

MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING MODERNIZATION BOARD

SECRETARY OF STATE
1500 11th STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

WEDNESDAY, FEBRUARY 15, 2006

10:30 A.M.

TIFFANY C. KRAFT, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 12277

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

PANEL MEMBERS

Mr. John A. Pérez, Chairperson, via telephone

Mr. Stephen Kaufman, Acting Chairperson

Mr. Michael Bustamante

Mr. Tal Finney

Mr. Carl Guardino, via telephone

STAFF

Mr. Michael Kanotz, Staff Counsel

Ms. Susan Lapsley, Office of Voting Systems Technical
Assessment

Ms. Jana Lean, Staff Consultant

Ms. Katherine Montgomery, Executive Assistant

ALSO PRESENT

Ms. Billie Alvarez, Santa Barbara County

Mr. Philip Chantri, Santa Clara County

Ms. Kathleen Moran, Colusa County

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1 PROCEEDINGS

2 ACTING CHAIRPERSON KAUFMAN: Okay. Well, it
3 sounds as if we have a quorum, unless Carl is throwing his
4 voice and imitating Michael as well.

5 So, Kathleen, do you want to take roll?

6 EXECUTIVE ASSISTANT MONTGOMERY: John Pérez?
7 Stephen Kaufman?

8 ACTING CHAIRPERSON KAUFMAN: Here.

9 EXECUTIVE ASSISTANT MONTGOMERY: Mike Bustamante?

10 BOARD MEMBER BUSTAMANTE: Here.

11 EXECUTIVE ASSISTANT MONTGOMERY: Tal Finney?
12 Carl Guardino?

13 BOARD MEMBER GUARDINO: Here. Present.

14 ACTING CHAIRPERSON KAUFMAN: Okay. We have a
15 quorum, some in voice only. So why don't we begin.

16 Do we have any public comment? I haven't
17 received any cards.

18 STAFF CONSULTANT LEAN: No, sir.

19 ACTING CHAIRPERSON KAUFMAN: Then let's get to
20 Item 4 on the agenda, which is the adoption of the January
21 18, 2006, action and meeting minutes. Do I have motion
22 from either of the gentlemen on the phone to approve the
23 minutes?

24 BOARD MEMBER BUSTAMANTE: I'll move.

25 ACTING CHAIRPERSON KAUFMAN: Michael Bustamante

1 moves.

2 Carl, do you second?

3 BOARD MEMBER GUARDINO: Yeah.

4 ACTING CHAIRPERSON KAUFMAN: We have a second.

5 All in favor of approving the minutes say aye.

6 (Ayes)

7 ACTING CHAIRPERSON KAUFMAN: Unanimous vote on
8 that. That was easy. Okay.

9 Let's go to the Item 5, which is the project
10 documentation package review and funding award approvals.
11 And we have two counties that are before us this morning,
12 Colusa County and Santa Barbara County.

13 Jana, you want to begin by providing the staff
14 report on Colusa County?

15 STAFF CONSULTANT LEAN: Colusa County is moving
16 forward with the Phase 1 Project Documentation Plan.
17 Staff recommends funding award of \$92,625. They're
18 purchasing the ES&S Model 100 precinct ballot scanners, 20
19 units. Colusa County has secured the Phase 1 voting
20 system equipment, and this equipment was implemented
21 completely during the November 2005 special election.
22 Phase 1 voting system was implemented, and the county
23 anticipates implementing their Phase 2 voting equipment,
24 the AutoMARK Voter Assist Terminals, during the June 6,
25 2006, primary election. The accessible voter verified

1 paper audit trail requirement does not apply to Colusa
2 County Phase 1 Project Documentation Plan, as the system
3 is a paper-based optical scan system.

4 Colusa County Phase 1 Project Documentation Plan
5 meets the requirements for completeness. The ES&S model
6 100 optical scan units being used by Colusa County are
7 certified for use in California. During the October 2003
8 recall election, Colusa County entered into a contract to
9 rent ES&S central count optical scan voting equipment to
10 take the place of their Datavote punch card voting system
11 to assist with reducing the cost due to the extraordinary
12 number of candidates on the ballot and recall election.
13 The optical scan voting equipment was well received by
14 their voters, and as such, the County rented the central
15 count optical scan system again for the March 2004 and the
16 November 2004 elections.

17 Based upon the successful use of the optical scan
18 voting system, Colusa County entered into a contract with
19 ES&S to purchase 20 ES&S Model 100 precinct based optical
20 scan units, and these units were used for the first time
21 during the November 2005 special election.

22 Colusa County's Phase 1 project documentation
23 plan does not fully address the new state and federal
24 requirements for accessibility. However, the ES&S Model
25 100 does offer a voter verified ballot and alerts voters

1 if they've overvoted their ballot. To fully comply with
2 the state and federal law, Colusa County plans to
3 incorporate a Phase 2 into their overall plan and intends
4 to purchase one AutoMARK Voter Assist Terminal for each
5 location.

