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BEFORE THE  
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

CALIFORNIA WATERFIX WATER )  
RIGHT CHANGE PETITION )  
HEARING )

JOE SERNA, JR. BUILDING  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
COASTAL HEARING ROOM  
1001 I STREET  
SECOND FLOOR  
SACRAMENTO, CALIFORNIA

PART 1B

Thursday, December 08, 2016

9:01 A.M.

VOL. 33

PAGES 1 - 220

Reported by: Elizabeth A. Willis-Lewis, RPR, CCRR, CLR  
CSR No. 12155  
Certified Shorthand Reporter

1 APPEARANCES

2 CALIFORNIA WATER RESOURCES BOARD

3 Division of Water Rights

4 Board Members Present:

5 Tam Doduc, Co-Hearing Officer  
6 Felicia Marcus, Chair & Co-Hearing Officer  
7 Dorene D'Adamo, Board Member

8 Staff Present:

9 Dana Heinrich, Senior Staff Attorney  
10 Kyle Ochenduszk  
11 Jason Baker  
12 Kevin Long

13

14 PART I

15 For Petitioners:

16 California Department of Water Resources:

17 James (Tripp) Mizell, Esq.  
18 Thomas M. Berliner, Esq.  
19 Jolie-Anne Ansley, Esq.

20

21 For Protestants:

22 Restore the Delta:

23 Trent Orr, Esq.

24 Yana Garcia, Esq.

25 Save the California Delta Alliance, et al:

26 Michael Brodsky

27

28 INTERESTED PARTIES:

29 State Water Contractors:

1 Becky Sheehan, Esq.

2 San Luis & Delta-Mendota Water Authority:

3 Jon Rubin, Esq.

4 For Westlands Water District:

5 Philip A. Williams, Esq.

6

7 For Brett G. Baker, Local Agencies of the North Delta,  
8 Bogle Vineyards/Delta Watershed Landowner Coalition,  
9 Diablo Vineyards and Brad Lange/Delta Watershed  
10 Landowner Coalition, Stillwater Orchards/Delta Watershed  
11 Landowner Coalition, Islands, Inc., SAVE OUR SANDHILL  
12 CRANES and Friends of Stone Lakes National Wildlife  
13 Refuge, City of Antioch:

14 Osha Meserve, Esq.

15 County of San Joaquin, San Joaquin County Flood Control  
16 and Water Conservation District, and Mokelumne River  
17 Water and Power Authority:

18 Thomas H. Keeling, Esq.

19 Central Delta Water Agency, South Delta Water Agency  
20 (Delta Agencies), Lafayette Ranch, Heritage Lands Inc.,  
21 Mark Bacchetti Farms and Rudy Mussi Investments L.P.:

22 John Herrick, Esq.

23 California Sportfishing Protection Alliance, California  
24 Water Impact Network, and AquAlliance:

25 Michael Jackson, Esq.

26 City of Brentwood:

27 David Aladjem, Esq.

28 Snug Harbor Resorts:

29 Nicole S. Suard, Esq.

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I N D E X

1  
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14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

PROTESTANTS' WITNESSES

PAGE

WILLIAM CHIP SALMON

Direct examination by Mr. Herrick .....16

TIM STROSHANE

Opening statement by Ms. Barrigan-Parrilla .....23

Direct Examination by Mr. Orr .....33

Cross-examination by Mr. Berliner .....123

Cross-examination by Mr. Keeling .....144

Cross-examination by Ms. Meserve .....154

Cross-examination by Mr. Brodsky .....156

Cross-examination by Ms. Suard .....163

MICHAEL MACHADO

Direct Examination by Mr. Orr .....42

Cross-examination by Mr. Berliner .....117

Cross-examination by Ms. Meserve .....153

BARBARA BARRIGAN-PARRILLA

Direct examination by Ms. Garcia .....62

Cross-examination by Ms. Ansley .....111

Cross-examination by Ms. Meserve .....148

Redirect examination by Ms. Garcia .....168

	PAGE
1 PETITIONERS' WITNESSES	
2	
3 ESPERANZA VIELMA	
4 Direct examination by Ms. Garcia .....	84
5	
6 IXTZEL REYNOSO	
7 Direct Examination by Ms. Garcia.....	93
8 Cross-examination by Ms. Meserve .....	108
9 NICOLE SUARD	
10 Opening statement by Ms. Suard .....	174
11 Direct examination by Mr. Brodsky .....	179
12 Cross-examination by Mr. Mizell .....	201
13 Redirect examination by Mr. Brodsky .....	214
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	

1           DECEMBER 8, 2016 - THURSDAY 9:01 A.M.

2                   P R O C E E D I N G S

3                           --oOo--

4           HEARING OFFICER DODUC: All right. Good  
5 morning, everyone. Welcome back to this Water Rights  
6 hearing on the Change Petition for the California  
7 WaterFix project. I am Tam Doduc. We will be joined  
8 shortly by Chair Marcus. And I do not know if --  
9 whether Dorene D'Adamo will be joining us today. But we  
10 have Dana Heinrich and Kyle Ochenduszko here today, as  
11 well as Ms. McCue and Mr. Hunt assisting us.

12           Our usual standard announcement. Please take a  
13 moment right now and identify the exit closest to you.  
14 In the event of an emergency, we will evacuate this  
15 room. We will take the stairs down to the first floor  
16 exit and meet up in the park. If you are not able to  
17 use the stairs, flag down one of us or anyone wearing  
18 orange fluorescent coloring, and they will direct you to  
19 a protective area.

20           Second announcement, as always, this is being  
21 recorded and web casted. So always speak into the  
22 microphone -- make sure it's on first -- when presenting  
23 your comments and begin by identifying yourself and  
24 state your affiliation.

25           Our court reporter is here with us today. We

1 will make the transcript available on our web site after  
2 the conclusion of Part 1B. If you wish to have it  
3 sooner, please make arrangements directly with her.

4           And finally, and most importantly, please take  
5 a moment and make sure that all your noise-making  
6 devices are set to silent as to not irritate the hearing  
7 officer. Please check even if you think they are on  
8 silent.

9           All right. With that, before we begin, I  
10 believe there are some housekeeping items that we need  
11 to address. We will hear from the City of Brentwood and  
12 Antioch. But I will just reiterate that today, we will  
13 hear from Mr. Herrick and his remaining witness.  
14 Welcome, Mr. Salmon. And then we'll get to Restore the  
15 Delta and their case-in-chief and hopefully, Ms. Suard  
16 and Snug Harbor's case-in-chief.

17           So with that -- and you've all seen the e-mail  
18 by now that certain parties failed to coordinate as  
19 required and failed to provide the proper notice, not  
20 only to the hearing team, but also to all other parties  
21 regarding their unavailability until quite late in the  
22 hearing process. Those parties have Ms. Heinrich to  
23 thank for talking me down from my inclination of not  
24 showing any leniency for their lack of coordination and  
25 lack of respect. It will happen once and only once. I

1 do not and will not allow it to happen in future  
2 proceedings under this Water Rights process. So with  
3 that, Mr. Aladjem?

4 MR. ALADJEM: Good morning, Chair -- is this  
5 on?

6 HEARING OFFICER DODUC: I don't know.

7 MR. ALADJEM: I believe it is on. Good  
8 morning, Chair Doduc. David Aladjem, Downey Brand on  
9 behalf of the City of Brentwood.

10 Chair Doduc, in mid November, the City of  
11 Brentwood and the Department of Water Resources  
12 represented to the Board that we were engaged in serious  
13 settlement negotiations and we asked that the Board  
14 postpone the City's case-in-chief so as to allow those  
15 settlement negotiations to proceed. I regret to inform  
16 you that we have not been able to reach a settlement.  
17 But we are ready to go next week, and I will represent  
18 to the Board that Mr. Ailers, Assistant Director of  
19 Public Works, and Dr. Susan Paulson will be available to  
20 testify next -- I believe it's Wednesday, December 14th.  
21 I have coordinated with Mr. Emrick on behalf of the City  
22 of Antioch. Antioch will also be ready to go. And  
23 we've also conveyed this to the Department, and the  
24 Department concurs with this request.

25 HEARING OFFICER DODUC: All right. Thank you.



1 We will so schedule you for next Wednesday, December  
2 14th.

3 MR. ALADJEM: Thank you very much, Madam Chair.  
4 Thank you.

5 HEARING OFFICER DODUC: And actually, while I  
6 have you up there, could you provide me an estimate of  
7 the time that you will need for direct?

8 MR. ALADJEM: Yes, Madam Chair. Mr. Ailers  
9 should be something on the order of 15, maybe 20  
10 minutes. Dr. Paulson probably will be 45 minutes, maybe  
11 an hour but probably not more than that.

12 HEARING OFFICER DODUC: All right. Mr. Emrick?

13 MR. EMRICK: Probably exactly the same time  
14 estimate.

15 HEARING OFFICER DODUC: And, Mr. Mizell, your  
16 anticipated cross?

17 MR. MIZELL: I think a conservative estimate  
18 will be about two hours, but we will attempt to make  
19 that shorter.

20 HEARING OFFICER DODUC: And anyone here, at  
21 least present right now, anticipate cross-examination?  
22 Rough estimate, Mr. Herrick?

23 MR. HERRICK: Probably no more than a half an  
24 hour.

25 HEARING OFFICER DODUC: Okay. And that's for

1 each or both?

2 MR. HERRICK: Total.

3 HEARING OFFICER DODUC: Okay.

4 MS. MESERVE: Good morning. Osha Meserve for  
5 Local Agencies of the North Delta, and I would think  
6 probably 15 minutes each party that was just discussed.

7 MR. KEELING: Good morning. Depending on what  
8 has come before -- Tom Keeling for the County  
9 Protestants -- we'd like to reserve 15 minutes of cross.

10 HEARING OFFICER DODUC: And we need to check to  
11 make sure that microphone is on and is loud as possible.

12 MR. BRODSKY: Testing, 1, 2, 3.

13 HEARING OFFICER DODUC: Good job, Mr. Brodsky.

14 MR. BRODSKY: Michael Brodsky on behalf of Save  
15 the California Delta Alliance, and I'd estimate a half  
16 hour for each panel.

17 HEARING OFFICER DODUC: Okay. Ms. Suard?

18 MS. SUARD: Nicki Suard with Snug Harbor  
19 Resort. I would say maybe half an hour total.

20 HEARING OFFICER DODUC: All right.

21 MR. ALADJEM: Madam Chair, since Dr. Paulson  
22 will be appearing on behalf of both the City of Antioch  
23 and the City of Brentwood, we will have her here both on  
24 the 14th and 15th.

25 HEARING OFFICER DODUC: Perfect.

1 MR. ALADJEM: Thank you.

2 HEARING OFFICER DODUC: Thank you.

3 Any other housekeeping items we need to  
4 address? Mr. Brodsky?

5 MR. BRODSKY: So if Antioch and Brentwood are  
6 going on the 14th, then on the 13th, would that be  
7 likely that North Delta Cares would be called? They've  
8 reached out to me recently to give them a hand.

9 HEARING OFFICER DODUC: Yes. I would expect on  
10 13th, we will begin -- well, if there's any carry over,  
11 we will begin with that. Although I doubt it. And then  
12 Clifton Court Forebay will come first, then PCFFA, and  
13 Ms. Des Jardins. So that's Groups 43, 38, and 37.

14 Where does North Delta Cares fall in the  
15 grouping of order?

16 MR. BRODSKY: After those.

17 HEARING OFFICER DODUC: After. I believe  
18 they're 39.

19 MR. BRODSKY: So possibly the afternoon of the  
20 13th or it could be -- would that have been lapsed over  
21 in the morning of the 14th? Would we go before them or  
22 would they get ahead of us -- Antioch and Brentwood?

23 HEARING OFFICER DODUC: Mr. Aladjem, my  
24 preference is to move North Delta Cares ahead of Antioch  
25 and Brentwood because we did put you at the last of the

1 order.

2 MR. ALADJEM: That would be acceptable.

3 HEARING OFFICER DODUC: All right.

4 MR. EMRICK: That works for Antioch, too.

5 HEARING OFFICER DODUC: All right. Thank you.

6 With that --

7 MR. BRODSKY: Okay. Thank you.

8 HEARING OFFICER DODUC: Thank you. Seeing no  
9 other housekeeping item, I will give you, I guess, one  
10 other additional homework that you might start thinking  
11 about. As I mentioned earlier, the whole scheduling  
12 process of -- for cases-in-chief during Part 1B has been  
13 challenging as some of you have actually even noticed in  
14 your suggestions and written comments to the Board with  
15 respect to the rebuttal portion of Part 1B.

16 So please start to think right now in terms of  
17 what different process we might pursue for the rebuttal  
18 portion, as well as going on, if we do go on, into  
19 Part 2 and other parts of this hearing. We've tried  
20 several mechanisms. I think we started out 1B by  
21 allowing the parties to self-organize. That did not  
22 work very well because we ended up with two days which  
23 there were no case-in-chief presentation. We then next  
24 tried realtime management, which for the most part  
25 worked out well. And I really appreciate all the

1 parties that really stepped up and really coordinated,  
2 and Ms. Meserve, in particular, who rounded up her  
3 witnesses and got them here. But I recognize that that  
4 created a little bit of -- a lot of uncertainty, not  
5 only for the parties presenting cases-in-chief, but also  
6 for the parties conducting cross-examination.

7           So let's see if together we might come up with  
8 a third and perhaps better approach for scheduling and  
9 coordinating cases-in-chief for the rebuttal phase. We  
10 do not need to discuss it right now. I just want you to  
11 start thinking about it.

12           MR. BRODSKY: Thank you. I just wanted to go  
13 back to the scheduling for North Delta Cares. So they  
14 had originally requested -- and I understand the  
15 interchange with Ms. Heinrich and difficulties of late  
16 notice. But they had originally requested to go on the  
17 15th or later, and they could then for sure have all  
18 their witnesses there. So since Antioch and Brentwood  
19 are -- are prepared to go, could we put North Delta  
20 Cares after Antioch and Brentwood so we won't have a  
21 gap?

22           HEARING OFFICER DODUC: You're really pushing  
23 me so early in the morning, Mr. Brodsky.

24           MR. BRODSKY: Have you had your second cup of  
25 coffee yet?

1 HEARING OFFICER DODUC: No. I actually haven't  
2 had my first cup of coffee.

3 MR. BRODSKY: Well, I can run downstairs, and  
4 they have an espresso bar down there.

5 MR. HERRICK: We can discuss it later.

6 HEARING OFFICER DODUC: Keep in mind, though,  
7 that there is a possibility that we may get to North  
8 Delta Cares on Tuesday, depending on how quickly things  
9 go.

10 MR. BRODSKY: Okay. And if we do, they'll have  
11 to be available. But if we don't, then can they go  
12 after?

13 HEARING OFFICER DODUC: Wow. He's really,  
14 really -- I would assume if there's no objection from  
15 Antioch and Brentwood.

16 MS. MESERVE: And I'll take a little bit of the  
17 heat here. I had been in contact with North Delta  
18 Cares. And they have -- you know, they're needing a  
19 little bit of assistance with the right spot. So I'll  
20 take a little bit of the heat for Brodsky.

21 MR. ALADJEM: Madam Chair, David Aladjem, on  
22 behalf of the City of Brentwood. Our chief concern is  
23 since Dr. Paulson is coming from Southern California  
24 that we are able to put her on on the 14th and 15th.  
25 Any time during those period -- those days, we're good.

1 HEARING OFFICER DODUC: All right. Since  
2 Mr. Brodsky and Ms. Meserve actually provided us the  
3 respect of appearing in person to speak on behalf of  
4 North Delta Cares and not using Mr. Jackson as a third  
5 party to convey their request, I will hereby grant it.  
6 If we get to North Delta Cares on Tuesday, I expect them  
7 to begin with their case-in-chief. If we do not finish  
8 with their case-in-chief on Tuesday, we will return with  
9 them on Friday -- I'm sorry -- Thursday. And that's on  
10 the premise that -- and I believe given on the time  
11 estimate that Brentwood and Antioch will take more than  
12 just one day. All right?

13 MR. BRODSKY: Thank you very much.

14 HEARING OFFICER DODUC: We have now been joined  
15 by Chair Marcus. Let the record show that. And now we  
16 will get to Mr. Herrick who has been patiently waiting.

17 Mr. Herrick, please present -- actually, I need  
18 to administer the oath before Mr. Salmon can testify.  
19 Please stand and raise your right hand.

20 Do you swear or affirm the testimony you are  
21 about to give is the truth? If so answer, "Yes, I do."

22 MR. SALMON: Yes, I do.

23 HEARING OFFICER DODUC: Thank you.

24 Mr. Herrick.

25 MR. HERRICK: Thank you, Madam Chair.

1           Madam Chair and staff, John Herrick for South  
2 Delta and Central Delta parties. This is the last  
3 witness in our group. We appreciate the fact that the  
4 Board was agreeable to schedule him more at our  
5 convenience than yours. But this will conclude our  
6 presentation. There is no opening statement. I already  
7 gave that. So I'll just get right to it.

8           EXAMINATION BY MR. HERRICK:

9           Q. Mr. Salmon, would you say and spell your full  
10 name?

11          A. It's William Chip Salmon, S-a-l-m-o-n.

12          Q. And is South Delta Water Agency Exhibit 111 --  
13 111 a true and correct copy of your testimony?

14          A. Yes, it is.

15          Q. And then very briefly, referenced in that  
16 testimony and as different exhibits are South Delta  
17 Water Agency 112, 113, 114, 115, 116, and 117; is that  
18 correct?

19          A. That is correct.

20          Q. And those are all true and correct copies of  
21 the documents you referenced?

22          A. 100 percent.

23          Q. Briefly, before I ask you to summarize your  
24 testimony, would you please just describe the location  
25 of the lands that are the subject of your testimony?



1       A.    Yes.  It's the South Delta Union Island.  Been  
2 there 52 years.  It's between Stockton and Tracy.  
3 Approximately 5 miles from the east of the Clifton Court  
4 Forebay.  Consists of around 13, 1400 acres at that  
5 ranch.  And then I represent some other ranches in the  
6 Central and North Delta, also.  But this one speaks to  
7 the south ranch.

8       Q.    And just so people can get some perspective,  
9 the South Delta Water Agency No. 112 -- 112 -- Exhibit  
10 112 is a map that shows the location of the property; is  
11 that correct?

12       A.    Correct.

13       Q.    And just for frame of reference, the property  
14 touches Middle River and Grantline Canal?

15       A.    I divert from the Grantline Canal, and I divert  
16 from Middle River, as well.

17       Q.    Thank you.

18               Now, would you please summarize your testimony?

19       A.    Certainly.  Approximately in the early 2000s,  
20 my father and I had basically pioneered some  
21 diversification in the Delta with permanent crops.  My  
22 dad had been working on it for several years.  He had  
23 been there since the early 40s working on that.  We  
24 pioneered walnuts and vineyards.  And most recently, I  
25 have gone into blueberries, which at the time were not

1 quite put in for this testimony.

2           But prior to planting those crops, we would  
3 plant beans and some other crops that would, you know,  
4 give us some nitrogen and help the soils. So I planted  
5 quite a few acres of beans and lost the entire crop. We  
6 had high degrees of salt toxicity, chloride toxicity.  
7 Had everything tested. Started to see a pattern in the  
8 early 2000s, right around the time which flows in the  
9 Delta were substantially reduced. Monitoring that, as  
10 any good farmer would do, we started taking tests and  
11 sampling. I'm not a professional water sampler. But I  
12 am highly educated with several degrees from  
13 universities. So I think I know how to calibrate such  
14 equipment, which I did. But I did request third-party  
15 intervention, which they did come out. And we started  
16 testing all of our crops, tissue samples, bark samples,  
17 tearing into the cambium layers, taking water samples,  
18 soil samples just so I knew what I had to mitigate.

19           And what we found was -- is that through our  
20 walnuts deteriorating, through the grapes deteriorating,  
21 to the total annihilation of the bean crop that the  
22 amount of salt in the parts per million that we were  
23 diverting from Middle River and Grantline Canal exceeded  
24 any good measure that any good farmer would anticipate  
25 we would have in quality water. We have our riparian,

1 which I believe in. I have my pre-1914, which I believe  
2 in. And I have California State water licenses.

3           So what we've seen is, is since the early  
4 2000s, there's been a distinct pattern of crop failure.  
5 And it's now reached an extreme point that we've now  
6 removed all said walnuts from that period and that time,  
7 all vineyard has been removed. I continue to be  
8 compounded every year with the same problem, high  
9 salinity, high salinity.

10           I step above most guys in the Delta, as I tile  
11 drain the entire ranch, 1300-plus acres, which helps me  
12 flush my soils. I've added more amendments than -- than  
13 Nevada has in their gyp mines. I've put that on my  
14 soil. We've flooded. We've done everything possible.  
15 We've sprayed foliar sprays. We've tried to adapt to  
16 special root stocks to accommodate, to mitigate this  
17 problem. And it's becoming a futile point from a  
18 farmer's standpoint. That we see what -- what we  
19 believe we're entitled to in the North Delta, Central  
20 Delta, and South Delta, as being torn from us and  
21 shipped down south, which -- with not a lot of care to  
22 our environment in the Delta.

23           We have a slough that borders me, which I  
24 believe makes reference in the map on here. It's called  
25 Salmon Slough. No -- no pun intended, but it's the same

1 spelling as my name. I don't know why they even call it  
2 that anymore because, A, we don't get flows through  
3 there. We don't get any fish through there, certainly,  
4 of any -- any substance. All of those are great  
5 concerns for farmers who aren't just farmers. We're  
6 stewards of the land, and everything that makes that  
7 land have the ability to grow crops.

8           So I'm hand-in-hand with anybody that has  
9 anything to do with the Delta and saving the Delta. So  
10 it has had a humongous -- for lack of a better word -- a  
11 humongous strain financially on farming operation that  
12 is large, diverse, and steps greatly to improve  
13 everything that I have out there. But I can't do it  
14 when my water coming to me is substantially worse every  
15 single year. The flows have decreased to basically  
16 nothing.

17           Right now, this morning, I could walk across  
18 Middle River and just get my ankles wet and that'd be  
19 about it. And that's the truth. We have pictures and  
20 pictures and pictures to show this. So I mean, I could  
21 go on for more than probably what you have time for.

22       Q.    Please don't.

23       A.    But I won't. I think I've given you a fairly  
24 well synopsis (sic) of what happened to us since early  
25 the 2000s to current time. It is -- it's been an

1 Armageddon. It's kind of like, "Life After People."

2 Well, this is life after salt in the Delta, and that's  
3 what I'm contending with on a -- on a daily basis.

4 Q. Mr. Salmon, let me just ask you whether or not  
5 it's correct to say your testimony included descriptions  
6 of conditions and impacts starting in 2002 because you  
7 had presented this testimony in a prior hearing before  
8 the State Board; is that correct?

9 A. That is correct. I gave a statement to this  
10 fact -- this has been updated briefly -- to what I gave  
11 back several years ago. That is correct.

12 Q. Mr. Salmon, it's your testimony that you  
13 currently experience problems due to salt and you are  
14 appearing here at the request of South Delta and other  
15 parties just to state that any additional salt that  
16 might result from the project would -- would result in  
17 increased damage to you; is that correct?

18 A. Yes. I -- I would say that that is correct.  
19 The point that any -- any changes to the Delta will  
20 definitely have an effect. I'm not -- again, I'm not a  
21 professional engineer to any of the projects, but I know  
22 what will work and I know what won't work.

23 MR. HERRICK: Thank you. That's all, ma'am.

24 HEARING OFFICER DODUC: Thank you, Mr. Herrick.

25 Cross-exam? There is no taker on cross-examination. So

1 thank you, Mr. Salmon.

2 MR. SALMON: Well, that's not very fair.

3 HEARING OFFICER DODUC: Mr. Herrick, you have  
4 until noon next Wednesday to submit your list of  
5 exhibits. And I believe, Ms. Meserve and Mr. Keeling,  
6 you will also do yours at the same time.

7 MR. KEELING: We did already.

8 HEARING OFFICER DODUC: You did already? All  
9 right. Thank you. Thank you, Mr. Herrick. Thank you,  
10 Mr. Salmon.

11 MR. SALMON: Thank you very much.

12 HEARING OFFICER DODUC: All right. Please come  
13 up, Restore the Delta. And I believe you requested an  
14 hour and 45 minutes.

15 MR. ORR: 40, actually.

16 HEARING OFFICER DODUC: 40. Thank you.

17 MR. ORR: We had asked for two-and-a-half, but  
18 we have cut it down.

19 HEARING OFFICER DODUC: Actually, I'm impressed  
20 because having read all the testimony you submitted, an  
21 hour and 40 minutes is quite succinct. Thank you.

22 MR. ORR: You asked for a summary. So we paid  
23 attention.

24 HEARING OFFICER DODUC: Thank you. Why don't  
25 I -- before the witnesses get too comfortable, please

1 stand and raise your right hand.

2 Do you swear or affirm that the testimony you  
3 are about to give is the truth? If so answer, "Yes, I  
4 do."

5 ALL: Yes, I do.

6 HEARING OFFICER DODUC: Thank you.

7 MR. ORR: Good morning, Hearing Officer Doduc  
8 and Hearing Officer Marcus and members of staff. My  
9 name is Trent Orr, and with me is Yana Garcia. We are  
10 representing Restore the Delta here today. We're going  
11 to present testimony from five witnesses. We will  
12 actually start with an opening statement that  
13 Ms. Barrigan-Parrilla is going to deliver, and that's  
14 included in the hour and 40 minutes. And then we will  
15 present in this order: Tim Stroshane, Michael Machado,  
16 Barbara Barrigan-Parrilla, Esperanza Vielma, and Ixtzel  
17 Reynoso.

18 And there are two housekeeping matters that  
19 probably sounds like will not be relevant, but we wanted  
20 to mention that Ms. Reynoso is a student at the  
21 University of Pacific and she has classes tomorrow she  
22 has to attend. So we're hoping that she can be done  
23 today, and if there's cross that she be first in line  
24 for cross, even though she's last in line for our  
25 presentations. And Mr. Stroshane has a safety chore

1 that he needs to perform at his elderly mother's  
2 apartment that he would like to attend to tomorrow. So  
3 it sounds to me like we'll be in and out today. So --  
4 so with that, I think I will turn the microphone  
5 symbolically -- a different one over to  
6 Ms. Barrigan-Parrilla.

7 MS. BARRIGAN-PARRILLA: Can you hear me now?

8 HEARING OFFICER DODUC: Yes.

9 MS. BARRIGAN-PARRILLA: Okay. Good. Good  
10 morning, Chair Doduc and officer -- Officer Hearing  
11 Dudoc (sic) and Chair Marcus. Barbara Barrigan-Parrilla  
12 from Restore the Delta. We are a grassroots  
13 organization of now over 40,000 supporters dedicated to  
14 saving the San Francisco Bay Delta Estuary for our  
15 children and for our future generations by working to  
16 protect water quality and quantity.

17 Restore the Delta's case-in-chief will offer  
18 evidence into the record to support the following  
19 arguments. First, the petition facilities represent a  
20 new water right, not a mere change to existing water  
21 right permits of the State Water Project and Central  
22 Valley Project. Second, the petition facilities and  
23 their operation would alter flow and water quality to  
24 such a degree that Petitioners have failed to meet their  
25 burden to demonstrate that such alterations would not



1 injure Delta water rights holders and other legal  
2 beneficial users of water in the Delta. Third, the  
3 Petitioners have failed to demonstrate that alterations  
4 to water quality resulting from operation of petition  
5 facilities would not degrade flows and water quality and  
6 thus would harm environmental justice communities of the  
7 region. Finally, the Petitioners have utterly failed to  
8 adequately provide public outreach to the Delta's  
9 environmental justice communities. In the survey, their  
10 interest is legal users of water in a comprehensive and  
11 cultural sensitive way. In failing to do so,  
12 Petitioners have failed to demonstrate that  
13 environmental justice communities would not bear the  
14 disproportionate burden from effects on the petition.

15 A new water right. Restore the Delta will  
16 offer a variety of evidence showing that the facilities  
17 and operational criteria of the Change Petition  
18 represent a new water right, not a mere change in  
19 existing state and federal water project water right  
20 permits. Petitioners assert that petition facilities  
21 merely alter where water is diverted and that the  
22 overall effect to existing water right parameters would  
23 be unchanged. Petitioners ignore the loss of flow and  
24 overall effect to existing water rights parameters.  
25 Petitioners ignore the loss of flow in and through the

1 Delta that the petitioned facilities would cause. Flow  
2 in multiple channels, sloughs, and rivers through which  
3 project's water is delivered to the South Delta pumps  
4 would be significantly reduced by petition facilities.

5 This removal of fresh water flow from Delta  
6 channels represents a change in the method of diversion  
7 from the Delta and must be evaluated for its  
8 reasonableness under Water Code Section 100 of the  
9 California Constitution, Article 10, Section 2.

10 Mr. Stroshane's testimony will also offer  
11 evidence that existing water rights permits of the State  
12 Water Project and Central Valley Project are actually  
13 complete and should be licensed.

14 Do petitioners own and operate completed  
15 projects that put water to full beneficial use by the  
16 deadlines assigned them by the State Water Resources  
17 Control Board? The evidence put forward in  
18 Mr. Stroshane's testimony supports a "yes" answer.

19 Were petitioners sufficiently diligent in  
20 constructing and operating a diversion at -- good for a  
21 peripheral canal? The evidence put forward in  
22 Mr. Stroshane's testimony supports a "no" answer.

23 Do the existing water rights on the projects  
24 merit award of time extensions so as to develop three  
25 new diversions along the Sacramento River? The evidence

1 put forward in Mr. Stroshane's testimony supports a "no"  
2 answer.

3           We recommend that the State Water Board dismiss  
4 the Change Petition without prejudice and license  
5 existing water rights permits for the Central Valley  
6 Project and State Water Project excluding the facilities  
7 described in the Change Petition. If the projects were  
8 to continue, which Restore the Delta opposes as  
9 injurious to environmental justice communities'  
10 beneficial uses of water, it should be the subject of a  
11 new water right application with an attendant current  
12 filing date indicating as junior in priority.

13           Flow and water quality from the petition  
14 facilities. Petition facilities will reduce flows in  
15 the lower Sacramento downstream of the proposed North  
16 Delta diversions. Petitioners' modeling results will be  
17 submitted into evidence to support our argument that  
18 this flow reduction is regional, extending from the  
19 diversion points between Clarksburg and Courtland and  
20 perhaps from even further upstream to 21 miles  
21 downstream to Rio Vista. Our evidence also shows that  
22 four other flow effects of this reduction found in  
23 Petitioners' modeling results, 1, increased residence of  
24 water time; 2, increased salinity incursion into the  
25 Delta; 3, greater flow into the central and western

1 delta from the San Joaquin River which has impaired  
2 water quality; 4, and potential reverse flows upstream  
3 as far as Freeport above the North Delta diversions of  
4 the Sacramento River. These hydrodynamic effects will  
5 cause water quality degradation in the Delta evidenced  
6 by increased salinity to key locations that will also  
7 intrude into groundwater from Delta recharge.

8           Mr. Stroshane's testimony touches on modeling  
9 issues raised by others about the calibration,  
10 verification, peer review, and accessibility of modeling  
11 made available, but not included is exhibits with their  
12 case-in-chief for this hearing process.

