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STATE OF LOUISIANA
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF CONSERVATION

GROUND WATER RESOURCES COMMISSION
21ST REGULAR MEETING

VOLUME II - PAGES 289-490

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TRANSCRIPT OF THE GROUND WATER RESOURCES COMMISSION
MEETING, REPORTED BY DONNA T. CHANDLER, CERTIFIED
COURT REPORTER FOR THE STATE OF LOUISIANA.

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REPORTED AT:
THE CLAIBORNE BUILDING - 1ST FLOOR
THE LOUISIANA PURCHASE ROOM
1201 NORTH 3RD STREET
BATON ROUGE, LOUISIANA 70802

COMMENCING AT 8:03 A.M., ON JANUARY 20, 2012

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APPEARANCES

GROUND WATER RESOURCES COMMISSION MEMBERS:

SCOTT A. ANGELLE
KYLE BALKUM
JAMES S. BURLAND
PAUL D. FREY
CHARLES KILLEBREW, Ph.D.
JACKIE LOEWER
ROBERT DAN "MICKEY" MAYS
TED W. MCKINNEY
PAUL D. MILLER
EUGENE OWEN
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1 MR. ANGELLE: All right. I'm going to
2 go ahead and reconvene the Ground Water
3 Resources Commission Meeting as a
4 continuation from yesterday's January 9th
5 [sic] meeting to today's January 20th
6 meeting, and would ask that Mr. Jimmy Burland
7 take over on the item Incentives.

8 And I know that many of you have, have
9 other engagements during the course of the
10 day. I know folks have to leave for a
11 variety of reasons. I, myself, have to visit
12 with a legislator at 8:30. I'm going to ask
13 you to sit in the chair for that time period.
14 And that's fine. You know, we will continue
15 to scribe. We've got folks that are scribing
16 and taking notes. And we'll be looking
17 forward to getting as much of this as we
18 possibly can in the report.

19 So, Mr. Burland, go ahead, sir.

20 MR. BURLAND: Thank you, Mr. Chairman.

21 What we will start this morning with
22 the Incentives portion of the draft plan.
23 Let me go ahead and read the first bullet.

24 Should the state consider developing
25 one or more financial incentives such as:

1 Establish water use fees for a trust fund to
2 subsidize surface water use; create a cost
3 share funding mechanism to facilitate
4 development of water reuse; create a credit
5 system for surface water alternative users;
6 provide incentives or tax reductions to
7 encourage water recycling/reuse, surface
8 water irrigation/diversion projects and
9 beneficial watershed forest and agricultural
10 retention projects?

11 Let me just briefly share my remarks,
12 having done a little bit, not a lot, of
13 research on this. The section in the plan,
14 by the way, I believe it's Section 3.
15 Perhaps it's Section 5. But, anyway, got
16 both of them here.

17 But there's, but there's a, a good
18 chart in the back of the chapter dealing with
19 other states' incentives. And I think that's
20 -- we don't have to look very far to see what
21 other states around us have done, such as in
22 Arkansas and even in Texas. But I believe
23 that we need to keep an expansive view of
24 what incentives might be available to us and
25 what we can do with them.

1 For instance, we are not just talking
2 about private sector recipients for these --
3 for funding for these types of incentives to,
4 to build conservation projects or pay for
5 conservation equipment. We are talking about
6 public sector as well.

7 There should be mechanisms in place to
8 allow the state, or political subdivisions of
9 the state, or special districts, receive some
10 type of financial incentive, whether it's a
11 federal source or a state source or a public
12 or private foundation source. There are a
13 lot of institutions out there that give small
14 to large grants. They give loans. They give
15 all types of incentives for this purpose.
16 And I think we ought to dig a little deeper
17 and do some investigative study as to what
18 those possible sources might be. The plan
19 does a good job of -- has a good beginning in
20 that regard.

21 Also, we are talking about not just
22 alternative water use, such as, you know,
23 constructing surface water impoundments here.
24 I believe we also need to run the full gamut
25 of the water conservation projects. The

1 chapter, again, gives a good view of, of
2 examples of that.

3 But, for instance, if there is newer
4 irrigation technology that the rice farmers
5 can use to be more efficient in their ground
6 water use, you know, pending some time in the
7 distant future when we might find an
8 alternative source for their use, that should
9 be encouraged by a -- in a financial
10 incentive, such as sales or use tax exemption
11 or, perhaps, exempting dollar for dollar the
12 purchase of that equipment if it shows a
13 specific reduction in the ground water use.

14 Rainwater capture is a subject we
15 don't talk about much in this state, but
16 other states take a look at rainwater,
17 capture it on the property, and use it,
18 whether -- generally for non-potable uses,
19 but it can be, of course, cleaned up for
20 potable uses as well. And all that, you
21 know, makes a difference when you are talking
22 about --

23 You know, my, my concern, and it's not
24 one that I think will really matter in the
25 long run, but, you know, there are a lot of

1 domestic wells out there in the State of
2 Louisiana, many of which are unregistered.
3 And we really don't know what they're pulling
4 out of the ground. Now, I know the estimate,
5 I think, in the plan was 80 gallons -- what
6 was it? -- 80 gallons per day, or 80 gallons
7 per person for the household use in trying to
8 estimate domestic well use?

9 MR. JONES: This is Jeff Jones. It's
10 more like 400 gallons a day.

11 MR. BURLAND: Oh, was it? Where did I
12 get the 80 from? Is that a different figure?

13 MR. JONES: Different figure.

14 MR. BURLAND: Per person. Okay. 400
15 gallons. That may be an accurate.

16 But, you know, again, we don't have
17 some of the data to know how much is out
18 there. So I think that's a drawdown as well,
19 although I know the experts disagree with me
20 about how significant that is overall in the
21 state.

22 But that being said, I think that one
23 way to, to -- if we can't get the data, then
24 let's encourage and incentivize people to go
25 to other conservation uses or other equipment

1 that might, you know, cut that, cut that
2 useage somewhat.

3 And we have talked before about the
4 recharge area of protection. Landowners that
5 own land or companies that own land,
6 especially timber or forest companies that
7 own land in the recharge areas, is there a
8 mechanism or are there ideas we could pursue
9 to help them protect the recharge and
10 incentivize them not to build or not to
11 obstruct or, actually, to actually -- you
12 know, there are some states that actually
13 take surface water and recharge the ground
14 water with the surface water with certain
15 projects. So, I mean, we need to just think
16 kind of outside the box when we want to talk
17 about these type of incentive projects.

18 I think all forms of financial
19 incentives should be encouraged, especially
20 during these challenging fiscal times.
21 Public and private partnerships involving
22 grants, matching grants, loans, low-interest
23 loans, revolving loan funds that a lot of
24 municipalities use in other states or
25 counties, state or local capital outlay

1 budgets. Designating -- I think something we
2 could consider here in Louisiana is
3 designating the ground water conservation
4 project as the highest capital outlay
5 priority, or as a priority one, just from
6 virtue of it being what it is. I don't know
7 how the administration would feel about that,
8 but I think that if we are talking about
9 wanting to put our money where our mouth is,
10 priority one funding capital outlay for this
11 type of project will get it done a lot
12 quicker.

13 I have been peripherally involved with
14 Graphic Packaging and what it has done up in
15 north Louisiana. It took -- that's probably
16 a 10-plus year endeavor to do what they are
17 doing using the West Monroe water companies.

18 Actually, the system works this way.
19 You, you use the utility company's ground
20 water wells, let the utility company use
21 their water to their customers. When you
22 reclaim the wastewater, or the gray water, it
23 comes back into the facility, and then -- and
24 is kind of cleaned up, sent over to the
25 Graphic Packaging's paper mill plant, to the

1 tune of up to -- some estimates are up to 10
2 million. I think it's probably closer to 6
3 million a day.

4 But sent across the border, across
5 their plant gate, to them, who use it for
6 their industrial facilities. And they
7 discharge it into the, into the waterway
8 under a, under the permit that they already
9 have. And in the meantime, they have shut
10 off their ground water wells and you have
11 saved, you know, one industrial giant from
12 using a lot of ground water.

13 I know they use about 10 million a day
14 from the Ouachita River. That presents its
15 own set of problems. Very expensive thing to
16 do, put up another -- build another pumping
17 station on the Ouachita River and pump it a
18 couple of miles to the plant is almost
19 economically not feasible. So ground water
20 is the most cost-effective way at this point.

21 But how do you get someone like that
22 off of the ground water? You partnership up
23 with the local government. But that wasn't
24 the only thing they had to do. They had to
25 seek capital outlay funding. And I think my,

1 my remembrance of what it took was three or
2 four or five years and priority one, two,
3 three, and probably seven or eight to \$10
4 million from the state assistance to the West
5 Monroe utility to make this happen. And I
6 know Graphic also put up some money. But
7 most of the, most of the engineering and
8 design work of that plant that they built was
9 on, was on the city side of the equation.
10 I'm sure had it been on the company side,
11 they would have, you know, paid their fair
12 share as well.

13 But, you know, long story short, when
14 that thing comes on line, I think it -- if it
15 isn't on line already, it soon will be. And
16 I would hope that the staff would request to
17 have Mayor Norris come up here at our next
18 meeting and brief us on the progress of the
19 status of that project, because that is a
20 prime shining example of what you can do, but
21 it took a lot of time.

22 I'm grateful to this Commission and to
23 the administration for -- and the legislature
24 for giving us that amount of time. These
25 things don't occur overnight. Should we have

1 started on a surface water impoundment, that
2 takes many, many years, as you know, to get
3 that done as well. So we, I guess, one of
4 the things we really need is time and
5 patience to get these things done.

6 But beyond that, we have mentioned
7 some tax credits. There is -- and I
8 appreciate Tony for bringing the acts back to
9 my attention, but I recall in '07 when we
10 were in about the middle of the Graphic
11 Packaging deal, we did pass a sales and use
12 tax exemption for water conservation
13 equipment to be purchased and used in the
14 Sparta aquifer system. And I believe it has
15 to reduce water conservation by 25 percent or
16 something as a minimum. But those kind of
17 incentives -- and I don't know honestly how
18 many people or to what extent it's been
19 utilized. Maybe we could find that out from
20 the Department of Revenue.

21 But the bottom line is, those are the
22 type of things -- we're moving in the right
23 direction. I think those are the type of
24 things we need to look at.

25 We have talked about that is an

1 example of wastewater or effluent recycling.
2 There are some states using incentives for
3 non-potable water substitution for certain
4 agricultural and industrial uses. Certain
5 industrial processes don't need potable water
6 or ground -- clear, pure ground water, can
7 use non-potable water. The same is true for
8 some agricultural and livestock uses.

9 Water use fees I think should be a
10 last resort. I'm not sitting here and saying
11 that we should never do, do that. You know,
12 as our ground water resources diminish and we
13 transition, as we talked a little bit
14 yesterday, from, from what is essentially a
15 free rule of capture now in acquisition of
16 ground water, to a more regulated and
17 restrictive scheme, and the transition of
18 that economic corporate decision where it's a
19 no brainer to come to a state where you can
20 get your water supply for virtually nothing
21 to a governmental authority decision that
22 will be based on public interest
23 considerations. I think we, again, need to
24 take the necessary time for these transitions
25 to occur and to make sure that all the

1 stakeholders are comfortable in that
2 transition.

3 Secondly, I think the -- we had a
4 private discussion yesterday, but I think the
5 state's current taxation or charge, the fees
6 for surface water use, may result ultimately
7 in a disincentive for getting off ground
8 water. At least at this moment where there's
9 an imbalance between having to purchase
10 running water out of the rivers and streams
11 for use by a third party versus -- or use by
12 the riparian landowner versus what a ground
13 water landowner can do.

14 So we should either consider in my
15 mind reducing the levy or exempting certain
16 users from the sale of state waters if the
17 purpose or intent is to encourage or, or make
18 happen more water conservation projects.

19 Finally, I think we ought to continue
20 to insure the free capture of ground water
21 use, but, but continue to encourage them by
22 this Commission, the Secretary and the, and
23 Conservation to continue to encourage people
24 to move to alternative supplies. Especially,
25 you know, we have to be especially careful in

1 areas where there are economic and other
2 factors that are important to our standard of
3 living, to job creation, to job retention.

4 I think Haynesville may have ended
5 up -- I think it's a bit of a success story
6 with regard to moving 75 or 80 percent of the
7 water users off of ground water and into the
8 surface water alternatives. I think that's
9 because, you know, there's a lot of jobs and
10 economic activity involved. I hate to think
11 what would happen if, if that was not the
12 case. And that these people probably
13 wouldn't be able to, to continue to do their
14 mining and extraction here if it were not
15 for, for the help of DNR and what we can do
16 because of the economic result.

17 So there's steps along the way that we
18 can look at. I think before we get to a
19 water user fee structure, we don't -- you
20 know, you can look at permit application
21 fees. You could look at fees for services
22 performed by conservation districts that
23 actually provide it free to their residents
24 within the district, but may charge for
25 people outside the district, such as many of

1 the technical and engineering services that
2 people need to, to test and, and drill for
3 water, that sort of thing.

4 I have seen that done in other states
5 where the conservation districts actually
6 have engineers and people out there that will
7 go for a fee service out into the, you know,
8 outlying area, outside their district area,
9 and actually charge, in a private sector
10 fashion, for those types of services.

11 The land retirement programs, you
12 know, the -- I'm not quite sure who runs it
13 at the federal government, but I know that
14 there is a land conservation program that I'm
15 sure this Department is familiar with that --
16 where people are paid not to grow crops or
17 not to make certain uses of their land. I
18 think the land retirement program, especially
19 for farmers that may not need all their
20 acreage to do what they do, would be a good
21 encouragement and some incentive to put that
22 land out of production if it saves ground
23 water use.

24 And then, of course, there's
25 ultimately a property or ad valorem taxes or

1 user fees to support the ground water
2 conservation trust fund of such that money
3 could be pooled together and utilized in some
4 manner under regulation for, for the use of
5 projects and have everybody contribute.

6 So I don't think it's as clear to go
7 from here today being a very economically
8 available resource to tomorrow charging, you
9 know, several dollars a million gallons or
10 thousand gallons. I think we need to.
11 Although the state, obviously, in the surface
12 water arena is in that market already. But
13 it seems to me that if we look closely and
14 take a deep look and do our research
15 carefully, we could come up with an expansive
16 list of incentives that the state could,
17 maybe in a piece of, you know, omnibus piece
18 of legislation they could pass, that could
19 give us options in the public and private
20 sector to do what we need to do.

21 And with that, I will open up to the
22 floor for discussions under the first bullet.

23 MR. McKINNEY: Basically, do
24 incentives work? I can assure you from
25 personal participation they do.

1 My family is involved in farming in
2 the Stuttgart, Arkansas, area. And very --
3 and I must say, the one that we participated
4 in about eight years ago, in my opinion, it
5 was a very lucrative situation. Any time
6 somebody is going to give me \$65 for every
7 100 that I'm willing to invest, then I'm
8 going to be standing in the line. And we
9 were. And we benefited by the creation of
10 clear water collection systems, designed and
11 built reservoirs, piping. It goes on and on
12 and on.

13 And this was in conjunction with this
14 very large project that I think maybe I
15 mentioned in here before, this Grand Prairie
16 area demonstration project. Just so happens
17 that the main canal for that project would go
18 through both of our farms.

19 So we, so we have had some good
20 leverage there to work with the Corp of
21 Engineers and the Arkansas Natural Resources
22 and so on and so forth. But that -- I can
23 get into many, many, many issues regarding
24 that.

25 But incentives, yes. It worked to the

1 extent that there were those who saw what the
2 possibilities were, and it was unbelievable
3 that they followed through with it and
4 actually built them for you, and gave you the
5 money, and all you had to do was put in \$35
6 for every hundred.

7 Then, the state turned around and gave
8 you a tax credit for nine years. You had
9 nine years to use up the credit that you
10 accumulated with the amount of money you were
11 willing to spend. So, there again, you know,
12 you got another kick there that was pretty
13 good.

14 So I will just keep it simple and
15 plain. Incentives, in my opinion, work. But
16 there is a list of 200 and something
17 applicants now to try to get into this, and
18 there's no more funding. So, you know, if
19 you didn't get in on it earlier, then you
20 probably won't ever get any benefit out of
21 it.

22 MR. MILLER: Jimmy? Excuse me, Jimmy?

23 MR. BURLAND: Yes.

24 MR. MILLER: We were -- DEQ was very
25 pleased to work with the West Monroe. We,

1 actually, had some money both under the
2 stimulus program and money from our revolving
3 loan program, and we were able to actually
4 fund a good portion of that project through
5 that. And I think that points to other state
6 agencies looking for there is an available
7 resource, and making it a priority addressing
8 something like the critical nature that we
9 saw with the Sparta aquifer.

10 So as a department, we thought that
11 that was a good use of funds that were
12 available to actually see that happening, to
13 get that facility off of ground water and
14 reuse that resource that was there available.
15 So we were very pleased, our Secretary and
16 Dr. Appeaning, were very supportive of the
17 concept.

18 And, again, I think what it points out
19 is that we as state agencies look to see that
20 we have opportunities to address those
21 issues.

22 MR. BURLAND: I appreciate you
23 bringing that back to our attention. That
24 reminds me of, you know, I personally like
25 the idea of a state agency aggressively

1 seeking out partners for that type of
2 activity. It reminds me of the -- back in
3 the day when -- before the Department of
4 Labor became the Workforce Development
5 Commission, they, actually, aggressively set
6 up local area offices. I know the WICs were
7 always there, but the fact that the state
8 department, itself, went out into the field,
9 again, setting up individuals and offices to,
10 to go out and talk to their customers. And I
11 think that's probably what, whether it's DNR
12 or some other state agency, ought to
13 spearhead, is getting out and talking to the
14 large water users and see are there any --
15 you know, because it's got to work both ways.

16 The company has to have a plan or some
17 idea of the future what they want to do with
18 the resource, and the state, obviously, you
19 know, is charged with trying to conserve its
20 use. So it seems to me that we ought to have
21 sort of an outreach program to go and talk
22 and use the examples that you have and put
23 together, like LED does today, these types of
24 partnerships that can help, you know, retain
25 the economic development of the area but also

1 conserve the use of the water.

2 MR. MILLER: Well, I know Secretary
3 Hatch is very supportive of it. And, again,
4 part of it was it's incumbent upon each of us
5 as Board members and each and everyone that
6 has potential to seize an opportunity, to
7 seize those opportunities and make the most
8 out of it.

9 MR. BURLAND: Sure.

10 Other comments with bullet No. 1?

11 MR. OWEN: Well, I never thought I
12 would agree with Jimmy Burland on much of
13 anything, but I certainly agree with his
14 observation on the importance of incentives.

15 And it seems to me that our job here
16 as the Ground Water Commission, is to make
17 suggestions. Our immediate job is to make
18 suggestions to the legislature that will
19 enable them to address gaps, shortcomings, in
20 our water policy.

21 And right now I would characterize our
22 overall water policy as something that goes
23 like this: We recognize there are two
24 different sources of water. We even
25 recognize that's ground water and surface

1 water. We recognize that ground water is
2 probably more evenly distributed over the
3 state, but we also recognize, at least in
4 part, that this state, more than any other
5 state in the United States, has an abundance
6 of overall water resources. We have
7 available act of distribution of those water
8 resources to, to enable us to make -- to take
9 full advantage of those resources. We also
10 recognize that because of the unevenness,
11 there's not equal value in water to every
12 user. Some water is more valuable to users
13 because of its quality, because of its
14 distribution than other users. Our policy is
15 exactly in the wrong direction, this state
16 right now.

17 We recognize that in general, ground
18 water, more evenly distributed, is of
19 superior value, and we recognize that it is
20 there for the taking. Surface water is
21 probably to most users a more expensive
22 initial source of water, but we tax it. Now,
23 if ground water is the limited resource and
24 surface water is the more plentiful resource,
25 at least in the areas where it is available,

1 then how does it make sense to pursue a
2 schizoid state policy that taxes ground
3 water -- sorry -- that taxes surface water on
4 withdrawal and continues to recognize that
5 the extraction of ground water is governed by
6 the rule of capture?

7 As Mr. Burland pointed out, at least
8 we are obliged to point out this anomaly in
9 the state's current water policy. And it is
10 possible, just as he pointed out, to install
11 incentives that would encourage by suspension
12 of ground water -- of surface water levies
13 through the substitution of ground water --
14 substitution of surface water for the use of
15 ground water. I think we will fail in our
16 obligation to the state if we fail to
17 recognize and point out to the legislature
18 this, this, this anomaly in our present
19 policy.

20 MR. BURLAND: Yeah. Thank you. I
21 would agree with that totally.

22 MR. MAYS: Yes.

23 MR. BURLAND: Any other comments?

24 MR. MAYS: Yes. I would like just to
25 say Mr. Owen very eloquently stated a problem

1 that I think is -- should be the center piece
2 of, of this Incentive part. My speech being
3 from the Sparta area, that there is no cost
4 when we get water out of the Sparta. It
5 doesn't have to be processed in any manner.
6 It's -- there's, there's no cost of anything
7 except for transportation.

8 The City of Ruston pumps the water.
9 It comes to my house. I pay the City for the
10 transportation. I don't pay one penny for
11 the water. Nobody pays anything for the
12 water there.

13 So we, we think that maybe that there
14 should be some user fees in areas where there
15 is an extreme shortage of water, as in our
16 area. That may not apply to other areas of
17 the state where it's plentiful. So I wanted
18 to add that part.

19 MR. BALKUM: Jimmy?

20 MR. BURLAND: Yes, sir.

21 MR. BALKUM: You touched on some
22 federal conservation programs. We work
23 closely with NRCS in delivering some of the
24 farm bill programs. And oftentimes they have
25 similar objectives, restoring/repairing

1 buffers, taking some ag land adjacent to
2 streams out of production so that you can
3 provide filter strips. Reuse of the
4 irrigation ag water.

5 So, you know, we work with NRCS to
6 prioritize what areas of the state we can
7 deliver those projects. Sometime putting
8 them on the ground is difficult because there
9 is a match that the landowner has to provide.
10 It's possible we can investigate state
11 resources to help fund that match. I'm
12 assuming here in the state dollars can help
13 match that non-federal obligation. But,
14 anyway, there are a lot of opportunities in
15 the farm bill that can meet most of our
16 objectives as well as wildlife habitat
17 restoration, water quality improvement, soil
18 retention that bears investigation. We'll be
19 happy to work with DNR to look at that and
20 making contacts with NRCS, if that's helpful.

21 MR. SPICER: I might mention, we
22 partner with NRCS, the Office of Soil and
23 Water Conservation. That's our partner. We
24 work every day with them, so... And we help
25 through our local soil and water conservation

1 districts implement all those programs. We
2 have a staff of over a hundred people across
3 the state that work directly with the NRCS in
4 implementing those programs.

5 However, if you're out there working
6 with one of our offices, field office, you
7 typically wouldn't know whether you were
8 working with a NRCS employee or a federal
9 employee or a local soil and water
10 conservation district employee or employee
11 that works from my office, because we're
12 partners and we all have the same goals to
13 protect that resource. And, and so do a lot
14 of work out there in the landscape that's not
15 recognized by the average person driving
16 around, but we, we do -- let's see.

