

MEETING
STATE OF CALIFORNIA
SECRETARY OF STATE
VOTING SYSTEMS AND PROCEDURES PANEL

SECRETARY OF STATE
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JAMES F. PETERS, CSR, RPR
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APPEARANCES

PANEL MEMBERS

Mr. William P. Wood, Chairperson

Ms. Caren Daniels-Meade

Ms. Pam Giarrizzo

Mr. David Jefferson

Mr. Lee Kercher

STAFF

Mr. Bruce McDannold, Program Manager

Ms. Lisa Niegel, Staff Counsel

Mr. Michael Wagaman, Elections Analyst

ALSO PRESENT

Ms. Kim Alexander, California Voter Foundation

Ms. Janice Atkinson, County of Sonoma

Mr. Alfie Charles, Sequoia Voting Systems

Ms. Sherry Healy, DFA-Marin

Ms. Deborah Hensch, San Joaquin County

Mr. Jim March, BlackBoxVoting.org

Mr. Pete Martineau, Californians for Electoral Reform

Ms. Conny McCormack, Los Angeles County
Registrar/Recorder/County Clerk

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APPEARANCES CONTINUED

ALSO PRESENT

Mr. Chuck O'Neil, Californians for Electoral Reform

Ms. Gail Pellerin, Santa Cruz County Clerk

Ms. Gloria Purcell, League of Women Voters, El Dorado County

Ms. Maureen Smith, Californians for Electoral Reform

Mr. Michael J. Smith, Peace & Freedom Party

Mr. C.T. Weber, Peace & Freedom party

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1 PROCEEDINGS

2 CHAIRPERSON WOOD: Good morning. We're going to
3 get started now. And if Ms. Daniels-Meade can join us as
4 the meeting progresses, we'll just simply continue on
5 then.

6 Let me introduce myself. My name is William
7 Wood. I'm Undersecretary of State of the Secretary of
8 State's office. On my left is Lee Kercher, who is head of
9 the Information Technology Division in the Secretary of
10 State's office; David Jefferson; Caren Daniels-Meade on my
11 right; and Pam Giarriizzo, who is Chief Counsel in the
12 Secretary of State's office.

13 Just as a scheduling matter for this meeting
14 only, we're going to be going through Item No. 1 -- Item
15 No. 2 has been taken off the agenda for this meeting --
16 Item No. 3, and then Items No. 4 and 5.

17 And, again, just for purposes of this meeting,
18 Item No. 3 is going to be addressed; any public comment,
19 any comment from staff. And we will be able to make a
20 decision on that at a later point. But we'd obviously be
21 delighted to take any written or public comment.

22 And I think we'll be following the procedure that
23 I believe most of you are probably familiar with in terms
24 of filling out a card if you wish to speak on a particular
25 item.

1 Before we go any further I wanted to also take an
2 opportunity to thank and express the Secretary of State's
3 office's appreciation to Michael Wagaman, who has served
4 very capably and with great professionalism and great
5 dedication as a staffer to this Panel. And I have not had
6 the opportunity to work with him very much. This will be
7 the one and only Panel I will be able to do that with.
8 Mr. Wagaman will be returning to the Legislature, at their
9 request. But I did want to express my thanks for his hard
10 work. From what I've seen in terms of his preparation for
11 this meeting has been impressive. So I thank you. I'm
12 sorry it's just going to be this one meeting. But we'll
13 make it a good one.

14 So with that in mind, let's begin with item No. 1
15 please. Sequoia Voting systems.

16 ELECTIONS ANALYST WAGAMAN: Thank you, Mr. Chair.

17 This is an application for Sequoia Voting Systems
18 for a series of optical scan systems. These are all
19 Optech systems. So they all use a common ballot. It's
20 the complete-the-arrow ballot that you may have seen
21 previously, for the whole Panel members.

22 The application consists of five components.
23 Four of those components have been parts of previous
24 certifications.

25 First is the EMS/AERO Version 3.54.1. The

1 EMS/AERO's their central tabu -- it's one of their central
2 tabulation systems. It's an older system. It was last
3 certified in October of 2003 as Version 3.53. The
4 versions between that version and the version before you
5 today includes support for the Optech Insight, which I'll
6 be getting to later, which is a new product for the
7 vendor.

8 The second, they had support for other products
9 in the EMS/AERO that they -- that was stripped out. So
10 now EMS/AERO basically only supports those Optech systems.

11 And, third, they made changes in order to bring
12 the EMS/AERO up to 2002 federal qualification standards.
13 So an older system just back -- component is up to the
14 2002 standards.

15 The second item is the Optech 400-C. This is the
16 central count system. I believe there's a picture of it
17 in the consultant's report. It's a rather large product.
18 It's a high-speed, high-volume scanner. It's been in the
19 state for years.

20 It was last certified in September of 2004 as
21 version 1.02b. The version changes between that version
22 and the version before you today include the ability to
23 capture ballot images. That's something Panel members may
24 be familiar with coming up with the 400-C in the context
25 of a different vendor, ES&S. The reasons it's being

1 captured is for a similar reason, in order to in future
2 use for a ranked choice voting. That is not --
3 functionality is not part of this particular application,
4 but that changes part of that firmware to allow that at a
5 future date.

6 The other changes again bring it up to 2002
7 qualification standards.

8 This third product is the Optech Eagle. That
9 version number is -- there are several different
10 components of the Optech Eagle: The HPS 1.30 and the HPS
11 1.52. All of those -- both of those were previously
12 certified, so that is an unchanged product from the
13 previous certified version. It's just certifying it with
14 the new central tabulation system.

15 The fourth product is the -- the fourth component
16 is actually the new product. It's the Optech Insight.
17 It's a precinct counter like the Optech Eagle. It's
18 basically an evolution of the Optech Eagle. If you look
19 at them internally, they look very similar. As much as --
20 vendor, I can refer to it as an Eagle on steroids.

21 Some of the improvements of the Insight as
22 opposed to the Eagle include an expanded memory pack,
23 improved read heads so it will read a wider range of marks
24 than the -- and a wider range of pens and pencils those,
25 kind of things, than the Eagle will. It also includes a

1 high speed thermal printer, so the printing is both faster
2 and quieter than with the Eagle.

3 Then the final product is what's called the --
4 our final components are the MPR, Memory Pack Reader, and
5 the SPR, Smart Pack Reader. Those are peripheral units
6 that are used to program the memory cards for the Optech
7 Eagle and Insight. It's a peripheral product. It has
8 been used in previous certifications. However, it's not
9 been listed in previous certification documents. This is
10 part of our continuing evolution of trying to capture
11 peripheral items as part of the certification, so it's
12 part of the new-found focus on that.

13 So, again, this is a product that's been part of
14 certifications before, but does not appear in previous
15 certification documents.

16 This product -- this whole series of items has
17 been federally qualified. As I mentioned previously, some
18 of the items have been brought up to the 2002 standards.
19 However, some of the items are still of the 1990
20 standards, so the overall qualification is to the 1990
21 standards.

22 State testing was conducted in Oakland,
23 California in late February. In addition, this was the
24 first product where we began what I refer to as open house
25 day, which is where we bring in some of the vested other

1 members of the -- in the voting systems community, the
2 members of the Technical Advisory Board, representatives
3 from the accessibility committee from the 301 Task Force,
4 and representatives from the counties, in order to allow
5 them to lay hands on the equipment and look at the
6 equipment prior to coming forward to the Panel so that the
7 Panel can have a more wide-ranging and informed discussion
8 and debate.

9 During the testing, generally everything was
10 successful. However, there were a few issues of note.
11 One -- I'm going to skip to the second one -- is that
12 there were a few obsolete software utilities that were
13 discovered. They are not necessary to the use of the
14 product for California election. And because they were
15 not -- they were not subject to the federal qualification,
16 they were not federally reviewed. Because of that, past
17 practice has been that it's fine that those products
18 exist; however, they -- well, we said is that they cannot
19 be run on the same system that is being used for the -- by
20 the certified products. So for the certified product, any
21 non-COTS code has to be kept separate and away from that.

22 These products because they're obsolete and have
23 basically been replaced with a COTS product, basically
24 they're just going to be scrapped.

