

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))
_____)

VOLUME I

PUBLIC HEARING

Merced Theatre
301 W. Main Street
Merced, CA 95340

Monday, December 19, 2016

9:00 a.m.

Reported by:
Peter Petty

APPEARANCES

Board Members Present:

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

Staff Present:

Thomas Howard, Executive Director
Eric Oppenheimer, Chief Deputy Director
Les Grober, Deputy Director of Water Rights
Will Anderson, Water Resources Control Engineer
Jason Baker, Staff Services Analyst
Tina Leahy, Senior Staff Counsel
Erin Mahaney, Senior Staff Counsel
Yuri Won, Senior Staff Counsel
Daniel Worth, Senior Environmental Scientist

Public Comment (Volume I):

Anthony Cannella, Senator, 12th Senate District
Adam Gray, Assembly Member, 21st Assembly District
Bill Lyons, Former Secretary of Agriculture
Larry Morris, District Attorney, Merced County
Dave Long, President, Merced Irrigation District
Bob Giampaoli, Le Grand Community Services Water District
Scott Koehn, Vice President, Merced Irrigation District
Jim Price, Mayor, City of Atwater
Daron McDaniel, Supervisor, Merced County
Barbara Levey, Assessor, Merced County
Mike Murphy, Mayor-Elect, City of Merced
Paul Creighton, Council Member, City of Atwater
Steve Tietjen, Superintendent, Merced County
Tony Dosetti, Council Member, City of Merced
Scott Silveira, Council Member, City of Los Banos
John Pedrozo, Supervisor, Merced County
Josh Pedrozo, Mayor Pro Tem, City of Merced
Jerry O'Banion, Supervisor, Merced County
Patricia Ramos-Anderson, Santa Nella County Water
District
Anthony Martinez, Council Member, City of Merced
Alex McCabe, Council Member, City of Livingston
Rodrigo Espinoza, Supervisor-Elect, City of Livingston
Jim Costa, Congressman, 16th Congressional District

APPEARANCES (Cont.)

Public Comment: (Volume 1 Cont.)

Michael Belluomini, Councilman, City of Merced
Lloyd Pareira, Supervisor, Merced County
Deidre Kelsey, Supervisor, Merced County
Cole Upton, Chairman, Chowchilla Water District
Robert Kelley, General Manager, Stevinson Water District
John Sweigard, General Manager, Merced Irrigation
District
Phil McMurray, General Counsel, Merced Irrigation
District
Lee Bergfeld, MBK Engineers
Hicham ElTal, Deputy General Manager, Merced Irrigation
District
Jim Lynch, Merced Irrigation District
John Larson
Jeff Marquis, Board Member, Merced Irrigation District
David Ortiz
Tim Goodson, Calaveras Trout Farm
Jasmine Flores, Atwater FFA
Dan Dewees, Advisory Committee Member, Merced Irrigation
District
Jeff Hawks
Gary Tessier
Martin Gothberg
Roger Wood
Marcus Metcalf
Helio Brazil, Superintendent, McSwain School District
Diana Westmoreland Pedrozo
Susan Walsh, Merced College
Rose Marie Burroughs
Nicola Adams

Public Comment (Volume II):

Hubert Walsh, Chairman, Board of Supervisors, Merced
County
Ron Rowe, Merced County Public Health Department,
Division of Environmental Health
Scott Stoddard, UC Cooperative Extension
Stan Feathers, General Manager, Delhi County Water
District
Steven Gomes, Superintendent of Schools, Merced County
Joe Scoto, Merced Farm Bureau
Gino Pedretti, III
Simon Vander Woude

APPEARANCES (Cont.)

Public Comment: (Volume II Cont.)

Tony Toso
Breanne Ramos
George Burkhardt
Doug Forte, Kellogg Supply
Dr. Michael Martin, Merced River Conservation
Fernando Aguilera, Merced Soccer Association
Steve Bertram
Dr. Luke Miller, Vierra Dairy Farms
Alan Peterson, Merced County
Spreck Rosecrans, Restore Hetch Hetchy
Brad Samuelson, Best Crane Orchard
Tom Roduner
George Park, Love Tree Mutual Water Company
Mike Plum, McClure Boat Club
John Borba, Jr.
Frenchy Meissonnier
Allison Jeffery
Tim O'Laughlin, San Joaquin Tributaries Authority
Dennis Yotsuya, Water District
Sonia Diermayer
Robert Dylina, Merced Chamber of Commerce
Loren Scoto
Andrew Skidmore
Jason Scott
Scott Ruduner
Mary Michel Rawling, Golden Valley Health Centers
Adam Shasky
Maxwell Norton, Central Valley Farmland Trust

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P R O C E E D I N G S

DECEMBER 19, 2016 9:09 A.M.

CHAIR MARCUS: We are 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, to my left is Vice Chair Frances Spivy-Weber. To my right, Board Member Tam Doduc. And to her right, Board Member Steven Moore will be here, but he will be here a little late. As with many people throughout California, we've been felled by the bad cold going around. And Steve was our latest victim, but he felt better this morning so he's coming in.

But unfortunately, Board Member Dorene D'Adamo, who many of you know, having represented congressional offices in this area for many, many years, who is a wonderful and dedicated public servant, is just too sick to get here today, so

1 she'll be watching on the webcast. And she wish
2 her well and wish we could send her Kleenex and
3 all our cough drops that we have to share. And
4 we have cough drops for all, if anyone needs
5 them. So my apologies, but important for us to
6 be here. But she is definitely listening.

7 There are also other State Water Board
8 staff in the front and the back of the room to
9 provide assistance as needed.

10 I have a number of general announcements
11 I need to make at the beginning, and some of them
12 are procedural and some are going to provide some
13 context to start us off, before I turn to staff
14 for an overview.

15 First, some general announcements.

16 Of course, please look around now and
17 identify the exits closest to you. If you hear
18 an alarm, of course, we'll evacuate -- oh, good,
19 it opened -- we'll evacuate the room immediately.
20 Please take your valuables and your friends with
21 you. Walk to the nearest exit and follow
22 facility staff direction to evacuate the
23 building. If you need assistance, please inform
24 facility staff and someone will assist you.

25 Today's hearing date is being webcast and

1 recorded. So when speaking, please use the
2 microphone and begin by stating your name and
3 affiliation.

4 A court reporter is present today and
5 will prepare a transcript. There he is. You can
6 just see his back. He's charming. He'll turn
7 around at some point. He'll prepare a transcript
8 of the entire proceeding. The transcript will be
9 posted on the State Water Board's Bay-Delta Phase
10 website as soon as possible. And if you'd like
11 to receive the transcript sooner, please make
12 arrangements with the court reporting service
13 during one of the breaks or after the hearing
14 day.

15 As a reminder, today is day three of five
16 days of hearing on the adequacy of the SED. Day
17 one of the hearing was held in Sacramento on
18 Tuesday, November 29th. Day two of the hearing
19 was in Stockton on Friday. Day four of the
20 hearing will be in Modesto, tomorrow. And the
21 hearing will conclude with day five in Sacramento
22 on Tuesday, January 3rd.

23 Additionally, for planning purposes,
24 please be aware that the hearing days could be
25 very long days, since we do want to hear

1 everyone's comments. We find it extremely
2 helpful. We're going to take a short break in
3 the morning and a short break in the afternoon,
4 or as needed for the court reporter. We're also
5 going to take a lunch break which may well be
6 less than an hour, but it will be at least 30
7 minutes to give you time to get food. We expect
8 to continue into the early evening or beyond, if
9 necessary, and will take another break
10 accordingly for that.

11 Finally and most important, please take a
12 moment to turn off, mute or set your cell phones
13 or other noise-making devices on stun. Even if
14 you think it's already off or muted, please take
15 a moment to double check.

16 I know we're eager to get started, but I
17 need to provide some background information on
18 how the hearing will be conducted, and
19 information regarding the order of proceeding.
20 Please bear with me through this opening
21 statement. This statement is being read at the
22 beginning of each day of the hearing.

23 This hearing is being held in accordance
24 with the September 15th, 2016 Notice of Filing
25 and Recirculation, Notice of Opportunity for

1 Public Comment and Notice of Public Hearing on
2 Amendment to the Water Quality Control Plan for
3 the San Francisco Bay/Sacramento-San Joaquin
4 Delta Estuary and Supporting draft revised
5 Substitute Environmental Document and subsequent
6 revised notices issued on October 7th, 2016,
7 October 18th, 2016, and December 9th, 2016.

8 The purpose of this hearing is to provide
9 the public and opportunity to comment on the Plan
10 Amendment and on the adequacy of the SED. The
11 Board will not take formal action on the Plan
12 Amendment and the SED at the close of this
13 hearing on January 3rd. Rather, Board action
14 will occur at a later noticed Board hearing,
15 during which time the Board may reopen the
16 hearing to allow for more comments on any
17 potential revisions to the Plan Amendment or as
18 required by the Board's CEQA regulations. The
19 Final SED will likely be released in the Summer
20 of 2017, depending on the comments received.

21 The December -- the September 15th notice
22 required joint presenters who would like more
23 than three minutes to present their comments
24 jointly to make their requests by noon on October
25 14th, which was subsequently extended to noon on

1 November 4th, 2016. Based on the requests
2 received, staff prepared a draft Order of
3 Proceedings which was sent to the Bay-Delta
4 notice email distribution list on November 18th,
5 2016.

6 Additionally, the draft Order of
7 Proceeding was posted on the Water Board's Bay-
8 Delta website. A revised draft Order of
9 Proceedings dated December 6th, 2016, was posted
10 on the Water Board's Bay-Delta website on
11 December 14th, 2016.

12 Accordingly, we'll begin with any opening
13 comments that my fellow Board Members would like
14 to make. We'll then hear an abbreviated
15 presentation from staff. Following the staff
16 presentation, we'll hear from elected officials,
17 followed by public comment.

18 As we allow and as I mentioned, some
19 groups asked to present panel presentations.
20 Rather than taking them all first before the
21 public comments as we did at the initial hearings
22 in 2013, we are going to alternate panels and a
23 series of public commenters to enable individual
24 commenters to begin earlier in the day. We take
25 them in the order in which they were filed. So

1 if you'd like to speak, please fill out a blue
2 card. And please do it early in the day so that
3 we can have an assessment of how many speakers we
4 will have.

5 Undoubtedly, we'll have more people who
6 arrive later in the day. But I want to be able
7 to let folks who came in and need to get back to
8 work or back to home, or wherever they'd like to
9 go, the opportunity to be able to speak and then
10 get on with their day, if that's what they choose
11 to do.

12 There will be no cross examination. Per
13 the hearing notice, participants are limited to
14 three minutes, unless otherwise allowed by the
15 draft Order of Proceedings, which basically means
16 I'll count the speaker cards and try to get a
17 sense of how much time we have in the day. As I
18 said, we'll go into the early or later evening,
19 if we need to, to hear from everyone. But we'll
20 start with three minutes per person. And we
21 found that if we need to, we can then cut it to
22 two.

23 You can -- generally, in these comments,
24 oral comments, it's important to give us a
25 focused comment on what it is we should be

1 looking for as we read all the comments and we
2 listen to everybody else and we review the staff
3 draft. And it actually is very, very helpful to
4 us. And a targeted two minutes can give us just
5 as much direction as three. But I like to let it
6 go to three because that's a more comfortable
7 time frame if the number of cards allow. But we
8 might cut it to two, or even one, if necessary,
9 to enable more speakers to speak and be able to
10 get home.

11 If you need to need earlier, let the
12 staff know. If I get a flood of them, I really
13 can't do it because it's not fair to the people
14 who came in line. But really, generally, we just
15 have a few people and people are accommodating of
16 letting them go sooner, so they can get back to
17 somewhere they need to be.

18 Speakers are limited to one opportunity
19 to speak during the course of the five-day
20 hearing. We do read your comments, and I do
21 recommend submitting them. We really have found
22 that focused comment on what you really want us
23 to bear in mind is actually quite effective.

24 As I noted, we'll allow a number of
25 groups requesting to speak as panels at each of

1 the hearings. They vary in number and approach.
2 Our hearing tomorrow is perhaps the most
3 challenging in terms of the number of panels.
4 But in all cases, we've shortened the time
5 requested to enable us to hear from more of the
6 general public commenters.

7 For today the joint participant groups
8 that requested to speak as panels with additional
9 time are the Merced Irrigation District with 45
10 minutes, Merced County with 30 minutes, the San
11 Joaquin Tributaries Authority with 30 minutes,
12 and Restore Hetch Hetchy with 10 minutes.

13 I ask that one representative from each
14 of those panels also fill out a speaker card and
15 list all your speakers on it. If you think
16 you're going to need less time than was agreed
17 upon, please note your new estimated time on the
18 card and know that you will please the people
19 sitting behind you very much. Please be ready to
20 present your comments when you are called.

21 All right, a few points about the hearing
22 I need to emphasize.

23 First, please keep your comments limited
24 to the purpose of this hearing, which is to
25 comment on the Plan Amendment and the SED. We

1 haven't had that many people stray from it. But
2 a number of folks have wanted to comment on the
3 WaterFix proceedings. That is something we
4 cannot take comment on or hear comment on because
5 it is an evidentiary adjudicatory quasi-judicial
6 hearing. And so please reserve those comments
7 for the duly noticed WaterFix proceedings.

8 Second, we're required to respond to the
9 oral comments we receive during the hearing.
10 However, staff will not respond to oral comments
11 today. Board staff will prepare written
12 responses to comments on the Plan Amendment and
13 all significant environmental issues raised
14 orally and in writing, prior to the Board taking
15 final action in the next year.

16 Third, while I or the Board Members may
17 ask staff for clarification or information in the
18 Plan Amendment and the SED as we did,
19 particularly at the first hearing, responses to
20 your comments will not occur during this hearing.
21 We have had and will have, continue to have
22 opportunities to speak with people outside the
23 hearing, and that is extremely valuable to us.

24 But in the interest of hearing what folks
25 have come here to say, we can't have a

1 conversation with each of you, as much as we
2 might like to. And we actually can't -- we
3 could, but we've chosen not to spend a ton of
4 time having staff clarify or talk about things in
5 the interest of really prioritizing hearing from
6 all of you. It's just a tradeoff, and we will
7 undoubtedly get back to it in future hearings. I
8 think it might be helpful. But again, I want to
9 have us be able to get to your comments and hear
10 from you, since you've come here today to meet
11 with us, and we appreciate that.

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

21 Finally, I realize that after all the
22 presentations are heard, some of you might feel
23 the need and the desire to respond to what others
24 have said. And we can't provide people an
25 opportunity for rebuttal of these comments in the

1 hearing for the reasons I said earlier. If you
2 have additional comments, though, after your turn
3 to speak at this hearing, you may also give us
4 that comment in writing by the January 17th, 2017
5 noon deadline, as stated in the second revised
6 notice.

7 And then finally, a little bit of
8 context. We're here today to hear input on an
9 SED and a staff proposal for updating the Board's
10 Bay-Delta Plan. The staff proposal calls for
11 updated flow requirements for the San Joaquin
12 River and its major tributaries and updated
13 salinity requirements for the southern Delta.

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

21 We're also in a separate process to deal
22 with the rest of the system, including the
23 Sacramento River and the rest of the Delta, both
24 inflows and outflow. That's known as Phase 2 and
25 is in process, as well.

1 The Bay-Delta Plan lays out water quality
2 protections to ensure that various water uses,
3 including agriculture, municipal use, fisheries,
4 hydropower, recreation and more, are protected.
5 In establishing these objectives, the State Water
6 Board must consider and balance all beneficial
7 uses of water, not pick one and discard the
8 others, as many people would like us to.

9 We know that flow is a key factor in the
10 survival of fish like salmon. But the flow
11 objectives for the San Joaquin River have not
12 been updated since 1995 significantly and since
13 that time, salmon and steelhead have declined.
14 We also know that there are other factors,
15 important factors affecting the fishery, such as
16 degraded habitat, high water temperatures, and
17 predation.

18 Staff is going to provide a short
19 overview of their proposal today. As I said, in
20 order to provide more time to hear public
21 comment, today's staff presentation is a shorter
22 version of the presentation given on day one,
23 November 29th, in Sacramento. That full
24 presentation is available on our website, if
25 you'd like to take a look at it.

1 As I said, they proposed higher flows on
2 each of the tributaries. They have also,
3 however, proposed an implementation program that
4 embraces adaptive management and will accommodate
5 stakeholder settlements that can provide even
6 greater benefits to the ecosystem than flow
7 alone.

8 The proposed range is less than the 60
9 percent recommended in the Board's 2010 Flow
10 Criteria Report, but still represents a
11 significant increase over the current conditions.
12 Some have already argued in our hearings and
13 before our hearings that the proposed range is
14 too low to improve conditions for fish
15 adequately, while others, understandably, are
16 adamant that it's far too high and that the
17 impacts on agricultural communities are far too
18 great. Our challenge, kind of in the middle, is
19 to navigate all of those strong feelings, look at
20 data and try to find the best answer we can.

21 Unfortunately, there's a lot of
22 misinformation and misunderstanding about the
23 staff proposal out there, whether about its
24 provisions or its intent, that's created a lot
25 more heat than light. And it saddens me to see

1 that because these issues are really hard enough
2 to deal with based on the real facts and intent,
3 let alone those that are just mistaken or
4 manufactured. So I see and hear the pain in the
5 comments we've received already from both sides.
6 Much of it is based on misunderstandings or
7 misrepresentations of what staff is actually
8 proposing, and we'll have to do a better job
9 explaining it. But we also need to do a better
10 job listening and adjusting it, hopefully with
11 your help.

12 In the end, as I said, the Board's job is
13 to establish objectives that provide reasonable
14 protection of the fishery and to balance that
15 with the other uses important to all
16 Californians, including agricultural and
17 municipal uses. And we want to provide an
18 opportunity for people to come together to
19 propose better ways to meet those objectives by
20 working together to restore habitat, to manage
21 the flows, to deal with predation and other
22 things. And I know a lot of people are working
23 on that, and we appreciate it greatly. When
24 people do that well, we actually have a track
25 record of accepting good alternatives, so please

1 help us do that.

2 Critiques are absolutely helpful, they're
3 warranted, and we're listening. But what helps
4 the most is to suggest how we can actually
5 improve on the proposal to meet everybody's needs
6 better.

7 Our first two hearings were lively,
8 informative and helpful, a lot of disagreement,
9 but also a lot of suggestions and a lot to
10 consider, and we really appreciate the time
11 people have taken.

12 So thank you for your patience and for
13 your attentiveness, and for joining us today.

14 Next we'll hear a short staff
15 presentation from the Division of Water Rights'
16 staff and Les Grober, the Deputy Director for
17 Water Rights, will lead the staff's presentation.
18 And then we'll move on to the elected officials,
19 who are with us today.

20 With that, Les?

21 MR. GROBER: Thank you, Chair Marcus, and
22 good morning, Chair Marcus, Board Members, and to
23 everyone who has come here on this brisk morning.
24 I'm happy to provide this information.

25 I'm joined here today at the staff table

1 by, on my far left, Tom Howard, Executive
2 Director, and to my left, Erin Mahaney, Senior
3 Staff Counsel, to my right, Dan Worth, Senior
4 Environmental Scientist, Will Anderson, Water
5 Resource Control Engineer, and Jason Baker, Staff
6 Service Analyst.

7 So as Chair Marcus said, I have a very
8 brief presentation. If you're interested in
9 getting the longer presentation, about two hours
10 on the first day of the hearing, it's available
11 on our website. We also have all of the
12 workshops that have been held are available on
13 our website to view where more detailed questions
14 were asked and answered.

15 So the project we're talking about here
16 today is to update two elements of the Water
17 Quality Control Plan for the Sacramento and San
18 Joaquin River Bay-Delta Estuary. One is the San
19 Joaquin River flow objectives for the reasonable
20 protection of fish and wildlife. And the other
21 is for southern Delta salinity objectives for the
22 reasonable protection of agriculture. I'm
23 emphasizing that reasonable word because that's
24 really what we're here talking about today, is
25 that you can provide information to build on the

1 staff report that is trying to determine that
2 reasonableness in terms of the tradeoffs for
3 doing these things. And then finally, it
4 includes the Program of Implementation to
5 implement each of these elements.

6 A simple map to get us oriented to see
7 where we're talking about doing these things.
8 This shows on the east side, there, of the San
9 Joaquin River the three major salmon-bearing
10 tributaries from south to north, the Merced, the
11 Tuolumne and the Stanislaus river. Those are the
12 tributaries for which we're proposing to
13 establish those flow objectives. And then moving
14 north and to the north and west of Vernalis,
15 that's the area of the southern Delta where we're
16 proposing two new salinity objectives for
17 agriculture.

18 So before I describe the Plan in a little
19 bit more detail, I want to cover four key points,
20 and kind of building on what Chair Marcus had
21 said.

22 The first point is that the Plan is out
23 of date, which is why we're doing this. The Plan
24 was last updated, that Water Quality Control Plan
25 I referred to, 21 years ago in 1995. And since

1 that time, we have new information, changing
2 conditions. Species have been declining. We
3 identified the need for the update in a minor
4 update to the Water Quality Control Plan ten
5 years ago, in 2006. And since that time, and
6 it's been in the news, we've had Endangered
7 Species Act concerns which have put limits on the
8 amount of water that is pumped from the Delta,
9 but also that effects operations in the
10 Stanislaus River. So the Plan is intended to
11 provide really a framework for moving forward.

12 This is also important to the
13 Administration. It's part of the
14 Administration's California Water Action Plan.
15 And it's for the attainment of those co-equal
16 goals of a reliable water supply and for
17 protecting, restoring and enhancing the
18 ecosystem.

19 So immediately, another question that
20 arises is: Why are we focusing on flow?

21 Well, scientific studies have shown that
22 that is the major factor that is important for
23 the success of salmon and other species for
24 protection of that fish and wildlife resource.
25 There's many benefits to flow, and many that are

1 identified in the document that we'll be talking
2 about. The most direct ones are improvement of
3 temperature conditions, but also the enhancement
4 of floodplain. And flow is the factor that then
5 therefore effects many other things. It effects
6 the risk of disease. It effects, ultimately, the
7 resiliency of the species, the ability of species
8 to succeed and survive.

9 That being said, the Board is very
10 mindful, and the report includes a lot of
11 information about what you can also achieve with
12 non-flow measures. You can get at some of these
13 things directly. How do you directly provide
14 additional habitat? How do you directly control
15 predation and things like that?

16 So let me show you why flow is important,
17 and specifically why it's important in the San
18 Joaquin River.

19 This chart shows the difference between
20 two time periods, the time before 1992 and the
21 time after 1992. And it shows the adult fall-run
22 Chinook salmon returns, the returns of salmon to
23 major tributaries in the Central Valley. So you
24 can see a whole number of tributaries listed.
25 And on the far right, it's showing the three that

1 I had referred to, the Merced, the Tuolumne and
2 the Stanislaus. Those are the three tributaries
3 that are doing worst of all the Central Valley
4 tributaries. And that's in large part because of
5 the reduced flows.

6 This other chart is showing two different
7 things on the y axis, the vertical axis. On the
8 left side, it's showing escapement. That's
9 basically the number of returns of adult salmon
10 to the San Joaquin River tributaries. And on the
11 right side, it's showing what was the flow two-
12 and-a-half years before. Because salmon
13 generally has a life cycle where salmon return
14 about two or three years later. And what this is
15 showing is that there's a very high correlation,
16 when we have high flows we have high returns.

17 It's, of course, much more complicated
18 than that, but that's really showing the
19 foundation of why flow is so terribly important.
20 When we have higher flow, we have higher returns.
21 And we simply haven't had conditions in many
22 years to do that, especially in the lower flow
23 years, the lower rainfall runoff years.

24 The third key point is that it's very
25 clear to us and why we're here today to hear from

1 all of you, this is a hard thing to do. We
2 prepared a report back in 2010, this thing called
3 the Flow Criteria Report. This was in response
4 to a directive in the 2009 Delta Reform Act that
5 directed the Board to prepare a report that was a
6 purely technical assessment. It was just looking
7 at the science of saying, well, if you wanted to
8 protect salmon, what's the kind of flow that you
9 would need? And that flow -- that report
10 determined that you would need 60 percent of
11 unimpaired flow. And when I say unimpaired flow,
12 that's a measure of the total quantity of water.
13 And what we're looking at is for that February
14 through June period. So it's saying you need 60
15 percent of that to provide protection of fish and
16 wildlife.

17 But that report didn't look at all the
18 competing uses of water. It didn't look at how
19 else water is being used in the basin. Currently
20 in the basin, agricultural uses, drinking water,
21 others, hydropower, things in terms of how it's
22 operated, the system, accounts for 80 percent or
23 more. In some months and some years there can be
24 less than ten percent of the flow that would
25 otherwise occur in rivers. That's what's left in

1 the river. And that's been far less than optimal
2 for the protection of fish and wildlife.

3 So unlike that 2010 report, what we're
4 doing now is doing that additional very hard
5 part. We're doing that balancing. We're saying
6 what are the costs? What are the effects on
7 these other uses of water if we were to direct
8 more of it towards fish and wildlife during that
9 critical February through June period? So it's
10 aiming to strike a balance.

11 For a variety of reasons, because there's
12 uncertainty, also we want to be responsive to
13 changing conditions, must most importantly, we
14 want to provide opportunity to do things using
15 non-flow measures, the proposal is crafted in the
16 form of a 30 to 50 percent range, saying, well,
17 if we don't have anything else that's helping
18 direct control of habitat, things like that, we
19 might need something in the higher end. But if
20 we can do things, like provide habitat and other
21 measures to achieve the goal of protecting
22 salmon, you could operate at the lower end of
23 that. But the proposal is proposing a starting
24 point of 40 percent. But any way you look at it,
25 this is a big increase.