6 Colusa County will only receive VMP payments once
7 they have submitted detailed invoices for their certified
8 voting equipment. Please note the staff proposed funding
9 award states upon allowable reimbursement of Proposition
10 41 for the voting equipment hardware and software only.
11 The election support services and ES&S voter registration
12 software licensing fees line items listed in Colusa
13 County's contract with ES&S would not be covered as
14 reimbursable claims under Proposition 41.

15 It is the staff recommendation that Colusa
16 County's Phase 1 Project Documentation Plan be approved
17 and funding award letter be issued in amount of \$92,625.
18 Any questions?

19 ACTING CHAIRPERSON KAUFMAN: Thanks, Jana.

20 Do either of you gentlemen have questions for
21 Jana?

22 BOARD MEMBER GUARDINO: I do not.

23 BOARD MEMBER BUSTAMANTE: Nor do I.

24 ACTING CHAIRPERSON KAUFMAN: Do we have a
25 representative from Colusa County here this morning?

1 MS. MORAN: Yes. I'm Kathleen Moran, and I'm
2 County Clerk and Registrar of Voters for Colusa County.

3 ACTING CHAIRPERSON KAUFMAN: Ms. Moran, do you
4 want to step up to the microphone -- or actually should we
5 have her come up here? If you wouldn't mind coming up to
6 the table so that my fellow Board members can hear what
7 you have to say.

8 MS. MORAN: Thank you.

9 I've read the staff recommendation, and it is
10 based on the application that we've presented. It's a
11 summary of that. And I'm in agreement with the
12 recommendation, and I'm hoping the project will be funded
13 as requested.

14 ACTING CHAIRPERSON KAUFMAN: Ms. Moran, have you
15 already entered negotiations for the purchase of the
16 AutoMARK?

17 MS. MORAN: Yes.

18 ACTING CHAIRPERSON KAUFMAN: Is there a contract
19 in place, or are you just awaiting certification or --

20 MS. MORAN: No. We have an add-on sales
21 agreement to the -- this agreements for the Model 100. So
22 we have it negotiated and have a contract that is not
23 signed yet, but we do have it sitting there.

24 ACTING CHAIRPERSON KAUFMAN: Just so I understand
25 completely, and I know the same applies to Santa Barbara

1 County, but the AutoMARK system is a, for lack, it's kind
2 of a hybrid. There's a paper ballot that's generated, but
3 it's done through essentially a touch screen device.

4 MS. MORAN: It's simply a marking system. It's a
5 marking device that produces a paper ballot that's then
6 fed through the optical scan.

7 ACTING CHAIRPERSON KAUFMAN: Mr. Bustamante,
8 Mr. Guardino, do you have any questions for Mr. Moran?

9 BOARD MEMBER BUSTAMANTE: Yeah, I have one, and
10 it goes to Phase 2 and the issue of, you know, being able
11 to -- meeting the accessibility requirements. When does
12 the county intend on meeting those accessibility
13 requirements in Phase 2?

14 MS. MORAN: That requirement is intended to be in
15 place for the June primary.

16 BOARD MEMBER BUSTAMANTE: Oh, that soon?

17 MS. MORAN: Yes.

18 BOARD MEMBER BUSTAMANTE: Oh, I see. So you
19 intend to come back to us for the remaining allocation?

20 MS. MORAN: Yes, I do.

21 BOARD MEMBER BUSTAMANTE: I see.

22 MS. MORAN: Hopefully at the next meeting or
23 subsequent meeting.

24 BOARD MEMBER BUSTAMANTE: I see. Okay. No more
25 questions.

1 ACTING CHAIRPERSON KAUFMAN: Mr. Guardino?

2 BOARD MEMBER GUARDINO: Nope.

3 ACTING CHAIRPERSON KAUFMAN: Okay. Okay. Then
4 do we have a motion to approve the staff recommendation
5 for Colusa County's Phase 1 Project Documentation Plan in
6 the amount of \$92,625?

7 BOARD MEMBER BUSTAMANTE: Yeah, I so move.

8 BOARD MEMBER GUARDINO: I second that.

9 CHAIRPERSON PÉREZ: We have a motion by
10 Mr. Bustamante and a second by Mr. Guardino.

11 Roll.

12 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman?

13 ACTING CHAIRPERSON KAUFMAN: Aye.

14 EXECUTIVE ASSISTANT MONTGOMERY: Mike Bustamante?

15 BOARD MEMBER BUSTAMANTE: Aye.

16 EXECUTIVE ASSISTANT MONTGOMERY: Carl Guardino?

17 BOARD MEMBER GUARDINO: Aye.

18 ACTING CHAIRPERSON KAUFMAN: Okay.

19 Congratulations to Colusa County.

20 MS. MORAN: Thank you very much.

21 ACTING CHAIRPERSON KAUFMAN: We'll look forward
22 to seeing you again sometime before June.

23 Let's go to Santa Barbara County.

24 STAFF CONSULTANT LEAN: Santa Barbara County is
25 moving forward with their Phase 2 Project Documentation

1 Plan. Staff recommends an allocation of \$720,924.75.
2 Santa Barbara County is purchasing the ES&S AutoMARK Voter
3 Assist Terminals, 200 units.