25 The other thing of note is that they have added a

1 feature called an unvoted contest warning. Previously
2 when you'd insert a ballot in one of the precinct
3 counters, it could notify the vendor if -- the voter if
4 they have over-voted. It could also notify them if they
5 had cast a blank ballot. This additional product would
6 allow the county or the jurisdiction to specify a specific
7 race. For example, the presidential race or the top of
8 the ticket race and say, if that contest had been
9 under-voted, then to again give the voter a warning and a
10 chance to correct that. It's in response to some of the
11 residual vote issues that have come up.

12 What came up during testing though is, in order
13 for that feature to be used, to work properly, both the
14 blank ballot reject and the overvote reject options have
15 to be turned on. If they are not -- both of those are not
16 turned on, that third option of the unvoted contest
17 warning will not function properly.

18 From the staff perspective, the most likely
19 configuration of a precinct would be for having both of
20 those other features turned on if you were going to have
21 the unvoted contest warning on. But it is a potential
22 source for error. As such, when we get to the
23 recommendation, staff did not make a recommendation on
24 whether to allow the use of that feature or not. That's
25 an item for consideration for the Panel.

1 As far as compliance with other federal and state
2 laws, the one item of note is that this is again an
3 optical scan system. It does not have an accessibility
4 component. Therefore, it will meet some of the compliant
5 components of HAVA. In and of itself it would not need
6 any particular HAVA accessibility requirement.

7 Again, as I mentioned earlier, we did have an
8 open house on March 2nd held in Oakland. Approximately 15
9 to 20 people did participate. They did not -- I did not
10 receive any written or oral comments that would go beyond
11 the scope of the staff report.

12 There was no timely public comments received for
13 this application. However, there was one late public
14 comment from Mr. Jim March, who had questions about more
15 generic and not just to this system about whether the
16 county -- whether the public should be allowed to observe
17 the central tabulation system and observe the monitor
18 basically, and whether that would fall under the
19 definition of the Elections Code. Also what components of
20 electronic records are subject to Public Records Act or
21 requests. That was the only public comment received on
22 this item.

23 Which leads to a recommendation, which is that
24 certification of Sequoia Voting Systems -- I apologize for
25 reading all those -- EMS/AERO Software Version 3.54.1;

1 Optech 400-C 1.10.5; Optech Eagle, consisting of HPS 1.30,
2 APS 1.52; Optech Insight, consisting of HPX 1.40, APX
3 2.06, CPX 1.12; MPR, Memory Pack Reader, 2.15; and Smart
4 Pack Reader, SPR, 1.04, with the following conditions:
5 And some of these for the current Panel members will be
6 familiar. But I'll walk you through them because some of
7 them are boilerplate language, some of them are unique to
8 this application.

9 One is typical boilerplate language that -- we
10 say that these -- again, these software utilities which
11 are not -- which are developed by the vendor, which are
12 not necessary to running the election, but which have not
13 gone through federal code review, can exist but they
14 cannot run on the same system as the central tabulation
15 system, because we discovered several of those appli -- of
16 those programs -- during the testing we make specific
17 reference to those specific programs in addition to the
18 generic statement as to any of those cannot be used with
19 certified product, on the same system as a certified
20 product.

21 Second is a boilerplate language basically saying
22 that the system cannot be modified in any way without
23 permission.

24 Third is an item that has been added late last
25 year, that basically gives the Secretary of State's office

1 the right to make modifications to the use procedures,
2 which is the document that describes how the system is
3 supposed to be used to run California election. It allows
4 the Secretary of State's office to make modifications to
5 those to improve the accuracy, reliability, or security of
6 the voting system with proper notification. The issue is
7 then previously -- the use procedures were basically
8 locked to the certification. So if a change may be made,
9 in essence, required a new certification or at least a new
10 administrative approval.

11 Four is again boilerplate language referring to
12 the Election Observer Panel plan. This is language that
13 was in the Election Code, was taken out, but there was --
14 felt the need -- but it still needed to be done. So it
15 exists now as part of the certification as opposed to the
16 Elections Code.

17 Five. This is an item that was added by the
18 previous administration. It basically requires that
19 before the system is used in the state, that the vendor
20 enter into agreement with the Secretary of State's office
21 to provide source code upon demand for review should the
22 Secretary of State's office deem that to be necessary.
23 And that, further, that the vendor would agree to pay for
24 any reasonable costs associated with that source code
25 review. This is, in essence, preserving the option for a

1 source code review should it be deemed necessary at a
2 future date.

3 And then the final item is again that there is no
4 recommendation on whether this unvoted contest warning
5 feature should be used. Options would be to either just
6 make sure it's mentioned in the use procedures, which it
7 is; to not allow the use of the feature; or to make
8 explicit in the certification that it can only be used in
9 configuration that was -- that successfully worked during
10 testing.

11 With that, that concludes the staff report.
12 Staff is available for questions. A representative from
13 the vendor is also available if you have questions for
14 them.

15 CHAIRPERSON WOOD: Thank you very much, Mr.
16 Wagaman.

17 Let me begin first: Any questions from the Panel
18 for staff?

19 PANEL MEMBER DANIELS-MEADE: I have a question.

20 Yeah, Mr. Wagaman, one of the issues that was
21 raised relates to the obsolete software utilities that
22 were a part of this and they're not a part of the federal
23 testing. I know that we're saying they should be used.

24 Is there a way to remove those utilities from the
25 systems themselves?

1 ELECTIONS ANALYST WAGAMAN: Yes, yes. That is in
2 fact the recommendation, that those not be installed on
3 the system. They actually -- software utilities have come
4 up in two different contexts in the past. One is where
5 they are used to do additional functionality beyond what
6 is necessary for either the federal or the state
7 certification or qualification process. They're add-ons
8 basically.

9 And the second context, which is here, which is
10 where their old have, you know, been replaced but not
11 taken out of the installation package, what we're saying
12 here is basically they need to be taken out. So unlike
13 some of the previous utilities where they'll still exist,
14 they just won't exist on systems, these utilities should
15 not even exist anymore. They've been replaced by a COTS
16 package.

17 CHAIRPERSON WOOD: Mr. Jefferson.

18 PANEL MEMBER JEFFERSON: Yeah, I want to ask a
19 little bit about that COTS package. I understand it's
20 something called Ultra-Edit made by a company called IDM;
21 is that correct?

22 ELECTIONS ANALYST WAGAMAN: That is the product
23 that was demonstrated during testing. It is not -- so,
24 that is, if you -- so a different product -- a different
25 COTS product potentially could be used to do that

1 functionality. Basically what it does is it allows the --
2 it's related to the primary elections here with the
3 crossover voting issue. It allows the ballot definition
4 to be modified in such away that it will set up basically
5 the shadow erase so that you can do the counting on that.
6 So it's basically just modifying -- taking the code --
7 putting it into a format such that it can be manipulated.

8 PANEL MEMBER JEFFERSON: All right. I understand
9 that.

10 I guess my -- my question was getting at this:
11 Because this is a COTS product, does Sequoia have a
12 license for the source for this code so that should the
13 Secretary of State want a source code copy, that we could
14 get a copy of this? Are we replacing code that Sequoia
15 does have the source to with code that Sequoia does not?
16 This is basically my question.

17 ELECTIONS ANALYST WAGAMAN: That would be a
18 question you would have to pose to the vendor.

19 PANEL MEMBER JEFFERSON: Okay. When the time
20 comes.

21 Thank you.

22 CHAIRPERSON WOOD: Any other questions from the
23 Panel for staff?

24 I'm sorry. Lee.

25 PANEL MEMBER KERCHER: The consultant testing

1 report on page 3 appears to be a quote from material from
2 Sequoia Voting Systems and, quote, "SVS recommends a
3 third-party product for security agent for use to protect
4 against unauthorized entry into the system with WinETP"

5 And following the discussion suggests that
6 testing of that was not successful during that testing
7 period. And it ends with a recommendation that if we're
8 going to be using that software, that SVS needs to provide
9 specific guidelines for setting up and use, be entrusted
10 of course with your comments as well, potentially the
11 vendors as well.

