

PUBLIC HEARING  
STATE OF CALIFORNIA  
DEPARTMENT OF WATER RESOURCES

IN THE MATTER OF: )  
 )  
 )  
MODEL WATER EFFICIENT LANDSCAPE )  
ORDINANCE )  
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~~~~~ )

Resources Agency Building Auditorium  
1416 9th Street  
SACRAMENTO, CA

TUESDAY, MARCH 25, 2008  
9:10 A.M.

LINDA KAY RIGEL, CSR  
CERTIFIED SHORTHAND REPORTER  
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## 1 APPEARANCES

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## 3 DEPARTMENT OF WATER RESOURCES

4 Rick Soehren, Chief, DWR Office of Water Use Efficiency  
and Transfers

5

Gwen Huff, Public Hearing Officer

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Nancy Finch, Staff Counsel

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Manucher Alemi, Staff

8

Simon Eching, Staff

9

Judy Colvin, Staff

10

Trish Romero, Staff Secretary

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12

## 13 ALSO PRESENT

14 Larry Rohlfes, CAE, California Landscape Contractors  
Association #154

15

Jim Metropulos, Senior Advocate, Sierra Club California #153

16

Ivy Munion, Designer/Principal, Irrigation System  
Consultants Group, Inc. #154

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1 P R O C E E D I N G S

2 --o0o--

3 CHIEF SOEHREN: Good morning everyone, and  
4 welcome to our public hearing. Doesn't sound like this  
5 microphone is working. There's an awful lot of noise  
6 generated by the huge crowd here. I hope you can still  
7 hear me all right.

8 My name is Rick Soehren. I'm Chief of the  
9 Office of Water Use Efficiency and Transfers within the  
10 Department of Water Resources. And on behalf of the  
11 entire Department, I want to welcome you to this public  
12 hearing.

13 This hearing today is the next step in what has  
14 been a very long, collaborative process to update the  
15 Model Water Efficient Landscape Ordinance that  
16 California has had since the early 1990s.

17 Today when we get into the meat of the program,  
18 our staff will explain to you the steps we're going  
19 through today, the process for us to take your public  
20 input; and our main purpose today is to receive your  
21 public input on our proposed regulation that is the new  
22 Model Ordinance.

23 This hearing today and the one that we'll have  
24 in southern California on Thursday are the next steps in  
25 a very long process that really began about a year ago.

1           Over the past year, we've had over a dozen  
2 workshops and innumerable conversations, small meetings,  
3 correspondence, phone calls developing an updated Model  
4 Ordinance that will serve California well, that will be  
5 workable, that will conserve water, and that will carry  
6 us into the 21st century with landscape water  
7 conservation.

8           Before we get into the details of today's  
9 hearing, I'd like to provide just a little bit of  
10 context on how we got to where we are today. And the  
11 process really starts back in 1990 when Governor Pete  
12 Wilson signed legislation that directed the Department  
13 of Water Resources to develop the first Model Ordinance.

14           Anybody who has worked in water management for  
15 a long time knows that the early '90s were a terrible  
16 time for water management. The Delta was in crisis.  
17 Delta fish species were declining. The ecosystem was  
18 declining.

19           A lot of people observed that we might need new  
20 conveyance through the Delta. A lot of people were  
21 observing that we hadn't added any storage to the water  
22 management system in a long time. We were going through  
23 some dry years, so water availability was at a premium.

24           And people were also observing that there was a  
25 lot more potential for water conservation, that we

1 weren't achieving everything we could achieve.

2           Now, all of that probably sounds pretty  
3 familiar to what's going on today. If we fast-forward  
4 to the present, we still have problems in the Delta.  
5 And in fact, the more we learn about the Delta, the  
6 worse our problems seem to be.

7           We still don't have any significant improvement  
8 in Delta conveyance. The Delta ecosystem is still  
9 declining and is in worse shape than it was in 1990.

10           And we're learning more about climate change  
11 and the threats that it poses for the Delta and the  
12 water supply that we move across the Delta as well as  
13 the threats that it poses for all other kinds of water  
14 use and water management in California from reduced snow  
15 pack to increased evapotranspiration of landscape plants  
16 and crops.

17           One bright spot, we do have more storage than  
18 we had in 1990. The governor would like to have more  
19 surface storage, but we've actually added around a  
20 million acre feet of storage since 1990. A lot of it is  
21 ground water storage in the San Joaquin Valley and also  
22 new reservoirs constructed by locals or regional  
23 entities, the Diamond Valley Reservoir in southern  
24 California and Los Vaqueros here in northern California.  
25 So there have been improvements there.

1           We've made a lot of improvements in the  
2 ecosystem, mostly upstream of the Delta. Apparently, we  
3 haven't fixed all the problems that the fish are  
4 suffering from because our salmon levels, our smelt  
5 levels, levels of a lot of other Delta species are very  
6 low.

7           We've made a lot of progress in water  
8 conservation and water use efficiency. Thanks to  
9 investments of bond programs that the voters have  
10 approved, we have made a lot of improvements in water  
11 use efficiency. We have developed a lot of new  
12 technology. We have learned more about water use  
13 efficiency.

14           And those developments are really one of the  
15 drivers that prompted some people to think, gee, maybe  
16 it's time to update our Model Ordinance, take advantage  
17 of new technology, take advantage of what we've learned  
18 since the 1990s.

19           So that's what we're really about now, taking  
20 advantage of what we've learned to take the old Model  
21 Ordinance that has served us very well, update it, bring  
22 it into the 21st century, and develop a new Model  
23 Ordinance that's available to local agencies for them to  
24 adopt, that will provide some consistency across  
25 jurisdictions, that will conserve water, and that will

1 be workable for everyone who, from the green industry to  
2 the homeowner, to the business owner who needs to  
3 interface in some way or another with this Model  
4 Ordinance.

5 So thank you all for coming today. And now I'm  
6 going to turn it over to my staff who actually know  
7 what's going on here today so that they can lead you  
8 through the morning.

9 HEARING OFFICER HUFF: Thank you, Rick.

10 Good morning. My name's Gwen Huff, and I work  
11 with the Department of Water Resources, and I would like  
12 to welcome everyone who came here today. Thank you very  
13 much for your time. We appreciate all the input to this  
14 process.

15 There are a couple of housekeeping items. If  
16 you don't have a government ID card, you'll have to sign  
17 in to the building to use the restroom, or they have  
18 been apprised if you show your speaker card, you can  
19 just pass through and use the restroom.

20 We're taking a break at 10:30. We're taking a  
21 lunch break from noon to 1:00. We're taking a 2:30  
22 break. That's the housekeeping.

23 The public hearing body today consists of the  
24 Public Hearing Officer -- that's myself -- department  
25 representatives including staff counsel to the

1 Department of Water Resources represented here today:  
2 Simon Eching from the Department of Water Resources.  
3 Manucher Alemi from the Department of Water Resources.  
4 Nancy Finch is staff counsel. Out at the signing table,  
5 Judy Colvin and Trish Romero. We also have a  
6 professional shorthand stenographer, Ms. Rigel. And we  
7 may also make an audio recording of the public hearing  
8 when you're actually speaking.

