BEFORE THE

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

Board Meeting Item Four: )
Consideration of a Proposed )
Resolution to Adopt )
Amendments to the Water )
Quality Control Plan for the )
San Francisco Bay/Sacramento- )
San Joaquin Delta Estuary )
and Adopt the Final )
Substitute Environmental )
Document )

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JOE SERNA, JR.-CalEPA Building

COASTAL HEARING ROOM

1001 I STREET

SACRAMENTO, CALIFORNIA

Tuesday, August 21, 2018

9:55 A.M.

Volume 1A

Reported by: Peter Petty
APPEARANCES

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

Division of Water Rights

Board Members Present:

Felicia Marcus, Chair
Steven Moore, Vice Chair
Dorene D'Adamo
Tam M. Doduc
E. Joaquin Esquivel
Jeanine Townsend, Clerk to the Board
Marji Popour, Executive Office

STAFF PRESENT

Eileen Sobeck, Executive Director
Jonathan Bishop, Chief Deputy Director
Eric Oppenheimer, Chief Deputy Director
Michael A.M. Lauffer, Chief Counsel
Andy Sawyer, Assistant Chief Counsel
William Anderson, Division of Water Rights
Phil Crader, Division of Water Rights
Erin Foresman, Division of Water Rights.
Tina Cannon Leahy, Office of Chief Counsel
Erin Mahaney, Office of Chief Counsel
Yuri Won, Office of Chief Counsel
Daniel Worth, Division of Water Rights
APPEARANCES (Cont.)

ALSO PRESENT:

PUBLIC COMMENTERS

Adam Gray, Assemblymember, 21st District
Kristin Olsen, Supervisor, District 1
Gary Soiseth, Mayor, Turlock
Mani Grewal, Councilmember, District 1, Modesto
Jennifer Buckman, Bartkiewicz, Kronick & Shanahan, for City of Modesto
Tony Madrigal, Vice Mayor, City of Modesto
Don Marshall, President, Small Boat Commercial Salmon Fisherman's Association
Lloyd Pareira, Supervisor, District 3, Merced County
Daron McDaniel, Supervisor, District 3, Merced County
Michael Frantz, Turlock Irrigation District
John Mensinger, Modesto Irrigation District
Will Wong, City of Modesto
Thomas Joseph
Marva Jones
Morning Star Galli, Pit River Tribe
Regina Chichozola
Dana Colgrove
John Buckley, CSERC
Robert Gore, Gualco Group & California Association of Wine Grape Growers
Heinrich Albert
PUBLIC COMMENTERS (Cont.)

Peter Drekmeier, Tuolumne River Trust
Richard Pool, Water 4 Fish
Tim Eichenberg
Ben Eichenberg, San Francisco Baykeeper
Emilie Strauss
Nancy Hinton
Roger Mammon, Communities & Fisheries of the West Delta
Carol Fields
Christopher Kroll
Janet Johnson
Barry Day
Teresa Hardy, Sierra Club, Bay Chapter, Water Committee
Noah Oppenheim, PCFFA
Chris Gilbert
Jim Cox, California Striped Bass Association
Tania Sole
Gail Sredanovic
Charlotte Allen, Sierra Club
David Zelinsky
Nina Gordon Kirsch, Sunrise Movement
Larry Byrd, Modesto Irrigation District
Susan Kishler
Les Kishler
APPEARANCES (Cont.)

PUBLIC COMMENTERS (Cont.)

Deeana Wulff, 44
George Hartmann, RD 2030
Sanford Goldstein
Joyce Parker
Melissa Thorme, Downey Brand for City of Tracy
Alicia Forsythe, Bureau of Reclamation
Dr. Michelle Leinfelder-Miles
Chris Shutes, California Sportfishing Protection Alliance
Sonia Diermayer
Michael Frost
Konrad Fisher
Grace Marvin, Sierra Club, Yahi Group
Julian Zener, Sierra Club, Yahi Group
Scott Ferguson, Modesto Irrigation District
David Bolland, Association of California Water Agencies
Breanne Ramos, Merced Farm Bureau
Lacey Kiriakou, San Joaquin River GSA Group
Tom Francis, Bay Area Water Supply and Conservation Agency
Barbara Barrigan-Parrilla, Restore the Delta
Rachel Zwillinger, Defenders of Wildlife
Robert Kelley, Stevinson Water District
Darcie Luce, Friends of the San Francisco Estuary
APPEARANCES (Cont.)

PUBLIC COMMENTERS (Cont.)

Kevin O'Brien, Northern California Water Association
Jerry Desmond, Recreational Boaters of California
Greg Salyer, Modesto Irrigation District
Jonathan Young, California Municipal Utilities Association
Emily Rooney, Agriculture Council of California
Andrea York, Almond Alliance of California
Mark Gonzalves
Todd Sill
John Duarte
Nick Blum, Modesto Irrigation District
Patricia Lopez
Jose Gutierrez, Westlands Water District
Jeanelle Steiner
Rhonda Reed
William Morris
Spreck Rosekrans, Restore Hetch Hetchy
Tom Biglione
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CHAIR MARCUS: With that, we are on to Item 4. And I do have to remind folks that the fire marshal has said that folks can't stand in the back of the room. There are still some seats here that are set up for speakers. We won't be getting to the speakers right away, so please fill in the empty chairs. There's nothing like an irate fire marshal and we do want to feel respectful of them.

And I'm starting to feel air, which should help. But Jeanine, if you can --

MS. TOWNSEND: I already called them.

CHAIR MARCUS: Again. You might have to call them again. I can feel it, so I think it's getting a little better, but it is pretty uncomfortable.

All right, with that let's move on to Item 4. And please forgive me, but since this is a formal proceeding, I do need to make some opening procedural comments, and I have to read them into the record.
So, welcome to this public meeting to consider two actions. Adoption of proposed amendments to the Water Quality Control Plan for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary, also known as the Bay-Delta Plan. And two, the supporting proposed final substitute environmental document, which is the analysis of the potential effects, both beneficial and adverse, of the proposed Bay-Delta Plan Amendments.

Substitute environmental documentation is quite a mouthful, although we've all gotten pretty good at saying it. But mostly we call it the SAD -- SED. So, that's what you'll hear a lot during today, I believe.

Today we're going to be hearing oral comments, but we won't be taking final action. Final action by the Board will be continued to a future Board Meeting. But the opportunity for comments will close at the end of the meeting days this week, so that we can then just consider them and think about what to do.

The proposed amendments include new and revised flow objectives for the Lower San Joaquin River and its tributaries, the Stanislaus, the
Tuolumne and the Merced Rivers for the reasonable protection of fish and wildlife, beneficial uses, and revised salinity water quality objectives for the reasonable protection of Southern Delta agricultural beneficial uses, as well as a Program of Implementation for these objectives.

As I said earlier, I introduced myself and the Board. Also assisting will be the staff today, Phil Crader and Erin Foresman, with the Division of Water Rights, and Erin Mahaney, Yuri Won, and Tina Cannon Leahy with the Office of Chief Counsel.

This meeting is being held in accordance with the Public Notice dated July 6, 2018, as revised on August 15, 2018.

We want all participants that wish to provide oral comments during the meeting to have the opportunity to do so. Since we have a lot of people here today and it's in all of our interests that the meeting be productive, efficient, and fair, I'm going to start by limiting oral comments to three minutes per speaker, and may adjust that as we go depending on how many people wish to speak today.

I know there are folks that have families
and work they want to return to. We're finding out how late we can -- it may already be set, how late we can stay in the room. Do you know?

MS. TOWNSEND: Nine.

CHAIR MARCUS: We can stay until nine, if we need to, and we're willing to do that. So that people can get home, if you wish to speak tomorrow, because you're going to be here both days, please just mark that on your blue card.

I'll talk about the blue cards in a minute and we'll try to manage it. Periodically, you'll see us shuffling them and trying to figure out what we have.

We do have, actually this time it's been easier, just a few agencies and stakeholders that have asked for additional time, in advance, to present, which we tend to do. I've granted those requests. However, we have also made clear that we're not going to take them all prior to members of the public, just as we didn't in the meetings that we held throughout the valley. It's so that we can get to those of you who wish to speak, that we don't see all the time. And I think all of them, as far as I know, are staying to tomorrow. I may take one of them or something
today, but I'll sort that out at a break.

Just so you know, we will be taking a few breaks for the court reporter. Fortunately, he's taking notes and recording it. And also, for those of you to be able to use the facilities and the like. I'll probably take a break at lunchtime for folks to go get some food.

My suggestion is we'll at least have a break in the midmorning and in the midafternoon. I would suggest at the midafternoon break, you know, if you can, grab a snack if you're going to want to stay through the end of today. Because even if we take another break later on, there aren't as many food venues right around here where you can grab food, other than snacks. And even then, once we get past the five and six o'clock hour.

So, I'll try and be mindful of that so that people have a chance to get some sustenance and keep our blood sugar up, so that we can converse with and listen to each other better.

And I'll look to my colleagues to help me with that because I tend to be more worried about getting people home, and back on buses, or whatever they need to do. And sometimes I have
to be reminded to take a break, so that people
can go get water, and food, and coffee, and
whatever else they need.

However, in that order I talked about
customary, particularly since we are nearing the
end of session and they have a tremendous amount
of work to be doing over at the Capitol, let
alone folks from local government who are here.

That will be up to them.

Please, also, if you're an elected
official or a staff to an elected official,
please fill out a card and be sure to mark it as
an elected official so the staff can actually
make sure we've got that -- we've got that in
order. But we're happy to extend that courtesy,
as we always do.

Of course, if you want to stay longer and
listen, that's totally great as well.

There will be no sworn testimony or
cross-examination of participants in this
hearing. But the State Water Board and its staff
may ask clarifying questions, which do not come
out of the speaker's time.
As I said, if you intend to speak on the issue, please fill out a blue speaker card and give it to the clerk, located in the front of the room, as early in the day as possible so that we can adjust the schedule as necessary to hear from the people that wish to be heard today.

A lot of you have traveled here to join us and have long trips home, so we're going to try and accommodate you.

If you're not sure if you want to speak, just fill out a card and mark "if necessary" and you can decide later on, when the time comes.

If you're in the overflow space, in the second-floor lobby, or this mezzanine, or in the Klamath Room, it may be a different room tomorrow, staff will be available to take your blue cards there.

I'm going to take them pretty much in the order in which they are received unless, you know, folks have planes to catch and stuff. If I get a million of those, it's hard to do, but we always try to accommodate as we can. But that should help, you have a sense of when you're likely to be called.

And I'll first call people five cards
ahead, so that you have a heads up that you may be coming up within five cards, which could be, depending on how long people speak, within the next, you know, 10 to 15 minutes, so it's time to make your way over here.

I'd also like to ask anyone, because the room is still very full in here, after you've spoken it would be kind of you to go to the other -- to go into one of the overflow spaces so that folks who are going to be speaking can move in here. I'd just ask that, just as a courtesy to your colleagues.

The deadline for submittal of written comments on the changes to the language of the Proposed Amendments was Friday, July 27, 2018. As specified in the July 6 Notice, the Board was seeking comments on the changes that were made to the regulatory language in response to comments. The comment period on the adequacy of the SED concluded in March of 2017 and the State Water Board will not accept further written comments on those issues.

The comment period on the changes to the regulatory language was in addition to a six-month comment period that was provided on the
Draft Proposed Amendments and the recirculated draft SED.

The Board is grateful for the wide engagement of stakeholders and other members of the public. We carefully reviewed those comments.

Written responses to the many comments that were received during the comment period are included in Volume 3 of the proposed final SED.

If you've already submitted written comments to the Board, consistent with the July 6 Notice, and wish to address the same issues orally, please just briefly summarize your comments when it's your turn to speak.

We understand that some people may want to comment on the plan amendment's relationship to the California WaterFix Project. We must be cautious here. The WaterFix Petition is the subject of an ongoing evidentiary, adjudicatory hearing by the Board that began in 2016. It is a separate and distinct proceeding from the Bay-Delta Plan update.

During the WaterFix proceeding there just can be no ex parte communications between State Water Board Members or State Water Board hearing
team staff, and any of the other participants regarding substantive or controversial procedural matters other than in that proceeding.

I know this is frustrating for some people, including many of us, but they're the rules we must follow. Potential merits or demerits of the WaterFix Project are not related to the State Water Board's consideration of the Proposed Bay-Delta Plan Amendments and are not appropriate topics of discussion at the meeting.

