

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

Wednesday, December 12, 2018

9:42 A.M.

Volume 1

Reported by: Gigi Lastra

APPEARANCES

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

Division of Water Rights

Board Members Present:

Felicia Marcus, Chair

Tam M. Doduc, Member

Dorene D'Adamo, Member

E. Joaquin Esquivel, Member

Sean Maguire, Member

Jeanine Townsend, Clerk to the Board

STAFF PRESENT

Eileen Sobeck, Executive Director

Jonathan Bishop, Chief Executive Director

Eric Oppenheimer, Chief Deputy Director

Andy Sawyer, Assistant Chief Counsel

Phil Crader, Division of Water Rights

Les Grober, 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

Chris Carr, Division of Water Rights

Yongxuan Gao, Division of Water Rights

Andrew Hill, Division of Water Rights

Tim Nelson, Division of Water Rights

APPEARANCES (Cont.)

ALSO PRESENT:

PUBLIC COMMENTERS

Charlies Bonham, California Fish & Wildlife Department

Karla Nemeth, Department of Resources

Peter Alexander

Mike Petz, New Jerusalem Drainage District

Michelle Leinfelder-Miles, Delta Crops Resource
Management Advisor, University of California Cooperative
Extension

Dean Ruiz, Central Delta Water Agency and Wood Irrigation
Company

John Herrick, South Delta Water Agency

Ronald Stork, Friends of the River

Morning Star Gali, Tribal Water Organizer for Save
California Salmon

Regina Chicazola

Mariah Florendo, Save California Salmon

Robert Gore, Gualco Group

Bill Martin

Denise Louie

Sonia Diermayer, on her own behalf

Heinrich Albert

David Guy, Northern California Water

Kevin O'Brien, Downey Brand

APPEARANCES (Cont.)

Noah Oppenheim, Pacific Coast Federation of Fishermen's
Associations

Roger Mammon, West Delta Chapter of the California
Striped Bass Association

James Cox, California Striped Bass Association

Tim Stroshane, Restore the Delta

Barbara Barrigan-Parilla, Restore the Delta

Tama Brisbane

Anthony Robinson, Jr., Fathers and Families of San
Joaquin

Stephen Green, Save the American River Association

Tania Sole

Peter Drekmeier, Tuolumne River Trust

Jeralyn Moran, Unitarian Universalist Church of Palo Alto

Patrick Koegele, Tuolumne River Trust

John McManus, Golden Gate Salmon Association

Jennifer Pierre, State Water Contractors

Gloria Purcell

Jessie Raeder

Cindy Charles, Golden West Women Fly Fishers

Darcie Luce, Friends of the San Francisco Estuary

Andy Doudna, Northern California Guides and Sportsmen's
Association

Glenn Chadaris

APPEARANCES (Cont.)

Chris Shutes, California Sportfishing Protection
Alliance

Teresa Hardy, Sierra Club

Michael Carlin, San Francisco Public Utilities Commission

Art Godwin, Turlock Irrigation District

Bill Paris, Modesto Irrigation District

Gary Bobker, Bay Institute

Kristin White, Bureau of Reclamation

Maurice Hall, The Environmental Defense Fund

Rachel Zwillinger, Defenders of Wildlife

Brian Johnson, Trout Unlimited

Brian Stranko, The Nature Conservancy

Justin Fredrickson, California Farm Bureau

Marie Logan, Earth Justice on behalf of San Francisco Bay
Keeper

Barry Nelson, Western Water Strategies

John Rosenfield, Bay Institute

Doug Obegi, Natural Resources Defense Council

Ben Eichenberg, San Francisco Bay Keeper

Steve Rotherth, American Rivers

Debbie Webster, Central Valley Clean Water Association

Deirdre DesJardin, California Water Research

INDEX

Continuation of Item 4 from the August 21-22, 2018 Board Meeting and Item 10 from the November 6-7, 2018 Board Meeting

13. 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
- Agenda Item (updated from August 21-22-2018 and November 6-7, 2018 Board Meetings)
 - Change Sheet #3
 - Response to Oral Comments received at August 21-22, 2018 Board Meeting.

Note: Oral comments will be limited to the changes to the Proposed Final Plan Amendments contained in Change Sheet #3.

The Items listed below and denoted with an (*) were originally posted on the August 21-22, 2018 Board Meeting agenda

- *Agenda Item
- *Draft Resolution
- *Attachment 1: Draft CEQA Findings and Statement of Overriding Considerations
- *Attachment 2: Draft Mitigation and Monitoring Plan
- *Draft Final Amendments & Substitute Environmental Document
- *Written Comments (were due on July 27, 2018 by 12 noon)
- *Comment Summary & Responses
- *Change Sheet #1
- *Change Sheet #2

INDEX

	<u>Page</u>
Opening Remarks by Chair Marcus	9
Presentation by Charles Bonham and Karla Nemeth	25
Public Comments	85
Adjournment	343
Certificate of Reporter	
Certificate of Transcriber	

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

2 DECEMBER 12, 2018

9:42 a.m.

3 CHAIR MARCUS: All right. Good morning. Can you
4 hear me?

5 UNIDENTIFIED MALE SPEAKER: Barely.

6 CHAIR MARCUS: Barely. That is, I'm told that's
7 a problem in this room, and that they're going to redo the
8 system. So, we will, we'll do the best we can to speak
9 into the microphones. My apologies for being in this room
10 where we are so far away from you.11 We'd obviously prefer our own hearing room, but
12 we wanted to have a larger one for peoples' comfort. So,
13 you know, bear with us, waive at us periodically. If we
14 get too far away just, you know, do something so that I can
15 see that whoever's speaking can see that they need to speak
16 up. So we'll just do our best with it.17 So, good morning. And to many of you, welcome
18 back, and thank you for your continued interest in this
19 very important and challenging decision.20 I'm Felicia Marcus, Chair of the State Water
21 Resources Control Board, and with me are my fellow board
22 members.23 To my left, Board Member Dede D'Adamo, and to her
24 left our newest Board Member, Sean Maguire, welcome. Who
25 all new to this Board is not new to the subject matter, the

1 Board's work.

2 To my right, Board Member Tam Doduc, and to her
3 right, Board member Joaquin Esquivel.

4 We don't seem to need it yet. We may need it
5 later. There's also overflow capacity and monitors and
6 sound on the mezzanine, so that people should be able to
7 follow the work of the proceedings today.

8 Before we get to the purpose of today's meeting
9 though, and, again, many of you have been with us many
10 times, but not all of you have as I scan the audience. The
11 emergency evacuation procedures for the building include
12 evacuating. When you hear an emergency sound, that's going
13 to mean either there's an emergency or there's a drill that
14 you should take quite seriously.

15 So, right now, take a look at the nearest exit to
16 you, and if you hear one of those sounds, just proceed
17 carefully with your friends and your stuff out and down the
18 stairway. Folks will appear, or we will help you to a
19 protected area if you're someone who needs assistance. And
20 there are those areas on every single floor, so everyone
21 should be fine.

22 Restrooms, for those who don't know, are to my
23 left and down the hallway. You go to the end and then make
24 a quick left. Also, please try to silence all of your
25 potential noise-making devices, as a courtesy to everyone

1 else, so we can focus on what each other is saying.

2 And, also, when you come up to the microphone --
3 and those are those two things, right? I'm looking at you.
4 Those little ones. They don't have the puffs that ours do.
5 Just make sure you also are speaking into the microphone,
6 so that people on the webcast can hear you as well, because
7 I know a lot of people are tuning in there.

8 Okay. Back to the reason we're all here. And
9 bear with me as I have to read some of the formal, the
10 formal things I have to read, since this is a ruling.

11 This is the second continuation of the meeting we
12 started on August 21st and 22nd, 2018, to consider adopting
13 amendments to the Bay-Delta Water Quality Control Plan.
14 Those amendments update water quality objectives that
15 address flows in the lower San Joaquin River for fish and
16 wildlife beneficial uses, and salinity levels in the
17 southern delta for agricultural uses, as well as programs
18 and implementation for both objectives.

19 At the same time we are considering adoption of
20 the proposed final substitute environmental document, which
21 is the environmental analysis that supports the proposed
22 amendments. In the interest of brevity, when we refer to
23 the substitute environmental document during this meeting,
24 we will call it the "SED."

25 At the August meeting we opted to continue the

1 meeting to November 7th, in order to provide time for the
2 Board Members to reflect upon the public testimony that we
3 heard, and also to provide additional time to parties who
4 were negotiating voluntary settlement agreements.

5 On November 7th we received a joint request from
6 Governor Brown and Governor-elect Newsom for one additional
7 month to see if those voluntary agreement discussions could
8 conclude in a proposal that would be acceptable to the
9 Board.

10 After a joint presentation from the California
11 Department of Fish and Wildlife and the California
12 Department of Water Resources, we voted to grant that
13 request and continue the meeting to today.

14 I'd like to take a moment to thank all of you for
15 your continued engagement. For some of you that engagement
16 has spanned many years. Others are newer to these issues,
17 but your participation is just a valuable.

18 For those that are newer to the State Board's
19 process, I realize that frank public discussions among the
20 Board Members can seem unusual. However, when we appear
21 before you and engage in conversation, you're actually
22 witnessing our only opportunity to discuss matters as a
23 group.

24 So, there can be a great deal of thinking out
25 loud, as there was at our November 7th meeting, when we

1 agreed to postpone consideration of the action, as well as
2 our earlier August meeting. And if you were here
3 yesterday, you could see how we work through issues
4 together after listening to folks.

5 For those who want resolution, the time that
6 we've taken can be frustrating, but it's actually been very
7 important. We're contemplating a significant policy
8 decision, and as I acknowledged in November, we've been
9 privileged to hear a lot of thoughtful discussion and a
10 healthy exchange of information.

11 Those who haven't been able to attend in person
12 and would like to benefit from the discussions and comments
13 during previous meeting days can do so by accessing the
14 videos link on the home page of the State Water Board's web
15 site. Videos are listed by date, and if you have trouble
16 finding them, our staff can provide you with the link. And
17 just talk to Ms. Townsend (phonetic) and she will find you
18 someone to help. Ms. Townsend is right down there.

19 This meeting is being held in accordance with the
20 public notice dated July 6, 2018, as revised on August 15th,
21 2018. That August 15th notice indicated that final action
22 by the Board on this item would be continued to a future
23 board meeting. As I've already mentioned, we hope that the
24 additional time would enable the parties involved in
25 discussions on voluntary agreements to reach consensus on

1 one or more proposals that meet the Board's requirements.
2 The Board recognized, and still recognizes that voluntary
3 agreements to improve ecological conditions can provide
4 more durable solutions by bringing other tools to the
5 table, such as habitat restoration of many kinds.

6 We look forward to hearing more about progress on
7 voluntary agreements today. And as I've noted before, and
8 as continues to be true, even if the Board should act
9 today, there's still good opportunity for voluntary
10 agreements to be incorporated in the future.

11 What the Board is considering today is a
12 regulatory framework. Implementation of that framework
13 would occur in the future through water right or water
14 quality actions. A voluntary agreement could be one way to
15 implement the proposal, and that's why we've made the
16 ability to incorporate voluntary agreements an integral
17 piece of the proposed framework.

18 Consideration of today's action also comes after
19 significant public engagement, including multiple
20 opportunities for written and oral comments. These
21 included five earlier days of public hearing, and six-month
22 written comment period on the draft plan amendments and
23 draft recirculated SED, and two days of oral comments and a
24 three-week written comment period on changes to the draft
25 plan amendments, as reflected in the proposed final plan

1 amendments that we made available when the July 6th notice
2 was released.

3 Since today is a continuation of the previous
4 board meeting days, it will not be helpful to repeat
5 previous comments or to make new comments on the prior
6 documents. We're not accepting further written comments,
7 and the oral comment period on the proposed final
8 amendments closed at the end of the August 22nd, 2018
9 meeting day.

10 However, we did make some changes to the plan
11 amendments in response to the oral comments that we
12 received on August 21st and 22nd. Those changes were posted
13 to our web site on October 25th, 2018, as change sheet
14 number three, together with a response to oral comment
15 document.

16 Notice was provided through Lyris, which is our
17 listserv. In addition, there are copies of change sheet
18 number three in the back of the room. Since we've
19 previously discussed the proposed final plan amendments and
20 responded to the oral comments that were received, please
21 focus your comments today on the changes reflected in
22 change sheet number three, or anything else that comes up
23 earlier in this meeting.

24 Following oral comment, we will certainly have
25 discussion amongst the Board Members, and then we'll

1 consider taking final action on the proposed amendments and
2 SED, and any other matters that we choose to raise,
3 consider. We want all participants that wish to provide
4 oral comments on the changes we made to the document since
5 our August 22nd meeting to have the opportunity to do so, or
6 to comment on anything we ask you to comment on.

7 Since we have a lot of people here today, and
8 it's in all our interests that the meeting be productive,
9 efficient and fair, I'm going to start by limiting oral
10 comments to three minutes per speaker, and may adjust that
11 as we go, depending on how many people wish to speak.
12 However, we will take elected officials who wish to speak
13 first, as is customary, unless they choose to go later.

14 There will be no sworn testimony or cross-
15 examination of participants, and the State Board and its
16 staff may ask clarifying questions that do not come out of
17 the speaker's time.

18 I mentioned the -- here we go. Please be -- I
19 did that already. Sorry.

20 If you intend to speak, please fill out a blue
21 speaker card and give it to the clerk, Ms. Townsend, to my
22 right, located in the front of the room, as early in the
23 day as possible, like now would be great, so that we can
24 adjust the schedule as necessary to hear from the people
25 that wish to be heard one way or the other.

1 A lot of you have traveled here to join us and
2 have long trips home, so we'll try to accommodate you. If
3 you need to leave early, unless everybody marks they need
4 to leave early, but I think we've been able to accommodate
5 people adequately in the past. It's just important that
6 you give, on the card you mark when you need to leave, so
7 that we can try and adjust the order.

8 I'm going to take them otherwise roughly in the
9 order received, which should help you have a sense of when
10 you may be called. But I'm also going to call, first call
11 people sort of five cards ahead, so that those who are in
12 the lobby, if we have any, have a chance to get here to
13 speak on time.

14 If the room does get full, then it would really
15 be considerate to move into the lobby when you finish
16 speaking, to allow others to move into the room.

17 I've spoken about the water fix with regard to
18 this meeting before at the earlier one, so I'll simply just
19 say today that that is a separate proceeding, and one in
20 which we act as judges, as opposed to rule makers, so
21 different rules apply. The substantive issues related to
22 water fix are not related to consideration of these
23 proposed amendments and are not appropriate topics of
24 discussion at this meeting, because it has not been duly
25 noticed as a water fix hearing.

1 As this is a continuation of the August meeting,
2 we're going to have a short staff presentation before the
3 public comments. As many of you recall, staff provided a
4 pretty comprehensive presentation when this meeting began
5 on August 21st. That presentation described the Bay-Delta
6 Water Quality Control Plan in detail, as well as the
7 proposed revisions before us, why they are necessary, and
8 the environmental, economic and other effects of the
9 project.

10 In addition, the previous presentation summarized
11 the past opportunities for public comment, and the comments
12 received in the most recent revisions to the proposed plan
13 amendments. The full staff presentation can be watched on
14 the video for that board meeting, and a copy of the
15 PowerPoint presentation is posted at the Board's web site
16 for the lower San Joaquin River and southern delta, Bay-
17 Delta Plan update.

18 We want to be able to get to public comment, as
19 well as our presentation following the staff presentation
20 as quickly as possible. So, the staff presentation's going
21 to be fairly brief and try to just summarize, concentrate
22 on summarizing the process to date, reviewing the
23 amendments and providing the staff recommendation.

24 Next, we'll have a presentation from the
25 Department of Water Resources and Fish and Wildlife on the

1 status of voluntary settlements, which we're very eager to
2 hear about, which I know folks have spent an awful lot of
3 time on and will be a very important part of our meeting
4 today.

5 When we get to public comment, I'm going to, as I
6 said, I'll call you in the order that you give you blue
7 cards, unless I change the order for people who need to
8 leave early. When you come to the podium please state your
9 name slowly and identify the organization that you
10 represent, if any, for the record.

11 And, also, periodically throughout the day, I may
12 give opportunities for those who simply want to go on
13 record as agreeing with the previous speaker, to line up
14 and so say briefly, so that they can be recorded and
15 recognized, but also get home or back to work sooner, just
16 as a courtesy to them.

17 After public comment the Board Members will
18 discuss any motion on the proposal further with each other
19 and will consider what to do, or any other motions. We may
20 also take breaks to allow staff to develop language,
21 depending upon the nature of our discussion and the ideas
22 presented today.

23 So that's how this meeting will be handled
24 procedurally. But before we begin I'd like to repeat just
25 a bit of what I said at the last meeting, because I think

1 it's important to take a step back and explain why we are
2 here today to anyone coming in new. What brought us to
3 this point, acknowledge the concerns, the fears, the hopes
4 and frustrations that are being expressed across a broad
5 spectrum of people about whether what is proposed goes too
6 far or does not go far enough, or whether there's a better
7 way.

8 If this were an easy decision, it wouldn't have
9 taken years of analysis, reflection and public engagement,
10 punctuated, I will remind people, by a few years of the
11 worst drought in modern history that preoccupied all of it.
12 But this is not easy. This is one of the hardest decisions
13 that the Board has had to make and always is. It has been
14 each time the Board has considered an update to the plan
15 over the decades.

16 To say that this should be AN easy one way or
17 another is to ignore the legitimate concerns on all sides
18 that have brought us to this point. This is simply a hard
19 decision because it's about competing social goods and
20 needs, not about right and wrong. It's about finding a
21 balance, not finding absolute winners or losers.

22 The delta water shed's important to all of us,
23 ecologically, agriculturally, recreationally, municipally,
24 commercially, culturally and emotionally, too, it appears.
25 That's why we're here. But science shows that the delta's

1 been out of balance for far too long, and it's in an
2 ecological crisis, in part, in large part, because of the
3 extent to which we've diverted water out of its rivers, no
4 matter how well intended.

5 Addressing this crisis means moving to a new way
6 of managing water that maximizes benefits for the
7 ecosystem, for farms and for communities, in order to meet
8 our multiple societal interests. That's what we're called
9 upon to do, not to pick one at the exclusion of others, but
10 to try to achieve that elusive balance that does the best
11 we can for as many interests as we can.

12 If we're going to achieve this goal, then we need
13 to be creative and open to collaboration, new partnerships
14 and new approaches, so long as they're sincere, robust and
15 transparent. That challenge may be even harder than the
16 science.

17 So, what would a decision today mean? It'd be a
18 first step, but an important one in getting the delta
19 ecosystem on a path to recovery, but it'd still be just a
20 beginning. Today we're considering a regulatory framework,
21 but implementation will take a subsequent water right or
22 water quality action.

23 Significantly, the proposed framework is also
24 intentionally designed to provide many opportunities during
25 implementation to refine the action and reward those who

1 work together. It has a flow range for sharing -- this is
2 for the lower San Joaquin, which is what we are considering
3 today officially -- for sharing the three tributaries we're
4 addressing today, starting at leaving 40-percent in-stream
5 for critical months of the year. That amount can be
6 managed as a block of water to optimize its utility for
7 fish and wildlife and water users.

8 If adding the habitat restoration and other human
9 management efforts we cannot order in a regulatory
10 proceeding, the proposal allows us, and on its own, to cut
11 that amount as low as 30-percent, meaning water users could
12 still divert up to 70-percent of the flow.

13 The goal is to encourage engagement and active
14 management for people and for fish and wildlife, which is
15 something to incentivize and reward. We can't go on
16 fighting year after year over a static plan on paper that
17 sets rules by calendar, and then walk away for another 10
18 or 20 years.

19 We need to have a new framework that supports and
20 encourages constant engagement, embraces newer tools and
21 technology, and promotes transparency and rewards
22 collaboration.

23 What's often lost in the discussion over the
24 proposal before us is that it already represents a
25 compromise. It may be hard to hear for some, but the delta

1 reform act of '09 required the Board to conduct a public
2 process to identify the flows that would be necessary in
3 the delta ecosystem if fishery protection was the sole
4 purpose for which the waters were used.

5 That report was not designed to do the kinds of
6 balancing that the State Water Board does, but it was meant
7 to help inform what is needed. That report found that if
8 meeting public trust uses were the only consideration, then
9 impaired San Joaquin River inflow from February through
10 June should be 60-percent.

11 As I stated, the delta flow criteria report only
12 represents one of many factors that we need to balance. In
13 considering potential changes to the Bay-Delta objectives,
14 we must take into account past, present and probable future
15 beneficial uses of water, economics and other
16 considerations. All of that adds to the complexity of the
17 task and is part of what makes it so challenging.

18 In the process we've undertaken we've heard
19 heartfelt concerns about the potential impacts of these
20 changes on the individual people, farms, businesses and
21 communities of California.

22 We've heard equally heartfelt concerns about the
23 potential impacts of not acting on the rivers and the
24 delta, on fisheries, on Native American lifeways, on the
25 livelihoods of fishermen and fisherwomen, on our

1 recreational economy.

2 In addition, failing to act is not without
3 consequence. Our laws require the protection of our public
4 trust resources and a continuing decline of native fish and
5 wildlife species could lead to draconian regulatory
6 restrictions on water diversions to prevent extinctions.

7 In addition, many of us are driven by a desire for
8 thoughtful and purposeful action, instead of just reaction.
9 All of these concerns and considerations are valid and show
10 why this is so hard, and we're going to hear more of that
11 today and listen with open ears.

12 As I've said in the past, reaching a successful
13 outcome requires a sturdy constitution and a healthy dose
14 of empathy for people and for nature, as well as the
15 determination and creativity to craft solutions. And
16 that's the focus we need to keep as we move forward.

17 I really look forward to hearing your thoughts,
18 and I especially look forward to hearing from our
19 colleagues from the Natural Resources Agency on where they
20 believe they've gotten, and where they think we ought to
21 go.

22 Now, before I turn to staff for the initial
23 presentation, I'd like to turn to my colleagues, if they
24 want to make any opening statements.

25 Any opening?

1 MS. D'ADAMO: I don't have an opening statement,
2 but I do have a question.

3 CHAIR MARCUS: Sure.

4 MS. D'ADAMO: We have some documents here that I
5 believe resources will be going over. Do others have those
6 documents? Are they available to the public?

7 (Pause.)

8 CHAIR MARCUS: Is it on?
9 It is now.

10 MS. D'ADAMO: Thank you.

11 MR. BONHAM: Good morning. My name is Chuck
12 Bonham. I'm the Director of the California Department of
13 Fish and Wildlife. I believe that package is or will soon
14 be available on-line.

15 CHAIR MARCUS: Okay.

16 MR. BONHAM: And our presentation will summarize
17 the information you have in that packet.

18 MS. D'ADAMO: Thank you.

19 CHAIR MARCUS: Good. I look forward to that.

20 MS. DODUC: I'm sorry. For those who would like
21 to see that package on-line, it will be available on our
22 web site on -- I mean, where on-line?

23 MR. BONHAM: I'll have the answer to that in a
24 few minutes when the director of water resources and I
25 appear in front of you.

1 MS. DODUC: All right.

2 CHAIR MARCUS: Terrific. Thanks.

3 MR. BONHAM: Note to staff, please send me the
4 answer to that question.

5 CHAIR MARCUS: Great. Good question. Anything
6 else before we start just jump right into it.

7 And, again, a reminder to fill out the blue cards
8 and give them to Ms. Townsend, so we can figure out how to
9 manage the day best and most fairly for everyone.

10 Okay. Now I'm too close. Sorry. I'm doing the
11 popping? I hate popping. I'm sorry. Sorry about that.
12 That's why they usually mike me with the thing over my ear,
13 because it like, that takes all of that away from me, but
14 it doesn't work in this room.

15 All right. To staff.

16 MS. FORESMAN: Good morning, Chair Marcus. Good
17 morning State Water Board Members, and welcome Board Member
18 Maguire. My name's Erin Foresman. I'm with the Division
19 of Water Rights, and we're returning here today to continue
20 an agenda item that began on August 21st regarding the Bay-
21 Delta -- it says it's on. Okay. Okay -- regarding the
22 Bay-Delta Water Quality Control Plan Update and the
23 proposed final substitute environmental document.

24 The purpose of this agenda item is for the State
25 Water Board to consider public comments on recent revisions

1 to the plan amendments, adoption of the final SED, and
2 adoption of the plan amendments as revised. These are the
3 items we'll go over on today's presentation.

4 I'll provide a review of the Bay-Delta Plan and
5 the process to update it. We'll review the proposed plan
6 amendments, we'll discuss comments and plan amendment
7 revisions. We'll provide a staff recommendation and
8 discuss voluntary agreements and next steps.

9 So, the action in front of the Board today is to
10 consider proposed changes to the Bay-Delta Water Quality
11 Control Plan. We call those proposed changes "the plan
12 amendments." The Bay-Delta Water Quality Control Plan, or
13 the Bay-Delta Plan for short, establishes beneficial uses
14 and water quality objectives for the reasonable protection
15 of those beneficial uses.

16 It also includes a framework for implementation.
17 We call that "the program of implementation." And it
18 outlines a general strategy and general actions that are
19 needed to achieve the water quality objectives and thereby
20 provide reasonable protection for those beneficial uses.

21 It is, however, not self-implementing. That
22 requires a follow-up step. The next step in the process is
23 for the State Water Board to require specific actions to
24 achieve those water quality objectives. That occurs in a
25 phase called, "implementation." Implementation occurs

1 through water rights proceedings, water quality permits and
2 certifications and water quality regulations. That happens
3 in the future.

4 In today's action the Board is considering
5 whether the plan amendments set the water quality
6 objectives in the right place to provide reasonable
7 protection of beneficial uses.

8 The proposed Bay-Delta Plan amendments include
9 new and revised flow objectives for the lower San Joaquin
10 River and three of its salmon bearing tributaries, the
11 Stanislaus, Tuolumne and Merced Rivers, for the reasonable
12 protection of fish and wildlife beneficial uses.

13 The plan amendments include revisions to the
14 southern delta salinity objective for the reasonable
15 protection of agricultural beneficial uses.

16 The lower San Joaquin River plan amendments
17 include narrative and numeric flow objectives that apply
18 from February to June. The narrative objective requires
19 maintaining inflow conditions from the San Joaquin River
20 watershed to the delta at Vernalis, sufficient to support
21 and maintain the natural production of viable native San
22 Joaquin River fish populations migrating through the delta.

23 The numeric tributary objective requires 40-
24 percent of unimpaired flow within an adaptive range of 30-
25 to 50-percent of unimpaired flow on the Stanislaus,

1 Tuolumne and Merced Rivers. It also has a base-flow
2 objective on the lower San Joaquin River at Vernalis of
3 1,000 cubic feet per second within an adaptive range of 800
4 to 1,200 cubic feet per second.

5 The plan amendments include a program of
6 implementation which outlines a flexible strategy for
7 achieving the water quality objectives. This strategy
8 allows the percent of unimpaired flow objective to be used
9 as a water budget, or as a block of water, to achieve the
10 best biological outcomes with the amount of water available
11 in the water budget.

12 The southern delta salinity plan amendments
13 include revisions to the existing water quality objectives
14 in the water quality control plan, and they include changes
15 to the compliance locations. The proposed objective is 1.0
16 decisiemens per meter electrical conductivity year-round.

17 The revisions also include one compliance point
18 at Vernalis, and then three compliance segments. The lower
19 San Joaquin River from Vernalis to Brant Bridge, Old River
20 from the lower San Joaquin River over to West Canal. This
21 is inclusive of Grant Line Canal, and Middle River from Old
22 River to Victoria Canal.

23 The program of implementation continues to
24 require that the Bureau of Reclamation meet 0.7 decisiemens
25 per meter at Vernalis. This is the requirement in their

1 current water operations -- excuse me, permit.

2 So, this slide summarizes the recent
3 opportunities for public comments on the SED and on the
4 plan amendments. The first bar represents the six-month
5 comment period that was open from September 15th, 2016 to
6 March 17th, 2017. During this comment period this was the
7 primary time for members of the public to submit written
8 comments on the environmental analysis and the SED, and on
9 the proposed plan amendments.

10 There were oral and written comments submitted
11 during this time period, and in 2018 on July 6th, State
12 Water Board staff released a proposed final SED that
13 contains a response to comments that were received in the
14 prior comment period. At that time, we also released a set
15 of narrow revisions to the plan amendments that were made
16 in response to comments and we opened a three-week comment
17 period for written comments on those revisions to the plan
18 amendments.

19 On August 21st, we heard oral comments on those
20 revised plan amendments. And after hearing those oral
21 comments we made a second set of revisions to the plan
22 amendments that were released on October 25th. Those are
23 contained in change sheet number three. And today we will
24 hear after these presentations, oral comments on the second
25 set of revisions to the plan amendments.

1 So, after the reviewing the oral comments, we
2 heard many people come to the State Water Board on August
3 21st and 22nd, and heard lots of different viewpoints. Many
4 people made statements in opposition to the plan
5 amendments, many in support.

6 In general, the issues and concerns raised were
7 the same issues and concerns that were raised in prior
8 comment periods and are fully responded to in the proposed
9 final SED response to comments.

10 In an effort to continue to inform the public
11 about the plan amendments, State Water Board staff issued a
12 response to oral comments on October 25th that addresses key
13 issues that were raised on August 21st and 22nd and in prior
14 comment periods.

15 These issues are regarding the strength of
16 science supporting the plan amendments, proposed
17 alternatives to the lower San Joaquin River plan
18 amendments, the role and composition of the STM working
19 group, the Stanislaus, Tuolumne and the Merced working
20 group, State Water Board Authority regarding carryover
21 storage and other requirements, and compliance issues
22 regarding salinity in the southern delta and discharges
23 from publicly owned treatment works.

24 As a result of the August oral comments we made
25 the second set of revisions and we released them on October

1 25th. They're fully described in change sheet three, which
2 we, I think, have several copies of, available in the back
3 of the room today, but it's also been posted to our web
4 site since October 25th.

5 This slide reviews two of the areas where we made
6 changes. All changes were made in the program of
7 implementation, either for the lower San Joaquin River flow
8 objectives or for the salinity objectives. Changes were
9 made to the section titled, "Stanislaus, Tuolumne, Merced
10 working group."

11 These changes make it clear that non-governmental
12 organizations can be considered as an entity that has
13 appropriate expertise for inclusion into the STM working
14 group. They make a commitment that the executive director
15 will strive to achieve a balanced membership, so that no
16 one single interest constitutes a majority of the group.
17 And changes make it clear that the role of the STM working
18 group is advisory.

19 That the STM working group does not have
20 authority to make water diversion decisions, release
21 decisions, or any decisions about dam operations.

22 Another set of revisions was made to annual
23 adaptive operations plan section in the program of
24 implementation, and these changes make it clear that
25 responsibility for drafting and submitting the annual

1 adaptive operations plans will be determined during
2 implementation through water rights proceedings, water
3 quality proceedings or water quality regulation.

4 They also make it clear that the annual adaptive
5 operations plans will be provided to the STM working group
6 for review and for recommendations to the executive
7 director.

8 I find it very useful to have a visual aid when
9 thinking about the annual adaptive operations plans, and
10 this is an image of the Merced River just below Crocker
11 Huffman Dam, at a flow level of approximately 1,200 cfs.

12 The vision for adaptive annual operations plans
13 is to identify a flow schedule that activates and sustains
14 ecological functions using the water budget provided by the
15 percent of unimpaired flow objective to achieve the best
16 biological outcome with the water available in the budget.

17 The flow in this image, 1,200 cfs, is a flow
18 value that can be regularly achieved in the 40-percent of
19 unimpaired flow alternative, especially when using adaptive
20 methods, such as flow shaping. The bank flow value in this
21 section of Merced River is approximately 1,000 cfs. It's
22 more common for flows to be around 200 cfs in this section.

23 At 1,200 cfs, we start to activate -- or the
24 river starts to activate flood plain. In this image you
25 can see habitat complexity along the river edges, and

1 shallow, high-velocity, cold-water habitat that favors the
2 salmonids over predator species in this segment of the
3 river. This flow value activates flood plain, maintains a
4 connection between the flood plain and active river
5 channel. This flow level can propagate favorable
6 temperature conditions downstream, which promotes survival
7 of native fish species and suppresses habitat use and
8 activity of non-native predator fish.

9 The annual adaptive operations plans will outline
10 the yearly strategy for using the water budget in the best
11 way we can to achieve the best biological outcome. And
12 overall, the lower San Joaquin River plan amendments
13 provide this water budget and a flexible implementation
14 program that can be used to produce the best biological
15 outcome with the water budget available.

16 With the recent revisions to the proposed plan
17 amendments, the response to oral comments and the record to
18 date, we respectfully recommend that the State Water Board
19 adopt the final SED and the proposed plan amendments as
20 revised.

21 If the State Water Board decides to adopt the
22 plan amendments and final SED, we recommend inserting this
23 bold and underlined language on this slide, so that it --
24 into the resolution, so that it recognizes there are no
25 new, significant impacts as a result of the change sheets.

1 We also want to make it very clear that voluntary
2 agreements remain to be encouraged and can be considered
3 even after adoption. Again, they can provide broader and
4 more timely benefits at a lower water cost, and they can be
5 accommodated through adaptive implementation or a
6 subsequent plan amendment.

7 So, briefly, I'll cover the next steps. After
8 the Board considers adoption, if the Board approves, the
9 plan will be submitted to the Office of Administrative Law.
10 After OAL approval, the State Water Board will file a
11 notice of determination, submit the plan to the U.S. EPA
12 for review, and then begin the process to implement the
13 plan amendments.

14 And that's the end of the presentation.

15 CHAIR MARCUS: Thank you for that summary. I
16 know you could have done a much longer presentation, I
17 think. My apologies to people who haven't been involved in
18 this process as intensively up to our armpits as others,
19 but I think it's courtesy in terms of what we're called
20 upon to do today and all the people coming.

21 So, I don't want to say I guarantee it, but I
22 pretty much guarantee you're going to get questions
23 throughout the course of the day.

24 MS. FORESMAN: Absolutely. Questions are
25 welcome. We're ready to answer.

1 CHAIR MARCUS: Thank you very much.

2 Now I want to -- thank you about that. I'm
3 sorry. I didn't name all the staff. I hope that's okay
4 with you guys. I didn't name you all. I should have done
5 that as I went through.

6 I'm going to move now to the Department of Water
7 Resources and Fish and Wildlife to give us an update on the
8 voluntary settlements, since I understand you've been
9 working round the clock on this, so.

10 Okay, no -- my God. Yeah. All right. So,
11 apologies. We have to do sort of this weird, tippy-toe
12 thing to see you.

13 MR. BONHAM: It's an awkward -- you can see right
14 up our noses.

15 CHAIR MARCUS: This is -- no. This is absolutely
16 the -- you have the room of requirements. This is the room
17 of inconvenience, inconvenient logistics.

18 UNIDENTIFIED FEMALE SPEAKER: (Indiscernible.)

19 CHAIR MARCUS: Right. And if someone can get us
20 copies of this presentation, I think that might be helpful
21 for the course of the day.

22 UNIDENTIFIED FEMALE SPEAKER: Okay.

23 CHAIR MARCUS: You have it on the -- I know. I
24 want paper. I apologize. Sorry, Al.

25 Good morning.

1 MR. BONHAM: Good morning. Just one second to
2 get situated.

3 CHAIR MARCUS: Take your time. It's important.

4 (Pause.)

5 MR. BONHAM: Deep breath. Good morning. My name
6 is Chuck Bonham. I'm the Director of the California
7 Department of Fish and Wildlife. Welcome to our newest
8 board member.

9 To fulfill my commitment from a moment ago, I
10 think over the course of our presentation the information
11 packet you have will be available on the Department of
12 Water Resources web site. I trust its technology division
13 to feature it prominently, so users can find it quickly.

14 We will also partner with your technology staff
15 to make sure by the end of the day, if possible, we can get
16 it on your dedicated web site for --

17 CHAIR MARCUS: That's a great idea. Great idea.
18 Thank you.

19 MR. BONHAM: So, with that, I'd just say, I'm
20 tired. It's been a long 30 days. I would thank you for
21 those 30 days. I would again acknowledge Governor Brown
22 and Governor-elect Newsom's leadership in suggesting and
23 asking we take 30 days to stay at it. We have done a lot
24 in those 30 days, and I think what you will see in our
25 presentation is a description of a pretty amazing scope,

1 scale and partnership that could change how we treat these
2 issues in California going forward. With that, I would ask
3 Director Nemeth to introduce herself for remarks, and then
4 we will go through a PowerPoint and alternate kind of
5 taking leads as we go slide by slide or bullet by bullet.

6 CHAIR MARCUS: Great.

7 MS. NEMETH: Thank you.

8 CHAIR MARCUS: Thank you.

9 MS. NEMETH: Good morning. I'm Karla Nemeth, the
10 Director of the Department of Water Resources. And I also
11 thank you for the extension in time. You know, what's the
12 adage, be careful what you wish for.

13 So, it has been a very active 30 days, but I
14 would also like to emphasize that while some parties have
15 been at it for a long time, these issues are complex, and
16 in many ways the collaboration is just beginning. And we
17 would anticipate much more of that moving forward.

18 I'm really excited to be here because of the
19 concepts that we're going to be able to present around what
20 a comprehensive settlement looks like. And as you'll
21 recall, back when Governor Brown directed Director Bonham
22 and I to start working on this, this was September of 2016.

23 It's -- the watershed and its complexities can be
24 overwhelming. And we spent an intense amount of time
25 organizing ourselves and working with water users and

1 environmental interests to establish discussions in the
2 tributaries, always knowing that we needed to have an
3 important discussion about how those tributaries connect to
4 the estuary in the delta.

5 And it's my view that it's that linkage that
6 makes this a very compelling and important package for how
7 we approach the badly needed improvements to the ecosystem,
8 the delta and its watersheds.

9 With that, Director, we can get into it.

10 MR. BONHAM: Yes. Let her rip here. So, it will
11 take me a second to make sure -- there we go.

12 Let me start with the first bullet. We need a
13 system-wide perspective. It's unwise to think about any
14 individual piece across the mammoth puzzle of our Central
15 Valley as it relates to our water supply reliability needs
16 and our ecosystem protection and restoration needs.

17 We stand today as two directors in support of the
18 idea of comprehensiveness and integration across the entire
19 system to get where we need to go to honor our California
20 values.

21 Any thoughts on the next bullet?

22 MS. NEMETH: As we've all acknowledged, one of
23 the benefits of pursuing voluntary agreements is they can
24 become effective immediately. And part of our package
25 today will describe actions that could even be implemented

1 as early as next year.

2 And that's exciting for a number of reasons, not
3 the least of which, I believe, it fosters an ability of
4 can-do spirit to get folks working right away on
5 implementing these kinds of projects. We're going to need
6 to do a lot more of it, and we're going to need each other
7 to get those kinds of projects done.

8 So, the importance of the immediacy that
9 voluntary agreements bring, in my view, really can't be
10 overstated in terms of the environmental benefits, but also
11 the people benefits of getting people working together
12 immediately.

13 MR. BONHAM: So the next bullet speaks for
14 itself. I hope most of us always pick collaboration over
15 conflict. And in my view, collaboration honors the spirit
16 that some have said, the west is the native home of hope.
17 And it's that optimism in which we present this overview
18 today.

19 I also would submit that collaboration is the
20 pathway to improvements immediately. The ability to work
21 together produces the fast track for getting stuff done on
22 the ground. And a vast majority of us believe we need to
23 get things done yesterday, not down the line after more
24 courtroom experiences.

25 MS. NEMETH: And for the next bullet, I know

1 you've heard Director Bonham speak before you in the past
2 about the ecological function of flows, and that really
3 turns on the integration of both flow and non-flow
4 measures.

5 So, the package you will hear about from us today
6 include significant flow contributions that are aligned in
7 time with important habitat restoration actions and other
8 non-flow measures that would be part of the entire package.

9 And it's through the integration of those
10 measures that at some future date, because we are -- we do
11 have more work to do on the proposal in front of you, where
12 we will be coming back to you to discuss the ways in which
13 we believe the package under consideration as a voluntary
14 settlement, or under continued development as a voluntary
15 settlement, is comparable or better in benefits that could
16 be accrued by the approach that's available to the Water
17 Resources Control Board.

18 MR. BONHAM: The next bullet you see, again, the
19 repetition of a core value system-wide. And here I've
20 spent a lot of time thinking and listening to inputs from
21 my friends in the water-user community, my colleagues in
22 the conservation community, about the desperate need for a
23 different type of governance approach, which, personally, I
24 see reflected in some of the themes in your documents
25 today, as well as this idea of moving us off of combat

1 science towards shared science work product that really
2 centers in on testable hypotheses. Let's do something.
3 Let's have a, it's okay to risk failure approach on testing
4 ideas, monitor and adapt. So, you'll see that theme
5 throughout our presentation.

6 And lastly, I'll turn the final bullet here back
7 to my colleague.

8 MS. NEMETH: And, of course, what makes all this
9 work is a certainty that these actions can actually occur,
10 and funding is the eternal piece of that certainly that
11 we're all seeking.

12 The proposal we're bringing before you today has
13 significant funding both by the water-user community and
14 the State of California in ways that I think are novel to
15 how we provide resources to help the delta and its
16 watersheds.

17 MR. BONHAM: That's the place we call home. We
18 each love it for many reasons that are the same. Often we
19 have different reasons why we love this place. But in my
20 view, there's no other place on the planet like California.
21 We're blessed with natural wealth and an amazing
22 population, the cutting edge of technology information,
23 innovation. Incredibly high amounts of biodiversity, and a
24 resilient set of citizens.

25 So we'd like to take you on a tour across our

1 work and the product from the last 30 days. Let's start in
2 the south. And here I want to pause for a moment and be
3 crystal clear. Despite a lot of hard work, we do not have
4 voluntary settlement agreements to present to you in the
5 Stanislaus River, nor do we have voluntary settlement
6 agreements to present to you in the Merced River.

7 My emphasis right now, however, is on the
8 Tuolumne River. It's an amazing place. Let me quickly
9 cover habitat, flow and funding, which is the template
10 you'll see for each of the watersheds we want to tour with
11 you.

12 Habitat, this has been a hard discussion. My
13 department is in a very good place with the City and County
14 of San Francisco, the Public Utility Commission, San
15 Francisco, Modesto Irrigation District and Turlock
16 Irrigation District. It hasn't been easy. It's involved a
17 lot of hard work, but it's happened at a frenetic pace in
18 good faith with a lot of compromise in both directions.

19 A component of this work will place a premium on
20 habitat restoration. You may know that the districts are
21 pursuing a new license for their federally -- Federal
22 Energy Regulatory Commission licensed hydroelectric
23 facilities. I will refer that -- to that as the amended
24 final license application. Within that I think you'll find
25 some very interesting features. There's a commitment to

1 habitat restoration. There's a commitment across really
2 important activities, producing habitat complexity,
3 ensuring riparian conditions, managing for the needs of the
4 lifecycle of the fish in that river.

5 But I'd also submit that the districts and the
6 City and County of San Francisco are doing something very
7 unique with a commitment for reliable funding. What you'll
8 find in this approach is a conservation fund established, I
9 believe the value of it is about \$38,000,000, which will be
10 used in a smart, targeted manner through a collaborative
11 effort to emphasize bringing onboard more flood plain
12 through restoration of that type of habitat, as well as in-
13 river rearing habitat in the Tuolumne.

14 And from that platform of habitat work, I would
15 also say that we have an integration with a smart and
16 productive flow regime. Let me describe that for a moment.

17 The districts have submitted to FERC in that
18 AFLA, I realize that's a lot of acronyms, a robust flow
19 schedule. It covers functional flow releases across these
20 lifecycle needs. When you look in it you'll see, flow
21 releases for fall-run Chinook spawning, fall-run Chinook
22 fry rearing, fall-run Chinook juvenile rearing. You'll see
23 a flow schedule for out migration and O.mykiss spawning and
24 egg incubation. You'll see flow schedule components that
25 relate to Chinook out migration, O.mykiss adult rearing.

1 You'll see flushing flows, you'll see gravel mobilization
2 releases.

3 So, in our voluntary settlement agreement
4 discussion, that has become our construct for a base flow,
5 if you will. From there we've engaged in a very robust
6 back and forth, and we've made important surgical tweaks to
7 that flow schedule. Primarily, if you look at this
8 information you'll see the districts had proposed from
9 about river mile 26 down to the confluence during dry and
10 critical years a release of 75 cfs.

11 Through our discussions this package will allow
12 us to increase that number to 125 cfs in dry and critical
13 years, from roughly the beginning of June through October.
14 That's an important improvement of the base-flow construct
15 for really important water year types, dry and critical,
16 for almost 30 miles of river down to the confluence.

17 You see, also, a suggested change up at the top
18 of the system corresponding to releases in the 300, 350 cfs
19 range. That serves as our construct as a base flow. From
20 there, on top of that base flow, the voluntary settlement
21 agreement approach and package we've discussed to date
22 includes this feature.

23 Our department makes a scientific judgment that
24 the most important missing habitat type in these streams is
25 the flood plain habitat type. As you know, historically,

1 our robust salmon populations when they were swimming
2 downstream accessed the flood plain, where they found more
3 food. They could grow bigger. And as they went out to the
4 ocean bigger, the chances were greater more of those fish
5 would come back to complete their lifecycle.

6 We've largely lost that habitat type. So for our
7 department a theme throughout these voluntary settlement
8 agreements is an emphasis on creating additional flood
9 plain habitat and inundating it with an appropriate flow
10 curve.

11 So, in the Tuolumne, we anticipate bringing
12 onboard approximately 80 new acres of flood plain habitat,
13 and at least 35 acres of in-stream rearing habitat. And on
14 that flood plain habitat putting this pulse on top of it in
15 the spring.

16 In wet years for 20 days there will be a release
17 of 2,750 cfs. In above normal, there will be a release in
18 the spring for 20 days of that same magnitude. In below-
19 normal years, for 19 days of that same magnitude. In dry
20 years, 14 days, same magnitude. Critical years, nine days,
21 same magnitude.

22 To translate that for volume sense, just to give
23 you a rough approximation, that would mean in addition to
24 the flow schedule that creates the base, which is an
25 improvement upon existing, you would also see a volume in

1 wet years of about 99,000-acre feet. In above-normal
2 years, about 89,000-acre feet. Below normal, about 70,000-
3 acre feet. Dry -- excuse me. Wet and above normal is each
4 the 99,000. Below normal is the 89,000. Dry is 70,000,
5 and critical is about 45,000. Think about that for a
6 minute.

7 If my memory's right, over in the parallel FERC
8 proceeding, the conservation community I believe suggested
9 that in critical and dry years what the district should do
10 was about 35,000-acre feet of a spring block of water. And
11 I believe what we've created in this voluntary settlement
12 agreement approach is a dry-year block of about 70,000-acre
13 feet, and a critical year of about 45,000-acre feet.

14 Also, you'll find in the settlement agreement on
15 the Tuolumne what I will call an "off ramp." Here's why
16 that's important. We've taken a look at the historical
17 record, and when you speak to San Francisco their
18 historical record goes way back on this system.

19 To understand what happens when you have a period
20 of successive dry and critical years, and how you manage
21 that. I believe the Board, Board staff understand the
22 importances of strategies when we have consecutive dry and
23 critical years.

