

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

ORIGINAL

TRANSCRIPT OF PROCEEDINGS
Sacramento Association of Realtors
2003 Howe Avenue
Sacramento, California

Wednesday, May 17, 2000 at 9:42 a.m.

Reported by:
Mandy M. Galarsa
CSR No. 11649


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1 COUNCIL MEMBERS:
2 MIKE MADIGAN, Chairman
3 SUNNE McPEAK, Vice Chair
4 STEVE RITCHIE, Executive Director
5 DICK DANIEL, CALFED (present after lunch hour.)
6 GENE ANDREUCETTI, California Waterfowl
7 Association
8 TIB BELZA, Northern California Water
9 Association
10 ROBERTA BORGONOVO, League of Women Voters of
11 California
12 BYRON BUCK, California Urban Water Agencies
13 HARRISON (HAP) DUNNING, The Bay Institute
14 TORRI ESTRADA, The Urban Habitat Program
15 MARTHA GUZMAN, United Farm Workers of
16 America, ASL-CIO
17 ERIC HASSELTINE, Contra Costa Council
18 ALEX HILDEBRAND, South Delta Water Agency
19 RICHARD IZMIRIAN, California Sportfishing
20 Protection Alliance
21 BOB RAAB, Save San Francisco Bay Association
22 EZE BURTS, Los Angeles Area Chamber of Commerce
23 ROGER THOMAS, Golden Gate Fishermen's Association
24 ROBERT MEACHER, Regional Council of Rural Counties
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COUNCIL MEMBERS: (Cont'd)

STEVE HALL, Association of California
Water Agencies

STUART PYLE, Kern County Water Agency

MIKE SCHAUVER, Big Valley Band of Pomo Indians

BRENDA JAHNS-SOUTHWICK, California Farm
Bureau Federation

FRANCES SPIVY-WEBER, Mono Lake Committee

STEPHEN ZAPOTICZNY, Monsanto Corp./Southern
California Water Committee

MARCIA SABLAN, City of Firebaugh

TOM GRAFF, Environmental Defense Fund

PIETRO PARRAVANO, Pacific Coast Federation of
Fishermen's Association

MICHAEL SPEAR

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1 (All parties present, the following proceedings were had
2 at 9:42 a.m.)

3 CHAIRMAN MADIGAN: Good morning. The hour of
4 8:30 having arrived and slipped slightly past, we're
5 going to go ahead and get started on what I anticipate
6 is the last meeting of the Bay-Delta Advisory Council.
7 I anticipate that for two reasons. Number one, because
8 everybody is exhausted. Number two, because it would
9 seem that the federal/state negotiations are at a point
10 now where we either need to say those things that we
11 believe to be useful and important and valuable, or we
12 don't. And, therefore, today is our day to try to come
13 up with that.

14 I want to explain my view on this thing before
15 we get started in terms of what I hope comes out of
16 today's meeting and what it is that I expect. And while
17 I am always a little reluctant to use analogies, because
18 they can -- they're never -- they're never perfect and
19 they can be misinterpreted or taken in different
20 directions, this is -- this is, in some sense, sort of
21 like those games in Las Vegas and Reno, you know, where
22 you play cards and the house plays its cards face up.
23 And if you're playing against the house, you get to kind
24 of keep your cards to yourself.

25 In that -- in that respect, without putting

1 too fine a point on it, at this point Sunne and I are
2 sort of like the house. And, therefore, we kind of have
3 to play our cards up today. And we're going --
4 we've set it out to you. We've said these are the cards
5 that we have. Now, there are disadvantages and
6 advantages to being the house in this kind of a game.
7 There are some small advantages, the goal with being the
8 house, and obviously, we appreciate that.

9 But what you have before you today is a
10 document that is a revision of a document that you had a
11 month ago. That document has been reworked to reflect a
12 lot of the comments that were made here, which I felt
13 was useful. As you recall, I had sort of thought that
14 last month was the last of these meetings. In fact, I
15 think that your contributions were of value. I think it
16 is a better document this month than it was a month ago.

17 Nevertheless, it is my expectation that the
18 outcome of today's meetings will be a letter, a
19 recommendation from Sunne and me, to the policy group.
20 It is my hope that that letter will serve as a basis for
21 some of you to agree with it, perhaps even in its
22 entirety. For others, to log specific dissent on
23 issues, either for reasons of clarity or policy, that I
24 fully anticipate that some of you, skilled as you are,
25 and I mean that in a complimentary way, will -- will

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1 still keep your powder dry in some fashion, because you
2 believe that it will be more valuable to utilize it to
3 play that card in other forums, in other arenas, whether
4 that's at the policy group, or whether that's in the
5 legislature, or whether that's in some other forum.

