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LISTENING SESSION FOR CRITERIA FOR  
EXCESS-CAPACITY MARKET RATE

4

August 10, 2011

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Pueblo Shrine Club  
1501 West McCulloch Boulevard  
Pueblo West, Colorado 81007

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1                   MR. MIKE COLLINS: All right, let's go ahead  
2 and get started. Hopefully we've got enough chairs for  
3 everybody. There's a couple here, we don't bite  
4 (indicating). Well, I don't, I'm pretty sure Diane  
5 doesn't either.

6                   Hopefully you have had a chance to sign in.

7                   Good afternoon. For the record, I am Mike  
8 Collins, Area Manager for Reclamation's Eastern Colorado  
9 Area Office. You all recognize our office owns,  
10 operates and maintains the Fryingpan-Arkansas Project,  
11 and I want to welcome you to our listening session this  
12 afternoon on developing market-pricing criteria for the  
13 Fryingpan-Arkansas Project.

14                   Reclamation would really like to hear from  
15 you today and gather information from you on the  
16 appropriate criteria to use to establish market-rate  
17 pricing for excess-capacity contracts for storing,  
18 exchanging or conveying non-project water. We are  
19 looking to the development of a market-pricing criteria  
20 through the Fry-Ark as a pilot that would be expanded  
21 throughout Reclamation.

22                   Reclamation has Directives and Standards that  
23 date back to 1996 that provide for market pricing for  
24 excess capacity.

25                   Before we get started I would like to do some

1 introductions, but not all the way around the table,  
2 unless you want to.

3 For the folks from Reclamation (indicating).

4 MS. TARA KINSEY: I'm Tara Kinsey, I'm the  
5 Lead --

6 THE COURT REPORTER: Excuse me, I can't hear  
7 you. Sorry.

8 MS. TARA KINSEY: Sorry. I am Tara Kinsey,  
9 the Lead Economic Specialist from the Great Plains  
10 Region in Billings, Montana.

11 MS. LYNETTE SMITH: And I'm Lynette Smith,  
12 head of contracting in Billings.

13 MR. RANDY CHRISTOPHERSON: I am Randy  
14 Christopherson, I'm with the Office of Policy  
15 Administration out of Denver.

16 MR. ZACK ROTHMIER: Zack Rothmier, also with  
17 Policy out of Denver.

18 MR. GERRY KNAPP: Gerry Knapp, Aurora Water.

19 MR. TOM SIMPSON: Tom Simpson, Aurora Water.

20 MR. ED HARVEY: Ed Harvey, Harvey Economics.

21 MR. TED KOWALSKI: I'm Ted Kowalski with the  
22 Colorado Water Conservation Board.

23 MR. LEE MILLER: Lee Miller, counsel for  
24 Southeastern Water Conservancy District.

25 THE COURT REPORTER: Southeastern what?

1 MR. LEE MILLER: Water Conservancy District.

2 THE COURT REPORTER: Thank you.

3 MR. JIM BRODERICK: I am Jim Broderick, the  
4 Executive Director of Southeastern Colorado Water  
5 Conservancy District.

6 MR. HAROLD MISKEL: And I am Harold Miskel,  
7 the Vice President of the board for the Southeastern  
8 Colorado Water Conservancy District.

9 MS. ANN NICHOLS: Ann Nichols, board member  
10 for the Southeast District.

11 MS. JENNY BISHOP: Jenny Bishop with Colorado  
12 Springs Utilities.

13 MR. WAYNE VANDERSCHUERE: Wayne  
14 Vanderschuere, Vice President of Fountain Valley  
15 Authority.

16 MR. DAVID ROBBINS: David Robbins, I'm  
17 outside counsel for Colorado Springs Utilities.

18 MR. CHRIS WOODKA: I'm Chris Woodka, I'm a  
19 reporter with the Pueblo Chieftain.

20 MR. SETH CLAYTON: Seth Clayton with the  
21 Pueblo Board of Water Works.

22 MR. TERRY BOOK: Terry Book, I'm the Deputy  
23 Executive Director for the Pueblo Board of Water Works.

24 MR. MIKE HILL: Mike Hill, Bessemer  
25 Irrigating Ditch Company.

1                   MR. DAVID SIMPSON: David Simpson, St.  
2 Charles Mesa Water District and a board member of  
3 Southeastern Colorado Water Conservancy District.

4                   MR. ROY HEALD: Roy Heald, Security Water  
5 District.

6                   MS. DIANE HOPPE: And I'm Diane Hoppe, I'm an  
7 independent consultant that will be providing guidance  
8 over this meeting today.

9                   MR. MIKE COLLINS: Thanks, Diane.

10                  MS. DIANE HOPPE: Uh-huh.

11                  MR. MIKE COLLINS: Appreciate your efforts  
12 today.

13                  And as you have noticed we also have Miss  
14 Medina there who is recording a transcript of our  
15 meeting today so that we have an accurate record of your  
16 input, many of us know each other, but Miss Medina does  
17 not, so if you would be so kind, before you provide a  
18 comment, that you would just remind her of your name,  
19 and that way we can attribute comments appropriately  
20 (indicating).

21                  Our goal today is to hear from you. We have  
22 no draft documents or analysis at this time, we are  
23 keenly interested in first gathering your thoughts on  
24 appropriate criteria for market pricing, we would  
25 appreciate your insights into methodologies that you

1 found helpful in determining your criteria for defining  
2 the market and pricing.

3           And as our time today is somewhat limited --  
4 we really need to be out of this building by 5:00 -- I  
5 also recognize that you may need some additional time in  
6 providing your thoughts, so, therefore, we are going to  
7 be taking written comments through September 30 of this  
8 year; and after our meeting today there may be  
9 additional benefit to everybody to continue some more  
10 in-depth technical discussions on this topic, and we  
11 would be happy to tentatively schedule those technical  
12 sessions today if there's an interest. We can also do  
13 that -- schedule those at a later point as we work  
14 through the process. So at the end of the session today  
15 we can further discuss what next steps look like for us  
16 and some tentative time frames for getting this  
17 accomplished.

18           So at this time I'll turn the gavel over to  
19 Miss Hoppe, and we're glad to hear from you.

20           MS. DIANE HOPPE: Thank you, Mike.

21           I'd like to conduct this -- this listening  
22 session in -- in kind of an orderly fashion.

23           First of all, I would like you to tell the  
24 court reporter what your name is and who you are with.

25           MR. ALAN WARD: Alan Ward --

1 MS. HOPPE: Yeah.

2 MR. ALAN WARD: -- and today I'm representing  
3 the Bessemer Ditch Company.

4 MS. DIANE HOPPE: Great. Thank you.

5 We -- since we do have a court reporter here  
6 today I would like to ask you all to -- to speak up, and  
7 when you're recognized to speak if you would please say  
8 your name. Even though she has your name down once she  
9 may not put your -- your face together with -- with  
10 who's speaking in -- at the time, so give her your name  
11 again each time you speak and that will be helpful.

12 And with that I think what we will do is ask  
13 for volunteers who would like to make some opening  
14 statements.

15 As Mike indicated, this is a listening  
16 session and there won't be any decisions made at this  
17 hearing, but it is an opportunity for Mike and -- and  
18 the Reclamation staff to take your comments, so we will  
19 begin that way.

20 Mr. Robbins.

21 MR. DAVID ROBBINS: Ms. Hoppe. My name is  
22 David Robbins.

23 I thought it would be good to just start by  
24 mentioning the fact that Lynette and Tara and Mike and I  
25 at least sat for quite a number of days in this room and

1 went round and round about the appropriate value to  
2 place upon a 40-year storage contract for the Southern  
3 Delivery System and for the exchange and conveyance of  
4 water under that system, and one of the issues that was  
5 a particular concern to me and to Colorado Springs  
6 and -- and our partners, Security and Fountain and  
7 Pueblo West, was the -- what -- what we perceive to be a  
8 sort of lack of a clear methodology that would be  
9 applied for contracts generally from the  
10 Fryingpan-Arkansas Project, and at least it was my  
11 perception that the fact that the Bureau of Reclamation  
12 had not really adopted a sort of clear and transparent  
13 methodology was frustrating for us, but I think it may  
14 have also been somewhat frustrating for some of the  
15 Bureau negotiators because it was hard to answer some of  
16 our questions I think lacking sort of a -- a -- an  
17 overriding policy guidance.

