

BEFORE THE  
STATE WATER RESOURCES CONTROL BOARD

In the Matter of: )  
 )  
 )  
Amendment to the Water Quality Control )  
Plan for the San Francisco Bay/ )  
Sacramento-San Joaquin Delta Estuary: )  
San Joaquin River Flows and Southern )  
Delta Water Quality and on the Adequacy )  
of the Supporting Recirculated Draft )  
Substitute Environmental Document (SED) )  

---

 )

PUBLIC HEARING

Stockton Memorial Civic Auditorium  
525 N. Center Street  
Stockton, CA 95202

Friday, December 16, 2016

9:00 a.m.

Reported by:  
Peter Petty

## APPEARANCES

### Board Members Present:

Felicia Marcus, Chair  
Frances Spivy-Weber, Vice Chair  
Dorene D'Adamo  
Tam M. Doduc  
Steven Moore

### Staff Present:

Thomas Howard, Executive Director  
Will Anderson, Water Resources Control Engineer  
Les Grober, Deputy Director of Water Rights  
Tina Leahy, Senior Staff Counsel  
Erin Mahaney, Senior Staff Counsel  
Daniel Worth, Senior Environmental Scientist  
Yuri Won, Senior Staff Counsel  
Richard Satkowski, Senior Water Resource Control Engineer  
Katheryn Landau, Environmental Scientist

### Also Present:

Bob Lloyd, Audio Visual Technician

### Public Comment:

Lea Castleberry, Office of Contra Costa County Supervisor  
Mary Piepho  
Cathleen Galgiani, Senator, 5th Senate District  
Heath Flora, Assemblyman, 12th Assembly District  
Patrick Johnston, former Senator, Delta Stewardship  
Council  
Karl Rodefer, Supervisor, Tuolumne County Board of  
Supervisors  
Steve DeBrum, Mayor, City of Manteca  
Randy Hanvelt, Supervisor, Tuolumne County Board of  
Supervisors  
Teresa Kinney, Office of U.S. Congressman Jeff Denham  
Cameron Burns, Office of Mayor Michael Tubbs, City of  
Stockton  
Tom Patti, Supervisor, San Joaquin County Board of  
Supervisors  
Christian Burkin, Office of Assemblywoman Susan Eggman

APPEARANCES (Cont.)

Public Comment: (Cont.)

Erica Rodriguez-Langley, Office of Assemblyman Jim Frazier  
Debbie Webster, Central Valley Clean Water Association, CVCWA  
Tom Grovhoug, Larry Walker & Associates  
Tess Dunham, Somach Simmons & Dunn  
Robert Granberg, City of Stockton, CVCWA  
Steve Bayley, City of Tracy  
Katherine Miller, Supervisor, San Joaquin County Board of Supervisors  
Tori Verber Salazar, District Attorney, San Joaquin County  
Chuck Winn, Supervisor, San Joaquin County Board of Supervisors  
Chris Shutes, California Sportfishing Protection Alliance  
Peter Drekmeier, Tuolumne River Trust  
Ryan Camero, California Student Sustainability Coalition  
Jacklyn Lauchland Shaw, Lodi District Grape Growers Association  
James Cox, California Striped Bass Association  
John Buckley, Central Sierra Environmental Resource Center  
Jeff Shields, Self  
Meg Layhee, Self  
Brad DeBoer, Self  
Michael Frost, Self  
Penelope Frost, Self  
David Ragland, Self  
Peter Rietkerk, South San Joaquin Irrigation District  
Steve Knell, Oakdale Irrigation District  
Jerry Neuberger, Delta Fly Fishers  
Dr. Ronald Forbes, Delta Fly Fishers  
Roy Hoggard, Self  
Roger Kelly, Self  
Dante John Vamellini, Central Delta Waste Agency  
Kevin Kauffman, Self  
Gary Darpinian, Self  
Gary Barton, San Joaquin County Agricultural Advisory Board  
Dave Kemper, Self  
Jeanne Zolezzi, Stockton East Water District  
Scot Moody, Stockton East Water District  
Troylene Sayler, South San Joaquin Irrigation District  
Cameron Morgan, Self  
Karen Harwell, Exploring a Sense of Place

APPEARANCES (Cont.)

Public Comment: (Cont.)

Allison Boucher, Tuolumne River Conservancy  
Ralph Roos, Self  
David Hurley, USA Fishing.com  
John Armanino, Self  
John Mills, Calaveras County Water District  
Linda Ormonde, Self  
Kelly Topping, Self  
Barbara Barrigan-Parrilla, Restore the Delta  
Tim Stroshane, Restore the Delta  
Bill Jennings, California Sportfishing Protection  
Alliance (CSPA)  
Glenn Gebhardt, City of Lathrop  
Chris Gilbert, Self  
Gloria Purcell, Self  
John Herrick, South Delta Water Agency  
Michelle Leinfelder-Miles, UC Cooperative Extension, San  
Joaquin County  
Kathy Bunton, Delta Kayak Adventures  
Wendy Benavides  
Wayne Reeves, Contra Costa Farm Bureau  
Bob Holmes, Self  
Cynthia Lau, Central Valley Asian-American Chamber of  
Commerce  
David Strecker, San Joaquin Farm Bureau  
Julianne Phillips, San Joaquin Farm Bureau  
Mary Elizabeth, Self  
David Phippen, South San Joaquin Irrigation District

## INDEX

	<u>Page</u>
Introduction by Felicia Marcus, Chair	7
Staff Presentation	25
Les Grober, Deputy Director for Water Rights	
Yuri Won, Staff Counsel	
Tom Howard, Executive Director	
Dan Worth, Senior Environmental Scientist	
Will Anderson, Water Resource Control Engineer	
Public Comment	39
Panel One	70
CVCWA:	
Debbie Webster, CVCWA	
Tom Grovhoug, Larry Walker & Associates	
Tess Dunham, Esq. Somach Simmons & Dunn	
City of Tracy Wastewater Treatment Plant:	
Steve Bayley, City of Tracy	
Melissa Thorme, Esq. Downey Brand LLP	
City of Stockton Regional Wastewater Control Facility:	
Robert Granberg, City of Stockton	
City of Manteca Water Quality Control Facility:	
Heather Grove, City of Manteca	
Public Comment	86
Panel Two	96
Chris Shutes, California Sportfishing Protection Alliance	
Peter Drekmeier, Tuolumne River Trust	
Public Comment	106
Panel Three	129
Peter Rietkerk, South San Joaquin Irrigation District	
Steve Knell, Oakdale Irrigation District	
Public Comment	166

INDEX (Cont.)

	<u>Page</u>
Panel Four	186
Jeanne Zolezzi, Stockton East Water District	
Scot Moody, Stockton East Water District	
Public Comment	202
Panel Five	229
Tim Stroshane, Restore the Delta	
Barbara Barrigan-Parrilla, Restore the Delta (also representing Café Coop)	
Bill Jennings, California Sportfishing Protection Alliance (CSPA)	
Public Comment	252
Panel Six	259
John Herrick, South Delta Water Agency	
Michelle Leinfelder-Miles, UC Cooperative Extension, San Joaquin County	
Public Comment	290
Adjournment	318
Certificate of Reporter	319
Certificate of Transcriber	320

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

P R O C E E D I N G S

DECEMBER 16, 2016 9:04 A.M.

CHAIR MARCUS: Thank you all for joining us under the Big Top. I'm not sure if that lends a festive air or a -- it's interesting and I'm sorry we're so far away. I know it allows all of you to see us, but I actually prefer something a little closer to everyone.

(Brief colloquy aside.)

Good morning. We're here to receive public comments concerning potential changes to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and the supporting recirculated draft Substitute Environmental Document. Throughout the hearing, we'll refer to these documents as the Plan Amendment, the Plan, and the SED.

I'm Felicia Marcus, Chair of the State Water Resources Control Board. With me today are on my left Vice Chair Fran Spivey-Weber, to her left is Board Member Dorene D'Adamo. To my right, Board Member Tam Doduc, and to her right Board Member Steven Moore. We have other State Water Board staff present in the front and the back of the room to provide assistance as needed.

Forgive me for reading this, but we need to make sure that we say the same thing pretty much at each

1 of the hearings. As you know, I have a tendency to  
2 freelance.

3 I have a number of general announcements to  
4 make, some are procedural announcements and some will  
5 provide context to start us off before turning to the  
6 staff for a short overview, an abbreviated one.

7 General announcements, first please look around  
8 now and identify the exits closest to you. If you hear  
9 an alarm we'll evacuate the room immediately. Please  
10 take your valuables and your friends with you. We'll  
11 evacuate the room immediately, walk to the nearest exit,  
12 and follow facility staff direction to evacuate the  
13 building. If you need assistance, please let us know and  
14 someone will assist you.

15 Today's hearing date is being Webcast and  
16 recorded. When speaking, please use the microphone and  
17 begin by stating your name and affiliation. That really  
18 helps the court reporter. A court reporter is present  
19 today and will prepare a transcript of this entire  
20 proceeding. The transcript will be posted on the State  
21 Water Board's Bay-Delta Phase 1 Website as soon as  
22 possible. And if you'd like to receive the transcript  
23 sooner, please make arrangements with the court reporting  
24 service during one of the breaks, or after the hearing  
25 day.

1           As a reminder, today is day two of five days of  
2 hearing on the adequacy of the SED. Day one of the  
3 hearing was held in Sacramento on Tuesday, November 29th.  
4 Day three of the hearing will be held in Merced on  
5 Monday, December 19th. Day four of the hearing will be  
6 held in Modesto on Tuesday, December 20th. The hearing  
7 will conclude with day five of the hearing in Sacramento  
8 again on Tuesday, January 3rd, 2017.

9           Additionally, for planning purposes, please be  
10 aware that the hearing days could be long days since we  
11 want to hear everyone's comments. We'll take a short  
12 break in the morning and a short break in the afternoon  
13 or as needed by the court reporter. We're also going to  
14 take a lunch break, which may well be less than an hour,  
15 but will be at least 30 minutes to give you time to get  
16 food. Actually, I'd appreciate at the mid-morning break,  
17 if someone who's aware of how close the nearest food  
18 locations are, if they could let us know so that we can  
19 announce that, so folks who aren't from Stockton can know  
20 where to go. And then we can also gauge how long a lunch  
21 break we really need to help people be able to actually  
22 get nourishment.

23           We do expect to continue into the early evening  
24 or beyond if necessary.

25           Finally and most important, please take a

1 moment to turn off or mute your cell phones. Even if you  
2 think it's already off or muted please take a moment to  
3 double check.

4 I know everyone's eager to get started, but  
5 first I need to provide some background information on  
6 how the hearing will be conducted and information  
7 regarding the Order of Proceeding. Please bear with me  
8 through this opening statement. The statement's being  
9 read at the beginning of each day of the hearing.

10 This hearing is being held in accordance with  
11 the September 15th, 2016 Notice of Filing and  
12 Recirculation, Notice of Opportunity for Public Comment,  
13 and Notice of Public Hearing on Amendment to the Water  
14 Quality Control Plan for the San Francisco Bay/  
15 Sacramento-San Joaquin Delta Estuary and supporting draft  
16 revised Substitute Environmental Document, and subsequent  
17 revised notices issued on October 7th, 2016, October  
18 18th, 2016 and December 9th, 2016.

19 This hearing fulfills requirements for receipt  
20 of oral comments as described in the Board's regulations  
21 and state and federal law.

22 The purpose of this hearing is to provide the  
23 public an opportunity to comment on the Plan Amendment  
24 and on the adequacy of the SED. The Board will not take  
25 formal action on the Plan Amendment and SED at the close

1 of the hearing on January 3rd, 2017. Rather, Board  
2 action will occur at a later noticed Board hearing,  
3 during which time the Board may reopen the hearing to  
4 allow for comments on any proposed revisions to the Plan  
5 Amendment or as required by the Board CEQA regulations.  
6 I think that's pretty likely.

7 The final SED will be released in the summer of  
8 2017 depending on the comments received. And please  
9 ensure that your comments today relate to the Plan  
10 Amendment and the adequacy of the SED.

11 Order of Proceeding, the September 15th, 2016  
12 Notice required joint presenters who would like more than  
13 three minutes to present their comments to make their  
14 request by noon on October 14th, 2016, which was  
15 subsequently extended to noon on November 4th, 2016.

16 Based on the requests received, staff prepared  
17 a Draft Order of Proceedings, which was sent it to the  
18 Bay-Delta Notice email distribution list on November  
19 18th, 2016. Additionally, the Draft Order of Proceedings  
20 was posted on the Water Board's Bay-Delta website. A  
21 revised Draft Order of Proceedings, dated December 6,  
22 2016, was posted on the Water Board's Bay-Delta website  
23 on December 14th, 2016.

24 Accordingly, we will begin with any opening  
25 comments that my fellow Board members would like to make.

1 We will then hear a presentation from staff. Following  
2 the staff presentation, we will hear from elected  
3 officials, followed by public comment unless any of the  
4 elected officials need to leave before the staff does a  
5 20-minute presentation, in which case they should let the  
6 staff know. And then we're happy to accommodate them,  
7 knowing that their schedule's very busy.

8           Rather than taking all of the panels though  
9 first, as we did during the hearings in 2013, we are  
10 alternating panels and a series of public commenters, to  
11 enable the individual commenters to begin earlier in the  
12 day. We do have do have about two hours of panel  
13 presentations and I just don't like it when the public  
14 has to wait until afternoon. So we will be doing the  
15 panels in the order suggested, but we will be taking 10  
16 to 15 public commenters in between each panel.

17           There is no cross-examination.

18           Per the Hearing Notice, participants are  
19 limited to three minutes unless otherwise allowed by the  
20 Draft Order of Proceedings, which means I'm going to  
21 count the speaker cards and cut the time to two minutes  
22 or even one, if necessary, to enable more speakers to  
23 speak without going late into the evening, so folks can  
24 get home. So it actually is important to get your cards  
25 in, in the morning. I know some people will come in, in

1 the afternoon, because not everyone can be here during  
2 the day. But it is important to get your speaker cards  
3 in, so that we can be fair in terms of the amount of time  
4 folks have.

5           We've found that really the point of the oral  
6 comments, we listen very intently, believe me if you know  
7 us it makes a difference in how we shape our eventual  
8 regulations. We take it very seriously. The most useful  
9 thing is to really hone in on your key points and the  
10 things you really want us to pay attention to, as we look  
11 at the staff proposal and we read your comments, and then  
12 we will give direction to staff. So figure out how to  
13 hit those high points on things we really should pay  
14 attention to and then we do.

15           If you intend to speak, as I said, submit a  
16 speaker card. You can find one in the back of the room,  
17 actually out in the foyer. As I noted, as we allow, a  
18 number of groups requested to speak as panels at each of  
19 the hearings. They actually vary in number and approach.  
20 We have in many cases shortened the time they requested  
21 to enable us to hear from more of the general public  
22 commenters, particularly in these later hearings, which  
23 more people have signed up for.

24           For today, the joint participant groups that  
25 requested to speak as a panel with additional time are

1 the Central Valley Clean Water Association, City of  
2 Stockton, City of Tracy and City of Manteca, 20 minutes;  
3 the California Support Fishing Protection Alliance and  
4 Tuolumne River Trust, 15 minutes -- also that's the  
5 morning. Oakdale Irrigation District, 30 minutes; South  
6 San Joaquin Irrigation District, 30 minutes; Stockton  
7 East Water District, 20 minutes; Restore the Delta, Café  
8 Coop and the California Support Fishing Protection  
9 Alliance, 20 minutes -- oh I see, different aspects; the  
10 South Delta Water Agency, 30 minutes.

11 I ask that one representative from each group  
12 also fill out a speaker card. If you think you'll need  
13 less time than was agreed upon, please note your new  
14 estimated time on the card, and know you will please the  
15 people sitting behind you immensely. Please be ready to  
16 present your comments when you are called.

17 There are several points about the hearing that  
18 I'd like to emphasize. First, please keep your comments  
19 limited to the purpose of this hearing, which is to  
20 comment on the Plan Amendment and the SED.

21 Second, we are required to respond to the oral  
22 comments we receive during this hearing, however staff  
23 will not be able to respond to oral comments today.  
24 Board staff will actually prepare written responses to  
25 comments on the Plan Amendment and all significant

1 environmental issues raised orally and in writing prior  
2 to the Board's taking final action in the next year.

3           Third, while I or other Board members may ask  
4 staff for clarification or information in the Plan  
5 Amendment and the SED, responses to your comments will  
6 not occur during this hearing. We have had and will  
7 continue to have opportunities to speak with people  
8 outside the hearing and that is extremely valuable to us,  
9 because conversations are intensely important and really  
10 help give a back and forth and comprehension. But in the  
11 interest of hearing what folks have come here to say, we  
12 can't have a conversation with each of you here, as much  
13 as we might like to. We must also ensure that our  
14 decision is based on the record of the proceeding.

15           Fourth, because we're required to respond to  
16 comments on the Plan Amendment and significant  
17 environmental issues raised, please make the essence of  
18 your comments clear to us, especially for those making  
19 longer presentations and in your written comments. We'd  
20 appreciate you making a summary of the points you have  
21 about the Plan Amendment and the adequacy of the SED at  
22 the beginning or the end of your presentation.

23           Finally, I realize that after all the  
24 presentations are heard, some of you might feel the need  
25 to respond to what others have said, understandably. We

1 can't provide people an opportunity for rebuttal of these  
2 comments in this hearing. But if you have additional  
3 comments after your turn to speak at the hearing, you may  
4 give us that comment in writing by the January 17th, 2017  
5 new deadline, as stated in the Second Revised Notice.

6 A little bit of context, we are here today to  
7 hear input on an SED and staff proposal for updating the  
8 Board's Bay-Delta Plan. The staff proposal calls for  
9 updated flow requirements for the San Joaquin River and  
10 its major tributaries, the Lower San Joaquin, and the  
11 updated salinity requirements for the southern Delta.

12 The Bay-Delta ecosystem is in trouble and has  
13 been for some time now. The Lower San Joaquin River and  
14 its tributaries are a key part of the Bay-Delta System.  
15 South Delta salinity is also a vexing challenge, both for  
16 those in the south Delta and for those who rely on  
17 exports from the south Delta.

18 We're also in a separate process to deal with  
19 the rest of the system including the Sacramento River and  
20 the rest of the Deltas. The Bay-Delta Plan lays out  
21 water quality protections to ensure that various water  
22 uses including agriculture, municipal use, fisheries,  
23 hydropower, recreation and more are protected.

24 In establishing these objectives, the State  
25 Water Board must consider and balance all beneficial uses

1 of water, not just pick one and discard the others. So  
2 please help us do that.

3 We know that flow is a key factor in the  
4 survival of fish like salmon. But the flow objectives  
5 for the San Joaquin River have not been updated since  
6 1995. And since that time, salmon and steelhead have  
7 declined. We also know that there are other important  
8 factors affecting the fishery such as degraded habitat,  
9 high water temperatures and predation.

10 Staff will provide a short overview of their  
11 proposal today. In order to provide more time to hear  
12 public comment, today's staff presentation is a shorter  
13 version of the staff presentation given on day one of the  
14 hearing on November 29th in Sacramento. The full staff  
15 presentation is available on the Water Board's Bay-Delta  
16 Phase 1 Website. At that hearing, the Board asked a lot  
17 of questions, because these hearings are the only times  
18 that we can speak together as a full Board, because of  
19 state open meetings laws. And staff has prepared answers  
20 to those questions.

21 I'm going to ask sort of family hold back a  
22 little bit on the conversation in this hearing until the  
23 end of the hearing, just so that we can hear again from  
24 public commenters who need to get back to their homes and  
25 families. If you have a key question that you want to

1 ask, or something that's posed by a speaker, don't hold  
2 back. But I think it's probably more prudent to not have  
3 the full conversation we might otherwise want to have and  
4 that we actually had a lot of on the 29th and we will  
5 need to have a lot more of in this process, just out of  
6 respect for folk's time.

7 I'll also note that staff have proposed a flow  
8 range of 30 to 50 percent of unimpaired flow with a 40  
9 percent starting point. This is a proposal to share the  
10 rivers, whether times are wet or dry. They conceive it  
11 as a block of water that they hope groups will come  
12 together to shape and use in the most effective ways  
13 possible. There's been a lot of assertions about what it  
14 is staff is proposing that aren't exactly accurate,  
15 either through misunderstanding or us not explaining it  
16 well enough, or other things. And so they will explain  
17 that a little bit.

18 They've also proposed an implementation  
19 program that embraces adaptive management and will  
20 accommodate stakeholder settlements that can provide even  
21 greater benefits to the ecosystem than flow alone, with a  
22 tradeoff between those ecosystem benefits and actions and  
23 flow.

24 The proposed 30 to 50 percent range is less  
25 than the 60 percent recommended in the Board's 2010 Flow

1 Criteria Report, but it still represents a significant  
2 increase over current conditions. Some have already  
3 argued that the proposed range is too low to improve  
4 conditions for fish adequately while others are adamant  
5 that it's far too high and that the impacts on our  
6 agricultural communities are far too great. Our  
7 challenge here is to navigate all of those strong  
8 feelings and try to find the best answer that we can.

9           Unfortunately, there actually is a lot of  
10 misinformation about the staff proposal out there whether  
11 about its provisions or its intent, that's created far  
12 more heat than light so far in these proceedings. I  
13 suppose that's inevitable, but I am saddened to see it,  
14 because these issues are hard enough to deal with based  
15 on the real facts and the real intentions, let alone  
16 those that are imagined or manufactured. I see and I  
17 hear the pain in the comments we've received already from  
18 both sides, much of it based on misunderstandings of what  
19 staff is actually proposing.

20           In the end, as I said though, our job is to  
21 establish objectives that provide reasonable protection  
22 of the fishery, and to balance that with the other uses  
23 really important to Californians, including agriculture  
24 and municipal use. And we want to provide an opportunity  
25 for people to come together to propose better ways to

1 meet these objectives by working together to restore  
2 habitat, manage the flows, deal with predation, and other  
3 things. When people do that well, we actually have a  
4 very good record of accepting those good alternatives.  
5 And I certainly have done that in all my state, federal  
6 and local jobs. And I know my Board is with me on that,  
7 so please help us do that.

8 Critiques absolutely are warranted and they can  
9 help, and we are listening. We got a lot of good ones at  
10 our November 29th hearing that we take very seriously,  
11 but what helps more is to suggest how we can actually  
12 improve on the proposal to help meet everyone's needs  
13 better and with an economy of water and pain.

14 Our first hearing in Sacramento was lively,  
15 informative and helpful. There was a lot of  
16 disagreements, but a lot of very useful suggestions. So  
17 thank you for your patience and your attentiveness and  
18 for joining us today.

19 Next, we'll move on to the short staff  
20 presentation from the Division of Water Rights staff and  
21 Les Grober, our Deputy Director for Water Rights, will  
22 lead staff's presentation.

23 But first let me see, is there any opening  
24 statements on the part of the Board? Would you, please,  
25 please?

1 MS. D'ADAMO: Well, good morning. First of all  
2 I'd like to welcome my fellow Board members to the San  
3 Joaquin Valley and welcome and thank all of you who have  
4 taken time to participate in this hearing.

5 We've heard many say that this process is going  
6 to be really hard and that's true. Staff has laid out  
7 conditions for the fish, and how the fish conditions have  
8 degraded, and given us their recommendations as to how to  
9 improve the conditions. But that of course comes at a  
10 cost, which they have attempted to analyze in this  
11 document.

12 We're here to get your perspective as to  
13 whether this Plan actually accomplishes that goal and to  
14 better understand how this Plan impacts our communities.  
15 And I say "our communities," because as many of you know  
16 I'm part of this community. I live in Turlock where my  
17 husband and I have raised our children and my husband  
18 farms on the west side. So I have seen in a direct and  
19 very personal way how the loss of surface supplies can  
20 affect farms, farm workers, ag-related businesses, jobs  
21 and communities.

22 But these rivers provide more than just water  
23 supplies for farms. As the Chair noted, they also  
24 provide habitat for fish and recreational opportunities  
25 for all of us. The question is not whether to protect

1 these uses, but how best to balance all of the uses and  
2 that includes agriculture, drinking water supplies,  
3 industrial, recreation, and fish and wildlife.

4           There are lots of tools in the toolbox that can  
5 be used to improve conditions for salmon and flow is an  
6 important tool, but flow is not the only tool. Much work  
7 needs to be done on these rivers to restore habitat,  
8 address invasive species, address invasive weeds, address  
9 predation and contaminants.

10           Because of the significant impacts that this  
11 proposal will have upon agricultural and drinking water  
12 supplies, groundwater basins and the regional economy, I  
13 would much rather see a Plan that instead of just  
14 focusing on flow includes the use of all the tools in the  
15 toolbox. A Plan that includes a comprehensive suite of  
16 some additional flow and also the non-flow measures in  
17 order to reduce the impact on water supplies and  
18 communities.

19           Unfortunately, our attorneys are telling us  
20 that we don't have the ability to force some of these  
21 other non-flow measures. However, they're also telling  
22 us -- and it's spelled out in the Plan -- that we have  
23 the ability to consider a proposal from the local  
24 communities that does just that, propose a way to utilize  
25 all the tools in the toolbox. So I'd like to emphasize

1 this and ask for your help here today. Help us to better  
2 understand how this proposal impacts this region. Tell  
3 us what our staff got right and where they may have  
4 missed the mark. Give us your ideas as to how this  
5 proposal can be improved, how we can strike a better  
6 balance.

7           Many of you are involved in a local agency or  
8 organization whether an irrigation district, farm bureau,  
9 or a local environmental organization and that's been  
10 studying these rivers and know firsthand just how the  
11 rivers have been degraded. You also know where the  
12 predators hang out, where the habitat projects have made  
13 a difference, where they haven't made a difference. And  
14 you also know what's standing in the way of getting more  
15 habitat projects on the ground.

16           Don't just tell us what you don't like about  
17 the proposal, as the Chair has said, tell us about how it  
18 can be improved. And maybe just as important, tell us  
19 what you can do to help shape a better plan or to support  
20 others who are working to come up with a better local  
21 plan.

22           As the Governor said in a letter that he sent  
23 to our Board on September 19th, and I'm just quoting this  
24 from the Governor's letter, "Voluntary agreements in  
25 which water right holders improve stream flows and

1 restore habitat could offer a faster, less contentious,  
2 and more durable outcome." I couldn't agree more.  
3 We've seen in other areas of the state that healthy farms  
4 and healthy fisheries go hand in hand. And I truly  
5 believe with all the creativity and strong leadership in  
6 this region, that this can be accomplished in the San  
7 Joaquin Valley as well.

8           Again thank you all for being here today. I  
9 look forward to listening and learning from you all  
10 today. And thank you for the opportunity to have some  
11 opening statements.

12           CHAIR MARCUS: Great. Thank you so much. That  
13 was wonderful, every day I thank my lucky stars that  
14 you're on this Board. Your insight and your approach and  
15 your attitude are awesome, so thank you very much.

16           I have some -- I'm trying to get the order --  
17 we do have quite a few elected officials. What I don't  
18 know -- I know a little bit of the timing, but what I  
19 don't know is -- I have them in the order they've come  
20 in. I don't have them in any priority order, so forgive  
21 me in terms of format. We generally like to let the  
22 staff give their presentation first, so that everybody  
23 can be on the same page. But if there are any elected  
24 officials that need to leave and want to go first let me  
25 know. I know there are some people who need to leave by

1 11:00, which I think we will meet fine. But I'll count  
2 on the staff to come up and tell me if there's an issue,  
3 but we do appreciate folks listening to the opening  
4 presentation.

5 Okay. Great, go ahead Les Grober.

6 MR. GROBER: Great, thank you.

7 My name is Les Grober. I'm the Deputy Director  
8 for Water Rights. I'm joined here at this table on my  
9 right is Yuri Won, Staff Counsel. And to my left Tom  
10 Howard, Executive Director; Dan Worth, Senior  
11 Environmental Scientist; and Will Anderson, Water  
12 Resource Control Engineer. I have a brief presentation  
13 as Chair Marcus -- so good morning, Chair Marcus, the  
14 Board, public -- happy to be presenting this brief  
15 presentation to you. As Chair Marcus had said, if you  
16 want to see the fuller presentation it's available on our  
17 website.

18 So the Project, the Project is the update of  
19 the Water Quality Control Plan for the Sacramento and San  
20 Joaquin River Delta, Bay-Delta Estuary. And it involves  
21 the two elements: update of the San Joaquin River flows  
22 for the reasonable protection of fish and wildlife and  
23 southern Delta salinity for the reasonable protection of  
24 agriculture, and the programs of implementation for those  
25 two. And as you hear I might be, I'm emphasizing

1 "reasonable," because that's what this is all about.  
2 It's not absolute protection, but it's about the  
3 reasonable protection, and you'll see in this  
4 presentation why that's so terribly important.

5           So the project area that we're talking about  
6 today, for the San Joaquin River flows, this shows a map.  
7 On the east side there you see the major salmon-bearing  
8 tributaries: the Merced, the Tuolumne and the Stanislaus  
9 River. And then north of that, and to the west of  
10 Vernalis, you have the area of the southern Delta.  
11 That's the area where the southern Delta salinity  
12 objectives would apply.

13           So I want to cover four main points, which  
14 Chair Marcus has already covered, but I think it's  
15 important to hear it again and in somewhat different  
16 ways. Because this Plan that we're updating, what this  
17 is all about, the last major update was 21 years ago in  
18 1995. And since that time there's been a lot of new  
19 information, there's been changing conditions, changing  
20 understanding of information. We've also seen species  
21 declining. We've had -- and because of that species  
22 decline that was even 10 years ago -- we identified that  
23 in the minor update, the 2006 update of the Water Quality  
24 Control Plan.

25           And during that time I'm sure all of you are

1 aware that it's been a lot in the news, it's a big issue,  
2 that the Endangered Species Act and constraints because  
3 of them have led to restrictions in water supplies; both  
4 in the Delta, but also in terms of operations on the  
5 Stanislaus River. So this is intended to get around well  
6 what are the conditions to provide more security,  
7 stability, knowing what everyone needs to do.

8           And then finally, it's part of the  
9 Administration's California Water Action Plan to  
10 implement the co-equal goals of providing a more reliable  
11 water supply and also protect and restore ecosystem,  
12 which gets at the core of what the Board does is the  
13 balancing.

14           So why are we focusing flow? And as Board  
15 Member D'Adamo was saying, we recognize the importance of  
16 non-flow measures, which is one of the points on this  
17 slide. But the reason for the emphasis on flow is  
18 because scientific studies have shown that flow is a  
19 major factor in the survival of fish like salmon. It has  
20 many direct benefits. Things like improving  
21 temperatures, things like providing floodplain, it also  
22 therefore affects the risk of disease, predation, and  
23 generally the resilience of the species.

24           But that being said, some of these things, some  
25 of the improvements can be achieved with non-flow

1 measures.

2           Two slides showing why this is important and  
3 why it's specifically important in the San Joaquin River.  
4 This chart shows the difference in returns of adult  
5 salmon between two time periods: the time before 1992,  
6 and after 1992. And as you can see on the right side,  
7 the Stanislaus, the Tuolumne and the Merced River, they  
8 have had the worst results and the biggest declines in  
9 salmon of all of the Central Valley tributaries.

10           And this next chart shows that correlation  
11 between flows and the flows that are experienced by  
12 juvenile salmon and the returns of adults two-and-a-half  
13 years later. So it's showing on the left side  
14 escapement, which is the fancy word for the returns of  
15 salmon. And on the right side, the tributary flows that  
16 occurred two-and-a-half-years earlier. And as you can  
17 see they coincide quite nicely. It just shows when you  
18 have big flows you have good returns of salmon.

19           And, I say this a number of times, but this is  
20 the most important slide, because what we're doing is  
21 terribly hard, because it's the balancing of what to do  
22 with this precious resource, water. When the Board did a  
23 pure scientific assessment in 2010 as part of the Delta  
24 Reform Act, we did a technical assessment that didn't  
25 consider the uses of water. And that assessment found

1 that if you wanted to protect fish, like salmon, and  
2 protect beneficial uses, you'd have to maintain 60  
3 percent of unimpaired flow in the river; 60 percent of  
4 the total quantity of water in the February through June  
5 period.

6           The problem is that current uses currently use  
7 80 percent, sometimes even more. Sometimes during that  
8 February through June period flows can be even less than  
9 10 percent of that unimpaired flow. So you have that  
10 tension there between the public interest uses that are  
11 currently happening and the needs for salmon. So unlike  
12 the 2010 report, which was purely a scientific  
13 assessment, what we're doing now in this SED is we  
14 present both the science -- the benefits of providing the  
15 flow -- but also the costs of providing that flow to  
16 agriculture and things like that.

17           So that's why the proposal is in the form of a  
18 range less than 60 percent. It's a 30 to 50 percent  
19 range with a starting point of 40 percent, which is a big  
20 increase. And it's an adaptive range that allows for a  
21 combination of non-flow measures, changing conditions,  
22 and also encourages voluntary agreements; 60 percent is  
23 what the science says, 30 to 50 percent is less than what  
24 the science says and what fish interests would be  
25 interested in. But, it's more than what ag interests and

1 other uses of water, so that's why this is so hard and  
2 this is the tough decision that's going to be before the  
3 Board.

4           And because it's all so hard, this has all been  
5 crafted mindful of putting it together in a way that  
6 encourages and can allow for settlements, which is the  
7 last major point. This is intended to encourage  
8 settlements, so we have an adaptive range, so perhaps we  
9 can get the biggest bang for the buck at the lower end of  
10 the range, the 30 percent of unimpaired flow. If things  
11 like non-flow measures are brought to bear, habitat  
12 restoration or direct control of things like predation  
13 and things that also are affecting salmon's ability to  
14 succeed. Settlements also provide those durable  
15 solutions, so it's not just the regulation but it's  
16 coming from the ground up. And from the ground up and  
17 from this area, which has expertise, understandings of  
18 what can be done.

19           So although the State Water Board is proposing  
20 these flow objectives, and has this proposal, at the same  
21 time the California Natural Resources Agency is leading  
22 those settlement discussions, so those go hand in hand at  
23 the same time we have the proposal for the regulation.  
24 But the Resources Agency is leading the discussion about  
25 what are those durable solutions that can be crafted, and

1 not just in the San Joaquin River, but also in the  
2 Sacramento River for a comprehensive solution.

3           So what is the proposal? The current flow  
4 objectives are now at just one location on the San  
5 Joaquin River, one compliance location of that map I  
6 showed earlier. The San Joaquin River at Vernalis has  
7 minimum monthly flows and includes a pulse flow period.  
8 And since it's only at Vernalis, there's only one  
9 responsible water rights holder -- the United States  
10 Bureau of Reclamation -- and pretty much all the water  
11 just comes from the Stanislaus River. It's less than  
12 optimal.

13           The proposed objective is applying to the three  
14 salmon bearing tributaries: the Merced, the Tuolumne, the  
15 Stanislaus River. And it has two parts. A narrative  
16 objective intended to describe that its intent is to keep  
17 fish in good condition, sufficient to support and  
18 maintain the natural production of viable native fish  
19 populations migrating through the Delta. It has also  
20 then a numeric component, that's that 30 to 50 percent  
21 range to apply for February through June. It's intended  
22 to provide some of the natural variability, but also a  
23 budget of water that can be shifted. That's why it has  
24 an adaptive implementation component with a starting  
25 point of 40 percent.

1           And just a reminder, unimpaired flow is  
2 basically the total quantity of water to be available if  
3 it weren't stored or used.

4           The adaptive implementation component allows  
5 for that shaping of water, using the budget of water  
6 within February through June. And it also allows some  
7 flow shifting to move some of that water to the fall to  
8 avoid temperature impacts. And the critical part, this  
9 envisions the formation of a group, the Stanislaus,  
10 Tuolumne and Merced, or STM, Working Group, which could  
11 very well be the implementing entity or be part of what  
12 falls out of voluntary agreements to determine what are  
13 the biological goals to get at that narrative success of  
14 improving fish conditions. And also we do planning,  
15 monitoring and reporting, so it's intended to be the full  
16 package of how do you implement this thing and do it the  
17 smartest with the smallest quantity of water that still  
18 achieves the goals.

19           Now, for the southern Delta salinity component.  
20 The current objectives at four locations -- one on the  
21 San Joaquin River, three interior Delta -- and they vary  
22 seasonally for the irrigation period April through August  
23 at a level of 0.7 and September through March at 1.0  
24 millimhos per centimeter. So one is a riverine condition  
25 and three in the interior southern Delta.

1           What is proposed instead, and based on the  
2 science that again this kind of speaks to what is the  
3 reasonable protection, the science has shown that a year-  
4 round objective of 1.0 through all months and years would  
5 provide for that reasonable protection of all crops in  
6 the southern Delta. And because there's been issues of  
7 just measuring salinity or determining compliance with  
8 the standard at three point locations, it's also proposed  
9 that they be changed to three channel segments rather  
10 than specific locations.

11           And the program implementation would also  
12 require the Bureau of Reclamation to do what they have  
13 been doing, which is to meet the salinity objective of  
14 0.7, or meet a salinity of 0.7 at Vernalis to provide  
15 assimilative capacity in the southern Delta. So  
16 basically this proposal wouldn't change the conditions in  
17 the southern Delta, but it would be matching rather the  
18 objectives that are required to reasonably protect all  
19 uses in the southern Delta.

20           Other requirements are development of an  
21 Operations Plan to continue to address any of the impacts  
22 of the State Water Project, Central Valley Project, so  
23 the Department of Water Resources and the Bureau of  
24 Reclamation are doing that. And also studies to  
25 characterize the dynamics and interaction of flow levels

1 and salinity conditions. It's worth noting that as a  
2 package these two together, that the increase of flows in  
3 that February through June period would improve water  
4 quality at a critical period in the southern Delta by  
5 providing high-quality water.

6           So what's the principal effect of the proposal?  
7 This chart shows that it would increase under the 30, 40,  
8 and 50 percent. This shows on the left side all year  
9 types and the other sets of nested bars show that each of  
10 those unimpaired flow requirements would increase flows  
11 above the current condition. And the grand summary  
12 statistic is that on average it would increase in-stream  
13 flows by 288,000 acre-feet for that February through June  
14 period, but varying by year type. That's a 26 percent  
15 increase.

16           It's not just about the water, but it's about  
17 what the water does. And one of the principal measures  
18 that we evaluate in this document are the improvements  
19 that would occur not just in general by matching the  
20 natural hydrology to which species adapted, but also  
21 improving temperatures and floodplain inundation.

22           A very quick snapshot of how that happens, this  
23 chart shows just one month and one year of May 1991, and  
24 it's showing a cross-section of the Tuolumne River from  
25 the dam on the right side at La Grange all the way to the

1 confluence of the San Joaquin River. And you can see for  
2 this one month and one year, temperatures are improved at  
3 the mouth by almost ten degrees. That's a big  
4 improvement and it means you have more of the time that  
5 you're meeting temperature criteria that are needed to  
6 protect various life stages of salmon.

7           A chart that just shows what can be achieved in  
8 terms of floodplain inundation. This is showing again  
9 just for the April through June period and just for  
10 critically dry years, dry years, below normal years. And  
11 it shows the very large increase in floodplain inundation  
12 that provides areas for fish to grow and succeed and then  
13 have greater resilience. So in below normal years you're  
14 going from practically nothing to 30,000 acre days. And  
15 with somewhat lesser improvements, but still significant  
16 improvements during some of the worst years and dry years  
17 and critical years.

18           But this improvement comes at a cost, which is  
19 again what this is all about. It's those tradeoffs  
20 between what you can achieve and what it costs. This  
21 shows the water supply impacts of the 40 percent  
22 unimpaired flow proposal within the entire Plan area.  
23 And for all year types it would result in an overall 14  
24 percent reduction in water supply in the area. And  
25 showing it also by year type, most of that would occur in

1 dry and critically dry years.

2           And quickly here, just showing the same thing,

3 because we've looked at it by each of the watersheds.

4 This is the Stanislaus River, which might be our greatest

5 interest here in terms of the districts and the areas

6 that it would affect. And it shows the same pattern.

7 And again, for the Tuolumne and for the Merced.

8           So the full wrap on the impacts is that

9 implementing the 40 percent flow proposal could result in

10 that 14 percent reduction in overall water supply of

11 about 293,000 acre-feet per year on average, but bigger

12 and drier years, smaller and wetter years. It would vary

13 though however from 7 percent to 23 percent reduction

14 within that 30 to 50 percent adaptive range. The

15 analysis looks at the effects on groundwater pumping,

16 because the assumption is based on observation of the

17 recent record is that some of this water supply would be

18 replaced by additional groundwater pumping. So based on

19 2009 rates of groundwater pumping groundwater would

20 increase by about 105,000 acre-feet per year. That still

21 leaves an unmet agricultural water demand, which is one

22 of the principal effects, of 137,000-acre-feet per year

23 based on that 2009 level of pumping.

24           The Board and staff is mindful of the issues

25 surrounding groundwater in this area, many other areas,

1 and the Sustainable Groundwater Management Act. So we  
2 also looked at it, looking at different rates of  
3 groundwater pumping, though you could reduce the water  
4 supply effects by assuming higher rates of groundwater  
5 pumping. That would have greater impacts on groundwater.  
6 And all of that kind of information is discussed, that's  
7 all parts of the tradeoff and assessment that is in the  
8 staff report for this proposal.

9           The bottom line effect of this then, if you're  
10 reducing this water availability is that there would be a  
11 reduction in the economic output of \$64 million per year,  
12 which is about a 2.5 percent reduction from the baseline  
13 economic output for the area. And again, varying by  
14 years depending on more in critically dry years and less  
15 in wetter years.

16           So all of this information stemming from those  
17 water supply effects has -- the principal effects are  
18 that as it affects groundwater resources, could result in  
19 increases of groundwater pumping and reduce recharge,  
20 lowering groundwater levels. It affects agriculture,  
21 changing cropping patterns, reducing the amount of  
22 irrigated acreage and thereby reducing ag revenue. And  
23 it can also affect drinking water supplies and the need  
24 to construct new wells or deepen existing wells, because  
25 of the effects on groundwater and could also have effect

1 on groundwater quality. And that is all summarized in  
2 the various chapters of the document.

3 So the next step, some of it is the past steps.  
4 As has been mentioned, we had the one day of hearing back  
5 in November. And we have three additional days of  
6 hearing shown on the slide coming up, with the last day  
7 back in Sacramento.

8 At this point the comments are due, the written  
9 comments are due, on the SED by January 17th, 2017. And  
10 we anticipate a final SED and a Plan release in May and  
11 then for Board consideration later in the summer.

12 And this slide shows the venues for the  
13 upcoming hearings as well as at the bottom that website.  
14 That's where you can find expanded, the recordings of the  
15 hearing from the 29th, and also technical workshops that  
16 we've held. There's a lot of information there. If you  
17 haven't had the opportunity to view it, you can go there  
18 and see many hours of additional information as well as  
19 find the PowerPoint presentations that will provide more  
20 useful information.

21 And with that, I'll turn it over to Chair  
22 Marcus.

23 CHAIR MARCUS: Thank you, Les. And thank you  
24 for condensing what was a much longer PowerPoint. Those  
25 are good choices, appreciate it.

1           Are there any questions or comments before we  
2 move ahead? All right.

3           We're now going to take comment from elected  
4 officials. And we've noted we have at least one in the  
5 audience who hasn't filled out a card, so if you can just  
6 have you or your staff fill out a blue card and give it  
7 to staff we'll be able to call on you in this segment.

8           And I'll mention in batches of three, just so  
9 folks can get prepared. And I'm taking the people first  
10 who had contacted us in advance. Yeah?

11           MS. SPIVY-WEBER: And they speak right there?

12           CHAIR MARCUS: And they speak right there,  
13 thank you for that.

14           And we just have a few of those folks who have  
15 to leave. First, we have Lea Castleberry, on behalf of  
16 Contra Costa County Supervisor Mary Piepho, followed by  
17 Senator Cathleen Galgiani followed by Assemblyman Heath  
18 Flora followed by former Senator Patrick Johnston, also a  
19 member of the Delta Stewardship Council.

20           MS. CASTLEBERRY: Good morning, Chair Marcus  
21 and members of the Board. My name is Lea Castleberry and  
22 these comments are on behalf of Contra Costa County  
23 Supervisor Mary Piepho.

24           A healthy, vibrant Sacramento-San Joaquin Delta  
25 Estuary is closely tied to the physical, societal and

1 economic health of those who live, work and recreate in  
2 the San Francisco Bay-Delta region and throughout much of  
3 the state. The eastern portion of Contra Costa County,  
4 my district, is located within the Delta. And the  
5 County's entire northern border is bounded by waterfront  
6 that flows from the Delta to the Bay. Thus, Contra Costa  
7 County lies at the center of the Bay-Delta region. And  
8 the future of this nationally significant resource  
9 substantially influences the future of the County.

10 Restoring the health of the Delta protects the  
11 Bay, which is linked to the long-term success of the  
12 County and the region. Increased flows are critical to  
13 restoring the health of the Bay-Delta Estuary. As part  
14 of the Sacramento-San Joaquin Delta, we understand better  
15 than many others the Delta is in serious decline and so  
16 we support restoration of flow into, through and from the  
17 Delta into San Francisco Bay to the higher levels that  
18 the best available science demonstrates is necessary to  
19 conserve salmon and other native fish and wildlife.

20 The Board has the opportunity to set water  
21 quality standards that could represent the most  
22 comprehensive and ambitious set of protections for the  
23 Bay-Delta Estuary we've seen. Adopting tough standards  
24 in Phase 1 is the best action that can be taken to  
25 protect and restore the Estuary and will set the stage

1 for the future WQCP phases and set a realistic baseline  
2 for approval of future Delta and Central Valley water  
3 supply projects.

4           The Supervisor encourages the Board to do the  
5 right thing. What is the right thing? There is no basis  
6 in science to think that 40 percent of unimpaired flow  
7 will be enough to restore salmon or protect the  
8 environment of the San Joaquin River system and the  
9 Delta. And the Board's 40 percent unimpaired flow  
10 proposal is actually less than 40 percent. The Board is  
11 considering using far less than half of the river flows.  
12 According to the scientific consensus reflected in  
13 findings of the California Department of Fish and  
14 Wildlife and the SWRCB's 2010 Delta Flow Criteria Report,  
15 the best available science presented to the Board in  
16 recent years indicates that 50 to 60 percent of  
17 unimpaired flows are necessary to restore these rivers  
18 and their salmon populations.

