

STATE OF CALIFORNIA - THE RESOURCES AGENCY
BEFORE THE
CALIFORNIA ENERGY COMMISSION (CEC)

In the matter of:)
) Docket No. 09-RENEW O-01
)
Desert Renewable Energy)
Conservation Plan)
(DRECP))

Energy Commission Workshop on
Desert Renewable Energy Conservation Plan
Governance, Costs, and Financing

California Energy Commission
Hearing Room A
1516 9th Street
Sacramento, California

Monday, September 24, 2012
9:37 A.M.

Reported by:
Peter Petty

COMMISSIONER PRESENT

Karen Douglas

STAFF PRESENT

Kristy Chew

Also Present (* Via WebEx)

Stakeholders Present

*Anne Baker, Center for Energy Efficiency and Renewable Technologies (CEERT)

*Katie Barrows, Coachella Valley Conservation Commission (CVCC)

*Gail Barton, Riverside County

Chris Beale, Desert Renewable Energy Conservation Project (DRECP)

*Lisa Belenky, Center for Biological Diversity

*Vicki Campbell, Bureau of Land Management (BLM)

Pat Chrisman, US Marine Corps

Bill Condon, CA Dept. of Fish & Game (CDFG)

Ken Corey, US Fish & Wildlife Service (USFWS)

Kim Delfino, Defenders of Wildlife

Cheryll Dobson, Department of the Interior (DOI)

Darla Guenzler, California Council of Land Trusts (CCLT)

David Harlow, DRECP

*Andy Horn, Imperial County

Kevin Hunting, CA Dept. of Fish & Game (CDFG)

Steve Ingram, CA Dept. of Fish & Game (CDFG)

Also Present (* Via WebEx)

Stakeholders Present

Stuart Itoga, CA Dept. of Fish & Game (CDFG)

Brenda Johnson, CA Dept. of Fish & Game (CDFG)

Jim Kenna, Bureau of Land Management (BLM)

John Kopchik, East Contra Costa County Habitat
Conservancy (on WebEx after lunch break)

*Thomas Maloney, Tejon Ranch Conservancy

Lindell Marsh, Attorney representing Ed Sauls, The Sauls
Company

Jeness McBride, US Fish & Wildlife Services (USFWS)

Sally Nielson, Hausrath & Associates

Ron Remple, San Diego Management and Monitoring Program
(SDMMP)

Teifion Rice-Evans, Economic & Planning Systems, Inc.

*Renee Robbin, SunPower Corp.

Ed Sauls, The Sauls Company

Ken Schreiber, Santa Clara Valley Habitat Plan (SCVHP)

Russell Scofield, Bureau of Land Management (BLM)

*Dan Silver, Endangered habitats League (on WebEx after
lunch break)

Wayne Spencer, Conservation Biologist Institute (CBI)

Richard Taylor, Shute Mihaly & Weinberger, LLP

Terry Watt, Consultant to the Governor

Stu Webster, Iberdrola Renewables

Peter Weiner, Paul, Hastings, Janofsky & Walker

*Lynn Jennifer, So Cal Edison

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P R O C E E D I N G S

1
2 SEPTEMBER 24, 2012

9:37 A.M.

3 COMMISSIONER DOUGLAS: I think we've got
4 critical mass to get started. So, thank you all for
5 being here.

6 My name's Karen Douglas, I'm the Lead
7 Commissioner on Siting at the Energy Commission and Lead
8 on DRECP, which is an effort that's been going on for
9 some three years now, actually.

10 And we have moved the ball quite far down the
11 field in those three years. We came out with a
12 substantial briefing document in July that a number of
13 people, some stakeholders at this table, but many, many,
14 many stakeholders and members of the public have
15 commented on.

16 And so we're at the point in the process, now,
17 where we're looking at those comments and considering
18 them. We're very committed to moving forward with a
19 very substantial document in December that I think will
20 be extremely valuable for people to have a chance to
21 look at, and let us know their thoughts. It will be an
22 informal document and it will be an opportunity for us
23 to get some additional input into the process. So,
24 that's really where we are in the process.

25 This workshop is the third of a series of

1 workshops that we have convened at the Energy Commission
2 with our partner agencies, Department of Fish and Game,
3 Bureau of Land Management, and Fish and Wildlife Service
4 to continue a robust public dialogue over some of the
5 really key elements that we've got to get right to make
6 the plan work.

7 The first workshop we had was on the energy
8 infrastructure system; how planning and permitting in
9 energy infrastructure currently takes place, what the
10 role should be of a more land-use based effort, such as
11 the DRECP -- land-use and conservation-based effort that
12 really attempts to identify where the best areas are for
13 development that present fewer conflicts than other
14 areas, and how to build a conservation framework around
15 that. And we've got a lot of expertise in the room
16 today on NCCPs and HCPs.

17 So, we're really looking for some help and
18 thoughtful input on that.

19 But in the energy world, of course, NCCPs and
20 HCPs are fairly new and doing that at this scale is
21 fairly new. And so how do we make the energy
22 infrastructure system -- how should it take account of
23 information, like the DRECP, and how should we make the
24 plan as useful as possible so that it will as relevant
25 as possible, as quickly as possible, while these really

1 critical energy infrastructure decisions are being made.

2 So, that was our first workshop.

3 Our second workshop covered the very crucial
4 issue of durability of mitigation and conservation,
5 particularly on federal lands, and with a particular
6 emphasis on BLM lands because so much of the land in the
7 DRECP plan area is Bureau of Land Management land.

8 Up to, I believe we discussed in the workshop
9 about 55 percent of the land in the plan area. So, the
10 Bureau of Land Management is a very key partner in this.
11 And ensuring that the conservation vision that is
12 created makes sense across public and private land, and
13 that mitigation is possible on public land where that
14 really makes sense is another really important part of
15 the plan.

16 This third workshop, as you all know very well,
17 focuses on governance, costs and financing. From this
18 we will move forward with another workshop focusing on
19 the private land aspects of the plan, and another one on
20 adaptive management, monitoring and so forth.

21 So, those are the -- that's where this workshop
22 fits in the series of workshops that we've been holding.

23 At this point what I'd like to do is have the
24 Panelists introduce themselves. We'll begin with the
25 Panelists in the room, and then we'll go to the

1 Panelists on WebEx and on the phone.

2 So, if I could, let's just go around to Chris,
3 start with you.

4 MR. BEALE: I am Chris Beale, the Assistant
5 Director of the DRECP.

6 MR. CONDON: Hi, I'm Bill Condon, California
7 Department of Fish and Game.

8 MR. ITOGA: Stuart Itoga, Fish and Game.

9 MS. JOHNSON: I'm Brenda Johnson. I work for
10 the California Department of Fish and Game. I'm the
11 Program Manager in the Habitat Conservation Planning
12 Branch for Landscape Conservation Planning Program,
13 which includes NCCPs.

14 MR. INGRAM: Steven Ingram, Department of Fish
15 and Game, Office of General Counsel.

16 MR. COREY: Ken Corey, Fish and Wildlife Service
17 Palm Springs.

18 MS. MC BRIDE: Jeness McBride, Fish and Wildlife
19 Service Palm Springs.

20 MS. DOBSON: Cheryll Dobson with the Department
21 of the Interior, Solicitor's Office.

22 MR. MARSH: Lindell Marsh, an attorney. I work
23 with Ed Sauls and we represent a number of cattle
24 interests, grazing allotments. I've had a lot of
25 experience with HCPs.

1 MS. GUENZLER: Darla Guenzler, Executive
2 Director, California Council of Land Trusts.

3 MR. KOPCHIK: John Kopchik, Contra Costa County,
4 East Contra Costa Habitat Conservancy.

5 MR. SCHREIBER: Ken Schreiber, I'm Program
6 Manager for the Santa Clara Valley Habitat Plan.

7 MR. REMPLÉ: Ron Remple, San Diego Management
8 Monitoring Program, and we're looking after management
9 and coordinated monitoring across three NCCPs.

10 MR. CHRISMAN: Hi, I'm Patrick Chrisman. I'm
11 the Assistant Chief of Staff for MCI West here,
12 representing the Marine Corp and DOD.

13 MR. WEBSTER: Stu Webster, Director of Harming
14 Environment, Iberdrola Renewables. Member of both the
15 Wind Energy Whooping Crane Regional HCP in Regions 2 and
16 6 of the Fish and Wildlife Service Regions, as well as
17 the Region 3 Indiana BAT HCP.

18 MR. WEINER: Peter Weiner, Paul Hastings.

19 MS. DELFINO: Kim Delfino with Defenders of
20 Wildlife.

21 MR. SPENCER: Wayne Spencer, Conservation
22 Biology Institute. I was the lead science adviser on
23 the 2010 DRECP Science Advisory Report, and I'm also on
24 the panel that recently did a review document.

25 MR. SCOFIELD: Russell Scofield, I'm the

1 Department of Interior Coordinator for the California
2 Desert Managers Group.

3 MR. RICE-EVANS: Teifion Rice-Evans with the
4 Economic and Planning Systems.

5 MR. TAYLOR: Richard Taylor, Shute Mihaly &
6 Weinberger.

7 MS. WATT: Terry Watt, Governor's Liaison to
8 DRECP.

9 COMMISSIONER DOUGLAS: Thank you. Now, we'll go
10 to the phone. Vicki Campbell, are you there?

11 MS. CHEW: Hold on, she's muted.

12 MS. CAMPBELL: This is Vicki Campbell with the
13 Bureau of Land Management.

14 COMMISSIONER DOUGLAS: Thank you, Vicki.

15 Let's see, Lisa Belenky, are you on the line?

16 MS. CHEW: I'm going to do an experiment and
17 unmute everybody, which may be really scary in this room
18 so just bear with me.

19 COMMISSIONER DOUGLAS: Lisa Belenky?

20 All right, Katie Barrows?

21 MS. BARROWS: Yes, this is Katie Barrows and I
22 am with the Coachella Valley Conservation Commission,
23 the Coachella Valley Multiple-Species -- (inaudible)

24 COMMISSIONER DOUGLAS: Thank you, Katie.

25 Kristy, can you tell what line Katie's on?

1 MS. CHEW: Okay, the experiment is over. Hi,
2 everyone, this is Kristy Chew with the Energy
3 Commission. And I'll find out who the background noise
4 is.

5 COMMISSIONER DOUGLAS: So, I'm going to read off
6 the Panelists who we believe are attending by WebEx,
7 while Kristy does that, and maybe you can be prepared to
8 speak up.

9 I've got Lisa Belenky, Katie Barrows, Charles
10 Landry, Thomas Maloney, and Lisa Wise on my list. I
11 think that, ideally, we will -- oh, and Anne Baker.

12 I think that, ideally, we will find out what
13 line you all are on so that you don't have to be muted,
14 but everybody else is.

15 MS. CHEW: Okay. This is Kristy Chew. Those on
16 the phone, on the WebEx, I've gone ahead and muted
17 everybody because, as you could hear, there was a lot of
18 background noise.

19 If you could do everyone a favor and just keep
20 your phone on mute unless you are going to be speaking,
21 but keep your phone on mute until then if you have the
22 ability to do so. If not, I will mute from here if I
23 hear there's background noise.

24 There are some people that are just call-in
25 users and there are some names that Commissioner Douglas

1 just said that I do not see have signed in,
2 individually, on the WebEx, and you could be a call-in
3 user. So, I will try and unmute those lines and see if
4 they can identify themselves.

5 But Anne is on the line so I will unmute her
6 line.

7 COMMISSIONER DOUGLAS: Okay.

8 MS. CHEW: She is unmuted. And then, as you
9 said, Vickie's here.

10 I did not see Lisa Wise on, but she could be a
11 call-in user, so I will unmute the call-in user lines.

12 COMMISSIONER DOUGLAS: Lisa Wise, are you on?

13 MS. CHEW: All the call-in users are now
14 unmuted.

15 COMMISSIONER DOUGLAS: Okay. Lisa Wise? Thomas
16 Maloney? Charles Landry?

17 MR. MALONEY: This is Tom Maloney, I'm on.

18 COMMISSIONER DOUGLAS: Thank you.

19 MS. JENNIFER: Lynn Jennifer, Southern
20 California Edison.

21 COMMISSIONER DOUGLAS: Great. All right --

22 MS. CHEW: I have one more housekeeping item,
23 I'm sorry Commissioner Douglas.

24 Wanted to let everyone know that this meeting is
25 being recorded, so you can watch the WebEx and hear the

1 audio at a later time, if you choose.

2 Also, for those on the phone if you'd like to
3 speak, please use the raise hand function or send me a
4 chat, and send the chat to the host laptop, and I will
5 see it and make sure that you're called upon when
6 there's time for that.

7 And that's it, thank you.

8 COMMISSIONER DOUGLAS: Great. And Gail Barton,
9 are you on the line?

10 MS. BARTON: Yes, I am.

11 COMMISSIONER DOUGLAS: Great. Super. Are there
12 any other representatives from the counties in the DRECP
13 area on the line?

14 I'm hearing that Andy Horn might be or is on the
15 line. Okay.

16 MS. CHEW: He is.

17 COMMISSIONER DOUGLAS: He is, super.

18 MR. HORN: Here I am, again.

19 COMMISSIONER DOUGLAS: Here you are and you're
20 not muted, perfect. All right, well --

21 MR. HORN: I'm here.

22 COMMISSIONER DOUGLAS: Thanks for being there,
23 Andy.

24 So, let me ask, let's see, so we've got Thomas
25 Maloney on the line. Could you just briefly introduce

1 yourself? And I think we were able to hear Katie when
2 she --

3 MR. MALONEY: Yeah, this is Tom Maloney, I'm the
4 Executive Director of the Tejon Ranch Conservancy which,
5 you know, borders there for the DRECP, but shares a lot
6 of the same species and habitat.

7 COMMISSIONER DOUGLAS: Super. Thank you very
8 much.

9 And I want to say I really appreciate the
10 participation of so many people, with such great
11 expertise, and also people involved in plans in other
12 parts of the State. It really helps us learn from some
13 of the experiences that you've had and we appreciate the
14 contribution to our thinking about how to construct
15 governance in this context.

16 And with that, I want to move to the first
17 presentation on our agenda, which is Chris Beale,
18 Overview of Governance Principles for a Habitat
19 Conservation Plan/NCCP, and How those Principles Apply
20 to DRECP.

21 So, go ahead, Chris.

22 MR. BEALE: Thanks Karen.

23 COMMISSIONER DOUGLAS: Actually, before we go to
24 Chris's overview this was a little last minute, but we
25 decided that it would be probably helpful for some of

1 the participants on the panel, who have not been
2 immersed in DRECP, to get a five-minute overview of what
3 the scale of the plan is and at least one illustrative
4 potential alternative that we're looking at.

5 So, why don't we do that, first. Vicki
6 Campbell, on WebEx, is going to take just five minutes
7 to set some context here and then we'll go to Chris's
8 presentation.

9 MS. CAMPBELL: Hi, can you all hear me?

10 COMMISSIONER DOUGLAS: Yes, Vicki, we can.

11 MS. CAMPBELL: Good. I'm sorry I'm not with you
12 today. I have remnants of pneumonia that raised its
13 ugly head, which it did this morning, so I apologize.

14 So, you all get the pleasure of the Lauren
15 Bacall voice that I get at this time.

16 So, I just wanted to set a little bit of the
17 state, for those of you that aren't familiar with what
18 we've been doing. And for those who have been with us
19 most of the time, this is definitely a repeat for you.

20 We started out with several issues having to do
21 with both conservation, biological conservation and
22 energy. And from the energy assumptions we were using
23 AB32 as kind of a guide for targeting of how much energy
24 we needed. We looked at some assumptions.

25 We thought that the target of the year 2040 was

1 most reasonably foreseeable. With that, we're looking
2 at a planning target of somewhere between 16,000
3 megawatts and 21,500 megawatts. So, the general target
4 in each alternative is a little over 20,000 megawatts.

5 So, clearly, when you put that on the ground you
6 have to translate that into acres. So, what we're
7 looking at for an actual footprint of acres, and the
8 footprint actually varies depending on what technology
9 mix we use, is between 160,000 and 360,000 acres of
10 actual footprint of some combination of solar, wind and
11 geothermal. And then, of course, we have transmission
12 that will go with that.

13 We do have a multiplier, we're somewhere around
14 three or five times that number to allow for micro-
15 siting. And so we have, currently, numerous
16 alternatives that look at different configurations of
17 what we call development focus areas.

18 That's the energy context.

19 And then we have the conservation, biological
20 conservation context. We looked at numerous different
21 models, a lot of professional expertise, and developed a
22 plan-wide biological context that involves both public
23 and private lands.

24 For each alternative, then, we put the
25 development focus areas into the biological conservation

1 map and then adjusted the biological conservation map
2 how we felt it was appropriate, and we also adjusted
3 development focus areas by alternative.

4 We are in the process of analyzing the
5 combination of what the alternative actually means with
6 development and conservation, together, to see if they
7 actually work in concert.

8 The map I'm going -- the maps you're going to
9 see are using what we call Alternative 5, just as an
10 illustration, because it's usually the easiest map to
11 see.

12 There are approximately 2.3 million acres of
13 development focus area in this alternative.

14 Also, just I apologize, a context, also a point
15 is the plan area is about 22.5 million acres, about 10
16 million of that is the Bureau of Land Management.

17 So, in this Alternative 5 that you're seeing
18 being scrolled up and down, the pink-salmon-colored
19 areas are the development focus areas on both BLM and
20 non-BLM land.

21 The green colors you see are what in the plan we
22 call legislatively and legally protected. Those are
23 primarily wilderness areas, and National Park units, and
24 State Park units.

25 There are also a few other local and State areas

1 but, primarily again, it's wilderness, National Park and
2 State Park.

3 The green vertical lines that you see are a
4 combination of both open OHV areas and Senator
5 Feinstein's proposed bill areas as it is currently
6 mapped in her proposal.

7 What you also see in the -- if you scroll down
8 towards the southeast area of the plan, you see the BLM
9 Solar PEIS SEZs, Solar Energy Zones, as they appeared in
10 the final EIS. You see those outlined in purple, there
11 are two of them, East Riverside which you see large on
12 your screen, and then Imperial down in the most southern
13 portion.

14 So, that gives you an idea of context -- oh, and
15 then I'm sorry, the buff-colored areas, beige-colored
16 areas are -- you see several large ones along the
17 Colorado River. There are also a few scattered that
18 most, at this scale, are hard to see. But those are
19 Federally-recognized tribal lands.

20 And, of course, then the gray are our Department
21 of Defense installations. At times we do color them in
22 pink and that sometimes upsets DOD in a very humorous
23 way, so we thought we'd hand them the gray this time.

24 So, to the next map. Before we show the next --

25 MS. CHEW: Vicki, this is Kristy. Which map

1 would you like to go to?

2 MS. CAMPBELL: Go to the BLM SERMA Biological
3 Conservation.

4 MS. CHEW: Still at 5, all right.

5 MS. CAMPBELL: Correct. The next -- there we
6 go. We show this map because the development focus area
7 is very, very the same. The legislative area protected,
8 proposed Feinstein Bill, military, tribal, et cetera,
9 are all the same in this map.

10 What this map is a good illustration of is the
11 BLM lands. And then I'm going to show you another map
12 and there's a lot of color in it and it gets confusing,
13 which is why I start with this one.

14 The map, the blue areas are the areas BLM is
15 proposing to conserve. It's a combination or will be a
16 combination of National Landscape Conservation System
17 units, areas of critical environmental concern, and
18 wildlife allocation units.

19 They are both biological, tribal, visual for all
20 the reasons that you guys have made, National Landscape
21 Conservation System units and areas of critical
22 environmental concern, these blue areas make up all
23 that.

24 For this particular alternative, the golden rod
25 (hash marks) are the proposed Special Recreation

1 Management Areas.

2 Again, we show you this map because you can see
3 the expanse of conservation that BLM is considering
4 proposing in this alternative. And then when we show
5 you the next map it is an integration of BLM and non-BLM
6 conservation lands, DFA, which is the map that Kristy is
7 pulling up now.

8 The colors get a little bit confusing here, so
9 just to go through them -- and by the way, the maps that
10 you are currently seeing are all in the July 25th-26th
11 materials posted on the DRECP website, so all these maps
12 are posted there.

13 This is what we call an integrated alternative.
14 This is where you see both development focus area and
15 conservation, where the plan comes together on both BLM
16 and non-BLM land. I say non-BLM because there's a
17 combination of State, local and private lands when it
18 gets off the BLM land.

19 The primary map colors that we talked about
20 earlier stay the same. The map colors that are new here
21 are the light and darker blue. The light blue areas,
22 the lightest blue are high biological sensitivity on
23 private. The darker blue is high biological sensitivity
24 on public.

25 The lightest color green, it almost appears

1 almost kind of a yellowy color, is moderate biological
2 sensitivity on private. And then the medium shade of
3 green is the moderate biological sensitivity on public.

4 So, what this map will depict is primarily
5 focusing on blue and on green gives everyone an idea of
6 working with the counties, the municipalities, the State
7 agencies of where biological conservation and mitigation
8 might take place on the non-BLM lands.

9 On BLM, clearly, it's going to be right up
10 front. Once a record of decision is issued on the
11 DRECP, BLM will have a land use plan amendment in place
12 and you'll see everything from day one kind of play
13 itself out.

14 For those that are familiar with HCPs and NCCPs,
15 working with local government, State government,
16 municipalities you see conservation and development play
17 itself out over time in close coordination with,
18 clearly, county governments, city governments, et
19 cetera.

20 So, that's the DRECP in a nutshell. If there
21 are any questions, I'm ready, as our other members of --

22 COMMISSIONER DOUGLAS: Other members of the
23 team.

24 Thank you, Vicki. I almost hesitate to ask for
25 questions, but I will.

1 The purpose of this overview was just to provide
2 some context and, hopefully, it succeeded in that.

3 Are there any clarifying questions or should we
4 move on with Chris? Let's move on with Chris's
5 presentation, seeing none.

6 So, thank you very much, Chris -- Vicky. And go
7 ahead, Chris.

8 MR. BEALE: Thank you, Karen. I'll wait for a
9 moment here while Kristy puts the presentation up.

10 So, my job here today is to go over the
11 implementation structures that have been used in
12 California for HCPs and NCCPs. And I wanted to start by
13 saying a little bit about the focus of this. It's
14 possible to think about the governance question more
15 broadly, to think about possible governance structures
16 for overall ecosystem management in the desert,
17 something more comprehensive.

18 And the Conservation Biology Institute has
19 issued a report, in 2006, which does a good survey kind
20 of nationwide of different governance structures that
21 are used for a variety of ecosystem management
22 processes. And I think we'll probably have that up on
23 the website with these new materials and we can provide
24 a link to it. So, if you want more background, more
25 broadly on governance structures, I commend that to your

1 reading.

2 The other thing that this does and focus on are
3 the kinds of specialized governance structures that
4 could be created through legislation. That opens up a
5 different sort of realm of possibility but I think
6 the -- our thought was probably the best way to focus
7 this, particularly given the nature of the DRECP, is to
8 look at HCP/NCCP structures specifically, so that's what
9 this is about.

10 Next slide, please? So, I thought I'd start by
11 just focusing on a couple key points about what an
12 implementation structure for an HCP and an NCCP has to
13 do. And one of the things I want to emphasize at the
14 outset is that there are lots of different entities and
15 roles for different groups in the public, and
16 stakeholders, and so forth.

17 One thing to bear in mind with an HCP and NCCP
18 is it's very important in the implementation structure
19 to identify what entity or entities are actually
20 responsible for implementing the plan and are
21 accountable if it's not implemented properly.

22 So, while I think the discussion will likely,
23 and should go to other aspects of the implementation
24 structure, it's important to bear in mind that
25 ultimately one of the things we have to do with the

1 structure is figure out who is responsible for
2 implementing the plan.

3 And that means that the entity that is
4 responsible for implementation has to have the ability
5 and legal authority to do that. These are -- you know,
6 these are fairly clear points but I think they're worth
7 focusing on because sometimes the discussion about the
8 ideal structure will cover lots of other things, but we
9 need to make sure we always comes back to an entity that
10 signs up for implementation and has the ability to carry
11 out the responsibilities that are assigned in the plan.

12 But the other kinds of qualities, at least in my
13 experience, that have come up in discussions about
14 implementation structures for other plans are also
15 important to bear in mind. One is just expertise,
16 bearing in mind that a lot of the things that have to be
17 done to implement one of these plans requires
18 specialized expertise. Adaptive management monitoring
19 is a very good example of that, but there are plenty of
20 others.

21 Efficiency and cost-effectiveness often comes up
22 in discussions and this has to do with, often, questions
23 about whether it's better or more efficient to create a
24 new entity or to rely on the resources of existing
25 entities.

1 The ability to raise funds, very important for
2 plans particularly when they involved NCCPs. These, as
3 we'll learn more about, we'll hear more about later, but
4 these plans are often funded, to a large extent, by
5 mitigation fees, but NCCPs always have some other
6 component that isn't funded by mitigation fees. And so,
7 sort of fundraising, if you will, the ability to attract
8 funds is a very important quality for the implementation
9 structure.

10 Focus I added because sometimes in these
11 discussions there are concerns expressed about assigning
12 responsibility for implementation of the plan to an
13 entity that has other responsibilities and may not have
14 conservation as its core mission. There's some concern
15 that from year to year if the -- with limited resources
16 and competing priorities the level of focus from the
17 entity might vary from year to year. That often comes
18 up as a concern.

19 And then credibility, I think it's important to
20 remember that this implementation structure will be the
21 face of the DRECP. And that means that in addition to
22 having the internal resources, and ability, and so forth
23 we need to bear in mind that it needs to be a structure
24 that the public, stakeholders, others have confidence in
25 for implementation.

1 Going more to just kind of identifying some, of
2 course not all, of the key responsibilities, you know,
3 on the theory that form should follow function, I think
4 it's important to kind of bear in mind the different
5 things that the implementation structure will have to
6 do.

7 One of the key things, particularly with this
8 plan, is to coordinate the participation of all the
9 various entities that are involved. And here it's
10 particularly important because there are so many
11 entities, different levels of government, and it's very
12 key that we have a structure that will allow coordinated
13 decision making.

14 And just to give one example of why that's so
15 important, there will be funding provided for
16 implementation and there will have to be decisions made
17 about what are the highest priorities for spending that
18 funding. Those decisions should be made strategically
19 and in a coordinated way, rather than as a series of
20 discrete decisions. It makes it difficult to be
21 strategic about spending funds if there are different
22 decision makers focusing on different priorities.

23 So, creating a structure that allows for
24 coordinated decision making is particularly important.

25 Important to bear in mind that the DRECP is

1 going to have to have a home of some kind. It doesn't
2 necessary have to be a new entity or a new structure,
3 but these plans do require the same kinds of things that
4 other programs do. And in addition to all of the other
5 policy-based components, we need to make sure that we
6 can keep the trains moving on time.

7 Securing and managing funding, this is the same,
8 sort of the same issue as the need to have an entity
9 that's effective at fundraising. And securing and
10 managing funding can be -- in addition to just being a
11 question of being able to raise funding, it can also be
12 whether the entity has the legal authority to manage
13 certain types of funding. You know, funding from
14 different sources has different kinds of strings
15 attached. Mitigation fees, under State law, have to be
16 managed in a certain way and so forth, so it's important
17 to bear in mind that the entity has to have the ability
18 not just to get grant funding and other kinds of things,
19 but also has the legal authority to manage all the funds
20 that might come in.

21 Some other responsibilities, these are probably
22 more intuitive and obvious, but land acquisition and
23 land stewardship.

24 Monitoring and adaptive management, I mean this
25 is really an issue unto itself and in a way requires, in

1 addition to effective monitoring decisions about
2 management, reserves and other things, there are
3 institutional arrangements that are important for
4 effective monitoring and adaptive management. We have
5 folks here who have a lot of expertise in that. We'll
6 probably talk more about that later, very important.

7 Another key task is making sure that the
8 measures that are identified in the plan as, say,
9 avoidance and minimization measures for covered
10 activities, are applied to projects in the way the plan
11 envisions.

12 If you think about this plan is going to be --
13 in some sense is programmatic, it's going to identify a
14 suite of measures that have to apply to all of the
15 projects that come in, but there's going to be some
16 analysis, and decision making, and discretion applied to
17 how those measures can be applied to individual projects
18 as they come up. And that's something that the
19 implementation structure has to be able to do.

20 In monitoring and ensuring compliance, this is
21 both sort of monitoring of implementation of the
22 required action, but also ensuring that they're
23 implemented in the right way, that they're effective.

24 I didn't use the word "enforcement" here because
25 the permitting agencies will always, ultimately have the

1 responsibility and ability to enforce the terms of the
2 permit and the laws that are at issue here. But the
3 implementation structure, the implementing entity has to
4 be able to make sure that everything is implemented and
5 implemented properly.

6 And then, of course, independent science, the
7 implementation structure has to be able to find a way to
8 incorporate independent science in the implementation of
9 the plan.

10 And the list goes on.

11 (Laughter)

12 MR. BEALE: So here, you know, particularly with
13 a plan of this size, a coordination with Federal, State
14 and local agencies is important. And here I'm trying to
15 emphasize that in addition to all of the agencies who
16 will be participating in the implementation of the plan
17 and may actually be part of the implementation
18 structure, there are going to be lots of other State,
19 and Federal, and local agencies that will have an
20 interest in implementation but may not be participating
21 directly in it, so coordination with those agencies is
22 important.

23 Obviously, in this plan tribal coordination and
24 outreach is very key, coordination with DOD very
25 important. Also, coordination with land managers, as

1 we'll talk more about later there's a lot of public land
2 here, there's a lot of land managers with expertise and
3 interest, and I think this is really not just a
4 responsibility of the implementation structure in this
5 case, but an opportunity for the DRECP that really may
6 be a strength of the DRECP that there's more expertise
7 already on the ground than there is for other plans.

