

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.-CaleEPA Building

COASTAL HEARING ROOM

1001 I STREET

SACRAMENTO, CALIFORNIA

Tuesday, August 21, 2018

9:55 A.M.

Volume 1B

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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1 (On the record at 12:35 p.m.)

2 CHAIR MARCUS: Thank you all. We will be moving
3 right along. Please bear with us. This is a
4 hearing for consideration. So we really do need
5 to go through the Plan and changes and the like.
6 We've been asking a lot of questions. That's
7 what we should be doing.

8 We may hold back on some of them just in
9 order to get some of you out. I have a moderate
10 number of folks who've given the time they have
11 to leave by. I'm going to keep those and
12 intersperse those in order with comment cards
13 I've received.

14 I know there's a robust set of opinions
15 in the room, just by looking at people I
16 recognize, and I'm sure there are other people,
17 as well, and we're eager to hear from you. I do
18 have three more elected officials, two of whom I
19 will take now, and one of whom I will let decide
20 when today he wants to go, because he just needs
21 to go by today.

22 So let's hear now from Supervisor Lloyd
23 Pareira, from the County of Merced. The
24 supervisor's here, followed by Supervisor Daron
25 McDaniel, also from Merced County. And then

1 Turlock Irrigation District Board Member Michael
2 Frantz, who I saw earlier, just let me know when
3 you need to speak by.

4 Do we have Supervisor Pareira?
5 Supervisor Pareira?

6 SUPERVISOR McDANIEL: McDaniel.

7 CHAIR MARCUS: Thank you. Oh, that's
8 McDaniel. Great. Please.

9 SUPERVISOR PAREIRA: Lloyd Pareira,
10 Supervisor --

11 CHAIR MARCUS: Oh -- okay.

12 SUPERVISOR PAREIRA: -- of Merced County.

13 CHAIR MARCUS: Excellent.

14 SUPERVISOR PAREIRA: And I'm sorry for
15 not having my notes up already.

16 CHAIR MARCUS: That is just fine. I
17 didn't give you a lot of warning.

18 SUPERVISOR PAREIRA: Here we go. You're
19 going to hear the comment often today about the
20 state water grab. It was very popular yesterday
21 at the Water Rally, and so I could say a lot of
22 things, but I want to get right to the point.

23 I represent about 62,000 constituents in
24 Merced County, in my district, and 83 percent of
25 them live in disadvantaged communities. And so

1 when I look at the SED the first thing that pops
2 up is that it's really an unsound environmental
3 document.

4 And so, you know, I try to compare that
5 with the damage that would happen to the people
6 in my communities, and I just can't reconcile
7 the two, other than believing that the outcome
8 was predetermined before the process started.
9 And if you take a look at the Draft SED document
10 and then you look at the final document, you
11 won't see, first of all, many changes.

12 You won't see many changes that include
13 comments that were given to you in Merced and
14 Modesto a year and a half ago. And so, you know,
15 it's the only -- the only conclusion I can come
16 to. And so now, I come back to the people that I
17 represent, and like I say, the majority of them
18 come from disadvantaged communities, a community
19 of Delhi and Winton, 11,000 people,
20 unincorporated.

21 They already struggle with water quality
22 in their existing wells, and part of that is
23 because the state has really changed the
24 qualifications to have a good well, right, the
25 parts per million.

1 CHAIR MARCUS: Right.

2 SUPERVISOR PAREIRA: The components in
3 the well have all changed over the last 15 years
4 drastically. So what's going to happen is your
5 plan is going to take away their ability --
6 several of the communities are working with the
7 Irrigation District that has surface water
8 available, and plan to use that water for the
9 people.

10 And so, you know, I'll just make it short
11 and sweet, that what you're doing is going to
12 damage the people that don't have options. If my
13 water goes bad I have options, right. I can
14 move. I can do other things. But when you look
15 at the people in the disadvantaged communities,
16 you look at the farm workers, they don't have
17 options.

18 And so I just ask you to take that in
19 consideration. Go back and look at the
20 difference between the Draft and the Final SED.
21 And you know, in fact, I'd shared with some at a
22 meeting we had in Merced that there won't be any
23 difference.

24 You ask for the difference to be given to
25 you and yellow highlighted, and the good thing is

1 we won't waste any yellow ink. So that's my
2 comments for today, and I appreciate your time.

3 CHAIR MARCUS: Thank you. Thank you for
4 coming. Supervisor McDaniel here? All right. If
5 someone lets us know when he arrives.

6 SUPERVISOR McDANIEL: I'm here.

7 CHAIR MARCUS: Oh, you're here. Hi.

8 SUPERVISOR McDANIEL: I'm trying to make
9 a grand entrance.

10 CHAIR MARCUS: It's impressive. I
11 appreciate it.

12 SUPERVISOR McDANIEL: Thank you, Chair,
13 Board. Thank you very much for allowing us to
14 come here. Chair, first of all, I'd like to
15 thank Tam and Joaquin for coming down to our
16 area.

17 CHAIR MARCUS: Oh, yeah. That's great.

18 SUPERVISOR McDANIEL: And experiencing
19 some sweet potatoes and sweet potato shed and
20 everything else. They got to see the process we
21 had going on.

22 I represent approximately 3,000 -- or
23 300,000 constituents in Merced County. Like my
24 colleague, about 62,000 reside in my district,
25 but we're here speaking for everybody.

1 Understand, in my district our unemployment is
2 twice that of the state and national average.

3 But for the first time ever, right now in
4 our community, we actually have more jobs than we
5 have unemployed people. We're moving in the
6 right direction. It's because we have the water.
7 We have the opportunity to take it to the next
8 direction.

9 It's interesting how this Board claims
10 that there's no connection between the Plan and
11 the water's fix of the twin tunnels. It needs to
12 be said, and I'm here to say it. My constituents
13 ask me about it all the time, and they ask how
14 come we're not talking about it here.

15 I understand we had a direction not to
16 talk about it, but this is my time to speak. I'm
17 going to say it. Without our community's water
18 supply there is no project, period. Metropolitan
19 Water District likes to continue to talk about
20 how they -- how you have come to an arrival of a
21 way to fix the South Delta.

22 If they can talk about it, we can talk
23 about it. It's very important. Since at least
24 2006 the State of California has vigorously
25 working [sic] on a plan to save the Delta's

1 ecosystem and establish a reliable water supply
2 in Southern Californias [sic].

3 This was called the Bay Delta
4 Conservative Plan, and then morphed into what is
5 called the Water Fix. This plan calls for twin
6 tunnels to deliver water from the Delta via the
7 Sacramento River through large pipes across the
8 Delta, and then to two pumps and aquaducts
9 carrying to Southern California.

10 To build this project it will create a
11 significant loss of needed fresh water in the Bay
12 Delta. How do we mitigate against the
13 environmental impact to the Delta for the loss of
14 fresh water? Simple. You find a new source of
15 fresh water.

16 That water you found is ours, the east
17 side of the San Joaquin Valley in my community,
18 Eastern Merced County. In 2012 the state began
19 the plan to divert water to the Delta by updating
20 the flow requirements of the tributary rivers of
21 the San Joaquin, the Merced, Tuolumne and
22 Stanislaus Rivers.

23 In December 2016, just days before
24 Christmas, you held a public hearing in my
25 community on the Bay Delta SED; one meeting just

1 days before Christmas. You were all there. It
2 was much appreciated, but I had boys that were in
3 college and we had to make arrangements, and
4 sometimes, you wonder if it was done on purpose
5 at that time.

6 If the state believed the theft of our
7 water was such a good idea why did the State
8 Board hide in the shadows during Christmastime?
9 It is the same reason I stand here today. I want
10 to tell you that this is a flawed plan. Your
11 staff's ongoing work on the Bay Delta SED has
12 produced a document that will cause devastating
13 impacts and water shortages in my community.

14 As a supervisor in Merced County, I want
15 to assure you that the fight -- that we will
16 fight this process every step of the way. Thank
17 you for your time.

18 CHAIR MARCUS: Thank you.

19 (Applause)

20 CHAIR MARCUS: I'm really sorry we can't
21 talk about it. I do think it's just
22 understanding legal proceedings. You can come up
23 with conspiracy theories and it may feel good,
24 but we really had to deal with it on the merits,
25 and so the comments on the merits are what we can

1 deal with here today.

2 The comments on that are in that Plan
3 there, and I'm very sorry that we can't talk
4 about it, but other people can talk to you about
5 it. These five of us can't talk to you about it.

6 SUPERVISOR McDANIEL: Let's be clear,
7 it's not a conspiracy.

8 CHAIR MARCUS: Not very useful.

9 Miss -- Director Board Member Frantz, if
10 you want to speak now, you can, or later.

11 VICE CHAIR MOORE: He might be at lunch.

12 CHAIR MARCUS: He might be at lunch; open
13 invitation.

14 VICE CHAIR MOORE: We'll bring him back.

15 CHAIR MARCUS: Whenever, right. So let's
16 continue and move apace and then we'll --

17 MS. FORESMAN: Okay. So when we left for
18 a break we were just starting to talk about the
19 program benefits. We were going through benefits
20 of the proposed action. And we reviewed flow,
21 and now we're getting ready to look at several
22 temperature charts. So this is river
23 temperature.

24 And the examples that we're using are all
25 on the -- well, the first two are on the Tuolumne

1 River and they go from La Grange Dam, and we look
2 at the temperature profile all the way down to
3 the confluence with the Lower San Joaquin River.

4 So this chart is different than ones that
5 you're probably used to reading. We're going to
6 read it from the right to the left, instead of
7 left to right. But on the right, we have La
8 Grange Dam, and on the X axis is river mile and
9 flow is going this direction down to the zero
10 number, which is the confluence with the Lower
11 San Joaquin River.

12 And you can see a gray, flat line that
13 goes across the chart, and that's the US EPA
14 recommended rearing criteria for salmonids,
15 salmonid juveniles, and that's at 61° Fahrenheit.
16 So that recommended rearing criteria, I encourage
17 us to look at that as kind of a quality
18 threshold.

19 So below that number there is good
20 quality habitat with respect to river
21 temperature, and above that number a juvenile
22 salmonid doesn't instantly die. It just starts
23 to become stressed, and as temperatures get
24 hotter it has a higher probability of mortality
25 or poor performance.

1 So what we want to do here is compare the
2 baseline conditions, so existing conditions in
3 the Tuolumne River, and I'm sorry. My apologies.
4 I need to back up and point out that this is from
5 April of 1990. So this is one month in the
6 rearing season and it's in one year.

7 And we're going to look at more
8 temperature data for when we combine years, but
9 we wanted to show this side, because this is the
10 fourth critically dry year in a series of six,
11 and this slide shows dramatic benefits of a 40
12 percent of an impaired flow objective of the
13 proposed action.

14 Okay. So now, let's go back to the
15 baseline. This is the baseline temperature, this
16 dark, solid line. So when you start at La Grange
17 Dam, this is higher in the watershed, and you
18 start to move downstream you see that
19 temperatures rise relatively quickly with a steep
20 slope until you get to about river mile 38, and
21 then they cross that rearing threshold where now
22 habitat is becoming more poor for juvenile
23 salmonids rearing in the system.

24 And those temperatures continue to rise
25 and they go all the way down to just under 70°

1 when you hit the Lower San Joaquin River. The
2 three dashed lines represent the range of percent
3 of unimpaired flow that's part of the proposed
4 action.

5 The top one is the 30 percent. So this
6 is warmer temperatures. The bottom one is 50 and
7 the middle one is 40. So let's follow 40 percent
8 of unimpaired flow from the -- from La Grange Dam
9 all the way down the confluence. And you can see
10 that we maintain a temperature profile that
11 promotes survival of juvenile salmon almost all
12 the way down to the confluence.

13 So this is a year where we can see where
14 we're restoring temperature profiles and we're
15 restoring temperature profiles that support fall
16 run Chinook salmon and improved survival of the
17 fish species, as they are rearing and migrating
18 out of the system.

19 MS. D'ADAMO: Rearing all the way to the
20 confluence.

21 MS. FORESMAN: So they are rearing in the
22 system and they do rear as they migrate. So once
23 the fish starting moving they are still in a
24 rearing stage. So I'm not sure what you mean by
25 your question, but --

1 MS. D'ADAMO: My question is, rearing
2 occurs in the upper reaches of the Tuolumne
3 River, not in the lower reaches. So maybe I'm
4 confused, but once the fish move down to the
5 lower reaches your rearing, you would encompass
6 out-migration?

7 MS. FORESMAN: Yes. I would include
8 them, and this is what we consider rearing
9 habitat.

10 MS. D'ADAMO: Oh, okay.

11 MS. FORESMAN: The Tuolumne River, and
12 then --

13 MS. D'ADAMO: If it's out-migration, it's
14 -- there's a different temperature criteria for
15 out-migration, correct?

16 MS. FORESMAN: It's 64.

17 MS. D'ADAMO: For out-migration?

18 MS. FORESMAN: Um-hum.

19 MS. D'ADAMO: So it'd be higher than that
20 line?

21 MS. FORESMAN: Yes. That's right.

22 MS. D'ADAMO: There'd be two lines. One
23 would be a rearing and one would be out-
24 migration.

25 MS. FORESMAN: And we have that line on
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1 the subsequent slide when we look at the Lower
2 San Joaquin, because that's primarily migration
3 habitat. All right. So these two slides
4 together are really showing one of the primary
5 functions of the unimpaired flow objective, which
6 is to restore temperature profiles that support
7 survival of juvenile salmon.

8 On this slide we're -- again, we're
9 looking at the same section of the Tuolumne
10 River, only this time we're looking at May. This
11 is a warmer month. May is cooler in the
12 beginning and it starts to warm considerably in
13 atmospheric temperatures and water temperatures
14 by the end of the month.

15 So keep that in mind as you're looking at
16 these profiles. We're also combining many years.
17 So this is an average of 33 years, 1970 to 2003.
18 So you can see here that we maintain a
19 temperature profile below the rearing criteria
20 all the way to down to about river mile 22,
21 because in this case we're averaging all these
22 years together.

23 So at river mile 22 the baseline
24 temperature starts to increase and we see that
25 the three dashed lines, the middle one there

1 showing the 40 percent of an impaired flow
2 alternative again maintains the temperature
3 profile all the way down to the confluence,
4 almost.

5 It goes maybe just a -- start to hub
6 (phonetic) up just a little bit before we get to
7 the confluence. So on average, the 40 percent of
8 unimpaired flow alternative has restored 20 miles
9 of temperature habitat for rearing juvenile
10 salmonids in the system.

11 On the next slide we're going to look at
12 the Lower San Joaquin River segment. So we'll
13 start on the right-hand side of the chart at the
14 Merced River, and then we'll move downstream to
15 the Tuolumne River and to Vernales and a little
16 bit beyond.

17 And again, we're looking at temperature
18 profiles. Again, it's May and it's an average
19 fro 1970 to 2003. So you see three different
20 temperature criteria. We see the migration
21 criteria at 64°. There's also an upper end to
22 that recommended temperature criteria at 68° for
23 migrating.

24 So above 68° we're calling that harmful
25 conditions for juvenile salmonids on out-

1 migration, and the lethal line we have placed at
2 approximately 78° Fahrenheit. And again, just a
3 reminder that these are, you know, indications of
4 habitat conditions.

5 So if a fish is in the water and water
6 temperature raises by one degree and goes above
7 the harmful level, that fish doesn't
8 instantaneously die necessarily. It just starts
9 to become more stressed, and the increased chance
10 of mortality exists.

11 So let's look again at the baseline --
12 oops. Sorry. Wrong one -- baseline scenario.
13 So the baseline scenario over here at the Merced,
14 the Merced River comes in and confluences with
15 the Lower San Joaquin and you can see a dip in
16 the temperature profile. However, it is above
17 the harmful migration criteria.

18 And it relatively stays flat, but
19 increases a little bit as you hit the Tuolumne.
20 The Tuolumne has a large cooling effect on the
21 Lower San Joaquin, and waters continue to cool
22 until you get to the Stanislaus, where water
23 cools again.

24 Again, this is the main stem of the Lower
25 San Joaquin, which is primarily migration habitat

1 for juvenile salmonids. When you look at the
2 range of results we have for the purpose of this
3 action, the 30, 40, 50 percent of unimpaired
4 flow, you can see that when the Merced water
5 comes in, waters cool considerably below the
6 baseline water temperature.

7 They even start to approach this higher
8 end of migration criteria, where we're getting
9 below what we consider to be harmful for
10 salmonids. I think one of the things that's
11 really important to acknowledge here, though, is
12 that you have a substantial increase in the
13 quality of habitat, even though we're not below
14 this criteria that we'd like to be ultimately for
15 juvenile salmonids.

16 Again, following the pattern of the
17 baseline you see, though, we have increases as we
18 approach the confluence with the Tuolumne. Then
19 the Tuolumne comes in and there's a substantial
20 decrease of temperature, and then we move on down
21 to the Stanislaus and you have it decreased
22 again.

23 So the take-home message from this is
24 that each tributary contributes some increment of
25 improvement over baseline conditions for out-

1 migrating, fall run juvenile Chinook salmon.

2 So flood plain activation is an important
3 aquatic habitat function that results from
4 increased flow. This chart shows the flood plain
5 activation from April to June for baseline, as
6 compared to the proposed flow objectives.

7 Activated flood plain provides food resources and
8 refuge habitat for rearing salmonid in the
9 spring.

10 These thick bars show the acre days of
11 estimated flood plain habitat under the baseline
12 and the proposed action at 30, 40 and 50 percent
13 of unimpaired flow. So you can see from the
14 baseline up to the 40 percent of unimpaired flow,
15 you see a considerable increase.

16 That's from 21,000, 34 acre days, to
17 38,352, and that's approximately an 80 percent
18 improvement or increase in the availability of
19 flood plain inundation or flood plain activation.
20 Much of the natural flood plain has been removed
21 or cut off from the riverbed in these three
22 tributary systems, and restoring any available
23 flood plain and providing flow to activate that
24 flood plain has a beneficial effect for fish.

25 And I'm going to show a well-known
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1 photograph of the difference between river reared
2 salmon and flood plain reared salmon, and this is
3 from a very different system. So I'm not
4 suggesting at all that these fish are coming from
5 this system.

6 This is the Sacramento system and these
7 fish, the large one was reared on the Yolo
8 Bypass, and the small one was reared in the
9 river. The striking thing from this photo is the
10 difference it makes when a rearing juvenile
11 salmonid has access to food resources and refugia
12 in flood plain. And the concept is that this
13 larger fish here has a higher chance of survival
14 out to the ocean and returning as an adult than
15 this smaller fish here.

16 Now, we're going to switch gears again
17 and we're going to talk about the primary impacts
18 of the proposed action. So the SED estimates and
19 discloses anticipated environmental effects of
20 the proposed amendments. The primary negative
21 effects of the flow objectives is reduced surface
22 water supply for agricultural and municipal uses,
23 reduced groundwater levels and reduced number of
24 irrigated acres; so agricultural resource effect.

25 On the next slide we're going to look at
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1 the average annual surface water delivery for
2 each tributary, and then all three combined. You
3 can see on the left, the average annual surface
4 water delivery for baseline for the Stanislaus,
5 then the Tuolumne, then Merced baseline is the
6 light green/blue color you see there, and then
7 all of those are combined over on the right.

8 So starting on the right and looking at
9 the totals, we can see that on average, water
10 deliveries in this system are approximately 2
11 million acre feet a year, and that number drops
12 to 1.9 million acre feet under the 30 percent of
13 unimpaired flow range, to 1.7 under the 40 of
14 unimpaired flow range and to 1.6 at the 50
15 percent.

16 So we're recognizing here that there is a
17 water supply cost and a water supply effect to
18 the percent of unimpaired flow objective and that
19 it goes down when you go up in the required flow
20 for the rivers. On average here we can see that
21 the majority of surface water delivery is made
22 for the 30, 40 and 50 percent of unimpaired flow
23 objectives.

24 This chart breaks things out by water
25 type. So we're not showing wet and above normal,

1 because there's almost no effect in wet years.
2 We model zero effect in wet years, and there's a
3 very modest effect in above normal years. So
4 we're --

5 CHAIR MARCUS: Right. In a wet year your
6 blue would go above the bar?

7 MS. FORESMAN: In a wet year you would
8 fill bar --

9 CHAIR MARCUS: It would just be full?

10 MS. FORESMAN: Yeah.

11 CHAIR MARCUS: Yeah.

12 MS. FORESMAN: So what we have here is
13 this is the baseline water supply. The dark line
14 around the box, that's the baseline water
15 delivery, and then under the 40 percent, we're
16 only looking at 40 percent on this slide, the
17 blue box in the fill is the amount of delivery
18 that's made relative to baseline.

19 So if you look at all your types you see
20 86 percent of baseline deliveries are made under
21 the 40 percent of unimpaired flow objective. And
22 you can also see what we saw in the previous
23 slide, is that on average water deliveries are
24 about 2 million feet per year.

25 In below normal conditions that goes up a
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1 little bit. It's a little higher than 2 million
2 acre feet and the 40 percent of unimpaired flow
3 is expected to deliver about 86 percent in
4 deliveries relative to baseline. You see the
5 larger water supply effects in dry and critically
6 dry years, so that in dry years approximately 70
7 percent of baseline delivery, as associated with
8 the 40 percent of unimpaired flow objective, and
9 that drops to 62 percent of deliveries in
10 critically dry years.

11 And another thing to point out is, in
12 critically dry years the amount of baseline
13 delivery has already gone down, because
14 conditions are so dry. So baseline delivery
15 looks like it's about 1.7 million acre feet in
16 critically dry years. And then this is a
17 reduction from the baseline.

18 So I know we're trying to go quickly
19 through this presentation, but I'm going to walk
20 a little bit slower through this slide.

21 CHAIR MARCUS: Okay.

22 MS. FORESMAN: So on this slide we're --

23 CHAIR MARCUS: And when you do just -- I
24 know that's good, but just keep moving sort of
25 quickly. We'll all -- we'll also be able to meet

1 with you on this later on.

2 MS. FORESMAN: Okay. This slide shows
3 some of the same information we saw on the
4 previous slide. Instead of baseline being a dark
5 box around the percent of unimpaired flow
6 objective, it's just taken out and sat right next
7 to it. On this slide, as well, we're showing wet
8 and above normal, and we didn't have those on the
9 previous slide.

10 Essentially, you see the same information
11 that you saw before for below normal, dry and
12 critically dry. It's just that baseline is taken
13 out and set beside it. So this is the 14 percent
14 reduction in below normal, 30 and 38 in
15 critically dry.

16 So what we're going to show next below
17 this is instream flow. So don't think of this as
18 zero. Think of it as a dividing line of
19 allocation. So this is the water that's
20 available for water supply and this is the water
21 that's available for instream flow.

22 In a wet year, and this is baseline,
23 approximately half the water goes to the river
24 and half the water goes to water supply. Under
25 the 40 percent of unimpaired flow objective we

1 see a little bit of a bump up in water that goes
2 to the river.

3 In these following water year types we
4 see an interesting pattern. Water that goes into
5 the river continually goes down, relative to the
6 amount that is allocated to water supply in how
7 we manage the system. So in an above normal year
8 we have just a little over a million acre feet of
9 water that's available for rivers, and we have
10 over 2 million acre feet of water that's
11 available for surface water supply.

12 And that ratio starts to get more toward
13 water supply as the water years get more dry. So
14 in below normal we have about 700,000 acre feet
15 that is available for river water, and then we
16 have, again, 2 million acre feet that's available
17 to go to water supply.

18 In dry years, again, 2 million acre feet
19 for water supply, but river water has gone down
20 to approximately 500,000 acre feet. In
21 critically dry years it's gone down to
22 approximately 300,000 acre feet and you see a
23 little over 1.5 million acre feet for critically
24 dry years.

25 So you see a pattern of having less

1 proportionately go into the rivers, which is part
2 of why we see the reduction in salmon and native
3 fish habitat in rivers under current management
4 conditions.

5 So with the 40 -- oops -- 40 percent of
6 unimpaired flow objective you can see that a
7 little bit more is allocated to the river in each
8 one of these water year types, but you can also
9 see that even with all of these water year types,
10 the majority of water in this system is still
11 being identified for water supply purposes.

12 And the last thing I want to show on this
13 slide is one of the strengths of the percent of
14 unimpaired flow approach. So you see instream
15 flow here under 40 percent of unimpaired flow.

16 And one of the strengths of this approach
17 is that the amount of water that's required is
18 reduced automatically with the water year type,
19 because when full, unimpaired flow goes down, 40
20 percent of unimpaired flow as a value also goes
21 down. So this automatically adjusts to the
22 amount of water that's available in the system.

23 The next impact I want to discuss is
24 impacts to groundwater pumping. Increases in
25 groundwater pumping are a common response to

1 reductions in surface water supply for those
2 users who have a surface water supply. This
3 chart shows that the change in groundwater
4 pumping happens associated with the 40 percent of
5 unimpaired flow objective.

6 We can see that -- we looked at two
7 different kind of situations here. We look at
8 2009 pumping capacity and 2014 pumping capacity.
9 And you can -- oh, sorry. I switched slides. I
10 keep doing that when I get the laser pointer.

11 So at 2009 pumping capacity and 2014
12 pumping capacity, and these are just what we
13 estimate to be the difference between baseline,
14 which is in the darker color, and 40 percent of
15 unimpaired flow, which is in the lighter color,
16 lighter blue color.

17 So you can see that groundwater pumping
18 we estimate in the SED to go up from 250,000 acre
19 feet on average to 359, and those numbers are
20 elevated if we assume 2014 pumping capacities.
21 So another effect that can happen is that with a
22 reduced surface water supply for those users who
23 have a surface water supply, they may be able to
24 reach our groundwater less as a result of a
25 reduction in surface water supply.

1 So we looked at how much less recharge
2 there would happen under our 40 percent of
3 unimpaired flow alternative. And you can see
4 that indeed there is a reduction in the amount of
5 recharge that occurs. Again, this is the same
6 pattern 2009 pumping capacity and 2014, and these
7 results are, you know, largely similar, that in
8 the baseline you have about 700,000 acre feet of
9 groundwater recharge, and in the 40 percent of
10 unimpaired flow alternative that drops to around
11 650,000 acre feet.

12 One of the things I think that is
13 important here is when you keep in mind the
14 previous slide, that pumping does go up. To
15 circle back, those values are still lower than
16 the recharge values. For these areas that
17 receive surface water supply and are able to
18 recharge groundwater with it, what that means is
19 that net recharge is still occurring for these
20 organizations in these areas that are getting
21 surface water supply.

22 VICE CHAIR MOORE: Did you also look at
23 recharge from water being in the river systems,
24 because --

25 CHAIR MARCUS: Oh.

1 VICE CHAIR MOORE: -- by having more
2 flow, you know, an increment of that actually
3 recharges the groundwater.

4 MS. FORESMAN: Yes. That definitely
5 makes sense from a watershed perspective, but I
6 don't think that that's part of the analysis
7 that's in the SED. Okay. So now, we're going to
8 look at the effect of reduced surface water
9 supply on the number of irrigated acres.

10 And I forget now who asked the question,
11 but this is where we report the totals of
12 irrigated acres, and I think that was, yeah. So
13 here, we see the number of irrigated acres in
14 this green bar and the irrigated area, again, in
15 thousands of acres. So this is 500,000 acres.

16 So in all years combined, on average
17 there are 515,000 irrigated acres in the plan
18 area. And on average under the proposed action
19 of the 40 percent of unimpaired flow level, that
20 drops to 490,000 acre feet. So this is -- should
21 be very consistent with what we just walked
22 through with water supply effects.

23 The effect is not evenly distributed. We
24 don't see any effect in wet years, a modest
25 effect in above normal years, but the effect

1 starts to get larger as water conditions dry in
2 the system, so that we have the largest effect,
3 drop in irrigated acres in critically dry years.

4 One thing that should stand out for this
5 slide, though, is that the majority of irrigated
6 acres are maintained in the plan area with the 40
7 percent of unimpaired flow objective.

8 So now, we're going to shift gears and
9 talk about the economic analysis that's provided
10 in the SED. This is what we call our economic
11 consideration. And the next two slides will show
12 a similar type of chart to the one you just saw,
13 but we'll be looking at crop revenue and regional
14 economic output.

15 Before we go there, though, I did want to
16 talk about the economic analyses that were
17 submitted by commenters. So we have economic
18 analyses that during this six-month comment
19 period were submitted by commenters, and these
20 economic analyses were reviewed by staff to look
21 at why we saw such a big difference.

22 There's a big difference in the economic
23 effects that are estimated by the commenters than
24 what's estimated in the SED. So for example, we
25 put the three of them here. So there's a range

1 for one economic analysis was estimating a \$400
2 million a year economic analysis -- or impact,
3 economic impact, and a maximum of a \$1.6 billion
4 per year economic effect.

5 Another analysis estimated that on
6 average in dry years there would be \$128 million
7 per year economic effect, and a third analysis
8 estimated that on average there would be a \$600
9 per year economic effect with a maximum economic
10 effect of 3.2 billion.

11 As a reminder, the analysis in the SED
12 estimated on average a \$69 million per year
13 regional economic effect. So we had our
14 technical staff read through all these analyses
15 and try to figure out, you know, really, why is
16 it that they're so different, and it comes down
17 to very different assumptions.

18 In each of these analyses there wasn't an
19 allowance for strategic use of groundwater
20 pumping, and that is used in the SED. There was
21 also no ability to substitute livestock feed or
22 to substitute the location where you would get
23 that feed.

24 The SED analysis does both of those
25 things, assumes both of those things because they

1 are consistent with observed behavior. Once you
2 take the first parts of those economic analyses
3 and then you put them through a regional analysis
4 it very much amplifies the effect.

5 So these are the reasons that we see such
6 a different impact in our SED than you see in
7 some regional -- or sorry -- the commenters'
8 analyses that were submitted. And if it hasn't
9 been produced or released yet, it will be soon.

10 This is also covered in detail in
11 frequently asked questions, and it is part of
12 Master Response 8.2, which walks through all the
13 details of these analyses and give concrete
14 examples of each one of those items. Okay. Now,
15 we're going to look at the bar charts.

16 So this one is for crop revenue,
17 estimated crop revenue losses, and on the white
18 axis you have average annual agricultural crop
19 revenue. This is part of the economic analysis,
20 and on average you see over on the left-hand
21 side, all years combined.

22 In baseline there's an estimated \$1.2
23 billion crop revenue in the plan area. In the
24 percent of unimpaired flow alternative the
25 proposed action map we estimate will fall to

1 \$1.48 billion per year. Similar to the previous
2 slides, the tracts to irrigated acres and the
3 water supply, the effects are not evenly
4 distributed, but they are distributed more in the
5 below normal, dry and critical years, so that the
6 largest effect is in the critical year.

7 In the baseline there's an estimate \$1.48
8 billion of crop revenue in the plan area and that
9 falls to 1.35. Similar to the irrigated acres,
10 we can also see that while there is a reduction,
11 the majority of crop revenue is maintained in the
12 40 percent of unimpaired flow objective, compared
13 to the baseline.

14 The next slide then shows the regional
15 economic output. This includes the crop revenue,
16 plus groundwater pumping costs and other indirect
17 economic effects. The same pattern is observed
18 here, but with higher numbers. So in all years
19 in the baseline you can see that we estimate
20 \$2.67 billion in regional economic output for the
21 plan area, but under the proposed action that
22 would fall to \$2.6 billion per year.

23 And the same pattern happens where the
24 effects are more distributed to the dry and
25 critically dry years, and in the critically dry

1 year, the place where the impact is greatest,
2 there's \$2.5 billion of regional economic output,
3 and that falls to 2.36 under the proposed action.

4 So once again, we recognize that there is
5 a drop in regional economic output, but we also
6 recognize that the majority of it is maintained
7 under the flow objectives. So we're getting
8 close to the end of the presentation, but we're
9 pausing here to talk about now -- we're going
10 back into talking about response to comments, and
11 we'll be talking about this very last comment
12 period.

13 Yesterday, over LYRIS we released and
14 posted to our website a written response to
15 comments that's available for people. And were
16 items printed for the back of the room?

17 MR. CRADER: We have a limited number of
18 hard copies here, because it's available online.
19 If there's an interest in them we can provide
20 hard copies today. I think there's about 20 or
21 so in the room.

22 MS. FORESMAN: Okay. So this comment
23 period was launched on July 6th, 2018, with the
24 notice, and it was focused on modifications to
25 the plan amendments that we made in response to

1 comments, and we reviewed those earlier in the
2 presentation.

3 The comment period was 21 days, and this
4 is largely because we've already had so many
5 comment periods, the 2013 comment period, the
6 2016-17 comment period. And the recent
7 modifications that we made to the plan amendments
8 are very limited in scope.

9 The Plan Amendment Proposal did not
10 substantially change, and the full comment period
11 -- I'm sorry -- the full review period is more
12 than 45 days. So it's starting from July 6th and
13 going until the time that the Water Board makes a
14 final decision.

15 So in the next few slides we're going to
16 go quickly through these. These summarize the
17 comments that we received on the Modified Plan
18 language, and they're all very texty. A few --
19 yes, there -- I won't go through all of them. I
20 can go quickly. I'm just going to read the
21 comment topic and then very much summarize our
22 response.

