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Transcript of OWASA proceedings

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December 8, 2011.

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1 Thursday, December 9, 2011

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3 MR. MERKLEIN: We'll now move on to our  
4 regularly scheduled agenda. Our first item for  
5 discussion is with Tom Fransen, Deputy Director of the  
6 North Carolina Division of Water Resources and Water  
7 Resource Management Section Chief, and I'd like to call  
8 on Mason, who will provide us an introduction.

9 MR. CRUM: Thank you very much. It's  
10 my pleasure tonight to introduce Mr. Fransen. I sent  
11 you by e-mail his full bio. I'll just hit a few  
12 highlights. Tom has a bachelor's and master's degree in  
13 engineering from North Carolina State. He also has a  
14 bachelor's degree in biology and natural sciences from  
15 Carthage College.

16 Tom began working for the State of North  
17 Carolina in 1984, where he has served as an environmental  
18 engineer, River Basin Management Section Chief, and since  
19 2008, as the Deputy Director of the Division of Water  
20 Resources. This past July, as y'all know, the state's  
21 been doing a lot of reorganizing, and when they did that  
22 Tom also assumed the title of Water Resources Management  
23 Section Chief.

24 Tom's got his trusty assistant, Don Rayno, here  
25 tonight, and we very, very much appreciate y'all taking

1 your evenings to come here and educate us on the Round  
2 Four Jordan Lake allocation process. Thank you, Tom.

3 MR. FRANSEN: It's a pleasure to be here  
4 tonight. I've been getting a lot of questions from the  
5 Board, so I'm glad to see that you're getting engaged in  
6 the process. It's important that everybody's comfortable  
7 with it.

8 What I'd like to do tonight is just give a  
9 little background--a short background on the allocation  
10 process and then move right into the questions that you  
11 supplied to me, and we'll see if we can't get some of  
12 your questions answered.

13 I think we all know where this group is, where  
14 Jordan Lake is; at the confluence down just on the Haw  
15 and the New Hope Creek over in Chatham County is where  
16 the dam is.

17 As far as regulations go relating to why the  
18 state's involved and how--what our involvement is with  
19 Jordan Lake, since it is a federal project, North  
20 Carolina did enter into a contract when it was built with  
21 the federal government for the water supply storage in  
22 Jordan Lake. It's unique. It's the only project in the  
23 state that the state owns the water supply storage in,  
24 or has a contract for it. So Jordan's unique that way.

25 The regulations that we follow to allocate that

1 water out to the municipalities, then, is--you've got the  
2 citation there, and it says we can only allocate water  
3 to units of local government. Organizations like OWASA,  
4 under North Carolina statutes, qualify as a unit of local  
5 government. We cannot allocate water to industries.  
6 We've had requests from nurseries and other folks to use  
7 that water. We cannot use that for allocat--we cannot  
8 allocate them water.

9           There's not much in the statute except the fact  
10 that the Commission does the allocations. There are some  
11 rules that have got some age on them now that kind of  
12 outline the process. I think the important thing to note  
13 here, too, is with--Don and myself, our division acts as  
14 staff for the Environmental Management Commission. We  
15 do not make the decision. That's actually up to the  
16 Commission.

17           What we're talking about--we've actually showed  
18 the storage in Jordan Lake in two different ways. One  
19 down here is a pie chart to kind of show you the  
20 percentage, and then it's also broken up by elevations.  
21 And so we're really talking about, between Elevation 202  
22 and 216, this percentage--this smaller percent here, the  
23 water supply.

24           When I talk to groups--people downstream of  
25 Jordan, they're concerned that the water supply is going

1 to impact low flow releases. They're still--the bulk of  
2 that water is still sitting there for low flow  
3 augmentation for water quality purposes, and we're not  
4 touching that from an allocation viewpoint.

5 As far as the allocation history goes, the first  
6 time we did it was in 1982, about the time the lake  
7 became full. It took us six years the first time. We  
8 came back again in '96 for a second round, and that was  
9 actually broken up into two rounds, an A and a B, because  
10 we had some with allo--that had an IBT and some that did  
11 not, so actually we ended up with two decisions out of  
12 this Round Two.

13 Then Round Three was in 2000, and now we've got  
14 the fourth round started here at--towards the end of  
15 2009. And what--

16 MR. YOUNG: Excuse me.

17 MR. FRANSEN: Yes.

18 MR. YOUNG: Tom, could you clarify IBT?

19 MR. FRANSEN: I'm sorry.

20 MR. YOUNG: I think I--

21 MR. FRANSEN: IBT is Inter-basin Transfer.

22 MR. YOUNG: Yes, thank you.

23 MR. FRANSEN: But for this group, that's  
24 not a big issue except how it might impact the schedule.  
25 For some of the partners in the Jordan Lake Water

1 Partnership, like Cary, that could become an issue.  
2 Possibly Durham. You'll have to excuse me if I use too  
3 many acronyms. I do this too much. Bad habit here.

4           The approach that the Commission has wanted us  
5 to take is a very reasonable approach, that when somebody  
6 comes in with a request, they don't want to deal with  
7 them kind of like first come, first served. They want  
8 to make sure that the allocations are done in such a way  
9 that it's meeting the regional needs, and we're kind of  
10 balancing immediate need versus long term need.

11           And when we talk region, they've got a big  
12 defined region here. You know, we're taking basically  
13 a 50 mile buffer around Jordan Lake and anything  
14 downstream of Jordan Lake in the Cape Fear watershed,  
15 because one of the ways you can get water from Jordan  
16 Lake for your allocation is to ask the Corps to release  
17 it and you pick it up downstream.

18           So you can see we're taking a pretty big swath  
19 of the state here when we're dealing with this allocation  
20 process. This is the same thing that we've done for  
21 Rounds Two, Three, and now Four.

22           Part of the reason the allocation takes--or  
23 seems to take long--and it does take long--the  
24 Commission, in Round--I can't remember if it was Two--  
25 Round Two, they asked us to start doing a planning

1 process associated with it. They want to make sure that  
2 people are not going to be--that when we get done with  
3 an allocation, that five years down the road, somebody  
4 else is going to run out of--need water or they're going  
5 to run out type of thing, and so we do a pretty detailed  
6 planning process that then supports the applications.

7           And so in our planning process, we also develop  
8 a hydrologic model. That's taken us a little longer to  
9 get it updated this time, partly because we're actually  
10 updating the Cape Fear and combining it with the Neuse  
11 model. With the regional issues in this region, to  
12 really understand how to optimize the resources that's  
13 going on and the interactions between the Cape Fear, the  
14 Neuse, and Falls versus Jordan and all the other  
15 reservoirs and stuff, we thought we really needed to have  
16 a model that could put those two pieces--those two basins  
17 together.

18           So the process, from the real high level, we do  
19 a basin plan that's a 50 year planning horizon, because  
20 we talk about allocations. They can be a Level 1 or 2,  
21 Level 1 being those that need it immediately. Those are  
22 based on kind of an immediate need, with a planning  
23 horizon out to 20 years. Level 2 is something longer,  
24 you don't need it immediately, with about a 30 year  
25 planning horizon.

1           You can see the Commission's being careful,  
2 because they didn't tell us to plan for a 30 year. They  
3 actually planned for 50 so that we're not going to  
4 potentially miss a problem by cutting that planning  
5 horizon too short, which adds for some fun, because as  
6 you know, the further out you go, the less reliable your  
7 projections and the harder it is to do it, but we make  
8 our best shot at it.

9           As I said, the process kind of started back at  
10 the end of 2009, kind of more formally started in  
11 February of 2010. Because it's taken us a little longer  
12 to do the modeling, our best estimate right now is  
13 probably the end of 2013 would be when the Commission  
14 would actually be making a decision.

15           And you'll get a--as I understand it, the--my  
16 PowerPoint will become available for you so you  
17 don't--you can study that in more detail or if you've got  
18 a specific question, I can try to answer it.

19           So we're probably--some of the differences from  
20 the last round is, we're putting more emphasis on the  
21 long range planning right now, so that we really would  
22 like the appli--we're trying to work with the applicants  
23 and others in the basin so that when the applications  
24 come in, they kind of match the planning and everything  
25 kind of falls together so we make--so that it gives a



1 good solid presentation to the Commission to help make  
2 their decision easier.

3           There may or may not be any Inter-basin  
4 Transfer. That's what the IBT is. The Commission  
5 reserved the right to determine how we would handle that  
6 process after they found out if there would be any IBT  
7 or not.

8           And there is a provision in the current rules  
9 that says we cannot allocate more than 50 percent outside  
10 of the Jordan Lake watershed. That has now been  
11 revisited since the original rule, and we're going to,  
12 as part of the planning process, look to see--make a  
13 recommendation to the Commission whether that 50 percent  
14 should remain or be modified at some point later.

15           Quick history. We talked about the three  
16 rounds. OWASA's been involved in all three rounds. You  
17 can see your initial allocation in 1988 was 10 million  
18 gallons a day--or actually, let me clarify that. Your  
19 allocation really is a percent of the storage, which  
20 is--and you've got 10 percent. Our current estimate of  
21 the safe yield is 100 million gallons a day, so we have  
22 a tendency to get a little sloppy and interchange percent  
23 and MGD. You really should be--to be really correct, we  
24 need to be talking in terms of percent of the storage.  
25 So you had 10 percent.

1           As we moved through Round Three, they did take  
2 a hard look at existing allocations, and it was  
3 determined that--and I think with a consensus of the  
4 OWASA staff and folks, when nobody really challenged it,  
5 we reduced that from 10 down to 5.

6           If you want a little bit more background on this  
7 one, it's--remember, we're staff that recommend--make  
8 recommendation to the Commission, and if you actually go  
9 back and read the record in Round One, staff only  
10 recommended 5 MGD for OWASA in Round One. OWASA pleaded  
11 their case convincingly enough that the Commission  
12 decided that OWASA should get 10, and override the staff  
13 recommendations.

14           So they listen to us, but they are a very  
15 independent body and they will make their decisions based  
16 on the evidence that they see in front of them. So from  
17 our viewpoint, Three just corrected a mistake from One,  
18 but--

19           This kind of goes back to the storage a little  
20 bit here again, just to kind of highlight how the storage  
21 is broken out. You've got flood control, sediment pool,  
22 water supply, and the low flow, so we're really talking  
23 about allocating this small piece of the pie, and that's  
24 currently how it's allocated, and you can see how much  
25 is unallocated versus allocated to the various allocation

1 holders.

2 I've had some questions about cost. The state  
3 entered a contract with the federal government and we are  
4 responsible for paying that back. The main difference  
5 between a Level 1 and Level 2 is what you have to pay.  
6 That's what the original purpose of it was for.

7 Level 1 is if you're--since you're using the  
8 water, you're paying back on the--you're paying your  
9 interest and capital, just like paying off your home  
10 mortgage. And the Corps does charge us an operation and  
11 maintenance fee every year, so you're paying your share  
12 of the O & M costs.

13 Level 2, since you're not really using it, we  
14 were trying to give municipalities a break and saying,  
15 "Okay, you know, we still have to maintain the lake so  
16 you need to pay your share of the O & M. We still have  
17 to pay the interest, but we'll let you defer paying on  
18 the capital."