24 So what you'll see in our settlement approach is
25 a very detailed way to understand in those future events,

1 if we get successive dry and critical years, how we'll be
2 reducing or have no flood-plain pulse even though we may
3 still contain in the base schedule certain out-migration
4 pulses. And I think that's a fair and equitable approach
5 to managing shortages in the future.

6 One more area and I'll stop and move on to the
7 next watershed. We've talked about a lot of additional
8 things. One thing we will be doing through our settlement
9 effort is really focusing on predator suppression and
10 control. Together the districts and the city and county
11 and the department are going to think through the
12 engineering to create a weir, an inclusionary barrier
13 around about river mile 26.

14 Now, let me correct any misimpression. We're not
15 talking about going out with bulldozers and pouring
16 concrete across the whole river. In many places in
17 California we use inflatable weirs that come up at a
18 certain time of year to manage non-native fish movement.
19 And then we drop the inflatable weir at the time of year
20 when we need salmon to volitionally swim downstream.

21 So what we're going to work out is a commitment
22 to infrastructure about that river mile that allows us to
23 manage the volitional movement of salmon, but also a
24 permanent commitment of staff, time and infrastructure to
25 create a predator control and suppression spot in the

1 river, so we can eradicate non-native fish, which is a
2 limiting factor, we believe, in this system.

3 I believe that the districts and the city and
4 county are ready to implement actions right now, and that
5 is the spirit upon which they've negotiated. So I believe
6 in the coming calendar year, there are actual habitat
7 restoration projects we're going to implement under the
8 rubric of voluntary efforts.

9 And I also believe the districts are willing to
10 begin immediately certain flow releases, which they
11 otherwise would not be required to do until they get a FERC
12 license far down the line.

13 My last thought on the Tuolumne. I'd say there's
14 a touch of courage here. As you recall a moment ago, I
15 mentioned I do not have a settlement agreement to describe
16 to you in either the Stanislaus or the Merced. I don't
17 know this to be the case, but I would imagine my colleagues
18 in the Tuolumne have received requests to walk away. They
19 haven't. I think that's honorable and it's worth a whole
20 heck of a lot.

21 And with that, let me turn to the next watershed.
22 While the Friant Water User Authority is not technically
23 written into your Phase I as I can understand it, or even
24 your Phase II proceeding as I can understand it, they've
25 approached Director Nemeth and I with a credible and

1 amazing offer in the last week. A tip of the hat to their
2 leadership, their general manager.

3 What you'll see in our package is a commitment by
4 Friant Water User Authority to do two things, primarily.
5 If you're familiar with the San Joaquin River restoration
6 settlement agreement, you know that the authority has a
7 legal right -- these are my words, to recapture water that
8 will be moving down the river under the restoration flows.

9 As part of this package, these leaders are
10 committing to forego that legal right, and let 50,000-acre
11 feet flow through the rest of the river, expressly for
12 delta out-flow contribution. They didn't have to do that.
13 They didn't have to call us.

14 In addition, and I'm pleased to report, it's my
15 understanding that their leadership will take formal action
16 supporting the San Joaquin River restoration settlement and
17 assist in seeking additional funding for full
18 implementation of that settlement, which, as a standalone,
19 is incredibly useful, bold, and I'm very appreciative for
20 their leadership.

21 Moving on in our tour, I think this takes us kind
22 of northward, and as if you stood at the, maybe Vernalis,
23 and you were looking to the landscape of the delta and
24 across the northern system. I'll turn it over to my
25 colleague.

1 MS. NEMETH: Thank you.

2 We've discussed, I think many of these key
3 concepts in the past, and I want to highlight a few. And
4 then I want to touch on a launch point from the previous
5 two tributary agreements that we had before you.

6 First, one of the things that's going to be very
7 important in our view to the functionality of a voluntary
8 agreement across phase two parties, is an ability to
9 flexibly manage and coordinate among watersheds. It's
10 something that we all know intuitively we need to be doing
11 on California, but you get to it and it becomes more
12 complicated that you realize.

13 And one of the very important by-products, I
14 think, of the voluntary agreement discussions across those
15 Phase II watersheds is to understand with greater precision
16 the flexibility afforded in watersheds, and some in others
17 in terms of their abilities to meet the things that we need
18 to be doing relative to flow for species' needs across the
19 system.

20 And you're going to see as we move through these
21 various tributaries that we are starting to exercise that
22 flexibility and acknowledge the fact that there are
23 conditions in the various watersheds that -- where we
24 really do want to emphasize a certain amount of habitat and
25 flow and approach to integrating all the needs that we have

1 to the system, be they temperature needs, post needs, out-
2 flow needs. And we start to really understand when we're
3 trying to provide additional water across these water year
4 types, how do we leverage the flexibility across the
5 different watersheds. And that's really part of, in my
6 view, what we can do in a comprehensive way, rather than
7 pursuing restoration tributary by tributary.

8 We really need to see that bigger picture.
9 Because I believe with the assets that we have as a water
10 community together, in operating them together, we have an
11 important opportunity to do more for the ecosystem as a
12 whole that everybody benefits from.

13 So, I think how I want to approach the next set
14 of discussions is, I want to point out that Director Bonham
15 described flows coming off the Tuolumne. He described
16 flows from the Friant Water Users. And that's always been
17 the challenge, flows getting to Vernalis, and we don't have
18 objectives for how those flows continue to move through the
19 system.

20 So, an important part of making the connection
21 between Phase I and Phase II, and, among other things, is,
22 you know, what do we do with those in-stream flows when
23 they reach Vernalis? And part of our proposal, which
24 establishes the linkage, is those flows would be made
25 available to move all the way through the system and out to

1 Chips Island.

2 So, we are -- we will start to demonstrate the
3 way in which in-stream tributary flows across the system,
4 come down into the estuary, and create important conditions
5 in the delta.

6 So, for purposes of this presentation, I want to
7 first go through some overarching water management concepts
8 that we're proposing across the watersheds. Then we'll get
9 into a tributary-by-tributary discussion. Then we'll have
10 a discussion of the suite of actions in the delta with some
11 discussion around governance and funding mechanisms.

12 So, all of our approach to generating water that
13 can support the ecosystem. First, we'll -- I think it goes
14 without saying that the habitat restoration piece of this
15 is a significant, significant function that the voluntary
16 agreements will provide.

17 And I want to emphasize that our approach to the
18 water side of that equation focuses on important new water
19 reservoir reoperation, land fallowing totaling about 35,000
20 acres, with some limited potential for groundwater
21 substitution in a way that honors the need for us to
22 balance against the sustainable groundwater management
23 needs throughout the watersheds.

24 All of the water sources, of course, need to be
25 managed across a variety of beneficial uses. We have

1 certain considerations as it relates to waterfowl and other
2 important landscape uses of that water. As I mentioned,
3 also with an eye towards the requirements that we're going
4 to have across watersheds for, to maintain a sustainable
5 yield and to generate a sustainable yield out of our
6 groundwater basins.

7 So, all of our approach to generating new water
8 as part of this program is fundamentally going to be
9 managed across those other, across those other needs.

10 So I'm going to turn it over to Director Bonham
11 who will start in the Sacramento River.

12 MR. BONHAM: So the main stem Sacramento actions
13 in the proposal in front of you and the package include
14 habitat restoration, which is designed to kind of work
15 functionally and increase the benefit of integration with
16 winter and spring flows.

17 We've thought through targeted improvement
18 growth, survival, diversity and abundance for the four runs
19 of Chinook salmon, And the core of this will be an
20 additional 100,000-acre feet of water made available
21 through the water users in that community from fallowing
22 about 24,000 acres.

23 And on the fallowing issue, let me just
24 acknowledge, we know we have important communication and
25 work ahead of us with our waterfowl community and our duck-

1 hunting community, and those who are really focused on
2 giant gardener snake. But I'm convinced, based on the
3 discussions in the last 30 days, there's a way to manage
4 for all those species and all those needs, as well as
5 generate this additional 100,000-acre feet.

6 And if you think about that volume of water being
7 available in the Sacramento system, it's going to help us
8 with temperature in many ways. It's going to increase
9 flows to improve our salmonid migration survival, and it's
10 going to move through the system as a contribution for
11 delta outflow, which is big.

12 Some of the highlights, our approach and package
13 includes fall flow stabilization in every water year type.
14 It includes additional water, as I just mentioned, for dry,
15 below normal, above normal water year types. It includes
16 actions in wet years related to releases to support
17 increased salmonid migration and secure that flood plain
18 habitat. It includes actual commitments in critical years
19 for single spring pulse flows, subject to important other
20 health and safety needs, as we move through critical dry
21 years in this system at that part of the analysis.

22 At the habitat front we're talking about mammoth
23 restoration, like the volumes of restoration in this part
24 of the puzzle are immense.

25 So, as specific funded, actionable ready-to-be

1 implemented portions in 19, spawning habitat from Keswick
2 to Red Bluff diversion dam. We're talking about 40- to
3 55,000 tons of gravel in the right places being added.
4 Rearing habitat from Keswick to Red Bluff diversion dam
5 creating 40 to 60 acres of side-channel habitat at no fewer
6 than 10 sites in Shasta and Tehama County, with actions
7 ready in 2019.

8 We're going to focus on rearing habitat from Red
9 Bluff diversion dam to Verona, and we're proposing to
10 enhance 2,000 acres of flood-plain habitat in the Sutter
11 bypass within the 15-year term of this package.

12 We've identified fish passage and flood plain
13 habitat work at Tisdale. We are within five years. And
14 additional work at the Colusa we are within 10 to 15 years.
15 We've rostered out all the work we need to do in the next
16 five years to move back the levy and get flood-plain
17 habitat around Hamilton City. We've identified within five
18 years the projects to do for inventorying our historic ox
19 bows and getting them and getting them reconnected.

20 Then we get down to manmade structures around
21 Keswick and Verona. And we have a whole suite of things to
22 do on reducing lighting impacts, incorporating red D water
23 conditions with various irrigation districts, getting into
24 the Sutter bypass weir and other weir construction.

25 And then, finally, we have a pretty interesting

1 commitment on the studies and the monitoring of science
2 around designing survival and predation approaches within
3 one year, and then implementing them across the remaining
4 term of the 15 years. It's overwhelming, and 30 days ago I
5 didn't think we'd be there, but you see it in front of you.

6 Anything else to say on Sacramento?

7 MS. NEMETH: No.

8 MR. BONHAM: That takes us to the Feather River.

9 MS. NEMETH: And I'll start this, please? I can
10 start this, please?

11 MR. BONHAM: Yeah. Why don't you -- sure.

12 MS. NEMETH: The Feather River proposal includes
13 habitat restoration that's intended to work with existing
14 proposed spring and summer flows. And those habitat
15 improvements target improved growth, survival, diversity
16 and abundance of salmon and steelhead in the Feather River.

17 The Feather River includes 50,000-acre feet of
18 water available from the fallowing of 11,000 acres of
19 agricultural land. And that would be made available to
20 increase flows, improving fish survival and providing for
21 increases in delta outflow.

22 I want to divide the flow components -- or the
23 flow piece into several components. First is this, what I
24 just mentioned, is the 50,000-acre feet of spring or summer
25 flow that would be dedicated to outflow in dry, below

1 normal and above normal water year types.

2 DWR also proposes to provide an immediate
3 adjustment to river flow and temperature in the Feather
4 River, as provided in our Federal Energy Regulatory
5 Commission settlement agreement for the licensing of the
6 Oroville facilities. This will create additional spawning
7 and rearing habitat by increasing the usable area for adult
8 and juvenile salmonids.

9 The Feather River agreement also includes river
10 flow and temperature adjustments. It gets very technical
11 and out of my wheelhouse, but, essentially, we have
12 established flow velocities and implementation timeframes
13 that also correspond with some new target temperatures and
14 compliance points at Robinson Riffle.

15 DWR also proposes to provide for the reoperation
16 of Oroville facilities that maximize spawning and rearing
17 habitat in the Feather River for salmonids. This includes
18 instead of routing flows through Thermolito Forebay and the
19 power generation facilities at Oroville, a pulse flow would
20 instead be moved directly through the low-flow channel to
21 create optimal conditions for fish in the upper Feather
22 River.

23 MR. BONHAM: Just for what it's worth. This
24 offer by DWR relates to a long-running, interesting
25 conversation between our two departments. We're incredibly

1 thankful that as a part of this package we're going to run
2 water through the river in a different way to maximize
3 salmon benefit.

4 The other thing I'd say in the Feather, which is
5 also true for the Sac Valley, think about it for a minute.
6 The leaders you'll hear from today have decided to fallow
7 large amounts of production land. I can imagine how
8 difficult that is as a conversation on the home front.
9 That's another example of leadership.

10 And in the Feather, when people review the
11 package, they'll also see many of us have been involved in
12 a long-running FERC relicensing. It is long overdue for
13 our sister department to receive their license. As part of
14 this package, DWR will accelerate a suite of impressive
15 habitat restoration that they would otherwise wait to do
16 when they eventually get a FERC license. And that's key.

17 MS. NEMETH: And, finally, the last piece of the
18 flow component is a pulse flow. And that's an annual
19 average of 43,000-acre feet that would be used to generate
20 a pulse velocity of 2,000 cfs for 14 or more continuous
21 days between January 1st and April 15th. And that would
22 occur in dry, below normal and above normal water year
23 types.

24 On to the non-flow habitat. We have several
25 projects that would target specific critical life stages

1 for fish, including spawning, rearing, migration and adult
2 migration. They include significant amounts of gravel
3 augmentation. The removal of the sunset pumps and the
4 associated rock dam.

5 Oroville wildlife flood stage reduction project,
6 that's a project that has multiple benefits that
7 essentially improve the ecosystem restoration in the
8 Oroville wildlife area and would allow for flood-plain
9 access for species.

10 Another project is the Nelson slough flood plain
11 restoration project. That would provide optimal habitat
12 for flood-plain rearing and reduce stranding during flow
13 events.

14 Abbott Lake reconnection restoration, that
15 provides habitat -- also provides a habitat for flood-plain
16 rearing and reduces stranding during these high-flow
17 events.

18 Star Bend setback levy, a Feather River setback
19 levy below Yuba River, and on river left flood plain. And
20 the identification of predation hotspots and adaptive
21 management for predator reduction.

22 So, a good variety of non-flow measures that also
23 interact with the pulse flows and other flow measures I
24 just described, that creates the package on the Feather
25 River.

1 MR. BONHAM: Next stop, Yuba River.

2 MS. NEMETH: That's you. I'll do that all at the
3 end --

4 MR. BONHAM: Okay.

5 MS. NEMETH: -- go back through it.

6 MR. BONHAM: So, you are familiar with the Yuba
7 River Accord. Many people in the audience were architects
8 of that. It is often lauded as an example of the future.
9 So what we're doing in the Yuba as a part of this package
10 is building from there.

11 You will know that part of the Yuba Accord
12 involves transfer water. So, Yuba Water Agency, stepping
13 forward again in a leadership role, has worked out with DWR
14 a way to repurpose some of the Accord release transfer
15 water in April through June. It has worked out a way to
16 re-operate New Bullards Bar Dam and Reservoir up to 50,000-
17 acre feet. And it has sorted out with other parties in
18 this package a way to think through an acre foot
19 relationship for that base contribution of water of about
20 9,000-acre feet, as well as another block of water we're
21 calling, "supplemental contribution," of about 41,000-acre
22 feet.

23 And what this all means in plain English is,
24 there will be a block of water available in the Yuba River
25 about 50,000-acre feet. And like in the other watersheds,

1 we're going to link it up with the delta outflow need, and
2 in-river benefit. And it will be on top of the flow
3 schedule Yuba Water Agency proposes in their FERC
4 relicensing. Which, again, like in the Tuolumne, is
5 thinking through lifecycle benefits across different needs,
6 is based on a robust body of information, and itself is
7 really a surgical improvement from the Accord flow
8 schedule. So the Accord flow schedule begot the FERC
9 proposal, begot where we are today with the 50,000 block on
10 top of that.

11 So, from there, what you would see in the Yuba
12 are other measures like the ability to make an annual
13 payment to a structural science fund in the river, which
14 keeps going, the robust, collaborative river management
15 team. You will see a commitment to enhance a minimum of
16 100 acres of flood plain and in-channel habitat along the
17 lower Yuba River, and you'll see a contribution of
18 \$10,000,000 specifically into the Yuba River for habitat
19 enhancement measures.

20 There's a relationship of my department to Yuba
21 in the FERC proceeding, and we're willing to use this
22 package here expressed before you also to do double duty
23 over at FERC, to resolve our issues and create a settlement
24 agreement at FERC.

25 And we have an interesting, I think, bold idea

1 that emerges from Yuba, which is, it's very possible that
2 Yuba's willing to go ahead and start moving that additional
3 supplemental 41,000-acre feet as soon as in the calendar
4 year of 2019.

5 That would be a great, dramatic and important
6 asset for our biologists to work with Yuba to figure out
7 how to schedule to enhance in-stream benefits.

8 So that's a quick walk-through the Yuba, which
9 takes us to the American.

10 MS. NEMETH: So, I'll start by talking about
11 water sources on the American, and then I'm going to turn
12 it over to the Director of DFW to talk through the fishery
13 benefits of all of that and how that interrelates with
14 habitat.

15 There are four different components of water that
16 the American River Agencies are dedicating to this effort.
17 And I would just offer, I think what I'm going to do is,
18 I'm going to describe the funding pieces at the end that
19 cover all of these, all of these tributaries.

20 So, the four components of water, one is,
21 groundwater substitution water, 10,000-acre feet of
22 groundwater substitution in critical and dry years. That's
23 water that is currently part of their transfer market.
24 That would be rededicated to provide for in-stream benefit
25 and outflow.

1 That water -- I guess I'll talk more a little bit
2 at the end about how we are working to compensate parties
3 for the water that they put on the table.

4 The second component of water is reservoir
5 reoperation water. And they propose to make available an
6 additional 10,000-acre feet of reservoir reoperation water.
7 That's water that would be available in above normal and
8 below normal years during the 15-year voluntary agreement
9 term.

10 They're also proposing additional dry-year water.
11 And that includes an additional 10,000-acre feet of water
12 from reservoir reoperation or groundwater substitution in
13 those dry, dry water year types. All of the -- okay. And,
14 finally, so that's 30,000-acre feet of water.

15 And then the final amount is over the longer term
16 tied to important investments in that watershed, for the
17 overall reliability of that watershed, is water that would
18 be developed through the expansion of their groundwater
19 bank. And that would include 20,000-acre feet of
20 additional water in critical and dry years. This would
21 require the construction of several groundwater wells, so
22 it is a water supply source that would come on-line towards
23 the back end of the 15-year term.

24 MR. BONHAM: So, similar as you've heard and see
25 in other watersheds, you would have this accessible block

1 of water through those mechanisms. And for me, the
2 American dynamic and dialogue has been informative, because
3 unlike other watersheds, you have a, kind of a different
4 mix of, you know, urban, and that's been challenging to
5 work through, but eventually very constructive because of
6 the collaboration between all the parties.

7 You would have that block sit on top of a very
8 structured and well-thought-out base flow regime, which, as
9 you know, has been worked on by the water forum for a long
10 time in the watershed and is colloquially called, "the
11 modified flow management standard."

12 So, the modified flow management standard would
13 exist, and then we'd have this accessible block on top of
14 it. And you'll see reference in connection to all the flow
15 schedules defined in that prior water forum work.

16 We would ensure, and the package commitment is to
17 continue temperature management, where we will be doing the
18 planning and operations as described in the 2009 National
19 Marine Fishery Service Biological Opinion as they apply to
20 this part of the system.

21 You'll see in the package a real emphasis on
22 Folsom Reservoir operations around the objective of
23 planning minimums for storage and how it helps us think
24 through future job conditions and the development of cold-
25 water pool for fish needs.

1 You will see -- and I'm very appreciate to the
2 U.S. Bureau of Reclamation, an understanding and an
3 acknowledgement that one of the single most important
4 things we can do is fix infrastructure around the
5 temperature control device there.

6 And you'll see commitments on how we're going to
7 advocate collectively, and the Bureau will help us take a
8 leadership role with other sister federal agencies to get
9 that done in the term of the settlement agreement.

10 You'll also see in the package a commitment to 50
11 acres of spawning habitat in this river, and 150 acres of
12 rearing habitat, and the ways in which it will be funded.

13 You'll see a commitment to a collaborative
14 process that will allow us to think through these difficult
15 balancing questions, like improving cold-water pool storage
16 for steelhead rearing and fall-run Chinook spawning,
17 augmenting flows and improving temperature, augmenting
18 delta outflow.

19 You'll also see identified early actions that all
20 the parties are willing to do with my department and DWR,
21 to do habitat in 2019 and create new acres. And you'll
22 also see that the U.S. Bureau of Reclamation will provide
23 2.5 million of capital funds to our department to improve
24 the Nimbus Fish Hatchery, which most of Sacramento is
25 familiar with, coming out to take the educational tour

1 there at the facility. So that's a quick snapshot on the
2 American.

3 That takes it to the Mokelumne. So, I want to
4 thank East Bay Mud. They've been working with Amador Water
5 Agency, Calaveras County Water District, Calaveras Public
6 Utility District, North San Joaquin Water Conservation
7 District, and we have a very robust looking term sheet.
8 Like the other watersheds, we have additional dedicated
9 flows.

10 The Director of the Department of Water Resources
11 is making a commitment, those additional flows coming out
12 of the Mokelumne will not be picked up for use. They will
13 contribute to our delta outflow objective. You'll see a
14 description of between 45 to 10,000-acre feet across water
15 year types as that additional block of water. And you'll
16 see a very impressive suite of non-flow habitat, things
17 like rearing habitat, creating flood-plain habitat.

18 We have a unique situation in the Mokelumne. We
19 have a hatchery there. So you'll see a strong investment
20 into marking and tagging the hatchery production fish,
21 suite of related infrastructure improvements, completing
22 our hatchery genetics management plan, and a very complete
23 package on the Mokelumne.

24 That takes us to the delta, and then we have our
25 wrap up.

1 MS. NEMETH: I'll start with the delta. One of
2 the key tasks of comprehensive settlement when Director
3 Bonham and I set out to try and put these pieces together,
4 what's the relationship between the tributaries and the
5 delta estuary? And that's expressed both through habitat,
6 and the habitat investments you've heard us describe in all
7 the tributaries. And I'll start with the habitat approach
8 that we have in the delta, and then I'll move on to flow.

9 We have a lousy track record up until very
10 recently of habitat restoration in the delta. As you may
11 know, Governor Brown in 2015 also gave Director Bonham and
12 I direction to just get it done when it comes to
13 restoration in the delta.

14 And that was through the EcoRestore program where
15 we decided we were going to make a concerted effort to get
16 out of our bureaucratic ways and take a look at the variety
17 of projects, be they related to flood improvements, be they
18 related to biological opinions and other kinds of needs
19 that we had, and just look at how we can just get those
20 kinds of projects done.

21 That effort will see us achieve by the end of
22 this year an ability to effectively initiate 30,000 acres
23 of habitat restoration in the delta, a significant piece of
24 which of course is in the Yolo Bypass and actions to
25 restore the flood plain action in the Yolo Bypass.

1 We're going to take that idea and recent
2 experience with success, and develop it further to include
3 restoration, additional restoration in what's considered
4 the northern arc of the delta, and that is that Cache
5 Slough complex where we're trying to connect the lower Yolo
6 Bypass with Cache Slough and create a restoration corridor.

7 We're also going to restore tidal and channel
8 margin restoration on the Sacramento River, Steamboat
9 Slough and Sutter Slough. We will also focus on Chips
10 Island restoration. We will increase aquatic reed -- weed
11 removal. Also, predator hotspot removal.

12 We will also engage in important non-flow
13 measures, such as north delta food studies. How do we
14 develop an improved food productivity in the delta? Also,
15 Suisun Marsh projects that can help us develop important
16 food sources for species.

17 We are also focused on consolidating and
18 screening intakes in Cache Slough and improving funding for
19 DFW game wardens and enforcement in the delta. That
20 constitutes a suite of non-flow measures and physical
21 habitat restoration measures that are fundamentally focused
22 on, how do we enhance the productivity of the delta as an
23 ecosystem, so that it can support, better support the food
24 web that all the species rely on?

25 The other key feature is doing so in a way that

1 takes advantage of tidal prisms in the delta and uses that
2 natural energy to recreate what's been long lost in terms
3 of the tidal restoration.

4 Now I'm going to step back and talk about our
5 approach to water, new water down in the delta. And we
6 just discussed the tributaries and outflow -- or flows in
7 the tributaries that would ultimately be dedicated to
8 outflow.

9 So, I'm going to describe that as the first block
10 of water, and that totals about 440,000-acre feet of water
11 in above normal, below normal and dry water year types. We
12 have some water, a portion of that water is available in
13 critical water year types, but in smaller magnitudes in the
14 neighborhood of about 100,000-acre feet. That was what I
15 would describe as the first block of water.

16 The second block of water is 300,000-acre feet
17 from the state and federal water projects that would be
18 managed primarily in the spring period across those same
19 water year types, above normal, below normal and dry water
20 years, to help us test hypotheses associated with outflow.

21 And then I'll describe a third block of water,
22 which is 300,00-acre feet of water, that would come on-line
23 pending scientific analysis and study. We would assess the
24 need for that water supply in year seven of the agreement.
25 And that water would be made available through a variety of

1 sources. It could come from some of our Proposition 1
2 storage projects. It could come from an expansion of a
3 funding framework, that I'm realizing right now I haven't
4 described for you yet, but I'll get to that. And the,
5 finally, essentially, back-stopped by the state and federal
6 water projects.

7 So, that's three blocks of water. All total,
8 ranging between 700,000-acre feet and about a million acre
9 feet of water that we would use to test hypotheses down in
10 the delta. About the key relationships of outflow and
11 other conditions down in the delta. Some of that includes
12 the way that freshwater interacts with invasive species in
13 certain water year types or addresses Microcystis problems
14 or other problems down in the delta.

15 But I want to emphasize what's going to be
16 essential for that to be successful is the science program,
17 and the involvement of a broad suite of stakeholders in
18 that science program. So that we can develop appropriately
19 testable hypotheses and we can make decisions together as a
20 community about the efficacy of that water and how best to
21 use that very precious resource.

22 So, I'm going to go back and step through -- did
23 you want to add to that, Director? I'm going to go back
24 and step through the funding piece, because this is, this
25 is very much appropriate to the challenges in how we put

1 together a proposal across the Phase II, the Phase II
2 watersheds. And as the DWR Director, I'm becoming
3 increasingly familiar with the enormous capacity of water
4 users to kind of solve their own problems, if we can get
5 folks focused on, you know, the right direction.

6 And we've had an enormous partnership with those
7 water users, an intensifying partnership with those water
8 users, to sort out how do we, as a water-user community
9 across those watersheds, describe a degree of equity, in
10 terms of inputs into the system, that can help achieve
11 benefits for the ecosystem that are enjoyed by water users
12 across those watersheds.

13 So, the funding mechanisms essentially work in
14 this way. The overarching principles are that parties
15 across the Phase II watersheds are either putting water
16 down in the system that is uncompensated, that relates to
17 the proportionality of the natural flow in their system.

18 And to the extent that there is additional water
19 on top of that, that water is compensated. And it's
20 compensated at a pre-determined rate. And the availability
21 of that water is made for the duration of the 15-year
22 agreement in the above, below and dry water year types.

23 So, the idea is that water that is acquired for
24 the purposes of generating the outflow blocks I mentioned,
25 is essentially secured for the duration of the 15-year

1 period at a secure price. A lot of parties had experience
2 with the Environmental Water Account, and the challenges of
3 trying to find water on an annual basis made it very
4 difficult to generate that water in a stable way that could
5 support the collective endeavor that we would all have in
6 studying and testing how that water works.

7 We really need down in the delta a true
8 opportunity to maybe put some of our religion aside and get
9 to the, get down to the business of, what do we do? How do
10 we shape the water that's made available for outflow to
11 help us determine and better understand important
12 relationships between that outflow and the health of the
13 species and its interaction with the physical landscape in
14 the delta.

15 So, the financing mechanism is through water
16 that's generated by the -- through funding that's generated
17 by the water users for the Central Valley project and the
18 State water project. Their contribution to a water fund
19 will be \$5 an acre foot, and that's on delivered water.

20 For non-project water that's diverted by parties
21 that are not contributing water in any other way -- as I
22 mentioned before, there are parties that are contributing a
23 block of water without compensation that's related to the
24 proportionality of the natural flow in their watershed.

25 For parties who are not contributing that, the

1 contribution to the water purchase fund would be \$10 an
2 acre foot. I, as Director of the Department of Water
3 Resources, have the ability to impose that surcharge on the
4 statement of charges for the State water contractors.

5 All the State water contractors are supportive of
6 that charge. I may hear about it. In fact, I'm sure I'll
7 hear about it. But I think we all understand what's at
8 stake, and we all understand that if we can pool our
9 collective resources, ultimately, we're going to be better
10 off.

11 In addition to the water acquisition fund, we are
12 also proposing a fee structure that could support the
13 structural habitat projects that we've described in the
14 various watersheds, as well as a science fund.

15 For the Central Valley project and State water
16 project, that would be an additional \$2 an acre foot.
17 Again, so for the State water project, that's \$7 an acre
18 foot that my department would include in the statement of
19 changes for all State water contractors.

20 For water delivered by the Sacramento Settlement
21 Contractors, or the Feather River diversion agreement
22 parties, that they will contribute to a habitat and science
23 fund at \$1 an acre foot. And then for non-project water
24 diverted by any party contributing water under the terms of
25 the agreement, that would be \$2 an acre foot contributed to

1 the habitat and the science fund.

2 So, in total, from the water users, this funding
3 structure would enable us to realize about \$375,000,000 in
4 water acquisition funding. The State is proposing to seed
5 that fund, because we'll have to start implementing that
6 fund on year one, but we won't have dollars available to
7 meet some of the commitments that we're describing
8 associated with immediate implementation, immediate
9 acquisition and provision of water under the terms of the
10 agreement.

11 And so that would involve an investment of
12 appropriate state bond funds that we would have to work
13 through the competitive process to achieve. So, you know,
14 essentially, a water acquisition fund that's funded in part
15 with public dollars and significantly by water users.

16 On the habitat and science piece, that totals
17 around \$400,000,000 for a habitat restoration fund. The
18 State of California would also seek to use bond monies
19 available in Proposition 1, Proposition 68. We have some
20 Prop 13 money. We have some multi-benefit flood money at
21 the department. All those resources would be brought to
22 bear to support a state contribution.

23 So, generally, our approach to funding the
24 totality of the agreements that you, that you've just heard
25 the specific contents of, breaks down into about an

1 \$800,000,000 contribution from the water users and a
2 commensurate approximately \$900,000,000 investment from the
3 State of California.

4 All that in my view is historic. An ability to
5 establish, you know, essentially, \$2,000,000,000 of funding
6 to implement an extensive flow and non-flow and physical
7 habitat restoration program that extends from the
8 tributaries down into the delta, to be implemented over a
9 15-year period is exciting, an important, just an important
10 way to make things actually happen in a timely way.

11 Do you want to talk governance a little bit?
12 I'll talk governance a little bit.

13 MR. BONHAM: We've got a lot to govern.

14 MS. NEMETH: Yeah, we have a lot to govern.

15 MR. BONHAM: We're going to do it together.

16 MS. NEMETH: I think many of you have seen some
17 information that's been under development. I don't, I
18 absolutely don't, don't want to give this short shrift,
19 because none of this works unless we've got a process in
20 place across a broad suite of stakeholders, to help us make
21 sure that we're implementing on time, but also brings the
22 science investment.

23 You've just heard me, you heard me describe the
24 science investment to be made by the water users. We
25 absolutely need a broad base of participation in developing

1 that science program. And developing a joint understanding
2 of the management actions that would be subsequent to
3 improved scientific understanding.

4 The governance structure would essentially define
5 an initial set of projects throughout the Sacramento and
6 San Joaquin basins in the delta that have a high
7 probability of benefits to improve ecosystem functions and
8 create conditions necessary to improve the viability of
9 native fish.

10 The approach would define an initial set of
11 testable hypotheses that are used to test the integration
12 of flow and habitat actions that provide identified,
13 measurable benefits. This piece is, also, in my view, just
14 usually important and very significant in terms of a real
15 management change in how we deal with things in the delta.

16 Again, it's something that we understand
17 intuitively, that we've got to be doing both, but I think
18 have struggled with a cohesive, scientific framework that
19 all parties are bought into, that can help us learn about
20 how we, how we integrate flow action with a non-flow action
21 or physical habitat, and how we understand those benefits.
22 We have a lot to learn on that front, and that is a
23 centerpiece of the task of the governance structure.

24 The approach would also define a program that
25 actually answers the management questions, so we're working

1 on the science, we're testing things, but then we have to
2 translate that into management actions.

3 So, I'll just run through a few, a few bullet
4 points about our approach to implementing some of these
5 scientific experience -- experiments, learning from those
6 experiments, and designing those to be outcome based and
7 facilitating that collaborative process.

8 First, we're going to focus on these projects
9 where it's, we call it, "it's safe to fail," right? I
10 mean, no one wants to, you know, put their assets on the
11 table, you know, if they're always worried about the bottom
12 line and they're always worried about the effectiveness.

13 We know we have to create space to try things
14 that may not work. And that will help us get more focused
15 on the things that do work, so that we stop trying to do
16 everything in incremental amounts that don't help us set on
17 a new direction.

18 For the concepts around testing hypotheses, we
19 need to test hypotheses, even those that are conflicting.
20 And we need to have the courage to test them both and test
21 them both at the same time. That's going to be essential
22 in my view. And it's, to me, it's an essential reflection
23 of a governance program that has a broad set of
24 stakeholders. Because we know our stakeholder community
25 has different views about which scientific hypotheses are

1 the ones that are the most meaningful. We're going to have
2 to test them, even the ones that are seemingly in conflict
3 with one another.

4 Each of our experiments is going to be done in a
5 way that enables us to learn as much as possible. And what
6 I mean by that is, you know, I think a good example is our
7 Suisun Marsh salinity control gates' experiment, which I
8 think you heard a little bit about a couple months ago.
9 That's one where at the outset there was a significant
10 amount of program design, and we're understanding the
11 effects of that kind of action taken earlier this year.

12 Moving forward, based on that information, we
13 have an inclination that there could be a degree of
14 importance around expanding the window for that particular
15 action. So, moving it up earlier in the summer season,
16 potentially extending it into the fall season, that's
17 exactly the kind of, you know, small project that gives us
18 good information.

19 That then in turn moves towards, what's the next
20 set of decisions that we could make? What are the next set
21 of hypotheses that we need to test that are associated with
22 the seasonality and the benefit of the -- the significance
23 of the benefits that we aim to achieve through that action.

24 Finally, this process for governing the voluntary
25 agreements not only has to be collaborative, but it has to

1 be transparent. So, that can take many shapes, and there's
2 a lot of work we need to do to flesh out the details on how
3 the governance structure would work as it relates to annual
4 planning, as it relates to the integration of project
5 implementation with the science program. But all of that
6 needs to be done in a transparent way, with very proactive
7 reporting out of results.

8 We have a lot of jurisdiction, state
9 jurisdictions in California that care about the outcome.
10 That's a very natural place for the public transparency
11 around voluntary agreement implementation to occur. And
12 that would be, that would be our intention.

13 I would end by also referencing, we're going to
14 need good peer review on the science that we're doing.
15 There's -- an entity like the Independent Science Board
16 could be used, but foundational to our success will be to
17 be -- to make sure that we have appropriate and periodic
18 peer review of the science questions and the actions that
19 we're taking, the effectiveness of the actions that we're
20 taking.

21 MR. BONHAM: So here's our wrap up. It's a list
22 of entities. Thirty days ago we didn't have this package.
23 We now do. What I hope you hear is a system-wide approach.
24 We rise together, we fall together. It's connectivity. It
25 produces in-river benefit linked with delta outflow

1 objective improvements. It's at a mammoth scale, flow and
2 non-flow. It's self-financed by our water user community
3 of the tune of \$800,000,000. In my career I've never run
4 across that moment before.

5 We've lost some friends along the way, perhaps.
6 I've gained some friends along the way in the last 30 days.
7 I know some water districts felt rushed or they didn't
8 receive information. I know the same feeling exists with
9 long-time friends in the conservation community. For those
10 elements, I apologize and I'm sorry.

11 I see a future that can help us continue to bring
12 all parties together for our next step of work. Look, I
13 couldn't think of anybody I'd rather go through this brutal
14 30 days with than the person sitting to my immediate right
15 and your left. And it's been rough for our respective
16 staff, like it has for you and your staff on this topic.

17 Water defines California, either because of its
18 scarcity or its abundance. It's unlike any other issue
19 I've worked on, not solar, not public lands, not marine
20 issues. It is unlike any other. It's seriously profound
21 business.

22 We're going to have another drought. We're going
23 to have more floods. We're facing extinction risk across
24 our biodiversity wealth. But I'm convinced water requires
25 durability in its solutions, and durability requires us

1 getting along with each other.

2 There you have it. I think Karla and I gave it
3 our all. And if I could go back to the very first slide,
4 or at least leave that there. That's what we're talking
5 about. The package in front of you is across all that.

6 So, what next? I'm pretty sure I'm taking
7 tomorrow off, and maybe the day after.

8 A month ago, November 7th, I told you I would not
9 ask for another delay relative to Phase I. I'm not asking
10 one for now. I think it's up to you what you're going to
11 do with the Phase I question. I understand why you may
12 feel the need to adopt.

13 On that aspect, my request is you create a safe
14 place for the Tuolumne parties. I think it's courageous
15 they stood with the settlement effort and they want to keep
16 going. They need a safe place to complete that work, which
17 I hope includes additional conversation with the
18 conservation community.

19 And I'll give you another example I didn't
20 mention earlier. In the package they've offered, and I've
21 discussed with them, the Tuolumne parties are agreeing that
22 within two years they're going to work with me and within
23 themselves to see if we can find additional mechanisms to
24 generate additional in-stream flows in successive dry and
25 critical years than I mentioned previously, groundwater

1 banking, infrastructure projects. Find a safe place for
2 them.

3 As to this package, obviously we've got more
4 work. You'll see in our submission a suggestion on a
5 schedule to hold all of us accountable to complete the
6 subsequent work on this total package over the course of
7 2019. You know we need comprehensive kind of environmental
8 views. We need to think about how to integrate one and
9 two, and that's what we've suggested.

10 So, on that front, what I hope you can send us
11 out of this room with is a unanimous 5-0, throat-clearing
12 endorsement for us and others to keep at this hard work.
13 There's no other option than to keep at it, so we'll end
14 there.

15 CHAIR MARCUS: Thank you. Thank you for all
16 your hard work. Obviously, we just got this today and are
17 just hearing parts of it today, so it's a lot to digest.
18 Devil's in the details. I know you have more details to
19 flesh out. And then there are details that other people
20 need to get a chance to see, weigh in on, reengage on. But
21 I appreciate you coming forward to give us this overview,
22 which you didn't have to do yet, since we haven't even
23 proposed on Phase II, but it is extremely -- I don't quite
24 know what words to use, intriguing. I use "interesting" in
25 the way the Governor uses it, which is an accolade, not a

1 passing word, which is, there's a lot to, there's a lot to
2 think about here, and we're going to need to digest it.
3 And other people are going to need to digest it and think
4 about it and figure out how we can incorporate
5 consideration of it as we go forward. And I think we'll
6 probably talk about that a bit today and think about it.

7 And I do think that while I want to, I do
8 actually want to hear from everybody on adoption and on
9 this. Anything people want to do will help us, hopefully,
10 by the end of this hearing, think about some avenues to
11 both encourage people to engage or reengage across the
12 spectrum, and to give you a little bit of energy to go back
13 at it after you take a day or two off. We'll see if you're
14 phone stops ringing for two days. It probably will not.

15 Do people -- we're already at -- we've gone until
16 11:00, whatever it is, 11:38. Would you all like to take a
17 short break before asking questions? Would that be good?
18 All right. How much time?

19 And we'll take a latish lunch break. And, I'm
20 sorry, as is my want, it won't be very long, but it will be
21 closer to the, between the 1:00 and the 2:00 o'clock hour,
22 so that I can also get started on public comment for all
23 the people who are here.

24 MR. ALEXANDER: Would you entertain my public
25 comment at this time because I need to leave?

1 CHAIR MARCUS: I could do one, maybe, or two, but
2 -- is that, it's alright?

3 All right. We'll take one, and then we'll do --
4 we'll take a break until 11:50.

5 So, go ahead. And just if you could make sure
6 when you're -- say your name for the record, so she can
7 pull your card out, because I didn't read any of the cards
8 yet.

9 MR. ALEXANDER: Peter Alexander. This is on?
10 Are we on?

11 So it's truly a most beautiful day, and blessings
12 to the innocent and true hearted. Water is life and has
13 its own spirit, shared truly with those who hear it. And
14 everything's connected. Hear me through never more
15 rejected, and you're right, when the devil is in the
16 details.

17 Now we're on?

18 CHAIR MARCUS: Yeah. Good.

19 MR. ALEXANDER: Shall I repeat or did you hear?

20 CHAIR MARCUS: We heard. You can continue. That
21 was good.

22 UNIDENTIFIED FEMALE SPEAKER: You probably need
23 to repeat one sentence.

24 CHAIR MARCUS: Right. Sorry. You do.

25 UNIDENTIFIED FEMALE SPEAKER: Hi.

1 CHAIR MARCUS: Okay. We realized there was a
2 transcript. Sorry, I shouldn't have --

3 MR. ALEXANDER: I'll start by saying, it is a
4 beautiful day, and blessings to the innocent and true
5 hearted. Water is life with its own spirit to share truly
6 with those who do hear it. And everything be connected.
7 Hear me through nevermore rejected, and as you said, the
8 devil is in the details.

9 Is there anything less than willful blindness
10 that's denying us from loving kindness? I am Peter. I'm
11 here speaking truth to power free of all fear. And
12 regarding time, it said that the past, present and the
13 future be one as in now. Two-hundred years ago, Lavoca
14 (phonetic) led the last ghost dance at the bank of a river,
15 in which a group of Mormons participated, to wipe the
16 unbelievers off the face of this nation.

17 He also entertained a man with the spirit of
18 Christ, which this world has long sought the heist. And
19 policies, policies diverting a majority of fresh water to
20 animal factory farms could never be found in a promised
21 land, which is a place of charms.

22 This is all in support of mammon, the god of
23 greed. And those involved are identified as unbelievers
24 associated to nasfisto (phonetic). As you deal into
25 release of me was always a reference to all the animals be

1 clear to see, and the fish as well. How is it we never
2 ponder the nature of our cracked liberty bell? And the
3 story, the fish and loaves, deceptions by the serpent seed.
4 It was the bread cast forth as the truth, and the fish
5 reeled in as the believers.

6 The heavens have loosed the dogs of war against
7 all unbelievers of the corporate store. As the angels of
8 all mighty command, the great interruption that forever
9 freezes all corruption. I ask, I task, I command, I pray
10 unto the guilty be delivered all manner of just desserts
11 and vengeance.

12 The hour of mercy is over. Judgment be at hand,
13 being delivered by all mighty command. For surely through
14 me the iron rod of God rains with fire be commanded,
15 continuing still now with earthquakes, until the promise
16 goes higher, until every need to mother earth be remanded.
17 Until the brother be set free as the first scheduled into
18 the promised land, Leonard Peltier.

19 I am Peter. I am the seer. Freeing first time
20 ever as primary law of the land, the U.S. Constitution.
21 This all be here commanded, truly, truly, the beautiful
22 resolution. The authority be mine to say as I do, to the
23 true-hearted, abide or you will collide. For whoa into
24 those untoward truly, truly say it the living lord. As I
25 commanded, be already done.

1 And back when I was in high school they said
2 water would become a commodity. From that time to this,
3 the bar associations increased 7,000 times. That is what
4 this is all about. It's all about water for money to
5 murder the animals in the factory farms, to murder the
6 fish, which is no less the murder of a man or a woman in
7 the eyes of all mighty.

8 And the power we have here in California,
9 especially Northern California, which is the true new
10 promise land of Israel, is to be pure. That is the way we
11 become the cure. To shut down the corruption, to shut down
12 the greed, it shuts down the slaughter house and all
13 corruptions bleed.

14 The authority is mine to say as I do, as the
15 authority be ours to make this come true. It's all about
16 true power and true love, and we will be supported from
17 beyond and above. For in our hearts, be as children, be as
18 a child.

19 The earth is a beautiful place. It needs to be
20 wild, not constrained by all these rules and regulations.
21 That's not how you take this nation to its highest station.
22 As being the true children of Israel, you are the
23 protectors, the leaders, the workers.

24 It is time to abide the strike, the 40-day strike
25 that frees Leonard Peltier, who represents the 500-year-

1 plus indigenous resistance worldwide. And in his cell is
2 the spirit of Apparchment, a gift from a matriarchal
3 society known as the Iroquois, it's known as the U.S.
4 Constitution. It's about this thick. This needs to be the
5 law of the land. This will be the law of the land. This
6 is the law of the land. Not papal law, not marshal law,
7 not corporate law, but the U.S. Constitution, a most
8 beautiful document indeed. It has no room for corruption.
9 It has no room for greed.

10 I put this through my heart to yours, arise
11 within your own spirit and be part of the cures. I have
12 said it. You hear it. So be it. It is time. Be free of
13 the animal flesh industry. Be free of the industry of oil.
14 That's how we stand up and become truly royal. That is how
15 we open up Israel's promised land beneath our feet and grow
16 some cactus. I'm also known as Cactus Pete, the most
17 underrated food source on the planet.

18 The 40-day strike, join together now and we be
19 standing on granite. Join the teacher strike, join the
20 Kaiser strike, join the strike against this thousand years
21 of corruption, because we are the power. The time is at
22 hand to open these doors to the promise land. Blessing.

23 CHAIR MARCUS: Thank you.

24 MR. ALEXANDER: Thank you for your time.

25 CHAIR MARCUS: Thank you.

1 We'll now take a break until noon, and then we
2 will come back.

3 UNIDENTIFIED FEMALE SPEAKER: (Indiscernible.)

4 CHAIR MARCUS: Yes.

5 MR. SAWYER: All right. I just wanted to say
6 that, as promised by the director, not by me, the plan is
7 on the DWR web site. You can go to water.ca.gov. It's at
8 the top left. It comes right up.

9 CHAIR MARCUS: Thank you, Mr. Sawyer.

10 (Recess taken from 11:46 a.m. to 12:13 p.m.)

11 CHAIR MARCUS: If you can -- is that on?

12 UNIDENTIFIED FEMALE SPEAKER: (Indiscernible.)

13 CHAIR MARCUS: I did already. So, hopefully,
14 she's coming.

15 If you can take your -- it's not on. It is? If
16 you can take, if you can take your seats. Hello? Hi. I'm
17 -- that's all I hear.

18 Please take your seats. Is that on?

19 UNIDENTIFIED FEMALE SPEAKER: It's not coming
20 across. It's on. It's on. It's on.

21 CHAIR MARCUS: So, it's not very loud. That's
22 right.

23 If you can please take your seat so that we can
24 reconvene. I'm certain Board Member D'Adamo will be back
25 in a moment.