12 ELECTIONS ANALYST WAGAMAN: Well, I'll allow the
13 vendor to comment as well. Basically what happened during
14 testing is the installed product we were -- we installed
15 the product on the system that is -- that was writing
16 central tabulation system, that's part of what we're doing
17 now, is -- and again during the evolution of testing is
18 trying to get the environmental testing on as close to
19 what is described in the use procedures as possible. So
20 if the use procedures describe antivirus software
21 requiring the vendor to install the antivirus software,
22 make sure that doesn't create a conflict.

23 In this particular situation, there were -- it
24 was a time-consuming process as the vendor was trying to
25 figure out exactly what options to turn on and off with

1 this particular product in order to have it function
2 properly. So it was -- I don't want to misclassify this.
3 It was potentially just a lack of -- of familiarity with
4 the product with the people who are part of the testing of
5 that, as opposed to a conflict with the product with the
6 code itself. So it was an -- it wasn't an interaction
7 with the software. It was a lack of sufficient knowledge
8 about the operation of that COTS package.

9 PANEL MEMBER KERCHER: Now, you haven't carried
10 forward into your recommendation; it was the
11 recommendation that came out in the independent
12 consultant's report that it would require that they
13 provide specific guidances there?

14 ELECTIONS ANALYST WAGAMAN: Part of that attaches
15 back to the fact that we're preparing a revised
16 application. That's one of the items we're preparing to
17 ask for and provide voter systems applications. So it's
18 something we would already have asked for for the party to
19 obtain. If that's something that the Panel wanted to
20 attach to this certification, it would be reasonable.

21 PANEL MEMBER KERCHER: Okay. Thank you.

22 CHAIRPERSON WOOD: Any other questions from the
23 Panel?

24 Thank you.

25 Is a representative of the vendor here?

1 MR. CHARLES: Good morning. Alfie Charles with
2 Sequoia Voting Systems. I'd be happy to answer any
3 questions that Mr. Wagaman had to answer. But he's
4 probably done a more thorough job on much of this than
5 I'll be able to initiate. So I'll leave it with them.
6 And if you have questions for me directly, I'd love to
7 take them.

8 PANEL MEMBER JEFFERSON: Well, so again, my
9 question about the utility that would be packaged in place
10 of the utilities that are being phased out. Does Sequoia
11 own or have license to a source code for this should the
12 Secretary of State want to include it in any call for a
13 source code?

14 MR. CHARLES: When I heard your question I sent
15 an E-mail to try the find out the answer. I don't know
16 the answer off the top of my head, but I can get that to
17 you.

18 But I should also say that that functionally will
19 shortly be replaced when it's folded into our next
20 certification of Win EDS, which will include a lot of
21 California primary data as well as being embraced with
22 this.

23 So this is functional with that. And if the
24 source code's available, that's something that we -- if
25 it's available to us and available to us to provide to you

1 under license, we would be happy to do that along with the
2 source code agreement that would be set forth with the
3 full package.

4 PANEL MEMBER JEFFERSON: Okay. And I don't have
5 any particular concern about this utility. Just a general
6 principle that I would like to -- for the Secretary of
7 State to have the option to have more source code, not
8 less, in the future.

9 Thanks.

10 ELECTIONS ANALYST WAGAMAN: And this is a point
11 of clarification, just for the new Panel members. WinEDS
12 is their other central tabulation system. It's the one
13 that used primarily -- it supports the optical -- or the
14 DRE's along with the -- optical scan systems.

15 CHAIRPERSON WOOD: Thank you, Mr. Wagaman.

16 Mr. Kercher, did you have a follow-up question?

17 PANEL MEMBER KERCHER: Sort of a general question
18 on the recommendation for the use of that third-party
19 for-security-agent product.

20 The consultant's report tends to vary on the
21 potential need for that based upon the level of operating
22 system that's used. It's suggesting, for example, that
23 the Windows 98 environment is more in need, if you will,
24 than more sophisticated versions of Windows.

25 Do you have any general comments on where that

1 first security agent requirement is, and on what counties
2 are using, if any, of the Windows 98 environment?

3 MR. CHARLES: I don't have a list at my
4 fingertips. I can provide that with staff and we can work
5 with staff on procedures if there's a recommendation for
6 one of those platforms at the county level. We can use it
7 or not use it, depending on the procedure at that county
8 level and the need for it. We can work that out with
9 staff in the procedure if that's appropriate to make.

10 PANEL MEMBER KERCHER: Thank you.

11 PANEL MEMBER JEFFERSON: I have one other
12 question maybe both staff and you would have -- be able to
13 talk about next. The procedures for the use of the modem
14 in the precinct count part of the system, I understand
15 that the protocol is that at the end of the day
16 preliminary results are transmitted electronically through
17 that modem to central count or at least they may be.

18 ELECTIONS ANALYST WAGAMAN: Can be.

19 PANEL MEMBER JEFFERSON: Can be, right. It's not
20 option or requirement.

21 And my question -- I apologize for it being
22 rather technical. But is this data transmitted over the
23 Internet protocol, over a telephone line, or -- and I'm
24 obviously concerned about the security of both ends of
25 that telephone conversation. And it's not as serious an

1 issue as it would be for DRE's where we have eliminated
2 that part of the procedure. But at least we have the
3 paper backup here for optical scan ballots. But I'm still
4 concerned. And I'd like to know -- if this were a direct
5 modem to modem to protocol I'd be happier than if it's
6 Internet protocol over telephone. You may not know.

7 PANEL MEMBER CHARLES: I don't know. I
8 apologize.

9 I can look into that and get back to the Panel.
10 I believe that it's modem. But I don't want to commit to
11 that today. I just -- I need to confirm it.

12 ELECTIONS ANALYST WAGAMAN: One item on that for
13 note to the Panel, something they have required previously
14 and I believe it exists in these use procedures as well,
15 for the modeming is that the paper record, the sum results
16 at the end of the day be printed prior to the modeming
17 process beginning --

18 PANEL MEMBER JEFFERSON: Is that still -- that is
19 the current procedures --

20 ELECTIONS ANALYST WAGAMAN: I believe so.

21 PANEL MEMBER JEFFERSON: Now, that's pretty
22 important. We should check on that.

23 ELECTIONS ANALYST WAGAMAN: If they're not, that
24 would be an amendment staff would make prior to bringing
25 forward the certification.

1 PANEL MEMBER JEFFERSON: Thank you.

2 CHAIRPERSON WOOD: Are there any other questions
3 for the vendor?

4 Let me ask you a question, Mr. Charles. For some
5 of the questions that you were unable to answer today for
6 the Panel, how rapidly do you think you'd be able to get
7 those answers?

8 MR. CHARLES: Oh, quickly. I would think this
9 afternoon. I don't know that any of them are impediments
10 to an action of the Panel today, but are things that we
11 would work with the condition within the recommendation
12 that we work with or that the staff is able to modify any
13 procedures as necessary. So we can provide those answers
14 and work that out before the end of the week, for sure.

15 CHAIRPERSON WOOD: Okay. Thank you.

16 Now, this is now the opportunity I think for some
17 public comment. And we have one individual I believe who
18 wishes to speak on Item No. 1.

19 Maureen Smith.

20 Would you come forward please.

21 And, again, let me -- now, just for this -- let
22 me also do sort of a scheduling issue as far this goes.
23 Just again to reiterate what's probably well known to you
24 all, these are public meetings. Any comments you make is
25 a public comment and could be available publicly. So,

1 again, just so we're all aware as far as that goes.

2 And then, second, just for purposes of scheduling
3 at this meeting -- I'm not quite sure what the prior
4 practice was, but I would like to limit public comments to
5 approximately two minutes. And you obviously can go a
6 little over. About two minutes. And does somebody on
7 staff want to keep track of time please.

8 Mr. Wagaman nodded and sort of affirmatively.

9 All right.

10 MS. SMITH: My name is Maureen Smith. I'm
11 wearing two hats today. The first hat is that of
12 Californians for Electrical Reform. And I am asking -- or
13 I'm saying rather that we're looking forward to seeing
14 Sequoia apply for certification for IRV capability, as it
15 would be good to have a competitor to ES&S.

16 And we also hope they'll be able to handle more
17 than three rankings.

18 I'm taking off that hat and I'm just speaking for
19 myself now. I have a couple of questions. I totally
20 understand why you want unvoted contests warning. That
21 may help you in reducing undervotes. But I'm curious as
22 to how that feature works.

