

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

CALIFORNIA WATERFIX WATER)
RIGHT CHANGE PETITION)
HEARING)

JOE SERNA, JR. BUILDING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
BYRON SHER AUDITORIUM
1001 I STREET
SECOND FLOOR
SACRAMENTO CALIFORNIA

PART 1B

Tuesday, October 25, 2016
9:00 A.M.

VOLUME 22
Pages 1 - 75

Reported By: Deborah Fuqua, CSR No. 1248

Computerized Transcription by ProCAT

1 APPEARANCES:
2 CALIFORNIA WATER RESOURCES BOARD
3 Division of Water Rights
4 Board Members Present
5 Tam Doduc, Co-Hearing Officer:
6 Felicia Marcus, Chair and Co-Hearing Officer:
7 Dorene D'Adamo, Board Member
8 Staff Present
9 Diane Riddle, Environmental Program Manager
10 Dana Heinrich, Senior Staff Attorney
11 Samantha Olson, Senior Staff Attorney
12 Kyle Ochenduzsko, Senior Water Resources Control Engr.
13 Jean McCue
14 Kevin Long
15
16 For California Department of Water Resources
17 James (Tripp) Mizell, Senior Attorney
18 Cathy Crothers, Assistant Chief Counsel
19 Duane Morris, LLP
20 By: Thomas Martin Berliner, Attorney at Law
21
22 U.S. Department of the Interior, Bureau Reclamation,
23 and Fish and Wildlife Service
24 Amy Aufdemberge, Assistant Regional Solicitor
25
26 State Water Contractors
27 Stefanie Morris
28 Adam Kear
29 Becky Sheehan
30
31 (Continued)

1 APPEARANCES (continued)

2 Biggs-West Gridley Water District

3 Andrew M.Hitchings

4

5 Western Canal Water District, et al.

6

7 Dustin Cooper

8

9 Central Delta Water Agency, South Delta Water Agency,
Lafayette Ranch, Heritage Lands Inc., Mark Bachetti
Farms and Rudy Mussi Investments L.P.

10

11 John Herrick

12

13 Tehama-Colusa Canal Authority and water service
contractors in its service area

14

15 Meredith Nikkel

16

17 Cities of Folsom and Roseville, San Juan Water
District, and Sacramento Suburban Water District
Ryan Bezerra

18

19 Sacramento County Water Agency

20

21 Aaron Ferguson

22

23

24

25

---o0o---

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

PAGE

Opening Remarks 1
by Co-Hearing Officer Doduc

--o0o--

WITNESSES CALLED BY PROTESTANTSPAGE
PANEL 3: STAN WANGBERG and THADDEUS BETTNER

DIRECT EXAMINATION BY
Mr. Hitchings 9

Mr. Cooper 13

CROSS-EXAMINATION BY
Mr. Berliner 15

REDIRECT EXAMINATION BY
Mr. Hitchings 27
Mr. Cooper 28

PANEL 4: STEVE DANNA, SEAN EARLEY, EUGENE MASSA,
DONNIE STINNETT and TED TRIMBLE

DIRECT EXAMINATION BY
Mr. Cooper 33

CROSS-EXAMINATION BY
Mr. Berliner 44
Mr. Herrick 59

---o0o---

(All exhibits to be identified and admitted at
the end of Panel 7)

1 Tuesday, October 25, 2016 9:00 a.m.

2 PROCEEDINGS

3 ---000---

4 CO-HEARING OFFICER DODUC: Good morning,
5 everyone. It's 9:00 o'clock. Welcome back to this
6 Water Rights hearing on the Change Petition for the
7 WaterFix project.

8 I am Tam Doduc. With me here today are, to my
9 right, Board Chair Felicia Marcus and Board Member
10 DeeDee D'Adamo. To my left are Dana Heinrich and Kyle
11 Ochenduszko. Welcome back. We have other staff
12 assisting us today.

13 And, let's see, our usual announcements --
14 what are our usual announcements -- oh, yes.

15 In the event of an alarm, please locate the
16 exits closest to you right now. You will be taking
17 that exit down, using the stairs to the first floor,
18 crossing the street, and meeting the rest of us, if you
19 so wish, in the park. If you are not able to use the
20 stairs, please let one of the staff know, and we will
21 direct you into a protective area.

22 Secondly, this hearing is being recorded and
23 Webcasted, so please always speak into the microphone
24 when providing your comments and begin by stating your
25 name and affiliation.

1 We have a court reporter with us here today.
2 The transcript will be made available after the
3 completion of Part 1B. If you wish to have it sooner,
4 please make arrangements with her directly.

5 And as always, the most important announcement
6 is to take a moment and put all your noise-making
7 devices on silent.

8 All right. Before we begin today, I would
9 like to discuss some scheduling issues. I think all of
10 you -- or all the parties received an e-mail today or
11 at least yesterday regarding the proposed presentations
12 of the remaining panels for Group 7.

13 Mr. Hitchings, are you able to speak on behalf
14 of Group 7 or --

15 MR. HITCHINGS: I have -- I don't have any
16 further information with regard to the American River
17 panels, which are Panels 5 through 7.

18 CO-HEARING OFFICER DODUC: Mm-hmm.

19 MR. HITCHINGS: I believe that the schedule
20 that was submitted by e-mail yesterday was what was
21 worked out between those three panels as well as, I
22 think, with petitioner's counsel and with the project
23 proponent parties.

24 So Mr. Berliner or Mr. Mizell or Ms. Morris
25 may have answers to specific questions on that.

1 CO-HEARING OFFICER DODUC: All right. Let's
2 go ahead, and I'll just ask my questions. And whoever
3 can answer, please just come on up to the microphone.

4 I'm concerned about this proposed presentation
5 in that it potentially leaves a lot of room -- a lot of
6 time on the schedule that's not being used by Group 7
7 this week. And I want to make sure that the other
8 parties are available when called upon to present their
9 case in chief as well.

10 And given the size of this audience right now,
11 I'm concerned that those parties receiving your e-mail
12 have decided that, if they are not conducting
13 cross-examination of these panels, they don't need to
14 show up this week. And if you're listening, let me
15 assure you that is not the case.

16 So just working down right now what you are
17 proposing for today is Group 7 Panel 3 and Panel 4.
18 I'm not sure that's going to take the entire day.

19 MR. HITCHINGS: Yes, Hearing Officer Doduc, as
20 of Friday, I think what we had discussed was that we
21 expected that this Panel 3 would take the morning and
22 that we wouldn't start Panel 4 until any earlier than
23 12:30. Panel 4 will be here ready to go by 12:30, and
24 they may be here even sooner that. But we relied on
25 the time estimates on Friday at least for those two

1 panels. And so they'll be here and ready, Panel 3 and
2 4, for the day. And then I guess the question is
3 whether you're ready to move on to Panel 5 before the
4 end of the day; I'm not sure.

5 CO-HEARING OFFICER DODUC: I think I just want
6 to put all the parties and all the groups on notice
7 that I do not want a lot of dead time where we convene
8 early every day to wait for the next panel or the next
9 group to present their case in chief.

10 So if you are -- and since you are providing
11 this ahead of time, I appreciate that. We'll try, to
12 the extent that is practical, to go in the order that
13 the parties have requested. But if we do get to a
14 certain group or a certain party and that party or
15 group is not here, unless we've received notice ahead
16 of time and a request for a change in the order that
17 was sent out, I will assume that, if you're not here,
18 then you're not going to present a case in chief, and
19 we will move on.

20 Ms. Morris -- or actually, Mr. Berliner's
21 first.

22 MR. BERLINER: Go ahead.

23 MS. MORRIS: Stephanie Morris, State Water
24 Contractors.

25 I think we're fine accommodating schedules,

1 but what is not okay, in my mind, is going
2 significantly out of order.

3 So if we don't -- if we are taking a break
4 from Group 7 and you start to call Group 8 or 9, we're
5 trying to prepare in the order that was provided to us,
6 so that would be a significant issue for us.

7 CO-HEARING OFFICER DODUC: I'm sorry. I don't
8 understand what you just said. You are Group --

9 MS. MORRIS: No, I'm -- for cross-examination.

10 CO-HEARING OFFICER DODUC: For
11 cross-examination.

12 MS. MORRIS: It takes time to prepare and be
13 efficient. And we're going kind of in the order that
14 you said that we were going to go in, and that's how we
15 prepared. So if we somehow skip today, in the
16 afternoon, to Group 10 or 11, we're not going to be
17 prepared.

18 CO-HEARING OFFICER DODUC: Okay.

19 Ms. Nikkel, do you have a comment?

20 MS. NIKKEL: Good morning. Meredith Nikkel
21 for Tehama-Colusa Canal Authority.

22 We had arranged with the other parties to have
23 that group -- I'm sorry, I don't remember the number --
24 go tomorrow afternoon. And there was a request to
25 shift the hearing schedule tomorrow from 9:00 o'clock

1 start to a 10:00 o'clock start. And relatedly, if we
2 have the Tehama-Colusa Canal Authority go in the
3 afternoon, if we could extend the hearing time past
4 5:00 o'clock to ensure that that witness is completed
5 on Wednesday afternoon, we would really appreciate
6 that.

7 And I think that -- we've given notice, so I
8 think that the other parties are prepared for that
9 reversal in the order.

10 CO-HEARING OFFICER DODUC: All right. Thank
11 you, Ms. Nikkel.

12 Mr. Berliner?

13 MR. BERLINER: Ms. Nikkel is correct, and
14 we're ready for TCCA as well. So assuming that the
15 schedule sticks from what was submitted in the e-mail,
16 we're ready to go for the rest of the week.

17 CO-HEARING OFFICER DODUC: All right. I did
18 stress when we reconvened that this will be a
19 challenging portion of Part 1B, just the shear
20 organization and scheduling with so many number of
21 parties and so many cases in chief.

22 And I do appreciate your attempts to try to
23 coordinate and propose a schedule. And we will see how
24 it plays out. To the extent that we can accommodate
25 these requests without a lot of dead time in the

1 hearing, I will try to do so.

2 But I will again make it very clear to all the
3 parties, those here and those who are not here but
4 hopefully are watching the Webcast, that I will be
5 proceeding in the order that is presented here. And if
6 we get to your party or your group and you're not here,
7 we will move on.

8 Okay?

9 MR. HITCHINGS: Hearing Officer Doduc, just on
10 -- at least as to today, I know there was quite a
11 reliance on how we scheduled things on Friday for the
12 panels today. And for Panel 5, I believe that they --
13 you know, if we happen to finish Panel 4 before the end
14 of the afternoon and there is some additional time, I
15 know that they had coordinated to, basically, start on
16 Wednesday morning. So I know that would be very
17 difficult, I think, to organize those panels to get
18 here this afternoon. So I wanted to note that.