1 We have a lot of speakers, and I want to be able
2 to accommodate them. So, I'm hoping you're all talking
3 excitedly and making friends. Yeah, exactly. Thank you.

4 Sorry. As I said, the sound system's not, not so
5 great. So I need your, I need your cooperation in being
6 able to move through the hearing. Because you can't hear
7 me, can you? That means everybody has to be quiet. I
8 can't make it any louder. Great.

9 We have a lot of speakers, including, we,
10 hopefully -- we may have lost a couple by now that had to
11 leave at noon. I just can't guarantee at what point we get
12 through the initial presentations on these things. But it
13 may be only 2:00, but there are a number of other people
14 who need to leave by 2:00.

15 So my suggestion to my colleagues is to, if you
16 have a clarifying or burning question you'd like to ask
17 either of the directors, that we ask it now and then we
18 move right into public comment.

19 And the public can comment on the proposal and
20 anything they've heard, whatever they'd like, with their
21 three minutes. And then we will spend time, probably take
22 a break and spend time discussing what we'd like to do
23 today. But I do think it's really important to listen to
24 everybody. I get a lot out of it and want to move to that
25 as soon as we can.

1 So with that, I'm going to open it up for
2 questions that folks want to ask of the directors while
3 they're sitting right here before us.

4 MS. DODUC: Thank you.

5 Thank you for your hard work this past month and
6 thank you for what looks to be a very promising start with
7 a lot of hard work still yet to come.

8 Just one quick question of Director Bonham. And
9 I think this might be helpful for us as we hear from other
10 commenters. You, in your closing remarks, you made a
11 comment about creating a safe space for Tuolumne, which I
12 appreciate, given Tuolumne's participation the last month
13 or so, and is a part of your framework.

14 Can you expand upon that safe-space concept?

15 MR. BONHAM: Well, I'm not -- thank you for the
16 question, Board Member Doduc. And it may seem unfair to
17 say, but I'm hopeful you can solve that, because it's your
18 decision relative to how you may manage Phase I. I
19 understand, potentially, your interest in adopting your
20 work on Phase I. And I believe we have a good package with
21 our partners in the Tuolumne, and we would like them to
22 continue through with us as part of the broad package.

23 So, you know, whether it's delayed implementation
24 or other things, I rely on your expertise, as the most
25 knowledgeable on what your process may allow or not allow

1 as you define your approach to what you're going to do on
2 Phase I today. It's up to you, I think, is how I would
3 answer that in a straightforward manner.

4 CHAIR MARCUS: I think we probably have options.

5 All right. Just to -- I'm sorry. I just wanted
6 to start, because there are people who are going to need to
7 leave.

8 And what I'm planning to do is just to ask
9 questions we feel the need to ask right now while the
10 directors are here, and then try to move into public
11 comments, so we can hear from everybody, because we have
12 folks across the spectrum who will have things to say about
13 the, both what they've heard from the directors, but
14 obviously, the proposal in front of us today. So -- but I
15 wanted to give an opportunity if there were questions folks
16 wanted to ask right now, that they could.

17 Any others? No? All right.

18 MS. D'ADAMO: On your, I guess, addendum F for
19 the Tuolumne, you had mentioned -- I suspect that this is
20 just a brief summary. There are many other components.
21 But Director Bonham, you had indicated that there was some
22 readiness to implement flow and habitat now. Could you
23 provide some additional information on that, and when you
24 say, "now," does that mean 2019?

25 MR. BONHAM: It's my understanding, yes, we're

1 talking about 2019. I do think you'll likely hear from
2 representatives of the Tuolumne parties, and they can
3 elaborate more. But I think we've thought through things
4 like really beginning in 2019, coarse sediment,
5 augmentation at certain river miles. This tracks a lot of
6 the McBain & Trush work that was done in the early 2000's.

7 I think there's a way to figure out at which
8 riffle and river mile how many tons and volume cubic yards,
9 and I think there's an interest in advancing that. And
10 it's likely down at the scale of conceptual and engineering
11 designing.

12 I think there are things that we can do around
13 riffle 3AB, which is called the Zanker restoration in the
14 Tuolumne. And that has something to do with the Tuolumne
15 River Conservancy recently purchasing property downstream
16 of LaGrange. I think there's some really neat things that
17 can be done in 2019, starting that functional flood-plain
18 work, removing exotic hardwood vegetation and other stuff.

19 You actually have a trespassing cattle challenge
20 there on the river, and that's a pretty low-hanging fruit
21 thing you can start doing.

22 I do think that another likely thing in 2019
23 could be the formation, the leadership of the districts,
24 city and county, bringing together the various agencies. I
25 would hope that there's conservation community involvement,

1 they're strong partners in the river, in kind of shaping
2 this advisory committee. And, you know, starting to think
3 about the future, because we've got a variety of tasks,
4 like figuring out spill management plan, you know, how to
5 hit flow targets, how to do an out-migration pulse flow.
6 And some of those water components, as I understand it, are
7 also measures the parties are willing to do in 2019.

8 MS. D'ADAMO: Great. Thank you. And I -- in the
9 interest of time, I was just calling out the Tuolumne
10 because of the action that's before us today. But I
11 presume that on the other rivers, with regard to early
12 action, something similar along the lines that the Tuolumne
13 is looking at, unless you had something, either of you had
14 anything to add.

15 MR. BONHAM: What I would say on this is, I
16 believe all the parties that want to continue in the
17 collaboration have identified things they're willing to do
18 in 2019, and get going.

19 MS. D'ADAMO: Great. And assuming that
20 representatives on the Tuolumne come up, my question to
21 them would be similar, but I have -- I just want to make
22 sure that I'm understanding, because just backing of the
23 moment. Thank you. Thank you so much for -- I know you've
24 been working around the clock, and this is monumental.
25 It's amazing that you have gotten this far, and I'm looking

1 at momentum and early action, and don't want anything that
2 we would be doing today to stand in that way.

3 And so, in that interest, I'm going to ask you a
4 question that I will be asking representatives on the
5 Tuolumne, and that is, is it your understanding that this
6 tentative agreement or understanding, whatever it is you
7 want to call it, that's encapsulated in addendum F on the
8 Tuolumne, that it is predicated on us not adopted the SED?

9 MR. BONHAM: Here's my answer to that question,
10 Board Member. That's a question for the districts. I
11 understand whatever action you may take on Phase I may
12 result in litigation, and I understand parties need to
13 preserve their legal positions. But I've only suggested a
14 concept, one party in a contentious watershed decide to
15 stick with it, that means something to me.

16 No disrespect. I think it's for you to
17 deliberate in open session whether that means something,
18 and, if so, how you might manage it.

19 I will just tell you from my own personal
20 experience, as a member of the department that has its own
21 commission, where I also have regular public hearings, we
22 struggle all the time with yes/no propositions, like
23 listing species under the California Endangered Species
24 Act. And everyone has their various views and they're
25 legitimate views from different perspectives. Sometimes a

1 listing decision happens at our commission, and subsequent,
2 our department is still able to produce safe harbor
3 agreements and conservation candidate planning. But this
4 is a question for the parties in the Tuolumne.

5 MS. D'ADAMO: Understood. Thank you.

6 CHAIR MARCUS: Board Member Maguire, questions?

7 MR. MAGUIRE: Hi. I'd just like to echo the
8 other comments. Really appreciate the significant work and
9 lift that's been done over the last 30 days to put together
10 a proposal that is able to be before us today to take a
11 look at.

12 And I, too, am looking at the -- because it's the
13 Phase I that we're focused on today for consideration of
14 actions, I, too, am looking at the addendum F, Tuolumne
15 proposal. And I -- more of a technical question, but I see
16 a bullet, and you mentioned dry and critical year offramps.
17 Has some thought been given how those offramps would be
18 triggered and when they would come into play?

19 MR. BONHAM: Yes. And personally speaking, I do
20 think there's a subsequent moment where momentum and
21 additional work means these things are coming back for
22 further, you know, discussion, review. Obviously, we have
23 details to complete.

24 But what I feel comfortable saying is, my
25 department, I mean, we've looked at the San Joaquin Index,

1 we've thought about like a time snapshot from 1984 to '09,
2 2009. We've thought through what it looks like to figure
3 out, you know, above normal, dry, how you get successive
4 critical, and you can plot out, you know, when you get a
5 series of critical, a series of dry, and then you kind of
6 think through whether in those back-to-back, back-to-back
7 years, we should have a flood-plain pulse or not.

8 And that structure is pretty well thought out and
9 understood between the districts and our department. And
10 that'd be something we'd, you know, want to explain and
11 walk everybody through.

12 MR. MAGUIRE: Thank you.

13 CHAIR MARCUS: Thanks. I just -- a quick
14 question in terms of next steps and thinking. Obviously,
15 you've worked around the clock. You have something
16 initial. You don't have the conservation community in it
17 yet. It's not -- I'm not disparaging. It's amazing that
18 you've come up with something that even allows people to
19 have a conversation that's not the theoretical.

20 And so, what's your sense of how long it would
21 take to flesh it out? Because, as you know, for us to be
22 able to consider it comparable, or to be able to even get
23 to the point of analyzing it, whether as an alternative or
24 otherwise in the process, we need analysis about
25 comparability and actual real numbers and a chance to do

1 more than just, you know, look at it for a few minutes.

2 MR. BONHAM: Understood.

3 CHAIR MARCUS: So when should -- I'm assuming
4 you'll take your two days off, and then everybody goes back
5 to the drawing board, and you try to invite people back
6 into the room who may not --

7 MR. BONHAM: Yes.

8 CHAIR MARCUS: -- be there anymore, including
9 people that weren't in in the first place. I mean, sort of
10 -- because we'll have to do our process out in a very
11 public way. And so the more engagement we and they have to
12 ask the myriad questions we'll have to ask. But -- so,
13 what's your thinking about the next --

14 MS. NEMETH: Sure.

15 CHAIR MARCUS: Just so I can put that into my
16 thinking cap.

17 MS. NEMETH: In our packet, which is now
18 available on-line at DWR, we do suggest a proposed
19 schedule --

20 CHAIR MARCUS: Okay.

21 MS. NEMETH: -- that's separated into discrete
22 milestones, to be responsive of the work that you all would
23 need to do. And it is aggressive as a schedule, but I
24 think that really helps us. We covered a lot of ground in
25 a short period of time. And there's a significant amount

1 of momentum. But what we have identified as part of our
2 packet is a deadline for ourselves of mid-February to
3 complete the drafting of the proposed, you know, individual
4 agreements, if you will.

5 CHAIR MARCUS: Uh-huh.

6 MS. NEMETH: And for those of you, obviously, who
7 have not seen the package, the structure of the package is,
8 you know, an overarching rollup of all the contents, with
9 several individual tributary appendices. So that's the
10 content that we provided. So, clearly, those appendices
11 would need to be fleshed out into more detailed, proposed
12 agreements.

13 We have targeted March 1st to submit to the Water
14 Board a project description for the Bay-Delta Plan, based
15 on the voluntary agreements.

16 In August we would submit to the Water Board an
17 administrative draft of a comprehensive SED that's based on
18 the project description. And, you know, in our view, our
19 proposal is that comprehensive means it includes the Phase
20 I SED, and it integrates information pertaining to the
21 Phase II update.

22 In September, there would be a circulation of a
23 document for public comment, and in December of 2019, an
24 administrative draft of a final comprehensive SED would be
25 completed.

1 CHAIR MARCUS: An SED on the agreement?

2 MS. NEMETH: Yes.

3 CHAIR MARCUS: That we could then integrate?

4 MR. BONHAM: Again, here I would say, we're
5 asking for your help and assistance as well. And one --

6 CHAIR MARCUS: Yeah. We'll have to talk about
7 what we need to do under Porter-Cologne, et cetera.

8 MR. BONHAM: One of the milestones we hope to
9 achieve is the, is getting the integration across the whole
10 system. Where you're looking at a package across the whole
11 thing. And that's what you see reflected in these
12 milestones.

13 CHAIR MARCUS: All right. We'll have to -- well,
14 I need time, I may need time to look at that, and we're
15 going to have to figure that out.

16 One other thing --

17 MS. D'ADAMO: Can I just -- this is page two for
18 those that are following.

19 CHAIR MARCUS: Yeah. I'm sorry. I can't read it
20 while I'm running the meeting.

21 MS. D'ADAMO: Yeah.

22 CHAIR MARCUS: So -- and I think we do a
23 disservice to -- but telling people where it is is a good
24 idea.

25 MS. D'ADAMO: Yeah. So, just page two of the

1 document that should be on the web.

2 CHAIR MARCUS: All right. We'll need to sit down
3 and talk about options there going forward. One other
4 question, one of the things we've talked about that will
5 help us in this process is a cross-walk, to use your
6 terminology, of how the proposal in here compares to the
7 proposal that we've had in the framework, and that we'll
8 probably put out in an administrative draft so that we --we
9 have to be able to do a comparison, and that's we've been
10 inviting.

11 When should we expect that? That would be part
12 of the March 1st or later?

13 MR. BONHAM: If not sooner, I would say.

14 CHAIR MARCUS: Sooner would be great. The sooner
15 the better, because then we even know how to think about
16 it.

17 MR. BONHAM: Understood. And just forewarning.
18 I think everyone will be trying to do the same thing, and
19 then we'll have a period where everyone's looking at each
20 other's perspectives and --

21 CHAIR MARCUS: Right. No, sure.

22 MR. BONHAM: -- compiling data.

23 CHAIR MARCUS: And questions of baseline compared
24 to what? That's where the crosswalk helps, to compare
25 against --

1 MR. BONHAM: Yes.

2 CHAIR MARCUS: -- our metric on what the science
3 we've done to do date does, so that we can do the
4 comparison --

5 MR. BONHAM: Understood.

6 CHAIR MARCUS: -- and an analysis. All right.

7 Well, with that, I just thank you for all your
8 work. I look forward to sitting down and actually being
9 able to read it and hear from folks and figure out where we
10 can go from here. Thank you.

11 MR. BONHAM: Thank you.

12 MS. NEMETH: Thank you.

13 CHAIR MARCUS: Impressive.

14 All right. I'm going to go through the, I'm
15 going to go through the cards, because I know people have a
16 lot to say about all that. And, hopefully, we haven't lost
17 the people who thought they had to leave at noon. I will
18 take a lunch break at some point before 2:00.

19 If I get through the people who have to leave by
20 2:00, I might do it a little bit earlier, just because I
21 know some people need to eat within a certain bandwidth.
22 But it will be a short, a short one. So, if you know that
23 you're going to be really hungry, and particularly if you
24 know your card came in later, you might want to run
25 downstairs and just get something in the café, which isn't

1 bad.

2 So, I have -- people have asked for varying
3 amounts of time. I'm going to set it for three. Some
4 people have asked for five now. It's -- I think we're
5 going to go with three, because we have so many cards. So
6 adjust your thinking about what you're going to say.

7 And then I know I have one set of speakers who
8 are going to come together, multiple players, and they can,
9 obviously, have five as they asked, because they'll save
10 everybody's time in the number of people who will be
11 speaking. So, I also encourage that. If folks want to
12 come together as a group to say we agree with him or her,
13 that also is efficient.

14 The key thing here, it doesn't take a long time
15 to tell us, especially after all the hearings we've had on
16 this, your point of view and how you want us to be thinking
17 about the action in front of us. And feel free to say what
18 we should do next as well.

19 So, first five. Mike Petz from the New Jerusalem
20 Drainage District, Michelle Leinfelder-Miles, Doctor
21 Leinfelder-Miles, I think. Dean Ruiz from the Central and
22 South Delta Water Agencies, John Herrick from the South
23 Delta Water Agency, and Gary Mulcahy from the Winnemem
24 Winto Tribe.

25 Mr. Petz.

1 MR. PETZ: Good morning --

2 CHAIR MARCUS: Good morning.

3 MR. PETZ: -- Chairman and Board Members. I
4 might be the only person from Vernalis here. Anyway. I'm
5 a board member of the New Jerusalem Drainage District. And
6 Mr. Heinrich of the South Delta Water Agency asked me to
7 appear today regarding the proposed adoption of the changes
8 to salinity standards in the south delta.

9 I have not followed this process in any
10 meaningful degree, and Mr. Heinrich informed me that the
11 modeling of leaching factors of the south delta data from
12 the New Jerusalem Drainage District was used. Our district
13 uses tile drains, which mostly intercept groundwater. They
14 do not contain any of the excess water applied via
15 irrigation. So there's no surface in our district. It's
16 all subsurface water.

17 My district has taken no position on what the
18 salinity standards should be in the southern delta. That
19 concludes my remarks.

20 CHAIR MARCUS: Thank you.

21 MS. LEINFELDER-MILES: Good morning. My name is
22 Michelle Leinfelder-Miles, and I'm the Delta Crops Resource
23 Management Advisor with the University of California
24 Cooperative Extension. I'm the author of a report that has
25 been referenced in these proceedings regarding the salinity

1 objective.

2 I'd like to start off by saying that I didn't
3 develop my study, which monitored soil salinity, applied
4 water salinity and leaching fractions to start a debate
5 about who is right and who is wrong.

6 Science is about asking questions. My question
7 was, what leaching fractions are being achieved in south
8 delta soils under alfalfa culture?

9 In the response to oral comments prepared by
10 staff it states that Hoffman and I used the same equations
11 for calculating leaching fractions. However, through these
12 proceedings, we all know that Hoffman and I used different
13 data in that equation, and that I disagree with assumptions
14 that he made.

15 We used different data and we got different
16 answers to the question. You could say one of us is right
17 and one of us is wrong. Staff is choosing this option,
18 calling what I measured outlier data. But one thing I
19 would like to point out is that in the analysis of data, it
20 is very bad practice to throw out data as outlier.

21 The reason staff is calling my measurements
22 outlier data is because I did sampling from sites where
23 they characterized groundwater as shallow. The Hoffman
24 report says this, quote, "as the water table is lowered
25 below three feet, the upward flow becomes limited by the

1 hydraulic properties of the soil and decreases markedly
2 with increasing soil depth," end quote.

3 Hoffman goes on to say that upward movement is
4 more likely under conditions of low irrigation amounts. In
5 my study groundwater was never shallower than three feet at
6 all sites and all sampling seasons, and irrigation water
7 was applied. These, in Hoffman's own words, should limit
8 upward movement of salts from groundwater. Staff were
9 cherry picking from the Hoffman report to support their
10 conclusions.

11 Now tile drains. Tile drains provided Hoffman
12 with data that could be used to calculate leaching
13 fractions. Tile drains, as a management for salinity are
14 rare in the delta. I know very few places with tile
15 drains. I have heard of tile drains being installed in
16 some new vineyards and almond orchards.

17 So, I think the point to be made is that if
18 growers have tile drains, they tend to only have them for
19 permanent, high-value crops. And, frankly, the jury is
20 still out on how well they'll actually work.

21 Finally, yield. We keep coming back to yield. I
22 had previously stated that these proceedings, in these
23 proceedings that my study was not designed to develop a
24 relationship between salinity and yield. Staff have used
25 San Joaquin County and neighboring county crop yield

1 statistics as evidence that the south delta salinity
2 objective is supportive of agriculture.

3 First, equating county statistics to the delta is
4 absurd.

5 Second, even if we wanted to believe they are
6 equal, there is no reference to whether delta growers have
7 incurred extra expense for salinity management to maintain
8 yields at that level.

9 And, third, by isolating yield as the sole aim,
10 we are completing ignoring soil as a resource worth
11 protecting.

12 For these reasons I ask the Board to reconsider
13 raising the south delta salinity objective. Thank you.

14 CHAIR MARCUS: Thank you. And I'm going to, I'll
15 probably have follow-up questions on a fair number of
16 speakers, but I'm going to wait until the end in the
17 interest of folks that have to leave, because staff can't.

18 Mr. Ruiz, followed by Mr. Herrick, followed by
19 Mr. Mulcahy.

20 MR. RUIZ: Thank you. Hi. How are you?

21 Good morning.

22 CHAIR MARCUS: Good morning.

23 MR. RUIZ: Dean Ruiz here on behalf of the
24 Central Delta Water Agency and Wood Irrigation Company. My
25 comments are focused on staff's recommendation to weaken

1 the southern delta water quality standards for agricultural
2 beneficial uses, and more specifically, in response to
3 staff's recent response to the oral comments received a few
4 months ago.

5 I would just say quickly that with regard to the
6 larger issue and the -- the other issue, rather, the flow
7 issues, neither the central or south delta water agencies
8 or the south -- the central delta in general have been part
9 of those discussions. We were not invited. We haven't
10 participated, so we don't -- I don't specifically have
11 comments with respect to that, because we have not been at
12 the table.

13 Back to the other issue. Staff asserts the
14 standard of 1.0 EC year-round as reasonably protective of
15 agriculture. The evidence and the record and logic say
16 otherwise. Models and subjective assumptions, which the
17 models are based upon cannot and do not supplant on the
18 ground of reality.

19 There is direct evidence in the record provided
20 by farmers in the south delta that existing salinity levels
21 harm agricultural production. South delta farmers also
22 provided testimony that they must take extraordinary
23 measures to combat existing salinity level. That evidence
24 is uncontroverted. And regardless of modeling results or
25 Doctor Hoffman's analysis or anything else.

1 As discussed by Doctor Leinfelder-Miles, staff's
2 attempt to justify its recommendations based on
3 agricultural yields from San Joaquin County as a whole, and
4 based on comparisons from other proximately located
5 counties as a whole, just doesn't make sense.

6 To try to put it simply, staff's supposition
7 seems to be that because San Joaquin County alfalfa yields
8 have been similar to yields from other proximately located
9 counties, and since about one-third of San Joaquin County's
10 farmland is in the delta, salinity levels in the south
11 delta channels have not had a negative effect on delta --
12 on south delta agriculture production. So, increasing the
13 standard to 1.0 EC year-round is reasonably protective.

14 That supposition fails to account for the
15 following facts. Conditions in the portion of the delta
16 located in San Joaquin County are unique to the rest of San
17 Joaquin County. Conditions in the San Joaquin County
18 portion of the delta itself are unique to the rest of the
19 delta. Conditions in the south delta are unique to the
20 rest of the delta, and even the conditions between the
21 central delta and the south delta are very different and
22 distinct.

23 The attempt by staff to aggregate and compare
24 data in this way doesn't in any way support staff or Doctor
25 Hoffman's overall conclusions and should not be relied upon

1 in any way.

2 Finally, there's seems to be a strong sense in
3 the staff report materials that one -- that a 1.0 year-
4 round EC de facto standard is the de facto baseline. And
5 so, adopting this as a standard is just a confirmation of
6 that.

7 It is true there have been many, many violations
8 of the standard which have not resulted in enforcement
9 actions over the years, but it is not accurate that the 1.0
10 EC standard is the baseline. During much of the spring and
11 summer levels are not at 1.0, thus, this would be a
12 significant increase.

13 The evidence and the reality do not support the
14 conclusion that 1.0 EC is protective of south delta
15 agriculture, and we urge you not to endorse and adopted
16 increased salinity levels in the delta, particularly in the
17 south delta. Thank you.

18 CHAIR MARCUS: Thank you.

19 Mr. Herrick, followed by Mr. Mulcahy. And if you
20 don't mind, I'm going to do the five after that.

21 Do you mind, Mr. Herrick --

22 MR. HERRICK: No.

23 CHAIR MARCUS: -- just so that people can
24 prepare? They may not be totally aware of what order they
25 came in.

1 Ron Stork, Morning Star -- I should know this,
2 Gali, from Save California Salmon. Regina Chicazola
3 (phonetic) from Save California Salmon, Mariah Florendo,
4 Save California Salmon, and Bob Gore of the Gualco Group.
5 Just so you know the set that follow after Mr. Mulcahy.

6 MR. HERRICK: Thank you, Madam Chair, Board
7 Members. John Herrick for the South Delta Water Agency.
8 Thank you for taking us as a group. I appreciate that very
9 much. Two of our people had to leave or are leaving.

10 CHAIR MARCUS: Sorry.

11 MR. HERRICK: My comments are to address the
12 staff's response to oral comments, just to kind of tie
13 things up at the end. I won't take long at all.

14 As has been touched on, the modeling that was
15 done that is supposed to be countering the study we did,
16 both modeling sets take data from tile drains. We've
17 previously talked about the West Side Irrigation District
18 tile drains were in that area, and then the New Jerusalem
19 drains. That's why I had Mr. Petz appear, because both of
20 those are sampling water that's in the groundwater.

21 They're not sampling what made its way through
22 the soil, so they're calculating a net salt transport by
23 using a set of data that doesn't have anything to do with
24 the salt having passed through the soil. So, I don't think
25 those are differences of opinion, I think those are just

1 data that cannot be used, because it's the wrong data to
2 put into the calculation.

3 The second -- or the third statement by staff in
4 their response to oral comments mentions the 1976 interim
5 report on south delta salinity. I think it must be said
6 that a 42-year-old study that was done 19 years before the
7 current water quality control plan was adopted does not
8 seem to be a document that one would rely upon to change
9 the standard again.

10 Now the problem with that report is clear from
11 reading it, and if I may just quote real quick. The report
12 says, "it cannot be assumed, therefore, that these results
13 represent any kind of average situation for the area." It
14 also says, "it must be understood that with this limited
15 study it was not possible to include all possible
16 conditions."

17 Now, the report comes up with varying leaching
18 fractions, and staff cites to the ones that agree with the
19 modeling that used the wrong data to say, see, they're all
20 consistent. Well, you know, two wrongs don't make a right.
21 That doesn't work.

22 The report itself tells you what its faults are,
23 and it goes on to mention in a few places that it describes
24 the sources of water for one of the areas on the fields
25 which they did the test, and that says, well, there are a

1 lot of things in there, so we chose this place over here
2 for this supply water.

3 So that study, just like the modeling with the
4 tile drain information, it just uses the wrong data. And
5 that data and models can't overcome what was stated by the
6 -- as Mr. Ruiz said, stated by farmers, done by Michelle
7 Leinfelder, Doctor Leinfelder-Miles' study.

8 And we think it's not a question of choosing two
9 sets of data or deciding what's correct or not. We only
10 have one set of reliable data, and that all suggests that
11 the water quality standards in the south delta, or the
12 water quality conditions in the south delta aren't
13 protective.

14 So, I've tried to beat this horse too many times,
15 and I just end with, we encourage the board not to approve
16 a relaxation of the water quality standard, because we're
17 just going to end up in a fight, and then we've got to
18 argue over whether a bad calculation using the wrong data
19 is support for your position. And I don't think that's a
20 good idea. Thank you very much.

21 CHAIR MARCUS: Thank you very much. Awesome. On
22 the button. We don't have a separate award for that, but
23 that's always impressive.

24 MR. HERRICK: Didn't even know the clock was
25 there.

1 CHAIR MARCUS: Yeah. Yeah, that's even better.
2 That's even better. And I won't do this every time, but
3 this is going to be an issue I want you to be prepared to
4 address later on today.

5 Mr. Mulcahy from the Winnemem Winto Tribe.

6 UNIDENTIFIED MALE SPEAKER: He had to --

7 CHAIR MARCUS: He did have to go?

8 UNIDENTIFIED MALE SPEAKER: I'll have some remarks
9 from him mixed in with mine.

10 CHAIR MARCUS: Mixed in with yours when it gets
11 to you? I'm so sorry.

12 All right. Mr. Stork, followed by Ms. Gali,
13 followed by Ms. Chicazola, followed by Ms. Florendo,
14 followed by Mr. Gore. And I'll give you the next five
15 close to then.

16 I wanted to hear what you thought after hearing
17 that earlier.

18 MR. STORK: Good afternoon. My name is Ronald
19 Stork. I'm the policy director at Friends of the River,
20 and a founding member of the Sacramento Area Water Forum.
21 I have some brief remarks about Phase I, and some more
22 detailed but simple and brief remarks about Phase II.

23 I participated quite in -- considerably in the
24 relicensing effort with Merced Irrigation District in -- at
25 Exchequer dam. We reached some agreements there, mostly on

1 recreation things, and I want to say thank you to the
2 district for having successful negotiations. And I might
3 add, successful negotiations on that point without
4 requiring non-disclosure agreements. That said, we've not
5 come to agreement on flows and that's, I guess, reflected
6 in the department's presentation today.

7 With regard to the Phase II issues, we were not
8 -- though I've been a member of the water forum for 25
9 years, the environmental caucus was not invited to
10 participate in the voluntary settlement discussions that
11 have recently been occurring. So, it's difficult to
12 comment.

13 But to the extent that I understand the
14 agreement, I'll say a few things here. Which is, one is,
15 is that the voluntary settlement agreement expires in 15
16 years. It goes poof, and the water forum agreement and our
17 agreement with reclamation in 2006.

18 And subsequent internal agreements in the water
19 forum have suggested that we were interested in a longer-
20 term framework, such that might occur from a water rights
21 permit, change of reclamation's permits. So, this sets
22 aside a considerable amount of momentum that we've
23 generated over the last 25 years for 15 years.

24 We also defer action on target storage to
25 hopefully successful, subsequent negotiations, but whether

1 or not that will actually happen successfully, I don't
2 know.

3 The last thing I would remark is that to the
4 extent that these voluntary settlement agreements move
5 forward, I think it's important that there be sufficient
6 assurances that these agreements can actually be enforced.
7 And it's not a good idea for the Water Board to just assume
8 that their job is done. That they're going to have to have
9 continuing oversight and enforcement. So, that's my three
10 minutes. Thank you.

11 CHAIR MARCUS: Thank you.

12 Ms. Gali. Afternoon.

13 MS. GALI: Good afternoon. Morning Star Gali
14 (speaking in a foreign language). My name's Morning Star
15 Gali, and I am the Tribal Water Organizer for Save
16 California Salmon.

17 We don't have the representation that we would
18 usually have at these meetings today because there were a
19 number of meetings that took place this week, including one
20 that's in Redding this evening. And so, it's absolutely a
21 hardship when these meetings are scheduled back to back,
22 and our tribal peoples have difficulty in traveling.

23 I wanted to share something that I haven't shared
24 previously, and that's just in our relationship of who we
25 are as traditional peoples to our salmon. In our pit river

1 language, in Ajumawi language, as is our word for water.
2 Alis is our word salmon, is is our word for a person, and
3 isiwa is all that is sacred since the beginning of time.
4 One cannot exist without the other. That these, within our
5 language, that we are all in relationship with one another.

6 Native peoples in California are salmon people,
7 and our once abundant salmon have been devastated by dams and
8 diversions that have been owned and operated by city,
9 states and federal governments.

10 The salmon runs that once numbers in the millions
11 and nourished us, now return each year in the hundreds or
12 less. We are on the brink of losing the fish that are
13 central to our culture, and this loss would have widespread
14 health, economic and cultural impacts.

15 Some of our tribal communities here in California
16 have suicide rates that is 12 times the national average,
17 and diabetes and heart rates that are over three times the
18 national average. And this is in direct relationship to
19 not having salmon on our river, on the Pit River.

20 No statistics can express what losing our salmon
21 has done to our culture and well-being within our
22 communities. In fact, many experts have called the sudden
23 loss of salmon to California native communities ecoside,
24 which is cultural genocide.

25 There is hope to right this terrible wrong, as

1 California tribes have been fighting to restore the salmon
2 through dam removal, flow restoration and fish passage
3 projects. Yet in many cases, these -- there's lobbying
4 that's taking place to threaten this work. Water projects
5 that are currently being proposed are impacting native
6 peoples and land and water rights and can ruin our chances
7 to harvest salmon and restore our culture and communities.

8 To vote against a vital plan to restore flows to
9 the San Joaquin and to benefit the Bay Delta, there, you
10 know, is efforts for this to take place, and we hope that
11 these politics do not supersede our way of life as
12 traditional peoples.

13 What happens within these votes will impact the
14 processes and related processes in rivers, such as the
15 Klamath and Eel River. All of our rivers are critical to
16 native peoples' diets and our culture.

17 There is a need for California tribes to be
18 honored in a way that benefits the wishes of its people by
19 supporting the plan, instead of continuing opposition to
20 it.

21 Furthermore, San Francisco -- I'm sorry.
22 Furthermore, the pressuring of federal government to make
23 anti-environmental laws that impact our other salmon
24 rivers, taking these steps will be a benefit for all
25 California peoples. Our fight for the salmon impacts all

1 of Californians, as river flows help to dilute pollution.
2 A clean water supply is essential to both salmon and
3 people.

4 The fact is that California is not only facing a
5 fisheries' crisis, but also a clean-water crisis. Recent
6 studies show that if something does not change, 45-percent
7 of our fish species will be extinct, and a large portion of
8 the State's drinking water supply will be unusable within
9 50 years.

10 Salmon are a part of all of our heritage, and not
11 just for our tribal communities. It is no mistake that
12 salmon is essential to who we are as California tribal
13 peoples throughout northern California. And so, supporting
14 native peoples means supporting our salmon. Supporting
15 salmon means cleaner water, and it is time to restore that
16 balance.

17 Please stop fighting against our fish. It is
18 what the people want. Please honor our salmon populations
19 and restore our environmental health. Thank you.

20 CHAIR MARCUS: Thank you very much. I'm glad you
21 were able to make it.

22 Mr. Chicazola (sic), followed by Ms. Florendo.

23 MS. CHICAZOLA: Hello, and thank you for taking
24 us early. We were in San Francisco yesterday, and we'll be
25 in Redding tonight at Westlands Shasta Dam raise hearing.

1 So --

2 CHAIR MARCUS: That's why it's --

3 MS. CHICAZOLA: -- we're pretty exhausted with
4 how many meetings are going on back to back at this point.

5 So, I just want to, please, please ask you to
6 vote today, and vote yes. It's been over 100 years of too
7 many diversions, too many dams, and the salmon are at the
8 point where they just can't wait any longer. They are
9 facing extinction. And people are unable to catch salmon,
10 including fishermen and tribal people.

11 The plan that you're proposing is weak at best.
12 It is not what is being proposed by the scientists, and
13 it's not what the salmon need. But we still urge you to
14 vote yes today, because 30 to 50-percent is better than
15 what we have right now.

16 And as Morning Star said, this is also going to
17 affect the Sacramento process and the processes in other
18 places in the state. And we need the Board to be hard. We
19 need regulation. There wouldn't be voluntary settlements
20 if there wasn't the threat of regulation. And it's been
21 over 100 years of the wrong decisions. It's time to right
22 that wrong.

23 As Morning Star said, the flows will help out
24 drinking water supplies, also. Dilution is very important
25 here. There is a recent study that came out that said, the

1 salinity, areas with high salinity from farming, where
2 there's also chemical impacts, are kind of like chemical
3 bombs in water supplies. They make each other worse, the
4 pollution worse and worse. And to have more flows coming
5 from clean watersheds coming into the delta would help out
6 everyone's water supply, along with the salmon.

7 And so, also, I would like to say, I really
8 support these voluntary agreements. Everything that Chuck
9 said today is great. I would love to see it happen. But
10 this is only -- he only talked about one out of three
11 rivers being talked about here. And we just, we need
12 regulation.

13 Salmon will go extinct soon. The water supply
14 will be unusable soon. We're talking 50-year timelines as
15 far as how -- when 45-percent of the salmon will be
16 extinct, and as far as when the water will be too salty to
17 use in the delta.

18 So, we need this Board to do its job, and the job
19 is to protect beneficial uses and it's for all people. And
20 this affects all people in California, at least anyone who
21 relies on delta water or water that this decision will
22 impact, which is the majority of Californians.

23 So please make the right choice. Please protect
24 beneficial uses and please restore balance. Yes, we need
25 to make decisions for everyone, but decisions have only

1 been made for a couple interests so far.

2 So, in order to restore balance, in order to do
3 the right thing, you'll have to make a decision right now
4 to support this plan that is weak, but at least restore
5 some balance and make some decisions that can help the
6 salmon.

7 And it's not going to help the salmon go back to
8 the restored numbers we need so people can catch them, but
9 at least it will help them not go extinct. So, make the
10 right decision, vote yes today. Thank you.

11 CHAIR MARCUS: All right. Thank you.

12 Ms. Florendo.

13 MS. FLORENDO: I agree. Mariah Florendo, and I'm
14 here with Save California Salmon, and I come from the
15 Yurok, Karok and Hupa tribes in Northern California, who
16 are all dependent on the rivers, and we are fish people. I
17 am also here in solidarity with the other rivers and people
18 of those rivers who are also going to be affected by these
19 projects.

20 Our rivers have been through so much, and so have
21 the people who have been fighting just to survive because
22 of the destruction of the rivers. In the past few years,
23 our salmon numbers have dropped exponentially. Alongside
24 that, one of our tribes in our area had one of the highest
25 suicide rates in Indian country, and the highest in

1 California. We, also, alongside this, had one of the
2 biggest drug epidemics in the country.

3 I've never considered this a coincidence that our
4 people are suffering alongside the river. The destructions
5 of the river is genocide on the fish, and the genocide on
6 fish is the genocide of indigenous peoples on these rivers.

7 So, I'm here today to tell you that these flows
8 are critical to the land, the rivers, the fish and the
9 people. And I just, to be clear, to all people. So, no
10 dams, no diversions, no pipelines. Thank you.

11 CHAIR MARCUS: Thank you very much.

12 Next I have Bob Gore, and I'll give the next
13 five.

14 And then, are you sure, Ms. Townsend, that the
15 beeper's working? Sometimes it works, sometimes it
16 doesn't.

17 MS. TOWNSEND: I'm hearing it.

18 CHAIR MARCUS: You're hearing it? All right.
19 You might have to -- I'm looking at the number on that one.
20 I didn't hear a beep on that one. So, it was fine, but I
21 just want to make sure.

22 MS. TOWNSEND: (Indiscernible.)

23 CHAIR MARCUS: Yeah. But it just said zero on
24 mine the whole time. So there might be a problem with
25 mine. So, I'll just wait. You'll let me -- just keep your

1 eye on it in case -- just to try and be as fair as we can
2 to everyone.

3 MS. TOWNSEND: Sure.

4 CHAIR MARCUS: So, after Mr. Gore, we will have
5 William L. Martin from the Sierra Club Water Committee,
6 followed by Denise Louie from the Center for Biological
7 Diversity, followed by Sonia Diermayer, followed by
8 Heinrich Albert, followed by Kevin O'Brien.

9 And Kevin O'Brien is the one who's going to come
10 up with a bunch of people, and -- so you can have the five
11 minutes you asked for, Mr. O'Brien.

12 MR. GORE: Good afternoon, Board Members. If
13 there was a -- Robert Gore from the Gualco Group. If there
14 was a regulatory hall of fame, the representatives of these
15 two agencies would be in it. This proceeding is
16 unprecedented, and the degree of cooperation and
17 collaboration is amazing.

18 On behalf of the water right and water quality
19 stakeholders, I'd like to bookmark in change sheet three
20 item number one, restricting my testimony as directed.
21 Future discussions about the costs, the fee pairs will have
22 to bear for this on a detailed level, and we'd appreciate
23 some advanced notice that we've been working on it as we've
24 discussed.

25 Secondly, item number three, annual plan review

1 by the executive director and the Water Board is
2 sufficient. Adding unspecified formal work group review
3 will indefinitely delay and be very costly, the annual
4 plan.

5 So, we'd appreciate, specifically MID, would
6 appreciate, and others, streamlining this process rather
7 than subjecting it to, again, a review that's not in any
8 way specified, and in the end, is not subject to any sort
9 of regulatory oversight. Thank you.

10 CHAIR MARCUS: Mr. Martin, followed by Ms. Louie.

11 Sorry about that, Bob.

12 MR. MARTIN: Thank you. My name is Bill Martin.

13 I have lived in San Francisco since 1972 and have been a
14 customer of the San Francisco Public Utilities District --
15 or Commission, SFPUC, during that time.

16 In October 2016, shortly after this body released
17 its draft SED, Harlan Kelly, Jr. wrote in an op-ed in the
18 San Francisco Chronicle that this plan would be a disaster
19 for San Francisco. The SFPUC has continued to oppose this
20 plan, now as a final SED.

21 I, along with thousands of other San Franciscans
22 have strongly disagreed with the SFPUC's position on the
23 Bay-Delta Plan. Now I hear from Director Bonham of a
24 potential voluntary agreement. Pardon my skepticism but
25 let me provide a brief history.

1 On July 26, 2018, I submitted my comments
2 regarding the materials the SFPUC submitted to this Board
3 detailing their opposition. The SFPUC relied on materials
4 generated by the Brattle Group.

5 As I explained in my comment submission, the
6 Brattle Group's analysis was significantly flawed. It
7 overstated potential negative effects. It used a model
8 which did not analyze real-world events. It used
9 speculative scenarios with no basis in history, law or fact
10 to justify its significant economic losses. Frankly, this
11 history does not inspire confidence.

12 Please examine any voluntary agreement very
13 carefully. I support your work, I support the final SED.
14 Please move forward today. Thank you very much.

15 CHAIR MARCUS: Thank you.

16 Ms. Louie, followed by Ms. Diermayer.

17 MS. LOUIE: Good afternoon. I'm Denise Louie,
18 resident of San Francisco my entire life, today speaking as
19 a member for the Center for Biological Diversity.

20 In May of this year Governor Jerry Brown issued
21 an executive order that states in part, "all policies and
22 programs shall be implemented in a manner supporting
23 biodiversity, including protection of the State's native
24 plants and animals."

25 The point is, that your decision today should not

1 sacrifice salmon, trout, steelhead and smelt for the sake
2 of our own water use.

3 In April of this year, the San Francisco Board of
4 Supervisors adopted a resolution establishing biodiversity
5 as a city-wide priority. The resolution points to the
6 United Nations Convention on Biological Diversity, which
7 states, "biodiversity is essential for thriving and
8 resilient ecosystems upon which we all depend for food,
9 health and wellbeing."

10 I urge you to expedite your vote to approve and
11 adopt the Bay-Delta Water Quality Control Plan with up to
12 50-percent unimpaired flows, and to ensure its immediate
13 implementation. Because the fish can't wait much longer.
14 Because California is a biodiversity hotspot, meaning
15 humans. We humans have brought numerous species to the
16 brink of extinction. And because all species' lives
17 matter. Thank you.

18 CHAIR MARCUS: Thank you very much.

19 Ms. Diermayer, followed by Mr. Albert.

20 MS. DIERMAYER: Good afternoon. I'm Sonia
21 Diermayer, a member of the Sierra Club Bay Chapter Water
22 Committee and State Water Committee, but I'm speaking on my
23 own behalf.

24 I've -- we're at the end of a long road here, and
25 I appreciate all the information presented by Director

1 Bonham and Nemeth about potential voluntary settlement
2 agreements that are related to Phase II. And I'm not quite
3 sure what the purpose of that was, but it, to me, kind of
4 highlights the lack of settlement agreements, the evident
5 lack of agreements on Phase I.

6 And I would like to greatly encourage that
7 overall sentiment of collaboration and cooperation in
8 looking at the comprehensive picture of Phase I and Phase
9 II, and the delta as a whole, in outflows and how that will
10 be important. But I still think that if we rely on,
11 entirely on voluntary agreements, we won't get anywhere.

12 We've seen the water agencies and irrigation
13 districts represented here in the room have taken more and
14 more water from our rivers over the years. Will any of
15 them ever voluntarily come forward, any of you suits and
16 gentlemen that control the water and the big money, will
17 any of you ever actually come forward and say, no, we're
18 not going to plant those additional thousand acres because
19 there isn't enough water in the rivers?

20 No, we're not going to take more -- we're not
21 going to project huge population growth and demand more
22 water for our water agency for future development? No. I
23 don't think we can rely on that. I think we have to ask
24 you, Water Board Members today, to stand up strong, and
25 draw a line in the sand, and say, this is what the rivers

1 need.

2 If 50 to 70-percent of the water is not enough
3 for you, what will be enough? Is it 78-percent of the
4 water, is it 80-percent of the water? We can't expect
5 human nature to help those voluntary recognitions of what
6 nature needs. I think we need your help to do your job in
7 balancing the needs of the environment and human needs.

8 And I impeach you, please, I beseech you to today
9 take a strong stand and do your job. And create a line in
10 the sand within which all the agencies can then work
11 together to figure out how they're going to make them work.
12 Thank you very much.

13 CHAIR MARCUS: Thank you.

14 Mr. Albert, followed by Mr. O'Brien and company.

15 MR. ALBERT: Good afternoon. So, it is very
16 encouraging today to hear these tentative, sort of
17 voluntary agreements that were presented by the directors
18 of the two state water agencies. I think sort of the first
19 movement that I've heard in this process over following it
20 for a couple of years. But I have some real significant
21 concerns.

22 When the parties that were involved in these
23 negotiations were listed, there were no NGO's. So, I'm
24 worried that the environment has not been adequately
25 represented in this, but let's hope that it has been.

1 To make sure, you folks really need to -- and I
2 realize this is going to take a while. This was a huge
3 dump that we all got today. But we really need to examine
4 these closely, and see that they, at a minimum, would meet
5 the standards that has been proposed under the SED.

6 And I think part of that is that what we heard,
7 and this was very encouraging, was a number of actions in
8 terms of habitat restoration and greater blocks of water
9 that would be available to the river at certain times.

10 We also need outcomes. We need really measurable
11 outcomes. And, you know, as in your proposal, where the
12 percent of unimpaired flows that would be required can
13 change, depending on those biological outcomes, we need
14 that same thing on these voluntary agreements.

15 The last thing, it's very clear to me that these,
16 you know, these tentative agreements we heard today, these
17 would not have happened without the threat of regulation.
18 And, furthermore, as you've pointed out, adopting the SED
19 today will in no way impair the continued work on these
20 negotiations.

21 So, I urge you today to -- don't delay again. To
22 vote, and to vote yes to adopt. Thank you very much.

23 CHAIR MARCUS: Thank you.

24 Mr. O'Brien, as you and your colleagues come up,
25 I'm going to name the next five after you're all done. And

1 as I've said, all your cards need to be into the clerk, but
2 I'm not going to read it all out to make sure you have them
3 all. I appreciate the efficiency of your proposal here.

4 And after you're done we will have Roger Mammon
5 from the California Striped Bass Association, James Cox,
6 also from the Association.

7 Tim Stroshane from Restore the Delta. And if you
8 want an extra two minutes for Mr. Mulcahy, you can have it,
9 if you need five.

10 MR. STROSHANE: I don't think it's necessary.

11 CHAIR MARCUS: Okay.

12 And then Barbara Barrigan-Parilla from the
13 Restore the Delta, and then Tamra or Tama Brisbane --
14 sorry, Executive Director with Our Words, Incorporated.
15 I'm going to want to hear about that.

16 MR. GUY: Thank you, Chair Marcus, Members of the
17 Board. Thank you for the opportunity. My name is David
18 Guy, Northern California Water. We have the team here that
19 is working on the Sacramento River Basin Program that you
20 heard about earlier from Directors Bonham and Nemeth.

21 If I could just introduce some of the folks. We
22 don't want to take much of your time, but we do just want
23 to show the support for what Directors Bonham and Nemeth
24 said earlier.

25 On the Sacramento River we have Thad Betiner,

1 Louis Bear (phonetic), Roger Cornwell (phonetic) and the
2 River Garden Farms team.

3 On the Feather River we have Bryce Lundberg, Ted
4 Trimble (phonetic), Shawn Early.

5 On the Yuba, Kurt Akins is traveling, but Brent
6 Hasty (phonetic) is here today.

7 And then on the American River we have Jim
8 Feifer, Andy Feico (phonetic), and just a great team of
9 folks that have been working very hard with not only
10 Directors Nemeth and Bonham, but also with the state and
11 federal contractors, the Bureau of Reclamation. Just a
12 real good team effort.