19           If the Board doesn't follow the best available  
20 science for the San Joaquin system then what can we  
21 expect when it tackles the need for Sacramento River  
22 inflow, Delta export controls, and flows to the San  
23 Francisco Bay in Phase 2? In some respects the Board's  
24 revised proposal is even worse than its original proposal  
25 from 2012. Flows can be decreased as low as 30 percent

1 in any given year and some of the water stored for use  
2 and -- in use later in the year or subsequent years.

3 The Board needs to set a starting requirement  
4 at 50 percent or more to reverse the decline of salmon  
5 and ecosystem conditions. And then raise or lower the  
6 requirement depending on how salmon and the ecosystem  
7 respond over a multi-year period using clear and  
8 enforceable metrics.

9 I thank you Board, Chair Marcus and Board  
10 members, for my remarks today.

11 CHAIR MARCUS: Thank you for joining us today.

12 And also I have a question for staff. On the  
13 three-minute timer I can see it, but it didn't go off.  
14 Can they see a timer? Is there a timer that the speakers  
15 can see?

16 MR. LLOYD: Well, Madam Chair, they see a  
17 lighted system that's right here in front of them.

18 CHAIR MARCUS: Oh, red light, green light,  
19 yellow light?

20 MR. LLOYD: Yeah, and there's a small beep at  
21 the end of the thing. You may not have heard it up  
22 there.

23 CHAIR MARCUS: Okay. Thank you, great. And  
24 then whoever's handling the visual that we see, it would  
25 be nice to have it turned on. I'm speaking to whoever

1 has the power of the timer, or if I should just ignore it  
2 and try and look at the red light/green light.

3 MR. LLOYD: At the (indiscernible)

4 CHAIR MARCUS: Yeah, it's right there. It just  
5 didn't move, that's all.

6 MR. LLOYD: Oh, we'll have that done.

7 CHAIR MARCUS: All right, I'm just concerned.  
8 I just want to make sure, given there are so many people  
9 here I don't -- sometimes I get engrossed and I don't  
10 notice.

11 All right, next we have Senator Galgiani  
12 followed by Assemblyman Flora followed by former Senator  
13 Johnston.

14 There you are, I saw you.

15 SENATOR GALGIANI: Thank you, Madam Chairwoman  
16 and Board members. I have serious reservations regarding  
17 the Bay-Delta SED released in September. My first  
18 concern was with the public comment process for a  
19 proposal with such serious impacts to the area involved.  
20 Although I appreciate the 60-day extension to the  
21 original 60-day comment period, I don't believe it's  
22 adequate for the affected parties to thoroughly review  
23 and respond to a complex 4,000-page report compiled over  
24 4 years, suggesting a significant reallocation of water  
25 from the three rivers that will have dire impacts on the

1 three-county area and beyond.

2           Studies and estimates by local economists and  
3 water and ag agencies clearly suggest that the  
4 assumptions in the SED in regard to the impacts on the  
5 local economy, groundwater, drinking water, and ag  
6 production are greatly underestimated. Most experts  
7 indicate that the potential for increase in the salmon  
8 population may be very minimal and is very speculative.

9           The SED acknowledges that the region would have  
10 to make up the loss of surface water by increased pumping  
11 of groundwater. This directly contradicts the goals of  
12 the Sustainable Groundwater Management Act process by  
13 reducing irrigation water, which is the largest recharge  
14 factor in this area, which already has some significant  
15 overdraft issues.

16           The SED suggests no form of mitigation for  
17 these economic and groundwater impacts, but merely states  
18 that the impact will be significant but unavoidable.  
19 This is less than acceptable response to these three  
20 counties, which have not yet recovered from the economic  
21 downturn. They've been the most impacted areas in the  
22 country by the mortgage crisis and have been weathering a  
23 historic drought for years. I've proposed for years that  
24 California needs a comprehensive and consistent approach  
25 to water planning, taking into account all projects in

1 development and all proposed projects, large and small.

2           A Plan that does not take into account 165  
3 years of alterations to the Delta and the rivers that  
4 feed it, as well as the introduction of invasive species  
5 and subsequent predation seems unlikely to succeed on its  
6 own without the expertise and assistance of our local  
7 water agencies. Even this Board recognized in 1995, that  
8 the health of the salmon rests on more than just  
9 increased flows allowing that actions on predation,  
10 hatcheries, ocean harvest and habitat are required.

11           A report released last year by four Delta lead  
12 scientists on the challenges and recommendations for  
13 managing the Delta stated, "If the problem were just  
14 about allocating fresh flows it might be solvable. Add  
15 in the complexity of moving water through a hydro-  
16 dynamically complex Delta it becomes complicated."

17           I respectfully request that the Board  
18 concentrate its efforts in this direction. This kind of  
19 cooperation and comprehensive program with all parties  
20 working together would be a much more productive way to  
21 move toward the Board goals. Thank you.

22           CHAIR MARCUS: Thank you very much. And thank  
23 you for joining us.

24           Assemblyman Flora who has the best name of any  
25 elected official. Senator Johnston followed by

1 Supervisor Karl Rodefer from Tuolumne County.

2 ASSEMBLYMAN FLORA: Good morning, Chair --

3 CHAIR MARCUS: Good morning.

4 ASSEMBLYMAN FLORA: -- and members of the  
5 Board, and I appreciate the kind words on the last name.  
6 I've heard a lot of things on the campaign and that  
7 wasn't one of them, so that's great to hear.

8 All right, well I'm here today and to express  
9 my opposition to the proposed flow requirements on the  
10 Board's Plan. The proposed Plan would have a devastating  
11 effect on our region's economic and local economy and it  
12 fails to balance the state water's policies and  
13 objectives. It is well known that in the 12th District,  
14 in my district, and the Central Valley, our economic  
15 success is heavily reliant on agriculture and in turn,  
16 water. The Don Pedro Reservoir itself, in the 12th  
17 District alone, has a \$4.1 billion economic output, a  
18 \$730 million wage income, and represents 18,900 jobs  
19 within the region.

20 Our District, and the state, has endured three  
21 years of a critical drought that has damaged the economic  
22 wellbeing of our counties and others that will be  
23 impacted by this proposal. San Joaquin County alone has  
24 suffered a half-a-billion dollars in losses in farmland  
25 production last year and Stanislaus County faces losses

1 on the same magnitude.

2           The estimates on the amount of farmland we've  
3 fallowed reached 240,000 acres, the equivalent to 800  
4 California farms. Furthermore, San Francisco's PUC  
5 General Manager, Harlan Kelly, Jr., estimates that the  
6 Bay Area can see a decrease in sales transactions between  
7 \$37 and \$49 billion and roughly 180,000 jobs could  
8 potentially be lost if this SED were to be approved.

9           The impacts of this Plan are far-reaching and  
10 potentially devastating for California and the Central  
11 Valley's economy. This proposal only further strains the  
12 delicate and complicated relationship between California  
13 agriculture, our environmental interests, and our  
14 municipalities of our limited water supply. The proposal  
15 only focuses on instream flows and ignores the other  
16 possible approaches that benefit environmental species.

17           A balance, not a heavy-handed approach, is  
18 needed to fulfill the Board and California's water and  
19 goals. Simply reallocating thousands of acre-feet of  
20 water for environmental goals with little regard to the  
21 water users in the Central Valley is truly unacceptable.  
22 So I implore and encourage the Board to continue to work  
23 with our local irrigation districts, our local elected  
24 officials, that we together can find a solution for this  
25 massive problem that we face in the State of California.

1 I greatly appreciate your time and I look  
2 forward to working with you. And my staff and myself are  
3 at your service whenever you need us. Thank you.

4 CHAIR MARCUS: Thank you very much. We'll take  
5 you up on that, thank you very much.

6 Senator Johnston followed by Supervisor Rodefer  
7 followed by Mayor Steve DeBrum, I think I read that  
8 right, get me if I'm -- I think so -- from Manteca.

9 MR. JOHNSTON: Good morning.

10 CHAIR MARCUS: Good morning.

11 MR. JOHNSTON: My name's Patrick Johnston. I'm  
12 a member of the Delta Stewardship Council and a resident  
13 of Stockton. Thanks for coming to Stockton and thanks  
14 for developing flow standards for the San Joaquin  
15 Watershed.

16 The 2009 Delta Reform Act, the basic law of the  
17 state, requires the Delta Stewardship Council to adopt a  
18 Delta Plan in order to guide achievement of the state's  
19 co-equal goals, which were referred to in the briefing,  
20 of providing a more reliable water supply for California  
21 and protecting, restoring, and enhancing the Delta  
22 ecosystem achieved in a manner that protects and enhances  
23 the unique cultural, recreational, natural resource and  
24 agricultural values of the Delta as an evolving place.  
25 That's the law.

1           The Delta Plan that we, the Stewardship  
2 Council, adopted in 2013 says in part, "Development,  
3 implementation and enforcement of new and updated flow  
4 objectives for the Delta and high-priority tributaries  
5 are key to the achievement of the co-equal goals." The  
6 Delta Plan names among others the Merced River, the  
7 Stanislaus River, the Tuolumne River and the Lower San  
8 Joaquin River.

9           The goal of your standard setting is to achieve  
10 a more natural functional flow. That does not mean  
11 reverting to the river's historical flow, but it does  
12 mean linking the biology of fish to flows, particularly  
13 between February and June. And those flows must be  
14 higher than they have been.

15           The best advice today will be from those here  
16 who can help you shape and sculpt protocols that balance  
17 the competing demands for water with the need to improve  
18 the fisheries. Advice that is less helpful includes  
19 those who claim more water is not necessary to save fish;  
20 or those who say more water is needed, but somebody else  
21 should give it up. It just isn't credible to say save  
22 the Delta, but don't reduce diversions in the San Joaquin  
23 Watershed.

24           Thank you very much.

25           CHAIR MARCUS: Thank you very much for joining

1 us and thank you for your years of leadership on these  
2 issues, we really appreciate it.

3 Supervisor Rodefer, nice to see you.

4 SUPERVISOR RODEFER: Nice to see you.

5 CHAIR MARCUS: Mayor DeBrum, tell me if I got  
6 that wrong, followed by Supervisor Randy Hanvelt, also  
7 from Tuolumne County, great.

8 Hi.

9 SUPERVISOR RODEFER: Chair Marcus, it's good to  
10 see you again. Thank you very much for the time. Thank  
11 you for having this hearing.

12 I do represent Tuolumne County, 55,000 people,  
13 but more to the point I represent the well over 10  
14 million people that visit Tuolumne County every year,  
15 from all over the State of California and all over the  
16 world, 9.5 million go through the town of Oakdale alone  
17 headed up 108-120 for our fair county. Eighty percent of  
18 those people, by research, come for water recreation.  
19 And I think that one of the big pieces that is missing --  
20 and thank you Board Member D'Adamo for mentioning  
21 recreation -- one of the big pieces that's missing is the  
22 recreational economy piece in most of the analysis.

23 I would also say that in our county we don't  
24 have the benefit of having a groundwater basin that we  
25 can fall back on. So the water from the Stanislaus River

1 and the Tuolumne River are our pretty much sole source of  
2 water in the County. And we do get water from both. In  
3 my district alone there are two state parks and most  
4 importantly, we have a CAL FIRE Air Attack Base and with  
5 the increased frequency and intensity of forest fires  
6 that is a really key public safety asset and we supply  
7 the water for that asset. And they fight fires, not just  
8 in our county but in neighboring counties, and the Valley  
9 as well.

10 I think what I would ask is that -- and I was  
11 just down in ACWA and had the benefit of listening to  
12 gubernatorial candidate Antonio Villaraigosa speak. And  
13 he said something very profound that I haven't heard very  
14 much of and that is that we need to put the human and  
15 human uses of water back into the ecological equation.  
16 And I fully support that.

17 I think we need a balanced approach that  
18 addresses all the multiple beneficial uses of water. And  
19 I, quite frankly, don't see that in the Plan. I think  
20 that flow for flow's sake, as we saw in the past two  
21 years where we flush water out of Melones in particular  
22 for the fish, and it was too warm and it had the reverse  
23 effect that was desired, just doesn't make sense. I  
24 think we need to look at all the other possible solutions  
25 that will help our fish. We certainly need all of our

1 species, but I think that just flow is not the answer.

2           So I want to thank you again for the time. And  
3 I don't envy you, your task.

4           CHAIR MARCUS: Thank you very much, always  
5 really helpful.

6           Mayor DeBrum, and you can tell me how to  
7 pronounce that -- my apologies to everybody, all day, if  
8 I don't get your name right -- followed by Supervisor  
9 Hanvelt followed by Teresa Kinney, on behalf of  
10 Congressman Jeff Denham.

11           MAYOR DEBRUM: A job well done, Madam Chairman.

12           CHAIR MARCUS: Oh, thank goodness, one thing.

13           MAYOR DEBRUM: Very good. Chairman Marcus and  
14 honorable members of the State Water Resource Control  
15 Board, my name is Steve DeBrum, Mayor for the City of  
16 Manteca.

17           The San Joaquin Valley is one of the richest  
18 and most productive areas in the world. The primary  
19 reason the Valley is so productive is its well-developed  
20 water supply. When you mention water, it is a simple  
21 five letter, two syllable word, which has vast meanings  
22 including river water, groundwater, surface water,  
23 potable water and stormwater, just to name a few. Yet it  
24 covers more than 70 percent of the earth's surface. But  
25 today I'm here to speak on the importance of its

1 existence and the citizens of Manteca and the surrounding  
2 communities.

3 Fully developing water resources has taken many  
4 years of combined effort of federal, state and local  
5 governments along with investment from the agricultural  
6 industry. In 1997, the City of Manteca started down a  
7 road to ensure there would adequate water supply for our  
8 community to grow and thrive. The Plan called for a  
9 developed balanced water supply utilizing sustainable  
10 groundwater and surface water.

11 In 2003, the city joined with South San Joaquin  
12 Irrigation District and the cities of Tracy, Escalon and  
13 Lathrop to construct the South San Joaquin Water Supply  
14 Project. The city alone invested over \$43 million in the  
15 project. The city is relying on water from the project,  
16 which is to provide half of their current water supply  
17 and the project will also provide sufficient water to  
18 support the next 25 years of growth, which is estimated  
19 to exceed 125,000 residents. That is assuming the state  
20 does not take water to which historic senior rights  
21 exist.

22 If the state continues in their assault on  
23 local water supplies the city will lose a significant  
24 part of their baseline water supply placing undue  
25 hardships on not only our community, but those cities

1 which endure a collaborative partnership with SSJID. In  
2 2014, the state passed the Sustainable Groundwater  
3 Management Act. The city supports the state efforts to  
4 protect our valuable water supply. Groundwater provides  
5 about half the city's water supply and in order of the  
6 city to be sustainable, we must utilize both safe surface  
7 water and groundwater. In our opinion, taking more under  
8 the guise of helping fish while increasing divergence  
9 from around the Delta will create a perpetual drought in  
10 the San Joaquin Valley.

11           The citizens of the San Joaquin Valley, County  
12 of Manteca, deserve to have their legally-obtained water  
13 supply and diverting water from the Central Valley to  
14 supply Southern California will have an irrevocable and  
15 negative impact on the region. We urge the state to  
16 reject this SED and work together with a more balanced  
17 approach that will protect and respect the rights of  
18 property owners, of the citizens, and the industry of San  
19 Joaquin Valley.

20           Thank you very much.

21           CHAIR MARCUS: Thank you very much.

22           Supervisor Hanvelt, nice to see you, followed  
23 by Teresa Kinney followed by Cameron Burns, on behalf of  
24 Mayor Michael Tubbs, City of Stockton.

25           Hi.

1                   SUPERVISOR HANVELT: Good morning, Randy  
2 Hanvelt, Supervisor Tuolumne County, and thank you very  
3 much for this meeting today and the opportunity to speak.  
4 I come from Tuolumne County. We are the headwaters of  
5 both the Tuolumne and the Stanislaus.

6                   And I would seek that you would look at a more  
7 balanced approach, if you will, and look at the economic  
8 and social impacts of what you're doing as well as the  
9 ecosystem impacts of the upper watershed. Supervisor  
10 Rodefer already mentioned some of the issues here. Our  
11 economy is largely based on ag, natural resources and  
12 tourism -- big impacts. And tourism, he gave you some  
13 numbers. But let me tell you a little about the water  
14 system. We are virtually, totally dependent on surface  
15 water. We don't have a groundwater basin. We have  
16 fractured rock and that's proven to be very unreliable,  
17 both quality and quantity.

18                   We are currently under a state of emergency and  
19 have been for several years now, because our groundwater  
20 wells are failing. And we have over 300 families  
21 dependent on us providing water deliveries to them right  
22 now. And there's no hope in the near term of that  
23 recovery. We're seeing a few wells continue to fail in  
24 spite of the increased precipitation, but we're not  
25 seeing recovery. And that's a problem and that will

1 continue for some time. We make it up with surface  
2 water. I mean, that's clearly an issue.

3 Recreation is a big part of our economy and as  
4 Supervisor Rodefer said, most of the people come there  
5 for water-based recreation. We are the playground for  
6 the Central Valley, and I might add, the Bay Area,  
7 because of all those people and a lot of people from the  
8 world. Now, he mentioned nine-and-a-half million people  
9 come up, five million people visited Yosemite this year,  
10 a little more, but they don't come through Tuolumne  
11 County. A portion of them do, but a small fraction. And  
12 many of those people that come through Yosemite Valley  
13 from the other sources, come back to Tuolumne County and  
14 come here for recreation. So it's a big issue.

15 Our ag people need water as well, and it's an  
16 important part of our economy. So I close that you look  
17 at a balanced approach, again put the human factor back  
18 in, and look at the upper watershed ecosystems and the  
19 impacts. When you push on a balloon you know it gives  
20 everywhere else. And when you draw off excessive amounts  
21 it hurts the rest of the system. So we ask for a fair  
22 and balanced approach.

23 Thank you very much, we will submit written  
24 comments.

25 CHAIR MARCUS: Great, thank you very much.

1 Ms. Kinney followed by Mr. Burns followed by  
2 Tom Patti, Supervisor San Joaquin County.

3 MS. KINNEY: Good morning. I'm Teresa, staff  
4 for United States House of Representative Jeff Denham,  
5 who represents Stanislaus County and four cities in San  
6 Joaquin. Unfortunately, Mr. Denham was unable to attend  
7 today due to a previous commitment. On behalf, I will  
8 read the statement into record.

9 "Good morning members of the State Board,  
10 staff, and the public. On September 16th I, along with  
11 several of my colleagues in the House of Representatives,  
12 submitted a letter to the State Board expressing our  
13 concerns with the Draft Substitute Environmental Document  
14 for Phase 1 of the Bay-Delta Water Quality Control Plan.

15 "I'm happy the Board is holding the public  
16 hearing today in San Joaquin County and in Stanislaus and  
17 Merced counties. The overwhelming economic loss over the  
18 horizon with your proposed plan will devastate the areas  
19 you will be visiting over the next few days and I implore  
20 you to listen to those impacted. Read the data and  
21 research and find a reasonable balance for our economy  
22 and environment.

23 "Any plan needs to be scientifically justified  
24 with the ability to alter government mandates as more  
25 data and information is learned, understood and as

1 environmental conditions change and warrant. A one-size  
2 fits all approach, as is proposed in the Draft Plan,  
3 fails the people of this region. The Draft SED's data is  
4 woefully inadequate and has no correlation for the  
5 assumed environmental benefits. In short, the heavy hand  
6 of government threatens to destroy our way of life in the  
7 Valley and frankly is unacceptable.

8 "What is needed is a collaborative, driven  
9 approach by locals who understand the unique needs of  
10 each watershed and can react the fastest to changing  
11 conditions. Numerous times I have stated my position  
12 that any water releases ordered meet critical human needs  
13 first, and the benefits of additional water releases  
14 above current operating standards be justified with  
15 scientific and ecological benefits defined prior to any  
16 change.

17 "Instead of increasing unimpaired flow for no  
18 proven scientific benefit, why not address predation?  
19 Striped bass, a known non-native predator fish, needs to  
20 be an area focus before more water is released  
21 downstream. In fact, local, state and federal agency  
22 studies have shown upwards of 95 percent mortality on  
23 listed species. To ignore and take no action on this  
24 matter prior to implementing any flow regime changes  
25 demonstrates no balance and shows a complete bias by the

1 State Board.

2 "I ask you to request your sister agency at the  
3 California Fish and Wildlife Service to stop holding  
4 scientific research permits hostage and allow scientific  
5 studies to happen immediately, so research can occur.  
6 I'm not a scientist, but it's baffling to me Cal Fish and  
7 Wildlife continues to deny research. Could it be a  
8 predator fish as serious impact, the initial studies have  
9 shown; are predators not a threat? I don't have the  
10 answers, but the politically motivated actions by Cal  
11 Fish and Wildlife continue to deny the basic science to  
12 do all we can to improve the balance between our rivers  
13 and economy.

14 "Lastly, the current draft proposal is  
15 unsustainable. It will destroy our economy and way of  
16 life. It needs to be placed on hold, reworked, and any  
17 new proposal must include scientific public input  
18 including making all scientific information and data  
19 available for public review prior to a final decision.  
20 Thank you very much."

21 CHAIR MARCUS: Thank you very much.

22 Mr. Burns followed by Mr. Patti followed by  
23 Christian Burkin, on behalf of Assembly Member Susan  
24 Eggman.

25 MR. BURNS: Hello, my name is Cameron Burns.

1 I'm here on behalf of Michael Tubbs, Mayor Elect of  
2 Stockton. He regrets he could not be here in person to  
3 deliver the following statement.

4 "Good morning Chair Marcus and members of the  
5 State Water Resources Control Board. Thank you for  
6 giving my office the opportunity to make comments to the  
7 Board regarding the revised draft environmental documents  
8 for Phase 1 of the Bay-Delta Water Quality Plan Update.

9 "Stockton, California has experienced numerous  
10 economic challenges including the recent bankruptcy that  
11 has had a direct impact on our residents. Median incomes  
12 are 74 percent of the national average and a significant  
13 percentage of our population is part of the legally  
14 defined environmental justice community. Stockton, in  
15 fact, has the largest environmental justice community in  
16 California as percentage of the population.

17 "A weakening of the South Delta salinity  
18 standards will have a negative impact on agriculture,  
19 which is Stockton's primary economy. I understand that  
20 even small changes in salinity can have a negative impact  
21 on Delta crop production. We're not an economy that can  
22 presently tolerate reductions in our primary economy,  
23 which is again agriculture. Plus good water quality is  
24 essential to attracting new businesses and economic  
25 development that could lift a sizable portion of Stockton

1 residents out of poverty.

2            "In addition, the weakening of salinity  
3 standards would have a negative effect on our ability to  
4 use our recently completed Delta Water Supply Project.  
5 And would force us to use lower quality groundwater,  
6 reversing the many years of planning and investment in  
7 surface water supply that has been shown to improve  
8 overall Delta water quality.

9            "Water losses and degraded water quality will  
10 put additional economic stress on Stockton and hamper our  
11 recovery. Our city panel will be addressing how the  
12 proposed imposition of stricter salinity standards at  
13 wastewater treatment plants will make discharge from our  
14 municipal wastewater treatment facility more difficult  
15 and more expensive for our ratepayers. This could all  
16 lead to increased treatment costs that about one-third of  
17 our residents simply cannot afford.

18            "Last, you are seeking in this document for  
19 water sacrifices to be made by a combination of Delta  
20 interests and agricultural interests on the east side of  
21 San Joaquin County. This is a no-win answer for economic  
22 development of the Stockton municipal region. Why are we  
23 expected to make this sacrifice when the draft SED for  
24 the San Joaquin River is silent on water exports? If  
25 water exports were reduced to levels that are sustainable

1 for the Delta and San Joaquin River there would be  
2 appropriate flows for all parties in Stockton and San  
3 Joaquin County."

4 Thank you so much.

5 CHAIR MARCUS: Thank you.

6 Mr. Patti followed by Mr. Burkin.

7 SUPERVISOR PATTI: Good morning to all and  
8 welcome to San Joaquin. I am Tom Patti, Supervisor Elect  
9 in San Joaquin County District 3. My district covers the  
10 interior of the Delta from the Stockton Deepwater Channel  
11 west to our most precious farmlands. I represent some of  
12 the most bountiful agricultural land in the world and  
13 some of the poorest people in California, all within my  
14 district.

15 I will state clearly as a matter of fact, the  
16 weakening of south Delta salinity standards will have a  
17 negative impact on agriculture, which is my district's  
18 primary economy and 30 percent of our regional GDP.  
19 Reductions in agricultural output resulting from salty  
20 irrigation water will ripple through our already stressed  
21 economy inflicting negative impacts on growers, farmers,  
22 workers and our food supply.

23 For over 45 years I've grown up on the Delta.  
24 Myself and many enjoy boating, fishing and recreation.  
25 Our Delta is currently under stress with toxicity,

1 invasive weeds and increased salinity levels that  
2 contribute to the proliferation of toxic algal bloom that  
3 has occurred in recent years in the south Delta. In my  
4 45 years of exposure and recreation on the Delta it is in  
5 peril. The Delta, the health of the Delta, is in  
6 complete demise.

7 Have you considered the public health impacts for those  
8 who swim, fish and boat, and recreate on the Delta, which  
9 as noted economically recreation alone is a \$750 million  
10 annual boost to our economy? If our water is deemed  
11 unsafe who is going to pay for the revenues lost to our  
12 marinas, residents and other local businesses? The Delta  
13 has been deprived of the freshwater flows that it needs  
14 to serve San Joaquin County as a result of being over-  
15 pumped for 30 years, which by the way brings up a  
16 question -- why is the draft SED silent on water exports  
17 to the South San Joaquin Valley? Curious, and this is  
18 truly most curious to me, is that all planning discussion  
19 are about what is being taken away from the Delta. But  
20 there is zero discussion about how a plan will improve  
21 the Delta with a greater supply of clean water. Where  
22 are the new water reservoirs? Where is the Plan for  
23 growth and sustainability, not the current plan of  
24 complete decimation?

25 As you will hear today, we in this region are

1 not idle. We are active, engaged and determined not to  
2 be the sacrificial lamb of California. A true water fix  
3 would increase supply and flow into the Delta, not bypass  
4 our sustainable needs.

5 I do thank you for your time.

6 CHAIR MARCUS: Thank you very much for your  
7 time. And congratulations on your election.

8 SUPERVISOR PATTI: Thank you.

9 CHAIR MARCUS: Next, Mr. Burkin, on behalf of  
10 Assemblymember Eggman. Hi, there you are.

11 MR. BURKIN: Good morning Madam Chair, members  
12 of the Board. My name is Christian Burkin, I live in  
13 Stockton. I am the spokesman for Assemblymember Susan  
14 Talamantes Eggman, who represents the Delta communities  
15 of Stockton, Tracy, Mountain House, Thornton and much of  
16 unincorporated western San Joaquin County. Thank you for  
17 coming here to speak to, and to hear from, our residents.  
18 I'm going to read a brief statement from Assemblymember  
19 Eggman.

20 "As a representative of the Sacramento-San  
21 Joaquin Delta I take very seriously the quality and  
22 quantity of fresh water flowing through it. We in the  
23 Delta depend on its waters for our daily lives, as does  
24 our most productive economic sector, agriculture, and our  
25 natural environment and the species it sustains. Any

1 good faith effort to improve conditions in a way that  
2 balances those needs is welcome and deserves our support.  
3 This includes increasing the amount of fresh water  
4 flowing through our waterways, vital to sustaining  
5 fisheries and maintaining water quality for both  
6 residential and agricultural users. However, we know too  
7 well that there is not a better way to exploit the Delta,  
8 bypass its statutory and regulatory protections, and  
9 supersede our senior water rights than to do so under the  
10 guise of fixing it.

11            "It is unfortunate that such an enormously  
12 complicated plan to manage the Delta is released  
13 precisely at the time of year when local agencies and the  
14 public are least able to adequately respond. Even a  
15 state legislative office is hard pressed to read and  
16 evaluate a 4,000-page Substitute Environmental Document  
17 within the extended period. That people have already  
18 managed to mount substantive concerns about this Plan  
19 should be cause not only for concern, but for the Board  
20 to consider a more collaborative approach from now on.

21            "No plan to protect the Delta can succeed  
22 without taking into account actions taken well outside of  
23 the region, rising statewide demand for surface water  
24 exports, increasing acreage devoted to permanent crops in  
25 arid export-dependent regions, drought and climate change

1 for example. In other words, we need more fresh water  
2 flowing through the Delta, but less being pumped from it.

3 "Likewise, it must consistent with the co-equal  
4 goals under the Delta Reform Act, give proper weight to  
5 the potential economic impacts. This is one of the  
6 poorest regions of the state and Stockton is by some  
7 measures the most economically distressed major city in  
8 California. The potential consequences of a substantial  
9 reduction in agricultural production both on the economy,  
10 and on long-term food security, must be given appropriate  
11 consideration. And, it must be said at this moment while  
12 we deliberate over how exactly to save Delta fish,  
13 Congress has passed and the President is considering  
14 legislation that will undermine all of our efforts.  
15 Legislation backed by exactly those interests who have  
16 also supported other plans over the years to save the  
17 Delta; legislation that a veto may only delay given the  
18 stated intentions of this congressional majority in the  
19 incoming Administration. Thank you."

20 CHAIR MARCUS: Thank you very much.

21 That concludes our elected officials to date.  
22 I want to turn to the court reporter. Ordinarily I would  
23 take our 10 or 15-minute break now. Our first panel  
24 needs to be out by 11:00. Can you go 20 or 30 minutes?  
25 That'd be great.

1           So we'll move to Panel One and then we'll take  
2 a break. And as a result we'll take a lunch on the late  
3 side, but staff has come up with a list of places that  
4 will show up on the screen -- I may add to it -- and we  
5 will move along. That was very helpful, thank you.

6           So if you don't mind setting the timer for 20  
7 minutes and again, of course, any economy. It is helpful  
8 to have it focused, but any economy of time you can do on  
9 such a large panel is going to be important.

10           MR. SATKOWSKI: Excuse me, so somebody just  
11 came in, somebody on behalf of Assemblyman Jim Frazier  
12 just showed up. So let me know what you want to do.

13           CHAIR MARCUS: All right. No, I'll take it.

14           Hi, before you all start we have one more  
15 representative of an elected official. So if Erica  
16 Rodriguez-Langley would like to come up and speak on  
17 behalf of Assemblymember Frazier that would be good.

18           Hi.

19           MS. RODRIGUEZ-LANGLEY: Good morning.

20           CHAIR MARCUS: Good morning.

21           MS. RODRIGUEZ-LANGLEY: Hello, I'm Erica  
22 Rodriguez-Langley. I'm the Deputy District Director for  
23 State Assembly Member Jim Frazier. Assemblymember  
24 Frazier represents what is known in the California State  
25 Assembly as the Delta District. With 70 percent of the

1 Delta in his district he represents the southern  
2 Sacramento communities and the legacy communities of  
3 Locke and Walnut Grove. He represents Solano County,  
4 including the Suisun Marsh, and eastern Contra Costa,  
5 including the communities of Antioch, Brentwood and  
6 Discovery Bay.

7 Today, I am reading into the record excerpts  
8 from his letter on November 1st written to Chair Marcus  
9 and the California Board regarding the Change Petition.  
10 And so --

11 MS. DODUC: (Indiscernible.)

12 MS. RODRIGUEZ-LANGLEY: -- thank you. And it  
13 says,

14 "Dear Ms. Marcus, I'm writing today to register  
15 my strong opposition to the Petition for Change in Water  
16 Rights as requested by the Department of Water Resources  
17 and the U.S. Bureau of Reclamation."

18 MS. DODUC: Wait, wait, wait.

19 CHAIR MARCUS: One second, if you're going to  
20 talk about WaterFix, you can't. So if you can just do --  
21 that can only be -- because it's a Water Rights hearing  
22 it's a quasi-judicial proceeding, so if you can --

23 MS. RODRIGUEZ-LANGLEY: Certainly.

24 CHAIR MARCUS: Thank you for catching that.

25 MS. RODRIGUEZ-LANGLEY: I will --

1 CHAIR MARCUS: We can only hear that in a duly  
2 noticed proceeding on that. I apologize and it's made  
3 life very complicated.

4 MS. RODRIGUEZ-LANGLEY: Well, as we know this  
5 does relate. But we will --

6 CHAIR MARCUS: It's not, yeah it goes the other  
7 way.

8 MS. RODRIGUEZ-LANGLEY: -- be glad to move  
9 forward.

10 CHAIR MARCUS: Yeah.

11 MS. RODRIGUEZ-LANGLEY: So on behalf of  
12 Assemblymember Frazier as we continue, as he proudly  
13 represents the 11th Assembly District, nearly half a  
14 million residents who call the Delta home, the District  
15 is "... urban, rural, agricultural and industrial. And it  
16 includes people from all walks of life."

17 This proceeding is very critical to the people  
18 of his district are going to be gravely impacted by the  
19 changes being addressed today.

20 "The State Legislature and Governor  
21 Schwarzenegger explicitly stated (sic) the need to  
22 protect the Delta in 2009 when they passed the Delta  
23 Reform Act." And he believes that this change petition  
24 should be denied.

25 CHAIR MARCUS: Yeah, I'm sorry, it's hard.

1 MS. RODRIGUEZ-LANGLEY: As we proceed --

2 CHAIR MARCUS: You now know what our life is  
3 like in every coffee shop and bar we go into, but...

4 MS. RODRIGUEZ-LANGLEY: And as an advocate for  
5 the Delta and Assemblymember Frazier, and those he  
6 represents, he wants to share with you his deep concerns.  
7 And to ask the Board to take into consideration the  
8 impact of your determination to the economy, to the  
9 environment, to the way of life of all the residents that  
10 reside within his district, to the water quality's  
11 impact, to our fish. And, as stated before, we're having  
12 changes being seen on the federal level and we know that  
13 we're asking you as the representatives for people of  
14 California to look at those you're hearing from today and  
15 to understand that your decision will make a long-time  
16 impact on all of those.

17 And thank you for time today.

18 CHAIR MARCUS: Thank you very, very much. I'm  
19 sorry to have to draw such a fine line.

20 We have a couple of other folks, but they're  
21 willing to wait until after the panel. Oh, excuse me, so  
22 take it away panel.

23 (Colloquy re: presentation setup.)

24 MS. WEBSTER: Good morning, Chair Marcus and  
25 Board members. My name is Debbie Webster. I'm the

1 Executive Office of the Central Valley Clean Water  
2 Association. And we appreciate the time to come and talk  
3 with you. On our panel is Tom Grovhoug, with Larry  
4 Walker & Associates; Tess Dunham with Somach Simmons &  
5 Dunn; Robert Granberg, with the City of Stockton; Heather  
6 Grove, with the City of Manteca; Steve Bayley, with the  
7 City of Tracy; and Melissa Thorme, with Downey Brand.

8           We're here to talk about our concerns regarding  
9 as they relate to our members, specifically Wastewater  
10 Treatment Plan issues or POTWs. CVCWA members that are  
11 most directly -- by the impacts of the proposed salinity  
12 and flow objectives are the City of Stockton, the City of  
13 Tracy, the City of Manteca and Mountain House Community  
14 Service District.

15           We have several concerns, mostly that the SED  
16 assumes that the 1,000 micromhos per centimeter EC  
17 objective will be applied at the end-of-pipe. Those  
18 effluent limits would require the installation of a  
19 reverse osmosis or RO treatment plants at the POTWs. RO  
20 has significant impacts including increased energy  
21 consumption, greenhouse gas emissions, brine disposal  
22 challenges and significant socioeconomic impacts. The  
23 SED, in fact, concludes RO would have significant and  
24 unavoidable impacts. However, RO would not measurably  
25 improve the EC levels in south Delta.

1           Our request is that your staff would work with  
2 us to modify the SED to include an implementation plan  
3 and language for how these water quality objectives would  
4 be incorporated in NPDES permits for our POTWs.

5           And from here, I'm going to turn it over to Tom  
6 Grovhoug.

7           MR. GROVHOUG: Thank you, Debbie.

8           Chair Marcus and members of the Board, I will  
9 be giving the rest of the formal presentation. So don't  
10 worry about that we have everyone going to speak.

11           Let's see, I wanted to start just the rest of  
12 our presentation will really be information to provide  
13 support for some of the points that Debbie just made.  
14 And it's really going to cover four main areas. One is  
15 the impact that the POTWs in the south Delta are having  
16 on salinity. Second point is what the effluent quality  
17 is for those POTWs. Thirdly, some of the facts to  
18 elaborate on what Debbie said regarding the effectiveness  
19 of reverse osmosis and the impacts of reverse osmosis.  
20 And then fourth, we want to spend some time talking about  
21 our proposed solution.

22           Let me go back, so the first. It's commonly  
23 accepted based on -- and it's actually identified in the  
24 SED and in the technical appendix for the SED that the  
25 discharges from south Delta POTWs will have a very small

1 effect on salinity. And so this is one example of  
2 language excerpted from the SED itself, also from the  
3 appendix. Some work was done, and I'll talk about it a  
4 little bit in a minute, regarding some modeling that was  
5 done back in 2007 specifically looking at the impact to  
6 the City of Tracy and Mountain House on the impacts of  
7 their discharges on salinity. And the fact that those  
8 are limited impacts, so this again is an excerpt from the  
9 technical appendix.

10           And then finally, State Board staff did an  
11 analysis of loading, taking into account not only the  
12 POTW discharges, but also other sources. And the finding  
13 again in the appendix is that those loadings represent a  
14 small percentage of the salt load in the system.

15           I mention some modeling that was done. For  
16 quite some time there's been a concern over the impact of  
17 POTW discharges on the south Delta salinity. So in 2007,  
18 DWR using its DSM-2 model -- and through a collaborative  
19 that included the Central Valley Regional Water Quality  
20 Control Board, the cities of Tracy and Mountain House,  
21 also South Delta Water Agency and CalSPA -- worked  
22 together to coordinate a modeling effort.

23           And it looked at the effect of -- on this map  
24 you can see the City of Tracy discharge point as well as  
25 the Mountain House discharge points and Old River -- and

1 it looked at the three D-1641 compliance points in the  
2 San Joaquin Middle River and Old River. And it did an  
3 assessment of reasonable worst-case impacts.

4 Out of that there were determinations made  
5 regarding the percentage of effluent that goes to  
6 different places in the Delta. That information was used  
7 in -- you recently approved a Basin Plan Amendment for a  
8 Central Valley salinity variance. And this information  
9 shown on this chart shows if using the information from  
10 the DWR modeling -- and if the assumption was made that  
11 in this case Tracy was to install reverse osmosis to meet  
12 an effluent level of 1,000 EC, which is what's described  
13 in the SED currently -- this shows you the impacts with  
14 and without reverse osmosis at these 1641 compliance  
15 points. So it's a very, very small, negligible benefit  
16 of installing reverse osmosis to meet 1,000.

17 Same type of plot shown for Mountain House  
18 where there's basically no effect in San Joaquin or in  
19 the Middle River and essentially no effect in the Old  
20 River from installing reverse osmosis.

21 In the SED there's really three compliance  
22 actions, which are identified. One of those is for the  
23 cities to seek new water supply, surface water supplies,  
24 to basically minimize their use of groundwater as a  
25 component of their water supply portfolio. That actually

1 has been implemented by the communities in the south  
2 Delta. And I'll show you some information on that.

3 Also a second compliance action that's  
4 identified in the SED is for the communities to do source  
5 control, industrial source control, residential  
6 basically. And this is required in their existing NPDES  
7 permits to implement salinity management to do all they  
8 can to reduce the amount of salinity in their discharges.  
9 That has also been implemented.

10 And so I'm going to show you three charts of  
11 effluent quality. That first for the City of Tracy --  
12 and this is for the period of over approximately the last  
13 ten years -- and what we're showing in this chart is the  
14 y axis is the effluent annual average EC value for the  
15 City of Tracy discharge. And on the bottom is time. And  
16 so over time you can see that, as I said the impact, what  
17 you're seeing here is the impact of bringing in a new  
18 water supply. And the significant effect that actually  
19 has had by bringing in less saline water to replace more  
20 saline groundwater. And then also you're seeing the  
21 combined effect of the salinity management source control  
22 that I described.

23 This chart also gives us a picture of what has  
24 happened through the drought where you see an uptick in  
25 effluent salinity due to water conservation. And also

1 some of the measures that were taken that force the City  
2 back on to groundwater usage.

3 A similar chart for the City of Manteca where  
4 they implemented a new surface water supply approximately  
5 ten years ago. You can see the drop that resulted from  
6 that. You can also see the uptick in effluent salinity  
7 that happened during the recent drought.

8 And then finally, for the City of Stockton who  
9 did the same type of thing, going more to surface water  
10 supply from groundwater. And you can see a dramatic  
11 effect in 2015 of an uptick in salinity that actually if  
12 an effluent limit of 1,000 had been established it would  
13 have taken the city from on an annual average basis from  
14 compliance to noncompliance. So drought effects are an  
15 important consideration in writing -- constructing the  
16 effluent limits for these communities.

17 So as I said there are basically three  
18 compliance actions that the SED refers to. And in  
19 essence the first two have already been implemented. The  
20 third --

21 Oh, let me mention also just the cost of the  
22 surface water supplies. And on this chart we show the  
23 amounts, significant expenditures by the City of Tracy,  
24 Manteca and Stockton for implementing those new surface  
25 water source supplies. And of course, for the rest of

1 what we're talking about here today those supplies will  
2 become less available in the future. So it's already  
3 been implemented, it's probably not likely it's going to  
4 continue to be able to be used as a tool.

5           And so as I say the third option that's  
6 identified as a compliance action in the SED is for the  
7 communities to install reverse osmosis. And as I showed  
8 in those prior charts, that's really not an effective  
9 solution. It doesn't really create a benefit. What it  
10 does do is it has some of the impacts that Debbie  
11 mentioned. Certainly, reverse osmosis, a high-pressure  
12 treatment system increases energy demand, greenhouse gas  
13 emissions, and is a high-cost proposition.

14           And through that salinity variance Basin Plan  
15 Amendment we actually have developed information, which  
16 we can provide to your staff, which will allow a closer  
17 examination of some of those costs and impacts. And  
18 again, high cost in impact and really not an appreciable  
19 benefit from implementing that approach.

20           So this is just an example of some of the  
21 information. What we assumed here is that just enough RO  
22 would be installed to meet an effluent limit of 1,000 EC.  
23 And so this shows you energy and greenhouse gas  
24 emissions. And then in terms of costs we're able to  
25 identify capital O&M and annual costs, which are clearly

1 significant. And would lead to the socioeconomic effects  
2 that Debbie mentioned in each of the communities.

3           So what CVCWA has asked is asking is for the  
4 Board to allow your staff to work with us to actually  
5 implement a different option. And that is to, we believe  
6 the flexibility exists within NPDES regulations, to  
7 actually not implement the proposed water quality  
8 objectives as stated in the SED. We believe that the  
9 effluent limits don't necessarily need to match the  
10 objective. There are various considerations and I won't  
11 go into detail here, but there are mixing zones, points  
12 of compliance, averaging period considerations. Also we  
13 believe that some consideration of drought, how the  
14 limits might be effected or implemented during drought.

15           And also by working with your staff I think it  
16 would really help CVCWA and the communities, help resolve  
17 some of the issues that came out of the litigation on  
18 this matter. And the offer is strong from this side of  
19 the table to do that.

20           So just in summary, the problem that we see is  
21 that the SED paints a picture of a preferred alternative,  
22 which would lead to significant and unavoidable impacts  
23 on local communities. And our assessment is that that  
24 would really not have a commensurate water quality  
25 benefit.

1           Our solution is that we believe we can work  
2 through this, through the plan of implementation that's  
3 required under the Water Code 13242, and come up with  
4 language both in the SED and in the Plan itself that will  
5 resolve this issue.

6           And with that we're done.

7           CHAIR MARCUS: All right. Are the rest of you  
8 there for moral support and to answer questions, or is  
9 there any color commentary you'd like to add?

10          All right, thank you. So the --

11          MS. D'ADAMO: I have, I think just a question,  
12 maybe a clarification.

13          CHAIR MARCUS: If you have a point, go ahead.  
14 Sure.

15          MS. D'ADAMO: So on the charts the City of  
16 Tracy, Manteca and Stockton where you show what you call  
17 an uptick where you were forced back on to groundwater.

18          MR. GROVHOUG: Right.

19          MS. D'ADAMO: Would you be able to either now  
20 or in your written comments parse out the increase that's  
21 attributed to groundwater versus other factors?  
22 Groundwater use versus other factors.

23          MR. GROVHOUG: We will sure take that on in our  
24 written comments.

25          MS. D'ADAMO: Thank you.

1 CHAIR MARCUS: Great. So you're talking about  
2 how to implement it, not that we should make the standard  
3 even higher, which is what I was -- I was looking at all  
4 of my friends from the Delta out there, who were going to  
5 throw daggers at you if you were going to. Because there  
6 is a strong series of arguments we heard a lot on the  
7 29th, and I'm sure we'll hear today, that raising the  
8 limit is problematic for folks on the Delta.

9 So you just want to work with our staff on how  
10 it's measured and implemented, so that we don't cause  
11 undue costs --

12 MR. GROVHOUG: Exactly.

13 CHAIR MARCUS: -- without commensurate benefit?

14 MR. GROVHOUG: Yes.

15 CHAIR MARCUS: All right.

16 MR. GROVHOUG: We think we can live within the  
17 construct of the NPDES permit regulations and anti-  
18 degradation provisions and come up with a permit  
19 requirement that will work.

