

BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

Board Meeting Item Four:)
Consideration of a Proposed)
Resolution to Adopt)
Amendments to the Water)
Quality Control Plan for the)
San Francisco Bay/Sacramento-)
San Joaquin Delta Estuary)
and Adopt the Final)
Substitute Environmental)
Document)
_____)

JOE SERNA, JR.-CalePA Building

COASTAL HEARING ROOM

1001 I STREET

SACRAMENTO, CALIFORNIA

Tuesday, August 21, 2018

9:55 A.M.

Volume 1A

Reported by: Peter Petty

APPEARANCES

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

Division of Water Rights

Board Members Present:

Felicia Marcus, Chair

Steven Moore, Vice Chair

Dorene D'Adamo

Tam M. Doduc

E. Joaquin Esquivel

Jeanine Townsend, Clerk to the Board

Marji Popour, Executive Office

STAFF PRESENT

Eileen Sobeck, Executive Director

Jonathan Bishop, Chief Deputy Director

Eric Oppenheimer, Chief Deputy Director

Michael A.M. Lauffer, Chief Counsel

Andy Sawyer, Assistant Chief Counsel

William Anderson, Division of Water Rights

Phil Crader, Division of Water Rights

Erin Foresman, Division of Water Rights.

Tina Cannon Leahy, Office of Chief Counsel

Erin Mahaney, Office of Chief Counsel

Yuri Won, Office of Chief Counsel

Daniel Worth, Division of Water Rights

APPEARANCES (Cont.)

ALSO PRESENT:

PUBLIC COMMENTERS

Adam Gray, Assemblymember, 21st District

Kristin Olsen, Supervisor, District 1

Gary Soiseth, Mayor, Turlock

Mani Grewal, Councilmember, District 1, Modesto

Jennifer Buckman, Bartkiewicz, Kronick & Shanahan, for
City of Modesto

Tony Madrigal, Vice Mayor, City of Modesto

Don Marshall, President, Small Boat Commercial Salmon
Fisherman's Association

Lloyd Pareira, Supervisor, District 3, Merced County

Daron McDaniel, Supervisor, District 3, Merced County

Michael Frantz, Turlock Irrigation District

John Mensinger, Modesto Irrigation District

Will Wong, City of Modesto

Thomas Joseph

Marva Jones

Morning Star Galli, Pit River Tribe

Regina Chichozola

Dana Colgrove

John Buckley, CSERC

Robert Gore, Gualco Group & California Association of
Wine Grape Growers

Heinrich Albert

APPEARANCES (Cont.)

PUBLIC COMMENTERS (Cont.)

Peter Drekmeier, Tuolumne River Trust

Richard Pool, Water 4 Fish

Tim Eichenberg

Ben Eichenberg, San Francisco Baykeeper

Emilie Strauss

Nancy Hinton

Roger Mammon, Communities & Fisheries of the West Delta

Carol Fields

Christopher Kroll

Janet Johnson

Barry Day

Teresa Hardy, Sierra Club, Bay Chapter, Water Committee

Noah Oppenheim, PCFFA

Chris Gilbert

Jim Cox, California Striped Bass Association

Tania Sole

Gail Sredanovic

Charlotte Allen, Sierra Club

David Zelinsky

Nina Gordon Kirsch, Sunrise Movement

Larry Byrd, Modesto Irrigation District

Susan Kishler

Les Kishler

APPEARANCES (Cont.)

PUBLIC COMMENTERS (Cont.)

Deeana Wulff, 44

George Hartmann, RD 2030

Sanford Goldstein

Joyce Parker

Melissa Thorme, Downey Brand for City of Tracy

Alicia Forsythe, Bureau of Reclamation

Dr. Michelle Leinfelder-Miles

Chris Shutes, California Sportfishing Protection Alliance

Sonia Diermayer

Michael Frost

Konrad Fisher

Grace Marvin, Sierra Club, Yahi Group

Julian Zener, Sierra Club, Yahi Group

Scott Ferguson, Modesto Irrigation District

David Bolland, Association of California Water Agencies

Breanne Ramos, Merced Farm Bureau

Lacey Kiriakou, San Joaquin River GSA Group

Tom Francis, Bay Area Water Supply and Conservation Agency

Barbara Barrigan-Parrilla, Restore the Delta

Rachel Zwillinger, Defenders of Wildlife

Robert Kelley, Stevinson Water District

Darcie Luce, Friends of the San Francisco Estuary

APPEARANCES (Cont.)

PUBLIC COMMENTERS (Cont.)

Kevin O'Brien, Northern California Water Association

Jerry Desmond, Recreational Boaters of California

Greg Salyer, Modesto Irrigation District

Jonathan Young, California Municipal Utilities
Association

Emily Rooney, Agriculture Council of California

Andrea York, Almond Alliance of California

Mark Gonzalves

Todd Sill

John Duarte

Nick Blum, Modesto Irrigation District

Patricia Lopez

Jose Gutierrez, Westlands Water District

Jeanelle Steiner

Rhonda Reed

William Morris

Spreck Rosekrans, Restore Hetch Hetchy

Tom Biglione

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P R O C E E D I N G S

9:55 A.M.

SACRAMENTO, CALIFORNIA

TUESDAY, AUGUST 21, 2018

CHAIR MARCUS: With that, we are on to Item 4. And I do have to remind folks that the fire marshal has said that folks can't stand in the back of the room. There are still some seats here that are set up for speakers. We won't be getting to the speakers right away, so please fill in the empty chairs. There's nothing like an irate fire marshal and we do want to feel respectful of them.

And I'm starting to feel air, which should help. But Jeanine, if you can --

MS. TOWNSEND: I already called them.

CHAIR MARCUS: Again. You might have to call them again. I can feel it, so I think it's getting a little better, but it is pretty uncomfortable.

All right, with that let's move on to Item 4. And please forgive me, but since this is a formal proceeding, I do need to make some opening procedural comments, and I have to read them into the record.

1 So, welcome to this public meeting to
2 consider two actions. Adoption of proposed
3 amendments to the Water Quality Control Plan for
4 the San Francisco Bay/Sacramento-San Joaquin
5 Delta Estuary, also known as the Bay-Delta Plan.

6 And two, the supporting proposed final
7 substitute environmental document, which is the
8 analysis of the potential effects, both
9 beneficial and adverse, of the proposed Bay-Delta
10 Plan Amendments.

11 Substitute environmental documentation is
12 quite a mouthful, although we've all gotten
13 pretty good at saying it. But mostly we call it
14 the SAD -- SED. So, that's what you'll hear a
15 lot during today, I believe.

16 Today we're going to be hearing oral
17 comments, but we won't be taking final action.
18 Final action by the Board will be continued to a
19 future Board Meeting. But the opportunity for
20 comments will close at the end of the meeting
21 days this week, so that we can then just consider
22 them and think about what to do.

23 The proposed amendments include new and
24 revised flow objectives for the Lower San Joaquin
25 River and its tributaries, the Stanislaus, the

1 Tuolumne and the Merced Rivers for the reasonable
2 protection of fish and wildlife, beneficial uses,
3 and revised salinity water quality objectives for
4 the reasonable protection of Southern Delta
5 agricultural beneficial uses, as well as a
6 Program of Implementation for these objectives.

7 As I said earlier, I introduced myself
8 and the Board. Also assisting will be the staff
9 today, Phil Crader and Erin Foresman, with the
10 Division of Water Rights, and Erin Mahaney, Yuri
11 Won, and Tina Cannon Leahy with the Office of
12 Chief Counsel.

13 This meeting is being held in accordance
14 with the Public Notice dated July 6, 2018, as
15 revised on August 15, 2018.

16 We want all participants that wish to
17 provide oral comments during the meeting to have
18 the opportunity to do so. Since we have a lot of
19 people here today and it's in all of our
20 interests that the meeting be productive,
21 efficient, and fair, I'm going to start by
22 limiting oral comments to three minutes per
23 speaker, and may adjust that as we go depending
24 on how many people wish to speak today.

25 I know there are folks that have families

1 and work they want to return to. We're finding
2 out how late we can -- it may already be set, how
3 late we can stay in the room. Do you know?

4 MS. TOWNSEND: Nine.

5 CHAIR MARCUS: We can stay until nine, if
6 we need to, and we're willing to do that. So
7 that people can get home, if you wish to speak
8 tomorrow, because you're going to be here both
9 days, please just mark that on your blue card.
10 I'll talk about the blue cards in a minute and
11 we'll try to manage it. Periodically, you'll see
12 us shuffling them and trying to figure out what
13 we have.

14 We do have, actually this time it's been
15 easier, just a few agencies and stakeholders that
16 have asked for additional time, in advance, to
17 present, which we tend to do. I've granted those
18 requests. However, we have also made clear that
19 we're not going to take them all prior to members
20 of the public, just as we didn't in the meetings
21 that we held throughout the valley. It's so that
22 we can get to those of you who wish to speak,
23 that we don't see all the time. And I think all
24 of them, as far as I know, are staying to
25 tomorrow. I may take one of them or something

1 today, but I'll sort that out at a break.

2 Just so you know, we will be taking a few
3 breaks for the court reporter. Fortunately, he's
4 taking notes and recording it. And also, for
5 those of you to be able to use the facilities and
6 the like. I'll probably take a break at
7 lunchtime for folks to go get some food.

8 My suggestion is we'll at least have a
9 break in the midmorning and in the midafternoon.
10 I would suggest at the midafternoon break, you
11 know, if you can, grab a snack if you're going to
12 want to stay through the end of today. Because
13 even if we take another break later on, there
14 aren't as many food venues right around here
15 where you can grab food, other than snacks. And
16 even then, once we get past the five and six
17 o'clock hour.

18 So, I'll try and be mindful of that so
19 that people have a chance to get some sustenance
20 and keep our blood sugar up, so that we can
21 converse with and listen to each other better.

22 And I'll look to my colleagues to help me
23 with that because I tend to be more worried about
24 getting people home, and back on buses, or
25 whatever they need to do. And sometimes I have

1 to be reminded to take a break, so that people
2 can go get water, and food, and coffee, and
3 whatever else they need.

4 However, in that order I talked about
5 folks going in order, we will take elected
6 officials who wish to speak, first, which is
7 customary, particularly since we are nearing the
8 end of session and they have a tremendous amount
9 of work to be doing over at the Capitol, let
10 alone folks from local government who are here.
11 That will be up to them.

12 Please, also, if you're an elected
13 official or a staff to an elected official,
14 please fill out a card and be sure to mark it as
15 an elected official so the staff can actually
16 make sure we've got that -- we've got that in
17 order. But we're happy to extend that courtesy,
18 as we always do.

19 Of course, if you want to stay longer and
20 listen, that's totally great as well.

21 There will be no sworn testimony or
22 cross-examination of participants in this
23 hearing. But the State Water Board and its staff
24 may ask clarifying questions, which do not come
25 out of the speaker's time.

1 As I said, if you intend to speak on the
2 issue, please fill out a blue speaker card and
3 give it to the clerk, located in the front of the
4 room, as early in the day as possible so that we
5 can adjust the schedule as necessary to hear from
6 the people that wish to be heard today.

7 A lot of you have traveled here to join
8 us and have long trips home, so we're going to
9 try and accommodate you.

10 If you're not sure if you want to speak,
11 just fill out a card and mark "if necessary" and
12 you can decide later on, when the time comes.

13 If you're in the overflow space, in the
14 second-floor lobby, or this mezzanine, or in the
15 Klamath Room, it may be a different room
16 tomorrow, staff will be available to take your
17 blue cards there.

18 I'm going to take them pretty much in the
19 order in which they are received unless, you
20 know, folks have planes to catch and stuff. If I
21 get a million of those, it's hard to do, but we
22 always try to accommodate as we can. But that
23 should help, you have a sense of when you're
24 likely to be called.

25 And I'll first call people five cards

1 ahead, so that you have a heads up that you may
2 be coming up within five cards, which could be,
3 depending on how long people speak, within the
4 next, you know, 10 to 15 minutes, so it's time to
5 make your way over here.

6 I'd also like to ask anyone, because the
7 room is still very full in here, after you've
8 spoken it would be kind of you to go to the other
9 -- to go into one of the overflow spaces so that
10 folks who are going to be speaking can move in
11 here. I'd just ask that, just as a courtesy to
12 your colleagues.

13 The deadline for submittal of written
14 comments on the changes to the language of the
15 Proposed Amendments was Friday, July 27, 2018.
16 As specified in the July 6 Notice, the Board was
17 seeking comments on the changes that were made to
18 the regulatory language in response to comments.

19 The comment period on the adequacy of the
20 SED concluded in March of 2017 and the State
21 Water Board will not accept further written
22 comments on those issues.

23 The comment period on the changes to the
24 regulatory language was in addition to a six-
25 month comment period that was provided on the

1 Draft Proposed Amendments and the recirculated
2 draft SED.

3 The Board is grateful for the wide
4 engagement of stakeholders and other members of
5 the public. We carefully reviewed those
6 comments.

7 Written responses to the many comments
8 that were received during the comment period are
9 included in Volume 3 of the proposed final SED.
10 If you've already submitted written comments to
11 the Board, consistent with the July 6 Notice, and
12 wish to address the same issues orally, please
13 just briefly summarize your comments when it's
14 your turn to speak.

15 We understand that some people may want
16 to comment on the plan amendment's relationship
17 to the California WaterFix Project. We must be
18 cautious here. The WaterFix Petition is the
19 subject of an ongoing evidentiary, adjudicatory
20 hearing by the Board that began in 2016. It is a
21 separate and distinct proceeding from the Bay-
22 Delta Plan update.

23 During the WaterFix proceeding there just
24 can be no ex parte communications between State
25 Water Board Members or State Water Board hearing

1 team staff, and any of the other participants
2 regarding substantive or controversial procedural
3 matters other than in that proceeding.

4 I know this is frustrating for some
5 people, including many of us, but they're the
6 rules we must follow. Potential merits or
7 demerits of the WaterFix Project are not related
8 to the State Water Board's consideration of the
9 Proposed Bay-Delta Plan Amendments and are not
10 appropriate topics of discussion at the meeting.

11 There will be flow conditions on that
12 project, which we must also consider in that
13 process under State law, but we have to do that
14 in the adjudicative process, not here.

15 So, today we'll have a staff
16 presentation, as we usually do, because this is
17 also a meeting for us to hear from our staff
18 together, and speak with each other, followed by
19 public comments. The presentation will describe
20 the Bay-Delta Water Quality Control Plan and the
21 proposed revisions before us, why they're
22 necessary, and will describe the environmental,
23 economic, and other effects of the projection.

24 In addition, the presentation will
25 summarize the past opportunities for public

1 comment and the comments received in the most
2 recent revisions to the Proposed Plan Amendments.