13           Our case-in-chief rests on petitioners'  
14 representations to that effect. We understand that the  
15 initial operating criteria for the petition facilities  
16 could change yet again. And we express the hope that in  
17 Part 2, Part 1 participants will be able to revise the  
18 effects of any changes on the issues we raise in Part 1  
19 of our case-in-chief.

20           Salinity impacts on Delta agriculture. Delta  
21 agriculture is the Delta region's economic engine and  
22 its major employer of portions of the Delta  
23 environmental justice communities. Harm to this sector  
24 of the regional economy would compound direct economic  
25 and social losses to these communities.

1 Michael Machado, former State Senator and  
2 executive director of the Delta Protection Commission,  
3 will submit into evidence the Delta Economic  
4 Sustainability Plan modeling the salinity impacts in the  
5 South Delta. Water quality protection is crucial to  
6 maintain Delta agriculture's contribution to the region  
7 and the state's economies.

8 My testimony will focus on the variety and size  
9 of Delta environmental justice communities that have not  
10 been adequately taken account into the Petitioner's case  
11 for the project and that would be harmed significantly  
12 as legal users of water if the petition were granted.  
13 We believe that the Petitioners own documentation  
14 supports this conclusion. Our evidence centers on  
15 Stockton and San Joaquin County, the poorest portions of  
16 the Delta region, where beneficial uses of water will  
17 be -- beneficial users of water would be injured by  
18 water quality degradation, as well as by subsurface  
19 intrusion of saline water into groundwater under  
20 Stockton.

21 Such environmental harms to Stockton's natural  
22 endowment of fresh water would add injury to the  
23 economic and social distress, food deserts, low rates of  
24 education attainment, and high rates of populations  
25 isolated by language barriers endured by Delta

1 environmental justice communities. These injuries would  
2 result from the increase expense of water treatment,  
3 food security issues, and unemployment associated with  
4 degraded water quality. Degraded water quality would  
5 add -- would adversely impact urban drinking water,  
6 subsistence fishers, and urban agriculture, which is  
7 intended to improve healthy food access and  
8 affordability and create new job opportunities.

9           Stockton has been left behind economically.  
10 After losing its manufacturing base, it did not develop  
11 an information-based economy unlike more prosperous  
12 areas of California. The area's main economic engine,  
13 agriculture, which is directly dependent on Delta water  
14 quality for both irrigation and groundwater recharge, is  
15 the driver behind the new emerging sustainable  
16 agriculture economy and related development of the  
17 historic downtown corridor. Our region has other  
18 locational advantages that contribute to Stockton's  
19 recently improved prospects. Testimony by Esperanza  
20 Vielma describes how Delta water quality is linked to  
21 what are among the region's best hopes for a level and  
22 kind of economic recovery that would help lift  
23 environmental justice communities out of poverty.

24           Finally, testimony provided by Ixtzel Reynoso  
25 will describe beneficial uses of water by environmental

1 justice communities in the Delta that would harm -- that  
2 would be harmed by alterations to water quality from the  
3 petition's (sic) facilities operations. Ms. Reynoso's  
4 presentations will provide human stories to accompany  
5 the sobering statistics in my testimony that we put on  
6 about Delta water quality, agriculture, economic  
7 opportunity, and environmental justice.

8           The journalist Bill Moyer once stated, "The  
9 mark of an educated person is someone who can read  
10 statistics and be moved to tears." The quantitative  
11 analysis I will present tells a tragic story of the  
12 breadth of injury that will be experienced by the  
13 Delta's environmental justice communities as a result of  
14 the proposed project. Portraits by Ms. Reynoso will  
15 show what it would mean to environmental justice  
16 communities on the ground.

17           As a concluding observation, we learned via  
18 cross-examination by counsel for the City of Stockton  
19 that the Petitioners failed to prioritize use of  
20 directly available data of water quality analysis  
21 impacts for petition facilities on the drinking water  
22 intake for the City of Stockton's Delta Water Supply  
23 Project. Restore the Delta was shocked and outraged by  
24 the admission. This is akin to decisions made to switch  
25 Flint, Michigan, a large minority majority city, to a

1 degraded water supply from the Flint River as a cost  
2 savings measure.

3           Improvements in water quality from petition  
4 facilities would benefit Silicon Valley, industrial  
5 growers in the San Joaquin Valley, and Southern  
6 California. While Stockton, a majority minority city,  
7 with over half of its population living on minimum wage  
8 or less, would be left with degraded water quality.  
9 Such an outcome would impose on some of Central  
10 California's poorest residents an obligation to pay  
11 higher costs than they now face to treat their drinking  
12 water for including carcinogens and other toxic  
13 substances.

14           We call on the State Water Resources Control  
15 Board to prevent Stockton from becoming the Flint,  
16 Michigan of the west by denying the permit for the  
17 change in the point of diversion until such time as the  
18 Petitioners can provide that the project will not harm  
19 drinking water supplies for the largest Delta city,  
20 Stockton. It is our sincere and respectful hope that  
21 the hearing officers will reflect on how the specific  
22 details provided by Restore the Delta witnesses  
23 exemplify widespread impacts that would be experienced  
24 by all residents of the region but particularly by  
25 environmental justice communities. We hope that you



1 insist on a complete and accurate analysis from  
2 Petitioners of these potential water quality impacts.  
3 That way, when you consider whether the Petitioners have  
4 met their burden of showing that the project will cause  
5 no injury to legal users of water, you'll have as full a  
6 record as possible and will be able to make a  
7 well-informed and justified decision. Thank you.

8 HEARING OFFICER DODUC: Thank you very much.

9 Mr. Orr, please begin your case-in-chief.

10 MR. ORR: We're going to start with Tim  
11 Stroshane.

12 DIRECT EXAMINATION BY MR. ORR:

13 Q. Could you, Mr. Stroshane, state and spell your  
14 full name for the record?

15 A. My name is Tim -- my name is Tim Stroshane,  
16 S-t-r-o-s-h-a-n-e.

17 Q. And, Mr. Stroshane, would you briefly summarize  
18 your educational background?

19 A. I have a Bachelor's in environmental studies  
20 from the University of California in Santa Cruz, where I  
21 also temporarily majored in earth sciences where I took  
22 six upper division courses in earth sciences, including  
23 groundwater and hydrology. And I went to UC Berkeley  
24 and received a Master's of city planning from UC  
25 Berkeley in the spring of 1988.

1 Q. And would you describe your current position  
2 and the amount of time you have held that position?

3 A. I am a consulting policy analyst with Restore  
4 the Delta. I have been with Restore the Delta since  
5 October of 2014.

6 Q. And could you briefly describe your duties for  
7 Restore the Delta?

8 A. I provide policy analysis on things like the  
9 State Water Board's Water Quality Control Planning  
10 Process -- excuse me. I write letters. And I also  
11 assisted with the preparation of testimony for this  
12 witness panel.

13 Q. Thank you. And are there any other prior  
14 experience (sic) you have that are relevant to -- job  
15 experiences relevant?

16 A. Yes. I was a contractor with the California  
17 Water Impact Network between 2009 and early 2015 and  
18 until May of 2015.

19 Q. And finally, could you tell us about a book  
20 that you authored that was recently published?

21 A. Yes. It's by me. The title is, "Drought,  
22 Water Law, and the Origins of California's Central  
23 Valley Project." And it's published by the University  
24 of Nevada Press, just released in November.

25 Q. We're refraining from setting up a table in the

1 back where Mr. Stroshane can sign copies.

2 And now, to turn to authentication matters.

3 Have you reviewed RTD-1, which is your statement of  
4 qualifications?

5 A. Yes, I have.

6 Q. And is RTD-1 a true and correct copy of that  
7 statement?

8 A. Yes, it is.

9 Q. And have you reviewed RTD-10\_REV 2, which is a  
10 revised version of your testimony?

11 A. Yes, I have.

12 Q. And does that accurately reflect your knowledge  
13 and belief regarding matters discussed in that statement  
14 or testimony?

15 A. Yes, it does.

16 Q. And did you prepare this testimony?

17 A. Yes, I did.

18 Q. And then, finally, have you reviewed Exhibits  
19 RTD-101 through 154, which are submitted and referenced  
20 in your testimony?

21 A. Yes, I have, with the caveat that there were  
22 some that were stricken.

23 Q. Yeah. I'd like to note those for the record.

24 A. All right.

25 Q. That -- in that -- rather than go through one

1 at a time. In the range of 101 to 154, numbers 123 --  
2 122 through 127, 133 through 137, and 141 have been  
3 withdrawn from Part 1 at the hearing officer's requests.  
4 And last, RTD-151 is reserved and has no associated  
5 exhibit.

6 So as to the remaining ones, those are true and  
7 correct copies?

8 A. Yes.

9 Q. Could you please summarize your testimony?

10 A. Yes. My name is Tim Stroshane. I serve  
11 Restore the Delta as a consulting policy analyst and  
12 have since 2014. I have also provided research and  
13 drafting assistance to Restore the Delta witnesses on  
14 this panel, Barbara Barrigan-Parrilla, Michael Machado,  
15 Esperanza Vielma, and Ixtzel Reynoso. Oh, can you bring  
16 up the Power Point, please?

17 MR. ORR: The RTD-11 are the slides. I'm  
18 sorry. Thank you.

19 MR. OCHENDUSZKO: This is RTD-11 revised.

20 WITNESS STROSHANE: Yes, that's correct.

21 And go ahead and advance to the second slide.  
22 Thank you. My testimony has three sections, reflecting  
23 hearing prompts for Part 1 in the Board's notice of  
24 petition and hearing of October 30th, 2015. First, it  
25 is my testimony that the petition should be treated as,

1 in effect, initiating a new water right. Second, it is  
2 my testimony that the petition facilities would cause  
3 harm to beneficial users of water from flow alterations  
4 and degraded water quality. Finally, on Restore the  
5 Delta's behalf, my testimony offers recommendations to  
6 the hearing officials.

7           Next slide. I offer evidence in my testimony  
8 supporting the view that the petition should be treated  
9 as initiating a new water right. I respond to claims  
10 made by DWR witness Maureen Surgeon about the relevance  
11 of Board Water Rights Order 2009-0061, involving the  
12 City of Santa Cruz's water rights on the upper San  
13 Lorenzo River, as to whether this order provides  
14 precedent for the petition facilities being covered  
15 under existing water rights of the Petitioners.

16           Further, it is my testimony that petition  
17 facilities represent a new method of diversion in the  
18 Delta, as well as distinct new points of diversion from  
19 those indicated in existing SWP and CVP water rights. I  
20 also provide evidence supporting my contention that  
21 there is no legislative authorization for the petition  
22 facilities. I provide evidence further supporting my  
23 contention that petition facilities and diversion points  
24 are not described in existing water rights. I get to  
25 control it myself now.

1 I'm going to guess.

2 HEARING OFFICER DODUC: See, a Cal Berkeley  
3 grad can operate anything.

4 WITNESS STROSHANE: I actually have a newer  
5 remote of my own that I can handle just fine, but that  
6 one, I don't know. Okay. Move one slide back. Yes.  
7 Thank you.

8 It is my testimony that unresolved SWP and CVP  
9 permit timing extension requests bear on whether the  
10 change petition in effect initiates a new water right.  
11 In preparing this part of my testimony, I relied on data  
12 and narrative passages from publicly available databases  
13 and documents by the California Department of Water  
14 Resources, the U.S. Bureau of Reclamation, and the State  
15 Water Resources Control Board.

16 I present evidence supporting the view that the  
17 CVP and SWP, as originally permitted, are complete and  
18 have put water to full beneficial use as much as they  
19 are capable. From these sources, I provide evidence  
20 that these time extension requests lead to cold storing  
21 of unused appropriated water by the permittees. Finally,  
22 I present evidence supporting my opinion that there are  
23 no good causes by which the Board should grant the  
24 extension requests.

25 Next slide. Like other witness panels, I

1 provide evidence that petition facilities would harm  
2 legal users of water by causing flow alterations that  
3 would degrade water quality. These include removal of  
4 fresh water from the Sacramento River; reverse flows or  
5 upstream transport along the Sacramento River, which  
6 would occur at times of reduced Delta inflow and could  
7 be worsened by petition facilities operations;  
8 residents -- increased residence time of water from  
9 operation of the petition facilities in the Delta; and a  
10 changed water source composition at various Delta  
11 locations which would be -- which would result from a  
12 changed flow regime from the operation of the tunnels  
13 project.

14 I did no new modeling of my own to present  
15 evidence of these effects to flow and water quality in  
16 the Delta from petition facilities. Instead, to prepare  
17 my testimony, I relied chiefly on exhibits and  
18 re-presentation of data and modeling results drawn  
19 directly from the Petitioner's R -- recirculated draft  
20 Environmental Impact Report and from written comments  
21 provided to Petitioners by the City of Stockton, Contra  
22 Costa Water District, and East Bay Municipal Utilities  
23 District. The latter of which included CALSIM2-based  
24 modeling study results developed by water -- Walter  
25 Bourez of MBK Engineers and modeler Daniel Steiner in

1 2015.

2           Next slide. In my testimony, I provide  
3 evidence that flow alterations will lead to water  
4 quality changes that would violate water quality  
5 objectives and degrade water quality. It is my  
6 testimony that while Petitioners' case has proliferated  
7 modeling scenarios, what matters to environmental  
8 justice communities represented by Restore the Delta are  
9 those describing the petition facilities and their  
10 effects in a distinct, stable, and finite manner.

11           In the case of flow reductions, I took tabular  
12 modeling results from recirculated draft Environmental  
13 Impact Report sources and presented them in both revised  
14 tabular and graphical forms to assist hearing officials  
15 with ready interpretation of the results. These are in  
16 Exhibits RTD-149 and 150, with simple percentage change  
17 statistics included. In each presentation, monthly and  
18 annual flow decreases are shown. Further, it is my  
19 testimony that these model results show that Sacramento  
20 River flow alterations from petition facilities  
21 operation would have regional effects since flow  
22 reductions are identified in these results at specific  
23 locations 21 miles apart. Flow reductions on such a  
24 scale would likely injure municipal, industrial, and  
25 agricultural uses in between, as well as along various



1 distributaries near to and downstream of the North Delta  
2 diversions.

3           It is also my testimony that source water  
4 fingerprinting model results are also relevant to water  
5 quality effects. It is my understanding that increases  
6 in the residence time of -- of San Joaquin River water  
7 in Southern and Central Delta channels will degrade  
8 water quality since the San Joaquin River is known to  
9 have a worse water quality profile for salinity --  
10 excuse me -- and other pollutant concentrations than  
11 does the Sacramento.

12           In my testimony, I reiterate the City of  
13 Stockton's claim of potential injury to its water  
14 rights, facilities, and operations. The City is the  
15 municipality governing a large environmental justice  
16 community in the Delta. Their claims buttress Restore  
17 the Delta's claims that environmental justice  
18 communities would be harmed by construction and  
19 operation of petition facilities.

20           Next slide. It is my written testimony that  
21 Restore the Delta recommends the Board deny the Change  
22 Petition. Restore the Delta recommends the Board --  
23 Water Board license the existing SWP and CVP permits,  
24 excluding the petition facilities and their proposed  
25 diversion points. If the Board wishes to consider the

1 petition further, Restore the Delta recommends the Board  
2 require its proponents file a new water right  
3 application with a new priority date set at that filing.  
4 Once the new application is submitted, Restore the Delta  
5 recommends the Board perform a water availability  
6 analysis for its source streams.

7           At a minimum, we recommend the Board carry over  
8 permit conditions from existing permits to any new  
9 permit for petition facilities in addition to any other  
10 conditions the Board would apply. We also recommend the  
11 Board develop appropriate flow criteria for the Bay  
12 Delta plan and update fully appropriated streams order  
13 98-08. This concludes my direct testimony.

14           HEARING OFFICER DODUC: Thank you. Mr. Orr,  
15 please continue.

16           MR. ORR: Yes. We'd like to turn now to the  
17 testimony of Michael Machado.

18           DIRECT EXAMINATION BY MR. ORR:

19           Q. Would you please state and spell your name for  
20 the record?

21           A. My name is Michael Machado, M-i-c-h-a-e-l,  
22 M-a-c-h-a --

23           Q. Is your microphone on?

24           A. My name is Michael Machado, M-i-c-h-a-e-l,  
25 M-a-c-h-a-d-o.

1 Q. Would you please summarize your educational  
2 background?

3 A. I hold a bachelor's degree in economics from  
4 Stanford University, a Master's degree in agricultural  
5 economics from the University of California at Davis. I  
6 attended the Harvard business-ag school in London,  
7 England. I have been a farmer for the last four years,  
8 served in the legislature, both in the Assembly and in  
9 the Senate. And I am a practitioner.

10 Q. And you are currently the president of P&M  
11 Farms; is that --

12 A. Yes. P&M Farms is our family farm. It's been  
13 in existence in the San Joaquin County for over 100  
14 years.

15 Q. And while you were in the Senate, did you chair  
16 the Select Committee on Sacramento/San Joaquin Delta  
17 Resources?

18 A. In my tenure with the legislation, I chaired  
19 that committee. I also either was a chair or a member  
20 of the Assembly Water Committee, Agricultural Committee  
21 and in the Senate, the Committee of Water and Natural  
22 Resources.

23 Q. All right. And have you had any other  
24 positions relevant to Delta matters?

25 A. I was executive director of the Delta

1 Protection Commission in 2010.

2 Q. All right. Thank you. Have you reviewed  
3 RTD-3, which is your statement of qualifications?

4 A. Yes, I have.

5 Q. And is it a true and correct copy --

6 A. Yes, it is.

7 Q. -- of your qualifications? Thank you. Have  
8 you reviewed RTD-30, your written testimony?

9 A. Yes, I have.

10 Q. Is that a true and correct copy of your  
11 testimony?

12 A. Yes, it is.

13 Q. And does that testimony accurately reflect your  
14 knowledge and belief regarding each of the matters  
15 discussed?

16 A. Yes, it does.

17 Q. And did you prepare that testimony?

18 A. I prepared it with the assistance of Tim  
19 Stroshane.

20 Q. Thank you. Could you summarize -- one more.  
21 Have you reviewed Exhibits RTD-301 through 305, which  
22 are referenced in your testimony?

23 A. Yes, I have.

24 Q. And are these true and correct copies of the  
25 documents as identified in the exhibit list?

1 A. Yes.

2 Q. All right. Could you please summarize your  
3 testimony?

4 A. Yes, I can. Thank you. I have some slides.

5 Q. Yes. Oh, that would be RTD-31, I believe.

6 A. And I'll just assume that you handle the  
7 device. I don't have my grandson here to help me.

8 Q. We're all old.

9 HEARING OFFICER DODUC: And he is a Stanford  
10 grad.

11 WITNESS MACHADO: But I do know my limitations.  
12 And how did the big game turn out?

13 HEARING OFFICER DODUC: Ouch.

14 WITNESS MACHADO: Thank you very much for the  
15 opportunity, Officer Doduc and Chairman Marcus, to be  
16 able to present today. DESP looked at the impact of  
17 water flows and water quality on sustainability of the  
18 Delta. It was a product of the 2009 Delta Reform Act in  
19 which the Delta Protection Commission was charged to  
20 develop an economic sustainability plan for the Delta as  
21 part of the measurement or the evaluation of preserve  
22 and enhance agriculture natural resources and the  
23 culture of the Delta, along with the co-equal goals.

24 Next slide please. My testimony will summarize  
25 the Delta study, the methodology used to define and

1 measure the effects to the Delta from changes in flow  
2 and water quality, and describe the results of the  
3 study. It will address the issue prompts that were  
4 presented as to will a change in the points of diversion  
5 cause injury to legal agricultural users of water and  
6 will the changes in water quality cause an injury to  
7 legal agricultural water users of Delta water.

8           The next slide please. The first part of the  
9 ESP was to identify and define the farm economy in the  
10 Delta. And nearly all the water right holders are  
11 farmers irrigating crops. We have recreational uses and  
12 you have tourism businesses. The common thread to all  
13 of them is that their income comes from the availability  
14 and the use of water in the Delta rivers and channels  
15 and sloughs that make up the Delta. The ESP studied the  
16 economic impacts to water quality changes and that was a  
17 broad measure -- provided a broad measure of injury to  
18 the Delta water right holders.

19           Salinity conditions affect the economic  
20 irrigation decisions that farmers make. And I think you  
21 heard previously from Chip Salmon about some of the  
22 decisions that he makes. But every season, Delta  
23 farmers decide on crops to plant based on the water  
24 quality and how much of the water, based on that  
25 quality, is going to be available that they can be used.

1 But the other thing to understand is that these  
2 decisions not only impact the individual farms but also  
3 the peripheral economies that depend on the Delta  
4 agricultural economies that extend beyond the legal  
5 Delta.

6           Next slide. The Delta is really a mixture of a  
7 variety of crops, and it comes because 80 percent of the  
8 farmland is categorized as prime farmland. You have  
9 about 38,000 acres not part of that 424,000 acres that  
10 is pasture lands.

11           Next slide please. And the acreage crops, the  
12 top acreage crops that are grown are corn, alfalfa,  
13 processing tomatoes, wheat, and wine grapes. And the  
14 value crops shown is tomatoes, wine grapes, corn,  
15 alfalfa, and asparagus.

16           Next slide. The highest revenue per acre is  
17 from truck crops and deciduous crops. Animal production  
18 in the Delta is about \$100 million. But if you look at  
19 the Delta, the Delta is actually composed of bands of  
20 crops that go through it. If you're starting just  
21 outside on the western edge of the Delta near the urban  
22 fringes of the East Bay, there are deciduous and truck  
23 farms producing fruits and vegetables that are marketed  
24 in farm produce stands, you-pick farms, farmers' markets  
25 that serve that urban population.

1           Just inside the western boundary of the -- you  
2 have Delta field and grain crops concentrated along  
3 Cache Slough Complex, the lower Sacramento River, south  
4 of Isleton, along with Sacramento Deep Water Channel.  
5 Coming further east, you have deciduous and vineyards  
6 that are grown in the interior development from  
7 Clarksburg along the Sacramento River past Walnut Grove  
8 to Isleton.

9           Now, on the eastern periphery of the Delta, you  
10 have field and grain crops, pastures, dairies,  
11 deciduous, and vineyards extending from South Sacramento  
12 to Tracy, adjacent to the urban fringes of Lodi,  
13 Stockton, French Camp, Manteca and Tracy. And if you  
14 travel I-5, I wouldn't suggest it today. But when you  
15 travel I-5 and look at both sides, you can see that  
16 pattern of cropping that's out there.

17           Truck crops such as asparagus, artichokes,  
18 beans, tomatoes, fresh and processing, peppers, celery,  
19 onions, carrots, peas, potatoes, squashes, and melons  
20 are grown in the South Delta. And you could say that  
21 the South Delta is one big garden providing fresh and  
22 processed foods that feed California and the nation.  
23 And throughout the Delta there are pockets of all the  
24 crops that I have described where there are  
25 microclimates or microconditions that are conducive for



1 their production. Cropping patterns of what crops are  
2 grown in the South Delta reflect the contingency of  
3 salinity conditions in the South Delta river, sloughs,  
4 canal, and canal channels.

5           Truck crops are somewhat unique because they  
6 require a relatively small annual investment as compared  
7 to the large upfront investment required for permanent  
8 deciduous and vineyard crops. And in the South Delta,  
9 we look at the contingency of salinity and water quality  
10 and water flow. Switching between crops is based on  
11 the -- on those issues and it provides a source of  
12 revenue stability while controlling other input costs,  
13 as compared to the North Delta with fresher flows and  
14 less variability in salinity. It allows for the  
15 production of higher per-acre-revenue crops that require  
16 a larger up front investment and the security of being  
17 able to recover costs and be profitable over time.

18           Next slide, please. So this slide summarized  
19 the agricultural revenues resulting from in the -- in  
20 the Delta was about \$700 million from the 2009 acreage.  
21 And it talks again about the significant value linkages  
22 with the crops of alfalfa, corn, processing tomatoes,  
23 and wine grapes.

24           Next slide. So as we look at -- as we looked  
25 at developing the baseline for what the ag economy in

1 the Delta was, it looked at the Delta region, but it did  
2 not include food processing at this point. And as you  
3 can see, the Delta provided over 4,000 jobs, 147 million  
4 in labor income. And that income is both in and outside  
5 the Delta. That is important to the towns and cities  
6 that are in and surround the Delta. That also was  
7 almost 362 million in total value added. So you had  
8 total output from in the Delta itself about \$816  
9 million. The total effects, direct and induced, is --  
10 for California is that you run it -- run through the  
11 marketing channels, the processing channels is about --  
12 is almost 13,000 jobs, about 486 million in labor  
13 income, 820 million in total value added and 1.64  
14 billion in output. That's the previous -- oh, you got  
15 it.

16           Next slide. Okay. The -- when you add the  
17 food processing component to it, then we end up almost  
18 increasing the jobs to 13,000. We provide almost 600  
19 million in labor income, over a billion dollars in value  
20 added, and 2.6 billion in total output. Now, that  
21 output for the jobs in the Delta represents \$200,000 of  
22 output per farm job in the Delta region. And for  
23 California, you've got almost 25,000 jobs. And you get  
24 into a position you have almost 5 billion in total  
25 output. And that's through the multiplier effect in the

1 local economy of farm workers and farmers and employees  
2 in that -- in their jobs because of Delta agricultural,  
3 buy goods and services. And those that receive the  
4 money for those goods and services, in turn, buy other  
5 goods and services and so on. That multiplier effect  
6 has been estimated by the U.S. Department of Agriculture  
7 to be about 2.13. Which means that for every dollar  
8 invested in agriculture in the Delta, it produces  
9 another \$2.13 in economic activity, not only in the  
10 Delta or the Delta region, but also the state.

11           Next slide, please. So in the ag economy, you  
12 have three components; the direct, indirect, and induced  
13 output in jobs. You've got on-farm workers that are  
14 cultivating and harvesting the crops. And later on, the  
15 other witnessess will talk about the human side of those  
16 working to cultivate and harvest crops. You have within  
17 and outside the Delta, workers as varied as machinists  
18 repairing and making agriculture equipment and vehicles.  
19 You have seasonally hired food processing workers in  
20 plants throughout the Delta. And for many that  
21 seasonally hired is the difference in their annual  
22 household income of being able to be comfortable or  
23 living through stress. Your truck drivers hauling crops  
24 and finished products to market. And then you have the  
25 others that come around that people often don't see.

1 Those are the people that haul the fuel, the fertilizer,  
2 the chemicals, crop inputs. The retail impacts of farm  
3 workers spending their money in the local towns, cities,  
4 and in the region.

5           Next slide, please. So with that, DESP looked  
6 at the effects to a farmer who plants and the effect  
7 that that -- those changes that he would make would have  
8 on the -- on the ag economy of the Delta. And those  
9 are -- those up there are some of the decisions criteria  
10 that he looked -- the farmer will look at in coming to  
11 the decision.

12           But I think the other thing that's not up there  
13 that we also need to talk about which is important is  
14 that not only do those factors affect what is being  
15 planted, but it affects the ability for farmers to get  
16 financing and to be -- and that financing is necessary  
17 to be able to plant those crops and make the investment  
18 in the local communities, to hire the workers, to hire  
19 the -- to purchase the inputs. And much of this  
20 financing comes from community banks and regional banks  
21 who are owners and customers and are members of the same  
22 community as the Delta farmers.

23           Next slide, please. So when we looked -- in  
24 doing the study, we looked at the geographical patterns  
25 of the crops and the variabilities that affect the

1 decision to plant or not to plant and whether to invest  
2 or the farmers' decision to invest, as Mr. Salmon talked  
3 about, in technology and chemicals to change or try to  
4 improve the soil to be able to manage the variability of  
5 salinity.

6           Next slide, please. The process and the  
7 methodology used in the study was to look at a  
8 multinomial logic model, MNL, to estimate farmers' crop  
9 choices in the economic sustainability plan. The  
10 multinomial logic model is a model used to predict  
11 probabilities of different possible outcomes of a  
12 dependent variable given a set of independent variables.  
13 So that is, for a farmer, what crops will be planted  
14 given the possible changes in water quality, salinity,  
15 flows, and the threat of urbanization in the  
16 agricultural area.

17           So the models started first looking at  
18 urbanization. And the areas that urbanization were  
19 looked (sic) at would include a steward track west of  
20 Lathrop and French Camp, the northern periphery of  
21 Tracy, the western boundaries of the Stockton and chief  
22 track (sic).

23           Next slide. That's to illustrate where the  
24 urbanization would be that I just mentioned.

25           Next slide. The urbanization was looked at.

1 And it's interesting because it creates opportunities  
2 for agricultural entrepreneurs. It can stimulate  
3 planning and cultivation of high-value crops. And that  
4 is similar to what you see in the western side of the  
5 Delta serving the East Bay population of you-picks,  
6 farm -- farm stands, farm markets. Those type of things  
7 pop up in a river population as you get the  
8 concentration. There's also going to be, just from a  
9 baseline, a loss of revenue from the loss of land. But  
10 the net impact of urbanization in those areas is  
11 expected to be about \$68 million. And a lot of that is  
12 going to be urbanization that will occur in the  
13 secondary zone, not the primary zone of the Delta.

14           The next step was -- next slide -- was to look  
15 at the salinity impacts of changes. And the model found  
16 that sal -- that salinity was to be statistically  
17 significant and have a statistically significant impact  
18 on the crop choices in the Delta. And salinity was  
19 measured backed into individual fields, using data from  
20 measurement stations within a 3 mile radius of each crop  
21 field that was looked at. Data was obtained from the  
22 Interagency Ecological Program and the California Data  
23 Exchange Center. And then DESP summarized nine years of  
24 salinity conditions in the Delta, and it used -- it did  
25 so by the Bay Delta Conservation Plan Conservation

1 Zones. And also, the data contains salinity data for  
2 six dry years of drought.

3           What we found is that the average length of  
4 activities in the South Delta did increase with the --  
5 with the changes in policy and changes in flows. One of  
6 the things that was noticed is that when averaging data,  
7 it oftentimes masked spikes. And what we do find is  
8 that spikes that occur throughout an irrigation site can  
9 cause irreparable damage to crops. I think Mr. Salmon  
10 referenced the annihilation of his bean crop which is  
11 very sensitive to salts.

12           Next slide, please. So what we looked at was  
13 the ambient differences of water quality, the presence  
14 of reverse flows along Old and Middle Rivers due to the  
15 State Water Project and CVP export pumping. Mr. Salmon  
16 talked about the lack of flows in those areas because of  
17 the pumping and the ability to walk across the river.  
18 And then you had flow condition in the Sacramento --  
19 Sacramento, San Joaquin River. And those flow  
20 conditions are oftentimes the result, on the Sacramento,  
21 of water being held back from reservoirs for fish and  
22 wildlife considerations. And water quality on the San  
23 Joaquin from upstream discharges into the San Joaquin  
24 River from agricultural users.

25           Next slide, please. The water quality and

1 salinity also affected -- was also affected by policy  
2 proposals. And at that point in time, we were looking  
3 at Phase 1 of the State Water Resources Control Board  
4 Bay Delta Estuary Water Quality Control Plan proposed  
5 increased salinity objectives at the San Joaquin River  
6 at Vernalis and the interior South Delta locations; the  
7 Sacramento River, the San Joaquin River at Brandt  
8 Bridge, Old River at Middle River, Old River at Tracy  
9 Boulevard. These were likely -- were hypothesized to  
10 increase salinity concentrations in the South Delta  
11 channels by between 40 to 42 percent. The model looked  
12 at the amount of how that would affect the economy. At  
13 the time that we did the study, neither the Delta  
14 Project or the Delta WaterFix Project was proposed. So  
15 what we -- DESP then did was to take a look at the  
16 conceptual isolated conveyance proposal that was being  
17 talked about and characterized it as using dual  
18 conveyance.