20 CHAIR MARCUS: All right.

21 MR. MOORE: So if I could ask a couple of  
22 questions?

23 CHAIR MARCUS: Well, certainly.

24 MS. DUNHAM: I just want to add to that real  
25 quick, I just think it's really important -- and I think

1 just to make it very clear what we're asking is that it  
2 needs to be articulated within the Program of  
3 Implementation, so there isn't future uncertainty as to  
4 how the objective gets implemented, which is where we've  
5 run into problems in the past. And so we're looking for  
6 clear articulation with respect to when you take that  
7 objective and you apply it to a POTW how it's done, so we  
8 don't wind up onerous end-of-pipe effluent limits.

9 CHAIR MARCUS: Or so that you don't end up with  
10 disparities between different facilities --

11 MR. GROVHOUG: Exactly.

12 CHAIR MARCUS: -- I would presume. Okay.

13 Mr. Moore?

14 MR. MOORE: Yeah, good. Thanks for the  
15 presentation, a couple of kind of high-level questions.  
16 So the existing Bay-Delta Water Quality Control Plan,  
17 does it have a governing effect on existing NPDES permits  
18 and their limits that are derived?

19 MS. DUNHAM: So it did at one point, but due to  
20 litigation that occurred with the City of Tracy, and  
21 CVCWA was an intervenor, the court basically set aside  
22 the application of the south Delta objectives on the  
23 POTWs while the State Water Board went through this  
24 process of updating the objectives, and looked at the  
25 impact on the POTWs. So it's basically kind of been in

1 abeyance so to speak under the court's direction at this  
2 point and time.

3 MR. MOORE: Oh, thanks for that clarification.  
4 That's for the benefit of the audience members too. And  
5 so it's interesting as this is a unique place in the  
6 state, because usually the Regional Water Board would  
7 have the standard that is ultimately derived for the  
8 effluent limit. But does the Central Valley Regional  
9 Board's Basin Plan not have an objective that is  
10 translated to a salinity limit at this time?

11 MS. DUNHAM: Not for the Delta, the Regional  
12 Board has to rely on the Bay-Delta Plan for objectives  
13 for the south Delta.

14 MR. MOORE: Good, so that's the clarity and so  
15 that's the prelude history to this discussion. And yes,  
16 there are many ways that effluent limits can be derived  
17 and so there is flexibility. I think, I mean, staff if  
18 you can answer this, but my sense is that the SED -- you  
19 know, the job is to disclose potential outcomes, but not  
20 necessarily to dictate a specific path of implementation  
21 for the Central Valley Water Board's effluent limit  
22 derivation, i.e. is language that's in this proposed  
23 Appendix K compelling the Central Valley Water Board to  
24 require the water quality objective be equivalent to the  
25 effluent limit for these dischargers in this proposal at

1 this time?

2 MR. GROBER: This is a great discussion. And I  
3 very much would like to see any proposed language that  
4 you have. And working together with the Regional Board,  
5 because this is something that we've struggled with, but  
6 this provides some of the foundation defined in the  
7 compliance location as reaches rather than individual  
8 points, if that's one way to get around this. Though  
9 we'll hear some of the alternate view with regard to that  
10 from folks later, because it's one thing to talk about  
11 what the effects are over a large area, but then there's  
12 the concern what's the effect right next to a discharge?

13 CHAIR MARCUS: Right.

14 MR. GROBER: So these are some of the things  
15 that we are still very happy to hear the language, and to  
16 work with the Regional Board, because this is something  
17 we're trying to all fold together.

18 CHAIR MARCUS: Great, and you can pull  
19 everybody together.

20 MR. GROBER: Yep.

21 CHAIR MARCUS: That should be no problem.

22 MR. MOORE: Yeah, that's key. These are good  
23 discussion points, but I'm under the impression that at  
24 the Regional Board level this ultimately is worked out  
25 based on science, based on hydrodynamic assessments,

1 water chemistry work and the like.

2 MR. GROBER: And then I just have to kind of  
3 point out this is really the struggle in terms of when I  
4 said the reasonable number of why raising it to 1.0 --  
5 which is the number that is providing that reasonable  
6 protection of all crops -- and it's trying to strike that  
7 balance recognizing this is one of the other tensions on  
8 the other side. So a little bit more to do, but thank  
9 you very much.

10 MR. MOORE: Sure.

11 CHAIR MARCUS: Sure.

12 MR. MOORE: And while we're talking about  
13 POTWs, obviously people know I'm the Sanitary Engineer on  
14 the Water Board, it's close to my heart and my  
15 discipline. I have to ask the question, where does  
16 recycled water development fit into this? What are the  
17 possibilities for enhancement of wastewater effluent as  
18 beneficially reused in your areas? And what can we look  
19 forward to there and does that solve some of the  
20 compliance conundrums?

21 MR. GRANBERG: Good morning, Robert Granberg,  
22 City of Stockton. I'd like to briefly describe how our  
23 Recycled Water Program works. We are a POTW discharger  
24 here, near the City of Stockton. We also have a drinking  
25 water intake about 10 or 11 miles downstream, or north,

1 on the San Joaquin River. And our water right is based  
2 on the amount that we discharge into the river. So we  
3 essentially have one-for-one recycling program that  
4 utilizes the San Joaquin River as our conveyance to our  
5 drinking water intake.

6 So we're unique in that we're regulated on  
7 discharge and on our intake, and so water quality in the  
8 San Joaquin River is of high importance to us. And  
9 that's how we recycle water.

10 CHAIR MARCUS: That's similar to the Las Vegas  
11 model, right? The one for one.

12 MR. GRANBERG: I believe so. I say one for  
13 one, because we can deliver that recycled water  
14 essentially to the tap and not just to landscape.

15 CHAIR MARCUS: Right.

16 MR. BAYLEY: And Steve Bayley, City of Tracy,  
17 we received recently a grant from the Department of Water  
18 Resources for \$18 million to implement recycled water  
19 into Tracy. We hope to use it for our parks and our  
20 green space areas as well as serve it to ag in the  
21 vicinity of Tracy as well as industrial in the San  
22 Joaquin County. So we're hoping to implement recycled  
23 water in the next three years.

24 MR. MOORE: And I thank you very much. And  
25 each community has its own story and its own

1 circumstances and we respect that. But it's interesting  
2 because I've been involved in proceedings where recycled  
3 water en masse of pollutants that is reduced through  
4 diversion to recycling is credited in NPDES permits. So  
5 that's one example of where commitments to recycle water  
6 to reduce salinity inputs can be taken under  
7 consideration by the permitting authority.

8 CHAIR MARCUS: Well, thank you. Thank you for  
9 flagging that issue. That was perfect and we'll follow  
10 up on it.

11 MR. GRANBERG: Thank you.

12 CHAIR MARCUS: And now with the court  
13 reporter's indulgence, I have a couple more elected  
14 officials I'd like to take before we take a short break.  
15 Is Katherine Miller here yet -- okay, great -- on behalf  
16 of the Supervisor San Joaquin County followed by Tori  
17 Verber Salazar, the District Attorney San Joaquin County,  
18 followed by Supervisor Chuck Winn from San Joaquin  
19 County. And then we will take a break.

20 SUPERVISOR MILLER: Hi.

21 CHAIR MARCUS: Hi, there. Thank you for  
22 joining us.

23 SUPERVISOR MILLER: Thank you, good morning  
24 Chair Marcus, members of the Board, and interested  
25 parties. My name is Kathy Miller. And I'm a member of

1 the San Joaquin County Board of Supervisors. I'm here to  
2 today to express the strong unanimous opposition of the  
3 entire San Joaquin County Board of Supervisors to the SED  
4 proposal.

5 First, as a public official I can appreciate  
6 the difficulty associated with balancing interests. I  
7 recognize that this is hard. However, properly weighing  
8 the impacts of our decisions is a duty inherent in public  
9 service. The SED fails to adequately analyze all impacts  
10 and unfairly burdens the San Joaquin region rather than  
11 focus on water exports that have caused the greatest harm  
12 to fish species.

13 The SED proposes that at least 40 percent of  
14 natural flow remain in the Stanislaus River for fish.  
15 This water sustains and has sustained for over a century  
16 our cities, industries and agriculture. The SED assumes  
17 that the loss of surface water supplies from the  
18 Stanislaus River will result in greater groundwater  
19 demand. We have worked hard over the past several  
20 decades to improve our groundwater basin and we have made  
21 great progress.

22 As you are aware, sustainable groundwater  
23 management is now mandated by SGMA. By greatly reducing  
24 the supply of Stanislaus River water, the SED proposal  
25 will not only undo decades of progress in recovering our

1 already stressed groundwater basin, but also put  
2 groundwater sustainability hopelessly out of reach.

3           A less reliable water supply will weaken the  
4 economy in San Joaquin County. This will limit our  
5 ability to attract employers, create higher paying jobs  
6 and promote investments in sustainable development.  
7 Further, much of San Joaquin County is economically  
8 disadvantaged. The SED will have the greatest impact on  
9 farm workers, truck drivers, cannery workers and others  
10 who can least afford it, thereby creating an  
11 environmental justice nightmare for our region.

12           Agriculture is the leading sector in San  
13 Joaquin County and was valued at over \$3.2 billion in  
14 2014. Lost agricultural production due to SED will  
15 result in economic losses that will ripple throughout our  
16 regional economy. Farming-related economic fallout  
17 includes reduced property values, equipment sales and  
18 employment.

19           The proposed salinity standard relaxation in  
20 the SED will adversely affect the quality of prime  
21 agricultural land, which is a finite and irreplaceable  
22 resource. Those impacts will decimate the San Joaquin  
23 region and limit future economic development.

24           In conclusion, the SED proposal fails to fully  
25 evaluate its impacts and places an extremely unfair

1 burden on San Joaquin County and other eastside tributary  
2 counties. The current SED is inadequate and a decision  
3 based on the information provided would be unlawful and a  
4 disservice to the citizens of California that you serve.

5 For the record, San Joaquin County will be  
6 submitting detailed technical comments on the SED by the  
7 January 17th deadline. We ask that the Board fulfill  
8 their obligations by collaborating with local  
9 stakeholders and carefully reevaluating and revising the  
10 SED proposal. Thank you.

11 CHAIR MARCUS: Thank you very much for joining  
12 us.

13 Thank you.

14 DISTRICT ATTORNEY VERBER SALAZAR: Madam  
15 Chairman, members of the Board, thank you for the honor  
16 to be here today. I am Tori Verber Salazar, the District  
17 Attorney for San Joaquin County. And I'm responsible for  
18 enforcing the law, prosecuting and protecting the rights  
19 of the residents of San Joaquin County. A County that  
20 provides an enormous contribution to the Americas' food  
21 supply as well as areas beyond our borders. Our healthy  
22 and vibrant communities are places that provide  
23 opportunities, resources, an environment that children  
24 and adults need to maximize their life outcomes,  
25 including employment, education, housing and safety.

1           Based upon your proposal I have grave, grave  
2 concerns for the well being of San Joaquin County and its  
3 citizens based on the Board's current intentions to  
4 export more water south of the Delta. Please allow me to  
5 address the relationship between public safety and water.

6           My concerns are immediate for the County. They  
7 are largely economic as those factors impact public  
8 safety greatly. It is undeniable that economic  
9 opportunity is tied directly to crime rate. San Joaquin  
10 County is and has been historically at risk,  
11 unfortunately.

12           There are members of our community who live in  
13 distressed communities where a combination of lack of job  
14 opportunities, crime, poverty, poor health, struggling  
15 schools, inadequate housing and disinvestment keeps many  
16 residents from reaching their full potential.  
17 Researchers call these hot spots, which account for a  
18 disproportionate amount of crime and disorder in our  
19 community.

20           Research has shown that a driving force to  
21 sustainable success is job opportunities and a healthy  
22 environment, coupled with community, government, local  
23 region agencies and support services. Areas where we  
24 have been able to provide those services -- resources,  
25 excuse me -- have been seeing a slow and steady decline

1 in violence and criminal behavior. We have built hope in  
2 San Joaquin County.

3 Crime rates continue to decline. Some few  
4 areas we see arise and that too is unacceptable. But we  
5 continue to fight every day through transparency,  
6 evidence-based practice, and reconciliation for the past  
7 wrongs. We work 24/7 collaboratively with our ag  
8 community and our community-based organization to fill  
9 jobs, housing to assist our homeless and to stop the  
10 senseless violence.

11 The critical step in assisting and restoring  
12 these impacted neighborhoods is driven by employment  
13 opportunities. Your current proposal would adversely  
14 affect one of our largest job creators and economic  
15 tools, the ag community. The loss of these resources can  
16 be estimated in staggering monetary numbers. But what it  
17 means to me is different, because it means an increase in  
18 crime, which means more children will be harmed, more  
19 lives will be lost. And more violence will be required  
20 for all of us here in San Joaquin County to live in.

21 Furthermore, by depleting resources and job  
22 opportunities, you will further impact our high-risk  
23 spots, while potentially creating new ones. This will  
24 significantly impact the work and the hope we have worked  
25 to build so. With an economy largely based on

1 agriculture, if you determine this basis you undermine  
2 our viability in this region. If so, you will bring  
3 about an increase in crime that statistically is  
4 undeniable. This is unacceptable. And for what? For  
5 taking a viable area, decimating it to the benefit of  
6 another area, is unprecedented. This should be avoided  
7 at all cost.

8           Here, we have one of the most fertile, the most  
9 productive, the most sustainable areas of agricultural  
10 production in the modern world. It's right here. We  
11 have rich and fertile soil that is adjacent to natural  
12 waterways, natural waterways that are conducive to  
13 international shipping lanes in an area that is located  
14 close to major population centers.

15           I'm here to bring awareness to this impact.  
16 If you transfer further water out of this area, you will  
17 impact the economic viability of San Joaquin County,  
18 which in turn ultimately impacts the crime rate and  
19 public safety.

20           The statement was made to look at the human  
21 impact of water. I see every day the human impact.  
22 Often it comes in the loss of life, property and harm.  
23 Water is life. Those three words could not read more  
24 true and just about at any level you choose to evaluate,  
25 here in San Joaquin County. With every speech I give I

1 say these words, because I believe them with all my  
2 heart.

3 And you can see the men and women out here.  
4 This is the best damn county in the State of California  
5 and we're here today to ask you reconsider your proposal,  
6 and understand the true impact you have upon our  
7 community. Thank you for your consideration.

8 CHAIR MARCUS: Thank you.

9 Supervisor Winn?

10 SUPERVISOR WINN: Thank you very much for the  
11 opportunity to speak before you. I also want to thank  
12 you for the opportunity to hear your presentation. This  
13 is the third time I've heard it. I've heard it at our  
14 County Water Advisory Board, I've heard it at the Board  
15 of Supervisors, and now here today. So thank you for  
16 certainly sharing that information.

17 I'll be very brief in my comments. First of  
18 all, I chair the Groundwater Basin Authority East San  
19 Joaquin, which handles the SGMA issue that you've  
20 mentioned. We have 21 agencies involved in 3 counties  
21 and also 6 of the 7 cities that are in San Joaquin  
22 County.

23 It's been a challenge, to say the least, but on  
24 the positive side, we're moving towards agency status.  
25 And I think we'll certainly meet all the deadlines that

1 are required.

2 CHAIR MARCUS: That's great.

3 SUPERVISOR WINN: On the other side of it, my  
4 district is over half the county and it's agriculture.  
5 And obviously, you've heard time and again about the  
6 impacts on agriculture. But I would also say that in  
7 that district and throughout the entire county, we talk  
8 in terms of flows, we talk in terms of agriculture, we  
9 talk in terms of the environment and certainly the fish.

10 I deal with people all the time. I have  
11 several disadvantaged communities, as District Attorney  
12 Verber Salazar talked about, we deal with that on a daily  
13 basis whether it be crime, homelessness, etcetera.

14 And one of my points is kind of a takeoff of  
15 all the discussions you've had so far, because San  
16 Joaquin County is kind of in the center. Because I deal  
17 for example -- on the Board of Supervisors I deal with  
18 all eight counties in the Valley. And we talk about  
19 SGMA. We talk about the issues in regards to water.

20 Also, we're part of the five-county Delta  
21 Counties Coalition, obviously which is diverse, as you  
22 know. Also, I deal with the mountain counties -- you  
23 heard Supervisor Hanvelt -- from Placer down to Tuolumne.

24 And when I talk about these three different  
25 regions obviously, there's times we think of them being

1 separate and different. They aren't. And the reason is  
2 that because you look at the mountain counties they  
3 provide the watershed, the water for our rivers. As it  
4 comes through the Delta, it goes to Southern California  
5 and other areas.

6 I've had conversation with Randy Record, the  
7 Chairman of Metropolitan. I've had conversations also  
8 with also Frank Mellon, East Bay MUD. I would offer you  
9 this. They are open to alternatives, because we've  
10 talked about the WaterFix and other things. I would only  
11 suggest that as a group collectively, throughout the  
12 state, we have an opportunity to really make a  
13 difference. And I think we can have one of the best  
14 water systems in the world. This, unfortunately in my  
15 opinion, is not the way to go. Underground storage,  
16 things that we're doing with East Bay MUD etcetera are  
17 certainly an opportunity. Certainly, what the Federal  
18 Government just passed is also beneficial.

19 So I would offer that we need to step back,  
20 look at all the opportunities that we have available and  
21 move forward. Thank you for the time.

22 CHAIR MARCUS: And thank you. Thank you for  
23 your words. That's certainly what we're hoping for and  
24 for an obviously this is just one piece of the puzzle.  
25 We are also going to be proposing on the Sacramento River

1 and the rest of the Delta and some of that. Everybody  
2 will be all in by the time we're through.

3 With that, let's take a -- what time is it?  
4 Let's take a 13-minute break or do you need more? Go  
5 until 11:20, all right. We'll take a break until 11:20.  
6 That gives folks time if they want to grab a snack or  
7 something to tide them through. We probably will not  
8 take a lunch break until 1:00 or 1:30.

9 (Off the record at 11:08 a.m.)

10 (On the record at 11:33 a.m.)

11 CHAIR MARCUS: Okay. We'll now move to the  
12 second panel. It is a 15-minute panel, Chris Shutes and  
13 Peter Drekmeier. So if you'll set the timer for 15  
14 minutes and then we'll take a batch of public speaker  
15 cards.

16 Thank you. It's time for a panel from the  
17 California Sportfishing Protection Alliance on the  
18 Tuolumne River Trust. Thank you for joining us this  
19 morning.

20 (Colloquy re: audio setup.)

21 MR. SHUTES: Very good, Chris Shutes with the  
22 California Sportfishing Protection Alliance. I have a  
23 lot to say and not a lot of time to say it in, so I'm  
24 going to run through this really quickly to let  
25 Mr. Drekmeier speak. Many of the points on the

1 PowerPoint are things that I'm hoping that you all will  
2 review, but I'm not going to be able to read through them  
3 or talk through them all.

4 CHAIR MARCUS: Okay.

5 MR. SHUTES: This is the summary of my  
6 presentation and I'm just going to hop right to it.  
7 California in general, and the San Joaquin tributaries in  
8 particular, have an unsustainable agricultural business  
9 model. It is a boom-and-bust cycle built on over-  
10 allocation of water. Too much delivery in good years  
11 creates crisis after two-to-three dry years. This system  
12 remains semi-functional only because it diverts water  
13 needed for rivers, over-pumps groundwater or both.

14 Many water interests have argued in this  
15 proceeding that re-restoration of protective flows to  
16 rivers and the Sustainable Groundwater Management Act  
17 will be the cause of water shortage. On the contrary,  
18 these initiatives daylight a condition that was already  
19 there.

20 On the three major San Joaquin tributaries,  
21 average annual diversions are about half of the average  
22 annual runoff. This level of deliveries is not  
23 sustainable and creates permanent stress on the system.  
24 The SED accepts this system by pushing the impacts of  
25 flow increases to dry and critically dry years.

1 The Board needs to require water management when there is  
2 water to manage in the good years. The urban model  
3 passed by the Legislature in 2009, 20 percent reduction  
4 in urban water use by the year 2020, is a better model.

5           These are four of the biggest problems with the  
6 SED and we will discuss these more extensively in  
7 comments, in written comments, but for the sake of moving  
8 on to the key points today I'm going to skip over them.

9           Many aspects of the modeling in the SED are  
10 better than modeling was in 2013. But the SED uses  
11 modeling to avoid showing the impacts of how one might  
12 actually run the system. The SED uses the Water Supply  
13 Effects Model to show, with perfect foresight, that an  
14 adaptive management group could make annual adjustments  
15 to eliminate this or that impact, such as high-water  
16 temperatures in September or summer increases in  
17 salinity. A more realistic approach would be to use  
18 alternatives for each variable of concern, including  
19 rules and triggers. And either acknowledge the impacts  
20 or budget enough water to mitigate them.

21           When the 1988 Stipulation Agreement on the  
22 Stanislaus, and the 1966 Fourth Agreement on the Tuolumne  
23 were created, the public trust was not at the table.  
24 These agreements divide up amounts of water that don't  
25 account for what the rivers need. The Bay Area, and San

1 Francisco in particular, has done a good job of reducing  
2 demands and water deliveries. Efficiencies in  
3 agricultural use on the east side of the San Joaquin  
4 Valley have not translated into reduced demand and  
5 deliveries are down only in droughts.

6           The San Francisco Public Utilities Commission  
7 and the Bay Area Water Supply and Conservation Agency  
8 deserve credit for reducing demand, in large part through  
9 conservation messaging. But their messaging on increased  
10 flows in the Tuolumne River has consistently been in  
11 opposition. This opposition doesn't line up with the  
12 values of their customers. These agencies must diversify  
13 their water portfolios, much as East Bay MUD has done,  
14 including treatment plants for water diverted from the  
15 Delta.

16           The SED assumes transfers from Merced -- excuse  
17 me, from Modesto and Turlock irrigation districts, but  
18 these entities do not appear to be willing sellers.  
19 There is no reason not to look to other sources. The Bay  
20 Area needs to invest in reliability and not just its own.  
21 It needs to look not only at what it can do in the Bay  
22 area, but also what it can do in the Valley to generally  
23 increase water supply reliability.

24           This slide is a summary of some of the major  
25 general recommendations for the SED. And I would point

1 out that export operations are definitely one of the  
2 things you must consider. It's hard to say where you  
3 consider it. I just reviewed the Scientific Basis Report  
4 for Phase 2, but you need to consider some of these  
5 options in the context of Phase 1. Otherwise many people  
6 -- and we've heard this a lot today -- consider that  
7 water released from the San Joaquin tributaries is simply  
8 an unpaid water transfer.

9           And here is a summary for the Bay Area and its  
10 water agencies. Particularly, San Francisco and the Bay  
11 Area need to be proactive on drought planning and  
12 management. And the Bay Area needs to make broad  
13 investments in diversified water supply reliability.

14           Thanks very much.

15           CHAIR MARCUS: Thank you, interesting. Do we  
16 have copies of your PowerPoint?

17           MR. SHUTES: You do.

18           CHAIR MARCUS: Good, okay. Oh, I probably have  
19 it right here. Good.

20           MR. DREKMEIER: Good morning Chair Marcus and  
21 Board members. My name is Peter Drekmeier and I'm the  
22 Policy Director for the Tuolumne River Trust. And I  
23 appreciate the opportunity to present some information on  
24 potential socioeconomic impacts of the Bay-Delta Water  
25 Quality Control Plan, on the San Francisco Public

1 Utilities Commission and their customers.

2           So I'm going to cover SFPUC water supply and  
3 demand, their socioeconomic study and SFPUC storage,  
4 carryover and replenishment. And I'm going to start with  
5 a couple quotes from the SED. "The average annual amount  
6 of water available to the SFPUC from the Tuolumne River  
7 is 750,000 acre-feet or 678 million gallons per day,  
8 after conversion. And the SFPUC's average annual  
9 diversion from the Tuolumne is 244,000 acre-feet, which  
10 converts to 218 million gallons per day." And it should  
11 be noted that on average 85 percent of SFPUC's water  
12 comes from the Tuolumne and 15 percent comes from Bay  
13 Area watersheds.

14           So this graph is from the SFPUC's EIR for their  
15 Water System Improvement Program and it showed that water  
16 demand was expected to continue to increase.

17           And going to talk a little bit about how much  
18 water is used, so in 2007 the demand projections for 2018  
19 were 285 million gallons per day. There was a lot of  
20 opposition from the environmental community about  
21 diverting more water from the Tuolumne. And to quell  
22 that the SFPUC, to their credit, agreed to cap water  
23 sales at 265 MGD until 2018. And between 2010 and 2014  
24 we were averaging about 225 million gallons per day. I  
25 say "we," because I live in the service territory. In

1 fiscal year 2014-'15 it was down to 195. And in '15-'16,  
2 180 MGD, so it was 32 percent below the cap. Really  
3 quite phenomenal.

4           So this graph shows SFPUC annual system  
5 deliveries. Over the past ten years we've seen a  
6 tremendous drop in water use due to conservation. And  
7 water demand was 180 last year, 180 MGD as I mentioned,  
8 so 32 percent below the 265 cap.

9           In 2014 the Bay Area Water Supply and  
10 Conservation Agency, which is known as BAWSCA and  
11 represents the SFPUC's 26 wholesale customers that use  
12 two-thirds of the water delivered from the SFPUC, they  
13 revised their demand projections and they're now 20  
14 percent lower by 2040.

15           So now I'm going to talk a little bit about the  
16 SFPUC's Socioeconomic Study. So this is a controversial  
17 quote from the general managers of the SFPUC and BAWSCA  
18 and it suggests that the Bay-Delta Plan could result in  
19 the loss of up to 188,000 jobs and \$49 billion in  
20 decreased sales. Well, this is erroneous and apparently  
21 contagious; you heard Mr. Flora refer to these figures  
22 earlier. These figures were based on work done by an  
23 economist named David Sunding. And we took a look at his  
24 study in 2014, the most recent one, and we found a number  
25 of flaws in the study.

1           So for example, it based rationing on demand  
2 versus supply. It included Bay Area water supplies as if  
3 they would be impacted by changes in flows on the  
4 Tuolumne. It failed to understand adequately how storage  
5 replenishment in normal and wet years could erase past  
6 deficits. And it failed to analyze the potential for  
7 water conservation. For example, over the past few years  
8 people have installed high-efficiency appliances, taken  
9 shorter showers, and reduced overwatering of lawns. And  
10 we were able to achieve great things with no economic  
11 impact.

12           So according to his 2014 study, the SFPUC  
13 service territory should have seen a loss of \$6.5 billion  
14 in sales last year when water demand was more than 30  
15 percent below average supply. And we should have seen  
16 the loss of almost 25,000 jobs. Now, the SFPUC in BAWSCA  
17 claim the figures that they have been citing are based on  
18 Sunding's -- not on his 2014 study -- but on previous  
19 work he did in 2009 that was later presented to the State  
20 Water Board in 2013, as you might recall. So this  
21 suggests his work became less accurate over time.

22           But if you compare his projections from 2009  
23 with 2014 they're even more inflated. He didn't produce  
24 figures for 30 percent rationing in 2009, but his figure  
25 for sales losses at 20 percent rationing was 50 percent

1 higher than in 2014 and his figure for 40 percent  
2 rationing was more than double. The \$49 billion at the  
3 bottom of this chart is what the SFPUC and BAWSCA are  
4 quoting. His 2014 study had \$20.56 billion, but if you  
5 go to look at 30 percent it would have been \$6.5 billion.

6 Same for job losses, his figure from 2009 for  
7 40 percent rationing was two-and-a-half times greater  
8 than the figure from his 2014 study. And again we didn't  
9 see any jobs lost last year. In fact, jobs were created.  
10 According to the California Employment Development  
11 Department San Francisco added more than 125,000 jobs  
12 between 2010 and 2015, and San Francisco makes up only a  
13 third of the SFPUC service territory. So this slide  
14 shows the actual number of jobs created between 2010 and  
15 2015 in the four counties that receive some or all of  
16 their water from the SFPUC.

17 So now I'm going to talk about SFPUC storage,  
18 carryover and replenishment, so total SFPUC storage  
19 capacity is almost one-and-a-half million acre-feet. And  
20 that's enough water to supply its 2.6 million customers  
21 for six years at full capacity.

22 The next series of graphs focus on water  
23 availability and capture. This one shows inflow into Don  
24 Pedro Reservoir over the past six years. For most of the  
25 year the Modesto and Turlock irrigation districts have

1 rights to the first 2,400 cfs of runoff. From mid-April  
2 to mid-June they are entitled to the first 4,000 cfs.

3           The SFPUC has rights to the additional runoff.  
4 You can see it here that after four dry years the SFPUC  
5 captured 651,000 acre-feet last year, which was a normal  
6 water year. That was enough to last two-and-a-half  
7 years. And the reservoirs and water bank have rebounded  
8 back to normal. The blue line there is reservoir storage  
9 and the red line is the water bank. The lowest SFPUC  
10 storage got during the drought was about 600,000 acre-  
11 feet. And that didn't include their Bay Area storage,  
12 which they keep pretty full, because with an earthquake  
13 we would depend on that.

14           Currently, SFPUC storage is above normal at 83  
15 percent and we're still in the drought. And it's likely  
16 to fill completely this year. There are more than a  
17 million acre feet in the SFPUC's Tuolumne storage alone.  
18 Total system storage is currently at 1.2 million acre-  
19 feet. That's enough water to last five years.

20           The next series of graphs demonstrate how  
21 current reservoir operations can harm fish without  
22 necessarily benefiting water supply: 2002 was a below-  
23 average water year and very dry for fish, so the blue is  
24 unimpaired runoff and the red is actual flow; 2003 was  
25 again dry and fish in the ecosystem suffered, another dry

1 year in 2004. But then, 2005 was a very wet year and  
2 much of the runoff had to be released. Fish certainly  
3 would have benefited from this extra water in previous  
4 years. And 2006 was even wetter with most of the runoff  
5 having to be released. When we have a really good water  
6 year or even a couple of normal years, the system fills  
7 and any past deficit is erased.

8 Just to my conclusions here, the SFPUC's  
9 Socioeconomic Study is seriously flawed yet they continue  
10 to cite the figures as do other people. The SFPUC has  
11 enough storage to provide a buffer against extended dry  
12 years. And we can improve the ecosystem while  
13 maintaining a strong economy.

14 Thank you very much.

15 CHAIR MARCUS: Thank you very much,  
16 interesting.

17 Questions?

18 (No audible response.)

19 Thank you very much, interesting.

20 All right, I'm now going to take ten or eleven  
21 cards and then we'll move to our next panel. I've moved  
22 just a couple of people up of everyone, because they have  
23 to leave. If we only get a few, I can do that. If we  
24 get an avalanche, I cannot. But I think we will be able  
25 to give three minutes to everyone today, which is always

1 a little more comfortable than two or one.

2 So first three: Ryan Camero, California Student  
3 Sustainability Coalition followed by Jacklyn Shaw, who  
4 will be very popular with us as a Zin grower from Lodi,  
5 followed by James Cox from the California Striped Bass  
6 Association.

7 MR. CAMERO: Okay, is this the timer here?  
8 Perfect.

9 CHAIR MARCUS: Should be, yeah. Just you get  
10 red light-green light. I get the number.

11 MR. CAMERO: Sweet, all right.

12 So hello all and nice to see you folks again.  
13 My name is Ryan Camero. I am a Stockton citizen and arts  
14 activist and working with multiple nonprofits, but today  
15 I'm representing the California Student Sustainability  
16 Coalition as a Coordinator of the Solidarity Organizing  
17 Program. So we're a coalition of students across the UC,  
18 CSU and California Community College systems, as well as  
19 private universities, committed to sustainability on a  
20 social, economic and ecological level.

21 So earlier this year from November 7 through the  
22 18th I represented the City of Stockton in California at  
23 the International Climate Negotiations put on by the  
24 United Nations in Marrakesh, Morocco. While the crisis  
25 of climate change looks many different ways, we know that

1 it is the critical work of spaces like these in balancing  
2 water resources in drought-ravaged California. And  
3 knowing that that's our challenge to bear.

4 As you all are engaging in Phase 1 of updating  
5 the Water Quality Control Plan, it is crucial to address  
6 these community concerns at the root cause and  
7 realization that versatility and diversity of tactics are  
8 necessary in the face of climate change.

9 First off, let's start with the water quality  
10 standards. They are at significant risk if excessive  
11 water exports continue to happen. That is just the  
12 reality of the situation. The San Joaquin River must  
13 reach Chipps Island in order to keep the Estuary  
14 thriving. Salinity standards are also crucial in the  
15 south Delta and are important, not to be weakened facing  
16 the threat of saltwater intrusion.

17 In addition, you all as the State Water Board  
18 have a huge responsibility in understanding the impact of  
19 environmental justice communities by the decisions that  
20 are made here. The re-circulated draft of SED does not  
21 consider these constituencies, specifically in Chapters 5  
22 and 9, addressing hydrology, water quality and  
23 groundwater.

24 So we know we do not live single-issue lives.  
25 These points that I am making are a response to the deep

1 history of the destruction and exploitation of the San  
2 Joaquin River. And that story is a sobering, cautionary  
3 tale of how we need to hold the past of what has happened  
4 as we move toward the future. The many needs of water  
5 for our communities needs realistic solutions, such as  
6 economic investment and rainwater capture, fog harvesting  
7 technology, and the normalization of cisterns statewide  
8 to increase our collective supply to avoid the strain on  
9 our service water supplies, so that flows can be met  
10 where they're needed.

11 And I invite the Board to recognize that while  
12 I am here, many youth like me are inheriting these  
13 struggles and they need to be engaged further in helping  
14 to solve this together. And that we are present and we  
15 are watching. Thank you very much for your time.

16 CHAIR MARCUS: Thank you, good timing too.

17 Ms. Shaw followed by Mr. Cox followed by John  
18 Buckley from the Central Sierra Environmental Resource  
19 Center.

20 MS. SHAW: Thank you very --

21 CHAIR MARCUS: Hi.

22 MS. SHAW: -- much Chair Marcus.

23 CHAIR MARCUS: Oh yeah, and Ms. Shaw, just to  
24 remind you to be careful from the earlier ones. I don't  
25 know if you were here right at the beginning of day, we

1 can't talk about WaterFix.

2 MS. SHAW: Yes. I tried to cut out certain  
3 parts.

4 CHAIR MARCUS: Yeah, great. Thanks.

5 MS. SHAW: Thank you.

6 Well, thank you very much again, Chairman  
7 Marcus, Board members and other impacted parties of  
8 NorCal. My name is Jackie Lauchland Shaw, member of the  
9 Lodi District Grape Growers Association. Given the  
10 NorCal drought, please cease and desist in damaging  
11 NorCal rivers by adding concrete storage etcetera,  
12 avoiding concrete for groundwater.

13 In local health from HMO reports there is more  
14 dust in the Delta Breeze now and increased soil salinity.  
15 Two, we have financial losses for food crops to U.S.A. --  
16 50 percent from California and most of it Stanislaus and  
17 the San Joaquin County, I understand. And it impacts  
18 local jobs in related industry. Three, property for  
19 water rights, I'd heard 11 wells had gone dry in San  
20 Joaquin County two years ago and Chairman Marcus knew  
21 more facts about that than I did.

22 As I listen today I added some notes, so I'll  
23 be waiting for the bell. I was a teacher in five  
24 counties in California. We love the whole state and we  
25 can all figure out things for self-reliance.

1           There was a talk of impact increases, of  
2 increased salt on soil salinity. My father said five  
3 years before the drought that there was more salt in our  
4 soil just 12 miles -- in the Delta Loop twelve miles  
5 from. And our pest control advisor is very informative,  
6 and we meet with him every week or two, and said that  
7 NorCal drought causes more drought. So we need to be  
8 careful in the area if we're already increasing salt in  
9 the soil. We don't need a concrete jungle in NorCal for  
10 various reasons given.

11           I want to thank you very much for having these  
12 meetings and coming to us in support of Stockton, where  
13 we can increase Delta dredging for the flow and purify  
14 the water. Thank you very much.

15           CHAIR MARCUS: Thank you very much.

16           Mr. Cox followed by Mr. Buckley followed by  
17 Grant Thompson from the Central San Joaquin Water  
18 Conservation District.

19           Hello, Mr. Cox.

20           MR. COX: Thank you for the opportunity to  
21 express some views.

22           CHAIR MARCUS: Sure.

23           MR. COX: I am Captain James Cox. I am  
24 President of the California Striped Bass Association and  
25 I represent the interests of thousands of Delta fishermen

1 who are extremely concerned over the San Joaquin River  
2 flows and their effect on the Delta. I have fished,  
3 personally, the Delta for over 50 years, including 22  
4 years as a professional fishing charter guide.

5 I have watched the health of the Delta decline  
6 through that time. Part of the decline is directly  
7 attributable to the massive reductions in the San Joaquin  
8 River flows. In light of the passing of the Federal  
9 Drought Bill, establishing a realistic San Joaquin River  
10 flow and enforcing it, has become critically important.

11 I had a whole list of things here to talk  
12 about, but a lot of the other speakers have already hit  
13 on these, so I'm going to kind of improvise a little bit  
14 here. One of the things that it has affected, the  
15 salinity buildup in the south Delta, is the lack of  
16 flows. In the history of the Delta before man tried to  
17 reroute water, the flow of the San Joaquin River would  
18 have been measurable clear to Chipps Island. Now, it  
19 hardly even makes it to Stockton. And it is, as the Army  
20 Corps of Engineers has said, the third most polluted  
21 river in the country. And so we have replaced good water  
22 that thrived, that helped fisheries and all sorts of  
23 various aspects as we've heard today, and we've replaced  
24 it with some of the most polluted water in the country.

25 If there was a freshwater flow, the south Delta

1 would be a haven for Striped Bass spawns like they were  
2 for over a century. Your own panel showed I think the  
3 most important graphic, which showed the success rate of  
4 spawns. And all the spawns were successful in the  
5 highest flows, during the years of the highest flows.  
6 And that's not just salmon, that's striped bass, that's  
7 white sturgeon, green sturgeon, steelhead, American shad.  
8 All of the anadromous fisheries benefit from the high  
9 flows. When we restrict that we restrict the fish. So  
10 many people are trying to make this as a fish versus  
11 people type situation.

12 CHAIR MARCUS: Or fish versus fish.

13 MR. COX: And the point that I think has been  
14 made here today, shows that there are so many more  
15 benefits to the flows than just fish. There's the  
16 drinking water sources for all the counties that comprise  
17 the Delta. Like the panel was discussing earlier, it  
18 affects the discharge and the success of the discharge.  
19 If we continue to reduce the flows, and in light of the  
20 drought, we're going to have saltwater intrusion that  
21 will then make its way into the aquifer and will ruin  
22 groundwater for everybody's use. These points are  
23 critical for our future.

24 And I would like to just make one comment to a  
25 previous speaker, to the Representative from Congressman

1 Denham. California Striped Bass Association would like  
2 to say that we strongly object to the things that the  
3 Representative said. The point that Fish and Game does  
4 not -- or Fish and Wildlife now -- does not do studies.  
5 They haven't done studies that agree with Mr. Denham's  
6 point of view. They have done plenty of studies and the  
7 studies all show the same thing, that the highest impact  
8 on fisheries or on spawn survivals is water flow, not  
9 predation. Predation is the lowest impact. And Mr.  
10 Denham just wants to continue to study this until he gets  
11 the answer he wants, but his facts have been thrown out  
12 of court before as not being true science.

13 For all of --

14 CHAIR MARCUS: I would just suggest that you  
15 wrap, because you're overtimed and -- I know.

16 MR. COX: -- for all of Californians I would  
17 say that the decisions you make here are going to be  
18 critical. And I'd like to see all of Californians to  
19 have the opportunity to enjoy the fisheries that we have  
20 had for years. And it's going to be up to you to make  
21 sure that happens.

22 Thank you very much.

23 CHAIR MARCUS: Thank you very much.

24 Mr. Buckley followed by Mr. Thompson followed  
25 by Jeff Shields.

1           MR. BUCKLEY: Good morning. John Buckley,  
2 Director for the Central Sierra Environmental Resource  
3 Center. Over the last two decades, I've spent 200 days  
4 in FERC relicensing meetings for the Stanislaus and  
5 Tuolumne rivers. And in planning for the Upper Merced,  
6 our biologists and I have some of the most extensive  
7 knowledge about the watersheds, wildlife species and  
8 consumptive uses, of the three rivers.

9           Your Board is fully aware of -- you've already  
10 shared that the current water use demands are greater  
11 than what the Delta ecosystem and at-risk aquatic species  
12 can sustainably withstand -- and you're obviously doing  
13 your best to try and determine how to comply with the  
14 Clean Water Act and the Porter-Cologne Act mandates to  
15 take remedial action.

16           The reason that challenges have lingered to  
17 this point is that whenever there is a proposal by the  
18 state there is a huge outcry. And in this situation, as  
19 you're already aware, water interests have collectively  
20 realigned, newspapers have stirred up opposition with  
21 editorials and articles, and water districts have  
22 blanketed urban and rural areas with signs urging to  
23 fight against any reductions of their water.

24           As someone who lives in the mountains where the  
25 water comes from I could argue that Valley interests take

1 our water without regard for the consequences. Thousands  
2 of acres of dry land acreage in the Tuolumne, Stanislaus  
3 and Merced River basins have been converted to orchard or  
4 row crops even in the midst of the drought. And it is  
5 not likely that if you delay taking a strong action there  
6 will be less proponents for agricultural withdrawals of  
7 water in the future. The reality is, is the Water Board  
8 cannot allow the continuation of a status quo demands if  
9 you're to comply with legal mandates.

10           So our Center strongly supports the SED  
11 scientific assessment that 50 to 60 percent of unimpaired  
12 flows would best restore dwindling salmonid populations  
13 and meet water quality objectives in the Delta. That  
14 would truly be what would be best ecologically. But our  
15 Center recognizes there needs to be a politically  
16 realistic and centrist balance that reduces impacts to  
17 water users as well. So today, despite trying to be a  
18 strong voice for the environment I do recognize that you  
19 have to seek balanced middle ground. And that you will  
20 have to adjust, to some degree, to minimize the impacts  
21 to users.

22           I believe that the Alternative 3, 40 percent  
23 flow, even though it does not meet the ideal needs of  
24 salmon and water quality and Delta salinity and other  
25 values, that it does provide a good beginning point for

1 moving forward. I ask the Water Board to stand behind  
2 the science and the legal obligations that justify no  
3 less than the proposed alternative that you're putting  
4 forward. And non-flow measures can clearly contribute to  
5 river and Delta ecosystem improvements, but increased  
6 flows and cooler temperatures are truly pivotal to  
7 finding a balanced, sustainable solution.

8 Thank you and I appreciate the challenge you  
9 face in hearing all this testimony. Thank you.

10 CHAIR MARCUS: Thank you very much.

11 Mr. Thompson followed by Mr. Shields followed  
12 by Meg Layhee.

13 No Mr. Thompson, we'll put that at the back.  
14 Mr. Shields followed by Ms. Layhee followed by Brad  
15 DeBoer.

16 Hello.

17 MR. SHIELDS: Hello Chair Marcus, members of  
18 the Board. My name is Jeff Shields. I put on my card  
19 that I represent the Stanislaus River.

20 CHAIR MARCUS: I did see that.

21 MR. SHIELDS: Yeah, well I actually do, because  
22 that's what I drink and I think I'm 80 percent, or  
23 whatever the statistic is. That's my source of drinking  
24 water. I recreate in that river. I live on the banks of  
25 the river in the City of Ripon, where I raise my family.

1 And I've been blessed with having some responsibilities  
2 for managing those assets. We were responsible for  
3 cleaning the water in the river, so 200,000 people could  
4 drink it. I know what's in that water. As well, we have  
5 dams in the upper watershed, and was instrumental in  
6 being involved in the management of the relationship with  
7 the Bureau of Reclamation on New Melones, so I have a  
8 little bit of history with the river. And I'm now  
9 retired, happily retired.

10 But I thought I should come today, because I  
11 have some concerns -- a specific piece of information --  
12 and I gave a graph, I'm sorry I don't have it --

13 CHAIR MARCUS: Oh, this one?

14 MR. SHIELDS: -- that can be presented, but  
15 this is a dataset that goes back to 1895 on the river.  
16 And it shows the flow regimes every year. And there's a  
17 red line across the bottom that shows those years where  
18 there was not even 600,000 acre-feet of water. And  
19 what's telling here is the years shown from 1895 to 1975,  
20 an 80-year-old window, there were 7 times where there was  
21 not even 600,000 acre-feet of water. Now look at the 30  
22 years or 40 years, 1975 to 2015, that happened 14 times.  
23 In the last 40 years, we've lost substantial capacity of  
24 the average annual runoff.

25 Now, the modeling in the SED has a set that I

1 believe goes to 1920. And what I would ask you is to  
2 seriously look at climate impacts in that watershed and  
3 the other watersheds under the SED, because you don't  
4 have the water that you think you have, that you're going  
5 to get from this reduction. You actually are looking at  
6 somewhere around 959,000 acre-feet, not 1.1 million acre-  
7 feet, because I believe you've got the wrong dataset.

8           It ignores the impacts on imports. It  
9 significantly understates the groundwater impacts. As I  
10 showed in this graph it ignores the climate impacts. And  
11 it ignores the impacts on the districts that can no  
12 longer operate the reservoirs that they paid for. No  
13 taxpayer dollars, no state, these are district paid for  
14 by the landowners. And they now have to be operated  
15 under a paradigm that deprives them or diminishes their  
16 capacity to earn revenues from power sales.

17           And what you've already done by this hearing,  
18 by releasing this document, is damage their credit-  
19 worthiness. Because when you sit in front of a credit  
20 rating agency and try to issue public debt the first  
21 thing they ask you is the underlying premise that you're  
22 relying on for repaying that debt. And it's our water  
23 rights and this is a taking out of that.

24           So thank you very much.

25           CHAIR MARCUS: No, thank you. I look forward

1 to talking with you more. Thank you for coming back.

2 Ms. Layhee followed by Mr. DeBoer followed by  
3 Michael Frost.

4 MS. LAYHEE: Good afternoon, my name is Meg  
5 Layhee. I'm an aquatic biologist and I work up in the  
6 Upper Tuolumne and Stanislaus watersheds. I fully  
7 recognize that there is a complex demand on fresh water  
8 flowing from the Lower San Joaquin, Stanislaus, Tuolumne  
9 and Merced rivers -- that the State Water Board must  
10 consider all beneficial uses for these three rivers and  
11 look for ways to balance all those interests. However,  
12 the collective demands on these three rivers from  
13 agriculture, industry, and public uses are not only  
14 decreasing flows, but contributing to diminished  
15 ecosystems and to the decline of the region's federally  
16 listed salmonids.