23 And I'm also curious about the paper roll at the
24 end of the day. Is it like the DRE system in which you
25 can actually -- it'd be difficult, but you could actually

1 tell how a person voted and therefore violate their
2 privacy.

3 CHAIRPERSON WOOD: Thank you.

4 We also have one other speaker on Item No. 1, Jim
5 March.

6 MR. MARCH: My name's Jim March. I'm a member of
7 the Board of Directors of BlackBoxVoting.

8 I was going to make my comments on general
9 security issues here. But I'm going to reserve that for
10 No. 3, because that's our lump sum touch screen and
11 other -- and tabulators and other stuff anyways.

12 I have two concerns about this item report, Item
13 No. 1. The staff report very disturbingly has been
14 heavily redacted. Large chunks of it are missing from
15 public view in the versions downloadable off of the
16 website -- your website. And my concern about that: Doug
17 Jones -- Professor Doug Jones in Iowa has been talking
18 about the dangers of security by obscurity for years.
19 This is where security holes, security problems are hidden
20 from view rather than fixed. The danger is that then only
21 the county election officials are the ones who know about
22 these security holes, these security flaws, and have the
23 ability to -- pardon my French -- hack elections.

24 If security flaws exist to such a degree that
25 they have to be blacked out in the staff reports from

1 public view, then that product shouldn't be used by
2 anybody, public or county.

3 My second concern -- oh, I think I'll save these
4 comments for 3.

5 Look, security by obscurity doesn't work. It's a
6 bad idea. Every bank in the world transmits millions of
7 dollars over wire transfers through publicly known
8 algorithms. If an encryption process, a security process
9 can't stand up to public review, then it shouldn't be
10 used. This is well known in security and industry, as
11 David Jefferson knows full well. And that's a problem,
12 folks.

13 CHAIRPERSON WOOD: Thank you Mr. March.

14 On Item No. 1?

15 MS. HEALY: Yes.

16 CHAIRPERSON WOOD: All right. Thank you.

17 MS. HEALY: Hi. Sherry Healy from Marin DFA.

18 And also a part of the California Election Protection
19 Network.

20 And we'd like to affirm what Maureen Smith said,
21 and Jim March.

22 And we find it disconcerting that a
23 representative who's speaking before a security panel
24 would not have the answers to those questions. And I
25 would hope that we're also going to look at AccuPoll that

1 just got certified. And obviously we want full
2 transparency for any kind of central tabulation.

3 So that's our two cents.

4 CHAIRPERSON WOOD: Thank you very much.

5 All right. We'll close the public comment
6 period.

7 Do I have any motions from the Panel as far as
8 Item No. 1 on the agenda?

9 PANEL MEMBER JEFFERSON: I would actually like to
10 ask -- I was not aware that any parts of the report were
11 redacted on the website. What parts are redacted and what
12 was the thought there?

13 ELECTIONS ANALYST WAGAMAN: The only portions of
14 the report were redacted are those that are recommended by
15 our technical consultant. He makes those determinations.
16 The two things he will redact is if there's comments that
17 are -- that contain proprietary information in them. So
18 if you make references to a specific section of the code,
19 for example, he will recommend redacting that to protect
20 that into actual property.

21 The other place he will recommend redactions are
22 places where he feels there's information that would
23 create a security issue.

24 So those are the two -- those are the two places
25 where we will make recommendations.

1 PANEL MEMBER JEFFERSON: And how much was
2 redacted? It looks like a good fraction of it; is that
3 correct?

4 ELECTIONS ANALYST WAGAMAN: There was I believe
5 about -- of the technical consultant, where there was one
6 page that was fairly heavily redacted. I can tell what
7 it -- it primarily related to this utility package that we
8 were discussing previously.

9 PANEL MEMBER JEFFERSON: The one being
10 substituted for the ones that are being retired?

11 ELECTIONS ANALYST WAGAMAN: The nature of that
12 utility package -- of the functionality of those utility
13 packages.

14 CHAIRPERSON WOOD: Well, maybe I can address that
15 just briefly, Mr. Jefferson.

16 I think the process that Mr. Wagaman described in
17 general -- because we have the new administration, one of
18 the things that Secretary McPherson has said is that he
19 wants the election process and everything connected to the
20 election process to be as open, as transparent as
21 possible. We'll take a look at that and then see what we
22 can do. And if there's ways to minimize that, we'll try
23 to do that in the future.

24 I mean that's -- that has been his very clear
25 sense of where he believes the Secretary of State should

1 be going, and in terms of making things as public as
2 possible and as open as possible.

3 Yes, Mr. March.

4 MR. MARCH: Two quick things.

5 Mr. Charles has a copy of --

6 CHAIRPERSON WOOD: You need to come to the
7 microphone please.

8 MR. MARCH: Sorry.

9 Mr. Jefferson, Alfie's got a copy of the
10 redactions right in front of him. If you want to take a
11 look at that paper and see -- Alfie, just hold up the
12 redactions.

13 PANEL MEMBER JEFFERSON: Someone else did.

14 CHAIRPERSON WOOD: I'd like keep -- we want to
15 keep an orderly process so --

16 MR. MARCH: No problem.

17 The other thing is, in context the redactions do
18 not include source code review. This is not a source code
19 protection problem. You can tell that from the scattered
20 bits of context.

21 David, if you look at it, you'll see what I'm
22 talking about.

23 PANEL MEMBER JEFFERSON: I'll look at.

24 Thanks, Jim.

25 CHAIRPERSON WOOD: Thank you.

1 So with that in mind, do you have -- anybody else
2 on the Panel have any other comment or questions related
3 to Item No. 1?

4 Okay. Thank you.

5 Any motion from the Panel regarding Item No. 1 in
6 terms of approving the staff recommendation?

7 PANEL MEMBER DANIELS-MEADE: Mr. Chairman, I move
8 adoption of the recommendations as proposed by staff,
9 including the conditions that were listed. I would also
10 like to see that an additional requirement be added that
11 would indeed specify that the procedures had to be
12 followed where the blank ballot and overvoted contest
13 feature are both turned on for use.

14 CHAIRPERSON WOOD: Is there a second to that
15 motion as described by Ms. Daniels-Meade?

16 PANEL MEMBER KERCHER: I might ask Ms.
17 Daniels-Meade if she'd accept an amendment to that motion
18 to add a requirement for the FSA procedures to be included
19 as well?

20 PANEL MEMBER DANIELS-MEADE: Absolutely.

21 PANEL MEMBER KERCHER: And to use the language
22 that's provided by the consultant that provides specific
23 instructions and guidelines for setting up the FSA with
24 the EMS/AERO and Win Optech -- Optech 400-C?

25 ELECTIONS ANALYST WAGAMAN: As a suggestion from

1 staff, the phrasing of that may be that any -- again, to
2 create boilerplate language that we can then use in the
3 future is: Any software packages specifically referenced
4 in the use procedures including, but not limited to, the
5 FSA package that you have. Those add additional
6 documentation.

7 PANEL MEMBER KERCHER: I'm all for --

8 ELECTIONS ANALYST WAGAMAN: Attach it that way?

9 PANEL MEMBER KERCHER: Yes.

10 CHAIRPERSON WOOD: All right.

11 I'm sorry. So is that amendment to your motion
12 agreeable?

13 PANEL MEMBER DANIELS-MEADE: Yes.

14 CHAIRPERSON WOOD: Then with that amendment then,
15 is there a second to the motion?

16 PANEL MEMBER KERCHER: I would second.

17 CHAIRPERSON WOOD: All right. Is there any
18 discussion as far as that goes within the Panel to the
19 motion, to the amendment?

20 All those in favor of the motion as amended
21 indicate by saying aye.

22 (Ayes.)

23 CHAIRPERSON WOOD: Thank you.

24 Motion carries.

25 Let us move then to Item No. 3, Grandfathered

1 Voting Systems.

2 ELECTIONS ANALYST WAGAMAN: This is a question
3 for the Chair. Some of this information is covered at
4 previous hearings. Would you like me to go over that
5 information or just -- for the new Panel members or just
6 kind of gloss over it --

7 CHAIRPERSON WOOD: I think, you know -- right. I
8 think we can do this in a very summary fashion, if that's
9 all right, Mr. Wagaman, since you say it has been covered
10 in other public sessions.