13 So we're not going to add anything today that
14 Directors Bonham and Nemeth already said. We support what
15 they said. Obviously we've been working very closely with
16 them. But we did want to have Kevin O'Brien just provide
17 some kind of more specific thoughts on kind of how we think
18 there might be a way to move forward on this, to help
19 propel voluntary agreements forward in the Sacramento River
20 Basin.

21 CHAIR MARCUS: Appreciate that and look forward
22 in the weeks and months ahead to hearing more of the
23 detail.

24 MR. O'BRIEN: Good afternoon, Chair Marcus and
25 Members of the Board. Kevin O'Brien of Downey Brand. I'd

1 like to focus on --

2 CHAIR MARCUS: And then, this can be set for five
3 minutes.

4 UNIDENTIFIED FEMALE SPEAKER: And the ones that
5 are speaking, we might have all the cards.

6 CHAIR MARCUS: Right. They -- we need all your
7 cards. It's sort of --

8 MR. O'BRIEN: Okay.

9 CHAIR MARCUS: I'm sorry. I could fill them out
10 for you, but you should probably fill them out yourselves,
11 so. Sorry.

12 MR. O'BRIEN: I'd like to focus in my remarks on
13 what an appropriate action would be for the Board to take
14 today. I think that's the challenge you all have before
15 you after hearing what I think was a very impressive
16 presentation by Director Bonham and Director Nemeth.

17 I've made the comment previously in this
18 proceeding that the problem we have in this state with our
19 fish populations is a complex problem that has a lot of
20 causes. And it's been our consistent position that if
21 we're going to solve that problem, we need to take a
22 comprehensive and multi-faceted approach, and we need to
23 start now. I agree with many of the speakers who said, we
24 need to start taking action.

25 The framework proposal that was submitted today,

1 and it's now posted on the web site, includes a specific
2 proposal from the Department of Fish and Wildlife and the
3 Department of Water Resources, to have those two agencies
4 participate jointly in the development of what's called in
5 the document, "a comprehensive SED."

6 And the document goes on to describe what a
7 comprehensive SED is. It's a document, an environmental
8 document that will supplement the Phase I SED, and
9 integrate information pertaining to the Phase II process.
10 And that's the main point we'd like to make here in terms
11 of process.

12 A decision was made early on in this process to
13 split the San Joaquin and the Sacramento. I think that was
14 done largely for administrative reasons. But our
15 consistent position has been that that's a problem under
16 the law, that you can't segment two parts of the same
17 watershed.

18 And I think what we are suggesting and indeed
19 what Director Bonham and Director Nemeth are now
20 suggesting, is that you now combine the two environmental
21 processes into one comprehensive document. That's the only
22 way that this Board is going to be able to adequately
23 analyze the various impacts associated with the proposed
24 actions. Not only the proposed plan, but now the various
25 voluntary agreements that are part of your record and that

1 are before you.

2 So, our ask is that you take action today to
3 direct your staff, consistent with the recommendations of
4 the two directors, to move forward promptly with the
5 preparation of a comprehensive SED that would encompass
6 both the Sacramento River watershed and the San Joaquin
7 watershed.

8 We don't believe you should take action today to
9 adopt the plan. Frankly, you have a lot of new information
10 and documents that were submitted to you today, that I
11 don't think the Board members or the staff or the members
12 of the public have had a chance to fully digest, although
13 we've seen various versions of most of those documents.

14 I think from a process standpoint, taking action
15 today to adopt a plan, given the state of flux that this
16 process is in, would be the wrong move.

17 I think the better move would be to direct this
18 comprehensive environmental document with specific
19 timelines, and those are laid out in the framework
20 proposal, and we will come back and we will have these
21 voluntary agreements finalized for you in a short amount of
22 time. I think that's the rational approach to this issue.

23 CHAIR MARCUS: So, there's just one -- I mean, I
24 could ask a million questions, but I don't have to ask them
25 all today, and I won't, given the nature -- so the proposal

1 in here and from you is that we have the other departments
2 do an SED for our update of the Water Quality Control Plan,
3 as opposed to helping work up an alternative that we could
4 study in the Water Quality Control Plan?

5 MR. O'BRIEN: No. And I probably wasn't precise
6 enough on that. The framework proposal states that they
7 would work as responsible agencies to assist --

8 CHAIR MARCUS: With us?

9 MR. O'BRIEN: With you.

10 CHAIR MARCUS: Okay.

11 MR. O'BRIEN: Yes.

12 CHAIR MARCUS: That makes a little more sense.

13 MR. O'BRIEN: Yes.

14 CHAIR MARCUS: All right. Now I read it. Okay.
15 Thank you.

16 MR. ESQUIVEL: If I may. I know that we'll have
17 a longer conversation about what we end up deciding to do
18 as a Board, and how best to sort of step through this
19 moment where, again, we have to acknowledge there's been a
20 tremendous amount of cooperation and transmit of resources,
21 both time and resources on the table when we talk about
22 accomplishing the update of the Water Quality Control Plan.

23 But I think, I think we have to be sort of clear
24 where we are in this moment. Where this Board has been
25 asked to delay since August, and you talk about process and

1 what best sort of allows us to move forward. And I would
2 just posit and would ask you to be a bit creative in
3 thinking that actually Board action builds towards that
4 continued momentum.

5 I think we heard today that there's still
6 details, still work that needs to be done in the context of
7 the voluntary settlement agreements. So being able to cap
8 off Phase I, knowing that the Tuolumne, though is captured
9 within our Phase I decision today, you know, we'll continue
10 to talk.

11 But don't see Board action as, perhaps, this
12 Board rejecting that good work and cooperation, but -- and
13 we'll continue to talk, but how best we step through it.
14 Because I think some folks in the room that have been
15 negotiating have been incentivized, or otherwise think that
16 the negotiation was about this Board not acting. And I
17 don't think that's necessary the case (sic).

18 So, sorry, to maybe said a little too much at
19 this point, because we could start getting into this pretty
20 in-depth in the moment, but I just wanted to thank you
21 though and make those thoughts.

22 CHAIR MARCUS: Right.

23 MR. ESQUIVEL: Thank you.

24 CHAIR MARCUS: And we'll have plenty of time to
25 talk, I think, after.

1 MS. D'ADAMO: Since you brought that up, I will
2 do what I can to be constrained here. But the -- I think
3 what I'm hearing is a very different approach than what
4 we've heard in the past. What I'm hearing is that you all
5 are embracing something, and you're trying to help guide us
6 so that this momentum continues.

7 And I have in my own mind what may happen if we
8 adopt today that could result in an unintended consequence
9 and -- with respect to this momentum.

10 And so, rather than me speculating as to what
11 that might be, could you comment on how the proposal -- or
12 the proposed action that you're suggesting could, in your
13 words, propel further action, further momentum, as opposed
14 to what may happen if we adopt the SED today in that
15 context of further -- I mean, these voluntary agreements,
16 it's just a framework at this point. So, what may happen
17 if we were to adopt today, how do you see that playing out?

18 MR. O'BRIEN: Well, and I can't speak for every
19 district and entity that's represented behind me, but I'll
20 give you my personal opinion on that.

21 This group of folks standing behind me and
22 others, have basically worked around the clock for the last
23 month plus, including a lot of weekends. There's a lot of
24 commitment to get this thing done. There are still a few
25 items on the San Joaquin side I think that need to be

1 resolved, but as far as the Sac Valley is concerned, this
2 has momentum. This has commitment.

3 And I am concerned that if the plan is adopted,
4 we know that lawsuits will be filed. There's a risk, in my
5 opinion, that we'll all be diverted into other processes,
6 and that very elusive thing called momentum may be lost. I
7 don't know that that will happen. I'm not going to stand
8 up here and threaten that it's going to happen, but I think
9 it's a risk that everyone needs to be aware of.

10 So, I think this group is committed to continuing
11 to try to be constructive in this process, but it's frankly
12 challenging when your resources are diverted on -- into
13 other forums.

14 MS. D'ADAMO: Thank you.

15 CHAIR MARCUS: Thank you.

16 MR. O'BRIEN: Thank you.

17 CHAIR MARCUS: And the rest of the room thanks
18 you.

19 All right.

20 MR. ESQUIVEL: In school we're always told not to
21 gather in gangs, but that's a gang that I like. So
22 that's --

23 CHAIR MARCUS: Yeah. That's not a bad gang.

24 Before Mr. Mammon speaks, I'm sorry, I'm going
25 let somebody else go first who has to leave. And then it

1 will be you and your set of five.

2 Noah Oppenheim from PCFFA.

3 MR. OPPENHEIM: Thank you, Chair Marcus, Members
4 of the Board. Thank you for accommodating my schedule.
5 Noah Oppenheim, Executive Director of the Pacific Coast
6 Federation of Fishermen's Associations, on behalf of 14
7 port and sector fisheries associations on the coast of
8 California, the majority of salmon trollers who are in
9 desperate need for your action today.

10 I won't belabor the point. I and dozens of
11 people, including colleagues in the room, have been making
12 back-of-a-napkin calculations on exactly what we heard this
13 morning. And you'll hear more detail as the lunchbreak
14 elucidates some of that.

15 But from first reading, it appears that this is
16 certainly a non-starter with respect to preserving and
17 protecting POTW trust fisheries' resources. It represents
18 less than half of what your staff have determined is
19 necessary to preserve and protect living marine resources,
20 particularly fish, and is close to status quo in certain
21 circumstances.

22 The time is now to vote to adopt your July
23 framework. I strongly encourage you to do so, and really
24 strongly applaud your staff, your time in dealing with
25 this. You've amassed an extraordinary amount of expertise,

1 and it's time to move forward, and it's time to set a high
2 bar through regulatory action that will continue to keep
3 this momentum and keep everyone at the table. Thank you
4 very much.

5 CHAIR MARCUS: Thank you.

6 Now, Mr. Mammon. Sorry. Thank you for your
7 patience, followed by Mr. Cox.

8 MR. MAMMON: My pleasure. Chair Marcus, Members
9 of the Board, my name's Roger Mammon. I'm the President of
10 the West Delta Chapter of the California Striped Bass
11 Association. I'm secretary of Restore the Delta, and I'm
12 also past president and a board member of the lower Sherman
13 Island Duck Hunters Association.

14 Science, as defined by the Collins English
15 Dictionary, is the study of nature and behavior of natural
16 things and the knowledge that we obtain about them. The
17 California Striped Bass Associations were formed in 1974 by
18 concerned fishermen who observed the drastic change in the
19 ecosystem, forage reduction, size and catch rates, and
20 decrease in spawning activities in the delta.

21 This was 23 years after the Central Valley
22 Project went into effect, and just six years after the
23 State Water Project went on-line.

24 Since the SBA's founding 44 years ago, 44 years
25 have elapsed and things have only gotten worse. In 1982,

1 striped bass was a big concern for the delta, even the
2 State Water Resources Control Board. This is the striped
3 bass that climb in the San Francisco Bay delta estuary that
4 the SWCRB (sic) paid for.

5 In 2008 and 2009 California did not allow any
6 salmon fishing. That's terrible. Current DFW studies show
7 our fish populations are at an all-time low, and crawl
8 surveys show poor recruitment of those fisheries.

9 Increased salinity destroys agricultural land.
10 In March 17th, 1991, the Contra-Costa Times reported that
11 the farmers of Sherman Island sued the state and won
12 because of the salinity intrusion on their land, reducing
13 their productivity of those soils.

14 On July 26, 2018, 58 California groups sent a
15 letter to you stating, the best scientific evidence
16 established by state and federal fish and wildlife
17 agencies, independent researchers, our groups and the Board
18 itself, is clear and unambiguous.

19 Between 50 and 60-percent of the San Joaquin
20 Basin's natural winter/spring runoff must flow to the
21 estuary in order to stabilize declining salmon and
22 steelhead populations, and support the recovery and
23 doubling of these populations, and to protect water quality
24 in the south delta.

25 The State Water Resources Control Board still

1 operates delta flow, outflow on 20-year water quality
2 control plan that was due to be revised way back in 1998.
3 This outdated plan allows more than half the water needed
4 for the delta's ecological health to be diverted away,
5 largely for unsustainable industrial agriculture in the
6 south San Joaquin delta.

7 It is past time to restore life-giving water to
8 our estuary by allowing a minimum of 50-percent unimpaired
9 flows to revive our delta. Thank you.

10 CHAIR MARCUS: Thank you very much, sir.

11 Mr. Cox, followed by Mr. Stroshane.

12 MR. COX: Good afternoon.

13 CHAIR MARCUS: Afternoon.

14 MR. COX: I'm Captain James Cox. I am President
15 of the Board of Directors for the California Striped Bass
16 Association, and I'm also a retired charter boat captain.

17 I want to point out to -- I'm sure you realize
18 this, but you're going to make a decision that's going to
19 shape the future of water in California far past 15 years,
20 far past 50 years.

21 And this decision you make will affect not only
22 the flows, but it will affect how much is allowed to be
23 exported out of the delta. This is a crucial decision.
24 And as we've stated before, the California Striped Bass
25 Association, as Roger also stated, supports much higher

1 than a 40-percent flow rate. Forty-percent, at 40-percent,
2 you're still doing damage. You're still saying, well,
3 we're going to -- we're not going to fix this, we're just
4 going to slow down the rate of decline. And I don't feel
5 that's, that is the future of California fisheries. If it
6 is, then we have no future.

7 I would also like to point out that in the
8 presentation given to you this morning, that both directors
9 referred to predation hotspots and non-native predators.
10 Well, let's get reality here, they're referring to striped
11 bass. The -- yet, we take a simple, what I call, the lazy
12 way out, and try to blame one fish for the decline in
13 another. And that says, we have nothing to do with this.
14 It's these fish that are doing this.

15 We've had everything to do with this. Department
16 of Water Resources five years ago held a predation
17 workshop. They got experts on deltas from all over the
18 county, five different experts. They presented all
19 different studies that had never been peer reviewed, to
20 show how horrible striped bass were on salmon, yet the
21 conclusion of these experts were, they hadn't shown
22 anything. They had not shown that striped bass had any
23 effect on salmon reproduction or salmon, you know, total
24 numbers.

25 The simple fact of the matter is, water affects

1 both species. And if you don't have the flow, neither
2 specie will prosper. And if you -- and when you try to
3 blame one on the other, you're just, you're just saying,
4 I'm not -- I have nothing to do with this, but you have
5 everything to do with this.

6 The people of California need a good decision
7 made here. And it will affect us for a long time. Thank
8 you.

9 CHAIR MARCUS: Thank you very much, sir.

10 Mr. Stroshane, followed by Barrigan-Parilla.

11 MR. STROSHANE: Good day, Chair Marcus and Board
12 Members. I am Tim Stroshane, Policy Analyst with Restore
13 the Delta.

14 We advocate for a delta that is fishable,
15 swimable, drinkable and farmable for all, including
16 environmental justice communities. Thank you for the
17 opportunity to comment today.

18 As you're certainly aware, a grand bargain is in
19 the works. As my colleague, Gary Mulcahy, of the Winnemem
20 Wintu Tribe, and I agree, the questions about the emerging
21 voluntary settlement agreements in this grand bargain
22 include grand for whom? Who commits to what? When will
23 the public be included? What is the reciprocity involved
24 and who compensates who in these voluntary settlement
25 agreements? Are these negotiations taking us down the road

1 to paying for the public trust that ever recedes?

2 On one hand your plan would boost, would boost
3 river health, so that people, fish and communities can
4 thrive into an otherwise uncertain future fraught with a
5 changing climate.

6 On another hand, is proposed legislation in
7 Congress that could undo the Board's nine years' work to
8 boost flows into and through the delta, and preempt the
9 civil liberties of Californians seeking accountability of
10 the State Water Project and the Federal Central Valley
11 Project for their treatment of California's rivers and
12 delta estuary?

13 Please take your time to determine whether the
14 bargain in this voluntary settlement agreement presentation
15 today is grand or not.

16 In the meantime, I urge you to approve today your
17 own plan. You have developed your plan in good faith with
18 all segments of the public. The parties to the VSA's,
19 however, have meanwhile negotiated its terms, or their
20 terms, out of the public eye.

21 What they have created needs to scrutiny from
22 you, the Board, your staff, and the rest of the public, to
23 determine whether the VSA's are acceptable or not.

24 We are concerned that the VSA's will provide
25 pitiful restoration of both flow and habitat. Please

1 ensure they are compliant with the plan in the days and
2 months to come.

3 If you eventually decide the VSA's should be
4 allowed to work, then you can always amend the plan you
5 adopt with the public's input. Please vote yes for the
6 rivers first today and take time to evaluate the VSA very
7 carefully. Thank you.

8 CHAIR MARCUS: Thank you very much.

9 MS. BARRIGAN-PARILLA: Hi.

10 CHAIR MARCUS: Ms. Barrigan-Parilla, followed by
11 Tama Brisbane. And then I think I will do five more. So
12 let me tell you who you are, and then we'll take a short
13 lunch break. I just don't want to push my luck here on
14 people's blood sugar.

15 Anthony Robinson, Jr., from Fathers and Families
16 of San Joaquin. Stephen Green from Save the American River
17 Association, Tania Sole, Peter Drekmeier from the Tuolumne
18 River Trust, and Jeralyn Moran from the Unitarian
19 Universalist Church of Palo Alto. And then we'll take a
20 short lunch break.

21 MS. BARRIGAN-PARILLA: All right. Chair Marcus
22 and Board Members, Barbara Barrigan-Parilla from Restore
23 the Delta. Thank you again for the opportunity to comment.
24 I'm going to build on Tim Stroshane's comments.

25 Right now, some of our very smart colleagues are

1 going through the agreements on-line, and what they're
2 finding is that the VSA's brought in today actually allow
3 for substantially less water than what is in the current
4 plan before you, the SED, and there are no delta pumping
5 restrictions in the VSA's that have been put up today.
6 That's very problematic.

7 Metropolitan Water District's Jeff Kightlinger
8 told members of Metropolitan's water planning and
9 stewardship committee this past Monday, that passage of the
10 WIIN Act would provide water exporters with the certainty
11 for water deliveries that they would need for the VSA's to
12 work.

13 In other words, the voluntary settlement
14 agreements will only work if water exporters get to set the
15 standards for what is delivered to themselves via lame-duck
16 congressional intervention, and further intervention from
17 the Trump administration.

18 When you take that into account, and that the
19 voluntary settlement agreements do not include
20 representatives from the fishing groups, from Northern
21 California tribes, the delta environmental justice
22 community, delta residents, delta government officials, or
23 irrigation districts from within the delta that represent
24 the water rights' holders and land owners, it becomes even
25 more problematic. We're the people that are going to have

1 to live with the decisions that everybody else is making
2 for us.

3 You're going to hear from Stockton residents in a
4 few minutes, people who are living with degraded water
5 quality in the San Joaquin River watershed presently.
6 While we agree with South Delta Water Agency that the
7 salinity standard should be left as it is, and while we
8 have urged for years now for at least 50-percent flow, we
9 would prefer for you to pass the SED before you today for
10 Phase I, because we -- it is our hope that maybe things
11 could get made better through adaptive management.

12 What we really fear at the moment is that there
13 are too many self-interests throughout the state that are
14 going to undercut what maybe is the beginning of something
15 made better for the delta.

16 We need you to have courage, heart and a
17 backbone. We need you to work with facts, and to not allow
18 standards proposed in this plan to be weakened from VSA's
19 that are ultimately going to be tied to passage of a WIIN
20 Act, whether that happens in December or if it happens
21 later on.

22 The mighty Bay Delta estuary is a gem, it is a
23 treasure, and it is worth saving. Thank you.

24 CHAIR MARCUS: Thank you.

25 Ms. Brisbane.

1 MS. BRISBANE: Good afternoon, Chair Marcus and
2 Board Members. My name's Tama Brisbane. I'm the poet
3 laureate for the City of Stockton. I'm the Executive
4 Director of With Our Words, a non-profit working with youth
5 who are part of the Stockton environmental justice
6 community.

7 For over 15 years With Our Words has traveled the
8 nation sharing eco-poetry written by our students, often
9 about the environmental degradation that we live with in
10 the Central Valley.

11 They're a different group. Less suits and ties,
12 more tee-shirts and tenacity, writing about what it means
13 to be black and brown youth on this little blue planet,
14 holding space inside a green movement, largely dominated by
15 white voices. It tends to be a story of disconnect.

16 A topic we touch on time and again in our
17 performances is water quality. From our drinking water
18 taps and in the delta itself. Sadly, while being from the
19 delta, our young people are increasingly becoming removed
20 from what it means to live in the delta. Again, a story of
21 disconnect.

22 They're not connected to the San Joaquin River,
23 because they can't imagine swimming in the San Joaquin
24 River. They're unlikely to observe blue or white herrings
25 in their natural habitats. What they do observe in the

1 warmer months, large algal blooms forming in the waterways
2 near downtown. Algal blooms that smell, that visually look
3 like something from a horror movie. It's an ugly, regular
4 lesson in environmental impact.

5 So much must be done to improve water quality.
6 But one positive, specific lesson our young people are
7 learning is that increased flows with cooler water for fish
8 would do much to improve water for recreation, and to
9 protect drinking water taken from the delta water supply
10 intake project.

11 Members of the collective are taking finals this
12 week, so I'm here today to urge you, vote today and vote
13 yes. Adopt Phase I of the Water Quality Plan update for
14 the Bay Delta estuary that you and your staff have worked
15 on. While it doesn't get us everything we may have asked
16 for, don't allow it to be weakened by any backroom deals or
17 by congressional approval of the WIIN Act.

18 Some things are simple. Protect the
19 environmental future of our youth and restore their
20 waterways. They are great and necessary human, artistic
21 inspiration. And there's an entire generation of young
22 people waiting for you to connect them to their next great
23 water works. Thank you.

24 CHAIR MARCUS: Thank you very much.

25 Are there -- I'm assuming on your web site

1 they'll be examples of the poetry and all?

2 MS. BRISBANE: I'll give you my card and I'll
3 email you some.

4 CHAIR MARCUS: Please. Great, great. Thank you.
5 Mr. Robinson. There you are.

6 MR. ROBINSON: Yes.

7 CHAIR MARCUS: Thank you.

8 MR. ROBINSON: Good afternoon --

9 CHAIR MARCUS: Five, Mr. Green.

10 MR. ROBINSON: -- Chair Marcus and Members of the
11 Board. My name is Anthony Robinson, Jr. I am here today
12 on behalf of Fathers and Family of San Joaquin. I work on
13 environmental justice and restorative justice programming
14 for our organization.

15 Today I'm sharing with you two photos of what
16 algal blooms look like in our waterways. Without adequate
17 fresh-river flows from the San Joaquin River into the
18 delta, we will see more and more of this in our channels.

19 Our friends at Restore to the Delta and Restore
20 the Delta learned from Doctor Peggy Lehman's research, that
21 there are many days in 2014 that the toxic algal bloom
22 levels in Stockton created enough bacteria that the
23 waterway was dangerous for preschoolers to make contact
24 with the water, but the public wasn't made aware of this
25 danger until roughly a year later. Without adequate flows,

1 there will be more and more potential for human contact
2 with waterways loaded with bacteria.

3 Besides the dangerous health impacts to people
4 and wildlife and drinking water supplies from toxic algal
5 blooms, I'd like to talk for a moment about what the
6 appearance of degraded waterways says to our community.

7 It says that the Government does not care about
8 them. It says that we are less than equal. It says that
9 rivers with beautiful flows are protected only for people
10 in affluent communities. It says that poor people don't
11 need recreational opportunities. It says that people who
12 live in urban areas don't need to connect with the natural
13 world.

14 And when people live in a world that is degraded
15 around them, they internalize what they see, and begin to
16 see themselves as equally degraded. Stockton residents and
17 environmental justice communities need to connect with
18 flowing, healthy rivers. So, please, vote yes for Phase I
19 of Water Quality Plan updates.

20 A lot of times in disadvantaged communities the
21 same people that I'm here representing, not speaking on
22 behalf, because speaking on behalf of another person to me
23 is oppression, but here representing, they don't always
24 have access to these spaces. We don't see them in the
25 room.

1 So, it's incumbent that we can imagine the people
2 who are not here, just as equally as we imagine the images
3 of the people that are here. Thank you.

4 CHAIR MARCUS: Thank you very much.

5 Mr. Green, did we miss you? Okay. Got you. Mr.
6 Green, followed by Ms. Sole.

7 MR. GREEN: Good afternoon. My name is Stephen
8 Green. I am President of Save the American River
9 Association. And our association is a member of the
10 Sacramento Water Forum.

11 Over 25 years the forum has spent \$15,000,000 on
12 computer models and fishery studies in order to develop a
13 comprehensive flow standard for the lower American River.
14 This flow standard is probably the most comprehensive and
15 sophisticated modeling of any river in California, and some
16 suggest even the nation.

17 The forum's 2006 flow standard was included in
18 the National Marine Fisheries Service 2008 biological
19 opinion. The forum then updated the flow standard in 2017.

20 We have seen the language on river flows for the
21 American River in the term sheet. This language is vague
22 and imprecise. We are told, however, that there will be an
23 appendix that will make this vague language clearer. That
24 the American River will be operated under the 2017 Water
25 Forum Flow Standard. And Director Bonham seemed to

1 indicate that that would be the case. Therefore, we would
2 greatly appreciate your seeing to it that the 2017 flow
3 standard is included in that appendix.

4 Final comment. In order for these voluntary
5 settlements to work, the Water Board will need to engage in
6 very aggressive oversight. Without that, these settlements
7 will not work. Thank you for your consideration.

8 CHAIR MARCUS: Thank you.

9 Thank you. Ms. Sole, followed by Mr. Drekmeier.

10 MS. SOLE: Hello. I am Tania Sole, a Redwood
11 City resident and BAWSCA customer. I am here to urge the
12 vote -- the Board to vote today to approve the Bay Delta
13 plan.

14 While the presentation we just heard from fish
15 and wildlife and the water department had some voluntary
16 ideas and solutions on the basis of water supply, what we
17 didn't hear was a similarly detailed discussion of the
18 demand side. In particular, as I mentioned during the
19 August meeting, prioritizing water for agriculture may not
20 necessarily be the best use.

21 California's effectively subsidizing pricing in
22 and availability of ag water is resulting in too much low-
23 commodity priced food that encourages Americans to overbuy
24 food, resulting in the fact that 25-percent of food
25 purchased is wasted before it is ever eaten.

1 Second, eating too much food because food is
2 overproduced, and so the commodity price is so low that
3 people each too much, get fat and get sick, leading to high
4 health care costs, means the water to produce that food is
5 not only wasted, but for the overall economy, extremely
6 expensive in the long run.

7 Thirdly, producing food that disproportionately
8 needs a large amount of water, like almonds, when water is
9 limited, and instead should be reserved for less water-
10 intensive food production, is also ecologically imprudent.

11 And, finally, the social-political implications
12 of food produced in a state of artificially low water
13 prices, for export and consumption in an area or country
14 with much higher water costs, is ethically questionable.

15 Having missed the November meeting due to a trip
16 that included China and the World Health Organization in
17 Geneva, I know that proper strategic planning for the
18 environment, including water, is of critical importance,
19 and needs to be prioritized for the maintenance of our
20 quality of life.

21 As remediation is not only very expensive, but
22 also difficult and takes an extremely long time to do,
23 while the world no longer looks to the United States for
24 leadership in these areas, California can and should become
25 that leader.

1 As a grandmother looking to preserve a viable
2 future for my granddaughter, I say there is no reason to
3 further delay a vote, as it will not improve anything I
4 just mentioned. Instead, it will just make the problems
5 worse by decreasing biodiversity.

6 You here at the California State Water Board need
7 to be leaders, and not only vote to approve this plan
8 today, but to begin to deal with the underlying structural
9 and pricing issues, instead of in any way thinking that the
10 status quo or voluntary short-term goals could be
11 acceptable. Thank you.

12 CHAIR MARCUS: Thank you.

13 Mr. Drekmeier, followed by Ms. Moran.

14 MR. DREKMEIER: Good afternoon. Peter Drekmeier
15 with the Tuolumne River Trust. There's a story I'm sure
16 many people are familiar with called, "The Giving Tree," by
17 Shel Silverstein. And it chronicles the relationship
18 between an apple tree and a boy.

19 The boy plays in the tree and eats its apples as
20 a child, and the tree's very happy. The boy sells the
21 apples when he's a teen to make a little bit of money, and
22 the tree is very happy. He harvests the branches to build
23 a house as a young man, and he cuts down the trunk in
24 middle age to form, create a canoe. And the tree's always
25 happy to be there for him. And, finally, as an old man, he

1 uses the stump of the tree to sit and think.

2 And the story is very divisive. Some people see
3 it as representing unconditional love. That this tree
4 gives everything to this boy. Where others see it as
5 exploitation of nature. In other words, is it about a
6 giving tree or a taking person?

7 And I think we need to ask that about our rivers.
8 Are they giving rivers? Certainly, they are. Are we
9 taking people? Yes, we are.

10 We've over diverted from our rivers. On the
11 Tuolumne it's 21-percent that reaches the San Joaquin in
12 the months we're looking at. Agriculture expands as water
13 is available. Communities in the Bay Area are looking to
14 need more water to expand development there. And it's
15 really vital that we take action today. And I appreciate
16 everything that you and your staff have done.

17 I was impressed by the work that's gone into the
18 settlement talks. I, you know, appreciate the work that
19 fish and wildlife and water resources has put into it. And
20 I think that these predominantly non-flow measures are
21 certainly part of the solution, but they're not a
22 substitute to the Bay-Delta Water Quality Control Plan.

23 And, as you know, within the plan, we're trying
24 to incentivize these non-flow measures that we've
25 identified quite a few of. And flows could go down to 30-

1 percent. That's half of the 60-percent that the flow
2 criteria study determined would be necessary to fully
3 protect fish and wildlife.

4 So, I do encourage you to not delay any further,
5 and to vote. I -- the Tuolumne was held up as kind of the
6 signature settlement, and I didn't see much different than
7 what the SFPUC proposed in its comments on the draft SED or
8 that the irrigation districts proposed through its final
9 license application on FERC. A slight increase inflows,
10 but if this was the highlight of the settlement talks, they
11 haven't come very far, I guarantee you that.

12 It's also a little hard to hear praise sung for
13 these water agencies that had been lobbying Department of
14 Interior Secretary Ryan Zinke to put pressure on the U.S.
15 Fish and Wildlife Service to rescind its flow
16 recommendations in the FERC process, which it did in
17 October. Thank you very much for your time. Tuolumne to
18 all of you.

19 CHAIR MARCUS: I can't believe I have never heard
20 that. Where have I been?

21 Ms. Moran.

22 MS. MORAN: Good afternoon. My name is Jeralyn
23 Moran, and I'm here before you today in support of a strong
24 Bay-Delta water plan Phase I, and I'm hoping that you'll
25 vote today.

1 I'm representing the Unitarian Universalist
2 Church of Palo Alto, as well as myself as a resident of
3 this amazing part of California. I grew up with family
4 trips to the Tuolumne River for hiking and fishing and
5 camping.

6 And as an adult, and with training in wildlife
7 biology, I join many others today in recognizing the
8 impending crisis we are witnessing in terms of the Bay-
9 Delta's ecosystem and its health, especially in the dark
10 shadow of climate change and exploding human
11 overpopulation.

12 Current water conservation so far among residents
13 and businesses in the area, as well as efficiency and
14 technology, they're all continuing to improve. So, this
15 applies to both cities and agriculture. So, if you add to
16 this an increase in the price of water, potentially, and
17 take away the subsidies, because this is a, water is a
18 resource that's owned by all of us in California, put a
19 price on the water that really matches its true value.

20 So, I really applaud efforts to improve habitat
21 within this endangered ecosystem. I really do. But at the
22 same time, it's clear that nature has to have enough fresh
23 water to flow, to do the repairs successfully. There's
24 just no way around it.

25 A strong vote for today for, at a minimum, option

1 three in front of you, I prefer option four, is the right
2 thing to do. And future generations are going to look back
3 on you with appreciation if you go that route.

4 So, in closing, I feel this is a moral issue,
5 just as much as it's an economic or a human health issue.
6 Now the Unitarian Universalist seventh principle states,
7 quote, "we humans must respect the interdependent web of
8 all existence of which we are a part."

9 So we don't own this delta to consume it, like
10 The Giving Tree, we're a part of a complex system and we
11 need to respect that. Thank you.

12 CHAIR MARCUS: Thank you very much.

13 Thank you all for your thoughtful -- so we'll now
14 take a half-hour break and come back at 2:25.

15 (Recess taken from 1:56 p.m. to 2:35 p.m.)

16 CHAIR MARCUS: Sorry to be starting late. Again,
17 I'm going to start in groups of five, and you each have
18 three minutes, because we actually still have quite a few
19 people to hear from today. It's all very helpful,
20 actually.

21 And I'm taking the folks who have to leave early
22 first. I think I may have missed a couple because of the
23 delay.

24 Patrick Koegele from the Tuolumne River Trust.
25 Patrick, are you still here? Good. Sorry. Followed by

1 John McManus from Golden Gate Salmon, followed by Jennifer
2 Pierre from the State Water Contractors, followed by Gloria
3 Purcell from the Tuolumne River Trust and 350.org, and
4 other institutions, followed by Jessie Raeder from Salmon
5 Aid.

6 Thank you. Sorry about the timing.

7 MR. KOEGELE: Great. Thank you, Chair Marcus and
8 Members of the Board. Thanks so much. You know, I was
9 furiously taking notes during the directors' presentation
10 and had a lot things popping into my mind that I maybe want
11 to comment on. But then I sort of realize that the
12 proposal isn't fully developed, and my own comments would
13 be premature on that proposal.

14 But one -- I did want to just remark, you know,
15 Director Bonham remarked that the proposal was based on the
16 district's recommended conditions in the FERC process. And
17 so, conservation groups also have some recommended
18 conditions. I think you may hear a little bit later about
19 our flow recommendations. But I wanted to highlight some
20 of our non-flow measures, and just kind of compare what is
21 in the districts.

22 Starting with flood-plain habitat, and this is
23 one that Director Bonham specifically called out, where
24 they're -- actually, this one wasn't in the FERC, their
25 FERC proposal, but, apparently, it's now in this new

1 proposal. They're talking about 80 acres of flood plain
2 habitat. Conversation groups are looking 810 acres of 100-
3 percent suitable habitat. So, what that means in reality,
4 once you actually do something on the ground, it's probably
5 closer to 2,500 acres or so of flood-plain habitat.

6 They -- the district's proposal to FERC had
7 57,650 cubic yards of gravel that they're recommending.
8 And their own studies, McBain & Trush, and another study
9 that they produced, demonstrated that the reservoirs pulled
10 back about 20,000 cubic yards per year. So, the 57,000 is
11 just over two-and-a-half years of gravel.

12 The conservation groups are recommending closer
13 to the 20,000 cubic yards per year of coarse gravel, and we
14 also want the fine stuff in there, because we'd like to
15 fill in the predator habitat. So, once you do all of that
16 it's closer to 200,000 cubic yards of total sediment.

17 Boulders, the district's proposal recommends 42
18 to 50 boulders to create habitat complexity -- or, sorry.
19 It recommends some boulders in a section of river, an
20 eight-mile section of river -- I don't know the total
21 number, but the conservation groups are recommending 1,600
22 pieces of large, woody material, logs and root wads and
23 whatnot, along the entire length of the river.

24 One last one, predator weir. They want to put in
25 a predatory weir. We'd like to reduce predator habitat,

1 fill in the holes, lining holes.

2 So, different approach, different scale. I don't
3 think anything you heard today would -- should stop you
4 from voting. Please proceed. These conversations can
5 continue. Thanks much.

6 CHAIR MARCUS: Thank you very much. And thanks
7 for all the restoration work you're engaged in on the
8 ground.

9 John McManus, followed by Jennifer Pierre.

10 Hello.

11 MR. MCMANUS: Hi. I'm John McManus. I'm the
12 President of the Golden Gate Salmon Association. We
13 represent those sport and commercial salmon fishermen and
14 related industries. We have about 3,500 members.

15 I want to welcome new member Sean Maguire.
16 Wondering how you're liking things so far. I'll ask you
17 that off-line.

18 Above and beyond all else, as you go forward,
19 both on Phase I and, hopefully, on Phase II, I would just
20 like to make the point that we desperately need spring flow
21 to get juvenile salmon down these rivers now to the ocean.
22 If there was one wish I could get for Christmas, above
23 everything else, it'd be spring-pulse flow. So, as you go
24 forward, if you'd just bear that in mind for the salmon
25 perspective.

1 And, number two, I'd put right behind it, cold-
2 water storage. I saw the editorial in the Modesto Bee
3 earlier this week saying, no cold-water storage. We're
4 going to need it, especially with climate change coming up.
5 This is what's going to save our bacon, I think, is having
6 cold-water storage, so we have some cold water down at the
7 bottom of those dams.

8 I want to encourage you to adopt Phase I today.
9 In all respect to our friends from the Sac Valley, and I
10 heard them, but I also heard Chuck Bonham and Karla, and
11 they bring in an agreement on the Tuolumne, but not on the
12 Stanislaus and not on the Merced. I think the absence of
13 those two other drainages alone speak very loudly for the
14 need to adopt Phase I today.

15 We'd encourage you to carry on with your Phase II
16 planning that you currently have going. And one thing I'd
17 like to note, and this goes to what some of our friends on
18 the Sac Valley side said, if I recall correctly, in Phase
19 II planning, you'd envisioned incorporating the protections
20 that are in the Salmon BiOp of 2009. And that's going to
21 be increasingly important going forward. We can see that
22 right now with efforts of the Trump administration to
23 greatly weaken those salmon protections. Right, today,
24 it's the WIIN Act, who knows what it will be tomorrow. But
25 we need those salmon protections rolled in there.

1 I did hear Karla Nemeth talk about the need to
2 get Phase I water, at least I think it was Karla, at least
3 as far as Chips Island, and we agree. It's imperative that
4 these new flows have to get through the delta and out to
5 the ocean, or we might as well not do them. So, we
6 sympathize with those in both the San Joaquin and the Sac
7 Valley who are concerned about what ultimately happens to
8 these flows.

9 We heard lots of exciting talk about discussions
10 underway in the Sac Valley. We look forward to looking at
11 the details. I really look forward to seeing what your
12 staff has to say as you get an opportunity to go through
13 it. Your staff has done a great job. I don't care what
14 anybody says, and I've argued this repeatedly in front of
15 the San Francisco Public Utilities Commission and others,
16 you guys have done great.

17 I can actually leave there and thank you for
18 taking the time.

19 CHAIR MARCUS: No, thank you for coming.

20 Ms. Pierre, followed by Ms. Purcell, followed by
21 Ms. Raeder.

22 MS. PIERRE: Hi. Jennifer Pierre with the State
23 Water Contractors, which are, I'm representing 27 public
24 water agencies who are all very supportive of what was
25 presented this morning by Directors Bonham and Nemeth.

1 In particular, I wanted to point out some -- a
2 comment that no others have made in -- I'm in support of
3 what you've already heard from many of our water user
4 partners. But what the proposed settlement is beginning to
5 shape up and frame is really a process that changes how we
6 conduct ourselves.

7 So much of what we are arguing about here today
8 is based on the fact that we don't have trust in our
9 collective science, our collective knowledge and in each
10 other. And what we're trying to do is create a platform in
11 order to begin to use science in a way that really informs
12 decision-making, allows a flexibility to learn over time
13 and make those adjustments, and is putting resources on the
14 table in order to implement that.

15 I wanted to respond though to Mr. McManus's
16 comment about spring flow. That is the focus of the
17 proposed settlement in front of you. It's a substantial
18 increase in spring flow, as well as additional blocks of
19 water that can be moved around, testing hypotheses and
20 addressing other ecological needs.

21 So we're in strong support of what was presented
22 today, and we look forward to continue and develop it with
23 you.

24 CHAIR MARCUS: Thank you. Thanks for all your
25 work on it.

1 Ms. Purcell.

2 MR. PURCELL: I'm Gloria Purcell from --

3 CHAIR MARCUS: There you are. I keep forgetting
4 that we have two. Sorry. Please, go ahead.

5 MR. PURCELL: -- from Belmont. Long-time
6 environmental activist and member of half the environmental
7 groups here and elsewhere.

8 And I would like to speak, first of all, to say,
9 thank you very much for your hard work. I know this is
10 just an enormous thing to be encompassing. And your staff
11 working hard, too. And I'd like to say how impressed I was
12 with what the Department of Fish and Wildlife and Ms. Karla
13 -- I can't remember the last name. Sorry. I'm 77. My
14 brain is just leaking out. And say how impressed I was
15 with their work, but not only are there not details, but,
16 of course, also, there are a lot of holes in what they're
17 saying.

18 And one of the biggest holes to me that's
19 noticeable, even though I have not read their document, is
20 that their -- the environmental groups walked off because
21 they were very unhappy with what was happening at those
22 negotiations.

23 And so, I'd just like to echo the words of Mr.
24 Robinson, who said that we should imagine the people who
25 are not here, the people who can't come and speak. And I'm

1 imagining all the environmental organization -- there are
2 over 300 environmental organizations just in the Bay Area.
3 And I know that they all care about this issue. And I know
4 that they have a lot of expertise to offer as well.

5 And besides the people who are not here, I'd just
6 like to shout out a word for the salmon who are not here,
7 the deer, the birds, whatever, all the wildlife, and the
8 plants for that matter, that are not here.

9 We are people and we speak for the people, and
10 particularly, the water organizations, like the SFPUC, are
11 focused on people. People as customers, people as their
12 constituents, if you will, that they are attuned to and
13 responsible for.

14 But we do not exist in a vacuum. None of us do.
15 And all the civilizations that have died before us, because
16 they paid no attention to the needs of the earth around
17 them, are an example that we really, really need to be
18 paying attention to. We're in the middle of the sixth
19 extinction. And so many species have already gone, and
20 mostly because of us.

21 That we need to speak for the salmon, each of us
22 need to speak for the animals that are not here, that
23 absolutely depend, the science says 60-percent. If
24 somebody told you that you needed so much water to live,
25 and then they offered you half of that, how good would that

1 be as a compromise? You'd be dead. Thank you.

2 CHAIR MARCUS: Thank you.

3 Ms. Raeder, if you don't mind, I'm going to do
4 the next five, just so they can prepare.

5 MS. RAEDER: Okay.

6 CHAIR MARCUS: Cindy Charles from Golden West
7 Women Fly Fishers, Darcie Luce from Friends of the San
8 Francisco Estuary, Andy Doudria or Daudria, from Northern
9 California Guides and Sportsmen's Association and Delta
10 Anglers Coalition, Glenn Chadaris from 400 small
11 businesses, and then Chris Shutes from CSPA.

12 MS. RAEDER: All right. Thank you.

13 CHAIR MARCUS: Thank you.

14 MS. RAEDER: Chair Marcus and Members of the
15 Board, thank you for the opportunity to speak today. My
16 name is Jessie Raeder. I'm a native Californian. I grew
17 up on the banks of the Feather River. I've swum every
18 summer of my life in the Yuba River, and now I live in San
19 Francisco and drink the Tuolumne River every day.

20 For many years I worked as a river advocate with
21 the Tuolumne River Trust, and I've also served as the
22 president of Salmon Aid, the President of the Board.
23 Salmon Aid is a coalition of environmental groups,
24 commercial fishermen, native tribes and sustainable food
25 advocates.

1 I became obsessed with delta flows a decade ago,
2 in 2008, when the salmon fishery collapsed dramatically. I
3 watched the fishermen that I worked with at Salmon Aid that
4 year do the right thing, and voluntarily close their season
5 at great personal cost to themselves to protect the fish.

6 While we argue, for a decade now, about harm to
7 agri-business, those fishermen are still struggling
8 immensely due to inaction on the part of the Board to
9 protect that public benefit.

10 In 2002, just before I had a baby and left my job
11 at the Tuolumne River Trust, I organized an event called,
12 "Paddle to the Sea." This was an event where hundreds of
13 people from the Tuolumne River watershed went on a boating
14 trip, participated in some piece of a trip from Yosemite
15 National Park to San Francisco Bay.

16 And along the way they educated people about in-
17 stream flows and collected and wrote hundreds of letters,
18 personal, hand-written letters from people in Senora,
19 Modesto, the San Francisco Bay Area, largely from Modesto.

20 And I had the privilege of delivering those
21 letters and binders full of them to you, to the Members of
22 the Board, although it was so long ago that only two of you
23 are still here. So three of you didn't get that, which is
24 why I mentioned it today.

25 That baby that I had, where I had to leave my job

1 and stay home with my baby, today she's six and I dropped
2 her off at kindergarten this morning before driving here
3 today.

4 I encourage you not to delay any further. My
5 daughter's now growing up in a California that grows and
6 exports 90-percent of the world's almonds, but where
7 sustainable, local-caught salmon is all but unavailable.

8 This situation reminds me of climate change.
9 Another situation where we know what has to be done. We've
10 known for decades even, and it's just a matter of mustering
11 the political will to actually go ahead and do it already.

12 On climate change, our society has dragged our
13 feet so long that scientists now give us a little more than
14 a decade to take the monumental action, the dramatic and
15 decisive action that we're going need. Well, I'm not sure
16 the fish in California have even another decade.

17 Because of climate change, we know everything is
18 going to change, whether we like it or not. I know it's a
19 monumental effort to change water in California, a
20 monumental effort to change the way we do agriculture in
21 this state. But that's going to happen, and we can either
22 plan for it and we can prepare and we can learn to live
23 within our means, and we can tighten our belts now, or we
24 can be the generation that sits and watches it go by. And
25 watches our resources and our rivers be destroyed, so that

1 a couple people can be a little bit richer for a little bit
2 longer.

3 Or is this going to be the board that takes
4 action now, that's start doing the work of that monumental
5 effort it's going to take to fix this. And I encourage you
6 to do so, not to delay. Please vote yes for rivers, and
7 I'd say option four.

8 CHAIR MARCUS: Thank you.

9 MS. RAEDER: Thank you.

10 CHAIR MARCUS: Ms. Charles.

11 MR. CHARLES: Good afternoon. I'm Cindy Charles,
12 Conservation Chair for the Golden West Women Flyfishers and
13 Board Member of the Tuolumne River Trust.

14 I'm here as someone who has worked upon Tuolumne
15 River restoration and its fisheries for over 20 years. I
16 strongly urge the Board to proceed with a vote to adopt the
17 amendments to the Bay-Delta Plan today.

18 The Board's credibility is at stake on several
19 levels and for the following reasons. First, the Board
20 started this update nine years ago, and I have been
21 advocating for increased flows in the Tuolumne River for
22 all of those nine years.

23 Second, the Board cannot delay adopting the San
24 Joaquin flow objectives after a promise in November that
25 one more month was the last delay.

1 Third, the Board cannot allow politics to replace
2 the Board's scientific analysis.

3 Next, the Board cannot accept secret negotiations
4 and selectively revealed parts of a secret deal to replace
5 the Board's public process. The secret deal-making must
6 end.