17 As already shared, natural production of adult  
18 fall-run Chinook salmon are in steeper decline in the  
19 Stanislaus, Tuolumne and Merced rivers than in any other  
20 tributary of Sacramento or San Joaquin River. Therefore,  
21 it's apparent that fish and wildlife beneficial uses are  
22 not being met. Therefore, I'm in support of the State  
23 Water Board's Alternative 4 to have sufficient flows  
24 during the important salmonid rearing and outmigration  
25 period, February through June, at a range of 50 to 60

1 percent unimpaired flows. But I also support the State  
2 Water Board's proposed Alternative 3, with 40 percent as  
3 the starting point, if I am to consider all interests  
4 involved.

5           Increasing flows will inherently have positive  
6 impacts on water temperature, dissolved oxygen levels,  
7 fine sediment loads, and improve habitat and floodplain,  
8 wetland and riparian zones, among other positive impacts.  
9 These improvements in turn will lead to enhancement in  
10 adult Salmonid migration, spawning, egg incubation,  
11 juvenile growth and outmigration and so on.

12           In addition to increasing flows, I also  
13 emphasize the importance of implementing flows that  
14 better mimic the natural hydrographic conditions in terms  
15 of magnitude, timing and frequency of flows. I am also  
16 in support of the ten non-flow measures proposed in the  
17 draft SED. These non-flow measures may better improve  
18 fish and wildlife beneficial uses than increasing flow  
19 alone. I also support putting forth biological goals for  
20 the flow objectives as indicators of salmonid viability.  
21 And finally I support establishing base flow requirements  
22 for Vernalis, from February through June, to reasonably  
23 protect fish and wildlife beneficial uses, especially  
24 during the critically dry years.

25           Regardless of our own priorities or values, we

1 can all agree that fresh water is precious in California.  
2 Into the future we have a responsibility to practice  
3 water conservation at a commercial and private scale to  
4 safeguard California's fresh water for the benefit of all  
5 users, including salmon. Thank you.

6 CHAIR MARCUS: Thank you very much.

7 Mr. DeBoer followed by Mr. Frost followed by  
8 Penelope Frost.

9 MR. DEBOER: Good afternoon, my name is Brad  
10 DeBoer and I farm 57 acres in the Oakdale Irrigation  
11 District.

12 MR. PETTY: Please pull your microphone up.

13 CHAIR MARCUS: Yeah, you're tall, so you have  
14 to pull it up.

15 MR. DEBOER: Sorry about that.

16 I'm sorry many of my fellow farmers could not  
17 sustain the torture of sitting here, many left, I think.  
18 When it's a day like today and there's lots to be done  
19 it's hard to sit and listen to a meeting like this.

20 I've not been a farmer all my life, but I was  
21 able to purchase some property and become a farmer at the  
22 age of 50. I'm very appreciative of the fact that our  
23 forefathers had great foresight to establish water  
24 storage in the Sierra Nevada. And that was paid for, as  
25 many speakers have said, by private funds.

1           Food is an important thing to us. Sometimes I  
2 enjoy it a little too much. But it's something that is  
3 very important and it is something that has to take, I  
4 believe, priority over even some of these other issues  
5 like fish.

6           Now, one of the problems -- and I think you've  
7 heard the word over and over again -- one of the problems  
8 with this SED is the fact that there has been a lack of  
9 collaboration. This should have been formed using your  
10 experts as well as the experts from the many  
11 organizations that could help with giving us great  
12 insight. I'm not an expert on any of this stuff, but I  
13 do know that I have looked at figures and tables and all  
14 kinds of things, and one person says one thing and  
15 another says another. There has to be some kind of truth  
16 that could be obtained through collaboration instead of  
17 "us" versus "them."

18           I'm a fisherman, I love to fish. I don't want  
19 to see the fish population damaged, but I do believe that  
20 it's important that we sustain agriculture so that we can  
21 continue to eat. And so that we can continue to enjoy  
22 the life that we have. Thank you very much.

23           CHAIR MARCUS: Thank you very much. You just  
24 summed it all up really well.

25           Mr. Frost followed by Ms. Frost followed by

1 David Ragland and then we will move to the next panel.

2 MR. FROST: Thank you. My name is Michael  
3 Frost. I live in the San Francisco Bay area. And the  
4 Bay-Delta Estuary represents a multigenerational  
5 classroom for my family. My family and I are able to  
6 learn about wildlife, climate, currents, ecosystems,  
7 local fresh food, and the intersection between humanity  
8 and the natural world agriculture, all in a day's  
9 fishing.

10 We're currently experiencing an extinction  
11 event with the ecosystem. The last trawl for Delta smelt  
12 didn't turn up one smelt. Yeah, I would agree with the  
13 previous speaker that we should not pit farmer versus  
14 fisherman, I think that's a false choice. I think that  
15 there is plenty of room to work together, but if  
16 agriculture experienced a 99 or 100 percent decrease in  
17 production, you know we would have a serious problem. So  
18 the magnitude and the scale of this crisis for the  
19 ecosystem cannot be undersold.

20 The native fish are the canaries in the  
21 coalmine. Humanity does not exist separately and  
22 distinctly from the environment. If the Delta dies, we  
23 die. And this may not be in the next five days, the next  
24 five months, the next five years. In the next five  
25 decades absolutely, this will happen.

1           The freshwater exports from the Bay-Delta  
2 Estuary must be reduced. We need to maximize freshwater  
3 flows all the way to the ocean. That's the lifeblood of  
4 the entire system. How? How do we do this? Do we  
5 divide and conquer? Do we pit Delta farmers and eastern  
6 farmers versus fishermen while Westlands and Kern get a  
7 free pass? Exporting massive amounts of water to  
8 Westlands and Kern planting nut trees in a semi-arid  
9 desert, while they rake in billions of dollars in  
10 profits, while the ecosystem dies and we're here battling  
11 each other seems a little crazy to me.

12           Shared sacrifice brings us together. And I  
13 heard some other speakers hammer on regional self-  
14 sufficiency within the urban areas, makes perfect sense.  
15 No, we need to look at this not in pieces, but as a  
16 whole.

17           The monetary cost, environmental cost and  
18 opportunity cost of excessive freshwater exports from the  
19 Delta are currently being felt. If freshwater flows  
20 through the Delta are not increased we'll be looking at a  
21 cascading effect of negative consequences that will make  
22 Flint, Michigan look like a picnic. And what I'm talking  
23 about here is weakening of the salinity standards in the  
24 south Delta. Water quality standards must be protected  
25 to support agriculture, drinking water, municipal

1 discharge, fisheries and groundwater recharge.

2 Please, protect the people of the Delta and the  
3 Bay Area, protect fish, avoid incalculable monetary cost  
4 due to degraded water quality. Please, permanently  
5 reduce freshwater exports from the Delta.

6 CHAIR MARCUS: Thank you.

7 Hello, Ms. Frost. Okay, so it works. We can  
8 see you. Thank you for coming.

9 MS. FROST: My name is Penelope Frost. I love  
10 visiting the Bay-Delta Estuary to go fishing and see the  
11 wildlife. Birds, otters, turtles, salmon, sturgeon and  
12 striped bass are some of my favorites. A Bay-Delta that  
13 cannot support fish in wildlife cannot support clean  
14 drinking water, clean groundwater, clean irrigation water  
15 or provide safe, wild fish to eat.

16 Please, please, protect the fish, water flowing  
17 all the way to the ocean.

18 CHAIR MARCUS: Thank you for coming. Thank you  
19 very much, very well done.

20 And finally, but not our last presentation  
21 obviously, David Ragland.

22 MR. RAGLAND: Hi. Thanks very much to the  
23 Board for taking this on. And I really hope we can move  
24 forward with the SED and increase these flows. I'm sorry  
25 I had to follow Penelope.

1 CHAIR MARCUS: That's a tough act to follow.

2 MR. RAGLAND: But which is my mother's name and  
3 she -- who taught me many of the things this Penelope  
4 just said.

5 Again, my name is David Ragland. I'm from  
6 Sonora, California. I grew up on rivers. I grew up in a  
7 campground that wished it was a trailer park on the  
8 Feather River. And salmon was what we ate. And I've had  
9 the privilege of moving down here. My first jobs before  
10 high school was tying flies. And I worked at a bait  
11 shop. I had the privilege of working in Yosemite Park at  
12 Glen Aulin on the Tuolumne.

13 And I visit these lower rivers very often,  
14 below the diversion dams and what I see is that they're  
15 not healthy. And you can see a little experiment being  
16 run among the three rivers we keep talking about. And  
17 that's because the Stanislaus is regulated in a way where  
18 it currently keeps more water than either the Merced or  
19 the Tuolumne. And you can look at the numbers from 2015  
20 where the Stanislaus got some 13,000 salmon and the  
21 Merced and Tuolumne did not get 1,000 combined between  
22 them.

23 You can also go to the town of Knights Ferry  
24 and see two thriving rafting companies, because the flows  
25 are high enough to go enjoy the river. And I did it

1 repeatedly. And at the same time, the flows were not  
2 high enough to do the same thing during most of the  
3 summer months on those other two rivers.

4           In the river, the water benefits local people.  
5 As a poor kid living on the river I appreciate that  
6 deeply. Sometimes people cite the fact that because  
7 these fish are doing well somewhere in California that's  
8 good enough. Well, you tell that to the kid in the  
9 trailer park by the river or to the family who has  
10 nothing but four inner tubes and a car that barely runs.

11           We need to keep these resources where they were  
12 intended to be, in the rivers where they belong. For our  
13 benefit, for the benefit of salmon, steelhead, Delta  
14 smelt, lamprey, green sturgeon, white sturgeon, ospreys,  
15 otters, orcas, all of this. And for the benefit of  
16 people like my older brother, who had to quit salmon  
17 fishing, because there weren't enough to fish for back in  
18 the late '80s and had to go find another job in another  
19 town.

20           Thanks very much.

21           CHAIR MARCUS: Thank you very much.

22           Next, we're going to move to our next panel,  
23 which is Oakdale Irrigation District, Steve Knell, and  
24 South San Joaquin Irrigation District, Peter Rietkerk,  
25 who are going to present together, thank you very much,

1 to economize on time. Mr. Rietkerk you have Mr. Shields  
2 watching you, so it's a heavy burden there.

3 We'll set the timer for your combined --  
4 separately you were going to be an hour, because we gave  
5 chunks of time to irrigation districts and you said you  
6 think you can get it done in 40?

7 MR. RIETKERK: (indiscernible)

8 CHAIR MARCUS: Okay. Make sure your mic's on,  
9 yeah it's hard to see. Okay, thank you very much. Folks  
10 appreciate it.

11 (Colloquy to set up audio.)

12 MR. RIETKERK: Chair Marcus, members of the  
13 Board I want to thank you for the opportunity to speak  
14 before you today. My name is Peter Rietkerk, I'm the  
15 General Manager of South San Joaquin Irrigation District.

16 MR. KNELL: And I'm Steve Knell, General  
17 Manager, Oakdale Irrigation District. And I have about  
18 100 words in my vocabulary before I start coughing, so  
19 Peter will be carrying the load here today.

20 CHAIR MARCUS: We have just what you need.

21 MR. KNELL: I have a pocketful of them myself.

22 CHAIR MARCUS: And I have Robitussin too. We  
23 like had a mercy run.

24 MR. RIETKERK: Certainly going to --

25 CHAIR MARCUS: Just let us know and we'll toss

1 them.

2 MR. RIETKERK: Colds are certainly going around  
3 this time of year.

4 CHAIR MARCUS: We'll figure out who the vector  
5 was someday. Right now we're all vectors, unfortunately.

6 MR. RIETKERK: Together, the two districts  
7 represent 107 years of history on the Stanislaus River.  
8 We have the oldest and largest senior water rights on the  
9 Stanislaus River. Back in the early 20th Century the  
10 districts built a series of diversion dams and reservoir  
11 storage in Old Melones. And we built the three  
12 reservoirs in the '50s we call our Tri-Dam Project, which  
13 includes Donnells, Beardsley and Tulloch Reservoirs.  
14 Tulloch is just downstream of New Melones.

15 We also worked out an agreement with the Bureau  
16 of Reclamation, which effectuated to build the  
17 construction of New Melones, which resolved the water  
18 rights, and our water rights, and delineated or described  
19 the usage of our water rights and the delivery of our  
20 water rights through New Melones Reservoir.

21 As you can see we have quite a history in the  
22 local region. And as a result of the water development  
23 and the diversion and delivery of surface water it's  
24 provided a significant benefit. And the history of many  
25 of the cities that are in and around our area, as well as

1 the agricultural region, has developed as a result of  
2 that.

3 We're going to start off with some basic  
4 Stanislaus River facts. We hear very frequently that the  
5 Stanislaus River is over-allocated and it's true. And  
6 here's some of the reasons behind that.

7 First off, our average annual runoff in the  
8 Stanislaus is about 1.068 million acre-feet. If you look  
9 at the annual releases to the river currently at -- this  
10 is instream flow -- that's about 439,000 acre-feet. Our  
11 diversions, OID and SSJID, are about 505,000 acre-feet.  
12 And then you have CVP contractors out at New Melones and  
13 the Bureau's contractors, Stockton East Water District  
14 and Central San Joaquin Water Conservation District, that  
15 divert on average about 107,000 acre-feet.

16 If you were to subtract the current basin's  
17 annual runoff from its annual water demand using all  
18 those numbers you would see that there would be only  
19 about 17,000 acre-feet left, on average, every year for  
20 other purposes. So as we're evaluating this Substitute  
21 Environmental Document, the SED, certainly we are  
22 wondering where the water is going to come from to meet  
23 that, the needs of additional flow down the river.

24 Currently, we can categorize those flows into  
25 three basic categories: first, our instream flow

1 requirements; second, the diversions to meet water user  
2 demands, both agricultural users and domestic water  
3 supplies; and then third, for the remainder or the  
4 leftover, it goes in storage in New Melones.

5           There's little additional water to meet the  
6 needs of an unimpaired flow regime, so in order for an  
7 increase in unimpaired flow to occur in the Stanislaus it  
8 would need to come from either agricultural demands or ag  
9 and municipal demands or storage demands. And it's clear  
10 that the intent of the SED is to bolster instream flow  
11 requirements. So as a result, storage and agricultural,  
12 municipal demands are clearly in play.

13           The intent of our presentation today is not to  
14 focus primarily on the economic losses and not to focus  
15 primarily on fishery benefits. Although I would have to  
16 say I did agree with Chris Shutes from CSPA that there is  
17 no scientific basis for the 40 percent unimpaired flow.  
18 But what we are here to do is primarily focus on the  
19 economic losses or no, primarily focus on the surface  
20 water losses and the surface water impacts that we will  
21 be experiencing. Because we understand that those  
22 surface water impacts are a surrogate for not only the  
23 lack of groundwater sustainability that we will  
24 experience in the region, but also the economic losses  
25 that the region will experience if this Plan is

1 implemented.

2           So as a preface to our presentation outline and  
3 the slides we'll be going through, the districts ran some  
4 models, much like the State Board did in the SED. But  
5 what we did was we modeled the 40 percent unimpaired flow  
6 project in front of the current backdrop of water rights,  
7 priorities and regulatory requirements in the state. We  
8 considered this, the endearing term is the naked 40  
9 percent alternative, or the pure 40 percent alternative.  
10 If the project description is 40 percent then let's look  
11 at the actual effects of 40 percent on the river.

12           What we see in the SED are dressed-up  
13 assumptions to help minimize the impacts of a 40 percent  
14 flow regime in the Stanislaus. So we are going to  
15 compare this naked 40 or pure 40 percent alternative to  
16 the SED modeling that's in the document. And try to  
17 dispel some of the fact or fiction that we see in the  
18 SED.

19           First, we're going to focus on instream flow  
20 impacts. So for our modeling purposes we reconstructed  
21 the hydrologic record much like the document does, the  
22 SED document, the modeling that's done in the SED. And  
23 we assumed for all intents and purposes that New Melones  
24 was constructed in 1922; we all know that New Melones was  
25 constructed in the late '70s and put into service in the

1 early '80s. But in order for us to evaluate and  
2 understand what a 40 percent recommended alternative  
3 would look like in terms of water supply impacts,  
4 instream flow releases, and storage impacts we had to  
5 reconstruct the record and assume that the record would  
6 be same, moving forward. Just like you guys did in your  
7 analysis.

8           So this is current instream flow releases. And  
9 you can see there if average annual inflow in the  
10 Stanislaus River is a little over a million acre-feet  
11 there's an existing significant current flow regime in  
12 the Stanislaus River. In fact, your document states that  
13 we are at about 40 percent currently. Although if we  
14 were at a truly 40 percent, per what is in the document,  
15 we wouldn't be seeing the additional losses we are  
16 projected to incur for via the SED.

17           I'm going to toggle with what the 40 percent  
18 unimpaired flow looks like. And again this is the pure  
19 40 percent unimpaired flow option. And you can see here  
20 if I toggle back and forth it's very clear that there is  
21 additional flow going down the river as a result of the  
22 40 percent. Even though the Stanislaus is currently at  
23 40 percent, what's being projected is that additional  
24 flow will go down the river.

25           One thing to note, there's a number of colors

1 in here. Red, yellow and green are primarily fishery  
2 benefits. Blue is instream flow requirements. And then  
3 there's a light blue on the very top and that's spills.  
4 Under existing circumstances you would see during wet  
5 years after the reservoir fills, you would see spills.

6 Under the projected recommended project there  
7 are very few, if any spills occurring in New Melones  
8 Reservoir and primarily because the additional instream  
9 flow vacates space to accommodate the wet years. But  
10 unfortunately, it doesn't have the benefit of storing  
11 that water over into future years for water supply  
12 benefits.

13 The difference between those two, the current  
14 and the pure 40 percent alternative, you see under the  
15 current scenario about 439,000 acre-feet flow down the  
16 river. Under a 40 percent scenario, a true 40 percent  
17 scenario, there would be about 511,000 acre-feet flowed  
18 down the river to meet instream flow requirements. Again  
19 as a true 40 percent, as modeled would suggest, what's  
20 actually in the SED as showing, is 622,000. So if you  
21 were to --

22 CHAIR MARCUS: Can you just go back for a  
23 second and help me understand what you mean by the true  
24 40 percent, just so that as we follow up we are clear on  
25 what the distinction is?

1 MR. RIETKERK: Sure.

2 CHAIR MARCUS: You may be about to get to it.

3 MR. RIETKERK: I will get to that, more so when  
4 we get to storage.

5 CHAIR MARCUS: Okay, I just wanted to  
6 understand it.

7 MR. RIETKERK: Yes. Yeah, but what we're  
8 seeing here is basically that the SED is proposing to  
9 release more than a 40 percent unimpaired flow,  
10 especially as an average annual effluent to the  
11 reservoir. What's really being modeled here is over  
12 622,000 from the Stanislaus River being allocated  
13 instream flow needs. And the fiction in that is that  
14 there is this sense, and you've heard it in the room  
15 today, that the San Joaquin River and the Stanislaus  
16 being a surrogate for other tributaries as well in the  
17 San Joaquin River minimally contribute to instream flow  
18 requirements or fishery needs.

19 Well, the fact is if you look at the entire  
20 basin and you look at flows at Vernalis, as a percentage  
21 of unimpaired flow Vernalis is already getting 40  
22 percent. In fact, if you look at the record and what  
23 we're showing here, 1930 to 2008, over 78 years of  
24 record, approximately 48 percent of those -- or sorry,  
25 approximately out of those 78 years, the entire record,

1 the average is about 48 percent as a percentage of  
2 unimpaired flow. Not the 15 or 20 that we're hearing,  
3 entirely.

4 MS. D'ADAMO: It's hard to see this. And if I  
5 could get the PowerPoint on this --

6 MR. RIETKERK: Yes, we can do that.

7 MS. D'ADAMO: -- but what's the timeframe that  
8 you're looking at?

9 MR. RIETKERK: 1930 through 2008.

10 MS. D'ADAMO: In months?

11 MR. RIETKERK: Oh, this is --

12 MS. D'ADAMO: Is this average annual?

13 MR. RIETKERK: This is average annual, yes.

14 CHAIR MARCUS: Right. And so you're going to  
15 get to the distinction between an average that averages  
16 the wet years with the dry years?

17 MR. RIETKERK: We are looking at average annual  
18 here. And the project that you're proposing is also a 40  
19 percent, February-through-June, but in all years on  
20 average.

21 CHAIR MARCUS: In all years, right. That's the  
22 difference.

23 MR. RIETKERK: Yes, and I'm looking -- this  
24 isn't all years, on average. This is an average one.  
25 And if you look there are some distinctions. In this

1 graph again this is annual, but if you look at some of  
2 even the critically dry years for the entire basin, about  
3 41 percent of flow is hitting Vernalis as a percentage of  
4 unimpaired flow in the basin.

5           One of the things we see as a justification for  
6 that is if you look at the document, the document is  
7 squarely focusing on flows in February through June. And  
8 what we think or what we believe is happening here is the  
9 state is basically taking the rest of unimpaired flow  
10 that's happening during the year, which can be a fairly  
11 large volume at times. And it's failing to -- in  
12 acknowledging that a number of those flows are already  
13 being released, much of that flow is already being  
14 released down the river and then saying, "Well, we don't  
15 need to look at that, because that's already being met  
16 and being used to meet Vernalis flows."

17           We want to look at the February through June  
18 piece, because that's the flow that's most critical not  
19 only for temperature benefits, but also for storage. And  
20 frankly, that's the piece of time in which we are looking  
21 at. And we utilize, as agricultural water providers and  
22 municipal water providers, to provide water to our  
23 constituents during the summer months. So this  
24 unimpaired flow analysis, while February through June is  
25 a piece of the puzzle we're not looking at the entire pie

1 as it relates to unimpaired flow.

2 MR. KNELL: Yeah, and we were going to make the  
3 point here that in February through June it's pretty much  
4 asserted in the document that this is needed for  
5 environmental flows to benefit fisheries. But from our  
6 studies on the river in June, June runoff represents  
7 almost 40 percent of the volume of water between February  
8 and June, but yet in June 1 to 2 percent of the salmon  
9 that have not -- are still only left in the river; 99  
10 percent of them have already left.

11 And so the value and benefit of taking June  
12 water is, well it's a point of contention for us. We  
13 understand the State Board wants to have this bucket  
14 theory that we're going to move this bucket back. But we  
15 think it's that bucket theory that gets you -- what we  
16 talked to you earlier - about 622,000 acre-feet. It  
17 allows you to accumulate water that you normally wouldn't  
18 accumulate. And that's just a point that we have a  
19 disagreement on and believe needs to be further evaluated  
20 as to the true value of taking June flows for fisheries.

21 CHAIR MARCUS: Right.

22 MR. KNELL: That is a point.

23 CHAIR MARCUS: That is one of the issues that  
24 has been raised. Other biologists have talked about the  
25 need for genetic diversity and so you need a longer time

1 span. But it is one of the issues clearly that people  
2 have raised.

3 MR. KNELL: Yeah. We would say that the 1  
4 percent left in June they need to be bio-diversified out,  
5 because they're not the smartest fish. Everybody else is  
6 gone.

7 CHAIR MARCUS: Well, we don't want to start  
8 getting into anthropomorphizing. You definitely don't  
9 want to get into an anthropomorphizing contest with me.

10 MR. RIETKERK: Well with that we'll move on to  
11 storage impacts then.

12 MR. MOORE: Before you do that, before you move  
13 on, just I wanted to reconcile a couple of things. And  
14 whenever I look at these data -- I've been doing this  
15 here now four-and-a-half years -- I'm always sensitive to  
16 the years you're looking at. So when you use your  
17 dataset, 1930 to 2008, and make that analysis and come up  
18 with that conclusion, I think a lot of those years we  
19 were meeting biological goals for salmon, for instance.  
20 And it might be more of a pertinent analysis -- and  
21 please, answer what you think about this -- but to  
22 actually choose a different timescale. Where, you know,  
23 you're looking more like since the State Water Project  
24 came along. Or maybe it's more relevant to look since  
25 1980 when theories of impacts on flow diversions to

1 biological productivity have come to the forefront.

2           So I'm concerned it might be a little  
3 misleading to characterize this system going all the way  
4 back to 1930, but --

5           MR. RIETKERK: Well, in this case we're not  
6 trying to make the comparison to biological impacts as a  
7 result of unimpaired flow. We're looking squarely at the  
8 record, and records available to us, in trying to make  
9 the distinction between what's in the Plan versus what  
10 we're seeing on a local level and in the basin.

11           MR. MOORE: Yeah, and I see the relevance of  
12 that, because we do look at the hydrographic record,  
13 going back to try to predict the future. Although we all  
14 know that's problematic with climate change, but it's  
15 something we can use to try to do the statistics on flow.  
16 So we'll be clear on that. But in terms of sort of the  
17 record and the analysis and the relevance I think  
18 collectively we're looking at answering the question, why  
19 are the biological indicators sliding when all these  
20 other things were still in place all those years ago?

21           MR. KNELL: Just for clarification that table  
22 we presented -- and the writing is very small -- it comes  
23 from the Southern Delta Salinity Technical Report that  
24 was produced, so that's why. We didn't pick that period  
25 of time, that's an actual study supporting the fact that

1 48 percent is already in the river.

2 MR. MOORE: Good, no that helps answer that  
3 question. Thank you.

4 MR. RIETKERK: All right, so now we'll move on  
5 to storage impacts of the 40 percent. Under current  
6 storage regime if you look at the record -- again, our  
7 record is about 94 years that we run here, from 1922 to  
8 2015, it's a slightly longer than what I believe is in  
9 the record for the SED -- you'll see that New Melones  
10 Reservoir fills approximately 5 times in 94 years.  
11 That's in part because the reservoir is fairly large as  
12 compared to its watershed. It can hold more than twice  
13 the average annual inflow into the watershed. But still  
14 it does provide an opportunity for, frankly all three  
15 categories of water. And primarily environmental and  
16 water users, human water needs, to weather some of the  
17 droughts that we have experienced over the significant  
18 record. If New Melones was built in 1922 you would see  
19 that it would only go dry in three years under the  
20 current storage regime or under the current regime and  
21 under current flow regimes now.

22 If the SED's 40 percent unimpaired flow  
23 recommendation was put in place, and again not looking at  
24 any mitigating factors, we would see that storage would  
25 drop to 0 in approximately 13 years under the 40 percent.

1 And for us on the Stanislaus we always look at New  
2 Melones as an indicator of drought. Today we're sitting  
3 at about 40 percent of historical average for this time  
4 of year; it's still relatively low. And a reason for  
5 that is because we have significant demands, but we also  
6 have significant instream fishery needs that are being  
7 met during this time of year, keeping storage depressed  
8 as compared to some of the other reservoirs.

9 Additional flow down the river will just make  
10 that significantly worse. Again, most of the drought  
11 periods that we experienced if you toggle back you'd see  
12 that we would weather most of the significant droughts,  
13 at least from a storage standpoint. Especially those in  
14 the early '30s, '60s, even '76-'77, is survivable under  
15 our current operations. And we would go dry in '91, '92.  
16 And we would start getting yearly close to empty in 2015.

17 At 40 percent you'll see that all of the  
18 drought periods, all of them, just about every drought  
19 period we experienced in California and on the Stanislaus  
20 River, would be significant and would be extended as a  
21 result of flowing 40 percent down the river.

22 MR. KNELL: So the simple math of, obviously,  
23 in the previous slide where we started with, is there's  
24 only three places water goes. And if you're going to put  
25 more water down the river you're either going to impact

1 storage or you're going to impact deliveries. And what  
2 our slides show here is that modeling New Melones forward  
3 under this regime your droughts are going to be longer  
4 and you're going to be deeper, which makes recovery time  
5 more difficult. Which means that droughts just last  
6 longer and it's just harder on us. And we're going to  
7 get to the repetitiveness over time; what that's going to  
8 mean for all of us.

9 MR. RIETKERK: Comparison between the current  
10 and the 40 percent for storage, average annual storage  
11 maintains at about 1.182 million acre-feet in New Melones  
12 under the current storage. Under a true 40 percent,  
13 unimpaired flow -- and that's not shifting blocks of  
14 water and not maintaining a minimum storage carryover,  
15 which we'll go to next -- you would see about 748,000  
16 acre-feet.

17 In the modeling analysis for the SED, and this  
18 is where we believe there is some fiction put into play,  
19 there's two parts to the SED. There is the project  
20 description, which is 40 percent, and then on what we see  
21 as an adaptive implementation or a Program of  
22 Implementation, that's a separate activity that is not  
23 currently under Phase 1.

24 The language itself, you'll see that the State  
25 Board analyzes a carryover storage and refill requirement

1 that doesn't exist in the proposed rule nor exists in any  
2 precedent for regulation or law. If you read further in  
3 the analysis -- and the language is a little small here,  
4 but I'll paraphrase, under additional stream-flow  
5 requirements changes in water availability require  
6 adjustment of parameters to assure feasibility for the  
7 82-year simulation, so that reservoirs are not drained  
8 entirely in the worst droughts on record. In addition,  
9 carryover storage guidelines have been increased for New  
10 Melones Reservoir to minimize impacts on instream  
11 temperature that would be caused by lower reservoir  
12 levels and a limited coldwater pool. An implementation  
13 plan developed in a future proceeding would need to  
14 identify and evaluate supply storage and temperature  
15 conditions and appropriate operational objectives, to  
16 best protect beneficial uses and avoid adverse effects  
17 where feasible.

18           What we read this as, basically under the  
19 Program of Implementation with a 40 percent recommended  
20 project the state at the same time threw in modeling  
21 assumptions to minimize and avoid showing the impacts of  
22 a true 40 percent alternative. If we are called as  
23 public agencies to provide a CEQA analysis for any  
24 project that we put forth typically we provide that  
25 analysis. And we show all of the impacts of the project.

1 Then we turn around and show the mitigating effects to  
2 try to minimize those impacts.

3           What we're seeing here, and what was modeled,  
4 was a 40 percent flow with all the mitigation at the same  
5 time. In fact, I believe in prior proceedings the State  
6 Board staff has indicated that they have not actually  
7 modeled a 40 percent under the current regulatory flow  
8 regime. And we would like to argue that the -- we will  
9 argue if we have to that the implementation, the Program  
10 of Implementation, there is no legal precedent for it.  
11 So to put forth mitigating factors without having a legal  
12 precedent to do so and not showing the flaw that the  
13 actual impacts of a 40 percent recommended flow regime on  
14 the Stanislaus River, and likely on the other rivers as  
15 well, to me will not or not should not pass CEQA  
16 analysis.

17           In fact, this is what it looks like as a result  
18 of putting in carryover storage, a requirement in the  
19 Stanislaus River, as it relates to storage. So the blue  
20 bars is the 40 percent unimpaired flow analysis as we  
21 have done, and with the current backdrop of existing  
22 regulations and water rights priorities and environmental  
23 requirements. And then the red line is the State Water  
24 Resources Control Board's 40 percent with adaptive  
25 adjustments or adaptive implementation.

1           And basically, you see in the red line that  
2 from a storage perspective it looks great. Storage never  
3 drops below 700,000 acre-feet throughout the entire  
4 historical record. And it frankly masks, as a result it  
5 masks the actual impacts of the proposed project without  
6 implementation being studied separately after the project  
7 is studied by itself.

8           And frankly the storage, if it's maintained at  
9 1.186 under adaptive adjustment, that is nearly identical  
10 to baseline conditions. So again as a mass balance the  
11 water has to come from somewhere. And frankly, it's  
12 coming from water users and in significant quantities  
13 during drought periods in order to maintain minimum  
14 carryover storage.

15           We think this truly masks the impact to storage  
16 and also masks related impacts. Recreation, fuller  
17 reservoirs, we don't have to deal with recreation impacts  
18 now. Hydropower, the reservoirs stay full we can still  
19 generate hydropower, so we don't need to analyze that.  
20 Greenhouse gas emissions and groundwater, you know,  
21 seepage as a result of reservoirs staying full.

22           And instream water temperatures. Frankly,  
23 there was no analysis done for a 40 percent project,  
24 recommended project, on water temperatures as if there  
25 was no adaptive adjustments made in the Plan. And we

1 think that's dubious and not transparent to local public  
2 for one, because it does not show the actual impacts that  
3 the 40 percent will provide absent any mitigating  
4 measures.

5           We're going to move on now to our water supply  
6 impacts. And we have our CVP contracting partners in the  
7 room and I'm not going to go into the numbers too much on  
8 this one. They can explain the losses that this Plan  
9 will exact on them. But CVP contractor changes in water  
10 delivery, as you could see this is their current  
11 deliveries over the historical record if they were  
12 receiving water in through the entire hydrologic record.

13           And then under a 40 percent scenario, this is  
14 what we look at. So if I toggle back and forth a few  
15 times you can see that the water supply reliability  
16 afforded to them under their current CVP contracts  
17 diminishes significantly.

18           CHAIR MARCUS: And which is -- what's red and  
19 what's yellow?

20           MR. RIETKERK: So red would be Stockton East  
21 Water District's available contract supplies. And yellow  
22 is Central San Joaquin Water Conservation District  
23 supplies.

24           MR. KNELL: This slide really depicts one of  
25 the issues we have with the document itself, because

1 everything is so much averages, averages, averages. But  
2 when you look at these gaps in the 40 percent unimpaired  
3 flow, seven years of no water is not something you can  
4 average away. For agriculture seven years without water  
5 is an impact that needs to be addressed for the very fact  
6 that it's occurring in those periods of time. And to  
7 average it out against those years in which you get  
8 water, I think is disingenuous in the presentation of the  
9 material. And the thought process that's used in this  
10 document is averages, averages, averages. And we'll get  
11 to this at the end and I don't to get too far, but --

12 MR. RIETKERK: He's using his 100 words.

13 MR. KNELL: Yes, I'm using my 100 words. Thank  
14 you.

15 CHAIR MARCUS: That's all right.

16 MR. KNELL: We've got 12 -- or we've got about  
17 11 minutes.

18 MR. RIETKERK: Okay. So what we see the  
19 difference between those two again, current and then 40  
20 percent, what we see is a drop from 107,000 acre-feet on  
21 average for deliveries versus 74,000 acre-feet.

22 But one thing to note, you can see in the last  
23 10 years -- and I'm just picking on Stockton East a  
24 little bit, but if you see there the amount of water that  
25 they would be entitled to over the last 10 years. Under

1 an average condition it's 1 in 2, 50 percent reliability.  
2 Under the 40 percent it drops to 2 in 10 years, so you  
3 just went from 50 percent reliability to 20 percent  
4 reliability. And I'm sure they'll speak more on that  
5 later today.

6           Moving on to OID and SSJID's water use if we  
7 toggle between the current flow regime this is OID and  
8 SSJID's historical diversions over the record. If you  
9 look at 40 percent you can see that we see very  
10 significant and drastic cuts in water supply specifically  
11 during drought periods, namely in the '30s and then again  
12 '91,'92. And you can see again in the current drought  
13 we're in, as well. That would equate for us. You would  
14 see under our current situation we currently divert about  
15 505,000 acre-feet, on average. And under a 40 percent  
16 you would see, on average, a reduction to about 480,000  
17 acre-feet.

18           You know, a note on 505,000 acre-feet, the  
19 districts' water rights per our '88 Agreement are for a  
20 total of 600,000 acre-feet. The reason why the districts  
21 have reduced our diversions is in part because of state  
22 requirements to conserve, but also in part, because the  
23 districts' desire to modernize our systems and promote  
24 conservation where we can. So we've seen a significant  
25 reduction in our average historical annual diversions

1 over the years, because of those system investments.  
2 Those investments have resulted in conserved water. And  
3 that conserved water has been made available, which is  
4 fully within the California Water Code for us to do so,  
5 made available to areas of need.

6 And at the same time we've been able frankly,  
7 as an example of good water stewardship within the state  
8 of California, we have the ability to release that water  
9 and time it such that it also meets environmental needs  
10 as well. The last few years have been great examples of  
11 that. And you've seen presentations that we've provided  
12 on that topic as well.

13 On average, if we have to reduce our diversions  
14 under the 40 percent, you would see over the last 10  
15 years \$100 million in capital investments from the two  
16 districts that we've reinvested in our system, lost. We  
17 wouldn't have the ability to do that.

18 So one of the questions, and I'm not trying to  
19 be controversial here, but it certainly makes you wonder  
20 if the end-game of water conservation is to allow others  
21 to take the water away from us. As opposed to having the  
22 ability to redistribute the water, be benevolent with it,  
23 and provide it to areas that need the water, as well.  
24 And we've been able to do that through -- frankly, we've  
25 been able to move water around not only within basin, but

1 also to other areas on the west side of the Central  
2 Valley, as well.

3           Secondarily, some of the impacts, just average  
4 impacts in the SED, from SSJID's perspective we have  
5 municipal water customers as Jeff alluded to, nearly  
6 200,000 customers in Lathrop, Manteca and Tracy and  
7 Escalon. And that water treatment plant for us under a  
8 40 percent scenario, would be a stranded asset. We  
9 currently have booked capital. This is net depreciation  
10 of \$127 million for that plant.

11           Under a 40 percent scenario, we would suspect  
12 that approximately \$63 million in assets in that plant  
13 would be stranded. And that's because the plant was  
14 built not only to meet existing needs -- and some of  
15 those cities currently use 50 percent of the water --  
16 currently that plant meets 50 percent of the total  
17 drinking water needs of that city, of the cities that we  
18 partner with. But it also has built-in flexibility for  
19 future expansion in an economic manner.

20           And so by exacting a 40 percent unimpaired flow  
21 regime on us you are looking at stranding approximately  
22 \$63 million. That's a significant number. And at the  
23 same time, you'll leave city residents not only with  
24 permanent drought conservation, you also leave them with  
25 increased bills, because the debt service is still being

1 covered on the bonds that were taken out for those  
2 projects.

3 MR. KNELL: If I could add a little more  
4 discussion, I'll take another 100 words.

5 MR. RIETKERK: Go ahead.

6 MR. KNELL: These two districts invest about  
7 \$10 million a year in modernizing and rehabilitating our  
8 system.

9 CHAIR MARCUS: Right.

10 MR. KNELL: That \$10 million is generated  
11 through water sales that we move across Valley that both  
12 benefit fisheries, because they're timed --

13 CHAIR MARCUS: Right.

14 MR. KNELL: -- correctly and they benefit the  
15 west side in an area that needs water. Taking this  
16 unimpaired flow water away from us will reduce our  
17 ability to do infrastructure improvements, do  
18 modernization. That \$10 million in a locally roll-up,  
19 economic stimulus to the -- is really truly \$30-40  
20 million of lost economic stimulus in our communities.

21 And so I really question this \$64 million value  
22 of impacts that the state has put on this document. Just  
23 us alone, we're in the \$30 to \$40 million of economic  
24 stimulus that will be lost in the region. And we're just  
25 but one river of three that will question the economics

1 that was presented in the report.

2 CHAIR MARCUS: Are you in this -- I don't want  
3 to belabor the point, I just want to understand the  
4 point, because that number is a pretty big part of the  
5 cost -- are you then assuming that you would cut back  
6 your municipal deliveries at the same percentage as  
7 everything else?

8 MR. RIETKERK: Yes.

9 CHAIR MARCUS: I mean it's not 40 percent from  
10 where you are, it's whatever the additional increment is.  
11 But are you assuming everybody treated equally, and that  
12 you don't prioritize your municipal deliveries?

13 MR. RIETKERK: We have an agreement with the  
14 cities for operating the water treatment plant. And the  
15 agreement is that any reductions in water supply to our  
16 agricultural customers are shared equally with our  
17 municipal customers. So these are water losses across  
18 the board with no distinction between ag and M and I.

19 CHAIR MARCUS: Okay.

20 MR. RIETKERK: And Steve mentioned that the  
21 point we're really trying to make is we think the  
22 averages are truly hiding the drought impacts and in  
23 part, because of the carryover storage requirements that  
24 are in the reservoir. If you look at the drought period  
25 that we just talked about before, can we have the water

1 right of 600,000 acre-feet annually? If we assume the  
2 model use is correct, at 535,000 acre-feet annually under  
3 a current flow regime and you look at the 40 percent,  
4 what's being proposed with carryover storage, you'd see  
5 our diversions drop significantly. But basically, that  
6 40 percent would result in a 40 percent reduction from  
7 the water that we've typically had available to us in  
8 prior years.

9 CHAIR MARCUS: Again, I'm just trying to  
10 understand. So you're assuming 40 percent off your water  
11 right as opposed to 40 percent unimpaired flow left in  
12 the stream? I mean, there are a lot of water rights on  
13 it. I know you're the most senior, but --

14 MR. RIETKERK: We are also --

15 CHAIR MARCUS: -- you are the most senior,  
16 which protects you more than others.

17 MR. RIETKERK: Correct. Under this scenario,  
18 what we're showing is under the 40 percent and this does  
19 include the carryover storage requirements. Our water  
20 rights would be reduced from modeled use, assuming that  
21 we were also reducing our diversions during drought  
22 periods to some extent for conservation purposes. Under  
23 our modeled use we would see a 40 percent reduction.  
24 It's even higher if you look at reduction under the  
25 600,000 acre-foot total. So we are looking at these

1 aren't reductions, these are actual usage.

2           So assuming a modeled use of 535 we would see a  
3 -- and then the 40 percent recommended project -- we  
4 would see the availability of approximately 325,000 acre-  
5 feet of water for our region.

6           You can compare between 600 and 535, but  
7 basically what is in the modeling is at 325,000 acre-feet  
8 is available. Not just from my district, but to be  
9 shared jointly between the two districts.

10           MR. KNELL: I think the emphasis we're trying to  
11 make here, and your document portrays this, I mean about  
12 60 percent of the time if I remember the graphic  
13 correctly at least for our district life would be  
14 relatively unimpacted. But for that 40 percent of the  
15 time life's hell. In an agricultural area where you have  
16 to grow crops and you have no water that 40 percent is  
17 very difficult for us.

18           MR. RIETKERK: You know, I like to make the  
19 analogy that if the average adult human breathes 20 times  
20 in a minute, and over a two-minute period they were to  
21 breathe 40 times over the first minute and 0 the second  
22 minute, then on average it would still be 20 times a  
23 minute. And really, that's very analogous to what we  
24 think is happening here under a 40 percent.

25           I'm actually going to pass that slide, but I'm

1 going to go on to the drought impact summary. Well, it's  
2 very similar to what we would be experiencing here under  
3 drought impacts. On the average it shows that yes, SSJID  
4 and OID and the Stanislaus River are currently at a 40  
5 percent unimpaired flow regime on the Stanislaus. But on  
6 average, our reductions would be minimal. But during the  
7 most critical times, during the drought periods, they  
8 would be drastic and dire and devastating for us. And  
9 you're basically asking the water user community, the  
10 agricultural customers and domestic customers, to hold  
11 their breath for five-to-ten years at a time and hope  
12 that on the back end of it we'll be able to come out  
13 okay.

14           And so when you're looking at the averages just  
15 keep in mind that the drought impacts are truly what  
16 drive the sustainability and viability of our community.

17           MR. KNELL: And one of the things in addition  
18 to that, I think -- and we've been an advocate for this  
19 planning document -- at some point you need to have dry  
20 year off-ramps for communities. Mother Nature is always  
21 going to deliver us a hydrologic event that we can't  
22 outlive to. At those points in time when we get there  
23 the State Board needs to consider off-ramps from all this  
24 regulation to allow us to survive. And we think that  
25 needs to be in the document.

1           CHAIR MARCUS: Yeah, my understanding is there  
2 is something in the document that's controversial with  
3 others, as similar to the TUCPs we did during the  
4 unprecedented drought we went through and we undoubtedly  
5 will go through again.

6           MR. KNELL: Mm-hmm.

7           MR. RIETKERK: I think we've beat this one to  
8 death here, but the reductions are significant during  
9 drought.

10          CHAIR MARCUS: Well, we'll look at this and  
11 read your comments too, which will have more in detail, I  
12 know.

13          MR. RIETKERK: And again either way you should  
14 get between the two districts, if we are at 162,500 acre-  
15 feet during drought periods, that's critical. And that's  
16 not survivable, especially if droughts are extended and  
17 deepened with a 40 percent flow. And it doesn't just  
18 occur during that drought period we just studied, 1924  
19 through 1935, it occurs in every drought period. So we'd  
20 be looking 1960 through 1964, '76 and '77, '87 through  
21 '94, 2002 through 2005, and again in the current drought  
22 period in 2012 and 2016 as well.

23          CHAIR MARCUS: Right. The challenge is the  
24 same thing happens to the fish, so that's the challenge  
25 in the balance.

1           MR. RIETKERK: I hate to be a little ironic and  
2 I'm not going to really go into it because it isn't in  
3 the topic of our fishery deal, but the Stanislaus has  
4 actually seen a record run of salmon this year. And the  
5 last two years have basically doubled in population, at  
6 least in salmon run, without additional flow. So we  
7 think there's other factors at play other than flow.  
8 And our current science that we're seeing on the river  
9 would suggest that there are other stressors out there  
10 and other things that are being done through hatchery  
11 management and otherwise that are seeking great results,  
12 as well.

13           So in conclusion, again we think that there's  
14 some significant issues with the analysis of the SED  
15 document. Especially on the unfounded modeling  
16 assumptions, the carryover storage requirements, we think  
17 the methodology appears to mask and avoid disclosure of  
18 the true impacts of the project. Again, averages and  
19 percentages don't make for the true story, as we tried to  
20 explain.

21           And if this Plan is implemented the true impact  
22 will be that when the next regulation -- when this  
23 adopted and implemented -- all the water users on the  
24 Stanislaus River will be devastated when the next drought  
25 hits. And we will sustain a bit with groundwater pumping

1 until SGMA hits and we'll be devastated, as well.

