on one hand, reduce
21 the ground water usage by industry, but, on the
22 other hand, help local government establish or at
23 least get out from under the EPA restrictions on
24 discharge. And it's been a beautiful partnership.
25 It's been going on, gosh, probably ten years now,

1 but I think within a year or so, we'll finally see
2 the results and that spike that you indicated we
3 hope that we'll gladly see.

4 Also, the efforts of -- I've got to
5 acknowledge the efforts of the Sparta Ground Water
6 Commission, too, that they've been very helpful and
7 been a good partner in that whole situation. I know
8 that a representative of Smurfit sits - or used to
9 sit on the Commission, and I know Olevia McDonald
10 and others have also contributed to those efforts in
11 North Louisiana; so I just wanted to make those --

12 SECRETARY ANGELLE:

13 Thank you, sir.

14 MR. WELSH:

15 And just real quickly. Looking at
16 the report to reduce the Sparta usage by about
17 six-and-a-half million gallons per day; so coupled
18 with West Monroe, that's putting us pretty close to
19 the target.

20 SECRETARY ANGELLE:

21 And I think that as we're going to
22 move forward in submitting this final document, I
23 think that we have to -- you know, as I'm going to
24 put my fingerprints on it and as I send you the
25 draft, I think it's important that we define

1 sustainability and that has to be our goal.

2 So the other things that we talk
3 about, as far as registration and monitoring and
4 enforcement and inspection and incentives and all of
5 those things, all have to be designed toward
6 sustainability. And sustainability in Southeast
7 Louisiana may have a different set of rules and
8 regulations than sustainability in North Central
9 Louisiana because of the challenges there.

10 But, you know, I think we're all
11 getting to a point of sustainability as the goal.
12 And, again, just think of that as you're going to
13 get into the hard, grinding work of what management
14 decisions we have to make to be able to guarantee,
15 if you would, or to best guarantee, if we could,
16 sustainability. Yes, sir.

17 MR. MCKINNEY:

18 This will be a good point to make at
19 this time. Four weeks ago this past Friday, a
20 delegation of Sparta Commission members met with the
21 Arcadia Gas Storage people in Arcadia simply because
22 we had been approached by numerous people about the
23 decline of the Sparta Aquifer in a particular well
24 that you will be talking about next. And I'm saying
25 this prior to your presentation to kind of get a

1 little bit of a feedback here.

2 This delegation, made up of six
3 Sparta Commission members including myself and one
4 additional member, met with the CEO and a person
5 second in command, so to speak, in the board room of
6 the Arcadia Gas Storage.

7 And, quite honestly, we had an
8 hour-and-a-half discussion because people had been
9 concerned about this drop in water level on this
10 well, and they were beginning to imply that it was
11 associated with the leaching of the salt domes there
12 for the storage of natural gas.

13 We came away from there with many,
14 many observations of data and things that we did not
15 have readily available to us prior to that meeting.
16 And one thing that's rather interesting about this,
17 this whole process, whether it's to do with this
18 well or it's due with the leaching of the salt dome
19 that stores the gas there, is that, we as a state
20 are really doing an injustice to our population by
21 not allowing early participants or persons of
22 interest to participate in at least discussing how
23 we would go about extracting, in this particular
24 case, 1.3 billion gallons a year out of the ground
25 or other sources to leach these domes out.

1 Now, I'm for industry, and I think we
2 are all for industry, but the point being is, we're
3 halfway into this project now, and as I asked the
4 CEO the question, I said, "What now has prompted you
5 to start doing conservation measures regarding the
6 additional water that you will use for the next two
7 and a half years?" And his reply simply was because
8 of the public opinion.

9 He had received so much public
10 opinion that they were the bad guys in town that
11 they needed to do start doing something. So they're
12 going to start using the waste water from the City
13 of Acadia; they're going to start using the
14 wastewater from the poultry plant that's there.

15 But what is rather interesting that
16 I've learned here already this morning, is that,
17 you're not supposed to as a riparian user diminish
18 the flow of water. But here in this particular
19 instance, they are extracting some 500,000 gallons
20 daily from a local stream that during certain times
21 of the year in the past they couldn't do that
22 because the water wasn't available.

23 So, therefore, if you're extracting
24 it from a stream and then you're creating it into
25 brine and then you're going some seven miles south

1 of your location and injecting it back into 13
2 wells, then you're not putting it back into the
3 stream. So, therefore, in theory, as I use logical
4 thinking here, you're diminishing the flow of the
5 stream. That's a little side-bar issue that I just
6 picked up here this morning.

7 But the point I'm making is this: We
8 went wrong. And this is the first exposure we as a
9 Commission have had in dealing with an issue of this
10 magnitude. We were wrong and we went wrong because
11 we did not get involved in this project early on.

12 Now, that's not to say that we would
13 not have come - we would not have approved the
14 project. That's just simply to say at this moment
15 in time as the citizenry comes forth and begins to
16 question the decline of a well that's within just a
17 few miles of this operation and we began to wonder
18 what is the correlation between the decline of a
19 well and then a project that is using the same
20 amount of water per day as the City of Ruston used
21 per day during the month of January. You know, so
22 you've got a city of 22,000 sitting there, sucking
23 water out to make brine out of it to go down and put
24 it into an injection well.

25 Now, the people on the street would

1 like to have known that early on. I think the
2 people in Arcadia would have liked to have known
3 that early on, but they're just now finding that out
4 when they're in the middle of construction of this
5 project. We've got two and a half years we've got
6 to go to finish the project.

7 But I wanted to, Gary, make that
8 comment, that we sat down with those people, and
9 they have -- as of last night, I received their
10 18-page report. They hired a private geologist
11 themselves to go out and do the study on this
12 particular well. This is 18 pages. And I will read
13 part of the conclusion.

14 "The calculations of drawdown by a
15 former hydrologist with the USGS confirms that water
16 usage by AGS from water wells located in the Town of
17 Arcadia would only conservatively draw down the
18 Sparta Aquifer approximately one foot at Bi-144." So
19 their opinion is they could have only drawn it down
20 one foot.

21 Now, I'm not challenging their
22 report. I'm not challenging your report. I'm just
23 saying wouldn't it have been nice had all of us been
24 involved in this some five or six years ago when
25 this project was being conceived?

1 And the CEO of the company admitted
2 the other day he was not concerned with where he was
3 going to get the water. He knew he was going to get
4 it out of the Sparta. His concern was what is he
5 going to do with it when he has polluted it. And
6 that was the big issue, with how do I dispose of it,
7 not where do I get it. But as it turns out, he said
8 he wished he had paid more attention with where we
9 was going to get it because now he's faced with
10 having to do other things to try to appease the
11 public so to speak.

12 SECRETARY ANGELLE:

13 Very good comments. I know one of
14 the things that we did, and perhaps we need to
15 revisit that, is, and guys help me, is that, I guess
16 about a year ago at the request of Mr. Coleman we
17 now give notice to either members - either police
18 juries and/or commissions when a application for a
19 water well permit is made; is that correct?

20 MR. SNELLGROVE:

21 That is correct. Yes, sir.

22 SECRETARY ANGELLE:

23 Okay. Is that going to both police
24 juries and ground water commissions - local ground
25 water commissions?

1 MR. SNELLGROVE:

2 It goes to each of the parish
3 representative that we reached out and asked who
4 would they like to receive it. It's gone to them
5 and to any other interested party.

6 SECRETARY ANGELLE:

7 Let's also look at a database for the
8 Ground Water Commission members --

9 MR. SNELLGROVE:

10 Okay. Sure.

11 SECRETARY ANGELLE:

12 In those particular areas, obviously,
13 and whether or not we're sending them out to -- I
14 mean, obviously, it doesn't cost us anymore to send
15 out an additional e-mail so to try to create the
16 highest level of transparency and the highest level
17 of knowledge on the front end.

18 I think Mr. Coleman had a great
19 suggestion. It took us a little while to kind of
20 figure out some of the data challenges in this
21 instance, that this method would have provided
22 that -- yes, sir, Mr. Mays.

23 MR. MAYS:

24 Maybe the Commissioner remembers, but
25 I believe this well was actually requested from the

1 City of Arcadia that they're using, wasn't it?

2 SECRETARY ANGELLE:

3 I'm sorry. What was requested?

4 MR. MAYS:

5 I mean, is the water that they're -
6 the Sparta that they're using coming from the City
7 of Arcadia as well?

8 So the application that we received,
9 and I remember looking at it, was a request from the
10 City of Arcadia. Well, we didn't know that, I don't
11 think, or I certainly didn't know that water was
12 going to be used for that type of project.

13 SECRETARY ANGELLE:

14 So I see. So what you're saying is
15 even as properly noticed, it may have been
16 camouflaged.

17 MR. MAYS:

18 Well, I think so. That's why I was
19 going to refer to the Commissioner if he remembers
20 it or not.

21 MR. WELSH:

22 Well, the well that I remember
23 researching was the notification -- I believe it was
24 the Arcadia well that proper notification was made.
25 It was Bienville Parish, the person on the Sparta

1 Commission at that time, and apparently it was not
2 brought up at the Sparta Commission during that
3 permitting time.

4 SECRETARY ANGELLE:

5 And, again, I would say that
6 regardless of if it was done or how it was done, the
7 reality of it all is that we need belts and
8 suspenders on this to make sure we -- certainly
9 there has been a lot of concern, some of it was
10 appropriate and ought to be, and that matter of
11 public opinion is what changes decisions all across
12 the land.

13 So I don't think it's any different
14 from other things we've seen time and time again,
15 but having that information on the first day rather
16 than on the 365th day is good public policy and it
17 saves everybody a lot of heartburn.

18 So I'm agreeing with you. I think
19 you're very articulate with your comments. And I
20 think that we need to, you know, look when we get
21 notice if there's anything in the notice that we can
22 kind of pull out.

23 You know, in this particular
24 instance, had there been a requirement -- and I'm
25 not familiar with exactly the process that you were

1 referring to with the Commissioner, but if there
2 would have been a requirement to disclose more of
3 what the intended use of those waters were, okay,
4 perhaps that would have been some flashpoint for
5 additional questions.