19 So really, the Level 1, Level 2 discussion  
20 that's kind of gone on through some of the e-mails and  
21 things has kind of taken a different twist than what it  
22 was originally intended for. It really was--really dealt  
23 more with the payment issue than how do you lock up and  
24 prioritization and some of the things that have been  
25 discussed.

1 Capital costs for one percent is roughly  
2 \$48,880. The interest rate that we have with the Corps  
3 is 3.225 percent. So on an annual basis, that would be  
4 roughly the \$1,400. O & M costs, as you can imagine,  
5 varies each--it can vary year to year. It's been roughly  
6 in the \$300 to \$800 range.

7 The thing to note here is--well, that's actually  
8 on the next slide. This is the citation for the payment  
9 requirement, and I'm not sure why we did it. I was  
10 working for the Division at the time but not on the  
11 project. It basically said by 2012, your capital had to  
12 be paid off. So since with these new rounds, we won't  
13 be doing the allocation until after 2012, people will  
14 have to be paying the full capital cost up front.

15 I guess what that means is actually you pay a  
16 big lump sum, but then, you know, you only have to pay  
17 O & M after that, because there wouldn't be any interest  
18 to pay. So if you go back--so that means for every one  
19 percent storage, roughly \$49,000 would be the up front  
20 cost.

21 I guess before I get into your specific  
22 questions, are there any general questions? Or  
23 otherwise, I'll kind of start stepping my way through the  
24 questions that y'all sent.

25 MR. RIMER: I've got a geeky question

1 on your modeling.

2 MR. FRANSEN: Sure.

3 MR. RIMER: What are you all doing to  
4 accommodate for the potential for climate change in  
5 hydrologic modeling, if you know?

6 MR. FRANSEN: Yeah, I do know. Actually,  
7 we just had a meeting on that yesterday. We had the  
8 state climatologist and some other experts come in to  
9 talk to us. We've got an approach that we hope that will  
10 work, that we're kind of going through a testing phase  
11 on it. The RTI has a model called Waterfall.

12 Our goal is whenever we can get the climate  
13 models to a point that we're comfortable with them, that  
14 we'll work with the Climate Office to get them downscaled  
15 so we can use that as an input into Waterfall. Waterfall  
16 will create a flow set for us that we can then run  
17 through our existing model.

18 So that way we would be modeling--our models  
19 currently are based on historical stream flows, so that  
20 with Waterfall, we'll have an alternate data set to run.  
21 We can do either the historical or a--something based on  
22 a climate model.

23 The state climatologist basically said at this  
24 point, we'd be having to run probably 20 or 30 scenarios,  
25 and he doesn't really feel that the climate models for

1 North Carolina are in good enough shape to justify that  
2 level of effort. So we feel with Waterfall we'll have  
3 the tool, once we feel the--once the experts tell me they  
4 feel that the models are worth running.

5 MR. RIMER: Thanks, Tom.

6 MR. RAYMOND: Tom, just to clarify a note  
7 that I wrote, the--you said the Level 1 and Level 2  
8 allocations were just a method for determining a payment,  
9 and I guess you're going to address this with some of the  
10 questions, whether that thinking has changed or not, or  
11 do you still see it as just a--still how it originally  
12 was proposed, as just a matter of figuring out who pays  
13 what when?

14 MR. FRANSEN: I really think it comes down  
15 to a payment--I mean, to me it really is a payment  
16 question. I know there's some been some other emphasis  
17 tried to put on it. Now, how the current Board--how the  
18 current Commission would view it would be--we'd have to  
19 ask them. You know, every time we have a new Commission  
20 or a new group, they kind of get their own personality  
21 and then it's--from a staff viewpoint, I still view that  
22 as a payment issue.

23 I guess what started all this discussion was  
24 actually a comment that I did make at one of the Jordan  
25 Lake Partnership meetings about the potent--that there

1 was a potential that OWASA had the risk of maybe losing  
2 their allocation.

3 But the context of that was it was a very early  
4 meeting with the Partnership. They were providing some  
5 very early demand and supply numbers, and the context of  
6 that was, they were asking the state staff, what did we  
7 think of their planning process, what did we think of  
8 those numbers, did we see any potential issues.

9 Based on the numbers I saw and the history that  
10 I knew, you know, I wasn't saying OWASA was going to lose  
11 their allocation, I just said with--they were at a risk  
12 of potentially losing it without a very strong  
13 justification to keep it.

14 And as you saw from the Round One versus Round  
15 Three, this is--this was very unofficial. This was just  
16 a staff reaction to some early data, and we know the  
17 Commission makes the decision and they don't always  
18 follow our recommendation, not that this was a  
19 recommendation to the Commission.

20 Yes?

21 MS. BUCKNER: Can we step back one minute  
22 to your intro? I just want to make sure that I  
23 understand the process here.

24 MR. FRANSEN: Uh-huh (affirmative).

25 MS. BUCKNER: So as I understood what you

1 presented, that you are doing a hydrologic model that is  
2 basically assessing how much water is going to be  
3 available and all of those details right now, and then  
4 there will be applications by everybody that was in that  
5 red circle who is interested in getting water, and then  
6 you will review those applications and make the  
7 determinations by balancing what you find in the  
8 hydrologic versus the applications. Is that the big  
9 picture?

10 MR. FRANSEN: Roughly. We're--maybe I  
11 need to step back to the schedule a little bit.

12 The model, remember, is a tool for us for  
13 planning, so once we get the tool built, we try to  
14 include all the withdrawals and discharges of 100,000 or  
15 more per day. Now that we've got drought plans that  
16 include hard triggers, we're going to be including the  
17 water shortage response plans in the model, operational  
18 details and all those types of things for the reservoirs.

19 So we'll have a model that we put together, and  
20 then as part of the planning process, we'll be asking the  
21 applicants and others to provide us some draft  
22 information on what they see their current--what are  
23 their current demands and what do they think their  
24 projections are. We'll do kind of a draft with the model  
25 to run through and say, "Okay, with that, do we see any



1 problems?"

2           If we see problems, we'll sit back down and have  
3 a discussion with folks. "Here are problems. How would  
4 you--you know, do you want to adjust your"--you know,  
5 "What kind of adjustments can we make to get a better  
6 scenario? What kind of adjustments do you want to maybe  
7 do in your thought process about water?"

8           So that we'll try to do an iterative process  
9 with the applicants and the folks in the basin, so that  
10 when we get done with the second and final--then the  
11 final draft of the Water Supply Plan--hopefully, the  
12 applicants at that point, because we've been working with  
13 them, their applications will match what we ended up  
14 putting in the plan.

15           And that--in an ideal world--and I'm an optimist  
16 on this, because I think there's enough water out there  
17 to do this, everything will kind of fall in place and  
18 we'll--there won't be haves and have nots, and your  
19 preferred option may not come out to be the most balanced  
20 one, and there may be some adjusting that needs to be  
21 done.

22           But it'll be an iterative process. It's not  
23 going to be--we're not going to go off and do a model in  
24 the dark by ourselves.

25           MS. BUCKNER:           So when you say that you're

1 going to work with the applicants, does that mean that  
2 you're going to review their drought response plans and  
3 say, "You can do a better job," and help them be more  
4 conservative, have a plan that is more conservation-  
5 minded, or is it all going to be technically on quantity?

6 MR. FRANSEN: It'll be--it could  
7 potentially cover a number of different things, I mean,  
8 until we actually run it to see. We have never done this  
9 before, in terms of taking drought plans for a whole  
10 basin and trying to run them.

11 We don't know what--we have some ideas about  
12 what we're expecting to see. It may not just be--and you  
13 have to remember, conser--to me, conservation and drought  
14 can be two different things. You've got your everyday  
15 management of the system and how you do respond to  
16 conservation that's different than when you institute  
17 measures during drought to reduce your risk of running  
18 out of water. So there's kind of an ongoing--we kind of  
19 look at the per capita efficiency versus kind of what you  
20 can do in drought to save water.

21 So there's--there's multiple sides to this, and  
22 we understand it's a tough one for folks like you to deal  
23 with, because every time you conserve water, that's less  
24 revenue coming in and you've got fixed costs you have to  
25 deal with, too. So it's a--there's a lot of things that

1 have to be balanced here, and we understand that.

2 MR. STOTT: So maybe I didn't hear what  
3 you said completely, but--so you will get drought  
4 response plans from all of the municipalities.

5 MR. FRANSEN: We already have them.

6 MR. STOTT: Okay, great. Right. Now,  
7 those plans are different than the operating plans that  
8 we have, at least in OWASA, right, because those  
9 represent reductions. Do you also factor in, as another  
10 one of the variables in the model, what our normal  
11 operating use is?

12 MR. FRANSEN: Yes.

13 MR. STOTT: Okay. And as--I thought so,  
14 but I just wanted to be sure.

15 MR. FRANSEN: That we have always done.  
16 The problem in--historically has been, a lot of times the  
17 drought plan would be, "Well, it gets dry; we'll call the  
18 town board together to see if we want to do something."  
19 I can't model that.

20 The new plans are required to have hard  
21 triggers; that when the lakes get to 30 percent--or 70  
22 percent full, we're going to do this action. That I can  
23 model.

24 MR. STOTT: Right.

25 MR. FRANSEN: I think we kind of went over

1 this one. Less is more there. Did make it, and the  
2 context was just kind of early reactions. It's not--  
3 nothing official. We understand that. Actually, my  
4 comment probably elicited a better response than I'd even  
5 hoped for. The hope was it would cause OWASA to stop and  
6 think, "What--how do we really want to use Jordan Lake?"  
7 You're doing that, so I applaud you for it.

8           Process to--there's discussion of how you  
9 convert from a Level 2 to a Level 1. According to the  
10 rules, you know, based on documented need, you know, you  
11 just send a letter in to the EMC and--for a review and  
12 approval. It's been a very--in the past when we've done  
13 it, it's been a very painless process, you know. You  
14 send it in.

15           There's always been documentation. Like for  
16 example, when Cary brought on an expansion on their water  
17 plan. You know, we could say, "Okay, they now needed to  
18 convert Level--this amount of Level 2 to Level 1 because  
19 they've got the new plant coming on line."

20           It could be, in your case, maybe, that you've  
21 formalized the agreements with Durham and Cary so that  
22 you could get a certain amount of water on a regular  
23 basis. So that, to me, would constitute, you're ready,  
24 and you've documented that you're ready to start using  
25 the water and ready to move from a Level 2 to a Level 1.

1           MR. YOUNG:           And does that process occur  
2 out of cycle, or can it occur out of cycle, in between  
3 the allocations? Does my question make sense?

4           MR. FRANSEN:        Right. Converting--  
5 converting your 2 to a 1, we look at that an  
6 administrative detail, because you're not asking for a  
7 change in your total allocation amount. It's only when  
8 we're talking about changing the total allocation amount  
9 that we go through this more elaborate process.

10                   I got a question--I think we've kind of used  
11 "use"--it's come up, you know, when you're going to use  
12 the water. If you really look at the way the rules are  
13 written, that they don't use the term "use." They talk  
14 about withdrawing water.