19 CO-HEARING OFFICER DODUC: Thank you. I
20 understand, and I think we will make that one exception
21 because of the loose nature that we left things in on
22 Friday when we adjourned.

23 But everyone is on notice that we will
24 proceed. There will not be dead space in the schedule
25 simply because parties and groups are not here in the

1 order in which is being proposed, unless they have
2 requested a change ahead of time.

3 All right. Mr. Hitchings, I believe we're
4 finally getting to you and your Panel No. 3. If your
5 witnesses would please stand and raise their right
6 hands.

7 (Panel sworn)

8 STAN WANGBERG and THADDEUS BETTNER,
9 called as Panel 3 witnesses by
10 protestants Group 7, Sacramento Valley
11 Water Users' Group of Parties, having
12 been first duly sworn, were examined
13 and testified as hereinafter set forth:

14 CO-HEARING OFFICER DODUC: You may begin.

15 MR. HITCHINGS: Good morning, Hearing Officer,
16 Board Members, State Board staff. Andrew Hitchings for
17 Glenn-Colusa Irrigation District, protestant in this
18 matter.

19 This is the presentation of the so-called
20 Sacramento River Settlement Contractor panel with the
21 cases in chief for Glenn-Colusa Irrigation District and
22 Anderson-Cottonwood Irrigation District.

23 Mr. Dustin Cooper is counsel for Anderson
24 Cottonwood, and he will be doing the direct exam of
25 Mr. Wangberg.

1 At the outset, I'd like to indicate that this
2 panel does incorporate and adopt the opening statement
3 that was presented by the SVWU expert panel, that the
4 Sacramento Valley Water User protestants, including
5 these two protestants, have adopted their testimony as
6 part of their direct cases in chief.

7 The purpose of this panel is to document and
8 attest to the water rights held by the two protestants
9 on this panel and that are potentially subject to
10 injury by the California WaterFix project.

11 With that, I'd like to start the direct exam
12 of Mr. Bettner.

13 DIRECT EXAMINATION OF PANEL 3 BY MR. HITCHINGS

14 MR. HITCHINGS: Mr. Bettner, could you please
15 state your name for the record?

16 WITNESS BETTNER: Thaddeus L. Bettner. That's
17 spelled T-H-A-D-D-E-U-S, middle initial L, last name
18 Bettner, B-E-T-T-N-E-R.

19 MR. HITCHINGS: And you do understand that
20 you're representing your testimony under oath; is that
21 correct?

22 WITNESS BETTNER: Yes.

23 MR. HITCHINGS: And is Exhibit GCID-2 an
24 accurate statement of your written testimony?

25 WITNESS BETTNER: Yes.

1 MR. HITCHINGS: And did you prepare and sign
2 that testimony?

3 WITNESS BETTNER: Yes. I worked with my
4 staff, specifically my water superintendent, for a lot
5 of the data that was in my testimony and exhibits, as
6 well as my counsel, and ultimately did execute my
7 testimony.

8 MR. HITCHINGS: And then do Exhibits GCID-3
9 through GCID-20 include true and correct copies of
10 documentation of the water rights claimed and held by
11 GCID and water usage under those rights for the years
12 2011 through 2015?

13 WITNESS BETTNER: Yes.

14 MR. HITCHINGS: And are you familiar with SVWU
15 Exhibits 100 through 110 that are referenced in GCID
16 exhibit index submitted with GCID's case in chief
17 materials?

18 WITNESS BETTNER: Yes.

19 MR. HITCHINGS: And are the MBK Engineers
20 testimony and reports in those exhibits the types of
21 information that you rely and review, as GCID's general
22 manager, to assess potential risks and impacts to
23 GCID's water rights and supplies?

24 WITNESS BETTNER: Yes, I do.

25 MR. HITCHINGS: At this time, would you please

1 summarize your testimony submitted for this proceeding?

2 And I think at the start of that, just to give
3 context, we were going to pull up GCID Exhibit 3, which
4 is a map of the district.

5 WITNESS BETTNER: So to start with, the map,
6 just to give some context to this exhibit, our district
7 is shown here in green. That would be the service area
8 that we deliver water to through our water rights as
9 well as our contract with the Bureau of Reclamation.

10 If you look at the table and legend on the
11 bottom right, we have also listed in different colors
12 the different water rights that we do hold, as well as
13 their specific place of use for those water rights,
14 which we do report to the State Board on an annual
15 basis. And those also were included in my testimony.

16 Also shown on the map is three refuges. We
17 deliver water or convey water on behalf of three
18 federal refuges; that being the Sacramento, Delevan,
19 and Colusa Refuge. And then lastly on the map, you
20 will see a blue line that runs through our district.
21 That is our main canal -- as well as the red lines
22 would be portions of our conveyance system that deliver
23 water to lands within our district.

24 Regarding just a brief background of our
25 district. Our district does cover about 175,000 acres

1 within Glenn and Colusa counties, about 90 miles north
2 of Sacramento. About 140,000 acres of those lands are
3 irrigable. So the balance of those consist of the
4 three refuges as well as roads rights of ways that are
5 maintained by the counties.

6 We service water to private wetlands
7 consisting of about 1200 acres. About 50,000 acres of
8 the ground that we have in the winter is -- has water
9 put on it through winter water right. And that serves
10 as surrogate wetlands for the Pacific flyways and along
11 with other terrestrials. And then we serve -- other
12 acreage, we serve primarily rice, permanent orchards,
13 tomatoes, other row crops for leases by our landowners.

14 Our main diversion point is on the Sacramento
15 River located about on Mile -- River Mile 154.8.

16 And that pretty much comprises the summary of
17 our district in terms of the key features. I also have
18 in here all of our pre and post '14 appropriative water
19 rights included in our reporting, as well as included
20 in there is our settlement contract with the Bureau of
21 Reclamation.

22 My testimony identifies and documents our
23 water rights and also describes subject to injury, what
24 we think or what I think would be impacted by the
25 proposed WaterFix project. Thank you.

1 MR. HITCHINGS: That concludes the direct
2 testimony of Mr. Bettner. And I'll turn things over to
3 Mr. Cooper for the remainder of the panel.

4 DIRECT EXAMINATION OF PANEL 3 BY MR. COOPER

5 MR. COOPER: Dustin Cooper on behalf of
6 Anderson-Cottonwood Irrigation District, that I'll
7 occasionally refer to as ACID.

8 Mr. Wangberg, would you please state your name
9 and spell your last name for the record?

10 WITNESS WANGBERG: Yes, Stanley Dean Wangberg,
11 W-A-N-G-B-E-R-G.

12 MR. COOPER: Mr. Wangberg, you understand that
13 you are presenting your testimony under oath; is that
14 correct?

15 WITNESS WANGBERG: Yes, I do.

16 MR. COOPER: Is Exhibit MLF-65 an accurate
17 statement of your written testimony?

18 WITNESS WANGBERG: Yes, it is.

19 MR. COOPER: Did you prepare and sign that
20 testimony?

21 WITNESS WANGBERG: Yes, I did.

22 MR. COOPER: Is Exhibit MLF-66 a true and
23 correct copy of ACID's contract with the United States
24 for diversion of water from the Sacramento River,
25 settling water right disputes, and providing for

1 project water?

2 WITNESS WANGBERG: Yes, it is.

3 MR. COOPER: Do Exhibits MLF-67 through MLF-80
4 include true and correct copies of documentation of
5 water rights claimed and held by ACID and water usage
6 under those rights for the years 2011 through 2015?

7 WITNESS WANGBERG: Yes, they are.

8 MR. COOPER: Are you familiar with documents
9 that have been identified as Exhibits SVWU-100 through
10 110, which is the testimony and supporting
11 documentation prepared by MBK Engineers?

12 WITNESS WANGBERG: Yes, I am.

13 MR. COOPER: Are the MBK Engineers testimony
14 and reports in those exhibits the types of information
15 you review and rely on as ACID's general manager to
16 assess potential risks and impacts to ACID's water
17 rights and supplies?

18 WITNESS WANGBERG: Yes, they are.

19 MR. COOPER: At this time, would you please
20 summarize your testimony submitted for this proceeding?

21 WITNESS WANGBERG: Yes. A little background
22 about ACID. The water supply is derived primarily from
23 water rights to the Sacramento River and its
24 tributaries and also under a settlement contract with
25 Reclamation that we referred to earlier.

1 ACID claims the right to consumptively use
2 water based on a pre-1914 appropriative right, riparian
3 rights, and its contract with Reclamation.

4 The water is used in both Shasta and Tehama
5 counties, Northern California, with -- it's
6 primarily -- it's for agricultural irrigation,
7 primarily for pasture and hay, but there is also a
8 mixture of truck crops -- alfalfa, almonds and walnuts.

9 The district currently serves just over 800
10 customers.

11 And that's about it on the background.

12 MR. COOPER: The panel is now ready for
13 cross-examination.

14 CO-HEARING OFFICER DODUC: Thank you,
15 Mr. Cooper, Mr. Hitchings.

16 We'll start with the Department of Water
17 Resources. Any cross-examination?

18 CROSS-EXAMINATION OF PANEL 3 BY MR. BERLINER

19 MR. BERLINER: Good morning, Chair Doduc. Tom
20 Berliner on behalf of the Department of Water
21 Resources. I'm accompanied this morning by Tripp
22 Mizell, also for the Department of Water Resources.

23 If we can start with Mr. Bettner, please.

24 Good morning, sir. Did you draft your
25 testimony for the hearing today?

1 WITNESS BETTNER: Yes.

2 MR. BERLINER: Did you receive any assistance
3 in drafting it?

4 WITNESS BETTNER: Yes.

5 MR. BERLINER: And who assisted you?

6 WITNESS BETTNER: As I mentioned earlier, I
7 used my water superintendent, who provides all the
8 recording for our water rights in terms of data and
9 everything to prepare some of the exhibits, as well as
10 legal counsel.

11 MR. BERLINER: And who is that person?

12 WITNESS BETTNER: Andy Hitchings, to my right.

13 MR. BERLINER: I'm sorry. Your water
14 resources person.

15 WITNESS BETTNER: Oh, Pat Kennedy.

16 MR. BERLINER: Pat Kennedy?

17 WITNESS BETTNER: Yes.

18 MR. BERLINER: Thank you. And just to confirm
19 that the purpose of your testimony is for -- is to
20 provide a brief description and document the water
21 rights held by GCID that are allegedly subject to
22 injury by the proposed project?