19           Next slide. So we modeled the isolated  
20 conveyance, and then we found that we would have broad  
21 salinity changes in the Delta, that you would find that  
22 Phase 1 would increase San Joaquin River inflow while  
23 relaxing salinity objectives. And yet the isolated  
24 conveyance would subtract river water during the  
25 irrigation systems upstream of the Delta cross-canal,



1 and that absence, we noted, would be filled, in part, by  
2 the flows from the San Joaquin River and the tidal and  
3 east side flows.

4           Next slide. We focused on the model on the  
5 South Delta channels where existing conditions were  
6 already at a higher level of salinity than the North  
7 Delta, and we concentrated on BDC conservation zones 6  
8 through 9. And these zones were selected since they  
9 contained South, Western, and Central Delta channels  
10 directly affected by both the San Joaquin River and  
11 tidal flows. And these zones were selected for  
12 establishing percentage increases in salinity for fields  
13 in these zones to evaluate how crop decisions would be  
14 affected and what would be the associated impact on  
15 these decisions.

16           Now, the plan acknowledges that salinity would  
17 not increase uniformly and that future simulation of the  
18 model with more spatially precise estimates of salinity  
19 changes could generate more accurate and detailed  
20 results. But nevertheless, the model does establish the  
21 direction of the effect of salinity changes in the South  
22 Delta and what they would have -- effect that would have  
23 on cropping patterns and what the resulting economic  
24 impact would be from that.

25           Next slide. This is a busy slide. But

1 basically, it goes through what the salinity impacts  
2 would be and that in particular, in the South Delta,  
3 because of the degradation of the water quality and the  
4 salinity -- and as you heard from the previous witness,  
5 Mr. Salmon, in particular, a large shift from high-value  
6 truck and deciduous and vineyard crops to low-value  
7 grain and pasture crops. He, as you recall, said that  
8 he had pulled vineyards and walnut orchards out because  
9 of the salinity conditions.

10           And then the next slide, please. The ESP did  
11 not account for the loss of 5,000 acres of agricultural  
12 land in the Delta from construction of the tunnels,  
13 which would be about 1500 acres temporarily and 4,000  
14 acres permanently. If you take those acres and you  
15 figure out the average output for those acres is about  
16 \$1,600 per acre, the total impact of that is about \$8.9  
17 million annually from production that did not happen  
18 because of the loss of those acres. That 8.9 million  
19 does not include the loss in local property tax monies,  
20 does not include the multiplier effect that -- to local  
21 and regional businesses.

22           Next slide, please. That, again, too, looks at  
23 what the revenue and job loss impacts that would be from  
24 Delta salinity. So this really just talks about the job  
25 losses represented broadly, the magnitude of economic

1 injury to agricultural water users. And it would --  
2 then this is changes that would result from changes in  
3 flow and water quality because of the California  
4 WaterFix.

5           Next slide. The -- the ESP -- final ESP showed  
6 that you would find negative impacts as a result of  
7 changes in water quality and water flows. And what that  
8 did cause was that the Department of Water Resources  
9 and, indeed, the Delta Stewardship Council at the time  
10 challenged the results of the Economic Sustainability  
11 Plan and asked that that plan be subject to a peer  
12 review as to being -- whether or not the Economic  
13 Stability Plan was factual, whether the application of  
14 the methodology used was appropriate and whether the  
15 quality and accuracy of the conclusions drawn in the ESP  
16 were accurate.

17           And next slide, please. The panel found  
18 that -- they commended the authors for using the  
19 multilogical -- multinominal logic model. It also -- it  
20 also concurred that you have a potential impact to the  
21 sustainability of the Delta by increasing salinity and  
22 decreasing local water and that therefore, the costs  
23 required to mitigate salinity impacts, local water  
24 supply impacts, and catastrophic saltwater intrusion are  
25 a relevant consideration in assessing isolated

1 conveyance.

2           Next slide, please. Much discussion regarding  
3 the 10 tunnels California WaterFix is: Who pays for the  
4 project? Who pays for the mitigation of the impacts of  
5 the project? And who pays for the operating costs? The  
6 Independent Review Panel was very direct in its  
7 recommendation that those who benefit from such a  
8 conveyance system need to ensure that they pay for any  
9 and all of the Delta costs and mitigation of the impact  
10 associated with it.

11           Next slide, please. So with respect to the  
12 prompts: Will the proposed changes cause injury to any  
13 municipal, industrial, or agricultural user of water,  
14 including the associated legal users of water? Yes.  
15 Removal of the Sacramento River water at the north  
16 intakes of the North Delta can reasonably be expected to  
17 injure agricultural uses of water, including those  
18 diverting and using water directly from Delta channels  
19 to irrigate crops.

20           Will proposed -- with respect to will the  
21 proposed changes in points of diversion alter water  
22 flows in a manner that causes injury to municipal,  
23 industrial, or agricultural uses of water? Yes. The  
24 new points of diversion will alter water flows in a  
25 manner that causes injury to agricultural users of

1 water, particularly in the South Delta.

2           And will the proposed changes in points of  
3 diversion alter water quality in a manner that causes  
4 injury to municipal, industrial, and agricultural uses  
5 of water? Yes. New points of diversion will alter  
6 water quality by increasing salinity generally in the  
7 Delta channels in a manner that would injure  
8 agricultural uses of water. And whether the salinity  
9 increased 25 percent or 200 percent, there are lost crop  
10 revenues and those could be as high as over \$132  
11 million, 670 Delta farm jobs, nearly 16,000 jobs in  
12 Delta counties. And this does not include the  
13 peripheral impacts to the region in lost income to farm  
14 workers, workers employed in agricultural support  
15 industries and a multiplier effect on the regional  
16 economy.

17           And too often understated and too often not  
18 recognized is the cumulative effect of these impacts of  
19 flow and salinity changes that -- what these effects  
20 will have on Delta communities, the citizens of the  
21 Delta, the culture and heritage of the Delta, all part  
22 of the rich history of the Delta and the heartbeat of  
23 one of the world's most unique estuaries. Thank you for  
24 the opportunity to present today.

25           HEARING OFFICER DODUC: Thank you.

1 Mr. Orr, your next witness.

2 MR. ORR: I'm going to spare you my gravelly  
3 voice and turn the microphone over to Ms. Garcia.

4 HEARING OFFICER DODUC: Actually, before you  
5 begin, let me check with the court reporter. Are you  
6 okay, or do you need a break?

7 COURT REPORTER: A break would be good.

8 HEARING OFFICER DODUC: A break would be good?  
9 Let's go ahead and take our morning break right now  
10 then. We'll take a 15-minute break, and we will resume  
11 at 10:38 -- 10:40. I'll round up.

12 (Off the record.)

13 HEARING OFFICER DODUC: Everyone please take  
14 your seats. It's 10:40. We will resume, and we'll now  
15 turn to Ms. Garcia.

16 MS. GARCIA: Thank you. And we'll actually  
17 going to be turning now to the testimony of Ms. --

18 HEARING OFFICER DODUC: Could you please move  
19 the microphone closer to you?

20 MS. GARCIA: Thank you. We will be turning now  
21 to the testimony of Ms. Barrigan-Parrilla.

22 DIRECT EXAMINATION BY MS. GARCIA:

23 Q. Would you please state and spell your name for  
24 the record?

25 A. Sure. My name is Barbara Barrigan-Parrilla.

1 And my first name is B-a-r-b-a-r-a. Last name is

2 B-a-r-r-i-g-a-n, hyphen, P-a-r-r-i-l-l-a.

3 Q. Thank you. Can you briefly summarize your  
4 educational background for us?

5 A. I have a Bachelor's of Arts in English from UC  
6 Berkeley and an MSA in English literature and creative  
7 writing from Mills College.

8 Q. And what is your relationship to Restore the  
9 Delta?

10 A. I am the executive director.

11 Q. How long have you had that position?

12 A. Ten years.

13 Q. Can you describe for us some of your duties as  
14 executive director?

15 A. Well, over the last ten years -- we started as  
16 a small coalition, grassroots organization doing  
17 education and outreach. We started with about 70  
18 members at our first meeting. And over ten years, we've  
19 grown to about 40,000 members with thousands of members  
20 from the environmental justice community. We work and  
21 we seek to protect water quality and quantity for the  
22 Delta by educating the public of policies and issues.  
23 And our goal is to Restore the Delta for our children  
24 and future generations.

25 Q. And have you always been executive director?

1 A. Since the start, yes.

2 Q. Okay. Now, have you reviewed RTD-2, your  
3 statement of qualifications?

4 A. Yes, I have.

5 Q. Is that a true and correct copy of that  
6 statement?

7 A. Yes.

8 Q. And is RTD-20 a true and correct copy of your  
9 written testimony with revisions pursuant to the Board's  
10 instruction?

11 A. Yes.

12 Q. And does this accurately reflect your knowledge  
13 and belief regarding matters discussed in that  
14 testimony?

15 A. Yes.

16 Q. And did you prepare that testimony?

17 A. Tim Stroshane, he conducted research and he  
18 drafted my testimony. I worked with him to create a  
19 list of issues. I did rewrites. I did edits. I  
20 located source materials and read through all the  
21 research materials. And we went back and forth with  
22 this document in this collaborative manner several  
23 times. And then it was reviewed by our attorneys at the  
24 end.

25 Q. Now, have you also reviewed Exhibits RTD-202



1 through 246?

2 A. Yes.

3 Q. And are those also true and correct copies of  
4 the documents RTD submitted into evidence and that you  
5 reviewed in preparation of your testimony?

6 A. Yes, they are.

7 Q. Great. I'll note that RTD-21, Ms. Barrigan-  
8 Parrilla's slides, if we could turn to those, please.

9 Thank you.

10 Now, if you would please summarize your  
11 testimony for us, Ms. Barrigan-Parrilla?

12 A. Thank you very much. We can go ahead and go to  
13 the next slide, please. And in my testimony today, I  
14 will be summarizing the following: First, the  
15 relationship of environmental justice issues to the  
16 policy requirement in California that water decisions  
17 serve the public interest as well as state and federal  
18 environmental justice policies related to water  
19 projects.

20 Second, I will be summarizing the petitioners'  
21 poor public outreach efforts to Delta environmental  
22 justice communities through the BDCP and Cal WaterFix  
23 processes, even though both processes found adverse  
24 effects on environmental justice communities.

25 Third, I will describe, based on data from the

1 2014 American Community Survey by the U.S. Census  
2 Bureau, who Delta environmental justice communities are,  
3 where they are found, which minority groups are  
4 represented, where and what degree impoverished  
5 neighborhoods are found in the Delta. I will also  
6 discuss other quantitative measures of economic distress  
7 found in Delta environmental justice communities,  
8 particularly in Stockton as identified in the American  
9 Community Index.

10 Last, I will then describe the recognized  
11 beneficial uses of water from the Bay Delta Water -- Bay  
12 Delta Quality Control Plan of 2006, as well as  
13 yet-to-be-recognized beneficial uses of water now under  
14 consideration by the Board for subsistence fishing uses.

15 I will conclude by identifying potential  
16 threats from operation of petition facilities to  
17 Stockton's economic prospects for growth and to  
18 Stockton's drinking water supplies, water quality, and  
19 affordability, as well as to subsistence fishers  
20 throughout the Delta.

21 Next slide, please. It is my understanding  
22 that environmental justice is an essential consideration  
23 in the deliberation of state and federal agencies.  
24 These agencies must simultaneously consider  
25 environmental justice concerns in the framework of the

1 public interest, the greatest public benefits, and  
2 protection of public trust resources. The California  
3 Water Code provides that the people of California have a  
4 paramount interest in the use of all the water of the  
5 state. All water within the state is the property of  
6 the people of the state, and the right to use water may  
7 be acquired by appropriation in the manner provided by  
8 law.

9 I understand this to mean that environmental  
10 justice and antidiscrimination statutes beyond the Water  
11 Code can affect how water is acquired for beneficial use  
12 in California. While it is my understanding that  
13 California Water Code defines neither the protection of  
14 the public interest nor the public benefit, the Water  
15 Code does designate the domestic use of water for  
16 drinking, bathing, cooking, and cleaning as the highest  
17 use of water in California. Recently, a human right to  
18 water was added to the Water Code expressing that every  
19 human has the right to safe, clean, affordable, and  
20 accessible water adequate for human consumption,  
21 cooking, and sanitary purposes.

22 Other environmental-justice-related policies  
23 that should be considered in evaluation of the petition  
24 include Title VI of the Civil Rights Act of 1964, which  
25 states that, "No person in the U.S. shall on the ground

1 of race, color, or national origin be excluded from  
2 participating in but not be denied benefits of or be  
3 subjected to discrimination under any program or  
4 activity receiving federal financial assistance."

5           Also, Federal Executive Order 12898, which  
6 requires federal agencies, including the Bureau of  
7 Reclamation, to make environmental justice part of its  
8 mission and strategies and to translate public  
9 documents, notices, and hearings, whenever possible and  
10 appropriate, for a limited-speaking -- English-speaking  
11 populations.

12           Another related policy to consider is the  
13 Environmental Justice Strategic Plan for the Department  
14 of the Interior, which includes the goal to identify and  
15 address environmental impacts that may result in  
16 disproportionately high and adverse human health or  
17 environmental effects on minority, low income, and  
18 tribal populations.

19           Next slide, please. California Government Code  
20 Section 6504-12 should also be considered. It defines  
21 "environmental justice" as the fair treatment of people  
22 of all races, cultures, and incomes with respect to the  
23 development, adoption, implementation, and enforcement  
24 of environmental laws, regulations, and policies.

25           While California Government Code 11135(a) does

1 not include the phrase "environmental justice," the  
2 State Attorney General's office says that, "In certain  
3 instances, it requires agencies to undertake the same  
4 consideration of fairness in the distribution of  
5 environmental benefits and burdens called for in the  
6 state's definition of environmental justice.

7           Next slide, please. Based on the state and  
8 federal policies discussed, I understand that  
9 disproportionate impacts from petition facilities to  
10 minority, low income, and tribal communities, as well as  
11 communities facing language barriers should be fully  
12 mitigated or avoided. Addressing impacts on human  
13 health and environmental impacts on environmental  
14 justice communities must be substantive. It should not  
15 be window dressing. Despite an obligation to comply  
16 with federal and state policies, the petitioners failed  
17 to develop an adequate survey of or public outreach  
18 effort to environmental justice communities that would  
19 be affected by the petition facilities within the  
20 five-Delta-county region.

21           Consequently, they failed to show that these  
22 communities will not be harmed as legal users of water  
23 by the petition facilities. Petitioners also failed to  
24 complete adequate outreach to communicate the  
25 significant level of adverse impacts to residents living

1 in language isolation within the five Delta counties.

2           Next slide, please. In early 2007, at the  
3 beginning of the BDCP, the BDCP outreach work group  
4 identified and communicated to the BDCP steering  
5 committee 13 tasks for public involvement from a work  
6 plan to a schedule, community presentations, collateral  
7 materials, et cetera. The goal was for the plan to be  
8 conducted in accordance with the environmental justice  
9 policy of the California Resources Agency. However, the  
10 environmental justice compliance intentions of the tax  
11 plan were never realized.

12           For instance, the 2009 workshops in Delta  
13 communities, Brentwood, Stockton, Walnut Grove, and West  
14 Sacramento, in which only 302 residents of the 4 million  
15 people living in the five Delta counties attended. They  
16 did not target members of the environmental justice  
17 community for attendance. Having attended the largest  
18 of those meetings in Stockton with 133 people, I  
19 specifically recall that the diversity of the Delta  
20 community was not reflected in the audience. Attendees  
21 were almost all English speakers, white, and very aware  
22 of Delta water issues. A LexusNexis search that we  
23 conducted in 2014 showed that only four stories  
24 appearing in languages other than English for the BDCP  
25 between 2010 and 2011, with not one story showing for

1 the 2009 comment period. There was no broad effort to  
2 engage with the environmental justice community through  
3 the initial public outreach workshops for the BDCP.

4           Even more disheartening were DWR's  
5 environmental justice community surveys of 2010. The  
6 intent was to elicit a broader understanding of the  
7 public's attitude on environmental justice water issues  
8 in the Delta and the State Water Project's Central  
9 Valley Project service areas. The sampling size was  
10 inadequate. Only 17 percent or 231 of the 1,400 people  
11 contact -- contacted even agreed to be interviewed.  
12 Their method for surveying environmental justice  
13 informants did not rely on randomized selection  
14 processes, but included participant identification that  
15 targeted representatives from farm bureaus, chambers of  
16 commerce, 50 percent were elected officials, designated  
17 representatives speaking on behalf of majority  
18 population business leaders, water districts, some  
19 environmental advocacy groups. And, yes, there were  
20 some representatives of faith-based and ethnic-group  
21 organizations. About 35 percent of the 231 surveyed.

22           Telephone interviews were conducted using a  
23 questionnaire, but respondents were also encouraged to  
24 explore non-scripted related topics. Based on this  
25 survey, I concluded that there was no effort to include

1 and contact environmental justice community residents in  
2 the field about their experiences in regard to  
3 subsistence fishing or the quality and costs of their  
4 drinking water supplies. The survey also included  
5 geographical errors. They ignored environmental justice  
6 communities north of the Delta, even though those  
7 environmental justice communities would be affected by  
8 BDCP water transfers.

9           In-Delta survey respondents, so the people who  
10 were living in the Delta that were part of the survey,  
11 they were not asked questions about water quality, water  
12 availability, or water affordability. They were not  
13 asked whether people of their community could afford an  
14 increase to their water costs, even if it meant better  
15 water quality or a more reliable source of drinking  
16 water. But those questions were posed to participants  
17 in the State Water Project and Central Valley Project  
18 service areas.

19           Next slide, please. A reference to DWR's  
20 environmental justice community survey of 2010 is  
21 included in Chapter 28 of the draft BDCP EIRS, which is  
22 how Restore the Delta learned of its existence. Chapter  
23 32 of the BDCP draft EIRS claims that during document  
24 preparation, public outreach activities considered  
25 minority and low income populations. No mention of



1 communities with language barriers is made. They cited  
2 the inadequate 2010 survey and then listed future  
3 environmental justice outreach, including placing  
4 announcements in ethnic newspapers and radio stations,  
5 conducting scoping meetings during evening hours,  
6 providing translators, providing the BDCP web site in  
7 Spanish, and providing a multi-lingual hotline.

8           After Restore the Delta, along with a coalition  
9 of environmental justice and environmental groups sent a  
10 letter to BDCP in 2014, petitioners for the two Cal  
11 WaterFix workshops of 2015 made available short  
12 promotional materials translated into several languages  
13 and provided translators upon request for these events.  
14 However, the identified significant and unavoidable  
15 impacts of the project, the water quality section of the  
16 revised draft EIRS and other important sections of the  
17 document were never translated. Instead, non-English  
18 speaking members of the environmental justice community  
19 in the Delta would have had to have known about the  
20 project, called the Cal WaterFix translation hotline and  
21 waited days for a return phone call.

22           During 2015, non-English speakers worked with  
23 us, called the hotline, and were told by translators  
24 that they, the translators, would get the caller answers  
25 to his or her questions but could not provide any

1 written materials describing the project or its impacts.

2           Petitioners failed to carry out a robust and  
3 inclusive public outreach effort among the environmental  
4 justice communities of the Delta. This is particularly  
5 disturbing when we consider that the draft -- revised  
6 draft EIRS stated that the petition facilities would  
7 result in disproportionate effects on minority and low  
8 income communities for land use, socioeconomics,  
9 aesthetics, cultural resources, noise and public health  
10 effects. Despite mitigation, Cal WaterFix wrote that  
11 these effects would be disproportionate and adverse for  
12 the Delta environmental justice communities.

13           Next slide, please. Here, I -- I helped to  
14 identify who makes up the Delta environmental justice  
15 communities and show where they can be found. These  
16 statistics come from the U.S. Census American Community  
17 Survey of 2010 to '14. The first slide shows that  
18 environmental justice communities of San Joaquin County  
19 by race are Latino ethnicity compared to U.S.  
20 populations. In almost every category, race or ethnic  
21 group populations are significantly higher in San  
22 Joaquin County than the national average.

23           Next slide, please. Many Delta residents are  
24 low income and impoverished, particularly in San Joaquin  
25 County and particularly Stockton, where all categories

1 of poverty are significantly higher than the national  
2 average. In Stockton, close to a third of families with  
3 children under 5 live in poverty.

4           Next. Thank you. In Contra Costa County,  
5 one-third of the population speaks a language other than  
6 English at home, with over 13 percent of the population  
7 self-identifying as not speaking English well, compared  
8 to 8.7 percent of the population nationally. A full  
9 third of the residents in the town of Byron speak  
10 Spanish as their first language. Byron is one of the  
11 interior towns that will be heavily impacted by  
12 construction. And they will be -- in addition to water  
13 quality impacts, will be suffering with severe air  
14 quality impacts.

15           We see similar numbers in terms of county  
16 averages for Sacramento County, with the noted addition  
17 that near Hood or in Hood, near where the site of the  
18 three new intakes for the petitioners' facilities and  
19 the site of some of the heaviest construction impacts, a  
20 full third of the town speaks English less than well,  
21 with 43 percent of that population speaking Spanish as  
22 their first language. What I want to stress is that the  
23 adverse and environmental impacts have not been  
24 translated into Spanish and made easily accessible to  
25 these large populations in Hood, same for Byron.

1           In some San Joaquin County cities, between 40  
2 and 45 percent of the population speaks a language other  
3 than English at home. And while there is a greater  
4 variety of languages spoken in Stockton, between 11 and  
5 21 percent of families do not speak English very well.

6           Next slide, please. Most of the Delta's  
7 environmental justice communities are concentrated in  
8 large cities in the periphery or next to the Delta,  
9 Pittsburg and Antioch, Fairfield, Suisun City, West  
10 Sacramento, Sacramento, Stockton. This list shows the  
11 ways in which Delta environmental justice communities,  
12 which include hundreds of thousands of residents use  
13 water in ways both recognized and yet to be recognized  
14 by the State Water Resources Control Board.  
15 Environmental justice residents from these cities drink  
16 water from the Delta or depend on it for ground water  
17 recharge for drinking water supplies. They use Delta  
18 water for food preparation and sanitation. Many have  
19 jobs, as Senator Machado has just explained, that rely  
20 on Delta water to grow crops and processes much of which  
21 gets sold back to environmental justice communities in  
22 the region.

23           Next slide, please. Delta environmental  
24 justice communities beneficially use waters in ways yet  
25 to be recognized by the Board. A significant portion of

1 these communities, which we believe is in the tens of  
2 thousands, fish the Delta for sustenance. In a few  
3 slides, I will explain how we arrived at those numbers.  
4 And I have to note that the petitioners have failed to  
5 conduct a quantitative or qualitative survey of  
6 subsistence fishing in the Delta.

7           Next slide, please. The presence of  
8 environmental justice communities do not tell the full  
9 story of the economic and public health challenges some  
10 of the Delta's most vulnerable residents face. To tell  
11 that story, Mr. Stroshane extracted data from a recent  
12 study entitled, "The Distressed Community Index," which  
13 uses seven weighted variables. They're now averaged and  
14 normalized to be equivalent to percentiles.

15           We embarked on this evaluation after I learned  
16 that the index rated Stockton as the sixth most  
17 economically distressed large city in the United States.  
18 Distressed scores range from 0 to 100. Stockton's score  
19 is 95 percent, with over 70 percent of its population  
20 living in economically distressed ZIP codes. The ZIP  
21 code for neighboring French Camp on the Delta had a  
22 distress score of 95.4 percent. Sacramento's score was  
23 77 percent, as was Antioch's.

24           Next slide, please. These are the variables on  
25 which the Economic Innovation Group evaluated economic

1 distress to create the index. These are important  
2 statistics that indicate the depth of economic distress  
3 in environmental justice communities in the delta. The  
4 housing vacancy rate in downtown Stockton's ZIP code,  
5 95202, where Restore the Delta's office is located, was  
6 31 percent, compared to 6 percent statewide. 44 percent  
7 of adults were not working in 2014 in California. That  
8 percentage was 49 percent in Stockton, 46 percent in  
9 Antioch, 47 percent in Courtland, and 56 percent in  
10 Isleton.

11 In terms of median income ratio, San Joaquin  
12 County is the lowest of the five Delta counties at 87  
13 percent of the median. Of the Delta cities, Stockton is  
14 the lowest at 74 percent, followed by Sacramento at 81  
15 percent and Antioch at 88 percent. By ZIP code,  
16 downtown Stockton has the lowest median income in the  
17 Delta at 24 percent. Only two interior Delta ZIP codes  
18 exceed 90 percent of the state median income, and that  
19 is Locke, Walnut Grove, and Courtland. Among Delta  
20 cities, employment growth between 2010 and '13 was  
21 negative for Stockton, Pittsburg, Antioch, and  
22 Sacramento. Among Delta cities, only Sacramento saw an  
23 increase in the number of business establishments, while  
24 Stockton, Pittsburg, and Antioch saw losses in this  
25 period.

1           Food deserts add to economic distress and  
2 unhealthy outcomes in the Delta region, including the  
3 Stockton area. Significant portions of Stockton,  
4 Manteca, Lodi, Pittsburg, Antioch, and Delta islands in  
5 Contra Costa County, Fairfield, Vacaville, South  
6 Sacramento have low income census tracts whose residents  
7 have low access to grocery stores, lack of access to  
8 fresh food, leads to poor health outcomes.

9           Next slide, please. While distressed, the  
10 Stockton metropolitan region has prospects for growth  
11 and sustainability and jobs and economic development, at  
12 least some of which depends on protecting and improving  
13 Delta regional water quality. Since 2012, prospects  
14 have improved in the Stockton multiple service area,  
15 with its fourth consecutive year of job growth.  
16 According to the University of the Pacific's Eberhardt  
17 School of Business May of 2016 forecast, while job  
18 creation has mostly happened in the Delta cities of  
19 Manteca, Lathrop, and Tracy, Stockton is also seeing  
20 economic gains. Delta agriculture continues as the  
21 region's economic base, and irrigation water quality is  
22 the foundation for the sustainability of that future.  
23 The relationship between salinity and agriculture are  
24 covered thoroughly in Senator Machado's testimony.

25           Next slide, please. There are other beneficial

1 uses of water by environmental justice communities in  
2 the Stockton region, home to the largest and most  
3 distressed environmental justice community. The City of  
4 Stockton and the CalWater service company which serves  
5 Stockton residents project about 18,500 acres of  
6 low-income household demand for water by 2040. This is  
7 approximately the drinking water demand for Stockton's  
8 environmental justice communities.

9           Next slide, please. Operation of the  
10 petitioners' facilities would degrade water quality in  
11 Delta channels, which would, in turn, degrade raw water  
12 diversions and deep percolation into the eastern San  
13 Joaquin groundwater supply basin. Both of which serve  
14 as drinking water supplies for Stockton metropolitan  
15 residents.

16           My testimony here relies on Tim Stroshane's  
17 testimony regarding Contra Costa Water District and City  
18 of Stockton's drinking water analysis for the project.  
19 Mr. Stroshane makes note of Contra Costa Water  
20 District's comments on bromide, which is precursor to  
21 formation of disinfection byproducts, bromate, bromoform  
22 and other brominated trihalomethanes and haloacetic  
23 acids. All of these constituents are potentially  
24 harmful to human health through municipal water  
25 supplies.



1           CCWD commented further that neither  
2 environmental review of petition facilities is adequate  
3 because first telling just the number of days the  
4 bromide objective is violated fails to disclose the  
5 magnitude of that access -- or excess. The absolute  
6 magnitude is related to the health risk for bromide.  
7 Looking at the number of days for the exceedance  
8 obscures the human health impact of the exceedances.  
9 CCWD also lists the number of water facility upgrades  
10 that would be required for drinking water treatment  
11 systems because contaminants accumulating in Delta water  
12 channels would have to be treated prior to distributing  
13 water supplies.

14           In addition, Ms. Taber for the City of Stockton  
15 elicited testimony from the modeling panel on August  
16 25th that the modeling team did not model water quality  
17 condition at Stockton's Empire tract for its Delta Water  
18 Supply Project, which serves an estimated service  
19 population of 170,000 people for the City of Stockton.  
20 This contrasts with the modeling team's inclusion of  
21 modeling results for urban drinking water intakes at  
22 Jones and Banks pumping plants, Contra Costa Water  
23 District's Rock Slough intake, the City of Vallejo's  
24 municipal intake in the North Delta.

25           Instead, for Stockton, petitioners relied on

1 inversion equations and data from a water quality  
2 station, quote, "a few miles away from Stockton's  
3 drinking water supply intake." The impacts on costs and  
4 water quality for Stockton's environmental justice  
5 communities were ignored, in part, because they were  
6 never identified in the early days of the project and  
7 its planning.

8           The City of Stockton testified that operations  
9 of the petitioners' facilities would lead to rate  
10 increases for water users up to 30 percent. Please  
11 remember 70 percent of Stockton's residents live in  
12 economically distressed ZIP codes and close to a third  
13 of their families with children live in poverty.  
14 Increased costs for water treatment would further  
15 disproportionately burden Stockton's sizeable  
16 environmental justice communities when paying for  
17 drinking water supplies. Also, my comments here do not  
18 address the additional environmental impacts of greater  
19 concentrations of salt in groundwater wells for drinking  
20 water supplies. That's covered in Tim Stroshane's  
21 testimony.

22           Next slide, please. It is my understanding for  
23 this petition there has never been a census of Delta  
24 subsistence fishers, despite the potential health risks  
25 of catching and consuming fish regularly in the Delta.

1 Using public data from the California Department of Fish  
2 and Wildlife, Mr. Stroshane used two distinct  
3 methodologies to estimate that on any given day, there  
4 are between 66 and 110 subsistence fishers from  
5 distressed communities on Delta waterways. Our methods  
6 conservatively assume that each fisher fishes once a  
7 year, which is most likely an underestimate. Using our  
8 methods, we estimate that between 24,000 and 40,000  
9 subsistence fishing visits take place each year from  
10 local residents of Delta distressed communities. I  
11 don't want to delve into Part 2 issues about what types  
12 of contaminants are taken up by fish or the flows that  
13 create those conditions. What I want to emphasize are  
14 the public health risks for these communities and for  
15 those 66 to 110 people who are fishing for food every  
16 day.

17           Last slide, please. In terms of water quality  
18 impacts affecting the environmental justice community,  
19 the petitioners have failed to demonstrate that the  
20 petition facilities would not increase the residence  
21 time of water, water temperatures, salinity from tidal  
22 incursion. Thus, increasing the frequency of toxic  
23 algal blooms, thereby exacerbating the public health  
24 threat for subsistence fishers.

25           We are further concerned that petition

1 facilities will decrease flows and degrade water  
2 quality, thereby further injuring environmental justice  
3 communities. We have also provided evidence that the  
4 petitioners failed to provide adequate information to  
5 environmental justice communities and that environmental  
6 justice representation for the Delta has been scant,  
7 disappointing, and even dangerous. The petition  
8 facilities' environmental review documents have ignored  
9 or downplayed health risks to safe drinking water and  
10 subsistence fishing, including Stockton's drinking water  
11 source and the risk of increased carcinogens that can be  
12 generated from disinfection byproducts, as well as  
13 harmful algal blooms. Delta environmental justice  
14 communities should not be put at risk with a degraded  
15 water supply for the benefit of construction and  
16 operation of the petitioners' facilities. Thank you.