8 And then, of course, stakeholder coordination
9 and public outreach, and this gets back to the idea that
10 the implementation structure is the face of the DRECP
11 and it will play that important role.

12 So, that's the -- a bit about the function of
13 the implementation structure and, of course, there are
14 other things that could have been added to that list,
15 but I think that covers some of the key things.

16 What I'm going to do now is just go over what I
17 think are the three categories of implementation
18 structure that I think have been used by most and
19 perhaps even all of the HCPs and NCCPs in California.

20 First, and I think most popular certainly among
21 more recently approved plans, is to create a new joint
22 exercise of power agency, or a JPA.

23 Second is creating a new nonprofit.

24 And third is, this is sort of a broad category,
25 but refers to implementation structures that don't

1 create a new legal entity, but coordinate implementation
2 through committees, intergovernmental committees.

3 That's committees that include governmental agencies at
4 different levels of government, local, State, Federal.

5 And then interagency committees, that's committees among
6 agencies.

7 And, again, I think in these three categories
8 you could probably fit most of the plans in California.

9 The JPA, this is a creature of State law.
10 They're usually referred to as joint powers authorities,
11 but the technical name is joint exercise of powers
12 agencies. They're created under the California Joint
13 Exercise of Powers Act.

14 And, essentially, what that Act allows
15 government agencies in California to do is create a new
16 government agency. So, members have to be public
17 agencies. They can create a new, legally separate
18 public agency.

19 Under California law participation can be very
20 broad and it can include not just local and State
21 agencies, but also Federal agencies. And this just
22 emphasizes that California law allows Federal agencies
23 to be parts of -- members of JPAs. That doesn't
24 necessarily mean a Federal law allows Federal agencies
25 to do that.

1 And then a key thing about JPAs is that there's
2 sort of a common denominator principle. The idea is
3 that they can exercise powers that are common to their
4 member agencies. So, the idea is not that you can
5 combine local, State and Federal agencies to create
6 super agencies, with super powers, it's more of if they
7 share the power, they can exercise it in common.

8 And we have very good representation from
9 implementation structures for HCPs and NCCPs today. The
10 JPAs were used In the Coachella Valley Plan, the
11 Stephen's Kangaroo Rat Plan in Riverside County, the
12 Multi-species Plan in Riverside County, and East Contra
13 Costa County Habitat Conservancy. And these are
14 examples. We also have Ken Schreiber here, with the
15 Santa Clara Plan that's not yet approved, but is on the
16 verge of approval, and they're also contemplating a JPA.

17 So, the next slide, please? The next example is
18 a new nonprofit. I think most folks here are familiar
19 with what they are so I won't go into that. But there
20 are a couple -- there are only a couple of examples that
21 I'm personally aware of, but I think these are worth
22 mentioning because they're both highly regarded. When I
23 talk to people who are involved in these plans, they're
24 very pleased with the role that these entities have
25 played, they're very effective.

1 But the best examples, at least, are Nature
2 Reserve of Orange County and the Natomas Basin
3 Conservancy.

4 And I think it's worth just -- on the
5 nonprofits, usually when you have a nonprofit that is
6 sort of the key implementing entity, they are focusing
7 on implementation of the conservation strategy. Some of
8 the questions about regulatory compliance, and enforcing
9 permit conditions, and so forth, and covered activities
10 that still remains with the entities that receive the
11 permit.

12 But in terms of implementing the conservation
13 strategy, it's the nonprofit that has a key role.

14 All right, then the third category is -- this is
15 again a broader category. In this example, as I
16 mentioned before, there is not a new independent legal
17 entity that's created, but the way -- instead, the way
18 the plans are structured is that the responsibilities
19 for implementation are allocated specifically to
20 members, the participating government entities that
21 implement the plan.

22 And the key to make this work is to make sure
23 that those assignments and responsibility are clear.

24 And the coordination and implementation is
25 achieved through a form of committee. There are

1 different examples we'll get into, but remember the key
2 thing here is that there's no new legal entity,
3 responsibilities are assigned through the plan or the
4 implementation agreement. And essentially, there are
5 discrete responsibilities among the various
6 participating entities.

7 The next slide, please? And here's some
8 examples, Clark County HCP, which I don't have a lot of
9 personal experience with but when I reviewed their
10 implementation agreement and their plan, briefly, they
11 have a very elaborate intergovernmental and interagency
12 committee structure.

13 Lower Colorado River HCP, that's a plan that is
14 where the responsibility for implementation is primarily
15 with the Bureau of Reclamation, but there is a very
16 robust steering committee that helps advise or guide
17 decisions about implementation.

18 And I also included in here the San Diego MSCP.
19 This is an example of a plan where the implementation
20 responsibilities are severable, if you will, and the
21 county has a lot of responsibility having -- you know,
22 covering most of the planning area. Each of the cities
23 that are permittees have discrete responsibilities. But
24 there is an implementation coordinating committee in
25 which decisions that need to be made plan-wide are made.

1 And there are folks here who have more experience in how
2 that committee has worked over the years, but that's the
3 way it was initially set up.

4 So, those are the three broad categories.

5 One of the things I thought I would do to sort
6 of help stimulate the conversation today is to highlight
7 some of the characteristics the DRECP that are different
8 from the plans that I just used as examples. And there
9 are several, as you all are aware.

10 But this first bullet, BLM and other Federal
11 agencies, that should say, manage over half of the
12 planning area, including the most important habitat
13 areas here.

14 There are often Federal lands in HCPs and NCCPs,
15 but I think it's fair to say that no other plan has such
16 a high proportion of land managed by Federal agencies
17 and that creates some interesting questions for
18 implementation.

19 Also, this is a plan that spans seven counties
20 so, for that reason, we have -- the complexity of local
21 government participation is much higher.

22 And the participation from county to county is
23 likely to vary.

24 Of the State agencies that are involved and are
25 likely to be applying for permits directly under the

1 plan, there are some interesting questions. Both the
2 CED and the CPUC have jurisdiction limited to certain
3 types of projects so they are unlike, say, a county with
4 local land use authority, their authority is limited to
5 specific types of project. It is not geographically
6 specific except limited to the State.

7 And the State Lands Commission has the ability
8 to use its lands for economic purposes and that can take
9 a variety of forms, different types of activities, but
10 their jurisdiction is limited to State lands, State
11 Lands Commission lands. So, it doesn't expand
12 throughout the planning area.

13 And I think it's also worth highlighting the
14 importance of the need for tribal consultation and
15 consultation with DRD here. In part it's because of the
16 plan area, but also I think it's the location. The
17 planning area is rich in cultural resources and has
18 major military installations, important considerations
19 in any discussion of the implementation structure.

20 And then I wanted to highlight that one of the
21 advantages to the plan are there are lots of existing
22 entities with expertise highly relevant to
23 implementation of this plan, including the Desert
24 Managers Group, which includes many of the entities that
25 are involved in this planning effort. And it's an

1 entity that already convenes to talk about land
2 management for natural resources purposes. So, I think
3 there's an opportunity there.

4 And just to conclude here I'm going to highlight
5 some issues or questions for folks to think about. The
6 first is, you know, obviously it's very important for
7 this plan, which is a land use plan amendment for BLM
8 and habitat conservation plan in the natural community
9 conservation plan to make sure that we have a structure
10 that coordinates implementation of these.

11 And one of the reasons that's going to be, I
12 think, a challenge on some level is that the geographic
13 extent of each of these elements is likely to be
14 somewhat different. And, obviously, a land use plan
15 amendment is for BLM lands. The habitat conservation
16 plan will be primarily or exclusively limited to non-
17 Federal lands.

18 And then, of course, the NCCP covers the entire
19 area. So, something to bear in mind for purposes of
20 identifying the entity that has to coordinate decision
21 making.

22 The other thing important to bear in mind here
23 is legislative authority. Each of the agencies that we
24 have participating has specific legislative authority.
25 For example, BLM, as we all know, as laws that guide its

1 management of its lands and our governance structure
2 needs to recognize that.

3 The same is true of other participating
4 government entities.

5 And then here again, you know, it's important
6 for all of these plans, particularly important here the
7 participation of different levels of government, and the
8 number of government agencies mean that participation
9 and implementation structure is going to be extensive.
10 We'll have several participants, probably more than
11 other plans.

12 And, of course, county participation has been a
13 question we've talked about a lot. It's very important
14 and we need to think about what form that should take or
15 must take.

16 And we'll talk -- I'm sure we'll talk today
17 about adaptive management in terms of natural resources
18 management. But one of the things that has come in
19 discussions about this in the past is that we're dealing
20 with a kind of covered activity that might change
21 substantially over the course of this plan. The
22 technology used for wind, even for solar, could change
23 in ways that are relevant for implementation of the
24 plan.

25 And one example is just that, for example, for

1 wind, wind technology may change in a way that means
2 that different locations are better or appropriate for
3 wind later in the implementation of the plan than would
4 be identified at the outset of the plan.

5 So, the kind of adaptation we may need to think
6 about here is not limited necessarily to natural
7 management per se, but may also need to consider other
8 kinds of changes that folks have talked about in
9 stakeholder meetings and elsewhere.

10 And the last thing I wanted to throw out there,
11 and this is the exception to my earlier caveat that I'm
12 only talking about things that can be done with existing
13 legislative authority is; is a new State charter
14 conservancy appropriate for the desert?

15 These are government agencies created by State
16 legislation. There are several of them in the State.
17 I've cited some of the examples here.

18 One of the advantages of a conservancy is that
19 when there are State bond funds, when State bonds are
20 issued often money is allocated directly to State
21 conservancies.

22 And they are typically organized with a natural
23 resources management emphasis, a priority. So, while a
24 State charter conservancy may not be directly part of
25 the implementation structure of the DRECP, it seems like

1 it might be appropriate to be part of the discussion
2 about the implementation structure.

3 And I think that is my last slide. Okay, thank
4 you.

5 COMMISSIONER DOUGLAS: All right. Well, thank
6 you, Chris, that was a really helpful overview.

7 And so what we're going to do, now, is go to
8 Department of Fish and Game and then Fish and Wildlife
9 Service to have the agencies talk about how they see
10 governance or their approach to governance in the
11 context of the DRECP, their suggestions for how they
12 might approach it.

13 And then we'll go to the roundtable discussion.
14 I've got a couple of notes of people who I'd like to go
15 to and ask for comment. And Gail, fair warning, I'll
16 start with you so be ready on the WebEx there.

17 And then we have a pretty informal discussion
18 structure so when you'd like to speak you can just put
19 up a card, like this, or wave it around if you're really
20 eager, or have a comment on point.

21 So, that will be the flow for the next couple of
22 presentations. So, let's start with Department of Fish
23 and Game.

24 MR. CONDON: Hi. Good morning everybody, I'm
25 Bill Condon, I'm the Environmental Program Manager for

1 the Department of Fish and Game's Renewable Energy
2 Program. We're part of the Department's Climate Science
3 and Renewable Energy Branch.

4 First of all, I want to extend our appreciation
5 and recognition of Commissioner Douglas's initiative and
6 leadership in establishing these series of DRECP
7 workshops. I'm not sure if anybody's said that, so we
8 need to acknowledge that.

9 We have a lot of key questions that we need to
10 focus in on and this presents a good opportunity to do
11 so.

12 Also, we appreciate the collective participation
13 and contribution of so many of you, the conservation
14 planners and conservation plan implementers. We need
15 your expertise, the vast experience that you bring to
16 this discussion to help focus on this particular topic
17 of governance structure for the DRECP.

18 Our Department of Fish and Game Regional Manager
19 Kim Nicol hoped to call in this morning. She may. If
20 she hasn't already, she may yet later on.

21 As well, we expect Chief Deputy Director Kevin
22 Hunting to attend the afternoon session.

23 We also, of course, have today Dr. Brenda
24 Johnson, who heads up the Department's Natural Community
25 Conservation Planning Shop, as we call it. It's a more

1 formal title than that, but that's what we call it. And
2 really appreciate your time, Brenda, for being here
3 today.

4 To my left, my colleague, Senior Environment
5 Scientist Stuart Itoga, whom we took from Brenda's staff
6 to help us out on this DRECP initiative, among other
7 things.

8 And finally, today, Chief -- excuse me, I almost
9 missed -- somehow it sticks -- Steven. Staff Counsel
10 Steven Ingram is here. For those who attended the last
11 workshop, Steven contributed a lot to the discussion
12 that day.

13 As I mentioned near the beginning of the
14 previous workshop on durability of conservation on
15 public lands, the Desert Renewable Energy Conservation
16 Plan is exceptional. Two of the reasons I mentioned
17 include, as others have already stated today, most of
18 the 22.5 million acres of the plan area is on Federal
19 land.

20 And as we heard from Vicki Campbell, 10 million
21 acres of that land is administered by Bureau of Land
22 Management.

23 And, of course, as Chris noted, that's the
24 reverse of what usually has been the case in these
25 conservation plans.

1 And to date, of course, none of the counties,
2 the seven counties and numerous municipalities within
3 the plan area of formally signed on as participants of
4 the DRECP's development, have not signed the planning
5 agreement which, again, is unusual, as we know, albeit
6 the counties have been actively engaging and providing
7 their input with regard to the development of the plan.

8 So, one question is whether, in the case of this
9 plan, to what extent can we or should we rely on a set
10 of agreements among the important parties that are
11 affected by this plan in the form of memoranda of
12 understanding, or other instruments, to garnish support
13 and commitment of resources and commitment to the goals
14 and objectives of the plan?

15 As an example, MOUs could be between and among
16 Federal and State agencies, counties, municipalities,
17 and nongovernment organizations.

18 Or given the origins of this plan, which stem
19 from policy statements and executive orders from late
20 2008 and early 2009 calling for support of renewable
21 energy development, while conserving species and natural
22 communities where the development occurs and calling
23 for, indeed, the establishment of the DRECP, itself,
24 should a governance structure be established through
25 legislation leading to a State conservancy, or a

1 combination of the above?

2 With these circumstances in mind, which I've
3 gone over, Chris has gone over, our challenge is to
4 consider the suite of governance options and
5 arrangements that are playing out well in other
6 conservation programs, and decide which combination of
7 these would transfer well to the exceptional
8 circumstances of this DRECP to render the plan fully
9 implemented and effective in achieving the plan's goals
10 and objectives. Including the goals and objectives that
11 the Department necessarily is most concerned about, and
12 that is the conservation of the covered species and
13 natural communities of the plan area.

14 So, that's all I have to say this morning. I
15 hope we can spend the most amount of time this morning,
16 after Ken's presentation, toward the roundtable
17 discussion. Thank you.

18 COMMISSIONER DOUGLAS: Thank you, Bill.

19 Ken.

20 MR. COREY: Thank you, Bill. Thank you, Karen.
21 It's great to be here today.

22 I think what I'm going to say takes off of
23 Bill's comments. One of our biggest challenges is
24 coming up with a strategy for a huge area of private
25 lands, you know, non-Federal lands.

1 And right now, of course, we have three
2 applicants, but that covers, I think as Chris mentioned
3 earlier, a very limited portion of the planning area on
4 non-Federal lands.

5 So, one of our challenges is to how do we set up
6 a plan where future applicants or future participants,
7 either through an MOU or, actually, a formal applicant
8 use the plan sufficiently and effectively in the future?

9 So, you know, we've thrown around the word
10 "programmatic" and I think we've thrown around the word
11 "general conservation plan."

12 And I have Jeness McBride here today. She is my
13 Division Chief for the portions of Riverside County
14 Desert. She used to be the HCP Coordinator in the
15 region and has lots of experience with HCPs in Louisiana
16 and Hawaii.

17 And she's going to give a quick presentation on
18 the general conservation plan approach. It's, for lack
19 of a better term, a programmatic approach for future
20 applicants, which is going to cover a huge portion of
21 the non-Federal lands.

22 MS. MC BRIDE: Well, Ken has explained what I'm
23 going to talk about. A general conservation plan is a
24 fairly new policy approach by the Fish and Wildlife
25 Service and that's what we're going to focus on in the

1 HCP component of the DRECP.

2 Next please. So, we've already talked about the
3 non-Federal lands and that's what we're going to do. We
4 will authorize incidental take for covered species
5 affected by projects on the non-Federal portion of the
6 DRECP.

7 And we're thinking about two approaches to do
8 this. One, what we're calling the traditional HCP
9 approach for the current applicants and the other is the
10 programmatic component for future applicants to come in.

11 Next please. What we're calling the traditional
12 HCP, that's how we work with applicants, any applicants
13 that come to us and ask for a permit we will issue -- we
14 can issue a permit for specific covered activities and
15 specific applicants who have declared their interest.

16 And as was said before, that's currently a small
17 proportion of the non-Federal lands in the DRECP plan
18 area.

19 So, what are we going to do about that vast
20 majority of non-Federal lands for which we have no
21 applicants stepping up at this time? So, that's the
22 programmatic approach. We have to come up with a
23 programmatic process for future applicants to sign up
24 under the plan.

25 Next please. To continue with what we're

1 calling the traditional approach, it's going to be a
2 combination for the DRECP, a combination of the
3 traditional and the programmatic. So, our current HCP
4 applicants that we know about, CEC, State Lands, PUC all
5 working with the REIT agencies to develop what we call
6 the cornerstones of the overall interagency DRECP. And
7 that includes the conservation strategy and the rule
8 sets, the BFAs, the funding options, the governance
9 structure, all that stuff has to be decided.

10 And once it is, then individual HCP applicants
11 can come in under the DRECP by adopting that interagency
12 strategy as their own, with some refinements.

13 Next please. Okay, so the interagency HCP is
14 the basis for everything. It will analyze a
15 conservation strategy and a suite of potential covered
16 activities for the entire plan area.

17 So, each HCP applicant can tailor that
18 interagency DRECP to their specific details for their
19 covered actions, for their specific project sites.

20 Next please. And this traditional approach with
21 CEC, State Lands, and PUC, we will work with each
22 applicant the way we always do to develop an HCP that
23 addresses all the mandatory elements specified by the
24 Endangered Species Act and the regs., that meets the
25 issuance criteria for an incidental take permit and

1 that, most of all, will further the conservation
2 strategy of the interagency DRECP.

3 Now, with these up front, applicants, one of our
4 decisions under NEPA will be whether to issue them a
5 permit. Right up front, under this plan. So, if
6 everything works out right then we can issue those
7 permits to those three declared applicants as soon as
8 the rod is signed.

9 Okay, so what do we do about the others that
10 haven't stepped up, yet, for most of the non-Federal
11 lands for which we have no applicants? We need the
12 programmatic approach.

13 We are focusing on what's called a general
14 conservation plan and it is an HCP with a slightly
15 different flavor.

16 Well, we have no up-front applicants that's the
17 problem. And so if there are no applicants, we're not
18 going to issue a permit for the general conservation
19 plan.

20 If there are no applicants, we have to develop
21 the general conservation plan, we the Fish and Wildlife
22 Service. We develop the plan, we analyze its effects.

23 With that in place, the general conservation
24 plan, we may issue permits to future applicants who will
25 submit individual site-specific HCPs that are consistent

1 with our general conservation plan which, in term is
2 consistent with the overall DRECP.

3 And the whole point of this is to structure the
4 general conservation plan process to streamline future
5 permitting and NEPA requirements.

6 Next please. We do this through a process
7 called "Template HCPs," and we will develop the template
8 HCP. And this is where individual applicants to use
9 that template for their site-specific projects.

10 Now, this template is probably going to be more
11 than just a check list. But it probably is not going to
12 be the full-blown HCP, but it's the way we usually
13 approach this and that can take months or years.

14 So, through the template, we will review the
15 template HCP for consistency with the general
16 conservation plan, with our EIS and with our biological
17 opinion. And if all those conditions are met, then in
18 the future we can issue individual permits to qualified
19 applicants who submit that template HCP.

20 All right, so why go through this? These are
21 what we think are the benefits of this approach for the
22 general conservation plan; the incentive for applicants
23 in the future is that it's a streamlined permitting
24 process. Each applicant will take much less time and
25 effort to develop the template HCP.

1 And one of the reasons for that is that the
2 DRECP, itself, will have the baseline biological
3 information that the future applicants can tier from.
4 What that means is that there will be no negotiation for
5 covered activities and mitigation if those things would
6 be consistent with our GCP and with the DRECP. We won't
7 have to go back and forth with the applicant several
8 times to make sure we get the adequate mitigation that's
9 already going to be taken care of.

10 What that also means is that there's less
11 internal review at the Fish and Wildlife Service.
12 That's primarily going to be conducted at the field
13 office. Much less regional office review and probably
14 much less service area review.

15 And thus, from our perspective, from the Fish
16 and Wildlife's perspective, bringing in more applicants
17 will facilitate contribution to the region-wide
18 conservation strategy and that's the best deal for the
19 species.

20 So, Kristy, you can stop there. We're not going
21 to go through with the rest of the slides. I'm sure you
22 all have questions. We have questions, ourselves.
23 We're not sure how this is going to work out and we are
24 exploring other options.

25 And with that I'm going to turn it back over to

1 Ken.

2 MR. COREY: And I think the big message with all
3 of that is we really need to find a way for people to
4 actually use the plan in the future.

5 And I think we'll end there and send it back to
6 you.

7 COMMISSIONER DOUGLAS: Well, thank you very
8 much, that was a really helpful presentation.

9 I'd like to acknowledge Jim Kenna, California
10 State Director of BLM is at the table. And Dave Harlow
11 has joined us, the Director of the DRECP. So, welcome
12 both of you.

13 And with that we are -- we've reached the
14 discussion portion of the agenda at this point. I will
15 call on a few people because I'd like to maybe ask a few
16 people to step up and kick us off. But you're welcome
17 to ask questions of the presenters, you're welcome to
18 ask questions of each other, you're welcome to just --
19 and invited to share your thoughts.

20 So, Gail, if you're on the line, we would love
21 to hear from you. Just any thoughts you might have. We
22 do have a couple of questions on the agenda for this
23 section. What lessons learned from implementing other
24 plans are applicable to this discussion?

25 What should the function be of the DRECP

1 governing entity or entities? How should it be
2 structured?

3 How could the DRECP fit into other existing
4 processes and activities in the DRECP area?

5 Those are some questions that we've identified
6 for this part of the agenda, but you're welcome to
7 provide what input you think is best. Go ahead.

8 MS. BARTON: Well, since you gave me a heads up
9 I, of course, had to jot a couple things down. First of
10 all, my background is probably different than most
11 people because I've been on both sides of it. I came
12 into all of this as a stakeholder, and at a time where
13 we needed to find out how could we go about acquiring
14 lands.

15 And so we dealt with a lot of the issues that
16 are facing you for the Western Riverside County and its
17 HCP, but on a much smaller scale.

18 There are a couple of things that jump out at me
19 and one of them is that the organizational structure is,
20 I would assume, going to be dealing with the
21 implementation, the management and the monitoring.

22 And I think if you ask Katie Barrows, Charlie
23 Landry, these are huge tasks. And so I do think that
24 you need some sort of a dedicated organization.

25 And I don't know that you build that on the back

1 of something else.

2 That also leads me to the fact that because it
3 covers such a large area I don't know how you break it
4 down area-wide, or by area, because I think that's also
5 going to be something that's going to have to be done.

6 When you look at the size of the area there's
7 varying interests, varying concerns, and I think you
8 almost have to cater to those different interests and
9 concerns.

10 You need a strategy for acquiring land. And
11 from our experience that requires a very delicate
12 balance. Private lands acquisition requires the
13 opportunity for input from the private land owners and a
14 process.

15 In Riverside County we developed the HANS
16 Process which was -- it's a package, it's a package
17 deal, but it took a lot of negotiation to get everybody
18 to agree that, yes, this is something we could sort of
19 agree to. And that was absolutely huge.

20 The other thing I think is, in looking at
21 implementation, a toolbox. You were talking about like
22 nonprofits, conservancy. I think you need all the brain
23 power that you can bring to the table because what
24 typically happens, you get the plan in place and then
25 that next step of crafting that toolbox with all of

1 these potential methods for -- creative methods for
2 securing land, and definition of incentives tends to go
3 by the wayside. And I think you need that because, of
4 course, my final thing is going to be that there is
5 never enough money, so how do we deal with it?

6 Those are my thoughts.

7 COMMISSIONER DOUGLAS: Thank you very much,
8 Gail, really appreciate that.

9 Just wave your hand on the WebEx when you want
10 to jump in and Kristy or somebody will give me a sign
11 and I'll call on you. So, thank you for that.

12 Let me just ask, Andy Horn, you're on the line
13 is there anything you'd like to say, now, or should we
14 wait until later? I did not warn you so you're free to
15 pass.

16 MR. HORN: Well, can you hear me?

17 COMMISSIONER DOUGLAS: Yes.

18 MR. HORN: Well, I saw you had a number of
19 questions there having to do with county participation
20 and I think that is going to be an interesting exercise
21 because, you know, I think Chris pointed out, or some of
22 the other panelists there, you know, that it's a little
23 bit broader organization than we've attempted to do.

24 I'll make a comment on some of those other
25 questions. I mean I think our county, of course, is --

1 you know, we are -- haven't seen a lot of development
2 going on down here. We have not because a lot of it's
3 been occurring on private land and there has not been a
4 tremendous amount of permits required. Although I know
5 the developers are working with the Department of Fish
6 and Game with regards to Burrowing Owl habitat issues
7 and so forth.

8 I'd like to feel our way through this. I mean
9 the county's involvement, I can tell you this and I
10 don't know speaking for Imperial County, and being
11 somewhat resource challenged in terms of money, and
12 personnel to support this effort, I mean I would think
13 that counties are going to be looking for something that
14 they can use as a tool to help permit, but I don't think
15 you're going to get a lot of participation. And I'm
16 thinking, looking at that question as far as governance
17 piece structured, I assuming they participate in the
18 plan.

19 I mean you might want to have a county
20 participant or something, but I can't imagine all the
21 counties being there or even wanting to be there. I
22 mean this is going to be an exercise of evaluating and
23 issuing the permits as you go forward, and managing
24 conservation lands, and I don't know that we --
25 speaking, again, for our county, I don't know that we

1 see an absolute necessity to be involved on a day-to-day
2 basis or even an ongoing basis in that effort.

3 But it's certainly something that we want to be
4 participating in and have available to us. The benefits
5 of being involved in the DRECP and being able to take
6 advantage of the conservation plan toolbox in permitting
7 projects.

8 COMMISSIONER DOUGLAS: Great Andy, thank you.
9 Thanks for jumping in with no warning. And as I invited
10 Gail and other participants on the panel, who are on
11 WebEx, just raise your hand on the computer when you'd
12 like to jump in.

13 Let me go now to Katie Barrows, also on WebEx,
14 and Katie are you there?

15 MS. BARROWS: Yes, I am.

16 COMMISSIONER DOUGLAS: Anything you'd like to
17 share?

18 MS. BARROWS: Can you hear me?

19 COMMISSIONER DOUGLAS: Yes, go ahead.

20 MS. BARROWS: Well, I would maybe just very
21 briefly identify for our plan we have a structure that
22 Chris described, with the Coachella Valley Conservation
23 Commission, and a number of committees that focus on
24 monitoring and management.

25 I would say that one of the greatest benefits of

1 an HCP process or the DRECP is coordination of those
2 activities, monitoring, management and land acquisition.

3 I think in terms of lessons learned, one of the
4 things that we are focused on that the DRECP hopes to
5 solve is a coordination between the Section 7 process
6 and Section 10, particularly with transmission projects.
7 And we're working through that right now. So, we're
8 anxious to see the solutions that you guys are going to
9 come up with.

10 I think that in terms of the governing entity
11 there is a very important role, obviously, in having an
12 entity that oversees this to make sure the conservation
13 goals are met, and that credibility is there.

14 And certainly managing an agency with ten
15 cities, and a county, and 1.1 million acres is
16 overwhelming enough.

17 But I do think that one of the significant
18 opportunities is to have that governing entity, maybe
19 if, you know, the agencies throughout the counties.

20 To Andy's point, our finding is so far there's
21 not a lot of day-to-day involvement with our elected
22 representatives, or even for that matter our county
23 staff in all of the ongoing. We do get, of course,
24 great participation from Gail and her team at Riverside
25 County in the monetary management and that sort of

1 ongoing maintenance and monitoring of the reserve
2 system.

3 But we do have opportunity to report on the
4 success of those activities and what's going on to our
5 Coachella Valley Conservation Commission. I think
6 that's an important aspect of any conservation plan.

7 In terms of existing process, I know we're
8 anxious to coordinate with the DRECP as things go
9 forward. We do have some land acquisition benefitting
10 some projects already taking place within our plan area.
11 We're still kind of working through the details of that,
12 but I think that coordination is very important.

13 We're still at the early stages of evaluating
14 adaptive management and kind of testing that process.
15 But I think there's an effort with the existing HCPs,
16 through the Habitat Coalition, to continue to have
17 coordination on the monitoring and management side, so
18 at least we're all able to share information and data.

19 And we're in the process of working with other
20 existing plans to try to move forward on that.

21 COMMISSIONER DOUGLAS: Thank you, Katie.

22 MS. BARROWS: That's all I have for now.

23 COMMISSIONER DOUGLAS: Thank you, Katie, really
24 appreciate that. And since you did ask the question
25 about coordinating Section 7 and Section 10 permitting

1 with regard to transmission, that may or may not be
2 something that Ken and team feel like they can address
3 right now. But if you can, go ahead.

4 MR. COREY: Well, in Coachella Valley we did not
5 address transmission as a covered activity.

6 So, the key for DRECP, of course, you know, is
7 to address it as a covered activity and plan for it.

8 In Coachella Valley we covered pretty much
9 everything else. And so, you know, right up front you
10 can build into the system a way to take care of some of
11 the problems we're having now.

12 And some of the problems we're having now is
13 that these non-covered projects or activities are
14 affecting some of the take that was initially allocated
15 to some of the permittees out there.