15                   So I guess in the context of Level 1 and 2,  
16 you're really talking about a withdrawal of water. And  
17 as far as the staff is concerned, that can either be  
18 direct or indirect, indirect being the example of Cary  
19 withdrawing and pushing it through Durham to OWASA.  
20 That, to me, is the same as if Cary having their own,  
21 Apex having their own intake in the water--in the pipe.

22                   Harnett County has wanted potentially to  
23 withdraw where the Corps would release it and they'd pick  
24 it up in an intake out of the Cape Fear, so that's a--  
25 that's what it's coming--that's kind of how we're

1 interpreting it.

2 MR. RAYMON: So to be clear, when we've  
3 been talking about "use," the real meaning is withdraw  
4 water in five years?

5 MR. FRANSEN: Uh-huh (affirmative).

6 This question, I'll tell you, to be honest with  
7 you, it kind of threw me for a loop, but I'm--a temporary  
8 emergency Level 2 to Level 1. We don't have any  
9 provisions for kind of a temporary allocation. This  
10 whole process was kind of designed around long term needs  
11 and short term needs and the fact that you would need  
12 the water on an ongoing basis. I don't really think  
13 we're structured to handle something that--that question  
14 of like, "Well, I only temporarily want to convert to a  
15 Level 1."

16 Remember, we've got a contract with the Corps.  
17 If you start using it, the Corps is going to charge us  
18 as if you're using that water, not on a temporary basis,  
19 but on a permanent basis. So it kind of goes back to  
20 that payment question again.

21 Would it require a resolution from your--from  
22 this Board? No. In the past, it only required a letter  
23 from, like, a Board chairman or even the Director of  
24 OWASA to either my boss or to the chairman of the EMC,  
25 and that's all it's taken in the past. If you want to

1 do a Board resolution to support it, that would be fine,  
2 but it's not required.

3 MR. YOUNG: Tom, and just--thank you.  
4 Just a question about the use again. I mean, for--in our  
5 circumstances, we've got water except if there's a  
6 drought, right, and so that's when we'd want to use it.  
7 And so it--maybe a little--we'd want to use it in the  
8 next five years if there's a drought, let's say.

9 So at what point--if that's the condition, at  
10 what point should an entity like OWASA convert to Level  
11 1? You know, can you do it at the last minute during  
12 the middle of the drought, or do you need to have that  
13 in place as a resource that you might use if there is a  
14 drought?

15 MR. FRANSEN: You know, having talked to  
16 staff and looking at your questions, I've been giving  
17 that a lot of thought. It's kind of jumping ahead in the  
18 questions a little bit, but that's okay.

19 MR. YOUNG: Oh, that's fine. I'll save  
20 it for later, then.

21 MR. RAYMONG: Maybe you're going to answer  
22 this question ahead of time, too, as a kind of a  
23 corollary. Does the EMC or DWR even care about this--  
24 our inter-local water transfer agreement, which we call  
25 WSMPBA, which is the Water, Sewer, and Boundary

1 Agreement? They don't care about that when it comes to  
2 Level 1 to Level 2, these conversions, do they? Is it  
3 on your radar, even, or--

4 MR. FRANSEN: Well, I guess it is and it  
5 isn't. Some of those inter-governmental agreements and  
6 boundary issues, those help define your service area,  
7 which help define your need. So from that perspective,  
8 they're on the radar because if--because what we don't  
9 want is the same ent--two entities claiming the same--  
10 that they're going to serve the same population. So  
11 those types of agreements help us understand where those  
12 boundaries are.

13 MR. RAYMOND: And with the five million  
14 gallons, or five percent--I'm going to be very careful,  
15 because the yield code could be less than five million.  
16 At the five percent level, if we send--Gordon could send  
17 a letter to you guys and say, "Hey, we're ready for a  
18 Level 1 allocation." You're not going to--since we have  
19 that already, you're not going to factor in this boundary  
20 agreement thing, are you, or--

21 MR. FRANSEN: Yeah, since it's--since  
22 we're already talking about using an existing allocation,  
23 and if you can--if you basically write in and say, "You  
24 know, we've now modified our agreements with Cary, that  
25 they're now going to be able to supply us through



1 existing connections or upgrading facilities or whatever  
2 the situation is, that we're ready to start withdrawing  
3 water," then yeah, we would--that's what it would take.

4 MR. RAYMOND: Excellent.

5 MR. MERKLEIN: Just to clarify. I think  
6 Will's asking a little bit different question than  
7 what's--

8 MR. FRANSEN: Than John, yeah.

9 MR. MERKLEIN: --in, you know, terms of,  
10 I guess, that WSMPBA is a--is not a--well, it's inter-  
11 agency but it's not inter-agency from a water  
12 perspective. It's an agreement between the local  
13 governments within the service area.

14 MR. FRANSEN: Okay.

15 MR. MERKLEIN: --and it's a--and that does  
16 define our--sort of our perimeters for our use. There  
17 is a famous phrase in it that talks about the emergency  
18 use of water, and part of one of our questions is, you  
19 know, we as a Board have been looking at changing that  
20 because--out of a potential concern, if not overriding,  
21 but one of the concerns of how that may be interpreted,  
22 that--you know, that utilization of water is not as, say,  
23 perhaps, as necessary as someone who has a daily need.

24 And so I think the way I'm interpreting Will's  
25 question on the--because if you say "WSMPBA," I'm

1 thinking about in terms of that, not necessarily an  
2 inter-agency agreement between Durham and Cary, which we  
3 understand is the technical and mechanical mechanism for  
4 pulling the water from one area to the other, but it's  
5 more if we have an agreement with our parties within our  
6 jurisdiction that we would only utilize water within, you  
7 know, say, a defined emergency, would that be looked at  
8 differently than an entity who says, "We want to use the  
9 water all the time"?

10 MR. FRANSEN: It could be. I think what  
11 I would probably make the suggestion of is, rather than  
12 thinking about it in terms of a--if it's really just an  
13 emergency, we're probably not talking about a Jordan  
14 allocation. If you're talking about it in terms of how  
15 you manage drought, how you mitigate your supplies to  
16 minimize your risk of running out of water and it's part  
17 of that strategy, then I think there's a role for an  
18 allocation. Does that distinction make sense?

19 MR. MERKLEIN: Well, I think that's a  
20 very--I appreciate the way you stated that, because I  
21 think that is sort of one of the definitions that, as a  
22 Board, we have to discuss, is that, how is it--you know,  
23 what is drought mitigation versus an emergency use, and  
24 I think that's a Board policy decision to make, but I  
25 appreciate your--

1           MR. RAYMOND:           Well, just so that we're--  
2 I'll just restate my own question just to make sure. We  
3 have an agreement, a local agreement among our partners,  
4 that says that water from Lake Jordan will be accessible  
5 in emergency conditions, and the emergency conditions  
6 were defined, actually, a little looser than our Stage  
7 1, Stage 2 water--which is--alerts, which are codified  
8 in ordinance, right, and by OWASA policy, the Board is  
9 looking at tightening it up.

10           But it is clearly for emergency purposes, and  
11 it was part of a broader plan to backstop our supply in  
12 case of severe--very, very severe drought, like back to  
13 back 2001 type droughts, so that we had coverage, right,  
14 just in case.

15           And then--so the discussion, like Gordon said,  
16 was, what constitutes emergency? If we don't draw water  
17 from Lake Jordan except in this extraordinary emergency  
18 kind of scenario, would the EMC and DWR look at us, our  
19 allocation, and say, "Well, they're using an insurance  
20 policy. The insurance--we might never need that--they  
21 might never need it, so they don't deserve it," right,  
22 something like that. That's the scenario that we keep  
23 hearing.

24           MR. EPTING:           Let me be sure about one  
25 thing. The water and sewer management planning and

1 boundary agreement, whichever mentions the Jordan  
2 Reservoir, does not mention--

3 MR. RAYMOND: That's right.

4 MR. EPTING: --Jordan water. So it would  
5 be incorrect to say that the agreement prevents the  
6 transfer or specifically addresses the transfer of Jordan  
7 water or specifically prohibits the use of Jordan water.  
8 It never mentions Jordan water.

9 What it says is, "Water may not be transferred  
10 across the county line." So we need to be very clear,  
11 because in the negotiation and drafting of that  
12 agreement, the parties were careful with the words they  
13 used. In fact, the negotiation of that agreement took  
14 more than five years' of time, so, you know, it's very  
15 important--

16 MR. RAYMOND: I apologize.

17 MR. EPTING: It's very important not to  
18 make the mistake--

19 MR. RAYMOND: Well, since Tom was here for  
20 Jordan--

21 MR. EPTING: --that the Jordan Reservoir  
22 is mentioned in the WSMPBA. It is not. Nor is Jordan  
23 water mentioned.

24 MR. FRANSEN: All these things, you know,  
25 you ask me how they're going to be factored in. Until

1 I actually get an application in, it's kind of--remember,  
2 this is all kind of speculation.

3 MR. RAYMOND: Right.

4 MR. FRANSEN: It depends who's sitting on  
5 the Board and how they view it--on the Commission at the  
6 time.

7 From my perspective, I was looking at it  
8 from--I've done a lot of work with the Corps, power  
9 companies, and others on developing these drought  
10 protocols. So, from my perspective, one way to lay it  
11 out here, and it really--it's really going to be your  
12 policy decision on how you see Jordan Lake fitting in.  
13 Are there--is it just a drought measure or is it going  
14 to be part of your ongoing or everyday supply?

15 If it's just a drought measure, one way--one  
16 way--and this is something we're going to have to work  
17 on staff with since we've never done it before--this is  
18 still thinking out loud--would be to compare how often  
19 you would be instituting your various levels in your  
20 drought protocol with and without Jordan, and then  
21 comparing that to other systems in the region and other  
22 systems of similar size in the state.

23 So without Jordan, if you had to have mandatory  
24 conservation every--once every three years and your  
25 neighbors only have to do it once every 15 or 20, then

1 I'd say you probably have a valid need for Jordan water.

2 Now, if it was flipped, that you only have to  
3 have a--even without Jordan, you only have to have it,  
4 you know, once every 15 or 20 years like your neighbors,  
5 and now that I have Jordan, I never have to do mandatory,  
6 I would say you would have a weaker case to keep your  
7 Jordan allocation there.

8 MR. RAYMOND: What if, in our specific  
9 example is, there's a gap between 2030 and 2035, which,  
10 you know, I hope I'm around to see this gap, but the--  
11 essentially, this is where we're going to most critically  
12 need the Lake Jordan--or Jordan Lake as a backstop, and  
13 our staff has put together some pretty good charts of the  
14 potential risk that we're facing.

15 MR. FRANSEN: I think that's--to say that  
16 you need it for just a short period while you put another  
17 source--until another source is available, I don't think  
18 that keeps you from getting an allocation. It may mean  
19 that you might lose it after that other source comes on  
20 line if somebody else needs the allocation.

21 One of the concerns, especially for the people  
22 downstream of Jordan Lake is, "The Triangle's growing so  
23 fast, they're going to take all of Jordan, and then when  
24 our growth occurs there won't be any water left." If we  
25 could demonstrate that there's a group that's going to

1 then free up something for future use, that might make  
2 an easier sell, less controversy downstream. That's pure  
3 speculation on my part. You just never know how--you  
4 have to kind of see how all the numbers come together.