1 Though it's a big increase per that 2010
2 Flow Criteria Report, it's less than what the
3 science shows is needed if you weren't
4 considering these other things. It's less than
5 fishery interests, the fish agencies, would want,
6 environmental organizations would want. It's
7 less than the science shows is needed if you
8 weren't considering things. That being said,
9 it's a lot more than what people in this area and
10 many interests would want because it's going to
11 mean more water that has to be directed towards
12 fish and wildlife and less for things like
13 agriculture.

14 But this is one of the core things that
15 the Board has to do. It has to make these tough
16 decisions. It has to do this balancing. And
17 that's why we're all here today is for you to
18 comment on the information that staff has
19 prepared to inform that tough decision, that
20 balancing.

21 A key element, this is the fourth point,
22 a key element of this proposal, and part of the
23 reason for that 30 to 50 percent range, is for
24 this to be successful, we're looking to folks in
25 this room, in this area to help inform how we

1 would do adaptive implementation. How do we be
2 smartest in terms of how we operate with the
3 smallest quantity of water?

4 With the people in this room and with the
5 fish agencies and others, we're looking for
6 durable solutions to achieve the goals of fish
7 and wildlife protection and getting the biggest
8 bang for our buck. State Water Board is leading
9 this effort for this proposal here, and also,
10 we're doing Phase 2. Some of you are familiar
11 with looking at flow objective as another part of
12 the Bay-Delta Plan. At the same time, the
13 California Natural Resources Agency is
14 spearheading the effort to try to achieve a
15 settlement to achieve those durable solutions
16 that can be a win-win.

17 So let me now describe what the proposal
18 is. Before describing the proposal, I'm going to
19 describe what the current situation is. The
20 current San Joaquin River flow objectives are
21 just for one location. If you recall that map I
22 showed just a few moments ago, it's just for the
23 San Joaquin River at Vernalis, which means most
24 of the flows come from the Stanislaus River. And
25 they're much lower flows than are currently being

1 proposed, so it's less than optimal. It's in the
2 form of minimum monthly average flow rates, and
3 it has pulse flow requirements during a
4 particularly critical stage, an April-May pulse
5 flow. And since it's only at Vernalis, it only
6 has one responsible water right holder, the
7 United States Bureau of Reclamation.

8 In contrast, the flow proposal, as part
9 of this Substitute Environmental Document and
10 Plan Amendment, applies to the three salmon-
11 bearing tributaries, the Stanislaus, the Tuolumne
12 and the Merced. And it's a two-part. It has a
13 narrative objective, that's really the ultimate
14 goal, to maintain inflow conditions from the San
15 Joaquin River Watershed to the Delta at Vernalis,
16 sufficient to support and maintain the natural
17 production of viable native San Joaquin River
18 fish populations migrating through the Delta. To
19 add some rigor, it also then has that numeric
20 component. That's that 30 to 50 percent adaptive
21 range with a starting point of 40 percent.

22 That key element that I had mentioned a
23 few times already is that adaptive implementation
24 that allows adjustment within that 30 to 50
25 percent range so that you can manage it as a

1 block of water, again, to get the biggest bang
2 for the buck. It also allows shifting for time
3 periods outside of that February through June
4 period into the fall months to achieve
5 temperature goals, so you don't have redirected
6 temperature effects.

7 And it envisions the formation of a
8 working group, the Stanislaus, the Tuolumne and
9 Merced Working Group; and that could be what
10 really falls out of these voluntary agreements.
11 And that group would do a number of things. It
12 would do some of that adaptive implementation.
13 They would also develop biological goals, how do
14 you achieve that narrative objective of fish and
15 wildlife protection? And they would be
16 responsible for doing the planning, monitoring
17 and reporting.

18 The current salinity objectives are now
19 at four locations in the Delta; three interior
20 Delta stations, and one for the San Joaquin River
21 at Vernalis. They vary year-round now, 0.7 for
22 the irrigation season from April through August,
23 and 1.0 millimhos per centimeter for the rest of
24 the year, and based on the sensitivities of
25 various crops. And there are four specific

1 compliance locations.

2 In contrast, the proposal, based on
3 science that shows those are actually -- that 0.7
4 number is lower than what is needed to reasonably
5 protect all uses in the southern Delta, the
6 proposal is to change it to a year-round
7 objective of one deciSemen per meter year-round.
8 And that's the same as the unit of one millimho
9 per centimeter, it's just changing it to the
10 updated Standard International units.

11 And it also proposes to change three of
12 the interior southern Delta salinity compliance
13 locations to reaches, rather than individual
14 points. And that's after doing some analysis to
15 see, how do you better understand what the
16 salinity is in the southern Delta? Because
17 currently now, those three locations don't
18 necessarily best characterize what salinity is at
19 all locations. So it's intended to better
20 understand the variability of salinity and then
21 apply to a reach so there's greater assurance
22 that you're meeting the objective of 1.0 year-
23 round at all those locations. And to provide
24 assimilative capacity in the southern Delta, the
25 Bureau would continue to be responsible for that

1 0.7 seasonally, for April through August.

2 So it would also include a comprehensive
3 operations plan to better understand salinity at
4 all locations, monitoring and reporting, and that
5 study that I'd referred to, to better understand
6 the sources and the effects of salinity in the
7 southern Delta.

8 A major point to note is that these two
9 elements of the proposal go hand in hand, that
10 this increase in spring flows in that February
11 through June period have that added benefit of
12 generally improving salinity conditions at a
13 critical time in the southern Delta.

14 So a little bit about the effects of the
15 proposal.

16 First, this is a bar chart that shows on
17 the left side, an average of all year types, the
18 changes from the baseline, that's the darkest bar
19 to the left, and then for the 30, 40 and 50
20 percent of unimpaired flow, how instream flows
21 during that February through June period would
22 increase. And in general, that long-term average
23 for that February through June results in an
24 increase of 288,000 acre-feet per year, or 26
25 percent. The percent increase is bigger in those

1 critical dry and dry years, as you can see on the
2 far right, which is what's particularly important
3 to fish and wildlife.

4 So the benefits of the proposal are to
5 restore some of the pattern and some magnitude of
6 the flows to which the species adapted. And it's
7 not just about the flow, it's about what the flow
8 does. It improves temperature conditions and it
9 improves habitat conditions.

10 Here are just a couple of charts to show
11 you how that happens.

12 This is a very simple chart just showing
13 the average temperature for one tributary, for
14 one month, for one year. And looking at it from
15 right to left from the dam at La Grange on the
16 Tuolumne River to the confluence of the San
17 Joaquin River, the lower line shows the
18 temperature that would be achieved under the 40
19 percent alternative. The solid line above it,
20 about ten degrees warmer at the mouth, is the
21 baseline condition. So there's significant
22 temperature improvements that can be achieved by
23 increasing the flows during this critical period
24 for various life stages.

25 This chart shows the improvement in

1 habitat conditions. Again, looking at some of
2 the critical times, the species do worst during
3 the low-flow years. So during below normal, dry
4 and critical years, this is showing in blue, you
5 can hardly see the numbers, but it shows that
6 there's very little habitat in terms of acreage
7 and days in those years for any of those years,
8 and a marked improvement under the 30, 40 and 50
9 percent of unimpaired flow. So a lot more
10 habitat and a lot bigger temperature improvements
11 translates to success and improvement of the
12 species.

13 But this, of course, then has the water
14 supply impact. This is showing over the overall
15 area the water supply effect of the 40 percent of
16 unimpaired flow within the plan area by water
17 year type. On the far left side, again, is for
18 all year types. And it shows, there's an overall
19 long-term average 14 percent reduction that
20 occurs.

21 But that -- we've received a lot of
22 comment about concerns about we present just
23 averages. But we actually present a lot of
24 information in the report. Many of these
25 overviews just provide kind of like here's the

1 bottom line. But the report is quite mindful of
2 the effects that occur during critically dry
3 years. And you can see on the far right, it's
4 actually a 38 percent reduction from an already
5 reduced water supply in those critically dry
6 years, as well as reduction during dry years.

7 And this is just a series of charts
8 showing the specific effect on each of the
9 tributaries. This is for the Stanislaus.
10 Because it's starting with somewhat higher flows
11 the effect is somewhat reduced, but there's still
12 an effect on the Stanislaus, similarly on the
13 Tuolumne and, finally, the Merced.

14 So the full wrap in terms of what are the
15 effects of this proposal, implementing the 40
16 percent flow proposal would result in a 14
17 percent of reduction, or an average of 293,000
18 acre-feet per year reduction in the water that's
19 available for surface water diversion, and that
20 actually varies. It would be a little bit
21 smaller under the 30 percent, remember, it's a
22 range of 30 to 50 percent, to higher, to 23
23 percent reduction at the 50 percent unimpaired
24 flow.

25 Because the report, looking at past

1 response to shortages of water, we estimate that
2 there would be increases in groundwater pumping,
3 and the average would be about 105,000 acre-feet
4 per year. And in the end, there would still be,
5 even with that increase in groundwater pumping,
6 there would be an increase in unmet agricultural
7 demand. And we've looked at it in a couple of
8 different ways at different levels of groundwater
9 pumping. But even at higher rates of groundwater
10 pumping, 2014, which we don't think is likely
11 sustainable, there would be still unmet demand of
12 69,000 acre-feet per year, bigger and critically
13 dry years. And 137,000 acre-feet a year based on
14 the less unsustainable levels of 2009 rates of
15 groundwater pumping.

16 And all of this leads to, in our economic
17 analysis, to a two-and-a-half percent reduction
18 from baseline annual average ag economic sector
19 output of \$2.6 billion, a \$64 million per year
20 reduction, with lots more details about the
21 variation between years in the report.

22 So the ultimate effects of the flow
23 proposal are: it will affect the surface water
24 supply, which in turn will effect groundwater
25 resources, increased groundwater pumping, and

1 reduce recharge, resulting in lower groundwater
2 levels. This will have an effect on agriculture.
3 It will change cropping patterns, reduce
4 irrigated acreage, reduce agricultural revenue.
5 And it will effect drinking water supplies, and
6 there will be a need to construct new wells,
7 deepen existing wells. And it will effect
8 groundwater quality.

9 There's much more detail in previous
10 presentations, and even more detail than that in
11 all of the staff reports that are available
12 online. We are now in midway through our five
13 days of hearing here today, December 19th; one
14 more day tomorrow in Modesto; and then the final
15 day, January 3rd, back in Sacramento. Comments
16 are due January 17th. We expect then, depending
17 on the length of time, we anticipate getting out
18 a response to comments and anticipated final
19 draft in May. It depends on the number of
20 comments that we received. And anticipate
21 adoption sometime this summer.

22 And with that, this final slide shows --
23 on the bottom it shows the URL of which you can
24 get more information, including the longer staff
25 presentations, in more detail.

1 And that concludes my staff presentation.

2 CHAIR MARCUS: Thank you. Excuse me.

3 Thank you very much, Les, appreciate that. And I
4 know that you've done a lot of work to respond to
5 some of the questions that we had for you the
6 first time. And I'm sorry, we're not going to
7 take the time to go over them all today, but we
8 do have a roomful of folks, so I want to try and
9 hear from them.

10 As is our practice, we are going to hear
11 first from elected officials, and we have 26 of
12 them, just so that folks, you can get
13 comfortable, in case you thought you might be up
14 right away. And we appreciate hearing from them,
15 so we look forward to it.

16 Congressman Costa will be with us. He's
17 been working on these issues for decades. But I
18 believe he won't be here until around 10:30, and
19 so we'll take him when he arrives.

20 I'm going to give you three in order so
21 that folks can be ready to come up to the
22 microphone. Again, I'm sorry about the
23 placement. We just didn't want to -- if
24 everybody keeps coming up and down the stairs, it
25 will take a lot more time.

1 So first, we will have Senator Anthony
2 Cannella, followed by Assemblyman Adam Gray,
3 followed by Bill Lyons, the Former Secretary of
4 Agriculture.

5 Hi. Good morning.

6 SENATOR CANNELLA: Good morning, Madam
7 Chairman, Members.

8 First of all, I want to thank you for
9 being here in Merced. That has been one of our
10 criticisms, that you haven't reached out to the
11 communities in person that are going to be
12 effected. So I appreciate your --

13 CHAIR MARCUS: It was a good suggestion.

14 SENATOR CANNELLA: -- being here today
15 and being in Stanislaus tomorrow.

16 I also want to thank you for extending
17 the time period, although we think it's not
18 nearly enough. I know that you have extended it
19 at our request, and I very much appreciate that.
20 Because as you can see by this crowd, and I think
21 you'll see tomorrow, as well, we're very
22 concerned.

23 So in the interest of time, I do have
24 some prepared remarks. I don't want to --

25 CHAIR MARCUS: Please.

1 SENATOR CANNELLA: -- take anybody else's
2 time. So --

3 CHAIR MARCUS: Please.

4 SENATOR CANNELLA: -- I spoke on this
5 very issue three years ago. And here we are
6 today, fighting the same fight. Your proposal to
7 dedicate 40 percent unimpaired flow to fish and
8 wildlife will devastate the district that I
9 represent.

10 A little bit about our area. I think
11 it's a great area. I've been here my entire
12 life.

13 We have some real challenges. One of
14 them, we have almost double the state average
15 with unemployment. And if you look at poverty,
16 we are almost -- 26 percent of us are living in
17 the poverty level. The recession and drought
18 have stressed our economy and our residents, but
19 thankfully, agriculture has been a bright spot.
20 Now this proposal stands to devastate an already
21 troubled region.

22 The significant damage to the region's
23 economy would dry up, by some estimates, over
24 200,000 acres of farmland, causing an overall
25 economic loss of \$1.6 billion and something in

1 excess of 6,500 jobs, and that is just the
2 unimpaired flows. That is not the carryover
3 water, which I would argue is even more
4 devastating to our area.

5 This proposal would also adversely impact
6 hydropower production by taking water from
7 reservoirs during the spring, which would leave
8 less water available in the summer, when it's
9 critically needed to irrigate crops and take
10 pressure off the state's power grid.

11 While the Board makes reference to the
12 Sustainable Groundwater Management Act, it cannot
13 truly consider how it will limit the use of
14 groundwater by consumers to cover the gap in lack
15 of surface water available proposed in the SED.
16 Groundwater pumping would increase over 25
17 percent, further decimating our aquifers. I'm
18 hopeful that the recently-passed federal water
19 legislation will increase storage, but that will
20 not solve all of our problems, and certainly not
21 in the near future.

22 This proposal takes water at a time when
23 it's most valuable and sends it down river with
24 only a hope that it will benefit the fish
25 population. Water is too valuable to waste on

1 the hope that it will make a difference.

2 I hope that you will rethink this
3 approach you have advocated and develop a plan
4 that works to the mutual benefit of the region,
5 rather than one based on faulty science.

6 You know, the Governor called out and
7 asked for a voluntary agreement, and I think we
8 would like that, but you have to understand how
9 we feel. This is largely the first time some of
10 these folks have been able to talk to you. Now,
11 they have requested the studies. But there's
12 been no meetings with the local Irrigation
13 District to understand what those studies mean
14 and what the science is that we're submitting.
15 And largely the actual science that we spent
16 millions and millions of dollars on has been
17 excluded from this report.

18 And I would say that we want to have a
19 voluntary agreement, but we feel like we're
20 negotiating with a gun to our head. Because now
21 that proposal is out there that is such a big
22 deal, now we're terrified and don't know what to
23 do.

24 And then talk about good faith, to just
25 end with, we want to negotiate in good faith.

1 But when there's legislation that was presented
2 by Gordon last year, and there's already
3 legislation we had talked about that will make it
4 where we will not be able to stop this process,
5 even during litigation. So if this gets adopted
6 and it's sued, which it will be, the legislation
7 that was authored by Gordon would say, well, it
8 moves forward anyway until it's settled, and that
9 is not good-faith negotiations.

10 So hopefully you'll learn a lot today.
11 And again, thank you for the time.

12 (Applause.)

13 CHAIR MARCUS: Thank you very much.
14 Thank you.

15 ASSEMBLY MEMBER GRAY: Good morning and
16 welcome to --

17 CHAIR MARCUS: Oh, thank you.

18 ASSEMBLY MEMBER GRAY: -- my home town.
19 And thank you for -- I'll echo the Senator's
20 comments. Thank you for expanding the scope of
21 the hearings, including, I think, what's very
22 important, hearing people are severely concerned
23 about this plan, as you can see from all the
24 folks who have shown up today.

25 I want to express my appreciation for

1 expanding the scope of the comment period on the
2 Substitute Environmental Document to include
3 hearings in, not just Merced but Stanislaus and
4 San Joaquin counties, as well. The two hearings,
5 which have already taken place in Sacramento and
6 Stockton, were incredibly enlightening and have
7 made clear to me, and I hope to you, that the
8 proposal before you today is fundamentally
9 incomplete and should not be considered a
10 candidate for adoption.

11 At the prior hearings you heard from
12 stakeholders on entirely different sides of this
13 debate raise the same point: Any plan that
14 focuses only on taking more water and ignores
15 operational improvements, habitat restoration and
16 predator management will fail to achieve your
17 stated goals. Many comments are focused on the
18 need to come up with creative solutions. And, in
19 fact, the Chair and Board Members themselves have
20 made comments during the prior hearings in
21 agreement that creative solutions are needed.

22 Despite a decade of work on this proposal
23 and what appears to be unanimous agreement from
24 the public, the Plan in print today is silent on
25 non-flow measures and offers nothing in the way

1 of creative solutions.

2 There also appears to be some confusion
3 on behalf of the Board whether or not you have
4 the legal authority to consider non-flow options
5 in your proposal. Again, after ten years of
6 work, I would have hoped you had asked this
7 question a long time ago.

8 You need to understand something about
9 how this community perceives the Water Board at
10 this time. You are the Grim Reaper. Water is
11 life in this region, and you'd appear to have no
12 other purpose than to take that life away. So
13 you can understand our outrage when you announced
14 a plan to double the amount of water you will
15 take from our community and create, in the words
16 of your own staff, a permanent regulatory
17 drought. It is just beyond belief to me that you
18 believe state law allows you to actually create a
19 drought.

20 When we got a chance to read your report
21 we learned that the authors have zero confidence
22 in the models they used to determine benefits to
23 fish, and cannot tell us how many fish taking
24 this amount of water will produce. However, I
25 also noticed, buried in a graph, a predicted

1 increase of just 1,104 salmon. The report
2 essentially ignores the existence of the
3 Sustainable Groundwater Management Act to
4 sidestep addressing the true impacts to
5 groundwater and drinking water, and finishes by
6 lowballing the negative economic consequences of
7 taking this water from our region by hundreds of
8 millions of dollars.

9 Riddled with omissions and errors as it
10 is, the proposal in print fails to answer even
11 the most basic questions. It is no wonder we
12 keep hearing about your preference for voluntary
13 settlements. If you truly prefer settlements, as
14 the Governor has instructed, let me offer you a
15 little advice. Acknowledge the inadequacy of
16 this current proposal and do not move forward
17 with it.

18 These public hearings have taught us a
19 lot. And I think there's no shame, in light of
20 this new information, in going back to the
21 drawing board. Take an active role in settlement
22 negotiations instead of kicking the can over to
23 the Department of Fish and Wildlife to do it for
24 you. You are proposing this plan, so you need to
25 look us in the eye at the negotiating table,

1 listen to, acknowledge, and actually incorporate
2 into your plan the comments and issues raised by
3 this community, even when the answers are tough.
4 Do not refuse to address the hard questions, like
5 when you dodge answering how you will stop our
6 schools from ending up on Porta Potties and
7 bottled water when reduced surface water
8 deliveries are available.

9 And finally, let's stop speaking about
10 the fishing industry and environmentalism as if
11 they are interchangeable terms. Fisherman are
12 out to make a living, same as any dairyman or
13 farmer. They all deserve your attention and
14 respect.

15 I'm confident that if you follow this
16 advice you will find partners that are ready and
17 willing to hammer out a settlement agreement,
18 rather than ending up in court for years.

19 Thank you for your time this morning.

20 (Applause.)

21 CHAIR MARCUS: Thank you.

22 Thank you. I wish I could respond to all
23 of those, but I can't right now. We'll work on
24 that being clearer.

25 Secretary Lyons, hi. Nice to see you.

1 One moment as I make a couple of announcements,
2 if you don't mind.

3 First, blue speaker cards can be turned
4 in right up in the front, the woman in red. And
5 there are still seats down at the front for
6 anyone who would like to speak, and there are
7 seats up above.

8 So next we have Former Secretary Bill
9 Lyons, followed by District Attorney Larry
10 Morris, followed by the President of the Merced
11 Irrigation District, Dave Long.

12 Secretary Lyons --

13 MR. LYONS: Thank you.

14 CHAIR MARCUS: -- nice to see you.

15 MR. LYONS: Thank you, Madam Chairman and
16 Board Members.

17 First of all, I'd like to say that I'd
18 like to compliment Assemblyman Adam Gray and
19 Senator Cannella for their comments.

20 (Applause.)

21 As a Former Secretary of Agriculture for
22 the State of California, a third generation
23 farmer, who has been farming in this area for
24 over 90 years, our family, in this region, I'm
25 here today to voice my opposition to your staff's

1 draft proposal of 40 percent flows.

2 As a former Ag Secretary, I realize the
3 impact of taking 40 percent of the surface water
4 supply from one of the most productive farm
5 regions in the country. If the counties of
6 Merced, Stanislaus and San Joaquin were a state,
7 its gross ag production would land it in the top
8 15 states of the nation. Your proposal will take
9 40 percent of that water away from them.

10 This has been described as a water grab.
11 I call it a water taking by the state, yet I see
12 little mitigation and no compensation in that
13 taking. The Board and the staff --

14 (Applause.)

15 -- have lost the trust, I want to say
16 that again, have lost the trust of an entire
17 region within the State of California. In my
18 opinion, public approach has not occurred here.

19 I'm disappointed, as a former public
20 official, at the way this process has been
21 conducted. I am encouraged by your recent
22 outreach. But it bothers me, when I see the
23 elected officials that many in these room have
24 elected, stand up and say they have not had the
25 opportunity to be as engaged as they should be.

1 No one in this region opposes improving
2 the environment, restoring habitat. However, we
3 do oppose flawed science and a process that
4 avoids discussion with the very people, these
5 people, that you're going to impact.

6 I have some asks. I ask that you work
7 with the local electeds; that you work with the
8 local irrigation districts; that you work with
9 the local stakeholders; that you be inclusive,
10 that you use sound science; that you strongly
11 consider mitigation and compensation to those
12 that are going to be effected; that you strongly
13 consider habitat restoration and predator
14 suppression; that you listen to the Governor who
15 appointed you to have reasonable settlements and
16 to work with people in those reasonable
17 settlements.

18 Again, I thank you for your time and
19 effort. I hope that we have as many or more
20 people show up in the Modesto hearing tomorrow.

21 Thank you, Chairman.

22 (Applause.)

23 CHAIR MARCUS: Thank you very much.
24 Thanks for coming.

25 District Attorney Morris, followed by

1 President of the Board, Dave Long, followed by a
2 member of the Le Grand Community Water District,
3 Bob -- I think it's Giampaoli. Let me know if I
4 got that right.

5 MR. MORRIS: Correct.

6 CHAIR MARCUS: Closer.

7 MR. MORRIS: Hi. Chairman, Members of
8 the Board, today we are here, as you can see, to
9 express a community's view toward a proposal from
10 the staff of the State Water Quality Control
11 Board to increase to 40 percent the unimpaired
12 flows of the Merced, Tuolumne and Stanislaus
13 rivers.

14 You might not think that this would be a
15 law enforcement issue, but that would be wrong.
16 As you can see from today's turnout, this is a
17 quality of life issue for us. And nothing is
18 more fundamental to government's role in
19 protecting our quality of life than adequately
20 funding public safety services. By stealing
21 desperately needed water, you are endangering our
22 economy, threatening jobs, threatening
23 educational opportunities, and the integrity of
24 our drinking water. And in doing so, whether
25 wittingly or otherwise, you are impairing our

1 ability to protect our people.

2 If implemented as recommended, this plan
3 represents a potential death sentence for our
4 economy. It is a direct threat to drinking water
5 quality and will require local governments to
6 divert millions of dollars to mitigate the damage
7 your recommendations would cause. That money can
8 only come from essential services, like police,
9 fire, prosecution, and other public safety
10 functions.

11 We are among the most economically-
12 challenged areas in the state and still
13 struggling to emerge from the recession that
14 rocked our communities to their foundations. Our
15 public safety services have only recently begun
16 to recover from the devastation of that
17 recession. Your proposed actions would cost our
18 communities millions of dollars, when we can
19 least afford it. And yet you offer no mitigation
20 whatsoever.

21 Since 2012, when the first report was
22 released, the Water Board has declined to answer
23 questions and has refused to discuss the basic
24 assumptions used as the foundations of its
25 proposal. To this day, the Board, its staff and

1 consultants have not yet met with the technical
2 experts from our cities, our counties, our
3 schools and others to explain how you got to
4 here, to inform us of your assumptions and other
5 considerations.