18           So we pushed hard -- "we" being the  
19 negotiators for the Southern Delivery System -- to have  
20 the Bureau consider undertaking a program of this sort  
21 where they made some decisions about how one might go  
22 about in the future pricing the use of Bureau facilities  
23 so that everyone would have access to the same  
24 information going into any future contract negotiations,  
25 and ideally eliminate some of the discord that

1 occasionally erupted in our negotiations on the Southern  
2 Delivery System.

3           Along -- so we're very glad that you're here  
4 and that you are conducting this list -- listening  
5 session, gathering this sort of information, and  
6 hopefully it will lead to a more public dialogue about  
7 both how things should be priced and the methodology for  
8 developing that pricing structure.

9           I wanted to say that we asked Ed Harvey, of  
10 Harvey Economics, to come today and talk a little bit  
11 about sort of market concept and how one might undertake  
12 those sorts of -- of -- of discussions and  
13 investigations, and I would ask, Diane, that whenever  
14 it's appropriate that you call on Ed and let him make  
15 some comments for the record.

16           Given the relatively short lead into this  
17 meeting in terms of knowing when, where and why, we  
18 haven't had time to do anything in the way of a formal  
19 presentation, but given your generous 45-plus day  
20 opportunity to add comments I -- I will certainly  
21 propose to Colorado Springs Utilities, and some of the  
22 other entities at the table, that we do that so that you  
23 have something slightly more formal.

24           Thank you very much for being here today,  
25 Mike, and ladies, gentlemen, good of you to come to hear

1 us out on this.

2 I think it's a matter of significant  
3 importance that -- the last thing I want to point out --  
4 and I -- I will submit a letter for the record -- but  
5 during the course of the negotiations on the Southern  
6 Delivery Systems' contracts then Mayor Lionel Rivera  
7 wrote a letter to the Commissioner and pointed out that  
8 the pricing structure that we were then talking about  
9 might be one that the -- the beneficiaries of the  
10 Southern Colorado Delivery System could find a way to  
11 live with, but there were lots of other communities that  
12 would be seeking if-and-when contracts --  
13 excessive-capacity contracts in the future were -- who  
14 might find it to be incredibly burdensome to be able to  
15 rely on excess capacity in -- in the facilities at those  
16 prices because their capacity to make those payments  
17 wasn't as great.

18 And I will want to submit that letter again  
19 just so it's clear in this discussion, because I think  
20 that's one of the things that we need to have the Bureau  
21 think about and deal with, is that while all of the  
22 residents of the Southeast District equally pay their ad  
23 valorem tax to support the District, all of those  
24 communities don't -- you know, all -- and -- and they  
25 should -- everyone should be treated relatively equal --

1 we ought to be setting prices that work for everyone,  
2 not pricing some parts of Southeast District citizenry  
3 out of the market.

4 Those are my remarks at the moment, thank  
5 you.

6 MS. DIANE HOPPE: Thank you, David.

7 MR. DAVID ROBBINS: Thank you very much for  
8 entertaining my comments.

9 MS. DIANE HOPPE: Will you make a -- in your  
10 written comments to Reclamation will you make those --  
11 those comments available to them at the end of that time  
12 and -- as well as the letter --

13 MR. DAVID ROBBINS: Yes.

14 MS. DIANE HOPPE: -- in terms of your  
15 recommendation?

16 MR. DAVID ROBBINS: Yes.

17 MS. DIANE HOPPE: Thank you.

18 Is there anyone else that would like to op --  
19 op -- make an opening comment? Or, if not, I'll -- I'll  
20 go right to Ed, and, Ed, if you would like to -- to  
21 follow up that would be great.

22 MR. ED HARVEY: Sure. I guess there are a  
23 lot of shy people here.

24 MS. DIANE HOPPE: They won't be after a  
25 while.

1 MR. ED HARVEY: Oh, okay. It's been awhile  
2 since I have been here.

3 I am sorry I don't have a formal  
4 presentation, this came together kind of quickly, but I  
5 will give you a -- an outline of my comments so you can  
6 make notes or draw pictures or some -- say I don't agree  
7 with that (indicating). So, anyway -- and I'm sorry I  
8 don't have outlines for everybody, but . . .

9 They called recently and asked me to talk  
10 about the methodology in this market-based matter, and  
11 how one would go about putting those things there.

12 MS. DIANE HOPPE: (Indicating.)

13 MR. ED HARVEY: How one would go about  
14 putting a methodology like that together, and --

15 (Unidentified male handed microphone to Mr.  
16 Harvey.)

17 MR. ED HARVEY: Thank you. Can you hear me  
18 now?

19 THE COURT REPORTER: Yes, sir. Thank you.

20 MR. ED HARVEY: Okay. It's Ed Harvey.

21 So what I would like to say is -- first of  
22 all, I think if you're looking at a market-based method  
23 for pricing water you need to, first of all, be clear in  
24 your mind what a market is, everybody needs to  
25 understand that, so let me kind of go over what a -- an

1 economist look -- looks at this sort of thing here's  
2 what they kind of think about when they think about  
3 market.

4           You have a service or commodity or product,  
5 okay, and it's relatively similar, relatively  
6 homogeneous, and, then, you've got sellers on one hand  
7 selling that commodity or service and, then, you have  
8 buyers on the other hand (indicating). Now, the sellers  
9 are unconnected to one another and the buyers are  
10 unconnected to one another, and they also have an arm's  
11 length relationship to one another, okay, so there's no  
12 influence on price (indicating).

13           For instance, if a -- one seller had a  
14 relationship with a buyer or saw some benefit in selling  
15 that commodity or price to that buyer the price would be  
16 adjusted, so that's really not a -- sort of a market  
17 phenomenon that you're looking at here.

18           So that's a -- that -- that's what a market  
19 is, and we are looking for a market-based price.

20           Then you come to the commod -- the commodity  
21 of water, either water storage, water exchange,  
22 conveyance, and how does one price that and how does one  
23 get at a market price there. You immediately run into  
24 some problems because the -- first of all, there are not  
25 that many transactions, number one; number two, all

1 water resources -- storage, conveyance, exchange -- all  
2 of those are different from one another, so you -- you  
3 sort of fail that homogeneous commodity standard as  
4 well, okay? So you -- you have a -- immediately a  
5 problem there. There's a locational issue associated  
6 with this.

7           When you're valuing or putting a market-based  
8 price on -- on water storage, for example, it really has  
9 to be in that basin, it has to be in that basin because  
10 the supply and the demand for water in that basin and  
11 the use to which the water is put drives the value and  
12 drives -- helps drive the price, so it's -- it's very  
13 location specific, okay?

14           So all of these things make water sort of a  
15 different animal when you are trying to get at this  
16 market-based pricing thing.

17           Now, we do have examples where it does exist.  
18 In the Colorado-Big Thompson Project, the way that  
19 project has been configured they do exchange CBT units  
20 back and forth between farmers and municipalities, other  
21 water users there within a defined boundary. So it's a  
22 location, it's a homogeneous commodity, there's  
23 different sellers, different buyers, you got a market  
24 there, that's unusual.

25           And I will say that people who do what I do

1 always kind of -- they talk about markets and, then,  
2 they talk about the CBT Project, and they do that  
3 because that's the one real water market that people can  
4 find. Elsewhere it's -- it changes, and, so, you really  
5 can't get there.

6           Anyway -- so there's some difficulties in --  
7 in sort of defining that market and the market-based  
8 price.

9           For the Bureau of Reclamation and for the  
10 Fryingpan-Arkansas Project it's al -- there are some  
11 other difficulties, and -- and that would be this -- and  
12 you are a single seller, okay, and your particular  
13 situation, being the federal government and the way this  
14 project has evolved, and the way all Bureau projects  
15 have evolved, is different than other water projects,  
16 the way in which it was set up -- in fact, the  
17 partnership that the Bureau has with those contractors  
18 when it originally was established and set up creates a  
19 different relationship, really not quite arm's length.  
20 So it's -- it's dif -- al -- already you're different.  
21 The terms and conditions of your storage and your  
22 exchange and your conveyance, all of those things are  
23 different, okay? You're a federal agency, this is  
24 a -- and this is to be expected.

