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IN RE THE MEETING OF THE)
BAY-DELTA ADVISORY COUNCIL)
_____)

ORIGINAL

TRANSCRIPT OF PROCEEDINGS
Berkeley Marina Marriott
200 Marina Boulevard
Berkeley, California 94710

Thursday, September 4, 1997 at 9:38 a.m.

REPORTED BY: SUSAN PORTALE, CSR NO. 4095, RPR, CM

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1 COUNCIL MEMBERS:

2 LESTER SNOW, Executive Director

3 SUNNE McPEAK, Vice-Chairman, Bay Area Economic
4 Forum

5 ERIC HASSELTINE, Contra Costa Council

6 STEVE HALL, Association of California Water
7 Agencies

8 ALEX HILDEBRAND, South Delta Water Agency

9 BOB RAAB, Save San Francisco Bay Association

10 ROSEMARY KAMEI, Santa Clara Valley Water
11 District

12 DAVID GUY, California Farm Bureau Federation

13 TOM GRAFF, Environmental Defense Fund

14 JUDITH REDMOND, Community Alliance with Family
15 Farmers

16 HARRISON (HAP) DUNNING, Bay Institute

17 ROBERTA BORGONOVO, League of Women Voters

18 TIB BELZA, Northern California Water Association

19 MARY SELKIRK, East Bay Municipal Utility
20 District

21 ROGER PATTERSON, Designated Federal Official -
22 Bureau of Reclamation

23 ANN NOTTHOFF, Natural Resources Defense Council

24 ROBERT MEACHER, Regional Council of Rural Cities

25 STUART PYLE, Kern County Water Agency

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COUNCIL MEMBERS: (cont'd)

PIETRO PARRAVANO, Pacific Coast Federation of
Fishermen's Association

HOWARD FRICK, Friant Water Authority/Arvin
Edison Water Supply District

ROGER STRELOW, Dames and Moore

---oOo---

1 (All parties present, the following proceedings were
2 had at 9:38 a.m.):

3

4 VICE-CHAIRMAN McPEAK: Ladies and
5 Gentlemen, we are convening the Bay Delta Advisory Council
6 Meeting for September 4th, 1997.

7 If the BDAC members can get your packets and
8 name tags and take your seats, we would appreciate it.

9 We were notified late last night that,
10 unfortunately, Mike is not going to be able to make it
11 today so we are going to again suffer through without his
12 great skill in leading us, and we are also well aware that
13 the Bay Area is virtually gridlocked this morning from
14 every direction, every bridge, all freeways so I suspect
15 that that side of the room (indicating) will fill up as we
16 go through the meeting.

17 We apologize for whatever difficulties or
18 inconvenience you had in trying to travel here today.

19 Let me just for a moment draw your attention to
20 the revised Agenda that is in the blue packet (indicating)
21 that you received this morning.

22 It contains most of all of the items that were
23 in the mailed Agenda but there is a re-ordering and I'll be
24 following the revised Agenda.

25 Also, I just want to underscore what are the

1 major objectives for this meeting so that we can keep the
2 focus in mind.

3 First, we want an update on the results of the
4 alternative narrowing and the detailed evaluations in Step
5 1 and Step 2.

6 We are then going to go through and discuss the
7 distinguishing characteristics and the decision matrix
8 against those alternatives.

9 This is to lay a foundation for the meeting
10 that will occur in November and at this point it may seem
11 as an interim step and we are simply talking about a
12 process, but again it's important that we identify if this
13 matrix approach makes sense to you that the distinguishing
14 characteristics that are being analyzed are the approach
15 that you think we can support or is supportable so that
16 when we get to November that we've got at least a
17 concurrence around the process and the approach leading to
18 narrowing the alternatives and very importantly the third
19 focus for today's meeting is to secure a general consensus
20 around the ecosystem restoration scientific panel review
21 process.

22 That panel review of outside experts going
23 through a review of the ecosystem plan as it's been
24 developed is a critical, fundamental, basic piece of work
25 to guide our process here at BDAC.

1 on the Agenda items that are scheduled at the end of each
2 of those items, but in order to try to best manage the time
3 and to get all of those public comments in I would ask that
4 you fill out the speaker cards now or as soon as possible
5 or if you see someone come in that you think wants to make
6 a public comment or that you've recruited to come make a
7 public comment, would you please ask them to fill out a
8 card as soon as possible so that we have an accurate
9 spelling of names and affiliations and also that we can
10 plan for those comments.

11 Comments are going to be limited to three to
12 five minutes. At three minutes I'm going to signal you.

13 At five minutes I'm going to conclude your
14 remarks, better if you conclude them than I conclude them
15 so, please, watch the time limits.

16 And I think with that, Lester, is there
17 anything else that you want to alert everyone about before
18 we begin?

19 EXECUTIVE DIRECTOR SNOW: No.

20 VICE-CHAIRMAN McPEAK: Yes.

21 MR. MEACHER: Sunne, just a question or a
22 procedural problem for CalFed to consider.

23 If you want any elected officials at any of
24 these meetings from the County level, Tuesdays are terrible
25 and I know that the next Water Transfer Meeting is on a

1 So three things that we want to do, keep in
2 mind; the alternative narrowing and detailed evaluation,
3 then the distinguishing characteristics and looking at the
4 ecosystem restoration scientific review panel process.

5 As I mentioned, the next meeting is in
6 November. It's November 4th in Sacramento. That's
7 followed by a meeting on December 12th, I believe, right?

8 EXECUTIVE DIRECTOR SNOW: Right.

9 VICE-CHAIRMAN McPEAK: So the next
10 three -- or next two meetings here in 1997 will be November
11 4th, December 12th. Okay.

12 Let me just alert -- November 4th is a Tuesday.
13 If it were an election year, it would be an Election Day.
14 There may be some Election Days, right, so we have Tuesday
15 the 4th and Friday, the 12th, I believe.

16 So don't get stuck on a day of the week. Look
17 at those dates, okay?

18 Having said that let me just also alert the
19 audience that we have two Public Comment periods scheduled
20 for today's meeting.

21 The first will be right before lunch about a
22 half hour before then. The second at the end of the day.

23 These Public Comment periods are reserved for
24 comments on items not on the Agenda per se.

25 We will also take Public Comment as time allows

1 Tuesday and there is a lot of local elected officials or
2 their staff people that are all tied up Tuesday, as you
3 might recall, from being a supervisor yourself.

4 VICE-CHAIRMAN McPEAK: Tuesdays were the
5 horrible days in my life. You're absolutely right. I
6 should remember that, and I do. I don't schedule anything
7 on Tuesdays for that reason.

8 MR. MEACHER: So if CalFed could, please,
9 keep that, Lester, in mind when you calendar that stuff, it
10 would help us.

11 VICE-CHAIRMAN McPEAK: Mondays and
12 Tuesdays for both City and County officials are generally
13 very difficult meetings to make, either the actual meeting
14 of the governing Board or the mitigating.

15 MR. MEACHER: It's a damned if you do,
16 damned if you don't.

17 It's very important to be here, but then your
18 constituents wonder why you're out of town, not taking care
19 of pothole type stuff, as I see the value of this as well,
20 so if we can try not to do Tuesdays.

21 EXECUTIVE DIRECTOR SNOW: We will, Bob.
22 That's a very good point.

23 VICE-CHAIRMAN McPEAK: And at this point,
24 Bob, you are alerting us for the future. You are not
25 asking that the November 4th meeting be changed or do you

1 want Lester to look at that as well?
 2 MR. MEACHER: I wouldn't mind it if we
 3 could and the water transfer because that's got a lot of
 4 Northern California local entities involved in that group.
 5 VICE-CHAIRMAN MCPEAK: Roger, can you
 6 maybe look at changing that from a Tuesday?
 7 MR. STRELOW: Actually, we've made an
 8 instant response.
 9 The Water Transfer Meeting is scheduled for
 10 September 17th and we have just changed September 17th to a
 11 Wednesday. Actually, it was all along and we erroneously
 12 called it Tuesday so we were anticipating your objection.
 13 VICE-CHAIRMAN MCPEAK: And they say we
 14 can't move fast. I'm impressed, Roger. Okay.
 15 So the Transfer Meeting is now the 17th -- it's
 16 Wednesday, right, Wednesday, the 17th and right now be
 17 aware that we have a Tuesday scheduled, November 4th.
 18 I think it's up to Lester to look at it, Bob,
 19 but from here on out, no, we won't schedule on Mondays or
 20 Tuesdays.
 21 MR. MEACHER: Thank you.
 22 VICE-CHAIRMAN MCPEAK: All right. Then if
 23 you're ready to proceed with the Agenda, we'll do so. I
 24 see no other comments.
 25 We're going to proceed first with a review of

1 Update. Most of that has been involved in this current
 2 funding cycle and what we are spending most of our time on.
 3 Just as background we are doing it through a
 4 Request For Proposal process for the category three this
 5 round and we sent out the RFP in June and we still have
 6 copies if people just want them for background.
 7 It was a six week application period and the
 8 deadline was July 28th, and, as was said, is that we had a
 9 large response.
 10 In your packet we have a current update that
 11 was included in your blue packet that describes kind of the
 12 characteristics of what we received and basically there is
 13 320 -- 332 formal proposals that were submitted.
 14 We had a cast your net wide philosophy and it
 15 worked and received a lot of formal proposals.
 16 We have a term called inquiry submittals and
 17 those were people that were not ready to put in for funding
 18 requests at this time but wanted information and feedback
 19 about whether they were on the right track for future
 20 funding cycles and we received a hundred inquiry submittals
 21 so we need to get back to those folks as well.
 22 So in your packet is that description. That
 23 totals 471,000,000.
 24 So I put a couple overheads together just to
 25 kind of visually describe that.

1 the Restoration Coordination Update and the status of our
 2 RFP process and selection process.
 3 As you probably are aware, there was a huge
 4 response to the RFP, many proposals were submitted, and we
 5 have Kate Hansel, who is going to give us an overview.
 6 Kate.
 7 You have information in your mail packet, also,
 8 about the responses to the RFP.
 9 While Kate is also getting prepared let me just
 10 say that we've had three resignations since we last met
 11 responding to the rules on conflict of interest so -- and
 12 Lester and CalFed are in the process of recruiting, but
 13 Lee Lehman and Marcia Brockman and Tom Maddock have
 14 concluded based on counsel, legal counsel, that they should
 15 resign from BDAC. So I wanted to note that they have done
 16 so.
 17 And if we could send a letter thanking them for
 18 their service, I would appreciate that.
 19 Kate.
 20 KATE HANSEL: Can you hear me?
 21 VICE-CHAIRMAN MCPEAK: Yes.
 22 KATE HANSEL: I was going to give just a
 23 quick background for any of you that haven't been following
 24 it or want that update.
 25 We are going to do the Restoration Coordination

1 This is the one where we have applicant type
 2 described in terms of what we received (indicating).
 3 We put a data base together and we tried to
 4 with each proposal characterize that proposal in terms of
 5 applicant type, habitat, stressor and as you can see, many
 6 times they overlap, even in applicant type there is a joint
 7 venture category here where if people are putting in as a
 8 kind of co-applicants we don't know in the joint venture
 9 category if it's all nonprofit or nonprofit State and
 10 Federal but in many cases it is this combination.
 11 So that's a quick look at where the dollars
 12 spread by type of applicant. So it's a lot of Federal
 13 State agencies but also other public entities, nonprofits
 14 and the joint venture category and this also in your packet
 15 describes it by number of proposal, how many proposals each
 16 type of applicant put in.
 17 This is by -- oh, this is the same one. Let's
 18 see -- oh, yeah, project type, here we go.
 19 By the type of proposal put in we have -- we
 20 came up with these categories. This was similar to what
 21 was in the RFP so in terms of tracking what they identified
 22 their proposal to be for we have a very large dollar
 23 request for land acquisitions as we actually expected, that
 24 that's where a lot of dollars go, as well as construction
 25 and then there is a distribution of the other categories.

1 Some of these overlap a lot, water quality,
 2 research, monitoring assessment and reporting is sometimes
 3 hard to decide exactly which box to check in terms of what
 4 the primary purpose of the proposal is and there is a lot
 5 of water quality that falls into research and monitoring
 6 assessment.

7 So some of the numbers don't always add up
 8 perfectly in terms of understanding but it gives us an
 9 indication of kind of what's in the pot of 332 proposals.

10 The packet also describes the -- I thought it
 11 was interesting the amount requested and how it distributes
 12 by the type of each proposal and what the dollar requested
 13 was, that the 471,000,000 that's been requested about over
 14 half of that dollar request falls within 27 proposals.

15 So we have 27 proposals that are 5,000,000 and
 16 over and that's where the bulk of the money comes and there
 17 is many, many small dollar amount proposals that are under
 18 500,000.

19 The rest of this just is a little background.
 20 We didn't do for the rest of the categories we checked off
 21 multiple boxes so it doesn't add to the total and that's
 22 what I was trying to describe in the cover memo so as
 23 multiple watersheds for one proposal, habitats and
 24 stressors and species, so it gives you an indication but it
 25 will not add to the total 332 proposals or 471,000,000.

1 roundtable and BDAC for review. What's going to happen,
 2 the integration panel will be meeting, and putting a
 3 funding -- what we are describing it as a funding package,
 4 a package of proposals that they recommend moving forward
 5 based on the priorities that are defined in the RFP and
 6 what they further defined for prioritization.

7 And that funding packet will come in summary
 8 format and will be described to BDAC and to the ecosystem
 9 roundtable so we can get input from them on whether we've
 10 emphasized the right things, whether we should do things
 11 more in one area, whether we've got gaps in certain types
 12 of actions or species and we take those comments and they
 13 can go back to the integration panel for response or not
 14 and then it goes to final step is to policy group for a
 15 funding decision and to Secretary Wheeler.

16 So that's a quick shot.

17 In terms of the schedule is that we are doing
 18 most of the evaluation scoring in September and early
 19 October so the roundtable will see the proposed packet at
 20 their October roundtable meeting and then it will come to
 21 BDAC at your November meeting and then to policy group in
 22 November. So we are still shooting for a decision in
 23 November.

24 Real quick on the technical review panels, we
 25 have 13 panels. We've had to find a lot of people. We

1 We are right in the middle right now of this
 2 evaluation selection process and I want to put an overhead
 3 kind of to remind you of how we set this process up. So
 4 we've received the proposals.

5 We are moving the inquiry submittals off to the
 6 side until we set up our panels to score and evaluate the
 7 formal proposals. We've done a rough screen of some of the
 8 formal proposals and very few dropped out just on basic not
 9 meeting the minimum eligibility but maybe ten to 15.

10 Then we are moving into a two tiered process.
 11 We have technical review panels that are going to score and
 12 evaluate in a descriptive way each of the proposals and
 13 then it moves to an integration panel that is going to
 14 identify kind of how much of different types of actions
 15 needs to be done to affect the priority species.

16 So it's this integration panel and the
 17 panelists are listed in your -- what was mailed in your
 18 packet. We have a list of the 20 integration panel members
 19 that's an agency non-agency combination.

20 They are meeting now to start identifying
 21 further priorities to how to get the biggest bang for their
 22 buck out of the 332 proposals, where to spend -- what
 23 emphasis to put. So we have the integration panel and then
 24 technical review scoring panels.

25 And then it would come to the ecosystem

1 have four to eight people per panel and we've organized
 2 these panels by topic, not by geographic area, not by
 3 species, but we have like three water quality panels and we
 4 have habitat panels and we have structures fish screen
 5 panels and each panels for managing workload we have 11 to
 6 31 proposals per panel.

7 This is just a lot on one overhead but to give
 8 you an indication, if you wanted to look this up and I can
 9 make this a handout, these are the topics for the 13
 10 technical review panels.

11 This is the group that's going to score and we
 12 have those criteria described in the RFP. It's a score of
 13 up to 70 and they will -- those proposals are organized by
 14 those topics.

15 VICE-CHAIRMAN MCPEAK: Let's take a quick
 16 question from Alex.

17 MR. HILDEBRAND: Two questions.

18 One is who is it that wants to buy all of that
 19 ag land you had on that earlier thing, and, secondly, how
 20 do you decide whether one of these is going to fit with the
 21 ultimate CalFed Program when we haven't determined yet what
 22 the indirect impacts are and so forth in order to have such
 23 a program?

24 KATE HANSEL: well, I can't answer off the
 25 top of my head.

1 In fact, I don't even --

2 VICE-CHAIRMAN MCPEAK: You can't legally

3 answer his question.

4 KATE HANSEL: I can't legally tell you who

5 has put in what proposal for what and where.

6 You know, I could give you -- I could go back

7 to the data base and say where the land acquisition

8 proposals are geographically spread and I can give that

9 information.

10 MR. HILDEBRAND: Can't you also tell us

11 which of those cuts of the pie you had are the source of

12 that?

13 KATE HANSEL: In terms of what type

14 of -- where the applicants --

15 MR. HILDEBRAND: Whether it was Federal

16 Agency, State Agency, that sort of thing?

17 KATE HANSEL: Probably. I could do that.

18 I mean, I don't know it and haven't put that

19 together from the data base to organize it that way. But

20 we could get that.

21 MR. HILDEBRAND: It seems to me that this

22 Council needs to have that kind of information before we

23 come to any decision in November on whether we agree with

24 the choices here.

25 VICE-CHAIRMAN MCPEAK: In November I think

1 type of applicant and where it is, but when we bring the

2 summary to you in November and to the roundtable in

3 October, we haven't done this before but we think we can

4 provide enough information to get guidance so we can say

5 "Here is the land acquisition proposals and here is how

6 they spread by geographic area. This is the amount of

7 acreage and this is the location and this is the purpose

8 and the benefit of those acquisitions", and we would be

9 running them through CalFed staff and plan to for the check

10 to make sure we are not predetermining or prejudging a

11 long-term solution so --

12 MR. HILDEBRAND: But then we also need to

13 know how that is compatible with the overall CalFed plan

14 which isn't yet frozen, hasn't yet been subjected to the

15 examination of indirect impacts, for example.

16 KATE HANSEL: I don't know how to answer

17 that.

18 I think basically we are working with CalFed

19 staff and with what they know to say is there a chance of

20 putting this acreage here or this project here could have

21 any impact or negatively impact any of the alternatives on

22 the table.

23 MR. HILDEBRAND: That's fine, except in

24 the end you are going to ask BDAC to agree or disagree with

25 this and we have to know, too, not just the staff.

1 we will.

2 And what I'm understanding Alex is asking,

3 Kate, is sort of the integration of the two pie charts. So

4 you had it by subject matter and we also had it by kind or

5 category of applicant. So within each category of

6 applicant to take the same categories of the subject

7 matters and do a spread.

8 I was stepping in to try to, I guess,

9 underscore the fact that you are not allowed to distribute

10 the proposals --

11 KATE HANSEL: Right.

12 VICE-CHAIRMAN MCPEAK: -- to us or to even

13 the roundtable, the review panel members have it. We are

14 sort of hampered by State contract law on this one and that

15 sort of is an interesting constraint about not knowing up

16 until the time a decision is made the particular -- by us,

17 the particulars of who has applied.

18 KATE HANSEL: We could --

19 MR. HILDEBRAND: How are we going to make

20 an intelligent decision in November on whether we agree

21 with the selections made here if we aren't allowed to have

22 any information about it.

23 KATE HANSEL: Well, we think we can give

24 you a lot of information without -- the constraint is that

25 we cannot give information on individual proposals by the

1 KATE HANSEL: And we can report that.

2 I mean, that's part of the summary of the

3 package. We can say where the issues are and where the

4 concerns are. We just can't say that Joe Smith has this

5 acreage on this site.

6 But I think we can summarize it in great detail

7 that can give -- that's the goal. I mean, it's a

8 constraint we are trying to live under. We want the

9 guidance so we are going to try to give as much detail and

10 stay within the law at the same time.

11 VICE-CHAIRMAN MCPEAK: Alex, you are

12 asking the same kinds of questions I've asked about this

13 process, too, and I'd like to ask Lester to further

14 comment.

15 We do have some things that we are at least

16 working with as givens or that we have working assumptions.

17 We have the core element. We have the

18 restoration plan. We have not yet the final decisions and

19 some of those proposals may, not knowing what is actually

20 in there and what the specifics are, some of those

21 proposals may be impacted by that -- the final alternatives

22 or the alternatives we are now working with in the final

23 decision, but the credibility of CalFed, I think, is very

24 much linked to the decisions made about this funding, and

25 to what extent we can all defend that the proposals that

1 would eventually get funded or what the voters thought they
2 were approving and getting with Prop 204 and that we all
3 can support as the elements, core elements, that we would
4 all expect to be in a final solution as well.

5 MR. HILDEBRAND: The voters approve
6 spending the money on the basis that the items have cleared
7 the PEIS, and we aren't going to have the PEIS.

8 VICE-CHAIRMAN McPEAK: No, I don't think
9 so.

10 Lester and then I'll get Stu.

11 EXECUTIVE DIRECTOR SNOW: This portion of
12 the money that we are working on now is category three that
13 was in Prop 204 --

14 MR. HILDEBRAND: It was all category
15 three.

16 EXECUTIVE DIRECTOR SNOW: -- and so the
17 RFP covered only category three, 60,000,000 from Prop 204
18 and 10,000,000 additional stakeholder contribution. So
19 it's actually only related to a pre-existing obligation
20 under the accord from 1994.

21 However, even with that pre-existing obligation
22 we are attempting to do exactly what you're concerned about
23 to make sure that we are not funding -- putting a fish
24 screen on something that we intend to relocate the
25 diversion or some other action of creating tidal wetlands

1 we bring a funding proposal forward, it will be clear that
2 we are proposing to fund ten screens, six of them located
3 on the Sacramento River, five in some other location --
4 that would be 11, wouldn't it -- well, anyway, I don't do
5 the math on these things.

6 And even with the acreage to identify that
7 there is, you know, 10,000 acres of land acquisition, 2,000
8 is for tidal wetlands, 3,000 is for forage crops, I think
9 we can provide enough information you can make judgments
10 about the package as a whole and perhaps provide comments
11 that there is too much land acquisition, not enough screen,
12 not enough watershed project. I think that will become
13 apparent when you see the package.

14 VICE-CHAIRMAN McPEAK: Let me take one
15 more question and see if we can get is this item wrapped
16 up.

17 Bob.

18 MR. RAAB: I just wanted to offer a
19 comment.

20 There was a workshop in July, was it, Kate,
21 that was well attended. At least 300 people in Sacramento
22 and many of the nonprofits were there along with governing
23 Agency people and similar questions were asked of the kind
24 being asked now and I think it would be fair to say that
25 the nonprofits came away from the meeting reasonably

1 in an area that needs to be maintained in foraging crops
2 for other kinds of species so we do intend to provide that
3 type of review.

4 VICE-CHAIRMAN McPEAK: Stuart.

5 MR. PYLE: I was just curious as to what
6 provisions the secret proposals are handled.

7 The bidding process I'm familiar with, that you
8 open the proposals in public, you read them, you write them
9 on the blackboard, you make copies and hand them to
10 everybody.

11 What kind of a process is this?

12 EXECUTIVE DIRECTOR SNOW: It's not a
13 bidding process like for construction projects.

14 It's more analogous to acquisition professional
15 services, a contracting type of process.

16 And if you want to get into the detail on it,
17 Mary would be more than happy to explain the issues.

18 However, I believe working through this we've
19 come up with a system that can work.

20 We have an integration panel that is both
21 Agency as well as non-Agency expertise that we structured
22 in a way that will look at individual proposals and have
23 access to them.

24 I believe with the elaborate data base that has
25 developed we can provide very good summaries so that when

1 satisfied that the process was fair.

2 So these are good questions but I think there
3 is a level of comfort with the way it's being handled.

4 VICE-CHAIRMAN McPEAK: Thank you, Bob.

5 I also want to note when you said that, you did
6 not organize a review panel by species. You were referring
7 to the subject matter and not the panel members themselves.

8 KATE HANSEL: Yes.

9 VICE-CHAIRMAN McPEAK: Okay.

10 Proceed with the panel, the integration panel.

11 KATE HANSEL: Okay.

12 This is a summary, real brief of what the
13 integration panel's task is.

14 The integration panel needs to, of course, live
15 within the RFP in terms of the priority species and
16 habitats and stressors that are in the RFP but we didn't do
17 additional priorities within the 11 species in the RFP.

18 So there was additional guidance that we should
19 emphasize certain species over others in terms of where the
20 greatest needs are. There are certain ecosystem processes
21 where we really want to emphasize what are the overall
22 guidelines so we've asked the integration panel to provide
23 additional guidance in terms of what the relative
24 priorities and importance of things are, species habitats
25 and it's not 12 to 15 now. It's 20 members on the

1 integration panel.
 2 VICE-CHAIRMAN McPEAK: Yes, Stuart.
 3 MR. PYLE: Could Kate tell us what the end
 4 process of this is?
 5 Are you selecting contractors?
 6 Are you selecting projects and then after you
 7 make a selection, I assume, then they go into some type of
 8 process that goes through the whole EIR/EIS procedure?
 9 VICE-CHAIRMAN McPEAK: Can you, Kate,
 10 respond to Stuart's question?
 11 KATE HANSEL: Uh-huh (yes).
 12 We are selecting proposals. Contracts will be
 13 written and as part of the condition of the contract each
 14 contract has to be complied with environmental law and all
 15 existing laws. So it stands on its own. It's not tied to
 16 the EIR/EIS.
 17 So we in some cases may even be funding some
 18 environmental work and environmental permitting as part of
 19 a feasibility study that needs to be done prior to
 20 construction.
 21 But those questions will be asked. If you
 22 haven't done them, you have to do it before you move to the
 23 next phase.
 24 Did that answer your question?
 25 MR. PYLE: Not really.

1 them but there is not even a standard of saying this is too
 2 high or too low.
 3 If it's land acquisition and it's going to be
 4 done with State money, it has to meet fair market price and
 5 that will be a requirement. We wouldn't be able to exceed
 6 that so we'll be getting input from Wildlife Conservation
 7 Board for that kind of guidance or if it's appropriate,
 8 from the Fish and Wildlife Service for Federal acquisitions
 9 to give us guidance about whether this is the right dollar
 10 amount to be requested.
 11 No money would be released for a proposal for
 12 land acquisition unless it's met, it's been appraised and
 13 meets fair market value and it doesn't exceed that.
 14 VICE-CHAIRMAN McPEAK: So the
 15 reasonableness of the proposed costs for completing the
 16 project is also being taken into account in the review, and
 17 we have -- the responses to the RFP of both the project and
 18 the contractor, contractors that would be selected if the
 19 project is approved to be consistent with the category
 20 three and the intent of 204 with the stipulation on the
 21 fair market value if a land acquisition project came
 22 forward.
 23 The intent would be that a contract sets the
 24 total amount of money that would go to that contractor to
 25 carry out the project.

1 KATE HANSEL: No?
 2 MR. PYLE: Are you going to select a
 3 contractor or are you going to select a project and then,
 4 you know, just --
 5 KATE HANSEL: Well, I'm not sure of the
 6 question.
 7 The proposal is both.
 8 VICE-CHAIRMAN McPEAK: Yeah.
 9 KATE HANSEL: It's what they are doing and
 10 who they are. So they come cast as a package.
 11 We don't change -- we can't say we'd like you
 12 to do something different and we want you to do something
 13 different but we want you as a contractor. It comes as a
 14 package.
 15 MR. PYLE: What cost control do you have
 16 once you select the process?
 17 KATE HANSEL: "Cost control".
 18 Each proposal -- I mean, I think what's hard is
 19 this is really a grant program following contract law so we
 20 have such a variety. We don't have a certain cost standard
 21 because the type of proposals coming in, as you saw, were
 22 so broad. There is not a cost benefit analysis that has to
 23 be done on individual. We have studies. We have
 24 construction. We have land acquisition.
 25 And the cost is one criteria when we review

1 Stuart, you had another question, right?
 2 Oh, Alex and then Lester --
 3 MR. HILDEBRAND: I think the problem here
 4 is that a lot of us are nervous about turning into rubber
 5 stamps.
 6 But my question at the moment has to do with
 7 what you have up there now.
 8 Are you talking about steelhead on the
 9 San Joaquin or steelhead generally?
 10 KATE HANSEL: I think it's general. It
 11 wasn't location --
 12 MR. HILDEBRAND: The way it's phrased it
 13 isn't clear, and I don't think it's been determined whether
 14 there are any steelhead on the San Joaquin.
 15 VICE-CHAIRMAN McPEAK: Okay. Kate.
 16 KATE HANSEL: Well, this is just reporting
 17 the first information that's come out of the integration
 18 panel, is they did take the list of species that are in the
 19 RFP, and there is additional species that are not listed in
 20 the RFP that are CVPIA species, and I don't have those
 21 identified right here, but American shad, Sacramento fall
 22 run, I think white sturgeon.
 23 What they did is they did an additional break
 24 in terms of the fish species at the fish and put first
 25 tier, second tier, so when they are looking at proposals,

1 they make the general idea that more funding should go to
2 restoring things in the first tier than the second tier
3 than the secondary category, not that no funding would go
4 below but just to give you some sense of where to put the
5 funding they've done this breakdown.

6 Now, the CVPIA angle here is there is an effort
7 going on between CVPIA and category three to integrate
8 those programs in terms of setting priorities and advising
9 on proposals, and that's not a final decision that's been
10 made, I don't believe, but the idea is possibly at the
11 annual work plans for 1998 fiscal year for CVPIA that
12 relate to anadromous fish and overlap with category three
13 would come to the same integration panel and they would
14 give advice to the service and the Bureau and would be
15 following the same kind of priorities here. So that's why
16 we've added those species.

17 VICE-CHAIRMAN McPEAK: Tom, you have a
18 question.

19 MR. GRAFF: Have you consulted legal
20 authority as to the sort of relative priority of the
21 migratory birds under Federal law and some of the fish
22 species that are in the primary category?

23 I would think that there would be at least some
24 who would argue that migratory birds get a -- ought to
25 get -- at least some migratory birds ought to get at least

1 And it was the recommendation from the
2 integration panel to elevate some of the species into the
3 first tier over the second tier in terms of their need for
4 restoration and attention.

5 MS. BORGONOVO: I guess my question is,
6 though, when you say it's a priority species, it's a
7 priority species in the whole CalFed --

8 KATE HANSEL: No, for category three, for
9 this funding cycle only. For this -- just category three
10 pot of money.

11 MS. BORGONOVO: And when might it be
12 addressed then if there is a concern for migratory birds
13 funding for restoration projects? In the second phase or
14 in the CalFed restoration program?

15 KATE HANSEL: I'd say both.

16 Each funding cycle will have a -- revisit the
17 priorities and then when they are in volume three for the
18 ERPP, they are going to be identifying how they should be
19 doing implementation of the ERPP and what kind of
20 priorities should be first and how you would determine
21 those priorities.

22 VICE-CHAIRMAN McPEAK: Lester.

23 EXECUTIVE DIRECTOR SNOW: Also, I would
24 add that this division of the species in the primary and
25 secondary is not an indication that in this round secondary

1 as much attention as some of the fish listed in the primary
2 category, both from a legal and a policy point of view.

3 KATE HANSEL: What this reflects is that
4 it's consistent with what was already in the RFP and what
5 was advised from the ecosystem roundtable and CalFed staff
6 in the last round, is that migratory birds are a priority
7 but they're secondary in terms of the conflicts in the
8 Delta so we might need to put more emphasis on the
9 fisheries as opposed to migratory birds but they are a
10 priority and they are a part of the ecosystem so they were
11 included and so we didn't change what's already in the RFP
12 that was -- the secondary is already listed in the RFP and
13 that was striped bass and migratory birds.

14 VICE-CHAIRMAN McPEAK: Roberta.

15 MS. BORGONOVO: This is not one of those
16 arenas that I follow, but going back to Tom's question, if
17 it's a priority how would it be addressed?

18 Would it be addressed in the ecosystem
19 restoration instead of category three?

20 Is that the distinction you are making on
21 primary and secondary?

22 KATE HANSEL: The distinction we are
23 making here is with the 70,000,000 we have where should we
24 put our funding priorities in terms of trying to restore
25 these species, which ones have the greatest need.

1 species will not be benefited.

2 In fact, that is probably not the case.
3 Fortunately, we find the number of projects that have
4 multiple species benefits, and I think it would actually be
5 an unusual outcome to find that in our slate of projects we
6 bring forward there is not some benefit to those secondary
7 species.

8 VICE-CHAIRMAN McPEAK: Especially if the
9 habitat approach is effective.

10 KATE HANSEL: Right.

11 VICE-CHAIRMAN McPEAK: And there is
12 something to ecosystem. There should be those benefits.

13 Let's wind this up.

14 KATE HANSEL: Right.

15 VICE-CHAIRMAN McPEAK: I'm going to ask
16 for all the comments and questions to be held until we
17 conclude so we can move on.

18 KATE HANSEL: Okay. One more overhead of
19 what guidance the integration panel is recommending.

20 They've looked at types of projects that would
21 be coming in and where they think the best efforts should
22 be put in terms of funding so they did a high to low, not a
23 percentage split, and it's reflective of the kind of thing
24 that's in the RFP.

25 So things on the ground doing things is top

1 priority down to O and M, only if it's short-term, not a
 2 long-term O and M commitment and then in between. And then
 3 the monitoring was mentioned as being more landscape level
 4 would be at that category but monitoring for projects that
 5 are constructed comes under implementation so you always
 6 need to monitor things when you're actually putting
 7 something on the ground.

8 VICE-CHAIRMAN MCPPEAK: Does that conclude
 9 the presentation?

10 KATE HANSEL: Uh-huh (yes).

11 VICE-CHAIRMAN MCPPEAK: Thank you very
 12 much, Kate.

13 Any final questions?

14 Yes, Rosemary.

15 MS. KAMEI: It sounds like what you said
 16 on the priorities, each funding cycle may change in terms
 17 of the priorities.

18 How does that affect a project that would
 19 potentially have two or three funding cycles and that it's
 20 phased over a period of time?

21 Has that been taken into consideration?

22 KATE HANSEL: I don't think it's going to
 23 deviate so strongly that we wouldn't continue some things
 24 we've already invested in.

25 It's more just if certain species get listed or

1 acquisitions if they are site specific, that's a condition
 2 of us even approving the proposal that they've already
 3 contacted the seller. I
 4 in other cases there is more of a block grant
 5 approach and an organization might be asking for a lump sum
 6 to address acquisition in a certain region.

7 In that case willing sellers haven't been
 8 notified because they haven't even identified them, and no
 9 money would be released through that process until a
 10 willing seller has been identified and worked with.

11 VICE-CHAIRMAN MCPPEAK: Alex.

12 MR. HILDEBRAND: How do you deal then with
 13 a situation where a willing seller is going to retire and
 14 so he fallows his land, then grows tumbleweeds and the
 15 squirrels for all his neighbors so he was a willing seller
 16 but his neighbors are going to get clobbered and maybe also
 17 have a big fire risk?

18 KATE HANSEL: Well, we don't want to -- I
 19 mean, one of the conditions -- considerations in funding
 20 something is local involvement and local support.

21 So if there is a controversy with a lot of
 22 neighbors in terms of opposing this where it's going to
 23 actually slow down the acquisition, we would consider that
 24 as maybe not a good place to put our money if we are never
 25 going to be able to succeed. But we would look at buffers.

1 certain opportunities come up and you really want to take
 2 advantage of them in the next round or maybe what we do is
 3 we don't -- we really emphasize just one region where -- if
 4 we get -- when we look at the proposals that are quality
 5 proposals and ready to go and want to be funded, if we
 6 didn't address a certain area because proposals didn't come
 7 in, then maybe we want to emphasize those types of actions
 8 in the next round to make sure we are focusing our efforts.
 9 So we want to make sure that we are not funding and
 10 investing now and then not continuing.

11 VICE-CHAIRMAN MCPPEAK: Howard.

12 MR. FRICK: The process of contracts seems
 13 to operate on generalities rather than specifics. Assuming
 14 there is a contract executed on a specific proposal, when
 15 does the public find out what that is and when does the
 16 landowner find out he's involved and what -- when does that
 17 occur?

18 VICE-CHAIRMAN MCPPEAK: Good questions.
 19 Kate, do you want to start and we'll fill in --

20 KATE HANSEL: Well, in terms of under
 21 contract law the decision and everything is public
 22 information in terms of the selection process and the
 23 scoring once the decision is made in November.

24 In terms of the land acquisition, of course,
 25 it's willing seller only, and in many cases these land

1 We would look at what needs to be done to address
 2 neighboring issues.

3 MR. HILDEBRAND: It sounds as though the
 4 neighbors wouldn't even know about it until you already had
 5 this thing funded.

6 KATE HANSEL: Not -- if it's site
 7 specific, we would have as a question in the -- we're
 8 asking when we review the proposal is what is the
 9 neighboring landowners and local involvement with this
 10 proposal?