11 ELECTIONS ANALYST WAGAMAN: Basically this is an
12 issue that came up -- it's come up previously, but it came
13 to a head in December of last year. There are several
14 systems in the state that are -- that are state certified,
15 but not federally qualified. Generally that has been
16 because they predated the federal qualification process at
17 least in their development history, hence leading to the
18 term "grandfathering".

19 Questions were raised both by several counties
20 and several vendors about how do these grandfathered
21 products -- about how they will be handled in the future
22 under the new environment. Specifically whether at any
23 point federal qualification would become a condition to
24 certification and, therefore, products that were federally
25 qualified -- that lack federal qualification could be

1 decertified. Secondly, whether any modifications to those
2 systems would therefore become a trigger to federal
3 qualification.

4 So that's the issue that came up. Staff has in
5 the past handled those on a case-by-case basis as
6 directed. But there's not been a set policy. Staff
7 brought forward this item to the Panel in order to see if
8 there was a need for a set policy or if the current
9 case-by-case basis was appropriate.

10 One point of clarification for the public,
11 because if they come up and it is the source of the -- the
12 bulk of the public comment. There was -- I believe it
13 started on a blogger website, there was a belief that this
14 item related to touch screen voting systems and,
15 specifically, the paper trail requirement and, more
16 specifically, to removing that paper trail requirement.

17 That is not what this item addresses. None of
18 the grandfathering systems are touch screen voting
19 systems. They're all paper-based systems, so they don't
20 relate to that item at all. And paper trail requirement
21 is statutory and therefore beyond the purview of this
22 Panel other than the standards for that paper trail.

23 So that's just a point of clarification. But
24 you -- the Panel was provided all those public comments
25 under that item.

1 CHAIRPERSON WOOD: Good. Thank you very much,
2 Mr. Wagaman.

3 Is there other -- and I realize that this has
4 come before the Panel at a previous meeting. But are
5 there any other questions related to this category of
6 systems before we go to public comment --

7 ELECTIONS ANALYST WAGAMAN: There is one other
8 thing from staff I forgot to mention. In the staff report
9 we reference a report from ES&S about their two products,
10 the Eagle and IV-C, which are the same products you got --
11 we were just talking about, but it's the ES&S version as
12 opposed to the Sequoia version. That staff -- that report
13 did come in. However, during copy process it actually got
14 moved to the back of the qualification process report as
15 a -- at the federal qualification process update report as
16 opposed to grandfathering report. So that report is in
17 there -- in your packets, if you want to look at that.

18 Basically what the vendor is saying is that they
19 would like to go through a code review of that product,
20 but that it would not go through full federal
21 qualification.

22 CHAIRPERSON WOOD: Thank you.

23 PANEL MEMBER JEFFERSON: Mr. Chairman and
24 Michael. Your report did mention some potential options
25 for dealing with this issue. Do we want to have staff

1 bring them up yet? Or how do you want to proceed?

2 ELECTIONS ANALYST WAGAMAN: I can touch on those.

3 The options basically are close to parallel to what I've
4 already said, which are that the Panel could basically set
5 a requirement that at some specific date federal
6 qualification would become a condition to certification.
7 And that dated could be whatever the Panel determines.

8 The Panel could begin the process of
9 decertification of voting systems that do not have federal
10 qualification. Or the Panel could basically say that
11 systems that come forward that do lack federal
12 qualification will be handled on the current case-by-case
13 basis in determining whether they are acceptable or not.

14 CHAIRPERSON WOOD: Any other comments from the
15 Panel?

16 We have a number of members of the public who
17 wish to speak on this item.

18 So we'll begin with Chuck O'Neil please.

19 MR. O'NEIL: I'm Chuck O'Neil. I'm here as a
20 member of Californians for Electoral Reform. I'm the
21 Sacramento County representative for that organization.

22 Well, we're concerned. We notice several places
23 that ES&S was to submit a long-term plan. And the
24 question is: Will they be posting those plans on the
25 Secretary of State website so that we can look at them?

1 CHAIRPERSON WOOD: Are we going to do --

2 ELECTIONS ANALYST WAGAMAN: That long-term plan's
3 the document I just referenced. Generally we don't post
4 communications.

5 CHAIRPERSON WOOD: But the document you just
6 described is the one I think that Mr. O'Neil has
7 mentioned.

8 ELECTIONS ANALYST WAGAMAN: Correct.

9 PANEL MEMBER DANIELS-MEADE: And we could
10 certainly make it available to him.

11 ELECTIONS ANALYST WAGAMAN: Correct.

12 MR. O'NEIL: Okay. So making it available,
13 you'll send it to me or you're going to post it?

14 CHAIRPERSON WOOD: We can do all of the above.

15 MR. O'NEIL: Okay. Thank you.

16 CHAIRPERSON WOOD: Thank you.

17 Conny McCormack, please.

18 MS. MCCORMACK: Chairman Wood, members of the
19 Panel. Thank you for the opportunity to address you
20 today. I'm Conny McCormack, Registrar/Recorder/County
21 Clerk of Los Angeles County and also President of the
22 California Association of Clerks and Election Officials.

23 And this item that's come before you today first
24 came before you on January 20th, 2005. And many election
25 officials spoke at that time and apparently quite a few

1 are going to speak today. And it was a surprise to most
2 of us, and we were dismayed to learn that then Secretary
3 of State Kevin Shelley had raised the specter of possible
4 decertification of what has been -- come to be known as
5 the grandfather voting system.

6 The grandfather voting systems that Mr. Wagaman
7 just pointed out are all paper-based voting systems and
8 were successfully used by 24 counties in the November 2004
9 election in California. And these systems -- many of
10 these systems have been counting votes accurately in
11 California for decades. Others, such InkaVote in Los
12 Angeles county were first tested by your office and fully
13 tested and certified in October of 2002. And subsequently
14 InkaVote passed additional rigorous certification testing
15 in February of 2004. So it's a very new system. And
16 InkaVote in November of 2004 counted accurately three
17 million ballots in L.A. County.

18 So neither the accuracy or the security of these
19 grandfathered paper-based systems has been called into
20 dispute. And many counties plan to continue using these
21 systems into the future and after 2006.

22 The Secretary of State's staff report at number 3
23 accurately states that none of these systems are designed
24 to meet the requirements of HAVA. And, as such, thinks if
25 they're continued to be use, they would need to be

1 supplemented with at least one additional voting system
2 component. We agree. And clearly it's crucial to remind
3 everyone that HAVA does not require our counties to
4 replace grandfathered voting systems.

5 Indeed HAVA clearly states that even all the
6 older voting systems, and indeed even pre-scored punch
7 card voting systems, may be retained as long as they are
8 supplemented with at least one additional piece of
9 equipment in each voting precinct that would meet HAVA's
10 disability access and other requirements.

11 I called your attention to the word "augmenting"
12 the system because that's what counties -- many counties,
13 including Los Angeles, plan to do. Choice in HAVA would
14 be to augment or to replace, and many have chosen
15 augmentation. And I think there's a potential that the
16 staff report might be confusing -- the word "augmentation"
17 is not synonymous with modification. I think the staff
18 report indicates that -- that characterizes this as a
19 modification. And we don't see it as a modification. We
20 see it as an augmentation.

21 And all over the United States U.S. counties are
22 choosing to augment their existing grandfathered systems
23 and not replace those systems. And indeed in L.A. County
24 for the last four and a half years we have augmented our
25 main voting system. At first it was punch card. And now

1 its InkaVote, with a DRE for early voting. So we've been
2 using two completely different state-certified systems
3 since November 2000 without problem or incident. And as
4 long as systems meet the state law, which requires
5 certification, the counties should be allowed to mix and
6 meld the certified voting systems.

7 And it's disturbing that at this late date in the
8 game when we have to meet HAVA compliance to raise the
9 specter of possible decertification, which we think would
10 obviously destabilize the process and make compliance with
11 HAVA impossible for many counties in California, including
12 Los Angeles.