9           The public hearings are being conducted  
10 according to the APA, Administrative Procedures Act,  
11 which is a set of requirements and standards for the  
12 rulemaking process including public hearings that state  
13 agencies must follow.

14           We convene here today, March 25, at 9:10 a.m.  
15 to receive public comments on a proposed rulemaking  
16 action by the Department of Water Resources. Today's  
17 public hearing will conclude at 5:00 p.m.

18           The Department has proposed changes to the  
19 California Code of Regulation Title 23, Division 2,  
20 Chapter 2.7 commencing with Section 490. We will refer  
21 to this regulation as the Model Ordinance.

22           The attendance sheet is for everyone, both  
23 speakers and nonspeakers. Today's attendance sheet will  
24 be added to our mailing list to notify all interested  
25 parties of any rulemaking announcements and actions

1 pertaining to the Model Ordinance. Please be sure to  
2 sign the attendance sheet.

3           On display at the sign-in table, we have  
4 exhibits. Exhibit A, Notice of Proposed Rulemaking, is  
5 published in the California Regulatory Notice Register,  
6 February 8, 2008, number 6-Z, pages 174 to 177.

7           Exhibit B is the text of the Model Ordinance.

8           Exhibit C is the initial statement of reasons  
9 for the proposed regulation.

10           And Exhibit D are written comments received to  
11 date.

12           Exhibits A, B and C were duly noticed more than  
13 45 days prior to today's public hearing and mailed to  
14 interested parties and those who requested rulemaking  
15 notices.

16           A little bit of background on how we got to  
17 where we are today. There was a lot of input into  
18 drafting this ordinance back in the '90s. AB 325, the  
19 original Model Ordinance; AB 2717, the Landscape Task  
20 Force recommendations; the required elements of AB 1881  
21 that pertained to the ordinance; existing landscape  
22 ordinances, both through the state and outside of the  
23 state as a review for input. We had 13 stakeholder  
24 meetings and there was substantive literature review.

25           For those who are a little unfamiliar, a little

1 review on the rulemaking process. The top left, the  
2 legislature grants authority to the state agency. Then  
3 we move to the state agency in a rather severe-looking  
4 building. That would be the Department of Water  
5 Resources. We have submitted the Notice of Proposed  
6 Rulemaking, Statement of Reasons, and text of the  
7 regulation.

8 Today we are at the public hearing, which is  
9 part of our 45-day public comment period. We will move  
10 on after that, depending on what types of input and  
11 changes may or may not be made to the ordinance.

12 The purpose of the public hearing is for the  
13 Department to receive public input on the regulation.  
14 This is a quasi-legislative public hearing as part of  
15 the Department's rulemaking function delegated to it by  
16 the California legislature for AB 1881, Chapter 559,  
17 Statutes of 2006.

18 The Department's notice was published in the  
19 California Regulatory Notice Register 2008 Number 6-Z on  
20 February 8, 2008, more than 45 days ago.

21 Under the Office of Administrative Law,  
22 Administrative Procedure Act, APA, this is the time and  
23 place set for the presentation of statements, arguments,  
24 and contentions, oral or written, for or against the  
25 proposed changes to the Model Ordinance.

1           After the public comment period, which will  
2 close March 27 at 5:00 p.m., a transcript of the public  
3 hearing and related exhibits will become part of the  
4 Department's rulemaking record as per the APA government  
5 code.

6           There's also a pink handout which is this  
7 overview of the rulemaking process with text on the back  
8 and a flowchart on the front.

9           This is the process for revisions after the  
10 public comment period. If there are major changes,  
11 there must be public notification after the changes are  
12 ready to go public, and then there's a new 45-day  
13 comment period.

14           If the changes are not major but are  
15 substantial and sufficiently related, again public  
16 notification of the new draft and a 15-day comment  
17 period.

18           If the changes are nonsubstantial, there need  
19 be no public notification at that point and no new  
20 public hearing.

21           If there are major changes or substantial  
22 changes, these two courses may repeat. Once it's gotten  
23 through the public hearing process, it's submitted to  
24 OAL. Once it's been submitted to OAL and been approved,  
25 there is a public notification that it will be approved,

1 and then DWR will adopt the ordinance. And we're  
2 scheduled to adopt that January 1st, 2009.

3 We encourage the submittal of a written copy of  
4 your oral testimony and any supporting evidence. Again,  
5 these must be received by 5:00 p.m. March 27th, this  
6 Thursday.

7 Oral testimony will be in the order of speakers  
8 listed on the attendance sheet. We will accept public  
9 comment only and will not respond to any comments and  
10 testimony during the hearing.

11 Speakers will please approach the microphone.  
12 There are two microphones that are set up. State your  
13 name and affiliation, if any. If possible, speakers  
14 will please provide the page or section numbers of the  
15 regulation to which their comments refer.

16 Oral testimony should be addressed to the  
17 public hearing body. It should be relevant to the  
18 proposed regulation. It should be professional. It  
19 should not be personal in nature.

20 The public hearing officer may impose a time  
21 limit. We will impose a time limit. We will set it  
22 from the front of ten minutes. No one may speak over  
23 ten minutes. We don't anticipate that we're going to  
24 have a time management problem. The ten minutes will be  
25 the maximum anyone can speak.

1           Now, we will begin the oral testimony segment.  
2     Please come to the microphone, state your name and  
3     affiliation, and I will call on the speakers in the  
4     order they were signed up.

5           The first speaker is Larry Rohlfs from CLCA.

6           MR. ROHLFES: I think I have more than ten  
7     minutes of testimony. If I am enthralling, is there a  
8     chance of getting an extension, or is there definitely a  
9     limit to ten minutes?

10          HEARING OFFICER HUFF: How is the body on that?

11          STAFF COUNSEL FINCH: Maybe everyone can have a  
12     first run-through, then he can come back.

13          MR. ROHLFES: I like that idea.

14          HEARING OFFICER HUFF: We'll do that, stick  
15     with the ten minutes. You can go first, ten minutes.

16          MR. ROHLFES: First of all, my name is Larry  
17     Rohlfs, Assistant Executive Director of the California  
18     Landscape Contractors Association.

19          CLCA represents about 3,000 state licensed  
20     landscape contractors and associated industry suppliers.  
21     We are pleased to submit comments -- they will be both  
22     verbal and in writing -- on the Department's proposed  
23     regulations to update the Model Water Efficient  
24     Landscape Ordinance.

25          CLCA strongly supports the need to update the

1 Model Ordinance and optimize water efficiency in urban  
2 and suburban landscaping. Efficient use of water for  
3 landscaping is critically important to the future of our  
4 industry and for the future growth of California.