3 Unfortunately, there is quite a bit of
4 misunderstanding and misinformation out there
5 about what's actually being proposed. The
6 response to comments documents that have been out
7 for a while address many of those
8 misunderstandings, not all. And reasonable minds
9 can disagree about the merits of the proposal,
10 about the science underlying the proposal, and
11 the effects of the proposal.

12 And as Board Members, we want to hear
13 concerns and points of disagreement to inform our
14 decision. It's most helpful to us if the
15 comments are directed to the current staff
16 proposal as best you can, though, to help us
17 consider ways to improve it. And I know that's
18 not that easy to do, given all of the conflicting
19 information out there, but please try.

20 As I said, when we get to public comment
21 I will call speakers in roughly the order I've
22 received them. When you come to the podium, in
23 addition to what I said about speaking into the
24 microphone, please state your name slowly and
25 identify the organization that you represent, if

1 any.

2 Periodically, throughout the day, I may
3 also give opportunities for those who wish to
4 simply go on record as agreeing with a previous
5 speaker to line up and say so, briefly, so that
6 they can be recorded and recognized, but also get
7 home or back to work sooner, if they need to, and
8 aligning themselves with a particular statement.

9 Finally, at the request of the California
10 Natural Resources Agency, and others, we will
11 conclude this week's portion of the meeting with
12 a presentation from the Departments of Water
13 Resources and Fish & Wildlife on scientific
14 methods they are developing to evaluate the
15 relative benefits of flow and non-flow actions to
16 protect native salmonid fish species in the San
17 Joaquin Basin.

18 As I understand it, this is meant to
19 illuminate how they or others might go about
20 proposing combinations of flow and non-flow
21 actions to show comparable benefits to fish and
22 wildlife. That work can help with the formation
23 of alternative methods of compliance that are
24 allowed for in the Proposed Standards Update.

25 After that presentation, the Board

1 Members will discuss the proposal further with
2 each other, and give staff direction. We only
3 get to discuss matters before us with more than
4 one other Board Member in open session, so that's
5 very important to us.

6 So, that's how the meeting will be
7 handled procedurally.

8 But before we hear from elected
9 officials, who wish to speak early, and the staff
10 presentation, I would like to say a few words
11 about why we're here today and acknowledge the
12 concerns that are being expressed across a
13 spectrum of people about whether what the
14 proposal does goes too far or does not go far
15 enough.

16 As I've said before, I've said it to many
17 of you, this is really hard. And I don't say
18 that lightly. It's hard for agricultural
19 communities that are worried about how it will
20 affect their livelihoods when they are facing
21 multiple other challenges. It's hard for species
22 that are teetering on the brink of extinction in
23 an ecosystem on the edge. It's hard for
24 commercial fishermen and women who fear the
25 destruction of their industry. It is hard for

1 Delta farmers who fear the loss of their way of
2 life, too.

3 This decision is not about fish versus
4 farms, or about people who fish versus people who
5 farm. It is not about farmers from one place
6 versus farmers who farm in another place. It is
7 not about people versus fish.

8 It's not to triage or vilify one to the
9 benefit of the others. It's not actually about
10 good and bad. It is about how to balance
11 competing goods which requires hard work and a
12 healthy dose of empathy.

13 This discussion is about how to share the
14 rivers and the precious waters that are
15 California's shared heritage and treasure. It's
16 about the need to sustain agriculture communities
17 and the ecosystem well into the future, and all
18 of these are California values and are what
19 should make us one community struggling with
20 challenging issues.

21 That said, the Board does have an
22 obligation to act and is quite overdue to do so.
23 In part, because it's so difficult. We and the
24 Legislature recognized this years' ago.

25 What's missing from some of the

1 discussion around the action that the Board will
2 consider is that it actually takes a new
3 approach. Instead of prescriptive flows, meaning
4 a fixed amount of water no matter what, on a
5 fixed schedule that may or may not send flow at
6 the optimal time to achieve its intended purpose,
7 the Proposed Plan includes a lot of flexibility
8 and an invitation to work cooperatively, to learn
9 as we go, and to try new approaches. Including,
10 important, real non-flow approaches that can
11 better address all the needs that are being
12 placed on these rivers. The plan actually
13 invites that and has since 2012, even in the
14 absence of agreements.

15 The Board has consistently and repeatedly
16 expressed the view that voluntary agreements that
17 implement the Plan Amendments present the
18 opportunity to find a beneficial balance between
19 flow and non-flow actions that can achieve the
20 plan's goals and reduce potential water supply
21 impacts.

22 We have a track record of accepting
23 alternative proposals and other efforts. Some
24 districts have offered outlines of plans that
25 could offer promise with some more detail and

1 more flow. We know that discussions are ongoing
2 in a confidential forum and hope that they are
3 fruitful and that things can be presented to us.

4 Even after the Board adopts the Proposed
5 Plan Amendments, the invitation to bring non-flow
6 measures to the table, such as appropriate
7 habitat restoration, remains open. The
8 flexibility included in the proposal allows the
9 Board to reduce required flows significant, if
10 robust non-flow measures that work together with
11 the flow measures are implemented to reasonably
12 protect fish and wildlife. They need to be
13 concrete, substantive, and subject to
14 transparency. They need buy-in from fish
15 agencies.

16 That kind of collection action can help
17 address community and environmental needs and
18 evolve conflicting positions into effective
19 partnerships to manage water, to sustain
20 California's vibrant economy, and culture, and
21 the iconic natural resources that are every
22 Californian's heritage.

23 The proposal, itself, lays out a range of
24 30 to 50 percent to be left in the rivers to
25 serve as a block of water to be managed

1 thoughtfully. And the proposal is to start at 40
2 percent. Our data shows that 40 percent during
3 those months can do a lot to help the species.
4 But there are many stakeholders that have urged
5 us to start far higher, like 50 or 60 percent, as
6 our 2010 Flow Criteria Report suggested, because
7 of the extent to which fish and wildlife are
8 struggling.

9 However, to balance those numbers with
10 the challenges faced by water users, the current
11 proposal starts at 40. Changes within the range,
12 up or down, would take place after an open
13 process in front of this Board, and allocation of
14 responsibility to implement the plan will take
15 place in a subsequent proceeding.

16 So, it's been a long process, with a lot
17 more to go. It is a process and a proposal that
18 has been made better by the contribution of many
19 public agencies, nongovernmental organizations,
20 and members of the public, including many people
21 here with us today.

22 We look forward to hearing from you again
23 today, and remain open to your observations,
24 suggestions, and criticisms.

25 And with that, I'd like to ask any other

1 Board Members if they'd like to make opening
2 comments before we proceed. No? Anything?

3 BOARD MEMBER ESQUIVEL: Yeah, I'll make a
4 quick comment. You know, I am the newest member
5 of the Board. I've been on the Board, now, for
6 about a year and a half. And so, a significant
7 part of this proceeding, at least the field
8 hearings that this Board held, I was not present
9 for.

10 But I have reviewed those field hearings.
11 I've reviewed extensively the record and the
12 information presented. And look forward to,
13 hopefully, not having a repeat of the field
14 hearing, but an evolution of the discussion
15 there.

16 You know, holding the public seat, I take
17 very seriously the need for our work to be
18 publicly accessible, to be able to be discussed,
19 for there to be a civil discourse, if you will.
20 But I think, regrettably, sometimes, particularly
21 an issue that gets very emotional or political,
22 it can be hard to have that honest discussion.
23 There is a lot of misinformation, fear mongering,
24 sometimes.

25 And we see that not just in this

1 discussion, but a number of the other discussions
2 that go on in our society right now, where it
3 seems that misinformation easily kind of takes
4 hold and the emotionality of an argument kind of
5 trumps what is otherwise the logic, or the facts
6 of something.

7 So, I look forward to today's engagement
8 and appreciate everyone here because, I think
9 first and foremost, it demonstrates how much we
10 all care. And that we are from these
11 communities. That we do have an identity as
12 Californian's.

13 And so, I hope that through today and
14 tomorrow we have an honest discussion and an
15 engagement that is respectful. So, thank you.

16 CHAIR MARCUS: Thank you for that.

17 All right, I'm going to start with the
18 elected officials who would like to speak, first.
19 There are five. I suspect there will be more
20 throughout the day. And if they put in their
21 cards, and there are any others, or there are
22 ones that have staff that anticipate they'll be
23 coming later, please go ahead and fill out the
24 blue card, and just mention the time, if you know
25 it.

1 The five are Supervisor Kristin Olsen,
2 Assemblyman Adam Gray, City of Modesto
3 Councilmember Mani Grewal, Mayor of Turlock, Gary
4 Soiseth, and Councilmember Madrigal, from the
5 City of Modesto.

6 ASSEMBLYMAN GRAY: Good morning, Madam
7 Chair, Members of the Board and thank you for the
8 opportunity and the accommodation at the front of
9 the agenda.

10 As you noted, we have significant
11 business before the Legislature over the next
12 couple of weeks, and I'm sure they're going to
13 have to return to that.

14 I appreciate Board Member Esquivel's
15 comments that we want to let the conversation
16 evolve around this issue.

17 A quick introduction. I represent the
18 21st Assembly District. For those in the
19 audience, Merced County and Stanislaus County.
20 This potential Proposed Plan has, obviously,
21 great impacts to a community where the
22 predominant economic activity is agriculture.
23 Our communities depend heavily on groundwater.

24 And the one comment I would have for the
25 Board Member is if the conversation's going to

1 evolve, the proposal has to evolve. And we have
2 raised concerns. For the entire six years I've
3 been office, I've been before this Board. I have
4 had numerous communications to you.

5 We have had -- after significant demands
6 by our community, we finally got you down into
7 our community for testimony. We had concerns
8 laid out for you, almost none of which have been
9 addressed or responded to.

10 And I recognize this Board operates under
11 different rules than the Legislature does. You
12 guys live in a world where there's perhaps not a
13 lot of direct communication between the Board
14 Members. And that type of environment lends
15 itself to staff commanding and manipulating the
16 Board.

17 And, frankly, I'm going to need to see
18 some action on your part, and some evolution of
19 the thought, and perhaps some alternative
20 proposals from some of the Board Members here, or
21 we're going to have to question at the
22 Legislature is this, in fact, the body that's
23 appropriate to handle this issue.

24 If you guys can't do the job, if you
25 can't evolve the plan, if you can't respond to

1 significant concerns, fact-based, meet with
2 stakeholders in the district and evolve it, then
3 we're going to have to do our duty as a
4 Legislature to, frankly, to oversight of this
5 body and perhaps move it along in a different
6 direction.

7 So, I won't repeat the concerns I've laid
8 out before. You know them well. They're well-
9 documented in letters and testimony. But it's
10 time to see some movement on behalf of this Board
11 towards a rational plan that can certainly be
12 balanced.

13 The Chairwoman mentioned balance. This
14 shouldn't be fish versus farmers. This shouldn't
15 be the environment versus the economy. These are
16 mutually important benefits and goals for the
17 State of California.

18 But from where we sit, in my district
19 this has been all take and no give. So, I'm not
20 seeing the balance that we're referencing. You
21 know, when we have ridiculous demands of 60
22 percent, so the Board starts at 40 and then says
23 we're compromising by, you know, staying on the
24 low end, that's just absurdity.

25 And we need to get real and deal with the

1 facts. If you can't deal with the facts and the
2 Board Members can't take it upon themselves to
3 put forth plans that make sense, then we'll
4 revisit this next year with what this Board's
5 authority should be.

6 So, with that, thank you for the time.

7 CHAIR MARCUS: Thank you.

8 ASSEMBLYMAN GRAY: And I'll let you get
9 on to the rest of the testimony.

10 CHAIR MARCUS: Thank you, sir.

11 (Applause)

12 CHAIR MARCUS: Supervisor Olsen, nice to
13 get to see you, again.

14 SUPERVISOR OLSEN: You, too. You, too.
15 Good morning. I am here representing Stanislaus
16 County and the Board of Supervisors on which I
17 now serve. Welcome to the newest member of the
18 Water Board.

19 And thank you for the opportunity to
20 address your Board one last time on this
21 misguided proposal.

22 CHAIR MARCUS: Maybe one last time.

23 SUPERVISOR OLSEN: Well, yeah.

24 CHAIR MARCUS: You know, it never ends,
25 but yeah.

1 SUPERVISOR OLSEN: It never ends. It
2 never ends, that's true, six long years.

3 And thank you, also, for agreeing to
4 postpone the vote at the request of Secretary
5 Laird. And I believe as recently as yesterday,
6 at the request of Senator Jerry Hill. We very
7 much appreciate that.

8 You may see or hear a new side of me
9 today, because simply put, our community is at
10 our wit's end and we are just fed up. We have
11 tried to work cooperatively with your Board and
12 others so many times over the last six years to
13 seek a different approach.

14 We have provided the experts, the
15 science, and the data that demonstrate the
16 failings of the Board's proposal and better ways
17 to improve fish populations in the Delta, while
18 imposing less harm to our communities and river
19 tributaries.

20 And yet, at every turn the Board has
21 refused to listen and hasn't even taken an inch
22 toward us. The Board claims it would prefer
23 voluntary settlements, but has refused to show
24 any flexibility whatsoever.

25 In fact, the amount of unimpaired flows

1 being required has grown, rather than decreased.
2 How can you possibly think you have any
3 credibility in stating you'd prefer a negotiated
4 settlement agreement? It's just nonsense, from
5 our community's perspective.

6 Our communities and our State deserve
7 better. This is not a people versus fish issue,
8 as was stated. This is not a Delta versus us
9 issue. I represented parts of the Delta Region
10 in the Legislature. I love the Delta and I want
11 to see it thrive. But the Board's proposal will
12 not accomplish that.

13 Madam Chair, you and I have served on
14 panels together. We've traveled as far as
15 Australia together to study water policy. We
16 both know there are more creative, innovative,
17 effective and outcome-based solutions to ensure
18 enough water for both the economy and the
19 environment in all communities.

20 I'm disappointed to say that cooperation
21 simply hasn't worked. I hate to see this move
22 toward litigation because nobody wins from that.
23 But the Board's sinister, arrogant, dishonest,
24 and closed approach leaves us with no other
25 choice than to begin fighting, instead of seeking

1 resolution.

2 Yesterday, over 1,500 people traveled all
3 the way here to Sacramento to attend a rally to
4 protest the Board's proposal. It is our very
5 livelihood that's at stake.

6 Republicans and Democrats,
7 environmentalists and farmers, cities, counties,
8 educators, young and old, all of us standing
9 unified to say don't devastate our economy, our
10 environment, our rivers. Don't steal our water.