17 I think last year I believe the NRCS
18 brought over a \$148 million into this state
19 through conservation, resource protection,
20 not just soil and water conservation. That's
21 a lot of money when you think the multiplier
22 of five, something like that, did three
23 quarters of a billion dollars worth of work
24 on the land. That's pretty significant.

25 And we do partner a lot with the

1 Wildlife & Fisheries and other agencies as
2 well.

3 MR. BALKUM: And, again, just to
4 stress, there's value in prioritizing what
5 that agency, where they deliver them. And we
6 put a lot of effort in bringing projects to
7 the Mississippi Alluvial Valley that benefits
8 black bear restoration, habitat restoration.
9 We are looking at other parts of the state
10 that have not been receiving as many of these
11 conservation projects and we are looking at
12 water shortage. That could be something we
13 can bring into that mix.

14 MR. BURLAND: That's good.

15 MR. LOEWER: You know, just as we are
16 free to sit here as 10, 12, 15 people from
17 the citizens of this state, to meet freely in
18 a forum like this to decide this, it just
19 kind of gives you the warm fuzzies. And
20 that's a fact of, of why the U.S., United
21 States, is so great.

22 But the second fact that why the U.S.
23 is so great is we have -- because we have
24 private ownership of property. Ground water
25 is one of those assets that are, that are

1 deemed to be private property.

2 We will constantly bump up against

3 this fundamental right as we try to solve

4 some of our other problems. Because what you

5 are doing is managing a resource owned by

6 private property that's necessary for

7 everybody. And so we are kind -- that's why

8 everybody else but me is so bright here,

9 because it's not an easy decision. It's not

10 an easy role to go as, as was mentioned in

11 two or three other comments. It's very

12 difficult to try to wrestle with these seem

13 what opposing views and make it work, because

14 you can't violate a fundamental principle.

15 And just like in a lot of things in life,

16 what you want to do and what you can do, you

17 have to set, set that and look at -- because

18 you have to do it in the context of which we

19 are operating as law and not to go out -- way

20 out there too far and say we can just do this

21 because it violates how we are set up. We

22 have to do it within that. You can't destroy

23 the fundamentals just to get to some point

24 because then everything else breaks down.

25 Doesn't make it easy.

1 MR. BURLAND: Any other comments?

2 Okay. I will go ahead and move on to
3 the second bullet.

4 Should DNR develop a ground water
5 conservation stewardship recognition plan?

6 This is a topic that I'm not very
7 familiar with, but my, my answer would be,
8 yes, we should.

9 I'm a little bit familiar with the
10 environmental stewardship program. And,
11 perhaps, maybe Kyle -- I see DEQ here today,
12 but, but I believe there's an environmental
13 stewardship in the state. If the staff is
14 familiar with it, maybe they could talk about
15 it. But it does kind of encourage private
16 landowners and, and companies and people that
17 interact with that agency, because of
18 permitting, to, to be good environmental
19 stewards of what they're managing, whether
20 it's a water resource or a ground resource or
21 even subsurface resource.

22 So I think in, you know, in a general
23 sense, I think that's a good idea. I don't,
24 however, want it just to be a plaque on the
25 wall. I don't think that's something that,

1 you know, to stand up in a meeting and reward
2 someone for just existing or doing what every
3 good citizen should do already is, is a
4 recognition, but I think it should be a
5 special stewardship plan that, that if they
6 take the kind of initiative that we are
7 talking about here of partnering up, doing,
8 doing a water resource plan that would, would
9 save or show a demonstrable reduction in
10 ground water use or some, something like
11 that, then I think that's something that's
12 worthwhile.

13 Anybody else have any thoughts on, on
14 that? And I think, I think there are plenty
15 of models here and in other states to put
16 something like that together.

17 I wanted to also bring in the third
18 point, because we are -- I think this all
19 leads to the final bullet, in a way, to say
20 that: Should legislation be considered to
21 provide a means for water authorities to
22 pursue Public Private Partnerships to fund
23 water infrastructure projects?

24 My view is that I hope that this
25 Commission and the Department and the

1 administration move forward with the
2 incentive legislation as a piece of, of the
3 overall legislation, if there is an omnibus
4 bill, to try to capture some of these items
5 we are talking about the last couple of days.

6 It seems to me that, again, it should
7 be expansive and fairly broad. I know that
8 we need to kind of focus on, on what would be
9 the best types of incentives to utilize in
10 this state, but we don't need to recreate the
11 wheel. There are thousands of examples
12 across the country in areas where water is of
13 more concern than even here. So it seems to
14 me that we should consider that type of
15 legislation.

16 I guess the, the good news is that
17 it's, with the session only a couple months
18 away, the good news is that any type of tax
19 incentive legislation or tax exemption or
20 things of that, fees -- well, fees are a
21 different matter. But a lot of the taxing
22 legislation would have to be put forward next
23 year in a fiscal session. This is not a
24 fiscal session this year. So it does give us
25 some time, maybe in, maybe in a subcommittee

1 setting, perhaps, to get back together in the
2 coming months and put together a more
3 specific and focused incentive plan that we
4 can present to the legislature at some point.

5 Not having talked, talked about it in
6 advance with the Chairman, I don't know if
7 that's the way we will proceed, but I hope
8 that that's the way that I would encourage us
9 to proceed, is to spend some time
10 investigating some of the other incentive
11 programs, sources of funding, whether it's
12 public or private, recipients, whether
13 they're public or private, and sort of get
14 a -- put some lists together and see what is
15 the demand for this type of activity. We
16 certainly need it, but are there financial
17 and other resources, are there people willing
18 to put up the matching funds? And if not,
19 can we, can we incentivize and help subsidize
20 some of that through other sources. That's
21 my view of what I think we should do.

22 Other comments?

23 MR. OWEN: Second time today, I agree
24 with you absolutely, Jimmy.

25 I think that rather than doing this in

1 a vacuum, I can think of two or three
2 specific examples, which I will not go into
3 today, in which if there were legislation
4 available, public private partnerships to
5 fund infrastructure projects are possible,
6 and all they lack is just a little bit of
7 legal incentives to make them possible. And
8 I think that we have to start some place, and
9 this is an excellent way of maximizing our
10 use of resources.

11 MR. BURLAND: Very good.

12 MR. MAYS: Could either of you cite an
13 example of a public private partnership for
14 me?

15 MR. OWEN: An existing example?

16 MR. MAYS: Any example.

17 MR. OWEN: I will tell you, an example
18 that I would cite is right here on the banks
19 of the Mississippi River. We have a number
20 of industries up and down the river that, for
21 the most part -- or up the river more than
22 down the river -- are using ground water for
23 their industrial processes. To almost none
24 of those industries is the existing cost of
25 water, even withdrawal of surface water, is

1 feasible and it were not charged.

2 Almost none of those industries acting
3 by themselves can afford the withdrawal and
4 redistribution of those facilities, but
5 acting together, there is a feasible project
6 to utilize river water clarified,
7 redistributed, and supplant the use of ground
8 water resources.

9 This is exactly what I think
10 Mr. Burland is talking about. And it is
11 feasible, but it is not currently doable
12 under the existing law.

13 MR. MAYS: So currently there are no
14 public private partnerships, and this bullet
15 point is to establish legislation that would
16 allow that?

17 MR. OWEN: Correct.

18 MR. MAYS: And you agree with that?

19 MR. BURLAND: Yeah. I think what has
20 happened, and, again, I'm not as familiar
21 with the, the wastewater reuse project as I
22 should be, but the partnership -- it's more
23 of an informal arrangement with West Monroe
24 and Graphic Packaging and the state where all
25 three legs of the stool have really supported

1 the development of this reuse project. Not
2 so much in the form of documents or statutory
3 language, but in cooperation, you know,
4 towards a common goal. And I think, I think
5 those can be done most of the time, but there
6 are some restrictions as to what the, what
7 the state can get involved in.

8 When, when talking about a partnership
9 or even a, a venture capital project, you
10 have to make sure, you know, the state can't
11 be donating resources, land or money to the
12 private individuals without a statutory
13 enactment. So I think there are some
14 obstacles that would have to be removed in
15 order to, you know, facilitate the better use
16 of these things.

17 But also that reminds me, and I'll end
18 with this, unless there are other comments,
19 that, you know, it's not just -- you know,
20 it's a two-way street, again, to where I
21 think the private sector must be willing to
22 get engaged and put up dollars to, to, to
23 help us conserve this resource. The public
24 sector as well, as whether it's a public
25 sector funding or use of agency resources as

1 a donated service to get some of these things
2 done, I think needs to be looked at.

3 Again, my work earlier was expansive.
4 You know, capital outlay is not just for the
5 design or the planning or the construction or
6 the completion of a, of a capital project.
7 But you are looking at, you know, maybe
8 maintenance costs down the road, what
9 incentives can be used once you build a
10 project that can help fund any type of
11 maintenance such as if, if you did
12 transportation project like a pipeline, which
13 is a very expensive proposition. You know,
14 building surface water impoundments is one
15 thing, but getting the water to where it's
16 needed or putting that impoundment close to
17 where it's needed, whether it's industrial or
18 agricultural or public supply, is, is a
19 critical phase of it, too. And it's --
20 pipelines are very expensive things to do.
21 I'm not suggesting that we do that over
22 others.

23 But the point is, that when you talk
24 about these type of capital construction
25 projects, you really have to, you know, think

1 outside the box and be a little innovative as
2 to how you can deliver the resource to a
3 customer, you know, cheaper or at least with
4 an incentive to make sure that that's a
5 better way to do it than just using the
6 ground water.

7 Again, we are looking for, you know, a
8 reclamation that's more efficient, but you
9 want to make sure that you, that you don't
10 result inadvertently in the use of, for
11 instance, more water intensive crops.
12 There's been some states that have had
13 problems with incentivizing agricultural
14 water use, surface water use, over ground
15 water, and then it's resulted in turning
16 around and other crops being grown that
17 require even more water because it's more
18 available. So I think we have to be careful
19 of how we structure these programs.

20 But, again, we need a vehicle to do
21 it. And I think probably my recommendation
22 to the Commission would be that we meet, and
23 maybe in conjunction with the Advisory Task
24 Force, to develop over the next year, at
25 least during 2012, a list, maybe prioritize a

1 list of, of incentive ideas that we could
2 then put into a piece of legislation that's
3 ultimately adopted by the state legislation.

4 And unless there are other comments to
5 that.

6 MR. McKINNEY: I would like to follow
7 up just very briefly on what Mr. Owen said.
8 Regarding El Dorado, Arkansas, which,
9 actually, did exactly that. They convinced
10 all the industry in Ed Dorado to get off of
11 the Sparta up there and it went to the
12 Ouachita River. It was a very expensive
13 project, but it was -- I was speaking with
14 some persons from up there last week. And
15 they said the way they were able to convince
16 the industry up there to do that, is they
17 based it solely on economic reasons. They
18 started first with economic reasons, which
19 conservation was a part of that. But they
20 got their economic council involved in it.
21 And so, therefore, when you tie that into the
22 economic end of it, it gets their attention.

23 MR. OWEN: And I would like to tack on
24 to that, no small part of this is some sort
25 of provision for exemption from ad valorem

1 taxes of these facilities. That alone is a
2 big number in maintenance of major capital
3 projects.

4 MR. MAYS: I would like to add one
5 thing.

6 In our area, and that's -- and I hate
7 to keep talking about that, but we know that
8 we are the worst problem in the state for
9 water. But we have an alternative plan as a
10 pipeline from Darbonne to Ruston that there's
11 a lot of complications of processing that
12 water, using that water, et cetera, and I
13 won't go into the details of it.

14 But we need a vehicle, like
15 legislation, to be able to pursue a public
16 private partnership like that. So for our
17 area, that is a big bullet point.

18 MR. BURLAND: Yeah.

19 MR. MAYS: So I would like to, if we
20 could, make that a larger bullet.

21 MR. BURLAND: Increase the font size.
22 We can do that.

23 Mr. Acting Chairman, I think I'm done
24 with my portion, unless there are other
25 comments from the audience who would like to

1 speak at this time on the subject.

2 MR. FREY: Is this bullet point 1? I
3 apologize for being tardy. I had a few items
4 I had to do.

5 MR. BURLAND: No. We have actually
6 covered all three, but --

7 MR. FREY: All three? Okay.

8 MR. BURLAND: -- you can address any
9 one of them, if you want to.

10 MR. FREY: I'm just trying to get a
11 heads up on where we were.

12 MR. BURLAND: No. Hopefully I have
13 ended five minutes early.

14 MR. SPICER: Before we leave the
15 Incentives, is it the consensus of the
16 Commission that we ought to take at least the
17 recommendations that Jimmy and Mr. Owen's
18 made? You-all agree to work on those this
19 coming year?

20 Okay. And we have those recorded?

21 MR. SNELLGROVE: Yes, sir.

22 MR. SPICER: Thank you.

23 Next would be Mr. Mays on the
24 Auditing.

25 MR. MAYS: Auditing there, I think

1 that -- I guess we will just take that one at
2 a time there. I assume that these came from
3 the Department. These recommendations are
4 out of a result of our meeting, but I might
5 have some of my own thoughts there that I
6 will add. I'm sure Jimmy has some, too.

7 But, Should conservation continue to
8 implement its current statewide water well
9 owner notification compliance audit process?

10 MR. BURLAND: Yeah.

11 MR. MAYS: Is there -- I think that we
12 would all mostly agree with that.

13 Is there any disagreement with any of
14 that, I guess?

15 MR. BURLAND: Well, you had mentioned,
16 Gary, that there was some problem or slowing
17 down of, or because of agency resources, to
18 stay on schedule.

19 Is this the program, the audit, where
20 you're going parish by parish?

21 MR. SNELLGROVE: Yes, sir. There were
22 some inefficiencies due to the database
23 recall. We mentioned that yesterday. That
24 if we could consolidate the, the two
25 different databases, integrate them into one,

1 how much more efficient we would be in being
2 able to do our audit, instead of, you know,
3 piecemealing it together. And it is a
4 cumbersome process at the moment. We have
5 all intentions to continue to do this
6 process. We mentioned that it will take some
7 funding to integrate those two systems into
8 one. So these things are all tied in
9 together.

10 Certainly, we believe that it's
11 important that we continue to understand
12 who's in violation and who's not, and we can
13 stay diligent on getting the message out to
14 get, to get folks into compliance, which has
15 always been our, our objective.

16 MR. BURLAND: So substantially the
17 first two years was a pretty rough start as
18 far as getting the baseline together, who was
19 out there and what they were doing?

20 MR. SNELLGROVE: We reallocated our
21 resources to put that as a priority and to
22 get it to -- get it into the process and
23 completed. And then having, having done so,
24 other projects began to, to need to be
25 prioritized, in which we shifted our

1 resources to take care of those problems in
2 2011, which caused for us to have a somewhat
3 of a backlog now on, on one year's worth of
4 compliance auditing, which we have
5 re-prioritized now to take care of that in
6 the next six to eight weeks.

7 MR. BURLAND: Well, was this ever
8 designed to be an ongoing process?

9 MR. SNELLGROVE: It is. It is. It
10 was currently -- it was in the past designed
11 to be an annual recurring event with, with
12 the hopes that as we went through the initial
13 process, we would have successfully educated
14 a lot of folks to where we minimized --

15 MR. BURLAND: Right. To ratchet down
16 over the next couple of years?

17 MR. SNELLGROVE: Yes. Yes, sir.

18 And if we're able to successfully
19 promulgate regulation to have the water well
20 driller be that gatekeeper, if you will, on
21 water well notification, we believe that we
22 will -- you know, that compliance auditing
23 may be a matter of a couple of hours instead
24 of a couple weeks to, you know, to longer to
25 process.

1 MR. MAYS: I think that if we go back
2 to some of this a couple years ago, from this
3 Commission, and the challenge that the
4 Secretary gave to the Department, you-all
5 have met the challenge under very meager
6 resources. I think that you-all should be
7 commended for the job that you are doing and
8 the direction that we are going. And you
9 probably hear more criticism than you do
10 compliments, but you-all have come a long
11 way. And when we look back, we see it. On a
12 day-to-day basis, we may not notice it. But
13 thank you for the job you do.

14 MR. SNELLGROVE: Thank you.

15 MR. MAYS: Any other comments as
16 regard to bullet point 1?

17 Two, Should the state direct resources
18 towards consolidating existing and future
19 water well registration and notification
20 database information under one uniform
21 database system and establish one unique well
22 identifier for each well in the system?

23 Is this slightly different than a
24 bullet point we covered in another one? I
25 guess the one thing, I guess, there that I

1 don't remember was if the one unique well
2 identifier, is that the difference?

3 MR. SNELLGROVE: It's different --
4 there's really different reasons why you
5 would want to consolidate a database.
6 Multi -- multiple aspects of the advantages
7 there. One being for the external user to
8 have a more -- an easier, easier access or
9 efficient way to do their research for
10 business purposes or what have you,
11 compliance audits for due diligence and for
12 environmental assessments and what have you.
13 But internally, as far as auditing, the
14 bullet, the bullet here is, is certainly an
15 internal function for us to have a more
16 efficient way of going about auditing. So,
17 actually, bullet 1 and 2 are -- kind of feed
18 off each other.

19 And, yes, the one unique identifier is
20 one aspect that, that would benefit not only
21 our agency for auditing and compliance
22 issues, but also other agencies. As Mr.
23 Duplechin mentioned yesterday, they rely upon
24 this system as well to do their research and
25 what have you in the five-parish area, as

1 well as I believe the Sparta folks up there
2 who are tracking water well notifications and
3 what's going on up there.

4 And one unique identifier, the concept
5 there is to, is to track a well from its
6 inception, or the point where it's proposed
7 to be installed, all the way through its
8 installation and life until plugging and
9 abandonment. Right now we have -- we don't
10 have the luxury of a, you know, cradle to
11 grave, if you will, identifier. So that's
12 where -- that's what bogs us down, is having
13 to match, you know, this well number with
14 this well number and put it -- getting a
15 little bit educated guesses in there to try
16 to say, okay, these two match. That's what's
17 slowing us down tremendously.

18 MR. MAYS: Is that resource basically
19 programming or is there something in the law?
20 Direct resources, I'm just trying to get an
21 idea of how much resource that is. Is that
22 something that's --

23 MR. SNELLGROVE: We had an estimate
24 about a year ago -- well, year and a half or
25 so. We pursued doing this. And we actually

1 went through what was, what was termed as a
2 blueprinting process where we charted out a
3 whole pathway to merge all of these together
4 through flow diagrams and what have you. The
5 outcome of that was X amount of dollars to
6 get it done, to implement it. I don't recall
7 the exact dollar amount, but it was five
8 digits. I mean, it wasn't -- you know, it
9 was -- it wasn't a hundred thousand dollars,
10 but it was somewhere up, you know, up there.
11 Which, at the time, our budget, we just
12 didn't have the, the budget there necessary
13 to, to have the contractor pursue that.

14 So, so, yes, the question kind of goes
15 back to what we discussed yesterday. If, if
16 it's deemed something that you guys are --
17 you know, see that there would be value there
18 for the state to expend those resources, or
19 at least to, to take it as a suggestion that
20 we should consider it, then I think that's
21 what's on the table. I mean, if, you know,
22 if that's, if that's collectively what the
23 group sees as being beneficial.

24 MR. MAYS: Well, I mean, from an
25 auditing standpoint, I definitely think it's

1 beneficial.

2 From a going forward standpoint, it
3 seems like the only way to do this is have a
4 unique well identification. I mean, that's
5 good business, you know. I mean, we are
6 looking for something to, you know, for the
7 next five, 10, 20 years from now. And so...

8 MR. BURLAND: Yeah. And if you could
9 get all that done for under a hundred
10 thousand dollars, that's a value, seems to
11 me. It's not a whole lot of money to, to
12 have that kind of system completed.

13 MR. SNELLGROVE: Okay.

14 MR. BURLAND: Which brings me to
15 another suggestion. Maybe staff ought to
16 e-mail us and suggest a time that we come by
17 the office and review what you have that you
18 currently -- you know, the kind of things
19 that you currently have to go through with
20 this, with your different databases, and to
21 kind of not convince us, but to show us how
22 an improved system could better, you know,
23 help the Department. That would be good. I
24 mean, I know we don't often get in there,
25 into the cubicles and sit down and see what

1 everybody is doing, but I think in this
2 instance, it would be great to have some kind
3 of presentation of, of the different
4 databases, what you're using them for, what
5 they're good for, what's lacking, to give us
6 a better understanding of where we need to
7 go, that would be great, with the Chairman's
8 permission.

9 MR. SPICER: Gary, we discussed this
10 yesterday. I think, Jim, the Commissioner
11 asked you to put that in the budget.

12 MR. SNELLGROVE: Yeah. Well, I
13 believe he wanted to, to definitely
14 discuss -- sit down and discuss. We may not
15 be able to swing it for this fiscal year
16 because we are over halfway done with it, but
17 it's possible that we can look into what we
18 have for, for 2012-13 and see.

19 MR. SPICER: Yeah. He indicated it
20 would have to shake out. It's hard to tell
21 whether we can get funding or not, but put it
22 in.

23 MR. SNELLGROVE: Yes, sir.

24 MR. FREY: Gary, clarification.

25 The one unique well identifier, what,

1 what I think I'm understanding is you have,
2 like, a given well within the DNR
3 conservation database could be identified
4 with two different numbers?

5 MR. SNELLGROVE: Yeah. What's
6 happening right now is we have a numerical
7 system that was created whenever DNR was
8 required by the statutory law to create a
9 database for water well notification. There
10 was an existing system at DOTD for water well
11 drillers to assign -- you know, they assigned
12 also a well unique number on theirs. And
13 then I understand that the Department of
14 Health and Hospitals, under the public
15 supply, has a well identifier system that
16 they use. So -- and, and maybe the Capital
17 Area has their own, you know, numbering
18 system as well, which probably predates all
19 of us.

20 So the game, the game plan there would
21 be to, to consolidate all of those under one,
22 one system that all agencies could use and be
23 on the same -- see the same information.

24 MR. FREY: That's like in the farming
25 community, you got a farm number that's

1 assigned by a farm services agency, I guess,
2 Brad, isn't that right?

3 MR. SPICER: Yeah.

4 MR. FREY: And so every farm is
5 uniquely identified by number, just like each
6 one of us is uniquely identified by tax ID or
7 Social Security number.

8 MR. SNELLGROVE: Yes, sir.

9 MR. FREY: So that's what we are
10 talking about. And consolidating that with
11 all these other numbers that are blowing
12 around.

13 MR. SNELLGROVE: Right. And just, you
14 know, the evolution of where we are with
15 ground water management, and that resource
16 happened in a way that was kind of patchy, if
17 you will. I mean, it addressed different
18 things at different times. And so now we are
19 at the point where we realize that, that the
20 need, because it's very inefficient the way
21 that it's running right now. So there's
22 definitely a need to, you know, to, to at
23 least consider. And, you know, it's going to
24 cost some money and so -- to get that to
25 happen. And like I said, we have already

1 blueprinted the process and we know, we know
2 what we need to do to make it happen.