2           And my very final, final in closing argument,  
3 is the Board has a choice here basically to achieve a  
4 sustainable and achievable balance on water flows in the  
5 system. This is a water quality process and you are  
6 required to go through balancing. Although this isn't an  
7 ESA process one of the beneficiaries of water use is the  
8 environment and so you are considering that. And your  
9 job again is not specifically to save salmon.  
10 Technically again that's the responsibility of other  
11 agencies, but you do have a responsibility to consider  
12 that.

13           And finally, there's plenty of evidence in the  
14 record to show that the impacts to our local region far  
15 outweigh the few potential benefits that are shown in the  
16 Plan for fisheries. And really, what we're seeing is a  
17 heavy-handed approach to potentially make that work out  
18 against our needs of water.

19           What we are suggesting, and we have suggested,  
20 and will continue to suggest, there are other measures  
21 and other opportunities out there. Non-flow measures and  
22 other things we can be doing, some of the examples that  
23 we have provided over the last few years, to be able to  
24 provide a solution that's sustainable for our region not  
25 only for groundwater and for regional economics and for

1 surface water viability. But also measurable and  
2 successful for local habitat and local fishery needs, as  
3 well.

4 MR. KNELL: Thank you.

5 MR. RIETKERK: Thank you.

6 CHAIR MARCUS: No, thank you very much.

7 Any questions at the moment? Go ahead.

8 MR. MOORE: Well, thank you. I appreciate the  
9 work you did to put the presentation together and the  
10 modeling. And I've got a lot of experience doing water  
11 quality modeling myself. And it's important to test the  
12 models; these are planning tools.

13 And I hear your points about a disclosure of  
14 impact. I've also got two years experience doing CEQA  
15 documents professionally. So the spirit of CEQA and your  
16 point about disclosing potential impacts on the  
17 timescale, I hear those things.

18 One thing I'd like to give you the opportunity  
19 to do now as you've looked, you've drilled down on water  
20 supply and water quantity impacts, as we have this  
21 discussion and dialogue between our staff and you and the  
22 different tools, the work we're doing. What can you say  
23 about water demand management in the irrigation  
24 districts? Because there is in your assumption, in your  
25 model assumption, you are assuming that those deliveries

1 need to be made for agricultural productivity and  
2 economy.

3           And we've learned in the last 20 years that the  
4 relationship between volume of water applied and economic  
5 output has changed through water efficiency measures.

6 And could you describe water efficiency measures you're  
7 doing and planning to do? And, how that might affect  
8 your water demand that you'd predict outward, because all  
9 you've given me here is water supply.

10           MR. KNELL: I think specifically for Oakdale we  
11 are a region that -- or an irrigation district -- that is  
12 still 50 percent non-permanent crops and 50 percent  
13 permanent crops. There's a huge evolution in California  
14 only because really the regulations and the difficulty it  
15 is to become farming, farmers are moving to higher-valued  
16 crops in order to make ends meet, pay their bills, and  
17 engage in the life that they chose to do. So you are  
18 moving to higher efficiency systems.

19           I think gradually our community is. We have 2  
20 to 3,000 acres a year we are losing of that non-permanent  
21 ground going to permanent crops and firming up water  
22 supply, firming up water demand and actually freeing up  
23 water.

24           That non-permanent crop, we have a huge pasture  
25 component. And I'll tell you pasture people like being

1 pasture people. And they like raising cattle, they like  
2 that culture or life, but there is an awakening amongst  
3 them that this may not be a business environment that  
4 they can compete in and be successful anymore. And so  
5 they're converting over. But when you change over a  
6 pasture, which might use five, five-and-a-half acre-feet  
7 per year to a permanent crop like almonds and is using  
8 like three-and-half feet per year, there is a  
9 conservation component that changes your demand within  
10 the District.

11           And what it used to take us -- when I came to  
12 the District in 2002, we were fully using 260,000 acre-  
13 feet in order to make water demand diversions. Last year  
14 we didn't have any allocations, it was an average year.  
15 Our water use was 190, so that's your demand change.

16           And I think as we go forward and there's more  
17 innovation, there's more efficiency, I don't know a crop  
18 that doesn't go back in that doesn't have better  
19 efficiency, land-leveling, all those types of things that  
20 we should be doing in agriculture. But when those crops  
21 rotate out those practices are being implemented. You  
22 see demand going down in our region. And I think that's  
23 going to be of benefit both for the transfer  
24 opportunities, making water available both locally too,  
25 because we have a SGMA component.

1 CHAIR MARCUS: Mm-hmm.

2 MR. KNELL: You know, we have to get more  
3 efficient to address SGMA. We're going to have to be  
4 putting more of our surface water in the ground, but  
5 we've got to make sure that surface water is there in a  
6 quantity that we can use.

7 MR. MOORE: And that's a great discussion. And  
8 I think from the State Water Board's standpoint all those  
9 aspects you mention we're very aware of and supportive  
10 of. But then also where does the surface water instream  
11 flow component come in? And as we go back and forth and  
12 talk about potential voluntary agreements and that sort  
13 of thing, I would encourage you to own those outcomes as  
14 you have. You all are stewards of the river and have  
15 insight there.

16 But when you describe that when the water is  
17 made available due to efficiencies it's not just for  
18 groundwater management. It's for sustainable, healthy  
19 rivers in your area, as well. Thank you.

20 MR. KNELL: Thanks, I could say that we invest  
21 a million dollars a year in science on our river, each  
22 and every year. We are firm stewards of our river. We  
23 believe that science speaks louder than words. And local  
24 science should have a little louder voice at the state  
25 office, as opposed to other research they are using.

1 Thank you.

2 MS. D'ADAMO: So I have a question about June.  
3 You talked about 1 to 2 percent of the benefits. And I  
4 know at the workshop, at the staff workshop, that issue  
5 was discussed as well. So could you comment on the  
6 source of your information on 1 to 2 percent?

7 MR. KNELL: We ran a rotary screw trap on the  
8 river, so we have a long -- in fact, we have the -- on  
9 the Stanislaus is the longest operating rotary screw trap  
10 in California. We have a long, long history of out-  
11 migrating fish in tracking that. And it's those readings  
12 that we get in June that are showing that there's very  
13 few fish out-migrating at that time. And our fish  
14 biologists believe there's very few out-migrating fish  
15 waiting to migrate out that late.

16 MS. D'ADAMO: Could you provide in your  
17 comments some detailed information about the source and  
18 the numbers? Even down to, if you have it, by day? What  
19 are you seeing? At what point are there no fish in the  
20 system? I don't know if you are able to collect and  
21 provide that information, but I think it would be  
22 helpful.

23 I know that staff provided some information and  
24 I think that their numbers were a little higher, but it  
25 may have been in different year types. I think it was

1 just maybe some selected years, so it would be helpful to  
2 have a maybe more complete information from you on that.

3 MR. KNELL: Very good. We can do that.

4 CHAIR MARCUS: Great. Thank you very much.

5 And feel better.

6 MR. KNELL: Thank you.

7 MR. RIETKERK: Thank you.

8 CHAIR MARCUS: All right. Looking to the court  
9 reporter, with your indulgence, I'm going to take ten.

10 All right, everybody? No, no, all right that's funny.

11 All right, so you can queue up.

12 First, we have Jerry Neuberger for the Delta  
13 Fly Fishers followed by Dr. Ronald Forbes also from the  
14 Delta Fly Fishers followed by Roy Hoggard or Hoggant?

15 MR. HOGGARD: Hoggard.

16 CHAIR MARCUS: Thank you, Hoggard. I got it  
17 right the first time. I should have just shut up.

18 Mr. Neuberger?

19 MR. NEUBERGER: Thank you. I'm Jerry  
20 Neuberger, I'm President of the Delta Fly Fishers. We've  
21 been in existence for about 40 years and we have about  
22 100 members on an annual basis.

23 I'd like to speak to you, not about the  
24 fisheries of the Delta so much, but more about the people  
25 of the Delta that support, that depend on those

1 fisheries. I've been fishing in the Sacramento-San  
2 Joaquin area ever since the 1960s. And I remember when I  
3 was a little kid we'd cross the Rio Vista Bridge in the  
4 fall and see as many as 200 boats in the river, all  
5 fishing for stripers during the StriperFest. And now if  
6 you cross the river during that same time, that same  
7 event, there are maybe 25 or 30.

8           When I drive through the Delta I see closed  
9 stores that were once bait shops, I see closed stores  
10 that were once local, little grocery stores. I see, when  
11 I'm out on the water in my boat, there's no longer any  
12 restaurants to go to that are on-the-water restaurants.  
13 Those are closed. When I look at the marinas I see lots  
14 of boats that are covered with debris and for all  
15 purposes abandoned. There's open slips. And all of  
16 those people relied one time on the fisheries of the  
17 Delta.

18           There's no doubt that our fisheries in decline.  
19 The salmon population is 5 percent of what it used to be.  
20 Striped bass are even worse, they're about 4 percent of  
21 what they used to be. California fishing licenses have  
22 declined by about 55 percent. All of those people  
23 supported the businesses that I spoke about.

24           So the people, when these stores closed, when  
25 the bait shops closed, when the restaurants closed, and

1 when the little grocery stores closed in the small  
2 communities, they didn't get subsidies from the state to  
3 run their businesses. They didn't have crop insurance to  
4 sustain them in the tough years. They just closed and  
5 went on their way. They didn't have water districts to  
6 advocate for them, they didn't have banks of attorneys to  
7 appear for them. They were little mom-and-pop businesses  
8 that just went out of business and some of them lost  
9 their fortunes. Some of them have very little to exist  
10 on as far as in their senior years.

11 Restoring the flows on the Delta will do much  
12 to restore the fisheries and it will do a lot to restore  
13 the economy of the Delta, as well. Thank you very much.

14 CHAIR MARCUS: Thank you very much. It helps  
15 to paint the complex picture that we're dealing with.

16 Next, Dr. Forbes followed by Mr. Hoggard  
17 followed by Roger Kelly from the Northern California Sea  
18 Ray Boat Club.

19 DR. FORBES: Good afternoon Madam Chair and  
20 Board Members.

21 (Colloquy re: audio setup.)

22 DR. FORBES: How is that, is that better? Is  
23 that better?

24 CHAIR MARCUS: Yes, it's much better.

25 DR. FORBES: Thank you very much.

1           Good afternoon Madame Chair and Board Members.  
2 I'm Ron Forbes and I'm the Conservation Chair for the  
3 Delta Fly Fishers. For over 50 years we have watched  
4 ongoing diversions of water decimate the Delta and  
5 decimate our fisheries to the point where several species  
6 now face extinction. However, during the last 5 years of  
7 this severe drought we have watched water continually  
8 being diverted from the Delta to South Valley corporate  
9 farms. And during that time these farms have not only  
10 done well, they have continued to grow -- the number of  
11 acres that have been planted -- and they have enjoyed  
12 record financial gains.

13           However, at the same time with these ongoing  
14 water diversions the Delta is near the point of collapse.  
15 Some of the issues caused by these ongoing diversions are  
16 potential extinctions for our fisheries, continuing  
17 intrusion of salt destroying the Delta farms, potential  
18 loss of the Delta's ecosystem, potential loss of safe  
19 drinking water standards for the 4 million people who  
20 live in and adjacent to the Delta, and the toxicity of  
21 the Delta's waterways caused by this Board's granting  
22 waivers to farmers to use herbicides and pesticides, so  
23 that these farmers no longer have to comply to  
24 California's Clean Water Act.

25           Six years ago this Board reported that to

1 protect the Delta a rate flow of 60 percent of unimpeded  
2 fresh water was needed to maintain the Delta from the  
3 months of February to June. And just three years ago,  
4 the California Department of Fish and Wildlife reached  
5 the same conclusions.

6 We would hope that in making your decisions  
7 that this Board comply with the doctrine of public trust  
8 and state law and recognize that the potential  
9 catastrophic issues facing the Delta. We ask this Board  
10 to support the ongoing freshwater flows released from the  
11 San Joaquin, Stanislaus and Tuolumne rivers. And in  
12 upgrading the Bay-Delta Quality Water Plan make your  
13 decisions based on the best science available.

14 I appreciate your time. Thank you very much.

15 CHAIR MARCUS: Thank you very much. Thank you.

16 Mr. Hoggard followed by Mr. Kelly followed by  
17 Dante John Nomellini from the Central Delta Water Agency.

18 MR. HOGGARD: Good evening, my name is Roy  
19 Hoggard. I'm a resident of the county here. I grew up  
20 on the edge of the Calaveras and I've seen a lot of  
21 changes over the years. I hope I use the right  
22 terminology to keep everybody happy. Elected and  
23 appointed officials swear an oath to protect us in  
24 foreign governments, encroachments on our properties and  
25 our health, our welfare. We're hoping and expecting and

1 demanding that we are protected. Thank you.

2 The conveyance system that's being planned will  
3 take ten years to build.

4 CHAIR MARCUS: Well, if you're talking about  
5 the Delta tunnels we cannot hear you in this hearing on  
6 that.

7 MR. HOGGARD: All right, I will go on to  
8 another subject.

9 CHAIR MARCUS: Yes, sorry.

10 MR. HOGGARD: Okay. We have saltwater coming  
11 in to our rivers, because we don't have enough water  
12 going out. We also have saltwater coming in to our  
13 aquifers, where the aquifers pour into the ocean.  
14 There's not enough water to push back there either.

15 The Army Corps of Engineers -- a very bright  
16 group, I've worked with them as an architect years ago --  
17 we have 18 rivers that have blocks to fish being able to  
18 get up to the spawning grounds. You would think that  
19 after all these years we could improve these dams, weirs  
20 and blockages. The Baroda Weir, it's right here, it  
21 feeds our town. I've been asking for over 20 years get  
22 rid of the flume. Put in a proper fish ladder that fish  
23 can use. We're watching the spawning grounds being  
24 silted over and poisoned over. It's just unbelievable.

25 Recently, there was a claim that we had no

1 drought and that we were up here protecting a worthless  
2 three-inch fish and our water would be gotten to the  
3 southern counties. It seems as though God made a mistake  
4 in making that fish.

5 I would like to thank the citizens of Standing  
6 Rock for protecting their neighborhood. And I would like  
7 to thank Restore the Delta with Barbara and Bill Jennings  
8 for keeping us informed on the dangers of what we face in  
9 the future.

10 We all know that the misfortunes in Syria  
11 started from a drought, where those peasants, farmers  
12 could not grow anything, moved into town. And they have  
13 that chaos going now. What we face in the future is a  
14 collapse of our system of no jobs, no farming; all of our  
15 industries will die. We will drag the rest of the  
16 country down with us. And just remember, we are going to  
17 be the "sans-culottes" of the future. They are the ones  
18 who chopped off Louis XVI's head.

19 Thank you.

20 CHAIR MARCUS: Thank you.

21 Mr. Kelly followed by Mr. Nomellini followed by  
22 Tammy Alcantor from the City of Escalon.

23 MR. KELLY: Thank you for allowing us to voice  
24 our opinions.

25 CHAIR MARCUS: I appreciate it, it helps.

1           MR. KELLY: My name is Roger Kelly. I'm a  
2 lifelong resident of Stockton. I current reside adjacent  
3 to Calaveras River. And right now, I really oppose the  
4 flows. The Delta is in peril. I cut about half of my  
5 stuff out, because most of the people have said what I  
6 feel. But we've got Egeria, we've got Water Hyacinth,  
7 we've got toxic algae that I fear is only going to get  
8 worse if we have less flows going through the Delta.  
9 There's been several dogs that have died, because they go  
10 out and swim in it, they come out, they clean themselves.  
11 Well, what happens when we start watering our crops with  
12 this? If we reduce the flows we're going to have more  
13 problems. And the salinity is going to be an issue.

14           I look out my backyard and I can see seals and  
15 sea lions all the way up; I live next to I-5. I found a  
16 large body of a salmon that a seal had gotten a couple of  
17 weeks ago. You can't blame them, they're coming this way  
18 because the Bay is also in such an unhealthy array that  
19 they have to come this way for food. You go by the port  
20 you can hear all of them underneath the docks. We can't  
21 afford for any more flows to be taken away from the  
22 Delta.

23           As somebody stated, all of the businesses that  
24 have left, we had at one time over 100 boats in our club,  
25 so a couple hundred people; we're down to 60. A lot of

1 it revolves around some of our favorite destinations to  
2 go out and boat and recreate. We can't go there anymore,  
3 because a lot of it being the Egeria, the Water Hyacinth.  
4 I just -- I hope you can see my side and some of the  
5 people who have brought the fact that this is one of the  
6 most beautiful estuaries and the economic value that it  
7 holds. Please don't destroy it.

8 CHAIR MARCUS: Thank you.

9 MR. NOMELLINI: Members of the Board, thank you  
10 for coming to Stockton.

11 CHAIR MARCUS: Thank you, it's good to see you.

12 MR. NOMELLINI: I'm Dante John Nomellini, I'm  
13 the Manager and Co-Counsel for the Central Delta Water  
14 Agency. My perspective is a little different here in  
15 that I focus in on the water rights that we have in the  
16 system. And in my view this is an attempt to put burdens  
17 from the State Project and the Federal Project on to the  
18 local watersheds and senior water right holders, which I  
19 view is an improper action and a violation of the law.

20 We hear a lot about doing things, suffering,  
21 spreading the pain in this and that. But basically, we  
22 have senior water rights in these tributaries that need  
23 to be respected. And the water projects themselves have  
24 junior water rights. And the shortage that we're all  
25 fighting over is due to the fact that the projects were

1 supposed to be limited to surplus water and they've  
2 failed to do the development that was planned.

3           But now when we go and look I see what you're  
4 doing. You're going to degrade water quality, which I  
5 think is a terrible thing for you to do -- the salinity  
6 or for agriculture you're going backwards on that.  
7 You've got strong policies. This state is expected to  
8 lead the United States and the world and you guys are  
9 going to go backwards. And I see that as simply some  
10 pressure from the exporters coming on you, because we all  
11 know that in order to get the leaching fractions you have  
12 to have the proper soil conditions. So it's obvious to  
13 me what it is.

14           Now, when we go to the watersheds and we start  
15 taking this water out, if it's not surplus water it's  
16 going to add to the burden of trying to bring our  
17 groundwater in the balance. And a lot of these things  
18 that are talked about is conservation: short the water  
19 flow into the underground, short the replenishment. So  
20 what we need to do is look at whether or not this is  
21 sustainable.

22           In my opinion, if you're not dealing with  
23 surplus flows to meet the fisheries it's short-lived, so  
24 any investment that we make -- and you know, I know what  
25 the background deal is -- you go ahead and pay these

1 irrigation districts money like they did with that San  
2 Joaquin River Agreement before they get the money. It  
3 actually shorts the water flow during the rest of the  
4 year, because the fish flows are February through June.  
5 We have to sustain the rivers for the balance of the  
6 year.

7           So what they do is they don't release the water  
8 for power production later, or whatever it is. What we  
9 need to do -- and of course you're aware of the federal  
10 legislation where they're talking about a one-for-one  
11 diversion at the export pumps to the flow in the San  
12 Joaquin River that is supplemented by these efforts that  
13 we're talking about.

14           So we have to look at projects that actually  
15 develop yield in the basin, in the watersheds. Part of  
16 that yield can be used for fish, part can be used for  
17 further development. To me, that's where we have to go.  
18 Otherwise we're just going to fall farther and farther  
19 behind. Thank you.

20           CHAIR MARCUS: Thank you. Next, Kevin Kauffman  
21 followed by Gary Darpinian followed by Gary Barton.

22           MR. KAUFFMAN: Thank you for giving me this  
23 time. Honorable members of the Board, my name is Kevin  
24 Kauffman and I'm a civil engineer residing here in  
25 Stockton and practicing as a Water Resources Consultant.

1 I advise clients that use water from the San Joaquin  
2 River, the Lower San Joaquin River here in Stockton and  
3 its tributaries: the Mokelumne, the Calaveras,  
4 Stanislaus, Tuolumne and Merced rivers further up the  
5 Valley.

6 Over 17 years ago, one of your predecessors on  
7 the Board here, a soft-spoken, brilliant civil engineer  
8 by the name of John Brown provided me counsel on the role  
9 of the State Board and its lack of a comprehensive  
10 statewide plan. It has taken me a long time to  
11 understand what Mr. Brown was trying to teach me, but I  
12 think I now get it. And you still don't have a plan.  
13 The proposed actions defended by the SED are simply a  
14 stopgap by your Board to address the latest crisis that  
15 you face.

16 Per your documents, you intend to 1) take  
17 surface water that you think you need for ESA reasons,  
18 but actually it appears that it's to be an attempt to  
19 fulfill your commitments to both the state and Central  
20 Valley projects. And 2) you adapt your commitments,  
21 these commitments, over time probably taking more water.  
22 And then finally you amend the water rights according to  
23 these first two steps. The impacts of these actions  
24 should be considered unacceptable to you as they do to  
25 most of the people in this room. I believe the term ass-

1 backwards describes your proposed actions. I implore you  
2 as a State Board to please hit this pause button and  
3 consider reversing the order of your proposed actions.

4 As Mr. Brown suggested so politely, you need to  
5 first assemble a statewide comprehensive water plan.  
6 Then amend your water rights that you have issued, to  
7 date. And then finally divvy up any remaining water in  
8 accordance with such a comprehensive plan.

9 And I see my time is up, so thank you very much  
10 for providing me this time. Thank you.

11 CHAIR MARCUS: Thank you.

12 Mr. Darpinian followed by Mr. Barton followed  
13 by Dave Kemper. And those are our final three for this  
14 session at the moment.

15 MR. DARPINIAN: Thank you Chair Marcus and  
16 Board members for giving me the opportunity to speak. I  
17 want to bring it down to a little more ground level,  
18 maybe, for the discussion today.

19 I'm a member of a family that's been farming in  
20 this area since the 1930s and we span four generations.  
21 And we grow permanent crops, tree crops: peaches,  
22 almonds, walnuts. And I farm in two irrigation  
23 districts: South San Joaquin, about 300 acres in the  
24 South San Joaquin Irrigation District; and 700 acres in  
25 the Modesto Irrigation District.

1           Normally I don't talk about our farming  
2 operation in public, right? But these are extraordinary  
3 circumstances and the reason I want to do it is to talk  
4 about the impacts, the real-world impacts and the thought  
5 processes of a grower and the people who work for him.

6           For us, when I look at the SED proposal in the  
7 short term, we have to make some choices, okay? And I  
8 want to be very clear about this. You know, an uncertain  
9 water supply for a grower like me with permanent crops is  
10 like having no water supply, okay? We don't have -- we  
11 have trees that have a lifespan of 20 or 30 years and we  
12 need to sustain them through drought and in good water  
13 times.

14           So in the short term if this proposal goes  
15 through we're going to be faced with, "How do we deal  
16 with drought?" And I can tell you in 2015 we had to pull  
17 out 20 acres of producing orchards in order to shift  
18 water between our crops, so we could keep the other trees  
19 alive, okay. And that was minor and we got through it.  
20 And we will have to do that, it looks to me like with  
21 these more severe drought periods from the regulation,  
22 that we're going to have to do a lot more of that. And  
23 it could be devastating to our business. We're looking  
24 at the possibility of having a fallow maybe as much as  
25 30, 40, 50 percent of our ground. So what's the impact

1 on that?

2           Then, in the longer term we have to look at  
3 what are we going to do. We have uncertain water supply,  
4 so we have really the choice of drilling wells. We're a  
5 completely dependent -- my operation is almost completely  
6 dependent on surface water and that's by choice. It's a  
7 philosophy my family has. We don't want to pump  
8 groundwater. We don't think it's a sustainable way to  
9 go. It's become more popular and because of the drought  
10 it's become definitely the way to go, I guess. But in  
11 terms of long-term sustainability we don't think it's the  
12 way to go.

13           So what does that mean? Well, I want to talk  
14 about the impacts on our employees. Okay, we are a  
15 longtime farming family. We employ roughly 16 full-time  
16 people and we have for years. People have worked for us  
17 for 10, 20, 30 years, okay? Almost like family, have  
18 second-generation employees and these are the people that  
19 I'm worried about. These are the people who are going be  
20 impacted. The thought of having to lay off six or eight  
21 of those people, because we just aren't going to have  
22 enough water to farm our ground, that sickens me. These  
23 are the people who can least afford it, these are the  
24 people who are going to be most impacted in our community  
25 by this proposal.

1           Please consider non-flow measures as much as  
2 possible. Thank you.

3           CHAIR MARCUS: Thank you.

4           Mr. Barton followed by Mr. Kemper.

5           MR. BARTON: Good afternoon, my name is Gary  
6 Barton. I'm the Chair of the San Joaquin County  
7 Agricultural Advisory Board, part of a family that has  
8 farmed along the Stanislaus River for 104 years. The  
9 fifth generation of our family is now part of our  
10 operation. We hope he is not the last.

11           These are the times that try men's souls.  
12 Today the Central Valley of California is indisputably  
13 the most powerful agricultural engine in the world. Our  
14 region has done more with the gifts of nature and the  
15 resources available to us than any other place on the  
16 globe. Over 150 years of sweat, toil and blood have  
17 created this economic marvel and millions around the  
18 world benefit from it. But make no mistake, this  
19 proposal by this Board will destroy that economic marvel.

20           Folks in agriculture struggle under the weight  
21 of the most regulated state economy in our country. But  
22 there is one resource, without which we cannot grow and  
23 produce the abundance of food that we do. That is, of  
24 course, water. Yet citizens of the Valley are expected  
25 to accept a set of regulations that will devastate our

1 economy, annihilate over 100 years of established water  
2 rights, ravage constitutionally established property  
3 rights and relegate our businesses and communities to a  
4 slow, painful death of 1,000 cuts.

5           And for this outcome, the people of this area,  
6 along the Stanislaus River Watershed, will receive 220  
7 fish. By some logic that is entirely lost on me and  
8 thousands of other Valley residents, this Board has  
9 concluded that these 220 fish are what is best for our  
10 area and for the citizens that live and work here. The  
11 Board has concluded that the work and sacrifice of  
12 generations is relegated to history's trash heap.  
13 Because, apparently, these fish are far more important  
14 than the legacy of sacrifice and dedication that has  
15 created these amazing blessings, and of much greater  
16 value than the lives devoted to building and caring for  
17 our families in our communities. And that, I believe, is  
18 the very definition of tyranny.

19           The growers and the landowners and the  
20 communities in this area, we must prevail and we will  
21 prevail. Our property, our livelihoods, our very way of  
22 life is at stake. We will not forfeit our liberty and we  
23 will not forfeit our water.

24           CHAIR MARCUS: Thank you.

25           All right, next Mr. Kemper.

1           MR. KEMPER:  Going to get a little bit of a  
2  repeated theme here, I'm Dave Kemper and I'm a farmer in  
3  the Manteca area.  And I'm going to speak in a little  
4  more generic terms than the last two people, because the  
5  American farmer to me is a hero.  And no one talks about  
6  it.

7           CHAIR MARCUS:  We've been talking about it,  
8  just so you know.

9           MR. KEMPER:  Yeah, anyway it's fed the world  
10 many times over.  You can read a lot about it.  Milton  
11 Friedman and his book, "Freedom to Choose", uses the  
12 model the American farmer feeding the starving people and  
13 it saved millions of lives in Russia by producing food  
14 for our for-profit deal.  And one of the reasons I say  
15 that it's in generic terms is as we go broke, us farmers  
16 have to be efficient.  We go out of business.  But we do  
17 an efficient job and as a general nature it's something  
18 that needs to be praised.

19           In the Valley here, I've understood that it's  
20 almost quadrupled production in my lifetime with less  
21 resources, crappier soil due to urbanization, less water.  
22 Don't make any dust.  And a burden of paperwork that's  
23 unbelievable.

24           The Valley here is unique in that there are  
25 nine different kinds of soil in the world that are

1 considered prime farmland. Eight of them appear in this  
2 valley and none of them will grow anything without water.  
3 The Mediterranean climate we enjoy also is unique to  
4 California's Valley. There's a few other places that it  
5 occurs, but they're not really useful. Mexico can do  
6 some, but some of the previously named sites -- Lebanon,  
7 Syria, Benghazi -- they all enjoy a Mediterranean  
8 climate. There are like 90 different crops that are  
9 grown in this valley. You want to depend on others for  
10 that? I don't think so.

11 I don't think it needs to be farmers versus  
12 fish either. But I think the environmental community  
13 needs to take a good look at it too, because Mr. Grober  
14 mentioned it earlier, 1992 is when things changed. That  
15 was the year we got a million-and-a-half acre-feet from  
16 agriculture to put into the fishing. And your track  
17 record, as an environmental community of using that water  
18 to promote species, is poor.

19 One final note, I have a chart here of salinity  
20 in the Delta and I'll tell you a little bit about it.  
21 All of the spikes are before 1940. Some of them are five  
22 times higher and the reason for that is you didn't have  
23 reservoirs. There was no State Water Project. There was  
24 no Central Valley Project. And you're artificially  
25 creating this Delta model out of stored water. It won't

1 occur without it, so be careful about trying to mimic  
2 nature when we've already turned nature upside down.

3 And final point, I found this information in  
4 your book. And it's last year's California's drought  
5 thing put together by you guys, so you can find it in  
6 there. Thank you.

7 CHAIR MARCUS: Thank you, sir.

8 All right, thank you. That took a little  
9 longer than I estimated. I'm sorry for anybody's blood  
10 sugar levels. We will now take a -- is a half hour okay?  
11 Like is that all right if you put back up the list of  
12 places? There's also a Starbucks a few blocks away, my  
13 personal favorite.

14 MS. D'ADAMO: I just have a suggestion. Maybe  
15 if you could mention who'd be first on deck?

16 CHAIR MARCUS: First on deck will be Stockton  
17 East. And then we'll take another 10 people.

18 (Off the record at 1:42 p.m.)

19 (On the record at 2:17 p.m.)

20 CHAIR MARCUS: It is 2:17 and we are  
21 reconvening with the Stockton East Water District Panel  
22 with Scot Moody and Jeanne Zolezzi.

23 Thank you so much for being patient with us  
24 alternating with the public comment. That is our  
25 practice now and I just think it's --

1 MS. ZOLEZZI: It's a good way to do it.

2 CHAIR MARCUS: Thank you. I'm glad you agree.  
3 Terrific, so we know that Tam will catch up on anything.  
4 And I think we should just get started if you don't mind.

5 MS. ZOLEZZI: No problem, thank you.

6 Jeanne Zolezzi from Stockton East Water  
7 District. And I'm going to skip on some of my slides,  
8 because I'm trying to reduce this to fit in the time.  
9 But Stockton East Water District is very concerned that  
10 the State Board is going to be pursuing another staff-  
11 driven plan. Our concern with the Plan is that it's  
12 driven by staff with input from only other governmental  
13 agencies, the SED is compiled by models without peer  
14 review, the conclusions reached without input from the  
15 public or the regulated community as to conditions on the  
16 ground. And it's a plan designed to achieve one state  
17 goal, which is Bay-Delta water quality, without regard  
18 for its impact on another equally important state goal,  
19 groundwater sustainability.

20 And what I want to focus on today is the Plan's  
21 emphasis on flows. And we've heard a lot about this  
22 today, but it's true. It focuses exclusively on flows.  
23 And we have seen the mantra of "more flow equals more  
24 fish" again and again, since the early 1990s. And it  
25 just has not resulted in more fish in the San Joaquin

1 Basin. It appears that no one wants to look at the real  
2 evidence provided by research on the ground.

3 And it was mentioned earlier, Stockton East  
4 participates with Oakdale and South San Joaquin to fund  
5 fishery research and monitoring on the Stanislaus River.  
6 And these three agencies have completed more research and  
7 monitoring than any governmental agency. And in fact,  
8 more than all governmental agencies combined on that  
9 watershed. So I would hope that your staff would pay  
10 attention to the information that we have on the San  
11 Joaquin River tributaries.

12 And the scientific evidence is contrary to the  
13 assumption being made in the SED. The slide before you  
14 shows Chinook abundance trends in all three of the  
15 tributaries. And the data shows that the abundance for  
16 the tributaries pretty much mirror one another, all three  
17 of them. And this is unique, because there are three  
18 very different water release regimes on the three  
19 tributaries, with some releasing minimal amounts of  
20 water, and others like the Stanislaus River reaching over  
21 50 percent of unimpaired flow being released over the  
22 past 20 years. But it doesn't really change the Chinook  
23 abundance in those rivers.

24 Similarly, your staff showed a slide earlier  
25 about how terrible conditions are on the San Joaquin

1 River. This is not related to flow. If it were related  
2 to flow, you would see the Merced River being in terrible  
3 conditions and the Stanislaus River being in the best  
4 conditions. The Stanislaus River has released more water  
5 than your staff is saying should be released and it still  
6 is in this predicament.

7 This provide strong evidence that it's not  
8 stream flows or pulse flows that drive Chinook abundance.  
9 And focusing entirely on flow in the SED ignores the  
10 other important issues that are critical for fishery  
11 recovery and abundance, habitat capacity, predation and  
12 hatchery practices.

13 Now habitat capacity is pretty simple and  
14 straightforward. The Stanislaus River currently has  
15 enough habitat to support about 2,500 female salmon. The  
16 Stanislaus River now has more than 11,000 adult returning  
17 salmon. So it's essential to ask why we would increase  
18 flow on the Stanislaus River to create more fish, when we  
19 don't have sufficient habitat capacity for the fish that  
20 we have now.

21 We could, of course, do habitat restoration and  
22 we stand ready to do that. But it doesn't make sense to  
23 do habitat restoration until we solve the predation  
24 problem. We've heard a lot about that today, but  
25 contrary to earlier statements, predation is the biggest

1 problem on the tributaries in the San Joaquin River. And  
2 we are not the only ones saying this.

3           We have the data to prove it, but NMFS, in its  
4 2009 Draft Recovery Plan, found it to be one of the most  
5 important stressors. A 2014 study by DWR found predation  
6 plays a large role. This Board has identified non-native  
7 species as one of the water quality impairments in the  
8 Bay-Delta. Even the 2010 Flow Report, that you're  
9 relying on, has significant passages saying that even  
10 with 60 percent flow, you cannot look at flow alone.  
11 There are other stressors, including predation.

12           So the fact is that even if we have fish in the  
13 Stanislaus River, in the entire San Joaquin River Basin,  
14 the research that we have demonstrates up to 98 percent  
15 of salmon and steelhead are lost to predation before they  
16 even leave the tributaries. This is not the San Joaquin  
17 River and this is not the Delta. This is the Stanislaus  
18 River, the Tuolumne River and the Merced lose 98 percent  
19 of the fish before they make it down the trib. It's not  
20 even mentioning the San Joaquin River, which has 300 bass  
21 per kilometer in the main stem. It's not talking about  
22 the 1.5 million bass that live in the Delta or Clifton  
23 Court Forebay, which has up to a 100 percent predation  
24 loss.

25           So until predation is addressed, these native

1 populations will not be increased in the river. And the  
2 recent hatchery practices and the recent data we have in  
3 the Stanislaus really illustrates this. As I mentioned,  
4 the Stanislaus River has already met its doubling goal.  
5 The doubling goal on the Stanislaus River is 22,000 fish.  
6 In 2015, the Stanislaus River saw nearly 15,000 fish.  
7 And when you account for the ocean harvest, we've more  
8 than met the doubling goal. We have over 30,000 fish.

9           The funny thing is though, these are not what I  
10 would call natural fish from the Stanislaus River. These  
11 are all hatchery fish, which as mentioned we have the  
12 Weir. We see every fish that goes up and down the river  
13 and we can tell if they're tagged or not. The statistics  
14 show that we have hatchery fish on the Stanislaus River.  
15 And in 2015 and 2016, that huge abundance of the fish  
16 happened for one simple reason. In 2013, California Fish  
17 and Wildlife increased hatchery production on the Merced  
18 River to 1.5 million fish.

19           And these fish, even though they're spawned and  
20 reared in the tributary, they are not released into the  
21 river to go out into the ocean. They are trucked around  
22 the tributary, the San Joaquin River, and the Bay-Delta,  
23 and released in the Bay. So they are escorted past the  
24 predators and we don't lose 98 percent to 100 percent of  
25 them. So they only have to face the ocean harvest of 60

1 percent, so 40 percent of these hatchery fish are  
2 returning to the tributaries to spawn.

3 Under Fish and Wildlife regulations, they are  
4 now natural fish. So the Stanislaus is meeting its  
5 doubling goal, but it's because those hatchery fish,  
6 which are saved from predation, are able to come back  
7 because they made it out. We could do the same thing if  
8 we were able to take care of the fish, so that they have  
9 enough habitat and they are not eaten by predators on the  
10 way out.

11 Very important because you do have non-flow  
12 options, I would recommend to your attorneys to go back  
13 and answer that question again. If you can look at water  
14 right licenses and permits that you have out and show me  
15 one of them that doesn't have a non-flow requirement as a  
16 condition in it, I would be surprised. We will put in  
17 our written comments the options that you do have for  
18 non-flow. And again an SED focusing strictly on flow is  
19 unreasonable use of water, because it will not accomplish  
20 the goal.

21 And before I take Scot's time, I just wanted to  
22 mention one more thing about the Stanislaus. The  
23 Stanislaus is very unique as you can probably tell from  
24 the comment's I've made. And we believe that it is being  
25 disproportionately burdened in the proposed SED for

1 several reasons. First is the Stanislaus has already  
2 achieved the doubling goal, which is what you've been  
3 looking for since 1995. In fact, we've exceeded it in  
4 2015.

5           The Stanislaus already exceeds 40 percent  
6 unimpaired flow. And we can also submit to you the  
7 printouts that establish this. From 1995 through 2016,  
8 the Stanislaus River has released an average of 53.9  
9 percent of the unimpaired flow of the river for in-stream  
10 purposes. And to make sure -- You know we say a lot  
11 about averages don't tell the story. But just so you  
12 know, that average is not really skewing the result.  
13 Over that 22-year period releases were less than 40  
14 percent of unimpaired flow only five times. And three of  
15 those times they were still over 30 percent. So the  
16 Stanislaus River has only released below 30 percent  
17 unimpaired flow in two years over the past 22 years.

18           MS. D'ADAMO: I have a question then. How  
19 would you be impacted by the proposal if you're already  
20 meeting it?

21           MS. ZOLEZZI: Because your -- now how should I  
22 say this politely -- your staff is telling you that they  
23 are releasing the 40 percent February through June and  
24 mimicking the natural flow. What they're doing is taking  
25 40 percent of the inflow during that period and then

1 using it in different periods of the year.

2 We are releasing significant amounts of water  
3 on a year-round basis under the biological opinion that  
4 is currently in place. So we have flows after the  
5 February through June period, so you will be taking 40  
6 percent during February through June, when we may be  
7 releasing less than 40 percent. And we would still have  
8 to release from June through January, significant amounts  
9 of water for the fishery.

10 So ours is a year-round requirement. What your  
11 staff is doing is piling on top of that biological  
12 opinion, an additional flow requirement of about 100,000  
13 acre-feet of water. Because they are taking the  
14 biological opinion flows or the 40 percent flow, and  
15 taking whichever is higher from the river. So we will be  
16 at greatly above the 54 percent unimpaired flow.

17 And finally just in conclusion, I want to  
18 mention we've heard a lot about settlement. And there  
19 have been a lot of settlement offers submitted.

20 CHAIR MARCUS: But not to us, formally.

21 MS. ZOLEZZI: To your staff and to the  
22 settlement process that your Board was a part of on the  
23 San Joaquin River system, submitted settlements in  
24 writing, which were rejected, because they did not  
25 include 30 to 50 percent flow. So these settlements

1 you're talking about are really that you want the flow  
2 that your staff is asking for plus something else on top  
3 of it. So you really need, before you keep telling your  
4 audiences that we are looking for settlements and we are  
5 willing to compromise, you need to really talk to your  
6 staff about what's out there.

7           The Stanislaus River has a settlement proposal  
8 that's been out for quite a while that's been rejected,  
9 because it didn't submit sufficient flows to meet the 30  
10 to 50 percent.

11           So sorry, Scot.

12           MR. MOODY: No problem, she speaks better than  
13 I do anyway.

14           As you may or may not know, Stockton East Water  
15 District has a contract with the United States Bureau of  
16 Reclamation for 75,000 acre-feet of supplemental water  
17 supply from the Stanislaus River, the New Melones  
18 Project. We use this water to replace groundwater use  
19 from the critically overdrafted Eastern San Joaquin  
20 Groundwater Basin.

21           We believe that the SED is over-reaching. The  
22 proposed Water Quality Control Plan would require an  
23 additional 293,000 acre-feet of water to be released  
24 annually between February and June to increase flow on  
25 the Stanislaus, Merced and the Tuolumne rivers. The

1 adverse impacts on Stockton East and the Eastern San  
2 Joaquin Groundwater Basin for this Plan would be  
3 devastating.

4           The impacts are not fully evaluated, the SED  
5 purports to show that the impacts of water users is from  
6 the Quality Control Plan implementation. But these  
7 modeled results are neither reliable or realistic. It  
8 minimizes impacts in two different ways.

9           One, it collectively calculates reductions and  
10 shortages by the tributary and two by averaging  
11 reductions in all the year types. The result of this is  
12 that the SED concludes that the long-term reduction in  
13 surface water supplies for the proposal is a mere 14  
14 percent. I would suggest that if we were only talking  
15 about 14 percent you wouldn't have heard the outcry that  
16 you've heard to this point and that you will hear in the  
17 near future. That simply is just not the case here.

18           While the SED shows the overall 14 percent  
19 reduction in supply, it also states that reductions will  
20 take place in accordance with water right priorities.  
21 This means that people like the Stockton East Water  
22 District, with junior water rights will bear the brunt of  
23 the these reductions, while others will suffer little to  
24 no impact. It does not show the ramifications of that  
25 anywhere within the graphs or the summaries of the water

1 supply affects within the SED. The SED assumes that  
2 we're all the same. I assure you that we are not all the  
3 same.

4           What does this mean to Stockton use? In all  
5 but the wettest of years, Stockton East Water District  
6 will receive zero water allocation from New Melones  
7 Reservoir, and will strand a \$56 million project that we  
8 have just now begun paying the bonds on.

9           Groundwater substitution, one of the insulting  
10 aspects of the Plan is that the suggestion by staff that  
11 the impact to the water users will be minimal, because  
12 reduction in available surface water will be replaced  
13 with groundwater pumping. Now the SED does acknowledge  
14 that there's already a 45,000 acre-feet annual deficit in  
15 current groundwater supplies. The SED estimates that the  
16 proposal could result in an average annual increase in  
17 groundwater pumping of an additional 105,000 acre-feet.  
18 If Stockton East is pumping zero water these averages  
19 that are spoken of will no longer apply, because we will  
20 have no other choice.

21           While noting that the groundwater pumping in  
22 most of the areas is already unsustainable, the SED fails  
23 to evaluate the impact of SGMA on this increased and  
24 continued unsustainable use of groundwater. Reductions  
25 in pumping that will be imposed by SGMA are not even

1 considered in the SED.

2           The SED also suggests that Stockton East could  
3 utilize the Calaveras River as a municipal water supply.  
4 That's an unrealistic suggestion when the Calaveras River  
5 is already fully subscribed. What the SED fails to  
6 mention is -- the Calaveras River is listed in Phase 2 of  
7 the SED. In Phase 2 of the SED your existing plans will  
8 kill that river and the wonderful fishery that resides in  
9 that river. Yet Stockton East will receive zero water  
10 from it. So we are literally talking about the  
11 existence, future existence, of Stockton East water  
12 districts and our customers.

13           The SED asserts that municipal water supplies  
14 will not be affected; this is simply not true. Stockton  
15 East has historically provided as much as 50,000 acre-  
16 feet of our Stanislaus River water supply to the City of  
17 Stockton for municipal purposes. As indicated above, the  
18 implementation of the Plan as proposed, would have a  
19 dramatic adverse impact on the Stockton East municipal  
20 users, completely eliminating their supply in most years.

21           We believe that the SED's scientific basis is  
22 flawed. Stockton East has contributed significant funds,  
23 since 1993 joining with Oakdale Irrigation District and  
24 South San Joaquin Irrigation District to fund work by  
25 FISHBIO on the Stanislaus River. As a result FISHBIO now

1 has the most extensive monitoring and research of  
2 fisheries on the Stanislaus River, more than any other of  
3 the fishery regulatory agencies making recommendations  
4 for this particular SED.

5 FISHBIO's conclusions undercut the mantra of  
6 the regulators in your staff that more flow equals more  
7 fish. There is no scientific data supporting this  
8 theory. In fact the actual data gathered by experts on  
9 the river undermines this assumption.

10 The timeline that is being proposed appears to  
11 be unreasonable. You began the process of updating the  
12 2006 Bay-Delta Plan in 2009. In 2012, you released a  
13 draft SED Water Quality Plan and received comments on  
14 that Plan in 2013. Now three years later, without  
15 additional public input or discussion, you released the  
16 2016 re-circulated draft --

17 CHAIR MARCUS: You know what, I just want to  
18 interrupt you there.

19 MR. MOODY: Okay.

20 CHAIR MARCUS: Because that's one of those  
21 talking points that's been going around as if folks have  
22 been working on it for four years. Folks took in the  
23 comments, we were interrupted by the worst drought in  
24 modern history, all the same people were all in working  
25 on that. And then we didn't just respond to comments, we

1 released a new draft. So it's not that people have been  
2 working for four years. We were all interrupted by three  
3 years and now we're getting back to it.

4 I just want to be clear on that one.

5 MR. MOODY: Understood, additionally we were  
6 interrupted by a severe drought as well.

7 CHAIR MARCUS: Even more so. Even more so, we  
8 saw some of you quite frequently.

9 MR. MOODY: Yes, agreed.

10 CHAIR MARCUS: But that is one of the talking  
11 points out there that's not exactly fair.

12 MR. MOODY: Moving on, we're concerned about  
13 the lack of balancing. The Board has stated that it's  
14 updating the Bay-Delta Plan in order to better address  
15 the balancing of instream and consumptive human uses.  
16 The Board has said it is hard and it requires balancing.  
17 It has repeatedly noted that the State Water Board's 2010  
18 Flow Criteria Report sought to dedicate 60 percent of the  
19 flows for the benefit of the fish. What is completely  
20 disingenuous about this is that it's often thrown out the  
21 number -- the number of 60 percent is often thrown out  
22 and the -- thrown out number is 60 percent of the entire  
23 San Joaquin River Watershed, pardon me.

