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3 IN RE THE MEETING OF THE)
4 BAY-DELTA ADVISORY COUNCIL)
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10 TRANSCRIPT OF PROCEEDINGS
11 Oakland Airport Hilton Hotel
12 Oakland, California
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14
15 Thursday, July 16, 1998 at 8:30 a.m.
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19 TRANSCRIBED BY: SUSAN PORTALE, CRS NO. 4095, RPR, CM
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1 COUNCIL MEMBERS:

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3 SUNNE McPEAK, Chairman

4 LESTER SNOW, Executive Director

5 ERIC HASSELTINE, Contra Costa Council

6 STEVE HALL, Association of California Water

7 Agencies

8 ALEX HILDEBRAND, South Delta Water Agency

9 RICHARD IZMIRIAN, California Sportfishing

10 Protection Alliance

11 ROSEMARY KAMEI, Santa Clara Valley Water

12 District

13 DAVID GUY, California Farm Bureau Federation

14 TOM GRAFF, Environmental Defense Fund

15 JUDITH REDMOND, Community Alliance with Family

16 Farmers

17 ROBERTA BORGONOVO, League of Women Voters

18 ANN NOTTOFF, Natural Resources Defense Council

19 PIETRO PARRAVANO, Pacific Coast Federation of

20 Fishermen's Association

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1 (All parties present, the following proceedings were
2 had at 8:30 a.m.)
3 CHAIRMAN McPEAK: This is the Council
4 Meeting for July 16, 1998. Welcome all of you here
5 for this gathering.
6 I might just remind everyone that when you
7 speak today, I'll try to acknowledge you by name,
8 but if I should not do that, would you please start
9 your comments by giving your name so that our
10 recorder will be able to get accurately who is
11 saying what.
12 We are very pleased to have the opportunity
13 to meet here in Oakland in Alameda County in the Bay
14 Area for this session of BDAC. And we are going to
15 have a number of elected officials joining us
16 throughout the day.
17 In a while, we're going to hear from
18 Assembly member Dion Aroner, but I did want to
19 acknowledge that we're here in her assembly
20 district -- I think this still is it. Oh, sort of
21 on the edge. Okay, in the vicinity of -- and
22 therefore, are visiting in her home territory today.
23 But we're also very, very pleased to have a
24 special guest to start this morning before he has to
25 leave and go to Sacramento to meet with

1 Governor Wilson. I have over the years, as all of
2 us who have toiled in water policy, water politics,
3 admired from afar from California to Arizona,
4 sometimes also had the opportunity to engage the
5 work of Bruce Babbitt as Governor of Arizona, before
6 that as a constitutional officer in the State, and
7 of course now as Secretary of Interior.
8 From the very beginning of the CalFed
9 process, Secretary Babbitt has been involved. I
10 think giving orders to his folks to come to
11 Cali/fornia and figure out what could be done to
12 break the impasse that had emerged in 1993'-94, to
13 negotiate the framework in the middle of '94, and
14 then the accorded December of '94, and to see that
15 entire process through for, now, coming upon four
16 years, and has personally spent an incredible amount
17 of time on the issues that we're wrestling with, is
18 dedicated to bringing CalFed to a positive
19 conclusion for which all of us are extremely
20 grateful and owe a debt of gratitude.
21 I also want to say, Bruce, parenthetically
22 that I want to thank Patty Beneke for sort of
23 conspiring with us to move your calendar so that you
24 could join us today, and we appreciate very much the
25 time she is spending on your behalf talking to all

1 of us. It must be an odyssey that I could never
2 quite imagine to try to get the viewpoints of all
3 the stakeholders in California.
4 Having said all of that about
5 Secretary Babbitt and water policy, I just want to
6 say that it wasn't until I made the trek from the
7 south rim down 21 miles and back in 24 hours in the
8 Grand Canyon did I get a real appreciation for
9 the -- sort of the physical ability of this man who
10 does that regularly. And every step of the way in
11 the middle of July some 12 years ago, I thought
12 Bruce Babbitt is a better person that I am.
13 So I say to you, ladies and gentlemen,
14 we're very, very fortunate to have service at a
15 national level now with Secretary of Interior, the
16 Honorable Bruce Babbitt.
17 (Applause.)
18 SECRETARY BABBITT: Madame Chair, thank
19 you very much. I appreciate the introduction.
20 You know, I stand here in a sort of bemused
21 and ironic kind of frame of mind. I think of all
22 the shared history we have. Here I am from -- today
23 from Washington and I'm here to help you. And, you
24 know, I think back over all the shared history, all
25 those years that I spent in Arizona laboring in that

1 little hard scrabble state living under the shadow
2 of this giant colossus called California, and sort
3 of laboring in the shadow of California wondering
4 whether we would ever have a chance. And here I am.
5 No longer Governor, but I'm from Washington.
6 Seriously, I'm delighted to be here and to
7 have a chance to visit however briefly with you.
8 I have a very short message. And obviously
9 it reflects a lot of our shared history together and
10 it's a message that I'm sure all of you have not
11 only heard but have given on many occasions. That
12 is simply that we are at an historic moment of great
13 importance. It's my sense, having been in and out
14 of these issues with many of you over the last 25
15 years, that these opportunities come once in a
16 generation. That's it. And here we are by fate and
17 design and effort at the threshold of one of those
18 opportunities, and I think we will be judged in
19 history by what we do together in the next six
20 months.
21 I recognize that it is a daunting
22 challenge. I recognize that we have done a lot of
23 process on process on process, and we have tended up
24 to this point to walk around a lot of potentially
25 divisive issues trying to build some momentum and

1 some confidence and that's, of course, exactly the
2 appropriate way to go.
3 I think that as we look at the next six
4 months, we ought to occasionally look back at where
5 we've come from because since 1993, we've made a lot
6 of progress. You know, I remember well the
7 nay-sayers as we built up to the accords in 1994 who
8 said: "You know, this really can't be done. We
9 just have a culture in which adversary relationships
10 are rooted so deeply in our history and in our style
11 of doing business and in our culture that we just
12 can't do it."
13 And, of course, we did.
14 And since that time we have, in my
15 judgment, made considerable progress. That ought to
16 at least give us some confidence as we now look up
17 at this Everest that lies before us in the next six
18 months. And I have just a few thoughts about what
19 it is we need to be doing.
20 First of all, let me say that I'm here and
21 I'm here to stay. Now I hope you don't take that as
22 a threat. Because the reason I'm here is I
23 recognize the importance of this moment and I
24 believe that in all of the field of issues that I
25 deal with, this surely is now the most important and

1 the most significant. And I am going to clear my
2 calendar and I'm going to haunt this State for the
3 next six months doing everything I can to facilitate
4 what it is that you must do.
5 I applaud your efforts to sort of really
6 reach out and get the public involved. I am always
7 amazed as an outsider -- sometimes I call myself an
8 outsider, sometimes I remind you that -- something
9 I've never admitted in Arizona -- and that is that I
10 am a native Californian. So let me in my insider
11 way say that I've always been amazed at the relative
12 lack of public engagement in water issues in
13 California. I think, in fact, it's kind of part of
14 the problem how you have been so blessed in this
15 State that the resource issues are not front and
16 center.
17 I grew up in a culture in Arizona where we
18 ate and drank and fought and quarreled and our lives
19 revolved around the presence of California and our
20 destiny on the Colorado River. You've been blessed
21 here, and I say that just to underline the more
22 public engagement we can get in this process, the
23 better. And I know it's an uphill struggle, but
24 you're doing really great on that score.
25 Secondly, I think it's important as we move

1 through this final six months to try to keep all the
2 issues in the Bay-Delta corral. And as tempting as
3 it may be for different groups, different
4 stakeholder groups to see opportunities to move out
5 unilaterally, that we try to resist that and that we
6 do everything possible to heighten the visibility of
7 this process to draw all issues in order and to
8 resist any sort of -- you know, sort of unilateral
9 moves.
10 I'm -- I realize that it's an untidy
11 process, and I don't mean that in -- to be critical
12 of any stakeholder or any party. This is a big and
13 fascinating issue and inevitably there will be some
14 stopover.
15 But we must try as hard as we can, all of
16 us, to remind our congressional delegation and our
17 elected officials that this is about generations to
18 come. This is an issue which transcends a narrow
19 political and specific regional interest in
20 California, and that our elected representatives can
21 help us and help this State by withholding and
22 channeling of the energy into this process.
23 Now, lastly, we really are now at the
24 moment of decision and it is going to get harder.
25 There is no question about that. I think it's

1 important to try to find ways to begin to gingerly
2 and carefully and respectfully start the process of
3 informal talking and bargaining to kind of ripen our
4 understanding of the specific issues.
5 You know, we're going to have to come to a
6 consensus, that's the only way this thing will have
7 any value. I don't think that precludes informally
8 kind of reaching out and trying to get a web of
9 cross-cutting communication and sort of stir the
10 broth a little bit, not -- don't let it slop over,
11 but stir it and kind of get in and listen carefully
12 and try hard to draw people out and to examine what
13 -- not what their position is but what their real
14 fears are and what it is their ultimate interests
15 are, what it is that it's going to take for all
16 stakeholders to emerge from this process feeling
17 comfortable that their role in this State is
18 advanced and that their part in this society is
19 assured.
20 And again and again and again we slip back
21 into this kind of adversary process in which, "Well,
22 my gain is at your expense." We really have to move
23 away from that because ultimately finding a
24 consensus is what it's about.
25 Now, I'll be meeting with the Governor

1 today and Lester Snow will be there, too, for a
2 brief -- both of us. I'm looking forward to that
3 because I'll tell you, I come from a political
4 culture, it's the dominant political culture in the
5 United States, and politicians think they learn best
6 by talking. And we're trying very hard to remember
7 that as we counsel everybody else in the world to
8 listen, we, too, must listen. And it's really
9 helpful to listen together and to hear the same
10 thing from the people who are going to brief us
11 today, Lester, David Kennedy, Roger Patterson, and
12 others.
13 The -- it's my understanding that Lester
14 will have a new document. This must be edition 37
15 by now. I'm never certain which edition I'm looking
16 at when I'm on cross-country airplanes, but I
17 believe there's a new document ready to come out.
18 And I hope that we can, again, focus on the
19 framework in that document, not by way of condemning
20 what's in the document, but by way of starting the
21 discussion.
22 What Lester has done, I think with enormous
23 skill for which we should all be grateful, is nursed
24 this along ever so steadily. And his documents, I
25 think, must now have a little more bite in them.

1 They need to have -- I've said to Lester, "Look,
2 you've got to have an opinion. You know, you've got
3 to take a few risks." And he's doing it. I think
4 he's doing it wonderfully.
5 What he says as he moves his documents
6 along doesn't reflect, in my judgment, any
7 endorsement or any agenda. But what he is, I think,
8 now trying to do now is to sharpen this up by sort
9 of holding up and saying, "Here's some premises that
10 I think we have got to carry with us." So look at
11 it carefully and listen and don't rush the
12 condemnation. Let's try to think this all through
13 together.
14 Okay, I guess that's enough. I appreciate
15 the chance to say a few words and I will be back
16 frequently. I look forward to it. I think on the
17 Federal side we really have our act together. I
18 guess I would leave you with that. I am meeting
19 regularly, Patty Beneke and my staff with Bob
20 Perjessepi (phonetic), Felicia Marcus, and we are
21 determined to, you know, sort of get our house in
22 order so that we can be a constructive participant
23 in all this.
24 Sunne, thank you.
25 CHAIRMAN McPEAK: Thank you.

1 (Applause.)

2 CHAIRMAN McPEAK: Once again, we
3 appreciate very much you taking the time, and all of
4 your leadership that has been provided to this point
5 has gotten us this far. And now the next six months
6 are going to be very crucial, so God's speed on your
7 trip to Sacramento and on the journey in the next
8 six months.

9 Thanks, Bruce. Bye-bye.

10 I mentioned to you that we're here in the
11 home territory of the Honorable Dion Aroner who also
12 chairs the committee that deals with Human Services.
13 I should always remember this but it doesn't matter
14 to me any more and I purposely forget bill numbers
15 as well, no longer being in public office. But I
16 watched her shepherd through the process welfare to
17 work and get Cal Works out and constantly be going
18 back and forth between the community and Sacramento
19 and constituents and advocacy groups and listening
20 to everybody, and that's the kind of style she
21 brings to all of her endeavors around public policy
22 and it's really a pleasure to be able to work with
23 Dion.

24 So thank you very much for taking the time
25 to be here, the Honorable Dion Aroner.

1 (Applause.)

2 ASSEMBLYWOMAN ARONER: Good morning,
3 everybody. It was a pleasure to have
4 Secretary Babbitt in our neighborhood, and I'm glad
5 to hear that he's going to be spending a lot of time
6 with us.

7 This morning I wanted to participate in
8 this discussion a little bit with all of you. As
9 you -- if you don't know, I represent the East Bay,
10 and for some of us that means the greenest
11 neighborhood also in the State of California and one
12 that is incredibly concerned about the environment.
13 And it would be lax if I did not come to share with
14 you what I think are some of the issues in the
15 CalFed process from the perspective of my community,
16 and I think I'm also probably representing most of
17 the Bay Area legislative delegation from the
18 legislature.

19 And at the end, then, I also want to share
20 with you an announcement that I've made this morning
21 for any of you might not have been listening to
22 KQUED as I was, not that I knew it was going to be
23 on but it was.

24 But let's start first of all with my
25 remarks regarding the process that you all have been

1 involved with, which is a magnificent process and
2 one that I know is as -- is attempting to be as
3 inclusive as possible. I get to watch it from 80
4 miles away most of the time. I get to hear, though,
5 a lot about it from many of you, at this table as a
6 matter of fact, on a regular basis.
7 The CalFed program represents an
8 extraordinary opportunity to have the stakeholders
9 of the Bay-Delta, including environmental groups,
10 water districts, agricultural interest and
11 government look at water issues that include
12 quantity, quality, cost and reliability.
13 You've heard from numerous elected
14 officials, as I'm sure, and many members of the
15 public over the terms of this process from around
16 the State about the need to provide for agriculture,
17 water districts, businesses and the environment.
18 My main concerns, and I believe the main
19 concerns of the Bay Area legislative delegation, are
20 to assure that the San Francisco Bay becomes a
21 healthier estuary and that our constituents have
22 better drinking water. For years and years the
23 water resources of California have been poorly
24 managed. Conservation has not been fully explored.
25 Large subsidies to farmers have allowed for overuse

1 and have prevented reallocation of water in many
2 instances.
3 But now we have an opportunity to make
4 significant changes. But to this point, from my
5 perspective, little attention has been given to
6 maximizing cost effective measures and efficient
7 uses of water.
8 There are many steps that can be taken to
9 eliminate wasteful practices and significant
10 potential exist in areas of water conservation and
11 water quality improvements. Agriculture and urban
12 waters -- urban water uses could reduce their use.
13 Water conservation needs to be enhanced.
14 It can be as simple as people in Southern
15 California turning off their water when they brush
16 their teeth. It can be as simple as Sacramento
17 installing water meters. Incentives could be made
18 available to farmers to reduce -- to reduce use or
19 plant crops that are less water dependent.
20 Water recycling and waste water reclamation
21 programs should be promoted with improvements in
22 technology that allow for more recycling for use in
23 parks, landscaping and other water dependent
24 activities. We're seeing businesses now lining up
25 to support recycling programs because it's in their

1 financial interest. Why can't the same be done for
2 water conservation and water recycling?
3 Before we spend billions of dollars on
4 water projects, we need to have an analysis that
5 compares the cost and the environmental impact of
6 these projects with more efficient and cost
7 effective uses of water.
8 The second area of concern for me is water
9 quality and drinking water. We must assure
10 Californians have the highest quality of drinking
11 water. We should be looking for less costly
12 measures. Instead of very controversial storage and
13 conveyance facilities like the small peripheral
14 canal, and I'm going to use that term, we should
15 look at benefits that can be derived through:
16 First, increasing fresh water flows in the
17 Delta, fewer diversions for farming and fewer dams
18 could lead to better water quality. There are even
19 some environmental groups that I believe have
20 proposed removal of dams, including the Nimbus and
21 the Englebright.
22 Second, we could do ecosystem restoration.
23 It's been proven that water quality benefits can be
24 derived from wetlands restoration and from restoring
25 natural habitat. These habitats all act as filters

1 and are often much more effective than expensive
2 treatment plants.
3 And third, pollution prevention. Stricter
4 regulations should be pursued. There continues to
5 be large amounts of pesticide running off from
6 agricultural land. Livestock farming is growing in
7 California and presents a threat to both wildlife
8 and humans and ultimately costs taxpayers millions
9 of dollars because the water has to be treated.
10 In conclusion, we have a tremendous
11 opportunity to reestablish the San Francisco Bay as
12 a healthy estuary. Over the past couple of decades,
13 we've seen the strides that have been made in our
14 air pollution and in our energy conservation. I
15 hope and believe that given the same effort and
16 incentives we can enhance water quality and the
17 health of the Bay-Delta at the same time.
18 This morning, I introduced legislation -- I
19 don't know if it has a number yet, everyone, so I
20 can't tell you that much. But I introduced urgency
21 legislation that says that if out of the CalFed
22 process it should be recommended that there be an
23 isolated transmission facility, that that facility
24 should be put to a vote of the voters of the State
25 of California. And if the voters of California say

1 yes to it, then the legislature should be involved
2 in the -- through statute in the drawing up of what
3 those plans are.
4 And the reason I've done this is because if
5 the -- from my perspective, first of all, the
6 voters -- we know that the voters have had a very
7 strong opinion on the peripheral canal. Only eight
8 counties out of 58 in 1982 supported the peripheral
9 canal and it was defeated.
10 I think it's very important, as
11 Secretary Babbitt said, that we engage the public in
12 this discussion. And you're doing as good a job as
13 you can do and I applaud you for it because it is
14 magnificent to bring all the stakeholders to the
15 table.
16 But the one little point of disagreement
17 that I guess I have with the Secretary is that water
18 politics in California are the most basic politics.
19 I think you and I all know that. It is what makes
20 this State grow. It is what makes this State
21 stable. And it is the most controversial politics
22 also, as I have learned over my 30 years now in
23 community service.
24 And I think that if that is part of the
25 recommendation, the isolated transmission facility,

1 that from my perspective the public must be engaged
2 in that debate, and that if they wish to build such
3 a facility that it should be done jointly. We have
4 three parts of government here, not just one, and
5 that at that point it is appropriate to put the
6 legislature into the room with the administration to
7 begin to have that discussion.
8 We've learned over the years in this State
9 that as initiatives go on the ballot, particularly
10 without legislative review and without judicial
11 review very often, that we don't get the best
12 quality product and that a legislative review gives
13 us, from my perspective, a much better quality
14 product.
15 So if that's one of the things that's going
16 to come out of this process, then what this
17 legislation does is it says, let's talk to the
18 public about it and ensure that they understand all
19 of the issues involved, and at the same time if they
20 decide that it is appropriate to do such a facility,
21 that then the legislature would be involved in the
22 design, along with the administration.
23 And so I did want to share that with you
24 this morning because I think it's an important piece
25 of your discussions and your analysis as you go

1 along.

2 I look forward to the debate. I look
3 forward to hearing more, the 37th edition, I guess,
4 of the plans that you're all coming up with. And I
5 look forward to more discussion through the
6 legislature as well. As you know, we, too, are
7 having discussions particularly around water bond
8 acts right now and trying to figure out if we can
9 put a water bond on the ballot in November, and some
10 of the issues that you are discussing are the very
11 same issues that we are discussing in that debate.

12 So I look forward to further discussions
13 with you and further time to go over what we all see
14 are the major issues facing California today,
15 particularly around our water and how it's
16 distributed, and most importantly how we provide
17 water to kids and families.

18 And I wanted to get back to Sunne's point
19 that I chair the Assembly Human Services Committee.
20 This is, from my perspective, all about our kids and
21 our grandchildren and whether or not they're going
22 to have a future in this State. And they've got to
23 have clean drinking water to do that and they've got
24 to have rivers and streams that are provided to them
25 for their recreation as well as for the beauty of

1 them, because that is what California is all about.
2 Thank you so much for providing me this
3 time this morning.
4 (Applause.)
5 CHAIRMAN McPEAK: Yeah, I think you want
6 to ask a question of Assembly Member Aroner?
7 Okay. Yes, Tom.
8 MR. GRAFF: Tom Graff, EDF.
9 CHAIRMAN McPEAK: Thank you.
10 MR. GRAFF: The -- I haven't seen your
11 bill so I don't know what exactly it says regarding
12 both a public vote and a legislative vote, but for
13 many years there has been uncertainty as to whether
14 a legislative vote or bill authorizing such a
15 facility would be required. And I think one of the
16 things that would be very helpful is to ask the
17 State administration what its position is on that
18 very point.
19 CHAIRMAN McPEAK: Okay. Yes, Dion.
20 ASSEMBLYWOMAN ARONER: Tom, the way we
21 have written this that if the voters were to decide
22 to say yes, then it would be required that there be
23 statutory authority from the legislature. So that's
24 the way the ballot measure is put and that's the way
25 this -- so it gets -- it puts the legislature at the

1 table, from my perspective.

2 MR. GRAFF: I mean, I think it's legally

3 required already, but I know there's dispute about

4 that.

5 ASSEMBLYWOMAN ARONER: And I think part

6 of the point of this is to clarify that.

7 CHAIRMAN McPEAK: Are there any other

8 questions to Assembly Member Aroner?

9 Dion, thank you for taking the time. We

10 think it's very important that legislators, State

11 and Federal, be involved, directly involved in this

12 whole process, especially now at this stage and

13 going forward. So it is -- it's extremely

14 enheartening to see you take the time to be here.

15 Thank you very much.

16 We also have representatives of other

17 legislators from this region. Present with us

18 representing Assembly Member Figueroa is Coby

19 Pisotti.

20 Coby? Good.

21 And representing Mike Honda, Assembly

22 Member Mike Honda is Steve Patterson.

23 Steve, thank you.

24 And representing State Senator John

25 Vasconcellos is Carna Carlson.

1 Carna? Great.

2 Thank you.

3 I'm told that none of you wanted to speak,

4 but if any of you are moved to enlighten us and give

5 us an answer or comprehensive solution, we invite

6 you to the podium. Does anyone want to address us?

7 Okay. Thank you.

8 We are now going to move to the agenda that

9 you -- the rest of the agenda as you have it printed

10 before you.

11 Let me just make a couple of comments,

12 beginning with the fact that Senator Johannessen who

13 has a Select Oversight Committee, is chair of a

14 Select Oversight Committee appointed by present Pro

15 Tempore of the Senate John Burton, has been hearing

16 -- has been holding a series of hearings on CalFed

17 and inviting in people to testify.

18 He has asked that on August 5th, that there

19 be a representative group of BDAC to come testify.

20 All are welcome. But he purposely wanted us to take

21 responsibility to line up essentially three panels

22 or so of people who would represent a cross-section

23 of this group. It appears that there is a rumor

24 circulating that we're not of all one mind and that

25 there is some dissatisfaction with our -- with the

1 CalFed process among us. So he wants to hear the
2 various viewpoints and to get that out on the table.
3 I've consulted with Chairman Madigan -- and
4 I should note that Mike is not able to be with us
5 today and he hopes to be here tomorrow. I've
6 consulted with Mike and also with Mary Selkirk and
7 the CalFed staff to at least try to identify
8 initially a dozen or so folks. And we've tried to
9 contact you so you might have gotten a fax about
10 that.
11 We started with the chairs of the work
12 groups and added to that enough people to represent
13 a diversity of viewpoint, geographical spread, and
14 hopefully, I guess, a spectrum of ideas. And if any
15 of you wish to be involved, that you -- that would
16 like to just volunteer, please contact me or Mary.
17 For example, Richard already told me,
18 you're not available that day. So there's -- it's
19 likely to be difficult. It is -- August 5th is the
20 date they're now working on. They think it's pretty
21 certain. I just want to caution you that nothing is
22 certain right now in Sacramento about anybody's
23 schedule and they may still move that. That's only
24 the second or third date that they have given us,
25 and it's the morning of August 5th, I think. So

1 please let us know.

2 And what we're going to do when that

3 absolutely gets pinned down is notify all of you

4 again of the time and place, but we'll try to line

5 up scheduled testimony because Senator Johannessen

6 will then invite you, if you agree to be invited, to

7 be on the panels.

8 Okay. We have in the packet for you a

9 written update on the Restoration Coordination

10 Program, so I want to bring your attention to that.

11 And I think we're now able to move into the portion

12 of the agenda where we'll begin with a presentation

13 from Steve Richey.

14 I should also just let you know that we

15 expect tomorrow Mike Cahill from the Governor's

16 office to be here early in the morning to address

17 us. So presumably they're trying to free up the

18 calendar so that we also have that input from

19 Sacramento.

20 Am I on the agenda correctly? Should we

21 just go to Steve's presentation? Is that right,

22 Mary?

23 MS. SELKIRK: Steve was going to make a

24 short report about the --

25 CHAIRMAN McPEAK: Steve is going to --

1 MS. SELKIRK: -- the themes.

2 CHAIRMAN McPEAK: The themes, that's

3 right. The themes from all of the testimony or

4 comments on the programmatic EIR/EIS which were due

5 on July 1st. Lots of comments have now been

6 summarized and Steve Richey is going provide us a

7 brief substantive quality report on those themes.

8 Mr. Richey.

9 MR. RICHEY: Thanks.

10 For those of you who don't actually know,

11 although probably most people know and I know most

12 of you, for the last ten days now I've been the new

13 Chief Deputy Director at CalFed. So if you were

14 surprised why I'm sitting up here, that's why. I

15 don't work for San Francisco anymore, I now work for

16 CalFed.

17 And in my role of Chief Deputy Director I

18 am going to be constantly popping up. Whenever

19 Lester is someplace else, you're going to see me in

20 his place. That's going to be constant theme

21 throughout.

22 First, on the EIR comments, by July 1st we

23 had received in excess of 1500 comment letters, plus

24 thousands of postcards related to issues around

25 CalFed. Within that body of paper, there were more

1 than 20,000 individual comments that have been
2 received. And basically -- I mean there's a lot of
3 comments in there, but they really deal with five
4 big public issues more than anything else. These
5 are head and shoulders above each -- above the
6 others. They're on the overhead over there.
7 The first two are probably fairly closely
8 linked, conservation and new facilities.
9 Conservation can be boiled down into: Conservation
10 is the answer and you should do everything you can
11 on conservation.
12 On the flip side: Conservation is a good
13 thing but it doesn't get you everything you need for
14 a solution.
15 Those are kind of two positions.
16 And then linked to that on the facilities
17 front with the first: Since conservation is the
18 answer, you don't really need any new facilities.
19 The converse of that: Since conservation
20 isn't the answer, you do need some new facilities to
21 make the whole thing work.
22 So those are really two very strongly held
23 positions and I think this represents a significant
24 combined issue that CalFed must deal with. There's
25 no question about that. This is probably head and

1 shoulders above the rest.

2 Third issue on there is agricultural
3 issues. A substantial amount of concern about
4 the -- basically, the future of agriculture in
5 California and what the Ecosystem Restoration
6 Program means for agricultural lands and what the
7 availability of water means for agricultural lands.
8 That is a very significant question. The
9 agricultural community is very concerned about that.

10 Fourth issue, area of origin issues and
11 water rights issues. A lot of strong comments that
12 out of any CalFed solution, area of origin issues
13 must be dealt with and area of origins must be
14 protected. And at the same time, water rights
15 should not be tweaked around in this process. And
16 in speaking with my old hat from San Francisco I
17 fully support that one. I think the point is that
18 people are saying, "We really need to not mess
19 around with these and protect those interests that
20 have already been established."

21 And lastly, finance issues and the basic
22 concept of the beneficiary pays. I think all of the
23 comments were pretty sounding in agreement with the
24 beneficiary pays. The subtlety there is defining
25 "the beneficiary." And I think in anybody's mind,

1 of course, the other guy's the beneficiary and the
2 other guy ought to pay a little bit more than me.
3 But the basic concept is there. I think working
4 through what that means for everybody in total is
5 the issue.
6 The CalFed staff is working heavily on
7 trying to even just at this point catalog the
8 comments and start to try to come to grips with
9 them. We will be working at putting the comments
10 into an electronic database which should be
11 available on the Internet. We're not sure when, but
12 we're working with U.C. Berkeley on that so that we
13 can make comments available to everyone to see
14 without having to produce, you know, tons and tons
15 of paper. So that's the process underway right now
16 and that's what we're working on, and if anyone has
17 any questions about the comments, I'd be happy to
18 answer them.
19 CHAIRMAN McPEAK: Are there any
20 questions to Steve?
21 Yes, Martha. Martha Davis.
22 MS. DAVIS: Martha Davis, Sierra-Nevada
23 Alliance.
24 What steps will be taken to address the
25 substantive issues in those comments and how does

1 that work within the time frame that we've got in
2 front of us for trying to come up with documents by
3 the end of this year?
4 MR. RICHEY: In terms of addressing the
5 substantive issues, you know, in dealing with
6 responding to comments, there are various pieces of
7 technical work that will need to be done to respond
8 to those. We're identifying that right now and
9 applying the resources to get those answers to those
10 questions.
11 The time frame question, I think, from our
12 perspective, it's a tough one. If we're trying to
13 work at what we're at for the end of the year, it's
14 going to be a real challenge to do that. But I
15 think, you know, we're putting every effort to make
16 sure that happens.
17 MS. DAVIS: But I do understand that
18 there are a number of issues that go straight to
19 some of the baseline for the EIR/EIS. How will
20 those issues be addressed by CalFed and still work
21 within the time frame that we've got in front of us?
22 MR. RICHEY: Can you clarify the
23 question for me about the baseline?
24 MS. DAVIS: Well, for example, some of
25 the concerns that have been expressed about the

1 no-action alternative, a number of the assumptions
2 that are included in that and the implications for
3 increased amounts of water being assumed to go
4 south, under that scenario how will those
5 substantive issues be addressed?
6 MR. RICHEY: I know we're trying to look
7 at it in terms of current conditions as well as
8 objective conditions so that we've got that bracket
9 and look at that and make some serious public policy
10 judgments in that. I don't know if that will speak
11 directly to the answer. I know it's very much an
12 issue that we know we have to deal with.
13 MS. DAVIS: Will those issues come back
14 to the Bay-Delta Advisory Council?
15 MR. RICHEY: Yes, certainly they will in
16 some form or other.
17 CHAIRMAN McPEAK: Yes, Roberta
18 Borgonovo.
19 MS. BORGONOVO: Just to follow-up on
20 Martha's question, I think the concern is that the
21 way in which the fourth alternative is being
22 drafted, if it's still based on some of those
23 assumptions then you again have the same problem in
24 that preferred alternative. So it would be a help
25 to us if we could know what are the substantive

1 issues that are being addressed, the timeline, does
2 that get incorporated into the fourth draft?
3 And I know we're going to discuss that
4 today, but there's all the issue of the conservation
5 potential that you raised that's showing up in the
6 comments, so just if we could have an idea how
7 that's being addressed, the groups that are working
8 on that, what changes we might see in any preferred
9 alternative that comes forth.
10 MR. RICHEY: Yeah, I would prefer that
11 we have that discussion in looking at the framework
12 document itself.
13 CHAIRMAN McPEAK: And let me ask a
14 clarifying question, Steve, that may be part of what
15 Martha and Roberta are raising. And that question
16 is: Does the process, the CalFed process now
17 anticipate the staff bringing comments to the --
18 bringing the responses to the comments back to BDAC
19 for review before recirculation?
20 I don't think it necessarily does, is why
21 I'm raising that question, or I thought maybe that's
22 what you're asking about. Of course, it will come
23 back in some form but it's not a specific
24 responsibility of or charged to BDAC to be providing
25 advice or input to the staff in the preparation of

1 the responses, as I understand it.

2 That doesn't prevent the staff from

3 saying -- if they could in time, if they could in

4 the timetable, sharing some of the substance of the

5 responses that they are contemplating and getting

6 feedback from BDAC. And that might be a way to do

7 it.

8 Why don't I leave it as an item for, Steve,

9 the CalFed staff to consider. Because it does just

10 appear to me that it will be difficult in trying to

11 do a recirculation that we build in the process of

12 us going through and editing. And also there is,

13 however, the issue of the substance of many of these

14 comments that go to the deliberation, the heart of

15 the deliberation that probably we should be engaging

16 in.

17 Okay. Judith Redmond.

18 MS. REDMOND: Judith Redmond, Community

19 Alliance with Family Farmers. Actually you said

20 there kind of what -- the point that I wanted to

21 make, which was that it wasn't necessarily

22 responding to the comments perhaps that people might

23 be concerned about as much as having an opportunity

24 to think about those substantive issues that are

25 coming up, the questions of conservation and impact

1 on agriculture, the things that we've been
2 discussing all along. But it seems like there may
3 be a need to have those come back here and to frame
4 the response in the next draft.
5 CHAIRMAN McPEAK: So I guess we require
6 more than one overhead.
7 Anyway, I think that -- let's look at the
8 timetable because we need to have it if not in
9 September, in October. And, you know, we'll try to
10 get it into one of those -- one of those two. One
11 or the other. Maybe both, but...
12 MR. RICHEY: As a teaser, we will start
13 to open the discussion a little on the finance
14 question later today.
15 CHAIRMAN McPEAK: Martha Davis on this
16 one.
17 MS. DAVIS: Can I also just ask a
18 follow-up question? What is the timeline that
19 CalFed needs to follow in terms of making decisions
20 about -- this will get us into the preferred
21 alternative discussion a little bit, but also just
22 on the documents, where are the points in time where
23 decisions need to be made so that that information
24 can then be incorporated into the follow-up
25 document? I know there's some deadlines that the

1 staff are facing. And how does that connect back
2 with the BDAC schedule?
3 MR. RICHEY: Yeah, I think under the
4 current schedule, serious decisions need to be made
5 in August and September.
6 MS. DAVIS: By September? In September
7 or by September 1?
8 MR. RICHEY: In September.
9 MS. DAVIS: In September.
10 CHAIRMAN McPEAK: We are scheduled to
11 meet September 10th? I'm looking at -- because Alex
12 had talked to me earlier today -- in Stockton, in
13 the Delta. So that would be probably -- why don't
14 we ask, given your response, Steve, now to Martha,
15 that we put this on the agenda again to look at the
16 substantive issues and the responses.
17 And I hope that that discussion will be
18 greatly informed by what we're going to do right
19 now, which is go through this document that is
20 called "Developing a Draft Preferred Alternative."
21 MR. RICHEY: I wanted to make sure that
22 the Secretary's comments didn't make people think
23 that they needed to start putting this document
24 away and looking for a new one right now.
25 CHAIRMAN McPEAK: Okay. Just on that

1 point, Mr. Graff.

2 MR. GRAFF: Just a quick question. Does

3 Lester have a formal presentation that he's making

4 to the Secretary and the Governor today, and will

5 that be available? And in particular, will he

6 comment on a letter written June 28th by Governor

7 Wilson to Speaker Gingrich which raises a number of

8 very serious concerns, at least from my point of

9 view?

10 CHAIRMAN McPEAK: I don't think that

11 Lester is going to take the responsibility to

12 comment on that letter or to explain it. But that

13 is why, at your request, Mr. Cahill has been invited

14 and will be here tomorrow.

15 MR. GRAFF: I think we should discuss

16 that letter well before Mr. Cahill comes here

17 tomorrow. I think it's --

18 CHAIRMAN McPEAK: Okay, I see.

19 MR. GRAFF: -- a serious enough problem

20 that it needs to be aired.

21 CHAIRMAN McPEAK: Then I'll put it at

22 the end of the agenda today, or this morning if we

23 can get to it, Tom.

24 Any other questions to Steve before we turn

25 to Stein?

1 MR. HALL: On that point --

2 CHAIRMAN McPEAK: Mr. Hall. Steve Hall.

3 MR. HALL: When did you plan to bring it

4 up? I'd like to be here and I have to leave at

5 about 1:00 today.

6 CHAIRMAN McPEAK: About 1:00 today?

7 MR. HALL: About 1:00, yeah.

8 CHAIRMAN McPEAK: Well, I plan it bring

9 it about 1:30 then.

10 (Laughter)

11 MR. HALL: Thank you for your courtesy,

12 Madame Chair.

13 CHAIRMAN McPEAK: I had in mind -- I

14 don't mean to be -- I'm sorry. This is what you

15 get.

16 I had hoped that we actually could spend

17 the bulk of the morning on the alternatives

18 document, and so I'm going to try to be pretty

19 strict about that.

20 Let's then -- I'd rather push lunch a

21 little bit and bring it up no later than 11:45. Why

22 don't I make that commitment to all of you. I don't

23 want it to preoccupy the heart of the discussion

24 today.

25 11:45, is that acceptable to everybody?

1 Does anybody have to leave before 11:45?
2 Okay. Thank you.
3 Any further questions to Mr. Richey?
4 None?
5 MR. BUER: Good morning, Madame Chair,
6 and members of the Council. It is a pleasure to be
7 here again. It's almost like Ground Hog Day, I hope
8 I get it right today and can move on from there.
9 My hope was to start by providing an
10 overview of the changes in the document since the
11 last time you looked at it in Fresno and the
12 direction we think we're moving, and, of course, I
13 look forward to hearing your detailed comments after
14 providing that overview to help guide the
15 formulation of this document as we go forward.
16 Probably the single largest change in the
17 document is a greater degree of focus and certainty
18 in the language of this document. As Secretary
19 Babbitt indicated this morning, there's some
20 obligation on staff to try to work through the
21 issues and provide some clarification. And the
22 first draft of this document, to some extent, was a
23 tool for brainstorming and there's a need to sift
24 through some of the components and to clarify
25 others.

1 Secondly, this document is getting
2 substantial and a fairly wider view, and we're
3 recognizing a need that to some extent it has to
4 stand alone and tell a -- tell the CalFed story
5 succinctly. So we're adding -- we have been adding
6 and will continue to add more explanatory text
7 explaining the rationale for some of the conditions
8 that we're laying out in the document and explain
9 some of the cross-linkages between the various
10 proposed actions, and to provide greater integration
11 between the program elements.
12 We recognize that the document is going to,
13 to some extent, provide a foundation for overview of
14 the whole program. In its initial incarnation it
15 focused primarily on Stage 1 actions because that's
16 where the greatest interest was.
17 We have expanded that to include Appendix A
18 which describes the status of the program at the
19 time of the record of decision. It's our best guess
20 as to what may be the situation then. In addition,
21 we expect to add some overview of how the later
22 stages of the program will also unfold.
23 There's also an interest in an integrated
24 description of what can happen in terms of actions
25 to make the system better prior to implementation of

1 the record of decision. That is -- those kinds of
2 actions are clearly going to be discussed in the
3 CalFed forum and integrated with CalFed actions, but
4 at the same time they're not covered by CalFed
5 environmental documentation. And therefore, we're
6 going to treat that in a separate document, but it
7 will certainly be part of the discussions as we go
8 forward.
9 A significant clarification and I think an
10 important element is the way we're now describing
11 the Delta conveyance strategy. On page six of the
12 document we have proposed language leading into the
13 conveyance section in which we describe a primary
14 strategy of making the through Delta system work.
15 In part, that's a recognition of the fact
16 that any kind of major structural change in the
17 Delta will take a number of years to execute, and
18 therefore, it is our obligation to do everything we
19 reasonably can to make the existing system work.
20 But a second concern is, of course, and I
21 think over the past year Alex has brought the issue
22 before this Council a number of times, and that is
23 before we move to major investments in new
24 infrastructure, we have to be reasonably convinced
25 that we've done everything feasible to make the

1 existing system work.

2 So our primary strategy will be to try to

3 work with the existing system or modifications of

4 through Delta. If those actions do not work, if our

5 adoptive management efforts do not work, our

6 contingent strategy would be the dual transfer

7 facility and that would be triggered by the kinds of

8 conditions that we have articulated on page six. So

9 we will, of course, have opportunity to talk in a

10 little bit more detail about that as we go forward.

11 In terms of surface storage, the next

12 section there on page six and seven, I believe --

13 MR. HILDEBRAND: Do you want questions

14 as you go along or --

15 CHAIRMAN McPEAK: No, wait until Stein

16 finishes and I'll pick it up, Alex.

17 MR. BUER: Thank you.

18 Let me just make sure you have page --

19 page six and seven is what I'm looking at, and you

20 might want to turn to that as we go through this.