3 MR. MAYS: Okay. So I think we all
4 agree that you should pursue that.

5 Bullet point 3, Should large volume
6 industrial, irrigation and public supply
7 wells located in certain aquifers be required
8 to measure ground water withdrawal and report
9 withdrawal production volumes to the state on
10 a periodic basis?

11 And I think we covered that. And, and
12 the USGS guy made it very plain that if those
13 weren't reported, then the modeling part that
14 we talked about yesterday would not be
15 accurate models.

16 So I will start that off, as to me,
17 that's -- that they should, if you are going
18 to have an accurate model. And I think the
19 key on that is certain aquifers.

20 So is there any --

21 MR. McKINNEY: Let me ask a question.
22 Did not the gentleman from USGS yesterday
23 imply that they gather enough data to do
24 this, or am I off base on that?

25 MR. SNELLGROVE: Yeah, I can explain.

1 My understanding of the USGS process,
2 every five years, they do report water use in
3 Louisiana. They provide a little, you know,
4 a report of that information.

5 Some of what they gather as far as
6 making those determinations is derived from
7 actual, you know, from production data. But
8 a lot of what they gather is based on
9 calculations, specifically with the
10 irrigation wells. They rely upon, I
11 believe --

12 MR. MCKINNEY: Acreage.

13 MR. SNELLGROVE: -- acreage and met
14 data, meteorological data, climate data in
15 the area, and crop demands for water use to
16 make assumptions and predictions of what
17 during that calendar year or during that time
18 period would have been the, the amount of
19 withdrawal that, that they would have
20 expected to have occurred.

21 So, so as far as irrigation goes, it's
22 not based on actual production data. It's
23 based on what I believe to be and they
24 believe also to be good calculations. I
25 mean, there's a science behind that, and they

1 certainly utilize the best available to them
2 to make those determinations and what have
3 you. But, again, it's not, it's not direct.
4 It's an indirect way of coming to those
5 numbers.

6 MR. BURLAND: But, Gary, with regard
7 to the direct reporting, what I saw in the
8 draft plan, indicated that there is a large
9 number of large well users that do directly
10 report on -- even on a voluntary basis. And
11 even outside, unless I misread what I saw,
12 but even outside the area of ground water
13 concern, that, if requested, that information
14 is available from, from the people that you
15 might be requesting it from.

16 I don't know that this rises to a
17 level of, you know, requiring another
18 periodic report or requiring installation of
19 expensive meters or doing any type of
20 auditing, you know, for sure. I don't want
21 to see that word creep in there. We have
22 been to corporate headquarters.

23 But the point is, for what I have seen
24 so far, there seems to be enough evidence to
25 suggest that direct reporting is sufficient

1 enough to give you those, those good
2 estimates that you need. Am I wrong about
3 that?

4 MR. SNELLGROVE: Well, this is my
5 understanding. Through, I think,
6 predominantly industries such as power
7 generation, public -- some large-volume
8 public supply, there is, there is reporting
9 that occurs, and I believe it's quarterly.
10 The USGS uses that information to, to support
11 their estimations, like a check-and-balance
12 system, according to my understanding from my
13 discussions with Mr. Lovelace. So it is true
14 that, that there is some reporting of, of
15 water production.

16 And it is also true that the statutory
17 requirement or law does provide for the
18 agency to, to request or even actually
19 require water -- other things, but also water
20 production data information to be provided to
21 the agency. To what extent, the law doesn't
22 really -- it doesn't really address. It just
23 says as needed.

24 So I think we -- with that being said,
25 there is a tool, if you will, for the agency

1 to get the information. So, you know, what I
2 believe we are trying to do here is
3 understand, perhaps, to what extent this may
4 be wanted or necessary. Before, before, you
5 know, the agency would go out and implement
6 anything, I think we would want to have the,
7 you know, the discussion or the debate
8 amongst the Commission to, to give us some
9 guidance on, on whether or not we need to
10 pursue that and, obviously, in certain areas,
11 but -- and also to what extent.

12 MR. OWEN: I think that -- I just note
13 for the record that this is already an
14 existing policy within the Capital Area
15 Ground Water Conservation District. And it
16 is, except for, as Mr. Snellgrove notes, the
17 irrigation wells, this is, so far as I know
18 and believe, a hundred percent compliant
19 with, and provides a very important basis for
20 the modeling which has been done in the
21 Southern Hills area in, in this area of the
22 Capital Area Ground Water District.

23 I would also note that if it is not
24 done, then all of the discussion that we had
25 yesterday about monitoring will be an

1 imperfect result, even if it's carried out,
2 because there is no substitute for real data
3 of this nature. This is, this is -- we are
4 talking about most of, most of about 90
5 percent of the withdrawals within this
6 Capital Area Ground Water District, itself.
7 And you just can't do this with estimation or
8 sometimes reporting.

9 MR. SPICER: Any other comment?

10 MR. BALKUM: I was wondering how we
11 define "large volume."

12 MR. SNELLGROVE: Yeah, "large volume"
13 is, actually, defined in both the statute,
14 the statute as well as the regulation. But
15 it is an 8-inch well or greater, or 50,000
16 gallons per day capacity, withdrawal
17 capacity, if it's not an 8-inch well.

18 MR. MAYS: Just in summary, I think
19 that personally what we have heard from the
20 USGS and the Department and from Mr. Owen, if
21 you are going to seek money to do modeling
22 and you don't have this information and you
23 don't require it, I think it's, it's dumb.
24 It's spending money uselessly. So I would
25 emphasize to Jimmy that it's certain aquifers

1 and -- on a periodic basis. And, I guess,
2 how this is processed from, from going on
3 this bullet mark here, would think that
4 there's most of us in agreement. Would that
5 be --

6 MR. BURLAND: Well, it's not that I
7 strongly disagree, but -- well, just again, I
8 will just give my 2 cents again.

9 I think, again, let's balance the need
10 to know with, with the private individual's
11 right to keep it proprietary information. I
12 mean, there are certain processes that go on
13 that use water that, you know, certain people
14 don't want to know what they are -- a
15 competitor would love to know what they are
16 doing with their water. So I think we have
17 to worry about that as well.

18 But, yes, I generally agree that to
19 get where USGS needs to get with regard to
20 setting these parameters or modeling numbers,
21 that we need to get to an accurate, you know,
22 state of the state of where ground water is.
23 Perhaps some of this is necessary. But,
24 again, like Incentives, I think there are
25 steps we can take.

1 And, really, show me the concern. I
2 don't, I don't see USGS or anybody running up
3 here going, Oh, my God, we can't estimate
4 what's going on. I mean, you've got the pipe
5 sizes, you've got flow rates. A lot of what
6 the driller gives you, you can estimate as to
7 if it was turned on 24 hours a day, what it,
8 what it would produce. And I know those are
9 estimates.

10 But, again, is it really necessary to
11 go out there and create new forms and another
12 person in the office and, you know, a lot of
13 time spent somebody once a month going out
14 there and figuring out, you know. So I just
15 got to -- we just want to make sure that we
16 keep this in perspective and get what you
17 need but not be overly burdensome on the
18 landowner or the user.

19 MR. SPICER: In addition to that,
20 Gary, you know, the process that's been used
21 instead of tracking irrigation work in
22 southwest Louisiana has been existing for
23 many, many years. And we have a record there
24 of how accurate that is with the current
25 situation. So I think the information that's

1 gathered is easily verified, that we know how
2 many inches or acre or feet that a farmer is
3 going to use to produce a crop. We use the
4 summer environment to calculate evaporation,
5 transpiration, all those things. So I don't
6 -- I really think we have a very good handle
7 on irrigation wells without metering it.

8 MR. SNELLGROVE: So, in summary, what
9 I'm hearing from the collective group, would
10 be that should modeling or ground water
11 availability modeling be pursued by USGS,
12 which I believe our plan, master plan, would
13 speak to that as to when, maybe prioritize
14 where those, those types of resources would
15 be, would be spent, as certainly needed and
16 necessary if we have a situation where either
17 part of an aquifer or an aquifer system is
18 in, you know, is in a decline such that it's
19 warranted, or, in the case of Baton Rouge
20 area, where there's saltwater encroachment
21 and modeling such as what is going to be
22 delivered in October of this year, has
23 been -- money has been spent to address that
24 situation.

25 So in those circumstances, what I'm

1 hearing is, I believe that, that reporting
2 would be -- would then become a necessary
3 item in order for the -- in order to achieve
4 what you are trying to achieve, which is to
5 have the best defensible data that comes out
6 of a model. If you are going to go through
7 the effort of doing the modeling, then you
8 need to have the input that's accurate.

9 And so I would believe that this group
10 would agree that in those circumstances, you
11 know, that it would be, it would be something
12 that would be, certainly, would need to be
13 considered to be implemented. I would hope
14 that our plan would address that as it
15 contemplates these ground water availability
16 modeling projects. So if that's a fair
17 statement, I think, I think -- I think that's
18 what I'm hearing is a consensus.

19 MR. MAYS: I think that's a fair
20 statement.

21 MR. SNELLGROVE: Okay. And I would
22 say as far as what USGS is reporting every
23 five years, generally, yes, I believe that
24 there is a comfort zone there, that what they
25 are providing is generally accurate and meets

1 the needs of how we go about looking at
2 trends for sectors of the economy or water
3 users as far as water use and demand as, as,
4 you know, their projections are tracking
5 that. I think that there's some comfort
6 there. And my understanding is that, yeah,
7 they have been doing this for 20 plus years
8 in their reporting and using this same method
9 to get to that point. So...

10 MR. MAYS: Okay. Let's move on to the
11 bullet point, the last one: Should state
12 agencies consider developing a multi-agency
13 aquifer status report on an annual basis?

14 And, I guess, Gary, I don't know
15 exactly what that means, but is that any
16 different than -- does USGS, they have a
17 statement of an aquifer on a regular basis
18 also, right? Is that --

19 MR. SNELLGROVE: Yeah. This was the
20 outcome of a meeting that we held amongst
21 agencies, I think, in preparation for this
22 meeting. And the idea there is that there's,
23 you know, three major departments and others
24 in the state that are involved with different
25 aspects of ground water quality or quantity

1 monitoring. And I believe the idea here was
2 to, although each agency may be reporting in
3 different time frames to, you know, and
4 different ways, what I believe this, this,
5 this is asking is, should the agencies
6 consolidate that effort and have one report
7 that would report on all of the efforts, you
8 know, for that particular year, you know,
9 under one organized and -- you know, under
10 one organized report that would address, that
11 would address all that, instead of having,
12 you know, different reports coming at
13 different time periods from different
14 agencies for all things ground water?
15 That's, that's --

16 MR. MAYS: Okay.

17 MR. BURLAND: That's not a bad idea,
18 but the USGS does it every five years, right?
19 Is there a reason -- and is the latest one
20 ready yet?

21 MR. SNELLGROVE: USGS -- there's a
22 draft that's under review for 2010. So,
23 so --

24 MR. BURLAND: So from '05 to '10 is
25 now in draft form?

1 MR. SNELLGROVE: Yes, sir.

2 But their report is predominantly
3 focused on water use, whereas DEQ's reporting
4 is focused on water quality, water quality
5 from an environmental standpoint or
6 environmental impact. Public OPH's reports
7 are focused on drinking water supply and
8 water quality associated with drinking water.
9 Wildlife & Fisheries -- Agriculture may have
10 a report that they send out on pesticides and
11 on their quality, water quality report.

12 MR. BURLAND: I like your idea of
13 combining all of that into a status report.
14 My question is, do we need it any more often
15 than every five years, or -- you know, I
16 would like to compare apples to apples. If
17 you are going to use USGS information, to
18 whatever extent you use it, again, do we have
19 the resources for every year to go out and,
20 other than listing, you know, what we have
21 done in the past year, which can always be
22 done, but, I don't know, it's just a
23 question. I'm not saying I'm against it. I
24 just -- why don't we incorporate what all of
25 what everybody is doing and release it along

1 with -- since you have the draft plan,
2 wouldn't that be a good time for the other
3 agencies to chime in and add to an overall
4 status report and then present that in some
5 larger format? That's just a thought.

6 MR. MILLER: Well, speaking for one of
7 the agencies, DEQ, of course, we want to see
8 if there's an issue. If something's getting
9 in the ground water, we want to find it
10 quicker rather than later. So, you know,
11 what we are doing is try to spot it. And if
12 there is an issue, try to go out and figure
13 out what's the source.

14 For instance, if it's an underground
15 storage tank that may be leaking in an area
16 and it's showing up in the drinking water or
17 in one of the wells that we're monitoring,
18 that data we are going to deal with --

19 MR. BURLAND: This isn't intended to
20 substitute for your general auditing and
21 enforcement procedures, is it? I mean --

22 MR. SNELLGROVE: No, sir.

23 MR. BURLAND: That would occur to
24 you -- that would be brought to your
25 attention anyway, wouldn't it, I mean?

1 MR. MILLER: Well, exactly. We would
2 be doing that.

3 MR. BURLAND: Right.

4 MR. MILLER: So the agency, I think,
5 is trying to get the synergy between the
6 departments, like us and agricultural, if
7 something is a pesticide, there's an overlap,
8 and all three of us in the Health Department,
9 because if it is a drinking water supply
10 well, under the Safe Drinking Water Act,
11 there are notification requirements there.
12 So that's what drives some of those timelines
13 versus an overall.

14 MR. BURLAND: Oh, I see. I see.

15 MR. MILLER: So, you know, there are
16 all kinds of drivers, but to try to pull the
17 synergies together, I guess, to how to make
18 the best use of that data and the public
19 resources when we are going out and actually
20 doing that work, is trying to fold it
21 together --

22 MR. BURLAND: Yeah. Okay. Well, I
23 will leave them to the discretion to figure
24 out what time frame. I just think a year
25 seems to be awfully, you know -- nothing

1 wrong with annual, but that's a lot of time
2 taken out of different people's job duties to
3 do that, but -- when USGS is doing -- you
4 know, why do they do the five year? Is it
5 because we don't have enough data and we have
6 to extrapolate it over five years or --

7 MR. SNELLGROVE: I think it's --

8 MR. BURLAND: -- they don't have the
9 resources?

10 MR. SNELLGROVE: Budget, yeah.
11 Resources, yes sir.

12 MR. MAYS: And my question also would
13 be is this annual report, if you will, is
14 it -- I mean, is it to -- a public report, or
15 is it for the agencies that are involved, or
16 the distribution of it? What's, what's going
17 to happen to a report? What are you going to
18 do with the report?

19 MR. SNELLGROVE: I think it would be
20 for public consumption, sure. It would be
21 beneficial. I think it gets the agencies on
22 the same sheet of music, if you will, and
23 understanding what each one is doing and
24 seeing. It could be used definitely as a
25 tool internally for what we do with ground

1 water evaluation.

2 But, yes, it would be a public
3 document in the report. It would be
4 available as, as the triennial reports are
5 now under DEQ out on the website, what have
6 you, available.

7 MR. MAYS: If you prioritize this over
8 some of the others, though, it probably would
9 be something that would be down the line.

10 MR. SNELLGROVE: Well, I haven't put
11 any thought into prioritizing these five
12 bullets. But I probably would consider it to
13 be, say, not as, as much of a priority as the
14 unique identifier and the database and
15 nurturing that tool, improving that tool, to
16 make our job more efficient. So then I could
17 go back and put some time and resources on
18 the multi-agency reporting. It would free up
19 our ability to do other things that would,
20 say, be lower down on the priority list.

21 MR. MAYS: Okay.

22 Are there any other comments on it?

23 MR. DUPLECHIN: Just one.

24 USGS does publish surface and ground
25 water data on an annual basis. So just to

1 let you know that. It's not just the
2 five-year water use reports that they do.
3 They do publish, like I say, surface water
4 data and ground water data on an annual
5 basis.

6 MR. SNELLGROVE: And that would be
7 limited to what they have in their database,
8 which is separate from what, from what DEQ
9 does and OPH.

10 MR. BURLAND: So it would be a special
11 multi-agency report. You could pull it
12 together every year, if you like, if that was
13 the way to go.

14 MR. SNELLGROVE: Yeah.

15 And, certainly, USGS would be involved
16 in any multi-agency effort. That wouldn't
17 just be limited to the state, of course. We
18 would -- the idea there would be to grab, to
19 grab all of who's reporting all quality, all
20 quantity data, to have a comprehensive one
21 stop shop, if you will.

22 MR. SPICER: If there's no other
23 comments, we will move on to the next item,
24 Enforcement. Paul.

25 MR. MILLER: Yes.

1 I guess in the, in the discussion of
2 the agenda, someone had to be the one who led
3 the discussion on Enforcement, so I
4 volunteered for that end.

5 And, first of all, I wanted to say and
6 I wanted to thank Gary and the staff for all
7 the work that was done to educate us. You
8 know, if you go back through what we have
9 done throughout this agenda, we have kind of
10 led up to this point. And one point there,
11 one topic, that we had a lot of discussion on
12 yesterday was about Education. So that what
13 you had with the new program is not a group
14 that came out swinging clubs trying to
15 enforce against people without first trying
16 to make sure that the information was out
17 there to understand the regulations and what
18 was actually required.

19 And I think as we go forward, that
20 will continue to be a good, you know, a
21 really important piece of the overall plan,
22 and that is, to make sure that what is
23 required is effectively communicated with the
24 folks that are regulated under those rules.

25 And I thank the staff, and I know

1 those of us on the Commission heard reports
2 of the auditing efforts in the past, and
3 there were discussions yesterday about the
4 upcoming audit. And the hope that what we
5 will see as the next audit is done, is that a
6 lot of those efforts bear fruit in terms of
7 enhanced compliance. That's ultimately what
8 we want to see, is compliance with those
9 rules. So I wanted to thank the staff.

10 And, by and large, I think the
11 Secretary Angelle had made the comment
12 yesterday about how, by and large, most
13 people want to do what's right. And I think
14 that's true. In my career of 30 plus years,
15 very few instances can I recall where folks
16 gave me the impression that they really
17 didn't care, didn't really want to comply.
18 By and large, I think most people do within
19 the constraints that they have, you know, at
20 their disposal.

21 So with that, what we want to do is
22 talk about these four topics to get a sense
23 from the Commission members, the public, and
24 all the interested parties as to whether or
25 not where we have been, kind of where we are,

1 where we are going, is the right thing part
2 of this plan. So let's just kind of run
3 through these one by one.

4 First bullet says, Should Conservation
5 continue to issue Compliance Orders and
6 Notices of Violations to water well owners
7 based on findings of its ongoing water well
8 notification compliance audit process focused
9 owners of wells used for non-exempt purposes,
10 such as irrigation, public supply, industrial
11 and other uses? So should we continue to
12 issue Compliance Orders and Notices of
13 Violation?

14 So, Gary, if you want to make some
15 comments first.

16 MR. SNELLGROVE: Yeah. There was a
17 typo noted there, focused "on" owners of
18 wells. Word was left out. I apologize.

19 Yeah. I mean, we go through -- we
20 spend, as we mentioned earlier, a lot of
21 resource to do what we are doing with
22 compliance and compliance auditing and
23 issuing these compliance orders and notices
24 of violation. We did -- we do get feedback
25 occasionally, as the Secretary mentioned

1 yesterday, from, from folks who get these
2 compliance orders. That's been typically the
3 way that conservation deals with enforcement
4 matters.

5 Our statutory law for ground water
6 management was, was amended in 2008 that
7 provided the agency the ability to enforce by
8 order of the Commissioner as well as a matrix
9 of civil penalty as needed for the first
10 offense, second offense, et cetera. So we
11 have, we have that tool.

12 And so, I guess, the question there
13 is, is, is having received some negative
14 feedback in the way that, that we are doing
15 this process, I think that it was a good time
16 for us to visit the process again and get
17 your feelings as to whether or not the agency
18 can improve upon that process, or do we stay
19 the course and continue to do what we do the
20 way that we do it.

21 And I would say this: That it is not
22 our intentions under our current practices to
23 assess civil penalties. We can get the job
24 done without having to do that. Where it
25 makes sense, we will, we will take the path

1 of least resistance, which is not to seek or
2 impose civil penalties.

3 There are some instances, though,
4 where, where violations are so, so important
5 that we send a strong message out that we
6 will impose a civil penalty, such as cases
7 where a person has drilled a well without,
8 without it being a licensed water well
9 driller. We take those matters very
10 seriously and have imposed civil penalty in a
11 few instances where that has occurred.

12 But I just wanted to kind of set that,
13 that out there for you to understand that,
14 that, that the vast majority of compliance
15 orders issued by our agency did not have a
16 bad assessment of civil penalty. Although,
17 it is something that we can do as it's, as
18 it's listed in the statutory law.

19 MR. MILLER: I was just going to say,
20 in the second bullet, we will actually
21 specifically talk about civil penalties.

22 MR. SNELLGROVE: Correct.

23 MR. KILLEBREW: Yeah. I just wanted
24 to ask, by way of background information,
25 about how many are issued on an annual basis,

1 do we know?

2 MR. SNELLGROVE: Well, so far with
3 just the compliance auditing process that we
4 have been involved with, it was over, over
5 2000. I want to say it was almost -- it was
6 near 3000 enforcement actions. Seemed like
7 separate enforcement actions have been levied
8 or issued against water well owners that were
9 in violation of prior notification
10 requirements.

11 There's a much lesser domain of
12 violators under the licensed water well
13 contractors. I mean, there's probably only a
14 dozen or so since we have been involved
15 against those types of violations.

16 MR. KILLEBREW: What's the size of the
17 water well owner population there? I mean,
18 what percentage are we receiving compliance
19 orders on an annual basis, do you know
20 that? I just wondered how big of a problem
21 might it be.

22 MR. SNELLGROVE: Yeah.

23 MR. SPICER: Is it mostly domestic
24 wells?

25 MR. SNELLGROVE: Oh, no, sir. In

1 fact, when we decided -- when we made the
2 determination to pursue the amendment that
3 was provided, we went to the -- we
4 prioritized. It would not have been
5 practical or even feasible for us to pursue
6 the number of domestic water well owners who
7 failed to comply with Title 43 or the DNR
8 requirements.

9 The percentage of non-compliance with
10 water well owners for domestic was something
11 like 8 percent. So, so it just -- and, you
12 know, they are smaller volume. Although
13 collectively they may have an impact or
14 significant impact, as we see in the Willcox,
15 in a small area where they are concentrated,
16 it just wasn't, it wasn't the top of our
17 priority. So we spent all of our resources
18 on approaching the folks who are required to
19 give us prior notification that invoked our
20 evaluation process for aquifer
21 sustainability, that being the industrial,
22 irrigation, public supply. And, and rig
23 supply we included as well because of the
24 Haynesville Shale and the fact that frac
25 water was being used from these wells. We

1 felt it important to get that industry as 100
2 percent compliant as possible. So they were
3 part of our network of auditing and
4 enforcement actions.