There will be flow conditions on that project, which we must also consider in that process under State law, but we have to do that in the adjudicative process, not here.

So, today we'll have a staff presentation, as we usually do, because this is also a meeting for us to hear from our staff together, and speak with each other, followed by public comments. The presentation will describe the Bay-Delta Water Quality Control Plan and the proposed revisions before us, why they're necessary, and will describe the environmental, economic, and other effects of the projection.

In addition, the presentation will summarize the past opportunities for public
comment and the comments received in the most recent revisions to the Proposed Plan Amendments. Unfortunately, there is quite a bit of misunderstanding and misinformation out there about what's actually being proposed. The response to comments documents that have been out for a while address many of those misunderstandings, not all. And reasonable minds can disagree about the merits of the proposal, about the science underlying the proposal, and the effects of the proposal.

And as Board Members, we want to hear concerns and points of disagreement to inform our decision. It's most helpful to us if the comments are directed to the current staff proposal as best you can, though, to help us consider ways to improve it. And I know that's not that easy to do, given all of the conflicting information out there, but please try.

As I said, when we get to public comment I will call speakers in roughly the order I've received them. When you come to the podium, in addition to what I said about speaking into the microphone, please state your name slowly and identify the organization that you represent, if
any.

Periodically, throughout the day, I may also give opportunities for those who wish to simply go on record as agreeing with a previous speaker to line up and say so, briefly, so that they can be recorded and recognized, but also get home or back to work sooner, if they need to, and aligning themselves with a particular statement.

Finally, at the request of the California Natural Resources Agency, and others, we will conclude this week's portion of the meeting with a presentation from the Departments of Water Resources and Fish & Wildlife on scientific methods they are developing to evaluate the relative benefits of flow and non-flow actions to protect native salmonid fish species in the San Joaquin Basin.

As I understand it, this is meant to illuminate how they or others might go about proposing combinations of flow and non-flow actions to show comparable benefits to fish and wildlife. That work can help with the formation of alternative methods of compliance that are allowed for in the Proposed Standards Update.

After that presentation, the Board
Members will discuss the proposal further with
each other, and give staff direction. We only
get to discuss matters before us with more than
one other Board Member in open session, so that's
very important to us.

So, that's how the meeting will be
handled procedurally.

But before we hear from elected
officials, who wish to speak early, and the staff
presentation, I would like to say a few words
about why we're here today and acknowledge the
cconcerns that are being expressed across a
spectrum of people about whether what the
proposal does goes too far or does not go far
enough.

As I've said before, I've said it to many
of you, this is really hard. And I don't say
that lightly. It's hard for agricultural
communities that are worried about how it will
affect their livelihoods when they are facing
multiple other challenges. It's hard for species
that are teetering on the brink of extinction in
an ecosystem on the edge. It's hard for
commercial fishermen and women who far the
destruction of their industry. It is hard for
Delta farmers who fear the loss of their way of life, too.

This decision is not about fish versus farms, or about people who fish versus people who farm. It is not about farmers from one place versus farmers who farm in another place. It is not about people versus fish.

It's not to triage or vilify one to the benefit of the others. It's not actually about good and bad. It is about how to balance competing goods which requires hard work and a healthy dose of empathy.

This discussion is about how to share the rivers and the precious waters that are California's shared heritage and treasure. It's about the need to sustain agriculture communities and the ecosystem well into the future, and all of these are California values and are what should make us one community struggling with challenging issues.

That said, the Board does have an obligation to act and is quite overdue to do so. In part, because it's so difficult. We and the Legislature recognized this years' ago.

What's missing from some of the
discussion around the action that the Board will consider is that it actually takes a new approach. Instead of prescriptive flows, meaning a fixed amount of water no matter what, on a fixed schedule that may or may not send flow at the optimal time to achieve its intended purpose, the Proposed Plan includes a lot of flexibility and an invitation to work cooperatively, to learn as we go, and to try new approaches. Including, important, real non-flow approaches that can better address all the needs that are being placed on these rivers. The plan actually invites that and has since 2012, even in the absence of agreements.

The Board has consistently and repeatedly expressed the view that voluntary agreements that implement the Plan Amendments present the opportunity to find a beneficial balance between flow and non-flow actions that can achieve the plan's goals and reduce potential water supply impacts.

We have a track record of accepting alternative proposals and other efforts. Some districts have offered outlines of plans that could offer promise with some more detail and
more flow. We know that discussions are ongoing in a confidential forum and hope that they are fruitful and that things can be presented to us. Even after the Board adopts the Proposed Plan Amendments, the invitation to bring non-flow measures to the table, such as appropriate habitat restoration, remains open. The flexibility included in the proposal allows the Board to reduce required flows significant, if robust non-flow measures that work together with the flow measures are implemented to reasonably protect fish and wildlife. They need to be concrete, substantive, and subject to transparency. They need buy-in from fish agencies.

That kind of collection action can help address community and environmental needs and evolve conflicting positions into effective partnerships to manage water, to sustain California's vibrant economy, and culture, and the iconic natural resources that are every Californian's heritage.

The proposal, itself, lays out a range of 30 to 50 percent to be left in the rivers to serve as a block of water to be managed
thoughtfully. And the proposal is to start at 40 percent. Our data shows that 40 percent during those months can do a lot to help the species. But there are many stakeholders that have urged us to start far higher, like 50 or 60 percent, as our 2010 Flow Criteria Report suggested, because of the extent to which fish and wildlife are struggling.

However, to balance those numbers with the challenges faced by water users, the current proposal starts at 40. Changes within the range, up or down, would take place after an open process in front of this Board, and allocation of responsibility to implement the plan will take place in a subsequent proceeding.

So, it's been a long process, with a lot more to go. It is a process and a proposal that has been made better by the contribution of many public agencies, nongovernmental organizations, and members of the public, including many people here with us today.

We look forward to hearing from you again today, and remain open to your observations, suggestions, and criticisms.

And with that, I'd like to ask any other
Board Members if they'd like to make opening comments before we proceed. No? Anything?

BOARD MEMBER ESQUIVEL: Yeah, I'll make a quick comment. You know, I am the newest member of the Board. I've been on the Board, now, for about a year and a half. And so, a significant part of this proceeding, at least the field hearings that this Board held, I was not present for.

But I have reviewed those field hearings. I've reviewed extensively the record and the information presented. And look forward to, hopefully, not having a repeat of the field hearing, but an evolution of the discussion there.

You know, holding the public seat, I take very seriously the need for our work to be publicly accessible, to be able to be discussed, for there to be a civil discourse, if you will. But I think, regrettably, sometimes, particularly an issue that gets very emotional or political, it can be hard to have that honest discussion. There is a lot of misinformation, fear mongering, sometimes.

And we see that not just in this
discussion, but a number of the other discussions that go on in our society right now, where it seems that misinformation easily kind of takes hold and the emotionality of an argument kind of trumps what is otherwise the logic, or the facts of something.

So, I look forward to today's engagement and appreciate everyone here because, I think first and foremost, it demonstrates how much we all care. And that we are from these communities. That we do have an identity as Californian's.

And so, I hope that through today and tomorrow we have an honest discussion and an engagement that is respectful. So, thank you.

CHAIR MARCUS: Thank you for that.

All right, I'm going to start with the elected officials who would like to speak, first. There are five. I suspect there will be more throughout the day. And if they put in their cards, and there are any others, or there are ones that have staff that anticipate they'll be coming later, please go ahead and fill out the blue card, and just mention the time, if you know it.
The five are Supervisor Kristin Olsen, Assemblyman Adam Gray, City of Modesto, Councilmember Mani Grewal, Mayor or Turlock, Gary Soiseth, and Councilmember Madrigal, from the City of Modesto.

ASSEMBLYMAN GRAY: Good morning, Madam Chair, Members of the Board and thank you for the opportunity and the accommodation at the front of the agenda.

As you noted, we have significant business before the Legislature over the next couple of weeks, and I'm sure they're going to have to return to that.

I appreciate Board Member Esquivel's comments that we want to let the conversation evolve around this issue.

A quick introduction. I represent the 21st Assembly District. For those in the audience, Merced County and Stanislaus County.

This potential Proposed Plan has, obviously, great impacts to a community where the predominant economic activity is agriculture.

Our communities depend heavily on groundwater. And the one comment I would have for the Board Member is if the conversation's going to
evolve, the proposal has to evolve. And we have
raised concerns. For the entire six years I've
been office, I've been before this Board. I have
had numerous communications to you.

We have had -- after significant demands
by our community, we finally got you down into
our community for testimony. We had concerns
laid out for you, almost none of which have been
addressed or responded to.

And I recognize this Board operates under
different rules than the Legislature does. You
guys live in a world where there's perhaps not a
lot of direct communication between the Board
Members. And that type of environment lends
itself to staff commanding and manipulating the
Board.

And, frankly, I'm going to need to see
some action on your part, and some evolution of
the thought, and perhaps some alternative
proposals from some of the Board Members here, or
we're going to have to question at the
Legislature is this, in fact, the body that's
appropriate to handle this issue.

If you guys can't do the job, if you
can't evolve the plan, if you can't respond to
significant concerns, fact-based, meet with stakeholders in the district and evolve it, then we're going to have to do our duty as a Legislature to, frankly, to oversight of this body and perhaps move it along in a different direction.

So, I won't repeat the concerns I've laid out before. You know them well. They're well-documented in letters and testimony. But it's time to see some movement on behalf of this Board towards a rational plan that can certainly be balanced.

The Chairwoman mentioned balance. This shouldn't be fish versus farmers. This shouldn't be the environment versus the economy. These are mutually important benefits and goals for the State of California.

But from where we sit, in my district this has been all take and no give. So, I'm not seeing the balance that we're referencing. You know, when we have ridiculous demands of 60 percent, so the Board starts at 40 and then says we're compromising by, you know, staying on the low end, that's just absurdity.

And we need to get real and deal with the
facts. If you can't deal with the facts and the Board Members can't take it upon themselves to put forth plans that make sense, then we'll revisit this next year with what this Board's authority should be.

So, with that, thank you for the time.

CHAIR MARCUS: Thank you.

ASSEMBLYMAN GRAY: And I'll let you get on to the rest of the testimony.

CHAIR MARCUS: Thank you, sir.

(Applause)

CHAIR MARCUS: Supervisor Olsen, nice to get to see you, again.


Good morning. I am here representing Stanislaus County and the Board of Supervisors on which I now serve. Welcome to the newest member of the Water Board.

And thank you for the opportunity to address your Board one last time on this misguided proposal.

CHAIR MARCUS: Maybe one last time.

SUPERVISOR OLSEN: Well, yeah.

CHAIR MARCUS: You know, it never ends, but yeah.
SUPERVISOR OLSEN: It never ends. It never ends, that's true, six long years. And thank you, also, for agreeing to postpone the vote at the request of Secretary Laird. And I believe as recently as yesterday, at the request of Senator Jerry Hill. We very much appreciate that.

You may see or hear a new side of me today, because simply put, our community is at our wit's end and we are just fed up. We have tried to work cooperatively with your Board and others so many times over the last six years to seek a different approach.

We have provided the experts, the science, and the data that demonstrate the failings of the Board's proposal and better ways to improve fish populations in the Delta, while imposing less harm to our communities and river tributaries.

And yet, at every turn the Board has refused to listen and hasn't even taken an inch toward us. The Board claims it would prefer voluntary settlements, but has refused to show any flexibility whatsoever.

In fact, the amount of unimpaired flows
being required has grown, rather than decreased. How can you possibly think you have any credibility in stating you'd prefer a negotiated settlement agreement? It's just nonsense, from our community's perspective.

Our communities and our State deserve better. This is not a people versus fish issue, as was stated. This is not a Delta versus us issue. I represented parts of the Delta Region in the Legislature. I love the Delta and I want to see it thrive. But the Board's proposal will not accomplish that.

Madam Chair, you and I have served on panels together. We've traveled as far as Australia together to study water policy. We both know there are more creative, innovative, effective and outcome-based solutions to ensure enough water for both the economy and the environment in all communities.

I'm disappointed to say that cooperation simply hasn't worked. I hate to see this move toward litigation because nobody wins from that. But the Board's sinister, arrogant, dishonest, and closed approach leaves us with no other choice than to begin fighting, instead of seeking
Yesterday, over 1,500 people traveled all the way here to Sacramento to attend a rally to protest the Board's proposal. It is our very livelihood that's at stake.