6 Sunne and I don't have that luxury. You have
7 the basis for our recommendation now. What I hope we do
8 today is refine that document to make it as -- not only
9 as clear and as helpful as possible from us, and that
10 us, I hope, includes more than the two of us, but that
11 it is as helpful and useful as possible to those in the
12 policy group, those involved directly in the
13 state/federal negotiations right now to help them bring
14 their process to a conclusion.

15 I want to, before we go through the exercise,
16 to thank everybody here for your participation and your
17 thoughtfulness and your hard work. And many of you have
18 put in a lot of time on this for a long time. I think
19 you have made this public process better, and I believe
20 that you have made the outcome better. And I know it
21 isn't easy to show up month after month after month and
22 make a case that you believe that you have made
23 appropriately and eloquently 35 times before. And for
24 some, it must seem like there are people who never did
25 hear what you had to say. And I understand that that

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1 goes on all sides of this.

2 I also want to thank, while everybody is still
3 here, the staff of CALFED that has worked with us. I
4 want to thank Steve and I want to thank Lester. I want
5 to thank Eugenia and Mary. I want to thank all of you
6 who have worked on this and helped us as a part of
7 the -- of the larger effort to do the best job that we
8 could. I mean that sincerely. You have been remarkable
9 in the work that you have done and the patience that you
10 have exhibited and the insight that you have given us.

11 And, of course, finally, I want to thank
12 Sunne. Sunne has been a remarkable person to work with
13 through this process. And she has a vision and a sense
14 of how to get there that is, in my own personal
15 experience, unexceeded. It is no surprise to many of
16 you that -- that for some fair piece of this, my job was
17 to chair meetings while Sunne went out and got things
18 done. And, in fact, she did that very, very well.
19 Through that, she and I have been able to come to
20 agreement on a lot of things that maybe we wouldn't have
21 thought possible at the start of this. And so she
22 has -- she has managed to work that into her schedule as
23 well. And so, while you are all still here, I want
24 to -- I want to acknowledge just how good she has been
25 and how important she has been in this process and how

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1 much she has been -- how much she has meant to me as my
2 teammate going through all of this.

3 So having said that, without providing anymore
4 opportunities for getting mushy, we will move on to
5 Steve Ritchie's report. Steve.

6 EXECUTIVE DIRECTOR RITCHIE: Thank you, Mike.
7 In the package is the Executive Director's report with a
8 variety of programs covered in it, a couple of things I
9 do want to highlight, and some recent information.

10 First, regarding the State budget, the
11 Governor released the May revision to the budget on
12 Monday, and it included a couple of things worthy of
13 note. First is 125 million dollars in that of general
14 fund for implementation of the CALFED program.

15 The emphasis of that funding would be through
16 the CALFED process to fund the environmental water
17 account, science monitoring activities, some water
18 quality improvement, some ecosystem restoration with
19 that, fish screens in the Sacramento River, water
20 conservation activities, some watershed protection.
21 Those array of activities representing broad parts of
22 the program would be implementation. Those would be
23 funded in large part out of that pot. The real emphasis
24 would be on the environmental water account, watershed
25 activities, and water conservation. I really think all

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1 of those things we would look forward to fund that way
2 as the initial down payment by the State for
3 implementation of CALFED.

4 Secondly, in the same budget package, are
5 proposals for utilization of Proposition 13 funds.
6 Laura is, I think, passing out now to the members here,
7 particularly relative to Chapter 9, Article 4 of that,
8 there was 180 million dollars for water supply
9 reliability and water quality. And the Governor's
10 budget proposes these particular projects for funding
11 there.

12 And you go through the list, and virtually all
13 of them are CALFED related in some way. This money goes
14 directly to water agencies as grants for carrying out
15 their projects. And so this is, again, another
16 significant down payment on improving the whole system
17 for CALFED. Now, that 125 million of general fund is in
18 addition to things that are already in the budget,
19 20 million dollars for the integrated storage unit
20 investigation, and at least 50 million dollars for
21 ecosystem restoration projects out of Prop 204 that,
22 again, is released after the Record of Decision.