17 MS. GARCIA: Thank you. We have two witnesses  
18 left. We will be moving on to Esperanza Vielma.

19 DIRECT EXAMINATION BY MS. GARCIA:

20 Q. Ms. Vielma, could you please state and spell  
21 your name for the record?

22 A. My name is Esperanza Vielma. First name,  
23 E-s-p-e-r-a-n-z-a. Last name, Vielma, V-i-e-l-m-a.

24 Q. Thank you. Would you briefly summarize your  
25 educational background, Ms. Vielma?

1       A.    Yes.  I have a in-progress Master's public  
2 administration USC.  I am a Woodrow Wilson Public Policy  
3 Fellow and a proud graduate of UC Berkeley with a double  
4 major in Spanish and Chicano studies.

5       Q.    And what is your relationship with Restore the  
6 Delta?

7       A.    I currently serve as the environmental justice  
8 director for Restore the Delta.

9       Q.    And how long have you had that position?

10      A.    Two years.

11      Q.    Okay.  And what are your duties in that  
12 position?

13      A.    I conduct outreach and access for the  
14 environmental justice communities in San Joaquin County  
15 and in the Los Angeles County areas.

16      Q.    And can you describe other relevant experience  
17 that you have?

18      A.    Yes.  I am currently the founder and executive  
19 director of Cafe Coop, the first non-profit business  
20 incubator in San Joaquin County for startups, social  
21 entrepreneurs, freelancers, and artists.  We provide  
22 resources, space, and niche networking for all our  
23 members.  We work directly with San Joaquin County, San  
24 Joaquin Partnership, and I, sort of San Joaquin on  
25 economic development in our region.  We cultivate local

1 talent as part of the greater Silicon Valley campaign.  
2 We assist in attracting entrepreneurs from the Silicon  
3 Valley.

4           And I'm also a graduate of the 2016 Inaugural  
5 Delta Leadership Class of the -- of the State of  
6 California Delta Protection Commission. I serve on the  
7 boards of the Environmental Justice Advisory Group for  
8 the San Joaquin Valley Air Pollution Control District of  
9 which I am the chair. I am also on the boards of the  
10 Environmental Justice Coalition for Water, the  
11 California Alumni Association, The Chicano Latino Alumni  
12 Association of UC Berkeley, the IHF of San Joaquin  
13 County, the chapter for Stockton of APAPA, Asian Pacific  
14 Islander American Public Affairs. And most recently  
15 appointed to the San Joaquin Valley Rail Committee as a  
16 San Joaquin rep.

17       Q. Thank you. Have you reviewed RTD-4, your  
18 statement of qualifications?

19       A. Yes, I have.

20       Q. Is that a true and correct copy of that  
21 statement?

22       A. Yes, it is.

23       Q. And have you also reviewed RTD-40?

24       A. Yes, I have.

25       Q. And is that exhibit a true and correct copy of

1 your written testimony?

2 A. Yes, it is. And I have prepared it with the  
3 assistance of Tim Stroshane.

4 Q. And does it accurately reflect your knowledge  
5 and belief regarding the matters stated in that  
6 testimony?

7 A. Yes, it does.

8 Q. Now, have you also reviewed Exhibits 401  
9 through 414?

10 A. Yes, I have.

11 Q. And are those also true and correct copies of  
12 documents regarding local foods and food availability in  
13 Stockton and its surrounding areas?

14 A. Yes, I have.

15 Q. And I will note that RTD-405 has been stricken  
16 from Part 1. And Ms. Vielma's testimony has similarly  
17 been revised pursuant to the Board's instruction. Okay.  
18 If you will go ahead and summarize your testimony for  
19 us.

20 A. Okay. We have the exhibit, the slides?

21 HEARING OFFICER DODUC: RTD-41.

22 WITNESS VIELMA: Thank you. Okay. Good  
23 morning. I'd like to state that all the interviews that  
24 I conducted for the declarations that are presented as  
25 my exhibits are either members of my cooperative, Cafe

1 Coop, or business associates. My testimony puts forward  
2 evidence supporting Barbara Barrigan-Parrilla's  
3 testimony that alteration of flow and water quality from  
4 petition facilities' construction and operation could  
5 affect local economic development. My testimony also  
6 provides examples of entrepreneurship, ag  
7 entrepreneurship, and local retail connection between  
8 business ag and Delta water quality that are analyzed in  
9 the Delta Economic Sustainability Plan and in Senator  
10 Michael Machado's testimony. Such linkages between  
11 Delta water quality and economic development of San  
12 Joaquin County are vital to my hometown, Stockton --  
13 Stockton, their economic recovery, and future  
14 development.

15           Next slide, please. I will put forth some  
16 evident examples of how Stockton's development efforts  
17 depend on sustaining Delta water quality, both for urban  
18 ag development and Delta amenities.

19           Next slide, please. As far as urban  
20 agriculture, I would like to state for the record that I  
21 am familiar with some of the examples in my testimony by  
22 either having served on the board, business associates,  
23 and/or members of Cafe Coop. The organizations helped  
24 to develop agricultural skills for local residents.  
25 Many of the local residents utilizing the service of the



1 urban ag are part of the environmental justice  
2 communities in Stockton. All of these organizations  
3 provide, in more than one capacity, fresh, locally  
4 grown, affordable, and healthy foods. All of the  
5 organizations and/or companies in my testimony depend on  
6 sustaining Delta water quality. Puentes, for example, I  
7 served on the board from 2012 to 2014, and Puentes was  
8 also a member of Cafe Coop for two years. In addition,  
9 I volunteered prior to groundbreaking with outreach in  
10 primarily the Spanish-speaking community of Boggs Tract,  
11 located in south Stockton of which the Puentes urban  
12 farm is located.

13 Puentes depends on the California Water Service  
14 Company for its delivery of water to irrigate its 3.5  
15 acres of land that is leased by the Port of Stockton.  
16 The organization irrigates approximately 30-plus plots  
17 of which are cultivated by local residents who  
18 participate in a community dividend program. With  
19 community classes that have been given by UC Berkeley,  
20 UC Davis, and University of Pacific, to name a few.  
21 Puentes also runs a community-supported ag, CSA delivery  
22 service.

23 In Season, in that declaration, that is a plant  
24 nursery, artisan foods, local, small business in  
25 Stockton. This nursery depends on the City of Stockton

1 water and well water. There is a declaration that can  
2 be found by Eric Furpo, also a Cal alumni, co-owner of  
3 In Season and founder and owner of Stockton Harvest. He  
4 is the former manager of Puentes Boggs Tract Urban Farm.  
5 I met Mr. Furpo at the end of 2013, as Puentes entered  
6 into an agreement with Stockton Harvest and Furpo was to  
7 manage the farm and deliver the CSA, community-supported  
8 ag. And at which time, the contract was entered, it was  
9 a relationship between Stockton Harvest and Puentes.  
10 And at which point, he was in the future to open up,  
11 which he currently now owns his nursery and his artisan  
12 foods, with soon-to-be cafe/deli, where all of his --  
13 his fruits, vegetables, and plants are locally sourced  
14 goods.

15           Central Valley Neighborhood Harvest is a  
16 declaration that is part of my testimony. The gentleman  
17 is a Cafe Coop member and has been for three years,  
18 Mr. Don Aguillard. He is the founder and CEO. He is  
19 also a master gardener and a city planning commissioner.  
20 He farms 2 of his 9 acres that are donated with a  
21 combination of well water and city water to irrigate all  
22 of his area for Central Valley Neighborhood Harvest. He  
23 helps to prevent food insecurity, promote food justice,  
24 while utilizing urban resources. He trains veterans,  
25 homeless, seniors, and disadvantaged youth.

1           BUFA, Black Urban Farmers Association, is an  
2 example, also, of an organization that came from the  
3 Puentes farm. Barbara Barrigan-Parrilla also  
4 interviewed Ellen Powell, who is one of the founders of  
5 BUFA. Ellen Powell is a UC Davis master gardener, as  
6 well, and is one of the founders and a co-creator of  
7 BUFA. And she currently also serves as a volunteer  
8 coordinator for Puentes Farms. On one occasion, I was  
9 also given a tour of the BUFA location near French Camp,  
10 and the urban farm irrigates with groundwater. In  
11 addition, I had the pleasure to participate in their  
12 kick-off reception honoring black farmers from San  
13 Joaquin Valley. BUFA provides crops specific for  
14 African-American communities by African-American  
15 farmers.

16           The farmers markets in San Joaquin County and  
17 in Stockton specifically, there are seven. One of the  
18 oldest markets in the state of California, the Stockton  
19 Asian Farmers Market, is held every Saturday in downtown  
20 Stockton. The Stockton Asian Farmers Market was also  
21 named one of the top 100 farmers markets in the country  
22 in 2007 according to The Bore (sic) magazine. Did I say  
23 it right?

24           Many of Stockton EJ residents depend on access  
25 to the fresh fruits and vegetables that are located at

1 many of these farmers markets and specifically the  
2 ethnic-specific Asian market.

3           Next slide, please. With regards to the Delta  
4 amenities and local sourcing, the link between the small  
5 businesses and the urban ag, I would like to state that  
6 my testimony provides affidavits of interviews I  
7 conducted with both small business owners. I have known  
8 both business owners from the date they opened up their  
9 restaurants. Both proprietors are concerned with the  
10 fact that should the petition facilities be constructed  
11 and operated, water quality in the City of Stockton,  
12 which they depend on, would compromise their  
13 restaurants' abilities to provide local foods, thus  
14 impacting their prices.

15           Mile Wine Company is a farm-to-table restaurant  
16 owned and operated by Stocktonian Paul Marsh, who is  
17 also a certified sommelier. He prides himself in  
18 providing locally sourced foods for locavores. The  
19 declaration and owner, Paul Marsh, supports non-profit  
20 organizations such as Restore the Delta and Cafe Coop.  
21 He is also involved in many other local organizations  
22 such as Rotary and conducts an annual turkey drive for  
23 the...

24           As a certified sommelier, he oversaw a  
25 25,000-bottle seller for the Sacramento Firehouse

1 Restaurant prior to opening up the Mile Wine Company.  
2 His wine is specifically from the Delta region. He  
3 utilizes his eggs from the Puentes farm chickens.

4           And the next on the TAPS Bar-n-Grill, eBeer  
5 Technology. The owner and proprietor Subash Sill came  
6 by way of Spain to Stockton. He brought with him the  
7 eBeer system from Spain. He is a Cafe Coop member, and  
8 his showroom is TAPS Bar-n-Grill. His restaurant is  
9 strategically located in Stockton in the waterfront area  
10 to showcase their eBeer system to potential clients from  
11 the U.S. and other parts of the world. Mr. Subash, per  
12 his declaration, is extremely concerned with water  
13 quality, as it pertains to the hyacinth, the smell and  
14 eyesore, which it currently causes and which would  
15 increase should water quality decrease. He just  
16 celebrated his one-year anniversary this last December  
17 5th, and he also prides himself in providing locally  
18 sourced foods. And this -- my testimony is concluded at  
19 this time.

20           MS. GARCIA: Thank you, Ms. Vielma. I will  
21 note for the Board that the declarations that Ms. Vielma  
22 refers to are included in RTD's exhibits.

23           DIRECT EXAMINATION BY MS. GARCIA:

24           Q. Ms. Reynoso, would you please state and spell  
25 your name for the record?

1 A. My name is Ixtzel Reynoso, I-x-t-z-e-l,  
2 R-e-y-n-o-s-o.

3 Q. Can you briefly summarize your educational  
4 background?

5 A. Sure. I am currently a student at the  
6 University of the Pacific. I am a sophomore, just  
7 switched to sociology.

8 Q. And what is your relationship with Restore the  
9 Delta?

10 A. I'm an intern with Restore the Delta.

11 Q. And how long have you been an intern?

12 A. Since this January.

13 Q. And what are some of your duties as an intern  
14 with Restore the Delta?

15 A. I do office work. Over the summer, I conducted  
16 interviews for this testimony, and I do a lot of  
17 community outreach.

18 Q. And do you have any other experience that you  
19 feel is relevant to your participation in this?

20 A. No.

21 Q. Have you reviewed RTD-6, your statement of  
22 qualifications?

23 A. Yes.

24 Q. And have you also reviewed RTD-60 Erratum, your  
25 written testimony?

1 A. Yes.

2 Q. And is that a true and correct copy of your  
3 testimony?

4 A. Yes, it is.

5 Q. Did you prepare this testimony?

6 A. I did with the help of Tim Stroshane.

7 Q. And does this accurately reflect your knowledge  
8 or belief regarding the matters expressed?

9 A. Yes, it does.

10 Q. I meant to ask whether your statement of  
11 qualifications is, in fact, a true and correct copy of  
12 that statement?

13 A. It is.

14 Q. Great. Thank you. Now, if you'll go ahead and  
15 summarize your testimony for us. And we have her  
16 exhibit up.

17 A. Next slide. My name is Ixtzel Reynoso. I have  
18 lived, worked, and gone to school in the North Delta for  
19 the past three years. During this time, I have met some  
20 of the most hardworking people. These are the  
21 caretakers of the land. I have worked side-by-side with  
22 my classmates, their siblings, their parents in the  
23 fruit packing sheds during the late summer months. I  
24 have heard the stories of friends and their moms who  
25 were unable to procure a job in the packing sheds and

1 had to work in the fields, covered from head-to-toe in  
2 clothing in order to protect themselves from the  
3 unforgiving heat. Yet I rarely hear complaints. The  
4 overwhelming sense of thankfulness is astounding, all  
5 for the simple opportunity to work. Work that relies on  
6 suitable water for farming.

7           I will recount interviews I held with my peers,  
8 my family friends, a caring librarian, and an  
9 experienced English language development teacher in the  
10 Clarksburg area, an environmental justice community.  
11 These are people whose education will be put on hold or  
12 dreams of farming in the Delta will be shut down.  
13 Individuals whose livelihood will be destroyed if the  
14 twin tunnels are built and the flow of the Delta  
15 compromised.

16           Next slide, please. The North Delta houses a  
17 large environmental justice community. A quick drive  
18 down any rural road will display the disparity that  
19 occurs in the community. The small, rundown houses  
20 between fields and orchards where field workers and  
21 their families reside are often loaned to the families  
22 by their bosses.

23           If you decide to visit the Clarksburg library  
24 during lunchtime in any summer month, you will find  
25 Margaret Kaplan, the librarian, passing out free lunches



1 for children and their families. In the same visit, you  
2 can head over across the street to the Clarksburg  
3 Community Church, where a non-profit distributes food  
4 once a week.

5           On the first day at Delta High School in  
6 January 2013, I noticed that every single person in the  
7 lunch line before me received free lunch. I was met  
8 with odd looks by the lunch ladies when I paid for my  
9 meal. Walking into Delta High School in the morning,  
10 you will be met by a large group of Spanish-speaking  
11 freshmen and sophomores waiting outside the door of  
12 Ms. Rodriguez, the English language development teacher.  
13 The services provided in the schools, churches, and  
14 libraries all around the North Delta have been adopted  
15 to support the environmental justice community in order  
16 for the upcoming generations to lead better lives. But  
17 as much help as community organizations provide, the  
18 backbone to the livelihood of the environmental justice  
19 community are the jobs, the agriculture jobs, provided  
20 by the healthy flow of the Delta water.

21           Proof of the community struggles lie clearly in  
22 the large role that the library plays in the community.  
23 Margaret Kaplan has been the librarian at the Yolo  
24 County Library, Clarksburg Branch for about three-  
25 and-a-half years. It was during my time serving as a

1 student representative of the Friends of the Clarksburg  
2 Library Board that I realized her impact and the  
3 importance of her work in the community, especially the  
4 environmental justice community. During my interview,  
5 Margaret explained her goals for the library and the  
6 role the library plays in the community. She explained  
7 her entrance in the community three-and-a-half years  
8 ago. She says, "I worked really hard as an outsider to  
9 get to know everyone and make everyone feel comfortable  
10 so they feel like this is their library. All of the  
11 community uses the library. Everyone is welcome." She  
12 continued, "I see the library more as a community  
13 center." She lists the various bilingual programs that  
14 are offered, yoga classes and lunch distributions.

15           She recounted a story showcasing the unique  
16 uses the library serves for the community. She says,  
17 "There is a family who uses the library daily. They  
18 come here. They eat a couple meals here. It is the  
19 whole family, mom and kids, spend a good six hours here  
20 whenever we are open. I have no idea where they live or  
21 the situation they are in, but they like to use the  
22 internet and the microwave. They know they can come  
23 here, no judgments."

24           Margaret, along with the various organizations  
25 that work with the library, have created a safe place to

1 support and uplift a community that desperately needs  
2 the help. This effort -- their efforts will be  
3 destroyed if the environmental justice community losses  
4 their main source of income in agriculture.

5           Next slide, please. I became the teacher's  
6 assistant for Jennifer Rodriguez, the English language  
7 development instructor, during my senior year of high  
8 school at Delta. Sorry. Could you go back a slide?

9           My eyes were opened to the certain struggles my  
10 peers encountered in education. Ms. Rodriguez works  
11 tirelessly teaching beginning, intermediate, and  
12 advanced English courses to students at Delta High  
13 School. She works with students who recently immigrated  
14 to the United States and those who have been born here  
15 but for whom English is still a second language. She  
16 began our interview with, "I speak Spanish. It's nice I  
17 can communicate with them. It gives them someone they  
18 can feel comfortable with right away. That's not in the  
19 job description, but it is very beneficial here."

20           I asked her if she would describe the community  
21 that she works with. She began to describe the  
22 community through her lens of an educator. "It's a  
23 community of have and have-nots. The reason why the  
24 students are here is because they have a job or their  
25 parents have a job here. Parents are not terribly

1 educated, and they don't have the cultural capital to  
2 completely participate in the classroom. This creates  
3 many roadblocks for their education."

4 I then asked her about the future of her  
5 students if their parents' jobs in agriculture were to  
6 disappear.

7 She responded, "Although we have a lot of  
8 migrant workers, the kids are actually very stationary.  
9 We don't think of them as the typical migrant kids who  
10 are at one school for two months, then at another school  
11 for another two months. It's not like that traditional  
12 model. They work around the kids' schedules. If the  
13 jobs go away, the kids will be uprooted again. The  
14 parents may or may not be able to find jobs, and that's  
15 a horrible outlook for the welfare state of those kids.  
16 And that is a huge chunk of our school's population."

17 Stability and education is vital to the success  
18 of students who have already had educational setbacks.  
19 And the loss of income will lead to additional struggles  
20 for families and students who live within the North  
21 Delta region. The community is clearly in a fragile  
22 state. It is a community that is building its roots,  
23 and it cannot be displaced in its current condition. As  
24 I have previously noted, success in education will  
25 provide stability and long-term success for many in the

1 environmental justice community. Many of my peers have  
2 gone on to community college after graduating from high  
3 school but still live at home due to the family's  
4 financial situations. The following two interviews  
5 portray the effect of how two of my peers who decided to  
6 continue their education in hopes of making everything  
7 their families have gone through worth it.

8           Next slide, please. In the deeper rural parts  
9 of the North Delta lies the home of Angelica Perez and  
10 her family of six. She is the eldest of four children  
11 and had become the first in her family to attend high  
12 school beyond middle school. Angelica is currently a  
13 student at Sacramento Community College. Ms. Perez has  
14 lived in the Delta for a greater part of her life. Her  
15 parents moved from Mexico 19 years ago. And have been  
16 working day in and day out in order to support the  
17 growing family. I asked her where or who her parents  
18 worked for. She responded, "My mom works for Cholan  
19 Farms, and my dad works for the Pilon family who farms  
20 in the Delta."

21           When I asked her if she ever worked in  
22 agriculture, she responded, "I have every summer since I  
23 was 15." 100 percent of her family income came from  
24 work in agriculture until she found a job at Home Depot  
25 near her community college.

1           I then asked her what would happen to her  
2 family if suitable water supply was no longer available  
3 to the farmers her parents worked for. She took a  
4 second to find words. "We would probably -- I don't  
5 know. We would become even more broke than we are now.  
6 We wouldn't have any income."

7           We moved on to the next question. "Would you  
8 be able to afford a place in Sacramento if your family  
9 would be forced out of their home due to lack of working  
10 water? How would it affect your education," I asked.  
11 Angelica shook her head, "No. I would have to cut down  
12 on my classes in order to work. They would expect me to  
13 work in order to provide for my siblings." We ended the  
14 interview. Afterwards, Angelica added that she was  
15 grateful for the fact that her family paid for their own  
16 housing and they were not additionally reliant on  
17 farmers for housing unlike the family of her best  
18 friend.

19           Next slide, please. My next interview was with  
20 Julian Jimenez. I began by asking him about his  
21 background. Julian has grown up in Clarksburg, along  
22 with his two younger brothers. "My parents immigrated  
23 from Mexico and resided in Fresno for a couple of years  
24 before moving to Clarksburg to raise us."

25           I asked him if he ever worked in agriculture

1 before. He laughed. "I began working in agriculture as  
2 a teenager. I worked in various agriculture jobs around  
3 the Delta ever since. Right now, I do custom baling."  
4 His father works raising livestock in Rio Vista, while  
5 his mother cleans houses.

6           Julian and I participated in the same Future  
7 Farmers of America program at Delta High School. Ask  
8 anyone in the program what Julian's dream is and they  
9 will laugh and answer, "JJ Farms." He loves farming,  
10 and that's what he wants to do. He is currently going  
11 to the Consumnes City College and studying crop product  
12 management. Very plainly and simply, he said,  
13 "Everything my family does, everything I want to do is  
14 heavily reliant on water." His dream lies in adequate  
15 water suitable for farming. His livelihood lies in the  
16 waters of the Delta, from the waters that he drinks, to  
17 the water consumed by the cows his dad cares for, to the  
18 water used to irrigate the field that he bales.

19           Next slide, please. My final interview was  
20 conducted with Mr. Juan Pozas and his family. The  
21 interview took place at the Pozas' home. Alejandina  
22 (sic), Juan's wife, was cooking dinner. After greeting  
23 us Alejandina walked over to the bedroom to the right of  
24 the kitchen. She held both arms as he clung to his cane  
25 and slowly walked over to the table. He firmly shook my

1 hand and sat in the chair. I then proceeded to ask him  
2 a couple of questions.

3           When I asked Juan how long he had been working  
4 for his employer, John, he quickly responded in Spanish  
5 which translates to, "30 years. And I've worked for  
6 John in those 30 years only for John in those 30 years."

7           I think asked where his water came from. He  
8 pointed outside the driveway where the well sat. I  
9 asked what would happen if the well ran dry or his water  
10 became contaminated. His son said, "I don't know. What  
11 would we do? What would we do?" Juan shook his head.  
12 I hesitated before the next question because I knew how  
13 heavy it would be for the family. I asked what would  
14 happen if the boss would be forced to sell the land.  
15 All three at the table looked at each other.

16           (Noise interruption.)

17           WITNESS REYNOSO: Juan said --

18           HEARING OFFICER DODUC: Go ahead and finish.

19           WITNESS REYNOSO: Juan Pozas immigrated to the  
20 United States from Mexico. He was known for his loyalty  
21 and hard work. Juan's employer set him up in a house  
22 across the street from his own. Unfortunately, his  
23 employment with John ended after his body could no  
24 longer take the strenuous work and he ended with a  
25 broken back. Due to his work and loyalty over the last



1 three years, John allowed Juan Pozas to stay in his  
2 home. Unfortunately, since the interview, Mr. Pozas has  
3 died; but my testimony faithfully reflects my notes and  
4 are a collection of the conversations we had. These  
5 interviews are unable to capture the full impact the  
6 twin tunnels will have on the fragile community in the  
7 place that I called home.

8           Next slide, please. Personally, agriculture  
9 created a building block from my family to grow from.  
10 My grandfathers, my aunts and uncles, and my parents all  
11 worked in the fields. I have heard about and  
12 experienced the strenuous agricultural labor. But I  
13 know that without those jobs, my parents would have not  
14 been able to get through school. They wouldn't have  
15 been able to attend the university, receive their  
16 teaching credential and lead the impactful lives they  
17 lead today.

18           Next slide. Their jobs in agriculture provided  
19 a home for my family's -- my father's family of ten;  
20 jobs created by the healthy flows of the Delta. I owe  
21 my current life to the flow of the Delta.

22           Next slide, please. The environmental justice  
23 community will lose its livelihood if the flows of the  
24 Delta are compromised. Their education will be  
25 detrimentally impacted. Their hopes and dreams will be

1 stalled. Their wells will no longer pump drinkable  
2 water, and their jobs and homes will be lost.

3 Thank you very much.

4 MS. GARCIA: That concludes our testimony.  
5 That concludes testimony for Restore the Delta.

6 HEARING OFFICER DODUC: Right. Thank you very  
7 much. According to what I had last week, the Department  
8 is anticipating two hours of cross.

9 MR. MIZELL: Trip Mizell for DWR. We have  
10 actually been able to reduce our questions, and we would  
11 anticipate something more along the lines of 40 minutes  
12 today.

13 HEARING OFFICER DODUC: 40 minutes?

14 MR. MIZELL: Yes.

15 HEARING OFFICER DODUC: Okay. State Water  
16 Contractor, I do not see here right now. Oh. I'm used  
17 to seeing Ms. Morris.

18 MR. RUBIN: I'm sorry. I'm not here on behalf  
19 of State Water Contractors. I'm here on behalf of the  
20 next group, San Luis Delta-Mendota Water Authority.

21 HEARING OFFICER DODUC: Yes.

22 MR. RUBIN: And we will have maybe 10 minutes,  
23 but perhaps no cross at all.

24 HEARING OFFICER DODUC: Mr. Herrick, you had  
25 anticipated about 15 minutes. Is that still the fact?

1 MR. HERRICK: No. I have no cross.

2 HEARING OFFICER DODUC: You have no cross.

3 Okay. Mr. Keeling, you had anticipated 15 minutes.

4 MR. KEELING: About 10 minutes, I think.

5 HEARING OFFICER DODUC: Okay. And,

6 Mr. Jackson?

7 MR. JACKSON: No cross.

8 HEARING OFFICER DODUC: No cross. Ms. Meserve,

9 you had also requested cross. And you will --

10 MS. MESERVE: About 15, yeah.

11 HEARING OFFICER DODUC: About 15. Okay. Did I

12 miss you, Mr. Brodsky?

13 MR. BRODSKY: Perhaps 5 minutes, if anything.

14 HEARING OFFICER DODUC: Okay. Does anyone --

15 oh, Ms. Suard?

16 MS. SUARD: Maybe 10 minutes.

17 HEARING OFFICER DODUC: Okay. Do any of you --

18 I expect we will get done today. But let's -- in

19 response to Mr. Orr's request, does anyone specifically

20 have questions for Ms. Reynoso? No?

21 MS. MESERVE: I do.

22 HEARING OFFICER DODUC: Oh, do you? Okay. Why

23 don't we go ahead and do that first? That way, if she

24 needs to leave, she can do so.

25 If you would join your clients, that way the

1 cross-examiner could have those seats.

2           And, Mr. Orr, who was the other witness that  
3 had to leave early?

4           MR. ORR: Well, Tim doesn't need to leave  
5 early, but he has an obligation tomorrow. But if you're  
6 correct that we're going to be finished today --

7           HEARING OFFICER DODUC: I believe we will be  
8 done today, yes.

9           MR. ORR: Thank you.

10          MS. MESERVE: Just a moment. Let me find the  
11 exhibit that I need.

12          HEARING OFFICER DODUC: Ms. Ansley?

13          MS. ANSLEY: Hi. My name is Jolie-Ann Ansley  
14 on behalf of the Department of Water Resources. I just  
15 wanted to let you know that we also don't have any  
16 questions for -- is it Ms. Vielma? Reynoso and Vielma.  
17 Okay. So we just wanted to let you know that before the  
18 lunch hour commenced that we have no questions for them.

19          HEARING OFFICER DODUC: Does anyone have any  
20 questions for Ms. Vielma?

21          All right. It looks like the two of you might  
22 be excused before lunch.

23          CROSS-EXAMINATION BY MS. MESERVE:

24          MS. MESERVE: If you could please bring up  
25 DWR-2. I'm not sure if it's errata or not. And it's

1 slide 22. Ms. Reynoso, good morning.

2 WITNESS REYNOSO: Good morning.

3 MS. MESERVE: I was listening to your testimony  
4 regarding the rose orchard, and is that where your  
5 family resides?

6 WITNESS REYNOSO: No.

7 MS. MESERVE: No. Why -- can you explain to me  
8 why you had mentioned the rose orchard?

9 WITNESS REYNOSO: Sure. Well, my parents, my  
10 father specifically, moved here from Mexico. And that  
11 was the first home that they were given -- they were  
12 allowed to use by the Elliotts, who farm all over the  
13 Delta. So their work wasn't -- that specifically  
14 wasn't -- their whole work was done -- they worked all  
15 over the Delta. Yeah.

16 MS. MESERVE: Okay. Thank you for explaining  
17 that. I have just brought up an exhibit that shows the  
18 rose orchard on here. And I just wanted to ask you were  
19 you aware that the rose orchard is under the footprint  
20 of one of the diversions that is proposed in this  
21 petition?

22 WITNESS REYNOSO: I did not know that.

23 MS. MESERVE: Were you aware that pretty much  
24 the entire rose orchard would be destroyed by this  
25 diversion?

1 WITNESS REYNOSO: I did not know that.

2 MS. MESERVE: The other question I had for you  
3 was you discussed in your testimony that there were  
4 several individuals and families within the  
5 environmental justice community that would be injured  
6 should the tunnels be built and operated. Are you aware  
7 of campaigns to bring reliable water supplies from the  
8 Delta to communities that may also be EJ communities in  
9 the San Joaquin Valley south of the Delta?

10 WITNESS REYNOSO: I do not.

11 MS. MESERVE: Do you have any comment on the --  
12 whether the EJ communities in the Delta would be at odds  
13 at all with EJ communities in other parts of the state?

14 WITNESS REYNOSO: I do not know. I'm sure that  
15 they would be worried about their own jobs and their own  
16 water.

17 MS. MESERVE: I don't have anything further. I  
18 will save follow-up questions for the other panelists.

19 HEARING OFFICER DODUC: Thank you very much.  
20 Any re-direct of Ms. Reynoso?

21 MS. GARCIA: I don't think so at this time, no.

22 HEARING OFFICER DODUC: All right. With that,  
23 then I will thank Ms. Reynoso and Ms. Vielma. And  
24 Ms. Vielma, your testimony has strongly encouraged me to  
25 visit Stockton, especially the farmers market as soon as

1 possible. Thank you both very much.

2 We have to have a meeting during the lunch  
3 break, so I'm going to go ahead and call for the lunch  
4 break now. We will reconvene at 1:00 o'clock with  
5 cross-examination by the Department of Water Resources  
6 and Ms. Suard. And I believe Mr. Brodsky will be  
7 directing you. I expect we will get to your  
8 case-in-chief later this afternoon. Thank you for being  
9 here. With that, we will adjourn for lunch.

10 (Off the record.)

11 HEARING OFFICER DODUC: Good afternoon,  
12 everyone. If you could please take a seat, we will now  
13 turn to the Department of Water Resources for  
14 cross-examination. And as always, please begin by  
15 giving us an outline of the topics that you will be  
16 covering.