Republicans and Democrats, environmentalists and farmers, cities, counties, educators, young and old, all of us standing unified to say don't devastate our economy, our environment, our rivers. Don't steal our water.

Our area forefathers built and paid for our water infrastructure themselves. They had the foresight to invest in their future and our present, to ensure that we have ample water supplies, including drinking water for our cities, our farms, our schools, our businesses, our hospitals, and our families. Please don't just play the bully and dismiss that.

There is no legitimate reason to continue to push a proposal that has no basis in science or data and that will devastate our water supply and our economy.

Yesterday, today and tomorrow are our last-ditch efforts to say go back to the drawing board and work with us to develop a proposal that
inflicts less harm on our communities, and does a
much better job to help fish populations and the
Delta.

Thank you for your time. We urge you to
go another way.

CHAIR MARCUS: Thank you very much.

(Applause)

MAYOR SOISETH: Good morning. I always
hate following Supervisor Olsen.

My name is Gary Soiseth and I'm the Mayor
of Turlock. I represent an incredible city that
is committed to leveraging our water resources as
much as we can. We will no longer be discharging
our recycled water into the San Joaquin River.
But, instead, we will be using this water in our
parks and on our neighboring farms.

We have kept our aggressive conservation
regulations, requiring residents to only water
twice per week during the summer months. And we
have made the very hard policy decision to
increase water rates on our residents to pay for
the needed infrastructure that will lead to a new
source of drinking water.

Unfortunately, while the Substitute
Environmental document clearly recognizes
potential ecological benefits, it ignores these investments that we have made and tends to generalize, downplay, and deemphasize the potentially adverse impacts on the Central Valley's water supply reliability and sustainability.

Turlock is very concerned that your flow proposals will cause significant harm to our region, to our residents, and our businesses without achieving the stated objective.

As of today, my city is 100 percent dependent on groundwater, but our wells are threatened by high concentrations of arsenic, nitrates, and TCP. Six of Turlock's 19 drinking water wells have been taken offline and will require expensive treatment.

Turlock now only has 17 active wells, with 4 of those active wells needing very costly treatment. Even when we can treat these wells, our compliance with your new regulations brings them back at a much lower production capacity.

This is our reality.

But our communities don't just wait for our fate to be handed to us. We've been proactive, we've conserved where we can, and
we've invested where we can. Water use is 28 percent lower than the peak year of 2006, even though Turlock has added more than 2,000 people during that time frame.

Even though water use per capita has dropped drastically over the last decade, we continue to see a decline in aquifer levels and declining groundwater quality.

Hypothetically, even if we wanted to conserve our way toward water reliability by remaining on wells, we simply cannot. Recently, four test holes were drilled for new well sites. The results of those test holes indicated that none of those locations were suitable for a new well due to low quality, low production, or both.

Ironically, this Friday, after over three decades of discussions and wavering by leaders, the partnership of Turlock and Ceres will break ground on the wet well construction of the Stanislaus Regional Water Authority's surface water plant on the Tuolumne River. This means 9 billion gallons of surface water per year, for five decades will flow into the pipes of Turlock, Ceres, and hopefully surrounding communities, with many of them being disadvantaged.
This will lessen our groundwater dependence, allow for groundwater recharge, and will provide water for generations of Central Valley residents. The surface water project is a prime example of local solutions to our local reliability issues. Yet, your actions today could very well jeopardize our future and our way of life by limiting us only to the diminishing resource of groundwater.

I first stood right here, in front of you, on January 3, 2017, when I asked something of you then, and I'll ask it of you now. Please take a more scientific, comprehensive, and balanced approach to the declining salmon population. Please consider the very real economic impact to the citizens of Turlock and the entire San Joaquin Valley. And, please, work with us and not against us to find the solutions that take into consideration the environment, along with our economy.

Thank you for hearing Turlock's story and weighing seriously your actions on our community.

CHAIR MARCUS: Thank you. Thank you for all the work you do.

(Applause)
COUNCILMAN GREWAL: Good morning Madam Chair, Members of the Board.

CHAIR MARCUS: Good morning.

COUNCILMAN GREWAL: I'm here again to discuss the work and recommendations in the Substitute Environmental Document.

We wanted to understand why you would adopt recommendations that have appalling consequences for our city and our area. Modesto has some experience in conductive views that may have informed your Board, if you had cared to listen.

Our ratepayers, not the state or the federal government, built Don Pedro Dam and the reservoir. We paid for the infrastructure and the canals. And then, we approved and built, in partnership with the Modesto Irrigation District, a treatment plant so all of our citizens could have safe drinking water.

The state didn't do this, the federal government didn't do this, the people of Modesto and Stanislaus County did this, and it worked. In Modesto, our shrinking groundwater basin recovered. Conjunctive use of groundwater and surface water has benefitted all of us.
Now, you would end any hope to our area
to bring sustainability to our drinking water
supplies, without devastating our economies for
years to come.

When you first made this recommendation
in 2012, your Board said it would meet with our
technical folks and discuss information, data,
and assumptions. Truthfully, you never bothered
to do this. You still haven't done this.

Your lack of transparency, your
dismissal, and refusal to treat the one million
Californians who live in North Valley is,
frankly, inexcusable.

I know you have a tough job. I
understand it. As a council person, as a
businessman, I have learned tough jobs are better
handled when they're transparent efforts and
respectful attention to concerns. Good faith and
mutual respect is essential to finding solutions
to tough problems.

Your plan means enormous and radial
impacts to the quality of our life. You simply
dismiss those consequences as significant and
unavoidable, as if they were an academic
discussion or a board game.
Your science is flawed. Your process has never been transparent. And by your own admission, your recommended policies won't even work in achieving your purported goal of fisheries and Delta restoration.

Sometimes a proposal, a project is so full of bad data, misinformation, dated or simply flawed science you can't tweak it and hope to solve the problem.

This is especially true if you have not conducted yourself in a manner of good faith and transparency.

So, Madam Chair, respected Board, staff, consultants, we would really appreciate that you put the good faith in this proposal. It is time you recognize the devastation it would cause to our area and we start over. Thank you very much.

CHAIR MARCUS: Thank you very much.

(Applause)

COUNCILMAN GREWAL: Mani Grewal from the City of Modesto.

BOARD MEMBER D'ADAMO: Councilmember, I have a question for you. Councilman?

COUNCILMAN GREWAL: Yeah, I got a name request, I got --
CHAIR MARCUS: We're being interactive.

COUNCILMAN GREWAL: Yeah, no problem.

BOARD MEMBER D'ADAMO: I have a question for you. So, maybe you have somebody from the city that could answer this, so I don't expect you to know the answer. But I'm very concerned about the issue of stranded assets. I don't want to take up a lot of time because there's a lot of people that want to speak.

But City of Turlock is getting ready to - - I'm a resident of Turlock and they're getting ready to break ground on the surface water treatment facility. And so, I'm just wondering if maybe the City of Modesto, in light of the fact that that facility is already there, if you could speak to the issue of potential stranded asset. For a facility that, as I understand it, the cuts would occur equally between ag and urban. And I know that the facility was about $300,000 -- or, sorry, $300 million.

COUNCILMAN GREWAL: Yeah, there's an extra zero on that one.

BOARD MEMBER D'ADAMO: Right.

COUNCILMAN GREWAL: No, absolutely. We built that with the assurance that we would be
able to utilize it in our community and for, you know, the use of our community. And we feel that that's not money well spent. If we had known this was coming down, we would have looked at alternative options and not spending so much money in infrastructure. But we were being responsible. We were being prudent and trying to get ahead of the curve.

And the City of Modesto and the Modesto Irrigation took steps to do that. And now, we feel all that's going to affect us and affect, like you said, our holdings in that area.

BOARD MEMBER D'ADAMO: Right. Okay, and then with sequential dry years and having cuts, you know, 50 percent or more, just wondering what your strategy would be? So, you've got the wells that I'm familiar with the challenges in the City of Modesto, where the wells -- there are some that had uranium, arsenic, the list is pretty extensive on contaminants. But what would the plan be? You'd go back to groundwater and treat that? Or, is there a way to move the groundwater to the treatment plant, the surface water treatment plant.

COUNCILMAN GREWAL: You know, I guess I
would have to delegate that to someone from city staff. I know Will Wong, our Director of Utilities, is here as well. They can tell what the plan is. I wouldn't want to be the one that was speaking --

BOARD MEMBER D'ADAMO: Okay.

COUNCILMAN GREWAL: -- their behalf and putting words in their mouth what the ongoing plan was, if those effects were in place.

BOARD MEMBER D'ADAMO: Thank you. Okay.

CHAIR MARCUS: Great, thank you. I think it may well be that we also need to -- as we have a little time, we need to talk to folks, the way you say -- our staff did go out, senior staff to go out and try to meet. And sometimes those meetings ended up being just like being in a shooting gallery. It wasn't actually a conversation.

So, I think it works both ways. So, I think you raise a good point and I want to know the details of some of this, too. It's just we need some help, too.

COUNCILMAN GREWAL: Like Supervisor Olsen said, this is our last-ditch effort. I mean, any communication that we can have that would help
you make a better decision, we'd be willing and able. And our staff, I can promise you, will be willing to --

CHAIR MARCUS: An interest in interaction both ways would be great.

COUNCILMAN GREWAL: Yeah.

CHAIR MARCUS: So, thank you.

COUNCILMAN GREWAL: No, no, if there's any issue having that interaction, anybody in this room, we'll make it happen. We'll make it happen. Thank you.

CHAIR MARCUS: Thank you.

MS. BUCKMAN: Chair Marcus, Members of the Board.

CHAIR MARCUS: Yes.

MS. BUCKMAN: You called, earlier, another Modesto --

CHAIR MARCUS: Ms. Buckman, yeah.

MS. BUCKMAN: Yeah, it's Jennifer Buckman for City of Modesto, appearing as outside counsel.

You called, earlier, another one of our City Council Members, Tony Madrigal. He had business and he's --

CHAIR MARCUS: Oh, it doesn't say after
11:00. I'm sorry, I just didn't look.

MS. BUCKMAN: He will be here.

CHAIR MARCUS: You followed the rules perfectly. I'm sorry.

MS. BUCKMAN: I just wanted to ask that the Board recall him.

CHAIR MARCUS: Of course.

MS. BUCKMAN: And our Utilities Director, Will Wong, will also be here at that time and available to answer questions.

CHAIR MARCUS: Excellent. If you can just make sure, when that time comes, if he can either wait his turn, because I'm not quite sure where to put this back in, or just let the clerk know that he's back.

MS. BUCKMAN: Understood. Thank you, Chair Marcus.

CHAIR MARCUS: Okay, excellent.

MS. BUCKMAN: Appreciate the courtesy.

CHAIR MARCUS: All right. With that, we will move into the staff presentation, which explains the proposal and some of the response to comments.

MS. FORESMAN: Okay, thank you. Good morning, Chair Marcus and State Water Board.
Members. For those of you who don't know me, my name's Erin Foresman. I'm here, today, from the Division of Water Rights. And I'll be walking you through the staff presentation.

So, the purpose of this meeting and this presentation is to consider public comments on the modified proposed plan amendments. It's to consider adoption of the Final SED, adoption of the Proposed Plan Amendments. And as Chair Marcus stated earlier, a final decision will be made at a later date, at a continuation of this meeting.

Is there a pause? Okay. So, these are the topics I'm going to be covering in today's presentation. We are going to discuss the Bay-Delta Plan and the many efforts to update the plan. I will review the proposed amendments so we can all be reminded of the details.

I'll be summarizing the comments we received on the Draft recirculated SED, and will be discussing the approach to the responses. We also will talk again, later, about comments and responses for the most recent comment period.

I'll review or provide a summary of the
environmental effects. That includes both the benefits and the adverse effects of the proposed plan.

And then, we will go over the economic effects that are included in the SED. Finally, we'll make a staff recommendation and then we will discuss the next steps.

So, first, I just want to start with a basic description of what the Bay-Delta Water Quality Control Plan is. State law requires the State Water Board and Regional Water Quality Control Boards to adopt Water Quality Control Plans that ensure beneficial uses of water in a specifically defined area are protected.

These Water Quality Control Plans must include water quality objectives. Those water quality objectives can be narrative or numeric. They also need to include a Program of Implementation.