6 But I hear what you're talking about,
7 and I'm signaling to the staff to make sure we do
8 look at that.

9 Okay. Very good. Next.

10 MR. SNELLGROVE:

11 All right. So we're back to USGS
12 observation well Bi-144 and an update, just to give
13 you a brief history of what the well - where the
14 well came from. Alabama Water Systems is a private
15 public supply operator who drilled this well back in
16 either the late '60s, '69 or what have you, but for
17 whatever reason they decided they didn't want to own
18 it. They drilled it and voluntarily transferred
19 ownership of that well to USGS, and that happened in
20 1970. They subsequently drilled another well that
21 they used nearby; so they abandoned this well and
22 gave it to USGS.

23 Since that time, the USGS has been
24 periodically reporting water level data from that
25 well. And, so, the issue that came out of this

1 particular well location was one of which there was
2 a reported water level - or an increased rate of
3 water level decline, which was trudging along prior
4 to September of 2009 at a rate of approximately
5 1.5 feet per year. That all of a sudden, September
6 of 2009 to November of 2010, changed and showed that
7 the data was reporting that there was approximately
8 15 feet of water level decline during that time
9 period.

10 That was brought to the Agency's
11 attention, and we investigated it, and we came up
12 with these findings to date. What we have found
13 was, in consultation with the USGS, that the well
14 itself is in good condition; so we don't have a
15 mechanical situation there that would be giving us
16 inaccurate data. And, of course, USGS verified
17 that, the wells condition.

18 We further went out and did site
19 investigation as well as database, you know, review,
20 and we were not able to locate any active
21 unregistered wells nearby; so we didn't see any
22 abnormal situation there that would have been a
23 local impact.

24 Also, we did not see any regional
25 well production or water quality problems in that

1 area. We didn't received any complaints of folks
2 having to lower their pumps. We didn't get any
3 reports of water quality issues during this whole
4 investigation or any time prior to or even to date.

5 What we do know today is that
6 reviewing USGS data, it shows that the water level
7 has stabilized and it began to stabilize in November
8 of last year, and it is continuing to do so today.

9 The report that Mr. McKinney had
10 referenced earlier, we do have a copy of that also.
11 And in that report, objective information was
12 provided that provided geologic cross-sections, and
13 those geologic cross sections show the presence at
14 this particular location, Bi-144, thinner aquifer
15 sands and thicker clay layers in the surrounding
16 aquifer to the south and to the southeast. And
17 those were the findings that we had.

18 So with that information that we
19 have - or with the information that we have on hand
20 today, what we see is a possible cause of the
21 approximate 15-foot water level drop from September
22 '09 to November 2010 would be due to a combination
23 of three conditions; one being the local aquifer
24 limitations that I mentioned just here last - with
25 the last bullet item in the geological

1 cross-sections we're indicating. There's also been
2 a documented regional drought. It stands to reason
3 that because of the drought conditions in that area,
4 there's been increased water pumping from all
5 existing well owners in the area.

6 And, then, thirdly, we do know that
7 withdrawal - the additional regional water
8 withdrawal from both Arcadia Gas Storage and the
9 Town of Arcadia, we're going to have some level of
10 impact to them on this water well and the water
11 levels that are being reported.

12 So the conclusion there is, is, the
13 obvious, that, yes, the water level is stabilized at
14 this time, and we are going to continue to closely
15 monitor Bi-144 and, you know, we'll take any actions
16 that we see that are necessary to address any
17 concerns that - if the well should trend downward in
18 a manner that would be as radical as we saw between
19 September '09 and 2010.

20 MR. SPICER:

21 Gary, I'd like to read something just
22 so it can go into the minutes very quickly, please.

23 In that meeting the other day, Bill
24 Deweer (phonetic speller) shared with us the
25 expected amount of water that they expect to use in

1 2011, and I would quickly like to read that so that
2 we'll have that on the record.

3 There are coming on line with their
4 second leaching process which will start some time
5 around April or May. And, so, during the months of
6 April and May, they will have zero water use. June,
7 they will have 720,000 gallons per day. July, it
8 will go to one million gallons. August,
9 1.5 million; September, 1.8; October, 2.1; November,
10 2.9; December, 3.6. And, then, every day thereafter
11 for the next two years, it would go somewhere
12 between 3.6 and 3.8 million gallons per day.

13 That gives them a total of
14 763 million gallons in 2011, and that will jump up
15 to roughly 1.3 billion gallons a year for the next
16 two years thereafter.

17 MR. SNELLGROVE:

18 I've concluded the observation well
19 update at this time, and we'll move on to the
20 funding that we talked about earlier for Katrina and
21 Rita damaged water wells and where we are at in that
22 process.

23 Of course, the disaster recovery unit
24 is the portion of -- there's no administration that
25 we have gotten to the point where we've had this

1 pre-application approved and the application itself
2 approved.

3 And at that time, there was the
4 understanding that we would have to go through an
5 environmental review which is part of less funding
6 mechanism for certain types of projects, but once we
7 had gotten to the point where we were near issuing
8 RFP to begin to solicit a contractor for the
9 environmental review, we were notified that we
10 actually -- because of what we were doing, the
11 project didn't require this environmental review;
12 so, therefore, that was -- we had estimated about
13 90 percent would be needed for that, for that phase
14 alone. So this is good news; in that, now we have
15 more money to spend on more wells that were in the
16 moderate-risk to high-risk categories.

17 With that being said, the application
18 itself needed to be amended; and so that's being
19 done now so that we can get underway with contract
20 procurement, and we expect to be there some time in
21 April of this year.

22 And at this point, this slide right
23 here is giving you an update on the Haynesville
24 Shale Frac Water Volume and - Source and Volume
25 reporting that we have been going through each

1 commission meeting in the past.

2 Where we are at right now is, because
3 of Act 955 and because of surface water use and the
4 attention that it's been given in the past year or
5 so, we revised the form again in February of this
6 year to now report information that will let us know
7 whether the water source is from a public or a
8 private domain. And so we've populated and changed
9 this form, WH-1, which this supplement on Page 3 is
10 entirely dedicated to source water volume and
11 reporting from the operators as they use the water
12 to frac and also for drilling purposes.

13 SECRETARY ANGELLE:

14 For those of the members who are not
15 familiar with the WH-1, what is that report used
16 for, not this particular page, but a WH-1?

17 MR. SNELLGROVE:

18 Yes. It's a work history and - a
19 work resume form that for every oil and gas well
20 that is permitted, the Agency requires that their
21 oil and gas operator report what they did, in
22 essence, in drilling the well, whether they produce,
23 you know. That's very general. There's a detailed
24 report that they have to provide.

25 So back in September of 2009, we

1 amended that work history form because part of
2 what's required with this form is also -- the Agency
3 issues hydraulic fractionation stimulation permits.
4 So if a company goes out -- anywhere in Louisiana,
5 if a company is going to perform that activity, they
6 must be permitted by our Agency.

7 And part of that -- part of the
8 backing of that work activity requires that this
9 form be submitted to document what they did.

10 SECRETARY ANGELLE:

11 So when a company gets just a
12 standard drilling permit in addition to that to frac
13 a well, there's an additional permit that's required
14 or an additional hydraulic fracturing stimulation
15 notification?

16 MR. SNELLGROVE:

17 They have to identify -- if it's a
18 new drill?

19 SECRETARY ANGELLE:

20 Yes, sir.

21 MR. SNELLGROVE:

22 They're going to check off all of the
23 different activities that require that permit
24 fracturing. Fracing is one of those activities.

25 SECRETARY ANGELLE:

1 And, so, you require at the end of
2 that particular process, when that is completed, as
3 a condition for that permit that they have to report
4 this information in the WH-1?

5 MR. SNELLGROVE:

6 Correct. And that's where we're at
7 with the form. So in 2009, we created that
8 supplement report. It was a two-page form, and now
9 it's a three-page form, and this is how it looks
10 today, right here, what's on the screen.

11 And, so, in there we're requiring now
12 for them to check out - to not only document where
13 the water came from and if it's a water well and the
14 DOTD number that was issued in the past or the DNR
15 number, what have you. But more importantly, if
16 it's surface water body, then you have to let us
17 know what the body was and whether or not it is
18 public or private.

19 And then in the end -- on the very
20 bottom, there's another section on the form where it
21 requires that they let us know whether or not for
22 their water sources that were determined -- in the
23 Act 955, that they provide whether or not -- they
24 let us know whether or not a cooperative endeavor
25 agreement was issued by the Agency. So we've got

1 this new information that we'll be tracking.

2 And, of course, this was here
3 recently implemented; so it's going to take a little
4 time to start getting that data. But there is a lag
5 time when you're reporting in the requirements, but
6 we're going to begin to now populate that
7 information in our statistics.

8 And here's the latest statistics on
9 the pie graph that we show. We had been reporting
10 here consistently since we've been tracking frac
11 water supply surface percentage into the seventies.
12 You know, it went from 78, 75, 72, but it is now --
13 you know, it's still obviously a predominant source
14 of water that's being used for frac supply purposes.

15 And so we've updated it and all of
16 this now. The data is good from 10/1/2009 through
17 February of 2011. And, of course, this is all the
18 information that is being reported on this form,
19 WH-1.

20 So to date we had -- there's 1,634
21 total work permits that have been issued to date,
22 and at this time we -- you know, populated
23 statistics says 819 of the reports that we received.

24 SECRETARY ANGELLE:

25 Okay. So the difference between

1 those two numbers is information, perhaps wells that
2 have not - the work has not yet --

3 MR. SNELLGROVE:

4 Could not have been completed yet for
5 the fracing purposes.

6 SECRETARY ANGELLE:

7 Correct.

8 MR. SNELLGROVE:

9 Perhaps it's -- well, there was a
10 six-month -- I think there's a six-month time period
11 for a company to act when they complete that work
12 activity to get the form in to us; so, yes.

13 SECRETARY ANGELLE:

14 Okay. So over quarter to quarter
15 when this information is presented to us, as you
16 analyze it, you get into enough right now where you
17 have a population sample that is big enough to make
18 some predictability or some reliable observations I
19 guess I should say.