23 So the total State funding package for CALFED
24 related things gets to be very substantial in this
25 year's budget, thanks in large part to the surplus and

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1 the existence of Proposition 13. But we're looking at
2 in excess of 300 million dollars by the State as a real
3 significant down payment of moving the CALFED program
4 forward.

5 And I will probably be leaving about noontime
6 to go back to the Capitol for a budget hearing by the
7 senate budget committee on the budget, because that
8 process still has to be played out. There are proposed
9 budget actions, and budget needs to be finalized, as you
10 all know, by July 1st. So we are moving forward on
11 funding that will go ahead and implement the program.

12 Secondly, also this afternoon, there is a
13 hearing by the joint water committees on sound science
14 in the Bay-Delta system, I think is the title of it. I
15 know -- I believe Patrick is going to testify at that
16 hearing. There will be state and federal
17 representatives there to talk with that committee about
18 the application of science in the Bay-Delta system. So
19 that hearing will be going on concurrently with this
20 meeting today.

21 Other than that, there are just some other
22 items in the package, but I think, you know, staff's
23 intent is that we move forward and get into the real
24 meat of the agenda.

25 CHAIRMAN MADIGAN: Sure thing. Are there any

1 questions of -- sure. Alex.

2 MR. HILDEBRAND: Just a comment on the 15.7
3 million dollars for the San Joaquin River restoration
4 program. There can be no quarrel with the goal of that
5 program. It's very worthy. But the San Joaquin River
6 Budget Control Association is very much concerned about
7 the implementation plan. We've written to you, Steve,
8 and to others in that regard, and we think that the
9 implementation plan should be revised before the money
10 is spent. You have a letter on that.

11 EXECUTIVE DIRECTOR RITCHIE: Yes.

12 CHAIRMAN MADIGAN: Okay. Anybody else? Any
13 questions? Okay. Then if not, what I would propose
14 that we do is go to the letter that you have from Sunne
15 and me, dated May 9th, the revised draft recommendations
16 on the CALFED solution.

17 And while I don't know that we need to go
18 through the exercise that we did last time of putting
19 everything up on the wall and all that, that was not
20 only a lot of work, but I think we got a lot of
21 information out of it, I would like to go through these
22 in some sort of a systematic way and pick out issues
23 that you would like to raise or concerns that you have,
24 and see if there is some way of improving the document.
25 Also -- but with the notion of improving the document.

1 Also, I understand that there are going to be
2 pieces of this that several of you are going to disagree
3 with specifically. This is a -- this is a document that
4 is aimed at trying to find some sort of a reasonable
5 middle path on all of this, and I know that -- that not
6 everybody is going to be pleased with all of that. And
7 it is okay, and neither of us are offended by the idea
8 that you're going to have a point that you want to make
9 that's different as this -- as this document goes
10 forward. But I would like to just kind of work through
11 it here and see what everybody has to say. And to the
12 extent that we can make this an even better document
13 today, then that's what we ought to do.

14 Eugenia, have you got some overheads that we
15 can throw up on this thing?

16 Okay. Yo, Tom.

17 MR. GRAFF: You circulated to the BDAC members
18 a week or so ago two questions that you asked us to look
19 at. How does that relate to what we're about to do?

20 CHAIRMAN MADIGAN: Well, we need to do those,
21 too, and we will. Thank you. Right. Absolutely.
22 Thanks for reminding me. Yeah.

23 Okay. Eugenia, do you want to talk us
24 through, and then we'll just kind of go through these
25 things and then get comment and either concurrence on

1 some of these things, and that will be terrific, or
2 points that you want to make.

3 MS. LAYCHAK: Okay. Can you hear me? Okay.
4 What we've done here with the overheads is just really
5 summarized what is in your packet. We didn't do the
6 word for word copy for the overheads. Because I think
7 as, you know, as Mike said, is really what we're looking
8 for is to get your sense of your level of agreement with
9 the different statements that are in that revised
10 recommendation, and also get a sense for those of you
11 who cannot agree with the statements what your area of
12 disagreement is, and also wording changes that would
13 broaden the level of agreement, if that's possible.

14 So what we've done with the overheads is, for
15 instance, this first overhead is really just a summary
16 of the major headings that are in the first part of the
17 general recommendation that we have in the May 9th
18 version. And what we've done here is summarized the
19 ground rules. And, I guess, we also have some written
20 comments in your green packet from both -- from
21 Steve Zapoticzny and also Alex Hildebrand. So we know
22 that BDAC members will probably be providing any
23 suggestions and changes.