Most Water Quality Control Plans in the State of California are adopted by Regional Water Quality Control Boards. This Water Quality Control Plan, however, is adopted and updated by the State Water Board, the Bay-Delta Plan.
And the reason for this is that the waters in this watershed, in the Bay-Delta Watershed are of statewide importance and the tools that are needed to implement the plan are specific to the State Water Board, in that the State Water Board has authority to do both water rights and water quality actions.

So, this slide is a condensed timeline of the Bay-Delta Plan and the efforts to update the plan. In 1995, the most recent major amendments were made to the Bay-Delta Water Quality Control Plan, including modifications to -- or, sorry, adopting a new objective for flows at the Lower San Joaquin River runoff. So, that's the objective that's in the plan today and that we will be discussing amendments to.

In 2009, the State Water Board released a periodic review of the Bay-Delta Plan. And this included a recommendation to further review the South Delta salinity objectives and Lower San Joaquin River flows. They were identified as issues requiring review and potential modification for future updates to the Bay-Delta Water Quality Control Plan.

In 2012, the State Water Board released a
proposal for revised South Delta salinity
objectives and new and modified Lower San Joaquin
River flow objectives. Those are collectively
referred to as the Proposed Amendments.

We also released a Draft SED at that time
to support the Proposed Amendments.

There was a three-month comment period in
which we received a large number of detailed
comments. These comments led to substantial
revisions in the SED analysis and, ultimately, a
modified project description for the Lower San
Joaquin River flow objectives.

Then, in 2016 -- sorry, I got ahead of
myself -- we released a modified set of Proposed
Amendments, again including the revised South
Delta salinity objectives, and a modified
proposal for Lower San Joaquin River flow
objectives and the three salmon-bearing
tributaries, the Stanislaus, Tuolumne and Merced
Rivers.

And at that time, we released a
recirculated Draft SED that contained additional
analyses in support of the proposed amendments.

This began a very long comment period, a
comment period that lasted six months. During
that time, we received many comments and the comment period finally closed on March 17, 2017. Since 2017, at the end of March and the close of the comment period, this team has been reviewing and responding to the number of comments that we received during that long comment period. To my knowledge, that's the longest comment period the State Water Board has ever had open for public comment.

In 2018, we released a Proposed Final SED that includes the response to comments that we produced, and we included modified Proposed Amendments. So, in response to comments we made some changes to the Proposed Plan Amendments, and we also made some changes to the Final SED. There was a narrow comment period identified at that time for public comment on the revisions to the Plan Amendments we made. And we're here today, now, to consider public comment on the revisions to the Plan Amendments and to begin the process of consideration of adoption of the Proposed Final SED and the Proposed Plan Amendments.

So, now, I want to take some time and just review exactly what the Proposed Bay-Delta
Plan Amendments are. These amendments include revised salinity objectives in the Southern Delta. And I'm going to be using my laser pointer. I apologize to those who are not in the room because they can't see it.

But the Southern Delta is generally this area here. And the areas that you see highlighted in yellow are the river segments where compliance will be determined in these revised objectives.

So, these revised objectives are for the protection of agricultural beneficial uses in the Southern Sacramento-San Joaquin Delta.

The proposal also includes new and revised flow objectives for the Southern San Joaquin River and its three salmon-bearing tributaries, the Stanislaus, Tuolumne and Merced Rivers, and this is for the protection of fish and wildlife beneficial uses.

The new and revised objectives also contain a Program of Implementation.

So, we know that river flows are important for survival of native fish species, such as fall run Chinook salmon, that spawn and rear in the Stanislaus, Tuolumne and Merced
Rivers, and migrate through the Lower San Joaquin Delta.

This chart shows the number of adult fall run Chinook salmon returning to the Stanislaus, Tuolumne and Merced Rivers. This is showing data from 1952 to 2017. You can see by looking at the chart that abundance has cycled over the years. However, since around 1985, peak abundance has continually declined. The statistical trend of abundance for these three rivers is downward.

So, now, I'm adding to this slide flow discharge from the Stanislaus, Tuolumne and Merced Rivers for the months of February to June. This flow discharge occurred two and a half years prior, so it represents the flow conditions that the juvenile fish experienced when they were in the system. And again, these blue bars that you see, those are the number of returning adult fish two and a half years later.

So, we can see by looking at this chart that there's -- you can see matching between the high flow conditions and high numbers of returning adults over time.

You can also see that you have low numbers of returning adults with low numbers of
-- or, low flow values.

There are some instances in which other stressors or different stressors affect the numbers of returning salmon. For example, despite the high number -- I'm sorry, despite the low number of returning adults in 2007 and 2008, we had high flows in the system at that time. And this is widely believed the result of poor ocean conditions in 2006 and 2005 that the juvenile fish experienced after they migrated out to the Pacific Ocean.

Broadly, though, this slide shows that river flow is an important factor in providing aquatic habitat for juvenile salmonids in these three tributaries. And overall, the concept behind flow objectives is recognizing that the flow in these rivers is affecting the quality and quantity of every feature of aquatic habitat and it's a principal element of providing reasonable protection for fish and wildlife beneficial uses.

The Lower San Joaquin River flow objectives are one of the primary actions that's needed in the State of California to achieve the broad, statewide goal of protecting, restoring and enhancing aquatic ecosystem in the Bay-Delta
Watershed. This is stated well in the 2013 Delta Plan, which I've quoted on this slide, which says that "Without adequate water flow, the right mix of timing and amount, we cannot expect fisheries to recover no matter how well we deal with the other range of stressors."

So, the Lower San Joaquin Plan Amendments contain many different elements and we'll go through those details of those elements here.

They contain flow objectives. And the flow objectives, as I've stated before, can be narrative or numeric and they include both. The narrative objective requires maintaining inflow conditions from the Lower San Joaquin Watershed sufficient to support native -- sorry, sufficient to support and maintain the natural production of viable native, San Joaquin River fish populations migrating through the Delta.

They also contain numeric objectives. There are two types of narrative -- excuse me, there are two types of numeric objectives that are proposed for this system. There is a numeric objective on the three tributaries and that uses a percent of unimpaired flow approach. And as a reminder, unimpaired flow is the natural
production of a river basin unaltered by upstream
diversions and storage.

The proposed tributary flow objective is
40 percent of unimpaired flow within a 30 to 50
percent range on the Stanislaus, Tuolumne and
Merced Rivers. Compliance will be determined at
the flow gauging station closest to the
confluence, and you can see that on the map with
the green dot.

These plan amendments propose a fraction
of unimpaired flow for the reasonable protection
of fish and wildlife beneficial uses. This
approach is not an effort to restore
predevelopment flow volumes, but to restore a
portion of available flow in a more natural
pattern.

VICE CHAIR MOORE: So, Ms. Foresman?
MS. FORESMAN: Yes?
VICE CHAIR MOORE: Just a brief break.

So, you define the unimpaired flow.

MS. FORESMAN: Uh-hum.
VICE CHAIR MOORE: And isn't it true that
the Department of Water Resources uses unimpaired
flow to define the water year type every year in
the San Joaquin Basin and the Sacramento Basin?
MS. FORESMAN: The calculation for determining the water year type I don't remember, actually, off the top of my head, but I can ask another person on staff.

VICE CHAIR MOORE: All right. I asked the question because I remind folks that this is a term that's been used for decades and is relied upon to determine all kinds of things in terms of allocation through contracts, and that sort of thing. So, it's not a brand-new principle. This is something that's already embedded in the Bay-Delta Plan in Bulletin 120, by DWR, and is proposed to be adapted here as a long-standing, tried and true tool of budgeting water.

MS. FORESMAN: Okay. Will is up here and he can provide an answer to your question, if you would like to have that.

VICE CHAIR MOORE: Oh, okay.

MR. ANDERSON: So, there are water year type classifications for different systems, including the Sacramento Basin and the entire San Joaquin Basin. Several of the rivers here also have their own water year types that they use in their settlement agreement flow specifications. For the big ones that we think about,
such as the San Joaquin 60/20/20 Index, that
incorporates 60 percent of the April through July
unimpaired flow, as well as, you know, 20 percent
of the index is composed of the October through
March amount. And 20 percent --

VICE CHAIR MOORE: Unimpaired flow.

MR. ANDERSON: Of unimpaired flow,
correct. For the four major dams, meaning the
three in this area and also Friant, on the Upper
San Joaquin. And in addition, 20 percent of that
index depends on the prior year's index.

VICE CHAIR MOORE: All right, very good.

So, very much embedded in how we manage --

CHAIR MARCUS: Thanks, Mr. Anderson.

VICE CHAIR MOORE: -- water statewide.

Thank you.

CHAIR MARCUS: Sorry. We won't interrupt
a lot.

MS. FORESMAN: No, that's okay.

CHAIR MARCUS: But again, the point is --

MS. FORESMAN: You're welcome to
interrupt.

CHAIR MARCUS: -- taken. Because I know
people -- it's very helpful. I mean that is --
just for everybody's indulgence, I know we really
do want to hear for you, but this is one of those
rare opportunities that all five of us are here
at the same time, so it's important to ask as
many questions as we can, now. A lot of us have
spent a lot of time on this before, but there's
always more questions.

MS. FORESMAN: Absolutely. Okay, so I'll
continue, then.

The next part of the numeric objective,
which I was struggling to say numeric,
previously, is the -- it's the base flow
objective at Vernalis. So, this base flow
objective requires a minimum base flow of 1,000
CFS within an adaptive range of 800 to 1,200 CFS
to be maintained at all times at the Vernalis
location, you can see the arrow pointing at it,
on the Lower San Joaquin River.

The base flow objective is required at
all times, but it's controlling only when a
minimum level of protection is not provided by
the 40 percent of unimpaired flow objective on
the tributaries. So, this can occur in very dry
years when full, unimpaired flow is a low number.
So, 40 percent of unimpaired flow would be also a
low number. And it could be that it would be too
low to provide minimal protection of fish and wildlife beneficial uses. And in that case, the base flow objective starts to control what water is needed at Vernalis.

The plan amendments also include --

CHAIR MARCUS: Can I ask just a quick question, again?

MS. FORESMAN: Uh-hum.

CHAIR MARCUS: An illumination, which is -- because I think we've been working on it so long that we haven't -- I don't know if it's in the presentation, but the reason for moving from the -- in the current standards everything's measured just at Vernalis.

MS. FORESMAN: Uh-hum.

CHAIR MARCUS: And it all comes together.

This proposal, taking a more ecological approach and looking at the lifecycle of the salmon on each of the tributaries has these additional -- a different way of doing compliance, which is a piece of why perhaps there are so many people here, than were here back in the 90's.

MS. FORESMAN: Right. So, two things I think are --

CHAIR MARCUS: The way I understand that,
it's a difference and it's for ecological reasons.

MS. FORESMAN: Absolutely.

CHAIR MARCUS: It is very different than the current standard, which I think has led to some confusion.

MS. FORESMAN: Right. It's recognizing that the primary rearing habitat is in these three tributaries, while the Lower San Joaquin is providing more of a migratory corridor.

Okay, so the plan amendments also include a Program of Implementation. The Program of Implementation is a broad framework describing actions needed to achieve the flow objectives. It includes adaptive methods. These methods are key to the proposal because they provide flexibility. The flexibility to provide functional flows to achieve the best biological outcome for the most efficient use of water.

It provides for an advisory watershed group to optimize implementation. It requires biological goals and compliance methods for efficient implementation.

It also requires monitoring and reporting, and provides opportunity for voluntary
agreements.

So, I put this slide back up again just to reorient everyone spatially. I'm now going to describe the plan amendments for the Southern Delta salinity objectives. And I just want to remind everyone that we were -- you know, we were zoomed in here on the Lower San Joaquin River Basin, and now we're going to go downstream and a little bit north into generally what is the Southern Sacramento-San Joaquin Delta.

So, now we're zoomed in on that area. So, revisions to the Southern Delta salinity objectives are proposed for the reasonable protection of agricultural beneficial uses. Analysis of Southern Delta water quality crop salinity requirements show that the existing April through August objective of 0.7 decisiemens per meter electrical conductivity is more stringent than what's needed to reasonably protect agricultural crops in the Southern Sacramento-San Joaquin Delta.

The proposal is to have a year-round objective of 1.0 decisiemens per meter electrical conductivity. The objective applies throughout the Southern Delta.
The compliance locations include one fixed point at Vernalis, and I'll again use my laser pointer, which is down here at the bottom of the page. It's half green, half yellow, because it's also a flow compliance point.