5 We look forward to partnering with DWR, local  
6 agencies, and property owners to encourage positive  
7 change in public behaviors toward how water is used in  
8 landscaping.

9 CLCA recognizes that, in the recent words of  
10 the governor's Delta Vision Blue Ribbon Task Force,  
11 Californians are compelled to change the ways we behave  
12 toward the environment and water.

13 The proposed update has the potential to change  
14 the behavior of property owners, local agencies, and the  
15 landscape industry. Changing behavior is often  
16 difficult; and one particular aspect of the proposed  
17 regulation, dropping the ET adjustment factor from .8 to  
18 .7, will be challenging for our industry.

19 Lowering this number is controversial among our  
20 membership, and reasonable landscape professionals  
21 disagree on its impact. We are not entirely convinced  
22 that property owners will be able to achieve this goal  
23 without significantly limiting the choice of the plant  
24 palette that was envisioned by the current Model  
25 Ordinance.

1           Nevertheless, we have come to the conclusion  
2 that our members can adapt to designing and installing  
3 landscapes with a lower ET adjustment factor if the  
4 Department addresses most of the other concerns  
5 reflected in our comments, both written and verbal.

6           In reviewing our comments, you will see that we  
7 have made a pragmatic analysis of the proposed  
8 regulation from the perspective of professionals who  
9 must keep customer costs and paperwork to a minimum  
10 while still achieving an attractive landscape that meets  
11 water conservation standards.

12           If property owners see the updated Model  
13 Ordinance as being too costly or overly complex, they  
14 may choose not to make landscape renovations that will  
15 save water or will seek to have work performed by  
16 unlicensed and unqualified persons or simply circumvent  
17 the local permitting process altogether.

18           For these reasons, we are particularly  
19 concerned about applying the updated Model Ordinance to  
20 small residential properties with as little as  
21 2500 square feet of landscaped area.

22           If the updated Model Ordinance does apply to  
23 residential property, it should be gradually phased in  
24 so that landscape contractors can gain real-life  
25 experience with the process before burdening homeowners

1 with expensive and time-consuming requirements that may  
2 not be cost effective.

3 CLCA also believes that the Model Ordinance  
4 draft does not adequately address major weaknesses of  
5 the current ordinance that Western Policy Research  
6 pointed out in 2001. That is, inadequate enforcement of  
7 the maximum water allowance after completion and a lack  
8 of integrated enforcement efforts between land use  
9 agencies and water suppliers.

10 The maintenance and water auditing requirements  
11 in Sections 492.13, 497.14 and 493.1 of the draft would  
12 accomplish very little, in our opinion, to ensure that  
13 new or renovated landscapes will actually be irrigated  
14 under the maximum applied water allowance.

15 The defects in the current Model Ordinance that  
16 were highlighted by Western Policy Research can only be  
17 remedied by applying a water conservation rate structure  
18 that rewards customers for living within a water budget.  
19 Yet the proposed regulation misses what is arguably the  
20 single-most important revision to the current Model  
21 Ordinance, one that would assure that the landscape  
22 installed actually achieves targeted water savings over  
23 the long-term.

24 The proposed Model Ordinance requires a great  
25 deal of paperwork and hoop-jumping. These are often

1 necessary, but CLCA urges DWR to ruthlessly remove any  
2 and all unnecessary obligations from this draft that may  
3 not result in a clear water conservation benefit.

4 We believe that conservation works best when  
5 people want to conserve, not when they are compelled to  
6 do so; and we want our clients to come to us wanting to  
7 make these changes rather than them feeling that  
8 government is making them do something they don't want  
9 to do.

10 We submit our comments in the spirit of  
11 improving the regulations and achieving our mutual goal  
12 of promoting efficient use of landscape water.

13 And I now have comments on the specific  
14 sections of the Model Ordinance that we think should be  
15 improved, but I can hold off on them or not present  
16 them, as you wish.

17 HEARING OFFICER HUFF: At the moment, there is  
18 only one other speaker. Are we okay to let him go on?

19 MR. METROPULOS: I defer my time. I'm the next  
20 speaker. I'm Jim Metropulos with the Sierra Club.

21 STAFF COUNSEL FINCH: Okay.

22 MR. ROHLFES: Thank you, Jim.

23 Okay. Let's start with 490.1, Scope. We don't  
24 believe that cities and counties will be able to enforce  
25 the proposed Model Ordinance update. They simply don't

1 have enough qualified staff to review the paperwork and  
2 inspect the projects. And -- but we think that's their  
3 area of expertise, not ours, and would hope that, you  
4 know, they received the draft and will be commenting on  
5 it themselves.

6           Moving on to 490.3, Applicability. We think  
7 the ordinance will cost some money for property owners.  
8 And what we did was, we came up with four different  
9 types of projects that would be affected by the Model  
10 Ordinance. And there's actually more, but we did four.

11           One is landscapes that currently fall under the  
12 Model Ordinance, the existing Model Ordinance. They  
13 will have to do a few more things, so they will have a  
14 small increase in costs.

15           The other -- landscape number two was  
16 commercial landscape. We're thinking commercial or  
17 public development landscape that currently does not  
18 fall under the Model Ordinance. Perhaps it's in a  
19 charter city. Perhaps that city said they didn't need  
20 an ordinance. Perhaps there's another ordinance in  
21 force that isn't very strong, all kinds of things.

22           It's a commercial landscape project that right  
23 now in such-and-such a city would not fall under it, but  
24 under this, because it now applies to charter cities and  
25 all ordinances have to be at least as effective, would

1 now face increased costs. Those increased costs are  
2 greater than the first landscape I talked about.

3 Then you have residential landscapes. As you  
4 all know, this applies to residential landscapes. And  
5 we divided those into two.

6 One is the landscape that is designed and built  
7 by the homeowner. The design is on the back of an  
8 envelope. The homeowner, you know, does everything  
9 himself and really is paying for the supplies.

10 Then the final landscape is the kind of work  
11 that -- it's the bread and butter of our members,  
12 design/build work where the landscape contractor designs  
13 the landscape and builds it.

14 So those are the four landscapes. We tried  
15 to -- and we had to put the increased costs into  
16 perspective, right? How much do these landscapes cost  
17 now. We took our best shot. Everyone in this room is  
18 going to quarrel with our numbers. But we put some  
19 effort into it and tried to be, you know -- and there's  
20 no typical landscape. You can't really do this because  
21 there is no typical. They're all in a range, so much.  
22 But we just tried to do this.

23 For the landscape, the commercial, we're  
24 thinking commercial. We know it applies to -- the  
25 current landscape -- the current ordinance applies to

1 developer-installed residential. That's a whole 'nother  
2 world. We thought we should address that too. We  
3 didn't.

4 So we had in mind the commercial landscape,  
5 2500 square feet, six-valve landscape, small landscape,  
6 but it falls under this ordinance.