25           When you go into negotiations it's a public

1 process, that's very different than a sort of -- a  
2 private entity who's got a reservoir or a lake,  
3 whatever, and they're making a deal with other parties  
4 (indicating). So it immediately puts you in sort of  
5 a -- a -- a different circumstance.

6           So I guess my -- the point I would like to  
7 make is that this is a very difficult thing that you're  
8 undertaking to -- to -- to go after this market-based  
9 price. It's a -- it's a laudable goal, I -- there are  
10 certain national initiatives which suggest this, much  
11 more difficult to do in practice and, in fact, it's sort  
12 of fraught with -- with a number of difficulties.

13           So given that what can you do? My thought  
14 and suggestion at least for you to consider is to create  
15 sort of a -- what I would call a market simulation. In  
16 that what you would do is you would look at the  
17 particular -- the -- the asset that you're trying to  
18 price and come up with a price, and you would define as  
19 carefully as you can what its functions are, what it  
20 does, the location, the volume of water that you're  
21 talking about, how it actually works, what are those  
22 attributes that would be valuable to sell to a buyer --  
23 excuse me -- to a buyer, and those would be the things  
24 that you begin to define.

25           And, then, once being clear about those --

1 those attributes then what you would do is you would go  
2 out and gather particular case studies or data points in  
3 the local area -- it has been to be in the same river  
4 basin, you have very different valuations if you  
5 don't -- go into that river basin and gather up as -- as  
6 many comparables as you can.

7 Now, this is fraught with a number of  
8 difficulties because, as I said earlier, none of these  
9 comparables are exactly comparable, they're different,  
10 there's difference in carryover opportunities, there's  
11 difference in storage and priority, and they'll be  
12 different than -- than what the Bureau offers.

13 But define each one of those attributes --  
14 those value attributes, gather up the information in  
15 a -- in a area and, then, what you have to do -- which  
16 is maybe the most difficult part -- is an impartial  
17 adjustment between the comparables that you have and  
18 these -- and the Bureau of Reclamation asset that you're  
19 interested in selling.

20 So you make adjustments up or down to these  
21 comparables, gather enough of those and, then, begin to  
22 look and see what -- what -- what price you've got.  
23 Hopefully what you're going to be finding is some sort  
24 of central tendency in value of a price there, to -- to  
25 repeat what I'm saying.

1           Now, this doesn't work in all instances and  
2     it may not work in all of your instances going forward,  
3     but I -- what -- what you're looking for is that you  
4     have enough comparables and enough confidence in the  
5     adjustments and in the analogy of each comparable to the  
6     particular asset that you're trying to value that it  
7     helps you predict with some confidence what that next  
8     transaction will be. 'Cause, then, if you have enough  
9     comparables and enough transactions that you can do that  
10    then you can get at this sort of market-based price, but  
11    you need to do that sort of test at the end. And that's  
12    what you're looking for today, predictability of the  
13    next transaction.

14           And those are my comments. So do you have  
15    any questions?

16           MR. MIKE COLLINS: I guess I do, and thank  
17    you for the input.

18           MR. ED HARVEY: Sure.

19           MR. MIKE COLLINS: You mentioned that because  
20    Reclamation is somewhat unique, do you find any  
21    commonalties in what you just described to other water  
22    providers within the state of Colorado? Is it a similar  
23    approach --

24           MR. ED HARVEY: Yeah.

25           MR. MIKE COLLINS: -- you know, where is

1 the variance --

2 MR. ED HARVEY: The Bureau circumstance --  
3 each Bureau project is different -- and -- and I have  
4 been involved with San Juan, I have certainly been  
5 involved with the Colorado-Big Thompson Project,  
6 projects over on the West Slope and other places in the  
7 country, all of them are different, but in every  
8 instance one of the -- there are -- there are a number  
9 of commonalities.

10 One of the chief commonalities -- and I -- I  
11 can't overemphasize this enough -- is that -- the  
12 long-standing relationship that the Bureau has had with  
13 its contractors and constituents. I mean, the -- its  
14 enabling legislation and in the traditional history --  
15 which you know very well -- it was a partnership, how  
16 can we make this work, how can we make these areas work,  
17 how can we put this together to the -- sort of the  
18 maximum benefit of everyone, thinking that economic  
19 benefit and development of farming and -- and other  
20 development would be a good thing in the Western U.S.  
21 So that relationship and the vestiges of that  
22 relationship still exist today, and, so, that -- the  
23 projects all share that, and, so, there's all that --  
24 always that relationship which make it a frankly unique  
25 animal.

1                   And it -- there's nothing wrong with this,  
2   that's great, I think it's -- I think you -- the Bureau  
3   of Reclamation in its history has been one of great  
4   success, so it's a testimony to all its people.

5                   MR. MIKE COLLINS: Thank you.

6                   MR. ED HARVEY: Sure.

7                   Lynette, no questions?

8                   MS. LYNETTE SMITH: No.

9                   MR. ED HARVEY: All right.

10                  MS. DIANE HOPPE: Thank you, Ed.

11                  MR. ED HARVEY: Thank you.

12                  MS. DIANE HOPPE: Yes.

13                  MR. TERRY BOOK: I'm Terry Book with the  
14   Pueblo Board of Water Works, and I -- I know this isn't  
15   a question and answer, but I'll pose some questions.

16                  It -- it would seem that there's different  
17   criteria that would be involved with a market-based  
18   approach and it's are you going to maximize the return  
19   to the Bureau, dollars, or are you going to maximize the  
20   benefit to the participants or the beneficiaries of the  
21   project within the Southeastern Colorado Water  
22   Conservancy District? So it seems like those don't  
23   necessarily work out to be the same thing. I -- I don't  
24   know what the motivation for this is, is this driven  
25   from federal legislation to maximize return to the

1 Bureau or is it to maximize the beneficial use of the  
2 projects? There definitely -- and I'll -- don't want to  
3 repeat anything that's been said, but having a market  
4 that the constituents within the Valley can take  
5 advantage of is a different market than the highest  
6 price anybody within Colorado would pay, so we could be  
7 in a position that those of us that have contracts  
8 now -- and I'll use the Board of Water Works as an  
9 example. We have a 25-year contract, so at the end of  
10 that 25 years if the price is so high that for our local  
11 community we can't justify the price, we end up having  
12 to seek alternatives that may not be best because we  
13 have a facility already here, so, then, we have to go  
14 purchase or enlarge or do something else in another area  
15 that creates another project in a different location,  
16 and if that price that we passed on nobody else is  
17 willing to pay either that market-based price may in  
18 itself be self-defeating.

19           You've set a market price and is that market  
20 price good forever or is this going to be a fluctuating  
21 market price kind of back to what SDS ended up with  
22 where each time is a different negotiation (indicating)?  
23 So is this something that's intended to be a long-range  
24 standard that will never change or is this something  
25 that will adjust as the demand comes a la a market?

1           If the market is soft this year then the  
2 price goes down and whomever comes in at this point gets  
3 a 40-year contract that's a bargain and, then, next year  
4 or 5 years from now they come back in and the next  
5 person the market's pretty firm, so, then, they pay --  
6 so you go back to this each negotiation is going to  
7 fluctuate.

8           And, again, particularly the smaller and  
9 smaller entities -- Colorado Springs -- David made the  
10 reference to Colorado Springs could probably pay what  
11 was asked -- but the higher and higher that price gets,  
12 the smaller and smaller entity or the communities that  
13 are less affluent, Pueblo being one of those. If you  
14 look at the ability of our demographics and what we're  
15 able to pay versus others and, then, you move down the  
16 Valley, others are in worse shape than we are, so a  
17 market price that they could afford is totally different  
18 than the highest price the market would bear.

19           So it seems like the beneficiaries of the  
20 project should be taken into consideration in this, and  
21 they should get some opportunity to participate in a  
22 facility that over the long-term they will have paid  
23 for.

24           So thank you.

25           MR. MIKE COLLINS: Okay.

1 MS. DIANE HOPPE: Yes, Alan.

2 MR. ALAN WARD: Alan Ward with the Bessemer  
3 Irrigating Ditch Company. Kind of to -- to play on that  
4 same thing, there's historically been a very different  
5 market for agriculture use versus municipal use, and,  
6 again, if you went for the maximum dollar value that you  
7 could get you're going to price out many of the ditch  
8 companies, they simply won't be able to afford, to  
9 acquire excess-capacity space in Pueblo anymore.