11 VICE-CHAIRMAN MCPPEAK: Let's ask Lester
 12 and Roger to comment.

13 EXECUTIVE DIRECTOR SNOW: I guess what I'd
 14 add on the specific point is that even though we cannot
 15 share the specific proposals we clearly have applications
 16 from individuals that have already held community meetings
 17 in the area of their projects.

18 They've been working on it for years and have,
 19 you know, local groups that they are working with. And so
 20 they've been trying to do this and they've submitted a
 21 proposal and they indicate that in their proposal, that
 22 they've had community meetings.

23 And I think the point that Kate was making as
 24 we go through these if somebody wants to do land
 25 acquisition, and there is no evidence that they've ever

1 talked to anybody about it, that sends up a flag for us.
 2 That's looked at very differently than the one that's
 3 already indicated.
 4 We've had five meetings in the last two years
 5 to work through these issues. So we'll try to catch it as
 6 best we can and make sure we can monitor it as it goes
 7 forward.
 8 VICE-CHAIRMAN MCPPEAK: Roger.
 9 MR. PATTERSON: Kate, is it the case that
 10 for these individual projects that before they actually
 11 move to implementation you are going to have to go through
 12 CEQA NEPA or any other kind of compliance activity which
 13 does provide a forum, hopefully, to air some of these
 14 related issues?
 15 KATE HANSEL: Yes.
 16 Thanks.
 17 VICE-CHAIRMAN MCPPEAK: Let's try to
 18 conclude this session or this item on the Agenda but ask
 19 another timetable question.
 20 In November we will have the summarized results
 21 of the review panel -- review panels, and those will be
 22 summarized in terms of the kinds of projects and the amount
 23 of the funding proposed for those for our review and
 24 comment.
 25 How long after that will you be then taking to

1 KATE HANSEL: Well, if the first question
 2 is when would we announce the decision, I would think --
 3 VICE-CHAIRMAN MCPPEAK: That's a good way
 4 to put it.
 5 KATE HANSEL: -- late November, early
 6 December.
 7 VICE-CHAIRMAN MCPPEAK: Okay.
 8 KATE HANSEL: if all goes as planned.
 9 VICE-CHAIRMAN MCPPEAK: Okay.
 10 KATE HANSEL: And then contracts will take
 11 awhile --
 12 VICE-CHAIRMAN MCPPEAK: To negotiate?
 13 KATE HANSEL: To negotiate.
 14 So you will have the full information as to
 15 exactly who and what and where was finally approved.
 16 VICE-CHAIRMAN MCPPEAK: Okay.
 17 KATE HANSEL: Before contracts it should
 18 be a month or two at least before contracts start getting
 19 let and then --
 20 VICE-CHAIRMAN MCPPEAK: And let me ask
 21 this:
 22 We'll have -- we'll have the summarized
 23 recommendations and results of the panel review on November
 24 4th.
 25 At the December 12th meeting have in the packet

1 move to contract in public -- total public, if you will,
 2 disclosure of all of the applicants, information,
 3 contractors?
 4 KATE HANSEL: The plan is to take it to
 5 policy group at their November meeting for their final
 6 decision and so -- and then it needs to go to Secretary
 7 Wheeler for the 60,000,000 that's in category three.
 8 Legally he is the final step.
 9 My sense is that very soon after that if
 10 decisions have been made, then we notify every applicant
 11 of -- and then the ones that didn't succeed we need to send
 12 letters and explain why so they have that information.
 13 VICE-CHAIRMAN MCPPEAK: I think when I'm
 14 asking is how -- what is very soon thereafter we'll have a
 15 summary?
 16 KATE HANSEL: December.
 17 VICE-CHAIRMAN MCPPEAK: I'm hearing
 18 questions about the particulars.
 19 Would BDAC members be able to get 30 days,
 20 60 days instead of a list -- of exactly who are the
 21 proposers.
 22 Therefore, the prospective contractors and when
 23 will the contracts do you expect Secretary Wheeler would
 24 make a decision and contracts would be signed and
 25 implementation would begin?

1 the complete list of everybody you've notified so that that
 2 information is there and you know that you are going to get
 3 it in that time frame. Okay?
 4 Mary.
 5 MS. SELKIRK: Just quickly.
 6 Could you remind us again, Kate, about how much
 7 money there is actually available for the grant, about
 8 one-tenth of --
 9 KATE HANSEL: Yes.
 10 MS. SELKIRK: How much do you have to
 11 whittle it down by?
 12 KATE HANSEL: Well, we have 70,000,000 and
 13 we have 471 requested. So we have a lot of noes.
 14 VICE-CHAIRMAN MCPPEAK: 400,000,000?
 15 KATE HANSEL: Yes.
 16 VICE-CHAIRMAN MCPPEAK: A request for
 17 400,000,000 more than what is available?
 18 KATE HANSEL: Right.
 19 VICE-CHAIRMAN MCPPEAK: Thank you very
 20 much, Kate.
 21 And, thank you, BDAC members.
 22 There are other people from the
 23 audience -- yes, Jason -- I was just going to say, there
 24 are other people in the audience who may have come in,
 25 didn't hear the -- sort of the request for submitting your

1 cards.
 2 Three minutes, Jason, on this item, right?
 3 JASON PELTIER: Yes, or less.
 4 I just wanted to bring -- talk about two
 5 things.
 6 First, I think it's important for CalFed to
 7 consider in this funding cycle we are talking about
 8 \$70,000,000 of category three money, but we will shortly
 9 have in the Federal appropriation of somewhere between 50
 10 and \$120,000,000 to fund ecosystem work.
 11 I think it's really important for CalFed to
 12 think about, and we all need to think about the
 13 implications, but we need to start moving some of that
 14 Federal appropriation money in this process or something
 15 that follows quickly on its heels because we cannot go back
 16 next spring in the appropriations process and be fighting
 17 for another 143,000,000 and have the appropriators say "So
 18 what have you done with the money we gave you in '98?"
 19 We just cannot have that circumstance at all.
 20 The second point is I want to bring your
 21 attention to some real significant progress being made in
 22 the area of integrating CVPIA and category three of CalFed.
 23 Are you laughing, Lester, because you already
 24 talked about this?
 25 EXECUTIVE DIRECTOR SNOW: No. No.

1 After that I hope we can have a joint meeting
 2 of the restoration fund roundtable and the ecosystem
 3 roundtable to be briefed on the CVPIA program with the
 4 benefit of the comments of the technical people and the
 5 integration panel.
 6 I think that is a big step forward in terms of
 7 making sure we are on the same page and working in a
 8 coordinated fashion.
 9 VICE-CHAIRMAN McPEAK: Thank you.
 10 JASON PELTIER: And it's a lot like B(2).
 11 VICE-CHAIRMAN McPEAK: Jason Peltier.
 12 What I want to do is ask everyone when you come
 13 to the podium, if you'll say your full name so that it gets
 14 recorded more easily and I'll try to remember that when
 15 calling upon the BDAC members as well so that it gets onto
 16 the record.
 17 Just to comment with -- Jason is underscoring
 18 the need for us to move quickly because the credibility of
 19 the whole CalFed process is not only riding on the
 20 70,000,000 with the B -- excuse me -- 70,000,000 with the
 21 category three and 204, Prop 204 dollars but also the
 22 Federal appropriations.
 23 And, therefore, Lester, am I right in
 24 understanding that we have all these applications before
 25 us?

1 JASON PELTIER: Just laughing at me in
 2 general?
 3 VICE-CHAIRMAN McPEAK: We are not
 4 laughing.
 5 I'm trying just to be sensitive to when we get
 6 into this full blown discussion that's scheduled on the
 7 Agenda later but, please, relate it to just the category
 8 three if you can, Jason.
 9 JASON PELTIER: I wanted to talk about
 10 B(2).
 11 In prior years the restoration fund roundtable
 12 has had an annual meeting with the Bureau and the service
 13 to go through the year's plans for how they are going to
 14 spend restoration fund money.
 15 This year we are not going to do that and
 16 instead we're going to have -- and my understanding is the
 17 interior agencies have agreed with this -- to take the
 18 CVPIA program for '98 and go to a technical panel and to
 19 the integration panel and have it re-reviewed and discussed
 20 after they finish their category three work so there will
 21 be a little lag.
 22 It's not going to be before the fiscal year
 23 starts, but at least we'll have those same people who
 24 looked at this huge body of proposals now focusing in on
 25 the interior program for '98 and providing comment.

1 There will be the ability to respond very
 2 quickly if the Federal Government had asked?
 3 EXECUTIVE DIRECTOR SNOW: Correct.
 4 VICE-CHAIRMAN McPEAK: Correct.
 5 But we need to keep that in mind because
 6 Jason's right. You don't go back to Washington next year
 7 if we haven't accomplished a lot in the meantime.
 8 All right. We are now going to move to the
 9 next item on the Agenda, which is to look at the results of
 10 the alternative narrowing process and the detailed
 11 evaluation for both Steps 1 and 2.
 12 You'll recall at our last meeting we spent a
 13 lot of time narrowing this down, went through a lot of
 14 effort to make decisions.
 15 Lester is going to provide an overview of the
 16 final decisions on alternative narrowing and the rationale.
 17 He is also going to give us a summary on the
 18 discussions, on the changes to the distinguishing
 19 characteristics resulting from the last BDAC meeting and
 20 then taking those decisions and recommendations from BDAC
 21 to the CalFed agencies.
 22 Lester.
 23 EXECUTIVE DIRECTOR SNOW: Thank you,
 24 Sunne.
 25 This will seem like we are switching to the

1 more mundane. I know it's actually more interesting to
2 talk about the projects that we are going to select to
3 spend \$70,000,000, but I think it's important we focus on
4 some of these issues, that if all goes well, we are going
5 to make a multi-billion dollar decision in the very near
6 future here.

7 So one of the things we want to do today is,
8 first, update you on what's happened since the last BDAC
9 Meeting, the recommendations that BDAC made on our two step
10 process and how CalFed policy group has responded to that,
11 and then actually have Loren get into how we plan on
12 filling in this decision matrix, the distinguishing
13 characteristics that we talked about the last time.

14 And I guess I should stress -- do this on
15 Loren's behalf:

16 In order to make this a somewhat meaningful
17 meeting on this we have asked staff and consultants to fill
18 in some of the data fields on these distinguishing
19 characteristics and they've had to kind of accelerate out
20 of our normal track and so they've taken a little bit of
21 data and interpreted it a long way to do it for example
22 only.

23 I can virtually assure you that the numbers we
24 have in the packet will change as we get refined model runs
25 and have further deliberations by our technical teams but

1 felt that it might not be the right time to eliminate
2 pipeline alternative. We basically took that to the CalFed
3 policy group and they had a slightly different slant on it
4 but it ends up being kind of the same position.

5 And that is go ahead and eliminate alternative
6 3C and 3D, the pipeline but continue to carry an analysis
7 of how you can substitute pipeline for open channel.

8 And I remind you that was a lot of the
9 discussion that we had in this room, was that it was -- we
10 really should consider what the impacts of pipeline are.

11 So while -- when you look at our work we have
12 eliminated those alternatives.

13 In fact, we are carrying in what we call a side
14 bar analysis, the ability to take any one of the open
15 channels and convert it into a pipeline.

16 And you may recall that 3C and 3D were only
17 different from other alternatives in it being in a pipeline
18 instead of an open channel. So that's where we ended up in
19 terms of the narrowing process.

20 The way we look at this, basically everybody
21 agreed, BDAC, PCT and the policy group, don't jettison
22 converting to a pipeline at this point in the analysis.

23 Okay. So that takes us on to Step 2, detailed
24 evaluation.

25 Again, as we discussed at the last meeting we

1 it was important that we have numbers in some of those data
2 fields.

3 I want to remind you of the two step process we
4 discussed at the last meeting where we take our 17
5 alternatives, go through a course screen that we called
6 Step 1 narrowing on to Step 2, Detailed Evaluation, using
7 distinguishing characteristics to start really seeing how
8 these alternatives compare to each other in their
9 performance.

10 What we discussed last time was how we go about
11 the Step 1 narrowing process.

12 We presented to you five that we felt met the
13 criteria that should be -- could be eliminated as a result
14 of the narrowing process.

15 We had a pretty good discussion here and
16 basically got concurrence on the last three on this chart
17 and some discussion that it was premature to eliminate the
18 pipeline alternatives.

19 We took the results of that discussion, went to
20 what you hear us refer to as the PCT, the Program
21 Coordination Team, which is kind of the high level
22 technical folks from each of our agencies, shared a
23 discussion in our thought process with them.

24 In fact, maybe for some different reasons, some
25 of the same reasons, the Program Coordination Team also

1 take the 12 alternatives that we have now with the side bar
2 analysis.

3 We continue our modeling studies. We are
4 probably getting two major modeling studies in a week now
5 from efforts that we undertook several months ago, and
6 we'll continue getting modeling runs in as we move forward.

7 Prefeasibility studies on storage and
8 conveyance, what works, what the problems are, cost
9 estimates.

10 Impact analysis under NEPA and CEQA. Looking
11 at implementation strategies, financial and assurance type
12 issues and our various technical groups and work groups.
13 All of that comes together to help us make judgments about
14 meeting the objectives, minimizing impacts, consistency
15 with solution principles and as we discussed the last time
16 starting to develop this information in these
17 distinguishing characteristics.

18 Again, just as a reminder of our last
19 discussion there are literally hundreds of variables that
20 we are testing in all these alternatives, but since such a
21 significant portion of the alternatives are the same for
22 each alternative what we have tried to do is find those
23 factors or characteristics that really distinguish the
24 alternatives to concentrate on the differences and so
25 that's how we got to this concept of distinguishing

1 characteristics.

2 The last time we brought you -- well, let's

3 see, -- okay. We brought you 16 distinguishing

4 characteristics and I'll show you the complete list in a

5 moment.

6 This is taking the 16 and showing you only the

7 ones that we revised as a result of the BDAC discussion,

8 Program Coordination Team and CalFed policy group.

9 These were modified simply to change some

10 wording in them.

11 That what we want to evaluate is not just

12 export drinking water quality but, in fact, export water

13 quality.

14 And we are not just interested in storage

15 releases for non-environmental.

16 We are interested in storage and releases for

17 all purposes. That's a better factor to look at.

18 South Delta channel stages, what was brought up

19 to us is what you're really concerned about is adequate

20 access to water in the South Delta rather than a specific

21 action, which is the channel stage.

22 Assurances, people wanted us to clarify that

23 what you're trying to test is the assurance difficulty, the

24 difference in difficulty of providing assurance between the

25 different alternatives.

1 discussion we may need to change these distinguishing

2 characteristics.

3 Again, if one is not working, is not showing us

4 any difference, well, let's not continue it and also if we

5 discover that there is another factor we hadn't

6 contemplated, let's make sure we are able to add that.

7 So that's kind of where we are. That's what

8 resulted from BDAC recommendations at the last meeting and

9 this is how we are proceeding, and I would be glad to

10 respond to any questions on this before I turn it over to

11 Loren.

12 VICE-CHAIRMAN MCPEAK: Are there questions

13 of Lester?

14 Yes, David and then Judith. David Guy.

15 MR. GUY: Lester, you talk about

16 concentrating on the differences between the alternatives.

17 I guess I'm not real clear. What about the common

18 programs? What kind of analysis are you going through with

19 those at this particular time?

20 Is that different than what you're talking

21 about here or is it all the same analysis?

22 EXECUTIVE DIRECTOR SNOW: The analysis is

23 all the same. The difference here, though, is we are

24 trying to find the factors that are clearly different

25 between the alternatives.

1 I think we discussed here and in other places

2 it's not necessarily habitat disturbances but habitat

3 impacts that could be both positive and negative and then

4 the addition of two new distinguishing characteristics, the

5 ability to phase a facility, which was brought up here and

6 supported in other discussions and also adding one on

7 Brackish water habitat. That relates to the issue of x2,

8 it relates to the entrapment zone. It ends up being a

9 significant factor in trying to distinguish between the

10 alternatives.

11 So we have ended up at this point with 18

12 distinguishing characteristics, and this is what Loren will

13 end up discussing and this is what we are starting with.

14 These are the factors that we are using. We are trying to

15 dump the data into this to start trying to tease out the

16 differences between these alternatives and we may end up

17 modifying this.

18 We may determine as we go that one is not

19 showing us any difference at all between alternatives or we

20 may discover that there is one that we've missed that ends

21 up being important but right now this is where we are.

22 CalFed policy group has agreed with this

23 approach and starting with these 18.

24 And I do want to stress that as we move forward

25 we get comments from stakeholders or other Agency

1 In terms of the analysis that we are doing, you

2 know, impact analysis, like the ecosystem restoration

3 program is going to convert, you know, some range of land

4 in the Delta to certain kinds of habitat. We need to pick

5 up that impact analysis.

6 That conversion of land is not going to change

7 significantly between alternatives so we are picking up the

8 impact of it and, in fact, we have identified a

9 distinguishing characteristic that if that modifies a bit

10 between alternatives, we'll pick up an issue like that

11 here.

12 But the basic impact of it, like Alex brought

13 up earlier, we capture that as part of our impact

14 assessment.

15 MR. GUY: what about prefeasibility?

16 EXECUTIVE DIRECTOR SNOW: I'm not

17 sure -- prefeasibility is very important. That's where you

18 can pick up that, yeah, the reservoir site looks good in

19 terms of where it's located, in terms of its cost but it

20 turns out there is a major fault running through the dam

21 site and so prefeasibility does that kind of stuff for us.

22 Is there some other point?

23 MR. GUY: if you look at some of these

24 common programs and the potential cost associated with

25 that, is that considered a prefeasibility or is that a

1 different analysis?
 2 EXECUTIVE DIRECTOR SNOW: Well, that's
 3 part of the affordability, and I think that you, you know,
 4 affordability and implementability, that's where we pick up
 5 the issue of cost.
 6 MR. GUY: So the solution principles are
 7 considered at a later time then or I guess I'm not real
 8 clear what we are considering at this point.
 9 I assume the solution principles are considered
 10 all along, right?
 11 EXECUTIVE DIRECTOR SNOW: Yes, they are
 12 actually part of the distinguishing characteristics as well
 13 as a separate consideration.
 14 As we go through distinguishing characteristics
 15 we will make some attempt at determining consistency with
 16 the solution principles.
 17 I think it's also clear at the end of this that
 18 there will be a discussion that isolates on solution
 19 principles.
 20 VICE-CHAIRMAN McPEAK: The questions that
 21 you are asking, though, David, I thought may actually have
 22 at least another implication. Let me at least paraphrase
 23 it and ask you to respond, Lester.
 24 In the Common Program that has been identified
 25 and developed consistent with the solution principles in

1 one of these diversion effects, what we are trying to do
 2 there is assess the alternative in its entirety. What's
 3 happened in the ecosystem program, the levee program and
 4 storage and conveyance that can have a negative or
 5 beneficial effect on diversions.
 6 And so that's what we are attempting to assess
 7 at this point.
 8 MR. GUY: Well, I think the concern is and
 9 I guess just to wrap it up, the concern, of course, is that
 10 we are getting lulled into thinking that the common
 11 programs are a done deal and I guess that it concerns us, I
 12 think, is I guess what I would just say that obviously the
 13 impact analysis will be an important part of that but by
 14 focusing on all of these other things I hope we are not
 15 getting this false sense of security that the common
 16 programs are necessarily a done deal.
 17 VICE-CHAIRMAN McPEAK: It's the position
 18 of the Farm Bureau that the common programs are not all
 19 acceptable to you, is that right, David?
 20 MR. GUY: I think that's safe to say, yes.
 21 But, of course, we want to look at the bigger picture but I
 22 guess that I'm just concerned that all the focus on the
 23 differences and yet when we ultimately bring it back
 24 together, we are going to have to focus on the common
 25 programs again.

1 theory and is a given for all of these alternatives.
 2 So the prefeasibility step here is not
 3 intended, I thought, Lester, to go back and review the
 4 Common Program?
 5 EXECUTIVE DIRECTOR SNOW: Correct.
 6 VICE-CHAIRMAN McPEAK: What is the final
 7 safeguard, if you will, against the Common Program is the
 8 EIR/EIS process. It's the final review. I'm looking now
 9 to you, Lester, to say, is that wrong or should we modify
 10 it because the alternative narrowing at this point is going
 11 to focus on those components that are different --
 12 MR. GUY: Yes.
 13 VICE-CHAIRMAN McPEAK: -- in each of them.
 14 It's not taking this process or even those distinguishing
 15 characteristics and going back to the Common Program.
 16 The Common Program will be integrated into each
 17 of those alternatives and addressed in the EIR/EIS process.
 18 Lester, comment.
 19 EXECUTIVE DIRECTOR SNOW: That's correct.
 20 And what you end up evaluating is the entire
 21 package and how the entire package functions together.
 22 VICE-CHAIRMAN McPEAK: Right.
 23 EXECUTIVE DIRECTOR SNOW: which is what we
 24 have not done to date.
 25 And so when we are looking at -- I'll pick any

1 Does that make sense?
 2 VICE-CHAIRMAN McPEAK: I understand what
 3 you said. I've got -- I want to have Lester further
 4 comment on the process.
 5 We've got about five people who want to ask
 6 questions. Maybe that will help. So I'm glad to have the
 7 clarification from you.
 8 It's Judith, Roberta, Bob, I think then Alex
 9 and then Tom. So Judith Redmond.
 10 MS. REDMOND: Well, my question has to do
 11 with the distinguishing characteristic number seven so it
 12 is a completely new question.
 13 And that is the one on water transfer
 14 opportunities. I think that it can't really be included at
 15 this point.
 16 In the materials it says that the analysis is
 17 going to give higher ranking to alternatives that provide
 18 more opportunities for water transfers and I think that the
 19 discussion in the Water Transfer Work Group focused on
 20 concerns that the participants had about different kinds of
 21 transfers.
 22 We may find that the work group will come up
 23 with recommendations that say some types of water transfers
 24 should be prioritized over others or that, in fact, water
 25 transfers that do certain -- have certain kinds of impacts

1 shouldn't happen at all and so I think that until there are
 2 some results and recommendations from that work group that
 3 the distinguishing characteristic number seven should not
 4 be analyzed, cannot be analyzed and shouldn't be included.
 5 VICE-CHAIRMAN McPEAK: Roberta. Roberta
 6 Borgonovo.
 7 MS. BORGONOVO: I just wanted to go back
 8 to really a housekeeping question but the Program
 9 Coordination Team, are the technical people coming out of
 10 the CalFed policy group, their Agency people?
 11 EXECUTIVE DIRECTOR SNOW: The Program
 12 Coordination Team is all CalFed agencies.
 13 MS. BORGONOVO: And so it may or may not
 14 be different from the policy group and include some of the
 15 same people?
 16 EXECUTIVE DIRECTOR SNOW: No. It's
 17 completely different than the policy group.
 18 The policy group would be the regional heads of
 19 agencies or department heads of State agencies.
 20 And the Program Coordination Team tends to be,
 21 you know, division heads or technical people, a mix of
 22 folks.
 23 VICE-CHAIRMAN McPEAK: Bob Raab.
 24 MR. RAAB: Lester, for distinguishing
 25 characteristics you have Delta water quality, export water

1 San Francisco Bay? How would that fit?
 2 EXECUTIVE DIRECTOR SNOW: Well, but this
 3 is responding to the structure of the alternative and how
 4 these factors change between alternatives.
 5 And so each of these at least at this point of
 6 our assessment can change depending on the decisions you
 7 make on the alternative.
 8 I would not expect water quality in
 9 San Francisco Bay to change as a result of a decision you
 10 make on the alternative.
 11 VICE-CHAIRMAN McPEAK: Well, I think the
 12 question that Bob is raising is that if it were pesticide
 13 or constituent content, generally all of the alternatives
 14 are assuming that's the same because the Common Program
 15 controls for that or has programs to eliminate that.
 16 The hydrological differences of the various
 17 alternatives, and I think there are different hydrologies
 18 and timings that are possible associated with alternatives,
 19 could impact water quality or the characteristic of water
 20 quality at different points in the estuary based on timing
 21 of release and flushing flows.
 22 So from what you've said it appears to me that
 23 the pesticide issue as a constituent, for example, is
 24 assumed because of the control program that is embedded in
 25 the common element of everything, but the hydrology may

1 quality, but I don't see San Francisco Bay water quality in
 2 there.
 3 Is there some reason for that?
 4 EXECUTIVE DIRECTOR SNOW: I don't know
 5 where we would capture that.
 6 MR. RAAB: Well, certainly the Bay does
 7 receive waters from upstream --
 8 EXECUTIVE DIRECTOR SNOW: Yeah, there's no
 9 question about that.
 10
 11 MR. RAAB: -- and there's questions of
 12 pesticides and other water quality issues.
 13 EXECUTIVE DIRECTOR SNOW: Well, the
 14 pesticides we -- that's not a distinguishing characteristic
 15 because it's the same program for all of the alternatives
 16 so we would expect to see the same pesticide toxic
 17 reduction from all the alternatives.
 18 Therefore, we would expect to see the same
 19 benefits accrue in San Francisco Bay. Mine drainage is
 20 another example, that we expect to see mine drainage
 21 reduced to the same level on each of the alternatives.
 22 MR. RAAB: But then you also get into
 23 number ten, risk to export water quality -- export water
 24 supply.
 25 What about risk to needed flows into

1 change --
 2 EXECUTIVE DIRECTOR SNOW: Yeah.
 3 VICE-CHAIRMAN McPEAK: -- and that's what
 4 I think is being raised by Bob.
 5 EXECUTIVE DIRECTOR SNOW: Okay. Actually,
 6 I think, following along on that I think when we have Loren
 7 come up and he gets into some of these factors -- well,
 8 maybe he's not -- you are not going to talk about Brackish
 9 water habitat, are you?
 10 MR. BOTTORFF: No.
 11 EXECUTIVE DIRECTOR SNOW: I think maybe if
 12 you look at that detailed sheet on that, in there we are
 13 attempting to assess the number of days of x2 that gets at
 14 this hydrology issue for a normal year and critically dry
 15 year.
 16 I hadn't thought of it in the context you've
 17 raised the question but that's where we are tracking that.
 18 VICE-CHAIRMAN McPEAK: Okay. We've got
 19 several issues being raised here that we are going to come
 20 back and discuss.
 21 I'm taking your -- I just want to at least put
 22 some fears at ease, that I'm hearing your comments, you are
 23 raising things that you don't want to have accepted or you
 24 want to add. We are going to have to have a process to
 25 resolve here.

1 I think next in line is Alex Hildebrand.
 2 MR. HILDEBRAND: I apologize for having
 3 stepped out for a coverage call, but I did hear I think
 4 most of what David said and all of what Judith said and I'd
 5 like to concur in their comments regarding items seven and
 6 item 16.

7 I'll have more to say about item seven when we
 8 come to review of that. I think it out to be water
 9 transfer opportunities and impacts and -- but we haven't
 10 seen this examination of consistency with solution
 11 principles on the Common Program, and it isn't clear to me
 12 that these things are being examined cumulatively rather
 13 than just item by item and I think a lot of our concerns on
 14 those two subjects have to do a cumulative impacts rather
 15 than individual impacts of each item.

16 VICE-CHAIRMAN McPEAK: The cumulative
 17 impacts of Common Program two alternatives is, you state it
 18 much better than I did, is what you try to then assess in
 19 the EIR/EIS process, but --

20 MR. HILDEBRAND: We can't wait for the EIS
 21 process if we are going to start making decisions on the
 22 program in the meantime.

23 VICE-CHAIRMAN McPEAK: But I think we've
 24 got to come to resolution on getting to agreement,
 25 consensus and a level of comfort.

1 water in Southern California, and I did bring with me today
 2 a declaration that I prepared or I -- well, yeah, that I
 3 submitted, I guess, is the right word, in the Metropolitan
 4 Water District's lawsuit against all persons dealing with
 5 the wheeling of water in the Colorado River Aqueduct in
 6 particular but really in its whole system and it contains
 7 specific language relating the Colorado River controversies
 8 in Southern California to the Bay-Delta and, as I've said
 9 before, in our judgment if MWD continues to maintain the
 10 extraordinarily high wheeling rates that it has announced,
 11 that will make it much more difficult for the urban
 12 Southern California to get a full supply in the Colorado
 13 River Aqueduct and, of course, that will have impacts on
 14 the Bay-Delta and I do not think that this program can
 15 proceed to completion if that linkage is not fully
 16 explored. So I have enough here (indicating) for members
 17 of the Council and I've brought enough for some of the
 18 audience.

19 VICE-CHAIRMAN McPEAK: Tom, did I
 20 understand correctly that you are -- you were proposing
 21 perhaps some additional distinguishing characteristics or
 22 were you also questioning the Common Program?

23 MR. GRAFF: Well, I'm not sure.
 24 Maybe Lester can explain where it fits best.
 25 I think one of the bases upon which at least

1 I want to come back to what you've just raised
 2 and what David raised originally. That's on the list.
 3 Tom Graff.

4 MR. GRAFF: This sort of follows up on the
 5 Common Program --

6 VICE-CHAIRMAN McPEAK: Right.

7 MR. GRAFF: -- point that David Guy
 8 initially raised.

9 Since the first couple of meetings of this
 10 Council I've raised two major questions which CalFed has
 11 not addressed.

12 One regards water balance, it's the biggest
 13 term, how much in the way of depletions and diversions from
 14 this system are going to be contemplated in the program.

15 In particular we've been -- I've raised
 16 specific questions about how the Monterey Accord was going
 17 to be brought back into discussion in CalFed deliberations
 18 and the Council's deliberations and I think later today
 19 we'll hear more about how CVP operations and water
 20 depletions and diversions interrelate to the process. So I
 21 think that's one major thing that isn't somehow covered up
 22 there.

23 A second, which I had raised several times over
 24 the course of this Council's existence, is the relationship
 25 between Bay-Delta and the use and -- of Colorado River

1 EDF and I think many other environmentalists will assess
 2 the program as it emerges is how much water is going to be
 3 extracted from the system and how much is going to be left
 4 over for environmental purposes. That's really a major
 5 point, number one.

6 And, of course, two, is kind of a subset of one
 7 but it's a major subset of one.

8 If -- and it actually bears not just on the
 9 environmental interests north of the Tehachapis but the
 10 other water consumers north of the Tehachapis. If urban
 11 Southern California can't keep the full supply from the
 12 Colorado River, that means more diversions from the north.

13 EXECUTIVE DIRECTOR SNOW: Could I try to
 14 respond to actually both of these?

15 VICE-CHAIRMAN McPEAK: Yes, please.

16 EXECUTIVE DIRECTOR SNOW: I mean,
 17 hopefully a judgment from an environmental perspective of
 18 how good the program is doing will be made from the
 19 improvement in ecosystem health, that that will be the
 20 judgment, not from some other parameter, although, I know
 21 those come to bear.

22 Actually, in my mind Tom used kind of the
 23 perfect phrase when he put it in terms of the water
 24 balance.

25 VICE-CHAIRMAN McPEAK: Right.

1 EXECUTIVE DIRECTOR SNOW: Because the way
 2 that we have approached this whole exercise is how do you
 3 balance the system with all these different objectives and
 4 competing needs and that's the way we structured the
 5 objectives and solution principles.

6 And so kind of the answer to that question is
 7 the question of how much water can you get out of the
 8 system varies significantly with the alternative that you
 9 take. How much water you can remove while still meeting
 10 all of your other objectives varies with what you decide to
 11 do in the Bay-Delta system and so that's why we have tried
 12 to come up with parameters, such as water supply
 13 opportunities so you can see how that changes between
 14 alternatives. At the same time we are developing
 15 parameters like Brackish water habitat so you can see what
 16 the trade-offs are and where we end up.

17 But we have a system that's relatively
 18 inefficient and so how you change the system, whether you
 19 have storage or where you put habitat significantly affects
 20 the safety with which you can divert water without
 21 providing environmental impact that you can't overcome and
 22 works against the rest of your program. So that's one of
 23 the highly variable issues. It is possible to have more
 24 diversions than you have today. There is a lot of ways to
 25 measure that and have a healthier ecosystem.

1 to you in just a moment.
 2 MR. DUNNING: I'm wondering, Lester, if
 3 you could explain in your mind why you would include in
 4 Delta water quality on the distinguishing characteristics
 5 list but not include San Francisco Bay water quality?

6 EXECUTIVE DIRECTOR SNOW: Because the
 7 configuration of the alternative can have a dramatically
 8 different impact on in-Delta water quality.

9 MR. DUNNING: It cannot have an impact
 10 on --

11 EXECUTIVE DIRECTOR SNOW: Basically, yes.

12 MR. DUNNING: Could you explain that?

13 EXECUTIVE DIRECTOR SNOW: Well, first let
 14 me back up because probably my first answer wasn't clear.

15 But within the addition of the Brackish water
 16 habitat if you look at the material we've provided and how
 17 we come up with that we have the factor of x2, which is the
 18 way of chronicling how you are changing Delta outflow both
 19 in terms of the hydrograph and the total so we are
 20 capturing that issue.

21 What happens in the Delta and Alex probably
 22 knows this better than anyone, if you change the
 23 configuration of the Delta and the flow patterns, you can
 24 dramatically impact, particularly, salinity levels. That's
 25 not true in the Bay. You don't have that same impact on

1 There is a lot of possibilities out there and
 2 that's what we are trying to do in our evaluation, is to
 3 show what those possibilities are and what the trade-offs
 4 are.

5 On the second point what we have repeatedly
 6 indicated in terms of the Colorado River both here as well
 7 as at Metropolitan Board meetings is that we assume a full
 8 Colorado River Aqueduct and that there is really no excuse
 9 for otherwise.

10 As this issue heats up it may be necessary for
 11 us to more clearly articulate that not only as a principle
 12 as we proceed but as some sort of implementing issue that
 13 we have to capture as we talk about how the program is
 14 implemented to make sure that there is not a trade-off on
 15 the Colorado River with Bay-Delta supplies. It's a
 16 significant issue.

17 VICE-CHAIRMAN MCPPEAK: Hap Dunning.

18 MR. DUNNING: Lester, I'm going to come
 19 back to the issue of San Francisco water quality that was
 20 raised initially by Bob. Leaving aside the pesticide
 21 aspect of it as Sunne pointed out there's the hydrology
 22 aspect.

23 I'm wondering --

24 VICE-CHAIRMAN MCPPEAK: I'm just trying to
 25 get someone who can record comments. Good. I'll give it

1 the Bay. It's just the way you move water around the Delta
 2 that can dramatically impact your in-Delta water quality.

3 VICE-CHAIRMAN MCPPEAK: What I want to do
 4 is summarize what I heard to be issues placed on the table
 5 with respect to the narrowing process and the
 6 distinguishing characteristics so that we don't lose these
 7 comments and that we hear from Loren on the distinguishing
 8 characteristics and then, Lester, we need to come back and
 9 get some resolution on these items.

10 First, I heard raised the wording on number
 11 seven or even if it should be there, so water transfer
 12 opportunities, Judith is questioning whether it should be
 13 there, Alex, I think, is proposing the word and impacts
 14 there. On number 16 the consistency with the solution
 15 principles is not being questioned as a characteristic but
 16 how it got applied to the Common Program and that's even a
 17 larger question than just the distinguishing
 18 characteristics in terms of the sequence of process here.

19 We need to have resolution on that.

20 We've had Bob raise the question of how the
 21 quality of water in San Francisco Bay is addressed, either
 22 as an additional characteristic or flagged as part of
 23 another analysis on the distinguishing characteristics.

24 I've heard the larger question of water balance
 25 as a distinguishing characteristic to the alternatives and

1 I think Tom also as another characteristic I heard the
 2 proposal that we look at not just the Colorado River
 3 assumption, although Lester has raised that, but the
 4 agreements, many others that have happened out there. So
 5 other agreements, accords, pieces of legislation and how
 6 those are taken into account with the alternatives. You
 7 specifically said the Monterey Accord. That's probably not
 8 the only one.

9 Those are the five items that I think we have
 10 flagged so far that we need to come back and get resolution
 11 on to make a recommendation to the CalFed agencies.

12 And I don't -- I'm not proposing that we get
 13 that resolution until we've heard from Loren but then we
 14 will get resolution before we leave for lunch. So that
 15 should be motivating.

16 MR. HILDEBRAND: As usual you've done a
 17 good job of summarizing the discussion.

18 One additional thing, though, that I think
 19 needs to get in here is in regard to consistency with
 20 solution principles and to some of these other impacts we
 21 have to look not only at the impact of individual
 22 components with the cumulative impact.

23 VICE-CHAIRMAN McPEAK: That's exactly
 24 right.

25 And I didn't -- in fact, you were the one --

1 that we are phasing facilities toward the intended goal?