7 Currently under the existing Model Ordinance,  
8 we decided that right now it would cost \$18,075. I  
9 don't know why we didn't round that off, but anyway  
10 \$18,075.

11 Then, the landscape that would fall under the  
12 Model Ordinance for the first time, right now, little --  
13 is a little less, costs a little less. That one, we  
14 decided would cost, right now, \$15,000 to do. Picture a  
15 Jack-in-the-Box, 2500 square feet on a Jack-in-the-Box,  
16 McDonald's, something.

17 Then we've got the homeowner-installed  
18 landscape, right now costs \$6,500, we decided.

19 Then the design/build, landscape designed and  
20 installed by our members, we decided \$20,000. Yes,  
21 residential landscapes are -- cost more than commercial.  
22 There's more expensive stuff in them and more creativity  
23 and all of that, and -- although the design costs are  
24 less. Anyway, \$20,000.

25 Okay. What would the Model Ordinance cost

1 these landscapes? We -- most of these, we came up with  
2 costs. We itemized them. I'm not going to go into that  
3 because it's going to take way too much time.

4 We left out most irrigation. We figured  
5 irrigation was kind of a wash. There is some more  
6 expensive equipment called for here, but then there will  
7 be a movement more to drip, so it's kind of a wash.

8 Although we did charge for high-flow check  
9 valves and hooking up to the recycling for residential  
10 because it calls for that, to hook up to recycling  
11 lines. And we charged for the -- oh, the 24-inch  
12 perimeter; we felt there were extra costs there.

13 But most of the extra costs were paperwork or  
14 inspections, okay? And again, I can answer any  
15 questions you have or go into more detail on that.

16 Anyway, the landscape that currently -- this  
17 commercial landscape that currently falls under the  
18 Model Ordinance then now would face -- would have to  
19 deal with this ordinance, would fall under this new  
20 ordinance, would have increased costs -- remember, it's  
21 an \$18,000 landscape right now -- would have increased  
22 costs of \$2500 to \$3100. Not a lot, but something.

23 The landscape that falls under -- the  
24 commercial landscape that falls under the Model  
25 Ordinance for the first time would have increased costs

1 of \$5300 to \$6300. Okay.

2 The homeowner-installed landscape, the  
3 landscape that Joe Homeowner puts in with his own or her  
4 own sweat equity that costs right now \$6500 would have  
5 \$6,000 to \$7,000 in increased costs, almost doubling the  
6 cost of his or her 2500 square foot landscape.

7 I'm sorry. I'm sorry. The increased costs  
8 would be \$6800 to \$7800. Okay. For that \$6500  
9 landscape.

10 The design/build landscape that right now costs  
11 \$20,000 would have increased costs of \$6,000 to \$7,000.

12 We believe that those increased costs are  
13 overkill for small landscape projects, and they will  
14 discourage owners from landscaping their properties and,  
15 you know -- or they will encourage residential owners to  
16 evade the law by failing to apply for required permits.

17 Specifically, we believe that subsections A and  
18 B should apply to landscape areas that are equal to or  
19 greater than 5,000 square feet. We're talking about  
20 commercial landscapes.

21 You're going to say that's backtracking on the  
22 old ordinance because the existing ordinance applies to  
23 landscapes 2500 square feet and more. But we think with  
24 these increased costs -- just it makes sense to consider  
25 bumping up the trigger from the current 2500 square feet

1 to 5,000 square feet.

2           Also, this would make the ordinance consistent  
3 with -- would make this section of the ordinance  
4 consistent with section 492.9 which requires a dedicated  
5 separate landscape meter for all projects greater than  
6 5,000 square feet, so that those two sections would be  
7 consistent.

8           In addition, we strongly believe that  
9 subsection C is totally inappropriate. Requiring  
10 homeowners to submit a landscape documentation package  
11 and certificate of completion will not work and will be  
12 evaded or resisted.

13           Homeowners simply do not have the expertise to  
14 do this, do all those calculations and stuff. They  
15 can't do it. We didn't even consider that they would  
16 ever do it. They would have to hire either a landscape  
17 architect and a landscape contractor, that combination,  
18 or they would have to hire a design/build contractor to  
19 properly complete these documents and install the  
20 landscape.

21           Homeowners, we think, are going to view this  
22 proposed Model Ordinance as arbitrary because only those  
23 landscapes that require a permit would have to comply  
24 with it.

25           Now, if a landscaping -- if a homeowner wants a

1 retaining wall in excess of three feet or an arbor or a  
2 swimming pool, those things in a landscape require a  
3 permit. Okay?

4 But it makes -- in our view, it makes no sense  
5 to tie the obligation to complete the landscape  
6 documentation package and certificate of completion to a  
7 decision to build a retaining wall. Homeowners aren't  
8 going to understand that. Okay?

9 Most homeowners would simply divide one  
10 landscape project into two projects, okay? A 1,000-foot  
11 project with an arbor and a 3,000-foot project with  
12 everything else, for example. They would divide one  
13 project into two projects to evade this responsibility.

14 Now, DWR staff has told me verbally that the  
15 intent is only to require compliance if a permit is  
16 required for the landscape irrigation or planting.  
17 Now -- but if this wording were changed to make that  
18 clear, it still would be viewed as arbitrary and  
19 capricious by the homeowners.

20 There's no reason why Model Ordinance  
21 compliance should be linked to whether or not a local  
22 agency happens to require a permit for irrigation,  
23 planting or irrigation. Some do. Most don't. So  
24 depending on, you know, where you live in California,  
25 you're -- either you fall under this, or you don't fall

1 under that. It doesn't make a whole lot of sense.

2 Most cities do not require a permit for  
3 irrigation or planting, and so you could ask, you know,  
4 what's the point? Are we fooling ourselves by saying  
5 this is going to apply to residential when typically  
6 most cities do not require a permit for irrigation or  
7 planting? Yet some do.

8 To our way of thinking, it should be more or  
9 less across the board. A state law should apply to the  
10 whole state, not like this.

11 So what's our recommendation? We are  
12 recommending that the 2500 square foot trigger in  
13 subsection C be replaced by a 20,000 square foot  
14 trigger. If this change were made, the ordinance would  
15 still apply to the owners of what we call residential  
16 estates. Okay?

17 These owners would be more likely to afford the  
18 increased cost of Model Ordinance compliance, and those  
19 costs would be in scale with the cost of the 20,000  
20 square foot landscaping.

21 And this also would allow the State of  
22 California to kind of test the ordinance, see if it  
23 works in the residential market; then maybe if it does  
24 work, ratchet it down in a future year.

25 That's our suggestion. You know, there are

1 also a lot of costs that could be taken out, and the  
2 ordinance could be simplified for residential. That's  
3 another approach that could be taken. This really has  
4 to be looked at.