24 The State Board is ignoring nearly 40 percent  
25 of the watershed by not including the San Joaquin River

1 main stem and the ancillary tributaries. Instead we're  
2 focusing on the three tributaries in the main stream.  
3 How is that balancing?

4           Impact to agriculture, the SED reaches the  
5 conclusion that the Plan will have no adverse impact on  
6 municipal uses. As described above this is simply not  
7 true. However it does illustrate that the Plan imposes  
8 disproportionate impacts on agriculture in the Plan area.  
9 Agriculture has borne the brunt of continued and  
10 obtrusive state regulations for several years now,  
11 including the ever-expanding Irrigated Lands Program, the  
12 curtailments imposed in 2015, and now the proposed  
13 updated Bay-Delta Plan.

14           Settlements, during the 2012 to 2015, Stockton  
15 East participated in a multi-year settlement process with  
16 federal and state fishery agencies, all of the  
17 tributaries' water users, and a host of the environmental  
18 organizations that culminated in a detailed settlement  
19 proposal on the river. The proposal was rejected. The  
20 State Board's fact sheet reveals that while settlement  
21 can include voluntary actions, they must also include the  
22 30 to 50 percent range. We have issue with, as Jeanne  
23 has said.

24           In an attempt to stay within the timeframe, I'm  
25 pretty much done anyway. And so I'll end it there.

1 Thank you.

2 MS. D'ADAMO: I have a question and Mr. Moody,  
3 you may not be the best person to answer this, but one of  
4 the things that think or I had hoped would come out today  
5 -- maybe there's somebody here from the City -- I know  
6 the City was on the panel earlier on the wastewater  
7 treatment issues. But this whole issue of how the  
8 portfolio for the City has changed through time.

9 MR. MOODY: Yes.

10 MS. D'ADAMO: And as I understand it, one of  
11 the main reasons that the City sought the CVP, or a  
12 portion of what Stockton East receives from the CVP, was  
13 to address the issue of saltwater intrusion. And the  
14 overdraft that had been going on for decades in the City  
15 of Stockton. So rather than me rambling on, could you  
16 shed some light on this issue and how surface supplies  
17 have helped to halt the saltwater intrusion?

18 MS. ZOLEZZI: Yes, as you mentioned as far back  
19 as 1976 the City actually contracted with Stockton East  
20 Water District for water from the Calaveras River. It's  
21 a very limited supply, because the Calaveras River is  
22 very small, so they're entitled to 20,000 acre-feet from  
23 the Calaveras River. And over time that has really not  
24 stopped, but has reduced the saltwater intrusion and has  
25 improved the critically overdrafted basin.

1           The real improvement we made was with the New  
2 Melones water. They've been receiving up to 50,000 acre-  
3 feet a year when we have an allocation of New Melones  
4 water, which has really tremendously improved the  
5 critically overdrafted basin and ceased the saltwater  
6 intrusion.

7           If the New Melones water is interrupted, which  
8 it appears to be under the model from the SED, they will  
9 not have that supply. So they will be back down to  
10 20,000 acre-feet from the Calaveras, provided the  
11 Calaveras still has that amount once we get done with  
12 Phase 2.

13           MS. D'ADAMO: Thank you for your time.

14           MR. MOODY: Thank you.

15           CHAIR MARCUS: Thank you very much.

16           All right, we'll take another 10 of the public.  
17 Thank you, I do appreciate how many people have been  
18 listening to everyone else.

19           First, we have Cameron Morgan from San  
20 Francisco State followed by Karen Harwell from and  
21 educational program called Exploring a Sense of Place --  
22 that sounds interesting -- followed by Troylene Sayler  
23 from South San Joaquin and residence of the San Joaquin  
24 and Stanislaus counties to submit a binder.

25           Do we have Cameron Morgan?

1 UNIDENTIFIED SPEAKER: They're not back from  
2 lunch.

3 CHAIR MARCUS: All right. I'll hold it aside.  
4 I thought they had to leave, but we haven't hit the  
5 timeframe yet.

6 Karen Harwell? We didn't make it.

7 Okay Troylene Sayler followed by Allison  
8 Boucher followed by Ralph Roos. Oh, and let's see what  
9 time is it.

10 MS. SAYLER: Good afternoon, I appreciate this  
11 opportunity to talk to you.

12 CHAIR MARCUS: Thank you.

13 MS. SAYLER: I work as the Public Relations  
14 Manager for the South San Joaquin Irrigation District.  
15 And through my work I get to have a lot of contact with  
16 the public.

17 You may have seen a campaign that we have been  
18 running from a public education standpoint called  
19 SavetheStan.org. And what we have here is a binder  
20 that we'd like to present to you of over 500 letters  
21 that have been written via that website supporting  
22 our position that the SED is misguided. I would  
23 like to take an opportunity to read two of the  
24 letters, since I have a couple minutes.

25 I'll start with a short one just in case I run

1 out of time. And it says:

2 "Dear Water Board members, I'm strongly opposed  
3 to an increase in unimpaired flows on the Stanislaus  
4 River. This valley's financial stability strongly relies  
5 on this very water the State Water Resources Control  
6 Board is trying to take. This move affects farming  
7 operations, property values, unemployment rates, consumer  
8 food costs, just to name a few. The costs and the  
9 benefit are completely out of proportion. There is no  
10 scientific evidence backing up the state's plan and the  
11 state admits this.

12 "The habitat improvement has been proven  
13 effective by SSJID and OID. And this is an alternative  
14 that makes sense. The municipal water supply will have  
15 to be cut back severely and the cities will be forced to  
16 pump, which the SGMA is limiting. This not a common  
17 sense move on the state's part. We will continue to  
18 fight for the water rights that this area so heavily  
19 depends upon. Respectfully, Brian Vreeling of Ripon."

20 MS. SAYLER: So I'll move on as long as I still  
21 have time.

22 "Water Board members, San Joaquin County and  
23 the many other areas that will be affected by your Plan  
24 to increase river flows are dependent on agriculture as  
25 their primary industry. Not only is agriculture a source

1 of livelihood and a priceless part of our culture, it  
2 also provides thousands of jobs and billions of dollars  
3 to the Central Valley and California economy.

4 "I believe that the significant, but  
5 unavoidable consequences are far too significant to  
6 ignore and are definitely avoidable. This is especially  
7 true when one recognizes the ramifications this proposal  
8 would have on the residents of not only the Central  
9 Valley, but California as a whole."

10 MS. SAYLER: I'm going to skip down and say:

11 "Furthermore, the argument that surface water  
12 resources can simply be replaced by groundwater is not  
13 only unfeasible, but also environmentally irresponsible.  
14 And lastly while understandable that many would like to  
15 improve salmon populations, this is not the way to do it.  
16 I ask that you contemplate this and prove us wrong with  
17 your decision. Show us that we aren't just a place  
18 Sacramento politicians cross on I-5 or 80 to cater to  
19 their voters in Los Angeles and the Bay Area.

20 "Show us that we in the Valley have a  
21 government that represents the interests of all  
22 Californians and will protect our livelihood and way of  
23 life. As an FFA member I fear that there will be no  
24 future for the future farmers of the Central Valley if  
25 this proposal is implemented. Respectfully, Matthew Lima

1 of Escalon."

2 CHAIR MARCUS: Thank you.

3 MS. SAYLER: Who would you like me to present  
4 this binder to? Thank you very much.

5 CHAIR MARCUS: Take your pick over at that  
6 table.

7 All right. Cameron Morgan followed by Karen  
8 Harwell followed by Allison Boucher.

9 MR. MORGAN: Good afternoon Chair Marcus and  
10 Board members, I appreciate this opportunity.

11 So as a current environmental advocate and  
12 scholar at San Francisco State University, I've become  
13 deeply concerned and passionate about the Bay-Delta Water  
14 Quality Control Plan. I'm an individual who knows the  
15 Bay-Delta Water Quality Control Plan can provide outdoor  
16 recreational opportunities for everyone to enjoy things  
17 such as fishing, hiking, swimming, biking. Additionally  
18 I think this Plan makes great efforts to restore the Bay-  
19 Delta to its former state and preserve its ecological  
20 integrity for now and future generations. I would like  
21 all Board members to strongly consider the importance of  
22 the Phase 1 Bay-Delta Plan, as this will be the platform  
23 for all subsequent benefits the Plan provides to the Bay-  
24 Delta.

25 With its current percentage of unimpaired flow,

1 the Bay-Delta streams are currently unable to provide the  
2 adequate water flow needed to sustain the population of  
3 salmon that it was once able to. Not only are the salmon  
4 the keystone species for 100 different species, but they  
5 also provide livelihoods for those working in the fish  
6 industry. Though there used to be an abundance of salmon  
7 in these streams, the numbers have steadily declined due  
8 to water diversions, which has increased both temperature  
9 and stream salinity. The critical habitat issues have  
10 put fishing jobs on the brink and decreased salmon-  
11 dependent species in the surrounding area. Low flows of  
12 the rivers, temperatures, impacts and amount of species  
13 have also decreased the aesthetic and recreational values  
14 the Bay-Delta offers.

15 Overall, it is concerning to see the current  
16 Substitute Environmental Document is inadequate to meet  
17 the State's doubling goal for anadromous fish. I  
18 encourage you to require unimpaired flow higher than 40  
19 percent. I'd like to encourage you all to consider the  
20 benefits of this special opportunity in front of you.  
21 There is a chance to revamp the ecosystem intricacies of  
22 these streams to make them healthy and suitable once  
23 again, especially for future generations.

24 On behalf of San Francisco State Environmental  
25 Studies students I'd like to thank you for your time.

1 CHAIR MARCUS: Thank you very much for coming.  
2 Karen Harwell followed by Allison Boucher  
3 followed by Ralph Roos. Hello.

4 MS. HARWELL: Chair Marcus and Water Board  
5 members, I'd like to express my gratitude for your  
6 efforts to revive the San Francisco Bay-Delta and the  
7 rivers that provide it with essential freshwater inflow.

8 We believe at least 50 percent of unimpaired  
9 flow on the Lower San Joaquin River and its three major  
10 tributaries: the Tuolumne, Stanislaus and Merced rivers,  
11 will be necessary to improve water quality and conditions  
12 for the watershed, the fish, and wildlife. The updated  
13 Bay-Delta Water Quality Control Plan will likely be our  
14 last chance to restore populations of salmon, steelhead  
15 and other aquatic organisms.

16 Please do everything in your power to help  
17 bring our amazing estuary back to life. This leads me to  
18 think about Aldo Leopold at the end of his life. And he  
19 said, "We aren't an inherently destructive species. It's  
20 just that we have migrated all over the planet. And when  
21 we've gotten to the new places, we don't really have a  
22 sense of place for that and so we just end up using it.  
23 And then that leads to our not knowing the nature of the  
24 place."

25 But he said it had been his lifetime experience

1 that as people got to know the nature of the place where  
2 they live, the bioregion, the watershed, they started to  
3 care for it. And so as I'm listening to the speakers  
4 today, I'm thinking what a shame that this has become an  
5 either or proposition like pitting ourselves, polarizing  
6 against things. It's really all one. And there's got to  
7 be some way we can learn to work together.

8           Like in Petrolia they have a Restoration  
9 Council that's made up of ranchers and environmentalists,  
10 and because all over the demise of the salmon. And then  
11 so they're all working together, because they all care  
12 about the ecosystem.

13           So thank you for holding this and letting us  
14 all come and speak. But let's all try and get in the  
15 mood of saying well it's not either or. Let's do both in  
16 thinking and come up with new creative solutions.

17           CHAIR MARCUS: Great. Thank you. There are a  
18 lot of good examples where people have done that and  
19 we're hoping for more. Thank you. Thanks for invoking  
20 Aldo Leopold.

21           Allison Boucher, hello, followed by Mr. Roos  
22 followed by David Hurley from the usafishing.com. Hi.

23           MS. BOUCHER: Good afternoon. My name is  
24 Allison --

25           CHAIR MARCUS: Whoops, get it closer to your

1 mouth. (Re: the mic.)

2 MS. BOUCHER: Closer? Is that better?

3 CHAIR MARCUS: Yeah.

4 MS. BOUCHER: Okay. My name's Allison Boucher.

5 I represent the Tuolumne River Conservancy.

6 CHAIR MARCUS: Oh Boucher, sorry.

7 MS. BOUCHER: It's okay.

8 CHAIR MARCUS: Sorry, I really got that one  
9 totally wrong.

10 MS. BOUCHER: It's like Gran Marnier.

11 CHAIR MARCUS: Or Steven Colbert.

12 MS. BOUCHER: There you go, right.

13 So I represent the Tuolumne River Conservancy.

14 We've been working on the lower Tuolumne for 23 years.

15 We started with the license review in 1993 for the New

16 Don Pedro Dam license. And starting then and continuing

17 today, we're advocating for the health of the river and

18 we're focusing on trout. So before I get to the trout, I

19 do want to present a little information that I just

20 happened to be reading the other day and it's in support

21 of the SED's efforts.

22 It is the Limiting Factor Analyses and

23 Recommended Studies for Fall Run Chinook Salmon and

24 Rainbow Trout in the Tuolumne River, February 2007,

25 prepared by the Anadromous Fish Restoration Program, U.S.

1 Fish and Wildlife Service, Sacramento Office of National  
2 Marine Fishery Service and the Fresno Office of  
3 California Fish and Wildlife.

4           So the summary of Limiting Factor Analyses has  
5 four that are particularly interesting. They say in this  
6 document, "Adult salmon recruitment is highly correlated  
7 with the number of smolts that migrate from the Tuolumne  
8 River. And the production of smolts in the Tuolumne  
9 River is highly correlated with the magnitude and  
10 duration of the winter and spring flows in the Tuolumne."

11           So that's on point. The second one is, "Flow  
12 management and restoration should focus on enhancing the  
13 quality and quantity of habitat for juveniles rearing in  
14 the Tuolumne River." Make note that's not spawning  
15 habitat, that's juvenile rearing habitat they're focusing  
16 on. "And for out-migrating smolts as the primary means  
17 of achieving adult salmon production targets. As salmon  
18 smolts migrate through the Tuolumne River and the south  
19 Delta, primarily from April 1 through mid-June, their  
20 survival is highly dependent on spring flow."

21           And the last point is, "Winter flows in  
22 February and March may be important factors that affect  
23 the number of salmon fry that survive."

24           So all that's right on point with the 40  
25 percent and the flows that are being talked about in the

1 SED. On page 73, of the same document, they have a fancy  
2 graph. And it says, "Average natural flow volume is  
3 1,765 total acre-feet. Average annual release volume is  
4 707 total acre-feet." That's 40 percent.

5 So it must be how we're using our 40 percent  
6 that's the problem. And I'd like you to think about when  
7 you see settlements coming to you to be proposed, think  
8 about trout. Thank you.

9 CHAIR MARCUS: Thank you.

10 MS. D'ADAMO: One second. Yeah, it's good to  
11 see you again.

12 MS. BOUNCHER: Hi.

13 MS. D'ADAMO: So before you leave, Allison and  
14 I worked together on the Tuolumne issues many years ago,  
15 and I just want to acknowledge that. And also ask you to  
16 just briefly talk about some of the habitat projects that  
17 you've worked on, on the Tuolumne, and the uncompleted  
18 list of habitat projects that are on the Tuolumne.

19 MS. BOUCHER: We do. We have a couple of  
20 really good successes. Our first project was about 2,000  
21 linear feet on the lower Tuolumne. We took some of the  
22 gravel that was left from the dredgers and we sorted,  
23 cleaned it, put in the river for ripples and sped up the  
24 river and made it have a little more trout-like  
25 appearance. And we were told by the local fishermen --

1 actually we weren't told, the local fishermen told our  
2 biologists, that we had the best fishing on 52 miles of  
3 river. So it was trout fishing they're talking about,  
4 because we don't fish for salmon on our river.

5           But the sad news is with the way the water's  
6 being managed we didn't a single trout for anyone to  
7 catch. And we're only nine miles down from LaGrange Dam.  
8 So we'd like you to look at issues of when the water's  
9 used. It's usually used for economic purposes and we  
10 understand that. But perhaps we need a trade-off between  
11 electrical generation, not farming, but electrical  
12 generation and the river.

13           And yes, we have more projects.

14           MS. D'ADAMO: If you could include them in your  
15 written comments that'd be great.

16           MS. BOUCHER: Okay. Yeah, I'd love to do that.

17           CHAIR MARCUS: Just the idea of envisioning the  
18 possible is really, I think, helpful in this.

19           MS. BOUCHER: I should give credit to U.S. Fish  
20 and Wildlife. They funded us through the CALFED process  
21 and enabled us to buy this property. And I should credit  
22 San Francisco who gave us \$500,000 in 1995 to do this  
23 work. And we've leveraged it to \$5 million and we've  
24 permanently protected over 500 acres, so we feel like we  
25 made use of their money. So but yes, we're still moving

1 forward. Thank you.

2 CHAIR MARCUS: Thank you very much.

3 Mr. Roos followed by Mr. Hurley, followed by  
4 John Armanino.

5 MR. ROOS: Seems like a lot of this activity  
6 with this SED is a result of a lack of leadership at the  
7 state and federal level to address our infrastructure for  
8 the last 40 years. And it's coming back to haunt us and  
9 people are looking for new places to get water and/or  
10 take it from the ones that have the water or re-divvy it  
11 up or whatever. But I'm Ralph Roos, I'm a farmer in the  
12 Ripon area. I'm also on the Board of South San Joaquin  
13 Irrigation District and I get water from the Stanislaus  
14 River.

15 Some of this stuff you've already heard, but I  
16 understand that the local irrigation districts have spent  
17 over \$1 million for the past 15 years on fish studies.  
18 And it's tax payer monies for the biology on the river  
19 that we need to be able to justify our conclusions of  
20 what we're doing there.

21 Our fish biologists have told us that the river  
22 can only handle 5,200 fish. Jeanne said a little over  
23 2,000 females, but there's male fish going up there too,  
24 so that's about 5,200 fish. And we've had almost up to  
25 14,000 up there this year. And that's a problem because

1 we've got 8,000 fish that are laying eggs and stirring up  
2 the nests of the fish that already been there, so they're  
3 ruined.

4           So and now you want to run the river water to  
5 the ocean, 50 percent of it, so we can have more fish for  
6 several months, February through June. Our biologist  
7 tells us that 95 percent of our fish are out of the river  
8 by the middle of March. So we're running three-and-a-  
9 half months of water down the river for 5 percent of the  
10 fish. So this doesn't make a lot of sense.

11           It doesn't take a rocket scientist to see that  
12 the real motive is to take our water and not seriously  
13 save the salmon. If you want be serious about saving the  
14 salmon, we have to deal with the predator situation.  
15 Jeanne mentioned that we're losing 95 to 98 percent of  
16 our fish that are going back out to the river.

17           And our forefathers have gone and spent a lot  
18 of money, put their ranches in hock to build dams for our  
19 water rights and dams and reservoirs. And this is build  
20 without any federal or state money. This came out of the  
21 local people's pocket and now you're asking us to share  
22 our water in our particular area of the state to take  
23 care of a statewide problem.

24           So in conclusion I'd like to say that there's  
25 little scientific truth that more fish are going to give

1 you more -- or more water are going to give you more  
2 fish in the Stanislaus River. Thank you for listening.

3 CHAIR MARCUS: Thank you, sir.

4 One of the things I just want to mention and I  
5 don't want to get into an argument, but there is a  
6 provision in State Law that's been there for a very long  
7 time that when you build a dam you have to keep fish in  
8 good condition below the dam. And people forget that  
9 part when they're talking about it. It was part of the  
10 deal in getting to build the dam, but I know it's more  
11 complicated than that.

12 Mr. Hurley, thank you, followed by Mr. Armanino  
13 followed by John Mills on behalf of the Calaveras County  
14 Water District.

15 MR. HURLEY: Good afternoon, Chairman Marcus,  
16 members of the Water Board. I find it very ironic that  
17 this meeting is held in Stockton Civic Auditorium,  
18 because within 200 yards of this building a viable  
19 commercial fishing industry existed in the City of  
20 Stockton.

21 I was pleased to hear that some farms have  
22 existed for over 104 years and that industry has  
23 continued. Unfortunately, these opportunities weren't  
24 available to me. You see my grandfather, my great  
25 grandfather, was a commercial fisherman in Stockton.

1 They came here in 1917 to open the Peeble Solakian  
2 Brothers' Fish Market (phonetic) that existed at 2931  
3 Channel Street, which is a stone's throw away from here.

4           As an educator in Stockton's public schools for  
5 more than one half of my life I've always taught that  
6 science is based on indisputable laws and history is  
7 subject to interpretation. This isn't the case in  
8 California water. History tells the truth and science is  
9 subject to interpretation.

10           I had the opportunity to sit with my  
11 grandfather many times in the '60s and '70s when he would  
12 tell me of the fact that their salmon boat would be so  
13 loaded with fish on the way to Pittsburg that they would  
14 take water over the top. They did many trips like this.  
15 I heard many stories of their days on the water.  
16 Unfortunately, that industry is gone and it was gone in  
17 1958 corresponding with the building of the Friant Dam on  
18 the San Joaquin River. And the flows to the San Joaquin  
19 being reduced to a trickle.

20           Our constant removal of fresh water from the  
21 San Joaquin River has led us to where we are today.  
22 What's my point? To allow more water to be dedicated for  
23 purposes other than habitat restoration will only be a  
24 continuation of the type of thought that has led us to  
25 this position today. Any decision supporting the status

1 quo of water diversions will only lead us further and  
2 further into the morass and keep kicking the problem --  
3 we say kicking it down the road -- we're kicking it down  
4 the river.

5 California water is a complicated puzzle of  
6 which SED addresses only a tiny part. The largest piece  
7 of the puzzle is about the massive increase in water  
8 exports out of the south Delta that coincidentally started  
9 in the year around 2000.

10 It was mentioned earlier we need to use all the  
11 tools in our toolbox. I find this a very interesting  
12 metaphor as my father was a carpenter, but it seems like  
13 the only tool that's been used in the last 100 years is  
14 the largest hammer that existed inside that box.  
15 Continuing with the same type of thinking that's got us  
16 into this problem will not solve the problem. It's  
17 undeniable that corporate agriculture has thrived, and I  
18 say corporate agriculture, despite four years of drought  
19 while winter-run salmon, fall-run salmon, Coho salmon,  
20 longfin smelt and Delta smelt populations have plummeted,  
21 some close to the point of no return.

22 Whatever is decided, we have to think about not  
23 just the short-term benefits, but the long-term  
24 consequences of the decisions that we make. Thank you.

25 CHAIR MARCUS: Thank you very much.

1           Mr. Armanino followed by Mr. Mills followed by  
2 Linda Ormonde.

3           MR. ARMANINO: My name is John Armanino, Jr.  
4 and this is the story of our farm on the Delta.

5           On December 7th, 1941, John Armanino, Sr. on  
6 his wedding day is ordered to report immediately to his  
7 military post. My father returned from Europe in 1945  
8 and began farming leased land. He purchased the property  
9 on Robert's Island in 1950. This property has riparian  
10 water rights. In the 1950s the Friant Dam begins to curb  
11 freshwater releases into the San Joaquin River. That  
12 started the decline of the Delta. Also the pumping plant  
13 near Tracy has led to a greater decline in water quality  
14 to Delta farmers and ecology of the Delta. I joined my  
15 father working the farm, purchased the property from him.  
16 My grandson, Raymond, 19 years old, is now farming the  
17 Delta property.

18           Our senior water rights are being taken from  
19 us. The State of California plans to take the water we  
20 need for our crops to send it south to farms that have  
21 junior water rights. The State of California is going to  
22 destroy the Delta, the environment, and farming in the  
23 Delta. This is wrong and unacceptable. The State of  
24 California needed to start building dams and reservoirs  
25 40 years ago instead of kicking the can down the road.

1                   We need more water, not just the continued  
2 taking of water from the north to send to the south and  
3 not send their polluted drain water back down to the  
4 Delta in the San Joaquin Bay. I can only hope my  
5 grandson Raymond can continue to farm this property with  
6 the clear water we are entitled to.

7                   And you being from a farming family down south,  
8 I'm going to ask you a questions. How many acres of non-  
9 permitted crops are watered with the water that's taken  
10 from the Tracy Pumps into San Luis Reservoir to irrigate  
11 permanent crops that -- not are allowed in the contract  
12 with that water that's delivered there? And then they  
13 turn around and sell thousands of acre-feet to other  
14 people that they don't use themselves, at exorbitant  
15 prices. That is completely wrong and I don't understand  
16 if you understand what I'm talking about.

17                  CHAIR MARCUS: Well, I'm having a -- generally  
18 maybe, but if you have some concerns about that I would  
19 encourage you to submit your comments in writing.

20                  MR. ARMANINO: But I mean, are the rest of the  
21 Board aware of how much unused water some of these  
22 districts get that they sell for exorbitant prices to  
23 other farmers? And that is wrong. Thank you.

24                  CHAIR MARCUS: Mr. Mills followed by Ms.  
25 Ormonde, followed by Margie Fries.

1           MR. MILLS:  Chairman, members of the Board,  
2  other Board members, glad to see you all.  Steve, I see  
3  you're bundling up for winter.

4           My name's John Mills.  I'm here on behalf of  
5  Calaveras County Water District.  CCWD is what we call  
6  the District.  It is a county water district that has all  
7  of its service area in Calaveras County.  There's about  
8  650,000 acres in the service area.  We hold significant  
9  water rights including among other of our water rights,  
10 we have a unique pre-1914 right.  It was issued during  
11 the Franklin Pierce Administration dating from 1853,  
12 which is the oldest water right on the Stanislaus River.  
13 We also hold --

14          CHAIR MARCUS:  I'm liking the way you put your  
15 water rights in terms of who was President of the United  
16 States at that time.

17          MR. MILLS:  And that's our question.

18          CHAIR MARCUS:  You see a little frame.

19          MR. MILLS:  The CCWD also holds significant  
20 Post '14 rights.  They're both consumptive permitted  
21 rights for both storage and direct diversion as well as  
22 re-diversion rights.  And some of those are located,  
23 interestingly inside the planning area of Lake Tulloch.  
24 That's a re-diversion right for us to take water out of  
25 Lake Tulloch and the water's originally released from

1 upstream, that's Spicer Reservoir. We re-divert it and  
2 then supply western Calaveras County.

3           That was not analyzed in the SED and so that's  
4 one of those municipal supplies we'd really like you to  
5 look at. There is no alternate supply there. The  
6 District requests that all of its water rights be  
7 considered in the full analysis of consumptive rights on  
8 the Stanislaus River. I don't think we can deal with  
9 this piece meal, in other words from the rim dam down,  
10 and then go an apply water rights priorities upstream.  
11 You have to deal with it in one package.

12           CHAIR MARCUS: Are you talking about in a Phase  
13 3 implementation or before we can set the objectives?

14           MR. MILLS: I think it's going to be difficult  
15 to play King Solomon with the watershed and divide it in  
16 half. I think you're going to have to take the whole  
17 watershed on at a time.

18           CCWD also overlies critically over-drafted  
19 Eastern San Joaquin Groundwater Subbasin and has a long  
20 history of pro-active management of groundwater. We've  
21 done our groundwater management plans in the past. And  
22 under SGMA, which passed in 2014, CCWD is in the process  
23 now of forming a groundwater sustainability agency in  
24 conjunction with other local water agencies. And we  
25 continue to responsibly manage the resource.

1           Given its significant surface water rights and  
2 resources and its responsibilities under SGMA, CCWD  
3 intends to put its resources to use in the basin for the  
4 benefit of the region and assist in bringing that  
5 groundwater basin out of overdraft and back into  
6 sustainability through redirecting some of those water  
7 rights in the groundwater recharge. The District  
8 requests that its role in that effort be recognized by  
9 the Board.

10           In summary, the Board is looking to implement  
11 your requirements of Phase 1 under the Bay-Delta Plan.  
12 And we want you to know that CCWD stands ready to be a  
13 willing partner and to assist in meeting the Board in any  
14 of its objectives. And we also want to improve the  
15 regional conditions in the basin.

16           If there are any settlement discussions going  
17 on, we certainly want to be included in those as well.  
18 And we have talked to the Brown Administration about  
19 that. And this goes back to my point of we need to do  
20 the watershed in one piece, not in segments. Thank you.

21           CHAIR MARCUS: Thank you very much.

22           Ms. Ormonde followed by Ms. Fries followed by  
23 Kelly Topping.

24           Ms. Ormonde? Okay. We lost that person, we'll  
25 have to file it in case she's still here.

1 MS. ORMONDE: Yeah, good afternoon. My name is  
2 Linda Ormonde.

3 CHAIR MARCUS: Oh good.

4 MS. ORMONDE: I come from a farming family in  
5 the Delta and with senior water rights. And as Dan  
6 Vamellini and John Armanino said previously, we have been  
7 -- our water has been degraded in quality. And it is  
8 from the diversions of the pumps, which has also affected  
9 the salinity of the water, the water quality. And when  
10 we apply that water to our ground, our salinity level of  
11 the soil comes up, and it makes it harder to grown the  
12 crops that we like to grow.

13 Historically in the Delta you could grown just  
14 about anything. There has been a feast and famine, I  
15 think in the Delta, and 20 years almost to this week we  
16 were in a -- I would say dire straits -- because we were  
17 going to be flooded. And in a place that I leased on the  
18 Steward Track (phonetic) we did get flooded. That is now  
19 a housing development. It was under water. The house I  
20 lived in was under eight feet of water.

21 So California's always been a feast and famine  
22 of water. There's been no storage developed. New  
23 storage developed. I mean they transfer water around  
24 like they're playing cards. We need to have more  
25 storage. You can't develop water out of the ground,

1 because that water that goes into the ground comes from  
2 the water that comes out of the sky. So we need to  
3 develop the storage to get the water to run down the  
4 river, to go through the Delta, into the Bay, so that we  
5 have a health Delta and Bay. And then you have the  
6 storage so that you can play cards with the water.

7 We don't have that type of water. We don't  
8 have that amount of water, the amount of what that's been  
9 promised. Whether it be riparian rights, permit rights,  
10 sell the water, put it in the ground down south, whatever  
11 they do with the storage districts that they have down  
12 there for the groundwater it doesn't matter. You can't  
13 make more water. It comes out of the sky. It goes down  
14 the river, but it get's diverted.

15 But if you save the water in the times of feast  
16 you should have something for the famine. And that's  
17 what we're having a problem with. Thank you.

18 CHAIR MARCUS: Thank you. Yeah, we're going to  
19 have to get better than that. That's for sure.

20 Ms. Fries followed by Kelly Topping.

21 All right, let's move on to our panel. The  
22 next panel is a joint presentation by Restore the Delta,  
23 Café Coop and the California Sport Fishing Protection  
24 Alliance scheduled for 20 minutes.

25 CHAIR MARCUS: Co-op? I know, I keep saying

1 coop, why do I do that?

2 MR. MOORE: (Indiscernible)

3 CHAIR MARCUS: Oh no, that's because it was the  
4 coop in college. That's all right, they called it the  
5 coop, sorry about that. I'm having a college flashbacks,  
6 who knew?

7 MS. LANDAU: We do have one of the speakers you  
8 called.

9 CHAIR MARCUS: Oh, okay. Terrific, sorry.

10 MS. TOPPING: Hi, my name is Kelly Topping.

11 CHAIR MARCUS: Oh terrific, great.

12 MS. TOPPING: I'm a mother of a veteran son who  
13 fought in the front line combat to protect our American  
14 voter rights. And even though most of you are appointed  
15 by Jerry Brown there is a concern amongst the veterans,  
16 and now a coalition of two million of them in regards to  
17 this water dilemma.

18 Unfortunately, my story is much different than  
19 what you've heard. It's not about the fish and it's not  
20 about the farmers. Although that's very important, and  
21 I've learned a lot in this process through a very serious  
22 illness that I contracted in the water, in saving my  
23 son's life. That water from the lack of flow from the  
24 rivers has increased the brackish water. I have done  
25 numerous researches, this has put a mortality on my life.

1           The brackish water increase and the lack of  
2 flow in the Delta, although my son survived with only  
3 chronic skin rashes, respiratory issues, and debilitating  
4 headaches, I might not be so lucky from my mortality rate  
5 from the NTM caused by the bacteria from the blue-green  
6 algae and the brackish water. I suffer from debilitating  
7 side effects and endless rounds of medication.

8           The lack of the water flows will increase this  
9 likelihood for 11,000 miles of waterfront and no matter  
10 how many signs I can put up or how many people I can tell  
11 of the risk of this happening to them and their children  
12 and your children and your grandchildren. And although  
13 you might not be on the Board when this goes through, how  
14 are we going to stop people and children from going in  
15 the water and being at this risk? It has happened in  
16 many lakes already, due to lack of river flows.

17           But it is risking real people's lives and I'm  
18 finding that there's a lot more people than just me that  
19 have suffered from severe neurological damage. And  
20 yesterday, I found out that I will never hear in one of  
21 my ears again. So it's not just about the fish and the  
22 environment, it's about human life.

23           I have grown up in the Bay Area and have been  
24 here my entire life. And this is where I've come to  
25 live, to play. I bought a boat for my son to change his

1 way of life, after being a disabled veteran in a  
2 wheelchair. And when he comes to this water, he  
3 accidentally falls in and it has now permanently changed  
4 his, but worse my life forever, and I'm not the only one.  
5 This can happen to anyone.

6           How are you going to spend the -- how are you  
7 going to put up the signs and notify people that the  
8 water will be at risk? All just for palm wonderful, for  
9 wonderful pistachios? They're more important? How can  
10 that be? What about our children? We can't put signs up  
11 on every single levy, every 10 feet.

12           It's more than just the fish. I beg you to  
13 consider that. I don't think it's been clearly brought  
14 to the attention and there is much research available for  
15 it.

16           CHAIR MARCUS: No, thank you. We have been  
17 looking at that and have a whole team pulled together.  
18 And it will be -- it's more covered by the Phase 2  
19 standards that we're coming with, but thank you for  
20 highlighting that issue. It is a really big one, a  
21 really big one.

22           MS. TOPPING: I live in Discovery Bay now and  
23 I've noticed for the last two years, since I can never go  
24 in the water again, is that the flow has never been the  
25 same. On our dock it continuously has been lower,

1 especially at night. And we used to see it go up and  
2 down and now it doesn't anymore. And the water quality  
3 has gotten worse and worse and worse.

4 And as I see the neighbors bring their children  
5 to swim in the water I go over there and I run and stop  
6 to tell them, "Please, pull your baby out of the water."  
7 I can't do that to everyone, it's impossible. What is  
8 the Board going to do to make sure that people don't get  
9 sick from this bill being passed?

10 My son fought for these rights for us to vote.  
11 And Jerry Brown spent \$10 million to mislead the public  
12 on Proposition 53 saying that our vote didn't count. And  
13 everyone knows that's true. And we hope that you will  
14 uphold the better standard. Thank you.

15 CHAIR MARCUS: Thank you.

16 Next Restore the Delta, Café Coop and CSPA.

17 MS. BARRIGAN-PARRILLA: Actually I'm going to  
18 cover Café Coop's testimony. It's folded into mine and  
19 Esperanza Vielma had to leave.

20 CHAIR MARCUS: Okay, sorry about that. I know  
21 you can do it very well, though.

22 MR. STROSHANE: Good afternoon, Chair Marcus  
23 and members of the State Water Board. My name is Tim  
24 Stroshane. I serve Restore the Delta as its Policy  
25 Analyst. In my remarks I will summarize concerns Restore

1 the Delta expects to bring to our review of the Phase 1  
2 draft re-circulated Substitute Environmental Document.  
3 These include legal and operational concerns we have as  
4 well as potential impacts to Delta economics  
5 sustainability, including particularly agriculture in the  
6 south Delta.

7           We are also concerned about public health  
8 effects of harmful algal blooms and the effect that  
9 increased salinity in the south Delta may have in this  
10 area.

11           Our review of your documents on Phase 1 is not  
12 yet complete. But we are concerned that the State Water  
13 Board has not adequately justified the need to relax south  
14 Delta salinity objectives. In principal, water quality  
15 objectives under the federal Clean Water Act are to  
16 protect the most sensitive uses along the water body.

17           The south Delta salinity objectives are  
18 intended to protect south Delta agricultural beneficial  
19 uses. We have yet to see a systematic evaluation of why  
20 relaxing these objectives continues to adequately protect  
21 agriculture. In our comment letter we anticipate  
22 reviewing this concern further.

23           Operationally, the treatment of exports from  
24 south Delta state and federal pumping plants is unstated  
25 as far as we have found. It appears to us that the way

1 you have structured this process, separating out the  
2 Phase 1 elements from the Phase 2, contributes to this  
3 concern. It gives the distinct impression that the  
4 increased San Joaquin River flows of presumably better  
5 water quality would, after they have passed Vernalis, be  
6 exported at the south Delta pumping plants.

7 If we have this impression, you should expect  
8 that this occurs to export customers as well.

9 CHAIR MARCUS: You know, one of the things, and  
10 not to get into a big discussion here, is that it is  
11 important to understand the misimpressions that may be  
12 out there. I think we've tried to explain, at least in  
13 the number of years I've been dealing with it, that it  
14 all comes together in Phase 2 and 3, but that they're a  
15 distinct focus.

16 MR. STROSHANE: We're aware of that.

17 CHAIR MARCUS: But I appreciate you flagging  
18 that challenge.

19 MR. STROSHANE: I have a couple of other  
20 remarks that may help you understand kind of where I'm  
21 coming from on that.

22 CHAIR MARCUS: Yeah. And also I'm just a  
23 little nervous about the WaterFix comments, so just tread  
24 lightly there just because we can only do it in a --

25 MR. STROSHANE: Oh, not to worry about that,

1 it's a comment in passing.

2 CHAIR MARCUS: Okay.

3 MR. STROSHANE: Another way to think about this  
4 is that these increased San Joaquin flows would have  
5 better, fresher quality and would be more attractive to  
6 the state and federal water project operators to export.

7 On one hand, there is no requirement in Phase 1  
8 that water passing Vernalis should be allowed to pass on  
9 through the Delta to Chipps Island. On the other hand,  
10 there appears no restriction that the existing state and  
11 federal pumps must let any or all of that Vernalis water  
12 pass by to support Delta outflow.

13 Related to that if San Joaquin water quality is  
14 improved -- and this is the in-passing remark -- is  
15 improved by increasing that river's instream flow  
16 requirements, as far as we can tell the Phase 1 document  
17 does not analyze whether that water might be more  
18 attractive to export than building a large tunnels  
19 project that would bring presently fresher Sacramento  
20 River water to the pumps.

21 The processes you've created contributes to  
22 such questions. When you pull something apart, as you  
23 have the upper San Joaquin from the rest of the watershed  
24 and as you have the San Joaquin from the Sacramento, as  
25 they both enter the Delta you have to figure out how to

1 put it back together again. We think that these are some  
2 of the questions your approach to this process has  
3 generated and we don't yet see the document before us  
4 answering them.

5 My next topic is the sustainability of Delta  
6 agriculture. This was studied as part of the Delta  
7 Protection Commission's Economic Sustainability Plan in  
8 2011. This map from the Economic Sustainability Plan  
9 shows the great extent of prime farmland in the Delta.  
10 Part of the definition of prime farmland is the  
11 uninterrupted access to safe and fresh water supply. The  
12 scope of the Commission's study took direct account of  
13 the State Water Board's Phase 1 proposal at that time to  
14 relax the south Delta salinity objectives in the Bay-  
15 Delta Plan to deliberately increase average salinity  
16 conditions throughout south Delta channels. We will look  
17 to see whether you have adequately analyzed the  
18 agricultural water quality issue in the south Delta.

19 This map shows that much of the south Delta is  
20 currently planted in high revenue per acre crops. Farmer  
21 and former state senator, Michael Machado, has referred  
22 to the south Delta as the garden of the Delta, because of  
23 the varied mix of truck and deciduous crops grown there.  
24 That garden is the foundation for linkages between farm  
25 production and the rest of the regional economy.

1           These linkages include on-farm workers  
2 cultivating and harvesting crops, workers as varied as  
3 machinists repairing and making agricultural implements,  
4 equipment and vehicles, seasonally-hired food processing  
5 workers in plants throughout the Delta region, and truck  
6 drivers hauling raw crops and finished products to  
7 market. And there are many other occupations and  
8 industries linked to agriculture in the Delta.

9           The Plan's Multinomial Logit Model, which I  
10 won't go into here, predicted large shifts from high-  
11 value truck, deciduous and vineyard crops, to lower-value  
12 grain and pasture crops, should salinity levels rise in  
13 the Delta. Those shifts in this table are shown in red.

14           Finally, Restore the Delta also expects to  
15 review the Phase 1 documents for analyses of the  
16 potential effect of relaxing south Delta's salinity  
17 objectives on public health risks from harmful algal  
18 blooms. In recent years, south Delta channels have seen  
19 growth and spread of toxic cyanobacterial blooms. We are  
20 aware this is also true of a variety of other lakes  
21 around Northern and Southern California.

22           HABs are known to grow subject to a number of  
23 physical and ecological factors including temperature,  
24 flow, salinity and water residence time. These are each  
25 factors that are affected by both proposals in the Phase

1 1 documents, by which I refer to proposed flow changes  
2 and relaxation of south Delta salinity objectives.

3 Harmful algal blooms, as the Board knows, are  
4 potentially serious. The toxins unleashed from blooms  
5 can cause among things skin rashes, digestive pain,  
6 diarrhea and vomiting, fever, headache, kidney and liver  
7 damage and as someone mentioned earlier in the day, that  
8 they can kill dogs. After the harmful algal bloom season  
9 this past summer in Discovery Bay and other parts of the  
10 Delta, the Delta Protection Commission heard from experts  
11 in September 2016 about the issue.

12 A public health official from Contra Costa  
13 County, provided the Commission with information about  
14 risks of cyanotoxin exposure, trigger levels, and the  
15 public notice threshold levels that are currently applied  
16 and are illustrated in this particular slide. Cautions,  
17 then warnings, then danger signs when and where toxin  
18 concentrations reach their highest trigger levels.

19 The public health issue of harmful algal blooms  
20 insects with our previously stated concerns about the  
21 compartmentalization of Phase 1 with other water quality  
22 and export conveyance actions now considered by the State  
23 Water Board. HABs are primarily distributed in the  
24 Central and south Delta, as Department of Fish and  
25 Wildlife biologist Peggy Lehman told the Delta Protection

1 Commission this past September. We expect to review the  
2 Phase 1 re-circulated draft SED to see how this issue is  
3 treated, and will further provide comments in our letter  
4 to the Board in January, next year.

5 Thank you for the opportunity to comment at  
6 this time.

7 CHAIR MARCUS: We'll look forward to that  
8 letter.

9 MR. BARRIGAN-PARRILLA: Good afternoon, Barbara  
10 Barrigan-Parrilla with Restore the Delta. Restore the  
11 Delta represents about 40,000 members from the Delta and  
12 throughout the state. What I'm going to talk about today  
13 really centers on just one segment of our membership and  
14 that's the environmental justice community. I want to  
15 thank you Chair Marcus and Board members for the public  
16 hearing today.

17 My remarks and those of Tim Stroshane's will  
18 give you a sense of the scope of our comments that we  
19 will be presenting in our document back to you. But  
20 these are not our final comments today. Our remarks  
21 indicate the scope of what we plan to look for in your  
22 proposals to change San Joaquin River flows and south  
23 Delta salinity objectives.

24 Generally, I will discuss environmental justice  
25 and economic distress concerns we face in San Joaquin

1 County, the largest county represented in a legal delta.  
2 I will discuss environmental justice policies in  
3 relationships to the public interested, environmental  
4 justice communities' beneficial uses of water, and yet to  
5 be recognized beneficial uses of water as they pertain to  
6 subsistence fishing, economic distress on Delta  
7 environmental justice communities and prospects and  
8 threats to Stockton's economic growth.

9           We urge the State Water Board to recognize,  
10 engage in, and incorporate environmental justice issues,  
11 the public interest, and the human right to water as  
12 policy concerns that they are on the Board's conduct of  
13 its Phase 1 Bay-Delta Plan update.

14           The Phase 1 re-circulated draft SED fails to  
15 consider environmental justice communities in Chapters 5  
16 and 9, hydrology, water quality and groundwater, in terms  
17 of drinking water and domestic use. In addition,  
18 economic impacts on employment for members of the Delta  
19 environmental justice communities need to be analyzed as  
20 part of reduced revenues from increased salinity impacts  
21 on agriculture.

22           This slide lists some of the relevant policies  
23 in these areas that make up such a framework from both  
24 federal and state law in policies. Given this framework,  
25 Restore the Delta's environmental justice argument is

1 that the relaxation of Phase 1 of south Delta salinity  
2 objectives must be shown by the Board to avoid or at  
3 least mitigate disproportionate impacts to environmental  
4 justice communities in the south Delta area, including  
5 those communities in Stockton, Lathrop, Manteca and  
6 Tracy. There are significant environmental justice  
7 populations in those communities.

8 CHAIR MARCUS: That's fine. Can I just ask you  
9 to edit and resubmit the slide, because it's a slide from  
10 your WaterFix presentation. You can make the same point  
11 you just made without that, but just it shouldn't be too  
12 hard.

13 MS. BARRIGAN-PARRILLA: Okay.

14 No environmental justice analysis was conducted  
15 on the Phase 1 draft SED proposals in 2013. And in our  
16 review to date, we have come across no environmental  
17 justice references, let alone any analysis that indicates  
18 the Board paid attention to these issues in Phase 1 re-  
19 circulated draft SED for its water quality planning.  
20 Addressing impacts on human health for environmental  
21 justice communities must be substantive and not mere  
22 window dressing.

23 The Board needs to address environmental  
24 justice because this part of the Delta is made up of  
25 significant environmental justice communities that

1 contain populations of color and Latino ethnicity that  
2 are two and three times the national average. San  
3 Joaquin County comprises about 40 percent of the legal  
4 Delta's geography. Stockton and other adjacent cities  
5 have significant nonwhite populations and Stockton is  
6 about 50 percent nonwhite. Its largest nonwhite  
7 populations are Latino, Asian and African-American.