17 CROSS-EXAMINATION BY MS. ANSLEY:

18 MS. ANSLEY: Good afternoon. My name is  
19 Jolie-Anne Ansley. I'm with the Department of Water  
20 Resources. And together with Mr. Berliner, we will be  
21 asking questions of the three remaining witnesses.

22 I'm first going to ask some questions of Ms. --  
23 please correct me now -- is it Barrigan-Parrilla?

24 WITNESS BARRIGAN-PARRILLA: Barrigan-Parrilla.

25 MS. ANSLEY: Okay. And the topics -- I'm only

1 going to ask just a couple questions about her testimony  
2 concerning public outreach.

3 Ms. Barrigan-Parrilla, starting on page 6 of  
4 your testimony which is RTD-20, correct?

5 WITNESS BARRIGAN-PARRILLA: Hold on. Correct.

6 MS. ANSLEY: You provided your opinion on  
7 Petitioners' outreach efforts during the BDCP process as  
8 a whole; is that correct?

9 WITNESS BARRIGAN-PARRILLA: Correct.

10 MS. ANSLEY: And, in particular, to minority  
11 and low income communities?

12 WITNESS BARRIGAN-PARRILLA: Correct.

13 MS. ANSLEY: On page -- on page 41 of your  
14 testimony, it's your conclusion that the outreach  
15 efforts from the onset of the BDCP process was  
16 inadequate; is that correct?

17 WITNESS BARRIGAN-PARRILLA: That is correct.

18 MS. ANSLEY: And in your testimony regarding  
19 outreach, you discuss the survey conducted by the DWR.

20 WITNESS BARRIGAN-PARRILLA: Yes, that's  
21 correct.

22 MS. ANSLEY: And you've also provided testimony  
23 regarding the four public workshops held by the  
24 petitioners?

25 WITNESS BARRIGAN-PARRILLA: Correct, the



1 initial ones.

2 MS. ANSLEY: In 2009, right, September of 2009?

3 WITNESS BARRIGAN-PARRILLA: Yes.

4 MS. ANSLEY: And did you say that you had  
5 attended two of those workshops?

6 WITNESS BARRIGAN-PARRILLA: I know I attended  
7 the Stockton one. I may have possibly attended another  
8 one, but I can't say with complete certainty.

9 MS. ANSLEY: Did you also attend one of the 22  
10 scoping meetings?

11 WITNESS BARRIGAN-PARRILLA: Oh, yes, many.

12 MS. ANSLEY: Of BDCP?

13 WITNESS BARRIGAN-PARRILLA: Many.

14 MS. ANSLEY: And so you didn't mention the  
15 scoping meetings in your testimony?

16 WITNESS BARRIGAN-PARRILLA: We originally went  
17 back to how the process started in the testimony. I  
18 attended many of the scoping meetings and then the open  
19 houses that continued with Cal WaterFix. And that's  
20 actually described in my testimony. Tim Stroshane and I  
21 had attended both of the Cal WaterFix open house  
22 workshops.

23 MS. ANSLEY: And so you were aware that there  
24 were 22 scoping meetings conducted for the BDCP EIR?

25 WITNESS BARRIGAN-PARRILLA: I don't remember

1 the exact number, but I do know that there were numerous  
2 ones, correct.

3 MS. ANSLEY: And you're familiar with the  
4 Environmental Review Chapter 28, which is the  
5 environmental justice chapter?

6 WITNESS BARRIGAN-PARRILLA: Yes.

7 MS. ANSLEY: And Chapter 32, which is the  
8 public outreach and involvement chapter?

9 WITNESS BARRIGAN-PARRILLA: Yes.

10 MS. ANSLEY: Were you aware that over the  
11 process of the BDCP -- from, let's say, 2006 or '7, on  
12 that there have been over 600 public meetings both  
13 steering group meetings or steering committee meetings  
14 workshops town hall scoping.

15 WITNESS BARRIGAN-PARRILLA: If there have been  
16 over 600 meetings they certainly were not noticed well  
17 and even going back to the scoping meetings how the  
18 community would find out about meetings wasn't always  
19 exactly made very clear.

20 MS. ANSLEY: But you are familiar with the BDCP  
21 web site correct?

22 WITNESS BARRIGAN-PARRILLA: Yes.

23 MS. ANSLEY: And were you aware that post card  
24 notices were sent out to community groups and leaders  
25 representing various interests including environmental

1 justice communities?

2 WITNESS BARRIGAN-PARRILLA: It still didn't  
3 take the place in our opinion of a complete survey.  
4 Because what happens when you work with the  
5 environmental justice community is you can't simply just  
6 send them a notice and say, "Please come and attend."  
7 As a group that works with the environmental justice  
8 community we know that we have to do engaged consistent  
9 outreach. We have to go visit them. We have to take  
10 them to lunch. We have to sit down and have coffee with  
11 them. We have to explain the project. I know that  
12 there are community groups that when they receive  
13 notices from DWR or from the -- from BDCP were hesitant  
14 to become involved because they also worked with state  
15 government in other capacities. And they were afraid to  
16 interact directly on that project -- on the project,  
17 that it would interfere with other work.

18 MS. ANSLEY: Were you aware that over 200  
19 minority and low-income community leaders were  
20 interviewed?

21 WITNESS BARRIGAN-PARRILLA: Yes. That's in my  
22 testimony. But again, in my testimony, I say that of a  
23 sample of 14 -- interviewed over 200. No. When we look  
24 at the survey results, it was 35 percent of the 211 or  
25 31 that we mention out of the 1,400.

1 MS. ANSLEY: Okay. So you were not aware of  
2 over 250 interviews being conducted?

3 WITNESS BARRIGAN-PARRILLA: Again --

4 MS. ANSLEY: I misspoke. 200. I'm sorry.

5 WITNESS BARRIGAN-PARRILLA: Again, there were  
6 over 200 interviews that were done. But only 35 percent  
7 of them were truly environmental justice community,  
8 perhaps, representatives. And they weren't all within  
9 the Delta.

10 MS. ANSLEY: And my final question topic is are  
11 you aware of the six languages in which BDCP materials  
12 were translated?

13 WITNESS BARRIGAN-PARRILLA: Again, I would say  
14 that you did not translate water quality impacts or the  
15 true impacts of the project. The materials that you  
16 were given or that were handed out that were translated  
17 were kind of slick, generic descriptions of what the  
18 project was. There was no discussion of impacts to the  
19 environmental justice community for them to consider in  
20 the Delta.

21 MS. ANSLEY: Were -- I apologize. Were these  
22 materials that you saw at the public work -- one of the  
23 public workshops you attended?

24 WITNESS BARRIGAN-PARRILLA: Yes.

25 MS. ANSLEY: And so you were aware that -- that

1 BDCP material was translated into Tagalog, Spanish,  
2 Hmong, Cambodian, Chinese, traditional Chinese, and  
3 Vietnamese, as well as Spanish?

4 WITNESS BARRIGAN-PARRILLA: I will go back to  
5 what I said again. They were very generic, one-page or  
6 a two-pager pieces of material that were translated. It  
7 happened after we wrote the 2014 letter that we saw  
8 these available at workshops. And again, because there  
9 was no broad outreach done, a community member would  
10 have to know that the workshop was happening and go in  
11 and ask for the materials. Those materials do not  
12 describe in any of those languages, from what we  
13 understand, the real impacts of the project, the costs  
14 of the project, what it would do to water supply or  
15 availability, and what were the impacts to their  
16 communities.

17 MS. ANSLEY: Okay. I have no further questions  
18 for Ms. Barrigan-Parrilla. Thank you.

19 MR. BERLINER: I'll be doing the next  
20 cross-examination. My name is Tom Berliner, and I  
21 represent the Department of Water Resources. Last name  
22 is B-e-r-l-i-n-e-r. The first questions I have are for  
23 Senator Machado.

24 CROSS-EXAMINATION BY MR. BERLINER:

25 MR. BERLINER: Good afternoon, Senator. I only

1 have one topic, which is the Delta Economic  
2 Sustainability Model. And it's about five minutes or so  
3 of cross-examination.

4 Senator, you discussed the Delta Economic  
5 Sustainability Model in your -- in your testimony and --  
6 which was prepared in 2011, correct?

7 WITNESS MACHADO: Yes.

8 MR. BERLINER: And it's my understanding that  
9 the -- that the DESP, which is your Exhibit 301, was  
10 using information that was developed in 2008; is that  
11 correct?

12 WITNESS MACHADO: Yes.

13 MR. BERLINER: Since 2008, haven't cropping  
14 patterns in the Delta changed substantially?

15 WITNESS MACHADO: Well, I think you heard  
16 testimony today about how in particular it affected a  
17 gentleman in the South Delta, Mr. Salmon, because of the  
18 salinity changes that occurred in the channels and the  
19 rivers that serve the South Delta. Yes, there's been  
20 some changes. You have -- basically have seen because  
21 of market prices along the interior corridor where there  
22 have been the ability to put in some of the more higher  
23 value crops, a tendency to do that. And the truck crops  
24 have basically stayed the same. Markets have  
25 substantially changed the processing tomato industry.

1 But then again, there have been other truck crops that  
2 have come and backfilled the loss of the tomato  
3 industry.

4 MR. BERLINER: And isn't a lot of that shifting  
5 because of the market?

6 WITNESS MACHADO: Where the water quality was  
7 able to sustain the crops that they wanted to raise,  
8 yes, they went and did that.

9 MR. BERLINER: Now, one of the points you --  
10 you made in your testimony was you suggested there might  
11 be changes -- and I'm assuming you're relying on the  
12 study for this -- that could be -- the changes in  
13 salinity that could be as much as 25 percent. You even  
14 said, "Whether it was 25 or 200 percent." Have you seen  
15 any studies that are suggesting -- let me back up. Have  
16 you seen any technical studies that have focused on  
17 salinity that have said that because of California  
18 WaterFix, salinity in the Delta is going to go up 25  
19 percent or more?

20 WITNESS MACHADO: Phase 1 was estimated to be  
21 able at its highest to support a 2 percent change. But  
22 remember, what the economic sustainability study did was  
23 to try to establish what would happen if you had  
24 salinity changes. And so as part of the variables to be  
25 looked at within the multilogic -- multinominal logic

1 model, they looked at 25, they looked at 50, looked at  
2 100, looked at 200. In all cases what it did show is  
3 when you have a change in salinity and you have a change  
4 of flow, you're going to have a change in cropping  
5 patterns. And I think that was brought out earlier this  
6 morning when Mr. Salmon started talking about how it  
7 would affect his cropping patterns to have salinity  
8 changes take place where he farmed in the South Delta.

9 MR. BERLINER: Are you aware of testimony that  
10 was offered in this proceeding a couple of weeks ago  
11 that was talking about salinity increases in the 1 to 2  
12 percent range?

13 WITNESS MACHADO: I was not a party to -- I was  
14 not present to hear any of those then.

15 MR. BERLINER: And the DESP study didn't  
16 address changes of that magnitude, did it?

17 WITNESS MACHADO: Because the fact of the  
18 matter is the type of water quality changes that have  
19 occurred in the South Delta have exceeded the 1 to 2  
20 percent. And again, the authors in the -- of the study  
21 started looking to try to demonstrate what the  
22 changes -- the direction of change would take place  
23 because of changes in salinity. And we have had spikes  
24 in salinity that have well exceeded the 1 to 2 percent.

25 MR. BERLINER: Now, the -- this DESP study was



1 based on the Bay Delta Conservation Plan, correct?

2 WITNESS MACHADO: That's right. The Bay Delta  
3 Conservation Plan called out in Delta 2 the protection  
4 commission to do the Economic Sustainability Plan, which  
5 was part of the charge and intent that was put forward  
6 by the legislature in the Delta Reform Act that there  
7 needed to be a program that would further -- that would  
8 enhance and promote, not only agriculture, but the  
9 cultural natural resources part of the Delta. And so we  
10 did the Economic Sustainability Plan as part of that to  
11 try to show where the baseline would be and what would  
12 happen if changes were to occur and how that would  
13 affect the -- the ability to be able to enhance and  
14 improve agriculture in the Delta.

15 MR. BERLINER: And are you aware that the tens  
16 of thousands of acres of habitat restoration that was  
17 included in BDCP is not part of the California WaterFix  
18 project?

19 WITNESS MACHADO: Well, I would hope the  
20 WaterFix project did take into consideration some  
21 habitat restoration.

22 MR. BERLINER: So you're not aware that that's  
23 not part of the current proposal that this Board is  
24 considering?

25 WITNESS MACHADO: No.

1 MR. BERLINER: So you're not presenting any  
2 evidence to the Board as to what the impact of salinity  
3 increases would be from the project that's currently in  
4 front of the Board; you were presenting discussion of  
5 the project that was the BDCP project, correct?

6 WITNESS MACHADO: I think the points raised was  
7 what would be the impact of flows onto the -- how that  
8 would impact legal users of water and what would be the  
9 impact of salinity. Now, at the time when they did the  
10 study -- and I mentioned it in my testimony -- they did  
11 an assumption that they would be looking at a closed --  
12 at an isolated conveyance or a dual conveyance system  
13 that would, in fact, simulate what the diversion of flow  
14 from the Sacramento River would do and what that  
15 increased salinity standards for the -- relaxing the  
16 salinity standards for the South Delta would do. And  
17 that study showed what the direction of change would be  
18 that indicated that there would be harm to legal users  
19 of water in the Delta.

20 MR. BERLINER: So is your answer yes or no?  
21 You're not presenting any evidence regarding salinity --

22 WITNESS MACHADO: I am presenting the Economic  
23 Sustainability Plan that does present evidence that the  
24 impact of diverting -- of reduced flows in the  
25 Sacramento River going through the Delta, that change in

1 salinity standards in the San Joaquin River or in the  
2 channels of the South Delta will cause economic harm.

3 MR. BERLINER: Based on the BDCP project?

4 WITNESS MACHADO: Yes.

5 MR. BERLINER: No further questions for this  
6 witness. My next questions are for Mr. Stroshane.

7 CROSS-EXAMINATION BY MR. BERLINER:

8 MR. BERLINER: Good afternoon, sir.

9 WITNESS STROSHANE: Good afternoon.

10 MR. BERLINER: I was not quite clear from your  
11 resume --

12 HEARING OFFICER DODUC: Mr. Berliner, I'm  
13 sorry. Your topic areas?

14 MR. BERLINER: I'm sorry. Topics, yes, salt  
15 impacts, reduced flow impacts, modeling and water  
16 quality. And I'm hoping 20 minutes or so.

17 HEARING OFFICER DODUC: Please proceed.

18 MR. BERLINER: Thank you.

19 You indicated when you were introducing  
20 yourself that you had taken some courses in hydrology.  
21 Are you -- do you have expertise in modeling?

22 WITNESS STROSHANE: No.

23 MR. BERLINER: So I take it you've never run  
24 either CalSim or DSM2?

25 WITNESS STROSHANE: No, I have not. I was

1 introduced in my undergraduate education to the  
2 difference between analog and numeric models. This was  
3 35 years ago.

4 MR. BERLINER: Okay. In discussing your -- in  
5 discussing the modeling in your testimony, you're  
6 relying in part on information from the Contra Costa  
7 Water District, correct?

8 WITNESS STROSHANE: Correct.

9 MR. BERLINER: And you understand they haven't  
10 testified in this proceeding?

11 WITNESS STROSHANE: Yes.

12 MR. BERLINER: And that their testimony has not  
13 undergone cross-examination?

14 WITNESS STROSHANE: Yes, correct.

15 MR. BERLINER: And that, in fact, they have  
16 withdrawn from the proceeding?

17 WITNESS STROSHANE: Yes.

18 MR. BERLINER: So is your testimony then a  
19 summary of comments in this -- in the modeling area that  
20 were made by CCWD?

21 WITNESS STROSHANE: Yes. And they made those  
22 comments -- one -- one exhibit that I relied on is the  
23 2014 comments by CCWD on the draft Bay Delta  
24 Conservation Plan EIR/EIS. The other was their comments  
25 submitted in October last year on the recirculated draft

1 EIR/EIS.

2 MR. BERLINER: And have you discussed those  
3 comments with them?

4 WITNESS STROSHANE: I'm sorry?

5 MR. BERLINER: Have you discussed those  
6 comments with them?

7 WITNESS STROSHANE: No.

8 MR. BERLINER: Did you play any role in  
9 preparing those comments?

10 WITNESS STROSHANE: No, I did not. No.

11 MR. BERLINER: With regard to the analysis that  
12 was done by MBK and Dan Steiner, did you do any  
13 independent analysis based on their work?

14 WITNESS STROSHANE: No, I did not.

15 MR. BERLINER: Did you analyze their work? Let  
16 me restate that. That's a little bit of a vague term.

17 WITNESS STROSHANE: Yeah.

18 MR. BERLINER: Did you -- did you have any  
19 ability to pick apart the modeling work that they had  
20 done such that you understand the modeling approach?

21 WITNESS STROSHANE: I understand basic things  
22 about CalSim, as opposed to, say, DSM2, such as the  
23 different time steps involved with the two models. I  
24 understand that CalSim results are often used as inputs  
25 to the DSM model for purposes of modeling hydrodynamics

1 in the Delta. There's probably a couple other things  
2 that are just not coming to mind right now. But I'm  
3 familiar with the broad brush of CalSim's utility, what  
4 it tries to do and -- and what DSM2 tries to do.

5 MR. BERLINER: Those are very generic issues  
6 that you've raised with CalSim that would be true of  
7 anybody who was doing anything with CalSim or DSM2  
8 correct?

9 WITNESS STROSHANE: I'm sorry?

10 MR. BERLINER: That would be true of anybody  
11 that was doing anything with DSM2 or CalSim, correct?  
12 Those -- what you've indicated you're familiar with,  
13 anybody that would use those models would know that, for  
14 instance, CalSim is a micro-simulation model, DSM is a  
15 surface model, right?

16 WITNESS STROSHANE: Right.

17 MR. BERLINER: Okay. But specifically as to  
18 the modeling approach that was taken by MBK, do you have  
19 the ability to describe what it is that they did?

20 WITNESS STROSHANE: My understanding -- I  
21 attended a presentation that indicated -- Mr. Bourez,  
22 specifically, gave a presentation about an early version  
23 of his 2015 results to -- I think it was the Delta  
24 Independent Science Board, now going on two years ago.  
25 About -- let's see. By then, we were still talking

1 about a Bay Delta Conservation Plan type of project.

2 And -- and became familiar with some of the  
3 methodological, shall we say, tweaks that Mr. Bourez  
4 used to develop and summarize his modeling results.

5           And some of that involved interviewing the  
6 operators of the -- of the project. And the operators  
7 telling me, "Oh, well, we don't really use CalSim 2."  
8 And the result was that they used some more -- by having  
9 interviewed the operators that was partly how they  
10 developed their approach for evaluating WaterFix later  
11 on. And I first heard about that -- that research  
12 approach that they took of interviewing informants with  
13 the operators at that 2015 -- the January 2015 meeting.

14           MR. BERLINER: And then you also cited some  
15 work that was done by East Bay MUD. Did you help East  
16 Bay MUD prepare that work?

17           WITNESS STROSHANE: No, sir.

18           MR. BERLINER: Did you meet with East Bay MUD  
19 prior to offering your testimony here?

20           WITNESS STROSHANE: No, sir.

21           MR. BERLINER: On the basis of the witness'  
22 answers I'm going to object to the portions of his  
23 testimony that concern the Contra Costa Water District  
24 information as lacking foundation. I'm going to object  
25 to the portion of work regarding the MBK Dan Steiner

1 work as being cumulative of the work that they had  
2 performed and provided extensive testimony here. And  
3 same objection as to the East Bay MUD work.

4 HEARING OFFICER DODUC: Were these objections  
5 that you have already filed with us?

6 MR. BERLINER: No. These are objections based  
7 on Mr. Stroshane's current testimony. I believe there  
8 were objections filed previously, but these are  
9 objections I'm making at this time.

10 HEARING OFFICER DODUC: Mr. Orr or Ms. Garcia,  
11 any response?

12 MR. ORR: Well, number one, none of  
13 Mr. Stroshane's testimony was available and was  
14 extensively objected to by DWR. So it's kind of odd  
15 that this is something new today.

16 And number 2, I think we've established that  
17 Mr. Stroshane is a very knowledgeable analyst of water  
18 matters. And DWR's position seems to be that unless  
19 they prepared the modeling or you have -- I mean, he  
20 can't use information in the public record which  
21 indicates and supports his position for the simple fact  
22 that he didn't himself invent it. He is someone who is  
23 very familiar with these sorts of things. You can, of  
24 course, give whatever weight to his analysis of these  
25 things. But I think that we've established that he's a



1 pretty sophisticated analyst of California water policy  
2 and that his opinion based on the studies and the  
3 conclusions of these agencies which are in the public  
4 record is fair game for him to comment upon.

5 HEARING OFFICER DODUC: Final thoughts,  
6 Mr. Berliner?

7 MR. BERLINER: I am not objecting to much of  
8 Mr. Stroshane's testimony where I agree he has  
9 background and experience in California water matters.  
10 What I am objecting to are the technical aspects of his  
11 testimony that either merely repeat work that was done  
12 by others or where there has been nobody in this  
13 proceeding to offer anything in the case of the Contra  
14 Costa work that would substantiate their work. It  
15 hasn't been the subject of cross-examination.

16 Those were comments submitted a few years ago.  
17 We don't know what CCWP's current views are of those.  
18 We have no idea whether they are authoritative or not.  
19 And they are being offered here as testimony by somebody  
20 who holds himself out as being somewhat expert on  
21 California water matters but hasn't shown any foundation  
22 for the testimony he's submitted. So I'm not seeking to  
23 strike his entire testimony, just those very narrow  
24 parts.

25 HEARING OFFICER DODUC: All right.

1 Mr. Brodsky?

2 MR. BRODSKY: As far as the technical reports  
3 that are in the record, the Board itself is expert in  
4 these matters -- in water matters and so forth. And  
5 where an administrative agency itself has technical  
6 experts, it can take judicial notice of the facts that  
7 are stated in technical reports without those being  
8 authenticated or subject to cross-examination.

9 So to the extent that Mr. Stroshane is calling  
10 to your attention technical reports that have been  
11 submitted into the record, you're capable of taking  
12 account of those facts and assessing those reports and  
13 it's not necessary that there be cross-examination for  
14 those to be valid things for him to -- for him to rely  
15 on.

16 HEARING OFFICER DODUC: All right. Thank you.  
17 Mr. Berliner, I'm going to overrule your objection. I  
18 will allow the testimony, but we will consider your  
19 objection in weighing the evidence.

20 MR. BERLINER: Thank you.

21 Now, Mr. Stroshane, you reviewed some of the  
22 portion of the draft recirculated EIS that concerned the  
23 CalSim modeling results, correct?

24 WITNESS STROSHANE: Yes.

25 MR. BERLINER: And in the Restore the Delta

1 Exhibits 149 and 150 -- and perhaps we could get one of  
2 those pulled up -- you were comparing the H3 and H4  
3 operating scenarios to existing conditions as well as to  
4 no-action alternatives. Does that sound familiar?

5 WITNESS STROSHANE: Yes, it does.

6 MR. BERLINER: Okay. And these -- these  
7 exhibits do not, do they, demonstrate how these changes  
8 would affect specific water users, do they?

9 WITNESS STROSHANE: No, they do not.

10 MR. BERLINER: And they don't address what  
11 water quality impacts specific water users might suffer?

12 WITNESS STROSHANE: No. These deal with flow  
13 and the changes to flow and nothing more.

14 MR. BERLINER: Could we take a look at  
15 Exhibit 150? I think these exhibits kind of go together  
16 in tandem, and 150 is a little bit easier. I think  
17 actually that's not the one I wanted. I might have the  
18 wrong number.

19 WITNESS STROSHANE: It's one of the charts  
20 because there are charts that back up --

21 MR. BERLINER: Yeah. Could you -- yeah. Keep  
22 going. That's a problem. Go to page 4, please. There  
23 we go.

24 Now, you have shown -- the reason that I  
25 skipped some of the earlier ones was because they were

1 comparing the operating scenarios to the existing  
2 conditions. But this is comparing it to a no-action  
3 alternative. And what is your -- what is your point  
4 with this -- with this chart?

5           WITNESS STROSHANE: Simply that as I understand  
6 DWR's and the Bureau's approach to evaluating the  
7 effects of the project, in light of the fact that  
8 climate change is considered a factor as part of this  
9 environmental review process, this -- to me, this  
10 particular slide suggests that even in what I think to  
11 be a little blunt about it, that DWR would consider a  
12 comparison of the no-action alternative, which is a  
13 future conditions, no-action scenario with -- in this  
14 particular case, scenario H3. That that is a more  
15 meaningful -- that DWR has argued in its documents that  
16 that is a more meaningful comparison because you really  
17 are trying to compare an apple with an apple to some --  
18 precisely because climate change is part of the -- of  
19 both scenarios that you are comparing.

20           So what this chart, as I read it, is saying is  
21 that on a month-by-month average basis, flows resulting  
22 from implementation of the WaterFix facilities,  
23 specifically in this case the North Delta diversions,  
24 would have negative effects. We would decrease flows in  
25 each month, as well as an average of minus 21 percent

1 across the entire -- across a year, across the average  
2 of years in what I believe the CalSim modeling results  
3 were showing. In other words, this chart is showing the  
4 effects on flow at Rio Vista of the project taking  
5 climate change into account.

6 MR. BERLINER: Did you give any consideration  
7 to the fact that this chart would demonstrate how  
8 WaterFix might work in order to be able to do less  
9 pumping in the Delta during the summer months and  
10 following at the South Delta intakes in order to avoid  
11 impact in the Delta while still meeting all Delta -- all  
12 Delta regulatory conditions?

13 WITNESS STROSHANE: I didn't think about it a  
14 lot, no.

15 MR. BERLINER: And are you aware that one of  
16 the things that the WaterFix is being touted as is  
17 giving more operational flexibility so that water can be  
18 taken through the North Delta diversions at times that  
19 would be less sensitive than under current operating  
20 scenarios?

21 WITNESS STROSHANE: I'm sorry. That was a very  
22 complicated question. Would you please repeat it?

23 MR. BERLINER: Let me see if I can break it  
24 down a little bit more. The Department and others have  
25 testified that one of the purposes of the California

1 WaterFix is to provide flexibility as to where water is  
2 taken for export. Do you understand that testimony?

3 WITNESS STROSHANE: That is my understanding.

4 MR. BERLINER: And that flexibility is provided  
5 by virtue of the proposed North Delta diversion. Do you  
6 understand that?

7 WITNESS STROSHANE: Yes, I do. Yeah.

8 MR. BERLINER: Okay. If water is taken from  
9 the North Delta diversion during the summer or during  
10 another time of year -- in other words, the water is  
11 shifted to be taken to another time of year -- do you  
12 understand that would mean that less water would have to  
13 travel across the Delta to Banks and Jones pumping  
14 plants during the summer when pumping is allowed so that  
15 you would see, as this chart shows, that there would be  
16 less water going across the Delta?

17 WITNESS STROSHANE: This chart shows the  
18 Sacramento -- the flow decreases as it would be measured  
19 in the Sacramento River at Rio Vista, which is  
20 downstream of the Delta cross-channel. And so I guess I  
21 don't -- the flow -- this chart does not try to show  
22 anything about what is going on in the Central Delta,  
23 for example, if the cross-channel is open.

24 MR. BERLINER: That would be correct. Okay.  
25 You made a contention in your testimony that it's your

1 understanding that the San Joaquin River has worse water  
2 quality -- a worse water quality profile for salinity  
3 and other pollutant concentrations than the Sacramento  
4 River, correct?

5 WITNESS STROSHANE: Yeah, I asserted that.  
6 Yes.

7 MR. BERLINER: Are you --

8 WITNESS MACHADO: Part of that was based on a  
9 page in the State Water Board's -- I believe it was  
10 their -- the equivalent of their Scientific Basis Report  
11 for the San Joaquin Flow Phase I Process that they were  
12 running several years ago. And I -- I got my -- some of  
13 my information for that and cited that in my testimony.

14 MR. BERLINER: Are you contending that San  
15 Joaquin water is of lower quality under all conditions?

16 WITNESS STROSHANE: No, I don't think so. I  
17 would just say it has a worse profile. It may mean that  
18 in a majority of months or in a majority of certain time  
19 steps, depending on the season or any time of year it  
20 could -- it could be better because sometimes the way  
21 that climate works in California, the San Joaquin basin  
22 gets a boatload of snow fall and can generate a lot of  
23 very nice snow melt in the spring and early summer. And  
24 meanwhile, in that same year, perhaps, the northern  
25 basin, the Sacramento basin, can go wanting for snow

1 pack and/or rainfall. It's unusual, but it does happen.

2 MR. BERLINER: And are you contending that all  
3 constituents are more degraded in the San Joaquin River  
4 than in the Sacramento River?

5 WITNESS STROSHANE: I'm sorry. Could you  
6 restate that once more?

7 MR. BERLINER: Sure. Are you contending that  
8 as to all constituents, the -- I'll state it a little  
9 differently.

10 Are you contending as to all constituents that  
11 the San Joaquin River is a lower quality than the San  
12 Joaquin -- than the Sacramento?

13 WITNESS STROSHANE: I cannot say for any  
14 certainty that -- that it applies to -- that assessment  
15 of the profile applies to all constituents. I'm not  
16 that level of a water quality expert. I freely admit  
17 that. But it is -- I wrote that passage in my  
18 testimony, in part, because it was generally well-known  
19 that the San Joaquin is not as good a quality river as  
20 the Sacramento.

21 MR. BERLINER: Now, when you make that  
22 comparison of a Sacramento to the San Joaquin, you're  
23 basing that on current conditions, correct?

24 WITNESS STROSHANE: Depends on what you mean by  
25 "current," I think.



1 MR. BERLINER: You're not suggesting that  
2 this -- that the quality of the Sacramento River versus  
3 the San Joaquin is better or worse based on future  
4 events, are you?

5 WITNESS STROSHANE: I think in the passage  
6 where I wrote this, I was thinking of both future and  
7 current and admittedly, extrapolating the present into  
8 the future because of the source water fingerprinting  
9 results. That the source water fingerprinting results  
10 indicate that the San Joaquin River with North Delta  
11 diversions operating will result in less freshwater  
12 passing through the Delta cross-channel at certain times  
13 of year and the San Joaquin River will flow into that  
14 area of the -- of the Central and Western Delta and  
15 hydrostatically or hydrodynamically fill that gap that  
16 is missing, at least a portion of it will, if not tides.

17 MR. BERLINER: Could we have Restore the Delta  
18 No. 130 at page 60, please? And while that's loading,  
19 maybe I can ask you a couple of other questions. Since  
20 you're looking at -- since you indicated you're  
21 considering both current and future conditions, did you  
22 take into account any flow changes that might result  
23 from Federal Energy Regulatory Commission project  
24 relicensings that might increase flows?

25 WITNESS STROSHANE: No, sir.

1 MR. BERLINER: Did you take into account  
2 anything related to the Water Quality Control Plan  
3 proceedings?

4 WITNESS STROSHANE: No. I mean, I know that  
5 they are out there. But the -- it's not -- it's not  
6 clear to me that even the results of either the source  
7 water fingerprinting or any of the flow and water  
8 quality results that I was providing take that into  
9 account either, especially on the Water Quality Control  
10 Plan changes that may or may not be in the offering.

11 MR. BERLINER: So if we could go to -- on this  
12 figure, up further. So we have here -- you can stop.  
13 So this is fingerprint modeling.