16 And then, of course, you have avoidance of
17 minimization measures that also, if it's land
18 acquisition for instance, might -- it's a bump in sort
19 of the numbers of calculating impacts and conservation
20 just from the plan's point of view.

21 COMMISSIONER DOUGLAS: Thank you, Ken. And,
22 obviously, a lot of coordination needed and definitely
23 some lessons learned as we move forward to cover
24 transmission as a covered activity in the DRECP.

25 I'm going to go down the list of some people

1 here representing, or as part of different plans, and so
2 Ken Schreiber, your thoughts?

3 MR. SCHREIBER: A couple of things. In my mind
4 I'm maybe a little -- very briefly, our plan has three
5 cities, a county and two special districts. We are
6 literally in the midst of local partner review of the
7 final plan.

8 The schedule will have six local partners
9 complete their reviews by November the 1st. So, by
10 November the 1st or the 2nd we will know whether we have
11 a plan or not.

12 And if we don't have a plan that may well be
13 just the end of the ball game, very honestly, because I
14 don't think there's commitment to more money, more time.

15 But I think the odds are we will have a plan on
16 November the 1st.

17 And then putting out in my -- I'm putting into a
18 separate category the questions on non-covered
19 permittees, et cetera. I just think that is a mind-
20 boggler to begin with.

21 (Laughter)

22 MR. COREY: And my background, I spent 17 years
23 as a community development director and so I stopped
24 going back to thinking like a community development
25 director in the permitting process and the review

1 process, and let me just not go there for a bit.

2 Four real comments, though, coming out of
3 Chris's observations from our -- and from our
4 experience. And we are setting up a JPA. It's a JPA
5 and it doesn't look like anybody else's JPA because of
6 our local situation.

7 One is I found it very hard to focus the energy
8 of participants on implementation when you're in the
9 middle of trying to put a plan together. And what
10 you're doing is critical work, but it's very hard to get
11 people's energy focused there when they really are bound
12 into the biological details and all the other ins and
13 outs.

14 And so questions that were raised in our process
15 were deferred and now, suddenly, were there in terms of
16 the specifics of implementation.

17 And really coming out of that, the specifics of
18 implementation are so much more than the nature of the
19 organization. It's there are just -- I mean we put
20 together the first agenda, working agenda for our
21 implementation entity, our implementation board and it
22 has 18 items, but we'll just leave more spaces because
23 it's an agenda that's growing by the week.

24 So, one is by now it's very hard to get energy
25 focus.

1 The second is trust and commitment are critical.
2 Among our six partners we have the City of San Jose, the
3 County of Santa Clara, and the Santa Clara Valley Water
4 District, three large agencies. I've had to facilitate
5 management team meetings at times when I've known that
6 people in the room are out giving depositions on
7 opposite sides of a lawsuit between the partners.

8 (Laughter)

9 MR. COREY: And we don't have any, now, but the
10 point is there is this history of conflict, of
11 disagreement, of lawsuits, of arguments, et cetera,
12 among the agencies. There's an ongoing moderate to low
13 level of trust and you -- to make a commitment, you need
14 to figure out how you're going to create the trust.

15 Third, the issue of powers; what hung us up for
16 probably the better part of a year was the fact that, as
17 Chris noted, JPAs have all of the powers held in common
18 among the agencies which means that when our attorney
19 said we want the JPA to adopt the fee schedule, three
20 cities and the county have legal authority to do it, the
21 two special districts don't. So you had to create a
22 bifurcated system where the Water District, with great
23 ownership, is not on the governing board.

24 And other -- and in the agencies you're dealing
25 with, I think that problem's going to be even much, much

1 bigger, perhaps, or maybe that pushes toward special
2 legislation. Because when you really have to get down
3 into the nit and the grit of that, in terms of the
4 enabling legislation, the various rules, you know, it's
5 complicated legal issue.

6 And fourth, and that's both needed and what's
7 available and then what's needed, and trying to match it
8 up, okay.

9 And just fourth, from our stand point, we made
10 the decision to keep the elected officials up front.
11 So, we have a governing board of three cities and a
12 county, each has two members, they have to be elected
13 officials.

14 We have an implementation board of the three
15 cities, the county and two special districts, of which
16 they each have two members, one of whom has to be an
17 elected official.

18 Because we feel that if you don't have the
19 elected officials' involvement and ongoing commitment,
20 the process can drift away into the bureaucracy some
21 place or another, and then when the crunch comes you
22 don't have the votes or the understanding to get the
23 votes to say, yes, but we have to apply those
24 conditions. Well, no we don't. On a vote of three to
25 two, the conditions of the plan don't apply, and

1 suddenly you're in trouble, or you get into this, no, we
2 don't have to amend the fee schedule. Well, yes, you
3 do, but you'll lose the political majority, you lose the
4 elected official majority.

5 Now, your process here, and I hope to come back
6 to it in terms of your non-permitted participants, how
7 you -- the value of the plan is to give people, at least
8 for endangered species, a route to get through the local
9 process. And how you do that when they're not part of
10 the planning agreement, don't receive a permit and,
11 thus, don't have ownership in a 5-, 10-, 15-, 20-, 30-
12 year period -- and this weekend my wife and I were in
13 Cambria, down near Hearst. And as my wife knows, the
14 job never really totally disappears, even on a weekend
15 away from the house.

16 So, in yesterday's San Luis Obispo paper the
17 headline -- a little article on page 4, from Bloomberg,
18 "Green Advocates Over Species Versus Solar."

19 And if a county is not part of the plan and
20 they're faced with the clash, the plan is simply another
21 thing out there that may or may not be of help to them,
22 versus a permit with biological findings, a written
23 opinion that can be hung onto in terms of this is --
24 this part of it for endangered species is decided.

25 So, there's a big gap there and I don't know how

1 to bridge that one, that's new to me this morning.

2 COMMISSIONER DOUGLAS: Thank you very much for
3 those comments, very insightful, very helpful. And, you
4 know, a lot of lessons learned from us that I can hear
5 right away.

6 Let me just ask you, you did spend some time
7 talking about why you chose the governance structure you
8 did, but if I could just probe a little bit did you
9 consider nonprofits or some other governance structure
10 and did you, you know, consciously land on the JPA
11 because it just really fit those goals better?

12 MR. COREY: Well, we started out with a memo
13 from Chris that outlined, I think, six different
14 options, implementation options. Chris will remember
15 that from some years ago. And we looked at them all.
16 And we really worked the elected officials on our, what
17 we call the liaison group; it's the coordinating body
18 for elected officials. We worked them through each one
19 of those and it pretty quickly became apparent that
20 designating one partner wouldn't work because, again,
21 the trust level wasn't high enough.

22 Creating some sort of state legislated, whatever
23 else was looked at in horror in terms of, my God, you're
24 going to turn this budget over to the State of
25 California, I mean that's -- there's no worse

1 alternative.

2 (Laughter)

3 MR. COREY: Even from elected. So, it got down
4 to the issue of how do you create a structure that has
5 enough participation and ownership and, again, it comes
6 back to the elected officials. It comes back to keeping
7 the decision makers in the mix all the way along so they
8 can't slide out of the process.

9 And that's what led to the JPA, and that's what
10 then led to the, oh, my gosh moment -- or, no, it was an
11 oh, my God moment when we realized that we didn't have
12 fee-setting authority for two of the six.

13 But it was really -- it was a process of sorting
14 out, and discarding, and getting it narrowed down. And
15 talking about the objectives of what the elected
16 officials wanted to have out of this.

17 And they wanted to have a process, bless them,
18 they kept some role and ownership in there, they also
19 saw the danger of having implementation five or ten
20 years get down into a department some place and sort of
21 slide out of public consciousness.

22 COMMISSIONER DOUGLAS: Great, thank you.

23 John Kopchik?

24 MR. KOPCHIK: Good morning. I think that for
25 the East Contra Costa plan that Chris wrote a memo for

1 us, as well.

2 (Laughter)

3 MR. KOPCHIK: Longer ago. I don't think that we
4 gave much serious thought to alternatives other than
5 JPA. We formed a JPA, what might be -- you know, I
6 think the effort you're going through is so obviously
7 different than what we have, so I'm not sure how much is
8 extractable.

9 But in terms of having two centers of gravity,
10 it might be a useful analogy for us.

11 The East Bay Regional Park District covers our
12 entire area and owns more than 100,000 acres, and we
13 didn't want to recreate that bureaucratic wheel in terms
14 of having a land management, land acquisition entity.

15 So, we formed a JPA that included the land use
16 entities, kind of for reasons that Ken alluded to
17 because then we have a whole bunch of agencies with
18 similar power. And then that entity is really staffed
19 by three people, but works hand-in-hand with the East
20 Bay Regional Park District, which is staffed by several
21 orders of magnitude more people who do the land
22 acquisition and will do the land management.

23 Even though we're five years in, I think it
24 still remains to be seen the most efficient way for East
25 Bay Regional Park District to do the -- or for the

1 collective permittees to do the above and beyond
2 conservation and -- well, the above and beyond
3 management and monitoring that an NCCP or HCP would
4 require.

5 East Bay Parks manages a lot of their lands
6 really well for species. We are going to have to do an
7 even better job than this and are we going to -- so far,
8 any time we need to do something above and beyond, like
9 we need to be a bit restoration project, our JPA steps
10 in and does the work and East Bay Regional Park District
11 is a more passive party.

12 But in the future I think that East Bay Regional
13 Park District's role will need to grow and so they'll
14 have to treat the preserves that are in, that are under
15 our HCP in a different way than they treat the other
16 100,000 acres that they own, and so that will be tricky
17 for them.

18 But I think that in general it's been very
19 successful so far and that we've been able to, through a
20 lot of success with Federal grants and State grants, buy
21 a lot of land really quickly, not trying to figure out
22 how to become a land management entity, basically
23 relying on a successful entity that was there. And
24 we'll have growing pains later.

25 COMMISSIONER DOUGLAS: Thank you.

1 Ron Remple.

2 MR. REMPLE: Just so folks have a little bit of
3 history, my history here, I've worked at the NCCP
4 program level from the start of it, when I was working
5 for the Department of Fish and Game. And I think
6 there's a number of lessons we've learned over time in
7 trying to look at the implementation of these plans, and
8 things we tried to adjust along the way.

9 And one of the unique perspectives I get now is
10 after the early teenage years of the plan in San Diego,
11 I think we've sort of started to settle in on trying to
12 figure out what are the major issues we need to deal
13 with in the long-term implementation of these plans
14 versus short-term implementation issues.

15 And I might suggest that the governance
16 structure often gets focused on the early years of
17 trying to implement these plans, and that is how do you
18 get people to do what they're supposed to do from the
19 stand point of setting aside lands, or following the
20 rules.

21 But when we get down to those teenage years we
22 look backwards and start saying, you know, where are
23 biggest challenges are, are in management and
24 monitoring, not on compliance with the plans.

25 And that often requires a totally different look

1 at what kind of structure you might have that can
2 effectively deal with management and monitoring across
3 the landscape.

4 The science is changing so rapidly that is used
5 for the adaptive management programs, understanding
6 what's going on with species populations, connectivity
7 issues out there, that many times the entities that were
8 set up initially cannot handle that kind of rapid change
9 out there because it really takes folks who are involved
10 almost in the science on the daily basis. They have the
11 partnerships with the university systems and also are
12 not limited with only looking at their little piece of
13 the landscape.

14 An example of that is in Southern California you
15 have a couple of species that are common to multiple
16 plans down there, The California Gnat Catcher and Cactus
17 Wrens.

18 What we've realized is we cannot monitor those
19 species, cannot understand how they're connected based
20 upon any one plan. So that we've had to look far
21 outside of a specific plan area to understand what's
22 going on with those species and also how to manage the
23 habitats for those species in an adaptive manner.

24 A second piece, and part of the CBI report dealt
25 with this, is where's the data going? Quite often we

1 see data being collected for the purpose of collecting
2 the data, which is sort of nice. But what we fail to
3 see and, quite often it doesn't even get brought up on a
4 regular basis when people write things down. It's the
5 analysis of that data and the feedback to management
6 that is an important piece. I would sooner have less
7 data and more analysis so that I understood what's going
8 on with the system, than to spend all my time collecting
9 the data.

10 The second piece with that data collection piece
11 is the issue of how it's collected. Little tweaks made
12 by different organizations in the way the data is
13 collected essentially puts all the data in the trash
14 bin.

15 Simple things, like changing the sample frame of
16 where the data is collected, without taking into
17 consideration the sampling design, essentially means we
18 all wasted our time collecting that piece of data.

19 In addition, having that data available for
20 analysis by independent scientists and by the public I
21 think is where we should all strive to be. And in that
22 regard, I think we are the first ones who have set up a
23 database that's actually accessible to the public
24 through our website in San Diego. And over the next few
25 years that will get populated by more and more data.

1 Because our philosophy is make as much data
2 available as absolutely possible. If there's certain
3 pieces of information that are extremely sensitive,
4 let's acknowledge they're there and maybe put in some
5 spatial attributes so that you only see where it is
6 based on a section basis, or a square mile basis. But
7 most of the time let people understand where that data
8 is collected, how it was collected, and what was the
9 purpose of collecting that data.

10 And then also put the analysis products up so
11 you can utilize that data fairly easily.

12 One of the very conscious things we did in
13 setting up the management and monitoring program in San
14 Diego, as it's currently configured, is we looked around
15 and asked ourselves where do we want to be housed? Who
16 do we want to be neighbors to in understanding the
17 science of management and monitoring?

18 Ultimately, we co-located with USGS, even though
19 we're funded by San Diego Association of Governments,
20 because it made good sense from a scientific basis being
21 able to draw on the expertise of others out there, and
22 then developed a relationship with San Diego State
23 University to use some of their expertise on specific
24 projects.

25 And so I think in trying to look at these types

1 of organizations you might want to think about maybe you
2 need at least two organizations.

3 I think one last piece that quite often gets
4 left out, we've gone back and tried to figure out how we
5 retrofit part of it, is law enforcement.

6 Law enforcement can be extremely important for
7 protecting or managing certain resources, dealing with
8 some of the unintended consequences of human use of some
9 of the preserve systems out there.

10 And to have effective law enforcement we've
11 tried a couple different things, but I think we're
12 reached the point where we've decided that in general we
13 need a law enforcement entity that has broad
14 capabilities, has a natural resource focus, can cross
15 all boundaries because of the way their authorities
16 flow.

17 The one organization that has fit that bill has
18 been Department of Fish and Game Wardens, and we
19 currently have contracts with Department of Fish and
20 Game to help with law enforcement out there.

21 BLM Rangers are very helpful in certain
22 situations, as are the US Fish and Wildlife Service law
23 enforcement people.

24 But consistently who we've been able to find
25 these available has been Department of Fish and Game

1 Wardens.

2 And we also tried the Sheriff's Department and
3 there were limitations there based upon the kinds of
4 things they would like to focus on, and it's not
5 necessarily natural resource issues.

6 So, with that I'll answer any questions, but
7 these were some of the key thoughts.

8 COMMISSIONER DOUGLAS: Thank you, Ron, extremely
9 helpful. Thank you.

10 Dan Silver's on the line. Dan?

11 MR. SILVER: Good morning everyone. Endangered
12 Habitats League, which I represent, has been involved in
13 several of the Southern California plans. And I would
14 make the same distinction Gail Barton made between
15 dedicated and non-dedicated as the key point.

16 In my experience, the dedicated joint powers
17 authorities in the Western and Coachella Valley plans,
18 and Riverside County have both worked very well.

19 The more ad hoc, loose coordination in San Diego
20 has worked very poorly, particularly in terms of
21 strategic acquisitions.

22 And with Ron's -- Ron Remple's help, we're now
23 trying to pick up the ball on management and monitoring
24 under the auspices of the Council of Government. But
25 there's been no dedicated implementing agency in San

1 Diego and it's suffered for that.

2 In terms of the form of a dedicated agency, I'm
3 not sure I can make a definitive recommendation. The
4 joint powers has worked well in Riverside.

5 I don't have experience with a State chartered
6 conservancy in terms of being the implementing entity,
7 although that could work.

8 What I'd like to bring up for your
9 consideration, though, is the structure of the Nature
10 Reserve of Orange County, which is this private
11 nonprofit. And I'm not sure a private nonprofit will
12 work perhaps perfectly when you have so many local
13 governments in this wide geographic area.

14 I mean maybe you need something like a joint
15 powers authority.

16 But what's interesting about the Nature Reserve
17 of Orange County is that the board of directors is
18 multi-stakeholder. It includes US Fish and Wildlife,
19 Department of Fish and Game. It includes the major
20 signatories. It includes three at-large public members
21 representing environment, business and recreation.

22 It includes the fire authority, which in
23 Southern California I think is very, very important for
24 these plans.

25 But maybe even if you go with the more

1 traditional governmental structure you build in some
2 kind of formalized stakeholder advisory group that would
3 consist of some of these interested parties, and I think
4 that would be very helpful no matter what dedicated
5 agency you choose.

6 But again, to me the distinction is do you have
7 an agency that's really working on this and is staffed
8 to do it, or don't you. And that's it from me.

9 COMMISSIONER DOUGLAS: Thank you, Dan.

10 So, I'm going to go -- I'm going to call on just
11 Pat Chrisman and Russell Scofield on lessons learned and
12 then open this up. So, go ahead Pat.

13 MR. CHRISMAN: Thank you, Karen, I appreciate
14 the opportunity to be here.

15 We've been discussing this since we saw the
16 first draft, trying to figure out how you can put apples
17 to apples and oranges to oranges.

18 I think for us, in DOD, this represents some
19 rather unique challenges because we cannot, by law,
20 participate as a decision making process in some of
21 these forms. We can participate as ex officio members,
22 but we cannot participate as decision makers.

23 When we look at the complexity of this I'm
24 reminded of one of the first lessons I learned trying to
25 plan amphibious operations which, arguably, is the most

1 complex thing in the world to try and plan. And the old
2 gray-haired warrant officer told me the acronym of KISS,
3 keep it simple stupid.

4 I don't know how you do this in this particular
5 environment --

6 (Laughter)

7 MR. SCOFIELD: -- but I think -- and the more I
8 get involved in these kinds of things the more I'm
9 convinced I really shouldn't be here. There are a lot
10 of smart people in the room that are smarter than I am.

11 But I would offer you a couple of observations
12 in terms of what we're discussing here.

13 For DOD, especially when you're looking at a
14 time frame of 2040, flexibility is absolutely essential
15 in the bio -- when I came into DoD, in 1968, I would
16 have never been able to project the things that we have
17 to deal with on a global basis today.

18 So, when you're looking at something that's
19 coming up in 2040, what we are going to be looking at is
20 something that will allow us the flexibility to be able
21 to participate, but still react to changing global
22 conditions. And that's absolutely essential to us.

23 We think it's essential to incorporate, as
24 there's been some discussion today, the things that are
25 already existing.

1 When we look at the economic future with the
2 sequestration of BRAT coming down the road, and I think
3 you may have heard this when the Undersecretary of
4 Defense was here last week, money is getting tighter,
5 it's not getting more expansive.

6 So, when we look at our staffs from DoD, the
7 question is if you set up an organization that is so
8 diffuse we cannot participate because we simply don't
9 have the resources to participate, how do we then buy
10 into something and pay something or contribute to what
11 we're not prepared to be able to participate in.

12 And I think it's been pointed out we have a big
13 footprint in the DRECP area. Much of the \$60 billion
14 that we contribute to the State of California is reliant
15 on those installations in the DRECP area.

16 So, we're trying to figure out how we are going
17 to be able to continue to participate in the process.

18 One of the things I think we have learned, I
19 certainly have learned, I go back almost 15 years to the
20 very first meeting I went to of the Desert Managers
21 Group, and the primary topic of discussion was the
22 Desert Tortoise.

23 And at 29 Palms we now have about 480 Desert
24 Tortoise we're getting ready to release into the
25 environment when the conditions are right.

1 But one of our leaders back in Washington asked
2 what the lessons learned were in terms of where is the
3 Desert Tortoise today as opposed to where it was 15
4 years ago, we started working with Fish and Wildlife,
5 and Fish and Game, and all the other managers.

6 And I don't know I could answer that question.
7 So, that basically tells me issues like long-term
8 finance are going to be absolutely essential.

9 The comments about can we maintain stability in
10 terms of our metrics, are we getting better, are going
11 to be essential to the organization.

12 Certainly, when you look at the land ownership
13 patterns, having the tribes there, the cities, the
14 counties, the conservancies, all the other people, if
15 you don't include them, then it will be foredoomed to
16 failure.

17 One of the things I think we have noted in our
18 efforts, with our Integrated Natural Resource Management
19 plans across the region, with some of the JPAs, is the
20 counties can make great general plans and they might not
21 last six months until there are exceptions to the plans.

22 And so if we invest more and more money and this
23 is, again, something the Undersecretary pointed out, if
24 we're investing over a billion dollars in our kind of
25 conservation efforts across DoD, where is that money

1 going to come from and how do you go back to Congress to
2 justify the ability of the Department of Defense to
3 continue to invest in those things if there's no
4 stability or long-term security to it.

5 That's, I think, my general comments. Anything
6 more than that would probably get me in trouble.

7 COMMISSIONER DOUGLAS: All right, we'll try not
8 to get you in trouble, although people might have
9 questions.

10 Let me go to Russ Scofield to talk about Desert
11 Managers Group.

12 MR. SCOFIELD: Thanks Commissioner Douglas. The
13 Desert Managers Group that I coordinate, along with Mr.
14 Fon Duke, the Department of Defense Coordinator, who is
15 sitting behind me.

16 The Desert Managers Group is significantly
17 different than many of the groups, these implementing
18 bodies that you've already discussed.

19 The Desert Managers Group was originally formed
20 as, really, the product of a couple of different
21 partnership processes that were ongoing in the desert in
22 the early nineties. The Desert Protection Act, it's
23 passage in October of '94, the need for the Park Service
24 and the Bureau of Land Management to coordinate for
25 consistent management of those lands one, being

1 designated as wilderness but, two, the lands being
2 transferred over to the Park Service.

3 Also, Fort Irwin was beginning its expansion
4 program and was working in partnership with the BLM.

5 So, in 1995 those partnerships merged, the
6 Desert Managers Group was formed. It became one of
7 Vice-President Gore's reinvention of government
8 laboratories. And the group was chartered in 2000, with
9 its authority for that charter coming from the Federal
10 level, the Assistant Secretary of the Interior, the
11 Undersecretary of Defense, and State level it was within
12 the Resources Agency.

13 So, our history is, as I said, somewhat
14 different. The Desert Managers Group has since focused
15 on consistent management of the desert, with the vision
16 of sustained management for future generations.

17 We have diverse membership, ranging from
18 National Park Service, California State Parks to our
19 military members. We have all four branches of military
20 service who actively participate at the installation
21 level.

22 In Desert Managers Group we have State agencies,
23 as I said California State Parks, California Department
24 of Transportation and California Fish and Game.

25 We also, more recently, have gained U.S. Forest

1 Service and some county participation. So, we have four
2 counties that have signed on to our MOU, those being
3 Inyo, Kern, San Bernardino and Imperial.

4 So, the Desert Managers Group, we've got this
5 partnership structure for discussion, coordination of
6 projects and programs throughout the desert. Some
7 examples of the types of projects that the Desert
8 Managers Group has tackled in the past, Pat mentioned
9 Desert Tortoise, and that was probably my first DMG
10 meeting, a little bit after your first one. We were
11 talking about Desert Tortoise and we're still talking
12 about Desert Tortoise.

13 But at that time the -- one of the main emphases
14 was the process of monitoring for Desert Tortoise. How
15 do we develop a range-wide monitoring program for the
16 Desert Tortoise that can be implemented systematically
17 across the entire four-state range for the Tortoise.

18 And there were historic permanent study plots at
19 the USGS who, USGS is also a member and our science
20 advisor, our official science advisor for the DMG. But
21 there were these permanent study plots. There were also
22 folks within the University of Nevada that were
23 advocating other methods, so there were some very
24 heated, I recall very heated discussions at the line
25 officer level as to -- and, of course, the scientist

1 level as to the best methods to go out and count
2 Tortoises.

3 Eventually, the science indicated that probably
4 a shift away from the permanent study plots and more
5 towards a line distance methodology was appropriate.
6 That was based on the science, the literature at the
7 time. And we thus adopted a line distance monitoring
8 program for the Desert Tortoise that the U.S. Fish and
9 Wildlife Service, through its Desert Tortoise Recovery
10 Office has since implemented on a range-wide basis.

11 Funding for that comes from a variety of
12 sources. Of course, funding, as has already been
13 mentioned, is always a challenge.

14 But implementing, first developing that
15 systematic approach to Tortoise monitoring and then
16 implementing it range-wide is just one example of how
17 the DMG has addressed some of the issues like you've
18 been talking about.

19 Yeah, as far as development of consistent
20 management practices, that's another priority for the
21 Desert Managers Group. And we have some examples,
22 actually more examples than, really, we have time to
23 discuss right now of where DMG managers have either,
24 individually, amongst several managers within a region,
25 or programmatically, across the entire desert have

1 discussed and implemented common management strategies.

2 I mentioned that the USGS serves as a member of
3 the DMG and serves as our science advisor, our
4 science -- scientific input.

5 We also work quite closely with many
6 universities. We have strong relationships with the
7 University of California, Cal State system. We've
8 worked a fair amount with CDI, with Dr. Spencer's group.

9 So, we have found that especially on a species,
10 like the Desert Tortoise, where your stakeholders cannot
11 even agree on the science going into the reason for the
12 decline of the species that it is absolutely essential
13 that we be totally transparent and engage quality,
14 unbiased science from a variety of different sources.
15 That's been a major lesson that we have learned over the
16 years, and that we consider the various different
17 theories that are brought to the table and evaluate them
18 equally and, as I said, transparently.

19 So, those are a few lessons that we've learned
20 within the DMG. The DMG just within the desert, it
21 functions at the line officer level so asking who are
22 the desert managers we really have three tiers. We have
23 an executive tier that are folks like Mr. Kenna, and his
24 equivalent within the National Park Service, Cal Fish
25 and Game, et cetera.

1 Then we have the line officers, the BLM Field
2 Managers, the National Park Superintendents, the
3 California State Park Superintendents.

4 And then most of the actual implementation of
5 programs within the DMG occur at the workgroup level, at
6 the staff workgroup level where we do involved
7 stakeholders, as well.

8 COMMISSIONER DOUGLAS: Thank you, Russ, that was
9 a helpful overview.

10 Just a couple of things, we've got Renee Robbin
11 from SunPower on the line, so thank you, Renee.

12 And I think this is a good moment to take a ten-
13 minute break. It's probably our only chance to take a
14 ten-minute break before lunch.

15 There's a snack break upstairs, on the second
16 floor, if anyone would like to get a cup of coffee or a
17 snack before we continue.

18 And I should have noted at the beginning, our
19 notice talks about the DRECP as an HCP/NCCP but, of
20 course, this is a LUPA HCP/NCCP, and some of the
21 presentations made that clear as well, but just for the
22 record.

23 So, with that let's come back and start again in
24 exactly -- in exactly ten minutes, so at 11:40. Thank
25 you.

1 (Off the record at 11:30 a.m.)

2 (Resume at 11:41 a.m.)

3 COMMISSIONER DOUGLAS: All right, thanks
4 everyone. We'll get going again.

5 I did want to ask, is Charlie Landry, Charles
6 Landry are you on the phone or on WebEx? I didn't think
7 so, I wasn't sure. Okay.

8 Well, we -- I could probably just go around and
9 call on everyone around the table. But I think rather
10 than do that, just because it will be a little more
11 interesting if we have some free flow here.

12 Let me just ask, is there anybody who would like
13 to make a comment right now, or ask questions, or just
14 kind of -- please. Please go ahead, Brenda.

15 MS. JOHNSON: I'm Brenda Johnson, I run the
16 Landscape Conservation Planning Program for Fish and
17 Game statewide, except for this plan.

18 (Laughter)

19 MS. JOHNSON: One of the things that I think
20 it's important to bring us all back to today is
21 historically what we've learned in Southern California,
22 specifically San Diego and Orange County, about tackling
23 ecosystem management from the scale that an ecologist
24 might approach it, which is over five counties, in the
25 case of Coastal Save Scrub, which was the point of the

1 early NCCPs in the early 1990s.

2 We learned that we had to divide the ecosystem
3 up into land use authority areas, basically counties, in
4 order to get any kind of planning traction on the
5 ground, and that remains to be the case today.

6 We took the ecosystem apart, compartmentalized
7 it in a governance kind of way and then, now, 15 years
8 later we're trying to put it back together.

9 So, it's integrating across at one scale, for
10 example among the reserves that we're setting up in one
11 county, trying to extend, as Ron was saying, the meaning
12 of the data across many reserves and many NCCPs, now, in
13 Southern California and trying to figure out what that
14 means for the covered species, for the natural
15 communities, and for the larger scale ecosystem
16 processes that we're also trying to conserve.

17 So, it's an unprecedented challenge and it's
18 something that we're inventing as we go. So, it's
19 wonderful to have these open discussions about what the
20 possibilities might be.

21 The other thing is that from the State NCCP
22 perspective, these plans are intended to be as
23 comprehensive as possible. From an ecological stand
24 point that means we're planning at a scale that makes
25 sense biologically.

1 And, you know, in the context of the politics,
2 economics, sociology what that means for the Desert
3 Renewables SECP, that's a huge challenge because we're
4 taking something that's massive and then, you know,
5 trying to perhaps think about how to make sense out of
6 the parts of it and put it all back together.

7 So, all of this is done in an adaptive context,
8 so adaptive implementation is what we're anticipating.
9 That means in theory that the governance and the
10 organizational structures could change over time.

11 And I think what we've learned today is there
12 are perhaps three different stages, at least, when
13 different governance structures or at least
14 organizational flow charts are germane. One is during
15 plan development, which may well be different than the
16 early stages of plan implementation that Ron was
17 referring to, and John.