13 This staff report provides three options. And
14 while Option 1 would be acceptable to L.A. County in terms
15 of retaining the case-by-case assessment, I'd like to
16 offer another option that --

17 CHAIRPERSON WOOD: Ms. McCormack -- and I
18 apologize. Do you have much more?

19 MS. MCCORMACK: This is my last one.

20 That one more option be retaining the previously
21 certified voting systems unless evidence arises that a
22 system's accuracy or security has been compromised with
23 regard to the system's ability to tabulate the vote.

24 And I will be glad to submit my comments in
25 writing at a later date.

1 Thank you.

2 CHAIRPERSON WOOD: Thank you.

3 MS. MCCORMACK: Any questions?

4 Thank you.

5 CHAIRPERSON WOOD: Kim Alexander.

6 MS. ALEXANDER: Good morning. I'm Kim Alexander
7 with the California Voter Foundation.

8 I've been monitoring the grandfathered voting
9 systems discussion for the last several Voting System
10 Panel meetings. And I'm aware that many of the county
11 registrars are, as Conny McCormack said, concerned about
12 what the future is for their voting systems.

13 This discussion is taking place in a bigger
14 context of the wider debate over paper versus electronic
15 voting systems. And the California Voter Foundation
16 supports the use of voting systems that are auditable.
17 All of the voting systems that are being discussed under
18 the grandfathered issue are auditable voting systems.
19 They're all paper based. They are all, as Ms. McCormack
20 said, state certified as well.

21 And given the fact that unlike electronic voting
22 systems, which are very intensely dependent on both
23 software and hardware, these systems use only a small
24 degree of software and hardware, and that's for the vote
25 tabulating purpose.

1 Now, this is an extremely important component of
2 the entire voting process. But California fortunately,
3 unlike many states, has the manual count law that requires
4 that any time software's used to tabulate votes, that that
5 software be publicly verified. And we do that by
6 performing a routine public manual count of a subset of
7 the paper ballots.

8 So the point is that these systems, although they
9 have not gone through as extensive federal testing, or any
10 federal testing in some cases, as electronic systems,
11 don't pose the same kind of risk as the electronic systems
12 do, because there is a paper trail and because under state
13 law those paper records must be used to verify the
14 accuracy of the software count.

15 So the California Voter Foundation is not
16 terribly concerned about whether these particular voting
17 systems are federally qualified or not. As long as they
18 continue to be state certified, we think they're safe to
19 continue to use as is. And we would recommend that you
20 consider continuing -- evaluating these systems on a
21 case-by-case basis or considering Ms. McCormick's
22 recommendation.

23 CHAIRPERSON WOOD: Thank you, Kim.

24 Janice Atkinson please.

25 MS. ATKINSON: Good morning. Janice Atkinson

1 Sonoma County.

2 I would like to second Conny McCormick's
3 recommendation. But I want you to know that Mark-A-Vote
4 has been used in Sonoma County for 22 years. It has a
5 long track record.

6 It is supported by so many groups in my county
7 who come forward and say, "You know, why aren't other
8 counties using this voting system? This voting system is
9 voter friendly." It has a paper trail. There haven't
10 been issues. There haven't been concerns.

11 And then when I tell them that actually, you
12 know, I'm coming to Sacramento every month to speak in
13 favor of this system and hope that our system is not
14 decertified, they are really concerned that we are
15 reviewing tried and true voting systems as opposed to
16 voting systems that are new on the market.

17 The other thing I'd like to say is that Sonoma
18 County has 42 percent permanent absentee voters in our
19 county. The Mark-A-Vote voting system that we use is an
20 absentee voter friendly voting system. There's not
21 currently another voting system out there that I can count
22 absentee ballots as quickly or accurately as I do with
23 Mark-A-Vote voting system.

24 I am concerned as our permanent absentee files
25 grow that we may be forced into switching to another

1 optical scan system that will take us much longer to tally
2 the votes.

3 Thank you.

4 CHAIRPERSON WOOD: Thank you.

5 Gail Pellerin please.

6 MS. PELLERIN: Hello. I'm Gail Pellerin. I'm
7 the Santa Cruz County Clerk. And our county too uses the
8 Mark-A-Vote voting system. We've used it since 1995, and
9 it's proven to be very safe and accurate, the voters like
10 it, it's been very accurate in recounts and court
11 challenges to determine voter intent. We love it. It
12 works really well for us. So my hope and desire is that
13 this maintain an option for us that we can keep using
14 Mark-A-Vote. Our plan is to definitely augment --
15 supplement it with some sort of voting system that will
16 meet the Help America Vote Act requirements. That would
17 of course require some action on your board to certify a
18 voting system that we could purchase. So we anxiously
19 await more systems to be certified, and we hope that this
20 system is not decertified.

21 Perhaps we can let off a puff of white smoke to
22 signal that we may maintain these grandfathered voting
23 systems and give us all a sigh of relief as we enter into
24 this very difficult election season.

25 Thank you very much.

1 CHAIRPERSON WOOD: Thank you.

2 C. T. Weber please.

3 MR. MARCH: Mr. Weber is waiving time to me.

4 It's on the bottom of the card.

5 CHAIRPERSON WOOD: Oh, all right.

6 MR. MARCH: All right. My first comment is,
7 regarding every system that has a central tabulator and is
8 modeming results in from the field, is to turn off the
9 modems. Modem transmission from the field into a central
10 tabulator is only used for preliminary results so that you
11 can get fast answers for the media. That is not a good
12 reason to have an open security hole stray into the
13 central tabulator box. The modems that the precincts can
14 dial into can also be dialed into from other outside
15 influences, like a rogue agent of the vendor, like a
16 hacker, like God only knows what. The election
17 supervisor's 12-year-old kid decides to have some fun.
18 Yeah, I don't think so. Turn off the modems.

19 In Alameda County and San Joaquin County banks of
20 modems on the central tabulator have been collecting dust
21 for years because they've been declared unsafe to use.
22 I'm not sure if you're aware of that. They've been
23 turning off their modems for years and just hand carrying
24 the memories cards in from the field.

25 All right. On to the subject of the report --

1 well, the open letter I sent dated 4/13/05. If any of you
2 have read it, I have an extra copy here.

3 What I am first suggesting is -- two parts of it.
4 One, I'd like the Secretary of State's office to take a
5 stance on what documents and electronic records created by
6 each electronic voting machine are a public record and
7 what are not. That means let's have a dialogue on the
8 public releasability of each type of information, rather
9 than fight it out 58 times in 58 different California
10 Public Records Act suits. Let's have an administrative
11 discussion here and deal with it that way. It'll be a lot
12 cheaper and simpler for all concerned.

13 My main concern though is that on election
14 night -- and it turns out also during election accuracy
15 test the same question applies -- we, the people, have a
16 right under Election Code 2300 to observe elections. So
17 far I've observed elections in Alameda County, in San
18 Joaquin county. And as I'm standing in my little
19 roped-off area, maybe 20 feet away there's the central
20 tabulator, there's the operator running the entire
21 election on that machine. And the one monitor connected
22 to it is turned away from me. At that point I am not
23 monitoring the election, as I have a specific right to do
24 so.

25 When I released this letter, Professor Doug Jones

1 got ahold of a copy, and he sent me a letter back. And
2 I'll leave this with you. But he says. "I agree with
3 Jim" -- after reading my letter. "Furthermore, the issue
4 of observability, Paul Kraft of the Florida Division of
5 Elections proposed a very similar idea last fall before
6 the Election Systems Commission of Washington. His idea
7 was to require that the video out from the computer be
8 projected on a big screen above the monitor. And he
9 agreed fully that without some such measures, it's
10 impossible to observe what is being typed and verified
11 that it makes sense."

12 Now, I don't have any particular preference over
13 the use of a computer-driven projector like this or, as I
14 proposed, a bank of smaller monitors off of the splitter
15 gear. My only recommendation is that the only signal to
16 be so split and copied be the video signal, not the
17 keyboard, not the mouse, not the USB ports. That opens up
18 a security hole, of course. But gear that splits out just
19 the video signal is commonly available. I was able to
20 show in my letter that it costs less than 500 bucks for,
21 first, a booster set that would extend the signal up to
22 600 yards -- probably wouldn't need that much -- and then
23 a four-way split out to four standard PC monitors that
24 most counties would have just laying around extra. They
25 could just put four into use that day.