2 VICE-CHAIRMAN McPEAK: Good question.

3 EXECUTIVE DIRECTOR SNOW: If I'm tracking
 4 this it's more of the latter.

5 I mean, the intent of this item was to see that
 6 you have the alternative and if it costs six billion
 7 dollars for example, that you have the ability to phase it
 8 out over time so that on day one you don't have to do six
 9 billion dollars.

10 Also, that helps you perhaps line up the
 11 accrual of benefits so that everybody is getting
 12 incrementally better as you move forward and that's the
 13 intent.

14 Am I tracking right, those who wrote up the
 15 summary? I think so.

16 VICE-CHAIRMAN McPEAK: Was it not, also,
 17 though, Lester, that the ability to phase, not only so that
 18 the financing might be spread but also that there would be
 19 ability to continue to evaluate and judge the -- and agree
 20 to which the ecosystem objectives were being met as steps
 21 were taken, projects implemented, construction occurred.
 22 So that you would have the ability to, in fact, adjust and
 23 adapt actions against performance of the ecosystem.

24 EXECUTIVE DIRECTOR SNOW: Right.

25 VICE-CHAIRMAN McPEAK: Okay.

1 let's talk about the cumulative impact assessment because
 2 as we go along, obviously, if we make one agreement or come
 3 to some decision and then we make another, there may be a
 4 different analysis of the first decision, the first
 5 agreement we reached, based on how it interacts with the
 6 subsequent decisions and it's that cumulative impact
 7 analysis that is in theory supposed to happen with the
 8 EIR/EIS work that would include the Common Program.

9 I've got Pietro and then Roberta. So Pietro.

10 MR. PARRAVANO: I have a couple comments,
 11 one is on number 17, the newly added characteristic.

12 I was trying to find in the Minutes of our last
 13 meeting how that came -- what brought about that, that
 14 characteristic being adopted, and I really couldn't find a
 15 clarification on that, Lester. I see reading in your -- in
 16 an example used of the distinguishing characteristics on
 17 page 2 and 3 that there is some discrepancy between what
 18 the PCT wanted to adopt -- thinks that number 17 is
 19 intended to mean and what BDAC was intending to use item
 20 17.

21 For example, the PCT wanted the ability to
 22 phase facilities. Their interpretation of that was to
 23 expand facilities.

24 And my question is is expansion beyond the
 25 goal, the achieved goal, or is number 17 indicating to mean

1 I have Roberta and then Bob.

2 MS. BORGONOVO: We have discussed this
 3 several times with Lester but when we are talking about
 4 both integration of all of these different factors and
 5 assurances, we've talked about what is the baseline and
 6 it's been a long time since we had assumed that the
 7 baseline was the accord standards, which are x2, and I
 8 think that you've indicated, x2 is captured in 18, the
 9 Brackish water habitat, but the other was full
 10 implementation of CVPIA. So those are two very important
 11 factors that are part of the baseline. So for all of us
 12 that are concerned about the estuary it really doesn't
 13 matter how much fresh water outflow there is.

14 It does directly impact the water quality water
 15 of the Bay. I'm sure that -- I assume that that's one of
 16 the factors that Bob was concerned about.

17 But when we don't see it up there it continues
 18 to be a worry. First of all, that there is not some kind
 19 of a baseline and, secondly, that we won't be able to
 20 really see the difference in those alternatives and it goes
 21 to Tom's question, too, on water balance.

22 EXECUTIVE DIRECTOR SNOW: Well, we do have
 23 a baseline. We have two baselines.

24 We have what's called existing conditions.

25 That's what's out there today and then we also have what's

1 called the no action alternative.
 2 No action alternative includes CVPIA and so we
 3 have done the best that we can in terms of modeling that.
 4 All of our alternatives as they are configured
 5 exceed the environmental protections provided in CVPIA.
 6 And so we already have those issues on the table.
 7 VICE-CHAIRMAN McPEAK: Roberta, were you
 8 proposing for discussion a separate item that has already
 9 been identified or elaborated on a couple of the ones that
 10 Bob and Tom brought up?
 11 MS. BORGONOVO: We mentioned and talked
 12 about it several times.
 13 I went back and looked at the Minutes of the
 14 last meeting and specifically the actual outflow to the
 15 Bay-Delta will continue to be of importance to the
 16 environmental community and it's still not clear to me how
 17 that is different from Delta water quality.
 18 I mean, you're concerned about the export water
 19 quality and I'm assuming you mean at the pumps.
 20 Is that how you define that?
 21 EXECUTIVE DIRECTOR SNOW: Yeah, in the
 22 export channel.
 23 MS. BORGONOVO: Right.
 24 But there continues to be this linkage in many
 25 of our minds between fresh water outflow and water quality

1 already included in one of those others, then at least it
 2 gets flagged.
 3 Okay. Now, I cut off Pietro. I'm sorry. You
 4 were in the middle of your decision -- or your question.
 5 MR. PARRAVANO: I just had one more
 6 comment and I'd like to propose that there be an additional
 7 characteristic be added to the list.
 8 And that is dealing with recovery programs that
 9 are mandated by compliance with endangered species. I
 10 don't see any --
 11 EXECUTIVE DIRECTOR SNOW: We should have
 12 that in every one of the alternatives. The ecosystem
 13 restoration program was designed to recover all of the
 14 endangered species and, Dick, feel free to comment on this
 15 but, in fact, incorporated most, if not all of the actions
 16 in the existing recovery plans.
 17 Does it?
 18 MR. DANIEL: (Affirmative nod)
 19 VICE-CHAIRMAN McPEAK: Dick, are you
 20 supposed to comment now?
 21 MR. DANIEL: Only if appropriate.
 22 VICE-CHAIRMAN McPEAK: I think Lester
 23 asked you is that the case?
 24 MR. DANIEL: And I nodded.
 25 VICE-CHAIRMAN McPEAK: Okay. I'm sorry.

1 in the Bay-Delta so -- and so I don't know if it's totally
 2 captured in Brackish water habitat.
 3 VICE-CHAIRMAN McPEAK: It may not and
 4 that's why it's up there as another item to come back to.
 5 What you were raising I think is really
 6 important to understand. Certainly, I'm still struggling
 7 to understand how the baseline is taken into account. So I
 8 wasn't discounting that.
 9 I think the baselines, the two, are something
 10 we need to clarify but they are by definition intended to
 11 be baselines in all of the alternatives. Therefore, not
 12 distinguishing characteristics. And that's all I was
 13 trying to do, is sort of facilitate us getting out the
 14 issues that relate to these distinguishing characteristics
 15 that are going to be used to evaluate the alternatives
 16 so --
 17 MS. BORGONOVO: If that's the case, the
 18 question is still raised, will you still have the same
 19 outflow under all the alternatives.
 20 VICE-CHAIRMAN McPEAK: No. And that's why
 21 that's been -- at least whatever power I had here in
 22 chairing this, I said that's right, there is a different --
 23 there is a potential for a different outflow and that's why
 24 that's up there for consideration as an additional
 25 characteristic or if Lester can convince us that it's

1 MR. DANIEL: The intent of the ecosystem
 2 Common Program when it's integrated into the alternative
 3 will be recovery and precluding the need to list additional
 4 species so that's built into all of the alternatives.
 5 VICE-CHAIRMAN McPEAK: Bob Meacher.
 6 MR. MEACHER: Sunne, I don't mean to beat
 7 this up again but I want to go back to Pietro's comment in
 8 this part of the packet that we have on page 2 and 3 on the
 9 PCT wanting some measurement on the ability to expand
 10 facilities in the future and then adding the ability to
 11 phase facilities would take care of that.
 12 To me politically especially expansion and
 13 phasing are two totally different things and how we can
 14 lump that understanding would be sort of to me a double
 15 speak. When we say phase we mean expand and I don't
 16 know -- at the last meeting there was a minor brouhaha
 17 amongst some of the members of the Council as in looking at
 18 the ability to expand the canal as a factor to consider as
 19 a good -- pushing it up the ladder as far as making a
 20 decision.
 21 And if you go over to the other page the BDAC
 22 recommends adding the measure of how easily the
 23 alternatives could be phased and the staff agrees and so
 24 they are putting in the ability to phase. So we are
 25 covering phase and that covers what our concern was, but

1 now that phase also means expansion.
 2 EXECUTIVE DIRECTOR SNOW: We need to
 3 delete the word expansion. That was not intended. I think
 4 it was a poor word choice. It was phasing. It was related
 5 to the BDAC discussion.
 6 MR. MEACHER: So how, Lester, do we handle
 7 the PCT wanting measurement to -- or ability to expand
 8 facilities in the future?
 9 EXECUTIVE DIRECTOR SNOW: I actually don't
 10 think that was an issue with the PCT. I think we just
 11 picked the wrong word to describe it.
 12 We have actually had no one in our entire
 13 process raise the issue that you really need to make sure
 14 you know how to expand your facilities. The whole
 15 discussion in any arena we've been in hasn't been about
 16 staging and phasing so we just need to get that out of
 17 there. It was a poor choice of words.
 18 VICE-CHAIRMAN McPEAK: Okay. I've heard
 19 Lester suggest a resolution to this one issue, which is
 20 that expansion isn't included in 17, that expansion and
 21 phasing are not the same things. Phasing in a solution is
 22 what is intended. That is, staging the implementation.
 23 MR. MEACHER: Staging not expansion.
 24 VICE-CHAIRMAN McPEAK: Okay. If that's,
 25 you know -- I think let's -- I'm seeing sort of relief

1 might modify our thinking.
 2 EXECUTIVE DIRECTOR SNOW: Let me make
 3 three points.
 4 VICE-CHAIRMAN McPEAK: Lester.
 5 EXECUTIVE DIRECTOR SNOW: Not to stimulate
 6 the discussion again but we'll come back to it and then
 7 have Loren.
 8 Because some of the issues that have been
 9 brought up are technical and I want to mention two of those
 10 just to direct your attention to something and the other is
 11 a big policy issue and I want to punctuate that one.
 12 The first two technical ones, those that were
 13 concerned about the transfers impacts, I just want you to
 14 take a look at number 15 in the packet, page 22, where we
 15 have in there both the negative adverse impacts, beneficial
 16 impacts, including the amount of water purchased, third
 17 party impacts, that sort of thing, see if we are capturing
 18 that.
 19 The second technical issue is you may want to
 20 look at Brackish water habitat and the details within it
 21 because it does have number of days of x2 and its duration,
 22 location and surface area and volume.
 23 This is the outflow issue so you need to take a
 24 look at that and see if we've captured it.
 25 MR. HALL: Where was the technical?

1 physically around the table.
 2 So we'll sort of stipulate to that right now
 3 and expect that that will be the resolution on that item.
 4 What I want to do is hear from Loren and then
 5 come back to getting decisions on our recommendations on
 6 these items.
 7 Mary.
 8 MS. SELKIRK: Just a procedural point.
 9 If you could repeat again maybe after Loren's
 10 discussion the specific distinguishing characteristics
 11 that -- for the Council to consider revision of or addition
 12 to or whatever because I know -- you have them all,
 13 Eugenia?
 14 EUGENIA LAYCHAK: I think so.
 15 VICE-CHAIRMAN McPEAK: I think so. It's
 16 hard to see. I decided I wouldn't try to record them
 17 myself although those of you who know (inaudible) -- that
 18 I'll come back and we will take them one at a time.
 19 EUGENIA LAYCHAK: Okay.
 20 VICE-CHAIRMAN McPEAK: But let's
 21 not -- not now. Let's get Loren first.
 22 MR. MEACHER: Are we going to be able to
 23 expand on this, too, this morning?
 24 VICE-CHAIRMAN McPEAK: Yeah. As you
 25 hear -- that's why we want to hear Loren's wisdom so we

1 EXECUTIVE DIRECTOR SNOW: The second
 2 one --
 3 VICE-CHAIRMAN McPEAK: Brackish water.
 4 EXECUTIVE DIRECTOR SNOW: -- is number 18,
 5 Brackish water habitat and it's in the attachment in the
 6 section labeled Detailed Evaluation, Step 2.
 7 MR. MEACHER: That's page 2, point two you
 8 are referring to, also, is in that same area?
 9 EXECUTIVE DIRECTOR SNOW: Yes. And this
 10 happens to be page 28 of that attachment.
 11 The other point I want to mention because of
 12 its significance and it goes back to David Guy's comments
 13 raising the issue that maybe the common programs won't go
 14 forward or could be changed significantly.
 15 This whole program to date is based on the
 16 assumption that these common programs move forward and so I
 17 just want to kind of tag that issue that modification of
 18 the common programs in any significant way is a major,
 19 major change to the program, major policy shift.
 20 I don't discourage from you that discussion. I
 21 just want to flag that one monumental issue.
 22 VICE-CHAIRMAN McPEAK: It registered that
 23 way with me, too, Lester, so that's not -- it's really not
 24 a distinguishing characteristic discussion --
 25 EXECUTIVE DIRECTOR SNOW: Right.

1 VICE-CHAIRMAN McPEAK: We need to have a
 2 much fuller discussion around just that item. It is. I
 3 agree.
 4 EXECUTIVE DIRECTOR SNOW: Okay. So,
 5 Loren.
 6 MR. BOTTORFF: Okay. I just wanted to
 7 leave this list of 18 distinguishing characteristics up for
 8 a moment and reinforce some of the things that Lester had
 9 said.
 10 The approach we are taking is starting with
 11 these 18 and as he said, if there is a need to modify them
 12 in the future, add, subtract, we can do that.
 13 The last time we met with you you asked for an
 14 example or two of how we could take this information on
 15 distinguishing characteristics and basically show how it
 16 rolls up into a decision process.
 17 So before we get started with the example, get
 18 into the structure a little bit of what we'd propose.
 19 We talked about the concept last time of having
 20 a decision matrix that would basically be a one page at a
 21 glance summary of all the information we did in the
 22 detailed analysis.
 23 So in this case across the top of the matrix we
 24 have the 18 distinguishing characteristics, as we brought
 25 them to you today, and then down the left-hand side we have

1 one scores the best and which scores the least and
 2 everything in between.
 3 We may prefer to show things that group more.
 4 Maybe there is three or four alternatives that group higher
 5 than the rest of them so we may have a scoring system
 6 that's maybe a high, medium and a low rather than an
 7 absolute rank on 12 or there may be some type of a score
 8 that we could place to show more of the relative positions
 9 but, again, we are going to be working with those details
 10 and coming up with a system.
 11 The thing that we need to remember as we are
 12 looking at the matrix is we don't get just one number in
 13 each box and have to take it at faith that the analysis has
 14 been done and presented appropriately.
 15 Each of the columns, each of the distinguishing
 16 characteristics has a framework that sits behind it and
 17 supporting information that sits behind it to basically
 18 document that decision.
 19 So if you look at a given alternative in one of
 20 the columns and you see a number, if you question that at
 21 all, you can basically drop back one sheet and show how the
 22 information is backed up with more detailed information.
 23 In this case up at the top I've just basically
 24 shrunk down the decision matrix and highlighted the
 25 in-Delta water quality column and you can see that behind

1 the different alternatives.
 2 The 12 alternatives, consisting of 1A through
 3 3I are shown.
 4 Lester talked earlier about the five that were
 5 set aside, and then up at the top we have existing
 6 conditions and the no action alternative, which would also
 7 be presented on the table so we can compare and contrast
 8 the alternatives on one sheet.
 9 So basically the effort will be to fill this
 10 table in for each distinguishing characteristics so that we
 11 can evaluate one of the alternatives. We'll be able to
 12 look all the way across and see how it performs with each
 13 one of the distinguishing characteristics or if we are
 14 interested in one particular one, export water quality, for
 15 example, we can look down and see how the 12 alternatives
 16 compare and contrast on the 12.
 17 We need to make some decisions on the type of
 18 ranking or scoring numbers that we will put in here.
 19 There are several examples and we'll be working
 20 with these and developing them over the next few months as
 21 we fill this table in. We may find something that works
 22 better than something else.
 23 But one potential is if we have 12
 24 alternatives, we may be able just, say, again, for export
 25 water quality, rank them from one to 12 so we'll show which

1 the in-Delta water quality there is a set of basically a
 2 framework that doesn't measure just one number for in-Delta
 3 water quality.
 4 We have western Delta water quality, south,
 5 central and north. So we are proposing to show the
 6 information for four different locations and that could
 7 even be changed and modified.
 8 And for a number of different parameters is
 9 what we are looking for and then basically supporting that
 10 information is whatever analysis that has been done, model
 11 runs, data to support the numbers, if there is any
 12 Committee meetings where there is qualitative expert
 13 analysis or expert judgment, that would be documented on
 14 what their judgments would be so basically in the top if
 15 you see a number, you can track it back to where that
 16 number came from.
 17 And we have a framework, a draft framework, set
 18 up for all 18 and those are listed in your packet. Lester
 19 just directed you to the, I guess it was attachment 1 in
 20 the packet, and if we have time at the end, I kind of doubt
 21 it now, but we could go through some of those if you wish
 22 if we . . .
 23 So last time you asked for an example or two.
 24 I'm putting up a slide here that Lester's already used,
 25 again, just reinforcement that we have all of these studies

1 and analyses going on that feed in that help us with the
 2 distinguishing characteristics.
 3 This is work that hasn't been completed
 4 (indicating). You know, we had to -- you know, we almost
 5 struggled a little coming up with some examples when this
 6 information hasn't been completed. We haven't convened the
 7 work groups yet that are going to make some of the
 8 qualitative judgments. So the examples really are truly
 9 examples. We did the best we could pulling them together
 10 but, again, just a clarification before we get into the
 11 examples.

12 They are for demonstration purposes only.
 13 It is preliminary information so it is
 14 complete. We had to make some quick judgments in order to
 15 make the mail packet.

16 Basically it's all subject to change. But it
 17 gives the idea of how the information can be portrayed and
 18 supported.

19 For the examples we -- this is a sheet that
 20 looks similar to one in your packet (indicating). We chose
 21 four of the distinguishing characteristics rather than
 22 carry one alternative through all 18 characteristics we
 23 said "Let's take a look at four of them just to demonstrate
 24 how the process works". And rather than run just one
 25 alternative through we chose to run six. We ran two from

1 for that conclusion to arise.
 2 I won't get into the details of how -- what TDS
 3 and the Delta circulation but what would actually happen is
 4 there is Delta model runs that are being done that will
 5 provide information on salinity throughout the Delta.

6 Also, vectors that show Delta circulation so
 7 there'll be some committee will get together and look at
 8 that information and basically the higher the salinity,
 9 let's say, the lower that alternative will score. So the
 10 alternative that scores with the lowest salinity will get
 11 the highest scores. You know, that type of analysis.

12 And then there will be judgments on the
 13 in-Delta circulation.

14 So, again, this whole table would be filled out
 15 and behind this again would be the backup of what the
 16 committees thought, what model runs were made, what the
 17 results of those would be so that all that information
 18 would be there so you could go back as far as you wanted to
 19 to get the information.

20 MR. FONTES: I have a question.
 21 MR. BOTTORFF: Sure.
 22 MR. FONTES: How are you going to try to
 23 distinguish between what would be similar versus
 24 significant impacts?
 25 And I'm not an expert so I don't know whether

1 alternative one, with and without storage, two from
 2 alternative two, again, a with and without storage and for
 3 alternative three a with and without storage. So you can
 4 kind of take a look at how things fit. So we are going to
 5 look at in-Delta water quality, diversion effects on
 6 fisheries, water supply opportunities and total cost just
 7 as an example.

8 So as we take in-Delta water quality to start
 9 the first thing we do for those six alternatives that we
 10 talked about, there is some backup information.

11 To start with, though, if you imagined this
 12 matrix all filled out and if you have a question, you come
 13 here and you look at alternative 2A and 2B, for instance,
 14 and in this case we just picked a ranking system where it's
 15 one through six. It just so happens that two of them
 16 perform exactly the same so we ranked them one and two.
 17 The next two ranked the same, at least in the initial
 18 judgments. So the purpose here is to be able to look at
 19 that one and two and if you have a question on how why
 20 would 2A or 2B rank the best in this example, there is
 21 supporting information behind it. So if you had a
 22 question, you could drop back to the next sheet, and,
 23 again, the numbers are based on very preliminary analysis,
 24 but you can look and say what happened in the Western
 25 Delta, South Delta, Central Delta and North Delta in order

1 10,040 is --
 2 MR. BOTTORFF: Right.
 3 MR. FONTES: -- pretty Brackish and 1200
 4 is, you know, really bad or whether it's just somewhat
 5 worse.
 6 MR. BOTTORFF: Right.
 7 MR. FONTES: And so the relative
 8 difference between one and two and five and six, how do you
 9 get that robustness in your --

10 MR. BOTTORFF: well, that's what I was
 11 mentioning earlier on the first sheet when we have to come
 12 up with some type of a scoring system and you'll see an
 13 example we get the diversion effects on fisheries, we made
 14 an attempt like that so we're trying some different ways --

15 MR. FONTES: So you are aware of this?
 16 MR. BOTTORFF: Right.
 17 So like on the fisheries one we took a scale.
 18 We said let's look at anything from zero to one, where one
 19 performs the best and zero performs the worst, so you can
 20 see if some of the alternatives are down in the .1 area or
 21 some are up in the .9 area.

22 So we need to figure out what works best for
 23 the whole array once we get them all put together and come
 24 up with something that's consistent.
 25 Again, we may come up with something that's

1 just a high, medium and low. We may look at the difference
 2 between 436 and 432 and say those are indistinguishable.
 3 They are both high performers for that location.
 4 So the mechanics of that we still need to work
 5 out over the next few months as we put the package
 6 together.
 7 In the next one again we proceed on to
 8 diversion effects on fisheries. Basically, the same
 9 process.
 10 Here is -- again we just chose to use a one
 11 through six ranking in this case. We could use high,
 12 medium and low or symbols or anything we figure that works
 13 the best. But the idea is as you go through here and if
 14 you question in your mind at all you'd say, well, why does
 15 1B perform the worst in this location?
 16 I mean, you may believe it initially but if you
 17 don't, then you can drop back to the next sheet.
 18 The next sheet will say, well, we didn't have
 19 just one number for diversion effects on fisheries. With
 20 the framework we have we are not looking just at one number
 21 of fish like I said. We are looking at Delta smelt, the
 22 Chinook, splittail, and there is a score for each one of
 23 those so you can see, you know. If there are any
 24 trade-offs, you'll be able to see what the results are,
 25 steelhead all the way across.

1 And in order to look at those judgments it's
 2 looking at the habitat, the transport and the entrainment.
 3 And, again, the experts would get together and basically
 4 fill this out and we would have the sheets documenting
 5 that.
 6 Did you want to say anything else, Dick, on --
 7 MR. DANIEL: I'll respond to any
 8 questions.
 9 MR. BOTTORFF: Okay. Yeah, just the
 10 concept on how the thing works and all of this subject to
 11 change. We may find when we get the experts together
 12 rather than the one person that happened to do this and
 13 find that some of those rankings and scorings are going to
 14 be different because their judgments will be different but
 15 all of that information would be documented.
 16 Moving to water supply opportunities, again,
 17 for this simple example, this is just -- we looked at some
 18 preliminary model runs that are -- and tried to come up
 19 with, again, for this scoring, whichever alternatives
 20 provided the most acre feet of water for a given
 21 alternative.
 22 MR. HILDEBRAND: For what or for whom?
 23 MR. BOTTORFF: It's the total for the
 24 ecosystem, for ag and for the urbans. With the criteria we
 25 had we basically had those split in thirds, again, for some

1 place to start.
 2 If that criteria changes, well, then the
 3 documentation would show that. So, again, it would be the
 4 same process. We'd come through and say why does
 5 alternative 1B in this case score the worst?
 6 In this case they are reversed where six is the
 7 worst score, one is the best score.
 8 MR. HILDEBRAND: Is this one third, one
 9 third, one third before or after you make the water
 10 transfers away from agriculture?
 11 MR. BOTTORFF: Again --
 12 VICE-CHAIRMAN MCPEAK: It's irrespective
 13 of it in this scoring.
 14 In this scoring (indicating) you have not taken
 15 into account transfers.
 16 MR. BOTTORFF: Right. Right.
 17 VICE-CHAIRMAN MCPEAK: So it's
 18 irrespective of the transfers in this scoring.
 19 And, as you can see, the -- at least the -- as
 20 I view it, the application of each of these 18
 21 distinguishing characteristics we now have it against the
 22 solution end up with some solutions scoring very high on
 23 whatever scale they have used on some of the
 24 characteristics and very low on others.
 25 So we'll end up with trying to give us through

1 the characteristic applications that as the evaluation of
 2 each of those alternatives against those characteristics,
 3 basically more information and information that has been
 4 put on some scale to help it -- to help us just look at
 5 the -- sort of the range.
 6 But it's not going to -- it's not likely to
 7 produce a magic conclusion through the application of these
 8 characteristics because we are going to have each
 9 alternative scoring very high, very low, on a variety of
 10 them.
 11 Alex and then Tom.
 12 MR. HILDEBRAND: Basically, what I'm
 13 getting at, though, is without a little more definition it
 14 isn't obvious just what the scoring was. That's one
 15 example.
 16 Another example would be why did you look at
 17 the water quality in the Delta only for September through
 18 December when those are the months of least concern,
 19 whereas the summer months are far more -- I think a far
 20 greater concern. So I don't understand your -- why you
 21 picked that period.
 22 MR. BOTTORFF: We were going for a mail
 23 packet. We had a time frame and the logic we used for the
 24 example we said the September through December period is a
 25 drier period, we are likely to see more differences in that

1 case.

2 But we are not limit to just that period. We

3 can display the information for just the summer irrigation

4 season or a full year or for whatever period we want.

5 The idea here again is to get an example out.

6 We wanted to show something that we thought maybe would

7 show the most difference between the alternatives for the

8 dry year.

9 MR. HILDEBRAND: I think then when we look

10 at this, you need to explain why you took that period

11 rather than a more important period for those purposes.

12 One more example is that you say that the

13 barrier -- South Delta barriers would be hindrances to

14 upstream migrating salmon.

15 Well, that depends on how you built them so I

16 don't know how you arrive at that statement. The tidal

17 barriers are intended to be open through a big part of the

18 tidal cycle so the fish can go through any time they want

19 and we have urged for a long time that the (inaudible)

20 river barrier also be made operable so you can periodically

21 open and let any trapped fish get on through so they don't

22 have to be a hindrance.

23 And so when you make a statement like that

24 without qualification, it seems to me you are bashing the

25 barriers without adequate examination.

1 I think can come up with respect to all three alternatives

2 in each of those characteristics and that's sort of what

3 are the assumptions about the physical ability and

4 characteristics of operations or the physical ability and

5 the regimen of operation of those alternatives and the

6 components to those alternatives.

7 Assumptions going in greatly alter the

8 alternatives that you are going to evaluate. So we needed

9 to be clear on that.

10 Tom Graff.

11 MR. GRAFF: Yeah, I mean, this is sort of

12 a variation of the discussion Lester and I had earlier, but

13 it seems to me if you are going to evaluate water supply

14 opportunities in terms of the best is the one that consumes

15 the most water. There ought to be a separate category for

16 water depletion consequences where in essence the

17 evaluation would be flipped so that the best would be the

18 one that reduced depletions the most or preferably -- yeah,

19 reduced depletions the most so instead of -- yeah, you just

20 reverse the evaluation.

21 MR. BOTTORFF: Potentially maybe we can

22 handle that.

23 First of all, all of these distinguishing

24 characteristics aren't necessarily independent. If we do

25 something to water supply opportunity, it creates a block

1 VICE-CHAIRMAN MCPPEAK: I think what you

2 just heard in Alex's comments is input for the expansion of

3 the work that will be presented to us for the November

4 meeting.

5 MR. BOTTORFF: Yeah, definitely.

6 VICE-CHAIRMAN MCPPEAK: Right here what we

7 are trying to do is give refinement, see if the approach

8 makes sense and on the water quality analysis, as an

9 example, I'm hearing, Loren, that you've got all the data.

10 For the purposes of being illustrative in this meeting

11 packet you chose one time frame and did the evaluation.

12 What I'm also hearing now from Alex and I would

13 suspect that the majority of BDAC is going to support that,

14 they want to see the full year experience water quality

15 evaluated for each of the three alternatives and you've

16 probably done something that makes a lot of sense, which is

17 to take that evaluation broken into different times of

18 year, maybe each quarter or season because you can't

19 actually average the whole year for each of these

20 alternatives.

21 And then on the fish screen question --

22 MR. HILDEBRAND: Fish barrier.

23 VICE-CHAIRMAN MCPPEAK: Fish barrier,

24 excuse me. Thank you.

25 -- I'm also hearing Alex identify a lot of what

1 of habitat impacts. Then that will show up under the

2 habitat impact distinguishing characteristic, just as the

3 cost of building new reservoirs is not necessarily embedded

4 in water supply opportunities, it's included in the total

5 cost figure, the total cost distinguishing characteristic.

6 So whenever we are trying to measure just something like

7 water supply opportunity, there are other impacts and other

8 costs and things that roll off in the other distinguishing

9 characteristics so --

10 MR. GRAFF: But would you object to

11 putting in water depletion consequences?

12 VICE-CHAIRMAN MCPPEAK: Tom, may I ask a

13 question?

14 Is the water depletion consequences is because

15 of the impacts on the habitat?

16 MR. GRAFF: There is a pretty

17 well-established correlation between how much water gets

18 consumed in the system and particularly how much water gets

19 exported at the pumps with degradation of the environment.

20 So programs which increase diversion, the

21 depletions and particularly exports will have a tendency to

22 have negative environmental consequences.

23 VICE-CHAIRMAN MCPPEAK: And that's -- I

24 thought that may be the connection.

25 Let me try to develop the reason I asked the

1 question.

2 In the CalFed process the -- there is in theory
3 not supposed to be that trade-off.

4 In other words, in theory the work we are to do
5 is to restore the estuary. So that that objective is
6 intended to be met from the core program or the objectives
7 in the ecosystem restoration.

8 MR. GRAFF: My understanding is that there
9 is no prescribed flow, for example, in the core program.

10 Is there?

11 EXECUTIVE DIRECTOR SNOW: Yes.

12 MR. GRAFF: Which is?

13 VICE-CHAIRMAN MCPPEAK: Lester.

14 EXECUTIVE DIRECTOR SNOW: Yeah, we have
15 within the ecosystem program we definitely have prescribed
16 flow patterns that increase over base case flows critical
17 to fisheries at the critical times.

18 The theory of the distinguishing
19 characteristics that you are getting at is that if an
20 alternative that gives you higher supply opportunities also
21 creates problems, you would expect that to show up in
22 diversion effect on fisheries, habitat impacts and Brackish
23 water habitat, and you would see it in terms of its effect
24 on x2 how you are affecting the fisheries in terms of the
25 diversion impacts as well as the habitat impacts.

1 guarantee at a minimum level and a trade-off to something
2 else, but that's to describe what we expect to be and we'll
3 all support as restoration of the ecosystem.

4 MR. GRAFF: How can do you that without a
5 water balance that tells you how much water is going to be
6 delivered to the environment?

7 VICE-CHAIRMAN MCPPEAK: We have to -- I'm
8 on really thin ice answering a technical question this way
9 and the audience agrees.

10 The answer -- I think the answer is that in
11 terms of water flowing in the system at certain times and
12 at certain temperatures and certain places coupled with
13 habitat is essential to achieve that set of objectives in
14 the ecosystem restoration.

15 I don't know whether or not that involves all
16 that you are asking as a water balance question and,
17 therefore, we've got it on a list to better describe, but
18 what I want to try to at least get out, again, and
19 underscore and see if we have agreement to, is the
20 understanding that the ecosystem restoration plan better be
21 something we all agree to because that's driving the CalFed
22 process and in doing that the Common Program is in theory,
23 we may still have some disagreement about it, but what was
24 intended by the process of a Common Program is that we have
25 concurrence on that with the only change being as we get

1 MR. GRAFF: Well, you can view it
2 negatively and you can also view it positively, can't you,
3 that in addition to what the Common Program will guarantee
4 in the way of flows there are opportunities for improving
5 the environment beyond those minimum guarantees in the way
6 of additional flow?

7 EXECUTIVE DIRECTOR SNOW: I think the
8 answer to that question is yes if I'm tracking right with
9 you.

10 MR. GRAFF: I mean, what level of
11 environmental restoration is guaranteed -- will be
12 guaranteed before we get to the evaluation of the
13 alternatives?

14 I mean, I think as I expend this out David Guy
15 and others may have some concerns from the other side but
16 maybe we ought to get this right out.

17 VICE-CHAIRMAN MCPPEAK: We are going to get
18 it right out today. I mean, it's not that we are going to
19 avoid it and that's why I was flagging it, this whole
20 discussion about the Common Program. In fact, we are going
21 to get to it before lunch.

22 The intent of the ecosystem restoration
23 program, so what Mary Selkirk's committee has been working
24 on, is the foundation of all of our work, and that that is
25 to describe a healthy ecosystem, not a minimum, not a

1 the cumulative impact information; i.e., understanding that
2 even though there may be a Common Program we have agreed
3 to, and that's based on what we understand science to be
4 today, that there could be alteration of that Common
5 Program or impacts on that Common Program because of the
6 various alternatives and that might cause us to go back and
7 to want to do some modifications.

8 But what we thought we were doing is getting
9 agreement to a Common Program that we weren't going to have
10 a lot of argument about except as we got information on the
11 EIR/EIS.

12 I've heard here a real question about that.
13 It's been raised by Dave. We are going to have to get this
14 resolved. Tom is raising it so we are going to have to
15 figure out how that gets resolved. That is, concurrence on
16 a Common Program before we go much further down the road on
17 these alternatives.

18 So what I want to propose as process is that we
19 are going to finish this reviewing of these distinguishing
20 characteristics. Then we are going to come back and get
21 resolution on the items in question on those
22 characteristics, both the ones that were proposed and ones
23 that have been -- the ones of the 18 that have been
24 proposed by staff in which others that the various BDAC
25 members have added and having done that then discuss the

1 Common Program and the application of the solution
2 principles to that and what we intend by the Common Program
3 and then get Public Comment and then go to lunch.

4 That may take awhile so I'll have to evaluate
5 this against time but at least the sequencing of it is what
6 I was proposing.

7 Is that acceptable to you, is that we at least
8 try the -- that sequence of going through the Agenda, which
9 means that we've got to finish with Loren first to try to
10 get all of this information out.

11 Okay. Loren, proceed.

12 MR. BOTTORFF: I'll try to step along a
13 little faster.

14 This is what sits behind the water supply
15 opportunity sheet.

16 Again, there were preliminary --

17 VICE-CHAIRMAN MCPHEAK: Lester is going to
18 get you some water, Loren.

19 MR. BOTTORFF: I have some right here but
20 it's not working.

21 There were preliminary model runs. I'm going
22 to skip over these (indicating).

23 It's the same process. We have cost
24 (indicating). Again, the process would be if you
25 questioned why 6B was -- I'm losing it -- I've got

1 That's the way we'll want to talk to folks but behind every
2 single summary table is basically reams and reams of
3 information to try to support that.

4 Some comes directly from model runs that we
5 will do. In the case of costs it comes from prefeasibility
6 analysis. In other cases it will come from technical teams
7 trying to render professional judgment on entrainment
8 impacts of a given alternative or what will happen in terms
9 of South Delta staging and that type of thing.

10 What we intend to do, and this really will come
11 to the floor at the next meeting where we hope to have most
12 of this information filled in, you start seeing a pattern.

13 We fill those in and you start -- I mean, it's
14 going to be -- it's clear to us already, there's no clear
15 winners. It's not like, aha, we found it. Everybody is
16 happy. You start seeing what starts performing the best in
17 terms of meeting all of the objectives of the program. You
18 start looking in those high performers to see what the
19 trade-offs are and again this goes to the point that Tom
20 just raised. You like an alternative because it's giving
21 you a lot more supply flexibility but are you trading off
22 diversion impacts for that supply flexibility? Are you
23 trading off economic impacts in terms of that?

24 Somebody is trying to cut me out.

25 And perhaps more important to this at this

1 something here.

2 EXECUTIVE DIRECTOR SNOW: I think what we
3 wanted to convey on this, we are already into some
4 significance issues that have been brought up that convey
5 kind of the layering of the data and the level of detail so
6 while -- once we have agreement we would want to have
7 people understand the basic ranking that we have done in
8 this case on total cost so you can see very simply, there
9 is the cheapest one, there is the most expensive one but
10 knowing that that's not the way that people want to work
11 with things there is all of these supporting tables, and,
12 in fact, even within this there would obviously be a table
13 to explain, you know, what it is that's making up these
14 costs.

15 So you start -- even from this rudimentary
16 stuff you start getting a feeling once you understand
17 these alternatives that when you start adding a lot of
18 facilities the cost goes up. So to point out the point
19 that Tom made you may look at this and say "Well, 3B gives
20 you the most supply opportunity but at an incredible cost,
21 just pure financial cost" and then you will also be looking
22 to see what it's doing in the other distinguishing
23 characteristics.