21 In terms of the surface storage, the

22 linkages and conditions that were laid out were to

23 some extent a collection of potential linkages

24 reflecting the broad input we had received over the

25 17 public hearings, the many workshops, the BDAC

1 meetings and so on. And there were some internal
2 contradictions among those and some issues that we
3 think we can probably express more clearly.
4 Our perception is that ultimately storage
5 will probably -- new surface storage will probably
6 be part of the mix of CalFed actions, but that any
7 such implementation would need to be contingent upon
8 carefully crafted conditions. And what you see
9 before you on page seven is possibly a framework for
10 beginning work on those conditions.
11 A central issue with respect to any new
12 surface storage is compliance with 44B1 regulations.
13 And as we discussed at the Fresno meeting, there's a
14 substantial burden of proving that all efforts have
15 been made, all reasonable efforts have been made to
16 meet project purposes in -- by actions that do not
17 impact waters of the United States. And, of course,
18 CalFed is committed to fully complying with those
19 conditions.
20 You'll recall at the Fresno meeting that
21 Mark Cowin made a presentation on an element of that
22 analysis, an economic hydrologic evaluation to look
23 at the effect of surface storage in the framework of
24 many other nonstructural and soft-path actions.
25 While we think it's very important to go

1 forward with that study, that it will assist in
2 clarifying the issues, we're not fully convinced
3 that this will ultimately decide the question of
4 whether or not we need surface storage.
5 And we believe that an effective strategy
6 for addressing the complexities is to focus on
7 performance, to focus on actions in the future so
8 that if these actions have been taken or are well in
9 their process to being taken in terms of water use
10 efficiency, groundwater conjunctive use and
11 appropriate groundwater transfer and marketing
12 framework, if these things are all being done, then
13 that is the best proof that nonstructural options
14 have been implemented to the extent possible. So we
15 think that we should rely on specifying actions
16 rather than on relying on the very -- potentially
17 very complex difficulty study to get to that
18 process.
19 So the conditions you see here have been
20 clarified to focus on, No. 1, the actions, and No.
21 2, if all those actions have been taken or are
22 underway, and if beneficiaries willing to pay the
23 full cost of surface storage are lined up, then the
24 presumption is that we can go forward with specific
25 projects as they made be needed. For that, we have

1 tried to clarify staff perception of how surface
2 storage should be formulated.
3 In the previous drafts we've also had some
4 potentially contradictory linkages out there for
5 your review and consideration. For example, based
6 on input we've received over the months, we've heard
7 the concern that surface storage in the northern
8 valley needs to move ahead of any kind of dual
9 conveyance facility.
10 Secondly, that surface storage needs to
11 precede any kind of regional groundwater banking
12 conjunctive use activities in the northern valley.
13 We've also been hearing that groundwater conjunctive
14 use needs to precede additional surface storage.
15 So there are obvious contradictions between
16 those conditions, and our hope is as we work through
17 these conditions to get out the underlying
18 assurances considerations that are driving these
19 specifications and resolve some of those
20 contradictions. So we're seeking input and guidance
21 on how we can come up with more streamline and more
22 effective linkages there.
23 In Appendix B, if we could just turn to
24 Appendix B real quick, the first page, the third
25 paragraph is a new paragraph, in essence a

1 disclaimer that is a reminder to all of us that even
2 as we work through this proposed list of actions, we
3 need to recognize that this level of specificity is
4 not supported by the environmental documentation
5 which we're currently preparing, the very broad
6 programmatic environmental documentation, and any
7 actions that we contemplate in Stage 1 need to be
8 covered by specific environmental clearances at the
9 time we execute those.
10 And so we really don't have 100 percent
11 assurance that these Stage 1 actions will take
12 place, even though we have or can develop agreement
13 as to what those actions should be.
14 In terms of the actions, the section that
15 is undergoing most change, I think, in terms of
16 volume of change in text is the Ecosystem
17 Restoration Program. We have de-emphasized the
18 focus on demonstration projects and, in essence,
19 shifted to prorating the full program implementation
20 in Stage 1 at the suggestion of the Wildlife Service
21 in recognizing that over the 30-year time span
22 there's certain ecosystem goals that were to be
23 implemented. Then for the first seven-year period
24 we would focus on a prorated portion of that.
25 The reasoning behind that is that in order

1 to move the system from its current condition of
2 stress, we need to take significant aggressive
3 action on the ecosystem front to progress.
4 In terms of proposed changes for the
5 document, one important area is our difficulty in
6 the way we've described Stage 1. We've previously
7 defined Stage 1 as starting with the record of
8 decision and moving up until the time when we might
9 have permits available for new facilities.
10 The difficulty there is that different
11 facilities can move at different speeds. Some may
12 be fully compliant with the conditions we've set
13 forward and ready to move to implementation early in
14 that seven-year period; others may drag on beyond
15 it.
16 So what we propose is to modify our
17 definition of Stage 1 to be seven years, and to the
18 best of our ability lay out the potential actions
19 that might be accomplished in that period of time.
20 In terms of the additional changes, we seek
21 to emphasize that the entire program, including the
22 storage and conveyance elements, will be implemented
23 in the spirit of adaptive management and the
24 conditions that we've proposed here for moving
25 forward are the framework for that adaptive

1 management. We will continue to add explanatory
2 text in the document to try to make it more clear
3 and more sufficient in terms of stand-alone
4 qualities.
5 Finally, I'd like to draw your attention to
6 a couple of changes in the storage and conveyance
7 section. The first is on page B-11 under "South
8 Delta Improvements," Item 8, we've added the
9 potential for conducting a recirculation evaluation
10 for a portion of the San Joaquin River in which
11 water would be pumped from the South Delta to the
12 approximate latitude of San Luis Reservoir and then
13 release back into the San Joaquin River to help meet
14 the flow requirements at Vernalis and to help flush
15 the river. That element has been proposed for
16 addition as included in this draft.
17 The last element I'd like to draw your
18 specific attention to before we open it up for your
19 input and comment is on page B-12, the very last
20 item in this document. We struggled with this.
21 This is the issue of right-of-way for an isolated
22 facility.
23 There is the recognition that if this is to
24 be a real contingency strategy, if it's to be a real
25 option sometime in the future, whether near or

1 distant, that there needs to be an alignment
2 available for that to occur.
3 One potential approach would be to move
4 forward and secure that alignment. However, that
5 could send the signal that truly this strategy as
6 we've laid it out is merely a smoke screen for
7 moving forward with an isolated facility. On the
8 other hand, if no action is taken to protect the
9 alignment, it may not be a real contingent strategy
10 at all.
11 So we've tried to find the middle ground
12 here in which we determine whether or not there is a
13 real threat to that alignment in the foreseeable
14 future, and that's why we've crafted the sentence
15 you see there which I'll read for you.
16 "Assess right-of-way issues that could
17 impact CalFed's ability to maintain a viable
18 contingency for a potential future habitat corridor
19 and facility right-of-way."
20 And I think those are the main things I
21 wanted to draw your attention to. There have been
22 many other word changes that have taken place, so I
23 encourage you to -- if you haven't already -- to
24 read the document fairly closely.
25 In terms of the process for modifying this,

1 we're, of course, engaged in discussions with many
2 of you on a daily basis. At the same time it
3 becomes very difficult, as the Secretary indicated,
4 when we have many, many drafts out there. So we're
5 going to try to hold to a process wherein new
6 editions come out approximately every two weeks and
7 we're working on ways to make those widely available
8 as soon as CalFed is comfortable releasing that.
9 With that, I guess I'd open it up for any
10 questions you might have.
11 CHAIRMAN McPEAK: Perfect timing, Stein.
12 They found the foot chart. Great, great work.
13 Yes, Alex Hildebrand.
14 MR. HILDEBRAND: Since receiving this
15 packet for this meeting, I prepared some comments on
16 it and I believe that Sunne is having that
17 distributed and so I won't go into all of the items
18 or in great detail.
19 But aside from the fact, for example, that
20 I think the triggers for building a canal are not
21 adequately described here or adequately qualified,
22 the thing I'd like to focus on is the interrelation
23 between conservation, water transfers and water
24 storage, which Steve referred to at the beginning as
25 being a very sticky issue.

1 The problem here is that there's big time
2 lag in doing anything about storage, and if you wait
3 to see what you can accomplish without it before you
4 get started on it, you're not going to have it when
5 you need it.
6 Lester referred in our last meeting to the
7 idea that some items were probably not going to be
8 built, I trust that includes the isolated facility,
9 and therefore, you don't do very much about it. On
10 the other hand, some things are almost sure to be
11 needed, and even though you postpone a final
12 decision, you need to get going on the complicated
13 and time-taking mechanisms to get there.
14 Now, I think the whole approach to the
15 program here -- but first let me go back and say
16 I -- the process you're describing I think is good.
17 I think a lot of progress has been made on it, so I
18 don't want to sound as though I'm critical of the
19 whole thing. I think we're moving along. But we
20 have made no real effort to assess the question of
21 -- the lights went out. Is that something I said?
22 All right. I thought
23 VOICE: I thought I was the only one
24 working in the dark here, but I guess not.
25 MR. HILDEBRAND: Well, let's work a little

1 bit in the dark then.

2 We really haven't made an effort to assess
3 the question of what water availability is going to
4 be needed in the 30-year time frame of our program
5 and how then do we achieve that water availability.

6 It seems pretty clear to those of us in
7 agriculture that if we don't build increased
8 storage, we're not going to have sufficient water
9 availability and the consequence of that will be to
10 take water away from agriculture to meet other
11 needs. So we're very sensitive to the question of
12 assessing the requirement for water 30 years from
13 now and how are we going to have that water supply
14 when we need it.

15 Now, talking about reservoir storage or
16 underground storage really doesn't answer that
17 question. I'm sure we're all in favor of water
18 conservation, but realistically I don't see any
19 likelihood that water conservation can meet the
20 task.

21 I remind you that in this 30-year time
22 frame it's anticipated there will be 20,000,000 more
23 Californians, there will be 90,000,000 more in the
24 United States, and 2,000,000,000 more in the world.

25 Now, if you -- even if you don't take any

1 water away, surface water away from agriculture, if
2 you also don't do anything about the groundwater
3 overdraft, then the per capita allocation of water
4 to grow food will decline to about half what it is
5 now. And if you do transfer water away from
6 agriculture by whatever means, it's going to
7 exacerbate that decline.
8 Now, you know, we farmers think we're
9 pretty good but we're not magicians. We cannot do
10 that. And I think we need to face up to that and
11 recognize that if we're going to have a food supply
12 30 years from now that's nutritious and adequate and
13 doesn't depend on competing on the world market with
14 20,000,000,000 more people, then we'd better worry
15 about providing water for agriculture rather than
16 taking water away from agriculture.
17 Now, if you decide how much water you do
18 want to retain in agriculture in order to preserve
19 our future food supply, then the question is how
20 best do you get it. You can get some by water
21 conservation, yes. But the only real increase in
22 water yield in the central valley is to capture
23 flood flows and store those for dry seasons. When
24 we don't have flood flows, the water's already all
25 being beneficially used one way or another. So

1 there is no surplus water.

2 Now, off-stream reservoirs and particularly
3 underground storage can't be filled very fast.
4 Consequently, unless you have very a prolonged flood
5 situation you're not going to capture an awful lot
6 that way during the flood.

7 Now, you can capture it in on-stream
8 reservoirs and transfer it to those other kinds of
9 storage making room then again in the on-stream
10 reservoirs for later capture. But we shouldn't say
11 we prefer one kind or another. You have to decide
12 how much yield you need and then what is the best
13 mix of surface storage on-stream, off-stream, and
14 subsurface storage to accomplish that purpose.

15 And I don't see that we're approaching it
16 that way. To me, it means very little to say you're
17 going to have a million acres of reservoir space if
18 you don't know how you can use that space to capture
19 increased yield, and if you don't know to what
20 extent the location and nature of that water yield
21 is going to be such that you can make multiple use
22 of the yield to increase the efficiency of the
23 overall water use in our central valley watershed.

24 So I feel we have to go through this
25 exercise in deciding just how much water do we

1 really need, how much can be achieved in various
2 ways, and then what is the mix of conservation,
3 water transfers, subsurface, off-stream, on-stream
4 storage that will best accomplish that. And I don't
5 feel that we're using that approach. I think it's
6 very important that we do so.
7 CHAIRMAN McPEAK: You have just
8 summarized your criticism of the working document.
9 MR. HILDEBRAND: That's right.
10 CHAIRMAN McPEAK: Okay. And we've now
11 distributed the written comments from Alex.
12 Okay. Let's -- what I had hoped, I
13 thought -- I have you in order. I have Roberta and
14 Richard and Byron and Bob. I have you in order.
15 I had hoped that what we were first going
16 to do was simply ask questions of clarification to
17 Stein, and then I wanted to systematically go
18 through the documents in front of us to hear what
19 your comments were on the common program elements
20 and then on the storage and on the conveyance, based
21 on this document; what is it that you disagree with
22 or think needs further refinement that you think is
23 lacking in this document that would become a
24 framework for a decision.
25 MR. HILDEBRAND: When it's piecemeal

1 like that, Sunne, you don't address the question of
2 whether the approach is correct.
3 CHAIRMAN McPEAK: I understand, or we're
4 going to end up -- we will -- the other choice is
5 we'll just get a whole lot of dissertation, again
6 long statements from everyone, and we'll have to go
7 back and try to reintegrate it. And I'm happy to do
8 it either way.
9 Why don't we see the pattern based on the
10 four of you who have your -- who have asked to speak
11 and we'll try to see how this emerges, and I might
12 then have to interrupt it and go back and start
13 asking questions. But I'm trying to get some
14 answers, you know, some specific recommendations on
15 how to improve this.
16 And what I'm understanding, Alex, from you
17 is that you want to see the analysis on demand,
18 decide what water we want to provide. You're coming
19 at it from the ultimate demand analysis perspective,
20 look at yield, and also -- and not just storage,
21 volume of storage, and also then be able to look at
22 all of the options for most cost effectively
23 generating that yield.
24 MR. HILDEBRAND: Right.
25 CHAIRMAN McPEAK: That's what I

1 understood you were saying, that all these things
2 are linked. I will stipulate to the fact all of it
3 is linked, but at some point we've got to get to
4 also another level of -- another level of complexity
5 of the linkages in order to try to get resolution.
6 Roberta, Richard, Byron, Bob.
7 MS. BORGONOVO: I'm sorry I wasn't
8 here in June to hear the first reiteration of this
9 new preferred alternative because I do like the way
10 this is moving, but this is a question that I'm just
11 putting it out there and it probably will be
12 answered further when we have the discussion on
13 fisheries.
14 But in looking at the matrix on the
15 fisheries, in many of those cases when you add
16 additional storage you have an adverse impact on the
17 fisheries even beyond what is there for some of the
18 different alternatives. And so it's that
19 relationship between effect on storage and on the
20 fisheries over the long term that has many of us
21 concerned.
22 So when you talked about economic hydrology
23 analysis, that seems to me very important. And what
24 I had hoped is that that could inform the priority
25 in which you would approach your phased

1 decision-making, some of the decision points, the
2 way in which you move forward. So, I mean, many of
3 us think that it would show that you would do
4 conservation first and it would show that you would
5 do groundwater storage, for example, before you do
6 surface storage.
7 So my question is: Will that economic
8 hydrological analysis be used in that way? Is it
9 going to be available for this particular
10 reiteration of the preferred alternative?
11 MR. BUER: Should I go ahead and respond
12 to that?
13 CHAIRMAN McPEAK: Go ahead, yes. I
14 think to the extent it is a question that is
15 directed to you and you can answer, go ahead and
16 respond.
17 MR. BUER: Okay.
18 CHAIRMAN McPEAK: I don't want to have
19 the dialogue among us. Go ahead, Stein.
20 MR. BUER: Okay.
21 The fundamental -- there are two
22 fundamental challenges with the study as laid out by
23 Mark in the June meeting.
24 The first is defining the assumptions that
25 go into the study. It is clear that from a purely

1 economic standpoint there's the opportunity to move
2 a great deal of water from the agricultural sector
3 to the urban sector to address the growing
4 population in California. However, that obviously
5 has some very, very significant potential impact
6 regionally, and as Alex has pointed out, in terms of
7 the world economy and food supply also.
8 So we can lay out the machinery for
9 conducting that study. The crux will be getting
10 agreement among stakeholders upon the numerous
11 assumptions about how to constrain water prices, the
12 potential for moving water from one sector to
13 another, what the potential interaction between
14 groundwater and surface water supplies might be, as
15 well as the physical infrastructure that goes into
16 it.
17 Our gut feeling is that it will be a
18 tremendous challenge to come to agreement as to what
19 those constraints might be because they're truly a
20 microcosm of the whole CalFed process that we try
21 then to kind of then put in a bottle.
22 The second part of the challenge is
23 designing the machinery that modeled itself. And
24 that would consist, as Mark Cowin described in June,
25 of linking the current system model, the DWR system

1 type model which is a month at a time step model
2 that includes operations of all the major reservoirs
3 in the State, with the groundwater basins and with
4 an economic model that allows for transfers back and
5 forth between the various agricultural,
6 environmental and urban uses.
7 The level of complexity of such a model
8 will be an order of magnitude greater than any
9 modeling effort that has currently been undertaken
10 in any kind of statewide planning effort.
11 We know from experience that the challenge
12 of making a model like that work and making it
13 believable and making it right, grows much more
14 rapidly than the essential complexity itself. It
15 grows much more quickly. You double the complexity,
16 you have perhaps eight or sixteen times the
17 challenge in terms of verifying that it works, that
18 it's right, and then making it believable.
19 This tool, once it's implemented, has to
20 communicate with not just the technical expert, but
21 the man and woman on the street, the stakeholder
22 with something to lose and something to gain in the
23 process.
24 So recognizing those challenges, it is my
25 believe, and I believe Mark shares this, that it is

1 a multi-million dollar, multi-year effort to conduct
2 this study. And when we're done, it will have
3 provided a very valuable tool for shedding light on
4 these critical issues. But because of these
5 difficulties and because of the way our process is
6 structured and the way our project programs are
7 structured, it will not definitely answer the
8 question of whether or not we need additional
9 surface storage facilities.
10 CHAIRMAN McPEAK: Roberta, just to
11 follow-up, given the response that you heard from
12 Stein, I don't think anyone has spent any more time
13 than you on water efficiency, or at least the urban
14 water conservation stuff, page B-4 has a set of
15 implementation processes. And you sort of have to
16 flip back and forth, at least the way I'm doing it
17 is the pages that are simply numbered one, two,
18 three, four, five, six, seven, eight, and -- I guess
19 it just goes to seven -- and then the Attachment B,
20 it's the combination of the work in that first piece
21 of the framework document and the Attachment B that
22 seems to give the most definition to this.
23 If you were looking at water use
24 efficiency, because the heart of your question and
25 what is really fundamental to this debate that I --

1 part of the debate going on is can we get all of the
2 future demand met by simply greater water use
3 efficiency or through some other option that has to
4 be pursued. And some criticize that we're not doing
5 enough in conservation, others say well, this will
6 get us here.
7 What would you do to improve upon this or
8 where is this lacking? How could this document be
9 improved?
10 MS. BORGONOVO: I think that one of the
11 questions I heard Martha asking at the very
12 beginning was in the first go-around, that's part of
13 the concern. There is a real concern that if the
14 demand that was put out in Bulletin 160, the basis
15 of the document, and then it stays the basis of this
16 preferred alternative, there's a real problem for
17 many of us with that because we do think that demand
18 is overstated. And at the same time, we think that
19 the potential for conservation is underestimated.
20 The reason I like the idea of phased
21 decision-making is there are these unknowns out
22 there, and it has always seemed to me a rational
23 approach to have the kind of studies going forth and
24 documentation going forth so that people on both
25 sides of the spectrum are satisfied. If you're

1 satisfied with the way the study is done and you're
2 satisfied with the scope of work and you have
3 confidence in the integrity of it, it begins to
4 really move you to a point where you can have
5 consensus.
6 But that's part of the question about how
7 this next reiteration will be done and how this work
8 comes into play before these big decisions are made
9 on storage and conveyance, because they have such
10 great implications and so much of it is unknown. I
11 mean, you have a system that has been studied and
12 studied and studied and still when you read through
13 this document, all of those experts still don't know
14 what Alternative 1 or Alternative 2 or Alternative 3
15 will do to the fisheries and to all of the wildlife
16 in -- from a broad spectrum.
17 So that's part of my concern on how we move
18 forward.
19 CHAIRMAN McPEAK: Okay. Now let me --
20 at the danger of prolonging this, let me ask one
21 more question. It's my understanding that the
22 thrust of what is proposed here, the intent of it,
23 is that regardless of how we would quantify the
24 potential, that the intent is to maximize the
25 potential for conservation. In other words, this is

1 -- the intent here is to ensure that we take actions
2 that maximize conservation. We may not know today
3 what that is and our estimation tools, methodology
4 may be lacking or demand has been overstated, but
5 setting that aside, the intent is to maximize that.
6 What is lacking here in getting to
7 maximizing conservation?
8 MS. BORGONOVO: I just -- I've seen it
9 in some of the reiterations, but I do understand
10 that there will be performance standards. I think
11 that's very important. And we've talked about that
12 across all of the common programs, that you
13 basically -- you have a performance standard out
14 there and you do measure it.
15 I mean, that's a debate and we've had it
16 for a long time, whether you just do actions or you
17 try to quantify it. But at some point if you begin
18 to have the performance standards and you meet them,
19 you begin to get the quantification for conservation
20 that we've just never gotten.
21 So as a result, I've seen all kinds of cost
22 estimates over what conservation costs, and it would
23 be nice if they weren't all over the map comparing
24 them to -- I mean like the cost of de-sal, some of
25 the conservation estimates are equal to

1 desalinization. That doesn't seem rational.

2 But I think that that's very important to

3 have the performance standard out there, and that

4 is -- one of the acknowledgements is that those

5 linkages have not yet been made. So I think that

6 they have to be there, but I guess I go back again

7 to having us understand how the information comes

8 back so that we're able to reach consensus. I don't

9 see how we can reach consensus if we don't have the

10 information coming back to us.

11 CHAIRMAN McPEAK: Okay. I've prolonged

12 this. The process is going to be Steve is going to

13 respond, Richard, Byron, Robert, Martha, David,

14 Pietro, and I'm going to comment.

15 MR. HALL: It's not so much a response

16 as if you look at page 7 for surface storage, for

17 example, there is Items (a) through (d) under that

18 which are the conditions and effect of surface

19 storage. Well, that's nice and small there, you

20 know, just where it says, for example, "Define

21 progress for water use efficiency."

22 What the implication of that is, back in

23 Attachment B is in effect the first seven years of

24 the program. And to figure out what (a) through (d)

25 here means, you need to look at page B-2, B-3, B-4,

1 B-9 and B-10 in combination because that represents
2 the sum of those things for seven years.
3 And I think your point about performance
4 standards need to be in there is part of the
5 dialogue you need to get to. What is it that will
6 occur in the first seven years looking at those
7 things in an integrated fashion that people will
8 feel comfort or not as to whether or not their needs
9 will be met as a result of this. But that's where
10 then we need to get very specific about, okay, what
11 -- how shall call and define progress?
12 CHAIRMAN McPEAK: Stein, are you
13 thinking --
14 MR. BUER: I wonder if I could just --
15 before we get too far from Roberta's comments, she
16 mentioned again the issue of the appropriate demand.
17 I'd just like to make a quick comment, and that is
18 that CalFed's modeling efforts and analysis have
19 included, No. 1, reduced demand down to 2.6 million
20 acre feet. No. 2, existing conditions, 3.6 million
21 acre feet, and no-action conditions projected based
22 on Bulletin 160 to the year 2020. And then, of
23 course, the project conditions where the facility's
24 in place.
25 And the reason for taking those steps were

1 so that we would not confuse potential project
2 component benefits with the simple effect of
3 population and growth because the current system is
4 not maxed out in all years. Like today, water is
5 not being fully utilized in terms of consumptive
6 use. As you know, we have what we've termed surplus
7 flow that is not being captured. And in years like
8 that with current demands, if you increase those
9 demands you will take more water from the natural
10 system.
11 So therefore, we wanted to separate out the
12 effect of demand from facilities. And I believe
13 that the analysis that we've done allows you to
14 tease those apart so that it does not prejudice the
15 outcome. We've tried to -- rather than make an
16 evalu-judgment about what the projections are, we've
17 tried to cover the whole spectrum and be fair about
18 that.
19 So we'd be very happy to sit down and go
20 through that in more detail. But I just bring that
21 up to emphasize we've tried to be responsive to that
22 concern which you have brought up in this forum a
23 number of times before.
24 CHAIRMAN McPEAK: Thank you.
25 Richard.

1 MR. IZMIRIAN: Okay. Well, my point has
2 changed about six times since I raised my hand.
3 CHAIRMAN McPEAK: Okay.
4 MR. IZMIRIAN: I think to be
5 specifically responsive to your question about how
6 could that little chart be improved, you know, I
7 agree with Alex that we need to know how much we
8 need, but I'm looking at it more in terms of how
9 much does the Bay-Delta estuary need, one of the
10 most important estuaries in the world.
11 You know, we can -- I don't want to go into
12 a long dissertation about Alex's or my assumptions
13 on this, but remember that conservation and
14 efficiency for a fisherman is leaving water in the
15 streams to flow. For urban and agriculture agencies
16 it seems to be ultra low-flush toilets and water
17 recycling. For the agricultural community it seems
18 to be creating plans to put on a shelf.
19 This is where I have a real problem. I
20 don't see where we're going to get -- where we
21 defined real efficiency in here. What are we really
22 linking to? If it's just those plans, we don't have
23 it defined where that water is, what that water is.
24 There's some in the agricultural community
25 say, "We don't waste water. We're not going to do

1 it any more." Others say, "We have to waste it in
2 order to save it."
3 I need something that gives me comfort here
4 that there is a real linkage to something other than
5 a plan.
6 CHAIRMAN McPEAK: Okay. So the comment
7 is the -- if you will, the -- either the incentive
8 or the sanction for the implementation of the plan.
9 You are familiar with how the urban MOU
10 works --
11 MR. IZMIRIAN: Uh-huh.
12 CHAIRMAN McPEAK: -- and the projections
13 on the savings of the best management practice.
14 MR. IZMIRIAN: And I support it fully.
15 CHAIRMAN McPEAK: Okay.
16 MR. IZMIRIAN: I think that's an
17 excellent document.
18 CHAIRMAN McPEAK: Okay. And you're --
19 so you're questioning that it's not being
20 implemented, the plans for those best management
21 practices are not being implemented and we don't
22 know how to ensure that?
23 MR. IZMIRIAN: I'm concerned not so much
24 on the urban plan. I see those whole efficient --
25 the whole efficiency program so far is -- it's

1 already been constructed as an end in itself so that
2 we need to have an efficiency program because the
3 public says they want an efficiency program, not
4 that it would contribute to the -- to an actual
5 solution of reliability or anything else.
6 When the people -- when the public said
7 "efficiency," I suspect that they weren't talking
8 about evapotranspiration rates and some of the other
9 (inaudible) talked about by industry folks.
10 CHAIRMAN McPEAK: What would be added
11 here -- okay, understanding that, Richard, what
12 would you put in here that would get to the real
13 savings, the implementation of real savings.
14 MR. IZMIRIAN: We need to have as part
15 of the Water Use Efficiency Program actual
16 performance measures, as Roberta was talking about.
17 And those performance measures aren't in terms of
18 how many plans are created but how much water can be
19 made available through water use efficiency,
20 conservation, whatever you want to call it.
21 I'm concerned that those terms aren't well
22 enough defined because we all have a different sense
23 of what they mean.
24 CHAIRMAN McPEAK: Yes, Byron. Byron
25 Buck.

1 MR. BUCK: Thank you.

2 I've got a number of general concerns that
3 I want to go through on just the linkage for
4 conveyance and storage, and I'd like to go through
5 them specifically and I have some specific
6 suggestions and questions as we go.

7 CHAIRMAN McPEAK: Are you insisting
8 on -- you're jumping to storage and conveyance at
9 this point?

10 MR. BUCK: Well, it's part of the --

11 CHAIRMAN McPEAK: I guess so, go ahead.

12 MR. BUCK: You were asking for specific
13 comments on it, so I have specific comments. But
14 I'll put them in the general terms first so they
15 have context.

16 First of all, I think it's a great effort
17 that you're putting together with this. It brings
18 focus to the program and a certain reality out there
19 that you can show people how things are staged and
20 arranged and what happens when and why. So it's a
21 great effort and I encourage it to be continued.

22 Overall, the linkage of elements there's
23 some logic problems and internal consistency
24 problems, and you mentioned those with the storage
25 and so I won't dwell on those particularly. But

1 there are some consistency problems between
2 groundwater and surface storage and how they
3 proceed.
4 There's also a concern and certainly in the
5 urban community on what this document says overall,
6 particularly with the linkage to the isolated
7 facility in that is there really a commitment out
8 there to make the tough decisions that are going to
9 be necessary to protect public health and improve
10 drinking water quality? And I'll get a little more
11 specific on that in a second.
12 There's also, I think, overall -- and you
13 mentioned this as well -- is all the linkage terms
14 in here, the (a) through (k) and each of the
15 numbers, they could all really benefit from a
16 narrative explanation as to why they're there.
17 Because some of them are technical, some are
18 biological and some of them are just purely
19 assurance issues that are out there, but there's no
20 necessarily logical linkage in terms of program
21 performance. But they are assurance issues.
22 And then as well, how the linkages are
23 operationalized or how they become measurable. An
24 example on transfers, that you've got to determine
25 whether transfer water is available before you can

1 get new water from storage. Well, what do you mean
2 by "available"? How do we really measure that? Not
3 a bad notion but a very difficult one to
4 operationalize.
5 Specifically on Item 2 on conveyance, you
6 mentioned in your preface that you're talking about
7 a trigger, yet the documentation here says that:
8 Dual Delta conveyance with an isolated facility will
9 only be considered if there is (a) through (k).
10 "Trigger" would be a more comforting term
11 to the Board members in my organizations that feed
12 back. When they see the word "considered," that
13 says to them, "Oh, God, we've got a whole other
14 process here down the line and we don't know whether
15 we're ever going to have certainty that our needs
16 will be met and we'll be able to meet safe drinking
17 water act requirements in the future. So "proceed"
18 or "trigger" would be a much better word and I think
19 mirrors what you said this morning.
20 On Item (a), one of the triggers is that:
21 There's an inability to achieve fishery recovery due
22 to water exports.
23 The water exports is kind of a flag in what
24 that really is saying is it's really the entrainment
25 effects and flow direction effects of exports. It's

1 not exports per se.

2 But if you go to the Fisheries Affects
3 Report, the problem is with the effects it creates,
4 not the exports in and of themselves. They're no
5 really different than any other place we've taken
6 water out of the system. So we ought to be clear
7 that what we're trying to resolve is the entrainment
8 effects and the misdirection of flow that effect the
9 fisheries.

10 On Item (b) under 2, there's a linkage on:
11 The limit on the amount of water that can be
12 exported linked to water year type. We need to
13 clarify whether this is just a pure assurance
14 strategy or whether this is biological rationale for
15 this.

16 Similarly, down on (h), linkage that:
17 Construction of an isolated facility cannot proceed
18 ahead of progress towards new regional surface
19 storage.

20 We're mixing two very different things
21 there, an isolated facility which is really oriented
22 towards fishery recovery or improvement in drinking
23 water quality and storage, which is a water supply
24 element for both ecosystem and consumptive use
25 needs.

1 Those two aren't necessarily naturally
2 linked. This is, in my view, an assurance issue,
3 particularly for Northern California who wants to
4 make sure an isolated facility doesn't create area
5 of origin and water supply problems for their
6 region, and that perhaps needs to be clarified.
7 On surface storage, I won't go into the --
8 I think you have the -- you know the inconsistency
9 between 4(b) and 5(a) in terms of conjunctive use
10 and surface storage.
11 But back on the issue of making these
12 linkages work in reality and on the transfer
13 framework, making sure transfers are fully utilized
14 before you add new water from storage, defining what
15 "available" means will be very difficult.
16 Comparing a transfer, particularly under
17 the system that we've got now and what might be
18 available under the system we've got now, which is
19 largely what we'll still have under the framework as
20 I read it here because putting a clearing house
21 together and refining some of the rules won't
22 fundamentally change the market mechanisms we've got
23 out there right now. You can have transfers that
24 are so much different in terms of time, quantity,
25 quality, the term of availability, their cost.

1 Comparing those to water that might be available
2 from storage will be a very difficult thing.
3 Under the current system as constrained as
4 it is, you will have by nature almost always apples
5 and oranges comparisons. It will be very difficult
6 there, one against the other, and very difficult to
7 really determine what's available when water from
8 storage would likely be available more often in the
9 longer term than transfers under the current
10 situation we have now which are generally only
11 available on very short-term time frames.
12 And finally, I would just say that in
13 Appendix B where we talk about all the early
14 implementation items, there still is really nothing
15 there for drinking water quality in the short term.
16 We've advocated that because of the increasing
17 population in the central valley, we need to get
18 towards a State drinking water policy that looks at
19 mitigating the impacts of that growth, the new salt
20 coming into the system, the additional organic
21 carbon, so that we don't continue to degrade from
22 where we are today while we go about the business of
23 doing the long-term things that are going to be
24 necessary to improve drinking water quality.
25 CHAIRMAN McPEAK: All right. Robert?

1 MR. MEACHER: I wanted to agree with
2 Richard on this conservation and efficiency
3 statement, and I would also like to plant this seed
4 in BDAC members and submit to CalFed that there's a
5 potential here that I'm not sure is being looked at
6 as far as efficiency and conservation from the
7 watersheds. Whereas most people think of low-flow
8 toilets and drip irrigation and water meters as
9 conservation and efficiency, from the watershed
10 standpoint we look at range land management, forest
11 practice, forest health and those issues as
12 conservation and efficiency because they increase
13 the availability of water into the ecosystem; so
14 whereas it's a user saving on one end and it's a
15 supply issue at the other end.
16 And I think we need to look at that as a
17 viable component to the whole system when we talk
18 about conservation and efficiency. And that's what
19 he was mentioning with the evapotranspiration,
20 that's when rain and snow hits trees and evaporates.
21 My comments next move to page six and seven
22 where there's three times in conveyance surface
23 storage and groundwater use where we talk about
24 finance by beneficiaries, and I would defer to Eric
25 on this because he has a portion of today's agenda

1 talking about financing. But I am a little confused
2 still as to what the definition of the "beneficiary
3 pays" scenario is, and perhaps if I could, Sunne,
4 ask Eric now, is that something you plan to discuss
5 this afternoon?
6 MR. HASSELTINE: Yes.
7 MR. MEACHER: Because after looking
8 at -- for example, if you move to page A-1, under
9 "Agreement on Financial Principles," it says:
10 "Benefit based approach," meaning beneficiaries pay.
11 And then you look at the Governor's June 28th letter
12 in the bottom of the third paragraph, he says that:
13 "The vision of CalFed is that all water stakeholders
14 are the beneficiaries or are to benefit concurrently
15 and proportionately."
16 So I have a -- sort of a confusion of what
17 I thought was a beneficiary and that
18 ratepayer/taxpayer sort of whole scenario. So if
19 you'll cover that this afternoon, I'll defer that to
20 that time.
21 My last comment goes directly, Sunne, to
22 the B section of this draft example implementation.
23 And I supposed that every stakeholder here has
24 looked at their own little section, and I would ask
25 you all to look at B-8 under "Watershed Management."

1 And if you go down the left-hand side you can start
2 with the last -- second to the last paragraph where
3 it says "CalFed."
4 It says: "CalFed will participate where
5 proposed watershed actions provide a strong link to
6 critical Delta problems."
7 Now I would submit to BDAC and to CalFed
8 that if you add that language to each one of these
9 components, then I would support it. But I think it
10 would probably eliminate most of the ERP programs if
11 you had that language in it.
12 So I suggest or submit that that either be
13 added to all of them or taken out of that one. I
14 think it's an unjust stipulation put on that one
15 segment of the program.
16 CHAIRMAN McPEAK: And why is that, Bob?
17 Do you think that all watershed protection actions
18 are strongly linked to the Delta?
19 MR. MEACHER: I think they're linked,
20 okay. But I don't think necessarily that any of
21 these components are strongly linked to critical
22 Delta problems. I don't think that's been -- what's
23 a critical Delta problem? Who's going to define
24 that? Who's going to define what a strong link is?
25 And that language doesn't appear in the italicized

1 portions of any of the other components.

2 I did discuss this at the first meeting

3 with the Interagency Watershed Advisory Team,

4 otherwise known as IWAT which is the CalFed staff

5 working on the new working group that Martha Davis

6 and I chair. And it was a -- just a comment I made

7 at that time, but I haven't received an answer from

8 IWAT or CalFed on that.

9 I don't see the logic behind it, Sunne, why

10 this one component, as new as it is and how quickly

11 it has to catch up, has to show strong linkages to

12 critical Delta problems.

13 CHAIRMAN McPEAK: Okay.

14 MR. MEACHER: It's not in storage, it's

15 not in water quality, it's not in ecosystem

16 restoration, it's not in water use efficiency, that

17 language.

18 Now, if we want to add it to all of them,

19 that's fine. But I think you'll see this whole

20 program scaled down tremendously if you do that.

21 CHAIRMAN McPEAK: Okay.

22 MR. MEACHER: But I don't know.

23 CHAIRMAN McPEAK: Actually, I support

24 that being added to all of them, but that's a

25 personal comment, not a position.

1 Stein, you want to comment on it, and I --
2 before you do, this afternoon you're going to hear
3 from Patrick an update on the ecosystem work, right?
4 Aren't you on the agenda for this afternoon?
5 Oh, it's Dick Daniels. That's because --
6 you know why, I keep trying to make Patrick do the
7 work. So I'm sorry, I keep wanting to hold him
8 responsible.
9 For the ecosystem performance standards or
10 outcomes or the objective results that could be
11 observed is really what's missing here, and the
12 agencies are in theory working very hard to be able
13 to describe that. And then what would be the
14 threshold of consideration of actions in all of the
15 common elements and the other two variables as to
16 whether or not they're strongly linked is the extent
17 to which they contributed to meeting those
18 objectives, those outcomes.
19 And so we're still waiting when it gets to
20 the ecosystem component of the common program for
21 those objective outcomes. And all of that is
22 supposed to be submitted to the solution principles.
23 So we are missing that and I think we'll duly note
24 that you're saying what is -- that the watershed,
25 the scrutiny to which the watershed management

1 component is subjected as it relates to the impact
2 or contribution to the Bay-Delta estuary to be the
3 same extent to which all the other items are
4 subjected.
5 MR. MEACHER: Right.
6 CHAIRMAN McPEAK: Okay.
7 MR. MEACHER: And it's strictly -- I
8 mean narrowly focused to the fact that it's not a
9 component of the others, the verbiage isn't there,
10 and that I can easily find linkages to Delta
11 problems. But I'm concerned about who's going to
12 make it and identify what a strong and critical is.
13 Okay? Because I think they all have their linkages
14 to problems.
15 Thank you.
16 CHAIRMAN McPEAK: Okay. I appreciate
17 being educated. It seemed obvious to me.
18 Stein?
19 MR. BUER: Our response is we have no
20 problem with Bob's comment. It makes sense to us.
21 We can fine tune this language to not place an undue
22 burden on that particular component. We wanted to
23 make sure that there was an understanding that not
24 every watershed in the State was ripe for
25 contribution for funding this program.

1 Obviously the focus has to be the Delta.
2 Ultimately that's what the program is about. But we
3 have already in the next -- in the 38th version has
4 already addressed this problem which you'll see in a
5 week or so.
6 CHAIRMAN McPEAK: Thank you.
7 Martha, David, Pietro and Roberta. Then
8 we'll come back to Alex.
9 MS. DAVIS: All right. Since we seem to
10 be hitting a ray of issues, I've got a couple
11 points.
12 No. 1, I agree with the staging approach.
13 I'm glad that we're moving in this direction. I'm
14 not quite sure I understand why we're changing the
15 definition of the first phase from a more functional
16 definition of getting things achieved to a more
17 arbitrary decision of a seven-year period, and I'd
18 like to hear a little bit of an explanation of that.
19 Because I tend to favor the functional approach of
20 talking about what we need to achieve, and if it
21 takes a little bit longer, then that's what it takes
22 to do it right.
23 No. 2, I do want to talk a little bit about
24 at least my --
25 CHAIRMAN McPEAK: Well, what do you

1 think should be there for achieved in Phase 1? What
2 is your definition of that?
3 MS. DAVIS: Well, I mean as -- well,
4 we've got in front of us a very complicated set of
5 conditions which I don't think we'll have enough
6 time to go through point by point today, but I think
7 the approach that we've got here is the right one.
8 And as we get closer to reaching agreements on what
9 needs to be included in the common programs, I think
10 we need to make sure our definition of the Phase 1
11 program embraces completion of those achievements
12 functionally of what we're laying out in this
13 program rather than an arbitrary time period.
14 CHAIRMAN McPEAK: Now, that's -- I think
15 that's actually -- I'm sorry, I'm --
16 MS. DAVIS: That's okay.
17 CHAIRMAN McPEAK: -- focusing in on that
18 because I think that actually is going to be one of
19 the fundamental disagreements around this table as
20 to how -- what we mean by "stage implementation" and
21 how long do you wait for the implementation of the
22 actions that you initiate in Stage 1.
23 MS. DAVIS: Well, that's a fair question
24 and I can leapfrog to another point that I was going
25 to raise that is connected to this --

1 CHAIRMAN McPEAK: Go ahead.

2 MS. DAVIS: -- because as I go through,
3 for example, the linkage issues, one of the
4 questions I had is how are these issues defined?
5 You know, when do we look at -- under the
6 "Conveyance Facility," (a), you know, "Bromide
7 levels that cannot be addressed more economically."
8 What do we mean by that?

9 "Inability to achieve fish recovery." What
10 do we mean by that and is it reasonable within seven
11 years to expect fishery recovery? Can we achieve
12 that biologically within a seven-year period or do
13 we need to have a -- you either have to define what
14 you mean by "fish recovery," that is something that
15 the biologists say they think is achievable within
16 the time period that we're talking about, or you
17 have to come up with a different definition of the
18 time period.

19 Because otherwise, particularly if you
20 start looking at the Fish Affect Study, which is
21 what we're going to be talking about tomorrow, you
22 begin to realize that we've got issues in front of
23 us that this criteria -- that seem just by
24 definition unable to meet this criteria and drive us
25 in a certain direction.

1 So you've got to look carefully at who and
2 how we define a lot of these, quote-unquote,
3 triggers, and I think you have to look very
4 carefully at how you define the time frames in which
5 those triggers are being evaluated. Maybe that's
6 the proper way to say it.
7 But I tend to be in favor of a functional
8 definition for Phase 1 rather than an arbitrary X
9 number of years until I see the linkage between the
10 definition of the triggers and whether I believe
11 that the time frame in which we're trying to achieve
12 them is a reasonable test of the success of the
13 programs.
14 CHAIRMAN McPEAK: And do you think that
15 it is possible today to arrive at agreement on the
16 triggers and the time frame? And maybe I'm not even
17 asking the poli- -- I'm not asking is it
18 politically, do you think it's politically viable
19 because I wouldn't put money on that today based on
20 the comments I've just heard.
21 But could you, could you put -- would
22 you -- do you think it is possible for you and the
23 people you represent to propose triggers and time
24 frames that you would be willing to rely upon?
25 MS. DAVIS: To be honest, I'm still

1 trying to figure out what the EIR, draft EIR/EIS
2 tells us about how well we understand the system and
3 how successfully we have defined the problems so we
4 know whether or not we're defining triggers that
5 make sense in terms of answering the question you're
6 posing.
7 For example, if I'm reading between the
8 lines of the Fish Affect Study correctly, we have a
9 problem with the baseline modeling that we've used
10 to understand the fishery's problem and that the
11 no-action scenario with its X million acre feet,
12 whatever, the 700 to 1.2 million acre feet that is
13 supposed to be moving south, appears to create an
14 assumption that the fisheries get worse under the
15 no-action scenario.
16 And it seems to me you have to get back
17 into the no-action scenario and ask the question
18 whether it's accurate or not, and if it's not, how
19 do we fix it, before you can come up with triggers
20 that meaningfully inform the decision about how to
21 get -- how we'll move forward the decision-making
22 process.
23 Which takes me back to the timeline issue
24 because it seems to me that what is missing in this
25 trying to frame an interim plan so that we can move

1 forward, which we need to do and I support, and this
2 figuring out what that seven-year or functional
3 period is going to look like, it seems we've got to
4 get in here some sort of time frame to make sure
5 that our modeling is correct. And if that takes
6 another period of time, what's the period of time
7 that we need in order to make sure that the
8 baselines are straight so we can make accurate
9 informed decisions about how to move this program
10 forward.
11 Does that make sense?
12 CHAIRMAN McPEAK: I understood the
13 words.
14 MS. DAVIS: Okay.
15 CHAIRMAN McPEAK: David -- oh, you're --
16 go ahead.
17 MS. DAVIS: I'm sorry, can I -- just a
18 couple of other points.
19 CHAIRMAN McPEAK: Please finish, yes.
20 MS. DAVIS: On the conservation issues
21 that were being discussed, I do agree with Richard.
22 And the only point I'd like to make is in working
23 with the City of Los Angeles in Southern California,
24 you know, a lot of the concerns were raised down
25 there in the '80s about whether conservation would

1 work as a replacement supply from Mono Lake or some
2 of the other issues that Southern California was
3 facing.
4 And quite honestly, it was the investment
5 of money in the programs and actually getting the
6 programs on the ground that created the tremendous
7 success that we see today in Southern California,
8 even to the point, Alex, where we are supporting
9 almost a million more people in Southern California
10 in Los Angeles with the same amount of water that we
11 used two decades ago. And it's that kind of --
12 MR. HILDEBRAND: The drainage water goes
13 to the though, ocean, not back into reuse.
14 MS. DAVIS: All I'm saying is that I
15 would never have gotten the City of Los Angeles to
16 agree in the '80s that that would be the kind of
17 success they would see. It was only when we got the
18 programs actually on the ground and implemented with
19 real money and we were producing real water that the
20 city became a real believer that this was a way of
21 solving the problem.
22 And so in terms of the conservation
23 component, yeah, one of the things I'm looking for
24 is commitment of funding that's equal to the kinds
25 of commitments of funding that we're talking about

1 investing in other areas of the solution set,
2 whether it's looking at levees or looking at dams or
3 looking at putting in the environmental analyses for
4 some of the other conveyance components of the
5 program. But I really do think the money is an
6 important part of it.
7 And why don't I leave it there.
8 Thank you.
9 CHAIRMAN McPEAK: Thank you.
10 Okay, David.
11 Pardon? No, we don't have time, I'm
12 sorry. At this point we're just going to hear from
13 everybody. You wanted to hear Stein's comment,
14 Judith?
15 MS. REDMOND: Well, just some of the
16 things that Martha raised that I'd be interested in
17 hearing an answer to.
18 CHAIRMAN McPEAK: Okay, at the end.
19 Please keep a running list and then you can respond.
20 David?
21 MR. KENNEDY: Yes, a couple -- I
22 appreciate, Madame Chair, that you are trying to
23 make this a constructive debate and I hope I don't
24 degrade that.
25 CHAIRMAN McPEAK: Well --

1 MR. KENNEDY: I realize we're getting --
2 CHAIRMAN McPEAK: If I have not
3 succeeded, I've pretty much failed here. So
4 continue.
5 MR. KENNEDY: Well, I apologize for all
6 of us.
7 As a possible suggestion, I think what Alex
8 stated was absolutely correct in that really the
9 question that we need to look at is yield. And
10 unfortunately, I'm afraid in this example that we're
11 really getting off in some specifics that don't
12 really get to that question.
13 I'm wondering when you look at the linkages
14 example that you have in here, the second part
15 regarding conveyance you really focus on optimizing
16 the Delta conveyance alternative. Aren't we really
17 talking about the same thing with respect to
18 storage, that we're really trying to optimize the
19 storage component? And that, to me, really focuses
20 on the yield and it really -- you know, we start
21 getting into breaking out groundwater off-stream
22 surface. Really the question is how do we optimize
23 that storage component.
24 And I think that really ties into a lot of
25 these other questions. Because down below, for

1 example, you really cannot optimize north of Delta
2 conjunctive use unless you have progress being made
3 on surface storage. It just doesn't work.
4 And so I think you're saying that, but at
5 least I'm wondering if the way to restructure this
6 four and five is really to optimize the storage
7 component and, of course, recognize that that is, in
8 fact, necessary unless we're going to have some
9 significant redirected impacts and also if we're
10 going to provide a durable program.
11 I mean, I think we have to keep going back
12 to the solution principles, of course. In fact, I
13 would encourage you to put the solution principles
14 right up front again if they're -- I don't think
15 they're here in your example, but since this is
16 really the document that everybody's talking about
17 now, I think it would be helpful to have that right
18 at the beginning.
19 The second part I guess I -- and it's a
20 part question, part comment, I guess, is it's still
21 not clear to me why -- well, I guess to back up, I
22 think we all recognize that efficiency is -- needs
23 to be in this program, it needs to be done first.
24 Obviously, from the debate we can sit
25 around and talk about efficiency all day and we have

1 a lot of disagreement on that, and I'm not even sure
2 that what we're talking about in this room has any
3 relationship to what's going on out in the field.
4 But we need to have efficiency.
5 But then it seems to me in your example you
6 go the next step and talk about water marketing.
7 And I think like some others have suggested, it's
8 really not clear to me why marketing is a
9 precondition of optimizing storage. Why do we have
10 to reallocate water before we store the water? It
11 seems to me the whole purpose of optimizing the
12 storage is to avoid having to do that. I just don't
13 see the reason for that. And again, I think we
14 sometimes get confused between efficiency and
15 reallocation, and I guess I encourage you we'd be
16 happy to work with you to try to avoid that.
17 Then just finally, in your earlier example
18 you talked about resource areas. And as I recall,
19 there was a discussion on that and I don't see it in
20 this particular example. It looks like maybe you've
21 removed that section.
22 I -- you know, I think we all have
23 challenges in representing the constituents that we
24 deal with. In my case, of course, trying to
25 represent a statewide organization, you have to be

1 very cognizant of the different geographic areas.
2 And as we've, I think, talked on numerous occasions,
3 if certain areas are not being brought along at the
4 same pace as others, I think this program is going
5 to crumble. I think that's just a political reality
6 to a large degree.
7 And so I think we somehow need to figure
8 out how to factor that notion of bringing regional
9 interests along at the same pace. It's not just
10 program areas, to me, there also has to be a
11 regional component that is factored into that. I
12 think it's just very practical.
13 And then, I guess, can I just ask one quick
14 question of Stein? On the conjunctive use, I
15 understand that there's some new documents that are
16 being circulated around the CalFed staff. When do
17 you anticipate those will be available and what --
18 will that elaborate on some of the discussion in
19 here?
20 MR. BUER: I'm not sure which document
21 you're referring to.
22 Do you know, Steve?
23 Specifically, could you amplify a little
24 bit what conjunctive use document you're talking
25 about?