And then, it includes compliance in channel segments, in three separate segments. And we'll start down at Vernalis. The first segment is from Vernalis in the Lower San Joaquin River all the way up to Grant Bridge, on the Lower San Joaquin. The compliance segment from the head of Old River, at the connection with Lower San Joaquin, over to Grantline Canal. And then, Middle River, from where it meets Old River, to Victoria Canal.

In order to implement the salinity objectives, the US Bureau of Reclamation must still meet the 0.7 decisiemens per meter electrical conductivity at Vernalis from April to August, consistent with requirements in the existing operations permit and in an effort to implement the salinity objectives in the interior Delta.

So, now, I just want to say a few words about the Substitute Environmental Document, the
SED. The SED was developed to support Plan Amendments to the Bay-Delta Water Quality Control Plan. The amendments, like we've discussed, include the new and modified water quality objectives and the framework for implementation. Water quality objectives state a broad policy, describing the desired condition of a waterbody. And the Program of Implementation provides the broad framework describing how we will achieve the water quality objective.

These actions are appropriately evaluated at a program level of analysis. So, I'd like to compare this to doing a city plan and doing a program level analysis of a city plan, and a program level of analysis of updates to that city plan.

A project level analysis, in our comparison to a city plan, would be more appropriate for evaluating a business park or a new housing development. And likewise, with project level analyses in implementing the Water Quality Control Plan, there may be project level analyses that are appropriate for implementation in the future.

The last thing I want to point out about
the Substitute Environmental Document, the SED, is that it's really here to do two things. It complies with CEQA in that it estimates and discloses the effects of the proposed action, the Amendments to the Water Quality Control Plan.

But it also provides additional information that's here for support of decision making under the Porter-Cologne Water Quality Control Act. And, specifically, this SED includes a chapter on fish benefits and also a chapter on economic considerations.

So, now, we're going to walk through the public comments periods that we have had on this proposed Draft SED, and the Proposed Draft Recirculated SED.

So, like we described before in the timeline, in 2012 a Draft SED was released and it had a three-month public comment period. I put that up here just to keep everything in sequence. We won't be discussing those comments because they were actually, really incorporated into the development of the Draft Recirculated SED.

The six-month comment period for the Draft Recirculated SED was open from September 15 to March 17, 2017. So, in the next few slides
we're going to summarize the public comments that we received in that six-month period. We'll describe our response approach and the responses to those comments.

And then, I'll describe our changes that we made to the SED and changes to the plan amendments that we made in response to those comments.

Then later in the presentation, right before the end, we're going to come back to another public comments description and we'll describe the public comments we received recently that are about the modifications to the Proposed Plan Amendment.

So, the public comments on the Draft Recirculated SED. Here, we're just describing the different types of comments that we received and how we received them.

So, we received 3,100 unique letters. And letters include all kinds of communication. So, it includes a written letter, it includes verbal comments that were made at meetings that were then made into transcripts. It includes signatures on petitions and lengthy, detailed comments.
Some letters were form letters. A form letter is an identical letter that was received many times. Each unique letter or each unique form letter was counted once, and then the total counts for each letter that we received were tallied. So, for example, if we receive one unique form letter 6,000 times, that counts as one in that count of 3,100 and then we know we got it 6,000 times.

CHAIR MARCUS: Right. And the bigger number has postcards and different things that came in, including --

MS. FORESMAN: That's right.

CHAIR MARCUS: -- errant e-mails and different communications.

MS. FORESMAN: Yeah. So, as you can imagine, each comment letter might make multiple comments on multiple subjects. So, from those 3,100 unique letters, we identified 10,500 unique comments.

And then, the last, very large number that you see is just the straight up count. So, it was just counting all of it, whether it was repeated or not.

CHAIR MARCUS: Pieces of paper or things
in the transcript.

MS. FORESMAN: Uh-hum.

CHAIR MARCUS: Okay.

MS. FORESMAN: These are the general comment categories that we received, so the types of comments we received. And just to run through this quickly, we know approximately 10 percent of the comments were about the alternatives evaluated in the SED.

Around 10 percent, as well, were about the Revised Water Quality Control Plan. That's the regulatory language that's Appendix K of the SED.

So, about 15 percent each, comments were on those additional chapters in the SED, the one about fish benefits and the other one about the economic effects or economic considerations.

The process piece was also about 15 percent, but that was really about two different types of process. So, there were comments on the CEQA process, but also comments on the Porter-Cologne process. So, a lot of commenters perhaps might have not understood that this action is to approve the objective, but not to allocate responsibility, that that action comes at a later
CHAIR MARCUS: That's important to clarify.

MS. FORESMAN: So, that's also all addressed in the response to comments in the Proposed Final SED.

So, the widest category of comments came on the environmental resource impacts and these are the traditional CEQA chapters that we have in the SED. So, things like surface water hydrology, agricultural resources, groundwater resources, cultural resources, et cetera. If we split them up all there, it would just be a sort of messier pie chart to look at, so we combined them.

So, our approach to the response to comments was to produce master responses. And the reason we took this approach is that it allows us to provide really meaningful, comprehensive responses to repeated comment themes.

So, this response to comments we have, it was posted to our website on July 6, with the release of the Proposed Final SED. We produced 22 master responses that, again, they provide
comprehensive responses to repeated comment themes.

And then, we have response tables. So, the response tables include every single of those 10,500 comments. Every timely comment was considered and every comment has a response. And the response table, the response that we write in there, it refers to master responses, when appropriate, and sometimes refers to multiple master responses and the topic area that's addressed in the master response.

So, on our website we also have a comment response directory. And you can look up your name, and find your comment letter number, and then look that up in the table, so you can see your comment and then the response right next to it.

The responses to comments are robust and they include clarifying and amplifying information, but they do not identify any new significant impact, or substantial increase in the severity of an impact, and they do not meet the CEQA criteria for triggering recirculation.

CHAIR MARCUS: Before you move on, I just want to thank you for the approach you take.
Having read responses to comments, and far too many impenetrable response tables over my, it's going to be like over 30 years. Dealing with CEQA, I really salute you for your attempt in the master responses to try and come up with something that was, you know, big, because the issue is big, but which was readable. I mean, people may agree or disagree with your analysis, but you certainly illuminated the difference in a way that was more accessible than I've seen. So, you may have set a standard that will be very difficult to repeat.

MS. FORESMAN: Well, thank you.

CHAIR MARCUS: But thank you for the work you put into it. I know it took an incredible amount of time, which I was lashing you on, perhaps mercilessly. But I know it took a lot of effort and I think your approach to doing it is an attempt to be more thoughtful and transparent for the public. So, thank you for doing that.

MS. FORESMAN: You're welcome. And I'll say, you're welcome from the whole team. There were definitely dedicated, you know, authentic effort to try to provide meaningful responses to people.
CHAIR MARCUS: Yeah, I know you struggled with it. It's good.

BOARD MEMBER ESQUIVEL: I'll just add my thanks, as well. Particularly because of -- I am sensitive to the criticism that we're acting capriciously or not responding to what is a significant amount of public concern, we're not engaging. You know, again, holding the public seat that transparency is so central to anything we do here at the Boards. It's why it's taking us years to get to any sort of action here.

But the amount of time that staff has put into the responses and, you know, again, I think it's sometimes unfair, the criticism that we're not acting in a transparent manner, or that there isn't this process in place that allows for real consideration of impacts to the community and the voices being heard.

So, you know, for those of you that are so inclined, I do encourage you to go through that master response list because it is incredibly thorough to a lot of the arguments that we have heard and we continue to hear.

MS. FORESMAN: Thank you.

VICE CHAIR MOORE: Thank you, Board
Member Esquivel.

To the point about, you know, the substance of the responses, which I also have a favorable review of, I was struck by, and you can elaborate on this if you like, but our attempt to try to point to where in the language, particularly in the Program of Implementation, concerns about rigidity, lack of flexibility, lack of ability to deal with, you know, real human issues on a human scale can be achieved through the paths in the Program of Implementation.

We pointed them to specific language in Appendix K to try to illuminate that, yes, that's a great point. We have a process or a pathway to address it here, in this proposed language, let us know if we need to make any finetuning changes.

Isn't that -- I mean, that was the sense I got from the tone of your responses.

MS. FORESMAN: Absolutely. The intent was to take the opportunity to provide further explanation to really engage with the comments. And in terms of flexibility, a lot of that information is in Master Response 2.2, for those
who are interested, and Master Response 2.1. And a lot more elaboration is provided on the Program of Implementation.

And when we reviewed comments, we could point to here are the ways that the Program of Implementation could accommodate some of these comments that were coming in.

BOARD MEMBER D'ADAMO: So, I have to jump in here. I mean, I really -- first of all, a number of us have been at this for many, many years or decades, right. And I do want to thank staff for the lengthy discussions and debates that we've had, that I have had with you all. And I know that you're trying your best. And I do think that the response to comments is, you know, very thorough.

But I do have to take issue with the issue of dismissiveness. So, it's one thing to respond to a comment and say you didn't understand, and double down with the same focus that you had initially, and another to have a meaningful dialogue and to look at -- to thoroughly look at and evaluate some of the studies that have been provided. And we'll be getting to this later.
But in particular, on this issue of wetted acres and flood plain habitat. Wetted acres don't magically become flood plain habitat. And there's been quite a bit that the irrigation districts have provided. Each irrigation district has a model where they're all coming to the same conclusion. And that is you can't just send water down a river and magically have it turn into habitat where these are highly altered systems. There's scientific papers on it, not just these 3-D models.

And so, that's just one example of many. There's TIDs, temperature, the SWM Study. There's the otolith study on, you know, what type of fish are moving and year types.

And I think that that is really the source of the frustration. The source of the frustration is not that we haven't had a lot of process. It's just that there are -- we're not talking about a region that is just issuing high-level general comments. We're talking about a region that has really taken the time, whether it's putting together an economic analysis, a groundwater model, wanting to sit down and have you meet with the GSAs, looking at the scientific
papers, wanting to drill down, have a discussion. And if that discussion didn't take place because of acrimony in the room which, you know, I think that we can say on all sides, you know, there is frustration and acrimony. But at least through the process of reviewing and commenting, I think that's the missing piece, the level of detail, and taking those responses seriously, and not being so dismissive.

I've read through a number of them where I have felt that it was dismissive and that more time could have been spent in further analysis.

MS. FORESMAN: Okay, thank you all for your remarks. It's unfortunate that responses are considered dismissive. There was a lot of time invested in reading through all the comments that we received and doing our best to provide a response that addressed the comments that came in.

So, now, I'm going to review the changes that we made to the SED, in response to comments. The majority of changes we made to the SED were clarifications as a result of reviewing and responding to comments. But we did change one analysis. And we changed this analysis in
response to what were very helpful and thoughtful comments that identified opportunities for us to improve the agricultural economic analysis by revising our Statewide Agricultural Production Model. That's the SWAP model. And we did that through a revised simulation.

So, there were five factors that we adjusted in the Revised SWAP model. We adjusted deficit irrigation to be more precise to different types of crops. We adjusted corn silage amounts in response to comments that told us that they were very important to local dairies. We adjusted the total irrigated acreage, again in response to comments, that identified double-cropping is important. And that, also, we realigned some areas to make sure that it's only the irrigated acreage that's included, and not roads and things.

We adjusted the crop prices and production costs so that they align with the Central Valley Production Model Region. And we adjusted groundwater use to incorporate the existence of increased groundwater pumping infrastructure and to acknowledge strategic limited use of increased groundwater pumping that
would protect permanent crop investments in severely dry years.

So, on the next two slides what we're going to do is look at the difference between the agricultural, the SWAP analysis that was in the 2016 SED and the SWAP analysis that's now in the 2018 Proposed Final.

So, the first outcome we'll look at are the irrigated acres that are estimated in the 2016 SWAP analysis and the 2018 SWAP analysis. So, on the Y-axis you can see reduction in irrigated acres and that -- or, sorry, reduction in irrigated area. And that's reported in thousands of acres. So, when you read that Y-axis, you need to say to yourself it's 70,000 acres.

And along the X-axis we have different water year types, including combined all years together, that's the average, and then we split it out by water year type. So, the white bar is the 2016 SWAP analysis and the blue bar is the 2018 SWAP analysis.