6 My job as District Attorney is to make
7 people understand that actions have consequences.
8 The Water Resources Control Board must similarly
9 understand that its actions have consequences, as
10 well. Your proposal will have cataclysmic
11 consequences for the health, safety and basic
12 quality of life of Merced County and residents of
13 the entire Central Valley for whom adequate water
14 is literally the sustaining source of our
15 economic and community lives.

16 I do appreciate your willingness to be
17 here today. And I implore you to listen
18 carefully to the voices of those whose lives you
19 will change irrevocably if the Board's misguided
20 plan is implemented.

21 Thank you.

22 (Applause.)

23 CHAIR MARCUS: Thank you.

24 President Long, followed by Member
25 Giampaoli, followed by MID Director -- Merced,

1 I'm assuming, Irrigation Director, Scott Koehn.

2 Good morning.

3 MR. LONG: Chairman and Members of the
4 Board, holiday greetings to all.

5 CHAIR MARCUS: And same to you.

6 MR. LONG: Welcome to Merced, California,
7 headquarters of the Merced Irrigation District of
8 which I am the current President, and a role a
9 take very seriously.

10 CHAIR MARCUS: It's a very serious role.

11 MR. LONG: My role as a locally-elected
12 public official comes with a great deal of
13 responsibility, as does your appointed positions
14 on the State Water Resources Control Board.

15 First and foremost, it is my
16 constitutional and legal responsibility to ensure
17 our board protects the resources of the district,
18 including its water rights and storage rights.
19 We at MID always strive to provide the most
20 detailed explanation possible regarding the
21 issues in front of our board and the public. Our
22 objective is to always put the best information
23 and facts out there and have the discussions.
24 Have the discussions and consider the input from
25 the outside and make the best decision possible,

1 weighing all factors. We strive to do the right
2 thing.

3 You will later hear from our MID team of
4 professionals regarding our concerns with your
5 SED. My hope, the only thing I ask, is please
6 listen and remain open and respectful to what
7 everybody here today has to say.

8 What you are suggesting with your plan
9 will destroy families and communities, period.
10 You may say the impacts of the SED is
11 unavoidable. In fact, they are avoidable.

12 Farmers have always been excellent
13 stewards of their lands. It is in their best
14 business interest to do so. Merced MID has
15 always been a collaborative partner and steward
16 of the Merced River, and we desire to continue to
17 do so. But we cannot support any plan that
18 destroys our community and unduly burdens us to
19 fix problems that exist through the system that
20 were created by others and condoned by the state.

21 We have good ideas on how we might
22 achieve benefits for salmon in the Merced River
23 and do it in an equitable way that allows our
24 community to survive and others to accept their
25 level of responsibility. Our SAFE Plan is an

1 equitable plan that takes science into account
2 for the betterment of salmon, agricultural land,
3 reasonable flows and good for the environment.

4 We are responsible people but make no
5 mistake, we may be only three percent of the
6 inflow to the Delta, but we will provide 100
7 percent resistance to your current plan. You can
8 work with us or we can work against you.

9 (Applause.)

10 My direction to my board is to educate,
11 and then fight.

12 Thank you.

13 (Applause.)

14 CHAIR MARCUS: Thank you very much. We
15 appreciate that.

16 Actually, we very much appreciate MID's
17 effort to actually start that conversation. It's
18 great.

19 Mr. Giampaoli, followed by Mr. Koehn,
20 followed by Mayor Jim Price of Atwater.

21 Hello.

22 MR. GIAMPAOLI: Hi. Good morning,
23 Chairwoman Marcus. Good morning, Board Members
24 that are here. My name is Bob Giampaoli. I'm a
25 Board Member on behalf of the Le Grand Community

1 Services Water District. We appreciate your
2 attendance in the county today, even though we
3 are disturbed with the timing of the release of
4 the SED and setting meetings at a time where
5 children and their families are trying to enjoy
6 Christmas, making it twice as difficult to have
7 more people even attend this meeting.

8 Le Grand Community Services Water
9 District is located in the southeast corner of
10 Merced County Basin and the Merced Irrigation
11 District. We oppose the draft SED, as well, as
12 we believe it will create irreversible damage to
13 our water supply in our community. We believe
14 our district will be the canary in the coal mine
15 and will probably be the first community to
16 suffer water shortages as a result of the SED.

17 While static groundwater levels in the
18 basin average around 90 feet, in our community it
19 averages around 220 feet. The specific yield of
20 groundwater wells in our area have plummeted as a
21 result.

22 Being on the edge of the Sierra
23 Foothills, the aquifer is less yielding than the
24 center of the basin.

25 CHAIR MARCUS: Right.

1 MR. GIAMPAOLI: It's sort of a bathtub
2 effect.

3 CHAIR MARCUS: Uh-huh.

4 MR. GIAMPAOLI: The only means to
5 alleviate the drop in the groundwater levels is
6 to not pump groundwater. Merced Irrigation
7 District conducted a study of possible
8 groundwater well field between Planada and Le
9 Grand in 2000, and concluded that it would not be
10 sustainable.

11 As a result, the Merced Irrigation
12 District does not own or operate any district
13 wells in Le Grand. Typically, in a year of short
14 water supply, MID diverts all surface water to Le
15 Grand and uses its conjunctive groundwater wells
16 in other areas.

17 However, private land owners around Le
18 Grand do operate their private wells. The Le
19 Grand Community Services Water District is
20 concerned the MID will not be able to provide
21 enough surface water in the future as a result of
22 SED, forcing landowners to systematically use
23 more groundwater.

24 We urge the State Board not to abandon
25 this region and reconsider its options. We don't

1 believe that the quantity of water released will
2 proportionately improve the health of the
3 fishery. It is dependent on a consortium of
4 factors.

5 The salmon return to the Merced River
6 shattered all previous records this year, thanks
7 to healthy hydrology this year that only salmon
8 can actually engage. Similarly, salmon returns
9 understandably dwindled during the severe
10 drought. Salmon will return as the hydrology
11 allows. In return, we need to furnish the right
12 conditions for successful spawning.

13 CHAIR MARCUS: Uh-huh.

14 MR. GIAMPAOLI: We respectfully request
15 the Board reconsider the water volumes
16 contemplated and the timing of their running.
17 For example, prescribing releases in June will be
18 more than a waste, due to unexpected diminishing
19 returns in salmon production as there are barely
20 any salmon in the Merced River at this time.

21 Please don't let Le Grand become the next
22 Porterville, even in wet years ahead.

23 Thank you.

24 (Applause.)

25 CHAIR MARCUS: Thank you, sir.

1 Director Koehn, followed by Mayor Price,
2 followed by Merced County Supervisor Daron
3 McDaniel.

4 MR. KOEHN: Good morning. My name is
5 Scott Koehn. I'm the current Vice President of
6 the Merced Irrigation District Board of
7 Directors.

8 You've all received quite a welcome here
9 today. I want to share with you that I'm
10 extremely proud of this community. I'm extremely
11 proud of the turnout that you see in front of you
12 this morning. I also want to precede any
13 comments I make to you with an unequivocal and
14 unqualified statement, that myself and everyone
15 in this room behind me stands willing to fight to
16 the bitter end to protect our community's water
17 supply and our economy, if we cannot find a
18 compromise.

19 (Applause.)

20 Our community is not prone to protesting
21 or shouting to garner attention; just the
22 opposite. I believe this community represents
23 some of the most moderate and humble people
24 you'll ever find. In fact, I think until
25 recently, many of the people holding signs

1 outside this morning or that drove tractors here
2 today, would have welcomed you into their home
3 and offered our shared interest in improving the
4 viability of salmon in the river. We are
5 reasonable.

6 So what has changed? What has changed is
7 we have heard from your own staff in recent weeks
8 that the very plan that intends to divert water
9 away from our community, destroying our drinking
10 water quality, our household incomes, our
11 economy, and our way of life uses, in your own
12 staff's own words, a flawed model.

13 This community and this irrigation
14 district put forth an alternative approach in the
15 Merced River SAFE Plan that includes immediately
16 improving flows at the times that it makes sense
17 for migrating salmon, reducing predation on the
18 Merced River, restoring habitat and modernizing
19 the Merced River Salmon Hatchery. Every single
20 one of these measures have been promoted at
21 various times and through various forms as a
22 means of improving salmon survivability.

23 However, in recent weeks we have learned
24 that in addition to your own staff using a flawed
25 model, we can expect 1,100 more salmon under the

1 Bay-Delta Plan.

2 That leaves all of us wondering: What is
3 actually being proposed here and why? Eleven
4 hundred salmon for 1,000 family livelihoods is an
5 unacceptable price to bear by one of the most
6 disadvantaged communities in the state.

7 The logical conclusion of all this is
8 what many have said for some time now, the Bay-
9 Delta Plan is nothing more than a document being
10 used to justify a water grab. This document does
11 not help salmon, it simply forces our community
12 to pay for others' mismanagement of the Bay-
13 Delta, now a channelized shadow of a former
14 estuary that has been reclaimed for housing and
15 agriculture.

16 I believe our community, although
17 frustrated and fearful of your intent, is still
18 willing to put its best foot forward. This
19 community also cares about the environment, the
20 Merced River and the wellbeing of the Merced
21 River salmon. If that is your true intent, I
22 urge you, without any further delay, to stop the
23 insanity and sit down with our district to begin
24 immediate discussions about the implementation of
25 the Merced River SAFE Plan. If your true goal is

1 to help the salmon, we will work with you.

2 However, if your real intent is to simply
3 rob our community of its water, we will fight you
4 every step of the way. We have no other choice.
5 We are fighting for the lifeblood of our
6 community.

7 I will share, in closing, that following
8 the disclosures we have seen in recent weeks of
9 flawed models and a benefit of a mere 1,100
10 salmon, your credibility and your intent has
11 become increasingly suspect. I urge you to do
12 what is right for the community and what is right
13 to support Merced River salmon. That means
14 rolling up your sleeves and sitting down with MID
15 to discuss implementation of the SAFE Plan.

16 Thank you.

17 (Applause.)

18 CHAIR MARCUS: Thank you very much.

19 I would just say that the 1,100 fish is a
20 number of one of those pieces of misinformation.
21 There is actually more that the staff is relying
22 on in the disclosure about that model, was in the
23 attempt to say there's a problem with that model,
24 but it's not the only thing they're relying on.

25 That said, we will consider everything

1 and look forward to working with you all. But
2 there's a lot of that out there, and I can
3 understand why it angers people. But it's a
4 miscasting of what is actually happening.

5 So now we have Mayor Jim Price, followed
6 by Supervisor McDaniel, followed by
7 Superintendent of Schools, Steve Gomes, from
8 Merced County.

9 Mayor Price?

10 MAYOR PRICE: Thank you, Madam Chair,
11 Members of the Board, my fellow citizens, my name
12 is Jim Price, Mayor of the City of Atwater, a
13 town of 30,000 people. And you'll note that I
14 came today with no prepared statement. I'm going
15 to tell it to you, right as it is. I left my PC
16 hat out in the parking lot.

17 About two years ago, I came before the
18 Federal Energy Regulatory Commission about this
19 same subject. And I will just open my comments
20 today with what I opened my comments with back
21 then. Are you people nuts?

22 (Applause.)

23 I live in a city that is economically
24 depressed. We all have economic issues here in
25 Merced County. One of the things that bothers me

1 in particular about this is, is that unelected
2 people with no ties to our economic issues have
3 no idea of what you are -- the impacts that
4 you're placing on these people.

5 Now, I'm also a business man. One of the
6 things that I do when I make business decisions
7 within my own business is a cost-benefit
8 analysis. The cost and the benefits here just
9 don't balance out. When it comes to what you're
10 talking about, about 40 percent more of a flow,
11 that's a 40 percent decline to the faces of the
12 people that are behind me, 40 percent decline of
13 their pay, 40 percent decline of their crops, 40
14 percent decline in my city for economic
15 development. How are we supposed to absorb that?
16 How are we supposed to do that?

17 This past week, I heard of a new Air
18 Quality Standard, the PM 2.5, which is another
19 depressing thing, just going to put another boot
20 to the neck of economic development within my
21 city, within Merced County.

22 Add to that a 40 percent inflow -- or
23 extra flow for tributaries, give me a break. I'm
24 all choked up about a fish. I am just all tore
25 up that these fish are going to affect these

1 lives. What about the tributary known as the
2 Merced Agriculture Department and the people that
3 support that, the people that are behind me right
4 now that put the food on your table and mine,
5 what about that? There is absolutely no
6 correlation to having a 40 percent increase and
7 sustaining family farms, ranches and dairies.

8 Ladies and Gentlemen, I certainly hope
9 that there is a whole lot more consideration to
10 the simple fact that economic development within
11 my city, within this county is going to be
12 impacted irreparably. Please think about that.
13 These are human beings. They're not people that
14 are going to go away. And we will fight you
15 tooth and nail to make sure that this plan will
16 never be implemented.

17 Thank you.

18 (Applause.)

19 CHAIR MARCUS: Thank you.

20 Mayor Price, followed by Supervisor
21 McDaniel, followed by Merced County Assessor
22 Barbara Levey.

23 SUPERVISOR MCDANIEL: Hello.

24 CHAIR MARCUS: Oh, sorry.

25 SUPERVISOR MCDANIEL: That was Jim Price

1 that just spoke.

2 CHAIR MARCUS: That was Jim Price. Now
3 we've got Supervisor McDaniel, Merced County
4 Assessor Levey, followed by Mayor-Elect Mike
5 Murphy from Merced. Got it. Thank you.

6 SUPERVISOR MCDANIEL: Madam Chair, Board,
7 thank you for coming to Merced County. Welcome
8 to our county.

9 CHAIR MARCUS: Thank you.

10 SUPERVISOR MCDANIEL: Daron McDaniel,
11 Board of Supervisors here in Merced County. I've
12 prepared a statement for you today.

13 As Merced County Supervisor, I'm here to
14 share my concerns and the concerns of my
15 constituents, the people whose lives will be
16 directly impacted by this proposal. Many of the
17 impacted communities in Merced County are
18 disadvantaged communities. These constituents
19 cannot take the day off to come here and share
20 their concerns that this proposal will
21 dramatically increase the rate to their drinking
22 water beyond what they can afford, or that this
23 proposal may cause the fallowing of prime
24 agricultural land, resulting in job loss, or the
25 concern that this proposal may result in their

1 children's schools not having clean, safe
2 drinking water.

3 While the SED's economic analysis shows
4 economic impact of 433 job losses and \$64 million
5 impact to the regional economy of over three
6 counties, two other independent economic analyses
7 have different stories. These analyses show that
8 appropriate 900 jobs will be lost here in Merced
9 County alone, with an economic impact closer to
10 \$231 million. Again, this is Merced County only,
11 not the region. Not taking into account the
12 validity and the unreliable water supply to a
13 region slowly recovering from the recession, this
14 will be devastating.

15 When your staff was asked direct
16 questions about the economic impact of volatility
17 and reliability, they deferred to you, the
18 policymakers. So I ask, what would you encourage
19 us to tell companies that we're trying to attract
20 and come to the region for economic development
21 when they ask about the reliability of water
22 supply? Water supply in Merced County should not
23 be in jeopardy. Merced County has some of the
24 oldest and most senior water rights in the State
25 of California. We paid for those rights, now

1 this proposal suggests taking them, again, taking
2 them.

3 Every year we roll the dice and react to
4 Mother Nature, what Mother Nature brings. With
5 the SED, the State Water Board is asking us to
6 play Russian roulette. This community has
7 developed and funded a complex water distribution
8 system and built one of the earliest reservoirs
9 in the state to provide reliable water supply
10 that benefits agriculture, the economy and the
11 groundwater basin. Leaving an existing and
12 available multi-million acre-foot reservoir
13 always close to empty is a stranded asset and a
14 failure in water management.

15 As a representative of my constituents
16 here in Merced County, I stand opposed to this
17 proposal. Please take these comments into
18 consideration. The presentation we heard talked
19 about fish. I'm talking about humans.

20 Thank you.

21 (Applause.)

22 CHAIR MARCUS: Thank you, sir.

23 Assessor Levey, followed by Mayor-Elect
24 Murphy, followed by Councilman Paul Creighton
25 from Atwater.

1 MS. LEVEY: Good morning.

2 CHAIR MARCUS: Good morning.

3 MS. LEVEY: I have 31 years of experience
4 in the appraisal of property, and I hold an
5 Advance Certification in Property Appraisal from
6 the California State Board of Equalization. My
7 name is Barbara Levey and I am the Assessor of
8 Merced County.

9 As the Assessor, I am charged with
10 locating, identifying, describing and valuing all
11 taxable property in the county. Property
12 ownership is a dream, a goal, an achievement and
13 an investment, and so much more. For property
14 tax purposes, land includes, among other things,
15 water rights. Appraisers, when they're valuing
16 property, are trained to look at and evaluate
17 water sources and supply, water rights, the
18 quality of the water, the water source, and the
19 durability of those rights. All of these may
20 affect the value of a given property.

21 As the Assessor, I am in contact with our
22 property owners daily. I hear their frustrations
23 and their fears about water. Through this
24 drought, I have dealt with properties that have
25 been fallowed; properties with expensive new

1 wells or dropped wells; and changes in income
2 streams because of the cost of the wells, the
3 production, the changes in crop rotations.

4 Through all of this, I see resilient
5 farmers and growers and resilient property owners
6 who have worked hard, have sacrificed much, and
7 to weather the drought years, all because they
8 have faith in the future and are invested in our
9 community and in their property.

10 Our community is dependent upon the
11 Merced River. The losses that would be imposed
12 upon Merced County growers and property owners
13 under the Bay-Delta Plan are tremendous. These
14 losses will impact our economy through lost jobs,
15 lost revenues, lost opportunities and reduced
16 property values.

17 Supply and demand are often the first
18 lessons in economics. One of the most important
19 determinants of supply is the expectation of
20 developers regarding future demand. If
21 developers are optimistic about future demand,
22 the quantity of supply tends to increase, and
23 vice versa. The ability to which our property
24 owners can depend on their water supply will
25 impact the value of our property and impact

1 supply and demand.

2 This program is devastating to Merced
3 County, and we ask that you reconsider this plan.

4 Thank you.

5 (Applause.)

6 CHAIR MARCUS: Thank you very much.

7 Mayor-Elect Murphy, followed by
8 Councilman Creighton, followed by Steve Tietjen,
9 Deputy Superintendent, Merced County Office of
10 Education.

11 Hello.

12 MAYOR-ELECT MURPHY: Good morning. My
13 name is Mike Murphy and I was recently elected
14 Mayor of Merced.

15 CHAIR MARCUS: Congratulations.

16 MAYOR-ELECT MURPHY: I'm also an
17 attorney. We thank you for meeting us here in
18 our city for today's public hearing. This is a
19 public hearing, but I hope that you will also
20 take note of what you see today.

21 (Applause.)

22 Today you will become even more aware of
23 the human hardship and devastation that your
24 proposed plan to reduce the amount of Merced
25 River water available for human use will cause to

1 men, women and children here in our city.

2 Merced is a city of 83,962 hardworking
3 residents. After years of hard times, we are a
4 city on the rise. Despite our encouraging
5 trajectory, we are still among the most
6 disadvantaged communities in the nation. Our
7 community suffered when the federal government
8 closed Castle Air Force Base 20 years ago. Next,
9 our community was among the hardest hit in the
10 nation by the financial and housing market
11 collapse of the Great Recession. We are a
12 resilient people, but taking more of our water is
13 a bridge too far.

14 The City of Merced's drinking water is
15 underneath our feet. Although we don't use
16 surface water from the Merced River for domestic
17 use, we rely on surface water from the Merced
18 River to recharge our groundwater aquifer as the
19 water passes through Bear Creek, Black Rascal
20 Creek, Cottonwood Creek, Fahrens Creek, and a
21 number of canals that wind their way through the
22 Merced City limits. This recharge of our aquifer
23 is crucial, not only for adequate water quantity,
24 but also water quality, and helping to prevent
25 salt intrusion into our drinking water.

1 Your proposal to reduce the amount of
2 surface water that is available to our region
3 will directly impact both the quantity and the
4 quality of our aquifer. You must take this
5 devastating impact into consideration in your
6 decision making.

7 We are meeting in our city's historic
8 theater for what I feel is a historic moment for
9 our livelihoods and for our way of life. All of
10 our people and our families depend either
11 directly or indirectly on agriculture. It's not
12 about Merced having green lawns. Our lawns
13 turned golden brown long ago, and our ballfields
14 have turned to dirt. For us, this is about the
15 very survival of our region that feeds the
16 nation, and in many cases, the world.

17 Do the right thing and deviate from the
18 proposal that prioritizes 1,100 fish over the
19 83,962 hardworking people of our city. Adoption
20 of the current draft of the SED will be adverse
21 and severe for today's Mercedians and for our
22 posterity. We hope that you will reach an
23 amicable agreement with the Merced Irrigation
24 District and adopt their proposed SAFE Plan.

25 As a city, we will also be directly

1 impacted by your decision. We are ready and able
2 to fight if the concern of Mercedians are not
3 adequately addressed in your decision.

4 Finally, once this hearing closes and the
5 crowd leaves this theater, the lights will go
6 dark. But if you listen closely you will hear
7 something else. You will hear Southern
8 California celebrating. They are celebrating
9 your proposal because you know and I know that
10 this was never really just about 1,100 fish
11 anyway. Taking our water and giving it to
12 someone else is neither right nor fair.

13 (Applause.)

14 CHAIR MARCUS: Right. And it's not
15 what's proposed, I guarantee you.

16 Councilman Creighton, followed by
17 Superintendent Tietjen -- please tell me how to
18 pronounce that -- followed by Merced City
19 Councilman Tony Dosetti.

20 Hello.

21 MR. CREIGHTON: Good morning, Members of
22 the Board. I have a prepared speech here today,
23 but I'm going to put it away because pretty much
24 everybody's already said what I feel and think.
25 So since we're on feelings, I'd like to address

1 the Grim Reapers and the assassin squad.

2 (Applause.)

3 I'm attending today what I feel to be a
4 funeral for me and all the people here. It feels
5 like I'm attending my own funeral. So I deplore
6 you people to consider what's being said here
7 today and use the correct scientific data and
8 listen to our scientists and our attorneys. It's
9 very important that you don't just come here to
10 meet the obligation to listen to us then put it
11 in a filing cabinet for later, but to take what
12 we have serious and to understand that this may
13 be the epicenter of the ground floor for your
14 water war.

15 Thank you very much.

16 (Applause.)

17 CHAIR MARCUS: Thank you.

18 Superintendent Tietjen, followed by
19 Councilman Dosetti, followed by Council Member
20 Scott Silveira from Los Banos.

21 MR. TIETJEN: Good morning, Chairperson
22 Marcus and --

23 CHAIR MARCUS: Thank you.

24 MR. TIETJEN: -- and Board. Thank you
25 for coming to Merced County. We've been waiting

1 for you.

2 As a resident of the San Joaquin River
3 Watershed for my entire life, I understand the
4 importance of water that flows through this
5 valley and what it means to our farmers and our
6 residents.

7 As a School District Superintendent, I
8 have dealt with the loss of wells due to
9 concentrated salinity because of pumping the
10 water that's underground, a dynamic that will
11 undoubtedly impact all school districts in the
12 valley if we rely on more groundwater pumping.

13 As an educator, I just have one question
14 for your consideration: Why is it that the
15 children that live and study in our watershed are
16 less important than the children in the rest of
17 the state?

18 (Applause.)

19 CHAIR MARCUS: They're not.

20 MR. TIETJEN: Because that is exactly
21 what you've done in this report, you've made a
22 decision to value children that live in areas
23 that essentially have no watershed over the
24 children and families that have chosen to work in
25 the heartland of California. This decision

1 punishes people that work to support the
2 lifestyles of the coastal elites, and we are very
3 tired of this treatment.

4 Tourism and technology alone will not
5 keep California a financially viable state. This
6 state has always depended on the power of
7 agriculture. And to engage in this kind of
8 flawed planning process that doesn't really
9 examine the values underpinning these decisions
10 is unconscionable.

11 (Applause.)

12 You need to stop and think about those
13 values. It's time to stop and rethink what you
14 are doing to the children and families in this
15 region.

16 Thank you very much.

17 (Applause.)

18 CHAIR MARCUS: Thank you.

19 Councilman Dosetti, followed by
20 Councilman Silveira, followed by Merced College
21 Trustee Ernie Ochoa.

22 MR. DOSETTI: Good morning.

23 CHAIR MARCUS: Good morning.

24 MR. DOSETTI: My name is Tony Dosetti,
25 and I'm a Merced City Councilman for about seven

1 more hours.

2 CHAIR MARCUS: And you're going to make
3 it worth every minute.

4 MR. DOSETTI: Every second.

5 CHAIR MARCUS: I think that's great.

6 MR. DOSETTI: You bet. You know, I came
7 here with a card with a bunch of stuff on it, and
8 I'm not going to read about half of it because
9 it's been so eloquently stated by all the other
10 speakers, so I'll save you a little time here.

11 You know, in my review of the report, I
12 saw a lot of variables that I didn't think were
13 considered. Then, you know, when I hear the
14 report from the gentleman earlier this morning,
15 you did consider some economic effects. But the
16 problem is, is you just glassed [sic] over them.
17 I don't think that you really took it in your
18 heart to see what the results of these moves are.
19 You affect our ag, our ability -- these
20 gentlemen, men and women here -- their ability to
21 produce. You take their water away, you take
22 their livelihood away. Not right. Many of these
23 people are living on farms that their families
24 have been building for generations. It's not
25 right to take their water away so that they stop

1 producing.