23 So comment topic number one is that the
24 modified language in the proposed flow objectives
25 is a significant new change to the plan

1 amendments. And essentially, the response is
2 that the modified language -- and this is what we
3 were talking about earlier, Table 3 of the Water
4 Quality Control Plan -- is largely repeated from
5 something that was in the Program of
6 Implementation in 2016. So the concepts and the
7 language are not new language and they don't
8 substantially change the proposal or the plan
9 amendments.

10 Comment topic number two is that the
11 modified language in the proposed base flow
12 objective is a significant new change to the plan
13 amendments. And our response is that the numbers
14 didn't change at all. The language was changed
15 to provide more clarity, and that it actually is
16 not a significant change from what we had in the
17 plan amendments.

18 The requirement remains to be 1,000 CFS
19 within an adaptive range of 800 to 1200 CFS with
20 the same averaging period. I apologize for the
21 small text. I know that that's small.

22 Comment number three. So multiple
23 comments described concerns about the compliance
24 calculation. This is what I talked about was
25 added to Footnote 14 of Table 3 in the Water

1 Quality Control Plan. The concerns were about
2 the accuracy of full natural flow gauge station
3 data, forecasting and identification of the flow
4 gauge station.

5 The comment was essentially that we
6 didn't identify the flow gauges. So our response
7 to that is that we received these similar types
8 of comments on the draft recirculated SED. We
9 have full responses in Master Response 2.1 and
10 2.2.

11 And the gist of that response is that
12 concerns of accuracy are addressed with a little
13 bit longer of averaging periods. We recognize
14 that the daily numbers that come from the natural
15 flow gauge station data can have inaccuracies,
16 but they even out over time.

17 So we need a little bit more time to look
18 at them and we may have to, like, look back and
19 true up numbers in hind-casting. So we recognize
20 that that's an issue. The Program of
21 Implementation recognized that that was an issue
22 in the draft recirculated SED, and therefore, it
23 requires within 180 days of adopting the plan for
24 the Water Board to work with watershed partners
25 to develop information to monitor and evaluate

1 compliance.

2 So it is thought that this will be
3 addressed with Working with Partners to find a
4 way to make sure that we have a way to estimate
5 full natural flow that we can rely on and move
6 forward with implementation.

7 And last is just recognizing that we know
8 that the forecasting will have to be used. The
9 Program of Implementation already acknowledges
10 that and just describes that we do need to use
11 forecasting and the annual operations plans will
12 have to include a range of way to operate so that
13 if we do need to adjust things, there's already
14 an option in the operation plan for how to do
15 that. And then finally, the flow gauge stations
16 are identified in Master Response 3.2 in the map,
17 3.2-2.

18 Topic number four, language assigning
19 responsibility for implementing the Lower San
20 Joaquin flow objectives to water rights holders
21 will require water releases from reservoir
22 storage and is not justified. The response is
23 that the adoption of the plan amendments does not
24 modify water rights.

25 It doesn't impose enforceable
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1 requirements on any entities. That's the next
2 step. But that -- yes, the Water Board does have
3 the authority to impose requirements on the
4 diversion and use of water, including conditions
5 on the diversion of use -- diversion and use --
6 sorry -- conditions on the diversion of water to
7 storage.

8 Comment? Oh, I should go faster. Okay.

9 (Pause)

10 MS. FORESMAN: Okay. If it's -- I mean,
11 if it's okay with the Board, these written
12 responses are available in the back of the room
13 and I don't need to go through the next few
14 slides. We can go to wrap it up. Okay.

15 (People speaking while away from mic)

16 MS. FORESMAN: Okay. The clerk also has
17 the slides, and so this text is available for --

18 CHAIR MARCUS: Right.

19 MS. FORESMAN: -- people to read.

20 MR. CRADER: The clerk has the written
21 responses. I don't believe they're in the back
22 of the room.

23 MS. FORESMAN: Oh.

24 CHAIR MARCUS: Yeah.

25 MS. FORESMAN: Okay.

1 MR. CRADER: So if you need a written
2 response, please request them from the clerk.

3 MS. FORESMAN: Okay. So that actually
4 brings us pretty much close to the end of the
5 presentation. This is just a reminder that the
6 plan amendments are for the Lower San Joaquin
7 River and south -- and revised Southern Delta
8 Salinity Objectives, and that the staff
9 recommendation is to adopt the resolution, adopt
10 the final SED and adopt the plan amendments into
11 the Bay Delta Plan.

12 The next steps are, the Board will
13 conclude the Board Meeting at a later date. If
14 the Board adopts the plan amendments into the Bay
15 Delta Plan and the Final SED, both of those
16 things will be submitted to the Office of
17 Administrative Law.

18 They will also be submitted to the U.S.
19 Environmental Protection Agency for review.
20 After that, we will issue a Notice of
21 Determination, and that concludes the
22 presentation.

23 CHAIR MARCUS: Thank you very much for
24 that. Appreciate all the work you put into it,
25 and then we will continue discussing it.

1 (Applause)

2 CHAIR MARCUS: All right. What I'm going
3 to do, because I do have quite a lot of speaker
4 cards. I haven't done the math to figure out how
5 long it goes, but folks have said when they
6 absolutely have to leave, and I'm going to try to
7 juggle it.

8 I have two elected officials, but I don't
9 know -- I know one needs to go today. I assume
10 they both need to go, but I don't know whether
11 they want to go now or after listening a little
12 bit longer. I have some people that really need
13 to leave at 2:00.

14 So I have Michael Frantz, Turlock
15 Irrigation District Board Member, and John
16 Mensinger, Director for the Modesto Irrigation
17 District.

18 MR. FRANTZ: Good morning -- or good
19 afternoon, Chair Marcus and members of the Board.

20 CHAIR MARCUS: Afternoon.

21 MR. FRANTZ: My name is Michael Frantz
22 and this is my third time I've testified in front
23 of your panel. So I am not only passionate, but
24 persistent about this topic.

25 CHAIR MARCUS: It's too bad we don't have
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1 a pin or something that we can give out, though.

2 MR. FRANTZ: So I have spent a lot of
3 time with four of you on the river, and I would
4 like to start by thanking you for giving so much
5 of your time to an issue that's so -- I'm so
6 passionate about and that our community is so
7 committed to helping resolve.

8 I have always been known as the VSA guy,
9 the voluntary settlement guy, because I'm utterly
10 convinced that flow alone isn't going to solve
11 the issue of salmon recovery. As recent as
12 today, Dr. Peter Moyle put on his U.C. Davis
13 blog, "Without improving habitat, just increasing
14 flows through the region" -- he's speaking
15 specifically about our three rivers -- "is
16 unlikely to have much effect on salmon survival."

17 And so we know that a comprehensive suite
18 of flow and nonflow measures is the only way to
19 comprehensively come to some sort of a resolution
20 for both our communities, for healthy communities
21 and a healthy fishery. I have been a big
22 proponent of VSAs and we haven't made,
23 unfortunately, a lot of progress.

24 So here today I want to just highlight
25 three things that I believe are -- I'm calling

1 fatal flaws in the document as it currently sits,
2 that if it's adopted before VSAs are reached -- a
3 settlement agreement is reached there'll likely
4 be no settlement, because there are three things
5 that are so egregious to our community that it
6 really makes it very difficult for the irrigation
7 districts to come to the table.

8 The first is sequential dry year relief.
9 You've heard talk already of Board Member
10 D'Adamo. You mentioned about the impacts are not
11 really studied when you look at multiple critical
12 dry years, but that's the way the river system
13 flows.

14 It's a dry state and these droughts tend
15 to come in sequence and sometimes ever long --
16 more lengthy sequences. And so if we don't have
17 off ramps that can allow our communities to
18 retain the resilience that we gained by building
19 the dams, it's a nonstarter for us.

20 The good thing is, off ramps don't
21 necessarily mean bad things for the environment.
22 You mentioned -- or actually, Kristen Olsen
23 mentioned a trip to Australia. I, too, made a
24 trip to Australia, and one of the fascinating
25 things that they learned during the millennial

1 drought is that by actually turning off rivers --
2 and I'm not here advocating for turning off
3 rivers -- but by actually turning off rivers the
4 native species thrived when the drought ended,
5 because the nonnative species were killed off,
6 but the native species had the biological systems
7 in place to handle droughts, because that's
8 always what happened there.

9 We need you to take a good, hard look at
10 the month of June. The science says that only in
11 the wettest of years are there salmon present in
12 the rivers in June, and in the wettest of years
13 there's lots of water already in the rivers.

14 If you're looking for a natural riverine
15 system, then I understand including June, but the
16 document doesn't say you're looking for a natural
17 riverine system. It says, we're looking to
18 recover salmon. And so it doesn't make any
19 sense, I don't believe, to include the month of
20 June if there's no salmon present.

21 And that's why I have been a big
22 proponent of functional flows instead of
23 unimpaired flows. And Board Member Moore, just a
24 comment about your budget. You're right. A
25 unimpaired flow is a budget, but functional flows

1 is an actual number.

2 So functional flows are based on
3 biological needs of the fishery in real time.
4 And so if you think about a budget versus -- a
5 cash flow budget projection versus an actual
6 number spent or actual number needed for the past
7 year, that's how I would characterize functional
8 flows, which is based on biological needs, as
9 opposed to unimpaired flow.

10 And the last is the carryover storage
11 component. Our communities built the dam, you
12 heard that, built our reservoirs to be able to
13 withstand multi-year droughts, and taking over
14 storage space in a nonnatural way to preserve
15 water for the future for fisheries is
16 understandable, but there's a visceral reaction
17 in our communities.

18 We have managed the river wisely for 130
19 years at TID. We're always proud to mention that
20 we're the oldest irrigation district in the State
21 of California, and that's what the Board's -- one
22 of their key roles they do on the Board service
23 is to each year set an annual allocation,
24 sometimes drawing the reservoir down during
25 periods of drought, and other times clipping the

1 allocation back substantially, 60 percent by the
2 way in the last drought, in order to preserve the
3 water for healthy communities and a healthy
4 fishery.

5 But to artificially mandate a carryover
6 number seems arbitrary and it's a very visceral
7 reaction from our community, because it takes
8 away actual storage capacity and resilience from
9 our communities. So those three things hopefully
10 could be worked through in a VSA arrangement, but
11 unless something changes there's no prospect of
12 that on the horizon.

13 I think we all know there's still
14 prospect, but I'm just putting this out there,
15 that if you adopt the plan as amended we need you
16 to think long and hard -- I would implore you to
17 think long and hard about those three critical
18 areas before you adopt. Thank you.

19 CHAIR MARCUS: Thank you.

20 (Applause)

21 MR. MENSINGER: So it's to my everlasting
22 shame that I am from the second oldest irrigation
23 district in California.

24 CHAIR MARCUS: Yeah, I know. It's just -
25 - it's so sad, really.

1 MR. MENSINGER: I think it was 2014 when
2 I first listened to Felicia Marcus talking about
3 this plan. And as kind of a sidebar she had
4 about two or three minutes on why anybody that
5 owned a lawn was public enemy number one. And I
6 was --

7 CHAIR MARCUS: I'm even handed, actually,
8 I have to say.

9 MR. MENSINGER: Well, I want you to know
10 it took me a year and a half, but I eventually
11 took out my lawn.

12 CHAIR MARCUS: Thank you.

13 MR. MENSINGER: So I was impressed.

14 (Applause)

15 CHAIR MARCUS: I was comparing how green
16 the lawn was to anybody growing food for anybody.

17 MR. MENSINGER: And we still -- in fact,
18 some of the things we replaced along with were
19 food-growing plants, so like pomegranates and
20 blueberries. So fair enough. So I think it's
21 going to take you longer than a year and a half
22 to convince me of the wisdom of the SED.

23 Frankly, how I and my fellow Board
24 members handle this SED is going to define our
25 career in public service. I think it's going to

1 have a big role in your legacy, as well. And I
2 know that your agency is under-resourced. I know
3 that the regulatory and government framework here
4 in California doesn't make this as clean or neat
5 a deal as it should be.

6 So I recognize you got a tough row to
7 hoe. Having said that, you've struggled with it
8 and it's very frustrating, because I am the most
9 -- I am the only member of my board that's not a
10 member of the Republican Party, and I am the most
11 moderate person on my board.

12 I have freely admitted to certain of your
13 colleagues that actually there is water on the
14 Tuolumne that could be used for environmental
15 purposes. The fact is, if you look at how the
16 Tuolumne's managed, not just by the irrigation
17 districts, but our friends in the Bay Area, the
18 Hetch Hetchy system, you see that they have a lot
19 of storage there.

20 So a great amount of water is always kept
21 in storage on the Tuolumne. So could more of
22 this water be put down the river? I'm going to
23 say probably, it could. Could we use groundwater
24 -- you know -- could we recharge our groundwater?

25 Our groundwater's already in good shape,
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1 but the point is, could we use it a little more
2 aggressively? Yeah, I think we could. So that's
3 the good news. The bad news is that you guys
4 have been so ferocious in your process here, it's
5 taken you several years to come up with the SED.

6 You had 10,500 unique comments and
7 something like 25 responses, and I think that is
8 an example of what the problem is here. What
9 you're trying to do is you're trying to get to a
10 solution, but it's a really tough problem, and so
11 you're ramming it down our throats.

12 And when you consider the fact -- and
13 your colleague when she was talking about the
14 plan, she made the point that, well, you know,
15 the nice thing was, none of these comments caused
16 us to have to change our plan so we'd have to
17 recirculate it again.

18 Well, I certainly understand that you
19 don't want to have to recirculate it again, but
20 to be honest with you, what's going to happen is
21 as the plan now stands, the Modesto Irrigation
22 District and I suspect 101 other folks are going
23 to file a lawsuit.

24 They're going to claim that your
25 environmental document, the SED, is flawed and

1 inadequate. They're going to claim that you've
2 violated certain other rules. For instance, we
3 don't think you can actually mandate taking
4 storage behind our reservoir. Maybe you can;
5 maybe you can't. I don't think it's a very clean
6 legal path for anyone.

7 We also have the bifurcation that first
8 of all you have to decide how much water is going
9 to be for the environment, and then you're going
10 to decide who it comes from. Well, on the
11 Tuolumne that's a little awkward, because the
12 Tuolumne supplies water to 2.6 million people in
13 the Bay Area.

14 I enjoyed Dee Dee's question about
15 stranded assets. The city and County of San
16 Francisco and those other folks in the Bay Area
17 just finished spending \$5 billion on improving
18 their Hetch Hetchy system. Maybe they should
19 have spent that \$5 billion on building a
20 treatment plant in the Delta to take out water,
21 because they're at risk of losing a huge amount
22 of their water supply.

23 Amazingly, I don't think that particular
24 problem has come up today. So I just want to
25 make the point that you guys can do what you

1 want. I am going to -- no matter what you do,
2 I'm going to advocate working with you, listening
3 to you, trying to compromise.

4 But having said that, you're not making
5 it easy, and I'm struggling. But really, the
6 only -- given the uncertainty in this situation,
7 given that we're talking about water for the Bay
8 Area, for the Central Valley, for a lot of
9 different folks, given the stakes here, frankly,
10 anything but a voluntary settlement is
11 irresponsible.

12 It's irrational. It's dangerous. And so
13 I don't know what the future's going to hold, but
14 I think we need to be very, very careful. And I
15 will certainly continue advocating for voluntary
16 settlements. I will be happy to listen to what
17 you guys have to say. I'll be happy to learn
18 from you.

19 And by the way, just a little nugget.
20 When it comes to salmon in the southern part of
21 their range, that would be the Tuolumne River,
22 they can take higher temperatures than you were
23 talking about.

24 In fact, we just got a letter from the
25 EPA in which the EPA deputy administrator

1 admitted that our science on the temperature
2 tolerances of salmon that's in the Tuolumne River
3 was better than theirs. And we'll be happy to
4 share that letter with you. Anyway, thank you.

5 CHAIR MARCUS: Thank you.

6 MS. TOWNSEND: Sir, could you state your
7 name.

8 CHAIR MARCUS: It's John --

9 MR. MENSINGER: John Mensinger, Director,
10 Division Two, Modesto Irrigation District.

11 MS. TOWNSEND: Thank you.

12 CHAIR MARCUS: All right. Thank you.
13 Moving into comments, and I've tried -- we have
14 just a number of people in each time frame who
15 have to go early, and thank you to all of you who
16 have come and for your patience. First, I'm
17 going to bring back Mr. Wong to answer Dee Dee's
18 question, if that's all right. We'll try -- we
19 can't do a long.

20 MS. D'ADAMO: I'm going to keep it quick.

21 CHAIR MARCUS: If you could.

22 MS. D'ADAMO: Yeah.

23 CHAIR MARCUS: Because we can always --

24 MS. D'ADAMO: Two --

25 CHAIR MARCUS: -- talk to him later.

1 It's --

2 MS. D'ADAMO: -- two quick questions,
3 getting back to stranded assets. So 300 million
4 went into the water, surface water treatment
5 plant, and then the recycled water project. I
6 don't remember how much -- like \$120 million of -
7 -

8 MR. WONG: \$180 million.

9 MS. D'ADAMO: -- unwanted indebted --
10 180? Okay. So without an adequate surface
11 supply, please explain what's going to happen to
12 those two projects, and focusing on stranded
13 assets and the ability on the Recycled Water
14 Project, the ability to move water.

15 MR. WONG: Yes.

16 MS. D'ADAMO: Because you have to blend
17 it, right?

18 MR. WONG: Yes. So the City of Modesto
19 did invest \$300 million in two surface water
20 treatment plants with our partners with MID. And
21 if the surface water is not available the City of
22 Modesto will have a stranded asset. In fact, we
23 are also concerned that the fact that the City of
24 Modesto's ratepayers, who also are -- who sold
25 bonds in order to pay for this plant, might have

1 to pay for a higher cost in terms of the volume
2 of water being treated.

3 Remember, fixed costs to operate a water
4 plant are fixed. We have to still pay that. And
5 for a lower volume of water the City of Modesto's
6 ratepayers will pay a higher amount for that
7 water. On the downstream side, the City of
8 Modesto, if you recall, has constructed a
9 treatment and conveyance recycled water facility
10 to sell water to the Del Puerto Water District,
11 who is heavily reliant on the Delta water flows.

12 And our concern is the fact that we will
13 most likely exceed our permits if we don't get
14 additional surface water. If surface's cut back
15 we are very concerned that we may exceed our
16 permits, because we might have to actually divert
17 recycled water to blend out our cannery
18 segregation water that we have to land apply, and
19 actually resulting in less recycled water sales
20 to the Del Puerto Water District.

21 VICE CHAIR MOORE: Well, I appreciate
22 that, because whenever end water management you
23 push in one direction, it comes out another way.
24 And yet, you know, isn't it true that, though,
25 maybe some capacity may not be being used, we see

1 this statewide in many cases, nature, you know,
2 does its thing.

3 People do their thing with conservation,
4 so the recycled water output is less than you
5 planned, quote-unquote. So when you say stranded
6 asset, where they're actually going to be used
7 where, you know, you've mothballed the
8 infrastructure, or are you just getting, as you
9 say, you know, incrementally less production so
10 that there's some economic effects, but it still
11 is not technically stranded?

12 MR. WONG: Well, we do have stranded
13 assets, especially with the water plant, because
14 we did -- City of Modesto did pay for up to 60
15 million gallons a day being treated for the City
16 of Modesto. This water was planned for the build
17 out and the economy of the City of Modesto.

18 VICE CHAIR MOORE: Yeah.

19 MR. WONG: So with less surface water
20 running through the plant there will be stranded
21 assets. On a --

22 VICE CHAIR MOORE: Unused capacity, that
23 is, unused capacity.

24 MR. WONG: Right.

25 VICE CHAIR MOORE: So you'll be over-

1 capacity.

2 MR. WONG: Unused or used capacity,
3 depending the, you know, the type of year you
4 have. But you know --

5 VICE CHAIR MOORE: Right. So some years
6 you'll be operating full, but --

7 MR. WONG: Some years we'll be operating
8 full by --

9 VICE CHAIR MOORE: -- but it'd be the
10 incremental change.

11 MR. WONG: Right.

12 VICE CHAIR MOORE: But at the dry and
13 critically dry, where you won't be realizing all
14 that you have maybe planned for.

15 MR. WONG: Right. But also, keep in mind
16 the stranded asset also results in us pumping
17 more groundwater out of the ground.

18 VICE CHAIR MOORE: Right.

19 MR. WONG: And without the additional
20 surface where we don't have an opportunity to
21 help recharge those aquifers we would probably be
22 required to pump more groundwater out of the
23 ground and thereby impacting our groundwater
24 levels.

25 VICE CHAIR MOORE: Right, to meet what
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1 your -- you have contractual obligations with Del
2 Puerto, for instance, right. So to make that up
3 you'll -- there'll be this incremental impact. I
4 think we've disclosed that, but --

5 MR. WONG: Right.

6 VICE CHAIR MOORE: -- but this is a real
7 world example, and we respect and appreciate
8 that.

9 MR. WONG: Correct.

10 CHAIR MARCUS: Thank you. We'll have
11 more conversations with you, I'm sure.

12 MR. WONG: Thank you.

13 CHAIR MARCUS: Sorry to not go longer.

14 All right. So I'm going to start calling
15 people in fives. So -- and judging from the
16 number we have, I can stick at three, if we don't
17 ask too many questions. So forgive me. I always
18 want to have a conversation with everybody, and
19 we -- many of you I have had a lot of long
20 conversations with.

21 But we're going to move through. So I
22 would actually like everybody to hear everybody,
23 because there really are more of a range of views
24 than we've heard so far. So in the first batch
25 of four -- and forgive me if I get any names

1 wrong or I don't read it correctly -- will be
2 Marva Jones, from California Native Peoples,
3 followed by Thomas Joseph, also from California
4 Native Peoples, followed by Morning Star Galli,
5 from the Pit River Tribe, followed by -- I always
6 do this to you, Regina -- Regina --

7 MS. CHICHOZOLA: Chichozola.

8 CHAIR MARCUS: -- Chichozola. I know
9 it's just the way it's spelled. I'm sorry --
10 from Save California Salmon, and followed by Dana
11 Colgrove, from the Pit River Tribe. So Ms. Jones
12 or mister, if it's Marv Jones. Sorry. I may
13 have read it wrong. Hi. Thank you.

14 MR. JOSEPH: Marva Jones is actually
15 going after me.

16 CHAIR MARCUS: Marvin. I -- okay.

17 MR. JOSEPH: I'm the next person.

18 CHAIR MARCUS: Okay. Great.

19 MR. JOSEPH: We all got nervous all of a
20 sudden. We were the first five. We're like, oh,
21 shoot.

22 (Laughter)

23 CHAIR MARCUS: I'm trying to be
24 respectful, and you were near the five and you to
25 leave by 2:00. Sorry. I didn't mean to surprise

1 you there.

2 MR. JOSEPH: No problem.

3 CHAIR MARCUS: I put you on the top.

4 MR. JOSEPH: I appreciate it, actually.

5 My name's Thomas Joseph. I'm the son of Tom and
6 Patti Joseph. My mother comes from the Trinity
7 Mountains of Northern California and my father
8 comes from the Mojave Desert. I'm an indigenous
9 person, as of my parents, and we have existed on
10 these lands for time immemorial.

11 We have seen these lands change
12 dramatically as settlers have come here and
13 disrupted the way these rivers have flowed,
14 turned deserts into farmland, and continued to
15 desecrate redwood trees and forest, stripping
16 high lake rivers in the deserts, destroying our
17 crops and our sentimental ways of life and
18 disturbing the river flows and killing our salmon
19 and fish and habitats, destroying habitats for
20 mining.

21 This is the results of California in the
22 last 150-200 years. My people have been able to
23 maintain these lands for thousands of years with
24 no massive desecration of property, with no
25 genocide of any animals or species, and that's

1 because we didn't put ourselves before the land.

2 We didn't put our crops and our cities
3 and municipalities more important than what
4 actually gave us sustenance, which actually
5 nourished us, our mother, our Mother Earth. And
6 we've seen this decades and decades and decades
7 of destruction of this state continue.

8 And the state continues to commodify
9 [sic] the resources of these lands. Now, they
10 even want to commodify our trees. And for a
11 split second we get hope with the creation of the
12 EPA and the California government trying to take
13 a stance and protect the environmentalists and
14 the environmental work that's being done by the
15 grassroots organizations.

16 And they create boards such as this, and
17 these employees that sit here before you and do
18 beautiful presentations and have worked long,
19 hard hours, but can still continue to fail
20 because you put money before humans. You put
21 money before our Mother Earth.

22 (Applause)

23 MR. JOSEPH: And you will continue to
24 fail because we've seen this presentation. It is
25 not aggressive enough. This state has done

1 aggressive attacks against this Mother Earth, and
2 we need to take aggressive actions to protect
3 her. These decimal points of loss is not
4 aggressive enough.

5 These waters that you're going to release
6 to try to save the salmon and save the Delta is
7 not aggressive enough. And so I want to go back
8 to what the first person that spoke, which was an
9 elected representative of the State of
10 California. I don't remember his name. Excuse
11 me.

12 But he threatened the responsibility and
13 the authority of this Board, because he doesn't
14 think you guys have the means to do what is
15 necessary, and I want to echo that. I also want
16 to question the authority of this Board and these
17 members and this staff, because you need to take
18 more aggressive measures.

19 You need to protect our Mother Earth, and
20 if you guys can't do it, then hand it back. Let
21 the indigenous people of the State of California
22 control these lands in a way that will respect
23 our Mother Earth for generations to come, that
24 the citizens and the members of this State of
25 California will be able to look back at this time

1 period and be proud, because we will be able to
2 continue to have water and food and sustenance.
3 But if you guys continue to fail, give it back.

4 CHAIR MARCUS: Thank you.

5 (Applause)

6 CHAIR MARCUS: Jones.

7 MS. JONES: My name is Marva Jones. I
8 want to echo what Mr. Joseph just got done
9 saying. It's hard to stress this enough. I can
10 relate to the salmon myself, coming from a
11 situation where there's hardly any of us left
12 here to even voice our care and our love for the
13 river.

14 I mean, isn't it enough? Isn't the take
15 enough? I mean, can't we balance this out? I
16 mean, that report showed clearly the impacts of
17 what's going on here. We can't keep on choosing
18 economics over a way of life. Or do we want to
19 kill the source? We really want to kill the
20 river in pursuit of economics?

21 I mean, everything he said is true.
22 Those are all facts. And I also want to
23 represent, and I mean respect and recognize the
24 lands we stand on here in the Southern Maidu. I
25 mean, that's the thing that we need to understand

1 where we're at right now. We're in Maidu
2 country.

3 We're in the Nisenan Homelands and we
4 need to acknowledge that, as well. We need to
5 start respecting people. I mean, it can't be
6 always about economics. I know that, you know,
7 people have to survive n living, too, but in --
8 at the death of our salmon, at the death of our
9 way of life.

10 I mean, haven't we given enough as first
11 people here? I mean, we're trying to coexist
12 still. I mean, we're lucky to be here still,
13 confessing our care for this place, you know.
14 It's got to be about the world. What's our
15 responsibility giving back? What is that
16 responsibility? Right?

17 It can't always be about the take. I'm
18 sorry I'm, you know, trying to come off here in
19 any way that's threatening people's way of life,
20 but ours has been threatened since day one. We
21 are still lucky to even be here and walking this
22 land. We weren't considered human till 1923.

23 We were still legal to hunt Native
24 Americans on the law books of California till
25 1969. There was \$500,000 wagered against our

1 extermination by the first governor, Barnett. I
2 mean, those are facts that people don't even know
3 about, but we're still here trying to make this
4 way and stand up for our rights and the fish and
5 the environment's rights.

6 So we're -- come from first -- from the -
7 - excuse me. I'm super nervous.

8 CHAIR MARCUS: No. You're doing great.

9 MS. JONES: I just want to -- anyway.

10 Thank you.

11 CHAIR MARCUS: No. Thank you very much.
12 Speaking from the heart is always helpful.

13 (Applause)

14 CHAIR MARCUS: Morning Star Galli.

15 MS. GALLI: Apologies. My four-year-old
16 fell asleep in the last four hours.

17 CHAIR MARCUS: No. Thank you for
18 bringing.

19 MS. GALLI: My name is Morning --

20 CHAIR MARCUS: It's always good for us to
21 remember why we're here.

22 MS. GALI: -- Chewy Sunwei (phonetic),
23 Morning Star Galli, (indiscernible) I'm Ajumawi,

24 STE. I'm Morning Star Galli, a member of the

25 Ajumawi Band of the Pit River Tribe, and

1 previously served as the Tribal Historic
2 Preservation Officer for Pit River Tribe for four
3 years.

4 So greetings to the Board and Board Chair
5 Marcus. In the opening statements that were made
6 this morning there was mention of all of the
7 concerned parties of the rivers and of the salmon
8 for the San Joaquin area. But what wasn't
9 mentioned were the tribes.

10 And although this is a public meeting,
11 you know, that is very concerning, that we forgot
12 that, you know, there was mention just a while
13 ago from the irrigation representative that has
14 stated in the past 130 years of the maintenance
15 of these waters, but this has been thousands of
16 years of stewardship of the land, thousands of
17 years of having our lands and our waters in
18 balance.

19 And it's only been in less than the last
20 200 years that this destruction has occurred.

21 And so as a tribal member who no longer has
22 salmon within our rivers, for the past 80 years
23 we have not had salmon in the Pit River that
24 flows into the Sacramento River, that flows into
25 the Bay Delta, that flows into the San Francisco

1 Bay.

2 I'm really concerned about how it is that
3 our sacred waters are being utilized. Yesterday
4 when we spoke at the rally, as I was speaking
5 somebody walked through from the counter-
6 demonstration and told us that, you're stealing
7 our water.

8 And so as California Tribal Peoples,
9 being told that our water is being stolen, that
10 we're stealing the water of farmers, and you
11 know, I also come from a farm-working background.
12 My Filipino grandfather and my father and my
13 uncles were all farm workers within the Half Moon
14 Bay and the Sacramento area.

15 And so I understand and have respect for
16 that, but there has to be a balance and there has
17 to be a balance within our land, and there has to
18 be, you know, a voice for the salmon, for our
19 sacred relatives. We have to be able to -- you
20 know -- some of the messaging yesterday was that
21 Salmon prefer lighter flows, and that to go
22 against the flow. And I just think, you know,
23 how heartbreaking is that.

24 And so yes, I'm here today with my four-
25 year-old daughter that fell asleep, because it's

1 important to sit here and it's important to be
2 able to voice our concern to that. So
3 (indiscernible). Thank you.

4 CHAIR MARCUS: Thank you. Thank you for
5 taking the time to come.

6 (Applause)

7 CHAIR MARCUS: And I'm sorry for not
8 mentioning it. That's sort of unusual for me, so
9 I apologize.

10 Ms. Chichozola. Chichozola. I know. I
11 do that every time. I'm not -- it's my -- I'm
12 sorry.

13 MS. CHICHOZOLA: Yes.

14 CHAIR MARCUS: She knows I like her, I
15 hope. So sorry.

16 MS. CHICHOZOLA: Is it this one that
17 we're supposed to speak into? So I am here today
18 to support the Board's proposal to restore some
19 of the flows within the San Joaquin River and the
20 Bay Delta. I want to make sure that the -- in
21 the future processes, especially in the
22 Sacramento, that tribes are better consulted.

23 And also, I would like to have the Board
24 look at possibly actually having higher flows,
25 because the science shows that the 30 to 50

1 percent that is proposed is actually not enough.
2 I think that I totally understand about the jobs
3 and the way of life.

4 I live in an area where salmon is our way
5 of life, and where water -- we realize how the
6 importance of water and clean water. And I don't
7 think a lot of people within this area know what
8 kind of situation, what kind of crisis we are in
9 the State of California.

10 The water within the Central Valley, the
11 majority of it will be unusable within 50 years
12 if there's not dramatic changes. Fresh water
13 flows are needed to make sure that most of the
14 people in California get clean water. The
15 actions like this actually clean out watersheds
16 and they don't just help salmon, but they also
17 help drinking water quality.

18 They also help get toxins out of the
19 watershed. Rivers need to be dynamic or else
20 water is not usable. And so this is not just
21 people versus the environment. This is -- there
22 are salmon jobs in question. There are people's
23 drinking water in question.

24 There is whether or not we will still
25 have aquatic life in our rivers in question in

1 the State of California, and whether or not we'll
2 have a clean drinking water supply in question.
3 And for a long time there's been so much water
4 waste within this state and it's time to start
5 changing that.

6 Agriculture uses 80 percent of the water
7 in this state, and so I would never say that
8 cities should not get the water that they need,
9 but you know, these cities that are here today, I
10 have so much respect for them, but they are not
11 the only cities in question.

12 There are people in the East Bay that
13 need the San Joaquin River to be clean in order
14 so they get water. There are fishermen on the
15 coast that need to be able to work and we have
16 seen -- I think it's like four-fifths of the
17 salmon jobs in the state be gone.

18 So we're losing our way of life for
19 salmon fishermen. We're losing our clean water.
20 I'm afraid to drink the water when I come down
21 here, because I know what's in it, and a lot of
22 that's from ag waste. And so something needs to
23 change dramatically, and this is a step towards
24 making that change.

25 And so I think that you guys need to make
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1 sure to enact the proposal. I think you should
2 look at actually having more water go down the
3 rivers, because it is benefitting drinking water.
4 It's benefitting salmon jobs and we are looking
5 at an ecological crisis and we're looking at
6 extinction of salmon in the State of California.