23 WITNESS BETTNER: That's correct.

24 MR. BERLINER: Are you testifying today as an
25 expert?

1 WITNESS BETTNER: No.

2 MR. BERLINER: You're not offering any
3 opinions today, are you?

4 MR. HITCHINGS: Objection. This was covered
5 in objections to Mr. Bettner's testimony as well as our
6 responses to those objections as to whether his
7 statements and understandings and opinions constitute
8 permissible lay opinion. And that's been submitted to
9 the Board for consideration.

10 CO-HEARING OFFICER DODUC: Thank you. And
11 that is under consideration, so I will allow
12 Mr. Berliner to pursue his line of questioning for the
13 record.

14 WITNESS BETTNER: Could you repeat the
15 question, please?

16 MR. BERLINER: Are you testifying today as an
17 expert?

18 WITNESS BETTNER: I answered no, but I think
19 the next question, then.

20 MR. BERLINER: Are you offering any opinions
21 today?

22 WITNESS BETTNER: Yes.

23 MR. BERLINER: And what opinions are you
24 offering?

25 WITNESS BETTNER: Well, from the work that MBK

1 has done as well as my understanding of the operations
2 of the project and the water rights and settlement
3 contract that we have, I'm providing at least my
4 testimony, the fact that due to the operation of the
5 project, there would be injury to our district.

6 MR. BERLINER: And I know that you said your
7 own work and MBK work. Are you referring to the work
8 that was done by Walter Bourez and Dan Easton?

9 WITNESS BETTNER: That's correct.

10 MR. BERLINER: And that would be distinguished
11 from the water rights amalgamation that was prepared by
12 Mr. VanCamp?

13 WITNESS BETTNER: It would be inclusive of
14 Mr. VanCamp's work as well.

15 MR. BERLINER: Thank you. And to what extent
16 is your opinion formed by work other than those
17 affiliated with MBK?

18 WITNESS BETTNER: I would offer that,
19 particularly the last couple years, that we did
20 experience record low levels of water in Shasta
21 Reservoir as well as inflows through particularly in
22 2014 and 2015.

23 During those years, while Reclamation was able
24 to deliver our supply pursuant to our contract, we as
25 settlement contractors and we as a district, GCID, took

1 specific actions on our own in cooperation with the
2 Bureau of Reclamation, the fishery agencies, as well as
3 the State Water Resources Control Board to change our
4 diversions; we had to pump groundwater; we had to take
5 land out of production. We had a whole host of actions
6 we needed to take in order just to meet or try to meet
7 some of the demands within our district.

8 And knowing that the potential outcome of
9 WaterFix would be to have lower elevations in Shasta
10 Reservoir because more water could be moved through the
11 project, that could exacerbate storage in Shasta such
12 that experiences that we saw in 2014 and '15, which
13 were real versus what MBK had modeled, could actually
14 happen in the future and become substantially -- or
15 cause a substantial impact as a water user on the
16 Sacramento River.

17 MR. BERLINER: Are you contending that GCID
18 has a right to stored water in any federal reservoir?

19 WITNESS BETTNER: I am not contending that;
20 however, Reclamation in the contract isn't specific to
21 how and what source of water that Reclamation delivers
22 to us.

23 We have a water right that's based on inflow
24 in the Shasta Reservoir, but there are years when
25 Reclamation does deliver water stored -- stored water

1 from Shasta to us in order to meet those contractual
2 deliveries.

3 Additionally within our contract, we do have a
4 component of water that's called "project water" that
5 we get. And that is based on -- and we pay for --
6 based on the cost, the capital cost as well as the
7 storage O and M cost for Shasta Reservoir. So whether
8 that, you know, equates to a right to storage, I
9 don't -- we never, you know pushed that with
10 Reclamation at this point.

11 MR. BERLINER: But as you sit here today,
12 you're not contending that you have a right to stored
13 water, correct?

14 WITNESS BETTNER: No, I'm not.

15 MR. BERLINER: Thank you.

16 And aside from the experience that you had in
17 2014-'15 and the work by MBK Engineers, do you have any
18 other basis for understanding or alleging any injury to
19 GCID that would result from the California WaterFix?

20 WITNESS BETTNER: No.

21 MR. BERLINER: I have no further questions for
22 this witness.

23 CO-HEARING OFFICER DODUC: Thank you,
24 Mr. Berliner.

25 Ms. Aufdemberg, does the Department of

1 Interior have any cross-examination?

2 MS. AUFDEMBERG: No questions.

3 CO-HEARING OFFICER DODUC: Ms. Morris?

4 MS. MORRIS: No.

5 CO-HEARING OFFICER DODUC: Group 4?

6 MR. WILLIAMS: Westlands has no questions.

7 CO-HEARING OFFICER DODUC: Westlands is 5.

8 Who here has questions for this panel?

9 MR. RUBIN: San Luis and Delta-Mendota Water
10 Resource, two brief questions.

11 CO-HEARING OFFICER DODUC: And you are

12 Group --

13 MR. RUBIN: Group 4.

14 CO-HEARING OFFICER DODUC: Oh, okay. Group --

15 MS. MORRIS: Are we doing this by panel? I
16 think Mr. Berliner has more cross-examination for the
17 other witness.

18 CO-HEARING OFFICER DODUC: Oh, I'm sorry. I
19 thought he completed his cross-examination.

20 MR. BERLINER: Well, I'm a little confused as
21 to whether we're doing this by the panel or by the
22 witness.

23 CO-HEARING OFFICER DODUC: We are by the
24 panel. My apology.

25 MR. BERLINER: Okay. In that case, I do have

1 more cross-examination.

2 CO-HEARING OFFICER DODUC: Got it. I thought
3 things were going way too fast.

4 MR. BERLINER: My apologies. In fact, I
5 actually do have one more question for Mr. Bettner.

6 Just to confirm, based on the map that you put
7 up earlier, GCID is located upstream from the proposed
8 new point of diversion for the WaterFix, correct?

9 WITNESS BETTNER: That is correct.

10 MR. BERLINER: Mr. Wangberg, good morning.

11 The questions that I asked of Mr. Bettner are
12 identical to the questions that I have for you, so they
13 should sound very familiar. And why don't I just start
14 with the last question that I asked Mr. Bettner.

15 It's my understanding that ACID is located
16 north of the proposed point of diversion; is that
17 correct?

18 WITNESS WANGBERG: Correct.

19 MR. BERLINER: Did you draft your testimony
20 for today?

21 MR. BERLINER: Yes, I did. Our legal counsel
22 provided an outline of the potential scope of the
23 testimony, and I provided the factual information and
24 the exhibits.

25 MR. BERLINER: Were you assisted by anybody

1 from ACID?

2 WITNESS WANGBERG: No, I was not.

3 MR. BERLINER: Did you compare your testimony
4 with Mr. Bettner?

5 WITNESS WANGBERG: Yes, just last night, in
6 fact.

7 MR. BERLINER: After it was submitted?

8 WITNESS WANGBERG: Yes.

9 MR. BERLINER: Okay. Thank you. And I want
10 to confirm that the sole purpose of your testimony is
11 to identify and provide a brief description of as well
12 as document the water rights that are claimed by your
13 district.

14 WITNESS WANGBERG: Yes, that's correct.

15 MR. BERLINER: And you're not testifying today
16 as an expert, correct?

17 WITNESS WANGBERG: No.

18 MR. BERLINER: Are you offering any opinions?

19 WITNESS WANGBERG: Yes.

20 MR. BERLINER: And what opinions are you
21 offering?

22 WITNESS WANGBERG: Similar to Thad's opinion
23 in regard to potential impacts to ACID's water supply.
24 If the WaterFix was in operation, we feel that there is
25 a chance that there would be more frequent low

1 carryover storage in Shasta Reservoir which may impact
2 Reclamation's ability to meet the contractual
3 obligation to ACID.

4 MR. BERLINER: And for that concern, are you
5 relying on the work of MBK Engineers?

6 WITNESS WANGBERG: Yes.

7 MR. BERLINER: Are you relying on that work
8 exclusively?

9 WITNESS WANGBERG: Mark VanCamp's as well.

10 MR. BERLINER: He's also with MBK, correct?

11 WITNESS WANGBERG: Yes, yes.

12 MR. BERLINER: So just to confirm, you're
13 relying on the work by MBK, including Mr. Bourez,
14 Mr. Easton, and Mr. VanCamp?

15 WITNESS WANGBERG: Yes, that's correct.

16 MR. BERLINER: And what alleged injury are you
17 concerned about resulting from the WaterFix?

18 WITNESS WANGBERG: Well, if the last two years
19 are a harbinger of potential operations in the future,
20 there was delayed timing of releases in the river that
21 would allow for irrigation. And ACID was primarily
22 permanent pasture. Our growers don't have the
23 opportunity to delay planting as, for instance, rice
24 growers might. So having water deliveries delayed in
25 the spring is very harmful to our growers.

1 So that's one of the concerns. If there's low
2 carryover storage and delayed diversions ramped up in
3 the river in the spring, there's -- you know, in the
4 last two years, that was done to maintain cold water
5 pool to the greatest extent possible in Shasta
6 Reservoir. And that would impact our ability to
7 irrigate early in the season, primarily, would be the
8 biggest risk.

9 MR. BERLINER: Are you contending that ACID
10 has a right to stored water in any federal facilities?

11 MR. COOPER: I'm going to object on the basis
12 that that's a vague and ambiguous question. It's
13 unclear to me what Mr. Berliner means by "a right to
14 storage." That, to me, could mean a delivery of
15 previously stored water or an actual right to store
16 water physically in the facility.

17 CO-HEARING OFFICER DODUC: Mr. Berliner?

18 MR. BERLINER: I'm referring to are you
19 claiming any right to water held by the federal
20 government in any federal reservoir that constitutes
21 stored water?

22 WITNESS WANGBERG: Yes, I believe we do have a
23 right to stored water. An example of that is, 2015,
24 ACID was on the State Board's list of pre-1914 rights
25 holders. They were curtailed from using stream flow,

1 and Reclamation fulfilled its contractual obligation to
2 meet ACID's allocation by providing stored water.

3 MR. BERLINER: Is there something in your
4 water rights that entitles you to stored water?

5 WITNESS WANGBERG: Not that I'm aware.

6 MR. BERLINER: Is there any provision, as far
7 as you are aware, in your contract that specifically
8 entitles you to stored water?