24 So suggest then we just go through that way.

25 CHAIRMAN MADIGAN: Okay. Is there something

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1 that we have missed here? Let's just start it that way.
2 Is there something that we have missed here in terms of
3 this general recommendation or this series of
4 recommendations that you think would make this -- that
5 would sharpen it? Maybe that's -- many of you are
6 already concerned enough that this thing is fuzzy enough
7 that we may not be delivering the messages as clearly as
8 we should. So the purpose here wouldn't be to make it
9 fuzzier. The purpose here would be to make it clearer.
10 Brenda, and then Bob Meacher, and then --

11 MS. JAHNS-SOUTHWICK: Mike, is there --

12 CHAIRMAN MADIGAN: Good point. Yeah. Good
13 grief. We made a mistake already.

14 MS. JAHNS-SOUTHWICK: On part D?

15 CHAIRMAN MADIGAN: Yeah. Fair point. Right.
16 Right. Got that right off the bat.

17 MS. JAHNS-SOUTHWICK: Just wanted to check.

18 CHAIRMAN MADIGAN: Bob.

19 MR. MEACHER: This is mainly a point of order
20 for Eugenia. Is this one overhead supposed to cover the
21 entire summary of this document, or do you have --

22 CHAIRMAN MADIGAN: No, she has other
23 overheads, right? Yes. So the answer is that there are
24 other -- there are other overheads that we'll go
25 through. But after we've gone through them, I want to

1 pick up comments that you have on things that may not be
2 covered in the overheads.

3 MR. MEACHER: So based on what I just saw
4 there, has CALFED ever defined significant in this
5 new -- as it relates to redirected negative impacts? Do
6 we have a definition of what that significance is?

7 CHAIRMAN MADIGAN: Do we have a quantified
8 final definition?

9 MR. MEACHER: Through the four years of this
10 process, I've seen that significant means to some a lot
11 different than it means to others. And the assurances
12 to every source area of water that is supplying the
13 system is real weak in the process as far as the word
14 significant. People have indicated that, well, you
15 know, you've got two million people up north that are
16 going to be impacted by this solution to benefit
17 28 million people. That's not a real significant
18 impact, but it's the whole north state.

19 CHAIRMAN MADIGAN: I don't think Sunne and I
20 would have that as our notion of significant.

21 MR. MEACHER: I'm just wondering if there's
22 going to be a footnote definition to what that
23 significant -- as it is underlined quite a bit through
24 here that that word has been interjected.

25 CHAIRMAN MADIGAN: You have a suggestion? I'm

1 not offended by trying to sharpen that definition. And
2 certainly my definition wouldn't be that two million
3 people suffer because 28 million people get better.

4 MR. MEACHER: And it wouldn't be mine. But
5 there's no clear -- for CALFED agencies, I don't know if
6 we've ever determined that significance.

7 CHAIRMAN MADIGAN: Sunne.

8 MR. MEACHER: Economic, environmentally,
9 whatever.

10 VICE CHAIR MCPEAK: Mr. Chairman, I do think
11 that what Bob is raising is a good point. You might
12 note that was a word added as a result of last -- the
13 last meeting's discussion. It wasn't even an edit that
14 came in since then. And that was because when we had
15 originally submitted the draft to BDAC, the word
16 significant wasn't there. And so the concern was, was
17 there no flexibility for minor, if you will, impacts
18 that might ultimately end up providing better benefits
19 even for the same area, even for the same area.

20 And so I think if we could just asterisk that
21 so we can have some discussion, I mean, some input and
22 be able to better define it. I'm looking at attorneys
23 here who might be able to help with -- with that. I
24 think in -- in concept -- you have legal background.
25 You're a professor. I'm sorry. I didn't mean to insult

1 you.

2 CHAIRMAN MADIGAN: It wasn't to degrade in any
3 way.

4 VICE CHAIR MCPEAK: I'm looking at legal
5 minds. Legal minds, Hap. I'm sorry. If we can -- I
6 think, Bob, you and I we would agree as we're talking
7 here, significant means to the areas of origin and to
8 any given area, you know, significant impacts, not
9 average statewide. We need to talk about localized
10 significant impacts and get a magnitude of
11 understanding -- an understanding of the magnitude of
12 the difference between minor and major.