24 So for each of the alternatives and each of the
25 factors within those we may have a summary table like this.

1 point is you start to look at what some of us are referring
2 to as hybridization. Are you seeing an alternative that
3 performs real well and if you would just change some of the
4 features of it, drop some of the storage, not have six
5 million acre feet of storage, change the way you operate it
6 to reduce some of those negative impacts and, therefore,
7 optimize the positive side of it.

8 I'll go ahead and hit some of these although
9 you are way ahead of us.

10 System flexibility, that's a classic trade-off.
11 You can have a very flexible system but it costs you a lot
12 of money and when you have system flexibility it's also a
13 greater challenge to provide assurances.

14 If you have multiple intakes to provide system
15 flexibility people are concerned that you operate
16 improperly and you try to push your water supply up and
17 then you trade off the environment for that.

18 In-Delta water quality and export water
19 quality, that's always been a contention when dealing with
20 the Delta. We need to make sure that we're focusing on
21 that.

22 The one that Tom has already mentioned, water
23 supply and habitat impacts. We have to be able to clearly
24 explain what the issues are and consistency with the
25 solution principles. As Alex has already pointed out it

1 almost doesn't matter what an individual component does in
2 the context of solution principles. It's only the entire
3 alternative, the cumulative impact of all the actions and
4 how they meet the solution principle test.

5 So those are the basic trade-off issues that we
6 see on the horizon and basically the questions that you've
7 already raised get at many of those issues.

8 Where we are headed with this process is
9 continued model runs, refinement of the impact assessment,
10 working with CalFed staff agencies and work groups to fill
11 in the matrix, give us some technical review, peer review
12 as we develop this information so we can come back and say,
13 you know, here is the set of analysis that we are very
14 confident in and here is some analysis that is more
15 qualitative and here is how we have arrived at this
16 qualitative answers. So we want to come back at the next
17 meeting and be able to send to you some preliminary
18 findings in terms of filling in the matrix, but this is
19 real clear that this is not pure scoring that the
20 alternative that gets you a hundred and one points is not
21 the solution.

22 It shows you how it scores, what's working,
23 what's not working and then you get into a discussion of
24 the trade-offs and how you can make a hybrid alternative
25 that actually performs better then.

1 So Alex, for example, raised the assumptions
2 about the operation of fish barriers and questioned what
3 was assumed to be the operational capability of those fish
4 barriers when you did the scoring and that wasn't explicit.
5 So to the extent that there can be explicit
6 assumptions we need that.

7 Secondly, as an example on the water quality
8 characteristic a period of time was used, three months
9 where it's usually low rainfall, therefore, low flow, but
10 we need to have the full year broken down by the season
11 because they vary greatly in order to evaluate the
12 alternatives so full information.

13 The third piece of this that I think may be
14 important is to have the scoring sent out as early as
15 possible so that we don't try to play catch up on November
16 4th walking into the meeting and that the feedback that you
17 would get from the distinguished members of BDAC who are
18 expert enough to read all of this and understand it and to
19 flag where we have missed something can give you that as
20 really feedback so that you will have addressed as much of
21 this as possible in November and that we are not having to
22 go back, which means either you can respond to this.

23 We try to get it out at least three weeks in
24 advance -- I know you have that you've actually put the
25 packet together at that point but I want more chance for

1 So that's kind of the path we're on. I'd be
2 glad to respond to questions on this process, but that's
3 where we are headed for the November meeting.

4 VICE-CHAIRMAN MCPPEAK: I think what you
5 just said, Lester, is very important, that the scoring
6 against the distinguishing characteristics is to provide us
7 information.

8 EXECUTIVE DIRECTOR SNOW: Right.

9 VICE-CHAIRMAN MCPPEAK: And that there will
10 be trade-offs and we'll have a -- sort of a spectrum of
11 scores for each alternative on -- against the 18 or more
12 characteristics.

13 There are two dimensions to this scoring
14 process or the application of those characteristics to the
15 alternatives, the evaluation of the three alternatives
16 against those characteristics that were raised when Loren
17 was speaking that I'd like to flag for you and see if we
18 can't come to a concurrence on at least process, timing of
19 the process, going into November.

20 What you presented to us here is to illustrate
21 how this is going to work.

22 There is going to be some more refinement and
23 one of the dimensions of this process is the assumptions
24 used in the evaluating of each alternative against those
25 characteristics, the scoring, as you put it.

1 feedback or we send it out as you get it and what just
2 occurred to me, maybe we could have a special subcommittee,
3 I mean, you might not have to send it to all of us, but if
4 we have four or five people who really want to go through
5 it in detail that you could send to as you get it, as you
6 get each of -- you do one of those characteristics and you
7 batch three or four together and send it out so that we get
8 those comments rolling in to staff early, rather than late,
9 that you can incorporate, I would appreciate that and Alex,
10 obviously, you would have to be drafted to serve on that
11 and anybody else who would be willing to go through all of
12 the details to find all of the misses that might have
13 occurred by the staff process, I would appreciate.

14 Is that possible?

15 EXECUTIVE DIRECTOR SNOW: Certainly, this
16 stuff occurs incrementally. I had not thought of packaging
17 pieces as they become available but I'm sure that we could
18 do some of that because each of these is on some different
19 timeline.

20 VICE-CHAIRMAN MCPPEAK: who else -- if we
21 were to go with that process, I'd like sort of a variety of
22 different eyes and thinking to look at this, not to make a
23 value judgment but a process judgment so that we've gotten
24 feedback from the BDAC members to staff early before they
25 prepare the final packet to us. So things like is all the

1 data there, what assumptions did you use can be explained
 2 and addressed before the November meeting.
 3 MR. PYLE: And that would all come by mail
 4 we would look at?
 5 VICE-CHAIRMAN MCPPEAK: Yeah, but to a
 6 select, you know, four or five of you as opposed to all of
 7 us which would help a lot.
 8 EXECUTIVE DIRECTOR SNOW: Could I
 9 interject perhaps a legal issue?
 10 VICE-CHAIRMAN MCPPEAK: Okay.
 11 EXECUTIVE DIRECTOR SNOW: I think what we
 12 are talking about is a public meeting and publicly
 13 available information so I believe the mailing would have
 14 to be to everyone, is that correct, Mary?
 15 MARY SCOONOVER: Yes. (Inaudible)
 16 VICE-CHAIRMAN MCPPEAK: We are talking
 17 about -- I'm not trying to -- I'm obviously -- let me state
 18 for the record I'm not trying to circumvent public input.
 19 I'm trying to find a practical way to get review by a work
 20 group, an ad hoc work group, of the assumptions and the
 21 full analysis that go into the evaluation of the three
 22 alternatives against those distinguishing characteristics
 23 And it's physically impossible to -- well, it's
 24 certainly not appropriate to be mailing to either all of
 25 BDAC for the full mailing list as you get it done but I

1 letters then are part of the record that we present at the
 2 public meetings.
 3 VICE-CHAIRMAN MCPPEAK: Okay.
 4 Let me discuss this with Lester and come back
 5 with a proposal at the end of the day so that we are
 6 totally in compliance with all of the laws that apply to
 7 our operation. Perhaps it's just that we have a
 8 subcommittee meet consistent with open public meetings that
 9 anybody can attend, but they do that may be a week before
 10 the November 4th meeting to review it, Lester.
 11 I want to get some additional measure of review
 12 of this before we get to November 4th.
 13 Ann, Ann Notthoff.
 14 MS. NOTTHOFF: I wanted to just pick up on
 15 this and emphasize the importance of the public role in
 16 this.
 17 In that regard I see that we've got a public
 18 meeting scheduled in October and I think we have to
 19 remember that the ability of the public to attend a meeting
 20 is very different from the ability of the public to
 21 comprehend the subject matter of the meeting and to comment
 22 intelligently, and the sophisticated level of analysis here
 23 I think is quite impressive in terms of the numeric scoring
 24 but I'd like to see staff work on something that has -- you
 25 know, is more translatable to people who have not been

1 want to make sure we have some kind of review before
 2 November.
 3 Is it not possible for us to have a
 4 subcommittee that gets appointed even on an ad hoc basis
 5 that would review this?
 6 EXECUTIVE DIRECTOR SNOW: We essentially
 7 have done that on other issues in our work groups which are
 8 publicly noticed meeting. They are noticed in the Federal
 9 register and publicly noticed on people who are on the
 10 mailing list receive the packets for those meetings.
 11 VICE-CHAIRMAN MCPPEAK: I'd be happy to do
 12 that.
 13 MARY SCOONOVER: And anyone who has
 14 requested information that BDAC gets would receive the
 15 information for this group. It's not possible to do a
 16 mailing just to a few focused BDAC members even if it's
 17 okay with everyone.
 18 Basically it goes to the entire BDAC membership
 19 as well as any members to the public who have requested
 20 that information. So there would have to be another public
 21 meeting process set up.
 22 The only way to get the kind of feedback that
 23 you are talking about is do it through our normal mailings
 24 and then as it's been occurring now with individual BDAC
 25 members sending letters in with their comments. Those

1 following this at this level. You know, high, low, some
 2 type of relative ranking rather -- you know, so that you
 3 can communication this and really solicit some meaningful
 4 Public Comment. I'm concerned that -- I see they've made
 5 some progress in coming up with some good fact sheets about
 6 the different elements, but I am very concerned about how
 7 the public will be able to react intelligently to this.
 8 There is a very intelligent, concerned public out there but
 9 this is pretty impenetrable for most people. So I'd like
 10 to hear about how that's going to be handled.
 11 VICE-CHAIRMAN MCPPEAK: Lester, in terms of
 12 the analysis of the three alternatives against the
 13 distinguishing characteristics, the comments that BDAC
 14 members made were to make sure that we are explicit about
 15 assumptions and the full analysis on some of those
 16 characteristics being available so that, I think, stands.
 17 I am going to postpone until the afternoon while we have a
 18 chance to confer any additional process for explaining to
 19 the public and also reviewed by BDAC.
 20 Do you have any further information, though, on
 21 Ann's question when you thought you were going to have
 22 further Public Workshop on the distinguishing
 23 characteristics?
 24 EXECUTIVE DIRECTOR SNOW: well, we have a
 25 series of public meetings that start, the first of which

1 are designed to actually be public hearings or scoping
2 sessions on the Habitat Conservation Plan and then
3 immediately on the heels of that we have I think six public
4 meetings across the state to try to give the public in the
5 evenings access to explain this.

6 Ann is definitely right about the
7 impenetrability of this. It is extremely difficult and
8 challenging to try to take the most complex resource
9 problem in the United States right now and try to boil it
10 down to where somebody can walk in off the street and in
11 less than two hours grasp it.

12 The dilemma that you run into is if you boil it
13 down too far it turns into bumper stickers and people say
14 yes or no, this is what I want to do, and I just -- I agree
15 completely with Ann and we struggle all the time how to
16 summarize it so people get a real flavor for it and we just
17 keep experimenting and anybody who has suggests on how to
18 better do that we will gladly listen.

19 VICE-CHAIRMAN MCPEAK: We have -- we've
20 gone through the distinguishing characteristics
21 presentation and the further discussion by Loren and
22 Lester, and we are -- we have flagged several items and I'd
23 like to just come back and revisit them one at a time.

24 And in proposing based on time in order to get
25 Public Comment before we break for lunch that the

1 When we leave today we are going to
2 recommend -- we are recommending to CalFed what the
3 distinguishing characteristics are, what they say, are they
4 18, 18 modified, 18 with additions or deletions and then
5 realize that that's what will be used, assuming the CalFed
6 agencies agree to it, to evaluate the three alternatives
7 and present back to us in November.

8 So back to the top of the list, the question of
9 item number seven.

10 The ability to facilitate transfers.

11 Could we also put up the 18, that list,
12 periodically, so we could kind of keep it in mind.

13 MS. NOTTHOFF: It's in the packet.

14 VICE-CHAIRMAN MCPEAK: It's in the packet.

15 Which page? I keep -- I know it's in the packet.

16 MS. NOTTHOFF: Page 1.

17 VICE-CHAIRMAN MCPEAK: It's on page 1.

18 It's page 1 on that -- on the first tab. Right.

19 Okay. Why don't you all turn to that?

20 Judith, you raised this question.

21 When the staff put that on the list, Lester, I
22 believe, that the intent was that if whatever the work
23 group came up with in recommending transfers was the
24 description or definition of transfers.

25 Judith.

1 discussion about the core program and it's evaluation
2 against the solution principles we'll take up right after
3 lunch.

4 So that item we'll have immediately following
5 the lunch break.

6 We have, just to review, all of those and then
7 come back to them, first, the question of number 17 (sic),
8 which was should the distinguishing characteristic on
9 transfers be there or should it be modified to say
10 transfers and impacts.

11 Item 16 is the big policy question that we are
12 going to revisit.

13 We also then had the question of water quality
14 in the Bay and how that relates to at least the hydrology
15 and outflow questions. We had raised the issue of the
16 water balance and should that be a distinguishing
17 characteristic, expressed in a couple of ways by Tom, water
18 balance or water depletion in the system, and we've had the
19 issue of the relationship of these alternatives to other
20 actions, policy decisions, legislation that have been
21 enacted, such as the Monterey Accord.

22 So each of these items let's come back.

23 What I want to do is decide how we resolve
24 these items that have been raised on the list of
25 distinguishing characteristics.

1 MS. REDMOND: Yeah, the distinguishing
2 characteristic is described in the written materials as any
3 preferred alternative that scores as providing more
4 opportunity for transfers, will then get a higher ranking
5 and I was making the proposal that we can't include that
6 distinguishing characteristic until we have some results
7 from the work group because this is such a complex issue.

8 And I appreciate the suggestion that the other
9 distinguishing characteristic on socio-economic impacts
10 perhaps would speak to my concern, but the table describing
11 how that distinguishing characteristic will be used it's
12 about Sacramento Valley impacts and the impacts of water
13 transfers are going to definitely be statewide. We are
14 aware of transfer -- of many people in Southern California,
15 for example, who are concerned about impacts on Southern
16 California.

17 We are aware of people on the central coast.
18 There is a proposed transfer to central coast. There are
19 many citizens' groups there who are concerned about the
20 impact of that transfer on their community.

21 So I think that this is a much more complex
22 issue than we've realized and that the impacts could be
23 statewide and that we can't include any analysis of the
24 preferred alternatives that looks at water transfers --
25 increased opportunity for water transfers as a positive

1 thing. We just can't include that until we have some
 2 results from the work group.
 3 And really this whole -- one of the things that
 4 people have brought up time and time again is that this
 5 whole process is moving very quickly and it's difficult for
 6 it all to happen in sequence and, you know, there just has
 7 to be some way of addressing that, that it's not all maybe
 8 going to come together quite as quickly as the staff are
 9 hoping.

10 VICE-CHAIRMAN MCPeAK: I want Lester to
 11 respond and then I had a couple comments.

12 EXECUTIVE DIRECTOR SNOW: I guess there is
 13 a couple of issues. I'll address it first to just item
 14 seven. Clearly where we are in the program as we have made
 15 a determination that more transfers are better in the
 16 future and that's where we've been and that's what we've
 17 discussed for a number of times and that's why we've gone
 18 to a transfers work group because that has been stated with
 19 the assumption that we can work out all of these problems.
 20 We can catch third party impacts and deal with the
 21 groundwater overdraft problem. So that assumption is there
 22 and we have to continue to do that.

23 However, it occurs to me, in terms of item
 24 seven there does not have to be a value judgment that one
 25 score is better than the other. It simply is that one

1 VICE-CHAIRMAN MCPeAK: Alex.
 2 MR. HILDEBRAND: I agree with Judith. I
 3 think that some of us are pretty gun shy from a statement
 4 such as Lester just made, that it's all decided that
 5 maximum transfers are good, and a lot of us disagree with
 6 that. We think that to the extent that transfers can be
 7 done without impacts maybe that's good but that the way we
 8 are going about it is assuming that the large transfers can
 9 be accomplished without impacts and we just don't agree
 10 with that.

11 So I go back to my suggestion, if you're going
 12 to leave the item in there, and I don't think you can
 13 ignore it, then we ought to look at both the opportunities
 14 and the impacts so that there isn't the implication that
 15 more is better regardless of how it's done. More may be
 16 better insofar as it can be done without these impacts but
 17 at the meeting we had on the transfers I think a large
 18 majority of those who spoke are very concerned about the
 19 cumulative impact of substantial transfers, collectively
 20 substantial. And actually I guess the way you interpret a
 21 meeting depends on what you brought to it in your own mind
 22 but I would disagree with the Minutes which seem to say
 23 that we -- the people there were all trying to seek
 24 maximizing transfers.

25 I don't think that was the case.

1 alternative will provide more transfer windows than another
 2 alternative. So that can simply be a quantitative
 3 statement and left to decide whether that higher transfer
 4 window is good or bad. And, in fact, we have that. It's
 5 not necessarily a given on any one of these parameters that
 6 a high score, meaning it has high fish -- high diversion
 7 impacts on fisheries is good. It simply means that one is
 8 leading the charge.

9 So maybe that's the way to handle this. We
 10 need people to have the information on the transfer windows
 11 and how much can we move in those windows and then use that
 12 to decide what the right package is.

13 MS. REDMOND: I appreciate that
 14 suggestion.

15 The problem is that as the work group is likely
 16 to determine, it's just much more complicated than that.
 17 That may not be the analysis that we need to do.

18 The analysis may be which of these alternatives
 19 allows good transfers or transfers that have fewer impacts,
 20 and there may be a scoring of different kinds of transfers
 21 that says that some are preferable to others and we may not
 22 want an analysis that says let's open up the transfer
 23 window and just say that any transfers are fine.

24 So I just don't think that's the analysis that
 25 this work group may say is important.

1 I think most of the discussion was a concern
 2 about what would happen if we had such substantial
 3 transfers and so I don't feel this issue is anywhere near
 4 as clear as it's been depicted here as the idea that we are
 5 all striving to have maximum transfers. I don't think
 6 that's right.

7 VICE-CHAIRMAN MCPeAK: Stuart.
 8 MR. PYLE: Yes.

9 I think I agree more or less with what Lester
 10 said in regard to transfers, not just that more are better
 11 but the fact that they need to lay out the opportunities
 12 and I think the same thing goes to the water supply and
 13 water transfers where you are listing opportunities. You
 14 are both listing opportunities and impacts but I think that
 15 you need to lay out, as Lester is saying, these
 16 opportunities here so you can look at them from all sides
 17 and then you move on down the list, you have your
 18 assurances and you have your consistency with solution
 19 principles and when you were standing up, Lester, you said
 20 that in the long run there is going to be -- you analyze
 21 all of these and you come down to the trade-offs.

22 It seems that even when we come to consistency
 23 with solution principles, I would like to be able to say,
 24 okay, in terms of a water supply opportunity for moving
 25 water into the environment that might have a redirected

1 impact on agriculture or my constituent supply. So I would
 2 say that that violates the redirected impacts so it has to
 3 go off. But I'm not sure that's going to be the way but I
 4 think we are going to come down to the negotiated trade-off
 5 some place along the line so what we need to do is see all
 6 of these issues laid out, you know, and their pros and cons
 7 as you move along and then eventually get to the trade-offs
 8 and not assume that just because we don't happen to like
 9 them we are not going to keep them on list.

10 VICE-CHAIRMAN MCPPEAK: Let me try to build
 11 on what Stu just said. He actually said it better so I'm
 12 not going to build on it at all but see if we can't get
 13 some resolution around it.

14 There are some intended policy directions in
 15 the original work in core program that's been laid out and
 16 water transfers -- voluntary water transfers are a part of
 17 that.

18 The work group is engaged in -- did Roger leave
 19 this room -- our Chairman, Roger and Tib is still here --
 20 to figure out how that could be done, if it could be done,
 21 under what circumstances. In other words, there is not a
 22 prejudgment or an assumption about how water -- voluntary
 23 water transfers would be allowed, how they would occur.
 24 That's what the work group is engaged in.

25 When we come to the distinguishing

1 characteristics the evaluation is also not intended to be a
 2 value judgment but an assessment as Stu was saying so it's
 3 not intended to be good or bad, pejorative, honorific, how
 4 they're evaluating -- give us more information and that's
 5 why Stu has said there are distinguishing characteristics
 6 that have been identified that some folks around this table
 7 think are bad and some think might be good but the fact of
 8 the matter is staff has said we think the different
 9 alternatives will perform differently according to these
 10 characteristics and we are trying to give you that
 11 information and so what should be on this list are not
 12 things that we think are good or bad but we think really
 13 are ways to differentiate among the alternatives and we
 14 then need to be assured that we are getting good
 15 information about how those alternatives are evaluated so
 16 that we don't have false assumptions going in that would
 17 characterize, color, slant the evaluation. So what I'm
 18 sort of begging is what Stu put out, and, that is, we do
 19 our job of getting those distinguishing characteristics on
 20 this list where we think there actually is a way to
 21 differentiate among the alternatives whether or not we like
 22 them.

23 When it comes to transfers we all understand
 24 the work group still has to come forward with their
 25 recommendations and will be the way in which we describe

1 transfers in the solution.

2 Therefore, what I would like to propose is that
 3 we have -- we leave seven on and have it worded transfers
 4 and impacts because the economic impacts that Judith raised
 5 are not all taken care of under economic impacts as they
 6 are described. So either we've got to have an expansion
 7 under that distinguishing characteristic or a way to
 8 address that under number seven. Okay?

9 I'm trying to get concurrence on this.

10 Judith.

11 MS. REDMOND: I appreciate that you're
 12 trying to get us to some sort of consensus and I know that
 13 there is a lot of other things to discuss, but let me make
 14 one -- just respond to that so that we can just go on
 15 record that we really all don't agree on that question.

16 First of all, my concerns are about
 17 environmental impacts. I think that most of the water
 18 transfers that we have seen lately proposed would not have
 19 a good environmental impact and we've seen that most of the
 20 water transfers that have been proposed transfer this
 21 resource from rural areas to urban areas and we don't see
 22 that the impact is good for the environment and so just
 23 aside from all of this discussion here we go back to the
 24 original goal of this operation, which is to do good
 25 environmental work, and we, regardless of all of this other

1 stuff about distinguishing characteristics, would have to
 2 look at water transfers and think about the clear, negative
 3 impacts on the environment and so that's just really --
 4 it's not just economic concerns. It's environmental
 5 concerns.

6 And I think that my feeling about item number
 7 seven is that there is a work group that's been set up, a
 8 significant amount of financial resources are being put
 9 into it, and how the recommendations of that work group
 10 will be incorporated into this process is not clear given
 11 the sense that there is going to be an analysis going on
 12 that doesn't have the opportunity to use our deliberations.

13 EXECUTIVE DIRECTOR SNOW: I have a
 14 response.

15 The work -- how the work of the work group or
 16 how the recommendations of the work group are going to be
 17 incorporated into this process is that what you recommend
 18 if accepted by BDAC will be recommended to CalFed will be
 19 for implementation as to how transfers would occur in the
 20 state and, therefore, would be a part of an overall program
 21 that gets evaluated in the EIR/EIS.

22 For the evaluation of the three alternatives in
 23 the next 45, 60 days there would be a -- just a non-value
 24 laden as objective as possible scoring of the three
 25 alternatives as to their ability to facilitate transfers

1 and what the impacts, environmentally and economically
 2 would be. That's what I'm understanding.
 3 EXECUTIVE DIRECTOR SNOW: Right.
 4 VICE-CHAIRMAN McPEAK: And we are noting
 5 on the record you are objecting to this as a distinguishing
 6 characteristic?
 7 MS. REDMOND: (Affirmative nod)
 8 VICE-CHAIRMAN McPEAK: Let me ask if we
 9 have concurrence from the majority to leave it as a
 10 distinguishing characteristic modified as, I think Alex
 11 proposed, to say water transfers and impacts general
 12 concurrence?
 13 Okay. Rosemary, then Tib.
 14 MS. KAMEI: I was just curious by adding
 15 impacts how much different that would be from what you
 16 normally pick up in your CEQA process? I mean, you would
 17 pick up the environmental impacts, anyway, so would this be
 18 any different?
 19 VICE-CHAIRMAN McPEAK: It would be earlier
 20 information displayed for those three alternatives and
 21 while impacts and cumulative impacts -- both individual and
 22 cumulative impacts on the EIR/EIS is the function of that
 23 environmental assessment process. What this is intended to
 24 do is at least look at those three alternatives early on
 25 with respect to the ability to transfer the preliminary, is

1 rate low on socio-economic impacts or it may rate low on
 2 habitat impacts. But if you try to squeeze them into the
 3 same characteristic you are not going to be able to make
 4 sense out of it.
 5 VICE-CHAIRMAN McPEAK: Well, envisioning
 6 what you're saying and I happen to agree, I think they are
 7 going to have to differentiate in the scoring between the
 8 transfers and then the impacts so you are going to have
 9 like under one scoring three or two dimensions to it.
 10 Lester, would you like to respond and then, was it, Annie?
 11 EXECUTIVE DIRECTOR SNOW: Well, I don't
 12 have a concise response, I guess, would be the way to
 13 start.
 14 First of all, the transfer opportunity as a
 15 distinguishing characteristic is something we don't have
 16 control over. It is, it will change between alternatives.
 17 The way you reconfigure the Delta, how much storage you
 18 have, that changes your ability to move water in and around
 19 the system so it's there. It's a physical fact. So that's
 20 why we need to chronicle this.
 21 Clearly how you do it can have different kinds
 22 of impacts that's why we are trying to capture the impacts.
 23 I think we can do that under other items.
 24 And if I can back up almost over a year now to
 25 what we've brought to BDAC was the combination of two

1 the answer, as I understand.
 2 Tib and then Tom.
 3 MR. BELZA: I guess it's just semantics
 4 and I don't want to sit here and beat a horse because I
 5 think you can go through each one of these and say
 6 opportunity and/or impact. I don't really care one way or
 7 the other. I think it needs to be in there.
 8 There are water transfers going on right now as
 9 we speak and it can be argued -- not only can be argued but
 10 is argued for environmental reasons, period.
 11 So I mean it's going to happen, it has
 12 happened. I think we need to address that and I am
 13 concerned about some of the cumulative impacts and I think
 14 our work group will dig into those and lay them out.
 15 VICE-CHAIRMAN McPEAK: Good.
 16 Tom.
 17 MR. GRAFF: Well, I just think if you put
 18 the and impacts in there it's going to make it very hard
 19 for staff to make any sense out of an because if you
 20 believe the premises that some of the other speakers have
 21 had, then anything that's rated high on opportunity is
 22 going to be rated low on impact and you can't have one
 23 number to cover the two.
 24 So maybe if they are right, then you look at
 25 something that rates high on water transfer opportunity may

1 existing policies, the Governor's policy on water transfers
 2 and the policy on CVPIA, and in both cases there is a
 3 declaration that transfers are good and need to be
 4 encouraged if you cover these items and the Governor had
 5 five policy items. I forget how many were in CVPIA.
 6 This group deliberated them, actually refined
 7 at least one of the items and added an item and that became
 8 our BDAC document which in fact we have now taken to the
 9 work group and so the presumption is that transfers can
 10 help solve these resource conflicts but only if they happen
 11 in a certain way.
 12 So what we are doing in item seven is looking
 13 at the alternatives to see what the transfer opportunity is
 14 by alternatives.
 15 What we are relying on the work group is to
 16 come up with a policy framework to make sure that those
 17 policies are implemented and, in fact, you can do transfers
 18 consistent with those policies.
 19 In the worst case the work group may conclude
 20 there is no way to provide this protection and, therefore,
 21 these high opportunities for transfers can be bad.
 22 And that can be an ultimate outcome of this if
 23 we conclude that we just can't do what the Governor and
 24 what CVPIA has indicated needs to be done on transfers.
 25 So we think we are on track to provide -- I

1 should paraphrase what Sunne was saying -- kind of the raw
 2 material, the raw information to start making those kinds
 3 of decisions, how transfers opportunities vary, what kinds
 4 of impacts we expect to see in terms of particularly third
 5 party impacts and then hopefully we can bring along in the
 6 work group the policy framework that would allow us to move
 7 forward with it.

8 VICE-CHAIRMAN McPEAK: Lester, I think
 9 there is general agreement among most here, a large
 10 majority that there is consensus around the transfer
 11 characteristic being left on the list.

12 Does the additional wording of and impacts
 13 cause you more confusion or difficulty and are you
 14 counseling us to remove it? That's what Tom was raising.
 15 I think everyone was willing to live with the wording and
 16 let you try to figure out how to score it.

17 EXECUTIVE DIRECTOR SNOW: well, I think --
 18 I mean, if we tried to do a combined one, yeah, I guess I'm
 19 not sure how you would do the scoring

20 VICE-CHAIRMAN McPEAK: (inaudible)

21 EXECUTIVE DIRECTOR SNOW: They may or may
 22 not cancel each other out.

23 But all we would do to develop that impact
 24 stuff is go to one of our other distinguishing
 25 characteristics and reformat the information.

1 think it has to be dealt with.
 2 I'm not sure how we on this Committee are going
 3 to deal with that and how that overlaps with the assurances
 4 group, but that probably is a lot of what Judith is talking
 5 about, the impacts --

6 VICE-CHAIRMAN McPEAK: Right.

7 MR. MEACHER: -- or the assurances that go
 8 with those transfers.

9 VICE-CHAIRMAN McPEAK: And the ability to
 10 evaluate, therefore, impacts turns on assurances and other
 11 parameters or controls that would govern --

12 MR. MEACHER: Consistency with the
 13 solution principles.

14 VICE-CHAIRMAN McPEAK: -- consistency with
 15 the solution principles.

16 I'm trying now to figure out how to resolve
 17 this point.

18 Here's how I think we've done it: we are going
 19 to evaluate the transfers without it being a value
 20 judgment. It's left on the list of distinguishing
 21 characteristics.

22 You would have to do that piece of the
 23 evaluation separate from impacts to give information,
 24 anyway.

25 To the extent that you can discover what

1 VICE-CHAIRMAN McPEAK: Ann.
 2 MS. NOTTHOFF: I think it needs to be
 3 clarified if we can try to remove some of the value
 4 judgment in a high score or a low score so that it's just a
 5 score because clearly people are -- you are going to run
 6 into this on all of these, you know, high ecosystem
 7 restoration or high habitat value, some people will think
 8 is good and some people will think is bad and what we are
 9 looking for here is the -- you know, just the numeric
 10 information and I think that has to be clarified, that
 11 there is not a value of good or bad because people are
 12 coming to the table -- that's why we are here. We come to
 13 the table with different opinions on what's good and bad.

14 VICE-CHAIRMAN McPEAK: I think that's well
 15 stated and being taken under advisement as you speak.

16 First Bob and then Steve.

17 MR. HALL: I was just pointing to him.

18 VICE-CHAIRMAN McPEAK: You're just
 19 pointing to him.

20 MR. HALL: (Affirmative nod)

21 MR. MEACHER: I just would just bring
 22 forward the fact that I would assert that many of the
 23 transfers will or discussion of them will trigger some
 24 assurances issues and that -- I don't know how the
 25 Committee or how we are going to deal with that, but I

1 impacts might be there, although we understand it turns on
 2 assurances and the ultimate recommendations from the work
 3 group on how you would govern transfers, you may not be
 4 able to evaluate that but we are inviting you to struggle
 5 with it and give us what information you can. Okay?

6 You still have comments on this? Okay. We are
 7 going to sit here as long as it takes.

8 MR. HILDEBRAND: (inaudible) -- trouble is
 9 two different things here.

10 One is whether the alternative makes it
 11 physically possible to transfer water --

12 VICE-CHAIRMAN McPEAK: That's right.
 13 That's right.

14 MR. HILDEBRAND: -- and the other is
 15 whether there is an opportunity to make the transfer
 16 without third party impacts and we agreed, as Lester said
 17 earlier, that we would only do transfers if they did not
 18 have third party impacts.

19 VICE-CHAIRMAN McPEAK: Or if those third
 20 party impacts were not mitigated, which is maybe just
 21 slightly different semantics, right.

22 MR. HILDEBRAND: In principle, yeah.

23 VICE-CHAIRMAN McPEAK: Right.

24 MR. HILDEBRAND: And so if this number

25 seven is addressing the physical feasibility of transfers,

1 no problem.
 2 I think the problem we are all chewing on here
 3 is and what has appeared to be an implication that if it
 4 was physically possible to make more transfers, you would
 5 then make them without regard to this third party impact
 6 question. I think that's what's --

7 VICE-CHAIRMAN McPEAK: It's not implied
 8 here in this evaluation of those three alternatives against
 9 these characteristic, Alex. I think you've clarified it
 10 and as Ann has pointed out, the evaluation of those, which
 11 may be expressed as low, medium or high as opposed to
 12 numerical still should not be interpreted as good, bad,
 13 desirable. It's not a value judgment of any of these
 14 characteristics.

15 Some might think a low score is good. Others
 16 will think that's bad and we are not in that stage yet.

17 This is a way of trying to get information out
 18 about the differences between the alternatives.

19 Roger. Maybe I'm going to ask the last
 20 question on this number seven.

21 MR. STRELOW: Well, my own perception of
 22 what we are really trying to do in the work group, in fact,
 23 is to see if we can't come up with a system that gives --
 24 it's almost like a mini-assurances exercise and see if we
 25 can't come up with a system that facilitates and allows a

1 EXECUTIVE DIRECTOR SNOW: Okay. There is
 2 two issues. I think we resolved one in the discussion but
 3 specific constituents, like pesticides, we've dealt with
 4 and it should not be distinguishing.

5 The issue that remained, though, was the
 6 relationship of fresh water flows to the Bay analogous to
 7 in-Delta water quality.

8 While I had not thought of it in that context,
 9 what I responded earlier and I still think that it's the
 10 place is that in this new item that we have added, Brackish
 11 water habitat, we have number of days of x2 and so we will
 12 be seeing by alternative how that changes, and those of you
 13 who don't necessarily follow the jargon of this business x2
 14 is a surrogate for a lot of things in the system and was
 15 derived in 1994 but the biggest issue that it represents is
 16 outflow.

17 What -- I'd just relate a conversation with Hap
 18 Dunning. As he was leaving he suggested that that sort of
 19 made sense to him but he wanted to make sure that the
 20 stakeholder modelers that live and breathe this x2 stuff
 21 agree that that is the right type of indicator to deal with
 22 the issue that's been raised. So that's kind of where we
 23 are.

24 We think x2 captures the issue that was raised
 25 before.

1 maximum number of transfers only under conditions that
 2 there is general agreement, will assure the environment is
 3 protected and third party impacts are minimized or
 4 mitigated.

5 So I think that underlines the importance of
 6 having that criteria or characteristic look only at the
 7 opportunity for transfers and -- but it's in the framework
 8 of saying this group as a whole and certainly our work
 9 group is only going to be satisfied with transfers and with
 10 having that option open as long as we think we've got the
 11 protections in place so I think we do have a safeguard.
 12 It's not there yet but that's our condition.

13 VICE-CHAIRMAN McPEAK: Which I think how
 14 you and Tib have characterized what -- how we will
 15 incorporate the work that you're doing. Okay.

16 It's staying on the list and you are going to
 17 give us the evaluation as you can on impacts. Okay.

18 The next item that was raised as an issue for
 19 us to debate on distinguishing characteristics was water
 20 quality in the Bay.

21 Lester, there is, I think, a lot of -- there
 22 were a lot of comments that said that had to be dealt with.
 23 There would be some differences based on the alternatives.

24 How were you proposing to incorporate that into
 25 this evaluation process?

1 Dick, I know you've spent a lot of time with
 2 this.

3 Do you want to comment on this item?

4 VICE-CHAIRMAN McPEAK: As Dick's coming to
 5 the podium, I think it might be acceptable to those who
 6 raise it as long as in the description of what this
 7 characteristic is that it is explicit that x2 does include
 8 looking at Delta outflow. That's got to be, I think,
 9 explicit in order to address what the issue was.

10 Dick.

11 DICK DANIELS: And I think that's an
 12 important distinction. The scientific community came
 13 together, developed this concept of x2 or the index of x2,
 14 that serves to describe quite a number ecological processes
 15 and functions that happen in the system and that's why we
 16 have chosen in, in fact, to describe it as Brackish water
 17 habitat so that we can capture the volume, the seasonal
 18 distribution, the number of days, the duration during
 19 critical periods associated with this and we think it is a
 20 pretty darn good distinguishing characteristic and it
 21 speaks to Delta outflow, to Bay inflow and how that relates
 22 to protection of the environment.