2 Industry; you've already heard that we're
3 a poverty-stricken area. But I've got to tell
4 you, you take the water away and we're going to
5 lose more jobs. More people will fall into that
6 poverty level. But what you don't realize is,
7 that we're Merced and we've got some pride and
8 we've got spirit. And we're not going to let you
9 get away with taking us down.

10 You know, like I said, everybody's said
11 this so eloquently before me, I'll just leave you
12 with one thing. Please think about people, not
13 fish. You can do better than that. Thank you.

14 (Applause.)

15 CHAIR MARCUS: Thank you, sir.

16 Council Member Silveira, followed by
17 Trustee Ochoa, followed by Atwater City
18 Councilwoman Cindy Vierra.

19 Hello.

20 MR. SILVEIRA: Good morning, Madam
21 Chairman --

22 CHAIR MARCUS: Good morning.

23 MR. SILVEIRA: -- and Members of the
24 Board.

25 I, too, I didn't come with any prepared

1 comments. I live on the west side of Merced
2 County. And I will tell you that I am not as
3 directly affected by what I consider to be the
4 water grab as a lot of the folks behind me, but
5 I'm indirectly affected because we are a
6 community and a county.

7 And so one of the things that strikes me
8 is as in typical government fashion is that we
9 try to fix one problem, but we create an even
10 huger problem left behind by it. And I do
11 encourage you guys to make the folks that all
12 showed up here, took time out of their busy
13 schedules, at least make us feel that this is
14 worth something, it was worth our time to come
15 and see you guys. Because my past experience in
16 dealing with any of these commissions that I've
17 spoken at is that they listen to our comments and
18 we get some nods from you guys, but then they
19 kind of go and do what they want to do anyways.

20 CHAIR MARCUS: We actually have a track
21 record of listening, if you'd talk to the people
22 who have worked closely with us. So it is worth
23 the time, to be sure.

24 MR. SILVEIRA: Well, and so I hope that
25 those are more than just words. I really truly

1 hope. Because it's really not a fair negotiation
2 when you guys have set the bar so high, and then
3 now you're willing and want us to start at a
4 number. Your number is 40, it could be 50, it
5 could be 30, and in reality, probably 10 or 15 is
6 what actually works. So as long as everybody is
7 willing to negotiate fairly, I think that there
8 are no bigger environmentalists than farmers
9 themselves. I'm a dairyman by trade. That's
10 what I do for a living.

11 (Applause.)

12 I think it was said earlier that it's our
13 livelihood. It's in our best interest to take
14 care of our waterways. It's in our best interest
15 to take care of our ground and our water
16 management and air management, we do all those
17 things. But it's just you just keep taking a
18 little bit more, a little bit more, and it
19 becomes harder and harder to stay in business.
20 Because at the end of the day as a business
21 owner, if I go out of business, I put families
22 out of business and they go on the system.

23 So I encourage you guys to do the right
24 thing, and encourage you guys over here to smile
25 a little bit. It's not all that bad. Everybody

1 here is here for good reasons. And I see you
2 guys are all very stoic over there, but smile.
3 You know, we'll get through this. But remember -
4 -

5 CHAIR MARCUS: They're engineers.

6 MR. SILVEIRA: Well --

7 CHAIR MARCUS: You'll have to forgive
8 them.

9 (Laughter.)

10 CHAIR MARCUS: I love engineers. Sorry.

11 MR. SILVEIRA: You can still smile. So I
12 encourage you guys to do the right thing, and
13 have a merry Christmas. Thank you.

14 (Applause.)

15 CHAIR MARCUS: Thank you, Sir.

16 Trustee Ochoa, Councilwoman Vierra,
17 followed by Merced County Supervisor John
18 Pedrozo.

19 Ochoa? Okay, I'll save him, if he's
20 still here.

21 Councilwoman Vierra? All right. Maybe
22 she'll come back.

23 Supervisor Pedroza, followed by Mayor Pro
24 Tem Pedrozo from Merced, followed by Merced
25 County Supervisor Jerry O'Banion.

1 MR. JOHN PEDROZO: Thank you. First and
2 foremost, let me say thank you for holding this
3 here today.

4 I did say to Mr. Howard, though, when he
5 was there at the Board meeting here back in
6 October, I believe, that -- excuse me -- that the
7 timing of this around the holidays and stuff is
8 really -- has people uneasy. Because everybody
9 has families that they're either coming into town
10 or they're leaving, and it's unfortunate that it
11 had to be done like that.

12 And I do have some statements/comments
13 here that I'd like to talk about that have been
14 repeated, but I think we need to keep repeating
15 them so you understand where we're coming from.

16 So two of the big concerns that I have
17 with the SED are the economic analysis and the
18 impacts to the groundwater in eastern Merced
19 County. The economic analysis in the SED clearly
20 underestimates or simply does not even take into
21 account the many impacts this proposal will have,
22 such as land value, volatility of supply, and the
23 downstream impacts that you just heard Mr.

24 Silveira say on dairies and livestock operations.

25 Additionally, a recent economic analysis

1 requested by three counties, San Joaquin,
2 Stanislaus and Merced, concluded that the
3 potential long-term economic impacts of this
4 proposal were upwards of \$7 billion over the next
5 50 years. To a region recovering from the
6 recession, this will be devastating. Our
7 communities cannot face those kinds of impacts
8 and still survive and thrive.

9 According to the state's mapping of
10 disadvantaged communities in Merced County, at
11 least a portion of every community in Eastern
12 Merced County is identified as a disadvantaged or
13 severely disadvantaged communities. That means
14 that these families live on less than 80 percent
15 or even 60 percent of the state's medium income.
16 This includes the cities of Merced, Atwater and
17 Livingston. And then the smaller communities I
18 represent, in Planada, Le Grand and El Nido.

19 While unemployment in Merced County has
20 decreased, it's still almost twice the national
21 average. Merced's unemployment rate as of
22 October was 8.6 percent, compared to 5.3 in
23 California, and 4.7 nationwide.

24 On the groundwater, these communities all
25 solely rely on groundwater for their drinking

1 water supply. When groundwater levels start to
2 drastically decrease due to the lack of surface
3 water and increased pumping, these are
4 communities that will be burdened.

5 Merced County is already facing tough
6 challenges during this record-breaking drought.
7 And with the recent implementation of the
8 Sustainable Groundwater Management Act, the state
9 has identified our groundwater basin as a high
10 priority and in critical overdraft. And now the
11 Water Board proposes to take away the most
12 significant option we have to help bring our
13 groundwater into sustainability.

14 On one hand, the state is requiring us to
15 be sustainable. On the other hand, the state is
16 trying to take away the one thing that could make
17 our subbasin sustainable without turning our
18 valley into a desert. This isn't on here but I'm
19 going to say it, it sounds like the state is
20 talking out of two sides of their mouth. And
21 that's the gripe that we see.

22 (Applause.)

23 Because we're trying to do what the
24 state's -- the regulations, but yet now we're
25 facing with this.

1 So the proposal doesn't make sense. It
2 needs to be rethought to protect the 1.5 million
3 people who work, live and rely on the water here,
4 in addition to the -- and I know you've said this
5 already, it was a misstatement, but the 1,100
6 fish the SED hopes to produce.

7 Thank you very much.

8 CHAIR MARCUS: Thank you.

9 MR. JOHN PEDROZO: And merry Christmas.
10 Thank you.

11 (Applause.)

12 CHAIR MARCUS: Thank you. Same to you.

13 I just want to check with the court
14 reporter. I think we have about -- somewhere
15 around ten more and Congressman Costa. I'd like
16 to finish the elected officials, and then we can
17 take a short break.

18 Next we have Josh Pedrozo, followed by
19 Supervisor O'Banion, followed by Santa Nella
20 County Water Board of Director Patricia Ramos-
21 Anderson.

22 MR. JOSH PEDROZO: Good morning, Madam
23 Chair. I would like to first take this time to
24 thank you and the Board for being here today and
25 listening to our concerns. My name is Josh

1 Pedrozo. I am the Mayor Pro Tem for the City
2 Council, but today I am not speaking as a Council
3 Member but as a teacher, who is also a father, a
4 husband and a lifetime member of this community.

5 I believe that this Board has failed to
6 realize that this is a quality of life issue and
7 the biggest threat to our community in the last
8 100 years. It is incredibly frustrating that our
9 concerns have not been considered. There have
10 been no meaningful meetings to provide input as
11 this plan was being developed. I encourage this
12 Board to seek an approach that benefits all.
13 Right now you are a long way from that.

14 You've had one hearing in this entire
15 process, six days from Christmas, in the middle
16 of the day. People are out of town or working.
17 And this alone tells us how much value you have
18 placed on our concerns.

19 (Applause.)

20 The devastation to our economy and
21 drinking water have simply been glossed over.
22 This plan directly harms the ability for us to
23 remain a viable community, one that is welcoming
24 to all citizens who would consider Merced as a
25 place to raise their family or start a business.

1 This is an incredibly flawed plan. And I
2 would encourage those in Sacramento to reconsider
3 this potential disaster. We must forge a path
4 based on wisdom. Any plan that creates winners
5 and losers is doomed to fail.

6 Thank you for your time and your
7 consideration, and I wish you and your families a
8 happy holiday season. Thank you.

9 (Applause.)

10 CHAIR MARCUS: Same to you. Thank you
11 for joining us.

12 Supervisor O'Banion, Director Ramos-
13 Anderson, followed by Council Member Anthony
14 Martinez.

15 Hello.

16 MR. O'BANION: Good morning, Madam Chair.
17 And thank you for the opportunity to comment on
18 the draft Plan and the Substitute Environmental
19 Document. I am Jerry O'Banion, and I've been a
20 member of the Merced County Board of Supervisors
21 for 26 years, representing the west side of
22 Merced County.

23 CHAIR MARCUS: It's been a long time. I
24 haven't seen you in a long time.

25 MR. O'BANION: I have seen the good days,

1 as well as the economic downturns and their
2 effect on our way of life. I can assure you that
3 if this proposal is implemented as proposed, we
4 have seen nothing yet that will compare to the
5 devastation which will occur due to the loss of
6 jobs and the social and economic damage that will
7 be done here in the Central Valley.

8 I have seen and recognized that the State
9 Board continues to struggle to reverse the
10 declines in fish population in the Bay-Delta,
11 which is a worthy struggle that truly deserves a
12 balanced approach. I am very concerned about the
13 proposed taking of water from families and
14 communities here in Merced County for the
15 fisheries in the Delta. Merced County and its
16 irrigation districts have been proactive in
17 working with the communities to improve local
18 management of groundwater and its sustainability.

19 In addition, the recent passage of the
20 Sustainable Groundwater Management Act adds the
21 state mandate for sustainability. The proposed
22 taking of our water supplies for flows in the
23 Delta certainly makes sustainability impossible
24 on the east side of our county and threatens the
25 viability of all of our communities.

1 It might be easier to accept if the plan
2 to throw more water at the Delta had worked in
3 the past. It is time to recognize that water in
4 the Delta alone does not work. Until the state
5 process is widened to look and solve the other
6 issues in the Delta, such as predation, invasive
7 species and in-Delta pollutants, it will continue
8 to fail the fish and wildlife, while threatening
9 the viabilities of families and communities here
10 in Merced County.

11 I thank you. And I certainly hope that
12 you will take additional time to evaluate what is
13 being proposed and make appropriate and necessary
14 changes.

15 Thank you.

16 (Applause.)

17 CHAIR MARCUS: Thank you, sir.

18 Director Ramos-Anderson, followed by
19 Councilman Martinez, followed by Councilman Alex
20 McCabe of Livingston.

21 MS. RAMOS-ANDERSON: Good morning. My
22 name is Patricia Ramos-Anderson. I'm with the
23 Santa Nella County Water District.

24 Whatever happens with water distributions
25 up north flows down throughout California. Those

1 are the true impacts. But more importantly is
2 that our communities, our businesses, our Central
3 Valley agricultural community has not chance of
4 survival with your current plan. There is no
5 chance.

6 (Applause.)

7 Our Golden State has become a brown
8 state, and we're losing jobs, not just in the
9 fields, in the farming, in the processing plants.
10 Our economy, our workforce in Santa Nella is
11 seasonal employees making minimum wage. They're
12 the most impoverished, challenged residents, our
13 community, that has to deal. Whenever there's a
14 water shortage, they know their season is going
15 to be shortened by a month or two, and that's
16 their livelihood. The majority of those families
17 in part of Merced County, the western region of
18 Merced County, are the ones that are living below
19 minimum wage standards because a lot of them have
20 other issues going on, and also the hiring
21 practices.

22 So this is very key, that the water in
23 our Central Valley, we need to have the
24 stakeholders at the table. They have to
25 represent all silos that we currently have,

1 because that's what it is, you're working in
2 silos. We have to have that partnership, because
3 right now there is not dialogue, sharing of
4 information, sharing of research data so we could
5 come to a middle ground. It's either your ground
6 or the low ground, and we don't want that. We
7 don't need to get into battles. We need to use
8 our energies to be proactive, make it a win-win
9 situation and meet the middle ground.

10 The proposal right now, we need to have
11 really comprehensive alternatives. The
12 stakeholders have to be part of that dialogue.
13 They have to be engaged and they have to be
14 listened to, and also be part of the written
15 document. Don't actions speak louder than words?
16 We have to be part of that written document,
17 that's our presence, not just having a meeting,
18 check, it's been done because of formality. No.
19 We need to have our voices in those documents.

20 Also the win-win situation is this plan
21 has to address the predator suppression, the
22 habitat restoration. Work with the fisheries and
23 mitigate the measures that have to be written in
24 the document, and also in the State Plan. If you
25 don't have that written, it gets lost in the air

1 or people forget the history or the voices.

2 Everybody here, please stand up. Please
3 stand up, everyone, please. Please. We've got
4 to show them. These are not just voices. These
5 are the people that help run California's
6 agricultural community.

7 (Applause.)

8 And we are here to work with you. We're
9 not going anywhere. We're staying here, and this
10 is our right. But you need to work with us, that
11 is vital.

12 Without that, our drinking water is the
13 other issue. We have to blend our water because
14 of chromium-6. No one has talked about the
15 drinking water issues in Central Valley and
16 Merced County. We have issues with chromium-6,
17 and we had to purchase water at \$30,000 this past
18 year. We're only 532 accounts, only two wells, a
19 population of 1,308 people.

20 How can these small water districts that
21 are not part of major cities in unincorporated
22 communities, how can we survive if we don't even
23 have the water to provide our schools, our
24 families, our town's drinking water that's safe
25 because of the chromium-6 issue in Volta and

1 other parts of this state of ours? And that's
2 one thing that hasn't been even addressed is the
3 safe drinking water because of chromium-6.

4 So again, I'm wishing that you work with
5 us, that you don't hear us but you have us at the
6 table, and that we're not going to go anywhere.
7 We will be here and we want to work with you, but
8 you need to come visit us in our neck of the
9 woods. You're here in Merced, but you need to go
10 visit Volta. You need to go visit the small
11 districts. We're not Marin County or San
12 Francisco or the Marina District. My family
13 lives -- some of them live there. But we
14 understand the need for Central Valley, because I
15 live here, and I'm not going anywhere.

16 Thank you very much for your time.

17 (Applause.)

18 CHAIR MARCUS: Thank you very much.

19 Councilman Martinez, Councilman McCabe,
20 followed by Supervisor-Elect Rodrigo Espinoza
21 from Merced County.

22 MR. MARTINEZ: Thank you. I want to be
23 the first to say that there's a lot about this
24 that I am unaware of. So it was a great
25 opportunity to be able to come down here and here

1 the presentations. And I really learned a lot in
2 terms of the water and the rivers and the salmon.

3 One thing that I didn't learn that I feel
4 might be missing is what are we supposed to do?
5 So if this goes through as it's been presented,
6 what are we supposed to do when the land runs
7 fallow? What are we supposed to do when we start
8 pumping groundwater at rates never before seen?
9 What are we supposed to do when the economic
10 impact strikes us?

11 I may not know a lot about the numbers,
12 but I do know how people feel. And as you
13 probably have sensed, obviously, there's anger.
14 But beyond anger there's hurt, there's pain,
15 there's anguish and there's betrayal. And it
16 isn't just because of the decision that may be
17 put forth here.

18 You might not know this about Merced, but
19 in the last ten years our county has suffered
20 greatly. In the first half of those ten years we
21 suffered when the housing collapse occurred, the
22 economic recession. And then the last five
23 years, we've had to endure, the City of the
24 Merced -- I'm sorry, the County of Merced, a
25 record number of homicides, officer assaults, and

1 we still struggle with hiring deputies and police
2 to keep our streets safe. And after all that,
3 you would think that would break a people. Well,
4 it hasn't. It has only made us more resilient
5 and stronger.

6 And I point to our record turnout during
7 this last election. This shows that we are a
8 people that will stand up and we will fight and
9 we will do what we need to do to make sure that
10 we can continue to have a better life. There's
11 nobody in this room that doesn't want to work
12 with the Board. There's nobody in this room that
13 doesn't want to give their fair share or give
14 their peace to help make California great. But
15 all we want is a chance. All we want is a chance
16 to work with you, a chance to meet fair and
17 equitable means. All we want is a shot to pick
18 ourselves up so we can walk with you and not have
19 to kneel before you.

20 So I ask you, please give this county,
21 give this region, give these people a shot at
22 working with you and coming up with desirable
23 means that everyone can be happy with.

24 (Applause.)

25 CHAIR MARCUS: Thank you, sir.

1 Council Member McCabe, followed by
2 Supervisor-Elect Espinoza, followed by
3 Congressman Jim Costa, who I'm told has arrived.

4 MR. MCCABE: Good afternoon. I'm a
5 Councilman in the City of Livingston.

6 CHAIR MARCUS: Good afternoon, good
7 morning, whatever. What are we?

8 MR. MCCABE: Whatever. It's about 11:00.

9 I'm embarrassed as an elected leader of
10 the water quality in my own city. We have to
11 send out these pamphlets two or three times a
12 year saying we're not meeting the water quality
13 right now. The biggest fear I have is allowing
14 this plan to turn my city into Flint. I can't
15 let this happen. I can't.

16 Let me back up real quick.

17 My name is Alex McCabe, City of
18 Livingston, third-generation farm laborer, yo soy
19 de Rancho. I am here for my people. (Speaking
20 Spanish). My people first, not fish, people.

21 If you pass this Plan the way it is
22 you'll become the worst domestic terrorist our
23 city has ever seen.

24 (Applause.)

25 One of my colleagues earlier told you

1 that people in Merced are reasonable, people in
2 Merced are humble. They are humble. They are
3 very reasonable. I appreciate the words of the
4 statesmen who came before you. I'm showing you
5 the face of an unreasonable man. I am angry. I
6 am not happy. If this comes through, we will
7 unleash the dogs of war upon you. We are going
8 to fight to the end on this. I will show up at
9 your offices, at your homes. We will be there
10 protesting you all the way through. This is not
11 acceptable. We will not become Flint. We will
12 not let our water be destroyed.

13 You told us earlier that you do listen,
14 and I pray you do because I don't want to be your
15 devil, as you are mine right now.

16 Have a great day.

17 (Applause.)

18 CHAIR MARCUS: Supervisor-Elect Espinoza,
19 followed by Congressman Costa, followed by Merced
20 City Councilman Michael Belluomini.

21 MR. ESPINOZA: Madam Chair Marcus,
22 Members of the Board --

23 CHAIR MARCUS: Hello.

24 MR. ESPINOZA: -- thank you for coming to
25 Merced today. You know, as a Council Member, as,

1 you know, previously stated, we have so many
2 different water quality issues in our city and,
3 you know, around our county with arsenic,
4 chromium-6 and different, you know, quality
5 issues.

6 A few years ago, in 2008, we -- the city
7 was -- we were to get \$13 million from Dow
8 Chemical for damaging our water years ago. You
9 know, out of that, we only kept \$9 million. But
10 over the years, we've been fixing our wells, our
11 drinking water for the community. You know, we
12 had -- we're mandated by the state to send
13 letters to our citizens that water quality
14 issues, you know, we're not meeting water quality
15 issues.

16 But, you know, let me read a little bit
17 from my statement.

18 I've been Mayor six years of Livingston.
19 And, you know, in two more days I'll be down.
20 But I'll be Supervisor-Elect of Merced County in
21 two weeks. And, you know, I just want you to
22 know that we're very diverse, very beautiful
23 communities in Merced County.

24 I come to you in opposing this plan.
25 I attend business in both Merced Irrigation

1 District and Turlock Irrigation District's
2 jurisdiction, so I became, for many reasons,
3 aware of the possible impact of the Supplemental
4 [sic] Environmental Document. I'm also a
5 volunteer at MID El Rancho Committee, so I am
6 aware of the district's continuous balancing act
7 for water supply costs for increased system
8 efficiency and water rights.

9 When discussing the SED, we can't escape
10 noticing the tremendous hike in demand imposed on
11 our limited resources where Merced River is no
12 more than a speckle in terms of impact on the
13 Delta or its fishery. We can't help but to tie
14 the dwindling California share of the Colorado
15 River, the WaterFix and SGMA with the SED as
16 timing is just too conspicuous enough to raise
17 eyebrows.

18 Our community carried the burden of
19 constructing and maintaining the tremendous water
20 infrastructure without relying on the state or
21 federal government on funding. We covered all
22 aspects of these undertakings: dam; reservoirs;
23 hydro plants; recreational facilities;
24 distribution systems; drainage system; electric
25 distribution system; even the rose, to the

1 projects. Now the state wants to plug this
2 matured and clockwork-functioning project for
3 their benefit with no compensation. Better yet,
4 or for narrow purpose of serving others in the
5 state and ridding all other local investments
6 undertaken by MID and locals as acceptable
7 sacrifices, again, without compensation.

8 Interestingly, dams get a bad reputation,
9 yet the state wants to utilize them for a
10 fisheries benefit, over again, inexplicably with
11 no compensation. This last storm generated a
12 tremendous runoff in Exchequer Dam, combined with
13 other tributaries. It would have inundated
14 portions of the City of Stockton and a number of
15 the communities on the way. Nobody appreciated
16 this silent sentinel and the locals responsible
17 for the health of their own line.

18 With the SED, it seems we are
19 surrendering the project, or more like it is
20 being hijacked by supposedly stronger powers. We
21 propose the state and potential direct and
22 indirect beneficiaries from the SED additional
23 water releases to construct their own reservoir
24 to achieve the proposed flow mandates. Even if
25 we are to entertain the proposed document, we

1 would like to understand the need for flows in
2 the Merced River based on an actual tested
3 scientific basis, not the ongoing speculations.

4 As for the Delta, we would like to see an
5 analysis of impacts of water quantity and
6 quality, absent any exported water, throughout
7 Southern California, the coast, or the Bay Area,
8 before we make any additional releases from the
9 Merced River Basin. Eleven hundred additional
10 fish can't possibly require two-thirds of
11 Millerton Lake behind Friant Dam, which
12 incidentally is on the San Joaquin River but
13 miraculously off the hook. I have heard that
14 more than an additional 1,100 salmon already made
15 the trek up the Merced, so goal achieved. The
16 SED could afford to wait, at least on the Merced.

17 In the meantime, please consider a more
18 palatable approach for the volumes needed for the
19 salmon, similar to the concepts introduced in
20 Merced ID's SAFE Plan. Conduct thorough studies
21 to determine the validity of salmon that has
22 been, corresponding to any flows committed.
23 Return any unneeded volumes of water back to
24 Merced ID after those studies are concluded.
25 Even if monthly flows are dedicated to salmon

1 outflows, the months of February and June should
2 not be included as Merced ID indicated on many
3 occasions, are the lower possibility for salmon
4 to be moving during these months.

5 I don't mean to come strong as I say all
6 this with utmost sincerity, with my livelihood
7 hanging in the balance. If water is needed by
8 other interests, then let them build their own
9 project and better water recycling, groundwater
10 recharge and ocean desalinization.

11 Thank you.

12 (Applause.)

13 CHAIR MARCUS: Thank you, sir. It
14 actually -- it is not about others. Everyone
15 will be asked to give on this.

16 Congressman Costa, followed by Councilman
17 Belluomini, followed by Supervisor-Elect Lloyd
18 Pareira.

19 Congressman Costa, nice to see you.

20 CONGRESSMAN COSTA: Good to see you.
21 Thank you, Chairman Marcus, and thank the Members
22 of the State Water Board and the staff. And most
23 importantly, the community that's here today to
24 view their very, very serious concerns to the
25 State Water Board. We appreciate the fact that

1 you're here.

2 And obviously, my role as the federal
3 representative interacts with my colleagues at
4 the state level as we look at a very complex
5 integrated water system that we have in
6 California between our Federal Water System and
7 our State Water Project and our local water
8 districts that do such great work, that have
9 historically been a part of these communities,
10 like Merced Irrigation District, for literally
11 decades. The fact that Assemblymember Gray and I
12 and Senator Anthony Cannella, representing this
13 wonderful county, work together, because we
14 understand clearly that where water flows, food
15 grows.

16 (Applause.)

17 Congressman Denham and Congressman
18 McClintock and I sent a letter to this Board,
19 indicating our concerns and asking to ensure that
20 the Board met here so that people could tell you
21 firsthand of their fears, their frustration and
22 their concern. So the purpose of this hearing,
23 obviously, is to let you know the impact to our
24 communities. This hearing is a first afford in
25 that effort.

1 But let me tell you, and I'm sure you've
2 gotten a clear sense of it this morning, I'm
3 reminded of the movie Network in 1976 when the
4 quote came, "I'm mad as hell and I'm not going to
5 take it anymore." That's what you feel back
6 here. Folks are mad as hell and they don't want
7 to take it any more. That's really --

8 (Applause.)