13 MR. MEACHER: Right. And I think you hit on
14 it, Sunne, because the magnitude in -- to a local area
15 could be extreme, where in the overall picture, it may
16 not be -- just as -- in C, in the summary, it talks
17 about significant third party impacts to -- a clear
18 criteria for determining significant third party
19 environmental justice and unmitigable cumulative
20 impacts. Just the rurals, the tribes, and the
21 environmental justice folks, are all minorities in this
22 process. And cumulatively, minor tweaks to the system
23 could affect all of us significantly. And so that's --
24 that's what I'm looking for is that footnote preface.

25 VICE CHAIR MCPEAK: No significant impacts to

1 any one area of the state, let's say, region of the
2 state, or stakeholder and population. I mean, that's --

3 MR. MEACHER: Yeah, that's more as I see it
4 for the summary.

5 CHAIRMAN MADIGAN: I think that helps.

6 MR. MEACHER: And then I do have a problem
7 with CALFED will identify which decisions will be made
8 in stage one. That's E in the summary. I think that
9 gets -- I think we're starting to assume a governance
10 structure there that the agencies will be making the
11 decisions instead of some sort of governance structure
12 that I'll talk about once we get there.

13 CHAIRMAN MADIGAN: Your concern is that by
14 simply saying CALFED as opposed to the CALFED program
15 through its governance structure or something like that?

16 MR. MEACHER: Yes. I don't want to leave
17 any -- at least from my communities, that the agencies
18 are going to make all the decisions. There's still
19 going to be a governance structure and I think that
20 alludes to that CALFED is going to be making all the
21 decisions.

22 CHAIRMAN MADIGAN: I agree with that, too.
23 You're saying that the CALFED staff, the group of
24 agencies, is going to formulate things, but you don't
25 want it to be done without the review of the CALFED

1 governance structure, whatever that governance structure
2 is at the end of --

3 MR. MEACHER: Right. And I can get into that
4 when we move into funding and accountability. But I
5 think it needs to be clarified.

6 CHAIRMAN MADIGAN: I think that makes sense.
7 Alex, and then Stu.

8 MR. HILDEBRAND: Well, first just to call
9 attention to a little typo. On page three, the fourth
10 line of B, it says Delta, semicolon, water supply. That
11 semicolon should not be there.

12 CHAIRMAN MADIGAN: Thank you.

13 MR. HILDEBRAND: But my real concern is that
14 the thrust of item D has been reversed from what it was
15 when we discussed it last month. And I don't know why
16 that took place. I think that's a very serious change.
17 You've read my letter. I think that it's just plain
18 irresponsible to continue to rely on the depletion of
19 natural resources, namely the overdraft -- unsustainable
20 overdraft of groundwater and the unsustainable
21 continuing accumulation of imported salts in the south
22 of the Delta and the basins south of the Delta.

23 And the effect of it, if you continue to do
24 that, would be to put a substantial segment of some of
25 the best agricultural land in the world out of business

1 over a period of decades. And you also will continue to
2 exacerbate the problems that we've heard about,
3 continued to ignore, in the City of Mendota, for
4 example, where we've ruined their well water supply and
5 their job structure.

6 I just feel that that's an intolerable thing
7 to contemplate. We say we're going to do good things
8 environmentally, and then we propose we go out and
9 deplete our natural resources. That's intellectually
10 dishonest to me.

11 I have suggested a possible wording for that.
12 I'm not stuck on a particular wording, but I think the
13 concept is very important. And I don't know why it was
14 reversed from what we discussed last month.

15 MR. ANDREUC CETTI: Could we hear again what
16 Alex had suggested originally?

17 CHAIRMAN MADIGAN: Sure. Go ahead, Alex.

18 VICE CHAIR MCPEAK: It's also in your packet.
19 It's in writing. It's in the green packet that was
20 provided today. It looks like this. I think the word
21 rely on was an awkward wording.

22 MR. HILDEBRAND: I don't hold that that was a
23 good wording, but it certainly had -- the thrust of it
24 is the opposite of what it now says.

25 VICE CHAIR MCPEAK: And when I got this, it

1 was only -- you were only the third person to call me
2 irresponsible and inconsistent that day. So I must say
3 I didn't --

4 CHAIRMAN MADIGAN: So it was a good day.

5 VICE CHAIR MCPEAK: It was good day. Right.
6 As opposed to five or six by 3:00 in the afternoon. So
7 I said, okay, just take a number, so --

8 MR. HILDEBRAND: What I suggested is that it
9 be reworded to say CALFED will strive to eliminate
10 dependence on unsustainable groundwater overdraft in any
11 region of the Central Valley, and will also strive to
12 eliminate the destructive accumulation of imported salt
13 in soils and groundwaters of the Central Valley basin
14 south of the Delta.