5 Staying in the landscape definitions -- Steve,  
6 are you okay with me rambling on some more here?

7 MR. METROPULOS: My name's Jim, but sure.

8 MR. ROHLFES: Jim, I'm sorry.

9 We're suggesting you change number 15. This is  
10 the definition of established landscape. We're  
11 suggesting that you delete the word "site" and  
12 substitute "native soil beyond the original planting  
13 hole" so that it would read:

14 Established landscape means the point at which  
15 plants in the landscape have developed significant root  
16 growth into the native soil beyond the original planting  
17 hole.

18 We just think it's a little more clear and a  
19 little more descriptive of the goal of establishing a  
20 mature plant root system.

21 We also think number 27 should be changed.  
22 That's the definition for landscape area. We feel that  
23 100 percent of nonirrigated planting areas of a  
24 landscape design plan should be included in the  
25 definition of landscape area.

1           We appreciate that DWR has tried to -- you  
2 know, there are different points of view on this, and  
3 they tried to -- they -- the current draft has that ten  
4 percent thing. And, you know, it's not exactly what  
5 King Solomon would do. That would have been 50 percent.  
6 But we appreciate your trying to juggle all the  
7 different points of view on this.

8           Still, we believe that excluding nonirrigated  
9 areas would encourage owners to irrigate property where  
10 they might otherwise be inclined to leave portions of  
11 the property unirrigated. And the spirit of this  
12 definition could be easily evaded by just running a drip  
13 line into the unirrigated area, then it's irrigated.  
14 And it's so easily evaded.

15           And we feel philosophically that if an owner  
16 decides not to irrigate a portion of a landscape, he or  
17 she should receive credit for that and be allowed to  
18 apply a little more water than otherwise on the  
19 irrigated areas of the landscape.

20           We also remind DWR that the AB 2717 Task Force  
21 did not recommend that nonirrigated planting areas in a  
22 landscape design plan be excluded from the definition of  
23 landscape area. This did not come from the task force.

24           What the task force recommended was to exclude  
25 from the definition areas designated for nondevelopment

1 by the land use agency -- by the land use agency,  
2 meaning open space. And you've done that. You've  
3 handled that recommendation. This, I think, goes way  
4 beyond what the AB 2717 Task Force recommended.

5 Number 33, we're suggesting you change the  
6 definition of low-volume irrigation. Define it by the  
7 volume of water that, per minute or per hour, that runs  
8 through the system rather than by inches. It's a  
9 definition that we think that's more appropriate than --  
10 the amount of water coming through is more important  
11 than what it applies.

12 Change number 46. This is minor where -- I'll  
13 skip over this one; it's just wordsmithing.

14 Number 47, there's a -- it deals with record  
15 drawings or as-builts, and we're saying delete the word  
16 reproducible there. Everything is reproducible with a  
17 copier. Delete it. It's confusing.

18 That's it for the definition section.

19 Moving on to 492.2, Compliance with the  
20 Certificate of Completion -- okay, Jim, keep going? All  
21 right.

22 Okay. (2) (A), (2) (A). It -- this deals with  
23 inspecting the irrigation system prior to back-filling,  
24 and that is not a common practice in the landscape  
25 industry; and we think that's very impractical and will

1 slow down the project considerably.

2 Lateral lines are typically buried when they're  
3 completed. This allows the work to progress in all  
4 areas. If there are lateral breaks below the surface,  
5 they will become manifest during the final field  
6 observation, after project installation. And also flow  
7 sensors would pick up any future main line breaks and  
8 breaks in the lateral lines.

9 In the landscape industry, main line inspection  
10 is the only thing that is done prior to back-filling,  
11 and we think this is going to cause problems and slow  
12 down projects.

13 (2) (B), this is inspection upon final -- upon  
14 completing the project. We think requiring homeowners  
15 to hire a landscape professional -- as it says, it has  
16 to be a landscape professional who inspects it.  
17 Requiring a homeowner to bring in a landscape  
18 professional to conduct a final field observation will  
19 be prohibitively expensive for homeowners who are  
20 installing landscapes themselves. We came up with a  
21 cost. I think we figured that was a \$200 cost or  
22 something.

23 Landscape documentation package. 492.5.

24 (1) (B) (1) should be changed to the following: Soil  
25 analysis report with recommendations. Add the words

1 "with recommendations" to the requirement to have a soil  
2 analysis report.

3 (1) (B) (2) we feel should be deleted. Okay.  
4 This requires an onsite soil assessment by a qualified  
5 soil specialist. This is going to add -- having an  
6 onsite, bringing in a soil specialist, come over and  
7 take, you know, several samples, make recommendations,  
8 the whole bit -- will add \$600 to \$900 per sample to the  
9 cost of a project.

10 When we came up with cost, I think we just did  
11 500. We took a conservative approach. But the soil  
12 expert that we talked to, he couldn't give us a cost  
13 because of driving time and all that. But more or less  
14 what you're talking about.

15 That's a lot of money. Compare that to \$150 to  
16 \$250 only for a lab analysis of a soil sample. This  
17 is -- the onsite analysis is just -- it's an unnecessary  
18 expense, especially for small projects.

19 And so we recommend that the Model Ordinance  
20 require a lab soil analysis with recommendations. They  
21 typically come with -- all the recommendations that you  
22 mention in section 492.7 can be done by the lab.  
23 They're a little -- a couple of them are a little, like  
24 soil infiltrations rates, a little more complicated than  
25 what we usually provide -- can be done all from the lab

1 with the contractor taking the soil sample and the lab  
2 providing the recommendations and then the contractor  
3 following those recommendations which is mentioned  
4 elsewhere in the ordinance.

5           Okay. Moving on to 492.6, that's the Water  
6 Efficient Landscape Work Sheet. I'm sorry; my guys are  
7 suggesting to remove the requirement to fill out section  
8 B of the water use efficiency statement and remove --  
9 just remove it.

10           We feel it's a pointless exercise for the  
11 applicant as well the local agency. It's just going to  
12 be daunting to people, and we don't think it's going to  
13 be used. It's just going to be filed somewhere.

14           492.7 Soil Management Plan. We're suggesting  
15 that the (1)(E) also require information on cation  
16 exchange. Information on cation exchange complex and  
17 cation exchange capacity is pretty standard already in  
18 lab soil analyses, and it provides important information  
19 for future plant health.

20           Of course, there's the comments I already  
21 mentioned about the onsite soil analysis. I won't  
22 mention them again.

23           We also question the need to conduct a further  
24 analysis of soil toxicity in a water conservation  
25 ordinance. Is that appropriate in a water conservation

1 ordinance? We don't think so.

2 Moving on to the Landscape Design Plan, 492.8,  
3 we are suggesting that you reference the California  
4 Invasive Plant Council in (1) (A) (4).

5 Okay. Now we come to (1) (B) (3). And that is  
6 the narrow or irregularly shaped turf area less than  
7 eight feet. Can't have that, less than eight feet, or  
8 it has to be irrigated -- excuse me -- by low volume  
9 irrigation technology.