23 Frankly, I can't think of a better descriptor
 24 that we could use to deal with that issue.

25 VICE-CHAIRMAN McPEAK: If that can be made

1 explicit that x2 includes Delta outflow, therefore, Bay
2 inflow, that that is being analyzed or included in the
3 analysis under 18, is that acceptable to those who raised
4 it and acceptable to everyone else?

5 Bob.

6 MR. RAAB: I have a question about x2.

7 My understanding is that the way it stands now
8 x2 applies only to the first six months of the year?

9 MR. DANIEL: In terms of existing
10 regulations but the way in which we can model and very
11 fortunately this is a parameter that we can model, the way
12 that we can display it for your analysis is on a yearly
13 basis, on a year type basis, critical year versus normal
14 year and I think it is also very important to describe
15 certain biological seasons on when x2 seems to function
16 very effectively as a measure of biological productivity.

17 We will do it in our --

18 MR. RAAB: How does x2 capture post-flows?
19 Especially I've heard one of the public officials in the
20 South Bay say that x2 doesn't measure their needs in the
21 South Bay when they actually do need post-flows in the
22 summertime and in the fall.

23 MR. DANIEL: The whole issue of flow
24 events or pulse flows is captured in the ecosystem
25 restoration program plan where we have recommended very

1 timing in legislation for x2 to X -- what is it, I've lost
2 myself -- x2 is that we also include under the Brackish
3 habitat year-round Delta -- or the outflow and inflow,
4 therefore, water quality in the Bay?

5 And that's acceptable to you for that

6 evaluation?

7 EXECUTIVE DIRECTOR SNOW: Yes.

8 VICE-CHAIRMAN McPEAK: Okay. Then we've
9 incorporated what I think was the issue raised.

10 So I don't see major objection so I'd like to
11 move on it.

12 Roberta.

13 MS. BORGONOVO: I don't think there's
14 objections but there are people, certainly in the
15 environmental community that are looking at the whole
16 hydrology and we would certainly want to make sure that
17 they think it captures that. I mean, I think that it will
18 be the way the analysis comes out as long as it's clear to
19 everybody how it's being done.

20 VICE-CHAIRMAN McPEAK: You are going to be
21 a candidate to serve with --

22 MS. BORGONOVO: No. No. No. No. No.
23 No. No. No.

24 VICE-CHAIRMAN McPEAK: Yes, you are.

25 -- Alex, if I can ever figure out legally how

1 specific volumes of flow that would be pulsed into the
2 system out of storage or as an augmentation of natural
3 runoff and durations that we think are appropriate to
4 either fulfill certain ecological functions and processes
5 or to stimulate them and those targets are specifically
6 included in the ERPP and they will augment the regulated x2
7 requirements that are in the system at present.

8 So we've treated that concept of events
9 associated in the hydrograph very specifically in the flow
10 recommendations of the ERPP.

11 VICE-CHAIRMAN McPEAK: Okay. That
12 actually is something to keep in mind for the discussion
13 around the core program when we come back and to perhaps
14 address it as what was raised by David and Tom. So you are
15 stating that the ERPP has proposed pulse flows that the
16 scientific community thinks there is a reliable correlation
17 regarding between pulse flows and ecosystem restoration,
18 therefore, fish levels?

19 MR. DANIEL: Yes.

20 VICE-CHAIRMAN McPEAK: Okay. Keep that in
21 mind.

22 What I'm proposing as concurrence here based on
23 this discussion is that we make explicit under the Brackish
24 habitat not only the E2 inflow Delta outflow Bay inflow,
25 Lester, but based on the discussion about what is the

1 we do this.

2 Good. That's on the record.

3 The next item that was raised was the what Tom
4 called water balance as a distinguishing characteristic and
5 how that gets evaluated and also there were a couple of
6 other issues that were commented upon, Lester, that may be
7 assumed under that, such as water depletion in the system.

8 As a distinguishing characteristic how do we
9 address that issue that was raised here? Do you think it's
10 included in one of these 18? Should it be added as a 19?
11 How do you want to propose to handle that to see if we can
12 get concurrence?

13 EXECUTIVE DIRECTOR SNOW: As I understand
14 the issue my feeling is it's incorporated. That topic is
15 incorporated in about five of the distinguishing
16 characteristics. To see how you are changing the system we
17 have -- where is it -- number six is water supply
18 opportunities and so that will give you an indication of
19 change from the no action alternative how you are modifying
20 that. Then you have associated with that diversion impacts
21 on fisheries, habitat impacts, Brackish water habitat, the
22 one we just talked about, and so that you can see for each
23 alternative how you are changing water supply diversion
24 from the system, its impacts on x2, its impacts on
25 entrainment and its impacts on habitat.

1 So it seems like the distinguishing
 2 characteristics capture that issue.
 3 VICE-CHAIRMAN McPEAK: Is it possible --
 4 go ahead, Stu.
 5 MR. PYLE: Did he comment on number 10,
 6 risk to export water supplies? Is that in there, also?
 7 I was just measuring within a year.
 8 EXECUTIVE DIRECTOR SNOW: I'm going to
 9 need some help on exactly what we have on 10. My
 10 recollection of 10 is it's somewhat related to seismic
 11 issues. Is that correct?
 12 Is it exclusively seismic issues?
 13 Yes. Okay. The seismic issue.
 14 VICE-CHAIRMAN McPEAK: May I take the
 15 water supply opportunities. You say you thought it was
 16 in -- what Tom is raising in a number of them?
 17 EXECUTIVE DIRECTOR SNOW: Right.
 18 VICE-CHAIRMAN McPEAK: Let me see if this
 19 can help reconcile these concerns:
 20 We have a -- in theory there is going to be a
 21 core program to meet the needs of the ecosystem restoration
 22 and the water that would flow or be needed at what times,
 23 what temperature, all of those things, is supposed to be
 24 planned for in the ecosystem restoration program. We know
 25 we'll have to monitor that over time to get real data to

1 see if we achieve that.
 2 The concern that Tom raised was the association
 3 that has been observed by some of increased exports,
 4 decreased outflow. Therefore, impacts on the environment
 5 and on the ecosystem. We are trying to restore that
 6 ecosystem. Therefore, in theory all of the alternatives
 7 are supposed to be mutual with respect to the ability to
 8 meet the water needs of the ecosystem. In theory that's
 9 what all of those alternatives were supposed to be able to
 10 do.
 11 Perhaps, therefore, what we have to evaluate
 12 under water supply opportunities is the ease in which those
 13 alternatives can meet that and whether or not you get more
 14 depletion at certain times of the year if there is a
 15 difference in the operational abilities of those
 16 alternatives to meet the water needs in that ecosystem
 17 restoration plan and what that means in terms of depletion
 18 for the rest of the system.
 19 EXECUTIVE DIRECTOR SNOW: Yeah, I think
 20 you've phrased it properly in terms of ecosystem health.
 21 We have a plan where we are covering all of the
 22 species to improve ecosystem health.
 23 The efficiency with which you can do that
 24 changes among the alternatives, how easy it is to
 25 accomplish that.

1 The other point I would make, and I guess I
 2 want to make it given maybe some of the underlying issues
 3 within this discussion, is that since the beginning of the
 4 program so at least for two years we have discussed the
 5 concept that you can have win-win on this issue by paying
 6 attention to when you are diverting water out of the system
 7 and so it is not a zero sum gain.
 8 And I'm concerned that what may be coloring
 9 some of the thinking is back to the old concept that one
 10 additional acre foot of withdrawal equals environmental
 11 detriment and our whole program has been based on looking
 12 at the hydrograph, looking at when fish need the water the
 13 most, looking at when you have the greatest opportunity to
 14 divert, modifying existing diversion patterns, so that you
 15 can, I guess, in the simplest terms divert, say, the
 16 existing level of water with less environmental impact.
 17 And by how you adjust the system, how you
 18 manage the hydrograph you can achieve win-win and that has
 19 been in all of our documents and I guess the issue here,
 20 now this is becoming real and we are getting to the point
 21 where it's really starting to get on the table but that's
 22 what we have in front of us.
 23 VICE-CHAIRMAN McPEAK: There is also this
 24 larger question that was identified that we will get to
 25 right after lunch of the core program, how much concurrence

1 around that and the assurance or guarantee that what is
 2 going to be needed for the ecosystem is supposed to be
 3 provided by all three alternatives. That's your commitment
 4 or obligation.
 5 So -- and those three alternatives might, by
 6 the way, have varying abilities to mitigate impacts of the
 7 ecosystem restoration, but the ecosystem restoration is
 8 supposed to be achieved regardless of which alternative is
 9 selected. Okay.
 10 So that's how this is supposed to come together
 11 and I'm trying to figure out how to accurately get what,
 12 Tom, you think is a distinguishing characteristic or how we
 13 evaluate that on to this list and get resolution.
 14 Tom.
 15 MR. GRAFF: I think what Lester just said
 16 is important. I think it's clearly correct from an
 17 environmental point of view that timing is an important
 18 characteristic. That is to say, there are times when a
 19 depletion or diversion is likely to be more environmentally
 20 damaging and times when it's likely to be less so.
 21 But it's also the case that total depletions
 22 and total diversions are a major factor and it is very
 23 difficult from my point of view to get this program to
 24 disclose what assumptions it's making about total
 25 diversions and total depletions.

1 For example, we questioned the Monterey Accord.
2 The Monterey Accord reaffirms the State water project's
3 commitment to deliver 4.2 million acre feet per year to
4 state Water Project contractors.

5 Is that an assumption that the CalFed Program
6 shares?

7 And, if not, at what level does it believe the
8 State Water Project is committed to make deliveries?

9 That's fairly simple. You know, it's
10 controversial but it's a fairly simple question.

11 EXECUTIVE DIRECTOR SNOW: And there is a
12 simple answer to that.

13 The answer is absolutely not. We have not
14 adopted anybody's delivery plan as an objective of the
15 program.

16 And the answer to the other part of the
17 question is what supply will come out of the CalFed is, in
18 fact, the distinguishing characteristic on water supply
19 opportunities.

20 And that's probably one of the issues we'll be
21 able to most easily quantify and you'll be able to look at
22 every single one of the alternatives and see what we are
23 estimating as potential yield, average year, dry year that
24 can result from that alternative and those numbers will be
25 expressed in changes over the no action alternative.

1 to take that information and score the alternatives against
2 a nineteenth criterion that Tom proposed.

3 EXECUTIVE DIRECTOR SNOW: Well, I'm not
4 sure I'm tracking this.

5 Because the way -- let me take the State Water
6 Project as an example.

7 The way we are approaching solving the
8 Bay-Delta conflicts it is actually irrelevant to us what
9 the State Project has promised to its contractors.

10 That does not drive our process.

11 What we are attempting to do is balance the
12 Bay-Delta system and those numbers will be whatever they
13 are, how much water we think can be diverted given certain
14 facilities and still achieve the benefits of the program.

15 So if the State contractors have promised an
16 additional 5,000,000 acre feet, that does not change our
17 program in any way, shape or form.

18 VICE-CHAIRMAN McPEAK: I think that's
19 right with respect to the obligation of the CalFed process.

20 I think it's information that a lot of people
21 want to know, however, and that's why I was proposing that
22 you do evaluate those alternatives with respect to other
23 major agreements or pieces of legislation.

24 Let's get Bob and then let's get Mary.

25 MR. MEACHER: For example, then how they

1 It would not be possible to make it more
2 explicit than that.

3 VICE-CHAIRMAN McPEAK: But that does bring
4 us to the last point that was raised that I've got on this
5 list, that was proposed as a different or additional
6 distinguishing characteristic.

7 And, that is, how these alternatives stack up
8 with respect to other accords, decisions, agreements, that
9 are out there, and that isn't on this list.

10 You think it might be taken care of under the
11 water supply opportunities, is that right, Lester?

12 I'm proposing that the issue of what Tom called
13 water balance and water depletion, you came back then and
14 said the efficiency of those alternatives to meet the
15 commitment under the ecosystem restoration plan should be
16 teased out under number six.

17 I would propose that's right, let's do that, be
18 explicit there. I think from what I heard there actually
19 is a nineteenth characteristic to be put there.

20 I don't know exactly how you'd evaluate it but
21 we've got all of these other agreements, legislation, et
22 cetera out there that may be -- that are going to be
23 impacted differently by the alternatives.

24 Now, that information would be indirectly
25 provided perhaps under number 6 but I think you then need

1 measure up or how they would affect the existing system of
2 water rights in the area of origin of rights?

3 Is that what you're talking about as one of
4 those areas under 19?

5 VICE-CHAIRMAN McPEAK: It certainly could
6 be. It certainly could be. I'm putting that on the list.

7 I'm acknowledging when Tom raised the issue
8 that there are other circumstances, he cited the Monterey
9 Accord, you are citing area of origin, county of origin --

10 MR. MEACHER: Or anybody else's water
11 rights.

12 VICE-CHAIRMAN McPEAK: Anybody else's
13 water rights, but there is the CVPIA in a larger context,
14 too.

15 It's a question do you want to have that -- is
16 that an appropriate distinguishing characteristic against
17 which to evaluate the three alternatives?

18 Mary and then Steve.

19 MS. SELKIRK: I'm going to offer a
20 resounding no. I think it's really premature.

21 I mean, especially if CalFed were to come out
22 with some kind of analysis of the -- the extent to which a
23 preferred -- or one of the all three alternatives might or
24 might not be interpreted to meet the delivery plan of a
25 particular project or consortium of agencies or whatever

1 the possibility for that information to be misinterpreted
 2 or twisted I think is really pretty high, especially at
 3 this point.
 4 I'm not sure it would give us any useful
 5 analysis at this point. I think all of the issues that
 6 have been raised are absolutely critical and, I'm assuming,
 7 will be the heart of whatever analysis is going to be done,
 8 both the EIR process, the NEPA and CEQA processed but also
 9 the huge amount of public scrutiny that I imagine is going
 10 to take place over the next twelve months.

11 So I would vote or advocate for not adding
 12 another characteristic.

13 VICE-CHAIRMAN MCPPEAK: Let me just see if
 14 I'm understanding there.

15 What you're saying is that what Tom and Bob
 16 have raised you think will get addressed in the process but
 17 not during -- not this immediate next phase of evaluating
 18 the alternatives against the characteristics?

19 MS. SELKIRK: Partly because I think if
 20 we're talking about a problematic level alternative, that
 21 if as Lester says there is no assumption for any particular
 22 delivery plan or the integration of any particular
 23 agreement, Monterey agreement and others, into selection of
 24 a preferred alternative -- or I should say fundamentally to
 25 the development of all of the alternatives, then I don't

1 overall State water picture, but I think it's another forum
 2 that needs to address how this fits with those.
 3 VICE-CHAIRMAN MCPPEAK: Roberta and then
 4 I'll try to bring resolution to this just for the sake of
 5 time.

6 MS. BORGONOVO: I just wanted to suggest
 7 that it certainly should be brought forward into assurances
 8 because Department of Water Resources is one of the
 9 agencies so . . .

10 VICE-CHAIRMAN MCPPEAK: The discussion
 11 we've just had I hope shows the benefit of group thinking
 12 and the process of sharing the views, but what I'm hearing
 13 and concluding is that probably the BDAC is moving to say
 14 don't add that as the nineteenth distinguishing
 15 characteristic but let's commit to and flag the fact we
 16 will need to revisit a discussion about these other
 17 outstanding or existing agreements at a point in the
 18 future. I think it's not too far in the future. It may be
 19 a two, three month kind of time frame where we are talking
 20 about the trade-offs perhaps.

21 So what I want to commit to you is that we will
 22 revisit this as an Agenda item for discussion.

23 We'll need to be -- have -- Lester, be very
 24 clear about it.

25 Maybe we can have again you restate for our

1 see the utility at this point of adopting that kind of
 2 review and analysis as a distinguishing characteristic.

3 My concern is that what we will do is create a
 4 huge amount of disinformation.

5 EXECUTIVE DIRECTOR SNOW: Steve.

6 MR. HALL: I think I agree with Mary.

7 I think Tom's point is a good one, that we need
 8 to make sure that there aren't assumptions being made by
 9 CalFed that lead us to a conclusion.

10 For instance, I agree with Lester. It would be
 11 inappropriate for CalFed to assume that 4.2 in the existing
 12 entitlements has to be met and that needs to drive our
 13 process.

14 There are a lot of other outstanding
 15 agreements, contracts, settlements, et cetera, that we
 16 could roll into this, but I agree with Mary.

17 My understanding of these distinguishing
 18 characteristics is that they are those items which CalFed
 19 can adequately assess and in some cases control to help us
 20 differentiate as to how the alternatives meet the solution
 21 principles.

22 Many of the things that would be rolled into
 23 this if we went down that path we can neither assess nor
 24 control.

25 They are clearly going to have an impact on the

1 future meeting when we are looking at this information the
 2 distinguishing characteristics, what your assumptions are
 3 and what they aren't with respect to these other items out
 4 there.

5 EXECUTIVE DIRECTOR SNOW: Right.

6 VICE-CHAIRMAN MCPPEAK: Okay? I think we
 7 sort of have agreement. We've made a commitment. We are
 8 going to come back and revisit this. It's going to be an
 9 explicit item on the Agenda. When we have this
 10 information, we will discuss it. It's not going to be
 11 another distinguishing characteristic.

12 MR. GRAFF: Sunne, clarification point.

13 Before or after a preferred alternative is
 14 selected?

15 VICE-CHAIRMAN MCPPEAK: Before.

16 MR. GRAFF: Thank you.

17 VICE-CHAIRMAN MCPPEAK: Boy, that's -- I
 18 just decreed it.

19 Annie.

20 MS. NOTTHOFF: I just need clarification,
 21 that these things you want flagged, there is a distinction
 22 between agreements and laws.

23 When you mention CVPIA in the same category as
 24 some of these other things I don't think they are in the
 25 same category.

1 I am assuming we are not going to get anything
2 at any point that is inconsistent with Federal or State
3 law.

4 VICE-CHAIRMAN McPEAK: We are committed to
5 not breaking the law, right.

6 I think understanding what you're saying I am
7 going to suggest that Lester is going to do some thoughtful
8 review of how you address this and bring it back to us.
9 Yes, Lester.

10 EXECUTIVE DIRECTOR SNOW: I'm trying to
11 think this through and I may talk to some of you a little
12 further about this.

13 Some of these issues that have been raised in
14 this discussion are fairly complex and I'm trying to think
15 how we would deal with it. Others are pretty
16 straightforward. I know there is a lot of concern about
17 how we are treating CVPIA and we actually have most of the
18 CVPIA actions are in our no action alternative. I mean,
19 they are not even in these alternatives. We are assuming
20 that they take place, and that has been a great challenge
21 to us to try to figure out how to model those so I'll try
22 to figure out a way to explain that easily so that people
23 understand that.

24 And also I don't want to mislead you. I was
25 thinking about Tom's question. We clearly have no demand

1 targets. It's just going to work out the way that it is.
2 However, to make the models run we assume various levels of
3 demand just to see how they can perform and we try to share
4 that on a regular basis with the stakeholder technical
5 modeling folks, that they understand what we are doing to
6 get this data.

7 VICE-CHAIRMAN McPEAK: Thank you. We've
8 come to the Public Comment time for this morning and we
9 have six people.

10 Just to remind you I'll be giving you a signal
11 at three minutes so that you wind up by five. I also want
12 to begin by noting that we acknowledge the resignation of
13 three of our members and we are very sorry to see that
14 happen. One of them is here, Marcia Brockman. Thank you
15 very much for your service, Marcia.

16 Gary. Gary Bobker is going to lead off talking
17 about distinguishing characteristics followed by Cynthia
18 Koehler.

19 GARY BOBKER: Thank you, Madame Chair.

20 Gary Bobker, Bay Institute.

21 Just a couple of real brief comments. One is
22 on distinguishing characteristics.

23 On three and four which I believe were effects
24 of diversions and aquatic habitat impacts I think it's
25 appropriate to use a species focus as part of that in terms

1 of assessing impacts but I would not like to see it
2 restricted simply to a species focus and I assume that
3 we'll be using some other filters in terms of effects on
4 the entire Bay-Delta food web on productivity and other
5 things. It's a little more difficult to do, but I know the
6 technical team spent a lot of time on when they were
7 looking at assessment tools and hopefully that will be
8 incorporated in the work done on distinguishing
9 characteristics.

10 Secondly, with regard to the Brackish water
11 habitat, I think that you are -- without trying to
12 wordsmith or fine-tune, the direction you were going,
13 Sunne, with your attention to Delta inflow and outflow
14 helps get us there. It's just really important to deal
15 with that because although I think we'd all agree that the
16 majority of Estuarian impacts are going to be concentrated
17 in the Delta and upper Bay in terms of impacts on the food
18 web and the estuarian fishes, et cetera, depending on the
19 size, the magnitude and the particular elements of any
20 alternative there potentially could be some major impacts
21 on selenities throughout the Bay and that has important
22 ecological values on stratification of South Bay. We've
23 talked about that a little bit, but also on things like
24 outflow has a big impact on the dispersal and abundance of
25 some of the in Bay and near shore organisms including some

1 that are very important commercially, so although it may
2 not be likely that you're going to have big impacts the
3 potential if you do could be very big. So it's just
4 something you can't let slide off the radar screen. So I
5 appreciate the emendations that were made. I think that
6 needs to be paid a lot of attention to. Thank you.

7 VICE-CHAIRMAN McPEAK: Thanks, Gary. Very
8 much. You were within your time, three minutes.
9 Cynthia Koehler.

10 GARY BOBKER: Rare.

11 VICE-CHAIRMAN McPEAK: And nobody thought
12 that could do it, Gary.

13 Also I just wanted to note that Barry Nelson
14 from Save the Bay Association was here earlier and Barry
15 had to leave, right?

16 GARY BOBKER: He'll be back this
17 afternoon.

18 VICE-CHAIRMAN McPEAK: Cynthia. He'll be
19 back this afternoon. Okay.

20 Next public commentary. Cynthia.

21 CYNTHIA KOEHLER: I will be brief. I am
22 Cynthia Koehler. I am the Legal Director of Save
23 San Francisco Bay Association. That is a new position for
24 me, just to let those of you know who were unaware of that.

25 I want to talk very briefly today about an item

1 that is not agendized and that is the recent notice to
 2 scope habitat conservation plan. What I primarily want to
 3 do is bring that to the attention of this body and request
 4 that it be officially agendized for the next BDAC Meeting.
 5 It seems to me it falls very squarely within scope of
 6 things you folks need to consider. And I also wanted to
 7 flag for you a few things that have been discussed in the
 8 conservation community just to begin that dialogue. This
 9 is the public forum and so we do want to work with BDAC to
 10 resolve those concerns.

11 Just by way of background for those of you who
 12 don't know the Department of Interior has issued a notice
 13 to expand the scope of the programmatic EIS for CalFed to
 14 include the preparation of a Habitat Conservation Plan
 15 under both the Federal and State endangered species acts.

16 The general concern is that people are somewhat
 17 confused about what that means exactly. We have a
 18 conservation plan, a habitat conservation plan for CalFed.
 19 It's called the ERPP and there are a lot of questions about
 20 why there is this parallel process being proposed at this
 21 time.

22 I think part of the reason there is a confusion
 23 is because habitat conservation planning usually happens
 24 pursuant to the -- well, always happens pursuant to the
 25 issuance of incidental take permits for relatively specific

1 because that's really what we are talking about with the no
 2 surprises policy is providing a level of assurance which
 3 may be entirely appropriate but we are working on an
 4 assurances package and how does a no surprises policy in
 5 the context of a habitat conservation plan with all of the
 6 attendant regulations, rules and precedents that go along
 7 with that. Do we -- there's a lot of concern about
 8 undermining that process.

9 So I am not here today to put out before you
 10 any particular position on behalf of either Save the Bay or
 11 the larger environmental community but to let you know that
 12 these are issues of enormous concern that are coming to the
 13 forefront very, very quickly. And we'd like to have an
 14 opportunity to talk with BDAC in more detail about that.

15 MS. NOTTHOFF: Thanks, Cynthia.

16 I just wondered if we would maybe talk about
 17 the relationship of the HCP?

18 I too notice that it was on the public meeting
 19 schedule but there is no talk about it on the Agenda today
 20 and I thank you for bringing that up. But can we talk
 21 about it today when we get to the ecosystem restoration and
 22 the ERPP report maybe?

23 VICE-CHAIRMAN MCPEAK: We certainly can
 24 talk about it today and there, Ann, or under public
 25 involvement and for -- under, also, the public involvement

1 human activities that could harm listed species.

2 Here we are talking about something I'm not
 3 sure any of us have seen before which is an incidental take
 4 permit for an entire massive program that has hundreds,
 5 thousands really, perhaps tens of thousands of moving parts
 6 and the basic question is why are we doing that now or do
 7 we need to do it now and if we do, how. And so there are
 8 basically three main areas of concern.

9 One is scope, the CalFed program is enormous
 10 and the question is is it even appropriate to be talking
 11 about the issuance of an incidental take permit for a
 12 program of that magnitude, which is related to the second
 13 issue, which is timing. Doesn't it make more sense for us
 14 to know what we are doing, get a sense of whether we need
 15 to have incidental take permits. I mean, no doubt we --
 16 well, surely, surely there are those who will argue that we
 17 will and I don't question that basic assumption, but I do
 18 question whether you need it at the programmatic level. Is
 19 it appropriate, and this is a question I think BDAC needs
 20 to consider, to be issuing incidental take permits for
 21 programmatic activities? Isn't it more appropriate to
 22 figure out, okay, what your needs are and then to issue
 23 take permits appropriately.

24 And third and perhaps most important are we
 25 jumping the gun on the entire assurances package here

1 or somewhere we are going to talk about the agendizing it
 2 for a future BDAC Meeting, yes. I've noted it.

3 CYNTHIA KOEHLER: Thank you.

4 VICE-CHAIRMAN MCPEAK: Thanks, Cynthia.

5 CYNTHIA KOEHLER: Sure.

6 VICE-CHAIRMAN MCPEAK: Al McNabney from
 7 the Mt. Diablo Audubon Society.

8 AL MCNABNEY: Well, my first problem was
 9 how to address you.

10 Some people have said Madame Chair. That
 11 doesn't fit so I'll fall back on the one that I know best,
 12 Honorable Sunne.

13 I appreciate being here and in some ways I'm
 14 out of water because there is a lot of things that are
 15 talked about that I'm not very good at.

16 I have often said with some degree of humor
 17 that we're for the birds, and that's what I want to talk
 18 about a little bit today.

19 I understand that there was some discussion
 20 earlier about migratory birds, but that's not really what I
 21 want to talk about.

22 In the CalFed papers there are listed a number
 23 of avian species and as far as I can determine there is no
 24 consideration being given to those birds at all.

25 The only thing that's being talked about is

1 migratory birds and they are even given a secondary
 2 consideration.
 3 My view is that avian species and particularly
 4 the ones that are listed are critical to the biodiversity
 5 of the Delta and they should certainly be included. In
 6 looking at the list of people I find all sorts of folks who
 7 have all sorts of knowledge. I don't find very many who
 8 seem to have a very broad knowledge about avian species and
 9 what you do to try and restore them and bring them back and
 10 so on and so forth.

11 I'm not much of an expert in anything but I
 12 think I know something about birds and I've fussed with
 13 them for a long time.

14 So I would urge that somehow in this august
 15 body consideration be given to the avian species that are
 16 actually listed, and there are probably some others that
 17 ought to be listed, and find some way to put them into the
 18 process and that leads me to habitat restoration.

19 I think it's critical, maybe that's too strong
 20 a word, but I think it's important that in developing
 21 habitat restoration plans and programs that it be done with
 22 some thought in mind as to what happens to the avian
 23 species that are involved because if you do it the wrong
 24 way, you are likely to harm the species that are existing
 25 and so it's important that that be looked at.

1 Council.
 2 I've been coming to these meetings now for a
 3 few years and I've come to the conclusion that the problems
 4 can be resolved and only be resolved if they are
 5 politically feasible and economically feasible and also
 6 justifiable and last but not least justifiable, and I say
 7 that because there was some legislation passed in a court
 8 ruling where we had to do something with the San Luis
 9 drain. And this comes from Federal Judge Oliver Wanger who
 10 used to be the City Attorney in the City of Mendota at one
 11 time. A highly knowledgeable, likable person and he really
 12 does get to the point of issues and matters.

13 I've heard a lot of discussion today about
 14 water quality third party effects and we keep coming back
 15 with that and we keep coming back with it, but I don't see
 16 any results of that effect.

17 Our water quality in the City of Mendota is all
 18 documented. We take laboratory tests. Those laboratory
 19 tests are sent to the local office. That local office has
 20 that on record for a number -- many numbers of years.

21 Every time they activate the pumps east of
 22 Mendota they are pulled from the aquifers and transferred
 23 elsewhere, our water quality degrades.

24 We never had primary standards. We don't meet
 25 secondary standards. We're always above it.

1 The other comment that I want to make about
 2 habitat restoration is that I'm a little bit bothered by
 3 what I've seen so far that there is a lot of very technical
 4 expertise being given to looking at habitat restoration.
 5 I'm not sure from what I've seen that somebody standing
 6 back and saying, well, we've got all of these technical
 7 things but what do we do in real life, how does it make it
 8 work, maybe somebody's done that and if so, that's fine,
 9 and I just knocked the mike off the thing.

10 Audubon, the Bay Area Audubon chapters and I'm
 11 not speaking for them but the Bay Area Audubon chapters are
 12 participants in the environmental water caucus and we
 13 support their positions and work with them closely on those
 14 kinds of things and we appreciate the opportunity to be
 15 here.

16 And, lastly, I want to thank the people who are
 17 working in the CalFed process, Mr. Snow and everybody else.

18 Right now it's easy to do because we haven't
 19 reached the point where we have to fight about something.
 20 All we can do is suggest so I hope it keeps working the
 21 same way and thank you.

22 VICE-CHAIRMAN MCPHEAK: Thank you, Al, very
 23 much.

24 Mr. Petry.

25 MR. PETRY: Good afternoon, members of the

1 And every time that the activity east of us and
 2 the pool pumping activity happens.

3 Once this water district made a report, an
 4 impact report as to the Mendota Pool group -- not the
 5 Mendota Pool group pumping but the canal side pumping.

6 In at that report they never talked third party
 7 effects, never investigated it, never once contacted water
 8 Quality Control, local office, who has all of this
 9 documented evidence.

10 Now we get the Mendota Pool group is doing the
 11 same thing.

12 Neither one of those parties has the same
 13 effect on our aquifer, irregardless if they put it in the
 14 California Aqueduct or if they irrigate Westlands water
 15 district with it.

16 As far as the San Luis drain is concerned
 17 there's 42,000 acres of plumbing, underground plumbing. We
 18 need to do something with that and if you understand the
 19 flows they come from the southwest to the northeast, just
 20 like the subsurface flows do, just like the surface water
 21 does.

22 The San Luis drain will put in place in the
 23 42,000 acres where the troublesome area was from the
 24 Pinoche Hills that are bringing off the Brackish waters and
 25 295,000 acre foot of watershed.

1 These waters in addition to the applied waters
2 from surface waters has a hydraulic pressure that pushes
3 these waters into our aquifer and now we enhance the
4 project or accelerate it with the overdrafting of water
5 east of the City of Mendota.

6 These are water transfers that need to be
7 addressed.

8 If I may come back later on in the session this
9 afternoon, I'd appreciate the opportunity.

10 VICE-CHAIRMAN McPEAK: We will be calling
11 on you then, Mr. Petry, thank you.

12 David Nesmith, Sierra Club. Has David left?

13 I actually don't see David in the audience
14 right now. If David returns for this afternoon, we'll also
15 call on him.

16 And Michael Warburton.

17 MR. MEACHER: Sunne, every month we hear
18 Mr. Petry on the Mendota Pool and the San Luis drain.

19 Is there any way we can direct him to some
20 folks that can help him on that instead of --

21 VICE-CHAIRMAN McPEAK: I've asked the same
22 question and I think, yes. I believe you are making a
23 great proposal that we should ask the CalFed staff to
24 figure out where the right arena is and how we can help.

25 MR. MEACHER: I think that would only --

1 That's -- so that's when I believe we are
2 trying to get to.

3 Michael.

4 MICHAEL WARBURTON: My name is Michael
5 Warburton. I'm from the Ecology Center and Public Trust
6 Legal Project, both very small groups.

7 One thing I want to say is thank you for having
8 this meeting here so I could participate for sure. It's
9 nice to be able to do that in the Bay Area.

10 Our groups -- well, both of them are concerned
11 with statewide issues just like the last speaker, that some
12 of the consequences of water decisions, particularly the
13 kind that BDAC is going to be involved with, do affect
14 people statewide and our main concern is with an issue
15 that's in the background of this whole discussion. It's
16 with a very fundamental and vital aspect of California law
17 called the public trust doctrine.

18 Maybe it's so much in the background that it's
19 never even talked about. I don't know.

20 I shared the opinion with several of the people
21 on our groups that the public trust doctrine that not legal
22 jargon that should be talked about by lawyers but it's a
23 part of the public discussion and our concerns are that
24 this is not being adequately discussed and explicitly taken
25 into consideration even by some of the trustee agencies in

1 we'd be behooved to do so.

2 VICE-CHAIRMAN McPEAK: Thank you.

3 MR. HILDEBRAND: I agree. I think it's
4 very important that we get onto that. This problem is
5 serious, it's getting worse and nothing is being done about
6 it and it's a horrible situation. And just because most of
7 us don't live down there doesn't mean that the same thing
8 can't happen elsewhere.

9 VICE-CHAIRMAN McPEAK: If I recall in my
10 discussion last month, Bob and Alex, that you're raising
11 this question, I asked the same to you, Lester, I think the
12 central water -- regional water Quality Control Board
13 should be a place to begin, is that not true?

14 EXECUTIVE DIRECTOR SNOW: That certainly
15 would be one place.

16 The State Board is also involved as is the
17 Bureau of Reclamation in looking at those issues.

18 VICE-CHAIRMAN McPEAK: What I think is
19 being proposed here and, Mr. Petry, you can address this
20 this afternoon, but -- which is the BDAC members are not
21 trying to simply do a bureaucratic shuffle here. What we
22 are trying to do is acknowledge the issue you've raised
23 repeatedly to us and figure out a way to communicate from
24 BDAC to the proper authorities to address this issue and to
25 report back here to us on addressing this issue. Okay.

1 the State of California.

2 Even more than that we have really severe
3 concerns about the ability of the legal profession to even
4 represent these issues because almost all the money that's
5 made in legal cases is in representing private interests
6 and getting around public constraints. I think Willie
7 Brown of San Francisco is probably one of the greatest
8 illustrations of this kind of conflict of interest problem.
9 In any case the public trust is going to get more and more
10 important. As population pressures increase public rights
11 and the legal institutions that are associated with them
12 become more important.

13 And I know that just looking around there are
14 some people here who have spent most of their lives working
15 on water rights issues and -- but just looking there is
16 this concept of reasonable and beneficial use that I think
17 has somehow been lost in the shuffle and it's totally out
18 of concern for local environmental use when you have golf
19 courses and very high consumptive uses in very, very dry
20 areas and we are looking for solutions through this process
21 but the whole idea of habitat conservation plans and
22 markets have been so badly abused in the head waters forest
23 situation that there is a lot of work done, being done
24 right now just to repair that damage.

25 For the last week we've been hosting a couple

1 from New Mexico who are here talking about developments
 2 where there is a common joke, sure, they have water but it
 3 rattles when you pour it, and all the time on the news it
 4 comes out the following communities have to boil their
 5 water. There are severe water quality issues in California
 6 and the public trust is an important part of addressing
 7 those water quality issues and these transfer issues and I
 8 think before we go racing around trying to find willing
 9 buyers and sellers I think it's very, very important to get
 10 an adequate understanding of what's being bought and sold.

11 VICE-CHAIRMAN MCPPEAK: Thank you, Michael.

12 That concludes the Public Comment period for
 13 this morning or early afternoon as the case might be. We
 14 appreciate the patience of our audience, our public
 15 members, as well as the members of BDAC.

16 We'll adjourn until two o'clock.

17 The lunch period or lunch is being served for
 18 BDAC right behind us so if you'd go out the door, turn to
 19 your left, you'll find the room and there are restaurants
 20 in the hotel and in the area for the audience. We'll be
 21 back at two o'clock.

22 Thank you all.

23
 24 (Whereupon the noon recess was taken at
 25 1:17 p.m., after which the following

1 California and I haven't even talked to Lester about that
 2 but several of you have talked to me during lunchtime and
 3 perhaps need to make that a two day meeting too, as we move
 4 to either the late January or February after we have the
 5 alternatives out and would want to make a concerted effort
 6 to invite a lot of the stakeholders in to also be present
 7 and perhaps provide some testimony.

8 We'll be calling upon some of the Southern
 9 California stakeholders represented here in the audience to
 10 assist us with that.