5 So to answer the question direct, Mr.
6 Killebrew, I don't have an exact percentage,
7 except for what we knew going into the
8 process of who was complying and who was not.
9 Forty-five percent public supply, and
10 approximately the same for irrigation, and
11 with industry being about 90 percent
12 compliant on their side when we started the
13 process. We started in 2009, I believe.

14 MR. BURLAND: Gary.

15 MR. KILLEBREW: Thank you.

16 MR. SNELLGROVE: Yes.

17 MR. BURLAND: So out of the 3000 or so
18 orders, how many resulted in civil penalties
19 or how much in civil penalties has been
20 collected, do you know?

21 MR. SNELLGROVE: We threatened on a
22 few to try to get a response, but I don't
23 recall if we issued any civil penalty.

24 MR. BURLAND: Okay.

25 MR. SNELLGROVE: But I will say this:

1 That as we are going to go through this
2 second wave of auditing, we are going to find
3 that there is going to be a percentage who
4 did not even respond to the first compliance
5 order that was issued. Now, we know that
6 exists. And to what degree, I'm not sure,
7 but we will find out and we will certainly be
8 able to report.

9 How are we going to handle those? Not
10 quite decided yet if that's going to be
11 something we need to, you know, send another,
12 a second compliance order to those who failed
13 to respond on the first time around with
14 maybe some assessment of civil penalty.
15 That's something that we could maybe discuss
16 in the second bullet.

17 MR. MILLER: We are going to get into
18 an extensive discussion of that next on the
19 subject of civil --

20 MR. BURLAND: Okay.

21 MR. SNELLGROVE: Yes, sir.

22 MR. MILLER: And it's good
23 discussions. I'm not trying to cut it off.
24 But we were going to talk specifically in the
25 second bullet about civil penalties.

1 MR. BURLAND: Okay. Sure. Proceed.

2 MR. BALKUM: Gary, how successful are
3 the compliance orders in achieving
4 compliance?

5 MR. SNELLGROVE: Well, based on the
6 feedback we got, most folks who get these are
7 very upset. They, they somewhat are confused
8 sometimes as to what it is that they are
9 being asked to do. They don't understand why
10 they received it.

11 So, so I have always seen these -- our
12 effort to be more of an education process
13 than a punitive or, you know, the imposition
14 of some, you know, God-awful enforcement
15 process.

16 The people who, the staff who have
17 been involved with this, have been
18 supervised. And, and they are required to
19 be, you know, to be very patient with those
20 who call in, and to be very, very helpful in
21 getting them to what they need to do to
22 comply; i.e., fill out the proper paperwork,
23 get it into us so we can do our evaluation,
24 follow the checklist, and get them back a
25 response, getting them into compliance.

1 And so, so with all that being said,
2 the initial response is usually caustic, and
3 then it usually settles down. Those who
4 have, have responded and are pursuing to
5 resolve the compliance order. But we do have
6 this domain out there of those who have not
7 responded, and we -- they are going to be
8 addressed in the second sweep here, here
9 soon.

10 MR. BALKUM: Could you give us a
11 ballpark figure if 3000 were out of
12 compliance, what percentage remains?

13 MR. SNELLGROVE: Probably about half,
14 if I have to guess. I'm hopeful that it's
15 less than half, but the reality of the
16 situation is that we -- that I'm afraid that
17 it's going to be around there. And we know
18 there was issues. We received -- you know,
19 wells get transferred. And what we have in
20 our database, a physical address for a well
21 owner, you know, but there's a percentage
22 that that information has changed. Hence,
23 another violation where we didn't get notice.
24 We weren't provided from that well owner
25 proper notification of that transfer of

1 ownership. So we dealt with those issues and
2 chased these things down using Google and
3 maps and whatever tools we could to try to
4 track this down and getting, you know, well
5 owners' phone numbers and what have you.

6 So, again, it's, it's very, it's very
7 labor intensive process at this point in
8 time, but, but I am hopeful that this first
9 wave we would have educated those so that
10 they could avoid second offense for public
11 supply providers, for instance, who are more
12 often coming back to get another well, for
13 instance. Some of the larger farming
14 entities, you know, they have gone through
15 this process as well. So we believe that we
16 have been able to educate them and bring them
17 up to speed as to our rules and regs and
18 what's required.

19 MR. KILLEBREW: Yeah, just one other.
20 Since you're mentioning education process, do
21 you, do you think that's an effective tool?
22 Do we have a lot of repeat problems from same
23 individuals, that sort of thing?

24 MR. SNELLGROVE: We are going to find
25 out, yeah, when we do the next audit --

1 MR. KILLEBREW: All right.

2 MR. SNELLGROVE: -- how effective that
3 is. Again, I'm hopeful that we, that we have
4 reached out.

5 Based on the feedback those who have,
6 you know, like, again, like the Secretary
7 said, most people want to comply. They are
8 upset when they call back, why did I get
9 this? What did I do wrong? You know, how --
10 they want to comply. They want to be in
11 compliance. So we coach them through that
12 process and get them into compliance.

13 And so I have to believe that, that it
14 wouldn't be a willful act if they, if they do
15 not comply again. I think it will be just
16 because it's been two years since they had to
17 deal with these requirements and just may
18 have not remembered the process.

19 MR. MILLER: Gary, as a follow-up to
20 that line of discussion, do you guys sit
21 around and kind of brainstorm, especially
22 when you get someone who asks, Where did this
23 come from? Do you guys brainstorm to see,
24 you know, where did, where did it break down?
25 Not to say that anybody failed. But do

1 you-all do kind of like, just to sit down and
2 say, okay, how do we avoid this? How -- if
3 it's a certain type of entity that, you know,
4 is shocked that they didn't know anything
5 about it, do you-all try to say what could we
6 do to have a more effective outreach to that
7 particular segment? Are you-all just taking
8 some of that subsets --

9 MR. SNELLGROVE: Oh, yes. Absolutely.

10 That was one of the reasons why back
11 probably about two years ago, whenever we
12 discovered all these problems with public
13 supply and irrigation, we set up shop with
14 the Louisiana Rural Water Association, to --
15 you know, I went out and investigated what
16 would be my best way to reach out to, to that
17 sector. And Louisiana Rural Water
18 Association had already had the continuing ed
19 process where they go throughout the state
20 and educate operators.

21 So we put together a PowerPoint
22 presentation that was focused on just that,
23 that sector, public supply and water well
24 regulations, all things to, to educate them
25 as to whether or not it's a replacement well,

1 whether or not it's a new installation that
2 requires prior notification, and walked them
3 through that process. Jeff was involved with
4 that. I was involved with that process.
5 John Adams was involved in that process. I
6 think even some other folks that came on
7 board with us from the DOTD water well
8 drillers got involved with getting out and
9 getting that message out. We went to
10 different parts of the state and canvassed
11 that pretty well in 2011. That's when we
12 began in earnest that process.

13 We had intentions to do the same this
14 calendar year with the LSU Ag Center folks,
15 with Mr. Ernest Girouard and their public
16 outreach efforts, because we understand that
17 they travel around and set up shop and do
18 education aspects for the agricultural
19 community. So we wanted to piggyback on that
20 and then have, have another outreach for that
21 community, for the agricultural community, as
22 well as, as far as, you know, what -- that
23 was, in brainstorming all of this, that's how
24 we came to the conclusion that, that we may
25 be beating our heads against the wall on

1 trying to get the well owner to comply.
2 Although it is his burden and his
3 responsibility to comply, we felt that, as
4 the Secretary mentioned yesterday, that's how
5 we came to the well owner -- to the well
6 driller being the -- having some
7 responsibility and assuring that that well
8 owner has complied. That's how we got to
9 that point, trying to fix the problem within
10 the existing statutory law without having to
11 go back to the legislature to, to amend or
12 pass some type of bill to shift burden,
13 because that would be very complicated.
14 Because the well owner would always have some
15 legal responsibility in this process. So it
16 just would have gotten too complex. Easy to
17 meet, easy process is to promulgate the reg
18 change and to have the water well driller
19 become part of the process.

20 MR. MILLER: Thank you. Other
21 Commissioners?

22 MR. FREY: Did -- I just had a
23 question. I remember the driller yesterday,
24 one of them, mentioning, you know, drilling
25 wells in Jefferson Parish and after the

1 hurricane. And just makes me wonder, did
2 non-compliance jump after the '05
3 Katrina/Rita episode or the '08 Ike/Gustav
4 episode? Did you see any correlation?

5 MR. SNELLGROVE: The first -- yeah.
6 We didn't, we didn't break it down that way
7 statistically, because the first wave was
8 2001 when the law became effective. Any well
9 that was on record of DOTD that had been
10 drilled from that point of time to the point
11 in time where we began the audit, which was
12 in January of 2009, we just swept them all
13 into that same box without any, without any
14 separation as to the date that the
15 non-compliant issue occurred. It's not to
16 say that we couldn't, we couldn't develop
17 that statistic through the spreadsheets that
18 we created, but it just wasn't really -- it
19 really wasn't the focus of ours to try to see
20 a cause and effect, Katrina, post-Katrina.

21 I, I guess I would probably have to,
22 have to guess that it wouldn't have probably
23 made any difference. They didn't know we
24 existed before. It's not a likelihood that
25 they would have known we had existed post

1 Katrina either.

2 MR. LOEWER: Can I make a comment?

3 MR. MILLER: Yes, sir.

4 MR. LOEWER: I'm sorry.

5 MR. MILLER: I'm not sure -- I didn't
6 really get a vantage point of who, who --

7 MR. LOEWER: Go ahead.

8 MR. MAYS: Go ahead.

9 MR. LOEWER: You mentioned how you
10 dealt with these people on the phone. I got
11 some of the calls also back in the day. I
12 mean, it's kind of resolved itself now. I
13 mean, it's still in the process, but those
14 initial letters have gone out, particularly
15 in the area where we are. And I'm going to
16 compliment you on the way you handled that
17 situation. Just your reporting of how things
18 settled down and you instructed your phone
19 operators to, to be congenial and work them
20 through the process.

21 But before you feel too good about
22 yourself, when you mentioned that the first
23 reaction was caustic, I think that's a good
24 term to use, because that was the term when
25 they called me, very caustic.

1 You have to remember that if, if
2 you -- and these were irrigators in all
3 cases. And that is just a segment of the
4 total evaluation, I understand that, of
5 compliance.

6 But if you're a farmer that irrigates,
7 besides keeping your wife happy, the most
8 single important thing on your farm is your
9 water well. Your combine can go out, you can
10 rent one; your neighbors can come in and do
11 what you got to do, but, but because your
12 whole operation depends on that flow of
13 water, that's the single most important thing
14 that you own, and you own it.

15 And then you get this letter saying
16 you are in state violation by department that
17 is, to most people, are just it's Baton
18 Rouge. It's not a name. It's just, it's the
19 State department.

20 And so the initial reaction was very
21 caustic because the -- because the way you
22 were informed was very caustic. I think
23 you -- I haven't seen a letter subsequent to
24 that and I don't have a copy of the first
25 one, but it was very alarming. Rather than

1 saying -- partnering with, you know, the
2 State of Louisiana is going -- we're
3 instructed by the State of Louisiana to, to
4 do this survey and to evaluate and get
5 everybody to comply by law, and we need to
6 work together to, to solve this issue. And
7 if you don't, then there are some things.
8 But to say that you are in violation to begin
9 with rather than working through the process,
10 made it very caustic. And that's why that
11 initial reaction. And once that settled
12 down, said, oh, okay, you mean I don't have
13 to pay it now, I can work with you and solve
14 this problem and get it in compliance and
15 then you are not assessed any civil penalty.

16 But the first statement you get a
17 letter like this, is like you can't work if
18 you don't drive your car and somebody tells
19 you your car is being towed. You know,
20 that's your first reaction. And I think, I
21 think we both, both sides learned a lot in
22 this, in this effort that -- I mean, even the
23 federal government, Social Security letter
24 and things, things are tending to be a little
25 bit more user friendly so that we are not

1 being -- it's not like the cop chased you
2 down and now you got a ticket and you can't
3 even discuss it.

4 MR. SNELLGROVE: Yes, sir. That was a
5 very good point.

6 And Conservation has standard ways
7 that we have enforced over the years to a
8 long regulated industry, the oil and gas
9 industry. And so, so the off-the-shelf
10 compliance order that we used was that
11 typical language to get that message out.
12 And, yes, we did get, we did get the feedback
13 that, that it was, you know, hoarse. And we
14 took it for granted that that was just the
15 way that we did things, and the oil and gas
16 industry, I guess, had gotten -- you know,
17 that's, that was the procedure.

18 MR. LOEWER: Right, right.

19 MR. SNELLGROVE: For the irrigation
20 folks, for them the first time they ever have
21 gotten something, you know, that way, then,
22 yeah, I mean, it's understood.

23 So what we did, was we did soften the
24 language somewhat in the message, to deliver
25 the same message, but we used -- you know, we

1 had some kinder, gentler words, you know,
2 borrowing from --

3 MR. LOEWER: As you said, you're after
4 cooperation and compliance, not --

5 MR. SNELLGROVE: That's all we were
6 after.

7 MR. LOEWER: -- not fees.

8 MR. SNELLGROVE: Correct.

9 MR. LOEWER: In this case, you weren't
10 after, after their money. You were just
11 after compliance.

12 MR. SNELLGROVE: We justed wanted them
13 to allow us to do our job, which was to
14 evaluate their location, to make sure that --

15 MR. LOEWER: Sure.

16 MR. SNELLGROVE: -- the sustainability
17 was upheld.

18 So, yes, we did, we did soften the
19 language on those letters. And we still -- I
20 believe it was just as effective. So the
21 feedback is what we needed, you know. It was
22 a learning process for us as well, not
23 having, not having dealt with or having to
24 regulate, our belief at least, when we got
25 involved with this, in implementing this new

1 tool, the 2008 amendment, that allowed us to
2 enforce. So...

3 MR. MILLER: That kind of goes back to
4 my comment about brainstorming when you see,
5 see this. And that's exactly the process you
6 guys followed, was to say, okay, how do we
7 make this better? How do we get the message
8 out there without immediately the defensive
9 mechanism?

10 MR. LOEWER: Exactly.

11 MR. MILLER: So, Mr. Mays.

12 MR. MAYS: A comment on a couple of
13 questions. One, it basically divided into
14 Enforcement. And the question I would have
15 there is, do you believe either stronger or
16 more civil penalties will get better
17 compliance? Is, is that the question I would
18 ask.

19 Another thing is, I think that
20 probably -- and going back to what Secretary
21 Angelle said, this problem has evolved over a
22 hundred years, and, and do we want to wait
23 until a point before we ramp that up a notch.

24 So if you can tell me you're getting
25 better compliance out of some civil penalty,

1 I, as a business person, get stuff from the
2 federal government, state government, and
3 everything all the time. And a lot of times
4 I throw it away. Every now and then I look
5 at the bottom of it and it says if you don't
6 fill this out, you're subject to some fine or
7 whatever. I don't care. I just, you know.
8 And I know that that's the attitude that a
9 small business man or a farmer has on some of
10 this stuff.

11 So to ask them to participate, to
12 help, for a period of time, I think, is a
13 very -- it's where we should go in this
14 Department with us to try to get this. But
15 there's always going to be some people that
16 never comply and have no intention of
17 complying. And whether we want to ramp up
18 that civil penalty at some point, whether
19 it's a time deal, whether it's several
20 violations, or how that is, I don't see that
21 exactly in these bullet points. But is that
22 kind of where you are coming from?

23 MR. SNELLGROVE: Yes, sir. Again, our
24 SOP has been not to assess, whether rightly
25 or wrongly. I mean, we just -- we took the

1 low road on that approach. It creates a lot
2 more paperwork inside our agency, to be
3 honest with you. We have to generate an
4 invoice. We have to track that invoice. We
5 have to make sure it gets paid. If it
6 doesn't get paid, now we have got a bigger
7 issue to deal with.

8 So the easiest way to get the message
9 out is to send it without an assessment of
10 civil penalty. If we can get that, then we
11 are good to go. If we don't, then we start
12 picking up the phone and, and letting the
13 violator know that if we don't get something
14 by X date, we will -- you know, we are going
15 to have to assess a civil penalty. And in
16 most cases, that works; sometimes it doesn't.
17 So we play the cat and mouse until such time,
18 you know, as, you know, the 2 percenters, if
19 you will, because it's very few that, that
20 don't get the message the first time around,
21 second time around. But those 2 percenters
22 that don't, then, you know, eventually I
23 think we get what we need, but it may not
24 have happened as quick as we wanted it to be,
25 and it becomes a drain on our resources. We

1 are having to remember that, that this issue
2 still exists, track it. Have it -- take the
3 time and effort to call a person again. Most
4 times they don't answer the phone the first
5 time, so we have to leave a message. And
6 then it just goes on and on.

7 So, I guess, you know, I'm asking the
8 group here is, is, you know, even though
9 that's been our method of operating or
10 standard operating procedure, are there
11 instances that, you know -- and being
12 sensitive to what Mr. Loewer had said
13 earlier, I mean, we are dealing with so many
14 different user groups. You know, the
15 industry may, you know, may not have so much
16 of an issue. They probably won't like it,
17 but they may not have the same kind of
18 heartburn that an agricultural folk may have
19 or a public supply guy, or, or operator, or
20 what have you.

21 So I'm open to suggestions as to where
22 we can go with this. A couple of bullet
23 items down -- I don't want to take all of
24 Mr. Miller's deal here -- but we also talk
25 about if we do assess civil penalties, doing

1 something with them other than putting them
2 in to the general fund. Maybe they could be
3 used to, to help with education, to help
4 offset some costs of all these other things
5 that we are contemplating implementing with
6 limited resources.

7 So, you know, I don't -- that's
8 something that, that I think we would like to
9 hear discussion on as well. You know, it
10 could be a source of revenue. Hopefully it
11 would be a declining source of revenue
12 because folks would begin to comply and then
13 you would drain yourself out on that, but...

14 MR. MILLER: Interesting. I was about
15 to say that was a good segue into the second
16 bullet dealing with the, you know, the whole
17 concept. So I guess, you know, focusing on
18 that, the thoughts of the Commissioners on
19 imposition of civil penalties.

20 MR. SPICER: Yesterday our discussion
21 on Education and use of the well drillers
22 association to educate, you don't think
23 that's going to make a big change, if you
24 really get aggressive with that effort?

25 MR. SNELLGROVE: I certainly believe

1 that if the well driller -- that the driller
2 is involved in the process, that we, we won't
3 be dealing with an order of magnitude -- we
4 will be dealing with an order of magnitude
5 less with compliance than what we have today.
6 It will just be -- and to me, that's the most
7 fundamental way to, to resolve many of our,
8 our logistics and resource issues when it
9 comes to regulatory compliance, getting the
10 proper paperwork in to evaluate, making the
11 whole process more efficient and effective
12 for all. I think that's a critical aspect.

13 MR. SPICER: Well, I would like to see
14 us focus more on education first, and then
15 some serious enforcement data for the --

16 MR. FREY: I would agree with that.
17 As a tie in to that, too, though, without
18 having the statutes in front of me, is there,
19 is there some breakout in terms of repeat
20 offenders and the civil penalties? I would
21 assume there is. That's how most of them are
22 set up. But, I mean, you know, the first
23 time you get a warning, the second time you
24 have the potential to be fined 500, whatever
25 it might be. I mean, John, Gary, somebody.

1 MR. SNELLGROVE: Go ahead.

2 MR. ADAMS: There is, there is a, a
3 schedule that we can follow and the schedule
4 is prescribed by -- it's set by law. And it
5 does rise pretty steep.

6 Normally what we do, as Gary points
7 out, is we try to do just enough to, to gain
8 compliance.

9 MR. FREY: Gain compliance.

10 MR. ADAMS: And we always try to err
11 on the side of doing too little rather than
12 doing too much. Because most of the people
13 that we are working with, they are not the
14 more sophisticated industrial clients that do
15 this on a regular basis. They are the, the
16 irrigation users and that sort of thing that,
17 that when they receive their letter, they are
18 not exactly sure what they are getting.

19 The schedule that we do have, most of
20 the fines are in terms of, say, \$500 per day
21 of violation. And since most of these
22 violations have gone on for quite some time,
23 the potential for us to fine people is, is
24 very, very high. Of course, normally, we
25 look at that, those fines, in terms of -- we

1 don't normally look at it in terms of days of
2 violation, but in terms of instances of
3 violation.

4 So, for example, if, if we find a
5 violator that's done something and we feel
6 that there is a need, for example, someone
7 who's drilled a well without a license, then
8 we are going to implement the, you know, the
9 \$500 fee regardless of how many days he's
10 been attempting to practice without a
11 license. So...

12 MR. SNELLGROVE: I would like to
13 clarify, too. The law does -- the law has
14 language in there that allow -- the word is
15 "may." The operative word is "may." The
16 Commissioner may, and follow all of these.

17 MR. FREY: He shall.

18 MR. SNELLGROVE: But he, but he can't
19 exceed what's in the statutory law as far as
20 imposing civil penalty and what have you, but
21 he doesn't necessarily have to -- you know,
22 if it's a violation of, of Item 1A on the
23 list, then, then he doesn't have to issue a
24 compliance order or a civil penalty. He can
25 send a letter of reprimand, if you will, or

1 something to that effect or a notice of
2 violation or a compliance notice, something
3 lesser, but -- so the law does provide for
4 some flexibility, yes, as to how the office
5 enforces.

6 MR. MILLER: Mr. Spicer.

7 MR. SPICER: Yes. I would like to
8 propose that we get together with the NRCS
9 and district staff, who is back here in the
10 back with the NRCS, and myself, and talk
11 about how our district offices, NRCS and
12 district employees, can assist in this
13 effort, because we work with, you know, an
14 incentive program, which often includes
15 irrigation wells. And so we have the
16 expertise in those locations to assist and
17 maybe help an individual fill out his
18 application. So, so we, we would really like
19 to help there.

20 MR. SNELLGROVE: Appreciate that.

21 MR. MILLER: As just a point. Working
22 in DEQ, and I have been around in this
23 environmental arena for over 30 years now.
24 What we saw there was a progressive
25 enforcement. It was first the effort, the

1 educational efforts, to get the word out, and
2 then you proceed with that with warnings, the
3 notices of violations and compliance orders
4 and then ultimately penalty. And you look at
5 the circumstances each time. And so where
6 you had someone that was recalcitrant, if you
7 made the effort, they simply thumbed their
8 nose at you and went on, those were the cases
9 where you went to penalty.

10 And what I have seen from my time here
11 on the Commission, is that we are going
12 through that same process of stepped-up
13 enforcement. You know, we will continue
14 those efforts for the education; we will
15 continue the efforts to brainstorm if
16 something doesn't work, just like the
17 discussion a second ago about dealing with
18 the NRCS. There's -- we look at each who are
19 the users of the program, and that ultimately
20 penalty is one of the things that's on the
21 table. It certainly has to be considered.

22 Are there any other discussions on the
23 second bullet?

24 MR. LOEWER: I just appreciate the
25 comments, because this is the -- at the end,

1 at the end of the day, it's about compliance.
2 It's not about revenue generation. And when
3 we get into revenue generation, that, that
4 starts a whole another avenue down by which
5 the end result completely changes. And this
6 is about compliance.