11 Our area forefathers built and paid for
12 our water infrastructure themselves. They had
13 the foresight to invest in their future and our
14 present, to ensure that we have ample water
15 supplies, including drinking water for our
16 cities, our farms, our schools, our businesses,
17 our hospitals, and our families. Please don't
18 just play the bully and dismiss that.

19 There is no legitimate reason to continue
20 to push a proposal that has no basis in science
21 or data and that will devastate our water supply
22 and our economy.

23 Yesterday, today and tomorrow are our
24 last-ditch efforts to say go back to the drawing
25 board and work with us to develop a proposal that

1 inflicts less harm on our communities, and does a
2 much better job to help fish populations and the
3 Delta.

4 Thank you for your time. We urge you to
5 go another way.

6 CHAIR MARCUS: Thank you very much.

7 (Applause)

8 MAYOR SOISETH: Good morning. I always
9 hate following Supervisor Olsen.

10 My name is Gary Soiseth and I'm the Mayor
11 of Turlock. I represent an incredible city that
12 is committed to leveraging our water resources as
13 much as we can. We will no longer be discharging
14 our recycled water into the San Joaquin River.
15 But, instead, we will be using this water in our
16 parks and on our neighboring farms.

17 We have kept our aggressive conservation
18 regulations, requiring residents to only water
19 twice per week during the summer months. And we
20 have made the very hard policy decision to
21 increase water rates on our residents to pay for
22 the needed infrastructure that will lead to a new
23 source of drinking water.

24 Unfortunately, while the Substitute
25 Environmental document clearly recognizes

1 potential ecological benefits, it ignores these
2 investments that we have made and tends to
3 generalize, downplay, and deemphasize the
4 potentially adverse impacts on the Central
5 Valley's water supply reliability and
6 sustainability.

7 Turlock is very concerned that your flow
8 proposals will cause significant harm to our
9 region, to our residents, and our businesses
10 without achieving the stated objective.

11 As of today, my city is 100 percent
12 dependent on groundwater, but our wells are
13 threatened by high concentrations of arsenic,
14 nitrates, and TCP. Six of Turlock's 19 drinking
15 water wells have been taken offline and will
16 require expensive treatment.

17 Turlock now only has 17 active wells,
18 with 4 of those active wells needing very costly
19 treatment. Even when we can treat these wells,
20 our compliance with your new regulations brings
21 them back at a much lower production capacity.
22 This is our reality.

23 But our communities don't just wait for
24 our fate to be handed to us. We've been
25 proactive, we've conserved where we can, and

1 we've invested where we can. Water use is 28
2 percent lower than the peak year of 2006, even
3 though Turlock has added more than 2,000 people
4 during that time frame.

5 Even though water use per capita has
6 dropped drastically over the last decade, we
7 continue to see a decline in aquifer levels and
8 declining groundwater quality.

9 Hypothetically, even if we wanted to
10 conserve our way toward water reliability by
11 remaining on wells, we simply cannot. Recently,
12 four test holes were drilled for new well sites.
13 The results of those test holes indicated that
14 none of those locations were suitable for a new
15 well due to low quality, low production, or both.

16 Ironically, this Friday, after over three
17 decades of discussions and wavering by leaders,
18 the partnership of Turlock and Ceres will break
19 ground on the wet well construction of the
20 Stanislaus Regional Water Authority's surface
21 water plant on the Tuolumne River. This means 9
22 billion gallons of surface water per year, for
23 five decades will flow into the pipes of Turlock,
24 Ceres, and hopefully surrounding communities,
25 with many of them being disadvantaged.

1 This will lessen our groundwater
2 dependence, allow for groundwater recharge, and
3 will provide water for generations of Central
4 Valley residents. The surface water project is a
5 prime example of local solutions to our local
6 reliability issues. Yet, your actions today
7 could very well jeopardize our future and our way
8 of life by limiting us only to the diminishing
9 resource of groundwater.

10 I first stood right here, in front of
11 you, on January 3, 2017, when I asked something
12 of you then, and I'll ask it of you now. Please
13 take a more scientific, comprehensive, and
14 balanced approach to the declining salmon
15 population. Please consider the very real
16 economic impact to the citizens of Turlock and
17 the entire San Joaquin Valley. And, please, work
18 with us and not against us to find the solutions
19 that take into consideration the environment,
20 along with our economy.

21 Thank you for hearing Turlock's story and
22 weighing seriously your actions on our community.

23 CHAIR MARCUS: Thank you. Thank you for
24 all the work you do.

25 (Applause)

1 COUNCILMAN GREWAL: Good morning Madam
2 Chair, Members of the Board.

3 CHAIR MARCUS: Good morning.

4 COUNCILMAN GREWAL: I'm here again to
5 discuss the work and recommendations in the
6 Substitute Environmental Document.

7 We wanted to understand why you would
8 adopt recommendations that have appalling
9 consequences for our city and our area. Modesto
10 has some experience in conductive views that may
11 have informed your Board, if you had cared to
12 listen.

13 Our ratepayers, not the state or the
14 federal government, built Don Pedro Dam and the
15 reservoir. We paid for the infrastructure and
16 the canals. And then, we approved and built, in
17 partnership with the Modesto Irrigation District,
18 a treatment plant so all of our citizens could
19 have safe drinking water.

20 The state didn't do this, the federal
21 government didn't do this, the people of Modesto
22 and Stanislaus County did this, and it worked.
23 In Modesto, our shrinking groundwater basin
24 recovered. Conjunctive use of groundwater and
25 surface water has benefitted all of us.

1 Now, you would end any hope to our area
2 to bring sustainability to our drinking water
3 supplies, without devastating our economies for
4 years to come.

5 When you first made this recommendation
6 in 2012, your Board said it would meet with our
7 technical folks and discuss information, data,
8 and assumptions. Truthfully, you never bothered
9 to do this. You still haven't done this.

10 Your lack of transparency, your
11 dismissal, and refusal to treat the one million
12 Californians who live in North Valley is,
13 frankly, inexcusable.

14 I know you have a tough job. I
15 understand it. As a council person, as a
16 businessman, I have learned tough jobs are better
17 handled when they're transparent efforts and
18 respectful attention to concerns. Good faith and
19 mutual respect is essential to finding solutions
20 to tough problems.

21 Your plan means enormous and radial
22 impacts to the quality of our life. You simply
23 dismiss those consequences as significant and
24 unavoidable, as if they were an academic
25 discussion or a board game.

1 Your science is flawed. Your process has
2 never been transparent. And by your own
3 admission, your recommended policies won't even
4 work in achieving your purported goal of
5 fisheries and Delta restoration.

6 Sometimes a proposal, a project is so
7 full of bad data, misinformation, dated or simply
8 flawed science you can't tweak it and hope to
9 solve the problem.

10 This is especially true if you have not
11 conducted yourself in a manner of good faith and
12 transparency.

13 So, Madam Chair, respected Board, staff,
14 consultants, we would really appreciate that you
15 put the good faith in this proposal. It is time
16 you recognize the devastation it would cause to
17 our area and we start over. Thank you very much.

18 CHAIR MARCUS: Thank you very much.

19 (Applause)

20 COUNCILMAN GREWAL: Mani Grewal from the
21 City of Modesto.

22 BOARD MEMBER D'ADAMO: Councilmember, I
23 have a question for you. Councilman?

24 COUNCILMAN GREWAL: Yeah, I got a name
25 request, I got --

1 CHAIR MARCUS: We're being interactive.

2 COUNCILMAN GREWAL: Yeah, no problem.

3 BOARD MEMBER D'ADAMO: I have a question
4 for you. So, maybe you have somebody from the
5 city that could answer this, so I don't expect
6 you to know the answer. But I'm very concerned
7 about the issue of stranded assets. I don't want
8 to take up a lot of time because there's a lot of
9 people that want to speak.

10 But City of Turlock is getting ready to -
11 - I'm a resident of Turlock and they're getting
12 ready to break ground on the surface water
13 treatment facility. And so, I'm just wondering
14 if maybe the City of Modesto, in light of the
15 fact that that facility is already there, if you
16 could speak to the issue of potential stranded
17 asset. For a facility that, as I understand it,
18 the cuts would occur equally between ag and
19 urban. And I know that the facility was about
20 \$300,000 -- or, sorry, \$300 million.

21 COUNCILMAN GREWAL: Yeah, there's an
22 extra zero on that one.

23 BOARD MEMBER D'ADAMO: Right.

24 COUNCILMAN GREWAL: No, absolutely. We
25 built that with the assurance that we would be

1 able to utilize it in our community and for, you
2 know, the use of our community. And we feel that
3 that's not money well spent. If we had known
4 this was coming down, we would have looked at
5 alternative options and not spending so much
6 money in infrastructure. But we were being
7 responsible. We were being prudent and trying to
8 get ahead of the curve.

9 And the City of Modesto and the Modesto
10 Irrigation took steps to do that. And now, we
11 feel all that's going to affect us and affect,
12 like you said, our holdings in that area.

13 BOARD MEMBER D'ADAMO: Right. Okay, and
14 then with sequential dry years and having cuts,
15 you know, 50 percent or more, just wondering what
16 your strategy would be? So, you've got the wells
17 that I'm familiar with the challenges in the City
18 of Modesto, where the wells -- there are some
19 that had uranium, arsenic, the list is pretty
20 extensive on contaminants. But what would the
21 plan be? You'd go back to groundwater and treat
22 that? Or, is there a way to move the groundwater
23 to the treatment plant, the surface water
24 treatment plant.

25 COUNCILMAN GREWAL: You know, I guess I

1 would have to delegate that to someone from city
2 staff. I know Will Wong, our Director of
3 Utilities, is here as well. They can tell what
4 the plan is. I wouldn't want to be the one that
5 was speaking --

6 BOARD MEMBER D'ADAMO: Okay.

7 COUNCILMAN GREWAL: -- their behalf and
8 putting words in their mouth what the ongoing
9 plan was, if those effects were in place.

10 BOARD MEMBER D'ADAMO: Thank you. Okay.

11 CHAIR MARCUS: Great, thank you. I think
12 it may well be that we also need to -- as we have
13 a little time, we need to talk to folks, the way
14 you say -- our staff did go out, senior staff to
15 go out and try to meet. And sometimes those
16 meetings ended up being just like being in a
17 shooting gallery. It wasn't actually a
18 conversation.

19 So, I think it works both ways. So, I
20 think you raise a good point and I want to know
21 the details of some of this, too. It's just we
22 need some help, too.

23 COUNCILMAN GREWAL: Like Supervisor Olsen
24 said, this is our last-ditch effort. I mean, any
25 communication that we can have that would help

1 you make a better decision, we'd be willing and
2 able. And our staff, I can promise you, will be
3 willing to --

4 CHAIR MARCUS: An interest in interaction
5 both ways would be great.

6 COUNCILMAN GREWAL: Yeah.

7 CHAIR MARCUS: So, thank you.

8 COUNCILMAN GREWAL: No, no, if there's
9 any issue having that interaction, anybody in
10 this room, we'll make it happen. We'll make it
11 happen. Thank you.

12 CHAIR MARCUS: Thank you.

13 MS. BUCKMAN: Chair Marcus, Members of
14 the Board.

15 CHAIR MARCUS: Yes.

16 MS. BUCKMAN: You called, earlier,
17 another Modesto --

18 CHAIR MARCUS: Ms. Buckman, yeah.

19 MS. BUCKMAN: Yeah, it's Jennifer Buckman
20 for City of Modesto, appearing as outside
21 counsel.

22 You called, earlier, another one of our
23 City Council Members, Tony Madrigal. He had
24 business and he's --

25 CHAIR MARCUS: Oh, it doesn't say after

1 11:00. I'm sorry, I just didn't look.

2 MS. BUCKMAN: He will be here.

3 CHAIR MARCUS: You followed the rules
4 perfectly. I'm sorry.

5 MS. BUCKMAN: I just wanted to ask that
6 the Board recall him.

7 CHAIR MARCUS: Of course.

8 MS. BUCKMAN: And our Utilities Director,
9 Will Wong, will also be here at that time and
10 available to answer questions.

11 CHAIR MARCUS: Excellent. If you can
12 just make sure, when that time comes, if he can
13 either wait his turn, because I'm not quite sure
14 where to put this back in, or just let the clerk
15 know that he's back.

16 MS. BUCKMAN: Understood. Thank you,
17 Chair Marcus.

18 CHAIR MARCUS: Okay, excellent.

19 MS. BUCKMAN: Appreciate the courtesy.

20 CHAIR MARCUS: All right. With that, we
21 will move into the staff presentation, which
22 explains the proposal and some of the response to
23 comments.

24 MS. FORESMAN: Okay, thank you. Good
25 morning, Chair Marcus and State Water Board

1 Members. For those of you who don't know me, my
2 name's Erin Foresman. I'm here, today, from the
3 Division of Water Rights. And I'll be walking
4 you through the staff presentation.

5 So, the purpose of this meeting and this
6 presentation is to consider public comments on
7 the modified proposed plan amendments. It's to
8 consider adoption of the Final SED, adoption of
9 the Proposed Plan Amendments. And as Chair
10 Marcus stated earlier, a final decision will be
11 made at a later date, at a continuation of this
12 meeting.

13 Is there a pause? Okay. So, these are
14 the topics I'm going to be covering in today's
15 presentation. We are going to discuss the Bay-
16 Delta Plan and the many efforts to update the
17 plan. I will review the proposed amendments so
18 we can all be reminded of the details.

19 I'll be summarizing the comments we
20 received on the Draft recirculated SED, and will
21 be discussing the approach to the responses.

22 We also will talk again, later, about
23 comments and responses for the most recent
24 comment period.

25 I'll review or provide a summary of the

1 environmental effects. That includes both the
2 benefits and the adverse effects of the proposed
3 plan.

4 And then, we will go over the economic
5 effects that are included in the SED.

6 Finally, we'll make a staff
7 recommendation and then we will discuss the next
8 steps.

9 So, first, I just want to start with a
10 basic description of what the Bay-Delta Water
11 Quality Control Plan is. State law requires the
12 State Water Board and Regional Water Quality
13 Control Boards to adopt Water Quality Control
14 Plans that ensure beneficial uses of water in a
15 specifically defined area are protected.

16 These Water Quality Control Plans must
17 include water quality objectives. Those water
18 quality objectives can be narrative or numeric.
19 They also need to include a Program of
20 Implementation.

21 Most Water Quality Control Plans in the
22 State of California are adopted by Regional Water
23 Quality Control Boards. This Water Quality
24 Control Plan, however, is adopted and updated by
25 the State Water Board, the Bay-Delta Plan.

1 And the reason for this is that the
2 waters in this watershed, in the Bay-Delta
3 Watershed are of statewide importance and the
4 tools that are needed to implement the plan are
5 specific to the State Water Board, in that the
6 State Water Board has authority to do both water
7 rights and water quality actions.

