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

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

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

First, some general announcements.

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

Today’s hearing date is being webcast and
recorded. So when speaking, please use the microphone and begin by stating your name and affiliation.

A court reporter is present today and will prepare a transcript. There he is. You can just see his back. He’s charming. He’ll turn around at some point. He’ll prepare a transcript of the entire proceeding. The transcript will be posted on the State Water Board’s Bay-Delta Phase 1 website as soon as possible. And if you’d like to receive the transcript sooner, please make arrangements with the court reporting service during one of the breaks or after the hearing day.

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

Additionally, for planning purposes, please be aware that the hearing days could be very long days, since we do want to hear
everyone’s comments. We find it extremely
helpful. We’re going to take a short break in
the morning and a short break in the afternoon,
or as needed for the court reporter. We’re also
going to take a lunch break which may well be
less than an hour, but it will be at least 30
minutes to give you time to get food. We expect
to continue into the early evening or beyond, if
necessary, and will take another break
accordingly for that.

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

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

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

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

The December -- the September 15th notice required joint presenters who would like more than three minutes to present their comments jointly to make their requests by noon on October 14th, which was subsequently extended to noon on
November 4th, 2016. Based on the requests received, staff prepared a draft Order of Proceedings which was sent to the Bay-Delta notice email distribution list on November 18th, 2016.

Additionally, the draft Order of Proceeding was posted on the Water Board’s Bay-Delta website. A revised draft Order of Proceedings dated December 6th, 2016, was posted on the Water Board’s Bay-Delta website on December 14th, 2016.

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

As we allow and as I mentioned, some groups asked to present panel presentations. Rather than taking them all first before the public comments as we did at the initial hearings in 2013, we are going to alternate panels and a series of public commenters to enable individual commenters to begin earlier in the day. We take them in the order in which they were filed. So
if you’d like to speak, please fill out a blue card. And please do it early in the day so that we can have an assessment of how many speakers we will have.

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

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

You can -- generally, in these comments, oral comments, it’s important to give us a focused comment on what it is we should be
looking for as we read all the comments and we
listen to everybody else and we review the staff
draft. And it actually is very, very helpful to
us. And a targeted two minutes can give us just
as much direction as three. But I like to let it
go to three because that’s a more comfortable
time frame if the number of cards allow. But we
might cut it to two, or even one, if necessary,
to enable more speakers to speak and be able to
get home.

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

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

As I noted, we’ll allow a number of
groups requesting to speak as panels at each of
the hearings. They vary in number and approach. Our hearing tomorrow is perhaps the most challenging in terms of the number of panels. But in all cases, we’ve shortened the time requested to enable us to hear from more of the general public commenters.

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

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

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

First, please keep your comments limited to the purpose of this hearing, which is to comment on the Plan Amendment and the SED. We
haven’t had that many people stray from it. But a number of folks have wanted to comment on the WaterFix proceedings. That is something we cannot take comment on or hear comment on because it is an evidentiary adjudicatory quasi-judicial hearing. And so please reserve those comments for the duly noticed WaterFix proceedings.

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

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

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

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

Finally, I realize that after all the presentations are heard, some of you might feel the need and the desire to respond to what others have said. And we can’t provide people an opportunity for rebuttal of these comments in the
hearing for the reasons I said earlier. If you have additional comments, though, after your turn to speak at this hearing, you may also give us that comment in writing by the January 17th, 2017 noon deadline, as stated in the second revised notice.

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

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

We’re also in a separate process to deal with the rest of the system, including the Sacramento River and the rest of the Delta, both inflows and outflow. That’s known as Phase 2 and is in process, as well.
The Bay-Delta Plan lays out water quality protections to ensure that various water uses, including agriculture, municipal use, fisheries, hydropower, recreation and more, are protected. In establishing these objectives, the State Water Board must consider and balance all beneficial uses of water, not pick one and discard the others, as many people would like us to.

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

Staff is going to provide a short overview of their proposal today. As I said, in order to provide more time to hear public comment, today’s staff presentation is a shorter version of the presentation given on day one, November 29th, in Sacramento. That full presentation is available on our website, if you’d like to take a look at it.
As I said, they proposed higher flows on each of the tributaries. They have also, however, proposed an implementation program that embraces adaptive management and will accommodate stakeholder settlements that can provide even greater benefits to the ecosystem than flow alone.

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

Unfortunately, there’s a lot of misinformation and misunderstanding about the staff proposal out there, whether about its provisions or its intent, that’s created a lot more heat than light. And it saddens me to see
that because these issues are really hard enough
to deal with based on the real facts and intent,
let alone those that are just mistaken or
manufactured. So I see and hear the pain in the
comments we’ve received already from both sides.
Much of it is based on misunderstandings or
misrepresentations of what staff is actually
proposing, and we’ll have to do a better job
deliberating it. But we also need to do a better
job listening and adjusting it, hopefully with
your help.

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

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

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

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

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

With that, Les?

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

I’m joined here today at the staff table
by, on my far left, Tom Howard, Executive Director, and to my left, Erin Mahaney, Senior Staff Counsel, to my right, Dan Worth, Senior Environmental Scientist, Will Anderson, Water Resource Control Engineer, and Jason Baker, Staff Service Analyst.

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

So the project we’re talking about here today is to update two elements of the Water Quality Control Plan for the Sacramento and San Joaquin River Bay-Delta Estuary. One is the San Joaquin River flow objectives for the reasonable protection of fish and wildlife. And the other is for southern Delta salinity objectives for the reasonable protection of agriculture. I’m emphasizing that reasonable word because that’s really what we’re here talking about today, is that you can provide information to build on the
staff report that is trying to determine that
reasonableness in terms of the tradeoffs for
doing these things. And then finally, it
includes the Program of Implementation to
implement each of these elements.

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

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

The first point is that the Plan is out
of date, which is why we’re doing this. The Plan
was last updated, that Water Quality Control Plan
I referred to, 21 years ago in 1995. And since
that time, we have new information, changing conditions. Species have been declining. We identified the need for the update in a minor update to the Water Quality Control Plan ten years ago, in 2006. And since that time, and it’s been in the news, we’ve had Endangered Species Act concerns which have put limits on the amount of water that is pumped from the Delta, but also that effects operations in the Stanislaus River. So the Plan is intended to provide really a framework for moving forward.

This is also important to the Administration. It’s part of the Administration’s California Water Action Plan. And it’s for the attainment of those co-equal goals of a reliable water supply and for protecting, restoring and enhancing the ecosystem.

So immediately, another question that arises is: Why are we focusing on flow? Well, scientific studies have shown that that is the major factor that is important for the success of salmon and other species for protection of that fish and wildlife resource. There’s many benefits to flow, and many that are
identified in the document that we’ll be talking about. The most direct ones are improvement of temperature conditions, but also the enhancement of floodplain. And flow is the factor that then therefore effects many other things. It effects the risk of disease. It effects, ultimately, the resiliency of the species, the ability of species to succeed and survive.

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

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

This chart shows the difference between two time periods, the time before 1992 and the time after 1992. And it shows the adult fall-run Chinook salmon returns, the returns of salmon to major tributaries in the Central Valley. So you can see a whole number of tributaries listed. And on the far right, it’s showing the three that
I had referred to, the Merced, the Tuolumne and the Stanislaus. Those are the three tributaries that are doing worst of all the Central Valley tributaries. And that’s in large part because of the reduced flows.

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

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

The third key point is that it’s very clear to us and why we’re here today to hear from
all of you, this is a hard thing to do. We prepared a report back in 2010, this thing called the Flow Criteria Report. This was in response to a directive in the 2009 Delta Reform Act that directed the Board to prepare a report that was a purely technical assessment. It was just looking at the science of saying, well, if you wanted to protect salmon, what’s the kind of flow that you would need? And that flow -- that report determined that you would need 60 percent of unimpaired flow. And when I say unimpaired flow, that’s a measure of the total quantity of water. And what we’re looking at is for that February through June period. So it’s saying you need 60 percent of that to provide protection of fish and wildlife.

But that report didn’t look at all the competing uses of water. It didn’t look at how else water is being used in the basin. Currently in the basin, agricultural uses, drinking water, others, hydropower, things in terms of how it’s operated, the system, accounts for 80 percent or more. In some months and some years there can be less than ten percent of the flow that would otherwise occur in rivers. That’s what’s left in
the river. And that’s been far less than optimal for the protection of fish and wildlife.

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

For a variety of reasons, because there’s uncertainty, also we want to be responsive to changing conditions, must most importantly, we want to provide opportunity to do things using non-flow measures, the proposal is crafted in the form of a 30 to 50 percent range, saying, well, if we don’t have anything else that’s helping direct control of habitat, things like that, we might need something in the higher end. But if we can do things, like provide habitat and other measures to achieve the goal of protecting salmon, you could operate at the lower end of that. But the proposal is proposing a starting point of 40 percent. But any way you look at it, this is a big increase.
Though it’s a big increase per that 2010 Flow Criteria Report, it’s less than what the science shows is needed if you weren’t considering these other things. It’s less than fishery interests, the fish agencies, would want, environmental organizations would want. It’s less than the science shows is needed if you weren’t considering things. That being said, it’s a lot more than what people in this area and many interests would want because it’s going to mean more water that has to be directed towards fish and wildlife and less for things like agriculture.

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

A key element, this is the fourth point, a key element of this proposal, and part of the reason for that 30 to 50 percent range, is for this to be successful, we’re looking to folks in this room, in this area to help inform how we
would do adaptive implementation. How do we be
smartest in terms of how we operate with the
smallest quantity of water?

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

So let me now describe what the proposal
is. Before describing the proposal, I’m going to
describe what the current situation is. The
current San Joaquin River flow objectives are
just for one location. If you recall that map I
showed just a few moments ago, it’s just for the
San Joaquin River at Vernalis, which means most
of the flows come from the Stanislaus River. And
they’re much lower flows than are currently being
proposed, so it’s less than optimal. It’s in the form of minimum monthly average flow rates, and it has pulse flow requirements during a particularly critical stage, an April-May pulse flow. And since it’s only at Vernalis, it only has one responsible water right holder, the United States Bureau of Reclamation.