20 MR. SNELLGROVE:

21 Yes, sir.

22 SECRETARY ANGELLE:

23 This number seems to be, like, in the
24 70-75% range pretty much.

25 MR. SNELLGROVE:

1 Correct.

2 SECRETARY ANGELLE:

3 Okay.

4 MR. SNELLGROVE:

5 Yeah. We're real confident at this
6 point with the data. Earlier when we were
7 reporting, we were very tentative; in that, we
8 didn't feel like we had enough information, but now
9 I think it's safe to say that we have an ample
10 amount of -- you know, with statistical confidence
11 we can --

12 SECRETARY ANGELLE:

13 Are there any parishes - any regions
14 of the state within the Haynesville that, perhaps,
15 would fall below in a concerning way this average
16 here?

17 MR. SNELLGROVE:

18 I'll have to consult with staff on
19 that question for more details.

20 SECRETARY ANGELLE:

21 You know, obviously this is, you
22 know, acceptable information for the region, but
23 just like on the -- when we're looking at the Sparta
24 with the individual wells, some your previous
25 slides, it would be important to note whether or not

1 there is any particular part of the Haynesville -
2 you know, I understand a little bit further to the
3 west, that we have any regions of the parishes that
4 are not seeing this kind of compliance or
5 performance, I should say.

6 MR. SNELLGROVE:

7 Okay.

8 SECRETARY ANGELLE:

9 You don't have that information now,
10 but just look at your parishes. I know this
11 information is obtainable on a parish-by-parish --

12 MR. SNELLGROVE:

13 Sure. Yeah, we can populate that.
14 Actually, we did provide that on one previous
15 meeting. We can bring it into the next one.

16 SECRETARY ANGELLE:

17 And, then, also look at the companies
18 and -- you know, look at who are our top, maybe, ten
19 drillers, if there are any particular drillers that
20 are operators, I should say, that are more or less
21 likely to be compliant for those that are, you know,
22 exceeding the average, perhaps. Maybe a letter from
23 them would be appropriate for those that are not to
24 point out that they're below the state average.

25 Yes, sir.

1 MR. MCKINNEY:

2 Gary, before we get off of this form,
3 WH-1, go back one, please. What's the purpose of
4 the notice there, the no water obtained from a
5 well - a domestic well? What's the logic behind
6 that?

7 MR. SNELLGROVE:

8 Oh, the notice?

9 MR. MCKINNEY:

10 The notice.

11 MR. SNELLGROVE:

12 The notice there?

13 MR. MCKINNEY:

14 Correct. What's the purpose behind
15 that?

16 MR. SNELLGROVE:

17 The purpose is to make the operator
18 aware that if he does -- we had problems with this
19 earlier in the Haynesville Shale development. There
20 was -- we received numerous complaints about
21 domestic water well owners providing their water to
22 industry. And although our rules don't prohibit
23 that, they do require that that well use be reported
24 to our Agency and prior to it being used for an
25 industrial-type of purpose. So we're making sure

1 that the oil and gas industry has this
2 understanding, that they're not to do that without
3 us being involved in the evaluation prior to that
4 use.

5 SECRETARY ANGELLE:

6 Any other questions on this item?
7 Good job. Next item.

8 MR. SNELLGROVE:

9 Okay. At this point, Secretary, --

10 SECRETARY ANGELLE:

11 Yes, sir.

12 MR. SNELLGROVE:

13 We have Mr. Lou Buatt.

14 SECRETARY ANGELLE:

15 Very good. That would be Item 4E,
16 Assistant Secretary of Office of Coastal Management,
17 Mr. Lou Buatt. Thank you, Mr. Buatt. Welcome.

18 MR. BUATT:

19 Yes, sir. Thank you, Mr. Chairman.
20 Good afternoon, Commissioners. I'm Lou Buatt with
21 the Office of Coastal - Assistant Secretary with the
22 Office of Coastal Management.

23 I'm not here today to talk to you
24 about coastal management issues. I'm here today to
25 talk to you about Act 955 Cooperative Endeavor

1 Agreement process. It's the State's overall surface
2 water management initiative.

3 Okay. The basic things -- the topics
4 I'm going to touch upon is a Memorandum of
5 Understanding. Resource agencies have
6 recently executed to coordinate Section 10 Corp of
7 Engineers permits.

8 I'm going to also talk about what
9 we're doing to track surface water usage, and I'm
10 going to give you an update on the Act -
11 implementation of Act 955 and the Cooperative
12 Endeavor Agreement process and also talk with you a
13 little bit about the data and information needs and
14 challenges that we have in assessing surface water
15 usage in implementing Act 955.

16 So the first thing is, we have
17 recently - the Secretaries of resource agencies,
18 Department of that Natural Resources, Department of
19 Environment Quality, and Department of Wildlife and
20 Fisheries executed a cooperative - a Memorandum of
21 Understanding to coordinate so that we have a single
22 state voice with regard to comments on the Corp of
23 Engineers Section 10 Water Act Permits.

24 This process, of course, requires
25 these agencies to coordinate very closely, to

1 communicate with one another, and then we end up
2 with one consolidated set of comments to provide to
3 the Corp of Engineers.

4 We also coordinate those comments
5 with the Office of Coastal Protection and
6 Restoration, Department of - DHH and DOTD and others
7 as on a need-be basis. In addition, we also use the
8 same process to comment on matters such as the Caddo
9 Lake Environment Flow Regime Proposal by Texas and
10 through the Texas Council on Environmental Quality.

11 Real quick. When we look at - in
12 tracking surface water usage, what we're primarily
13 looking at are these Section 10 permits Corp of
14 Engineers, and since July 2010; so that's post
15 passage of Act 955 through January of 2011. We
16 estimate looking at 23 permits that the Corp of
17 Engineers has issued since then a water usage of -
18 or an estimated usage - permitted uses of over 575
19 million gallons. Now, that doesn't mean actual
20 usage. That would mean authorized to use.

21 Then you also -- we look at these
22 well history forms, the WH-1 forms that the Office
23 of Conservation maintains, and if you look at that,
24 for State running waters, it's 215 million gallons
25 of water - surface water actually used, and you look

1 at total surface water usage from those WH-1s during
2 that period, and that's 1.15 billion in gallons.

3 Then we also look at, of course, the
4 Act 955 Cooperative Endeavor Agreements. Since
5 then, we have issued four of those agreements that
6 will authorize 62 million gallons of surface water
7 for use.

8 SECRETARY ANGELLE:

9 Okay. Mr. Buatt, go back to the
10 previous slide, please. So as we try to get a grasp
11 of surface water uses in the State, and Act 955
12 creates a voluntary process --

13 MR. BUATT:

14 Yes, sir.

15 SECRETARY ANGELLE:

16 -- for those who wish to comply with
17 the guidance from the Attorney General, obviously,
18 one might look at, there is no voluntary compliance
19 with the Corp of Engineers' Section 10 permit.

20 MR. BUATT:

21 That's correct.

22 SECRETARY ANGELLE:

23 Okay. So when you say that you are
24 looking at 23 permits, estimated at 575 million
25 gallons of water, Section 10 permit, what are you

1 looking -- when you say those 23 permits, are those
2 for the specific purposes of the use for hydraulic
3 fracturing?

4 MR. BUATT:

5 For any particular use. Most of
6 these are involving the use for hydraulic
7 fracturing.

8 SECRETARY ANGELLE:

9 Okay. So would it then be an
10 accurate statement to say that from July 2010 to
11 January 2011 the Corp of Engineers in for -- the
12 Corp of Engineers, whether it's Galveston or New
13 Orleans district or a district that is in the State
14 of Louisiana, there were 23 permits issued by the
15 Corp of Engineers to come in compliance with
16 Section 10 provisions that, for a variety of
17 different industries, for a variety of different
18 individuals with no limitation on what it is that
19 they may be using it for, your report covers
20 everything.

21 You're reporting, however, that the
22 vast majority of it was, in fact, for intended use
23 of hydraulic fracturing, but it could be for
24 anything, is what I'm understanding.

25 MR. BUATT:

1 Yes.

2 SECRETARY ANGELLE:

3 And, so, what that would not include
4 would be obviously -- well, it would. Do you know
5 if someone has -- if someone is a riparian owner,
6 someone is a riparian owner and may not have -
7 according to the Attorney General may have a need to
8 enter into a Cooperative Endeavor Agreement - may
9 not have the need to enter into a Cooperative
10 Endeavor Agreement with us, they are still subject
11 to Section 10?

12 MR. BUATT:

13 Yes, sir.

14 SECRETARY ANGELLE:

15 Okay. So a plant right here on the
16 Mississippi River that is primarily located there
17 for a variety of reasons, one of them was access to
18 navigation and access to water, they would have - in
19 order to be able to have an intake and draw water
20 there, they would be required to have a Section 10
21 permit?

22 MR. BUATT:

23 That's my understanding.

24 SECRETARY ANGELLE:

25 Okay. I'm sorry. I don't mean to

1 have you on the stand here, but just one other
2 question. Do you know if that permit has to be
3 renewed on an annual basis?

4 MR. BUATT:

5 I don't believe it's an annual basis,
6 but that permit may have to periodically be renewed.

7 SECRETARY ANGELLE:

8 Okay. One of the things that would
9 be helpful to me is, as I try to think of water as a
10 budget and we have -- you know, I know it's a
11 really, really, really large number, but there is a
12 finite - there's a finite, you know, volume of water
13 that we can extract without having a negative impact
14 on other resources. I don't know what that is, but
15 when I look at sustainability models, it seems to me
16 like we have to try to begin to figure that out.
17 And I know at different times in the year, it's
18 impacted by different conditions.

19 If you could just kind of reach back
20 to the Corp and find out historically the volume of
21 those permits and what they look like, and let's
22 just try to start seeing what we can find with that.

23 MR. BUATT:

24 Sure, we will. And another thing to
25 note is, the Section 10 permits are not applicable

1 to all the surface water withdrawals. These are
2 just with regard to particular channels; so there
3 are a lot of segments and the like - stream segments
4 and the like that would not be subject to this
5 Section 10 permitting.

6 However, this is the available data
7 that we have to track water usage; so we're using
8 the available data, not necessarily saying this is,
9 by any stretch, the best data information available
10 to do it; it just simply happens to be the only
11 information and data available to do it.

12 And, then, when you look at these
13 numbers, it certainly begs the question, you know,
14 since passage of Act 955, how robust has our
15 voluntary participation been in that process? So,
16 you know -- yes, sir.