9 WITNESS WANGBERG: Not that I'm aware.

10 MR. BERLINER: Are your contract deliveries
11 based on inflow to Shasta?

12 MR. BERLINER: The potential for curtailment
13 is based on inflow to Shasta, yes.

14 MR. BERLINER: Okay. I don't have any further
15 questions for this witness.

16 CO-HEARING OFFICER DODUC: And that concludes
17 your cross-examination of this panel?

18 MR. BERLINER: Yes, it does.

19 CO-HEARING OFFICER DODUC: Thank you,
20 Mr. Berliner. Now I'll go back.

21 Ms. Aufdemberg, again, any cross-exam?

22 MS. AUFDEMBERG: No questions.

23 CO-HEARING OFFICER DODUC: Ms. Morris?

24 MS. MORRIS: No questions.

25 CO-HEARING OFFICER DODUC: Group 4?

1 MR. RUBIN: No questions.

2 CO-HEARING OFFICER DODUC: Thank you.

3 And Mr. Williams has already said he did not
4 have any questions.

5 Is there anyone else with cross-examination
6 for this panel?

7 (No response)

8 CO-HEARING OFFICER DODUC: All right. Then
9 that concludes this panel. And we have tons of dead
10 space before us.

11 MR. HITCHINGS: Excuse me, Hearing Officer
12 Doduc. I do have a limited redirect for Mr. Bettner.

13 CO-HEARING OFFICER DODUC: Oh, okay. Then,
14 please, redirect.

15 REDIRECT EXAMINATION OF PANEL 3 BY MR. HITCHINGS

16 MR. HITCHINGS: Mr. Bettner, Mr. Berliner
17 asked whether you were contending that GCID has a right
18 to stored water. Do you recall that question?

19 WITNESS BETTNER: Yes.

20 MR. HITCHINGS: And prior to that question,
21 you explained how GCID's settlement contract addresses
22 the use of water stored by the CVP; is that correct?

23 WITNESS BETTNER: Yes.

24 MR. HITCHINGS: So would it be more accurate
25 to state that GCID has contractual rights to stored

1 water from the CVP under certain conditions?

2 WITNESS BETTNER: That would be correct, and
3 it's specified in our contract, yes.

4 MR. HITCHINGS: That's all I have for
5 redirect. Thank you.

6 CO-HEARING OFFICER DODUC: Thank you,
7 Mr. Hitchings.

8 Any redirect, Mr. Cooper?

9 MR. COOPER: Just one.

10 REDIRECT EXAMINATION OF PANEL 3 BY MR. COOPER

11 MR. COOPER: Mr. Wangberg, is it your
12 understanding that ACID has contractual rights to
13 stored water from Shasta Reservoir?

14 WITNESS WANGBERG: Yes.

15 MR. BERLINER: That's all I have.

16 CO-HEARING OFFICER DODUC: Thank you.

17 Any recross, Mr. Berliner or Mr. Mizell?

18 MR. BERLINER: No.

19 CO-HEARING OFFICER DODUC: All right.

20 And now this panel is concluded, and we,
21 unfortunately, will be adjourning until 12:30. And,
22 again, given how loosely we left things on Friday and
23 on the premise that all the parties who received the
24 e-mail with this proposed scheduling for this week
25 might have assumed that they did not have to be here

1 today, I will not penalize them today.

2 But, again, just be on notice that going
3 forward we will go in the order that is proposed in the
4 order of proceedings. And for parties who are not
5 here, if you are not here when you're called, then you
6 have waived your right to present a case in chief.

7 And, Ms. Morris, I encourage you to be
8 prepared to conduct cross-examination -- actually, all
9 parties to conduct cross-examination in the order in
10 which they're called up. Okay?

11 MR. HITCHINGS: Hearing Officer Doduc, I might
12 suggest that, if we want to take a break until 10:00
13 o'clock, we can find out if the Feather River panel
14 could be available earlier than 12:30, and we may be
15 able to start with them this morning.

16 We just have to -- there's five panelists. We
17 just have to make contact with them. But we can check
18 on that, report back at 10:00 o'clock, and maybe there
19 will be an opportunity to conduct at least part of that
20 this morning.

21 CO-HEARING OFFICER DODUC: That would be
22 terrific. Thank you, Mr. Hitchings.

23 And on the heels of that, let me make a
24 request to Group No. 8 -- I'm sorry. Group 8 is going
25 tomorrow.

1 So, Group No. 9, North Delta Water Agencies,
2 if you could please contact -- oh, Ms. Nikkel, are you
3 representing them?

4 MS. NIKKEL: Good morning. Meredith Nikkel
5 for North Delta Water Agency.

6 We are -- we're working to get our witnesses
7 ready to testify on Friday, which I think would be in
8 the order after Group 7. And then Group 8 will have
9 already gone. So North Delta would be up after that.

10 CO-HEARING OFFICER DODUC: All right.

11 Group 10, I expect to hear from you in terms
12 of your availability this week. So please contact the
13 staff.

14 Mr. Mizell?

15 MR. MIZELL: Tripp Mizell for DWR. It was our
16 understanding that East Bay MUD would be going prior to
17 North Delta Water Agency.

18 CO-HEARING OFFICER DODUC: I have them as
19 Group 15.

20 MR. MIZELL: I believe there's a joint panel
21 with 7 that was scheduled to go directly following the
22 7 -- Group 7 panels.

23 CO-HEARING OFFICER DODUC: Okay. Then I need
24 Group 7/15, East Bay MUD, to be available this week as
25 well -- be available in case they're called. I think

1 we will follow Mr. Hutchings' suggestion to take a
2 break until 10:00 o'clock. And I think we will also
3 convene and discuss the schedule. We'll resume at
4 10:00 o'clock, then. Thank you.

5 MR. HITCHINGS: Thank you.

6 (Recess taken)

7 CO-HEARING OFFICER DODUC: All right. Thank
8 you.

9 Mr. Hitchings, Mr. Cooper, word on your next
10 panel?

11 MR. COOPER: Yes. Dustin Cooper.

12 We have one missing witness that we were
13 anticipating today. He expects to be here by 11:00.
14 And just as a reminder, Mark Orme also will not be
15 here, but we're proposing that his testimony be
16 provided on Friday.

17 Except for those two witnesses, the balance of
18 the panelists are here.

19 CO-HEARING OFFICER DODUC: All right. Let's
20 go ahead and call them up, then. And we will begin
21 with those who are here for our Panel No. 4. And I
22 really appreciate them coming in for this.

23 And as they're coming up, I'll just let you
24 know that, by the end of the day, you will get an
25 e-mail from us with some very specific directions with

1 respect to the order for presenting cases in chief in
2 Part 1B. I think we need to be a little bit more
3 structured going forward from now on.

4 Ms. McCue, I need a little table for Group --
5 for this panel.

6 (Panel sworn)

7 STEVE DANNA, SEAN EARLEY, EUGENE MASSA,
8 DONNIE STINNETT and TED TRIMBLE,
9 called as Panel 4 by Group 7 Sacramento
10 Valley Water Users' Group of Parties,
11 having been first duly sworn, were
12 examined and testified as hereinafter
13 set forth:

14 MR. COOPER: Good morning again. Dustin
15 Cooper on behalf of protesting parties Western Canal
16 Water District, Richvale Irrigation District. And
17 Butte Water District and Plumas Mutual Water Company
18 are part of this panel, but their witnesses will be
19 trailing.

20 On behalf of each of the protesting parties
21 here today, I'd like to incorporate and adopt the
22 opening statement presented by Mr. Alan Lilly on behalf
23 of the Sacramento Valley users. And like the prior
24 panel, the purpose of this panel is to document and
25 attest to the water rights held by the protestants

1 Western Canal Water District, Richvale Irrigation
2 District, Biggs-West Gridley Water District, and then
3 the other two districts, Butte Water District and
4 Plumas Mutual Water Company that do not currently have
5 witnesses that are potentially subject to injury from
6 the proposed California WaterFix project.

7 We will be presenting first the testimony of
8 Mr. Ted Trimble on behalf of Western Canal Water
9 District.

10 DIRECT EXAMINATION OF PANEL 4 BY MR. COOPER

11 MR. COOPER: Mr. Trimble, would you please
12 state your name for the record and spell your last
13 name?

14 WITNESS TRIMBLE: Ted Trimble, T-R-I-M-B-L-E.

15 MR. COOPER: Mr. Trimble, you understand that
16 you are presenting your testimony under oath; is that
17 correct?

18 WITNESS TRIMBLE: Yes.

19 MR. COOPER: Is Exhibit MLF-55 an accurate
20 statement of your written testimony?

21 WITNESS TRIMBLE: Yes.

22 MR. COOPER: Did you prepare and sign that
23 testimony?

24 WITNESS TRIMBLE: Yes.

25 MR. COOPER: Is Exhibit MLF-56 a true and

1 correct copy of the 1986 agreement on diversion of
2 water from the Feather River between Western Canal
3 Water District and the State of California?

4 WITNESS TRIMBLE: Yes.

5 MR. COOPER: Are Exhibits MLF-57 through 61
6 true and correct copies of Western Canal Water
7 District's statements of water diversion and use for
8 the years 2011 through 2015?

9 WITNESS TRIMBLE: Yes.

10 MR. COOPER: Is there anything in your
11 testimony or exhibits that you wish to correct?

12 WITNESS TRIMBLE: I'm not sure of the exhibit
13 number, but it's the 2013 statement of diversion and
14 use. I incorrectly reported water diverted to storage.
15 The forms changed between 2012 and 2013. It should
16 have been direct diversion only.

17 MR. COOPER: So for the record, I believe
18 that's the document that's been identified as MLF-59,
19 the supplemental statement of water diversion and use
20 for 2013; is that your understanding?

21 WITNESS TRIMBLE: Yes.

22 MR. COOPER: Are you familiar with the
23 exhibits that have been identified as SVWU-100 through
24 110, which is the testimony and supporting
25 documentation prepared by MBK Engineers for this

1 proceeding?

2 WITNESS TRIMBLE: Yes.

3 MR. COOPER: Are the MBK Engineers testimony
4 and reports in those exhibits the type of information
5 you review and rely upon as Western Canal Water
6 District's general manager to assess potential risks
7 and impacts to Western Canal Water District's water
8 supplies and operations?

9 WITNESS TRIMBLE: Yes.

10 MR. COOPER: Would you please summarize your
11 written testimony submitted for this proceeding.

12 WITNESS TRIMBLE: My name's Ted Trimble. I'm
13 the general manager of Western Canal Water District.
14 Western Canal Water District is approximately 60,000
15 acres located in the Butte and Glenn counties. The
16 pre-1914 water rights are comprised of
17 150,000 acre-feet of natural flow of the Feather River
18 plus 145,000 acre-feet of previously stored water that
19 we acquired as part of the PG&E -- our PG&E
20 predecessor.

21 We have a diversion agreement with the State
22 of California through its Department of Water Resources
23 that memorializes those water rights.

24 We have an irrigation season that's quantified
25 with those combined water rights of up to

1 295,000 acre-feet. And we have a non-irrigation season
2 from November 1st through March 1st that is not
3 quantified or not allotted but subject to beneficial
4 use.