14 WITNESS STROSHANE: Um-hum.

15 MR. BERLINER: And if you look at these figures  
16 at the Banks pumping plant -- and we can compare it  
17 also -- you can scroll down a little bit. Mr. Long, is  
18 that you at the wheel there? Also, at the CVP at the  
19 Jones Pumping Plant.

20 And you can see that the blue charts are the  
21 Sacramento River and the reddish/orangeish -- whatever  
22 color that is supposed to be -- charts are for the San  
23 Joaquin River. Do you see that?

24 Based on these charts, it would appear that  
25 under the H3 and H4 scenarios, there's actually less San

1 Joaquin water at the pumps than under the no-action,  
2 correct?

3 WITNESS STROSHANE: So the upper row is Banks,  
4 right?

5 MR. BERLINER: The upper row is Banks.

6 WITNESS STROSHANE: Do you want me to just  
7 focus on Jones?

8 MR. BERLINER: So if you look at -- no. So if  
9 you look at the San Joaquin side, you can look at the  
10 no-action alternative. That's probably the easiest one  
11 to look at. The colors stand out more. And since we  
12 are talking about San Joaquin water, you can see that  
13 under had the no-action alternative, there is far more  
14 San Joaquin water at the pumps than there is under the  
15 action alternatives.

16 WITNESS STROSHANE: Yes. Yes. And that's, of  
17 course, during the no-action alternative. That's  
18 because there is no North Delta diversions involved. So  
19 all the water -- much of the water at Banks and Jones  
20 that is diverted comes from the San Joaquin River in the  
21 no-action alternative.

22 MR. BERLINER: And so my point was that you  
23 actually decreased the presence of the San Joaquin River  
24 water at the pumps, as compared to the no-action  
25 alternative based on this fingerprinting analysis. Do

1 you see that?

2 WITNESS STROSHANE: Yes, I do see that, at the  
3 pumps.

4 MR. BERLINER: Yes.

5 WITNESS STROSHANE: Correct.

6 MR. BERLINER: With regard to -- you discussed  
7 salinity level in the interior Suisun Marsh. Do you  
8 recall that testimony?

9 WITNESS STROSHANE: Yeah. I think it's just a  
10 summary passage. It wasn't a large part of my  
11 testimony, as I recall.

12 MR. BERLINER: That's correct. Specifically,  
13 at paragraph 119 and following. Do you recall that you  
14 were -- that you contended that there is significant  
15 degradation in the interior Suisun Marsh as a result of  
16 WaterFix?

17 WITNESS STROSHANE: Yes, I recall. Yeah. And  
18 I believe that came from analysis I did in this --  
19 elsewhere in this exhibit. But I don't remember if I  
20 cited to it or not. It may have come -- what I cited  
21 may have been direct to the recirculated draft EIR.

22 MR. BERLINER: And you're aware that the  
23 projects are operated to meet biological opinions and  
24 other regulatory requirements, correct?

25 WITNESS STROSHANE: Yes. My understanding is

1 that's the intent, yes.

2 MR. BERLINER: And are you aware that the  
3 project has met the Suisun Marsh standards in D-1641  
4 consistently?

5 WITNESS STROSHANE: I haven't tracked that part  
6 of D-1641, no. I'm not aware. The analysis that I --  
7 or the underlying information that I based my statement  
8 about degradation of Suisun Marsh water quality, as I  
9 recall, goes to Appendix B, as in boy, of the  
10 recirculated draft Environmental Impact Statement. And  
11 there are tables that show for individual monitoring  
12 stations the changes that I alluded to.

13 MR. BERLINER: Are you aware that the  
14 recirculated draft EIR is not the same modeling that was  
15 submitted with the petition for this project?

16 WITNESS STROSHANE: Yes, I am. And that's what  
17 I referred in my oral testimony about proliferation of  
18 modeling.

19 MR. BERLINER: And are you aware that the  
20 recirculated draft did not include operation of the  
21 salinity control gates for Suisun Marsh?

22 WITNESS STROSHANE: I'm not aware of that  
23 specific part, no.

24 MR. BERLINER: Are you aware that the modeling  
25 that was submitted did include operation of the salinity

1 control gates?

2 WITNESS STROSHANE: I'm sorry. Could you  
3 restate the question?

4 MR. BERLINER: Yes. You're aware that there  
5 was modeling submitted with the petition?

6 WITNESS STROSHANE: Yes, uh-huh.

7 MR. BERLINER: Are you aware that the modeling  
8 that was submitted with the petition did include  
9 operation of the salinity control gates?

10 WITNESS STROSHANE: No, I was not aware.

11 MR. BERLINER: Can we have DWR Exhibit 615,  
12 please? This is a new exhibit. We have hard copies.

13 Are you familiar with the D-1641 standards for  
14 Suisun Marsh?

15 WITNESS STROSHANE: No, I'm not.

16 MR. BERLINER: I will represent to you that the  
17 bars on this exhibit -- and we will confirm this during  
18 rebuttal -- indicate that for every month these values  
19 are well below the D-1641 standards. And we will  
20 present testimony on that during rebuttal.

21 WITNESS STROSHANE: I was interested in  
22 highlighting the clear degradation or change in  
23 salinity, the increase in salinity without regard at  
24 this point to whether they complied or not with any  
25 water quality objectives. It -- what struck me about

1 the tables in that appendix was around what I saw as a  
2 rather marked change in a more saline direction. By the  
3 way, this exhibit does not have a title and --

4 MR. BERLINER: Yeah. We will provide testimony  
5 supporting this exhibit during our rebuttal.

6 WITNESS STROSHANE: Right. But if I were to  
7 take this home and show it to my wife, she'd say, "Where  
8 is this?" That's all I mean.

9 MR. BERLINER: I have no further questions for  
10 this witness.

11 HEARING OFFICER DODUC: Does that complete your  
12 cross-examination?

13 MR. BERLINER: Yes, it does.

14 HEARING OFFICER DODUC: Thank you. Save the  
15 Delta rebuttal?

16 MR. ORR: No questions.

17 HEARING OFFICER DODUC: All right. I guess as  
18 to Ms. Meserve.

19 MS. MESERVE: We will defer to Mr. Keeling  
20 first.

21 HEARING OFFICER DODUC: All right.  
22 Mr. Keeling?

23 MR. KEELING: I have only a couple of  
24 questions. They are both for Mr. Stroshane, and they  
25 both concern the -- the position that this is a petition

1 for a new water right, not a petition for change in the  
2 point of diversion.

3 HEARING OFFICER DODUC: Thank you. Please  
4 proceed.

5 CROSS-EXAMINATION BY MR. KEELING:

6 MR. KEELING: Mr. Stroshane, I am Tom Keeling.  
7 I represent the San Joaquin County Protestants. You  
8 mentioned, as have others, the lack of a water  
9 availability analysis in the petition or in connection  
10 with the petition. Do you recall that testimony?

11 WITNESS STROSHANE: I don't recall saying that  
12 per se. Perhaps, I did. But I don't recall it. What I  
13 remember is that my mention of a water availability  
14 analysis pertains to Restore the Delta's  
15 recommendation -- it's sort of a subsidiary  
16 recommendation that follows from our recommendation that  
17 the Petitioner be denied. And that if there was to be  
18 follow-up with the Board by the Petitioners for water  
19 rights on behalf of the project that they file a new  
20 water right application. And then at that point, as I  
21 understand it, that is when the State Water Board  
22 conducts a water availability analysis is when -- only  
23 when they have a new water right application.

24 MR. KEELING: What is your understanding of  
25 what a water availability analysis is?



1           WITNESS STROSHANE: In broad terms, because I  
2 have never worked on a particular new application for --  
3 that the board has overseen but my understanding is, in  
4 broad brush, that they take the application. They  
5 evaluate it in terms of its -- the seasons in which it  
6 would operate. They compare those seasons to or the  
7 seasons of operation to when other water right holders  
8 may have claims during those seasons. They compare  
9 those claims. They compare both the claims -- all the  
10 sets of claims involved to the amount of flow that  
11 occurs in normal and other types of water years on that  
12 stream.

13           MR. KEELING: Why would a water right analysis  
14 be important in considering the proposed project?

15           WITNESS STROSHANE: It would hopefully evaluate  
16 whether there really is water to divert in the North  
17 Delta from the Sacramento River or not.

18           MR. KEELING: Do you have your RTD-10 revised  
19 version 2 in front of you?

20           WITNESS STROSHANE: Yes, I do.

21           MR. KEELING: That's Mr. Stroshane's revised  
22 testimony. Turn, if you would, to page 7, paragraph 23.  
23 I'm referring in particular to that sentence that reads,  
24 "Source water fingerprinting model results indicate that  
25 the composition of water sources will change

1 significantly from those presently relied on under  
2 existing water rights permits for the SWP and CVP." And  
3 you go on to explain that, "Sacramento River water, as a  
4 share of the water pumped at Banks and Jones pumping  
5 plants, will increase significantly." And in the  
6 succeeding paragraphs, you try to quantify that. Do you  
7 remember that part of your testimony?

8 WITNESS STROSHANE: Yes, I do.

9 MR. KEELING: My question of you is simply  
10 this. How does that observation tie into your basic  
11 argument that this is a petition for a new water right,  
12 rather than a petition for a change in the point of  
13 diversion?

14 WITNESS STROSHANE: Well, I think I was  
15 thinking of how just prior to this, there was material  
16 on the Santa Cruz case. And I was making an argument  
17 about how the Bay Delta system is a different water body  
18 than is the San Lorenzo River. It is just more complex,  
19 just to summarize.

20 And I believe I am laying groundwork with the  
21 water fingerprint -- the water source fingerprinting  
22 analyses -- either that or it happened earlier. It's  
23 been so many months now -- that the water source  
24 fingerprinting results help illustrate that the North  
25 Delta diversions take water literally physically out of

1 Delta channels at the Sacramento River. And that -- and  
2 it winds up at the pumping plants in the South Delta  
3 without having provided its fresh flow in the Delta  
4 beforehand, as now occurs.

5           So by including this analysis, it shows that --  
6 for example, that the -- there's a later paragraph where  
7 I talk about the San Joaquin River showing up more at --  
8 in the Mokelumne River area, I think on page 10. I'm  
9 seeing reference to Mokelumne there. But the -- the  
10 essence of it is that -- that this is a fundamentally  
11 different and new way of moving water out of --  
12 exporting water out of the Delta.

13           MR. KEELING: Is it fair to say that, in part,  
14 the argument that this is really a request for new water  
15 right is predicated on the fact that water from a  
16 different source would be exported from the Delta?

17           WITNESS STROSHANE: Well, I am not a water law  
18 attorney; but on the face of it, my answer would be yes.

19           MR. KEELING: I have no further questions.

20           HEARING OFFICER DODUC: Thank you, Mr. Keeling.  
21 Ms. Meserve?

22           MS. MESERVE: Good afternoon. Osha Meserve for  
23 Local Agencies of the North Delta and other protestants.  
24 I have a couple of questions for Ms. Barrigan-Parrilla  
25 and a -- one or two questions for Mr. Stroshane and one

1 or two questions for Mr. Machado. Just -- I guess you  
2 want the topics. Sorry.

3 Let's see. Ms. Barrigan-Parrilla, I wanted to  
4 ask her about the process issues that she was raising in  
5 her testimony. And then with Mr. Machado, it has to do  
6 with the difference between the BDCP and the tunnels  
7 WaterFix. And then -- sorry. I'll end with  
8 Mr. Stroshane, water supply quality for exporters. So  
9 it's quick, I believe. So 15 minutes or so.

10 HEARING OFFICER DODUC: I should say that in  
11 addition to helping me follow your cross-examination,  
12 the reason I ask for this is I keep track of the topic  
13 for any re-direct as well.

14 MS. MESERVE: Yes. Thank you. I was not  
15 organized enough, despite sending Mr. Keeling up here to  
16 take a few minutes. He is a good sport. So let's see.  
17 Let's see. Maybe I'll start with Ms. Barrigan-Parrilla.

18 CROSS-EXAMINATION BY MS. MESERVE:

19 MS. MESERVE: You discussed earlier, meetings  
20 that were held for the Bay Delta Conservation Plan  
21 Process and then the tunnels-only Cal WaterFix project.  
22 Did you attend any of the steering committee meetings  
23 going back to 2008, 2009 time period?

24 WITNESS BARRIGAN-PARRILLA: Yes.

25 MS. MESERVE: Are you aware of any public

1 outreach that occurred for steering committee meetings  
2 at that particular part of this planning process?

3 WITNESS BARRIGAN-PARRILLA: Not really. I  
4 think people were invited in that represented  
5 particular, maybe, environmental groups that were paying  
6 attention to the process. But in a sense, you almost  
7 kind of had to push your way in a little bit.

8 MS. MESERVE: Do you recall being sent meeting  
9 materials or having any sort of outreach to you once you  
10 became a participant in those?

11 WITNESS BARRIGAN-PARRILLA: It's been a long  
12 time. I don't recall receiving -- we get certain  
13 notices but not regular meeting notices, no.

14 MS. MESERVE: Do you ever recall back in, say,  
15 2009 time period trying to get meeting materials and not  
16 being able to get them?

17 WITNESS BARRIGAN-PARRILLA: We were finding out  
18 about meetings. At one point, one of the people who  
19 worked with us, Brett Baker, actually learned about a  
20 meeting and basically had to go crash the meeting to  
21 find out what was happening.

22 MS. MESERVE: Thank you. You mentioned in your  
23 testimony, I believe, groundwater concerns. Can you  
24 elaborate, based on the case-in-chief that you guys have  
25 provided for Restore the Delta, what specifically those

1 are?

2 WITNESS BARRIGAN-PARRILLA: As salinity  
3 increases in the Delta with operation of the facilities,  
4 there is an increase for that saltwater intrusion to  
5 move under San Joaquin County eastward through Stockton.  
6 There are reports presently of saltwater contaminating  
7 groundwater supplies almost all the way up to Highway  
8 99.

9 The saltwater is about 20 percent of the City  
10 of Stockton's -- or excuse me, saltwater. Groundwater  
11 is about 20 percent of the City of Stockton's drinking  
12 water supply that is used both by City of Stockton and  
13 CalWater Service. So, you know, one of the connections  
14 that we are worried about particularly for environmental  
15 justice communities is that with greater salinity in the  
16 groundwater supply, you're going to have increased  
17 treatment costs there for drinking water. And then as  
18 you heard, for a lot of these urban farm organizations  
19 that are working on solving food desert problems, they  
20 rely on city drinking water supply to actually run their  
21 urban farms and/or water wells.

22 MS. MESERVE: And did you also look at any  
23 impacts on environmental justice or other communities  
24 that would be from direct impacts of construction  
25 operation of the project such as dewatering, slurry

1 walls, and also blockages by the tunnel themselves?

2 WITNESS BARRIGAN-PARRILLA: Well, that was part  
3 of what was in Ms. Reynoso's testimony because, you  
4 know, she gave a very human account of, well, what  
5 happens when you're dewatered -- your home is dewatered?  
6 What happens when the land is sold from underneath you?  
7 You don't just lose your job; you lose your job, you  
8 lose your water supply, and you lose your home.

9 MS. MESERVE: So would you be concerned in  
10 addition to the Stockton water supply issues you  
11 described just now for individuals who are reliant on  
12 groundwater wells in the vicinity of the tunnel  
13 construction?

14 WITNESS BARRIGAN-PARRILLA: Oh, we are. And I  
15 think that's in our testimony. I mean, we really look  
16 at the whole environmental justice community. What we  
17 did argue here, though, was to look at where the greater  
18 concentrations were. But we're concerned about the  
19 impacts for the entire environmental justice community.

20 MS. MESERVE: And now touching on a question I  
21 asked of one of your co-panelists earlier. Are you  
22 aware of campaigns in the southern San Joaquin Valley to  
23 bring reliable water supplies from the Delta?

24 WITNESS BARRIGAN-PARRILLA: Yes.

25 MS. MESERVE: And do you consider the interests

1 of the EJ communities in the Delta that you've been  
2 studying to be at odds with these other communities?

3 WITNESS BARRIGAN-PARRILLA: Actually, I don't.  
4 I consider our interests to be at odds with the  
5 campaigns but not with the people of the San Joaquin  
6 Valley. And the reason why is environmental justice  
7 concerns for water always seem to be, first off, given  
8 the lowest priority.

9 You know, in the Valley, the same irrigators  
10 who are fighting for Delta water are also the ones who  
11 don't want to step up and ensure that there are clean  
12 water supplies throughout the Westlands Water District.  
13 We've actually worked with groups throughout the San  
14 Joaquin Valley. We have actually lobbied in Sacramento  
15 for the human right to water with them. We used to go  
16 in as teams because we don't see it as an either/or  
17 situation. It goes back to that idea that the highest  
18 use of water is for domestic use.

19 MS. MESERVE: So in your opinion, would it be  
20 necessary to construct these tunnels in order to bring  
21 safe drinking water supplies to disadvantaged  
22 communities outside of the Delta that may be having  
23 difficulty?

24 WITNESS BARRIGAN-PARRILLA: No. I think it is  
25 a matter of really priorities and political will.



1 MS. MESERVE: Thank you.

2 CROSS-EXAMINATION BY MS. MESERVE:

3 MS. MESERVE: Mr. Machado, you discussed in  
4 your testimony the Economic Sustainability Plan and  
5 which we've identified and analyzed the BDCP project.  
6 Let's see. Actually, could you bring up DWR-66, page 5?  
7 I don't think it's errata. I think it is just DWR-66.

8 And, Mr. Machado, are you -- are you aware that  
9 DWR testified that their modeling showed that there  
10 would be an 18 to 19 percent salinity, an increase at  
11 Edmonton when compared to the no-action alternative?

12 WITNESS MACHADO: I'm not aware of that.

13 MS. MESERVE: Would it surprise you to know  
14 that increases in salinity were, in a comparative basis  
15 at least, expected even without the restoration of the  
16 BDCP prior project?

17 WITNESS MACHADO: Say that again, please.

18 MS. MESERVE: Would you -- let's see. Does  
19 your testimony rely on the restoration component of the  
20 prior BDCP in terms of the concern over salinity that  
21 you discussed the economic impacts of?

22 WITNESS MACHADO: My testimony spoke of the  
23 modeling that took place that looked at what the impact  
24 would be from flow diversions and/or the relaxation of  
25 water quality standards in the South Delta and what that

1 economic impact would be. And the essence of that was  
2 to provide a direction. My testimony with respect to  
3 addressing the change to the WaterFix was an assumption  
4 that was made at the time of the ESP was done because  
5 there wasn't -- it was only the BDCP. That we were  
6 essentially involving isolated facilities regardless and  
7 that the isolated facilities would remove freshwater  
8 from the Center and South Delta effectively and thereby  
9 affecting the salinity of both the Central and South  
10 Delta. And the modeling showed the direction of that  
11 effect would be an increase.

12 MS. MESERVE: And then the reduction in flows  
13 was shown also in RTD-149 and 150 that we were looking  
14 at on the screen a little bit ago, correct?

15 WITNESS MACHADO: Yes.

16 MS. MESERVE: And so would you be any less  
17 concerned about salinity impacts on agriculture and  
18 beneficial uses now that restoration is not one of the  
19 goals of the tunnels plan?

20 WITNESS MACHADO: No.

21 CROSS-EXAMINATION BY MS. MESERVE:

22 MS. MESERVE: Mr. Stroshane, I was looking for  
23 it on my computer. Do you recall -- you've studied the  
24 BDCP recirculated EIR a bit in your travails for Restore  
25 the Delta, correct?

1           WITNESS STROSHANE:  Yes.  And the  
2 Environmental -- oh, sorry.  Yes.  And the Environmental  
3 Water Caucus.

4           MS. MESERVE:  Do you recall that the BDCP EIR  
5 discussed improvements in water quality for water  
6 exporters as a result of the tunnels?

7           WITNESS STROSHANE:  Could you restate your  
8 sentence or your question once more?  Sorry.

9           MS. MESERVE:  Do you recall whether the BDCP  
10 EIR in 2015 included a discussion of improvement in  
11 export water supplies as a result of operating the North  
12 Delta diversions?

13          WITNESS STROSHANE:  I'm pretty sure there was  
14 one because it is documented in modeling results, for  
15 one thing.  But I can't remember exactly where I would  
16 find it right now in that document.

17          MS. MESERVE:  And your understanding of the  
18 proposal that we're discussing today isn't one of --  
19 would you think -- do you believe that one of the goals  
20 of the petition is to secure better quality water for  
21 export from the Sacramento River?

22          WITNESS STROSHANE:  Yes.

23          MS. MESERVE:  I have nothing further.

24          HEARING OFFICER DODUC:  Thank you, Ms. Meserve.  
25 Mr. Brodsky?

1 MR. BRODSKY: Yes, ma'am. Coming right up.

2 HEARING OFFICER DODUC: And after Mr. Brodsky I  
3 have Ms. Suard.

4 MR. BRODSKY: So my -- is this on? Testing.  
5 Okay.

6 My questions are going to be for Mr. Stroshane.  
7 I want to touch on those fingerprint analysis charts and  
8 also revisit the issue of increased flexibility for  
9 export when we have the North Delta diversions in place.

10 Can we take a look at RTD-130, page 60? It is  
11 page 60. Those are the bar graphs for the fingerprint  
12 analysis.

13 HEARING OFFICER DODUC: Yes. The machine is  
14 slowly trying to load the graphics. We are using the  
15 State Computer systems, after all.

16 WITNESS STROSHANE: It was a large comment file  
17 for an even larger recirculated draft EIR. There we go.  
18 So the first part of that figure is on the previous  
19 page. Yeah.

20 CROSS-EXAMINATION BY MR. BRODSKY:

21 MR. BRODSKY: Yes, there. So good afternoon,  
22 Mr. Stroshane.

23 WITNESS STROSHANE: Good afternoon.

24 MR. BRODSKY: If I could direct your attention  
25 to the chart there of the Banks Pumping Plant that's in

1 the upper left-hand corner. And the percent of  
2 Sacramento River water at the Banks Pumping Plant is  
3 shown for the no-action alternative in the darkest color  
4 bar there; is that correct?

5 WITNESS STROSHANE: That's correct, yeah.

6 MR. BRODSKY: And this chart shows a lower  
7 percentage of Sacramento River water at the Banks  
8 Pumping Plant for the no-action alternative, as opposed  
9 to the other alternatives; is that correct?

10 WITNESS STROSHANE: That's correct.

11 MR. BRODSKY: Now, that is because Sacramento  
12 River water, under the project alternatives, 3, 4,  
13 alternative 4, et cetera, is being brought to those  
14 pumps by the tunnels, correct?

15 WITNESS STROSHANE: That's correct.

16 MR. BRODSKY: And so actually under the  
17 no-action alternative, there's more Sacramento water --  
18 river water in the river at that point.

19 WITNESS STROSHANE: That's how I interpret  
20 this, yes.

21 MR. BRODSKY: And so that would be borne out if  
22 we look at Contra Costa Water District at Rock Slough,  
23 which is at the bottom of this page. Here we show under  
24 the no-action alternative, there is more Sacramento  
25 River water at that point at Contra Costa's intake at

1 Rock Slough; is that correct?

2 WITNESS STROSHANE: There's more in the  
3 no-action alternative. That's right.

4 MR. BRODSKY: Right.

5 WITNESS STROSHANE: And then after -- with the  
6 various tunnels-related scenarios that percentage of  
7 water generally decreases.

8 MR. BRODSKY: Right. And so this is consistent  
9 then with the understanding that with the tunnels in  
10 operation, there is less Sacramento River water in the  
11 Central and South Delta as --

12 WITNESS STROSHANE: In Rock Slough, I would  
13 add, even in the Western Delta.

14 MR. BRODSKY: Okay. All right. Thank you very  
15 much. Then if I could go to SCDA-6 at page 27.

16 HEARING OFFICER DODUC: SCDA, Save the  
17 California Delta Alliance?

18 MR. BRODSKY: Yes.

19 HEARING OFFICER DODUC: You need to find  
20 smaller documents, Mr. Brodsky.

21 MR. BRODSKY: I'll work on it. So while we are  
22 waiting for that to load, Mr. Berliner called to your  
23 attention a claim of the California WaterFix proponents  
24 that it will add flex -- having a North Delta points of  
25 diversion will add flexibility to the system.

1 WITNESS STROSHANE: Yeah. I heard that.

2 MR. BRODSKY: Okay. And if we could look there  
3 at the last sentence of that paragraph at the top of  
4 page 27 in italics, could you read that?

5 WITNESS STROSHANE: The last sentence?

6 MR. BRODSKY: Yes.

7 WITNESS STROSHANE: It reads, "BDCP  
8 therefore" -- and without having read the other part of  
9 the paragraph, it says, "BDCP therefore does not achieve  
10 the broader goal of reducing pressure on the Delta  
11 during dry years by shifting exports to wet years." I'm  
12 curious where this is from.

13 MR. BRODSKY: And this is -- if we could go to  
14 the cover page of this document.

15 WITNESS STROSHANE: Okay.

16 MR. BRODSKY: This is a report written by  
17 Jeffrey Mountain Colleagues that was commissioned by the  
18 American Rivers.

19 WITNESS STROSHANE: Yes, I remember it.

20 MR. BRODSKY: Okay. And then if we could go to  
21 SCDA-3, I believe. No, not 3. SCDA-34. Excuse my  
22 blundering here.

23 And this is an October 30th, 2015, letter  
24 written by the United States Environmental Protection  
25 Agency commenting on the California WaterFix

1 recirculated draft EIRS.

2 MR. OCHENDUSZKO: Mr. Brodsky, did your  
3 microphone just turn off?

4 MR. BRODSKY: It did. I'm sorry. So for the  
5 record, my microphone was just off. This document we're  
6 looking at is a July 30th, 2015, comment letter written  
7 by the U.S. EPA on the California WaterFix.

8 HEARING OFFICER DODUC: And your question for  
9 Mr. Strohane?

10 MR. BRODSKY: Yes. I'm just locating the text  
11 here. So on page 3.

12 HEARING OFFICER DODUC: Mr. Brodsky, lean back.  
13 Lean back.

14 MR. BRODSKY: Thank you.

15 HEARING OFFICER DODUC: Now, you may continue.

16 MR. BRODSKY: You know, I actually went to my  
17 car for a little bit at lunchtime and fell asleep, so  
18 compared to that, I'm doing good now.

19 So let's see. At the second paragraph, under  
20 the bold heading, "Aquatic Habitat and Water Quality."

21 HEARING OFFICER DODUC: What page are you on?

22 MR. BRODSKY: I'm on page 3.

23 MS. GARCIA: And just to clarify, I think it's  
24 an October 30, 2015, document.

25 MR. BRODSKY: That is corrects. And the last



1 sentence of that paragraph says, "Nevertheless, if the  
2 proposed project operations contribute to a general  
3 increase in salinity in the Delta, the flexibility that  
4 Reclamation and DWR have to operate the system to ensure  
5 the water quality criteria are met will be seriously  
6 diminished, and the two agencies will have little room  
7 for error in operating the system to protect beneficial  
8 uses and achieve the co-equal goals."

9           So is it -- is it your understanding that when  
10 EPA is expressing a concern that the North Delta --  
11 adding the North Delta diversions may end up in less  
12 flexibility in the system rather than more.

13           HEARING OFFICER DODUC: Mr. Stroshane, are you  
14 familiar with this letter from EPA?

15           WITNESS STROSHANE: I did review it after it  
16 came out about a year ago.

17           HEARING OFFICER DODUC: And are you able to  
18 answer Mr. Brodsky's question?

19           WITNESS STROSHANE: I'm just reading that  
20 sentence once more to myself.

21           MR. BRODSKY: You can take a minute and read  
22 the whole paragraph to put it in context.

23           WITNESS STROSHANE: Okay. Yeah. I'd like to.  
24 Thank you.

25           MR. BRODSKY: I'd like to say take your time,

1 but I might get jumped on.

2 WITNESS STROSHANE: Yeah. I would generally  
3 agree with this.

4 MR. BRODSKY: You agree with that statement.

5 And that statement is saying that adding the North Delta  
6 diversions may actually decrease the flexibility in the  
7 system, rather than increase it?

8 WITNESS STROSHANE: It may but I have to temper  
9 my answer.

10 MR. BRODSKY: Okay.

11 WITNESS STROSHANE: You know, by virtue of the  
12 fact that I'm not an engineer and I'm not a modeler and  
13 I'm -- I do agree, though, that -- certainly that it  
14 could create flexibility problems for them by having  
15 salinity increase and thereby degrading water quality.  
16 And they have -- and they have so much as said that they  
17 fully intend to operate the system in a way that  
18 continues to meet water quality objectives. That  
19 gets -- to my mind, that just gets harder.

20 MR. BRODSKY: Okay. And so just to wrap up  
21 now. If the North Delta diversions are able to take  
22 more water at very wet periods, does that necessarily  
23 mean that we'll be exporting less water during dry  
24 periods? Is there anything in the operating rules of  
25 water fix that would require them to export less water

1 in dry periods because they took more water in the wet  
2 period?

3 WITNESS STROSHANE: I believe other people have  
4 testified to that, but they know more than me about the  
5 operations of the system and the details. And so I'm  
6 not prepared to say yes or no.

7 MR. BRODSKY: Okay. Thank you very much.

8 WITNESS STROSHANE: Yeah. Sure.

9 HEARING OFFICER DODUC: Thank you, Mr. Brodsky.

10 Ms. Suard -- let me check with the court  
11 reporter. Ms. Suard had estimated, I believe, 10  
12 minutes for her cross-examination. Are you okay with  
13 that?

14 MS. SUARD: Even less, 5.

15 HEARING OFFICER DODUC: All right. Even less,  
16 5. Ms. Suard?

17 CROSS-EXAMINATION BY MS. SUARD:

18 MS. SUARD: So I think this would be for  
19 Mr. Stroshane, but anybody can answer. So is the  
20 issue -- and this is more general big question. Is the  
21 issue how much water is taken from the Delta versus how  
22 it is taken? Is there a difference? What is the bigger  
23 issue? I'll put it that way.

24 WITNESS STROSHANE: I think in this hearing, to  
25 me, the bigger issue is where the water gets taken. And

1 it's secondarily -- not to minimize it. But  
2 secondarily, a how-much question. And it's also a when  
3 question. You can't just separate one thing out. But  
4 where they take it and the fact that it is removed from  
5 the Delta, from Delta channels, is what so much modeling  
6 results and other -- other testimony that's been  
7 provided already. It's -- it's why people are concerned  
8 about it.

9 MS. SUARD: Okay. And you talked about  
10 testimony and modeling. The concern is anyone  
11 downstream from -- predominantly downstream from  
12 wherever the water is taken from? Would you say that?

13 WITNESS STROSHANE: Predominantly but not  
14 solely, yeah. Because as I've also mentioned in my  
15 testimony, East Bay MUD has expressed concerns about  
16 reverse flows backing up all the way to Freeport, which  
17 is north of Clarksburg, which is where the northernmost  
18 Delta diversion -- Delta diversion would be.

19 MS. SUARD: Did you hear the testimony of  
20 the above-Sacramento people, too?

21 WITNESS STROSHANE: I do sort of remember that,  
22 yeah.

23 MS. SUARD: So --

24 WITNESS STROSHANE: From the City of Sacramento  
25 you mean?

1 MS. SUARD: Right.

2 WITNESS STROSHANE: Yeah.

3 MS. SUARD: Predominantly it'd be down river of  
4 intakes, but it also can affect everywhere. That was  
5 your understanding?