9 CHAIR MARCUS: You know what, I don't
10 mind hearing it. It's the gratuitous name
11 calling that I don't think is helpful, which you
12 never do, so --

13 CONGRESSMAN COSTA: No. But I -- this
14 incremental reallocation of water that, for my
15 purposes, goes back to 1992 with the Central
16 Valley Improvement Act, and then again in 2006
17 with the San Joaquin River Restoration Act. And
18 now with this proposal, we are looking at a
19 potential of 1.5 million acre-feet of water on an
20 annual basis, depending upon the rainfall and the
21 snow, that has been reallocated. The 800 to 1.2
22 million acre-feet as a result of CVPIA reform,
23 and the 225,000 acre-feet of water as a result of
24 the San Joaquin River Restoration Act. And this
25 proposal, if we add it up with the Merced, the

1 Tuolumne and the Stanislaus, could be another
2 293,000 acre-feet of water. So that's how I get
3 to 1.5.

4 It's really easy for some folks who, if
5 it's not your water, to say, well, these are good
6 purposes and we want to reallocate it. But when
7 it's your life and blood, 1.5 million acre-feet
8 of water -- and if the fisheries had improved
9 over the last 20 years, you could at least have
10 something to point to. But the fact is, as you
11 know and this Board knows, there are multiple
12 contributing factors --

13 CHAIR MARCUS: Absolutely.

14 CONGRESSMAN COSTA: -- that are resulting
15 to the decline of this system. I mean, we have a
16 broken water system. Let's face it, this water
17 system that was devised and conceived in the '40s
18 and the '50s to provide for a population of 20
19 million people and the agriculture that we had in
20 the 1960s is no longer capable of meeting all of
21 the demands and needs of a state that has 41
22 million people today, will have 50 million people
23 by the year 2030, and is the largest agriculture-
24 producing state in the entire nature, that
25 produces half of our fruits and vegetables,

1 number one in citrus, number one in dairy, number
2 one -- you go down the list, 300 commodities,
3 \$20.4 billion in exports last year, California
4 alone. And so we have to determine this
5 balancing act.

6 The proposal before us that the staff has
7 come out with, in my opinion, is an incredibly
8 unbalanced and in direct conflict with the
9 multiple priorities of State Water Law that
10 include the following.

11 Sustainable Groundwater Management Act,
12 passed and signed into law, now almost two years
13 ago. We have to come into compliance soon with
14 that. Now you're talking about taking 293,000
15 acre-feet of water away, and we've still got to
16 try to come into compliance with that. I don't
17 think that's reasonable.

18 The concept of co-equal goals, co-equal
19 goals, you know, I've been part of this effort
20 for a long time. I remember, we were all
21 supposed to get healthy together again. Well,
22 this part of the valley, our San Joaquin Valley,
23 is not getting healthy if we continue to
24 reallocate the precious water supply that is so
25 desperately needed here.

1 The direct identified impacts in the
2 proposal, we believe, is over \$260 million
3 overall, \$68 million for agriculture in
4 identified benefits for a population of
5 approximately 1,100 Chinook salmon. Now, I know
6 you said earlier, that a range. Okay. But the
7 fact of the matter is, is we've got 600,000 to
8 800,000 salmon on a roughly estimated basis. And
9 it's not determined that these are endangered.
10 So I think we've got to look at the co-equal
11 goals when we're talking about this. The amounts
12 of \$260 million impact for a population increase
13 of less than two-tenths of a percent is
14 approximately \$235,720.76 per fish, to my math.

15 (Applause.)

16 And that's at the lower population level.
17 These salmon are not at risk, and they still are
18 commercially harvested. And I am simpatico with
19 the salmon fisherman. They've had tough times,
20 as well, but we've had tough times here.

21 We've had zero water allocation in parts
22 of this valley in consecutive years in a row. We
23 have a five percent water allocation on the west
24 side. I'm talking to a Los Angeles Time reporter
25 last spring. He says, "So you're trying to get

1 your farmers more water; right?"

2 I said, "No. Wrong."

3 He said, "What do you mean?"

4 I said, "I'm trying to get our farmers
5 some water. When you have a zero allocation,
6 that's no water."

7 He says, "I don't get it."

8 I said, "Where are you from?"

9 He says, "Well, I'm from Miami,
10 originally. I'm just new to the L.A. Times."

11 That's part of the problem. We have a
12 challenge in communication. We have two-and-a-
13 half percent of the state's population directly
14 responsible for this incredible agricultural
15 production. My family, like many of these
16 families here today, have farmed for generations.
17 And so the fact of the matter is, is that we can
18 see what happened, that is the west side of the
19 valley, when an imbalance of regulatory
20 requirements takes place.

21 The State Water Board, and I respect your
22 due diligence, has a charge to weigh the balance
23 in competing beneficial uses. And this is, I
24 think, an incredibly imbalanced proposal that the
25 Board has come up with.

1 But Chairperson Marcus, you and I have
2 known each other for a long time. And I was
3 hopeful that recently at a Board hearing in
4 Sacramento, you had a quote, and let me repeat
5 your quote. I want to make sure I got it right.
6 You said,

7 "The State Water Board must adopt objectives
8 that reasonably protect beneficial uses and
9 consider and balance all the beneficial uses
10 of water, and not pick one and discard the
11 others," Marcus said. She described river
12 flow as a key factor in survival fish,
13 including salmon, but noted, "There are other
14 important factors, including effecting the
15 fisheries, such as degraded habitat, high
16 water temperatures and deprecation," end of
17 quote.

18 Did I get that right?

19 CHAIR MARCUS: Yeah.

20 CONGRESSMAN COSTA: Good. There are
21 numerous factors impacting our fisheries, and
22 it's taken this long to take people to finally
23 begin to become aware of them.

24 We had a bit of a success in the last ten
25 days on important water legislation effecting

1 California, to try to further provide balance.
2 I know that Merced Irrigation District has spent
3 months working with the proposed alternative that
4 represents a multi-prong approach to improving
5 salmon habitat and addresses predation issues.

6 I ask you seriously to look at the Merced
7 Irrigation District proposal because I think,
8 instead of a flawed proposal that only advances
9 one effort and exacerbates, I think, false
10 choices between fishery improvements and
11 community farms, between flows for farmers and
12 flows for fish, the truth is, is that we can all
13 move forward together if we address the many
14 stressors, multiple stressors that are impacting
15 our state's fisheries. But we must be willing to
16 explore alternatives to approach the ones, like
17 the one developed by the Merced Irrigation
18 District, and the likes of the Delta Smelt
19 Resilience Plan advanced by the California
20 Department of Fish and Game. These are types of
21 proposals that meet the Board's charges of
22 balancing the competing needs. These are the
23 types of proposals that do not double unimpaired
24 flows and expend nearly a quarter of a billion
25 dollars for 1,100 fish.

1 I urge you to go back to the drawing
2 board and to work collaboratively with all of us
3 for a reasonable plan.

4 And let me just close by saying that we
5 have to fix this broken water system. I've
6 dedicated most of my legislative career to trying
7 to do that. There is no doubt that there are
8 tradeoffs. But if you live here in the valley
9 and you produce this incredible cornucopia of
10 agricultural products that sit on America's
11 consumer's dinner table every night, the highest
12 quality foods at the most reasonable cost
13 anywhere in the world, and you see your
14 livelihood, in some cases for generations of
15 families, like you've heard here today, like my
16 family, and you wonder, where is there balance?
17 Where are we talking about the sustainability?

18 The plant clicked 7 billion people a year
19 ago. By the middle of this century, we're going
20 to have 9 billion people. Food is a national
21 security issue. When are we going to start
22 treating food like the national security issue
23 that it is? We have to have sustainability --

24 (Applause.)

25 We have to have sustainability to ensure

1 that, not just Californians but people throughout
2 our country and around the world, that we're able
3 to continue to do what we do best, which is
4 produce the best quality of food and fiber for
5 Americans as we progress in the 21st century.
6 And so this is all about sustainability,
7 sustainability of our valley, sustainability of
8 our state, and sustainability of our nation. And
9 I think it's that holistic approach that the
10 Water Board needs to keep in mind when we're
11 balancing these competing needs.

12 And I will continue to work with you to
13 ensure that you remember and never forget the
14 wonderful people of this valley.

15 Thank you very much.

16 (Applause.)

17 CHAIR MARCUS: Thank you, Congressman.
18 My apologies to people. I know I allowed the
19 Congressman to go very long. But we've worked
20 together over the decades and, as he knows, we've
21 been able to reach agreements across a variety of
22 aisles over the years.

23 So moving on, and I know we've gone long.
24 It's hard to actually stop elected officials when
25 they're speaking. And I do it out of respect,

1 actually, of them being elected.

2 No, I love you. Appreciate it. And, as
3 you know, I've been out defending agriculture in
4 urban California for the last three years, so
5 I've been using your talking points, as a matter
6 of fact.

7 Councilman Belluomini, followed by
8 Supervisor-Elect Pareira, followed by Hub Walsh.
9 Hub Walsh is on a panel? Okay. So I'll pull
10 that off. You're on the panel later. Oh,
11 followed by Supervisor Deidre Kelsey.

12 Hello, Councilman.

13 MR. BELLUOMINI: Hello. Good morning,
14 Members of the Board and staff. My name is
15 Michael Belluomini. I'm on the Merced City
16 Council. And I've been a resident of the
17 community here for 36 years.

18 I am familiar with the planning process
19 that you're going through. You guys are in a
20 tough spot. I was a staff -- a city planner by
21 training and staff to commissions and boards and
22 councils for 20 years. But one of the most
23 important parts of the planning process is to
24 listen, and to listen very carefully, and to try
25 and appreciate what you hear and to take

1 advantage of help that you're being offered. And
2 I think those are key things that you could take
3 away from this meeting.

4 The City of Merced depends on groundwater
5 for drinking water. All of our water is from
6 wells. We need to be able to recharge that
7 water, and we need to have the flows to be able
8 recharge that water. We depend on that water to
9 do industrial development, residential
10 development. Agriculture in the surrounding area
11 depends on water in order to provide agricultural
12 industry and agricultural businesses, all of
13 which are the lifeblood of our community.

14 We're careful and conservative with the
15 use of water, both in the city, and I think in
16 agriculture, as well. And as the current plan is
17 proposed, I am opposed to the current plan as
18 written because it would have a devastating
19 effect on our community.

20 The state proposal will increase
21 unemployment in the area and the social ills that
22 come with unemployment, crime, the health of our
23 people even, and the reduced, I think, student
24 achievement. All those things are related to
25 people being employed and having a livelihood.

1 So your question should be, so what do we
2 do? We're trying to strike this balance.

3 I think you have an alternative. The
4 Merced Irrigation District has provided this SAFE
5 Plan, Salmon Agriculture Flows and Environment
6 Plan, that is backed with factual information
7 based on people who really understand these
8 issues in great detail, to create more backwater
9 for habitat, to provide targeted flows in key
10 times of the years to benefit the salmon, and to
11 manage salmon predators, such as these non-native
12 bass. So I think you need to work very much with
13 the Merced Irrigation District to try and benefit
14 from their understanding and knowledge about how
15 this plan could be improved.

16 So I appreciate very much your presence
17 here today and your attempt to try and hear what
18 our community has to say in trying to strike a
19 balance between the factors. When you try and
20 strike that balance, I would urge you to give due
21 importance to the livelihood of hundreds of
22 thousands of people in the Central Valley.

23 Thank you.

24 (Applause.)

25 CHAIR MARCUS: Thank you, sir. Very

1 thoughtful.

2 Supervisor-Elect Pareira, followed by
3 Supervisor Kelsey, followed by Cole Upton from
4 the Chowchilla Water District, the Chairman.

5 MR. PAREIRA: Thank you for entertaining
6 me.

7 CHAIR MARCUS: Hi.

8 MR. PAREIRA: Lloyd Pareira, Merced
9 County Board of Supervisors, Elect.

10 I'd like to start out with a quote from a
11 farmer just a little far south of us here, Eric
12 Wilson. And his quote is this and it's very
13 profound, "Never before in human history as a
14 society actively sought to end their own food
15 supply."

16 (Applause.)

17 And it appears to me that that's the road
18 that we're traveling down. And all of you have
19 families. All of you live in communities. And
20 some day somebody is going to be held accountable
21 for when they go to the refrigerator and they
22 open the door and there's not quite enough food
23 there. And then they're going to say, well,
24 let's run to the grocery store, and they run to
25 the store and there's not quite enough food

1 there.

2 And so what I'd like to ask is for you to
3 think about the legacy that you'd like to leave
4 in the State of California. You serve the
5 public, right, just as I do. And so, you know,
6 as you take that into consideration, you know,
7 the SED Plan is just flawed. I mean, it doesn't
8 take in, as all the speakers have said today, all
9 the factors that need to be analyzed.

10 So I'd like to lift up the Merced
11 Irrigation District's SAFE Plan and ask that you
12 start the negotiations. And instead of sitting
13 on a table up on a stage and having us on the
14 ground down below you, that you engage in the
15 process and that we all end up with a society
16 that we're happy to live in and that we can be
17 held accountable to and feel good about the
18 decisions we've made.

19 Thank you.

20 (Applause.)

21 CHAIR MARCUS: Thank you, sir.

22 Supervisor Kelsey, followed by Chairman
23 Upton. And then I think we can take a short
24 break.

25 Hi. Nice to see you again.

1 MS. KELSEY: Good morning. How are you
2 folks today? Good to see you again. I'm not
3 going to talk about the same things that I talked
4 about when I was in Sacramento a couple other
5 weeks. I basically wanted to take more of a
6 personal take on what's been going on. I do
7 represent District 4 in Merced County and have
8 for 21.4 years, and for two more weeks before
9 Supervisor Pareira takes the position.

10 I live out in Snelling area, Merced
11 Falls, very close to the Merced River. And
12 yesterday, I took a walk around the ranch,
13 passing the canals, the reservoirs, the natural
14 streams and the creeks. Thankfully, we've had
15 some rain and it really is making a huge
16 difference. I know these waterways very well.
17 I've lived there almost 40 years. I thought
18 about the planning and the engineering and the
19 execution of the irrigation improvements that
20 five generations of Kelsey Family members have
21 made there. They've put a lot of work into it.
22 They've put a lot of thought into what they were
23 doing. It's very strategic, so that the water
24 can be used in the best way possible.

25 I then thought about the water districts

1 and the collaboration with the local population
2 to improve the entire region. Their long-range
3 planning that they have used has consistently
4 provided water to this region of the beneficial
5 use to the people, the environment and the
6 species that live in the water. The work that's
7 been put in on these water systems has provided
8 steady, increasing employee on the farms and
9 ranches and supported many jobs throughout the
10 entire county. The property taxes generated have
11 supported the greater Merced community and county
12 government at every level, schools, sanitary
13 districts, you name it.

14 To be successful a plan must provide a
15 clear and specific benefit to the public. The
16 benefits of SEDs are unclear. The only clarity
17 that this proposal holds is a negative impact on
18 this region. The taking of 40 percent of the
19 Merced River water supply -- Watershed supply,
20 and the timing at Christmas, and the speed, the
21 speed, the final decision in a few weeks of the
22 SEDs process, greatly concerns me. I don't like
23 it when I see a big project coming and there
24 hasn't been enough time to really understand it,
25 correct it, make the tweaks to it. You need to

1 make it successful for everyone.

2 CHAIR MARCUS: And we won't be adopting
3 anything until later next year.

4 MS. KELSEY: Okay. Later next year?

5 CHAIR MARCUS: We will be considering it
6 carefully. I said at the beginning, there will
7 probably be --

8 MS. KELSEY: All right.

9 CHAIR MARCUS: -- a new draft out in --
10 or a proposal out by May. We have to go through
11 all the comments, and there will be many more
12 meetings --

13 MS. KELSEY: All right.

14 CHAIR MARCUS: -- with folks, just --

15 MS. KELSEY: And I hope --

16 CHAIR MARCUS: -- so you know.

17 MS. KELSEY: And I hope that those
18 comments are something that you do actually
19 listen to. We need to be successful as a region.
20 We need to be successful as a state. Water is
21 really important to everybody. And there doesn't
22 -- there shouldn't be massive, massive
23 differences between the benefits and the
24 detriments.

25 Let me finish really quickly.

1 CHAIR MARCUS: Quickly. Thank you.

2 MS. KELSEY: The proposal as it is right
3 now, in my opinion it's flawed. It creates
4 massive change to Merced County. It creates
5 massive losses to this region. Our economy and
6 our culture has the potential to be destroyed by
7 the proposal as it's written. The region will
8 suffer terribly while others prosper.

9 Please listen to our community. Please
10 ease our concerns by working with us to provide a
11 better plan for our region and for the State of
12 California.

13 Thank you very much.

14 (Applause.)

15 CHAIR MARCUS: Thank you, Supervisor.
16 Chairman Upton?

17 MR. UPTON: Yeah, thank you, Chairman
18 Marcus. Yes, I am the Chairman of the Chowchilla
19 Water District; 14,000 acres of Chowchilla is in
20 Merced County and it gets -- it gets water from
21 Friant Dam. I also farm in other areas and have
22 been part of the sphere of influence for Merced
23 County. We get our water from MID when it is
24 excess. This is exactly the type of water you're
25 talking about taking and it's not going to be

1 available to us anymore.

2 CHAIR MARCUS: Okay.

3 MR. UPTON: I wanted to briefly --

4 CHAIR MARCUS: That's helpful to know.

5 MR. UPTON: -- talk about my experience
6 with Friant, because we get our water out of
7 Friant for Chowchilla Water District. Years ago
8 we made a so-called settlement, like you're
9 talking about --

10 CHAIR MARCUS: Uh-huh.

11 MR. UPTON: -- with NRDC, the Bay
12 Institute, Save the Bay, and 14 other
13 environmental organizations. And the idea,
14 according to Senator Feinstein, who gave us the
15 task, try to have a reasonable attempt to bring
16 salmon back and to keep the water, mitigate the
17 water losses for the farmers. It was signed.
18 And before the ink was dry, NRDC was in court,
19 suing so that we couldn't get our water back
20 involving other lawsuits they were in. And so
21 today, we're in a situation where they're still
22 trying to get the water, and we're not getting
23 the water back.

24 The irony is, is that under NRDC's own
25 data, it shows that the water is going to be too

1 hot in the San Joaquin River for the salmon to
2 survive. There's a paper, In Hot Water is what
3 it's called. We did a study, a joint study with
4 NRDC. When they came up with that, NRDC's
5 solution was to stop the study because that does
6 not comport with our legal strategies, so the
7 study was stopped.

8 And as we talk today, trucks are going
9 around, picking up salmon that are stranded on
10 this experiment and taking them out to the ocean.
11 So I don't have a lot of faith in these
12 settlements, unless I'm dealing with honorable
13 people.

14 So in this case, you're coming into
15 Merced County and you're saying, okay, folks,
16 we're only going to take 40 percent. But if you
17 grovel enough, maybe we'll only take 30. That's
18 not how you do a negotiation.

19 First, we need to see the need for this.
20 And I am not impressed with the data that you
21 have. When Mr. Howard came to Merced last time
22 he said, well, he couldn't consider pollution of
23 predation. All he can consider is water, so
24 that's the only solution. And he's depending on
25 scientists. Well, these scientists are the same

1 ones that would take millions of acre-feet out of
2 the Delta for the last 20 to 25 years; it hasn't
3 helped the smelt at all. They're in worse shape
4 than they ever were. So what's wrong with this
5 picture? There's a lot more going on up there
6 than just taking water from the good folks here
7 in Merced.

8 Now, I spent six years in the military,
9 supposedly defending the country against whatever
10 threat there was, as did a lot of these people in
11 Merced County. They're good, God-fearing people.
12 And what I feel now, I feel I'm being attacked by
13 my own government, okay? And I am not going to
14 stand by. This is not --

15 (Applause.)

16 I am not going to be satisfied with some
17 dictator by appointees or a tyranny of
18 bureaucracy making decisions. Appointed
19 officials have to get involved and we will get
20 involved, whether we have to use techniques of
21 Martin Luther King or whatever.

22 Last comment. I want to congratulate
23 you. You've done one thing that we've never been
24 able to do here. You have got this community
25 united, okay, and I want to thank you for that.

1 (Applause.)

2 CHAIR MARCUS: Good start. If you can
3 actually get it into one conversation, that could
4 be a very good thing.

5 Let's take a 15-minute break. A couple
6 of announcements first.

7 We do need speaker panel cards for the
8 San Joaquin Tributaries Authority and Restore
9 Hetch Hetchy. And when we return, I will go to
10 the panel, and then I'll start alternating with
11 the speaker cards. We do have quite a few
12 speaker cards, so I think we're probably going to
13 have to go to two minutes, and I'm going to be
14 tighter on the time frames. I'll consult --
15 maybe I should have been tighter on elected
16 officials, but they're elected.

17 So let's take a 15-minute break and come
18 back at 11:50. And then we'll have a late lunch
19 break. So if you're one of those people who
20 needs to eat at noon, I suggest you grab a snack
21 now.

22 (Off the record at 11:35 a.m.)

23 (On the record at 11:59 a.m.)

24 CHAIR MARCUS: Thank you all for staying
25 with us. Please take your seats. Sorry we're a

1 little bit later than I promised.

2 We have one more elected official who has
3 come in. We will have him speak. And then we
4 will move to the Merced Irrigation District
5 Panel, which is our longest panel of the day.
6 Then we will take a series of public comment, and
7 then we will break for a short lunch break.

8 So our final elected official, at least
9 of the morning, is Bob Kelley, General Manager of
10 the Stevinson Water District. I'm not sure
11 that's elected, but that's fine.

12 Mr. Kelley? Oh, good, there you are.
13 Thank you, sir.

14 MR. KELLEY: Thank you. Thank you, Board
15 Members, for the opportunity to speak here.

16 CHAIR MARCUS: Of course.

17 MR. KELLEY: I sincerely appreciate your
18 efforts to come down here and discuss this
19 difficult issue. And I truly don't come from the
20 side of any acrimonious feeling towards you. You
21 have a hard job. And I was a little bit upset
22 with some of the remarks earlier that were quite
23 derogatory.

24 CHAIR MARCUS: I don't like being used as
25 a prop all that much for -- so thank you.

1 MR. KELLEY: So anyway, I --

2 CHAIR MARCUS: It's not that helpful.

3 MR. KELLEY: -- I feel for you.

4 CHAIR MARCUS: That's all right.

5 MR. KELLEY: Anyway, my name is Robert
6 Kelley. I'm the General Manager of the Stevinson
7 Water District. But more than that, I'm a sixth-
8 generation Californian agriculturalist, living in
9 Merced County and quite proud of it. I'm here
10 testifying on behalf of the landowners in the
11 Stevinson Water District and the Merquin County
12 Water District, approximately 1,300 acres of
13 irrigated land, including the town of Stevinson.
14 It's a disadvantaged community.

15 In 1890, my ancestor built an irrigation
16 canal 26 miles long from the San Joaquin River
17 east of Los Banos to the confluences of the
18 Merced and San Joaquin. Our land is located at
19 those confluences that have received service
20 water for 120 years. The canal is earthen and
21 connected to Bear and Owens Creek and a number of
22 slews and large wetlands. We've been told by
23 agencies that we're now jurisdictional, even
24 though it's a man-made canal.

25 This is, you know, part of the job, you

1 know? You know, we're being regulated, that's
2 fine. But our supply is being threatened at the
3 same time with this proposal. And it's -- you
4 know, when you get less water, it's going to
5 impact the wetlands that we also have. And in my
6 mind, not only agriculture but the wetlands and
7 the species that occupy it are being threatened
8 in our area, so they deserve the same protection
9 as the salmon.

10 One-third to one-half of our water is
11 groundwater, so we rely on the conjunctive use of
12 groundwater. And we've become increasingly
13 efficient in our application of water as the
14 scarcity of the resources have dictated. These
15 efforts are decreasing aquifer storage and
16 decreasing the ability to rejuvenate our
17 groundwater, making groundwater sustainability
18 more difficult in absence of surface water, the
19 only way to create sustainability outside of
20 fallowing land. So it's really putting us in a
21 difficult situation.

22 I've been working very closely with
23 Merced County in the development of GSAs and the
24 sustainable job that we have, and it's a huge
25 job. We're creating an entirely new bureaucracy

1 of managing groundwater that didn't exist before,
2 and it's very daunting. You know, as I've gotten
3 into it I realize that our jobs are just starting
4 to get very, very difficult. So this proposal
5 is, frankly, very scary in the job that we have
6 to do going forward.

7 Certainly, unless we've got some kind of
8 surface water, the only way to achieve
9 sustainability is fallowing. And, you know, you
10 know that you won't see significant fallowing
11 right away. But I can guarantee, in ten years
12 this valley is going to look very different as a
13 result of the sustainable -- groundwater
14 sustainability legislation.

15 This proposal, if implemented, will
16 increase the loss of -- this loss of ag ground,
17 and also the jobs in related industries. So it
18 is quite challenging, to say the least.

19 I wanted to also, because a lot of the
20 stuff was already discussed, I wanted to point
21 out with respect to the decline in the salmon
22 population, as has been mentioned before, there
23 are many factors involved. And that the decline,
24 it just appears to be that these -- it's unclear
25 as to the actual, you know, cause of it all. The

1 Lower San Joaquin tributary system may never
2 achieve optimum temperature levels due to climate
3 change for reversing this decline in salmon. I
4 think particularly, you should go farther south.
5 This temperature problem is going to be
6 increasingly difficult to find any kind of
7 significant numbers of salmon that are going to
8 make it.