10 We're suggesting you change the eight feet to  
11 four feet. You know, nozzles currently exist that spray  
12 four feet or less. And we understand the whole thing  
13 about narrow, you know, median strips on the highways,  
14 you know. That makes sense. They go on for miles  
15 sometimes.

16 But here, we are talking about landscapes,  
17 significantly smaller, you know. They're not miles in  
18 length. So we think four feet would make more sense.

19 Also, delete (1) (B) (4). This is the  
20 requirement to have a 24-inch perimeter where turf meets  
21 hardscape everywhere. We think this is a bad idea.  
22 Okay?

23 First of all, it suggests that future  
24 innovation in irrigation technology will not occur. It  
25 really limits design creativity. And it's downright

1 ugly, especially in small residential landscapes.

2 More importantly, it's going to increase costs.

3 How much? A thousand dollars extra cost in a small  
4 landscape, 2500 square foot to 5,000 for header board,  
5 gravel. There's different ways you can deal with this.  
6 But it's going to increase costs, you know, around a  
7 thousand bucks for a homeowner.

8 For all those reasons, you know, get that out.

9 I mean, you've already got the water budget, you know.  
10 To me, it's -- you're almost assuming that the water  
11 budget is not going to work when you have that in there.

12 (1) (C) (2). It's our belief -- we could be  
13 wrong on this -- but it's our belief that recycled water  
14 normally should not be used as a source of water for  
15 water features, which it calls for.

16 (1) (D) (1). We're suggesting that you delete  
17 the following sentence: In mulched planting areas, the  
18 use of drip irrigation is highly recommended.

19 We don't see any special relationship between  
20 mulch and drip; and there are times when drip irrigation  
21 is not a good idea in mulched areas, such as with ground  
22 cover, annual color, large shrubs or areas with --  
23 basically, areas with heavy foot traffic.

24 A compromise suggestion would be to recommend  
25 low volume irrigation in mulched planting areas.

1           There is a little omission in (2) (A) (3), that  
2 I'm sure you meant to have but overlooked. You need to  
3 add "licensed landscape contractor" there along with  
4 licensed landscape architect. Licensed landscape  
5 contractors are permitted by law to design plans for  
6 design/build projects. I'm sure that was an oversight.

7           (2) (A) (6). The requirement in (2) (A) (6) to  
8 identify the topography with proposed contour lines in  
9 elevations. That's appropriate in a large project, the  
10 kind of project that the existing Model Ordinance  
11 currently applies to, mostly commercial and so forth.

12           But it's overkill, and it's not customary for  
13 design/build or owner design residential projects  
14 smaller than 20,000 square feet. A proper survey with  
15 plans by an engineer would add more than \$1,000 to the  
16 cost of a 5,000 square foot project.

17           Planting plans, (2) (A) (9). Planting plans  
18 don't typically include the location of utilities. All  
19 that can be included in a planting plan or landscape  
20 plan is the points of connection to the utilities  
21 because the utility lines aren't even there yet.

22           What should be done, or could be done, the  
23 planting plan should simply state that the installing  
24 contractor call underground service alert. And it's a  
25 state law for the subcontractor to do that.

1 Delete (2) (F) (1). Or make it clear that this  
2 provision only applies to landscape architects.  
3 Design/build landscape contractors do not need and  
4 typically do not do installation details for the  
5 landscape.

6 Moving on to the irrigation design plan, 492.9.  
7 (1) (A) (8). (1) (A) (8), I think, is a good example of a  
8 provision that's just not appropriate for an average or  
9 single family residential projects less than 20,000  
10 square feet. That's the provision that calls for  
11 high-flow check valves or other technology to interrupt  
12 operation in high-flow conditions created by irrigation  
13 damage or malfunction.

14 We actually suggested this for commercial  
15 projects, that this be in. But it does -- it's overkill  
16 for residential or very expensive for residential.  
17 Unless somebody knows something we don't, we think this  
18 is going to add about \$900 in compliance expenses to  
19 residential landscape.

20 (1) (B) (3) -- Oh. I think this is just a little  
21 wordsmithing here or mistake on your part. You have  
22 sprinkler head -- sprinkler head shall have matched  
23 application rates for uniform coverage. I think that  
24 should be matched precipitation rates.

25 Let's see. (2) (A) (5), skipping over a couple

1 things here that were actually in the landscape design  
2 plan but I've already mentioned in the context of design  
3 plan so I won't mention again.

4 But (2) (A) (5). The requirement there to  
5 identify the topography with proposed contour lines and  
6 elevations -- forget that; I've already mentioned that.

7 (2) (A) (8). No, skip that too. Going -- oh,  
8 and also in this section, somewhere in this section,  
9 consider adding a new item requiring pressure  
10 compensating devices on all sprinkler heads to fine tune  
11 the spray radius for maximum irrigation efficiency.  
12 That will add some cost, but we think they're justified.  
13 Require pressure compensating devices.

14 Moving on to the grading design plan. Grading  
15 design plans are not typically done for residential  
16 projects.

17 And with respect to your public agency and  
18 commercial projects, the first paragraph should be  
19 changed as follows. Right now, it reads:

20 For the efficient use of water, grading of a  
21 project site shall be designed to minimize soil erosion,  
22 runoff of water waste. A grading design plan meeting  
23 the following design criteria and specifications shall  
24 be submitted as part of a landscape documentation  
25 package.

1           And we're saying add: If the grading design  
2 plan is different from the grading plan previously  
3 submitted by the civil engineer.

4           Okay? A grading design plan will already have  
5 been submitted by the civil engineer and approved by the  
6 city or county. Okay, but the landscape contractor or  
7 the landscape architect can make modifications to it and  
8 thereby create a separate grading design plan.

9           But it's pointless to ask the architect or the  
10 contractor to submit it, something that's already been  
11 submitted and approved.

12           So our suggested wording change is intended to  
13 make clear that only substantial modifications to the  
14 civil engineer's plans are subject to approval.

15           Now an alternate suggestion would be not to  
16 require the submittal of any grading designed plan in  
17 the landscape documentation package since it seems they  
18 have little to do with water conservation, and the  
19 original grading design plan would already have been  
20 evaluated to prevent problems with soil runoffs --  
21 runoff and erosion and things like that. So that needs  
22 another look.

23           Then finally in the grading section, delete  
24 (2) (A) (7). That's -- we've already talked about that in  
25 the context of the planting plan, so we'll skip that.

1           492.11, Certificate of Completion, just one  
2 comment. The wording of (2) (A) and (2) (B) should be  
3 modified to take into account as-builts because they  
4 become the overriding plans of the project.

5           492.12, Irrigation Scheduling. We feel that  
6 restricting irrigation to the hours of 8 p.m. to 10 p.m.  
7 in item 2 may not work for new turf grass or ground  
8 cover, hydroseeding, or seasonal overseeding. So there  
9 needs to be some flexibility there for overseeding and  
10 things like that.