10 MR. MIKE COLLINS: Okay.

11 MS. DIANE HOPPE: Yes, Wayne.

12 MR. WAYNE VANDERSCHUERE: Wayne Vanderschuere  
13 of Fountain Valley Authority.

14 A question, if -- if you're inclined to  
15 answer, is this a initiative by the Bureau that's unique  
16 to the Arkansas or is this a Western or national  
17 initiative, kind of -- is there sort of a boundary on  
18 this at all?

19 MR. MIKE COLLINS: We're -- Wayne, we're  
20 looking at the Fry-Ark as a pilot --

21 MR. WAYNE VANDERSCHUERE: Uh-huh.

22 MR. MIKE COLLINS: -- and we're going to be  
23 looking at this to try and establish criteria, and  
24 certainly your feedback is a key component into that  
25 development. It will be, as next steps go -- and maybe

1 that's a good opportunity to talk about -- we're going  
2 to be looking at temporary Directive and Standard  
3 associated with this, and, then, we will go with --  
4 Reclamation-wide we'll go ahead and run that temporary  
5 Directive and Standard once it's developed probably for  
6 about a year and see, you know, what are the flaws, is  
7 there a way to tune it up some and, then, it will be put  
8 in as a Directive and Standard for --

9 THE COURT REPORTER: A Directive and Standard  
10 for what?

11 MR. MIKE COLLINS: Reclamation, sorry.

12 THE COURT REPORTER: Thank you.

13 MR. WAYNE VANDERSCHUERE: Mike, for those  
14 that are not familiar with that lingo, can you help us  
15 with what that means?

16 MR. MIKE COLLINS: Our Directive and Standard  
17 provides us our operating guidelines.

18 MR. WAYNE VANDERSCHUERE: Okay.

19 MR. MIKE COLLINS: So it will go  
20 Reclamation-wide as -- as that.

21 So we're looking at this as a pilot, and we  
22 want to see if there's a way that we can get your input,  
23 we can put this into that temporary.

24 There will be opportunities, obviously, for  
25 involvement from you all in that process, this isn't the

1 only opportunity, and we'll see what -- what we can make  
2 work.

3 MR. WAYNE VANDERSCHUERE: (Nods head.)

4 MS. DIANE HOPPE: Yes. Gerry?

5 MR. GERRY KNAPP: Gerry Knapp, Aurora Water.

6 Just -- a lot of my comments are going to be very  
7 similar to the Colorado Springs perspective.

8 THE COURT REPORTER: Can you get the  
9 microphone, please?

10 MS. DIANE HOPPE: Yeah.

11 MR. GERRY KNAPP: (Complied.)

12 But just -- just to give a little bit of  
13 background, Aurora, of course, is out of the District  
14 and, therefore, has a different pricing structure  
15 than -- than others in the room. We had operated under  
16 annual if-and-when contracts for storage in Pueblo  
17 Reservoir since 1986, so we have a long history of that,  
18 but, then, a few years ago we sought to enter into a  
19 long-term contract for if-and-when storage.

20 And it -- I think it's worth noting that we  
21 started the NEPA process that we thought would be fairly  
22 simple, it would be an EA, it would be for continuation  
23 of things we had -- had been doing, that process took  
24 over four years and -- and cost more than \$2 million for  
25 that -- for that NEPA compliance, and -- and that was

1 just a simple EA.

2 My comment here, and probably the biggest  
3 insight that I would offer into this, is that, you know,  
4 we went four years through that process and, then, began  
5 the contracting process, and it's -- and at that point  
6 as we started the contract process we really didn't have  
7 any idea where we would end up, and it seems that it's  
8 the wrong way to do business to have to go through the  
9 NEPA process first and, then, start the contract  
10 negotiations without having any idea what the -- the  
11 methodology for developing that price is going to be.

12 We investigated several types of  
13 methodologies, Ed Harvey -- who's also worked with  
14 Colorado Springs -- he worked with us, and -- and we  
15 worked a lot with Lynette and the folks up there.

16 I guess I would ask that somehow you figure  
17 out a way to develop a very transparent methodology for  
18 determining what that price is, I think it's only fair  
19 for an entity to know upfront what it is they're asking  
20 for, because in reality we didn't know until the end of  
21 the contract negotiations what those costs were going to  
22 be.

23 MS. DIANE HOPPE: Do you want to hand that  
24 over to Ted, please?

25 (Mr. Gerry Knapp handed the microphone to Mr.

1 Ted Kowalski.)

2 MS. DIANE HOPPE: Ted.

3 MR. TED KOWALSKI: Sure. Ted Kowalski, the  
4 Colorado Water Conservation Board.

5 Do you have a document or do you intend to  
6 have a document to -- for folks to consider becoming --  
7 I understand you're collecting perspectives on  
8 developing criteria, but certainly it's a lot easier  
9 to -- or at least it's -- can be helpful to have an  
10 understanding of where the Bureau's coming from before  
11 to -- before we would submit written comments, because a  
12 lot will depend on where you're headed in terms of where  
13 we might want to weigh in, saying, oh, yeah, that's not  
14 the right way to go, or -- or this is the better way to  
15 go.

16 MR. MIKE COLLINS: At this point there is no  
17 document, we're just -- we're gathering up perspectives  
18 to get this process started, so we're unsure, you know,  
19 if -- if we want to gather up before we create the Draft  
20 E&S and sort of walk through in a technical session with  
21 folks, make sure that we heard the assumptions  
22 correctly, that we understood where we're getting  
23 feedback and, then, you also have the opportunity to  
24 hear from us as to where we're -- we're heading off to,  
25 we're glad to do that.

1                   So at this point I -- you know, like I said,  
2 we're just kicking this off, and . . .

3                   MR. TED KOWALSKI: I -- I think that would be  
4 very helpful to -- to include input, not just today --

5                   MR. MIKE COLLINS: Yeah.

6                   MR. TED KOWALSKI: -- here, where there's a  
7 blank piece of paper up on the screen, if you will, but  
8 rather as you're developing it I think additional  
9 guidance or input from all interested stakeholders would  
10 be appropriate.

11                  MR. MIKE COLLINS: Okay, we can do that.

12                  MS. DIANE HOPPE: Mr. Broderick.

13                  MR. JIM BRODERICK: Well, thank you very  
14 much, and I would like to echo everyone -- Jim  
15 Broderick, Southeastern -- I would like to echo the  
16 comments that have made -- been made so far 'cause I  
17 think that each of their concerns are -- are -- are  
18 important and are critical in determining the price  
19 structure.

20                  I had the pleasure of -- back in November,  
21 30th, to present a white paper on this very topic to the  
22 Commission. The Commissioner requested that we put  
23 together a white paper on November 16th, we did so,  
24 handed that document to the Commissioner on the 16th and  
25 forwarded it to you, Mike, on November 24th -- doing

1 this strictly for the record just so that everybody  
2 understands what we're doing here --

3 MR. MIKE COLLINS: Okay.

4 MR. JIM BRODERICK: -- and that document  
5 included a white paper talking about these very issues  
6 and the possible formation of a -- an outline to start  
7 to talk about.

8 It also included attachments, one having to  
9 do with what's attached to our contract as rates for the  
10 year from 1999 till 2031 -- just so happens to be our  
11 contract length associated with that -- and it breaks  
12 down the formula for determining what the costs are.

13 I'll come back to that discussion on the  
14 contract obligation and what pricing is based on  
15 comments that have been made that the Bureau will honor  
16 their contracts. We believe that this is -- we do have  
17 a contract in place and it's based on the cost of  
18 service, when I get into the talking points we'll get  
19 there, but the -- that's Attachment A.

20 Attachment B is -- I am very happy to have  
21 Mr. Harvey here -- Mr. Harvey's attachment from the  
22 Aurora discussion, so -- to give the Commissioner and  
23 senior staff an understanding of what went into the  
24 beginning portions of a market study, and recognizing  
25 there are other portions that need to be completed

1 through that process -- so we will make this available  
2 and turn this in for the record so you have that  
3 information (indicating). So that's the first item.