5 That's my testimony, summary.

6 MR. COOPER: That concludes the direct
7 testimony for Western Canal Water District.

8 Next up will be the entities known as the
9 Joint Water Districts. We have present today the
10 manager/water master of the Joint Water Districts, and
11 then also the general managers of Richvale Irrigation
12 District and Biggs-West Gridley Water District.

13 And as a reminder, Mr. Orme, the manager of
14 Butte Water District, will be available on Friday.

15 And the final entity that makes up the Joint
16 Water Districts is Sutter Extension Water District.
17 Their water right testimony was provided through
18 Mr. VanCamp as part of that earlier panel.

19 So my questions will be first to Mr. Donnie
20 Stinnett.

21 Mr. Stinnett, would you please state your name
22 for the record and spell your last name?

23 WITNESS STINNETT: Donnie Stinnett,
24 S-T-I-N-N-E-T-T.

25 MR. COOPER: Mr. Stinnett, you understand that

1 you are presenting your testimony today under oath; is
2 that correct?

3 WITNESS STINNETT: Yes.

4 MR. COOPER: Did you prepare and sign that
5 testimony?

6 WITNESS STINNETT: Yes.

7 MR. COOPER: Is Exhibit MLF-41 a true and
8 correct copy of the 1970 joint operating agreement
9 between the four entities known as the Joint Water
10 Districts?

11 WITNESS STINNETT: Yes.

12 MR. COOPER: Would you please name the four
13 joint water districts.

14 WITNESS STINNETT: Yes. They are the Richvale
15 Irrigation District, Butte Water District, Biggs-West
16 Gridley Water District and Sutter Extension Water
17 District.

18 MR. COOPER: Is Exhibit MLF-42 a true and
19 correct copy of the agreement on diversion of water
20 from the Feather River between the State of California
21 and the Joint Water Districts?

22 WITNESS STINNETT: Yes.

23 MR. COOPER: Is Exhibit MLF-43 a true and
24 correct copy of the Joint Water Districts' response to
25 the State Water Resources Control Board or its request

1 for water right information in its order

2 WR2015-002-DWR?

3 WITNESS STINNETT: Yes.

4 MR. COOPER: Are Exhibits MLF-44 through
5 MLF-48 true and correct copies of the Joint Water
6 Districts' statements of diversion and use for the
7 years 2011 through 2015?

8 WITNESS STINNETT: Yes.

9 MR. COOPER: Are you familiar with the
10 exhibits that have been identified as SVWU-100 through
11 110, which is the testimony and supporting
12 documentation prepared by MBK Engineers for this
13 proceeding?

14 WITNESS STINNETT: Yes.

15 MR. COOPER: Are the MBK Engineers testimony
16 and reports in those exhibits the types of information
17 you review and rely on as the Joint Water Districts'
18 board manager to assess potential risks and impacts to
19 the Joint Water Districts' water supplies and
20 operations?

21 WITNESS STINNETT: Yes.

22 MR. COOPER: At this time, Mr. Stinnett, would
23 you please summarize your written testimony submitted
24 for this proceeding?

25 WITNESS STINNETT: Yeah. My name is Donnie

1 Stinnett. I've been manager and water master of the
2 Joint Water District boards for just over 11 years. I
3 perform the day-to-day operations of the joint board
4 through the joint working agreement. I also work with
5 DWR in the ordering and scheduling of water as well as
6 the filing of the reports to the State Board for each
7 year.

8 The Joint Districts is approximately 120,000
9 acres located in Butte and Sutter counties. There's
10 lots of different crops we deal in throughout that
11 time.

12 I guess that's my summary of the Joint
13 Districts.

14 MR. COOPER: We'll now transition to Mr. Sean
15 Earley, the manager of the Richvale Irrigation
16 District.

17 Mr. Earley, would you please state your name
18 for the record and spell your last name?

19 WITNESS EARLEY: Sean Earley, E-A-R-L-E-Y.

20 MR. COOPER: Mr. Earley, you understand that
21 you are presenting your testimony under oath today;
22 is that correct?

23 WITNESS EARLEY: Yes.

24 MR. COOPER: Is Exhibit MLF-51 an accurate
25 statement of your written testimony?

1 WITNESS EARLEY: Yes.

2 MR. COOPER: Did you prepare and sign that
3 testimony?

4 WITNESS EARLEY: Yes.

5 MR. COOPER: Is Exhibit MLF-41 a true and
6 correct copy of the joint operating agreement between
7 the Joint Water Districts?

8 WITNESS EARLEY: Yes.

9 MR. COOPER: Is Exhibit MLF-42 a true and
10 correct copy of the 1969 agreement on diversion of
11 water from the Feather River between the State of
12 California and the entities that make up the Joint
13 Water Districts?

14 WITNESS EARLEY: Yes.

15 MR. COOPER: Are you familiar with the
16 Exhibits SVWU-100 through 110, which is the testimony
17 and supporting documentation prepared by MBK Engineers
18 for this proceeding?

19 WITNESS EARLEY: Yes.

20 MR. COOPER: Are the MBK Engineers testimony
21 and reports in those exhibits the type of information
22 you review and rely upon as Richvale Irrigation
23 District's general manager to assess potential risks
24 and impacts to the district's water supply and
25 operations?

1 WITNESS EARLEY: Yes.

2 MR. COOPER: At this time, Mr. Earley, would
3 you please summarize your written testimony submitted
4 for this proceeding?

5 WITNESS EARLEY: My name is Sean Earley. I've
6 been the Richvale Irrigation District manager for the
7 past four years. Richvale Irrigation District is
8 located in Butte County, just west of the Thermalito
9 Afterbay. It is 34,000 acres in size. We handle rice,
10 predominantly rice, some refuges, and some wetland
11 habitat.

12 We are one of four members of the joint board.
13 And we have our water comprised of the 1969 agreement,
14 the diversion agreement. And that's about it.

15 MR. COOPER: Thank you, Mr. Earley.

16 Next up, I'll be handing it over to
17 Mr. Hitchings on behalf of the Biggs-West Gridley Water
18 District.

19 MR. HITCHINGS: Andrew Hitchings for
20 protestants Biggs-West Gridley Water District.

21 At the outset, I'd like to reaffirm that
22 Biggs-West Gridley Water District incorporates and
23 adopts the opening statement that was presented by the
24 Sac Valley Water Users group.

25 The purpose of Mr. Massa's testimony is to

1 document the water rights held by Biggs-West Gridley
2 Water District that are potentially subject to injury
3 by the California WaterFix project.

4 Mr. Massa, could you please state your name
5 for the record and spell your last name?

6 WITNESS MASSA: Eugene Massa, Junior,
7 M-A-S-S-A.

8 MR. HITCHINGS: And you understand that you're
9 presenting your testimony under oath, correct?

10 WITNESS MASSA: Yes.

11 MR. HITCHINGS: And is Exhibit BWGWD-1 an
12 accurate statement of your written testimony?

13 WITNESS MASSA: Yes.

14 MS. MORRIS: Did you prepare and sign that
15 testimony?

16 WITNESS MASSA: Yes.

17 MR. HITCHINGS: And if we could pull up
18 Biggs-West Gridley Water District BWGWD-2, which is a
19 map depicting the district.

20 Is this a true and correct copy of the map
21 depicting the district service area?

22 WITNESS MASSA: Yes.

23 MR. HITCHINGS: Do Exhibits MLF-41 to MLF-48
24 include true and correct copies of documentation of the
25 water rights claimed and held by the district and water

1 usage under those rights for the years 2011 through
2 2015?

3 WITNESS MASSA: Yes.

4 MR. HITCHINGS: And are you familiar with
5 Exhibits SVWU-100 through 110 referenced in the
6 district's exhibit index submitted with its
7 case-in-chief materials?

8 WITNESS MASSA: Yes.

9 MR. HITCHINGS: Are the MBK Engineers
10 testimony and reports in those exhibits the types of
11 information you review and rely on as the district's
12 general manager to assess potential risks and impacts
13 to the district's water supplies and operations?

14 WITNESS MASSA: Yes.

15 MR. HITCHINGS: At this time, could you please
16 summarize your testimony submitted for this proceeding?

17 WITNESS MASSA: From the maps you can see
18 above, you can notice that we are south of Richvale
19 Irrigation District. We're also west of the Thermalito
20 Afterbay. We have Gray Lodge wildlife area within our
21 district boundaries.

22 Biggs-West Gridley was formed in 1942. We
23 serve agricultural and habitat water. We're
24 approximate 35,000 acres. That says "34,785." I'll
25 just point out there is a little bit of argument

1 between GIS and LAFCo. We go by LAFCo at the 35,000.

2 GIS puts the 34,785.

3 We provide water mainly for rice production,
4 walnut production, and to California Department of Fish
5 and Wildlife Gray Lodge. We hold 1914 appropriative --
6 pre-1914 appropriative water rights to divert water
7 from the Feather River.

8 I believe that, from what I have seen, we will
9 be subject to injury due to the currently proposed
10 Cal WaterFix project. Thank you.

11 MR. HITCHINGS: That concludes Mr. Massa's
12 direct testimony.

13 CO-HEARING OFFICER DODUC: Thank you.

14 Does the department wish to conduct
15 cross-examination of these four witnesses? This will
16 be Department of Water Resources.

17 As Mr. Berliner and Mr. Mizell are setting up,
18 are there any other parties wishing to examine these
19 four witnesses?

20 Mr. Herrick is hedging his bets. He doesn't
21 know yet. Okay.

22 Please begin, Mr. Berliner.

23 CROSS-EXAMINATION OF PANEL 4 BY MR. BERLINER

24 MR. BERLINER: Good morning. My name is Tom
25 Berliner. I'm an attorney for the Department of Water

1 Resources. I'm accompanied this morning by Mr. Tripp
2 Mizell, also from the Department of Water Resources.

3 I'd like to start this morning with
4 Mr. Trimble.

5 Good morning, sir. Did you prepare the
6 testimony that you gave today?

7 WITNESS TRIMBLE: Yes.

8 MR. BERLINER: Did you have any assistance in
9 preparing it?

10 WITNESS TRIMBLE: I was provided a template by
11 counsel, but I filled out everything else.

12 MR. BERLINER: Did anybody from the district
13 help you with preparing your testimony?

14 WITNESS TRIMBLE: No.

15 MR. BERLINER: And the purpose of your
16 testimony this morning is to identify the water rights
17 that are held by Western Canal Water District that are
18 allegedly subject to injury by the California WaterFix,
19 correct?

20 WITNESS TRIMBLE: Yes.

21 MR. BERLINER: And you're not testifying today
22 as an expert, are you?

23 WITNESS TRIMBLE: No.

24 MR. BERLINER: And you're not offering any
25 opinions today, are you?

1 WITNESS TRIMBLE: My own professional opinion
2 as the manager of Western Canal Water District, but I'm
3 not sure I understand what you mean by "offering
4 opinion."