5 MS. STIDHAM: Can you just clarify that;  
6 I think you said that the current WSMPBA language could  
7 factor into the decision?

8 MR. FRANSEN: Well, I'm going to retract  
9 that after I understand WSMPBA better now. I thought  
10 that dealt--when I think about inter-governmental  
11 agreements, I usually think about OWASA and Cary, OWASA  
12 and Durham. I wasn't thinking about the governments  
13 within OWASA.

14 MR. RIMER: Duly noted.

15 MR. RAYMOND: Chapel Hill, once again, is  
16 topping.

17 MR. RIMER: Yes.

18 MS. BUCKNER: I just want to ask a  
19 question about how you're going through these. Are you  
20 taking the questions that we gave you in order and just  
21 paraphrasing them?

22 MR. FRANSEN: For the most part. I've  
23 kept--

24 MS. BUCKNER: Then I have a backup. I  
25 have a question on one that has already come back, back

1 on the use issue.

2 MR. FRANSEN: Okay.

3 MS. BUCKNER: What is the intent of having  
4 that use requirement for the withdrawal? What is the  
5 intent of the policy?

6 MR. FRANSEN: So you're talking about  
7 the--

8 MS. BUCKNER: Just to make sure nobody's  
9 hoarding water?

10 MR. FRANSEN: Correct. That's the whole  
11 issue why we've got the 30 year planning horizon and  
12 everything that--they were wanting to make sure--it was  
13 my understanding when they wrote the rules and  
14 everything, and the way the Commission's been treating  
15 it, from my perspective, is the water's cheap compared  
16 to going out and building new reservoirs. It's difficult  
17 and timely to build a new reservoir.

18 I can see some of the faster growing communities  
19 saying, "You know, it's a good insurance policy. We'll  
20 just buy up as much as the state'll let us have, even  
21 though we may or may not need it all."

22 So this was kind of a way to try to keep things  
23 fair for everybody, to really give the water to those  
24 that really need it when they need it.

25 MR. RIMER: I think, too, what you



1 talked about early on, in the modeling you all are trying  
2 to do, gives you a grounding in what's going to be there,  
3 so that ultimately you know hydrologically what you're  
4 going to be able to supply. Then you can do this  
5 rational kind of parsing out to the various communities.

6 So I think the--in my mind, the modeling is  
7 critically important, to get an understanding of what's  
8 there and what you're really going to be able to deal  
9 with, and it might not be 100 million gallons. It might  
10 be 96 or whatever it turns out.

11 MR. FRANSEN: Well, I think actually,  
12 those of us that run the numbers, we really think the  
13 yield's a little higher than 100.

14 MR. RIMER: Really?

15 MR. FRANSEN: Yeah.

16 MR. RIMER: Anyway, I think what you  
17 explained about the modeling is really important.

18 MR. FRANSEN: There was kind of a group  
19 of questions here on granting and retaining allocations.  
20 I'd kind of like for you to listen. I'm going to try to  
21 answer them in a group at the end, but there's--there is  
22 this question about process of Level 1 to Level 2, public  
23 hearings, kind of what is your risk here of losing an  
24 allocation, the appeals process.

25 You're going to see me with the responses here,

1 go back to the rule, the 504(i) a lot. That really is  
2 the main thing that we have in writing, that the  
3 Commission has in writing, to help them determine how to  
4 allocate the water or how to adjust existing allocations.  
5 You'll see it says, "Assign," "Reassign," or "Transfer."

6 They're looking at, do applicants or holders  
7 have alternate water sources available to them? So if  
8 you have an existing--if you have good alternatives,  
9 somebody else may not have a good alternative, so they're  
10 going to probably give the water--if it comes down to a  
11 party having an alternative and one not having one,  
12 they're going to allocate--the intent was to allocate--  
13 to give the allocation to the holder that doesn't have  
14 an alternative.

15 MR. RAYMOND: So does that capacity--are  
16 you going to factor in the capacity of, like, our  
17 community to conserve? Is that going to go against us,  
18 if the EMC and DWR says, "You know, OWASA--the OWASA  
19 customer base has been very good at conserving, so we're  
20 going to take a little bit of their allocation away  
21 because they've shown that they can conserve their way  
22 out of problems," or is this going to even be part of  
23 your model for making a decision?

24 MR. FRANSEN: I think the next part where  
25 it talks about the average degree of utilization of the

1 resource, we've kind of--you know, that conservation  
2 question is not directly involved in here, but it does  
3 kind of--in some ways, you talk about utilization, how  
4 often are you going to utilize it and how efficiently are  
5 you going to utilize it.

6 I do know that the Commission, when they have  
7 looked at these in the past, the way that conservation  
8 piece has come in is, they look at--they ask--they've  
9 asked us to show a summary of your per capita demand,  
10 current per capita, compared to what your projected  
11 demand is and what the per capita would be for your  
12 projected.

13 I know, in the case of one of the applicants  
14 last time, their per capita demand went way up in their  
15 projections. Most of the others stayed the same or maybe  
16 a little bit (sic) or maybe went down, and so we adjusted  
17 their request--their demand request as if their per  
18 capita hadn't gone up.

19 So that's kind of how we're dealing with that  
20 question. We do look at how efficient the various  
21 systems are, and are you going to remain that efficient  
22 or are you going to--or is it going to get worse, so.

23 MR. RAYMOND: Just so I understand kind  
24 of what you're saying, I'm going to rephrase it. When  
25 you say, "you have in the past," or you know, the process

1 in the past, the Commission in the past has looked at  
2 projections in where the per capita usage was going to  
3 go up, the water utility was awarded a higher allocation?  
4 Is that--

5 MR. FRANSEN: No.

6 MR. RIMER: No. He said exactly the  
7 opposite.

8 MR. RAYMOND: Okay, good. That's what I  
9 wanted to make sure, because I was like, that doesn't  
10 make sense.

11 MR. FRANSEN: Well, he said that they  
12 looked at that per capita, said, "Okay, we're going to  
13 use a lower per capita and apply it to that population."

14 MR. RAYMOND: Excellent.

15 MR. FRANSEN: And their alloc--their  
16 application was adjusted accordingly.

17 MR. RAYMOND: And since you have the  
18 504(i) up, I noticed one of the things I thought was  
19 interesting, that was the level of financial commitment  
20 was one of the deciding factors. I mean, in 2012, since  
21 we have to pay a capital appreciation, does that give us  
22 a bigger chip in the game, since we would have put  
23 out--I can't recall the exact figures--\$287,000 or  
24 something. Is that part of the financial commitment?

25 MR. FRANSEN: I guess it's--that's kind

1 of loose. I think really what was originally thought of  
2 was the--somebody that got an allocation and didn't start  
3 paying on it, of which we've had that happen, and so they  
4 lost their allocation.

5           So I mean--like I said, until now we've been  
6 out--every round of allocations that we've had, we've had  
7 more requested. We've had more than 100 MGD requested,  
8 but the Commission has found a way, by working through  
9 this limited set of criteria, to find a way to do a fair  
10 allocation and reserve water for future use.

11           We realize the closer we get to having 100  
12 percent allocation, these questions are going to become  
13 more difficult for that Commission, but those are written  
14 loose enough, they've got quite a bit of lateral,  
15 actually, so it's--it's going to get more interesting  
16 each round.

17           MR. YOUNG:           To follow up on that, then,  
18 is it fair to look at a Level 2 allocation as an  
19 allocation for years five to ten, because you're going  
20 to have another round of allocations at some point, and  
21 as you've described, utilities have to come back and re-  
22 justify their allocation, you're going to re-run all the  
23 models and kind of look at where the hot spots are and  
24 allocate at that point. So is there any value to a Level  
25 2 allocation beyond, say, ten years?

1           MR. FRANSEN:           That's kind of a hard one  
2 to answer. I'm not really sure how to answer that one,  
3 to be quite honest. It's--I guess in theory, you only  
4 have to pay your--paying interest, and you wouldn't be  
5 paying the capital until you converted to a 1, but it's  
6 kind of a tough balance here between planning and all  
7 this. It's--I just have a hard time prioritizing that  
8 question. I know what you're trying to get at, but I  
9 don't really think--

10           MR. YOUNG:           It's kind of getting to  
11 the--how easy is it to lose your Level 2 allocation. It  
12 sounds like every time you go through the cycle again,  
13 it's like a, you know, what is it called, a ground zero  
14 kind of planning model for you.

15           MR. FRANSEN:           Not quite, but it's close.  
16 I mean, basically, what we're doing--what we're looking  
17 at and what--the way the Commission's kind of handled it  
18 in the past, from my perspective, is you take a look at  
19 all the needs, and you look at who's wanting water and  
20 kind of trying to reach a reasonable balance in there  
21 for immediate need versus some long term need.

22                           And so I think a Level 2 does have some value,  
23 that it kind of helps you do better planning, that you  
24 could--this is a good increment, but if it always just  
25 remains that, "We're not going to need it for 20 years,"

1 then that starts to get back to that question of hoarding  
2 water. It starts to take on that appearance of hoarding  
3 water; that, well, maybe you really have some  
4 alternatives that you didn't share with us.

5 MR. YOUNG: Gotcha. Thank you.

6 MR. FRANSEN: It may be as simple as the  
7 growth didn't occur that you anticipated--

8 MR. YOUNG: Right.

9 MR. FRANSEN: --but that--with this  
10 economic downturn, but--

11 MS. BUCKNER: So can I ask a follow-on to  
12 John's question?

13 MR. FRANSEN: Sure.

14 MS. BUCKNER: He asked it about Level 2,  
15 but isn't it the same for Level 1?

16 MR. FRANSEN: Yes.

17 MS. BUCKNER: I mean, because--well, what  
18 it sounds to me like what you're saying is, regardless  
19 of which allocation model you have, it's all going to be  
20 re-evaluated in the next round.

21 MR. FRANSEN: I would say that there's  
22 probably less risk for Level 1 because to get--Level 1  
23 means you're already withdrawing the water, so you've  
24 already made some type of capital investment. You've got  
25 some type of infrastructure in place to utilize it

1 already.

2           Now, it may mean--in your scenario, where you're  
3 talking about having a gap and then a new source coming  
4 on line, that may be a slightly different scenario. Most  
5 of the folks we have dealt with up to now, this is a part  
6 of their incremental mix of sources for them, not  
7 something--they haven't looked at it as a stopgap until  
8 they get something else on.

9           So it's a--we're getting--you know, the rules  
10 were written a number of years ago and things--the whole  
11 water issue is getting more complex, and unfortunately,  
12 with the way the General Assembly views rules right now,  
13 it's not really practical to go back and try to re-write  
14 it. So unless they're really broke, we try to live  
15 within them.

16           MR. RAYMOND:           Well, we have seen, though,  
17 that the--when OWASA argued for a ten percent and got a  
18 ten percent, and then relinquished that other five  
19 percent, in a sense, OWASA acted as an important  
20 placeholder for water that wasn't just given out right  
21 away, and that, you know, maybe that's going to be the  
22 case going forward.