7 And we're looking at extinction of the
8 salmon jobs in California, and we're looking at
9 tribal people who are fighting like hell to save
10 their way of life, because they're seeing their
11 salmon go extinct. And the economic impacts are
12 huge, but the social impacts are also huge, and
13 it's not only farmers' way of life that is in the
14 question right now.

15 So please protect our water. Please
16 protect our public trust. Please make the right
17 decision. Thank you.

18 CHAIR MARCUS: Thank you very much.
19 Thanks for your patience.

20 (Applause)

21 CHAIR MARCUS: Dana Colgrove, Pit River
22 Tribe. Hi.

23 MS. COLGROVE: Hi. I'm Dana Colgrove.
24 I'm actually a Hupa Tribal Member from the
25 Klamath River.

1 CHAIR MARCUS: All right.

2 MS. COLGROVE: The Trinity. My concern
3 today was I think you guys are dreaming a little
4 bit when you guys think that these three rivers
5 are going to sustain your guys' push to push more
6 water south, when we all know that this is water
7 that's going to go for the tunnels, and we're not
8 going to have any water.

9 Basically, we're in a drought and the
10 drought's not going to get any better. Climate
11 change is here. It's not going to go away.
12 We're not doing nothing to make it go away. My
13 concern is that you guys are going to take more
14 water out of the Sacramento, which takes water
15 out of the Trinity already.

16 You guys take half of our water already.
17 I'm a salmon fisherman and the Carr Fire actually
18 has -- I hate to say it -- but helped the fishing
19 in our -- where we're at right now. We didn't
20 catch no spring salmon at all. And then since
21 the Carr Fire came they shut down the -- one of
22 the stations up there, and put water back in the
23 river and the fish are about jumping out of the
24 water.

25 It's crazy how fresh water will affect a
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1 river. So to me, you guys are -- you got to wake
2 up from this dream, because it's not going to
3 happen. All the water you guys are counting on
4 is paper water. It's not wet water. You guys
5 got to think about that. I'm sorry. I'm kind of
6 nervous, too.

7 CHAIR MARCUS: No. Go ahead.

8 MS. COLGROVE: But thank you guys for
9 giving me the time, but you really should
10 consider water is life. Without water, none of
11 us are going to survive. For a few almonds, a
12 few other strawberries or whatever, it's not
13 going to work. We need to have water for people,
14 not farms.

15 Fish need water, scientifically.
16 Everybody knows that. I mean, if we could give
17 up our water and keep our fish, we probably
18 would. We're sharing people. We're a renewal
19 people, which means we care about everybody and
20 everybody's way of life.

21 We care about the animals and the rivers
22 and everything like that. So I'm just like so
23 over it. Water quality, water quality and you
24 guys talking about blending this water. You guys
25 know what you guys are drinking? It kills

1 animals.

2 We can't even -- where we're at today up
3 in the Klamath, the Upper Klamath, you have to
4 pull your boat to go over a riffle, because the
5 water is so low, and that is just from
6 diversions, too. And you guys are -- the water
7 quality, you can't drink it, it is so bad.

8 It's just like when you guys send it to
9 Central Valley they can't drink it either. They
10 have to blend it. They have to blend it before
11 they use it. You guys are drinking shit water,
12 for no other -- no better word. I'm sorry, but I
13 feel sorry for you guys. You guys don't know
14 what clean water is. Thank you.

15 CHAIR MARCUS: Thank you.

16 (Applause)

17 CHAIR MARCUS: Next, I'm just going to
18 name the next five. John Buckley from CSERC, Bob
19 Gore from the Gualco Group for the California
20 Association of Wine Grape Growers, Heinrich
21 Albert for himself.

22 Probably -- oh, sure. No. I knew you
23 had to leave. So thank you for coming. I know
24 you have a long way.

25 UNIDENTIFIED SPEAKER: Thank you.

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1 CHAIR MARCUS: So Heinrich Albert,
2 followed by Les Kishler, followed by Peter
3 Drekmeier, from the Tuolumne River Trust.

4 Thank you, Mr. Buckley.

5 MR. BUCKLEY: Good afternoon. John
6 Buckley, Central Sierra Environmental Resource
7 Center. The biologist who worked for our center
8 reviewed the final draft Bay Delta Plan Update,
9 the SED and the text changes in Appendix K. So
10 that's what you're really asking about today, and
11 our staff endorses the strong science that's the
12 basis for this plan, and our center endorses the
13 compromise, 40 percent of unimpaired flow
14 requirement that's the heart of the proposal.

15 But as we've just heard and as we heard
16 this morning, people are standing up with strong
17 opinions and heartfelt views that in many cases
18 are on both sides of the issue. Now, the
19 challenge before you as the Board is to somehow
20 find that magical middle ground that will
21 minimize the amount of strong opposition and
22 allow a path forward.

23 As has been pointed out in your Staff
24 Report, the science shows that an even higher
25 amount of flow than what is being proposed is not

1 only necessary for many of the values tied to
2 salmon or for salinity or for water quality in
3 the rivers, but it's an essential part of
4 restoring in many cases species that have been
5 diminished by so many years of not having
6 adequate amount of flows.

7 Plan critics are protesting and
8 expressing outrage because even at the 40 percent
9 it will mean some difference in terms of the
10 amount of water for agriculture. But a key thing
11 that I share today is that despite all that you
12 will hear in the next day and a half of others
13 talking about agriculture and water, for
14 Californians overall, money and profits are not
15 what should drive public policy for California's
16 water resources, because there will always be a
17 profit motive to take more water out of a river
18 or to utilize more water in some way.

19 And just as an example, since the
20 drought, huge amount of dry land in Stanislaus
21 and San Joaquin Counties have gone into new
22 irrigated almond and walnut orchards. If money
23 drives water management there will be always
24 economic reasons to take more and to leave less.

25 So you have very carefully already
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1 analyzed looked at that there will be
2 consequences for economics, but you've put
3 forward a moderate, middle ground, 40 percent
4 proposal that also is considering ecological ways
5 to adjust, encourage collaboration for timing and
6 the shape of flows, to meet ecological objectives
7 with the least constraint on water.

8 So I emphasize that in the midst of
9 climate change and a host of human-caused
10 stressors salmon populations are, as has been
11 shared, an essential legacy that we are
12 responsible to pass on to future generations, and
13 sufficient water and sufficient cool water are
14 vital.

15 The second is, is there's many claims
16 that water is being wasted when a river reaches
17 the bay or the ocean. I would hope that this
18 Water Board is aware that water is the lifeblood
19 of the ecosystem. And in closing, I simply urge
20 that the Board, after all of these years, move to
21 finalize and act, because it's so easy to keep
22 putting off delays, waiting for volunteer
23 agreements that may never come to fruition.
24 Thank you.

25 CHAIR MARCUS: Thank you.
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1 (Applause)

2 CHAIR MARCUS: Mr. Gore, followed by Mr.
3 Albert.

4 MR. GORE: Good afternoon, Chair Marcus
5 and Board Members. Robert Gore, from the Gualco
6 Group, on behalf of the California Association of
7 Wine Grape Growers -- excuse me -- and their 1100
8 wineries statewide, most of which are certified
9 sustainable and multi-generational.

10 CAWGG associates with remarks that will
11 follow from the Farm Bureaus and the Ag Council,
12 as well as the magical middle ground, which was
13 just mentioned. That's a wonderful term. We
14 support reasonable and prudent environmental
15 protections as stewards of the land, including
16 voluntary agreements and habitat improvements.

17 We oppose most of the Draft Document
18 recommendations, which would result in fallowing
19 at least 25 percent of the sustainably productive
20 ag land, according to CDFA Secretary Karen Ross.
21 Some quick specifics to be helpful.

22 In response to a question from Member
23 D'Adamo, staff member noted that operational ag
24 impact analyses would be done during
25 implementation phase. That's a bit too late.

1 Growers are required to use precision at
2 irrigation and accountability, specific
3 accountability.

4 We seek the same precision from all water
5 managers and users. The report characterizes the
6 impact of decreased stream flows on growers
7 within an overarching economic analysis. This
8 appears minuscule. In fact, these draconian
9 impacts are best characterized by specifying
10 local lost farm jobs and revenue, not as part of
11 a state and county table of statistics.

12 This report states the economic impacts
13 could be lessened with groundwater recharge and a
14 change in permanent crops, neither of which is
15 accomplished easily and not without surface water
16 flows. The report states, "Depending on the
17 strength of the voluntary agreements and success
18 in meeting specified goals, the Board could
19 reduce the unimpaired flow requirement."
20 Defining strength of voluntary agreement and
21 success are left unwritten.

22 "The Executive Director would have
23 authority to approve shaping and shifting" --
24 terms are undefined -- "flows, based upon the
25 recommendation of one or more of the working

1 group members." Is it one? Is it more? How
2 many? When?

3 Water right wholesale revisions are best
4 addressed as a separate and distinct manner. I
5 have several specifics that time prevents me from
6 mentioning. But in closing I'd like to point out
7 that SGMA is sufficient. SGMA establishes water
8 balance, budget, monitoring, reporting and
9 accountability through regional GSAs, along with
10 statutory time lines and compliance enforced by
11 this Board, interagency cooperation and
12 endorsement.

13 And SGMA connects for the first time
14 surface and groundwaters. I propose that we
15 allow that to work out before going anything
16 further, especially implementing what amounts to
17 a regulatory pincers movement. That is, we
18 regulate groundwater and then we regulate surface
19 water with no options. Thank you.

20 CHAIR MARCUS: Thank you. Mr. Albert,
21 followed by Less Kishler. Hi.

22 MR. ALBERT: Hi, there. My name is
23 Heinrich Albert. I understand that the science
24 report that you folks came up with earlier said
25 that we needed at least 60 percent of the

1 unimpaired flows in these rivers in order to be
2 fully supportive of restoring the salmon
3 populations and the whole ecosystems that the
4 salmon as just a part of.

5 But I understand that your obligation is
6 not only to the environment, but also to the
7 humans, that these are supposed to be co-equal
8 goals in our state. And so I recognize, while I
9 support the 60 percent, I know that you have to
10 do this compromise.

11 Now, in my mind, a co-equal would be
12 50/50. You folks are supporting or proposing 40.
13 That seems a little light to me, but you're the
14 experts. What I want to argue is how we count
15 that part that goes to the humans and that part
16 that goes to the wildlife.

17 It seems that we make the assumption that
18 all the part that goes to the humans gets
19 diverted out of the river. But I want to argue -
20 - now, first of all, you've heard some very
21 eloquent testimony today from people that make
22 their living from fishing.

23 And so it's a human benefit to keep water
24 in the river for them, right?

25 CHAIR MARCUS: Right.

1 MR. ALBERT: So that should be in the
2 accounting. Me, I don't make my life fishing,
3 but I have the good fortune to live in El Dorado
4 County, where we have three branches of the
5 Cosumnes River, one of the very few rivers in our
6 state that's un-dammed, and it is a great
7 pleasure for me to go out and to see this free-
8 flowing river.

9 And when I see people out there doing
10 sports fishing, which they don't need to survive,
11 but they are getting a tremendous pleasure from
12 that, and I see people hopping around the rocks
13 in the river and swimming there, and the quality
14 of life for us that get to be by this river is
15 greatly enriched by the fact that there's water
16 flowing through that river, that we have this
17 free-flowing river.

18 So I want you to, as you go forward, when
19 you do this accounting for the part that goes to
20 the environment and the part that goes to human
21 uses, to remember that part of that human benefit
22 is water that stays in the river. Thank you.

23 CHAIR MARCUS: Thank you.

24 (Applause)

25 CHAIR MARCUS: Les Kishler. Put that
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1 aside, if I've missed people.

2 Peter Drekmeier from the Tuolumne River
3 Trust.

4 MR. DREKMEIER: Good afternoon. Peter
5 Drekmeier. I'm the policy director for the
6 Tuolumne River Trust, and I want to thank y'all
7 for your work. This is a very daunting task,
8 quite a challenge. I believe we have the right
9 Board at the right time. I have faith in you.

10 You're all very, very intelligent, wise.
11 You represent different viewpoints and you're the
12 chosen ones. Congratulations.

13 (Laughter)

14 CHAIR MARCUS: You're reminding me of so
15 many jokes that my grandmother and grandfather
16 used to say about being the chosen people. It's
17 not such a great deal. Yeah.

18 MR. DREKMEIER: I want to thank staff for
19 really doing an amazing job --

20 CHAIR MARCUS: Sorry.

21 MR. DREKMEIER: -- with the SED, and a
22 great presentation today; a tremendous amount of
23 work. I'm convinced 99 percent of the people who
24 criticize the SED have not even opened it up. So
25 thank you for hanging in there and doing such a

1 great job.

2 So I bring news from Palo Alto. Last
3 night the Palo Alto City Council voted to endorse
4 your Bay Delta Plan.

5 CHAIR MARCUS: That's nice.

6 (Applause)

7 MR. DREKMEIER: Now, this was
8 significant, because this was the very first time
9 a political body seriously debated the pros and
10 cons of the Bay Delta Plan. The SFPUC has a
11 public hearing next Tuesday, a week after this.
12 It is the one and a half year anniversary of the
13 last time they addressed the Bay Delta Plan in
14 public.

15 They've had closed sessions. They have a
16 lot of private meetings, but their intention is
17 to control the message. And what we did is we
18 got Palo Alto to take a look at it. Now, what
19 happened was, staff, they got all their
20 information from BAWSCA and they put together a
21 staff report that opposed your plan and embraced
22 these amazing settlement negotiations and the
23 SFPUC alternative.

24 And they presented that and then a
25 representative we all know from the SFPUC

1 presented, and a representative from BAWSCA. So
2 council heard all that. They gave me a chance to
3 speak and we had 22 people from the public speak,
4 and council deliberated.

5 And our council, there are nine members.
6 They're often split five to four, often on
7 development issues. Last night, it was
8 unanimous, nine to zero, two-hour public
9 discussion and they embraced your plan. So
10 that's the beginning. Things are changing.

11 What convinced them? Well, our model
12 that the SFPUC could survive the six-year drought
13 of record with an average of 10 percent
14 rationing, if it were to reoccur, that they had
15 three years worth of water in storage at the
16 height of the drought, that they ended up dumping
17 enough water to fill all of their reservoirs
18 twice in 2017.

19 Economic study was flawed, as we've
20 discussed before. Interestingly, between 2010
21 and 2016 jobs in San Mateo and San Francisco
22 counties, which make up two thirds of the Hetch
23 Hetchy users and they get almost all their water
24 from SFPUC, jobs increased by 27 percent. Water
25 decreased by 23 percent in that six-year period.

1 Lot more to share, but I'll do it offline. Thank
2 you.

3 CHAIR MARCUS: Thank you very much.

4 (Applause)

5 CHAIR MARCUS: Okay. Next five. Richard
6 Pool, Water 4 Fish, today, Tim Eichenberg, Ben
7 Eichenberg, for San Francisco Baykeeper, Emily
8 Strauss and Susan Kishler.

9 MR. POOL: Are we ready?

10 CHAIR MARCUS: Nice to see you. It's
11 been a while.

12 MR. POOL: I'm Dick Pool, and I'm here
13 representing Water 4 Fish. I'm on the Board of
14 Directors of the Golden Gate Salmon Association.
15 I'm president of the advocacy group, Water 4
16 Fish. My business is manufacturing salmon
17 equipment. I make my living selling salmoning
18 equipment.

19 I've been in business for 40 years and
20 I've been fighting to restore the Central Valley
21 salmon for at least 40 years. We're still
22 working on it and we appreciate your help. I'm
23 here today to thank the Board for its leadership
24 and perseverance on this critical issue.

25 You are trying to do the right thing and
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1 we deeply appreciate your efforts. I have
2 observed some very good comments today on what we
3 need to do, and what I'd say, I think I'm a firm
4 believer that we need to work together. We can't
5 oppose one another to find a solution.

6 But what I would say, if you can't do it
7 now, don't give up. You do it later. We
8 desperately need what you're trying to do. I
9 would point out, in all of history the salmon
10 today, there's only one time in history when the
11 whole population of salmon in this state has been
12 as low as it is today.

13 We are on a 20-year slide. Aaron's
14 figures show that. That's systemwide. The
15 salmon, all four runs are getting closer and
16 closer to extinction. We need all the help we
17 can get and we clearly need your help. Let me
18 say this. I'm involved with several coalitions
19 that are working hard on habitat projects that
20 will help with recovery.

21 We have some very good on the ground
22 projects on the drawing board. However, none of
23 them come close to the gains we would achieve if
24 we can get increased flows. The loss of the
25 river and tributary flows has done more damage to

1 the salmon than anything else. Increasing them
2 will do -- undo a lot of that damage. So I'd
3 say, stay the course.

4 Let me -- I prepared a simple chart.
5 It's somewhat like Aaron's, but let me -- oh, I
6 have 41 seconds. The bottom line from this chart
7 --

8 CHAIR MARCUS: If you put it up now.

9 MR. POOL: -- it shows the population of
10 the -- or the returns of the wild system, or the
11 wild salmon in San Joaquin from 1990 through
12 today. In 1990 there were only 741 fish came
13 back, at extinction level. With flows we went up
14 to a peak of 40,000, then the crash came.

15 They took the biological pinions off, a
16 couple years of bad water and ocean conditions,
17 we're back at extinction. When flows went up in
18 2011, we got another hit. The message here is
19 that flows help. So thank you very much. Stay
20 the course. Extinction is not an option.

21 CHAIR MARCUS: Thank you very much, Mr.
22 Pool.

23 (Applause)

24 MS. D'ADAMO: I've got a quick question.
25 I'm sorry.

1 CHAIR MARCUS: A quick question, no,
2 that's okay.

3 MS. D'ADAMO: I want to know about --
4 yes.

5 CHAIR MARCUS: No. Go ahead. Mr. Pool,
6 can you come back, because I know you do work on
7 these projects. So go ahead.

8 MS. D'ADAMO: Yeah. I just want to thank
9 you for your leadership and others that have
10 said, you know, let's continue to work together,
11 and really appreciate the collaborative approach
12 that your association has taken in working on
13 functional flows and habitat.

14 So with the work that you've done, what
15 is the targeted time that you think is the most
16 crucial for functional flows?

17 MR. POOL: I would say everything in the
18 next five years is very crucial. And we have --
19 I was very interested to hear that you're
20 interested in some of these habitat projects. We
21 have some projects, we think, if we can get --
22 there's some tests to be done, but if they can be
23 done, we will double the salmon populations in
24 the next five years. So time is critical. Flows
25 are critical.

1 MS. D'ADAMO: Well, then, how about the
2 February through June or the time frame?

3 MR. POOL: Well, flows on the San
4 Joaquin, certainly, February, March and April, or
5 February through May is critical. On the
6 Sacramento, some goes into June, but those are
7 the times when the flows, if we can get
8 functional flows there and get those baby salmon
9 past all the predators out the Golden Gate, we'll
10 make good progress.

11 MS. D'ADAMO: Thank you.

12 CHAIR MARCUS: Thank you, sir.

13 MR. POOL: Thanks, again.

14 CHAIR MARCUS: Tim Eichenberg, followed
15 by Ben Eichenberg.

16 MR. T. EICHENBERG: Madam Chair, members
17 of the Board. My name is Tim Eichenberg. I'm
18 here as a resident of San Francisco to tell you
19 that the SFPUC doesn't represent many of us that
20 live in the City. Also, I've also served as
21 counsel for BCDC and the California Coastal
22 Commission and have attended many -- probably too
23 many of these kinds of hearings to -- so I
24 understand the difficulties and pressures that
25 you face in amending the Bay Delta Water Quality

1 Control Plan.

2 I also understand how long these hearings
3 usually last. So I'll make it really short, and
4 hopefully sweet. However, I've also been
5 teaching ocean and coastal law for the past 20
6 years, and a decision based on sound science and
7 the law is fairly clear.

8 Science tells us that 60 percent of the
9 unimpaired flows of the San Joaquin River and its
10 tributaries from February to June, and 75 percent
11 of the unimpaired flows from the Sacramento River
12 and tributaries are needed to preserve native
13 fish and wildlife.

14 Historically, more than 60 to 70 percent
15 of the flows from the Tuolumne, Stanislaus and
16 Merced are diverted between February and June,
17 starving the Bay, Delta and estuary of vital
18 fresh water needed to protect fish, wildlife and
19 habitat.

20 Like withdrawing money from an overdrawn
21 bank account, this is unsustainable and will only
22 get worse with the changing climate. Under the
23 California Fish and Game Code you're required to
24 allow sufficient flows to sustain fish
25 populations, and under the mandates of the

1 Porter-Cologne, California Environmental
2 Endangered Species Act, Delta Reform Act and
3 Public Trust Doctrine and numerous other state
4 laws and federal laws, you are required to
5 preserve water quality, dissolved oxygen and
6 protect the Bay, its habitat and endangered fish
7 and wildlife, because these are public resources
8 that belong to all of us, not just a few of us,
9 but to everyone.

10 However, I recognize you also need to
11 balance the protection of water quality and
12 beneficial uses. That's your mandate. That's
13 why the Draft Final SED recommends Alternative 3,
14 which would allow greater diversion, 40 percent
15 of unimpaired flows within a range of 30 to 50
16 percent from February to June.

17 While insuring at least 60 percent flows
18 is scientifically and legally preferable,
19 Alternative 3 recommendation of 40 percent flows
20 with flexibility and incentives to adapt
21 implementation to changing information and
22 conditions is at a minimum necessary to protect
23 the Bay and Delta and provide the salinity
24 objectives to reasonably protect agriculture, as
25 well. Thank you.

1 CHAIR MARCUS: Thank you very much. When
2 you talk about the Fish and Game Code are you
3 talking about 5937?

4 MR. T. EICHENBERG: Yes.

5 CHAIR MARCUS: Yeah.

6 MR. T. EICHENBERG: 5937.

7 CHAIR MARCUS: Which was part of the
8 deal, and in its predecessors when all --
9 originally all the dams were built.

10 MR. T. EICHENBERG: Right.

11 CHAIR MARCUS: Right.

12 MR. T. EICHENBERG: Thank you.

13 CHAIR MARCUS: We haven't followed
14 through on that. Ben Eichenberg, followed by
15 Emily Strauss. Hi.

16 MR. B. EICHENBERG: Good afternoon, Board
17 members. I guess you're getting an example of
18 the multiple generations of Californians who are
19 pleading with you to save our rivers. So thank
20 you for taking the time to listen to us today.

21 My name is Ben Eichenberg. I'm staff
22 attorney for San Francisco Baykeeper. The Bay
23 Delta is the most studied ecosystem in the world,
24 and in spite of that knowledge, we are allowing
25 it to fail spectacularly. We don't need more

1 studies and negotiations to understand the Bay
2 Delta's needs.

3 The science is clear. The Bay Delta
4 needs freshwater flow. Without more water the
5 current ecological collapse we're witnessing will
6 only accelerate. If we want more than an algae
7 choked mono culture in the Delta and a
8 consequentially, drastically diminished San
9 Francisco Bay, we need a plan to restore
10 sufficient freshwater flows.

11 Protecting the Bay Delta and our region's
12 diverse wildlife requires more than the 40
13 percent of unimpaired flow in your current
14 proposal for the San Joaquin River tributaries.
15 The science tells us that fish and wildlife
16 beneficial uses on these tributaries require at
17 least 50 percent of unimpaired flow.

18 Moreover, flow standards should exist
19 year-round, not just February through June, and
20 these standards should also include specific
21 temperature requirements. Finally, drought off
22 ramps, which are currently missing, to the dismay
23 of irrigators, cities and the environmental
24 community alike should be included in the final
25 plan.

1 The best available science, as developed
2 by Fish and Wildlife Agency's independent
3 scientists and environmental and fishing
4 communities and by the Water Board itself tells
5 us that 50 to 60 percent of unimpaired flow is
6 necessary to stabilize salmonids populations and
7 support recovery.

8 So that should be the adaptive range and
9 that should be the starting point from which
10 flows are adaptively managed. Without a plan in
11 place there's little or no incentive for water
12 users to compromise. It has been nearly two
13 years since the Natural Resource Agency's goal of
14 voluntary agreements by December 31st, 2016,
15 should have been met.

16 But we have seen nothing; nor will we
17 absent strong action by this Board. At the very
18 least, the Board must reject any settlements that
19 would provide less than the minimum flow
20 specified in the proposed adaptive range. There
21 is no specific evidence, new or old, that any
22 combination of flows below the adaptive range,
23 even if combined with new habitat, will protect
24 salmonids and other fish and wildlife beneficial
25 uses.

1 As the Water Board stated, voluntary
2 agreements are an appropriate tool for
3 implementing the objectives as required by Water
4 Code Section 13242. That implementation could
5 occur through a combination of subsequent water
6 rights, water quality or other actions.

7 Baykeeper strongly supports habitat
8 improvement, but fish need that habitat to be
9 underwater, and there's no scientific basis for
10 any claim that additional habitat without
11 additional water will be sufficient for fish
12 populations to recover.

13 Everyone agrees that the Bay Delta is in
14 crisis, but we've been waiting more than 20 years
15 for a plan that will provide a roadmap to
16 recovery. There's no doubt that tough choices
17 will need to be made. It's time to make those
18 choices and protect the public's rights and
19 resources in the San Francisco Bay and the San
20 Joaquin tributaries.

21 As the Water Board stated in 2015,
22 updating the Bay Delta Water Quality Control Plan
23 and its flow-related and associated narrative
24 objectives should be the Board's highest
25 priority. Now is the time to prove it. Thank

1 you.

2 CHAIR MARCUS: Thank you.

3 (Applause)

4 CHAIR MARCUS: Ms. Strauss, followed by
5 Ms. Kishler.

6 MS. STRAUSS: Greetings, Board. Please
7 do stand firm in defense of increasing flows to
8 the Lower San Joaquin and other tributaries. Our
9 rivers deserve 60 percent of unimpaired flows, to
10 recycle water, which I also do, and a slogan from
11 the '70s, sing back the salmon.

12 I have resided over 50 years here in the
13 great State of California and remember when my
14 mother served delicious, wild, fresh California
15 salmon maybe once a week during the summer. And
16 now, I can afford delicious, wild, fresh
17 California salmon maybe twice a year.

18 But besides being a stakeholder by virtue
19 of eating salmon, I am a bird-watcher, and
20 increasing flows for salmon will also increase
21 birding opportunities and benefits for other
22 wildlife species. Several places we've discussed
23 earlier today that I do bird and are fabulous
24 include, in Contra Costa County, Bradford Island,
25 Piper Slough and Frank's Tract.

1 And how about increasing flows along the
2 San Joaquin National Wildlife Refuge, Lower
3 Merced River -- excuse me -- the San Joaquin
4 National Wildlife Refuge on the San Joaquin River
5 and the San Luis National Wildlife Refuge on the
6 Lower Merced.

7 We are, of course, sucking the Delta dry.
8 So I urge you to stand firm, support increased
9 flows for both fish and riparian vegetation.
10 Sing back the salmon. Thank you.

11 CHAIR MARCUS: Thank you.

12 (Applause)

13 CHAIR MARCUS: Ms. Kishler. Kishler?
14 All right.

15 The next five, Nancy Hinton, Roger
16 Mammon, West Delta Captain of the California
17 Striped Bass Association, Carol Fields,
18 Christopher Kroll and Janet Johnson.

19 So Ms. Hinton.

20 MS. HINTON: My name's Nancy Hinton, and
21 I'm a resident of the great City of Modesto,
22 California. I do not work for any government
23 agency, but I am a resident of -- whose
24 grandfather worked building Don Pedro and some of
25 the others, from things that he was taught as a

1 member of the Army Corps of Engineers.

2 Forsythe is now being punished. Because
3 our county, our territory had foresight to build
4 the Don Pedro, that water right is being taken
5 away. I mean, there's people here speaking from
6 Palo Alto and other areas, but it's all water.
7 It's water that flows through the rivers.

8 It's water that sometimes there's no flow
9 in the rivers coming down because the snow pack
10 and everything else has been almost zero. It
11 doesn't seem like there's been a whole lot of
12 thought. I know the SED Report and everything
13 talks about a dry out year.

14 We recently had five dry out years, and
15 according to your plans that's several hundreds
16 of millions of dollars that would be lost to the
17 economic in the area. I love salmon. I'm all
18 for keeping the salmon, but I've heard plans --
19 because I wasn't up here the last time or when
20 you were down in Modesto, because I was in the
21 hospital. Otherwise, I'd a been there.

22 I was in Turlock when the CEQA thing was
23 going on, and I've been involved in some of the
24 other water issues, but there's a way to do all
25 and that's what I want to be looked at. I know

1 that our local MID, Modesto Irrigation, Merced
2 Irrigation, Turlock Irrigation, have come up with
3 plans that we can keep the salmon, keep the
4 native species and let's get rid of some of the
5 predatory species that are in our rivers that are
6 attacking the salmon before they have a chance to
7 get back to the ocean.

8 If we're able to get rid of the non-
9 native predatory species, then that would
10 eliminate some of the death of the salmon before
11 it gets back to the ocean. So thank you.

12 CHAIR MARCUS: Thank you, Ms. Hinton.

13 (Applause)

14 CHAIR MARCUS: Mr. Mammon. And please, I
15 know I'm saying your name and affiliation, but
16 please say it again just for the record. Good to
17 see you again.

18 MR. MAMMON: Good seeing you again. My
19 name is Roger Mammon. I'm the President of the
20 West Delta Chapter of the California Striped Bass
21 Association. I'm also a board member and past
22 president of the Lower Sherman Island Duck
23 Hunters' Association, and I'm a board member and
24 secretary of Restore the Delta.

25 I live in the West Delta in the City of
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1 Oakley. It's on the shores of the San Joaquin
2 River. I want to thank you for wanting to
3 increase flows in the San Joaquin River and
4 through the Delta. The question is whether 40
5 percent flows is enough.

6 Prior to large-scale export of water, the
7 Delta was a cornucopia of life. It was a living,
8 breathing organism, and now, it is gasping for
9 its very existence because it's being starved of
10 its lifeblood. Restrictions of natural flows is
11 like putting a tourniquet on your arm and waiting
12 for it to turn numb.

13 And what is your body telling you? It's
14 telling you it needs flows and oxygen to respond,
15 and that's what the Delta's telling us now,
16 because that's why it's the most studied waterway
17 in the world. We need flows, and we need to
18 revive it and put that -- put a transfusion back
19 in the Delta so it can heal.

20 I've fished and hunted in the Delta for
21 over 30 years, and when I first moved to the
22 Delta 30 years ago I was pretty excited, because
23 I thought the fishing was really great. And then
24 I started meeting other fishermen that were born
25 and raised in the Delta and they were 30 years

1 older than me.

2 And they would tell me about all the good
3 times they had fishing and hunting in the Delta,
4 but they stopped. And I said, well, why'd you
5 stop, and he says, because it's not like it used
6 to be. And that's a pretty sad state of affairs.

7 We can start breathing life back into our
8 Delta by putting water back into it and helping
9 it recover. Letting the lifeblood of the water -
10 - lifeblood of the Delta flow all the way out to
11 the ocean is good for the entire ecosystem, and I
12 hope you stand firm and do increase flows. Thank
13 you.

14 CHAIR MARCUS: Thank you.

15 (Applause)

16 CHAIR MARCUS: Ms. Fields, followed by
17 Mr. Kroll. Hello.

18 MS. FIELDS: Carol Fields. I live in
19 Berkeley. I've been in the Sierra Club for 50
20 years and I was born in San Diego. I want to
21 thank you very much for taking on the impossible,
22 which is to try to tinker around with an
23 ecosystem.

24 An ecosystem is extremely difficult and
25 complicated. And the word "cascade" was used;

1 couldn't be a better word. We have a terrific
2 series of cascades of ecosystems going on right
3 now, and an ecosystem, by the way, includes all
4 of us.

5 It's not over there somewhere. It's
6 right here. The air we breathe comes from other
7 creatures and plants, et cetera, than ourselves.
8 So we are intimately connected with the
9 ecosystem. So thank you very much. I think 40
10 percent flow is a good start.

11 I'm hoping we can just begin to salvage
12 certain parts, some of the ecosystem. We know
13 that the Delta's ecosystem can never be returned
14 to what it was before people were here, or maybe
15 I should say, before so many people were here.

16 Our ecosystem cascade is not only the
17 Delta itself that we're looking at immediately.
18 It's our population growth in the world and our
19 atmosphere. We are not separated from what's
20 going on in the atmosphere, and I know nobody
21 wants to hear certain words that start with "C,"
22 but the fact is, we are subject to it.

23 And I might point out that in this
24 particular case the fish, being on display here,
25 the fish are the -- they are just the canary in

1 the coal mine here. The answer upon seeing
2 what's happening to this canary is not to think,
3 you know, oh, I've got to get more water or
4 whatever it is.

5 The answer is to think, I'm next. I'm
6 next, and that's what fish are telling us. So
7 we've got to go a little further, which I just
8 want to go after the urgency part. And I know
9 this is a little bit repetitive, but in millenia
10 past, California had warming.

11 It was not caused by people. It was
12 caused by boreal warming. At that time there was
13 a 3,000-year drought, and the evidence of that is
14 in the lake sediments of the Sierras. In case
15 you're wondering if there is any evidence,
16 there's perfect evidence of that.