7 Lastly, the proposed VSA as of today has zero
8 support from the NGO's. Zero as of today. That can
9 change, but I urge you to proceed with a vote today.

10 I greatly appreciate all the work you and your
11 staff have done on carefully updating the plan. No more
12 delays. Let's get going on making the changes and moving
13 forward to a new chapter that has true hope of success. I
14 thank you very much.

15 CHAIR MARCUS: Thank you.

16 Ms. Luce, followed by Andy -- you'll have to tell
17 me how to pronounce it, Doudria or Daudria, and probably
18 both are wrong.

19 MS. LUCE: Hello.

20 CHAIR MARCUS: Hello.

21 MS. LUCE: My name, again, is Darcie Luce. I'm
22 with Friends of the San Francisco Estuary. And Chair
23 Marcus, Members of the Board, thank you for the opportunity
24 to address you today, and welcome new Board Member Maguire.

25 The proposed voluntary settlement agreement

1 package introduced earlier begs a lot of questions,
2 particularly in terms of governance. In terms of
3 connection to ecological outcomes, and in terms of
4 assurances for delta outflows.

5 I'm hearing a lot of praise for this
6 collaborative, 11th hour collaborative proposal, and it
7 certainly should be praised. But let's put a big caveat on
8 that term, "collaborative," because it hardly looks like a
9 broad-base group of stakeholders onboard for that.

10 As you might know, Friends of San Francisco
11 Estuary considers the SED to fall short of the flow
12 improvements needed for the San Joaquin system. However,
13 given the extraordinary delays and the attacks on our
14 natural resources, and our water quality at the national
15 level, continued inactionable -- continued inaction would
16 be unconscionable.

17 Please vote today and vote yes for rivers. Thank
18 you.

19 CHAIR MARCUS: Thank you.

20 MR. DOUDNA: Chair, Board, good afternoon. My
21 name's Andy Doudna. I'm here to represent the Delta
22 Anglers Coalition. We represent over 1,000 members
23 including licensed guides, sportsmen and women who are
24 passionate about recreational fishing in California.

25 We are here today to ask for a definitive action

1 to move forward on a plan resulting in increased flows and
2 habitat investment. Bring balance back to the river's
3 ecosystems, and to support the ongoing process of restoring
4 the Central Valley fisheries. The guide industry is
5 dependent on a healthy and robust fishery. The salmon runs
6 are at a historic low, if not near low.

7 The industry has been reduction in recreational
8 fishing bag limits and closure of the rivers of 50-percent
9 over this year. The Department of Fish and Game is
10 suffering from a structural budget deficit, in part which
11 is selling less than 1.2 million fewer annual fishing
12 licenses than in 1985. After all, we need to buy fishing
13 licenses when we don't have fish, or do we? And how needs
14 to hire a guide when there's no interest in fishing,
15 because we have no fish?

16 Those who are opposed to this action claim it
17 will impact jobs and cause economic harm. I'm here to
18 represent to you that there is already people of the state
19 and agencies suffering from economic -- economy and economy
20 tragic downfalls, and as of this result from the status
21 quo.

22 Finally, we also wish to remind you that the
23 water is not water is not water. Increased flows must be
24 coordinated with natural ecosystem lifestyles, including
25 pulse flows and fishing migration, protection of the year

1 of the natural spawning runs, the water quality at specific
2 times of the year.

3 Yes, those actions may conflict with seasonal
4 integration and other -- and diversion uses. But these are
5 hard decisions that have to be made, and it's long past
6 time to make these actions and decisions in these measures.

7 Today is your opportunity to do the right thing.
8 Please vote to take action to protect the natural heritage,
9 our fishery and our industry. Thank you.

10 CHAIR MARCUS: Thank you very much.

11 Mr. Chadaris. Okay. Sorry I missed that person.

12 Mr. Shutes, do you mind if I do the next five
13 after you?

14 MR. SHUTES: Please do.

15 CHAIR MARCUS: All right. Teresa Hardy from
16 Sierra Club, Michael Carlin from the SFPUC, Art Godwin from
17 the Turlock Irrigation District, Bill Paris from the
18 Modesto Irrigation District. And then one more. Gary
19 Bobker from the Bay Institute.

20 Mr. Shutes, welcome.

21 MR. SHUTES: Good afternoon. Thank you. Chris
22 Shutes for the California Sportfishing Protection Alliance.
23 I'd like to talk about some general procedural things, and
24 a little bit about the Tuolumne proposal that was compared
25 to the conservation group's proposal that I was in large

1 part the author of. And so I'd like to point out a few
2 things about that.

3 Today I'm going to use some baseball analogies.
4 The first one is, keep your eye on the ball. What you're
5 here to do is to adopt or not adopt the SED and the
6 objectives for the San Joaquin and the south delta salinity
7 portions of the Bay-Delta Plan.

8 We're not here to decide whether or not a
9 comprehensive settlement for the entire Central Valley
10 should get done or not done. That's not what we're here to
11 do today.

12 So, first of all, you need to focus on what's
13 before you, and I urge you to adopt the SED and the plan,
14 despite all the shortcomings that I've outlined to you
15 before.

16 Second, I'd like to sort of say that you are the
17 backstop. And if the backstop goes away, then the whole
18 game changes considerably. In response to Mr. O'Brien's
19 recommendation about somehow delaying and then rolling this
20 portion of an SED into something bigger, that sounds to me
21 like they're actually trying to substitute your -- for your
22 project, a completely different project, namely, the
23 voluntary settlements, and that's not appropriate.

24 The project before you is the project that you've
25 been working on for the last nine years. If there's an

1 alternative that gets presented in a future document, that
2 include -- that is the voluntary settlements or some
3 portions of those, that's fine and well, but don't let them
4 substitute.

5 The third analogy is, you go to extra innings
6 when the score is close or when it's tied. And so, in
7 regard to the proposal for the Tuolumne, which is the
8 actual proposal that would affect your adoption today, I'd
9 like to point out a few things.

10 And if while I'm talking we could, once again,
11 put up the chart from page nine of the response to oral
12 comments from October 24th, I think it would be -- help to
13 illustrate how far the proposal that the -- was presented
14 to you this morning still has to go, and why I don't
15 believe that it's actually within the 30 to 50-percent that
16 you all have proposed, and that you're not in the
17 framework.

18 And so, although the details are unclear, and I
19 did get some additional clarification from Mr. Carlin
20 today, it doesn't even look like you're within the
21 framework. And I don't think that this proposal,
22 therefore, is adequate to justify further delay. There can
23 be additional discussions. Many of the elements that they
24 recommended were actually elements that I and my colleagues
25 recommended, such as groundwater banking, they're not

1 baked. They're not ready for prime-time.

2 You need to move forward now. And there will be
3 litigation. We all know that. That doesn't mean that we
4 can't -- we have to stop talking. All of these folks are
5 fully capable of doing more than one thing at a time,
6 certainly with resources far greater than those that many
7 of the conservation groups had.

8 So, in closing --

9 CHAIR MARCUS: Right.

10 MR. SHUTES: -- please move to adopt today.

11 CHAIR MARCUS: Got it. Is this the chart you
12 just wanted to flash up? I let you go longer because they
13 were taking --

14 MR. SHUTES: That's the one. Yes. It's not up
15 on the board there. And if you look, there -- as I
16 understand it, there would be an augmentation from the
17 orange bars, but you'd still be far short of the blue bars,
18 which are where your proposal is.

19 The augmentation could be as much as 100,000-acre
20 feet. So you go up one line in the -- on the charts in the
21 bars, but you're still far, far short of where you all are
22 proposing to be. And I do not believe you're going to be
23 within the 30 to 50-percent.

24 This was all presented to us -- I mean, we saw
25 this for the first time today.

1 CHAIR MARCUS: Right.

2 MR. SHUTES: We haven't had an opportunity to do
3 an analysis, or for any of the stuff from the north state
4 either. There's a tremendous number of questions.

5 CHAIR MARCUS: Right.

6 MR. SHUTES: I doubt if there's any new water,
7 but we'll have to look at it to see. Thank you very much
8 for the extra time.

9 CHAIR MARCUS: Thanks.

10 Ms. Hardy, followed by Mr. Carlin.

11 MS. HARDY: Good afternoon. My name is Teresa
12 Hardy --

13 CHAIR MARCUS: Hi.

14 MS. HARDY: -- and I'm here from the Sierra Club,
15 Bay Chapter Water Committee.

16 I attended the last hearing --

17 CHAIR MARCUS: I remember.

18 MS. HARDY: -- and at that hearing we were really
19 ever hopeful that you would vote, and then we had the
20 delay. And now there are many of us here again asking for
21 the same thing.

22 Many great towns and cities are built on the
23 river side since freshwater is one of the basic human
24 necessities. So it's little surprise that poets have often
25 written about the life-giving properties of rivers and

1 streams. And Native Americans, with their beliefs and
2 actions, have strong spiritual connections to rivers.

3 There's a woman in her -- an author, and her name
4 is June Greeley. And she writes of the Native Americans in
5 an article about rivers as the life of the community.
6 Water was rightfully accepted as both a source of life and
7 an essential component of all creation. And element
8 without which all organic life cannot safely and
9 spiritually survive.

10 And the Native Americans also felt that water
11 exists as an autonomous and primeval element to be
12 encountered with humility, respect, joy and caution. I
13 recently heard a news commentator talk about decisions
14 around the environment, and how decisions now require mind
15 and heart.

16 And so I'm going to share with you a future -- a
17 couple of poems, one by Alfred Lord Tennyson. The -- a
18 poet laureate from Brittan, and he lived during the 1800's.
19 And he wrote a poem called, "The Brook." And I'm just
20 going to share a short excerpt. And he said, "and out
21 again," he's talking about the brook. "And out again I
22 curve and flow to join the brimming river, for men may come
23 and men may go, but I go on forever."

24 And in Tennyson's time, he seemed to see rivers
25 as remaining strong and vibrant. But our poets today, as

1 we had a poet laureate come and share, which we didn't
2 actually get to hear the poems of our youth, but to share
3 where they're coming from.

4 And modern poets are coming from a reflection of
5 fragileness of our rivers. Now I'm going to read to you a
6 poem that I think really explains this. And this is The
7 River by Judith Kerttula. "It matters that despite the
8 foolishness of some men's ways, your waters still abound
9 with fish and waterfowl. And it matters, too, that your
10 shores are filled with life of birds and trees and small
11 animals that run abound. As I sit and watch all that the
12 river has to give, I am so thankful that the river has the
13 healthy ability to overcome the foolishness of some men's
14 ways."

15 And to bring us to the spirituality and the
16 spirit of the river, Laura Gilpin wrote, "a river seems a
17 magic thing."

18 Can I just go on? I'm -- can I just --

19 CHAIR MARCUS: Go ahead and wrap up.

20 MS. HARDY: Okay. There were a couple more
21 poems, but I really want to reiterate this. Barbara spoke
22 about heart and courage. Anthony came to speak about the
23 impact on future generations, and especially our youth of
24 color. Peter spoke about human exploitation in the book,
25 The Giving. Henrich supported the collaboration with

1 environmental groups at the table, after a yes vote today.
2 And Sonia said, we have to draw the line.

3 We have heard from a lot of people coming from
4 heart. Not only is this mind, not only is this the facts,
5 but in today's environment we cannot live from fear. We
6 cannot live from intimidation. You need to stand up, you
7 the Board, because you are independent of all of that, and
8 you need to come from courage. A yes today.

9 CHAIR MARCUS: Thank you.

10 MS. HARDY: Thank you.

11 CHAIR MARCUS: Mr. Carlin, followed by Godwin,
12 followed by Mr. Paris.

13 MR. CARLIN: Chairman Marcus, Board Members.

14 CHAIR MARCUS: Hello.

15 MR. CARLIN: I'm Michael Carlin with the City and
16 County of San Francisco's Public Utilities Commission. I
17 want to congratulate you and your staff for the good work
18 that you've done in bringing us here today for this
19 decision.

20 I also want to thank Director Bonham and Nemeth
21 for their representation today. As you can imagine, I have
22 been diligently working on those voluntary settlements, not
23 just on the Tuolumne, but all tributaries that are actually
24 a party to it.

25 I think that we have a unique opportunity here.

1 We believe in the settlement process, that it provides us
2 with more flexibility, more tools to address the issues
3 that are facing you, specifically, the fishery and wildlife
4 habitat that you're trying to restore.

5 We have actively participated in those voluntary
6 settlements because we thought it was in our best interest
7 to put forward to you the best plan possible. We would
8 like those -- that our settlement agreement on the Tuolumne
9 River to be considered as part of the package that was
10 presented by Director Bonham and Director Nemeth.

11 I think it's appropriate that we look at it as a
12 package, because then you get the totality of what it looks
13 like across the Bay-Delta system. Now I know there are
14 some rivers systems that are not part of the voluntary
15 settlement agreements right now, or don't have an outline
16 for agreement, but we can continue to work on those and,
17 perhaps, bring those to fruition as well.

18 So, I guess my ask is, we would like you to
19 consider whatever decision you make today, the voluntary
20 settlement agreement on the Tuolumne somehow included into
21 what you would call Phase II, what we're calling a
22 comprehensive Phase I and II, as you kind of evaluate that
23 voluntary settlement as a package, not as a standalone.

24 So that's our request, and I'd be glad to answer
25 any questions.

1 CHAIR MARCUS: Great.

2 MR. CARLIN: That's it.

3 CHAIR MARCUS: We may have -- I know you're not
4 going anywhere, so we may have them later.

5 MR. GOODWIN: Good afternoon Members of the
6 Board. I'd like to first recognize the efforts of Director
7 Bonham and his staff. I think they did a tremendous effort
8 trying to put all these voluntary agreements together.

9 And just to let you know, this wasn't something
10 that was cobbled together in the last 30 days. These
11 projects and this whole approach has been looked at for the
12 last five years or more on different tributaries. So, it's
13 not just something that just came together real quick and
14 said, let's do this.

15 You have a tough decision before you. I think
16 water resources and fish and wildlife have laid out a path
17 for you. It's a comprehensive package that includes flow,
18 habitat, funding and cooperation and collaboration.

19 Your plan includes a lot of flow and nothing
20 else. You have in your plan the hope that everyone will
21 get together and implement it. You really have no hope of
22 success.

23 We have a lot of faith in the science that we
24 developed on the Tuolumne River. We have a lot of faith in
25 the Tuolumne River management plan that we put together.

1 And we are so confident in that plan that we're willing to
2 do an early implementation, if you go along with your
3 recommendations. But adopting the plan today leaves us
4 really no choice.

5 So, we're -- I'll follow with what Michael said.
6 We're recommending that the Tuolumne be folded into this
7 comprehensive, substitute environmental document, and
8 combined with Phase II. Thank you.

9 CHAIR MARCUS: Thank you.

10 Mr. Paris.

11 MR. PARIS: Good afternoon and thank you. I'm
12 Bill Paris, here on behalf of the Modesto Irrigation
13 District, one of the diverters with our partners, San
14 Francisco and TID, from the Tuolumne River.

15 I certainly want to associate myself, and MID
16 wants to associate itself, with the comments by Mr. Carlin
17 and Mr. Godwin.

18 But one of the things that MID wants to focus on
19 today is this question that's come up repeatedly of delay.
20 And that somehow if action is not taken today, that somehow
21 that causes of a rift or some sort of problem in terms of
22 implementing these things and getting things done on the
23 ground. Actually, the exact opposite is true.

24 As Mr. Godwin just pointed out, what we have
25 committed to as part of the request to extend this thing

1 out through the time schedule of December 2019, to wrap the
2 Phase I and Phase II together in the comprehensive SED, as
3 Mr. O'Brien mentioned earlier. You know, that's going to
4 take some time, but that's not a delay.

5 During that time, during that year period, I
6 think what you've heard both from the Sacramento Valley
7 interest and from the Tuolumne interest is, we will do, we
8 will do flow and non-flow measures in 2019. And that's
9 significant, okay. We've identified several on-the-ground
10 projects, tons and tons of gravel, lots of work with the
11 habitat and restructuring the flood plains.

12 On the Tuolumne side, we are prepared to do the
13 entire flow package that we've set forth in the VA, okay.
14 So, average annual right now under our current FERC license
15 is 216,000-acre feet a year.

16 The average annual, because we don't know what
17 kind of year type it will be next year, the average annual
18 on to the VA is 313,000-acre feet. We are committed to do
19 that in 2019, in exchange for and understanding and
20 recognition of the fact that we don't want simply to have
21 delay. We want good things to happen. We are motivated to
22 succeed and be successful.

23 But if this State Board takes action today,
24 nothing happens in 2019 except litigation. There will be
25 no on-the-ground projects. There will be no additional

1 flows. Everybody will go into their bunker mentality, and
2 we won't achieve the progress that we need, and that you
3 heard the commitment to today.

4 So, MID is strongly in support of the voluntary
5 agreement. We greatly appreciate the leadership that
6 Director Nemeth and Director Bonham have shown today and
7 throughout this process. We appreciate the assistance that
8 Governor Brown and Governor-elect Newsom have provided.
9 And we look hopefully to you guys to understand that what
10 we're talking about is not a delay.

11 This is not status quo at infinitum. We are
12 putting a real package that we are prepared to implement in
13 2019 in front of you, in the hopes that that shows our good
14 faith while we continue to study and get the information I
15 think everybody here recommends -- or recognizes, excuse
16 me, that we need to have to evaluate these VA's that nobody
17 has seen, that we've just dumped on you. That we don't
18 have an administrative record that supports, we don't have
19 a CEQA document that supports. We want to bring all of
20 those things to you. That takes time.

21 So, what we are advocating for, what we are
22 asking for, is to give us that time. And while we get that
23 time, we will work with your staff, with the Sacramento
24 Valley interest, to do the flow and non-flow measures that
25 we have committed to. Thank you very much.

1 CHAIR MARCUS: Thank you.

2 Mr. Bobker, let me read the next five before you
3 start.

4 Kristin White, from the Bureau of Reclamation,
5 Deputy Operations Manager, Maurice Hall, from the
6 Environmental Defense Fund, Rachel Zwillinger, from
7 Defenders of Wildlife, Brian Johnson from Trout Unlimited,
8 and Brian Stranko, from the Nature Conservancy. Did you
9 all put your cards in at the same time? It's like the
10 whole band's back together.

11 Yes.

12 MR. BOBKER: Since poetry seems to be derogar,
13 I'll start --

14 CHAIR MARCUS: Yeah, more. That -- please.

15 MR. BOBKER: -- I'll start with, I saw the best
16 minds of my generation destroyed by voluntary settlement
17 agreements.

18 Gary Bobker. I'm the Program Director at the Bay
19 Institute. There's three main points I want to make. The
20 first is that nothing that you've heard here today about
21 VSA's gives you any reason to delay. This is a culmination
22 of nine years of process, public review, technical
23 analysis. The Bay Institute and many other environmental
24 groups have expressed grave concerns about the adequacy of
25 your amendment, but it's time to act.

1 The proposed Tuolumne VSA is not ripe. It hasn't
2 been vetted. You have made it very clear, as the staff did
3 in its presentation earlier, that an acceptable settlement
4 can be incorporated through adaptive management or plan
5 amendment.

6 So, let them put their money where their mouth
7 is, bring you an acceptable settlement, you know, and then
8 we'll all be interested in pursuing it, but we are not
9 there.

10 And threats of walking away or litigation, you
11 know, frankly, successful settlements usually happen once
12 there's a regulation, once there's litigation, and once
13 have -- people have real motivation. So, I look forward to
14 that motivation.

15 The second point I want to make is that there's
16 no reason to think that any of the proposed VSA's that
17 Directors Bonham and Nemeth described to you are adequate
18 on the Tuolumne River. You know, it really does not
19 represent that significant an improvement over existing
20 conditions in many ways.

21 Analysis -- we haven't analyzed the exact
22 proposal before you, but analysis of similar proposals
23 shows that habitat and temperature conditions would not be
24 adequate in most conditions, most years, most months.

25 The delta proposal not only on the face of it

1 falls far short of what the scientific evidence suggests
2 are any kind of credible thresholds for restoration, but it
3 actually may represent no change, or an -- even degradation
4 from existing baseline, because you have to understand what
5 is being proposed in the context of associated changes in
6 Endangered Species Act implementation and the coordinated
7 operations agreement, and project operations, and changes
8 in system storage and conveyance capacity. That actually
9 could mean that the proposal before you is only really a
10 transfer of water, from upstream water users to export
11 water users.

12 And I -- so, I don't mean any disrespect to
13 people who have been -- you know, put hard work, you know,
14 into these proposals, but that doesn't -- good faith is not
15 adequate, isn't adequacy in and of itself.

16 I also note that the VSA negotiations themselves
17 have been inherently flawed. The environmental groups that
18 were involved in that process, some were deliberately
19 excluded, and even those that were invited into the process
20 actually were provided with no information and no
21 opportunity to shape those proposals. That doesn't strike
22 me as a very sound process.

23 A final point that I want to make is just on the
24 approach. You know, the idea of doing a comprehensive and
25 integrated approach that marries habitat and restoration

1 and, you know, regards the whole system, that's a great
2 one. We have been, we have been advocating that for years.
3 I'm on the home stretch here.

4 But you know what, a comprehensive and integrated
5 approach to implementing insufficient flow and insufficient
6 habitat is only a more efficient and effective way of
7 failing.

8 Well, you know, if you want to do testable
9 hypotheses, we've tested the hypothesis that insufficient
10 flow, despite the evidence, will work. It wasn't. We've
11 tested the hypothesis that doing more habitat without
12 sufficient flow regimes will work. It hasn't. Why don't
13 we try testing the hypothesis that the amount of flow that
14 the scientific evidence and your record suggest will work,
15 will work? Thank you.

16 CHAIR MARCUS: Ms. White. Good to see you.

17 MS. WHITE: Good afternoon. Chairman Marcus,
18 Members of the Board, my name is Kristin White, and I'm
19 about to read my title, which is very long. I am the
20 Deputy Operations Manager for the Central Valley Operations
21 Office for the Bureau of Reclamation under the Department
22 of Interior.

23 Earlier this year Reclamation submitted comments
24 in opposition to the Board's proposed final San Joaquin
25 River flows and southern delta water quality amendments.

1 Reclamation remains opposed to any adoption of proposed
2 plan amendments to the Stanislaus River, including adoption
3 of the proposed south delta salinity program of
4 implementation.

5 As outlined in Reclamation's July 2018 comment
6 letter, these restrictions interfere with Reclamation's
7 federal water storage obligations, and appear to represent
8 an unlawful attempt to elevate the Central Valley project's
9 fish and wildlife purposes over its, the project's
10 irrigation and domestic purposes. These restrictions also
11 fail to sufficiently consider other factors affecting fish
12 species and recovery.

13 For these reasons, Reclamation urges the Board to
14 refrain from approving the Stanislaus flow standards and
15 the south delta salinity program of implementation.

16 The Board's approval of these restrictions and
17 its decision to be unresponsive to concerns from its
18 federal partner and other stakeholders, would mark an
19 unfortunate development in California water policy.

20 In the event restrictions are approved,
21 Reclamation intends to review its legal options in close
22 coordination with the United States Department of Justice.

23 At the same time, Reclamation appreciates the
24 Board's decision to postpone its vote this past November to
25 allow additional time for discussions with water managers

1 and water users. This extra time provided fruitful,
2 especially for the Phase II water sources in the Sacramento
3 River basin and the delta.

4 Reclamation commends the successes made in the
5 delta and the Sacramento River basin, as well as the
6 stakeholders in the Tuolumne and the Friant water users,
7 for agreeing to make meaningful contributions to a
8 comprehensive effort.

9 Reclamation supports the Board's consideration of
10 the agreement framework that was presented today. This
11 framework lays the groundwork for an implementable,
12 improved water management system in California for the next
13 generation and was developed through collaboration with
14 both reclamation and California leaders.

15 Thank you very much for this opportunity to
16 address the Board today and share Reclamation's position.

17 CHAIR MARCUS: Thank you.

18 Mr. Hall, followed by Ms. Zwillinger.

19 MR. HALL: Good afternoon, Chair Marcus,
20 distinguished Board Members. My name is Maurice Hall, and
21 I lead The Environmental Defense Funds Western Water
22 Program.

23 EDF works to provide resilience of water systems
24 to better meet the needs of people and of nature in
25 changing times and among changing needs.

1 And we've been deeply engaged in this voluntary
2 settlement negotiation now for over two years, because we
3 think a solution that includes both flows and habitats,
4 along with other measures, like good science and a -- are
5 really a better way to build resilience than simply
6 providing (indiscernible).

7 Now another reason that I think voluntary
8 settlements offer a better way to go is that in my now 18
9 years of working on California water, I found water
10 agencies, their board members, their staffs and the
11 irrigators they serve to be really inventive. And I've --
12 and they're creative and very effective at getting things
13 done when they're working toward a common goal.

14 We -- I'm actually building a whole program in
15 EDF that is dependent on, it's focused on working with
16 agriculture to solve our water needs, and that's what I
17 think we need to do.

18 Also want to note we acknowledge both the
19 economic and the community impacts that changes in water
20 management require. It's real, and, frankly, another
21 reason for our thinking about voluntary settlements is that
22 I think there are ways to minimize those impacts.

23 Now in recent weeks there's been a lot of
24 interest, increased interest and a lot of notable effort,
25 as evidenced by the presentations by Director Nemeth and

1 Director Bonham earlier today on developing these voluntary
2 agreements. And we've seen some really promising concepts
3 and ideas presented there. Ideas on funding, ideas on
4 science programs, ideas on restoration that we, as an
5 organization, and many of our colleagues have been
6 advocating for many years. It's really encouraging to see
7 that.

8 The numbers, how much of things there are, like
9 dollars and habitat, make a big difference. I don't think
10 the numbers are right there yet, but it's an incredible
11 start. And we're hopeful that that can move forward. That
12 said, the most promising things that we saw today deal with
13 the Phase II geography, as compared to the Phase I
14 geography.

15 I do want to note, acknowledge that the Tuolumne
16 interests are still trying to push toward a voluntary
17 settlement. It's difficult to stand when there's a lot of
18 sweeping velocity going past you.

19 But we urge you to adopt this document, this
20 Phase I proposal, and then move forward energetically with
21 all of the levers of encouragement that you have, to see
22 that voluntary settlements, the right voluntary settlements
23 are accomplished in the future. Thank you.

24 CHAIR MARCUS: Thank you very much.

25 Ms. Zwillinger, followed by Mr. Johnson.

1 MS. ZWILLINGER: Good afternoon, Chair Marcus and
2 Members of the Board. I'm Rachel Zwillinger with Defenders
3 of Wildlife.

4 First, I'd like to address Phase I of the plan
5 update, which is what's actually before you today. And on
6 that note, I fully support the Board adopting the Phase I
7 plan. And I also support a subsequent process for
8 determining whether the Tuolumne proposal achieves the
9 Board's objectives, including the very important salmon-
10 doubling objective.

11 From the pieces that I have seen, it doesn't look
12 like it meets those standards, but I welcome the
13 conversation and the transparent analysis, and an
14 opportunity to try to make it better.

15 I also want to weigh in on the broader proposal,
16 though it's not actually before you today. I've
17 participated in these negotiations for the last two years
18 in good faith, trying to come to solutions that will make
19 sense for the water-user community and for the environment.

20 First, with respect to the substance of what you
21 heard today, I think what has not been said is as important
22 as what has been said. From my vantage point, when you
23 combine the proposed deal that appears to be on the table,
24 with the Trump administration's well-known efforts to
25 undermine Endangered Species Act protections in the delta,

1 it looks like the package would actually decrease delta
2 outflows and increase exports, cementing the decline of
3 salmon and other species.

4 Clearly, delta outflow is just one component of
5 what the ecosystem needs. We need habitat, we need cold
6 water and many other things. But it is an important
7 component that has to be considered.

8 So, understanding what's being presented in real
9 terms, compared to what's actually happening in the
10 watershed, is critical as this process goes forward.

11 I'm also deeply concerned that this package is
12 presented, or seems to be presented, as though it's a done
13 deal, and I really hope for the sake of California's
14 environment that that's not the case.

15 Second, a quick note on process. Directors
16 Nemeth and Bonham talked about the importance of
17 partnership, collaboration and transparent governance, yet
18 the NGO's that were presumably participating in these
19 negotiations have not heard many of the details that were
20 presented this morning ever and have not seen the document
21 that was posted on-line until it was posted on-line
22 publicly. We have been marginalized and excluded from this
23 process.

24 And so I'm not sure how to rebuild trust going
25 forward, but I believe that having people at the table who

1 are advocating for fish and wildlife is critically
2 important. And that this process will have to change
3 substantially to make that happen in a meaningful way.
4 Thank you.

5 CHAIR MARCUS: Thank you.

6 Mr. Johnson, followed by Mr. Stranko. Let me say
7 who the next five are, just so they can be ready.

8 Justin Fredrickson, from the California Farm
9 Bureau Federation, Marie Logan, from the SFA Keeper, Barry
10 Nelson, from Western Water Strategies, John Rosenfield,
11 from TBI, and Doug Obegi, from NRDC.

12 MR. JOHNSON: Good afternoon. My name is Brian
13 Johnson, and I'm the California Director for Trout
14 Unlimited.

15 And I hear -- I'm here, also, to urge adoption of
16 the proposal before you. You've been working on it for
17 close to a decade. As people have noted, some of us have
18 been working on potential settlements for it feels like
19 almost as long. Probably not quite as long, but it feels
20 like it, and we urge you to move forward.

21 If the Tuolumne proposal is finalized and brought
22 to you in a form that it can be analyzed, there is space
23 for you to do that. The proposal and the Water Quality
24 Control Plan are not self-implementing, for better or for
25 worse. There will be a great deal of time before they're

1 implemented, and there will be a space for you evaluate
2 whether the proposal meets your objectives and can be --
3 and can serve as implementation of the Water Quality
4 Control Plan.

5 And we, as I think you all know, reluctantly
6 concluded that the proposal doesn't meet the objectives of
7 the plan, but you'll have a chance to see that for yourself
8 and go through it, a process to evaluate that. And if it
9 can be shown that it does, or if it can be improved so that
10 it does, there will be an opportunity to do that.

11 And for folks on the other two rivers, I would
12 say the same thing. If people could come forward with a
13 plan that can be demonstrated to meet the objectives, it
14 could fit into implementation.

15 On the broader context, it's challenging,
16 honestly, to know what to say. We -- as Rachel noted, have
17 seen some of this for the first time today, although we
18 were, you know, signed up for the discussion. From what we
19 -- and I'll associate myself with Rachel's comments and
20 Brian's. I know what he's going to say, and others who are
21 here, Maurice and Chris Shutes, and not repeat that.

22 There are interesting ideas, and there are
23 concepts for financing and contributions from some people
24 that are very real to them it seems. And then as far as we
25 can tell, a lot of the water is then used to meet

1 compliance objectives that exist, or to backfill for
2 objectives that might be lost. And the sum total of it
3 does not appear in any way to be on track to meet your
4 objectives. But, again, there's a lot we don't know.

5 And so I take some comfort in knowing that even
6 though this may be, seem to folks as the end of a process
7 and a settlement that's been reached, for those of us who
8 are seeing it for the first time, it can be the beginning
9 of a process where we can daylight these things and
10 evaluate it, and, hopefully, get it into a situation where
11 it could be used.

12 But if we're going to be a part of that, we'd
13 really, you know, hope to have a different way of engaging
14 with the people who are there. And, you know, many of whom
15 are our friends, and, you know, water districts that we
16 like, and we'd like to work with, and we'd like to think
17 that there's a way to do that.

18 CHAIR MARCUS: Thank you.

19 Mr. Stranko, followed by Mr. Fredrickson.

20 MR. STRANKO: Good afternoon. Brian Stranko with
21 the Nature Conservancy. I should probably just say, ditto
22 the last three and leave it at that, but I'm actually going
23 to just say a few words.

24 CHAIR MARCUS: Sure.

25 MR. STRANKO: So, definitely, we thank the two

1 departments for all the work. Obviously, the State Water
2 Board, the folks along the Tuolumne and in the Sacramento
3 region. Definitely everybody's done a lot of work, and we
4 appreciate that.

5 We were one of the NGO's involved over the past
6 year -- two years actually, in the settlement agreement
7 discussions. But I have to say, the engagement was too
8 intermittent. It was often lacking transparency, and
9 overall, it was just not really meaningful.

10 Most recently, too, as was mentioned by a
11 previous speaker, NGO colleagues have been shut out of the
12 process, and we don't feel that appropriate.

13 Regarding the proposals, clearly not having
14 proposals for the Stanislaus and the Merced is inadequate.
15 And while we appreciate definitely the good-faith effort of
16 the parties on the Tuolumne and the Sacramento, what we see
17 in our estimation is just not at all going far enough. And
18 it will lead to continued decline and possible extinction,
19 and I don't think any of us want that.

20 So, we, therefore, urge you to adopt today Phase
21 I. And while, as you've pointed out, there would be room
22 for continued settlement dialogue if you do indeed vote in
23 the affirmative.

24 Our organization's decision to engage on
25 voluntary settlements in the future will be based on a few

1 things. First of all, it would be whether NGO's get to
2 choose who is represented in the room.

3 Second, that we are engaged as a full partner,
4 not as an aside or an afterthought. That there is
5 transparency, real transparency in sharing information, and
6 not just verbally, by the way. We need to see stuff in
7 writing so that we can evaluate it.

8 We're also looking to be sure that we integrate
9 all the parts, as others have stated, but in a way that
10 leads to recovery, not continued decline.

11 And then, finally, we will -- we, as a group,
12 would set out and analyze any proposal against a
13 comprehensive suite of biological objectives. Thank you.

14 CHAIR MARCUS: Thank you. And thanks for being
15 so specific.

16 MR. FREDRICKSON: Good afternoon, Members of the
17 Board.

18 CHAIR MARCUS: Hi.

19 MR. FREDRICKSON: I'm Justin Fredrickson. I'm an
20 environmental policy analyst with the California Farm
21 Bureau. Thank you for the time.

22 What I heard in the presentation from Directors
23 Nemeth and Bonham is a very comprehensive and impressive
24 and really an unprecedented package covering, essentially,
25 the whole of the Bay-Delta watershed, from Shasta to

1 Millerton. I heard close to \$2,000,000,000. I heard
2 hundreds of thousands of acre feet across different water
3 year types. I heard thousands of acres of flood plain and
4 other habitat types. I heard both flow and non-flow
5 measures. I heard robust science and milestones and hard-
6 funding commitments.

7 If our objective is to help fish, I hope this was
8 not lost on the Board or anyone else in the room. In these
9 significant and remarkable proposals, the resources team
10 and the water users have, in a sense, done the balancing
11 that the Board is ultimately required to do under the
12 Porter-Cologne Act and other laws, but balancing it has not
13 yet done or it cannot yet do before implementation or,
14 perhaps, in future legal settlements, which may come in six
15 or seven or 10 years.

16 With adopted standards we could, in theory, have
17 a paper mandate for lots of water coming down, lots of
18 lawsuits, and, no doubt, some increased barriers to
19 agreement on what parties are now proposing voluntarily.

20 If your standards are adopted today in some form,
21 it must be done in a way that leaves the door open to avoid
22 a meltdown and, also, that avoids time -- or that allows
23 time and space for collaboration and trust to work. As
24 Director Bonham said, we need to move from conflict and
25 impasse to collaboration.

1 In public comments I heard today there are
2 emotions and strong feelings, but there are also facts and
3 realities. But these are complex issues, and so it is
4 sometimes difficult to understand that it is not just an
5 emotional call.

6 What our State needs is a rational, effective
7 approach that can reasonably balance all needs. Several
8 people have said, act now because the fish cannot wait. I
9 agree. The fish and our rivers and our communities cannot
10 wait for us to waste time in an ineffective approach, or a
11 piecemealed, endlessly litigated approach.

12 Board, when the time comes to consider a
13 completed VA package, let the perfect not be the enemy of
14 the good, and certainly do not let a far worse, very un-
15 imbalanced and unassured option be the enemy of what can
16 actually work.

17 California agriculture calls on the Board, and on
18 both the outgoing and incoming administrations, to provide
19 the leadership to achieve a balanced and responsible path
20 for our state. Thank you for your time.

21 CHAIR MARCUS: Thank you.

22 Ms. Logan, followed by Mr. Nelson.

23 MS. LOGAN: Good afternoon. My name is Marie
24 Logan. I'm an attorney with Earth Justice, here today on
25 behalf of the San Francisco Bay Keeper.

1 The program of implementation and the composition
2 of the STM working group are both critical to ensuring that
3 the Bay-Delta Plan actually achieves its stated water
4 quality objectives.

5 In change sheet number three, which the Board
6 circulated on October 25th, the Board introduced changes to
7 certain STM working group provisions, and I have three
8 comments to offer as to those changes.

9 First, for item number one on the October change
10 sheet, we appreciate the language that clarifies that non-
11 governmental organizations have appropriate expertise for
12 inclusion in their working group. Their involvement is, in
13 fact, critical to ensuring that their viewpoints, and the
14 viewpoints of the members of the public who they represent,
15 are part of the working-group process.

16 Unfortunately, the language in change sheet
17 number three only makes their involvement an aspirational
18 goal. It currently states that, "the executive director
19 will strive," that's a quote, "to achieve a balance of
20 interests." And this is not sufficient.

21 We request that the Board make this balance
22 mandatory, such that civil society groups that seek to
23 protect river flows and the health of the Bay-Delta
24 ecosystem are at the table. And so that no single interest
25 group constitutes a majority of the working work.

1 Second, for item number three on the change
2 sheet, we note that the State Water Board is directed to,
3 quote, "assign responsibility," end quote, for submitting
4 and implementing approved annual plans. As written, it's
5 not clear who this responsibility is being assigned to.

6 We request clarification of this provision,
7 specifically as to who this requirement is assigned to, and
8 we would urge the Board to include concrete accountability
9 provision to ensure that that responsibility is being
10 adequately met.

11 Third and finally, the Board must ensure that the
12 STM working group will have sufficient time to review and
13 make recommendations on the proposed annual plans before
14 their recommendations are due to the Board.

15 The revised language in item number three does
16 not set any deadlines, nor does it build in enough time for
17 a thorough working-group review of the plans.

18 Thank you for taking the time to consider these
19 comments.

20 CHAIR MARCUS: Thank you. Thank you for reading
21 the last set of documents.

22 Mr. Nelson.

23 MR. NELSON: Thank you, Chair Marcus and Board
24 Members. Barry Nelson with Western Water Strategies.

25 It's already been observed today that the devil's

1 in the details in water policy, but I'd like to make two
2 comments about important lessons that the big picture can
3 provide and need to provide I think at this point.

4 First, Chair Marcus, you said earlier today that
5 this is a hard decision. This is a hard decision. And --

6 CHAIR MARCUS: Well, I was hoping you weren't
7 going to argue with me about that.

8 MR. NELSON: -- the context there is important.
9 The last time the Board did what you are scheduled to do
10 today, the last time you adopted standards on your own, was
11 1986, 32 years ago. That happens to be the year I first
12 got involved in California water policy. I had more hair.
13 There was a lot -- you know, a lot has happened since then,
14 most of that on the Bay-Delta, in the Bay-Delta system has
15 not been encouraging.

16 We've seen a wave of listings and we're now at
17 risk of multiple extinctions. We've seen salmon closure
18 for the first time in State history, and the risk of
19 another closure. We've seen your own doubling policy not
20 only not achieved but turned into salmon disaster
21 declarations because the fisheries have been closed.

22 We've seen the growth of toxic, blue-green algae
23 another witness said today. All of those problems have
24 been exacerbated by inadequate flow standards. And in the
25 last 24 years, since 1994, the Board has not updated those

1 clearly inadequate flow standards.

2 There have been requests for you to delay right
3 now, today. If that happens we're at risk of potentially
4 years of additional delay, and continued decline, continued
5 impacts, continued -- potentially, extinction in the next
6 several years. That context of Board inaction during a
7 period of extended environmental collapse is absolutely
8 critical.

9 Second issue, voluntary settlement agreements.
10 Voluntary settlement agreements can provide important
11 benefits. I've been part of many of those. But it's
12 important that they achieve the outcomes that you have
13 required.

14 Right now, we have more questions than answers
15 with regard to the document that you saw today, and we've
16 seen for the first time, and the lack of any NGO support
17 for that is absolutely telling. The water users have had
18 nine years for that VSA process to produce results. And
19 I'd like to reinforce what Board Member Esquivel said, and
20 that is, that your action today can reinforce those
21 voluntary settlement agreement discussions. It doesn't
22 have to end them.

23 But what hasn't been said is that what you're
24 doing today is exactly what the law directs you to do. To
25 protect beneficial uses, to look at the science, to run an

1 inclusive open process, prepare drafts, allow comments and
2 act. You haven't done that in 32 years, and that's long
3 enough to wait. Thank you.

4 CHAIR MARCUS: Thank you.

5 Mr. Rosenfield, followed by Mr. Obegi, and then
6 I'll give you the last set of names.

7 DR. ROSENFELD: Good afternoon, Chairman Marcus
8 and --

9 CHAIR MARCUS: Sorry, Doctor Rosenfield. I
10 apologize.

11 DR. ROSENFELD: My wife will be very happy that
12 you remembered that.

13 Welcome, Mr. Maguire, to the Board.
14 Congratulations.

15 I'm John Rosenfield. I'm the lead scientist for
16 the Bay Institute. I've been involved in your process and
17 parts of the VSA process for 10 years, and my job is
18 primarily to interpret proposals in terms of their on-the-
19 ground effects to fish and wildlife.

20 As a result of this experience, I can tell you
21 that from the perspective of scientists, the proposals from
22 Directors Bonham and Nemeth that you heard this morning is
23 stunning in its cynicism.

24 I say that because it is already clear to me that
25 their proposal will not produce benefits comparable to what

1 the Board and fish and wildlife agencies have described as
2 necessary. In addition, many elements of their proposals
3 have already been tried and failed and/or represent no
4 change from the status quo or worse.

5 Let me provide you with a few specifics. The
6 Tuolumne River proposal, summer base flows are proposed to
7 increase according to the documents we saw only this
8 morning by 50 cfs, to 125 cfs, in critical and dry years.
9 But these flows decrease in wet and above-normal years by
10 the same 50 cfs. The proposal appears to maintain current
11 winter-spring base flows during February and June of
12 between 150 and 300 cfs.

13 The Board's SED proposal, the staff report for
14 Vernalis flows, calls for flows of between 800 and 1,200
15 cfs. Where will these flows come from if the Tuolumne
16 contributes only 150 to 300 cfs? It's the largest
17 tributary of the three.

18 Plus, the current proposal will not satisfy the
19 needs of fish migrating in the delta, or through the delta
20 into the San Joaquin River, to say nothing of the needs of
21 the bay and delta, which is the focus of your plan.

22 There's pulse flows in the proposal you saw this
23 morning. We've analyzed the pulse-flow element that was
24 presented to us, a very similar proposal that was presented
25 to us a few months ago. This morning's proposal is

1 actually weaker. Combined, the pulse and base flows
2 represented in this plan is less than currently required in
3 some months under the baseline, and is less than 20-percent
4 of unimpaired flow in almost all of yours, outside of your
5 analysis zone.

6 I'll just remind you that Director Bonham's
7 agency in 2013 stated, and I quote, "35-percent of
8 unimpaired flow is not sufficient to contribute to salmon
9 doubling or to enhance conditions of aquatic resources."
10 Now we're talking about less than 20-percent. I don't know
11 how they square that.

12 Also, as described to us in a previous
13 description of the proposal, we estimate that this pulse
14 flow will only benefit a small fraction of the fish it is
15 intended to benefit. And that's because of fundamental
16 flaws in the base-flow/pulse-flow approach.

17 It's not a specific of what they proposed today,
18 it's because this base-flow/pulse-flow idea is outdated.
19 It does not work. The evidence is in the declining salmon
20 that we see with our base and pulse-flow proposals that we
21 have in place already.

22 I'm going to keep going because there's a lot,
23 and I'll get through it quickly.

24 CHAIR MARCUS: Yeah. Just --

25 DR. ROSENFELD: Even assuming liberal estimates

1 of benefit to the fish, the proposed flow regime will not
2 attain a positive growth rate for the population. The
3 population will continue to decline, doubling and other
4 targets for Chinook salmon will be in the rearview mirror.

5 The exclusion weir on the Tuolumne denies the
6 best available signs and represents a potentially huge
7 impact to other native fishes. You can't selectively
8 exclude the fish you don't like from those that you want to
9 keep there.

10 The delta outflow proposal, the language of
11 addendum H is opaque, and it's not clear if any actual,
12 additional outflow will occur. But, at most, the proposal
13 is less than half of what this Board has previously
14 identified as necessary.

15 The Sacramento talks about loads of spawning
16 habitat. What's the evidence that spawning habitat is
17 limiting at all?

18 And what are the specific targets for Chinook
19 salmon that were used to develop a very specific proposal
20 in terms of tons of gravel? How did we get to tons of
21 gravel when we don't know how many salmon we're trying to
22 put back, or that that's the limiting factor?

23 Also, I should just note that the CVPIA has long
24 -- a long-standing understanding that will add gravel to
25 side channels on the Sacramento as fast as they can. So,

1 this is an example of things that are going to happen
2 anyway.

3 I could go on. I won't, because it's been a long
4 day, and you all haven't had time to digest this proposal.
5 But I can tell you that scanning through it in the few
6 hours I've been sitting here, it doesn't add up. It
7 doesn't satisfy the obligations of this Board or the
8 obligations of the agencies that presented it. Thank you
9 for your time.

10 CHAIR MARCUS: Thank you.

11 Mr. Obegi, let me tell the remaining speakers who
12 they are. They should probably have figured that out by
13 now.

14 Ben Eichenberg, also on behalf of San Francisco
15 Bay Keeper, Steve Rothert, from American Rivers, Debbie
16 Webster, from SVICWA, and Deirdre DesJardin, from
17 California Water Research.

18 Mr. Obegi, thank you.

19 MR. OBEGI: Good afternoon Madam Chair, Members.
20 Congratulations to Mr. Maguire on your appointment.

21 I'm Doug Obegi with the Natural Resources Defense
22 Council. I've struggled with what to tell you today. For
23 10 years our organization has been calling for
24 significantly higher flows in the Stanislaus, Tuolumne and
25 Merced Rivers. And working with the Bay Institute and

1 others, we've laid a compelling case that 50-percent or
2 more of the flow is needed to achieve the salmon-doubling
3 objective. Indeed, the California Department of Fish and
4 Wildlife agreed with that assessment in 2013.

5 I strongly urge the Board to act today. It is
6 time to vote on Phase I, on the San Joaquin standards.
7 While we believe that negotiations are possible and should
8 continue, what has been presented today is not adequate.

9 Chuck and -- Director Bonham and Director Nemeth
10 had said that they were present to you both a settlement
11 proposal, as well as an analysis showing that it met and --
12 or was better than what the Board had proposed. You
13 haven't received that yet, and there is no settlement on
14 two of the three rivers.

15 And, indeed, the Trump administration is working
16 right now feverishly to require reduced flows on the
17 Stanislaus River, as part of a revised plan of operations
18 for New Melones.