15 VICE CHAIR MCPEAK: I think you might have
16 captured it.

17 CHAIRMAN MADIGAN: Okay. Put that down to
18 look at it.

19 VICE CHAIR MCPEAK: So we're in agreement.

20 CHAIRMAN MADIGAN: Does anybody else think
21 that's a good idea, or are we still operating as a group
22 of two up here? Anybody? Anybody?

23 All right. I have Stu, and then EZE, and then
24 Roberta, and then Mike. Okay.

25 MR. PYLE: Yeah. My comment is on item B,

1 which is up there, problem area definition. I'm kind of
2 confused when you put in the language second line
3 associated impacts will reach into new areas. I don't
4 know if you mean geographic areas or if you mean
5 problems. And if it -- if it means problems, I think
6 you ought to say will result in new problems. And then
7 I think that next sentence is kind of screwed up. It
8 can be straightened out and express its intent better.

9 CHAIRMAN MADIGAN: It's probably nongeographic
10 in that sense. If it's not clear, it should be.

11 VICE CHAIR MCPEAK: So your wording, Stu, just
12 repeat it. I think it is better.

13 MR. PYLE: Will result in new problems.

14 VICE CHAIR MCPEAK: Yes.

15 MR. PYLE: And then I think that next sentence
16 could be kind of improved. It's --

17 CHAIRMAN MADIGAN: We'll take a look at it.
18 Roberta.

19 MS. BORGONOVO: I wanted to go back to what
20 Alex just said when he's talking about striving to not
21 deplete groundwater. I wanted to refer to the letter
22 from Pacific Coast Federation of Fishermen Association.
23 I agree with Alex, but I think that we need a
24 groundwater management plan that would address that. So
25 that's appropriate either to -- I don't know if it

1 belongs here or it belongs in 12, where we talk about
2 the problems with groundwater overdraft. So I --
3 there's an overdraft problem. There's no statewide
4 groundwater management plan to address the overdraft.
5 So I just wanted to throw that out there.

6 CHAIRMAN MADIGAN: Okay. I have written that
7 down. Thank you. EZE, did you have something?

8 MR. BURTS: No.

9 CHAIRMAN MADIGAN: Okay. Mike.

10 MS. BORGONOVO: It's under number three of the
11 PCFFA's letter.

12 CHAIRMAN MADIGAN: Okay. I got it. Thanks.
13 Mike Schaver. You were going to say something? Okay.
14 Excuse me. I had it wrong.

15 Richard, and then Martha.

16 MR. IZMIRIAN: Just in the interest of
17 sharpening the language on this thing. I would really
18 like to see the word balance --

19 CHAIRMAN MADIGAN: Where are you? Help me.

20 MR. IZMIRIAN: Under general recommendations,
21 there's words like balance among goals. And throughout
22 the document there, there are references to balance. I
23 don't see that the exercise is one of balancing
24 necessarily, and I don't know how a CALFED decision
25 maker would be able to act upon the word balance or to

1 find it useful as an adjective in any way. It kind of
2 implies that there's a pie cutting up exercise going on
3 here, which I don't think was the intent of the solution
4 principles or anything else. So it might be the easiest
5 thing to do would be to just strike every sentence that
6 has that word balance in it, or come up with something
7 that's a little more useful for decision makers.

8 VICE CHAIR MCPEAK: Do you have a suggestion?

9 CHAIRMAN MADIGAN: Help me find an example of
10 this thing here.

11 MR. IZMIRIAN: An example of where the word
12 balance appears is under general recommendations on page
13 two, about five lines up from the bottom, balance among
14 goals that compete for limited water and land resources.
15 I don't know what you can do with a sentence like that.

16 VICE CHAIR MCPEAK: Personally, I tend to be
17 sympathetic, because balance suggests trade-offs and we
18 don't have to do trade-offs. In that sentence, it's a
19 reconciliation, fully analyze and reconcile, because
20 there's conflicts.

21 In other cases, what we're trying to do as
22 opposed to balancing, in my opinion, is integrate the
23 solutions so that there's multiple benefits. In other
24 words, as I look at the entire proposal and solution
25 that we are advocating, there is not a trade-off, that

1 is, there is improvement in one area with a diminution
2 of the status in another. In fact, we're going to get
3 improvements in multiple areas. And, therefore, I would
4 tend to use the word integrate. The language balance
5 didn't actually originally come from us. It's been
6 people who have proposed it and have used that term. So
7 I've been respecting that. I'm acknowledging --

8 CHAIRMAN MADIGAN: Is it because balance
9 implies to you a zero sum game instead of the sort of
10 the rising tide can raise all boats? I mean, in some
11 sense, you know, if we're all getting better together,
12 that's not a zero sum game.