6 WITNESS STROSHANE: Yeah. That didn't come  
7 first to my mind because I did not study their testimony  
8 and exhibits.

9 MS. SUARD: Okay. So could I get DWR-510,  
10 please? And I think it's their page 6. There we go.  
11 That map. Okay. I believe you -- Restore the Delta was  
12 involved with --

13 WITNESS STROSHANE: It's not up on the -- oh,  
14 here we go.

15 MS. SUARD: Okay. Sorry. Well, if it could  
16 scoot down a little bit. Yeah. I believe Restore the  
17 Delta helped in the hearings regarding barriers in the  
18 Delta; is that correct?

19 WITNESS STROSHANE: You mean in 2015?

20 MS. SUARD: Yes. We -- and 2014, for that  
21 matter. Okay. Yes.

22 WITNESS STROSHANE: I was involved in 2015 on  
23 it, so yes.

24 MS. SUARD: And there was modeling done for  
25 this issue, as well, wasn't it? And this had to do with

1 low flows below any of these barriers around them; is  
2 that correct?

3 HEARING OFFICER DODUC: Hold on, Mr. Stroshane.  
4 Mr. Mizell?

5 MR. MIZELL: Yes. I'd just like to point out  
6 that we've objected previously and I believe the  
7 emergency drought barriers of the past several years  
8 that were discussed through the TCP process were not  
9 part of this hearing. And I object to them trying to  
10 bring in that sort of evidence through  
11 cross-examination.

12 MS. SUARD: If you -- you put it up as  
13 evidence, so why are we not supposed to bring it up?

14 HEARING OFFICER DODUC: Hold on a second.  
15 Ms. Meserve?

16 MS. MESERVE: Yes. DWR-510 is the exhibit we  
17 are looking at. This is a study that DWR has presented  
18 as part of their case-in-chief, so I believe this is  
19 well within the realm of what Ms. Suard could ask about.

20 HEARING OFFICER DODUC: All right. I will  
21 allow her to proceed, but let's get quickly to the  
22 point.

23 MS. SUARD: Okay. The point is here, in that  
24 study that -- there were studies. And do you recall  
25 what it indicated the impact salinity-wise to anyone

1 downriver of those barriers in the North Delta?

2           WITNESS STROSHANE: What I recall most from --  
3 this particular exhibit doesn't really stimulate my  
4 memory. What I do remember from 2015 is a -- an image  
5 or a modeled map. And I believe it was a DSM2-generated  
6 map that showed only the false river barrier on it. And  
7 that showed a marked decrease or a slowed decrease in  
8 salinity east of the false river barrier and marked  
9 increase in salinity along the Sacramento River and up  
10 into the North Delta, as well as some areas of the main  
11 San Joaquin whereas the Old River corridor heading  
12 towards Banks and Jones Pumping Plants was a fresher  
13 corridor of water and that water, of course, was flowing  
14 upstream towards the pumps. And it -- that particular  
15 corridor is quite close to the false river barrier, at  
16 least as the crow flies.

17           MS. SUARD: Thank you. That actually was  
18 perfect.

19           WITNESS STROSHANE: Oh, okay.

20           MS. SUARD: That's all I needed.

21           HEARING OFFICER DODUC: Thank you, Ms. Suard.  
22 Any redirect, Mr. Orr or Ms. Garcia? You may do it from  
23 there.

24           MS. GARCIA: I just have a couple of questions  
25 for Ms. Barrigan-Parrilla on the documents that DWR

1 referenced.

2 REDIRECT EXAMINATION BY MS. GARCIA:

3 MS. GARCIA: Now, Ms. Barrigan-Parrilla, you  
4 explained to Ms. Ansley that you're familiar with the  
5 documents she discussed, including the surveys mentioned  
6 in the translated documents; is that correct?

7 WITNESS BARRIGAN-PARRILLA: Yes.

8 MS. GARCIA: Now, did you review some of these  
9 documents and specifically the surveys?

10 WITNESS BARRIGAN-PARRILLA: I reviewed the  
11 documents that were described as the handouts. I  
12 believe we still have copies of them. And as best as I  
13 can recall, they give a description of the project and  
14 talked about benefits or the need for the project.

15 As far as the surveys the 231 surveys, I read  
16 them all in spring of 2014. They were not included in  
17 BDCP documents. They were referenced as a completed  
18 survey, and Colin Bailey from Environmental Justice  
19 Coalition for Water went to the vault at DWR to acquire  
20 copies of those documents for us.

21 MS. GARCIA: So DWR did not actually release  
22 these documents to the public for review; is that  
23 correct? The surveys?

24 WITNESS BARRIGAN-PARRILLA: Not the surveys.  
25 No. You had to request them, and you had to go get



1 them.

2 MS. GARCIA: Thank you. And do you recall what  
3 types of questions were in the surveys?

4 WITNESS BARRIGAN-PARRILLA: People would  
5 self-identify where they were from. The surveys were  
6 different by geographical area. That's what we  
7 discussed in the testimony. I remember a San Jose  
8 survey -- talking with a representative of a community  
9 group, if environmental justice people would be willing  
10 to pay more for better quality or more reliable water.

11 I recall surveys that were very sad from within  
12 the Delta because they weren't conducted -- one of the  
13 mistakes that was made is when they released those  
14 surveys, they were supposed to redact names. And  
15 someone errored (sic) at DWR, and a number of the names  
16 were not redacted. So I started reading them, and I  
17 knew who these people were.

18 And so one of the surveys that I read which was  
19 particularly heartbreaking is that a business community  
20 member was giving his assessment of environmental  
21 justice communities with a lot of stereotypes. It  
22 really didn't touch on what their economic needs were  
23 and actually, was kind of really misguided as to the  
24 level of poverty experienced by people in those  
25 communities.

1 MS. GARCIA: And did the survey ask questions  
2 regarding subsistence fishing for example and how often  
3 fish is consumed from fresh water --

4 WITNESS BARRIGAN-PARRILLA: I will say that  
5 they did ask those question in the Delta, but they  
6 weren't asking the right people. And sometimes they  
7 weren't answered. The surveys, if I remember, and it  
8 has been two-and-a-half years, they were two to, like,  
9 four pages long. The number of questions that were  
10 answered and how they were answered was really  
11 inconsistent. So there would be blanks. And so the  
12 questions were asked.

13 And again, going back to some of the surveys  
14 that really weren't done completely well or with the  
15 right people in the Delta environmental justice  
16 community, they didn't -- they couldn't answer who  
17 was -- they knew where people were subsistence fishing  
18 close to their geographical area of the Delta. But they  
19 didn't understand the depth, the breadth, the economic  
20 reasons. And the comments were, "Well, they just like  
21 to do that because that's what those people do."

22 MS. GARCIA: Now, with respect to the  
23 translated documents, you've reviewed copies of those as  
24 well, the benefits and need documents?

25 WITNESS BARRIGAN-PARRILLA: Yes.

1 MS. GARCIA: Okay. And those were also  
2 relatively general and just laid out not much more than  
3 the benefit and need for the tunnels project.

4 WITNESS BARRIGAN-PARRILLA: Yes. I believe  
5 some of them are still available online. I -- and I  
6 believe we do have some copies still of them, yes.

7 MS. GARCIA: And they range between, you would  
8 say, a couple pages, maybe to four pages?

9 WITNESS BARRIGAN-PARRILLA: At the most.

10 MS. GARCIA: Thank you. And you've spoken to a  
11 number of Delta residents who never received these  
12 documents; is that right?

13 WITNESS BARRIGAN-PARRILLA: Well, one of the  
14 interesting things, you know, the last two open houses  
15 for Cal WaterFix, I would say most of the members who  
16 attended those that were members of the environmental  
17 justice community that showed up, particularly at the  
18 Sacramento, because I think there were only two final  
19 open houses, were there, frankly, because Restore the  
20 Delta brought them with.

21 We -- we started receiving lots of phone calls  
22 when we began our big sign campaign in 2012 and 2013.  
23 We would get calls from people who spoke other languages  
24 wanting to know what we were talking about. So in a  
25 sense, our own signage probably did more to alert people

1 to what the project was than these translated documents.

2 MS. GARCIA: I have no further questions.

3 HEARING OFFICER DODUC: Thank you. Any other  
4 redirect? Any re-cross? All right. Then that  
5 concludes your case-in-chief. We expect your exhibits  
6 to be transmitted by noon next Thursday. All right.  
7 Thank you all very much. With that, we will take our  
8 afternoon break, and we will return at 2:50.

9 (Off the record.)

10 HEARING OFFICER DODUC: All right. It is 2:50.  
11 If everyone could please take your seats, we will now  
12 turn to Ms. Suard for the case-in-chief by Snug Harbor.  
13 And before you begin, Ms. Suard, let me thank you for  
14 being available and being prepared to present your case-  
15 in-chief in the order that was necessary, given the fact  
16 that some parties were discourteous and inappropriate in  
17 not informing all parties of their unavailability. So I  
18 appreciate you being available today to present your  
19 case-in-chief very much. Having said that --

20 MS. SUARD: I appreciate that you guys are here  
21 to listen.

22 HEARING OFFICER DODUC: Having said that,  
23 though, having reviewed your written testimony, I'm  
24 going to -- in light of your request for two hours to  
25 present your case-in-chief, I'm going to ask you to try

1 to summarize it as succinctly as possible in 20. I  
2 believe that Mr. Brodsky will be well positioned to  
3 advise and direct you in presenting that case-in-chief.

4 Let me also ask, cross-examination for  
5 Ms. Suard, do we anticipate any? The Department? Looks  
6 like you may be the only one doing cross-examination.  
7 How much time do you anticipate?

8 MR. MIZELL: 10 minutes, 15 at the most.

9 HEARING OFFICER DODUC: All right. In that  
10 case we will strive to get done today. Ms. Suard, if  
11 you could please rise and raise your --

12 MR. BRODSKY: If I may, Madam Chairperson. So  
13 I'm going to assist in the direct examination.  
14 Ms. Suard wanted to give the opening statement, however.  
15 So should she do that before you swear her in?

16 HEARING OFFICER DODUC: I should swear her in  
17 right now. I'm sure she will tell the truth in her  
18 opening statement in any case but...

19 Do you swear or affirm that the testimony  
20 you're about to give is the truth? If so, answer, "Yes,  
21 I do."

22 MS. SUARD: Yes, I do.

23 HEARING OFFICER DODUC: Thank you. All right.

24 MS. SUARD: Hi. My name is Nicki Suard.

25 HEARING OFFICER DODUC: Is your microphone on?

1 MS. SUARD: Okay. There you go. Sorry about  
2 that.

3 My name is Nicki -- Nicole Suard. Sorry. I go  
4 by Nicki, so I keep referring to that. I'm with Snug  
5 Harbor Resort, LLC, which is a marina and RV park in the  
6 Delta on Steamboat Slough. And for my opening, if I  
7 would be allowed to do this, I did create a slide show.  
8 It's my SHR-204. But the slide is in a video format  
9 that I would narrate. And then my -- then I have a  
10 second short video which gives a little bit of the  
11 infrastructure of the physical place that is Snug  
12 Harbor. I only was -- finally got it uploaded last  
13 night. And I just -- it's more of a visual, and I'm  
14 asking for leeway to be able to use that.

15 HEARING OFFICER DODUC: And so this would be  
16 part of your opening statement, not part of your  
17 testimony?

18 MS. SUARD: Correct.

19 HEARING OFFICER DODUC: All right. I will  
20 allow that. Normally, if it's something that is late to  
21 be provided to all parties, I would consider that as  
22 surprise testimony and not be allowing it into the  
23 record. But since you have very wisely proposed to  
24 include it as part of your opening statement, I will  
25 allow it.

1 MS. SUARD: Thank you. I'm going to narrate  
2 so -- when it comes up. I can't see it here. Is it  
3 going to be up there?

4 HEARING OFFICER DODUC: It will be.

5 MR. OCHENDUSZKO: Ms. Suard, which exhibit did  
6 you want us to open first?

7 MS. SUARD: I'm sorry. It's the one that  
8 refers to 1850. So it is the two videos and the first  
9 one is 1850.

10 MR. OCHENDUSZKO: Thank you.

11 MS. SUARD: Okay. So what -- I decided to show  
12 these slides because I wanted to make a reference to the  
13 historic Delta and where we are in relation to that. We  
14 are considered to be part of the Sacramento River.  
15 Steamboat Slough was considered part of the original  
16 Sacramento River system. Sometimes it is not referred  
17 to that way.

18 Rio Vista used to be called Suisun City. A lot  
19 of people didn't realize it. This is a graphic from one  
20 of the maps that shows what it looked like looking  
21 towards the hills in Antioch. And then you start going  
22 upriver. And you can see the chart that shows the  
23 different locations that everybody would go when boats  
24 would go upriver.

25 You go past Suisun City, and you can see where

1 it was called Middle Fork at first. You can see Sutter  
2 Island was down by Suisun City or Rio Vista at that  
3 point in time; whereas the Sacramento River went off to  
4 the right and then went up. This is what it looked  
5 like. It was trees and a lot of open waterway.  
6 Sacramento River went to the right. The middle fork is  
7 Steamboat Slough. There is a lot of graphics that  
8 people have seen before. That is at Steamboat Slough  
9 and the Sacramento River. There is a lot of written  
10 evidence about the salmon in that area.

11 Snug Harbor is where maps refer to hopback  
12 shoals. There was shoals in a different area that over  
13 time got surveyed and became land grants. This boat is  
14 from one of those graphics and that was on Steamboat  
15 Slough. That -- steamboats coming out of Steamboat  
16 Slough going up to Sacramento. And on the left that it  
17 was called Old River Sacramento.

18 Here is another map from the surveys. I think  
19 that one is 1854 -- and it also showed Steamboat Slough.  
20 It was considered the main channel. Wonderful writing  
21 by Mr. Hutchins, and it talks about how much salmon was  
22 in the Delta and navigation and the water quality.  
23 That's one of the needle books. That's from 1862 and it  
24 is online. I think -- and that is a remake of an old  
25 graphic from back then. Take that off. I had to film



1 on -- I had to video on the video. So that can come  
2 back off. That was whatever was on the computer.  
3 Because this stuff is on YouTube, by the way, or the  
4 complete ones are. These are just excerpts.

5           And then the second one is just a small portion  
6 of kind of a PR one that I did in 2009. This is the  
7 entrance to Snug Harbor. And we are a Marina. We have  
8 covered berths and open berths. We have docks, rental  
9 cabins that are really popular. There's many  
10 generations. Snug Harbor, as a resort, has been  
11 there -- the first permit was 1939. Before that, there  
12 was a fishing camp. Before that, the steam captains  
13 talked about flickering little campfires. River otter,  
14 love them. The river otter around. It is a great  
15 boating place.

16           We do have -- it's a mobile home park, too. So  
17 we have modular homes. We have rental cabins. That is  
18 one of the bigger ones that we put in in 2007. We paved  
19 the roads. That was a pretty big expense. And we have  
20 seven septic systems. They all ended up having to be  
21 engineered and redone. I'll talk about that. And we do  
22 have drinking water wells, several of them. Two of  
23 which provide the drinking water. It's a pump drinking  
24 water system. And sorry, we have a gas dock, too. And  
25 this is Steamboat Slough. People love to play on the

1 boat.

2           This is a -- that was a beach. We have a  
3 store. It is more seasonal these days. We had just put  
4 that in. I think that was in 2006. So we've been doing  
5 improvements, redoing this park that has been there a  
6 long time. We get four generations coming and staying  
7 here. There's a lot of memory and a lot of people just  
8 love coming here. We get anniversary events and  
9 sometimes weddings. But mostly it's just families that  
10 want to boat or fish.

11           And that's a reference to our well. That's a  
12 reference to the septic systems that all function on  
13 freshwater. Freshwater is required for all that. And I  
14 think -- yeah, this is just a little bit more. It can  
15 stop here. That's fine. We have wifi. So we can stop  
16 at that. Thank you.

17           So briefly, I wanted you to see what it is and  
18 where it is on Steamboat Slough. And I'm going to be  
19 presenting information because I believe that the  
20 organizations and persons representing the Petitioners  
21 in this hearing failed to adequately consider water  
22 quality impacts to surface waters and also to our  
23 drinking water aquifer for thousands of legal water  
24 users in the Delta, my property included.

25           And I feel like the drought was a blessing, as

1 far as being ready for this hearing because the -- what  
2 happens in a drought shows what is going to happen in --  
3 if the WaterFix were built because that suspends flows  
4 in a permanent drought situation. That's what it  
5 appears to me from all the modeling. So this drought  
6 was a perfect opportunity to see, okay, what happens to  
7 one little tiny spec on the Delta. We happen to be  
8 right in the center. If you look at maps, we're between  
9 everything. And Steamboat Slough is an original  
10 waterway. So I think you're taking it now.

11 MR. BRODSKY: Okay. Thank you very much.

12 HEARING OFFICER DODUC: So now we will begin  
13 the testimony portion?

14 MR. BRODSKY: We will begin the direct  
15 testimony now.

16 DIRECT EXAMINATION BY MR. BRODSKY:

17 Q. Ms. Suard, can you tell us a little bit about  
18 your educational background?

19 A. I went to college, a place called Westmont. I  
20 was business and economics major and I took a lot of  
21 accounting-type classes. I then worked in Washington DC  
22 for a congressman and was involved in legislative-type  
23 issues and research. And then I went to law school at  
24 Whittier in LA. And I focused on business and taxation  
25 and those kind of issues.

1 Q. Okay. Thank you. And in your --

2 A. I'm an attorney, I am sorry, since 1985.

3 Q. And in your opening statement video, you seemed  
4 to be quite knowledgeable about Delta historic maps and  
5 the history of the Delta. And this is something that's  
6 not formal education but something you've learned on  
7 your own. Can you tell us a little bit about that?

8 A. Yes. I actually am a fifth generation  
9 Californian, and I am very interested in California  
10 history in particular. So I've just been interested in  
11 California. I have gone to Library of Congress, gone  
12 to, you know, the map room there. I have gone to  
13 different locations. Like UC Berkeley has maps that  
14 were saved by Mr. Ben Croft, one of the first California  
15 historians. And I really started having a focus on the  
16 Delta because I love the Delta, first of all. And I  
17 started recognizing that in the last ten years, there  
18 was a lot of incorrect information being published about  
19 the Delta, particularly the names of the islands and the  
20 waterways and its statistical history. There was  
21 inaccuracies. So I started paying attention.

22 Q. Okay. And you have a collection of Delta  
23 documents and historic documents and so forth?

24 A. I do.

25 Q. And approximately, how many documents do you

1 have in that?

2 A. Of historical documents, I -- I have collected  
3 over the years the old surveys, like, from 1906 of  
4 official survey books and maps. And those are huge  
5 ones. I had those scanned. And people can view them on  
6 archive.org so that they can be shared with everybody.

7 I have hundreds, literally hundreds of old  
8 Delta maps and many of the books. I have collected now  
9 probably at least 40,000 different documents related to  
10 the water wars and water war history in California. And  
11 I do post them on an archival web site. And other  
12 archival web sites have actually taken my documents and  
13 put them on there. Archive.org is one of them.

14 Q. Okay. Thank you. All right. So do you affirm  
15 that the written testimony that you submitted to the  
16 Board is the truth?

17 A. I do.

18 Q. And you uploaded to the FP -- FTP site SHR  
19 Exhibits 1 through 501. And do you know of your own  
20 personal knowledge that those are true and correct  
21 copies of those documents that you uploaded?

22 A. Yes.

23 Q. Okay. Let me go and ask the projectionist to  
24 put up SHR-350. Okay. What is this document?

25 A. This is a document that was given to me by

1 Department of Water Resources. Actually, I received it  
2 by e-mail by -- from Mr. Mizell.

3 Q. And this is their calculation of flows on  
4 various sloughs, comparing a no-action alternative to  
5 various WaterFix alternatives; is that correct?

6 A. Yes. It was provided to me because I had  
7 requested this type of information. It hadn't -- it  
8 didn't show on any of the modeling, and so I had  
9 requested so that I could understand what possible  
10 impacts there could be.

11 Q. Okay. And the third set of bar charts down  
12 there is labeled, "Steamboat Slough Upstream of Sutter  
13 Slough Confluence"; is that correct?

14 A. Yes. And thank you for making it larger. I  
15 was going, "Okay. I can't see this."

16 Q. And that point, Sutter Slough upstream of  
17 Sutter's confluence -- Steamboat Slough upstream of  
18 Sutter confluence that would be upstream of Snug Harbor;  
19 is that correct?

20 A. Yes.

21 Q. Okay. And so there for the month of July, we  
22 see the no-action alternative portrayed in blue and the  
23 flow appears to be a little bit over 2,500 cubic feet  
24 per second.

25 A. Correct. That's what it says.

1 Q. That's the no-action alternative. And then for  
2 all the CWF alternatives, the flow seems to be about  
3 1,500 CFS; is that correct?

4 A. That's -- that's what it says, yes.

5 Q. And so that's a reduction of approximately  
6 1,000 CFS.

7 A. That's what it appears to be.

8 Q. And that -- according to my arithmetic, that is  
9 about a 40 percent reduction in flow.

10 A. That -- that's what it appears to be.

11 Q. And this is what DWR represented to you to be  
12 the case?

13 A. Yes.

14 Q. Okay. And you've -- you've operated Snug  
15 Harbor Resort for how long now?

16 A. 18 years. More than 18 years.

17 Q. Okay. So you have quite a bit of experience  
18 observing the slough and how it behaves in times of high  
19 flow and low flow and different conditions?

20 A. Yes, absolutely.

21 Q. Okay. And what -- what will be the impact on  
22 Steamboat Slough of a reduction of 40 percent like that  
23 during the summer?

24 A. Well, we've already had a huge reduction. So I  
25 am -- you know, one of my questions about even this

1 chart is what is it -- the baseline for this because if  
2 we referred to historical flows that is very low flow.  
3 That is lower than historical right there. Or if you  
4 look at like what the 1906 chart says, that would  
5 sustain -- just the no-action alternative sustains us in  
6 a -- a drought situation like we have seen the last  
7 couple years. So we've season a lot of changes and  
8 damage because of the low zones on Steamboat Slough  
9 related to the drought.

10 Q. Okay. And if that is reduced another 40  
11 percent, what negative effects, if any, do you think you  
12 would suffer there on Steamboat Slough?

13 A. We have already been impacted by higher  
14 salinity in our drinking water wells. We've already  
15 been impacted by --

16 Q. Well, let's go to what would happen under CWF.

17 A. Okay.

18 Q. What would you expect, if anything, to be worse  
19 if you have a 40 percent reduction in flow?

20 A. I would say that our -- our trees would die  
21 more because of increase in salinity. And I would not  
22 be able to irrigate. Our drinking water well that's  
23 been impacted over the last couple of years because of  
24 drought would probably become unusable, and it would  
25 increase in several different constituents. I would



1 expect that there would be a lot of other impacts that  
2 aren't necessarily water-quality related. So that's the  
3 next part.

4 Q. Okay. Could we take a look at -- thank you.

5 Could we take a look at SHR-103, page 38?

6 Okay. And have you experienced algae problems on  
7 Steamboat Slough at Snug Harbor at times of low flow?

8 A. Yes, we have. These photos are from 2015. The  
9 flows on Steamboat Slough, have been -- we have never  
10 seen them this low. And we end up with egeria densa in  
11 our marina. And then the egeria densa creates too warm  
12 of water apparently, and then we end up having other  
13 kinds of water weeds. I don't -- I didn't have any  
14 tests done, so I don't know exactly what everything is.  
15 I do know we have egeria densa, and I know that it is  
16 making our water be about 80 degrees, which is just --  
17 it kills all the fish when the water is that high.

18 Q. Okay. And from your experience, will a 40  
19 percent reduction in flow on Steamboat Slough make the  
20 water weed problem worse?

21 A. Absolutely. Absolutely.

22 Q. And it appears in the picture there that  
23 there's some egeria densa, and then there is a  
24 brownish-greenish algae on top of the egeria densa.  
25 Have you experienced that phenomenon where the egeria

1 densa comes in and then the algae on top?

2 A. We've experienced egeria densa in the past.

3 The algae or whatever that is, is new.

4 Q. Okay. All right.

5 A. I'd like to point out, too, that that's the

6 sandy swim beach. It's a mud pack now.

7 Q. Okay. All right. And then I'd like to go on

8 and talk about your well water a little bit. So what --

9 tell me about your wells. What kind of wells do you

10 have there?

11 A. We are a public drinking water system. And we

12 have two wells. Our main well was in -- started --

13 installed in 1999 and finished in 2000, all with

14 permits, all with all the water tests. And we have

15 consistent water tests from an independent agency that

16 has taken all the tests. And it is a very good example

17 of what's going on in the Delta. It's not just Snug

18 Harbor's well. Many of the public drinking water wells

19 have experienced decline in the last ten years.

20 Q. Okay. So let's just -- maybe to explain a

21 little bit more about what a public drinking water

22 system is, we have a slide, SHR-103, that you prepared

23 that has some bullet points explaining what a public

24 drinking water system is. If we could take a look at

25 that. And I believe that's page 40 of SHR-103.

1       A.    It's right there.  So public drinking water  
2 system is any business that provides water to a certain  
3 number of people for a certain number of days of the  
4 year.  And we are a licensed, permitted drinking water  
5 system.  We do have people who live on-site year round.  
6 We have staff who live on-site year round.  And  
7 actually, Snug Harbor, we're just half of that  
8 peninsula.  There is a bunch of residential home --  
9 residential homes along the peninsula, and Snug Harbor  
10 owns one of those residential home parcels.

11       Q.    Okay.  And so your drinking water well systems,  
12 say, in the summertime when it's a busy time, about how  
13 many people are you providing drinking water to?

14       A.    Between 200 and 300.

15       Q.    Okay.  And that's exclusively from your wells  
16 there?

17       A.    From my wells and only for the resort.  That  
18 does not count anybody's houses out on the road.

19       Q.    Okay.  And have you been having a problem with  
20 arsenic that's developed recently with your water well?

21       A.    Yes.

22       Q.    Okay.  And you prepared a little slide show to  
23 explain that to us, which is -- oh, and incidentally  
24 this -- well, let's -- yeah.  You prepared a little  
25 slide show that is SHR-21; is that correct?

1 A. Yes.

2 Q. Can we take a look at that?

3 A. So I did the slide show because it's going to  
4 show, not just reference to my well, but studies that  
5 are going on all over the place in California; USGS,  
6 Water Board. There is a very high awareness that the  
7 arsenic in drinking water wells, particularly public  
8 drinking water wells but also private ones, there has  
9 been increase in arsenic in certain areas. The MCL also  
10 changed after 2008, I believe, but there has been a  
11 change going on. And it happens to correlate with the  
12 drought and with shifts in flows, particularly on  
13 Steamboat Slough. Our flows have been very low,  
14 starting, I'd say, about 2009.

15 And then I'm going to go back and show you the  
16 graph. Can we go to the next slide? This is what the  
17 WaterFix documents -- no. Back. That's what WaterFix  
18 addressed, which is nothing. They did not talk about  
19 these issues. They -- even though I brought it up at  
20 Bay Delta Conservation Plan, I brought this issue up,  
21 that the drinking water is degrading already and they  
22 ignored that.

23 So next slide, please. This is -- the federal  
24 government is paying attention to the arsenic issue.  
25 And this is one of their maps. And the orangeish color,

1 kind of, is an indication that they're -- they know that  
2 there is areas that may be increasing in arsenic. You  
3 can -- I always do a -- when I do a screenprint like  
4 that, you can see the location online that you could  
5 find it, too. Sometimes those maps go away.

6           Can we go to the next slide, please? This is  
7 from a USGS study. The study actually -- the full study  
8 is in my evidence. And the study was from 2005, when it  
9 got published, but it was earlier tests of water. The  
10 little black dots, you can see -- can you enlarge it a  
11 little bit, please, so people can see this?

12           So the black dots are wells that were tested  
13 and they were under 10 parts per billion. And I do want  
14 to say because a lot of people don't understand, the MCL  
15 now for arsenic is 10 parts per billion or less. And so  
16 people can get the understanding of it, drinking  
17 water -- well, I'll say a glass of wine has 50 parts per  
18 billion. Apple juice has 50 parts per billion. But the  
19 codes are changing for those, too. So sometimes people  
20 freak out about your drinking water if you have more  
21 than 10 parts per billion in it because of these  
22 studies.

23           I just want to emphasize that the MCL is 10  
24 parts per billion. And those little black dots,  
25 those -- none of those wells that USGS studied were

1 above 10 parts per billion. And then you can see,  
2 there's a red dot and some yellow dots. And that's like  
3 up above Sacramento. And they were looking, and they're  
4 saying, okay, these are the red dots, above 50 parts per  
5 billion. And the yellow ones there are between 10 and  
6 50 parts per billion. Next slide, please.

7 Q. And this was in 2000, the year 2000?

8 A. The well tests -- yeah, the report was 2005 a  
9 USGS report. And -- but those tests that they are  
10 reporting on was earlier than 2005.

11 Q. It was in the year 2000, wasn't it? In 2000,  
12 groundwater tests?

13 A. That's what they said. When you go to the  
14 appendix, they actually have a -- you know, 2002, also.

15 Q. All right. And so now you're going to come  
16 forward in time and show us what's happening with the  
17 arsenic problem more recently.

18 A. Yes. The next slide, please. Okay. So this  
19 is a 2011 -- and if -- where you can get that online.  
20 It's a 2011 study by USGS. And can we blow up on the  
21 map again, please?

22 So this study, USGS did the study, but they  
23 studied more wells. You can see this CDPH wells, as  
24 well as the USGS wells. And those dots that's -- the  
25 sizes of the dots, the main thing is that orange-yellow

1 dot, those are high incidences of arsenic. And you can  
2 see there is a pretty strong increase. Those are -- you  
3 know, you have to look at the details of it. You can  
4 actually see what they tested. But this -- the -- there  
5 is an increase, particularly along the Sacramento River.  
6 You see this pattern of increases, actually, in the  
7 Stone Lake area, too, I see more, but definitely you see  
8 it along the Sacramento River. And that was during the  
9 time period where there's been a lot of bench tests and  
10 all that for Cal Fed and the Bay Delta Conservation  
11 Plan.

12           Next slide, please. Okay. Here is another  
13 map. This is also from the natural -- National Atlas.  
14 And it makes note of where there are locations of  
15 high-content soils with arsenic. And you'll see what's  
16 called Decker Island right there. That's the colors of  
17 the map that was online. So I can't -- I couldn't fix  
18 it. That is how it was.

19           The bright yellow spot, that is Decker Island  
20 off of Sherman Island. And that was soil spoils from  
21 dredging the Sacramento River. And that has a whole  
22 bunch of arsenic in it. And then you see one that is  
23 over by Rio Vista, actually a little bit above Rio Vista  
24 that's along the levee basically where the Rio Vista  
25 ferry landing is. That has high content of arsenic.

1 That was also spoils area and buildup of the levee in  
2 that area, I believe, if you look at the maps from that  
3 time. So the point is when you mess with the soils, you  
4 are going to get arsenic.

5           Okay. Next slide, please. So this issue is  
6 getting big enough that USGS is doing -- they not  
7 only -- I think this is from 2015. The report actually  
8 came out in 2016 to the public. And it is a really  
9 interesting report. You can even download the database  
10 in Excel, and it is all the private wells, too. Every  
11 one of them that they could locate, they did a massive  
12 testing all over California because this is getting to  
13 be a bigger issue. And so I just want to make  
14 reference. It's not just a Delta issue; it is an issue  
15 for California. Next slide, please. Sorry.