17 We cannot in our prognosis right now it
18 doesn't mention anything like that, but it says
19 it's not looking good, folks. Well, we don't
20 know that. Just we can't possibly know
21 everything that will happen in the future. I
22 would like to suggest quickly an alternative,
23 simply that we remember we're very high-tech
24 here, and what's happening around the world is
25 offshore wind being -- and temperature gradient

1 change being used to desalinate water and produce
2 lots and lots of energy, and the Navy has lots of
3 ships. Thank you.

4 CHAIR MARCUS: Thank you.

5 (Applause)

6 CHAIR MARCUS: Mr. Kroll, followed by Ms.
7 Johnson.

8 MR. KROLL: Hello --

9 CHAIR MARCUS: Hi.

10 MR. KROLL: -- Madam Chair, members --
11 can you hear me -- members of the Board. My name
12 is Christopher Kroll.

13 MR. CRADER: See if you can pick that mic
14 up.

15 MR. KROLL: This one?

16 MR. CRADER: The shorter mic.

17 MR. KROLL: Yeah. It sounds a little
18 funny. Is that better? I'm here today to
19 support your efforts to balance water use in the
20 State of California. It's much needed and I'm
21 very grateful to you and your staff for taking
22 this on.

23 We need to increase the flows in our
24 rivers, and I'm here to say I support your
25 efforts going forward. But I want to add, just

1 so I'm on the record along with everyone else, 40
2 percent is not enough. Your own science says 60
3 percent.

4 If we're going to restore, if we're
5 really going to protect our ecosystems -- and I
6 live at the bottom. I live in the Bay Delta, so
7 I'm part of the system, too. It's not just the
8 people in Turlock and Modesto. I am part of this
9 ecosystem, and so you represent me, as well.

10 It's not just the -- and yeah, I'm
11 looking at you. It's not just the farmers. It's
12 -- we are all -- you represent State of
13 California, and I am part of your constituency.
14 Climate change is a fact and it's going faster
15 and faster, and we are seeing more and more
16 evidence that drought is going to be ever more
17 harsh and ever longer.

18 A lot of coffee and a little nervous
19 here. Sorry. Lot of emotions, too. We all have
20 to adapt. We all have to adapt. Everybody who's
21 spoken today has to acknowledge that. I have to
22 adapt. Everybody in the State of California is
23 going to have to adapt to these change in
24 circumstances.

25 And some of us are going to go kicking
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1 and screaming, but we all have to adapt. The
2 facts are clear. Our current model of water use
3 does not work. A lot of the rules and law and
4 the regulations we're relying on were developed
5 in a different time, in the 19th century and
6 early 20th century. They no longer apply.

7 Y'all need to have the strength and the
8 courage, and it's going to be very hard to open
9 these up and change these. And I -- again, like
10 somebody else saluted you all five, maybe it's on
11 you. I don't know, but -- and the Legislature,
12 but it has to happen in the State of California
13 now.

14 I have a quote here from a farmer, a
15 Modesto farmer from the Sacramento Bee from
16 Sunday saying, "It's not their water. It's our
17 water." I beg to disagree. It's not his water.
18 It's not their water. It's our water. It's the
19 water of the people of the State of California,
20 the fish, everybody. It is not any -- it is not
21 one community's to claim this water.

22 (Applause)

23 MR. KROLL: The water belongs to all of
24 us. In the current system it's untenable and
25 needs radical change. I live in the Bay Area and

1 I see water waste every day. It is not just
2 incumbent upon the farming, agricultural
3 community to stop waste.

4 It is incumbent upon me and my neighbors
5 in the Bay Area, also. I see lawn in median
6 strips. I see people hosing down their
7 sidewalks. All that has to change. We waste
8 water, too, in the cities. That has to change,
9 and I hope that you are part of making that
10 change for us.

11 I'm not happy that my water district is -
12 - took -- East Bay MUD put their straw into the
13 Sacramento River. Anyway, I just want to close
14 by saying I urge you to move forward, focusing on
15 repairing our collapsing water system, and I
16 think a good start is what you're looking at
17 today, is restoring the flows in our rivers.
18 Thank you very much.

19 CHAIR MARCUS: Thank you.

20 (Applause)

21 CHAIR MARCUS: Ms. Johnson.

22 MS. JOHNSON: Good afternoon. Thank you
23 very much for allowing us this opportunity to
24 comment. My name is Janet Johnson. I'm from
25 Richmond and I'm married to -- I'm a transplant

1 from New York, but I'm married to a third
2 generation Californian.

3 His dad grew up on a farm in Visalia. So
4 I hear the farmers. I'm here in support of
5 Restore the Delta and the rights of nature. I
6 support your work to balance water use and
7 increase flows in the -- excuse me -- in the San
8 Joaquin.

9 As I read in Sunday's Bee, the river
10 system under consideration today has already been
11 over-appropriated. Science tells us that 60 of
12 the unimpaired flows need to be retained to
13 protect the Delta and its residents and its
14 economy.

15 We the people are relying on our state
16 government to adopt innovative solutions to
17 California's growing water crisis. We cannot
18 continue to apply out-of-date mechanisms to
19 protect our dwindling supply of fresh water in
20 the face of accelerating climate change.

21 At a minimum, we need to conserve and
22 educate, repair our aging infrastructure, address
23 the general population's wasteful use, as Chris
24 enumerated, wasteful use of our shared water
25 resources. And face it, no new agricultural

1 expansion of water intensive crops.

2 Our children, our grandchildren and the
3 generations to come are relying on you. Think of
4 your legacy. Be a good ancestor. Thank you,
5 again.

6 CHAIR MARCUS: Thank you.

7 (Applause)

8 CHAIR MARCUS: I think you may have quote
9 of the day already. I've never have had -- thank
10 you. Next five, Barry Day, and that's the slide,
11 if you put the slide back up per his request.
12 Barry Day, commercial fisherman, Teresa Hardy,
13 Sierra Club, Noah Oppenheim from PCFFA, Chris
14 Gilbert and Jim Cox from the California Striped
15 Bass Association.

16 MR. DAY: Hi. I was just looking at that
17 before there, and if you look at the top of the
18 river systems you'll see a dam, which basically
19 stopped the salmon traveling any further. You'll
20 see big reservoirs we got there to save our
21 water, and you know, feed ourselves, but the
22 salmon haven't got a reservoir and we're nibbling
23 what's left down the bottom there pretty
24 drastically.

25 As a commercial fisherman I sort of --
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1 and my era as Roosevelt, look what he left, you
2 know, with all the parks and systems. I do kill
3 for living, but you know, I love putting back.
4 If I don't put back, nothing will survive.

5 And listening to all this today, really,
6 all we're doing at the moment to save the salmon
7 is the net pens, et cetera, in the ocean, where
8 we're transporting them down the rivers because
9 they won't survive, because of the flow, or we're
10 barging them and releasing them at the Golden
11 Gate, and that is basically keeping our industry,
12 recreational and/or commercial, alive and it's
13 still the mission.

14 We're the bottom of the ladder here, as
15 Don mentioned before, you know. We can -- you
16 know -- Resnicks and people like that are mega-
17 gods in terms of negotiating, and who have we got
18 to negotiate for us. And in saying that, who
19 have we got to negotiate -- who have the salmon
20 got to negotiate for.

21 But my point being here, with that river
22 system -- excuse me -- in saying that, the 40s
23 and the numbers I'm hearing here is, they're
24 numbers. What I'm seeing here is we got a pie.
25 It's a piece of pie and you guys have got to

1 divide it up with the here, there -- and the
2 there, but in all honesty, as I sit here today I
3 thought, my gawd.

4 I heard the councils come up here from
5 inland, and of course they got to survive and
6 they fighting. Okay. And this whole game's
7 about money and that's what it's about, and what
8 have we got going through that goddam lands? A
9 frigging rail system with billions of dollars,
10 which should be here, okay.

11 What are we going to do with that rail
12 system? Look at the dissonant lands. What is
13 the end result of what we're doing now with their
14 water system? We're not going to stop breeding.
15 There's going to be more of us popping up. We're
16 going to need more nuts and acorns and grapes and
17 we're going to need it all.

18 What model have we got for the future?
19 Have we got a model to say, what will the
20 population be in 50 years' time? How much
21 production will we need and how much water? And
22 I guess I better shut up at that point and let --

23 CHAIR MARCUS: That was getting
24 interesting, too.

25 (Applause; laughter)

1 CHAIR MARCUS: Ms. Hardy, followed by Mr.
2 Oppenheim. I'm sorry. I would love to have a
3 conversation with everybody. I just can't,
4 because I'm trying to get through you and not
5 have to cut people to two minutes. If you can do
6 it in two minutes -- some people can be very
7 effective in one -- go ahead, but I think we can
8 make it with three. Be a long day, but we can do
9 it.

10 MS. HARDY: I'm Teresa Hardy and I'm here
11 from the Sierra Club, Bay Chapter Water
12 Committee, and I'm here to say that we also
13 support freshwater flows, and that we also
14 support protecting the San Francisco Bay Delta
15 and many of the communities that depend on those
16 rivers.

17 And as I have been listening, because I
18 was -- I've lived in the Bay Area for many years,
19 the two speakers just previously -- two speakers
20 were talking about what can we in the urban areas
21 do, and I know that water agencies in the urban
22 areas are looking at their infrastructure and
23 what can they do to mitigate the loss of water
24 that they're using.

25 So I think that's important, and I also
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1 think it's important what can just the average
2 city person do. But as I sat there, and I was in
3 the second row and the two people next to me were
4 the Native Americans, and it made me reflect on
5 that I taught elementary school for over 35 years
6 and I taught fourth grade.

7 And when I first started teaching I
8 taught fourth grade and the curriculum in fourth
9 grade for social studies was California. And so
10 I spent many of my summers out enjoying rafting
11 and camping so that I could go back and really
12 talk to my students about the beauty of
13 California.

14 And as I listened to those Native
15 Americans speak it reminded me of one of the
16 first adoptions that we had, which said that the
17 Native Americans' philosophy was take what you
18 need and need what you use. And the word here
19 that really came up for me was the word "need,"
20 n-e-e-d, and we're all talking about that.

21 Who needs what? And they talked about
22 that we need to care about the environment. We
23 need to care about our water, our air, our land.
24 And I think as you have the important task, as so
25 many people have been saying, of looking at who

1 needs what, I think at the heart of that we have
2 to go back to what the Native Americans'
3 philosophy was and we really have to think what
4 really are our needs, and what can we do to
5 protect California and the beauty and the
6 richness that California has had for many years.

7 As I drove down from Vancouver to come to
8 this meeting I went through Redding and I stopped
9 at a gas station, and the guy said there for two
10 and a half weeks they've seen no sky. It's smoky
11 and gray. And at the beginning they gave out 100
12 masks to people that were stopping at the gas
13 station.

14 We need to care. You need to be the
15 people that sets the limit. So remember, it's
16 the environment. Thank you.

17 CHAIR MARCUS: Thank you.

18 (Applause)

19 CHAIR MARCUS: Mr. Oppenheim, followed by
20 Chris Gilbert, followed by Mr. Cox.

21 MR. OPPENHEIM: Thank you, Chair Marcus,
22 members of the Board. My name's Noah Oppenheim.
23 I'm the Executive Director of the Pacific Coast
24 Federation of Fishermen Associations,
25 representing 750 commercial salmon fishermen,

1 their families and their port associations,
2 working hard to provide public trust, fisheries
3 resources for you and the people of California.

4 I applaud the fact that we are moving
5 this process forward. It's been 23 years in the
6 making and it's an incredible challenge. So
7 thank you for taking the time and for staff for
8 taking the effort and bringing your expertise to
9 bear in this.

10 That said, our organization is opposed to
11 the plan amendment changes, particularly those
12 outlined in Appendix K. They do not sufficiently
13 protect fish and they do not sufficiently reflect
14 the staff science that makes it clear that 50 to
15 60 percent of unimpaired flow is required in
16 order to restore public trust fisheries
17 resources.

18 We're also strongly disappointed in the
19 fact that you've delayed the vote because of a
20 politically compromised request to consider the
21 voluntary settlement agreements that we have not
22 yet seen. We --

23 CHAIR MARCUS: With all due respect,
24 there are lots of reasons to delay, so we can sit
25 here today and really listen and then ponder how

1 to come back. There are multiple reasons to do
2 it. We do it all the time on complicated issues.

3 I understand a lot of people feel that
4 way, yes, but I made the call and it was -- I
5 thought it'd be helpful sitting here being able
6 to really listen to people.

7 MR. OPPENHEIM: We would have strongly
8 appreciated -- thank you for the comment, Chair
9 Marcus -- we would have strongly appreciated
10 being able to consider any SED, any voluntary
11 settlement agreements before speaking and
12 spending so much time today interacting with you
13 and engaging.

14 The fact that it's likely that those
15 terms will be discussed later in this hearing
16 makes it challenging for us to be able to engage
17 in a transparent and informed way.

18 CHAIR MARCUS: We would not be able to
19 consider any agreements without having a
20 conversation with people.

21 MR. OPPENHEIM: Understood. We strongly
22 encourage you, if VSAs are brought forward, to
23 only accept any agreement if it more stringent
24 with respect to instream flow than the proposal
25 that you are considering today. So with that

1 said I'll simply conclude with a statement that I
2 am impressed that there's been so much political
3 support for the San Joaquin Irrigation Districts.

4 There has been a lot of energy brought to
5 bear. If the same energy was brought to bear 50
6 or 60 years ago when we had learned or we knew
7 that we were going to lose 90 percent of our
8 industry's strength, I would hope that we would
9 have been able to bring the same energy to bear.

10 That said, those are the mistakes of the
11 past, and I commend your effort to attempt to
12 remediate them. Thank you very much for your
13 time.

14 CHAIR MARCUS: Thank you.

15 (Applause)

16 CHAIR MARCUS: Mr. Gilbert, followed by
17 Mr. Cox.

18 MR. GILBERT: My name's Chris Gilbert.
19 I'm from the Bay Area. I work with the Sierra
20 Club there, and helped others like Peter and Ben
21 and Sonia and Heinrich and others really work
22 with the Bay Area to see what we can do there to
23 support you in your plan to increase flows.

24 And in spite of the SFPUC not being too
25 excited about it, we've learned through polls and

1 other ways that the people in general support the
2 idea. Unfortunately, water agencies, I've found,
3 think pretty much alike, whether they're from the
4 most liberal San Francisco or from the Valley.

5 Understandably, that's their job, to make
6 sure there's water, but our job is to make sure
7 that California thrives. So I don't have a lot
8 to add. I'm not going to talk for a long time.
9 I second the increased flows; very important.

10 I can't imagine how you can call a river,
11 a river if it's less than 40 percent. I mean,
12 it's San Joaquin -- is a 60 miles of dry San
13 Joaquin still a river? I don't know.

14 CHAIR MARCUS: They're working on it.

15 MALE SPEAKER: On the map?

16 MR. GILBERT: Two things -- just reading
17 the -- scanning the news today -- that scare me,
18 Zinke scares me. He's saying not only keep the
19 status quo, but bring more water to agriculture.
20 I mean, if people buy into that there's no
21 credibility on the other side.

22 The second thing that bothers me are the
23 Orcas that are dying off Puget Sound. They are
24 dying from malnutrition. They're dying from the
25 lack of salmon. So it's not just the smelt.

1 It's not just the salmon. It's a bigger system,
2 you know. So you got to take care of it all.

3 I mean, I almost hate to hold up a sign
4 saying, save the salmon, because that's not it.
5 It's the entire system, you know. So that's all.
6 Thank you.

7 CHAIR MARCUS: All right. Thank you.

8 (Applause)

9 CHAIR MARCUS: Mr. Cox.

10 MR. COX: Hi. I'm Jim Cox, and I'm State
11 Board President for California Striped Bass
12 Association. I've fished the Delta. I've fished
13 the areas that you're talking about for over 35
14 years, and I could say that in that time period
15 it has just gone downhill drastically.

16 And the bulk of that is the contaminants
17 in the water that are not being flushed out. I
18 would like to endorse everything that the
19 Baykeeper gentleman told you. That was some of
20 the best information I've heard here today. But
21 -- and even one of your own charts shows the
22 answer.

23 And when you showed the chart with the
24 salmon returns versus the amount of water flow,
25 that applies to every specie of fish in the

1 Delta. That's not just salmon. That's
2 everything, from striped bass to steel head to
3 salmon, to sturgeon. Everything thrives in high
4 water flows, and I think 40 percent isn't enough.

5 When you've heard many people say that 60
6 percent is a threshold, 60 percent is the
7 threshold where it goes down. We -- you are
8 saying at 40 percent, well, we're just going to
9 make it not as bad for a few years. You're
10 making it as bad, as 40 percent still contributes
11 to the problem.

12 We need more to come back, and I don't
13 see how anybody could say they would be against a
14 cleaner Delta. It helps everybody from water to
15 -- from water users to recreation to --
16 everything thrives on a clean and healthy Delta.

17 And I could clearly see from this meeting
18 that Mark Twain had it right, that water's for
19 fighting and whiskey's for drinking. So I hope
20 you make a good decision, because after waiting
21 23 years for this to be improved, 40 percent is
22 not enough.

23 Will we have to wait another quarter of a
24 century to get a review again? So I think you
25 need to look to the future, as well, that this is

1 not -- this is -- at 40 percent it's a stopgap.
2 It's not a solution. A solution is above 60
3 percent. Thank you very much.

4 CHAIR MARCUS: Thank you. The next five
5 and we'll take a short -- what. Oh, sorry. Go
6 ahead.

7 MR. ESQUIVEL: Yeah. Just as --

8 CHAIR MARCUS: I apologize.

9 MR. ESQUIVEL: -- the Board's only
10 English major, I have to --

11 CHAIR MARCUS: Fish.

12 MR. ESQUIVEL: -- correct that. That's a
13 mis-quote, because --

14 CHAIR MARCUS: Oh, yeah.

15 MR. ESQUIVEL: -- I didn't actually make
16 the quote. But the endurance of that quote
17 speaks to I think the reality.

18 CHAIR MARCUS: Change it to, as Mark
19 Twain allegedly said.

20 (Pause)

21 CHAIR MARCUS: That's true, if it's not
22 on a T-shirt. The -- and I'm sorry if I'm not
23 reading this right. I'm going to do the next
24 five and then we'll take a short break. Tania
25 Sole; I have that right? Gail Sredanovic,

1 Charlotte Allen, with the Sierra Club, David
2 Zelinsky, also from the Sierra -- Sierra Club, a
3 lot of people, and then Nina Gordon Kirsch. And
4 then we'll take a very short break.

5 MS. SOLE: Hello. I am Tania Sole, a
6 resident of Dock Town in Redwood City. I am here
7 today to urge the Board to support proper water
8 flows in California's rivers and deltas, because
9 this is critical for the environment,
10 biodiversity and the full circle of life.

11 I strongly support Alternative 4 for 60
12 percent flows. While you may be tempted to make
13 your decision based on the needs of a current,
14 local population and their needs, you should
15 instead consider the needs not just of present
16 California communities, but as a number of
17 speakers have mentioned, future generations.

18 Yes, water conservation has to become a
19 permanent way of life, but to really solve the
20 problem what really needs to happen is a complete
21 restructuring of water rights to reconsider not
22 only residential usage, but even more-so,
23 agricultural usage, in particular, four
24 agricultural issues.

25 Three are, given what we know now, just
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1 plain common sense. The fourth has political
2 implications which may make some people
3 uncomfortable. First of all, growing too much
4 food that the commodity price is so low that
5 Americans over-buy food, and 25 percent of food
6 that is purchased is wasted before it is even
7 eaten, makes the water used to produce that food
8 an extremely wasteful use of a finite resource.

9 Secondly, eating too much food, because
10 food is over-produced and so the commodity price
11 is so low that people eat too much, get fat and
12 get sick, leading to high healthcare costs, means
13 the water to produce that food is not only
14 wasted, but extremely expensive in the long term.

15 Thirdly, producing food that
16 disproportionately needs a large amount of water,
17 like the much written about almonds, when water
18 is limited and instead should be reserved for
19 less water-intensive food production, is also
20 really wasteful.

21 Finally, as I noted above, the social
22 political implications of food produced in a
23 country or regional of artificially low water
24 prices for export and consumption in a country
25 with much higher water cost is borderline

1 unethical and really needs to be considered in a
2 much larger context.

3 In conclusion, Alternative 4 for 60
4 percent flows will allow maintaining sufficient
5 water flows that will preserve and improve our
6 biodiversity, and is an imperative when you
7 consider every Californians' children and
8 grandchildren's needs. Anything less than that
9 will actually make the overall ecological system
10 worse. Thank you.

11 CHAIR MARCUS: Thank you.

12 (Applause)

13 CHAIR MARCUS: Ms. Sredanovic, followed
14 by Ms. Allen.

15 MS. SREDANOVIC: Hi. Thanks for taking
16 this time to listen to us. It's interesting that
17 you're proposing something that falls
18 significantly short of the scientific
19 recommendations, and therefore, as I understand
20 it, falls far short of your legal obligations to
21 maintain adequate water supply for fish.

22 And yet, people are coming in yelling at
23 you and threatening you. I'm not going to
24 threaten you.

25 CHAIR MARCUS: Thank you.

1 MS. SREDANOVIC: I am Co-Chair of the
2 Social and Economic Justice Task Force of San
3 Mateo County, Democracy for America. So I'm very
4 concerned about everybody's job and everybody's
5 welfare. However, our club and myself, we also
6 fully endorse the goals of Restore the Delta, and
7 those who want a 60 percent solution or the
8 fourth alternative.

9 Anything less sells our children's future
10 short. I would point out that I've been around
11 longer than most of you have. I don't think you
12 would argue with that, and I remember when
13 Bayshore smelled so bad that it was a metaphor.

14 You would say pew Bayshore. Wiser people
15 did something about that and cleaned it up. I
16 remember when there were -- I've seen the written
17 proposals to build over San Francisco Bay and
18 leave only a channel in the middle, and wiser
19 people stepped in and that didn't happen.

20 We've done a lot of damage. We have a
21 lot to correct. Your 40 percent solution, wow,
22 folks, that's just a little improvement, okay.
23 It's better than nothing and I know you're doing
24 your best, but I say that you have to bear in
25 mind that while agriculture gets between 60 and

1 80 percent of the managed water supply, it
2 produces two to three percent of the DDP in the
3 State of California.

4 Cities and farmers have been known to
5 conserve water significantly without any harm to
6 their business interest. There was a
7 jurisdiction in the South San Joaquin Water
8 District that used a pressurized irrigation
9 system that reduced their water use by 30 percent
10 while increasing crop yields by 30 percent.

11 I would also point out that when the
12 Metropolitan Water District voted, as water
13 districts are prone to do, in support of a very
14 controversial water project that was projected to
15 bring lots of water or secure their water supply,
16 the representatives from the jurisdictions of the
17 major population centers, Los Angeles and San
18 Diego, opposed this vote.

19 I didn't know if you knew that. That was
20 a surprise to me. And in San Diego County the
21 newspaper said, "We continue to reduce our
22 reliance on mid-Metropolitan Water District and
23 the Bay Delta through a successful decades long
24 water supply diversification strategy."

25 That's where we got to go. Thanks for
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1 your time. Our future and our children's future
2 is looking to you. Thank you.

3 CHAIR MARCUS: Thank you.

4 (Applause)

5 CHAIR MARCUS: Ms. Allen, followed by Mr.
6 Zelinsky.

7 MS. ALLEN: Hi, Board. I'm Charlotte
8 Allen, speaking for Sierra Club, California. I'm
9 a member of the Steering Committee for the
10 California Conservation Committee and a co-chair
11 of the State Water Committee. And I'm sure you
12 know by now that the Sierra Club, although they
13 advocate for the 60 percent flow targets, they
14 also are really proud of you for stepping out and
15 advocating the 40 percent targets in this
16 proposal.

17 So since you already know that, I hope
18 you don't mind if I take this --

19 CHAIR MARCUS: Actually, I didn't.

20 MS. ALLEN: Well, now you know.

21 CHAIR MARCUS: I was expecting equal
22 brick bats all day. That's sort of what it's
23 felt like for the past --

24 MS. ALLEN: We are very proud of you. I
25 hope you let me take this opportunity to speak to

1 all the working people in the room today,
2 especially the working people from the Central
3 Valley. The opponents of the river flows under
4 discussion say that this is a water grab by the
5 state that will have devastating impacts on the
6 Central Valley's economy.

7 But as someone we know says all too
8 frequently, that's just fake news. The facts are
9 that these flow targets are designed to make sure
10 there's enough water in the San Joaquin River to
11 keep the chinook salmon alive, along with the
12 birds, frogs and other critters who depend on our
13 California rivers.

14 Just like most of us, the salmon are
15 struggling to survive. Now, powerful and wealthy
16 agricultural families and their political allies
17 tell us that these endangered fish are
18 responsible for our economic problems. That's
19 fake news, too, because even with access to all
20 the water in the river, Foster Farms, who's the
21 biggest employer by far in Merced County, doesn't
22 pay its line workers enough to afford a two-
23 bedroom apartment in Merced. This in spite of
24 the fact that the Foster family has a net worth
25 of approximately \$1.3 billion.

1 And then there's Gallo, who by far is the
2 biggest employer in Stanislaus County. Gallo, as
3 you might know, has a long history of trying to
4 decertify the United Farm Workers Union, because
5 they don't want to pay their field workers a
6 living wage. This, even though Gallo is the 25th
7 richest family in the U.S. with a net worth of
8 \$11 billion.

9 Pitting groups at the bottom of the
10 social and economic ladder against each other is
11 a tactic that's been used for hundreds of years,
12 maybe longer, to maintain and increase the wealth
13 of the tiny group at the top. The only thing
14 different this time is that the people at the top
15 have found a new and even more vulnerable
16 scapegoat to distract attention from their piles
17 of cash.

18 Don't be fooled when they try to blame
19 our struggles to survive in this economy on the
20 fish and birds and frogs who need river water
21 just to survive. If we think clearly for a few
22 minutes, we'll realize who's really responsible
23 for our economic problems, and it's not the fish.

24 CHAIR MARCUS: Thank you.

25 (Appause)

1 CHAIR MARCUS: Mr. Zelinsky, followed by
2 Ms. Gordon Kirsch.

3 MR. ZELINSKY: Hi. David Zelinsky. I
4 wear a couple different hats. I'll start off as
5 vice-chair for the Mother Lode Chapter of the
6 Sierra Club. My son is in charge of the salmon
7 mitigation on the old Columbia/Snake River
8 System. He works for the Bonneville Power
9 Authority.

10 So I do support unimpeded flows for
11 salmon. Also, I happen to like eating them.
12 Now, maybe the next hat I'll wear is I'm also the
13 designated schmoozer for the Placerville Natural
14 Foods Co-Op and --

15 CHAIR MARCUS: Designated schmoozer. You
16 have a card?

17 (Laughter)

18 MR. ZELINSKY: Yeah. I'll make one for
19 you.

20 CHAIR MARCUS: Yeah.

21 MR. ZELINSKY: And so I want to assure
22 everyone here that they're -- everyone's right,
23 and your grandmother would appreciate that and
24 she would say, David, they've said diametrically
25 opposed things. And I would look at her -- and

1 they can't all be right -- and I'd say to her,
2 you're right.

3 So anyway, thank you. That was for you.
4 And then so let's -- but on the ag side, let's go
5 50-40-10 instead of 80-20. So it's right --

6 CHAIR MARCUS: Yeah, that's the other
7 pie.

8 MR. ZELINSKY: -- you see where I'm
9 saying, yeah.

10 CHAIR MARCUS: Yeah.

11 MR. ZELINSKY: It's right to say 80
12 percent of the, shall we say impaired flow or
13 taken flow --

14 CHAIR MARCUS: Managed; managed water
15 flow.

16 MR. ZELINSKY: -- managed flow is the
17 right word.

18 CHAIR MARCUS: There are two pies.

19 MR. ZELINSKY: But 50 is -- yeah -- you
20 know what I'm -- where I'm going.

21 CHAIR MARCUS: Yeah.

22 MR. ZELINSKY: All right.

23 CHAIR MARCUS: No, 50-40-10 is one a lot
24 of people prefer in agriculture.

25 MR. ZELINSKY: All right. Now, here, now
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1 will just be me. So I've got family ties to
2 Tuolumne County, Calaveras County, Mariposa
3 County, Merced County, Stanislaus County and San
4 Joaquin counties. I will call those riparian
5 communities, okay.

6 So I'd like to speak to the non-riparian
7 communities, those communities that shall not be
8 named. I would like to see them have a complete
9 and total building moratorium. You're totally
10 built out. I'd like all your toilets to be low
11 flush, all of your faucets flow restricted.

12 I'd like you to ban hosing off your cars
13 and sidewalks. Like you to rip out your lawns,
14 empty out every pool and hot tub. Then when all
15 of that is done, then I would like you to
16 implement the decision you're about to make on
17 the free flows.

18 So that way, everyone comes out a winner.
19 So adopt it and then make the effective date when
20 the rest of them conform. Thank you.

21 CHAIR MARCUS: Thank you. I get it. I
22 get it.

23 Ms. Gordon Kirsch. Ma'am, what -- yeah,
24 it's interesting.

25 MS. KIRSCH: Hi. Thank y'all for being
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1 here today. I really appreciate the opportunity
2 to speak, and I appreciate all the work you've
3 put in thus far to the revisions. My name is
4 Nina Gordon Kirsch. I'm a volunteer with Friends
5 of the River, but today I'm coming to you from
6 the Sunrise Movement, which is what my crest is.

7 And it's a movement of young people
8 across the United States and I'm one of the
9 California chapter leaders, and we're organizing
10 young voices around environmental justice issues.
11 A year and a half ago I came to Modesto and spoke
12 in front of you, and then two weeks later came
13 here to support a friend of mine to speak in
14 front of you, and I'm still here today, a year
15 and a half later, because I'm still going to be
16 here in 40 years.

17 I'm still going to be here in 50 years
18 and in 60 years, and so are the thousands of
19 young people that I'm here representing.

20 CHAIR MARCUS: I will not be. Sorry.

21 (Laughter)

22 MS. KIRSCH: Hence, Sunrise Movement.

23 CHAIR MARCUS: It's good you're in this,
24 yeah.

25 MS. KIRSCH: Yeah. After undergrad I
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1 went to Israel on a Fulbright Scholarship and I
2 studied wastewater reuse for irrigation purposes.
3 Israel reuses 86 percent of their wastewater for
4 irrigation. Australia's the next up with about
5 30 percent, and Spain and Turkey follow with 10
6 to 20.

7 The United States is less than one
8 percent, California being a part of that. I'm
9 really proud of Modesto and Turlock and San Diego
10 for all really delving deep into wastewater
11 reuse, and I think that's a huge industry and I
12 think that's where California should be putting
13 more of our energy and resources, to alternative
14 solutions, to aquifer recharge, to wastewater
15 treatment and reuse, to drip irrigation practices
16 and to teaching conservation to the next
17 generation and to all of society.

18 So what I'm here today to say is that 50
19 percent is the minimum. At least do 50. We need
20 water. In 40 years from now I want there to be
21 water. In 50 years from now I want there to be
22 water. Please keep water where it's supposed to
23 be, in the rivers and with Mother Earth. Thank
24 you.

25 CHAIR MARCUS: Thank you. All right.
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1 We'll now take a break until 3:20. I suggest
2 trying to get snacks and other things. I'll take
3 another break around or before 6:00 o'clock,
4 depending on where we are, and I may give folks a
5 chance just to do, "me toos."

6 I shouldn't say that so fast, because
7 then I was going to read off the next five, but
8 it's not going to work. People really wanted to
9 go.

10 (Off the record at 3:05 p.m.)

11 (On the record at 3:23 p.m.)

12

13

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

15

16 CHAIR MARCUS: We're back. We're back. We're
17 back.

18 Testing.

19 UNIDENTIFIED SPEAKER: There you go.

20 CHAIR MARCUS: Calling Bob Dobalino (phonetic).
21 Sorry.

22 I can't turn it up to 11 or I would. Sorry.

23 UNIDENTIFIED SPEAKER: (Unintelligible) hang out
24 in the lobby and wait for a limo.

25 CHAIR MARCUS: All right. I'm sorry. I ended up

1 saying we were breaking, and people were so eager that I
2 didn't do the next five.

3 Again, I want to -- I haven't been really harsh
4 on the drop off because people have been -- hello.

5 UNIDENTIFIED SPEAKER: (Unintelligible.)

6 CHAIR MARCUS: Can somebody whistle? I cannot.

7 (Whistling.)

8 CHAIR MARCUS: Thank you very much.

9 UNIDENTIFIED SPEAKER: Thank you.

10 CHAIR MARCUS: So, we're back -- that was kind of
11 a cool one.

12 We're back. It's 3:24. Again, I want to
13 encourage people, you don't have to use your whole three
14 minutes. It is helpful to listen to you.

15 At this rate, unless I don't -- we will not be
16 here until 9:00. We'll probably be here between 6:00 and
17 7:00.

18 If folks keep on their numbers or less -- still
19 I'm just taking them in order, except the people who have
20 asked to be moved up.

21 And I only have one of the groups that asked for
22 more time that could speak today, and I would encourage
23 that, and that would be Merced Irrigation District. And
24 I'd say be ready somewhere between 4:00 and 5:00 to do
25 that. And if you do want to go tomorrow morning, I can

1 do it before noon, as the request. I just think we could
2 definitely do that today.