23           But you know, I think we have a fairly well  
24 defined risk analysis for that 2030 to 2035. I'm hoping  
25 that's something that is seriously investigated when



1 it's--you know, this comes back up again.

2 MR. FRANSEN: We will--we do do a very  
3 serious and thorough review of all the applications.  
4 Like I said, because this is a little unique, we are  
5 going to be working closely with your--I think we've had  
6 a good working relationship over the years with the  
7 staff. I feel like we have, and I don't see that  
8 changing. So we're going to be working with them to help  
9 them figure out what's going to be the best way for them  
10 to present their case and for us to be able to share that  
11 information with the Commission.

12 MR. RAYMOND: It's like John, though, had  
13 pointed out, that this is 19 years from now, and we could  
14 go through maybe two more rounds of allocations, still  
15 talking about a thing that hasn't happened yet, you know,  
16 though I would hope, you know, OWASA has been a  
17 pretty--tried to shepherd its water supplies in a very  
18 wise fashion over time, and that would count for  
19 something, but anyway.

20 MR. FRANSEN: But I think if you go back  
21 to the discussion we had earlier about the drought plan,  
22 if it actually is part of your--if that's in your  
23 approved drought--your water shortage response plan, your  
24 drought plan as part of that mitigation; you are using  
25 it, then.

1 MR. RAYMOND: Yes.

2 MR. FRANSEN: I think in a lot of ways,  
3 we probably discussed most of this.

4 Unless somebody wants to talk about this one anymore, I  
5 think we've kind of beat this one a little bit already.

6 Water conservation, we've kind of gone--we've  
7 gone over that one.

8 We've kind of talked about the precedents here.  
9 This goes back--like I said, when you have these  
10 questions, if you go back to the rules, and probably one  
11 of the key ones is 504(i). Got to think of it in terms  
12 of if you were sitting on the EMC, and I'm sure Bob can  
13 help you work through that one, how they would kind of  
14 potentially--he probably has more insight than I do on  
15 that one, so.

16 The impact of a severe drought. This one--we'll  
17 help Alan here with a good--more of a technical question  
18 again. The way the Corps and the state manage these  
19 allocations, you can almost think of your allocation in  
20 Jordan Lake as your own mini-reservoir, that the inflow  
21 coming into the reservoir, they break up into the various  
22 pools.

23 So your allocation, your storage amount is  
24 really independent of, say, Cary's or Durham's or Chatham  
25 County's. They're looking at that percentage of the

1 inflow and how much they're pulling out and what their  
2 storage account is, so they're not looking at,  
3 necessarily--they're not looking at the whole storage in  
4 the lake.

5           The only time they look at the whole storage in  
6 the lake would be in two cases, one, if you're full, they  
7 assume everybody's account's full and they don't bother  
8 doing the accounting. I guess if we depleted the  
9 conservation pool, your account would go to zero then,  
10 but--even if you hadn't used it, because we'd be out of  
11 water. But as long as we've got water in that  
12 conservation pool, in the water supply account, they're  
13 running things independent.

14           MR. EPTING:           And Tom, an important  
15 question. Has the water supply pool ever been less than  
16 full in the entire history of the Jordan  
17 Lake?

18           MR. FRANSEN:           Yes.

19           MR. EPTING:           It has? The water supply  
20 was less than full.

21           MR. FRANSEN:           Yeah.

22           MR. EPTING:           To what extent has it been  
23 diminished?

24           MR. FRANSEN:           I'd have to go back and look  
25 at the records. But you remember, Cary and Apex and

1 Chatham County are using water out of there, so when you  
2 get into the dry periods like 2007, they had pulled it  
3 down. So--but because we had a large amount unallocated  
4 and a large amount of Level 2, it's not pulled down as  
5 severe as it is if everybody was using it. So--but it  
6 has been down, yes.

7 MR. EPTING: The reason I ask it is that  
8 we've said several times, our own records show that at  
9 the time that OWASA's supply was lowest in its recent  
10 history, the water supply pool at the Jordan Reservoir  
11 was still 100 percent.

12 MR. HOLLAND: That's true in '08.

13 MR. EPTING: In '08, yes.

14 MR. FRANSEN: That probably is it for '08.  
15 I'm not sure that's true for some of the other years.

16 MR. RAYMOND: So, Tom, along those lines,  
17 how--if we wanted that information to line it up to see  
18 our levels versus Jordan, would this high--first of all,  
19 historical, I assume we can go back in the record and  
20 just look.

21 But going forward, I had asked about the yield  
22 in that one of the--I guess you could call it selling  
23 points for making some of these modifications is a  
24 scenario where we had two back to back droughts that were  
25 the severest droughts in recent history. And I'm just

1 wondering if the hydraulic--hydrologic model that you're  
2 developing, if we plug those numbers in, would we be able  
3 to get a kind of a baseline on what that--the pool, our  
4 potentially yield would be?

5 MR. FRANSEN: Yes. One of the things that  
6 we've built into the model is an output. Well, actually,  
7 too, the input of how much your pattern of withdrawal is,  
8 along with what your storage account would be. So the  
9 model does give me an output for all of the storage  
10 accounts that currently have allocations. Or we've got  
11 dummy ones created so we can add new users, or basically,  
12 for the unallocated amount, treat it as if it's allocated  
13 and see what happens if you're fully utilized, so.

14 MR. RAYMOND: So if Ed Holland wanted to  
15 plug these numbers in to the model right now, we could  
16 get some kind of answer out.

17 MR. FRANSEN: I would wait until we get  
18 the model updated.

19 MR. RAYMOND: Okay. That's fine.

20 MR. FRANSEN: And if that's okay. We've  
21 got an old model that could give you numbers if you want  
22 to do it, but I'd really--think we're going to get better  
23 results if you'd wait.

24 MR. RAYMOND: Well, it looks from our  
25 schedule, we have time.

1           MR. MERKLEIN:           Can I also just go back and  
2 ask one clarifying question, something I know the answer  
3 to, but--

4           MR. YOUNG:               20 years.

5           MR. RAYMOND:            Yeah.

6           MR. KERIN:              Gordon, could you talk in  
7 the mike?

8           MR. MERKLEIN:           Yes, sorry. Because we have  
9 a Level 2 now, technically speaking, tomorrow could we  
10 submit a letter to change that Level 2 to a Level 1?

11          MR. FRANSEN:            Technically, yes.

12          MR. MERKLEIN:           Right. Okay.

13          MR. FRANSEN:            The one thing I did want to  
14 make note of in this equation for the accounting, that  
15 inflow that we're using to keep track of your account is  
16 a net inflow. We adjust it for evaporation. And we have  
17 had, during severe droughts, inflow be negative, that the  
18 evaporation is higher than the inflow coming into the  
19 lake.

20                 So even if you're not using your storage  
21 account, your storage account could be going down. So  
22 it's a--just because you haven't pulled from it, don't  
23 assume, in a severe drought, that you have 100 percent  
24 available.

25          MR. YOUNG:              Well, I appreciate the

1 answers here because this one--this was actually my  
2 question--because what this says to me is that, yes, you  
3 can utilize Jordan Lake as a drought response resource  
4 and not have to have it as sort of your general operating  
5 plan if you--you know, because you're not going to lose  
6 your storage--

7 MR. FRANSEN: Correct.

8 MR. YOUNG: --to someone else who's  
9 using it as part of their operation during a drought.  
10 Yeah.

11 MR. FRANSEN: Right. Because basically,  
12 like you said, you're getting a percent of this pool, and  
13 we're keeping track of, you know--

14 MR. RAYMOND: Who got what.

15 MR. FRANSEN: --who's using what and how  
16 much they've got left, so that somebody doesn't start  
17 dipping into somebody else's pool.

18 MR. RIMER: Your analogy of, like it's  
19 our own little mini reservoir--

20 MR. YOUNG: That's right.

21 MR. RIMER: --is really good. I mean,  
22 that just puts it right on the spot. And you would be  
23 a steward of that just like we're the steward of Cane  
24 Creek and University Lake. Now, little Jordan Lake for  
25 OWASA.

1 MR. FRANSEN: Right.

2 MR. RIMER: Or Cary or whomever.

3 MR. FRANSEN: Yeah. And the way I would  
4 describe--I mean, that's just the basic water balance  
5 equation I have up there, and the way I've described it  
6 to non-technical folks is, think of inflow as your  
7 paycheck. Outflow, which is your withdrawals, are your  
8 bills, and storage is your bank account.

9 And so we know during drought, our paycheck  
10 isn't as big as our bills, and you're having to hopefully  
11 have a bank account big enough to get you through until  
12 the paychecks and stuff balance back out again.

13 So that's the analogy that's worked well for-my  
14 old boss, John Morris, and one of the Corps of Engineers  
15 engineers argues over who came up with that analogy, but  
16 since they're both retired, I'm--I'll share its credit  
17 for them. I'll give credit to both of them.

18 MR. RAYMOND: Just as a clarification.  
19 When do the hydraulic--hydrologic model, some time summer  
20 or something next year, or--

21 MR. FRANSEN: Some time this summer.  
22 Probably late spring.

23 MS. BUCKNER: So Tom, is there a drought  
24 response plan for all of Jordan?

25 MR. FRANSEN: Yes. The Corps has one.



1 Actually, we were--our office was very instrumental in  
2 working with the Corps to develop that, along with a lot  
3 of the other stakeholders. We actually did the modeling  
4 for the Corps with our older version of the Cape Fear  
5 model for their EA, for their drought response plan.

6 MS. BUCKNER: At any time, could--is there  
7 a potential for getting to where people would have--the  
8 different entities would take less than their allocation  
9 because of drought?

10 MR. FRANSEN: I guess that's always  
11 theoretically possible. I mean, one of the theories  
12 there--one of the issues would be where you all have a  
13 reservoir and manage it.

14 You know, sometimes the lake--you may have water  
15 out there, but it's below the intake that you can pull  
16 from. Plus, when it gets really bad and that water gets  
17 hot, you may--somebody will pull it out, but it may be  
18 of such poor quality that you don't want it, if you don't  
19 actually have--you know. There may be some treatability  
20 issues there, too, so.

21 Based on our modeling, that answer would be,  
22 unlikely, based on the historical record, but we know  
23 Mother Nature throws us curve balls that are outside the  
24 historical record, so I'm not going to say it's not  
25 possible.

1           MR. RAYMOND:           Does that mean the  
2 hydrologic--I'm going to have to learn how to say that  
3 word. It's been a long day. Before the end of when that  
4 model--will it take into account modeling the quality or  
5 anticipated quality of the water, or is that outside  
6 that?

7           MR. FRANSEN:           That's outside.

8           MR. RAYMOND:           It just--it's purely how  
9 much is available. Water is water.

10          MR. FRANSEN:           It's a water quantity model.

11          MR. RAYMOND:           Right.

12          MR. FRANSEN:           It's a water balance type  
13 model. It's very good at helping us understand how water  
14 moves around and where it's going to be at and its  
15 availability. We do not try to water--model water  
16 quality. That's a different type of modeling. We do not  
17 try to model flood control. That's a different type of  
18 water quality--that's a different type of modeling, too.