8           The Board needs to address environmental  
9 justice, because our rates of poverty are some of the  
10 highest in California and the nation. In fact, we've  
11 recently learned in the Distressed Community Index, that  
12 our percentage of people who live in economic distress  
13 are significantly higher -- it's a significantly higher  
14 number than say Fresno, Bakersfield or Los Angeles.

15           Nearly one-third of the families in San Joaquin  
16 County and Stockton with children under five are living  
17 in poverty. These residents can't afford higher water  
18 treatment costs for our municipal water systems, or job  
19 losses resulting from reduction in agricultural output.  
20 In Stockton, poverty-stricken families, adults and  
21 children are at disproportionate risk of bearing impacts  
22 due to higher salinity conditions if the salinity  
23 objectives are relaxed in the south Delta channels.

24           The Board needs to address environmental  
25 justice, because our non-English speaking residents, some

1 of the most impacted residents, are not even aware that  
2 this process is happening. In San Joaquin County a  
3 significant portion of our residents face isolating  
4 language barriers to stop them from learning about the  
5 potential impacts resulting from relaxing Delta salinity  
6 objectives. And those are impacts on their jobs, where  
7 they play in the Delta, and particularly where they catch  
8 fish for their diets.

9           Relaxing south Delta salinity objectives could  
10 affect water quality of domestic drinking water wells fed  
11 through groundwater recharge. There may be impacts on  
12 the City of Stockton operations impacting drinking water  
13 treatment and discharge, particularly with cost.

14           And reduced flows can lead to increased  
15 contaminants in fish. We have done recent computations  
16 that estimate the number of subsistence fishers in the  
17 Delta to be between 20,000 and 40,000 fishers per year.  
18 And that's a conservative estimate.

19           MR. MOORE: Excuse me, I have to ask the  
20 question, because I'm familiar with the issues going back  
21 a couple of decades on subsistence fishing and that sort  
22 of thing. Can you help me make the linkage between going  
23 from 700 EC to 1,000 EC, for April to August, and how  
24 that affects the fish that people ingest and their  
25 health?

1 MS. BARRIGAN-PARRILLA: Part of it is salinity.  
2 Part of it is increased contamination that happens when  
3 you have changes in water quality and water quality is  
4 degraded. That accumulates in the fish and those are the  
5 fish that are caught by people that are consumed. Okay?

6 As Mr. Stroshane has described the south Delta  
7 salinity objectives are to protect agricultural  
8 beneficial uses in the south Delta. And if farmers are  
9 forced by poor water quality to switch to lower-value  
10 grain and field crops, those farmers may reduce their  
11 demand for labor, which in turn could put environmental  
12 justice community members out of work, further reducing  
13 their incomes.

14 The Board needs to address environmental  
15 justice issues in the Bay-Delta, Plan because Stockton is  
16 considered the sixth most economically distressed large  
17 city in the United States. That comes from the  
18 Distressed Community Index created by the Economic  
19 Innovation Group. The Board needs to address  
20 environmental justice issues, because Stockton's economic  
21 distress already includes quantified factors such as low  
22 incomes, food deserts, and poor health outcomes resulting  
23 from these and other factors. The economic and health  
24 distress of our communities will be compounded should  
25 local water quality be salinized for the sake of

1 exporting fresh water from our homes in the Bay-Delta  
2 Estuary.

3 In recent years Stockton has begun to recover  
4 from disinvestment experienced by our municipal  
5 bankruptcy and much of its loss of its manufacturing  
6 base. Stockton and San Joaquin County however, remains  
7 agricultural and is dependent on water quality for  
8 economic improvement to take place. Protection of  
9 irrigation water quality in the south Delta is crucial to  
10 improvement in crop values that help drive economic  
11 recovery for this region.

12 We'll be examining the State Water Board's  
13 documents carefully to see whether this protection is  
14 continued or not. Our environmental justice community's  
15 futures depend on it. Thank you for the opportunity to  
16 comment.

17 CHAIR MARCUS: Thank you.

18 Mr. Jennings, your colleagues have left you a  
19 minute-and-a-half, but we asked a couple of questions, so  
20 what do you need?

21 MR. JENNINGS: Well, I mean you know I could  
22 have --

23 CHAIR MARCUS: I can't give you ten.

24 MR. JENNINGS: Well, first off, Chair Marcus  
25 and Board members, good afternoon.

1 CHAIR MARCUS: Good afternoon.

2 MR. JENNINGS: First off I'm going to direct  
3 myself to Board Member Moore's question on fish.

4 CHAIR MARCUS: Well, before you do that though,  
5 I'm going to -- I'm trying to figure out should I give  
6 you two more minutes?

7 MR. JENNINGS: I had thought I had six minutes.  
8 That's what I prepared for.

9 CHAIR MARCUS: All right. Can you do it in  
10 five?

11 MR. JENNINGS: I'll try.

12 CHAIR MARCUS: Try and do it just because  
13 there's a lot of people.

14 MR. JENNINGS: I'll try. As long as you don't  
15 cut my response to Mr. Moore.

16 CHAIR MARCUS: But mostly it's Mr. Herrick at  
17 the end of the line who we're like worrying about. Like  
18 what, yeah are you chopped liver? No, I'm sorry.

19 MR. MOORE: No. Well, let's maintain his time,  
20 because I've got another question for Ms. Barrigan-  
21 Parrilla.

22 CHAIR MARCUS: All right.

23 MR. MOORE: So you've identified the  
24 environmental justice issue and we don't dispute those  
25 demographic facts and the community concerns. But what I

1 didn't hear in your presentation was any analysis or at  
2 least preliminary because you say you're going to submit  
3 comments, which we strongly encourage. But you didn't  
4 touch the issue of the proposed flow changes, the flow  
5 objectives. And would that benefit or harm in your mind  
6 on --

7 MR. JENNINGS: Well, that's what I was going to  
8 talk about.

9 MR. MOORE: -- harmful algal growths, you  
10 didn't make the link and it's of great interest to me in  
11 that the record shows that going back at least this year.  
12 I'm a member of the Cyano Network.

13 MS. BARRIGAN-PARRILLA: In part it's going to  
14 depend on how you put all the pieces from the phases  
15 together. I mean that is one of our concerns. Very  
16 likely 40 percent won't be enough if there isn't enough  
17 flow coming into the estuary from the Phase 2 side, the  
18 Sacramento River side.

19 And 40 percent of what, in a declining  
20 watershed, that's the second question. Increased  
21 salinity is also a contributing factor to the production  
22 of toxic algal blooms, so that's where the public health  
23 threats tie in. And it --

24 MR. MOORE: Yeah, and that's right, but also  
25 how about the existing setting? You know, we heard

1 testimony just before you about actual public health  
2 impacts under the existing scenario. And you heard  
3 earlier today some detailed information about the  
4 comparison of existing scenario to the staff proposal.

5 MS. BARRIGAN-PARRILLA: We do not have enough  
6 water moving through the Delta and the south Delta now.  
7 We're not 100 percent convinced that the SED, as  
8 presented, is going to improve that situation. In fact,  
9 we don't believe that 40 percent is enough flow. We do  
10 believe there has to be more flow for public interest,  
11 for fisheries, and to provide better quality. But in  
12 particular today we wanted to talk more about the  
13 salinity issue, because somebody also has to be  
14 advocating for that water quality standard in the south  
15 Delta. And you heard from other people, so we figured  
16 well we'll take that part.

17 CHAIR MARCUS: Now, Mr. Jennings, try for five.

18 MR. JENNINGS: Board Member Moore --

19 CHAIR MARCUS: Try for five and then I won't  
20 cut you off.

21 MR. JENNINGS: -- responding to your concern on  
22 subsistence fishing and that relates to numbers of fish  
23 and does salinity affect fish. Yes.

24 In fact when Chair Marcus was EPA Regional  
25 Administrator and EPA did their 95 Water Quality Control

1 Plan it was somewhat stricter and provided for striped  
2 bass spawning standards for salinity, because it had been  
3 established that the salinity in the San Joaquin River  
4 were harmful for that, so there are connections. I mean  
5 a lot of the zooplankton, the mysids for example, are  
6 salt sensitive, other plankton populations and some fish.

7 And the problem is, is that that was never  
8 looked at in anywhere in this SED, is the effect on  
9 riparian and aquatic vegetation, on the zooplankton rungs  
10 of the food chain, and upon certain fish species. It's  
11 just not in there. And so I just wanted to mention that  
12 and I'll go ahead with what I had -- and we'll get  
13 through as much as possible. I'll rush.

14 CHAIR MARCUS: Great.

15 MR. JENNINGS: I mean we drafted extensive  
16 comments on the initial draft and we'll be providing  
17 comprehensive comments on the final. Our kind of summary  
18 is that the SED attempts to fit facts and biological  
19 necessity to a predetermined conclusion rather than  
20 letting facts and the biological necessity drive the  
21 solution. And so I'd like to briefly discuss what we  
22 consider five fatal flaws in that approach.

23 First, the bifurcation of the upper San Joaquin  
24 River and its 28 percent of unimpaired flow, unreasonably  
25 transfers the total burden of providing fish flows,

1 dilution of west side waste, and contribution to Delta  
2 outflow to the tributaries. We could find no defensible  
3 discussion, rationale, technical or legal justification  
4 in the SED for this approach. It violates basic fairness  
5 and due process.

6           Second, we could find no meaningful,  
7 defensible, technical or legal justification for  
8 selecting a target range of 40 percent and a range of 30  
9 to 50 is adequate for the public trust, protects the  
10 public trust resources. The 2010 Flow Report found that  
11 60 percent flow was minimally necessary to protect public  
12 trust resources, DFG's quantifiable biological objectives  
13 and flow echo that. But there was little discussion on  
14 the methodology employed to select the preferred  
15 alternative nor we could find enforceable, quantitative  
16 and qualitative performance measures to ensure progress.

17           Moreover, there is a demonstrated lack of  
18 measureable performance measures, milestones and funding  
19 mechanisms to ensure success of the proposed Adaptive  
20 Management Program. Adaptive management seems limited to  
21 as frankly business as usual. I mean the Board's  
22 Executive Director and the STM Working Group, gathering  
23 together and deciding what to do. The quarter-century  
24 track record of adaptive management in this estuary has  
25 been woeful. And I'll skip my part that you know how I

1 feel about adaptive management.

2           Third, Phase 1 includes the balancing of public  
3 trust resources. But there is no analysis on the  
4 methodology employed in the balancing. While economic  
5 costs to agriculture and selected imminent water users  
6 are quantified, the economic benefits of healthy  
7 waterways including ecosystem services, commercial and  
8 sport fisheries, recreation, public health, as well as  
9 the contingent value of a healthy river and estuary, are  
10 not.

11           The SED fails to identify, discuss, or use the  
12 numerous state and federal guidelines and guidebooks on  
13 economic analyses that are routinely used by the Army  
14 Corp, the Bureau, USEPA, DWR in evaluating benefits and  
15 costs pertaining to public trust resources. And I know  
16 when Chair Marcus was Regional Director and they did the  
17 95, they looked at both sides of the ledger and EPA has  
18 two fine guidebooks out on how to quantify societal  
19 values in ecosystem.

20           We note that the public trust balancing at Mona  
21 Lake found that the value of restoring the lake was  
22 between 56 and 132 times the value of the water lost by  
23 Los Angeles. I mean the failure to quantify both sides  
24 of the economic benefit cost ledger is an egregious  
25 admission that renders the economic analysis useless as a

1 balancing document.

2 Fourth, the SED proposes to increase the  
3 irrigation season, season salinity limit in the south  
4 Delta by 43 percent based upon a six-year-old report that  
5 used 30-year old laboratory data on salt tolerance of  
6 bean varieties that are no longer used in the Delta and  
7 that ignored the different life stages -- of effects on  
8 different life stages, improperly employed data from  
9 subsurface drains in developing the leaching fractions,  
10 and rejected the more conservative model and results of  
11 that study.

12 The SED ignores Dr. Hoffman's explicit  
13 recommendations on needed additional studies. More  
14 recent research has been established that Dr. Hoffman  
15 leaching fractions are wrong. Consequently, the  
16 conclusions of the report are also wrong.

17 And there is still as I said before, there is  
18 still no analysis in the SED of salinity impacts to  
19 riparian and aquatic vegetation, fish, and to plankton  
20 populations that have been identified as salt sensitive.

21 Fifth, state and federal law has mandated a  
22 doubling of anadromous fisheries for more than two  
23 decades. The narrative standard in the Water Quality  
24 Control Plan has been ignored since it was established in  
25 1995. Failure to include measurable performance measures

1 with milestones ensures that the narrative standard  
2 remains unenforceable and meaningless.

3           So in closing the failure to incorporate  
4 rigorous analysis and enforceable performance measures  
5 renders the SED and the Plan inadequate and  
6 unenforceable. And these flows go beyond the deference  
7 normally granted to public agencies. And if not  
8 corrected, we're likely to be going through this same  
9 process in a couple of years just as the Stewardship  
10 Council is redoing the Delta Plan. Thank you.

11           CHAIR MARCUS: Thank you. I'm sorry to make  
12 you go so fast. Thank you for raising all those points.  
13 I mean --

14           MR. JENNINGS: Yeah, but believe me you'll get  
15 more than you want in the written comments.

16           CHAIR MARCUS: Sure, I appreciate it.

17           MS. DODUC: And so since you mentioned my  
18 favorite two words --

19           CHAIR MARCUS: What?

20           MS. DODUC: -- performance measures.

21           CHAIR MARCUS: Oh that's right. You were just  
22 getting into a dream state --

23           MS. DODUC: Yes, exactly.

24           CHAIR MARCUS: -- of happiness.

25           MS. DODUC: Will your written comment letters

1 include some proposed performance measures and  
2 milestones?

3 MR. JENNINGS: Pardon?

4 MS. DODUC: Will your written letter include  
5 some proposed performance measures and milestones?

6 MR. JENNINGS: Funny that you should mention  
7 that, in fact I was -- when I went home and was watching  
8 it on the Web and from this morning to now, I was talking  
9 with Gary Bobker and Jon Rosenfield on performance  
10 measures.

11 MS. DODUC: And these would be biological  
12 performance measures?

13 MR. JENNINGS: Well, and other performance  
14 measures, let give you an example of a problem I have  
15 here.

16 I want you to know, you know, in the fall mid-  
17 water trawl this year we found no Delta smelt, I mean  
18 through three months. But strangely this Monday, this  
19 first of the spring Kodiak trawls found 212 at Edmonton.  
20 And so the Smelt Working Group immediately issued a  
21 recommendation to go to no more negative than minus 5,000  
22 in Old River. And DWR's response was to increase Delta  
23 exports from 5 to 10,000 CFS. Now that's the history of  
24 adaptive management in the Delta.

25 I will quote -- we're going to be quoting to

1 you time and time and time again when the technical  
2 recommendations of the working groups have been ignored  
3 by the managers now you can't call that adaptive  
4 management. Okay.

5 MS. DODUC: Thanks.

6 CHAIR MARCUS: All right, thank you very much.  
7 I think court reporter break need. You're okay? Then  
8 let's keep going.

9 I have 10 more speaker cards, but I'd like to  
10 take Mr. Herrick before too long, so I'm torn. And  
11 there's another one coming, yeah. I'm going to just  
12 split the baby up and then do five. Sorry, thank you.  
13 That's a terrible metaphor, sorry.

14 All right, I'll have Glen Gebhardt followed by  
15 Chris Gilbert followed by Gloria Purcell -- oh, thank you  
16 for writing your comments too, that's always helpful --  
17 followed by Gordon Armstrong followed by Ernest Tuft.

18 MR. GEBHARDT: Well thank you and good  
19 afternoon.

20 CHAIR MARCUS: Good afternoon.

21 MR. GEBHARDT: My name's Glen Gebhardt. I'm  
22 the City Engineer for the City of Lathrop. And I'm to  
23 talk about the impact of the SED on municipal water  
24 supply and on the existing community in Lathrop.

25 Most people in this room recognize that the

1 California Environmental Quality Act is an arduous,  
2 exhaustive process. However, that CEQA process does have  
3 an end and upon final approval, projects can move forward  
4 to construction. About 14 years ago, armed with a final  
5 EIR, the Cities of Lathrop, Manteca, Escalon and Tracy  
6 funded, and SSGID constructed, a surface water treatment  
7 plant and 40 miles of pipeline, at a cost of about 140  
8 million. My question is at what point in that process  
9 can an agency rely on water from a project that does have  
10 final environmental clearance?

11           The Lathrop citizens are making payments on  
12 Lathrop's \$44 million share of that facility. We're  
13 trying to understand how that water can be taken away  
14 without also taking away the debt that's already been  
15 incurred to deliver the water. Water payments are being  
16 made to bond holders and the collateral for that debt are  
17 the homes and business. The Unimpaired Flow Program  
18 really would force existing homeowners to pay, in  
19 addition to that existing water debt, to find another  
20 water source. And it's recommended that that be  
21 groundwater. Our issue is the groundwater basin in  
22 clearly limited in yield and that's exactly why Lathrop  
23 partnered to go into a surface water source to begin  
24 with.

25           We're trying to understand the benefit. I'm

1 being told that the state is estimating that this whole  
2 project could end up producing an extra 1,000 fish  
3 returning to the Stanislaus, Tuolumne, and Merced rivers.  
4 And I'm also hearing numbers about those extra fish  
5 costing between \$40 and \$400,000 a piece, depending on  
6 which computational method is used. So we've just got a  
7 real concern that the existing communities versus the  
8 hopeful benefits to fish are being completely -- that  
9 proportion has just been misunderstood and we'd like you  
10 to reconsider the approach.

11 CHAIR MARCUS: Thank you. That is one of the  
12 issues we have to clarify and staff is not recommending  
13 it based on 1,000 fish. I guarantee it.

14 Chris Gilbert? Hi.

15 MR. GILBERT: Hi, I'm from the Bay Area. I  
16 live in Berkeley. I'm a businessman there. I've been  
17 volunteering with the Sierra Club Water Committee and  
18 have gotten involved in this issue lately. I'm here --  
19 well first of all I'm a third-generation Californian and  
20 I grew up in the Mojave Desert. So I know about water,  
21 or the lack thereof. I grew up fishing and hiking and  
22 camping in the Sierras, etcetera.

23 I'm here partly because of Chairwoman Felicia  
24 Marcus's recent op-ed inviting the Bay Area to help  
25 "bridge divides between companies, farm and fish, and

1 find creative ways to help all three survive. So I'm on  
2 board to do that. I am disappointed that there aren't  
3 hearings in the Bay area given that we get a lot of our  
4 water from these three rivers, especially.

5           And the sentiment would be quite different if  
6 it were in the Bay Area. Contrary to the General Manager  
7 of the SFPU's opinion that it will be a disaster if water  
8 is cut there, Peter Drekmeier of the Tuolumne River Trust  
9 has shown that the assumptions that they've -- or the  
10 staff has based their analysis -- on are faulty. So I  
11 believe that the residents of the San Francisco and the  
12 Bay Area will be behind increasing water flows. And  
13 personally, I would like to see them up to 60 percent  
14 since that seems to be the overwhelming science behind it  
15 until I hear otherwise.

16           Fish is often the *bête noire* right, of the  
17 farmers, but in fact the commercial fishing industry has  
18 suffered for decades and many jobs have been lost there.  
19 So I want to make sure that's kept in mind. Just from  
20 sitting here today, I noticed a lot of ironies about the  
21 water debate.

22           What does this mean? It flashes once is what,  
23 30 seconds or?

24           CHAIR MARCUS: No, no. It just means we're  
25 starting the minutes countdown.

1 MR. GILBERT: Okay.

2 Just some of the ironies I've heard today and  
3 elsewhere that agriculture makes progress on water  
4 conservation yet expands into new marginal lands with new  
5 irrigation needs. For example, orchards in southwestern  
6 San Joaquin Valley and around 120 on Knight's Ferry,  
7 water-intensive crops are grown when certain towns have  
8 completely run out of water. Permanent crops with 20-  
9 year life spans are being planted during a drought,  
10 making it impossible to fallow fields. Irrigation  
11 districts present dire projections based on the threat of  
12 decreased supply without mentioning how much progress  
13 they've made in lowering demand. Those are just some of  
14 the ironies I've found.

15 Finally, even if we stopped all fresh water  
16 from flowing to the Bay, I think as the population of  
17 California grows to 50 million in the next couple of  
18 decades we would be here anyway. And it's not fish, it's  
19 people. And we've got to decide whether agriculture can  
20 maintain its 80 percent use of water supplies or if we  
21 have to cut some back and give it to cities. That's my  
22 take. Thank you.

23 CHAIR MARCUS: Thank you. Gloria Purcell?

24 MS. PURCELL: Sorry, arthritis. Hi and thank  
25 you for having the hearing, Chairwoman Marcus and Board,

1 I appreciate it. I'm Gloria Purcell. I live in Belmont,  
2 in the Bay Area. I'm an SFPUC customer and long  
3 concerned with the environment. I don't envy you this  
4 process. It's a huge project. I knew something about it  
5 before I came here, but not a whole lot, and it's just  
6 been amazing, the detail and the dozens of factors and  
7 the incredible, probably thousands of details you have to  
8 consider. And that's only with one part of this whole  
9 river system and all the consequences thereof.

10           So I appreciate your difficulty and I don't  
11 really have any great facts to add to this. But I would  
12 like to say that we were asked to, as customers, to cut  
13 our water usage in the drought, the worst of the drought  
14 in recent years. And the overall reduction among  
15 municipal customers was about 33 percent in the mid-  
16 peninsula water district, which is about 30 percent  
17 throughout the SFPCU area there.

18           And I thought we did pretty well and then I  
19 found out from my water district that actually my family  
20 has cut in half, so we're doing better than the average,  
21 which is nice. The odd thing is that it wasn't really  
22 that difficult. We bucket a few buckets of water from  
23 our unused bath water just because you run it while  
24 you're warming up the tub right, or the shower. And that  
25 we haven't made any great efforts to save other water. I

1 do turn off the tap. I mean it's nothing. It's just  
2 changing little habits. And recently I bought a couple  
3 of pickle barrels that I hope to be using in the future,  
4 but I haven't even started yet, for irrigation in our  
5 regular suburban garden, so that the thing doesn't die,  
6 because we hate to have it die.

7 But what I really wanted to say was that it  
8 really can be done. And I challenge agriculture to do  
9 more to conserve the water they've got. And we can do  
10 more. I can do more, even though I've already done a  
11 lot. And I would like to say too that I haven't heard  
12 much mention today, although there's heaven knows mention  
13 of incredible other things, but I haven't heard much  
14 mention of industrial. And of course I live in --

15 CHAIR MARCUS: You just need to wrap up, that's  
16 all.

17 MS. PURCELL: -- yeah, Silicon Valley where the  
18 computer industry runs through a lot of water. I'd just  
19 like to say that the earth changes. Life is change.  
20 Nothing is solid. People talk about water rights.  
21 Legally, that we may have water rights, but the earth  
22 doesn't give water rights. If you think that way, God  
23 doesn't give water rights. We have only the right to try  
24 to survive, using our wits, our determination and  
25 hopefully our cooperation. And I sincerely hope that

1 that will be part of this process. Thank you.

2 CHAIR MARCUS: Thank you very much for joining  
3 us.

4 Mr. Armstrong? Mr. Tuft? All right,  
5 Mr. Herrick?

6 (Colloquy re: audio and mic operation.)

7 MR. HERRICK: Thank you Board Chair, Board  
8 members, John Herrick on behalf of the south Delta and  
9 Central Delta water agencies. We appreciate the  
10 opportunity to give a presentation although every time we  
11 have a limit it's always difficult to cover enough areas.  
12 We'll try to keep it more concise. We will, of course,  
13 present more detailed comments by the, I think, it's the  
14 January 17th deadline.

15 CHAIR MARCUS: Correct.

16 MR. HERRICK: I'm going to start out with my  
17 PowerPoint presentation and go through that. And then  
18 halfway through that, I'll turn it over to Michelle  
19 Leinfelder-Miles and she has a PowerPoint. And then  
20 we'll jump back to mine again, so it's --

21 CHAIR MARCUS: You're not going to go through  
22 all these pages in a half hour, are you?

23 MR. HERRICK: I might. Watch how wonderful I  
24 can present this.

25 MS. LEINFELDER-MILES: I mean, I can do it, but

1 mine are all pictures.

2 MR. HERRICK: Just watch this. (Laughter.) Is  
3 there a button that I push for the -- is that it? Okay,  
4 thank you very much. I can almost see one of the  
5 screens. I better read.

6 We're here because the SED proposes a number of  
7 changes. I won't go too far into this. The 0.7/1.0 is  
8 being proposed to change to a 1.0 standard and that  
9 depends on the time of the year, of course. But this is  
10 supposed to be implemented by maintaining current  
11 conditions. And so the implementation of the change is  
12 still having 0.7 at Vernalis, so that nothing changes  
13 downstream. And then of course the proposal also says  
14 that instead of measuring it -- I'll ignore it for now --  
15 it's three locations in the south Delta we're going to  
16 measure stretches of river and then give you the averaged  
17 information.

18 So south Delta's position is the proposed  
19 changes have no factual background and are not supported  
20 by the science. And I think I can very clearly show you  
21 that, which may come as a surprise to you. But more  
22 importantly, the proposal to measure average ECs in the  
23 channels, and not at discrete locations, is a method by  
24 which we will ensure that there's never a violation. And  
25 I'll get on to that later, because when you average an

1 area that has good water quality with areas that might  
2 have bad water quality, you never see the bad water  
3 quality and thus you don't know if you have a problem.

4           So this is just a list of things I'm going to  
5 go through, so the first is a background and history. I  
6 apologize for rushing through this, but I think it is  
7 important to cover the background. And of course it all  
8 goes back to the CVP's building of Friant Dam and if  
9 affects the water coming down the River. The water from  
10 Friant is delivered to other places and then there is a  
11 decrease therefore in the San Joaquin River flows. And I  
12 don't think anybody disputes that although there is a  
13 dispute about how much. And the CVP had a number of  
14 affects on the south Delta, of course, less water, more  
15 salt and lower water levels in the Delta, and changed  
16 flows.

17           But real quickly, you've heard this before,  
18 south Delta and what the Bureau was called for one year,  
19 the Water and Power Resources Service with the federal  
20 government, did a report in 1980 to go over all these  
21 things and to see what those effects were, and how to  
22 quantify them. And so the Board has been presented this  
23 for the last 20 year, at least that I know of. But on  
24 this chart you can see in the bottom left I've circled a  
25 -- made a box and then in the middle right, kind of. But

1 the decrease in flows in the rivers are significant. And  
2 you can see that in the average of all years, it's  
3 345,000 acre-feet decrease from April through September.  
4 That's a huge amount. Of course in drier times it's  
5 different than that, but gives you a framework.

6 Now this is one of the charts in that 1980  
7 report also. And it shows that over time the salinity in  
8 the river got worse. Now this is TDS on the left, not  
9 EC, so you've got to do the conversion. But as you can  
10 see, through the '50s the maximum TDS is always below the  
11 current standard. So I don't want people to think that  
12 we're better off now. We're certainly worse off now,  
13 virtually all the time. Of course, you have a flood time  
14 flow, that's a different thing.

15 Now this is the more recent data from the  
16 Regional Board and again, I've circled it. But what this  
17 tells you is the amount of salt coming in the south  
18 Delta. And you can see the numbers and it's mind  
19 boggling. The mean average is 922,000 tons of salt  
20 coming down the river. Now you'll hear things from other  
21 people over different processes that say well there are a  
22 lot of issues. The problem is these hundreds of  
23 thousands of tons of salt coming down the river, hundreds  
24 of thousands every year. Why is that an issue? Because  
25 the San Joaquin River water doesn't take that salt out to

1 the Bay or ocean.

2           When you have tidal inflows of a certain  
3 amount, and a San Joaquin River inflow of a lower amount,  
4 plus local consumptive use or evaporation, whatever that  
5 is, the San Joaquin River water then doesn't leave the  
6 area. That means you have hundreds of thousands of tons  
7 of salt not leaving the area. The only place it goes is  
8 applied to the land and either becoming drainage or  
9 groundwater or exported through the export pumps. The  
10 salt stays in our area.

11           Now the background of the regulations is even  
12 more important. They developed the current standard, the  
13 numbers 0.7 and 1.0 EC a long time ago. They were  
14 working on the '70s and '80s, and of course, the 1995  
15 Water Quality Control Plan adopted those numbers finally.

16           Now this is the page from the 1995 Plan, where  
17 it has the standards. And the only reasons it's  
18 important is that you can see for the Old River near  
19 Middle River and the Old River at Tracy Road there's a  
20 footnote 5. Footnote 5 says we should implement those  
21 two by December 31st, 1997. The text of the document  
22 says the same thing.

23           Well, the Water Quality Control Plan, as you  
24 know, is quasi-legislative, so we go into the water  
25 rights portion and then we come up with D-1641. D-1641,

1 there's the same chart, same water quality standards,  
2 except footnote 5 now says something completely  
3 different. Mind you we're well past the December 31st,  
4 1997 deadline for implementing these, but footnote 5 now  
5 says well, the 0.7 standard will revert to 1.0 if  
6 somebody builds barriers or does something else.

7 Now that wasn't a topic. There wasn't the  
8 evidence. There wasn't any discussion. There wasn't any  
9 analysis of reverting the standard to something else once  
10 it was adopted. D-1641 was supposed to implement the  
11 standard. And that footnote allows it to be  
12 unimplemented.

13 So of course lawsuits occurred, right?  
14 Everybody sued on D-1641, big mess, we got through it.  
15 For our purposes south Delta, the court said, as we  
16 argued, the water right portion of this process can't  
17 change the standard. You have to change it through a  
18 quasi-legislative process, the Water Quality Planning  
19 process. So the court said, "Go back. You either have  
20 to implement it or you have change it. You can't change  
21 it in your implementation."

22 Now, your predecessors took that to say the  
23 court ordered us to change the water quality standard in  
24 the south Delta," which of course if absolutely false.  
25 The court said you have to do it in the right way if you

1 want to do it. Mind you, as I said there had been no  
2 information, no testimony, no cross-examination of  
3 anybody or any party that said, "You that standard's too  
4 protective. It needs to be relaxed." There's none of  
5 that and yet the State Board then embarks upon a process  
6 to change the standard.

7 Now there were people that submitted stuff  
8 along the way that said, "We have a new model that shows  
9 you don't need salt protection in the south Delta." Of  
10 course that's an overstatement, but a model means nothing  
11 if it's wrong, right? And we had some people say, "Well,  
12 you don't grow a lot of beans anymore, so you don't need  
13 to protect beans, so why should you have that standard?"  
14 That's the sum total of the evidence.

15 So what happens along the way? We have a Cease  
16 and Desist Order hearing against the Bureau and DWR,  
17 right? I don't know if you remember that. And instead  
18 of implementing or enforcing the standard the Board  
19 ordered the DWR and the Bureau to obviate future threats  
20 of violations. Now, I challenge anybody to put that into  
21 basic English and tell me what it means.

22 Obviate future threats, it doesn't say, "Meet  
23 the standard." It says, "obviate future threats." So  
24 then we another CDO process, because the obviation didn't  
25 occur in time. And so we have a second CDO by the Board,

1 which says, "Obviate the threat of non-compliance." Same  
2 thing, same mish-mash, wishy-washy, non-specific, non-  
3 enforcement of the standard. But this time you put a  
4 deadline in. And the absolute deadline was January 1st,  
5 2013, which by my extremely educated mind means that it's  
6 already past. I was able to calculate that this passed  
7 2013.

8           So the standard was adopted, delayed  
9 implementation, never enforced, and kicked down the road  
10 constantly, based on the notion that well it should be  
11 changed with no evidence that it should be changed. Now  
12 we've presented local farmers' statements. I've  
13 reference WaterFix testimony, which I'll remove and  
14 resubmit it without that on it. I'm not trying to --

15           And without wasting your time, we had Chip  
16 Salmon who testified to the ongoing impacts, adverse  
17 impacts to grapes, beans and walnuts, he showed that.  
18 Rudy Mussi is here, who outlined his adverse impacts and  
19 the extra work he has to do to grow his almonds and  
20 grapes. And we have Mr. Richard Marchini, who confirms  
21 that he has walnuts right next to Chip's almonds, the  
22 same thing, they see the salt damage virtually every  
23 year. He's been impacted by it adversely. I've  
24 submitted Jack Alvarez's statement, who says his crop  
25 yields are not the same between the area irrigated by

1 poor south Delta water and the area irrigated by better  
2 San Joaquin River water upstream. And lastly we had Mark  
3 Bacchetti who's submitted a statement also talking about  
4 the potential damages, and his data showing over a 10-  
5 year period the salt in the soil is building up.

6 Now, neither the SED or the Hoffman Report  
7 includes any investigation about whether or not the  
8 gentlemen sitting over here or their compatriots actually  
9 are experiencing problems, because it assumes it's  
10 already too protective or protective. It's not  
11 protective right now especially since it's not being  
12 enforced. We don't know what 0.7 does to farmers in the  
13 south Delta, because we don't get to 0.7 in the south  
14 Delta.

15 Now this is anecdotal, but I'll submit it in  
16 our testimony. I've measured, with the water master  
17 standing next to me, 2.1 EC at an intake. Now, if  
18 somebody thinks that we have 0.7 water in the south Delta  
19 throughout they're misinformed. We have horrible water  
20 quality in summertime especially and some times and other  
21 times. Anyway, the SED doesn't look to see are people  
22 having crop loss now?

23 We have calculations by Dr. Hoffman. Now why  
24 is Dr. Hoffman wrong? Because I say so, that's not  
25 right. (Laughter.) Dr. Hoffman was hired by you guys or

1 your predecessors to investigate the salt tolerance of  
2 crops in the south Delta, so he had two reports. There  
3 was a draft and a final one we commented on it.

4 Now I tried to boil this down, so it's easy to  
5 understand, not because the Board can't understand it but  
6 just because it's a simple thing. If you're in the  
7 laboratory and you build a box that's made of glass and  
8 you fill it with sand, and you put a plant in it, and you  
9 apply water you know the salinity of the water. And you  
10 measure the water that comes out the bottom and you know  
11 the salinity of that. And you say ah, salt either passed  
12 through the soil or it didn't, so you can determine  
13 what's collecting. Or you could dry out the soil and see  
14 what salt's left. That makes sense. That's perfectly  
15 logical. That doesn't work in south Delta lands, because  
16 we can't put a 20,000 acre box under the land and take  
17 all the water that only comes through the soil.

18 Dr. Hoffman assumed the water quality put in.  
19 Of course you can't do that, right? If you say, "Well,  
20 they're using 0.7 water," which is what he did and I'll  
21 get to that, what if they're using 1.5? You have to know  
22 what they put on in order to determine whether the salt's  
23 leaching or not.

24 And so here we go. Here's one of Dr. Hoffman's  
25 charts. There are others, which I'll address in my final

1 comments. And this one you can see, I know I'm being  
2 fast, but in the caption there for Table 3.10 of his  
3 report assuming EC of applied water 0.7. Now again, this  
4 isn't the only thing in his report, but I'm just showing  
5 that he assumes one of the inputs.

6 Now the rest of the chart shows you the other  
7 inputs, which is the salt out. Now this is tile drainage  
8 information from an area in the south Delta. And this  
9 shows you where those tile drains are. Now, it's not a  
10 very good map, but you can kind of see that most of the  
11 south Delta ag is north of all these dots. All these  
12 dots are in the City of Tracy area and then just west of  
13 it, mostly in the west side irrigation. But it's tile  
14 drainage information. It's not bottom and end of the  
15 field what passed through the soil profile.

16 So here's the problem. The tile drains in that  
17 area are collecting shallow groundwater of poor quality.  
18 So there's a lot of salt in it. So if you assume the  
19 input of salt, which is incorrect, and then your output  
20 of salt is vastly overstated what does your calculation  
21 of leaching mean? It means nothing.

22 Now, I'm not trying to be mean to Dr. Hoffman.  
23 He used the available information, but not his brain.  
24 You can't calculate leaching.

25 CHAIR MARCUS: You realize I now want to meet

1 Dr. Hoffman, like big time.

2 MR. HERRICK: I'm sure he wants to meet me  
3 again.

4 CHAIR MARCUS: He is --

5 MR. HERRICK: You can't calculate the leaching  
6 fraction with the wrong input and the wrong output. That  
7 -- how do you describe that? That's called logic. And  
8 you can have models. You can have calculations. You can  
9 have a computer. But the results can't violate logic,  
10 because logic means one follows from the other. And so  
11 Dr. Hoffman is simply wrong. Now he adjusted his report.  
12 He added a different leaching fraction to it. It doesn't  
13 matter what you do when your calculation is wrong.

14 Now let me pose the question what on earth  
15 would you do if you can't calculate from that? Maybe  
16 you'd conduct a study. And by the way Dr. Hoffman  
17 recommended, "Yeah, we need studies, because I'm just  
18 calculating this."

19 So when the first Substitute Environmental  
20 Document came out for this process, and it had these  
21 objectives, we had the genius idea to hire Michelle  
22 Leinfelder-Miles. And then she keeps getting upset,  
23 because I take credit for hiring her when she had grant  
24 money too, do this and that was most of the thing. So  
25 I'd like to turn this over to Michelle, so she can give

1 you her analysis of the actual facts, as we know them.

2           And I would like to say the only facts. There  
3 aren't any other studies that do the proper analysis of  
4 leaching fractions in the south Delta. There aren't any  
5 others, so I'll turn it over to Michelle and she can be  
6 more polite than I am.

7           MS. LEINFELDER-MILES: While the power point's  
8 getting loaded I'll introduce myself. Oh, it's on, maybe  
9 I'm just not close enough. Is that better?

10           CHAIR MARCUS: It's great.

11           MS. LEINFELDER-MILES: My name's Michelle  
12 Leinfelder-Miles. I'm a Farm Advisor with UC Cooperative  
13 Extension. I'm based here in San Joaquin County, but I  
14 serve the greater Delta region, five counties: San  
15 Joaquin, Sacramento, Yolo, Solano and Contra Costa.

16           And my role as a Farm Advisor is to do research  
17 and outreach to the local community. And that research  
18 should be relevant and in cooperation with the local  
19 community and as a Farm Advisor, that would be with the  
20 agricultural community. So when there was interest to do  
21 a study on the leaching fractions being achieved in the  
22 south Delta, then it was an exciting project to get  
23 involved with and to work with the local community, local  
24 growers on this project.

25           So just in general, I'll go through a few

1 introductory slides on salinity. And then I'll go into  
2 the research results of the project. So in general, why  
3 is salinity an important consideration in Delta  
4 agriculture or in agriculture in general? We've heard a  
5 lot about it already this morning. Salt problems occur  
6 in approximately one-third of all irrigated land, so we  
7 know that there are issues in other parts of the world.  
8 We have similar issues. Maybe we just have other ways of  
9 dealing with some of those political issues that surround  
10 them. But certainly the salt issues are here and we have  
11 to deal with those on the ground.

12           So in general, parent material or rock,  
13 weathers to form salts. We call those soils mineral  
14 soils. They're weathered from rock and sometimes those  
15 rocks will weather to ions that form salts. Also in  
16 agricultural systems some soil amendments that we add can  
17 add salts to the soil. Additionally, irrigation water  
18 will carry salts that get added to the soil. And then  
19 finally a shallow saline groundwater can influence the  
20 salinity condition of the soil.

21           Now in the Delta, we have a few particularities  
22 that reflect that, but also add a little bit more to it.  
23 So in the Delta we have mineral soils, but we also have  
24 organic soils. And those are soils that are formed from  
25 decomposed plant material. The mineral soils that we

1 have tend to be clay soils. And the organic soils are  
2 like clay soils in the sense that they're low  
3 permeability soils. It's difficult to pass water to pass  
4 through those soils.

5           Along the lines of the irrigation water, so  
6 certainly irrigation water is carrying salts in the soil  
7 through the Delta and the Delta is at the end of the  
8 pipeline before the Bay. Another thing to consider is  
9 that in the Delta, we are -- most growers are exclusively  
10 using surface water for their irrigation. They don't  
11 have groundwater to supplement. And then finally, as the  
12 groundwater is shallow we are also dealing with soils  
13 that are below sea level, so it just kind of adds to the  
14 hydrology or difficulty in hydrology in the Delta.

15           So the effects of salinity on plant growth, I'm  
16 going to go over three general principals. The first is  
17 osmotic stress. This is the most common way that plants  
18 are stressed by salt conditions. And if you just think  
19 generally about a plant root growing in the soil, if that  
20 soil has high salinity then the plant has to translocate  
21 solutes into their roots in order to maintain a gradient  
22 from the soil to the root, of water. Otherwise, the  
23 plant becomes salt stressed. Now the thing about osmotic  
24 stress is that most of the time it's exhibited as generic  
25 stunting and so we may not recognize it as being a

1 salinity stress.

2           The second stress from salinity would be  
3 specific ion toxicity. So these are sodium, chloride and  
4 boron, primarily. These stresses in the picture, there  
5 you'll see a walnut tree with this browning along the  
6 leaf edges. These are dead plant cells and these cells  
7 are not able to photosynthesize and therefore those  
8 leaves are not as productive in providing for the plant.  
9 So again we see reduced productivity from those plants.

10           And then finally plants are indirectly affected  
11 by degraded soil conditions. So in this case, you'll see  
12 some white crusting on the corner of that field. That  
13 white crusting, the salt in the soil result in poor  
14 infiltration, anaerobic conditions for the plant roots  
15 and therefore the plants aren't growing productively.

16           So leaching is the primary management strategy  
17 for salinity. And leaching must be practiced when soil  
18 salinity has the potential to impact yield. Leaching  
19 occurs when water's applied in excess of soil moisture  
20 depletion, by crop evapotranspiration, or the evaporation  
21 of water from the soil, and the transpiration of water  
22 from the plants.

23           Leaching may occur during the rainy season or  
24 whenever an irrigation season event occurs. However in  
25 my data I'm going to show that there has not been any

1 leaching in the soils where I did my studies, between the  
2 spring and the fall. So we're not getting any sort of  
3 leaching during the irrigation season.

4 I'll be talking about the leaching fractions,  
5 so to define the leaching fraction, this is the amount of  
6 total applied water that passes below the root zone. In  
7 agricultural systems we think about a 15 percent leaching  
8 fraction as being a general rule of thumb. And this 15  
9 percent leaching fraction, that is assumed in the crop  
10 salinity tolerances that we use in the academic world to  
11 assess whether a condition is going to impact crop yield.

12 So the purpose of my study was to gain an  
13 understanding for the leaching fractions that are being  
14 achieved in the south Delta. I used alfalfa as my model  
15 crop, because it's a perennial crop that grows over four  
16 years, sometimes more. And why that's important is  
17 because there are certain agronomic practices we have to  
18 consider when you've got a perennial crop and we're not  
19 rotating. So on a year-to-year basis we can't do certain  
20 management practices at the end of the season that they  
21 may be able to do after say a tomato crop that's been  
22 harvested and rotated out.

23 This slide is my introduction to the project  
24 and to the results that are coming forward. We selected,  
25 in cooperation with south Delta, seven sites that were

1 located throughout the south Delta, again in cooperation  
2 with the growers. I have not identified those sites on a  
3 map for the purpose of the privacy of the cooperators,  
4 recognizing that's what their wishes were. But I have  
5 identified the water source where those fields were  
6 getting their water from. And so if you were to place  
7 those on a map, I think you would see that those sites  
8 are located throughout the south Delta.

9 I've also named in this slide the different  
10 soil series. There's three different soil series named  
11 that were of interest to us. And those three soil series  
12 represent about a third of the irrigated land in the  
13 south Delta. So I would say that the results that we  
14 have from this study are pretty representative of the  
15 agricultural lands in the south Delta.

16 So this slide gets to the leaching fractions  
17 right away. And then the next few slides will show the  
18 salinity of the soil profiles in a graphical sense. So  
19 first off, you notice that there's a column for the E<sub>c</sub>.  
20 This is the soil salinity, the saturated paste extract.  
21 This is how we test the soil. We go out to the field.  
22 We bring back the soil to the laboratory and then we test  
23 it for the electrical conductivity.

24 And I will say now I'll be representing EC as  
25 deciSiemens per meter. This is a unit that's equivalent

1 to the millimhos per centimeter that's been named  
2 previously in the hearing. So the E<sub>Ce</sub> is listed in the  
3 column there. This is the E<sub>Ce</sub> of the soil at the base of  
4 the root zone. This is the layer of soil where the  
5 salinity is the highest and this is where we calculate  
6 the leaching fraction from.

7 But then the next column over names the E<sub>Cw</sub>,  
8 this is the salinity of the irrigation water. I  
9 collected the irrigation water from each field, each time  
10 the soil was being irrigated. So this is a seasonal  
11 average of maybe six, seven, eight irrigations depending  
12 on how many times the grower was irrigating over the  
13 season. Results in 2013 are on the left side of the  
14 table and 2014 on the right.

15 You'll notice that there are three sites where  
16 the irrigation water salinity average, over the season,  
17 was higher than the 0.7 salinity objective. We used that  
18 number, we used both of those numbers in our leaching  
19 fraction calculation, and we find that the leaching  
20 fraction that we achieved in these soils was pretty low  
21 at most of the sites. At only two of those sites did we  
22 have a leaching fraction that exceeded that 15 percent  
23 rule of thumb that I referenced earlier. Most of these  
24 sites had leaching fractions well below that.

25 So now, I'm getting into the graphics on I'm

1 going to talk specifically about four of those sites.  
2 Just for the sake of time I won't go into all seven, but  
3 I'm pulling out four that I think tell interesting  
4 stories. So the first one is Site 1, this is a silty  
5 clay loam soil. Again, to remind you from the previous  
6 slide, the ECw over the course of the irrigation seasons,  
7 in both seasons, was 0.54.