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

That key element that I had mentioned a few times already is that adaptive implementation that allows adjustment within that 30 to 50 percent range so that you can manage it as a
block of water, again, to get the biggest bang for the buck. It also allows shifting for time periods outside of that February through June period into the fall months to achieve temperature goals, so you don’t have redirected temperature effects.

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

The current salinity objectives are now at four locations in the Delta; three interior Delta stations, and one for the San Joaquin River at Vernalis. They vary year-round now, 0.7 for the irrigation season from April through August, and 1.0 millimhos per centimeter for the rest of the year, and based on the sensitivities of various crops. And there are four specific
In contrast, the proposal, based on science that shows those are actually -- that 0.7 number is lower than what is needed to reasonably protect all uses in the southern Delta, the proposal is to change it to a year-round objective of one deciSemen per meter year-round. And that’s the same as the unit of one millimho per centimeter, it’s just changing it to the updated Standard International units.

And it also proposes to change three of the interior southern Delta salinity compliance locations to reaches, rather than individual points. And that’s after doing some analysis to see, how do you better understand what the salinity is in the southern Delta? Because currently now, those three locations don’t necessarily best characterize what salinity is at all locations. So it’s intended to better understand the variability of salinity and then apply to a reach so there’s greater assurance that you’re meeting the objective of 1.0 year-round at all those locations. And to provide assimilative capacity in the southern Delta, the Bureau would continue to be responsible for that
0.7 seasonally, for April through August.

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

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

So a little bit about the effects of the proposal.

First, this is a bar chart that shows on the left side, an average of all year types, the changes from the baseline, that’s the darkest bar to the left, and then for the 30, 40 and 50 percent of unimpaired flow, how instream flows during that February through June period would increase. And in general, that long-term average for that February through June results in an increase of 288,000 acre-feet per year, or 26 percent. The percent increase is bigger in those
critical dry and dry years, as you can see on the far right, which is what’s particularly important to fish and wildlife.

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

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

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

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

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

But that -- we’ve received a lot of comment about concerns about we present just averages. But we actually present a lot of information in the report. Many of these overviews just provide kind of like here’s the
bottom line. But the report is quite mindful of the effects that occur during critically dry years. And you can see on the far right, it’s actually a 38 percent reduction from an already reduced water supply in those critically dry years, as well as reduction during dry years.

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

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

Because the report, looking at past
response to shortages of water, we estimate that there would be increases in groundwater pumping, and the average would be about 105,000 acre-feet per year. And in the end, there would still be, even with that increase in groundwater pumping, there would be an increase in unmet agricultural demand. And we’ve looked at it in a couple of different ways at different levels of groundwater pumping. But even at higher rates of groundwater pumping, 2014, which we don’t think is likely sustainable, there would be still unmet demand of 69,000 acre-feet per year, bigger and critically dry years. And 137,000 acre-feet a year based on the less unsustainable levels of 2009 rates of groundwater pumping.

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

So the ultimate effects of the flow proposal are: it will affect the surface water supply, which in turn will effect groundwater resources, increased groundwater pumping, and
reduce recharge, resulting in lower groundwater levels. This will have an effect on agriculture. It will change cropping patterns, reduce irrigated acreage, reduce agricultural revenue. And it will effect drinking water supplies, and there will be a need to construct new wells, deepen existing wells. And it will effect groundwater quality.

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

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

CHAIR MARCUS: Thank you. Excuse me.

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

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

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

I’m going to give you three in order so that folks can be ready to come up to the microphone. Again, I’m sorry about the placement. We just didn’t want to -- if everybody keeps coming up and down the stairs, it will take a lot more time.
So first, we will have Senator Anthony Cannella, followed by Assemblyman Adam Gray, followed by Bill Lyons, the Former Secretary of Agriculture.

Hi. Good morning.

SENATOR CANNELLA: Good morning, Madam Chairman, Members.

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

CHAIR MARCUS: It was a good suggestion.

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

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

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

CHAIR MARCUS: Please.
SENATOR CANNELLA: -- take anybody else’s
time. So --

CHAIR MARCUS: Please.

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

A little bit about our area. I think
it’s a great area. I’ve been here my entire
life.

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

The significant damage to the region’s
economy would dry up, by some estimates, over
200,000 acres of farmland, causing an overall
economic loss of $1.6 billion and something in
excess of 6,500 jobs, and that is just the unimpaired flows. That is not the carryover water, which I would argue is even more devastating to our area.

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

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

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

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

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

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

And then talk about good faith, to just end with, we want to negotiate in good faith.
But when there’s legislation that was presented
by Gordon last year, and there’s already
legislation we had talked about that will make it
where we will not be able to stop this process,
even during litigation. So if this gets adopted
and it’s sued, which it will be, the legislation
that was authored by Gordon would say, well, it
moves forward anyway until it’s settled, and that
is not good-faith negotiations.

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

(Applause.)

CHAIR MARCUS: Thank you very much.

Thank you.

ASSEMBLY MEMBER GRAY: Good morning and
welcome to --

CHAIR MARCUS: Oh, thank you.

ASSEMBLY MEMBER GRAY: -- my home town.

And thank you for -- I’ll echo the Senator’s
comments. Thank you for expanding the scope of
the hearings, including, I think, what’s very
important, hearing people are severely concerned
about this plan, as you can see from all the
folks who have shown up today.

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

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

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

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

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

When we got a chance to read your report we learned that the authors have zero confidence in the models they used to determine benefits to fish, and cannot tell us how many fish taking this amount of water will produce. However, I also noticed, buried in a graph, a predicted
increase of just 1,104 salmon. The report essentially ignores the existence of the Sustainable Groundwater Management Act to sidestep addressing the true impacts to groundwater and drinking water, and finishes by lowballing the negative economic consequences of taking this water from our region by hundreds of millions of dollars.

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

These public hearings have taught us a lot. And I think there’s no shame, in light of this new information, in going back to the drawing board. Take an active role in settlement negotiations instead of kicking the can over to the Department of Fish and Wildlife to do it for you. You are proposing this plan, so you need to look us in the eye at the negotiating table,
listen to, acknowledge, and actually incorporate
into your plan the comments and issues raised by
this community, even when the answers are tough.
Do not refuse to address the hard questions, like
when you dodge answering how you will stop our
schools from ending up on Porta Potties and
bottled water when reduced surface water
deliveries are available.

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

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

Thank you for your time this morning.

(Applause.)

CHAIR MARCUS: Thank you.

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

Secretary Lyons, hi. Nice to see you.
One moment as I make a couple of announcements, if you don’t mind.

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

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

Secretary Lyons --

MR. LYONS: Thank you.

CHAIR MARCUS: -- nice to see you.

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

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

(Applause.)

As a Former Secretary of Agriculture for the State of California, a third generation farmer, who has been farming in this area for over 90 years, our family, in this region, I’m here today to voice my opposition to your staff’s
draft proposal of 40 percent flows.

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

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

(Applause.)

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

I’m disappointed, as a former public official, at the way this process has been conducted. I am encouraged by your recent outreach. But it bothers me, when I see the elected officials that many in these room have elected, stand up and say they have not had the opportunity to be as engaged as they should be.
No one in this region opposes improving the environment, restoring habitat. However, we do oppose flawed science and a process that avoids discussion with the very people, these people, that you’re going to impact.

I have some asks. I ask that you work with the local electeds; that you work with the local irrigation districts; that you work with the local stakeholders; that you be inclusive, that you use sound science; that you strongly consider mitigation and compensation to those that are going to be effected; that you strongly consider habitat restoration and predator suppression; that you listen to the Governor who appointed you to have reasonable settlements and to work with people in those reasonable settlements.

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

Thank you, Chairman.

(Applause.)

CHAIR MARCUS: Thank you very much.

Thanks for coming.

District Attorney Morris, followed by
President of the Board, Dave Long, followed by a member of the Le Grand Community Water District, Bob -- I think it’s Giampaoli. Let me know if I got that right.

MR. MORRIS: Correct.

CHAIR MARCUS: Closer.

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

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

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

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

Since 2012, when the first report was released, the Water Board has declined to answer questions and has refused to discuss the basic assumptions used as the foundations of its proposal. To this day, the Board, its staff and
consultants have not yet met with the technical experts from our cities, our counties, our schools and others to explain how you got to here, to inform us of your assumptions and other considerations.

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

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

Thank you.

(Applause.)

CHAIR MARCUS: Thank you.

President Long, followed by Member Giampaoli, followed by MID Director -- Merced,
I’m assuming, Irrigation Director, Scott Koehn.

Good morning.

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

CHAIR MARCUS: And same to you.

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

CHAIR MARCUS: It’s a very serious role.

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

First and foremost, it is my constitutional and legal responsibility to ensure our board protects the resources of the district, including its water rights and storage rights. We at MID always strive to provide the most detailed explanation possible regarding the issues in front of our board and the public. Our objective is to always put the best information and facts out there and have the discussions. Have the discussions and consider the input from the outside and make the best decision possible,
weighing all factors. We strive to do the right thing.

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

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

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

We have good ideas on how we might achieve benefits for salmon in the Merced River and do it in an equitable way that allows our community to survive and others to accept their level of responsibility. Our SAFE Plan is an
equitable plan that takes science into account for the betterment of salmon, agricultural land, reasonable flows and good for the environment.

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

(Applause.)

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

Thank you.

(Applause.)

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

Actually, we very much appreciate MID’s effort to actually start that conversation. It’s great.

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

Hello.

MR. GIAMPAOLI: Hi. Good morning, Chairwoman Marcus. Good morning, Board Members that are here. My name is Bob Giampaoli. I’m a Board Member on behalf of the Le Grand Community
Services Water District. We appreciate your attendance in the county today, even though we are disturbed with the timing of the release of the SED and setting meetings at a time where children and their families are trying to enjoy Christmas, making it twice as difficult to have more people even attend this meeting.