1 My solution I believe would be cheaper than Paul
2 Kraft's overhead. But if a county has an overhead
3 projector around that's got enough lumens to project in,
4 for example, this level of room lighting, then by all
5 means they should be able to use that.

6 What I request though is that some method be
7 ordered for every central tabulator to allow we, the
8 people, to observe the vote, as is our civil right. And
9 that's not really a suggestion, folks. This needs to
10 happen. In compliance with Election Code 2300, it needs
11 to be mandated by this board.

12 Fortunately, SB 1376, passed last year, gave,
13 well, now Bruce McPherson the right to mandate security
14 procedures of this sort, I believe, in my reading of that
15 bill. So you have the ability to order that sort of
16 security enhancement. And I believe it's a good idea,
17 folks.

18 CHAIRPERSON WOOD: Thank you very much, Mr.
19 March.

20 MR. MARCH: Thank you.

21 I'll Leave Doug Jones' letter with you.

22 CHAIRPERSON WOOD: Thank you.

23 Michael Smith.

24 MR. SMITH: Yes. Good morning, Panel. My name
25 is Michael Smith with the Peace & Freedom Party from Santa

1 Cruz County.

2 And, first of all, I'd like to give very high
3 marks to Gail Pellerin from Santa Cruz County, our
4 Elections Department. I've never seen a person more open
5 to suggestions, more willing to have public input and
6 input from various political groups as I have Gail.

7 Second of all, under the Mark-A-Vote system --
8 which we've lived there 26 years and have gone through the
9 stages of various types of machines. And Mark-A-Vote --
10 and all the people we speak to, which are literally
11 hundreds because we bring this issue up all the time,
12 Mark-A-Vote gets very, very high marks from the public.
13 They are very, very concerned that any time in the future
14 Mark-A-Vote would be leaving and DRE's in or any other
15 combination of voting systems.

16 So I fully concur with Gail Pellerin and other
17 speakers that the Mark-A-Vote system should stay.

18 I also would like to reinforce what Jim March has
19 said certainly about the public being able to witness the
20 entire vote and so forth.

21 So thank you very much.

22 CHAIRPERSON WOOD: Thank you.

23 Maureen Smith please.

24 MS. SMITH: Maureen Smith, also from Santa Cruz
25 County.

1 I want to second the remarks of Jim March, and go
2 on to say that both number one and the suggestion of Conny
3 McCormack sound similar and both sound supportable. I
4 probably would choose Item No. 1.

5 But I want to add that the former Chair of this
6 committee, after the Diebold machines were decertified, I
7 thought made a promise to people -- or maybe it's not a
8 promise -- but certainly stated from his position that the
9 Panel here of the Secretary of State's office intended to
10 investigate each and every county as they did the counties
11 with the Diebold machines. Maybe there's not the staff.
12 But if there's the ability to do it, that certainly would
13 be the way to go. And it's not -- it is not in conflict
14 with either -- may not be a conflict with any of these,
15 but I don't see it as being in conflict with number 1 or
16 with the suggestion of Conny McCormack.

17 Thank you.

18 CHAIRPERSON WOOD: Thank you.

19 Deborah Hench please.

20 MS. HENCH: Good morning. Deborah Hench, San
21 Joaquin County Registrar of Voters.

22 And we used in -- from 1986 till 2004 the DFM
23 Mark-A-Vote system, and I would recommend that it be
24 grandfathered in, as with the other systems. And it's
25 been used many years. It's a good system. We moved from

1 it, not because it didn't work, but because we were going
2 to bilingual and different -- and we have very large
3 ballots with many, many cards, and it was becoming less
4 useful for us.

5 Now, I'm arguing with Mr. March and rebutting his
6 comment. We do have modems. And, he's right, we haven't
7 lit them up. And that was really not because we had
8 security issues. Because we have sat ours up -- and I'm
9 sure other counties did too -- to only talk to the server
10 as a considered unofficial results election night. Even
11 when we'd scan in paper ballots, as we did in November,
12 it's still unofficial until we complete the canvass.

13 The modems we have have three types of security
14 on them. They will not talk to anyone other than those
15 modems that call in.

16 We didn't do this lightly or take it without
17 thinking of security. And we intend fully to use them in
18 future elections because we have been -- I was one of the
19 registrars who were complained about because I had
20 election night results so late. I was the third to the
21 last -- you know, last to report in results. And I was
22 written up in the paper about the election results should
23 have been in by midnight.

24 Now, I want you to know that I fully intend to
25 operate these modems. And I believe that they have a lot

1 of security. We have it set up that -- I can't even
2 imagine how someone could actually hack into it, even get
3 there, because they would have to know when we're
4 uploading, from where we're uploading, and have to have
5 all the security issues that we already have on there.

6 So as far as I'm concerned, I think modems should
7 stay. And I think you will find if you ban modems that
8 the election night results probably won't be finished
9 until probably 5 o'clock in the morning the next day for
10 most people.

11 CHAIRPERSON WOOD: Thank you, Ms. Hench.

12 I'm going to close Item No. 3. And what we're
13 going to be doing on Item No. 3, since this has come
14 before the Panel on a number of occasions, is now
15 reviewing the extensive public comment that has been
16 produced both here and in the past. And we will be
17 putting together a staff recommendation to the Secretary
18 as to this particular item.

19 Moving on to Item No. 4, the Federal
20 Qualification Process Report.

21 MS. HEALY: Can we make a comment on that last --

22 CHAIRPERSON WOOD: No.

23 MS. HEALY: -- since you don't have any public
24 speaking today?

25 CHAIRPERSON WOOD: Federal -- Item No. 4 please.

1 ELECTIONS ANALYST WAGAMAN: This is an item --
2 should I go on?

3 CHAIRPERSON WOOD: Go ahead, Mr. Wagaman.

4 ELECTIONS ANALYST WAGAMAN: This is an item that
5 was put on the agenda at the beginning of -- or in January
6 and February at the request of the Chair and the Panel to
7 give regular updates on what's going on with the federal
8 qualification process, since that ties into what this
9 Panel is doing, just so you know what's going on there.

10 There are two items of note. The first is one of
11 just terminology. A common phrase around here has been
12 the term "ITA," Independent Testing Authority. That term
13 is disappearing and is being replaced by the term "Voting
14 Systems Testing Laboratories," VSTL. So in the future
15 you'll no longer be hearing the term "ITA" from staff.
16 You'll be hearing the term "VSTL".

17 The second item, which is the substantive one,
18 is -- and get ready for an acronym soup here. Technical
19 Guidelines Development Committee (TGDC) of the Elections
20 Systems Commission (EAC), working with the National
21 Institute of Standards and Technology (NIST) -- it was
22 working to update the current 2002 voting system standards
23 (VSS).

24 What that all means is basically they're updating
25 those federal qualification standards. There are some

1 items that are going to be in their recommendations which
2 are going to have significance for California, most
3 significant of which is they'll have recommendations for
4 paper trail standards which don't currently exist on the
5 federal level.

6 Once those are adopted, the way the current
7 California standards are drafted, they make specific
8 reference to any federal standards and basically would
9 adopt those as well. These are just in the draft
10 standards right now, but should give us at least some
11 guidance as far as where the Feds are going on paper trail
12 and on some of the issues that are open issues as far as
13 the paper trail here in California.

14 Other items in there include ensuring that
15 installed software is tested software. This is something
16 came up previously in California when we had the inventory
17 and all the issues last year. It's something we're --
18 staff is currently working on on the central distribution
19 of software from the Secretary of State's office as
20 opposed to by the vendors. The Feds are coming out on
21 that same issue and are going to provide some
22 recommendations on how the state should go about ensuring
23 what is used is the same as what was tested.

24 Other issues go to use of wireless devices. I
25 don't list it here, but it goes also -- the modeming issue

1 will be in there.

2 Accessibility and usability requirements based on
3 current technology. This is going to be a significant
4 issue in evaluating DRE equipment and touch screen
5 equipment relative to the HAVA requirement.

6 Plus just a new glossary of terms because there
7 are issues right now with both states using two different
8 terms to describe the same thing and, more troublesome,
9 using the same term to describe two different things.

10 So all of that should be coming out. If it's not
11 out yet, it's going to be out in the next day or two.
12 Staff will review that. And if the current Chair would
13 like, we will continue that on to the next -- and continue
14 this practice of bringing these forward to the VSP, and
15 we'd have a summary of that -- those recommendations at
16 the next hearing.