5 MR. BERLINER: Are you offering any opinions,
6 specific opinions regarding any impact of the
7 California WaterFix that it might potentially have on
8 your district?

9 WITNESS TRIMBLE: No.

10 MR. BERLINER: As I understand it, your
11 testimony refers to the testimony of MBK Engineers,
12 including Mr. VanCamp, Mr. Bourez, Mr. Easton and
13 Mr. Bergfeld, for any potential alleged injury suffered
14 by Western Canal, correct?

15 WITNESS TRIMBLE: Yes.

16 MR. BERLINER: And you're relying exclusively
17 on the work by MBK Engineers, correct?

18 WITNESS TRIMBLE: Yes.

19 MR. BERLINER: I have no further questions for
20 this witness.

21 I'm sorry. I actually do have one more
22 question. I apologize.

23 Just to confirm, your district is located
24 upstream of the proposed new point of diversion,
25 correct?

1 WITNESS TRIMBLE: Yes.

2 MR. BERLINER: One other question for you,
3 sir. I apologize.

4 Just to confirm, you're not claiming a right
5 to any stored water in any State of California
6 facility, are you?

7 MR. COOPER: I'm going to object for the same
8 reason I did in the prior panel. I think the phrase
9 "right to storage" is ambiguous as to what the
10 questioner means.

11 CO-HEARING OFFICER DODUC: Mr. Berliner?

12 MR. BERLINER: Are you claiming either a
13 contract right or a State of California water right to
14 stored water in any State of California facility?

15 WITNESS TRIMBLE: Could you state that again,
16 please?

17 MR. BERLINER: Could you read it back, please?

18 (Record read)

19 WITNESS TRIMBLE: Well, to the extent that
20 Department of Water Resources must draft storage to
21 meet their delivery obligations to the district, I
22 would say yes.

23 MR. BERLINER: Let me differentiate between
24 water that's supplied to you by contract from storage
25 and a right to storage.

1 You have a contract right to water from the
2 State of California, correct?

3 WITNESS TRIMBLE: Yes. It's a diversion
4 agreement.

5 MR. BERLINER: And it's up to the State to
6 determine how it supplies you with water, correct?

7 WITNESS TRIMBLE: It's spelled out in the
8 agreement.

9 MR. BERLINER: And there's nothing in the
10 agreement that says that the State -- that you have
11 acquired by the agreement any right to stored water,
12 correct?

13 WITNESS TRIMBLE: No.

14 MR. BERLINER: Thank you.

15 Next questions are for Mr. Stinnett.

16 Good morning, sir.

17 WITNESS STINNETT: Good morning.

18 MR. BERLINER: These questions will all sound
19 very familiar.

20 To confirm, your district is located upstream
21 of the proposed new point of diversion, correct?

22 WITNESS STINNETT: I'd like to clarify. It's
23 not one -- the Joint Water Districts is a combination
24 of the four districts. And, yes, all four districts
25 are above that.

1 MR. BERLINER: Thank you. Did you draft your
2 testimony today?

3 WITNESS STINNETT: I did.

4 MR. BERLINER: Did anybody assist you in
5 preparing your testimony?

6 WITNESS STINNETT: Yes.

7 MR. BERLINER: Who would that be?

8 WITNESS STINNETT: I was provided an outline
9 from legal counsel with headlines, and then I filled in
10 the details.

11 MR. BERLINER: And did anybody from any of the
12 districts that you represent assist you in preparing
13 your testimony?

14 WITNESS STINNETT: No.

15 MR. BERLINER: As I understand it, the purpose
16 of your testimony is to identify the water rights that
17 are held and claimed jointly by the Joint Water
18 District that are allegedly subject to injury by the
19 California WaterFix, correct?

20 WITNESS STINNETT: Correct.

21 MR. BERLINER: You're not testifying today as
22 an expert, correct?

23 WITNESS STINNETT: I am not.

24 MR. BERLINER: And you're not offering any
25 opinions today, correct?

1 WITNESS STINNETT: Yes. I would offer an
2 opinion, based on the expert consultant testimony of
3 MBK, that the Cal WaterFix holds a potential harm to
4 our -- the right to divert water.

5 MR. BERLINER: Where in your testimony do you
6 offer that opinion?

7 WITNESS STINNETT: Just now. I did not write
8 it in my testimony.

9 MR. BERLINER: I'm going to move to strike the
10 witness's answer as surprise testimony. It's not
11 contained in his written testimony. He's offering an
12 opinion that's not found in his testimony.

13 CO-HEARING OFFICER DODUC: Mr. Cooper?

14 MR. COOPER: Well, Mr. Berliner just asked the
15 question. So I don't think it's surprise testimony if
16 he's asking a question and getting an answer.

17 Second thing is I think Mr. Stinnett, in his
18 testimony, does refer to those exhibits and the work of
19 MBK Engineers. If Mr. Stinnett would review his
20 testimony, which I believe is Exhibit MLF-40.

21 CO-HEARING OFFICER DODUC: Mr. Stinnett, would
22 you like to take a moment and review your testimony?

23 WITNESS STINNETT: Yes.

24 MR. BERLINER: I can perhaps speed it up and
25 refer specifically.

1 CO-HEARING OFFICER DODUC: Yes, please.

2 MR. BERLINER: At -- your testimony states,
3 "Please refer to the expert testimony of MBK Engineers,
4 specifically, Marc VanCamp, Walter Bourez, Dan Easton,
5 and Lee Bergfeld for the injuries suffered by the Joint
6 Water Districts resulting from the proposed California
7 WaterFix project."

8 Does that sound familiar, sir?

9 WITNESS STINNETT: Yes.

10 MR. BERLINER: Is that the opinion that you
11 were referring to?

12 WITNESS STINNETT: Yes. I apologize.

13 MR. BERLINER: And, in fact, so this is not
14 actually your opinion. You're referring to work done
15 my MBK Engineers, correct?

16 WITNESS STINNETT: Correct.

17 MR. BERLINER: So let me ask you again just to
18 clarify. You yourself are not offering an opinion,
19 correct?

20 WITNESS STINNETT: No.

21 MR. BERLINER: Thank you.

22 Are the Joint Water Districts individually,
23 collectively claiming any right, either by contract or
24 California water right, to stored water in any State
25 of California facility?

1 WITNESS STINNETT: With respect to DWR needing
2 to probably -- or to draft storage in order to meet
3 their obligations to us, I would say yes.

4 MR. BERLINER: And you are referring to a
5 contract obligation in response to my question, then?

6 WITNESS STINNETT: No.

7 MR. BERLINER: Are you referring to a State
8 Water right?

9 WITNESS STINNETT: No.

10 MR. BERLINER: Then on what basis are you
11 claiming a right to stored water?

12 WITNESS STINNETT: First of all, I'm not a
13 legal attorney, but in my opinion, I would assume that
14 by drafting storage -- DWR drafting storage in order to
15 meet our diversion of water agreement with DWR, they
16 would have to draft storage. Maybe I'm not
17 understanding your question correctly.

18 MR. BERLINER: Okay. My question to you is
19 does your -- I appreciate that you have a right to
20 amounts of water from the State of California under
21 your contract.

22 It's up to the State, is it not, to determine
23 how it meets that contractual obligation?

24 WITNESS STINNETT: Yes.

25 MR. BERLINER: And the contract itself does

1 not entitle you to water held in storage in Lake
2 Oroville or any other state facility, correct?

3 WITNESS STINNETT: I don't know. I'm not
4 positive on that.

5 MR. BERLINER: Okay. I have no further
6 questions for this witness.

7 Next series of questions is for Mr. Earley.

8 Good morning, sir.

9 WITNESS EARLEY: Good morning.

10 MR. BERLINER: Again, these questions are
11 going to sound very familiar.

12 Which Water District do you represent, sir?

13 WITNESS EARLEY: Richvale Irrigation District.

14 MR. BERLINER: Is Richvale located upstream of
15 the proposed new point of diversion for the California
16 WaterFix?

17 WITNESS EARLEY: Yes.

18 MR. BERLINER: And did you prepare your
19 testimony that you offered today?

20 WITNESS EARLEY: Yes.

21 MR. BERLINER: Did anybody from Richvale or
22 another irrigation district assist you in preparing
23 your testimony?

24 WITNESS EARLEY: No.

25 MR. BERLINER: Is the purpose of your

1 testimony to identify the water rights that are held by
2 Richvale Irrigation District that are allegedly subject
3 to potential injury by the California WaterFix?

4 WITNESS EARLEY: Yes.

5 MR. BERLINER: You're not testifying today as
6 an expert, correct?

7 WITNESS EARLEY: Correct.

8 MR. BERLINER: And other than referring to the
9 previous testimony submitted here by MBK Engineers,
10 you're not offering any additional opinions, are you?

11 WITNESS EARLEY: No.

12 MR. BERLINER: And similar to the question I
13 asked of Mr. Stinnett, do I understand that in your
14 testimony you are referring to the expert testimony of
15 MBK Engineers for any potential injury?

16 WITNESS EARLEY: Yes.

17 MR. BERLINER: And similar the question that I
18 asked of Mr. Stinnett, are you claiming any contractual
19 right or California water right to stored water in any
20 State of California facility?

21 WITNESS EARLEY: Relative to the agreement, if
22 DWR has to utilize stored water to meet the contract,
23 then yes; if not, then no.

24 MR. BERLINER: And it's up to the State of
25 California, as you understand it, to determine how to

1 meet your contractual requirements, correct?

2 WITNESS EARLEY: Yes.

3 MR. BERLINER: And there's nothing, as far as
4 you understand it in your contract, that specifically
5 entitles your district to stored water, correct?

6 WITNESS EARLEY: Correct.

7 MR. BERLINER: I have no further questions for
8 this witness.

9 Next questions are for Mr. Massa.

10 Good morning, sir.

11 WITNESS MASSA: Good morning.

12 MR. BERLINER: Sir, you're an attorney as well
13 as general manager, correct?

14 WITNESS MASSA: Yes, I am. I'm not an
15 attorney for Biggs-West Gridley Water District, though.

16 MR. BERLINER: Thank you. That was going to
17 be my next question.

18 You are the general manager of Biggs-West
19 Gridley Water District, right?

20 WITNESS MASSA: Yes, I am.

21 MR. BERLINER: Is Biggs-West Gridley located
22 upstream of the new proposed point of diversion for the
23 California WaterFix?

24 WITNESS MASSA: Yes, it is.

25 MR. BERLINER: Did you prepare your testimony

1 that you offered today?