19          MR. RAYMOND:           I've been around long enough  
20 to recall when Jordan Lake was being filled, and at that  
21 point it was bathtub warm, and there would be algae  
22 blooms, just massive. It was amazing. And I don't see  
23 it ever getting down that low again, but you did  
24 reference, too, I think in 2007 you could see some of the  
25 stumps coming out of the shoreline where it--you know,

1 where the--

2 MS. BUCKNER: Came out from the middle.

3 MR. RAYMOND: Yeah. So anyway.

4 MR. FRANSEN: It never got as bad as  
5 Falls, though.

6 MR. RAYMOND: Yeah, well, that's true.

7 MR. RAYMOND: No Indian villages or--

8 MS. BUCKNER: So when--

9 MR. FRANSEN: That's Fontana.

10 MS. BUCKNER: --when you say it might get  
11 down to the point where the water quality is so bad,  
12 you're talking about getting down to the sediment level,  
13 right?

14 MR. FRANSEN: I mean, it's--that would--  
15 these are all the hypothetical. I mean, we've not seen  
16 it.

17 MS. BUCKNER: Yeah. I'm just ask--I just  
18 want to know. So I mean, you've got--you had the--I was  
19 going to ask you to show your graph here--your  
20 illustration again, but that's not required. But you  
21 have layers in there.

22 MR. FRANSEN: Uh-huh (affirmative).

23 MS. BUCKNER: So you had the layers, the  
24 surface water, then you had the area--

25 MR. FRANSEN: You had the flood control,

1 then we had the conservation pool that's kind of combined  
2 with water quality and water supply, and then a sediment  
3 pool.

4 MS. BUCKNER: And so in your--  
5 theoretically, you take--you can take from the top to the  
6 bottom of that water supply.

7 MR. FRANSEN: Right.

8 MS. BUCKNER: And when you get to the top  
9 of the bottom of the water supply and the top of the  
10 sediment, that's where the water quality gets  
11 particularly bad.

12 MR. FRANSEN: Probably not. It depends  
13 where your withdrawal is and everything else. It  
14 probably wouldn't be. The only problem that you'd have  
15 from an institutional viewpoint is the Corps gets all  
16 uptight if you try to take water out of their sediment  
17 pool. Yes.

18 MR. RAYNO: You could potentially face  
19 water quality changes if--

20 MR. KERWIN: Ask him to come to the mike.

21 MR. FRANSEN: Don, you want to come up to  
22 the mike?

23 MR. RAYNO: Yeah.

24 MR. KERWIN: Thank you. You can  
25 introduce yourself.

1                   MR. RAYNO:                   Sure. Hi. My name's Don  
2 Rayno, with the Division of Water Resources. In response  
3 to your question about water quality and the level of  
4 water where you'd face water quality, you could face  
5 changes in water quality that would force you to change  
6 your treatment train before you got to the bottom of--to  
7 the top of the sediment pool because your water in that  
8 lower--the lower levels of the conservation pool has been  
9 starved of oxygen for a long time, and there's a  
10 different chemical mix in that water. And I mean, if  
11 you're mixing--if you're drawing--at this point, you'd  
12 be getting finished water from somebody else, so that  
13 would be somebody else's treatment problem, but they  
14 would have to make that adjustments, and they do that.  
15 I mean, that's one of the choices they make.

16                   So you're--the level at which you can withdraw  
17 water has to--is also a function of where the intakes  
18 are, how you can pull water into your intake structure.

19                   MR. YOUNG:                   I think, you know, this  
20 topic of water quality has come up in the community's  
21 discussion of the Jordan Lake allocation, and so we--  
22 that's, I think, why there are some follow up questions  
23 around this. We want to--can you characterize the  
24 scenario where, you know, first, that there would have  
25 to be some differences in the kind of treatment that

1 would be required to reach standard water quality, and  
2 secondly, the level that would be where you couldn't  
3 treat the water to get satisfactory quality, or standard  
4 quality?

5 MR. FRANSEN: At this point, I will say  
6 that both Don and myself's areas of expertise lie more  
7 in the quantity and not the quality. Our other section  
8 in our new division, that's what they do, is help you  
9 deal with that.

10 I don't know if Mason or somebody on the OWASA  
11 staff, since you already manage reservoir--it's really  
12 the same issues you have on, like, Cane Creek, on any of  
13 your existing reservoirs. It's just a little bit  
14 different scale because it's a larger reservoir sitting  
15 out there, so I'm sure one of your staff probably can  
16 answer that question better than I can, if you really  
17 need it elaborated on right now.

18 MR. YOUNG: Should we try that now, Ed,  
19 or--

20 MR. KERWIN: Sure, Ed Holland.

21 MR. YOUNG: I just think it's essential.

22 MR. HOLLAND: My quick answer was going  
23 to be that the answer to Terri's and John's question is  
24 basically the same way--they're the same issues we deal  
25 with day to day in operating Cane Creek and University

1 Lake. At certain times of the year, the lake's  
2 stratified. Water quality varies vertically. We have  
3 the discretion of where we pull water out of Cane Creek,  
4 so we can use the best water.

5 Cary is dealing with this in Jordan Lake with  
6 a new project that is in the process of being permitted,  
7 to make sure that they can get water out of Jordan Lake,  
8 that the water where they--that the water at which the  
9 intake is located in Jordan Lake is of appropriate  
10 quality.

11 And it's--it's oxygen issues, taste and odor  
12 issues, iron and manganese issues. They're not exotic  
13 pollutant issues. As I said at the beginning, it's  
14 really just part of the day to day challenge of operating  
15 any reservoir water supply.

16 So Tom points out, it's a matter of scale in  
17 Jordan Lake, but the issues--the water quality issues are  
18 the same ones we're dealing with all the time.

19 MR. RAYMOND: Well, Tom, to follow up on  
20 John's question, and I--and maybe we--and I think we  
21 should refer this to the--I guess this new--is this new  
22 under DWQ or is this--what's this new group?

23 MR. FRANSEN: It's an old group. The  
24 water supply section used to be in the Division of  
25 Environmental Health.

1 MR. RAYMOND: Right.

2 MR. FRANSEN: They've now been moved to  
3 us. And so they've been around for a long time. You  
4 know, they're the ones you deal with with your water  
5 plant for your inspections and getting the permits to  
6 expand and everything, so it's--they're just residing in  
7 a new division, so it's just a new function for us. It  
8 was the minnow swallowing the whale. We went from 37  
9 people to 160.

10 MR. RAYMOND: I think part of the--the  
11 context for this question is, unlike our reservoirs which  
12 are 90 percent in Orange County, 10 percent in Alamance,  
13 they have watersheds that are undeveloped, essentially,  
14 versus--somebody told me, and I think one of the  
15 questions here there was 47 governmental entities that  
16 control the Lake Jordan watershed. There's, you know,  
17 a high level of development. There's boats. Even when  
18 the water's down, there going to be boats and people and  
19 all sorts of other factors that we don't deal with on our  
20 own reservoirs.

21 I think that's adding to some of the reason for  
22 some of these questions, because it's a--it's not quite  
23 an apples to apples--I think, in some people's minds, not  
24 an apples to apples comparison. Anyway, just a little  
25 context.



1           MR. RIMER:           Well, to--just to let me  
2    just make one response to that. I think that what the  
3    dichotomy in the issue here--and Ed didn't mention this  
4    because there's no need to--there are really two kinds  
5    of supply that a utility can take from. One is run of  
6    the river, where it's just pumped out of a river and they  
7    treat it and it goes on, and that's a highly variable  
8    water supply, because it--you know, it rains really hard  
9    and it's cloudy water or whatever.

10           The experience that, at least I've had, is that  
11    I think the issues that Ed addressed are the same in  
12    either the Jordan or in Cane Creek or in University Lake.  
13    Ed Kerwin, at one meeting, made a statement which I think  
14    is accurate, and that is that while we think Orange--our  
15    Orange water supplies are pristine, they're not. We have  
16    air deposition of all sorts of junk into those  
17    reservoirs. No, we don't have the tires and the  
18    refrigerators, and we don't have the motorboats, and we  
19    don't have--

20           MR. RAYMOND:           or Highway 64 over it.

21           MR. RIMER:           And we don't have direct  
22    wastewater discharge. We have failing septic tanks, but  
23    not--so I don't know that DWQ is in a position to model  
24    the exotics, the pharmaceuticals for example, Terri, that  
25    we get concerned about, because nobody's able to model

1 those right now, nowhere in the country.

2           So I'm wondering what value, other than to get  
3 DWQ to say maybe that, there is in their trying to model  
4 it, because what we're trying to do, I think, is to link-  
5 -and it's done all the time--is to link water quality and  
6 a mass of water, which he gets out of the--Tom gets out  
7 of the hydrologic model. And that's done all the time,  
8 you know, where the linkage is built between the two.

9           And--but when the rubber hits the road, guys  
10 right next door have got to modify their treatment, and  
11 they've been doing it for so long--each utility has its  
12 own cycles and they've been doing it for so long, they  
13 know when they're going to have to change.

14           And many years ago--I've been working in Cary  
15 now for 18 years--Cary's water was awful for a while.  
16 I mean, you'd drink it and you would think--I hope  
17 there's nobody from Cary here, but you'd think you were  
18 drinking a sewer because it had a lot of--they didn't  
19 have any carbon treatment whatsoever. They've changed  
20 all of that in their new processes. We've been doing the  
21 same thing for I don't know how long at our plant.

22           So I think there might be some value in checking  
23 with them, but I don't think DWQ is going to add  
24 significantly to the knowledge base in terms of modeling,  
25 based on my own experience, for what it's worth. Maybe

1 not much, but an inquiry is probably not--you know,  
2 that's probably a reasonable thing to do, but I don't  
3 think they're going to be able to reveal much in  
4 modeling, because I just don't think they can model some  
5 of what we're talking about, except for the refrigerators  
6 and trash.

7 MR. RAYMOND: Well, they maybe can, you  
8 know, do like gap analysis. Essentially ident--help us  
9 identify what we can know, what we can't know, and just  
10 to--yeah. They're going to start quoting Donald  
11 Rumsfeld, so--

12 MS. BUCKNER: So Alan, would it be safe  
13 to say that you are saying that there is a technical  
14 definition of quality, and then there is a perceptual  
15 quality--definition of quality, and they're not always  
16 the same?

17 MR. RIMER: Oh, absolutely. I mean,  
18 that's what the whole argument about PCP--PPCPs are.  
19 You know, people, we can now detect these personal care  
20 product things at parts per trillion, parts per billion.  
21 We couldn't do that even ten years ago because the  
22 technology wasn't there.

23 MS. BUCKNER: We couldn't do that five  
24 years ago.

25 MR. RIMER: Now we can, but the

1 perception of risk associated with any of those is in the  
2 eyes of the beholder. For some, it's an incredible risk  
3 and we shouldn't be doing it. For others we say--and I  
4 do this in talks--I'll say, "I grew up in Pittsburgh and  
5 flushed my toilet and people in Cincinnati drank the  
6 water," and they've been doing it for, you know, however  
7 many years, with the same level of potential pollutants  
8 in it. It's just that we know a little bit more about  
9 it.