11           The irrigation scheduling requirements in item  
12 4, and the requirement in 292.9 to install a  
13 weather-based irrigation controller, a soil moisture  
14 controller, or other self-adjusting controller do not  
15 appear to mesh with one another.

16           Okay? You've got -- it seems like this is a  
17 suspender-and-belt-type thing where you've got two  
18 things unnecessarily. You've got -- and you've already  
19 done some work on it and it's improved from the earlier  
20 drafts.

21           But we feel that more guidance on the  
22 relationship between the written schedule -- the  
23 schedule requirements that are written and the  
24 controller requirements, more guidance on how the two  
25 should mesh is needed because you really don't need --

1 you know if you've got the ET controller there, you  
2 really don't need -- that's what sets the schedule. You  
3 don't need these written schedules that, I imagine, will  
4 just be filed away somewhere.

5 Or another suggestion would be to only require  
6 the written irrigation schedules for the plant  
7 establishment period but not after that because you've  
8 got the ET controller doing that.

9 It needs more work, I think. At least more  
10 guidance as to how -- because people are going to be  
11 confused by that. Okay.

12 Moving on to 492.14, Landscape Irrigation  
13 Audits and Audit Schedules.

14 Change item 1 to the following -- oh. That's  
15 where it says that all landscape irrigation audits  
16 should be in accordance with the IAA's auditing manual.  
17 And we're suggesting that you just add a phrase there  
18 saying: Or other manual approved by DWR for this  
19 purpose.

20 And I think that would give DWR some  
21 flexibility should it decide at some future date that  
22 other methods of auditing -- and we're thinking more  
23 streamlined methods for residential, less costly  
24 methods. If they would -- if DWR decides that, it's not  
25 locked into these.

1 Another comment. The project applicant, who  
2 typically is not the owner, cannot be responsible for  
3 submitting a landscape irrigation audit report every  
4 five years as stated in (3)(D). That responsibility has  
5 to fall to the owner.

6 In addition, it would make sense to exempt the  
7 owner from having to conduct this audit if the owner can  
8 prove that the landscape's water use was under the  
9 maximum applied water allowance during the previous five  
10 years.

11 Again, just trying to cut unnecessary costs.  
12 If the landscape is under mallow, why does it really  
13 need to undergo that audit costing between 500 to a  
14 thousand dollars?

15 Item 4 should not apply to projects under  
16 5,000 square feet or to any residential projects.

17 Projects under 5000 feet are not required to  
18 have a dedicated landscape water meter. Residential  
19 landscapes of any size are not required to have a  
20 dedicated landscape water meter, at least in most areas  
21 of the state.

22 The local agency cannot compare the maximum  
23 applied water allowance with actual landscape water use  
24 unless that water use is measured by a dedicated  
25 landscape water meter. It's not going to work.

1 (4) (B) (2) should be changed to the following:

2 The local agency's cost of conducting the landscape  
3 irrigation audit shall be paid about the -- delete  
4 project applicant and insert owner.

5 Again, the project applicant who installed the  
6 landscape should have no responsibility for an audit  
7 conducted five years later.

8 Moving on to recycled water. We applaud the  
9 concept of requiring all new construction to be plumbed  
10 for current and future use of recycled water. This was  
11 actually in the old ordinance, but now it applies to  
12 residential too. We think that got overlooked when you  
13 decided to apply it to residential.

14 We believe that requiring all new construction  
15 to be plumbed for recycled water should be in statute or  
16 mandated by the Building Standards Commission, shouldn't  
17 be kind of back-doored in a Model Ordinance. And  
18 requiring recycled irrigation systems for residential  
19 properties with landscapes of 2500 square feet or more  
20 in the Model Ordinance update would discourage many  
21 local agencies, we think, from adopting the Model  
22 Ordinance.

23 Anyway, it may have been appropriate in the  
24 existing ordinance that applied to commercial. Not  
25 appropriate now that it's applying to residential.

1           And we just think this is one more example of  
2 our assertion that the Model Ordinance update is not  
3 appropriate for residential landscapes.

4           The very last section, 493.1, Landscape  
5 Irrigation Audits. We're suggesting that you change  
6 item 1 -- but that's the same thing. Basically, give  
7 yourself some flexibility on IAA's manual to allow some  
8 other method at some future date.

9           A final comment. We fail to understand how a  
10 local agency could comply with item 4 which requires the  
11 city or county to compare customers' landscape water use  
12 to local reference evapotranspiration, identify whose  
13 landscapes exceed 80 percent of local ETo, and annually  
14 conduct landscape irrigation audits on a minimum of  
15 20 percent of those landscapes.

16           Okay. Such sites, many of them residential  
17 sites, smaller than 5,000 square feet, they're not going  
18 to have dedicated landscape meters; and even their exact  
19 size is going to be somewhat difficult to determine. So  
20 we just don't see how that's going to be enforced.

21           In conclusion, thanks once again to Jim for  
22 allowing me to go over my ten minutes.

23           We're -- we know this is very, very hard. And,  
24 you know, you -- DWR has worked hard on it. These  
25 comments are in the spirit of trying to improve it and

1 making it work for us and owners, and I hope they are  
2 heard that way. Thank you.

3 HEARING OFFICER HUFF: Thank you very much. We  
4 appreciate the comments from CLCA. You've been working  
5 with us for a long time.

6 The next speaker is Jim Metropulos from the  
7 Sierra Club. If you could kindly come to the podium.

8 MR. METROPULOS: Good morning. My name is Jim  
9 Metropulos. I'm the Senior Advocate with Sierra Club  
10 California. We represent Sierra Club's 200,000 members  
11 in California.

12 I'm also speaking on behalf of the National  
13 Resource Defense Counsel, NRDC. They are another  
14 environment organization, and we have collaborated on  
15 joint comments which we will submit by Thursday. Thank  
16 you for the opportunity.

17 I served on the Landscape Task Force. We  
18 commend DWR with this proposed draft Model Ordinance.  
19 We think it's very important, and the time is right to  
20 be doing this.

21 As you know, Governor Schwarzenegger has  
22 recently called for a 20 percent per capita reduction in  
23 water use by 2020.

24 In the urban sector, we believe that the update  
25 and the adoption of the draft Model Ordinance or

1 ordinances that are at least as effective as the Model  
2 Ordinance is an important component of the governor's  
3 plan, and we think it will bring a lot of reduction in  
4 water use in the state.

5 Specifically, there are three points which we  
6 want to support in the changes in the current Model  
7 Ordinance.

8 First off, we support the reduction of the  
9 evapotranspiration adjustment factor, or the ETAF  
10 factor, to .7. We believe that there have been  
11 improvements since 1991 in irrigation technology and  
12 landscape design and maintenance since the Model  
13 Ordinance was first adopted to justify a reduction to  
14 .7.

15 The switch from .8 to .7 is easily attainable  
16 with minor improvements in irrigation efficiencies.  
17 Many water agencies in local cities are requiring an ET  
18 factor of less than .8.