11 And, also, we agreed as we broke for lunch that
 12 we would begin immediately discussing the core program and
 13 the application of the solution principles to that.

14 In thinking about how best to do it it's been
 15 issues raised by, first, this morning David and then Tom
 16 that we need more time and we should put that on for a very
 17 extended discussion at perhaps the next meeting.

18 And so what I want to propose is that Lester
 19 and the staff are going to take the -- revisit the core
 20 program and evaluate it against the solution principles and
 21 that will also give us the time to get an understanding of
 22 what is the baseline for both existing and no action
 23 alternative. That will help clarify what are the working
 24 assumptions in also the CalFed process or the core program
 25 and the very essence of the ecosystem restoration program

1 proceedings were had at 2:05 p.m.)

2 VICE-CHAIRMAN MCPPEAK: Lester is in the
 3 room and for those of you who are here I want to announce
 4 that we are going to move up the Chair's report so that we
 5 can discuss those items immediately; that is, move it up
 6 ahead of the technical feasibility on fish screens. That
 7 will come after the BDAC work group updates.

8 We also are -- have been considering based on
 9 the kind of -- the quality and the intensity and the length
 10 of discussion that we had today considering the need for
 11 possibly a two day BDAC Meeting. So there is some
 12 concentrated discussion and that would have to be either
 13 November or December in order to have adequate discussion
 14 before the alternatives decision.

15 So we are going to look at probably November
 16 4th and 5th. It would be either that or the 11th and 12th
 17 of December. And I'd like you to look at your calendars
 18 because I think leaving the meeting today Lester is going
 19 to look at the feasibility of doing a 4th and 5th, November
 20 4th and 5th, as a two day meeting so please reserve that on
 21 your calendar.

22 We also note how more accessible this is to
 23 people in the Bay Area. You have a lot more testimony and
 24 folks have liked that.

25 We need to schedule again a meeting in Southern

1 and what, therefore, are the assumptions of baselines for
 2 the alternatives.

3 We recognize that the cumulative analysis that
 4 will come at the -- as a result of having an alternative
 5 selected may cause us to rediscuss, revisit, alter in some
 6 way elements of the core program, further work by all of
 7 the work groups will modify and refine and the work by the
 8 Assurances Work Group may make all of the difference in the
 9 world as to how comfortable people are with certain parts
 10 of either the core program or the alternatives.

11 But what we have been approaching the core
 12 program as is a set of actions that would be a part of any
 13 of the three alternatives and that's why we need to -- we
 14 want to have more discussion around it. Let's see, Alex,
 15 you had your hand up.

16 MR. HILDEBRAND: I was wondering whether
 17 with the oppressive material to be reviewed here whether we
 18 should perhaps be having a meeting in October.

19 VICE-CHAIRMAN MCPPEAK: Good question.

20 I think Lester's concern was needing to have
 21 some -- there is a certain amount of staff work required to
 22 take the distinguishing characteristics and get that
 23 information, sort of display it against the three
 24 alternatives.

25 I've now or this morning because as a result

1 of the core program being raised again so that needs to be
 2 on our next Agenda.
 3 What do you think about a meeting in between or
 4 just going to the two day meeting might make more sense?
 5 EXECUTIVE DIRECTOR SNOW: Well, my
 6 reaction to the kinds of questions and discussion we had
 7 this morning was the thought of a two day meeting where we
 8 have -- you have coming into that meeting, you know, the
 9 draft analysis, but we are also able to structure the
 10 discussions about the Common Program and existing
 11 conditions that leads into support the next day's
 12 discussion. And that gives us enough time to complete it.
 13 If we try to squeeze in another meeting then
 14 you'll have another piece of the puzzle in some incomplete
 15 condition. So that's just a real rough thought process.
 16 VICE-CHAIRMAN MCPPEAK: Okay. Then I think
 17 let's take Stu and then Roberta.
 18 MR. PYLE: Yeah. Lester, how does this
 19 fit in with your final publication process?
 20 In November if you're having a two day meeting
 21 would we be seeing something that's pretty close to the
 22 publication or where are we there?
 23 EXECUTIVE DIRECTOR SNOW: No. No.
 24 In November what we would see would be the
 25 results of the distinguishing characteristics and kind of a

1 would be receiving the summary of the work of the review
 2 panels on the category three, \$70,000,000 funding to Prop
 3 204.
 4 We already just have identified this morning
 5 the need to revisit the core program and look at that
 6 against the solution principles and hear whatever concerns
 7 might be there and get very much clarified the, if you
 8 will, working assumptions that have -- are being flushed
 9 out in the no action alternative which starts with what
 10 things would be in place; i.e., a baseline if there was not
 11 either any of these three alternatives added on.
 12 So as I look at that, Stuart, I think we have
 13 identified enough substantive issues in order to be -- have
 14 a better understanding to enter into that discussion on the
 15 characteristics against the three alternatives and that
 16 probably spending the time in November is a better
 17 investment of preparing for a December meeting in order to
 18 still be on this timetable. Okay.
 19 So I think we've probably talked ourselves into
 20 that and also agreed that what we are going to do is start
 21 off with the core program against the solution principles
 22 at the November meeting and that will include a discussion
 23 of the baseline existing and no action alternatives, which
 24 should flush out what are the working assumptions about
 25 other pieces of legislation, like the CVPIA.

1 better articulation in terms of the higher perform areas
 2 what the trade-offs are and it would end up being the
 3 December meeting that we'd really start seeing what we've
 4 started to call a hybrid, what's the hybrid performer out
 5 of this.
 6 The implication of that would probably be in a
 7 formal publication in January.
 8 MR. PYLE: And if we had a two day
 9 meeting, what kind of things would we be doing?
 10 Would we just be going through the
 11 distinguishing characteristics and the alternatives in more
 12 detail?
 13 EXECUTIVE DIRECTOR SNOW: Well, the
 14 results of the analysis and then identification of the
 15 trade-offs.
 16 I think it's going to become real clear where
 17 the trade-offs -- I mean, some are obvious already. Those
 18 that produce, you know, greater water supply opportunities
 19 have higher costs and probably have higher assurance
 20 problems associated with them and to be able to get those
 21 things discussed.
 22 Some of those defy pure analysis, quantitative
 23 analysis and so that's why I think we need to allow time
 24 for discussion of those types of issues.
 25 VICE-CHAIRMAN MCPPEAK: Remember, we also

1 Then we would go into the discussion of the
 2 distinguishing characteristics against the three
 3 alternatives. Okay?
 4 MR. PYLE: Would the two day meeting
 5 include a straight on through evening session until four?
 6 VICE-CHAIRMAN MCPPEAK: Around the clock,
 7 no sleep, probably little food, seeing if we can't reach
 8 resolution that way.
 9 MR. PYLE: Waiting until 1:30 for lunch --
 10 VICE-CHAIRMAN MCPPEAK: it worked. I think
 11 what we'd want to do, quite honestly, to respond,
 12 seriously, is see how we can use that time as productively
 13 as possible so maybe an evening session where we have some
 14 thinking -- maybe a panel or a speaker or something. I
 15 don't know -- actually know but I would probably propose
 16 that we try to use the time as productively as possible.
 17 Mary.
 18 MS. SELKIRK: I just wanted to point out
 19 on our public calendar that the next Water Transfers Work
 20 Group is going to set the pace for that because it's
 21 scheduled from 9 a.m. to 12 midnight on Wednesday, the 17th
 22 of September.
 23 VICE-CHAIRMAN MCPPEAK: if you can't come
 24 up with a solution by then --
 25 MR. BELZA: We are an aggressive group.

1 VICE-CHAIRMAN MCPPEAK: I like that. Okay.
 2 With that -- Roberta, I'm sorry.
 3 MS. BORGONOVO: I just wanted to get the
 4 days.
 5 Are we talking the 4th and 5th of November?
 6 VICE-CHAIRMAN MCPPEAK: The 4th and the 5th
 7 of November. So right now on your calendars hold Tuesday,
 8 November 4th and Wednesday, November 5th. At least that
 9 will help Bob be able to not have a problem on Wednesday.
 10 And that will be Sacramento, right?
 11 EXECUTIVE DIRECTOR SNOW: Yes. We need to
 12 make sure that we can find a facility, but that will be the
 13 plan.
 14 VICE-CHAIRMAN MCPPEAK: And then the other
 15 thing, Roberta, I don't know if you were here or anyone
 16 else, that we are looking to a meeting in Southern
 17 California probably soon after the first of the year, if it
 18 be the end of January or into February and we'll also
 19 structure that to have some very explicit outreach to
 20 engage the stakeholders in Southern California where there
 21 is some discussion about the alternatives.
 22 All right. What we are going to do is take the
 23 item that was scheduled under the Chair's report because
 24 those are some of the more pressing issues that need to get
 25 out and for everyone who's now come in since then we're

1 turn it over to Tom Graff.
 2 VICE-CHAIRMAN MCPPEAK: You know, the next
 3 item is -- it's the Garamendi's process on the B(2)
 4 dialogue so -- should we do that or go to you, Steve, on
 5 the ag urban?
 6 Why don't we get your report and then I'm sure
 7 both will lead to the B(2) discussions and I'll pick up
 8 with Tom first.
 9 MR. HALL: My report is brief and in some
 10 respects is a repeat of the report I gave at the last
 11 meeting.
 12 We are spending most of our time in analyzing
 13 and assessing the work of CalFed, specifically, the
 14 alternatives.
 15 Much of the work is focused on obtaining and
 16 understanding the technical facts behind the alternatives,
 17 doing computer model runs, working with both CalFed staff
 18 and actually some of the technical people in the
 19 environmental community so that we have a common
 20 understanding within the ag urban caucus and then with the
 21 other folks who are involved as to what specific
 22 alternatives produce in the way of benefits and impacts.
 23 We hope to have a retreat later this month. I think it's
 24 the 25th and 26th, if I'm not mistaken, where we are going
 25 to do the same kind of thing, Sunne, that you are proposing

1 going to move the discussion on the feasibility of fish
 2 screens to after even the BDAC work group so we can get as
 3 many of our Chairs to be able to report directly instead of
 4 having to rely only on staff.
 5 We have the update on the ag urban group and
 6 then the environmental water caucus and, Steve and Roberta,
 7 if you might share with us the updates on those activities,
 8 we'd appreciate it.
 9 Steve, did you not have time for lunch? You
 10 are still chewing.
 11 MR. HALL: Yeah. You caught me in mid
 12 bite so I'm going to turn it over to Roberta.
 13 VICE-CHAIRMAN MCPPEAK: Roberta,
 14 Environmental Water Caucus.
 15 MS. BORGONOVO: We are continuing to
 16 follow all of the work groups that are in CalFed. We have
 17 Environmental Water Caucus groups that are looking at those
 18 issues but I am going to turn over my part of the report to
 19 Tom Graff because a great amount of effort from the
 20 environmental community has gone into the Garamendi process
 21 and we have a real concern about how that will impact on
 22 this process and also there are questions on the extension
 23 of the accord.
 24 So there is a letter from the Environmental
 25 Water Caucus that was included in the blue packet so I'll

1 for November 4 and 5, really get in depth about what CalFed
 2 is proposing, what it means to us as a water community,
 3 what sort of input we can and should provide to CalFed and
 4 hopefully that will be done in a manner that's timely.
 5 We've still got pretty full participation.
 6 Alex hasn't been at the last couple meetings.
 7 I don't know if he's mad or just been busy but most
 8 everybody is still hanging in there trying to slog through
 9 this stuff.
 10 You know, much of this is not very glamorous.
 11 It's basically number crunching.
 12 VICE-CHAIRMAN MCPPEAK: And I make the plea
 13 to most every group I come in contact with or a part of
 14 with water who is interested in the CalFed BDAC process to
 15 make sure we know if there is concern or disagreement with
 16 elements of the core program or the environmental
 17 restoration program. So I'm echoing that back to you.
 18 MR. HALL: Well, if memory serves we sent
 19 you about a 50 page letter on the ERPP and, let's see, I
 20 think the informal comment I heard back from CalFed staff
 21 was some of it was quite good, some of it they disagreed
 22 with pretty substantially, some of it they just flat didn't
 23 understand.
 24 But since then we have had some pretty detailed
 25 discussions between our technical folks, who worked on our

1 comment letter, and your ERPP folks. So I think we've got
2 at least a common understanding of where we agree and
3 disagree and we will continue to provide input on that.

4 As far as the ERPP we are not now spending a
5 lot of time on it because we felt like we provided the
6 input that we need to at this point.

7 But rest assured, we will send you more 50 page
8 letters on other elements of the plan as soon as we can
9 figure out what to say.

10 VICE-CHAIRMAN MCPPEAK: Thank you. Thanks,
11 Steve.

12 Okay. I guess that moves us to Roberta
13 yielding time to Tom and leading us into the CVPIA
14 Garamendi process.

15 MR. GRAFF: Thank you, Sunne.

16 I think what I'm going to do is probably
17 combine elements of each of those three bulleted items
18 under the Chair's report in the Agenda.

19 VICE-CHAIRMAN MCPPEAK: Good.

20 MR. GRAFF: First, I'm going to comment on
21 the materials. Many of the letters and related materials
22 were provided in the packet by CalFed staff and I think
23 were outside in the hall as well.

24 Let me just comment on three that are -- one
25 that's missing and two that I brought along and just passed

1 had out to BDAC members.

2 The one that's missing is a letter dated August
3 25th from 48 State legislators, and I'll comment more on
4 that later.

5 The other two are a letter that EDF wrote, I
6 wrote, to Governor Wilson on August 14th in response to his
7 letter to the President and the third is a chart setting
8 out water use in the Westlands Water District in the last
9 two -- well, last water year, 1996-'97 and the current
10 water year, '97-'98, and attached to that are two news
11 articles, vintage 1994, shortly after the accord was
12 signed.

13 Turning to CVPIA, section 3406 B(2), I'm going
14 to try to set out what I believe is sort of a general
15 environmental point of view. I'll probably not do justice
16 to some of the details and to some of the particular views
17 of some of my colleagues in the environmental community but
18 I'll take my best shot and try to keep it brief.

19 CVPIA, section 3406 B(2), passed in 1992,
20 required the delivery of 800,000 acre feet annually of CVP
21 water except in very dry periods or doubling of natural
22 production of anadromous fish "upon enactment".

23 Westlands Water District and others almost
24 immediately after the passage of CVPIA filed litigation to
25 prevent this provision of CVPIA from going into effect and

1 got Judge Wanger, whom we heard about earlier, was once the
2 City Attorney of Mendota to enjoin its implementation.

3 Fortunately, the Ninth Circuit unanimously
4 reversed that decision of the district court upholding
5 B(2). Unfortunately, however, the precedent was set for
6 the U. S. Government not to implement B(2) and, therefore,
7 in subsequent years, '94, '95 and '96, both of which were
8 wet years admittedly and '97, which started, anyway, as a
9 wet year, four more years have passed and the United States
10 has still not reached a firm decision on how to implement
11 B(2).

12 Fish and Wildlife Service is calling for the
13 dedication of the 800,000 acre feet annually as required by
14 law.

15 The Bureau of Reclamation and the CVP
16 contractors are resisting the Fish and Wildlife Service's
17 approach.

18 The failure of the United States to implement
19 B(2) gave the CVP contractors and their allies an
20 opportunity to approach Governor Wilson and a group of
21 State legislators claiming that the Bay-Delta Accord
22 somehow amended Federal law to prohibit the Fish and
23 Wildlife Service from implementing B(2) as required by
24 Federal law.

25 The result were the letters in the packet from

1 the Governor dated August 12 and the State legislators',
2 dated August 11.

3 In my judgment Governor Wilson was far off base
4 for three major reasons.

5 First, in his letter he misreads the accord,
6 stating that a post-accord -- his main point is at
7 post-accord there should be no net loss to the CVP
8 contractors beyond what the accord extracts and it is clear
9 that that does not refer to the prior commitments in the
10 CVPIA to deliver water to the environment. Full CVPIA
11 implementation was assumed in the accord.

12 The missing letter from the 48 State
13 legislators of August 25th makes that a point very well
14 clearly repudiating in the Governor's position.

15 Second, even if the spirit of the accord is as
16 Governor Wilson claims, this cannot require -- overcome the
17 requirements of Federal law.

18 Deputy Secretary Garamendi who to his credit
19 has tried to bring parties together over a long period of
20 time on this subject has made statements in the press
21 stating that clearly and he's right, as is Senator
22 Feinstein in her letter in the packet and the 8-25 State
23 legislators' letter, Federal law cannot be amended by the
24 accord.

25 Third, Governor Wilson appears to assume that

1 the combination of the CVPIA and the accord have caused
 2 substantial losses in water to CVP contractors. In fact,
 3 that was a point that I originally thought maybe he was
 4 right on, but, in fact, as the chart that I've distributed
 5 shows that's prepared by Westlands it shows that in the
 6 last two years deliveries have been at roughly a hundred
 7 and twenty percent of CVP contract levels, not the 60 to 70
 8 percent its representatives stated at the time of the
 9 accord were normal year deliveries as a result of the
 10 accord's provisions and not the 90 percent that the Bureau
 11 of Reclamation announced earlier this year it was going to
 12 deliver to Westlands and other San Luis unit contractors.

13 What does this mean or foretell for assurances
 14 that CalFed is preparing to accompany its facility
 15 recommendations?

16 I think that's a big concern. The current
 17 status we see under CVPIA is Westlands at a hundred and
 18 twenty percent of deliveries and B(2) not being
 19 implemented.

20 The packet also has a letter -- this is turning
 21 to the relationship now between the CVPIA and the accord
 22 from -- signed by various environmental organizations led
 23 by the Bay Institute further explaining the relationship
 24 between B(2) and the accord.

25 Because of the uncertainty created by Governor

1 Thank you.
 2 VICE-CHAIRMAN McPEAK: Thank you, Tom.
 3 We have scheduled on the Agenda the discussion
 4 on the B(2) CVPIA issue. I would like to take comments
 5 from others around the BDAC table and then, Lester, any
 6 further comments you have, and if there is anyone who also
 7 has submitted a card from the audience on this matter,
 8 we'll then take public participation or Public Comment.

9 Do others want to comment on the B(2) Garamendi
 10 process?

11 Ann.

12 MS. NOTTHOFF: Just real quick.

13 Tom, you've mentioned a number of handouts
 14 which I don't think got around. They certainly didn't get
 15 around over here.

16 MR. GRAFF: (Indicating)

17 MS. NOTTHOFF: Okay.

18 And then just to underscore the significance of
 19 this in terms of, you know, building the CalFed
 20 alternatives we've been over this many times as to what is
 21 in the baseline, what is the no action alternative and I
 22 think it was, you know, Lester you said earlier today that
 23 the no action alternative does include CVPIA action. You
 24 said most of the CVPIA is in the no action alternative and
 25 I think -- I mean, we talked about this many times about,

1 Wilson's letter and other reasons we request of both the
 2 State and Federal governments written assurance that the
 3 accord means what it says before it is renewed. We also
 4 ask for clarification on a number of points, perhaps the
 5 most significant of which is the division of water required
 6 of the State and Federal governments in meeting the
 7 accord's requirements.

8 As a side bar I should say the
 9 environmentalist's representatives to the operations group
 10 set up by the accord have sought from Bob Potter of DWR and
 11 SWRI the modeling consultants to the ag urban caucus their
 12 model runs on accord and CVPIA implementation and contrary
 13 to the accord we have faced substantial delays in obtaining
 14 those runs and still haven't received them all.

15 In any event we do believe that contrary to
 16 what was stated at the time of the accord that the Federal
 17 and State governments would share obligations to meet the
 18 accord's requirements 50-50 the actual results have been
 19 more like 70/30 or 80/20 Federal versus State deliveries.

20 Remarkably CQ chair McGintey's response to
 21 Governor Wilson doesn't point this out but one would think
 22 that before the Federal government extends the life of the
 23 accord it would assure that the State Water Project is
 24 providing its fair share of water to meet the accord's
 25 requirements.

1 you know, is that 800,000 acre feet in the no action
 2 alternative and I think that's critical to get moving
 3 forward.

4 VICE-CHAIRMAN McPEAK: Lester.

5 EXECUTIVE DIRECTOR SNOW: Let me answer
 6 kind of that narrow point.

7 The 800,000 acre feet is in the no action
 8 alternative so we have included that.

9 I mean, it's not easy to do that because nobody
 10 has asserted exactly how you model the 800,000 acre feet.
 11 I mean, no party to this dispute has come up with a
 12 definitive accounting answer but we have blocked out in the
 13 no action alternative 800,000 acre feet of CVP water being
 14 dedicated to fisheries issues.

15 VICE-CHAIRMAN McPEAK: Further comments
 16 from BDAC or questions?

17 Lester, could you also comment on the accord
 18 renewal process that was raised by Tom?

19 EXECUTIVE DIRECTOR SNOW: I'll make a
 20 couple comments and maybe ask Roger to further comment.

21 What's happened with the CalFed policy group,
 22 which is the, you know, Agency heads of all the CalFed
 23 agencies has been a policy commitment to seek extension of
 24 the accord for one year and to -- and they have asked their
 25 appropriate staff people to prepare the necessary

1 information to simply extend the accord for a year and they
2 are proceeding to do so, and I think that is, you know,
3 being done advisedly and with recognition of some of these
4 issues, but the policy direction is to seek the right path
5 through which to extend the accord.

6 Roger, do you want to add to that?

7 MR. PATTERSON: I think that's right.

8 And it's being extended as written, which means
9 as much as some folks would like to see clarifications,
10 renegotiations, et cetera, that's not what is going on.
11 For better or worse those areas that people don't agree on
12 are moving forward with the extension. So that's where the
13 CalFed policy team has got and they've directed the --
14 primarily the attorneys from the State and the Federal side
15 to figure out exactly how to go about doing that. That
16 process is underway and I don't think anyone will be
17 surprised or, certainly, there will be discussion with
18 people before it actually happens, but that is what's
19 underway.

20 VICE-CHAIRMAN McPEAK: Very good.

21 We have requests from two members of the
22 audience to address this issue.

23 Barry Nelson, whom I introduced earlier, in his
24 absence with the Save the Bay Association.

25 Barry, followed by Laura King.

1 Everyone knows that one of the challenges we collectively
2 face is making sure that an entire package is implemented
3 and from the environmental community's prospective if it's
4 not going to be possible to obtain implementation of a law
5 passed by Congress and signed by the President it's going
6 to create a hurdle that's going to be extremely difficult
7 if not impossible for the CalFed process to overcome in
8 terms of assuring implementation.

9 The second concern we have is the possibility
10 what are merging proposals to potentially use some of
11 CalFed's Federal funding for actions related to the CVPIA
12 specifically with regard to water supply and there is very
13 little on paper right now. Frankly, it's something that's
14 simply being discussed but we are very concerned that some
15 of the proposals for using CalFed funding would be
16 inconsistent with the authorization that we all work so
17 hard to be -- to have passed by Congress and would also
18 potentially get the entire CalFed process off on the wrong
19 foot. So it's something we'd urge you to be very wary of,
20 both in terms of assurances, making sure that the law of
21 the land is fully implemented and, second, making sure that
22 funds that Congress is now in the process of appropriating
23 are, in fact, directed to the programs that Congress had
24 intended and I think those clearly demonstrate the
25 importance from CalFed's perspective of the full

1 BARRY NELSON: Thank you, Sunne. I just
2 want to talk very briefly about this issue.

3 The first one really is why is it on your
4 Agenda today and I think that's very clearly because the
5 CVPIA is an underpinning of the CalFed process and Lester
6 mentioned that the PIS assumes that and in a number of ways
7 it's very clear that the CVPIA is part of the foundation
8 upon which CalFed has been built. That said the CVPIA was
9 not supported by all of the members of BDAC and the folks
10 who did not support that bill have the right to express
11 their objections to it, but I think it's important that
12 people understand what the law says, what the accord says
13 and implications for CalFed.

14 The law and the accord are very clear. The
15 position that Tom Graff briefly outlined, that somehow the
16 accord repealed a portion of the CVPIA has no basis in the
17 law and it has no basis in the Bay-Delta Accord and I have
18 a very brief two-page fact sheet (indicating) that I'll
19 send around that some of you have already seen that tries
20 to lay out the facts very simply with the language from the
21 accord itself.

22 There are I think a couple of reasons why it's
23 particularly important now for BDAC to really understand
24 these connections.

25 The first one is with regard to assurances.

1 implementation of the environmental measures that were
2 included in the CVPIA plan.

3 I have a minute and a half but I'll stop there.

4 VICE-CHAIRMAN McPEAK: No, you had two
5 more minutes to go. You did your 30 seconds. Thanks.

6 BARRY NELSON: That's it. Thank you.

7 MR. GRAFF: (Inaudible)

8 VICE-CHAIRMAN McPEAK: A technique not
9 unknown to many around this table.

10 Mr. Graff, yes.

11 MR. GRAFF: I understand that you've an
12 opportunity to speak to Mr. Ottemoeller about the chart
13 that I distributed earlier.

14 Could you comment on that?

15 MR. HALL: Objection, leading the witness.

16 VICE-CHAIRMAN McPEAK: I'll allow it.

17 It's germane to our proceedings. Not all of us have the
18 chart, Tom, as had been asked by Ann.

19 Do you all -- okay. I need a copy.

20 Barry, go ahead.

21 BARRY NELSON: Actually, yes, I do. This
22 is not orchestrated. When I got back to my office and I
23 was going through my mail I discovered a fax from
24 Steve Ottemoeller.

25 I had called him up to make sure that I fully

1 understood the chart that Tom has passed around and Steve
 2 was explaining it to me and one of the things he sent me
 3 was a brief fax that simply breaks down the source of the
 4 supplement water and that fax indicates that in '96 and '97
 5 the supplemental water that's shown on that chart comes
 6 from a variety of different sources.

7 All he did was break down how much of that was
 8 CVP water and how much came from non-CVP sources. What he
 9 showed -- what his chart indicates was that in '96 just
 10 over 75,000 acre feet or 44 percent of the supplemental
 11 water came from CVP sources and in '97 58,000 or 25
 12 percent, almost 59,000, came from CVP sources. So that
 13 breaks down that supplemental number somewhat to give you a
 14 sense of how much of that water in the supplemental side
 15 is, in fact, CVP water.

16 VICE-CHAIRMAN MCPEAK: Very good. Thank
 17 you.

18 BARRY NELSON: The other thing that I
 19 discussed with Steve is the carry-over storage and how that
 20 works and what became clear to me there was that Westlands
 21 growers have felt enough comfort in their water supply that
 22 they felt that it was possible for them to choose to carry
 23 water forward into the next year and the fact that growers
 24 have felt that level of comfort with their water supply,
 25 they had enough for this year, they could bank water for

1 years but we are looking at a level of reliability that,
 2 frankly, from my perspective is in excess of what the ag
 3 community was expecting when the accord was signed.
 4 MR. HALL: As you point out these have
 5 been extraordinary water years, last year in particular,
 6 and on a long-term average what was projected in 1994 was
 7 based on standard operating curves and water supply
 8 projections based on the amount of water left in the system
 9 after the accord was implemented.

10 It's not necessarily a bad thing, is it, if
 11 they do a little better than was projected?

12 BARRY NELSON: It's not that we have any
 13 objection to them -- to those folks doing better than
 14 expected but we certainly have an objection if that comes
 15 at the expense of full implementation of the law, the
 16 CVPIA, and in addition when we hear concerns about water
 17 supply reliability when we start to look at the modeling
 18 numbers and it suggests that the State water project's not
 19 carrying its full share of implementation to the accord.

20 So we have no -- it is not our goal to diminish
 21 reliability of ag flow south of the Delta but it is our
 22 goal to make sure that the accord is equitably implemented
 23 and that the CVPIA is fully implemented.

24 MR. HALL: And I haven't heard anybody nor
 25 have I seen it written anywhere that anyone in a

1 future years is very different from, frankly, expressions
 2 we've heard regarding the unreliability of water supply in
 3 the Westlands Water District so I think both the
 4 supplemental water and the carry-over water are interesting
 5 numbers.

6 VICE-CHAIRMAN MCPEAK: Thank you.
 7 Yes, Steve.

8 MR. HALL: Barry, do you suppose one could
 9 reasonably, not necessarily, but reasonably conclude that,
 10 in fact, it's just the opposite, that they are so concerned
 11 about future years' water supplies that whatever they don't
 12 absolutely have to use this year they will carry over so
 13 that it might be available to them should there be a
 14 serious shortage?

15 BARRY NELSON: I think there is -- I think
 16 one can reasonably conclude that.

17 Where I see a disconnect, though, is with the
 18 level of deliveries that we are seeing now and the level of
 19 deliveries that the agricultural community itself was
 20 projecting when the accord was signed.

21 When the accord was signed, the ag community
 22 folks who signed the accord said they were expecting for
 23 contract deliveries 65 to 70 or 60 to 70 percent deliveries
 24 in average years.

25 Now, these last two have been above average

1 responsible position is advocating that CVPIA not be
 2 implemented. It probably goes without saying. There is a
 3 difference of opinion over the interpretation of that law.

4 And that's really where the rub is. Nobody is
 5 advocating that it not be implemented.

6 MS. BAINBRIDGE: And I think that's true
 7 to an extent.

8 And that is I think there may be some folks who
 9 really believe that the accord says what they have claimed.
 10 That's why we passed around the fact sheet with the
 11 language of the accord itself.

12 When you look at the accord it simply doesn't
 13 say that and I would invite anyone who disagrees with your
 14 perspective to pull that accord out and explain how our
 15 interpretation is incorrect. The accord is very clear. It
 16 does not apply to -- it does not attempt to repeal
 17 3406 B(2) of the CVPIA, had it intended to, obviously, the
 18 signatories of the accord had no authority to do that, but
 19 there was no intention to do that and I know that wasn't
 20 the intention of --

21 MR. HALL: No, you're right it wasn't, but
 22 the accord also says that the water given up in the accord
 23 will be credited toward the CVP contractor's obligations
 24 and in fact the news articles that Tom circulated address
 25 that point briefly and where we are in disagreement is not

1 over the language of the accord so much as in the
2 interpretation of the language of the CVPIA and whether or
3 not the 800,000 acre feet in a year like this one, for
4 instance, has already been allocated.

5 There are credible studies that indicate that
6 that water has already been dedicated in this year.

7 BARRY NELSON: It's hard for us to find
8 those studies credible when they haven't been fully shared
9 with us. To the extent that we've been able to see some of
10 some of those model runs we've got serious questions about
11 the assumptions that were fed into that process.

12 It was our understanding that the CVPIA
13 modeling process, the Garamendi modeling group, was going
14 to be used as a forum to fully air all of those issues and,
15 frankly, we are frustrated that some parties have made
16 claims that the 800,000 has been fully used, frankly,
17 without being able to back it up.

18 MR. HALL: And we are equally frustrated
19 that the process has been represented as having dealt with
20 virtually all of the issues when, in fact, major issues are
21 outstanding.

22 But I think the disagreements that Tom has
23 described, you have described and that I've touched on can
24 probably best be settled -- not here but certainly within
25 the framework of the CalFed process using the Garamendi

1 see if there are, in fact, disagreements over the numbers
2 themselves as opposed to the rhetoric that's been flying
3 around for the last few weeks.

4 BARRY NELSON: We share that desire.

5 MR. HALL: Good.

6 VICE-CHAIRMAN McPEAK: I think that this
7 has been extraordinarily helpful for me and a very good
8 exchange and while it's not BDAC's responsibility to
9 resolve this matter directly there are, obviously,
10 implications for the CalFed process and the work product of
11 BDAC.

12 Is that -- what you both just sort of said
13 would be helpful sitting down and going through the
14 numbers, the modeling, is that possible to get scheduled
15 sooner before Garamendi's group meets again on the 19th?

16 MR. HALL: Laura is nodding at me and she
17 is a lot closer to this than I am.

18 And I think -- in fact, that's already
19 underway.

20 We need to -- one guy's opinion -- but we need
21 to stop writing letters and start working on the toolbox,
22 get some agreement over fish actions and certainly we need
23 to work out the modeling on what, if any, amount of water
24 is left in this particular water year under CVPIA.

25 My understanding, and, again, Laura is better

1 process and somehow linking those two up.

2 Wouldn't you agree?

3 BARRY NELSON: I think that's right. The
4 question is how do you link those two in an intelligent
5 way.

6 MR. HALL: Yeah.

7 BARRY NELSON: We've heard some people say
8 that we should simply hand CVP implementations to CalFed
9 and say, "Lester, how do you want to implement the law?"

10 I don't think Lester relishes that opportunity
11 and we don't have the ability to do that.

12 The CVPIA clearly is a Federal mandate.

13 MR. HALL: I'm just one water user guy but
14 I don't want to see that done either.

15 BARRY NELSON: But I very much agree, that
16 we need to make sure that CVPIA and CalFed decisions are
17 fully coordinated, and I think the Garamendi process over
18 time is going to move more and more in that direction. I
19 think we are already seeing the potential for that process
20 to address things that are not solely within the realm of
21 CVPIA but there may be some follow-up benefits for CalFed
22 as well.

23 MR. HALL: I agree that there is progress
24 being made in that area and I for one am anxious to see you
25 and your modelers sit down with the water user modelers and

1 equipped to answer this than I am, is that those processes
2 are underway. I mean, Barry and Tom's folks are involved
3 in that, would you agree?

4 BARRY NELSON: They are underway and I
5 think some of those processes are making quite a bit of
6 progress. There is still not unanimity about the
7 underlying science but in terms of the actions that
8 interior originally proposed the fish group has clearly
9 been making progress and making sure that actions that will
10 be taken are going to give us the sort of meaningful
11 results that allow us to adaptively manage over time. We
12 think the toolbox group has some potential that could help
13 in the CVPIA context, could certainly help in the CalFed
14 context.

15 The modeling group has been making some
16 progress. The trouble is we need to make sure that some of
17 the debate that's been happening outside of that modeling
18 group really all comes together so everybody understands
19 the other folks' numbers.

20 But when you look at the uncertainty that
21 existed in CVPIA implementation, say, a year ago,
22 year-and-a-half ago and where we are today I think interior
23 has made a tremendous amount of progress in the last
24 year-and-a-half, two years in trying to lay out a
25 reasonable strategy for implementing the CVPIA on a broad

1 range of issues, not just the B(2) issues. There are a
 2 tremendous number of issues that are embedded in the CVPIA.
 3 And I think the Garamendi process has made a lot of
 4 progress. We've got real concerns about spring run and the
 5 lack of accounting and so forth but when you look at where
 6 interior was a year-and-a-half ago and where they are now,
 7 they've made progress.

8 MR. HALL: I agree. Although, the last
 9 few weeks have been and remain painful with a lot of
 10 rhetoric flying around, those who say that the water user
 11 community started it, to that I would personally plead
 12 guilty, and I would simply explain that the level of
 13 frustration with the Garamendi process at the time was so
 14 high there was a feeling that there was simply no
 15 alternative but to lay before politic leadership what we
 16 believed was an abandonment of the accord based on the
 17 conclusions that the Garamendi process was reaching at that
 18 time.

19 I agree with Barry. We are much further along
 20 than we were a year ago. I contend we're much further
 21 along than we were six weeks ago and as painful as it's
 22 been without this sort of confrontation not of one another
 23 but of the facts we would not have made this progress.

24 I hope we don't have to revisit it. I hope and
 25 I think Barry's right, that we can and will move it into a

1 weren't getting the information that I asked for I'd be
 2 frustrated, too, so we have an obligation. I think we'll
 3 meet it.

4 VICE-CHAIRMAN MCPEAK: Ann.

5 MS. NOTTHOFF: Well, I'm concerned that it
 6 doesn't sound like any progress that's going to be made
 7 here in clarifying this issue is not going to be used to
 8 inform the decision on how to extend the accord.

9 And it seems to me that there should be some
 10 linkage there.

11 BARRY NELSON: We certainly think that's
 12 true.

13 Tom -- actually the letter, I think, was in
 14 your packet from the environmental community laying out our
 15 concerns regarding renewal of the accord and one of those
 16 is making sure that the CVP -- that there is a commitment
 17 on all sides to see the CVPIA implemented and, Steve, I
 18 agree with you that there may be differences in
 19 interpretation of the CVPIA and people can interpret some
 20 of that language differently but some of the
 21 interpretations of the CVPIA and the accord that have been
 22 offered we think are simply, simply inconsistent with the
 23 letter of the law and the letter of the accord.

24 And we need to get beyond that, recognizing
 25 that while the CVPIA was not universally endorsed, the

1 technical process, a fact finding process, and that that
 2 process will ultimately lead to resolution of the B(2)
 3 issue. Because I think there is one area of agreement. I
 4 don't want to speak for the water community in this case.
 5 I'll speak for Steve Hall. I agree with the environmental
 6 community that the B(2) issue needs to be resolved. I
 7 think it's got to be resolved in the context of CalFed. It
 8 cannot be done in a vacuum and that was one of our
 9 principal objections. It appeared to be being done in a
 10 vacuum.