1 MR. KENNEDY: Well, I mean, we haven't
2 seen a conjunctive use document, I think, in
3 probably, what, about five, six months. And I
4 understand that you're working on something, but we
5 haven't see it. And I guess it would be helpful to
6 have that out there so we understand exactly what
7 we're talking about with respect to conjunctive use.
8 CHAIRMAN McPEAK: Okay. Steve has just
9 said that's he's not aware of --
10 MR. KENNEDY: Not aware, okay.
11 CHAIRMAN McPEAK: -- the document. Did
12 you think it was in one of the work groups, David,
13 or that it was being done by CalFed staff?
14 MR. KENNEDY: Staff.
15 CHAIRMAN McPEAK: And this staff or any
16 one of the agencies' staff or --
17 MR. KENNEDY: I believe it's CalFed
18 staff.
19 CHAIRMAN McPEAK: Okay. And it was
20 going to do what? What was the document going to
21 do? Was it going to look at the potential? Was it
22 going to look at how it would be used? All of that?
23 MR. KENNEDY: I think it was just going
24 to outline what the conjunctive use program in
25 CalFed is essentially going to look like, what are

1 we talking about.

2 CHAIRMAN McPEAK: Okay. So let's at

3 least, you know, start that --

4 MR. KENNEDY: I'd appreciate hearing

5 that. I think the sooner we see that, the better, I

6 guess is what I'm saying.

7 CHAIRMAN McPEAK: Okay.

8 MR. KENNEDY: I think we'd all be

9 interested in that.

10 MR. BUER: We'll check internally. I

11 guess we'll check with Greg Young who is the lead on

12 that.

13 CHAIRMAN McPEAK: Okay.

14 MR. KENNEDY: Thank you.

15 CHAIRMAN McPEAK: Pietro.

16 MR. PARRAVANO: Thank you.

17 I have general comments on the developing

18 of a draft preferred program alternative, and I

19 guess I'm just following suit here with the previous

20 commentors regarding the importance of reliable

21 efficient water for the fishing industry.

22 Just as the agriculture industry is

23 requesting for additional water and the urban

24 districts are -- water districts are requesting for

25 additional water, the fishing industry is also

1 requesting for additional water so that we could
2 also feed the increased population that this State
3 is going to go through in the next century.
4 We've read that 80 percent of the
5 commercial fishing that takes place in this State
6 harvests seafood that either is migrates or lives in
7 the Bay and Delta. And I think as we go through
8 this in deciding on the alternatives, we have to
9 keep that on the front burner; that any water that
10 is taken away from the Bay and Delta that reduces
11 its sustainability for a viable fishing industry to
12 meet the demands of the increased population that
13 this State and this world is going to go through
14 would be detrimental to this process.
15 As Secretary Babbitt said this morning,
16 we're moving away from this comment and this
17 attitude that we've had for many, many years of "My
18 gain is your expense."
19 I just want to let -- bring everybody back
20 to center a little bit that the fishing industry is
21 also very dependent on water and we also do feed a
22 lot of people.
23 Thank you.
24 CHAIRMAN McPEAK: Pietro, if today you
25 had to make the decision about the amount of water

1 and maybe timing or whatever other characteristics
2 about that water, I'm not trying to define a
3 decision, but if you had to make the decision about
4 the water that is needed for the fisheries, are you
5 confident you could do that?
6 MR. PARRAVANO: You know, Sunne, I was
7 going to also add to Alex's comments that he's -- he
8 mentioned that we need to assess the amount of water
9 that agriculture needs for the increased demands.
10 And I'd like to follow suit with that saying that we
11 don't know, we don't have the idea of exactly how
12 much water we need in order to address the increased
13 population.
14 CHAIRMAN McPEAK: Okay.
15 MR. PARRAVANO: I mean, I know what
16 the temperature is like in the public as far as the
17 implementation of the CVPIA. It's not very fish
18 friendly. And that is why I feel that in deciding
19 in choosing these alternatives we have to be treated
20 equally; that the fishing industry in this State
21 does feed people, just as agriculture feeds people.
22 CHAIRMAN McPEAK: Okay.
23 MR. PARRAVANO: Just as the urban water
24 districts assure quality water to its customers. I
25 think equity here is very, very important. And in

1 terms of exactly addressing the assessment of the
2 water demands, that still has to take place but it's
3 something that we have to find out.
4 CHAIRMAN McPEAK: I'm calling on
5 everybody who hasn't yet spoken first before coming
6 back to those of you who have. But I don't know if
7 I dare speak on Alex's behalf, but I understand him
8 to be saying we need to assess all of the water
9 needs and he wasn't limiting it to agriculture.
10 MR. HILDEBRAND: That is correct.
11 CHAIRMAN McPEAK: He meant people, fish,
12 anything, I guess.
13 Okay. I think it's Steve and then Mike.
14 Steve Hall, yes. It's not yet 1:00, dear.
15 MR. HALL: You are going to make me pay
16 for that, aren't you?
17 Well, you'll be happy to know I have no
18 statement. All I have is questions. I don't know
19 enough yet to make a statement.
20 MR. BUER: I prefer the statements.
21 MR. HALL: Oh, do you?
22 CHAIRMAN McPEAK: You can't win today,
23 Hall.
24 MR. HALL: On the record, Stein prefers
25 the statements.

1 Stein, in the draft in front, the
2 "Developing a Draft Preferred Alternative," it talks
3 about uncertainties about the performance of
4 alternatives and future drinking water standards and
5 diversion effects on fisheries. Is it fair to say
6 that those are two, if not the most critical, at
7 least two very critical issues, diversion effects on
8 fisheries and the drinking water quality?
9 MR. BUER: Yes, I agree.
10 MR. HALL: And the agencies that --
11 within CalFed that you look to to give you answers
12 about those issues, Fish and Wildlife, USEPA?
13 MR. BUER: Well, going beyond that, in
14 terms of the fisheries, for example, CalFed's
15 current consortium looking at that includes
16 stakeholders, Fish and Game, Fish and Wildlife, EPA,
17 National Marine Fishery Service, DWR. So they're
18 all involved.
19 MR. HALL: That would be the diversion
20 effects on fish.
21 MR. BUER: That's correct.
22 MR. HALL: Okay.
23 MR. BUER: And in terms of the water
24 quality issues, again, we seek substantial input
25 from the stakeholders. But let's face it, the EPA

1 holds the trump card here in that a major nationwide
2 evaluation of bromides is expected to provide some
3 additional light for us by the year 2002 when that
4 is expected to be completed. I think that is over a
5 $100,000,000 study nationwide, and that appears to
6 be a critical issue of concern for our process.
7 MR. HALL: So by 2002, EPA will provide
8 you with -- will that be a promulgated standard or
9 will it be a proposed standard or will it simply be
10 guidance to CalFed?
11 MR. BUER: May I defer to Patrick Wright
12 on this?
13 MR. HALL: Sure.
14 MR. WRIGHT: I confess that I'm not
15 exactly sure the regulatory nature of that. My
16 sense is that it will probably be -- they include
17 regulations. Whether or not the 2002 date is a
18 proposed or a final, I'm not sure. I can certainly
19 check and report back at the next meeting. My
20 recollection is that that's the date for the final,
21 which is why it's taken on so much significance.
22 So there's clearly a national process going
23 on that folks in California are obviously very
24 intimately involved with. And then I think this is
25 correct, Stein, that there's also efforts going on

1 in California to establish a panel to help both
2 inform that effort and to try to help CalFed grapple
3 with some of the implications of that effort and
4 where it's going.
5 MR. BUER: That effort's underway right
6 now.
7 MR. HALL: So is it conceivable that
8 there -- although you are targeting the year 2002 as
9 having solid information from the standards set or
10 USEPA, there may be information sooner than that
11 that would provide substantial guidance to CalFed?
12 Is that --
13 MR. BUER: Maybe.
14 MR. HALL: -- a reasonable supposition?
15 MR. BUER: It's conceivable. Yeah, I'd
16 say maybe. But to try and pin that down I don't
17 think is -- frankly, you know, you're not going to
18 get to an answer right now on that. Could be 2001,
19 could be 2008.
20 MR. WRIGHT: One of the things that makes
21 that difficult, of course, is that the drinking
22 water rule-making process unlike many of other EPA
23 rule-making processes are clearly linked to costs,
24 which means you have O&B involved and you have a lot
25 of other folks involved. And so where things may

1 look even a month or two before a rules goes final
2 may look very differently after folks at O&B and
3 others take a crack at it.
4 So while certainly as with any rule-making
5 process there will be early drafts that people will
6 see, it's not as if that's necessarily going to be a
7 decisive factor. So certainly the internal EPA
8 process will focus mainly on public health, then
9 that will be combined with a very close look at
10 what's feasible both in California and nationally
11 from a cost perspective, which is likely to not be
12 an easy thing to resolve up until the final stages
13 of the process.
14 So hopefully we'll get some signals, but I
15 think as Steve has said, it's going to be difficult
16 to prejudge until the rule actually is issued.
17 MR. HALL: There have been -- there was
18 a report recently, a couple actually released that
19 linked trihalomethanes (phonetic), bromide in
20 particular to health effects in pregnant women. Is
21 there any follow-up work being done by either the
22 State or the Federal government to determine -- to
23 validate that study, those studies?
24 MR. WRIGHT: My understanding is that
25 there is and that that's a key part of the larger

1 group of $100,000,000 worth of studies that EPA and
2 the other participants in that study are looking at.
3 And, of course, the EPA study is not just an EPA
4 study. It's a broad national participatory study
5 with stakeholders from all over the country. But
6 that's a key element in it.
7 MR. HALL: Has EPA requested money in
8 its next fiscal year budget to conduct additional
9 research or do you know whether the State has?
10 MR. WRIGHT: I don't know if there is
11 specifically with regard to that study, but I'm
12 quite confident that the national process is looking
13 very closely at that study and subsequent studies
14 that deal with that issue. But I -- again, I'd be
15 happy to try to follow-up with details on that
16 particular element of it, but I'm quite confident
17 that they're focusing on that.
18 MR. HALL: So you're confident, Patrick,
19 that EPA is doing everything reasonable to
20 investigate the health effects of bromide and to set
21 a standard that's reasonably protective of public
22 health as soon as -- you know, as soon as the
23 rule-making process allows?
24 MR. WRIGHT: I think it's a fair
25 statement.

1 MR. HALL: Getting back to the fisheries
2 impacts, in the pages following Attachment B there
3 is a report on diversion effects on fisheries. I
4 presume this is from the team. Well, it says so, it
5 says: "Prepared by the Diversion Effects on Fish
6 Team."
7 Now, it's easy for me to get over my head
8 on this fish biology stuff, but as I read through
9 just the summary -- that's where I like to stay, is
10 the summary because that's the part I can sort of
11 understand -- it does seem to draw some at least
12 preliminary inclusions about the efficacy of the
13 three alternatives in terms of protecting fish, all
14 kinds of fish, salmon, striped bass, Delta smelt.
15 Actually what it says is: Alternative 3
16 offers the greatest benefits for San Joaquin salmon
17 exceeding the benefits of any alternative for
18 Sacramento salmon."
19 It's a lot less clear for striped bass,
20 apparently.
21 "Alternative 3 will likely enhance the
22 transport of eggs and larvae in the lower San
23 Joaquin. Alternatives 2 and 3 may have negative
24 impacts by decreasing egg and larvae transport below
25 the hood intake.

1 Going on to Delta smelt: "Alternatives 1
2 and 2 represent moderate improvements compared to
3 existing conditions, but the benefits are derived
4 from the common programs rather than changes in
5 conveyance.
6 "Alternative 3 resulted in significant
7 benefit to Delta smelt because the combination of
8 the positive effects of the common programs and the
9 team's assessment that the hydronidemic (phonetic)
10 effects would also be positive for the majority of
11 the population."
12 What's CalFed going to do with this report?
13 MR. BUER: I have a couple of quick
14 comments. One is I don't want to steal the thunder
15 of the person who's going to be presenting this
16 report, first of all.
17 One comment on it is that you will note
18 that there is a substantial level of uncertainty
19 surrounding that, and because of that we have drawn
20 that issue into the linkage in the report that I'm
21 trying to describe this morning. And I think the
22 question before the body is: Are we focusing on the
23 appropriate linkage, and if so, can you help us in
24 defining better that linkage.
25 Our hope is if what we've laid out for you

1 appropriately captures the range of issues and
2 linkages that we need to tackle, we'd like to then
3 go to the next step and really dive into the
4 details. But we haven't gotten beyond the
5 questions: Is this whole framework the appropriate
6 starting point for the detailed discussions.
7 So that would be my general thought, is can
8 we go back and focus on whether the linkage between
9 fisheries and isolated conveyance is appropriate and
10 then move into the subsequent discussions exactly
11 how we characterize that.
12 MR. HALL: Let me follow-up --
13 CHAIRMAN McPEAK: Steve, you know, that
14 is on the agenda tomorrow. Will you be able to --
15 MR. HALL: Yeah, I'm done with the
16 report. I just wanted to ask Stein what -- you
17 know, what -- what we're going to get tomorrow is a
18 detailed report on their report --
19 CHAIRMAN McPEAK: Right.
20 MR. HALL: -- not necessarily what
21 CalFed intends to do with that report.
22 MR. BUER: Well, and it will also cover
23 and what they're going to do next in terms of what
24 they've been directed to do.
25 MR. HALL: Okay. Well, that will be

1 helpful. But my question is really broader to
2 Stein, and that is: Is what you're attempting to
3 lay out in the document and the two attachments, A
4 and B, is to say there are certain critical --
5 (End of tape)
6 MR. BUER: Do you care to respond?
7 MR. WRIGHT: You know, this is sort of
8 taking on the flavor of cross-examination, Steve,
9 and I'd like to look for, you know, constructive
10 comments and responses.
11 MR. HALL: Well, I wish I were good
12 enough to cross-examine, but obviously these are
13 questions that are critical to the water user
14 community. I mean, what we're being asked to do is
15 say, "Trust me." You know, it's to trust CalFed
16 that in the next seven years, A, you're going to get
17 to a decision which you've not been able to get to
18 in the preceding three; and B, that in the meantime,
19 the water supply and water quality that we're having
20 to live with won't further degrade.
21 And I mean, to us, those assurances have to
22 be embedded, and frankly, that goes to my next
23 question because right now as I look at the
24 assurances section in the conveyance section, I
25 don't see any assurances for water users in here

1 that their water supply won't get worse. I see lots
2 of assurances, some preconditions before anything is
3 done to improve water supply or water quality, bars
4 that have to be crossed. I don't see anything in
5 here that in the next seven years water users are
6 protected.
7 And I guess that's my over-arching
8 question, where is that in here?
9 MR. BUER: I think that's what we have
10 tried to do, is put forth what we think is in the
11 first seven years and we're looking for you to put
12 in here what you think ought to be there so we can
13 engaged in that very directly.
14 MR. HALL: Well, I guess --
15 MR. BUER: We know there are challenges
16 to doing that.
17 MR. HALL: I guess I would suggest that
18 if CalFed is going to take a balanced approach, it
19 shouldn't be up to one stakeholder group to get
20 their stuff inserted while everybody else kind of,
21 you know, gets their stuff taken care of.
22 Now I heard Pietro and I heard Alex and I
23 heard others say they're not completely satisfied
24 either. And I understand, you know, a fair open
25 process is we all get to suggest changes.

1 But it seems to me as a threshold if what
2 you're saying here is that you're going to stabilize
3 the water resources management framework, you ought
4 to back that up by putting stuff in the conveyance,
5 in the assurance, in the storage, in the water
6 supply sections that you intend to take actions to
7 back that up.
8 I don't know, it seems like a reasonable
9 supposition if what you're saying is your intent is
10 to protect all stakeholders during this seven-year
11 period.
12 CHAIRMAN McPEAK: I think the notion of
13 being very specific about actions I've heard from
14 everyone who's spoken. I read this and think that
15 it is very much going in that direction and that
16 there is a lot of assurance. You read it and see
17 not. Likewise, folks look at it from the fishery
18 side and watershed management side and say it's not
19 enough.
20 I want to sort of actually throw myself on
21 your mercy because I'm at a total loss for the
22 process we're going to ultimately need to use to
23 reconcile what seems to be still some very big gulfs
24 between various viewpoints, but unfortunately we
25 can't do it today right now.

1 And I will apologize for going to the last
2 person who has asked to speak who hasn't yet spoken
3 today. I had envisioned in an hour and a half we
4 would come to this great enlightenment of a common
5 position. I am so Pollyann-ish I can't believe it.
6 But we'll figure out the next time how
7 we're going to come back at this because this same
8 document is going to remain in front of us for every
9 meeting. I'm going to think about it in the next,
10 you know, day as we're meeting what that process
11 will be and come back and consult you on that, you
12 know, how to invite the comments back to Stein.
13 Because you've all asked him things that if I took
14 together with my feeble mind sound pretty, at times,
15 kind of contradictory, there's no way that staff can
16 easily reconcile it without some more direction.
17 So think about the process, too, of in the
18 future how we'll get to an exchange among ourselves
19 instead of some dissertations to staff.
20 Mike.
21 MR. STEARNS: Thank You. Mike Stearns,
22 and I'm speaking on behalf of the San Luis Delta
23 Mendota Water Users Area.
24 Following what I think were some of Steve's
25 comments, I just wanted to say we certainly support

1 the provisions that are being included in the
2 discussion on a preferred alternative and that we
3 hope there will be consensus that that will continue
4 to include isolated facilities and surface storage,
5 because I think as everyone has expressed and
6 continues, there's need on all users to have
7 reliable water supply. And if those aren't
8 included, there's going to be a great loss in time
9 before they could ever be accomplished.
10 By being included, the permitting process
11 and so forth could be addressed and recognizing that
12 these are all conditionals and the implementation
13 would never happen till they're proven, but we hope
14 that that continues to be in the preferred
15 alternative.
16 Certainly we recognize and approve of the
17 Stage 1 implementation process. And specifically, I
18 don't know if it's included but it should be, I
19 think, recognition that there needs to be an
20 extension or expansion of the Bay Delta accord.
21 Along those lines we've got some concerns that there
22 are some -- there are CVPIA issues, the
23 implementation there of the water that's been taken
24 for environmental purposes needs to be addressed.
25 We are seriously concerned about water supply

1 reliability in this interim Stage 1 period, and
2 that's something for us that's extremely important.
3 I think along the lines of what Steve also
4 has said is that if there's going to be delay in
5 actions that are going to improve water supply
6 reliability, those of us that are extremely short
7 already need some assurance in this Stage 1 that
8 there's not going to be additional cutbacks as a
9 result.
10 CHAIRMAN McPEAK: Okay. Thank you,
11 Mike.
12 Has -- is there anyone else from BDAC who
13 has not yet spoken on this item that wants to?
14 Okay. Let me apologize to Alex and Roberta
15 and Martha. You had raised your hands to speak
16 again and I am going to just move to -- I was going
17 to move to the discussion of the letter from
18 Governor Wilson to Speaker Gingrich, but the two
19 folks who wanted to be in the room at the time are
20 not here. So they're just going to have to wait.
21 MR. HILDEBRAND: I'd say we could go
22 ahead then.
23 CHAIRMAN McPEAK: That's exactly right.
24 I'll come back to them.
25 Is Mr. Graff within my voice? If he is,

1 Tom, get in here.

2 What I don't want to do is interrupt the

3 public comment, which we've scheduled for just about

4 ten minutes ago. So let me -- Martha went to get

5 him?

6 Let me begin just starting through the

7 public comments. We have representing Councilwoman

8 Nancy Nadel, who is a Council Member in the City of

9 Oakland, Katherine McKenney, who we'll all remember

10 as a former member of East Bay Municipal Utility

11 District.

12 Welcome Katherine.

13 MS. McKENNEY: Thank you.

14 Belatedly, welcome to the City of Oakland

15 on behalf of the City Counsel. Miss Nadel would be

16 here today but she is as we speak in the White House

17 with the President and the Vice President meeting on

18 restoring sustainable and affordable housing and

19 commerce to the urban enterprise zones. The

20 emphasis of her visit there will include maximizing

21 the efficiency and utilization of existing

22 infrastructure, something that is a component of the

23 demand that you're talking about.

24 Her formal comments have been submitted and

25 will be responded to, I'm certain. But I would like

1 to touch on a few points.

2 We believe, and Miss Nadel has asserted in

3 her written comments, that a continued demand

4 reduction is a critical element of the plan that

5 you're considering. We certainly want to see more

6 accomplished in agriculture, we believe they will

7 and can do that, and an emphasis on groundwater

8 storage is an important component of that.

9 We do want to make a comment about

10 financing. I know that you're going to go into this

11 area and that it will be a long and serious

12 discussion. Financing of new projects really

13 shouldn't be undertaken until the true cost of

14 delivery of water to the existing project is really

15 determined and assigned.

16 You wouldn't expect to go to a bank and get

17 a loan for a brand new home when you really haven't

18 even paid a cent on the principal of the existing

19 loan and you have barely met the interest payments.

20 And that's the current fiscal irresponsibility of

21 our delivery system. Don't let it happen again.

22 As we enter the era of deconstruction, it

23 began this week in Butte County, we're troubled by a

24 disturbing idea that has come forward. And I want

25 to speak to that briefly and quickly. Then

1 enlarging of Los Vaqueros for any supply or delivery
2 is an egregious breach of the public trust. We
3 don't see bait and switch in used car sales and we
4 sure shouldn't see it in water supply.
5 I was present at the majority of the
6 hearings on Los Vaqueros. I sat as Contra Costa
7 Water District adopted and made commitments to its
8 voters and its public and its ratepayers. I
9 listened to Al Donner and Walter Bishop assure the
10 public, the press, the ratepayers and the voters
11 that this dam was not being built and this reservoir
12 was not being built for supply. That it is in fact,
13 despite its closeness to Clifton Forebay, only a
14 quality and security supply for Contra Costa which
15 had a three-day supply and open canals and clearly
16 needed that assurance. Those public assurances by
17 elected officials will have to be honored.
18 I want to touch on one more topic and then
19 make a comment separate from Miss Nadel.
20 Missing from tomorrow's agenda is a very
21 important element and I urge you to consider it and
22 bring it forward of the work done in discovery and
23 research by Dr. Andrew Cohen on invasive species is
24 vital to your total consideration of the integrity
25 of the levees, the security of the farmlands and the

1 health of the Bay.

2 It's not on your agenda. You need to

3 listen to Dr. Cohen. He is doing extraordinary

4 research. I was with him when he made some of these

5 discoveries handing under piers and picking up

6 samples, and there is no doubt that this is a side

7 point that you must address.

8 Separately let me make a personal comment.

9 I presently serve as a public member of the

10 California Public Utilities Commission Governing

11 Board on electric energy deregulation. I represent

12 the California public in the effort to transfer from

13 investor-owned utilities, public benefit programs

14 that will be administered statewide.

15 In so doing, I obviously am paying

16 attention to what deregulation is going to mean to

17 power plants. And that may be what's it's going to

18 mean. Think you just got a good example.

19 Many states, Montana among them, are going

20 out of the power generation business because you

21 can't make money. It's not profitable. We're going

22 to be buying power from cheaper sources.

23 Washington's 4.2 percent, California's 8 per -- 8

24 cents.

25 You need and you must -- and I have

1 submitted this comment in writing -- look at what
2 benefit could be derived and what may happen if
3 water districts, agriculture districts, irrigation
4 districts can and will acquire the power generation
5 facilities up river. These facilities might and
6 could be used in a very different way than selling
7 power. They may come down. They may control water
8 supply in a very different way. That scientific
9 study absolutely must be done before you make a
10 decision. It's a brand-new element, never been done
11 in the United States. It affects the most important
12 water system in our country, absent the
13 Mississippi-Missouri, and I think you have
14 tremendous scientific burden that you have to
15 address. And I would urge that you do it.
16 Thank you.
17 CHAIRMAN McPEAK: Thanks, Katherine.
18 Seeing that we have now both Mr. Graff and
19 Mr. Hall in the room, you had requested that we
20 discuss the letter from Governor Wilson to Speaker
21 Gingrich because I said I would at 11:45.
22 The question was: Why would I be doing
23 this now? Only because I said I'd do it at 11:45 is
24 the answer back to Mary.
25 Tom, you raised it. What would you like to

1 do to address it?

2 MR. GRAFF: (Inaudible) during the life

3 of CalFed and BDAC, what we've usually done is had

4 as part of the Chair's report a discussion of those

5 documents. And since this is such an important one

6 and a big one, it seemed to me to wait till tomorrow

7 to have that discussion when there's as much public

8 interest as appears in this room was a mistake and

9 that we should have the discussion as soon as

10 possible, which is why I raised it at the earliest

11 opportunity this morning.

12 Commenting on its substance, I have to say

13 we were very distressed when we first learned of

14 this letter dated June 28th on Monday because it

15 urges immediate authorization and appropriation of

16 funds for a series of projects that the Governor

17 apparently believes we've all endorsed, but as far

18 as I'm concerned we haven't hardly discussed.

19 For example, he says in his letter, and I

20 quote: "We now have a sense of some of the initial

21 projects that will be necessary to address the water

22 supply and reliability elements of the planning

23 effort."

24 I just quickly reviewed what we've been

25 talking about and Stein's been talking about, I

1 don't see those projects referenced there. But then
2 in his letter he later does reference a couple of
3 them, enlarging Shasta and the water bank and the
4 Madera Ranch. He doesn't say those are the only
5 ones. He says there are many excellent projects and
6 they're given as two examples.
7 I just don't think this is the way we
8 should be going about prejudging CalFed's process
9 and rushing to judgment and doing it in the name of
10 all of us, I guess, and of the California
11 congressional delegation when my understanding is
12 that California's two senators were first informed
13 of this letter on Monday as well, as were some of
14 the major figures on the House side of the
15 delegation.
16 That's just some of the problems in the
17 letter. So maybe I'll leave it at that.
18 CHAIRMAN McPEAK: Okay, thank you.
19 Steve, do you have any further comment?
20 MR. HALL: Well, just I don't
21 necessarily have any more insight than Tom as to the
22 genesis of the letter. We -- Tom and I have talked
23 about this a bit, and frankly I understand and to
24 some extent appreciate Tom's concern, though I am --
25 while I'm not going to support or criticize the

1 letter, I do like the sense that there is a feeling
2 of some urgency, at least at the State level, that
3 if what we're going to do in CalFed is change our
4 focus to the immediate term, the short term, the
5 seven-year window, then we ought to be serious about
6 it.
7 And I think we've all accepted the fact
8 that CalFed is -- has changed its focus and I think
9 many of us believe that that is appropriate because
10 we are going to a staged decision-making, there are
11 certain things we can't seem to make a decision on
12 today. We're going to have to live in some
13 period -- some sort of environment that's between
14 where we are today and full implementation for a
15 period of years. And that is exceedingly important.
16 What we do in that period of time is exceedingly
17 important if we're going to make any progress and,
18 in fact, if CalFed is to succeed. And if Stage 1 is
19 important, it's got to be paid for. Somebody's got
20 to pay for this stuff.
21 Now, we haven't sorted out what all is
22 going to be in Stage 1, and therefore, we haven't
23 sorted out who ought to pay for what. I think we
24 all accept the notion that there's going to be
25 State, Federal and local funding of this stuff. And

1 what the Governor, it seems to me, is putting on the
2 table is one way for the Feds to come up with their
3 share of the money. Certainly isn't the only way.
4 But I guess I'm curious, if we're not going
5 to pay for it this way, how do people propose that
6 we pay for it? The way the Federal government works
7 is you get one shot during a 12-month cycle to
8 muster money to pay for things you want to do, and
9 now is the time. In fact, the regular
10 appropriations process is so far along that we don't
11 have the opportunity to go through that process. If
12 this thing is going to have any money appropriated
13 it's got to be on a supplemental appropriation.
14 I would be the first to say -- I'm no
15 expert on the Federal appropriations process, I'd be
16 the first to say to my uninformed eye, this doesn't
17 look like a sure thing. In fact, you might even
18 call it a long shot.
19 However, I think it represents something
20 good and something bad. The bad is I think it's a
21 legitimate criticism that the Governor didn't
22 consult more. But I think he deserves credit for
23 putting out on the table a commitment at the State
24 level and seeking a commitment at the Federal level
25 to get serious about Stage 1.

1 That's it.

2 CHAIRMAN McPEAK: Thank you.

3 Any other comments on this letter?

4 Yes, Patrick. Patrick Wright.

5 MR. WRIGHT: I thought I might provide a

6 short perspective on the Federal discussions that we

7 have had on this. It also just came to our

8 attention earlier this week at the same time other

9 folks found out about it, and we've had a couple of

10 discussions in the last few days with folks in the

11 Governor's office and others expressing some of the

12 Federal agencies' concerns along the lines of both

13 what Steve and Tom have expressed.

14 Certainly we've had a lot of discussions

15 about the need to continue planning and feasibility

16 studies for storage, that's a key part of this

17 program, while emphasizing the need also as it's

18 laid out in the framework discussion to make

19 progress on water use efficiency, transfers, and

20 other elements that are going to be necessary both

21 make to this a package that has broad-based support

22 and to satisfy the 404 and other regulatory

23 processes.

24 Now having said that, we recognize that

25 there have been proposals floated both in the

1 context of the State budget process and the Federal
2 process that would go well beyond that by
3 authorizing storage, by providing money for
4 construction, et cetera, that are well beyond where
5 this program is and where the CalFed process has
6 been.
7 We have communicated that fairly strongly
8 to the Governor's office and I expect it will come
9 up in discussions today between the Governor and the
10 Secretary that the Federal agencies are prepared to
11 continue supporting planning and feasibility money
12 through the collaborative process that the Secretary
13 emphasized. But we think it should be done in that
14 framework and not try to have this process, the
15 budget process get out ahead of where this process
16 is right now.
17 Again, that does not mean we are against
18 storage. We certainly support planning and
19 feasibility. We support, as Steve said, trying to
20 secure adequate funding for Stage 1. But we need to
21 do that very carefully and through the collaborative
22 process that we've established here, and hopefully
23 we can get the discussions back to that level so
24 that this doesn't become a sideshow that distracts
25 us from the important work that we need to do here.

1 CHAIRMAN McPEAK: Let me suggest that
2 we've commented on it and Mike Cahill is responding
3 to the invitation that we've issued to be here
4 tomorrow to discuss it directly.
5 Tom?
6 MR. GRAFF: This is going to be
7 constructive, you'll like this.
8 CHAIRMAN McPEAK: Oh, good, please.
9 MR. GRAFF: I want to segue to something
10 related but very important as well. One of the
11 reasons Steve and I have been talking is that --
12 CHAIRMAN McPEAK: Always a good sign.
13 MR. GRAFF: -- whatever this letter
14 might --
15 MR. HALL: Yeah, we normally don't.
16 CHAIRMAN McPEAK: It's either a very
17 good sign or a very dangerous sign when you two get
18 together.
19 MR. GRAFF: Well, independent of this
20 letter there are very significant and difficult
21 questions pending in Washington on follow-through of
22 past agreements, the most significant of which was
23 the linkage between Federal authorization two years
24 ago and State Proposition 204 where broad-based
25 coalitions came together.

1 We are in the midst of trying to resolve
2 complicated questions about the relationship between
3 the CVP restoration fund and potential cuts there
4 and reduced appropriations at the Federal level
5 below what the original authorization was. Two
6 years ago 430,000,000, over three years we got on a
7 bipartisan basis, no fingers pointed in any
8 direction, 85,000,000 the first year. The group was
9 pleased at that, even though it wasn't the full
10 amount.
11 This year it looks like it's going to be
12 less than that. We're still pleased even though
13 it's even less and not the full amount. In fact,
14 less than half.
15 At the same time, having a new set of
16 proposals put forward for California in the Federal
17 context where, you know, anybody but California is
18 the monitor for many, complicates what our ongoing
19 discussions -- and I have to say we've been
20 particularly pleased at what some of the CVP water
21 users have been willing to discuss in the other
22 context.
23 CHAIRMAN McPEAK: Thank you, thank you.
24 All right. We will have the opportunity to
25 have more of a discussion in open frank exchange

1 with the Governor's representative tomorrow.

2 If we might, we're going to return to the

3 public testimony and continue to take comments.

4 You'll note on the agenda that we have scheduled for

5 noontime a presentation on the Delta levees, a film.

6 That needs to be done in this room and we're not

7 going to be in this room for lunch. And so we're

8 going to set a time of 12:45 for that to begin for

9 the public, for the members of BDAC to be back here

10 for that, and when we finish with public comment

11 we'll be going outside for the lunch break.

12 So, with that, Jeff Omart (phonetic).

13 MR. OMART: Good morning.

14 CHAIRMAN McPEAK: Good morning.

15 MR. OMART: I'm Jeff Omart from

16 Municipal Water District of Orange County. I'm here

17 today to present a comment letter on the Draft

18 Preferred Alternative on behalf of Stan Sprague

19 (phonetic), our General Manager.

20 I'd like to go through this briefly, a

21 couple of the core message points and I'll leave the

22 details for you to review in a letter that's going

23 to be circulated.

24 The first item has to do with needs versus

25 actions. Modoc recognizes that various actions in

1 the three proposed alternatives have the ability to
2 achieve several of the desired results we seek.
3 Therefore, we urge CalFed to focus on meeting needs
4 of Modoc and other stakeholders in the Stage 1 plan
5 and long-term solution. Specifically, drinking
6 water quality, water supply reliability and an
7 improved Delta to allow a prospering water transfers
8 market, rather than on specific actions to meet
9 those needs.
10 Secondly, the Stage 1 plan as currently
11 written includes little improvement as measured
12 against today's Bay-Delta water resource management
13 climate for Modoc. The Stage 1 plan must include
14 tangible benefits for Southern California water
15 users, specifically Modoc, to remain engaged in
16 negotiations as the long-term Bay-Delta solution is
17 developed.
18 Regarding the decision on the isolated
19 facility, the Stage 1 plan characterizes the
20 isolated facility as a contingent strategy that will
21 only be implemented if through-Delta improvements do
22 not meet program goals. This decision cannot be
23 supported by any technical merit, affordability
24 criteria or political wind at this time.
25 Improvement in drinking water quality and

1 fisheries enhancements are critical outcomes of the
2 CalFed solution. It is our belief that to meet
3 future drinking water quality standards, a package
4 deal including investments and improved treatment
5 technology, coupled with securing higher source
6 quality water is required. We're investing heavily
7 in advance treatment and require higher source
8 quality water to complete that equation.
9 It is uncertain whether CalFed will be able
10 to deliver a drinking water quality package and
11 improved fisheries without an isolated facility.
12 Therefore, the isolated facility must remain an
13 option, as is every other component of the three
14 proposed alternatives, until it has been clearly
15 demonstrated how future drinking water quality
16 standards and fisheries enhancements can be met in
17 an affordable and efficient manner.
18 Regarding water quality for resource
19 management, not only is water quality paramount for
20 public health, it is also paramount for efficient
21 management of this limited resource. The CalFed
22 solution must result in lower TDS water for Modoc to
23 achieve expanded water recycling and groundwater
24 management beyond the current levels in an
25 affordable and efficient manner.

1 We fully support ecosystem restoration that
2 results in measurable improvements in the
3 environment and demonstrated that support by backing
4 Prop 204.
5 However, the Ecosystem Restoration Program
6 as described in the Stage 1 draft is planned for the
7 long term without any links to improvements in other
8 programs. This is inconsistent with the CalFed
9 philosophy that equal improvements will be achieved
10 in all programs, and left unchecked could result in
11 an inefficient program that has minimal stakeholder
12 support.
13 We urge CalFed to create stronger links
14 between the ERP and other programs to gain broad
15 stakeholder support throughout implementation of a
16 long-term solution.
17 Regarding water use efficiency, funding of
18 water use efficiency measures in the Stage 1 plan
19 must reach beyond demonstration projects, and I
20 think we heard that from Ms. Davis earlier.
21 And lastly, we believe that this process is
22 a business deal for our service area. We're greatly
23 invested in the Bay-Delta plan or in the Bay-Delta
24 and the CalFed process to meet our future needs.
25 However, we'll be analyzing the CalFed's solution

1 and its costs and looking for benefits accordingly.
2 That's all I have. Thank you.
3 CHAIRMAN McPEAK: Thank you.
4 MR. GRAFF: I have a question.
5 CHAIRMAN McPEAK: Yes.
6 MR. GRAFF: What's your objection to the
7 ERP? I mean --
8 MR. OMART: We don't have an objection
9 with the ERP. Actually, we support it. What we are
10 looking for is consistency with the ecosystem
11 restoration program and the goals and objectives of
12 CalFed that all the programs are linked. As
13 currently written in the Stage 1 plan, those links
14 are not defined. The Ecosystem Restoration Program,
15 for instance, is described as a 20- or 30-year
16 process in the Stage 1 plan, yet it doesn't link to
17 water quality improvements, it doesn't link to water
18 use efficiency, and it doesn't link to supply
19 reliability.
20 None of those items which are critical to
21 Southern California are not addressed in the Stage 1
22 plan, yet the ecosystem plan moves forward. We're
23 looking for stronger ties.
24 MR. GRAFF: I guess my question is do
25 you object to the actual projects that are underway

1 or to the way it's stated?

2 MR. OMART: I don't think we -- I

3 haven't done an analysis on the actual projects. I

4 think, though, that the way those projects are

5 crafted need to envelope each of the other

6 objectives of the CalFed programs. And that's what

7 our concern is.

8 MR. GRAFF: And what surprises me is I

9 think I agree with you.

10 CHAIRMAN McPEAK: Martha and then

11 Roberta.

12 MS. DAVIS: I just wanted to ask a

13 question on the water quality front. Are you

14 satisfied with the way that the water quality

15 problem has been defined in the EIR/EIS?

16 MR. OMART: I would have to go back to

17 my EIR comments, but I can -- I would rather stick

18 to the Stage 1 plan if that's all right.

19 We don't view that the Stage 1 plan is

20 addressing our water quality concerns, and the --

21 you caught me off-guard actually thinking about my

22 EIR comments, or our EIR comments.

23 MS. DAVIS: Well, I'll make a point of

24 contacting you folks to get a copy of them. But

25 my -- I'm trying to focus in on this Phase 1 versus

1 the bigger picture. In looking at the Phase 1, are
2 you in violation of water quality standards at this
3 point in time and do you anticipate being in
4 violation of those standards in the next seven
5 years?
6 MR. OMART: I think my answer -- and I'm
7 not a water quality expert -- I believe the answer
8 would be no to both of those. I do believe, though,
9 however, and Byron can help me out with this, is
10 that we're concerned about the future promulgation
11 of water quality standards and the ability to meet
12 those.
13 MS. DAVIS: Right. But I -- to me, as
14 we are starting to -- as somebody from Southern
15 California who is equally concerned about the water
16 quality, I do drink the water there, from my tap, it
17 seems to me that the more I've tried to understand
18 the water quality issues, we've got a regulatory
19 issue in looking at what's coming from the EPA but
20 we also have a definition of the problem from two
21 standpoints.
22 One is not only looking at water quality
23 issues in Clifton Court, but also tracking down the
24 aqueduct which has been a concern of Southern
25 California for a long time, looking at the mixing of

1 the waters in San Luis Reservoir, what are we
2 getting there in terms of bromides issues.
3 We also seem to have an issue with the
4 baseline that under the no-action scenario we're
5 assuming another million acre feet going south. The
6 EIR says there's another 10 percent intrusion of the
7 salt water into the Bay-Delta under the no-action
8 scenario, which obviously contributes to the
9 concerns that you've got.
10 So that's why I'm asking the question. As
11 you look ahead, I mean it seems to me there's: What
12 are we doing in the next seven years? But there's
13 also: Are you satisfied with the definition of the
14 problem in the current EIR/EIS and are there things
15 that need to be done there to help us under the
16 Phase 1 move to an adequate plan to address the
17 long-term issue that you're addressing?
18 MR. OMART: I think our EIR comments can
19 address that, but I can't say that we don't view
20 water quality being addressed in the Stage 1 plan.
21 We're very concerned about the bromide issue.
22 Specifically, we're investing heavily in treatment
23 and we need that source quality to balance water
24 quality to meet public health.
25 Likewise, I've heard all morning how water

1 quality -- or rather how conservation and recycling
2 need to be a huge part of our effort in Southern
3 California. We need lower TDS water to enhance our
4 recycling efforts. So water quality is a huge
5 concern to us.
6 CHAIRMAN McPEAK: Roberta?
7 MS. BORGONOVO: I just wanted to make a
8 comment that many of us feel that the ERPP properly
9 implemented will go a long way to meeting a lot of
10 the CalFed objectives like water quality and water
11 supply reliability. And that was one of my
12 comments.
13 My hand was up for the second time around
14 because that -- we have -- that kind of analysis
15 isn't there, however, in the document and that's
16 what I hope that CalFed does develop; this ability
17 of the common programs to go a long way towards
18 meeting the water supply reliability and water
19 quality issue.
20 But I think also you raise the question
21 of -- I heard -- perhaps I'm misinterpreting what I
22 hear, but when I had said I hoped there would be
23 performance standards, I mean that you'd have
24 measurable performance standards and you would meet
25 the performance standards. And that could be across

1 the board and there do need to be linkages.