16           (Noise interruption.)

17           HEARING OFFICER DODUC: So how much additional  
18 areas do you need to cover? Looking through your  
19 testimony, you have yet to touch upon post flows, flow  
20 and export data, as well as construction-related  
21 impacts. Were you going to be highlighting that in your  
22 summary?

23           MR. BRODSKY: Not the construction-related  
24 impacts. We'll probably come to a close on the arsenic  
25 issue here within another five minutes or so. And then



1 Ms. Suard is going to give pretty much a laundry list of  
2 some other concerns that she has. And so that was the  
3 20 minutes for the opening statement that went by,  
4 right?

5 HEARING OFFICER DODUC: No. That was the 20  
6 minutes for the testimony. Let's give you another 10  
7 minutes to wrap up.

8 WITNESS SUARD: Okay. Can we go to the next  
9 slide? I'm just pointing out there's lots of reports.  
10 Another one. Yet another one. Next slide, please. I  
11 think that's the end of it.

12 BY MR. BRODSKY:

13 Q. All right. Why don't we go to SHR-77?

14 A. So now I'm talking about my main drinking water  
15 well. This well was built brand new, big expense.  
16 There's about 100,000 worth of expense in the well and  
17 the treatment system and all that. And in 2000, it was  
18 at 10 parts per billion. And the next test that we --  
19 we weren't required to test because we were low for the  
20 MCL. By -- starting in around 2010, all of a sudden,  
21 oh, there is area-wide tests but my well wasn't tested.  
22 And then you see that all of a sudden, my well goes from  
23 10 parts per billion up to 17 to 19. And you see it --  
24 so then I have to start testing quarterly. And you see  
25 it bounces up and down from 17 to 19 parts per billion.

1 And so now I'm going through the process because --

2 Q. So let me just interrupt because we're short on  
3 time. So you associate this spike with arsenic levels  
4 in your well with the period of drought and low flow in  
5 Steamboat Slough; is that correct?

6 A. Yes, I do.

7 Q. Okay. And then let's take a look at SHR -- and  
8 you're undergoing some expense because of this arsenic  
9 problem in your well; is that correct?

10 A. Yes. Right now, I have been going through a  
11 process with a different part of water boards where we  
12 were a test site for new equipment that might be less  
13 expensive. Other places have spent upwards of a million  
14 dollars to solve their arsenic problem.

15 Q. So it's difficult then. If you have an arsenic  
16 problem in your well, it's not an easy -- it's an  
17 expensive and difficult problem to deal with.

18 A. It's very expensive. So we were a test site --

19 Q. Okay. Let's move on now to SHR-102, page 27.  
20 Okay. And this is showing a map of the tunnel  
21 alignment, and the dots there are all issues with  
22 arsenic in wells; is that correct?

23 A. These are public drinking water wells. And  
24 I -- we have to blow this up again to see it bigger. I  
25 want to say that -- I want to point out that the map is

1 from GeoTracker, a Water Board map. That site is really  
2 good and really interesting. You can see the  
3 condition of -- or what's in the wells. I drew on that  
4 screenprint a rough of where the tunnel pathway goes.

5 Q. Okay.

6 A. And I did that because the modelers -- and when  
7 we were questioning the DWR and USBR modelers, they said  
8 they only analyzed the wells and/or intakes along the  
9 tunnel path. And I pointed out, "Well, we've got wells  
10 all over the place that are going to be impacted."  
11 Those are public drinking water wells, the green dots.

12 Q. Okay. Let me just move along here. And then  
13 there will be some time for you to do wrap up. So it's  
14 your understanding that there is a widespread arsenic  
15 problem in the groundwater in the Delta; is that  
16 correct?

17 A. Yes. And it started in the last 10 years.

18 Q. Okay. And the EIR says that they're going to  
19 do extensive dewatering at the construction sites for  
20 the intakes and then they're going to dump the water  
21 that they pump out of the dewatered area back into the  
22 river.

23 A. Right.

24 Q. And would you expect that to have an  
25 above-limit concentration of arsenic in it?

1       A.    Yes, I would.  Both the mud and any water and  
2 they have not said they're going to test that.

3       Q.    All right.  And then that water that's dumped  
4 into the Sacramento River that will flow down the  
5 Sacramento River and down Steamboat Slough and right to  
6 you, won't it?

7       A.    Yes.

8       Q.    And so is it possible with the arsenic problem  
9 you're having in your well that you may at some point  
10 have to turn to the slough to take surface water for a  
11 drinking water supply?

12      A.    Yes.  Except for that slough will have arsenic  
13 water.

14      Q.    And then you're -- so then you've got arsenic  
15 on both sides of you everywhere you turn; in the slough  
16 and in your well.

17      A.    Yes.

18      Q.    Okay.  Then why don't you -- we've got 5  
19 minutes left.  And I think we covered that topic that we  
20 set out to cover.  So if there are any other wrap-up  
21 points you'd like the Board to be aware of, just have at  
22 it.

23      A.    Okay.  So besides arsenic issue, I'm very  
24 concerned about the salinity issue.  And I probably  
25 could present for two days because I have done a lot of

1 research. I tried to see the big picture. Every time I  
2 would research, I'd go, "Wait a minute. Something  
3 doesn't make sense." I'd look at the bigger and bigger  
4 picture.

5           And the salinity encroachment, he didn't ask me  
6 about it. But my well number 2 -- I have two drinking  
7 water wells there. They interact together. My well  
8 number 2 has doubled in salinity in the last two years.  
9 So I'm in a catch-22 position now. I can either spend  
10 150,000 or more to try and filter well number 1 for the  
11 arsenic. And well number 1, by the way, is 450 feet  
12 deep. And -- but it doesn't have a salinity issue yet.  
13 Well number 2 is a shallow one, 200 feet deep; and its  
14 salinity has doubled. It is almost not drinkable. It  
15 is just at that point. Does it cost more to desalinate  
16 or do I do the arsenic or do I take it out of the river?  
17 All of this is related to drought and not enough flow on  
18 Steamboat Slough.

19           And then so salinity -- so -- and if more water  
20 is taken from the river, it will absolutely increase  
21 salinity. I made reference to the barrier modeling  
22 because it was very clear as Mr. Tim Stroshane had -- he  
23 remembered that map very well and I have a copy of that  
24 map. Anybody downstream of any of those intakes will  
25 have increase in salinity in their surface water. Over

1 time, aquifers will respond and it will also be in the  
2 drinking water well.

3 Q. So is it correct that in your understanding of  
4 common sense, if there is a 40 percent reduction in flow  
5 on Steamboat Slough that the salt -- the salinity will  
6 intrude farther up Steamboat Slough?

7 A. Yes. Common sense says that. Also, you know,  
8 high school textbook says that saltwater will -- it's  
9 heavier than freshwater and it will encroach into the  
10 aquifer even sooner than when you will see it in the  
11 surface water.

12 And I did -- my testimony had a lot of other  
13 issues. But we felt like we had to pick like a crucial  
14 one that was not addressed in WaterFix. And all this to  
15 say there is clearly many of us. We have water rights,  
16 drinking water, surface water rights. None of us, not  
17 any of our impacts was analyzed or acknowledged in  
18 WaterFix.

19 Q. To the best of my knowledge, none of the other  
20 protestants have brought up this arsenic issue either.  
21 Is that your understanding?

22 A. I -- I listened to all of them, and I haven't  
23 heard it. But you need to be on the water to -- and  
24 operating a business. Many of them -- most -- I think  
25 every marina and all the cities in the Delta are dealing

1 with this exact same issue. So I actually have the best  
2 of all of them. Mine's only a little bit. My number 2  
3 well only has one part per billion over, but I still  
4 have to treat that, too.

5 Q. Okay. Are we done?

6 A. I -- I do stand by everything I have written in  
7 my testimony. There just isn't time to present. And  
8 yes, I can -- I do stand by every document that I  
9 uploaded. And I want to make special reference to my  
10 SHR-9, which is actually a copy of a great study that  
11 Contra Costa Water District did that goes over the  
12 history of freshwater in the Delta. Looks at it, where  
13 was that fresh drinking water less than 1 PPT that is  
14 what we all should expect is what it should be.

15 MR. BRODSKY: Okay. Thank you very much. And  
16 I believe that it's the State's turn to cross-examine  
17 you. So I should move aside now?

18 HEARING OFFICER DODUC: All right. Just a  
19 question -- a follow-up question for you, Ms. Suard.  
20 You spent quite a bit of time during your direct on the  
21 arsenic issue; and I assume that to be one of the  
22 important issues that you wanted to bring to our  
23 attention. So aside from the documents that Mr. Brodsky  
24 had you pull up, could you point me to where in your  
25 testimony -- and I'm looking at SHR-108 -- is there a

1 discussion of that arsenic concern?

2 WITNESS SUARD: Yes. Let me go to that. I  
3 do...

4 HEARING OFFICER DODUC: I think there is a  
5 general discussion on page 3.

6 WITNESS SUARD: Actually --

7 HEARING OFFICER DODUC: And was that the  
8 extent?

9 WITNESS SUARD: SHR-108, page 3.

10 HEARING OFFICER DODUC: Yep.

11 WITNESS SUARD: Line 5.

12 HEARING OFFICER DODUC: And that's the only  
13 mention?

14 WITNESS SUARD: Okay. So I did talk about --  
15 refer to water quality on page 2, point 2; water quality  
16 on page 2, my point 3.

17 MR. BRODSKY: May I re?

18 HEARING OFFICER DODUC: Mr. Brodsky?

19 MR. BRODSKY: I think she makes the point there  
20 succinctly on page 3 where it says, "Constituents of  
21 concern for all surface water quality and drinking water  
22 quality include salinity, mercury, arsenic, boron, and  
23 more. Based on a comment paraphrased by SWR C.B. Rider,  
24 imported water -- let's see. (Sotto voce reading to  
25 self.) And then she associates that with low flows



1 there. So it is very succinct, but she points out an  
2 arsenic problem and associates it with low flows.

3 HEARING OFFICER DODUC: And you did a good job  
4 of broadening it. Thank you, Mr. Brodsky.

5 MR. BRODSKY: Thank you for your patience.

6 HEARING OFFICER DODUC: All right. Department  
7 of Water Resources, your cross-exam?

8 MR. MIZELL: Good afternoon. I'm Tripp Mizell  
9 for DWR. The area I'm going to be focusing on is simply  
10 the assertions about modeling.

11 HEARING OFFICER DODUC: About what?

12 MR. MIZELL: Assertions about modeling.

13 WITNESS SUARD: Can you tell me where? Which  
14 part?

15 CROSS-EXAMINATION BY MR. MIZELL

16 Q. We'll come to it in the questions.

17 So, Ms. Suard, you performed no independent  
18 analysis for your testimony, correct?

19 A. You have to -- I perform lots of independent  
20 analysis of lots of data. So I don't know which data  
21 you're talking about.

22 Q. I'm talking about your written testimony.

23 A. Oh. I did lots of independent review of data,  
24 yes.

25 Q. Did you -- okay. Isn't it true that you have

1 no training as a modeler?

2 A. I'm not a professional modeler. That is true.

3 Q. What training then have you had as a modeler?

4 A. If you're talking about water modeling, I have  
5 not had training on water modeling.

6 Q. Okay. And isn't it true that you provide no  
7 citations whatsoever in your written testimony, SHR-108?

8 A. Yes, that's true.

9 Q. Okay. So going back to my first question.  
10 Where's the citation to the independent analysis that  
11 you believe you have done in support of your written  
12 testimony?

13 A. I -- the documents -- all the documents that I  
14 uploaded all support my written testimony.

15 Q. All right. I don't believe that answers my  
16 question. Where is the analysis, the independent  
17 analysis that you claim that you have done cited in your  
18 written testimony?

19 A. Again, I -- my written testimony did not cite  
20 specifically. I am a novice at this procedure, and  
21 that's not really an excuse. But I did not cite  
22 specifically. I uploaded all the documents. I was  
23 following the lead of other testimony that I read, and I  
24 did not see specific citing. Such as some of the  
25 modelers from DWR just said they're a modeler, and they

1 didn't cite anything either.

2 Q. You say you're a novice, but you are an  
3 attorney; is that correct?

4 A. I am an attorney. I mean, I am a novice at  
5 WaterFix hearing type of things.

6 HEARING OFFICER DODUC: We all are, actually.

7 MS. SUARD: You can't follow the book if there  
8 is no book to follow, right?

9 BY MR. MIZELL:

10 Q. Isn't it true that CalSim 2 was updated in 2015  
11 and 2016, and that information was submitted as part of  
12 the California WaterFix?

13 A. I'm not sure of the most recent CalSim update.  
14 I -- I've listened to testimony that says it was not  
15 really updated, but so I don't know when was the last  
16 update.

17 Q. So what's the basis of your statement that it  
18 wasn't updated except for 14 years ago?

19 A. Other people's testimony during the hearing  
20 process. And I went to the DWR web site. And when you  
21 go to the DWR web site, it talks about CalSim 2. And it  
22 says that it was last updated in 2003 on the DWR web  
23 site.

24 Q. So when we discussed the graphs that you put up  
25 previously about the flow splits, the ones that we

1 provided you, based upon your request to the State Water  
2 Board, it was your impression that we were discussing  
3 data that was last updated sometime in the mid 2000s?

4 A. That graph -- and I asked you, too. That graph  
5 did not say what model it came from. I specifically  
6 asked what model it came from, and I was not told. What  
7 I was told is I could go get the raw data from -- from  
8 CDUC from day flow. I don't recall you saying that was  
9 a CalSim update. You may have said that.

10 Q. You don't recall the conversation we had in the  
11 lobby of this building was that that was based on the  
12 2015 CalSim 2 modeling results that were submitted as  
13 part of the petition package for this proceeding?

14 A. You know, when you and I met, you e-mailed me  
15 this document that I had been asking for for weeks. And  
16 I do not recall either you or Ms. Smith or anybody  
17 saying what model that was. It's not written on it. So  
18 I -- you're saying now that that's an update of CalSim;  
19 is that correct?

20 Q. Are you aware that CalSim is constantly being  
21 updated to account for new regulations, facilities,  
22 climate shifts, and sea level rise?

23 A. I've heard testimony that says it's been  
24 updated for sea level rise and, you know, climate change  
25 and I have. But the model that was provided to all of

1 us to look at was an older model of CalSim, at least  
2 according to testimony. Now, I apologize if you're  
3 saying what you handed me was an update, I did not get  
4 that from you and it is not written on it.

5 Q. What, where, and when did substantial  
6 modifications to the Delta waterways occur that you  
7 believe are not reflected in DSM2?

8 A. There have been substantial changes. First of  
9 all, DSM2, my understanding, is that it averages the --  
10 the --

11 Q. That's not my question. Actually, I'm asking  
12 you to please describe what, where, and when did the  
13 substantial changes occur that you assert are not  
14 included in DSM2?

15 A. Okay. Unless there has been an update in the  
16 last two months on DSM2, there are changes to the  
17 channel depths on Steamboat Slough. There is a  
18 subsurface barrier on Steamboat Slough that was not  
19 included in the DSM2 model during the Bay Delta  
20 Conservation Plan modeling. I brought it to the  
21 attention of the DWR modelers. And that I know of,  
22 there has been no correction. That was a subsurface  
23 barrier. It doesn't block --

24 Q. Where is the --

25 A. -- navigation. It blocks fish flow.

1 Q. Where is the subsurface barrier?

2 A. It is about 20 feet east of the Steamboat  
3 Slough bridge, at the north end of Steamboat Slough.

4 Q. And when do you believe it occurred?

5 A. When do I believe what occurred?

6 Q. The substantial modification.

7 A. Okay. It -- the -- the subsurface barrier was  
8 noticed by fishermen who brought to it my attention  
9 approximately 2009, 2010. So I assume it was somewhere  
10 in that time frame.

11 Q. And is this the only modification that you're  
12 aware of?

13 A. No.

14 Q. Okay. What is another modification you are  
15 aware of?

16 A. I -- can you define what you mean by  
17 "modification"?

18 Q. I'm using the word in the same way you used it  
19 in your testimony.

20 A. Okay. I -- I am aware of a change in the flow  
21 pattern on Sutter Slough in that water flows down Sutter  
22 Slough and it used to flow -- keep going on Sutter  
23 Slough past the Miner Slough confluence and then enter  
24 into Steamboat Slough. And --

25 Q. How is that a change in the symmetry -- you're

1 talking about a change in flow?

2 A. Yes.

3 Q. Your testimony speaks to substantial  
4 modifications to symmetry.

5 A. Okay. So sometime -- I believe it's after  
6 2009, a change happened that -- such that there is a  
7 flow barrier on Steamboat -- on Sutter Slough, right  
8 below the Miner Slough confluence and now flow from  
9 Sutter Slough goes into Miner Slough instead.

10 Q. Did you present any evidence on that symmetry  
11 change?

12 A. Yes, I did.

13 Q. Can you please point that out to us?

14 A. Gosh. There are slides from -- there's photos.  
15 And there is side-scans sonar. So let's see how we can  
16 figure out where that is. So let's go to SHR-10 -- I am  
17 sorry. DW -- sorry. Mine, SHR-104, please. And if you  
18 could go to -- I think it's the last page.

19 MR. BRODSKY: There was an underwater  
20 photograph and sonar that I've seen.

21 WITNESS SUARD: Yeah. I have that showing as  
22 104 because that's not the right one. That's the last  
23 one on 104. Okay. Could you -- how many pages are on  
24 that one? Could you go to page 32? Is there a page 32  
25 on that?

1           Okay. Before we go to that, could we go to  
2 page 18 on that one? Okay. Let's -- that shows gaps  
3 and flows. So let's go down. We're going to have to go  
4 searching. Keep going, please. Sorry. There is DSM2.  
5 Sorry. Could we go back up again just one? That is  
6 from DSM2 and that shows the averaging of channels. So  
7 let's keep going down. It should be in this. And  
8 otherwise, I'll go look. That is DSM2 update. Okay.  
9 Can we stop at this one?

10           Here's -- here's one example. The -- this is  
11 actually two different slides. The one on the upper  
12 left is -- that was provided to me by Paul Marshal. And  
13 it represents a survey that was done by DWR or DWR  
14 consultants or something. And Mr. Marshal actually,  
15 because I had approached him about my concern about the  
16 blocked flow on Steamboat Slough, gave me a number of  
17 slides over a series of time. The graphic is --

18           BY MR. MIZELL:

19           Q. Can I interrupt you real quick here because  
20 this is to the head of Steamboat Slough. We've already  
21 discussed that. We're looking for the evidence you have  
22 presented for the Miner Slough.

23           A. Okay. Can we look at the next page? I am  
24 looking for the Miner Slough one that shows the flow.  
25 The next page. Okay. I don't know where this one went.



1 I provided side-scan sonar screenshots. And it  
2 doesn't -- I'm going to -- sorry. I'm going to go  
3 quickly through some of my other -- that was my --

4 Q. Out of the interest of time and not to wear out  
5 the patience of the hearing officers on my questioning,  
6 I assume you'll probably find it and present it in  
7 rebuttal. I don't need to dwell on this point. We can  
8 move on.

9 When, in your opinion, was the last  
10 recalibration of CalSim 2?

11 A. You just told us it was this year. I don't  
12 really have an opinion of CalSim 2. If you're saying  
13 that I'm wrong, I accept that. Wrong as to when it was  
14 recalibrated. My understanding is the modeling that we  
15 were provided for WaterFix that it was based on 2003.  
16 And if I'm wrong, I apologize.

17 Q. Okay. So your testimony was premised upon the  
18 idea that the modeling for CalSim 2 had not been updated  
19 since 2003?

20 A. Yes. But I was relying on a lot of other  
21 people saying the same thing.

22 Q. What are the capacities, locations, and permits  
23 for the nine new intake facilities built since CalSim 2  
24 calibration, which I guess at this point is 2003?

25 A. Can you ask that question again, please?

1 Q. What are the capacities, locations, and permits  
2 for the nine new intake facilities you assert were built  
3 since 2003?

4 A. Could we get a DWR map to -- so we can refer to  
5 it on the map?

6 Q. I'm simply asking you to describe the finer  
7 details of the testimony you have provided to the State  
8 Water Board.

9 A. Okay. So the intakes are along the Sacramento  
10 River, south of Sacramento, north of Walnut Grove. And  
11 the proposal is -- the current proposal that -- it talks  
12 about adaptive management. And it proposes to take  
13 9,000 cubic feet per second out of the river and then  
14 plus whatever DW -- USBR does. So I believe your slide  
15 said 10,250 cubic feet per second; is that correct?

16 Q. It's actually not answering the question at  
17 all. If we could bring up SHR-108, I think we can cut  
18 to the chase here. I'm looking for 2.3, line 16. At  
19 the end of line 16, it begins, "The DSM2 does not appear  
20 to analyze the changes to hydrology" --

21 A. Could we see it up there so I can see what you  
22 are talking about?

23 Q. Okay. The first sentence of paragraph -- or it  
24 is the second sentence of paragraph 4 there, starts with  
25 "DSM2 does not" -- if I can paraphrase, it seems as

1 though you're intimating DSM2 does not analyze certain  
2 facilities that you believe currently exist in the  
3 Delta, including at least nine new intake facilities  
4 built since what we've established is 2003.

5 I would like to know the specifics of the  
6 capacities, locations, and permits for the nine new  
7 intake facilities you assert were built since 2003.

8 A. Okay. So --

9 MR. BRODSKY: If you don't recall, you can  
10 always answer you don't recall at any time during this.

11 WITNESS SUARD: Okay. But I do. I prefer to  
12 refer to graphics but -- and I do. In my documents, I  
13 did a big poster and it shows the locations of new  
14 intakes that were built under the name of fish greens.  
15 But in each of those instances, there was usually an  
16 increased capacity. So an intake north of the -- north  
17 of Steamboat Slough -- north of Steamboat Slough, there  
18 was the Freeport intake. There was one on Sankey.  
19 That's what they called it. And that's over by the --  
20 the Sacramento Airport. There is a new intake there.  
21 And that -- there is one for Woodland. That's a new  
22 intake. There is one on the American River, and I don't  
23 recall that name.

24 The -- the -- up by Red Bluff, they expanded  
25 the Red Bluff diversion dam. They did a new one with

1 state-of-the-art fish greens, which nobody even knows if  
2 that works or not. They haven't reported if it works or  
3 not. So there is -- those are five.

4 South of us there was the Empire Track line.  
5 There is the -- the one on Victoria Canal. There was  
6 something over by Potato Slough. I'm missing one --  
7 another one north. If we could take the time to pull up  
8 the map, I can show you where they are on the map. I  
9 actually drove and looked at a lot of them myself.

10 BY MR. MIZELL;

11 Q. Okay.

12 A. And these are all after 2003.

13 Q. Do you provide a map with them located -- do  
14 you identify them on a map in any of the exhibits that  
15 you have presented to the State Water Board?

16 A. Yes.

17 Q. Which map?

18 A. Let's see if I can find it for you. Sorry.  
19 I'm going to try to get to it. Let's see. 104, page 22  
20 is one map, but that's not the one I prepared. That  
21 just shows more projects for water storage. I'll have  
22 to provide that, if you would like. I do have it in the  
23 evidence, and I am sorry. Had I known you were going to  
24 ask about those, I would have pulled those out and had  
25 those ready for you.

1 Q. If we could bring up SHR-108. Thank you. And  
2 let's go to page 5, please. And I'm looking for line  
3 35, please. Yes. Thank you.

4 That line starts with: "DWR modelers have  
5 stated." What is your citation for your representation  
6 of DWR modeling testimony?

7 A. I'm sorry. I was still looking for the map.  
8 Say that again.

9 Q. On line 35, the sentence that begins with:  
10 "DWR modelers have stated." What is your citation for  
11 your representation of DWR modeling testimony?

12 A. I didn't put that in there.

13 Q. Do you recall?

14 A. Yes. I -- that was -- that may be during the  
15 Bay Delta Conservation Plan process. But there was --  
16 when it was WaterFix and Eco Restore they had said that  
17 Eco Restore is needed to balance -- and it didn't make  
18 sense to me honestly -- but to balance the water being  
19 taken out of the Sacramento River. And that actions on  
20 Liberty Island would -- the flows to Liberty Island  
21 basically would help to protect salinity in -- in the  
22 Delta. And it was -- it was, you know, something -- it  
23 really didn't make that much sense, but I was quoting  
24 what was being said during this hearing.

25 Q. Generally speaking, when lawyers quote things,

1 they provide a citation. So I'm wondering -- and I'll  
2 ask the question again. Do you recall what the citation  
3 is for your representation of DWR modeling testimony?

4 A. No, I don't.

5 Q. Are you aware that your statement is a  
6 misrepresentation of modeling testimony by the  
7 Department?

8 A. No, I'm not aware of that.

9 MR. MIZELL: Okay. No more questions. Thank  
10 you.

11 HEARING OFFICER DODUC: Mr. Brodsky, re-direct?

12 MR. BRODSKY: Yes.

13 REDIRECT EXAMINATION BY MR. BRODSKY:

14 Q. In your written testimony on page 5 of SHR-108,  
15 you state that the inference -- the head of Steamboat  
16 Slough, the depth has been reduced from 19 feet to 10  
17 feet.

18 A. Correct.

19 Q. Do you recall that?

20 A. Yes.

21 Q. And how do you know that?

22 A. I know it because I hired a professional team  
23 to do site scan sonar in a couple different areas in the  
24 Delta. And also it shows on my depth finder on my boat.  
25 I also used a remote control underwater camera to take

1 photos of the river rock and the port cement down there.

2 Q. And so you stand by that testimony that that  
3 has been reduced from 19 feet to 10 feet of your own  
4 personal knowledge?

5 A. Yes.

6 Q. Without reliance on any of your opinions about  
7 modeling?

8 A. Correct.

9 Q. And you also testified that there's a flow  
10 barrier or has been a change in flow patterns -- I  
11 believe, it's where Miner Slough meets Sutter Slough; is  
12 that correct?

13 A. Correct.

14 Q. And how do you know about that?

15 A. From my own personal experience. Again, my  
16 boat has a depth finder. And then I went with a site  
17 scan sonar professional team, and it showed the location  
18 of -- of something that's blocking flow into Steamboat  
19 Slough and diverting the flow into Miner Slough instead.

20 HEARING OFFICER DODUC: Hold on, Mr. Brodsky.  
21 No? All right. Continue, please.

22 BY MR. BRODSKY:

23 Q. (Testimony stricken.)

24 A. (Testimony stricken.)

25 Q. (Testimony stricken.)

1 A. (Testimony stricken.)

2 Q. (Testimony stricken.)

3 A. (Testimony stricken.)

4 Q. (Testimony stricken.)

5 A. (Testimony stricken.)

6 HEARING OFFICER DODUC: Hold on. Mr. Mizell,  
7 you just can't make up your mind.

8 MR. MIZELL: Well, no. He's moved on to  
9 arsenic. I did not ask any questions on  
10 cross-examination about arsenic. Therefore, I object as  
11 being beyond the cross-examination.

12 HEARING OFFICER DODUC: That is true. He did  
13 not ask questions about arsenic. So we'll strike that  
14 portion.

15 BY MR. BRODSKY:

16 Q. Does -- do any of Mr. Mizell's questions about  
17 modeling affect your confidence in any of your testimony  
18 about non-modeling issues?

19 A. No.

20 Q. With regard to the DWR modelers, there was --  
21 Mr. Mizell asked you, you said, "DWR modelers had  
22 stated," and you couldn't provide a citation for that.  
23 Is that something you heard them say somewhere perhaps  
24 at a public meeting?

25 A. Yes. I mean, I had to get -- regarding the



1 DSM2 or CalSim?

2 Q. Well, let's find that. Well, Mr. Mizell was  
3 questioning you on the quotation -- yes, here it is. On  
4 page 5 of SHR-108 at line 35, it says, "DWR modelers  
5 have stated that hydrologic pressure or flow changes  
6 related to the Liberty Island Reservoir will help to  
7 reduce possible reverse flows on the Sacramento River.  
8 Do you see that there?

9 A. Sorry.

10 Q. Okay. On page 5 of your written testimony,  
11 starting at line 35. The sentence begins, "DWR modelers  
12 have stated."

13 A. Um-hum.

14 Q. And then it goes on, "that hydrologic pressure  
15 or flow changes related to the Liberty Island Reservoir  
16 will help to reduce possible reverse flows," et cetera.

17 A. Yes. I --

18 Q. And my question is, you could not produce a  
19 citation for Mr. Mizell. But did you hear DWR modelers  
20 say that?

21 A. I believe so, yes.

22 Q. And that may have been in one of the many  
23 public hearings where DWR modelers made themselves  
24 available to members of the public and answered  
25 questions?

1 A. Yes.

2 MR. BRODSKY: Okay. Thank you.

3 HEARING OFFICER DODUC: Re-cross, Mr. Mizell?

4 MR. MIZELL: (No verbal response.)

5 HEARING OFFICER DODUC: All right. I'll thank  
6 you. That completes the case-in-chief for Snug Harbor.  
7 We will expect you to provide your -- well, at least  
8 provide -- submit your exhibits for the record by noon  
9 next Thursday.

10 MR. BRODSKY: Thank you.

11 HEARING OFFICER DODUC: And with that, before  
12 we conclude today, a reminder that when we reconvene  
13 next Tuesday, December 13th, we will first hear from  
14 Group No. 43, Clifton Court. I have here that they have  
15 requested about 30 minutes for direct. I have DWR with  
16 about 15 minutes for cross, and State Water Contractor  
17 with about 15 minutes for cross.

18 We will then hear from Group No. 38, PCFFA, and  
19 Group No. 37, Ms. Des Jardins. They have requested an  
20 extensive amount of time for direct, and they have been  
21 directed by us to adhere to the time limits as set  
22 forth, which is 20 minutes to summarize their direct  
23 testimony. If we have time on December 13th, we will  
24 also get to Group No. 39, North Delta Cares. And then  
25 on December 14th, on Wednesday, we will get to Group

1 No. 10, Brentwood and Group No. 27, Antioch.

2 We will also plan to meet most likely on  
3 December 15th to hear from any remaining parties. I  
4 believe we still have one other party that we need to  
5 address which we will address. So that's as far as the  
6 cases-in-chief that I have that remains for Part 1B.  
7 Mr. Brodsky?

8 MR. BRODSKY: And as far as all those  
9 suggestions that are floating around about how we do  
10 rebuttal, is there going to be a roundtable discussion  
11 about that at some point?

12 HEARING OFFICER DODUC: We are reviewing all  
13 the recommendations and written suggestions submitted to  
14 us. We will at some point issue directions with respect  
15 to rebuttals.

16 MR. BRODSKY: Okay. Thank you.

17 HEARING OFFICER DODUC: Well, thank you all.  
18 With that, we are adjourned. And we will see you on  
19 Tuesday at 9:00 o'clock. And I believe we are back here  
20 in the Coastal Hearing Room.

21 (Whereupon, the hearing was closed at  
22 4:07 p.m.)

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CERTIFICATE OF REPORTER

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I, Elizabeth A. Willis-Lewis, a Certified Shorthand Reporter, hereby certify that the foregoing proceedings were taken in shorthand by me at the time and place therein stated, and that the said proceedings were thereafter reduced to typewriting, by computer, under my direction and supervision;

I further certify that I am not of counsel or attorney for either or any of the parties to the said proceedings, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: December 15, 2016

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ELIZABETH A. WILLIS-LEWIS, CCRR, RPR  
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