10 But what we haven't been able to do is to model  
11 it yet. Our water quality models are just not  
12 sophisticated enough yet to look at the fate and  
13 transport of that stuff in the environment. We just  
14 don't know the answers yet. We're working on it, but we  
15 don't know the answers.

16 So--and our DWQ, just like you guys, are some  
17 of the best in the nation. Our basin plans are the best  
18 in the nation, period. They set the standard. So I  
19 think the work that this--our state--we're fortunate to  
20 have you guys, is what it boils down to. Completely off  
21 topic. Sorry.

22 MR. FRANSEN: Let's see. If we're moving  
23 on, the next--I think we looked at--I've already talked  
24 about these inter-governmental agreements, but the only  
25 thing I'll highlight is 504(i). That is one of the

1 factors that the Commission considers, is the level of  
2 sharing of facilities between agencies, as well as the  
3 types of inter--the cooperative agreements between local  
4 governments, so that is a factor.

5 MR. RAYMOND: So--I'm sorry. Since you're  
6 highlighting that particular issue--I was going to ask  
7 this a little later, but what role does a permanent  
8 access play in making these decisions? If OWASA decided  
9 to always tap its allocation through Cary and Durham and  
10 had agreements to that effect, is that any weaker than  
11 if we built our own tap into Lake Jordan? How does that  
12 work, since you kind of highlighted it there? I mean,  
13 it's always--

14 MR. FRANSEN: On the surface, you know,  
15 I would say it probably doesn't matter, but on the other  
16 hand, OWASA owns the land adjacent to the best site on  
17 the--for the western intake, so there might be a little  
18 bit different role here.

19 Yeah, Round Two, to be honest, there was some  
20 friction between Cary and Apex and with Chatham County,  
21 and that was a--some discussions that went on was to make  
22 sure Chatham County's interest was protected using that  
23 eastern intake that Cary and Apex built, so.

24 MR. RAYMOND: Well, it's interesting you  
25 mentioned that because it's our own land that we own.

1 Of all the people who really want to tap into the lake,  
2 we're the ones who are working kind of hard not to have  
3 to do that. We want it as an emergency backup, so  
4 there's that question of participation, right, because  
5 there is a cost associated with it, a very steep cost.

6 The other thing is that--I mean, this is what  
7 I keep saying and you could comment on this if you feel  
8 like it or not, but just looking at Cary's plans going  
9 forward, they're building a lot of capacity and they're  
10 already selling water in a regional fashion. And I've  
11 been characterizing this as that Cary is basically  
12 building a capacity to sell water, because--at least in  
13 the short term.

14 And so they seem like they would have an  
15 economic incentive, you know, to sell water because  
16 they've built all this capacity. But maybe I'm wrong on  
17 that.

18 MR. FRANSEN: I'm not going to touch that  
19 one.

20 MR. RAYMOND: Okay, yeah. Well, we  
21 already have Alan talking about sewer--Cary's water  
22 tasting like sewer, so.

23 MR. FRANSEN: Well, I mean, it's just--  
24 actually, I lived in Cary for a long time. I'd say their  
25 water doesn't taste like sewer, or hasn't for a long

1 time, but that's--it may depend where you're at in Cary.

2 But it's--I think as we're moving forward, when  
3 you start talking about--as we get tighter, the  
4 allocations get closer to 100 percent, how we get the  
5 water, how people are sharing those facilities, the  
6 master plan for Jordan Lake that the Corps and the state  
7 put together really only called for two intakes, an  
8 eastern and western.

9 Unless they've redone some of the engineering,  
10 I think we're probably reaching the capacity of that  
11 eastern one and we've got to be thinking hard of how  
12 we're going to get that western one built some time soon.  
13 And since OWASA owns that land adjacent to the best  
14 western site, they're going to have--they're going to  
15 need to be a player in that discussion.

16 MR. RAYMOND: I believe our difficult  
17 decision is going to be, to secure five percent for  
18 emergency or insurance purposes, can we justify a 40, 50,  
19 60, 80 million dollar expenditure. You know, how much  
20 is--are we willing to pay for that insurance, right?

21 MR. FRANSEN: That's the policy the Board  
22 needs to come up with.

23 MR. RAYMOND: Yeah, exactly.

24 MR. STOTT: Where did you get the  
25 numbers?

1 MR. RAYMOND: Well, the Hazen and Sawyer,  
2 Appendix 7 (unintelligible)?

3 MR. STOTT: 80 million dollars?

4 MR. RAYMOND: Well, the 46 million was the  
5 cheapest option.

6 MR. RIMER: Yeah, but we weren't going  
7 to pay down the full--

8 MR. RAYMOND: No, no.

9 MR. RIMER: Getting off topic--

10 MR. RAYMOND: Yeah, never mind. That's  
11 off topic. Yeah, it's off topic.

12 MR. FRANSEN: Yeah, I mean, regional would  
13 be regionally financed. It wouldn't be you--one entity  
14 doing it anyway.

15 Let's see. We kind of touched on yield--we've  
16 mentioned yield a couple of times. Really, like we said,  
17 your allocations of storage amount, this whole discussion  
18 of yield, safe yield, the value of that is to kind of  
19 estimate how much can you get out of that storage. It  
20 kind of ties in to the modeling and the long range  
21 planning.

22 We've just talked about the model. You know,  
23 I know OWASA's had--got their own model. The state's got  
24 this one that we're working on with OWASA and all the  
25 other stakeholders in the basin.



1           So, having a modeling background, it doesn't  
2   bother me that you have your own model. I like to see  
3   two models run and see if they--how much in agreement  
4   they are. If they're not in agreement, then we have to  
5   take a look at what the assumptions are to find out why  
6   they're not, so we'll work with the staff on that to work  
7   through that, so.

8           MR. RAYMOND:           Well, this was my question,  
9   and actually this goes straight to, in two back to back  
10   droughts, how much of our little Lake Jordan--the little  
11   Lake Jordan that we have--how much of that yield can we  
12   expect to pull?

13          MR. MERKLEIN:          Maintain.

14          MR. RAYMOND:          Maintain, exactly. So you  
15   know, let's say it's a--it's a different question if it  
16   drops to four million gallons a day versus it drops to,  
17   say, two million gallons a day or something like that.

18          MR. FRANSEN:          Well, actually, because we  
19   couldn't come up with a good scenario for climate change,  
20   what we decided to do for climate change is to actually  
21   put--the state climatologist is looking at the historical  
22   record right now, and we're going to kind of develop a  
23   worst--the two worst cases back to back, kind of re-order  
24   the historical record in kind of that fashion.

25                 Kind of have a normal year coming into the two

1 worst years back to back. Got the scenarios. We're  
2 breaking that out seasonally, both the worst--the two  
3 worst winters as well as the two worst springs, the two  
4 worst summers. So you'll give--you'll get exactly what  
5 you're asking about here, the two back to back droughts.

6           So it's not necessarily like the--you may not  
7 get the two winters back to back. They may be two  
8 different winters out of the record, but that's--so  
9 that's what we're going to be doing, is what you've  
10 already done.

11           It's like I said, water quality isn't our job.  
12 It's not really part of the--directly part of the  
13 allocation, but the Commission, in Round Two, did decide  
14 that if you're using Jordan Lake and you've got land in  
15 the watershed, you should be helping protect the water  
16 quality. And they did impose in the contract that until  
17 the Jordan buffer rules got complete, people that were  
18 using Jordan Lake had to follow the Neuse buffer rules.

19           So there is an understanding that if you're  
20 using it, you should be helping to protect it. That's  
21 about the closest I've got for tying those two together.  
22 But this kind of ties back to the--talking about  
23 diversions here. That's kind of like--that's a diversion  
24 out of the watershed as well as the inter-basin transfer  
25 diversion. So that's one of the factors they have to

1 review with that as to how that would impact quality from  
2 a high level.

3 As to my contact information, the e-mail address  
4 I put up there--I put it--if you send to that e-mail  
5 address, you'll be getting both Don and myself and a  
6 couple of other people working on it, so that way you'll  
7 be more likely to get a quick response if one of us is  
8 out of the office.

9 MR. MERKLEIN: Thank you, Tom. At this  
10 time I want--are there any further questions from the  
11 Board for Tom regarding questions that he's asked?

12 MR. FRANSEN: I got one from Pat if you  
13 want, from the audience.

14 MR. YOUNG: I'd just like to express my  
15 appreciation for helping remove a lot of fear,  
16 uncertainty, and doubt. You know, it doesn't feel like  
17 that process--it didn't feel that way at all through this  
18 discussion, so thank you for your patience with us.

19 MR. FRANSEN: Well, I know it's a  
20 complicated process and there's a lot of questions, and  
21 so at any time going through this, if the Board feels it  
22 would be helpful for either myself or Don or one of our  
23 staff to come back, we'll be glad to come back.

24 MR. RAYNO: Sure.

25 MR. MERKLEIN: Well, as you know, this is

1 a significant community discussion, and I think your  
2 coming here really provided the Board an opportunity to  
3 hear direct from you, and I want to thank Terri for  
4 initially making the motion to have you come.

5 And I also want to thank Will and Dana and John  
6 and others who really took the time to develop the  
7 questions and dig through the material and all that kind  
8 of stuff to make this a very productive conversation.

9 So I want to commend the Board for what they've  
10 done to get the questions and prepare to hopefully  
11 answer, you know, issues so that we have that additional  
12 information to consider, each of us, as we move forward  
13 through the conversation. So thank all of y'all for  
14 that.

15 MR. RAYMOND: Gordon, Tom, I would like  
16 to personally thank you. You took my call. I was just  
17 some guy. I called several weeks before we initiated,  
18 you know, a formal thing, and you answered all my  
19 questions, you were patient with me. If this is what  
20 I've come to expect from our DENR, DWQ, and all our staff  
21 up there, so I guess you've spoiled me somewhat, but  
22 thank you very much anyway. And I'm sure this is not  
23 going to be the last time we're going to be tapping your  
24 expertise on this.

25 MR. FRANSEN: That's fine. We'd rather

1 answer--help you work through the process and answer your  
2 questions now than get to the point when the Commission's  
3 making a decision and you're sitting there struggling,  
4 wondering why something's being done and wanting to  
5 challenge it. We feel the community outreach actually  
6 makes a better process for us.

7 MR. RAYMOND: It appears that we've turned  
8 over some stones that maybe other people haven't, so  
9 that--hopefully that will bring clarity to the whole  
10 process, too.

11 MR. MERKLEIN: Tom, you said there was  
12 another--was there another question you--

13 MR. KERWIN: No.

14 MR. MERKLEIN: Oh, okay.

15 MR. FRANSEN: Pat had--if you want to--

16 MR. KERWIN: We hadn't talked about  
17 taking any more questions, so.

18 MR. MERKLEIN: That's okay. Are there  
19 any--is there any other discussion from the Board on  
20 this, or questions?

21 (No response from the Board.)

22 MR. MERKLEIN: Okay. So thank you, Tom.  
23 We had two people sign up--yeah, we had two people sign  
24 up to either comment or respond or ask a question. Mac  
25 Clark, did you still want to speak?