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

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

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

CHAIR MARCUS: Right.
MR. GIAMPAOLI: It’s sort of a bathtub effect.

CHAIR MARCUS: Uh-huh.

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

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

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

We urge the State Board not to abandon this region and reconsider its options. We don’t
believe that the quantity of water released will proportionately improve the health of the fishery. It is dependent on a consortium of factors.

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

CHAIR MARCUS: Uh-huh.

MR. GIAMPAOLI: We respectfully request the Board reconsider the water volumes contemplated and the timing of their running. For example, prescribing releases in June will be more than a waste, due to unexpected diminishing returns in salmon production as there are barely any salmon in the Merced River at this time. Please don’t let Le Grand become the next Porterville, even in wet years ahead.

Thank you.

(Applause.)

CHAIR MARcus: Thank you, sir.
Director Koehn, followed by Mayor Price, followed by Merced County Supervisor Daron McDaniel.

MR. KOEHN: Good morning. My name is Scott Koehn. I’m the current Vice President of the Merced Irrigation District Board of Directors.

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

(Applause.)

Our community is not prone to protesting or shouting to garner attention; just the opposite. I believe this community represents some of the most moderate and humble people you’ll ever find. In fact, I think until recently, many of the people holding signs
outside this morning or that drove tractors here
today, would have welcomed you into their home
and offered our shared interest in improving the
viability of salmon in the river. We are
reasonable.

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

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

However, in recent weeks we have learned
that in addition to your own staff using a flawed
model, we can expect 1,100 more salmon under the
Bay-Delta Plan.

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

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

I believe our community, although frustrated and fearful of your intent, is still willing to put its best foot forward. This community also cares about the environment, the Merced River and the wellbeing of the Merced River salmon. If that is your true intent, I urge you, without any further delay, to stop the insanity and sit down with our district to begin immediate discussions about the implementation of the Merced River SAFE Plan. If your true goal is
to help the salmon, we will work with you.

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

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

Thank you.

(Appause.)

CHAIR MARCUS: Thank you very much.

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

That said, we will consider everything
and look forward to working with you all. But
there’s a lot of that out there, and I can
understand why it angers people. But it’s a
miscasting of what is actually happening.

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

Mayor Price?

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

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

(Applause.)

I live in a city that is economically
depressed. We all have economic issues here in
Merced County. One of the things that bothers me
in particular about this is, is that unelected people with no ties to our economic issues have no idea of what you are -- the impacts that you’re placing on these people.

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

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

Add to that a 40 percent inflow -- or extra flow for tributaries, give me a break. I’m all choked up about a fish. I am just all tore up that these fish are going to affect these
lives. What about the tributary known as the Merced Agriculture Department and the people that support that, the people that are behind me right now that put the food on your table and mine, what about that? There is absolutely no correlation to having a 40 percent increase and sustaining family farms, ranches and dairies.

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

Thank you.

(Applause.)

CHAIR MARCUS: Thank you.

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

SUPERVISOR MCDANIEL: Hello.

CHAIR MARCUS: Oh, sorry.

SUPERVISOR MCDANIEL: That was Jim Price
that just spoke.

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

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

CHAIR MARCUS: Thank you.

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

As Merced County Supervisor, I’m here to share my concerns and the concerns of my constituents, the people whose lives will be directly impacted by this proposal. Many of the impacted communities in Merced County are disadvantaged communities. These constituents cannot take the day off to come here and share their concerns that this proposal will dramatically increase the rate to their drinking water beyond what they can afford, or that this proposal may cause the fallowing of prime agricultural land, resulting in job loss, or the concern that this proposal may result in their
children’s schools not having clean, safe
drinking water.

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

When your staff was asked direct
questions about the economic impact of volatility
and reliability, they deferred to you, the
policymakers. So I ask, what would you encourage
us to tell companies that we’re trying to attract
and come to the region for economic development
when they ask about the reliability of water
supply? Water supply in Merced County should not
be in jeopardy. Merced County has some of the
oldest and most senior water rights in the State
of California. We paid for those rights, now
this proposal suggests taking them, again, taking them.

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

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

Thank you.

(Applause.)

CHAIR MARCUS: Thank you, sir.

Assessor Levey, followed by Mayor-Elect Murphy, followed by Councilman Paul Creighton from Atwater.
MS. LEVEY:  Good morning.

CHAIR MARCUS:  Good morning.

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

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

As the Assessor, I am in contact with our property owners daily. I hear their frustrations and their fears about water. Through this drought, I have dealt with properties that have been fallowed; properties with expensive new
wells or dropped wells; and changes in income streams because of the cost of the wells, the production, the changes in crop rotations.

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

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

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

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

Thank you.

(Applause.)

CHAIR MARCUS: Thank you very much.

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

Hello.

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

CHAIR MARCUS: Congratulations.

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

(Applause.)

Today you will become even more aware of the human hardship and devastation that your proposed plan to reduce the amount of Merced River water available for human use will cause to
men, women and children here in our city.

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

    The City of Merced’s drinking water is underneath our feet. Although we don’t use surface water from the Merced River for domestic use, we rely on surface water from the Merced River to recharge our groundwater aquifer as the water passes through Bear Creek, Black Rascal Creek, Cottonwood Creek, Fahrens Creek, and a number of canals that wind their way through the Merced City limits. This recharge of our aquifer is crucial, not only for adequate water quantity, but also water quality, and helping to prevent salt intrusion into our drinking water.
Your proposal to reduce the amount of surface water that is available to our region will directly impact both the quantity and the quality of our aquifer. You must take this devastating impact into consideration in your decision making.

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

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

As a city, we will also be directly
impacted by your decision. We are ready and able to fight if the concern of Mercedians are not adequately addressed in your decision.

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

(Applause.)

CHAIR MARCUS: Right. And it’s not what’s proposed, I guarantee you.

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

Hello.

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

(Applause.)

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

Thank you very much.

(Applause.)

CHAIR MARCUS: Thank you.

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

MR. TIEJEN: Good morning, Chairperson Marcus and --

CHAIR MARCUS: Thank you.

MR. TIEJEN: -- and Board. Thank you for coming to Merced County. We’ve been waiting
for you.

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

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

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

(Applause.)

CHAIR MARCUS: They’re not.

MR. TIETJEN: Because that is exactly what you’ve done in this report, you’ve made a decision to value children that live in areas that essentially have no watershed over the children and families that have chosen to work in the heartland of California. This decision
punishes people that work to support the lifestyles of the coastal elites, and we are very tired of this treatment.

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

(Applause.)

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

Thank you very much.

(Applause.)

CHAIR MARCUS: Thank you.

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

MR. DOSETTI: Good morning.

CHAIR MARCUS: Good morning.

MR. DOSETTI: My name is Tony Dosetti, and I’m a Merced City Councilman for about seven...
more hours.

CHAIR MARCUS: And you’re going to make it worth every minute.

MR. DOSETTI: Every second.

CHAIR MARCUS: I think that’s great.

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

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

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

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

(Applause.)

CHAIR MARCUS: Thank you, sir.

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

Hello.

MR. SILVEIRA: Good morning, Madam Chairman --

CHAIR MARCUS: Good morning.

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

I, too, I didn’t come with any prepared
comments. I live on the west side of Merced County. And I will tell you that I am not as directly affected by what I consider to be the water grab as a lot of the folks behind me, but I’m indirectly affected because we are a community and a county.

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

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

MR. SILVEIRA: Well, and so I hope that those are more than just words. I really truly
hope. Because it’s really not a fair negotiation when you guys have set the bar so high, and then now you’re willing and want us to start at a number. Your number is 40, it could be 50, it could be 30, and in reality, probably 10 or 15 is what actually works. So as long as everybody is willing to negotiate fairly, I think that there are no bigger environmentalists than farmers themselves. I’m a dairyman by trade. That’s what I do for a living.

(Applause.)

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

So I encourage you guys to do the right thing, and encourage you guys over here to smile a little bit. It’s not all that bad. Everybody
here is here for good reasons. And I see you
guys are all very stoic over there, but smile.
You know, we’ll get through this. But remember -
-  
CHAIR MARCUS: They’re engineers.
MR. SILVEIRA: Well --
CHAIR MARCUS: You’ll have to forgive
them.

(Laughter.)

CHAIR MARCUS: I love engineers. Sorry.
MR. SILVEIRA: You can still smile. So I
encourage you guys to do the right thing, and
have a merry Christmas. Thank you.

(Applause.)

CHAIR MARCUS: Thank you, Sir.
Trustee Ochoa, Councilwoman Vierra,
followed by Merced County Supervisor John
Pedrozo.

Ochoa? Okay, I’ll save him, if he’s
still here.
Councilwoman Vierra? All right. Maybe
she’ll come back.

Supervisor Pedroza, followed by Mayor Pro
Tem Pedrozo from Merced, followed by Merced
County Supervisor Jerry O’Banion.
MR. JOHN PEDROZO: Thank you. First and foremost, let me say thank you for holding this here today.

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

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

So two of the big concerns that I have with the SED are the economic analysis and the impacts to the groundwater in eastern Merced County. The economic analysis in the SED clearly underestimates or simply does not even take into account the many impacts this proposal will have, such as land value, volatility of supply, and the downstream impacts that you just heard Mr. Silveira say on dairies and livestock operations.

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

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

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

On the groundwater, these communities all solely rely on groundwater for their drinking
water supply. When groundwater levels start to
drastically decrease due to the lack of surface
water and increased pumping, these are
communities that will be burdened.

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

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

(Applause.)

Because we’re trying to do what the
state’s -- the regulations, but yet now we’re
facing with this.
So the proposal doesn’t make sense. It needs to be rethought to protect the 1.5 million people who work, live and rely on the water here, in addition to the -- and I know you’ve said this already, it was a misstatement, but the 1,100 fish the SED hopes to produce.

Thank you very much.

CHAIR MARCUS: Thank you.

MR. JOHN PEDROZO: And merry Christmas.

Thank you.

(Applause.)

CHAIR MARCUS: Thank you. Same to you.