18 Then from the very, very long term, more
19 institutionalized implementation, especially in an
20 adaptive management setting. So --

21 COMMISSIONER DOUGLAS: Thank you.

22 So, go ahead, Darla, is that on point here? Go
23 ahead.

24 And then we've got Lindell, Ken and Ron.

25 MS. GUENZLER: I just have a question to start

1 and maybe I'll direct it to Chris, since he's drafted so
2 many of the memos, has -- or David.

3 Has special -- have you considered special
4 districts as an alternative to JPAs or the State
5 conservancies?

6 MR. BEALE: I think they have been considered in
7 the context of local government driven plans. In this
8 plan, which spans, you know, over seven counties and
9 includes so much State and Federal land, we haven't
10 taken a close look at what a special district might do,
11 mainly because they're usually defined by county or city
12 boundaries.

13 MS. GUENZLER: Well, I mean I guess a few
14 thoughts about that. They don't have to be. They can
15 be irregularly drawn and cover multiple counties or
16 portions thereof.

17 And I can't think of a specific example right
18 now where the State's been included in those, but I also
19 don't know of any prohibition from the State being a
20 member of those.

21 And we have the same problem for the Federal
22 agencies as we do with the JPAs, of course, with special
23 districts. But special districts also overcome some of
24 the problems with JPAs because they have their own
25 authority, you're not dependent upon the common

1 authorities. And it comes built in with a whole variety
2 of contract authority, of the ability to manage land,
3 acquire land, do research. I mean just about anything
4 you'd want to do is already built in.

5 And so you can also -- they're pretty flexible.
6 You can have appointed members, you can have elected
7 members or a combination of the same. So, it might be
8 another vehicle to look at that would overcome some of
9 the JPA problems, but also be short of State conservancy
10 because of all the fears that that brings.

11 MR. BEALE: Thank you.

12 COMMISSIONER DOUGLAS: Thanks Darla, that's a
13 good suggestion.

14 Lindell.

15 MR. MARSH: You might think about this in terms
16 of focus and both horizontally and vertically.
17 Horizontally you have different lands, you have private
18 lands which are really part of -- the governance
19 structure tends to be place based.

20 Whereas with the -- for example, the Mojave, you
21 have really the Federal and State governments involved.
22 And while they're geographically defined, they tend to
23 be more systems focused. You have military, you have
24 energy, you have conservation. And I think you might --
25 the reason why I think about it in that fashion is,

1 first of all, horizontally you can -- you might think
2 about having the -- I'm thinking about the HCP was
3 originally developed to deal with private lands.
4 Remember, we didn't have the Section 7 nexus there.

5 But you might have areas that had, essentially,
6 HCP coverage which was -- you only have one county. So,
7 you could have, if you had the county board you'd really
8 have the ability to do a plan and you'd do -- I was
9 talking a little bit with the Wildlife Agency folks
10 about the idea of then having a very simplified
11 permitting structure and we could have a permittee come
12 in right away.

13 What you'd gain in the value there is that the
14 county has the ability to do general plans, which gives
15 you some level of protection as well if it's then
16 coordinated. It has to be consistent with this. But
17 that's what happened in the first HCP that was done with
18 San Bruno, it was really the County of San Mateo that
19 was the lead, they were the ones that developed that.

20 From a different focus perspective the vertical,
21 I think the comments that Ken Corey made, and Ms.
22 McBride made about the idea that later on you find that
23 sometimes in dealing with things in a general way you've
24 missed some of the detail.

25 I think that what we're doing with respect to

1 the pilot, and I'm thinking with respect to grazing
2 allotments, and Clark Mountain, that using a pilot
3 allows you to think both in general terms, but then to
4 think down in one case in a vertical way and say what
5 are the details?

6 And I'm thinking Jim Kenna is going to be
7 concerned about how conservation fits with future other
8 uses of that area.

9 And so, but my guess is that using the pilot in
10 that fashion will then give us an idea of, down the
11 road, how we deal with detail in other circumstances.

12 So, I think both those things -- but the key
13 idea is one that this ought to be -- I like the idea of
14 flexibility and the ability to focus, instead of
15 developing hard lines that you have to live with for a
16 long period of time.

17 COMMISSIONER DOUGLAS: Thank you. Thank you,
18 Lindell.

19 Ken?

20 MR. SCHREIBER: Thank you. I've been -- I would
21 like to go back to the issue of who's getting permits
22 and who's not getting permits because the more I thought
23 about it this morning, the bigger the problem seems to
24 be that you folks have to solve.

25 (Laughter)

1 MR. SCHREIBER: If the objective is to
2 facilitate at least ESA permitting, for large-scale
3 renewable energy projects and that, I believe, is the
4 fundamental objective. I mean the State of California
5 wants to go to a very large shift toward -- and you're
6 not going to do it with a bunch of backyard solar
7 arrays. You need large facilities.

8 And you need large facilities in areas where
9 they are most efficient and least damaging from whatever
10 perspective.

11 One solution, and you have a 22 million acre
12 area, some notable trunk of which is off the board for
13 ownership reasons, restrictions, Department of Defense,
14 whatever, it's off the board. So, you can sort of take
15 that out of the equation.

16 Then it seems to me you can come at this in a
17 couple of ways. One is do you have enough sites and
18 locations under non-local ground use control to achieve
19 the objective?

20 In other words can you take -- can you make your
21 process not dependent on local approvals?

22 Local approvals involve having in place policy,
23 general plan related policy, regulations, allowable
24 uses, use permit, whatever it is, but you need to have
25 some regulation structure in place to allow these types

1 of large facilities. Again, this isn't Farmer Bob
2 putting up a solar array to run his pump on his water,
3 you know, this is big time stuff. This is industrial
4 development. So, you need regulations in place for
5 that.

6 You need the environmental review and that's
7 both data collection and then finance. And then you
8 need a way to implement it, to monitor, to manage it, et
9 cetera, et cetera.

10 Okay, so one solution can be can you get enough
11 of these sites out away from local control completely?
12 Local control is always one vote away -- is always a
13 majority of your board of supervisors away from changing
14 180 degrees. Okay.

15 Hey, city managers say -- before every meeting
16 you come make sure you have a majority with you or you
17 may not have a job next week.

18 So, if you can get away from local control, that
19 can facilitate the political process of getting these
20 projects approved.

21 Or -- and/or how much of the land, after you
22 take out all of the land you can't use, it's off the
23 board, how much of it is really desirable for these
24 facilities and how much is not desirable. For whatever
25 reasons, biological reasons, for whatever reason it's

1 not really the desirable land. So, where is the most
2 desirable land and how much of that is -- and who
3 controls the land use on it? And my hunch is most of
4 it's unincorporated and it will be counties.

5 And my bottom line is, even if you have to slow
6 your process down, if you don't have those counties part
7 of your planning agreement, part of the permits, part of
8 the implementing agreement, this is not going to go
9 well.

10 (Laughter)

11 MR. SCHREIBER: Because projects will come in
12 based on what you've done. But they're going to run
13 into the local politics and they're going to lack the
14 policy basis, they're going to lack the regulatory
15 basis, they're going to lack the environmental basis for
16 moving ahead.

17 They won't have biological findings that they
18 can hang onto or biological opinion they can hang onto
19 and move ahead in the process, at least for the
20 endangered.

21 And going back to that San Luis Obispo article,
22 lawsuits will follow. In most cases, my assumption is,
23 lawsuits will follow.

24 So, unless you can get those counties involved,
25 the critical counties that have the biggest chunks of

1 the most desirable land, I think you're not going to get
2 to where you want to go. You may get part of the way
3 there, but you're not going to get all the way there.

4 COMMISSIONER DOUGLAS: Thanks for those
5 comments. You know, it's really helpful and, obviously,
6 we're working closely with the seven counties. And
7 you're right, as we look at, as we kind of winnow down
8 from the areas that are clearly off the table because
9 they're legislatively and legally protected, to the
10 areas that have too much slope, or don't have sufficient
11 resource to be desirable for development, and then you
12 go another level down and say, well, of those which have
13 such significant conflicts to various uses that they
14 probably shouldn't be on the table.

15 And then as you -- in our briefing book that
16 came out in July, it came out with a number of very
17 different looking configurations of development focus
18 areas, some more heavily public land, some more heavily
19 private land, some more heavily in different regions of
20 the desert versus others.

21 So, there's definitely a wide range of options.
22 And there's also a wide range of technologies and that
23 also comes out and was discussed at some length in the
24 governance workshop. Or the governance workshop, this
25 is the governance workshop. The energy infrastructure

1 workshop where, just as an example, photovoltaic
2 technology is very modular and can be scaled up, scaled
3 down, scaled around some opportunities on private land
4 more easily, in many cases, than solar thermal projects,
5 some of which need larger contiguous land areas to
6 really come to an appropriate level of scale. And,
7 therefore, although not exclusively on public land, tend
8 to place more importance on the availability of public
9 land.

10 And there's also the really interesting need to
11 make sure that the development focus areas align in a
12 logical way with the transmission system, where it is
13 and where it's going. Because we could have the best
14 development focus areas in the world, but if we can't
15 get transmission there, we've wasted our time.

16 And that was another part of the emphasis, as we
17 talked about this in the energy infrastructure workshop
18 is how do we send the right signals to get transmission
19 there? How do we insert this kind of information into
20 the transmission planning process which did not use this
21 kind of information in the past.

22 So, Terry?

23 MS. WATT: I just wanted to make a connection
24 between what you just said, Ken, and Brenda earlier.
25 Brenda's comments about having to sort of break it down

1 to the counties because they had the authority, but now
2 reintegrating it, it seems to me like we've looked at
3 the big picture and are looking at the big picture from
4 some of the systems Lindell mentioned, including
5 transmission, but also biology.

6 And so what would be nice is if we could do both
7 things at once here. And I think creating an -- I also
8 like the three stages or stages of the governance. That
9 the governance, itself, needs to evolve, so I think that
10 adds another layer of complexity to try to tackle, which
11 is how do we not delay the governance structure that's
12 inviting to the counties, while we may be opening up
13 areas sooner because they're easier to do so on the
14 public lands while we're getting the county plans
15 consistent.

16 Obviously, the hope is to do both at once. So,
17 I'll stop there.

18 COMMISSIONER DOUGLAS: Thanks Terry.

19 All right, so we've got Ron, and then Bill
20 Condon, and then Lindell.

21 MR. REMPLE: A couple comments that you might
22 want to think about as you look at a governance
23 structure, is one is nimbleness of that governance
24 structure. Can they really change directions,
25 especially when you get on the biology side of things?

1 How do they contract out? Can they in fact
2 easily contract out to the most appropriate organization
3 to do the work versus which one is easiest to contract
4 with?

5 And by that I mean it's very easy for a
6 government entity to contract out with another
7 government entity. It's much more difficult for them to
8 contract out with an NGO, and the bid process and
9 everything.

10 So, if CBI was the most appropriate organization
11 to do the work and it now takes six or eight months to
12 get that contract let, you may miss certain
13 opportunities out there.

14 And as you look at an organization, an entity to
15 implement various parts of the plan, you need to be
16 thinking about that there's always going to be this
17 tension between staffing levels, amount of funding and
18 needs out there. And the tendency sometimes is once you
19 get a certain staffing level, you decide you're going to
20 stick with that staffing level, so you're now justifying
21 why you need that money to come to the organization
22 versus what's important in getting done in the process.

23 And then the other key piece out there, I think
24 that we often ignore, is existing cultures and
25 organizations, or creating an organization where you can

1 guide the development of the culture of that
2 organization depending on what you want it to do. So,
3 some very basic organizational issues that really come
4 into play.

5 COMMISSIONER DOUGLAS: Great, thank you.

6 Bill.

7 MR. CONDON: Thanks, Bill Condon, Fish and Game.

8 Actually, I had a question for Darla, so when she
9 returns I'll pose that to her.

10 But we, too, Ken Schreiber, have considered how
11 much is off the table in terms of already taken care of
12 from a conservation stand point, or off the table
13 because the lands are administered by the Department of
14 Defense, or National Park Service, for example.

15 And depending on some of these scenarios or
16 development scenarios, or conservation scenarios that
17 we're contemplating, I think Vicky Campbell
18 characterized for the example that she presented about
19 160 to 360 thousand acres would be under development
20 footprint.

21 And in one example I looked at, I think in this
22 particular example compared to others, other
23 alternatives that we're contemplating, a larger
24 proportion actually falls on private land, non-Federal
25 land.

1 So, these alternatives we're considering vary in
2 that respect, the proportion of private versus public
3 land development.

4 But in all cases the active participation of the
5 counties and other local entities is critical,
6 particularly with respect to the conservation part of
7 this plan, the designation of lands toward conservation
8 or supportive of conservation, as well as outright
9 designation of areas for zoning toward conservation.

10 So, as far as what you said, Ron Remple,
11 utilizing or working with existing organizations and
12 structure, I think part of the conservation approach, as
13 is the case in other conservation plans, will
14 necessarily be to add onto, make use of existing
15 structures that are playing out on private and public
16 land.

17 And we'll have more of a discussion in terms of
18 private land, organizations and structures, with a
19 conservation emphasis in one of the next -- I guess the
20 next workshop.

21 Darla, welcome back. I had a question for you.
22 Considering the responsibilities that Chris laid out for
23 us, a typical responsibility of a governance structure,
24 what do you see some of your constituents, the land
25 trusts and the conservancies, what their roles might be

1 in some of those various functions that are required of
2 a governance structure?

3 MS. GUENZLER: Well, I think that the -- I mean
4 first I guess I would say in terms of the acquisition,
5 that's a strong role that they can play. You know, the
6 nimble one. It's a classic partnership that the
7 nonprofits whether, you know, land trust or -- I should
8 say even the local open space districts, like East Bay
9 Parks, that John referenced, often play a strong role in
10 acquisition and that's a very established kind of
11 partnership that they have with those State
12 conservancies, or with special districts.

13 And, certainly, the stewardship would go along
14 with that as well, although depending on the acreage,
15 you know, and both the acreages and the source of
16 funding for it is the big question because nonprofits do
17 not have the stable base of revenue that public agencies
18 have.

19 Although in this case, since we're primarily
20 talking about mitigation then you would have endowments
21 that they would be relying upon.

22 But you would still have multiple groups
23 involved trying to, you know, manage multiple lands.
24 And so then I think you're looking at -- if you're going
25 to have multiple actors trying to manage it, then you're

1 looking at like what Russell talks about, or the
2 Consumnes Preserve where there's a whole nonprofit and
3 local State and Federal coordination, and actually
4 management of lands under a common management framework.

5 Certainly, the permitting in that role, while
6 the nonprofits play a role in implementing some of that
7 mitigation, you know, buying the land, doing the
8 restoration or enhancement projects, the nonprofits are
9 not the ones that would be issuing permits or anything.
10 Obviously, that's something that the Federal agencies
11 would do.

12 And I think while they have on occasion done the
13 scientific work, that tends to fall, I think, better to
14 the nonprofits or to the universities or the agencies
15 that utilize the lands that are held by nonprofits. But
16 traditionally that's not, probably with the exception of
17 a major conservancy, maybe that's not a strength that
18 the typical nonprofit would have to do those long-term
19 scientific studies.

20 And, obviously, law enforcement's out.

21 So, I think acquisition, restoration enhancement
22 activities, and then management, although I think you'd
23 want some sort of coordinating function would be the
24 classic, and I think roles that the nonprofits are best
25 suited to.

1 Is that answering your question?

2 MR. CONDON: Yes, I think so. And to add to
3 that probably would, possibly be a role in monitoring.

4 MS. GUENZLER: Oh, absolutely and I --
5 absolutely. And I tend to think of that under
6 stewardship but you're right, absolutely, monitoring.

7 MR. CONDON: Thank you.

8 COMMISSIONER DOUGLAS: All right, so Lindell,
9 you had your card up and then you put it down. Is it
10 down?

11 All right, so we'll go to Kim and then to Ken.

12 MS. DELFINO: Thank you, good morning, or
13 afternoon. I guess the couple comments that I would
14 just make is that I think that this is -- well, one, I
15 really appreciate the fact that we're having this
16 workshop and it's great to get the caliber of people
17 that are here, and who have actually worked on these
18 things, and understand the complicated nature of
19 building a plan and then I think even more harder is
20 implementing it over the long term.

21 And I think I would have to, not surprisingly,
22 echo Ken's points that are really, I think, key here.
23 In order for us to really dig down into how to build a
24 governance structure there are some fundamental
25 questions we have to answer, first.

1 So, I think it's really good to have a lot of
2 the ideas being thrown out here about special districts,
3 and some of these other issues or ideas.

4 But, ultimately, when we start to look at how to
5 build governance we do need to answer this question
6 about what does your conservation strategy actually look
7 like, and what lands are you employing in that
8 conservation strategy?

9 What do your development areas actually look
10 like and in what lands -- land ownership patterns are
11 you focusing on and in what particular counties you're
12 focusing these on?

13 And then I think it's going to come back to us,
14 whether we like it or not, is that we are going to have
15 to engage certain counties in order to be able to meet
16 implementation standards under at least the State NCCP
17 Act, and I would assume the Federal.

18 I do have a question in my mind about how the
19 Federal Comprehensive HCP would actually meet State
20 NCCP. I don't know how to -- I haven't got my brain
21 about how to actually marry those two together.

22 So, I think that we will inevitably come to a
23 point where there will be some counties that will be
24 absolutely key, that will have to be part of the
25 implementation structure and governance.

1 Maybe they haven't signed the planning
2 agreement, but when you have to go to approving the
3 permit, issuing the permit, and implementing it they
4 will have to play a role.

5 From the environmental community's perspective,
6 some of the big issues that we've been -- we've focused
7 on and I think have come up here, is I think it is clear
8 that you do need a dedicated governing body. Diffuse
9 decision making does not work, especially when you're
10 talking about a plan as large as this one.

11 So, whether it's a JPA, or a public benefit
12 nonprofit, I'm not -- I don't have an opinion at this
13 point. I honestly have to think about it more and I
14 don't think the environmental community's got a firm
15 opinion.

16 But I do think a dedicated decision making
17 body's critical, because we can just look at where it
18 hasn't worked.

19 I think that we have to really think through the
20 implementation of the science piece of this because how
21 to manage, how to do monitoring, how to incorporate that
22 monitoring information, how to loop it back in because
23 I -- there's going to be a lot of open questions still
24 left in this plan at the end of the day, particularly
25 when you factor in climate change, and changing

1 technologies. We've just seen too many -- you know, too
2 much information come up and change how we've looked at
3 how certain species are faring. So, that has to be
4 really critical.

5 And then transparency I think is absolutely
6 essential. So, figuring out a way to build something
7 that has the kind of transparency so that you have buy-
8 in across the board is really important. And that's
9 tough, and I'd like to actually hear more about ideas
10 about transparency.

11 I'd like to look a little bit more into what Ron
12 was talking about in terms of what San Diego was doing
13 in terms of putting things online, and making
14 information more available.

15 And then we haven't even gotten to the funding
16 part, which I know is going to be in the afternoon, and
17 that's a whole other sticky wicket.

18 So, those are some of the main components and,
19 of course, the more we can build in a role for
20 independent review and science, I think it's important
21 to the long-term integrity of the plan.

22 COMMISSIONER DOUGLAS: Thanks Kim.

23 Okay, so I've got Ken, then Richard Taylor, and
24 Peter Weiner, Ron, and Wayne. Okay, this is great.

25 MR. SCHREIBER: Thank you, Kim, that was a good

1 comment.

2 I want to go back to Bill's comments about
3 counties and I think I heard Andy, from Imperial County,
4 don't know Andy, at the beginning saying, you know, we
5 really don't have much staff time, and we don't have
6 much interest, and so we really don't see ourselves as a
7 central player, if I'm paraphrasing correctly.

8 And I would assume, my operating assumption
9 would be that the counties have very limited resources
10 to participate in this. Most planning operations are
11 revenue driven to begin with and this isn't generating
12 revenue, now, at least.

13 And the biggest issues are the ones that are
14 important locally, and unless this has struck a nerve it
15 may not be one where the director can even feel the
16 freedom to allocate a notable chunk of staff time, of a
17 staff that's much smaller than it used to be.

18 My suggestion is that a way needs to be found to
19 help the counties, a grant program, maybe even one year,
20 multi-year, something like that to fund staffing and/or
21 consultant resources to work for the county to
22 participate in this.

23 Because I just don't -- I think it will be an
24 oddball exception where a county would really have both
25 the amount of resources needed, staff resources, and the

1 level of expertise to really engage on this for an
2 extended period of time.

3 MR. BEALE: I just want to make a quick comment
4 about that. Ken, it's a good point.

5 And for those who don't know, there is funding
6 available or the CEC is authorized under the Perez Bill,
7 AB 1X-13, I think, to issue grants to local governments
8 including, specifically, the counties in the DRECP area
9 for land use actions that are designed to plan or
10 streamline the development of renewable energy projects.

11 And our hope is that, and we've already had some
12 interest from the counties, is that the counties will
13 use that funding, apply for grants from the CEC to use
14 that funding to take actions that complement or support
15 DRECP implementation, such as general planning
16 amendments that include a renewable energy element,
17 renewable energy ordinances, and things like that.

18 So, it's a point very well taken. I can assure
19 you the counties have pointed that out to us and we're
20 hoping to answer that in part with this grant program.

21 COMMISSIONER DOUGLAS: Thanks Chris.

22 Richard?

23 MR. TAYLOR: So, Ken's comments dovetailed on
24 some thoughts I had in response to your original point,
25 that I think using this DRECP process to make it easy

1 for counties that want to participate to participate.

2 And even if they don't have the resources to
3 come to the table through this planning process, the
4 agencies involved can look at the existing county
5 general plans and see where they are making this easy,
6 and see where they're making it hard, and identify those
7 consistencies and inconsistencies.

8 The plan can also, to what Chris was just
9 talking about, the plan could talk about here are
10 policies that counties could have in their general
11 plans, and could do a first tier, programmatic look at
12 that in an EIR, so that a county that wanted to adopt it
13 later on could tier off of that.

14 So, I think to ask yourselves, and maybe have a
15 session where you -- like this, where you work with
16 local governments, and you get local governments who
17 have been here and hear from them what are the problems
18 you've encountered, what do you want to hear, so that
19 you can structure this document in a way that it's a
20 plug-in for counties, and if there are any cities that
21 end up wanting to participate, they can.

22 COMMISSIONER DOUGLAS: Thank you, really helpful
23 suggestion.

24 Let's go, now, so we've got Peter, Ron, Wayne,
25 and then I saw Stu Webster, Seven Ingram, and Darla.

1 So, go ahead Peter.

2 MR. WEINER: Thank you. And let me echo what
3 other people have said in thanking you for having this
4 workshop and all the thousands of hours that people have
5 really put in on this.

6 I was struck by what Ken and also Kim said. I
7 certainly agree with Kim that we need a dedicated
8 decision making body. We need transparency, we need
9 independent review.

10 I don't think there's any controversy about
11 that.

12 When I think about this in terms of governance,
13 it seems to me that echoing Ken a bit, because we all
14 echo Ken at this point, is that one needs to look at who
15 controls the land. And the more I think about it, the
16 more it seems to me that the Federal government controls
17 Federal land, and the counties control local land, and
18 the State controls almost nothing.

19 So, to say that the CEC and State Lands
20 Commission have been applicants that's nice, or the PUC,
21 but it doesn't really accomplish much, you can't have a
22 DRECP out of that.

23 In terms of looking at the land control
24 agencies, if we try to do -- and I want to focus, now,
25 not on conservation, but on mitigation, we have a real

1 problem on doing mitigation on federal land that we
2 explored at the durability workshop, and that has to do
3 with differences in statutory and regulatory authority
4 between Federal and State agencies.

5 If we can't do mitigation on Federal land, then
6 we have to do mitigation on private land, which is a
7 county control. And although counties may have chosen
8 not to be participating formally because of staffing, I
9 have this feeling that there may be some other reasons
10 as well. One of which is using all that private land
11 for mitigation or conservation, rather than other
12 purposes that counties may want.

13 And so there is a problem that has existed from
14 the get go on the DRECP by not including those kinds of
15 covered activities.

16 So, finally, in some counties, and I'm thinking
17 more now of Imperial, although there has been, as Andy
18 said, some contact with Department of Fish and Game on
19 Burrowing Owls, for the most part there has not been a
20 Section 7 or 10 issue on the lands that have been
21 converted to solar energy down there, because it hasn't
22 been an issue.

23 So, there may not even be a perceived need on
24 the part of those who want that development to engage.

25 So, there may be lots of other reasons to do so

1 and I may have a very narrow view of this, but I'm
2 worried that given the -- the need that we have for the
3 land control agencies to be vitally involved, and the
4 limits we have either on authority or participation, I'm
5 not sure where to go with governance if we don't have
6 counties involved.

7 COMMISSIONER DOUGLAS: Thank you, Peter.

8 Let's go, let's see, Ron.

9 MR. REMPLE: A couple comments. When Darla was
10 talking about special districts, it just reminded me of
11 when the original NCCP Act was passed that they
12 envisioned special districts be assessment districts
13 being able to be established. There were some legal
14 issues that played out there and really didn't have
15 that, but that would be something to go back and
16 revisit.

17 And in special districts, it wouldn't
18 necessarily have to be a special district, it could be a
19 special entity.

20 I mean most people think San Diego Association
21 of Governments is a JPA. They are not a JPA, they are a
22 legislatively established entity out there that's
23 decided on how to structure their voting system. It was
24 not mandated in the creation of SANDAG.

25 The second piece is that in thinking about, you

1 know, that type of funding situation, and I'll talk a
2 little bit more about that this afternoon, but you could
3 look at a split way of funding things which makes some
4 sense from the stand point of some up-front dollars
5 acquisition of lands.

6 Traditionally, Fish and Game and Fish and
7 Wildlife Service have pushed for endowments for long-
8 term management. I think that can be extremely wasteful
9 of dollars when you look at the interest issues
10 associated with that.

11 But if you had a permanent funding stream out
12 there that came through an assessment district, or
13 something similar, a power district, you not only help
14 the long-term program, you also deal with the energy
15 producers' issues in trying to up-front a lot of
16 dollars.

17 But the last piece I wanted to express some -- a
18 little concerned about, when I heard folks talk about a
19 disbursed monitoring model, in general those have been
20 failures. That a centralized monitoring, biological
21 monitoring model is where you need to get to. It's the
22 only way we've seen you get consistent data that you can
23 actually analyze out there.

24 So, just being aware of how we set an entity up,
25 we need to be thinking about not going to the disbursed

1 monitoring model.

2 COMMISSIONER DOUGLAS: Thank you.

3 So, Wayne?

4 MR. SPENCER: I could make this pretty brief by
5 just saying everything Ron said so far.

6 But I want to touch on a few issues or emphasize
7 a few things that people have already said, and maybe
8 dig a little deeper on a couple of them.

9 One, there have been multiple mentions of the
10 CBI report that was done a few years back and,
11 basically, Ron's been trying to implement it more or
12 less.

13 I think there's a lot -- I was not first author
14 on that, but I did read it and review it. Jerre
15 Stallcup was the author of that.

16 And I agree with essentially everything that's
17 in there, with the caveat that we now have multiple
18 years of lessons learned. And something like updating
19 that report as a white paper, that brings in the lessons
20 learned that Brenda talked about, Dan Silver talked
21 about, Ron has talked about a lot, I think that would be
22 very valuable.

23 And a couple of points that were in that report
24 that I'd like to stress. One is that whatever the
25 implementing entity, however it's structured, that at

1 least for the adaptive management and monitoring portion
2 of it.

3 Adaptive management and monitoring programs have
4 to be both nimble, as Ron mentioned, as well as stable
5 and predictable. They need to have at least a three- to
6 five-year strategic plan, with guaranteed funding over
7 that period.

8 If you start a monitoring program one year and
9 then there's an election, or the board changes, and your
10 committee changes your funding, or staffing, or whatever
11 and you can't implement the multiple years, and Ron
12 talked about this, the continuity is important.

13 If you're contracting out annually to a
14 different consulting firm to do your monitoring, you're
15 not going to get comparable data over time. Different
16 experience, different interpretations of the scope, and
17 so on. So, you need that continuity and predictability
18 in sort of a long-term strategic focus.

19 At the same time there has to be, whatever, an
20 emergency fund, a slush fund that the executive director
21 or leader of the program has decision authority to
22 allocate nimbly.

23 A new invasive species is discovered. You've
24 got to hit it now. If you wait until next year, or two
25 or three years down the line and you had several

1 subcommittees review, and it goes to a board to decide
2 that you're going to allow a contract to attack that,
3 it's too late, you lost your chance.

4 So, there needs to be a nimble component, a
5 real-time component, and a long-term strategic
6 component. And that goes in to how you structure the
7 governance.

8 And then I'd just also like to echo a few things
9 that Kim touched on, the transparency is critical. And
10 having that independent science component structure in,
11 formally, funded, and governed, and somehow organized so
12 that science partnerships, USGS, Housing. The entity,
13 for example, in a USGS office, not in a county
14 government office, I think is important so that they
15 have those connections, the understanding, the dialogues
16 with scientists and understanding this rapidly changing
17 world of conservation science and especially climate
18 change effects, and climate change adaptation science.

19 No one individual or even group can keep up with
20 the speed, so you have to have that network of folks
21 that is constantly advising, so that you can be nimble
22 and take advantage of new technology, new thoughts, new
23 ways of doing business. And that would foster the
24 transparency component, which is absolutely key.

25 Publishing scientists, like USGS, they know how

1 to -- they may not be the world's greatest communicators
2 all the time, but they know how to write down their
3 methods in a repeatable, transparent way, and that's a
4 learned skill and it's not very common.

5 COMMISSIONER DOUGLAS: Thank you.

6 So, let's go to Stu.

7 MR. WEBSTER: Thank you very much for inviting
8 me, I really appreciate it, and thanks very much for
9 putting this together, Commissioner Douglas.