7 MR. SPICER: I will say this about
8 penalties. Most agencies do not like to deal
9 with those because it's really difficult to
10 manage, and then you can't collect in a lot
11 of cases. It's not worth the effort to
12 collect. And then all at once there's an
13 audit, and then you see what happens to the
14 agency, indicating that they are not doing
15 their job, when, in fact, you may have
16 instances --

17 MR. LOEWER: This reminds me --

18 MR. SPICER: You have fines sitting
19 out there, but they are all \$50, 150, and you
20 just don't have the resources to collect
21 them.

22 So, yeah, if you can stay away from
23 penalties, most agencies really want to do
24 that.

25 MR. LOEWER: At one point when we had

1 the discussion a couple years ago, I had gone
2 home and read a newspaper article about a
3 judge in New Orleans that said we need crime
4 to fund the criminal justice system in New
5 Orleans.

6 MR. SPICER: They have it, don't they?

7 MR. LOEWER: Well, the idea --

8 MR. ANGELLE: Business must be good.

9 MR. SPICER: You need to get that guy
10 promoted.

11 MR. MILLER: Going into that, I guess
12 we will go ahead and move into the third
13 bullet.

14 MR. DUPLECHIN: Well, Tony Duplechin
15 again.

16 Just to bring a little history lesson
17 here, going back about 10 years for the
18 members of the Commission who either weren't
19 here then or weren't involved with the ground
20 water program.

21 As been stated before, the one group
22 that is best suited to let people know that
23 they have to notify the Office of
24 Conservation before they put a water well in,
25 is the water well drillers. Okay.

1 Members of the Louisiana Ground Water
2 Association were here yesterday. Used to be
3 known as the Louisiana Water Well Drillers
4 Association. Ten years ago, January of 2002,
5 the Office of Conservation made a
6 presentation at their annual meeting in
7 January to explain, trying to get their help
8 to, to notify their customers of the
9 requirement for certain wells to be -- they
10 had prior notification to the Office of
11 Conservation. Well, the speaker before the
12 Office of Conservation speaker was Senator
13 James David Cain, who led them all to believe
14 that the Office of Conservation was out to
15 get the drillers, that they were going to
16 have to fill these forms out. And so it was
17 very adversarial for several years.

18 And I think that the ground water
19 program has come a long way in that 10 years
20 to where we had members of that association
21 here speaking very positively about the work
22 that's being done. So just wanted to let
23 everyone know that, you know, Office of
24 Conservation has come a long way and this
25 ground water program has.

1 I also have a question. You mentioned
2 that there have been about a dozen instances
3 of unlicensed water well drillers coming in
4 and drilling wells?

5 MR. SNELLGROVE: Well, not necessarily
6 unlicensed water well drillers, but water
7 well driller violations. Title 56
8 infractions or violations.

9 MR. DUPLÉCHIN: Okay.

10 MR. SNELLGROVE: Definitely not a
11 dozen, that we're aware of, unlicensed
12 drillers drilling wells.

13 MR. DUPLÉCHIN: Okay.

14 MR. SNELLGROVE: Only a few of those
15 to date that I can recall.

16 MR. DUPLÉCHIN: Okay. In those cases,
17 you go after both the driller and the well
18 owner?

19 MR. SNELLGROVE: Correct.

20 MR. DUPLÉCHIN: You make them fund the
21 money?

22 MR. SNELLGROVE: They have to do what
23 they have to do to comply with the
24 requirements if it hasn't been properly
25 completed.

1 MR. DUPLECHIN: But if it has, I was
2 just wondering.

3 MR. SNELLGROVE: I don't think the
4 instance that I recall --

5 MR. DUPLECHIN: -- was an unlicensed
6 driller.

7 MR. SNELLGROVE: Yeah. It wasn't
8 properly installed, so they had to, you
9 know --

10 MR. DUPLECHIN: Rework it.

11 MR. SNELLGROVE: Yeah.

12 MR. DUPLECHIN: Okay. Good.

13 MR. SNELLGROVE: Yes, sir. Thank you.

14 MR. MILLER: Thank you.

15 So the bullet 3 talking about what to
16 do with these penalties that might get
17 collected, just as a reference point, DEQ,
18 for instance, we end up issuing a lot of
19 penalties. And it's unfortunate that people
20 don't comply with the regulation at times,
21 and at times we're forced to get penalties.

22 The way that we are set up is any
23 penalties that are collected for those
24 violations goes into a fund that supports the
25 clean-up of old hazardous waste sites. So it

1 was a way to use the monies. It doesn't go
2 directly to DEQ to fund operations, but it is
3 utilized for environmentally beneficial
4 purposes rather than sinking it into the
5 general fund. Of course, that was the choice
6 of the legislature when it was set up.

7 So that same type of approach is
8 possible for any fees or any penalties that
9 would be collected associated with
10 non-compliance here. So -- and it has, it
11 has worked effectively for the Department,
12 because it has provided the funds to do clean
13 up of abandoned sites or Super Fund sites
14 that you sometimes see in the paper and in
15 the media. So that mechanism has been done
16 before, such that where there are penalties
17 assessed, you could establish a fund.

18 And that's, certainly, I think that's
19 the nature of that third bullet of should we
20 consider trying to have that as part of the
21 overall ground water management, water
22 management plan for the state.

23 MR. FREY: I would think, just my
24 opinion is, I think we should, but I put a
25 caveat in, that you don't get overzealous in

1 trying to build budgets based on fines. I
2 think Mr. Loewer touched on that briefly
3 earlier. But that's, that's what I see.

4 And being a former state employee
5 myself and, and dealing with several agencies
6 that ought -- you know, that have the ability
7 to assess penalties, you have to be careful
8 that you, you know, you have some reason and
9 some common sense that applies. You have
10 done that. I'm not saying you haven't. But
11 I just, you know, when you identify several
12 things, education, outreach, incentives,
13 auditing, that could be, that could be
14 sizable and folks could look at that and say
15 here's the way to build a budget.

16 So my thought would be you want to do
17 that, you want to dedicate it, but, but you
18 need to be careful and cautious.

19 And I would also throw out that
20 because we are talking about compliance, you
21 tie it to the education and outreach efforts,
22 because that usually is the bottom field when
23 it comes to budgets. As much as we say
24 education is important, normally it doesn't
25 get the budget that other, other portions of

1 the departments get.

2 MR. SPICER: You can dedicate it to
3 the Soil and Water Conservation Program.
4 Then you wouldn't have that issue, Paul.

5 MR. MILLER: Yes.

6 Are there other comments from the
7 Commissioners?

8 Any other comments from folks out
9 there?

10 Well, then, we will go into that final
11 bullet, Should Conservation consider means
12 other than issuance of enforcement notices
13 with or without assessment of civil penalties
14 to enforce compliance with ground water
15 management regulations?

16 One thing that I brought up yesterday
17 was that, and I had kind of some notes that I
18 had for today, was the concept of parting
19 with the Department, we talked about
20 progressive enforcement, that we started at,
21 you know, the simplest way of doing it. We
22 saw you brainstorming. We saw repeat issues
23 with subsets of groups. For instance, the
24 small wastewater system operators. And I
25 mentioned yesterday about what we jokingly

1 referred to as poo poo school.

2 What we tried to tie is education to
3 enforcement. That's why I brought it up
4 yesterday when we were talking about
5 education, is that we saw that there was
6 folks that, from visiting with them and from,
7 again, looking at how many folks are having
8 the same kinds of issues, we said is there a
9 way that we could better get the word out.
10 So we tied in our enforcement actions an
11 option. So rather than seeking penalties, we
12 said, look, if you will go to a school where
13 you will learn how to do this stuff right, we
14 are not going to seek penalties. So it was a
15 tradeoff. It was using education as the
16 carrot when you were dealing with an
17 enforcement issue. And it was extremely
18 effective.

19 We then went to the gasoline station
20 owners where they weren't following all the
21 underground storage tank regulations,
22 because, again, we saw patterns with folks
23 that were missing requirements of the
24 regulations, and we tailored a school in that
25 end. And, again, we said, look, we won't

1 issue penalties as an agency if you will
2 attend this training.

3 So, again, it's a tool that I would
4 recommend that you consider as potentially a
5 way where you see subsets that meet that
6 education along with all the other things.
7 It's certainly a tool. As well as, of
8 course, penalties if people are recalcitrant.
9 You know, it's certainly, it's certainly
10 something to be considered.

11 Another thing that the Department
12 utilizes is beneficial environmental projects
13 where, rather than collecting penalties in
14 some situations, we have people do a
15 beneficial environmental project. There
16 might be a similar thing that we could do
17 within the ground water realm that we would
18 actually, instead of issuing penalties to
19 someone, there may be the opportunity to say
20 if you will put on a training for other
21 farmers, if it happens to be farmers, or
22 whomever, is one of those subsets where we do
23 the brainstorming where you see a pattern,
24 that there might be that as an option.

25 So just those are things that we as an

1 agency -- and, certainly, you know, we don't
2 have a corner on them. It's just things that
3 worked for us, something that I share with
4 you guys, and be happy to talk further about.

5 Are there comments from other
6 Commissioners on that final bullet?

7 Well, then, Gary.

8 MR. SNELLGROVE: Yeah, I appreciate
9 those ideas. What we were seeking on the
10 last bullet item were other ways that we
11 could implement it. I had heard that DEQ had
12 some type of offset mechanism there. Didn't
13 quite know exactly how that worked or
14 functioned. But, yeah, I mean, I thought
15 education would be one way, perhaps some type
16 of conservation effort, if they implemented
17 some type of procedure that would, you know,
18 reduce their reliance upon the resource or
19 what have you. But it gives me some ideas.

20 Who in your agency would be a good
21 contact for us to discuss their, you know,
22 the, the development of your -- of the
23 program there at DEQ?

24 MR. MILLER: Well, certainly, I mean,
25 I would be happy to. There's a number of

1 folks. Celena Cage in Enforcement is
2 involved with Beneficial Environment
3 Projects.

4 MR. SNELLGROVE: Okay.

5 MR. MILLER: Actually, a number of
6 other staff that would actually get involved
7 with it. So if you want to just, if you want
8 to just touch base, I will set up a meeting.
9 We can bring folks down the street and sit
10 down and talk about it.

11 MR. SNELLGROVE: Okay.

12 MR. MILLER: Kind of how it evolved
13 over time and maybe brainstorm amongst the
14 agencies.

15 MR. SNELLGROVE: Does Wildlife &
16 Fisheries have any type of penalty offset
17 program in effect?

18 MR. BALKUM: Within our Scenic Rivers
19 Program, we occasionally collect fees, civil
20 penalties. We try to put that back into
21 restoration projects.

22 MR. SNELLGROVE: So it's more of an
23 earmark. You collect the fee, the fine, the
24 civil penalty, but it goes toward the
25 beneficial project?

1 MR. BALKUM: Yes.

2 MR. SNELLGROVE: Back into the system,
3 if you will.

4 MR. BALKUM: Yes.

5 MR. SNELLGROVE: Okay.

6 MR. BURLAND: Is there a possibility
7 that that kind of idea would be expanded
8 across a multi-agency platform? In other
9 words, instead of recreating the wheel on
10 developing an environmental project or
11 conservation project, to seek out to the
12 other agencies that already have those
13 programs, is there a way you can connect that
14 compliance with, well, here's a project over
15 in the other department that needs help,
16 let's throw your money there? I don't know,
17 is that something to consider, or is that --

18 MR. SNELLGROVE: Yeah, I see what
19 you're saying. Just another way of saying
20 don't try to create a new pathway, but --

21 MR. BURLAND: Yeah. We have already
22 got at least two agencies here that have
23 those types of program.

24 MR. SNELLGROVE: Yeah. They have done
25 an environmental benefit over here, then that

1 would suffice to offset.

2 MR. BURLAND: Could it be an
3 interagency memo of understanding or
4 something that you could implement that
5 without having too much --

6 MR. MILLER: Certainly. Certainly,
7 Jimmy. Right now if someone has a beneficial
8 project we want to do.

9 If I could go back to the West Monroe
10 example, and although it wasn't associated
11 with an enforcement action, but it's where we
12 as an agency said that ground water was
13 important enough that we would fund something
14 that was outside of the box, outside of the
15 norm.

16 Certainly, from BEPs, beneficial
17 environmental projects, if someone had
18 something dealing with, say, something in the
19 Sparta that they wanted to spend money on in
20 lieu of penalty, those are certainly things
21 that the Secretary would consider as
22 potential BEPS, or the Assistant Secretary in
23 the case of an enforcement action. So those
24 are options right now that, you know, that we
25 need, again, in terms of brainstorming, those

1 are the kinds of things that thinking outside
2 the box, to where, that even if they may have
3 violated, say, a provision of their water
4 permit in northwest Louisiana, there may be a
5 water project associated with protection of
6 an aquifer or education or anything.

7 MR. BURLAND: Sure. I mean, just to
8 give them flexibility to either go that route
9 or not, you know. That's what you need,
10 rather than just assessing fines and
11 penalties.

12 MR. SNELLGROVE: I think that's a good
13 idea.

14 MR. BURLAND: I like the education
15 component of that. I'm trying to convince
16 the Board of Ethics to get into more
17 education of violators than to actually
18 assess some fees that go into a general fund
19 and they are lost forever.

20 Because I don't, I don't really have a
21 confidence that fees and penalties that you
22 collect in this situation, even if we
23 designate the fund, it will actually be in
24 that fund come the next fiscal year. I'm not
25 pointing fingers at anyone, but, you know, I

1 would just want to make sure that -- unless
2 the fund is constitutionally protected, I
3 don't really think you've got much of a case
4 to keep that money there if, if, you know,
5 somebody wants to use it. So my thought
6 would be to find other alternative ways to do
7 it.

8 MR. SNELLGROVE: Okay.

9 MR. MILLER: Thank you, Mr. Secretary.

10 MR. BURLAND: That's my only veiled
11 criticism of -- an unveiled criticism.

12 MR. MILLER: Mr. Secretary, I believe
13 we are done with Enforcement.

14 MR. ANGELLE: Okay. Very good. Thank
15 you. Good job.

16 And we will move on to -- is that the
17 10:00 session dealing on Emergencies?

18 MR. MILLER: Yeah.

19 MR. ANGELLE: Okay. So we are back on
20 schedule?

21 Okay. Mr. Kyle.

22 MR. BALKUM: On the Emergencies
23 component of our plan, as you can see on the
24 screen before you, we have three items, three
25 questions, to discuss among the Commissioners

1 and our audience here.

2 Our first item came to us through a
3 stakeholder meeting. Issues addressed in our
4 plan and there's a recommendation as well
5 that's spelled out. Our following two items
6 come about through agency and Commission
7 discussion. So we will look at those two.

8 Getting back to our first item.
9 Stakeholders felt that there was a need to
10 establish an agency standing committee to
11 recommend water quality and quantity
12 emergency actions. The plan, the plan
13 recommends that the Commissioner of
14 Conservation initiate a simple and maintain
15 an ad hoc standing committee for agency
16 representatives from Coastal, Natural
17 Resources, Environmental Quality, Wildlife &
18 Fisheries, Ag and Forestry, as well as NRCS,
19 to serve and facilitate communication between
20 agencies for emergencies involving ground
21 water resources.

22 I guess with that, I would like to
23 open that up for discussions. In some of our
24 earlier discussions of this topic, we thought
25 that there was some value in maintaining that

1 ad hoc committee. I will go ahead and ask
2 Commissioner members for feedback now.

3 MR. ANGELLE: Can we get a one-minute
4 version on how we address an emergency now?
5 Who is the best person?

6 MR. SNELLGROVE: I will try. I guess
7 I have a limited amount of examples to go by.

8 You know, we had a well blow-out
9 situation in north Louisiana three years
10 back, perhaps. And what basically happened
11 under that situation was that the State
12 Police, being the incident command and in
13 control of the situation because it was an
14 acute, an immediate issue, that had air
15 quality issues, it had, you know, a fire and
16 safety issues, as well as ground water and
17 surface water runoff issues out there, they
18 were, they were the agency in control or, you
19 know, the coordinator.

20 MR. ANGELLE: Yeah.

21 MR. SNELLGROVE: In doing so, as I
22 recall, the, the -- all agencies that had
23 some aspect of involvement in, in their
24 regulatory authorities and what have you, did
25 meet and convene on several different

1 occasions to discuss a coordinated effort to
2 make sure that all the public safety issues
3 were being addressed.

4 So that, that was pretty much my, my
5 experience with, with the process. It wasn't
6 so much that there was a, a plan, per se,
7 that said if this happens, then you guys are
8 going to do this, that and the other. It was
9 somewhat, you know, created as out of
10 necessity and on the fly. And so it was, you
11 know, leadership down from the Governor's
12 Office on down. This was just something that
13 had to happen.

14 MR. ANGELLE: So let's look at the
15 GOHSEP model. And, you know, we have
16 emergency functions and, and each agency,
17 when we stand up in advance of a hurricane,
18 for instance, we stand up -- what is it
19 called -- the incident command group --
20 unified command group, of which all of state
21 government secretaries and public service
22 commission, all those kind of folks, sit
23 around and have specifically identified
24 areas. For instance, Natural Resources has
25 an emergency component. Okay.

1 Transportation, obviously, has a
2 transportation component.

3 I'm not so sure that the plan
4 anticipates a, an emergency that is
5 associated with ground water. And,
6 therefore, that group that we did put
7 together, we kind of followed that model, but
8 it was more, okay, we need the following
9 seven or eight people on a conference call,
10 and it probably needs to be more, more
11 formatted, I think, and, and not left to on
12 the fly.

13 So, so from that standpoint, I think
14 we just need to look and see if we would --
15 if we could determine if there is instead.
16 And we typically think of emergencies as we
17 stand up, the Governor's Office of Homeland
18 Security and Emergency Preparedness, we tend
19 to think of, again, hurricanes and storms and
20 floods and not these kind of issues. So I
21 think we just need to tweak that.

22 When we're talking about emergencies
23 here, are those the kind of emergencies we
24 talking about? That's one great example. If
25 we could, maybe just kind of pivot into --

1 MR. SNELLGROVE: Okay. Another
2 example would be more, not an acute, but more
3 of a chronic, a chronic event, whereby we
4 issued the emergency declaration in south
5 Caddo Parish. It was something that occurred
6 through a sequence of events that all lined
7 up pretty much by consequence, I guess,
8 unfortunately, that had this adverse impact
9 that needed to be addressed. So, I mean,
10 emergencies can come in different ways. So
11 the blow-out is certainly an immediate here
12 and now one end of the spectrum.

13 MR. ANGELLE: Right.

14 MR. SNELLGROVE: The other --

15 MR. ANGELLE: Is more of a sudden and
16 accidental as opposed to a gradual getting --

17 MR. SNELLGROVE: Correct. And then
18 the other situation would be, you know, more
19 of a slow progression towards a more
20 deterioration of the resource, say, due to,
21 say, saltwater encroachment or water level
22 decline that we see and, you know, have to
23 deal with. But some of these --

24 MR. ANGELLE: But, but just -- I
25 understand that. So is it, is it under

1 current law, is the Commissioner of
2 Conservation in charge exclusively of the
3 management decisions associated with
4 responding to ground water emergencies?

5 MR. SNELLGROVE: I would say yes.

6 MR. ANGELLE: Okay. So the
7 question -- is the question here is, should
8 there be an ad hoc -- does the Ground Water
9 Resources Commission have any jurisdiction on
10 responding to emergencies?

11 MR. ADAMS: No, sir, they don't.

12 MR. ANGELLE: Okay. So the question
13 is should the Commissioner have a access to a
14 committee that can help him, much like the
15 Governor has access to the unified command
16 group to help him deal with a storm or a
17 flood, should the Commissioner have -- and,
18 and I'm assuming the Commissioner would have
19 the authority to set up any group that he
20 wants to help counsel him on what's out
21 there?

22 MR. SNELLGROVE: Correct.

23 MR. ANGELLE: Is that right? You
24 would agree with that?

25 MR. ADAMS: Yes, sir.

1 MR. ANGELLE: Okay. I just wanted to
2 make sure that there was some process. And
3 this Commission does have authority to hear
4 the, the application, go through the
5 application, to determine areas of ground
6 water concern, but not emergencies; is that
7 right?

8 MR. ADAMS: Ask that question again.

9 MR. ANGELLE: Okay. The specific
10 authority of the Ground Water Resources
11 Commission is to -- is, you know, among other
12 things, is so to participate in the area of
13 ground water concern designation?

14 MR. ADAMS: No, sir. The specific
15 authority of Ground Water Resources
16 Commission is to assist the Commissioner in
17 development of a ground water management
18 plan, and to review certain actions of the
19 Commissioner in the event someone raises an
20 objection to his, his establishment of, of,
21 of ground water determinations.

22 MR. ANGELLE: Okay. So it is not
23 to -- so the ground water determination --
24 I'm looking at the area of ground water
25 concern and the establishment of the area of

1 ground water concern. That is a Commissioner
2 decision that this Commission has the
3 authority to veto?

4 MR. ADAMS: No, sir, I don't see that
5 the Commission has the authority to veto.

6 MR. ANGELLE: Give me your two-minute
7 version on what you think this Commission has
8 authority to do.

9 MR. ADAMS: Under the -- the statute
10 is 3097.4. And, essentially, it, it
11 establishes that the, the Ground Water
12 Commission, the Ground Water Resources
13 Commission can review and approve or reject
14 orders of the Commission -- Commissioner,
15 placing restrictions on wells, upon petition
16 by the individual well owner.

17 MR. ANGELLE: Okay. Use those verbs,
18 again. We can review and approve and reject?

19 MR. ADAMS: Can reject orders of the
20 Commissioner placing restrictions on wells.

21 MR. ANGELLE: Okay. So in the area of
22 ground water, ground water concern, in an
23 area of ground water concern, there can be
24 restrictions on wells?

25 MR. ADAMS: Yes, sir.

1 MR. ANGELLE: So would your
2 interpretation be that, that that gives this
3 Commission authority to reject the
4 establishment of an area, maybe not the
5 geographic area of a ground water concern,
6 but that action which is in -- carried out
7 which includes restrictions on withdrawals?

8 MR. ADAMS: Upon petition by a
9 particular well owner, they could review that
10 particular situation addressed by that well
11 owner and, yes, sir, they could rule on that.

12 MR. ANGELLE: Okay. So I was not
13 crazy when I asked the question about some
14 veto power over, over that?

15 MR. ADAMS: As, as it pertains to
16 specific wells, no, sir, you were right on on
17 that in that regard.

18 MR. ANGELLE: All right. So, so there
19 is a -- but when it comes to addressing an
20 emergency, when it comes to addressing an
21 emergency, that is not something that the
22 Commission has the authority to do?

23 MR. ADAMS: That's correct.

24 MR. ANGELLE: Okay. All right. So
25 should there be an ad hoc standing

1 committee to create -- to, to be created to
2 address ground water emergencies? Whether it
3 should be one, certainly, my, my -- and I can
4 tell you that Commissioner did surround
5 himself with, with quite a few folks when he
6 was dealing with the issue in southern Caddo
7 Parish of this past July and August.