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

Next we have Josh Pedrozo, followed by Supervisor O’Banion, followed by Santa Nella County Water Board of Director Patricia Ramos-Anderson.

MR. JOSH PEDROZO: Good morning, Madam Chair. I would like to first take this time to thank you and the Board for being here today and listening to our concerns. My name is Josh
Pedrozo. I am the Mayor Pro Tem for the City Council, but today I am not speaking as a Council Member but as a teacher, who is also a father, a husband and a lifetime member of this community.

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

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

(Applause.)

The devastation to our economy and drinking water have simply been glossed over. This plan directly harms the ability for us to remain a viable community, one that is welcoming to all citizens who would consider Merced as a place to raise their family or start a business.
This is an incredibly flawed plan. And I would encourage those in Sacramento to reconsider this potential disaster. We must forge a path based on wisdom. Any plan that creates winners and losers is doomed to fail.

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

(Applause.)

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

Supervisor O’Banion, Director Ramos-Anderson, followed by Council Member Anthony Martinez.

Hello.

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

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

MR. O’BANION: I have seen the good days,
as well as the economic downturns and their
effect on our way of life. I can assure you that
if this proposal is implemented as proposed, we
have seen nothing yet that will compare to the
devastation which will occur due to the loss of
jobs and the social and economic damage that will
be done here in the Central Valley.

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

In addition, the recent passage of the
Sustainable Groundwater Management Act adds the
state mandate for sustainability. The proposed
taking of our water supplies for flows in the
Delta certainly makes sustainability impossible
on the east side of our county and threatens the
viability of all of our communities.
It might be easier to accept if the plan
to throw more water at the Delta had worked in
the past. It is time to recognize that water in
the Delta alone does not work. Until the state
process is widened to look and solve the other
issues in the Delta, such as predation, invasive
species and in-Delta pollutants, it will continue
to fail the fish and wildlife, while threatening
the viabilities of families and communities here
in Merced County.

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

Thank you.

(Applause.)

CHAIR MARCUS: Thank you, sir.

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

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

Whatever happens with water distributions
up north flows down throughout California. Those
are the true impacts. But more importantly is
that our communities, our businesses, our Central
Valley agricultural community has not chance of
survival with your current plan. There is no
chance.

(Applause.)

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

So this is very key, that the water in
our Central Valley, we need to have the
stakeholders at the table. They have to
represent all silos that we currently have,
because that’s what it is, you’re working in silos. We have to have that partnership, because right now there is not dialogue, sharing of information, sharing of research data so we could come to a middle ground. It’s either your ground or the low ground, and we don’t want that. We don’t need to get into battles. We need to use our energies to be proactive, make it a win-win situation and meet the middle ground.

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

Also the win-win situation is this plan has to address the predator suppression, the habitat restoration. Work with the fisheries and mitigate the measures that have to be written in the document, and also in the State Plan. If you don’t have that written, it gets lost in the air
or people forget the history or the voices.

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

(Applause.)

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

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

How can these small water districts that are not part of major cities in unincorporated communities, how can we survive if we don’t even have the water to provide our schools, our families, our town’s drinking water that’s safe because of the chromium-6 issue in Volta and
other parts of this state of ours? And that’s one thing that hasn’t been even addressed is the safe drinking water because of chromium-6.

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

Thank you very much for your time.

(Applause.)

CHAIR MARCUS: Thank you very much.

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

MR. MARTINEZ: Thank you. I want to be the first to say that there’s a lot about this that I am unaware of. So it was a great opportunity to be able to come down here and here
the presentations. And I really learned a lot in terms of the water and the rivers and the salmon.

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

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

You might not know this about Merced, but in the last ten years our county has suffered greatly. In the first half of those ten years we suffered when the housing collapse occurred, the economic recession. And then the last five years, we’ve had to endure, the City of the Merced -- I’m sorry, the County of Merced, a record number of homicides, officer assaults, and
we still struggle with hiring deputies and police
to keep our streets safe. And after all that,
you would think that would break a people. Well,
it hasn’t. It has only made us more resilient
and stronger.

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

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

(Appause.)

CHAIR MARCUS: Thank you, sir.
Council Member McCabe, followed by
Supervisor-Elect Espinoza, followed by
Congressman Jim Costa, who I’m told has arrived.

MR. MCCABE: Good afternoon. I’m a
Councilman in the City of Livingston.

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

MR. MCCABE: Whatever. It’s about 11:00.

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

Let me back up real quick.

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

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

(Applause.)

One of my colleagues earlier told you
that people in Merced are reasonable, people in Merced are humble. They are humble. They are very reasonable. I appreciate the words of the statesmen who came before you. I’m showing you the face of an unreasonable man. I am angry. I am not happy. If this comes through, we will unleash the dogs of war upon you. We are going to fight to the end on this. I will show up at your offices, at your homes. We will be there protesting you all the way through. This is not acceptable. We will not become Flint. We will not let our water be destroyed.

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

Have a great day.

(Applause.)

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

MR. ESPINOZA: Madam Chair Marcus,

Members of the Board --

CHAIR MARCUS: Hello.

MR. ESPINOZA: -- thank you for coming to Merced today. You know, as a Council Member, as,
you know, previously stated, we have so many
different water quality issues in our city and,
you know, around our county with arsenic,
chromium-6 and different, you know, quality
issues.

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

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

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

I come to you in opposing this plan.

I attend business in both Merced Irrigation
District and Turlock Irrigation District’s jurisdiction, so I became, for many reasons, aware of the possible impact of the Supplemental [sic] Environmental Document. I’m also a volunteer at MID El Rancho Committee, so I am aware of the district’s continuous balancing act for water supply costs for increased system efficiency and water rights.

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

Our community carried the burden of constructing and maintaining the tremendous water infrastructure without relying on the state or federal government on funding. We covered all aspects of these undertakings: dam; reservoirs; hydro plants; recreational facilities; distribution systems; drainage system; electric distribution system; even the rose, to the
projects. Now the state wants to plug this
toned and clockwork-functioning project for
their benefit with no compensation. Better yet,
or for narrow purpose of serving others in the
state and ridding all other local investments
undertaken by MID and locals as acceptable
sacrifices, again, without compensation.

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

With the SED, it seems we are
surrendering the project, or more like it is
being hijacked by supposedly stronger powers. We
propose the state and potential direct and
indirect beneficiaries from the SED additional
water releases to construct their own reservoir
to achieve the proposed flow mandates. Even if
we are to entertain the proposed document, we
would like to understand the need for flows in the Merced River based on an actual tested scientific basis, not the ongoing speculations. As for the Delta, we would like to see an analysis of impacts of water quantity and quality, absent any exported water, throughout Southern California, the coast, or the Bay Area, before we make any additional releases from the Merced River Basin. Eleven hundred additional fish can’t possibly require two-thirds of Millerton Lake behind Friant Dam, which incidentally is on the San Joaquin River but miraculously off the hook. I have heard that more than an additional 1,100 salmon already made the trek up the Merced, so goal achieved. The SED could afford to wait, at least on the Merced.

In the meantime, please consider a more palatable approach for the volumes needed for the salmon, similar to the concepts introduced in Merced ID’s SAFE Plan. Conduct thorough studies to determine the validity of salmon that has been, corresponding to any flows committed. Return any unneeded volumes of water back to Merced ID after those studies are concluded. Even if monthly flows are dedicated to salmon
outflows, the months of February and June should not be included as Merced ID indicated on many occasions, are the lower possibility for salmon to be moving during these months.

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

Thank you.

(Applause.)

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

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

Congressman Costa, nice to see you.

CONGRESSMAN COSTA: Good to see you.

Thank you, Chairman Marcus, and thank the Members of the State Water Board and the staff. And most importantly, the community that’s here today to view their very, very serious concerns to the State Water Board. We appreciate the fact that
you’re here.

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

(Applause.)

Congressman Denham and Congressman McClintock and I sent a letter to this Board, indicating our concerns and asking to ensure that the Board met here so that people could tell you firsthand of their fears, their frustration and their concern. So the purpose of this hearing, obviously, is to let you know the impact to our communities. This hearing is a first afford in that effort.
But let me tell you, and I’m sure you’ve gotten a clear sense of it this morning, I’m reminded of the movie Network in 1976 when the quote came, “I’m mad as hell and I’m not going to take it anymore.” That’s what you feel back here. Folks are mad as hell and they don’t want to take it any more. That’s really --

(Applause.)

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

CONGRESSMAN COSTA: No. But I -- this incremental reallocation of water that, for my purposes, goes back to 1992 with the Central Valley Improvement Act, and then again in 2006 with the San Joaquin River Restoration Act. And now with this proposal, we are looking at a potential of 1.5 million acre-feet of water on an annual basis, depending upon the rainfall and the snow, that has been reallocated. The 800 to 1.2 million acre-feet as a result of CVPIA reform, and the 225,000 acre-feet of water as a result of the San Joaquin River Restoration Act. And this proposal, if we add it up with the Merced, the
Tuolumne and the Stanislaus, could be another 293,000 acre-feet of water. So that’s how I get to 1.5.

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

CHAIR MARCUS: Absolutely.

CONGRESSMAN COSTA: -- that are resulting to the decline of this system. I mean, we have a broken water system. Let’s face it, this water system that was devised and conceived in the ’40s and the ’50s to provide for a population of 20 million people and the agriculture that we had in the 1960s is no longer capable of meeting all of the demands and needs of a state that has 41 million people today, will have 50 million people by the year 2030, and is the largest agriculture-producing state in the entire nature, that produces half of our fruits and vegetables,
number one in citrus, number one in dairy, number one -- you go down the list, 300 commodities, $20.4 billion in exports last year, California alone. And so we have to determine this balancing act.

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

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

The concept of co-equal goals, co-equal goals, you know, I’ve been part of this effort for a long time. I remember, we were all supposed to get healthy together again. Well, this part of the valley, our San Joaquin Valley, is not getting healthy if we continue to reallocate the precious water supply that is so desperately needed here.
The direct identified impacts in the proposal, we believe, is over $260 million overall, $68 million for agriculture in identified benefits for a population of approximately 1,100 Chinook salmon. Now, I know you said earlier, that a range. Okay. But the fact of the matter is, is we’ve got 600,000 to 800,000 salmon on a roughly estimated basis. And it’s not determined that these are endangered.