10 I guess from, at least Iberdrola's perspective,
11 we certainly can't speak for the industry as a whole,
12 from either a solar or wind perspective, but given the
13 complexities of doing business in California already,
14 with the variety of local, State and Federal policies,
15 and structures that are in place, creating yet another
16 structure is going to be something that's challenging
17 from it just being palatable.

18 I think probably more practically speaking,
19 however, that same complexity is going to create an even
20 longer period of time before we can get the DRECP
21 implementing because it's just sort of adding yet
22 another very significant issue of what managing
23 structure is going to be created, what kind of
24 legislative processes, if necessary, have to be
25 undertaken in order to do that.

1 It's going to delay even further out getting
2 what I think all of us are hoping to be a very effective
3 plan just put in place.

4 I apologize if I'm not giving the right credit
5 here, but I believe Brenda was the one that was talking
6 about an adaptive implementation process. I think
7 that's, you know, very insightful.

8 You're talking about something that's virtually
9 unprecedented. The other regional HCP processes that
10 are in place in the country are not really even close to
11 being resolved, so I don't think we really have anything
12 to work off of.

13 And in my mind, putting a plan in place,
14 understanding that it should carry some level of
15 influence in existing processes, even so far as formal
16 adoption of the plan by those processes would make, at
17 least from an efficiency stand point, a lot more sense.

18 If it's ineffective at the end of the day, I
19 think those types of things can be evaluated, you know,
20 further down the line.

21 This would also account for the temporal and
22 spatial extend that this thing is contemplating, the
23 notion of having conservation land set aside as it
24 relates to renewable energy development is all well and
25 good, but 15 years down the line if other land use

1 pressures have taken place on that area that was deemed
2 of conservation value, and it has no longer that
3 conservation value and is, in fact, ironically, a very
4 good place to put renewable energy because it's been
5 distressed, or disturbed, or whatever have you, the
6 plan -- a governing body, perhaps, can't contemplate
7 that as well as the local land use entity, or the State
8 or the Federal entity would be able to.

9 I think with respect to the limited resources of
10 existing agencies on all levels of government, I think
11 we're certainly aware of that and it would be
12 contemplated that whatever fee structure is in place for
13 this would account for those entities receiving those
14 funds through that process, as well as other plans and
15 other ideas that have been brought forth.

16 Finally, the general conservation plan versus
17 the habitation conservation plan concept brought forth
18 by Fish and Wildlife Service, I think the general
19 conservation plan, if you look at Darrell Hall's 2007
20 memo, it didn't really contemplate a spatial extent such
21 as this one. It was more for residential type
22 development and large land use -- or residential
23 development and single land use pressures being managed
24 under that.

25 More importantly, it's not a multi-stakeholder

1 process; that I think an HCP is more able to
2 accommodate.

3 It is developed exclusively by the Fish and
4 Wildlife service, and then tapped into by potential
5 applicants. I think generally speaking, the GCPs
6 that have been developed haven't been as well received
7 for that reason, as HCPs have.

8 I think in general maintaining a level of
9 communication with a broad diversity of stakeholders,
10 even as once the plant's implemented going down the line
11 with five, or ten, or whatever seems to be an
12 appropriate period of time reviews would make much more
13 sense, I think, in terms of what we're trying to
14 accomplish and the amount of time that we have.

15 Thank you.

16 COMMISSIONER DOUGLAS: Thank you for those
17 comments.

18 Steve?

19 MR. INGRAM: Steve Ingram with the Department of
20 Fish and Game. I just wanted to make a couple of quick
21 comments about local government participation and then
22 just about the governance structure, generally.

23 And many of you have raised very important and I
24 think accurate points about the need for local
25 government participation.

1 There is another dimension, too, from at least
2 Fish and Game side, which is if this is going to be an
3 NCCP at some point, we need to be able to make very
4 complicated findings under the Act.

5 A lot of -- and those findings don't explicitly
6 require local government participation, but a great many
7 of them have to do that the certainty that the reserve
8 design will actually be built out the way it's supposed
9 to and that incompatible activities will be avoided, and
10 those are very, very, very difficult findings to make in
11 the absence of some kind of comprehensive land use
12 control for the area you're talking about.

13 So, local government participation is very
14 critical for the permitting of it and that is one of the
15 key benefits that has come out of NCCPs before is a real
16 streamlining where our State permitting is actually
17 collapsed into the local government permitting on some
18 level. That would be missing without them.

19 We would also not have any certainty over the
20 land use control for the DFAs and the development.

21 And at least more critically from Fish and
22 Game's perspective, we wouldn't have any real degree of
23 certainty over the land use for the reserve design.

24 So, those are all very, I think, critical
25 reasons why we need local government participation, at

1 least several of the key counties. And there are also,
2 as I understand it, several cities with large geographic
3 areas that are located at very key points for some of
4 the DFA and reserve designs that are being contemplated
5 right now.

6 I think as far as the reserve design -- I'm
7 sorry, as far as the governance structure, though, if
8 the counties and some cities are necessary for us to
9 have a coherent plan and one that at least Fish and Game
10 can make findings on, I think it's also critical that
11 the counties and any cities involved are actually
12 participating in the structuring of the governance
13 structure, itself.

14 They're going to want to have a say in it,
15 they're going to need to have a say in it and, quite
16 frankly, we need their involvement because of their
17 expertise on local land use issues and other -- you
18 know, issues of local concern that we, at the State
19 level, don't have any expertise and knowledge in.

20 So, speaking specifically to the governance
21 structure, you know, if we use a JPA model without local
22 government participation, I don't see how it can work.
23 It is unclear, and some of the folks from the Federal
24 agencies can speak to this, maybe, but it's unclear to
25 me that Federal agencies even can participate in JPAs.

1 They can as a matter of State law. It's not clear they
2 can as a matter -- or to me, as a matter of Federal law.

3 The State agencies that are involved, if we
4 formed a JPA amongst ourselves, we are all creatures of
5 very limited powers and our powers don't overlap a whole
6 lot and I'm not sure that a JPA between the Energy
7 Commission, and Fish and Game, and State Lands, and CPUC
8 would be able to do anything effectively.

9 And so I don't know that the JPA model would
10 work. I actually was interested in Darla's comments
11 about the idea of a special district. And she's quite
12 right, special districts can span more than one county.

13 One of the difficulties, though, is a special
14 district is a creature of local law, even if it does
15 span multiple counties, and they have to be approved
16 through counties' LAFCos, the Local Agency Formation
17 Commission, and that can be a very tedious process, it
18 can be a very political process.

19 Without county participation I would say our
20 chances of ever creating a multi-county special district
21 that could actually serve as a governance agency would
22 be zero.

23 With county participation, though, that would be
24 a viable option and it's something we could consider,
25 and it does have advantageous in that it can, as Ron was

1 pointing out, generate its own funding at times. And it
2 is something that's necessarily subject to that joint
3 powers, you know, having all the powers in common
4 restriction.

5 So, I think it's worth considering, but only if
6 we first get to the step of actually getting real
7 concrete county and possibly city participation.

8 COMMISSIONER DOUGLAS: Thank you, Steve.

9 So, I've got Darla and Ron, and then we'll take
10 our lunch break unless there are other pressing
11 comments.

12 MS. GUENZLER: Thanks. It occurred to me that I
13 might not have answered Chris's -- or Bill's question
14 right, and that is that I was answering about what
15 nonprofits could do in sort of the world of this.

16 But if the larger question was what they could
17 do in terms of the management or, you know, the
18 coordinating function, like the Nature Trust in Orange
19 County, I think that's possible.

20 I think that the nonprofit model, you know, in
21 theory can work. But given the range of permitting
22 issues, the law enforcement issues, I mean all that can
23 be done, like law enforcement through contracting and,
24 obviously, the State, and Federal and local agencies
25 still have permitting authority.

1 So, it could be done but I think it becomes more
2 complex, potentially, when you're using a nonprofit.
3 And I think there's a bigger issue, possibly, about
4 trust of our parties, with the local governments, and
5 State and Feds even would they have sufficient
6 confidence that the nonprofit board of directors, for
7 instance, isn't going to change or something.

8 And I think, however, that there is a nonprofit
9 model that State, local and the -- State, Federal and
10 the local courts have relied upon and that is to have a
11 charitable trust layer on it. And that creates much
12 more assurance in something that, as I said, the
13 legislators and courts have turned to as a way to have a
14 really focused mission that there is sufficient
15 confidence, and that they're not going to go off -- off
16 the rail, so to speak, and can carry out the
17 responsibilities that they have.

18 And Steve is correct, a sort of final point
19 about special districts, which is that there is -- but
20 most have been created through local governments.
21 However, there are examples where the State, you can
22 petition the State directly to create one, and they do
23 have a taxing authority, as Ron mentioned.

24 So, there is a way and that's, really -- having
25 the State do the course that seems expedited, although

1 that's not as fast, for instance, as creating a
2 nonprofit. So, there's tradeoffs for all this.

3 COMMISSIONER DOUGLAS: Thank you, Darla.

4 MR. REMPLE: Ken and some others have mentioned
5 the potential need to help fund the counties. And I
6 might let folks know that is not unusual in the NCCP
7 world. Early on, Department of Fish and Game, working
8 with the Resources Agency, figured out how to move money
9 to organizations so they could actually participate in
10 the process because that was what was keeping some of
11 the participants away from the table.

12 And I would encourage you to look at how you can
13 do that in an efficient, simple manner for the counties
14 versus potentially a long grants process.

15 COMMISSIONER DOUGLAS: Thank you, Ron, good
16 suggestions.

17 And, obviously, our contracting process has
18 gotten speedier, but it's not speedy. So, I know what
19 you mean.

20 So, it is now -- oh, Peter, go ahead.

21 MR. WEINER: Just one thing, just to follow up
22 on something Ron said earlier, one of the mechanisms
23 that people have done to avoid endowments has been to
24 create a 501(c)(4) public benefit corporation, but
25 attached to that a community facilities district. And

1 the CFD can then tax the underlying property or
2 development. So, it's basically a pay as you go kind of
3 thing but it then funds the public benefit corporation,
4 and that avoids the original endowment. And I can share
5 with you an example of that at some later time.

6 COMMISSIONER DOUGLAS: Thank you.

7 Ron, your card is up just because you left it
8 up? Okay, perfect.

9 So, we've got an hour for lunch, we can come
10 back ten minutes late, so we'll come back at 1:40.

11 Now, we did have an informal, completely
12 voluntary homework assignment for those who choose to
13 participate in it over lunch. And the idea is that, if
14 you would like to, you could put pen to paper and sketch
15 out what you think a possible, feasible governance
16 structure for the DRECP could be. And if you -- and you
17 can make whatever assumptions you need to, to answer
18 what you consider pressing questions that must be
19 answered in order to do this.

20 If you choose to undertake this assignment,
21 you'll be given some time in the afternoon to present
22 it.

23 There's also an opportunity to submit written
24 comment. We've opened up a docket for this workshop.
25 So, if lunch, plus whatever time you have in the

1 afternoon isn't enough, but you would like to do this,
2 you're welcome to do this after the workshop. So, we'll
3 see you back at 12:40, thank you.

4 (Off the record at 12:39 p.m.

5 for the lunch break.)

6 (Resume at 1:42 p.m.)

7 COMMISSIONER DOUGLAS: We are back for the
8 afternoon session which is focused on cost and
9 financing.

10 I want to welcome Kevin Hunting. Thank you,
11 Kevin.

12 And I think, I don't see anybody else new right
13 now so we'll just get going. We're starting off with an
14 overview of HCP/NCCP financing structures and cost
15 issues by Teifion Rice-Evans. So, go ahead.

16 MR. RICE-EVANS: Great, thank you. I don't know
17 if we can get the Power Point up on the docket that
18 would be great. Thank you.

19 I'm Teifion Rice-Evans with Economic and
20 Planning Systems, and I'm excited to be able to provide
21 or share with you some of the experiences I've had over
22 the last 15 years or so working, primarily, on the
23 financing components of HCP and NCCPs.

24 And I see several of my clients and colleagues
25 in the room, so I'll try to be on good behavior and

1 sound intelligent.

2 Perhaps get the next slide up, if possible. I
3 always say that the first rule of good presentations is
4 not to put something up that no one can read. But maybe
5 we can think of this more as a kind of ode to the
6 complexity of all the interconnected pieces that we're
7 working on here, today.

8 And if you were to look at this this evening, or
9 some other time when you have a chance and can see it
10 more, this is really just a simplified version of a flow
11 we think that happens from kind of biology, re-entry
12 thinking, regional landscape into conservation plan
13 strategy, and then into the kind of nitty gritty areas
14 that we get involved in which both involve exactly what
15 has to happen in the plan, how much is it going to cost,
16 how it's going to be funded, and there's a lot of
17 overlap there, also, with the whole governance question
18 and how that fits in together.

19 The next slide, please. The presentation I've
20 set into three parts, I think I'll just have time to
21 cover the first two. But I wanted to first just talk
22 about the financing plan components, the questions we
23 certainly have to answer in getting a financing plan out
24 the door.

25 The second part I then wanted to kind of hone in

1 on some of the issues that, in my experience, have been
2 particularly challenging to address and deal with within
3 the world of HCP and NCCPS.

4 I recognize that some of these may parallel well
5 with what we're doing here, some may not, and perhaps
6 that part of the conversation we can have after the
7 presentation.

8 The next slide, please. And then the next one,
9 too. Okay, so great.

10 So, we typically think of there being four key
11 components to a financing plans and these questions seem
12 so simple sometimes I wonder whether my kindergartner
13 should be able to take this home and get it done in his
14 class the following week.

15 So, the questions are what are we funding and
16 when? How much will it cost? How will we fund? And
17 then back to the whole governance issue, who will
18 oversee the financing plan implementation and making
19 sure that it works?

20 The next slide, please. So, in terms of what
21 are we funding and when, really this is where we take
22 all of the work of the biologists and the regulatory
23 agencies and try to convert the conservation strategy
24 and alternatives into a set of actions that require
25 funding. And I think that in some ways it's parallel.

1 Some of the things that Chris was laying out in terms of
2 all of the things that the implementing entity will have
3 to oversee, these are the same -- in many ways the same
4 things, the same issues that we will have to fund.

5 And, you know, in our experience and again this
6 one may be different, a lot of times you'll see that the
7 land acquisition cost is the big -- the private land
8 acquisition cost is the big kind of most challenging
9 part of this whole thing.

10 Having said that, we still will need to be
11 securing habitat in perpetuity in this situation and
12 that surely will require some kind of investment.

13 A one-time habitat enhancement restoration that
14 can come up in different forms, these one-time costs of
15 what needs to be done different, I think, for every
16 species and every plan. But still, an important cost
17 component nevertheless.

18 One of the things I think some other
19 participants mentioned is the complexity and especially
20 as the plan matures, of the ongoing management, the
21 habitat management monitoring, adaptive management, et
22 cetera, and how that whole thing plays out.

23 And then, of course, we've got the plan
24 management and administration and we need a governance,
25 as I think someone also pointed out, that needs to be

1 adaptive through time.

2 And that would be, also, and I guess this would
3 be true for all of these things, there's a timing
4 element to all of these activities that are going on.
5 And with the governance element in particular is
6 interesting in a sense of not only what happens up
7 front, in the teenage years, during that term, but then
8 where do we end up in the post-permit period and how do
9 we make sure that kind of continues as it is supposed
10 to.

11 The next slide, you know, how much would it
12 cost? This is, in some ways, a technical assignment, a
13 technical analysis where we ask ourselves, okay, how
14 much land do we need to acquire, how much is that going
15 to cost? You know, what is the -- what are the
16 enhancement restoration costs, et cetera, et cetera.
17 All of these things partly depend on the governance
18 we've envisioned. A lot of it's defined by the
19 conservation strategy. There are relatively standard
20 tools out there but nothing is perfect, and so there's
21 always a lot of debate about exactly what are the right
22 costs to use.

23 And I think as Ron was pointing out, or someone
24 else, there's a lot more use of data integration we can
25 do to improve our cost estimates as we go.

1 How are we funding these plans? Well, again, in
2 most of the plans that I've worked on mitigation fees on
3 covered activities is a great big part of that funding
4 equation. They may also be integrated into other kind
5 of development-based fees.

6 I think a gentleman earlier suggested the
7 concept of an assessment, ongoing assessment or CFD on
8 new development for paying for costs further out.

9 There's also the opportunities, perhaps, to have
10 land dedications and other types of contribution through
11 the development or the activities of the covered
12 species. There are kind of limits, which I'll talk
13 about a little bit later, in terms of how much is
14 appropriate to kind of place upon the covered activity
15 component.

16 And the two other, you know, larger buckets and
17 we can talk about these in more detail if you wanted to,
18 and really what else can the local, regional context
19 provide and what else can a State and Federal context
20 provide?

21 I think in the local, regional context I mean
22 we're talking about whether or not the local
23 jurisdictions -- and again, I think this is one of the
24 hardest things to do is convince their voters to support
25 tax initiatives or other kinds of local initiatives that

1 dedicate funding to go to the actual -- dedicate funding
2 that they will know will go towards supporting HCP/NCCP.

3 You know, more lightly or perhaps, you know, of
4 equal importance is the case of East Contra Costa where
5 you have East Bay Regional Park District which has a lot
6 of its own taxing assessment authorities. That money
7 doesn't necessarily go into the HCP/NCCP, but their
8 activities and their contributions effectively
9 contribute substantially to the conservation component
10 of the plan.

11 And then, of course, you have the role of the
12 State and Feds, both in terms of what land they can
13 provide, and that's obviously a huge issue here is what
14 land do we have available to be provided.

15 And then also just in terms that there are
16 funding programs, Section 6 is one that comes to mind,
17 significantly is one that has historically been very
18 important to a lot of the California plans. Though, as
19 to whether we can rely on that as a source going forward
20 is kind of a question to be determined.

21 And then, finally, and some of these -- some of
22 these funding sources overlap. And, finally, there's
23 the kind of concept of, okay, mitigation. If we're
24 building transmission and we have mitigation, you know,
25 who, ultimately is going to pay that mitigation fee?

1 And perhaps whether or not there's also going to be some
2 pass through to utility ratepayers or not.

3 Okay, let's see, and then on going to the next
4 slide, I just spoke through that slide. This has really
5 been well discussed, I think, by the group here today,
6 who will oversee financing plan implementation?

7 But I think that the -- you know, from our
8 perspective the point we would raise is it absolutely
9 makes sense to have one implementing entity who is
10 taking on responsibility, taking on the charge.

11 But in our experience that's not going to
12 happen. They can't be a kind of lone warrior out there
13 by themselves. If you don't have the continued support
14 from all the stakeholders at the table, doing what they
15 do and contributing in ways that we hope they can
16 contribute, then we're going to run into some problems
17 later on.

18 The next slide, please, and the next one. So, I
19 wanted to now turn to just highlight a certain set of
20 financing plan challenges that I think especially, at
21 least in the projects I've worked on, have been the
22 sticky wickets, as someone else said, the particular
23 sticky wickets of financing plans.

24 And here what I'm really saying is, you know,
25 when the basics are correct key complexities remain.

1 And the basics, it turns out, are actually very hard in
2 my experience to get right. They sound simple,
3 identifying all cost components and providing reasonable
4 estimates of costs and then determining viable sets of
5 funding sources.

6 But when we did -- in trying to look back in
7 about 2005 and a lot of HCP, primarily, plans that have
8 been put out since 1983 we did find, not willingly, but
9 we did find there was a tendency or certainly an ability
10 to be a little optimistic in a variety of their actions.
11 Thus, you ended up with underestimating the costs and
12 having too few funding sources coming in.

13 But if you're able to kind of, I guess, raise
14 the bar and that's in part why funding plans, now that
15 you'll see, are a lot thicker than you used to see back
16 in the day, you'll come a long way.

17 But the complexities that I think still remain
18 and emerge in a lot of these plans I've kind of listed
19 below, and I'm going to go through each one of them
20 quickly in turn here.

21 Can I go to the next slide, please? So,
22 allocation of costs to funding sources and this is a
23 point both about how costs are allocated, but it's also
24 a point about like who, ultimately, is responsible for
25 making sure the funding arises, which I think is a

1 difficult question.

2 In my experience, the HCPs/NCCPs often try to
3 disentangle, and I know that there are different
4 definitions that people use, but disentangle mitigation
5 from conservation costs, they kind of parse those two
6 things out.

7 And then they use the mitigation portion for the
8 establishment of mitigation fees or at least to begin
9 the process of looking at what mitigation fees might be
10 achievable.

11 Then you have the situation of, okay, well now
12 the costs must be covered from other funding sources and
13 you have then, as we've kind of discussed before, the
14 situation where you have local, regional -- local and
15 regional on one hand, State and Federal on the other.
16 How do you allocate the costs between them and how do
17 you assume, make assumptions about future funding that
18 could be coming from sources that by their definition
19 have a lot of uncertainty imbued into them? I think
20 that is -- again, that is an important question.

21 And then, finally, as I've seen in some of the
22 debates over the implementing agreements, there's an
23 issue where you have the Feds saying, you know, we can't
24 guarantee funding as is placed here because we have an
25 anti-deficiency act.

1 And then you have the locals, to the extent
2 they're involved, saying we're not going to guarantee
3 all this large amount of money based on -- based on our
4 general funds, we're just in the position to do that.
5 So, those are some -- some issues.

6 The next slide, please? I think on the
7 feasibility of mitigation fees, this is perhaps more of
8 a concern for some than for others, but we would
9 certainly -- I'm suggesting we'd want to look at these
10 fees in the context of the economics or the covered
11 activity and at least ask the question. We know the
12 fees are going to be a cost, but ask a question whether
13 or not those fees are going to across the board, in a
14 substantial way, render a lot of the projects, a lot of
15 the covered activities, a lot of the solar and wind
16 projects infeasible. And if so, I think that raises
17 questions about, you know, what exactly are we trying to
18 accomplish here, from my perspective.

19 The next slide, please? Adapting the financing
20 program over time, as I think this theme has emerged of
21 we need to be adaptable. And this fundamental of the
22 uncertainty, we set up a plan, we're excited, we
23 celebrate, and then the uncertainties come and our
24 systems are not necessarily as flexible as we would like
25 them to be, or change is not as easy as we would like

1 them to be. You know, a few of the uncertainties on the
2 cost and financing side, just you get new cost
3 information. We make cost estimates early on, we make
4 them as good as we possibly can but, inevitably, the
5 implementation of conservation on the ground, things
6 change and we don't know exactly what the costs are
7 going to be.

8 Adaptive management is obviously -- the whole
9 idea of that, as I understand it, is to really figure
10 out what we should be doing better and that may cost
11 more money.

12 And then, finally, there's the whole issue of,
13 you know, business cycles and things of that nature that
14 both affects the way covered activities -- the economics
15 of covered activities and folks' general willingness and
16 ability to participate and part with their money.

17 In terms of the way I think these uncertainties
18 have been dealt with, I think in terms of mitigation
19 fees there's a kind of a system that's been established
20 whereby you have an annual inflator and then every few
21 years you return, kind of take a hard look at your costs
22 and figure out how to adjust those mitigation fees,
23 though even that is replete with kind of imperfections
24 and time lags, and other issues of concern.

25 And then often when you try to make adjustments

1 you meet a lot of resistance. So, there's a concept
2 there, at least, but it's not a perfect one.

3 It's the other set of funding that is even
4 harder to grapple with. You've made a series of
5 assumptions about what might be coming from State,
6 Federal and regional sources and what if they don't
7 emerge, or you're hopeful that your sales tax initiative
8 on transportation would pass and provide some mitigation
9 funds, but it doesn't. You know, what do we do in those
10 situations?

11 The next slide, please. I think, as one of the
12 gentlemen had mentioned earlier or started to talk about
13 earlier, this concept of postponement funding as being a
14 very large one in a lot of the plans that I've worked
15 on.

16 And, you know, in this case perhaps, and I have
17 no idea, but perhaps there's opportunity to have some
18 more certain, or something along that lines, a set of
19 appropriations on the Federal and the State level.

20 But if not, I mean a common approach, now, for a
21 lot of the California HCP/NCCPs is to try to figure out
22 how to get at the time the permit ends a kind of
23 postponement endowment in place that is capable of
24 generating sufficient annual revenue to take care of all
25 the administrative and ongoing management costs. And if

1 there is a substantial amount of cost there, and you can
2 kind of think of interest rates today or even a few
3 years ago, that's a lot of money. It adds a big cost
4 chunk to your whole overall cost of the plan.

5 So, and that's why even though I've generally
6 had the feeling that some of the ideas, and perhaps
7 there are new ones emerging, some of the ideas about
8 using HOAs, or assessment districts, et cetera, have
9 generally been frowned on because there's some level of
10 uncertainty around them and their ability to be
11 maintained through time.

12 The next slide, please. So, this one is a
13 little extra freebie. There's a -- this is the sticker
14 shocking context. And I just think I've noticed in a
15 few plans that I've worked on where, you know, you're
16 going along and you're in your technical box, and you
17 figure out the costs and you put it out, and you've done
18 a good cost estimate and everything's fine. And
19 suddenly everyone sees \$500 million, and they're like
20 are you insane, what's going on here?

21 And I think the point here is that there's a
22 message, not a PR message, but an honest message to kind
23 of place this in context. You know, what we've done
24 here is to try to take all of the covered activities,
25 perhaps the largest number of covered activities you'll

1 have, figure out the total cost to mitigate, or
2 conserve, or whatever is we're doing then and put it all
3 in one number. You don't see that under the current
4 regulatory baseline. But, obviously, under the current
5 regulatory baseline there is a substantial cost. It's
6 hard to know whether it's higher or lower, but it just
7 kind of creates -- can create some issues in there. So,
8 I think just explaining that there is this baseline,
9 explaining this is not new, and certainly talk about how
10 these costs are spread over time and fall to different
11 multiple stakeholders is something we've found to be
12 necessary in our work.

13 And then on the next slide, I just wanted to
14 return it back to this idea of interconnectivity in some
15 of the things that Chris Beale and others were talking
16 about this morning.

17 We do think there are -- while the financing
18 plan clearly grows out of the conservation strategy and
19 perhaps the governance concepts, there are ways in which
20 these things can be looped back, perhaps helpfully. If
21 we are looking at viable alternatives that make sense to
22 folks, you know, you can use different cost estimations,
23 different cost outcomes to perhaps help choose between
24 alternatives.

25 The feasibility analysis also might provide some

1 input or some ideas related to the mitigation fees.

2 And, as I think has been mentioned, some
3 implementing entities may have some advantages in terms
4 of their ability to obtain financing.

5 So, Karen, I was going to ask you have I -- that
6 was -- I think I've run out of my time slot so --

7 COMMISSIONER DOUGLAS: Well, thank you for that.
8 It was really, really helpful.

9 I was going to ask, let's see, so we're going
10 into the discussion, but maybe Sally Nielson, in the
11 room, and then Laura Wise on the phone, if you could
12 share your thoughts now?

13 MS. NIELSON: Thank you. I'm Sally Nielson with
14 Hausrath Economics Group and we've worked similarly to
15 economic and planning systems on the costing, and
16 economic analysis, and funding scenarios for several of
17 these HCPs.

18 And I would echo, again, some of these things
19 that Teifion mentioned about the integration of costs
20 with the planning process. And, in fact, a lot of the
21 biology and the strategizing goes on, and then costs
22 come in later on. When, in fact, if costs were
23 considered and started to be costed out earlier in the
24 process you could short circuit some of the decision
25 making.

1 I think often we do these what are in fact quite
2 detailed cost models that for various -- have a lot of
3 line items for different elements of a conservation
4 strategy and they can become ways in which stakeholders,
5 the public, the agencies, and the partners who are
6 putting the plan together can see the implications of
7 some of their -- of the alternatives and the strategy
8 decisions. And to bring that into the process earlier
9 can be a good benefit before you get to the point of
10 allocating costs, and determining what's feasible, and
11 you're pretty far into making commitments on certain
12 conservation strategies.

13 Costing is where sort of the sticker shock comes
14 in and the rubber hits the road on a lot of this
15 decision making on the plans, and for all the different
16 kinds of stakeholders.

17 There's also a bit of attention, too, in the
18 cost analysis between trying to do some good, robust and
19 reasonable estimates, but then also letting people know
20 that these are planning level estimates, we're costing
21 something out that it's a big number, it's covering
22 things over a 30- or 50-year period, so don't get too
23 wrapped up in the details, just make sure they're
24 reasonable for the best information that we have now.

25 And that's all my comments.

1 COMMISSIONER DOUGLAS: Thank you.

2 Lisa Wise, on WebEx. Let's see if she's --

3 MS. CHEW: I need to unmute a number of people
4 because she might be a call-in user, so just bear with
5 me.

6 COMMISSIONER DOUGLAS: Okay. And then, Ed, I
7 thought I'd go to you next.

8 MR. SAULS: Looking up some of the facts. Boy,
9 there's a lot to say here. Thank you, Ed Sauls.

10 COMMISSIONER DOUGLAS: Hang on, Ed, let's just
11 see if we can find Laura Wise and then we'll go to you.

12 MR. SAULS: Sure.

13 MS. CHEW: I've unmuted all the call-in users
14 and I do not see her listed individually on the WebEx
15 so --

16 COMMISSIONER DOUGLAS: Laura? Or Lisa, I'm
17 sorry, Lisa.

18 All right, let's go to Ed then.

19 MR. SAULS: There's a lot to say, I'll say it
20 quickly. I'm going to walk through your slides. But
21 with the financing plan components, they're somewhat
22 addressed but what -- you've got the key components here
23 but I want to emphasize that we not only need to know
24 the costs and the funding sources, but you need to
25 project the cash flow.

1 Because you can die in cash flow, even though
2 your aggregate numbers are fine, you can go out of
3 business quickly.

4 You need to -- it kind of gets into a
5 governance. You've been really good here about sharing
6 with the public everything, trying to be very open about
7 it. Be very open about your assumptions going into the
8 cash flow analysis, your fiscal analysis because,
9 frankly, going back to the example of Western Riverside
10 MSHCP, I believe there were assumptions made that --
11 that people didn't understand, let's put it that way.