17 MR. LOEWER:

18 A question. Of the public 23 permits
19 in the first number that were used for fracing,
20 would that be included in the second numbers? Do
21 they have to fill out a WH-1 in addition to the --

22 MR. BUATT:

23 Okay. Okay. Now, the 23 permits
24 authorized use -- okay, they may not be actually
25 what, in fact, was used. Okay. The WH-1s show what

1 actual water was used.

2 SECRETARY ANGELLE:

3 So it would be a subset?

4 MR. BUATT:

5 Yes, sir.

6 SECRETARY ANGELLE:

7 It would be a subset. If you are
8 following the same -- you're not counting the
9 numbers twice.

10 MR. BUATT:

11 Okay. This table here just basically
12 shows you -- it gives you a snapshot. If you'll
13 look at the WH-1 Section 10s and the Cooperative
14 Endeavor Agreements, it shows you basically the
15 water bodies with the large issues, and, of course,
16 we know, again, well, Bayou Pierre and Clear
17 Smithport Lake. You have Grand Bayou, Red River, so
18 on and so forth.

19 Okay. Then we look at this
20 particular slide. What this is showing you, is, we
21 have some entities. We have events of withdrawal of
22 running waters of the state, and it shows how many
23 events there were, how much water was withdrawn, and
24 then it shows how many of those events were subject
25 to Cooperative Endeavor Agreements.

1 SECRETARY ANGELLE:

2 So how are you interpreting that
3 data? How are you getting from --

4 MR. BUATT:

5 WH-1s.

6 SECRETARY ANGELLE:

7 Okay.

8 MR. BUATT:

9 The WH-1s will show what bodies the
10 water was withdrawn from; and, so, from there, we
11 determined whether or not they were running
12 waters --

13 SECRETARY ANGELLE:

14 So Entity Number 1 reported number of
15 events on a WH-1 that they used 4.2 million gallons
16 of public --

17 MR. BUATT:

18 Surface water.

19 SECRETARY ANGELLE:

20 -- surface water.

21 MR. BUATT:

22 From a specific --

23 SECRETARY ANGELLE:

24 And there is no corresponding
25 Cooperate Endeavor Agreement.

1 MR. BUATT:

2 That's correct.

3 SECRETARY ANGELLE:

4 Okay.

5 MR. BUATT:

6 Any other questions on this one?

7 Okay. Mr. Ryan Seidemann covered this; so I'm going
8 to skip through the Attorney General Opinions and
9 the real quick summary of Act 955 and get right to
10 the implementation of Act 955.

11 So, if you recall, Act 955 required
12 the creation of application forms, required the
13 Secretary to develop application forms which
14 Secretary Angelle spent late hours in the night
15 putting together all of these forms, so on and so
16 forth and the like, and so -- and then the Mineral
17 Board was also required to develop a Cooperative
18 Endeavor Agreement.

19 Those application forms have been
20 developed. That Cooperative Endeavor Agreement was
21 developed by staff in the Mineral Board and approved
22 by the Mineral Board and approved by the Attorney
23 General's Office.

24 In addition, we have since -- since
25 the passage of Act 955, we have organized and

1 implemented a review process. There are basically
2 two components of that review process. There is an
3 environmental review component and an economic
4 review component.

5 So the environmental review component
6 is heavily weight towards hydrologic review, water
7 flow, and how those hydrologic changes may have
8 impact on the ecology in the environment; so the
9 fish, the turtles, the alligators, so on and so
10 forth, and also how it may have impact on water
11 quality.

12 And in implementing -- and to be able
13 to implement this environmental review, we also
14 brought on board a hydrologist formally with the
15 Louisiana Geologic Survey, Dr. Thomas Van Biersel.
16 He is right here to my right. And he leads the
17 hydrologic review and ground water review during
18 this process.

19 And for capacity -- to be able to
20 conduct the economic review, we have a contract with
21 LSU Center for Energy Studies, and they conduct that
22 review upon our requests.

23 In addition to the initial
24 application process we developed, we incorporated it
25 into the SONRIS system; so now we have an electronic

1 permit - or not a permit, but a application process,
2 and we have a tracking system both -- we have a
3 initial spreadsheet-type tracking system that we put
4 together immediately following the passage of Act
5 955, and we also are able to track these
6 applications in the SONRIS system itself.

7 SECRETARY ANGELLE:

8 So as a matter of public policy, it
9 appears to me what has happened since the
10 Commissioner issued a guidance document -- I know
11 there was a date on here; 2008, encouraging
12 companies to -- I think there was some question
13 whether or not he had the legal authority to
14 require, but encouraging companies to use surface
15 water. And then the WH-1 came in after that. WH-1
16 began to record that information.

17 I know there's been a couple of
18 additions and revisions to the level of detail that
19 we're getting. Then Attorney General's opinions say
20 that you can't withdraw water unless you're a
21 riparian owner from - without a written agreement.

22 It appears that a great deal -- the
23 observation I would have is, a great deal of the
24 fracing water is, in fact, now being used is, in
25 fact, surface water, so the resource -- the ground

1 water resource is the beneficiary of that public
2 policy, but we yet haven't gotten to a point -- and,
3 again, it's because 955 is voluntary. The Attorney
4 General's opinions may not be so voluntary depending
5 on who you are, but we haven't got companies to
6 enter into the type of agreements in as robust a way
7 as they are withdrawing public surface water.

8 MR. BUATT:

9 That certainly was the data suggested
10 that we have so far. Absolutely right.

11 SECRETARY ANGELLE:

12 Thank you.

13 MR. BUATT:

14 So we have this application process,
15 and I'm just going to really quickly go through the
16 basics of the application. One of the parts of the
17 application is this plan for water use; so, of
18 course, we ask four things, you know, the specific
19 description of the withdrawal event, the detailed
20 description of how the water is to be used, the type
21 of information you would need to be able to assess,
22 are there any -- how does this result in any changes
23 to the hydrology and how do those hydrologic changes
24 translate to potential impacts to the ecology and
25 the environment.

1 Then, in addition, if you will
2 recall, Act 955 also allows applicants to provide a
3 economic report or provide economic information to
4 meet the requirement of Article VII, Section 14 of
5 the Constitution with the State that prohibited
6 the - a constitution provision that prohibits the
7 State from giving away its property.

8 This evaluation would - assesses the
9 environment - the economic impact of that particular
10 water use. So if that water use results in economic
11 development, increased employment, increased tax
12 revenue, so on and so forth, that may be of
13 sufficient value to meet that constitutional
14 requirement; and so we have a part of the
15 application process that allows folks to provide
16 that information so we can assess the value of that
17 water use to the State of Louisiana for that
18 purpose.

19 MR. OWEN:

20 Mr. Chairman, may I ask one question?

21 MR. BUATT:

22 Absolutely.

23 MR. OWEN:

24 Is the State still using a
25 one-size-fits-all costing framework for this

1 extraction tax that it's leveeing on surface water
2 extraction?

3 MR. BUATT:

4 What extraction tax?

5 MR. OWEN:

6 Well, I'm not sure whether you're
7 reacting to the word "tax" or whether we're talking
8 about the compensation of the State or the thing of
9 value that attracted the Attorney General's opinion.
10 If you have a different term for it, tell me.

11 MR. BUATT:

12 Well, we have -- in the Cooperative
13 Endeavor Agreement, we look at 15 cents per thousand
14 gallon as a starting point, and, certainly, the
15 applicant has the option to provide an economic
16 report to us to demonstrate that the State is
17 getting commiserate value for that asset.

18 MR. OWEN:

19 But you're using the ordinance of the
20 extraction point or extraction body of water.
21 You're still using the standard 15 cents per
22 thousand gallons.

23 MR. BUATT:

24 Yes, sir. I mean, at this point --

25 MR. OWEN:

1 And that was taken from the Sabine
2 River model alone.

3 MR. BUATT:

4 It was taken considering Sabine plus
5 others. It seemed to be the most appropriate under
6 the circumstances with the limited amount of data
7 and information that we have available to us.

8 MR. OWEN:

9 Thank you.

10 MR. BUATT:

11 That information was run by the State
12 Energy and Mineral Board and that body agreed that
13 that's what it should be.

14 MR. BURLAND:

15 Mr. Chairman, I have a question. How
16 did we get to that? I didn't understand that Act
17 955 had authority to essentially tax on gallons of
18 water. I mean, I understand what the Attorney
19 General opinion --

20 SECRETARY ANGELLE:

21 No. Nothing in Act 955 gives the
22 authority to tax. What Act 955 does is requires
23 that a company in compliance with the Attorney
24 General's opinion that a user of running surface
25 waters of the State that are a public thing

1 compensate the State for that. You can compensate
2 the State through a variety of reasons. One of the
3 ways you can compensate the State is like the owner
4 of the New Orleans Saints does. You know, we gave
5 him \$85 million and he does certain things, and we
6 track that. You can compensate the State like we've
7 done with the Franklin Farms Chicken factory/farm,
8 all of the above, where we provide \$65 million and
9 we don't get \$65 million in cash back, but we get
10 jobs. And those are subject to audit and review and
11 clawback provisions associated with that.

12 So what this particular Act 955 did
13 is provided for the ability for a company to go
14 through a economic review. For instance, in the
15 drilling of a well, you can show that you create "X"
16 jobs and "X" economic activity.

17 MR. BURLAND:

18 I understand --

19 SECRETARY ANGELLE:

20 And that "X" economic activity then
21 is greater than the value of the water to come in
22 compliance with Article VII, Section 14 of the
23 Constitution. There has to be some understanding of
24 what the value you are giving for what's the value
25 that you are receiving; and so that was done to meet

1 the statutory test - or the constitutional test.

2 But there is no taxing. The word tax
3 doesn't exist and there is no taxing. It is just an
4 opportunity to -- has any companies actually paid
5 for water?

6 MR. BUATT:

7 Yes, sir.

8 SECRETARY ANGELLE:

9 And which one is that?

10 MR. BUATT:

11 Shell Pipeline.

12 SECRETARY ANGELLE:

13 Shell Pipeline chose to actually - to
14 make that acquisition, but could have shown the
15 creation of economic activity.