11 Having said that it's still got to be fixed.

12 VICE-CHAIRMAN MCPEAK: The commitment to
 13 discovery of facts requires sharing of information and
 14 that's, I guess, what I'm hearing.

15 I'd like to encourage immediate, full, you
 16 know, confrontation of those facts, sharing of all
 17 information so that it can -- we can have the dialogue
 18 focus on the real issues or the reality of the water
 19 accounting and not continue the flurry of the letters,
 20 although I'm sure there will be some more letters.

21 MR. HALL: Yeah, I want to say there has
 22 not, to my knowledge, been any reluctance to share modeling
 23 information or facts and I appreciate Barry's frustration.

24 In all fairness I think he's misinterpreting
 25 what's going on but if I were in Barry's shoes and I

1 CalFed process is very broadly supported and I don't think
 2 anyone has any desire to see difficult decisions about the
 3 CVPIA but necessary decisions threaten the future of this
 4 process.

5 VICE-CHAIRMAN MCPEAK: Roger.

6 MR. PATTERSON: I guess three points.

7 One is that I for one would support turning
 8 this over to Lester (laughter).

9 No, can't do that. That wouldn't be fair and
 10 these guys sort of got to the same place.

11 There is an ongoing process that technical
 12 people from all facets are setting down.

13 Everyone took a pledge on August 20th for full
 14 disclosure of information. Hopefully, that's been made
 15 available now.

16 The next meeting policy level folks on this is
 17 September 19th at the Presidio. Mr. Garamendi will be
 18 along for that and we are marching along. It is difficult
 19 but I think some progress is being made. There is a
 20 meeting of the toolbox group, which is a lot of creative
 21 energy tomorrow, so people are devoting a lot of time to
 22 that.

23 The other thing I would point out at the last
 24 CalFed policy team meeting which was Chaired by Doug
 25 Wheeler and Bob Herchaseppi (phonetic), we spent a great

1 deal of our Agenda on this issue and trying to understand
 2 it how it relates to and does not relate to CalFed.
 3 Besides our own Agency level discussions we
 4 invited representatives from the stakeholders to come in.
 5 Barry and others were there and gave the policy team a good
 6 sense of how strongly people feel about this and what their
 7 views were and so it is clearly on the CalFed policy team
 8 much broader than just interior and I think that was
 9 helpful as having some discussion of it here today. It has
 10 to be enlightening, I guess.

11 VICE-CHAIRMAN McPEAK: Roberta and then
 12 I'll get Laura.

13 MS. BORGONOVO: I just want to go back to
 14 Annie's question and that is will the accord be signed and
 15 moved ahead?

16 I mean, the whole question of the 800,000 acre
 17 feet has been there for at least two years and there has
 18 been this reluctance to really grapple with it and as
 19 everyone here has said, Barry and Tom and Steve Hall, you
 20 can't keep ignoring it. So to have an extension of the
 21 accord and not have those issues resolved seems to
 22 jeopardize all of the effort that we are all making now in
 23 CalFed. I mean, you have a huge investment of resources
 24 from the environmental community in the CalFed process and
 25 that's part of our concern.

1 VICE-CHAIRMAN McPEAK: Roger, do you want
 2 to again address that matter?

3 MR. PATTERSON: No.

4 VICE-CHAIRMAN McPEAK: And maybe Lester
 5 does and I'm trying to refrain from commenting because I
 6 don't want to make it worse. I don't know that anybody can
 7 make it better and I'm trying to clarify the question
 8 raised by Roberta.

9 Lester.

10 EXECUTIVE DIRECTOR SNOW: well, kind of a
 11 narrow response to the question that Annie raised about
 12 making sure that the people dealing with the accord are
 13 informed of the progress or lack thereof on the 800,000
 14 acre feet. I guess all I would point out on that that it's
 15 the same people. Those that must put their signature on
 16 the line to extend the accord are the very same ones that
 17 have to grapple with the 800,000 acre feet and wrestle it
 18 to the ground.

19 And so they are on the line on both of these so
 20 that they are informed and the connection is made.

21 Does that mean that there'll be a solution that
 22 is perfectly satisfiable or satisfactory to any individual
 23 group? That may not be the case, but I think there will be
 24 an attempt to try to balance these issues and keep
 25 everything moving forward.

1 VICE-CHAIRMAN McPEAK: Thank you, Barry.
 2 Laura, Laura King.

3 LAURA KING: Well, one of the advantages
 4 of sitting through all that is everything I was going to
 5 say has been said just about. I'm Laura King with the
 6 San Luis and Delta Mendota Water Authority and I just
 7 wanted to add a couple of points.

8 First is regarding the handout on the Westlands
 9 water supply situation. There is no one here from
 10 Westlands today but I know that they believe that further
 11 explanation of what these numbers mean and where that
 12 leaves Westlands in terms of reliability and the accord is
 13 needed and they are working on that statement and we will
 14 provide a copy of that to members of BDAC.

15 Secondly, I just want to reiterate what Steve
 16 and Barry and various people have already said, which is
 17 there are obviously differing views on the B(2) issue but
 18 we are very -- working very hard in the toolbox and other
 19 groups to try to come to a way to resolve those differences
 20 and I believe that at tomorrow's toolbox meeting there will
 21 be a presentation for the first time from the modeling
 22 group on their preliminary results.

23 So I know that Barry had expressed an interest
 24 in hearing those results.

25 And then, last, in terms of the modeling work

1 that has been done for ag urban on the B(2) issue we are
 2 very close to being ready to provide that and so we will
 3 schedule a sit down to go through that before the August or
 4 September 19th meeting with Mr. Garamendi.

5 Thank you.

6 VICE-CHAIRMAN McPEAK: Thank you, Laura.
 7 Are there questions or comments to Laura?

8 (No response)

9 VICE-CHAIRMAN McPEAK: Thank you very
 10 much. That concludes the -- oh, Gary. Excuse me. Gary
 11 Bobker.

12 GARY BOBKER: Thank you, Sunne. Gary
 13 Bobker, Bay Institute.

14 I just wanted to offer a clarification to the
 15 discussion of the accord extension.

16 Tom, I think, did a very good presentation on
 17 some of the issues that were raised by the environmental
 18 community.

19 The environmental community isn't raising those
 20 issued about accord extension because of rhetoric. It was
 21 just a question of he said, she said, this is my
 22 interpretation of the accord, this is yours, that's nice,
 23 let's move on.

24 The reason that we raised issues about accord
 25 extension is that real life decisions are made based on

1 those interpretations of the accord and so we are concerned
 2 about if we are not -- if we sign an accord but then we are
 3 implementing things which violate the accord, that's the
 4 concern and we are faced with some very real implications
 5 of that. For instance, the operations plan for those State
 6 and Federal water projects this year in our view, that
 7 current plan violates the accord. Another place that very
 8 much affects what Roger and the Interior is working on with
 9 B(2), if you don't have really an agreement on what the
 10 accord means for the accord impacts on water supply, that
 11 really affects how much B(2) is available. So it isn't
 12 just sort after sterile rhetorical thing. There are some
 13 very real operational policy issues that we have to deal
 14 with. That's one of the reasons why it's being brought up.

15 It probably takes up too much time from other
 16 things that BDAC needs to do but obviously it's important
 17 enough so that we can't let it drop off our radar screen.
 18 So anyway I just wanted to clarify that.

19 Thanks.

20 VICE-CHAIRMAN McPEAK: Thank you, Gary.

21 Can I ask you a question?

22 The exchange that Barry and Steve had in part
 23 acknowledged the need to have a linkage between CVPIA and
 24 that Garamendi process on B(2) and CalFed BDAC and to
 25 resolve those issues somewhat in the context or linking to

1 and that's what it concerns in terms of environmental water
 2 or environmental money and an unresolved concern.

3 VICE-CHAIRMAN McPEAK: Okay. Thank you,
 4 Gary.

5 GARY BOBKER: Thanks.

6 VICE-CHAIRMAN McPEAK: This pretty much
 7 concludes --

8 MR. HALL: I was just commenting -- not to
 9 belabor this any further --

10 VICE-CHAIRMAN McPEAK: I don't want to cut
 11 off the comments. I think this has actually been very
 12 productive and I'm not trying to, you know, artificially
 13 move us along.

14 Go ahead. Steve, did you want to comment?

15 MR. HALL: Well, just on the point that
 16 Gary raised about why we want this incorporated with
 17 CalFed.

18 It's really not so that we can move ahead
 19 together on implementation of the CVPIA so much as it
 20 is -- I mean, we are in our minds attempting to see the
 21 accord implemented on a no net loss basis and the toolbox
 22 is there to prevent water supply impacts from
 23 implementation of what Fish and Wildlife wants to do this
 24 year for its experiments under CVPIA.

25 The reason we want this incorporated with

1 CalFed.

2 How would you describe that?

3 Do you agree with that statement?

4 I hope I wasn't misinterpreting it.

5 GARY BOBKER: Yeah. No, I'd be happy to
 6 respond to that.

7 I think you did describe the gist of their
 8 exchange. I think you'll find that most of the
 9 environmentalists who are involved in that process would
 10 agree with it. I think, though -- I think there are two
 11 things we need to keep in mind. One is that that's
 12 happening already. In fact, the Garamendi process includes
 13 not only straight implementation of the CVPIA and the B(2)
 14 issues but the toolbox was, in fact, an attempt to say
 15 well, let's try to generate some water supply benefits so
 16 if I understand what Steve and Steve's colleagues in the
 17 water user community have been talking about when they say
 18 in the context of CalFed I think you are meaning that there
 19 should be commensurate benefits for everybody. We should
 20 all move together toward solutions and I think that by
 21 linking toolbox along with B(2) with environmental water we
 22 are actually attempting to do that.

23 A concern has been what resources do you use to
 24 try and create the water supply benefits at the same time
 25 that you are implementing CVPIA's environmental benefits

1 CalFed is primarily because we don't believe you can
 2 implement these major environmental initiatives in a
 3 piecemeal fashion.

4 We have put over half a billion dollars on the
 5 table through Prop 204. We are seeking another 430 million
 6 dollars from the Federal Government for ecosystem
 7 restoration.

8 We've got category three wrapped into all of
 9 that that we are currently implementing. CVPIA is a major
 10 environmental initiative.

11 To do these things independent of one another
 12 to us makes no sense. We need to make them an integrated
 13 program in order to do the best we can for the environment
 14 with minimum dollar in water supply costs and the best way
 15 to do that is to make the two programs fit together rather
 16 than working them independently. That's our main
 17 motivation in seeking to have the two coordinated.

18 GARY BOBKER: And obviously it brings up
 19 different expectations as to how you phase that in terms of
 20 the Federal law versus CalFed which have been discussed ad
 21 nauseum which I won't go into. It also brings into
 22 question how appropriate it is and to what degree you use
 23 public versus private resources to attempt to mitigate
 24 impacts of environmental initiatives and that's the kind of
 25 wrangle we are in right now about the appropriateness of

1 using environmental water, environmental money to mitigate
2 water supply impacts to create water supply benefits. I
3 mean, this is the sort of thing that we are discussing and
4 haven't gotten through yet, but I think we've spent
5 enough -- I've spent enough time on this now so I'll leave
6 it at that.

7 MR. HALL: I think we can assure the
8 Council will have plenty of reports to provide in the
9 future about areas of disagreement on this subject but we
10 are making headway.

11 VICE-CHAIRMAN MCPEAK: Good. So to your
12 question, Stu, about what would we have to discuss on a two
13 day meeting I think there is going to be a fairly
14 significant reports on the B(2) discussions.

15 Also, on the accord extension. I think there
16 was some kind of wisdom in the approach to try to extend
17 for the immediate future realizing -- as it is realizing
18 that there are these other processes trying to resolve it.

19 Okay. We are going to -- we'll re-Agenda these
20 same items for the November meeting and I would just
21 encourage the kind of commitment that was expressed here by
22 all parties and the processes that everybody is engaged in
23 to go forward. We'll look forward to seeing that
24 resolution.

25 And the next item that we have are the reports

1 of you I hope you're not disappointed to know that you'll
2 continue to see me probably at every BDAC Meeting because
3 one of the tasks that I've taken on is to help improve this
4 process and strengthen it as CalFed moves into the Draft
5 EIR process over the next year. So I'll be the person you
6 can send your complaints to instead of Sharon so . . .

7 VICE-CHAIRMAN MCPEAK: And your home phone
8 number is?

9 MS. SELKIRK: Right.

10 MR. HALL: Unlisted.

11 MS. SELKIRK: And I want to say it's with
12 mixed feelings that I leave this Council.

13 I think that it's been an incredible
14 opportunity and I feel very privileged to have been a part
15 of this Council in its early years of underwriting and
16 supporting and I think ultimately strengthening the whole
17 CalFed Program. So it is with some regret that I take
18 leave of you all but you will continue to see me in a
19 different role.

20 A lot of what my time will be devoted to is
21 outreach into the stakeholder community which clearly a big
22 parcel of that includes BDAC so you will hear from me.

23 VICE-CHAIRMAN MCPEAK: Terrific.

24 MS. SELKIRK: And at this point I wanted
25 to do with Sharon's help to -- since we got kind of cheated

1 from the BDAC work groups.

2 And as we begin these I want to say at the
3 beginning of the meeting I announced that we had
4 resignations of three individuals for various reasons so we
5 are unfortunately going to lose a fourth member of BDAC.

6 We will lose this person from BDAC but not from
7 CalFed and I have very mixed feelings about this change.

8 The Ecosystem Restoration Work Group has been
9 headed up by Mary Selkirk who has done a great job of
10 guiding the foundation product of this whole CalFed process
11 and Mary is going to be concluding her service on BDAC and
12 moving to work with Lester at CalFed.

13 And so I want to thank you very much on behalf
14 of the entire Bay-Delta Advisory Council, thank you
15 personally as the Vice-Chair here, for your dedicated
16 service and I expect you to handle all problems, resolve
17 them very efficiently, effectively as a member of the
18 CalFed staff.

19 So I'm sure you were taking notes as we were
20 going through today and realizing your Agenda just got
21 expanded.

22 So, Mary, thank you very much. I invite your
23 comments and then you can lead off into your work group
24 report.

25 MS. SELKIRK: Thank you, Sunne. For those

1 out of a report at the last BDAC Meeting on the efforts of
2 the Ecosystem Restoration Work Group we want to do what I
3 hope will be a fairly short presentation at this time about
4 the status of that work group. So I don't know if I need
5 to get hooked up. Probably.

6 All right. As most of you know, you should
7 have received your final volume of the ecosystem
8 restoration program plan.

9 The third volume was just sent out to us about
10 two weeks ago.

11 Volume one contained the visions for ecosystem
12 elements that was developed by the CalFed staff with a lot
13 of input from the Ecosystem Restoration Work Group.

14 Volume two included visions for each of the
15 several, over a dozen ecological zones, identified by
16 CalFed in the solution area for the program.

17 And the final volume, which we all just
18 received, is devoted exclusively to adaptive management,
19 which will form the fundamental basis for ecosystem
20 restoration in the Delta and in the Bay.

21 Now, I just wanted to outline briefly for you
22 what the principles of the ERFP are, as you know, and I
23 hope, Dick, I hope I do an adequate job here.

24 The first one is that there is a heavy reliance
25 in the plan on natural processes contributing to and

1 forming the basis for durable environmental restoration and
 2 another assumption along with that is that that kind of
 3 reliance on natural processes also contributes to the
 4 overall resilience of the whole system and the more
 5 biodiversities the more healthy it's going to be and the
 6 more able to withstand environmental insults.

7 Thirdly, as you all know, the emphasis has been
 8 on comprehensive habitat restoration as opposed to single
 9 species management and the fundamentals of that is an
 10 adaptive management program that requires a substantial
 11 amount of flexibility, both institutional, financial, and
 12 legal flexibility to address environmental problems as they
 13 arise throughout the Bay-Delta system.

14 What we wanted to talk mainly with you about
 15 today is what has been the major emphasis of the work group
 16 over the last several meetings through the summer.

17 As you all know from the public calendar there
 18 is a four day scientific review panel that has been
 19 scheduled for early October and the purpose of this panel
 20 will be to assess and evaluate the validity of the ERPP
 21 itself, to look at the kinds -- the technical assumptions
 22 that were -- that form the basis of the ERPP to discuss the
 23 implementation objectives, do they make sense, are the
 24 targets that are developed in clear agreement with and in
 25 clear relation to the implementation objectives. So that

1 panelists are being selected from to emphasize that -- we
 2 have that already. We have that under panel selection
 3 criteria -- all right. After this overhead I'll discuss a
 4 little bit the criteria that we use to select panelists for
 5 the review.

6 There were four major areas identified by
 7 CalFed staff in concert with input from stakeholders as
 8 well as the Ecosystem Restoration Work Group that all agree
 9 were important to be emphasized in terms of the expertise
 10 held by the various panelists selected.

11 One area is the area of landscape ecology,
 12 people who really have an ability to have a broad area of
 13 expertise as opposed to geomorphology or fisheries biology,
 14 but individuals who demonstrated that they have a strong
 15 ability to provide input at the landscape level given that
 16 that really is the -- that's the level at which the ERPP
 17 has been written.

18 The second is aquatic ecology.

19 The third is expertise in the areas of physical
 20 processes, including hydrology, geomorphology, geofluvial
 21 morphology, et cetera, and fourth and also is just as
 22 important terrestrial and wetlands ecology.

23 Also, Sharon, you should feel free to pipe in.

24 Now, there were some very specific criteria by
 25 which panelists who I believe are still in the process --

1 will form the foundation of what the panelists will be
 2 spending four days discussing in early October.

3 So before we talk about the panel itself and
 4 the actual structure of the day I wanted to review for you
 5 what this will look like.

6 There will actually be in addition to a
 7 scientific review panel of nationally known experts in the
 8 area of ecosystem restoration and estuarian science of all
 9 varieties, there will also be a panel of technical advisors
 10 that will be present during the four days to assist the
 11 scientific panel as they deliberate on the ERPP.

12 The CalFed staff along with input from the
 13 workbook -- workbook -- work group have been working very
 14 hard to develop a series of substantive but broad questions
 15 to try to get at the heart of whether the ERPP is in any
 16 way addressing what it says it purports to address.

17 Now, coming out of the review the panel
 18 obviously there will a written report to CalFed which will
 19 include an identification of areas of scientific agreement
 20 and as well as disagreement and also any specific
 21 recommendations and comments pertaining to the ERPP, which
 22 will continue to evolve even through the EIR process over
 23 the next 15 months.

24 Now, I wanted to mention to you as I go over
 25 with you the areas of expertise that the scientific review

1 there are some -- a Corps of panelists that have already
 2 been selected. There are still others that the CalFed
 3 staff are talking with to confirm their involvement.

4 But I wanted to share with you the selection
 5 criteria that were used in including panelists for the
 6 scientific review and probably first and foremost it was
 7 agreed by virtually everyone that anyone who was asked to
 8 provide expert input on the ERPP should be someone who has
 9 no connection whatsoever to the Bay-Delta, that the input
 10 and the comments provided would be strictly objective. So
 11 because of that we have experts who have worked on
 12 Estuarian systems in different parts of the country,
 13 different parts of the world but who have not actually
 14 spent time on or worked on the Bay-Delta which I think was
 15 a pretty challenging effort.

16 Secondly or thirdly all of the panelists have
 17 advanced degrees and an established record of research and
 18 publication in whatever their resource area of expertise
 19 happens to be and finally they have some experience in
 20 providing public policy input on matters of complex
 21 scientific interests. So those are the basic criteria that
 22 were used to develop a list of potential candidates for the
 23 panel.

24 And I think the final panelist list has about
 25 come together or is closely -- close to completion.

1 The criteria used to select technical advisors
 2 for the panelists were a little less extreme and a little
 3 more flexible because, obviously, people who have not
 4 worked on the Bay-Delta and panelists who were being asked
 5 to read and understand what is a several hundred page
 6 document with some very complex and interactive scientific
 7 issues to be deliberated on need to have some way to be
 8 briefed on various issues very fundamental to the Bay-Delta
 9 so as a result there has been a technical advisory group
 10 that has been convened that will also participate in the
 11 deliberations over the four days, not as active panelists
 12 but will be there as resource people throughout if four
 13 days.

14 And the criteria for selecting these panelists
 15 include people who have, in fact, worked on Bay-Delta
 16 issues of all ranges, from wetlands ecology, to fisheries,
 17 biology, hydrology, terrestrial ecology, et cetera.

18 Many of these people have had some direct or
 19 indirect involvement with CalFed or with any of the now
 20 continually growing number of agencies that are affiliated
 21 with CalFed which extends to virtually every Federal and
 22 State regulatory agency that has anything to do with the
 23 resource in the Bay and the Delta.

24 Thirdly, these individuals have an established
 25 track record of publishing research on their work in the

1 indicators of ecosystem health. Do they make sense? Are
 2 they valid? Are they scientifically valid? Are the
 3 restoration targets reasonable? Do they make sense? Do
 4 they fit together? Are they in the ballpark?

5 And finally the basic scientific assumptions of
 6 the ERPP, are they in and of themselves valid.

7 Fully, before I put this overhead on I did want
 8 to say also that there was a fair amount of debate in our
 9 work group about how there would be public input before,
 10 during and after the scientific review process.

11 As you all know a 45 day comment period on the
 12 ERPP commenced as soon as the third volume of the ERPP was
 13 released, which was a couple of weeks ago.

14 Obviously the scientific panel will be taking
 15 place during the comment period because -- yeah, during the
 16 comment period.

17 Members of the work group had expressed some
 18 concern about the fact that it's conceivable that in a
 19 panel process like this that there could be very little
 20 opportunity for the members of the public to have input to
 21 express their views, specifically with regard to certain
 22 highly controversial elements in the plan.

23 Currently, and correct me if I'm wrong, but
 24 there is provision for in the course of the four day panel
 25 review of all of these sessions will be open. There will

1 Bay of the Delta and some of them obviously have worked for
 2 or currently are working for various stakeholder groups,
 3 but have agreed to work within ground rules established for
 4 the facilitated review process.

5 Now, there are six major areas of questions.
 6 There are a total of about 18 questions, I believe --
 7 something like 12 questions that the panelists will be
 8 deliberating on over the course of the four days.

9 And they fall into six major areas. First of
 10 all, what is the fundamental validity of the planning
 11 approach that's been taken by CalFed?

12 Secondly, the scope of actions that have been
 13 developed. Do they relate to the implementation
 14 objectives? Are they adequate? Do they make sense?

15 Thirdly, a huge area of concern is whether or
 16 not the adaptive management approach that's been developed
 17 by the CalFed Program makes sense and is it workable? Is
 18 it feasible?

19 And in addition to that, how can you -- what's
 20 their opinion about how such an adaptive management program
 21 can be phased according to the -- some of the assumptions
 22 that are in the ERPP with regard to when certain actions
 23 will take place over the next couple of decades.

24 The fourth is whether or not there is validity
 25 to the CalFed assumptions, CalFed descriptions of

1 be public observation at all times, although not active
 2 public participation.

3 In other words, the panelists will be there to
 4 deliberate among themselves, not with members of the
 5 public.

6 So that is how that issue has been -- staff has
 7 attempted to address it.

8 And there will also be ample opportunity every
 9 day to provide Public Comment as the deliberations proceed.

10 You know, I'm going to keep this very brief.

11 The ERPP is really a template for what
 12 hopefully will be become a foundation -- a durable
 13 foundation for restoration in the Delta for many, many
 14 years to come. That's why it's based -- that's why it is
 15 designed from an adaptive management standpoint, which
 16 requires, obviously, for its success ongoing research, a
 17 the constant revisiting of whether the indicators that have
 18 been developed make sense, whether they are viable, whether
 19 they are providing the kind of information that we need
 20 about the health of an ecosystem.

21 Obviously, a long-term plan requires constant
 22 ongoing monitoring and a very streamlined way of making
 23 decisions about how to alter programs, how to add
 24 restoration projects, how to delete projects, how to make
 25 sure that there is water there, how to make sure there is

1 money there, all those kinds of decisions are leading our
 2 work group into -- more and more into the whole area of
 3 assurances. How -- what kinds of legal institutional
 4 financial water rights assurances are going to be necessary
 5 to underwrite an ambitious restoration program like this.

6 So, finally, as you can see, we are almost at
 7 the end of the orange section on this graphic here. The
 8 review panel will be deliberating on the ERPP in its
 9 current form in October, but this is not to suggest that
 10 there is not going to be constant input sought and constant
 11 revision of -- and constant review of the validity of the
 12 ERPP that it is a work in progress.

13 The emphasis, however, in the next year is
 14 going to be primarily on what you read in volume three in
 15 the ERPP, which is how this program is going to be
 16 implemented from an adaptive management standpoint and that
 17 is a lot with the work of the staff and also with the work
 18 group is going to be through 1998.

19 So questions?

20 VICE-CHAIRMAN MCPHEAK: Thank you, Mary.

21 Questions to Mary?

22 Yes. Alex.

23 MR. HILDEBRAND: In your volume three
 24 here, I'll illustrate with a couple of questions.

25 There is a presumption in here that it's

1 desirable to increase the natural sediment supplies in the
 2 river.

3 Now, we have had, as I mentioned before, an
 4 aggradation of sediments of the order of eight foot depth
 5 in the main channel of the San Joaquin River for a hundred
 6 miles or more, and yet that has occurred during the same
 7 period we had a big decline in the fishery in that same
 8 segment of the river and other habitat so what is the
 9 evidence that it's desirable to have even more sediment by
 10 making the river meander more than it has? I don't
 11 understand how you arrive at that.

12 MS. SELKIRK: Dick, do you want to respond
 13 to that?

14 MR. DANIEL: I follow your point and one
 15 of the problems that we believe in the Delta is the fact
 16 that that sediment is aggrading in the San Joaquin River as
 17 opposed to moving through the system and contributing to
 18 the Delta ecosystem and the Bay ecosystem.

19 There is quite a bit of data, good data that
 20 shows that the average clarity of water in the Delta has
 21 increased; i.e., its turbidity has decreased over the last
 22 20 years. That's probably a function of upstream
 23 development and there is a growing body of data that I find
 24 rather alarming that perhaps silica, a major, basic element
 25 is limiting production of very basic food chain organisms

1 in the Delta. And so that's the basis for that concern.

2 We are not talking about bringing more sediment
 3 and depositing it in the San Joaquin River but rather
 4 recreating a system that moves that material through the
 5 system and allows for its biological productivity and the
 6 maintenance and recreation of habitats along the line.

7 MR. HILDEBRAND: What happens, Dick, is
 8 that the sediment that comes down the river and which is
 9 largely due to meandering of the river and to a large input
 10 of sediment down near Grayson, it moves down the river
 11 until it hits tidal zone and then the velocity drops off
 12 and it drops out. Now, I don't understand how that's
 13 benefiting anything. I see enormous impacts on the habitat
 14 and the diversity of the wildlife in the area that resulted
 15 in part from this and I see no evidence whatsoever that
 16 it's been good for the fisheries. During this same period
 17 of time the fisheries decline.

18 MR. DANIEL: Without getting into a large
 19 scale debate wouldn't you also agree that the reduction of
 20 flow in the San Joaquin River seems to be a major reason
 21 why that material is dropping out above the Delta and that
 22 that major reduction in flow in the San Joaquin River along
 23 with many other things also seem to correspondence with the
 24 decline in the fisheries?

25 What we are trying to do is to the extent we

1 possibly can is emulate the natural processes that were
 2 operational and were productive prior to the decline of the
 3 fisheries.

4 MR. HILDEBRAND: Yeah, but there is no way
 5 you can restore the flows we had before. We are exporting
 6 five times as much water to the Bay Area from the Tuolumne
 7 as we used to and that will continue to increase.

8 We've taken out 30 percent of the river flow
 9 and shipped it south of Friant and that's not going to come
 10 back and the whole system of the river is such that you
 11 cannot restore the kind of sediment deposits and movement
 12 that we had before unless you take a few million people out
 13 of California. It just isn't going to happen.

14 MR. DANIEL: We would agree but we do
 15 believe that it is fairly sound scientifically to
 16 investigate the system as it was before its modification
 17 and use that as a guideline in terms of what kind of
 18 processes you want to re-introduce, not necessarily on the
 19 same scale but it's a pretty darn good model in terms of
 20 the kind of things that we need to re-establish.

21 MR. HILDEBRAND: I think what you're
 22 proposing is already happening and it's happening on a
 23 scale that is very damaging to the habitat and the
 24 floodway.

25 I've lived there for a long time and watched it

1 happen and I don't like it.
 2 MR. DANIEL: I can't --
 3 MR. HILDEBRAND: So I just totally
 4 disagree with your plan here to increase the sediment in
 5 the river and to do that in part by having the river
 6 meander more and destroy the high berms that have the best
 7 habitat for maintaining habitat diversity and floodway.
 8 VICE-CHAIRMAN McPEAK: Mary.
 9 MS. SELKIRK: Without going into a long
 10 debate, my impression is that part of the purpose of having
 11 an adaptive management program is that you have a set of
 12 hypotheses that you constantly test and that if there were
 13 actions taken on the lower San Joaquin, for example, to
 14 improve habitat that in five, six, ten years time clearly
 15 weren't resulting in that, that there would be some
 16 flexibility, enough flexibility within the program to
 17 address that in something other than some lugubrious permit
 18 process to address precisely the kinds of concerns that you
 19 have and that that approach will be one that is implemented
 20 throughout the system.
 21 MR. HILDEBRAND: I don't see anything
 22 that's going to happen from this plan, though, to stop the
 23 ongoing degradation that's taken place over the last 30,
 24 40, 50 years. And it's just going to foster it, make it
 25 worse. I just think it's the totally wrong approach on the

1 proposal that will stop what's going on. It will actually
 2 make it happen faster.
 3 I can take you out and show you just within a
 4 couple miles of my property where many acres of beautiful
 5 habitat are now down the river and it's been lost and it's
 6 not going to be restored. There is no way we are going to
 7 get the hydrologic regime that built those in the first
 8 place. There is no possibility of it.
 9 VICE-CHAIRMAN McPEAK: Roberta and then
 10 Stu.
 11 MS. BORGONOVO: I just wanted to have it
 12 clarified.
 13 Are we talking about trying to create meander
 14 belts? Is that your issue, Alex, along the San Joaquin?
 15 MR. HILDEBRAND: It's a combination of the
 16 declaration here that it's desirable to have more sediment
 17 and the desire to have a meandering river which will foster
 18 that sediment load.
 19 MS. BORGONOVO: I guess what I had thought
 20 was the philosophy of the restoration was we are trying to
 21 recreate the processes of a natural ecosystem and even
 22 though it may be lost it seems as if it's a worthy goal to
 23 try to recreate them. It may be as you point out that
 24 there has been a point of no return.
 25 MR. HILDEBRAND: That's my point, that you

1 San Joaquin. It may be all right on the Sacramento. It's
 2 an entirely different situation there.
 3 As I said before the results of the projects in
 4 the Sacramento is to use the river as a delivery system so
 5 that the summer flows are higher than they used to be and
 6 are quite consistent in relation to nature, whereas in the
 7 San Joaquin quite the opposite is happening. It's been
 8 greatly reduced and there is no way it's going to get
 9 restored to any substantial degree.
 10 And I've been watching the degradation resulted
 11 from this a long time and all we are proposing here is to
 12 accelerate the degradation.
 13 VICE-CHAIRMAN McPEAK: So we've got a
 14 major difference of opinion based on science about whether
 15 or not the proposed actions are going to achieve improved
 16 habitat on the San Joaquin?
 17 MR. HILDEBRAND: My view is based on
 18 observation rather than on armchair science.
 19 VICE-CHAIRMAN McPEAK: Okay. What I
 20 thought I heard, Alex, which is not to say that the
 21 observations in the field aren't the most viable here or
 22 the most reliable, is that the proposed actions are to
 23 actually overcome what is now going on if nothing else were
 24 to take place?
 25 MR. HILDEBRAND: There is nothing in the

1 cannot restore a hydrology that created the system we had
 2 50 years ago. There is no way it's going to happen and if
 3 you try to restore it by this method without the flows that
 4 you are not going to get, you just make matters worse.
 5 MS. SELKIRK: Alex -- can I respond to
 6 that, Sunne? I know we need to move on but I think we are
 7 reaching a really important issue.
 8 That is precisely one of the questions that the
 9 scientific review panel is going to be asked to deliberate
 10 on, which is whether this vision is feasible, whether the
 11 Delta ecosystem as it's perceived and understood by this
 12 review panel has been so altered that it's not fixable in
 13 any kind of comprehensive way so I would hope that you'll
 14 be able to participate as a member of BDAC and a member of
 15 the public in that, you know, to make sure that they deal
 16 with that issue in the deliberations.
 17 MR. HILDEBRAND: Send them out and I'll
 18 show them.
 19 VICE-CHAIRMAN McPEAK: Roberta.
 20 MS. SELKIRK: Can I -- I'm sorry.
 21 VICE-CHAIRMAN McPEAK: Mary, why don't you
 22 finish --
 23 MS. SELKIRK: I just want to say one more
 24 thing which is that -- well, two more things, actually.
 25 One is that there is going to be a six hour

1 Ecosystem Work Group meeting -- I know you all love --
 2 getting really good at raising your meeting endurance --
 3 from nine to three on the 17th and a lot of the time at
 4 that meeting will be devoted exclusively to walking through
 5 exactly what's going to happen at the review panel, what
 6 those four days are going to look like and also an
 7 opportunity for members of the public and BDAC to have
 8 final input into the questions and into the format of the
 9 review process itself. So I encourage you to attend that
 10 meeting.

11 The review panel is October 6th through the
 12 9th. It will be in Sacramento, and I hope as many of you
 13 as can participate will be able to. Sharon, did you want
 14 to --

15 SHARON GROSS: Yeah, we also on the 17th
 16 are going to spend reasonable time in a full day will spend
 17 time on comments with the (inaudible). We want to discuss
 18 with the other members of the work group initial comments
 19 on all three volumes of the ERPP.

20 VICE-CHAIRMAN McPEAK: And anyone who has
 21 commented on the ERPP and did so on the Executive Summary
 22 as with the discussion that Steve and I had I'd like -- I
 23 would encourage and invite, urge you to go back and look at
 24 all three volumes and update your comments so that those
 25 can be before the work group and -- I don't know if Steve

1 those restoration proposals in terms of where the flow --
 2 where you would see the flow regimes because we talked
 3 about that being integrated into the ERPP and I think that
 4 that's one of the questions that Alex has asked but I won't
 5 take the time here. I'll just ask it afterwards.

6 VICE-CHAIRMAN McPEAK: Which would be a
 7 pretty important part to fill out from the whole ERPP, is
 8 the flow regimes --

9 MS. BORGONOVO: Right.

10 VICE-CHAIRMAN McPEAK: -- because that
 11 goes directly to the question of are you going to get more
 12 sediment or are you going to be able to flush it out at the
 13 right time to increase the turbidity in the Delta for
 14 whatever critters need silica, which is fascinating to me.
 15 Okay.

16 I think -- do those conclude the questions
 17 on -- Mary --

18 MS. SELKIRK: I know Stu you had your hand
 19 up. Did you want to ask --

20 VICE-CHAIRMAN McPEAK: Oh, Stu, I'm sorry.

21 MR. PYLE: It was about the previous
 22 discussion.

23 VICE-CHAIRMAN McPEAK: Okay. Great.

24 Thank you very much.

25 And the 17th is the next work group full day --

1 is still in the room but I want to convey that to offer
 2 anyone else who submitted comments, update them so they can
 3 be before the work group.

4 And specifically on the questions that Alex has
 5 raised, Mary and Dick, I think it would be helpful if you
 6 looked at the San Joaquin in particular and better explain
 7 why the proposal from the information you have or the
 8 experts that we are relying on here at BDAC and CalFed
 9 think that the proposals will not exacerbate the current
 10 problem but actually try to correct it, have that before
 11 the work group and then in addition ask the scientific
 12 review panel to look at not only the overall assumptions
 13 has the ecosystem been so altered but this particular --
 14 these proposals as they relate to the San Joaquin and
 15 separate from the Sacramento, will they accomplish what we
 16 want. Okay?

17 MS. SELKIRK: (Affirmative nod)

18 VICE-CHAIRMAN McPEAK: I'd like to see
 19 that analysis by our own staff in writing as to why we
 20 think we can address the problems that Alex cites on the
 21 San Joaquin, why we think his observations aren't going to
 22 be accurate as they usually are. Okay. Roberta, you were
 23 further commenting.