8 So whether or not you need one, I
9 think the Commissioner has authority to, to
10 surround himself with whoever he wants to be
11 surrounded with.

12 MR. LOEWER: And not to get too much
13 into semantics, but do we have a definition
14 of "emergency"?

15 MR. ANGELLE: I think we do have a
16 definition.

17 MR. LOEWER: We do.

18 MR. SNELLGROVE: Yes. There is a
19 statutory definition for "emergency."

20 MR. LOEWER: Okay.

21 MR. SPICER: If I may.

22 I think that whatever we do, we need
23 to make sure that any effort we have with an
24 ad hoc committee, whatever, that it's
25 coordinated with emergency actions in the

1 state. We have got thousands of people
2 trained across the state to deal with
3 emergencies. Each agency has numerous folks.
4 We have people in every parish. It's a lot
5 of authority in the parishes to deal with
6 emergencies to start with. And that is the
7 process of all emergencies that, you know,
8 handle at the parish level, move up through
9 the state, and so on, and then bring in
10 federal partners or whatever. So I think we
11 need to stay within that framework.

12 MR. ANGELLE: Right. That's a good
13 point. Because you recall one of the things
14 that we did, we had several phone calls with
15 local government in this particular
16 situation. And I think that ended up being
17 very beneficial. We included members of the
18 legislature, so on and so forth.

19 So what I would suggest is that, that
20 rather than just an ad hoc standing
21 committee, there should be -- should there be
22 a policy on, on how we address ground water
23 emergencies, which would might include, as a
24 subpart, an ad hoc standing committee.

25 MR. SPICER: I agree with that

1 recommendation.

2 MR. MAYS: Scott.

3 MR. ANGELLE: Sure.

4 MR. MAYS: Scott, I would just like to
5 agree with that, too.

6 And the confusion that came out of the
7 hurricane, especially for me where I sat as
8 president of the Police Jury, under emergency
9 declaration by the Governor, having no
10 earthly idea, as no other parish president at
11 the time did either, of what's in the
12 constitution. I think you need to have some
13 legal advice on that because, in the
14 constitution it specifically spells out what
15 a parish president can do, which is limited,
16 and, and it's scary.

17 MR. ANGELLE: Yeah.

18 MR. MAYS: So you need to get the
19 legal part in there so that in the event of
20 an emergency, we legally know what you can do
21 and who should be doing what.

22 And what could possibly be an
23 emergency is, is -- in a ground water deal,
24 would be -- and in surface water, too --
25 would be a sudden contamination where I could

1 see would create a huge emergency.

2 MR. ANGELLE: Uh-huh. Uh-huh. Yeah.

3 And I think we had one in, in the
4 Pearl River early last year. And I'm not so
5 sure if there were any intakes, but, but, you
6 know, certainly getting local governments
7 involved in that, and having, again, a
8 decision on how to deal with that, we need to
9 make sure.

10 MR. LOEWER: I would think we would
11 all agree that, you know, the more you can do
12 when you have the time to do it, the less you
13 have to do when you don't have the time. You
14 get all that set up ahead of time and it's
15 done.

16 MR. BALKUM: That's right.

17 MR. MILLER: Surface water intakes,
18 that's a huge. Again, at the, at the
19 coastal, coastal meeting couple of days ago
20 now, there was discussion by one of the state
21 representatives who was out of water for 22
22 days associated with the intake structure on
23 a surface water body that was supplying that
24 water. So it is. Where there is an
25 emergency, like you mentioned on the Pearl

1 River, you needed us. I mean, we at DEQ
2 works, you know, hand in hand with DHH on the
3 Mississippi River where there are a lot of
4 intake structures looking at where instances
5 occur that could affect those intake
6 structures. So I think we're spot on when we
7 talk about that.

8 MR. ANGELLE: Yeah. I would bet we
9 are probably more prepared as a state to deal
10 with responding to surface water intake
11 issues than we are with ground water
12 emergencies.

13 MR. SPICER: I agree with that.

14 MR. ANGELLE: They tend not to be the
15 kind of sudden and accidental. We had -- we
16 certainly had the situation with the
17 blow-out. I think that was Exco.

18 MR. SNELLGROVE: Yes.

19 MR. ANGELLE: And, you know, perhaps
20 some concern that ground water was
21 contaminated with methane.

22 MR. SNELLGROVE: Yes.

23 MR. ANGELLE: And, you know, having to
24 do all the things necessary, yeah. Okay.

25 MR. SNELLGROVE: I have one follow-up.

1 We do have an existing procedure in
2 place already that we really just need to
3 amend, it's an emergency contingency plan
4 that's required by the law. We have one.
5 It, it's, it's not very broad. It's very
6 focused on drought, on drought emergencies.

7 So, so to follow, follow the lead of
8 the Secretary and, and, I believe, you-all's
9 consensus, we will just go in and revisit
10 that emergency contingency plan and beef it
11 up to address more, more of a global approach
12 to different types of emergencies outside of
13 just -- so I think we have a mechanism there
14 already in place.

15 MR. ANGELLE: Right. And I think it's
16 absolutely critical that you have the ability
17 to -- in there you reference GOHSEP and have
18 the ability to, to stand up, the efforts
19 that, or the resources that they have.

20 Because, again, the whole State Police
21 deal, one of the concerns that we had is
22 that, is that -- I think we all have to take
23 some blame in dealing with some of the local
24 governments on that issue, because, you know,
25 I think some of our folks were trying to get

1 on site, and our folks were told you can't
2 get on site. And I understand why that was
3 said. And then that led to local governments
4 having some questions of us where we were
5 saying, well, we can't tell you because we
6 can't get there. And those kind of answers
7 don't give a whole bunch of confidence to
8 people, when, you know, there's a problem.

9 MR. BALKUM: Gary, let me ask real
10 quick, does that existing plan identify
11 agencies and their roles?

12 MR. SNELLGROVE: No, sir, it doesn't.
13 And that's what I was -- my intentions would
14 be to go ahead and expand it to reference
15 different agencies and different -- you know,
16 just to list it out. Have the framework for
17 staff to pull off the shelf and follow,
18 follow, you know, making phone calls when it
19 happens, to get -- to engage all those that
20 need to be in the process.

21 MR. BALKUM: Okay. So to sum up this
22 first item, we believe that the Commissioner
23 of Conservation has the authority to develop
24 protocol or, to develop, or to have an ad hoc
25 committee to respond to emergencies, we

1 believe that's kind of in place currently and
2 there's a plan currently, a plan of action.

3 MR. SNELLGROVE: And the plan needs to
4 be expanded and broadened to, to address more
5 than just drought emergencies.

6 MR. BALKUM: That gets us to our
7 second item here. And, perhaps, we have
8 already -- we have touched on it. Whether or
9 not we have addressed it fully, but, Should
10 there be a different mechanism to address
11 acute ground water issues?

12 I guess, do we draw a distinction
13 between acute and maybe more deliberate?

14 MR. SNELLGROVE: Maybe let me take a
15 shot at drafting -- you know, having the
16 staff to amend the existing contingency plan,
17 and let's see if we can't maybe find a way in
18 that process to, to address both of those
19 bullets. Then we can report back to the
20 Commission a draft of that, perhaps, before
21 we, you know, before it's implemented for
22 consideration.

23 MR. MAYS: I think an acute ground
24 water issue is an emergency.

25 MR. SNELLGROVE: Well, that would be

1 pretty much like the blow-out situation or
2 some type of environmental contamination
3 incident that, that gets into a drinking
4 water supply where you need to do some
5 immediate things to stop withdrawal and, you
6 know, go to some alternative source.

7 MR. MILLER: And especially like if
8 you were in a situation where you had a plume
9 being drawn by the wells, you need to stop
10 that.

11 MR. BALKUM: I guess what that bullet
12 to me says there are different kinds of
13 emergencies, some more serious than others,
14 and does that instigate different actions.

15 MR. SNELLGROVE: It may require MOUs
16 or something to that effect between various
17 agencies as we develop the ground water
18 emergency contingency plan to -- for them to
19 notify us that, you know, a reciprocal type
20 of relationship there.

21 MR. BALKUM: Any further discussion?

22 On our third item, Does the state
23 already have means of addressing ground water
24 emergencies through GOHSEP, the Governor's
25 Office of Homeland Security and Emergency

1 Preparedness? Some of you-all might be able
2 to speak to that in detail. This week --

3 MR. SPICER: I personally think state
4 does and can, but I still think, what we
5 talked about earlier, is that having an ad
6 hoc group to interact with the emergency
7 preparedness.

8 MR. BALKUM: Brad, I was just going to
9 mention that this week I contacted Dave
10 Schlotzhauer with GOHSEP, and he's a state
11 plans branch manager. He said GOHSEP
12 essentially is a coordinating agency. You
13 know, they don't have the technical frontline
14 staff to respond to the emergency, but they
15 could possibly, in a case of a ground water
16 emergency, coordinate the response. He
17 welcomed further discussion.

18 MR. SPICER: Then as you move down the
19 line, we do have people that when you get to
20 the parish level, we have the structure. For
21 instance, for dealing with, say, dead
22 animals, livestock. We have to interact with
23 the parish emergency preparedness
24 organization. They make the call what they
25 want to do, and then we interact with the

1 NRCS and our office and the local
2 conservation districts.

3 And as an example, during Katrina,
4 within -- I think it was within 20 hours, we
5 buried a quarter of a million birds right at
6 it, in southwest Louisiana. So we can move
7 really quick to take care of issues. We have
8 memorandums of agreement with DEQ to be able
9 to move out without having to get their
10 approval for sites, because we had the
11 knowledge and the expertise to locate burial
12 sites. So there's a lot of expertise out
13 there that can be --

14 MR. ANGELLE: So if we -- I think you
15 are absolutely right. They are a
16 coordinating agency, and, you know, allow us,
17 the state, to speak with one voice and one
18 response. And so I think if we take, you
19 know, perhaps, you know, one of the
20 take-aways is a meeting with those folks, and
21 trying to take what you have already, already
22 done to make sure that, that we can just take
23 advantage of your work. And, and as we are
24 looking for them to be that coordinating
25 agency -- again, one of the things that I

1 don't necessarily think I would have thought
2 of, and just sitting here you did a good job
3 of stimulating that thought, would be, you
4 know, when we have a ground water problem,
5 how do we, you know, how do we reach out to,
6 to the livestock folks and, and so, you know,
7 soil and conservation, farm bureau, ag. So
8 they need to be part of it. And seems like
9 you already are in that area. So I think
10 there's some opportunity there.

11 MR. BALKUM: And for what it's worth,
12 it was stressed the value that their existing
13 contacts with the parishes, and how valuable
14 that is in an emergency response, and their
15 capabilities to communicate with
16 multi-agencies. So there seem to be some
17 more instances to discuss those.

18 Any further discussion on, on this
19 agenda item?

20 MR. ANGELLE: Okay. Does that
21 complete?

22 MR. BALKUM: Yes, that wraps it up.

23 MR. ANGELLE: Thank you. Appreciate
24 it. Good job.

25 Okay. Collaboration, Mr. McKinney.

1 MR. MCKINNEY: Thank you, Mr.
2 Chairman.

3 This is a rather interesting topic.
4 When I first got the word that this would be
5 one that I may be interested in discussing,
6 without knowing the bullet points, I began to
7 do a little looking into collaboration. And
8 just simply Googled "collaboration" on the
9 Internet, and came up with 281 million
10 possibilities. So we are talking about a
11 very subjective subject here, but we are, in
12 this particular case, going to try to hone it
13 in on five bullet points.

14 And we start out with the first one
15 here, it simply says, Should additional
16 efforts be initiated to locate and, and
17 implement reservoirs in strategic locations?

18 I'm not familiar with all of the
19 proposed endeavors around the state. I do
20 know that there's one in West Ouachita. I do
21 hear of one in the Minden area. There's also
22 currently now a push to -- in Winn Parish to,
23 to possibly create a reservoir of some nature
24 there.

25 I don't know when the last reservoir

1 or lake, or whatever we want to call it, was
2 put into place here in Louisiana. Maybe it
3 was Caney Lake or something like that. I
4 don't know.

5 MR. SPICER: We have more recent
6 structures. Yeah, we have more recent
7 structures than those.

8 MR. MCKINNEY: Okay. Okay.

9 But this, this is, obviously, an area
10 that people who are passionate about this
11 in their particular regions. As Mac Calhoun
12 over in Ouachita Parish has repeatedly told
13 us, he is so frustrated with this particular
14 issue because he has already done all the
15 studies and everything necessary. Of course,
16 like everything else, money is the issue when
17 we get down to it.

18 So in this particular case, I would
19 say, well, what are "additional efforts"? I
20 don't even know what our current efforts are.
21 So how do we -- can anyone shed some light on
22 what are our current policies or efforts in
23 dealing with this particular issue? Where
24 would that fall? Who is responsible for
25 that?

1 MR. JONES: Actually, the DOTD funded
2 recently a statewide reservoir study. And,
3 and, again, that, that report is basin wide,
4 from one basin to the next, and is available.
5 I will say that -- and, again, it's, it's
6 effectively a reservoir planning guide.

7 MR. McKINNEY: Okay.

8 MR. JONES: Okay.

9 MR. McKINNEY: And so that would be
10 throughout, obviously, the entire state?

11 MR. JONES: That's correct.

12 MR. BALKUM: Ted?

13 MR. McKINNEY: What do we mean by
14 "additional efforts" other than that? I
15 mean, what's this bullet point implying here;
16 does anyone have any idea?

17 MR. BALKUM: Ted, I was just going to
18 touch on that plan. It was a reservoir
19 prioritization plan. The idea behind it,
20 there's some ranking criteria, it would allow
21 the legislature to, to look at a prioritized
22 list and make their funding decisions based
23 on some of those objective criteria. I think
24 that plan has wrapped up. It's a terrific
25 summary about different basins and water

1 needs at that time.

2 MR. MCKINNEY: Well, would you then
3 say that this particular bullet point has
4 been taken care of?

5 MR. SNELLGROVE: No, sir. I think the
6 discussion here is, in that plan, as it was
7 developed, may not have considered to the
8 degree that may be necessary a ground water
9 aspect. In other words --

10 MR. MCKINNEY: Okay.

11 MR. SNELLGROVE: -- locating these --
12 in the priority ranking, you know, does it
13 really, does it really address the needs of,
14 perhaps, an alternative --

15 MR. MCKINNEY: Right.

16 MR. SNELLGROVE: -- you know, in areas
17 where ground water resources are limited or
18 stressed or what have you.

19 MR. ANGELLE: So let me just wrap it
20 up by saying that absolutely the legislature
21 when making capital outlay investments and
22 those kind of decisions on reservoirs, should
23 know where the construction of those
24 reservoirs can absolutely lead to ground
25 water deficiencies that the Ground Water

1 Resources Commission has already previously
2 identified, as opposed to, I need a
3 reservoir, which has a lot of different
4 value, recreation, aesthetic, economic
5 development. We just need to say, from our
6 standpoint, we just kind of want to start
7 waving our arms and say, please take us into
8 consideration as the manager of the ground
9 water resource. And I don't think that's
10 necessarily happening.

11 MR. SNELLGROVE: Yes.

12 MR. LOEWER: It's interesting, this
13 discussion, it comes back as the Ground Water
14 Commission comes -- I mean, any time you talk
15 reservoir, you're not filling that reservoir
16 with ground water. You're filling it with
17 surface water. So it's a surface water
18 issue. But we tend to go into surface water
19 issues always kind of like we don't know if
20 it's part of our bailiwick or not.

21 MR. ANGELLE: Well, it is part --
22 everything is part of our bailiwick as
23 relates to the opportunity to improve, manage
24 the ground water.

25 MR. LOEWER: Right. I understand

1 that. But what I'm thinking is, when do we
2 start the process that let's you get
3 permission for it like we are for ground
4 water for surface water? So --

5 MR. ANGELLE: Well, I think, I think I
6 saw one comment by, by the newly made
7 Senate -- chairman of the Senate Natural
8 Resources Committee that that's one of the
9 things that he feels very strongly about.
10 And, and so he and I are going to meet next
11 week so I can try to figure out what's his
12 expectations and discussions.

13 Because I think it would be a failure
14 for the state government to have another
15 group of men and women working in another
16 building at another time about surface water
17 when, when we're working on ground water,
18 because the reality of it all is they are
19 interrelated. And what I see -- the vision
20 that I have for the state is that we are
21 going to move to a comprehensive water
22 resources commission that's not limited to
23 just ground water in its nature. You know,
24 we're kind of stepping out asking for
25 forgiveness instead of permission, but it

1 would be good for, I think, in the long term,
2 to have this group more broadly -- its
3 mission more --

4 MR. LOEWER: By law, the Commission
5 would have to be enhanced. It would have to
6 be changed --

7 MR. ANGELLE: So I want to get ahead
8 of that before I see a bill that sets up that
9 new group of men and women meeting in another
10 room. And, you know, I mean, I think that's,
11 that's part of what the problem is we have
12 now. We have a -- I mean, there's tremendous
13 amount of effort that go on in Wildlife &
14 Fisheries, DEQ, DNR, DOTD, Coastal, the local
15 governments. This is the only group that's
16 attending -- attempting to try to -- and
17 Ag -- attempting to try to, I think, pull it
18 together.

19 So I took an opportunity to advocate
20 probably a little bit more than just answer
21 your question.

22 MR. LOEWER: Well, I would advocate
23 that we can't move too soon, but we should.

24 MR. MAYS: Secretary, I just -- maybe
25 the verbiage on that could be that -- could

1 add some water availability or capacity. We
2 have -- I fish a lot. We have three lakes in
3 our area. I love to fish them, and they are
4 great fishing and the recreation is there,
5 but they don't -- they would not be a
6 potential to add one drop of water for a
7 water supply other than recreation.

8 So if when we are looking at these
9 reservoirs, from our standpoint, they need to
10 be in a watershed that has enough water
11 coming in there that they can produce as a
12 source of, of water.

13 MR. ANGELLE: Okay. So how would you,
14 how would you -- you want to add to the first
15 bullet point? I mean --

16 MR. MAYS: I guess, I would say add to
17 the -- add some verbiage to the first that,
18 as where we said, that if we are going to use
19 that as an alternative to ground water, that
20 that -- it has to be able to produce enough
21 water in that watershed to actually be an
22 alternate.

23 MR. ANGELLE: So our emphasis on
24 engineering that, that solves long-term
25 ground water issues because of the source

1 being able to consistently provide recharge
2 opportunities. You know, we obviously will
3 clean it up, but --

4 MR. MAYS: Something like that.

5 MR. ANGELLE: Am I in the
6 neighborhood?

7 MR. MAYS: Yeah.

8 MR. ANGELLE: I'm not on the street,
9 but I'm in the neighborhood?

10 MR. MAYS: You are.

11 MR. ANGELLE: Maybe the zip code.

12 MR. McKINNEY: We have been told by
13 USGS that, technically, Lincoln Parish is
14 sinking to what we have already alluded to
15 and is not suitable for such a facility. In
16 other words, it wouldn't be enough water
17 falling out of the sky to fill it. It
18 essentially will not accumulate. It's not
19 there.

20 I'm sure there are other particular --

21 MR. FREY: There's other -- before we
22 leave that, too, I just point out, you get
23 land rights issues in regard to the
24 expropriation authorities of these reservoir
25 districts that create another huge issue.

1 Takes property out of the tax base, the local
2 tax base.

3 And, you know, it's been my
4 experience, when you see these reservoirs --
5 I think Mickey's right on -- it's primarily a
6 recreation fishing hole. I like to use them,
7 too, but it takes a lot of watershed acreage,
8 particularly in north Louisiana, forested
9 acreage, which is your primary recharge area,
10 and takes that out of the equation. So all
11 that has to be considered. And, you know, if
12 you get enough heads at the table, I think
13 those things will come out.

14 MR. BALKUM: Paul, I would like to add
15 a little bit.

16 I participate on some of the
17 evaluation of more recent proposed
18 reservoirs, and many of them, a couple of
19 them, have hit some regulatory snags and
20 haven't proceeded very far. Calls were about
21 taking ag land or forestry lands out of, out
22 of private land holdings. You know, you are
23 going to inundate hundreds of acres possibly
24 on a large scale, if it's a large scale
25 reservoir, you can inundate hundreds of acres

1 of land. You are going to inundate wetlands.
2 Wetlands mitigation costs have skyrocketed.
3 Hundreds of thousands if not a couple million
4 dollars potentially mitigate wetland pacts
5 when you inundate a lot of land. That's
6 something that's got to be considered.
7 Locating these reservoirs is, is the key.
8 Wildlife & Fisheries, again,
9 obviously, we're concerned about inundating
10 good wildlife habitat. But if we had to
11 manage that reservoir, shallow reservoirs
12 have a lot of problems with aquatic
13 vegetation problems. So we would want to
14 eliminate that. A lot needs to go into
15 location. Depth of the reservoir, of course,
16 where you have a lot more problems can be
17 solved. We need water treatment adjacent to
18 them and pipelines to distribute that water.
19 Justifying these regulatory committees is
20 key, or else we will hit a roadblock and
21 these projects will die. A lot of federal
22 agencies aren't really -- at least some of
23 the resource states aren't keen on because
24 they are inundating quality habitat
25 oftentimes. So a good purpose, like reducing

1 ground water usage, might be -- might help
2 justify these projects. But if it's just for
3 waterfront property, it's going to be tough
4 to regulate, tough to approve.

5 MR. SPICER: I would like to make one
6 more comment regarding reservoirs. If they
7 are built for, for water use, public water
8 use, then they should be designated by the
9 legislature for that purpose. Because what
10 typically happens with any reservoir, folks
11 move around it, call it for recreation, and
12 these other issues become more important to
13 the management of that reservoir than the
14 original use. So I think it's critical that
15 we have in law what, what the purpose of that
16 reservoir is to be for.

17 MR. BALKUM: Yes, very important.

18 MR. McKINNEY: Any more comments on
19 this particular bullet?

20 All right. The second one, Should the
21 state consider aquifer-based regions similar
22 to Sparta and Capital Area?

23 Back in 2002 -- and, of course, I
24 wasn't familiar until I started looking into
25 this -- there was a report that you guys had

1 presented to you called the Fenstermaker, or
2 whatever it is, Report. And in that
3 particular report, they broke the state into
4 three areas dealing with aquifers. There's
5 the Sparta to the north, Chicot to the south
6 central and then the Southern Hills. One of
7 the three major ones that are listed there in
8 the report.

9 I'm inclined to think that this is
10 what should be done. There needs to be
11 something of some, as you would say in this
12 particular case, top down with the down side
13 of that being there are people on the down
14 side who are very familiar with all of these,
15 as in the case I use the Sparta because
16 that's the one I'm most familiar with.