So, if you look at the all-years-combined, you can see that in 2016 the analysis estimated a loss of 23,000 irrigated acres in the
plan area. And then we made revisions to the SWAP analysis and that number went up. It went up to 25,000 acres that are estimated to go down in the 40 percent of unimpaired flow scenario. In wet years, we have zeros there because there isn't an estimated loss of irrigated acres. In the next types of water years, you can see a trend that should be fairly intuitive in that the loss of irrigated area, it's not equally split among water year types. So, these impacts are really felt more as the water year becomes more dry. So, the pattern holds true, we're comparing the white bar and the blue bar. So, the pattern holds true for the 2018 SWAP analysis and the 2016. And you can see that for each one of the 2018 SWAP analysis estimates, except for critical, the estimate goes up. It goes up in above normal, normal and dry, which is consistent with looking at the average.

CHAIR MARCUS: And this is the impact of the proposal on top of what happens in critical and dry years?

MS. FORESMAN: This would be -- well, I'm not sure I understand.
CHAIR MARCUS: This is the additional impact of the plan because we know that, particularly --

MS. FORESMAN: Yes.

CHAIR MARCUS: -- in critical years, also in dry years, there's already an impact on agriculture. And we certainly lived through the worst of our generation, at least, if not more.

MS. FORESMAN: Right, that's correct. So that in critically dry years we compare to baseline. So, if there's already a drop and that drop characterizes baseline, we're comparing to the baseline.

CHAIR MARCUS: Right. It's a comparative, not the total that will happen in those years.

MS. FORESMAN: Right.

CHAIR MARCUS: Right.

MS. FORESMAN: And this is the loss as well, so the number that went down.

VICE CHAIR MOORE: And could you remind us what the total irrigated acres is that this loss would be applied to? So, if there's 79,000 acres in a critical year that would be brought out of irrigated production is that --
CHAIR MARCUS: 450,000.

VICE CHAIR MOORE: Oh, 450,000, okay.

MS. FORESMAN: Later in the presentation we compare the totals and that's consistent with my memory.

VICE CHAIR MOORE: Good. Okay.

MS. FORESMAN: I don't remember the full.

For average, I remember that being baseline of about 500,000, and then the proposed alternative being in the 490s.

BOARD MEMBER D'ADAMO: So, since we've interrupted you, one of -- my understanding is that this model can account for year type, but it is not structured in such a way to account for sequential dry years.

MS. FORESMAN: So, this model, it looks at the change every year as you go. And it identifies the number of acres that could potentially not be irrigated that year. And then, it identifies them as potentially going out of production forever. And in terms of our CEQA analysis, it identifies them as these are at risk for being converted.

CHAIR MARCUS: Oh, not just temporarily.

MS. FORESMAN: Right. So, it's a very
conservative analysis in that it identifies them as having a risk of being converted. So, for the CEQA significant and adverse effect, then we go ahead and say that it's significantly adverse. Because they could go back into production, but we're not sure.

BOARD MEMBER D'ADAMO: But my question is more related to, so in a critically dry year we could see 79,000 acres going out of production year one. What happens in year two? What happens in year three?

Because a critical dry year, on average we would see a reduction of about 38 percent of supplies.

MS. FORESMAN: That's right.

BOARD MEMBER D'ADAMO: But that number goes up once you have sequential dry years because the reservoir's not refilling, there's carryover requirements, et cetera.

So, I do recall reading somewhere that the model does not account for those sequential years. So, this would be a snapshot of a critically dry year?

MS. FORESMAN: Yes. So, it's my understanding that you're correct that this is...
we're looking at all of the critical years combined together, and looking at them that way. Not the cumulative effect of one, two and three together.

BOARD MEMBER D'ADAMO: Okay.

MS. FORESMAN: Yeah. I'm just getting a little intel from the folks in our staff who worked on this, who let me know that none of the models do what you were requesting or what you were asking about.

BOARD MEMBER D'ADAMO: Well, certainly, the point is that, and we know that the way our system works is good years, bad years. And when we have bad years, it could be a number in a row. So, we need to consider that this number -- because here's the disconnect.

If you go out into the community you will hear, it doesn't make any sense if we look at this average of 25,000 acres going out of production because there's a recognition that averages don't make a difference for a farmer. What matters is what's your water supply that year. Can you fallow part of your farm? Can you take row crops out of production?

And then, there's so many unique
situations. So, you may have alfalfa that can
easily go out of production, you're not going to
kill your trees, but you need it for your cows if
you've got a dairy.

And what if, you know, in one year -- I
think that this does include an analysis of
deficit irrigation because we did see during the
drought that for permanent crops, they can't
fallow those crops, so they would just kind of
turn down the dial and provide for less
irrigation.

But we don't know what the long-term
effect is on those trees. We're going to find
out in a few years, probably.

But what happens if you have one year
after the next where you've got deficit
irrigation on your crops? And this model, I
believe, does not account for, you know, these
nuances.

And so, it's not as much to say that, you
know, we can't believe this snapshot, it's just
that it's much more complex than this snapshot.

CHAIR MARCUS: No, that's fair. I mean,
all of it is complex, too, because we can't
totally predict what everybody's going to do to
response, or how everybody is going to need to respond to the fact that we're probably going to have more multiple dry years off into the future. You just never know when. We could have deluges this year, for a number of years, and have flooding of epic proportions.

So, it does require a new mindset, but that's well-taken. This is a snapshot in the context of illuminating what could happen?

BOARD MEMBER D'ADAMO: Yeah, and I'm bringing it up because, you know, at a later point we'll probably -- I'll want to raise the issue of what do we do about, you know, multiple dry years? How are we going to manage this?

VICE CHAIR MOORE: Yeah, I appreciate you bringing it up. It's an issue that I've thought about a great deal as well, over the years, and talked to a lot of folks about it. And so, I welcome that discussion.

And it's great to remind folks, when we look at this graph it's an index, you know. I'm going to put my engineer hat on. This is an index of potential impact. It gives you -- it communicates the relative change in the scope of potential impact by having those different
assumptions in the model, based on the comments we received. So, what staff is showing is, hey, we've update and refined what might be more reasonable from a predictive stand point. And lo and behold, yeah, it's more -- from an index stand point, more significant than we said in the last draft. That's what this tell us. These are just indexes.

BOARD MEMBER D'ADAMO: Correct. And another piece to add to it, this assumes groundwater, some degree of mitigation by switching over to groundwater, which we know that cannot happen over the long term. So, again, this might be a snapshot for, you know, a one-year type. But in a few years, this entire chart -- this chart's going to look very different because we do expect the region to responsibly implement SGMA.

VICE CHAIR MOORE: Right. And we're going to be talking about this more. But let's remember, also, these are distinct chunk blocks of water that all of a sudden are out of production. This is a proposal to budget water, to bleed it in, if you will. Maybe not bleeding in as much to the ground as we might have
otherwise, but the amount that we are able to is
that going to be enough? If not, is there enough
flexibility in our surface water framework that
we're working on together to be able to make
sequential dry year changes that allow for more
flexibility to create a safety net for the family
farms in the area that are, you know, so vital
and a societal fabric we need in our State.

So, you know, let's get down to brass
tacks and talk about those type of processes that
we can embed in the Program of Implementation.
Because it's not a fair discussion to say that
there's going to be these entire blocks of water,
now, that are not even in consideration and, oh,
there goes the groundwater. That's not really a
reasonably foreseeable eventually. As long as
we're working together, we can figure those out.

So, it's a matter of rate, not volume.

MS. FORESMAN: All right, thank you. The
next slide is then the crop revenue loss that's
associated with this loss of irrigated acreage.
So now, on the Y-axis you have reduction economic
output. And that's in dollars. Those are from
2008 dollars. And, on the X-axis, again, you
have the water year type and we split it out by
each water year type and include the all years.

So, you can see the white bars are 2016
analysis and the blue bars are the 2018 analysis.
And I start with the average just because that's
the simplest one for me to explain. But the
average in 2016 was a loss of $36 million on
average. That's a loss of crop revenue as a
result of the proposed action at 40 percent of
unimpaired flow.

Then, after the revisions to the SWAP
analysis, that number went up to 39. So, again,
these impacts aren't distributed evenly across
water year types. They're felt more
significantly in the drier water year types. And
you can see in the critical year the loss of
revenue goes up to $130 million. And the
prediction provided by the 2016 SWAP analysis was
120.

So, the take home message from both of
these slides is that after the revision of SWAP,
when we ran it again and compared to the 2016
numbers, we do recognize an increase in the
severity of impacts, but that the results are
overall fairly similar. So, there isn't an order
of magnitude severity or doubling, but the
results are fairly similar to the results that were in the 2016 analysis.

This slide kind of just summarizes what I said. But then it rolls it up into the regional economic output. So, crop revenue is one piece of regional economic output. We combine that with the increased costs of groundwater pumping and other indirect economic effects. And in the 2016 SED, we estimated a $64 million a year loss on average from the proposed action, at the 40 percent of unimpaired flow level.

When we reviewed the helpful comments we received, we refined the SWAP model and did a new SWAP simulation. And then, in 2018 that number went up to $69 million when we did the regional economic output analysis.

So, again, the number goes up, but they're similar to one another, from the 2016 to the 2018.

We also made changes to the proposed action to the Proposed Plan Amendments as a result of response to comments. And most of these changes are for clarification purposes. And I'll walk through several of them that we made, in Table 3 of the Water Quality Control
Plan. And for those who aren't familiar with the Water Quality Control Plan, Table 3 is the table where we contain all the water quality objectives that protect fish and wildlife beneficial uses.

So, we proposed a modification to Table 3 that said 38 to 50 percent of unimpaired flow would be required in the tributaries. And the Program of Implementation previously said the starting point was 40 percent.

So, the modification that we did was to place 40 percent of unimpaired flow in Table 3, consistent with the Program of Implementation.

Similarly, we added language to Table 3 that was previously in the Program of Implementation, but we put it into the table in response to comments because it's an important part of the objective. It's an important part of the whole Plan Amendment package. And that is to avoid significant adverse effects when managing the flows that are identified by the 40 percent of unimpaired flow objective.

We also clarified the language of the base flow objection. In response to comments it was clear there was some confusion about the base flow objective, so we wrote it in hopes that it
would be more clear.

And then, finally, we added a compliance calculation to Footnote 14, of Table 3 of the Water Quality Control Plan in response to comments. That was something that was requested.

VICE CHAIR MOORE: And base flow is the -- you're referring to the flow requirements at Vernalis that are proposed?

MS. FORESMAN: Yes, so it's the one that's cubic feet per second monthly average, the 1,000.

VICE CHAIR MOORE: Okay.

BOARD MEMBER D'ADAMO: And on the Appendix K, Table 3, "The flows provided to meet these numeric objectives shall be managed in a manner to avoid causing significant adverse impacts to fish and wildlife, beneficial uses at other times of the year."

You're saying that this is repeated from the Program of Implementation. And I recall we had a discussion about this last week, so I just want to ask some follow-up questions.

I'm not seeing that the language is a repeat.

MS. FORESMAN: So, you're looking at page
28 and I need to bring up my copy of that, as well.

BOARD MEMBER D'ADAMO: Yeah, 28 compared to the bottom of Table 3. And page 18, thank you. And this other one on 28, which is the language, I believe, that was in the Program of Implementation since 2016, "When implementing the Lower San Joaquin flow objectives, the State Board will include minimum reservoir carryover storage targets or other requirements to help ensure that providing flows" -- and that's where the language picks up.

So, I'm just wondering what's the intention? This sounds broader and just wondering what sort of actions are you considering?

MS. FORESMAN: Well, this language --

BOARD MEMBER D'ADAMO: It just seems vague.

MS. FORESMAN: Okay. So, this language, you're right it's not a verbatim, exactly what is on page 28. But conceptually it brings up that -- and the language that's repeated is "Will not have significant adverse effects."

Sorry, I need to now look exactly what it
is. And it's typed so small in here. "Shall be
managed in a manner to avoid causing significant
adverse impacts."

And on page 28 it says, "Significant
adverse, temperature, or other impacts on fish
and wildlife."

So, the difference between the two, and
probably putting something -- sorry, not
probably. But putting something in Table 3 that
doesn't include the word "temperature" is more
appropriate for the Water Quality Objective. The
Program of Implementation is mentioning
temperature specific to carryover storage.

And in this part of the Table 3, of the
Water Quality Control Plan, we did not include
the word "temperature".

And I can also ask Erin or someone else
to provide some feedback on that.

MS. MAHANEY: As Erin has mentioned, this
is a recurring theme throughout the Program of
Implementation, where we want to make sure that
providing the flows doesn't result in significant
adverse impacts to the fishery that we're trying
to protect.