4           The second item, as we talk about a market  
5 price and the ability to -- to look at costs -- I'll --  
6 if you give me a few moments I would like to go back  
7 and -- a little bit in -- in time with regards to what  
8 the costs have been. I go back to the document that we  
9 mention in our contract, established rate was set at  
10 \$18.72 for agriculture, inside District boundaries the  
11 dollar amount was twenty-four ten, outside District  
12 boundaries was forty-three forty-six, then we have the  
13 contracts that Gerry was talking about with Aurora at a  
14 negotiated rate of forty-three seventy-six, and, then,  
15 we have -- the Board of Water Works contract was put in  
16 at \$17.35. They're all the same values for a acre of  
17 water.

18           However, earlier this year, in our March  
19 board meeting, March 11th, we had the pleasure of having  
20 Mike there -- and -- and we always enjoy having you  
21 there, Mike -- in this case Mike said to the board that  
22 in 2012 the rates will move \$2, and he also said and --  
23 and, by the way, 2013 they'll probably move \$2 as well.

24           So when we look at that and you look at those  
25 price changes the question that comes to us is how do

1 you determine that, what does that look like, what went  
2 into determining those costs -- much like you would do a  
3 rate analysis -- what -- what part are the portions of  
4 this, why is -- are those the going rates.

5           If you look at the rate for agriculture in --  
6 from 2011 to 2012 that \$2 increase is a 9.98 percent  
7 increase to agriculture, if you look at the municipal  
8 charge of \$2 it's a 7.75 percent. So when we talk about  
9 knowing what's in the box, how you calculate those are  
10 important from the discussion that David talked about,  
11 and that's from the equity perspective, and -- and, so,  
12 who can afford, how do you make the determination for  
13 costs are a very important piece.

14           But if you do go into the 2013 scenario and  
15 you add another \$2 that adds another nine oh seven  
16 percent on top of the costs for agriculture, and for  
17 municipal, under the industry quotes, it comes out as  
18 7.2 percent.

19           So basically what we've done is just added 20  
20 percent to the cost of agricultural water in a two --  
21 two-year period without any understanding of how, why,  
22 what for. That goes to about 15 percent for you and I  
23 in the District.

24           You know, that's one of the reasons we went  
25 and talked to the Commissioner about the issue of how do

1 you determine rates.

2           And traditionally you've heard from people  
3 that -- they talk about the ability to have a  
4 cost-of-service analysis, a perspective. We believe  
5 that -- from our perspective, given other regions within  
6 the Reclamation world most recent had the ability to  
7 complete their contract before these dialogues went into  
8 place -- so I'll reiterate that -- as I did with the  
9 Commissioner, and reiterate that here -- that we believe  
10 that at a bare minimum, as long as the contract is in  
11 place and those costs are based on cost of service, that  
12 it should be as long as the contract's in place.

13           Now that's for the background, I am going to  
14 do the talking points that walks you through.

15           Southeastern believes that the most effective  
16 use of storage will encourage growth and effective use  
17 of water resources. Southeastern has developed 10  
18 points to help us guide ourselves through these  
19 discussions and contracts on prior project water and  
20 East Slope storage.

21           The first of those are making sure that we  
22 have a level playing field. As you heard from the  
23 examples of the cost price we surely do not have a level  
24 playing field, some had it at a different value than  
25 others. Our concern specifically has to do with inside

1 the District, make sure that those District values are  
2 the same within the area of the District boundaries,  
3 that all customers receiving the same rate must receive  
4 a comparable service and must be able to pay for that  
5 comparable cost of service.

6 The second point is cost of service and a  
7 cost of recovery question, that all rates must be  
8 used -- use a cost-of-service recovery system during the  
9 lifetime of the repayment of the contract, but to ensure  
10 that we don't gather or bring more dollars in than the  
11 cost of the original product.

12 The third item that I think is of importance  
13 for all of the basin is the financial impacts. The  
14 charges must recover a fair share, we recognize that, of  
15 the previous committed capital expenditures on the same  
16 basis as the customers that are receiving the comparable  
17 rate service. What we're wanting to make sure of,  
18 however, is that the increased costs or the financial  
19 harm, if you will -- as used in the economics terms --  
20 do not come at the expense of Southeastern's neighbors.

21 The fourth place that we are -- want to be  
22 concerned about is the previous capital commitments. As  
23 we heard this morning, and as we've talked about, debt.  
24 Southeastern's repayment contract in paragraph 11-M ties  
25 the Fry-Ark excess-capacity storage contract rates to

1 its obligated repayment of the Fry-Ark elements -- you  
2 notice that I will refer to them as "elements" as  
3 opposed to singular him and I and they in recital H in  
4 our contract -- to ensure that we are able to retire the  
5 debt associated with that.

6           The fifth item that we think you should pay  
7 attention to is the recognition of non-project water  
8 benefits. Arrangements through spill priority within  
9 the Fry-Ark storage system has and will ensure  
10 measurable benefits to Southeastern's system on a  
11 case-by-case basis. If that's where you're looking for  
12 a case-by-case discussion, it's already in the spill  
13 priorities.

14           The issue there, Mike, as you are well aware  
15 of -- the numbers are on the table -- is that's a harder  
16 thing to get our hands around, but that has also been  
17 presented to Reclamation and we're still awaiting some  
18 responses in regards to how we would model that. The  
19 good news there is that Southeastern is the one that's  
20 modeling that right now, and the Bureau is waiting for  
21 us to get the model to them this time.

22           But there is some -- a -- from a regional  
23 economic perspective a very good standard to start to  
24 look at.

25           The -- the sixth item is the storage

1 conveyance capacity, and when you talk about that we are  
2 talking about the use of the Fry-Ark system for storage  
3 and conveyance must not result in a reduction in the  
4 ability to meet the service demands. The original  
5 purpose of -- of Reclamation projects was to provide a  
6 service for those entities that you list as  
7 beneficiaries, and, so, we -- we should not, we must not  
8 limit that ability at this point in time based on market  
9 cost. It's beyond this, it packs(phon) us to storage  
10 and conveyance should be able to be reasonably withheld  
11 within the District to allow those entities the ability  
12 to use the project as it was intended to be built.

13           Seventh item is reliability. The use of the  
14 Fry-Ark system for storage and conveyance of water  
15 supplies must not result in the reduction of the  
16 liability of Southeastern's assets and that of the  
17 Fry-Ark Project.

18           The eighth item. Any time we look at the  
19 ability -- the cost of -- of service we always talk  
20 about the issue of what is the water quality. So the  
21 storage and conveyance must not result in adverse water  
22 quality impacts to the District, the mitigation measures  
23 should be considered whenever possible and feasible with  
24 regard to those measures of water quality.

25           The ninth item has to do with resource

1 management, and that has to do with the policies and  
2 arrangements that must be made consistent with the  
3 commitments made by Southeastern and its contract and  
4 its partner.

5           Mr. Harvey made it very clear when you have a  
6 unique relationship -- whether we want it or not, that a  
7 partnership has been developed over the 50-plus years,  
8 it's not based on your and my relationships, it's based  
9 on Southeastern's and the Bureau's relationships, and I  
10 sometimes worry how individual opinions might get in the  
11 way of long-term concerns of Southeastern and the  
12 Bureau. So we believe that we must be very diligent  
13 with regards to those -- those measures that we talk  
14 about, policies, and how they are put in.

15           We also want to ensure that the water  
16 management program such as re-use -- re-use and  
17 conservation we have used we are still allowed to do so.

18           The last item on the 10 points that we're  
19 concerned about has to do with the storage and  
20 conveyance prep. Southeastern and its District should  
21 be given priority for storage and conveyance, and  
22 arrangements for members before arrangements of  
23 nonmembers in the event that both either the system --  
24 or both trying to use the same system at the same time.  
25 So I believe that the spill priority starts to address

1 that issue, and that brings us back to an issue of  
2 understanding spill priority.