4 ACTING CHAIRPERSON KAUFMAN: If I may, timely as
5 always, Mr. Finney has arrived.

6 BOARD MEMBER FINNEY: I've arrived. Good thing.
7 Are we quorumed?

8 ACTING CHAIRPERSON KAUFMAN: We have had a
9 quorum. We have Mr. Bustamante and Mr. Guardino on the
10 phone. No thanks to you, we have a quorum.

11 BOARD MEMBER FINNEY: I had to walk here from
12 Mr. Bustamante's office.

13 ACTING CHAIRPERSON KAUFMAN: Jana was just
14 providing us with the report on Santa Barbara County, and
15 I apologize for interrupting.

16 STAFF CONSULTANT LEAN: Let's start that one more
17 time. Santa Barbara County has submitted a plan for their
18 Phase 2 Project Documentation. They are purchasing the
19 ES&S AutoMARK Voter Assist Terminals, 200 units. Santa
20 Barbara County anticipates receiving the AutoMARK units
21 this month in February 2006. And the county plans to use
22 the AutoMARK units for the first time at the June 6, 2006,
23 primary election. Santa Barbara County anticipates their
24 Phase 2 project completion date will be upon certification
25 of the June 6, 2006, primary. The accessible voter

1 verified paper audit trail requirement does not apply to
2 Santa Barbara County's Phase 2 Project Plan as the system
3 is a paper based optical scan system.

4 Santa Barbara County's Phase 2 Project
5 Documentation Plan meets the requirement for completeness.
6 The ES&S AutoMARK Voter Assist Terminals are certified for
7 use in California. At the January 15th, 2003, meeting of
8 the Voting Modernization Board, the Board approved Santa
9 Barbara County's Phase 1 Project Documentation Plan and
10 awarded funding for reimbursement for the County's
11 purchase of the Diebold AccuVote Optical Scan Precinct
12 Ballot Tabulator Voting Equipment.

13 Santa Barbara County plans to accomplish their
14 voting system modernization through a three-phase
15 implementation plan. The county believes this three-phase
16 implementation plan is a reasonable one for their county.
17 Using this approach, the county has been able to introduce
18 optical scan technology to voters who vote at the polls
19 and those who vote by absentee ballot. Santa Barbara
20 County believes the deployment of the Phase 2 Voter Assist
21 Terminals Optical Scan Units will bring the county into
22 compliance with the Help America Vote Act and state
23 accessibility requirements.

24 Santa Barbara County plans to conduct a voter
25 education and outreach program for voters in their county

1 with a special emphasis on voters with disabilities on how
2 to use the new AutoMARK voting equipment. The county
3 plans to incorporate pertinent information on the new
4 AutoMARK unit in their poll worker and field supervisor
5 training curriculum. The county also plans to provide
6 poll workers and voters with surveys to evaluate the
7 AutoMARK units.

8 Santa Barbara County will only receive VMB
9 payments once they have submitted detailed invoices for
10 their certified voting equipment. Please note that the
11 staff proposed funding award is based upon available
12 expenses under Prop. 41 for the voting equipment hardware
13 and software only. The election support services and
14 installation line items listed in Santa Barbara County's
15 contract with ES&S would not be covered as reimbursable
16 claims under Proposition 41.

17 It is our recommendation that the Santa Barbara
18 County Phase 2 Project Documentation Plan be approved and
19 a funding award letter be issued in the amount of
20 \$720,924.75.

21 Any questions?

22 ACTING CHAIRPERSON KAUFMAN: I have one question,
23 Jana, just about the attachments, the allocation formula.
24 I got confused when I got to the section entitled, "Phase
25 2 Non-Allowable Expenses," and that made reference under

1 that to Phase 1.

2 STAFF CONSULTANT LEAN: That's a typo on my part.

3 ACTING CHAIRPERSON KAUFMAN: It wasn't just me?

4 STAFF CONSULTANT LEAN: No. It was a typo.

5 ACTING CHAIRPERSON KAUFMAN: So are all the

6 references there to Phase 1 supposed to be Phase 2?

7 STAFF CONSULTANT LEAN: That's correct, sir.

8 ACTING CHAIRPERSON KAUFMAN: And this is how you
9 got to -- this is how you parsed out the allowable and
10 non-allowable costs on the Phase 2 funding requests by
11 Santa Barbara County?

12 STAFF CONSULTANT LEAN: That's correct.

13 BOARD MEMBER FINNEY: Mr. Chairman, since I was
14 absent, is that how they did it for Colusa as well?

15 ACTING CHAIRPERSON KAUFMAN: There was not a --

16 BOARD MEMBER FINNEY: Not a chart like this, but
17 I mean as far as --

18 STAFF CONSULTANT LEAN: Yes, there was a chart
19 attached to Colusa's.

20 BOARD MEMBER FINNEY: I'm just asking because you
21 approved it, but that's how we're getting around the issue
22 that's been at hand the past several meetings?