1 MR. CLARK: Not at this time.

2 MR. MERKLEIN: You're fine. Okay, thank  
3 you. Reid Palmer?

4 MR. PALMER: Yes.

5 MR. MERKLEIN: Thanks. If you could come  
6 up to the microphone and just tell us your name.

7 MR. PALMER: Hi. My name is Reid Palmer,  
8 and I'm a citizen of Carrboro, and I've got a question  
9 for Tom based on what I heard. Will has been asking the  
10 questions that I want to ask him, so I'm just going to  
11 rephrase it a little bit.

12 After hearing what you presented, I still have  
13 a little bit of concern about the allocation process and  
14 the potential for a disincentive for long term  
15 conservation measures as a part of this. You mentioned  
16 a community that the per capita water use went up, and  
17 you held them to an allocation that was more in line with  
18 their prior use.

19 But I'm still concerned that communities that  
20 do the minimum to conserve, and in this sort of race to  
21 get an allocation, are going to get there first and be  
22 using Jordan Lake water first, whereas this community is  
23 a model community in the whole state and maybe the  
24 country as well at conserving, at long term conservation.  
25 This community uses less water than it did 15 years ago,

1 despite an increase in population.

2           And I think if OWASA were to lose its allocation  
3 on Jordan Lake, based on the extraordinary effort that  
4 we've made to conserve, that it would be a negative  
5 message to all communities across the state to make the  
6 effort that this community has made to conserve. And if  
7 there's any way that you can take that into consideration  
8 in the allocation method, to not--not provide a  
9 disincentive for long term conservation measures, I would  
10 encourage that. Thank you very much.

11           MR. MERKLEIN:           Thank you, Reid. I think  
12 that's very well spoken, and I think is something that  
13 I think our whole community, and I know the OWASA Board  
14 has long been concerned about, is the level of  
15 conservation that we do, is there a potential that we get  
16 dinged, you know, at some point for that, when in fact,  
17 we hope that others will look at what we have done and  
18 see that as a way to extend the broader water supply for  
19 a longer period of time through conservation.

20           Is there anyone else from the public who wishes  
21 to make a comment?

22           Yes, sir.

23           MR. MERKLEIN:           Welcome, Jim.

24           MR. WARD:                Thank you. Jim Ward from  
25 the town of Chapel Hill. Thank you, Tom. In my notes

1 here, I have you saying something, and I just want to  
2 make sure that you actually said it, and--

3 MR. FRANSEN: No, I didn't.

4 (Laughter)

5 MR. WARD: You said something to the  
6 effect that if tapping into the Jordan Lake allocation  
7 are--if tapping into our Jordan Lake allocation is an  
8 integral part of our drought plan, then it is a use and  
9 therefore would qualify for us using it.

10 And I wanted to, first, see whether that in fact  
11 is close to what you said, and if you could help me  
12 understand that better, because again, this is--we've  
13 been seeing Jordan Lake as a--the last source of water  
14 that we'd use rather than the first source of water, and  
15 that we would only use it when other resources that we  
16 have available aren't adequate.

17 And it seemed like the small amount of time that  
18 that would be, would be in the matter of days or weeks,  
19 and therefore wouldn't stand that test of being a true  
20 use. But then you said that if it's part of our drought  
21 plan, then it's a use and therefore it would be  
22 justifiable. Would you clarify that for me and maybe  
23 the Board?

24 MR. FRANSEN: Remember, since this isn't  
25 in the rules directly, that was kind of the staff's



1 reaction to this. I would feel comfortable justifying  
2 that to the Commission.

3           What I was trying to address with that is the  
4 difference between part of your drought plan to minimize  
5 your risk of your existing reservoirs and other sources  
6 of being totally depleted, versus an emergency, you're  
7 basically at the edge of depletion, so it--we're just  
8 not--we're going to get right to the edge and then not  
9 use Jordan Lake until it's a true dire emergency.

10           If it's really part of an overall risk  
11 management, if it's part of your strategy to balance the  
12 need not to have your citizens go into conservation every  
13 year, you know, mandatory conservation every year, versus  
14 something, you know, less frequent that's kind of in line  
15 with other folks, that's where I was coming from.

16           Trying to draw a distinction between, how do you  
17 really incorporated it into the overall balance of  
18 everything versus we just--we want it as an insur--real  
19 insurance policy and just use it as a measure of last  
20 resort. Does that help?

21           MR. WARD:                   Well--

22           MR. FRANSEN:                Not really.

23           MR. WARD:                   Well, it does. It's still  
24 a gray area scenario, so I mean--

25           MR. MERKLEIN:               Right.

1           MR. WARD:           --help me figure this out  
2 and it's not clear in my mind.

3           MR. FRANSEN:        It's not 100 percent in  
4 mine, either, since we haven't done it before this way,  
5 so--it's something that we're going to be working  
6 repeatedly with the staff and then come back to this  
7 Board if they need us to, to kind of work our way through  
8 it.

9           MR. MERKLEIN:       Jim, actually, you've just  
10 made the perfect transition into our next--into the next  
11 part of this, because I think what Ed Holland's going to  
12 present next is our proposed drought response operating  
13 protocol. It's something that the Board and the staff  
14 especially have been working on and reviewing, and this  
15 is not adopted. This is proposed at this point, but it's  
16 been part of the community question that people like  
17 yourself have asked, what is that plan.

18           And I think, Tom, what you said today is--I feel  
19 that what we are doing is putting forward a drought  
20 mitigation plan. I mean, everything that we're doing,  
21 as opposed to--even though we've--what we've--I think  
22 even our definition of an emergency use in the past is  
23 still part of a mitigation--is still part of a drought  
24 mitigation plan, in terms of when we use it, and I know  
25 there's various and series of nomenclature, but I hope

1 we're able to clarify that.

2 And so actually, I want to move forward into  
3 that, unless there is someone else who has a question or  
4 something for Tom. But if not, I really want to--

5 MR. SLADE: Just one quick--

6 MR. MERKLEIN: Sure, Sammy.

7 MR. SLADE: I guess it's related to the  
8 question that you just asked. You know, the idea of  
9 changing--we have changed the times at which we have the  
10 conservation measures that kick in, and instead are  
11 purchasing from neighboring jurisdictions.

12 And so the question to me is, to what degree  
13 have those decisions been made as a means to justify our  
14 continued access to Jordan Lake? And so, if what is  
15 being called for is a true emergency, then are we  
16 actually--are we actually undermining our claim to Jordan  
17 Lake?

18 MR. MERKLEIN: Uh-huh (affirmative).

19 MR. SLADE: Do you understand that  
20 question?

21 MR. RAYMOND: Sammy, maybe let me try.

22 MR. STOTT: I'd like to ask--say  
23 something, too, after thinking about it.

24 MR. RAYMOND: The--under our current water  
25 conservation standards, we have a Stage One water alert,

1 or water emergency. And actually, we don't ask that much  
2 of the community within that Stage One, and we also  
3 charge them more money, so that there's a disincentive  
4 to--you know, there's a--let's say an incentive to  
5 conserving water because it's costing you more.

6 And in our discussion, and in--even Stage Two  
7 is really not that significant, but in our discussions,  
8 and you're going to see this in a minute, we've set  
9 the--this level to be somewhere in the Stage One area,  
10 you know, where you can't water your lawn every day of  
11 the week, right. You have to only water it a couple  
12 times a week, right.

13 So I'm hoping that, when it comes to these--  
14 what's considered a drought mitigation plan, that you're  
15 allowed to be, you know, a little bit into the zone,  
16 right, and that's okay, versus--I don't think any of us  
17 have talked about being in dire need like there's, you  
18 know, one 55 gallon drum left of water somewhere or we're  
19 going to go down to Food Lion and buy, you know, water  
20 or something? None of us have ever said that, but we  
21 wanted to see, you know, this kind of feedback loop where  
22 we get somewhere in the zone.

23 And again, I like this, how Gordon is putting  
24 this, is that it's a part of a larger drought mitigation  
25 plan. And I like what Reid said; basically this is-

1 should play into this conservation ethic should--we  
2 should be rewarded, I personally think, for doing that.  
3 And I think we will be. Twenty years from now, people  
4 are going to look back, just like they do now at some of  
5 OWASA's activities and say, "Wow, these guys were pretty  
6 wise." But this is--this is my take. Like I say, I hope  
7 I'm around 20 years from now when the--

8 MR. MERKLEIN: Will? William, sorry.

9 MR. STOTT: Appreciate it. Sammy, I  
10 just--you've asked a question about going to purchased  
11 water before going to other stages of restriction, and  
12 I wanted to make sure I understood the question. You  
13 were wondering about whether or not the motive behind  
14 that was protecting the Jordan Lake allocation, or that's  
15 part of justifying going to the Jordan Lake allocation?

16 MR. SLADE: It doesn't matter if it  
17 was--what the motive was. It's the effect--

18 MR. STOTT: Okay. Well, I just wanted  
19 to say one thing, though. In the discussions that I've  
20 been part of in which we've discussed purchased water in  
21 the context of restrictions, the primary motive has been  
22 keeping the rates down because, as it turns out, going  
23 to purchased water before going to some restrictions is  
24 ultimately more beneficial to customers in terms of pay,  
25 and so that has been the guiding reason, particularly in

1 my mind. So I just wanted to let you know that.

2 MR. SLADE: I'd like to hear about the  
3 (unintelligible) reasons, the effect.

4 MR. STOTT: The effect, I'm not sure I understand.

5 MS. BUCKNER: You know, I didn't really  
6 understand your question, either, Sammy, so I'd like for  
7 you to repeat it.

8 MR. SLADE: Sure.

9 MS. BUCKNER: Yeah. Just rephrase it.

10 MR. SLADE: You just mentioned that--

11 MS. BUCKNER: And maybe you should  
12 identify yourself because we are going to do a  
13 transcript.

14 MR. SLADE: Yeah. I'm Sammy Slade. The  
15 point was made that the degree to which there's an actual  
16 emergency in our plan has an effect in how the Commission  
17 will value, or how it's justified that we can claim  
18 access to Jordan Lake. Inasmuch as we are not going to  
19 that as degrees of emergency, but rather mitigating that  
20 by purchasing from neighboring jurisdictions, to what  
21 degree does that effect how the state agency understands  
22 the degree to which we actually need that access?

23 MR. FRANSEN: The simple answer to that  
24 is it's too early to know the answer to it, because until  
25 we get everybody's application in, until we see

1 something--until we get to the point of being able to--  
2 having to put something in the model on operations and  
3 drought plans, it's really too early for me to be able  
4 to answer that, because I don't know how it fits in with  
5 the picture, and we just don't--we know there's a lot of  
6 pieces still being worked on, so I can't--it's just too  
7 early.

8 MR. MERKLEIN: Okay. I don't--I want to  
9 go back to the mojo of Jim Ward's last question, and  
10 invite Ed up to now have a discussion on the proposed  
11 drought response operating protocol.

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15 (Whereupon, the proceedings  
16 on the issue at hand concluded.)

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1 STATE OF NORTH CAROLINA

2 COUNTY OF ALAMANCE

3

4 C E R T I F I C A T E

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