19 And so I urge you to act today. It does not
20 prevent continued negotiations. What it does is it allows
21 a space for negotiations to implement standards, rather
22 than negotiations that substitute for standards. And that
23 distinction is critically important for all of us who care
24 about fish and wildlife, and for the Board members who come
25 after you who will be left with a mess in 15 years, once

1 the settlement reaches its end point.

2 You have a very difficult decision, and I can't
3 say that I know what it's like to be on the other side of
4 the dais. And there are no simple, silver bullets here.
5 There are no magic solutions that you can wave a wand and
6 say, everyone gets what they want. And I wish there were.

7 And that's why this is so hard, but it's also why
8 we need to do it right. Because the next time that you do
9 this, this Board updates the plan, whether that's five
10 years from now, 15 years from now, 20 years from now, it's
11 only going to be harder to protect our rivers and fish and
12 wildlife.

13 If you think it's hard now, imagine a world 15,
14 20 years from now, with greater reliance on diverting more
15 water from our rivers, with climate change making it harder
16 and harder to satisfy all of our needs.

17 We have not participated in those voluntary
18 settlement negotiations for two reasons. One, we felt it
19 was inappropriate and, potentially, unlawful to require
20 parties to sign a confidentiality agreement.

21 And, two, we fundamentally believe that
22 negotiations are best achieved after board's act to
23 implement new standards, rather than to substitute for
24 them.

25 What was presented today, while it's still very

1 early and we will spend a lot of time over the coming
2 months analyzing it, certainly appears as though the State
3 has just been asking for less to get to yes. And while
4 there was a lot of lipstick that was presented today,
5 underlying that certainly appears to be a pig in the poke.
6 Thank you.

7 CHAIR MARCUS: Mr. Eichenberg.

8 MR. EICHENBERG: Hello, Chair Marcus, Board
9 Members. I'm Ben Eichenberg with San Francisco Bay Keeper,
10 and I'd like to thank you for your continued commitment to
11 achieving a final water quality control plan for the Bay
12 Delta.

13 Chair Marcus, you used the word "crisis" to
14 describe the current state of the bay and delta. A crisis
15 demands a fast, effective response. Delay, as with most
16 crises, is the worst possible choice.

17 You see here today the reason why a delay
18 cripples public participation. Director Bonham prepared
19 documents for you regarding your decision today but did not
20 make those documents available to the public until you
21 prompted him.

22 These last-minute tactics and this clear
23 disregard for public participation have been standard
24 operating procedure for a process that threatens to move
25 ever more behind closed doors. Secret settlement

1 agreements have come to dominate this process, demanding
2 delays, using power politics to shape a process that
3 increasingly ignores the years of science and public
4 process that went into the SED.

5 You have stated that you are no longer accepting
6 written comments. The record before this body is set, yet
7 you have been asked over and over to delay, so that special
8 interests can give you yet -- and get for themselves yet
9 another bite at the apple.

10 The public does not get to review, comment or
11 participate in this process. It is wholly conducted in the
12 shadows. After years of effort, your staff deserves better
13 than to be overridden by junk science and power politics.

14 Director Nemeth acknowledged that good peer
15 review is needed. I submit that good peer review is the
16 lowest bar for what is needed before these VSA's can be the
17 basis for rational decision-making.

18 That is why the VSA's described by Director
19 Bonham cannot be part of the Board's decision today. VSA's
20 should implement the Board standards, not replace them. By
21 all means, evaluate these proposals under the guidelines
22 provided by the SED, but further delay is untenable.

23 I love Director Bonham, in part because every
24 time I hear him speak I feel like I'm holding hands with
25 everybody in the room in a big circle. But these VSA's

1 must be made available to the public in their entirety and
2 evaluated through a rigorous, science-based process that
3 includes peer review and assures achievement of the plan
4 salmon-doubling objective. No amount of hand holding can
5 make up for that.

6 This Board should challenge water users to make
7 good on their promises. And in return, consider their
8 proposals under the framework of the SED. You've been
9 given a good-faith promise to implement measures without
10 delay, but that was followed by a threat that no more
11 progress will be made if you take action.

12 I consider -- I don't consider that good faith.
13 For instance, in an initial analysis just passed to me of
14 the VSA proposal for the Tuolumne is that it accounts for
15 about 313 total acre feet per year, or 15-percent of the
16 average, annual unimpaired flow. Dropping 15-percent in
17 our laps at the last minute, and then threatening to walk
18 away if we don't take these dribblets is not what I call
19 good faith.

20 CDFW's final two fall troll surveys for 2018
21 collected on delta smelt. This is not a species on life
22 support, this is a species that is already dead. We are
23 facing extinction risk, as stated by Director Bonham, we
24 have already lost. How many more species will we kill?
25 The current proposal is already a compromise position.

1 Finally, Mr. Drekmeier referenced The Giving
2 Tree, and I wanted to follow it up with that, with
3 Californians deserve more than just a stump to sit on.
4 Thank you.

5 CHAIR MARCUS: Thank you.

6 Mr. Rothert, followed by Ms. Webster. Well, that
7 looked fun.

8 MR. ROTHERT: Good afternoon, Chair Marcus,
9 Members of the Board. Welcome, Mr. Maguire.

10 My name's Steve Rothert. I'm the California
11 Director of American Rivers. I have been involved in the
12 process to update this plan and, specifically, in the
13 voluntary settlement agreement process for over five years.

14 My original hope had been that we could have on
15 this day a comprehensive settlement agreement that involved
16 all the parties. So, today is a bit of a disappointment,
17 but hope springs eternal, and I think that it's possible
18 that some day we could actually achieve that goal.

19 Regarding the Phase I process and the recent
20 negotiations, you heard quite a lot of frustration from my
21 NGO colleagues, and I think that frustration is real and
22 shared by all of us.

23 But regardless of that, I really appreciate the
24 efforts that Director Bonham and Nemeth put into it, and
25 the other parties in the San Joaquin basin, into the

1 negotiations. They made some progress. They made
2 important progress. But I think as we come to understand
3 the proposal better and evaluate it against the Board's
4 objectives, I think we will find it wanting, and we will
5 need to do more for that proposal, that program to be
6 successful and adoptable by the Board.

7 And I think we should be able to continue
8 negotiating, even if there are lawsuits that begin as a
9 function of this action you take today. So, I urge you to
10 vote yes on Phase I, and move this process forward.

11 Regarding Phase II, in the comprehensive approach
12 that the directors laid out this morning, I think there has
13 been a lot of effort and good progress made in that, in
14 that Phase II area as well.

15 And, in fact, there might even be some historic
16 elements to it, things that we, or I'll say, the American
17 Rivers has been working towards for quite a long time,
18 including a reliable funding mechanism and water fees.
19 Senior water rights holders contributing to a solution,
20 voluntary fallowing as a part of the solution. Integrated
21 flow and habitat measures, commitment to science and
22 adaptive management and decision-making.

23 And I recognize that some of these are big deals
24 for the parties involved, and present a significant change
25 in the way they aview how they manage and should be able to

1 manage their resources, and I appreciate that.

2 I think as we begin to understand this part of
3 the program as well, we will have to answer questions about
4 what isn't part of the proposal. Folks have mentioned the
5 coordinated operating agreement, the reconsultation on the
6 projects and the eventual BiOp. And I have real concerns
7 and real questions about what the net effect of those
8 actions, in combination with voluntary settlement
9 agreements, will mean for delta conditions and delta
10 outflow.

11 This effort has made progress. I support you,
12 the Board, taking a yes vote today on Phase I, and
13 encouraging parties to continue settling, to continue
14 negotiating for a better settlement. And I support you
15 also encouraging the Phase II parties to try to do the same
16 and integrate with the rest of the program. Thank you.

17 CHAIR MARCUS: Thank you. Thanks very much.
18 Thanks for all the time you spent.

19 Ms. Webster.

20 MS. WEBSTER: Thank you, Chair Marcus and Board
21 Members. Debbie Webster, Executive Officer of the Central
22 Valley Clean Water Association.

23 And first I want to start by thanking staff for
24 working with us to address many of our issues surrounding
25 POTW's and their sources of salinities, and the recognition

1 that they are very small sources but can have very big
2 permit issues with that.

3 And so, to that effect, I just have a couple of
4 suggested language changes. And with that, the reason why
5 I'm doing that, is because these language changes matter,
6 and they have costs associated to it. And one of our
7 charges is that our costs commensurate with the
8 environmental benefits, since we ask our public to pay for
9 that.

10 So, with that, on -- in appendix K, which is the
11 proposed language on page 46, there's two lists of actions
12 that we start seeing. One has to do with what happens when
13 you can't meet it? What types of limitations should belong
14 to permits?

15 And we agree that there are management practices
16 -- we agree with staff. There are management practices
17 that should go in, in order for you to do the best job you
18 can, why you would have a variance, or the like.

19 The problem that we have with the language is
20 that it currently reads, "best management practices,
21 including but not limited to," and then it starts listing
22 what they are, and the first one being an industrial
23 pretreatment program, "implementing -- implemented through
24 local ordinance that minimizes salt inputs from all
25 industrial sources of salinity."

1 One of the things that's really important is that
2 we tailor our programs and our best management practices to
3 that which is appropriate for the POTW. So, for example,
4 on that example that I gave you, one of our POTWs is a
5 small one. It does not require an industrial pretreatment
6 program. It does control its industrial discharges, but it
7 does it through source control measures, rather than
8 through a pretreatment program. The administration of that
9 program's very expensive.

10 So we've suggested that you would add best-
11 management practices applicable to the specific discharger,
12 including those couple words. And then reduce -- get rid
13 of the word "all" in that sentence, because you would only
14 put those requirements on industrial discharge with high
15 sources of salinities. Those that are diluting it out, you
16 don't want to have to necessarily control them more, and
17 that might not be the best use of funds.

18 The second area where we do that is, as we go
19 down it, they talk -- there is a section that says, "when
20 it becomes reasonable for POTW's to comply with the
21 narrative objectives." The wording that's currently in
22 there says that, "POTW compliance actions include, without
23 limitation, source control, such as reducing," and it keeps
24 on going on. That wording makes it sound like everything
25 that then follows has to be done when you can eventually

1 comply. And our concern is that it would be read that way.

2 We feel like it would be better put that it could
3 include these types of things, but, again, within CV-SALTS,
4 we're talking about other options that are out there. So,
5 our compliance actions could vary, and I think that
6 document should recognize that.

7 And so, anyways, I know I'm up on time. Those
8 were my two most important issues that we'd like corrected.

9 CHAIR MARCUS: Okay. Maybe something we come
10 back to.

11 Ms. DesJardin. There you are.

12 MS. DESJARDIN: Good afternoon. The first of my
13 comments is with respect to the request by DWR to takeover
14 writing the SED for the Board's Bay-Delta Water Quality
15 Plan update. The Board's regulations require the Board to
16 be the lead agency on the SED for the Water Quality Control
17 Plan Update, period.

18 The Delta Reform Act also mandates that the
19 Board, not DWR, determine appropriate delta-flow criteria.
20 The Board must categorically deny DWR's request and should
21 approve the update drafted by the Board staff, who are
22 independent and do not align with any one interest in this
23 proceeding.

24 The second is with respect to the comments by
25 Reclamation. That Reclamation's contracts prevent

1 Reclamation from meeting the Phase I update flow criteria.

2 The Board needs to consider that Decision 1641
3 assigned interim responsibility for meeting the Vernalis
4 flow standards in the current water quality control plan to
5 Reclamation.

6 As you are no doubt aware, Reclamation sent a
7 letter to Tom Howard in 2017 stating that Reclamation would
8 no longer comply with the Decision 1641 Vernalis flow
9 standards.

10 If the Board no longer wishes to enforce the
11 interim responsibility against Reclamation, the Board needs
12 to take immediate action to ensure that the 2006 water
13 quality control plan standards are met until new,
14 equivalent standards in the Phase I update are implemented.

15 To do otherwise is to allow Reclamation's refusal
16 to comply with the Water Quality Control Plan, to result in
17 very real degradation of the current water quality control
18 plan standards.

19 To avoid degradation, any voluntary settlement
20 agreements must be compared with the current standards, not
21 the current flows resulting from Reclamation's refusal to
22 comply with the Board's Decision 1641 order.

23 If Reclamation does continue to refuse to
24 recognize the authority of the Board to condition
25 Reclamation's permits, the Board needs to recall that this

1 situation first arose in Decision 990, and the Board did
2 reserve jurisdiction to reduce Reclamation's permitted
3 diversions for the Central Valley Project, if absolutely
4 necessary. I'm sure it's not something that the Board
5 desires, but it may be unavoidable.

6 There are two current proceedings before the
7 Board for determination of appropriate delta-flow criteria.
8 One is the Bay-Delta Water Quality Control Plan Update, the
9 second is the Board's adjudicatory hearing on the water
10 fix, water right change petition.

11 The Board has announced that the determination in
12 the adjudicatory hearing is only interim, and that the Bay-
13 Delta Water Quality Control Plan Update will determine the
14 long-term appropriate delta-flow criteria.

15 The Board should consider the administrative
16 record for the water fix hearing as before the Board in
17 this proceeding, including the assertion by Reclamation and
18 DWR that the projects can and will meet the Decision 1641
19 water quality control plan standards, including the
20 standards at Vernalis.

21 The two assertions are clearly inconsistent and
22 show bad faith by both Reclamation and DWR in their
23 representations to the Board. This makes the Board's
24 determination of appropriate delta-flow criteria essential
25 as a public trust exercise.

1 The Board needs to ensure that the appropriate
2 delta-flow criteria the Board determines meet the
3 requirements in Water Code 85086, including determination
4 of the volume, quality and timing of water necessary for
5 the delta ecosystem and assignment of responsibilities to
6 the State Water project and Central Valley project.

7 CHAIR MARCUS: Ms. DesJardin, I'm going to take
8 that as a comment on the Water Quality Control Plan, and
9 then just ask counsel to notice whatever in the
10 administrative record they need to about --

11 MS. DESJARDIN: Okay.

12 CHAIR MARCUS: -- about water fixes.

13 MS. DESJARDIN: Thank you.

14 And, finally, with respect to CALP habitat
15 restoration, I wanted to note, there is a commitment in the
16 CalFed ecosystem restoration to restore 100,000 acres of
17 habitat. The Board did consider that. It was part of
18 their decision in Decision 1641, approving the previous
19 change, the joy pod (phonetic).

20 And Prop 68 currently has \$200,000,000. It's no
21 longer earmarked for voluntary settlements. It is
22 available to natural resources to use for these kinds of
23 restoration projects. It is at their discretion. Thank
24 you.

25 CHAIR MARCUS: Thank you. All right.

1 Thank you all very much. I know a lot of you
2 have spent a lot of time and could say even more, so I
3 appreciate the choices that you made with the three
4 minutes. A fair amount to think about, a fair amount for
5 us to discuss. But I think we should take a short break.
6 So, we will come back in 15 minutes, at 4:25.

7 (Recess taken from 4:11 p.m. to 4:28 p.m.)

8 CHAIR MARCUS: All right. Thank you all for your
9 time. I want to turn to my colleagues and see how you want
10 to proceed. I have a few questions, questions based on
11 things folks said, quite separately from any discussion
12 about what we might do at our -- I don't know if it was our
13 lasting meeting or the meeting before when I tried to do
14 questions first, and then talk about what we wanted to do,
15 it got sort of -- it didn't work doing it separately.

16 So why don't I just ask my questions first, and
17 then if other people have questions, they can go ahead and
18 ask. And then that way I know I'll get my questions
19 answered.

20 MS. TOWNSEND: The Chair's prerogative.

21 CHAIR MARCUS: Yeah, Chair's prerogative, right.
22 I try not to exercise it too much, and there are a number
23 of things to talk about, but I want to take the temperature
24 in here from the Board.

25 But I have a couple of questions that may seem

1 specific to people who've been talking in grand sweeps
2 today, the specifics are actually important in what we do
3 here. And so I gave one question, I gave the staff a heads
4 up is, I'd love to hear a response to the south delta
5 salinity points that were made by a few of the speakers.

6 We've talked about them. I read your response to
7 comments on the issue of the tile drains and the like, and
8 the like, and the use of the -- and we talked about the use
9 of the San Joaquin data. But I want to give you a chance
10 to respond specifically to the specific things that you
11 heard today, to help give me some context in it, because it
12 is -- I've had some heartburn about this one, as you know.

13 MR. GROBER: And I will, I will take a stab at
14 that and --

15 CHAIR MARCUS: All right.

16 MR. GROBER: -- give you some responses to what I
17 heard.

18 CHAIR MARCUS: Mr. Grober.

19 MR. GROBER: Good afternoon, Chair Marcus, Board
20 Members. My name is Les Grober. I'm an environmental
21 program manager.

22 So, the first thing I heard is concern with how
23 the Hofmann report determined leaching fractions. And then
24 going from there, if the leaching fractions are wrong, then
25 the whole thing falls apart in terms of how crops would be

1 protected. And, of course, leaching fractions are
2 important because if you have a low leaching fraction, and,
3 therefore, a high soil salinity, it could adversely affect
4 yields of crops.

5 The Hoffman report used two methods to determine
6 leaching fractions. One was using tile drainage, which is
7 a good way of doing it, because you can take -- make an
8 assessment of what you're putting in on the top, and then
9 also collecting down at the bottom.

10 But just as the comments said, it's conditioned
11 on, you have to make sure that you're not getting the
12 interference of shallow groundwater --

13 CHAIR MARCUS: Right.

14 MR. GROBER: -- which would, you know, change the
15 findings, or also, or getting mixed with tail water. This
16 issue came up during the preparation of the Hoffman report,
17 and the data was then selected to exclude areas where it
18 had, where it was influenced both by shallow groundwater or
19 tail water.

20 I heard the concerns here. They're saying entire
21 areas are only shallow groundwater. That's not what we
22 found in the data set that was widely spread over the
23 entire southern delta area.

24 But, perhaps, even more important than that, I
25 said there were two methods. And the second method was

1 relying on a report and was referred to, this was a report
2 from 1976.

3 But I see no reason just because it's a 1976
4 report, because it's actually using the same method that
5 Doctor Leinfelder-Miles used, in that it looked at soil
6 extracts for nine different sites and nine different types
7 of soils throughout the southern delta, and it came up with
8 leaching fractions for those soils.

9 And five of the nine were leaching fractions
10 greater than .25, 25-percent, three greater than, three
11 more greater than 15-percent, and one just under 10-
12 percent. So that was looking broadly at the southern
13 delta, and really using a refined method of determining
14 leaching fractions.

15 So then we move into the Leinfelder report, where
16 it is an interesting data set, and, you know, we're
17 certainly not discounting any data set. All data is
18 useful, but it has to be looked at in the context of when
19 it was collected, how it was collected.

20 And even by Doctor Leinfelder-Miles' own
21 analysis, and I'll read you just from the report, "some of
22 the study cites likely accumulated salts because shallow
23 groundwater impeded salts from leaching out of the root
24 zone."

25 That's terribly important. We're not talking

1 about salts that can happen, and she said, well, Hoffman
2 said this can't happen. When you have a salty water at
3 depth, you can have capillary rise bringing salts into the
4 root zone. That's not what was going on in these soils.

5 There was -- actually, the data showed that
6 during the time the study was conducted, the water itself
7 was moving into the root zone. So, it was taking that
8 salty groundwater and depositing those salts in the soils.

9 So, the data has to be affected, and even she
10 acknowledges it at two sites. We actually found at all the
11 locations that had the higher soil salinities at the base
12 of the root zone, they were all being affected by that
13 salty, shallow groundwater.

14 And then, just by the way, at one or two of the
15 sites which didn't have the high salty conditions in the
16 soil profile, there was greater separation between the base
17 of the root zone and the shallow groundwater.

18 So, this data set seemed to be very much
19 interfered with by the shallow groundwater, which is an
20 acknowledged problem in, you know, many parts of the delta,
21 given its proximity to the sea level.

22 So another interesting thing, and this is, some
23 of it was referred to also in the comments. You know, we
24 look another look at yield, because in the Leinfelder-Miles
25 report some of the data reported just happened to show that

1 the yields of alfalfa were actually surprisingly high. And
2 we compared that early on initially with the state-wide
3 averages but based on the response to some of the oral
4 comments back in August, we took another look. And we
5 said, well, let's look in more detail to make sure what's
6 going on overall in the southern delta and San Joaquin
7 County.

8 So we mined data from the crop reports for the
9 county, and not just for San Joaquin County, but three
10 adjacent counties. And what we found is that for -- and
11 there's very large acreages of alfalfa in all those
12 counties, is that all of the yields were kind of all in the
13 same ballpark in all the counties.

14 But not only that, in one year when San Joaquin
15 County carved out and had data for the delta portion of the
16 county, they were the same yields in the delta portion as
17 the rest of the county. So, we saw no, you know, effects,
18 you know, differences in yields.

19 The points that were made are well taken. That
20 doesn't necessarily mean that it's not harder to do. But
21 the final thing to keep in mind with this is that we don't
22 see any overarching problem, and we're trying to determine
23 a water quality objective that reasonably protects the use.
24 It's not absolute protection. Just as we're doing for the
25 flow, it's not absolute protection in all cases, where you

1 might have extreme conditions or shallow groundwater and
2 such.

3 So, that's our -- that's my initial response to
4 what I heard this morning. I'm not sure if you had other
5 points that you wanted me to touch on.

6 CHAIR MARCUS: No, those were the main ones,
7 because I know we talked about it. And I wanted you to
8 remind me, because I knew you went beyond what I could
9 remember sitting here in our conversations. So that's
10 helpful.

11 A second one is whether the two points that Ms.
12 Webster raised, because I know some of you spent a lot of
13 time on this, are things that you're interested in
14 changing. I didn't hear -- maybe this is just me being a
15 lawyer, I didn't hear what she worried about in the second
16 one, but the first one I didn't --

17 MS. WON: Right. I can try to address those --

18 CHAIR MARCUS: Just take a stab at it.

19 MS. WON: -- points that Ms. Webster made.

20 So, she was saying that not every member agency
21 has a pretreatment program, and, therefore the requirements
22 on page 47, the list of VMP's should be softened. But we
23 don't think that's appropriate because these are
24 requirements that are necessary to control salinity. And
25 if you step back, the numeric -- so, these VMP's are being

1 imposed instead of numeric limits. So we think that the
2 VMP's should be rigorous and push the POTW's to really
3 reduce salinity. So, the first change that she recommended
4 is not something that we recommend that you make.

5 As for the second change, it's a small change,
6 and we could make it if the Board is so inclined.

7 CHAIR MARCUS: So, on the first issue --

8 MS. WON: (Indiscernible.)

9 CHAIR MARCUS: -- is the issue of -- when you're
10 saying "VMP's," and she's saying a whole pretreatment
11 program if you're dealing with a smaller discharge, or what
12 are we -- remind me what we're exactly asking for there. I
13 know you've all worked on resolving this with the POTW's.

14 MS. WON: Yeah. So, the requirement is that for
15 dischargers to implement VMP's, including an industrial
16 pretreatment program implemented through local ordinances
17 that minimizes salinity inputs from industrial sources.

18 CHAIR MARCUS: So, do we define a pretreatment
19 program differently that EPA does?

20 MS. WON: No.

21 CHAIR MARCUS: Does it just mean --

22 MS. WON: No, we don't.

23 CHAIR MARCUS: So it means we have to it, but
24 does it mean a massive paperwork, or does it mean -- what
25 does it mean?

1 MS. WON: It means that they have to have a
2 program that basically does source control.

3 CHAIR MARCUS: Uh-huh.

4 MS. WON: So, I think she mentioned industrial
5 sources, and I think -- in my conversations with her, if I
6 remember correctly, she was saying that maybe not all
7 entities, or member entities have industrial sources.

8 But we think that doesn't matter, because we want
9 the issue to be handled prophylactically, and for the
10 member entities to have something in place, so that if an
11 industrial source does connect to a POTW, then, you know,
12 they can comply with the pretreatment requirements.

13 CHAIR MARCUS: All right. I have to think about
14 that. That may be something I want to come back to and
15 look at it specifically.

16 MS. WON: Okay. Sorry I'm not making it --

17 CHAIR MARCUS: I think the intention here was to
18 figure out -- because I also want to make sure that we are
19 having the entities, because we have been mindful of
20 things. That they do have an adequate program. I just, in
21 my mind, I want to make sure that we're very clear on what
22 it is we're asking them to do, as opposed to making it
23 bigger than it needs to be.

24 MS. WON: Well, I think we're just simply saying,
25 you have to have a pretreatment program, and it's going to

1 be up to the Central Valley Regional Water Board to
2 implement --

3 CHAIR MARCUS: It will be up to the water board
4 to --

5 MS. WON: Yeah.

6 CHAIR MARCUS: -- decide what it should be?

7 MS. WON: Yeah.

8 CHAIR MARCUS: So there's discretion in there as
9 to what it ought to be?

10 MS. WON: Yes.

11 CHAIR MARCUS: All right. Maybe this is one of
12 those things where I'm going to want us to follow-up and
13 see how it goes. So, we should think about that. I don't
14 know that I need it in resolution language, but I just --
15 and we had this conversation, obviously, yesterday, on a
16 different item that you all weren't involved in.

17 But sometimes folks are having concerns about
18 things that might not have a positive impact but would have
19 huge cost, and they just want to make sure that somebody's
20 paying attention to it and they have a little bit of
21 recourse.

22 Again, this comes from -- and this is true of
23 everything here, having been on every side of this, I can
24 see what someone's afraid of. We can't resolve all of
25 that. So I don't necessarily want to put in language to

1 resolve something that would be way beyond what's
2 necessary, but I actually want us to monitor for the issues
3 that she's worried about. But I can probably just do that
4 in direction to you guys, because we've had that
5 conversation about -- I'm looking at John, because this
6 will be on John's plate, to set up something to just watch
7 for this with SVICWA, to make sure that unintended
8 consequences don't arise.

9 MR. BISHOP: I knew I was here for a reason.

10 CHAIR MARCUS: I knew there was -- you were here
11 for a reason, too. Again, we can't write something guard
12 against everything that might happen somewhere, but we
13 should still be mindful of it and keep our eyes open on it.
14 And we've been pretty good at following up on the things
15 that we've mentioned and other things.

16 So, I want to take the concerns or fears
17 seriously, but I also don't want to undercut the desire to
18 have adequate and robust programs. So if it's the -- if
19 it's not an off-the-shelf thing, and it is something that
20 the regional board can tailor to the circumstance, fine,
21 but we need to watch and monitor how that's implemented,
22 for both -- for good and for bad.

23 So, John knows what I'm talking about. You're
24 looking at me like you're not sure what I'm saying and --

25 MS. WON: No, I understand.

1 CHAIR MARCUS: John knows exactly what I'm
2 saying, so.

3 MS. D'ADAMO: On the other piece, I just termed
4 it "flexibility." You had indicated that you thought that
5 there could be a change. Could you point us in the
6 direction --

7 MS. WON: Sure.

8 MS. D'ADAMO: -- of the page and what you could
9 recommend?

10 MS. WON: Okay. Let me -- it's on page 47, I
11 believe. Let me just open it myself. Actually, it's on
12 page 48. And this is not the latest language, because it's
13 been subsequently amended by the change sheets. But the
14 concept basically is that the operable language is on the
15 first full paragraph, where the sentence starts, "in such
16 cases POTW compliance actions include without limitation."

17 So she wants to change, "include without
18 limitation" to, say, "could include among others, source
19 control, reducing salinity concentrations in source water
20 supplies, pretreatment programs, such as reducing water
21 softener use among water users and desalination."

22 CHAIR MARCUS: Right. That's how I read without
23 limitation, but if those words are comforting --

24 MS. WON: Yeah. Yes.

25 CHAIR MARCUS: -- why not change it?

1 MS. WON: Yes. Exactly.

2 CHAIR MARCUS: Sound right to you?

3 MS. D'ADAMO: Yes.

4 CHAIR MARCUS: Okay. All right. Those were the
5 main questions. I just think there's a lot of drama
6 frequently on the other parts of the Water Quality Control
7 Plan, and I wanted to make sure that I followed up.

8 So, questions, comments --

9 MS. DODUC: Actually, thank you, because you hit
10 the two items that I was going to follow-up on. Bingo.

11 CHAIR MARCUS: All right. Well, Joaquin, go
12 ahead. Board Member Esquivel.

13 MR. ESQUIVEL: Thank you, Chair Marcus.

14 CHAIR MARCUS: We can go wherever the Board wants
15 to go.

16 MR. ESQUIVEL: We certainly heard a lot today.
17 And so, you know, I would like to maybe propose just
18 refocusing for a moment on the framework proposal that was
19 brought to us this morning. And before we continue to have
20 a discussion around Phase I and the lower San Joaquin River
21 and its tributaries, I'd like to entertain a motion,
22 perhaps.

23 So, we heard, again, a lot from Director Nemeth
24 and Director Bonham. And as others have indicated, there's
25 a lot to be excited about insofar as some of the historic

1 components that have at least been previewed today. But
2 there's still a lot of work that the settling parties and
3 the voluntary settlements themselves will need to continue
4 to develop in order for it to be in a place where this
5 Board can fully evaluate it, fully be able to weigh it.

6 There has been criticism about process. And I
7 can understand that sometimes you need a small group in
8 order to get some consensus and be able to build out. It's
9 incredibly true I think sometimes around collaboration.

10 So, I think, for me, my mind goes to how best to
11 preserve what is a tremendous amount of collaboration
12 that's been demonstrated. To build in the process
13 necessary to further evaluate in a public way, in a public
14 setting, which this Board affords.

15 I think as settling parties rightfully themselves
16 have identified, our Board process actually is in a point
17 where we can develop and merge these two things, insofar as
18 being able to have a clear-eyed analysis and evaluation as
19 to the merits and complexities of what is being proposed.
20 Again, understanding that we still need a good amount of
21 detail to even be able to conduct that. But I think it can
22 be there.

23 And so, again, setting aside for a moment, I
24 think, what we do on the lower San Joaquin, because it is
25 unique insofar as two of the three tributaries don't have a

1 voluntary settlement, or have been able to bring something
2 together through the efforts of the resources agency.

3 And I think -- but I think we need to acknowledge
4 that work. And I'm not in this moment making a call,
5 because I can't. That would be unwise because we -- and
6 it's less about sort of what I think about this, but what
7 do we collectively, as Californians, as a people, evaluate
8 and try to make a choice here.

9 So, I would -- I've worked with the office of
10 counsel, chief counsel, to draft a proposed amendment to
11 the adopting resolution.

12 CHAIR MARCUS: To the resolution?

13 MR. ESQUIVEL: Yes. To the resolution of -- and
14 that would do justice. Would better align us with direct
15 staff to take what is a work-product still yet to be
16 completed insofar as the voluntary settlement agreements.
17 But then work toward what is proposed being a comprehensive
18 set that looks at the entire watershed, weighs and balances
19 out what's on the table and has been proposed by the
20 districts and the resources agency through the Governor's
21 office coordination and compare it. You know, have a
22 discussion around it.

23 So, Ms. Townsend, I believe, you have a copy of
24 what that language would be, and I want to share -- I've
25 printed copies for fellow board members.

1 And, again, to be clear, what I'm proposing is
2 not in this motion that we take action on Phase I, but
3 instead adopt an amendment to the resolution that would
4 align and direct staff to consider the framework proposal,
5 or the voluntary settlements that's further developed, and
6 fit in the framework proposal to what we're doing here.

7 CHAIR MARCUS: So, just so I'm clear, and people
8 are clear listening. You're suggesting we consider doing
9 this before we consider, as a separate thing, before we
10 consider --

11 MR. ESQUIVEL: As a separate. Yes.

12 CHAIR MARCUS: Okay. So, this doesn't -- this
13 isn't instead of, this is --

14 MR. ESQUIVEL: This isn't instead of. This is --

15 CHAIR MARCUS: This is something -- this is how
16 to respond to the --

17 MR. ESQUIVEL: To the framework that was --

18 CHAIR MARCUS: -- to the thing that we just --

19 MR. ESQUIVEL: Yeah. And --

20 CHAIR MARCUS: -- saw for the first time this
21 morning? Okay.

22 MR. ESQUIVEL: Okay.

23 UNIDENTIFIED FEMALE SPEAKER: (Indiscernible.)

24 MR. ESQUIVEL: There may be printed copies down
25 for the audience as well, somewhere down amongst you. I

1 think there's about 30, if folks want to see that as well.

2 CHAIR MARCUS: So it's a revision to the
3 resolution. Let me see. That's, that's not the motion.

4 UNIDENTIFIED FEMALE SPEAKER: That's not it?

5 MR. ESQUIVEL: No. No.

6 CHAIR MARCUS: Those are your notes.

7 MR. ESQUIVEL: Those are my notes.

8 CHAIR MARCUS: Those are his notes to himself.

9 Avert your eyes.

10 UNIDENTIFIED FEMALE SPEAKER: Never gives out too
11 many documents.

12 MR. ESQUIVEL: Yeah. Never give them too many
13 documents.

14 CHAIR MARCUS: Yeah. I hope you didn't have any
15 jokes in there.

16 MR. ESQUIVEL: No.

17 CHAIR MARCUS: It would be really a problem.

18 MR. ESQUIVEL: Everyone at home can pause and see
19 how tell I did with keeping to my own talking points.

20 (Pause.)

21 UNIDENTIFIED FEMALE SPEAKER: If you guys want a
22 copy I'll leave them up here.

23 (Pause.)

24 MS. DODUC: So we have some questions. Maybe
25 give it more time though?

1 CHAIR MARCUS: If I -- can I just finish reading
2 then --

3 MS. DODUC: Uh-huh.

4 I guess I'm directing my question at Board Member
5 Esquivel, since this is your proposed --

6 MR. ESQUIVEL: My product, yeah.

7 MS. DODUC: -- amendment. Perhaps you could walk
8 us through this language and what your intentions are with
9 respect to these proposal?

10 CHAIR MARCUS: With the bolded being the new
11 language.

12 MR. ESQUIVEL: Yeah, the bolded, the bolded here
13 is new language. And, again, writ large, the attempts here
14 are to marry a process that's been identified within the
15 framework proposal with what is ongoing work for staff, in
16 a way that allows us to come to some greater analysis of
17 the whole here.

18 So, if you want, I can simply read through the --

19 MS. DODUC: I'm looking at resolve -- well, new
20 resolve seven.

21 MR. ESQUIVEL: Uh-huh.

22 MS. DODUC: I appreciate the desire to provide
23 assistance to the resources agency on this process. I do
24 have two questions, and maybe they're not for you to
25 answer. Maybe they're not answerable at the moment. But

1 my concerns with that would be, one, do we have the staff
2 resources to do so, and in doing so, how might that impact
3 our ongoing work on the Water Quality Control Plan Update
4 for the Sacramento side?

5 And my second concern would be, given what we've
6 heard today from some of the NGO's about what they perceive
7 to be lack of inclusion and transparency, and the fact that
8 we pride ourselves on a very transparent process throughout
9 this entire Water Quality Control Plan Update, what
10 limitations might be imposed on any staff we assign to
11 assist the resources agency in these discussions?

12 So, looking at the, just the very first part of
13 resolve seven, those are my two initial questions.

14 CHAIR MARCUS: Do you want us to toss out our
15 questions on it, and then you can --

16 MR. ESQUIVEL: Yeah. I would just remark, my
17 intention with this language is that the staff's current
18 work and the -- you know, on Phase II, on the Sacramento
19 side and delta, not be -- go away, but, again, it is -- the
20 alternatives that are already being developed, the work
21 that staff has already been done remains, and what this
22 allows is for this, the voluntary settlement to be an
23 alternative that analyzed within the scope of that set.

24 So, it doesn't answer your public process
25 question, but, certainly, when it comes to and what it

1 means for the work-product that staff have been developing,
2 where we are, it actually allows those things to, in my
3 mind, continue to exist and move forward.

4 Because then what we are able to do is, that
5 staff work and analysis is then one of the alternatives
6 within the set that is also compared to -- against the
7 voluntary settlement agreements, which is something that
8 we've always been very clear I think as a Board, that we
9 need to have comparative analysis.

10 We need to have apples-to-apples, you know,
11 analysis, in order to make -- to have a vote, to determine
12 to say yes, despite there, perhaps, being less flow in the
13 ranges determined in the analysis by staff.

14 That the habitat restoration, the connectivity,
15 you know, the whole suite of sort of a comprehensive
16 approach is able to be analyzed against that, and that is
17 the determination, ultimately, I want to, I think -- that
18 is before us, that can be before us, and would be a very
19 affirmative, and I think powerful moment insofar as being
20 able to take what, again, we just heard this morning, and
21 still needs further development and further specifics, but
22 that certainly in concept is something this Board has been
23 asking for and can accomplish.

24 But, again, I'm more -- I want to see a process
25 for -- under which that can be materialize. And I feel, at

1 least in concept, that the resolution language can do that
2 for us.

3 CHAIR MARCUS: So do you want -- when you
4 say -- I think -- and maybe I'm jumping -- maybe you asking
5 a different question. Appropriate technical and regulatory
6 information, you mean help describe what we need, in order
7 to be able to put something in as an alternative, not work
8 on developing the alternative for them, but be engaged in
9 the conversation with that?

10 MS. MAHANEY: Chair Marcus and --

11 CHAIR MARCUS: Okay.

12 MS. MAHANEY: -- Board Member Esquivel, if I may
13 step in, just to provide some historical context --

14 CHAIR MARCUS: Yes.

15 MS. MAHANEY: -- about some similar language that
16 we've seen in other letters regarding voluntary settlement
17 agreements.

18 As you know, for obvious reasons, the Board has
19 not been willing to enter into confidential agreements to
20 assist with settlement negotiations, but it has
21 consistently offered, and it has done so in writing.

22 As I recall, perhaps most recently in the
23 February 2016 letter from Tom Howard to the resources
24 agency, it has offered appropriate technical and regulatory
25 assistance by staff to, for example, provide information

1 about the Board's needs in meeting requirements under
2 Porter-Cologne, how the water right process may work, and
3 other areas of expertise within the Division of Water
4 Rights and the Board.

5 MS. D'ADAMO: So, I think this is absolutely
6 appropriate, and I agree with where you're headed here on
7 integration between I and II. I think we have some
8 weaknesses in having them separated, you know, some legal
9 vulnerability. But then, in addition, just the challenge
10 that it's presented over the last several years in trying
11 to get the parties together.

12 So I think a little bit about what happened was,
13 maybe folks were envisioning as the discussions ensued over
14 the last several months. I think that some of the parties
15 were envisioning doing just this, integrating I and II.
16 And so, I think it's absolutely appropriate.

17 I would probably take a bit of a different
18 approach, and that is, that I think the analysis needs to
19 be done, the comparison needs to be done. But rather than
20 putting the cart before the horse in -- I'm assuming you're
21 talking about adoption of the SED, and that this would be
22 resolution language as part of the adoption.

23 So, I would take a different approach, and that
24 is to actually table it and refer it back to staff, so that
25 we could have the analysis before us. Because one of the

1 things that I absolutely agree is that there were a number
2 of commenters that said that they're in their initial
3 review, and we can't take any action today on the voluntary
4 agreements. We're all seeing this for the first time.

5 But in their initial review, and in, I'd have to
6 say, in my initial review as well, what is being proposed
7 is outside the SED. I don't see February flows, I don't
8 see June flows. I see critically dry year relief. These
9 are all things that I've been pushing for.

10 And so I think that rather than us adopting the
11 SED today -- I'm not saying we shouldn't adopt it, but I
12 think that it would be best for us to actually line things
13 up and see what we're getting. I think we know what's in
14 the SED. We don't know what these voluntary agreements
15 would necessarily produce, but it does seem that it would
16 be outside the SED.

17 And so, I'm just worried about this Board taking
18 an action, and then soon thereafter us having to roll back
19 some of the things that we have just adopted in terms of
20 flow. Of course we'd be getting other things, you know, in
21 exchange.

22 And I'm looking at the PowerPoint and I was
23 really persuaded by the overview, you know, voluntary
24 settlement agreements are a comprehensive plan. So, in
25 what you're proposing, Board Member Esquivel, it would be a

1 comprehensive plan, but not yet. We'd be adopting the SED,
2 and it would not yet be a comprehensive plan.

3 I'm really persuaded by improvements can happen
4 immediately. That's really big for me. I think it is for
5 all of us, but that is something that I'm very motivated to
6 see, what can we do to get those improvements on the ground
7 immediately? Collaboration over conflict, integration of
8 flow and non-flow, bringing in the science, and then that
9 funding piece.

10 But adoption now, adoption today, rather than
11 checking the boxes on all those things, I fear that we
12 would be, at least initially, drawing the line through, you
13 know, x-ing those things out. And so that's what I'm
14 concerned about.

15 I think we all just have different approaches on
16 how to get to the same result. And for me, I just, I
17 really do take the districts at their word. They were
18 negotiating. You know, we never told them, go ahead and
19 negotiate and we won't adopt the SED. We didn't tell them
20 that. But that was their, that was their request going in.

21 And so what they were able to negotiate was
22 premised upon us not adopting this document. I don't think
23 that we should necessarily do everything that the
24 irrigation districts are asking us, but I think that we
25 should seriously consider them and their word, that this --

1 if we adopt today will result in litigation. And, hey, the
2 elephant in the room is Donald Trump. I mean, we've just
3 got to say it. They have options before them, because of
4 Trump, like it or not, that they may not be able to take
5 advantage of at a later time.

6 So I'm really concerned that once we adopt, they
7 go, they go to the court house. They do whatever they need
8 to do with, you know, whether it's EPA or federal
9 preemption or whatever it is, and I fear it will be a big
10 distraction and take up a lot of resources and time, and
11 get us one step further away, rather than building on that
12 momentum.

13 So, I would, at the appropriate time, make a
14 motion to, I guess, your motion, which would be that we
15 table it and send it back to staff, so that we could
16 integrate the process as a whole, just not adopt the SED.

17 CHAIR MARCUS: All right. We can come back to
18 that. I want to make sure we understand though what Board
19 Member Esquivel has in mind here, because there's still --
20 help me understand, because I think I don't mind the
21 concept of us providing the technical assistance we've
22 said. We just got this thing today. If we'd gotten it six
23 months ago it would be one thing, but we're not even at
24 proposal on the Sacramento. There's a request to consider
25 the Tuolumne, but we can always reopen, which is what I

1 think it says, if it pans out.

2 Because as we heard, we don't have the
3 transparency or buy-in, or even the details to know,
4 although there are a lot of concepts and things in there
5 that are, as I said, intriguing and interesting and
6 potentially quite good. But, again, the devil's in the
7 details, and for us, we have to do it in a transparent way.

8 And I, as I said at the beginning, I do
9 appreciate the folks who put in the effort. It needs to be
10 put in, more people need to be brought in, including us.
11 Send some sunshine to see what it is, and we need to
12 compare it, as I think you're suggesting, against what our
13 work shows.

14 And if it pans out as it is now, or as it might
15 be by March, or through the course of the year, that could
16 be good, because we've been wanting, wanting them. I just
17 want to make sure, get some more from staff on this
18 language, in terms of what you think this has us do.

19 MS. SOBECK: Ms. Marcus.

20 CHAIR MARCUS: Yeah, help me.

21 MS. SOBECK: If I'm reading this right, and going
22 to what Board Member Doduc asked about staff resources and
23 how would this fit into our work on the next phase of the
24 Sacramento bay-delta portion of this action, is that we've
25 spent, as you all know, a lot of time and staff resources

1 on working on evolving from where we were on the scientific
2 basis report and the framework that came out last summer or
3 last spring -- I can't remember when, July.

4 And so we're quite far along in the analysis of
5 the staff -- what would have been the staff proposal and
6 various alternatives. And so I think that we would be
7 well-positioned and it would be efficient, and there would
8 be, with some assistance from our partners as resources, it
9 would be a deviation from what our plans were before, but
10 that we are well-positioned now to turn to analysis of a
11 VSA proposal, if it were fleshed by March, to then include
12 that as an alternative in what was going to be the next
13 version of the draft SED and CEQA document.

14 And so, we would be able to spend most of our
15 time and energy analyzing the VSA, going through the Board
16 process, and comparing it to the alternatives that we've
17 already developed and looked at.

18 CHAIR MARCUS: So everybody could see it. We
19 wouldn't -- because this is -- I'm getting back to my
20 conversation with Mr. O'Brien. They would be putting in
21 the -- it's not like we have to put in a ton of -- they
22 would help --

23 MS. SOBECK: Well, as I read --

24 CHAIR MARCUS: If it becomes an "it." I mean,
25 that's, again, the question. Because there are people who

1 have just seen it this morning, I'm hoping it becomes an
2 "it."

3 MS. SOBECK: But it would be -- that they would
4 -- there would be something that would be -- something for
5 us to analyze provided, this language anticipates by March.

6 CHAIR MARCUS: Okay.

7 MS. SOBECK: And that that's, you know, that we,
8 as appropriate, would have some additional back and forth.
9 But then we would then go into our full-fledged, you know,
10 transparent -- then there would be an "it" for us to all
11 fully vet and go through what we always anticipated was
12 going to be the Board's public process.

13 CHAIR MARCUS: So, just to be, put a pin on it,
14 because I think -- it's not really a pin. Forget me coming
15 up with the right metaphor. That if it's -- and this gives
16 folks time to flesh it out, hopefully talk to more people,
17 and get the level of detail we need, like that crosswalk,
18 like the real numbers, like what's the baseline, like what
19 are we really talking about, what's the magnitude?

20 All the things that we've heard a summary of
21 today, or even in the framework, and then we would take
22 that and put it, as an alternative in our formal proposal
23 of Phase II, as opposed to any administrative draft or
24 anything we might do sooner. Is that what we're saying?

25 MS. SOBECK: That's my understanding. I want to

1 make sure that I'm understanding what Board Member Esquivel
2 has in mind.

3 CHAIR MARCUS: Is that what we're saying?

4 MR. ESQUIVEL: I would think so, yes. You know,
5 I think that doing so wouldn't -- it would acknowledge the
6 scope and magnitude of, again, the resources that -- and
7 the resources that will be brought to be beared on these
8 voluntary settlements, and not -- again, the staff work
9 doesn't disappear then, right? It's not a replacement. It
10 becomes a, you know, again, a merging of these two
11 processes that are stronger for the whole because of it,
12 insofar as our ability to affirmatively, you know, give a
13 thumbs up, ultimately, if analysis pans out around the
14 effectiveness of the proposal, so.

15 CHAIR MARCUS: So, if it, and then, if it panned
16 out, we could decide what to do in an update to the plan,
17 even if we act today?

18 MR. ESQUIVEL: Specifically, especially when it
19 comes to Tuolumne. Because the Tuolumne, again, I mean, it
20 does -- insofar as I know there's cynicism that, you know,
21 folks feel it's just a little bit above what was their FERC
22 proposal anyway. But, again, not having enough specifics
23 on it to do that analysis, they should be acknowledged and,
24 if you will, protected in some way in this, and that's what
25 the language seeks to accomplish as well, by specifically

1 referring to the Tuolumne and the voluntary settlement
2 that's been developed on that river system.

3 So --

4 MS. D'ADAMO: But how would they be protected if
5 we adopt the SED?

6 MR. ESQUIVEL: Well, as you know, Board Member,
7 nothing happens the week after adoption or the month or
8 insofar as -- for all practical purposes, they're protected
9 in the commitment that we have here to make them part of
10 that analysis, which allows them, you know, to make the
11 case that, yes, this is more effective, and that that's
12 what we're, I mean, that's what we're looking for here.