3 So, in order, I now have an elected official.
4 I'm sorry that it didn't get just spotted by folks. But
5 Modesto Irrigation District Director Larry Byrd.

6 So sorry about that, sir.

7 Followed by Susan Kishler and Les Kishler, who
8 have returned, followed by Deanna Wulff, followed by
9 George Hartmann.

10 Hello.

11 MR. BYRD: Hello.

12 CHAIR MARCUS: And you've been here all day.
13 Thank you so much.

14 MR. BYRD: I've been here for years.

15 CHAIR MARCUS: I know. I know. And you have one
16 of the shirts I want to buy, too.

17 MR. BYRD: Oh, do you want to buy -- I'll give it
18 to you, here.

19 (Laughter.)

20 UNIDENTIFIED SPEAKER: The shirt off his back.

21 MR. BYRD: So, I am Larry Byrd with the
22 Modesto Irrigation District. And I'm a cattle rancher on
23 the east side of Modesto.

24 I will say that, first of all, I wanted to
25 correct a few things.

1 I kind of feel sorry for Palo Alto now because
2 they might run out of water because they come from the
3 City and County of San Francisco. So that's going to be
4 interesting to see all those smart people over there run
5 out of water. And then I wonder if they know where their
6 food comes from. Maybe that plastic bag down at Safeway.
7 I'm not sure about that either.

8 One more thing I would like to correct is,
9 dryland farming in Stanislaus County hasn't planted an
10 almond tree since 2014.

11 CHAIR MARCUS: Hum, interesting.

12 MR. BYRD: So, I wanted to get that --

13 CHAIR MARCUS: That's fine.

14 MR. BYRD: I wanted that corrected.

15 There hasn't been an almond tree planted in
16 dryland farming in Stanislaus County since 2014.

17 Those are just some of the -- I'm sure these guys
18 just made a mistake. That's all. They didn't mean to
19 say that.

20 I've been on the negotiating or settlement group
21 committee, like Michael Frantz had been, for a long time.
22 And then we changed faces, because during that period, we
23 got nowhere. I feel like that we were a little abused in
24 that process because we had a lot on the table, and
25 nothing was given to us on the table. There was no

1 negotiation. It was like -- we felt like we were
2 negotiating against ourselves. So, we changed faces.

3 We decided let's change -- in a board meeting, we
4 decided to do this -- let's change faces. Maybe they
5 don't like you in there, Larry. We don't know.

6 But what we did -- that's kind of a joke, too. I
7 made friends and contacts with people on the other side,
8 Fish and Wildlife and NEMPS (phonetic) and American
9 Rivers, but to no avail.

10 There was never -- there was never any discussion
11 where there was anything -- 40 percent unimpaired flow
12 never changed. But we offered up -- which is an overlap
13 of our FERC re-licensing -- \$160 million between the two
14 districts for restoration programs.

15 Restoration does work according to Tuolumne River
16 Conservatory. According to the Tuolumne River
17 Conservatory, restoration does work. And they
18 have -- they have a restoration project on the river
19 right now that I've toured, and they're telling me it's
20 effective. It actually borders me, because I border
21 seven miles of the Tuolumne myself.

22 CHAIR MARCUS: Oh.

23 MR. BYRD: So, I'm very entrenched in that
24 Tuolumne River and know what's happened there.

25 I also -- I'm running out of time. I also ran

1 fish flows in that river for 25 years for the district;
2 so, I understand the water temperature, the fish flow,
3 and what makes it work for those fish to come up and not
4 come up.

5 And I can give you examples, but it's too late in
6 the game right now.

7 Thank you for pushing me up so I can get this
8 done today. And just, hopefully, that you guys take this
9 pretty serious because this will have a monster impact on
10 the valley. And, actually, it will have a monster impact
11 on all the people that eat our food, also.

12 Thank you.

13 CHAIR MARCUS: Thank you very much. And thank
14 for you for spending all the time. And I'm sorry we
15 didn't get to you earlier, but I'm glad you were here to
16 listen.

17 Ms. Kishler, followed by Mr. Kishler.

18 MS. KISHLER: Hi. My name is Susan Kishler, and
19 I'm here speaking for myself.

20 And I'm a lifelong resident of the shores of the
21 San Francisco Bay. I've seen tremendous efforts bear
22 fruit to clean up the bay to stop the constant infilling
23 and improve the wetlands.

24 And it seems to me that decreasing the inflows to
25 the bay and decreasing your salinization standards at the

1 same time cannot avoid sending us over the tipping point
2 to the death of the bay and the Delta, which are a
3 tremendous economic boon to the entire region holding
4 millions of people and invaluable to our quality of life.

5 So, please, consider your actions very, very,
6 carefully.

7 Thank you.

8 CHAIR MARCUS: Thank you.

9 Mr. Kishler, followed by Ms. Wulff.

10 MR. KISHLER: Hello. My name is Les Kishler.
11 I'm a taxpayer. I'm in the Santa Clara Valley Water
12 District.

13 Jack London, on Page 1 of his book [sic],
14 The Call of the Wild, called Santa Clara Valley, "The
15 Valley of the Heart's Delight."

16 After many years of development, some say too
17 much development, it is now called Silicon Valley.

18 I backpacked for 40 years in the High Sierras,
19 often in the headwaters area of the San Joaquin River.

20 One of the threats to the San Francisco Bay and
21 Delta is diversion of water from the San Joaquin. This
22 export of water over the years has harmed the bay and the
23 Delta.

24 The second threat to the bay and Delta are
25 Governor Brown's mega tunnels that would reduce flow to

1 the bay and the Delta from the Sacramento River.

2 Therefore, the bay and the Delta are caught in
3 the middle of these two threats.

4 The water from Sierra snowmelt is a finite
5 resource. But the demands of corporate, export
6 agriculture, and development in Southern California and
7 in the -- Northern California are never-ending and
8 unsustainable.

9 It is important that the State Water Board
10 recognizes this problem and, no doubt, does. The State
11 Water Board has the power to end further reduction in the
12 already insufficient flow of water to the bay/Delta. It
13 is important that the State Water Board ends further
14 damage to this very important ecosystem by avoiding any
15 further reduction in water reaching the bay and the
16 Delta.

17 Thank you.

18 CHAIR MARCUS: Thank you.

19 Ms. Wulff, followed by Mr. Hartmann.

20 MS. WULFF: Hi. I'm Deanna Wulff, and I used to
21 work for a paper called Bilingual Weekly, which you've
22 never heard of it and no longer exists.

23 But when I worked there, they let me write on
24 whatever I wanted to write on. And, so, I was very
25 interested in water policy, because I'm a glutton for

1 punishment.

2 And the first question I had was: How much water
3 has to go back into the Delta ecosystem so that we can
4 have thriving wildlife and fish? Which turned out to be
5 a really challenging question and resulted in me tearing
6 my hair out a few times.

7 But I worked really hard on that. I dug in. I
8 talked to and interviewed a lot of scientists and was
9 able to get -- this was several years ago -- to get, you
10 know, a general consensus that we had to put about
11 50 percent back in, 50 percent of what we were using, at
12 least.

13 So, the next question was: Can we even do that?

14 So that was my next series of stories. And I
15 went -- you know, again, I dug in. I even went to
16 Los Angeles. And I went to a super sewage reprocessing
17 plant that was making this into drinking water, and I
18 drank some of that sewage water, in fact. It tasted
19 fine.

20 CHAIR MARCUS: That's pretty good stuff.

21 MS. WULFF: Yeah.

22 Anyway, I also visited people at their homes who
23 changed from having green lawns to, you know, native
24 plant species.

25 I went to the Central Valley, and I visited an

1 irrigation district that was putting in new flume
2 technology which, just delivering water on time to
3 farmers, resulted in a 10 percent savings.

4 And then I went to the west side and met a
5 west-side farmer that had put in all this drip irrigation
6 and was experimenting with salt-tolerant plant species.

7 So, in short, I met all these incredible people,
8 these heroes, that were doing the right thing because
9 they want to make the world a better place -- and
10 organizations as well. And it was very inspiring to me.

11 But the larger question was: Are we doing this
12 on a bigger scale? And the answer is: No, we are not.
13 We're not doing it on a big enough scale.

14 So, the last story really for me was: Well, why
15 not? Well, that's a pretty complicated question to
16 answer, right? It's a mixture, though, of sort of the
17 lesser human traits, you know: Power, unwillingness to
18 change, and the difficulty of change.

19 And the only way that people are going to change
20 is if you set the standards where they need to be. And I
21 know that's a hard thing to do.

22 So, I hope you will keep those heroes in mind,
23 those people that are willing to give things up in order
24 to have a better place, not just for themselves, but for
25 everyone else.

1 And I hope you'll keep that courage and spirit in
2 mind when you make decisions to protect the estuary.

3 Thank you.

4 CHAIR MARCUS: Thank you.

5 Mr. Hartmann followed -- oh, and then I'll get to
6 the next five.

7 Hello.

8 MR. HARTMANN: Hello. My name is
9 George Hartmann. I'm an attorney. I represent
10 Reclamation District 2030 of the reclamation district.

11 It's nice to see you all again. I've missed
12 seeing you. I have friends up there, and I'm pleased to
13 be able to be here and be in your presence.

14 I found -- I had other remarks prepared for
15 today, but after listening to all the commentary,
16 especially the Staff Report, I thought I'd go
17 extemporaneous.

18 First of all, I want to say that I think a lot of
19 the Staff responses to comments were derived in Orwell's
20 Ministry of Truth. I just --

21 CHAIR MARCUS: Hum --

22 MR. HARTMANN: -- thought they weren't right.
23 You know, I don't think they had -- they really dug in
24 and got to the comments. So that's one point.

25 The other thing I haven't seen is a cost per

1 salmon generated by -- by the -- by the harm, the
2 economic cost, which I think Professor Jeff
3 Michael forecasted, in the worst case, at \$3.2 billion.

4 But using Staff's analysis of the number of new
5 fish generated, it works out to a million six per fish.
6 That's a lot of money. Maybe my math is goofed up, but I
7 think that's right. That's a lot of money when you look
8 at the human impact, the profound human impacts, that
9 this plan, if adopted as is, will cause. And they are
10 profound.

11 And, you know, when people talk about
12 salmon -- I've heard a number of people today say they
13 love salmon -- what does that mean? They don't make
14 great pets. You know? I think that means they like to
15 eat them. And they're endangered. And I think a million
16 six per fish is a lot of money for dinner. I think we
17 got to find a better way to do that.

18 And, so, you know, this plan is what it is. But
19 I think -- I think it needs some retooling. We seriously
20 need to think about what the impacts are and what we're
21 trying to accomplish.

22 And, quite frankly, if you want us to believe
23 that this plan is really for the benefit of the salmon
24 and the Delta and the restoration of the Delta, then,
25 trust me, you've got to find a way to make sure the

1 increased flows find their way all the way into the
2 Delta, all the way out of the Delta, down to Chips
3 Island, into the Suisun Marsh, and out to the bay, and
4 not to Southern California. Because that's the way it
5 looks. It could look like the emperor's new clothes.

6 And I'm particularly concerned about what -- the
7 fellow whose park is next door, Senor Chavez, I'm
8 particularly concerned with what he would say to you
9 today if he could come here and talk about the
10 devastation that this will cause. And I mean that. It's
11 a serious thing with me. I'm very worried about what it
12 will do.

13 So, thank you very much. I'll take your
14 leave -- or take my leave.

15 Thanks.

16 CHAIR MARCUS: Thank you.

17 Next five: Sanford Goldstein; Joyce Parker;
18 Melissa Thorne for the City of Tracy; Alicia Forsythe
19 from the Bureau of Reclamation; and Dr. Michelle
20 Leinfelder-Miles.

21 Hi.

22 MR. GOLDSTEIN: Hi, Chair Marcus and Board
23 Members.

24 I'm Sanford Goldstein. I'm representing myself
25 and my family, which bought a home in the Delta four

1 decades ago this year, where I was married 37 years ago.

2 I'm Secretary of the Long Island Property Owners
3 Association of Lipoa (phonetic). And I just want to say
4 that the problem before us is not difficult. We
5 shouldn't think of it as being difficult. It's really
6 impossible. And I think that you will have to use the
7 wisdom of Solomon to really solve it.

8 I fear that cutting the baby in half and giving
9 away the different pieces is still going to result in not
10 having a live baby.

11 I don't think it's fair that towns and cities and
12 farmers have been left to fend for themselves. And I'm
13 really glad I came here to listen because it breaks my
14 heart that millions of people who are represented in this
15 room have been left to struggle for themselves when this
16 is a problem shared by the entire state.

17 I don't think it's fair that this Board actually
18 has to solve this problem without the leadership and the
19 financial support of the State and Federal government and
20 all Californians. And I, personally, would like to see a
21 legislature -- a legislator come here, not to threaten
22 you, but to say that they have gathered the support of a
23 majority of the people in the legislature to really
24 educate all Californians and use the resources of this
25 state to help this part of the state heal itself.

1 Nothing is free. And if we want vibrant towns
2 and farmers on farms and a living ecosystem, we're going
3 to have to pay for it. So, we cannot compensate for a
4 ruined environment. So, if you really believe the
5 science -- I would urge you to follow it -- and to
6 increase the flows, as long as there remains the
7 flexibility to decrease them, as we gain more experience
8 in the future.

9 However, a state with a \$265 billion budget can
10 afford to generously compensate people and towns who are
11 negatively impacted. And I do believe that a fair
12 financial compensation has to be part of and is integral
13 to any water deal, even if it is beyond the scope of this
14 particular amendment.

15 I urge everyone who is in this room or has been
16 in this room to get out of your silos and to start
17 joining together so that we can educate all Californians
18 and we can use the resources that this state has to
19 really come up with the best possible solution.

20 Thank you very much.

21 CHAIR MARCUS: Thank you.

22 Ms. Parker, followed by Ms. Thorme,
23 Alicia Forsythe, and Dr. Leinfelder-Miles.

24 Hello.

25 MS. PARKER: Good afternoon.

1 Thank you for being here and listening to
2 everybody today.

3 We have a common enemy; all of us. You've been
4 saying that so much of this is for the salmon, for the
5 fisheries. And everybody here loves salmon. Everybody
6 wants to support -- they want to sing the salmon home.
7 And, yet, we have striped bass in the bay, in the Delta,
8 that are eating these baby salmon as they try to go out
9 to the ocean and make their way.

10 Why can we not have open season on these bass?
11 Right now, there's a limit of two per day. And they have
12 to be 18-inches long. It used to be that people could go
13 out there and catch as many as they want. This is an
14 invasive, non-native species. They don't belong here.
15 The salmon belong here. And, yet, we're using salmon to
16 feed striped bass. Open season on them. Hey, we'll have
17 a lot of fun. We can eradicate that species entirely.
18 And then see what happens with the salmon. See what
19 happens with the salmon population once those voracious,
20 non-native predators are gone. I challenge you to do
21 that. Let's get rid of those. They're a common enemy.

22 The other thing is, the other elephant in the
23 room, you're talking about having freshwater come into
24 the Delta. Nobody is talking about the big straw on the
25 south that's sucking that water out and sending it south,

1 nor are you talking -- and you've asked us not to speak
2 of it, and yet I will -- about the --

3 CHAIR MARCUS: I know.

4 MS. PARKER: -- the two big straws --

5 CHAIR MARCUS: We had this conversation last
6 time.

7 MS. PARKER: We did.

8 CHAIR MARCUS: I remember.

9 MS. PARKER: And I will say it again.

10 CHAIR MARCUS: I'm sorry. I know -- I'm trying
11 not to -- we're going to have to figure out how to take
12 the transcript and get it in the administrative record,
13 but it is a separate proceeding. But --

14 MS. PARKER: I know it's --

15 CHAIR MARCUS: -- go ahead. Go ahead.

16 MS. PARKER: Do not tell me that my right hand is
17 disassociated from my left hand. Our Delta is one
18 entity. There is no wall in the middle of it. The
19 waters commingle. There's not a dam that separates the
20 Sacramento water from the San Joaquin water. It's all
21 one unit. And to ignore that, you've got your head in
22 the sand and it's hypocritical.

23 CHAIR MARCUS: No. We end up getting to the
24 Delta and Sacramento in our next portion and in --

25 MS. PARKER: It needs to be addressed now.

1 CHAIR MARCUS: -- water --

2 MS. PARKER: You cannot take all the freshwater
3 from the south and still expect to ship it to L.A. from
4 the south and from the north. That's not right. It's
5 not fair. And it's hypocritical.

6 You say, Let's have an honest conversation. You
7 cannot base an honest conversation on a lie. And until
8 you address it all as one, it's a lie.

9 CHAIR MARCUS: Thank you.

10 Hands tied there, unfortunately. I wish I could.

11 MS. THORME: Good afternoon.

12 Melissa Thorme from Downey Brand on behalf of the
13 City of Tracy.

14 And I'm not going to talk about flow. I'm going
15 to talk about salt.

16 CHAIR MARCUS: Oh, thank you.

17 MS. THORME: So, the City of Tracy --

18 CHAIR MARCUS: Thank you.

19 Ms. Thorme: -- as many members know, but some
20 may not because it's historic now -- the City of Tracy
21 sued over the salinity objectives --

22 CHAIR MARCUS: Right.

23 MS. THORME: -- in the Delta, and was successful.
24 So, we've been waiting on a return on that writ since
25 2011.

1 So, the issues in that case were 13241 and 13242,
2 the legality of the objective and the implementation
3 plan.

4 So, we've written very long letters. And we have
5 a lot of interest in this because it's \$120 million, at
6 least, to build reverse osmosis to treat the water to put
7 it into the Delta where it doesn't show any impact
8 whether we took our discharge out at all.

9 CHAIR MARCUS: Uh-huh.

10 MS. THORME: So, it's really a big waste of
11 money. And we really appreciate -- and we've heard that.
12 And now there's an infeasibility finding in here.

13 But we still have some concerns that some of the
14 changes that have been made may have unintended
15 consequences.

16 CHAIR MARCUS: Okay.

17 MS. THORME: So, you're now allowing compliance
18 schedules under the Compliance Schedule Policy. But the
19 problem is tying it to that policy, that only allows a
20 ten-year compliance schedule from the date that this is
21 adopted, the objective is adopted.

22 So, we have a CV-SALTS process that's 30 to
23 50 years in length. So, we may not -- we may get a
24 compliance schedule outside the sunset period of the
25 Compliance Schedule Policy, or may need one.

1 And, so, I would rather not tie it to the
2 Compliance Schedule Policy, and instead in the Basin Plan
3 Amendments or the Delta Plan Amendments, put in separate
4 compliance schedule authority to tie it to the CV-SALTS
5 process. And the Compliance Schedule Policy also doesn't
6 apply to relaxed standards, which arguably these are.

7 So, the problem is under -- if you have a
8 variance -- so you've allowed us to have variances, which
9 we appreciate, or where you've had no reasonable
10 potential for 10 years; and now in the 11th year, it's
11 now feasible or the variance expires or now you have
12 reasonable potential, there's no ability to get a
13 compliance schedule. So, we need you to think about
14 that, especially because of the long time frame of
15 CV-SALTS.

16 Some of the alternatives that you could think
17 about are change in the objective, which we've heard you
18 don't want to do, or under 40 CFR 1314, a variance
19 becomes the new standard. So, you would -- if you tied
20 it to that, when the variance ends, this would be like a
21 new standard at that point and then the Compliance
22 Schedule Policy could attach.

23 The other issue I want to raise really briefly is
24 the State of Emergency provision. So, right now, that's
25 just for flow. And because these two things are

1 inextricably tied together, I think if there's a state of
2 emergency for flow, it needs to tie to the salinity
3 objectives as well.

4 Thank you very much. We appreciate your time.

5 CHAIR MARCUS: I'll have to look at that. Thank
6 you.

7 Ms. Forsythe, thank you for staying with us.

8 MS. FORSYTHE: Thank you. Thank you, Chair
9 Marcus and Members of the Board.

10 My name is Alicia Forsythe. I'm the Deputy
11 Regional Director for the Bureau of Reclamation here in
12 the Mid-Pacific Region.

13 I want to thank the Board for the opportunity to
14 discuss the Bureau of Reclamation's comments on the
15 proposed amendments to the Bay-Delta Plan update for the
16 Lower San Joaquin River flows and Southern Delta Salinity
17 Standards.

18 I'd also like to thank the Board for postponing
19 its vote to allow additional time for discussion on this
20 important matter.

21 As the Board is aware, the Commissioner of the
22 Bureau of Reclamation, Brenda Burman, expressed
23 significant concerns over the proposed amendments in a
24 letter to the Board last month.

25 In the letter, the Commissioner explained that

1 the Board's proposed 40 percent unimpaired inflow
2 standard would, one, reduce storage of water at the
3 New Melones Project by 315,000 acre-feet per year,
4 relegate the New Melones Project irrigation and domestic
5 purposes to a subservient priority compared to the
6 project's Fish and Wildlife purposes, and restrict the
7 ability of Reclamation to provide power and recreational
8 opportunities for the citizens and communities of
9 California.

10 Last week, in directing the Interior Department
11 to develop a plan to maximize water deliveries in
12 California and to enhance infrastructure operations,
13 Interior Secretary Ryan Zinke made it clear that the
14 Board's proposed amendments present an unacceptable
15 restrictions [sic] that further reduce the Department's
16 ability to deliver water to Federal contractors.

17 On behalf of the Bureau of Reclamation, I would
18 like to provide further input on the proposed amendments
19 and share three key reasons why the Board's proposal is
20 fundamentally flawed.

21 First, the 40 percent unimpaired flow standard
22 rests on a simplistic and uncorroborated notion that
23 water delivery restrictions for the purported benefit of
24 the environment will result in meaningful improvement to
25 imperiled fish species in the Sacramento-San Joaquin

1 River Watershed.

2 In recent years, Reclamation has been forced to
3 substantially curtail water deliveries to all of its
4 Central Valley project customers and contractors and,
5 instead, reserve and release millions of acre-feet of
6 water for the protection of the species with marginal
7 benefits. Yet, the overall status of the Bay/Delta fish
8 species has improved little, if any, in response, while
9 farmers and communities throughout the Central Valley
10 have suffered devastating consequences due to the
11 regulatory drought.

12 We request that the Board carefully consider the
13 human toll that is likely to incur under the 40 percent
14 unimpaired inflow standard, potentially even more per the
15 Board's amendment.

16 Second, any effort to improve overall status of
17 fish populations in the San Joaquin Watershed must
18 account for the many factors which affect species'
19 health.

20 Science has shown that predation, temperature,
21 interactions with hatchery fish, ocean conditions,
22 spawning and rearing habitat impact the fish populations,
23 but the Board's amendments focus primarily and narrowly
24 on requiring increased flows for fish on the Stanislaus
25 River, often at odds with these many factors.

1 Many of these stressors are not directly affected
2 by flow and are predicted to continue to drive a decline
3 in the status of the trends of the fish population.

4 While Reclamation supports and
5 ensures -- supports to -- excuse me.

6 While Reclamation supports efforts to ensure the
7 survival of endangered species under the Endangered
8 Species Act and other laws, it opposes regulatory
9 restrictions, such as the Board's amendments, which
10 unnecessarily ignore or overlook the variety of causes
11 that can affect an ecosystem.

12 Third, and lastly, the Reclamation has certain
13 water delivery and storage obligations under the
14 Central Valley Project Improvement Act and other Federal
15 laws, which cannot be negated by the State of California.

16 Consistent with these laws and in continuing to
17 evaluate the 40 percent unimpaired inflow standard and
18 any final approval of that standard, Reclamation will do
19 everything within its legal authority to ensure that its
20 statutory obligations are met and that its interest in
21 providing reliable water supply and delivery for farmers
22 and communities in the Central Valley is protected.

23 We request that you closely review these serious
24 issues. We very much appreciate that the Board did not
25 take action of the proposed amendments at this current

1 Board meeting. We request that the Board continue to
2 suspend consideration of any final action to approve the
3 amendments. Continued suspension of the current process
4 will allow for meaningful, substantive dialogue between
5 the Board and Reclamation, demonstrating a willingness
6 between the State of California to work collaboratively
7 with its Federal partners and other affected
8 stakeholders.

9 Thank you very much for your consideration of the
10 comments. And we welcome meeting with the Board as
11 appropriate individually to discuss these issues further.

12 CHAIR MARCUS: Always -- always ready to do so.

13 BOARD MEMBER DODUC: If I might ask a question?

14 CHAIR MARCUS: Yeah, go ahead.

15 BOARD MEMBER DODUC: Excuse me. If you could
16 come back.

17 CHAIR MARCUS: Ms. Forsythe, a question.

18 I'm sorry. I gave you more time than the buzzer.
19 So, I want everybody -- I'm not going to do that for
20 everybody. It was a courtesy to the one Federal
21 representative here.

22 MS. FORSYTHE: Appreciate it.

23 BOARD MEMBER DODUC: You mentioned the letter we
24 received. There have been those who view that letter as
25 a position statement from Reclamation that you would not

1 comply with any potential water quality standards set by
2 this Board. Do you have an opinion on that?

3 MS. FORSYTHE: At this time, we don't have an
4 opinion. I think we would look to see what the Board
5 adopted in those standards and evaluate those as they
6 come out.

7 BOARD MEMBER DODUC: But would -- would I be
8 correct in interpreting the statement you just made,
9 previously, that you would put your commitments, your
10 delivery commitments, above water quality standard
11 compliance?

12 MS. FORSYTHE: I think the letter stands for
13 itself in what the Commissioner indicated. Reclamation
14 does have a variety of statutory obligations rooted in
15 Federal law that we are required by Congress to comply
16 with.

17 BOARD MEMBER DODUC: And, in your opinion, that
18 would supersede State water quality requirements?

19 MS. FORSYTHE: I think we would look to our
20 partners in the Solicitor's Office and the Department of
21 Justice to help us with -- answer that question.

22 BOARD MEMBER DODUC: This is an engineer asking a
23 question of a lawyer, I think.

24 CHAIR MARCUS: I'm enjoying it, actually.

25 BOARD MEMBER DODUC: Thank you.

1 CHAIR MARCUS: I spend a lot of my time with her
2 doing that. It's --

3 VICE CHAIR MOORE: Thank you.

4 I have a quick question to Staff. Could we
5 remind folks, what's the baseline percent unimpaired flow
6 on the Stanislaus River right now?

7 MR. CRADER: We can look for specifics, but the
8 amount is roughly 40 percent on the Stanislaus River.

9 VICE CHAIR MOORE: The average is 40 percent
10 unimpaired flow. Just thought I would put that out
11 there.

12 MS. FORSYTHE: That is correct. However, I will
13 note that the average that the Board is proposing is
14 40 percent annually. The long-term average is
15 40 percent.

16 So, we look at very wet years and very dry-year
17 conditions. When you average that over a long period of
18 time, yes, it is 40 percent.

19 Requiring 40 percent within the year is a much
20 different scenario for Reclamation and our ability to
21 manage the Stanislaus.

22 BOARD MEMBER D'ADAMO: Well -- and if we're going
23 to go down this path --

24 CHAIR MARCUS: I prefer not going down --

25 BOARD MEMBER D'ADAMO: -- I believe there's been

1 some modeling done --

2 CHAIR MARCUS: -- a lot of paths right now.

3 BOARD MEMBER D'ADAMO: -- that shows, in dry
4 years, 100 percent cuts in successive dry years.

5 Managing the reservoir plus the 40 percent, results in
6 zero deliveries to the contractors Stockton East and
7 Central San Joaquin Water Conservation District, I
8 believe.

9 MS. FORSYTHE: There are a number of years in our
10 analysis that indicate there are severe cuts as a result
11 of the 40 percent unimpaired inflow.

12 CHAIR MARCUS: It's always more complicated. You
13 have to actually look at it.

14 BOARD MEMBER ESQUIVEL: And when it comes to the
15 modeling that Reclamation did do, that, you know,
16 obviously the Staff's opinion as to what the impacts
17 would be on New Melones is different. Have you been able
18 to provide in detail the sort of modeling that got you to
19 your number and to what the impacts would be on
20 New Melones? And, if not, just request that that be
21 provided to Staff so as to be able to see where the
22 assumptions are in your modeling and where the
23 differences then are within the Staff's proposal just for
24 sake of clarity.

25 MS. FORSYTHE: Yeah. Very much appreciate that.

1 I believe we have been working with the State Board
2 Staff, and we're happy to reach back out to them and
3 continue that dialogue.

4 CHAIR MARCUS: Yeah, I understood that you were
5 meeting.

6 MS. FORSYTHE: Thank you.

7 CHAIR MARCUS: Thank you.

8 Dr. Leinfelder-Miles. Nice to see you.

9 DR. LEINFELDER-MILES: Good afternoon. My name
10 is Michelle Leinfelder-Miles, and I'm the Delta Crops
11 Resource Management Advisor with the University of
12 California Cooperative Extension based in San Joaquin
13 County.

14 In my role as a Farm Advisor, I conduct a
15 multidisciplinary research and outreach program on
16 agricultural production and resource stewardship in the
17 Delta.

18 I have a keen interest in soil quality. And
19 regarding salinity management, water quality, and soil
20 quality are unquestionably linked.

21 I'm the author of a report that has been
22 referenced in this process. From 2013 to 2015, I
23 conducted a study to monitor soil salinity, applied water
24 salinity, and leaching fractions in alfalfa fields of the
25 south Delta.

1 From that study, I observed that soil salinity
2 worsened, leaching fractions were generally less than
3 15 percent and sometimes as low as 2 percent, and that
4 local conditions, such as, low permeability soils and
5 shallow groundwater put constraints on growers' ability
6 to manage soil salinity.

7 In fact, only when we saw normal winter rainfall,
8 like in the winter of 2014-15, did we observe decreases
9 in soil salinity.

10 This indicates to me two things. One, even under
11 current -- the current objective, winter rainfall
12 provides our best leaching; and when winter rainfall is
13 less than normal, we're likely to observe increases in
14 soil salinity.

15 And, two, any loosening of a water quality
16 standard with the suggestion that changes in management
17 will improve the soil's condition is choosing to support
18 a hypothetical over data.

19 Furthermore, the argument has been made that
20 because my study did not correlate soil salinity and
21 yield, that water -- the water quality objective can be
22 raised without harming agricultural water users. This
23 argument is baseless.

24 My study was not designed to determine the
25 relationship between soil salinity, applied water

1 salinity, or leaching fractions and yield.

2 To develop that kind of relationship with yield
3 in a statistically sound way, all of the variables that
4 characterize the sites and management of those sites
5 would have to be held constant. Then, and only then,
6 could the relationship be determined over a period of
7 years.

8 The 2010 Hoffman Report has also been referenced
9 in this process to support an increase in the south Delta
10 salinity objective.

11 Hoffman made assumptions about applied water
12 salinity and used drainage water data from tile drains to
13 model leaching fractions for the south Delta.

14 What any modeler should tell you, however, is
15 that when more accurate information or data become
16 available, it is imperative to retest the model with that
17 new information. A model is only as accurate as the data
18 that are used to create it.

19 For these reasons, I ask the Board to reconsider
20 raising the south Delta salinity objective. The Hoffman
21 Report, as a justification for such a change, is reliance
22 on something that is no longer the best available
23 science.

24 Thank you.

25 CHAIR MARCUS: Thank you very much.

1 All right. Next five: Chris Shutes from CSPA;
2 Sonia Diermayer; Konrad Fisher; Grace Marvin; and
3 Julian -- I'm sorry, I'm not going to read this
4 right -- Zener or Zener.

5 Okay. Hi.

6 MR. SHUTES: Good afternoon. Chris Shutes for
7 the California Sportfishing Protection Alliance.

8 I have three minutes to sum up nine years of my
9 work on the San Joaquin part of the Water Quality Control
10 Plan --

11 CHAIR MARCUS: Actually, you have more input than
12 your three minutes, overtime, so...

13 MR. SHUTES: And I feel compelled to devote most
14 of it to the Department of Resources, who could unravel
15 these nine years with a half-hour presentation at the
16 13th hour.

17 Resources is asking you to change the language in
18 the flow objectives themselves to accommodate a deal they
19 don't have after six years of talks and multiple venues.
20 Please don't do it.

21 The voluntary agreement concept that surfaced in
22 2016 was supposed to bring agreements to you for analysis
23 in your process. It didn't happen on the San Joaquin.

24 If you don't stick to your deadlines now, you
25 invite the same formula for delay on the Sacramento and

1 the Delta. Parties there can still bring you proposals
2 on time for analysis in your documents as part of your
3 process.

4 San Joaquin diverters had six years to negotiate
5 a deal. They didn't try to modify the Board's framework
6 for flows to make it work for them. They tried to beat
7 your framework down.

8 No one here has come to me or my colleagues and
9 said, We'll find a way to work with percent of unimpaired
10 flows, but we need off-ramps for critically dry years and
11 droughts.

12 It was an obvious thing to do because we proposed
13 those in two FERC proceedings on the Merced and the
14 Tuolumne. We also proposed trimming back flows in June.
15 The answer was simply, No, can't do it.

16 Now, DFW management is joining DWR in the chorus
17 for functional flows, as opposed to percent of unimpaired
18 approach.