3 Southeastern's had the opportunity to review  
4 and make comments of the established full rates in 1999  
5 as referenced in Attachment A that we would submit, but  
6 we have not had that in the development of long-term  
7 water storage and conveyance rates. And by that I mean  
8 traditionally when you have a long-term piece you have  
9 negotiations going on between the Bureau and a third  
10 party, and Southeastern has the opportunity to be in the  
11 audience and has the opportunity to be heard, but  
12 doesn't necessarily feel as though it's a partner in the  
13 decision-making.

14 I'll go back to discussions that Mr. Harvey  
15 talked about and the issues of managing for excellence  
16 that talks about being clear, transparent, open,  
17 flexibility, collaboration and working together at -- as  
18 partners, I believe that's why the Commissioner asked us  
19 to write the first white paper on the issue.

20 When we look at the first rate of storage and  
21 conveyance and we look at the price for those years --  
22 I'll just make reference to the first rate and the  
23 second rate, the third rate and the fourth rate as those  
24 rates I mentioned before -- but historically it has been  
25 calculated by the Reclamation on an acre-foot

1 contributed amount against the debt payment. Let me say  
2 that again because I think that's important.  
3 Historically it's been calculated on the amount against  
4 the debt payment or a cost of service, not through a  
5 market rate, and as long as there is debt service to be  
6 paid we are questioning why a market rate would be  
7 brought in. We don't necessarily disagree with the  
8 market rate, but as long as we have a contract in place  
9 we believe you're just as obligated to meet that  
10 contract for us as you are with any negotiated contract  
11 you have with other people.

12 I won't speak for Mr. Harvey because it's  
13 nice to have him as a partner and I hope to have  
14 discussions with him in the future, I will just make  
15 reference to the Attachment A and the aforementioned  
16 document that was sent to the Commissioner as -- to be a  
17 very useful tool that could lay out the structure for a  
18 market analysis to start the dialogue from either the  
19 white paper or that piece.

20 In conclusion, we believe that Southeastern's  
21 repayment contract is scheduled to be completely paid --  
22 or repaid by 2031, that is the time period that we are  
23 to meet the 50-year time period to pay the debt.

24 Southeastern's insistent that the in-District  
25 contract rate from 1999 should be until 2031, and should

1 be used to determine the price rate for the four rates  
2 presented above and in Attachment B. The rate mechanism  
3 should not -- should not be the only mechanism currently  
4 utilized for excess capacities until 2031.

5 Mike, I'm -- I'm very happy that we're having  
6 the discussions, I am very pleased that the  
7 Commissioner, Mr. Ryan, yourself and staff, have started  
8 the process of having the dialogue, we believe it will  
9 take everyone sitting at the table and more; and we  
10 recommend technical sessions, we recommend a -- a full  
11 understanding of the systems and what we're trying to  
12 accomplish, but we also want to make sure that our  
13 partnership isn't jeopardized by short-term views and  
14 losing the long-term gains the Fry-Ark and the Bureau of  
15 Reclamation's had over the years.

16 With that I will end unless you have any  
17 questions.

18 MR. MIKE COLLINS: I don't have any.

19 MS. DIANE HOPPE: Do you have any questions?

20 MR. MIKE COLLINS: No.

21 MS. DIANE HOPPE: Okay.

22 Wayne, did you have something?

23 MR. WAYNE VANDERSCHUERE: Yes. Wayne  
24 Vanderschuere. And I am going to change hats on you,  
25 Mike, and I am going to put on my hat as a governor's

1 appointee to the Interbasin Compact Commission, IBCC,  
2 and it works in cooperation with the CWCB on the state  
3 water issues, and I just wanted to kind of elevate the  
4 discussion and kind of reinforce what Mr. Broderick had  
5 to say about need.

6           There's a long and successful partnership  
7 with the Bureau of Reclamation and the projects in -- in  
8 Colorado, which agriculture, the cities, recreation and  
9 the environment have all benefited mightily from -- from  
10 that partnership, and there's more work yet to be done  
11 on that front, and I'm concerned, as I think about this,  
12 that the -- as we go forth, that the need for equitable  
13 treatment -- the need not be burdensome, particularly in  
14 these difficult economic times, and economic times  
15 probably in the next several years to come. So as we go  
16 through this pilot project to look at that we don't --  
17 we want to put in place a -- look at Colorado or the  
18 Fryingpan Project as -- as the pilot as a profit center  
19 for the Bureau, and we don't want to go there, I think  
20 we want to stay in a place where there's that equitable  
21 relationship, that partnership to work on together the  
22 issues around Colorado's water future for all beneficial  
23 partners to all the economic sectors in Colorado, and I  
24 think that's an imperative criteria that you need to  
25 consider as you go forward in these listening sessions.

1 Thank you.

2 MS. DIANE HOPPE: Thank you, Wayne.

3 I would like to remind everyone there are  
4 some glasses of water there and nice, cold, ice water  
5 right over there, so please help yourself (indicating).

6 And are there any other comments somebody  
7 wants? Yes.

8 MR. JACK JOHNSTON: Jack Johnston, Pueblo  
9 West.

10 MS. DIANE HOPPE: Okay.

11 MR. JACK JOHNSTON: I guess I will wait for  
12 the microphone.

13 (Mr. Wayne Vanderschuere handed the  
14 microphone to Mr. Jack Johnston.)

15 MR. JACK JOHNSTON: Jack Johnston, Pueblo  
16 West. First of all, it's nice to be hosting you out in  
17 Pueblo West today. I think you are here on a -- on a  
18 very important topic to everybody here as  
19 representatives of those communities or residents or  
20 otherwise that could be affected.

21 Wish I could, you know, add some more  
22 insightful comments to this, but I think they have been  
23 expressed extremely well.

24 I will reiterate what was mentioned by the  
25 Board of Water Works, one of our partners in the

1 community, and Bessemer Ditch and otherwise,  
2 Southeastern I think hit on some very key points that we  
3 would reiterate as well in terms of long-term financial  
4 viability in a market-base -- a market-based structure.  
5 Those who know me know I spent a lot of time in the  
6 private sector, I believe in that proposition, and I  
7 believe that there's a place for that within the public  
8 sector but not in all places, and I don't believe this  
9 is the place for that right now.

10 I think the cost of service has -- despite  
11 maybe some contractual inequities, has been a baseline  
12 to which there could be equity and maybe some of the  
13 other -- some of the other contractual limits could be  
14 chewed up to achieve that, but I believe that -- that  
15 I -- I have the same concern as expressed in terms of  
16 where will the value proposition be most maximized, and  
17 I would hope that based on the mission and the purpose,  
18 from what I have understood, that -- to be the terms of  
19 the precious resource of water -- that it's going to be  
20 maximized -- that -- that value proposition is going to  
21 be maximized downward to those end recipients and that  
22 the burden of this, which I could see -- potential  
23 burdens of this not trickle down through us and back  
24 down to the residents who will ultimately either be  
25 hamstrung with higher rates or -- or some kind of a

1 pass-through, or to the comments made over here, their  
2 communities being hamstrung in terms of long-term  
3 economic development and viability as well, which I  
4 think this could potentially be some kind of -- of  
5 hinderance to that (indicating).

6 So thank you very much for the opportunity  
7 today to express that, and we are, once again, glad to  
8 have hosted you. Thank you.

9 MS. DIANE HOPPE: Thank you, Jack.

10 Anyone else?

11 MR. SETH CLAYTON: I might just make one  
12 quick comment, and I --

13 THE COURT REPORTER: Your -- your name?

14 MR. SETH CLAYTON: Seth Clayton with the  
15 Pueblo Board of Water Works.

16 THE COURT REPORTER: Okay.

17 MR. SETH CLAYTON: I think -- I think my  
18 voice is probably loud enough I don't need a microphone,  
19 but, you know -- not -- don't want to sound like a  
20 broken record, 'cause I -- I agree with everybody  
21 that -- that's spoken here, but one thing I would  
22 encourage you guys to think about and look at as  
23 you're -- you're going through this process is the fact  
24 that, you know, as I see it the entire reason that the  
25 federal government got involved in these types of

1 projects is that it gives the ability to spread that  
2 cost over a larger population. I -- if the Board of  
3 Water Works goes out, does a project, we only have  
4 40,000 customers to spread that cost over, you know, the  
5 federal government does that it's over a larger area,  
6 and, so, what happens then is if -- if you move to a  
7 more market-based approach then you're concentrating  
8 that cost on one area, which is the current concern that  
9 we all ultimately have, and, you know -- and as Mr.  
10 Harvey spoke about and -- and illustrated, you're --  
11 you're in a difficult situation, you know, in -- in  
12 order to create that market. There are so many -- so  
13 many hurdles to that creation of a market rate for you  
14 and it's going to be difficult.