23 ACTING CHAIRPERSON KAUFMAN: There is no issue
24 regarding conditional certification for Colusa or for
25 Santa Barbara on this particular equipment. Because we're

1 talking about optical scan equipment and not the DRE
2 equipment. So that issue is not on the table today
3 thankfully.

4 Mr. Finney, do you have any questions for Jana?

5 BOARD MEMBER FINNEY: Nope.

6 ACTING CHAIRPERSON KAUFMAN: Mr. Bustamante, any
7 questions for Jana or staff?

8 BOARD MEMBER BUSTAMANTE: No, not for me.

9 ACTING CHAIRPERSON KAUFMAN: Carl?

10 BOARD MEMBER GUARDINO: No.

11 ACTING CHAIRPERSON KAUFMAN: Do we have a
12 representative of Santa Barbara?

13 MS. ALVAREZ: Billie Alvarez from Santa Barbara
14 County.

15 ACTING CHAIRPERSON KAUFMAN: Lilly Alvarez is
16 here from Santa Barbara County. Ms. Alvarez, would you
17 like to come up? And I guess we have another chair here
18 at the table.

19 Good morning, Mr. Chair.

20 CHAIRPERSON PÉREZ: Good morning. Sorry for the
21 delay in coming on. I had poor cell phone coverage.

22 ACTING CHAIRPERSON KAUFMAN: Just to bring you up
23 to the speed, we are in the middle of reviewing Santa
24 Barbara County's application, and we have already approved
25 Colusa County. And we have Lilly Alvarez --

1 MS. ALVAREZ: Billie.

2 ACTING CHAIRPERSON KAUFMAN: Billie Alvarez from
3 Santa Barbara County has joined us up here to provide us
4 with her comments.

5 MS. ALVAREZ: Good morning. And the comment I
6 have once again is a summary of what was submitted, and
7 Santa Barbara agrees with the recommendation.

8 ACTING CHAIRPERSON KAUFMAN: Mr. Chair, I know
9 you just jumped in, but do you have any questions for
10 Santa Barbara County regarding their Phase 2 Project
11 Documentation Plan?

12 Maybe he's in bad cell phone coverage.

13 Tal, any questions for Santa Barbara County?

14 BOARD MEMBER FINNEY: I feel good about it.

15 ACTING CHAIRPERSON KAUFMAN: Mr. Bustamante, any
16 questions or comments?

17 BOARD MEMBER BUSTAMANTE: No, sir.

18 ACTING CHAIRPERSON KAUFMAN: And Mr. Guardino?

19 BOARD MEMBER GUARDINO: No.

20 ACTING CHAIRPERSON KAUFMAN: Okay. Then in that
21 case, the Chair will entertain a motion to approve the
22 staff recommendation that Santa Barbara County's Phase 2
23 Documentation Plan be approved, and the funding award
24 letter be issued in the amount of \$720,924.75.

25 BOARD MEMBER FINNEY: I'll move it.

1 CHAIRPERSON PÉREZ: I'll second.

2 ACTING CHAIRPERSON KAUFMAN: We have a motion by
3 Mr. Finney. And I'm sorry, was that Mr. Guardino?

4 CHAIRPERSON PÉREZ: No. That was John.

5 ACTING CHAIRPERSON KAUFMAN: Now we know he's
6 back.

7 Any further discussion on the issue? Okay.

8 Let's take a vote.

9 EXECUTIVE ASSISTANT MONTGOMERY: John Pérez?

10 CHAIRPERSON PÉREZ: Aye.

11 EXECUTIVE ASSISTANT MONTGOMERY: Stephen Kaufman?

12 ACTING CHAIRPERSON KAUFMAN: Aye.

13 EXECUTIVE ASSISTANT MONTGOMERY: Mike Bustamante?

14 BOARD MEMBER BUSTAMANTE: Aye.

15 EXECUTIVE ASSISTANT MONTGOMERY: Tal Finney?

16 BOARD MEMBER FINNEY: Aye.

17 EXECUTIVE ASSISTANT MONTGOMERY: Carl Guardino?

18 BOARD MEMBER GUARDINO: Aye.

19 ACTING CHAIRPERSON KAUFMAN: Congratulations.

20 MS. ALVAREZ: Thank you very much.

21 ACTING CHAIRPERSON KAUFMAN: That's it for the
22 project documentation packages for today.

23 And, Jana, we're going to go to the next item,
24 which is the staff report on the quarterly status reports
25 that have been submitted by all the counties. But maybe

1 as we segue into that, you can just comment on the
2 remaining issue from our last meeting in terms of the
3 three counties that received conditional approval. And if
4 you could just give us a little public status report on
5 the submission that was made with respect to that voting
6 system.