8           So the crop salinity tolerances that are set up  
9 for alfalfa would be a 1.3 EC for the irrigation water.  
10 So we've met that. We're not reaching the threshold  
11 where we would expect to see crop yield declines for the  
12 water. However, the threshold for soil in the peer-  
13 reviewed literature is 2.0. And you'll notice in this  
14 slide, the top foot of soil, or the top 30 centimeters,  
15 we're at that 2.0 deciSiemens per meter. And as we get  
16 lower into the soil profile we get even higher than that,  
17 so that our average soil profile salinity is much higher  
18 than 2.0.

19           Using our crop salinity tolerances we would  
20 expect to see yield declines. For every one deciSiemen  
21 per meter increase in salinity, we would expect to see an  
22 8 percent yield decline for each increase above that  
23 threshold. So in this case, we're much above the  
24 threshold of 2.0.

25           Our soil salinity is increasing from spring to

1 fall. Spring is indicated in the green lines and the  
2 fall in the orange lines. So we see that those orange  
3 lines are to the right of the green lines, we are not  
4 able to get leaching over the course of the season. And  
5 the other thing I would like to point out is that there  
6 are some points that are on their own that are not  
7 connected by lines. Those represent the groundwater  
8 depth and the salinity of the groundwater. And at this  
9 particular site I think an interesting point is that the  
10 spring groundwater is at that depth where you see the  
11 highest salinity. So this would tell me that the  
12 groundwater depth is impairing the leaching of salts  
13 below that depth.

14           These two graphics are kind of squished  
15 together, but I did that for a reason, because these two  
16 fields represent some of the highest salinity that I saw  
17 over the course of the study and the lowest salinity.  
18 Both are the same soil type, a silty clay loam. The  
19 electrical conductivity of the water at the Site Number  
20 2, the graph on the top, was a little bit higher, 0.7 to  
21 0.8 over the course of the two seasons, 2013 and 2014.  
22 And the bottom slide, we had slightly better water  
23 quality, 0.4 to 0.57.

24           So what would be my explanation for such a  
25 drastic difference in electrical conduct to soil

1 salinity? My explanation for this is that while we do  
2 have better water quality in Site Number 3 it is probably  
3 more of an observational part -- observation I made by  
4 visiting that field. I think we were getting higher  
5 leaching in this field, which was represented by the  
6 leaching fraction Site Number 3.

7           We're getting higher leaching in this field  
8 because the grower's applying more water. That water is  
9 sitting on the field and again my observation is that  
10 that field was a very poor stand. The weeds were coming  
11 up through that field more than the alfalfa plants. The  
12 yields were declining and the grower pulled out the  
13 field, ripped it up, and planted a new crop at the end of  
14 2014, which there aren't results for the spring of 2015  
15 for this particular field.

16           That's an observational thing, but the growers  
17 who grow alfalfa would tell you that you can't have weeds  
18 growing up through your alfalfa crop. It lowers your hay  
19 quality and it can be a danger to the animals.

20           This particular site was interesting to me. It  
21 had some of the highest salinity applied to it yet not  
22 the highest salinity in the soil. This is a different  
23 soil type however, it's a fine sandy loam. It's got  
24 better water infiltration, because of the different soil  
25 texture and I think we were able to leach the salts much

1 better indicated by the higher leaching fraction.

2 I'll go through the yield results very quickly.  
3 We did see -- these are not yields that I collected from  
4 the growers. These were me going out and using my own  
5 procedures of a quadratic yield analysis, cutting a  
6 square of alfalfa at various places in the field. We do  
7 see yield declines from 2013 to 2014.

8 In a report that I've written up on this  
9 project I wrote that I could not correlate salinity and  
10 yield. The reason that I said that is because this was  
11 not a controlled replicated experiment. In a controlled  
12 replicated experiment where you've controlled for other  
13 sources of variability, it's much easier to set up a  
14 correlation between the factor that you are interested  
15 in, your treatment, and something else, say yield,  
16 because you've controlled for other sources of  
17 variability in your experiment.

18 This was a survey project where I wasn't  
19 controlling anything. I was interested in the quality of  
20 the water and the quality of the soil as it relates to  
21 salinity. So I could not make that generalization, that  
22 correlation between yield and salt. It doesn't mean that  
23 it's not there. It just means statistically I can't teas  
24 it out.

25 So to conclude, and I apologize for going over,

1 salinity is a problem in the Delta, because of some of  
2 these inherent conditions. And some of these inherent  
3 conditions cannot be managed by the growers. The growers  
4 are dealing with unique growing conditions and using best  
5 management practices they have constraints that limit  
6 their ability to leach salts. And so if salinity  
7 changes, if salinity objectives get more lax, then  
8 they're going to be dealing with salinity beyond what  
9 they're already dealing with under the current  
10 objectives. Thank you.

11 CHAIR MARCUS: Thank you.

12 MR. HERRICK: If I may, if we can go back to my  
13 PowerPoint, and I'll try to wrap up real fast if it's  
14 okay with the Chair?

15 CHAIR MARCUS: All right. And I see that we  
16 have statements from Mr. Marchini, but also Chip Salmon,  
17 who some of us met earlier, and Mark Bacchetti.

18 MR. HERRICK: I'll certainly resubmit  
19 everything. You can toss those, so there's no reference  
20 to WaterFix, it's just the testimony.

21 CHAIR MARCUS: Are these the ones from the  
22 WaterFix hearing?

23 MR. HERRICK: For Mr. Mussi and for Mr. Salmon  
24 they are.

25 CHAIR MARCUS: All right. Okay.

1 MR. HERRICK: So they'll both just resubmit.

2 CHAIR MARCUS: Okay.

3 MR. HERRICK: So again, if I beg your  
4 indulgence?

5 CHAIR MARCUS: You'll wrap up and I think I'm  
6 following. I hate to say it, I think I'm following your  
7 point, so if you don't sum it up in a certain way I may  
8 try, just to be sure we get what.

9 MR. HERRICK: No problem, the last issue that  
10 I'll cover before I do the solutions, which I know you  
11 like, is this averaging of ECs in the channels. The SED  
12 proposes that instead of measuring at Vernalis, Brandt  
13 Bridge on the San Joaquin, Middle River and Old River and  
14 Old River at Tracy Boulevard Bridge that we now examine  
15 reaches of channels, not just locations.

16 So the first one's Vernalis to Brandt Bridge  
17 and I have a map coming up. Then we have the Middle  
18 River from Old River to Victoria Canal. And Old  
19 River/Grant Line from the head of Old River to West  
20 Canal.

21 Now the problem is if you're trying to find out  
22 where or if you have problems in the south Delta, or if  
23 you can enforce a standard in the south Delta and you  
24 don't examine locations, but you examine averages over  
25 reaches, you will never see the higher numbers. That's

1 just by definition if you're going to average. You will  
2 make sure that you never see the high numbers, and so you  
3 don't know that there's a problem.

4           Now this isn't some sort of random mistake,  
5 because the areas that are defined are -- and I've got  
6 the world's best pointer here -- I'm pointing to the  
7 chart or the map that can be seen by the Board members.  
8 Vernalis to Brandt Bridge includes a large stretch of the  
9 good water quality from the Stanislaus River used to  
10 dilute. So if you average 0.5 or 0.6 or even 0.7,  
11 because that's what they're maintaining, then if you  
12 reach 1.0 or 1.2 somewhere down by Brandt Bridge you will  
13 never see that number. You'll see that the average says  
14 we're okay even though half of the area might be above  
15 the standard.

16           Similarly, if you measure a reach from Middle  
17 River, down Middle River to Victoria Canal, Victoria  
18 Canal is export quality water that crossed out Delta  
19 flow. And so that water might be 0.4 or 0.3 EC. And if  
20 you average that with some water that up at the head near  
21 of Middle River and that's -- I'll just make up a number  
22 -- if that's 1.1, you'll never see that there is any  
23 violation anywhere in that standard.

24           Same thing with the final reach, which is the  
25 head of Old River down through Old River over to the

1 export pumps. Now the export pumps are holding export  
2 pump water. So if you've got a bad spot in the middle,  
3 which is our worst spot right here at the bottom here at  
4 the lowest point of Old River, that doesn't show up when  
5 you do the averages. It's gone. And so if your method  
6 of measuring compliance of a standard is to never see the  
7 maximum amount of salt in any particular channel, you  
8 will never see a violation.

9           Now, I'll remind the Board that the 2006 Update  
10 of the Water Quality Control Plan says in black and white  
11 that these standards apply throughout the channels. And  
12 so whether or not a measurement point is in good  
13 reflection of what's going on all over, it's supposed to  
14 be applied throughout the channels. Now we may not be  
15 able to do that, right? I mean, some things may be  
16 impossible. But when you start averaging these numbers,  
17 you insure that you will never see a violation.

18           And that's a problem with the compliance  
19 program and a monitoring program if it's constituted so  
20 you'll never have a problem. And that's what this is  
21 constituted to do. There's no other explanation, because  
22 it doesn't recommend additional monitoring compliance  
23 points to find where are the bad parts. It doesn't say  
24 we should change the compliance locations to different  
25 places that are better reflective of what's going on. It

1 says let's average good water and bad water quality all  
2 over the south Delta.

3 So what are the solutions? Everybody hates  
4 John Herrick and the south Delta, because we're the  
5 people who don't do anything and we oppose everything and  
6 we're bad, evil people. Whether that's true or not,  
7 there are solutions. And you've been told for 15 years  
8 there's nothing can be done in south Delta. Wrong,  
9 right?

10 Now, I've been saying to other people without  
11 the hammer, you're not going to get anything done. So if  
12 you say, "I don't know what to do," nothing will get  
13 done. But if you have a hammer then the Department of  
14 Water Resources, the Bureau will mystically find ways to  
15 discuss things with south Delta and try new programs.  
16 So what can we do?

17 Well, of course the permanent barriers are  
18 always something. The permanent barriers aren't in  
19 because some -- excuse my expression -- some idiots at  
20 the fishery agencies don't understand the flows of the  
21 Delta. Now that's a long explanation that I won't go  
22 into --

23 CHAIR MARCUS: That doesn't really help sell  
24 the point.

25 MR. HERRICK: It doesn't. It doesn't, but it's

1 true, because we argue with these people. That they say  
2 the barrier results in fish being killed, they don't want  
3 to do that. A fish that goes upstream of a barrier  
4 lives. A fish that stays downstream of the barrier gets  
5 killed by the export pumps. That's the hydraulics of the  
6 area. Now again, I was being snotty there and I  
7 shouldn't be, but --

8 CHAIR MARCUS: It just detracts from your valid  
9 points.

10 MR. HERRICK: I understand, but I am what I am,  
11 sorry. (Laughter.) Anyway, the barriers are just a  
12 political decision that somebody said, "Okay. Well,  
13 we'll cooperate on doing something else, but we don't  
14 want you to put barriers in, because we don't know how  
15 they affect things." That's wrong. We can still do  
16 that.

17 Now timed inflows, there are actually people  
18 upstream that have approached me and said, "You know we  
19 may be able to isolate a bunch of water that could be  
20 released for your benefit." That's a good thing. Now we  
21 have to investigate how to do that, but if you have a  
22 chunk of water or chunks of water that you can release at  
23 certain times you might coordinate things and flush out a  
24 portion. It doesn't cure the area permanently, but you  
25 might flush something out and better things.

1           And similarly you could coordinate barrier  
2 operations. And we might be even willing to have a  
3 barrier opened up or culverts opened up so that people  
4 can't irrigate for a couple of days if that flushes the  
5 channel out. We might be able to do that. That's a  
6 coordination thing that I might be able to do. Now I  
7 don't want the farmers to shoot me for proposing that.

8           The other thing is pumps. We could do a test  
9 to see, let's see if you do add 250 CFS extra water  
10 flowing in one direction, let's see what happens.  
11 Instead, we have a report by DWR that says, "If we add  
12 1,000 CFS flow into Old River it won't meet the standards  
13 all the time." That's of course wrong. The tidal flow  
14 up the river is about 800 or a 1,000 CFS. If you doubled  
15 that it's either going to flood the land or it's going to  
16 move the salt somewhere else, right? Those are the only  
17 two possibilities. So we need to conduct that test and  
18 you could order some tests like that.

19           Now, of course there's always a combination of  
20 things where you do this and do that. DWR has a study  
21 where the guy recommended, "Let's do one operable  
22 barrier. We could make it cheap, but we could do  
23 things." We can do things to address this. It's a  
24 simple problem.

25           Net flows, if you have a channel that has net

1 flows through it you can have some sort of maintenance of  
2 water quality. If you have a channel that doesn't have a  
3 net flow, like I showed you at the very beginning, you  
4 cannot maintain salt. We can do this. But we've had  
5 almost 20 years of a lack of effort to address it.  
6 That's not your lack of effort, but the projects had no  
7 incentive to try to figure this out. If it cost \$10  
8 billion, we can't do it. But that doesn't mean we can't  
9 try to figure out what'll work.

10 And with that, I apologize for going over my  
11 time, as I normally do. I thank you.

12 CHAIR MARCUS: No. Thank you. I let you,  
13 because I wanted to hear what you had to say.

14 MR. HERRICK: Thank you very much for your time  
15 and consideration. Everybody I talked to today all said  
16 the same thing, whether they disagree or not with you  
17 guys, nobody wants your job. I'm sorry to say that, so  
18 thank you very much.

19 CHAIR MARCUS: No, thank you very much. Thank  
20 you and nice to see you. Again, I'm sorry I'm going to  
21 move on to the other players. We'll have plenty to talk  
22 about with the staff in follow up.

23 Next speakers. Are you still okay?

24 COURT REPORTER: Always.

25 CHAIR MARCUS: You're my hero. I will promise

1 not to do this to you constantly, but you'll just have to  
2 stay and --

3 COURT REPORTER: I'm doing well.

4 CHAIR MARCUS: Uh-oh. I've got more, but wait,  
5 there's more. I'm going to count them in a second. We  
6 have one, two, three, four, five, six. Six, if anybody  
7 who wasn't here before is now here, let me just see. I'm  
8 going to ask if people have returned: Margie Fries? Kathy  
9 Bunton? Gordon Armstrong?

10 MS. BUNTON: I'm here.

11 CHAIR MARCUS: Kathy Bunton, okay I'll put you  
12 back in. Ernest Tuft? Mary Elizabeth?

13 All right, we have seven.

14 MS. DODUC: There's someone.

15 CHAIR MARCUS: Mary Elizabeth. Okay, we have  
16 eight. All right.

17 MS. BUNTON: Hello. Thank you for allowing me  
18 to comment today. I'm Kathy Bunton. I'm a San Francisco  
19 Bay-Delta resident, small business owner and avid angler.  
20 I own and operate Delta Kayak Adventures and I make my  
21 living on the Delta guiding tours and renting kayaks and  
22 paddle boards to the public. I've resided in Antioch for  
23 nearly 19 years where my business is based, but I lead  
24 tours throughout the Delta region.

25 I've witnessed the degradation of water quality

1 and it has directly impacted my business with the  
2 increased presence of invasive weeds such as Water  
3 Hyacinth and toxic algal blooms have had negative  
4 effects. This past year I had two large groups cancel  
5 their tour due to a blue-green algae bloom in parts of  
6 the Delta. Even though my tour would not be paddling  
7 anywhere near the bloom, I lost a huge chunk of business  
8 due to the perception that the Delta is toxic.

9           The Delta needs increased fresh water flows and  
10 a reduction of water exports to keep the ecosystem and  
11 water quality healthy. The salinity standards should not  
12 be reduced. The past couple of years I've encountered  
13 hundreds of jelly fish in the San Joaquin River in front  
14 of Antioch and within Sherman Lake waterfowl management  
15 area as recently as November of this year. And increased  
16 presence of seals and sea lions.

17           Reducing salinity standards would further  
18 degrade water quality and affect the water my family and  
19 I drink. My hope is that you'll consider the people who  
20 depend on the Delta for drinking water and the businesses  
21 who depend on the Delta for tourism and increase flows by  
22 allowing more fresh water to reach the Delta. Thank you.

23           CHAIR MARCUS: Thank you very much.

24           Wendy Benavides from Manteca followed by Wayne  
25 Reeves from Contra Costa County Farm Bureau followed by

1 Bob Holmes.

2 CHAIR MARCUS: Sorry, thank you very much.

3 MS. BENAVIDES: Good afternoon, Wendy  
4 Benavides. I'm a long-term resident of Manteca,  
5 California. I'm a fourth generation Californian and I've  
6 also been a long-term realtor in San Joaquin, Stanislaus  
7 County. I'm here in support of -- actually opposed to  
8 your wanting to take our water. I'm opposed to that.

9 I strongly support SSJID's position. And I  
10 want to state that I've been following what they do for  
11 decades now. They've been great stewards of our water.  
12 Not only do they manage producing electricity, they  
13 provide water to our communities. I've gone to the  
14 treatment plan when they opened it up, the water  
15 treatment plant. I was impressed. They didn't have to  
16 do that. I mean, they keep doing things that they really  
17 don't have to do. And they have managed to balance in  
18 very difficult times, not only getting the water to our  
19 farmers, the water to our cities, recharging the  
20 groundwater.

21 I was impressed when they took it upon  
22 themselves and they've spent millions of dollars on the  
23 science for fish. And I'm big on science. And they've  
24 also gone to great expense to install in some of the ag  
25 areas, pressurized delivery of the water, so that the

1 almond trees could get just the right amount of water  
2 they needed, which is great because it saves a lot of  
3 water. Of course there's a downside to that because  
4 without the flood irrigation then our aquifers don't get  
5 recharged. So you can't have it all. And they're making  
6 it work.

7           And as a long-time realtor many of you probably  
8 already know that the Central Valley acts as affordable  
9 housing for the Bay Area. The housing is very expensive.  
10 I grew up there, but I've lived out there for nearly 40  
11 years, and our population is exploding. And not only  
12 have SSJID along with the City of Manteca or course -- we  
13 still depend on wells for some of our water -- we still  
14 manage to save water. We have still saved water and  
15 we've added thousands of people to our community.

16           And I'm also a big person on law and water  
17 rights. And we have strong water rights. And I think  
18 that really needs to be protected. And we're under  
19 assault from special interest groups from Sacramento to  
20 San Francisco and to the south. And SSJID has held their  
21 head high and has performed excellent. I mean, I'm so  
22 proud of them. I get all choked up, but it's about  
23 water. But anyhow, that's what I wanted to say.

24           I'm a simple resident, a business person. I'm  
25 trying to stay informed. And you should look to them to

1 consult with them. They have spent so much time and  
2 energy to do the right thing and with the science.

3 CHAIR MARCUS: Thank you. You should wrap it,  
4 thank you very much.

5 MS. BENAVIDES: Thank you.

6 CHAIR MARCUS: Hopefully somebody from there  
7 was here to hear you too. I'm sure they're listening  
8 somewhere if they're not here anymore.

9 Mr. Reeves followed by Mr. Homes followed by  
10 Cynthia Lau from the Central Valley Asian American  
11 Chamber.

12 MR. REEVES: Good afternoon and thank you for  
13 allowing me to speak.

14 CHAIR MARCUS: Thank you, of course.

15 MR. REEVES: My name is Wayne Reeves. I'm the  
16 President the Contra Costa County Farm Bureau and I  
17 noticed this afternoon when we took a lunch break, all of  
18 you were eating lunch. You had something. You had bread  
19 or you had meat or you had lettuce or tomatoes and stuff  
20 on your sandwiches. That's all based on agriculture.  
21 Agriculture's a very important part in California and it  
22 always will be. The more water you take away the less  
23 agriculture we have.

24 Contra Costa County is losing a lot of its ag  
25 land, because we don't have enough water and the proper

1 water to grow the fruits and vegetables that we need.  
2 The best corn in the United States comes from Contra  
3 Costa County, the sweet corn, everybody has it  
4 worldwide. But we need the water. Agriculture's not a  
5 bad guy. Agriculture is doing everything they can to  
6 conserve water, putting in drip irrigation systems. But  
7 everybody's says we're using 80 percent. That's not the  
8 case. We don't use 80 percent of the water. And the  
9 water we use produces food, so we all have nutrition.

10 We have nutrition, so we have great families  
11 and a great future. Thank you very much.

12 CHAIR MARCUS: Thank you very much.

13 Mr. Holmes followed by Ms. Lau followed by  
14 David Strecker from the San Joaquin Farm Bureau.

15 MR. HOLMES: Good afternoon.

16 CHAIR MARCUS: Good afternoon.

17 MR. HOLMES: It has definitely been a long  
18 day. After here sitting here all day --

19 CHAIR MARCUS: An interesting day, though.

20 MR. HOLMES: -- I've almost decided not to read  
21 my comments, but I'm going to read them anyway. My name  
22 is Bob Holmes, a lifelong resident and farmer in the  
23 Escalon area of San Joaquin County. College educated and  
24 to keep the record straight, a current member of the  
25 Board of the South San Joaquin Irrigation District. My

1 comments here today are my own.

2           To be a successful farmer you must be able to  
3 learn and identify and manage to the best of your  
4 abilities every variable that might affect the  
5 performance of your crop be it livestock, field crops,  
6 vegetable crops, trees or vines. Focusing on just one  
7 item or area will surely lead to failure. I might have  
8 the best soils for crop production, but without proper  
9 crop cultivation, fertilization, pest management and  
10 water, all in the proper amounts and at the correct time,  
11 your crops will fail.

12           My 40-plus years of being a successful farmer  
13 tell me that management of the salmon population will be  
14 no different. So if your SED Plan is truly about  
15 rebuilding fish populations then controlling a single  
16 element of their environment, meaning water flow, will  
17 certainly lead to failure. If you truly want to manage  
18 the fish populations then develop a comprehensive plan  
19 includes all elements that can be managed to achieve the  
20 desired results.

21           I would also like to take this time -- I would  
22 also like you to stop and study and learn the uniqueness  
23 of our region. The three-county region served by the  
24 Stanislaus, Tuolumne and Merced rivers is the home to  
25 some of the richest soils in the world, which in my mind

1 should also be protected for future generations. These  
2 soils combined with an arid climate and high quality  
3 water supply, surface and ground, are the building blocks  
4 of sustainable irrigated agriculture.

5           The discovery of gold in California in 1848,  
6 and the ensuing gold rush, brought a huge influx people  
7 into California. When the gold rush ran out the people  
8 turned to farming and ranching to sustain themselves.  
9 Since that time California has seen continual development  
10 of its resources to sustain its population. Irrigated  
11 agriculture has been the base that has made this possible  
12 to the point where we now have more than 38 million  
13 people to house and feed in this great state.

14           Preservation of irrigated agriculture will be a  
15 key to the sustainability of our great state not only for  
16 the benefit of my family, but yours too. My hope is to  
17 instill in you some appreciation for what we have, how  
18 we've gotten there. And that we have the science,  
19 technology and practical ability to manage our resources  
20 to the best and highest use for the benefit of all  
21 Californians. Thank you.

22           CHAIR MARCUS: Thank you, sir.

23           Ms. Lau followed by Mr. Strecker followed by  
24 Julianne Phillips from the San Joaquin Farm Bureau also.

25           Hi.

1 MS. LAU: Hi. Good afternoon Chair Marcos and  
2 members of the Board, I thank you for this opportunity to  
3 speak. I first started learning about the water  
4 situation here just a couple of years ago just out of  
5 curiosity, because I really didn't know anything about  
6 water. And right now I'm just like overwhelmed with  
7 information. And we definitely have a crisis in our  
8 ecosystem here.

9 And I think I started taking an interest in the  
10 water, because I first learned about the water issue  
11 being involved in a local Asian-based social service  
12 agency. We had received an enormous grant to educate  
13 people about the mercury level in the water. And I just  
14 got grossed out because I thought, "Oh my gosh. I grew  
15 up eating fish from the Delta." And I thought, "Oh my  
16 gosh, I have mercury poisoning."

17 And then I got involved in gardening and urban  
18 farming in this area. And before I planted anything I  
19 would check to see what was viable to plant in our local  
20 soil. What was feasible to grow when and where? And  
21 then so I started thinking like, "Wow. I checked to see  
22 what is viable for me to grow in my backyard. So I  
23 didn't understand like why were we exporting water to  
24 grow a water-intensive crop in a sandy arid area?"

25 So I think that's one thing that I really would

1 like to Board to look at is the amount of export that we  
2 have from the Delta river. I mean, we really need to  
3 have some kind of permanent reduction in exports in order  
4 to maintain the quality of our Delta estuary system.

5           You know, we've heard so many expert testimony  
6 about the salinity levels and how it could affect the  
7 south Delta. And basically my mind is just like  
8 overwhelmed by the information that I've learned today.  
9 But you know just from a very grass root level I think  
10 salinity is salt. Why would you want to increase the  
11 salt in your soil? It just doesn't make sense.

12           So from my perspective and the perspective of  
13 my community one thing I'd like to do is bring more  
14 awareness, more education, and more engagement from my  
15 community, because we are not aware. I mean I think with  
16 more advocacy and outreach we will become more aware.  
17 And I just ask the Board to look at some of these  
18 environmental justice issues. We are most susceptible to  
19 toxins and hazardous wastes. Thank you.

20           CHAIR MARCUS: Thank you very much. Thank you  
21 for joining the water party.

22           MS. LAU: It's a very complex party.

23           CHAIR MARCUS: It is, a makes your head explode  
24 party.

25           Mr. Strecker, thank you, followed by

1 Ms. Phillips followed by Mary Elizabeth.

2 MR. STRECKER: Madam Chair, entire Board, we  
3 thank you for giving us this opportunity for all of us to  
4 speak today. My name is David Strecker. I'm the second  
5 Vice President of San Joaquin Farm Bureau and I'm also a  
6 fifth-generation farmer in the south Delta and my family  
7 has been there within three centuries, so we've been here  
8 a long time.

9 CHAIR MARCUS: Cool.

10 MR. STRECKER: Groundwater impacts need to be  
11 discussed. Before the drought great strides were made  
12 implementing conjunctive use projects as well as  
13 technological advancements in water delivery systems in  
14 the Eastern San Joaquin Basin. With the loss of surface  
15 water deliveries, groundwater will continue to be  
16 overdrafted, despite the implementation of the  
17 Sustainable Groundwater Management Act looming. This not  
18 only impacted ag, it jeopardizes safe water deliveries to  
19 the communities like Escalon, Ripen, Manteca, Tracy, that  
20 currently rely on groundwater to supplement their water  
21 supplies. Phase 2 will do the same to our north  
22 communities.

23 Economic impact. Billions. According to our  
24 most recent General Plan Update, ag in San Joaquin County  
25 alone contributes \$6.6 billion in local economic output.

1 And those numbers were from 2007. Despite recent  
2 droughts and even some loss in commodity prices, overall  
3 in the last 10 years, ag has increased in economics.

4 The dollars lost in ag will impact the entire  
5 community. The District Attorney's Office covered it.  
6 With opportunity, when it is lost, industry is decimated.  
7 A way of life is gone. The only thing that fills in is  
8 crime. That will not only be in the rural communities in  
9 San Joaquin County, but the smaller cities and Stockton  
10 as well. Stockton is good on crime.

11 Water quality degradation in the south Delta.  
12 One of the things we find most troubling about the SED is  
13 that you're asking to take such huge amounts of water  
14 from the community and send it down river and there are  
15 no real water quality benefits downstream. Instead, we  
16 see a set in stone permanent relaxation of the temporary  
17 changes that have been too common throughout the drought.  
18 Current water quality standards need to be improved and  
19 more importantly enforced throughout the entire  
20 irrigation season to protect the water quality, the crops  
21 and the soil within the Delta. If we're going to talk  
22 about fish, we need to talk about predation. No matter  
23 the amount of water you send down, no matter what the  
24 temperature of the water. When you're eaten alive, it  
25 doesn't matter.

1           Dredging, dredging can help with the overall  
2 temperature in the Delta to help fish. Another major  
3 impact is the non-native invasive plant life. The Egeria  
4 densa and the Hyacinth are a problem. The evaporation  
5 transpiration loss is bad for everything. It doesn't  
6 help fish. It doesn't help farmers. It doesn't help the  
7 communities. It doesn't water to export. It needs to be  
8 fixed.

9           In conclusion, nobody is more invested in the  
10 health of the fisheries literally and figuratively than  
11 the irrigation districts. Why not allow them to continue  
12 to work on habitats, spawning beds and other measures  
13 that have been shown to be effective. In ag, we have a  
14 simple saying about anything we apply to our crops.  
15 Right time, right place, right amount. Throwing  
16 unnecessary water at the fish is not a guaranteed benefit  
17 to them and at the same time will devastate local  
18 communities and accelerate the degradation of water  
19 quality in the south Delta.

20           Us farmers are proud. We built these  
21 communities in San Joaquin County. We provide the safest  
22 food in the world. We can provide the most food of  
23 anyone in the world. Please allow us to continue to do  
24 that.

25           We will be submitting an extensive amount of

1 comments in written form. Thank you.

2 CHAIR MARCUS: Thank you very much.

3 Ms. Phillips followed by Ms. Elizabeth or Mary  
4 Elizabeth followed by David Phippen, who's a member of  
5 the South San Joaquin Irrigation District.

6 MS. PHILLIPS: Hello. Good afternoon. I hate  
7 to be repetitive, but I figure you guys traveled all the  
8 way here and we've all spent all day here, so let's make  
9 it worth the while. I'd first like to thank you for  
10 taking the time to travel and holding these hearings in  
11 the communities that you are directly impacting.

12 There are some things that I heard today that I  
13 hadn't heard in previous hearings that I think really  
14 needed to be responded to. The first was this morning,  
15 opening up the meeting in the prepared comments, Chair  
16 you stated that you wanted to clear up some  
17 misunderstandings. You feel like the communities are  
18 opposed to this, because there are some  
19 misunderstandings, but I hate to disagree with you. We  
20 are opposed to this because we very much understand the  
21 very real impacts that this is going to have.

22 CHAIR MARCUS: No, I'm sorry. I tried to  
23 specifically say there's plenty to argue about. My point  
24 was just that there are a lot of red herrings out there  
25 where folks are worrying about the wrong things, rather

1 than focusing on the things to argue with us. So people  
2 are setting up a straw man of what we want that isn't  
3 what we're asking for, and it's kind of wasting people's  
4 time as opposed to focusing on the hard work of figuring  
5 out what to do.

6 MR. MOORE: Yeah, that's right.

7 CHAIR MARCUS: Just to be clear. There's  
8 plenty to argue about.

9 MR. MOORE: As an example, your colleague who  
10 just said the issue at the right time, the right place,  
11 you know. And that's at the very heart of the proposal  
12 before you. So that's an example of a misunderstanding.  
13 And we can work through these and communicate and better  
14 understand each other's perspective. But I just give you  
15 an example.

16 MS. PHILLIPS: Absolutely. And I would say  
17 that our community, we understand that very well. And  
18 the people who are most nimble and most able to react to  
19 impacts to the fisheries are the districts that actually  
20 are in the river every single day. They have -- you  
21 heard them, Steve and Peter both said today, they invest  
22 a million dollars every year in science and research on  
23 their river. There is nobody who is more invested,  
24 literally and figuratively in the health of the watershed  
25 than the very districts who react to the impacts to the

1 fish.

2           The second thing that David -- he's our Second  
3 Vice-President, he's a great guy -- that he sort of  
4 touched on is the economic impact. And that is something  
5 that really, I think it's been overlooked.

6           I've been raised in the Valley my entire life.  
7 I went to Fresno and I know the little community of East  
8 Porterville very well. And I know that you have folks  
9 down there who are showering in parking lots right now.  
10 And that's not acceptable. And we're not going to accept  
11 that here. And taking away a huge amount of our surface  
12 water is going to move those impacts further north.  
13 California's one of the strongest economies in the world.  
14 We are a global economy. We are proud of it. We are not  
15 going to live like a third world country.

16           The other thing that has been significantly  
17 underestimated is the impacts to our groundwater. We are  
18 a critically overdrafted high-priority basin. Before the  
19 drought hit, we were actually -- we consider ourselves an  
20 equilibrium, so all right -- we have tapered off what we  
21 were losing. And we are making progress in the right  
22 direction. And that was due to the hard work of the  
23 districts, of the growers who have implemented a lot of  
24 demand-side management for their crops.

25           And then the drought hit and things changed.

1 And we don't have the ability to implement the  
2 conjunctive use projects that we used to have. And we're  
3 continuing to work on that through grants and through  
4 additional conservation measures. Taking away such a  
5 significant source of the surface water that's critical  
6 to implementing those conjunctive use projects eliminates  
7 that opportunity permanently. That will create attrition  
8 and further contraction of the agricultural industry in  
9 San Joaquin County.

10 We were fortunate that we had one of the best  
11 crop reports that we've ever seen two years ago. And we  
12 thought okay. So we're going to make it through this  
13 drought all right. And then we saw a \$0.4 billion drop-  
14 off this past year. That's significant. Six of our top  
15 ten crops saw significant losses. That can't be  
16 sustained and continue to sustain the economy.

17 And I will thank you for your graciousness for  
18 me going over time. I will wrap up with that. And as  
19 David said, we will be providing written comments as  
20 well.

21 CHAIR MARCUS: Great and thank you for staying  
22 with us, we appreciate it.

23 Mary Elizabeth?

24 MS. ELIZABETH: Hi. My name is Mary Elizabeth  
25 and I'm a fourth generation Stocktonian and I'm here

1 representing my family. I urge that you reduce exports  
2 and maintain the existing salinity standards in the south  
3 Delta for all existing beneficial uses. I ask that you  
4 consider environmental justice in our Central Valley so  
5 that fish are safe to eat from the Delta.

6 I think that standards should actually adjusted  
7 so that water quality can be restored and not just  
8 maintained. Permanent monitoring locations allow for  
9 better water quality assessments. Averaging should not  
10 be allowed. It's done frequently in the wastewater  
11 world. But we're not dealing with wastewater here. Mass  
12 balances of salt should be measured and monitored.

13 And finally, touch too on several of the last  
14 speakers, a more accurate assessment of sustainable  
15 surface water exports is needed, so that we can have a  
16 sustainable groundwater resource. Thank you.

17 CHAIR MARCUS: Thank you. Dave, I'm reading it  
18 Phippen, but you'll have to tell me if I'm getting it  
19 right. Thank you for returning, sir.

20 MR. PHIPPEN: And thank you for spending such a  
21 long period of time here today.

22 CHAIR MARCUS: No, it's helpful.

23 MR. PHIPPEN: It is Phippen, and thank you for  
24 -- that was better than a guess, so thank you very much  
25 for allowing us an opportunity to visit with you here

1 today about our concerns of the Plan.

2 I represent the third generation of farming  
3 families that have been here approximately 100 years now  
4 and we farm in the South San Joaquin Irrigation District.  
5 You probably already know, but I'll reiterate that most  
6 of us, because of the high cost of farming in California  
7 have gravitated toward permanent crops and what we call  
8 specialty crops. In the case of our family, we are  
9 vertically integrated and completely grow only almonds.

10 Along with the third generation that I  
11 represent, we have a couple members of the fourth  
12 generation now for succession of our family farm. And  
13 I've got some grandsons and granddaughters that are  
14 anxious to be the fifth generation. What causes me to  
15 come here today and share time with you this morning is  
16 that I don't see an opportunity. I see a glimmering of  
17 hope for that to happen with this Plan.

18 I know you've spent a great deal of time and  
19 effort working on the science and looking for  
20 opportunities to solve some of the problems that we have  
21 with water in our basins. It seems to me from my  
22 perspective that we're being asked to make a  
23 disproportionate amount -- or share a disproportionate  
24 amount -- of pain in the counties of San Joaquin,  
25 Stanislaus and Merced. It seems to me, I know you asked

1 that we not look for others to share, but I'm think we  
2 could take a little bit of water from a lot of places  
3 instead of a lot of water from these three tributaries.

4           The other thing I would ask you to consider,  
5 you mentioned -- I was here for your opening comments  
6 this morning -- and I appreciated that you said that  
7 there was a toolbox and that there were tons and tons of  
8 tools in that toolbox. I think we've looked a little too  
9 much at the flow toolbox. I think to me, I'm a farmer,  
10 I'm not educated in what you're educated in I'm sure, but  
11 the biggest thing I look at is there are some predators  
12 in the Delta that are eating those salmon. And I  
13 certainly think the very first tool we ought to take out  
14 of that toolbox is to consider, or maybe even possibly  
15 eliminate, those predators that weren't native to the  
16 Delta in the first place. I don't think that's been  
17 considered yet or it's happening. So that's the first  
18 one I think.

19           The other thing I would look for, and you've  
20 heard it just a while ago, we have spent a great deal of  
21 time and resource and capital studying the rivers through  
22 our irrigation districts. We have a great deal of  
23 science to share with you as well as the science that you  
24 share with us. I would ask that we change the path that  
25 we're looking at. I would ask that we sit down together

1 collaboratively, share that science and look for other  
2 opportunities before we devastate an industry that in the  
3 case of my family, we have spent generations investing  
4 in.

5           There are a great deal of banks and commercial  
6 entities that have bought bonds for the huge amount of  
7 capital that took for us to build the basin that we have.  
8 They were all based on a guaranteed water right that we  
9 thought was impenetrable. And yet now, suddenly we learn  
10 that maybe that's not so. I just ask that you look for  
11 other options besides this unimpaired flow.

12           The unimpaired flow will provide water for us  
13 in most cases, but how do you maintain these crops like  
14 tree crops on years when there's drought? I know you  
15 talked about using groundwater, but you've probably heard  
16 plenty of testimony already today how that option is  
17 diminishing from our opportunities.

18           Again, thank you for the opportunity to share  
19 time with you.

20           CHAIR MARCUS: Thank you, and thank you for  
21 returning.

22           MR. PHIPPEN: You're welcome.

23           CHAIR MARCUS: That concludes our commenting  
24 for the day. I want to thank everybody for spending the  
25 time.

1           I have a couple of -- there may be questions  
2 from the staff or from the Board. I have a couple of  
3 kind of a housekeeping question I'm going to get to. I  
4 prioritized being able to get through the speakers today,  
5 because people had come from a long period of time. I  
6 just wanted to note though -- Les may have talked to you,  
7 they actually did prepare some responses to the things we  
8 asked about at the last hearing.

9           My preference, just so that there can be some  
10 answers back out to the public -- and I'm not exactly  
11 sure how to handle that -- we could have had him do a  
12 longer opening that might have answered some of the  
13 questions that people would raise. But people raised  
14 different questions here today. We can have them do that  
15 at a subsequent hearing. We could do it in a workshop.  
16 We could post something. And I'm just curious as to what  
17 people would like to have. I'm not sure having Les do it  
18 right now is the most productive use of time, but I do  
19 appreciate being responsive to the questions that came up  
20 on some of the issues that came up in the first hearing.  
21 And I have my own list that I'll try and narrow down.  
22 I'm just looking at --

23           MS. SPIVY-WEBER: My recommendation, and others  
24 can jump in, is that when we meet back again in  
25 Sacramento after the first of the year, we will have gone

1 to all three Delta or San Joaquin communities, and we  
2 will also have what we heard at the first meeting. And  
3 it would be a good time to perhaps embellish on your  
4 intro with some answers to some of these issues that have  
5 come up. That's my recommendation.

6 MS. D'ADAMO: So I was going to suggest the  
7 same thing with maybe a caveat. And that is I noticed --  
8 well, first of all I went to one of the workshops and  
9 followed the others -- so I think that information, some  
10 of it's already out there, but I appreciate that, Les,  
11 you put it in the PowerPoint. But I understand the  
12 PowerPoint is not yet online, but that it will be. So I  
13 think that folks are going to have a chance to chew on  
14 those additional slides and it'll be really helpful. The  
15 slides are not consistent with what I've heard from some  
16 of the irrigation districts, so hopefully they can get in  
17 touch with you in the interim.

18 But I agree, January 3rd it'd be a great chance  
19 to have a discussion. And I imagine that -- I mean I  
20 don't know how it's going to be handled, because the  
21 irrigation districts all have panels. So maybe they'll  
22 be bringing up their thoughts next week on those slides.  
23 Or perhaps that they'd want to have a separate meeting.

24 CHAIR MARCUS: Yeah, we could end up hearing  
25 about --

1 MS. D'ADAMO: But thank you for putting that  
2 together. I think that it gives people a chance to  
3 better understand how you're viewing those issues that we  
4 flagged.

5 CHAIR MARCUS: All right, but we'll be flagging  
6 more issues. This meeting will flag -- I have a whole  
7 host of them I don't need to go through here -- but we  
8 are amassing all kinds of issues. And we just have to  
9 figure out how do we, how do we deal with them in order  
10 to continue the conversation with folks. And take in all  
11 that we've heard. Actually we've heard some different  
12 things here today that were very helpful to me that I'll  
13 want to follow up with. I'm sure my colleagues will as  
14 well. So let's maybe -- that's a good idea. Let's --

15 MR. GROBER: If I may than so --

16 CHAIR MARCUS: You have a suggestion?

17 MR. GROBER: Yeah. The information we put  
18 together, because the workshops were about showing our  
19 work and answering questions, so these were some of the  
20 key questions that had come up. So we can take the  
21 information that we have prepared, add a few words, and  
22 as has been suggested post on our Web. Because it's  
23 really all about getting on the same page with  
24 understanding information, so people can make the best  
25 possible comments on the full package.

1 CHAIR MARCUS: All right.

2 MR. GROBER: So we'll do that next week,  
3 because I think standing alone it might be difficult, but  
4 we'll add some words to this and we'll have it posted by  
5 about the middle of next week.

6 CHAIR MARCUS: All right, and that'll us to  
7 give you additional things to deal with and actually have  
8 a chance to look at it. That would be helpful.

9 MS. SPIVY-WEBER: I have one other, we had the  
10 very first panel, which dealt with the POTWs in the San  
11 Joaquin Valley. It sounded to me like there were some  
12 easy things to work -- or easy-ish, I guess nothing's  
13 easy -- things to work on with them. And if you can take  
14 care of that early that would be great.

15 MR. GROBER: Yes. As you say, nothing is easy,  
16 but we certainly want to talk to them to see what ideas  
17 they might have for how we can improve.

18 CHAIR MARCUS: Okay. I just have a number of  
19 issues I'll follow up with you on. Folks raised some  
20 interesting questions. I'm going to want to go dive back  
21 into the justification and the document and what more we  
22 need or how we might change it. It was a very helpful  
23 conversation to hear.

24 Hopefully people found it helpful to hear all  
25 the different views from all sides where people feel very

1 strongly. We actually just have a challenging resource  
2 issue to figure out how to deal with. And dealing with  
3 it through folks coming together and coming up with  
4 solutions that include flow and non-flow alternatives.  
5 On the one hand, to say it has nothing to do with flow I  
6 think is wrong. To say it has everything to do with flow  
7 is wrong, although flow influences all those other  
8 things. And we need to figure out how to create the  
9 right balance and right conditions. So that'll be an  
10 ongoing conversation that we need to have and keep  
11 constructing.

12 MS. D'ADAMO: I have just one comment.

13 CHAIR MARCUS: Please.

14 MS. D'ADAMO: So I really appreciate -- of  
15 course, the audience has dwindled, understandably so --  
16 but really appreciate all the comments today and think  
17 that we got a good flavor for what's going on in San  
18 Joaquin County.

19 CHAIR MARCUS: It was helpful.

20 MS. D'ADAMO: Very. It's interesting because  
21 when I used to work for Congress it was not a happy thing  
22 when the Congressional District got remapped, so that we  
23 ended up with San Joaquin County. Because when you get  
24 water issues in San Joaquin County that means you have  
25 every single water issue that exists.

1 CHAIR MARCUS: Oh, yeah that's right.

2 MS. D'ADAMO: All in your Congressional  
3 District. It's easier when you're representing just the  
4 east side or the west side, so we got a good flavor of  
5 that that.

6 One thing that I was surprised it didn't come  
7 out today, and that is just to flag it for everyone, is  
8 that there's another district. It's a water conservation  
9 district, Central San Joaquin Water Conservation  
10 District, that does receive a piece of that contract  
11 water from the Bureau.

12 CHAIR MARCUS: Yeah. It got mentioned, but  
13 there weren't --

14 MS. D'ADAMO: Yes. So the important thing  
15 about that district in particular is that this is a  
16 groundwater district. And it only really was formed so  
17 as to encourage farmers to utilize surface water  
18 supplies. And we see that throughout. All of the  
19 irrigation districts have these conjunctive use programs  
20 where they're really encouraging growers to use surface  
21 supplies, even though they have groundwater supplies, so  
22 that they can hold off on groundwater and just use it  
23 during periods of drought.

24 But San Joaquin in particular, and I think that  
25 Stockton East did a good job on this, but San Joaquin

1 County, in particular, has that very unique issue with  
2 groundwater and that's the saltwater intrusion.

3 CHAIR MARCUS: Absolutely.

4 MS. D'ADAMO: Yeah. And so I know that I've  
5 seen charts that show how groundwater quality because of  
6 these various district programs has really improved. And  
7 so I was a little disappointed that we didn't hear from  
8 them. Maybe they'll show up at one of the other  
9 hearings, but I did want to flag that it's not just  
10 Stockton East. And I've been kind of gathering my own  
11 information on how many growers, how much land we're  
12 talking about. It is quite a large region.

13 CHAIR MARCUS: All right. Well, there's more  
14 that could be said or discussed, but I really just want  
15 to thank you all for your participation today, including  
16 folks that are listening over the Web.

17 The hearing will reconvene at 9:00 a.m. on  
18 Monday, December 19th in Merced at the Merced Theater.  
19 Additional information, including times and locations, is  
20 available in the Third Revised Notice.

21 I want to thank staff for their attention as  
22 well. And thank you to the court reporter and the  
23 video/audio crack team for helping us today, it went very  
24 smoothly and we appreciate it greatly.

25 Drive home safely all, thank you for your time.

1 (Whereupon, at 5:26 p.m., the hearing was adjourned, to  
2 be continued on Monday, December 19, 2016, at 9:00 a.m.)

3 --o0o--

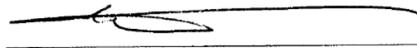
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**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 16th day of December, 2016.



---

PETER PETTY  
CER\*\*D-493  
Notary Public

**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 24th day of January, 2017.



Myra Severtson  
Certified Transcriber  
AAERT No. CET\*\*D-852