2 So I think the assurances work group is

3 finally starting to have some of that work come in,

4 and maybe it's time to have that discussion at one

5 of our next meetings.

6 MR. OMART: I do think that we are looking

7 for those links in that Ecosystem Restoration

8 Program. Also, water users are going to be looked

9 to fund quite a bit of these programs, and to fund

10 programs in Stage 1 we need to see benefits.

11 Likewise, we also need to be involved in making

12 those investment decisions as if it is a business

13 deal for Southern California, for Modoc.

14 CHAIRMAN McPEAK: Steve.

15 MR. HALL: Do we get to ask questions of

16 one another?

17 CHAIRMAN McPEAK: Well, let me -- let me

18 ask you if you want to.

19 MR. HALL: I just wanted to ask Roberta

20 to clarify. She said if the ERPP is implemented

21 properly, there will be -- there should be

22 improvements in water quality and water supply, and

23 I just wanted to ask her to clarify.

24 CHAIRMAN McPEAK: Okay. Roberta?

25 Good question.

1 MS. BORGONOVO: If you look at the ERPP and
2 you link it again to a lot of the other programs,
3 the watershed management, you look to the kind of
4 levee management that could go on, you look at the
5 ability to recover species so that you don't have
6 listings, you look at all of that that could come
7 out of the ERPP, we think you will get water supply
8 reliability.
9 And I think that that's the big decision
10 that we're going to make. When do we make that
11 decision on storage and conveyance which are the
12 most controversial. And --
13 MR. HALL: So in your view if species
14 recover, they are de-listed and the operating rules
15 change.
16 MS. BORGONOVO: Correct.
17 But do you -- I can't see that not
18 happening within the short term and it's why the
19 ERPP is out there for 30 years. I think don't that
20 you can have a system that you've been altering for
21 150 years and think that you'll have recovery in
22 seven years. I think that that's a real problem for
23 all of us.
24 But I think that those people that are
25 involved in the ecosystem round table, and that

1 includes a whole host of people including ag and
2 urban and environmentalists, they all agree that the
3 money needs to be spent properly and needs to be
4 spent so you can have real benefits. And I think
5 that they're working very hard on that.
6 But I think that we'll have a discussion
7 this afternoon with Dick Daniels where he will begin
8 to talk about the way in which the ERPP is being
9 laid out, the fact that indicators of health are
10 being developed, and I hope that that moves us
11 forward.
12 MR. HALL: We'll talk more.
13 MS. BORGONOVO: We'll talk more.
14 CHAIRMAN McPEAK: All right. Just a
15 matter of process, we've got six more people who
16 have signed up for public comment. We have public
17 comment listed for both this morning and this
18 afternoon. I'm going to ask if any of you are able
19 to testify this afternoon.
20 Jason?
21 MR. PELTIER: No
22 CHAIRMAN McPEAK: No.
23 Laura? We'll give you a time this
24 afternoon.
25 Amy Fowler, can you testify this afternoon?

1 MS. FOWLER: Yes.
2 CHAIRMAN McPEAK: Thank you.
3 Ronnie Cohen?
4 MR. COHEN: Yes.
5 CHAIRMAN McPEAK: Thank you, Ronnie.
6 Conner Wirtz (sic)?
7 MR. EVERTS: Everts.
8 CHAIRMAN McPEAK: It's Everts?
9 MR. EVERTS: Yes.
10 CHAIRMAN McPEAK: You are, Conner.
11 Thank you.
12 Randy Kanouse?
13 MR. KANOUSE: Yes.
14 CHAIRMAN McPEAK: Yes, okay. Then
15 Byron, you get to speak. You thank all these
16 people.
17 MR. BUCK: Thank you very much.
18 CHAIRMAN McPEAK: We're going to get
19 Jason next.
20 MR. BUCK: The balance of your time,
21 right?
22 CHAIRMAN McPEAK: Yes.
23 MR. BUCK: Just a quick point.
24 Roberta, CalFed has actually looked at the
25 ERPP drinking water quality linkage and they

1 basically concluded that for drinking water quality
2 it's primarily a bromide issue. There's nothing in
3 the ERPP that can really deal with the bromide issue
4 because it's where intakes are and the effect of sea
5 water intrusion; that if you tried to deal with it
6 with freshwater flows, you'd turn the estuary into a
7 freshwater estuary which is not what we're trying to
8 do in the ERPP.
9 They did also look at the organic carbon
10 equation and couldn't come to a conclusion. We have
11 concerns that when you restore a lot of wetland
12 habitat, shallow water habitat, you're going to
13 increase organic carbon which would be a bad thing.
14 But there's other evidence that wetlands can remove
15 some of that and it might be better. But that
16 result is inconclusive.
17 But that have done analysis looking at what
18 benefits are there and concluded you really can't
19 deal with the drinking water issue on the soft-path,
20 the ERPP side of it. You can make some
21 improvements, but the big bromide issue is really a
22 facilities issue.
23 MS. DAVIS: There's a whole water
24 quality work group that's going forward and they are
25 looking at some of the source control issues and

1 some of the watershed management as a first step.
2 MR. BUCK: Yeah, it's the source for
3 bromide is the ocean, it's not upstream.
4 MR. PELTIER: Thank you, I will be
5 brief. Jason Peltier with the Central Valley
6 Project Water Association.
7 CHAIRMAN McPEAK: I'm sorry, your last
8 name again?
9 MR. PELTIER: Peltier, P-e-l-t-i-e-r.
10 I wanted to comment briefly on the Stage 1
11 implementation plan. I view that -- I think many in
12 the water community do -- as an absolutely essential
13 element of the planning process that's going on
14 here. Planning because it bridges into action and
15 that is really important programmatically and
16 institutionally, and it truly is if you want to call
17 it a critical path item. It is, truly is. Success
18 there is part of the critical path for CalFed.
19 I had three specific comments I wanted to
20 bring to your attention and highlight. The first is
21 there is reference to a finance package as kind of
22 the top of the list. We think that is essential.
23 We need to have sooner rather than later a handle on
24 the finance for this and CalFed as a whole, but I
25 know there's a chicken and egg problem for sure.

1 But we've got to have that kind of certainty,
2 otherwise it's kind of a waste of time in many
3 senses.
4 Second, operating rules is identified as
5 something that's going to be worked on and developed
6 in Stage 1. I want to plant a seed with you. The
7 concept is soft-path water supply improvements.
8 Soft-path water supply improvements that can be
9 gained over the short period of time by altering
10 operations by finding more efficient ways to
11 integrate operations.
12 I think the Stage 1 plan gives us a chance
13 to see some of those that don't require a whole lot
14 of concrete and rebar. As much as we would like to
15 see all that stuff happen, there are ways to
16 increase water supply just by changing the way we
17 operate.
18 The third point is I would really like to
19 emphasize -- there is reference in the document, but
20 emphasize the need for greater integration and
21 coordination of CVPIA and CalFed ecosystem
22 activities.
23 You know, we're five years into the CVPIA,
24 a third of a billion dollars have been spent. That
25 -- and for the last couple of years we have been

1 talking about, we have now the appropriator --
2 appropriator's talking about the need to integrate.
3 We know in Washington the funds are viewed as kind
4 of money for the same thing, but we need more
5 unified institutional process between the CalFed
6 agencies as CalFed agencies and then those same
7 agencies that are over here, the Bureau and the
8 Service in particular, implementing the CVPIA. That
9 is -- it's hard to understand why we haven't made
10 more progress there. And it's not just
11 institutional but it's also biologically. I think
12 we need to make sure that both programs are dealing
13 with the same ecosystem. We've got to have the same
14 biological understanding and prioritization process,
15 decision-making criteria, et cetera, and I think the
16 Stage 1 plan gives us a chance to emphasize and
17 cement those relationships.
18 Thank you.
19 CHAIRMAN McPEAK: Thank you, Jason, very
20 much.
21 To all of you who had signed up to testify,
22 we thank you for continuing your comments or waiting
23 until this afternoon. I have about three
24 announcements before we break for lunch.
25 First let me just restate that at 12:45

1 there will be the presentation on the Delta levee
2 seismic issue. It's a talk plus some graphics. I
3 think I had misunderstood and misrepresented it as a
4 film. Sorry, folks. But still graphics.
5 There is a video that will be put on also
6 during our break that the Water Education Foundation
7 did on the CalFed process and Mary's holding up the
8 print collateral.
9 MS. BORGONOVO: They're going to move
10 the TV monitor outside so people can watch it during
11 the afternoon.
12 CHAIRMAN McPEAK: Don't you like that
13 term, the print collateral. I think that's a
14 technical term in somebody's world.
15 (Lunch recess.)
16 CHAIRMAN McPEAK: We are being joined
17 this afternoon with -- or by one of the
18 distinguished elected officials from the East Bay.
19 A former county supervisor and now a member of the
20 State California Assembly representing the Alameda
21 area is here with us.
22 As I had mentioned here, we were looking
23 forward to Don Perata joining us. You'll know Don
24 for a variety of activities. I most appreciated all
25 of his efforts in providing Human Services in the

1 Castlemont Corridor, being very active on local
2 government finance. We expect now that he's sitting
3 there, this is my editorial, that he's going get
4 back money for local government from the state and
5 he's also here to address us on water policy. And
6 we appreciate very much, Don, you taking the time to
7 be here.
8 Join me in welcoming the Honorable Don
9 Perata.
10 ASSEMBLYMAN PERATA: Thank you. This is
11 worse than being up there.
12 Thank you for the kind words, Sunne, and
13 it's a pleasure to take a few moments to express my
14 point of view as a native to this area and someone
15 who is old enough to remember the peripheral canal
16 fight in the '80s. Some of us were -- maybe had a
17 life's work for a while, and it is very reminiscent
18 of what goes around comes around and, you know, just
19 when you thought it was safe to go back in the
20 water, look what happens.
21 What I want to emphasize is the problems
22 that I see from the legislative point of view. I
23 haven't been up there very long as an elected member
24 but it's an eternity at these times of term limits.
25 And one of the major problems that we have right now

1 is that if this is not done correctly, we are going
2 to open ourselves up to a whole new sectional fight
3 between the north and the south. And frankly, a
4 state as complex as California, its economy that is
5 now changing direction and shape as a matter of
6 constancy, this could be very, very dangerous for
7 the future of California and its economy, never mind
8 the environment.
9 It would seem to me that this is not
10 terribly complicated as an issue. Why dam or dredge
11 or divert until we have looked at all of the options
12 that are available to us? Look at the options,
13 explore them, analyze them, evaluate them, and then
14 create some kind of a hierarchy of value and
15 purpose.
16 We already know that diverting water has
17 negative consequences to the environment. And to
18 talk about therefore pursuing a strategy again
19 absent maximum conservation, absent recycling,
20 absent market regulation, and probably an infinite
21 number of other options that people who are involved
22 in this particular endeavor understand far better
23 than I, until we do that, it makes absolutely no
24 sense from a practical point of view to pursue any
25 strategy.

1 Politically speaking, it's a no-brainer for
2 those of us in the north. And I would claim the
3 north as far back into the south as I can go for
4 this purpose; you know, Tehachapis, and we'll go
5 further if we can.
6 If it comes down to a threat that appears
7 to look like what we fought in the late '70s and
8 '80s, then this will be a political fight on that
9 issue alone. And I will guarantee you that
10 everything else will be lost in the fog. There will
11 be so much rhetoric around stealing water for
12 unbridled growth in the southern part of the state
13 and all those things that make the Giants and the
14 Dodgers -- used to be a rivalry -- all those things
15 will again come gushing forward.
16 Using a lot of verbiage here now, you know,
17 that can relate to the water.
18 And it will not make a damn bit of
19 difference what the science is. It will not make a
20 damn bit of difference what the reasonableness of
21 the argument will be. It will be caught up in sound
22 bytes, and we were very effective before and we will
23 be very effective again. It's a stupid way to
24 govern a state and it's stupid particularly since we
25 had the fight once, we ought not to have the same

1 fight again. We should learn a little bit by our
2 mistakes and the wisdom of time.
3 Let me conclude by suggesting that one of
4 the major problems that we have is that the public
5 itself I don't believe can be convinced that we are
6 doing all that we can currently to conserve and to
7 recycle and to better manage our water. Only
8 recently we had a water district here that made a
9 decision to create a tiered rate system to allow
10 people with larger lawns to water them at a reduced
11 price.
12 Now whether or not that's just a -- that's
13 a fact or that's hyperbole, that's the way it
14 appeared when I read it in the paper. So people are
15 trying to figure out, now how is it that I have a
16 brick in my toilet or I've got a 1.6 flush in my
17 toilet or I now have an English garden as opposed to
18 rolling lawn, and somebody else out there, looks
19 like they're being encouraged and benefited by being
20 able to be a large water user.
21 So if we are not able to convince people
22 that we have done all that we can to conserve this
23 precious resource and to preserve and conserve
24 environment that protects this resource, I think
25 we're going to be in a deep, deep trouble and a

1 major fight.

2 Fortunately, we have reasonable people here

3 who are not involved in the business that I'm

4 involved in where we -- by the time it gets to us we

5 are armoring up, we are getting ready to go. We're

6 sort of the -- you know, they send us in, we're like

7 the Marines, and by the time it gets to us it's too

8 late.

9 So I would urge you, manage this well, be

10 thoughtful, be careful, make sure that we do not

11 have to break California in half for reasons that

12 right now are not at all apparent.

13 Thank you very much.

14 CHAIRMAN McPEAK: Thank you, Don, very

15 much for taking the time to be here. I know you're

16 in the middle of budget discussions. Is there a

17 budget yet?

18 MR. PERATA: I left at about noon. No.

19 Unless they did it without me.

20 CHAIRMAN McPEAK: Thank you.

21 Are there any questions or comments to

22 Assembly Member Perata?

23 Okay. Thank you again, Don. Take care,

24 bye-bye.

25 We have the privilege of now moving to a

1 panel discussion from a variety of business
2 viewpoints, business leaders. And Rosemary Kamei
3 from Santa Clara Valley Water District we had hoped
4 would be here in time to facilitate it. I think
5 it's going to fall to me to do that until Rosemary
6 arrives. And when she does, I will certainly want
7 to invite her opening comments.
8 But I think we have Robert Diprimio and
9 Robin Brach and Steve Tedesco here. I know I see
10 Steve. And is Fred Furlong here?
11 Oh, Fred. I said Fred is never late and I
12 was right. And Fred Furlong from the Federal
13 Reserve Bank.
14 So why don't the four of you move up to the
15 chair here -- or excuse me, the chair is in front of
16 the table.
17 Robert Diprimio is president of Valencia
18 Water Company and he's a representative to the Water
19 Task Force for the California Business Round Table.
20 Fred Furlong that I just reference is a
21 research Vice President for the Federal Reserve Bank
22 in San Francisco and a member of the Bay Area
23 Council.
24 And Robin Brach is Chair of the Water Task
25 Force of Silicon Valley Manufacturing Group.

1 Steve Tedesco is the Executive Director or
2 President, I think, of the Silicon Valley Chamber --
3 San Jose/Silicon Valley Chamber of Commerce.
4 And Mr. Whitlock has also been able to join
5 us who is a partner with Pillsbury, Madison & Sutro
6 in their Silicon Valley office.
7 We welcome you very much to this setting
8 and thank you for taking the time to be here. What
9 we've done is provided a set of questions that we're
10 asking and inviting you to take maybe ten minutes or
11 so and then we would want to have an exchange with
12 you.
13 And I know, Bob, you have a schedule where
14 you've got to get back, absolutely back to the
15 plane. So we're going to start with Mr. Diprimio
16 who is with Valencia Water Company.
17 Thank you for taking the time to be here.
18 MR. DIPRIMIO: Thank you. I appreciate
19 the opportunity to speak to this group. I like
20 Assembly Member Perata's comments. I was at the
21 Dodgers last night and the lost to the Giants and I
22 don't even remember the score, that's how upsetting
23 it was.
24 I manage a water company and our parent is
25 a builder of master plan communities in the Southern

1 California area and we have other properties
2 throughout the state, so -- and I also heard him say
3 "unbridled growth," and those are things that
4 concern us greatly.
5 From a business perspective there's
6 forecasts that indicate a lot of growth potential in
7 our state over the next twenty years. In fact, the
8 estimates that I see indicate, at least in the
9 Southern California regional area, populations
10 increasing about 4,000,000 people by the year 2020.
11 So whether we like it or not, growth is going to
12 occur and we have to deal with it from not only a
13 water perspective but all the other issues related
14 to utility service and the quality of life that go
15 along with that kind of growth.
16 One of the things that I was asked to talk
17 about is the importance of a stable water supply,
18 and obviously from a business perspective it's very
19 important. I quite often get companies that call me
20 up either wanting to locate to our area from within
21 the state or outside of the State of California, and
22 they're doing their due diligence and water is on
23 their list of criteria. And sometimes I'm a little
24 surprised about that, but they do their homework.
25 And sometimes companies that are moving learn more

1 about the water picture than existing companies that
2 are here rolling along and then when the drought
3 hits then they all get up in arms.
4 It's an important criteria for them and
5 important for our economy for me to be able to say
6 to them, you know, we have a quality water supply
7 and it's reliable. And that word "quality" has been
8 creeping up, too. Water quality is important to
9 them, it just depends on the manufacturing that is
10 occurring. And probably one of the other panelists
11 may address that as well. But those are important.
12 And from a business perspective it's not so
13 much the fat years like this year on water, it's
14 when there's a drought, how much is my business
15 going to have to be curtailed to accommodate a
16 rationing program, for example. And those are real
17 issues. I think they were also felt during our last
18 six-, seven-year drought, and that's why we place
19 great importance on the work that you folks are
20 doing.
21 I think -- we hope that there's a solution
22 out there and we want to encourage you to stay the
23 course and keep your -- keep the commitment of
24 looking for a solution. I think that there's a lot
25 of needs, and you're probably more familiar with

1 many more of the details than I am, but just from my
2 perspective it seems to me that transfers, marketing
3 of water is important, and storage. Sooner or later
4 somehow we have to deal with the Delta and these are
5 not things that you're not unfamiliar with.
6 Those are sort of introductory comments
7 that I have and I'll pass it on.
8 CHAIRMAN McPEAK: Thank you, Bob.
9 What we'll do is we'll go through the panel
10 and then, I think, try to make sure we kick up
11 comments certainly before you leave and go to the
12 airport because I wanted to have the opportunity for
13 BDAC to question you or have a dialogue with you.
14 As I mentioned, Fred Furlong is Vice
15 President for Economic Research for the Federal
16 Reserve Bank. He is very active in the region on
17 water transfers and is also participating on the
18 work group for BDAC.
19 Mr. Furlong.
20 MR. FURLONG: Thank you, Sunne. We were
21 having problems transferring the water from the
22 pitcher into the glasses.
23 CHAIRMAN McPEAK: And you haven't even
24 set the price.
25 MR. FURLONG: Well, yeah. Thank you.

1 I think the first thing I want to open up
2 is that from my perspective the work that I have
3 been doing with the Bay Area Council, Bay Area
4 Economic Forum and then the Bay Area Water Policy
5 Forum, we're really where that work there is what
6 lies behind what I have to say today. The Federal
7 Reserve is interested in these things, but what I
8 have to say today is really in my capacity there and
9 not with respect to the Federal Reserve.
10 There was correspondence to us indicating
11 that three -- essentially three issues, water
12 transfers, reliability and also issues of the --
13 essentially boiled down to equity issues in terms of
14 the possible impacts of various measures.
15 Most of what I have to say today is sort of
16 focused -- will focus on the issues of transfers.
17 That's the thing I've thought about the most and the
18 one that we're closest to, but they're not unrelated
19 to the other issues, especially with regard to
20 reliability.
21 In terms of transfers, my experience of
22 transfers is that you can get a lot of people to
23 agree that if you can do it, that it would be nice
24 to be able to have a market allocation in the sense
25 that we have for most other kinds of commodities and

1 goods in the economy, but -- and so that I -- but I
2 think that the case -- but it seems the support
3 often stops there.
4 I think this case for water transfers is
5 pretty compelling, and I think that the problem is
6 that there's people that worry about the devil and
7 the details as to not what good can come from this
8 but what are the problems and complications that
9 will come out of this. There's been a lot of talk
10 about that and I'll try to focus on what I think is
11 good about it.
12 The first thing that I think we're looking
13 at here in terms of the concerns about water
14 transfers is that, well, transfers means that the
15 waters are going to be allocated different than they
16 were -- differently than they have been, and I think
17 that's true. But it's also, I think, the assumption
18 that somehow you're dealing with a zero sum game and
19 that anything someone else is going to gain, someone
20 else is going to be losing.
21 I think to a large extent, I think we
22 should think of transfers as a way of leading to a
23 world where you can actually have benefits, because
24 you're going to get signals and to change
25 behavior -- you're going to get signals going on

1 that are going to change behavior. So you can't
2 just take the current benchmark and assume that
3 water being used how it is today is going to
4 continue being used that way and that what you're --
5 the economic value and output you get from water is
6 going to be the same.
7 When people have the incentives, I think
8 they change behavior and you'll see a different
9 solution which leads to a possibility for more of a
10 win-win. It's not just what you lose -- what you
11 gain, and the other person loses is going to
12 balanced all to a zero sum.
13 That's a message I think -- my basic
14 message and I'll have a few more things to say about
15 it, but it's also the message of an earlier study
16 that was done on behalf of the Bay Area Economic
17 Forum essentially talking about using water better.
18 It was a very good study even though it was done at
19 the earlier part of the '90s.
20 I go back, I read through it, and the nice
21 thing about water issues is that things don't seem
22 to get dated. So we could just -- I could just as
23 well just change the date on this and re-polish and
24 it's going to get -- it would be pretty topical. So
25 that's one of the nice things.

1 The bad thing, of course, is the other
2 thing is things don't get dated.
3 And what I see in terms of the water
4 transfers is that -- what I was alluding to is that
5 it can change behavior. And what we're talking
6 about here is that water transfers, I think, are
7 essential to sending messages about how water should
8 be used efficiently. We just had some comments
9 about important it is to make sure we're using water
10 efficiently.
11 The best way I know of getting people --
12 having people use a resource efficiently is they
13 realize what the underlying value of that is, and
14 the best way to send the message about that
15 underlying value is to have the price of it out
16 there.
17 And so I see that -- I see that water
18 transfers, an expanded water market where it's steep
19 enough and where prices are meaningful, that -- and
20 this is not to say -- I know that -- it's not to say
21 this is the only solution and I have a lot of
22 caveats that are going to come -- it can send the
23 message to how you should be using this. So it
24 certainly can increase reliability in the short run
25 and it could also send the message about how

1 valuable water is. And this will immediately send
2 the message as to what you should be doing in terms
3 of conversation and other measures to effectively
4 increase the existing supply of water.
5 All right. The other thing it can do, and
6 that is for the longer run, and I don't -- I don't
7 have the expertise to say how much -- whether or not
8 the existing storage is enough and how much more
9 water is needed. I can say, though, that it's my
10 guess that water is not being used as effectively as
11 it can be. If there is need for storage, I think we
12 will see that in what -- when you have a really
13 expanded market, you'll see, you'll get the signal
14 as to what the value of water is. You'll be able to
15 play that up against what the cost would be of
16 creating new supply.
17 Now, having said that, I also realize that
18 the market is -- there's a lot of aspects of water
19 which market is not going to solve, and one of those
20 has to do with issues with regard to wheeling.
21 Conveyance facilities are national monopolies, you'd
22 probably need some attention to it there.
23 Other issues -- another issue that's very,
24 very important is the environment. This market's
25 not going to take care of the environment.

1 Standards have to be set, standards have to be met.
2 The environment is -- water is important to the
3 economy, but the environment, the quality of life is
4 also very important to California economy. And so
5 you have to have that component there and the
6 pricing is not going to solve that.
7 The other things, I think, is -- in terms
8 of other things that do get a lot of attention also
9 is groundwater, those kinds of issues which raise
10 the classical communal rights problem, overdrafting,
11 these sorts of things. Those things have to be --
12 that's something with the market you cannot
13 necessarily be dependent on.
14 The other thing, I think, that raises real
15 concerns about water transfers is, well, what's
16 going to happen to my water rights if I start
17 selling this? And I think you definitely have to
18 have measures that are going to secure the water
19 rights of those who have them today.
20 Now, having said that, let me just say a
21 couple of things about the CalFed element that I've
22 read, the draft element that I've read.
23 One is that there seems to be a lot of
24 attention and probably rightly so to the problems
25 that can come up with regard to water transfers. If

1 I was to draft this part of the element, I think I
2 would probably spend a little more time -- I think
3 there was a paragraph that talks about how water
4 could be help -- water transfers could be helpful in
5 terms of efficiency and whatnot, but there's a lot
6 more paragraphs talking about how it can be a
7 problem and what do you have to do solve it.
8 And I think that you don't get a sense that
9 this is a document that truly believes -- comes from
10 true believers of water transfers or the benefit
11 from those. Not to say there aren't problems that
12 have to be addressed.
13 I think the other issue is that there are a
14 lot of legal complications, inconsistency in the law
15 that inhibit transfers. These are recognized, I
16 think, in the CalFed process so far, but I think
17 that there's no reason why you shouldn't have
18 parallel efforts going on. It seems to me that
19 things are a bit linear.
20 There's a problem you want to take care of
21 first which is dealing with people's concerns about
22 what are the impacts of water transfers going to be.
23 There could be parallel paths going along on some of
24 the other important issues. You don't have to
25 resolve everyone's concern about who's going to be

1 protected without -- before you look at some legal
2 issues in the model transfer bill and some of the
3 other short-term legislation that's been discussed
4 recently. The model transfer bill is sponsored by
5 the California Round Table and other entities.
6 That's, I think, a good starting place to look.
7 The other point I think I would make is
8 that there's a lot of attention -- one of the key
9 elements in the current draft seems to be the
10 clearing house. Could be a very good idea, but what
11 I don't see is the explanations for what it is the
12 clearing house is correcting that would not be taken
13 care of by itself if you did, in fact, have a water
14 market.
15 It may be that it is needed, but I don't
16 see any discussion about this is -- here's a problem
17 that we're not going to be able solve through the
18 market. Why won't the market have this kind of
19 information provided? Why won't the market have a
20 clearing mechanism developed? It may not, it may.
21 It's not obvious to me that it won't. So I think
22 those are just sort of the specifics on the
23 legislation -- on the draft.
24 My greater message, though, is that I think
25 there can be some benefits. There are obviously

1 issues that have to be addressed outside what the
2 market can solve, but I think that my sense would be
3 that if -- that the CalFed draft on the water
4 transfers could be, I think, recast in some ways
5 that would bring out some of the strengths of the
6 water market.
7 Thank you.
8 CHAIRMAN McPEAK: Thank you, Fred, very
9 much.
10 Next we have Robin Brach, who is the Chair
11 of the Silicon Valley Manufacturing Group Water Task
12 Force.
13 Welcome.
14 MS. BRACH: Thank you.
15 Just to give a little background on the
16 Silicon Valley Manufacturing Group. It's a public
17 policy trade association that was formed twenty
18 years ago by David Packard of Hewlett-Packard.
19 Today it represents 130 Silicon Valley employers who
20 provide over 250,000 jobs in the valley.
21 The Manufacturing Group invites CEOs and
22 representatives from member companies to work in a
23 coordinated fashion with government officials,
24 nonprofits and environmentalists to form cooperative
25 coalitions.

1 The mission of my task force, the Water
2 Task Force, is to follow critical issues affecting
3 water quality, supply, usage and management in
4 Silicon Valley, and to ensure that regulations
5 affecting these parameters make technical and
6 economic sense to the regulated community and are
7 based on sound science.
8 Industries and residents of Silicon Valley
9 must have a safe, clean, reliable and high quality
10 water supply, and I'd like to focus on the water
11 quality issues today as they relate to
12 nonagricultural business and the environment.
13 As Chair of the Water Task Force I'm very
14 much aware of the investments that high-tech
15 companies have made in advance treatment processes
16 such as reverse osmosis and ionized water systems to
17 meet product demands. Industry needs a clean
18 reliable source of water for manufacturing.
19 Some treatment processes use almost as much
20 water as they waste in order to obtain clean
21 processed water. It makes sense that the cleaner
22 the incoming source water, the less treatment
23 needed, the lower the cost to business in operating
24 and maintenance -- there goes my voice -- and the
25 less filtration media being recycled or going to

1 landfills. This translates to lower overhead cost
2 and obviously more competitive pricing in end
3 products.
4 Many member companies are involved in the
5 "Slow the Flow" campaign of the San Jose/Santa Clara
6 Water Pollution Control Plant and have instituted
7 extensive recycling and reuse programs moving
8 towards zero discharge of industrial waters to the
9 Bay.
10 We're also involved in the Watershed
11 Management Initiative in Santa Clara County and in
12 storm water pollution prevention in looking toward
13 improving the quality of waters discharged while
14 decreasing the quantity. Theoretically, if we start
15 with less polluted water, our discharges will be
16 even cleaner.
17 The Manufacturing Group is also very
18 concerned with the safety aspects of the drinking
19 water. The water quality consistently ranks high as
20 a public concern when polls are conducted in the
21 county. As an employee of a company that's finding
22 it hard to attract and keep employees in the valley
23 due to the cost of living, I can tell you that
24 adding poor water quality to the mix will make it
25 even more difficulty to attract new talent to the

1 Bay Area.

2 Most recently health concerns have risen
3 due to a couple of epidemiological studies performed
4 by Santa Clara County. The latest show that
5 pregnant women who drink tap water and water with a
6 high trihalomethane content, which is a disinfection
7 byproduct, tend to have a higher rate of
8 miscarriages compared to those who drink bottled
9 water.

10 These studies are reminiscent of studies
11 conducted within the semiconductor industry during
12 the 1980s that pointed to a certain class of
13 chemicals as being harmful to employees and unborn
14 children.

15 The Manufacturing Group industries have
16 cleaned up their act since the 1980s and are
17 concerned that others be held to the same rigorous
18 standards. We must have a safe water supply for our
19 employees, their children and their pets. We
20 support the early implementation of water quality
21 actions and a comprehensive monitoring program to
22 determine the effectiveness of these actions on the
23 Delta.

24 Water supply agencies and utilities have to
25 meet regulatory standards as we all do. As more

1 knowledge is gained and new science is applied, some
2 regulations are going to ratchet down. We know
3 that. Tighter standards obviously are going to
4 become more difficult to meet by treatment alone.
5 Because of these factors, we believe that
6 improving the quality of the source water, the Delta
7 water, is crucial to overall water quality. Any
8 junior process engineer soon learns that to make a
9 good product you have to start with high-quality
10 ingredients. In this case, it's evident that we
11 need to start with the highest quality source water
12 available and make it even safer by treating it.
13 And as the manufacturing community has learned, the
14 fewer processes it takes, the fewer chemicals used,
15 the less pollution generated, the better it is for
16 the planet.
17 It may surprise you to hear that the
18 business community is also concerned about the
19 ecosystem. What many people fail to take into
20 account is the corporations are made up of
21 individual employees and that those employees are
22 just as concerned with the health of the planet as
23 anybody else.
24 Many of us are concerned not only with the
25 so-called uses of the body of water but more

1 importantly with the overall health of that body of
2 water. Critical parameters which may have nothing
3 to do with what humans consider currently --
4 currently consider important uses may still wait
5 discovery.
6 As a resident of Santa Clara County I can
7 tell you that businesses and residents alike support
8 CalFed's objective of restoring the Bay-Delta
9 ecosystem back to a healthy, functioning and
10 sustainable level. We'd like to see the restoration
11 viewed holistically taking into account as many
12 factors as possible.
13 And I thank you for this opportunity to
14 present that.
15 CHAIRMAN McPEAK: Thank you. Thank you,
16 Robin.
17 Next is Steve Tedesco who is the Chief
18 Executive of the San Jose/Silicon Valley Chamber of
19 Commerce and has long been a leader in the business
20 community and with that Chamber.
21 Steve, welcome.
22 MR. TEDESCO: Thank you. It's a
23 pleasure to be here.
24 First I want to kind of position why the
25 Chamber has been involved in this issue so long.

1 We've got an organization of about 2400 different
2 businesses that are members. That's from one-person
3 businesses that work out of their homes to the
4 largest in Silicon Valley, HP and Lockheed. It's
5 the largest broad-based business organization in the
6 Bay Area. And that's important because the
7 solutions that are going to come down are going to
8 be solved by people, not necessary by government.
9 Our members range from Menlo Park to
10 Gilroy, but clearly the bulk of them come from
11 San Jose proper, within the City of San Jose. And
12 some of the data I give you might come from Santa
13 Clara County because that's the way we give it.
14 But just to see the magnitude because we
15 are so dependent on Delta water, Delta water
16 supplies over 50 percent of our water need. But in
17 1995 numbers there were about 42,000 businesses in
18 Santa Clara County. About 850 of them employed more
19 than 100 people. The rest of those companies
20 employed less than 100, and statistically throughout
21 the state about 78 percent of those companies really
22 employed less than 25 people.
23 It's a majority of small businesses that
24 make up the economy, not only of Silicon Valley but
25 also the State of California. And it's going to be

1 that conglomerate of businesses and people that are
2 going to help solve this problem. It's also true
3 today that 60 percent of the work force comes from
4 those smaller companies, not from the large
5 companies.
6 We find ourselves sometimes lobbying the
7 business community to engage in this process of
8 treating water as an important commodity. We're
9 very active with the Manufacturing Group in the
10 Santa Clara Water District to encourage residents
11 and businesses to put in low-flow shower heads to
12 do -- as Don was mentioning earlier, to do the
13 things that we can do effectively to conserve water.
14 Low-flow toilets, low-flow shower heads, a major
15 reclamation project at the sewage treatment plant,
16 some of it being pushed on us for different reasons,
17 as Steve knows, but it still is heightening our
18 understanding of how important water is and the
19 quality of it and how much we need it to grow.
20 We're an economic development organization.
21 We believe in creating more jobs. I don't know that
22 I'd want to put unbridled growth on it, but we
23 believe that Santa Clara and Silicon Valley needs to
24 keep adding jobs to keep the economy growing. And
25 that benefits every one of those businesses, not

1 just the large companies.

2 We know our water supply needs are going to
3 grow to the tune of about 20 percent over the next
4 few years. We need, yes, a reliable supply of
5 water, a high quality supply of water, but a growing
6 supply of water. I don't think we can underestimate
7 the problems, and I know Don touched on them a
8 little bit, the battles that will happen if we're
9 fighting for a dwindling resource. We know we need
10 to increase that resource, but we also know that we
11 need to do in the business community everything
12 possible to treasure that resource and to use it as
13 effectively as possible. And as was mentioned,
14 everybody across the strait needs to understand
15 that.

16 As an economic development organization,
17 the environment has to be important to us. The
18 quality of life has to be important to us. Robin
19 mentioned that. I know Sunne knows it from the Bay
20 Area Economic Council. People and businesses come
21 here because we have a tremendous quality of life.

22 Water and the environment and maintaining
23 those environments, those river environments, those
24 water environments, is extremely important to the
25 San Jose/Silicon Valley Chamber of Commerce in our

1 role of trying to attract and keep growth that's
2 going to happen in the Silicon Valley.
3 We're very prepared to support the
4 solutions. I'm certainly not prepared to talk about
5 transfers in the way that we're going but we know
6 there's going to be a variety of solutions coming
7 out of this proposal.
8 I believe that the Manufacturing Group, the
9 Chamber of Commerce and Chambers of Commerce around
10 the state will play key roles in becoming -- in
11 convincing their local communities, their local
12 business members to support this project because we
13 know it's going to be very expensive.
14 It may be second in cost next to solving
15 our transportation problems or third to our
16 education problems. But we know it's a very
17 expensive solution, whatever it's going to be, and
18 we're going to need to be there to convince the
19 voters and the businesses of our jurisdictions to
20 support it.
21 But to do that we're going to have to
22 clearly be able to tell them that it's higher
23 quality, it's extremely reliable. And we have lost
24 companies in Silicon Valley because we could not
25 guarantee uninterrupted water, and Rosemary can

1 speak more directly to that.

2 But that's not good for economic

3 development, and we know we're going to need more of

4 it. We would be kidding everybody in the State of

5 California to tell you that we think through our

6 recycling -- reclamation efforts and our "Slow the

7 Flow" efforts that we're not going to need more

8 water. So that's going to be an important part of

9 the package that we're going to be, you know, very

10 much involved in being supportive of that.

11 I'm not quite as old as Don, but I was at

12 the Chamber for 21 years and we've been involved in

13 these water issues all 21 years. The Chamber's

14 about 120 years old, and as I go back in some of our

15 archives, the gentleman at the other ends is

16 correct, some -- we found some reports like "Living

17 Within Our Limits" or "The Housing Imbalance" of 20

18 and 30 years ago, that if you take the date off we

19 can simply bring the report out again.

20 I think we're at a point that you can't

21 come up with a solution like that. Over the next

22 decade, we have to find a solution, get public

23 support for the finances that are going to build

24 that solution and be ready, really, for the growth

25 of population that we all know this state is going

1 to have.

2 So we're -- I appreciate having the

3 opportunity to talk to you and to answer any

4 questions and wish you best luck in coming up with a

5 solution.

6 CHAIRMAN McPEAK: Thanks, Steve, very

7 much.

8 Mr. Whitlock is a partner with Pillsbury,

9 Madison & Sutro in the Silicon Valley office.

10 Wayne Whitlock.

11 MR. WHITLOCK: Hello. Thank you, Sunne.

12 I guess I was asked to speak here today in

13 part because I have a perspective coming from the

14 legal community about the kinds of processes that

15 CalFed is involved with. I'm an environmental

16 lawyer and I've helped my clients work on issues

17 like this for many, many years. It seems like many

18 years now. I'm not that old but they put years on

19 you.

20 I was reviewing the goals, the objectives

21 of CalFed and I just thought about these -- the four

22 objectives are to restore the Delta ecosystem,

23 improve water supply, improve water quality and

24 improve levee stability.

25 I didn't go to the CalFed meetings but I

1 have sat through many stakeholder sessions where
2 people were trying to reach agreement on what the
3 goals are, and I can just imagine how hard-fought
4 those words are and just how valuable each one of
5 those words means.
6 The interesting thing about this at this
7 stage of the process, and that's really what I'd
8 like to focus on, is what this process means and how
9 it can go forward, what's going to be -- what will
10 have to be kept in mind in order for the process to
11 succeed from a legal perspective.
12 I didn't come with a speech on what the
13 Endangered Species Act is all about or what the
14 Clean Water Act is all about. Just listing all the
15 different statutes that apply here would take
16 forever, and that's why this process of
17 reconciliation is so critical. Because when this is
18 all finished, lots of people's interests and lots
19 and lots of different laws will have to be
20 reconciled and implemented and it's a very complex
21 process. But it's pretty clear that there is a very
22 strong commitment from the business community to
23 support that.
24 The commitment, I think, is in part to the
25 funding. A project of this size obviously needs a

1 great deal of funding and the funding is going to
2 come from many sources, government and from the
3 private sector as well. State and Federal and maybe
4 even local governments will contribute in many ways.
5 One of the reasons that people make
6 commitments to support things like this and make
7 fundings, if you think about this the way we do in
8 the Silicon Valley, kind of like a business
9 transaction, is that people will get a return on
10 their investment.
11 In this case, it's not so much that we're
12 going to -- that the business community will make
13 money on its investment as it looking to get a
14 return on that investment. In other words, the
15 things that the business community is hoping to
16 achieve: Greater water supply, better water quality
17 in the South Bay, really planning on that eventually
18 coming to fruition.
19 The complexity of this process means that
20 it's going to take a while before all that stuff
21 actually gets carried out. Some things will have to
22 be done before others and a very important of
23 restoring the Bay-Delta ecosystem is obviously going
24 to get underway quickly. But the challenge in a
25 process like this with many stakeholders who have

1 made this kind of commitment is to give the
2 assurances that are necessary to keep those
3 stakeholders supportive and involved.
4 And what that means in a planning process
5 like the EIR/EIS process and that kind of thing is
6 to plan to give assurances or to seek assurances so
7 that the kinds of things that we're seeking, this
8 better, you know, water supply and better water
9 quality can actually be carried out; not at the
10 expense of other things but that it can actually be
11 carried out.
12 There are legal mechanisms and planning
13 mechanisms that will have to be pursued very
14 carefully in order to preserve those options, and
15 that's the beauty of the CEQA/NEPA process. It's
16 also the challenge of that process. And we would --
17 I think you recognize that if one of those goals
18 starts to get carried out way ahead of the others
19 and the others get left behind, then stakeholders
20 get nervous and worried about whether their -- the
21 things that they're most interested in will also be
22 taken care of.
23 And in a process like this, the only hope
24 for it to really succeed is to have the ultimate
25 solution be -- actually the hope that it will be

1 carried out.

2 So I think the challenge here is that

3 everyone, all the various stakeholders are going to

4 have to support each of those four goals very

5 aggressively to make sure that they can be carried

6 out, to make sure that the other stakeholders feel

7 the security that they will be carried out, and even

8 though some of them are going to take lots of time

9 and effort and investment, the incentive will be

10 there and remain for the parties to continue.

11 Thank you.

12 CHAIRMAN McPEAK: Thank you very much,

13 Wayne.

14 Let me open this up for any comments or

15 exchange of ideas between the panel members and the

16 BDAC members.

17 Yes. Let's go Roger and then Byron.

18 MR. PATTERSON: I'd like to just comment

19 briefly on some of Fred's observations.

20 We've been in many meetings together on

21 this subject by now and, you know, one very valid

22 point is that the emphasis you see in the document

23 so far tends to be on the challenges. I think that

24 is rather -- of transfers of water transfers rather

25 than the benefits. I think that's for two reasons.