7 STAFF CONSULTANT LEAN: That was regarding
8 Sutter, Tulare, and Yuba County. Sequoia actually did
9 move forward. They brought their complete package to the
10 Secretary of State's Office, and they actually did
11 complete federal testing. So they fulfilled their
12 requirements that were placed upon those counties' funding
13 awards so that was listed. John Pérez actually signed off
14 letters letting the counties know that the condition no
15 longer stands for their funding awards.

16 ACTING CHAIRPERSON KAUFMAN: Very good. It's
17 nice to hear we're actually moving forward on one instead
18 of still in a holding pattern.

19 CHAIRPERSON PÉREZ: I have a question. Is a
20 representative of Sequoia in the room today?

21 STAFF CONSULTANT LEAN: I don't believe so, sir.

22 MR. CHANTRI: There's a Sequoia County here.
23 Santa Clara County is here. We use Sequoia.

24 ACTING CHAIRPERSON KAUFMAN: Did you hear that,
25 John?

1 CHAIRPERSON PÉREZ: No, I did not.

2 ACTING CHAIRPERSON KAUFMAN: There's no
3 representative from the county here. There is a county
4 here, Santa Clara County, that uses the Sequoia system.

5 CHAIRPERSON PÉREZ: I don't want to direct my
6 comments at the county.

7 ACTING CHAIRPERSON KAUFMAN: I think you should
8 just stay in your seat over there.

9 Okay. As you may all know, we adopted a
10 quarterly status report to be provided by counties who had
11 not yet submitted Project Documentation Plans by the end
12 of January.

13 STAFF CONSULTANT LEAN: That's correct.

14 ACTING CHAIRPERSON KAUFMAN: And the staff has
15 received those reports. And, Jana, if you can give us a
16 report on the report.

17 STAFF CONSULTANT LEAN: We also requested that
18 counties who are doing their modernization phases to
19 submit where they are and when they're going to move
20 forward for their second phase. So as you're aware, in
21 your packets there was responses from all of the counties.
22 Everyone did respond. There was a few late submissions,
23 but they're all there in your package.

24 For the first quarter, we consider that January
25 through March of 2006. We have counties -- if you want to

1 take a look at the breakout report. I thought I would
2 just go over it really briefly. I looks like
3 approximately 13 counties plan to come forward between
4 March and April of this year. And seven other counties
5 indicated they plan to come forward upon certification of
6 additional voting systems, with ten of course with the
7 unknown, because they don't know what they want to do yet.

8 But that's the brief overview of this. If you
9 have any specific questions on a county, I would be more
10 than happy to go through, because this is a condensed
11 version of what they submitted. But you got copies of
12 everything they submitted in your package.

13 We do have a representative here from the Office
14 of Voting Systems Technology Assessment. I've been trying
15 to get that acronym down for a while.

16 ACTING CHAIRPERSON KAUFMAN: What is the acronym?

17 STAFF CONSULTANT LEAN: OVSTA.

18 Susan Lapsley is here to answer any questions on
19 certification, because I know you will have questions on
20 certification and where the status is. So she will be
21 more than happy to answer those questions.

22 But do you have any questions of me on the county
23 submittals?

24 ACTING CHAIRPERSON KAUFMAN: Yeah. Before we
25 turn to Susan, I guess I was going through and trying to

1 make sense of where all the counties are at. And it
2 seemed to me that there was one county -- I hate to start
3 pointing out slackers, but Lake County seemed to be kind
4 of neither planning to submit anything nor really making
5 any movement towards submitting anything. And I wondered
6 if we knew anything further about Lake.

7 STAFF CONSULTANT LEAN: Well, they only have two
8 staff members in their entire Voter Registration -- or
9 sorry -- Registrar of Voters Office. They're also the
10 clerk and the assessor. So they don't really have staff.
11 I have been in contact with their office. And as soon as
12 I think -- they've been waiting for other small counties
13 to move forward and kind of piggyback on what they're
14 going to do. So they are looking at the systems. They
15 just haven't gone out with an RFP. They are moving
16 forward, even though it doesn't really appear to be in
17 their report.

18 ACTING CHAIRPERSON KAUFMAN: Okay. Is it fair to
19 say then everybody else is either in the RFP process or
20 they are awaiting certification or, you know, figuring out
21 a further phase on top of what they've already done?

22 STAFF CONSULTANT LEAN: That's correct.

23 ACTING CHAIRPERSON KAUFMAN: Any other questions
24 of Jana before we turn to Susan?

25 Mr. Finney, did you have any questions?

1 BOARD MEMBER FINNEY: No.

2 STAFF CONSULTANT LEAN: I have one more comment.
3 There is three counties who will be coming back -- even
4 though they completed their plans, they will be coming
5 back in front of the Board. That's San Diego, San
6 Joaquin, and Kern. They purchased the Diebold DSX units.
7 So they're going to have to come back in front of the
8 Board to be heard in order to get reimbursement on those
9 systems.