16 MR. BURLAND:

17 Well, I understood the Act created
18 the economic - the value of the economic activity,
19 but I didn't also understand that the State was
20 going to set a rate on the water --

21 MR. BUATT:

22 Act 955 requires that there be fair
23 market value for that.

24 SECRETARY ANGELLE:

25 Right. And the State Mineral Board

1 did that, and you could not effectively - you could
2 not effectively enter into a process through a
3 Cooperative Endeavor Agreement to come in compliance
4 with that test in the constitution if you did not
5 have a rate set. It would be impossible to do it.

6 It would be, well, we think that the
7 jobs that you created are worth a million gallons a
8 day, until that State auditor gets over here and
9 asks that questions, and it's like, well, you know,
10 we just kind of were thinking maybe sort of. And so
11 that, you know, clearly puts it in -- just like in
12 the situation with, you know, the --

13 MR. BURLAND:

14 Well, the fair market rate of water,
15 you've taken the Sabine example and what else?

16 MR. BUATT:

17 We looked at all of the contracts
18 that were out there that we were aware of --

19 SECRETARY ANGELLE:

20 And that's subject to change if
21 folks --

22 MR. BUATT:

23 -- Red River -- there was a Red River
24 Commission. There were a couple of others, several
25 other contracts, and we looked at all of those

1 contracts.

2 We made a presentation to the State
3 Mineral and Energy Board, and they determined
4 pursuant to improving the Cooperative Endeavor
5 Agreement that they ultimately approved that it
6 would be 15 cents. The Attorney General's Office
7 likewise approved that as a component of that
8 Cooperative Endeavor Agreement.

9 SECRETARY ANGELLE:

10 Your concern is that there is now
11 someone who is actually paying for it?

12 MR. BURLAND:

13 Well, I'm concerned that we've kind
14 of bureaucratically set a rate.

15 SECRETARY ANGELLE:

16 As opposed to how setting rates.

17 MR. BURLAND:

18 Through the legislative process.

19 SECRETARY ANGELLE:

20 Well, the legislature gave us that
21 authority.

22 MR. BURLAND:

23 Well, apparently so. I think they'd
24 be surprised to hear it now if you think I'm
25 surprised to hear it now. And maybe I haven't been

1 close enough to it to understand it more fully,
2 but --

3 MR. BUATT:

4 I don't know what else they could
5 have imagined by, you know, a cooperative --

6 MR. BURLAND:

7 Well, I can certainly understand,
8 like I said earlier, was that that act was intended
9 to certainly provide an economic value by the water
10 that's been taken, but the Agreement itself was
11 voluntary, and to then come back and -- well, not
12 come back, but to combine that with the Attorney
13 General opinion, which are opinions in my mind and I
14 don't necessarily agree with them, but my bias
15 aside, to -- because the Attorney General opinion is
16 saying that running waters are not subject to
17 capture but are, in essence, for sale and to --

18 SECRETARY ANGELLE:

19 That is not true. That is not true.
20 There is nothing in Act 955 that says anybody has to
21 buy anything. That's not what that Act says. Okay?
22 And for Shell to indicate that they wanted to buy
23 it, obviously, it was in their best interest to do
24 that as opposed to sharing with us the economic
25 activity, jobs, that they would create by that.

1 You know, I don't know of another way
2 to measure the value of goods and services other
3 than putting them in the form of currency. Okay.
4 So Act 955 is purely voluntary.

5 MR. BURLAND:

6 Well, I don't disagree with that.
7 But what I'm saying is, if, in fact, the choice was
8 between providing an economic benefit and not having
9 that economic benefit, then perhaps a denial is in
10 order versus paying for something --

11 SECRETARY ANGELLE:

12 That was their choice.

13 MR. BURLAND:

14 Well, all right. I don't -- I still
15 don't follow the authority behind the Act, if
16 there's not -- if you say that there's no taxing
17 authority --

18 SECRETARY ANGELLE:

19 No taxes -- there's a difference
20 between a tax --

21 MR. BURLAND:

22 -- somehow and --

23 SECRETARY ANGELLE:

24 There's a difference between a tax,
25 like on oil and gas. Okay? The State owns a lot of

1 oil and gas, and we get a royalty for that.

2 MR. BURLAND:

3 Well, that's --

4 SECRETARY ANGELLE:

5 Okay? That's not a tax. That's
6 royalty. Sale has something to do with ownership.
7 Tax has something to do with being in the
8 government. So we are not taxing anybody. All
9 right.

10 There is no mention of the word tax,
11 and to suggest that it is a tax is a miscalculation
12 or a misuse of the word. It is purely sale, okay,
13 of which the Attorney General has clearly said the
14 State has the authority to do.

15 We have not gone to the legislature
16 and asked the legislature to codify that. In fact,
17 we speak in that legislation that nothing contained
18 herein codifies those opinions. But what it does do
19 for folks who are interested in commerce who are
20 very, very threatened by these Attorney General's
21 opinions, now they have the process that they don't
22 have to go back to their board of directors and say,
23 you know what, in Louisiana there are six Attorney
24 General opinions and we may have to shut down.
25 Well, what's the alternative? The Alternative is

1 Act 955 voluntarily allows us to enter into an
2 agreement. Well, how much money do we have to pay?
3 Not a single penny. What do we need to do? We just
4 need to show that we create jobs. Well, we are
5 creating job. Well, okay. Well, let's go ahead and
6 get a Cooperative Endeavor Agreement.

7 MR. BURLAND:

8 Okay.

9 SECRETARY ANGELLE:

10 To be continued.

11 MR. OWEN:

12 I have one more thing. The point I
13 was trying to make is that it makes better sense to
14 me not to have a one-size-fits-all measure of the
15 economic value of the water, but to consider the
16 proportionate stream flow that is being affected by
17 this withdrawal, and this is -- this is why I raise
18 the question the way I did because it's one thing
19 to -- I happen to have inquired about how the 15
20 cents per thousand gallons for the Sabine River
21 Authority was originally established, and they
22 took -- they took into consideration the cost of the
23 reservoir activity, some amortization, and the cost
24 of reservoir maintenance and considered it that way.

25 I'm concerned that we will

1 accidentally in developing this surface water
2 management plan discourage the withdrawal of water
3 from the Mississippi River or from some other stream
4 flow where we are effecting to a negligeable degree,
5 if at all, the stream flow.

6 And it seems to me that I would like
7 to even say that the true economic value of
8 withdrawal from the Mississippi may be a negative.

9 SECRETARY ANGELLE:

10 I think you're absolutely right. I
11 think you are absolutely on point, that the - in
12 trying to get from where we were to where we are,
13 the big concern I had is, you know, just because the
14 Sabine River Authority says it's worth 15 cents, is
15 that fair market value? I don't know.

16 I went to the Attorney General's
17 Office and said, you know, what do we have in the
18 State? If you look at it from an appraisal
19 standpoint, if we're looking at it from a real
20 estate standpoint, you would look at sales in the
21 area and come up with something that you could use
22 as your guide, if we used as an example, we would
23 look at mineral leases in the area as a guide.

24 There is very little for us to hang
25 our hat on in terms of the value, and, certainly, a

1 home in one area of the State is going to have a
2 different value than another area of the State. In
3 speaking to Mr. Eugene's comments, he's exactly
4 right. You know, water in this area may be of such
5 an abundance that its fair market value may be, you
6 know, less than one cent per thousand gallons.

7 I don't know the answer to that
8 question, but those are the kind of things that we
9 are going to need to struggle with and grind through
10 because one-size-fits-all does not work. But I
11 think we're erring on the side of caution as to not
12 to offend auditors at this point, but I do believe
13 until we have a body of evidence that can support,
14 if you will, a pricing chart, then you're absolutely
15 right.

16 MR. BUATT:

17 And I'm going to say this is a
18 interim process that the legislature put forward,
19 and I'm confident that if it moves forward there
20 will be evolution in this regard; so --

21 MR. FREY:

22 Mr. Chairman, you guys are getting
23 me -- my mind is starting to think and my stomach is
24 still growling, but while you're looking at data and
25 accumulating numbers and facts and whatnot, do we

1 have any kind of information that puts a value on a
2 acre basis on what recharge area is worth?

3 SECRETARY ANGELLE:

4 I'm not aware of anything. I'll look
5 to the staff.

6 MR. FREY:

7 And I think that's something to
8 consider. I mean, if I'm a riparian owner and I own
9 several thousand acres and I'm fixing to withdraw
10 some water, it's going to be difficult for me to use
11 an example of what I've done in the way of economic
12 consideration or value.

13 But if I've got that acreage and I've
14 got it forested, for instance, or I'm growing an
15 agricultural crop or whatever I'm doing, I'm
16 contributing to the recharge of an aquifer, and
17 that's of a value to the State.

18 SECRETARY ANGELLE:

19 Sure.

20 MR. FREY:

21 So that needs to be captured.

22 SECRETARY ANGELLE:

23 It's a value, but I'm not so sure
24 that you can put a dollar value on that, and I'm not
25 so sure that the State would not - would ever -

1 would never acquire those rights; so I'm not sure
2 I'm understanding what you're saying.

3 MR. FREY:

4 It's an intrinsic value that I think
5 we need to understand and apply. If I'm being taxed
6 for the property and I'm contributing to the
7 recharge of an aquifer and/or a surface impoundment,
8 then that should be acknowledged in some way
9 financially.

10 SECRETARY ANGELLE:

11 Okay. All right. Well, we can
12 certainly try to determine, you know, the best
13 management practices across the nation on that, is
14 what my quick first response would be.

15 MR. FREY:

16 I'll do a little digging myself.

17 SECRETARY ANGELLE:

18 Yes, sir. Good. Okay.

19 MR. BUATT:

20 Okay. Moving on. Talking about the
21 application process, just to point it out in a brief
22 summary fashion here. What the applicant would do
23 would now access the SONRIS system. The applicant
24 will upload the application material. That would be
25 the plan of water use.

1 The other part of the application
2 could be if the option in the applicant of economic
3 impact report didn't want to pay the 15 cents per
4 thousand and we would supply the supporting
5 documentation.

6 That application is in check for
7 administrative completeness. Once it's determined
8 to be administratively complete, it's automatically
9 submitted via the SONRIS system to all of the
10 appropriate agencies.