8 So, this slide is a condensed timeline of
9 the Bay-Delta Plan and the efforts to update the
10 plan. In 1995, the most recent major amendments
11 were made to the Bay-Delta Water Quality Control
12 Plan, including modifications to -- or, sorry,
13 adopting a new objective for flows at the Lower
14 San Joaquin River runoff. So, that's the
15 objective that's in the plan today and that we
16 will be discussing amendments to.

17 In 2009, the State Water Board released a
18 periodic review of the Bay-Delta Plan. And this
19 included a recommendation to further review the
20 South Delta salinity objectives and Lower San
21 Joaquin River flows. They were identified as
22 issues requiring review and potential
23 modification for future updates to the Bay-Delta
24 Water Quality Control Plan.

25 In 2012, the State Water Board released a

1 proposal for revised South Delta salinity
2 objectives and new and modified Lower San Joaquin
3 River flow objectives. Those are collectively
4 referred to as the Proposed Amendments.

5 We also released a Draft SED at that time
6 to support the Proposed Amendments.

7 There was a three-month comment period in
8 which we received a large number of detailed
9 comments. These comments led to substantial
10 revisions in the SED analysis and, ultimately, a
11 modified project description for the Lower San
12 Joaquin River flow objectives.

13 Then, in 2016 -- sorry, I got ahead of
14 myself -- we released a modified set of Proposed
15 Amendments, again including the revised South
16 Delta salinity objectives, and a modified
17 proposal for Lower San Joaquin River flow
18 objectives and the three salmon-bearing
19 tributaries, the Stanislaus, Tuolumne and Merced
20 Rivers.

21 And at that time, we released a
22 recirculated Draft SED that contained additional
23 analyses in support of the proposed amendments.

24 This began a very long comment period, a
25 comment period that lasted six months. During

1 that time, we received many comments and the
2 comment period finally closed on March 17, 2017.

3 Since 2017, at the end of March and the
4 close of the comment period, this team has been
5 reviewing and responding to the number of
6 comments that we received during that long
7 comment period. To my knowledge, that's the
8 longest comment period the State Water Board has
9 ever had open for public comment.

10 In 2018, we released a Proposed Final SED
11 that includes the response to comments that we
12 produced, and we included modified Proposed
13 Amendments. So, in response to comments we made
14 some changes to the Proposed Plan Amendments, and
15 we also made some changes to the Final SED.

16 There was a narrow comment period
17 identified at that time for public comment on the
18 revisions to the Plan Amendments we made. And
19 we're here today, now, to consider public comment
20 on the revisions to the Plan Amendments and to
21 begin the process of consideration of adoption of
22 the Proposed Final SED and the Proposed Plan
23 Amendments.

24 So, now, I want to take some time and
25 just review exactly what the Proposed Bay-Delta

1 Plan Amendments are. These amendments include
2 revised salinity objectives in the Southern
3 Delta. And I'm going to be using my laser
4 pointer. I apologize to those who are not in the
5 room because they can't see it.

6 But the Southern Delta is generally this
7 area here. And the areas that you see
8 highlighted in yellow are the river segments
9 where compliance will be determined in these
10 revised objectives.

11 So, these revised objectives are for the
12 protection of agricultural beneficial uses in the
13 Southern Sacramento-San Joaquin Delta.

14 The proposal also includes new and
15 revised flow objectives for the Southern San
16 Joaquin River and its three salmon-bearing
17 tributaries, the Stanislaus, Tuolumne and Merced
18 Rivers, and this is for the protection of fish
19 and wildlife beneficial uses.

20 The new and revised objectives also
21 contain a Program of Implementation.

22 So, we know that river flows are
23 important for survival of native fish species,
24 such as fall run Chinook salmon, that spawn and
25 rear in the Stanislaus, Tuolumne and Merced

1 Rivers, and migrate through the Lower San Joaquin
2 Delta.

3 This chart shows the number of adult fall
4 run Chinook salmon returning to the Stanislaus,
5 Tuolumne and Merced Rivers. This is showing data
6 from 1952 to 2017. You can see by looking at the
7 chart that abundance has cycled over the years.
8 However, since around 1985, peak abundance has
9 continually declined. The statistical trend of
10 abundance for these three rivers is downward.

11 So, now, I'm adding to this slide flow
12 discharge from the Stanislaus, Tuolumne and
13 Merced Rivers for the months of February to June.
14 This flow discharge occurred two and a half years
15 prior, so it represents the flow conditions that
16 the juvenile fish experienced when they were in
17 the system. And again, these blue bars that you
18 see, those are the number of returning adult fish
19 two and a half years later.

20 So, we can see by looking at this chart
21 that there's -- you can see matching between the
22 high flow conditions and high numbers of
23 returning adults over time.

24 You can also see that you have low
25 numbers of returning adults with low numbers of

1 -- or, low flow values.

2 There are some instances in which other
3 stressors or different stressors affect the
4 numbers of returning salmon. For example,
5 despite the high number -- I'm sorry, despite the
6 low number of returning adults in 2007 and 2008,
7 we had high flows in the system at that time.
8 And this is widely believed the result of poor
9 ocean conditions in 2006 and 2005 that the
10 juvenile fish experienced after they migrated out
11 to the Pacific Ocean.

12 Broadly, though, this slide shows that
13 river flow is an important factor in providing
14 aquatic habitat for juvenile salmonids in these
15 three tributaries. And overall, the concept
16 behind flow objectives is recognizing that the
17 flow in these rivers is affecting the quality and
18 quantity of every feature of aquatic habitat and
19 it's a principal element of providing reasonable
20 protection for fish and wildlife beneficial uses.

21 The Lower San Joaquin River flow
22 objectives are one of the primary actions that's
23 needed in the State of California to achieve the
24 broad, statewide goal of protecting, restoring
25 and enhancing aquatic ecosystem in the Bay-Delta

1 Watershed. This is stated well in the 2013 Delta
2 Plan, which I've quoted on this slide, which says
3 that "Without adequate water flow, the right mix
4 of timing and amount, we cannot expect fisheries
5 to recover no matter how well we deal with the
6 other range of stressors."

7 So, the Lower San Joaquin Plan Amendments
8 contain many different elements and we'll go
9 through those details of those elements here.

10 They contain flow objectives. And the
11 flow objectives, as I've stated before, can be
12 narrative or numeric and they include both. The
13 narrative objective requires maintaining inflow
14 conditions from the Lower San Joaquin Watershed
15 sufficient to support native -- sorry, sufficient
16 to support and maintain the natural production of
17 viable native, San Joaquin River fish populations
18 migrating through the Delta.

19 They also contain numeric objectives.
20 There are two types of narrative -- excuse me,
21 there are two types of numeric objectives that
22 are proposed for this system. There is a numeric
23 objective on the three tributaries and that uses
24 a percent of unimpaired flow approach. And as a
25 reminder, unimpaired flow is the natural

1 production of a river basin unaltered by upstream
2 diversions and storage.

3 The proposed tributary flow objective is
4 40 percent of unimpaired flow within a 30 to 50
5 percent range on the Stanislaus, Tuolumne and
6 Merced Rivers. Compliance will be determined at
7 the flow gauging station closest to the
8 confluence, and you can see that on the map with
9 the green dot.

10 These plan amendments propose a fraction
11 of unimpaired flow for the reasonable protection
12 of fish and wildlife beneficial uses. This
13 approach is not an effort to restore
14 predevelopment flow volumes, but to restore a
15 portion of available flow in a more natural
16 pattern.

17 VICE CHAIR MOORE: So, Ms. Foresman?

18 MS. FORESMAN: Yes?

19 VICE CHAIR MOORE: Just a brief break.

20 So, you define the unimpaired flow.

21 MS. FORESMAN: Uh-hum.

22 VICE CHAIR MOORE: And isn't it true that
23 the Department of Water Resources uses unimpaired
24 flow to define the water year type every year in
25 the San Joaquin Basin and the Sacramento Basin?

1 MS. FORESMAN: The calculation for
2 determining the water year type I don't remember,
3 actually, off the top of my head, but I can ask
4 another person on staff.

5 VICE CHAIR MOORE: All right. I asked
6 the question because I remind folks that this is
7 a term that's been used for decades and is relied
8 upon to determine all kinds of things in terms of
9 allocation through contracts, and that sort of
10 thing. So, it's not a brand-new principle. This
11 is something that's already embedded in the Bay-
12 Delta Plan in Bulletin 120, by DWR, and is
13 proposed to be adapted here as a long-standing,
14 tried and true tool of budgeting water.

15 MS. FORESMAN: Okay. Will is up here and
16 he can provide an answer to your question, if you
17 would like to have that.

18 VICE CHAIR MOORE: Oh, okay.

19 MR. ANDERSON: So, there are water year
20 type classifications for different systems,
21 including the Sacramento Basin and the entire San
22 Joaquin Basin. Several of the rivers here also
23 have their own water year types that they use in
24 their settlement agreement flow specifications.

25 For the big ones that we think about,

1 such as the San Joaquin 60/20/20 Index, that
2 incorporates 60 percent of the April through July
3 unimpaired flow, as well as, you know, 20 percent
4 of the index is composed of the October through
5 March amount. And 20 percent --

6 VICE CHAIR MOORE: Unimpaired flow.

7 MR. ANDERSON: Of unimpaired flow,
8 correct. For the four major dams, meaning the
9 three in this area and also Friant, on the Upper
10 San Joaquin. And in addition, 20 percent of that
11 index depends on the prior year's index.

12 VICE CHAIR MOORE: All right, very good.
13 So, very much embedded in how we manage --

14 CHAIR MARCUS: Thanks, Mr. Anderson.

15 VICE CHAIR MOORE: -- water statewide.
16 Thank you.

17 CHAIR MARCUS: Sorry. We won't interrupt
18 a lot.

19 MS. FORESMAN: No, that's okay.

20 CHAIR MARCUS: But again, the point is --

21 MS. FORESMAN: You're welcome to
22 interrupt.

23 CHAIR MARCUS: -- taken. Because I know
24 people -- it's very helpful. I mean that is --
25 just for everybody's indulgence, I know we really

1 do want to hear for you, but this is one of those
2 rare opportunities that all five of us are here
3 at the same time, so it's important to ask as
4 many questions as we can, now. A lot of us have
5 spent a lot of time on this before, but there's
6 always more questions.

7 MS. FORESMAN: Absolutely. Okay, so I'll
8 continue, then.

9 The next part of the numeric objective,
10 which I was struggling to say numeric,
11 previously, is the -- it's the base flow
12 objective at Vernalis. So, this base flow
13 objective requires a minimum base flow of 1,000
14 CFS within an adaptive range of 800 to 1,200 CFS
15 to be maintained at all times at the Vernalis
16 location, you can see the arrow pointing at it,
17 on the Lower San Joaquin River.

18 The base flow objective is required at
19 all times, but it's controlling only when a
20 minimum level of protection is not provided by
21 the 40 percent of unimpaired flow objective on
22 the tributaries. So, this can occur in very dry
23 years when full, unimpaired flow is a low number.
24 So, 40 percent of unimpaired flow would be also a
25 low number. And it could be that it would be too

1 low to provide minimal protection of fish and
2 wildlife beneficial uses. And in that case, the
3 base flow objective starts to control what water
4 is needed at Vernalis.

5 The plan amendments also include --

6 CHAIR MARCUS: Can I ask just a quick
7 question, again?

8 MS. FORESMAN: Uh-hum.

9 CHAIR MARCUS: An illumination, which is
10 -- because I think we've been working on it so
11 long that we haven't -- I don't know if it's in
12 the presentation, but the reason for moving from
13 the -- in the current standards everything's
14 measured just at Vernalis.

15 MS. FORESMAN: Uh-hum.

16 CHAIR MARCUS: And it all comes together.
17 This proposal, taking a more ecological approach
18 and looking at the lifecycle of the salmon on
19 each of the tributaries has these additional -- a
20 different way of doing compliance, which is a
21 piece of why perhaps there are so many people
22 here, than were here back in the 90's.

23 MS. FORESMAN: Right. So, two things I
24 think are --

25 CHAIR MARCUS: The way I understand that,

1 it's a difference and it's for ecological
2 reasons.

3 MS. FORESMAN: Absolutely.

4 CHAIR MARCUS: It is very different than
5 the current standard, which I think has led to
6 some confusion.

7 MS. FORESMAN: Right. It's recognizing
8 that the primary rearing habitat is in these
9 three tributaries, while the Lower San Joaquin is
10 providing more of a migratory corridor.

11 Okay, so the plan amendments also include
12 a Program of Implementation. The Program of
13 Implementation is a broad framework describing
14 actions needed to achieve the flow objectives.
15 It includes adaptive methods. These methods are
16 key to the proposal because they provide
17 flexibility. The flexibility to provide
18 functional flows to achieve the best biological
19 outcome for the most efficient use of water.

20 It provides for an advisory watershed
21 group to optimize implementation. It requires
22 biological goals and compliance methods for
23 efficient implementation.

24 It also requires monitoring and
25 reporting, and provides opportunity for voluntary

1 agreements.

2 So, I put this slide back up again just
3 to reorient everyone spatially. I'm now going to
4 describe the plan amendments for the Southern
5 Delta salinity objectives. And I just want to
6 remind everyone that we were -- you know, we were
7 zoomed in here on the Lower San Joaquin River
8 Basin, and now we're going to go downstream and a
9 little bit north into generally what is the
10 Southern Sacramento-San Joaquin Delta.

11 So, now we're zoomed in on that area.
12 So, revisions to the Southern Delta salinity
13 objectives are proposed for the reasonable
14 protection of agricultural beneficial uses.
15 Analysis of Southern Delta water quality crop
16 salinity requirements show that the existing
17 April through August objective of 0.7 decisiemens
18 per meter electrical conductivity is more
19 stringent than what's needed to reasonably
20 protect agricultural crops in the Southern
21 Sacramento-San Joaquin Delta.

22 The proposal is to have a year-round
23 objective of 1.0 decisiemens per meter electrical
24 conductivity. The objective applies throughout
25 the Southern Delta.

1 The compliance locations include one
2 fixed point at Vernalis, and I'll again use my
3 laser pointer, which is down here at the bottom
4 of the page. It's half green, half yellow,
5 because it's also a flow compliance point.

6 And then, it includes compliance in
7 channel segments, in three separate segments.
8 And we'll start down at Vernalis. The first
9 segment is from Vernalis in the Lower San Joaquin
10 River all the way up to Grant Bridge, on the
11 Lower San Joaquin. The compliance segment from
12 the head of Old River, at the connection with
13 Lower San Joaquin, over to Grantline Canal. And
14 then, Middle River, from where it meets Old
15 River, to Victoria Canal.