2 WITNESS MASSA: Yes, I did.

3 MR. BERLINER: Did anybody from Biggs-West
4 Gridley or another water district help you prepare your
5 testimony?

6 WITNESS MASSA: No.

7 MR. BERLINER: And is the sole purpose of your
8 testimony to identify the scope and extent of
9 Biggs-West Gridley Water District's water rights and
10 the beneficial use under its water rights as well as to
11 provide a brief description and document the water
12 rights held by Biggs-West Gridley that are subject to
13 proposed [sic] injury by the California WaterFix?

14 WITNESS MASSA: Yes.

15 MR. BERLINER: And, sir, you're not testifying
16 today as an expert, are you?

17 WITNESS MASSA: No, I'm not.

18 MR. BERLINER: And other than a reference to
19 MBK Engineers, you're not offering any independent
20 opinions, are you?

21 MR. HITCHINGS: Objection.

22 CO-HEARING OFFICER DODUC: Mr. Hitchings?

23 MR. HITCHINGS: This is the same objection
24 from the prior panel, that there -- it misstates the
25 testimony to the extent Mr. Massa indicates in his

1 testimony that he has an understanding.

2 There have been written objections interposed
3 with regard to whether that's impermissible lay
4 opinion. Responses have been submitted, and to the
5 extent that he does attest to his understanding, that
6 would be permissible lay opinion testimony in
7 accordance with our responses.

8 MR. BERLINER: And I'm not seeking to strike
9 his testimony. I'm just asking if he has any
10 independent opinion other than from MBK Engineers.

11 CO-HEARING OFFICER DODUC: I understand.
12 Objection is noted. Mr. Berliner will be allowed to
13 ask his question and get his answer into the record.

14 Mr. Massa, please answer.

15 WITNESS MASSA: Thank you.

16 No, I'm not.

17 MR. BERLINER: Thank you.

18 Sir, is Biggs-West Gridley claiming any
19 contract right or State of California water right to
20 water held in any State of California facility? And
21 I'm going to try to clarify. Other than to the
22 extent -- let me strike that. I'm going to ask it
23 again.

24 Is Biggs-West Gridley claiming any contract
25 right or California water right to any stored water in

1 any State of California facility?

2 WITNESS MASSA: Yes, to the extent it takes
3 the State of California to deliver water under our
4 agreement.

5 MR. BERLINER: And with respect to that
6 agreement, based on your understanding, that agreement
7 does not specifically entitle Biggs-West Gridley to
8 stored water, correct?

9 WITNESS MASSA: Does not specify that water
10 will be coming from stored water or otherwise, no.

11 MR. BERLINER: In other words, it's up to the
12 State of California to determine how to meet your
13 contractual entitlements, correct?

14 WITNESS MASSA: That is correct.

15 MR. BERLINER: No further questions for this
16 witness.

17 CO-HEARING OFFICER DODUC: Thank you.

18 Any other cross-examination for these four
19 witnesses of Panel No. 4?

20 Are you waving good-bye or -- all right. As
21 Mr. Herrick is coming up, I need to take a short
22 five-minute break.

23 (Recess taken)

24 CO-HEARING OFFICER DODUC: All right. We are
25 back in session. Mr. Herrick, please begin your

1 cross-examination of these four witnesses.

2 CROSS-EXAMINATION OF PANEL 4 BY MR. HERRICK

3 MR. HERRICK: Thank you, Madam Chair, Board
4 Members. John Herrick for the South Delta Water Agency
5 parties. I'd like to start with Mr. Massa.

6 Mr. Massa, you're familiar with the operations
7 of your district, correct?

8 WITNESS MASSA: Yes, I am.

9 MR. HERRICK: And you're familiar with the
10 methods by which you're supplied water by DWR?

11 WITNESS MASSA: Yes, I am.

12 MR. HERRICK: Is it correct to say that DWR's
13 dam and reservoir called Oroville are upstream of your
14 district?

15 WITNESS MASSA: Yes, it's upstream of our
16 district.

17 MR. HERRICK: And I'm ignoring -- isn't there
18 a Thermalito forebay [sic] there? I'm just ignoring
19 that for now as a -- regulating --

20 WITNESS MASSA: All right.

21 MR. HERRICK: Under your contract, DWR
22 supplies you with a certain amount of water. Does that
23 depend on the year type, or is it the same every year?

24 WITNESS MASSA: Can you re- -- I have a
25 question on that. We're -- I guess -- can you

1 re-clarify a little bit further than that? I'm not
2 really sure. You're saying every single year, the
3 same?

4 MR. HERRICK: Does your contract specify that
5 you'll get the same amount of water every year?

6 WITNESS MASSA: It does, except for in years
7 which we trigger criterion to reduce flows, and then
8 State of California, once those trigger, have an
9 ability to reduce our quantity in that year.

10 MR. HERRICK: And the only methods for DWR to
11 supply water to you are to either pass water through
12 that's flowing into the reservoir or to release stored
13 water; is that correct?

14 WITNESS MASSA: I'm not an expert with the
15 operations of Lake Oroville or Thermalito Afterbay.
16 I'm sorry.

17 MR. HERRICK: But the DWR doesn't fly in water
18 to service you, do they? They release it down the
19 river?

20 WITNESS MASSA: They do not fly it. They
21 don't release it down the river to us. Our water comes
22 from the Thermalito Afterbay itself. We have no method
23 to receive water at Biggs-West Gridley from the river.

24 MR. HERRICK: Do you know whether or not the
25 water needed to satisfy your contractual situation is

1 ever in excess of the inflow to Oroville?

2 WITNESS MASSA: At times, yes, but not all
3 season.

4 MR. HERRICK: So at times when the inflow to
5 Oroville is less than the amount needed to service your
6 area, DWR then uses stored water releases from
7 Oroville; is that correct?

8 WITNESS MASSA: That is correct.

9 MR. HERRICK: If Oroville storage is less in
10 certain years because of the California WaterFix being
11 approved, would that adversely affect the ability of
12 DWR to service -- to provide you water to your service
13 area?

14 WITNESS MASSA: That is correct.

15 MR. HERRICK: Then if I could just ask each
16 other individual the same -- it will be the same
17 questions. If they have anything different, they can
18 say so.

19 But we'll start with Mr. Trimble.

20 Would you concur with the answers that
21 Mr. Massa gave to my questions?

22 WITNESS TRIMBLE: Yes.

23 MR. HERRICK: And then we have Mr. Stinnett.

24 Would you agree with the answers that
25 Mr. Massa gave for his district as applied to your

1 districts?

2 WITNESS STINNETT: Yes.

3 MR. HERRICK: And lastly, we have Mr. Earley.

4 And would you agree that -- would you agree
5 with the answers that Mr. Massa gave for his district
6 as they would apply to your district?

7 WITNESS EARLY: Yes.

8 MR. HERRICK: That's all I have.

9 Thank you very much.

10 CO-HEARING OFFICER DODUC: Thank you,
11 Mr. Herrick.

12 Any redirect?

13 MR. HITCHINGS: I do not.

14 MR. COOPER: No, Hearing Officer.

15 CO-HEARING OFFICER DODUC: And I think your
16 fifth witness just entered.

17 Before you sit down, please raise your right
18 hand.

19 (Witness sworn)

20 STEVE DANNA,
21 called as a Panel 4 witness by the
22 protestants Sacramento Valley Water
23 Users' Group of Parties, having been
24 first duly sworn, was examined and
25 testified as hereinafter set forth:

1 CO-HEARING OFFICER DODUC: Thank you.

2 I assume, Mr. Cooper, you will provide the
3 introductions?

4 MR. COOPER: I will. Thank you.

5 Just for the record, I would like to
6 incorporate again the opening statement of the
7 Sacramento Valley Users presented by Mr. Alan Lilly,
8 Mr. Danna, would you please state your name
9 for the record and spell your last name?

10 WITNESS DANNA: Steve Danna, D-A-N-N-A.

11 MR. COOPER: You understand, Mr. Danna, that
12 you are presenting your testimony under oath; is that
13 correct?

14 WITNESS DANNA: Yes, I do.

15 MR. COOPER: Is Exhibit MLF-30 an accurate
16 statement of your written testimony?

17 MR. BERLINER: Yes, it is.

18 MR. COOPER: Did you prepare and sign that
19 testimony?

20 WITNESS DANNA: Yes, I did.

21 MR. COOPER: Is Exhibit MLF-41 a true and
22 correct copy of the agreement on diversion of water
23 from the Feather River between Plumas Mutual Water
24 Company and the State of California?

25 WITNESS DANNA: Yes.

1 MR. COOPER: Is Exhibit MLF-32 a true and
2 correct copy of the water right license held by Plumas
3 Mutual Water Company?

4 WITNESS DANNA: Yes, it is.

5 MR. COOPER: Are Exhibits MLF-33 through
6 MLF-37 true and correct copies of the reports of
7 licensee for the years 2011 through 2015?

8 WITNESS DANNA: Yes, they are.

9 MR. COOPER: Are you familiar with the
10 exhibits that have been identified as SVWU-100 through
11 110, which is the testimony and supporting
12 documentation prepared by MBK Engineers for this
13 proceeding?

14 WITNESS DANNA: Yes, I am.

15 MR. COOPER: Are the MBK Engineer's testimony
16 and reports in those exhibits the types of information
17 you review and rely on as president of Plumas Mutual
18 Water Company to assess potential risks and impacts to
19 Plumas's water supplies and operations?

20 WITNESS DANNA: Yes, they are.

21 MR. COOPER: At this time, would you please
22 summarize your written testimony submitted for this
23 proceeding?

24 WITNESS DANNA: Sure. Thank you.

25 My name is Steve Danna, and I am the president

1 of Plumas Mutual Water Company. I have served in this
2 capacity for ten years. My family has been a
3 shareholder and involved in the operation of Plumas
4 Mutual since 1939.

5 I'm aware of Plumas Mutual's water use, water
6 rights, contract administration, and general
7 operations.

8 The purpose of my testimony is to identify,
9 provide a brief description of, and document the water
10 rights held and claimed by Plumas Mutual Water Company.
11 Plumas Mutual owns and operates a water distribution
12 system for agriculture and other beneficial uses to an
13 area located within Yuba County.

14 The water supply for the Plumas system is
15 derived from rights to divert from the Feather River.
16 Plumas Mutual Water Company claims a right to use water
17 based on a post-1914 license, riparian rights, and an
18 agreement on diversion of water from the Feather River
19 dated May 28th, 1971, between Plumas Mutual and the
20 State of California.

21 Plumas Mutual has a service area of 4300 acres
22 and currently delivers water to 2766 acres of mixed
23 crops within that area. Thank you.