24 MS. BORGONOVO: I'll just ask Dick
 25 afterwards because I wanted to know how to read all of

1 MS. SELKIRK: It's nine to three.

2 VICE-CHAIRMAN McPEAK: Nine to three.
 3 Okay.

4 Tib and Roger have waited and delayed their
 5 schedule so you could make the report on the Water
 6 Transfers Work Group. So I turn it over to you two.

7 MR. BELZA: I'll start it off with a few
 8 points.

9 First of all, it was a well attended work group
 10 and we've become a very close work group simply because
 11 there were so many bodies we were shoulder to shoulder but
 12 it was a festive atmosphere and we look forward to a real
 13 fun time coming up.

14 A couple of points we are overriding that
 15 occurred again and again and the main one that you need to
 16 take into consideration is to make sure that the process
 17 ensures that we address the third party impacts and I think
 18 that's one of the biggest concerns of a lot of participants
 19 and these would include the local communities, the
 20 environment and the groundwater resources.

21 Along with that the cumulative effects of both
 22 short and long-term water transfers need to be considered,
 23 that this should not be viewed as a single solution but one
 24 of an integrated solution with everything else, acknowledge
 25 what works well and what does not work well in the water

1 transfer community, and basically it -- I don't think there
 2 will be a viewpoint that will not be represented. All
 3 viewpoints will be represented in this work group.
 4 We've got a lot of interested individuals. The
 5 next site is moved to a larger location. There was a lot
 6 of participation for a first meeting and I believe we are
 7 going to continue to get good participation from the work
 8 group members and there is a lot of work that we need to do
 9 in a short period of time and that's one of the concerns
 10 that as we look at this, there was even some ideas about
 11 splitting it up into two different groups but that was kind
 12 of overridden and people I think perceive that not to be a
 13 good workable solution.

14 I would leave Roger to comment or probably most
 15 of the members that are left here I think were at that
 16 meeting.

17 MR. HALL: I wasn't.

18 MR. BELZA: Steve wasn't there but it was
 19 well attended by not only everyone as well as BDAC members.
 20 Roger.

21 MR. THOMAS: Well, most importantly in
 22 light of Alex's recent dead aim at armchair scientists I
 23 want to assure Alex and everybody else that we will not
 24 allow any participants who operate out of armchairs. We
 25 are only going to have people who will stand up or

1 had their druthers that process would just go forward in
 2 the legislature without in their view yet another group
 3 kind of delaying work on developing a more streamlined
 4 transference process. But I think it's quite apparent from
 5 the immense participation and active discussion that this
 6 issue isn't going to be resolved to general satisfaction in
 7 the way that this group is committed to at least without
 8 some further discussion and perhaps more elaborate attempts
 9 to protect third party interests and environmental
 10 interests. So we will be continuing to encourage the
 11 business community to get involved in this process so that
 12 we can move forward and we do intend to be as expeditious
 13 as we can, which I hope will be of some reassurance to
 14 them.

15 VICE-CHAIRMAN MCPEAK: Thank you.

16 Are there questions to Tib or Roger?

17 (No response)

18 Thank you.

19 And the next meeting is also in Sacramento but
 20 a different venue? Where is the next meeting?

21 MR. BELZA: I believe it's in the
 22 convention center.

23 VICE-CHAIRMAN MCPEAK: That should be big
 24 enough.

25 MR. THOMAS: We are going to occupy the

1 otherwise sit in uncomfortable chairs while we continue to
 2 work.

3 I think Tib has described the focal issues that
 4 came out very well.

5 We are going to be looking for some CalFed
 6 staff papers before the next meeting, which is September
 7 17th, to focus on at least a couple of these issues.

8 And, again, with Bob's concern about avoiding
 9 Mondays and Tuesdays please remember again that the 17th is
 10 a Wednesday, not a Tuesday, as the paper that went around
 11 announcing the next meeting inadvertently suggested that it
 12 was.

13 I think our biggest challenge really is going
 14 to be timing. I mean, this group got formed and started
 15 much later because the issue came into focus in that
 16 fashion and so that is going to be a huge challenge for us.

17 I also have to raise a note of caution, kind of
 18 a footnote to one of the things that Tib said that I raised
 19 at the last meeting and we are continuing to work on, I
 20 would say the meeting or the process is open to all but so
 21 far unfortunately we've been missing one important kind of
 22 interest group, if you will. Basically, the business and
 23 industrial community that I know has a lot invested in a
 24 model act that they and other groups together developed and
 25 have tried to put before the legislature, I think if they

1 main auditorium and even then I think we'll be out of room.

2 VICE-CHAIRMAN MCPEAK: Okay. Very good.

3 The Assurances Work Group.

4 MARY SCOONOVER: Hap Dunning has provided
 5 me with an opportunity to give you all an update on the
 6 work group, at least that's how he pitched it to me, an
 7 opportunity, but I wanted to spend just a few minutes and
 8 it will be a very quick summary of what the Assurances Work
 9 Group has been up to.

10 We are meeting next Tuesday, the 9th, from nine
 11 until noon, not nine until midnight, as previously
 12 advertised.

13 And I want to take a minute first to explain to
 14 you again, and there are some new faces in the audience,
 15 the task of the Assurances Work Group.

16 Our task is to assure implementation and
 17 operation as agreed. Basically that is when the program
 18 components are completed, when the solution is identified
 19 and everybody agrees that it's either a wonderful solution
 20 or a solution they can at least live with it's our task
 21 then to put together a plan that will assure it can and
 22 will be implemented and that it will be operated as agreed.

23 Now, we are dealing in a world of uncertainty.
 24 There is no way we can predict every bump in the road so
 25 the second part of our task to design a process that will

1 address some of these unforeseen circumstances if a key
 2 component can't be implemented.
 3 Again, just briefly, the reason that this
 4 assurance package is such an important element is because
 5 we are talking about a program that may be implemented over
 6 the course of, you know, 25 to 30 years and some actions
 7 clearly will be eligible or available to be implemented
 8 immediately. Others can't be implemented for quite some
 9 time. So the key is keeping the whole process tied
 10 together and moving forward.

11 Second, it's not clear yet who will implement
 12 which portions of the CalFed Program and that makes a very
 13 big difference in people's confidence that the right thing
 14 will be done or that the agreement will be carried out.

15 There are differing needs for assurance
 16 depending on the component, an assurance need for a levee
 17 program may simply be a matter of clear authority and an
 18 adequate amount of money to carry out the program where an
 19 assurance concern or need for an adaptive management
 20 component of the ecosystem restoration program is a much
 21 more involved or may be a much more involved or different
 22 question requiring different tools to make it successful
 23 and finally differing stakeholder groups have differing
 24 concerns about differing elements of the project.

25 There are areas of origin or local watershed

1 counties who have some concerns about future exports and
 2 limitations on their future water needs.

3 There are others who are concerned about
 4 existing exports, the level of existing exports and what
 5 that effect will be on -- how that effect might be
 6 magnified if the amount of export is increased. So there
 7 are a variety of stakeholder issues and concerns and our
 8 task is not necessarily to satisfy every one of these but
 9 rather to identify them and to try to find some course
 10 through what is going to be a fairly difficult
 11 implementation effort.

12 Now, in order to get everyone on the same page
 13 I'll also remind you briefly of the process that we've
 14 undertaken and that is to first look at the program
 15 elements. Because we don't yet have a preferred
 16 alternative we can't say here is the program to be
 17 implemented. What we can say is here are the common
 18 programs, here are the variable components and the solution
 19 is going to contain elements of all of these.

20 So we've picked an alternative as a
 21 hypothetical that draws from -- that has some application
 22 to all of the other program elements and has some
 23 application to all of the other alternatives and we've
 24 identified the program elements to be assured. We've
 25 identified stakeholder issues and concerns as well as

1 agency issues and concerns, come up with a list of tools
 2 using everything from Federal and State legislation to
 3 informal agreements and conservation easements as means of
 4 assuring the outcome, and looked at differing management
 5 structures, everything from using existing institutions and
 6 existing relationships to totally new institutions or new
 7 relationships for new institutions and everything within --
 8 in the middle of that spectrum and started putting together
 9 some alternatives.

10 And we did that in May for a workshop and came
 11 up with five alternatives.

12 Those alternatives were somewhat arbitrarily
 13 put together. We've now started to put together some more
 14 detailed and thoughtful alternatives.

15 One was discussed fairly thoroughly at the last
 16 meeting and will be modified and discussed this next week
 17 and there is a second alternative that we're going to be
 18 introducing.

19 Once we have what we consider to be a
 20 reasonable range of differing approaches, differing
 21 alternatives for an assurance, then we'll measure them
 22 against the guidelines and the guidelines are everything
 23 from the solution principles that we've talked about
 24 before, that the solution be equitable, implementable,
 25 et cetera, et cetera, to concerns about institutional

1 efficiencies, that the instituting -- the implementing
 2 entity, whatever that entity may be, operates efficiently.
 3 We've also stated a preference for working within existing
 4 institutions and structures where possible but if not
 5 possible we are not shying away from proposing something
 6 new that may require fairly substantial changes.

7 The two alternatives that we are currently
 8 addressing and it's certainly not an exhaustive list focus
 9 on the elements that are listed here. The first
 10 alternative, again, the one that was discussed last month
 11 and will be discussed next week as well, is a management
 12 approach that actually creates a new entity. We are
 13 referring to it as the Delta ecosystem restoration
 14 authority to implement the ecosystem restoration
 15 components.

16 This entity would have a Board of Directors or
 17 a governing Board with representation from CalFed agencies
 18 as well as from stakeholder groups. And there would be a
 19 CalFed Agency oversight Board that would help make final
 20 decisions in cases of disagreements. The other kind of
 21 distinguishing feature -- I won't say characteristic
 22 because who knows where we'd end up -- this other
 23 distinguishing feature about this alternative is that it
 24 calls for a principals' agreement.

25 Now, that's an agreement upfront at the very

1 beginning that lays out every element of the implementation
 2 plan and calls for some kind of execution or signature
 3 process so that stakeholders and agencies would sign off
 4 that, yes, this is the implementation plan.
 5 It's modeled after the Delta accord model where
 6 everything is supposed to be contained in one document.
 7 Now, that's the first option. The second I think draft
 8 assurance proposal that we're calling it differs in that it
 9 uses the CalFed agencies operating under or forming a joint
 10 powers authority or a joint authority in order to implement
 11 the ecosystem component and instead of a principals'
 12 agreement uses an implementation plan. Now, this
 13 implementation plan would be part of the final EIR/EIS. It
 14 would contain the same elements that an implementation
 15 principals' agreement would contain but the idea is that it
 16 would be as detailed as possible and would not be a
 17 separate document requiring everyone to sign it. The
 18 reality is whether it's an implementation plan or a
 19 principals' agreement, if there isn't a broad base of
 20 support, both in the stakeholder community as well as
 21 within the CalFed agencies, the chances of it succeeding
 22 are very minimal. So the reality is whether it's a plan or
 23 an agreement there has to be a lot of discussions, a lot of
 24 support, and so Tuesday we are going to be focusing on that
 25 discussion.

1 some further either analysis or simply discussion with the
 2 hope that by the time the final EIR/EIS comes out we have a
 3 pretty good idea of what the implementation plan looks like
 4 and what form it will take both in the final EIR/EIS and
 5 thereafter.
 6 There is concern that even if we identify again
 7 a magnificent solution, we have to be able to deal with the
 8 practical what are we going to do in the interim from the
 9 time the EIR/EIS is certified until the time the entities
 10 can be up and running with their new responsibilities. So
 11 that's the challenge that we face, both figuring out what
 12 the answers are, figuring out what we agree on, putting it
 13 into a format that's accessible to the public so they can
 14 have an opportunity to comment on it in the draft, respond
 15 to those comments and then put together kind of a timeline
 16 that identifies what's to happen in the transition phase as
 17 well as in the longer term implementation phase of the
 18 program.
 19 That in a nutshell is what the work group has
 20 been up to.
 21 We've met I believe nine times or this will be
 22 our ninth meeting and we are set to meet about every six
 23 weeks. If you're not on the mailing list and would like
 24 the information, please call the CalFed general number and
 25 we'd be glad to send you our staff paper, which was about

1 The other effort we are going to undertake on
 2 Tuesday is to see if there are some areas, some elements of
 3 the assurance plan that aren't quite as controversial as
 4 some of the other elements.
 5 For example, we are going to look at the water
 6 quality plan and the proposal for assuring the levee
 7 component, the levee plan as well to see if there is some
 8 broad base of support, some general consensus that, yes,
 9 this is an appropriate way to move forward on these
 10 elements.
 11 If so we'll be able to report back to this body
 12 next time and say here are our recommendations as a work
 13 group for implementation of these elements. Now, we are
 14 still working on the other elements but here are the
 15 elements that we know.
 16 Eventually when a draft EIR is released there
 17 will be a chapter called "Implementation Strategies" and
 18 part of that will be the assurances plan. The other part
 19 will be finance and there may be other elements as well.
 20 What we hope to do by the time the draft is
 21 released is have identified areas of agreement and
 22 articulated those areas of agreement, identified areas of
 23 disagreement and presented options for those areas, which
 24 would then hopefully focus our discussions after release of
 25 the draft on those areas where there still remains to be

1 30 pages so be forewarned there.
 2 It's dense oftentimes, but we are dealing with
 3 such theoretical issues and such issues of great concern to
 4 both agencies and stakeholders that we really haven't found
 5 a very good way to be brief.
 6 VICE-CHAIRMAN McPEAK: Thanks, Mary.
 7 Are there comments?
 8 Yes, Alex.
 9 MR. HILDEBRAND: The Committee I think has
 10 striven mightily on this but the result illustrates the
 11 difficulty of the problem. The things Ed Petry has brought
 12 up repeatedly, the comment that I made today about the
 13 situation of sediment coming into the river near Grayson
 14 and numerous other examples shows that the real problem is
 15 you can't trust the Government.
 16 They don't live up to their commitments.
 17 You have laws, rules and plans and these
 18 assurance mechanisms still rely on the good faith of the
 19 Government.
 20 So that we are still faced with the fact that
 21 the best assurance to the extent it's possible is to merely
 22 make it physically impossible to maloperate the system and
 23 I don't think we are making enough effort to see that we
 24 develop a system which does not lend itself to maloperation
 25 rather than to rely so heavily on these dubious assurances

1 and I say that not out of any criticism of the committee.
 2 VICE-CHAIRMAN MCPEAK: Other comments to
 3 Mary?
 4 (No response)
 5 Okay. Thank you. We realize that, Alex.
 6 Okay. Then the Finance Work Group was going to
 7 report. As you can see the Chair had to leave early and
 8 our staff person also is not here so we were going to
 9 continue that for Roberta -- I know you were there. There
 10 may be anyone else who wants to comment on the work group?
 11 MS. BORGONOVO: I should you should move
 12 it forward. I think Bob was there, too, but I would move
 13 it forward.
 14 VICE-CHAIRMAN MCPEAK: Okay. Is there
 15 another meeting scheduled -- there must be -- between now
 16 and November? I just want to say I like the fact that you
 17 went through the exercise.
 18 MS. BORGONOVO: Yes. Yes.
 19 VICE-CHAIRMAN MCPEAK: Thank you. You did
 20 a good job. We'll look forward to a great report once
 21 again in November.
 22 Before getting to the public involvement update
 23 we have a couple of issues that have been raised, Lester.
 24 One was to have on the Agenda at a future
 25 meeting the scoping on the HCP, a report on that. So since

1 SHARON GROSS: Yes.
 2 VICE-CHAIRMAN MCPEAK: In fact, Sharon is
 3 going to do it.
 4 SHARON GROSS: Yeah, I just . . .
 5 Okay. I just wanted to give you actually two
 6 overviews.
 7 One is of the public meetings that we are
 8 planning to have for the HCP and we've actually already
 9 changed one of these.
 10 This one on October 2nd has been changed to
 11 September 24th because we inadvertently picked a holiday on
 12 Rosh Hashanah on October 2nd so that one we will be
 13 changing to September 24th and we have added an HCP scoping
 14 meeting in the Bay Area, which will actually be here at the
 15 Berkeley Marriott. There is also another series of public
 16 meetings beginning at the end of October.
 17 This is just a tentative schedule. This is
 18 what we have set up so far just to give you a general idea
 19 of the times and the areas where we'll be going there and
 20 when we utilize these public meetings just to give a
 21 general update of where we are in the program. Hopefully a
 22 little bit more information about the EIS/EIR and just to
 23 begin to prepare people for the draft EIS/EIR later on in
 24 the year.
 25 So this is just to give you just a general

1 we have the two days and Stu is really concerned about how
 2 we use the time, we'll add that light issue to the Agenda.
 3 Okay. We'll find something, right.
 4 And we had raised by Al McNabney the issue of
 5 how we are addressing the resident species, bird species
 6 within the Delta and I failed to actually bring that up
 7 when Mary was giving the report on the ecosystem
 8 restoration.
 9 That is really focused on the estuary itself
 10 but the larger habitat question I think we need to
 11 somehow --
 12 EXECUTIVE DIRECTOR SNOW: The
 13 terrestrial species --
 14 VICE-CHAIRMAN MCPEAK: The terrestrial
 15 species, I think he called them the avian species? I
 16 don't know all this terminology but . . .
 17 MR. HILDEBRAND: I think that's birds.
 18 VICE-CHAIRMAN MCPEAK: Birds that stay
 19 there and live there and don't travel through.
 20 Okay. So with that, Ann, we were just
 21 scheduling the issue of the scoping of the HCP will be on
 22 the Agenda at the next meeting. Okay. I was just taking
 23 care of that.
 24 All right. Pat, on the public involvement
 25 update, do we have a report?

1 overview of where we are with that.
 2 Do you want to add anything, Judy?
 3 JUDY KELLY: No, only to say that we'll be
 4 finalizing the locations for each one of those meetings and
 5 as soon as the locations are finalized in the next week or
 6 so we'll broadcast that quite extensively so people can
 7 start planning around it.
 8 SHARON GROSS: And for the HCP we are
 9 actually sending out a notice now as we speak that will
 10 have a lot more details about the locations and the types
 11 of things that we'll be looking for and presenting at those
 12 scoping meetings.
 13 MR. MEACHER: Are you going to come up
 14 with more information or are you going to just -- what you
 15 said you were going to cover preparing for the draft?
 16 SHARON GROSS: For these meetings?
 17 MR. MEACHER: Yeah.
 18 SHARON GROSS: These will primarily just
 19 be kind of -- get leading people up to the draft.
 20 MR. PYLE: You've kind of ignored the
 21 southern San Joaquin Valley. Los Banos is the northern
 22 San Joaquin Valley. It's a long ways from Bakersfield.
 23 SHARON GROSS: Okay.
 24 MR. PETRY: It's pretty damn close to
 25 where I live.

1 VICE-CHAIRMAN MCPEAK: Thanks you.
 2 Any other comments on the public outreach what
 3 Lester and I was doing were hearing your comments is trying
 4 to figure out even more how we get -- do more on the
 5 outreach, get others who are interested in the process but
 6 may not take the time to show up because they just get a
 7 notice but to go out and actually schedule them to come in
 8 and to hear. So some more work will be done on that. This
 9 is a lot of effort on public outreach. We just want to
 10 make sure that by the time we get through this process that
 11 more than a critical mass of the interested parties,
 12 interested stakeholders, public that is affected, decision
 13 makers who are going to have to sign off in one arena or
 14 another have full knowledge of everything that we are doing
 15 so that's what we are talking about.

16 We now are moving to I think the public -- the
 17 afternoon Public Comment. We are going to start with
 18 Mr. Petry who we said, yes, could come back.

19 And as you're coming to the podium what we are
 20 going to do -- come forward, Mr. Petry -- is to attempt to
 21 address the issues that you have raised on numerous
 22 occasions.

23 I am going to volunteer Chairman Madigan and
 24 myself, and that's what I'm going to start doing. If Mike
 25 won't show up, I'm going to volunteer him -- so volunteer

1 run through man-made channels, man-made structures, roads
 2 and bar pits and things of that nature get into the Mendota
 3 Pool. If we retired enough land west of Mendota, they'd
 4 meander back and forth and stay with the land. It wouldn't
 5 congest the Mendota Pool like it is now.

6 MR. HILDEBRAND: That's not the only way
 7 to solve the problem, Ed. The problem we have again is
 8 ignoring third party impacts.

9 VICE-CHAIRMAN MCPEAK: You can respond.
 10 I'll give you equal time after Mr. Petry finishes.

11 MR. PETRY: And the other thing is there
 12 is a way of resolving the problem. We have to make
 13 everybody happy. You know, it has to be a politically
 14 feasible solution to the problems and there was a gentleman
 15 here a little while ago that talked about industry.

16 Industry ag related industry west of Mendota can take care
 17 of the San Luis drain problem without putting it into the
 18 river or sending it to the Sacramento Delta.

19 Look what happened to Kesterson because we let
 20 it run that far. There is a possibility that we can use
 21 the underground plumbing that's existing, a portion of it,
 22 to handle these waters.

23 Now you've got underground storage. You could
 24 take into consideration all of the plumbing that's
 25 underneath the 42,000 acres so instead of storing the water

1 Mike and myself to join, Lester if he chooses, in
 2 communicating what you have told us to whomever Lester says
 3 is the right authority and responsible parties to address
 4 it and report back to us in a specified period of time.

5 MR. PETRY: Yes, I've already got a report
 6 back from Water Resources Agency. The Water Resources
 7 Agency took input from the Westlands Water District.
 8 Westlands Water District is the Agency that's using the
 9 water, okay, and they didn't take the effects of the
 10 groundwater, what's happening to the groundwater in the
 11 City of Mendota. And like I said the documented evidence
 12 is with Carl Carlucci's (phonetic) office in the City of
 13 Fresno. All of that documented evidence is there and every
 14 time they stop them wells up our water degrades.

15 And why they didn't take that input I don't
 16 know.

17 And there is probably some local politics that
 18 intervenes with that so what we need is documentation. The
 19 documentation and evidence is there.

20 In relation to -- I think, Alex, I'm going to
 21 have to say you're wrong on land retirement, I'm sorry, old
 22 buddy, I think you're wrong. I think this gentleman over
 23 here is right.

24 If we had land retirement west of Mendota those
 25 flood waters that come out of the Pinoche Hills that now

1 on the surface we could store it underground where the
 2 wildlife and habitat wouldn't be affected. But we need an
 3 ag related industry that would help agriculture to have a
 4 finished product in the area that's centrally located in
 5 the Valley between the north and south.

6 We could process the food there. Presently we
 7 use hydrocooling, vacucooling, forced draft cooling to
 8 process the foods there but that only refrigerates it. We
 9 need to go through the process of freezing that food,
 10 packaging it then shipping, a finished product rather than
 11 raw product that has to be shipped someplace else and
 12 processed. We can do that in our community or next to our
 13 community. That would bring back the social economics and
 14 if we could use that San Luis drain water and clean it up
 15 in some way, manner or form ag related process for water
 16 doesn't require domestic type water. It's an evaporation
 17 process with vacucooling and hydrocooling and forced draft
 18 cooling. This is the problem with Public Comment.

19 Do you understand what I'm talking about?

20 I've come a long ways. When you're talking
 21 about Los Banos, that's a heck of a lot easier for me but
 22 it's hard for me to drive some 200 -- 160 miles each way
 23 and come hear for three minutes. You have to understand
 24 that, with my finances, it's all out-of-pocket money.

25 VICE-CHAIRMAN MCPEAK: I do understand,

1 Mr. Petry.
 2 MR. PETRY: So I'd appreciate you taking
 3 some consideration as to my problems here.
 4 If we had that type of industry that would help
 5 with the social economics, retire enough land to keep those
 6 flood flows with the sediments that would stay with the
 7 land and then percolate that waters and you can do it by
 8 (inaudible) but it's going to take more land retirement
 9 than what we are presently talking about.
 10 And it would help a great deal with the
 11 community. It would help the farmers. It would give more
 12 water for agriculture. I don't care if the water goes to
 13 the environmentalists or if it goes to agriculture. Either
 14 way it's more water. And either way it's going to help
 15 either factor.
 16 This is what we are looking for, more water,
 17 more water, so if we had that water then we could use it.
 18 If we use it for agriculture, then agriculture doesn't have
 19 to furnish it from the environment, right? So we need to
 20 have a multi-use water.
 21 We have to help the farmers. We have to bring
 22 back the social economics. We've got 30 percent
 23 unemployment, the highest unemployment rate in the Central
 24 Valley. There is things that can be resolved if you'll
 25 just work on it.

1 seen him either. Okay.
 2 Actually I have Craig's so now I have two for
 3 Craig. Craig Breon from the Santa Clara Valley Audubon
 4 Society.
 5 We have people filling out cards for other
 6 folks, I think. Either that or you've got two different
 7 handwritings and you've been a split personality here
 8 today.
 9 CRAIG BREON: No. Mine is the messy one.
 10 Somebody else evidently did fill in something for me. My
 11 name is Craig Breon. I work for the Santa Clara Valley
 12 Audubon Society and have been increasingly involved in
 13 Delta issues as I have worked closely sometimes with
 14 sometimes against the Santa Clara Valley Water District on
 15 their participation. I wanted to use something that's
 16 going on in my county because I do mostly local work as an
 17 example of, I think, a major issue that we are talking
 18 about and that is demand management. I have recently been
 19 working with the City of San Jose to reduce the outflow
 20 from their water treatment plant to the Bay. They have a
 21 tremendous amount of fresh water coming out of their water
 22 treatment plant and it's converting salt marsh habitat with
 23 endangered species in it to fresh water habitat degrading
 24 those species.
 25 As it turns out the City of San Jose claims at

1 And I'm presently working with the Bureau of
 2 Reclamation now. Hopefully we'll come up with something
 3 that will help in the form of ag related industry that will
 4 bring back the things that we need to bring back.
 5 VICE-CHAIRMAN McPEAK: Thank you,
 6 Mr. Petry.
 7 MR. PETRY: I appreciate your time. Thank
 8 you.
 9 VICE-CHAIRMAN McPEAK: What I'd like to
 10 also do is just remind everybody that you are not only
 11 welcome to but invited to submit written comments. They
 12 can be as long as you choose and get us that on the record.
 13 Also, what I'm doing is alerting you at three
 14 minutes so that you know that you can conclude in the
 15 following two. Okay? So that's the process I tried to
 16 announce at the beginning. When you see three minutes I am
 17 giving you the warning you've got two minutes to conclude.
 18 Art Feinstein has a card in but I don't see Art
 19 here. Has he come back into the room or -- no. I didn't
 20 see him at all.
 21 MS. SELKIRK: who?
 22 VICE-CHAIRMAN McPEAK: Arthur Feinstein.
 23 UNIDENTIFIED VOICE: He hasn't been here
 24 all day.
 25 VICE-CHAIRMAN McPEAK: Right, I haven't

1 least and I'm giving you their numbers because we don't
 2 have the scientists to do this -- they do, evidently -- the
 3 City claims at least that a major part of their problem is
 4 the groundwater policy of the Santa Clara Valley Water
 5 District. What they say is that when their permits were
 6 first issued in '91 or '92 or so, that about four percent
 7 of the water flowing through their planted was through
 8 what's called I and I, intrusion and inflow, which means
 9 that their sewage plants underground actually get water
 10 into them from the groundwater table outside. They now
 11 claim that due to changes in groundwater policy as well as
 12 wet years that that is up to 14 percent. So the scenario
 13 if you believe San Jose's numbers and in just discussing
 14 this with the district they certainly do dispute them and
 15 will decide that, but if you believe San Jose's numbers and
 16 their scientists who have looked at this, the situation we
 17 have is that the water district as the contractor of both
 18 the State and CVP taking water out of the system, moving it
 19 over to the hills into our reservoir and creek system and
 20 percolating it into the groundwater and the groundwater
 21 table rising so high that according to San Jose's numbers
 22 again up to 15 to 20 million gallons a day of that water is
 23 intruding into the sewer pipe system being treated even
 24 though it's nice water coming out of the Delta and other
 25 places, being treated in our sewage treatment plant and

1 being dumped out into the Bay converting endangered species
2 habitat.

3 When we talk about demand management, we do not
4 mean drastic changes in people's quality of life.

5 We do also not mean immense limitations on
6 growth or elimination of huge areas of farms.

7 There are a lot of places where we can go after
8 demand management in ways where we identify as in this case
9 perhaps policies which are inclined towards wastefulness
10 and those are one of the first places we should go after
11 and we certainly think that in general this group is not
12 taking the demand management options that the environmental
13 community is putting forward and I just gave you one small
14 example from my local level, seriously enough.

15 With that just simply local level of a much
16 larger issue I will say thank you for coming down here. I
17 don't get a chance to talk to you or attend your meetings
18 much because I do work mainly in the South Bay but it's
19 interesting to hear the discussion today and I hope I can
20 continue.

21 Thank you.

22 VICE-CHAIRMAN McPEAK: Thank you, Craig.

23 Any comments or questions on Craig's input?

24 (No response)

25 And, Alex, I failed to ask if you wanted to

1 certain basic issues are not fully addressed, and I don't
2 think the water efficiency which really is water management
3 is being fully addressed, I think that you are bound to
4 fail.

5 And certain basic things the public at large is
6 going to really want to see accomplished so I'm here to
7 urge you to develop an aggressive water management water
8 efficiency element for all 12 alternatives. I'd like to
9 see how you relate it to your distinguishing
10 characteristics since it isn't a distinguishing
11 characteristic on its own. I'd like to see it emphasize
12 more source reductions, source control.

13 I have read your two fax sheets about water
14 quality and also water efficiency. I do think water
15 efficiency is much more than the VMP process.

16 It does involve reduction of pollution at the
17 source. It's treating water as a resource in maintaining
18 its highest quality throughout the State.

19 It should be mandatory, in my opinion, but I
20 recognize what CalFed is struggling with on this issue.

21 Well, at least you have to have assurances
22 there. So the public at large and the environmentalists
23 will know that it will be accomplished.

24 Now, that's all for now.

25 I also think it involves land management and

1 make any further comments.

2 MR. HILDEBRAND: I won't at this time but
3 shutting down the agriculture in order solve this problem
4 is a little bit like solving a sewer problem for a city by
5 shutting down the city, that's not the best way to do it.
6 There are other ways to do it. The problem is real. There
7 is no difference at all on that but I think you just shift
8 the problem to somebody else if you solve it in this
9 manner.

10 VICE-CHAIRMAN McPEAK: Polly Smith
11 followed by Jen Fagan.

12 POLLY SMITH: Thank you. I'm Polly Smith.
13 I am here as an individual, although I'm connected with the
14 League of Women Voters and Save The Bay. Thank you for
15 having this meeting here in Berkeley. I hope you come
16 again and I agree with Craig's comments about demand
17 management. That's my topic or as you call it water
18 efficiency. I wish to make a big plea to CalFed to beef up
19 your water efficiency Common Program. I don't think it's
20 adequate what I've seen and what I've heard. I'm not sure
21 there is agreement that it's adequate at the CalFed level
22 or at the BDAC level. I do know that it's a very strong
23 basic issue with environmentalists and also with the public
24 at large.

25 I want this CalFed Program to succeed, but if

1 other issues, such as pricing issues, which have not been
2 looked into enough, but another time. The hour is late and
3 I thank you.

4 VICE-CHAIRMAN McPEAK: Thank you, Polly.

5 Also, you cited some of the major issues that
6 you think should be beefed up as you said --

7 POLLY SMITH: Yes.

8 VICE-CHAIRMAN McPEAK: -- and you moved to
9 the specifics, I'd like to invite you, too, to further
10 elaborate on that in writing or other comments to give as
11 many of the specifics as you think should be put into the
12 core program on water efficiency.

13 POLLY SMITH: Thank you. I've been away a
14 lot these last three months and I hope to come to more
15 meetings and thank you.

16 VICE-CHAIRMAN McPEAK: Thank you.

17 POLLY SMITH: And you run a good show,
18 Sunne.

19 VICE-CHAIRMAN McPEAK: Jen Fagan, which
20 will be the last comment based on the cards I have.

21 Are there any outstanding requests to speak?

22 (No response)

23 VICE-CHAIRMAN McPEAK: Jen.

24 JENNIFER FAGAN: I'll probably be you guys
25 shortest speaker.

1 My name is Jennifer Fagan and I'm here on my
 2 own accord but also I am a volunteer with the Sierra Club
 3 and I just moved here from Ohio so I'm still trying to get
 4 myself acquainted with the whole CalFed process but I want
 5 to reemphasize the fact, and I know you guys have spoken a
 6 lot about this, that there is a very large constituency
 7 within the public that is concerned with number one, the
 8 full implementation of the CVPIA fish restoration program.
 9 I've talked to a lot of people and that's probably one of
 10 the biggest things that comes up.

11 And also to encourage you to fully examine the
 12 efficient use of water instead of creating new facilities
 13 so that we can really examine that, you know, maybe we
 14 don't have as much of a problem as we think we do,
 15 that -- I don't know exactly what I'm trying to say -- but
 16 that we should fully examine the efficient use of what we
 17 do have instead of trying to recreate things like that.

18 Thank you very much.

19 VICE-CHAIRMAN McPEAK: Thank you, Jen.
 20 You're welcome. That concludes what I have.

21 Are there any other cards? Yes?

22 JENNA OLSEN: I didn't fill out a card
 23 actually.

24 VICE-CHAIRMAN McPEAK: Please come forward
 25 but state your full name and affiliation so that we can get

1 this large to get everyone into that is both affordable and
 2 available on the dates that we have set. So I think that
 3 that was the problem that you ran up against. I know that
 4 Sharon and I tried because I, too, would like them along
 5 public transit routes so we will try to keep that in mind.

6 If any of you know of venues that we haven't
 7 uncovered that are as large as a ballroom to -- like this,
 8 please let us know.

9 I know the CalFed staff would appreciate that.
 10 We actually went through a lot of corporations trying to
 11 find big rooms. I have the same problem trying to schedule
 12 my own Board meetings. They are just literally not that
 13 available. But if you know of them, fine, and let us know.
 14 The largest conference room of the Sierra Club which I use
 15 a lot for other meetings might accommodate us if we got
 16 really close but it's, you know, maybe half this size so --
 17 and that's a large conference room right off the Bart line.
 18 It would be nice to be able to do that, just help us find
 19 those venues. I think that wraps up today.

20 We are scheduled, remember, for Tuesday, the
 21 4th and Wednesday, the 5th. We will have a program in the
 22 evening to hopefully further enlighten us, engage in some
 23 dialogue, Stu. I think we pretty well filled the Agenda as
 24 we've gone through the items.

25 You'll be getting the information as to the

1 those for the record and then fill one out if you can so
 2 that also we have that.

3 JENNA OLSEN: I'm Jenna Olsen, I'm
 4 Grassroots Organizer with the Environmental Water Caucus
 5 and also housed in the Sierra Club and I just also wanted
 6 to say thank you all for having the meeting here in the Bay
 7 Area. It makes a big difference and I also wanted to thank
 8 the plans that you've made for public participation in the
 9 HCP scoping meetings and also the pre-release meetings. I
 10 think those are very important.

11 I have one big plea and that is as much as
 12 possible to locate those meetings in places that are
 13 accessible by public transport. This meeting today I
 14 called the hotel and they told me that this place was not
 15 in fact accessible by Bart. I found out from Roberta that
 16 they do offer a shuttle but somehow that message didn't get
 17 across to me and I think that that will be important in
 18 other parts of the state as well. There are a lot of
 19 people who rely on that. So that's my request. Thank you.

20 VICE-CHAIRMAN McPEAK: Well, I echo it.
 21 As someone who personally doesn't own a car any longer I
 22 would really like it along public transit lines and I will
 23 say that BDAC staff tried mightily to find venues that I
 24 could get to on Bart, as an example, so -- and they weren't
 25 available. They exist but it's hard to find a facility

1 location so you can make arrangements to stay over but
 2 please put that on your calendar now and then again
 3 December 12th and then we'll be looking to spend probably a
 4 two day meeting in Southern California towards the end of
 5 January, first of February, that time frame.

6 Anything else to come up?

7 Thank you all very much. Have a safe trip
 8 home.

9
 10 (Whereupon the BDAC meet recessed at 4:25 p.m.)

11 --oO--

1 STATE OF CALIFORNIA }
2 COUNTY OF SAN JOAQUIN } ss.

3 I, SUSAN PORTALE, Certified Shorthand

4 Reporter of the State of California, do hereby certify:

5 That on the 4th day of September, 1997,
6 at the hour of 9:38 a.m., I took down in shorthand notes
7 the said witness' testimony and the proceedings had at the
8 time of the giving of such testimony; that I thereafter
9 transcribed my shorthand notes of such testimony by
10 computer-aided transcription, the above and foregoing being
11 a full, true and correct transcription thereof, and a full,
12 true and correct transcript of all proceedings had and
13 testimony given.

14
15
16
17 _____
18 Certified Shorthand Reporter in and for the
19 County of San Joaquin, State of California
20

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