13 And then put them into, again, this larger
14 process that is going to be had and this discussion that we
15 then get to make around what the benefit and tradeoff is
16 then on the Tuolumne specifically.

17 But they're, again, they're protected insofar as
18 the acknowledgment of their voluntary settlement agreement,
19 and the same, same analysis and treatment that they'll get
20 as a part of this framework and package that's been brought
21 before us.

22 MS. D'ADAMO: Well, but we -- once we adopt the
23 SED, we have to come within that range. And so, we would
24 have to, we'd have change our plan. We'd adopt --

25 CHAIR MARCUS: We could.

1 MR. ESQUIVEL: We could. Well --

2 CHAIR MARCUS: We could if it's all studied and
3 it pans out.

4 MR. ESQUIVEL: Yeah. And that's why we direct --
5 you know, we have here to direct staff to tell us then what
6 is needed. If we need plan amendments then, we can make a
7 surgical amendment and go in. You never know, the
8 Stanislaus may end up going in the next months, or the
9 Merced, and so it can then become a very different analysis
10 and discussion at that point. But, yeah, I think --

11 MS. D'ADAMO: Yeah. I think it's cleaner for us
12 not to adopt, but I'll bring that up at the appropriate
13 time. But I agree with everything else that you're saying
14 on integration and the analysis.

15 CHAIR MARCUS: My -- I'm open to it. There are a
16 lot of if's in it, because, again, I don't know what it
17 is --

18 MR. ESQUIVEL: Sure. Just saw it --

19 CHAIR MARCUS: -- because we just got it.

20 MR. ESQUIVEL: Yeah.

21 CHAIR MARCUS: And it's like I've said to others,
22 I want to believe, and I want something to happen, but I
23 also want it to be vetted and clear and all of that. And
24 an alternative that's analyzed, obviously, would give us
25 all of the detail. But I would encourage, I would

1 encourage, if that's the case, that the process become more
2 open and more players be involved, and we get all the data
3 sooner than later.

4 I realize if on March 1st we get something that's
5 the same players, without any engagement with the folks who
6 have not been engaged, including our folks in a public way,
7 I'm going to feel very differently about it. I'm trusting
8 that folks -- that your intent here is to make clear that
9 we're open to being creative, depending on what we get,
10 which I think is fair.

11 Folks have thought we're not interested, but we
12 are very interested and have consistently mischaracterized
13 what our intent is on the other hand. And this gives a
14 thing for folks to hang on to. I mean, it's going to have
15 to -- again, the devil's in the details. It's going to
16 need to be transparent, crosswalk-compared and all of that
17 in a very open process, which is the only way we can act.

18 That's -- I'm not chiding anybody, it's just that
19 I see this as an extra olive branch to encourage people to
20 keep going. And to say, we absolutely will study it if you
21 have an "it," which is a little premature generally, but I
22 could live with, as long as we're very clear that
23 everything is going to have to be very transparent. And
24 depends on -- again, the devil's in the details.

25 MS. DODUC: I have a question for Board Member

1 Esquivel. In reading the mass portion of resolve seven, is
2 it your intention then that Board consideration of the
3 Water Quality Control Plan Update for the Sacramento will
4 take place after December 1st, 2019? My understanding, Ms.
5 Sobeck was at -- we were on a much faster timeline than
6 that.

7 MR. ESQUIVEL: Well, it wouldn't, it wouldn't
8 just be the Sacramento site at that point. It would become
9 the whole analysis, I believe, but I'll let --

10 MS. DODUC: My -- before Ms. Sobeck answer, is,
11 my concern is that while I appreciate the progress that was
12 reported by the two directors today, that's been very slow
13 progress. And I would be very concerned about making any
14 commitments, though I wish them much success, and I would
15 love to see a viable VSA come together in time for our
16 consideration, I'm hesitating at the idea of committing
17 ourselves to wait for the outcome of that process before
18 completing our Water Quality Control Plan Update. And I
19 just want to understand if that was your intention.

20 MR. ESQUIVEL: If the question is, if my
21 intention were to slow down or -- yeah. It'd negatively
22 impact, say, our process on Phase II, no.

23 MS. D'ADAMO: If I might?

24 CHAIR MARCUS: Yeah.

25 MS. D'ADAMO: I think that the page two document

1 that we received, that has the timeframe --

2 MR. ESQUIVEL: The timeline, yeah.

3 MS. D'ADAMO: -- I think it's pretty thoughtful.
4 I mean, our process, we were looking at an administrative
5 draft for Phase II this month sometime, and, I mean, I
6 don't know if we're necessarily going to hit that target,
7 but let's say, roughly. Then our process is kicked off, a
8 full-blown process.

9 And looking at the timeline that's laid out here
10 in integration of one and two, there are a number of target
11 dates throughout next year, and, I mean, perhaps, you know,
12 it could -- there would be some tweaking. But it seems
13 that it's going to take achieving these targeted milestones
14 in order to get to that December date.

15 I understand your concern, Board Member Doduc,
16 that, you know, moving quickly, but at the same time, I
17 think our process is going to take a bit as well,
18 especially once the process is underway with workshops and
19 all of the, you know, additional process. And often times
20 requests for additional time that would take place anyway.

21 MS. DODUC: I don't think we've ever been accused
22 of moving too quickly, especially on bay delta. And I
23 appreciate that as much as I would like things done
24 quicker, there is a great deal of value in the transparent
25 process that we've undertaken.

1 What I am hesitating at is to -- again, as much
2 as I applaud the directors, and as much as I hope for a
3 successful outcome, the Board's process and timeline in
4 updating the Water Quality Control Plan, the complete plan,
5 we're just on one part of it now, and predicating that on a
6 successful outcome of the VSA discussion is what is giving
7 me pause. Because I remember a day more than five years
8 ago when certain parties sat in my office and told me they
9 would have an agreement within six months.

10 CHAIR MARCUS: Right.

11 MS. DODUC: So --

12 CHAIR MARCUS: We went to meetings.

13 MS. DODUC: Yes.

14 CHAIR MARCUS: We did, when we were allowed to go
15 to meetings.

16 MS. DODUC: So, I -- really, you know, I
17 appreciate what you are trying to do, and as an engineer
18 who, you know, focused on efficiency, I appreciate this
19 integration approach. And I want to support it, especially
20 if it means that we can adopt what is before us today and
21 keep the door open for consideration of future agreements.
22 But I also want to be very careful in managing
23 expectations, in terms of how long we are willing to wait.

24 I think it is important, as you spoke earlier,
25 that our action be an incentive to help further momentum.

1 And my opinion is, the best way to do that, is to indicate
2 our very strong commitment to moving forward and using the
3 -- our process to, hopefully, bring others along in
4 facilitating, you know, a faster engagement and a more
5 transparent process in bringing these VSA's together.

6 So, I don't want to give the impression that we
7 would somehow slow down or halt our progress predicating on
8 the successful outcome of these discussions. I hope that
9 indicating our commitment to proceed, that we will help
10 move these discussions along, and, obviously, you know, as
11 you intent (sic), indicate a willingness and an openness
12 and a welcomeness to considering appropriate agreements
13 that can, that could be reached.

14 MR. MAGUIRE: In my opinion, this is one way to
15 show support for the momentum that's been gathered over the
16 last several months and years, and especially these past 30
17 days. And this is one way, through a transparent process,
18 to evaluate what could be a viable alternative that we
19 don't know that much about yet, obviously, you know, having
20 just received it today, but there are a lot of good things
21 there.

22 And comparing the benefits, because it is so
23 different from what's been proposed in the Phase I SED,
24 will take some time. I think it's worthwhile. What we're
25 talking about here, I don't see as an extensive delay in

1 the process as it would take anyway. And so, to help
2 support the good discussions and negotiations that have
3 been going on, and, hopefully, others will be able to join
4 as well, my feeling is that this is, this is a good motion.

5 CHAIR MARCUS: I have to say, I like the intent
6 of the motion, there's just a lot of if's in there,
7 including transparency information. Whether it is really a
8 -- it becomes an "it," and I hope -- I don't know, I've got
9 to have a better way to say that. I hope it does. I think
10 that -- but it needs more engagement and all of that.

11 So, this can be -- I'm trying to understand the
12 idea of somehow -- I don't -- there are certain things I
13 think in this page two, and I really am resisting trying to
14 make a decision based on a document that came to the -- our
15 desks today in the context of this. And the confusion is
16 that we have to do the SED, but folks will do the work to
17 give us an alternative that we can look at and include in
18 the public process. That I'm fine with, as long as it, a,
19 doesn't necessarily hold up our process, so that we don't
20 end up with losing that if we would have gone sort of
21 faster. Otherwise, I mean, there's some -- it may be fine
22 in this language, but we need to see the further progress.

23 MR. ESQUIVEL: I think there's definitely further
24 discussion we have to have about what that looks like, what
25 staff engagement looks like. Because there are resources,

1 obviously, from, you know, as contemplated here, from the
2 both the resources agency and the water districts to
3 develop this document. Because these documents, as our
4 staff are well aware, don't happen overnight. And so, I
5 think there is going to have to be some further discussion
6 about how we accomplish that.

7 CHAIR MARCUS: Right.

8 MR. ESQUIVEL: What the share of work looks like,
9 how we structure an organize, I guess this, you know, this
10 building of this --

11 CHAIR MARCUS: And how transparent it is.

12 MR. ESQUIVEL: Well, and --

13 CHAIR MARCUS: Ours all has to be transparent.

14 MR. ESQUIVEL: It completely has to be. I mean,
15 we can't -- we're not going to be involved in a
16 nondisclosure agreement and all this. And nor will it when
17 we're talking about this point of integrating, if you will,
18 our processes with what's been these developments.

19 Because we're still looking at that March 1st
20 deadline, which I see as really the, okay, that's the
21 moment where there is -- you're no longer bound by these
22 nondisclosure agreements. You have term sheets, you have
23 details on all these tributaries, and it becomes a work-
24 product under which staff can take -- or, again, I think
25 we're going to have to talk about what that looks like and

1 how you do it, but the outcome and goal that we're driving
2 toward is, you know, alignment with our process here and
3 with the development of the -- and then a full, honest
4 public accounting. And that's what --

5 CHAIR MARCUS: Right.

6 MR. ESQUIVEL: -- you know, that's -- our votes
7 are arbitrary if we don't have that. And we're not an
8 arbitrary board insofar as it has to be based on analysis,
9 it has to be based on the science. And I think that, you
10 know, that's in the offering, certainly.

11 And, again, I can't -- you know, it is hard -- it
12 is a pretty historic moment that we find with the
13 willingness and cooperation there. And so, it's how do we
14 kind of cement that and then carry it forward, knowing
15 that, you know, we all know well that we're in the last
16 month of this administration.

17 So, it's going to be a matter of really trying to
18 create process around all of this. And I think that's what
19 will ultimately help, help actually get us to a successful
20 moment, so.

21 MS. D'ADAMO: So, I'm just wondering, maybe if we
22 could hear from counsel. That I'm just finding several
23 areas here where there's a public process implied. And so,
24 maybe if staff --

25 CHAIR MARCUS: Actually say it?

1 MS. D'ADAMO: Well, in seven here, associated
2 analysis, "the State Water Board shall incorporate the
3 agreement," let's see, "including potential amendments to
4 implement the agreements, as an alternative for a future
5 comprehensive Bay-Delta Plan Updated." Well, there's a
6 regulatory process for that. And in section eight there,
7 it also references subsequent regulatory actions.

8 So, maybe if staff could help, you know, by
9 calling out where the, you know, process is already
10 implied, so that if there are any -- if there's a desire
11 for being -- to further clarify, we could build on that, as
12 opposed to talking about it in concept.

13 MS. MAHANEY: Sure. Let's walk through a few
14 things.

15 CHAIR MARCUS: Opportunities for transparency.
16 That, I would feel better with a little more of that in
17 there.

18 MS. MAHANEY: Let's just walk through the
19 existing language very briefly. And just may I point out
20 one typo first, to get that out of the way. In -- on the
21 first page, whereas 21b, the last sentence refers to
22 "resolved paragraph." That should be "resolved paragraph
23 seven."

24 CHAIR MARCUS: (Indiscernible.)

25 MS. MAHANEY: So, what the "whereas" initially

1 contemplates is, it acknowledges and provides space for the
2 delta watershed-wide voluntary agreements that were
3 discussed today. It acknowledges though, that if the Board
4 adopts plan amendment today, that any future proceeding
5 would require additional public process, including the
6 requirements and the public participation requirements
7 under Porter-Cologne and the Clean Water Act, as well as
8 CEQA. So those existing requirements would apply to any of
9 those future proceedings.

10 And then as Board Member D'Adamo pointed out,
11 regulatory actions inherently include notice and
12 opportunity, depending on the type of regulatory action,
13 but those, all of the Board's regulatory actions require
14 some sort of notice and public opportunity for engagement.

15 So, it doesn't expressly mention transparency,
16 but it does repeatedly refer to existing regulatory
17 practices and compliance with public participation
18 requirements.

19 CHAIR MARCUS: Part of what I -- in reading this
20 quickly, part of what I see, I think intended, is what
21 we've said for a long time. Was that if an agreement is
22 put together before we're doing the formal review, we would
23 review it alongside, right, as part of the document,
24 because then everybody gets the alternative comparison, et
25 cetera, in one place.

1 This is trying to implement that maybe a little
2 prematurely, because we don't -- we're not saying we're
3 going to evaluate in any way whether we think it's okay or
4 not at some point.

5 We might want to have a -- I'm not trying to
6 create more process, but we might want to indicate that
7 we'll have some sort of a meeting after -- a public meeting
8 after March 1st, so folks can give us feedback before we
9 jump into a process. But we still -- I mean, I don't see
10 anything wrong with evaluating something, I just prefer to
11 have something that's a little broader --

12 MS. MAHANEY: And one --

13 CHAIR MARCUS: -- agreement and engagement --

14 MS. MAHANEY: -- one point of --

15 CHAIR MARCUS: -- if possible.

16 MS. MAHANEY: -- clarification, just so -- and
17 I'm sure the Board understands this. But the discussion of
18 voluntary settlements agreements and -- sorry, voluntary
19 settlement agreements today and the documents produced are
20 not part of the information that's being considered as part
21 of the administrative record supporting the plan amendments
22 in the SED adoption that the Board is considering today.

23 CHAIR MARCUS: For today, no. Of course not.

24 MS. MAHANEY: So, the Board is not deciding
25 whether to act on the Tuolumne River settlement agreement,

1 but whether to provide space in a future process to even
2 consider the proposal as it may be by March 2019.

3 MR. SAWYER: Adding to Ms. Mahaney's comments,
4 I'd like to invite your attention to the resolved language
5 just after the paragraph number. Because that makes clear
6 that there will be a participation process. It's on the
7 board at the bottom of paragraph 21b.

8 MS. SOBECK: If I could just make a comment about
9 potential timing and efficiencies without, you know, any
10 position on which are better or worse.

11 Again, Board Member Doduc, going a little bit to
12 your question. If the directors had not brought forward a
13 VSA today, then maybe we would have been in a position
14 within a few weeks to go forward with the next, with our
15 next, with the next Board action that we've been -- that we
16 previewed in the framework document for the Sacramento, the
17 Sacramento side and the delta.

18 We would have then gone through all of these
19 processes with respect to that Phase II document, and we
20 wouldn't have gotten -- we probably wouldn't have been too
21 far, too much farther along if, you know, we optimistically
22 would have been going through our process and analyses and
23 getting comments and, perhaps, bringing final action to the
24 Board close to the end of next year.

25 If we had come out with a new set of draft

1 documents, and then a VSA had been presented to us, we
2 would then have, perhaps, been directed by you all to then
3 incorporate those VSA's -- that VSA into our document. And
4 there would be some efficiency lost in having sort of put a
5 final -- or a document, a draft document together and then
6 have to add a whole new, potential, alternative and, you
7 know, augment of the analyses and do the comparisons.
8 There are some efficiencies, potentially, for doing that
9 before we put out -- putting out an independent draft.

10 So, I'm not sure. I think it changes, it
11 certainly changes -- it certainly adds, this proposal would
12 add a step that really we couldn't start on, or get too far
13 down the road on, until after we see what the "it" is in
14 March, but we do have a starting point.

15 We do have the documents that have come in today
16 that we would look at. So, I don't think we're going to,
17 we would -- I don't think we would lose as much time as
18 might be anticipated.

19 CHAIR MARCUS: Here's what I would want the
20 opportunity to do. The issue is deciding now, not having
21 analyzed it, et cetera, that we're not going to do
22 something until December 19th on a formal proposal. And so
23 why that date is there, I suppose people think it may take
24 that much time. Maybe it wouldn't take that much time.
25 That's what I'm confused about.

1 MS. SOBECK: I, I'm not sure --

2 CHAIR MARCUS: Because we do --

3 MS. SOBECK: -- I'm not sure, Board Member
4 Esquivel, if we were -- if you were anticipating that a
5 draft document incorporating an analysis of the VSA would
6 not be available before December. I think the -- it would
7 be anticipated that there would be a draft document that
8 analyzed that somewhere before that.

9 CHAIR MARCUS: That's not how I actually read the
10 language, so you'll have to help me with that.

11 MR. OPPENHEIMER: I guess I would also just say
12 that looking at the timelines, it's going to be March and
13 we have sort of a more fleshed out proposal, I don't think
14 December is unreasonable. If we were to take that proposal
15 and incorporate it into our substitute environment
16 document, our staff report as another alternative, that's
17 going to take some time to do.

18 CHAIR MARCUS: A year, or nine months?

19 MR. OPPENHEIMER: That does not sound
20 unreasonable, given the scale and scope of the document and
21 what we're talking about.

22 MR. ESQUIVEL: Well, I think that's where
23 augmenting those resources, you know, we would definitely
24 have to -- again, it sounds like there are resources
25 contemplating insofar as the settling parties contributing

1 to the development of that document.

2 So, I would say that, hopefully, there's an
3 opportunity to --

4 CHAIR MARCUS: So, they would develop --

5 MR. ESQUIVEL: -- to augment it.

6 CHAIR MARCUS: -- the alternative, but we still
7 -- because we weren't planning to propose --

8 MR. ESQUIVEL: Or pieces or how -- you know,
9 again, I think that's more of a conversation --

10 MS. DODUC: If I might --

11 MR. OPPENHEIMER: Well, I guess --

12 MS. DODUC: -- if I might offer a suggestion --

13 CHAIR MARCUS: Yeah.

14 MS. DODUC: -- for a friendly amendment. If we
15 could scroll back down to resolve seven, I think what's
16 giving me pause is the second sentence basically commits
17 staff to incorporate the agreement when we don't even know
18 yet what we might get on March 1st.

19 So, if it is understood that somewhere between
20 the first and second paragraph, that there is, you know,
21 some process in there, because, otherwise, this seems --
22 when I read seven as proposed, it seems to say that we are
23 going to delay our process, and granted, you know, it's
24 already December, March 1st doesn't sound like a long time
25 away, but it's what happens between March 1st and,

1 apparently, as soon as -- as early as possible after
2 December 1st, 2019 that bothers me.

3 Because, depending on what we receive March 1st,
4 it might take another two years to do the analysis and
5 incorporate it, and that would be considered as early as
6 possible after December 1st, 2019.

7 If on March 1st whatever we receive -- if we don't
8 receive anything, I want staff to be able to move forward
9 and present what they have to us as soon as possible, not
10 have to wait until after December 1st, 2019, because I don't
11 know what we will get March 1st.

12 CHAIR MARCUS: Right. Hopefully we would get
13 something, be able to incorporate it.

14 MS. DODUC: Exactly.

15 CHAIR MARCUS: And when you say presented for
16 consideration, that's for decision, not for proposal?

17 MS. DODUC: Right.

18 CHAIR MARCUS: That's where I was getting cutoff.

19 MR. OPPENHEIMER: That's right. That's for
20 the --

21 CHAIR MARCUS: So, yeah. The process would take
22 that long before we would be able to -- right. Okay. I'm
23 feeling a little better about that part of it.

24 MS. DODUC: So, we can just tweak that a little
25 bit. I would be, I would be very comfortable with this if

1 it's, if it's considered as part of the adoption of what's
2 before us today.

3 MS. D'ADAMO: What are you proposing now? I'm
4 trying to follow.

5 MS. DODUC: That there be -- amending on the fly
6 is not easy, so, perhaps, I can ask staff to help out with
7 language. But my concern is that the second sentence,
8 which is a very long sentence, of resolve seven, basically
9 commits staff to incorporate what we receive on March 1st
10 and include it in the environmental document and amendments
11 that will come to us after December 1st, 2019.

12 And my concern is that we don't know at this
13 point what we will receive March 1st. And so by directing
14 staff to go ahead and include it, it might take a very long
15 time to do that, I mean, depending on what we receive.

16 If everything goes well, and, you know, and if we
17 receive an agreement with comparable analysis that can be
18 incorporated, then, yes, I could see this happening very
19 quickly, but it also might not.

20 And so what I'm concerned about is, this,
21 essentially, postpone the Sacramento component of the Water
22 Quality Control Plan Update almost indefinitely, until such
23 time that the watershed-wide agreements could be properly
24 analyzed and incorporated into a proposal for our
25 consideration. So that's --

1 MS. D'ADAMO: I didn't mean to put you on the
2 spot for exact language, but I wanted to better understand
3 what your concern was.

4 Part of the frustration that I have had, and
5 you'll see later when we move to adopt, I think we should
6 look at something else altogether different. And if they
7 have an alternative, I absolutely want to direct our staff
8 that it needs to be included for consideration.

9 MS. DODUC: Well, I think that's where we differ,
10 because I want to see that alternative before I direct
11 staff to include it.

12 MS. D'ADAMO: Well, and I give the resources
13 agencies great deference if they have an alternative. Part
14 of the problem -- and I'm just speaking for myself, our
15 hands are tied. Staff only wanted to, with the direction
16 of the Board, only wanted to look at unimpaired flow,
17 nothing else.

18 So, of course, we don't know what that
19 alternative is going to look like, but I think we can be
20 assured it's going to include flow, non-flow, funding,
21 science, adaptive management. So, I personally don't have
22 a problem at all, without having seen the exact proposal,
23 to direct our staff when you have -- when you're presenting
24 us with, you know, whether it's I, II, or, preferably, the
25 integrated I and II, that it include the alternative

1 watershed-wide agreement. I absolutely would like to see
2 that.

3 MS. DODUC: And while I appreciate your
4 confidence in the resources agency, my concern is, given
5 how long we've worked and try to get things right on the
6 SED, the analysis of that alternative, to the point that it
7 could be incorporated into something that we might
8 consider, it may take a very long time.

9 At which point I, that's where I hesitate,
10 because it's -- I don't know yet what that agreement's
11 going to be, and how it will take to do the analysis for
12 incorporating into the Water Quality Control Plan Update.

13 MR. SAWYER: I don't know if this will help, but
14 let me suggest adding the words, "to the extent feasible,"
15 to the start of the second sentence.

16 So if a settlement is not produced, or it's not
17 something we could adopt, or it will take years and years
18 and years, we're not directing staff to do it, but
19 otherwise we are. So just insert the words, "to the extent
20 feasible" at the start of the second sentence and resolve
21 number seven.

22 MS. DODUC: I'm sorry. So how would that second
23 sentence read?

24 MR. SAWYER: Very long. It would be, "to the
25 extent feasible" --

1 CHAIR MARCUS: Even longer, right?

2 MR. SAWYER: -- "State Water Board staff shall
3 incorporate the delta watershed-wide agreement, including
4 potential amendments to implement agreements related to the
5 Tuolumne River, as an alternative for a future,
6 comprehensive Bay-Delta Plan Updated that addresses the
7 reasonable protection of beneficial uses across the delta
8 watershed, and with the goal of comprehensive amendments to
9 the Bay-Delta Plan across the delta watershed, may be
10 presented to the State Water Board for consideration as
11 early as possible after December 1st, 2019."

12 MS. DODUC: Since this is a Word document, could
13 you type that, please?

14 CHAIR MARCUS: And you can make it into two
15 sentences without too much trouble.

16 MR. SAWYER: That works. I would put a comma
17 after feasible, but --

18 MR. ESQUIVEL: Just a general comment. How do we
19 define feasibility, I guess, and who determines what the
20 feasibility is? And so whose decision point is -- I will
21 just say, I feel it sort of waters down what I think,
22 again, the intent is. And the intent is, this is pretty
23 incredible. Let's put it into part of the analysis. It
24 doesn't weaken, ultimately, the end product, insofar as --
25 if the concern is that it's just not going to pass muster,

1 and it's, you know -- well, that's what the analysis will
2 show.

3 And then that's where, you know, again, this
4 Board's affirmative or otherwise vote on it all, is able to
5 happen. That process is there. I just -- yeah, I just
6 don't know, I don't know what that necessarily does to what
7 is, you know, again, the intent in having that moment,
8 having that analysis, and, you know, being able to take
9 that product and have that discussion, so.

10 MS. DODUC: How about this. I agree that, "to
11 the extent feasible" is somewhat squishy. If we remove the
12 phrase, "to the extent feasible" -- I'm going back to your
13 original proposed language, would it be correct, Board
14 Member Esquivel, if I interpret that as -- so let me roll
15 out a scenario.

16 Suppose on March 1st, 2019 we either don't receive
17 anything, or if we receive something that is, you know, not
18 sufficient for a detailed analysis that could be
19 considered, that the second sentence there does not
20 preclude Board staff from bringing to us what they've
21 worked on the past few years for the Sacramento side for
22 consideration, and so the term, "future comprehensive Bay-
23 Delta Plan Update," could mean an update to whatever the
24 Board adopts for the San Joaquin, hopefully, today, and the
25 Sacramento, potentially in 2019, if what we hope for with

1 these VSA's do not occur by March 1st.

2 MR. SAWYER: I think I can answer that. First
3 let me request that my language be deleted. And then I
4 think that's the intent --

5 MS. DODUC: Okay.

6 MR. SAWYER: -- is that it could be a later
7 comprehensive --

8 MS. DODUC: It could be later.

9 MR. SAWYER: -- amendment. It wouldn't
10 necessarily --

11 MS. DODUC: All right.

12 MR. SAWYER: -- be incorporated into the
13 Sacramento River watershed amendment, depending on the
14 timing, et cetera.

15 MS. DODUC: If Board Member Esquivel agrees that
16 that's the intent, then I can support this.

17 CHAIR MARCUS: Right.

18 MR. ESQUIVEL: That is the intent.

19 MS. DODUC: Okay.

20 CHAIR MARCUS: So the idea is, we can do the
21 Sacramento, but if this all keeps moving, we can use it as
22 a basis for --

23 MS. DODUC: A future update.

24 CHAIR MARCUS: -- a broader update, if it all
25 comes together. But it doesn't mean we have to -- I just

1 don't want to tie our hands in the instance.

2 MR. ESQUIVEL: Sure.

3 CHAIR MARCUS: Okay.

4 MS. DODUC: If that is the entire --

5 CHAIR MARCUS: That was tying me up --

6 MS. DODUC: That's understood, yes.

7 CHAIR MARCUS: -- on the latter part of the
8 sentence. Because it says, "with the goal that" -- so this
9 is resolution action, and what we're showing is that we
10 want them to keep working. And if they give us something
11 by March we'll evaluate it, and then we'll decide what to
12 do with it based on that evaluation.

13 MR. ESQUIVEL: Well, the evaluation -- well, what
14 -- I think the evaluation is taking place in the analyses
15 that staff is doing, and we're directing them to then take
16 that, do that analyses.

17 Again, a draft will have to come up. There will
18 be public process, not unlike that we've seen on Phase I
19 here, but it will be a very different document at that
20 point because it will encompass what is, hopefully the, you
21 know, final details of what these voluntary settlement
22 agreements will be, and allow us for a moment to have that
23 clear-eyed --

24 CHAIR MARCUS: Comparison.

25 MR. ESQUIVEL: -- comparison. The, you know, the

1 crosstalk, if you will, in a very comprehensive way.

2 CHAIR MARCUS: Well, I would just say I think
3 there's more words in here than are necessary to make that
4 point.

5 MR. ESQUIVEL: Lawyers drafted it.

6 CHAIR MARCUS: What?

7 MS. D'ADAMO: Lawyers drafted it.

8 CHAIR MARCUS: Well, I mean, I think it's a
9 distraction. It's a resolution, so I think we can adapt.
10 I think the intent you're discussing is fine. To me, it's,
11 the idea of being able to compare, as an alternative,
12 something that has flow and non-flow, that people are
13 actually proposing, is something we've been open to all
14 along.

15 And I know Board Member D'Adamo would find that
16 more, a more appealing comparison, because we can't --
17 otherwise, we're making a straw one that we can't actually
18 implement without an agreement. And that's just a place
19 where the two of us disagree on what we legally can or
20 cannot do.

21 So, the intent of it I'm fine with. I don't want
22 to find this language being used as a straitjacket. I want
23 to -- and that's really my concern, because I think once
24 people are involved and there's more creativity, we may see
25 even more. I don't want to put cold water on anything.

1 But I would also agree with you, that I'm open to this if
2 we move today. I am not open to this if we do not move
3 today.

4 MS. D'ADAMO: You mean with respect to how I
5 would --

6 CHAIR MARCUS: How you would be--

7 MS. D'ADAMO: -- propose it?

8 CHAIR MARCUS: Yeah. I just would oppose the way
9 you would propose it.

10 MS. D'ADAMO: Right. Well, shall we get on with
11 it?

12 CHAIR MARCUS: With no disrespect intended.

13 MS. D'ADAMO: Yeah.

14 CHAIR MARCUS: I just disagree on the --

15 MR. ESQUIVEL: Yeah.

16 CHAIR MARCUS: (Indiscernible.)

17 MS. D'ADAMO: So, shall we get on with it? I
18 think process-wise, I should --

19 MS. DODUC: I'm sorry.

20 MS. D'ADAMO: -- I mean, I might --

21 MS. DODUC: I'm sorry. A point of correction. I
22 believe a motion has been made.

23 MR. ESQUIVEL: I made a motion for --

24 MS. D'ADAMO: Yes.

25 MR. ESQUIVEL: Yes. And -- but I believe Board

1 Member D'Adamo was expressing a desire to have a sort -- a
2 countermotion insofar as --

3 MS. DODUC: Right.

4 MR. ESQUIVEL: Because my motion is to just
5 adjust the resolution language. That's what this motion
6 would do. It's not to adopt. I'm not asking to adopt.

7 MS. D'ADAMO: Right.

8 MR. ESQUIVEL: It would be just to do that. But
9 before we do that, I think --

10 MS. D'ADAMO: I think, yeah, I think your motion
11 is assumes that we would be --

12 MR. ESQUIVEL: That we would need to --

13 MS. D'ADAMO: -- headed to adoption --

14 MR. ESQUIVEL: Adoption.

15 MS. D'ADAMO: -- and I have a different approach.

16 CHAIR MARCUS: Yeah. Sure. Please.

17 MS. D'ADAMO: In the name of efficiency, to get
18 on with it here --

19 CHAIR MARCUS: So, the efficiency is to make a
20 motion to motion?

21 MS. D'ADAMO: Yes. Well, I might need some help
22 from staff. But what I -- I had previous discussions with
23 staff, but what I understand the appropriate approach would
24 be for me, to make a motion to table the staff proposal,
25 and direct instead staff to integrate Phases I and II. And

1 it's very similar to what Board Member Esquivel laid out,
2 so --

3 MR. ESQUIVEL: What might be cleaner at that
4 point is for me to withdraw my motion. You can make your
5 -- or what procedure-wise --

6 MR. SAWYER: It can be done either way.

7 MR. ESQUIVEL: It doesn't matter.

8 MR. SAWYER: It needs to be done in either order.

9 MR. ESQUIVEL: Okay.

10 MR. SAWYER: Just so long as we're clear as to
11 what the motions are.

12 MR. ESQUIVEL: Okay.

13 MR. SAWYER: Board Member Esquivel's motion was
14 not a motion to adopt the resolution --

15 MS. D'ADAMO: No.

16 MR. SAWYER: -- it's a motion to amend the
17 resolution.

18 MR. ESQUIVEL: Amend the resolution.

19 MR. SAWYER: So that could go either way. And if
20 a board member wanted to support this, but then didn't like
21 the resolution, the board member could vote yes and no on
22 the other.

23 MR. ESQUIVEL: Sure.

24 MR. SAWYER: Or, alternatively, we can have what
25 Board Member D'Adamo is now proposing, is a motion in the

1 way of the substitute, to postpone indefinitely --

2 MR. ESQUIVEL: Okay.

3 MR. SAWYER: -- the item on -- before the Board
4 today, with direction to staff to prepare a combined
5 Sacramento-San Joaquin River watershed amendment to the
6 Bay-Delta Plan.

7 MS. D'ADAMO: Yes. And I'll just read this
8 quickly. There are just a couple of bullet points. And
9 that the motion would also include direction to staff to
10 work with the Natural Resources Agency and settling parties
11 to support completing a delta watershed agreement no later
12 than March 1. So, in that regard it's similar.

13 Direct staff to integrate CEQA and Porter-Cologne
14 water quality analysis on the San Joaquin River,
15 Sacramento, and entire delta watershed, relying on the
16 voluntary agreement framework presented today by the
17 Department of Water Resources and the Department of Fish
18 and Wildlife.

19 And lastly, encourage all the parties and staff
20 to complete the analysis so a delta watershed-wide update
21 to the Bay-Delta Plan could be presented to the State Board
22 for consideration as early as possible after December 1st,
23 2019.

24 So, again, aligning with the dates to what Board
25 Member Esquivel has proposed.

1 CHAIR MARCUS: Can I ask a quick question, and
2 this relates to the other one. And this is also from not
3 understanding this. What is the significance of the
4 December 1, 2019 date? Is that supposed to be an attempt
5 to go faster or an attempt to have something go slower?

6 MS. D'ADAMO: So, I am just aligning these dates
7 with what Board Member Esquivel has, because -- and I know
8 you're uncomfortable relying on the outline that -- of
9 dates that we've been given, but I'm just deferring to the
10 timeframes that have been outlined today by the resource
11 agency.

12 CHAIR MARCUS: Right.

13 MR. ESQUIVEL: Yeah. Likewise.

14 CHAIR MARCUS: Board Member Esquivel, you can --

15 MR. ESQUIVEL: My dates are --

16 CHAIR MARCUS: I'm sorry. I'm just not following
17 it, because I was spending (indiscernible) --

18 MR. ESQUIVEL: Yeah. No, my dates are also just,
19 you know, from what we're seeing here, insofar as the
20 terms, what they've sort of outlined. But, again, the
21 reality is that -- and I'm sure these dates are, you know
22 -- anyway. That's why --

23 CHAIR MARCUS: It's not intended to make it go
24 slower than it might otherwise?

25 MR. ESQUIVEL: No, it's not. No. And, again, to

1 the extent if we're successful here, implementation begins
2 the following year, you know, we're getting straight to
3 that implementation on these, but --

4 CHAIR MARCUS: No, that's right. Because if it
5 works --

6 MR. ESQUIVEL: Yeah.

7 CHAIR MARCUS: -- out, then you might have a --

8 MR. ESQUIVEL: You might have a --

9 CHAIR MARCUS: -- substitute for implementation?

10 MR. ESQUIVEL: Yes. Yeah.

11 CHAIR MARCUS: Right, which would be faster.

12 MR. ESQUIVEL: Yeah. But, no, not meant to
13 ultimately slow down. Or if there is any, it's, I think it
14 will be nominal, given the times that we have built in
15 anyway.

16 CHAIR MARCUS: Okay. Sorry. I should have asked
17 that question before. I'm still having trouble with it.

18 All right. Is there a second to that motion to
19 table? I don't think I have a second for the motion to
20 table, so --

21 MS. D'ADAMO: Okay. All right.

22 MR. SAWYER: Strictly speaking, our rules do not
23 require a second. If Board Member D'Adamo wants a vote on
24 her motion, she can --

25 CHAIR MARCUS: All right. Okay.

1 MS. D'ADAMO: That's interesting.

2 CHAIR MARCUS: How about that one? What's your
3 preference?

4 MS. D'ADAMO: Yeah, I would. Yes. Yes.

5 CHAIR MARCUS: All right.

6 Any further discussion?

7 MR. ESQUIVEL: Just that I know Board Member
8 D'Adamo's intention here is to add to the good faith and
9 try to keep people in a productive space.

10 And there is concern that if the Board is to
11 adopt Phase I, even with, you know, good acknowledgement
12 for folks on the Tuolumne, that they're not protected in
13 this. And that, you know, it will lead to lawsuits and
14 lead to actually not a successful moment here that I think
15 we're all trying to build toward.

16 But I think that, again, as I -- my comments
17 earlier, I think that there's -- I certainly feel that
18 Board adoption actually builds that momentum, builds
19 greater certainty in all this. Allow us to cap off Phase I
20 insofar as 180-day comment period, you know, so many
21 months' worth of work, and analysis that has gone through
22 two peer reviews and is there.

23 So, you know, I think that moving to adopt Phase
24 I allows us to pivot then and say, you know, and -- but
25 still protect and incorporate Tuolumne insofar as the

1 language that was proposed. So, again, I strongly
2 acknowledge what Board Member D'Adamo's trying to do and
3 her concerns as to what it might mean to all this.

4 But I think we -- I'm hoping that folks are a
5 little more creative and understanding in all this, and
6 actually do see it as a necessary step for us as a Board to
7 have credibility, as we kind of march forward in wanting to
8 build public process around what is still sort of a VSA
9 that is amongst a few.

10 MS. D'ADAMO: Thank you. And I don't want to go
11 through the reasons why. I think I already did that early
12 on. But just to say that I have spent a lot of time with
13 not just the irrigation districts, but individual board
14 members. And when they tell us that they have to walk
15 because we adopt, I believe that.

16 I know that for those -- and I see, you know, a
17 number of leaders in the audience here today, they've
18 really gone out on a limb. And when they take this to
19 their boards and say, you know, this, this is what they
20 have negotiated, I know that those are very tough
21 decisions.

22 And when they tell us that their boards are not
23 supporting going forward once we adopt, or if we adopt, I
24 have to believe that that's the case. And, again, going
25 back to what I said earlier, I just feel so strongly about

1 getting these measures in place. It's so exciting to see
2 next year, but I think it's going to slip through our
3 hands. So, that's my intention here.

4 MR. MAGUIRE: I just want to say before we get
5 too far along here in this process, that I've now been a
6 Board Member for more than one week.

7 CHAIR MARCUS: A veteran.

8 MR. MAGUIRE: One week and almost two hours. But
9 during that time I have spent extensive time reviewing the
10 record before us. I have spoken with stakeholders, I have
11 reviewed the transcripts and the webcast, recorded videos
12 from the past several meetings that presented on the Phase
13 I proposal, and I've looked at the comments that were
14 received, and the responses that were -- the very extensive
15 responses that were provided by staff, and so I'm very
16 appreciative of that.

17 And I just wanted to say that I do feel
18 comfortable proceeding with a vote, you know, at this time,
19 although it's not without reservations. You know, I --
20 some of the things have jumped out to me just in the short
21 time that I've had an opportunity to look at this. I'm
22 having a hard time untangling in my mind how groundwater
23 impacts might be addressed in the long run. I mean,
24 they're clearly documented in the plan, but they will and
25 do exist, and we all hope that SGMA will help address those

1 going forward. But it's not clear to me how those will be
2 balanced in the long term.

3 I still am having trouble understanding how, if
4 we have another multi-year drought, how those issues will
5 be addressed and resolved. I know that there's some
6 provisions for emergency offramps in the Water Quality
7 Control Plan. But, still, it's, those are just questions
8 that I have.

9 And then I know that there's lots of conjecture
10 about the science. That there's differences of opinion
11 about the habitat benefits, about the temperature benefits
12 that might be provided in different stream reaches and
13 where those flows are optional.

14 And so where I take comfort is in understanding
15 and appreciating the program of implementation and the
16 adaptive management framework that's been built into the
17 plan as it's been proposed. That the volumes -- the water
18 is a flexible budget that can be shaped and shifted as
19 needed. Some of those flows can be extended to other times
20 of the year, where necessary, to provide that cold-water
21 benefit for fish.

22 And so I think staff and the proposal that's
23 before us, and I'm sure all of these things have been said
24 before, but I feel compelled to share with you now that I
25 do have an opinion about this. And I think that there is

1 just a great amount of flexibility and ability to
2 incorporate a wide variety of scenarios.

3 And I'm hopeful that things like the STM work
4 group do come to fruition and is a -- does foster a
5 productive dialogue amongst the parties, to make good,
6 sound operational decisions for these rivers in the future.

7 I just, at this time, I feel that that's -- this
8 is progress that represents nine years of work. The rivers
9 need to see water. I want to see these VSA's come to
10 fruition. That's why I'm excited about the language here,
11 and that there is still hope that there's an opportunity
12 and a pathway forward. I still think that exists. And --
13 but nonetheless, this is the time.

14 CHAIR MARCUS: Good. I think this is an extra
15 offer in way that's really interesting to wrap your head
16 around. I do think we've been encouraging and wanting
17 voluntary settlements as an alternative way to implement.

18 I do have to say, I understand Board Member
19 D'Adamo's concern. I do have to say that on the one issue,
20 my view, having -- and we all have our experience over
21 however many decades we've been doing this work, is that my
22 whole life has been around settling.

23 And I, while I like the fact that we have tried
24 to get these before and integrate in the proposal, that's
25 actually going above and beyond what I've seen anyone do.

1 Generally, it happens after we've proposed, and then where
2 we finalized, and then it says -- it can either be in the
3 litigation or in a subsequent voluntary agreement.

4 I think if folks feel the need to sue on all
5 sides, I mean, I feel like I've been the recipient of
6 lawsuits or invoker of lawsuits, and neither of them have
7 kept me from settling anything I actually wanted to settle,
8 based on what was in the interest of my entity or my
9 client, based on finding people across the table that I
10 could talk with.

11 And so my view is if people say, if they have to
12 litigate they'll leave the table, they were never
13 interested in really being at the table. That's just my
14 experience on that.

15 And so I would encourage everyone to stay
16 engaged. And if they walk away, then it wasn't really real
17 anyway, particularly since we have to vet and share and
18 have -- be transparent about anything we accept. And I
19 think we've gone out of our way to try and give multiple
20 opportunities over the years. And it's just unfortunate
21 that folks have miscast and misconstrued what our intent is
22 along the way.

23 On the other hand, you know, I'm delighted that
24 progress has been made, it just -- I just need to see the
25 full, the full story, and everybody else does as well. I

1 do think that is the path we genuinely want to be able to
2 go down, but we need to be able to review. And I don't see
3 going final as precluding it, certainly in my intent or
4 staff's intent.

5 And if we get something that is, that requires --
6 this opens the door to -- gives us enough of a there there
7 that we can study and revise, then so be it. But to do it
8 in the abstract I think just invites further delay. I
9 think it's been a long time coming for us to make a
10 decision.

11 So I'm happy to be flexible in agreeing to study
12 things, and in helping have staff -- welcome having staff
13 be able to explain what we need under our statutes in order
14 to be able to say yes to something, and try and be as
15 helpful as possible. But I also think we need to act
16 today, in order for me to feel good about moving along the
17 next path after all this time.

18 MS. D'ADAMO: Understood. I just have to take
19 issue with one thing that you said. And, you know, maybe I
20 misunderstood it.

21 But parties that negotiated in good faith, that
22 said that part of their agreement was that if we adopted,
23 they would pull the agreement. I don't take that to mean
24 that they never really meant it to begin with.

25 CHAIR MARCUS: No, that's not what I said.

1 MS. D'ADAMO: Okay.

2 CHAIR MARCUS: If folks say if they have to
3 litigate, they can't continue talking, I don't buy that.

4 MS. DODUC: Two lawyers are getting into it.

5 MS. D'ADAMO: Yeah -- no. I mean, if the
6 situation --

7 CHAIR MARCUS: That's all. I'm sorry. I'm glad
8 you're correcting it, because that's not what I intended.

9 MS. D'ADAMO: Yeah. I mean, it's plain and
10 simple, you know, maybe for me, because it gets down to
11 just reading the SED and knowing what's in it.

12 So, if you've taken something to your board, akin
13 to what the TID, MID and the city and county have, that is
14 flow, non-flow -- and you saw the chart that, I think it
15 was Chris Shutes, you know, that put the chart up. And you
16 take that to your board and the board is reluctant because
17 they're at risk.

18 This is in a period of climate change and SGMA
19 giving something up, and if hanging over their head is
20 something as high as a 50-percent of unimpaired flow, that
21 is a bridge too far. So, that is my understanding why the
22 districts included in their negotiation a statement, that
23 if we adopt the SED, that they would pull the agreement.
24 That's my understanding.

25 MS. DODUC: Well, gee --

1 CHAIR MARCUS: That's a -- he'll be back.

2 MS. DODUC: I was actually going to impose myself
3 between two attorneys and ask Board Member Esquivel if he
4 wanted to amend his motion. And --

5 CHAIR MARCUS: Well, why don't we take a five-
6 minute break?

7 MS. DODUC: So why don't we take a five-minute --

8 MR. SAWYER: I don't think that's in order until
9 we vote on the motion in the floor, which is to postpone
10 indefinitely.

11 MS. DODUC: I --

12 MR. SAWYER: And then after we vote on that --

13 MS. DODUC: Okay.

14 MR. SAWYER: -- then we'll be back --

15 MS. DODUC: Well, he's back. All right.

16 MR. SAWYER: -- on Board Member Esquivel's
17 motion.

18 MS. DODUC: Why don't we go ahead and vote on the
19 motion that is before us.

20 CHAIR MARCUS: All right. All in favor?

21 MS. D'ADAMO: I.

22 CHAIR MARCUS: All opposed?

23 MS. DODUC: Nay.

24 UNIDENTIFIED MALE SPEAKER: Nay.

25 UNIDENTIFIED MALE SPEAKER: Nay.

1 CHAIR MARCUS: Okay. The motion doesn't carry.
2 So what's the next thing you wanted to do?

3 MS. DODUC: And at this time I would like to ask
4 Board Member Esquivel if he would like to amend his motion
5 to include adoption of the entire resolution with his
6 proposed language, and with the correction that Ms. Mahaney
7 made to new, where he asked, 21b.

8 MS. MAHANEY: Just to clarify. This is the
9 motion to amend the resolution? Okay.

10 MR. ESQUIVEL: That was what your -- well, I --

11 CHAIR MARCUS: Say that again.

12 MR. ESQUIVEL: Yeah, yeah, yeah. Well, if you
13 were asking me to amend my motion for the resolution to
14 incorporate, then just the entire --

15 MS. DODUC: Before you motion was just to add
16 this language --

17 MR. ESQUIVEL: Yeah.

18 MS. DODUC: -- and I wanted --

19 MR. ESQUIVEL: If you want -- we want to do it
20 all.

21 MS. DODUC: Please.

22 MR. ESQUIVEL: Well, I do want to just ask Board
23 Member D'Adamo. She may want to support the changes to the
24 resolution, but not --

25 MS. D'ADAMO: Yes. Yeah.

1 MR. ESQUIVEL: -- ultimately. So, I still want
2 to parse it out.

3 MS. DODUC: I see.

4 CHAIR MARCUS: Yeah. I think that's a good idea.

5 MS. DODUC: Okay. Got it. Thank you.

6 MR. ESQUIVEL: Yeah. Just so -- because,
7 otherwise, she wouldn't have an affirmative vote --

8 MS. DODUC: Right.

9 MR. ESQUIVEL: -- on the language on the
10 voluntary settlement side.

11 So, move adoption of the proposal, the proposed
12 changes to the resolution with corrections that Ms. Mahaney
13 had pointed out.