12 Major programs, such as density transfer
13 programs and some other things that were funding sources
14 that were to be developed that never were developed. It
15 would have required the board of supervisors to do it
16 and I'm not sure that they ever connected the dots that
17 they're lack of doing it meant a lack of \$66 million in
18 that plan, which had huge implications.

19 So, there were things like that, that I think
20 are important.

21 The idea of cost benefit analysis came to mind
22 as you're going along and it suggests, as you were
23 saying here, the staging your feasibility. Get some
24 concept numbers on the table today. You know, as you
25 meet your next milestone fine tune that. But if you

1 keep fine tuning it along the way those are important to
2 help guide your decision making process.

3 I felt that the regulatory agencies, that they
4 were very equipped at understanding the biological
5 components of mitigation, the regulations, but weren't
6 at skilled at knowing the financial modeling. And that
7 they might have, in retrospect, wanted -- would have
8 wanted to have been more involved in the developing of
9 the assumptions there. And there was not -- just didn't
10 seem to be the skill set at the table.

11 So, you might want to make sure that they are
12 there.

13 As to -- oh, my gosh, there's some financing
14 tools that are so under-utilized. In several of these
15 HCPS we've said you could have this list of tools, but
16 they were never really developed and never perfected.
17 That over now, when we're -- and again, I'm going to
18 pick on Riverside, Western Riverside in particular,
19 they're so under-funded in my personal opinion, and you
20 look back now that it's been almost nine years, if I'm
21 not mistaken, since -- eight or nine years. And you say
22 had we used several of those little tools along the way,
23 it might have made a big difference in where we are
24 today.

25 This cost benefit analysis, I would just make a

1 quick statement there that there were portions of the
2 plan that we took, and in order of magnitude you're
3 going to multiply these numbers by tens, if not
4 hundreds.

5 But as an example there were parts of the plan
6 where we looked at it and we said, look, here is a
7 literal interpretation of how the conservation would be
8 applied in this area, it's going to cost \$100 million
9 for the land to be acquired. How might we look at this
10 differently and suggest some tweaking and minor
11 modifications?

12 Brought one example down to \$27 million, instead
13 of \$100 million, and the agency still liked the end
14 result. So, there is huge cost benefit analysis that
15 you can take on there.

16 And then implementing this -- going to our
17 governance issue earlier, getting the stakeholders
18 involved, somehow along the lines in Western Riverside
19 we deleted our finance committee. And it was a place
20 where stakeholders could have been at the table, helping
21 make decisions about the economics of the plan.

22 And now we're in a place where we need to
23 reinvent that stakeholder participation to help make
24 that plan go forward.

25 And so, keep in mind that financing needs to be

1 a critical part of your governance and participation by
2 stakeholders along the way.

3 Those are just some of the key points, there's
4 probably more.

5 COMMISSIONER DOUGLAS: Thank you, Ed, that was
6 great.

7 Other comments or questions on financing?

8 Go ahead, Ken.

9 MR. SCHREIBER: Thank you. A couple of
10 observations. This may bounce around a little bit.

11 You talked about mitigation and conservation and
12 sort of disentangling them. And under, at least for
13 fees that apply under State law, to do the nexus study
14 you've got to disentangle them.

15 So, it's not a choice of separating out, so
16 that's one point.

17 The second point is what we're running into, and
18 I know others are, too, are members of the private
19 sector who essentially want to send this following
20 message, we don't want to pay the mitigation fees.
21 Somebody else should pay the mitigation fees. We don't
22 know who they should be. And what they won't say is we
23 want the local government general fund to pay it because
24 when you get beyond that, there isn't much else left to
25 pay the fees.

1 Because if you're going to grant sources,
2 everybody says, now, we want to make sure anything we
3 give doesn't pay for somebody's mitigation costs.

4 You talk to foundations, you talk to Section 6,
5 Fish and Wildlife Service, but we want assurance we
6 don't -- we're not paying for mitigation costs. So,
7 somebody else has to pay the mitigation costs.

8 And if the entity that is causing the impact
9 isn't paying it, there's a real, real problem. But
10 politically that's where I think we are likely to be.

11 For us, making sure that the public and the
12 private sector were paying the same fee schedule is
13 extremely important, that this is not a private sector
14 pays and the public sector skates by, it has to be
15 compatible.

16 And then it would be interesting to know to what
17 extent the Desert Renewable Projects will, on their own,
18 trigger State or Federal permits.

19 And issue we're dealing with is that the status
20 quo in Santa Clara County, pre-developer of the habitat
21 -- or pre may be at the last year, is that 95 plus
22 percent of all projects never encountered an ESA issue.
23 They never were delayed, they didn't pay a penny, et
24 cetera.

25 Now, they're being asked, but you're going to

1 pay fees because you have ESA impacts, but we never had
2 ESA impacts in the past.

3 And that is a difficult thing to deal with in
4 the political process, let me leave it there.

5 But I think for Desert Renewable Projects the
6 likelihood that without a plan most of the projects are
7 going to need some combination of a Fish and Wildlife
8 Service permit and a Fish and Game permit under ESA,
9 Section 7, Section 10, or whatever, and now you've taken
10 that away. Now, you're talking about cost certainty and
11 time certainty, and those are both extremely valuable
12 commodities versus the uncertainty of going on your own
13 to get a permit.

14 And one of the thoughts on mitigations, place
15 the mitigations in the context of total project costs,
16 so that people come screaming, like, we're going to pay
17 \$35,000 in fees, and we do the pro forma on the project
18 and it's a \$6 million project.

19 And you have to have it in that context.
20 Otherwise, the argument becomes \$35,000 isn't that
21 horrible, what are you inflicting on me versus the fact
22 that when you do the pro forma you're almost just down
23 to a rounding error.

24 But you have to keep the elected aware of that
25 relationship.

1 And lastly, on endowment, if you don't charge an
2 endowment or somehow resolve the in perpetuity cost
3 requirements, which the Wildlife Service will impose, if
4 you don't charge it from the beginning, then who picks
5 up the gap?

6 If it's not part of the fee at day one, and you
7 impose it at day 20, who picks up the cost of endowment
8 for the first 20 years of permit recipients when you
9 can't go back and charge them, and you can't under nexus
10 charge the future folks for endowment that is resulting
11 from past projects.

12 And we're not in that box because we're charging
13 endowment right from the beginning.

14 And maybe a last observation there, small
15 changes in interest rates yield major changes in
16 dollars. We went -- we had a very conservative, ultra
17 conservative assumption of 1.9 percent CAP rate, rate of
18 return. And I mean PERS, you know, you talk about 7. --
19 we went up to 3.25 and dramatically dropped our fees.

20 And we went to Santa Clara County Finance
21 Department and these folks are conservative financially,
22 and we spread all this stuff out and said what would you
23 recommend, because we didn't want to get out there on
24 the end of a limb. What would you recommend?

25 And they were comfortable with -- they said we

1 could support 4 percent, and we went with 3.25. But the
2 difference between 3.25 and 1.9 just dramatically
3 changed the fee schedule. Over -- again, fees over 50
4 years.

5 COMMISSIONER DOUGLAS: Thank you.

6 We've got Ron and then Pat.

7 MR. REMPLE: I think you're potentially leaving
8 out two tools that have been used very successfully in
9 other plans. One tool, which would require the local
10 land use authorities to actually get into the program is
11 the whole issue of how do you zone appropriately, which
12 was used very successfully by the City of San Diego to
13 build their preserve system, allowing a fixed rate of
14 development within certain areas and the rest was
15 dedicated.

16 And a sort of a nuance there, that has also been
17 used in a number of NCCPs, is actually the developers
18 having to dedicate, acquire and dedicate lands to the
19 preserve system, which actually brings the private
20 marketplace into play in a more efficient manner, and
21 that also helps you deal with this whole issue of what
22 should the actual fee be that's going to land
23 acquisition?

24 When you're paying it in year one, buying the
25 lands in year five, prices have changed out there and

1 you may have over or under estimated that particular
2 cost.

3 So, I would suggest you really ought to look at
4 whether or not you could look at how the developers of
5 the energy projects potentially provide some of the
6 lands or all of the lands in the process.

7 And it's amazing how efficient some of the
8 developers have gotten in acquiring lands.

9 And then in combination with that looking at
10 mitigation ratios which essentially say if you develop
11 in this area, you're going to have this higher ratio, or
12 you have this lower ratio.

13 On top of that you look at where the lands are
14 acquired, which may mean that if you buy in the areas
15 that are most desirable for building the preserve
16 system, your actual number of acres you have to acquire
17 is actually reduced in those types of processes.

18 The second piece is that I think there needs to
19 be a very open discussion about endowments over the long
20 term. I think we're totally under estimating the long-
21 term political sensitivity of endowments when there's
22 multi-billion dollar endowments sitting out there,
23 controlled by an entity there is going to be a push to
24 figure out how to use that for things other than they're
25 originally conceived for. That's why I think your

1 having a long-term funding source that flows based upon
2 activities that have occurred on the land, such as
3 through a special assessment district, or something
4 similar, you actually eliminate some of those longer
5 term problems.

6 And I think lastly, folks have always looked at
7 where are some other funding sources, Section 6 funds
8 especially, and those are limited.

9 But I might also suggest that there be some
10 consideration given to asking the Department of Fish and
11 Game, when they're passing through dollars, not to take
12 25 or 30 percent overhead. Because as you try to do
13 match at the local level, you pick up the 25 percent
14 match for -- that's required under Section 6. You end
15 up with another 25 or 30 percent that's going to the
16 Department of Fish and Game, of which the locals paid
17 the match on. And, ultimately, you get 50 cents on the
18 dollar coming out of the Section 6 process.

19 There's got to be a better way and I fully
20 understand why the Department charges the overhead they
21 do, but it has nothing to do with the actual cost of
22 administrating the dollars.

23 COMMISSIONER DOUGLAS: Thank you, Ron.

24 Pat.

25 MR. CHRISMAN: Well, as you know, we don't have

1 a whole lot of interest in going off base to build
2 renewable energy projects. We have enough challenges on
3 our own bases these days to build them without going
4 offline.

5 But one of the questions I think a number of us
6 have been struggling with is we have a program in DoD
7 called REPI, the Range Enhancement Protection
8 Initiative, I think is what it is, I can never remember
9 the acronym. Fon can help me out here.

10 Some of us lobbied a number of years ago to
11 Congress to get funding put in that to help us with
12 our -- we call it encroachment, which is not a
13 politically correct term, so we use it -- other land
14 uses that may have an impact on our military mission
15 functions.

16 The program has been, I think by all accounts,
17 wildly successful. While I don't have the FY12 dollars,
18 I think it's somewhere in the neighborhood of half a
19 billion dollars that Congress has put in, so it's been
20 pretty successful.

21 Most of that money has been put in with our NGO
22 partners, where we have projects. And here in
23 California I know Camp Pendleton has had a number of
24 acquisitions, 29 Palms has had an acquisition. I think
25 some of the -- Edwards Air Force Base has had one.

1 We've been a slower -- Fort Irwin I think may
2 have had some. We've been a little slower on the West
3 Coast to do it than the East Coast.

4 It was created, as I said, to try and help us
5 deal with those land uses off base that could help us
6 avoid impacts from endangered species or other related
7 issues.

8 We've used it down in San Diego, I think to
9 great effect down there.

10 Why would you care about that? Well, we care
11 about that because here's another one of those potential
12 tools that the DoD could bring to this table for the
13 DRECP that even though we may not have an interest in
14 terms of renewable energy siting directly with the
15 industry, it certainly is a tool that we could use to
16 enhance or add to the conservations that we have out
17 there.

18 We've had some success working with Congress,
19 getting Congress to amend that to kind of expand the
20 ability to use some of those -- that REPI program for
21 other things than it was originally intended to.

22 So, we're going to take a very great interest in
23 this funding scenario and is it possible to use this.

24 I think if you asked any of our installation
25 commanders or our regional commanders, we don't want any

1 more endangered species, thank you very much.

2 Some of our bases, as much as 60 percent of the
3 base is unusable for training because it has -- it's
4 encumbered by endangered species or cultural resources.
5 So, we really don't want to own the Desert Tortoise, as
6 much as some people would like to have us do that.

7 So, when we look at the funding here, this is
8 one of the things I think is work exploring. And
9 depending on, I think, the political sensitivity and
10 risk factor it's probably worth exploring is there some
11 way to enter into some kind of Federal legislative
12 cycle, given all the Federal agencies, to see if there's
13 some way that we can truly leverage some of the funding,
14 not only within DoD, but within some of the other
15 agencies as well.

16 So, I would hope that's something that we don't
17 automatically throw away because getting Federal
18 legislation is too hard. But a lot of those strings
19 that get attached to some of this money are directly
20 related to that Federal legislation.

21 COMMISSIONER DOUGLAS: Thank you, Pat, that's a
22 really good suggestion and, you know, I think it would
23 be great to talk more about that.

24 Russ, go ahead.

25 MR. SCOFIELD: Thanks. And thanks for bringing

1 up an excellent point, Pat, that was something that I
2 was going to mention later was the ability to utilize,
3 and REPI's one good example. We're actually working
4 with some of the projects that Pat mentioned to use
5 those projects to leverage implementation of some of the
6 SB24 acquisitions. So, that's already occurring.

7 But this whole idea of finding synergies between
8 DRECP implementation, whether it be in-kind
9 conservation, whether it be actual dollars as through
10 the REPI program, but finding a synergy between the
11 DRECP conservation actions and the actions that the
12 agencies in the desert are either currently
13 implementing, plan to implement, and over the planning
14 cycle, you know, who knows what's next on the horizon.

15 So, I think that as we're not only thinking
16 about funding, but also governance, we need to be
17 prepared to capitalize on those partnerships and
18 synergies that are out there and available.

19 So, thanks for bringing that up, Pat.

20 COMMISSIONER DOUGLAS: Thanks for your comments.

21 John Kopchik on the WebEx has his hand raised.

22 MR. KOPCHIK: Hi. Sorry, I moved from room back
23 to office. I'm with the East Contra Costa Plan and I
24 just thought I would throw in a couple of thoughts from
25 our first five years.

1 And one is -- one thing that surprised us is our
2 plan took effect just as the economy went into some sort
3 of a tailspin, and so had very little development fees
4 coming in. And we expected that those development fees
5 would be our primary bread and butter in terms of paying
6 for the conservation plan.

7 When, in fact, grants have been our bread and
8 butter. Grants have been more than, I think it's
9 approaching 95 percent of our revenue, the first five
10 years is grant revenue, and fees just a little bit.

11 And that's been good in some ways in that we
12 haven't had that much conservation required of us
13 because our impacts have been low, and so we've been
14 able to get way ahead of our stay ahead requirements.

15 But important to keep in mind that what I find
16 I'm doing all the time is looking for that magic money
17 that doesn't have to be spent on a specific purpose,
18 because all of our grant funding is usually just for the
19 most glamorous part of it which is, you know, buying
20 land and conserving it. And I know that might be a
21 little bit different in the case of this conversation
22 plan.

23 But the precious dollars that come to us that
24 have no strings attached, which is -- you know, and the
25 fees have some strings attached, but much less than the

1 grants have been. Worth more than the other dollars,
2 shall we say. And if you don't have at least some kind
3 of a steady reserve flow -- I mean we've had enough to
4 just -- you know, enough public infrastructure -- thanks
5 to ARRA we've had enough infrastructure projects to pay
6 enough fees to basically allow us to spend the grant
7 money, frankly. Because someone has to pay for
8 appraisals, and due diligence on land, and operate the
9 whole plan. And so being able to find some sort of
10 steady flow of funds that will keep you going even in --

11 (WebEx Operator interruption.)

12 COMMISSIONER DOUGLAS: John, have we lost you?

13 MR. KOPCHIK: That's interesting. No, I'm still
14 here, can you hear me?

15 COMMISSIONER DOUGLAS: Yes, we can hear you.
16 You're still here, great.

17 MR. KOPCHIK: Yeah, that's odd.

18 So, anyway, just keeping track of the different
19 forms of money, you can't just add them all up and say
20 good, I think it's important to look at which ones can
21 be used for which purpose.

22 I'd also just echo what I think others have said
23 about the endowment. Our plan is one of the few recent
24 ones that we actually didn't build in an endowment. We
25 did face a requirement to develop a long-term funding

1 plan by the time we were midway through our plan,
2 counting on the fact that we would have some kind of
3 public funding source. We thought by partnering East
4 Bay Parks we would have some sort of ongoing tax revenue
5 to pay for some portion of it.

6 And I think that flexibility was great. I think
7 that flexibility was very hard for the wildlife agencies
8 to give us, though, and will be harder and harder
9 because things -- perpetuity's a long time --

10 (Laughter)

11 MR. KOPCHIK: -- and trying to say that an
12 assessment district is going to be around forever is
13 tricky.

14 But interest rates, I mean as has also been
15 pointed out, when you're looking at the difference
16 between 1.9 or 2.5 percent, you know, that means a whole
17 lot of money you have to sock away, which might not be
18 pragmatic.

19 And I think the idea of sitting on -- you know,
20 if the country's in tailspin and there's \$10 billion
21 setting aside for habitat and people -- you know,
22 there's no national defense money, or that just seems
23 unlikely, but no money for schools or something, then I
24 think people will try and raid it.

25 One last thing is keeping -- it relates to

1 governance is who you pick to hold -- if you do have an
2 endowment, who you pick to hold the endowment makes a
3 lot of difference based on, you know, Government Code
4 section requirements on local governments is pretty
5 onerous, and we're not able to invest the funds very
6 aggressively at all.

7 And whereas, you know, UC Endowments and those
8 average a five percent cap rate, we'd be lucky, you
9 know, getting what Ken talked about at two and a half.
10 And so being able to -- if you can think of a way to
11 outsmart that, and I haven't been able to do it, where
12 you can invest the money at five percent, I think you'd
13 be much happier. That's all, thanks.

14 COMMISSIONER DOUGLAS: Thank you. Thanks for
15 calling in on WebEx and giving us that insight.

16 And now I've got Dan Silver on WebEx, with his
17 hand up.

18 MR. SILVER: Good afternoon, I'm Dan Silver,
19 Endangered Habitats.

20 What people have brought up, the different
21 sources, and it looks like this is mostly from
22 mitigation fees, but it's always worth considering all
23 the other things that have been mentioned.

24 I did want to add that there's also
25 transactional costs and we often find it hard to do

1 transactions because there's not a source of money to do
2 the appraisal work, there's not a ready source of money
3 to do legal work.

4 We could also very much benefit from having a
5 revolving fund that can go in and out of transactions,
6 provide down payments, or options.

7 And so when this thing is being structured, it
8 would make sense to try to build that in. And there's
9 people who know a lot more about this than I do, but
10 that's just a -- it's a relatively minor aspect but,
11 actually, a really important one.

12 COMMISSIONER DOUGLAS: Thank you.

13 Terry's got a couple of questions.

14 MS. WATT: So, to follow up to John, if you're
15 still on, and maybe Ken and others may want to answer
16 this, too.

17 But to the extent, John, that you're actually
18 now ahead of the agency requirements for creating your
19 reserve structure, are you doing anything to -- as your
20 organization to bank that against when development
21 starts picking up and would need mitigation? Is there a
22 mechanism that relates those to at all?

23 And then I had a question for Sally and maybe
24 Ken, what's the earliest point you'd recommend starting
25 to do a financial analysis of plan alternatives?

1 MR. KOPCHIK: I'm still here, I don't know if
2 you want me to talk first?

3 MS. WATT: Yeah, go John.

4 MR. KOPCHIK: So, we don't have to take many
5 steps to bank it, we just have to keep buying land and
6 it is a virtual bank. So, yes, we are trying to run up
7 the score while we have no impacts and lots of grant
8 money.

9 MR. SCHREIBER: A couple of thoughts and I'll
10 give it to -- oh, there we go, thought it was.

11 A couple of thoughts and I'll pass this over to
12 Sally. The idea of banking, you know, I'm hoping we can
13 do that in Santa Clara. Again, we're hopefully within a
14 month and a half of having the local partners approve
15 it. And trying to get ahead of the land acquisition
16 process is very, very desirable.

17 And I think John and I have talked about it for
18 East Contra Costa that the high priority at the get-go
19 is to get the land. And if you get the land, and you
20 fence it, and you have grazing lease on it, and it's
21 a -- you know, you can do some rather minimal management
22 of the property and not -- and defer some of the more
23 detailed site planning until you actually have the cash
24 flow to do that type of thing, because that doesn't tend
25 to come with grant funding.

1 The endowment -- or, actually, we're talking
2 about a 3.25 percent, and County Finance would have gone
3 to 4, and that's based on the National Fish and Wildlife
4 Foundation's contracts with Department of Fish and Game,
5 who manage the Fish and Game related endowments. And
6 they have two contracts, one at 3.25 and one at 3.5 that
7 were put together I think within the last 12 to 18
8 months.

9 And as far as when to start doing the financial
10 planning, our process was a variety of chapters, and
11 work, et cetera, et cetera, and then a first admin.
12 draft, second admin. draft, a public review draft, a
13 how-do-we-save-the-plan framework --

14 (Laughter)

15 MR. SCHREIBER: -- and a final plan. And I
16 would say no later than the first admin. draft. I think
17 you have to be right out there early on so when
18 you're -- with that first admin. draft out, and you have
19 the conservation strategy, and you've got the funding
20 strategy and you start talking about what the fees are
21 going to be, and you're not pulling what will be viewed
22 as more and more as a bad surprise later in the process.

23 MS. NIELSON: Yeah, I would agree, early on when
24 you have reserve design, when you have acreages, buy
25 various land covers and things that you can -- and

1 locations that you can cost out, I think it's good when
2 you have alternatives to look at to sort of frame. Not
3 that you have to do every single alternative, but ones
4 where there are significant differences, either one has
5 a big restoration component or one has a much larger
6 acquisition component.

7 The other thing is often it's the first numbers
8 you put out there that everybody remembers and becomes
9 sort of the benchmark. So there's -- you want to be
10 either pretty sure of your numbers or have a big range
11 that you're talking about that you can eventually then
12 narrow down to something that's satisfactory, for
13 whatever reason, to the various people that have to sign
14 off.

15 COMMISSIONER DOUGLAS: Thank you.

16 So, Peter you read my mind. I was going to go
17 to Ed and then I was going to put Stu and Peter on the
18 spot to see what thoughts they have from kind of a more
19 developer, industry perspective.

20 Go ahead, Ed.

21 MR. SAULS: Thank you, Karen. I just want to
22 say, in answer to the question when, it's now. You have
23 alternatives. You should have before those decision
24 makers today here's the range, if you will, of those
25 costs, and here are the revenues, and maybe here are the

1 sources that those revenues might potentially be. So,
2 each of the decision makers can see there are choices to
3 be made that affect the economic equation and there are
4 choices about who is going to pay, and some of those
5 people may not be at the table, yet.

6 So, you want to be having those people involved
7 as much as possible.

8 And then I would recommend, I don't see it, or
9 maybe it's there, but your renewable energy providers
10 should be weighing in on the costs, and revenue sources,
11 and the financing mechanisms because that's where,
12 again, I suggested little financial tweaks. For
13 example, rather than -- and I don't know that this is
14 what you're doing, but rather than providing an up-front
15 endowment on conservation lands or mitigation if,
16 instead you can take a revenue stream from a BLM lease,
17 or from a power purchase agreement, or something like
18 that to fund it, those could make significant
19 differences in the total cost and the cash flow.

20 COMMISSIONER DOUGLAS: Great, thanks.

21 So, Peter and then, despite the fact his card's
22 not up, Stu. And then I've got Katie Barrows on the
23 WebEx with her hand up. Go ahead.

24 MR. WEINER: I'm going back to the nexus word.
25 From a developer's point of view obviously certainty's

1 great in terms of cost and in terms of time, but if you
2 tell me it will be a lot more certain if I pay a million
3 dollars rather than ten dollars, it may be certain but
4 it may not be feasible, and I may not like it.

5 So, there are those issues. I think from the
6 developer's point of view, I remember when I was first
7 introduced by the Department of Fish and Game to the
8 concept of an NCCP, and I knew nothing, and they said,
9 look, it's like doing mitigation only you pay for the
10 mitigation, we pay for the conservation.

11 And I thought, you know, because the public is
12 contributing and you're being helpful, too, and I
13 thought, well, that seems to make sense.

14 So, when we look at it now, I think it's true if
15 you're thinking about \$35,000 in fees for a \$6 million
16 project, so if developers are asked to pay some of the
17 fees for administering the DRECP, which obviously
18 includes the conservation portion, and in return for
19 that they're getting more certainty in terms of time and
20 money, then it seems to me that that delta will probably
21 work out.

22 If, on the other hand, you're trying to get fees
23 from the developers to help pay for conservation, that's
24 going to be a dicier problem because it increases the
25 ratios enormously.

1 Moreover, in this case, it looks like an awful
2 lot of the conservation, dare I say it, is free because
3 it's on Federal land. And to the extent that it is free
4 in that sense, that one doesn't have to pay to acquire
5 it, that's just cool. What a great way of doing a
6 conservation plan. You essentially acquire a lot of
7 land that the Federal government already owns and you
8 don't have to pay for it, so I think that's great.

9 But I think that's kind of where I would come at
10 it, if I were a developer is, you know, what am I paying
11 for and what am I getting, and why should I be involved
12 in this part of the geography of the United States, or
13 the world, instead of some other part?

14 If I'm in another state where it's a straight
15 Section 7 or even Section 10, and I'm not paying for
16 this huge plan, how much better off or worse off am I
17 because capital is mobile.

18 And especially in terms of Nevada and Arizona
19 that's what we're seeing as a contrast now. So, at
20 least what I'm thinking in terms of some of those
21 issues.

22 COMMISSIONER DOUGLAS: Thanks, Peter. And I
23 guess I feel compelled to say that there may be times
24 when enhancements and other management actions on public
25 land will be needed in order to make the conservation

1 work on public land, and so that's not acquiring land.

2 It is, of course, a cost.

3 MR. WEINER: No, understood.

4 COMMISSIONER DOUGLAS: Absolutely. But you're
5 right that under certain alternatives, and to some
6 degree under all the alternatives public land
7 designations are an important part of the conservation
8 aspect.

9 MR. WEINER: All I'm saying that the developer,
10 as a theoretical matter, wants to have the nexus with
11 mitigation --

12 COMMISSIONER DOUGLAS: Right.

13 MR. WEINER: -- but not paying for the
14 enhancements that should be funded in another way.

15 COMMISSIONER DOUGLAS: Absolutely.

16 MR. WEINER: I am saying that paying for the
17 administration of it may be fair game.

18 But I'll let Stu --

19 COMMISSIONER DOUGLAS: Okay. Go ahead, Stu.

20 MR. WEBSTER: I think Peter captured it fairly
21 well and I have to admit that I'm not as well versed in
22 the subject matter as most others around the table.

23 I think I hearken back to what Pat said in the
24 earlier, morning session of keeping things simple.

25 Developers need to be able to take a very capital-

1 intensive industry up front and model, as accurately as
2 possible, what our initial and ongoing costs are.

3 And so the idea of being able to plug a number
4 into a pro forma, even a number that is larger, let's
5 say, than what would be comfortable, is certainly much
6 more feasible than not having a good number going into
7 it, for the risk of having not accounted for that dollar
8 down the line.

9 Certainly, permitting fees or some other
10 mechanism to account for ongoing costs is something that
11 doesn't seem completely unreasonable to me. And I'm not
12 really, entirely sure of why there would be instances of
13 developers not wanting to pay for mitigation, that's a
14 fairly standard business practice. At least, in large
15 part, our experience in the renewable energy industry,
16 so perhaps other industries aren't doing that.

17 So, I think that that's a cost that's also
18 considered to be borne by industry.

19 I can't speak as clearly about the conservation
20 side, and where those dollars are coming from, and
21 what's been contemplated to date. But certainly, as
22 long as it's reasonable and feasible within the
23 economics of a project to making it viable and keeping
24 the cost of renewable energy at a competitive level to
25 conventional fuel energy, then I think we're meeting a

1 fundamental objective, or at least it should be a
2 fundamental objective of this process. Thank you.

3 COMMISSIONER DOUGLAS: Well, thank you, Stu and
4 Peter, both, for the comments.

5 And so we're going to go to Katie Barrows, now,
6 on WebEx, and then we'll go to Ken.

7 MS. BARROWS: Thanks. I wanted to follow up on
8 a couple of the comments that John Kopchik made and Ken,
9 and just give a couple of examples from our plan that
10 might help inform the discussion.

11 We are one of the plans I think that is most
12 recently permitted, and probably we're definitely worked
13 on -- we worked carefully on having a comprehensive
14 financing plan. And I would certainly encourage that
15 that happens as soon as possible.

16 We struggled with trying to identify future
17 funding sources and I think the comments that are made
18 about creativity and all the different options need to
19 be carefully look at.

20 We have assessment districts and various things
21 included in our plan, none of which we would be
22 successful in getting approved in today's economy.

23 But I wanted to point out a couple of things.
24 In our case it's similar to the DRECP in that we have a
25 lot of public lands within our plan boundary. And just

1 looking at the numbers, we've got about 77,000 acres
2 that have been acquired towards our ultimate
3 conservation goals, and easily 50,000 of those acres
4 have been acquired as a result of efforts by nonprofit
5 organizations, and other agencies like the National Park
6 Service within our boundaries that still credit towards
7 our ultimate conservation in the sense that they help us
8 fill out our reserve system.

9 So, I think the role of nonprofits and others
10 who can, maybe not directly benefit, but we have a
11 nonprofit here, The Friends of the Desert Mountains,
12 which has been -- which has chosen to acquire lands in
13 our reserve system for the last ten years, and has
14 probably acquired 30,000 acres. So, I think that's a
15 very important role that the DRECP could take advantage
16 of.