19 Defend your authority, your staff, and the
20 integrity of your process by denying the change to the
21 objectives proposed by Resources, and adopt flow
22 objectives as soon as you legally can.

23 No more delay. No more do-overs.

24 Thank you.

25 CHAIR MARCUS: Thank you.

1 All right. And then I'm going to -- after
2 Ms. Diermayer -- hi -- I'm going to put in Michael Frost
3 because I made a mistake. I misread it as just any time
4 after 3:30 from someone who was here very early.

5 So, Mr. Frost, you can go next after
6 Ms. Diermayer.

7 MS. DIERMAYER: Good afternoon Board Members and
8 Board Staff and audience members.

9 I'm speaking in favor of significantly increased
10 flows in the San Joaquin tributaries. And I would like
11 to note that 40 percent is already an incredible
12 compromise.

13 I support the Water Board's efforts to balance
14 water needs and interests of all Californians and the
15 environment.

16 I wish that more of the farm group that was here
17 yesterday at their rally were here today because I would
18 really like to ask them whether they honestly believed in
19 the strident, twisted rhetoric that we heard from
20 politicians and farmers yesterday. I found it profoundly
21 disturbing.

22 Water grab, I would say, is what has been done to
23 rivers and the Delta for over a century. Taking water is
24 what Ag and municipal diverters have been doing and want
25 to continue doing.

1 Water in rivers is a default, not the exception.
2 Farmers, regardless of seniority, do not own the
3 water. It is not theft to ask them to leave it in
4 rivers. And last time I checked, the Trump
5 Administration and Secretary Zinke have not been able to
6 turn off gravity, and rivers still flow on their own.
7 They don't have to be pushed to the ocean or flushed to
8 the ocean. And it's terribly cynical to hear that kind
9 of language about the natural environment.

10 San Francisco Public Utilities' misleading
11 information and obstructionism, I find shameful to those
12 of us who live in the Bay Area.

13 Now, corporate agriculture may not care much, but
14 I have to believe that farmers, true farmers, understand
15 that water is such a finite resource and that peak water
16 is behind us.

17 Let's be honest: The reason there's a crazy
18 quilt of regulations restricting unlimited diversions,
19 this -- quote -- "ma-made drought" is because too much
20 water was diverted for too long. And we've waited too
21 long to fix that problem.

22 The reason we have to look at potentially
23 dramatic impacts to farming communities is because
24 increased acreage has been planted decade after decade
25 and the water needs have grown.

1 My cynical view could be that we -- that there's
2 really no incentive for the diverters to negotiate and
3 create voluntary agreements. Because the longer we wait,
4 the less there is to save, frankly.

5 Please do not delay further.

6 I support the Water Board's sincere efforts to
7 balance the broad range of needs for water of all
8 Californians. I encourage you, Board Members, to make
9 sure that the environment gets its fair share of
10 freshwater flows.

11 Thank you.

12 CHAIR MARCUS: Thank you.

13 Mr. Frost. Again, sorry.

14 MR. FROST: Not a problem. Good afternoon
15 everybody.

16 CHAIR MARCUS: Afternoon.

17 MR. FROST: You know, 40 percent is great. And I
18 want to encourage you to make your move now because of
19 what -- why everyone else said. Now is the time. I
20 think it's a great start -- it's better than what we have
21 now -- and it establishes a priority for flow for future
22 years. There is no time to wait.

23 I wanted to take a deep breath, kind of step
24 outside ourselves for a second, and imagine ourselves
25 suspended in the sky looking down at California. And in

1 the time-space continuum, we're going back 2,000 years.
2 Multiple droughts over a hundred years: Twenty years,
3 50 years, 80-year droughts. That was the norm.

4 Over time, our keystone species of salmon
5 weathered the storm. They made it through.

6 It's in the last 200 years -- let's use
7 "we" -- "they," let's say "they," -- these people came
8 into California and multiplied to 38 million people, and
9 dammed up the rivers, diverted all the water. You know,
10 the planet is getting hotter, and we've got large-scale
11 environmental calamities that are facing us. They're
12 happening right now. It's not that they will happen;
13 they are happening right now.

14 On a car fire in Redding, there was a fire
15 tornado. I'm not sure if you saw the videos.

16 CHAIR MARCUS: Oh, yes. Over and over and over
17 again.

18 MR. FROST: Yeah. You know, it picked a truck up
19 off the ground hundreds of feet in the air and then
20 dropped it, and that's how the first firefighter was
21 killed.

22 We've got a state of (unintelligible) oceans. In
23 the last eight hundred million years, we have the least
24 amount of oxygen in the air -- in eight hundred million
25 years. You know, high Co2, low oxygen. Algae blooms.

1 These are not exclusive to Florida. They can happen
2 here.

3 We -- we are at an inflection [sic] point right
4 now. And this 40 percent flow is -- it's what we have,
5 and it's the compromise -- you're stuck in the middle. I
6 completely understand where you're coming from -- but any
7 more delays are a challenge.

8 And I empathize with -- with Ag, you know. They
9 have to deal with markets. Markets are incredibly
10 difficult. But markets can be manipulated in different
11 ways. I heard another speaker talk about monetizing the
12 lack of growing things. That's an opportunity to make
13 them whole.

14 And shared sacrifice is what brings people
15 together. And I think we get too regionalized in
16 California. We think the Silicon Valley. San Francisco.
17 The Delta. The Central Valley. All these places are
18 completely different.

19 Water ties us all together. The San Joaquin, the
20 tributaries of the San Joaquin, and the Sacramento,
21 tributaries of Sacramento tie us all together. This is a
22 unifying factor. We're battling over it right now. But
23 we all need to do better.

24 You know, I've been in the Santa Clara Valley
25 Water District hammering them for years on regional

1 self-sufficiency. We haven't even scratched the surface
2 in Sacramento, San Francisco, Silicon Valley, the
3 peninsula, with a regional self-sufficiency.

4 The Millennium Drought in Australia is a perfect
5 case study. In the middle of the drought, they changed
6 their strategy and solved their problem with a regional
7 self-sufficiency at very low cost, high efficiency.

8 Thank you.

9 CHAIR MARCUS: Thank you. Interesting.
10 Appreciate it.

11 Mr. Fisher, followed by Ms. Marvin, followed by
12 Mr. Zener or Zener.

13 Hi.

14 MR. FISHER: Hi. Thank you all for your efforts
15 in this process.

16 I'm a research fellow currently focusing on the
17 Reasonable Use Doctrine. I think a lot of people in this
18 room know what the law requires, which is part of the
19 reason we're all here.

20 Theoretically, under State and Federal law, we're
21 supposed to recover endangered species, at the very
22 least, not let them go extinct; protect public trust
23 resources and tribal trust resources, which in many cases
24 means the native people of California should have a right
25 to eat salmon somewhat on par with the same levels as

1 historically.

2 The scientific uncertainty in this process -- How
3 much water does it take to fulfill these legal
4 requirements? -- is, of course, what is at question.

5 I think, without a doubt, given the state of
6 salmon, we're on the verge of extinctions. We owe it to
7 future generations to take our best shot right now and
8 give them at least 60 percent, Option 4, and see what
9 happens.

10 We -- the precautionary principle is embedded in
11 different areas of our law, and anything less than
12 60 percent is putting that into question.

13 To a lot of the people who are here in the room
14 today, I mean, who they perceive this as a threat -- and
15 I would ask them and all of us to stand together to look
16 at what -- where can this water come from that causes the
17 least pain. It does not necessarily have to come from
18 the most essential human needs or municipalities. There
19 are still a lot of waste going on.

20 And I would start very quickly by turning the
21 mirror on myself. I hold an adjudicated water right
22 that, technically, would allow me to flood irrigate water
23 for a lawn. And I think I and many other people who have
24 such rights, probably shouldn't.

25 Turning the mirror maybe to the City of

1 San Francisco. I've been walking home from work lately
2 through the Presidio, and I look down at the soggy grass
3 and then up at the Golden Gate Bridge, and I think, Okay,
4 what is the correlation between the salmon that are not
5 going out the Golden Gate Bridge and the soggy grass in
6 the Presidio.

7 And then, of course, the elephant in the room, a
8 lot of waste and unreasonable use in the Ag community. I
9 often see cows in up the Upper Sacramento River -- Upper
10 Sac. Watershed standing in two to ten inches of water.
11 I'm not saying everyone does that.

12 Other low-hanging fruit is to legally dedicate
13 water we conserve with taxpayer money to nature. And
14 there's a mechanism to do that. But in a lot of
15 cases -- we've heard so many people come up here,
16 municipalities and Ag saying, I have done so much work to
17 conserve water -- I believe it's an injustice to them to
18 allow that water to possibly be soaked up by paper water
19 rights elsewhere. And I think that often happens. And
20 that's an injustice to all of us. So, let's close that
21 loophole so that we can alleviate pressure on both sides.

22 And I do believe most humans in California, most
23 of us, value salmon. We don't want to see future
24 generations not have them. We no longer have the grizzly
25 bear on the state flag, and I think a lot of us value

1 salmon almost as much as that, or more. And we should
2 not -- we owe it to future generations to keep them
3 around.

4 Thank you.

5 CHAIR MARCUS: Thank you. They're also a pretty
6 iconic combination.

7 Ms. Marvin.

8 MS. MARVIN: Good evening, almost. I'm Grace --

9 CHAIR MARCUS: Oh, don't say that.

10 MS. MARVIN: I'm Grace Marvin from the Sierra
11 Club's Yahi Group, composed of five north state counties.

12 Many of us are very proud of our Native American
13 heritage and of our Chinook salmon. Even while we are
14 becoming increasingly aware of the impact of climate
15 change on available freshwater for all of our earth's
16 species, we support having at least 40 percent river
17 flows to be used for environmental purposes only, even
18 though the Sierra Club would far prefer 60 percent. But
19 we see how much pressure you are under to do otherwise.

20 Here, then, are three points, brief points, about
21 fish and about water-related changes we need to make in
22 agriculture, further supporting more water flows.

23 One, low river flows impede fish migration,
24 concentrate pollutants, raise water temperatures, and
25 eliminate migratory cues for fish returning to spawn.

1 Flows should be sufficient to inundate floodplains which
2 serve as critical habitat for juvenile salmon and other
3 fish.

4 Two, salmon are a keystone species, providing
5 food for other animals and transporting nutrients from
6 the ocean to upland habitats. More than a hundred
7 species depend on salmon.

8 Three, the commercial salmon fishery in
9 California is on the brink. The salmon population was so
10 low in 2008 and '09, that the commercial fishing season
11 had to be canceled, resulting in the loss of more than
12 2,200 jobs and 255 million in annual revenue.

13 Now, I think, finally, we all have to address
14 climate change, whether we're big farmers, whether we're
15 small farmers, whether we're fishermen, just ordinary
16 human beings, conservation chairs, whatever.

17 Through better management of snowmelt,
18 water-efficient agriculture, water-efficient irrigation
19 practices, and replacing lower-value, water-intensive
20 crops with higher-value, water-efficient crops, we could
21 grow more food with less water.

22 Thus, we congratulate you on your efforts to
23 increase water flows and the attempts to balance the
24 needs of our environment, our peoples, and the industries
25 in which they work.

1 Thank you.

2 CHAIR MARCUS: Thank you.

3 Mr. Zener.

4 MR. ZENER: Chair Marcus and Members of the
5 Board, I thank you for your incredible endurance to mount
6 this public hearing. I hope it doesn't go too late into
7 the evening.

8 My remarks will be extremely short. I am a
9 Sierra Club member also in the Yahli group. I'm a retired
10 cardiologist. I worked in Stockton and then in Chico.

11 And I -- for 28 years, I saw the very meager flow
12 in the San Joaquin River before it entered the Delta.

13 Cardiology, for the most part, is based in
14 science, you know, fluids flow through vascular channels
15 and all of that.

16 And I urge you to stand by and go forward with
17 the scientific findings of your State Water Board Staff
18 regarding flow in the Merced, Tuolumne, and Stanislaus
19 Rivers.

20 Streamflow and groundwater always are
21 inseparable. And we don't want to turn the
22 Central Valley into a desert.

23 Thank you.

24 CHAIR MARCUS: Thank you.

25 Next five: Scott Ferguson, General Manager,

1 Modesto Irrigation District; followed by David Bolland
2 from the Association of California Water Agencies;
3 followed by Breanne Ramos from the Merced Farm Bureau;
4 Lacey Kiriakou -- thank you very much -- San Joaquin
5 River GSA group; and Tom Francis from -- I can never say
6 "BAWSCA" right. But, you know.

7 Is that right? You just say it really fast
8 usually. That's, usually, the right answer.

9 And then I'll ask someone from Merced Irrigation
10 District to let Ms. Townsend know if you would rather go
11 after those five or you would rather go first thing in
12 the morning tomorrow. Up to you.

13 UNIDENTIFIED SPEAKER: Tomorrow.

14 CHAIR MARCUS: Tomorrow. That's -- the people
15 sitting in the room behind everyone will appreciate that,
16 but I was always thinking we would have more balance in
17 the day. So, yeah.

18 Please, Mr. Fergerson.

19 MR. FERGERSON: Scott Fergerson, General Manager
20 of Turlock Irrigation District.

21 CHAIR MARCUS: Oh, Turlock. Someone from --

22 MR. FERGERSON: I mean -- Turlock? Modesto. I'm
23 talking --

24 CHAIR MARCUS: Well, talk about partnership.

25 VICE CHAIR MOORE: Now, we're -- now, who came

1 first?

2 MR. FERGERSON: Sorry about that.

3 CHAIR MARCUS: I'm just reading the card.

4 MR. FERGERSON: Yeah -- is that what's on there?

5 CHAIR MARCUS: No. It says Modesto --

6 MR. FERGERSON: All right. I just never know.

7 CHAIR MARCUS: In very nice handwriting,

8 actually, I have to say.

9 VICE CHAIR MOORE: Good. You're keeping us
10 hopping up here.

11 CHAIR MARCUS: Yeah, we're awake. We're all
12 awake.

13 MR. FERGERSON: Real quick. This isn't what I
14 was going to talk about, but I just want to point out
15 striped bass --

16 CHAIR MARCUS: Uh-huh.

17 MR. FERGERSON: -- are not native to the
18 San Francisco Bay Delta --

19 CHAIR MARCUS: Uh-huh.

20 MR. FERGERSON: -- number one.

21 Number two, they are the primary predator for
22 salmon. So just wanted to make sure everybody was on the
23 same page on that.

24 What I want to talk about, the one area I wanted
25 to point out is the SED and its impact on disadvantaged

1 communities, is one; and, number two, on the labor force
2 that supports the Ag.

3 So, real quick, when you look at the decision, it
4 has the potential to affect -- negatively affect 24
5 disadvantaged communities within the Stanislaus,
6 San Joaquin, and Merced counties.

7 When you reduce the available water for
8 agriculture on an annual basis, you're talking about
9 limiting drinking water and threatening the water quality
10 for those disadvantaged communities that are economically
11 strained and already vulnerable.

12 I do believe that the SED in the current proposal
13 can disproportionately affect our most impoverished
14 communities.

15 A reliable supply of surface water brings value
16 to the community, including, obviously, sustainability.
17 It goes without saying in the Ag, but also with
18 groundwater recharge and affordable water. And I just
19 want to remind you that the only two sub-basins that are
20 not in critical condition is both the Turlock and the
21 Modesto sub-basin.

22 CHAIR MARCUS: Uh-huh.

23 MR. FERGERSON: I'm sure you've heard that.

24 But going further on the impacts, economic
25 impacts, I want to talk real quick about the Don Pedro

1 Project.

2 Currently, the Don Pedro Project brings in over 4
3 billion in economic output for the region.
4 Approximately, 735 million is labor income, and it's
5 close to 19,000 jobs.

6 So, now, if you look at that situation, let's
7 layer on the 2015 drought. I did a little analysis to
8 see what the potential impact could be. It could
9 be -- have a 1.6 billion impact on output. That's
10 40 percent of that \$4 billion -- I don't want to lose you
11 in the math here. I'm trying to explain it. But it also
12 represents \$167 million in potential lost farm revenues.

13 But the biggest impact, I think, that should be
14 noted is there was over \$330 million in labor income, and
15 that represents over 6,000 -- 6,500 jobs that could be
16 lost in that type of situation.

17 Thank you very much. I appreciate the time.

18 CHAIR MARCUS: Thank you very much. Nice to meet
19 you.

20 Mr. Bolland, hello.

21 MR. BOLLAND: Thank you, Chair Marcus, Members of
22 the Board.

23 I'm Dave Bolland, Director of State Regulatory
24 Relations with ACWA, the Association of California Water
25 Agencies. We're a statewide organization that represents

1 over 445 water agencies that are up and down the state.
2 And they provide Ag water, as well as urban water:
3 Urban, rural, industrial uses all through California.

4 ACWA appreciates the fact the State Board has
5 decided to defer final action on this issue, but is
6 having a robust hearing, I guess, of different
7 perspectives on this issue.

8 I've got five points.

9 One, the Delta is, as we know, a unique and
10 important natural resource for -- and it supplies
11 two-thirds of the state's population with irrigation
12 water, as well as municipal water, and it supports
13 numerous wildlife species that we've heard about. But
14 the dramatic declines have led to historic restrictions
15 on those water resources, and that hasn't really led to
16 any meaningful improvements in those fish populations,
17 and the supply reliability concerns have done nothing but
18 get worse.

19 ACWA strongly believes in a policy of coequal
20 goals that the State law emphasizes in the California
21 Water Action Plan, and there is a potential in that plan
22 to put California on a path for both vibrant agricultural
23 and urban economies, as well as a healthy ecosystem.

24 We believe that voluntary approach and the idea
25 of functional flows is a superior approach to the

1 unimpaired-flows approach. We believe that we need
2 enough flexibility and time to develop this collaborative
3 approach, and that this is outlined in the California
4 Water Action Plan.

5 We think that this would be a less contentious
6 approach, rather than a regulatory tool, which is the
7 current approach that the State is using. And we believe
8 that voluntary settlement agreements are probably in the
9 best interest of all the resource and beneficial users of
10 the State.

11 A good example is the Lower Yuba River Accord.
12 Ten years ago, that was a high point in California water
13 politics and environmental issues, as well as
14 agricultural and urban issues were addressed.

15 Admittedly, it was a regional approach. And this
16 is a much more complex situation that involves not only
17 the Yuba, but so many other rivers in the Sacramento, as
18 well as the San Joaquin Basin, as well as Delta exports.

19 There have been a lot of comments, we know, that
20 have been based on -- or putting out the idea of using
21 best available science. We still think that a lot of
22 information is available in the record and has been
23 provided by a lot of water agencies that has not been
24 fully considered and that provides a basis for this idea
25 of functional flows and a multiple-objective approach, as

1 opposed to the unimpaired-flows idea.

2 We also, finally, want to encourage, again, the
3 implementation of the California Water Action Plan, which
4 we think is a balanced vehicle, and that that will
5 provide water supply reliability for all our communities.

6 Thank you very much.

7 CHAIR MARCUS: Thanks.

8 Ms. Ramos -- hi -- followed by Ms. Kiriakou.

9 MS. RAMOS: Good afternoon. My name is
10 Breanne Ramos, and I'm the Executive Director of the
11 Merced County Farm Bureau, representing approximately
12 1,000 farms, ranches, and dairy families who will be
13 directly impacted by the proposal before you.

14 We were in attendance and provided numerous
15 comments to this Board at the December 2016 hearing in
16 Merced. The majority of the day consisted of community
17 members detailing the impacts to their businesses, school
18 districts, and operations.

19 As an organization, we are not only concerned,
20 but also astonished that there have been no, if any,
21 amendments to this plan.

22 Weeks ago, Board Members Doduc and Esquivel
23 toured Merced County and heard a unified voice from
24 leaders in agriculture, elected officials, community
25 members, and our irrigation district. We can only hope

1 that those conversations did not fall on deaf ears and
2 you heed the concerns of our community.

3 We have stressed the fact that, should this plan
4 be adopted, approximately 50 percent of our ground will
5 be laid fallow, as this will directly coincide with the
6 Sustainable Groundwater Management Act.

7 The plan's proposal states that to offset the
8 loss of surface water from the Bay-Delta Plan, growers
9 can pump groundwater. This is not a suitable answer,
10 which this body already knows, and will ensure we will
11 not be sustainable under State mandates.

12 Please remember that a proposal had focused on
13 flows alone was recently attempted for ten years. The
14 desired results was not achieved and not due to the lack
15 of water.

16 Both districts residing in Merced County that are
17 directly impacted by today's proposal, Turlock Irrigation
18 District and Merced Irrigation District, participated in
19 the VAMP program, with Merced Irrigation District
20 releasing approximately 500,000 acre-feet down the Merced
21 River.

22 We question if Staff has kept the results of the
23 VAMP program quiet to ensure this water grab continues as
24 they wish.

25 Should this plan be adopted, we will watch

1 businesses close and families leave, ultimately ensuring
2 our disadvantaged community becomes a desert.

3 We urge you to read the true science and consider
4 the proposal put forward by irrigation districts, instead
5 of being dictated by Staff.

6 Thank you for your time and the opportunity to
7 speak.

8 CHAIR MARCUS: Thank you.

9 Hi.

10 Ms. Kiriakou, followed by Mr. Francis.

11 MS. KIRIAKOU: Good afternoon. My name is
12 Lacey Kiriakou. I'm with Merced County; but, today, I'm
13 here on behalf of the San Joaquin River GSA Group, eight
14 groundwater sustainability agencies formed within Merced
15 and Turlock, Modesto, and eastern San Joaquin sub-basins.

16 These GSAs are new public agencies who are
17 investing significant time and resources into sustainably
18 managing groundwater.

19 All of the sub-basins within the plan area are
20 either critically overdraft or designated by the
21 Department of Water Resources as high priority. And all
22 of the GSA agencies serve communities that are
23 disadvantaged or severely disadvantaged.

24 As the agency responsible for groundwater
25 management and the plan area, the State Board is

1 obligated to consult with each GSA, and they have not.

2 In addition, the State has failed to evaluate how
3 our job, groundwater management, would be affected by the
4 proposed requirements.

5 The State Water Board's own findings show that
6 implementing the amendments to the Bay-Delta Plan may
7 result in potentially significant groundwater impacts,
8 substantially depleting groundwater supplies or
9 substantially interfering with groundwater recharge.

10 These impacts are unacceptable and will
11 significantly impact our efforts to manage groundwater
12 sustainably.

13 Yet, the impacts when combined with SGMA
14 requirements were not adequately evaluated. The State
15 Water Board explains this position by stating the Notice
16 of Preparation for the SED was dated 2009 and that SGMA
17 was not yet in place and such analysis would have been
18 speculative.

19 This rationale is deficient, especially in light
20 of the recirculation of the SED in 2016 and the release
21 of the final SED in 2018, both after SGMA was an
22 established law.

23 In addition, we find irony in the fact that the
24 State Water Board is responsible for SGMA enforcement and
25 has been a proponent of sustainable groundwater

1 management.

2 The reason this failure to evaluate is a problem
3 is because GSAs throughout the state are beginning to
4 draft groundwater sustainability plans, and these plans
5 are not considering the proposed requirements.

6 The State's proposed mitigation plan, requiring
7 the local GSAs to fix the mess created by the SED, is
8 unacceptable and a gross abdication of your
9 responsibilities.

10 If the State Water Board moves forward with the
11 amended plan, the agencies that make up the San Joaquin
12 River GSA Group will be unable to prevent chronic
13 lowering of groundwater levels and significant reductions
14 of groundwater storage absent draconian cuts to our urban
15 and agricultural customers, which would, in turn,
16 decimate our economy.

17 While we understand the need to balance
18 resources, the proposed requirements are not the answer.
19 Implementation is not reasonable, or even possible,
20 without completely destroying the economy in this region.

21 We strongly urge you to engage in good-faith
22 settlement discussions to find a balanced alternative
23 that helps ensure the long-term sustainability of our
24 groundwater, making tangible flow and non-flow
25 improvements to the San Joaquin River and its

1 tributaries, while providing for the long-term viability
2 of our sub-basins.

3 Thank you.

4 CHAIR MARCUS: Thank you very much.

5 Mr. Francis. Hi.

6 MR. FRANCIS: Good afternoon Chair Marcus and
7 Commissioners.

8 My name is Tom Francis. I'm the Water Resources
9 Manager for BAWSCA. As Chair Marcus knows, there's a lot
10 of BAW or BAWACS or BAWSCAs around the Bay Area. BAWSCA
11 stands for the Bay Area Water Supply and Conservation
12 Agency.

13 CHAIR MARCUS: Thank you.

14 MR. FRANCIS: And still you might not know what
15 BAWSCA is. BAWSCA represents the interests of 26
16 agencies that buy their water from the San Francisco
17 Hetch Hetchy Water System. So, basically, the PUC,
18 San Francisco PUC.

19 Kind of like to joke to my San Francisco friends
20 that own two-thirds of them because BAWSCA revenue
21 basically covers two-thirds of their cost.

22 CHAIR MARCUS: Uh-huh.

23 MR. FRANCIS: That's kind of an intro to BAWSCA.

24 Now, I wanted to also say some good words about
25 what Chair Marcus has done. We're very happy that you

1 delayed the decision today. We want to see time for
2 voluntary settlement. I think a lot of you on the
3 Commission have also expressed that desire.

4 BAWSCA, and a lot of our water agency partners,
5 do as well. And we do, obviously, have some interests
6 associated with this. Maybe you could say that we have
7 our own desires relative to making sure that our member
8 agencies continue to get the flow that we see that
9 they'll need moving into the future.

10 So, again, on July 6th, the State Board put
11 forward the proposed plan. Our view at BAWSCA is that if
12 it's implemented, 40 percent of the unimpaired flow could
13 actually seriously reduce the water supply for our member
14 agencies.

15 During the last drought, our member agencies were
16 using 60 gallons per capita per day. But the analysis
17 that we conducted shows that some of those member
18 agencies, if this plan was implemented, the 40 percent
19 unimpaired flow, would be asked to use roughly 25 gallons
20 per capita per day. That would actually drop below the
21 human health safety standard that we're -- we understand
22 is present. So that's one of our major concerns.

23 The other issues associated with the plan are
24 that that type of reduction, 50 percent reduction, could
25 have severe impact on business activities in the Bay

1 Area. It also could require that housing, new housing
2 that's so important to some of the low-income
3 communities, such as, East Palo Alto, could have to be
4 curtailed because they may have to put a moratorium on
5 development.

6 So, fortunately, we view, and others do, that
7 there's a sound reasonable alternative present. We call
8 it the "San Francisco Alternative." But other member
9 agencies here with the irrigation districts have also
10 adopted a similar approach. And we want to see that be
11 something that the State Board, as well as our resource
12 agencies, thinks about for a proposed, perhaps a
13 negotiated settlement agreement.

14 Again, I'm really excited to hear what the Staff
15 from the Board present tomorrow. I think it's
16 interesting -- I know that you folks are interested as
17 well -- but, moreover, I'm curious to hear what the
18 discussion that you folks are going to have following
19 that. I think it's important to hear from you, too. And
20 I'm glad that you're going to be doing that.

21 I recognize that it's a tough decision you have
22 to make, and time for negotiations may be limited. And I
23 appreciate that, too.

24 So, thank you.

25 CHAIR MARCUS: Thank you. Good timing.

1 UNIDENTIFIED SPEAKER: (Unintelligible.)

2 CHAIR MARCUS: Oh, that's right. I keep
3 forgetting you guys can see the clock. Sorry. Just take
4 the credit. All right.

5 Next, we have Barbara Barrigan-Parrilla from
6 Restore the Delta. Rachael Zwillinger from Defenders of
7 Wildlife. Robert Kelley from Stevinson Water District.
8 John Zweigard from Merced Irrigation District. If he's
9 going to speak separately from the discussion tomorrow,
10 just let me know. And then Darcie Luce from Friends of
11 the San Francisco Estuary.

12 MS. BARRIGAN-PARRILLA: Hi. Good afternoon Chair
13 Marcus and Board Members.

14 Barbara Barrigan-Parrilla with Restore the Delta.

15 Twelve years ago when we started to restore the
16 Delta, our original mission was created to improve water
17 quality and quantity conditions for the Delta to save the
18 estuary. We've had a ten-year detour.

19 My personal story: 12 years ago when I wanted
20 something better for my then-toddler, I wanted her to
21 have a natural world with restored fisheries, I wanted
22 her to have access to waterways and parks, kind of like
23 where I grew up in the Indiana Dunes National Seashore,
24 which my parents helped to create.

25 Twelve years later, our fisheries are absolutely

1 collapsing. Our water quality, we had problems with
2 toxic algal blooms during the drought. We presently have
3 a nontoxic but very unpleasant algal bloom situation
4 impacting water for half of the city of Stockton. It
5 makes the water in our office undrinkable. And we're
6 still fighting for a broad cultural understanding that a
7 river should have half of its unimpaired flow; half is
8 the right compromise.

9 In terms of economics: While communities in
10 Stanislaus and Merced counties today insist that they
11 can't sacrifice any water to restore rivers, the
12 Distressed Community Index for 2017 for the City of
13 Stockton shows that we have the largest percentage of
14 people living in economic distress of any large city in
15 California. That means, Modesto, Turlock, Fresno,
16 Bakersfield, and South Central Los Angeles. Highest
17 percentage. Yet, the State has not identified the
18 economic value of freshwater to the Delta's EJ
19 communities in San Joaquin County and Contra Costa
20 counties.

21 You did acknowledge in your response to our 2017
22 comment letter that EJ-related beneficial uses have been
23 put off to the future because they were beyond the scope
24 of the amendments; as was the analysis for municipal
25 water needs for Delta communities, put off to the future.

1 CHAIR MARCUS: Oh, Phase II.

2 MS. BARRIGAN-PARRILLA: We believe these items
3 should have been analyzed now. I'm glad to hear that
4 they're going to be in Phase II. But the other new
5 environmental justice issues around tribal needs and
6 fisheries, we hope that if that is an outside process,
7 that you move along with it quickly, that it's not left
8 behind, the updates to the Water Quality Plan.

9 In closing, I've spent a good time of my energy
10 this last year training youth in our area on the history
11 of the Delta, its environmental history, environmental
12 justice concerns. And when our youth see photos from the
13 early 1900s of docks with salmon piled up to their hips,
14 their mouths are agape.

15 So, we really urge you to move towards the
16 50 percent flows for the restore of our culture and our
17 heritage and our environment.

18 Thank you.

19 CHAIR MARCUS: Thank you very much.

20 Ms. Zwillinger, followed by Mr. Kelley.

21 Hello.

22 Ms. ZWILLINGER: Good afternoon Chair Marcus and
23 Members of the Board. I'm Rachael Zwillinger with
24 Defenders of Wildlife, and thank you all for taking the
25 time to hear from us today.

1 I'd like to speak first as someone who cares
2 deeply about making sure that my children and all
3 children in California can grow up in a state with living
4 rivers, healthy salmon runs, and a thriving Bay Delta
5 estuary.

6 To make that vision a reality, this Board must
7 act quickly to adopt legally adequate, scientifically
8 sound water quality standards. And that means ensuring
9 that at least 50 percent of the unimpaired flow of the
10 Merced, Tuolumne, and Stanislaus Rivers remain in those
11 rivers.

12 The science clearly indicates that 50 percent is
13 the minimum flow necessary to protect our beleaguered
14 salmon runs and other native fish.

15 I'd also like to speak today as someone who has
16 been deeply engaged in efforts to negotiate voluntary
17 agreements to facilitate implementation of the Bay-Delta
18 Plan Update.

19 I agree that carefully crafted agreements could
20 be the best path forward for expeditiously restoring the
21 estuary. However, after negotiating for more than a
22 year, there is no indication that a legally adequate
23 agreement is on the horizon or that it will be any time
24 soon.

25 The most helpful thing this Board can do to

1 incentivize negotiated agreements is to set new water
2 quality standards. By doing so, the Board will narrow
3 the negotiating space and will make clear to recalcitrant
4 water districts that it's in their interest to come to
5 the table and play a role in crafting a solution.

6 Ideally, the Board would set a productive flow
7 standard and then agree to reduce flows as habitat comes
8 online and shows that it benefits fish.

9 But without adopted flow standards and a clear
10 message from this Board that the established range is an
11 absolute minimum, I fear that continued talk and
12 negotiated agreements on the San Joaquin River and its
13 tributaries is little more than wishful thinking. And
14 it's wishful thinking at the great expense as the estuary
15 continues to decline.

16 For all of these reasons, I respectfully ask the
17 Board to act as soon as possible to adopt water quality
18 standards that are adequate to safeguard the health of
19 our waterways and wildlife for future generations.

20 Thank you.

21 CHAIR MARCUS: Thank you.

22 Mr. Kelley.

23 MR. KELLEY: Thank you, Board, for giving us the
24 time for this venue. Very tough decisions you are all
25 faced with. I can appreciate that.

1 My name is Robert Kelley. I'm a sixth-generation
2 Californian farming family. And I've come here on behalf
3 of the farmers and landowners in Stevinson, California, a
4 disadvantaged community.

5 I'm also here as Chairman of the Merced Sub-Basin
6 GSA. We have a very difficult task in front of us. And
7 it is not going to be easy. We're going to be having a
8 lot of very, very upset farmers when we tell them that
9 they're going to be having to turn off their wells.