16 In order to implement the salinity
17 objectives, the US Bureau of Reclamation must
18 still meet the 0.7 decisiemens per meter
19 electrical conductivity at Vernalis from April to
20 August, consistent with requirements in the
21 existing operations permit and in an effort to
22 implement the salinity objectives in the interior
23 Delta.

24 So, now, I just want to say a few words
25 about the Substitute Environmental Document, the

1 SED. The SED was developed to support Plan
2 Amendments to the Bay-Delta Water Quality Control
3 Plan. The amendments, like we've discussed,
4 include the new and modified water quality
5 objectives and the framework for implementation.
6 Water quality objectives state a broad policy,
7 describing the desired condition of a waterbody.
8 And the Program of Implementation provides the
9 broad framework describing how we will achieve
10 the water quality objective.

11 These actions are appropriately evaluated
12 at a program level of analysis. So, I'd like to
13 compare this to doing a city plan and doing a
14 program level analysis of a city plan, and a
15 program level of analysis of updates to that city
16 plan.

17 A project level analysis, in our
18 comparison to a city plan, would be more
19 appropriate for evaluating a business park or a
20 new housing development. And likewise, with
21 project level analyses in implementing the Water
22 Quality Control Plan, there may be project level
23 analyses that are appropriate for implementation
24 in the future.

25 The last thing I want to point out about

1 the Substitute Environmental Document, the SED,
2 is that it's really here to do two things. It
3 complies with CEQA in that it estimates and
4 discloses the effects of the proposed action, the
5 Amendments to the Water Quality Control Plan.

6 But it also provides additional
7 information that's here for support of decision
8 making under the Porter-Cologne Water Quality
9 Control Act. And, specifically, this SED
10 includes a chapter on fish benefits and also a
11 chapter on economic considerations.

12 So, now, we're going to walk through the
13 public comments periods that we have had on this
14 proposed Draft SED, and the Proposed Draft
15 Recirculated SED.

16 So, like we described before in the
17 timeline, in 2012 a Draft SED was released and it
18 had a three-month public comment period. I put
19 that up here just to keep everything in sequence.
20 We won't be discussing those comments because
21 they were actually, really incorporated into the
22 development of the Draft Recirculated SED.

23 The six-month comment period for the
24 Draft Recirculated SED was open from September 15
25 to March 17, 2017. So, in the next few slides

1 we're going to summarize the public comments that
2 we received in that six-month period. We'll
3 describe our response approach and the responses
4 to those comments.

5 And then, I'll describe our changes that
6 we made to the SED and changes to the plan
7 amendments that we made in response to those
8 comments.

9 Then later in the presentation, right
10 before the end, we're going to come back to
11 another public comments description and we'll
12 describe the public comments we received recently
13 that are about the modifications to the Proposed
14 Plan Amendment.

15 So, the public comments on the Draft
16 Recirculated SED. Here, we're just describing
17 the different types of comments that we received
18 and how we received them.

19 So, we received 3,100 unique letters.
20 And letters include all kinds of communication.
21 So, it includes a written letter, it includes
22 verbal comments that were made at meetings that
23 were then made into transcripts. It includes
24 signatures on petitions and lengthy, detailed
25 comments.

1 Some letters were form letters. A form
2 letter is an identical letter that was received
3 many times. Each unique letter or each unique
4 form letter was counted once, and then the total
5 counts for each letter that we received were
6 tallied. So, for example, if we receive one
7 unique form letter 6,000 times, that counts as
8 one in that count of 3,100 and then we know we
9 got it 6,000 times.

10 CHAIR MARCUS: Right. And the bigger
11 number has postcards and different things that
12 came in, including --

13 MS. FORESMAN: That's right.

14 CHAIR MARCUS: -- errant e-mails and
15 different communications.

16 MS. FORESMAN: Yeah. So, as you can
17 imagine, each comment letter might make multiple
18 comments on multiple subjects. So, from those
19 3,100 unique letters, we identified 10,500 unique
20 comments.

21 And then, the last, very large number
22 that you see is just the straight up count. So,
23 it was just counting all of it, whether it was
24 repeated or not.

25 CHAIR MARCUS: Pieces of paper or things

1 in the transcript.

2 MS. FORESMAN: Uh-hum.

3 CHAIR MARCUS: Okay.

4 MS. FORESMAN: These are the general
5 comment categories that we received, so the types
6 of comments we received. And just to run through
7 this quickly, we know approximately 10 percent of
8 the comments were about the alternatives
9 evaluated in the SED.

10 Around 10 percent, as well, were about
11 the Revised Water Quality Control Plan. That's
12 the regulatory language that's Appendix K of the
13 SED.

14 So, about 15 percent each, comments were
15 on those additional chapters in the SED, the one
16 about fish benefits and the other one about the
17 economic effects or economic considerations.

18 The process pie piece was also about 15
19 percent, but that was really about two different
20 types of process. So, there were comments on the
21 CEQA process, but also comments on the Porter-
22 Cologne process. So, a lot of commenters perhaps
23 might have not understood that this action is to
24 approve the objective, but not to allocate
25 responsibility, that that action comes at a later

1 time.

2 CHAIR MARCUS: That's important to
3 clarify.

4 MS. FORESMAN: So, that's also all
5 addressed in the response to comments in the
6 Proposed Final SED.

7 So, the widest category of comments came
8 on the environmental resource impacts and these
9 are the traditional CEQA chapters that we have in
10 the SED. So, things like surface water
11 hydrology, agricultural resources, groundwater
12 resources, cultural resources, et cetera. If we
13 split them up all there, it would just be a sort
14 of messier pie chart to look at, so we combined
15 them.

16 So, our approach to the response to
17 comments was to produce master responses. And
18 the reason we took this approach is that it
19 allows us to provide really meaningful,
20 comprehensive responses to repeated comment
21 themes.

22 So, this response to comments we have, it
23 was posted to our website on July 6, with the
24 release of the Proposed Final SED. We produced
25 22 master responses that, again, they provide

1 comprehensive responses to repeated comment
2 themes.

3 And then, we have response tables. So,
4 the response tables include every single of those
5 10,500 comments. Every timely comment was
6 considered and every comment has a response. And
7 the response table, the response that we write in
8 there, it refers to master responses, when
9 appropriate, and sometimes refers to multiple
10 master responses and the topic area that's
11 addressed in the master response.

12 So, on our website we also have a comment
13 response directory. And you can look up your
14 name, and find your comment letter number, and
15 then look that up in the table, so you can see
16 your comment and then the response right next to
17 it.

18 The responses to comments are robust and
19 they include clarifying and amplifying
20 information, but they do not identify any new
21 significant impact, or substantial increase in
22 the severity of an impact, and they do not meet
23 the CEQA criteria for triggering recirculation.

24 CHAIR MARCUS: Before you move on, I just
25 want to thank you for the approach you take.

1 Having read responses to comments, and far too
2 many impenetrable response tables over my, it's
3 going to be like over 30 years. Dealing with
4 CEQA, I really salute you for your attempt in the
5 master responses to try and come up with
6 something that was, you know, big, because the
7 issue is big, but which was readable. I mean,
8 people may agree or disagree with your analysis,
9 but you certainly illuminated the difference in a
10 way that was more accessible than I've seen. So,
11 you may have set a standard that will be very
12 difficult to repeat.

13 MS. FORESMAN: Well, thank you.

14 CHAIR MARCUS: But thank you for the work
15 you put into it. I know it took an incredible
16 amount of time, which I was lashing you on,
17 perhaps mercilessly. But I know it took a lot of
18 effort and I think your approach to doing it is
19 an attempt to be more thoughtful and transparent
20 for the public. So, thank you for doing that.

21 MS. FORESMAN: You're welcome. And I'll
22 say, you're welcome from the whole team. There
23 were definitely dedicated, you know, authentic
24 effort to try to provide meaningful responses to
25 people.

1 CHAIR MARCUS: Yeah, I know you struggled
2 with it. It's good.

3 BOARD MEMBER ESQUIVEL: I'll just add my
4 thanks, as well. Particularly because of -- I am
5 sensitive to the criticism that we're acting
6 capriciously or not responding to what is a
7 significant amount of public concern, we're not
8 engaging. You know, again, holding the public
9 seat that transparency is so central to anything
10 we do here at the Boards. It's why it's taking
11 us years to get to any sort of action here.

12 But the amount of time that staff has put
13 into the responses and, you know, again, I think
14 it's sometimes unfair, the criticism that we're
15 not acting in a transparent manner, or that there
16 isn't this process in place that allows for real
17 consideration of impacts to the community and the
18 voices being heard.

19 So, you know, for those of you that are
20 so inclined, I do encourage you to go through
21 that master response list because it is
22 incredibly thorough to a lot of the arguments
23 that we have heard and we continue to hear.

24 MS. FORESMAN: Thank you.

25 VICE CHAIR MOORE: Thank you, Board

1 Member Esquivel.

2 To the point about, you know, the
3 substance of the responses, which I also have a
4 favorable review of, I was struck by, and you can
5 elaborate on this if you like, but our attempt to
6 try to point to where in the language,
7 particularly in the Program of Implementation,
8 concerns about rigidity, lack of flexibility,
9 lack of ability to deal with, you know, real
10 human issues on a human scale can be achieved
11 through the paths in the Program of
12 Implementation.

13 We pointed them to specific language in
14 Appendix K to try to illuminate that, yes, that's
15 a great point. We have a process or a pathway to
16 address it here, in this proposed language, let
17 us know if we need to make any finetuning
18 changes.

19 Isn't that -- I mean, that was the sense
20 I got from the tone of your responses.

21 MS. FORESMAN: Absolutely. The intent
22 was to take the opportunity to provide further
23 explanation to really engage with the comments.
24 And in terms of flexibility, a lot of that
25 information is in Master Response 2.2, for those

1 who are interested, and Master Response 2.1. And
2 a lot more elaboration is provided on the Program
3 of Implementation.

4 And when we reviewed comments, we could
5 point to here are the ways that the Program of
6 Implementation could accommodate some of these
7 comments that were coming in.

8 BOARD MEMBER D'ADAMO: So, I have to jump
9 in here. I mean, I really -- first of all, a
10 number of us have been at this for many, many
11 years or decades, right. And I do want to thank
12 staff for the lengthy discussions and debates
13 that we've had, that I have had with you all.
14 And I know that you're trying your best. And I
15 do think that the response to comments is, you
16 know, very thorough.

17 But I do have to take issue with the
18 issue of dismissiveness. So, it's one thing to
19 respond to a comment and say you didn't
20 understand, and double down with the same focus
21 that you had initially, and another to have a
22 meaningful dialogue and to look at -- to
23 thoroughly look at and evaluate some of the
24 studies that have been provided. And we'll be
25 getting to this later.

1 But in particular, on this issue of
2 wetted acres and flood plain habitat. Wetted
3 acres don't magically become flood plain habitat.
4 And there's been quite a bit that the irrigation
5 districts have provided. Each irrigation
6 district has a model where they're all coming to
7 the same conclusion. And that is you can't just
8 send water down a river and magically have it
9 turn into habitat where these are highly altered
10 systems. There's scientific papers on it, not
11 just these 3-D models.

12 And so, that's just one example of many.
13 There's TIDs, temperature, the SWM Study.
14 There's the otolith study on, you know, what type
15 of fish are moving and year types.

16 And I think that that is really the
17 source of the frustration. The source of the
18 frustration is not that we haven't had a lot of
19 process. It's just that there are -- we're not
20 talking about a region that is just issuing high-
21 level general comments. We're talking about a
22 region that has really taken the time, whether
23 it's putting together an economic analysis, a
24 groundwater model, wanting to sit down and have
25 you meet with the GSAs, looking at the scientific

1 papers, wanting to drill down, have a discussion.
2 And if that discussion didn't take place because
3 of acrimony in the room which, you know, I think
4 that we can say on all sides, you know, there is
5 frustration and acrimony. But at least through
6 the process of reviewing and commenting, I think
7 that's the missing piece, the level of detail,
8 and taking those responses seriously, and not
9 being so dismissive.

10 I've read through a number of them where
11 I have felt that it was dismissive and that more
12 time could have been spent in further analysis.

13 MS. FORESMAN: Okay, thank you all for
14 your remarks. It's unfortunate that responses
15 are considered dismissive. There was a lot of
16 time invested in reading through all the comments
17 that we received and doing our best to provide a
18 response that addressed the comments that came
19 in.

20 So, now, I'm going to review the changes
21 that we made to the SED, in response to comments.

22 The majority of changes we made to the
23 SED were clarifications as a result of reviewing
24 and responding to comments. But we did change
25 one analysis. And we changed this analysis in

1 response to what were very helpful and thoughtful
2 comments that identified opportunities for us to
3 improve the agricultural economic analysis by
4 revising our Statewide Agricultural Production
5 Model. That's the SWAP model. And we did that
6 through a revised simulation.

7 So, there were five factors that we
8 adjusted in the Revised SWAP model. We adjusted
9 deficit irrigation to be more precise to
10 different types of crops. We adjusted corn
11 silage amounts in response to comments that told
12 us that they were very important to local
13 dairies. We adjusted the total irrigated
14 acreage, again in response to comments, that
15 identified double-cropping is important. And
16 that, also, we realigned some areas to make sure
17 that it's only the irrigated acreage that's
18 included, and not roads and things.

19 We adjusted the crop prices and
20 production costs so that they align with the
21 Central Valley Production Model Region. And we
22 adjusted groundwater use to incorporate the
23 existence of increased groundwater pumping
24 infrastructure and to acknowledge strategic
25 limited use of increased groundwater pumping that

1 would protect permanent crop investments in
2 severely dry years.

3 So, on the next two slides what we're
4 going to do is look at the difference between the
5 agricultural, the SWAP analysis that was in the
6 2016 SED and the SWAP analysis that's now in the
7 2018 Proposed Final.

8 So, the first outcome we'll look at are
9 the irrigated acres that are estimated in the
10 2016 SWAP analysis and the 2018 SWAP analysis.
11 So, on the Y-axis you can see reduction in
12 irrigated acres and that -- or, sorry, reduction
13 in irrigated area. And that's reported in
14 thousands of acres. So, when you read that Y-
15 axis, you need to say to yourself it's 70,000
16 acres.

17 And along the X-axis we have different
18 water year types, including combined all years
19 together, that's the average, and then we split
20 it out by water year type. So, the white bar is
21 the 2016 SWAP analysis and the blue bar is the
22 2018 SWAP analysis.

23 So, if you look at the all-years-
24 combined, you can see that in 2016 the analysis
25 estimated a loss of 23,000 irrigated acres in the

1 plan area. And then we made revisions to the
2 SWAP analysis and that number went up. It went
3 up to 25,000 acres that are estimated to go down
4 in the 40 percent of unimpaired flow scenario.