So I think we’ve got to look at the co-equal goals when we’re talking about this. The amounts of $260 million impact for a population increase of less than two-tenths of a percent is approximately $235,720.76 per fish, to my math.

(Applause.)

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

We’ve had zero water allocation in parts of this valley in consecutive years in a row. We have a five percent water allocation on the west side. I’m talking to a Los Angeles Time reporter last spring. He says, “So you’re trying to get
your farmers more water; right?"

I said, “No. Wrong.”

He said, “What do you mean?”

I said, “I’m trying to get our farmers

some water. When you have a zero allocation,

that’s no water.”

He says, “I don’t get it.”

I said, “Where are you from?”

He says, “Well, I’m from Miami,

originally. I’m just new to the L.A. Times.”

That’s part of the problem. We have a

challenge in communication. We have two-and-a-

half percent of the state’s population directly

responsible for this incredible agricultural

production. My family, like many of these

families here today, have farmed for generations.

And so the fact of the matter is, is that we can

see what happened, that is the west side of the

valley, when an imbalance of regulatory

requirements takes place.

The State Water Board, and I respect your
due diligence, has a charge to weigh the balance

in competing beneficial uses. And this is, I

think, an incredibly imbalanced proposal that the

Board has come up with.
But Chairperson Marcus, you and I have known each other for a long time. And I was hopeful that recently at a Board hearing in Sacramento, you had a quote, and let me repeat your quote. I want to make sure I got it right.

You said,

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

Did I get that right?

CHAIR MARCUS: Yeah.

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

We had a bit of a success in the last ten days on important water legislation effecting
California, to try to further provide balance.

I know that Merced Irrigation District has spent months working with the proposed alternative that represents a multi-prong approach to improving salmon habitat and addresses predation issues.

I ask you seriously to look at the Merced Irrigation District proposal because I think, instead of a flawed proposal that only advances one effort and exacerbates, I think, false choices between fishery improvements and community farms, between flows for farmers and flows for fish, the truth is, is that we can all move forward together if we address the many stressors, multiple stressors that are impacting our state’s fisheries. But we must be willing to explore alternatives to approach the ones, like the one developed by the Merced Irrigation District, and the likes of the Delta Smelt Resilience Plan advanced by the California Department of Fish and Game. These are types of proposals that meet the Board’s charges of balancing the competing needs. These are the types of proposals that do not double unimpaired flows and expend nearly a quarter of a billion dollars for 1,100 fish.
I urge you to go back to the drawing board and to work collaboratively with all of us for a reasonable plan.

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

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

(Applause.)

We have to have sustainability to ensure
that, not just Californians but people throughout our country and around the world, that we’re able to continue to do what we do best, which is produce the best quality of food and fiber for Americans as we progress in the 21st century. And so this is all about sustainability, sustainability of our valley, sustainability of our state, and sustainability of our nation. And I think it’s that holistic approach that the Water Board needs to keep in mind when we’re balancing these competing needs.

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

Thank you very much.

(Applause.)

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

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

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

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

    Hello, Councilman.

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

    I am familiar with the planning process that you’re going through. You guys are in a tough spot. I was a staff -- a city planner by training and staff to commissions and boards and councils for 20 years. But one of the most important parts of the planning process is to listen, and to listen very carefully, and to try and appreciate what you hear and to take
advantage of help that you’re being offered. And I think those are key things that you could take away from this meeting.

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

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

The state proposal will increase unemployment in the area and the social ills that come with unemployment, crime, the health of our people even, and the reduced, I think, student achievement. All those things are related to people being employed and having a livelihood.
So your question should be, so what do we do? We’re trying to strike this balance.

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

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

Thank you.

(Applause.)

CHAIR MARCUS: Thank you, sir. Very
thoughtful.

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

MR. PAREIRA: Thank you for entertaining me.

CHAIR MARCUS: Hi.

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

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

(Applause.)

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

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

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

Thank you.

(Applause.)

CHAIR MARCUS: Thank you, sir.

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

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

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

I then thought about the water districts
and the collaboration with the local population
to improve the entire region. Their long-range
planning that they have used has consistently
provided water to this region of the beneficial
use to the people, the environment and the
species that live in the water. The work that’s
been put in on these water systems has provided
steady, increasing employee on the farms and
ranches and supported many jobs throughout the
entire county. The property taxes generated have
supported the greater Merced community and county
government at every level, schools, sanitary
districts, you name it.

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

CHAIR MARCUS: And we won’t be adopting anything until later next year.

MS. KELSEY: Okay. Later next year?

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

MS. KELSEY: All right.

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

MS. KELSEY: All right.

CHAIR MARCUS: -- with folks, just --

MS. KELSEY: And I hope --

CHAIR MARCUS: -- so you know.

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

Let me finish really quickly.
CHAIR MARCUS: Quickly. Thank you.

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

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

Thank you very much.

(Applause.)

CHAIR MARCUS: Thank you, Supervisor.

Chairman Upton?

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

CHAIR MARCUS: Okay.

MR. UPTON: I wanted to briefly--

CHAIR MARCUS: That’s helpful to know.

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

CHAIR MARCUS: Uh-huh.

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

The irony is, is that under NRDC’s own data, it shows that the water is going to be too
hot in the San Joaquin River for the salmon to survive. There’s a paper, In Hot Water is what it’s called. We did a study, a joint study with NRDC. When they came up with that, NRDC’s solution was to stop the study because that does not comport with our legal strategies, so the study was stopped.

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

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

First, we need to see the need for this. And I am not impressed with the data that you have. When Mr. Howard came to Merced last time he said, well, he couldn’t consider pollution of predation. All he can consider is water, so that’s the only solution. And he’s depending on scientists. Well, these scientists are the same
ones that would take millions of acre-feet out of
the Delta for the last 20 to 25 years; it hasn’t
helped the smelt at all. They’re in worse shape
than they ever were. So what’s wrong with this
picture? There’s a lot more going on up there
than just taking water from the good folks here
in Merced.

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

(Applause.)

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

Last comment. I want to congratulate
you. You’ve done one thing that we’ve never been
able to do here. You have got this community
united, okay, and I want to thank you for that.
(Applause.)

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

Let’s take a 15-minute break. A couple of announcements first.

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

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

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

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

CHAIR MARCUS: Thank you all for staying with us. Please take your seats. Sorry we’re a
little bit later than I promised.

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

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

Mr. Kelley? Oh, good, there you are.

Thank you, sir.

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

CHAIR MARCUS: Of course.

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

CHAIR MARCUS: I don’t like being used as a prop all that much for -- so thank you.
MR. KELLEY: So anyway, I --

CHAIR MARCUS: It’s not that helpful.

MR. KELLEY: -- I feel for you.

CHAIR MARCUS: That’s all right.

MR. KELLEY: Anyway, my name is Robert Kelley. I’m the General Manager of the Stevinson Water District. But more than that, I’m a sixth-generation Californian agriculturalist, living in Merced County and quite proud of it. I’m here testifying on behalf of the landowners in the Stevinson Water District and the Merquin County Water District, approximately 1,300 acres of irrigated land, including the town of Stevinson.

It’s a disadvantaged community.

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

This is, you know, part of the job, you
know? You know, we’re being regulated, that’s fine. But our supply is being threatened at the same time with this proposal. And it’s -- you know, when you get less water, it’s going to impact the wetlands that we also have. And in my mind, not only agriculture but the wetlands and the species that occupy it are being threatened in our area, so they deserve the same protection as the salmon.

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

I’ve been working very closely with Merced County in the development of GSAs and the sustainable job that we have, and it’s a huge job. We’re creating an entirely new bureaucracy
of managing groundwater that didn’t exist before, and it’s very daunting. You know, as I’ve gotten into it I realize that our jobs are just starting to get very, very difficult. So this proposal is, frankly, very scary in the job that we have to do going forward.

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

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

I wanted to also, because a lot of the stuff was already discussed, I wanted to point out with respect to the decline in the salmon population, as has been mentioned before, there are many factors involved. And that the decline, it just appears to be that these -- it’s unclear as to the actual, you know, cause of it all. The
Lower San Joaquin tributary system may never achieve optimum temperature levels due to climate change for reversing this decline in salmon. I think particularly, you should go farther south. This temperature problem is going to be increasingly difficult to find any kind of significant numbers of salmon that are going to make it.

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

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

CHAIR MARCUS: Right. And I’m going to gently suggest that you wrap.

MR. KELLEY: That’s it.

CHAIR MARCUS: All right.
MR. KELLEY: That was it.

CHAIR MARCUS: You’ve been very gracious.

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

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

(Applause.)

(Colloquy Between Board Members)

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

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

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

CHAIR MARCUS: You just -- there’s a button right there.
MR. SWEIGARD: It’s on? Okay.

CHAIR MARCUS: It should be on. Okay.

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

CHAIR MARCUS: Thank you.

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

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

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

MR. SWEIGARD: Okay. But we’re going to do our best to get it all in. We’ve been
practicing and we think we’ve got the times down.

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

Our average family farm size is 50 acres, and we produce over 50 crops in this area, 130,000 acres irrigated in the district: 175,000 in the basin receive water from Merced Irrigation District in some way, shape or form; 5,000 of that is a National Wildlife Refuge that we give 15,000 acre-feet of water to per year. Stevinson Water District, you just heard Bob Kelley, we have an agreement with them where we have to provide water to them first, 25,000 acre-feet per year. We also put water in the river for Merced riparians -- Merced River riparians. And as
you’ve heard, we provide groundwater recharge benefits to this 500,000 acre groundwater basin. And everything we do protects drinking water quality in the basin.

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

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

CHAIR MARCUS: Uh-huh.

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

And I think it’s important to the
discussion we’re talking about, flows from 1992
to, you know, some year present. Due to VAMP and
other water transfers that Merced had done, we’ve
released twice the volume that we’ve been
required to by regulation down the Merced River
since 1997, including spring out-migration flows
and fall attraction flows.