1 One, that the challenges are there to be
2 solved and we're trying to articulate them as
3 clearly as we can and recognize what they are.
4 And secondly, as a former government
5 official many years ago, I know there's always a
6 tendency in government and probably is true in other
7 sectors as well, that you tend to write in sort of
8 an advocacy direction anticipating the objections.
9 And with water transfers, the basic equation seems
10 to be that very few people say it's a bad idea to do
11 it, but there are a lot of people who have a lot of
12 fears about these negative consequences.
13 And so in a document that is attempting to
14 promote it, you sort of inevitably tend to, I think,
15 focus on the challenges and how to overcome them.
16 That relates to, I think, to your second
17 point or really question about the purpose and value
18 of the clearing house mechanism. I guess as -- and
19 I know this group heard some about this at the last
20 meeting that I couldn't attend from my co-chair of
21 the Transfers Panel, Tib Belza.
22 I personally would like to see more
23 aggressive steps recommended from this forum to
24 promote transfers which, to me, means anticipating
25 and answering many of the fears and concerns and

1 objections that you hear out there. But the
2 clearing house seemed to be one fairly easy thing
3 for people to coalesce around; not as an adequate, a
4 fully adequate remedy, but really providing one of
5 the things that has proven most successful in public
6 policy and other arenas, and that is simply full
7 disclosure.
8 I think a lot of the underlying concerns
9 about just opening up a transfers market tend to
10 deal with the fact that people feel they're not
11 informed, that big deals can be done and suddenly
12 you wake up and read about it in the papers. And at
13 present, there's a lot of validity to that.
14 And so just as we do with the Federal
15 Securities law which rely on almost entirely on
16 disclosure as the mechanism to keep the public
17 interest protected and even in the environmental
18 arena with the toxic releases inventory that was
19 adopted some years ago, I think the notion of the
20 clearing house is just to say, look, at least if we
21 can make sure that as transfer occur there is an
22 adequate analysis of the impacts and people can have
23 access to that, that that will be a big step in the
24 right direction.
25 And as I said, it's probably not adequate

1 but I think it -- a lot of what we have to do in a
2 process like this is say, can we reach agreement on
3 at least the first step and then see if we can take
4 some harder ones. But I think that probably has a
5 lot of promise as a good first step.
6 CHAIRMAN McPEAK: Thank you, Roger.
7 Byron.
8 MR. BUCK: My question is also to Mr.
9 Furlong. What is your view on the adequacy of the
10 water transportation infrastructure as we've got it
11 today to support a vibrant transfer market?
12 MR. FURLONG: I'm not an expert on it.
13 I couldn't tell you how much more you would need. I
14 think that's -- from the experts that I've talked
15 to, they would tell you, well, you really don't have
16 the infrastructure there and that you probably do
17 need more in terms of, you know, there's a chance
18 for the water.
19 But in some sense, you don't really -- you
20 really don't know what you need until you have the
21 mechanisms and the signals going on in terms of you
22 see people want to do transfers and they can't do
23 it, then you're going to find out where you need it
24 and those sorts of things.
25 So I think that's my answer, is that I

1 don't think anybody really knows how much more you
2 would need until you actually get in a position
3 where you have the deals being done and you get the
4 demand there and you see where you should be doing
5 it. And that's probably the best way to do it
6 because then you're going to -- don't have to try to
7 second guess where it should go but you'll have some
8 firmer basis for deciding that.
9 CHAIRMAN McPEAK: Yes, Alex Hildebrand,
10 and then David Guy.
11 MR. HILDEBRAND: The discussion by the
12 panel indicates that they're going to need a lot
13 more water and they would like higher quality water
14 to take care of the growing demands in the urban
15 area and commercial activities that result from
16 population growth, and that this will be necessary
17 in spite of whatever they can do in the way of water
18 conservation.
19 There seems to be a belief here, however,
20 that that same doesn't apply to the production of
21 food that's distinguished from the production of
22 computer chips.
23 (End of tape)
24 MR. FURLONG: -- are a little hard to --
25 not all that will be going to -- talking about the

1 CalFed process, not all that would be going to the
2 urban side, obviously.
3 The other point is that to the extent --
4 see, you're -- the inconsistency is what you're
5 talking about there is essentially the value of the
6 -- if that was going to be the impact on
7 agriculture, the value of agricultural goods would
8 go up so high that the water would be reverted back
9 to their use.
10 So, you know, there is a balance here. So
11 the point is that you don't just have blind
12 allocation, you have some basis for these things to
13 be allocated. And if the kind of scenario you are
14 talking about hit agriculture, the price of food
15 would be so high that the water would automatically
16 go back there.
17 MR. HILDEBRAND: Yes, but you've got to
18 consider the time delay involved here because by the
19 time the price of food starts to skyrocket, you're
20 then 20 years away from being able to build the
21 facilities to get more water.
22 MR. FURLONG: But the point is if you
23 can buy the water you wouldn't have to wait for the
24 facilities. The value is -- if the value was in
25 agricultural production then that's where the water

1 would go.

2 I mean, I think that's the point of this

3 and that's the point I was making in terms of

4 earlier about I think people are concerned about the

5 devil and details. They think that somehow or

6 another this is going to be a mass movement of

7 transfer of water from ag to urban.

8 One, I think the numbers suggested, the

9 amount actually going to urban is not all that much.

10 Second, if the value is there in

11 agriculture, you'll see the water stay in

12 agriculture.

13 CHAIRMAN McPEAK: Any other comments

14 from panel members on the question from Alex?

15 David. David Guy, Farm Bureau.

16 MR. GUY: As a representative of Farm

17 Bureau I have a couple of comments.

18 I was most encouraged that we're going to

19 be dusting off a lot of these older reports. I just

20 happen to have in my briefcase a 1957 report about

21 damming the Eel and Klamath River and I'm encouraged

22 by Mr. Furlong that we can now bring those back out.

23 MR. FURLONG: Sure.

24 MR. GUY: But on a more serious note, I

25 think it's great to see the business community

1 engaged. Obviously at the Farm Bureau we've been
2 working over the last some years to try to keep that
3 engagement and work together with you. Obviously
4 there's a lot in common between the agricultural
5 Okay. community and a lot of the commodities that
6 you are representing.
7 A couple struck me as particularly
8 interesting. The most notable, of course, is you
9 were talking about the due diligence that new
10 companies go through, of course, when they come in.
11 And, of course, farmers have been doing that for a
12 lot of years. You don't buy a farm without, of
13 course, making sure that you have a water right. So
14 obviously the property values and the business value
15 are, of course, very dependent upon water.
16 The other thing that I think is interesting
17 is you were talking about an uninterrupted water
18 supply. And, of course, in California agriculture
19 we see a pretty radical transformation over the last
20 decade to permanent crops which means, of course,
21 that agriculture isn't exactly the same position
22 that you all are dealing with where you essentially
23 have to have an uninterrupted supply. They're just
24 really -- there's no other option.
25 There are a couple differences that struck

1 me that I would, I guess, challenge you to think
2 about and to have some dialogue with us on.
3 The first, of course, is this notion that I
4 think Alex was hinting at a little bit, is this
5 notion of being an upstream versus a downstream
6 water user. Obviously what water conservation and
7 efficiency in the Bay Area being at the end of the
8 pie is much different than water conservation and
9 efficiency in one of the upper reaches of the
10 Sacramento/San Joaquin watershed is what is wasted
11 water to you all is somebody else's water right in
12 the San Joaquin Valley. And I guess I would
13 encourage you to think a little bit about that and
14 what that means when we're talking about new
15 efficiencies and new conservations.
16 The other one is a point that Mr. Furlong
17 made. Obviously in the water transfer debates I
18 think you've made some interesting and some
19 compelling arguments. What I would urge you to
20 think about, though, is the communal interests that
21 you talked about. And I would challenge you to go
22 find out what that really means because I think as
23 you will find out about that communal interest out
24 in these rural areas is it runs very, very deep.
25 And I guess if you want water transfers to

1 work in this state, I would encourage you to address
2 that issue head-on, right up front because if it's
3 not addressed I think you will see a rural backlash.
4 And, again, I think that that can work. I'm not
5 being a pessimist, I'm just saying that that
6 communal interest runs very deep and I would
7 challenge you all to explore that and to work with
8 it and I think it will help make this process work.
9 Thank you.
10 CHAIRMAN McPEAK: Any comments on
11 David's --
12 MR. FURLONG: Yeah, one comment. I
13 think in terms of the impact on communities, I think
14 you're right. And I think that, you know, if you
15 look at -- what I -- my exposure to the CalFed draft
16 and the discussions, that is something that is being
17 taken up. So that is -- so that's something that in
18 this process that I feel is being addressed. So
19 it's -- so the fact that I didn't focus on it is
20 because I think it's being taken -- in this forum
21 being addressed.
22 CHAIRMAN McPEAK: Tom Decker.
23 MR. DECKER: Yeah, I just want to kind
24 of sum up a little bit and thank you all for coming
25 to speak with us. I do agree that the agricultural

1 community has unique problems, but I think that from
2 what I hear, and of course all of you have heard it
3 many times, only the most cynical water interest
4 people, I think, still believe that business is
5 against them and the incredible needs of business
6 and population in terms of the solution here are
7 just overwhelming. I think we're hearing, you know,
8 areas where business is willing to promote this.
9 I think we should be encouraging. I think
10 we should recognize that business have -- the
11 private sector has money and they have ability to do
12 statistical analysis, all sorts of things that can
13 benefit this process.
14 I hope that the -- Fred's testimony on the
15 water transfers issue, very complex, very difficult
16 from a market driven situation, some cynical people
17 say a solution looking for a problem. I happen to
18 disagree with that. I think that this -- the
19 transfers will ultimately be part of the solution.
20 I guess my greatest fear, not so much a
21 question, was listening to Don Perata, and I know
22 that all of you listened to him, I am old enough
23 like he is to have been in the peripheral canal wars
24 and I was a Marin County resident at the time so my
25 position was pretty clear about why we should never

1 send a drop of water south. Of course, now I've
2 been consigned to the south so I have a little
3 different view of this.
4 And I want to bring it up while the
5 business people are here because I -- because as Mr.
6 Perata brought up this vote thing, and as I said
7 very poorly the last time I was here, it's a bad
8 thing. We have to all work together to try to find
9 a solution before we get to the war because the war
10 is a losing proposition, not only in terms of
11 productivity but in terms of what it will do for all
12 of us.
13 So in all of your work I hope you will --
14 since only the most cynical people believe, and
15 there are a few egregious cases of businesses still
16 messing up in terms of water efficiency and water
17 supply, I would like to urge you to continue to work
18 with us as we drive for this solution.
19 Because the population is going to grow,
20 the agricultural industry is going to need water
21 badly to supply that population, and the economic
22 industry which the rest of us all support is badly
23 going to need the water, the manufacturer of the
24 widgets and everything else, to make sure there's a
25 good place for the people to live and eat all the

1 products the agricultural people have to grow. So
2 it kind of all fits together, even though the
3 implementation is the toughest thing of all.
4 I just -- I hope and pray that we do not
5 end up after we go through all this in another one
6 of these gigantic political vote situations because
7 as I said poorly last time, the votes do not favor
8 the people who have the water. And I just hope we
9 can get this implemented and solved before we get to
10 that stage. There's got to be a way rather than get
11 into a fight.
12 Thank you from my standpoint for coming and
13 testifying.
14 CHAIRMAN McPEAK: We do appreciate your
15 taking the time.
16 I'm wondering how all of you view the
17 relative either urgency or importance of resolving
18 these issues in the near term, and to what extent
19 are your members or your employees or colleagues in
20 the company engaged in this issue and what advice
21 would you have for us in reaching out to a broader
22 public on this issue?
23 Wayne, what about the firm? What kind of
24 dialogue is going on there with your other
25 colleagues in the legal profession?

1 MR. WHITLOCK: I think this dialogue is
2 probably not as prevalent as maybe others, but from
3 the perspective I come from, the environmental law
4 perspective, I think it's something that everybody's
5 watching very closely. And what I said in my little
6 presentation I think is really the critical point
7 here.
8 The group already decided the hardest
9 issues, and that is there's a commitment to resolve
10 all those problems in one way or the other. It
11 doesn't mean that the solutions now that are subsets
12 of that are going to be easy. But to me, that's the
13 thing that people have to do at this point, is to
14 say -- remind each other, we are committed to having
15 an adequate water supply.
16 I mean it's not like -- to me, it's not an
17 either/or situation. That's already been decided.
18 And in these kind of stakeholder processes I think
19 the stakeholders have to get together and, as you
20 said, keep reminding each other, we're not fighting
21 that battle any more, we already did that, and
22 that's why we have these four goals already
23 established. Now, how are we going to do it?
24 That's obviously easy to say, but I think
25 that's part of the process that it's win-win for

1 everybody. Everybody's going to have to support it
2 or there's no way it's going to make it. So -- and
3 if it's not a win-win, it's a lose-lose for
4 everyone. I mean, in the water situation, that's
5 all it can be. It's either everybody wins or
6 everybody loses.
7 CHAIRMAN McPEAK: Thank you.
8 Steve?
9 MR. TEDESCO: I think in Santa Clara
10 County and particularly San Jose, I think it's
11 fairly high in terms of the discussion and the
12 understanding about the issues around water and the
13 need to conserve water. I'm not so sure that
14 there's a lot of understanding about some of the
15 kinds of solutions that you're talking about to meet
16 the four goals of CalFed's, so I am a little bit
17 concerned about that.
18 And one of the roles that we want to play
19 is making sure that our business community members
20 do understand what we're talking about in terms of
21 solutions because we've been talking about a lot of
22 solutions in San Jose that deal with the importance
23 of water and conserving water. It does tend to be
24 around the sewage treatment plant and not going out
25 through that pie, but I think it's -- I think it's

1 pretty good but there is a big level to go.
2 From an organization standpoint, we think
3 getting a solution that everybody can agree on,
4 agriculture, urban, environmentalists, that can be
5 reasonably dealt with, we think it's very important
6 to get it done pretty quickly. Because just looking
7 at what some of the potential implementations are,
8 it's a lot of money and a long time. I mean it's
9 probably five to ten years to do some of the things
10 we want to do and ten to twenty billion dollars. So
11 we think it's fairly important to get going.
12 CHAIRMAN McPEAK: Thanks, Steve.
13 Robin, what advice? This is sort of your
14 field of expertise, is it not?
15 MS. BRACH: Somewhat, but I would have
16 to say that unfortunately a lot of the Manufacturing
17 Group companies have some -- a bit of apathy in
18 regard to the topic.
19 I think I echo what Steve just said with
20 regard to we've been very much focused on the flow
21 to the Bay and metals to the Bay and regulations
22 surrounding MPDS permitting and other issues like
23 that. So when we bring this up to CEOs of
24 companies, CEOs of companies are concerned with
25 housing and transportation. And when you say,

1 "Well, what about water," they're like, "Yeah,
2 whatever." That's sort of the attitude.
3 So unfortunately, unless you can bring some
4 pressure to bear and say, "Look, this is going to be
5 an issue as important as transportation and
6 housing," I don't know that the CEOs are going to
7 catch on.
8 As to how you get that word out there, I
9 have no suggestion on that one.
10 CHAIRMAN McPEAK: Thank you.
11 Robert, does Valencia serve both rural and
12 urban or ag and urbanized areas? Can you discuss
13 that?
14 MR. DIPRIMIO: We deliver water only to
15 municipal persons.
16 CHAIRMAN McPEAK: Only to municipal.
17 MR. DIPRIMIO: The other -- there is an
18 agricultural delivery system in a different part of
19 the company, so...
20 CHAIRMAN McPEAK: Okay. But what advice
21 would you have for us and how important do you see
22 this?
23 And you are from farther south than
24 everybody else here, so...
25 MR. DIPRIMIO: Well, it's just so darn

1 hard to keep water as a key issue unless there's a
2 serious drought. I mean during the drought there's
3 a lot of dialogue about the water issue in Southern
4 California and throughout the state. And it's --
5 it's troubling on one hand that we can't keep it
6 there, but let's face it, there's a lot of issues,
7 other issues. Personal safety issues, education
8 issues, transportation.
9 My hope for this group is that you would --
10 you're the experts and there are a lot of other
11 experts working on this problem and that we need a
12 solution. And until there is a solution package
13 that's agreed upon, it's really hard to get dialogue
14 or get involvement by -- whether it's the business
15 community or the residents of the state.
16 And I agree with Robin, if you were to ask
17 a CEO right now about the reliability or quality
18 issues, unless they're having some kind of issue
19 right in their company, they're trying to get their
20 order out, you know, manufacture that next widget
21 and provide the customer service to some customer.
22 So that's what they're focused on.
23 Take care of the water, that's what your
24 job is. You know, provide the needs for the state.
25 And I think that if I could leave you with that,

1 that we place a lot of trust and faith in the
2 quality of people that are around this table here.
3 CHAIRMAN McPEAK: Thank you, Robert.
4 Fred, we've had a little bit of discussion
5 about this.
6 MR. FURLONG: In terms of, you know, how
7 urgent it is, I think if you look at how it fits
8 into the overall economy you'd say it's very, very
9 important to get done.
10 On the other hand, you say, well, what are
11 the problems you see that an individual business
12 would face today? That's going to vary quite a bit
13 and some are going to be much more attune to it than
14 others.
15 My experience is that there is -- there are
16 CEOs who are aware of what the issues are in part
17 because of their own parochial interests because
18 water is particularly important to that, but others
19 also have seen that this -- in a longer term sense
20 water has always been important for California,
21 continues to be important to California, you're not
22 going to have the economy your have without it. And
23 so that the Bay-Delta is sort of the heart of what
24 has to be taken care of.
25 How do you bring that to -- the other part

1 of your question, how do you bring that to higher
2 visibility in terms of the public? I mean I think
3 it's very, very difficult. It's difficult because a
4 lot of what goes on is very technical and hard --
5 difficult to explain and understand.
6 And I think that from the business
7 community it's been -- we don't have a comparative
8 advantage in understanding all these technicalities
9 and all the issues with regard to hydrology and in
10 terms of what it takes to restore the environment.
11 But what we do know is that you have to take care of
12 those things in order for the economy to be able to
13 have the future which is commensurate with its past.
14 CHAIRMAN McPEAK: Thank you.
15 Yes, Tom Graff.
16 MR. GRAFF: Just a quick follow-up for
17 Fred. I mean, a lot of what you said just struck me
18 as sort of standard -- I don't mean this as
19 disparaging, but pretty standard economics. You
20 convinced me but I don't think you've convinced a
21 whole lot of people in California.
22 Do you have a notion as to why this sort of
23 marketing paradigm simply doesn't seem to take in
24 public policy in the state?
25 MR. FURLONG: It has in some arenas,

1 right?

2 MR. GRAFF: It has in most arenas other

3 than water, yes.

4 MR. FURLONG: And I think the issue --

5 now, I guess I should thank you for saying it's

6 standard economics, although I'm not sure sometimes

7 you give an analysis and someone says, "Well, you

8 sound just like an economist."

9 You go, "Well, okay, thank you."

10 I'm not sure how else I can sound.

11 I think the issue, really, if you compare

12 water with regard to -- in relationship to a lot of

13 other commodities, there's going to be some unique

14 things. Some people say, "Well, look, it's

15 different because you have to have it. It's a

16 necessity."

17 But I think if you look at where the heart

18 of the matter goes is the issue of how rights are

19 allocated. And the uncertain -- that's where you

20 have problems in a market economy, is when you don't

21 have rights well defined so that you can -- because

22 when there's -- you go to economies like Russia,

23 they attempt to market economy but they're not

24 working because they don't have well defined

25 property rights.

1 And that's where it comes down to, is
2 having those -- and that's how -- now how you solve
3 that problem is another issue. But you asked me why
4 is there a problem with water. That's where it
5 comes down to.
6 And the issue of transfers, I think, raises
7 the whole issue of securing those -- how do you
8 secure those rights? And if I do transfer, do I
9 lose those rights? Who has the right to transfer?
10 We raise the issue of larger communities, to what
11 extent are their rights connected to it?
12 So I think it has to -- it comes down to a
13 basic issue of the uncertainty about what will
14 happen to the property rights on this particular
15 good.
16 Now there's a lot of other issues but I
17 think that's the core. And that's always the core
18 in any issue. And you look around in economies
19 where you don't have the market working, that is
20 usually the issue, a lack of well defined property
21 rights. On those bigger pictures it's because you
22 have a lack of a legal structure. And that's -- in
23 water in California there's a lot of uncertainty
24 about the legal issues.
25 But I think it basically goes back down to

1 that element, what happens to my property rights
2 after this things goes forward.
3 CHAIRMAN McPEAK: Steve and then Judith
4 Redmond.
5 MR. TEDESCO: I really don't want to
6 sound naive on this but I've got to tell you, with
7 the leadership at the Chamber of Commerce and some
8 of them overlap the Manufacturing Group, and I think
9 this is in the public, there's a real difference of
10 opinion -- feeling about property rights that
11 somebody can buy and sell water.
12 It's a very different issue when you get
13 down to the consumer and the average citizen of
14 California, or at least those I know in San Jose.
15 They don't -- they find it distasteful that you're
16 talking about selling water rights which truly is
17 the lifeline of living in the State of California.
18 So that's probably one of the reasons the
19 market analysis doesn't work as well. Because I
20 hear our board members who are very good business
21 people who run very good big companies say, "This is
22 ridiculous that you can buy and sell water that some
23 entity has control of water in those kinds of
24 blocks, not water companies or retail."
25 But I don't think you're hearing some of

1 the citizens of California say, "Selling water is
2 foreign to me in terms of the competitive market."
3 But I don't want to be naive.
4 CHAIRMAN McPEAK: Judith and then Byron.
5 MS. REDMOND: Yeah, I guess I would
6 agree that water is not like other commodities and
7 it -- to be puzzled that the market doesn't work
8 just I think shows a certain lack of understanding
9 that there is a community, an environmental and a
10 community interest in water. It's not a commodity
11 that is like other ones.
12 And earlier when you said that everyone
13 will benefit from water transfers, you were taking
14 the economists' view that there is a buyer and a
15 seller and that's the end of the deal. There's
16 actually a lot more at stake and it's not that
17 people will wake up in the morning and find out that
18 something has happened. It's that people -- there
19 have been demonstrated effects.
20 In Butte County people woke up in the
21 morning and found that their groundwater had gone
22 dry and they couldn't irrigate their crops because
23 of water transfers that took place in Butte County.
24 In Yolo County because of water transfers,
25 people woke up in the morning and found that the

1 unemployment lines had gotten longer because of 13
2 percent of the land in the county had been fallowed.
3 So you shouldn't be as puzzled that there's
4 a tremendous resistance in some of the source
5 counties without protections and community
6 assurances that we will -- we can't just take an
7 economist's viewpoint on this issue. Water is a
8 community resource and there have to be protections
9 for the community interests, people who aren't at
10 the table just buying or selling it. There's other
11 interests, the groundwater and socioeconomic
12 interests that need to be represented in that
13 discussion.
14 MR. FURLONG: And my remarks, as I
15 pointed out there's a lot of aspects to this which
16 the market does not solve. I think the point is
17 there is room for expanded waters. No one's talking
18 about, I mean, all the water allocated that way. I
19 specifically mentioned that an environment is not
20 taken care of by that and that you have to have
21 standards and they have to be met outside of
22 whatever is happening.
23 So, you know, it's -- I agree with what you
24 said and I think that my remarks were absolutely
25 consistent with that. And I think what we're

1 talking about here is that there is more room to
2 have transfers going on. And I think maybe what
3 people are seeing is, you know, jumping to a world
4 where everything is allocated in this way.
5 No, there's -- I mentioned groundwater as
6 being an issue, the issue of distribution and the
7 conveyance, all those things are issues that have to
8 be taken care of.
9 So I think that the point that I think has
10 to be seen, though, is that to the extent there is
11 room for additional markets and room for the prices
12 to signal as to what the value of these things are,
13 you are going to find -- give people incentives to
14 do things which is in their interest in this case
15 because of allowing the market in terms of
16 conservation. And you're also going to get a better
17 idea of what the water's worth and what other kinds
18 of facilities are -- whether or not they make
19 economic sense.
20 So I think you misconstrued --
21 misrepresented what I was saying essentially. And
22 what I was saying is that there's room for a market.
23 No one's talking about a complete market, but you
24 can certainly move from where you are now and make
25 some progress without going 100 percent.

1 CHAIRMAN McPEAK: Byron, last comment or
2 last question.
3 MR. BUCK: In response to Tom's
4 question, Fred mentioned that the insecurity of
5 rights being one of the major impediments out there
6 to developing a market, and I agree with him. That
7 is one of the things that's a big impediment for
8 those that are on the seller's side. They're just
9 very insecure because they don't know what they have
10 to sell and whether they really have control over
11 it.
12 And ironically, I think some of the big
13 legal decisions on the environment, Public Trust
14 decision and the Rackanelli (phonetic) decision, for
15 all the good things they did have created more
16 insecurity in those water rights and tended to be
17 impediments against a water transfer market
18 ironically when most of the environmental
19 communities are arguing for more of a market and it
20 didn't really turn out that way.
21 As well, Judith mentions the groundwater
22 ordinances that are springing up, particularly in
23 Butte County in response to the drought water bank
24 when they felt there was an overdraft going on and
25 people were effected. Those are new impediments

1 coming onto the scene.

2 If we repeat the '91 drought with those
3 types of ordinances out there with other
4 impediments, we may not see a drought water bank
5 come to the rescue of this state. And so there's a
6 big concern out there that we're losing flexibility
7 in the system right now and that were we to repeat
8 that sequence again, we might have much more serious
9 shortages. Plus now we've got another five, six
10 million people that we didn't have in the time when
11 we had the last serious drought.

12 So the overall pattern when everybody wants
13 to talk about having a better market and we came
14 across all these problems obviously in the work
15 group is we've probably had a more constrained
16 market today than we did then and less flexibility
17 in terms of moving water around. Add to that the
18 physical restrictions we've got because of take
19 limitations in the Delta, you have another layer.

20 We just don't have the physical capacity to
21 move the water when we need it as conveniently as we
22 needed it when we had '90 and '91, which we had --
23 when we had a lot of excess capacity in this system
24 and when we could free up the water, we could move
25 it. That isn't there any more today in as large

1 quantities as it was.

2 CHAIRMAN McPEAK: Thank you. You have

3 been -- we have been joined by Rosemary Kamei.

4 Thank you for being here, Rosemary, and

5 we're delighted that you were able to get in on the

6 back end of this panel. So we're going to close

7 with your comments.

8 MS. KAMEI: Okay. Thank you, Sunne.

9 I apologize for being late, but I do want

10 to thank the business panel for joining us today,

11 giving their points of view. And what I'd like to

12 do is really share the Santa Clara County

13 constituent interest on the CalFed of which Mr.

14 Tedesco is also a signator to this letter, and it

15 lays out what we in Santa Clara County feel is

16 important and what our point of view is in the

17 CalFed process.

18 We also have been trying to make it as

19 broad as possible so that we do have broad support,

20 including Congresswoman Zoe Lofgren and many other

21 of the mayors in our county.

22 So as we are going towards a solution, we

23 look at many partners including the business

24 community, and we look forward to being able to

25 resolve some of these issues that we have

1 outstanding, whether it's transfers or looking at
2 the different communities. And it's very complex as
3 we all know, but getting it out into the community
4 to those individuals and even business leaders who
5 are not familiar with all of the details of it is a
6 task. But we are trying to get as much broad-based
7 support towards this solution.
8 So I just want to pass out our letter, and
9 if you have any questions, you can see me
10 afterwards.
11 CHAIRMAN McPEAK: Thank you very much,
12 Rosemary.
13 I want to thank you Wayne and Steve and
14 Robin and Robert and Fred for being here. Thank you
15 for taking the time joining us, and I think we'll
16 get you out of here in time to get back home.
17 Thank you, bye-bye.
18 (Applause.)
19 Well, believe it or not, folks, you have
20 managed to actually get to an agenda time for
21 finance at the time it was scheduled. So you have
22 not succeeded in pushing Eric off the calendar
23 again. You have to deal with finance. And so we're
24 right -- we're on schedule. And we have an hour and
25 expect to really want to get in a good start on a

1 more in-depth look at the finance issue today.

2 We have -- Eric is going to open up and I

3 think Stein is also going to -- or Steve is going to

4 do it, excuse me.

5 So with that, I'll turn it over to Chairman

6 of the work group, Eric.

7 MR. HASSELTINE: Okay. Well, I

8 certainly hope that after the long awaited time here

9 to get to this presentation which we had originally

10 meant to present in Redding, and things have changed

11 dramatically since then, but -- and then after the

12 great buildup this morning with all of your kind

13 comments and questions as to what's going on with

14 finance, I'm certainly hoping that the presentation

15 will live up to your expectations.

16 I want to start off basically with a

17 summary of what the work group's been doing to date.

18 Some of this will be old because we've touched on

19 parts of it previously, but basically the whole

20 question of financing this program comes down to

21 who's going to pay for it and how are they going to

22 pay.

23 And although the Finance Work Group in

24 large part was established to primarily deal with

25 the issue of how these people were going to pay for

1 the program, really we haven't been able to get past
2 the first point which is who's going to pay. And we
3 have run into at least three major issues there
4 which we discussed at our meeting in Los Angeles to
5 a certain extent looking for direction, and I think
6 we've made some progress since then.
7 And let me sort of bring us up to date as
8 to at least where we were a month ago and then a
9 number of things have happened as we all know and as
10 exemplified by the presentation this morning, and
11 then I need to address how the Finance Work Group is
12 going to also shift direction to accommodate that.
13 As it became quite evident this morning in
14 our discussions, it's really hard to make the policy
15 decisions and the decisions for where we're going
16 with this whole program in absence of any knowledge
17 of the financial impact of what those policies are.
18 At the same time, it's extremely difficult
19 to develop your financial policy without a clear
20 definition of the project. And so although we
21 started off with a -- with trying to formulate what
22 this whole program was going to be, the fact that we
23 now have backed off into a staged implementation and
24 therefore a staged decision-making process, that has
25 significant impacts on the financial policy and the

1 financial program as well.

2 So we now are going to have to make some
3 assumptions and we're going to have to hedge with
4 some contingency planning and some contingency
5 funding measures.

6 What you have there on the board basically
7 is a basic list of financial principles with which
8 we've been dealing in significant detail over the
9 past three years. The basic principle that we
10 discussed here before and have discussed almost
11 continuously at the Finance Work Group is the
12 principle of the whole financial program being based
13 on a beneficiary, allocation of costs, and a basing
14 on the benefits that are actually received from the
15 program.

16 To that end, the -- one of the issues that
17 we've run into and which has been particularly
18 difficult to get past and is one of the three major
19 issues I mentioned in terms of the who pays is
20 trying to define the benefits based on what is the
21 current situation and the benefits to be obtained
22 from where we go from here, or is it necessary --
23 no, no, we're not there yet, thanks -- or do we in
24 fact have to go backwards for a while in time or in
25 terms of conditions to try to compensate the

1 ecosystem for the damages that have been inflicted
2 in the past by the activities that have been carried
3 out in the Delta.
4 So we've all discussed this to some extent
5 before, too, this being what's come to be known as
6 the baseline issue.
7 We can agree that from here on forward, the
8 obligation for mitigation for impacts on the Delta
9 as a result of whatever it is we're doing in terms
10 of our use of the water in the Delta should in fact
11 be borne by the beneficiaries of those actions. But
12 to go back in time and try to find redress for the
13 activities of the past we have found to be a very
14 difficult concept to work with.
15 Now some feel that it's essential that that
16 be done and that there at least be some element of
17 the financial program which in fact represents that
18 contribution.
19 On the other hand, there are those who feel
20 that it is not possible to accurately apportion any
21 blame for degradation of the Delta in the past on
22 any particular group. Many of the activities that
23 in fact created these problems that we now face in
24 the Delta were a direct result of the then current
25 public policy.

1 And so it's hard to sort of, you know,
2 blame everyone for what's happened or to blame a few
3 for what's happened as a result of what everybody
4 was doing.
5 And secondly, the comment has been made
6 that it really is detrimental to the process that we
7 have going here now where we're all trying to work
8 together to move ahead, if we're going to suddenly
9 start pointing fingers and trying to suggest that
10 some people should bear a greater share of the
11 responsibility for us being where we are and that it
12 just makes it more difficult to reach a solution.
13 So with those commentaries, we sort of have
14 at least temporarily, anyway, proceeded with the
15 idea that the benefit-based approach means that any
16 obligations for mitigation at this point will be
17 limited to ongoing direct impacts on the Delta by
18 the programs that we are about to implement.
19 And so that's, I hope, giving you both
20 sides of that particular argument. I know you've
21 heard it before, but it's really not resolved yet
22 and it's one of the things that does have to be
23 resolved before we move further on the whole
24 program.
25 On the -- let's see, we can go to the next

1 one now, Eugenia. Thank you, I'm sorry.

2 Yeah.

3 So as I said, in principle it's okay to

4 think about benefits-based as we proceed from now

5 on. But the issues to be worked out as I just

6 mentioned, the starting point which is the baseline

7 issue, the issue if we're going to be completely

8 benefits-based is how do you put a value on the

9 non-market benefits, namely that's primarily some of

10 the common programs, in particular the Ecosystem

11 Restoration Program and the value of the activities

12 and, you know, trying to put a dollar benefit on

13 that.

14 The other things that need to be taken into

15 account is to simply assure that whatever program is

16 set up to finance, in fact, covers all of the costs

17 of the programs. And also in the end when we get

18 around to allocating costs that there's going to be

19 an ability to pay issue, which I will touch on in a

20 few moments.

21 So we can go to the next one, then Eugenia.

22 One of the biggest things in terms of

23 assigning costs and talking about determining

24 beneficiaries, and therefore, who's going to pay for

25 this is a split between what we call the public

1 dollars and user dollars.

2 It's apparent that both public money and
3 user money is necessary. And in principle when we
4 say "public money" we mean the money that's used to
5 do things to create public benefits, and "user
6 money" is done to do things that create user
7 benefits.

8 I guess we could then -- well, the issues
9 to be worked out there are then is how do you divide
10 benefits between public and users and what happens
11 in those situations where you have programs that
12 have joint beneficiaries that fall into both those
13 categories.

14 And that -- you know, conceptually this is
15 real simple. All these things are simple
16 conceptually. When you get down to the details of
17 trying to apply it and talk about who's going to pay
18 for it, it suddenly becomes very difficult and you
19 find people have very, very strong opinions. And
20 that, I think, is what we're dealing with here with
21 the entire program. So the -- you know, the finance
22 group is simply a subset of both the general
23 environment of this group as well.

24 I guess we can move on to the next one.

25 The whole concept -- I think the public

1 funding is an easy one because it's public and state
2 funding and whatever that money is going to be used
3 for in that policy, of course, we can make
4 recommendations there but as we've been informed in
5 no uncertain terms, I guess on more than one
6 occasion here by representatives of the Federal and
7 State Governments, that they are going to have a say
8 in this.
9 And as a matter of fact, the public money
10 that's going to be made available for this program
11 is going to come as a direct action of Congress and
12 of the legislature. So there's going -- and they're
13 pretty much going to tell us what we can use it for
14 as well.
15 So to the extent to which they will listen
16 to our recommendations, we may have something to say
17 but we're not trying to overwork that particular
18 aspect of it.
19 The one that we have tried to put some
20 thought into so far is what to do about user
21 charges. And basically, the user charges fall into
22 two categories, that of storage and conveyance
23 facilities and then that of the common programs.
24 And the storage and conveyance uses are
25 really the easiest to deal with because, at least in

1 our opinion, the benefits-based principle works the
2 best on those particular parts of the overall
3 program because the -- we feel that the users of
4 those facilities are the ones who benefit from it,
5 and therefore, they're the ones who should pay for
6 it.
7 So for conveyance, those who contract to
8 receive any water through that particular conveyance
9 should pay for the full cost of those facilities.
10 For storage, basically once again, those
11 who contract to receive the water coming out of the
12 storage, and assuming that there's some increased
13 yield to the system as a result of the storage
14 facilities, then those who are the beneficiaries of
15 that yield should pay for it.
16 The question arises should there be any
17 public money going into storage. This is the second
18 major issue, public money for storage. Arguments
19 both sides.
20 There are those who feel that -- and as a
21 presentation was made at our meeting in Fresno about
22 using some of the ERPP money to buy water to provide
23 for drought insurance for environmental purposes for
24 the environmental programs, there are some people
25 who feel that in fact there ought to be some water

1 in storage to provide for the environmental program
2 during the dry years and protect some of the damage
3 that otherwise is resultant from that.
4 So the water use for environmental purposes
5 then needs to be paid for by someone. Should that
6 all be public dollars?
7 The concept has arisen that, well, maybe
8 there should be some user money paid for that also,
9 and the concept of a Delta fee or a broad overall
10 user fee of the Delta to help pay for these programs
11 has been advanced and discussed as a possibility.
12 Also since staged implementation leads to,
13 as we said, staged decision-making, nevertheless
14 that there -- as we talked this morning and in the
15 past, planning for what may happen, we talked this
16 morning of rights of way, preserving rights of way
17 for conveyance even though we don't know whether
18 we're really going to have that conveyance facility
19 or not. Well, the same thing with the financing.
20 You have to do a certain amount of planning
21 and a certain amount of preparation during this
22 Stage 1 process to be ready to move into a storage
23 program or a conveyance program if, in fact, that's
24 your decision seven years from now. And in order to
25 do that, where does the funding for that come from?

1 You're not going to get water users who
2 don't yet have a contract and from who you don't yet
3 have a commitment to buy that extra water if, in
4 fact, that's the way we're going to go, you're not
5 going to get a commitment from them now to pay for
6 all the planning for something that might never
7 happen.
8 So we've tried to fall back on the idea
9 that the planning is, in fact, a public service and
10 it's something that's necessary to provide the
11 contingency planning for this program and that if we
12 end up moving ahead with it and get those
13 commitments at that point in time from users and
14 beneficiaries, then the payment for the water that
15 they receive would also include a surcharge that
16 would pay back the public money for the planning and
17 preparation that took place during Stage 1. And
18 then that money could at that point be used for a
19 continuation of the environmental programs and other
20 things for which public monies have been assigned.
21 So the user funding for common programs is
22 the third of the major issues that needs to be
23 addressed. And that is for the ERPP and for the
24 other common programs, how much user money should
25 really go in there and how should we develop that

1 money?

2 The problem that we have with the
3 environmental program is not only is it very
4 difficult to quantify the benefits in a way that we
5 then can allocate the costs -- I mean we'll know
6 what the costs are going to be but we won't know how
7 to measure the benefits relative to those costs.

8 And so the problem that we have is once we
9 start the environmental program, and everybody here
10 is really concerned about the assurances and so
11 forth that the program's going to keep going and, in
12 fact, it's going to do what it says it's going to do
13 and we hope that it's going to accomplish the
14 purposes that it was set out for, which has to do,
15 really, with the adaptive management program that
16 will follow all of this, but what we're really
17 concerned with in terms of financing is the funding
18 for the Ecosystem Restoration Program has to both be
19 adequate and stable to enable it to be successful.

20 And the concern relates to the fact that we
21 have an unpredictable and a very limited nature
22 relative to the public funding sources as was
23 mentioned today. I think Steve Hall in talking
24 about the Federal funding process -- I mean it's an
25 annual process. You have one shot at it during the

1 year and so forth, and the same thing with the
2 state. You know, we know what it is for the first
3 three years. We don't know what it is after that.
4 And so is there a way, in fact, that we can provide
5 some stability to that.
6 And the thought is that since the water is
7 going to be ongoing continuous activity flowing
8 through the Delta and the people taking the water
9 from the Delta, in fact, is going to be a continuous
10 activity, then if we can somehow tie at least part
11 of the ERPP funding to the ongoing use, then that
12 begins to generate some measure of stability.
13 And the other side is that water users
14 really do have to consider the full cost of all of
15 their actions and the cost of the processes which
16 lead to their being able to have the water as it
17 affects the ecosystem.
18 So at the same time we want -- before we
19 just go off and start assigning fees to people we
20 want to take a very, very close look at all the
21 existing funding mechanisms that affect the various
22 parts of the common program that we set forth, and
23 we want to try to identify any clear beneficiaries
24 from any and each of those programs in order to
25 assign some of the costs there directly.

1 But if, in fact, we get to the point where
2 it looks as if the total cost of the
3 environmental -- the Ecosystem Restoration Program
4 and the other common programs cannot be met by
5 existing and direct beneficiaries in some reasonable
6 way, then one might conclude that instituting a
7 charge on all Delta water users could satisfy both
8 of the needs that we've discussed, which is:
9 No. 1, that the cost of the water use
10 should reflect impacts on the ecosystem.
11 And No. 2, that the common programs need
12 stable reliable funding.
13 So that's a topic that we discussed here
14 also in the past, like a lot of the topics not with
15 any resolution and not with any clarity yet in terms
16 of where we're going with it. But that's the --
17 that's the third issue here that needs to be
18 addressed.
19 It's so that the three issues basically are
20 the baseline, public funding for storage and user
21 money for the common programs.
22 Now it's -- it's clear that -- well, let's
23 see. Let's just move on to the next one. I don't
24 want to spend too much time dwelling on the past.
25 Let me just quickly run through the other

1 parts of this that we've discussed.

2 There certainly is an ability to pay that

3 affects the beneficiaries, and we start out if we

4 have this kind of a process of assigning costs of

5 just assuming that each beneficiary is in fact going

6 to pay what their fair share is relative to the

7 benefits received.

8 On the other hand, there are some examples

9 that I think we can all think of and there is a need

10 to more carefully reexamine whether or not in fact

11 in the end everybody's going to be paying exactly

12 the same for similar amounts of water, depending on

13 the various uses to what it's being -- to which it's

14 being put.

15 And so we're going to have to look and see

16 whether or not there is really a fair and reasonable

17 way of adjusting allocations based on people's

18 ability to pay. We don't want to get to the point

19 where you tell people, "Well, this is your benefit,

20 therefore this is how much you have to pay," and

21 then find out they can't pay so then you have a gap

22 in your financing. So -- and levee protection, for

23 example, is the first one that comes to mind.

24 Maybe we could go to the next one, Eugenia.

25 Crediting -- oh, is crediting -- yeah.

1 Simply in fairness, we know that there's a
2 system out there that's operating today. There's a
3 lot of programs that are underway. Some of those
4 have direct benefits and some of those are, in fact,
5 very consistent with what we're proposing here as
6 part of our programs for the future on the Delta and
7 that those programs will be continuing. And the
8 people that are participating in those programs
9 should be receiving credit in terms of their overall
10 obligation financially.
11 We also have recognized that there's an
12 interim program underway and basically we've decided
13 that -- or are recommending as part of the program,
14 part of the financial policy that starting with
15 assigning of the accord that people who had been
16 putting money, for example, into Category 3 projects
17 should be receiving credit for that.
18 And I don't want to spend a lot more time
19 on that right now. As I said, you know, we have
20 wrestled so much with the "Who's going to pay"
21 question that we haven't gotten down to some of the
22 other details, and so it's to throw this out to
23 everybody because we'll be very interested in your
24 comments.
25 Cost allocation methodology, this is a

1 really interesting, fascinating subject but doesn't
2 really come into play until we have a better idea of
3 exactly how we're going to assign benefits. Because
4 until we know exactly how we're going to assign
5 those benefits and define them in a reasonable way
6 for everybody, we can't start to allocate the costs.
7 There are some very, very detailed and
8 complicated mathematical ways to try to go back and
9 assign all the costs in a very uniform and fair way.
10 There are other traditional ways of assigning costs
11 which may or may not have their particular benefits
12 in this case.
13 There are also some fairly simple
14 straightforward ways of simply assigning costs in
15 general to people without getting too specific,
16 recognizing that in the end because of the things
17 like ability to pay and other issues, that this will
18 probably lead to some sort of a negotiation of
19 exactly who will accept what costs, what segments of
20 our economy and of our society will accept what type
21 of costs to, in fact, conduct this Delta program.
22 And so that -- you know, we may get away
23 from the more detailed mathematical approach to a
24 much more reasonable negotiated approach, and maybe
25 there needs to be some mix of that in terms of

1 actually being able to get something on the table to
2 start with.
3 So we've done a lot of thinking about that
4 at the moment, but I don't want to get into that
5 right now because that's not where we are.
6 Where we are is we're shifting gears just
7 like everyone else. And at our last finance work
8 group meeting, which in fact was in June, prior to
9 the June meeting we had decided that since we were
10 going to focus on Stage 1 of the CalFed program
11 which largely consists of the common programs, that
12 the prudent thing for the finance working group
13 would be to take a very close look at the common
14 programs and the financing thereof.
15 Now, we all know about the 204 funding and
16 the Federal funding that we have to date and there's
17 other sources of funding that we've been able to
18 identify that will come into play.
19 So what we've done preliminarily is to take
20 a very close look at some of the monies that are
21 available over the next seven to ten years and how
22 -- the amounts of those monies that might both be
23 available and be ready to, in fact, be used in each
24 of the next seven years to in fact implement the
25 common programs. And we've done that sort of as a

1 whole and very roughly.