15 MS. DIANE HOPPE: Thank you.

16 Anyone else?

17 MR. DAVID ROBBINS:

18 MS. DIANE HOPPE: David.

19 MR. DAVID ROBBINS: May I make a -- one  
20 additional comment?

21 MS. DIANE HOPPE: Certainly.

22 MR. DAVID ROBBINS: David Robbins for  
23 Colorado Springs Utilities. The -- the one -- I have  
24 heard some different things here today -- is I see the  
25 way the Bureau has done business up until now you have

1 sought to define cost of service, recovering the cost of  
2 service, you have sought to be true to some  
3 congressional directives having to do with ability to  
4 pay, and I respect that and I understand that that's how  
5 business has been done, and that you are now looking, as  
6 an agency, at changing the way you do business, and I --  
7 I think -- as you know, my big deal is that I don't want  
8 you to talk about market-based rates unless you are  
9 going to use a market-based methodology. Now, that  
10 all -- that means, though, that then you move away from  
11 sort of recovering cost of service and ability to pay,  
12 because you decide what your commodity is and, then,  
13 through a market analysis you decide what it's worth,  
14 and, then, everybody pays for it at that rate.

15           As you go through this process I hope you  
16 will keep those concepts in mind so that we don't find  
17 ourselves using the term market-based approach to allow  
18 you to charge whatever you want depending on who it is  
19 that's seeking to buy services from you. I think that  
20 would be the most destructive, it would -- in -- in  
21 other words, to say, oh, we're using a market-based  
22 rate, but we think Colorado Springs can afford to pay,  
23 ignoring the fact that probably there are several  
24 hundred thousand more people with no ability to pay in  
25 Colorado Springs than there are in all of Pueblo County

1 just because of the numbers of people and for no other  
2 reason, and, so, I don't want there to be an assump --  
3 you to be making assumptions -- or I urge you not to --  
4 to sort of say that this community is automatically in  
5 this condition and the other community in a different  
6 condition, so we can charge different numbers.

7           You need -- if you're going to go to a  
8 market-based approach you need to -- to do that, and --  
9 and set up how you're going to go about doing it and go  
10 from there, or if we're going to stay with the way --  
11 generally the way you have done business we should  
12 identify how that's going to be done, but it would be --  
13 it's -- it's a danger -- I believe I -- you -- you have  
14 heard this speech before and you're always so polite in  
15 listening to me -- but it's a danger to the -- the  
16 general community to be in the social engineering  
17 business and deciding ad hoc who's going to do what and  
18 who's going to pay what.

19           So, you know, I -- I would like -- echo Jim's  
20 comments, thanking you for doing this, I -- I think it's  
21 a -- a significant benefit to the process long haul, but  
22 I want to emphasize the transparency comments that Gerry  
23 made and the need to kind of define what the rules are  
24 and, then, apply them as you go down the road.

25           We'll be fine I think, the whole community --

1 speaking of the whole Southeast District community, plus  
2 outside contractors -- if everybody knows going in what  
3 the rules are going to be, how they were developed, so  
4 that they can look at the rules and say, okay, I'm going  
5 to go try to make a deal with Mr. Collins and here's  
6 kind of what I have to confront as I do that, and that  
7 will help.

8 MR. MIKE COLLINS: (Nods head.)

9 MR. DAVID ROBBINS: Thank you.

10 MS. DIANE HOPPE: Thank you.

11 Lee Miller.

12 MR. LEE MILLER: My name is Lee Miller. Just  
13 to -- Mr. Robbins' comments made me think of one thing  
14 as I was getting ready to look at these questions about  
15 market-based rates --

16 (Ms. Lynette Smith handed the microphone to  
17 Mr. Lee Miller.)

18 MR. LEE MILLER: -- that -- one of the things  
19 that I was -- that I saw when -- when the SDS NEPA  
20 document was done that I thought was kind of striking  
21 was there was a separate socioeconomic effects analysis  
22 that was done there that described the affected  
23 environment, provided the basis for discussion of  
24 socioeconomic and environmental justice from the  
25 different rate structures.

1           I think that this is a necessary part of  
2 changing the system where you go from a cost-of-service  
3 to a market-based rate because basically one of the  
4 things -- and this is -- you know, was the point that  
5 Mayor Rivera made in his letter -- is we're talking  
6 about parts of the state where -- parts of the  
7 Southeastern District are parts of the state where some  
8 of the lowest economic job -- jobs and -- and -- I am  
9 losing -- the -- the ec -- the economics in these areas  
10 is incredibly low, very poverty-level type positions,  
11 and, then, we're going to basically come in and say,  
12 well, it's not about the people -- which was not a  
13 partnership Ed Harvey describes, not the way that the  
14 Bureau of Reclamation programs have been set up, a  
15 hundred sixty acres of land, you know, in the entire  
16 history of the program -- if we're going to -- we're  
17 going to change that completely then I think the -- the  
18 Bureau -- it be -- it behooves the Bureau to do the same  
19 kind of socioeconomic and environmental justice analyses  
20 that they would put through anyone else coming into the  
21 process through -- before you make that choice and make  
22 that change, and urge you to -- to do that kind of  
23 analysis before you implement a market-based rate  
24 change.

25           Thank you.

1 MS. DIANE HOPPE: Yes, Wayne.

2 MR. DAVID ROBBINS: You forgot the mule to go  
3 with the one sixty, Mr. Collins.

4 MR. MIKE COLLINS: I got one out back.

5 MS. DIANE HOPPE: Mr. Vanderschuere.

6 MR. WAYNE VANDERSCHUERE: Wayne  
7 Vanderschuere, I'll scoot back (indicating).

8 Go back to Fountain Valley Authority Vice  
9 President again and talk to the -- Mr. Robbins reminds  
10 me that several of the members of the Fountain Valley  
11 Authority, in addition to Colorado Springs proper, are  
12 lower-income individuals who basically work on a  
13 cost-of-service basis, those communities provide water  
14 to that lower income, and particularly to our soldiers  
15 and families who are in the Service and probably  
16 overseas and -- and little afford to pay a unequitable  
17 price or market-based price, and rely heavily on  
18 Fountain Valley Authority and their contracts with the  
19 Bureau for that water supply for those small  
20 communities, and I think that's an important  
21 consideration to take into the fact. So there is a --  
22 some real important issues, as Mr. Robbins and Mr.  
23 Miller pointed out, when you consider that.

24 MR. MIKE COLLINS: Okay.

25 MS. DIANE HOPPE: Thank you, Wayne. All

1 right.

2 We have a couple of members in -- in the  
3 audience, would you pull a chair up and join us, and if  
4 you would please state your name for the record that  
5 would be helpful.

6 MR. TERRY SCANGA: I am Terry Scanga, I am  
7 the Manager for the Upper Water Conservancy District,  
8 and I would like to echo what these folks have been  
9 saying, especially Mr. Broderick and Mr. Miller.

10 In the Upper Basin we've got the communities  
11 of Buena Vista, Salida, Poncha Springs, we have a  
12 District itself that uses excessive-capacity contract.  
13 Canon City and Florence, Penrose Water Districts are  
14 also in that.

15 You know, representing all of those folks in  
16 the Upper Basin, I think I would echo everything that's  
17 been said around this table here, especially the  
18 Southeastern District, Mr. Broderick's comments, this --  
19 this reservoir is very important to us, the project, and  
20 that -- that storage is extremely important to these  
21 communities, and to go to a market-based cost that  
22 would -- could be prohibitive for these communities to  
23 store some of their excess water would be really  
24 debilitating for them. I would like you to take that  
25 into consideration.

1 Thank you.

2 MR. MIKE COLLINS: Okay.

3 MS. DIANE HOPPE: Anything else?

4 (No response.)