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

But one thing we did notice about the
second draft is, although we have been asked for
hard data, we haven’t had a sit-down with anybody
to explain what that data means. As it’s being
suggested, water operations are complex on
rivers, et cetera. Well, they’re just as complex
for the way we manage the river and our water
supplies and our conjunctive water management practices, and those things need to be explained as to why the data may be the way it is and not just interpreted in some other fashion. I think that’s important.

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

From there, we had more public input, comments, response to the draft EIS, and we had a public meeting in Merced, much attended, like this, much emotional, like this, but also, as you’ll get from the rest of our team, a lot of science and understanding of the local system and how our water rights work, how the river health has been taken care of. And we believe, to
FERC’s credit, they took that input, went back to the drawing board, as being suggested here, as I read on your website and your process that that’s the intent, and they came back with a final Environmental Impact Statement with some modified flow schedule that we believe was reasonable and balanced to protect the fisheries. And it was a decrease from what the draft proposed.

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

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

So we have Phil McMurray here to my left. He’s going to -- he’s our legal counsel, General Counsel at Merced Irrigation District. He’s going to discuss legal, CEQA, water rights, water
Lee Bergfeld is a very integrated part of our team. He deals with our water rights, water supply and implementation.

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

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

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

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

The SED and implementation of it is required to be based on substantial evidence. When developing and balancing a water quality objective the Board is required to consider and balance all of the different competing demands
for water. In going through the more than 3,000 pages of the SED, it doesn’t look like the Board seriously looked at or paid consideration to the demands or uses for water by Merced Irrigation District or our customers, nor seriously considered economic impacts on our community -- sorry about that -- impacts on our community or across the valley.

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

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

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

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

As everybody in the state, especially within our community, has become painfully aware over the last few years, groundwater is a very limited resource. Our groundwater basin in particular is overdrafted, and it’s been identified by DWR as critically overdrafted. And we believe that it’s illegal and it puts our community in an impossible situation when, on one
hand, we’re being asked to pump more groundwater, but at the same time, we’re being required to pump less groundwater.

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

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

In fact, our team asked State Water Board staff at its technical workshop if those concepts were to be included as part of the project in a regulatory requirement that the district would have to meet it. The answer wasn’t very clear, but we understood the response that they would not be regulatory requirements. However, and to
the contrary, we read the SED pretty plainly to include them as tools that’s intended to be used by the Board.

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

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

I have a slide here that goes through some of the assumptions that the district has had
to make, both in preparing our comments today and
our written comments. And as you can see, there
are significant assumptions about key aspects of
the SED. But we go into much more detail than
that in our written comment.

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

However, on the other hand, you have
Merced Irrigation District and our sister
agencies on the Tuolumne going through the
process of relicensing our hydroelectric
facilities. The normal 401 process is intended
to ensure that impacts to water quality in the
area of our project and that result from our
project are mitigated for. Here, however, rather
than going through a water rights proceeding, the
State Board has clearly said it’s going to
implement the SED by imposing its authority under the 401 certification process.

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

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

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

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

I’d like to introduce Lee Bergfeld with MBK to talk about impacts to our water supply. Before he takes over, though, the last point I’d like to make and touch on is that the SED clearly violates the water rights priority system that has been established in California for more than 100 years. Merced Irrigation District holds some of the most senior rights on the Merced River, some of those dating all the way back to 1857. It’s simple Water Rights Law, that when a call on water is made or if there’s a water shortage, polar junior water rights are supposed to give up that water before more senior water rights are impacted. We don’t believe that the SED respects that.

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

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

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

The yellow line here represents that same
inflow reduced by 40 percent. So this would be the volume of water that’s required to flow downstream to meet the compliance with the flow alternative suggested in the SED.

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

We performed this analysis over 45 years, using the historical data. And what we found in doing so was that there is an impact to that pre-1914 claim in approximately four out of the five years, or about 80 percent of the time, and across all water year types, from critical years through wet years. And that more than half of that impact by volume occurs in June; and June is the month when it’s most likely that there would
be an impact. So this is important in the sense that it’s in effect and, I think, goes beyond an emergency action being effected upon MID’s pre-’14 water rights.

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

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

CHAIR MARCUS: This is something that’s come up. There’s been a requirement in the code, I’m not talking water rights now, I guess it’s public trust, but there’s been a provision in the code that later was codified in the 5700 series,
that when you put a dam you promise to keep fisheries in good condition below the dam.

How does MID look at that requirement?

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

CHAIR MARCUS: People seem to have different views on it. That’s why I wanted to know --

MR. SWEIGARD: Well, look --

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

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

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

MR. BERGFELD: So now I’d like to move a little bit to the water supply impacts associated
with the Lower San Joaquin River flow alternatives in the SED.

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

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

Moving into the flow requirements that are included in the SED, this figure illustrates three different regulatory conditions. One is
the current requirement, and those are the blue bars. It’s what MID operates to presently.

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

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

When you take that information and you simulate how those changes in the minimum flow requirements would translate into a change in MID’s ability to divert water at their canals, you can prepare a figure that looks like this.

And this is the average annual, by year type, MID canal diversions, when we simulate these, three different regulatory requirements. And of
particular interest are over on the far right in the dry and the critical years.

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

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

First, the flow requirement specified as a seven-day running average, the minimum flow, which would mean that for the February through June period the minimum flow requirement would be changing almost daily, if not on a daily basis. I think that would provide significant challenges to operating a reservoir, to meet a flow
requirement of that nature. As well as, I believe Mr. McMurray has already mentioned, the fact that the compliance point would be 50 river miles downstream of MID’s last point of control on the Merced River, down near the confluence with the San Joaquin.

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

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

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

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

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

MR. BERGFELD: Sure. And then the analysis that’s been done in applying some of
these things, such as the carryover requirement and the flow shifting, when it’s unclear as to whether they are included in the project or whether they would be a requirement or not, it makes it appear that the modeling is done to look at the environmental impacts that would occur when you push more water out of the system in February and June, and then eliminate some of those impacts through some of these other mechanisms that may or may not be part of the project. It’s very clear. And I think staff has -- your staff has come to the recognition that requiring more flow February through June can create temperature impacts in the river in other times of the year.

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

And lastly, then there’s some significant underestimation of the water that would be exported at the federal and state pumping plants in the south Delta when we increase the Lower San Joaquin River flows. And that’s included in the
analysis, but I think the analysis has missed the
current requirements that limit export
restrictions through these periods, such that
it’s underestimating how much would be exported.
And that means that it’s overestimating how much
would become Delta outflow.

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

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

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

So the SED, in our opinion, did not do enough work under the programmatic analysis to look at water rights implications, which is
migration of groundwater out of the basin. And groundwater availability will be decreased because less recharge. Groundwater quality, especially drinking water, will be impacted to the 150,000-plus population in this basin, which are disadvantaged communities, also. And the recharge goes away, as you know, with Merced ID not having enough water to run. And subsidence, which is going to be quite dramatic. And this is a very important point for the staff to look at very carefully because it may be undoable when it starts, as it’s going now.

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

This is an important slide. The colored area shows the Merced Groundwater Basin, roughly. And in the middle, smack in the middle of that is the Merced Irrigation District. And Merced Irrigation District is surrounded by negative characteristics all around. So to the north and
south, you can see these extreme cones of depression. To the west, you have saline water under the San Joaquin River. And then to the south, there’s subsidence. And you also see in blue up to the northwest is the recharge area, which is quite limited. And, actually, half of the recharge would go back to the Merced River, so we don’t have a lot of opportunities there.

And so basically Merced Irrigation District is the linchpin that is holding that whole area. Otherwise, you’ll have quite a collapse.

This shows the contours, as shown on DWR. And basically, we ran a cross-section through the cones of depression south and north and through the City of Merced, just to show you that the blue line here is basically the groundwater static levels and hydrostatic levels. And you can see how the groundwater is migrating into the right, which is the Chowchilla Groundwater Basin, and to the left, which is the Turlock Groundwater Basin, along the cross-section, which would add a new challenge as far as water rights goes because the Chowchilla Basin is within the Friant Unit, which is not impacted. Yet Merced Irrigation
District is providing water under the SED for the San Joaquin River, and yet groundwater is also escaping to the Friant Unit.

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

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

And this slide shows the impacts on groundwater quality, which is quite serious. And to the left, the lighter colors show lower concentration. And we’re only looking at salinity here, not specific other chemicals. But on the right side, you can see how it gets darkened, especially around the City of Merced in the middle and the Cities of Atwater and
Livingston along Highway 99.

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

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

So finally, I want to say that the timing
of the SED couldn’t have been more difficult and any worse. Because having the SGMA, and also coming after a drought, to implement this immediately is going to basically break first the areas that have the most senior water rights.

And with that, I’ll pass it back to Mr. Lynch.

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

I find when looking forward, it’s always good to look back a little bit. So I what I looked at was what is the Bay-Delta fall-run escapement historically, and what’s the Merced River contribution to that? So this is a slide that has escapement, fall-run Chinook escapement on the vertical access, and years from 1975
through 2015 on the horizontal access. And what you can see is this tremendous variability, which is to be expected and we all appreciate. What you can also see is that the total escapement, which is around 280,000 fish on average -- taking an average on something like this a little misleading but it is a number we can use -- is around 280,000 fish. And the vast, vast majority of those come out of the Sacramento River.

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

So I looked forward, I looked ahead and said, what does the SED say? And the numbers aren’t particularly easy to find in the SED. But we have heard a number thrown around here today quite often, around 1,100 fish. And that is the number that’s in the SED, and it’s for the San Joaquin River escapement, not for Merced.
So I took a look at that and did some simple math. I think that somewhere in the SED the numbers are there, or maybe in one of the model outputs, but we haven’t been able to find it yet. So just doing some simple math, if you looked at the historic contribution of the Merced to the San Joaquin River out migrants or escapement, it’s about 37 percent. Excuse me. If you multiple 37 percent times that 1,100, you get about 400 fish.