9 Certainly, as you go farther north in
10 California the job of large sustainable salmon
11 populations are much easier. But as you go
12 farther south, particularly with climate change,
13 you know, that there's a limit to what you can
14 expect as far as salmon populations are
15 concerned.

16 And when you clearly see this audience
17 and the difficulties that we're face with, with
18 the sustainable groundwater and everything else,
19 you can how you've got us in a real vice grip
20 here. We really don't know -- our future is very
21 uncertain.

22 CHAIR MARCUS: Right. And I'm going to
23 gently suggest that you wrap.

24 MR. KELLEY: That's it.

25 CHAIR MARCUS: All right.

1 MR. KELLEY: That was it.

2 CHAIR MARCUS: You've been very gracious.

3 MR. KELLEY: That was it. Just, we
4 really -- I said everything I can. Thank you
5 very much.

6 CHAIR MARCUS: No. Thank you. It was
7 very well said. I appreciate it.

8 (Applause.)

9 (Colloquy Between Board Members)

10 CHAIR MARCUS: I'm going to move to the
11 panel presentation now, which perhaps I should
12 have been tougher on the time, my apologies. But
13 I'm trying to really listen to everybody -- hello
14 -- what everybody has to say. But I've been
15 looking forward to this panel, to hear not just
16 your comments but about your SAFE Plan.

17 So with that, I'll turn it over to -- who
18 should I turn it over to, you, John? And then if
19 you don't mind introducing your panelists and
20 taking it away? Thank you for your patience this
21 morning.

22 MR. SWEIGARD: Do these mikes turn
23 themselves on or not?

24 CHAIR MARCUS: You just -- there's a
25 button right there.

1 MR. SWEIGARD: It's on? Okay.

2 CHAIR MARCUS: It should be on. Okay.

3 MR. SWEIGARD: Thank you. Well, then I
4 will -- I'm going to give an intro, and then I'll
5 introduce our team --

6 CHAIR MARCUS: Thank you.

7 MR. SWEIGARD: -- and we'll go through a
8 lot about the SED and other issues.

9 For one, I just wanted to state, these
10 are our oral comments at this time. Expect our
11 comprehensive written comments, which are more
12 than 400 pages at this point in time. And just,
13 you know, I know we're all busy and there's a lot
14 going on, but it is kind of a shame that we only
15 got 45 minutes to talk about something that is
16 facing us that's this severe, and we've only got
17 45 minutes. But we're going to do our best to --

18 CHAIR MARCUS: It's 45 minutes at the
19 public hearing. Unlike some of our other
20 proceedings, this one is not ex parte. So you
21 can come in and we can have long meetings, if you
22 like. This meeting is to take public comment, as
23 well, so --

24 MR. SWEIGARD: Okay. But we're going to
25 do our best to get it all in. We've been

1 practicing and we think we've got the times down.

2 So welcome to Merced. As you can see,
3 this is kind of an emotional issue, not just for
4 farmers but for the entire community. And that's
5 one of the things we need to talk about, I'm just
6 going to give you some general statistics on
7 Merced Irrigation District and not bore you with
8 a bunch of slides with maps and stuff. But our
9 water rights are, as people talk about, they're
10 senior. They go back to 1857. We have direct
11 diversion and storage rights on the Merced River.
12 It's a locally owned and paid for hydroelectric
13 and reservoir project.

14 Our average family farm size is 50 acres,
15 and we produce over 50 crops in this area,
16 130,000 acres irrigated in the district: 175,000
17 in the basin receive water from Merced Irrigation
18 District in some way, shape or form; 5,000 of
19 that is a National Wildlife Refuge that we give
20 15,000 acre-feet of water to per year. Stevinson
21 Water District, you just heard Bob Kelley, we
22 have an agreement with them where we have to
23 provide water to them first, 25,000 acre-feet per
24 year. We also put water in the river for Merced
25 riparians -- Merced River riparians. And as

1 you've heard, we provide groundwater recharge
2 benefits to this 500,000 acre groundwater basin.
3 And everything we do protects drinking water
4 quality in the basin.

5 So the entire basin, and that's why you
6 see the entire community here, depends on MID's
7 senior water rights and stored water in some way,
8 shape or form.

9 I just want to give a quick reminder, at
10 the last Water Quality Control Plan in 1995, we
11 talk about it a lot --

12 CHAIR MARCUS: Uh-huh.

13 MR. SWEIGARD: -- you know, that
14 indicated that we needed some flow and water
15 quality standard at Vernalis, the southern edge
16 of the Delta. And we were able to bring
17 everybody together and implement that Water
18 Quality Control Plan with the Vernalis Adaptive
19 Management Plan, which was an over ten-year water
20 release scientific program on all the
21 tributaries. So I think Merced has demonstrated
22 a reasonable history of working with folks. And
23 I think, to the Water Board's credit at the time,
24 that they did the same thing.

25 And I think it's important to the

1 discussion we're talking about, flows from 1992
2 to, you know, some year present. Due to VAMP and
3 other water transfers that Merced had done, we've
4 released twice the volume that we've been
5 required to by regulation down the Merced River
6 since 1997, including spring out-migration flows
7 and fall attraction flows.

8 I also want to mention that the first
9 draft of this SED that came out, we had plenty of
10 public process. We had State Water Board staff
11 and folks out to Merced and did some tours. And
12 we pointed out some of our major concerns
13 regarding groundwater assumptions, land idling
14 assumptions, lots of other things. And to the
15 Water Board's credit and the Water Board staff's
16 credit, they did go back to the drawing board and
17 the drought kind of got in the way of us all --
18 in the middle there.

19 But one thing we did notice about the
20 second draft is, although we have been asked for
21 hard data, we haven't had a sit-down with anybody
22 to explain what that data means. As it's being
23 suggested, water operations are complex on
24 rivers, et cetera. Well, they're just as complex
25 for the way we manage the river and our water

1 supplies and our conjunctive water management
2 practices, and those things need to be explained
3 as to why the data may be the way it is and not
4 just interpreted in some other fashion. I think
5 that's important.

6 We've had some recent experience with
7 public process that gives us some reason for
8 hope. As probably everybody here is aware, we're
9 going through the Federal Energy Regulatory
10 relicensing processing. In that public process,
11 we spent \$28 million in seven years on process
12 and studies. We put together our FERC
13 application based on the science and studies.
14 And FERC issued a draft Environmental Impact
15 Statement based upon that information in theirs
16 that included a flow schedule for the Merced
17 River.

18 From there, we had more public input,
19 comments, response to the draft EIS, and we had a
20 public meeting in Merced, much attended, like
21 this, much emotional, like this, but also, as
22 you'll get from the rest of our team, a lot of
23 science and understanding of the local system and
24 how our water rights work, how the river health
25 has been taken care of. And we believe, to

1 FERC's credit, they took that input, went back to
2 the drawing board, as being suggested here, as I
3 read on your website and your process that that's
4 the intent, and they came back with a final
5 Environmental Impact Statement with some modified
6 flow schedule that we believe was reasonable and
7 balanced to protect the fisheries. And it was a
8 decrease from what the draft proposed.

9 And so I think it's important to frame
10 that in that we hope that this process will
11 result in the same, our input, science and
12 knowledge will be received as vital input into
13 this Water Quality Control Plan process, but only
14 time will tell. I look forward to ending these
15 public meetings, getting our written comments in,
16 looking to May on when a new draft might come
17 out.

18 And with that, I want to introduce our
19 team. They're going to use a PowerPoint and put
20 some information out. And then I will close for
21 the team.

22 So we have Phil McMurray here to my left.
23 He's going to -- he's our legal counsel, General
24 Counsel at Merced Irrigation District. He's
25 going to discuss legal, CEQA, water rights, water

1 storage.

2 Lee Bergfeld is a very integrated part of
3 our team. He deals with our water rights, water
4 supply and implementation.

5 Jim Lynch is our Fisheries Biologist on
6 the end. Jim is also handling our relicensing
7 process.

8 And Hicham ElTal is going to talk about
9 groundwater. He's our Deputy General Manager of
10 Water Rights and Water Supply. He has the
11 longest history with the district. And he knows
12 the Merced River and its operations and the
13 reservoir probably as well as anybody.

14 And with that, I will turn it over to
15 Phil McMurray who is going to start his
16 presentation.

17 MR. MCMURRAY: Good morning. I'm Phil
18 McMurray. I'm General Counsel for Merced. We
19 obviously have a lot of information to go through
20 today. I'm going to just jump right in.

21 The SED and implementation of it is
22 required to be based on substantial evidence.
23 When developing and balancing a water quality
24 objective the Board is required to consider and
25 balance all of the different competing demands

1 for water. In going through the more than 3,000
2 pages of the SED, it doesn't look like the Board
3 seriously looked at or paid consideration to the
4 demands or uses for water by Merced Irrigation
5 District or our customers, nor seriously
6 considered economic impacts on our community --
7 sorry about that -- impacts on our community or
8 across the valley.

9 The Board has specifically declined to
10 address a number of other factors that could
11 achieve the same goals as the SED in its flow-
12 only approach but without such a large use of
13 water, including improving availability of
14 habitat, addressing predation, who knows how many
15 illegal diversions of water in the Merced River
16 or in the Delta.

17 Regardless, though, of how the Board
18 intends to implement the SED, whether it's
19 through a Water Rights Order or an order under
20 section 401 of the Clean Water Act, without going
21 through these things the Board can't show that
22 the SED is based on substantial evidence,
23 especially in light of the extreme impacts that
24 it's posing to our community.

25 Obviously, Merced Irrigation District is

1 being proposed to be held responsible for
2 maintaining flows on the Merced River, not just
3 immediately downstream of our reservoir but all
4 the way to the confluence of the Merced and the
5 San Joaquin, which is more than 50 miles away
6 from the last point in the river that we have any
7 sort of control or authority at all.

8 The SED represents a violation of SGMA.
9 As you've heard today, a number of folks are
10 concerned with that. The Board is proposing to
11 require, for example, that MID release as much as
12 half a million acre-feet of surface water in a
13 wet year for the benefit of a very small handful
14 of fish, and a very small handful of fish on the
15 Merced River. And the only real means that the
16 Board has given to our community to continue to
17 survive is to pump more groundwater.

18 As everybody in the state, especially
19 within our community, has become painfully aware
20 over the last few years, groundwater is a very
21 limited resource. Our groundwater basin in
22 particular is overdrafted, and it's been
23 identified by DWR as critically overdrafted. And
24 we believe that it's illegal and it puts our
25 community in an impossible situation when, on one

1 hand, we're being asked to pump more groundwater,
2 but at the same time, we're being required to
3 pump less groundwater.

4 The State Water Board's violations of
5 CEQA are a fatal flaw for the SED. The stated
6 purpose of CEQA is to transparently and clearly
7 disclose to the public what a project is, first,
8 and then disclose the potential significant
9 impacts that could result from the project. And
10 we believe that the Board has not been clear or
11 transparent in describing the project in the SED.

12 For example, the SED includes significant
13 discussion about concepts, like flow shifting and
14 adjustments to minimum storage requirements in
15 Lake McClure. However, as best we can tell,
16 neither of these have been included in the
17 project description, nor analyzed for their
18 environmental impact.

19 In fact, our team asked State Water Board
20 staff at its technical workshop if those concepts
21 were to be included as part of the project in a
22 regulatory requirement that the district would
23 have to meet it. The answer wasn't very clear,
24 but we understood the response that they would
25 not be regulatory requirements. However, and to

1 the contrary, we read the SED pretty plainly to
2 include them as tools that's intended to be used
3 by the Board.

4 Both of these things, flow shifting and
5 the adjustments to minimum pull, is an illegal
6 taking of storage space in Lake McClure. And
7 they will have significant impacts on the
8 environment, significant impacts to our ability
9 to store water and use water, among other things.
10 And the fact that those have not been included in
11 the project description nor analyzed is not
12 appropriate.

13 And practically speaking, it makes it
14 very difficult for the district and the public to
15 develop comments when we're not clear exactly
16 what the project is or what the impacts really
17 are. The reality, however, is that we have to do
18 our best to try and figure out what the Board has
19 proposed and what they're proposing. And we do
20 that because there's a limited amount of time for
21 us to prepare our comments. But unfortunately,
22 we've had to make a number of significant
23 assumptions in putting those comments together.

24 I have a slide here that goes through
25 some of the assumptions that the district has had

1 to make, both in preparing our comments today and
2 our written comments. And as you can see, there
3 are significant assumptions about key aspects of
4 the SED. But we go into much more detail than
5 that in our written comment.

6 Before I turn it over to Mr. Bergfeld, I
7 want to take a minute and go into what is, in my
8 opinion, probably the most egregious aspect of
9 what the Board is proposing to do in the SED. In
10 a normal Water Quality Control Planning process,
11 after the Board goes through and develops its
12 plan the Board would go through a water rights
13 analysis and make determinations as to who would
14 be responsible for meeting the requirements of
15 the new plan.

16 However, on the other hand, you have
17 Merced Irrigation District and our sister
18 agencies on the Tuolumne going through the
19 process of relicensing our hydroelectric
20 facilities. The normal 401 process is intended
21 to ensure that impacts to water quality in the
22 area of our project and that result from our
23 project are mitigated for. Here, however, rather
24 than going through a water rights proceeding, the
25 State Board has clearly said it's going to

1 implement the SED by imposing its authority under
2 the 401 certification process.

3 CHAIR MARCUS: Just to clarify, I mean, I
4 don't want to either argue with you, I want to
5 understand how you perceive it, but the
6 recommendation that we would try and coordinate
7 with the 401 was to try and be helpful to folks.
8 We would implement through Phase 3, which would
9 be a full on water rights provision. But this
10 would all be through conversation with you all.

11 I mean, clearly, there's a need for more
12 communication because you may be supposing things
13 that aren't intended. My understanding was that
14 framing was just to try and be helpful, so that
15 you wouldn't have duplicative proceedings. At
16 least that was the intent.

17 MR. MCMURRAY: I understand. However, we
18 believe that the Executive Summary of the SED, as
19 well as information in the SED itself, it's
20 pretty clear that the Board intends to
21 implementation through the 401 certification
22 process. And it does include a program of
23 implementation, and we go into that in great
24 detail in our written comments.

25 So doing -- implementing through the 401

1 process, we believe is not appropriate. It
2 deprives MID of our ability to participate in the
3 implementation of the SED, as well as our
4 constitutional right to due process because if
5 the State Water Board implements through the 401,
6 it can, theoretically, skip over the time and
7 effort that it would take to go through the water
8 rights proceedings and implement the requirements
9 that it wants, regardless.

10 I'd like to introduce Lee Bergfeld with
11 MBK to talk about impacts to our water supply.

12 Before he takes over, though, the last
13 point I'd like to make and touch on is that the
14 SED clearly violates the water rights priority
15 system that has been established in California
16 for more than 100 years. Merced Irrigation
17 District holds some of the most senior rights on
18 the Merced River, some of those dating all the
19 way back to 1857. It's simple Water Rights Law,
20 that when a call on water is made or if there's a
21 water shortage, polar junior water rights are
22 supposed to give up that water before more senior
23 water rights are impacted. We don't believe that
24 the SED respects that.

25 And, in fact, we believe that the State

1 Water Board has done exactly the opposite by
2 focusing on senior water rights holders and the
3 owners of the rim reservoirs for these water
4 releases. There's no indication that we've found
5 that there's any other water rights holder going
6 to be required to release any water, stop illegal
7 diversions, for example, or require anybody else
8 at all to contribute to this. We don't believe
9 that it's right, and it's not legal. And the
10 impacts to our water rights are substantial, both
11 in terms of quantity and duration.

12 So with that, I'll turn it over to Lee.

13 MR. BERGFELD: Thank you. So I'd like to
14 follow up just a bit on this point related to the
15 impact to Merced IDs pre-1914 water right. And
16 so this slide is an example of an analysis that
17 we performed to look at that impact. So you can
18 see a dashed blue line here which represents the
19 daily inflow into Lake McClure, the natural flow
20 of the system. And I've adjusted this natural
21 flow by the riparian demand on the Merced River,
22 per information contained on the State Board's
23 website that was collected and used during recent
24 curtailments in the 2014-2015 droughts.

25 The yellow line here represents that same

1 inflow reduced by 40 percent. So this would be
2 the volume of water that's required to flow
3 downstream to meet the compliance with the flow
4 alternative suggested in the SED.

5 In this area that's between these two
6 lines is the hashed area or the impact to the
7 pre-'14 claim on the Merced River for MID. And
8 this is the area that's also underneath of what
9 is the historical main canal diversion for this
10 particular year, and that's the green line. That
11 green line is used to represent that there's a
12 demand within MID for this water at this time of
13 year. So a reduction of the available natural
14 flow to meet the 40 percent of unimpaired flow
15 requirement results in the impact to the pre-1914
16 water rights of MID.

17 We performed this analysis over 45 years,
18 using the historical data. And what we found in
19 doing so was that there is an impact to that pre-
20 1914 claim in approximately four out of the five
21 years, or about 80 percent of the time, and
22 across all water year types, from critical years
23 through wet years. And that more than half of
24 that impact by volume occurs in June; and June is
25 the month when it's most likely that there would

1 be an impact. So this is important in the sense
2 that it's in effect and, I think, goes beyond an
3 emergency action being effected upon MID's pre-
4 '14 water rights.

5 I'd like to move now and talk a little
6 bit about some of the water supply.

7 Excuse me. Before I leave the issue of
8 water rights, I'd like to talk a little bit about
9 the flow shifting. As Mr. McMurray has already
10 mentioned, I think there is some water right
11 implications associated with a requirement that
12 would make MID store water within Lake McClure
13 for the later beneficial use of fish and wildlife
14 purposes. And that really goes beyond anything
15 that I'm familiar with in terms of the water
16 right term or condition on other water right
17 holders in the state, and obviously is not the
18 intended purpose or the purpose that the
19 community constructed New Exchequer Dam and Lake
20 McClure for.

21 CHAIR MARCUS: This is something that's
22 come up. There's been a requirement in the code,
23 I'm not talking water rights now, I guess it's
24 public trust, but there's been a provision in the
25 code that later was codified in the 5700 series,

1 that when you put a dam you promise to keep
2 fisheries in good condition below the dam.

3 How does MID look at that requirement?

4 MR. SWEIGARD: Well, maybe I can answer
5 that question.

6 CHAIR MARCUS: People seem to have
7 different views on it. That's why I wanted to
8 know --

9 MR. SWEIGARD: Well, look --

10 CHAIR MARCUS: -- how you all look at it.

11 MR. SWEIGARD: -- I grew up in this area,
12 and I've fished the Merced River from top to
13 bottom since I was a little kid. And I think our
14 opinion is we're trying to find out what's
15 actually broken. We believe that ecosystem
16 restoration needs to be done. We believe that
17 the hatchery is there for a reason, which in my
18 closing comments, I'll make sure everybody
19 understands that.

20 But look, we're not saying that we don't
21 need to do something for fish. But I think we
22 all have a fundamental disagreement on exactly
23 how to go about that.

24 MR. BERGFELD: So now I'd like to move a
25 little bit to the water supply impacts associated

1 with the Lower San Joaquin River flow
2 alternatives in the SED.

3 So this slide, I'm using for context.
4 What's illustrated here in the numbers are the
5 average annual unimpaired flow, per the
6 Department of Water Resources Unimpaired Flow
7 Report, of the major rivers at their rim dams or
8 specific locations illustrated on the figure of
9 the rivers tributary to the Bay-Delta, as well as
10 the valley floor areas.

11 And you can see that the Merced there is
12 highlighted as approximately 1 million acre-feet
13 of average annual unimpaired flow. And that
14 represents a relatively small contribution
15 towards the overall 29.3 million acre-feet of
16 unimpaired flow into the Bay-Delta, and is also
17 approximately 16 percent of the unimpaired flow
18 for the San Joaquin River Valley, when you
19 include the main stem of the San Joaquin River.
20 And I use that in context, that while there is a
21 significant amount of water in the system, the
22 Merced is a very small portion of that.

23 Moving into the flow requirements that
24 are included in the SED, this figure illustrates
25 three different regulatory conditions. One is

1 the current requirement, and those are the blue
2 bars. It's what MID operates to presently.

3 The second are the requirements that were
4 determined through the FERC relicensing process
5 that Mr. Sweigard spoke of earlier, a multi-year
6 process where MID contributed significant
7 resources towards the development of these final
8 flows that FERC determined were protective of the
9 fisheries.

10 And then finally are the flow
11 requirements as specified in the State Board's
12 SED at 40 percent of the unimpaired flow. And
13 you can see a change from the existing
14 requirements, there's a significant increase,
15 anywhere from 6 times the existing requirement in
16 wet years to approximately 2.2, more than double
17 the requirements in critical years.

18 When you take that information and you
19 simulate how those changes in the minimum flow
20 requirements would translate into a change in
21 MID's ability to divert water at their canals,
22 you can prepare a figure that looks like this.
23 And this is the average annual, by year type, MID
24 canal diversions, when we simulate these, three
25 different regulatory requirements. And of

1 particular interest are over on the far right in
2 the dry and the critical years.

3 As was mentioned earlier, there's already
4 an existing shortage on the order of 150,000
5 acre-feet in an average annual critical year.
6 When we implement or we simulate the operation
7 under what's proposed in the SED, that increases
8 by more than a factor of two, to approximately
9 350,000 acre-feet in a critical year, and creates
10 substantial shortages in dry years, as well, on
11 the order of 250,000 acre-feet from the demand
12 line that I've illustrated there above those two
13 years, which is approximately 500,000 acre-feet.

14 I'd like to spend just a few moments
15 talking about some of the operational issues
16 associated with trying to operate a reservoir to
17 the flow requirements as they're specified in the
18 SED.

19 First, the flow requirement specified as
20 a seven-day running average, the minimum flow,
21 which would mean that for the February through
22 June period the minimum flow requirement would be
23 changing almost daily, if not on a daily basis.
24 I think that would provide significant challenges
25 to operating a reservoir, to meet a flow

1 requirement of that nature. As well as, I
2 believe Mr. McMurray has already mentioned, the
3 fact that the compliance point would be 50 river
4 miles downstream of MID's last point of control
5 on the Merced River, down near the confluence
6 with the San Joaquin.

7 There are also information or there are
8 requirements in the SED that an annual operations
9 plan to implement the adaptive adjustments
10 described would be required to be filed in
11 January, which would be challenging again or
12 problematic in that there's very little known
13 about the water supply in early January, such
14 that I think it would be more of a requirement to
15 speculate as to how the river may operate than a
16 requirement to specify how it's going to work.

17 There are issues associated with the flow
18 shifting beyond the water right issues. But the
19 SED is not clear on how that would interact with
20 Merced ID's flood control requirements and their
21 required flood space in the reservoir.

22 And the implementation in through the
23 Bay-Delta isn't described in the SED. And so
24 it's difficult to know how this water coming down
25 the Merced River will actually make it into and

1 through the Delta.

2 And finally, there are some technical
3 issues in the analysis that was performed in
4 support of the SED. As Mr. McMurray has already
5 described, it's difficult to know exactly what
6 the project is at times because, while it does
7 include a Lower San Joaquin River flow and a
8 south Delta salinity, it also includes the
9 Program of Implementation which the SED
10 references the need for carryover storage
11 requirements. It references the adaptive
12 adjustments. But those things are not
13 necessarily described in adequate detail to
14 perform an analysis to understand the impacts.

15 CHAIR MARCUS: Yeah, that is part of the
16 challenge of trying to set up a system where you
17 have the folks on the rivers coming up with an --
18 you know, we want folks to come together to come
19 up with something. It's hard to say exactly what
20 it's going to be. But we'll look forward to your
21 comments on that and the conversations to try and
22 figure it out. You can't sort of have it both
23 ways on that, but we'll try to be clearer.

24 MR. BERGFELD: Sure. And then the
25 analysis that's been done in applying some of

1 these things, such as the carryover requirement
2 and the flow shifting, when it's unclear as to
3 whether they are included in the project or
4 whether they would be a requirement or not, it
5 makes it appear that the modeling is done to look
6 at the environmental impacts that would occur
7 when you push more water out of the system in
8 February and June, and then eliminate some of
9 those impacts through some of these other
10 mechanisms that may or may not be part of the
11 project. It's very clear. And I think staff has
12 -- your staff has come to the recognition that
13 requiring more flow February through June can
14 create temperature impacts in the river in other
15 times of the year.

16 But then we model an analysis that
17 includes some of these other things, that it's
18 not clear whether they're part of the project.
19 And it tends to eliminate those impacts, as
20 opposed to disclose them.

21 And lastly, then there's some significant
22 underestimation of the water that would be
23 exported at the federal and state pumping plants
24 in the south Delta when we increase the Lower San
25 Joaquin River flows. And that's included in the

1 analysis, but I think the analysis has missed the
2 current requirements that limit export
3 restrictions through these periods, such that
4 it's underestimating how much would be exported.
5 And that means that it's overestimating how much
6 would become Delta outflow.

7 With that, I will pass it on to Mr.
8 ElTal.

9 MR. ELTAL: Hicham ElTal, DGM, Merced
10 River, supply water rights, like John mentioned.
11 And my duties include the operation of New
12 Exchequer Reservoir and the conjunctive
13 management of groundwater, which I've been
14 working intimately with other water purveyors in
15 the Merced Groundwater Basin since 1997.