17 We sense in the Sparta area
18 particularly, in relationship to the Sparta
19 ground water conservation folks, that we are,
20 we are really people just about at our wits
21 end as far as what we have done as a
22 commission and can do with very, very, very
23 limited funding and a good decline of the age
24 old associates of the association either
25 moving off or getting off or whatever. And

1 so we have a younger group who are not
2 passionate enough to pursue it to a great
3 degree. But, anyway, those are side issues.

4 And so I open this up for discussion
5 about how would we, as an association, or how
6 would we as a DNR here look upon the regional
7 inputs, as in the case of the Georgia
8 situation, you know, where they have the
9 discipline? They have kind of a flow from
10 the bottom up, but, yet, there's a pyramid of
11 the top down situation. Okay.

12 MR. SPICER: Yes. I think at some
13 point we did have more than just the three.
14 I think the Commission identified seven
15 areas, if I'm not mistaken.

16 Tony, do you remember?

17 MR. DUPLÉCHIN: There was five.

18 MR. MCKINNEY: Five.

19 MR. SPICER: Five areas. And that
20 included the lower Mississippi or something
21 like that. So I think we ought to go back
22 and take a look at that. That also
23 identified the structure for --

24 MR. MCKINNEY: It did.

25 MR. SPICER: -- input into the

1 Commission. And I think if we are going to
2 move ahead in that direction, we ought to
3 look at what we already had in place back
4 several years ago, see if that's working.

5 MR. ANGELLE: So the, the report that
6 you referenced, was, you said, four, four
7 areas, four geographic --

8 MR. McKINNEY: They had three regions
9 for the main, the main -- the main aquifers
10 in three regions. But then for the
11 management areas, they had five areas broken
12 down.

13 MR. ANGELLE: So where you have --
14 where you may have an aquifer-by-aquifer
15 management plan, again, just like we have
16 lake management plans --

17 MR. McKINNEY: Right, right.

18 MR. ANGELLE: -- where you have
19 multiple aquifers in a certain region, I'm,
20 I'm trying to, to have a vision of what --
21 how you, you would -- I mean, certainly,
22 having some bottom up makes a lot of sense.
23 I mean, I don't think that we would doubt
24 that. I would not doubt that. How you get
25 there, I think, is really, really critical,

1 though.

2 We don't -- just by, just by analogy,
3 so that we -- you know, and, of course, I
4 realize that this is a different resource.
5 And just because we have done it that way, we
6 don't have to do it that way.

7 But, but I'm not aware at DEQ that
8 you-all manage any of the resources that you
9 have responsibility of managing with a kind
10 of a district-oriented basis. You may be,
11 you may be subdivided in your own
12 organization, but there's no, there's no air
13 conservation district in the East Baton Rouge
14 area to deal with ozone.

15 MR. MILLER: We do have -- you do have
16 designation of areas, whether they attain
17 standards or not, but not, not subsets --

18 MR. ANGELLE: I'm talking about
19 governing.

20 MR. MILLER: No.

21 MR. ANGELLE: Governance.

22 I'm not aware at Wildlife &
23 Fisheries --

24 MR. BALKUM: (Shaking head.)

25 MR. ANGELLE: -- where we have area 1

1 for deer and area 6 for deer, that there's a
2 group that is formally recognized there.

3 MR. BALKUM: Right.

4 MR. ANGELLE: I don't think we -- I'm
5 not aware of us having anything. And so the
6 water is, obviously, much more important than
7 all of those things.

8 Are you talking about, for instance,
9 taking the Capital Area model and the Sparta
10 model and allowing or suggesting that those
11 kind of groups, the rest of the map be filled
12 in where areas --

13 MR. McKINNEY: Well, that's what the
14 bullet point is implying here. And in that
15 particular case that was brought out in 2002,
16 they went ahead and broke it down into three
17 particular areas, major areas, as opposed to
18 the five managing districts.

19 MR. ANGELLE: Okay.

20 MR. McKINNEY: Okay. But now here
21 again, I understand, I understand what you
22 are saying. And, indeed, but I have been
23 told that Department of Health and so on and
24 so forth, they are districts.

25 MR. ANGELLE: They are human service

1 districts, yes, sir.

2 MR. McKINNEY: So you do get some
3 sense, do you not, some sense of bottom
4 management coming up through the ranks to
5 your headquarters?

6 MR. ANGELLE: Yeah. There's a lot of
7 them. I mean, we've got, we've got a lot of
8 districts. But I'm talking about from a
9 resource, resource management district is
10 what I'm looking at. I think we do have some
11 lake districts. I'm aware there are some
12 lake districts that, that the legislature has
13 set up, which would be managing a resource.
14 So that's one example.

15 MR. McKINNEY: Well, to give you an
16 example. We recognize in the case of the
17 Sparta, for example, the Capital with five
18 parishes, okay, we are sitting there with 15
19 or 16 parishes that are represented.

20 MR. ANGELLE: Right.

21 MR. McKINNEY: We don't have, we don't
22 even have a population base or, or a base for
23 a revenue to even compare with what you would
24 have in the Capital. So there again, if you
25 look at the Sparta, it's just not there, you

1 know, and so you run up against those
2 obstacles there.

3 MR. ANGELLE: When you say it's not
4 there, is it -- what's not there?

5 MR. McKINNEY: Well, you -- one, you
6 don't have a revenue stream.

7 MR. ANGELLE: Right.

8 MR. McKINNEY: Whether you can
9 generate it from yourself, of course, I don't
10 expect the state is going to come up with it.
11 But in the Capital, do you not, do you not
12 have a fee schedule?

13 MR. ANGELLE: Right. But if we put,
14 if we put revenue aside for a second and
15 just, and just say, you know, we all are
16 always going to have those problems, does
17 it -- is it good public policy to have those
18 districts that have a seat at the table? I
19 mean, it's clear to me that the state gets --
20 at least that Secretary Dino gets the message
21 that the folks who serve on the Sparta
22 Commission and the folks who serve on the
23 Capital Commission take it serious and, and
24 would expect and have a high expectation that
25 it would be some communication. That -- so

1 that, so that works.

2 Try to take that model and say, you
3 know, why, why don't we have something like
4 that in the Chicot area, you know.

5 MR. McKINNEY: Yeah.

6 MR. ANGELLE: I don't know why. It
7 takes -- obviously, the legislature hasn't
8 attempted to do it or sales hasn't attempted
9 to do it or hurricane to do it. I don't
10 necessarily -- I know we haven't recommended
11 it, at least in my time here.

12 And so but in absence of, even absence
13 of revenue and income, I think it's clear to
14 say that, that both the Capital unit that had
15 revenue and the Sparta that, perhaps, didn't
16 have revenue, that both of them have made an
17 absolute positive difference in the
18 management of the resource.

19 MR. McKINNEY: Well, I agree on that
20 one.

21 MR. ANGELLE: Okay. So how do we --
22 if we are talking about saying we should set
23 up these regions, tell me what authority the
24 Sparta Commission has in managing the
25 resource I guess is -- because that's what

1 this is about, the intersection of demand for
2 the resource.

3 MR. McKINNEY: The Sparta has no, no
4 authority to manage anything. It is a
5 collecting agency for data whenever it has
6 funds to hire a study or whatever. That's
7 it. That was the stated purpose.

8 MR. ANGELLE: Right. But its ability
9 to collect and to perform that impacts the
10 management of the resource.

11 MR. McKINNEY: Sure.

12 MR. ANGELLE: And they may in and of
13 themselves may not say you can or you can't,
14 but the fact that they are active, they get
15 to, to --

16 MR. McKINNEY: Get the point across.

17 MR. ANGELLE: Got you.

18 Whereas, Capital has more of a
19 management authority, right?

20 MR. OWEN: Yes.

21 MR. ANGELLE: And, and so the
22 legislature gave you that authority?

23 MR. OWEN: Yes, they did. They
24 enabled the legislation.

25 MR. LOEWER: Mr. Secretary, before

1 your tenure, when the bill was, was -- the
2 act was passed to form this Commission and
3 the Advisory Task Force Commission group,
4 there was also in that language the, the five
5 areas, the regional stakeholders group, and
6 we had one for Chicot that was formed and
7 came forth. And, and for several times they
8 used to would come to these meetings until we
9 didn't have them.

10 MR. ANGELLE: Well --

11 MR. LOEWER: We didn't, we didn't
12 select them as the group from that area,
13 because we didn't know what our position was,
14 they didn't know what to do. And we
15 invented -- well, it wasn't we invented the
16 wheel. It was a new wheel.

17 MR. ANGELLE: But the difference, the
18 difference there, I think, is that, that was
19 something that was a function of this group,
20 whereas those two groups are a function of a
21 legislative act.

22 MR. LOEWER: I understand that. And I
23 know it's a little bit apples and oranges,
24 but until you have something like that, once
25 you had that established, be the spokesman

1 for that region, then more of this kind of
2 thing could be developed.

3 MR. ANGELLE: Right, right.

4 MR. DUPLÉCHIN: Let's go back a few
5 years ago in history and this is in previous
6 administration.

7 The law says, under the duties of the
8 Commission, the Commission may direct the
9 Commissioner to promulgate rules and
10 regulations for the appointment or
11 designation of up to five regional bodies
12 based on the general location of major
13 aquifer systems and water sources of the
14 state and composed of local stakeholders who
15 are representative of current users. Such
16 bodies may gather and provide local input to
17 the Commission and the Commissioner.

18 The previous Commission did direct the
19 Office -- the Commissioner to do that. Rules
20 and regulations were drafted and presented to
21 the Commission for review. There was a lot
22 of discussion on those. The staff was ready
23 to have one final meeting and then go before
24 the Division of Administration with proposed
25 rules and regulations when Katrina hit. We

1 had a Ground Water Commission meeting --
2 Office of Conservation had a Ground Water
3 Commission meeting scheduled for September
4 right after Katrina hit. Ground Water
5 Resources Commission did not meet again until
6 the middle of 2006. And by that time, all,
7 all efforts were on, on the hurricane.

8 MR. ANGELLE: So, so you started off
9 by saying the Commission has or the
10 Commissioner has. Where's the authority
11 there?

12 MR. DUPLECHIN: The Commission.

13 MR. ANGELLE: Say again.

14 MR. DUPLECHIN: The Commission may
15 direct the Commissioner of Conservation to
16 promulgate rules and regulations for the
17 appointment or designation of up to five
18 regional bodies based upon the general
19 location of major aquifer systems and water
20 sources of the state and composed of local
21 stakeholders who are representative of
22 current users.

23 MR. ANGELLE: Okay. Based on that and
24 based on the work that led to that effort in
25 2005, can you give me some comment on what's

1 different there versus what authority or the
2 way the Sparta Commission is established, or
3 would the Sparta Commission, in a sense, be
4 one of those five?

5 MR. DUPLECHIN: That was some of the
6 discussions that took place back then. You
7 know, it would be up to the Commissioner to
8 determine if the Sparta Commission would be
9 one of those groups.

10 MR. ANGELLE: Well, we -- okay. So
11 just to develop that conversation, it would
12 be somewhat very confusing to have the Sparta
13 Commission -- and we are just using that
14 example. We could use the Capital Area --
15 but the Sparta Commission to be statutorily
16 formed by act of the legislature for us to
17 establish yet another group because we have
18 some authority and you would have two
19 different groups there. That would be -- you
20 would say that would not be very workable;
21 right?

22 MR. DUPLECHIN: Right. Correct.

23 MR. ANGELLE: And I don't want to put
24 words in your mouth, but it would seem to
25 make sense where you have got a group that is

1 highly functioning and passionate about it,
2 that they would, in fact, be that group.

3 MR. DUPLÉCHIN: That's correct.
4 That's correct.

5 MR. ANGELLE: May need tweaking a
6 little bit.

7 MR. DUPLÉCHIN: Right. Let's look at
8 the Capital Area.

9 MR. ANGELLE: Okay.

10 MR. DUPLÉCHIN: Okay. We're five
11 parishes around Baton Rouge. Southern Hills
12 aquifer system extends out throughout the
13 Florida parishes. If the Commissioner were
14 to designate a Southern Hills Ground Water
15 Commission, or what have you, then it would
16 have to include all the parishes that are
17 underlain by the Southern Hills aquifer, not
18 just the five parishes.

19 MR. ANGELLE: Okay. I got that.
20 Let's move it a little bit further.

21 Capital Union is an anomaly in -- that
22 Capital Area Commission is an anomaly as far
23 as management. That is the -- is that the
24 only group that you are aware that the
25 legislature has given some specific authority

1 to manage a ground water --

2 MR. DUPLÉCHIN: To manage ground
3 water.

4 MR. ANGELLE: Is that correct?

5 MR. DUPLÉCHIN: That's correct.

6 MR. ANGELLE: Okay. And what -- can
7 you speak to some of the authorities that
8 that group has.

9 MR. DUPLÉCHIN: The Capital Area does
10 have the authority to issue permits, water
11 well permits, now looking at the withdrawal
12 rates. It's based on depth, whether they go
13 against the Southern Hills aquifer or the
14 Mississippi River alluvial aquifer based on
15 withdrawal.

16 MR. ANGELLE: Are those authorities
17 consistent with that of the Commissioner, or
18 are they duplicative, or are they in place of
19 the authority of the Commissioner?

20 MR. DUPLÉCHIN: They, I would say,
21 supplement the authority of the Commissioner.

22 MR. ANGELLE: So in the Capital Area
23 you have to get two permits, one from the
24 state and one from the Capital Area, versus
25 if you are in --

1 MR. DUPLECHIN: More or less. The
2 Office of Conservation does not actually
3 issue a permit.

4 MR. ANGELLE: Yeah, I understand.

5 MR. DUPLECHIN: But, yes, they have to
6 go to both agencies in, in advance.

7 MR. ANGELLE: And can, can the denial
8 of one result in, in, in someone's inability
9 to move forward with their intended plans?

10 MR. DUPLECHIN: I would say so.
11 Because if you don't have a permit from
12 Capital Area, then you can't put the well in
13 until it's resolved.

14 MR. ANGELLE: So that authority has
15 been specifically given to that group?

16 MR. DUPLECHIN: Right.

17 MR. ANGELLE: And when was that? That
18 was sometime --

19 MR. DUPLECHIN: 1974.

20 MR. ANGELLE: '74.

21 So when a major industry in Baton
22 Rouge wants to drill a large volume ground
23 water well, they have to -- they originate
24 most likely with the Capital Area?

25 MR. DUPLECHIN: Yes.

1 MR. ANGELLE: And so the saltwater
2 intrusion issue that the Capital Area, which
3 has kind of recently been in some of the
4 reports, of which we got a resolution, I
5 recall -- I'm talking, I guess, to staff
6 here. We got a resolution from the East
7 Baton Rouge Council asking us to work with
8 the or to be involved, and I think our
9 response was we kind of share this
10 management. And, and you would view, you
11 would view that as a shared, a shared
12 responsibility?

13 MR. DUPLECHIN: Shared responsibility.

14 MR. ANGELLE: Do you know any history
15 of in 1974 how that came to be?

16 MR. OWEN: I do.

17 In 1974, there was a recognition
18 almost for the first time of the serious and
19 progressive nature of saltwater intrusion
20 past the Baton Rouge fault that had been
21 recognized. And it was also recognized at
22 about the same time that in the industrial
23 area there had been a subsidence of ground
24 surface of up to 12 inches. And this was
25 documented by a study that was headed up by

1 LSU concurrently with that, which led to
2 almost the two simultaneous recognitions on a
3 public basis of subsidence and ground water
4 encroachment.

5 And I think that that recognition led
6 to these initial steps which certainly led to
7 the initiation of forming the Capital Area
8 Ground Water Commission. It also led to the
9 request for, for the legislation, and then
10 the cooperative effort within the five-parish
11 area to develop the rules that still govern
12 the Commission today.

13 MR. ANGELLE: Prior to 1974, Gary,
14 Jeff, so, prior to 1974 -- well, at that
15 time, I should say, can you comment as to
16 what were the state's effort in managing the
17 resource? I'm just trying -- I'm trying to
18 get a point here to -- I'm trying to get
19 somebody to make a point.

20 Can you comment -- I mean, I know if
21 we look at the timeline, the state really
22 didn't get active until 2001, because we've
23 kind of all said that before. Can somebody?
24 I'm sorry, anybody?

25 MR. SPICER: I can.

1 MR. ANGELLE: Go ahead, brother.

2 MR. SPICER: Okay. Well, prior to
3 1974, we didn't have any formal structure.
4 After 1974, we had a state group made up of
5 Stream Control Commission, representatives
6 from DNR, folks that just agreed to get
7 together, Capital Ground Water.

8 MR. ANGELLE: I'm talking about, I'm
9 talking about authority. I'm talking about
10 authority.

11 MR. SNELLGROVE: Yeah, John put
12 together a timeline to send to Jennifer the
13 other day. So I think it's pretty fresh.

14 MR. ADAMS: Prior to 1974, the only
15 management authority was DOT's authority to,
16 to regulate the construction and registration
17 of water wells.

18 MR. ANGELLE: So it was -- it was the
19 wild, wild west in 1974 where if you wanted
20 to drill something, you could, you had no
21 limitations, you had to just make sure that
22 your well construction met some engineering
23 standard of which DOT would approve?

24 MR. ADAMS: That's correct.

25 MR. ANGELLE: But as far as

1 limitations on withdrawals and large volumes
2 and all, we -- pretty much the State was not
3 at the table there.

4 MR. ADAMS: There, at that time, they
5 did implement the authorization for DOTD to
6 regulate water wells drawing more than 50,000
7 gallons per day.

8 MR. ANGELLE: Okay.

9 MR. ADAMS: So prior to 1974, there
10 was nothing.

11 In 1974, the regulation was passed
12 saying that they could regulate wells drawing
13 more than 50,000 gallons per day. And on
14 other wells, they had construction
15 requirements that they could implement.

16 MR. ANGELLE: Do you know if those,
17 those authorities were adopted in this
18 legislative session?

19 MR. ADAMS: Yes, sir, they were.

20 MR. ANGELLE: Okay. So while the
21 legislature was saying we've got an acute
22 problem here in the five-parish region, we
23 are going to set up this group, we are going
24 to give it some authority; correct?

25 MR. ADAMS: Let me make sure I

1 understand your question. You're talking
2 about the establishment of the Capital Area
3 Ground Water Commission?

4 MR. ANGELLE: Well, both. Both.

5 MR. ADAMS: No, sir. That was done --
6 DOTD's regulations was done in 1972; whereas,
7 that was done in 1974.

8 MR. ANGELLE: Okay. So in '72 the
9 state, the state said with 50,000 or more, we
10 are going to let DOT, you are going to have
11 to get some permission?

12 MR. ADAMS: Correct.

13 MR. ANGELLE: It might be a permit,
14 but it is some --

15 MR. ADAMS: It's not a permit, but it
16 is -- they have the authority to regulate,
17 and you have to comply with, with
18 construction standards.

19 MR. ANGELLE: Okay. And then,
20 obviously, that -- I'm just speculating
21 here -- did not do enough to solve a
22 sustainability problem and a saltwater
23 intrusion problem in this particular area.
24 So in '74 the legislature said we are going
25 to set up a geographic area district that --

1 and we are going to give it some governing
2 authority, and -- but we do not -- they,
3 obviously, elected not to give that governing
4 authority to the State of Louisiana.

5 MR. ADAMS: That's correct.

6 MR. ANGELLE: It was only this group
7 in this area.

8 MR. ADAMS: Yes, sir.

9 MR. ANGELLE: And there was nothing of
10 that nature, say, in the Chicot or in the
11 Sparta in terms of authority. And we, for
12 the first time, designated -- gave to a local
13 group more authority than the state, itself,
14 had?

15 MR. ADAMS: That's correct.

16 MR. ANGELLE: All right.

17 MR. DUPLÉCHIN: One other thing. In
18 doing a little research to respond to
19 Commissioner Welch's request for information
20 in the Baton Rouge area, I did find out that
21 a bill was passed in '72, I think it was, to
22 make a Baton Rouge Ground Water Management
23 District. It failed. And then two years
24 later it was expanded to include the five
25 parishes around Baton Rouge, East Baton Rouge

1 Parish. So saltwater intrusion in Baton
2 Rouge had been recognized for decades before
3 the legislation was actually passed.

4 MR. ANGELLE: All right. And I know
5 that, Mr. Eugene, you have given us some
6 background before, but just real quick, the
7 governance model of Capital Union -- Capital
8 Area is to -- members from each parish and
9 groups are designated and serve on a Board of
10 Directors, they have a staff?

11 MR. OWEN: Right.

12 MR. ANGELLE: Correct?

13 They charge -- do you-all have
14 authority to charge fees?

15 MR. OWEN: We charge a withdrawal fee,
16 which funds the operation, the staff and
17 certain initiatives that the staff and the
18 Board may approve.

19 MR. ANGELLE: Right. And those fees
20 are charged for certain -- over a certain
21 size?

22 MR. OWEN: No. Those fees -- well,
23 those fees are charged for all large wells
24 that withdraw more than a certain amount and
25 not charged for domestic wells. But those

1 fees are charged for withdrawals for aquifers
2 below the -- above -- they are not charged, I
3 will put it this way, for aquifers above
4 about 200, about 300 feet because the --

5 MR. ANGELLE: I see.

6 MR. OWEN: And that takes the
7 Mississippi River alluvial out of any charges
8 for withdrawal. The deeper sands are subject
9 to the withdrawal fee.

10 MR. ANGELLE: Got you.

11 MR. OWEN: I believe the current
12 withdrawal fee is \$4 a million.

13 MR. ANGELLE: And what does that
14 generate annually?

15 MR. OWEN: It must generate about
16 400,000. The withdrawal is about a hundred
17 million gallons. So at \$4 a million, that
18 would be \$400,000 a year.

19 MR. DUPLÉCHIN: Not every well in the
20 five-parish area is regulated by Capital
21 Area, as Mr. Owens said.

22 MR. ANGELLE: Right.

23 MR. DUPLÉCHIN: Domestic wells, bona
24 fide agricultural use wells are not, are not
25 regulated. So we don't collect a fee from

1 them.

2 MR. ANGELLE: Sure. Right.

3 I just think it's interesting that
4 when the state had this issue in '72 or '74.

5 MR. ADAMS: '74.

6 MR. ANGELLE: And I want to make sure
7 I have my dates right because my father was
8 chairman of the House Natural Resources
9 Committee in '72, so I don't want any -- I
10 want to make sure that, that he did a good
11 job.

12 MR. SPICER: He did.

13 MR. KILLEBREW: He did. I can testify
14 that he did.

15 MR. ANGELLE: Thank you, sir. I
16 appreciate those kind words.

17 That we -- it's interesting that the
18 state responded and industry either supported
19 or lost the management of a state asset on a
20 local level. You know, we don't, we don't
21 manage -- again, I'm talking about authority.
22 We don't allow locals to manage deer,
23 waterfowl, squirrel, rabbits, doves, oil,
24 gas, air. It's interesting.

25 But what is viewed as the highest,

1 most important water resource in -- I mean,
2 most important resource in, in, in the
3 universe, we have. Just making history.

4 MR. SPICER: Well, it is history, in
5 that we didn't really think water as any --
6 as a serious matter to consider. We -- the
7 only reason why we ever put the Commission
8 together was because of water quality issues
9 more than supply issues.