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

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

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

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

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

So now looking at that shifting, you can see that the water temperatures go down. And an ESA-listed species for critical habitat, there’s really not many, if any, steelhead in the Merced,
but the critical habitat gets significantly affected, which is a serious concern when you’re talking about ESA-listed species.

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

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

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

And I think what you’ll see is that
there’s a lot going on in the Bay-Delta besides just flow, and that’s basically what you have to look at. But the broad statement, put more flow at Vernalis, better escapement, needs to be supported much better in the SED.

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

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

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

In terms of floodplain, floodplain is a
very tricky concept in fisheries. And a lot of people confuse it, so we’ve often found that you really need to define it very, very carefully. Floodplain has a lot of denotations and connotations across society.

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

So you really need to look at things like nutrients, food productions, the quality of the floodplain. And then you have to be very specific of what floodplain you’re talking about. Because if you look in the Merced, at least in the upper areas of the Merced that we’re talking about where a lot of the production occurs,
you’re looking at an area that looks a little bit like a moonscape. It’s mostly rock. It’s the result of an awful lot of dredger mining and windrows.

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

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

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

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

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

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

And I apologize for not being more
specific, but the generalities I’m giving you is 
because that’s what we’re dealing with. It was 
hard to find the data and dig down into it.

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

Also, there’s a lot of statements that 
aren’t well-founded. For instance, there’s a 
discussion about how the reservoir changes effect 
fish in the reservoirs. And I think there’s a 
seven-foot criteria used. And when we looked at 
the references to document -- I think it’s a 15- 
foot, actually. When we looked at the references 
that documented that, they actually don’t say 15 
feet, they say closer to 1 foot. So there’s 
inaccuracies. And all the analysis are based
upon using those references.

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

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

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

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

MR. SWEIGARD: Well, I would respectfully ask that even though it says 46 seconds, that I get a little bit more time to close us out here,
given the time we’ve put into this.

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

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

We’ve talked about economics quite a bit. I just want to put out there that we have a PhD-
level work product that indicates in Merced County that the impacts are going to be $230 million a year and almost 1,000 jobs. I would suggest that the State Water Board and staff use that as they develop their information moving into May. I have some more detailed information in here as to what was left out and why we think it should be included, but we’ll put that in our written comments to save some time.

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

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

And we also have approximately 240 houseboats on Lake McClure that provide about
$300,000 in annual property tax revenue to
Mariposa County. So I think at some point
they’re going to want to weigh in on this also.

And we’ve heard a lot about the
discrepancies on the benefits of two salmon for
this plan. And look, I think absent having
details and a detailed plan and this vague
adaptive management process, this is what we’re
left with, we’re all left to guess as to what’s
going to happen. And that’s not a very -- that
doesn’t give us a warm, fuzzy feeling at all.

It’s not how you -- you can’t manage an
irrigation district that way, I can tell you
that. And I can give you some examples.

So if you put yourself in our shoes, you
know, we’re faced with this. The State Water
Board is suggesting they’re going to run some
water leger from January to February -- to June
and it’s going to be this number. And they may
or may not release that water in that time
period, and they may or may not want to carry
that water over into storage in our reservoir to
release at some other date in time for some
purpose that we may or may not even know what it
is. And as you’ve heard, that has impacts to
temperature, et cetera. It has impacts to our water supply.

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

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

You know, nobody really likes to talk about the benefits of reservoirs, but these reservoirs keep rivers alive during droughts, during late summer seasons, almost, you know, in most years. And quite frankly, we release stored
water downstream that benefits a lot of other
economies through water supply. That hasn’t been
evaluated and the change in that timing.

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

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

We have a poster board in the back and we
have one up here. We’ve done extensive 2D
ecosystem modeling on how exactly that should be
done and all the benefits derived for the
salmon’s lifecycle while they’re in the Merced
River. You should absolutely take a look at
that. I mean, that, to us that’s real science, and we’re putting it out there for everybody to see.

CHAIR MARCUS: Good.

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

And then, of course, we need to address predation. Whether people agree with me or not, I think there’s plenty of information out there that shows predation is a problem, even the own actions of California Department of Fish and Wildlife by shipping salmonids from hatcheries to the Delta shows that there’s a little bit of a concern --
CHAIR MARCUS: Uh-huh.

MR. SWEIGARD: -- on their part also.

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

And you heard Senator Cannella mention earlier, you know, legislation targeted at kind of pulling the rug out from underneath the districts if they choose to challenge Water Quality Control Plans for their legality. And that just gives not -- it’s not a Water Board issue specifically, I don’t know, maybe it is, but it’s definitely a mistrust of Sacramento
issue, and these things all tie together.

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

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

MR. SWEIGARD: Well, good --
CHAIR MARCUS: Everybody’s --
MR. SWEIGARD: -- because now I don’t
feel alone.

CHAIR MARCUS: Everybody’s in, yeah.
MR. SWEIGARD: Right.

CHAIR MARCUS: You shouldn’t feel alone,
to be sure. And hopefully everybody will come
together to come up with something.

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

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

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

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

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

CHAIR MARCUS: Uh-huh.

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

And so this perception issue is a major deal. This adaptive management thing is absolutely terrifying. It does not give us any good feelings. And we’re struggling to find out what the benefits are actually going to be.

We’ve seen water leave regions and never return. The fish are still struggling. Fish have gone up
and down. It seems like the fish in the Delta have been in peril for decades, and they continue to be in peril. Maybe they always will be. Maybe it’s time for us to acknowledge that the Delta is what it is. We live in man-made system. And you’ve heard a lot of discussion about humans and I think, you know, we all need to be part of that.

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

CHAIR MARCUS: Of course.

MR. SWEIGARD: -- absent the SAFE Plan.

So with that, I want to thank you guys for coming to Merced today. If you have any questions and you want to spend a little time in more detail, not only today, we’re always available. We’ve done tours. Steven has come out and done tours. Your staff has come out in prior years. And we offer that to anybody and everybody --
CHAIR MARCUS: Thank you.

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

CHAIR MARCUS: Great.

MR. SWEIGARD: Thank you.

CHAIR MARCUS: Thank you.

(Applause.)

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

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

I want to try something so that people can go. And we do need to take a lunch break.

And this is something that the Air Board does
more than we generally do. I know a number of you have come to indicate your support and you -- or support for the community, opposition to various things in the SED or things you’ve heard are in the SED.

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

So while we take the next elected official, think about whether you would prefer to just come -- we’ll get -- we’ll just -- people will just get up in line on either side and we’ll
alternate just saying, you know, I want to
register my support for what so and so said. And
if that’s all you’re going to say, we’ll just
take you all now, and then you can go ahead and
get home. Other than that, we can do a few,
perhaps, and then take a lunch break. But I
can’t get to everyone who said they have to leave
by 1:30 if we do two- or three-minute comments.

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

Hi, Tim.

All right, we’ll hold that, in case he
comes back.

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

MS. SPIVY-WEBER: Here’s someone.

CHAIR MARCUS: I feel like I saw someone
coming.
MS. SPIVY-WEBER: The volunteers.

CHAIR MARCUS: Come on down.

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

CHAIR MARCUS: Thank you.

Anyone else?

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

So thank you for attending.

CHAIR MARCUS: Thank you for attending.

Appreciate it.

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

Thank you very much.

CHAIR MARCUS: Thank you.
Others? Sir?

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

CHAIR MARCUS: Well said.

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

The most important thing from World War I until now is the agriculture and the farmland. It’s our vegetables and our food. And most of all, it’s the milk. When the ladies go to the grocery stores to feed the babies. That’s the most important thing.
And another most important thing is the future farmers of America. They’re the ones that take over and over and over to make sure that our products are going forward in the land of the United States of America.

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

Thank you.

(Applause.)

CHAIR MARCUS: Thank you, sir.

UNIDENTIFIED MALE: You’re welcome. And I salute you all.

CHAIR MARCUS: Thank you, sir.

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

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

Thank you.
CHAIR MARCUS: Thank you, sir.

(Applause.)

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

MS. FLORES: Oh, it’s okay. Don’t worry about it.

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

Thank you very much.

(Applause.)

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

MR. DEWEES: Dan Dewees, endangered
species, beef cattle producer, Farm Bureau Member, and MIDAC, Merced Irrigation Advisory Committee Member.

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

MR. DEWEES: Dan Dewees.

CHAIR MARCUS: Dewees. Thank you.

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

CHAIR MARCUS: Thank you.

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

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

MR. HAWKS: I completely agree with the Merced Irrigation District’s SAFE Program.

CHAIR MARCUS: And, I’m sorry, your name?

MR. HAWKS: My name is Jeff Hawks --

CHAIR MARCUS: Great.


CHAIR MARCUS: Thank you.

MR. HAWKS: I completely agree with the
MID SAFE propositioned program as presented this morning. I think it’s a viable answer to all of our problems. I just wanted to express that to you.

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

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

MR. HAWKS: -- you’ll find it interesting.

CHAIR MARCUS: -- we can’t even hear you talk about it --

MR. HAWKS: Thank you.

CHAIR MARCUS: -- outside the -- it’s crazy but it’s the way the -- we’re like judges in that way.

MR. HAWKS: I appreciate --

CHAIR MARCUS: I’m so sorry.

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

(Applause.)

CHAIR MARCUS: You can watch all of those
hearings, also, on video.

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

CHAIR MARCUS: Hi.

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

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

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

CHAIR MARCUS: That’s Water Code.

MR. TESSIER: Water Code?

CHAIR MARCUS: Yeah. It’s Porter-Cologne.

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

CHAIR MARCUS: Yeah, passed in --

MS. SPIVY-WEBER: -- ‘69.

CHAIR MARCUS: -- ‘69, I think, yeah.

MS. SPIVY-WEBER: Back in ‘69.

CHAIR MARCUS: It’s kind of old. There
actually is, but we can --

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

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

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

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

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

CHAIR MARCUS: Thank you.

MR. TESSIER: -- thank you.
CHAIR MARCUS: That’s what we’re here to hear.