17 I also was just going to briefly describe, we
18 recently updated our nexus study after only a couple of
19 years. Our plan was permitted in 2008. And that
20 allowed us to do a couple of things. In fact, the
21 motivation for that change was coming from the
22 development industry and the downturn in the economy,
23 and the interest in having the fees looked at.

24 We were able in that process to add to a fee
25 that was previously only available for land acquisition,

1 the ability to use those funds for monitoring and
2 management which, granted we're not collecting a lot of
3 funds, but it is another source of monitoring and
4 management funds that are certainly our biggest
5 challenge in implementation.

6 We actually brought the fee down a small amount,
7 only about \$100 and at the same time, as I say, added
8 more capacity to the fee. You know, we are still
9 looking at other mechanisms to fund the plan because I
10 think in the longer term development may not be what it
11 has been in the past as a driver.

12 But, nevertheless, it was a mechanism. And I
13 think that discussion about flexibility and nimbleness
14 is very well an event in -- and that was a change that
15 was debated and carefully discussed with our
16 environmental community and with the building industry,
17 and both of them supported basically allow us to secure
18 the long-term funding for the plan and, at the same
19 time, you know, make a slight adjustments. So, I just
20 wanted to add that.

21 COMMISSIONER DOUGLAS: Great, thank you.

22 So, we've got Ken, and then Stu, and then Ron.

23 MR. SCHREIBER: Just briefly, on picking up on
24 Peter's comments, Stu's comments, but the issue of time,
25 and I'd like to underscore the importance of looking at

1 time, as well as cost.

2 And again, I went back to, in my mind, a
3 fundamental question is as these projects move forward,
4 without any habitat plan, how many of them will need a
5 State and/or Federal Endangered Species Permit.

6 If the answer to that is 80 percent, 75 percent,
7 85 percent, then one of the values of the plan will not
8 only be cost certainty at the beginning of the process,
9 but time certainty.

10 If the answer to the question is five or ten
11 percent of the projects, it may not be worth, from the
12 private stand point, doing this. And better to just
13 roll along and do projects without getting State or
14 Federal permits.

15 I had a property owner call me, oh, two and a
16 half weeks ago, an attorney representing a property
17 owner in Santa Clara, and he said he's got a client who
18 owns five acres or so in the semi-rural area, and he's
19 going to build a house, and Fish and Game has said his
20 site impacts salamanders, Tiger Salamanders,
21 State/Federal listed.

22 He said his client called some biologists and
23 said what would it take to get a permit? They said, oh,
24 \$50,000 or so. Well, okay.

25 But that wasn't the problem for the client.

1 Nobody could tell him how long it would take to get the
2 permit, three years, four years, five years, nobody --
3 everybody threw their hands up and so the client is very
4 willing to pay a habitat plan fee, he just wants to get
5 the plan -- to be able to file the application and get
6 it because he has time certainty. And that is, from any
7 stand point, I think from a development stand point and
8 going back to my community development director base,
9 the time certainty is -- can be as valuable or more
10 valuable than the cost certainty because time is money.

11 COMMISSIONER DOUGLAS: Thank you.

12 Stu?

13 MR. WEINER: I didn't intend to say anything
14 about this, but to Ken's point, you know, especially
15 with the short-term energy policy structure of the
16 United States right now for renewable energy, and
17 subsidy supports, that's probably no surer statement's
18 been made in terms of how important that sort of thing
19 is.

20 I do want to come back, however, and I forgot
21 one detail on, you know, this sort of keeping it simple
22 mentality the developers have. And certainly what would
23 resonate with us and we've tried to promote with other
24 efforts of a similar vein, you know, is the idea of
25 having mitigation, or conservation, or whatever the

1 mechanism that's trying to be obtained from a biological
2 value perspective, meaningful. The trend of sort of
3 nickel and dime pieces of mitigation on land, on a
4 project-by-project basis, and I'm sure I'm flogging some
5 horse right now that hasn't been discussed ad nauseam in
6 this group. But, you know, given that this is my first
7 one, I'll bring it up.

8 You know, it's incredibly important
9 biologically, but it's also critically important, from
10 an industry perspective, the ability to simply pay into
11 something. You know, essentially address the impacts
12 whether they're a one-time, a one-off, or an ongoing
13 payment structure certainly is a lot more palatable than
14 trying to negotiate and create the wheel each time you
15 go through the process.

16 And I would defer to folks in the NGO community
17 to echo this or not, but it seems like to me that's
18 biologically a very sound concept as well. And I don't
19 understand why that has been such a huge disconnect
20 between what we would like to see done and what actually
21 ends up getting done.

22 But I would hope that we do structure in some
23 form or fashion where things are easy to economically
24 model but, more importantly, maintain that connectivity
25 and, you know, lacking fragmentation and whatnot that

1 those kind of biological values oftentimes get lost.

2 COMMISSIONER DOUGLAS: Great, thank you.

3 Ron.

4 MR. REMPLE: Katie brought up a very good point
5 regarding land acquisitions by other organizations to
6 help build a preserve system. We've seen that occur in
7 many places in the NCCP program.

8 But what really triggers that type of activity
9 is reaching agreement on building a reserve that
10 provides for the conservation of the species, and then
11 going back and figuring out what does it take to put
12 that preserve system together and how could that be done
13 creatively, using all different types of mechanisms?

14 With the Coachella Valley, the assumption in
15 there was to build the most robust system out there
16 would require some acquisitions outside of mitigation
17 requirements.

18 You see that throughout the systems, but it
19 really is getting buy-in by the NGOs, the environmental
20 community on what the preserve design should look like
21 and then being able to look at how do you put it
22 together versus trying to figure out what the mitigation
23 is for projects is and what does that build us.

24 COMMISSIONER DOUGLAS: Thanks.

25 Ed Sauls.

1 MR. SAULS: I just wanted to emphasize that we
2 need to be careful not to make the mistake that if you
3 have the private sector at the table, by the development
4 community, that you also have the landowner community at
5 the table. And those are very different audiences, with
6 very different needs. And they need to be considered
7 because it will be their land that is acquired.

8 And if that's done in an unfair or unjust means,
9 you will erode the value of your plan, if not their
10 rights.

11 COMMISSIONER DOUGLAS: Thanks, Ed, for that
12 comment. And I -- you know, we are planning a private
13 lands-focused workshop. I think it would be really
14 great if you could maybe make some suggestions, and
15 others might as well, about how we include or help
16 represent the landowner community. Because you're
17 correct, that's a really important constituency that we
18 should hear from.

19 Go ahead, Ken.

20 MR. SCHREIBER: Rule one, willing buyer, willing
21 seller. Seriously, we took that off the table literally
22 at the first or second stakeholder group meeting. And
23 everybody agreed willing buyer, willing seller, and that
24 calmed a lot of cattle ranchers and other folks down.
25 And said, okay, yeah, we'll continue the discussion but

1 if you are going to talk about imminent domain, we will
2 now weave and fight whatever you want to do.

3 COMMISSIONER DOUGLAS: Absolutely.

4 Ron.

5 MR. REMPLE: One of the key things we did in San
6 Diego was sort of split up the landowner group because
7 small landowners, if the preserve is going to go over a
8 lot of small landowners it's a different constituency
9 and a different perspective on the world out there
10 versus the large landowners.

11 And I think you hear much better when you get
12 those folks into a group where they can relate to
13 themselves, relate to the size of their parcels they're
14 interested in.

15 Large landowners have totally different motives
16 at times regarding why they have that land and what are
17 they willing to do with it versus the small landowners.

18 COMMISSIONER DOUGLAS: yeah, absolutely.

19 Thanks.

20 Peter?

21 MR. WEINER: Willing buyer, willing seller. I
22 remember someone who lived on their own property and
23 said they didn't want any development land because,
24 really, they thought of the view shed as something they
25 owned. That's true of OHV, that's true of other

1 stakeholders and users of Federal lands. And although
2 they may not be landowners they, too, have a stake in
3 what's being decided and may have a view so --

4 COMMISSIONER DOUGLAS: So, I don't see any other
5 cards up at the moment.

6 Ed?

7 MR. SAULS: One last one.

8 COMMISSIONER DOUGLAS: Oh, you did raise your
9 card, okay.

10 MR. SAULS: Yeah.

11 COMMISSIONER DOUGLAS: Okay, and then Darla.

12 MR. SAULS: Willing seller and willing buyer,
13 and that's great, as long as you don't have a monopoly
14 you have to sell to. That's important to understand
15 that. If you can be a willing seller and you have
16 choices that you can sell your land to, a conservancy, a
17 developer directly, or whatever entity that we're
18 selling, you know, we're setting up by this program,
19 then you have willing seller, willing buyer with
20 alternative choices.

21 But if you say we just won't deal with you until
22 you're willing because we have a monopoly in buying your
23 property that is not a just system.

24 COMMISSIONER DOUGLAS: Thanks.

25 Darla?

1 MS. GUENZLER: I just wanted to express a note
2 of caution about the ongoing assessments. I appreciate
3 very fully the issue with endowments and so forth. But
4 I think where we've been -- where there's been
5 discussion and some assessments, and so forth created,
6 it's a different circumstance than we're dealing with
7 here.

8 I think we have a unique challenge because the
9 benefits of this are so diverse and statewide, and even
10 regional because of where the solar is going to go and
11 we don't have a large urban population with a lot of
12 direct benefit there that I think the -- we're going to
13 have to be very creative in thinking about ongoing
14 revenue sources to manage this compared to even what,
15 you know, little success we've had elsewhere.

16 COMMISSIONER DOUGLAS: Good point.

17 So, we've got Gail Barton with her hand up on
18 WebEx.

19 MS. BARTON: Thank you. And I didn't thank you
20 before, but I did want to thank you for the opportunity
21 to participate in this. And it's always interesting to
22 hear everyone's ideas and thoughts, and kind of mull
23 things over that we've all been through before.

24 I appreciated Katie's comment and I think that
25 they've done some really good things in the Coachella

1 Valley by partnering with 501(c)(3) type organizations.
2 I think you can do a whole lot with that, much beyond
3 what I think we've seen done in other places. But I
4 think that they really maximized that.

5 Another thing that I heard was, you know, the
6 public land in effect, I believe this is Peter talking
7 about the nexus and that in effect the public land is
8 free.

9 And I think as you do your financial analysis
10 there will be a lot of weighing of purchasing land
11 versus land that's maybe cheaper, or free, but that has
12 management restoration costs. And I think that's a real
13 serious consideration and another reason to get in and
14 start putting numbers to things immediately, because I
15 think it will help you make decisions as to what type of
16 a plan you're going to implement and where your focus is
17 going to be.

18 And then I have this other little side of me
19 that makes me a little concerned because we have two
20 existing HCPs in Riverside County and I'm wondering are
21 we diluting our funding source and is the impact of
22 another huge HCP going to lessen the ability of these
23 existing HCPs to secure Federal and State funding.
24 That's kind of a concern to me.

25 And then if I put on a very different hat, one

1 thing that I think Riverside County did in their Western
2 Plan and I -- in the Western Plan was that when you talk
3 about a landowner and not taking away the total value of
4 their land, one thing that was left to the landowner was
5 the ability to build a single-family home on a legal
6 parcel.

7 And I think that was very important because it
8 took a step toward at least leaving them with some use
9 of their land. And that's something to think about in
10 the discussion in the future, on private lands. Thank
11 you again.

12 COMMISSIONER DOUGLAS: Thank you, Gail.

13 And go ahead, Ron.

14 MR. REMPLE: I think a number of times today
15 we've heard that people are very concerned about land
16 acquisition costs and where lands might come from. I
17 think that if you look down the road 30 or 40 years in
18 the implementation, the land costs are the small costs,
19 and we're very much focused on those today.

20 The long-term management and monitoring costs to
21 get the lands to perform biologically, as anticipated,
22 is a far bigger cost and a far more difficult task to
23 accomplish.

24 And I think how the preserve is assembled will
25 make a major difference in -- and I'm talking about the

1 way it looks geographically, the way the parcels fit
2 together really can have a major influence on your long-
3 term costs of management and monitoring.

4 One of the things we can now look at in San
5 Diego is how far the influence of urban development goes
6 into preserves for some species. And we may be looking
7 at 10, 15, 20 percent loss of biological value in some
8 areas because of that land use adjacency and the types
9 of impacts that move into the preserve, and the costs of
10 management are much higher now that the invasive species
11 strategic plan has been completed. We can start looking
12 at how those invasive species move into the preserve
13 system, talking about plant species, and how related
14 that is to that urban edge.

15 And I think all those kinds of things need to be
16 thought about in the design of the preserve system.

17 COMMISSIONER DOUGLAS: Thank you.

18 So, I'm going to make a suggestion here. It's
19 3:00 o'clock, let's take a ten-minute break and come
20 back. And when we do come back I think that we will, if
21 it's okay with everyone, go around the table and give
22 everyone an opportunity to make some comments, now that
23 we've heard the discussion on financing.

24 And particularly we'd love to hear your ideas
25 for what the DRECP should consider for financing, or any

1 summation of lessons learned that you want to provide.

2 MS. WATT: So I would just add we've heard some
3 really -- Ed, you quickly swam by Lisa's PPAs, other
4 potential sources of streams, some of which may have
5 legal or existing legislative implications. We have
6 transmission lines running through the desert, things
7 like tipping fees, transmission. I mean what we'd love
8 to do is populate a list today that could be winnowed
9 for study, so we don't lose a creative idea that
10 actually might apply to this very different plan.

11 So, when we come back we'd love to populate that
12 list and then come back again to lessons.

13 COMMISSIONER DOUGLAS: All right, so back at
14 3:10. Thank you.

15 (Off the record at 3:01 p.m.)

16 (Resume at 3:12 p.m.)

17 COMMISSIONER DOUGLAS: At this stage in the
18 workshop what we're doing is trying to come up with a
19 list of specific ideas for financing that the DRECP
20 should look into.

21 And we're going to go around towards my right,
22 so we'll go around the table this way. Terry, you can
23 start now or you can just --

24 MS. WATTS: I will kick it off and show my
25 ignorance.

1 COMMISSIONER DOUGLAS: Perfect. Terry, kick it
2 off.

3 MS. WATTS: Okay, so the idea here is to
4 populate a list that we may want to look into the
5 feasibility of. And that may be legal feasibility -- I
6 know, you're looking at me like don't say it.

7 So, it occurs to me that we have, you know, a
8 unique covered activity here that hasn't been addressed
9 in any other plans and that's transmission. And so is
10 there any kind of transmission-related fee that could be
11 one time, that doesn't now exist in the standard process
12 of mitigating facilities or a stream because
13 transmission lines, once they're up, do have ongoing
14 impacts. And again, a stream that is not now already
15 fully being covered or we could change up the way that
16 transmission contributes.

17 COMMISSIONER DOUGLAS: I will just mention, you
18 might notice that Kristy's taking notes and so we're
19 really generating a list.

20 (Laughter)

21 MR. TAYLOR: I guess I just want to echo what
22 has been implicit in the presentations we started with,
23 but I think it's really important to start with a
24 very -- with a really good financing plan that looks at
25 the whole range of potential costs so that we have -- we

1 aren't left scrambling at the end trying to find new
2 tools to take up shortcuts.

3 Related to that, I guess, is I mean a step back
4 big picture in reserve design. For willing seller,
5 willing buyer you need to make sure that the sellers of
6 conservation land don't have a monopoly. So, there
7 needs to be enough land in the reserve design that no
8 one seller has too much power.

9 And for -- I think with that in place, I think
10 that we can be creative and we need to be thinking of
11 specific ideas but this is -- we've got new
12 technologies, we can be looking at new ways of parceling
13 things out and let's get -- I think the folks at EPS and
14 the folks that created these products on Wall Street are
15 going to be able to come up with some really interesting
16 ways of slicing and dicing revenue streams to send
17 things off.

18 And that's my -- I don't know what those are,
19 but I know that there are people who can come up with
20 great ideas.

21 MR. RICE-EVANS: The questions is just creative
22 ideas or --

23 COMMISSIONER DOUGLAS: Creative ideas, any
24 ideas, tried and true ideas to populate the list of what
25 we should be thinking about and looking into on

1 financing.

2 MR. RICE-EVANS: Yeah. You know, one thing, I
3 don't know if you're just thinking of the renewable
4 energy track on this and I don't know if this is
5 possible in this case, but I know there was some wind
6 power plants in Maui that were permitted through the
7 Fish and Wildlife Service. And in those cases they
8 did -- somehow they were able to have the mitigation
9 occur on an ongoing basis, perhaps through the PPA. And
10 I don't know if that's because they were public power
11 companies or there was something different that we don't
12 have here, but that was something that was kind of
13 curious to me.

14 Because the renewable generators had a whole --
15 it was a very different, I guess, regulatory issue they
16 were dealing with than our client, who was a developer,
17 who was dealing with the more traditional approach to
18 things.

19 And just another random thought, this isn't so
20 much on the funding things, but in terms of the -- I
21 think this goes to the point that was just made is there
22 is this -- and perhaps in a desert of this scale it's
23 not going to be an issue, but it kind of depends on the
24 size of the private land that we need to acquire, but
25 there is this kind of conservation inflation that occurs

1 as the scarcity -- as we buy the best stuff, we buy the
2 largest parcels, and we get into some we really need,
3 they're small, the cost can go way high. And again,
4 there's this kind of issue of, well, do you just set the
5 fee or the mechanisms to deal with the easy stuff first
6 and then punt it down 20 years down the road and hope
7 someone else will deal with that or, you know, how do
8 you integrate those things into your thinking.

9 COMMISSIONER DOUGLAS: Thank you.

10 Russ. You can pass if you like but go ahead, I
11 bet you've got some ideas for us.

12 MR. SCOFIELD: So, I think this has been good
13 discussion so far and as far as governance I think that
14 a few things that really recap much of what has already
15 been said, but that you need to be inclusive, as I said
16 earlier, not only of the covered activities under the
17 DRECP, but you need to consider the other many land uses
18 within the desert and how this plan will relate,
19 potentially affect those.

20 Jeness, I think earlier this morning, was saying
21 that here we're having take from activities that are not
22 covered under the Coachella Valley MSHCP, and how is
23 that reconciled with the conservation within that HCP.

24 So, you need to consider other activities.
25 You've got a Marine Base with a desire to expand, that's

1 today. Who knows what we're going to have tomorrow.

2 And then also, still, trying to find the synergy
3 between the funding opportunities that you have with
4 this plan and, like there's been talked about so much
5 already, but trying to build upon that with other
6 programs like REPI, the ongoing acquisitions that are
7 occurring within BLM wilderness, within National Park
8 Service that do contribute to your conservation.

9 The fact of the matter is that a lot of the
10 areas that you're relying on for conservation for the
11 DRECP have been having long-term conservation programs
12 that have been acquiring land, implementing enhancement
13 activities, et cetera, really since -- at least since
14 the Desert Protection Act, if not before.

15 And then on a third note, there's been a lot of
16 discussion on acquisition. I know that that's a key
17 topic, a key discussion that is occurring in relation to
18 the plan, and it was also mentioned some that we need to
19 keep in focus that acquisition should not be the only
20 mitigation action that is required. Because many of the
21 scientists, at least the scientists that I'm talking to,
22 in at least the case of the Tortoise, are saying that
23 it's going to take other mitigation actions. And I
24 think that's common sense to -- at least it's common
25 sense to me, I don't know, that we're going to have to

1 engage in numerous other conservation actions in order
2 to successfully conserve the species, not just -- not
3 just the ones that are currently listed but, like Pat
4 said, one of our big goals and not just for the
5 military, but for all the agencies participating in DNG
6 is to prevent the need for future listings, and we need
7 to keep that in mind as well.

8 COMMISSIONER DOUGLAS: Thank you.
9 Wayne?

10 MR. SPENCER: I'm certainly not an expert in
11 financing or implementation so -- but I guess I'll
12 reiterate something I mentioned earlier and then maybe
13 throw out a couple of other ideas to consider.

14 One is that I think it would be timely for
15 someone to sort of do a volume two of that CBI report,
16 building in the new lessons learned, and also building
17 in more about lessons learned with different governance
18 structures and the cost associated with management,
19 mitigation, monitoring, and so on.

20 Because as we heard today, people are
21 recommending start the mitigation -- or the --
22 identifying the cost and the financing plan and the
23 mechanisms as soon as possible, but until we have a
24 handle on the nature of the management and monitoring
25 program, which isn't even at square one according to the

1 *Science Review*, there's no way to do that.

2 Because in this plan it appears, and again I'm
3 not expert, but it sure looks like the costs of
4 management and monitoring, certainly long term, but
5 maybe even shorter term is going to be higher than the
6 land acquisition costs, but we have no idea what that
7 is. How much -- you know, get a panel together to start
8 brainstorming what the monitoring framework looks like,
9 what the sampling intensity needs to be, the per-acre
10 restoration and management fees, looking at things like
11 using existing grazing allotments as a mitigation bank.
12 Buy them out when and where that's appropriate to help
13 recover desert ecosystems.

14 But we need to start brainstorming those actions
15 so that there's a reasonable foundation to start talking
16 about costs.

17 COMMISSIONER DOUGLAS: Thanks for that comment.
18 And I will briefly mention that monitoring and
19 mitigation -- monitoring and adaptive management is
20 scheduled or is planned to be the topic of one of these
21 workshops. We were looking at doing that in October but
22 we have -- we are deferring that workshop for some time
23 to give us some time to build that record. And so we'll
24 look forward to working with you and others on that
25 topic.

1 Kim?

2 MS. DELFINO: Thanks. Well, my expertise is not
3 in coming up with new financing mechanisms, so I don't
4 really know if I have any great new ideas for you on
5 that, but I have a couple of thoughts.

6 One thing that didn't come up today, which I do
7 think we need to think a little bit about, and that's in
8 looking more at it from a perspective of cost control.
9 And that is I think that there will be a fair amount of
10 work that will be -- and money that will be going into
11 the agencies to do certain things, especially the
12 Federal land component, the Federal land management.
13 Who, where is that -- is that going to go to BLM? Is it
14 going to go -- you know, what agencies?

15 And so one -- you know, it came up that Fish and
16 Game has a 30 percent overhead rate and we may want to
17 look at ensuring that there's cost controls, caps
18 essentially imposed so that the agencies, when they're
19 strapped for funds, don't look at this as being a way of
20 funding other things. I mean, I really understand how
21 constrained the agencies are but it's just something we
22 need to be aware of so that costs don't get out of
23 control.

24 Another point was kind going off, I think the
25 point being made about synergy, looking at opportunities

1 for leverage and synergy with other plans. I mean I
2 think the military one is an excellent one.

3 But I think that, you know, something that's
4 come up in my mind in listening to everyone today is how
5 we are kind of in a time where there's multiple demands
6 being placed on the same acre.

7 There's people looking -- planning is starting
8 to overlap, demands are -- it's kind of like, you know,
9 the tragedy of the commons. You know, what's available
10 out there is getting smaller and smaller.

11 And if there's ways of working with, say,
12 another plan that has a key area for acquisition, it
13 might benefit both of you. Now, I'm not entirely sure
14 how you work out so that you're not sort of double
15 dipping, but if there's a way of -- you know, if there's
16 a particular piece of land out there that's key for
17 linkage or something, that maybe both plans would put in
18 to pay for that. So, there's ways of leveraging your
19 funds because we're kind of in a zero sum game in some
20 ways, even though it's a very large land area out there.

21 And then another idea I had was, and I don't
22 know how realistic this is, is that maybe with the
23 companies, the solar and the wind companies, maybe there
24 is some research and monitoring that they believe is
25 important for them to use for their own purposes for, I

1 don't know, assessing how good a particular design is or
2 if they need to make certain design changes, that they
3 would kick in a certain amount of money, additional
4 money for research and monitoring because the monitoring
5 piece is always very expensive.

6 I don't know if that's realistic and I know that
7 the individual companies have issues about controlling
8 their own R&D, and about not sharing information with
9 their competitors. But, you know, just something to
10 look at, just another idea.

11 COMMISSIONER DOUGLAS: Thank you, Kim, really
12 helpful ideas.

13 And, of course, in the governance discussion we
14 had some discussion of the fact that certain activities,
15 especially in the conservation plan, could be carried
16 out by, say, nonprofits or other entities and that,
17 obviously, has a cost implication as well as -- as well
18 as kind of a governance and management implication.

19 So, I think your point about looking at how we
20 structure governance, or who does what and what are the
21 costs, the implications of that is a really important
22 one, so thanks.

23 Let's go to Peter. Peter, what we're doing
24 is -- we could -- no, no, we'll go to Peter, unless you
25 want to pass. We can come back to you, if we need to.

1 What we're doing is constructing a list of
2 financing mechanisms that the DRECP should consider.
3 You're welcome to place that in the context of some
4 broader comments or observations, if you'd like. But we
5 do have Kristy there, helping us generate a list.

6 MR. WEINER: Not even at the risk of definitely
7 repeating what other people have said, I think it's
8 important to disaggregate the costs and then
9 disaggregate the financing. What do we need money for
10 and then where does it come from?

11 One of the big issues is administration of the
12 program. And if I look around the room, I see an awful
13 lot of public entities who have devoted resources to
14 constructing the program. There may be money to
15 administer it, as well.

16 But I think it would be useful to know how that
17 could happen so that if you had an equivalent of a JPA,
18 whatever it's called, is it possible that you would
19 second people to that, that entity, you know, two from
20 each agency or whatever it is?

21 How does it work that you could aggregate the
22 resources to run the program and then look at what are
23 the other costs. If there are costs for mitigation, you
24 may be wanting to look at the private sector for that.

25 If it's costs for conservation, where is that

1 coming from?

2 What are the sources of Federal funds that could
3 be used? We talk about it, but in terms of nitty gritty
4 budget items and what's available, what people -- you
5 know, what can Jim Kenna allocate through his own
6 discretion? What can the Secretary of the Interior
7 allocate?

8 On the other hand, what would it take Congress
9 to do in terms of Federal funds?

10 So, you just need to take a very careful look at
11 that to see what's the shortfall or what's the need.

12 COMMISSIONER DOUGLAS: Thank you.

13 Stu?

14 MR. WEBSTER: I share some of the same
15 sentiments as others on this side of the table. I'm not
16 too sure I can get too substantive with advising on
17 financial structures of these sorts of programs. You
18 know, clearly, at least thematically speaking, you know,
19 certainty and predictability in how the cost structure,
20 however it's characterized, is made is significantly
21 important.

22 I think that there were some comments earlier
23 about power purchase agreements and how utilities play
24 into this potentially, and I would caution that that's a
25 ratepayer issue that becomes very political, very

1 quickly, and may present its own set of challenges that,
2 frankly, I can't speak to you at all. But I just know
3 that that sensitivity is present.

4 To the extent possible, keeping whatever cost
5 structure one has for a program like this as simple as
6 possible is fundamentally important, just given the fact
7 that, again, a capital-intensive industry, like
8 renewable energy, has to have all of its investment up
9 front and withstand a ten-year, nominally ten-year
10 period before there's really a return on that investment
11 creates a lot of challenges that are, frankly, unique
12 compared to conventional fuel industries that are trying
13 to address these same matters.

14 And then, finally, you know, mitigation banks or
15 conservation banks, I'm not too sure what the parlance
16 is that we use for these kinds of things but, you know,
17 an all-in-one conservation product that can be bought
18 into is obviously a very simple, I would hope anyway,
19 relatively simple structure as opposed to a pot-marked
20 approach of just, well, on a project-by-project basis
21 this is the mitigation that you've negotiated is not
22 going to be viewed as favorably, I think. Certainly
23 from the industry perspective, but I can imagine from
24 the conservation perspective as well. Thank you.

25 COMMISSIONER DOUGLAS: Thank you.

1 Pat?

2 MR. CHRISMAN: Well, certainly, finance is not
3 our strongest suit, unless it comes at the barrel of a
4 gun, but we'll ignore that for the time being.

5 (Laughter)

6 MR. CHRISMAN: You know, we sat down late Friday
7 afternoon, and only as a bunch of Marines could come up
8 with, and I think our two suggestions were Fringe-toed
9 Lizard races on an annual basis --

10 (Laughter)

11 MR. CHRISMAN: -- and advertising space on
12 Desert Tortoise.

13 (Laughter)

14 MR. CHRISMAN: We'll try and get better the next
15 time around when we think about this.

16 But something was said earlier that I thought
17 was pretty germane because it kind of goes back to the
18 whole basis for deciding how much money you need to deal
19 with it, basically.

20 I think one of our recent examples, where we
21 were doing the biological surveys around 29 Palms, when
22 we were looking at expansion, we were absolutely
23 astounded to find out there were more Desert Tortoise in
24 the Johnson Valley OHP, the most popular recreation
25 area, than anybody ever thought.

1 And so why would we care about that? We care
2 about that because, obviously, the more Desert Tortoise
3 we have there the better the habitat, the more it's
4 going to take to be able to manage them and protect
5 them.

6 So, I would simply go back to say that, you
7 know, at some point in time we really have to figure out
8 what is the fundamental basis for trying to manage any
9 particular piece of land within any ecosystem? And
10 that's going to be very difficult for our business
11 friends to try and get their arms around.

12 So, somehow or another I think the government
13 and the NGO agencies are going to have to kick start the
14 process to be able to figure that out. Until we do,
15 we're just guessing.

16 COMMISSIONER DOUGLAS: Thank you.

17 Go ahead, Ron.

18 MR. REMPLE: It would strike me that one of the
19 considerations might be an energy production and
20 transportation district, so that you could deal with
21 both the transmission lines and the energy production
22 facilities. And that through that mechanism, by opting
23 to be part of the district, which is obviously an opt-
24 in, you get coverage under the plan, but you've also
25 agreed to pay a certain amount of funding on an annual

1 basis and a certain amount up front as part of being
2 part of that district.