10 ACTING CHAIRPERSON KAUFMAN: That's the system
11 that was decertified?

12 STAFF CONSULTANT LEAN: That's correct. They had
13 to amend their contract. As is required by the Board, any
14 time, there is an amendment to the contract, they have to
15 come back in front of the Board. Those weren't listed in
16 the 30. There's actually probably 33 counties we'll see
17 again in the next -- almost everyone plans to implement it
18 by June 2006. And if they all come forward, the next
19 three months will be incredibly busy.

20 ACTING CHAIRPERSON KAUFMAN: We'll plan on long
21 meetings those months.

22 Rather than have everyone jump in at once, John,
23 any questions for Jana?

24 CHAIRPERSON PÉREZ: No. But I just want to thank
25 Jana. And I want to thank the counties for being

1 responsive and timely in responding with all this
2 information.

3 ACTING CHAIRPERSON KAUFMAN: Thank you for
4 mentioning that.

5 Mr. Bustamante.

6 BOARD MEMBER BUSTAMANTE: No, I don't have any
7 comment. I'm just really happy that we got such a good
8 response back.

9 ACTING CHAIRPERSON KAUFMAN: Carl?

10 BOARD MEMBER GUARDINO: No. Thank you.

11 ACTING CHAIRPERSON KAUFMAN: Then maybe we can
12 have Susan give us an update. I'll pose the question that
13 I know all of us want to ask. That is what is the status
14 of certification of the Diebold? The Diebold system that
15 seems to keep going from month to month, and we keep
16 hearing they're about to be certified. But we know
17 there's still this software problem waiting to use in the
18 primary elections. So maybe you can -- if you want to
19 come up to the desk. And if you can start with that one
20 off the bat and give us any other insight into the various
21 systems that are awaiting certification, that would be
22 helpful.

23 MS. LAPSLEY: First of all, I'd like to say thank
24 you for letting me join you. Bruce McDonald is in the
25 field currently testing as we speak. He's had a very

1 tough last month and a half trying to get these systems
2 tested and through.

3 CHAIRPERSON PÉREZ: Can I ask you to step a
4 little closer to the speaker phone?

5 MS. LAPSLEY: Is that better?

6 CHAIRPERSON PÉREZ: Yes. Much better.

7 MS. LAPSLEY: Thank you.

8 Bruce McDonald has been out in the field testing
9 trying to get all these systems through our process.

10 Your first question as to Diebold, yesterday
11 afternoon our office did receive our State Reviewers
12 Report. We are going through the internal review right
13 now of it. We still have a couple of technical questions
14 that need to be answered by reviewers. So that's our
15 current status as far as the State Reviewer goes.

16 We have not received any information from the
17 federal ITA. You may or may not be aware that Secretary
18 McPherson sent a letter to the ITA I think probably about
19 a week and a half ago now asking for an update on the
20 status. That was transferred to ITA December 20th I think
21 asking for them to review the Accu basic code. At this
22 point, we still haven't gotten any response from them,
23 although I've heard they are looking at some time next
24 week. We've been hearing sometime next week for quite a
25 while.

1 So that being said, as soon as we are able to
2 review and get the questions answered on the technical
3 aspects, we'll be able to give a report to the Secretary
4 and make a determination. So that covers Diebold
5 generally where the status is.

6 ACTING CHAIRPERSON KAUFMAN: So we still need a
7 good ahead from the federal government before you can
8 complete -- the state can complete its approval process?

9 MS. LAPSLEY: At some point ideally, yes. They
10 anticipate that they will be done next week, and that's
11 what we're relying on, that representation.

12 But internally we are looking at the report and
13 answering -- trying to get answers to the technical
14 aspects -- technical questions that they brought up.

15 I'll go on with the other ones. What I prefer to
16 do is, if you guys don't mind, go through each system.
17 And at the end of it if you have questions on the various
18 systems, we can go from there.

19 With respect to Sequoia, Sequoia completed
20 federal testing on January 30th. The state examination
21 began on February 6th. We are concluding this week the
22 volume testing. Everyone may or may not be aware Sequoia
23 has a big piece that's being certified. It's their Edge I
24 has in their application Edge I, Edge II, their WinEDS.

25 So all in all, we're conducting a volume test

1 this week in Alameda. That's 250 machines that are going
2 through the volume testing. It's a large load and a load
3 procedure, but it's taking up -- so everyone can
4 conceptualize how much space and manpower that takes, it's
5 about 250 machines that are at the fairgrounds and we take
6 up two buildings there to be able to go through the whole
7 volume testing of it.

8 This volume testing should conclude at the end of
9 this week. This is one system that will be demonstrated
10 for the election officials on February 17th in our
11 office -- actually probably in this room or in the
12 multi-purpose room. Then it's currently noticed for
13 public hearing on March 1st.

14 For Hart InterCivic, we did the state examination
15 on February 1st and concluded on the 3rd. Volume testing
16 is currently scheduled for the 20th through the 22nd in
17 Orange County. It also is scheduled to be demonstrated to
18 election officials on the 17th here. And it is also
19 noticed for a public hearing on March 1st.