2 And what we had hoped to do in July, prior

3 to this meeting, would be to go back in much more

4 detail, look at each of the common programs and to

5 identify both Federal and State monies that were

6 available for them, other sources of revenue

7 available for them; measure those against or compare

8 those to the costs that are being currently

9 estimated to implement those programs over the next

10 seven years, see where the gaps are.

11 Once we can define the gaps, then we can

12 get back into this, you know, who in fact should

13 cover those gaps and how should it be done.

14 So that's sort of where we are.

15 We've spent a lot of time wrestling with

16 the, you know, philosophical issues here. And I

17 guess that we're experiencing, as I said before, the

18 same kind of -- I don't want to say frustration but

19 the same type of difficulty in reaching conclusions

20 that we are here at this table.

21 We've all come to this table and sort of

22 agreed to try to work together. I think we've come

23 in with a lot of conflicting points of view and

24 certainly a lot of different sets of values.

25 But on the other hand, through the process

1 I think every -- we've all gained a lot of respect
2 for each other. And even though we probably like
3 each other a whole lot better than we did when we
4 started, you know, nobody's really changed their
5 opinion very much yet.
6 CHAIRMAN McPEAK: Speak for yourself.
7 MR. HASSELTINE: And so the fact is that
8 everybody is still coming in with their same agenda
9 and it's getting down to the point now where people
10 are starting to get squeezed. And so, you know, if
11 there's going to be some compromises made, it's --
12 you know, now is the time.
13 And that's where we are with the financing
14 also because we've -- in order to make the financing
15 decisions, the policy decisions have to be made as
16 well, as I said. So we're going to move ahead from
17 here focusing on Stage 1 and then revert back to the
18 continuation and hopefully the conclusion of the
19 program that I've just been describing.
20 So that's it for me.
21 CHAIRMAN McPEAK: Thank you, Eric, very
22 much.
23 And Steve, you're now going to follow-up
24 and then you -- you anticipated we would open up for
25 questions and discussion with you?

1 MR. HASSELTINE: Sure. I think David
2 Yardis is here and would like to make a
3 presentation.
4 CHAIRMAN McPEAK: Okay, all right.
5 Okay, Steve.
6 MR. HASSELTINE: You don't have to if
7 you don't want to Dave.
8 MR. HALL: Okay. We have been talking
9 on the programmatic level about the framework
10 document in terms of what the actions that we're
11 proposing for the first seven years, in essence, for
12 Stage 1 of the program.
13 What we're doing with staff now is trying
14 to say, okay, let us get very real about these.
15 What are going to be the costs of those program
16 elements and what's going to be the funding source
17 of those.
18 So we'll go ahead with the overheads.
19 This is an example of how we'll be
20 approaching this problem here. What you see listed
21 here, and three of them are highlighted, others just
22 shaded back, are the different program areas for the
23 CalFed program. And the costs, in essence, can be
24 allocated among public, user shares and others.
25 "Other" could be foundation monies or, from my past

1 experience, discharger monies, not really water
2 users but other people who have an effect on the
3 system in some way, shape or form.
4 So specifically we'd like to talk about
5 each one of these in an example form now to
6 highlight particular policy questions that we have
7 to deal with. But understanding very much where the
8 staff of the program is headed now is to develop a
9 compendium document to the framework document to get
10 right at what are the costs of the program elements
11 and who is going to pay for them.
12 Okay, let's go to the next one.
13 This is just a bullet summary of what is in
14 the Stage 1 the first seven years of the Ecosystem
15 Restoration Program. Each one of these different
16 actions, these are shorthand versions of each one of
17 those. We have a cost estimate for this. We could
18 put the cost estimate for each one up there now and
19 then we'd spend a half an hour arguing about what
20 each individual dollar was. That's not the point.
21 The point is there are a bunch of different program
22 elements.
23 And going to the next slide, there is a
24 total cost over, in effect, the next seven years for
25 that program. So if you look at this slide here,

1 you have the different program elements and the
2 estimate over seven years is that it would cost
3 $811,000,000 to implement those elements of the
4 program. In effect, the Stage 1 cost for the
5 Ecosystem Restoration Program based on what's in the
6 framework document now, would cost $811,000,000.
7 Currently there are monies available from
8 various categories. First is the Federal
9 appropriation, $430,000,000 appropriation. If you
10 look at what has already been put out as far as
11 that, over the seven years of Stage 1 there would be
12 still $280,000,000 of that appropriation left.
13 Secondly, in Prop 204 there's $390,000,000
14 available that's triggered on the record decision
15 for CalFed.
16 Thirdly, there is CVPIA water and energy
17 funds that are available to the tune of about
18 $15,000,000 a year. So seven times fifteen comes
19 out to $105,000,000.
20 So in what we would call the public share
21 of money, there's a total of $910,000,000 that's
22 available in that total.
23 Is that right or is that the total across?
24 That's right, we didn't correct this number. That
25 needs to be corrected. Ignore that number, you

1 didn't see it.

2 Over here we have in the user share column

3 the CVPIA Restoration Fund fees come to about

4 $40,000,000 a year from users. So over seven

5 million years (sic) there would be $280,000,000

6 available from users. And that total -- it's not

7 important what the number is, that total represents

8 something greater than $811,000,000. And we

9 modified this slide yesterday so it's not exact.

10 The point is there is money available in

11 that seven-year period to pay for what we estimate

12 now to be the entire Ecosystem Restoration Program.

13 It's about a billion dollars total that's available.

14 This plus out here represents one other

15 option that currently would be available -- not

16 currently available but would be available there,

17 and that is, is it appropriate to have some other

18 kind of user share go into funding the Ecosystem

19 Restoration Program during the Stage 1 of the

20 period.

21 And this gets to a basic policy question,

22 if we can go to the next slide.

23 The basic policy question is, for example,

24 should all Proposition 204 funds be exhausted before

25 the user share is increased, and if so, why.

1 Now if you just look at the math right now,
2 there's plenty of money available. Should we spend
3 all that money in the first seven years before
4 dealing with the user share question or use that
5 seven-year period to deal with a user share
6 question. That's the basic policy question, I
7 think, that we need to deal with here.
8 Okay, I'd like to move on to the levee
9 program for a second.
10 Within the levee program -- let's go to the
11 percentage charge first.
12 Within the levee program there are two
13 different kinds of actions, levee improvements and
14 emergency response. Currently levee improvements
15 can be paid for by Federal and State monies between
16 the 50 percent cost share between the two. In the
17 improvement, the construction area, there's
18 currently a 65 percent Federal share for those
19 levees for which there is a Federal interest and 35
20 percent of non-Federal share where there is a
21 Federal interest.
22 What we are talking about at this point, I
23 think, is expanding the number of levees in which
24 there's a Federal interest, arguing throughout the
25 whole program that this should be a much more

1 extensive program and that between that 65
2 percent/35 percent break, that the 35 percent should
3 be 25 percent State and 10 percent user fees or user
4 shares. Those who are attached to the levees, in
5 essence. That would be the local money to pay for
6 levee improvements. Plus LERRDS, which are Lands,
7 Easements, Rights-of-Way -- I can't remember the
8 second R -- and Disposal Areas.
9 Lastly, emergency response. First response
10 is basically paid for by users entirely. Secondary
11 response would be paid for 50/50 Federal and State
12 share. How does that translate into costs over the
13 first period?
14 Let's go ahead.
15 For the program that's currently there, the
16 total estimate is $255,000,000 over the first seven
17 years. And so, in essence, what we're talking about
18 is that first seven-year period about $146,000,000
19 of Federal money, about $72,000,000 of State money,
20 and about $37,000,000 of user money.
21 So it's a substantial investment by all
22 parts of the system. And I think that's the kind of
23 basic policy question here on the levee program,
24 which again is that an appropriate cost allocation
25 formula. I think that is one of the kinds of thing

1 that you'll see use proposing as a way that we
2 should deal with levee program fees.
3 Next one is an area of storage. Storage
4 is, as Eric said, a very controversial area. This
5 lays out one scheme for cost allocation for storage.
6 The way this is laid out, in essence, is that the
7 planning part of the storage project would be 100
8 percent public dollars.
9 During the design period we'd move to some
10 different cost allocation, say, 50 percent public
11 dollars and 50 percent user dollars. And user for
12 storage, I think as has been pointed out, could be
13 environmental use as well as direct consumptive
14 users.
15 And lastly then, in the construction period
16 you'd go to 100 percent user pays of construction
17 dollars with at that time also reimbursement of the
18 planning and design costs where there were public
19 dollars used. Where would that reimbursement go?
20 It could go into General Fund or it could go
21 directly back into environment restoration costs
22 that would be accrued later down the road.
23 One advantage of that is it creates a
24 broader level of interest in making sure that if a
25 project is seriously dealt with, that it is pursued

1 all the way to construction so that money goes back
2 to some beneficial use. It establishes a linkage
3 that way. This is one possible way to pay for cost
4 allocation in the storage sense.
5 For what that means for Stage 1, and these
6 are, you know, merely example numbers at this point,
7 if you have $70,000,000 of planning costs up front,
8 those would initially come from all public sources.
9 Design costs if you were in the range of 70,000,000
10 it would be split 50/50.
11 There's no construction numbers here 'cause
12 we're an awfully long way from that, if we ever get
13 to this point.
14 But the point is, again, dividing up the
15 costs in a way that tries to spread the burden and
16 provides for some equity that ultimately in this
17 case the return of public monies because the
18 beneficiaries should pay. Unless there is a public
19 share of that benefit, very clearly a public share,
20 that money should go back and be paid for by users.
21 So, again, that's the policy question.
22 In this case, is that an appropriate cost
23 allocation for storage efforts? The summary of
24 those is basically the three policy questions, just
25 using those three as examples: Expending Prop 204

1 before going to some other source, the cost
2 allocation formula for storage, and again the cost
3 allocation formula for levees.
4 From a staff point of view, again what I
5 want to emphasize is these are the kinds of things
6 that we want to start laying out for each of these
7 program areas. Because as we get more specific in
8 terms of Stage 1 actions, we're going to get
9 specific in Stage 1 costs and we have to identify
10 who is going to pay for those and come to some
11 agreement on those.
12 And we again expect to pursue it just like
13 the framework document, putting out some ideas and
14 looking for feedback on those to try to harden the
15 approach that might be there and come to a suitable
16 answer.
17 And that's where we're at.
18 CHAIRMAN McPEAK: Thank you very much.
19 We, I think, maybe should invite the public
20 or verbal presentation by David Yardis of what has
21 been distributed to us and open up for questions and
22 discussion.
23 David, are you there?
24 MR. YARDIS: Thank you very much.
25 I actually -- now that you've all had a

1 chance to read my statement from May cover to
2 cover --
3 CHAIRMAN McPEAK: I just have. I
4 actually just have, yes.
5 MR. YARDIS: I'll skip going through
6 details and I know that the agenda is a bit pressed,
7 so let me just touch on a couple of highlights, if I
8 may, and then I'd be happy to be available to answer
9 questions in terms of the perspective that we're
10 trying to bring to this table.
11 I mean I have to say it's pretty remarkable
12 to finally start to see some actual numbers attached
13 to the financial assumptions that are fundamental to
14 how this program unfolds. We've been asking CalFed
15 through the Finance Work Group for the better part
16 of three years now for some numbers to chew on, some
17 hypotheticals to work with to begin to ferret
18 through some of these important policy dimensions.
19 For the bulk of that time it's been
20 assuming a whole program rather than a phased
21 program. But nevertheless it's interesting and
22 distressing all at once to finally begin to see some
23 details.
24 I would submit that many of the questions,
25 Steve, that you just raised are exactly the kind of

1 things that I wish we would have been struggling
2 with and that would have been aided by the
3 availability of some of this information early on.
4 And I guess like everything else, we're going to be
5 scrambling to play catch-up to provide feedback on
6 these extremely important issues.
7 The bottom line from the perspective that
8 we've been coming from, I just want to react to a
9 couple of things that Eric said. I think he covered
10 quite a bit of ground fairly well, and that has to
11 do with kind of the baseline issue. I think there's
12 basically two pieces to that from a financial point
13 of view.
14 One is making sure that the funds that we
15 have already amassed or which we're supposedly
16 building upon are secure and that we're not
17 substituting, for example, public dollars for user
18 dollars in the CVPIA context. Unfortunately, that's
19 the reality we ended up with last year and it looks
20 like that's where we may be heading again this year.
21 There are efforts underway to try and
22 address that. But the erosion of the baseline as
23 new money comes in, to see things starting to
24 disappear that you thought you were actually
25 building upon is a real problem. And again, we

1 don't have the baseline information provided.
2 There's been -- that's just always been viewed as
3 being divisive and counterproductive. I think
4 that's a fundamental problem in terms of good
5 information to understand how we go to where we are
6 today and what we need to preserve and protect as we
7 build for the future.
8 The second piece of the baseline issue
9 really has to do with the broader question of, I
10 think, what's been negatively characterized as who's
11 to blame for what. We've acknowledged all along
12 that assignment of blame may not be the most
13 productive way to proceed.
14 But in terms of the relative magnitudes,
15 what we seem to face is a clock where history starts
16 in approximately 1994, maybe 1992 when the first
17 significant reallocations of water by statute were
18 made under the CVP Improvement Act, and that all
19 financial baseline issues and issues of relative
20 proportionality and equity and so on as between the
21 environment and water uses are assessed in the
22 context of history starting at that point in time.
23 That essentially sweeps under the rug a 20
24 to $30 billion public investment in the development
25 of California's water infrastructure. It ignores

1 the over-commitment of a hydrologic system that led
2 to the crashes in populations and other
3 instabilities that led to and gave rise to the need
4 for a CalFed process in the first place.
5 So it's really more a matter of a more
6 accurate context into which this program fits than
7 the specific attempt to try and say, "You're
8 responsible for this piece and you're responsible
9 for that piece," that we have asked repeatedly for a
10 baseline assessment in that context of the baseline.
11 I, too, am struggling with how to take some
12 of the discussions that we have been having,
13 including the statement that we prepared in May for
14 the D.C. hearings, and to kind of morph that into
15 the phased approach that we now find ourselves
16 confronting. So I don't have a precise kind of
17 rearticulation of that.
18 One thing I would like to comment on is the
19 notion of study money, public investment, public
20 infrastructure investment money, public risk capital
21 for new storage facilities and how that relates to
22 what we think ought to be a strictly user funded
23 program.
24 If new storage is warranted on the merits,
25 it ought to be paid for by the beneficiaries, direct

1 beneficiaries of water development. And if the
2 environment ends up getting some kind of a minority
3 share of yield as a component of that, that at best
4 is mitigation for the impacts of building that
5 storage. I think that's where we're coming from.
6 But for planning for now, and agreed it's
7 not at all clear from what's contained in the
8 Governor's letter, from what's in the budget
9 documents that underlie DWR's supplemental budget
10 efforts and so on, it's not at all clear that all
11 we're talking about is planning.
12 The latest suggest that we're talking about
13 everything from planning to permitting to
14 environmental compliance to land acquisition to
15 construction. It's wide open. So I think that
16 needs to get pinned down pretty significantly.
17 I saw in Steve's chart a distinction
18 between, I guess, up front planning and facilities
19 planning or something to that effect. That's a new
20 distinction that hasn't been made before about the
21 100 percent public funded versus 50/50 user --
22 MR. HALL: They were just planning and
23 design.
24 MR. YARDIS: Planning and design. I
25 see, okay.

1 So understanding the limits of planning,
2 when one stops and when another starts and where
3 that sort of policy apportionment came from is very
4 important. I guess at a minimum what would be
5 extremely helpful would be to have in conjunction
6 with any budgetary requests that may ultimately be
7 implemented to fund those sorts of up front planning
8 studies, would simply be to embrace what the
9 Department of Water Resources or the Department of
10 Finance submitted in support of the budget change
11 requests looking for $67,000,000 for feasibility
12 studies broadly defined.
13 And that is that after successful
14 completion -- and this is, quote:
15 "After successful completion of the
16 investigations the water agencies would reimburse
17 the State for the cost of feasibility studies,
18 environmental documentation and permitting, as well
19 as pay for the final design, construction and
20 mitigation."
21 It would be nice to see that embraced and
22 articulated with some specificity in the actual --
23 when funds are actually committed, if they ever are.
24 Because right now what's in those documents
25 apparently is nice information but it doesn't stand

1 -- it doesn't stand as a commitment to repayment,
2 let alone repayment with interest or those kinds of
3 sticky details.
4 So one final comment, I guess, getting to
5 that point is ability to pay. We do find it ironic
6 that most of the enthusiasm for new storage
7 facilities and particulars come from those sectors
8 where already payment capacity waivers based on a
9 purported inability to pay are in effect throughout
10 the agricultural community in the north and south
11 ends of the valley. That just doesn't make sense
12 under a benefits-based approach under any scenario.
13 And given the abuses in the past of the ability to
14 pay programs that have been in place, we think that
15 the best way to deal with those kinds of approaches
16 is in opt in, opt out or market-based strategies.
17 And if you're going to go to market-based
18 strategies, you ought to go to market-based
19 strategies in the first instance rather than
20 building storage only to have to find some other way
21 to pay for them or ending up with the stranded costs
22 that we are familiar with from the deregulation of
23 the energy industry.
24 Let me stop there. It's a bit random, but
25 I'd be happy to try and respond to any specific

1 questions either now or as things go on.
2 CHAIRMAN McPEAK: Thank you, David.
3 All right. Let's open up this discussion
4 to the issues raised by Eric and Steve and now
5 presented by David, get your feedback. Basically,
6 does this sound like it's going in the right
7 direction or do we have major disagreements or
8 differences of opinion among BDAC members?
9 Byron and Alex and Roberta.
10 MR. BUCK: I guess my pen being up means
11 I wanted to speak, but --
12 CHAIRMAN McPEAK: Did it?
13 MR. BUCK: I do, I do.
14 CHAIRMAN McPEAK: Well, I can make
15 another comment about keep your pen under control.
16 If you don't want to speak I'll go to Alex.
17 (Laughter)
18 MR. BUCK: I guess just some general
19 comments, and I appreciate that CalFed is now moving
20 forward with some specificity on it, which again
21 helps bring focus.
22 I think the water user community generally
23 wants to use the moving forward approach in terms of
24 looking at beneficiaries and who's benefiting out of
25 the programs we're creating and not get into a game

1 of trying to assess what happened in the past and
2 who's percentage of responsibility is that. That's
3 just not fundamentally very productive or fair, in
4 our view. We can't substitute today's public policy
5 judgment on past public policy judgments.
6 The notion of user funding for common
7 programs from at least the urban perspective is okay
8 to a degree. We will certainly get benefits from
9 some parts of the common program. It is a little
10 hard to ferret out exactly how much benefit, but
11 clearly the water user community isn't getting all
12 the benefits out of the programs, didn't cause all
13 the problems that necessitated the common programs.
14 And so there's got to be a mix of funding for those.
15 We also ought not to out of hand dismiss
16 the notion of a fixed water charge to fund these
17 types of things done on a broad benefit rather than
18 try to make it a water use fee, per se. It might be
19 a lot more palatable to the public if it were a
20 fixed charge. You could associate it with each set
21 of common programs, including ecosystem restoration
22 in the future.
23 That would be probably a lot easier for the
24 public to conceptualize. You know, a dollar on a
25 water bill for restoration of the Delta is probably

1 an easier one to think of conceptually in a ballot
2 argument than, you know, a per capita water use fee
3 which not everybody reads their bills in a way they
4 could translate how much it's going to cost them.
5 And for certain users, it would cause them a great
6 deal of difficulty to get there.
7 Just in summary, though, I think we need to
8 focus in this program in what the program's
9 producing first and to make that package as good as
10 we can for all interests because that will make the
11 financing debate a lot easier. And we ought not to
12 make sure the perfect becomes the enemy of the good
13 here because it ultimately is going to be the
14 package that we're going to have to support. It's
15 going to have to be relatively simple.
16 This is probably one thing that -- to use
17 somewhat of a pejorative, this is where a deal gets
18 done really. We can apply a lot of economic theory
19 and get very complicated in terms of slicing up the
20 pie based upon benefits, but ultimately I think it's
21 going to have to be a fairly simple package that we
22 can take to a vote. And people are going to have to
23 connect broad benefits, a sustainable agricultural
24 community, a vibrant urban economy and a restored
25 ecosystem and they're going to have to go, "Yeah,

1 I'll pay for that."

2 CHAIRMAN McPEAK: Alex?

3 MR. HILDEBRAND: I think Eric and his
4 collaborators deserve a lot of credit for a very
5 difficult piece of work here. There's one thing
6 about the storage financing that hasn't been brought
7 up, and that is that as we mentioned this morning,
8 any increase in any water availability in the
9 Central Valley almost necessarily has to be due to
10 the capture of flood waters and the storage of flood
11 waters.

12 That then almost necessarily creates a
13 flood benefit. And traditionally, flood benefits
14 have been public monies. Doesn't necessarily have
15 to be that way, but it has been.

16 Furthermore, you largely have to capture
17 those flood waters initially at least in on-stream
18 reservoir which then generates power. And the power
19 traditionally -- the power returns have
20 traditionally been used in part to help pay for the
21 dam.

22 Now, of course, if you go to the offshore
23 or subsurface storage as we mentioned earlier,
24 you're reversing that and you're going to have a
25 power demand rather than a power yield. And

1 consequently, if the users are going to pay for that
2 there's going to be not just a facility cost but an
3 O&M cost they have to 'fess up to.
4 CHAIRMAN McPEAK: Thank you.
5 All right. Roberta, then Richard.
6 MS. BORGONOVO: I'd like to go back to
7 David Yardis' comment that all of us in that work
8 group asked for these kinds of figures a year ago,
9 two years ago, three years ago. So it's wonderful
10 to have them out here now. I think that we've
11 always known they wouldn't be easy questions to sort
12 out, but we always wanted to have that discussion.
13 So I want to make a plea for continuing to
14 sort out these policy questions in this arena and
15 have them sorted out before that kind of a
16 discussion takes place over in the water bond
17 discussion where basically those issues are left to
18 be sorted out at some time in the future.
19 And I think for all of us, what we hoped is
20 that they'd be sorted out here at CalFed. They can
21 be small discussions going forward. There can be
22 work group discussions going forward in this larger
23 arena and the public weighing in.
24 But there are such fundamental policy
25 questions to be answered and they underlie the whole

1 CalFed solution and the possibility of all of us
2 being able to weigh in.
3 CHAIRMAN McPEAK: On the policy
4 questions that were identified through the
5 presentations that Eric made and led off with and
6 Steve and David have touched upon, do you have any
7 answers that you want to offer if you were answering
8 these questions?
9 MS. BORGONOVO: Basically speaking,
10 there are two different points of view and I think
11 Eric tried to lay them out. But Tom said to me as
12 we were going through that, "Is anybody listening?"
13 Every time finance questions come up, everyone's
14 eyes glaze over. It's a very difficult issue. And
15 so we never have this kind of a discussion in this
16 broad a group.
17 I think that what the whole baseline
18 question of what is mitigation and what is the
19 starting point was there from the very beginning. I
20 think that if we could have talked about it, perhaps
21 we might have been able to work through it.
22 But we've been -- we've had those two
23 opposite points of view from the very beginning and
24 we just haven't found any bridge. But then we've
25 never had any real figures out there, no policy

1 discussions out there, no real question of, for
2 example, how much money is going into design, what
3 does that mean, how does that fit into any kind of
4 our decision-making.
5 So our point of view has been that if
6 there's storage and conveyance, it is not for the
7 benefit of the environment. And so that's where
8 that question of user money comes in, should there
9 be public money to pay for that because it's for the
10 environment. And the view that many of us have
11 expressed is that you do storage and conveyance so
12 we humans can continue to use the system.
13 And it's not that you relieve
14 responsibility of anybody who's in there. We've
15 all -- I myself see a very broad-based user fee so
16 that you have any group that's taking water out of
17 the system contributes in some way. But that again
18 goes to trying to sort out how you can really spread
19 those costs and those benefits so that we really
20 could have a solution that wouldn't be a burden on
21 anybody.
22 I just make a plea for us continuing to
23 have that kind of a discussion in this open forum.
24 CHAIRMAN McPEAK: That's why we're doing
25 it. We've tried a couple times in the past and I've

1 offered awkwardly some thoughts.

2 Richard and then Tom.

3 MR. IZMIRIAN: The problem with coming

4 after Roberta is she's covered all the points so

5 much better than me.

6 I do want to thank you for finally bringing

7 this forward, it's long past due. Again, the

8 baseline is so important.

9 CHAIRMAN McPEAK: We need you to speak

10 up. We can't hardly hear you. They can hear me,

11 they just can't hear you.

12 MR. IZMIRIAN: It's not working?

13 CHAIRMAN McPEAK: No, you just need to

14 yell like I am.

15 MR. IZMIRIAN: All right. The issue of

16 where that history was, without trying to lay blame,

17 I think has to be -- I mean where does the current

18 water diversions fall in the scheme what are the

19 past ills and what is current? I think we have to

20 get some understanding of where that falls.

21 I have a problem with the -- since all

22 public money was once non-public money and perhaps

23 all non-public money will eventually become public

24 money, I don't find that to be a very nice

25 distinction there.

1 CHAIRMAN McPEAK: We'll try to make a
2 lot of public money private money.
3 (Laughter)
4 MR. IZMIRIAN: So I mean, what is the
5 sense in asking for public money that is based on
6 how much money you make or how much property you own
7 or how many goods you bought, rather than a fee on
8 how much water you used? And I could see a
9 combination of a broad-based user fee plus a user
10 pays sort of thing where you're dealing with more
11 direct users of the water.
12 Thank you.
13 CHAIRMAN McPEAK: So the -- Eric, do you
14 have a response now? Because you're proposing
15 another way on which the assessment to users might
16 be based. It's more direct to the use of the
17 commodity.
18 MR. HASSELTINE: I don't think it's all
19 that new, just that --
20 CHAIRMAN McPEAK: No, an alternative.
21 MR. HASSELTINE: A combination, but
22 basically a user pays scenario.
23 MR. IZMIRIAN: Well, it depends on the
24 application and it depends on the timing. I mean
25 for the planning and design and that issue, for

1 example, I mean that's a cash flow problem. You're
2 going to have difficulty raising those amounts of
3 money up front without some real commitments and
4 identification of who the beneficiaries are going to
5 be.
6 So if it's in the public interest to, in
7 fact, have a storage program as part of this whole
8 system, I think the thinking is that we've got to
9 start now for the planning for that and begin to
10 show what in fact we're going to get for how much
11 money, what the yield's going to be, what that water
12 is going to cost, and then see if anybody wants to
13 move ahead with the actual design and construction.
14 And once they say yes, then they start to pay and
15 also pay back for the planning.
16 And as David very clearly points out, I
17 mean that's just got to be part of the deal from the
18 start if that's the way we're going to go.
19 If you're talking about some other aspect
20 of it, in other words should there be some public
21 monies used for the design and the storage because
22 the public is going to receive the use of that water
23 in terms of environmental applications, then, you
24 know, I think that is the kind of thing that your
25 question gets to, you know, who really is the public

1 and whether or not there ought to be just a
2 broad-based user share and everybody pay for it out
3 of their water costs.
4 And I don't know that I have a really good
5 answer for that at this point, but that's the kind
6 of question we need to get to and start to, you
7 know, answer. It's the question we've been asking
8 for some time and have yet been able to come to any
9 sort of consensus on.
10 CHAIRMAN McPEAK: Tom and then Martha.
11 MR. GRAFF: What I was going to say was
12 that maybe the most hopeful thing that I heard today
13 on the subject of finance was early in the day when
14 Steve Hall on behalf of a very broad constituency
15 said he thought it was critically important that we
16 bring finance discussions up front. I think maybe
17 that will sort of change the general atmosphere in
18 which CalFed and others approach these issues.
19 But let me say EDF -- not just orally in
20 David's comments today but in his very lengthy
21 testimony in Washington -- has laid out a detailed
22 position and statement of what we think is the right
23 approach to financing, and I would challenge other
24 interests at this table and elsewhere in the state
25 to put forward their positions on the --

1 (End of tape)

2 CHAIRMAN McPEAK: Actually, I don't
3 think it makes a difference. So I'm not as
4 exercised about all of those pages as everyone else
5 because it's pretty much academic with respect to
6 getting to, I think, in my opinion, a final
7 decision. That analysis that's in the EIS/EIR as I
8 understand it is simply a calculation on growing
9 demand.

10 However, it ignores the fact that there's
11 likely to be export limits based on the problems we
12 have with the species. I can't imagine, I can't
13 imagine the notion of another million acre feet.
14 But should it be possible -- I'm not even sure the
15 capacity's in the system even in a wet year, but
16 should it be possible, the answer of who's paying
17 for it are the contractors.

18 Their answer back to you is that they are
19 getting 2.2 in their area and they contracted for
20 4.4. So, you know, that's the response that you
21 would get in terms of who's paying for it, the
22 existing contractors.

23 But that calculation that's in the document
24 is literally a demand projection and it ignores and
25 doesn't take into account why we even are here

1 because there are real limits to the export capacity
2 period.
3 That's my answer to you.
4 MR. DAVIS: But it seems to me that part
5 of this whole discussion of finances is related to
6 the principle that costs should reflect impacts on
7 the environment, and we've got a baseline analysis
8 that is making assumptions about increasing
9 diversions that very clearly will have impacts on
10 the environment as you point out the impacts on the
11 fisheries alone.
12 And so I don't understand how you begin to
13 untangle the baseline issues so that you can make
14 informed decisions on these "who pay" questions if
15 you don't have that straightened out in the baseline
16 in the EIR/EIS.
17 CHAIRMAN McPEAK: Yeah. You know, I'm
18 actually not sure that the principle the way you've
19 stated it is reflected. I heard you say that the
20 principle we were operating on is that the costs of
21 impacts on the environment are going to be reflected
22 in the user pay.
23 And I'm only questioning that because it's
24 not presented that way necessarily. It's the cost
25 of impact -- of mitigation of those impacts may be

1 embedded in the notion of user pay, which could be
2 entirely two different things.
3 Mitigating those impacts and what might be
4 the costs on the environment we could argue forever
5 how do you internalize costs on the environment on
6 an ongoing basis. And then there's probably no
7 perfect way to evaluate the costs of the impacts on
8 the environment. It's difficult to put a price tag
9 on the mitigations.
10 MS. DAVIS: I think this is where we
11 come back to some of the points that David Yardis
12 was just making about the importance of clarifying
13 these baseline assumptions and what we're defining
14 as our starting point in these discussions.
15 CHAIRMAN McPEAK: I have read this and
16 I've listened pretty carefully, how would you define
17 the baseline? Because I -- and maybe I should ask
18 you and I'll David or anyone else, I don't know what
19 your definition of the baseline is. Who would be
20 paying what and do this?
21 MS. DAVIS: Maybe we could get David
22 back up here to talk about this.
23 CHAIRMAN McPEAK: What is the baseline
24 here? I understand the words, I understand the
25 concept, I understand the intellectual approach.

1 But I don't understand what the baseline is if you
2 were answering your question.
3 MR. YARDIS: Well, I tried to address
4 that, that there were kind of two pieces to it. One
5 had to do with the available funds and making sure
6 that as we bring more funds to bear --
7 CHAIRMAN McPEAK: Okay.
8 MR. YARDIS: -- that that doesn't erode,
9 okay?
10 The second piece has to do with the context
11 and it's hard to discuss outside -- to some degree
12 outside the context of the push for, you know, knew
13 subsidies for surface storage and the water bond and
14 the budget and now in proposed Federal
15 appropriations and legislation.
16 There a big argument that's being made is,
17 well, gee, the environment got a billion dollars
18 under Prop 204 and $430,000,000 out of the Bay-Delta
19 Act, isn't it time that we water users got some?
20 It's quid pro quo.
21 And what I'm suggesting is that that sweeps
22 under the rug tens if not hundreds of billions of
23 dollars in prior investments in the water
24 development adverse to the environment that is an
25 important part of the context as to why we are here.

1 We would like to have an accounting at a
2 minimum of how much money has been spent, how much
3 water is depleted, what is the stable baseline that
4 this program is designed to build upon and address,
5 or do we just kind of mush that. That's been the
6 tendency now for three years. We just kind of don't
7 go there. That's divisive, that's
8 counterproductive.
9 I'm afraid that it tries to set up a
10 situation where these very quid pro quo arguments
11 get made in very public ways over and over again,
12 and it looks like we're making off with the loot.
13 And that's just not so.
14 It's no so when a no-action scenario
15 results in a 1.2 million acre feet of increased
16 demand. It's not so when no one pays a cent for the
17 actual water that they use.
18 We pay to develop and deliver the water.
19 We don't pay for the water. We don't pay for the
20 depletion or the degradation. None of those things
21 are part of the discussion.
22 So it's not -- I'm not answering your
23 question quantitatively, it's more qualitative in
24 that the baseline is partly the foundation that
25 we're building on and we need a bigger picture of

1 what that is and why we're here if we're going to
2 have an equitable and durable resolve.
3 CHAIRMAN McPEAK: What is -- what do you
4 intend to do with the baseline? How would you use
5 that accounting information? What would you do with
6 that?
7 MR. YARDIS: Well, it would certainly
8 help to have a robust baseline in terms of the prior
9 investment in water development to provide some
10 context for the discussion that's now going on about
11 why water development ought to have a seat at the
12 taxpayer table in terms of development of new
13 storage.
14 We think that it's basically -- you know,
15 that's already happened. We had decades of that.
16 We're now trying to come back a little bit and
17 create some balance on the system. But because
18 we're starting with 1994, because we're starting
19 with we don't want to have counterproductive
20 discussions that look backwards as they say, we
21 can't -- we don't get to that discussion. We don't
22 have that context.
23 We talk about growing the pie, but we've
24 already given away a half to two-thirds of the pie
25 in terms of available water at the starting point.

1 CHAIRMAN McPEAK: And so are you
2 proposing that there be additional reallocation to
3 the environment out of the current developed supply?
4 MR. YARDIS: I guess that depends on
5 what the baseline current developed supply actually
6 is. The place where it gets to in this context is,
7 though, when we get into assertions about the
8 benefits of new storage for the environment, we're
9 like, no, there aren't benefits. At best, if
10 there's water allocated out of some hypothetical new
11 storage facility and it's called a benefit for the
12 environment, it's saved to augment dry year flows,
13 that's a mitigation for prior impacts. That's not
14 something the public should pay.
15 CHAIRMAN McPEAK: Okay. I actually do
16 have some answers to you, but I'll try to step back
17 into the role of facilitating.
18 Alex and then Ann.
19 MR. HILDEBRAND: What about the impacts
20 of exotic species?
21 MR. YARDIS: Well, the impacts of exotic
22 species are one of the things that comes into play
23 in terms of why our organization and many others
24 signed onto things like Proposition 204 and the
25 Bay-Delta Act because we recognize that water users

1 were not solely the blame for problems related to
2 harvest, related to exotics, et cetera, things that
3 took place before projects were developed, whatever
4 it may be. There is certainly a role to play. But
5 that's different from where we go down -- in the
6 future.
7 And again, what we're saying is we would
8 like to see a policy articulated where essentially
9 if there's going to be new dams, let's have that
10 fight on the merits. But don't pretend that the
11 environment needs them.
12 MR. HILDEBRAND: It seems to me you have
13 to quantify exotic species impact if you're going to
14 quantify the other impact.
15 MR. YARDIS: Well, it's hard to explain.
16 I have not quantified exotic species impact in that
17 context.
18 CHAIRMAN McPEAK: Ann.
19 MS. NOTTOFF: I just wanted to get back
20 for the record, Eric made a comment that I'd like
21 some clarification on, and that is you said that
22 you'd seen storage quantified and applied across all
23 the core programs.
24 Unless something's happened that I'm not
25 aware of, and I admit that I've been busy the last

1 couple of weeks, it's my understanding we have not
2 at this point incorporated storage into the core
3 program. There still continues to be a range of
4 options for storage in each one of the alternatives.
5 And I wanted to clarify that.
6 MR. HASSELTINE: You're right. But if I
7 may, it's the same range.
8 CHAIRMAN McPEAK: It's the same range,
9 it's zero to 6,000,000 acre feet on about six
10 different or seven different sites of surface and
11 off-stream surface and groundwater.
12 MS. NOTTOFF: But there's no assumption
13 that there will be storage.
14 CHAIRMAN McPEAK: There is no assumption
15 that's been decided here. There is in the working
16 document now, in the framework it is proposed that
17 it be assumed that we are going to continue to study
18 storage, that that is in the mix.
19 MS. NOTTOFF: Continue to study, yeah.
20 CHAIRMAN McPEAK: Yeah, in here. At
21 least that's how I would interpret it.
22 And only under certain conditions would
23 storage then be built.
24 MS. NOTTOFF: And that's what we're
25 trying --

1 CHAIRMAN McPEAK: Yeah, right. I mean
2 it's --
3 MS. NOTTOFF: I didn't want to jump the
4 gun there.
5 CHAIRMAN McPEAK: And I'm only stating that
6 to answer your question because it's still a range.
7 It's not -- it's not been zeroed in on -- zero to
8 six -- it's not been focused in on.
9 But the way it's being discussed is
10 probably more explicitly laid out in page seven, six
11 and seven under the second tab here, and then go --
12 flip over to the Appendix B and it sort of lays out
13 a proposed framework for consideration.
14 MS. NOTTOFF: Thank you.
15 CHAIRMAN McPEAK: We have -- I really
16 would love to continue this discussion now that we
17 got into it. I will just tell you I think we're
18 trying to make rocket science out of elementary
19 chemistry when we get into this, into the finance
20 stuff. I'm not sure it's that hard, it's just --
21 it's hard politically, I'm not sure it's that
22 complicated forumla-wise.
23 Anyway, maybe I'm just too simpleminded
24 about this. And there's -- I think we'll want to
25 discuss this more, it's been a good engagement. I'd

1 love to get into more debate, especially when I
2 don't have to try to be evenhanded.
3 (Laughter)
4 CHAIRMAN McPEAK: And nobody thinks I
5 was being evenhanded now.
6 We've been joined by someone we hardly
7 recognize. It's nice for you to show up, Mr. Snow.
8 Welcome.
9 EXECUTIVE DIRECTOR SNOW: Am I late?
10 CHAIRMAN McPEAK: Are you late? No, no,
11 you're not late. In fact, we go the message you
12 were on your way and I said to Mary, "Tell him we
13 don't need him, stay in Sacramento."
14 (Laughter)
15 CHAIRMAN McPEAK: Would you like to
16 report anything?
17 EXECUTIVE DIRECTOR SNOW: I do apologize
18 for being late. I guess you were visited by the
19 Secretary of Interior this morning, which I think is
20 an indication of his interest in this program.
21 I was able to attend the meeting between
22 the Secretary and the Governor and would like to
23 report that questions were asked, the answers were
24 given, and it was a cordial meeting.
25 Any questions about that?

1 (Laughter)

2 EXECUTIVE DIRECTOR SNOW: I think

3 there's two things that I would want to mention.

4 There was a press release -- I think we either have

5 that or we'll have it for you tomorrow -- about it.

6 The main message that they're conveying to

7 a broader public would be, you know, we're in a

8 process of trying to deal with a lot of difficult

9 issues in terms of this framework document.

10 There will be a revised framework document

11 by the end of the month, actually we think it will

12 be next week, and a call to the stakeholders to

13 really start focusing on that framework document and

14 the conditions related to conveyance and storage

15 that we have in there, and also the details of Stage

16 1.

17 Beyond that, they have talked a great deal

18 about financing strategies and balancing packages

19 and Federal initiatives versus bond issues versus

20 State budgeting, and just a general discussion of

21 how do we have a balanced financing package to move

22 forward. I think it's some of the kinds of issues

23 that you were discussing here today. And generally

24 a recognition that we have to have a balanced

25 package, that we can't see one effort get out way

1 ahead or making commitments to fund things that need
2 to be user funded in the long run.
3 So I think those kinds of issues are on the
4 table and I intend to keep working on that.
5 They committed to meeting in -- I think
6 it's the second week of August, and we'll meet again
7 in September to try to keep this moving and reach
8 some fruitful Draft Preferred Alternative by the end
9 of the year.
10 CHAIRMAN McPEAK: Thank you.
11 We are now behind again and I apologize to
12 you, but I think it was worth taking the time on the
13 finance issue.
14 We have scheduled the update on the
15 Ecosystem Restoration Program. Dick is going to do
16 that. Dick Daniels is here to do that. We're also
17 asking for a report on the indicators.
18 Before we do that and before I forget
19 again, Eugenia, thank you for putting together the
20 panel on -- from the business perspective. We
21 appreciate that very much. And I'll thank Mary
22 tomorrow, you've put together the panel for
23 tomorrow's meeting with Eugenia, so thank you.
24 Dick.
25 MR. DANIELS: Thank you.

1 We've been busy like everybody else in the
2 CalFed staff. In addition to working on the ERPP
3 itself, we've been working on the staging issues,
4 the cost, the budget and the organizational
5 structure necessary to implement the program.
6 What I'm going to focus on today is a
7 little bit of remedial work on where we are and
8 where we've been in developing the ERPP and where we
9 are going in the very near future.
10 As you might recall, we've been presenting
11 the ERPP, the Ecosystem Restoration Program Plan in
12 three volumes.
13 Volume 1 essentially describes the
14 problems, the stressors in the system, how we
15 believe the system works, the basic ecological
16 philosophy behind the program.
17 We are making some improvements to that
18 document as a result of comments we received,
19 comments that we received just recently and comments
20 that we received starting late last summer when we
21 put these documents out for an early review.
22 We've rewritten a couple of chapters. As
23 an example, one chapter that we've just rewritten is
24 that that deals with steelhead trout, the fact that
25 the status of that fish has changed legally required

1 us to take a more in-depth look and to work with the
2 National Marine Fishery Service to make those
3 changes.
4 Volume 2 is really where the meat of the
5 program is. That's where the impact of the program
6 is and that's where the benefits of the program are
7 most easily seen and that's where most of the
8 controversy is generated.
9 We've been going out dealing with landowner
10 and water user groups to address their specific
11 concerns on problems that they had with our
12 prescriptions for various ecological zones.
13 We've also been working with the agencies
14 to improve the technical quality of Volume 2, and we
15 are continuing to receive comments through our
16 public review process on Volume 2 and we're dealing
17 with those comments in an effort to have these
18 improvements made by the time the draft programmatic
19 comes out next fall or early winter.
20 What I'm going to focus on this afternoon
21 are some very brief comments on Volume 3. Volume 3
22 is the implementation strategy for the Ecosystem
23 Restoration Program. It comes about as a result of
24 a very specific need to have an operating system for
25 implementing a program of this size and this

1 duration.