11 This isn't a process that's
12 implemented just by DNR. The other resource
13 agencies and other agencies also comment on this,
14 Department of Wildlife and Fisheries, Department of
15 Environment Quality. We also have other -- we also
16 get input from DHH, Office of Coastal Protection
17 Restoration, so on and so forth.

18 We give those agencies a seven-day
19 turn-around deadline, is what we shoot for. We also
20 submit the Economic Report to the contracted
21 economists over at LSU for a recommendation. Then
22 our DNR hydrologist submits a recommendation to the
23 Secretary whether to execute the Cooperative
24 Agreement.

25 The options are: Yes, execute; yes,

1 with conditions, which most of the Cooperative
2 Agreements that we've issued are yes with
3 conditions. Those conditions are primarily
4 monitoring conditions. Then a cooperative
5 agreement, of course, is issued if it was, in fact,
6 approved.

7 The next line, we talk about sort of
8 how this thing is managed. Act 955 allows the
9 Secretary within its existing structure to divvy out
10 how this is to be implemented. Office of Coastal
11 Management overall manages the backup process. We
12 look at it for purposes of completeness.

13 Then we have the hydrologist that we
14 have brought on board, is in the Office of the
15 Secretary. That's actually a position that we
16 borrowed from the Office of Mineral Resources. So
17 basically all of the offices with DNR participate
18 with their resources.

19 Office of Conservation also provides
20 resources in consideration of ground water issues.
21 DEQ, of course, is looking at primarily water
22 quality issues. Wildlife and Fisheries is looking
23 at ecologic and environmental issues, how it impacts
24 the fish and the critters and the like. DHH is
25 looking at drinking water issues if any of those are

1 implicated. And Office of Coastal Protection and
2 Restoration is looking at overall consistency with
3 the master plan.

4 It's also important to note that Act
5 955 does not provide any resources for the Agency to
6 undertake this. We're taking and implementing this
7 at current staff levels and funding levels.

8 Economic report, DNR, Office of
9 Coastal Management reviews and determines
10 completeness of that application and then sends it
11 along to our contract economist over at LSU for
12 recommendation.

13 We have also undertaken substantial
14 outreach efforts regarding Act 955 and
15 implementation. I have a few little presentations -
16 comprehensive presentations that were made to
17 Louisiana Oil and Gas Association, Louisiana
18 Chemical Association, Louisiana Solid Waste
19 Association and Conference, and I also have -- and
20 you should have in your package a draft pamphlet
21 that describes most of what we have talked about
22 today, and if you don't have that up there with you,
23 we'll provide it. I see most of you all do have it.

24 And I would ask you to please take a
25 look at this, and if you have any -- like I say,

1 it's a draft at this time. If you have any
2 comments, please send those to us. We have a
3 contact person on the document itself. You can send
4 those comments to that person. We'd really
5 appreciate that.

6 The things that we have -- another
7 thing that we're in the process of doing is, we are
8 considering revamping our application and going to
9 and developing an application that's more like a
10 WH-1 form, where it is - or a Section 10 permit
11 application, where here is the question and you just
12 fill in the box, that particular information, as
13 opposed to the current application process that we
14 have; so that is one of the things in the works.

15 Just real quick. I'll give you some
16 stats. So far, we have received 13 applications.
17 None of those applications were complete and remain
18 incomplete. Four have resulted in issuance of
19 Cooperative Endeavor Agreements. There again, we're
20 continuing to track water usage through
21 Section 10 permits, WH-1s and these Cooperative
22 Endeavor Agreements.

23 One of the major challenges we have
24 is the data and information available to conduct the
25 enviromental ecologic or hydrologic review of these

1 applications. I had attached a document to collect
2 all of the data in all of the water sheds, all the
3 existing data that is out there right now, and we
4 went out to all the resource agencies, including
5 federal resource agencies, and asked them is this
6 the appropriate dating information we should be
7 looking at. We got some comments back from those
8 folks. Overwhelmingly, the most important bit of
9 information is flow, and, unfortunately, when you
10 look at it, it's some information that we just don't
11 have a whole lot of.

12 We have lots of information on lots
13 of these streams. We have -- Department of
14 Environmental Quality does TMDLs and they gather
15 data and information on these streams, and they have
16 determinations of whether a stream meets its water
17 quality standards, so on and so forth; so we have a
18 lot of body of information.

19 But our biggest challenge is the flow
20 information. So if you look at the second paragraph
21 there in this -- this information is primarily made
22 available by the USGS and the Army Corp of
23 Engineers.

24 And if you look closely, there are
25 246 active gauging stations, and only 73 of those

1 statewide measure discharge or flow. OCPR has some
2 gauging stations and the like; however, those to
3 this point haven't been useful for the purposes that
4 we are looking at this information for.

5 Just real quick. There we go.
6 Statewide there's the 173 stage -- so that's river
7 or water body stage measuring stations active, and
8 we have 73 discharge-measuring stations now.

9 Since most of these Cooperative
10 Endeavor Agreements are in the Northwest Louisiana,
11 just to put this to scale and to give you an idea of
12 the data gaps we have, we have 24 stage-gauging
13 stations. Only nine discharge or flow stations, and
14 that's in an area that has 37 basin subsegments with
15 more than 426 named streams; so that's not a lot of
16 the most critical information we need to conduct the
17 analysis that we feel most comfortable with in this
18 regard.

19 And if you look at cost to get that
20 data and information, according to the USGS, we sat
21 down with them to construct one of these discharge
22 or flow monitoring stations, is anywhere between
23 \$10,000 to \$18,000 per station. And then you take
24 the - just the stations where they're measuring
25 stage, you can apply a rating curve - or develop a

1 rating curve for those stations to determine flow,
2 and that - initially to determine that from those
3 stations is about \$10,000 a pop. Then, the O&M for
4 the flow station is about \$15,000 per year, and,
5 then, due to channel morphologies, so on and so
6 forth, you have to go back and update that rating
7 curve on an annual basis for those stations that
8 only measure stage, and that's about \$5,000 a year
9 per station.

10 Just real quick. I wanted to know
11 how other states are dealing with these issues and
12 challenges. I had the staff gather some information
13 for me. Nine states that we directly contacted, all
14 nine of these -- and you can see them on the slide.
15 They're funded with general funds or some of them
16 are supplemented with non-point source funding from
17 EPA. Three have additional funds coming primarily
18 from fees. Three describe their existing gauging
19 stations as inadequate, and three have capabilities
20 beyond that provided by the USGS and the Army Corp
21 of Engineers.

22 And just real quick. If you look
23 nationwide, 40 states have surface water withdrawal
24 permitting requirements. Four states have
25 registration requirements. One state has

1 certification requirements; so at least five states
2 that don't have anything. We are one of those. We
3 are one of the five. We thus far have a voluntary
4 process; no requirement. Twenty-six of those states
5 have reporting requirements.

6 Thirty-one of those states have
7 minimum volume rules; meaning that you have to be
8 at minimum volume before any of those requirements
9 would kick in. Thirty-one of those states apply the
10 riparian doctrine, similar to Louisiana. Sixteen
11 have a prior appropriation regime doctrine, and
12 three use sort of a combination of both. Four
13 states have a reporting fee. Twenty-seven have a
14 permitting fee, and six have a usage fee.

15 And six states also have specified
16 penalties for violations, and six states also have
17 minimum flow rules; meaning that you can't fall
18 below a minimum flow and continue to withdraw.

19 Thank you. And if you have any
20 questions, I would be happy to fill them. Thank
21 y'all very much.

22 SECRETARY ANGELLE:

23 Thank you, Mr. Buatt. Good job. I
24 appreciate it.

25 MR. MAYS:

1 Are they going to be included in the
2 Statewide Management Plan? Are we going to -- I
3 guess give me your thoughts on how that's.

4 SECRETARY ANGELLE:

5 Well, again, I believe that HR-1 --
6 okay. We started out to put together a
7 comprehensive state water ground management plan
8 prior to this last legislative session. In this
9 last legislative session, HR-1 by Representative
10 Fannin requested something, perhaps, a little bit
11 broader and, as I recall, asked us to look at
12 surface water in addition.

13 And, so, yes, a proposed ground water
14 management plan is going to, in my mind, include
15 some surface water management as recommendations to
16 assist in the management of our ground water and
17 resources. I don't know if I'm hitting your
18 question.

19 MR. MAYS:

20 Yes, you are, but I was kind of just
21 wondering if the -- and I know this is a little
22 prior to the update of that or the timeline but --
23 and I know the heavy lifting is going to fall on
24 your shoulders, but do you see included in this
25 management plan will be such actions as Act 955 and

1 other things to try to - inside the law or inside of
2 the - wherever advised that - to offset some of
3 these Attorney General's opinions? Because I can
4 see that probably this is just the beginning of
5 Attorney General opinions until we get a statewide
6 management --

7 SECRETARY ANGELLE:

8 Correct, and I think the real
9 challenge is going to be for the Ground Water
10 Commission to sink their teeth into really in a big,
11 big way from a policy standpoint in a state that has
12 zero regulation for surface water to begin to be a
13 group that brings about some surface water
14 management.

15 Perhaps regulation is not the right
16 word, but some surface water management to the
17 benefit of ground water resources. That's going to
18 be -- that's a chasm we haven't yet been able to get
19 around the state, but over the next coming months,
20 our work is going to have to at least address it.

21 Mr. Owen makes a good point. You
22 know, just addressing here in the Mississippi River
23 area here in, say, the Baton Rouge area, if we have
24 a policy of surface water that says 15 cents is what
25 it is across the state, then what we are doing in

1 this area where there is such a huge, huge excess of
2 water in at least that particular stream, we are
3 desensitizing the use of surface water and are
4 basically saying I got no choice but to use ground
5 water.

6 And, so, we're going to have -- but
7 those are such incredible public policy issues that
8 have tails and live for a long, long time, and so,
9 you know, as we go through it, yes, there's going to
10 be some recommendations. Some will be we discussed
11 but did not come to a conclusion on type stuff as I
12 can speculate forward.

13 MR. OWEN:

14 Mr. Chairman, in the development of
15 this surface water management plan, I did not notice
16 a specific evaluation of the return to the original
17 stream evaluation, and I think that permit
18 applications and all of our examination have to
19 consider probable return to the original stream of
20 that.

21 And I know that in other states where
22 they have well-established surface water management
23 plans, that is a big factor in evaluation and the
24 granting of a permit in the terms.