20 ES&S's Unity Model, 100 Model, AutoMARK, and
21 iVotronic application, they indicated that -- ES&S has
22 indicated they're not going to be bringing forward the
23 iVotronic in the states. The other parts of the
24 application, they're still undergoing federal testing.
25 They're not even complete with that yet. They will be

1 bringing at a later date. Meaning, they'll bring the
2 Unity Model 100 upgrades and markup rates. They
3 represented to us probably the end of the month by the
4 time they finish federal testing.

5 For the ES&S InkaVote plus, federal examination
6 was successfully completed on January 13th. We completed
7 the state examination on the 27th down in Carlsbad. This
8 is another system that will be available for election
9 officials to view on the 17th, and it is also noticed for
10 public hearing on March 1st.

11 Populex, there's some other ones that haven't
12 received as much focus and aren't your main vendors. But
13 Populex is another one that we have an application on.
14 There was a problem with Populex because they had a unique
15 identifier on their ballot. We've gone to them and asked
16 them to remove the unique identifier because it violates
17 state law. They indicated they can, too, but in order to
18 do that we're going to go back and that have reviewed by
19 the federal IT.

20 BOARD MEMBER BUSTAMANTE: Can you back up what
21 about that violating state law? Can you walk me through
22 that for a second?

23 MS. LAPSLEY: There's a -- and I apologize. I
24 don't have my Elections Code with me. There's a specific
25 provision that says no ballot should have a unique

1 identifier.

2 BOARD MEMBER BUSTAMANTE: That's what it is.

3 MS. LAPSLEY: So we based upon that just said,
4 okay, can you remove that? And like I said, they said
5 yes. And they have to go back to the ITA because it does
6 involve a change to the system.

7 And that concludes the application we have, or we
8 think. We'll have it in the office. If there's any
9 questions on the various systems, I'd be happy to take
10 them, and answer them to the extent that I can.

11 ACTING CHAIRPERSON KAUFMAN: Thanks for the
12 qualification.

13 I just had a question. It sounds like pretty
14 much all of them are lined up for public hearing on
15 March 1st. So once that's concluded, what's the time
16 frame and the process for --

17 MS. LAPSLEY: The public comment period ends on
18 March 8th. It goes a week after. And at that time we'll
19 be able to make a recommendation to the Secretary on
20 whether or not to certify.

21 ACTING CHAIRPERSON KAUFMAN: Okay. So it sounds
22 like probably not until our April meeting we could expect
23 to see certifications of these particular systems
24 realistically.

25 STAFF CONSULTANT LEAN: On the other business, I

1 was going to discuss potentially moving back the March
2 meeting and moving back the April meeting to see if we can
3 give the counties more time to submit packages. Because
4 if we hold it on the 15th, there'll probably be quite
5 a few -- just anticipating they get certified, they'll be
6 quite a few counties that will not have time to submit
7 plans. That's why I sent the e-mail out to all the
8 members asking if they can look at their schedules.

9 ACTING CHAIRPERSON KAUFMAN: Okay. Mr. Finney,
10 do you have any questions of Susan?

11 BOARD MEMBER FINNEY: Nope. Very helpful getting
12 the dates that you gave us.

13 ACTING CHAIRPERSON KAUFMAN: Mr. Pérez?

14 CHAIRPERSON PÉREZ: I'm fine.

15 BOARD MEMBER BUSTAMANTE: Fine as well.

16 BOARD MEMBER GUARDINO: No comment.

17 CHAIRPERSON PÉREZ: Well, thank you for the
18 update. We appreciate it. We're hoping one day we're no
19 longer going to need the conditional certification update
20 of Diebold.

21 Okay. Then --

22 BOARD MEMBER GUARDINO: As I mentioned earlier, I
23 have to jump off at 11:15. Would you like me to call back
24 in on my cell phone?

25 ACTING CHAIRPERSON KAUFMAN: Well, we're moving

1 through this pretty quickly. And I think other than some
2 meeting scheduling, we're close to finished.

3 BOARD MEMBER GUARDINO: I'm going to sign off,
4 thank you.

5 ACTING CHAIRPERSON KAUFMAN: Thanks, Carl.

6 Unless there's any further comments on the
7 quarterly status then or the update on certification,
8 Jana, what was the thinking on the meetings schedule?

9 STAFF CONSULTANT LEAN: Well, I was wondering
10 if -- I asked you guys to take a look at your schedules.
11 I was hoping we would perhaps move the March meeting
12 that's scheduled for March 15th back to maybe the last
13 week of March. This will give -- since we do have a
14 three-week review period, we have to get anything, any
15 additional information from the counties, this will give
16 the counties a bit more time to submit a plan to us.