16 I'll be using some of the samples that
17 were used in SGMA, for instance, to talk about
18 the groundwater help as far as SED is concerned.
19 So I'll be talking about the loss of groundwater
20 levels, water quality, storage subsidence and
21 saline water intrusion, in this case it's from
22 the San Joaquin River.

23 So the SED, in our opinion, did not do
24 enough work under the programmatic analysis to
25 look at water rights implications, which is

1 migration of groundwater out of the basin. And
2 groundwater availability will be decreased
3 because less recharge. Groundwater quality,
4 especially drinking water, will be impacted to
5 the 150,000-plus population in this basin, which
6 are disadvantaged communities, also. And the
7 recharge goes away, as you know, with Merced ID
8 not having enough water to run. And subsidence,
9 which is going to be quite dramatic. And this is
10 a very important point for the staff to look at
11 very carefully because it may be undoable when it
12 starts, as it's going now.

13 So first of all, I want to show you, on
14 the left you see in red the about 30,000 acres of
15 land that relies on groundwater all the time, and
16 the blue relies on MID, and that's 100,000 acres.
17 With the SED to the right, you'll see that the
18 entire 130,000 acres will have to rely on
19 groundwater to produce their crops.

20 This is an important slide. The colored
21 area shows the Merced Groundwater Basin, roughly.
22 And in the middle, smack in the middle of that is
23 the Merced Irrigation District. And Merced
24 Irrigation District is surrounded by negative
25 characteristics all around. So to the north and

1 south, you can see these extreme cones of
2 depression. To the west, you have saline water
3 under the San Joaquin River. And then to the
4 south, there's subsidence. And you also see in
5 blue up to the northwest is the recharge area,
6 which is quite limited. And, actually, half of
7 the recharge would go back to the Merced River,
8 so we don't have a lot of opportunities there.

9 And so basically Merced Irrigation
10 District is the linchpin that is holding that
11 whole area. Otherwise, you'll have quite a
12 collapse.

13 This shows the contours, as shown on DWR.
14 And basically, we ran a cross-section through the
15 cones of depression south and north and through
16 the City of Merced, just to show you that the
17 blue line here is basically the groundwater
18 static levels and hydrostatic levels. And you
19 can see how the groundwater is migrating into the
20 right, which is the Chowchilla Groundwater Basin,
21 and to the left, which is the Turlock Groundwater
22 Basin, along the cross-section, which would add a
23 new challenge as far as water rights goes because
24 the Chowchilla Basin is within the Friant Unit,
25 which is not impacted. Yet Merced Irrigation

1 District is providing water under the SED for the
2 San Joaquin River, and yet groundwater is also
3 escaping to the Friant Unit.

4 Another thing that I want you to
5 appreciate is that there is about a 200-foot
6 difference in elevation -- in groundwater
7 elevation between the City of Merced and the cone
8 of depression to the south.

9 This is another picture that I wanted you
10 to see which has -- which shows what we call the
11 Corcoran formation, which is a clay layer that
12 bisects the system; the aquifer system above it
13 and below it -- confined and confined. The point
14 of this graph is under the SED the water above
15 the Corcoran -- the groundwater above the
16 Corcoran will basically diminish to a point that
17 it is not going to be useful.

18 And this slide shows the impacts on
19 groundwater quality, which is quite serious. And
20 to the left, the lighter colors show lower
21 concentration. And we're only looking at
22 salinity here, not specific other chemicals. But
23 on the right side, you can see how it gets
24 darkened, especially around the City of Merced in
25 the middle and the Cities of Atwater and

1 Livingston along Highway 99.

2 We've taken a graph of the City of
3 Merced. You can see that by year '20 the
4 groundwater quality would be at 1,000 parts per
5 million, which is the threshold for drinking
6 water.

7 And this is the last slide I'm going to
8 show you, which is the extent of subsidence that
9 we have. Subsidence is encroaching to the City
10 of Merced, south of the City of Merced, which is
11 the most disadvantaged area of the City of
12 Merced. Now we're going outside the rural areas
13 into the cities. That means the impacts are
14 going to be impacting foundations, plumping,
15 sewer systems for residential folks, plus the
16 infrastructure for the city, plus the state
17 infrastructure, such as Highway 99, and more
18 importantly, from a water perspective, a
19 continued loss in capacity for the aqueducts
20 moving water from Northern California to Southern
21 California, and the capacity of the floodways,
22 such as the San Joaquin River Bypass, which
23 eventually would impact the water supply in
24 Friant as more flood control would be needed.

25 So finally, I want to say that the timing

1 of the SED couldn't have been more difficult and
2 any worse. Because having the SGMA, and also
3 coming after a drought, to implement this
4 immediately is going to basically break first the
5 areas that have the most senior water rights.

6 And with that, I'll pass it back to Mr.
7 Lynch.

8 MR. LYNCH: Thank you. In the next few
9 minutes, I want to talk a little bit about some
10 of the numbers you've seen in the SED, an
11 particularly the purported benefits to the fall-
12 run Chinook river escapement. I understand those
13 numbers may change in the future, but right now
14 we can only go on what's in the SED. Also, a
15 little bit about the reliability of those
16 numbers, where we see some issues. And then the
17 goals. How does the SED actually meet the goals
18 of some of the purported goals in it.

19 I find when looking forward, it's always
20 good to look back a little bit. So I what I
21 looked at was what is the Bay-Delta fall-run
22 escapement historically, and what's the Merced
23 River contribution to that? So this is a slide
24 that has escapement, fall-run Chinook escapement
25 on the vertical axis, and years from 1975

1 through 2015 on the horizontal access. And what
2 you can see is this tremendous variability, which
3 is to be expected and we all appreciate. What
4 you can also see is that the total escapement,
5 which is around 280,000 fish on average -- taking
6 an average on something like this a little
7 misleading but it is a number we can use -- is
8 around 280,000 fish. And the vast, vast majority
9 of those come out of the Sacramento River.

10 When I you look at it down at the San
11 Joaquin, the San Joaquin River contributes
12 historically over that period about 12,000,
13 13,000 fish, and Merced is about 4,000 of that
14 fish. So Merced's contribution to the Bay-Delta
15 escapement fall-run is about 1.7 percent. If you
16 assume that you could double that, even triple
17 it, you probably wouldn't have a huge impact on
18 the Bay-Delta fall-run escapements.

19 So I looked forward, I looked ahead and
20 said, what does the SED say? And the numbers
21 aren't particularly easy to find in the SED. But
22 we have heard a number thrown around here today
23 quite often, around 1,100 fish. And that is the
24 number that's in the SED, and it's for the San
25 Joaquin River escapement, not for Merced.

1 So I took a look at that and did some
2 simple math. I think that somewhere in the SED
3 the numbers are there, or maybe in one of the
4 model outputs, but we haven't been able to find
5 it yet. So just doing some simple math, if you
6 looked at the historic contribution of the Merced
7 to the San Joaquin River out migrants or
8 escapement, it's about 37 percent. Excuse me.
9 If you multiple 37 percent times that 1,100, you
10 get about 400 fish.

11 But you also have to remember, of that
12 400 fish, we all know that about 80 to 90 percent
13 of those fish that escape from the Merced River
14 each year are hatchery-origin fish from the
15 Merced River Hatchery or elsewhere. So 80 to 90
16 percent, that's a huge proportion. That leaves
17 10 to 20 percent that are naturally produced.

18 So if these numbers are right, their
19 proposed project would generate somewhere between
20 40 and 80 naturally-producing fall-run Chinook
21 salmon that would escape of the Merced. That's
22 sort of the large context for us. And we looked
23 at that, and we've spent a lot of effort getting
24 to those numbers because there's obviously a cost
25 going on in terms of water supply and other

1 economic impacts, what's the value in the Merced?

2 Also, in the SED there's some other
3 statements, and I'm just going to hit on some of
4 these real quickly.

5 One is that this production would help
6 buffer the system from catastrophic events, such
7 as in the last drought. I don't think 1,100 fish
8 or an extra 400 fish out of the Merced is going
9 to do a whole lot of buffering if you go through
10 another drought, like we had. It may have some
11 benefits, but I don't think it's going to
12 significantly buffer those impacts.

13 Also, the SED doesn't do much of a job
14 looking at the Central Valley steelhead critical
15 habitat in the Merced River. As Lee has pointed
16 out, when you put out a lot of water in the
17 spring, the water temperatures tend to board up
18 in the summer. There is some shifting of flow.
19 But again, we couldn't figure out how that flow
20 shifted or what predicated it or how it would be
21 determined.

22 So now looking at that shifting, you can
23 see that the water temperatures go down. And an
24 ESA-listed species for critical habitat, there's
25 really not many, if any, steelhead in the Merced,

1 but the critical habitat gets significantly
2 affected, which is a serious concern when you're
3 talking about ESA-listed species.

4 Also, the effect on reservoirs fisheries
5 isn't particularly well documented, and I'll talk
6 a little bit more on that as we go on.

7 There's a couple of major things that the
8 SED focuses on in supporting. One is Bay-Delta,
9 obviously these fish going through the Bay-Delta,
10 and another one is floodplain. I'm going to talk
11 about both of those.

12 In terms of Bay-Delta, we didn't see a
13 whole lot of analysis there. And I have heard
14 comments saying that increased flows to the Bay-
15 Delta will help escapement. Well, there's
16 actually some pretty interesting data from the
17 Mossdale to Dos Rios to Jersey Point from 1996 to
18 2006. Regardless of -- oh, I'm sorry. Thank
19 you, sir. It showed that basically survivorship,
20 regardless of flow, went down as fish escaped
21 through the Bay-Delta. So the concept that more
22 flow into the Bay-Delta will lead to more
23 escapement isn't particularly supported by the
24 science.

25 And I think what you'll see is that

1 there's a lot going on in the Bay-Delta besides
2 just flow, and that's basically what you have to
3 look at. But the broad statement, put more flow
4 at Vernalis, better escapement, needs to be
5 supported much better in the SED.

6 Also, I think Lee mentioned this earlier,
7 the thermal temperatures, the impact that water
8 temperatures in the San Joaquin aren't
9 particularly conducive to putting fish into the -
10 - out of the Merced into the San Joaquin is a
11 problem. And some of the data seems to -- some
12 of the statements in the SED seem to gloss over
13 that.

14 For instance, when you look at some of
15 the information, it shows that the core rearing
16 temperature of the seven-day average daily
17 maximum for rearing wasn't met in May in the San
18 Joaquin, and yet that wasn't brought up too much.

19 And also, it fails to meet the
20 smoltification criteria in April, May and June.
21 And again, that wasn't particularly discussed in
22 the SED, which would have contributing factors to
23 a decrease in fish getting -- in overall
24 escapement.

25 In terms of floodplain, floodplain is a

1 very tricky concept in fisheries. And a lot of
2 people confuse it, so we've often found that you
3 really need to define it very, very carefully.
4 Floodplain has a lot of denotations and
5 connotations across society.

6 The SED doesn't define floodplain. When
7 it says it's going to increase more increase of
8 floodplain, it says that's good, but it doesn't
9 say where the floodplain is or why that is good.
10 It doesn't -- we can't find anywhere in the SED
11 how it documented that this was going to -- how
12 much more area was going to be inundated and why
13 that was good, or to even figure in the Merced
14 what exactly was going to be done. So that
15 seemed to be a real weakness concerning that as
16 sort of a core something that's relied on
17 significantly to say that this additional flow
18 will result in this additional benefit.

19 So you really need to look at things like
20 nutrients, food productions, the quality of the
21 floodplain. And then you have to be very
22 specific of what floodplain you're talking about.
23 Because if you look in the Merced, at least in
24 the upper areas of the Merced that we're talking
25 about where a lot of the production occurs,

1 you're looking at an area that looks a little bit
2 like a moonscape. It's mostly rock. It's the
3 result of an awful lot of dredger mining and
4 windrows.

5 This photograph I'm showing is from the
6 Merced River to the bottom of the photograph is
7 about a half, three-quarters of a mile. So you
8 can put a lot of water up there and you're not
9 going to get the same benefits you would if you
10 were to have a floodplain that had a lot of
11 organic material, a lot of good vegetation,
12 things like that. That's not the Merced River.
13 And when you do analyses like that, you have to
14 be careful that you consider the specificity, not
15 just make generalities.

16 I'm just going to touch on some of the
17 areas that we saw that we thought were some
18 technical improvements that could be made.

19 The first one is basically, using a
20 monthly time step model is a little bit difficult
21 when you're coming up with justifications,
22 biological. You're using that to come up with
23 temperatures. Then you're using those
24 temperatures to come up with maximum temperatures
25 to develop criteria and to say whether you meet

1 those criteria.

2 One failure that we felt in the Merced,
3 at least, was that the Board did not use some
4 models that the Board ordered Merced to do on
5 water balance and water temperature that were
6 daily time steps, in fact, some even sub-daily
7 time steps. We thought you could have done a
8 much better job using the best available science
9 than relying on a monthly model.

10 Also, your evaluation of significance
11 criteria for temperature, in some places it said
12 one degree Fahrenheit change was considered a
13 significant improvement, if you will. Well,
14 that's a nice general concept. But if you're
15 starting at a starting temperature of 80 degrees
16 Fahrenheit and you drop it to 79, the fish
17 probably really don't care. So how that's
18 applied needs to be much more rigorous. And I
19 would suggest different significant criteria than
20 a one degree Fahrenheit change.

21 Also, the alternatives, it was very hard
22 to figure out how the alternatives were analyzed
23 overall in the SED, so I think that could also be
24 improved from a fishery standpoint.

25 And I apologize for not being more

1 specific, but the generalities I'm giving you is
2 because that's what we're dealing with. It was
3 hard to find the data and dig down into it.

4 A couple of other items. Again, the
5 steelhead issue and the ESA-steelhead, that we
6 don't believe there's steelhead in the Merced
7 River, but there certainly is critical habitat.
8 And certainly the NMFS will weigh in strongly on
9 this. And it's uncertain how NMFP will look at
10 it and say, okay, you're going to improve
11 springtime temperature for a non-listed fall-run
12 Chinook salmon with an impact to an ESA-listed
13 critical habitat. So that's a pretty important
14 point when you figure out how you're going to
15 implement the SED.

16 Also, there's a lot of statements that
17 aren't well-founded. For instance, there's a
18 discussion about how the reservoir changes effect
19 fish in the reservoirs. And I think there's a
20 seven-foot criteria used. And when we looked at
21 the references to document -- I think it's a 15-
22 foot, actually. When we looked at the references
23 that documented that, they actually don't say 15
24 feet, they say closer to 1 foot. So there's
25 inaccuracies. And all the analysis are based

1 upon using those references.

2 Then lastly, the project goals, I heard
3 someone say earlier, developing goals and
4 objectives would be one of the mission statements
5 for the technical group. That's a very important
6 step in implementing any biological plan.

7 But when we looked at this, for instance,
8 one of the guiding goals was to develop viable
9 native fish populations. Well, it seems that the
10 SED confuses abundance with viability. And
11 viability and abundance are not the same thing at
12 all. So I think there needs to be more of a
13 discussion on that.

14 And also, as I said, there must -- you
15 really should be looking at the Merced, at least,
16 a lot more closely on the structure, not only
17 just flow but structure. Each of these
18 tributaries is very, very different. So when you
19 make summary statements, they don't apply to each
20 of these.

21 And with that, I'll pass it back over to
22 John with our remaining time left on the clock.

23 MR. SWEIGARD: Well, I would respectfully
24 ask that even though it says 46 seconds, that I
25 get a little bit more time to close us out here,

1 given the time we've put into this.

2 For one, I just want to start by, we all
3 put together work products and we all have good
4 ideas. They're not always foolproof and correct
5 and generally they can be improved. As a public
6 agency and a general manager of one, we've been
7 in the same situation and gone through the public
8 process and come up with a better viable
9 alternative and solution. And so just keep that
10 in mind. I know sometimes it feels like you're
11 being attacked, but, you know, these are
12 emotional issues. But we also believe we have
13 some good valid input that needs to be taken into
14 account.

15 And just real quickly on the 401 concept,
16 that's also been on the State Water Board's
17 website for quite a while. So absent somebody
18 clarifying that, you know, the State Water Board
19 intends to negotiate with us on the 401, et
20 cetera, the way it reads and the way it reads in
21 the SED, maybe we're paranoid, but it comes
22 across as, hey, we're going to use this tool to
23 get what we need.

24 We've talked about economics quite a bit.
25 I just want to put out there that we have a PhD-

1 level work product that indicates in Merced
2 County that the impacts are going to be \$230
3 million a year and almost 1,000 jobs. I would
4 suggest that the State Water Board and staff use
5 that as they develop their information moving
6 into May. I have some more detailed information
7 in here as to what was left out and why we think
8 it should be included, but we'll put that in our
9 written comments to save some time.

10 And also, the three counties are doing an
11 economic analysis on the regional impacts that I
12 think will be done pretty soon, and will also be
13 a valuable tool for you folks to consider.

14 Something that hasn't been mentioned here
15 is actually what happens at Lake McClure. We
16 deliver water to approximately 900 homes in two
17 communities. And they provide \$1.8 million in
18 property taxes to Mariposa County. I've seen no
19 mention of that anywhere. And we're not required
20 to deliver them domestic water. So that is
21 something that, depending on the becoming of all
22 these proceedings, could be something that needs
23 to be reevaluated.

24 And we also have approximately 240
25 houseboats on Lake McClure that provide about

1 \$300,000 in annual property tax revenue to
2 Mariposa County. So I think at some point
3 they're going to want to weigh in on this also.

4 And we've heard a lot about the
5 discrepancies on the benefits of two salmon for
6 this plan. And look, I think absent having
7 details and a detailed plan and this vague
8 adaptive management process, this is what we're
9 left with, we're all left to guess as to what's
10 going to happen. And that's not a very -- that
11 doesn't give us a warm, fuzzy feeling at all.
12 It's not how you -- you can't manage an
13 irrigation district that way, I can tell you
14 that. And I can give you some examples.

15 So if you put yourself in our shoes, you
16 know, we're faced with this. The State Water
17 Board is suggesting they're going to run some
18 water leger from January to February -- to June
19 and it's going to be this number. And they may
20 or may not release that water in that time
21 period, and they may or may not want to carry
22 that water over into storage in our reservoir to
23 release at some other date in time for some
24 purpose that we may or may not even know what it
25 is. And as you've heard, that has impacts to

1 temperature, et cetera. It has impacts to our
2 water supply.

3 And then there's a suggestion that, well,
4 we're going to increase the minimum pool in New
5 Exchequer to 300,000 from its current 115,000
6 acre-feet. That, in most years, gives us no
7 access to 185,000 acre-feet of water supply that
8 is our water supply. We've been putting it to
9 reasonable beneficial use. We own the reservoir.
10 And again, that's going to be problematic for us
11 to come to an agreement on.

12 I've told you how much money we've spent
13 on relicensing. We have to make a debt payment.
14 And we obviously had to make some assumptions to
15 generate that debt on hydro revenues and we did
16 that, we did our job. But adaptive management
17 leaves us with no way to quantify what our hydro
18 output will be, what the revenue might be, so
19 that we could make those payments, on top of
20 just, you know, running the district.

21 You know, nobody really likes to talk
22 about the benefits of reservoirs, but these
23 reservoirs keep rivers alive during droughts,
24 during late summer seasons, almost, you know, in
25 most years. And quite frankly, we release stored

1 water downstream that benefits a lot of other
2 economies through water supply. That hasn't been
3 evaluated and the change in that timing.

4 You know, with that, I want to change
5 tunes a little bit and say, look, we have --
6 you've heard the mention of the SAFE Plan here
7 quite a bit today. I'm not going to have time to
8 go into all of the details. But suffice it to
9 say that we have a better idea for Merced River
10 salmon. It's MercedRiverSAFEPlan.org.

11 What we're saying is that we're willing
12 to embrace our FERC flows immediately, and that's
13 significantly more water than we're required to
14 release right now. There is absolutely habitat
15 restoration that needs to be done. And we
16 generally have agreement with the Department of
17 Fish and Wildlife, that between Snelling and
18 Crocker-Huffman Diversion Dam, there's about
19 five-and-a-half miles that should be the target.

20 We have a poster board in the back and we
21 have one up here. We've done extensive 2D
22 ecosystem modeling on how exactly that should be
23 done and all the benefits derived for the
24 salmon's lifecycle while they're in the Merced
25 River. You should absolutely take a look at

1 that. I mean, that, to us that's real science,
2 and we're putting it out there for everybody to
3 see.

4 CHAIR MARCUS: Good.

5 MR. SWEIGARD: The hatchery is there for
6 a reason on the Merced River. The hatchery was
7 not built when we built to make up for any
8 project impacts. If there's a discussion about
9 access for fish to historical spawning habitat,
10 that hasn't existed since the early 1900s. In
11 1903 the Crocker-Huffman Diversion Dam was put in
12 place and that passage is gone. The best habitat
13 is under Lake McClure. That's not going to
14 change. That hatchery was put there to enhance
15 salmon populations in the San Joaquin Basin. We
16 need to modernize the hatchery. We need to have
17 it suit its purpose.

18 And then, of course, we need to address
19 predation. Whether people agree with me or not,
20 I think there's plenty of information out there
21 that shows predation is a problem, even the own
22 actions of California Department of Fish and
23 Wildlife by shipping salmonids from hatcheries to
24 the Delta shows that there's a little bit of a
25 concern --

1 CHAIR MARCUS: Uh-huh.

2 MR. SWEIGARD: -- on their part also.

3 You know, we've talked about all these
4 things. And I can just tell you, it's important.
5 And I think you've heard a lot of here today,
6 perception is a major issue. I mean, it really
7 appears to us that this is a hostile takeover of
8 a locally-owned and paid for reservoir project
9 for the state by the state for the benefit of
10 others, including the environment. And it
11 appears that way because we're trying to figure
12 out the science used to justify it. And it feels
13 like a huge block of environmental water has been
14 identified as needed, and we're going to back
15 into the solution using salmon as the poster
16 child for this analysis. And we really are
17 having a hard time getting away with that.

18 And you heard Senator Cannella mention
19 earlier, you know, legislation targeted at kind
20 of pulling the rug out from underneath the
21 districts if they choose to challenge Water
22 Quality Control Plans for their legality. And
23 that just gives not -- it's not a Water Board
24 issue specifically, I don't know, maybe it is,
25 but it's definitely a mistrust of Sacramento

1 issue, and these things all tie together.

2 And not least important, you know, people
3 maybe would not like to hear this, but, you know,
4 we did not destroy the Delta. We didn't
5 channelize the Delta, we didn't pave the Delta,
6 we didn't put farms in the Delta and build
7 levees, but we're being asked to make up for
8 that. And, you know, this community, I get this
9 question all the time, is what makes a Delta
10 farmer better than a Merced farmer? Where's the
11 Delta's contribution to this problem? Why do
12 they get a hall pass for developing the Delta
13 when we're constantly under reevaluation of our
14 water rights and Water Quality Control Plans, and
15 what are we doing wrong?

16 CHAIR MARCUS: I think everybody feels
17 equally in that same boat.

18 MR. SWEIGARD: Well, good --

19 CHAIR MARCUS: Everybody's --

20 MR. SWEIGARD: -- because now I don't
21 feel alone.

22 CHAIR MARCUS: Everybody's in, yeah.

23 MR. SWEIGARD: Right.

24 CHAIR MARCUS: You shouldn't feel alone,
25 to be sure. And hopefully everybody will come

1 together to come up with something.

2 MR. SWEIGARD: Right. And so what I
3 think you've heard today is that we believe that
4 the SED has got a lot of problems, and
5 implementing it is going to be a major challenge.

6 You know, I want to make clear on the
7 SAFE Plan that there's been some talk about a
8 good starting point, et cetera. Look, what we're
9 saying is that's our best foot forward. We've
10 told the state that from the beginning. We're
11 willing to put flows in the river and do these
12 other things now.

13 Your only other alternative is a
14 regulatory and legal process that, everybody has
15 a different time estimate, I would say a decade
16 or longer before anything gets done. And we
17 think that that's a waste of time in negotiating
18 to something. When you've got something in front
19 of you right now that could do something, we
20 don't see the reason for not taking advantage of
21 that situation now.

22 And with that, it seems the further we go
23 along on these discussions about settlement, even
24 the way the settlement is framed within the SED
25 document, there's this neat little box for

1 settlement that's been established, and you've
2 got to fit in this box. We're not looking at
3 settlement that way. I know that it's been said
4 that --

5 CHAIR MARCUS: Uh-huh.

6 MR. SWEIGARD: -- it's got to be within
7 this range, et cetera. We don't feel like we
8 need to be put in that little box. And we think
9 that everybody else needs to have a little bit
10 more of an open mind. A settlement is where all
11 parties come off their hard positions and realize
12 they're not going to get them, absent their best
13 day in court. And that's kind of what this feels
14 like, is the way that this settlement process
15 seems to be establishing itself is a lot of
16 requirements, and we have to have this and we
17 have to have that, which is everybody else's best
18 day in court and not ours.

19 And so this perception issue is a major
20 deal. This adaptive management thing is
21 absolutely terrifying. It does not give us any
22 good feelings. And we're struggling to find out
23 what the benefits are actually going to be.
24 We've seen water leave regions and never return.
25 The fish are still struggling. Fish have gone up

1 and down. It seems like the fish in the Delta
2 have been in peril for decades, and they continue
3 to be in peril. Maybe they always will be.
4 Maybe it's time for us to acknowledge that the
5 Delta is what it is. We live in man-made system.
6 And you've heard a lot of discussion about humans
7 and I think, you know, we all need to be part of
8 that.