25 SECRETARY ANGELLE:

1 So that the resource gets returned to
2 it's --

3 MR. OWEN:

4 Correct.

5 SECRETARY ANGELLE:

6 Okay. We're going to go ahead and
7 move to Item 5. Before Mr. Snellgrove gets up here,
8 I have to run upstairs for a conference call. I
9 will tell you that the workshop recommendations --
10 and I have some of the draft stuff here. I will be
11 e-mailing them to you hopefully very soon for us to
12 begin to crunch and begin to start giving -
13 providing your feedback. It will be a frame work
14 and a frame work only; so your own individual
15 comments are going to be encouraged and appreciated.

16 I'm dealing with a little bit of a
17 problem in Washington right now with regards to the
18 offshore drilling issue; so my time was split
19 between this. But we're getting very close to
20 solving that issue. So I thank y'all very much.

21 I'm going to run upstairs and ask
22 that Vice Chairman Spicer earn his keep today.

23 MR. SNELLGROVE:

24 This is a recap of where we've been
25 with the Statewide Well Notification Audit and

1 Enforcement procedures that we implemented some time
2 back to date. Well, effective at the end of last
3 year, in December, we were able to conclude the
4 schedule that we had set forth to beginning in 2009;
5 so we moved through.

6 We've touched every parish, and we've
7 sent out accordingly nearly 3,000 enforcement
8 actions for users of ground water who failed to
9 comply with the notification requirements to our
10 agency, with the exclusion of domestic water well
11 users. We did not include that as part of this
12 audit process.

13 But where we're at now is we're at a
14 point where we now are going to go into our annual
15 schedule with the understanding that we should have
16 gotten most of the non-compliant issues addressed or
17 at least notice has been sent out. So at this
18 point, we think we can proceed a little bit more in
19 a condensed fashion to touch every parish now every
20 year. So that's where we're at right now.

21 We're in March, as you know, but
22 we're right now -- in the month of January as you
23 probably were of in the past or maybe you haven't,
24 we've had some personnel changes and we've had to
25 beef up and -- so we're there now, and we anticipate

1 by April to be caught up with - probably done with
2 January and February, and we should be back on track
3 by May on the schedule right here with the new
4 personnel, the vacancies that we were able to fill.

5 And then, of course, we had been in
6 the past giving you a breakdown parish by parish,
7 and you've seen this slide before. This slide here
8 continues that process. We last reported, I think,
9 down to Rapides. And, so, moving forward we have
10 the remaining parishes there, and, of course, the
11 wrap up and the end result was 2,984 total actions.
12 That concludes that part of the presentation on the
13 Statewide Audit.

14 And at this point, we'll talk a
15 little bit about our public outreach and education
16 efforts. Ground Water Week was last week as
17 proclaimed by the government. As we had been
18 reporting in the previous Ground Water Commission
19 meetings, we concluded with the help of our
20 Department of Natural Resources public relations
21 folks and our IT group, we were able to complete the
22 Ground Water Conservation Curriculum Guide; so we
23 now have available on our website an area where
24 teachers or any interested party can access a wealth
25 of information regarding ground water conservation

1 and general science - water science and what have
2 you. It's all there on the website.

3 As this has developed, we had been
4 reporting that we were going to reach out to all
5 states who were in attendance and send them notice
6 of this link and this resource, and we have
7 concluded that process also. We sent out -- I gave
8 you an example of a letter, but we sent out to every
9 state superintendent that we have in our outreach
10 this letter that informs them of what we've done and
11 where they can go so that they can send that out to
12 their school systems and what have you to get the
13 message out and get that information out to the
14 teachers so they can start ramping up, getting this
15 curriculum guide.

16 Of course, we have contact
17 information if they have any questions. We'll be
18 glad to walk them through the process, help them
19 through that.

20 We also had reported in previous
21 meetings that we were going to partner with the
22 Louisiana Rural Water Association, which we did. We
23 began this calendar year that process; whereby, we
24 are going out to those areas of the state where LRWA
25 is training their operators for - public supply

1 water operators. So we've grabbed onto their coat
2 tails and have gone with them to these events and
3 we're sending out our message of notification and
4 evaluation compliance.

5 Our first stop was in May. We
6 partnered with LRWA. I think it was in January.
7 Our next stop is next week - or this week, actually.
8 I believe it's Wednesday of this week. We have an
9 event in Lake Charles, and we're going to have a
10 representation there. We're going to continue to go
11 to these areas of the state with LRWA on their
12 calendar or their minutes - about a 30-minute slide
13 to get the message out.

14 In addition to what we did here
15 with - or what we're doing here, we also created a
16 brochure some time back. I think it was in December
17 or maybe even a little earlier. But the brochure
18 that we created was focused on public supply well
19 operators, and it's a little trifold -- well, it's
20 actually four pages, front, center, and back. But
21 in there, it gives all the membership of the LRWA
22 which there are many, but in their annual membership
23 booklet, there was an insert. It was this brochure.

24 So whenever they open up their
25 membership guide booklet, they are going to see from

1 conservation this brochures that tells them
2 basically to stop before they drill and understand
3 that they have to notify us as part of our process;
4 and so we -- you know, that was kind of a kickoff of
5 this whole deal with NRWA, and, of course, we're
6 going out to each area that they go to for their
7 training.

8 Thirdly, we had reported that for
9 irrigation well owners, we were going to partner
10 with the LSU Ag Center. We have. We're not quite
11 there yet. The LSU Ag Center creates these fact
12 sheets. And what we did was, we shared our
13 information from a previous flowchart that we had
14 put out, but basically it breaks down our
15 regulations for notification and tells you, you
16 know, if you're here, then you go here. If not
17 this, then that. It's a flow diagram. So we gave
18 that to the LSU Ag Center. They've taken it and
19 incorporated it into their fact sheet, and we're
20 doing the final touches on editing that information.

21 And, once again, what we want to do,
22 once we've completed that, is go with them to
23 strategic locations of where they have their
24 outreach efforts and grab some air time along with
25 them and, you know, as a supplement to the fact

1 sheet explain it, walk the participants through the
2 process so that we can continue to do what we've
3 been doing in our partnership to educate the areas
4 for compliance purposes. So we look forward to
5 wrapping up our administrative end of that and
6 getting some time on the ground with it. That sums
7 up my public ed and outreach.

8 At this point, I'd like to give you
9 an update on the Statewide Water Management Plan.
10 We alluded to that earlier - or the Secretary did
11 about that process. Here's our time line. And the
12 most important thing to note on this is that because
13 of the ACR-1 and the Attorney General's Opinions and
14 the timing of all of that, it was necessary that we
15 extend the deadline. We've amended our contracts,
16 and the deadline now is August 31 of this year,
17 2011.

18 So where we're at in the process,
19 I've provided the time line we've been showing time
20 and time again, is, we're in months 3 to 16 in
21 developing the research and evaluating study and
22 what have you, and at some point in July and August,
23 we'll hold public hearings which are required with
24 our contract, and then we'll a final report.

25 This breaks down the latest

1 information that was provided from E&E - it was last
2 week - as far as where they're, and each of the
3 tasks are broken down. Task 1, 2, and 3, of course,
4 are 100 percent for all practical purposes. Tasks 4
5 and Five 5 predominately where they're working out
6 the gray area of details of aquifer sustainability
7 recommendations and recommendations for cost/benefit
8 and prioritization.

9 And, then, they're almost complete
10 with the founding opportunities. They're reviewing
11 an investigation of that. That's 98 percent, Task
12 6, and Task 7 is 98 percent best management
13 practices and cost analysis.

14 And then they'll, of course, at some
15 point, considering all of the above, get a draft
16 report and proceed towards the public hearings that
17 I mentioned earlier, and then at that time when they
18 get to the point of completing that and then prior
19 to the public hearings, this group will be provided
20 the report and hearings will be held, and then we'll
21 wrap it up and meet our deadline on August 31st.

22 And then I believe that we're
23 confidently on track with that in our discussions
24 with E&E in maintaining the schedule as we have here
25 under our contract.

1 And, of course, the Secretary had
2 mentioned earlier that he does have some workshop
3 recommendations that he is going to be distributing
4 out to the members here shortly.

5 MR. SPICER:

6 Yes.

7 MR. LOEWER:

8 If we're going to have public comment
9 and they will comment on a draft report, do we have
10 a date for that draft report to be -- do we have a
11 target yet on the draft report before the final
12 report?

13 MR. SNELLGROVE:

14 Correct.

15 MR. LOEWER:

16 In other words, we have a draft
17 report and then we're going to have a series of
18 public hearings.

19 MR. SNELLGROVE:

20 Yes, sir.

21 MR. LOEWER:

22 Hearings or public comment periods?

23 MR. SNELLGROVE:

24 We're going to -- a draft report will
25 be provided prior to the public hearings.

1 MR. LOEWER:

2 We don't know that date yet.

3 MR. SNELLGROVE:

4 We don't have a concrete date yet,
5 but I do anticipate that it will be some time in
6 July.

7 MR. LOEWER:

8 And then the hearings after that?

9 MR. SNELLGROVE:

10 We'll have four hearings --

11 MR. LOEWER:

12 Four?

13 MR. SNELLGROVE:

14 Yes, sir. We'll hit the corners of
15 the State and -- so, you know, I don't have a hard
16 date right now, but all indications are that we're
17 on track, and, of course, we've amended the contract
18 for a deadline final delivery of August 31st.

19 MR. MCKINNEY:

20 Are one of those in Ruston?

21 MR. SNELLGROVE:

22 There will be four. I'm sure there
23 will be -- we'll be somewhere in North Louisiana, no
24 doubt.

25 MR. SPICER:

1 Any other questions? Thank you,
2 Gary. There are no cards for public comment. Is
3 there anyone that would like to make a public
4 comment?

5 MS. ALICE STEWART:

6 Okay.

7 MR. WELSH:

8 Just state your name.

9 MS. ALICE STEWART:

10 I'm Alice Stewart with the Sparta
11 Commission. I've been here before with public
12 comments, and they're usually about the importance
13 of involving us locally and what you all do at the
14 State level, and that's not going to be my emphasis
15 this time, but, still, it's already been brought up
16 at this meeting.