10 Our farms, located in the confluences of Merced
11 and San Joaquin Rivers, collectively we farm 13,000 acres
12 of land in the town of Stevinson. Our lands receive
13 surface water from Merced Irrigation District.

14 In addition, we provide water to thousands of
15 acres of adjacent wetland habitat.

16 We rely on the conjunctive use of ground and
17 surface water. We are becoming more efficient with our
18 application of water as the scarcity of the resource and
19 economics demand.

20 However, absent available surface-water use and
21 its recharge, the only way to become sustainable is
22 fallowing land.

23 Fallowing will happen with sustainable
24 groundwater management. The question is how much
25 considering the current proposal? Staff reports, I've

1 seen here represented, appear to say that the economic
2 impacts on fallowing aren't significant. But the loss
3 and storage of just 150,000 acre-feet means fallowing
4 60,000 acres, if you take two and a half acres per acre.
5 That is a big, big impact.

6 Past efforts to release additional surface water
7 have not reversed long-term decline in salmon
8 populations. The cause of salmon population decline
9 appears to be unclear. What is the effect resulting from
10 depredation of non-native fish species? Of long-term
11 drought patterns? Of warming temperatures resulting from
12 climate change?

13 What is clear is the impact of fallowing ground
14 and the loss of agriculture and jobs that result. We
15 know fallowing will happen. But do we know State's
16 proposed plans will reverse the declining salmon
17 populations? I'm afraid we don't.

18 We support the goal of improving the ecosystem
19 and salmon sustainability, but this plan is a very
20 significant surface water taking of three targeted rivers
21 that account for only 7.2 percent of fall-run salmon
22 spawning.

23 I'm not diminishing the goals proposed, because
24 these are smaller percentages in the State; but what I am
25 saying is, has the Board truly considered the cost

1 benefit of this contemplated release in light of the
2 fallowing impacts?

3 Please consider instead the collaborative, safe
4 program proposed by Merced Irrigation District, a
5 combination of habitat restoration, spawning areas, and
6 combined higher flow release. Let's pursue a
7 collaborative partnership to accomplish the sustained
8 salmon restoration, not just take the stored water
9 without a plan.

10 Thank you.

11 CHAIR MARCUS: Thank you very much.

12 Mr. Zweigard may be holding for the presentation
13 tomorrow. I saw him, briefly. So, I'll hold it aside in
14 case he decides he wants to speak today.

15 UNIDENTIFIED SPEAKER: (Unintelligible.)

16 CHAIR MARCUS: Yeah. He is going to speak
17 tomorrow with the panel or in the time --

18 UNIDENTIFIED SPEAKER: (Unintelligible.)

19 CHAIR MARCUS: Okay. I'll hold it over. Just
20 didn't know.

21 Ms. Luce. Where are you? Oh, there you are.

22 MS. LUCE: Good afternoon Chair Marcus and
23 Members of the Board. Thank you so much for the
24 opportunity to address you today.

25 My name is Darcie Luce. I'm with Friends of the

1 San Francisco Estuary.

2 And we agree that the proposal falls short of
3 what's really needed for bringing endangered species back
4 from the brink of extinction.

5 We do support combination -- the combination of
6 flow and non-flow measures. But that does include more
7 flow.

8 And I want to thank the Modesto Irrigation
9 District Board Member for acknowledging that some more
10 water could flow in the Tuolumne. I think in this era of
11 really polarized debate, that's very much appreciated.

12 CHAIR MARCUS: Awesome.

13 MS. LUCE: And I also want to thank the good
14 leaders of the cities of Modesto and Turlock who are
15 taking significant steps to produce more -- a viable
16 water supply through water reuse and conjunctive use of
17 groundwater. Those are the kinds of pioneering things
18 that we should all be doing.

19 And I hope that when it comes to the
20 implementation phase of the Water Quality Control Plan
21 Update, that a more nuanced approach can be taken that
22 will enable those types of programs to continue.

23 I'd like to get into -- at least just a
24 little -- and address specifically the makeup of the STM
25 Working Group in a program of implementation.

1 We were very disappointed to see that in Appendix
2 K the makeup of that group has not shifted. So,
3 currently, the makeup of that group consists of
4 regulatory agencies, the State Water Board Staff, and
5 water users of the tributaries. And, although, "water
6 users" is not defined, I'm assuming that must mean
7 diverters of water from the tributaries.

8 However, you don't have others represented that
9 are users of the in-stream flows, so you don't have
10 represented there commercial or recreational fisheries'
11 interests or tribal representatives. And I think that
12 would be a very imbalanced working group if you did not
13 have those represented there on the STM Working Group.

14 Finally, as others have said, action is long
15 overdue. Our entire estuary is waiting with bated breath
16 from the Sierras to the Fairlines (phonetic). It's not
17 just about salmon, by any means, although salmon do
18 contribute throughout the watershed even to nutrients in
19 farmland up -- in upland areas, as isotopes from the
20 salmon have been found in farmland and have
21 been -- provide some beneficial nutrients to soil
22 throughout the watershed.

23 But action is needed. And I think that by
24 delaying action, you delay meaningful progress. And I
25 don't think that it's one or the other in terms of

1 voluntary settlements versus passing the recommended flow
2 objectives. I think that, in the past, the State Board
3 has shown that you can do both by phasing in a time line
4 for -- and to incentivize the passage of voluntary
5 agreements.

6 And I think that can be done here. And we
7 strongly recommend that you take action.

8 Thank you very much.

9 CHAIR MARCUS: Thank you very much. Interesting.

10 All right. Next five: Kevin O'Brien, for the
11 Northern California Water Association; Joseph Rizzi;
12 Jerry Desmond, Director of Government Relations for the
13 Recreational Boaters of California; Gary Bobker.

14 Gary, do you want to go today, or you're going to
15 go tomorrow, right? Tomorrow.

16 Judy Rom- -- I should know this -- Romines,
17 right? Oh, okay.

18 And Greg Salyer -- I saw you there, from
19 Modesto Irrigation District. Or was that Turlock? No,
20 I'm only kidding. Sorry.

21 Same good handwriting.

22 VICE CHAIR MOORE: All right. You guys are
23 forming a new joint powers I guess, huh? Well, we'll
24 have to talk more.

25 CHAIR MARCUS: Sorry.

1 Hi, Mr. O'Brien.

2 MR. O'BRIEN: I'll never live that one down.

3 Good afternoon Chair Marcus, Members of the
4 Board. Kevin O'Brien. I'm here today for the
5 Northern California Water Association and the Sacramento
6 Valley Water Users. Those groups don't use water from
7 the San Joaquin River, but we recognize that whatever the
8 Board does in this proceeding likely will affect what you
9 eventually decide to do on the Sacramento River side, so
10 that's why we're here today.

11 I'm going to start with the law. We haven't
12 heard a lot about the law today, so I thought that might
13 be a reasonable place to start.

14 CHAIR MARCUS: We'll hear a lot about it
15 tomorrow, I'm told.

16 MR. O'BRIEN: You will, yes.

17 CHAIR MARCUS: I've been warned.

18 MR. O'BRIEN: And I know the Board is aware, but
19 Water CODE Section 13000 requires the Board, in setting
20 these objectives, to determine whether the proposed
21 changes in its plan would be reasonable, quote,
22 "considering all demands being made and to be made on the
23 waters and the total values involved, beneficial and
24 detrimental, economic and social, tangible and
25 intangible."

1 So, the Board's task -- and it's not an enviable
2 one -- is to consider all of the different demands, all
3 of the different factors, balance those factors, and come
4 up with a reasonable solution.

5 The problem with our fish populations in this
6 state did not happen overnight, and it's not going to be
7 solved overnight. It's easy, I think, at times and
8 tempting to want to come up with quick and simple
9 solutions, but the fact is -- and I think the science
10 clearly bears this out -- that the causes of the decline
11 are multiple and complex. And that suggests that a
12 sophisticated and comprehensive approach to this problem
13 is what's warranted. You don't have to take my word for
14 that. There's lots of independent science out there.

15 One of the earlier speakers mentioned a blog that
16 was posted today by Dr. Peter Moyle of UC Davis, one of
17 the leading fisheries' biologist. I commend that blog to
18 you because the message -- and he summarizes a number of
19 recent studies -- is that it's not all about flow.
20 There's a suite of actions that are going to be required
21 to bring these fish populations back.

22 I think the Board Members are all aware that
23 NACWA and many of the districts in the Sacramento Valley
24 have spent a lot of money and a lot of effort working on
25 real projects on the ground to try to improve conditions

1 for fish.

2 I think some of you have walked the rice fields
3 and seen these projects where rice fields are flooded for
4 the purpose of increasing the food supply in the river
5 for salmon.

6 I think some of you have seen the projects where
7 what we call "refugia," basically, large rocks are placed
8 in the Sacramento River so young salmon will have a place
9 to hide from predators.

10 CHAIR MARCUS: Uh-huh.

11 MR. O'BRIEN. Those are real projects, and people
12 are spending a lot of money on them.

13 And I guess what I'm here today to request is
14 that the Board avoid the simplistic solution, show some
15 leadership, lead this State in a direction of real
16 solutions to a very serious problem.

17 Thank you.

18 CHAIR MARCUS: Mr. Rizzi.

19 Okay. I didn't see him earlier.

20 Mr. Desmond.

21 MR. DESMOND: Board Chairs and Members,
22 Jerry Desmond, Director of Government Relations for
23 Recreational Boaters of California.

24 We're a statewide advocacy organization for the
25 boaters -- 50,000 boating families. We're in our 50th

1 year of advocacy efforts at the legislature and the
2 executive branch.

3 And we want to also acknowledge, like many
4 speakers, the challenges facing you as a Board on this
5 difficult decision that's taken years to develop -- to
6 get to this stage, and we understand the challenges and
7 the decisions you have to make.

8 Our organization would like to endorse and align
9 ourselves with the comments that have been submitted by
10 the American Sportfishing Association and the sports
11 fishermen that have spoken today and that community.

12 And we, in particular, would emphasize two of the
13 main points that have been discussed today.

14 First is that, we encourage the adoption of -- as
15 you have before you -- scientifically and legally
16 adequate flow standards for the lower San Joaquin River
17 and tributaries.

18 Then, secondly, given the extremely perilous
19 state of salmon runs and other species, it's imperative
20 that the Board issue flow standards that will restore
21 salmon.

22 We encourage you to make the best decision, you
23 know, on these issues going forward.

24 Thank you.

25 CHAIR MARCUS: Thank you, sir.

1 Ms. Romines.

2 I think we'll hold these for -- if they come back
3 tomorrow, too.

4 All right. Mr. Salyer.

5 MR. SALYER: Are we evening yet?

6 CHAIR MARCUS: No. I'm going call evening 6:00.
7 I'm just saying.

8 MR. SALYER: Hello. My name is Greg Salyer.

9 UNIDENTIFIED SPEAKER: (Unintelligible.)

10 CHAIR MARCUS: It's summer. Right, it's summer.

11 MR. SALYER: And I'm a Senior Assistant General
12 Manager for Modesto Irrigation District. I appreciate
13 all of your patience. I know you went through five solid
14 days of hearings the last time around and today, so --

15 CHAIR MARCUS: It's helpful, actually, at least
16 for me.

17 MR. SALYER: I'm in agreement with the goals of
18 the Water Board of improving the water quality and
19 improving the fishery. However, I am in disagreement
20 that water flow is the sole solution for this thing.

21 As you're aware, with all of the different
22 documentation we've provided, the districts, MID and TID,
23 have spent over \$25 million studying the river, and came
24 up with a Tuolumne River Management Plan, which we think
25 is a solution for the Tuolumne River which will increase

1 the fish population, which is the main goal here.

2 You've heard plenty, and you're hearing plenty
3 more about the impacts to our community with our farmers
4 and our water supply for municipal users. Huge impact
5 for the district. I'm going to throw just a little twist
6 to this thing and talk about electric ratepayers.

7 With this flow proposal of unimpaired flow, what
8 it does is it takes the water that we would normally have
9 flowing in the summer and moves it to the spring months.
10 So, we won't have that clean hydro generation during the
11 summertime.

12 We are a very peaking electric utility. In the
13 winter, our peak loads are around 300 megawatts; in the
14 summer, they go up to 700. And that hydro -- clean hydro
15 generation is very valuable for peaking. Also, as the
16 State is pushing for its renewable goals and all of us
17 are adding lots of renewable energy, we need something to
18 help shape that during the summer.

19 I think all of us are aware that the State is
20 building massive amounts of solar energy, and in the
21 evening that drops off and something has to be there to
22 pick that up. And we use Don Pedro Hydro for some of
23 that. And if we have to move that in the spring, that
24 won't be available.

25 So, with that, our only solution would be to burn

1 more fossil fuel generation; and, as you know, that has a
2 greenhouse gas impact to the system. And, also, that has
3 a cost impact -- our power supply costs are higher that
4 way -- and we will have to pass that on to our
5 ratepayers.

6 So, I just urge the Board to consider our
7 Tuolumne River Management Plan. We think that's a good
8 solution moving forward.

9 Thank you.

10 CHAIR MARCUS: Thank you very much.

11 Next -- I'd love to have a conversation with
12 everybody, but I can't because otherwise it'll be daggers
13 thrown at me by all the people --

14 VICE CHAIR MOORE: You're doing a great job,
15 Chair.

16 CHAIR MARCUS: No. We can still -- I know I'm
17 trying not to be too tough because I actually want to
18 hear everybody, but I can't -- I can't have a
19 conversation with everyone. Although I can have them
20 outside of here, so --

21 VICE CHAIR MOORE: Yeah, it's a challenge.

22 CHAIR MARCUS: It is.

23 Jonathan Young, Regulatory Advocate for the
24 California Municipal Utilities Association; followed by
25 Xiaoke Tao or Tao, depending on how you want to pronounce

1 it; followed by Emily Rooney, from the Ag Council
2 California; Andrea York, for the Almond Alliance. And
3 then after that, Christine Kerr.

4 MR. YOUNG: Good afternoon Chair and the Board.
5 Jonathan Young with the California Municipal Utilities
6 Association. Our association's members provide
7 electricity to 25 percent of Californians, and we provide
8 drinking water to about 70 percent of Californians.

9 And, so, I would like to reiterate the last
10 speaker's points about hydro generation. That is a huge
11 concern for our members. Obviously, when you have to
12 diversify where you're getting the electricity from
13 without having the resources, such as, renewable energy
14 built already, it can be a challenge where you're relying
15 on coal-fired, gas-fired plants pulling in energy from
16 out of state, it can change your power content label.

17 And with -- I think we have some of the issues
18 that are going on in the legislature, we're trying to
19 have more renewable energy, that's going to be a big
20 challenge for a lot of our agencies who may then have to
21 pass those costs down to their customers.

22 And in the interest of saving you guys some time,
23 the only thing I wanted to touch on was the voluntary
24 agreements. Thank you so much for including those in
25 there.

1 I think some of our agencies have stressed to us
2 their concerns regarding guarantees where they are
3 starting to develop these voluntary agreements just to
4 ensure that they could have long-term understanding that
5 these flow agreements would be kept over the period of
6 years that it would take to initiate some of these
7 projects and to secure the funding for these projects.
8 And, so, we would just like those to be taken into
9 consideration moving forward.

10 So, thank you so much.

11 VICE CHAIR MOORE: That's an interesting point.
12 You know, I think that's a point we make, though, in
13 Appendix K, that that's a durable solution, a voluntary
14 settlement agreement.

15 So, I mean, I think it resonates with that point,
16 the language that's there. But we'll look at that.

17 CHAIR MARCUS: Xiaoke Tao or Tao. Okay.

18 Ms. Rooney? Because, I'm sorry, I've had
19 Mr. (Unintelligible). I was trying there.

20 MS. ROONEY: Good afternoon Members of the Board
21 and Chairman Marcus.

22 My name is Emily Rooney, and I'm President of
23 Agricultural Council of California. We represent
24 approximately 15,000 farmers across the state from small
25 farmer-owned businesses to some of the world's best-known

1 brands.

2 And, as a result, many of our members will be
3 impacted by the recent proposed amendments to the
4 Bay-Delta Plan and the proposed Substitute Environmental
5 Document, or SED.

6 Appreciate the opportunity to comment today.

7 Ag Council opposes the SED and urges the Board to
8 reengage the stakeholder community through voluntary
9 settlement agreements.

10 I'll do a simple "me, too" on many of the
11 comments that were given today from the irrigation
12 districts and the county farm bureaus. But I want to
13 focus my comments mostly any on the process here, as
14 opposed to the technical aspects of the SED.

15 This process has lacked meaningful communication
16 and collaboration from stakeholders in recent months.
17 I've seen collaborative efforts firsthand throughout
18 Sacramento and State government. The Air Resources Board
19 does a fantastic job of getting all the stakeholders'
20 feedback and coming out with proposed and final rules
21 that, while may not be perfect for our industry,
22 certainly reflect fair and -- fair work on all sides of
23 an issue.

24 I've seen it at the Department of Ag. I've seen
25 it at the Energy Commission, and also even at times out

1 of OEHHA, which has been very tough.

2 I don't understand exactly why the process fell
3 apart here. Because I know that you guys agree that we
4 can achieve more together and we can have more positive
5 impacts if we work together.

6 This Board has stated that it's time for
7 voluntary settlement agreements, but you're dealing with
8 a stakeholder group that feels largely ignored. And, as
9 a result, there are ripple effects that go well beyond
10 the SED process.

11 I do want to talk a little bit about the drinking
12 water bill that we've been working on because it is
13 shared priority between Ag Council, the Water Board, and
14 the Brown Administration.

15 As you're well aware, Ag Council has been working
16 with other Ag partners in the environmental justice
17 community for over two years to come up with a workable
18 solution, which now is encompassed in two bills, SB 844
19 and 845, which is a package of bills aimed to address the
20 drinking water needs of almost a million Californians in
21 this state.

22 We're very fortunate and thankful for the
23 administration's support of this package, and, frankly,
24 your support of this package as well. Chairwoman Marcus
25 and other Members of the Board, you guys have been highly

1 engaged, and really appreciate that support.

2 And now we are on the verge of a historic step
3 forward to provide safe drinking water for almost a
4 million people in California. However, the Board put
5 all -- and I mean all -- of our work in jeopardy when it
6 rolled out this proposal last month.

7 Just -- the timing of this proposal was just
8 ahead of the legislative session and just ahead of a vote
9 of their proposal. Vital but tenuous votes amongst
10 moderate democrats and key republicans are now called
11 into question due to the political fallout and, quite
12 frankly, the poor timing of the SED.

13 We're also getting asked whether or not we
14 actually can trust this Board on a go-forward basis given
15 what's happened.

16 To be clear, we are totally dedicated, the
17 coalition of 145 partners. We are totally dedicated to
18 getting this package past the finish line because there's
19 too much at stake.

20 But, I guess, this is just a long way of saying,
21 you know, we are thankful that you delayed the vote on
22 this, but the trust has been broken. So, I urge you guys
23 to work through the voluntary settlement agreement to
24 rebuild that trust so you can help us do big and better
25 things outside of this Board.

1 Thank you very much.

2 CHAIR MARCUS: No. Thank you. I just want to
3 say one thing that's challenging and it's -- for us,
4 which is challenging and it's complicated. I think the
5 VSA process is huge in terms of what folks are trying to
6 do, and that folks who wanted to do it, it's not
7 something run by us so that people can be confidential.
8 But, you know, if you talk to anyone in it, different
9 people will point at other people in it who weren't
10 serious.

11 So, it is like a lot of those things. So, while
12 we're hoping for it because there is more that could be
13 brought to the party than we can do ourselves and we're
14 very supportive of it, it's actually a different and very
15 challenging animal that will depend on everybody actually
16 listening to each other and trying to do things, versus
17 plopping their stuff out on the table and then saying,
18 "If I don't get what I want, it's not good enough."

19 I feel like folks are trying, but I think we have
20 been waiting for years for folks to actually come up with
21 proposals that then can be vetted through the other
22 people that have to vet it.

23 And, so, it's a -- no blame, it's just really
24 hard. But it's not -- it's different, let's just say.

25 MS. ROONEY: If I can just have one comment.

1 CHAIR MARCUS: Yeah.

2 MS. ROONEY: And this is something I kind of
3 learned by working with my environmental justice
4 partners. A lot of your arguments right there sounded
5 like folks in my community as well. We are waiting to
6 hear. We don't want things just plopped on us. And
7 we've learned a lot by working with our environmental
8 justice partners. A lot of our concerns are actually the
9 same and the strategies we employ are the same. So, I
10 feel like it's just a miscommunication.

11 CHAIR MARCUS: Yeah. I think you all have done
12 phenomenal in building that coalition.

13 MS. ROONEY: Thank you.

14 CHAIR MARCUS: And, really, I watched you all
15 actually try to listen to each other and ask questions
16 and figure out how to resolve things, rather than just
17 repeating yourselves past each other.

18 MS. ROONEY: Right. Thank you.

19 CHAIR MARCUS: It's really a good model.

20 VICE CHAIR MOORE: It's great. And, also, you
21 know, we want to build trust. That's something that we
22 take a lot of pride in individually as board members, our
23 staff. We take that very seriously.

24 And I just want to encourage folks to read
25 Appendix K. I mean, really get into that voluntary

1 settlement agreement language. You know, I think
2 Mr. Frantz said earlier, you know, there's some fatal
3 flaws that they see in the language. We are at that
4 stage, California. We got to look at this language and
5 see if we can trust it to find a path for the voluntary
6 settlement agreements that we can believe in at the local
7 level.

8 You know, really time is now. It was our intent
9 by putting this language in the program implementation to
10 build that trust and confidence that the path -- the
11 things you want to see happen, can happen through that.
12 If it's not there, then you have to help the State Water
13 Board do its job. You actually have to roll up your
14 sleeves, sharpen your pencil, and give us some
15 suggestions. Otherwise, you know, our relationship isn't
16 working out. And the State is merely the aggregate of
17 the locals. That's all we are.

18 I worked for local government half my career.
19 You know, if we don't represent the locals, we're not
20 doing our job. So, we take that seriously. We want to
21 see the pathway hammered out through this.

22 Thank you.

23 BOARD MEMBER D'ADAMO: I've just got to jump in
24 here. I know we're trying to get through these comments,
25 but the conversation sort of teed up, so --

1 CHAIR MARCUS: No. No. No. It's an important
2 issue, but --

3 BOARD MEMBER D'ADAMO: -- I'd like to just --

4 CHAIR MARCUS: -- it's challenging.

5 BOARD MEMBER D'ADAMO: Yeah, make a comment that,
6 you know, I've been thinking about this long and hard.
7 And, as you said, Chair Marcus, reasonable minds can
8 differ. And that has clearly been the case throughout.
9 So, there's different approaches.

10 I don't really think that -- I mean, if you think
11 of the number of stakeholders that have said we can work
12 it out, I really don't think we're too far apart knowing
13 what I know about some of the suggestions that have been
14 made both by NGOs and the irrigation districts. So, I
15 definitely think that there's an opportunity there
16 through VSAs.

17 My sense -- and I'm just speaking for myself, but
18 I think I come from a community that sort of feels this
19 way, too -- is that, when we look at balancing the
20 beneficial uses, what our proposal seems to do -- and I
21 know this isn't the intent --

22 CHAIR MARCUS: Uh-huh.

23 BOARD MEMBER D'ADAMO -- I think staff believes
24 this and probably -- and a number of my colleagues
25 believe that we've hit the sweet spot -- I read what

1 we're doing as not balancing the beneficial uses, but
2 leverage to get something that finds that sweet spot.
3 That it's truly more of a leverage to get the agreements
4 that we feel we can't reach on our own because of lack of
5 authority on non-flow measures, et cetera.

6 And, so, when -- when we look at some of the
7 dialogue that's been going on -- and, unfortunately, we
8 haven't been privy to a lot of those conversations. I
9 know you and I have spoken, it would sure be fun to be in
10 those conversations, way more fun than this.

11 MS. ROONEY: Agreed.

12 BOARD MEMBER D'ADAMO: But I do think, despite
13 the fact that there is a lot of acrimony, I do think that
14 there are, from little sneak peeks that I've received
15 from some of the conversations, people are earnestly
16 putting some good ideas out there. I mean, look what
17 Chris Shutes said today and look what Michael Frantz
18 said. That's just two that spoke with us today.

19 So, I love what -- Emily, what your coalition
20 of -- Ag Coalition has done with the EJ coalition, and I
21 just truly think that it's possible. But, I agree,
22 there's that challenge of a lack of trust and what can we
23 do to get the train back on the track.

24 MS. ROONEY: Thank you.

25 MS. YORK: Hello. Andrea York on behalf of the

1 Almond Alliance of California. We represent
2 approximately 80 percent of the handle of California
3 almonds. And this is also my first Water Board hearing.
4 It's been quite interesting today.

5 I want to align my comments in the interest of
6 time with our irrigation districts throughout the Central
7 Valley and with those of Ms. Emily Rooney from Ag
8 Council, who has taken such a leadership position on some
9 of the core values of the almond industry, which is,
10 clean drinking water for all Californians and a balance
11 for the environment and for the very critical economic
12 infrastructure that agriculture brings to the Central
13 Valley and disadvantaged communities.

14 So, we look forward to working with you and thank
15 you very much.

16 CHAIR MARCUS: All right. Ms. Kerr or Kerr.

17 UNIDENTIFIED SPEAKER: (Unintelligible.)

18 CHAIR MARCUS: Okay. We'll hold her card in case
19 she wants to come back tomorrow.

20 All right. Let's take a --

21 How many minute break? Ten or fifteen?

22 UNIDENTIFIED SPEAKER: How about until 5:20.

23 CHAIR MARCUS: Till 520. We'll take a short
24 break.

25 UNIDENTIFIED SPEAKER: (Unintelligible.)

1 CHAIR MARCUS: Eight-minute break. She's tough.

2 (Whereupon, a break was taken.)

3 CHAIR MARCUS: Nice to see you all. We're
4 getting started now.

5 You guys are eating things that look really good
6 that I can't eat, but I hope you enjoy them. You really
7 do deserve those cookies or whatever they are.

8 UNIDENTIFIED SPEAKER: (Unintelligible.)

9 CHAIR MARCUS: I don't know. It looks -- yeah,
10 it looks like if someone made those, they'd win a PRIZE.
11 All right.

12 All right. Sorry. Here we are. Depending on
13 the time, my estimate -- although my estimate -- it
14 should be, if folks keep to their time, an hour or so
15 left.

16 So, it's good to be able to do this and listen to
17 everyone, and I, for one, have found it helpful. So, I
18 appreciate it.

19 And I really appreciate those of you who have sat
20 and listened all day even if you're not speaking today or
21 if you've already spoken and listening to everyone. You
22 get karma points for that.

23 All right. Next five. John Kerr or Kerr.

24 Okay. I'm just saying, you know, see if you're
25 here before --

1 Mark Gonzalves; Todd Sill; Jennifer Buckman; and
2 John Duarte.

3 I didn't see John Duarte.

4 UNIDENTIFIED SPEAKER: Yeah, he's out there.

5 CHAIR MARCUS: He's out there? Okay. Good. If
6 someone can let him know he's in the next batch. Tell
7 him he's number five so he doesn't feel like he has to
8 run in and immediately start talking.

9 All right. John Kerr. Maybe, you know, put in
10 the pile and see if he comes back tomorrow.

11 Mark Gonzalves.

12 Hi.

13 MR. GONZALVES: (Unintelligible.)

14 CHAIR MARCUS: Please.

15 MR. GONZALVES: Hello. I'm Mark Gonzalves, a
16 native California [sic]. My ancestors come from the
17 Ohlone tribe; and on my paternal side, he came from Spain
18 in the 1700s. They are the first marriage of a Spanish
19 person and a Native American. It's on record at the
20 Carmel Mission.

21 CHAIR MARCUS: Cool.

22 MR. GONZALVES: So, my family has been here for a
23 long time. And I just think about how the rivers were
24 then. And every river in California has been damaged in
25 some way or another. And every river that's trying to

1 sustain itself has an organization trying to protect it.
2 And if it wasn't for those organizations, I think every
3 river would be drained dry by now.

4 It's just like the fisheries, where they have a
5 great catch for years and years and years, and then it
6 collapses. And I think that's what we're looking at our
7 California rivers. So, the motion to do sustainable
8 action on our rivers, is long overdue.

9 I heard someone say, Well, we've managed our
10 water very good for a hundred years. If it was managed
11 so well, we wouldn't be here. I mean, that's the answer.

12 So that's why we need increased flows, and we
13 need to do the decision now. We should have done it a
14 hundred years ago. We had a chance to do it 50 years
15 ago. And now we're saying let's delay it again. And I
16 say, let's not delay it.

17 And then one thing that -- during the drought,
18 domestic use saved 25 percent in California. Well, that
19 was 25 percent of 20 percent. So that's sounds like a
20 four percent reduction.

21 The agricultural industry said they were hurt,
22 but they weren't limited by rationing.

23 CHAIR MARCUS: Much of them were fallowed,
24 completely.

25 MR. GONZALVES: Yeah.

1 CHAIR MARCUS: That's pretty harsh.

2 MR. GONZALVES: But, at the same time, with the
3 new crops going in, the fallow options becomes [sic] less
4 and less.

5 And in the era of tariffs, why don't we
6 self-tariff our exports to support our own state? You
7 know, how much crop is exported out of California, at the
8 cost of California's water, to other countries, to the
9 benefit of, mostly, the big Ag farmers.

10 I think we're all in support of the family
11 farmers. You know, and I know it's cooperative and I
12 know it's all mixed, but I think that has to be taken
13 into consideration, just how much is exported.

14 And they go off on -- some of them talk about the
15 poor communities. And they could be supported by some of
16 the farming water that I've heard flows right past some
17 of these houses where their wells are bad.

18 And one short thing -- I know I'm going
19 over -- as far as salmon are concerned, salmon are not my
20 favorite fish.

21 CHAIR MARCUS: An honest advocate.

22 MR. GONZALVES: And they're -- I prefer lingcod
23 to -- and the reason I say that, because the higher flows
24 are necessary to provide nutrients to the ocean. The
25 ocean is mostly a desert, and it gets a lot of its

1 nutrients from rivers. So, the higher flows are
2 necessary to grab the nutrients and the soils and the
3 gravels to replenish beaches and the nutrients in the
4 ocean.

5 Thank you.

6 CHAIR MARCUS: Thank you.

7 Mr. Sill.

8 MR. SILL: Been here a while.

9 CHAIR MARCUS: I know.

10 MR. SILL: Thank you for sticking it out.

11 CHAIR MARCUS: No. I know what your deadline
12 was, so I'm getting you in and out before you have to
13 leave, at least.

14 MR. SILL: Okay. Before we started the meeting,
15 Mr. Esquivel -- I can't see that far with these
16 glasses -- but he suggested that the conversation he
17 would hope would evolve. But when I looked at all the
18 data that your staff presented, the numbers and the
19 graphs, they didn't seem to change much. So, it left me
20 thinking, Oh, I'm supposed to evolve to your guys' data,
21 your way of thinking. So that was tough for me.

22 And then I heard somebody speak about the legacy
23 of this Board. And I started thinking about that. And I
24 started thinking about the striped bass, how that was
25 introduced by a government agency into our river system

1 and the poor salmon are now almost extinct, according to
2 most people in this room.

3 And then I thought about the wildfires. And
4 somebody mentioned those. And I thought about how all
5 the pollution we had to endure these last two months
6 because of all the wildfires. And a lot of that is due
7 because we're trying to save the wildlife. So, we don't
8 harvest timber. We don't graze the ground.

9 And I got to thinking, if I was any -- if I was
10 one, or any one of the species, we're trying to save, I
11 would probably take out a life insurance policy and say,
12 you know what, I might take my chances on -- you know, on
13 my own.

14 I've asked several of the speakers that are in
15 favor of your proposal and beyond if water storage was an
16 option in their mind. You need more water. We need more
17 water. Can't we build storage? No, that's not an
18 option. So, I don't know where to begin with that.

19 If you need more of something, you have to have a
20 way to store it, to capture it. Historically and
21 scientifically, the salmon don't make it past those dams
22 anyway. So, if you have more water to put down those
23 things, build some more storages. That's -- that just
24 takes courage and commonsense.

25 If I -- well, if I -- I don't want to take a

1 vote. I can't do that, can I?

2 If I saw a fish out of the water and I saw a
3 person over here drowning in the water, who would anybody
4 in this room expect me to save? Let me ask that again.
5 Maybe I better ask -- because I've seen some of the
6 opinions here.

7 Listen, I wouldn't be the one drowning if I
8 was the one that had to save somebody. You know? I
9 mean, human life has to take precedence over animal life.

10 And I guess it's up to this Board to be the
11 superheroes and figure out how to save both of those.
12 And I don't understand why storage cannot be a part of
13 that conversation.

14 Thank you, folks.

15 CHAIR MARCUS: Thank you.

16 Ms. Buckman.

17 Oh, Durate.

18 MR. DUARTE: Oh, I'm sorry.

19 MS. BUCKMAN: Good evening, Chair Marcus and
20 Members of the Board.

21 It has been a long day. And in recognition of
22 that and with knowing that it was likely to be a long
23 day, we, the City -- I'm appearing on behalf of the City
24 of Modesto, and the City went ahead and prepared some
25 written comments, which I can just leave with

1 Ms. Townsend. I know you are all voracious readers and
2 will get to them.

3 I do want to say thank you to staff, who have
4 been working so very hard on this project. We do have
5 some issues still with the SED, but I did want to call
6 out that staff has been extremely good about responding
7 to our calls and e-mails --

8 CHAIR MARCUS: Oh, good.

9 MS. BUCKMAN: -- even at night and weekends and
10 on their days off. And, so, I do appreciate that.

11 And I want to just reiterate Council member
12 Grewal's statement from this morning, that the City
13 stands ready and willing to discuss any reasonable offers
14 and to work through these issues with staff. So, we
15 would like to just make sure that that offer, that your
16 aware of it, and the City would be happy to take those
17 calls.