17 CHAIRPERSON WOOD: Yes, please. I think it's
18 useful certainly as an update and -- well, it's just sort
19 of an interesting check to see where everything is,
20 including the development of new and interesting acronyms.

21 Thank you.

22 Is there any question from members of the Panel
23 in relation to this item?

24 And there is no public -- there has been no
25 public comment indicated on this item.

1 So we will move on to Other Business, Item No. 5.

2 Does any member of the Panel have other business
3 they wish to bring up at this point?

4 All right. And then simply on Item No. 5, as to
5 other business, Gloria Purcell, please, in terms of public
6 comment.

7 MS. PURCELL: Gloria Purcell, El Dorado County.
8 And I'm here on behalf of the League of Women Voters of El
9 Dorado County.

10 As you may know, the League of Women Voters
11 statewide and certainly in El Dorado County has as a
12 priority the concept of ranked voting. And we would like
13 to ask the Panel to resume development of the IRV
14 standards that was kicked off in February but suspended
15 until the new Secretary of State was sworn in.

16 Instant runoff voting is a very important issue
17 to the League, and there's been increasing demand for it
18 and voter awareness, as you probably are aware, throughout
19 the state, with local jurisdictions voting again and again
20 to move to this kind of voting. So I hope that you will
21 consider that.

22 It's also very important to political parties.
23 Although the Republicans and Democrats are not as
24 enthusiastic or, frankly, as knowledgeable about it, small
25 parties, of which there are what, seven in the state, have

1 made it a top priority as well.

2 Thank you.

3 CHAIRPERSON WOOD: Thank you.

4 Joan Quinn please.

5 MS. QUINN: I'm Joan Quinn. I am a 58-year-old
6 retired attorney. I've spent 22 years as a staff attorney
7 in the Superior -- California Superior Court, specializing
8 in criminal law.

9 I went back to Ohio and -- researching election
10 fraud, and I was there between, well, for the most part of
11 December of 2004 and January of 2005. I am cognizant of
12 the fact -- the fact what -- the import of my statement,
13 that when I say I'm convinced beyond a reasonable doubt
14 there was massive election fraud in Ohio. I testified at
15 John Conyers' hearings December 13, 2004, in Columbus,
16 Ohio, based upon the events and the facts that my research
17 uncovered in Ohio.

18 I want you to -- I want to urge you to
19 question -- be extremely skeptical when tried and true
20 systems are stated that you should accept them because
21 they're tried and true. I'm not saying that they're not
22 tried and true, but I'm saying keep an open mind.

23 I've spent so much time specifically in Green
24 County Board of Elections in Ohio. Much, much time the
25 people there are good. The Director of the Board of

1 Elections, which is the equivalent to our Registrar of
2 Voters, would testify that her systems were tried and
3 true. They're Triad. And they're not tried and true.
4 She would testify -- and I'm not saying she's a bad
5 person. She has been emerged in the culture of Ohio Board
6 of Elections. And it's my personal observation, having
7 obtained and had copies of the Ohio Elections Code --
8 which is a wonderful elections code -- it is my personal
9 observation that it is ignored with impunity by
10 well-intentioned boards of election directors. I think
11 they're probably not all well-intentioned, but I think
12 many of them are.

13 I urge you to research. I support -- I'm
14 extremely familiar with the work of BlackBoxVoting. I've
15 never met Jim March before. In fact, I had to ask him his
16 name. But I did agree with what he said. And I want
17 you, urge you, you must listen to what the computer
18 experts say.

19 I want to tell you what a member of the Board of
20 Elections, a well-intentioned man, he's a member of the
21 Board of Elections in Green County, said. That he's not
22 familiar with computers and didn't want to be. He's my
23 age or older. Some of us are computer challenged. Some
24 of us aren't. But I urge you to accept -- to not accept
25 what registrar of voters say, because they say an election

1 system is tried and true. Maybe it is, maybe it isn't.

2 And I want to ask you the question --

3 CHAIRPERSON WOOD: Excuse me, Ms. Quinn. I just
4 want to point out you've passed your two minutes some time
5 ago.

6 MS. QUINN: Okay. One of the things -- the last
7 thing I wanted to say is: So what if the election results
8 are slowed down by accurate counting. Who cares.

9 CHAIRPERSON WOOD: Thank you.

10 Pete Martineau please.

11 MR. MARTINEAU: Good morning. I'm Pete Martineau
12 from the Californians for Electoral Reform.

13 Ms. Purcell from El Dorado County of the League
14 of Women Voters made such an excellent statement
15 concerning the continuation of development of IRV
16 protocols.

17 The only other thing I might say is we might
18 start looking into the development of choice proportional
19 protocols also. It looks like there's a very good chance
20 that the City of Davis is going to put on the ballot a
21 choice voting for council. And their governance panel
22 recommended 801 to do that in Davis. And we're working
23 all over the state for choice voting. Too there's a bill
24 in the Senate right now -- State Senate -- that would
25 allow general law cities to use either IRV or choice

1 voting if it felt like it and had the machinery to do so.

2 So that's my comment.

3 CHAIRPERSON WOOD: Thank you.

4 C.T. Weber please.

5 MR. WEBER: My name is C. T. Weber. I'm with the
6 Peace & Freedom Party.

7 And I just wanted to say that, you know, our
8 major concern is that elections be fair, clean, honest,
9 and verifiable. With that, to amplify a little bit, we
10 don't want a system where hackers can come into the
11 system.

12 We don't want a voting system whereby when you go
13 to the polls and you vote, you can't see how you vote.
14 For example, I vote in Sacramento County. I fill out my
15 card. I put it in the machine. It goes through. You can
16 tell if I overvoted or undervoted, but it doesn't tell me
17 how I voted. So I don't know what the machine is reading
18 that I'm putting into it.

19 As far as fair, I want to I guess reinforce what
20 Pete just said and, that is, is that IRV voting is very
21 important. It's a ranking system.

22 Also, choice voting, which is a proportional
23 representation-type system, which is also a ranking for
24 cities, they're also a different type of system on the
25 state level for partisan offices.

1 These are movements that are developing in
2 California and gaining strength and winning elections
3 across the state for local governments. So it's something
4 we want to make sure that the systems are able to adapt to
5 when these systems come about, that they're adaptable.

6 And verifiable, again, a paper trail, paper
7 ballot, being able to see, you know, what -- how you're
8 voting. I think those are all kind of important things
9 that we support.

10 Thank you.

11 CHAIRPERSON WOOD: Thank you.

12 All right. That brings us to the close of the
13 agenda for today's meeting. I want to thank you all very
14 much.

15 And just as a general comment, on behalf of
16 Secretary McPherson, who is -- you may know at this point,
17 has been in office just about three weeks only, he is
18 looking very much forward to working with all of you on
19 all of the issues that we have heard described today. And
20 we will continue with the process of the Panel and the
21 public comment because, again, as I think he indicated
22 very early on, during his confirmation, this is one of the
23 things that is uppermost in his mind, as far as the
24 administration of elections in the State of California, to
25 have them open, transparent, accessible and, above all,

1 certainly a fair and impartial system.

2 So thank you all very much.

3 And just from my standpoint personally, I look
4 forward to working with you all as well.

5 I'm reminded by Ms. Daniels-Meade that we need a
6 motion at this point.

7 PANEL MEMBER DANIELS-MEADE: I move adjournment
8 of the meeting.

9 CHAIRPERSON WOOD: Is there a second?

10 PANEL MEMBER KERCHER: I'll second.

11 CHAIRPERSON WOOD: All in favor?

12 (Ayes.)

13 CHAIRPERSON WOOD: Thank you.

14 Meeting's adjourned.

15 (Thereupon the Secretary of State's
16 Voting Systems and Procedures Panel
17 adjourned at 11:25 a.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, 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 California Secretary of State's, Voting Systems
7 and Procedures Panel meeting was reported in shorthand by
8 me, James F. Peters, a Certified Shorthand Reporter of the
9 State of California, and thereafter transcribed into
10 typewriting.

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

14 IN WITNESS WHEREOF, I have hereunto set my hand
15 this 2nd day of May, 2005.

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