17 I'd like to mention, Mr. McKinney was
18 talking about our Sparta Commission AGS meeting.
19 That was very interesting to us and we thought -
20 everybody thought constructive. And at this
21 meeting, the CEO, Jeff Ballew, said something that
22 interested me. He said he's considering voluntary,
23 voluntary, reporting of the AGS on pumpage, and, of
24 course, some of that is because we've been asking so
25 much for that information, but also he said because

1 he himself would like to know what's being pumping
2 around him, his wells.

3 And so I was wondering if the
4 Commissioner -- you know, we have pumpage
5 requirements - I mean reporting requirements for the
6 hydraulic fracing wells, do you not? If maybe you
7 could consider for large volume pumping like on -
8 the Arcadia Gas Storage pumping, maybe you could
9 consider, you know -- or at least asking them what
10 would be helpful in terms of pumping requirements,
11 you know, outside that area, and outside the area of
12 concern is where you also have those requirements.

13 And, also, as Chairman of the
14 long-term planning committee of the Sparta
15 Commission and -- we gather and disseminate
16 information. I hear and receive a lot of comments,
17 from citizens particularly, sometimes from industry
18 representatives, and recent concerns as you've heard
19 have been about the large volume pumpage by Arcadia
20 Gas Storage.

21 The second concern has been in some
22 difficulty in accessing the information that can
23 tell us about what's being decided at the State
24 level about the water that we depend on locally and
25 what are the reasons for the decisions being made at

1 the State level and what are the implications in the
2 long term for our water supplies.

3 And, so, these concerns that I've
4 heard have stretched from Caddo Parish all the way
5 to Ouachita Parish. In fact, one citizen, I believe
6 today, is going to be talking at the Caddo Parish -
7 I mean Caddo Council about some of these concerns.

8 And it's interesting to me that I
9 would say about half the people who have shared
10 their concerns with me are less interested in what
11 industry is doing, because we all need our
12 industries, but they're more interested in what the
13 plan is for our resources so that we'll have
14 enough - we'll have adequate supplies for industry
15 and for our public needs now and into the future.

16 What's the plan? We've asked that
17 before, haven't we? Mr. Mays is laughing there,
18 because I think the Sparta Commission actually -- I
19 mean your commission actually came to Ruston and we
20 kept saying what's the plan? And, so, those are
21 concerns.

22 And it interests me -- and, also,
23 it's not just stretching from Caddo to Ouachita that
24 these concerns are being expressed, but they're
25 being expressed by industries as well as citizens,

1 and because industries are - like Smurfit-Stone that
2 you mentioned. Oliva mentioned on our Sparta
3 Council. But industries are concerned that here's a
4 new industry coming in, and they've spent all of
5 this money conserving Sparta water and a new
6 industry comes in and, you know, erode some of the
7 work that they've done maybe and the costs that they
8 spent there.

9 So the concerns, I think, what I've
10 heard and I think Senator Kostelka received
11 questions from West Monroe Mayor Norris just right
12 before our meeting with Arcadia Gas Storage about
13 what was happening there. And the concern, then, is
14 not Arcadia Gas Storage. I mean, it is by some
15 people. But it's more about how we're going to have
16 adequate supplies for our area.

17 And, of course, Mr. Mays gave a
18 perfect example of how we could, because the
19 supplies are needed, especially along the I-20
20 corridor, where we can expect most economic
21 development and where Ruston is currently at need.
22 And.

23 Secretary Angelle asked, well, is
24 this Union-Lincoln initiative going to benefit other
25 parishes? Well, in the Sparta, any withdrawal that

1 can be prevented or, you know, that's - where
2 surface water could be used instead is going to help
3 everybody in the Sparta. And so I think the desire
4 is to concentrate more on developing those supplies.

5 And, in that sense, it was mentioned
6 today about Cheryl Johnson in Arkansas, how did they
7 do that? Well, how they did that was 90 percent of
8 that cost was paid by local industry, local
9 citizens. They collaborated; they worked hard
10 together. They had state agencies helping them get
11 information in many other ways. They had their
12 legislators pulling for them, everybody working
13 together. Hard collaboration, that's what you'll
14 hear. And it's award winning - a national
15 award-winning project, and I think we're going to
16 have some talk about that at our next Sparta
17 meeting, another Arkansas initiative, which is to
18 use surface water instead of ground water for
19 agricultural purposes, and that's on April 21st if
20 y'all can come up. And also Arcadia Gas CEO, Jeff
21 Ballew is going to present there, which should be
22 very interesting, I think, because it's going to be
23 a good meeting, and it's going to be in West Monroe.

24 And I wanted to say, too, that these
25 citizens are also seeking information. I mean, if I

1 could tell you what elaborate efforts they have made
2 to just piece out the information. They want to
3 know what's happening with their water supply. You
4 know, they share that with me, and it's quite
5 interesting.

6 And I've made some -- and they -- one
7 of the interpretations they make is that wool is
8 being pulled over their eyes. Well, I can't help
9 but think that too sometimes, but I always check
10 myself and say, no, you know, there are limitations
11 at the State level. But if we could all just get a
12 feeling we're all working in the same boat together
13 for the same reason, I think that would be, you
14 know, less of this mentality and make our work
15 easier on the Sparta Commission, for sure. And so I
16 have given some recommendations on that too,
17 conservation, and hopefully they'll take it into
18 account.

19 I myself am a epidemiologist by
20 training. I've worked with large databases. I've
21 created databases, and I just have some suggestions
22 for how we can make SONRIS a little bit better for
23 the kinds of information that I know the local
24 people are seeking, including myself.

25 And, finally, I want to say that in

1 looking at Mr. Snellgrove's chart showing the
2 equilibration and the partial recovery in some of
3 the Sparta wells, Secretary Angelle asked good luck
4 or good management, and definitely there's a lot of
5 management going on, and there's a lot of progress
6 being made there. But we heard that probably the
7 largest part was the Arkansas initiative and -- but
8 part of it was bad luck in the loss of IP which was
9 using a lot of ground water in the Morehouse Parish.

10 And so, you know, I appreciated
11 Mr. Burland's recognition of all the efforts that
12 industry does and has towards the conservation of
13 ground water in working with us. We really, you
14 know, all need to be working together. I guess
15 that's my final word, those two things, better
16 information down to the local level and maybe
17 support, get behind one good project for a plan to
18 increase water supplies in the Sparta area. Thank
19 you.

20 MR. SPICER:

21 Thank you. Any other comments from
22 the public? Yes, sir.

23 MR. JOHN NEILSON:

24 My name is John Neilson. I'm
25 Administrator of Desoto Parish Water Works District

1 1. I've appeared before this body before, and I
2 thank y'all for your work that you're doing. I
3 think some progress is being made. I apologize. I
4 didn't see the cards outside. I'm very glad to see
5 that we are now moved where the drillers are
6 responsible or getting more responsible for the
7 registration.

8 And I get copies of registrations in
9 my office in Desoto Parish. And in the last 30
10 days, I've gotten 45 approved applications for frac
11 water wells, for wells for frac water operations in
12 Desoto Parish. I don't know if that is a buildup
13 and they all of a sudden came in, but we are seeing
14 a steady rise, and I'm just here to let you know
15 that we are still concerned about the decline of our
16 Wilcox Aquifer, and in as much as the Sparta is
17 still declining, and we're getting around to doing
18 some things, but, really, nothing is happening in
19 Louisiana yet. Don't forget about us over here in
20 the Wilcox.

21 In Desoto Parish, we have a new
22 phenomenon that's called ponds. They are just
23 popping up everywhere. And a lot of these ponds are
24 eight to ten-acre ponds. And so when that water
25 gets in that pond, it becomes surface water, and

1 they're using it for the fracing. But unfortunately
2 most of those ponds - a lot of those ponds are being
3 filled with wells. And I have reported this, and
4 I'd really like some information. I'd like some
5 investigation going on in Desoto Parish on it.

6 It's happening from individuals and
7 from companies. I'm sure that some of those are
8 registered. I don't know how many there are. But
9 the thing on the chart that said 72 percent of the
10 water used in frac operations is from surface water,
11 I am confident that a good number of that 72 percent
12 started its life as ground water, especially in
13 Desoto Parish.

14 And if the numbers were true, still
15 17 percent using ground water, that's still 810
16 million gallons of water that we pulled out of our
17 aquifer that we're using for fracing. And, as you
18 know, when that water is returned from fracing, it's
19 going to get down in the salt water, into the salt
20 dome, injected down into the injection wells, and
21 that water is never seen again. So it's still a lot
22 of water.

23 We're still alive in Desoto Parish,
24 and we're still looking for y'all to get some help
25 long term. It's frustrating to y'all that you don't

1 have all the information that you need. It's
2 frustrating to me as well. As Administrator over
3 the water in Desoto Parish, I have tried and tried
4 to get my well owners from the well systems to give
5 me reports on their level in their wells so I can
6 track it and see if they're decreasing. And, like
7 most people, they find it a lot easier to complain
8 about something than to get the facts about it and
9 have some factual information on it.

10 So, again, I applaud you for your
11 work and continue the good work. Don't forget about
12 us over in the Northwest part of Louisiana, though.
13 Thank you.

14 MR. SPICER:

15 Thank you. Any other comments? If
16 not, I think that concludes our agenda. Any members
17 have any comments? Do I have a motion to adjourn?

18 MR. MAYS:

19 So moved.

20 MR. MILLER:

21 Second.

22 MR. SPICER:

23 Thank you. Meeting is adjourned.

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C E R T I F I C A T I O N

This certification is valid for a transcript accompanied by my original seal on this page. I, Michelle M. Dardeau, a Certified Court Reporter, License #21014, in and for the State of Louisiana, as an officer before whom this testimony was taken, do hereby certify that the witness to whom the oath was administered, after having been duly sworn by me upon authority of R.S. 37:2554, did testify as hereinbefore set forth in the foregoing pages; that this testimony was reported by me in the stenographic reporting method, complemented audio-sync recording, and thereafter reduced to computer-aided transcription by me, and is a true and correct transcript to the best of my ability.

I further certify that I am not an attorney or counsel for any of the parties; that I am neither related to nor employed by any attorney or counsel connected with this Action; and that I have no financial interest in the outcome of this Action.

MICHELLE M. DARDEAU, CCR