5 In wet years, we have zeros there because
6 there isn't an estimated loss of irrigated acres.

7 In the next types of water years, you can
8 see a trend that should be fairly intuitive in
9 that the loss of irrigated area, it's not equally
10 split among water year types. So, these impacts
11 are really felt more as the water year becomes
12 more dry.

13 So, the pattern holds true, we're
14 comparing the white bar and the blue bar. So,
15 the pattern holds true for the 2018 SWAP analysis
16 and the 2016. And you can see that for each one
17 of the 2018 SWAP analysis estimates, except for
18 critical, the estimate goes up. It goes up in
19 above normal, normal and dry, which is consistent
20 with looking at the average.

21 CHAIR MARCUS: And this is the impact of
22 the proposal on top of what happens in critical
23 and dry years?

24 MS. FORESMAN: This would be -- well, I'm
25 not sure I understand.

1 CHAIR MARCUS: This is the additional
2 impact of the plan because we know that,
3 particularly --

4 MS. FORESMAN: Yes.

5 CHAIR MARCUS: -- in critical years, also
6 in dry years, there's already an impact on
7 agriculture. And we certainly lived through the
8 worst of our generation, at least, if not more.

9 MS. FORESMAN: Right, that's correct. So
10 that in critically dry years we compare to
11 baseline. So, if there's already a drop and that
12 drop characterizes baseline, we're comparing to
13 the baseline.

14 CHAIR MARCUS: Right. It's a
15 comparative, not the total that will happen in
16 those years.

17 MS. FORESMAN: Right.

18 CHAIR MARCUS: Right.

19 MS. FORESMAN: And this is the loss as
20 well, so the number that went down.

21 VICE CHAIR MOORE: And could you remind
22 us what the total irrigated acres is that this
23 loss would be applied to? So, if there's 79,000
24 acres in a critical year that would be brought
25 out of irrigated production is that --

1 CHAIR MARCUS: 450,000.

2 VICE CHAIR MOORE: Oh, 450,000, okay.

3 MS. FORESMAN: Later in the presentation
4 we compare the totals and that's consistent with
5 my memory.

6 VICE CHAIR MOORE: Good. Okay.

7 MS. FORESMAN: I don't remember the full.
8 For average, I remember that being baseline of
9 about 500,000, and then the proposed alternative
10 being in the 490s.

11 BOARD MEMBER D'ADAMO: So, since we've
12 interrupted you, one of -- my understanding is
13 that this model can account for year type, but it
14 is not structured in such a way to account for
15 sequential dry years.

16 MS. FORESMAN: So, this model, it looks
17 at the change every year as you go. And it
18 identifies the number of acres that could
19 potentially not be irrigated that year. And
20 then, it identifies them as potentially going out
21 of production forever. And in terms of our CEQA
22 analysis, it identifies them as these are at risk
23 for being converted.

24 CHAIR MARCUS: Oh, not just temporarily.

25 MS. FORESMAN: Right. So, it's a very

1 conservative analysis in that it identifies them
2 as having a risk of being converted. So, for the
3 CEQA significant and adverse effect, then we go
4 ahead and say that it's significantly adverse.
5 Because they could go back into production, but
6 we're not sure.

7 BOARD MEMBER D'ADAMO: But my question is
8 more related to, so in a critically dry year we
9 could see 79,000 acres going out of production
10 year one. What happens in year two? What
11 happens in year three?

12 Because a critical dry year, on average
13 we would see a reduction of about 38 percent of
14 supplies.

15 MS. FORESMAN: That's right.

16 BOARD MEMBER D'ADAMO: But that number
17 goes up once you have sequential dry years
18 because the reservoir's not refilling, there's
19 carryover requirements, et cetera.

20 So, I do recall reading somewhere that
21 the model does not account for those sequential
22 years. So, this would be a snapshot of a
23 critically dry year?

24 MS. FORESMAN: Yes. So, it's my
25 understanding that you're correct that this is

1 we're looking at all of the critical years
2 combined together, and looking at them that way.
3 Not the cumulative effect of one, two and three
4 together.

5 BOARD MEMBER D'ADAMO: Okay.

6 MS. FORESMAN: Yeah. I'm just getting a
7 little intel from the folks in our staff who
8 worked on this, who let me know that none of the
9 models do what you were requesting or what you
10 were asking about.

11 BOARD MEMBER D'ADAMO: Well, certainly,
12 the point is that, and we know that the way our
13 system works is good years, bad years. And when
14 we have bad years, it could be a number in a row.
15 So, we need to consider that this number --
16 because here's the disconnect.

17 If you go out into the community you will
18 hear, it doesn't make any sense if we look at
19 this average of 25,000 acres going out of
20 production because there's a recognition that
21 averages don't make a difference for a farmer.
22 What matters is what's your water supply that
23 year. Can you fallow part of your farm? Can you
24 take row crops out of production?

25 And then, there's so many unique

1 situations. So, you may have alfalfa that can
2 easily go out of production, you're not going to
3 kill your trees, but you need it for your cows if
4 you've got a dairy.

5 And what if, you know, in one year -- I
6 think that this does include an analysis of
7 deficit irrigation because we did see during the
8 drought that for permanent crops, they can't
9 fallow those crops, so they would just kind of
10 turn down the dial and provide for less
11 irrigation.

12 But we don't know what the long-term
13 effect is on those trees. We're going to find
14 out in a few years, probably.

15 But what happens if you have one year
16 after the next where you've got deficit
17 irrigation on your crops? And this model, I
18 believe, does not account for, you know, these
19 nuances.

20 And so, it's not as much to say that, you
21 know, we can't believe this snapshot, it's just
22 that it's much more complex than this snapshot.

23 CHAIR MARCUS: No, that's fair. I mean,
24 all of it is complex, too, because we can't
25 totally predict what everybody's going to do to

1 response, or how everybody is going to need to
2 respond to the fact that we're probably going to
3 have more multiple dry years off into the future.
4 You just never know when. We could have deluges
5 this year, for a number of years, and have
6 flooding of epic proportions.

7 So, it does require a new mindset, but
8 that's well-taken. This is a snapshot in the
9 context of illuminating what could happen?

10 BOARD MEMBER D'ADAMO: Yeah, and I'm
11 bringing it up because, you know, at a later
12 point we'll probably -- I'll want to raise the
13 issue of what do we do about, you know, multiple
14 dry years? How are we going to manage this?

15 VICE CHAIR MOORE: Yeah, I appreciate you
16 bringing it up. It's an issue that I've thought
17 about a great deal as well, over the years, and
18 talked to a lot of folks about it. And so, I
19 welcome that discussion.

20 And it's great to remind folks, when we
21 look at this graph it's an index, you know. I'm
22 going to put my engineer hat on. This is an
23 index of potential impact. It gives you -- it
24 communicates the relative change in the scope of
25 potential impact by having those different

1 assumptions in the model, based on the comments
2 we received. So, what staff is showing is, hey,
3 we've update and refined what might be more
4 reasonable from a predictive stand point. And lo
5 and behold, yeah, it's more -- from an index
6 stand point, more significant than we said in the
7 last draft. That's what this tell us. These are
8 just indexes.

9 BOARD MEMBER D'ADAMO: Correct. And
10 another piece to add to it, this assumes
11 groundwater, some degree of mitigation by
12 switching over to groundwater, which we know that
13 cannot happen over the long term. So, again,
14 this might be a snapshot for, you know, a one-
15 year type. But in a few years, this entire chart
16 -- this chart's going to look very different
17 because we do expect the region to responsibly
18 implement SGMA.

19 VICE CHAIR MOORE: Right. And we're
20 going to be talking about this more. But let's
21 remember, also, these are distinct chunk blocks
22 of water that all of a sudden are out of
23 production. This is a proposal to budget water,
24 to bleed it in, if you will. Maybe not bleeding
25 in as much to the ground as we might have

1 otherwise, but the amount that we are able to is
2 that going to be enough? If not, is there enough
3 flexibility in our surface water framework that
4 we're working on together to be able to make
5 sequential dry year changes that allow for more
6 flexibility to create a safety net for the family
7 farms in the area that are, you know, so vital
8 and a societal fabric we need in our State.

9 So, you know, let's get down to brass
10 tacks and talk about those type of processes that
11 we can embed in the Program of Implementation.
12 Because it's not a fair discussion to say that
13 there's going to be these entire blocks of water,
14 now, that are not even in consideration and, oh,
15 there goes the groundwater. That's not really a
16 reasonably foreseeable eventually. As long as
17 we're working together, we can figure those out.

18 So, it's a matter of rate, not volume.

19 MS. FORESMAN: All right, thank you. The
20 next slide is then the crop revenue loss that's
21 associated with this loss of irrigated acreage.
22 So now, on the Y-axis you have reduction economic
23 output. And that's in dollars. Those are from
24 2008 dollars. And, on the X-axis, again, you
25 have the water year type and we split it out by

1 each water year type and include the all years.

2 So, you can see the white bars are 2016
3 analysis and the blue bars are the 2018 analysis.
4 And I start with the average just because that's
5 the simplest one for me to explain. But the
6 average in 2016 was a loss of \$36 million on
7 average. That's a loss of crop revenue as a
8 result of the proposed action at 40 percent of
9 unimpaired flow.

10 Then, after the revisions to the SWAP
11 analysis, that number went up to 39. So, again,
12 these impacts aren't distributed evenly across
13 water year types. They're felt more
14 significantly in the drier water year types. And
15 you can see in the critical year the loss of
16 revenue goes up to \$130 million. And the
17 prediction provided by the 2016 SWAP analysis was
18 120.

19 So, the take home message from both of
20 these slides is that after the revision of SWAP,
21 when we ran it again and compared to the 2016
22 numbers, we do recognize an increase in the
23 severity of impacts, but that the results are
24 overall fairly similar. So, there isn't an order
25 of magnitude severity or doubling, but the

1 results are fairly similar to the results that
2 were in the 2016 analysis.

3 This slide kind of just summarizes what I
4 said. But then it rolls it up into the regional
5 economic output. So, crop revenue is one piece
6 of regional economic output. We combine that
7 with the increased costs of groundwater pumping
8 and other indirect economic effects. And in the
9 2016 SED, we estimated a \$64 million a year loss
10 on average from the proposed action, at the 40
11 percent of unimpaired flow level.

12 When we reviewed the helpful comments we
13 received, we refined the SWAP model and did a new
14 SWAP simulation. And then, in 2018 that number
15 went up to \$69 million when we did the regional
16 economic output analysis.

17 So, again, the number goes up, but
18 they're similar to one another, from the 2016 to
19 the 2018.

20 We also made changes to the proposed
21 action to the Proposed Plan Amendments as a
22 result of response to comments. And most of
23 these changes are for clarification purposes.
24 And I'll walk through several of them that we
25 made, in Table 3 of the Water Quality Control

1 Plan. And for those who aren't familiar with the
2 Water Quality Control Plan, Table 3 is the table
3 where we contain all the water quality objectives
4 that protect fish and wildlife beneficial uses.

5 So, we proposed a modification to Table 3
6 that said 38 to 50 percent of unimpaired flow
7 would be required in the tributaries. And the
8 Program of Implementation previously said the
9 starting point was 40 percent.

10 So, the modification that we did was to
11 place 40 percent of unimpaired flow in Table 3,
12 consistent with the Program of Implementation.

13 Similarly, we added language to Table 3
14 that was previously in the Program of
15 Implementation, but we put it into the table in
16 response to comments because it's an important
17 part of the objective. It's an important part of
18 the whole Plan Amendment package. And that is to
19 avoid significant adverse effects when managing
20 the flows that are identified by the 40 percent
21 of unimpaired flow objective.

22 We also clarified the language of the
23 base flow objection. In response to comments it
24 was clear there was some confusion about the base
25 flow objective, so we wrote it in hopes that it

1 would be more clear.

2 And then, finally, we added a compliance
3 calculation to Footnote 14, of Table 3 of the
4 Water Quality Control Plan in response to
5 comments. That was something that was requested.

6 VICE CHAIR MOORE: And base flow is the
7 -- you're referring to the flow requirements at
8 Vernalis that are proposed?

9 MS. FORESMAN: Yes, so it's the one
10 that's cubic feet per second monthly average, the
11 1,000.

12 VICE CHAIR MOORE: Okay.

13 BOARD MEMBER D'ADAMO: And on the
14 Appendix K, Table 3, "The flows provided to meet
15 these numeric objectives shall be managed in a
16 manner to avoid causing significant adverse
17 impacts to fish and wildlife, beneficial uses at
18 other times of the year."

19 You're saying that this is repeated from
20 the Program of Implementation. And I recall we
21 had a discussion about this last week, so I just
22 want to ask some follow-up questions.

23 I'm not seeing that the language is a
24 repeat.

25 MS. FORESMAN: So, you're looking at page

1 28 and I need to bring up my copy of that, as
2 well.

3 BOARD MEMBER D'ADAMO: Yeah, 28 compared
4 to the bottom of Table 3. And page 18, thank
5 you. And this other one on 28, which is the
6 language, I believe, that was in the Program of
7 Implementation since 2016, "When implementing the
8 Lower San Joaquin flow objectives, the State
9 Board will include minimum reservoir carryover
10 storage targets or other requirements to help
11 ensure that providing flows" -- and that's where
12 the language picks up.

13 So, I'm just wondering what's the
14 intention? This sounds broader and just
15 wondering what sort of actions are you
16 considering?

17 MS. FORESMAN: Well, this language --

18 BOARD MEMBER D'ADAMO: It just seems
19 vague.

20 MS. FORESMAN: Okay. So, this language,
21 you're right it's not a verbatim, exactly what is
22 on page 28. But conceptually it brings up that
23 -- and the language that's repeated is "Will not
24 have significant adverse effects."

25 Sorry, I need to now look exactly what it

1 is. And it's typed so small in here. "Shall be
2 managed in a manner to avoid causing significant
3 adverse impacts."

4 And on page 28 it says, "Significant
5 adverse, temperature, or other impacts on fish
6 and wildlife."

7 So, the difference between the two, and
8 probably putting something -- sorry, not
9 probably. But putting something in Table 3 that
10 doesn't include the word "temperature" is more
11 appropriate for the Water Quality Objective. The
12 Program of Implementation is mentioning
13 temperature specific to carryover storage.

14 And in this part of the Table 3, of the
15 Water Quality Control Plan, we did not include
16 the word "temperature".

17 And I can also ask Erin or someone else
18 to provide some feedback on that.

19 MS. MAHANEY: As Erin has mentioned, this
20 is a recurring theme throughout the Program of
21 Implementation, where we want to make sure that
22 providing the flows doesn't result in significant
23 adverse impacts to the fishery that we're trying
24 to protect.

25 And so, temperature is one example and

1 that's called out through the language on Page
2 28, about the carryover storage requirements or
3 other measures that could avoid temperature or
4 other adverse impacts.