5 MS. DIANE HOPPE: You can . . .

6 MR. MIKE COLLINS: You can set it down.

7 MS. DIANE HOPPE: You can set it down, Terry.

8 Thank you.

9 Mike, do you have any other comments then  
10 or . . .

11 MR. MIKE COLLINS: Well, you know, I want to  
12 reiterate my appreciation of -- like I said, we're at  
13 the beginning of this process, I really, really  
14 appreciate your views, what I have heard today. I would  
15 suggest that we take a look at a group of folks that we  
16 can get together that can talk turkey about economics  
17 and some criteria and specificity, and take into  
18 consideration what we have heard today, and we put  
19 together that technical group, and I would, you know,  
20 certainly look forward to hearing your recommendations  
21 on some timing for that, discussion and, also,  
22 attendance. So if you would, as you think about it,  
23 give me a call, drop me an e-mail, something, so I can  
24 start working on the logistics for the meeting for a  
25 technical discussion.

1           I think we're more mobile the smaller we are,  
2 if it gets to be a group of 30 or so it starts to get  
3 harder to find a date that works for everybody.

4           So I would certainly look forward to hearing  
5 from you all on -- on that.

6           We will take into consideration what we have  
7 heard today, we will take into consideration what we  
8 hear during the technical discussion we will go ahead  
9 and engage in as we work through this process probably  
10 several more times as we get through a draft Directive  
11 and Standard, and as we work our on way beyond that. So  
12 I heard what you said today, thank you for that.

13           We will make the transcript available to all,  
14 and we'll -- I -- I guess what I would ask, if we could  
15 just put a date on -- maybe within the next week to 10  
16 days -- if that's workable for everybody -- to sort of  
17 give me what you're thinking as far as participation and  
18 potential time frames that you would be available.

19           The -- the formal, public-type comment  
20 period, we'll -- we'll take those up until the end of  
21 September -- I'm okay with having some technical  
22 discussions on it -- I just got to drop the curtain on  
23 comments to the public at a certain point (indicating).

24           So it would be great to have technical  
25 discussions, and I would suggest potentially some time

1 mid to late September if that would work out. We can  
2 adjust the -- the end of the -- or the closing of the  
3 comment period, extend it if necessary, it was just a  
4 first cut of what do we think would be reasonable, okay,  
5 that's not a hard and fast date.

6 So with that I would thank you for your  
7 participation.

8 MR. JIM BRODERICK: Some clarity --

9 MS. DIANE HOPPE: Jim.

10 MR. JIM BRODERICK: -- questions if possible.  
11 I understand your time period that you're looking for  
12 input and studies, I'm interested in when do you believe  
13 the temporary standard will be in place and -- when are  
14 you shooting for a temporary standard is my first  
15 question.

16 MR. MIKE COLLINS: I don't have a date  
17 specific, Jim, I would like -- Reclamation would like to  
18 move toward that temporary standard expeditiously. I  
19 don't -- I don't have a fixed date.

20 MR. JIM BRODERICK: And if -- if, indeed, the  
21 temporary standard is going to be the pilot for  
22 Reclamation west-wide, when is the west(sic) -- west --  
23 the rest of the Western Resource people able to be heard  
24 and be made part of the process?

25 MR. MIKE COLLINS: The westen(sic) -- now

1 you've got me doing it.

2 MR. JIM BRODERICK: You thought it was easy,  
3 didn't you?

4 MS. DIANE HOPPE: Record that.

5 MR. MIKE COLLINS: I believe -- as the folks  
6 in our office of Policy know this is off the hip here --  
7 but the -- once we have the -- a temporary Directive and  
8 Standard we look to that to be a one-year temporary, and  
9 that during that period of time is when it would be  
10 exposed west-wide, and collect comments and public  
11 involvement, those types of things during that one-year  
12 period.

13 MR. JIM BRODERICK: Assuming a nod from --  
14 the Policy group is okay with that, the question -- the  
15 third question would -- would be, as -- as you're well  
16 aware there's many national organizations that fall in  
17 that category and their annual conferences are  
18 traditionally in late fall or early winter --

19 MR. MIKE COLLINS: Uh-huh.

20 MR. JIM BRODERICK: -- to get information out  
21 to them in view of all -- at the summary WRA meeting in  
22 Colorado Springs 10 days ago the Federal Affairs  
23 Committee was made aware this would be a pilot in the  
24 Fry-Ark system --

25 THE COURT REPORTER: Be a what?

1                   MR. JIM BRODERICK: A -- a pilot in the  
2 Fry-Ark system.

3                   I'm -- I'm not sure anybody knew what that  
4 meant, and I'm not sure we do, but my concern is that  
5 the number of people that are represented and the  
6 different beneficiaries associated with that have  
7 different perspectives -- those of power have a  
8 different perspective than agriculture -- as you -- as  
9 you look at those I'm very -- I want to make sure that  
10 we have the ability to get that input in, because what  
11 might work for the Fry-Ark system might not work for  
12 others, but we're creating a -- a Bureau standard --

13                  MR. MIKE COLLINS: Oh, I understand.

14                  MR. JIM BRODERICK: -- and, so, I sometimes  
15 worry when you try to cookie cut something for the whole  
16 Western United States.

17                  MR. MIKE COLLINS: I -- and I appreciate that  
18 perspective, Jim, I -- I'm more concerned at this point  
19 of getting it right than getting it quick.

20                  MR. JIM BRODERICK: Thank you, that's what I  
21 wanted to hear.

22                  MS. DIANE HOPPE: Wayne?

23                  MR. WAYNE VANDERSCHUERE: Wayne  
24 Vanderschuere, Fountain Valley Authority.

25                  Mike, is there a parallel process going on on

1 the public power side?

2 MR. MIKE COLLINS: No.

3 MR. WAYNE VANDERSCHUERE: Are you sure?

4 MR. MIKE COLLINS: No.

5 MR. WAYNE VANDERSCHUERE: Okay. Just  
6 checking. Well, there is.

7 MR. MIKE COLLINS: There -- there's --

8 MR. WAYNE VANDERSCHUERE: I will share with  
9 you.

10 MR. MIKE COLLINS: Okay.

11 MR. WAYNE VANDERSCHUERE: And --

12 MR. MIKE COLLINS: This -- there's no  
13 relationship as far as I'm concerned between this  
14 process.

15 MR. WAYNE VANDERSCHUERE: There is no  
16 relationship, but there -- but there's a larger  
17 initiative by the Bureau, so for some communities that  
18 would receive CRSP power as part of their allegation  
19 and --

20 MR. MIKE COLLINS: Okay.

21 MR. WAYNE VANDERSCHUERE: -- have -- involve  
22 any water projects with the Bureau could be literally a  
23 double whammy in terms of achieving this market-based  
24 rate, be it power or water.

25 MR. MIKE COLLINS: Okay.

1 MR. WAYNE VANDERSCHUERE: Just -- just  
2 thought I would throw that out on the table.

3 MR. MIKE COLLINS: All right. Thank you.

4 MS. DIANE HOPPE: Anything else to throw on  
5 the table?

6 MR. JIM BRODERICK: And -- and I would say  
7 the reason I brought up the different elements in the  
8 West was because of -- there are different elements that  
9 are hearing the different things coming out of  
10 Reclamation (indicating).

11 MR. MIKE COLLINS: Uh-huh.

12 MR. JIM BRODERICK: Let me do this for  
13 regional Reclamation, not necessarily national  
14 Reclamation.

15 MR. MIKE COLLINS: Okay.

16 MS. DIANE HOPPE: One last time, anything  
17 else for the good of the order? Or anything else you  
18 want to get out in the open?

19 (No response.)

20 MS. DIANE HOPPE: Mike, anything else?

21 MR. MIKE COLLINS: No.

22 Again, thank you for your time today, I  
23 really appreciate it.

24 MS. DIANE HOPPE: Yes, thank you all.

25 (The proceedings were concluded at 4:25 p.m.)

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C E R T I F I C A T E

STATE OF COLORADO )  
 ) ss.  
COUNTY OF PUEBLO )

I, Priscilla Naff Medina, a Professional Court Reporter within and for the State of Colorado, do hereby certify that said proceedings were taken in shorthand by me at the time and place heretofore set forth, and was reduced to typewritten form under my supervision;

That the foregoing is a true transcript of the proceedings had;

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of August, 2011.

\_\_\_\_\_  
Priscilla Naff Medina  
Professional Reporter Court