9 That said, we're reasonable. We're
10 willing to sit down and talk about the SAFE Plan.
11 The devil's in the details, obviously. But
12 absent that, I think we've got a lot of concerns.
13 And you've heard it from the community here,
14 they're going to probably demand of our board and
15 our district that we defend our water rights --

16 CHAIR MARCUS: Of course.

17 MR. SWEIGARD: -- absent the SAFE Plan.

18 So with that, I want to thank you guys
19 for coming to Merced today. If you have any
20 questions and you want to spend a little time in
21 more detail, not only today, we're always
22 available. We've done tours. Steven has come
23 out and done tours. Your staff has come out in
24 prior years. And we offer that to anybody and
25 everybody --

1 CHAIR MARCUS: Thank you.

2 MR. SWEIGARD: -- that wants to see our
3 system and talk about how it's operated.

4 CHAIR MARCUS: Great.

5 MR. SWEIGARD: Thank you.

6 CHAIR MARCUS: Thank you.

7 (Applause.)

8 Thank you for putting a lot of
9 information into a condensed package, very
10 accessible, and I appreciate it. We'll have a
11 lot of follow-up. I'd want to have long
12 conversations now, but I'm mindful of how many
13 people are here to speak. And we can always come
14 back and sit down, and I think that's the
15 appropriate venue to be able to talk through some
16 of these things. But thank you, very thoughtful,
17 and we'll take it all very seriously.

18 It is already 1:04. I have one more
19 elected official. And then I have approximately
20 -- I may not have the number right, 60 speaker
21 cards. There are a lot of people who need to
22 leave by 1:30, particularly the students.

23 I want to try something so that people
24 can go. And we do need to take a lunch break.
25 And this is something that the Air Board does

1 more than we generally do. I know a number of
2 you have come to indicate your support and you --
3 or support for the community, opposition to
4 various things in the SED or things you've heard
5 are in the SED.

6 What I suggest we do is, as opposed to
7 doing a series of even one or two-minute things
8 before we break for lunch, because I know there
9 are people who do need to leave, what I'd like to
10 do is give people an opportunity, and I want to
11 alert staff, they're going to need to get the
12 names down, is to just come up and say, I agree
13 with so and so, to put yourself on record. A lot
14 of things have been said. To say, I agree with
15 the speaker who said X, without then giving a
16 whole minute or two minutes, which defeats the
17 purpose. And they do that at the Air Board and
18 people seem to appreciate it. You've spent all
19 this time to come here. You've certainly
20 listened to a lot of speakers and a lot of good
21 points.

22 So while we take the next elected
23 official, think about whether you would prefer to
24 just come -- we'll get -- we'll just -- people
25 will just get up in line on either side and we'll

1 alternate just saying, you know, I want to
2 register my support for what so and so said. And
3 if that's all you're going to say, we'll just
4 take you all now, and then you can go ahead and
5 get home. Other than that, we can do a few,
6 perhaps, and then take a lunch break. But I
7 can't get to everyone who said they have to leave
8 by 1:30 if we do two- or three-minute comments.

9 So as you think about that, I'm going to
10 call on City Councilman and Deputy DA, how
11 interesting, Matt Serrato from Merced.
12 Councilman Serrato? Maybe not here. Maybe he
13 had to leave. Okay. No, that's Tim.

14 Hi, Tim.

15 All right, we'll hold that, in case he
16 comes back.

17 So is anybody interested in taking me up
18 on that offer to just come on down and state your
19 comments? You know, not a minute, not two
20 minutes. That's taking advantage of the people
21 behind you. But if you just want to indicate you
22 agree with somebody, to be on the record?

23 MS. SPIVY-WEBER: Here's someone.

24 CHAIR MARCUS: I feel like I saw someone
25 coming.

1 MS. SPIVY-WEBER: The volunteers.

2 CHAIR MARCUS: Come on down.

3 MR. LARSON: John Larson, a farmer here
4 in the area. And I'm in total agreement with the
5 MID's SAFE Plan.

6 CHAIR MARCUS: Thank you.

7 Anyone else?

8 MR. MARQUIS: Jeff Marquis, Le Grand,
9 California, a Merced Irrigation District Board
10 Member, lifelong resident of Le Grand, third-
11 generation farmer, here with my father, my son
12 Nick. We're in full agreement with everything
13 you've heard today in regards to the passion and
14 the concerns of our communities and our water
15 that our forefathers fought so hard to construct,
16 build and distribute throughout the county.

17 So thank you for attending.

18 CHAIR MARCUS: Thank you for attending.
19 Appreciate it.

20 MR. ORTIZ: And my name is David Ortiz.
21 And I'm President of the area. And I also agree
22 with everything that's been said, and hope you
23 hear well.

24 Thank you very much.

25 CHAIR MARCUS: Thank you.

1 Others? Sir?

2 UNIDENTIFIED MALE: Good afternoon,
3 Chairman and Committee Members. First of all,
4 I'd like to say, God bless everybody here. I
5 wish you all a merry Christmas and a happy new
6 year.

7 CHAIR MARCUS: Well said.

8 UNIDENTIFIED MALE: The most important
9 thing here, I've heard everybody talk, this month
10 is my birthday. I ain't going to tell you my
11 age. But I listened to all this water here, I'm
12 going to go back to World War I, World War II,
13 the Korean War, the Vietnam War, Lebanon and
14 Granada, Afghanistan and Iraq, and God bless all
15 our troops throughout the United States of
16 America and overseas protecting that American
17 Flag that protects the Constitution of the United
18 States of America, getting up here to speak, the
19 freedom of speech on water.

20 The most important thing from World War I
21 until now is the agriculture and the farmland.
22 It's our vegetables and our food. And most of
23 all, it's the milk. When the ladies go to the
24 grocery stores to feed the babies. That's the
25 most important thing.

1 And another most important thing is the
2 future farmers of America. They're the ones that
3 take over and over and over to make sure that our
4 products are going forward in the land of the
5 United States of America.

6 And all I can say, thank you all for
7 being here and presenting everything to us and
8 everybody to the left, MID. And most of all, I
9 want to thank everybody here for being here.
10 Thank you.

11 (Applause.)

12 CHAIR MARCUS: Thank you, sir.

13 UNIDENTIFIED MALE: You're welcome. And
14 I salute you all.

15 CHAIR MARCUS: Thank you, sir.

16 MR. GOODSON: Hello again. My name is
17 Tim Goodson. And I appreciate you guys coming to
18 Merced. I'm the owner and operator of Calaveras
19 Trout Farm.

20 I agree with Merced Irrigation District's
21 plan. I think now is the time to implement that
22 SAFE Plan. We can get water now, instead of
23 fighting in court for years. I think they have a
24 good idea.

25 Thank you.

1 CHAIR MARCUS: Thank you, sir.

2 (Applause.)

3 Hi. Thank you for joining us. Yeah,
4 come right on down together. Sorry the morning
5 went so long.

6 MS. FLORES: Oh, it's okay. Don't worry
7 about it.

8 My name is Jasmine Flores, and this is
9 the Atwater FFA Organization. And we'd just like
10 to take the time to thank you all for allowing us
11 to witness such an educational Board meeting and
12 an issue facing California agriculture and the
13 water that's sustaining our educational programs.
14 We'd just like to thank you for allowing us to
15 witness this, as well as the educational
16 knowledge that we're going to go ahead and take
17 back and take into our agriculture education
18 programs, which is one of the most influential
19 here, not only throughout our valley but
20 throughout our entire state.

21 Thank you very much.

22 (Applause.)

23 CHAIR MARCUS: Very well said. Thank you
24 so much for joining us. You are the future.

25 MR. DEWEES: Dan Dewees, endangered

1 species, beef cattle producer, Farm Bureau
2 Member, and MIDAC, Merced Irrigation Advisory
3 Committee Member.

4 CHAIR MARCUS: Great. Can you give me
5 your name one more time slower, so we can --

6 MR. DEWEES: Dan Dewees.

7 CHAIR MARCUS: Dewees. Thank you.

8 MR. DEWEES: So I'm in total support of
9 the MID SAFE Plan. I think it's a very good
10 plan. And with the Water Board looking into it,
11 I appreciate everything.

12 CHAIR MARCUS: Thank you.

13 MR. HAWKS: Good afternoon. Thank you
14 for allowing us this forum.

15 CHAIR MARCUS: Oh, I'm sorry we're so far
16 away. This was the best we could do to find a
17 big place, so I wish we were a little closer.

18 MR. HAWKS: I completely agree with the
19 Merced Irrigation District's SAFE Program.

20 CHAIR MARCUS: And, I'm sorry, your name?

21 MR. HAWKS: My name is Jeff Hawks --

22 CHAIR MARCUS: Great.

23 MR. HAWKS: -- H-A-W-K-S.

24 CHAIR MARCUS: Thank you.

25 MR. HAWKS: I completely agree with the

1 MID SAFE propositioned program as presented this
2 morning. I think it's a viable answer to all of
3 our problems. I just wanted to express that to
4 you.

5 And I'd also like to express to the
6 remainder of the audience an issue which I cannot
7 discuss with you, and that is you would take the
8 time to go on your computers and look up the
9 Delta WaterFix twin tunnels --

10 CHAIR MARCUS: Yeah, we can't talk about
11 it here. And we can't actually --

12 MR. HAWKS: -- you'll find it
13 interesting.

14 CHAIR MARCUS: -- we can't even hear you
15 talk about it --

16 MR. HAWKS: Thank you.

17 CHAIR MARCUS: -- outside the -- it's
18 crazy but it's the way the -- we're like judges
19 in that way.

20 MR. HAWKS: I appreciate --

21 CHAIR MARCUS: I'm so sorry.

22 MR. HAWKS: I appreciate that. Look it
23 up.

24 (Applause.)

25 CHAIR MARCUS: You can watch all of those

1 hearings, also, on video.

2 MR. TESSIER: Hi. My name is Gary
3 Tessier.

4 CHAIR MARCUS: Hi.

5 MR. TESSIER: Hi. I have a question for
6 the Water Board, you guys. Could you please tell
7 the audience what law gives you the authority to
8 double or more the amount of water you can take
9 from the irrigation districts?

10 CHAIR MARCUS: Well, it's a combination
11 of the Water Code and the public trust. I mean,
12 it's more complicated than that, but it is
13 actually --

14 MR. TESSIER: But there is no law that
15 says you have authority.

16 CHAIR MARCUS: That's Water Code.

17 MR. TESSIER: Water Code?

18 CHAIR MARCUS: Yeah. It's Porter-
19 Cologne.

20 MS. SPIVY-WEBER: It was passed in --

21 CHAIR MARCUS: Yeah, passed in --

22 MS. SPIVY-WEBER: -- '69.

23 CHAIR MARCUS: -- '69, I think, yeah.

24 MS. SPIVY-WEBER: Back in '69.

25 CHAIR MARCUS: It's kind of old. There

1 actually is, but we can --

2 MR. TESSIER: The Code says you can take
3 any amount you want in percentages?

4 CHAIR MARCUS: Oh, gosh, no. I mean, we
5 set the -- we can set the flows. We're supposed
6 to be setting them. They're overdue over a long
7 period of time. And then it gets allocated in a
8 water rights proceeding later on, using the full
9 seniority system.

10 MR. TESSIER: Because I think if our,
11 like some attorneys were to look into this, I
12 think they would probably find your overstepping
13 your boundaries.

14 CHAIR MARCUS: Well, sir, that will
15 clearly be debated over time. But as an
16 attorney, we're actually not -- what we're
17 looking for is help in doing a very tough job.

18 MR. TESSIER: And in the meantime, places
19 like Mendota are devastated from unemployment
20 from no water. We are here called the Appalachia
21 of the west, that's how poor this area is. And
22 you're taking away that water is just going to
23 make it more poor. So --

24 CHAIR MARCUS: Thank you.

25 MR. TESSIER: -- thank you.

1 CHAIR MARCUS: That's what we're here to
2 hear.

3 MR. GOTHBERG: Hi. I'm Martin Gothberg.
4 I came here from the Santa Clara Valley. It's a
5 two-and-a-half hour drive, but it was wonderful
6 this morning at 6:30 as the sun was rising. So
7 thank you for the opportunity.

8 This is a wonderful community. I've
9 heard so many heartfelt things and I've taken it
10 all to heart. I personally really do respect the
11 fact that a local solution really needs to be
12 looked at.

13 I am a contributor to the Tuolumne River
14 Trust. My sentiment goes with salmon. I don't
15 think there is enough or are enough people who
16 can speak for salmon, but I've heard so many
17 people here do it. So I really will look into
18 this more myself.

19 And thank you again for the opportunity.

20 CHAIR MARCUS: Oh, thank you for
21 listening.

22 (Applause.)

23 MR. WOOD: Good afternoon. My name is
24 Roger Wood. I have a lot of history here. I'm
25 76 years old. My father was an MID board member

1 from the early '30s until the new dam was
2 finished. And we've never had years like we've
3 had now.

4 CHAIR MARCUS: Right.

5 MR. WOOD: And we never had a year in my
6 whole lifetime with zero allotment of irrigation
7 water, like we had in 2015.

8 CHAIR MARCUS: Uh-huh.

9 MR. WOOD: And so I very strongly support
10 the work that the MID has done in their SAFE
11 Plan, and I hope that you give that really strong
12 consideration.

13 Thank you.

14 CHAIR MARCUS: Yes, we will.

15 (Applause.)

16 MR. METCALF: Good afternoon. My name is
17 Marcus Metcalf. I'm a high school teacher at
18 Atwater High School. I teach a course called
19 Sierra Nevada, and we study hydrology. And we've
20 taken field trips up to the Merced Fish Hatchery
21 to talk about salmon and spawning and how they
22 carry out the process. Excuse me. I'm a little
23 thirsty. My throat's dry.

24 What impressed me was that, upon talking
25 to the individuals there, that the salmon

1 released from the hatchery were actually put into
2 boats and dropped in the Delta. And they have
3 sonar imaging technology that actually has to
4 find striped bass populations and drop the --

5 CHAIR MARCUS: You should probably go
6 very quickly, because you're not just saying --

7 MR. METCALF: Yeah.

8 CHAIR MARCUS: -- you agree with somebody
9 --

10 MR. METCALF: Yeah. No, but --

11 CHAIR MARCUS: -- who has already spoken.

12 MR. METCALF: Okay.

13 CHAIR MARCUS: And the people behind you
14 have held back, many. So just --

15 MR. METCALF: There's two people behind
16 me. Sorry.

17 CHAIR MARCUS: Just go quick.

18 MR. METCALF: Anyway, so they drop the
19 fish away from these striped bass so they don't
20 get decimated by the striped bass.

21 CHAIR MARCUS: Uh-huh.

22 MR. METCALF: My point is that this is a
23 charade. It's not about salmon. This is about
24 mitigating water flow into the Delta because of
25 the loss of water from the Sacramento because of

1 the WaterFix Plan, which you guys will not allow
2 us to talk about.

3 CHAIR MARCUS: We cannot, under the law,
4 sir. And I just want to say, people can come up
5 with conspiracy theories about why we're doing
6 things.

7 MR. METCALF: It's not a conspiracy
8 theory, it's factual --

9 CHAIR MARCUS: No. It is --

10 MR. METCALF: -- that you guys are trying
11 to --

12 CHAIR MARCUS: It is --

13 MR. METCALF: -- run this through.

14 CHAIR MARCUS: It is not true, and it is
15 actually not helpful to us --

16 MR. METCALF: Okay.

17 CHAIR MARCUS: -- trying sincerely to
18 figure out what to do on this part of the Plan.

19 MR. METCALF: Well, you can't -- you
20 can't --

21 CHAIR MARCUS: But I don't want to get --

22 MR. METCALF: -- increase flow --

23 CHAIR MARCUS: -- into an argument.

24 MR. METCALF: -- from our rivers after
25 the tunnels are created.

1 CHAIR MARCUS: It's a more --

2 MR. METCALF: You have to do it before.

3 CHAIR MARCUS: Excuse me.

4 MR. METCALF: So that's why you're here
5 now.

6 CHAIR MARCUS: It's much more complex.

7 MR. METCALF: Okay.

8 CHAIR MARCUS: And we have a history. We
9 have to set the flows for everybody based on the
10 water quality needs, and then we allocate it by
11 water right.

12 MR. METCALF: Which is --

13 CHAIR MARCUS: And you all are --

14 MR. METCALF: And the SAFE Plan --

15 CHAIR MARCUS: -- quite --

16 MR. METCALF: -- looks like a great plan
17 as an alternative to what you guys --

18 CHAIR MARCUS: Thank you very much.

19 MR. METCALF: -- are talking about.
20 Thank you.

21 (Applause.)

22 CHAIR MARCUS: Next?

23 MR. BRAZIL: Good afternoon. My name is
24 Helio Brazil. I'm the Superintendent of McSwain
25 School District, and I was a former

1 superintendent of the Merced River for over 14
2 years.

3 I want to echo what I believe is a safe
4 plan and a good plan, and urge you and thank you
5 for listening to everyone. This is a passionate
6 community of hardworking people.

7 CHAIR MARCUS: Sure.

8 MR. BRAZIL: And as a Superintendent, I
9 want you to look at it from the perspective of
10 what these students mean and what this will do in
11 terms of impacting how we fund, how we educate
12 and how we lead.

13 So thank you for your time.

14 CHAIR MARCUS: Thank you, sir.

15 (Applause.)

16 MS. WESTMORELAND PEDROZO: Good
17 afternoon. My name is Diana Westmoreland
18 Pedrozo. And I had asked for an opportunity to
19 speak because I was going to a doctor's
20 appointment that I cannot rearrange. And I had a
21 nice little speech that I was going to give,
22 trying to get down to three minutes. But I'm
23 going to day, it matters where and how we plant
24 people, food and fish. We matter. All of us
25 here matter. You matter. None of you live in an

1 area that wouldn't exist without dammed rivers.

2 I hope you guys consider that, the dammed rivers.

3 We don't have unimpaired flows anymore.

4 We have people that are living in this state that
5 are going to be -- it's over 40 million. How are
6 we going to feed ourselves?

7 I agree with the SAFE Plan. You need to
8 implement it. And you don't need to go over what
9 they've asked and said they would do. You just
10 need to implement what all the irrigation
11 districts have been doing and are willing to do.

12 Our food is important. How we grow it,
13 where we grow it, it all matters. We need water.
14 And without the discussion about more storage for
15 cooler water, it's ridiculous to even be here.

16 So this piecemeal approach is not
17 practical, it's not good. It's not good for our
18 tax dollars. It's not good for the future that
19 you just saw here, a fantastic group of young
20 people here, the largest FFA Chapter, all urban,
21 in the State of California, along with others
22 that were here that weren't able to speak and had
23 to leave.

24 So I ask you, we can't -- we can give you
25 written comments. Are you going to read the 400

1 pages? Are you going to read all the comments
2 that we're going to submit? Because we were here
3 en masse. We were here en masse, but we're not.
4 But believe you, we will continue to keep our
5 feet here and live.

6 My grandson will be seventh-generation
7 resident of Merced County. They came to farm
8 here after the gold played out. We have
9 rearranged our community and our state. We have
10 to live in what our reality is today --

11 CHAIR MARCUS: Uh-huh.

12 MS. WESTMORELAND PEDROZO: -- not what we
13 wish it was, not where it was, what you think is
14 going to be here. That's what the presentation to
15 the Board of Supervisors was, well, we're
16 assuming, we believe. That is not a document
17 that is legally protected.

18 So I ask you and all you gentlemen here,
19 and I do see a women up there, I'm sorry, you've
20 been blocked from my vision, you need to take it
21 seriously, what we're asking you to do, and
22 consider us as important as you all are, where
23 you live, that you wouldn't have the water you
24 have without what we have done and the ability to
25 feed yourselves.

1 I agree with Congressman Costa. I have
2 said this for 20 years, this is a matter of
3 national security. If we cannot feed ourselves,
4 where are we going to get our food? Do you want
5 to rely on China? Hell, they were trying to kill
6 their kids with their formula. Our pets were at
7 odds. Come on, we have the safest, most abundant
8 food supply right where you're standing --

9 CHAIR MARCUS: Right.

10 MS. WESTMORELAND PEDROZO: -- right where
11 you're standing. We built on the most productive
12 land throughout this state. So where are we
13 going to be 40, 50 years from now? The decisions
14 you make today are very important. Please
15 consider us all.

16 Thank you.

17 CHAIR MARCUS: Thank you very much.

18 (Applause.)

19 We will now take a break for lunch until
20 2:00. And I think this --

21 MS. SPIVY-WEBER: One more. We have one
22 more. One more. One more.

23 CHAIR MARCUS: One more? Oh, I'm sorry,
24 I didn't see. Please go ahead, of course.

25 MS. SPIVY-WEBER: Oh, two more.

1 CHAIR MARCUS: Two more. Fine. No, it's
2 fine if people go quickly. It's not an
3 opportunity to do two or three minutes, just
4 again, out of courtesy to everybody else.

5 MS. WALSH: Okay. Thank you very much.
6 I am Susan Walsh. I am the Interim
7 Superintendent and President of Merced College.
8 And I am here to agree with many of the elected
9 officials that spoke earlier today.

10 Merced College has 9,500 full-time
11 equivalent students which are made up of 12,000
12 or more unduplicated individuals. They are the
13 sons and daughters and grandchildren and the --
14 grandchildren, sons and daughters of the
15 employees of the people who stand behind us. And
16 the kind of hit that this would represent to our
17 economy, \$230 million, 1,000 jobs has, pun
18 intended, a downstream effect on young people and
19 families who are trying to better themselves by
20 going to school. Far too many of our students,
21 over half, qualify for financial aid. Far too
22 many have income insecurity, housing insecurity,
23 even food insecurity in such a food-rich region.

24 And when you talk about consequences and
25 the effects of what this would do, I want to echo

1 what the elected official said about the
2 challenge to our economy and put the face of my
3 students on that challenge.

4 Thank you very much.

5 CHAIR MARCUS: Thank you very much.

6 MS. BURROUGHS: Thank you, Madam
7 Chairman, Members of the Board, and community at
8 large. My name is Rose Marie Burroughs. Our
9 family has farmed here in California for over 100
10 years.

11 You have heard of the travesty that will
12 occur if the proposed proposition of this water
13 take goes through. I pray today that you will
14 have heard our message and that you will stop
15 what you're doing and work in a holistic manner
16 to find the solutions for everyone.

17 And I'd also like to bring it to the
18 attention that when you're looking at a holistic
19 approach, there's more than one solution. And in
20 Sacramento, in the Sacramento River the ammonia
21 that is being let out in the river that effects
22 the plankton and every ecosystem on that river is
23 one of the major causes of our loss of salmon.
24 So let's stop the ammonia pollution in the
25 Sacramento River first, and do all the things

1 that we can do before you destroy all of the
2 people in our communities.

3 Thank you.

4 CHAIR MARCUS: Thank you very much.

5 (Applause.)

6 And thank you for your humanity earlier
7 today. I appreciated it.

8 MS. ADAMS: Hi. I guess I'm your sneak-
9 in person here.

10 CHAIR MARCUS: No, that's all right.

11 Just --

12 MS. ADAMS: My name is Nicola Adams.
13 Thank you so much for allowing me to come here
14 and speak. I am not a farmer. I am not a
15 teacher. I'm a mother, a mother of five, a
16 grandmother of nine, a community activist. I
17 work in our community with all parts of our
18 community.

19 My thing is, I'm going to tell you a
20 dream I had which really scares me. I woke up
21 one morning and I went to my kitchen sink, and
22 when I turned on my sink, sand came out of my
23 faucet. This nightmare that I had is a reality
24 for a lot of other people, and we have to really
25 think about that. There are places that are

1 getting their water that are being brought in.

2 Farming is one of the staples of our
3 community. It is what has made California,
4 basically, a Golden State, is farming. In this
5 community alone we have over a \$3 billion
6 industry with our almonds, walnuts and
7 pistachios. That's people's lives.

8 When I go to the grocery store, because I
9 don't farm, I depend on these people out here,
10 all of them, to bring to my grocery store what I
11 need in order to feed my family. So we have to
12 take care of them in order for me to be able to
13 take care of us.

14 And so implore you, that whatever my
15 Congressman said, I can't repeat what he said but
16 I remember some of his words, that it's looking
17 out for us, that it's looking out for my family,
18 that it's looking out for my grandchildren, that
19 it's looking out for these families, that it's
20 looking out for these young kids when they come
21 up and have families of their own. We have to
22 put in place things for future generations, not
23 just who you see here standing before you, but
24 for people who are yet to be born. And so we
25 have to put things in place for those farmers who

1 are going to come up who are yet to set foot on a
2 farm.

3 So please, please, I implore you, look at
4 this and do what's right, not just for us here
5 but for our future generations.

6 Thank you.

7 CHAIR MARCUS: Thank you very much.

8 Thank you.

9 (Applause.)

10 That's, you know, that's a nice note to
11 break on, too, so let's come back at 2:15,
12 because I think people do need to move cars. And
13 then I will ask that someone help go through
14 these cards and figure out who's already spoken.
15 And we'll all see you back at 2:15.

16 (Off the record at 1:30 p.m.)

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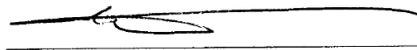
25

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I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

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IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of December, 2016.



PETER PETTY
CER**D-493
Notary Public

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IN WITNESS WHEREOF, I have hereunto set my hand this 26th of January, 2017.



Barbara Little
Certified Transcriber
AAERT No. CET**D-520