14 MS. DODUC: So that would be a move to add this
15 language to the resolution?

16 MR. ESQUIVEL: Yes.

17 MS. MAHANEY: That's -- just to be absolutely
18 clear.

19 MR. ESQUIVEL: Move to amend the resolution
20 language.

21 MS. MAHANEY: Yes. It's a motion to amend the
22 resolution with this language and correcting the
23 typographical error. It is not a motion to adopt the plan
24 amendments or the SED. It's just --

25 MR. ESQUIVEL: Yes.

1 MS. MAHANEY: -- it's a motion to amend at this
2 point.

3 MR. ESQUIVEL: Thank you.

4 CHAIR MARCUS: All right. I understand that I
5 don't need a second. Any further --

6 MR. ESQUIVEL: This is going to be revolutionary,
7 I guess, to what we do up here, but --

8 MR. SAWYER: Just for clarification. Often --

9 CHAIR MARCUS: I wasn't here for OTC, so I'm
10 not --

11 MR. SAWYER: -- if there's no second, the member
12 withdraws the resolution. But I felt in this case, Board
13 Member D'Adamo really wanted to vote on it.

14 CHAIR MARCUS: Yeah.

15 MR. SAWYER: But ordinarily, if there's no
16 second, it's withdrawn. So you can still ask for a second,
17 it's just the board member --

18 CHAIR MARCUS: All right.

19 MR. SAWYER: -- can say, I don't want --

20 CHAIR MARCUS: Is there a second?

21 Thank you, Mr. Sawyer.

22 Yeah. It's only -- you're the only one who lived
23 through the 11 -- or 22 motions it took to do OTC, so I
24 just had --

25 MS. DODUC: Let's not do that again, please.

1 CHAIR MARCUS: I have not experienced that
2 before.

3 So, is there a second?

4 MR. ESQUIVEL: I'll second the motion.

5 CHAIR MARCUS: Great. Is there any further
6 discussion? All in favor?

7 UNIDENTIFIED FEMALE SPEAKER: I.

8 UNIDENTIFIED MALE SPEAKER: I.

9 UNIDENTIFIED MALE SPEAKER: I.

10 CHAIR MARCUS: All right. That carries.

11 Next --

12 MR. SAWYER: Before you consider the motion to
13 adopt the resolution, I think we have at least two changes.

14 CHAIR MARCUS: Yeah.

15 MR. SAWYER: One is on page 48 of appendix K,
16 where we discussed earlier substituting the language,
17 "could include among others," in lieu of "include without
18 limitation."

19 And then we had the language that was presented
20 in the staff presentation, clarifying that there have not
21 been changes that have a significant change in
22 environmental effect.

23 UNIDENTIFIED FEMALE SPEAKER: Could we put
24 that --

25 MR. SAWYER: Do we -- could we put --

1 UNIDENTIFIED FEMALE SPEAKER: (Indiscernible.)

2 MS. WON: Well --

3 MR. SAWYER: Are there any other --

4 MS. WON: I think we want to amend that further,
5 because --

6 MR. SAWYER: Okay.

7 MS. WON: -- the resolution has been amended.

8 So, I've been working on change sheet number
9 four. I could e-mail it to Jeanine. Maybe you can put it
10 up?

11 CHAIR MARCUS: Okay. So maybe we should do our
12 five minute -- let's do a five-minute break, and you can
13 include that little -- the word change that you said was
14 okay from Ms. Webster, or we can just say that?

15 MS. MAHANEY: And just for clarification, the
16 staff proposal does include change sheets one, two and
17 three already.

18 CHAIR MARCUS: Right.

19 Five minutes to sort of tee up what our next set
20 of discussions are.

21 (Recess taken from 6:08 p.m. to 6:21 p.m.)

22 CHAIR MARCUS: I want to figure out the best
23 procedure, because Board Member D'Adamo does have other
24 motions or amendments. And I want to make sure we get them
25 -- we take them one at a time and discuss them. Is that

1 alright? Yeah.

2 MS. TOWNSEND: So ready, or did you want to have
3 staff go first on what they were walking us through?

4 CHAIR MARCUS: Do you want to walk -- are you
5 fine with that, having them walk through where we're at?
6 Okay. Go ahead and do the stuff -- sorry, you just took it
7 down, that you worked on, but then we're not going to,
8 we're not going to vote on anything, we're going keep
9 going.

10 MS. WON: Do you want to read it? It's up to you
11 guys. You tell me which one. We need the one that --

12 MS. TOWNSEND: We need the PowerPoint
13 (indiscernible.)

14 MS. WON: Do you want to read it or do you want
15 me to go over it?

16 CHAIR MARCUS: Well, why don't you go over the
17 changes --

18 MS. WON: Okay. So, the first --

19 CHAIR MARCUS: -- since we're all looking at.

20 MS. WON: -- so, the first change is, similar to
21 the change that Erin Foresman made this -- mentioned this
22 morning in her PowerPoint presentation, basically to say
23 that the changes made through the change sheets, as well
24 the resolution today, do not implicate new, significant
25 environmental impacts or a substantial increase in the

1 severity of the effects disclosed in the SED.

2 And then the second change relates to Ms.
3 Webster's requested change on page 48 of appendix K, to
4 change the words -- excuse me.

5 CHAIR MARCUS: Okay.

6 MS. WON: "Could include without limitation to
7 what" -- excuse me. To change, "include without
8 limitation" to "could include among other things."

9 CHAIR MARCUS: Right. Okay. Great. So then we
10 have that sitting there, but we don't need to do any voting
11 on that. I'd rather do everything -- you'll keep track in
12 case there's more we add. Is that all right? Do I have
13 that? Okay.

14 MS. D'ADAMO: Ready?

15 CHAIR MARCUS: Yeah. Take it away.

16 MS. D'ADAMO: Okay. So, I have two amendments to
17 the SED. Actually, appendix K, starting with the first
18 amendment, is to remove, "June excepting wet years."
19 Remove the month of June. And we've had quite a bit of
20 discussion about this issue.

21 The reason that I am -- I continue to advocate
22 for it is because of the lack of fish presence in June.
23 But I am changing this from, you know, my previous request
24 because, initially, I had pushed for removal of "June"
25 entirely. And I was persuaded after looking at the

1 modeling that's been done. There are at times fish moving
2 in June, but it's in wet years.

3 So, looking at the models that staff had
4 presented us, or the information that staff had presented
5 us, fish are not present in June except for wet years.
6 Ninety-percent of that -- ninety-seven-percent have out-
7 migrated. Again, not looking at wet years, but all other
8 year types.

9 And for those that do remain, water temperatures
10 are very high in June, and I think we have to expect not
11 just the water users to use water wisely but including what
12 we're doing here with these flows.

13 And, lastly, I don't think June is justified
14 because of the highest water costs of any month, the
15 highest water cost is in June. Forty-percent of the water
16 costs are in June, and this is the primary month that water
17 agencies are diverting water directly for either irrigation
18 or for storage.

19 Additionally, Merced Irrigation District -- you
20 know, we have a VSA from the, on the Tuolumne, but we don't
21 yet on the Merced and we don't yet on the Stan. And there
22 are unique situations with respect to both the Merced and
23 on the Stan. The Merced does not have rights to divert
24 storage past June. So, June is very important for the
25 Merced. And the bureau, likewise, does not have rights to

1 divert to storage past June.

2 So, I think for the combination of those reasons,
3 we should consider the removal of "June" in our all year
4 types, except wet years.

5 CHAIR MARCUS: Do I -- is there a second?
6 Discussion, questions? I'll probably turn to staff to talk
7 about that as well. I have some thoughts, but --

8 MS. DODUC: I cannot support that. I think we've
9 had this discussion with respect to June. And June is an
10 important month. There's never been the flows there, and,
11 perhaps, you know, they're there in wet years just because
12 there's water there in wet years. So, I -- no. I'm sorry,
13 I can't support that.

14 CHAIR MARCUS: Is there questions or thoughts? I
15 really do see it as a block of water that folks can move,
16 depending on what happens. But when we think about trying
17 things, I do think, from the conversations I've had, that
18 you -- if there were more water there in June, you might
19 well see the fish, but you might not, depending on the
20 years. And what we really want is a group to manage it,
21 but I do think, also, in implementation we'll see.
22 Hopefully, we'll see more VSA's. So, I'm not inclined to
23 support, although I understand the sentiment and intention
24 behind it, I don't feel comfortable doing that.

25 Is there anything that you all want to add on

1 that? It changes the whole thing.

2 MS. FORESMAN: I guess I would just reflect what
3 Board Member Doduc said, was that this -- we covered June
4 flows on January 3rd of 2017.

5 And the reasons to have June flows in the plan
6 amendment proposal, and we can go over some of those
7 reasons. Some of them were already described. But fish
8 are still in the system. It is part of establishing that
9 block of water, and we are also relying on the San Joaquin
10 to contribute to delta outflow.

11 We also heard testimony from Department of Fish
12 and Wildlife, who very much underscored that June flows are
13 important for full life history expression for the species
14 in the system. I'm not sure what -- we can pull up those
15 slides or we could also check in with the biologists.

16 But it's my understanding that those are the
17 primary reasons that we want June. It is part of this very
18 important spring season and it's part of the proposal
19 because it's important for fish.

20 MS. D'ADAMO: We're relying on the San Joaquin
21 for delta outflow? That's in our proposal?

22 MS. FORESMAN: Delta outflow, when we have the
23 Sacramento update to the Bay-Delta Water Quality Control
24 Plan, we have stated in the past --

25 MS. D'ADAMO: But that's not what's before us.

1 MS. FORESMAN: Correct. We've stated in the past
2 that we are not coming back to the San Joaquin.

3 MS. D'ADAMO: I realize that --

4 MS. FORESMAN: (Indiscernible.)

5 MS. D'ADAMO: -- but that has not been -- it has
6 not -- this is one of the criticisms that I have that staff
7 advocates. So that is not what is before us. We don't
8 have delta outflow as part of the package that's before us.
9 So I understand that some may desire that, but that's not
10 -- that hasn't been analyzed, correct?

11 MS. FORESMAN: So I would go back to the
12 narrative objection then, and just provide a reminder that
13 the narrative objective requires maintaining inflow
14 conditions from the San Joaquin River watershed at
15 Vernalis, sufficient to support and maintain natural
16 production of viable native, San Joaquin River fish
17 populations migrating through the delta.

18 MS. D'ADAMO: Yeah. Okay. Well -- and I
19 understand it's a block of water, so I'm going to look into
20 my crystal ball. June is going to be shifted. It's -- the
21 purpose of June is to get a higher block of water.

22 June will be shifted in all year types, except
23 wet years, in order to get a greater block of water.
24 Because it's not a wise use of water when those
25 temperatures are high.

1 So, that's my prediction, that that's what we're
2 going to see and -- with VSA's. I don't think we're going
3 to see June, because even if you go back and look at the
4 2010 flow-criteria report, several NGO's, and even some
5 resource agencies, suggested March through May. They
6 didn't include June. If you look at the San Joaquin River
7 restoration agreement, it doesn't include June.

8 So, June got added in to increase the block of
9 water. And it does seem that in certain year types it can
10 be justified. I will acknowledge that. You know, I'm
11 trying to be open-minded on this one.

12 I haven't been at all open-minded on June, but I
13 have been persuaded in wet years. So, yeah, that's where I
14 think things are going to go. I see that the support is
15 not here, but I am -- if I were a betting person, I would
16 money on this, that it's not going to be used for June.

17 MR. MAGUIRE: Is that -- so I'd like to actually
18 ask a little more information, because I am fairly new to
19 this.

20 So, is that true that in June, especially in
21 drier year types, that there's less benefit, temperature
22 benefit during those times?

23 MS. FORESMAN: So we can go back and look at some
24 of our temperature profiles. But in very dry years you
25 have less water in the system, so you will see temperature

1 profiles go up faster, for the simple reason that there is
2 less water in the system.

3 Tell me your question again. I just want to make
4 sure --

5 MR. MAGUIRE: Are there fish in the system in
6 June?

7 MS. FORESMAN: Yes, there are fish in the system
8 in June. There are steelhead in the system in June. It is
9 true that fall-run Chinook salmon migrate out of the system
10 earlier. This might be a good chance to check in with our
11 biologist to see if they have anything else they want to
12 contribute about June.

13 MR. WORTH: Yeah. If, possible, I'd like to pull
14 up a figure and mass responsive 3.1. If we can pull up a
15 figure. Figure 3.1-29.

16 MR. GROBER: And while that's coming up, I would
17 just like to add. I think Board Member Doduc really hit it
18 with -- we don't know what can happen in June --

19 CHAIR MARCUS: Right.

20 MR. GROBER: -- if we haven't had the flows to
21 provide it.

22 CHAIR MARCUS: Right.

23 MR. GROBER: And it's all about providing the
24 flexibility. And at the core of this proposal, what's
25 before you today, is to not constrain, lock ourselves into

1 limited flexibility, it's to make it expansive. And Board
2 Member Maguire, you were asking about what, you know, a dry
3 year is. The program of implementation allows us great
4 flexibility, so that we're not going to be wasting water.
5 But if fish are present, it's available in June to expand
6 the lifecycle, you know, availability and the genetic
7 diversity.

8 And if it's not optimal for June, just as Board
9 Member D'Adamo says, it will be shifted forward or back.
10 But there's a continuum there between dry years and
11 middling years. And we're just using a budget to provide
12 the greatest functional flows for when they're most needed.

13 CHAIR MARCUS: Right. And there are a host of,
14 host of decisions that folks will make about it. We heard
15 a lot of testimony about the importance of the range, as
16 opposed to overly constraining it, because there are fish
17 in the system across a number of months, and you want
18 genetic life diversity.

19 So you don't want to just say, okay, this month,
20 the fish that can survive in this month is the one we get.
21 You want to get a broader range. Sometimes the early
22 months are going to be useful, because you're going to get
23 fry that go out there and they can survive in flux. But
24 the ideal would be to have folks on a system consulting
25 about what to try and do in a given year.

1 And so that's -- unfortunately, the flexibility
2 that we're giving in this proposal is a little scary to
3 some people, who would rather have it nailed down with
4 certainty. So there's a tradeoff there. But what we're
5 pushing for is more of the genetic diversity, so that we
6 get a hardier salmon stock. But the suggestion is not that
7 folks are just going to toss the water away.

8 MR. MAGUIRE: Yeah. It just sounds like there's
9 questions as to how that water could be best used, and if
10 it's actually in the month of June or another time. And
11 so, I appreciate Board Member D'Adamo's comments, that it
12 is a significant amount of water costs during that time.
13 So, I'm just, want to make sure I understand why that's
14 included.

15 CHAIR MARCUS: Sorry, Mr. Worth.

16 MR. WORTH: Yes. I just wanted to bring this
17 figure up, just to talk about fish, other than fall-run
18 Chinook salmon.

19 This is a figure of O.mykiss or steelhead or
20 rainbow trout. They go by different names. But this is a
21 figure of O.mykiss that are captured in the Oakdale Rotary
22 Screw Trap between 1995 and 2009. And we see young of the
23 year O.mykiss kind of on that band that's on the bottom.
24 They're about 50 millimeters to 100 millimeters in fork
25 length. And we see those young of the year O.mykiss, they

1 spawn later than fall-run Chinook salmon. And then so they
2 hatch a little bit later. And we see those young of the
3 year O.mykiss traveling downstream later into the year.
4 And we see quite a few captured in May into June, even into
5 July.

6 And -- so I think that considering other native
7 fish species, other than fall-run Chinook salmon, is
8 something that's important to keep in mind. Also, we see
9 different migratory phenotypes of fall-run Chinook salmon.
10 We see fry, parr and smolts.

11 When you look at the grand total of fish, of
12 Chinook salmon that migrate down the river, a very small
13 percentage of them migrates in June under historical
14 conditions. But when you look at, just at smolts, one of
15 those migratory phenotypes, we see that larger percentages
16 of them migrate in June, and we have a figure in appendix C
17 that shows smolt migration patterns.

18 And so, different migratory phenotypes are
19 important for conservation, and we see some of those
20 migrate in June for fall-run Chinook salmon. And then
21 O.mykiss, we see significant migration in June. And also
22 there's white sturgeon that spawn February to June. And
23 they spawn -- they've been collecting eggs, and they find
24 them in April-ish. And so protecting their eggs which
25 hatch and then migrate downstream is also another

1 consideration. So I don't think June is just there as a
2 block of water. I think there's a variety of native
3 species that migrate in -- or that have use -- or that
4 benefit from suitable habitat conditions in June.

5 MR. MAGUIRE: Thank you for that explanation.
6 That's helpful.

7 MS. D'ADAMO: So, the information I have is that,
8 except for wet years, 97-percent of the fish, the salmon,
9 have out-migrated by June. And that's information that I
10 gathered as a result of many pointed questions that I've
11 had with staff regarding this issue of wet years and other
12 year types.

13 And the only thing that I would say on this
14 O.mykiss, this is way over my head. But it's my
15 understanding that with respect to the steelhead issue, or
16 resident rainbow trout, that there is a presumption that
17 what's on the stand is steelhead, but that that issue has
18 not been resolved.

19 And so, you know, there are fewer numbers in
20 June. And, again, you know, we're supposed to be balancing
21 the beneficial uses. That's a lot of water for very few
22 fish. And I do understand and agree with you, Chair
23 Marcus, regarding genetic diversity. So if we were only
24 looking at the issue of public trust resources, sure, yeah,
25 genetic diversity, but we're having to pick and choose. I

1 think that the -- what we'll see with the VSA's -- I mean,
2 you could see that, even today, Director Bonham was
3 focusing really on certain months, pulse flows certain
4 months. You know, trying to achieve goals with, you know,
5 a limited use of water, so.

6 CHAIR MARCUS: Well, yeah, I see that. And I
7 think that's one that reasonable minds can differ on. I'm
8 hoping that through the process that we've talked about in
9 the motion and doing that analysis, we can see the
10 difference and review it. But I -- your point is duly
11 noted and it's actually an issue to watch very closely in
12 my book. Fair point.

13 All right. Do you want me ask for a vote?

14 MS. D'ADAMO: Vote, yes.

15 CHAIR MARCUS: All right. All in favor of the
16 motion?

17 MS. D'ADAMO: Aye.

18 CHAIR MARCUS: All opposed?

19 MS. DOCUD: Nay.

20 MR. ESQUIVEL: Nay.

21 MR. MAGUIRE: Nay.

22 CHAIR MARCUS: All right. What's the next one?

23 MS. D'ADAMO: Okay. I have one more, but I need
24 to find it.

25 CHAIR MARCUS: Okay. Take your time.

1 MS. D'ADAMO: Somehow I misplaced it. Okay. The
2 last amendment is on critical and sequential dry year
3 relief. I have a motion to substitute a pulse flow of
4 1,500 cfs during the April-May timeframe in critically dry
5 year types. And that would be instead of the 40-percent of
6 unimpaired flow.

7 The critical year relief shall provide for a
8 reduction of the percentage of unimpaired flow, and instead
9 include a pulse flow of 1,500 cfs.

10 CHAIR MARCUS: As a substitute?

11 MS. D'ADAMO: Yes, as a substitute. And as we
12 learned from the -- a number of times that we've had the
13 public water agencies in here talking about impact of our
14 plan on their operations, just focusing on the irrigation
15 districts, the City of San Francisco talked about, you
16 know, water rationing, you know, at a certain point. But
17 just focusing on the irrigations districts, because that's
18 where most of my work has been done here, the plan results
19 in zero to near-zero water deliveries.

20 Modeling in the SED shows zero water deliveries
21 for Stockton East and Central San Joaquin. Central San
22 Joaquin Water Conservation District in 30-percent of the
23 years. And this will undoubtedly reverse years of progress
24 in the East San Joaquin basin on sea water intrusion and
25 degradation to the groundwater quality, and also water

1 levels.

2 And we did hear from each irrigation district, I
3 think it was all of them except for Oakdale Irrigation
4 District, that they would end up with zero to near-zero
5 water deliveries in either the second or third sequential
6 dry year.

7 So we had a lot of discussion about this, and I
8 remember Board Member Moore, you know, initially indicated
9 that he thought that something needed to be done in this
10 area. But that on further analysis and discussions with
11 staff, that the SED provides for plenty of flexibility in
12 this area, and I don't view it that way.

13 CHAIR MARCUS: Okay.

14 MS. D'ADAMO: I -- and I think we ought to have
15 a honest conversation about this. The SED provides for 40-
16 percent, and we are not able to reduce that 40-percent for
17 economic considerations. Our hands are tied. So, if we
18 have another drought and, of course, we will, we are not
19 able to reduce down to 30-percent.

20 We all know, I think we probably all agree, that
21 we can't go below 30-percent. But I do think that there is
22 a serious misunderstanding here, that there's some sense
23 that we have lots of flexibility, and that we can go down
24 to 30-percent. We cannot do that for economic
25 considerations. We can't do that for water supply.

1 We can only go down to 30-percent, appendix K is
2 very clear. We can only go down, make an adjustment in the
3 range, if the change will be sufficient to support and
4 maintain the natural production of viable native San
5 Joaquin watershed fish populations migrating through the
6 delta. And the change will meet any existing biological
7 goals approved by the Board.

8 In addition, all, underscore, all members of the
9 STM working group must agree to the change.

10 So, we do not have dry year relief in the
11 proposal, unlike what staff had indicated in response the
12 last time we were together, when we talked about this in
13 August.

14 So, we need to plan for drought. Climate change
15 also requires us to address more frequent, longer-lasting
16 droughts, and we should be dealing with this issue up
17 front.

18 There is recognition in the document that we go
19 through a TUCP process. We know what that process is like.
20 You know, it's very unpredictable. It's unpredictable for
21 water supply, it's unpredictable for the environment. And,
22 also, we know that the NGO community isn't happy with the
23 TUCP process. And that they have threatened suit on that
24 issue with respect to EPA.

25 So, the basin plan allocates water resources

1 under all hydrology, including drought. So, I think we
2 ought to just deal with this head-on, rather than saying,
3 we think it's going to be taken care of, when, in fact, we
4 don't have that flexibility.

5 CHAIR MARCUS: Well, I'm going to want to
6 understand the extent of that flexibility. It's a little
7 different than I was -- the conversations -- I think we all
8 had conversation subsequent to that hearing with folks.
9 And I think even the members of the environmental community
10 met with staff and are somewhat open.

11 My view was that in a, in the context of,
12 particularly in the context of a VSA, where folks were
13 figuring out how to build resilience in fish the other
14 years, I'm pretty open to multiple dry year relief, but not
15 just in the abstract, because the whole point of the plan
16 is also to help fish in those dry years. But there are
17 multiple days that people can manage for that in different
18 ways, not just in terms of saving water for multiple dry
19 years.

20 But through the course of actually working on a
21 watershed plan to help restore fish and wildlife with
22 habitat and everything else people may do, and then the
23 conversation about it becomes much easier to deal with,
24 without saying that you're just going to write off the fish
25 in year three. I mean, I think there's flexibility within,

1 even within how you allocate the water across the months.
2 But I want to turn -- because my understanding was not that
3 we can't move it all, or that the STM had to unanimously
4 agree on any of these things. If the STM agrees, then it
5 becomes easy for the executive director to do it. If they
6 disagree with each other, then the executive director can
7 still make decisions, or bring decisions to us.

8 MS. FORESMAN: Correct. I was just going to
9 offer up the correction that the Water Board can make the
10 decision to move from 40 to 30. If the STM is in
11 agreement, then the executive director can approve that
12 decision.

13 CHAIR MARCUS: Without coming to us?

14 MS. FORESMAN: Correct.

15 CHAIR MARCUS: Right. It's like a pass, not a
16 barrier.

17 MS. FORESMAN: Correct.

18 CHAIR MARCUS: Right.

19 MS. D'ADAMO: Where in appendix K does it say
20 that? Because my reading of appendix K is that the change
21 -- a change in the range can only -- yeah, we can approve
22 it. Let's see here, page 30, page 30 of appendix K. One,
23 two -- third paragraph.

24 "The State Water Board may approve adaptive
25 adjustments to the flow requirements as set forth in a

1 through d below if information is produced through
2 monitoring and review process described in this program of
3 implementation or other best available science information
4 indicates that the change for the period at issue will
5 satisfy the following.

6 Number one, it will be sufficient to support and
7 maintain the natural production of viable native San
8 Joaquin River watershed fish population migrating through
9 the delta.

10 And number two, it will meet any existing
11 biological goals approved by the State Water Board."

12 And then it outlines the process for approval by
13 the executive director, you know, as a result of the STM.
14 So I'm seeing these as requirements.

15 MR. GROBER: I think the clarification just was
16 that the Board can approve going to 30-percent or to
17 another percent, even if the STM working group does not
18 agree.

19 MS. D'ADAMO: But we cannot approve 30-percent
20 based on economic considerations. If a district shows up
21 and says, look, we're -- you know, here we are, year two.
22 It's not looking good. I petition the Board to go down to
23 30-percent. Under this program of implementation, I don't
24 see that that criteria would be met. We -- they'd have to
25 show -- I mean, perhaps, perhaps they'd be able to show it,

1 but they wouldn't be able to seek dry year relief. The
2 would have to come in and say, this reduction also will be
3 sufficient to support and maintain the natural production
4 of viable native San Joaquin River watershed fish
5 populations, and that it's consistent with the biological
6 goals, which, of course, we don't know that, you know, what
7 those biological goals are yet, because we haven't adopted
8 them.

9 So there's two criteria before there could be an
10 adjustment down to 30-percent.

11 MR. GROBER: And that's --

12 MS. D'ADAMO: And this is an area that, you know,
13 I -- it's interesting, because we talked a lot about it.
14 And staff responded that, no, we have the flexibility.
15 They were very clear when we met last, that we had the
16 flexibility to go down to 30-percent for dry year relief.
17 So I've combed through this document and I cannot find that
18 authority.

19 MR. GROBER: The flexibility is still there
20 because it's part of a comprehensive package saying that if
21 you're doing other things -- right now what we have in the
22 current condition is that what the fish see is very year is
23 a critically dry year.

24 So, if that's maintained, then as we've
25 discussed, you know, in having our documents, you have many

1 years of bad conditions, so that you have returning salmon
2 see bad year one, three years later it's bad, three years
3 later it's bad, and that's leading to declines.

4 So, something can be crafted with relief to a 30-
5 percent, so long as you're mindful, also, of the long-term
6 goals of maintaining the fishery.

7 MS. D'ADAMO: Well, that is very different from
8 saying that we have critically dry year relief, that we
9 have the flexibility. We don't. The districts would have
10 to come in and show that the, that all of these conditions
11 are met. And I agree with you, there's the ability to go
12 down to 30-percent if you can demonstrate comparability to
13 the 40-percent by showing non-flow measures, et cetera.

14 So, for a district that's suffering, Merced, down
15 to zero, they'd have to come in here and show that in order
16 for them to get dry year relief, they would have to have a
17 package that would include other measures in order to
18 protect the fish.

19 And I don't see that there's any distinction
20 between dry year relief and what they would be able to
21 present anyway through, say, a VSA or some other approach,
22 where they're showing a combination of flow and non-flow.
23 I'm very familiar with that process, and I think the
24 districts are as well. But I don't see dry year relief. I
25 don't see the ability to consider economic considerations,

1 water supply impact, fallowing and jobs there -- we don't
2 have the discretion to look at those considerations, in and
3 of themselves, for dry year or drought year relief.

4 MS. DODUC: If I --

5 MS. FORESMAN: Go ahead.

6 MS. DODUC: -- if I may. I recall this
7 discussion from our last board meeting. And while I'm not
8 prepared today to support inclusion of dry year relief
9 amendments, I would propose that as part of Board Member
10 Esquivel's amendment, to look at or to reevaluate things
11 based on a watershed-wide perspective, that this be
12 something that we direct staff to consider as part of that
13 process, so that we have uniform -- if there is going to be
14 some sort a dry year relief formula, that it be on -- it be
15 uniform on a watershed-wide basis.

16 I don't believe we are able to hash one out
17 tonight, and I'm actually not prepared to go into, I think
18 the level of discussion that we would have to have, and the
19 level of analysis that we would have to have, in order to
20 make an informed decision with respect to what that
21 appropriate level might be.

22 CHAIR MARCUS: Like a cfs --

23 MS. DODUC: Yeah.

24 CHAIR MARCUS: -- target. Yeah, I --

25 MS. D'ADAMO: I couldn't hear you. Like picking

1 a what?

2 CHAIR MARCUS: A cfs target in exchange. But I
3 think discussing it and studying it is actually a good
4 idea. I'm sort of assuming it would come up, but that's a
5 good suggestion.

6 MR. ESQUIVEL: Yeah. I would just say, I know
7 for myself as well, you know, dry year relief, multiple
8 critical dry years, you know, those cumulative effects when
9 it comes to surface flows on Phase I here in the proposal,
10 do start to get, you know, pretty huge.

11 And so it has always been an issue that I've
12 thought needs better -- more thought as well. The
13 specifics, not unlike Board Member Doduc, it's kind of hard
14 to understand what those might be in this moment.

15 But to the extent that Board Member Doduc might
16 be open to additional resolution language that, you know,
17 creates some structure, and make sure this issue
18 specifically is addressed, and is -- you know, additional
19 thought is brought to how we might incorporate
20 consideration for multiple critical dry years and those dry
21 year reliefs.

22 And I -- but, again, it's a little hard in real
23 time for me to, as well, assess at what, you know, cfs, or
24 what that might look like. And I know we've, I think we've
25 all kind of struggled on what exactly that language might

1 look like at this step in the process, but I think that
2 it's, again, knowing that we still have further process
3 here. I think there is an opportunity for us to more
4 concretely build in some safeguards there.

5 MS. D'ADAMO: With all due respect, that's our
6 job. Our job is to study this.

7 MR. ESQUIVEL: Yes.

8 MS. D'ADAMO: We've had years and years of this.
9 We've been talking about this, and we keep getting pushback
10 from staff. And it's our job, it's our job to protect all
11 beneficial uses. We are not protecting the beneficial uses
12 if we just punt on this.

13 CHAIR MARCUS: It's not --

14 MS. D'ADAMO: It's --

15 CHAIR MARCUS: -- it's not punting in my view.
16 And I really have to push back on blaming staff, because
17 we've all spent a lot of time with staff, and we either
18 agree with them or we don't on something. But just because
19 it's -- if we're not doing something, it's not because of
20 them, it's because we haven't been convinced of something.

21 And here's my view of that. I absolutely think
22 we should be thinking about this. I think we need to think
23 about it on those individual scales that are done best in
24 the context of people working together on a watershed and
25 looking at the totality of what they're doing to bring back

1 fish resilience, and then it's easier to think about dry
2 year relief.

3 Coming up with an abstract application of it I
4 don't think is true to what we need to do. I think we need
5 to get into dealing with the individual tribes. And if it
6 means that there are going to be times when we have to step
7 in and consider it in the context of some massive drought
8 where it just feels bad, then so be it. People will have
9 to come with the TUPC and we'll have to weigh the
10 consequence.

11 If we automatically just say it, I think that's
12 as arbitrary as anything. But studying what the options
13 are or looking at the tribes, I'm anticipating as these
14 groups come together, that one of the logical things that
15 they're going to do is to figure out, how are we going to
16 build fish resilience and how are we going to make the
17 tradeoff. And then we're always going to have to step in,
18 review.

19 I mean, again, it's partially why I keep saying,
20 we can't just do a static piece of paper and have it be
21 there for 10 or 20 years. We've got to work out a process
22 where we're in there talking all the time, and we all are
23 engaged on the tribes to figure out what actually makes
24 sense over time. So I can't jump to that, but I can jump
25 to continuing to converse about it, particularly if we end

1 up in a situation where we don't have folks working in
2 these groupings to try and do the tradeoffs.

3 MS. DODUC: If I might respond to Board Member
4 Esquivel. Rather than adding, or trying to add at this
5 late date, more language to the resolution, I would suggest
6 we make that part of the motion.

7 CHAIR MARCUS: That works, too. Strong.

8 MS. DODUC: And without getting into a lot of
9 detail, I would hope that when we talk about dry year
10 relief, that we don't look at from just the water user's
11 perspective, but also from the fisheries and ecosystem's
12 perspective, because they, too, also suffer greatly in
13 consecutive dry years.

14 MS. D'ADAMO: So I was unclear, Board Member
15 Doduc, of your suggestion on a motion for -- for the
16 resolution?

17 MS. DODUC: Yes. A motion to adopt the
18 resolution might include a direction to staff to include in
19 the development of this watershed-wide future amendment for
20 the Board to consider, to also include analysis of this dry
21 year, consecutive dry year --

22 MS. MAHANEY: Sure. If I may try to propose some
23 direction to staff. It could be the direction to staff as
24 part of the development -- and I don't have the other
25 language in front of me, of the delta watershed-wide

1 voluntary agreement, that staff evaluates and, perhaps,
2 there could even be a consultation in terms of soliciting
3 recommendations from interested persons and stakeholders,
4 of course, as to whether the flexibility in the program of
5 implementation in the plan amendments, or in future plan
6 amendments, can contemplate it as part of the delta
7 watershed -- I can't say that, agreement is adequate to
8 address sequentially dry and critically dry years, or
9 whether there should be future plan amendments to address
10 those issues.

11 CHAIR MARCUS: That seems like it might be more
12 narrow than what we're -- it's not -- I think it's a
13 consideration in the context of there being a resolution,
14 but not just as if that particular effort, because we may
15 not get agreements in a comprehensive way. We want to also
16 be considering it on individual tribes that may come up with
17 their own separate --

18 MS. MAHANEY: Well, it could also be direction to
19 staff with respect to future implementation of the San
20 Joaquin River tributary flow objectives, to consult and
21 seek recommendations from the STM working group, board
22 staff, other persons, as to whether flexibility in the
23 program of implementation for the San Joaquin flow
24 objectives, but also similar direction to contemplate
25 sequentially dry year and critically dry years, and then

1 you meet challenges that they present as part of the delta
2 watershed-wide voluntary agreement process.

3 So, the direction would include both direction to
4 staff to pursue this issue as it begins implementing the --
5 if the Board adopts the lower San Joaquin flow objectives,
6 but also direction as well with respect to the delta
7 watershed-wide efforts.

8 CHAIR MARCUS: So it becomes part of the --

9 MS. MAHANEY: Is that more comprehensive that
10 you're looking for?

11 CHAIR MARCUS: -- consideration as we move
12 towards implementation, however that implementation takes
13 place?

14 MS. MAHANEY: Right. And they could come back --

15 CHAIR MARCUS: So we would consider it before
16 implementation actually happens, is what you're getting at,
17 which I think is --

18 MS. MAHANEY: That would be one approach. And
19 with the idea that they -- that staff and stakeholders
20 could then, there could be an informational meeting
21 workshop to discuss these issues at some point, and to
22 assess whether future plan amendments are needed to deal
23 with these issues.

24 MS. DODUC: Thank you.

25 CHAIR MARCUS: So is that -- is there -- do I

1 need a motion for that, a motion to include it, or is
2 that --

3 MS. DODUC: Can I just, so moved?

4 CHAIR MARCUS: (Indiscernible.)

5 MR. ESQUIVEL: Well, she --

6 MS. D'ADAMO: This is a deal killer for me.

7 MR. ESQUIVEL: Okay.

8 MS. D'ADAMO: I mean, this -- I feel very
9 strongly about it. We should have studied it at the time.
10 I'm fine with postponing so that we can study this. This
11 is important. We're supposed to balance all the beneficial
12 uses.

13 So, I appreciate that, you know, there's an idea
14 to do something after we adopt, but I'm in a different
15 camp. I think we've got to get it right. Got to get it
16 right now.

17 You know, I'm proposing a pulse flow during that
18 timeframe to protect public trust resources. So, I -- and
19 I understand that, you know, for us to be here at this
20 point to try and determine what should that pulse flow be,
21 I could see why there would be questions about that.

22 So, I'm perfectly open to continuing this so that
23 we can study it now and get it right. Because this means
24 something. To have it be, you know, so vague that maybe
25 we'll have a workshop. The stakeholders can talk about it,

1 whether it's through VSA's or some other process. That
2 critically -- when you're in a district and you have zero
3 water supply, and going forward they can't even count on
4 their groundwater resources. You know, they can for a few
5 years.

6 We've said that we're going to see redirected
7 impacts for a few years, but then when SGMA kicks in,
8 they're not even going to have that in many of these
9 districts. So this is very serious.

10 I think we should vote on my proposal, and then,
11 you know, if you have a different one at a later time for a
12 different process.

13 CHAIR MARCUS: All right.

14 MS. DODUC: And we'll certainly vote on Board
15 Member D'Adamo's proposal, but I'm going to state for the
16 record that I do believe we have it right. That these
17 objectives are based on water year types, so there is an
18 inherent built in to recognize the various balancings of
19 various needs in critical dry years.

20 And when we're talking about consecutive critical
21 dry years, just like the drought that we went through,
22 everyone suffers, water users, as well as fisheries, as
23 well as ecosystems. So, it's not as simple for me as to
24 just -- in a balancing you can't just look one side of the
25 equation. And that's why, you know, struggling right now

1 to throw something into the plan, when I believe it already
2 recognizes different water year type, is not something that
3 I can support.

4 MS. MAHANEY: And I should advise the Board the
5 SED does not expressly look at a 1,500 cfs option, and that
6 we would need to look at the issue more closely, and,
7 perhaps, conduct another additional analysis. So, it an
8 issue that would take additional time to evaluate.

9 MS. D'ADAMO: But you do have a minimum of 1,000
10 cfs that's contained in the document already, that's been
11 analyzed.

12 MS. MAHANEY: Are you talking about the Vernalis
13 base flow, or at the --

14 UNIDENTIFIED FEMALE SPEAKER: Base flow.

15 MS. MAHANEY: Yeah, that's at Vernalis. Is that
16 what your proposal --

17 MS. D'ADAMO: Yes.

18 MR. GROBER: I thought 1,000 was a minimum in the
19 case that even the percent of unimpaired flow is actually
20 something lower than that. So that's really providing a
21 bare minimum flow.

22 I'd like to just add something to what Board
23 Member Doduc said. That the quantity of water available to
24 -- for water supply, and this is also to Board Member
25 D'Adamo, to be mindful that it's 70-percent of the

1 unimpaired flow, even in those years if you'd go to a 30-
2 percent.

3 So, to say that there's no water available, no
4 water supply, there is that, plus the reliance, and even
5 though that's been the controversial topic, the water
6 supply for irrigation and other uses can rely upon
7 groundwater, which the fish cannot. So, it's all about
8 having that minimum flow for the fish that can't rely on
9 groundwater in those critically dry years --

10 CHAIR MARCUS: Right.

11 MR. GROBER: -- even if there's a sequence.

12 So -- and, again, not to argue the point. I
13 understand the sentiment and the concern about the relief,
14 but it is part of the package that we assess. And as part
15 of that, that thought process is, there can be, with the
16 smarter management of water, even smarter management of
17 water with conjunctive use, taking advantage of wet years,
18 there can be reliance on groundwater, but the fish need the
19 surface water.

20 CHAIR MARCUS: Right.

21 MR. MAGUIRE: I am concerned thought with the
22 fact that, you know, carryover storage targets haven't been
23 set yet, and that's something that will be established in
24 the future. That that could have unintended consequences
25 in sequential dry years. And so, I am, you know, I am

1 definitely hoping and receptive to the idea of studying
2 this and discussing this more as a part of the program of
3 implementation --

4 CHAIR MARCUS: Right, when it's appropriate.

5 MR. MAGUIRE: -- and that the future, you know,
6 that future phases of the bay-delta plan.

7 MR. GROBER: Noting I said was intended to mean
8 not to look at that. I mean, that's exactly something to
9 get from STM working group and others in terms of how to
10 best manage the system, is, of course, something that staff
11 has interest in it as well.

12 CHAIR MARCUS: Well, and my view is just that it
13 is something that can be dealt with implementation. But I
14 do like, I do like the idea of us focusing on it. I think
15 it's appropriate to do that.

16 Again, my first choice is folks come together to
17 plan for it in a holistic VSA. But we should look at it in
18 the instances that doesn't happen, just as we're going to
19 have to look at those tradeoffs in the implementation
20 phase. And then we -- when you learn something, and if we
21 have to reopen, we have reopen. But I appreciate your
22 effort to do that.

23 Why don't we do this. Let's have a vote on the
24 motion, but then I want to turn directly to whatever
25 suggestion you have, so that we can focus on this for a

1 moment.

2 So -- because I get the sentiment I'm not -- I
3 can't jump to a number here, and I prefer it done in the
4 context of each tributary for the reasons I said.

5 So, all in favor of the motion?

6 MS. D'ADAMO: Aye.

7 CHAIR MARCUS: All opposed?

8 MS. DODUC: Nay.

9 MR. ESQUIVEL: Nay.

10 CHAIR MARCUS: All right. Let's turn to a
11 discussion of what then the Board might be open to
12 directing. Because this is one of those issues --

13 MS. DODUC: I was going to do that as part of a
14 motion for adoption. Did Board Member D'Adamo have any
15 other issues?

16 CHAIR MARCUS: Okay. All right.

17 MS. DODUC: All right. In that case then, I
18 would move for adoption of the resolution as amended by
19 Board Member Esquivel, with the change sheets, all change
20 sheets included. And with the additional direction to
21 staff to analyze, working with the appropriate
22 stakeholders, getting input from the appropriate
23 stakeholders, to analyze the scenario of consecutive dry
24 year. And provide options as part of consideration of a
25 water -- what was the term you used, Ms. Mahaney?

1 MS. MAHANEY: I keep saying it wrong, but it's
2 delta watershed-wide voluntary agreement.

3 MS. DODUC: Thank you.

4 CHAIR MARCUS: Can I add something to that?

5 MS. DODUC: Please do.

6 CHAIR MARCUS: Or as part -- even without it,
7 right?

8 MS. DODUC: Yes.

9 CHAIR MARCUS: So, I don't want to -- we should
10 just consider it either -- either way, let's hope that
11 things grow and build. But if they don't we need to do
12 this either way through -- before the implementation phase.
13 So I just want to make sure we -- it's a good issue to hop
14 on.

15 MS. DODUC: I'm fine with that friendly
16 amendment, and so move.

17 MR. SAYWER: And just for clarification on the
18 notice -- on the motion, it includes the amendments to the
19 SED and to the plan made by change sheets number one
20 through four, as well as the amendment to the resolution
21 made by change sheet four.

22 MS. DODUC: Correct.

23 CHAIR MARCUS: All right. Further discussion?
24 I'll go down the row. Nothing? No? No? No?

25 All right then. It appears we're ready to vote,

1 so I won't give a whole long speech, and we've talked
2 through this.

3 So, is there a second?

4 MS. DODUC: I don't think we need a second.

5 CHAIR MARCUS: I know. I'm supposed to ask for a
6 second as a courtesy.

7 MR. SAYWER: It is a courtesy.

8 CHAIR MARCUS: He just told me I'm supposed to
9 act as a -- ask as a courtesy, and if there isn't a second,
10 we still consider the motion. It's an interesting framing.
11 So I just thought I would ask.

12 MS. DODUC: Can I second myself?

13 MR. SAYWER: No.

14 MR. MAGUIRE: I'll second.

15 CHAIR MARCUS: All right. Thank you very much.

16 All right. Motion second. No further
17 discussion. I will allow for closing comments however.

18 All in favor?

19 MS. DODUC: Aye.

20 MR. ESQUIVEL: Aye.

21 MR. MAGUIRE: Aye.

22 CHAIR MARCUS: All opposed?

23 MS. D'ADAMO: No.

24 CHAIR MARCUS: All right. It carries, but it is
25 just one step, I think, along a path where we're all going

1 to be spending a lot of time together, and we need to, for
2 the reasons I said before.

3 I want to, I do want to thank, in particular, the
4 people who've worked very hard over the past -- for some
5 people, it would be nine years or more with the staff, but
6 also the folks who have been working, in particular, on
7 agreements.

8 I want to thank Directors Bonham and Nemeth for
9 their relentless effort to pull things together and a lot
10 of hard work. And I want to thank the folks who tried to
11 come together, but encourage them to bring others along.

12 I do think it's an act of courage to be willing
13 to put forth solutions in concert with others with whom you
14 disagree to begin with, and it, frankly, takes a lot more
15 courage to let in those we disagree with as equal partners.

16 I want to encourage more of that to happen as we
17 move forward, because we have a lot of work to do in a
18 transparent way, both for implementation here and in the
19 rest of the delta, but also in working towards the rest of
20 our proposal, and, hopefully, one that can integrate a more
21 comprehensive strategy in VSA's.

22 I want to encourage people to hang with each
23 other, to use some of those other engagements that we have
24 all been through that have been intense, but then have
25 resulted in agreements that have benefitted our communities

1 and beyond. I think some days that's hard, but I think
2 that's what we have to work on. Because that's where
3 history and process and things of real value come. But for
4 all of us, I think, some days that can be difficult.

5 So, I think we need to have empathy for
6 ourselves, but also for each other, to try and reach across
7 a table we didn't think we could reach across. And I think
8 we're tested in times of drought, we're tested in times of
9 decision, we're tested in times of litigation.

10 You can think of all of times in which we're
11 tested, but I think real positive change comes from
12 individual decisions made by hundreds, if not thousands of
13 people every day on the small things, that then build to
14 ah-ha's and agreements.

15 So I'm hoping folks -- I want to assign folks to
16 go have a cup of coffee with someone that they disagree
17 with and really listen to them, and try and figure out how
18 to crosswalk it. Because I think in this work, in
19 particular, a lot of the times we're talking passed each
20 other, and just thinking we don't understand, but we
21 haven't stopped to really understand.

22 I want to thank Board Member D'Adamo for the past
23 20-something years of helping me open my heart and my mind
24 to many and to others in this room. I'm looking at a lot
25 of you who have helped me see things I might have seen at

1 first. But I do think today is an important day that's in
2 the spirit actually of moving, of moving forward with some
3 hard things, knowing that we're not going to just walk
4 away.

5 We have a lot more work to do, not just on the
6 Sacramento and delta portions, but even on making this
7 portion work. And if we can pull it all together
8 successfully, so much the better. But I think the time to
9 act is now. So, I appreciate the discussion.

10 All right. Counsel, any, if there anything
11 further --

12 MR. SAYWER: Adjourn.

13 CHAIR MARCUS: -- we need to do? No magic words?

14 MR. SAYWER: No.

15 CHAIR MARCUS: All right. Well, thank you. With
16 that, this meeting is adjourned. Thank you all.

17 (Adjourned at 7:16 p.m.)
18
19
20
21
22
23
24
25

REPORTER'S CERTIFICATE

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 19th day of February, 2019.



Eduwiges Lastra
CER-915

TRANSCRIBER'S CERTIFICATE

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 transcribed by me, a certified transcriber 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 19th day of February, 2019.



Myra Severtson
Certified Transcriber
AAERT No. CET**D-852