And so, temperature is one example and
that's called out through the language on Page 28, about the carryover storage requirements or other measures that could avoid temperature or other adverse impacts.

It's also called out in the Program of Implementation, with the Adaptive Implementation Measures. For example, on Page 31, Paragraph C talks about that flows may be shifted from the February through June period to after June to prevent adverse effects to fisheries, including temperature, that would otherwise result from the implementation of the February through June requirements.

BOARD MEMBER D'ADAMO: Well, I guess for me it's just that -- and we can probably get into this more once we discuss as a group. But I don't really know what this means? If it means carryover, does it mean refill? Does it mean winter flows? Does it mean fall flows? I mean, it could be any number of actions.

And so, if I'm running an irrigation district and I'm trying to figure out what this means, I know that carryover has been in since 2016, but I have never seen an analysis of what is meant by carryover. And so, I'm just
questioning this broad language.

I mean, it was bad enough to have it on Page 28, where it refers to carryover. And it says at some point in the future there's going to be carryover target guidelines established. But now, it looks like there could be other things, in addition to carryover. So, it just seems really broad.

And, you know, maybe you guys can get back to us, but where in the analysis does it analyze the impacts of this language?

MS. FORESMAN: So, to the question you just asked about where in the analysis does it analyze the impacts of this language, the water supply effects analysis, that model does include carryover storage targets. So, it includes a modeling interpretation of avoiding significant adverse effects at other times of the year.

So, that model was completed and those carryover storage targets were iterated upon until a target was identified that minimized temperature impacts in the fall months.

And that's, all of that is things that we did get comments on and there are comprehensive responses to that in Master Response 3.2. But
that's where the analysis is of an interpretation of that language.

BOARD MEMBER D'ADAMO: So, the analysis is in the modeling?

MS. FORESMAN: Uh-hum.

BOARD MEMBER D'ADAMO: Only. There's not a discussion, there's not a separate discussion of what is envisioned with a carryover and a refill program?

MS. FORESMAN: Well, the modeling does include --

BOARD MEMBER D'ADAMO: That's not in there.

MS. FORESMAN: -- its interpretation of carryover storage target and then you would refill. So, that is in the modeling and there is a discussion in the SED of how that was put together. And in the response to comments, in Master Response 3.2, we did get other commenters' analyses submitted. And some of those analyses didn't include carryover storage targets.

So, that master response does a comparison between the two and why the interpretation and why our analysis reflects behavior that you would see. Because you want to
supply water as reliably as you can, so you don't want to fill the reservoir and drain it down, and let terrible water supply effects and temperature effects happen. So, that discussion is absolutely provided in Master Response 3.2.

BOARD MEMBER D'ADAMO: Okay. And then, what about the discussion about whether or not we even have the authority to require carryover?

MS. FORESMAN: That is also provided in response to comments, in Master Response 1.2. But that is also much more of a legal question and so I'll look at my legal team to see if they want to provide anything else.

MS. MAHANEY: Right, that's -- the Board's authority to implement the Water Quality Objectives, through water quality and water right proceedings, is discussed in Master Response 1.2.

And as to the question as to the Board's authority to impose water right conditions, for example, on permits -- water right permits and licenses, the Board does have the authority to condition permits and licenses on the diversion of water, including to storage. And may, through measures such as under the Physical Solution Doctrine, require releases from storage.
BOARD MEMBER D'ADAMO: But we would be changing the water rights in order to achieve this. We'd be placing a condition on a water right, so we'd be amending the permits?

MS. MAHANEY: That is one implementation approach. Another means is through facilities undergoing for relicensing right now, that could be through a water quality certification process, by which an application for water quality certification is filed with the Board and those conditions may be imposed on that application or on the certification that results.

CHAIR MARCUS: Right. Isn't there, and again I'm not being pie in the sky, because I know feelings run hard, but in the -- maybe there is no ideal world. But in the ideal world, we'll have folks coming together and saying here's how we think we should manage water for all of this, because water managers, when put around a table, manage water. So, it doesn't all necessarily need to be in requirements, but there needs to be a way to figure out how to be able to -- that's one of the things I like about this proposal. I think some of the flexibility in it leads people, understandably, to see a worst-case scenario.
But, ideally, you have people coming together to say, hey, here's your basic proposal, but here's how we propose to use it this year and next year, including where you have multiple dry years, and there's a way to sign off on that.

MS. MAHANEY: Right. And that's an excellent point. There's really two points here. One is that because this is a broad rulemaking effort that's being analyzed at a program level, we don't know what the specific conditions are on the ground that we could do a project level analysis.

And one of the advantages of the program implementation is that it does afford the flexibility for stakeholders in a specific region to come together and assess what they think that the adverse impacts might be and how best to address those under local conditions.

And the second point plays into what you just said, which is this is an opportunity for stakeholders to enter into agreements to help implement the plan.

BOARD MEMBER D'ADAMO: So, I'll just add to that. I agree. I mean, I really do think that through settlements there's a way to do this
voluntarily where it can work.

But if we don't have settlements, this is something that -- I'll want to bring up later on concerns about some of the legal issues. But this is probably the top of my list. This whole plan hinges on carryover storage. If we don't have carryover storage, then the alternative that's proposed is not protective of fish because of the temperature impacts.

So, if we're off on our legal analysis and we're going to hear from people that say we're absolutely off, then it's like a house of cards that falls. So, this is just something that I think we're probably going to want to come back to and make sure that we're on solid legal ground. Because without it, you know, unless I'm misunderstanding, I don't think that the proposed alternative -- I don't think we could issue findings that it's protective native fish because of the temperature impacts, correct, without carryover?

MS. FORESMAN: Well, right now in the SED we don't look at implementing this without carryover storage. So, we don't have temperature profiles without carryover storage.
There is a concern that we would have much higher temperature impacts in those fall months, but we don't have that information in the SED. We didn't model it without carryover storage because we were avoiding significant adverse effects in other times of the year.

CHAIR MARCUS: So, there needs to be a way to get to it and there are multiple ways to get to it. I think this is something that not everybody understands. Sometimes, too, in the environmental community as well. I'm not saying people don't understand stuff, because it's a very complex thing. And what we're trying to do is get folks to come together and figure out how to do it in a way that's going to make sense.

But I think we don't necessarily need full settlements to do it because there's an opportunity and offer within the plan to have the STM Group come together, or I would suspect you could do subgroups to figure out how they propose to manage, at least within the range. It's when you go outside of the range that you need to go through more of a process in front of us.

But even then, you don't need a settlement, you could do it later. But a
settlement's better because then it lays out
everything for everybody early on, and it would
be better to have folks work it out and have that
correction versus where they have to deal with
the actual facts, and back and forth.

VICE CHAIR MOORE: Yeah, settlements will
enable funding of things that we have a hard time
finding money for. You know, we, at the State
Board, trying to bring it forward where we can.

But thank you, I appreciate the
discussion among the lawyers on the State Water
Board.

CHAIR MARCUS: I mean, it's --

VICE CHAIR MOORE: No, it's fine. These
are great points. It's interesting because --

CHAIR MARCUS: We'll have an engineering
phase, if you like?

VICE CHAIR MOORE: Well, I'm going to
offer up something here just because I think this
is a productive discussion.

But when I read the language, just to
give you another lens, you know, I see this is
the type of flexibility that we're trying to
afford. And I think Board Member D'Adamo points
out maybe some problematic words that have legal
ramifications that maybe we can noodle through later. I'm not going to take you down there.

But when I read this, I think this is great because this is the flexibility. And what it does is it acknowledges that, to the Chair's point, if you just implement this proposal like it's a straight-line relationship, it's going to fall off the rails at the lower and higher ends. And, you know, it's like a pump curve where things start to cavitate and come undone.

And so, and this is a classic point. As you point out, you know, the native fish will suffer if you just look at this as a straight-up percentage. You have to have a Program of Implementation that empowers local water managers to realize synergistic benefits of carryover storage. Not only for water supply, but for keeping the native fish going. And there's a synergy there and we need to make room for it in any plan that the State Water Board adopts.

So, I see hope in this language. You know, my colleague sees concern. I think that this is an area we can really find common ground in.

MS. FORESMAN: Okay. So, moving on then,
we are going to talk about the changes to the amendments that were made in the Program of Implementation. So, we made several changes in the Implementation section, and I'll just review a couple of them here.

So, we removed a sentence in the Adaptive Methods that it was in regard to water -- the opportunity to hold water after June. And we removed this sentence because it was very confusing to commenters. And the removal did not significantly change the meaning of the paragraph.

So, since there was so much confusion about this particular sentence, identifying an opportunity to hold water that wasn't in the fall, in the flow shifting option, we just decided to delete that.

The other changes we made, we made some changes to biological goals. Some of those were editorial. But one thing that we included was an example of using temperature targets as a potential thing that could be done for identifying biological goals.

In the Program of Implementation there is a requirement to develop and launch a San Joaquin
River Monitoring and Evaluation Program. And the modification that we made was requiring a five-year review of that Monitoring Program, once it's up and running.

And then the last thing we have here on the slide is that there are, already, Annual Operations Reports that are required. But the change in the Program of Implementation requires them to be discussed in a public meeting.

So, now, I'm going to discuss the changes to the amendments for the Southern Delta Salinity Objective. These changes were all made in the program of implementation.

The first one is that we change the due date for the Comprehensive Operations Plan in response to comments. It formerly was October 31 and that was changed to February 1.

We also made some changes to the language around the effects of POTW discharges on Delta salinity. And these describe that the POTW discharges are not the driver of Delta salinity problems in the Southern Sacramento-San Joaquin Delta.

And we also identify that reverse osmosis technology right now for POTW discharges is not
feasible in the Southern Sacramento-San Joaquin Delta in the case of trying to reduce salinity concentrations in that area.

So, now, we're going to go through some slides that talk about the primary benefits of the Plan Amendments of the proposed project. And one thing to keep in mind, if you have the map in your mind, and we'll look at it several times, I guess, through these next couple of slides, is that this is the reason that we're proposing the Plan Amendments is to see these primary benefits.

And they apply to more than 200 river miles in the Lower San Joaquin River Watershed. So, that's an important thing to keep in mind.

So, I'm going to be showing this map on and off because we're going to show some charts, and I think it's important to remember where we are in the system.

So, the next chart I'm going to show -- oh, sorry, went too far ahead. I wanted my laser pointer.

The next chart I'm going to show is flow on the Tuolumne River. So that's this tributary that I'm highlighting. And we're going to be looking at flow at the Modesto gauge. And we'll
look at flows under 40 percent and under the baseline, but we'll also compare them to unimpaired flow, the full unimpaired flow that's estimated up here at La Grange.

So, this chart shows the pattern and volume of flow on the Tuolumne River from 1990 to 1995 to illustrate the benefits of the February to June 40 percent of unimpaired flow objective.

We chose this set of years because it illustrates the general concept of unimpaired flow as compared to existing flow conditions. And it also includes critically dry years and wet years.

So, the Y-axis is stream flow and the X-axis is years. And the kind of teal blue line you see there is full unimpaired flow at La Grange.

And the gray line you see at the bottom is the baseline scenario at Modesto, so at the Modesto Gauge. So, this is what we consider like existing conditions in these rivers or the conditions that existed in these rivers, in these years.

So, one thing that you can see right away is that baseline flows largely remove the aquatic
habitat functions that are provided by the pattern of flows that we get in the full, unimpaired flow scenario.

So, the baseline conditions are very low flow, so a lot of the magnitude has been removed, but also the pattern has mostly been removed. The exception is these very wet years where water infrastructure is at capacity and releases are being made because there isn't infrastructure to hold it.

CHAIR MARCUS: So, some of those little, those are flood control releases that we're seeing?

MS. FORESMAN: Yes.

CHAIR MARCUS: Okay.

MS. FORESMAN: So, the dotted line you see there shows the 40-percent of unimpaired flow alternative. And this objective, you can see it does two things. It returns some portion of the volume of water to the river, but it also returns the pattern. And that's a very important item that perhaps we haven't mentioned enough.

In that the unimpaired flow approach, as you look at it this way, really is a functional flow approach. It restores the flow pattern and
a portion of the volume to improve aquatic
habitat function and habitat availability for
native species, like salmon, in these river
systems.