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

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

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

And thank you again for the opportunity.

CHAIR MARCUS: Oh, thank you for listening.

(Applause.)

MR. WOOD: Good afternoon. My name is Roger Wood. I have a lot of history here. I’m 76 years old. My father was an MID board member...
from the early ‘30s until the new dam was finished. And we’ve never had years like we’ve had now.

CHAIR MARCUS: Right.

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

CHAIR MARCUS: Uh-huh.

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

Thank you.

CHAIR MARCUS: Yes, we will.

(Applause.)

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

What impressed me was that, upon talking to the individuals there, that the salmon
released from the hatchery were actually put into boats and dropped in the Delta. And they have sonar imaging technology that actually has to find striped bass populations and drop the --

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

MR. METCALF: Yeah.

CHAIR MARCUS: -- you agree with somebody

MR. METCALF: Yeah. No, but --

CHAIR MARCUS: -- who has already spoken.

MR. METCALF: Okay.

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

MR. METCALF: There’s two people behind me. Sorry.

CHAIR MARCUS: Just go quick.

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

CHAIR MARCUS: Uh-huh.

MR. METCALF: My point is that this is a charade. It’s not about salmon. This is about mitigating water flow into the Delta because of the loss of water from the Sacramento because of
the WaterFix Plan, which you guys will not allow us to talk about.

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

MR. METCALF: It’s not a conspiracy theory, it’s factual --

CHAIR MARCUS: No. It is --

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

CHAIR MARCUS: It is --

MR. METCALF: -- run this through.

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

MR. METCALF: Okay.

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

MR. METCALF: Well, you can’t -- you can’t --

CHAIR MARCUS: But I don’t want to get --

MR. METCALF: -- increase flow --

CHAIR MARCUS: -- into an argument.

MR. METCALF: -- from our rivers after the tunnels are created.
CHAIR MARCUS: It’s a more --

MR. METCALF: You have to do it before.

CHAIR MARCUS: Excuse me.

MR. METCALF: So that’s why you’re here now.

CHAIR MARCUS: It’s much more complex.

MR. METCALF: Okay.

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

MR. METCALF: Which is --

CHAIR MARCUS: And you all are --

MR. METCALF: And the SAFE Plan --

CHAIR MARCUS: -- quite --

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

CHAIR MARCUS: Thank you very much.

MR. METCALF: -- are talking about.

Thank you.

(Appraise.)

CHAIR MARCUS: Next?

MR. BRAZIL: Good afternoon. My name is Helio Brazil. I’m the Superintendent of McSwain School District, and I was a former
superintendent of the Merced River for over 14 years.

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

CHAIR MARCUS: Sure.

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

So thank you for your time.

CHAIR MARCUS: Thank you, sir.

(Applause.)

MS. WESTMORELAND PEDROZO: Good afternoon. My name is Diana Westmoreland Pedrozo. And I had asked for an opportunity to speak because I was going to a doctor’s appointment that I cannot rearrange. And I had a nice little speech that I was going to give, trying to get down to three minutes. But I’m going to day, it matters where and how we plant people, food and fish. We matter. All of us here matter. You matter. None of you live in an
area that wouldn’t exist without dammed rivers.

I hope you guys consider that, the dammed rivers. We don’t have unimpaired flows anymore. We have people that are living in this state that are going to be -- it’s over 40 million. How are we going to feed ourselves?

I agree with the SAFE Plan. You need to implement it. And you don’t need to go over what they’ve asked and said they would do. You just need to implement what all the irrigation districts have been doing and are willing to do.

Our food is important. How we grow it, where we grow it, it all matters. We need water. And without the discussion about more storage for cooler water, it’s ridiculous to even be here.

So this piecemeal approach is not practical, it’s not good. It’s not good for our tax dollars. It’s not good for the future that you just saw here, a fantastic group of young people here, the largest FFA Chapter, all urban, in the State of California, along with others that were here that weren’t able to speak and had to leave.

So I ask you, we can’t -- we can give you written comments. Are you going to read the 400
pages? Are you going to read all the comments that we’re going to submit? Because we were here en masse. We were here en masse, but we’re not. But believe you, we will continue to keep our feet here and live.

My grandson will be seventh-generation resident of Merced County. They came to farm here after the gold played out. We have rearranged our community and our state. We have to live in what our reality is today --

CHAIR MARCUS: Uh-huh.

MS. WESTMORELAND PEDROZO: -- not what we wish it was, not where it was, what you think is going to be here. That’s what the presentation to the Board of Supervisors was, well, we’re assuming, we believe. That is not a document that is legally protected.

So I ask you and all you gentlemen here, and I do see a women up there, I’m sorry, you’ve been blocked from my vision, you need to take it seriously, what we’re asking you to do, and consider us as important as you all are, where you live, that you wouldn’t have the water you have without what we have done and the ability to feed yourselves.
I agree with Congressman Costa. I have said this for 20 years, this is a matter of national security. If we cannot feed ourselves, where are we going to get our food? Do you want to rely on China? Hell, they were trying to kill their kids with their formula. Our pets were at odds. Come on, we have the safest, most abundant food supply right where you’re standing --

CHAIR MARCUS: Right.

MS. WESTMORELAND PEDROZO: -- right where you’re standing. We built on the most productive land throughout this state. So where are we going to be 40, 50 years from now? The decisions you make today are very important. Please consider us all.

Thank you.

CHAIR MARCUS: Thank you very much.

(Applause.)

We will now take a break for lunch until 2:00. And I think this --

MS. SPIVY-WEBER: One more. We have one more. One more. One more.

CHAIR MARCUS: One more? Oh, I’m sorry, I didn’t see. Please go ahead, of course.

MS. SPIVY-WEBER: Oh, two more.
CHAIR MARCUS: Two more. Fine. No, it’s fine if people go quickly. It’s not an opportunity to do two or three minutes, just again, out of courtesy to everybody else.

MS. WALSH: Okay. Thank you very much. I am Susan Walsh. I am the Interim Superintendent and President of Merced College. And I am here to agree with many of the elected officials that spoke earlier today.

Merced College has 9,500 full-time equivalent students which are made up of 12,000 or more unduplicated individuals. They are the sons and daughters and grandchildren and the -- grandchildren, sons and daughters of the employees of the people who stand behind us. And the kind of hit that this would represent to our economy, $230 million, 1,000 jobs has, pun intended, a downstream effect on young people and families who are trying to better themselves by going to school. Far too many of our students, over half, qualify for financial aid. Far too many have income insecurity, housing insecurity, even food insecurity in such a food-rich region.

And when you talk about consequences and the effects of what this would do, I want to echo
what the elected official said about the
challenge to our economy and put the face of my
students on that challenge.

Thank you very much.

CHAIR MARCUS: Thank you very much.

MS. BURROUGHS: Thank you, Madam Chairman, Members of the Board, and community at
large. My name is Rose Marie Burroughs. Our
family has farmed here in California for over 100
years.

You have heard of the travesty that will
occur if the proposed proposition of this water
take goes through. I pray today that you will
have heard our message and that you will stop
what you’re doing and work in a holistic manner
to find the solutions for everyone.

And I’d also like to bring it to the
attention that when you’re looking at a holistic
approach, there’s more than one solution. And in
Sacramento, in the Sacramento River the ammonia
that is being let out in the river that effects
the plankton and every ecosystem on that river is
one of the major causes of our loss of salmon.
So let’s stop the ammonia pollution in the
Sacramento River first, and do all the things
that we can do before you destroy all of the
people in our communities.

Thank you.

CHAIR MARCUS: Thank you very much.

(Applause.)

And thank you for your humanity earlier
today. I appreciated it.

MS. ADAMS: Hi. I guess I’m your sneak-in person here.

CHAIR MARCUS: No, that’s all right.

Just --

MS. ADAMS: My name is Nicola Adams.

Thank you so much for allowing me to come here
and speak. I am not a farmer. I am not a
teacher. I’m a mother, a mother of five, a
grandmother of nine, a community activist. I
work in our community with all parts of our
community.

My thing is, I’m going to tell you a
dream I had which really scares me. I woke up
one morning and I went to my kitchen sink, and
when I turned on my sink, sand came out of my
faucet. This nightmare that I had is a reality
for a lot of other people, and we have to really
think about that. There are places that are
getting their water that are being brought in.

Farming is one of the staples of our community. It is what has made California, basically, a Golden State, is farming. In this community alone we have over a $3 billion industry with our almonds, walnuts and pistachios. That’s people’s lives.

When I go to the grocery store, because I don’t farm, I depend on these people out here, all of them, to bring to my grocery store what I need in order to feed my family. So we have to take care of them in order for me to be able to take care of us.

And so implore you, that whatever my Congressman said, I can’t repeat what he said but I remember some of his words, that it’s looking out for us, that it’s looking out for my family, that it’s looking out for my grandchildren, that it’s looking out for these families, that it’s looking out for these young kids when they come up and have families of their own. We have to put in place things for future generations, not just who you see here standing before you, but for people who are yet to be born. And so we have to put things in place for those farmers who
are going to come up who are yet to set foot on a
farm.

So please, please, I implore you, look at
this and do what’s right, not just for us here
but for our future generations.

Thank you.

CHAIR MARCUS: Thank you very much.

Thank you.

(Appause.)

That’s, you know, that’s a nice note to
break on, too, so let’s come back at 2:15,
because I think people do need to move cars. And
then I will ask that someone help go through
these cards and figure out who’s already spoken.
And we’ll all see you back at 2:15.

(Off the record at 1:30 p.m.)
REPORTER’S CERTIFICATE

I do hereby certify that the testimony in the foregoing hearing was taken at the time and place therein stated; that the testimony of said witnesses were reported by me, a certified electronic court reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting.

And I further certify that I am not of counsel or attorney for either or any of the parties to said hearing nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of December, 2016.

PETER PETTY
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Notary Public
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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 transcribed by me, a certified transcriber.

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IN WITNESS WHEREOF, I have hereunto set my hand this 26th of January, 2017.

Barbara Little
Certified Transcriber
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