5 It's also called out in the Program of
6 Implementation, with the Adaptive Implementation
7 Measures. For example, on Page 31, Paragraph C
8 talks about that flows may be shifted from the
9 February through June period to after June to
10 prevent adverse effects to fisheries, including
11 temperature, that would otherwise result from the
12 implementation of the February through June
13 requirements.

14 BOARD MEMBER D'ADAMO: Well, I guess for
15 me it's just that -- and we can probably get into
16 this more once we discuss as a group. But I
17 don't really know what this means? If it means
18 carryover, does it mean refill? Does it mean
19 winter flows? Does it mean fall flows? I mean,
20 it could be any number of actions.

21 And so, if I'm running an irrigation
22 district and I'm trying to figure out what this
23 means, I know that carryover has been in since
24 2016, but I have never seen an analysis of what
25 is meant by carryover. And so, I'm just

1 questioning this broad language.

2 I mean, it was bad enough to have it on
3 Page 28, where it refers to carryover. And it
4 says at some point in the future there's going to
5 be carryover target guidelines established. But
6 now, it looks like there could be other things,
7 in addition to carryover. So, it just seems
8 really broad.

9 And, you know, maybe you guys can get
10 back to us, but where in the analysis does it
11 analyze the impacts of this language?

12 MS. FORESMAN: So, to the question you
13 just asked about where in the analysis does it
14 analyze the impacts of this language, the water
15 supply effects analysis, that model does include
16 carryover storage targets. So, it includes a
17 modeling interpretation of avoiding significant
18 adverse effects at other times of the year.

19 So, that model was completed and those
20 carryover storage targets were iterated upon
21 until a target was identified that minimized
22 temperature impacts in the fall months.

23 And that's, all of that is things that we
24 did get comments on and there are comprehensive
25 responses to that in Master Response 3.2. But

1 that's where the analysis is of an interpretation
2 of that language.

3 BOARD MEMBER D'ADAMO: So, the analysis
4 is in the modeling?

5 MS. FORESMAN: Uh-hum.

6 BOARD MEMBER D'ADAMO: Only. There's not
7 a discussion, there's not a separate discussion
8 of what is envisioned with a carryover and a
9 refill program?

10 MS. FORESMAN: Well, the modeling does
11 include --

12 BOARD MEMBER D'ADAMO: That's not in
13 there.

14 MS. FORESMAN: -- its interpretation of
15 carryover storage target and then you would
16 refill. So, that is in the modeling and there is
17 a discussion in the SED of how that was put
18 together. And in the response to comments, in
19 Master Response 3.2, we did get other commenters'
20 analyses submitted. And some of those analyses
21 didn't include carryover storage targets.

22 So, that master response does a
23 comparison between the two and why the
24 interpretation and why our analysis reflects
25 behavior that you would see. Because you want to

1 supply water as reliably as you can, so you don't
2 want to fill the reservoir and drain it down, and
3 let terrible water supply effects and temperature
4 effects happen. So, that discussion is
5 absolutely provided in Master Response 3.2.

6 BOARD MEMBER D'ADAMO: Okay. And then,
7 what about the discussion about whether or not we
8 even have the authority to require carryover?

9 MS. FORESMAN: That is also provided in
10 response to comments, in Master Response 1.2.
11 But that is also much more of a legal question
12 and so I'll look at my legal team to see if they
13 want to provide anything else.

14 MS. MAHANEY: Right, that's -- the
15 Board's authority to implement the Water Quality
16 Objectives, through water quality and water right
17 proceedings, is discussed in Master Response 1.2.

18 And as to the question as to the Board's
19 authority to impose water right conditions, for
20 example, on permits -- water right permits and
21 licenses, the Board does have the authority to
22 condition permits and licenses on the diversion
23 of water, including to storage. And may, through
24 measures such as under the Physical Solution
25 Doctrine, require releases from storage.

1 BOARD MEMBER D'ADAMO: But we would be
2 changing the water rights in order to achieve
3 this. We'd be placing a condition on a water
4 right, so we'd be amending the permits?

5 MS. MAHANEY: That is one implementation
6 approach. Another means is through facilities
7 undergoing for relicensing right now, that could
8 be through a water quality certification process,
9 by which an application for water quality
10 certification is filed with the Board and those
11 conditions may be imposed on that application or
12 on the certification that results.

13 CHAIR MARCUS: Right. Isn't there, and
14 again I'm not being pie in the sky, because I
15 know feelings run hard, but in the -- maybe there
16 is no ideal world. But in the ideal world, we'll
17 have folks coming together and saying here's how
18 we think we should manage water for all of this,
19 because water managers, when put around a table,
20 manage water. So, it doesn't all necessarily
21 need to be in requirements, but there needs to be
22 a way to figure out how to be able to -- that's
23 one of the things I like about this proposal. I
24 think some of the flexibility in it leads people,
25 understandably, to see a worst-case scenario.

1 But, ideally, you have people coming together to
2 say, hey, here's your basic proposal, but here's
3 how we propose to use it this year and next year,
4 including where you have multiple dry years, and
5 there's a way to sign off on that.

6 MS. MAHANEY: Right. And that's an
7 excellent point. There's really two points here.
8 One is that because this is a broad rulemaking
9 effort that's being analyzed at a program level,
10 we don't know what the specific conditions are on
11 the ground that we could do a project level
12 analysis.

13 And one of the advantages of the program
14 implementation is that it does afford the
15 flexibility for stakeholders in a specific region
16 to come together and assess what they think that
17 the adverse impacts might be and how best to
18 address those under local conditions.

19 And the second point plays into what you
20 just said, which is this is an opportunity for
21 stakeholders to enter into agreements to help
22 implement the plan.

23 BOARD MEMBER D'ADAMO: So, I'll just add
24 to that. I agree. I mean, I really do think
25 that through settlements there's a way to do this

1 voluntarily where it can work.

2 But if we don't have settlements, this is
3 something that -- I'll want to bring up later on
4 concerns about some of the legal issues. But
5 this is probably the top of my list. This whole
6 plan hinges on carryover storage. If we don't
7 have carryover storage, then the alternative
8 that's proposed is not protective of fish because
9 of the temperature impacts.

10 So, if we're off on our legal analysis
11 and we're going to hear from people that say
12 we're absolutely off, then it's like a house of
13 cards that falls. So, this is just something
14 that I think we're probably going to want to come
15 back to and make sure that we're on solid legal
16 ground. Because without it, you know, unless I'm
17 misunderstanding, I don't think that the proposed
18 alternative -- I don't think we could issue
19 findings that it's protective native fish because
20 of the temperature impacts, correct, without
21 carryover?

22 MS. FORESMAN: Well, right now in the SED
23 we don't look at implementing this without
24 carryover storage. So, we don't have temperature
25 profiles without carryover storage.

1 There is a concern that we would have
2 much higher temperature impacts in those fall
3 months, but we don't have that information in the
4 SED. We didn't model it without carryover
5 storage because we were avoiding significant
6 adverse effects in other times of the year.

7 CHAIR MARCUS: So, there needs to be a
8 way to get to it and there are multiple ways to
9 get to it. I think this is something that not
10 everybody understands. Sometimes, too, in the
11 environmental community as well. I'm not saying
12 people don't understand stuff, because it's a
13 very complex thing. And what we're trying to do
14 is get folks to come together and figure out how
15 to do it in a way that's going to make sense.

16 But I think we don't necessarily need
17 full settlements to do it because there's an
18 opportunity and offer within the plan to have the
19 STM Group come together, or I would suspect you
20 could do subgroups to figure out how they propose
21 to manage, at least within the range. It's when
22 you go outside of the range that you need to go
23 through more of a process in front of us.

24 But even then, you don't need a
25 settlement, you could do it later. But a

1 settlement's better because then it lays out
2 everything for everybody early on, and it would
3 be better to have folks work it out and have that
4 conversation versus where they have to deal with
5 the actual facts, and back and forth.

6 VICE CHAIR MOORE: Yeah, settlements will
7 enable funding of things that we have a hard time
8 finding money for. You know, we, at the State
9 Board, trying to bring it forward where we can.

10 But thank you, I appreciate the
11 discussion among the lawyers on the State Water
12 Board.

13 CHAIR MARCUS: I mean, it's --

14 VICE CHAIR MOORE: No, it's fine. These
15 are great points. It's interesting because --

16 CHAIR MARCUS: We'll have an engineering
17 phase, if you like?

18 VICE CHAIR MOORE: Well, I'm going to
19 offer up something here just because I think this
20 is a productive discussion.

21 But when I read the language, just to
22 give you another lens, you know, I see this is
23 the type of flexibility that we're trying to
24 afford. And I think Board Member D'Adamo points
25 out maybe some problematic words that have legal

1 ramifications that maybe we can noodle through
2 later. I'm not going to take you down there.

3 But when I read this, I think this is
4 great because this is the flexibility. And what
5 it does is it acknowledges that, to the Chair's
6 point, if you just implement this proposal like
7 it's a straight-line relationship, it's going to
8 fall off the rails at the lower and higher ends.
9 And, you know, it's like a pump curve where
10 things start to cavitate and come undone.

11 And so, and this is a classic point. As
12 you point out, you know, the native fish will
13 suffer if you just look at this as a straight-up
14 percentage. You have to have a Program of
15 Implementation that empowers local water managers
16 to realize synergistic benefits of carryover
17 storage. Not only for water supply, but for
18 keeping the native fish going. And there's a
19 synergy there and we need to make room for it in
20 any plan that the State Water Board adopts.

21 So, I see hope in this language. You
22 know, my colleague sees concern. I think that
23 this is an area we can really find common ground
24 in.

25 MS. FORESMAN: Okay. So, moving on then,

1 we are going to talk about the changes to the
2 amendments that were made in the Program of
3 Implementation. So, we made several changes in
4 the Implementation section, and I'll just review
5 a couple of them here.

6 So, we removed a sentence in the Adaptive
7 Methods that it was in regard to water -- the
8 opportunity to hold water after June. And we
9 removed this sentence because it was very
10 confusing to commenters. And the removal did not
11 significantly change the meaning of the
12 paragraph.

13 So, since there was so much confusion
14 about this particular sentence, identifying an
15 opportunity to hold water that wasn't in the
16 fall, in the flow shifting option, we just
17 decided to delete that.

18 The other changes we made, we made some
19 changes to biological goals. Some of those were
20 editorial. But one thing that we included was an
21 example of using temperature targets as a
22 potential thing that could be done for
23 identifying biological goals.

24 In the Program of Implementation there is
25 a requirement to develop and launch a San Joaquin

1 River Monitoring and Evaluation Program. And the
2 modification that we made was requiring a five-
3 year review of that Monitoring Program, once it's
4 up and running.

5 And then the last thing we have here on
6 the slide is that there are, already, Annual
7 Operations Reports that are required. But the
8 change in the Program of Implementation requires
9 them to be discussed in a public meeting.

10 So, now, I'm going to discuss the changes
11 to the amendments for the Southern Delta Salinity
12 Objective. These changes were all made in the
13 program of implementation.

14 The first one is that we change the due
15 date for the Comprehensive Operations Plan in
16 response to comments. It formerly was October 31
17 and that was changed to February 1.

18 We also made some changes to the language
19 around the effects of POTW discharges on Delta
20 salinity. And these describe that the POTW
21 discharges are not the driver of Delta salinity
22 problems in the Southern Sacramento-San Joaquin
23 Delta.

24 And we also identify that reverse osmosis
25 technology right now for POTW discharges is not

1 feasible in the Southern Sacramento-San Joaquin
2 Delta in the case of trying to reduce salinity
3 concentrations in that area.

4 So, now, we're going to go through some
5 slides that talk about the primary benefits of
6 the Plan Amendments of the proposed project. And
7 one thing to keep in mind, if you have the map in
8 your mind, and we'll look at it several times, I
9 guess, through these next couple of slides, is
10 that this is the reason that we're proposing the
11 Plan Amendments is to see these primary benefits.

12 And they apply to more than 200 river
13 miles in the Lower San Joaquin River Watershed.
14 So, that's an important thing to keep in mind.

15 So, I'm going to be showing this map on
16 and off because we're going to show some charts,
17 and I think it's important to remember where we
18 are in the system.

19 So, the next chart I'm going to show --
20 oh, sorry, went too far ahead. I wanted my laser
21 pointer.

22 The next chart I'm going to show is flow
23 on the Tuolumne River. So that's this tributary
24 that I'm highlighting. And we're going to be
25 looking at flow at the Modesto gauge. And we'll

1 look at flows under 40 percent and under the
2 baseline, but we'll also compare them to
3 unimpaired flow, the full unimpaired flow that's
4 estimated up here at La Grange.

5 So, this chart shows the pattern and
6 volume of flow on the Tuolumne River from 1990 to
7 1995 to illustrate the benefits of the February
8 to June 40 percent of unimpaired flow objective.

9 We chose this set of years because it
10 illustrates the general concept of unimpaired
11 flow as compared to existing flow conditions.
12 And it also includes critically dry years and wet
13 years.

14 So, the Y-axis is stream flow and the X-
15 axis is years. And the kind of teal blue line
16 you see there is full unimpaired flow at La
17 Grange.

18 And the gray line you see at the bottom
19 is the baseline scenario at Modesto, so at the
20 Modesto Gauge. So, this is what we consider like
21 existing conditions in these rivers or the
22 conditions that existed in these rivers, in these
23 years.

24 So, one thing that you can see right away
25 is that baseline flows largely remove the aquatic

1 habitat functions that re provided by the pattern
2 of flows that we get in the full, unimpaired flow
3 scenario.

4 So, the baseline conditions are very low
5 flow, so a lot of the magnitude has been removed,
6 but also the pattern has mostly been removed.

7 The exception is these very wet years where water
8 infrastructure is at capacity and releases are
9 being made because there isn't infrastructure to
10 hold it.

11 CHAIR MARCUS: So, some of those little,
12 those are flood control releases that we're
13 seeing?

14 MS. FORESMAN: Yes.

15 CHAIR MARCUS: Okay.

16 MS. FORESMAN: So, the dotted line you
17 see there shows the 40-percent of unimpaired flow
18 alternative. And this objective, you can see it
19 does two things. It returns some portion of the
20 volume of water to the river, but it also returns
21 the pattern. And that's a very important item
22 that perhaps we haven't mentioned enough.

23 In that the unimpaired flow approach, as
24 you look at it this way, really is a functional
25 flow approach. It restores the flow pattern and

1 a portion of the volume to improve aquatic
2 habitat function and habitat availability for
3 native species, like salmon, in these river
4 systems.