2 Also it came about as a result of a
3 Scientific Review Panel that we had independently
4 review the program last October and some strong
5 recommendations that they made. Those strong
6 recommendations were embraced by many stakeholders
7 and a stakeholder group came to us with the
8 suggestion that we formulate another independent
9 team of scientists to help us do that, and we have
10 done so.

11 We're calling them the core group. They
12 are six prominent scientists who represent the
13 various disciplines that are involved in our
14 Ecosystem Restoration Program Plan, and they have
15 been working for a couple of months now to develop a
16 number of the elements.

17 Although I've talked about this in the
18 context of the ERPP, there are in fact three
19 elements to the CalFed Environmental Restoration
20 Program. Those associated with restoration
21 coordination, early implementation of Category 3
22 element of the program, the conservation strategy,
23 the way in which we intend to comply with the State
24 and Federal Endangered Species Act, and the larger
25 scale longer term Ecosystem Restoration Program Plan

1 that we're working on to restore the ecosystem
2 health.
3 Our strategic plan is intended to serve as
4 the operating mechanism for each of those three
5 different elements. There will be no duplication of
6 effort but rather full integration between those
7 three elements.
8 As I mentioned, we had this independent
9 scientific review last fall. There was a good deal
10 of discussion and emphasis placed on the need for an
11 effective adaptive management program, and that is
12 the focus of much of our effort right now and our
13 work with the core group.
14 This wasn't really intended to be humorous
15 although it looks kind of silly. The point I want
16 to get across here is that -- and this is not Lester
17 Snow, it's combination Max Hedroom (phonetic) and a
18 couple of engineers, et cetera, and I realize that
19 it's very gender specific. This is the third time
20 I've made this presentation and I've gotten a lot of
21 comments on this overhead.
22 (Laughter.)
23 EXECUTIVE DIRECTOR SNOW: The point I
24 want to get across is that there are a number of
25 elements that are needed to support adaptive

1 management, and if you jerk one of those elements
2 out the whole process would likely collapse.
3 Although I'm going to talk mostly about
4 indicators today, we are working on monitoring. You
5 may have heard or have been briefed on our CMARP,
6 our Comprehensive Monitoring and Research Program
7 that's being put together. That's a very broad
8 scale effort that will provide a monitoring and
9 research plan and program for the whole of the
10 CalFed program, all of the activities, all of the
11 common programs in the program.
12 Focused research will also come out of the
13 CMARP effort. They and others have been making
14 strong suggestions to us as to areas that will
15 require focused research and additional refinement.
16 One example of that is that we really need
17 to sit down and figure out the appropriate
18 methodology necessary to determine the allocation of
19 instream flows in all the streams tributary to the
20 Delta and outflow for the Delta. At the present
21 time there is not consensus on the appropriate
22 methodology for that. That will be one of the
23 focused research programs that we're pursuing.
24 In addition to focus research, I've put up
25 here foundational research. We do continue to need

1 serious looks at broad and more foundational issues
2 in our ecosystem, how all of these various parts
3 work together in this system.
4 Another suggestion that came out of the
5 scientific review group was that we develop
6 conceptual models. Essentially graphic depictions
7 of what our hypotheses are in the system, how we
8 believe things will change if we modify inputs or
9 reduced stressors in this system, what we expect the
10 result to be.
11 And we've found that as we've been
12 developing these conceptual models -- and we did a
13 lot of this work in a workshop early last month --
14 we found that once we have a conceptual model, once
15 we depict on paper what our thinking is and what our
16 hypotheses are, that the needs for monitoring
17 immediately flow from that, that indicators tend to
18 flow from that; in other words, how one would go
19 about describing progress towards achievement of
20 your goals as depicted by the conceptual model.
21 And all of these various elements are being
22 worked on in parallel, but they're all starting to
23 come together and I hope coming together in an
24 effective way.
25 Of late, there's been a fair amount of

1 policy level interest in indicators of ecosystem
2 health. I'm using this graphic to show you that
3 we're looking at them in three different levels.
4 Indicators of success are those level of
5 indicators not unlike the White Sneaker Index in the
6 Chesapeake Bay system that are broadly appealing to
7 the public, that are easily understood by the
8 public, and have the ability to relate back to much
9 more scientific issues but are the sorts of things
10 you would publish in your annual report. The sorts
11 of numbers that might be picked up by the newspapers
12 in an annual.
13 And I'll give you some examples of those
14 that already exist in our system and how we're
15 looking at it.
16 The second level are management level
17 indicators. Those are the kinds of numbers that
18 decisions are made upon. Those are the kinds of
19 numbers that will help drive our adaptive management
20 program. They're the kinds of numbers that
21 regulatory agencies use to set bag limits or water
22 quality constraints.
23 Those are the nitty-gritty sort of things
24 that we've been collecting in this system for quite
25 some time but that we don't really present as

1 indicators of the ecosystem health or decline, but
2 rather that we've been using for quite some time to
3 make management decisions.
4 The landscape level indicators are those
5 broad-based sorts of issues founded in science that
6 help us understand how the ecosystem works and how
7 we're making progress towards overall ecosystem
8 health.
9 A couple of real quick examples.
10 I tried to capture a lot of the issues and
11 interests around this table. One indication -- one
12 indicator of ecosystem success or restoration
13 success for ecosystem health will be some sort of an
14 index of flow. Frankly, we have those out there
15 right now. X2 is a classic example of an index that
16 was developed in the scientific community that
17 represents a number of ecosystem processes, progress
18 towards ecosystem health, that was adopted by the
19 regulatory end of our programs and is regularly
20 reported to the public and to differing degrees they
21 understand how it works.
22 Miles or acres added is a fairly simply
23 sort of indicator that generally progresses towards
24 an ultimate goal.
25 In dealing with endangered species, we

1 could present a rate of progress that we're making
2 towards an eventual timetable for de-listing. And
3 because this system is so heavily invaded and exotic
4 species are a particular concern, a simple reportage
5 as to whether or not we got invaded by another one
6 this year or didn't, helps give people some
7 understanding of how we're going in terms of our
8 control and management of exotic species.
9 CHAIRMAN McPEAK: Dick, before you take
10 that off -- because this has been where I've been
11 particularly interested -- what I see, there which
12 is very encouraging and good, is a mixture of
13 things, however, terms I just want to clarify.
14 When I say "performance standards," I'm
15 usually looking at or expecting us to define,
16 delineate what actions we will take or what even
17 inputs we might have to the system. An index of
18 flow objectives is an input to that system as I
19 would define it. And a success factor would be a
20 description of the species, the fisheries, how they
21 come back. I mean if we could describe the
22 characteristics of the population as I think you've
23 tried to instruct me, little ones, middle ones, big
24 ones. There's technical terms, I know, for that.
25 But if we -- I think there needs to be the

1 distinction, is really where I'm going with this,
2 that we have some performance standards and we agree
3 on that. And some of those are going to be inputs.
4 An input is the acreage or the kind of
5 habitat, shady, meandering habitat, in terms of
6 miles, it will be outflow, it will be a variety of
7 different things, and the output or the success
8 factor indictor should be the observed healthiness
9 of the ecosystem which I think would be expressed in
10 things like the observable fish population.
11 EXECUTIVE DIRECTOR SNOW: I would agree
12 with you in terms of looking at observable fish
13 populations as a performance measure. Most
14 certainly we expect the program, the Ecosystem
15 Restoration Program, to perform in terms of
16 recovering listed species and in terms of
17 reestablishing robust populations of those species
18 that are not currently at risk. Those are
19 performance measures, those are numbers.
20 The biologists, the specialists will tell
21 us we think we'll have a health population of fish
22 species X when it reaches such and such a number and
23 stays there for some time.
24 That in and of itself isn't necessarily an
25 indicator of ecosystem health. It's a numerical

1 evaluation of how that one species is doing.

2 What we're trying to do with indicators is

3 aggregate those kinds of performance measures such

4 that we get an overall broad scale picture of how

5 we're going in terms of restoring ecosystem health.

6 CHAIRMAN McPEAK: More than one species

7 and not just fish but also the habitat floor?

8 EXECUTIVE DIRECTOR SNOW: Yes.

9 CHAIRMAN McPEAK: I get that. I'm just

10 trying to -- when are we going to have this, maybe?

11 EXECUTIVE DIRECTOR SNOW: We have an

12 awful lot of those kinds of things already, as you

13 might recall in Volume 2 of the ERPP where we come

14 up with specific prescriptions. We have numbers of

15 fish that are our objectives. We have acres that

16 are our objectives. We call them targets.

17 We have acre feet. We have CFS. We have

18 miles. We have tons of replaced spawning gravel and

19 more general language with regard to how we would

20 like the system to perform in terms of, you know,

21 various ecological processes.

22 But very early on we staked our claim that

23 we had good understanding as to the kinds of volumes

24 and numbers and performance in terms of fish

25 populations, and we called those targets.

1 In this group we've had debates over how we
2 developed those numbers. In this group we've had
3 arguments over whether or not we ought to go with a
4 specific number of salmon, like doubling or
5 progressive improvements in the population. And
6 those have been available for review and have been
7 reviewed for quite some time.
8 We're continuing to refine them and most
9 certainly those numbers, those targets will be the
10 subject of evaluation and reevaluation through
11 adaptive management.
12 CHAIRMAN McPEAK: Okay. No, I actually
13 don't recall that kind of discussion.
14 Tell me, have all of the CalFed agencies
15 signed off on those targets?
16 EXECUTIVE DIRECTOR SNOW: To varying
17 degrees they have. We are now undergoing a new
18 review specifically looking at the endangered
19 species, for example, where we're challenging the
20 CalFed agencies, particularly the Fish and Game,
21 Fish and Wildlife Service and National Marine
22 Fishery Service to evaluate the program as a whole
23 and to give us some insight as to whether or not
24 they think the program will result in recovery or
25 contribution to recovery for the various listed

1 species.

2 What seems to be at most debate amongst the
3 CalFed agencies is what do you do when, what are
4 your priorities for staging. Those are -- those are
5 the more recent issues that I'm getting.

6 CHAIRMAN McPEAK: Dick, the ERPP, of
7 course, is multi-thick -- multi-page volume. David
8 Guy earlier this morning I think was noting that in
9 the framework document, for example, the solution
10 principles should be reiterated. I think that's
11 what it was because they're not here, and Stein had
12 said it should become a document that stands alone.

13 I'm referencing back to the ecosystem
14 restoration, and what's here in the appendix is some
15 actions but it's not those indicators or targets.

16 I'm -- I'm going to ask if you could
17 summarize, either we integrate it here or we
18 summarize it on one or two pages what those are
19 because I want to come back at the next meeting and
20 have those in front of us to just revisit.

21 MR. DANIELS: I think, and I wasn't here
22 for the earlier discussion this morning, but I think
23 the commitment has been made that for each of the
24 programs at CalFed, we're going to provide a greater
25 level of specificity for that framework document.

1 There are numbers in there like 30,000
2 acres of this --
3 CHAIRMAN McPEAK: Right.
4 MR. DANIELS: -- and 7,000 acres --
5 CHAIRMAN McPEAK: That's right.
6 MR. DANIELS: -- of that.
7 CHAIRMAN McPEAK: That's right.
8 MR. DANIELS: -- but we most certainly
9 can provide more details.
10 CHAIRMAN McPEAK: But the targets on the
11 fish are not as an example.
12 MR. DANIELS: Okay.
13 CHAIRMAN McPEAK: Okay. Thank you.
14 Proceed.
15 MR. DANIELS: Simply, the next level of
16 indicators are those that I already mentioned
17 relative to management. These would be things like
18 minimum flow, the extent of floodplain habitat, how
19 frequently that floodplain habitat is inundated, the
20 degree again of progress towards listed species
21 recovery.
22 It's some sort of an index of invasive or
23 exotic species. And in response to the frequent
24 comments of Alex, we do need to sit town with a
25 scientific-based review and try and figure out just

1 what all of these invasive species really are doing
2 to the system, what does it mean. There's
3 relatively little evidence that they've actually
4 disrupted the system as opposed as to displaced more
5 endemic species.
6 And then real quickly, this broad-based
7 landscape level indicators, where we're looking at
8 the system as a whole instead of instream flow,
9 we're looking at the hydrograph and how close are we
10 coming to reestablishing something like an
11 unimpaired hydrograph, to what degree are the
12 various habitats that we've reconstructed in the
13 system or rehabilitated in the system connected so
14 that we have migration corridors and transport of
15 genetic material through these corridors. Some sort
16 of an index of species that are at risk versus those
17 that are comfortably ensconced in the system.
18 And, again, this -- this whole notion that
19 exotic species are always going to be moving into
20 the system, that's a very natural process. It
21 appears that humans have taken actions that have
22 accelerated the rate of invasion into the system
23 perhaps because the system is so perturbed.
24 The rate of invasion may well be a good
25 indicator that will tell us how well we're doing in

1 terms of reducing perturbation in the system.
2 That's basically what I have. I'll deal with
3 whatever questions you want to pose.
4 CHAIRMAN McPEAK: Thank you, Dick.
5 Richard and then -- and then Alex. Not
6 you. Tom, you just pointed to Alex.
7 Richard and then Alex and then Roberta.
8 MR. IZMIRIAN: Okay. This goes back to
9 what I thought you were asking before but then the
10 conversation seemed to go somewhere else.
11 The -- you have conceptual models which are
12 essentially input-output models.
13 MR. DANIELS: Uh-huh.
14 MR. IZMIRIAN: What you're showing here
15 as indicators are measures of how well you've
16 succeeded in providing the inputs, for the most
17 part.
18 MR. DANIELS: And to what degree you
19 have favorably increased the outputs.
20 MR. IZMIRIAN: Well, I didn't see the
21 outputs out there. Maybe one.
22 CHAIRMAN McPEAK: Right.
23 MR. IZMIRIAN: Most of those were how
24 well we achieved putting the inputs in.
25 CHAIRMAN McPEAK: That's right. That's

1 the point I was making.

2 MR. DANIELS: An example, let's pose the

3 hypothesis that creating tidal wetlands in the Delta

4 will reduce constraints on Delta smelt populations,

5 that the population of Delta smelt is limited by the

6 lack of spawning habitat that is associated with

7 tidal wetlands.

8 The input you produce in your conceptual

9 model is -- is more tidal wetlands. The output that

10 you measure through your monitoring program is

11 numbers of Delta smelt. The indicator of ecosystem

12 health you use is listed or de-listed in terms of

13 Delta smelt.

14 The targets that you use are the, whatever

15 it was, some roughly 30,000 acres of reestablished

16 tidal wetlands in the Delta would be sufficient to

17 deal with this stress on Delta smelt. The actions

18 are all the different ways in which one might pursue

19 obtaining those acres.

20 MR. IZMIRIAN: Dick, I understand all

21 that. It's just that all the indicators that were

22 up there were how well you achieved providing those

23 inputs, not how well we were achieving the outputs.

24 CHAIRMAN McPEAK: Correct.

25 MR. DANIELS: And --

1 MR. IZMIRIAN: And is that by design
2 or --
3 MR. DANIELS: It's by design and by our
4 adopted definition of what an indicator is, how well
5 are you doing. Not the means by which you do it,
6 not the means by which you monitor it, and in some
7 cases not even the actual number that you measure
8 because the indicator in this case is recovery of
9 Delta smelt. The numbers are the various population
10 indices that we collect annually to take a look at
11 how well Delta smelt are doing.
12 That's the indicator. I was able to give
13 you that example because I went in early this
14 morning and sketched that out on a pad of paper and
15 didn't have time to put it up on an overhead.
16 MR. IZMIRIAN: The indicator is how well
17 Delta smelt are doing.
18 MR. DANIELS: Uh-huh.
19 MR. IZMIRIAN: And how well --
20 MR. DANIELS: Not how much acreage of
21 certain kind of wetlands are being produced.
22 CHAIRMAN McPEAK: Correct.
23 MR. IZMIRIAN: Okay.
24 CHAIRMAN McPEAK: And I think, Dick,
25 this is actually a pretty -- very important, a

1 fundamental point about the charge to CalFed. It's
2 to restore the health of the Bay-Delta estuary, and
3 that's why we're -- we're driving at it.
4 I apologize if it's all in documents and I
5 just haven't, you know, reduced it and pulled it
6 out. But I really want to get it into here and it
7 has a direct relationship to the discussion we were
8 just having previously on baseline as far as I'm
9 concerned. And I want to come back and address that
10 linkage, because there is -- there, I would like to
11 suggest, is a fundamental connection that may not be
12 tied up in a lot of complex formulas.
13 MR. DANIELS: We intend to have pretty
14 well polished drafts of all of these indicators and
15 the conceptual models and the monitoring and the
16 research needs.
17 CHAIRMAN McPEAK: When?
18 MR. DANIELS: The deadline that we've
19 set internally is August 28th.
20 CHAIRMAN McPEAK: Oh, good. So you will
21 have it by the September 10th meeting.
22 MR. DANIELS: Sure.
23 CHAIRMAN McPEAK: Okay.
24 MR. DANIELS: I don't know that we'll be
25 presenting it at the September 10th meeting. What

1 we're charging towards is an August 28th deadline to
2 produce the material that will then go into an
3 administrative draft. It will go through several
4 levels of CalFed agency review before it's put out
5 in the public.
6 CHAIRMAN McPEAK: I'd really -- I want
7 to, unless there's going to be any objections from
8 BDAC, ask for it at September 10th. And the reason
9 is, at least in my small brain, is that everything
10 else turns on that. It's -- it's -- every other
11 aspect that we're going to be discussing in this
12 framework should be relating back to the objectives
13 of restoration of the Bay-Delta ecosystem health.
14 And I think we need to see those numbers.
15 Those numbers have some very significant
16 implications. So if you could, whatever state it's
17 in, and, Steve -- now Lester is no longer here so he
18 doesn't -- in and out.
19 I didn't need him, okay.
20 See if we can't get that into this document
21 so we have it in front of us. Okay.
22 Thank you, we'll work on it September 10th.
23 MR. HILDEBRAND: Related to this same
24 discussion, it isn't quite clear to me that we're
25 not just going to look to how much more shallow

1 water habitat we develop but also how much we
2 restore, as we've lost a lot of back water shallow
3 habitat due to the aquatic plants, exotic aquatic
4 plants.
5 And it seems to me that more important even
6 than moving ahead quickly with additional shallow
7 water habitat is to restore the use of what we
8 already have. And we need to be working on that.
9 And it isn't entirely clear that there's an emphasis
10 here on resolving that problem as distinguished from
11 just adding more shallow water habitat that may
12 become similarly degraded.
13 MR. DANIELS: in our strategic plan you
14 will see statements like first priority is protect
15 what you have.
16 Second priority would be restore or enhance
17 or rehabilitate what you have that is degraded, and
18 that would -- that would go towards the conflicts
19 between these invasive plants in the Delta.
20 And then, thirdly, go forward with adaptive
21 probing into the notion that you need more and do it
22 in a constructive way such that you can measure the
23 benefits and evaluate the results and make
24 adjustments as appropriate.
25 CHAIRMAN McPEAK: Roberta.

1 MS. BORGONOVO: I wanted to encourage
2 people to come to the Ecosystem Work Group on
3 Tuesday, July 21st from 1:30 to 4:30, and I think
4 that you will begin to see some of the work that the
5 core team is doing. I'm really grateful to CalFed
6 for putting those resources in there. And the goals
7 for the Ecosystem Restoration Program will be
8 discussed, the conservation strategy.
9 I think also that you will see that some of
10 the work that was done by the San Francisco estuary
11 project is being incorporated. This morning
12 Catherine McKenney cited the work on exotic species
13 and that's using citing under the explanation of how
14 the goals are being pursued.
15 So I think that it's very important to
16 continue to see this work all come together. So I
17 do hope we have something by July 10th, and then
18 it's nice to give that back to the core team, which
19 does seem to be working very well in giving us this
20 expertise that's needed.
21 MR. DANIELS: It's been fun working with
22 the.
23 MS. BORGONOVO: September 10th is the
24 BDAC meeting and they expect to have something the
25 end of August, and they are -- some of the work is

1 going out to the work group. I think it was mailed
2 yesterday.
3 MR. DANIELS: Uh-huh.
4 MS. BORGONOVO: So if you don't receive
5 it in the mail, it will be available on Tuesday. So
6 your comments are being invited for input.
7 CHAIRMAN McPEAK: Very good. Then,
8 actually, it will probably be your committee report
9 that we would put up front.
10 MS. BORGONOVO: That would be fine.
11 CHAIRMAN McPEAK: Okay. And then work
12 from that into the framework and have that
13 discussion.
14 MS. BORGONOVO: And the conservation
15 strategy which deals with ESA issues is a very
16 important issue and there was to be a panel on that
17 and I believe that they intend to have a panel in
18 September. So that's -- there's just a lot of
19 material to be covered.
20 MR. DANIELS: And with all that, I think
21 you'll get a very comprehensive look at the overall
22 Ecosystem Restoration Plan for CalFed.
23 CHAIRMAN McPEAK: Great. Thank you.
24 Are there any other comments or questions
25 for Dick?

1 All right, then, I appreciate that.

2 And Steve reminded me we're sort of back on

3 schedule so I won't belabor you with my -- my

4 thoughts about the relationship to baseline. I'll

5 tell you later.

6 Let's resume the comments or the public

7 comments that we had signed up out from this morning

8 and through this afternoon. And, actually, Laura

9 King was first in line and we had covered all the

10 comments she said this morning, but is Laura still

11 in the room and do you have anything else to share

12 with us?

13 I don't see Laura, okay.

14 Amy Fowler? And, Amy, as you're coming

15 forward, may we thank you for all the time you put

16 in to organizing the business panel. And we know

17 you had to change -- or you had to get them to

18 change location because they originally were going

19 to do it -- we were going to do it in Silicon

20 Valley, and we appreciate all the work you did.

21 MS. FOWLER: Well, thank you. And I

22 think it's a great opportunity that we manage to

23 have so many representatives from our county,

24 Santa Clara County, to come and address BDAC.

25 I would just like to make some comments on

1 this morning's portion of the preferred alternative
2 discussion. I'm sorry that there's a discontinuity
3 just because of schedule and timing.
4 First of all, my name is Amy Fowler --
5 because the court reporter's no longer here -- from
6 Santa Clara Valley Water District. And I would --
7 in case you don't know much about our district, we
8 provide two vital functions to the businesses and
9 residents of Santa Clara County. We provide flood
10 management as well as water supply for the 1.6
11 million residents in the county.
12 And one thing I would like to mention is
13 one of the missions of our water supply mission is
14 to provide an adequate supply of water that meets or
15 exceeds all applicable standards. And I think I
16 would like to take this opportunity to elaborate on
17 what that mission means to our district.
18 It means -- narrowly cast in the preferred
19 alternative discussion, it means that it is
20 absolutely necessary that we see the option of an
21 isolated facility be --
22 (End of tape)
23 MS. FOWLER: -- as the need arises, and I
24 also urge CalFed to take a long-term view when it
25 comes to water quality needs.

1 As a public agency, we are by definition
2 providing a public service to provide a high quality
3 supply of water to the community. So we need to
4 think beyond this immediate Stage 2 standards
5 promulgation, be that 2002 or whether we're just
6 narrowly thinking the Stage 1 trigger implementation
7 coming up in seven years. We are here for the long
8 term.
9 Our district just recently celebrated a
10 30-year anniversary and I would like to hope that we
11 will be around for many more 30 years. But that
12 would mean that we have to work hard to provide that
13 water supply, do our work. And as Robin Brach has
14 indicated, water quality consistently ranked very
15 high in our public's mind as a public health issue.
16 And there's also another opinion out there
17 in the public that they believe water quality will
18 continue to degrade as the population in the state
19 continues to increase. And as a district, we are
20 investing a tremendous amount of money and resources
21 into our treatment technology. And that technology
22 is very expensive.
23 But I would like to also point out that we
24 are concerned about someday maybe our technology
25 cannot catch up with this latest super bug or

1 whatever the constituental concern is going to be.
2 So we would just like to say when CalFed is
3 implementing their adaptive management approach,
4 they also need to think of not only applying that to
5 the ecosystem program but also as water quality
6 needs continue to change into the future, we need to
7 take that long-term view definitely beyond Stage 1,
8 seven years, or however a short-term period we may
9 be developing this current preferred alternative
10 conditional decision-making process.
11 Thank you.
12 CHAIRMAN McPEAK: Thank you, Amy.
13 Ronnie Cohen, followed by Conner Everts.
14 MS. COHEN: Good afternoon. Ronnie
15 Cohen with the Natural Resources Defense Council.
16 Like Amy, I am responding to the framework
17 discussion this morning and specifically, Sunne, to
18 a comment -- a question that you asked Roberta about
19 the water use efficiency and the list of actions on
20 page B-4. You had asked whether -- what you
21 thought -- what Roberta thought needed to be added
22 to that list to make it stronger and to maximize
23 water use efficiency.
24 The Environmental Water Caucus and NRDC
25 have both commented extensively and specifically in

1 our comments in the DEIR on how this section of the
2 CalFed program can be improved. But I have three
3 specific areas that I can suggest right now just to
4 get you started thinking about this.
5 CHAIRMAN McPEAK: Yes, please.
6 MS. COHEN: First, with regard to the
7 urban water conservation, CUWA and EWC have been in
8 discussion about this component of the CalFed
9 program and have come to an agreement on full
10 implementation of the best management practices that
11 are contained in the Memorandum of Understanding on
12 urban water conservation and on a certification and
13 enforcement procedure for ensuring that there is in
14 fact full implementation of the BMPs.
15 However -- and that is reflected in this
16 document.
17 However, all along we have acknowledged
18 that a full implementation of the BMPs is actually a
19 floor and not a ceiling for urban water
20 conservation; that this was sort of the minimal
21 level that all agencies had to comply with in order
22 to qualify for CalFed benefits. But it in no way
23 exhausts the full range of urban water conservation
24 that's possible.
25 The MOU does not say to do all conservation

1 that's cost-effective for a water district, let
2 alone all water conservation that would be
3 cost-effective if energy and wastewater savings and
4 environmental externalities were taken into
5 consideration.
6 So there is a huge additional amount of
7 conservation that is not reflected in this document
8 and CalFed needs to do additional work to try to
9 capture those savings.
10 Of course, the first step would be to
11 quantify those savings and then we need to see
12 development of a program that would go out with the
13 right mixture of incentives and other programs to
14 actually achieve those savings.
15 CHAIRMAN McPEAK: Can you give us an
16 example, Ronnie, of one of those measures that you
17 consider cost-effective that isn't in the BMPs that
18 should be incorporated into that kind of water
19 conservation action?
20 MS. COHEN: Well, it's not just measures
21 that aren't included in the BMPs. All of the BMPs
22 specify a certain performance level. So, for
23 example, for auditing commercial and industrial
24 customers the BMP says you need to audit, I think
25 the number is the top 10 percent of your customers,

1 for example. But it may be cost-effective for a
2 water agency to audit the top 50 percent of their
3 customers and to offer those customers incentives to
4 implement the measures that are found in the audit.
5 But you're in compliance with the BMP as
6 long as you audit the top 10 percent. But I think
7 CalFed should be looking at encouraging conservation
8 beyond that if it is cost-effective.
9 Additionally, there are, of course,
10 measures outside of the BMPs that we are just now
11 developing best management practice for our
12 horizontal access washing machine, but it may be
13 possible that -- again, that there's -- that there
14 are other technologies that are not included that
15 should also be added.
16 On the agricultural side, like Roberta and
17 Richard noted, the program as currently described is
18 pretty much a planning base program. It does not
19 have targets or performance standards, and that's a
20 major flaw in the program.
21 Two of the most obvious areas where we
22 would like to see performance standards are on water
23 measurement and water pricing. I think universal
24 measurement of all water is really critical to
25 achieving maximum water use efficiency in the state.

1 Our -- our colleagues in the agricultural
2 community are continually pointing out to us that
3 surface water and groundwater are in fact closely
4 related and we certainly recognize that relationship
5 and therefore believe that without -- without
6 universal water measurement we are not going to
7 maximize efficient use and efficient management of
8 those water resources.
9 Similarly with pricing, we would like to
10 see a volumetric pricing standard and use of tiered
11 pricing. CalFed has considered as a backup measure
12 potentially including volumetric pricing, but
13 because it doesn't specify a certain level, what
14 amount of revenue would have to be recovered in the
15 volumetric charge, it's not a particularly
16 meaningful approach at this point.
17 And third, I think that one of the most
18 important, if not the most important step that
19 CalFed can take to improve the efficiency of
20 existing water supplies is to -- is to unequivocally
21 state that we're not going to build additional
22 subsidized storage. Provision of additional cheap
23 water supplies is going to undermine the water
24 transfer market and would undermine investment in
25 efficiency.

1 I think that with that -- until water use
2 is really recognized that we're not going to --
3 we're not going there, we're not going to have an
4 additional supply of cheap water. There's not
5 really enough incentive to go ahead and make those
6 long-term investments that will improve the
7 efficiency of our water use.
8 And in closing, I -- I know this was asked
9 earlier in the day but I'm one of those people that
10 spent extensive time reviewing the CalFed DEIR, and
11 I would very much like a response to how those
12 comments that we made about the shortcomings of the
13 document are going to be incorporated into the
14 next -- into the CalFed -- the next set of CalFed
15 documents. Not just in a response-to-comments
16 document, not just air it here, but how those are
17 actually going to be translated into changes in the
18 CalFed course of action.
19 Thank you.
20 CHAIRMAN McPEAK: Thank you, Ronnie.
21 MR. DANIELS: Could I comment on that?
22 CHAIRMAN McPEAK: Yes.
23 MR. DANIELS: I just have two comments.
24 One is to note that Ronnie Cohen wins the
25 environmental heroine of 1998 for having coordinated

1 the Environmental Water Caucus comments on the draft
2 EIS/EIR.
3 And secondly, just to second what she --
4 what her last point was, particularly in light of
5 what Lester said when he came back from the meeting,
6 that the kind of urging of the Governor and the
7 Secretary is to focus on the current, you know, sort
8 of slender programmatic overview. You know, I can't
9 remember the exact terminology for it.
10 MS COHEN: The framework.
11 MR. DANIELS: The framework or whatever,
12 that's important obviously and all of us are going
13 to be doing that.
14 But it's also -- you know, the guts of this
15 over the long run is the -- is the big deal, you
16 know, the -- however many pages someone pointed out
17 it was back in our meeting in Los Angeles. And, you
18 know, a lot of people went to a lot of trouble to
19 comment in depth on that set of documents and
20 hopefully CalFed will respond in kind.
21 CHAIRMAN McPEAK: Okay. Thank you.
22 (Break in tape)
23 MR. EVERTS: You're worn down by the
24 process, it seems like a long time ago. This
25 morning I flew up from Southern California looking

1 out over a series of agricultural fields, water
2 storage facilities in the state aqueduct, and I am
3 proud to be one of the many people that have spoken
4 up today for water efficiency.
5 I'm representing POWER, which is Public
6 Officials for Water Environmental Reform. I've
7 participated in the CalFed water efficiency work
8 group for as long as it did meet, and I was -- also
9 have participated in the California Urban Water
10 Conservation Council. And as a POWER board member I
11 was a former elected official promoting water
12 conservation and other water quality issues in
13 Western Ventura County.
14 I'd like to point out the issue of the soft
15 path has come up, an issue of what water
16 conservation really means. The term's often evolved
17 to water efficiency, and it even at one time for the
18 CalFed group was called the Water Demand Management
19 Work Group.
20 I think we have to be clear on what we're
21 talking about in water conservation. Everyone
22 agrees, along with apple pie, that they like the
23 idea of conservation. But when it comes down to
24 some of the hard decisions of how we're going to
25 implement it and whether it's going to be voluntary

1 or mandatory and what the BMPs mean as -- and I have
2 to respect my San Francisco environmental friends
3 for the hard work they did of conservation issues,
4 but are we going to go forward with a serious
5 comprehensive conservation program and then allocate
6 that water back to the environment and back to ag?
7 Because I think we have to compliment ag
8 for the water that has been saved and maintain that,
9 or are we going to just continue to have more demand
10 for the water supplies that we save? And I think
11 that's a lot of the public comments we get in
12 Southern California from the people who got nothing
13 more for their hard work in saving water, the
14 public, than higher bills and the projection of
15 higher and higher bills.
16 So I would like to say Southern California
17 has saved a lot of water in major programs. One of
18 the issues of a soft-path page that went out that
19 really got me going was the range of cost for
20 conservation going up to $1600 and starting at $450.
21 Conservation really starts at zero dollars per acre
22 foot.
23 Both through education programs, through
24 people -- community based organizations, people have
25 led conservation not first by the agencies but by

1 themselves, and by the fact that there are
2 ordinances such as LA's recently implemented a
3 program that requires ULS on resale and retrofit.
4 City of Santa Monica has maintained that since the
5 drought in 1988 as well.
6 Those programs will go on regardless of
7 other investments, but I hope we do see a strong
8 financial investment from CalFed in ongoing
9 comprehensive demand side programs.
10 And that's all I have to say. Thank you
11 all very much. If there's any questions, I'd be
12 glad to answer them. The POWER group is putting out
13 a journal in response to a lot of the comments on
14 what conservation means. It's going to include some
15 of the EIR comments and specifically, WC and EDF and
16 the Pacific Institute is doing an ongoing program
17 which I really respect the work they've done and I
18 would hope that you all have a chance to look at it.
19 CHAIRMAN McPEAK: And Conner --
20 MR. EVERTS: Yes.
21 CHAIRMAN McPEAK: -- is it POWER's
22 recommendation that the conservation or water
23 efficiency program, particularly urban conservation
24 be -- continue to be financed principally by the
25 user through the user agency, through the water

1 district, the water agency purveyor, or are you also
2 proposing additional match or infusion of dollars --
3 MR. EVERTS: I think --
4 CHAIRMAN McPEAK: -- from some other
5 source?
6 MR. EVERTS: I think to be equitable
7 across the state there's going to have to be another
8 match. There -- there will be certain --
9 CHAIRMAN McPEAK: There will have to be
10 what?
11 MR. EVERTS: There will have to be
12 another match for certain agencies. There are
13 certain agencies that have made the commitment to
14 invest and others haven't. So we have this great
15 inequity. And it doesn't deal with the issue of the
16 delivery of the water if people have a very
17 different baseline in terms of their conservation
18 programs.
19 And it creates a lot of this kind of
20 continued single interest view that we see where I
21 continue to hear the same comments coming from
22 different sides, we're not coming together on this
23 issue. We just kind of stand -- stand apart.
24 CHAIRMAN McPEAK: Okay. Thank you. And
25 thank you for taking the entire day coming up here

1 and waiting so long.

2 MR. EVERTS: Thank you for the

3 opportunity.

4 CHAIRMAN McPEAK: Randy Kanouse followed

5 by John Kane (phonetic).

6 MR. KANOUSE: Thank you.

7 You've patiently listened for -- to all of

8 the speakers for nine hours now today and I thought

9 of maybe presenting my comments in rap to kind of --

10 CHAIRMAN McPEAK: Only if you also

11 dance.

12 MR. KANOUSE: -- capture your attention.

13 (Laughter)

14 CHAIRMAN McPEAK: Take the microphone,

15 you got to move out here if you're going to do rap.

16 MR. KANOUSE: But the CalFed staff

17 having heard me attempt to rap outside, begged me

18 not to. So...

19 Welcome to our service area. We are

20 pleased to participate in the meeting today. As you

21 know, East Bay MUD is the water agency with water

22 rights on the Mokelumne River and serves portions of

23 Alameda and Contra Costa County, 21 cities and 15

24 unincorporated communities, 1.2 million people.

25 We are very strongly supportive of the

1 approach that CalFed is pursuing, the concept of a
2 phased implementation program. The issues which
3 were discussed extensively this morning about the
4 linkages and the appropriate triggers are important
5 issues to retain the confidence of all the
6 communities. But from our perspective, this program
7 has to be a phased approach to retain the confidence
8 of all of the communities.
9 East Bay MUD recognizes, continues to
10 recognize that we as a diverter from the Bay-Delta
11 system have an obligation to the flows, the Delta
12 flows, and will participate in every aspect of the
13 program, including the financing of the program.
14 East Bay MUD's conservation program is
15 something that we're very proud of. Martha talked
16 this morning about in Southern California the
17 accomplishment of serving no more water today than a
18 period early in time. Our consumption in our
19 service area today is approximately what it was in
20 1968, and we're very pleased at the seriousness with
21 which our customer base have -- has implemented
22 conservation.
23 Our plans that are part of our long-term
24 planning program at East Bay MUD have us conserving
25 by the year 2020 approximately 35,000,000 gallons a

1 day of water. Now, that's roughly equivalent to the
2 water consumed by the entire residents of the City
3 of Oakland. We're pleased with that.
4 But building on the comments that Ronnie
5 provided earlier, we're learning that we can do
6 more. We've -- through the CalFed process and the
7 discussions that we are engaged in with the
8 Environmental Water Caucus, we are looking for ways
9 to invest more heavily in the various programs
10 working both with our industrial and commercial
11 accounts, where there are huge opportunities for
12 savings, as well as our residential customer base.
13 In this fiscal year which just started, the
14 East Bay MUD Board of Directors doubled the budget
15 for our conservation program. And it was not an
16 easy action of their part because, as you well know,
17 trying to keep water rates in line and trying to
18 avoid rate increases is a prime consideration for
19 elected officials. And yet the commitment for the
20 Board of Directors was to recognize that we can do
21 more and will do more.
22 Our reclamation program by the year 2020,
23 we -- between the projects that we have on line and
24 the projects that we are planning for, we expect to
25 be reclaiming approximately 24,000,000 gallons a

1 day, which is roughly two-thirds the size of the
2 water consumed by residents of the City of Oakland.
3 And as time goes on, we'll find projects that are --
4 that today don't seem to pencil out that will be
5 affordable in the future as well.
6 Mokelumne River fishery restoration effort
7 has been something very important to East Bay MUD.
8 We have been working with both the Department of
9 Fish and Game and the U.S. Fish and Wildlife Service
10 on a program to restore and revitalize the salmon
11 fishery on the Mokelumne River, and we're very
12 pleased at the results that we have achieved.
13 It's been an investment to date of around
14 $11,000,000 on our part and we are anticipating
15 another $15,000,000 expenditure over the next decade
16 or so. As a result of the efforts, the salmon
17 escapement is now triple the long-term historical
18 average on the Mokelumne River, and that's something
19 we're very proud of.
20 We are working closely with the CalFed
21 staff looking at the various alternatives,
22 particularly those alternatives -- those elements of
23 Alternative 2 which would propose a canal which
24 would dump substantial quantities of water into the
25 Mokelumne River and the impacts that such a project

1 could have on our fishery restoration effort.

2 We're very pleased at the cooperation and

3 the recognition that CalFed's staff and the other

4 interest groups are giving to the need to protect

5 that investment and that effort as part of the

6 CalFed program.

7 I might touch briefly on -- on the comment

8 that Conner made in his comments just now. East Bay

9 MUD has been working this year and will continue to

10 work next year on a legislative effort to try and

11 strengthen the planning that goes on by cities,

12 counties and -- LAFCO's and their examination of

13 water supply availability before they approve new --

14 major new development projects.

15 We believe strengthening that planning

16 process is important, is very consistent with the

17 CalFed objectives and is important to all of the

18 environmental and agricultural and urban users

19 currently here in California.

20 Finally, I'd like to touch on the subject

21 that was discussed this morning a little bit and

22 Lester commented on it when he arrived briefly, and

23 that is Governor Wilson's initiative, his letter to

24 the Speaker of the House, and I think very closely

25 related to that the efforts in Sacramento to put

1 together a very important water bond measure in the
2 waning hours of the legislative session this year.
3 Those efforts are important and some of the
4 components that have been talked about for
5 inclusion, either in a water bond or even possibly
6 in Governor Wilson's effort in Congress, warrant a
7 discussion, an examination and a closer review. But
8 they must be done within the broader stakeholder
9 community. They absolutely have to enjoy the broad
10 support and participation of all of the interest
11 groups for them to be successful.
12 We cannot -- we cannot participate in
13 CalFed and in BDAC and pledge to a process that
14 involves all the stakeholders and then in the
15 political arena deviate from that course of action.
16 And I know we're not alone among the urban water
17 agencies in believing that this is absolutely
18 important for the success of those efforts.
19 And I thank you for the opportunity to
20 share those comments with you.
21 CHAIRMAN McPEAK: Randy, I have a
22 question and others apparently do, too.
23 Alex.
24 MR. HILDEBRAND: Does East Bay MUD
25 expect to go through the 30-year time frame of

1 CalFed without any increase in the water taken from
2 the Central Valley?
3 MR. KANOUSE: I'm sorry, I -- I don't
4 follow your question, Alex.
5 MR. HILDEBRAND: You were remarking
6 about how much water you have saved and expect to
7 save --
8 MR. KANOUSE: Oh.
9 MR. HILDEBRAND: -- but it wasn't clear
10 whether you expect to save so much water that you
11 will not need during the next 30 years to increase
12 your water take from the Central Valley.
13 MR. KANOUSE: Well, we certainly don't
14 expect to increase our water take from the Central
15 Valley but we do -- we are very aggressively
16 pursuing our American River project, taking water
17 under the contract that we have signed with the
18 Bureau of Reclamation in 1970 and that during dry
19 years we have critical need to serve our customer
20 base at this time.
21 MR. HILDEBRAND: So you will take more
22 water in dry years?
23 MR. KANOUSE: Absolutely, but this is --
24 this effort to implement that project is one that is
25 being pursued consistent with all of the state and

1 federal agencies and the stakeholder community and
2 working with the -- all of the interest groups.
3 MR. HILDEBRAND: I'm merely questioning
4 the total demand on the Central Valley rather than
5 whether it's justified or not.
6 CHAIRMAN McPEAK: Okay, Ann?
7 MS. NOTTOFF: Well, just to say that the
8 conservation achievements that you've talked about
9 are heartening. And I think maybe you can give BDAC
10 a little good words about the -- how well pricing
11 has helped you in terms of conservation.
12 You have some reluctance we often hear
13 around the table about looking at pricing as a real
14 driving measure to achieve conservation, and I think
15 East Bay MUD deserves some credit for having stuck
16 it out through some of the pricing controversies.
17 That and as well as I think the -- it's
18 very important, it's very forward-thinking in
19 looking at the connecting land use with water
20 conservation. That's another area that I think that
21 CalFed could do a much better job of scoping out.
22 MR. KANOUSE: Thank you.
23 CHAIRMAN McPEAK: And somebody can
24 explain to me what Perata was talking about, but...
25 MS. NOTTOFF: I wasn't there so I can't

1 translate.

2 CHAIRMAN McPEAK: But let me -- may I

3 follow?

4 I was going to follow -- I can follow

5 myself, can't I?

6 My question follows on Ann's because I'd

7 like -- I would like to, I think, and I want to just

8 work on the assumption that it is the intent of

9 CalFed or BDAC and the documents we have in front of

10 us, to do the maximum on conservation.