3 I think hand-in-hand with looking at however you
4 finance this down the road you're going to realize you
5 don't have enough money. And the key there is really
6 looking at strategic planning processes and how do you
7 prioritize the dollars you do have to accomplish your
8 primary goals and objectives.

9 And it's been surprising to me, when we started
10 doing that, how much of those strategic plans we
11 actually got done what we understood what everybody
12 agreed to do out there, and it was a much more efficient
13 way of doing things than the more haphazard, which
14 allowed the money to go much further.

15 I think the second piece that you might want to
16 consider is looking back at the potential for land
17 dedications as part of the development of energy
18 projects process, which allows some other flexibility
19 along the way in how you deal with the issues that come
20 up.

21 The third piece is how do you partner with
22 organizations such as Caltrans? They've got major road
23 improvements planned that create linkage issues, that
24 require mitigation issues, and how you bring those two
25 things together, similar to what they did in Coachella

1 Valley, similar to what's gone on in San Diego, to where
2 you actually use funds from different sources for
3 different purposes as far as what projects were
4 involved, but to accomplish the same goals.

5 MS. WATT: I have to just ask you, since it's
6 coming up a little bit thematically here, and we agree
7 there's sort of the covered activity, the renewable
8 energy project and transmission and it has to do its
9 part.

10 But when I started to see how remarkable we had
11 a reserve design coming together for each of these
12 counties, something that was a collaboration between
13 biologists and will continue to be with the NGOs, it
14 occurred to me that it's sort of like a hub of a wheel,
15 and the spokes are the different ways to fund it, with
16 renewable energy being one of those that has a
17 regulatory -- regulatory requirements under NCCP/HCP.

18 But you just mentioned Caltrans and roads, we
19 have DOD. It seems like in any given county, a county
20 could also opt in using the template.

21 But have you thought about that and is San
22 Diego -- San Diego's planning is already essentially a
23 ramp because you've got Transnet.

24 MR. REMPLE: Correct. And when Western
25 Riverside was done it brought in the future

1 transportation and how would that be built, and how does
2 that contribute to the overall preserve system, the same
3 thing with Coachella.

4 In fact, in both of those plans Caltrans is a
5 signatory on the plans, whereas San Diego we're sort of
6 retrofitting that.

7 In Orange County the transportation organization
8 there is going back and dealing with those particular
9 issues.

10 So, I think those are things that are really
11 becoming an important piece of a lot of the plans in the
12 future.

13 And I might mention that at least I identified
14 the transportation and energy production districts, we
15 might want to capture that there.

16 COMMISSIONER DOUGLAS: Thank you, Ron.

17 Ken?

18 MR. SCHREIBER: A couple of thoughts, first
19 going back to transmission, and transmission lines, and
20 transmission facilities. The plan, I certainly assume,
21 will have permanent impact fees and temporary impact
22 fees. Transmission lines need temporary access for
23 maintenance and all sorts of other reasons.

24 The question becomes on what land, for what
25 facilities will permanent fees be required and what

1 is -- and then for what land and what facilities will
2 there be periodic, temporary fees?

3 And the temporary fees can be structured in
4 various ways, but that will be a -- it's an impact, but
5 it's also an ongoing cash source, and how that gets put
6 together.

7 There may be, at times, more sense to pay a
8 permanent fee for temporary impacts, because it may be
9 cheaper and easier than paying the temporary fee again,
10 and again, and again, and again.

11 So, anyway, that's just an observation on
12 transmission facilities.

13 And certainly the ratepayer issue, we've run up
14 against that somewhat in terms of water fees, which we
15 don't have. But if there is a way to generate facility
16 fees paid by a transmission, I mean you can get -- you
17 can go an awful long way on a fraction of a penny. We
18 have a very large base.

19 A couple of other thoughts, one is I would
20 certainly want to have -- I don't want to make this an
21 assumption this is occurring, so there should be ongoing
22 discussions with Fish and Game, Fish and Wildlife
23 Service regarding what they need for their findings, and
24 permitting, the biological opinion and issuing permits.

25 I think Brenda or Steve said before about, you

1 know, when you get down to issuing that permit it has a
2 whole bunch of things going with it, and it could be,
3 unfortunately, too easy to get late in the process and
4 say, oh, my God, we can't make the findings, a finding
5 or findings.

6 And that includes the issues of jeopardy and are
7 there species where their existence is so precarious
8 that Fish and Game or Fish and Wildlife Service cannot
9 make the finding of no jeopardy?

10 We spent a year and then took a species out of
11 our plan primarily for that reason.

12 An observation on multi-county efforts, we've
13 talked about districts and all sorts of things, and
14 multi-county efforts are only as good as the weakest
15 county in the process. And if you have -- if you need
16 five counties and four approve it, and one declines, you
17 may have lost the whole game right there.

18 And I was recently talking to someone in dealing
19 with a Caltrans-related project that they wanted to
20 pursue and getting from Fresno to San Jose, et cetera,
21 and they needed one county, a whole bunch of counties,
22 and they had to get everybody lined up and one county
23 said no. And that's the end of that project.

24 And, lastly, Ken, you noted that putting a cap
25 on costs in terms of making sure they don't disappear

1 someplace else, that the revenue built up doesn't get
2 siphoned off. I think the flip side is also important.
3 It's probably my old age cynicism, but I really think
4 that probably the number of biological studies equals N
5 plus 1, where N equals any study anybody can think of,
6 and 1 is the one that's going to be in the mail next
7 week. And that is cynicism, I know.

8 But the point is that from a science process
9 there's always very good reasons to do more research and
10 there needs to be, I think, some clear process of
11 prioritization and cost control, and maybe the best
12 thing to assume is that everything that is going to be
13 authorized needs to be explained to a reporter, that
14 knows nothing about ESA, and you have less than one
15 minute to make the explanation before she turns the
16 camera off.

17 (Laughter)

18 MR. SCHREIBER: Okay, and you're going to be on
19 the 6:00 o'clock news. Because that's the audience,
20 that's the way the public will find out about this.
21 You're going to study what? And you've got 30 seconds
22 to explain why this makes sense and it's good use of
23 public resources.

24 COMMISSIONER DOUGLAS: Thank you.

25 Sally?

1 MS. NIELSON: Yeah, I don't have specific
2 comments on financing mechanisms, but more about ways to
3 think about the analysis and how you get there. And
4 initially my mind was sort of bogging around the scale
5 and complexity of this whole thing, and I'm sure there
6 are economies and efficiencies that are some of the
7 reasons why the map looks the way it does and that I'm
8 sure can be built into the cost analysis.

9 But then I think at the same time, both for the
10 people who are doing the planning, and the stakeholders,
11 and the public to be able to get their heads around the
12 cost and funding issues you need to start thinking about
13 ways to disaggregate and stratify, both for thinking
14 about costs and funding, for thinking about issues like
15 nexus, for thinking about sources and uses in cash flow.

16 Are there subareas that leap out that can be
17 dealt with as units, certain subsets of covered
18 activities, certain species and various different kinds
19 of management activities.

20 Those are all different ways of looking at costs
21 and funding that if you can focus in on the details of
22 those subsets, will help make the whole process, I
23 think, more manageable in the longer run.

24 COMMISSIONER DOUGLAS: Thank you.

25 Darla?

1 MS. GUENZLER: A few thoughts and in no
2 particular order. One is I noticed when we were talking
3 about the types of costs, I wanted to add litigation to
4 that, which is the defense of the protected lands, which
5 is inevitably going to come up, and it needs to be
6 included.

7 But there's also an opportunity, I think,
8 because of the scale of this, which is normally the
9 project proponents are asked on an individual, say,
10 conservation easement that they have to contribute to a
11 defense fund, and then that fund is set aside for that
12 particular property.

13 I think there's an opportunity here because we
14 know that a number of properties are going to require
15 some kind of a legal defense, but not all of them will.
16 But, of course, you can't predict which ones will.

17 And so there is an opportunity which would be,
18 as far as I know, unique within the kind of mitigation
19 world, which is to create a single defense fund for the
20 DRECP area that would reduce the individual
21 contributions, you know, on a project-by-project basis,
22 but could be some savings, but still would have a robust
23 fund you could create.

24 In terms of I'm very sensitive to the idea of
25 having a big pot of money sitting out there that is very

1 attractive in hard times, and that's certainly a
2 challenge, there are ways to defend those as well, which
3 is to not have them in a public agency.

4 But, again, to use a charitable trust to set
5 those up, so I think that there are ways to protect some
6 of those properties because, inevitably, even if we have
7 some other revenue streams I think there's still going
8 to be some kind of endowment component and so how is it
9 that we can protect that.

10 I tend to think about these kind of efforts, I
11 don't worry that much about the acquisition. I mean it
12 needs to get done and it's really critical, in terms of
13 the long-term costs, how you do the reserve design and
14 creating incentives for the project proponents, and
15 local governments, and others about where they do the
16 mitigation design.

17 But Ron and others are absolutely right, it's
18 the long-term management cost that is the killer,
19 there's just no two ways around that.

20 And I worry about the -- on my experience, I
21 worry about the future because we're in and looking
22 forward in the coming decades to a different way of
23 thinking about local government, and in a period of real
24 austerity, and I see that continuing for a time.

25 And so I worry when we have potentially such a

1 big land base that's owned by the Federal government, to
2 a lesser degree State holdings, about those ways to
3 control costs, but also having a scenario where we have,
4 you know, potentially a big new demand for land
5 management by our agencies at the same time that we're
6 looking at the State and Federal level as, you know, I
7 think a long-term, more austere budget.

8 So, I think there's an opportunity and a real
9 need that we need to think creatively about how we get
10 these lands protected that might not be the classic
11 model of the Feds managing the Federal lands, and the
12 State managing the State lands.

13 And I understand the needs that the agencies
14 have and they're just asked to do more and more all the
15 time, with less. But I think if we're really going to
16 take care of these lands we've got to look at some
17 alternative management arrangements.

18 COMMISSIONER DOUGLAS: Thank you, Darla.

19 Ed?

20 MR. SAULS: Thank you very much and again for
21 convening this, and for the chocolate. It was much
22 appreciated and delicious.

23 COMMISSIONER DOUGLAS: That was Kristy.

24 MR. SAULS: None is left. There's more to -- I
25 know you want to create a list and I'll give you some

1 specifics, but there's much more to follow up.

2 And so my first point is an offer to help you in
3 the follow up because that's where it's going to really
4 make the difference on looking for new tools, and
5 finding new tools, and finding them in a way that is the
6 right combination that makes this thing work.

7 As to the specifics this group, some of which
8 have been familiar with the proposal of grazing as
9 mitigation, that is a tool that is also a financing
10 tool. Look at it in terms of a mitigation bank, in
11 terms of a front-loading of the conservation that might
12 be brought to the table here.

13 But we have suggested and the opportunity to
14 discuss it has not yet been ripe, but we've discussed
15 the idea of a revenue sharing, acknowledging that what
16 we're looking to do is provide for the renewable energy
17 industry a cost-effective mitigation tool that's an
18 alternative available for them.

19 But it's both the removal of grazing, which is
20 something that my clients own, but it has a sort of
21 public land component to it as well. And so you've got
22 to look at that and say is there an opportunity here
23 that we can be appropriate and creative, though, about
24 generating a revenue source that wouldn't otherwise
25 exist. Competitive for them, but beneficial to

1 acknowledging the cost of land management, or acquiring
2 other private lands as part of the way, so we need to
3 explore that and that's one of the reason we're asking
4 to front end the discussions about grazing as a pilot
5 program.

6 And again, doing that for the reasons that it's
7 on public lands, it's cost effective, it's all those
8 reasons.

9 Now, then one of the other kind of generic ways
10 to approach this thing would be to look at the cost
11 benefit. I don't know that we've really used that term
12 here today, but look at your solar provider, renewable
13 energy provider's economics and say what is it that
14 we're giving them, and that they're buying by getting
15 into this program? And it may be that we can reduce
16 their front-end capital costs that are -- those are
17 expensive dollars and we can put it on the backend of a
18 cash flow. That's what I was saying about bringing the
19 renewable energy providers to the table.

20 And all that is on the assumption that we're not
21 really asking them to pay for something more than what
22 they're paying for today, but they're getting something
23 more in the overall deal.

24 The same is true with the public. Look at
25 Orange County, one of the most conservative places in

1 our State, and they adopted Measure M, with a major
2 acquisition component to front end conservation as a
3 part of transportation improvements.

4 The public looked at that and said what is our
5 benefit? We get better traffic. And as a part of that
6 we get some open space that needs to be acquired, great,
7 and they voted for it handsomely.

8 So, when we take that mindset about what our
9 stakeholders are going to get from this it may open up
10 better opportunities.

11 So, I'm suggesting specifically we look at each
12 of the stakeholders that might have an economic interest
13 and do the cost benefit.

14 And then when it gets down to another section of
15 things, that is the acquisition of tools, of private
16 land, it's -- I'm going to put people to sleep here if I
17 give you that list. So, let's have that a follow up and
18 I'll come back to that.

19 And, finally, I want to say that I'll compliment
20 the strategic planning process on economics and so much
21 of what has been said elsewhere, but that's the type of
22 thing I was talking about. Let's look at these
23 alternatives, let's see what's cost effective. Let's
24 look at each of the pieces of implementing this plan and
25 strategically take a look today at what we can do to get

1 the best bang for our buck.

2 And then I will share with you that if we feel
3 that we're not sure that the funding's at the table,
4 maybe the smartest thing to do would be, if you feel
5 still compelled to adopt the plan, that you adopt the
6 plan and put it on the shelf conditioned upon the
7 funding coming to the table.

8 There's a great incentive for Congress and I
9 think our State Legislature if they can see what it is
10 they're voting for, that they're more likely to see
11 funding brought to the table for it.

12 Thank you.

13 COMMISSIONER DOUGLAS: Thank you.

14 We'll make our way and finish going around the
15 table, but before we do I thought we'd go to some of the
16 WebEx participants. Katie Barrows, are you on?

17 Renee Robbin?

18 Thomas Maloney?

19 Lisa Wise?

20 Gail? It's a pretty tough test at 4:00 p.m., I
21 realize.

22 MS. CHEW: Gail is there, except I can't unmute
23 her for some reason. But Dan Silver does have his hand
24 up.

25 COMMISSIONER DOUGLAS: Dan, go ahead.

1 MS. CHEW: I might not be able to unmute him
2 right now, either. I'm not -- I got dropped from the
3 WebEx and had to rejoin and I'm not sure if it's quite
4 up all the way.

5 COMMISSIONER DOUGLAS: All right, we'll keep
6 going around the table and we'll go back to WebEx.

7 MR. SAULS: Just 26 ought to be conditionally
8 adopt the plan subject to your funding coming to the
9 table.

10 MR. WEINER: Yeah, she didn't want to put that
11 there.

12 MR. SAULS: Oh, okay.

13 (Laughter)

14 COMMISSIONER DOUGLAS: It's all good. All ideas
15 go up except I don't -- I don't think she put the one
16 about the advertising on Tortoise or the Lizard races
17 up, either. I looked to see if they had made it to the
18 list and I think they didn't.

19 So, David?

20 MR. HARLOW: First, thank you, Karen, for all
21 the work you and your staff have done to put this
22 together, this has been really helpful.

23 I don't think I have any additional ideas, but
24 maybe just an observation. It gets back to Brenda's
25 comment about flexibility for governance. I think

1 flexibility is going to have to be a part of finance as
2 well. Some of the mechanisms we've talked about fit
3 well in a near-term scenario and others in a long-term
4 scenario, so we've got to think that through.

5 What are the easy ones, the typical ones, ones
6 that the Energy Commission already uses in the
7 permitting process, et cetera.

8 And then what are other ones that are necessary
9 for the long-term implementation of the plan. And I
10 think that gets back to, potentially, the conditional
11 coverage issue as to whether we can meet both the HCP
12 and NCCP standards as to whether we can get beyond the
13 mitigation aspects of it.

14 And also, it relates to the governance. As
15 counties come on board, then if we show them that we
16 have mechanisms that make their permitting easier than
17 they -- you know, we marry up the mitigation that they
18 may be otherwise using for their project approval
19 processes.

20 So, that's just mainly the observation that it's
21 got to be very flexible going into it.

22 COMMISSIONER DOUGLAS: Great, thank you.

23 Fish and Wildlife Service?

24 MS. MC BRIDE: We need to find incentives to get
25 applicants to sign up under the HCP. Funding assurances

1 are part of the issuance criteria that have to be met,
2 but without the applicants we won't get the funding or
3 the assurances.

4 COMMISSIONER DOUGLAS: Okay, short and sweet.
5 Have you got that, Kristy?

6 All right, Fish and Game. Ken, go ahead.

7 MR. COREY: Hi, just a couple of additions to
8 that. One way to think about being cost effective,
9 which relates to one of the earlier agenda items, is
10 making sure we take full advantage of existing groups
11 out there, for instance, our Recovery Implementation
12 Team for Tortoise.

13 In addition to the DMG there's Landscape
14 Conservation Cooperative, there's the Joint Venture. I
15 think if we maximize a partnership with these groups
16 they can feed into us needs and help us with the
17 science, and not -- we don't have to reinvent the wheel
18 that way.

19 COMMISSIONER DOUGLAS: Thank you. Fish and
20 Game?

21 MS. MC BRIDE: My words, exactly. In the
22 context of an NCCP, what we're interested in is not
23 using an impacts analysis to guide our conservation
24 strategy, but to use the needs of the resources to guide
25 that.

1 So, inevitably, the cost of a program like this
2 is going to be bigger than anybody -- well, people are
3 surprised at the cost.

4 So, there are several ways to make
5 implementation more cost effective. One is, as Ken just
6 said, we don't need to reinvent the wheel. There's a
7 lot of information out there on inventory stressors,
8 covered species needs, that kind of thing that can be
9 brought from other planning efforts, other plans in a
10 pretty efficient way to guide what happens here.

11 We, Fish and Game has funded a lot of targeted
12 studies and monitoring, management, you know, the plans
13 have important high-priority needs and we've funded a
14 lot of projects that, you know, perhaps need to looked
15 at more closely so that those results can be brought
16 into other planning efforts, like the DRECP.

17 So, it's possible to front load monitoring,
18 especially, and targeted studies that can be used to
19 clarify those really important uncertainties concerning
20 the science that the plan is based on. So, we might
21 want to spend more money on those efforts up front so
22 that we end up spending less in the long run.

23 So, that has to do -- I think it was Ed who
24 said, you know, we've got to look at the short- and the
25 long-term expenses and figure out what our plan might be

1 given all of those needs.

2 One last thought is there is a movement in the
3 State right now to bring the greenprint and the
4 blueprint agencies together. So, that merging of the
5 needs of the infrastructure agencies, including
6 Caltrans, DWR, CEC is -- we're right at a really prime
7 moment in time where I think we can leverage, you know,
8 money to serve all of those people better than we have
9 before.

10 NCCPs were designed to do that. The best
11 examples are Western Riverside and Coachella, with San
12 Diego now coming into a real elevated position with
13 their Transnet funding for mitigation, which is a broad
14 spectrum funding mechanism. Which in the context of
15 RAMP, the Regional Advanced Mitigation Programs that are
16 being proposed by those infrastructure agencies, is a
17 really important model to examine because I think it did
18 it right. It tied that type of funding into the
19 conservation strategy for the plan. It didn't just try
20 to come up with conservation priorities outside of all
21 the planning efforts that are going on.

22 And one last aspect of that is that we're
23 seeing, now, a lot of overlap, NCCPs being overlaid on
24 top of other NCCPs, HCPs, conservation strategies. And
25 I know DRECP, you know, if it continues on the path that

1 it's on it will be faced with some of those challenges,
2 too. It's very -- well, in terms of the trust that we
3 were talking about earlier, I think it can breed just
4 the opposite and I think this plan needs to be very
5 cognizant of the fact that, you know, there are plans
6 out there that have already specified what their
7 priority needs are and, you know, those opportunities
8 for conflicts should be minimized.

9 Because in other big-scale plans, like Bay Delta
10 Conservation Plan, we're seeing a lot of tension that,
11 you know, didn't have to be there in the first place.
12 So, just so people's antenna are up about that.

13 MR. ITOGA: Yeah, thank you, Brenda. We are
14 addressing some of these other plans and they're
15 potential for the DRECP to overlap those, but that's a
16 good point.

17 And the Service has contributed money to these
18 plans, as has the Department, and I think really to get
19 to the financing part of this there needs to be some
20 kind of a cost share. And it could be something as
21 simple as a surcharge, maybe on electrical generation.
22 So, that's really all I have.

23 MS. MC BRIDE: I forgot to say something about
24 nontraditional Section 6. It came up earlier this
25 morning in the context of the counties and that funding

1 source is always available to other counties. In fact,
2 besides the plans that are approved in this Desert
3 Renewables Area, one plan, Apple Valley, was awarded its
4 full request this last year. All of our planning
5 assistance proposals in California for HCPs and NCCPs
6 were fully funded this year. We got 60 percent of the
7 national pot in a very, very heavy national competition

8 So, you know, in the outreach and stakeholder
9 involvement context, I think that's really important to
10 give the counties and other jurisdictions that are a
11 part of the big desert area, you know, the knowledge and
12 the opportunity to apply for these funds.

13 MR. CONDON: Okay, I have one quick thing to add
14 to our list. Given the great extent to which we would
15 like the counties to enter in as full partners in this
16 plan, one of the issues that we need to address,
17 expressed by the counties, is the concern over loss of
18 private lands through designation for conservation or
19 project mitigation. In that process the tax revenue
20 stream goes down relative to what the county is
21 receiving before those lands are designated for
22 conservation.

23 So, that's one thing that we need to be prepared
24 to address. The counties have already expressed, some
25 of them have expressed their interest in having

1 mitigations for impacts on private land occurring on
2 public land. We understand that's sort of the position,
3 the starting point of the conversation, but it is a
4 concern that the counties have addressed.

5 But in considering the cost reduction and tax
6 revenue, we also need to fully come up with ways of
7 fully assessing what those opportunity costs are by also
8 considering the ecological services that these
9 mitigation lands do provide to the public.

10 The benefits to the public that these lands set
11 aside do provide in terms of uses of open space and
12 enjoyment of natural communities, which does accrue to
13 the local economy's revenue, sales tax revenue, as does
14 off-highway vehicle use. They're kind of similar
15 revenue for the local economies that we should really
16 fully take into consideration.

17 But this issue of loss of private land to
18 mitigation and precluding their development for other
19 uses is a real issue that we've heard a number of times
20 from the counties. And, certainly, if any of you have
21 had any experience with addressing that concern, as I'm
22 sure these counties in the DRECP area aren't the only
23 ones who have expressed this concern, we'd like to hear
24 those ideas.

25 Thank you.

1 COMMISSIONER DOUGLAS: Ken, I think you have an
2 idea.

3 MR. SCHREIBER: That's an issue that's come up
4 in Santa Clara County. And I would say I'm not an
5 attorney, but local partner attorneys were very quick to
6 raise concerns about gifting public resources for
7 private mitigation as an illegal gift of a public asset.
8 So, that was not a definitive legal opinion, but sure
9 red flags started going up very fast.

10 MR. CONDON: Could you explain that, Ken,
11 gifting of public resources, if you don't mind, Karen.

12 MR. SCHREIBER: There are attorneys in the room
13 that I'm sure can do a better job than I can. But
14 essentially, if you have a public resource you can't
15 benefit a private sector party, essentially, as I
16 understand it, unless there is some logical
17 compensation, et cetera. I mean this could be as gross
18 as the Public Works Department paving somebody's
19 driveway, that's a gift of public resources.

20 It is, for example, opening up public lands,
21 park lands to grazing without a grazing lease and
22 revenue. And we had that situation occur with an open
23 space authority in the county. And again, the concern
24 started real fast that this was gifting -- gifting a
25 public resource and that was illegal.

1 COMMISSIONER DOUGLAS: Ron?

2 MR. REMPLE: The issue of a tax base has come up
3 in many of the plans. And when the analyses were
4 actually done to look at those issues, there was a net
5 increase in value to the counties from the tax base.
6 And I would suggest that you need a good economist to
7 look at that because it takes projection over years, and
8 everything, to look at the change in values of lands.

9 And then, also, in looking at things, at least
10 from an urban development stand point, lands closer to
11 the preserve have much greater value on a resale basis,
12 therefore they're taxes actually go up faster than lands
13 further away from preserve systems.

14 So, I think it's a concern by supervisors out
15 there, but I think you can assemble the facts to show
16 that it is not an issue.

17 MR. CONDON: And you just underlined the fact
18 that we do need resource economists involved in the mix.
19 Thank you.

20 COMMISSIONER DOUGLAS: Thank you.

21 Let's see, is the WebEx unmuted? Dan Silver?

22 MR. SILVER: Good afternoon. I can't help but
23 being the second person to second the transmission line
24 idea. And I say that for a couple of reasons. The
25 first is that paying for conservation should be broad-

1 based. Maybe that's my philosophical opinion, but I
2 think it's shared by a lot of people. There's been a
3 lot of damage done in the past that has never been
4 mitigated.

5 And the public, basically, has gotten a free
6 ride for, you know, over the last hundred years. And
7 there needs to be some way of recouping that, so some
8 sort of broad-based charge to water, to utilities, to
9 energy, very small but broad-based has always seemed to
10 me to be ideal.

11 Now, here we actually have a nexus for it with
12 these transmission lines. The beauty of the
13 transmission lines is that, as I understand it, they're
14 going to be paid for, at least over a period of 40
15 years, by the ratepayer because the utility companies
16 are guaranteed an outrageous ten percent annual return
17 on their transmission line costs.

18 So, you know, everybody's going to see this on
19 their utility bill, some of us won't see it for 40
20 years -- I mean for the entirety of the 40 years, but
21 maybe some will.

22 And the other point about having this
23 incremental collection of a charge related to
24 transmission lines is that it can be collected in an
25 ongoing manner, and perhaps pay for the ongoing

1 management and monitoring.

2 Because getting an endorsement endowment for
3 management and monitoring is so difficult and, yet, we
4 really -- you know, being able to pay for it on an
5 ongoing basis would be ideal.

6 And here you have a utility bill as a mechanism
7 to do that. I mean I'd like to use that charge for
8 other things besides management and monitoring, but it
9 is really a good fit for that.

10 So, I'd like to again support that idea, amongst
11 the others.

12 COMMISSIONER DOUGLAS: Thank you, Dan.

13 Would anybody else on the WebEx like to comment,
14 give us any closing thoughts, add to our list of
15 possible financing mechanisms? Go ahead and speak up.

16 Okay, I don't hear anybody. If you would like
17 to, just raise your hand on WebEx and I'll get the note
18 that you have done that.

19 Chris, go ahead.

20 MR. BEALE: We've talked a lot today about the
21 importance of county participation and, as many of you
22 know, we've been working closely with the counties in
23 the design of a plan, and our intending is, as Ken was
24 saying earlier, to prepare a plan that makes it as easy
25 as possible for counties to opt in for implementation.

1 And one of the things that's been apparent in
2 discussing the plan with the counties is we really need
3 to be making the case to them about why it's good for
4 them to participate.

5 And I wanted to kind of remind folks, I think
6 we've lost some of our county participants online, and
7 want to make sure that when we think about finance,
8 particularly, also implementation, that we don't take
9 the counties for granted and we're circumspect about
10 identifying what are essentially local funding sources
11 for implementation.

12 One of the concerns that they have reiterated
13 with us is that it's very important to them that we not
14 design the plan in a way that drains limited local
15 resources.

16 And some of the things -- and so I think we just
17 need to bear that in mind when we talk about community
18 facilities districts and benefit assessment districts,
19 and things like that. They are likely to be perceived
20 by the counties as a way to, you know, use county
21 participation to create a local funding source. And
22 under some circumstances that could be appropriate, but
23 I think I just want to remind folks that we really do
24 need to be careful about that.

25 Transmission charge may not be a locally-driven

1 source, but other kinds of things that are typically
2 looked to in a county-driven plan. They have a
3 different kind of resonance in this plan.

4 COMMISSIONER DOUGLAS: Thanks. Thanks, Chris.

5 So, it's 4:15. This is the exact time on the
6 agenda, actually, that we had scheduled going to public
7 comment.

8 But let me first ask, we've used this last round
9 as something of a wrap-up, as well as -- as well as
10 constructing our list.

11 Are there any additional wrap-up comments that
12 anyone would like to make before we go to public
13 comment?

14 I think we're all probably tired. It's late in
15 the day, let's go to public comment, then.

16 Is there anybody in the room who would like to
17 make public comment?

18 I don't see anybody. Is there anybody on the
19 phone or on WebEx who would like to make public comment?

20 MS. CHEW: There are no hands raised and all the
21 call-in users are unmuted.

22 COMMISSIONER DOUGLAS: Okay, everyone's unmuted.
23 If you'd like to make public comment, please speak up.

24 Hearing none -- all right, Kristy, what is the
25 deadline for submitting any written comments on this

1 workshop?

2 MS. CHEW: Typically, DRECP asks for two weeks
3 from the dates. So, it could be two weeks from tomorrow
4 since today's mostly done.

5 COMMISSIONER DOUGLAS: All right, so two weeks
6 from tomorrow is the deadline for public comment. That
7 includes your draft of DRECP governance, should you
8 choose to provide one.

9 And I want to first of all thank everybody for
10 being here and for lending us your expertise, and your
11 insights, and your ideas for a day. It's been
12 tremendously valuable to us.

13 And secondly, I want to thank Terry and Chris
14 for putting a tremendous amount of work into this work,
15 as well as some of our staff, and certainly Kristy,
16 Ilene, Jennifer Nelson, and Galen Lemei.

17 So, it's not easy to assemble these workshops
18 but they're just extraordinarily valuable. And thank
19 you for being here, very much, we'll look forward to
20 keeping you in the loop on DRECP as we go forward.

21 For people who have kind of just landed and
22 spent the day with us, and for our regular stakeholders,
23 you know, let's work on the next workshop because it's
24 coming up.

25 So, the private lands workshop, we're looking at