10 MR. ANGELLE: Right. I get that.

11 I just think that it's interesting now
12 when, when the state was faced with an issue
13 in 1974 in one area, that there was not a
14 whole bunch of vision to say, you know,
15 what's happening here, may very well happen
16 somewhere else.

17 MR. BURLAND: Well, you know, let's
18 not forget that some of the national
19 environmental office of clean air and clean
20 water acts were passed in the early '70s.
21 And I think as, as the federal government,
22 you know, intruded into, into the area
23 traditionally reserved for the states, that
24 I'm sure that we were -- some of them was
25 trying to, to grab their share before, before

1 the feds moved in.

2 But, but I want to ask you, Tony, if I
3 could, about, since you were here on staff
4 when, when I think those draft regulations
5 were set aside due to Katrina. Is it your
6 opinion that that would have satisfied a
7 successful integration of these groups
8 already formed into a commission advisory --

9 MR. DUPLÉCHIN: The proposed
10 regulations did set up how the groups were to
11 be formed and, you know, what the membership
12 would be.

13 MR. BURLAND: Was it consistent with
14 the already established groups of Sparta
15 and --

16 MR. DUPLÉCHIN: I think it was. I
17 would have to look at those, those, you know,
18 the proposal again to see, because that was
19 some six years ago now.

20 MR. OWEN: Was the Sparta, what was
21 the date of the formation?

22 MR. McKINNEY: 1999.

23 This is interesting that this kind of
24 parallels the El Dorado, Arkansas scenario.
25 Because when they got into trying to draw up

1 rules and regulations for Union County in
2 Arkansas, as I was told last week, they
3 immediately found that Arkansas law would not
4 allow them to do that for a set aside county.
5 So, therefore, whatever they did in Union
6 County had to apply to the entire state. So
7 immediately they hit a stumbling block with
8 the agricultural industry over in the eastern
9 part of Arkansas. So they had to go then and
10 meet with the agricultural industry and tell
11 them all the whys and why nots of what they
12 were trying to do, get them on board with it,
13 before they actually tweaked their
14 legislation so that they, in turn, became a
15 district. Now, then, that doesn't mean that
16 Bradley County, Arkansas, is my home county,
17 cannot apply to be a district and do
18 something similar in that district, but each
19 one will have the prerogative of doing that.
20 But that was their first obstacle.

21 And it's kind of interesting that now
22 then we see here in this particular case, we
23 have done quite the reverse of what they were
24 allowed to do there in Arkansas.

25 MR. ANGELLE: And I thought that

1 comment Mr. Spicer shared with me that when
2 this was put together, this particular group
3 and this legislation were put together, that
4 the, that the model of what had happened with
5 Capital Area, that the legislature had, and
6 that was at that point in time 10 years ago,
7 had no appetite for repeating that in that
8 kind of -- not, again, not the groups, but,
9 but the authority to manage the resource --
10 had no, had no appetite for, for, for doling
11 that out. You know, obviously, you know, you
12 were there, so, so you, you remember that,
13 that testimony.

14 So what I'm trying to struggle and
15 grind through is, is -- let me share my -- I
16 do believe that the five groups make sense
17 because, quite frankly, I think we're held to
18 a standard that says use everything that you
19 have in your toolbox to manage what, to
20 manage the resource before you come and ask
21 us for additional things. And if we haven't,
22 for whatever reason, completed the
23 establishment of these groups, then there's
24 some voices that are not at this table.

25 That's different from suggesting from

1 this group that there be some authority, some
2 legislation, to establish, to repeat the
3 model that is in place here in Baton Rouge.

4 And I'm trying -- I'm not sure that
5 is, is -- from your standpoint, I know that
6 we, we have had this kind of conversation.
7 I'm not even so sure that it wasn't a
8 resolution that you shared. I'm trying to go
9 back on a memory you shared with me last --
10 at last meeting.

11 So is that your opinion, that there
12 needs to be a, a Capital Area-like situation
13 in -- throughout the state?

14 MR. McKINNEY: Well, in the case of
15 the Sparta, a few of us have rethought that
16 particular issue I discussed with you, and
17 simply because we felt like that in the
18 100-mile plus or minus distance between the
19 east side and west side of the Sparta area,
20 just because of the logistics, it was not
21 feasible to even think that we could become a
22 Capital Area, just from the practical aspects
23 of it. And then, again, I mentioned the, the
24 income revenue stream on that.

25 But, here again, you have got to

1 realize, people, since 1999 we have been
2 operating with a volunteer group of people
3 that have come together for the sole purpose
4 of water, per se. And that is beginning to
5 wane to some degree, and simply because
6 people keep saying, well, we are not making
7 any progress, you know, we are not making any
8 progress. And, of course, you know, you had
9 my predecessor came here and sat here for
10 years and years and years, you know.

11 So I really don't know what to say in
12 this case. I feel like the people over the
13 Chicot, as already been implied, they need to
14 be here at this table just as much as anybody
15 else does, as does anybody else that
16 represents ground water throughout the state.

17 MR. ANGELLE: I think we, I think we
18 would see a seismic shift in those attitudes
19 of not making any progress if we completed
20 the establishment of those five groups and
21 that the Sparta Commission became one of
22 those groups, and then this Commission, in
23 the expression of that, would formally
24 recognize the Sparta group through this
25 legislation as a partner in, in the

1 collaboration of the management of that
2 resource. I think that would be a game
3 changer, and I think --

4 MR. McKINNEY: Would you write that
5 down?

6 MR. ANGELLE: Yeah, of course. I
7 mean, I will make a motion.

8 MR. McKINNEY: Gary, make sure that
9 gets in that document.

10 MR. ANGELLE: I sense some, some
11 doubting there.

12 MR. LOEWER: Well, there's some other,
13 there's some other effects than just
14 collaboration. We have been talking a lot of
15 different subjects, particularly education
16 stuff. Until you get the grass roots
17 involved where they know they have a voice
18 and not just coming up and signing a card and
19 saying and then going home, but where they
20 actually have a voice, that's when they get
21 passionate about what they're doing and
22 spread the word back down among everything,
23 of all the monitoring, the education, the
24 incentives, the -- all that. All that helps
25 to take place. We are not -- it's not top

1 down; it's bottom up. And that would be a --
2 but until we put that in place, it's not
3 going to happen. We are going to be pushing
4 a wet rope until we get that cooperation and
5 collaboration from, from the, from the grass
6 roots.

7 MR. MCKINNEY: I agree.

8 MR. LOEWER: More so than just
9 Advisory Committee, which is a large entity
10 that just -- that's still in progress. It's
11 not taking away from what they can do, but it
12 regionalizes it specifically and focuses, and
13 I think that's very necessary. We have the
14 law to do it. We just got to do it.

15 MR. OWEN: I would also add that the
16 capacity or willingness of the Capital Area
17 Ground Water Commission to manage the
18 resources is more theoretical than practical
19 -- than in practice. What the Commission
20 does, the Capital Area Ground Water
21 Commission does so well, is to assess the,
22 the joint needs of the, of the aquifers and
23 speak as a voice, rather than allocating
24 scarce resources or in managing it in the way
25 that I think you meant.

1 MR. ANGELLE: Right.

2 And I think that that is where I think
3 we need to have at least some agreement. You
4 know, the Bienville/Arcadia issue was an
5 example of even within, even within a region,
6 the left and the right hand, perhaps, not,
7 not, not --

8 MR. McKINNEY: Correct.

9 MR. ANGELLE: And had this Sparta
10 Commission, I think, been identified as one
11 of those five, I think that, that would have
12 been a group that would have been immediately
13 engaged as opposed to some e-mail system that
14 we now have.

15 I'm a strong believer in local input.
16 I spent 20 years in local government. And so
17 I believe in strong local input. At the same
18 time, I do believe, however, that a resource
19 of this magnitude has to be managed in a
20 consistent way at a state level.

21 MR. McKINNEY: That's understandable.

22 MR. ANGELLE: I think so. So it's
23 just, I think, trying to get more folks
24 around the campfire, giving them a voice, but
25 knowing at the end of the day, state

1 government is going to manage that resource
2 to me would be the model that would be much
3 better than what we, we have now, because we
4 haven't really completed -- taken full
5 advantage of the authority that we have.

6 MR. BURLAND: Well stated.

7 MR. McKINNEY: Appreciate that.

8 All right. The third one quickly:
9 Does the current reservoir siting and
10 prioritization protocol take into
11 consideration location of reservoirs in areas
12 of the state where alternatives to ground
13 water resources are in greater need?

14 There again, I just have to ask, what
15 we mean by "prioritization protocol." I'm
16 not familiar with any protocol or anything of
17 that nature, so...

18 MR. SNELLGROVE: We, we touched base
19 on that on the first bullet item. I believe
20 where, where we're at here on this, we are
21 getting more specific than where we were on
22 the first bullet. And there is a
23 prioritization procedure, an application of
24 sorts, that DOTD has up there under their
25 authority. Such that if an individual or a

1 company, what have you, is pursuing -- wants
2 to pursue a reservoir, then they go through
3 this -- they have to go through this process.
4 And it's, it's a paper process. And they
5 make an application, if you will, before DOTD
6 for them to review. And then I believe
7 ultimately that goes before the
8 legislation -- legislators to decide through
9 that prioritization process whether or not
10 they will -- they consider the project worthy
11 for appropriations.

12 So, so where this is going is we, we
13 know there's a process in place. And the
14 question is, is, you know, do we need to be
15 more involved in that process as far as
16 ground water resources goes.

17 I think we pretty much answered that
18 on the bullet beforehand that, yes, I think
19 it was consensus that we should have some
20 recognition in the process that ground water
21 consideration should be part of the
22 prioritization process and take some type
23 of -- some level of importance in the
24 decision-making.

25 I will get with Mr. Bolourchi and, and

1 ask him if, if there are any existing aspects
2 to that prioritization process that include
3 ground water conservation, ground water
4 alternatives, et cetera. And if not, then I
5 will have discussion with him to see if
6 there's some way that we can get that
7 prioritization protocol amended and to where
8 we can add that element into the process.

9 MR. MCKINNEY: Do we have any
10 procedure or do we give any credence to any
11 grounds up, coming up, in this particular
12 type of issue? So some community, some area,
13 we want -- we need a reservoir, we need a
14 reservoir. We think we need a reservoir.

15 What do you guys do? Do you say, no,
16 you don't, leave it at that? DOTD I know,
17 but --

18 MR. SNELLGROVE: Correct. That's what
19 this -- that's what their, their mandate was
20 in the past, was to create a process that,
21 that instead of just someone saying, hey, we
22 have a need, then they have to demonstrate
23 the need.

24 MR. MCKINNEY: Right.

25 MR. SNELLGROVE: And this protocol

1 steps them through the process such that the
2 end result is, is, I guess, a grade of sorts
3 as to the level of, of necessity based on
4 this prioritization system. And that's my
5 understanding in general.

6 I haven't really -- I have not had
7 experience with, you know, the nuts and bolts
8 of it.

9 MR. MCKINNEY: Right.

10 MR. SNELLGROVE: I do know that it
11 exists. I know that it goes through DOTD.
12 But that's why I was saying, I would like to
13 sit down with Mr. Bolourchi and kind of work
14 through that process with him and understand
15 it better to see if ground water is part of
16 the process. And if it's not, then I will
17 certainly ask him to, to let us know how can
18 we, how can we be integrated into the
19 process.

20 MR. MCKINNEY: Any other comments on
21 that?

22 MR. SPICER: Well, I would just like
23 to add to Gary's comments.

24 I would like to see this protocol be
25 incorporated into a total water management

1 plan for the state rather than just
2 piecemealing this. I think we need to look
3 at focusing on managing all of our water
4 resources.

5 MR. SNELLGROVE: Well noted. And it
6 certainly would be something that we need to
7 consider when we go through addressing HCR 1,
8 House Concurrent Resolution 1, on both water
9 and ground water resources and, and the task
10 that we have at hand on responding to the
11 legislature.

12 I think this, this should -- takes
13 some, some place in that discussion and in
14 the report. So we will need to get with Bo.
15 We will need to get him involved in the
16 process.

17 MR. SPICER: Yeah. Well, the original
18 draft of the legislation set up this Ground
19 Water Commission also had a component for
20 surface water, and the legislature didn't see
21 fit to, to address that at that time.

22 MR. BURLAND: You know, I apologize in
23 front of everyone that I haven't read every
24 page of the 550 pages of this report, but I
25 have read some chapters.

1 MR. ANGELLE: Really?

2 MR. BURLAND: But is there a
3 recommendation that we include the surface
4 water scenario into, such as has been
5 recommended in prior legislation? Because I
6 would like to see that happen. I don't think
7 we need a second Board, like you said. I
8 think everybody out to be in the same room.
9 It's all connected.

10 MR. ANGELLE: Right.

11 MR. BURLAND: And would this plan -- I
12 guess I'm asking a question. Would this plan
13 recommend suggesting that we incorporate or
14 take jurisdiction over surface water
15 activities? I'm not saying pull everything
16 from DOTD or whatever, but I'm just -- I was
17 just asking the question.

18 MR. JONES: Yes. Yes. The, the
19 recommendations do, do discuss surface water,
20 like I say, throughout, throughout the
21 document. We are looking at the -- and you
22 see also the next bullet, at the
23 interconnection between surface water and
24 ground water. We discussed this before.

25 MR. ANGELLE: Right.

1 So in the draft report that we are
2 circulating, I'm going to take the liberty,
3 based on our comments here and the shaking of
4 heads, that we believe that the next
5 evolution or a next step of many steps, is
6 the integration of surface water into this.

7 Now, I'm not at all suggesting -- I'm
8 going to make it different. I'm not at all
9 suggesting that the Commissioner be given
10 authority to manage surface water. I'm going
11 to suggest that we, as the group here, be the
12 group that has the responsibility over a, you
13 know, a -- some time period to analyze,
14 review, and report back. I'm not talking
15 about getting it to a point where the
16 Commissioner is managing surface water,
17 having a surface water management regime,
18 because we're not prepared to, to recommend
19 that. The resources, how we do it, is, is
20 definitely not what I'm talking about.

21 What I am talking about is that this
22 group be expanded and its name, perhaps, be
23 changed from the Ground Water Management
24 Commission to the Water, Water Resources
25 Management Division, and, and its authority

1 over surface water be different from its
2 authority over ground water, but it still
3 have some authority, again, as the epicenter,
4 if you would, of the integration of all of
5 the State's activities, because we have got
6 so many of the state groups recognized here.
7 And then, perhaps, again, over time get into
8 how we, how we would manage that.

9 Because I think if we go -- first of
10 all, there's no time -- there hasn't been --
11 we would absolutely freak people out in this
12 state if on January the 20th we were to
13 decide by March 15th we coming out with a
14 program to manage surface water when there is
15 -- has been no real appreciation or
16 discussion of the matter. And it took a
17 drought in 2001 and 2002, and perhaps 2000,
18 to get to the point where we put our toe in
19 the water on the management of ground water.
20 And I don't want to lose our credibility,
21 because I think none of us can get up there
22 and answer the kind of questions that we
23 would need on how we would manage surface
24 water.

25 MR. OWEN: Well, I agree with you, Mr.

1 Chairman. And I think the operative word
2 there is "resources." We are looking at the
3 water resources as opposed to management of
4 water resources.

5 MR. ANGELLE: Right. Right.

6 MR. McKINNEY: Okay. Any other
7 comments on No. 2 [sic]?

8 All right. The fourth bullet is,
9 Should new legislation extend and build upon
10 Act 955 and recognize the interconnectivity
11 of ground and surface water resources?

12 I guess that's what the Secretary
13 brought up here, was about the bringing the
14 two together.

15 MR. ANGELLE: Yeah.

16 MR. McKINNEY: I really was not aware
17 of the fact or had not thought of the
18 possibility that -- I just thought water is
19 water is water, you know, and I hadn't got
20 into each little fiefdom, you know, of
21 worrying if somebody has got this and
22 somebody has got that. But what about this?
23 I mean, that is -- that would require some
24 kind of legislation, then, to do that.

25 MR. ANGELLE: Yeah. Because, again,

1 to my knowledge, to my knowledge, DOTD may
2 have some very, very, very minimal authority
3 to manage surface water; very, very minimal.
4 Until Act 955 was passed two years ago, we
5 had zero authority at the Department of
6 Natural Resources to manage surface water.

7 Act 955 is only a bill that is
8 voluntary in nature, permissive in nature,
9 that allows folks who want to comply with the
10 Attorney General's opinions to use surface
11 water when they are a non-riparian owner to
12 establish a process, to establish a process
13 on how they might get it.

14 But it -- and it says would we -- what
15 kind of questions we have to ask before we
16 allow it. But it does not, it absolutely
17 does not, give us any surface water resource
18 management authority. And this group, only
19 to the degree that it has any connection with
20 ground water, has any, any, any jurisdiction
21 there. So, yes, we would need something, and
22 I have got staff working on that.

23 MR. McKINNEY: Okay. Well, I had read
24 in some document that, correct me if I'm
25 wrong, that ground water is a mineral in

1 Louisiana and, therefore, considered to be a
2 value. But when it came to the surface, and
3 it had become an issue with the fracking and
4 so on and so forth, I guess we felt like that
5 mineral took on another dig, and, therefore,
6 it is a surface water.

7 MR. ANGELLE: Well, what happens is,
8 you have the right of capture. You have the
9 absolute right of capture. And so it's free.
10 It's yours. When you can, when you can
11 reduce it to possession, you can have it.
12 Okay.

13 MR. LOEWER: And that's not the same--

14 MR. ANGELLE: Whereas, that's not the
15 same for surface water.

16 MR. LOEWER: And that's not the same
17 for oil and gas, because that's correlative
18 right.

19 MR. ANGELLE: Correct. Correct.

20 So that's lesson 201. When you start
21 using those big words, you get the rest of us
22 confused, but appreciate it. Appreciate it.

23 MR. McKINNEY: All right. The final
24 bullet, Should the state consider funding
25 university research to address ground water

1 resources sustainability?

2 This is the moving bullet that we
3 talked about yesterday, you know,
4 sustainability.

5 Obviously, I wanted to say, and
6 this -- I knew that this was on here and this
7 was a good point. You go to the experts to
8 establish these things, you know, the people
9 who know how to establish these. So if it be
10 the university people, or the people who are
11 out here in the audience, or whomever, that's
12 who you go to. And my opinion here is
13 absolutely yes.

14 MR. ANGELLE: Yeah. I think we would
15 say, Should the state consider funding
16 university research, or I would, I would say,
17 Should the state consider funding research to
18 address ground water, which might be
19 universal, might be soil conservation, might
20 be whoever. I'm a big proponent of
21 university research, but, obviously, wouldn't
22 limit it to there.

23 MR. McKINNEY: Mr. Secretary, that
24 concludes my report.

25 MR. BURLAND: If I could just add the

1 comment that I should have included that
2 under Incentives. I unintentionally omitted
3 the fact that a lot of the grant dollars goes
4 to university research to study ground water
5 and issues and conservation issues, projects
6 and the academics that are associated with
7 those kind of, of projects. So that's a very
8 valuable tool, if we can find the money.

9 MR. ANGELLE: Okay. Just a couple
10 things I wanted -- I need to do. I have a
11 meeting at 12 in my office that I need to get
12 to, but just a couple of things I want to do
13 here.

14 You will be receiving an e-mail from
15 me today that I drafted at 6:20 this morning.
16 And you will say, well -- and the intent was
17 that you would get it before the meeting.
18 And I really mean this.

19 And so it will be, "Dear Commission
20 Members, Just a note to say thanks for your
21 hard work and determination as we grind
22 through the tough issues associated with
23 recommendations for a more robust ground
24 water management plan. As discussed,
25 Louisiana was largely silent for the first

1 190 years" -- I should say except in East
2 Baton Rouge Parish --"the first 190 years of
3 its statehood on this issue. However, we
4 have made much, but not enough, progress in
5 the last several years towards a more
6 comprehensible approach identifying and using
7 tools, policies and regulations all with the
8 single goal of ensuring sustainability. I
9 believe our aquifer-by-aquifer approach
10 rather than a one-size-fits-all approach is,
11 in fact, the right way to go.

12 "Again, while much work remains to be
13 done in the coming years, I am convinced our
14 efforts yesterday and today will have a huge
15 impact, and I want to personally thank you.
16 I realize that it comes at a tremendous
17 sacrifice for you to be here away from your
18 family, and travel, in fact, some cases long
19 distances to be here. So, again, on behalf
20 of the people of Louisiana, thank you for
21 your efforts."

22 And just -- you may have seen this,
23 and if staff could e-mail. This came out a
24 couple days ago. It's the 2012 Report Card
25 for Louisiana's infrastructure. And it talks

1 about levees, roads, bridges, dams,
2 reservoirs, wastewater.

3 And on the water issue -- and this is
4 a report card put together by the American
5 Society of Civil Engineering. And I just
6 thought that you would appreciate they gave a
7 score on different things. Roads got a D,
8 bridges got a D plus, levees got a C, dams
9 got a B minus, drinking water got a D plus.

10 And it says, "Although Louisiana has
11 an abundance of water for its domestic,
12 industrial and agricultural needs,
13 over-pumping and saltwater intrusion are
14 depleting ground water supplies. The aging
15 and deteriorating water supply and treatment
16 and distribution systems are not capable of
17 providing potable water for our future and in
18 some cases current demands."

19 And this is the last sentence and I
20 think where we apply. "Better planning and
21 more funding efforts are key elements to
22 provide Louisiana with a safe supply of
23 drinking water."

24 And we certainly are responsible for
25 the better planning. And I think all we are

1 doing is consistent with this report card.

2 Again, thank you. I know we have
3 public comment opportunities.

4 Do we have any public comment, any
5 folks want to express public comment?

6 Okay. Hearing no public comment, I
7 will entertain a motion to adjourn.

8 Motion by Mays.

9 MR. MAYS: Adjourn.

10 MR. ANGELLE: And second by Spicer.

11 Any objection? Any discussion?

12 That motion's adopted. Thank you very
13 much.

14 (MEETING ADJOURNED AT 11:45 A.M.)

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1 STATE OF LOUISIANA

2 PARISH OF EAST BATON ROUGE

3 I, DONNA T. CHANDLER, Certified Court
4 Reporter and Registered Merit Reporter, do hereby
5 certify that the foregoing pages 289-489 of Volume
6 II, are a true and correct transcript of the Ground
7 Water Resources Commission Regular Meeting on January
8 20, 2012, as taken by me in Stenographic machine
9 shorthand, complemented with magnetic tape recording,
10 and thereafter reduced to transcript, to the best of
11 my ability and understanding, using Computer-Aided
12 Transcription.

13 I further certify that I am not an attorney
14 or counsel for any of the parties, that I am neither
15 related to nor employed by any attorney or counsel
16 connected with this action, and that I have no
17 financial interest in the outcome of this action.

18 Baton Rouge, Louisiana, this 26th day of
19 January, 2012.

20

21

22

DONNA T. CHANDLER, CCR, RMR
CERTIFICATE NO. 29002

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