So, now, we're going to switch and
discuss some temperature results. And again,
we're going to look at the Tuolumne River. But
in these next charts that we're going to go
through, we're going to start at La Grange Dam,
over on the right-hand side of the chart, and we
will look a temperature profiles all the way down
the river to the confluence with the Lower San
Joaquin River.

CHAIR MARCUS: And this is an example.
You're not going to do each river?

MS. FORESMAN: That's correct, I'm not
going to do each river.

CHAIR MARCUS: Right. Not that we
wouldn't want to, but I may -- I'm trying to
figure out, I may need to -- I mean, I might have
to read that. I may have to take a break before
you're done.

MS. FORESMAN: Okay.

CHAIR MARCUS: Because I went through and
didn't give a midmorning break because I know we
have the iron man sitting here, from past experience. And I know people have been taking the opportunity when they needed to go use facilities or whatever. But I want to take one elected official and then I'm going to want to take a break at some point in here. And my apologies for not doing one in the afternoon. I was hoping to get through all of this before we took a break, and people could take a break and then we could go through public comment.

But I think it is good that we've been asking questions because they're all, as we go sometimes it's easier, and then we'll pull it together in more of a conversation.

So, I just want to let you know that I'm probably going to take a break before you're done.

MS. FORESMAN: Okay, that's fine. If you'd like to do that now, this is a good time to break. The next several slides are all temperature slides and they all go together.

CHAIR MARCUS: Maybe I will. I'm going to take one elected official and then I'll give a -- what I think I'm going to do, instead of doing like a long lunch break is I'll do a few longer
breaks and sort of stagger it, so people also have the time. So, I'll try and do something now, and I'll try and do something between 2:00 and 3:00. And I'll try and do something probably between 5:00 and 6:00, if we need to.

Again, I'll have to see during the break the number of cards we have and try to figure out how to make it work most effectively.

I believe, and I could be wrong, that all of the folks who wanted to do longer presentations have asked in advance, which is something that needs to happen, are okay with going tomorrow. If they want to go today, one or two, that's really okay later in the afternoon. I certainly won't start with them. So, just be thinking about that and let Ms. Townsend know.

Also, if there are -- I've seen elected officials who haven't put in cards to speak earlier. If you have time constraints, or other things, or when you want to go, please also let Ms. Townsend know and we'll try and accommodate you.

So, we'll take a break after we do hear from Councilmember Madrigal, from City of Modesto, who very kindly wanted to stay and
listen. I believe the Councilman's somewhere nearby. Can somebody grab him? Just talk amongst yourselves while we wait. Take notes, think about your comments.

CHAIR MARCUS: Oh, that's what your note says. No, no, we're going to start public comment right after break. If you need to speak right now, I can take you right now, after Councilmember Madrigal.

MS. TOWNSEND: After.

CHAIR MARCUS: After, if he's in the room, yeah.

VICE CHAIR MOORE: He's right there.

CHAIR MARCUS: Yeah. But make sure your card comes up to Ms. Townsend so she knows, because we do keep track of all of this. Sorry, it was hard for me to see it, the card, but thank you for trying to do that.

Councilmember, hello.

COUNCILMAN MADRIGAL: Good morning, still.

CHAIR MARCUS: Morning still, yeah.

COUNCILMAN MADRIGAL: Good morning Board Members. Thank you for the opportunity to address you. My name is Tony Madrigal. I'm a
City Councilmember in the City of Modesto, in District Number 2, and currently the Vice Mayor of Modesto.

I just want you to know that the City of Modesto has a lot, possibly the most of any city at stake in these Phase 1 proceedings. I'm going to refer here to my notes.

Our City of Modesto is home to over 220,000 people, and as of the last 2010 Census, we are the 18th largest city in the State. Modesto relies on water from the Tuolumne River for about half of our drinking water supplies. And your Substitute Environmental Document threatens to take that water away. A cut of up to 38 percent in dry years and there are no replacement sources of water available.

I'm sorry, I'm just going to go off-script here a little bit to share. I just really feel like we, in Modesto, we've done so much. When we were talking about, you know, the drought in the past, and whatnot, you know, we told the people in our community to, you know, conserve. And, you know, watering days is limited. And then, we even -- you know, I'm proud to share we even built a recycled water plant, you know, to
produce millions of gallons of recycled water to help, you know, supply farmers in the west part of our county.

CHAIR MARCUS: No, it's cool. We helped with that, it's great.

COUNCILMAN MADRIGAL: Yeah, you know about it. It's a real source of pride. And then, despite everything that we've done just to hear that, you know, this recommendation of yours to take our water, as we feel and see it, is still something you want to proceed with is very -- you know, I guess you get this feeling of, you know, what more do we got to do. Hope you'll pardon my candor, but it's --

CHAIR MARCUS: No. Please.

COUNCILMAN MADRIGAL: It feels good to get this off my chest.

CHAIR MARCUS: No, it's a challenging situation because the nature of the -- it's an unusual agreement that you have with the irrigation district, which puts in a different position than many municipalities are when we're doing things, because municipal is a higher use. So, that's why I'm interested in really focusing on it.
COUNCILMAN MADRIGAL: And so, coming back to my comments, I just want to share with you we cannot turn back to groundwater without over-drafting our basin. And some of our groundwater has significant contamination issues that you probably are aware of, that make it a poor choice for drinking water.

It is for these reasons that the City of Modesto has been very forward thinking and proactive, as I was mentioning before, in managing our water resources. And we've invested hundreds of millions of dollars in our Tuolumne River supplies.

Of all the groundwater basins in the area of the San Joaquin Valley that have agricultural communities, our county, Stanislaus County, has the only basin that has not been designated as critically over-drafted.

CHAIR MARCUS: Yeah.

COUNCILMAN MADRIGAL: And so, our city's move onto surface water supplies was a key component of this groundwater management.

The City of Modesto has long recognized that water is the key to life and prosperity in our valley. As I'm sure you all know, it's even
on our wonderful arch, in the entryway to our
downtown, "Water, Wealth, Contentment, Health".

And we ask you to take the water supply
needs of Modesto's residents, and for that matter
of all our county's residents into account. And
we urge you to direct the staff to amend the
proposal to reflect a better balance of these
needs and the other uses for Tuolumne River
water.

Again, thank you for your consideration.

Our City of Modesto Utilities Director, Will
Wong, will be here to answer any follow-up
questions that you may have. Don't take our
water.

CHAIR MARCUS: Thank you.

(Applause)

CHAIR MARCUS: Thank you, sir. Thank you
for coming back.

BOARD MEMBER D'ADAMO: And I'm sorry, but
I do have follow-up questions. But maybe is he
on the list, is he going to appear?

CHAIR MARCUS: Mr. Wong is going to go --
aren't you planning to go later as a particular
speaker, or are you here together to speak?

BOARD MEMBER D'ADAMO: Either way, either
fill out a blue card or I'll ask you, now. But I know you want to move on and take a break.

CHAIR MARCUS: Well, I'm just worried about people's blood sugar level, that's all.

MS. BUCKMAN: He did not submit --

CHAIR MARCUS: What?

MS. BUCKMAN: He did not submit a separate blue card for Mr. Wong. He's got to get back and run a utility at some point.

CHAIR MARCUS: I know and there are a number of people who also need to go, including the fisherman who asked to be able to go quickly, before we break.

But we really do need the staff presentation so we make a difference. If I start pulling everybody out of turn, then we're not going to even finish the staff presentation, which is also important. So, I'm a little unclear on what to do.

I'm not going to take an hour-long lunch break, if Mr. Wong can wait, because I think we're looking forward to speaking with him.

BOARD MEMBER D'ADAMO: Can you wait?

MS. BUCKMAN: After lunch, that's fine.

BOARD MEMBER D'ADAMO: Okay.
CHAIR MARCUS: Okay, I really appreciate that just because there a lot of people that are --

MS. BUCKMAN: No, we totally understand. All these people took time off work, they need to have priority when they need it.

CHAIR MARCUS: Exactly. No, that would be great. And Mr. Marshall, you asked for ten minutes. I can't do that. But I could do -- you can take your three, if you really have to go. But if I start getting tons of people who ask, I can't do it at all. But I'm --

MR. MARSHALL: I knew I wasn't going to --

CHAIR MARCUS: I appreciate your creativity with that sign, but I don't want everybody to start putting up giant signs. They need to talk to -- it's very creative. But we do need to talk to Jeanine. So, if you want to do three minutes do it now, and then we'll break.

MR. MARSHALL: If you knew me, you'd know that I shoot the moon on time and effort. So, I knew I wasn't going to get ten. I'm just glad I didn't get tackled by the officers in the back for putting up the sign.
CHAIR MARCUS: Yeah, I hope you don't shoot the moon all the time. My grandson is like killing me in hearts since he learned to do that.

MR. MARSHALL: I'm the President of the Small Board Commercial Salmon Fishing Association. I represent an extremely small --


MR. MARSHALL: Don Marshall is my name. I'm 36 years old. Basically, there used to be 3 or 4 thousand trollers years ago. There's only about 400 and less than that are actively making a living at it.

This year, we were given a total of 19 days to fish during May, and June, and July. We were handed the worst weather during this summer that I've ever seen, since I've been in the fishery. So, we didn't get 19 days. We got a lot less than that.

There is not a person in this room or outside this room that can sustain the way that they live with the financial gains from 19 days in three months.

I fish for five days at a time, away from my family. I have little children that depend on this. Several other people that were here today
had to leave already, they weren't quite as creative with their sign, as myself. We're on our last legs.

The flow of that river and the salmon that it produces as a result of that extra flow is what structures us with a better season. When there's more salmon in the open ocean and more salmon returns to the river, we're given more days. We're given more opportunity.

Right now, I'm seeing me coming off the water, I spent 6 or 7 hundred dollars, plus lost income, plus the infrastructure of my business to come here today. I am only going to see my kids this afternoon because I knew that if I was going to lose the whole day, I may as well do that before I leave at 2:00 a.m. So, I apologize for out of turn. But if it was going to go to tomorrow, I just can't lose that kind of money. Based on what I've told you, it seems obvious.

We've had our faces just stomped on over, and over, and over. I got into this business full time. I worked for somebody else, I worked hard. Worked harder than most to get to where I'm at and what I have. And I wonder, at 36 years old, do we really have a bright future in
salmon trolling, and crab fishing, and things
like that in the State of California.

And when we start to see things like
scientists saying that we need 50 to 60 percent
of flow in the river to sustain the ecosystem's
balance and what we get is the idea that we may
go down to 30 or 40. Lower than 40 with habitat
restoration is completely unacceptable. There is
now way that any habitat restoration at this
point, after the degradation in habitat that
we've experienced thus far, could ever make up
for 10, 20, 30 percent of flow. It's ludicrous.

The scientists are saying it. Anybody
that's involved in the fishery will tell you that
we see the ebb and flow of what goes on here
every day. Every season we know what's going on,
usually before we even go to it. And this is
what we've got here, we're left with a fishery
that's in shambles.

I'd also like to remind the Board every
single fish is highly coveted and goes to the
domestic markets. There is no processing at
outside facilities in foreign countries. Every
single fish that I have goes to Miami, New York,
Chicago, San Francisco, Washington, and the
cruise lines. That's all the access that the American public has to another salmon in this area, besides farm-raised salmon.

We need to look at these things a little more closely before my fishery, before salmon trollers are extinct. We're very close. We saw this in '08 and '09.

I apologize for going past the timer.

CHAIR MARCUS: That's okay. You just need to wrap because you do have a roomful -- we will hear from people. And I very much appreciate you coming across the spectrum. But if you can wrap up just because there are --

MR. MARSHALL: Absolutely.

CHAIR MARCUS: We can't repeat that all day and evening.

MR. MARSHALL: In the end, we just need more flow for the river. I understand and sympathize with the people that have no drinking water, farmers that are having to take pay cuts, orchards need to be smaller and things like that, I understand. But we are on our last legs. We are the segment that is down at the bottom and we aren't able to grow at this point.

So, thank you for your time.
CHAIR MARCUS: Thank you very much.

(Applause)

CHAIR MARCUS: Thank you for taking the time.

I'm now going to suggest that we take a break until 12:30. And then, we should still keep asking questions as we go through, but be mindful of the questions we can ask later just so we can get to everybody else.

It's hard because we want it illuminated since people don't know.

(Off the record at 11:56 a.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 1st day of October, 2018.

[Signature]

PETER PETTY
CER**D-493
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 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 1st day of October, 2018.

Myra Severtson
Certified Transcriber
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