19 The current .8 within the formula allows for  
20 almost 40 percent of the water to be wasted. California  
21 can be doing much better. We support this change.

22 The next part, the current draft of the  
23 proposed ordinance proposes that landscapes within  
24 24 inches of nonpermeable hardscape such as sidewalks  
25 need to be watered with either drip or subsurface

1 irrigation. We support this change because it's going  
2 to help reduced runoff, and it's wasteful.

3           Already, water agencies such as Coachella  
4 require drip irrigation or low-volume flow on this  
5 24-inch set-back. So we support that change in 492.9  
6 (2) (B) (8) (9).

7           Third thing we'd like to point out and we  
8 support is the proposed Model Ordinance clearly  
9 identifies the required elements and the responsible  
10 parties during the design, installation, and inspection  
11 of a landscape project in order to certify compliance  
12 with the ordinance.

13           You're clearly saying this is what the local  
14 planning agency has to do, this is what the project  
15 applicant has to do, this is what the water  
16 provider/supplier has to do. You're setting that forth  
17 so it's clear that people know what they have to do  
18 within this process.

19           We also like the fact that the proposed Model  
20 Ordinance allows the local agency to administer  
21 penalties for noncompliance with the landscape  
22 ordinance.

23           These penalties include denying certificate of  
24 occupancy till the landscape is certified complying with  
25 the ordinance, also includes monetary fines, and it also

1 goes up to termination of water service.

2           These changes are necessary to authorize the  
3 local agency to enforce the ordinance.

4           Now people will look at the current ordinance,  
5 and they'll say, oh, the problems aren't with the ET  
6 factor of .8. The problems are with people not  
7 complying, people not enforcing.

8           We don't think it's just that. You need to  
9 make all these changes. You have to look at the ET  
10 factor. You justify the reduction there. We believe  
11 that DWR in its White Paper has. You need to provide  
12 the local agency water suppliers with the tools to  
13 enforce the Model Ordinance.

14           So we commend these changes. We think you've  
15 done a good job with the proposed Model Ordinance. And  
16 thank you for your time.

17           HEARING OFFICER HUFF: Thank you very much.

18           I have no other speakers on this list. Does  
19 anyone else wish to speak at this time? We're taking a  
20 break at 10:30. We'll just rest.

21           STAFF MEMBER ECHING: Take it early, if there's  
22 nobody to speak now. Take it now and come back.

23           HEARING OFFICER HUFF: Come back at 10:30?

24           STAFF MEMBER ECHING: Yeah.

25           HEARING OFFICER HUFF: Okay. We'll take the

1 official break now and resume at 10:30.

2 (Recess)

3 HEARING OFFICER HUFF: I'm going to ask we  
4 reconvene the public hearing. I'd like to reconvene the  
5 public hearing. We have a third speaker. If you would  
6 come in?

7 MS. MUNION: Hello. There we go. I'm Ivy  
8 Munion with ISC Group. I'm an independent irrigation  
9 consultant in northern California. I was also on the  
10 Task Force for AB 2717, and I do have a couple of things  
11 that I would like to make comment.

12 And one of them would be Section 490.3(2)(A)  
13 and that would be the residential homeowner-installed  
14 front yard, you know, 2500 square foot.

15 I think that should be changed to 5,000 square  
16 feet or be totally removed, like homeowner-installed  
17 landscapes, you know, like Larry was saying. It's going  
18 to be hard to even get them to comply with that to begin  
19 with. So make it 5,000 -- not 20,000; that's pretty  
20 big, but.

21 Next would be Section 492.9. That is the  
22 requirement of weather-based controllers or ET-based  
23 self-adjusting controllers. I believe that should not  
24 be a requirement, that that could be a recommendation,  
25 but they still have to comply with maximum water

1 allotment because even if they have a smart controller  
2 with self-adjusting, if it's installed improperly or  
3 programmed improperly, it's garbage in/garbage out.

4           There has been homeowner associations that went  
5 through the rebate program, went ahead and got the smart  
6 controllers, and now they use three times the amount of  
7 water because they did not properly understand it.

8           Part of the ordinance requires education. I  
9 think that is a key point, the education for end users,  
10 contractors, designers. It needs to be out there.

11           And I think the state is working really hard to  
12 come up with templates and resources that are available  
13 online. I think with the templates and the resources  
14 online, I believe that the new Model Water Ordinance can  
15 have a chance succeeding.

16           We still have issue with the fact that there  
17 are no teeth in the ordinance. The ordinance is still  
18 directed towards the cities as opposed to the water  
19 agencies. There are some water agencies that are  
20 working directly with some cities and come up with their  
21 own ordinances. That may be -- the state might want to  
22 look at using it as their template on how to integrate  
23 the water agencies with the cities.

24           There is Imperial Valley down in southern  
25 California. There is East Bay MUD who also has their

1 own water conservation guidelines, and they have a plan  
2 checking process through that.

3 So maybe they might want to kind of look at  
4 that and tweak it a little bit. As opposed to making  
5 the restrictions on cities, make it on the water agency  
6 because they're the ones that are going to be the ones  
7 that have to increase those rates.

8 Because without water costing something, it's  
9 nothing. People take it for granted. Water is gold,  
10 and people look at it like it's nothing.

11 So that's it. Thank you.

12 HEARING OFFICER HUFF: Thank you.

13 MS. MUNION: Somebody else please.

14 HEARING OFFICER HUFF: Are there any other  
15 speakers at the moment?

16 HEARING OFFICER HUFF: Should we call it a  
17 break or leave the session open?

18 MS. MUNION: Have Marsha talk. Make her talk.

19 HEARING OFFICER HUFF: So right now the time is  
20 10:35, and we'll just be in a break. But we'll remain  
21 here, and if someone else comes to speak, we'll reopen  
22 it. So don't feel that you need to attend to what's  
23 happening here. We'll reconvene as another speaker  
24 shows up.

25 (Recess)

\* \* \*

(Thereupon the DEPARTMENT OF WATER  
RESOURCES public hearing was in recess;  
staff and the Certified Shorthand  
Reporter remained available for public  
comment until 4:50 p.m. at which time the  
public hearing adjourned.)

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1 CERTIFICATE OF REPORTER

2 I, LINDA KAY RIGEL, a Certified Shorthand  
3 Reporter of the State of California, do hereby certify:

4 That I am a disinterested person herein; that  
5 the foregoing DEPARTMENT OF WATER RESOURCES public  
6 hearing was reported in shorthand by me, Linda Kay  
7 Rigel, a Certified Shorthand Reporter of the State of  
8 California, and thereafter transcribed into typewriting.

9 I further certify that I am not of counsel or  
10 attorney for any of the parties to said public hearing  
11 nor in any way interested in the outcome of said public  
12 hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this March 31, 2008.

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21 LINDA KAY RIGEL, CSR

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