18 We have one more city council member coming
19 tomorrow, Ms. Kenoyer. And that's all I have to say for
20 this evening.

21 CHAIR MARCUS: No. Thank you. That's very
22 helpful, and appreciate that offer. It's always a
23 conversation that needs to happen.

24 So, thank you.

25 MS. BUCKMAN: Thank you.

1 Mr. SAWYER: The Notice says we can't accept
2 hearing -- written comments. So, I'd urge Ms. Buckman to
3 either summarize them now or speak -- have one of the
4 speakers cover it tomorrow because we can't accept
5 written comments.

6 CHAIR MARCUS: I have a question, is the issue
7 you can't accept them for the record but she could give
8 them to us just to read, right? Or no? Since we can't
9 talk to people outside, this isn't an ex parte hearing.

10 MS. MAHANEY: To clarify, the --

11 CHAIR MARCUS: Yeah, thanks. Help me here.

12 MS. MAHANEY: -- the July 6th Notice says that
13 written comments were to be submitted by July 27th and
14 that the Board was limiting written comments to the
15 changes to the plan revisions in Appendix K. And the
16 Notice also expressly said that it was not accepting
17 written comments on the adequacy of the SED. So those
18 comments are not to be accepted.

19 They could be submitted as late comments, but not
20 for the Board's consideration, in accordance with the
21 Notice.

22 BOARD MEMBER D'ADAMO: Ms. Buckman, I would just
23 ask, you've talked quite a bit about the City of Modesto
24 today. Are there any gold nuggets in there that have not
25 yet been raised?

1 MS. BUCKMAN: They address just the legal issues
2 that I would have addressed because we were trying to
3 prioritize all the people who were coming to speak, you
4 know, all the --

5 BOARD MEMBER D'ADAMO: Could you just, at
6 least -- without going into the argument, just --

7 MS. BUCKMAN: I would happy to summarize them.
8 They --

9 BOARD MEMBER D'ADAMO: -- you know, like if it's
10 carryover storage or whatever, just list it? Just give
11 us a teaser so we know what to ask about.

12 MS. BUCKMAN. Right. So, the proposed final SED,
13 we think that the responses to comments are inadequate
14 because they assume that there are available water
15 supplies to the city to replace the water that will be
16 lost in quantities that are sufficient to supply the
17 city. And the assumption that there would be sufficient
18 available surface or groundwater supply to the city is
19 not based on any facts that we're aware of.

20 We also note that, under CEQA, you are required
21 to analyze the environmental impacts of economic effects
22 of a project to the extent that it's caused by a physical
23 impact on the environment.

24 So, with regard to the nearly \$500 million in
25 water infrastructure that we have that would be at risk,

1 if the city were to lose surface water in this volume, we
2 think that those impacts have not been adequately
3 analyzed.

4 And then, finally, we just point out -- and I
5 think one of the other speakers touched on it
6 earlier -- that we aren't certain that the provisions of
7 the Water Code regarding the balancing have been adhered
8 to because the beneficial uses that are in the Central
9 Valley Basin Plan have not been superseded. The proposed
10 flow objective is intended to supersede that portion of
11 the Central Basin Plan for those waters, but the
12 balancing hasn't been done with respect to the folks who
13 use those waters. And we think that that's required.

14 CHAIR MARCUS: Okay.

15 MS. BUCKMAN: So, my effort to spare you my legal
16 comments failed.

17 CHAIR MARCUS: No. No. It's -- this is the time
18 to flag them so that we can follow up.

19 MS. BUCKMAN: But we'll leave copies just in case
20 you want to read them.

21 CHAIR MARCUS: Okay.

22 Mr. Duarte, thank you for waiting.

23 MR. DUARTE: Sorry about that --

24 CHAIR MARCUS: No. I --

25 MR. DUARTE: -- I was overzealous.

1 CHAIR MARCUS: -- appreciate you spending the
2 day.

3 MR. DUARTE: John Duarte, farmer in both -- in
4 Modesto Irrigation District and Turlock Irrigation
5 District, owner of Duarte Nursery, fourth-generation
6 California farmer on one side, third on the other side,
7 kids in the business showing some interest, hopefully.

8 BOARD MEMBER D'ADAMO: And great poinsettias.

9 CHAIR MARCUS: And great poinsettias.

10 MR. DUARTE: Abundance is a choice. And in
11 California, we absolutely have the choice to have
12 abundant water for farms, for cities, and for fish, and
13 for healthy river habitats.

14 We stopped building infrastructure 40 years ago.
15 The infrastructure we're building today is insane. We're
16 building empty tunnels, when we need to be building dams.
17 Infrastructure commitments are not the only way to
18 provide abundance. We can thin the forest. That was
19 touched on several times today, and it's fairly
20 scientifically supported.

21 You can go north of Sacramento and you can pump
22 groundwater into the Sacramento River that's less than
23 ten-foot beneath the ground. It's abundant. And that's
24 why I'm not selling any almond trees there. There's too
25 much water. It's too shallow. And you can't grow

1 deep-rooted crops there.

2 The Army Corps of Engineers Colonel told our farm
3 bureau two years ago that the way to create more usable
4 water yield in our flood control dams is to increase the
5 spill rate, channel the -- dredge the channels, and get
6 the water when it floods out to the ocean faster. That
7 would serve many purposes.

8 We can have abundance in California. But,
9 instead, this Board has come to our community and ignored
10 a \$25 million effort to research and understand and put
11 many tools in the toolbox to support salmon, support the
12 habitat and the river -- because this really isn't about
13 salmon, it's not -- this is not 1,030 salmon a year we're
14 trying to save. Believe me, I'm not going to farm
15 almonds in southern Oregon. I don't think salmon
16 fisherman should try and farm salmon at the edge of their
17 natural habitat out of the San Joaquin River. The
18 thousand salmon that are going to be created in this
19 effort will not save any of the salmon fisherman, noble
20 and hardworking and family men they are, from economic
21 parish if they rely on this document to save salmon.

22 CHAIR MARCUS: It's not a thousand salmon, but
23 you can read the FAQs. But that's -- I understand what
24 your point is.

25 MR. DUARTE: I'll read your falsely answered

1 questions later. The original document --

2 CHAIR MARCUS: That's not helpful.

3 MR. DUARTE: -- had 1,030 salmon a year. Maybe
4 it was 1,130. I'm not off by a decimal.

5 Your tunnels are going to be empty if you do not
6 create water abundance. You have choices to create water
7 abundance. And you cannot harm our community in this
8 process if you'll simply show an attitude towards
9 abundance.

10 How do we in the forest -- to create more
11 groundwater and surface resources, how do we create the
12 spill flow of dams and channel flow of flood control
13 resources so we can get the water out so we can hold more
14 yieldable water in early season rain years? We flooded
15 the Delta several times, and then stared at our empty
16 dams during the drought. It was a shame, and it's
17 avoidable. And we know the infrastructure without
18 building new dams that will bring that about.

19 So -- I'm sorry. I can't find this to be a
20 sincere effort. A sincere effort would be to wait for
21 the FERC research to come in at both Don Pedro Reservoir
22 and down at Merced, look at the proposals out of those
23 FERC resource -- Federal Energy Resource Commission
24 documents, and then negotiate with us how we can meet the
25 balanced goals that you desire.

1 A 40 percent flow restoration is a very blunt
2 instrument, and you just don't have enough tools in the
3 toolbox to be fair to everybody involved here.

4 Thank you very much.

5 CHAIR MARCUS: Thank you.

6 Next, I have Nick -- is it Blom or Blom?

7 MR. BLOM: You said it right the first time.

8 CHAIR MARCUS: Blom. That's the way it's
9 spelled. One never knows, you know.

10 Patty Lopez from Delhi; Monique Sonokey
11 from -- who is the Director of the Indigenous Youth
12 Foundation; Jose Gutierrez, from Westlands Water
13 District; and Ron Romines. We went through
14 this -- Romines. Romines. I got it wrong. Romines.
15 Sorry.

16 Hi.

17 MR. BLOM: All right. Hi. Thank you.

18 And I, actually, am a Modesto Irrigation Board
19 Member as well, but I figured I'm here as a farmer.

20 Both --

21 CHAIR MARCUS: Yes.

22 MR. BLOM: -- John pointed out he is in the MID
23 and TID. So am I. We've been farming -- I'm actually
24 only a second generation. My parents both came over from
25 Europe, so it's -- we're living in the American dream.

1 It was said earlier that a lot of pollutants come
2 from Ag. This is just a falsehood; 50, 60, 70 years ago,
3 maybe so when they didn't know exactly what the nutrients
4 did. We're not putting more than we need to on our land,
5 because if the trees aren't going to use it, it's not
6 worth wasting our money.

7 Actually, you know, Ag land is where all of our
8 food comes from. Without us, you're not going to have
9 any food in the grocery stores. As was said earlier
10 also, food just doesn't show up in the grocery store,
11 somebody' s got to grow it.

12 Let me see. Any control over the quality of our
13 food is going to be lost. If we don't grow it in this
14 country, we don't have control of what the quality is,
15 how they use it, what kind of chemicals they're using on
16 it. And if we lose that control, then you just don't
17 know what you're going to be eating. You're not going to
18 have a good -- you can only grow so much stuff
19 organically. You can only grow so much stuff in a little
20 garden on the side. We can't feed our entire population
21 of the United States with that kind of food.

22 To the salmon fisherman, I feel their plight. I
23 understand what they're coming from. The thing of it is,
24 is years ago, we used to harvest and commercially harvest
25 ducks. We don't do that anymore because they were sort

1 of endangered. The duck's population is not what it used
2 to be. But we don't commercially harvest it. Maybe it's
3 time to look at that. I feel for them. I understand
4 they're making their living by fishing for the salmon.
5 But they're an endangered species. Maybe we just stop
6 harvesting the salmon.

7 CHAIR MARCUS: Not all of them are yet. The fall
8 run --

9 MR. BLOM: Exactly.

10 CHAIR MARCUS: -- are the largest commercial run.
11 And we're supposed to protect that, too.

12 Mr. BLOM: Yup.

13 The Tuolumne River, the Modesto Basin, we're
14 being punished for doing a good job. We have -- as was
15 said earlier, we're not in an over-drafted basin. I
16 mean, we've done conjunctive use. We've used our water
17 wisely. We're willing to put a little bit more water
18 down the river, but let us store more water. You know,
19 storage is the answer, I think whether it's above or
20 below ground.

21 Personally, I've worked with UC Davis. We've
22 done a study. We've irrigated my farmland in January.
23 We've put two feet of water on almonds in January just to
24 see if we can help recharge the groundwater. And, so
25 far, no ill effects. So, we're --

1 CHAIR MARCUS: Those are very exciting
2 experiments.

3 MR. BLOM: Yeah. It really truly is because, I
4 mean, we're in paradise. We've got enough water to do
5 these kind of studies. But if we can find those
6 years -- and according to the global warming, we're going
7 to have more years of wet rains instead of the snow pack.
8 So, if we're going to have those wet rains, we need to
9 have the storage for that.

10 It was said earlier by that one man that for the
11 salmon they needed the water February, March, April, not
12 May and June, in the Tuolumne River. And so, I mean,
13 those are the type of things, if we can keep that down to
14 a three-month issue -- I'm still not advocating for the
15 40 percent. I think we can do it with less. But those
16 are the kind of scientific things we can look at to do a
17 proper way of studying how we're going to do it. So real
18 quick --

19 CHAIR MARCUS: Yeah, try to --

20 MR. BLOM: I -- talked to a mosquito abatement
21 guy. And he said, look, if you run 40 percent unimpaired
22 flow down the river, you're going to get some subbing on
23 the Tuolumne River. That's going to be stagnant water.
24 Now, you've got -- according to the studies we have,
25 we're going to have people who are out of work, they're

1 impoverished communities, you've got stagnant water,
2 you've got mosquitos, you're talking Zika, the West Nile,
3 all of these health issues are going to come up because
4 of this. And the mosquito abatement districts aren't
5 going to be able to handle that because now their income
6 is going to be diminished because there's not as much
7 production Ag.

8 Thank you.

9 CHAIR MARCUS: All connected. Thank you very
10 much.

11 Ms. Lopez.

12 MS. LOPEZ: Hi.

13 CHAIR MARCUS: Thank you.

14 MS. LOPEZ: Good evening. My name is
15 Patricia Lopez. I am representing many people who works
16 in agriculture. Water is life. Water is our right. We
17 need clean water for our communities. We need water for
18 our houses, hospitals, and schools.

19 Our job depends on (unintelligible). Farmers are
20 producing food. If farmers don't have water, thousands
21 of people are going to lose their jobs, food prices are
22 going to be up, we will not be able to put food on our
23 tables, we are going to have poor communities. These
24 would be big impact in our economy.

25 Water is our present and is the future. We are

1 not rich people. We need our jobs. California feed the
2 nation. We understand that everything is important;
3 human life and also wildlife. Everything is important.
4 Please, make the right decision.

5 Thank you.

6 CHAIR MARCUS: Thank you very much.

7 Ms. Sonokey.

8 Mr. Gutierrez.

9 Hi.

10 MR. GUTIERREZ: Hello. Madam Chair, Members of
11 the Board, my name is Jose Gutierrez. I'm the Assistant
12 Chief Operating Officer for Westlands Water District.
13 Thomas Birmingham, our General Manager, wanted to be
14 here, but could not because of an unavoidable commitment.

15 Westlands is very disappointed with the proposal
16 before the Board. For the reasons presented in its
17 July 27, 2018, comment letter, and prior comment letters
18 submitted by Westlands, the proposal is not consistent
19 with important scientific and legal principles, and the
20 proposal reflects bad policy.

21 The staff -- your staff proposes that the State
22 Water Board establish water quality objectives that
23 compel the bypass or release of water from storage. The
24 quantity of water to be bypassed or released would be
25 based on a percent of unimpaired flow.

1 Your staff asserts that unimpaired flow tracks
2 natural flow variations. However, there is little
3 natural about unimpaired flow. It is a hypothetical,
4 calculated number. The calculation may assume no dams,
5 but it does include important physical changes to the
6 watershed that have occurred, like reconfiguration of
7 channels, creation of levies, loss of floodplains, and
8 urbanization.

9 Many scientists, including two former lead
10 scientists for the Delta (unintelligible) Council, agree
11 that attempting to establish a flow regime that tracks
12 natural flow variances in modified systems like the Bay
13 Delta, will not yield successful ecological outcomes.

14 Efforts must be undertaken to develop functional
15 flow. And it is necessary to consider hydrologic,
16 geomorphic, and ecological processes and the functions
17 they serve.

18 This consensus position is consistent with the
19 widely accepted principle that objectives should be
20 smart, biologically specific, measurable, achievable,
21 relevant, and timely smart. A biologically-based
22 functional flow approach is well aligned with the law.

23 The State Water Board must adopt objectives, not
24 for flow, but for water quality constituents or
25 characteristics, such as, pH, salinity, temperature.

1 Those constituents and characteristics are identified in
2 each of the State's basin plans.

3 Flow has a role. It is a master variable.
4 However, its role is properly considered generally in the
5 program of implementation and, specifically, in a
6 subsequent water rights proceeding.

7 It has been said that the result of staff's
8 proposal is consistent with the science and law because
9 it would establish functional flow as part of a
10 comprehensive plan to provide reasonable protections for
11 fish and wildlife. While that might be the intent, the
12 proposal shifts the burden of achieving that result from
13 the State Water Board to water users.

14 The staff's proposal identifies a block of water,
15 taking substantial quantities of water from the urban and
16 agriculture communities that have been dependent upon it
17 for decades, in some circumstances, more than a century,
18 and a significant environmental and socioeconomic and
19 financial cost. The staff's proposal then imposes the
20 burden largely on the impacted water users to develop the
21 flow regimes that serve biological functions and find
22 ways to pair the flows with non-flow measures.

23 For these reasons and other reasons presented in
24 these written comments, Westlands' respectfully requests
25 the State Board decline to adopt the Phase I Bay-Delta

1 Plan updates in their current form. The scientific,
2 legal policy defects must be first corrected.

3 Thank you.

4 CHAIR MARCUS: Thank you.

5 Mr. Romines. Romines. Okay.

6 May be faster than I thought. But that's
7 unfortunate they had to go.

8 Melinda Terry, who I didn't see anymore.

9 Let's see if they come back tomorrow.

10 Mike Mielke, are you still here?

11 Jeanelle Steiner.

12 You might as well just go ahead.

13 I'll say the rest. I'm sorry.

14 Rhonda Reed. Oh, maybe -- there we go. Just
15 people who couldn't stay and didn't ask -- oh, good.
16 There you are.

17 Okay. Rhonda Reed, you're after Jeanelle
18 Steiner.

19 Then William Morris, great, you're next.

20 Spreck Rosekrans. I saw him. He's here.

21 And, finally, last but not least, Tom Biglione.

22 Thank you very much, Ms. Steiner.

23 MS. STEINER: Hi.

24 CHAIR MARCUS: Hi.

25 MS. STEINER: First of all, I want to thank each

1 and --

2 UNIDENTIFIED SPEAKER: Pull the mic down a little
3 bit.

4 CHAIR MARCUS: Yeah, just got to make sure it
5 picks up.

6 MS. STEINER: Hi. My name is Jeanelle Steiner.

7 And, first of all, I want to thank each of you
8 for all of your efforts and patience in this whole
9 process.

10 I'm a fourth-generation Californian. And I'm
11 here to speak for -- be a voice for future generations
12 and species who don't have a voice here.

13 And I urge you to adopt the Alternative 4 of the
14 unimpaired flow of 50 to 60 percent. And I feel like
15 we're looking at, you know, possible ecological collapse.
16 Actually, it's not really a feeling, it's -- the science
17 is pointing toward that. And I feel like the risk is
18 really high. And it's important to start with the
19 basics. And that's to ensure our ecosystems are intact.
20 So, I just want to put my word in for that.

21 And thank you.

22 CHAIR MARCUS: Thank you. Thank you for staying
23 with us, too.

24 Ms. Reed, hello.

25 MS. REED: It's not 6 o'clock, so I can't say

1 "good evening." So good afternoon, instead.

2 CHAIR MARCUS: You can say it if you like.

3 MS. REED: I would rather not. Good after --

4 CHAIR MARCUS: Whatever it is.

5 MS. REED: Good afternoon, Chair Marcus and
6 Members of the Board. Thanks for hanging in there and
7 continuing with this process.

8 I'm here as a private citizen, retired fishery
9 scientist, a granddaughter of a San Joaquin Basin raisin
10 farmer, and a grandmother hoping that my granddaughters
11 will have a chance to enjoy salmon -- seeing salmon,
12 enjoying living rivers in California through their
13 lifetime and beyond.

14 I support the Board action to stabilize
15 incremental flow to protect the remaining runs of salmon
16 in the San Joaquin system. But I hope it is enough to
17 help. The science may argue that it's not quite enough,
18 but it's a good start.

19 Please recognize that the San Joaquin Valley
20 rivers where the historic heartland of spring run Chinook
21 salmon, and they're now extinct in the Merced, Tuolumne,
22 and Stanislaus rivers because, indeed, they did go beyond
23 where the dams are now.

24 Fall run is all that we have left and, in part,
25 because we have flows that are, at least, somewhat

1 sufficient to maintain the fish below them, but not
2 necessarily in good condition. I think that's what
3 you're aiming to achieve, to a certain extent.

4 Physical improvements of habitat are not enough.
5 More than half of my three decades in public service, I
6 was responsible for funding and implementing physical
7 habitat restoration projects in the Central Valley for
8 salmon and steelhead restoration.

9 Of the hundreds of millions of dollars spent on
10 such projects since 1995, the only (unintelligible) that
11 have shown positive responses and potentially sustainable
12 salmon runs as a result of those improvements have
13 included, not just physical improvements, but increments
14 of flow added at strategic times to help the fish.

15 We tried doing that on the San Joaquin system
16 with the VAMP program, assuming that the pulse (phonetic)
17 flows were the strategic flow that the fish needed, and
18 it's not been sufficient. But it's not to say that flow
19 is no good then.

20 I'm particularly concerned -- I'm a granddaughter
21 of a farmer in the San Joaquin Valley. I recognize the
22 challenge. He was a teetotaler, didn't smoke, didn't
23 gamble -- oh, wait, he was a farmer, he did gamble. And
24 so I do recognize the challenges that farmers have, but
25 I'm concerned what I have seen in the last 20 years in

1 perusing the San Joaquin Valley, in particular, of the
2 conversion of hundreds of thousands -- I haven't got that
3 number quite correct -- of thousands of acres of annual
4 croplands and unirrigated rangelands into trees and
5 vines, which are like building little cities and towns
6 throughout the San Joaquin Valley. It is not
7 sustainable. And it uses water. And it's ignored that
8 that growth has been -- it's been expected that surface
9 water would cover some of it and then they could pump
10 whatever they wanted, and then now that we're trying to
11 maintain surface water, it's got to balance it out.

12 But, no disrespect to the Stanislaus County
13 Agricultural Commissioner, just some tidbits.
14 In -- since 2014, they may not have converted dryland to
15 trees; but in 1998, there were 87 thousands [sic] of
16 almonds -- 87,000 acres of almonds harvested just in
17 Stanislaus County; in 2017, there was 188,000 acres of
18 almonds harvested.

19 Fallowing is an important element of farming in a
20 drought-prone state. And, I'm sorry, I know that there
21 are going to be some hardships and some changes
22 economically, but please take this step forward to set
23 the limit, at least a minimum, for what the fish need so
24 that then the farmers can make good decisions, not bad
25 decisions, about what to plant and expect the public

1 trust to bail them out.

2 So, thank you very much for listening, and please
3 go for it.

4 CHAIR MARCUS: Thank you for returning.
5 Appreciate it.

6 Mr. Morris.

7 MR. MORRIS: I guess I get to say, "good
8 evening," Madam Chair --

9 CHAIR MARCUS: That's right. I think you're
10 right on the nose there.

11 MR. MORRIS: -- and Members of the Board.

12 Anyway, I'm a farmer. I'm responsible for
13 400 acres in the San Joaquin Valley. I notice that I'm
14 not very well represented here today. That's probably
15 because most of us are out there trying to get our
16 produce in right now.

17 And I had about seven things I wanted to talk
18 about, but I probably won't be able to get to them all.

19 I noticed that when I was watching the
20 presentation going on that there was a baseline being
21 discussed. I never heard the definition of the baseline
22 other than it was 40 percent, which doesn't help me out
23 very much. I know that that's not the --

24 CHAIR MARCUS: Isn't baseline current? Baseline
25 is current.

1 MR. MORRIS: It's not the natural uninhibited
2 flow of these rivers because that hasn't been done since
3 over a year -- a hundred years ago.

4 And, in those days, the waters would just gush
5 out on the floodplain and then turn into a trickle, which
6 kind of got me thinking, hey, trickle, you know, that
7 that's a good idea right now to trickle that water
8 because that will kill off all those predator fish that
9 got introduced which are voraciously killing off all the
10 salmon that everybody would like to protect.

11 And I -- so, right off the bat, I went -- we've
12 got kind of an erroneous thing to be looking at here with
13 regard to this plan, and then also somebody came up today
14 and said, Hey, the numbers on the fish are wrong. The
15 fish are more tolerant to the heat than has been looked
16 at by this plan.

17 And, so, I looked at the fact that I don't know
18 whether this plan is supposed to take care of the Delta
19 or the salmon. I know that if it's supposed to be taking
20 care of the Delta like something I saw down here,
21 freshwater into the Delta fixes the Delta, then why are
22 we taking freshwater out of the Delta? If would need
23 freshwater, let's not be taking it out. So, there's some
24 sort of arbitrariness or capriciousness going on there.

25 Now, the staff, they blew away the study that

1 apparently we paid \$26 million for and said, Oh, that's
2 because they didn't make the proper assumptions, like
3 using groundwater. Well, I hope everybody here knows
4 that trying to replace the surface water with groundwater
5 is not a good idea or water -- use water for food that is
6 less water intensive.

7 And, again, you go, I'll grow it if you'll eat
8 it. But don't make me grow something that nobody is
9 going to buy. And, I guess, that's a good place to stop.

10 CHAIR MARCUS: It is. That wasn't seven, though.
11 What were the other ones? Just don't go into detail, but
12 let us know what they are.

13 MR. MORRIS: Well, let's see. I got most of
14 them.

15 CHAIR MARCUS: Okay.

16 MR. MORRIS: Delta, salmon -- I wanted to talk
17 about the valley being a food bowl, but my in-laws,
18 they're the ones who are down here in the valley. I
19 was -- my family was up north. But they -- they were
20 responsible for putting together these dams. And the
21 dams are -- is what we're talking about here, the water
22 that is behind the dams. And, yes, that's our water. We
23 paid for it. We went out there and did the work to
24 collect that water back there. And, so, when we say
25 there's a water grab going on, it's because, well, you're

1 telling us to release this water there. That water is as
2 good as -- that water belongs to --

3 CHAIR MARCUS: Or that you can't divert it to
4 storage at the same rate, right.

5 MR. MORRIS: Yeah. So --

6 CHAIR MARCUS: It's an interesting conversation
7 that I would -- I can't have it with you right now
8 because it's here. But there is a sense in some of this
9 about people have all very heartfelt views of when
10 history begins.

11 MR. MORRIS: Yeah.

12 CHAIR MARCUS: Because it's also true that when
13 the dams went up, they were all supposed to keep fish in
14 good condition below them. And that hasn't happened.

15 So that's where you get the tension with folks in
16 the environmental community that say folks didn't square
17 with that deal. So, it's -- but you can do anything in
18 sound-bites to make it sound -- but it's a conversation
19 to have.

20 MR. MORRIS: You're right. But I recognize that
21 tension, but the thing is, is that I think the tension
22 should consider some outside sources, which, of course,
23 that's not your purpose here today. But there should be
24 other ways of solving these problems, which I can come up
25 with a million of them.

1 CHAIR MARCUS: And we've been working a lot of
2 them in other context, so the whole purpose of the water
3 action plan is the all-of-the-above approach --

4 MR. MORRIS: Right.

5 CHAIR MARCUS: -- it's in some ways the reason
6 why it is so helpful to have other agencies help with
7 voluntary settlements, is they can bring more to the
8 party, so to speak, than we can alone. So, I sense -- in
9 sensibilities, I don't think we're in disagreement.

10 MR. MORRIS: I just don't like the \$26 million
11 that we spent just being blown away as, Uh, you made the
12 wrong assumptions. And I would agree with -- if my water
13 district, TID, says, This is the way that it should go,
14 I'm not the lender, yes.

15 CHAIR MARCUS: Okay. Thank you.

16 Mr. Rosekrans.

17 MR. ROSEKRANS: Good evening, Chair Marcus and
18 Board Members. I'm Spreck Rosekrans, Executive Director
19 of Restore Hetch Hetchy.

20 Our group is narrowly focused upstream on the
21 restoration of Hetch Hetchy Valley and Yosemite National
22 Park while protecting the water and power enjoyed by all
23 folks who rely on the Tuolumne River. Because we're
24 narrowly focused, we have no position on what you do in
25 this very challenging proceeding, but I do have a couple

1 of comments.

2 CHAIR MARCUS: Uh-huh.

3 MR. ROSEKRANS: First of all, I enjoyed the
4 language on VSA in Appendix K. I thought that was really
5 good. And I hope that that approach is successful.

6 Secondly, I want to bring up an issue that I
7 brought up to you in a letter a couple of years ago and
8 then in comments December 19th, 2016, in Merced about San
9 Francisco's assumptions.

10 And this 40 percent, or whatever you guys decide
11 on, would put San Francisco in a very difficult spot
12 hydrologically given the fourth agreement and all this
13 kind of stuff. And I'm not going to say that Mr. Francis
14 when he said their users would go down in droughts to 25
15 gallons per person per day, but it would be significant.
16 But I will say that what -- his assumption that that's
17 where they end up and San Francisco's analysis, as
18 projected the in (unintelligible) Group Report, assumes
19 they sit there and take it; they don't do anything. That
20 is not going to happen. We know they're going to do
21 things like urban Southern California has done when Delta
22 exports have gone down. They're going to invest in
23 groundwater recharge and groundwater banking and remote
24 communities storm water capture and recycling. They're
25 going to do all those things so those things don't

1 happen.

2 So, I really wish San Francisco had put forth
3 some of those assumptions and showed what those costs
4 would be rather than saying, Oh, we're just going to sit
5 here and suffer and take these horrendous droughts.

6 CHAIR MARCUS: It might have been more helpful.

7 MR. ROSEKRANS: The (unintelligible) Group Report
8 is really problematic, from our point of view.

9 So, again, I'll wish you luck in resolving this
10 difficult situation. I hope you can do it quickly. And
11 I hope that soon we'll be able to have a much simpler
12 question for the State Board, and that's whether Hetch
13 Hetchy is worth more as a valley in Yosemite National
14 Park than it is as a reservoir.

15 Thank you.

16 CHAIR MARCUS: Thank you.

17 Mr. Biglione, still here? Oh, good. Thank you.

18 MR. BIGLIONE: I'd like to add my thanks to some
19 of the others to the fact that you're spending this much
20 time listening to the vast range of communities on this
21 issue.

22 I come here today to support the SED, but at a
23 50 percent level, not the 40 percent level.

24 I'm a canoeist by hobby. And I've paddled every
25 major river in the Central Valley, with the exception of

1 maybe the Tully.

2 Some of those trips are kind of cut short because
3 as you come out of the foothills, the rivers run dry.
4 And at that -- that brings me to my first point. I hear
5 so many people debating, do communities use 20 percent or
6 10 percent of the water in the state? Do farms -- it
7 doesn't matter. When a river like the San Joaquin River
8 runs dry at Sac dam and there's 40 miles of hot, bare
9 sand, it's 100 percent gone. And the same for the Kern.

10 And I know that we're talking here today about
11 the Merced, the Stan, the Tuolumne. But as a canoeist
12 out on the river -- I wish I could take each person here
13 one at a time down these rivers so that you can see,
14 feel, and smell what these rivers are like.

15 And I had the pleasure some years ago to
16 accompany someone on a trip from Friant Dam all the way
17 to the confluence of the Tuolumne. I didn't share his
18 walk across the dry part. But, you know, the scent of
19 the river isn't too appealing once you get north of Los
20 Banos. It's no longer even the San Joaquin River.

21 There are so many things that have been said
22 today and have been said over the prior years that
23 are -- they're false dichotomies. It's not an either-or.
24 People were farming in California from the Gold Rush
25 period on. In fact, people were tending fields for

1 10,000 years here using different methods. But
2 California farming will continue.

3 I'll tell you what will knock it out, and that is
4 destroying our water quality, destroying our air quality,
5 destroying the quality of our soil. That will knock
6 California out. But California farming will go on, even
7 if we do reduce the flows or, rather -- even I'm falling
8 into the trap -- it's not a diversion to leave water in a
9 river, for goodness' sakes. And I wish people would use
10 language the right way.

11 But what does matter is our quality of life.
12 Everyone's quality of life. I heard Nina speak earlier
13 today, the young woman who had worked in Israel. And I
14 hope to be around for a few more years myself, but I
15 don't mean to come tottering up here 20 years from now
16 fighting this same cause.

17 So, thank you and keep up your good work.

18 CHAIR MARCUS: Thank you, sir, for joining us.

19 Now, I have some cards of people I called on who
20 may -- is there anyone here who put in a card who was out
21 of the room when I called their name?

22 Okay. We'll hold them for tomorrow then.

23 With that, we are going to -- what's the
24 word -- recess? What's the right word? Recess the
25 hearing until tomorrow morning at 9:30 again. 9:30.

1 I expect we'll have another very full day. We
2 will have all of the larger requests. I think they still
3 total up an hour or less because we didn't have many,
4 which I think in part from some folks was because they
5 really did want to hear from individuals, which I am
6 eternally grateful for.

7 But I think we'll have quite a few individuals
8 here tomorrow as well. And look forward to seeing any of
9 you who will be here tomorrow to hear the full range.
10 And thank you to those of you who came and sat all day
11 who didn't even speak today. Just, I really value the
12 listening and appreciate that because it gives you that
13 full kaleidoscope of views strongly held on all sides.
14 And you can help us best that way if you can own all of
15 them.

16 So, is there anything else, magic words I have to
17 say, Ms. Mahaney or Mr. Sawyer or Ms. Sobeck?

18 UNIDENTIFIED SPEAKER: No, just good night.

19 CHAIR MARCUS: Good night and be careful out
20 there.

21 (Whereupon, the meeting recessed until
22 August 21, 2018, at 9:30 a.m.)

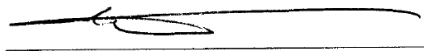
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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of October, 2018.



PETER PETTY
CER**D-493
Notary Public

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Myra Severtson
Certified Transcriber
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