11 And so I'm interested in, A, if you think

12 you can figure out how to quantify what "doing more"

13 means. That is, can you today quantify the amount

14 of savings, potential savings in doing more. And

15 what is -- B, what is the most effective way for us

16 to ensure for the public to be assured that East Bay

17 MUD is going to do the maximum on conservation.

18 MR. KANOUSE: Well, you know, the

19 maximum on conservation, I think, there's no --

20 there's no -- I wish there were a simple solution or

21 an easy guideline. It's going to be a question for

22 every agency, urban and agricultural, what you're --

23 you know, what you're willing and what your customer

24 base is willing to accept in terms of an investment

25 in -- through rate increases, through rate increases

1 that may occur over a short term that can achieve
2 savings that will accrue over a much longer term.
3 Those are issues that are going to be
4 handled differently, I think, by the governing
5 boards of every agency. It's not a simple solution.
6 I don't think there's one formula that will work
7 across the board.
8 Clearly, the cost-effectiveness test is an
9 important foundation, the cost-effectiveness test
10 within the best management practices that ensures
11 that you're pursuing conservation up to the price of
12 acquiring any new supply in a -- through the more
13 conventional means, through new water projects.
14 CHAIRMAN McPEAK: And so what is the
15 most effective way to make sure that -- I understand
16 what you just said and I'll stipulate to the fact
17 that it's political realities with every governing
18 board. There's also physical realities to what
19 actually can be saved.
20 And I do think there's more that we can do,
21 and that we've set it up so the Urban Water
22 Conservation Council is the mechanism for doing that
23 and although voluntary, we intended it to be a big
24 enough carrot though it was a stick. Things like
25 your water rights thing, you know, could actually

1 get modified if you weren't to doing the maximum
2 conservation. That's how we delivered that report
3 to the State Water Resources Control Board.
4 So what is the most effective way we can be
5 assured that you're doing everything that can be
6 done?
7 MR. KANOUSE: You know, maybe -- maybe
8 the continued diligence that my colleagues sitting
9 largely here to my left here -- and I'm not -- I'm
10 not trying to be facetious here, but I think I'm
11 being very sincere when I tell you that we have a
12 program that last year we received an award from the
13 Bureau of Reclamation for our per capita reduction
14 in water savings was recognized as, you know,
15 outstanding, was a model. And we're very proud of
16 that and our managers and our board members were
17 very proud of our successes.
18 And yet, because of the persistence of my
19 fine colleagues, with Ronnie at the forefront of the
20 effort, we've decided we can do more. So --
21 CHAIRMAN McPEAK: Well, that is a new
22 proposal. We're going to hire those four. Okay.
23 I'll put a call in to them right now.
24 (Laughter)
25 CHAIRMAN McPEAK: Tom and then Roberta.

1 MR. GRAFF: I have a few comments. One,
2 in response to Alex's question and Randy's response,
3 let me note that there were a number of interests,
4 some in Alex's area of the Contra Costa Water
5 District, Westland's Water District, some of the
6 environmental resource agencies, EDF, to name a few,
7 who have expressed some level of question about the
8 current proposal of East Bay MUD's on the American
9 River.
10 Their negotiations are ongoing. I think
11 it'd be worth it, though, that's sort of a subset or
12 a tangent almost to the Sacramento water forum's
13 efforts on the American, and that's an issue that we
14 haven't really had addressed much --
15 CHAIRMAN McPEAK: Right.
16 MR. GRAFF: -- at CalFed, and I think it
17 would be valuable to have them make a presentation
18 maybe the next time we're in Sacramento to hear what
19 they're doing. Because they're doing some creative
20 things up there and yet, CalFed, you know, the
21 bigger entity around causes them kind of problems,
22 maybe not -- ones that can be avoided. That's just
23 a thought.
24 Secondly, I wanted to acknowledge and thank
25 Randy for his comments on the bond measure and the

1 federal funding initiative.

2 And then third, in response to what it was

3 that Assemblyman Perata was discussing -- I'm going

4 to try to state this in a way that allows Randy as a

5 staff person to get out without his getting in

6 trouble with some faction on this board -- but as I

7 understand it, the Board of Directors at East Bay

8 MUD recently voted to eliminate the last of its

9 tiers in a tiered pricing system that in essence, as

10 I think Assemblyman Perata correctly characterized

11 it, results in lower water prices for those who use

12 the most water within that district. And EDF for

13 one objects to that decision and thinks it is a step

14 backward.

15 I don't know. Maybe one way to ask the

16 question is: What is the justification on the other

17 side for what was done? You don't have to agree

18 with it, just state it, I guess.

19 MR. KANOUSE: There are those, and this

20 is -- this is not a news flash to anyone in this

21 room, there are those who believe that tiered

22 pricing is wrong and that you need to average

23 pricing and that that's the appropriate way to sell

24 water. And that's a view that's still held by a

25 majority of the communities in this state. You're

1 right, my board recently on a closely divided vote
2 decided to eliminate the top tier, the fourth tier.
3 The good news -- I shouldn't say good news,
4 the other side of the coin is they absolutely held
5 onto three tiers. And they -- and they, all of
6 them, acknowledged that tiered pricing is here to
7 stay, and that's where we are.
8 But for those who believe that, you know,
9 pricing is a critical component in either the urban
10 or agricultural sector, you know, whether -- whether
11 four tiers or three tiers or five tiers is the
12 appropriate break -- you know, and what's the right
13 break point for each of those tiers, those debates
14 could go on endlessly.
15 And believe me, among the East Bay board
16 members, they've gone on for three years now with
17 people feeling very strongly on both sides of the
18 issue.
19 But the good news is they all recognize
20 that tiered pricing is part of the -- is absolutely
21 essential for California's future.
22 CHAIRMAN McPEAK: Thank you.
23 Roberta.
24 MS. BORGONOVO: I just wanted to comment
25 that there's great evidence that conservation really

1 does work, and one of the things that happens is one
2 district will have a wonderful program and everyone
3 will appreciate that, but it doesn't seem to spread
4 far enough across both the ag sector and the urban
5 sector.
6 Peter Glick (phonetic) is doing work on
7 case studies. Ronnie Cohen authored case studies in
8 the agricultural community. And those of us who are
9 in water conservation really believe that if enough
10 of these good examples spread across, you would see
11 this real measurable import on how cost-effective it
12 is to do conservation first.
13 And again going back to pricing, there are
14 all kinds of examples out there on the effective
15 pricing. But I have to agree, it has to be -- it
16 has to be really preached from all levels in order
17 to protect a district that is brave enough to be out
18 there in front. And there are districts that have
19 suffered the consequences but there are also
20 districts that have had great success with that.
21 Thank you.
22 CHAIRMAN McPEAK: Thank you.
23 MR. KANOUSE: And no rap singing, darn.
24 CHAIRMAN McPEAK: Well, that's a
25 disappointment.

1 John Kane, followed by Jenna Olson.

2 MR. KANE: My name is John Kane, I'm

3 with the Natural Heritage Institute. And I wanted

4 to talk a little bit about this indicators or

5 performance metrics issue.

6 I agree with you all that it's essential to

7 at some point develop performance metrics or

8 performance standards or indicators, but I'm worried

9 that we're oversimplifying what these are about and

10 we're kind of jumping to developing performance

11 metrics, performance standards, before we define the

12 goals and objectives of the program.

13 And an example of that is the indicators

14 group, the Ecosystem Restoration Indicators Group,

15 has been working for three years to develop

16 indicators and still has not come up with a product

17 that they're very satisfied with, that there's

18 satisfaction about.

19 Meanwhile, this core team of academics that

20 you've heard about has just redrafted the goals of

21 the Ecosystem Restoration Program with the help of

22 stakeholders. So we're trying to develop indicators

23 to measure success of progress towards a goal but we

24 haven't even defined the goals yet. We haven't even

25 defined the objectives.

1 One thing that is encouraging is the
2 Ecosystem Restoration Program is way ahead, I think,
3 of the other programs because of the Scientific
4 Review Panel that came in and made some excellent
5 suggestions and staff, led by Dick, have really
6 followed through in implementing those suggestions.
7 Their No. 1 suggestion was every -- that
8 the ecosystem program had to have explicit
9 quantifiable and attainable goals. And when they
10 looked at the ERPP they said, "These are vague.
11 They're not explicit, they're not quantifiable and
12 in many cases, they're not attainable."
13 So the ecosystem program had to go back to
14 those basic steps and is still in the process of
15 developing quantifiable objectives. I think you
16 have to do that before you can really start to talk
17 about indicators.
18 We have this great example of is the
19 indicator of the acres of tidal marsh a creator or
20 is the indicator the number of Delta smelt that you
21 create.
22 The example, was it -- the answer is if the
23 goal is creating tidal marsh, then the indicators
24 are the number of acres of tidal marsh you create.
25 If the goal is creating numbers of Delta smelt, then

1 the indicator is numbers of Delta smelt.

2 So we need to know what that goal is. And

3 it's at a late date, but we might as well get to

4 that point now rather than ignore it for another six

5 months.

6 And I also --

7 CHAIRMAN McPEAK: Did you think our

8 discussion was trying to ignore it?

9 MR. KANE: Well, no, I didn't think your

10 discussion was trying to ignore it and I kind of

11 concluded that maybe you were using the term

12 "performance standard" interchangeably with the term

13 "objective." One could look at it that way.

14 But I -- I -- there's a whole other

15 definition of indicators out there, that indicators

16 measure your progress towards achieving your goals

17 or objectives. And objectives and goals are just

18 something we're shooting for. It's a pretty

19 complicated subject.

20 But I will -- I want to say something else,

21 that I think the -- I sat in through all four days

22 of the Scientific Review Panel and learned a lot

23 about not just ecosystem restoration, but when you

24 have experts review a program that they know a lot,

25 there's all kinds of lessons about planning that

1 come out.

2 And the first lesson, one I already told

3 you, was develop explicit, attainable, quantifiable

4 goals. And CalFed's staff has gone back and got

5 that going and it's great progress. We haven't --

6 we don't have that in the other programs. In fact

7 some of the other programs, like water quality,

8 don't even have -- you can read the water quality

9 program front to back and not find any stated goals

10 or objectives.

11 You can read the water conservation, water

12 use efficiency program, and not -- and come away

13 with the impression that the program could be

14 successful without actually saving a drop of water.

15 I heard you, Sunne, say that CalFed's all

16 along said we're going to do the maximum amount

17 possible for water conservation. Well, if that's a

18 goal, let's write it down and put it in the report.

19 CHAIRMAN McPEAK: I agree with you.

20 MR. KANE: But it's not in the report.

21 So that's the first step.

22 And then while I'm on lessons, stepping a

23 little bit away from this indicators issue but

24 related to the presentation Dick gave on conceptual

25 models and another lesson that we got from the

1 Scientific Review Panel, is you have to develop
2 conceptual models of what you're trying to do, how
3 you view the system, how you think certain actions
4 are going to solve your problem.
5 Conceptual models are nothing more than
6 theories. And they said, develop conceptual models
7 and develop testable hypotheses to figure out if
8 these models are accurate or not. And the reason I
9 bring this up is because when we started dealing
10 with those kind of terms, what's your hypothesis
11 about how the system works, what's your hypothesis
12 about how we can fix the ecosystem, it desensitized
13 the whole issue.
14 Everybody on both sides, the stakeholders
15 on all sides, were as usual arguing from positions.
16 And when we started talking about hypotheses, all of
17 a sudden we got into the merits of the issue and we
18 were actually able to make some progress on the
19 details.
20 And there's some major conflicting
21 conceptual models about what the problem is out
22 here. I'll give you an example. One is that we
23 can -- we can take more water out of the system
24 during flood periods and put a little bit more water
25 in during dry periods and overall have an ecological

1 benefit on the system and have an overall benefit
2 for increased water supplies. That's one world
3 view.
4 We can break that into testable hypotheses
5 and find out if that's valid. But instead, we just
6 hear people preaching that world view.
7 The other world view is you can't take one
8 more drop out of the ecosystem without causing
9 damage. And I don't think either side has
10 developed -- really articulated their hypotheses
11 about this and actually worked to disprove
12 hypotheses developed by the other side on that.
13 And if we kind of got back into this
14 conceptual models, adaptive management model, and
15 talked in this kind of language, it might diffuse a
16 lot of the bickering that never really gets
17 anywhere.
18 CHAIRMAN McPEAK: Thank you. Thank you,
19 John.
20 Jenna Olson, followed by Harold Candee
21 (phonetic) and then Barry Nelson.
22 MS. OLSON: Hi. I have a couple of
23 somewhat random thoughts to share with you. And
24 I've been in and out today so pardon me if I repeat
25 something that's been said earlier.

1 The first point I want to make that I think
2 all of you know is that EWC is very committed to
3 making CalFed work. It's the best opportunity, I
4 guess we've heard it again and again a generation
5 not going to probably come again for another
6 generation, so we are here to try to make that
7 happen.
8 One big concern with regard to that is an
9 assumption in CalFed's documents, and I just heard
10 some things from John about look at the documents
11 and there's no goals in a lot of these of these
12 programs. That seems like a pretty big problem that
13 we should address.
14 Another big one is the assumption in the
15 no-action alternative that a million and maybe even
16 more acre feet of water will be diverted from the
17 system and that's the baseline against which all
18 other alternatives are compared.
19 And it seems to me that if that's what
20 we're comparing it against, and we've just heard
21 also a lot about how successful conservation can be,
22 that we might be coming up with answers that would
23 lead us to choices that we would not necessarily
24 make if we were comparing our alternatives to, for
25 instance, where we are right now today in terms of

1 diversions from the ecosystem. That seems like
2 another major issue that it would be really
3 wonderful for CalFed to grapple with before the next
4 set of documents comes out.
5 I wanted to make a comment for someone who
6 couldn't be here today and maybe just talk about
7 off-stream storage, and that term is a little bit of
8 a misnomer. Actually, we're talking about maybe off
9 large main stem rivers storage; that they are
10 creeks, tributaries, maybe ephemeral streams, and
11 that those are valuable ecosystems that would be
12 damaged, destroyed by some of the storage projects
13 that are on the table in the CalFed process.
14 So I just wanted to have that out there for
15 people to think about when we say off-stream storage
16 comes to mind that "Oh, maybe a river won't be
17 destroyed by this project," that's not the case.
18 And then finally I wanted just to address
19 some of the comments around the East Bay MUD
20 conservation program and want to congratulate East
21 Bay MUD on the successes they've had. It's
22 interesting that we've started talking a couple
23 months ago about the success in Southern California,
24 how they're using the same amount of water as they
25 were a couple of decades ago.

1 Then we started hearing Santa Clara say,
2 "You know what, we're doing that too." And now
3 today we're hearing East Bay MUD say, "Hey, we're in
4 that club as well." So I think that that's really
5 great and I hope that that club continues to grow.
6 I wanted to talk just a little bit about
7 the rate structure that the EBMUD board did vote to
8 eliminate the top tier. That top tier was the only
9 tier with any kind of teeth and it was pure
10 politics.
11 A small vocal minority put some pressure on
12 the board and they've woken up a sleeping giant
13 because the majority of the people in the East Bay
14 MUD district have -- are hurt by this decision
15 because their rates have gone up while the --
16 (End of tape)
17 MS. OLSON: -- water, their rates have
18 gone down. And I think that they're going to find
19 that actually the majority of people would like to
20 see that rate structure put back in place.
21 I think that's it. Thank you very much for
22 coming to the Bay area for this BDAC meeting.
23 CHAIRMAN McPEAK: Thank you, Jenna.
24 Hal?
25 And just so all of you know, although there

1 is not a stenographer, of course, all of those
2 comments are electronically recorded. So no
3 testimony is being LOST.
4 MR. CANDEE: Thanks a lot, Sunne.
5 I thank you all and thank you all for
6 staying awake after so many hours. I commend you
7 all.
8 Yeah, I'll do the rap.
9 I also want to thank Randy for -- for
10 commending environmental activists. I mean he noted
11 Ronnie Cohen of NRDC but there's many people
12 involved in the conservation struggle, and I think
13 it's good to hear water district officials thanking
14 the environmental community for coming after them
15 and encouraging more conservation. We haven't
16 always heard that from every water district manager
17 throughout the state.
18 And, of course, it isn't our job. It's
19 hopefully going to be CalFed's job to try to
20 establish the right kind of conservation program.
21 But I wanted to focus my comments real
22 quickly on three things that were discussed this
23 afternoon.
24 The first is we talked a lot about
25 financing and as David Yardis pointed out in his

1 comments, thank God, we're finally, you know,
2 getting into the details, getting into the
3 substance.
4 And it's a tough issue, there isn't a
5 consensus yet. There's a lot of tough issues out
6 there still to be worked through. And yet we have
7 the Governor making an end run trying to get a
8 publicly financed program under way through a letter
9 to the Speaker of the House in Congress. His budget
10 has similar proposals.
11 I'm just baffled. I don't get it. I don't
12 understand how the head of the state government
13 which is half of CalFed, we have the federal
14 government and the state government, the head of the
15 state government is making an end run around CalFed
16 when we're supposed to be building consensus about
17 what we're going to build, if we're going to build
18 anything, what the financing will be.
19 So I know that the Governor's letter has
20 been raised this morning, it's going to be talked
21 about again tomorrow. But I just -- I really find
22 it hard to believe that CalFed can continue to talk
23 about trying to build consensus when we have that
24 kind of an end run.
25 Second, I want to talk a little bit about

1 the no-action alternative. I appreciate it very
2 much Sunne's reference to endangered species. As
3 Martha and others have pointed out, the assumption
4 in the CalFed documents is we're going to just keep
5 exporting, keep exporting and Byron assures us,
6 "Well, that's okay, 'cause it's only in the wet
7 years and the demand is going to keep increasing."
8 But it's a no-action alternative and we
9 know what has happened. When export and diversions
10 increase under the no-action scenario, it hurts the
11 species and we keep getting more and more listing.
12 CalFed is not wrestling with that, they have not
13 come to terms with the impact on species of those
14 kinds of baseline assumptions and that skews the
15 analysis throughout.
16 So in the NRDC and EWC comments and other
17 comments that have been filed, you'll see a critique
18 of that entire baseline approach, the no-action
19 alternative and -- and what kind of assumptions are
20 we making about exports, what kind of assumptions
21 are we making about endangered species impact and
22 environmental impact.
23 And I agree with what Ronnie said earlier,
24 we went to a lot of trouble, not so much me, but the
25 environmental community went to a lot of trouble to

1 submit detailed comments, and it's just really
2 important that CalFed pay attention to those
3 comments, absorb them and reevaluate the analysis
4 accordingly and not just cut a deal in the next
5 seven to ten days because that's the right time
6 politically to do it.
7 Finally, I want to end on a positive note.
8 There's a lot of stakeholders around the table who
9 would benefit if the San Joaquin River was really a
10 river again. Because unfortunately, a lot of people
11 around the table, and particularly a lot of people
12 with state and federal government who long ago gave
13 up on the San Joaquin River, at least the main stem,
14 and they said, "Hey, that's not a river."
15 And unfortunately, that bias that Fryant
16 Dam (phonetic) is really the end of the river until
17 the tributaries start replenishing it and that we
18 should just give up on the main stem, that bias is
19 reflected in CalFed's approach as well.
20 Well, fortunately we have some good news.
21 We had a victory a few weeks ago in the U.S. Court
22 of Appeals. NRDC and 14 other fishing and
23 environmental groups were victorious in a 10-year
24 long struggle to get the federal government to
25 finally recognize that, first of all, Fryant Dam has

1 to obey the federal environmental laws like the
2 Endangered Species Act, and secondly have to obey
3 the state environmental laws like the state Fish and
4 Game Code.
5 It's not over yet. We're going back to
6 Judge Carlton to figure out exactly how 5937 of the
7 Fish and Game Code would apply. But I think this
8 is -- is an opportunity here, an opportunity for
9 CalFed to try to add one more piece to the
10 restoration equation and try to do something
11 creative. There's plenty that can be done in the
12 San Joaquin Valley in terms of exchanges or what
13 have you to try to benefit from that decision and
14 the idea of the river as part of the solution.
15 So I leave on a positive note that I think
16 that -- that's a good new development and I hope
17 CalFed will incorporate it into its new documents.
18 Thank you.
19 CHAIRMAN McPEAK: Thanks.
20 Hal, you I think were here, but I want to
21 make sure you're aware that Mike Cahill is planning
22 to be here tomorrow to address the letter. I -- I
23 saw it for the first time when I came in today. I
24 just wanted to state for the record it's not been my
25 impression that it was the intention of the Wilson

1 administration to end-run CalFed.

2 Now, we'll have the opportunity to have

3 that discussion, but I certainly haven't had that

4 impression.

5 MR. CANDEE: Well, I just -- just for

6 the record, I was the person who handed the letter

7 to several members of the federal policy group that

8 manages CalFed. They had heard about it but the

9 Governor's office did not have -- take the trouble

10 to give a June 28th letter to Newt Gingrich, to

11 members of the federal family. So if that's not an

12 end-run around CalFed, just it's pretty -- pretty

13 clear.

14 Anyway, I'm glad that Mr. Cahill is coming

15 tomorrow and I'm sure there will be a good debate

16 about this.

17 Thank you.

18 CHAIRMAN McPEAK: Yes, Steve.

19 MR. HALL: Hal, you raised an issue that

20 a number of representatives EWC had raised, and I

21 finally got it that somehow there's the perception

22 that in the rush to a preferred alternative that all

23 the comments in the ERI can just be blown off. That

24 is not the case at all. I think we take responding

25 to those comments very seriously.

1 I would say this: We do need to keep in
2 mind this is not a normal process where you submit
3 the comments and then wait 12 months for the answer
4 to come back out under the door. You know, where we
5 are already is in response to comments we were
6 hearing even before the closure of the comment
7 period.
8 So I think you need to keep reiterating
9 your comments as we go through the development of
10 the preferred alternative, but we'll be responding
11 to them completely. We also need to keep hearing
12 them as we work through details now and not just sit
13 back and say, "Okay, we're waiting for the
14 response."
15 That's what I want to emphasize.
16 MR. CANDEE: Well, I appreciate that
17 clarification and I agree with you it's not a normal
18 process on many levels.
19 (Laughter)
20 MR. CANDEE: Some people run away to
21 Africa, they're so put off by it.
22 But I just think that having said that, and
23 I recognize, you know, CalFed must go forward,
24 there's a lot to do. There is a perception, and
25 there's been a perception all along, that timetables

1 are being driven by politics, not by science. And
2 not necessarily CEQA and NEPA, and that we are
3 somehow rushing -- first it was rushing to meet the
4 Governor's original schedule to get everything done
5 this year. Thank God, that has been put aside and
6 there's been progress on all this.
7 But there's this constant feeling that,
8 God, if you make a mistake of taking a vacation in
9 July of '98, you're screwed. I mean, you can't be
10 here to participate in the staging document and the
11 wheeling and the dealing because that's when the
12 small groups are going to meet or that's when the
13 package is going to be put together.
14 And some of us who thought, well, if it
15 took this long to review the CalFed draft EIR and to
16 put the comments together and file it with CalFed,
17 then it certainly is going to take them some time to
18 review the comments and incorporate it into the
19 analysis, and let's hope that the final preferred
20 alternative reflects some of the benefits of all
21 this hard work that stakeholders throughout the
22 state on all sides provided.
23 So it -- it -- I think you all still have a
24 credibility issue there about how are you going to
25 persuade all of us in the public and the people who

1 don't take the trouble to come to these meetings but
2 who are very interested in all this, that CalFed is
3 not rushing on a politics driven schedule and not
4 doing the serious analysis.
5 MR. HALL: We should all take lessons
6 from Gary Bobker (phonetic), though, and just go.
7 (Laughter)
8 CHAIRMAN McPEAK: Yes. Byron, you had
9 a -- did you have a question to Hal?
10 MR. BUCK: No, it wasn't to Hal. It was
11 comments on comments briefly, but -- but Barry
12 hasn't had a chance to speak. His turn first.
13 MR. NELSON: I'll go --
14 CHAIRMAN McPEAK: Wait, I'm sorry, I'm
15 sorry. We're trying to get directions from Mary.
16 Barry, welcome. Barry Nelson.
17 MR. NELSON: Thank you, Sunne. I
18 will -- I will be brief, first because I may speak
19 tomorrow on the Governor's letter if it's going to
20 be discussed tomorrow and, second, because it's been
21 a long day and there's a reception to follow and you
22 folks look like you could use a drink.
23 (Laughter)
24 MR. NELSON: I'm sorry to say that I'm
25 going to talk briefly about financing issues, but

1 before you groan, I want to start by agreeing with
2 what Sunne said earlier, and that is, that we need
3 to make sure that we don't make this too
4 complicated, that there are -- that this is
5 fundamentally a simple pro -- simple issues that was
6 always in the details, but we need to focus first on
7 what those simple issues are.
8 I wanted to start with a simple observation
9 and then three simple points.
10 The observation is first that the issue
11 here has been focused primarily on water supply, but
12 baseline issues apply to water supply, to financing,
13 even to environmental benefits and environmental
14 impacts. And I'll touch on those briefly.
15 Three simple points I'd like to make:
16 The first is that defining a baseline is
17 the process of defining beneficiaries. CalFed has a
18 principle of beneficiaries pay. Well, in order to
19 do that, you've got to have beneficiaries.
20 And today out front, I don't know if you
21 have had a chance to look at the position of the
22 Agricultural Water Caucus on the Bay-Delta solution,
23 one of the principles laid out there is a clear
24 statement that the Ag Caucus believes that the ag
25 water community should not be required to pay any

1 additional cost to replace water taken for
2 environmental protection, for -- via -- due to
3 legislative actions, due to regulatory requirements,
4 due to the Bay-Delta accord.
5 That's a baseline issue. We shouldn't be
6 required to pay because the baseline should be a
7 certain baseline. We shouldn't be required to pay
8 for benefits received pursuant to that, following
9 that baseline.
10 Now, if that view prevails, then I would
11 expect that urban water users would -- especially
12 state water project users, would come in and point
13 out that they, too, contributed to the Bay-Delta
14 accord; and shortly after that, other water users
15 would come in and say, "Well, there's these
16 requirements I've been hit with," and others are
17 going to come in with endangered species
18 requirements.
19 Our position is going to be that the public
20 should not pay for water projects that either don't
21 have environmental benefits or if there are
22 benefits, it's really mitigation. And even if you
23 get beyond that hurdle, they're not economically
24 defensible water projects.
25 What you're left with is no beneficiaries

1 and nobody to pay for your program, except Randy,
2 who clearly said that East Bay MUD was on the hook
3 so...
4 (Laughter)
5 MR. NELSON: The minutes should reflect
6 that.
7 I don't mean to be facetious but the
8 baseline -- the baseline definition is the
9 definition by which we determine who the
10 beneficiaries are, and without that, without that
11 there is no beneficiaries pay principle. I think
12 it's a very simple principle.
13 The second principle is a very simple one.
14 Price affects demand. Defining the baseline and
15 financing the package is not a theoretical exercise.
16 Financing the package is the process by which we
17 will determine the outcome of the process.
18 If there are no user fees in this process,
19 there is very little incentive to develop a
20 cost-effective program. We think the result of that
21 will likely be the development of very expensive
22 water supplies. We think that's not just a breach
23 of our responsibility to the public, we think that
24 will result in real environmental degradation and we
25 have a century of history in the west to point to to

1 demonstrate that.

2 Like the finance issue, CalFed's only

3 starting to wrestle right now with the economic

4 issues. It's key that CalFed wrestle with real

5 economic issues, real finance issues in order to

6 produce a sensible preferred alternative.

7 And, Steve, I was glad to hear your

8 response. I was going to make the same comment

9 about wanting to learn more about CalFed's strategy

10 for incorporating the good work with regard to

11 comments on the EIS into the preferred alternative.

12 We're (inaudible) those comments but a lot of work

13 has gone into trying to crystallize a lot of our

14 concerns and we'd like CalFed to give us a sense of

15 the strategy for incorporating those comments.

16 I've gone through two principles.

17 The third one very simply is that the

18 baseline affects environmental impacts. Tomorrow

19 there is going to be discussion about the effects of

20 diversion impacts. And CalFed has to figure out the

21 environmental impacts of its -- eventually, its

22 preferred alternative with regard to current

23 conditions and a no-action alternative.

24 Well, in trying to figure that out, you've

25 kind of got to figure out whether you're going to

1 divert another 1.2 million acre feet in the
2 no-action alternative. I'm glad to hear, Sunne,
3 that you think we're probably not going to do that
4 but nailing that --
5 CHAIRMAN McPEAK: I'm not in charge.
6 I -- I would stop it if I were.
7 (Laughter)
8 MR. NELSON: Darn.
9 But nailing that down is absolutely
10 essential in order to understand the benefits and
11 impacts of the final CalFed package because the EIS
12 is very clear. It says under the no-action
13 alternative, there's 1.2 million acre feet of
14 additional diversions, and if you add storage
15 there's another 750,000 and 900,000. That totals,
16 call it 2,000,000 acre feet of additional diversions
17 over the status quo.
18 We think there would be dramatic
19 environmental impacts from that. CalFed needs to
20 tease through those real issues, lay out that
21 baseline so we can have a legitimate, honest
22 evaluation of the impacts and benefits of the
23 program. Those are baseline on issues in order to
24 evaluate the benefits and the impacts of the
25 program.

1 I just want to close by observing that
2 CalFed is not the usual project-specific process
3 where you've got a clear project proponent, clear
4 beneficiaries. It's a complex process in a very
5 dynamic system and CalFed has to have a rational
6 strategy to allocate benefits and to allocate costs.
7 And call it what you will, but that's the
8 baseline conversation. And unless -- if we don't
9 have that conversation, there's really only four
10 things that can happen.
11 First is that there's a baseline -- it's a
12 baseline by default. We don't discuss it, it's just
13 built into the assumptions. That's probably going
14 to be the wrong baseline.
15 The second thing that can happen is we
16 don't wrestle with those issues at all and we fight
17 for the next 20 years over what the CalFed program
18 means.
19 The more likely outcome is that, because we
20 don't wrestle with that, CalFed can't put together a
21 package that succeeds.
22 The fourth alternative is that we sit down
23 and have a thoughtful discussion about these
24 baseline issues so that we can define beneficiaries
25 and figure out a rational way to allocate costs.

1 I'll stop there. Thanks.

2 CHAIRMAN McPEAK: Thank you, Barry.

3 A couple of comments and then I'll go back

4 to Byron.

5 When you say baseline, I also hear implied

6 or embedded in that the notion of what are

7 fundamental issues about a framework for decision.

8 I mean the question of are we going to divert more

9 water, what does that mean in terms of outflow, and

10 can you do -- is there, you know, is it physically

11 impossible to have improved both. Which is the

12 assumption I work on and somebody could say -- you

13 know, lots of people could say it's crazy. But I

14 think there's the notion of baseline and fundamental

15 issues that we have to engage on.

16 I want to invite people to really start --

17 we're going to come back and do a lot more on -- on

18 finance. This is not -- we've -- it's not been

19 avoided because some of us have been trying to avoid

20 it. Some of us have been trying to get it on the

21 table and I blurted out my position in March down

22 in -- wherever we were, where was that place --

23 Burbank.

24 And so, you know, I think that people

25 really should start to try to formulate a proposal

1 on how -- how the financing could come together
2 conceptually. So we will do more of that. I want
3 to assure you on that. And you're going to be back
4 tomorrow.
5 MR. NELSON: We're pleased to do that.
6 I mean, the economic analysis is also just beginning
7 and we're -- we're a little nervous that both the
8 financing and the economic analysis may not progress
9 fast enough to influence the preferred alternative
10 on the current time line. So we're going to keep
11 pushing on those issues and hope you will as well.
12 CHAIRMAN McPEAK: Okay. The last
13 comment I thought I should respond to because you
14 referenced it and referenced back to Ronnie, and as
15 I heard the question you posed and she did and
16 others as to what are we doing with all the comments
17 that came in.
18 I'm anxious for you to incorporate all my
19 comments, too.
20 (Laughter)
21 CHAIRMAN McPEAK: But I only did it in
22 two pages. As I told Tom, I'm not as thoughtful as
23 all of you in doing in such a complete process.
24 But the heart of the question that I'm
25 hearing, and Ronnie was very specific about this,

1 was asking: Are we going to do something, is CalFed
2 going to do something other than a response
3 document. I mean, when you have a draft out there,
4 an EIS/EIR, you can get all these comments and you
5 can publish a separate document that says, "We're
6 responding to each of these comments." And that's
7 going to be done.
8 And in addition to that, we ask that
9 essentially, the summary you had up as one page
10 early, one overhead, gets flushed out in summary
11 form with the nature of the responses also presented
12 to it so that we can see the nature of the CalFed
13 staff responses to the kinds of comments that have
14 been made.
15 There was even more of a question posed as
16 I'm hearing you and Ronnie and others, which is: So
17 are you going to change the document to incorporate
18 the comments that we made. And I sat here not
19 having a response because at this point were I
20 staff, and I've done that before, I couldn't tell
21 you if I were going to change the document because
22 we're at a process -- in the middle of the process
23 responding to -- how many, a hundred and some -- how
24 many comments?
25 MR. NELSON: 1500 comments.

1 CHAIRMAN McPEAK: -- 1500 comments that
2 happen not to all say the same thing. In fact, some
3 are diametrically opposed. So I -- I want to
4 acknowledge that I think you're asking not --
5 something much more basic than are you going to
6 publish a response document, which is, you know, the
7 letter of the law, it is are you going to change
8 anything.
9 And in defense of the staff, although I'm
10 the one who -- I'm as much trying to drive a
11 process, and for whatever -- if Harold's in the
12 room, I don't -- is not out of politics that I'm
13 trying to do it, I just want and answer and I want
14 to get to the end of this.
15 I don't know that they can tell us right
16 now how they would change it. I hope that we're
17 able to give them some advice on how maybe the
18 comments can be reconciled and that be incorporated
19 into the document by having a summary brought to us
20 at BDAC.
21 MR. NELSON: And I want to be clear that
22 we're not -- we don't -- we're not asking the staff
23 to stop working on a preferred alternative, stop
24 thinking about a preferred alternative until you've
25 figured out all of your responses to comments.

1 But what we don't want to see is a
2 preferred alternative that comes out, the next draft
3 document that comes out --
4 CHAIRMAN McPEAK: Without seeing the
5 comments.
6 MR. NELSON: -- without -- without
7 seeing responses --
8 CHAIRMAN McPEAK: Okay, I see.
9 MR. NELSON: -- without making sure that
10 we don't have to come back and say, "Wait a minute,
11 you didn't hear the comment the first time around.
12 We've got the same problem."
13 If staff disagrees with my comments, state
14 that and we'll -- we'll move on. But I think it's
15 important that we close the loop on those comments
16 before the preferred alternative is selected.
17 CHAIRMAN McPEAK: Steve.
18 MR. HALL: Well, before the preferred
19 alternative is selected, and that may be a little
20 bit different from pushing forward a draft preferred
21 alternative. Because I think one of the things that
22 we have constantly said today, constantly -- I have
23 the last five days, that the draft preferred
24 alternative would be in December. I think everybody
25 recognizes that doesn't mean, you're at a final.

1 You still have --

2 MR. NELSON: I meant draft preferred

3 alternative.

4 MR. STEVE: Yeah, you still have an EIR

5 circulation period, you've got a lot of CEQA

6 compliances to deal with, substantive as well as

7 procedural.

8 So I think the push for that preferred

9 alternative is really where we want to go in terms

10 of some of the big issues, knowing that in resolving

11 the responses -- you know, responses to the comments

12 and building them into that, there are even more,

13 I'm sure, down road to that. The draft preferred

14 alternative I would bet good money does not stay

15 intact 100 percent, whatever that may be. You know,

16 there might be a deal among us --

17 CHAIRMAN McPEAK: Uh-huh.

18 MR. HALL: -- perhaps there are 20

19 million other people out there who have to be a part

20 of that deal ultimately.

21 CHAIRMAN McPEAK: But that is the --

22 that is the issue that's being raised, Steve, having

23 as much public disclosure of the responses to the

24 comments before the next draft comes out, which some

25 of us are demanding be by the end of this year, just

1 to keep everybody moving forward.

2 MR. HALL: And to give a simple example,

3 we raised -- a number of our comments were regarding

4 economic issues that CalFed is now starting to deal

5 with. We think it's going to be very difficult to

6 select an economically credible preferred

7 alternative without some results from that

8 economic -- that economic analysis that's now

9 beginning to be undertaken.

10 And before we select or before CalFed

11 identifies a draft preferred alternative, we'd like

12 a response to that question. How do you -- how is

13 the economic analysis that we think needs to be

14 undertaken going to be incorporated into that --

15 into that draft preferred alternative. And the same

16 is true of a number of other comments from all

17 stakeholders.

18 MR. NELSON: One last point on it. We

19 would like a suggestion on how we think it should.

20 MR. HALL: We tried -- in our comments,

21 we tried to be very specific as we can with regard

22 to recommendations for the analysis, the additional

23 work that CalFed needs to undertake.

24 CHAIRMAN McPEAK: Thank you.

25 Thank you, Barry.

1 MR. NELSON: Thank you.

2 CHAIRMAN McPEAK: Byron. I apologize.

3 I think I failed to come back to you.

4 MR. BUCK: No, that's fine. This was

5 really more wrap-up or comments on comments. I'll

6 try to be brief because I know it's late.

7 Amy Fowler brought up the point of needing

8 to have an adaptive management approach to the

9 drinking water issue, and I'd just like to bring a

10 little finer point to that, that right now we don't

11 even know how to characterize two-thirds of the

12 disinfection byproducts that are in water through

13 most forms of treatment right now.

14 We know of the third that we can

15 characterize and we can put chemical names on them,

16 we've got some pretty bad actors out there and

17 there's health studies going on about that.

18 But we shouldn't think that Stage 2

19 standards under the Safe Drinking Water Act are the

20 end of the line because there's a whole panoply of

21 contaminants out there that we don't know much

22 about. And that's why source water quality over the

23 long term is so important because you reduce that

24 whole panoply if you have better source water in the

25 first place.

1 Ronnie Cohen mentioned CUWA and the EWC
2 working on the conservation agreement and said we
3 have an agreement, and I think that's perhaps
4 overstating the case a little bit.
5 We do certainly have basic agreement on the
6 package but CUWA as a board has not signed off on
7 the package. In fact, there's been other urban
8 interests that feel that this process wasn't
9 inclusive enough even though all the meetings were
10 open.
11 They've asked -- they have some differences
12 with our package. They have a competing package out
13 there and -- and the CUWA board looked at that and
14 said, "CalFed needs to take this back over, look
15 at -- look at the two competing packages and try to
16 resolve the differences that are out there on the
17 final issues of the urban conservation requirement."
18 The good news is that the packages are 90
19 percent similar and there's differences on about
20 four -- four issues, some of which we have
21 agreements with the Environmental Water Caucus,
22 others are still up in the air. But in essence,
23 we've asked CalFed to broaden that package a little
24 bit more and take it across the goal line.
25 Randy Kanouse mentioned the conservation

1 experience of East Bay MUD and it was an echo of
2 what happened down in -- it happened in LA and other
3 places, and indeed, that is the club experience out
4 there; that the agencies that are aggressively
5 implementing best management practices, that their
6 demands are about what they were 20 years ago with
7 very dramatic population growth increases.
8 And the point of that is, is that the old
9 paradigm of the urban demands are going to overwhelm
10 the system and Southern California is going to suck
11 the north dry, those are all paradigms. That's just
12 not the case anymore.
13 What the urban interests need primarily is
14 an increase in dry-year reliability and better water
15 quality. We're not looking at this process, or any
16 other process for that matter, for a huge increase
17 in water supply. We've diversified our supplies
18 by -- through a lot of means and they're conserving
19 water. So that huge new increase in supply is just
20 not something we're looking for.
21 Briefly on the pricing issue, and not to
22 get into East Bay MUD's particular issue, but
23 Proposition 218 that was passed at the same time as
24 Prop 204, requires a cost-of-service basis for
25 assigning water rates, which means you can't price

1 your top tier any higher than your marginal cost of
2 water.
3 So while we might say pricing has a great
4 economic effect on consumption, public districts
5 can't price it any more than it cost them to deliver
6 that increment of water. So we can't artificially
7 price it just for purposes of bringing down demand.
8 That's illegal currently under what the public
9 passed under Prop 218.
10 And just finally on the baseline issue when
11 answering Martha's comments about where does that
12 million acre feet come from, it isn't just actually
13 export, it's increases in upstream diversions as
14 well.
15 There are a lot of water rights holders
16 upstream, particularly the City of Sacramento and
17 others, that aren't -- aren't fully utilizing their
18 present perfected rights, and those will grow, no
19 permits necessary. To the extent they would need a
20 new diversion, then they'd be subject to that.
21 And I would agree with you, Sunne, that
22 that one point, whatever, that could cause impacts
23 and might become an issue out there. But what
24 CalFed has to do under NEPA and CEQA under a
25 no-action alternative is say, "If we don't do

1 anything today, what is the likely pattern of what
2 will happen?"
3 And under current permits and current water
4 rights, demands will continue to grow and a lot of
5 those demands will be met under those current
6 rights.
7 It doesn't mean Bay-Delta standards won't
8 be met because those drive the operations of the
9 projects. They will be met. But in times when
10 there's surplus water, some of that diversion will
11 increase and in all years diversions upstream will
12 increase where their water rights are existing now
13 that they're not fully utilizing.
14 So I think CalFed has done the right kind
15 of analysis. You can argue about the million acre
16 feet, that's projections. I think it's a bit high
17 myself, but that's a Bulletin 160 argument coming.
18 But, clearly, if we don't do anything,
19 because of just population growth we are going to
20 see some increases in demands just -- without
21 needing to do anything in terms of permits or
22 facilities.
23 CHAIRMAN McPEAK: Alex.
24 MR. HILDEBRAND: Well, I don't
25 understand how we're going to have increased

1 reliability for the urbans in dry years without
2 either having some new water supply or taking water
3 away from agriculture in dry years. And people eat
4 in dry years.
5 MR. BUCK: And we will. I mean
6 (inaudible) is clearly something that a market would
7 do, but it's not a permanent retirement of
8 agricultural land. We probably will need some new
9 storage to meet that demand because -- and new
10 storage will allow you to take that water in wet
11 years and go off the system in dry years when it's
12 critical for the environment.
13 So those things are needed and it's a mix
14 of those things. But the message that it's a huge
15 growth in urban demands is just not the case. When
16 you think about another million acre feet statewide
17 and 16 to 20 million people, that's not a big
18 increase.
19 MR. HILDEBRAND: Why is it okay to shut
20 down agricultural business in dry years and expect
21 them to be able to start up again and yet the -- the
22 gyp makers aren't proposing to do anything like
23 that. Neither are all the other commercial outfits.
24 MR. BUCK: It's a voluntary system. The
25 farmer will get to choose whether he wants to shut

1 down for a year and it makes more economic sense for
2 him.
3 MR. HILDEBRAND: Not necessarily for the
4 overall society, though.
5 CHAIRMAN McPEAK: Okay.
6 Roberta.
7 MS. BORGONOVO: I wanted to ask
8 everybody to come to the EWC East Bay MUD
9 consortium, I thought that probably there would be a
10 period -- a break there, but actually, I think it's
11 all sewn up in the Empire Room so I hope you will
12 join us.
13 CHAIRMAN McPEAK: It is in the Empire
14 Room and I was going to say that in the spirit of
15 the demand management, that there would tiered
16 pricing and the second drink is going to cost three
17 times as the first.
18 (Laughter)
19 CHAIRMAN McPEAK: You know?
20 And we're starting at 8:30 tomorrow morning
21 and let's try to be here as much on time as
22 possible.
23 Thank you, ladies and gentlemen for your
24 patience.
25 (The meeting concluded.)

1 TRANSCRIPTIONIST'S CERTIFICATE

2

3 This is to certify that I, SUSAN PORTALE,
4 transcribed the tape recorded meeting of Bay-Delta
5 Advisory Council Meeting, taken on July 16, 1998,
6 fully and correctly to the best of my ability; and
7 that the pages numbered 1 through 348 constitute said
8 transcription; that the same is a true and correct
9 transcription of the tape recorded interview of the
10 aforesaid, to the best of my ability.

11

12

13 Dated August 8, 1998.

14

15

16 SUSAN PORTALE

17 Transcriptionist

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LAWYER'S NOTES

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