17 BOARD MEMBER FINNEY: It would be a Wednesday, or
18 when would it be?

19 STAFF CONSULTANT LEAN: I wanted to see when you
20 could make it. It doesn't have to be set on a Wednesday.
21 Whatever date we can come out from today with John and
22 Michael, and you here what's open.

23 ACTING CHAIRPERSON KAUFMAN: Are we looking at
24 the week of March 20 or 27th?

25 STAFF CONSULTANT LEAN: 27th. There's nothing

1 scheduled for this room that week, so I was wondering --
2 we're open.

3 ACTING CHAIRPERSON KAUFMAN: Looks on my schedule
4 like Tuesday, Wednesday, Thursday.

5 CHAIRPERSON PÉREZ: I'm free Monday and possibly
6 Tuesday. The rest of the week starting Tuesday evening
7 I'm in Washington, D.C.

8 BOARD MEMBER FINNEY: I can do Tuesday the 28th
9 in the morning.

10 BOARD MEMBER BUSTAMANTE: Mr. Chair, since I'm
11 the only one who's up here in Sacramento, do you want to
12 maybe do the meeting in Los Angeles?

13 CHAIRPERSON PÉREZ: That would be phenomenal.

14 STAFF CONSULTANT LEAN: I was considering that.
15 And we have -- John Perez and I have talked about that.
16 For the March meeting since we do know so many are coming
17 forward, and most of them are Northern California
18 counties, I would think keep the March meeting here in
19 Sacramento. But for the April meeting, we can look into
20 moving the April date, the dates and location, down to
21 Los Angeles. Would that work for --

22 ACTING CHAIRPERSON KAUFMAN: Yeah. Let's do
23 that, pending some kind of guesswork about who's going to
24 be submitting, because I hate to inconvenience the
25 counties. But if it's all other things being equal, yeah.

1 STAFF CONSULTANT LEAN: We have to notice it ten
2 days out, so we'll know who we have. If they're all
3 Southern California counties, I'd say yes we'll scramble
4 and get a location.

5 BOARD MEMBER FINNEY: Tuesday morning works for
6 me.

7 CHAIRPERSON PÉREZ: Question for Mr. Finney. Is
8 there any possibility you can do Monday, the 27th?

9 BOARD MEMBER FINNEY: It's going to be very
10 difficult.

11 BOARD MEMBER BUSTAMANTE: I can do it.

12 BOARD MEMBER FINNEY: I can do late afternoon. I
13 have a lunch meeting I can't get out of in Los Angeles.
14 But I can call in, if necessary. If it goes late --

15 STAFF CONSULTANT LEAN: As long as we have a
16 quorum.

17 ACTING CHAIRPERSON KAUFMAN: I can do the Monday
18 too.

19 CHAIRPERSON PÉREZ: It would just make it a
20 little easier for me. I wouldn't have to change my flight
21 to D.C. on Tuesday afternoon.

22 BOARD MEMBER FINNEY: Could we start earlier?

23 ACTING CHAIRPERSON KAUFMAN: If need be, we could
24 start at 10:00.

25 BOARD MEMBER FINNEY: 9:30 or 10:00.

1 ACTING CHAIRPERSON KAUFMAN: I think 9:30 is
2 going to be tough to get up here, but 10:00.

3 STAFF CONSULTANT LEAN: We can definitely move it
4 to 10:00.

5 BOARD MEMBER FINNEY: I was here this morning at
6 8:00.

7 ACTING CHAIRPERSON KAUFMAN: Good for you.

8 STAFF CONSULTANT LEAN: Sir, you weren't here in
9 the meeting.

10 BOARD MEMBER FINNEY: That's Busi's fault.

11 STAFF CONSULTANT LEAN: So do we have a consensus
12 on March 27th?

13 ACTING CHAIRPERSON KAUFMAN: Sounds like it.

14 STAFF CONSULTANT LEAN: I will go ahead and make
15 sure that the counties are aware of the change so they
16 know they have a little bit more time to submit plans.

17 BOARD MEMBER FINNEY: Can we do 10:00? Like Carl
18 wants to go off and --

19 STAFF CONSULTANT LEAN: 10:00 a.m., March 27th is
20 our next VMB meeting. I'll discuss it over e-mail with
21 all of you when the April meeting would be.

22 ACTING CHAIRPERSON KAUFMAN: Okay. That sounds
23 fine. Okay.

24 Any other business, anybody? Okay. Well, then
25 with that, I will take a motion to adjourn.

1 CHAIRPERSON PÉREZ: So moved.

2 BOARD MEMBER BUSTAMANTE: Second.

3 ACTING CHAIRPERSON KAUFMAN: All in favor?

4 (Ayes)

5 ACTING CHAIRPERSON KAUFMAN: Thank you,
6 everybody.

7 (Thereupon the Voting Modernization
8 Board meeting adjourned at 11:20 a.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand
3 Reporter of the State of California, and Registered
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the
6 foregoing hearing was reported in shorthand by me,
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the
8 State of California, and thereafter transcribed into
9 typewriting.

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

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 this 21st day of February, 2006.

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