13 MR. IZMIRIAN: I might reject both paradigms.
14 But it might mean something else. But definitely this
15 should not be a zero sum game.

16 The example that Alex brought up, for example,
17 it might be something you would come up with, for
18 instance, not allowing groundwater to be depleted or
19 impact it anymore might be something you would come up
20 with if you were looking at a balancing function.
21 Whereas if you're trying to, for instance, the
22 integrating and using some of the language that Sunne
23 was suggesting, I think it would suit Alex's point a lot
24 better. Is that clear?

25 CHAIRMAN MADIGAN: Yeah, I think so. I got to

1 think about it a little bit. I'm not maybe as concerned
2 about the word balance, because I think you can bring
3 improvements all around in a balanced fashion. But I
4 understand the point that you're making and maybe there
5 is a way to say it that helps that out.

6 Okay. Martha.

7 MS. GUZMAN: Just to add to Stu's point, if
8 the second sentence is left in on page three under B,
9 defining problem areas, we would like rural, for each
10 program, rural, environmental and --

11 CHAIRMAN MADIGAN: Okay. Tell me again.

12 MS. GUZMAN: Just add in the word rural.

13 VICE CHAIR MCPEAK: After urban. So urban,
14 rural, environmental.

15 CHAIRMAN MADIGAN: Oh, okay. Got it.

16 VICE CHAIR MCPEAK: There's even space to do
17 that. And I have to just say, Richard mentioned, you
18 know, cutting up the pie. I'm just -- this is our last
19 meeting and he still hasn't delivered his apple pie. So
20 even -- you know, you reminded me, you owe that to us.

21 MR. IZMIRIAN: Can we have a meeting in
22 October then?

23 VICE CHAIR MCPEAK: You and I can.

24 CHAIRMAN MADIGAN: Call Sunne, would you?

25 Let's see. I had Alex again. Alex.

1 MR. HILDEBRAND: I'm not stuck with the word
2 balance, but we do have some different situations here.
3 Sometimes we have a competition among different goals
4 for using limited resources. And then you do have to
5 have some balance as to how much do you benefit this
6 versus that. We also have situations where some of our
7 goals are -- actually conflict with other goals. And so
8 we -- I don't know whether there's a better word than
9 balance, but I think we do have to have some
10 understanding of a mechanism, how do you decide how to
11 allocate these resources under those circumstances.

12 CHAIRMAN MADIGAN: I think that's what we say.
13 Maybe we say where the situation exists, where there
14 seem to be competing goals, that, in fact, you are in a
15 balanced situation, but in others, you are simply
16 resolving things among issues, all of which legitimately
17 can be improved as a part of the process. Maybe we try
18 not to cover everything with the word balance.

19 MR. HILDEBRAND: Yeah. The first thing you
20 try to do is make everything get better.

21 CHAIRMAN MADIGAN: Yeah. Exactly.

22 MR. HILDEBRAND: But then you're going to have
23 some cases where you can't do that.

24 CHAIRMAN MADIGAN: Yeah. All right. Good
25 point. Let's go on to the next one.

1 Sunne. Excuse me.

2 VICE CHAIR MCPEAK: If I could. Martha's
3 addition in B made me reread this. I actually think
4 that when Stu originally asked about what does problem
5 areas or to new areas that, in fact, we were talking
6 about new geographic areas, that that had been raised
7 before, as well as new problems. And so we should
8 probably include --

9 CHAIRMAN MADIGAN: Be explicit. Okay. That's
10 fair. Yep. I agree.

11 Torri.

12 MR. ESTRADA: I just wanted to generally
13 remark that I'm happy to see paragraph -- subparagraph
14 F, particularly, word for word what we asked for.

15 CHAIRMAN MADIGAN: It's exactly what you said.

16 MR. ESTRADA: We appreciate that. I just
17 wanted to mention one thing that wasn't taken word for
18 word. And I'll make comments throughout the day,
19 because I think we made a really general commitment here
20 to environmental justice and some specific things. The
21 thing that troubles me that wasn't picked up is what we
22 don't have in the CALFED program is goals and objectives
23 within each of the program areas.