5 So, now, we're going to switch and
6 discuss some temperature results. And again,
7 we're going to look at the Tuolumne River. But
8 in these next charts that we're going to go
9 through, we're going to start at La Grange Dam,
10 over on the right-hand side of the chart, and we
11 will look a temperature profiles all the way down
12 the river to the confluence with the Lower San
13 Joaquin River.

14 CHAIR MARCUS: And this is an example.
15 You're not going to do each river?

16 MS. FORESMAN: That's correct, I'm not
17 going to do each river.

18 CHAIR MARCUS: Right. Not that we
19 wouldn't want to, but I may -- I'm trying to
20 figure out, I may need to -- I mean, I might have
21 to read that. I may have to take a break before
22 you're done.

23 MS. FORESMAN: Okay.

24 CHAIR MARCUS: Because I went through and
25 didn't give a midmorning break because I know we

1 have the iron man sitting here, from past
2 experience. And I know people have been taking
3 the opportunity when they needed to go use
4 facilities or whatever. But I want to take one
5 elected official and then I'm going to want to
6 take a break at some point in here. And my
7 apologies for not doing one in the afternoon. I
8 was hoping to get through all of this before we
9 took a break, and people could take a break and
10 then we could go through public comment.

11 But I think it is good that we've been
12 asking questions because they're all, as we go
13 sometimes it's easier, and then we'll pull it
14 together in more of a conversation.

15 So, I just want to let you know that I'm
16 probably going to take a break before you're
17 done.

18 MS. FORESMAN: Okay, that's fine. If
19 you'd like to do that now, this is a good time to
20 break. The next several slides are all
21 temperature slides and they all go together.

22 CHAIR MARCUS: Maybe I will. I'm going
23 to take one elected official and then I'll give a
24 -- what I think I'm going to do, instead of doing
25 like a long lunch break is I'll do a few longer

1 breaks and sort of stagger it, so people also
2 have the time. So, I'll try and do something
3 now, and I'll try and do something between 2:00
4 and 3:00. And I'll try and do something probably
5 between 5:00 and 6:00, if we need to.

6 Again, I'll have to see during the break
7 the number of cards we have and try to figure out
8 how to make it work most effectively.

9 I believe, and I could be wrong, that all
10 of the folks who wanted to do longer
11 presentations have asked in advance, which is
12 something that needs to happen, are okay with
13 going tomorrow. If they want to go today, one or
14 two, that's really okay later in the afternoon.
15 I certainly won't start with them. So, just be
16 thinking about that and let Ms. Townsend know.

17 Also, if there are -- I've seen elected
18 officials who haven't put in cards to speak
19 earlier. If you have time constraints, or other
20 things, or when you want to go, please also let
21 Ms. Townsend know and we'll try and accommodate
22 you.

23 So, we'll take a break after we do hear
24 from Councilmember Madrigal, from City of
25 Modesto, who very kindly wanted to stay and

1 listen. I believe the Councilman's somewhere
2 nearby. Can somebody grab him? Just talk
3 amongst yourselves while we wait. Take notes,
4 think about your comments.

5 CHAIR MARCUS: Oh, that's what your note
6 says. No, no, we're going to start public
7 comment right after break. If you need to speak
8 right now, I can take you right now, after
9 Councilmember Madrigal.

10 MS. TOWNSEND: After.

11 CHAIR MARCUS: After, if he's in the
12 room, yeah.

13 VICE CHAIR MOORE: He's right there.

14 CHAIR MARCUS: Yeah. But make sure your
15 card comes up to Ms. Townsend so she knows,
16 because we do keep track of all of this. Sorry,
17 it was hard for me to see it, the card, but thank
18 you for trying to do that.

19 Councilmember, hello.

20 COUNCILMAN MADRIGAL: Good morning,
21 still.

22 CHAIR MARCUS: Morning still, yeah.

23 COUNCILMAN MADRIGAL: Good morning Board
24 Members. Thank you for the opportunity to
25 address you. My name is Tony Madrigal. I'm a

1 City Councilmember in the City of Modesto, in
2 District Number 2, and currently the Vice Mayor
3 of Modesto.

4 I just want you to know that the City of
5 Modesto has a lot, possibly the most of any city
6 at stake in these Phase 1 proceedings. I'm going
7 to refer here to my notes.

8 Our City of Modesto is home to over
9 220,000 people, and as of the last 2010 Census,
10 we are the 18th largest city in the State.

11 Modesto relies on water from the Tuolumne
12 River for about half of our drinking water
13 supplies. And your Substitute Environmental
14 Document threatens to take that water away. A
15 cut of up to 38 percent in dry years and there
16 are no replacement sources of water available.

17 I'm sorry, I'm just going to go off-
18 script here a little bit to share. I just really
19 feel like we, in Modesto, we've done so much.
20 When we were talking about, you know, the drought
21 in the past, and whatnot, you know, we told the
22 people in our community to, you know, conserve.
23 And, you know, watering days is limited. And
24 then, we even -- you know, I'm proud to share we
25 even built a recycled water plant, you know, to

1 produce millions of gallons of recycled water to
2 help, you know, supply farmers in the west part
3 of our county.

4 CHAIR MARCUS: No, it's cool. We helped
5 with that, it's great.

6 COUNCILMAN MADRIGAL: Yeah, you know
7 about it. It's a real source of pride. And
8 then, despite everything that we've done just to
9 hear that, you know, this recommendation of yours
10 to take our water, as we feel and see it, is
11 still something you want to proceed with is very
12 -- you know, I guess you get this feeling of, you
13 know, what more do we got to do. Hope you'll
14 pardon my candor, but it's --

15 CHAIR MARCUS: No. Please.

16 COUNCILMAN MADRIGAL: It feels good to
17 get this off my chest.

18 CHAIR MARCUS: No, it's a challenging
19 situation because the nature of the -- it's an
20 unusual agreement that you have with the
21 irrigation district, which puts in a different
22 position than many municipalities are when we're
23 doing things, because municipal is a higher use.
24 So, that's why I'm interested in really focusing
25 on it.

1 COUNCILMAN MADRIGAL: And so, coming back
2 to my comments, I just want to share with you we
3 cannot turn back to groundwater without over-
4 drafting our basin. And some of our groundwater
5 has significant contamination issues that you
6 probably are aware of, that make it a poor choice
7 for drinking water.

8 It is for these reasons that the City of
9 Modesto has been very forward thinking and
10 proactive, as I was mentioning before, in
11 managing our water resources. And we've invested
12 hundreds of millions of dollars in our Tuolumne
13 River supplies.

14 Of all the groundwater basins in the area
15 of the San Joaquin Valley that have agricultural
16 communities, our county, Stanislaus County, has
17 the only basin that has not been designated as
18 critically over-drafted.

19 CHAIR MARCUS: Yeah.

20 COUNCILMAN MADRIGAL: And so, our city's
21 move onto surface water supplies was a key
22 component of this groundwater management.

23 The City of Modesto has long recognized
24 that water is the key to life and prosperity in
25 our valley. As I'm sure you all know, it's even

1 on our wonderful arch, in the entryway to our
2 downtown, "Water, Wealth, Contentment, Health".

3 And we ask you to take the water supply
4 needs of Modesto's residents, and for that matter
5 of all our county's residents into account. And
6 we urge you to direct the staff to amend the
7 proposal to reflect a better balance of these
8 needs and the other uses for Tuolumne River
9 water.

10 Again, thank you for your consideration.
11 Our City of Modesto Utilities Director, Will
12 Wong, will be here to answer any follow-up
13 questions that you may have. Don't take our
14 water.

15 CHAIR MARCUS: Thank you.

16 (Applause)

17 CHAIR MARCUS: Thank you, sir. Thank you
18 for coming back.

19 BOARD MEMBER D'ADAMO: And I'm sorry, but
20 I do have follow-up questions. But maybe is he
21 on the list, is he going to appear?

22 CHAIR MARCUS: Mr. Wong is going to go --
23 aren't you planning to go later as a particular
24 speaker, or are you here together to speak?

25 BOARD MEMBER D'ADAMO: Either way, either

1 fill out a blue card or I'll ask you, now. But I
2 know you want to move on and take a break.

3 CHAIR MARCUS: Well, I'm just worried
4 about people's blood sugar level, that's all.

5 MS. BUCKMAN: He did not submit --

6 CHAIR MARCUS: What?

7 MS. BUCKMAN: He did not submit a
8 separate blue card for Mr. Wong. He's got to get
9 back and run a utility at some point.

10 CHAIR MARCUS: I know and there are a
11 number of people who also need to go, including
12 the fisherman who asked to be able to go quickly,
13 before we break.

14 But we really do need the staff
15 presentation so we make a difference. If I start
16 pulling everybody out of turn, then we're not
17 going to even finish the staff presentation,
18 which is also important. So, I'm a little
19 unclear on what to do.

20 I'm not going to take an hour-long lunch
21 break, if Mr. Wong can wait, because I think
22 we're looking forward to speaking with him.

23 BOARD MEMBER D'ADAMO: Can you wait?

24 MS. BUCKMAN: After lunch, that's fine.

25 BOARD MEMBER D'ADAMO: Okay.

1 CHAIR MARCUS: Okay, I really appreciate
2 that just because there a lot of people that are
3 --

4 MS. BUCKMAN: No, we totally understand.
5 All these people took time off work, they need to
6 have priority when they need it.

7 CHAIR MARCUS: Exactly. No, that would
8 be great. And Mr. Marshall, you asked for ten
9 minutes. I can't do that. But I could do -- you
10 can take your three, if you really have to go.
11 But if I start getting tons of people who ask, I
12 can't do it at all. But I'm --

13 MR. MARSHALL: I knew I wasn't going
14 to --

15 CHAIR MARCUS: I appreciate your
16 creativity with that sign, but I don't want
17 everybody to start putting up giant signs. They
18 need to talk to -- it's very creative. But we do
19 need to talk to Jeanine. So, if you want to do
20 three minutes do it now, and then we'll break.

21 MR. MARSHALL: If you knew me, you'd know
22 that I shoot the moon on time and effort. So, I
23 knew I wasn't going to get ten. I'm just glad I
24 didn't get tackled by the officers in the back
25 for putting up the sign.

1 CHAIR MARCUS: Yeah, I hope you don't
2 shoot the moon all the time. My grandson is like
3 killing me in hearts since he learned to do that.

4 MR. MARSHALL: I'm the President of the
5 Small Board Commercial Salmon Fishing
6 Association. I represent an extremely small --

7 CHAIR MARCUS: Oh, name. Don Marshall.

8 MR. MARSHALL: Don Marshall is my name.
9 I'm 36 years old. Basically, there used to be 3
10 or 4 thousand trollers years ago. There's only
11 about 400 and less than that are actively making
12 a living at it.

13 This year, we were given a total of 19
14 days to fish during May, and June, and July. We
15 were handed the worst weather during this summer
16 that I've ever seen, since I've been in the
17 fishery. So, we didn't get 19 days. We got a
18 lot less than that.

19 There is not a person in this room or
20 outside this room that can sustain the way that
21 they live with the financial gains from 19 days
22 in three months.

23 I fish for five days at a time, away from
24 my family. I have little children that depend on
25 this. Several other people that were here today

1 had to leave already, they weren't quite as
2 creative with their sign, as myself. We're on
3 our last legs.

4 The flow of that river and the salmon
5 that it produces as a result of that extra flow
6 is what structures us with a better season. When
7 there's more salmon in the open ocean and more
8 salmon returns to the river, we're given more
9 days. We're given more opportunity.

10 Right now, I'm seeing me coming off the
11 water, I spent 6 or 7 hundred dollars, plus lost
12 income, plus the infrastructure of my business to
13 come here today. I am only going to see my kids
14 this afternoon because I knew that if I was going
15 to lose the whole day, I may as well do that
16 before I leave at 2:00 a.m. So, I apologize for
17 out of turn. But if it was going to go to
18 tomorrow, I just can't lose that kind of money.
19 Based on what I've told you, it seems obvious.

20 We've had our faces just stomped on over,
21 and over, and over. I got into this business
22 full time. I worked for somebody else, I worked
23 hard. Worked harder than most to get to where
24 I'm at and what I have. And I wonder, at 36
25 years old, do we really have a bright future in

1 salmon trolling, and crab fishing, and things
2 like that in the State of California.

3 And when we start to see things like
4 scientists saying that we need 50 to 60 percent
5 of flow in the river to sustain the ecosystem's
6 balance and what we get is the idea that we may
7 go down to 30 or 40. Lower than 40 with habitat
8 restoration is completely unacceptable. There is
9 now way that any habitat restoration at this
10 point, after the degradation in habitat that
11 we've experienced thus far, could ever make up
12 for 10, 20, 30 percent of flow. It's ludicrous.

13 The scientists are saying it. Anybody
14 that's involved in the fishery will tell you that
15 we see the ebb and flow of what goes on here
16 every day. Every season we know what's going on,
17 usually before we even go to it. And this is
18 what we've got here, we're left with a fishery
19 that's in shambles.

20 I'd also like to remind the Board every
21 single fish is highly coveted and goes to the
22 domestic markets. There is no processing at
23 outside facilities in foreign countries. Every
24 single fish that I have goes to Miami, New York,
25 Chicago, San Francisco, Washington, and the

1 cruise lines. That's all the access that the
2 American public has to another salmon in this
3 area, besides farm-raised salmon.

4 We need to look at these things a little
5 more closely before my fishery, before salmon
6 trollers are extinct. We're very close. We saw
7 this in '08 and '09.

8 I apologize for going past the timer.

9 CHAIR MARCUS: That's okay. You just
10 need to wrap because you do have a roomful -- we
11 will hear from people. And I very much
12 appreciate you coming across the spectrum. But
13 if you can wrap up just because there are --

14 MR. MARSHALL: Absolutely.

15 CHAIR MARCUS: We can't repeat that all
16 day and evening.

17 MR. MARSHALL: In the end, we just need
18 more flow for the river. I understand and
19 sympathize with the people that have no drinking
20 water, farmers that are having to take pay cuts,
21 orchards need to be smaller and things like that,
22 I understand. But we are on our last legs. We
23 are the segment that is down at the bottom and we
24 aren't able to grow at this point.

25 So, thank you for your time.

1 CHAIR MARCUS: Thank you very much.

2 (Applause)

3 CHAIR MARCUS: Thank you for taking the
4 time.

5 I'm now going to suggest that we take a
6 break until 12:30. And then, we should still
7 keep asking questions as we go through, but be
8 mindful of the questions we can ask later just so
9 we can get to everybody else.

10 It's hard because we want it illuminated
11 since people don't know.

12 (Off the record at 11:56 a.m.)

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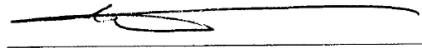
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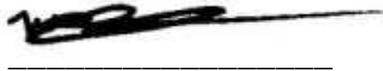
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