24 MR. COOPER: That concludes the direct
25 examination.

1 CO-HEARING OFFICER DODUC: Thank you,
2 Mr. Cooper.

3 Cross? By the Department of Water Resources.

4 And as they are coming up, anyone else would
5 like to cross-examine Mr. Danna? Okay. No one.

6 CROSS-EXAMINATION OF PANEL 4 BY MR. BERLINER (resumed)

7 MR. BERLINER: Good morning, Mr. Danna. My
8 name is Tom Berliner. I'm an attorney for the
9 Department of Water Resources.

10 WITNESS DANNA: Good morning.

11 MR. BERLINER: I'm here this morning with
12 Tripp Mizell, also an attorney for the Department of
13 Water Resources.

14 MR. MIZELL: Good morning.

15 MR. BERLINER: Is Plumas Mutual Water Company
16 located upstream of the proposed new point of diversion
17 for the California WaterFix?

18 WITNESS DANNA: Yes, it is.

19 MR. BERLINER: Did you prepare the testimony
20 that you offered here today?

21 WITNESS DANNA: Yes, I did.

22 MR. BERLINER: Did you have any assistance in
23 the preparation of that testimony?

24 WITNESS DANNA: Yes. I worked with our
25 attorney's office. They had just some general -- kind

1 of a general template, but most of it was my own
2 information.

3 CO-HEARING OFFICER DODUC: Mr. Danna, could
4 you please move the microphone closer to your mouth?

5 WITNESS DANNA: You need me to repeat that?

6 CO-HEARING OFFICER DODUC: No, that's fine.

7 WITNESS DANNA: Thank you.

8 MR. BERLINER: Did anybody other than an
9 attorney help you prepare your testimony?

10 WITNESS DANNA: No.

11 MR. HERRICK: Is the purpose of your testimony
12 to identify the contract and State Water rights held by
13 the Plumas Mutual Water Company?

14 WITNESS DANNA: Yes, it is.

15 MR. BERLINER: Sir, you're not testifying
16 today as an expert, are you?

17 WITNESS DANNA: No, I'm not.

18 MR. BERLINER: And other than referring to
19 expert testimony that was prepared by MBK Engineers,
20 you're not offering any additional opinions, are you?

21 WITNESS DANNA: No, I'm not.

22 MR. BERLINER: As far as any potential impact
23 of the California WaterFix on Plumas Mutual Water
24 Company, you're relying entirely on the work by MBK
25 Engineers, correct?

1 WITNESS DANNA: Yes, I am.

2 MR. BERLINER: Sir, other than any contract
3 rights that you may have with the State of California
4 or any California water rights that Plumas Mutual may
5 hold, are you claiming a right to stored water in any
6 State of California facility?

7 WITNESS DANNA: Well, I think we -- as I
8 mentioned and as you mentioned, we have a contract with
9 the State that is very specific about the amount of
10 water we can divert, when we can divert it, under what
11 conditions, drought, whatever. So I think that means
12 that it's the State's responsibility to deliver that
13 water. And I would assume that, in some years, that
14 water does have to come out of storage.

15 MR. BERLINER: Understood, sir. My question,
16 though, is does the contract itself provide you with a
17 specific right to stored water, as you understand the
18 contract?

19 WITNESS DANNA: Well, as I said, think the
20 State has a responsibility to deliver that water, and
21 they have to deliver it. We have an agreement.

22 MR. BERLINER: And just to be clear, it's up
23 to the State whether it diverts stored water or bypass
24 water in terms of meeting your contract rights; isn't
25 that correct?

1 WITNESS DANNA: Yeah. It's -- if it comes out
2 of storage or natural flow, wherever it comes from.

3 MR. BERLINER: I have no further questions for
4 this witness.

5 CO-HEARING OFFICER DODUC: Thank you,
6 Mr. Berliner.

7 Just confirming, no other cross-examination?

8 (No response)

9 CO-HEARING OFFICER DODUC: Any redirect of
10 Mr. Danna?

11 MR. COOPER: No.

12 CO-HEARING OFFICER DODUC: All right. Thank
13 you, Mr. Cooper.

14 Thank you, all the witnesses. This panel is
15 excused.

16 MR. BERLINER: Thank you.

17 CO-HEARING OFFICER DODUC: With that, we are
18 going to be adjourning early today. But let me again
19 put everyone on notice, first of all, tomorrow we will
20 start at 10:00 o'clock with Group 7, No. 5, and then
21 Group 8.

22 Group 7, you should be advised that if we
23 finish earlier than expected, I will call upon Group
24 7's Panel 7 and Panel 6 and expect them to be here.

25 And I will expect other parties to be prepared

1 to cross-examine them if we get to them tomorrow.

2 We will have Mr. Orme from the last -- the
3 last witness for this panel on Friday, I believe?
4 Right?

5 MR. COOPER: That is correct.

6 CO-HEARING OFFICER DODUC: And all other
7 parties should be prepared to go in the order of direct
8 that was sent out -- I don't know when this was sent
9 out. But it was made available to everyone when we
10 resumed on the 20th. It's a draft order of
11 presentation for Part 1B. And I had directed that any
12 comments, changes requested be submitted by noon of
13 last Friday. And I believe Mr. Brodsky was the only
14 party that requested some additional time to do some
15 organization.

16 But for the other remaining parties, I will be
17 calling you to present your direct, your cases in
18 chief, in the order as presented in this draft order of
19 presentations for Part 1B. And I will expect you to be
20 present and your witnesses to be available at that time
21 to present your case in chief.

22 Mr. Bezerra?

23 MR. BEZERRA: Yes, thank you very much.

24 Preliminarily, I found a clicker under a chair
25 back here, so I think that belongs to someone here.

1 What would be very helpful in terms of
2 scheduling witnesses for Panels 5, 7, and 6 is if we
3 can get some estimate as to the length of the
4 cross-examination of those panels. You know, we're
5 talking 15 witnesses or so, many of whom are water
6 managers; some are people coming from out of town.

7 So it would be extremely useful if we could
8 get an estimate as to cross-examination of Panel 5 and
9 then 7 and 6.

10 CO-HEARING OFFICER DODUC: Mr. Bezerra, there
11 is no prohibition against you working with the other
12 parties, petitioners, and others to get that question
13 answered.

14 I will leave it up to you all to figure it
15 out. And the conduct of this hearing, I'm simply going
16 to go in the order that is in this sheet and expect
17 everyone to be prepared, to be ready to present their
18 case in chief, and to conduct the cross-examination as
19 appropriate.

20 You may consult with the other counsels on
21 your own time and figure out that timing.

22 MR. BEZERRA: Yes, and where I'm coming from,
23 it says, we had some extended discussions last Friday
24 along those lines that resulted in where we are now.

25 CO-HEARING OFFICER DODUC: Which didn't work

1 out very well today.

2 MR. BEZERRA: Correct, and that's my concern,
3 is that we attempted to do that informally on Friday.
4 And obviously, Ms. Doduc, you don't want to end up in
5 the same place tomorrow or another day.

6 So it would be very, very useful, as I said.
7 And it doesn't have to be on the record, but if we
8 could get some estimate from Department of Water
9 Resources and any other cross-examiners as to timing so
10 that we can schedule our witnesses to be here at an
11 appropriate time.

12 CO-HEARING OFFICER DODUC: Again, do that on
13 your own time.

14 MR. BERLINER: Thank you.

15 CO-HEARING OFFICER DODUC: Mr. Mizell.

16 MR. MIZELL: Yes, Tripp Mizell for the
17 Department of Water Resources.

18 So is it the Board's instruction that we be
19 prepared for Panel 7 if their time presents itself at
20 the end of tomorrow's Panel 5, and then Panel 6 after
21 that?

22 CO-HEARING OFFICER DODUC: Correct.

23 MR. MIZELL: Thank you.

24 CO-HEARING OFFICER DODUC: And then I will go
25 down the order of direct as provided in this table.

1 So just to be clear, those parties that are
2 listed as under the first column, "Order of Direct,"
3 starting from 2 onward, should be prepared to present
4 their direct when they are called.

5 Your microphone is not on. And please
6 identify --

7 MR. FERGUSON: Aaron Ferguson, Sacramento
8 County Water Agency. We're with the joint panel with
9 East Bay MUD. I believe they follow No. 6, correct, on
10 reverse flows? I'm just confirming that they're in the
11 queue, too, right after Panel 6, right?

12 MS. HEINRICH: They're listed as second. It's
13 the combined, with Group 7 and 15.

14 CO-HEARING OFFICER DODUC: If you are on the
15 table as being order No. 2, then, yes, you will be up.

16 MR. FERGUSON: Okay.

17 CO-HEARING OFFICER DODUC: I will go in this
18 order.

19 Mr. Bezerra?

20 MR. BEZERRA: Yes, thank you. One point of
21 clarification. My understanding was that the
22 contemplated order of presentation was that Panel or
23 Group 8 would be going after --

24 CO-HEARING OFFICER DODUC: Panel 5.

25 MR. BEZERRA: Panel 5. And I understand we're

1 attempting to confirm the availability of Group 8. But
2 that's -- Mr. Mizell indicated that it would be
3 Panel 5, Panel 7, Panel 6. I believe based on the
4 discussions we had last Friday afternoon, we're trying
5 to slot 8 in.

6 CO-HEARING OFFICER DODUC: Let's be very
7 clear. We will go tomorrow, starting with Group 7,
8 Panel 5. We will then go to Group 8. Then if we have
9 time, we will continue to Group 7, Panel 7. Group 7,
10 Panel 6. And then if we finish with them, I will start
11 going down the list, which would mean order No. 2,
12 Group 7 and 15, joint testimony until such time that we
13 get to Friday, where Mr. Orme will be the last witness
14 for Group 7, completing Panel No. 4.

15 MR. BEZERRA: Thank you.

16 CO-HEARING OFFICER DODUC: We will send out an
17 e-mail to everyone to make this very clear. All right?

18 Thank you all. I will see you tomorrow at
19 10:00 o'clock.

20 (Whereupon, the proceedings recessed
21 at 11:03 a.m.)

22

23

24

25 STATE OF CALIFORNIA)
) ss.

1 COUNTY OF MARIN)

2 I, DEBORAH FUQUA, a Certified Shorthand
3 Reporter of the State of California, do hereby certify
4 that the foregoing proceedings were reported by me, a
5 disinterested person, and thereafter transcribed under
6 my direction into typewriting and is a true and correct
7 transcription of said proceedings.

8 I further certify that I am not of counsel or
9 attorney for either or any of the parties in the
10 foregoing proceeding and caption named, nor in any way
11 interested in the outcome of the cause named in said
12 caption.

13 Dated the 1st day of November, 2016.

14

15

16 DEBORAH FUQUA

17 CSR NO. 12948

18

19

20

21

22

23

24

25