24 CHAIRMAN MADIGAN: And it may be that there's
25 a little more work required --

1 MR. ESTRADA: Yeah. I realize that.

2 CHAIRMAN MADIGAN: -- to get to that point.
3 We have actually talked about that a little bit in terms
4 of some things that we may have to do to get there. I
5 don't think we quarrel with the objective, but I'm not
6 sure that we have given it enough thought or enough
7 evaluation yet.

8 MR. ESTRADA: I guess what I would push for is
9 that for environmental justice to be real, it needs to
10 have goals and objectives within each of the programs.
11 And, today, I will point those out as we work through
12 the document. But, for instance, in the summary, and
13 this is just part of getting this frame of mind, but in
14 the summary paragraph, you say will ensure a continuous
15 improvement in ecosystem restoration and water supply
16 and levee system integrity and water quality. There's
17 no mention of environmental justice. Just looking
18 throughout the document, we've missed it, and I'll point
19 it out. I think that recommendation goes a long way in
20 terms of having people think about what's the EJ goal or
21 objective in each of these things.

22 CHAIRMAN MADIGAN: All right. Marcia, and
23 then Pietro.

24 MS. SABLAN: Mr. Chairman, I also appreciate
25 item F as it's inserted. I would like to see more the

1 economics to the different communities inserted in
2 there. That's why I would be suggesting that we add
3 health or environmental economic impact upon the
4 different communities. If -- to me, that reads as the
5 basis of the problem that affects our communities is the
6 economics. And the spinoff is the health and the
7 environmental.

8 CHAIRMAN MADIGAN: Okay. I understand your
9 point.

10 MS. SABLAN: It is mentioned in the first
11 bullet, but I would expect it to be more specific
12 through the different groups.

13 CHAIRMAN MADIGAN: Why don't you talk about
14 what we were talking about earlier, Sunne, here a little
15 bit for a minute.

16 VICE CHAIR MCPEAK: In terms of what needed to
17 be done?

18 CHAIRMAN MADIGAN: Yeah.

19 VICE CHAIR MCPEAK: Well, I -- when I read it
20 as well, Torri, I thought that there had been discussion
21 at the last meeting that would go beyond even this
22 policy and I heard the request being that we do some
23 analysis and additional analysis on environmental
24 justice with respect to the program. In your letter,
25 that several pages lays out the issues that needed to be

1 addressed and further analyzed. The goal, as you're
2 talking about, statement of environmental justice goals
3 and objectives being integrated, I think that can be
4 accomplished as well.

5 And so the suggestion or the discussion that
6 Chairman Madigan and I have had with Mr. Ritchie is to
7 figure out how much of that can be done in the immediate
8 future before a Record of Decision, and to get analysis
9 in terms of environmental justice and impacts. And that
10 might also help Marcia in terms of the concerns that
11 you're raising about economic impacts on various
12 communities.

13 CHAIRMAN MADIGAN: It's a good point. There
14 are some things that need to be done. I'm not sure that
15 Sunne and I know enough today to say this, this, and
16 this. But I think we could know by the time of the
17 Record of Decision how this document could be improved.
18 And that would be -- it seems like that would be about
19 as timely as we can get, so that that would be a part of
20 the deliberations of the policy group and the -- and the
21 people that follow. Because it -- you know, I think
22 that it is a weakness in terms of what we have done and
23 it stands improvement, improving.

24 That's what we sort of talked to Steve about,
25 is trying to bring somebody in who can sharpen that

1 particular pencil and -- as far as the document is
2 concerned.

3 MR. ESTRADA: Yeah. I guess I would just like
4 to get clarity about we may not be able to get to
5 specificity around the program areas and the analysis
6 now, and I feel that's partly because the environmental
7 justice part hadn't been -- hasn't been part of CALFED.
8 So, and I said this last time, I don't -- what I don't
9 want to see is we get into a time crunch and we can't
10 address this because we haven't done the analysis and it
11 doesn't get in.

12 So outside of having this recommendation, it
13 would be nice to get a clear process of, like, how do we
14 get there, either before the ROD, what we can actually
15 get to before the ROD, and have a clear set of
16 assurances of what implementation looks like.

17 CHAIRMAN MADIGAN: Steve is busy thinking
18 about that issue as we speak.

19 MR. ESTRADA: Okay.

20 EXECUTIVE DIRECTOR RITCHIE: Yeah. I'll go
21 back to one of the difficulties CALFED has on this issue
22 here, and many other issues here, is that a programmatic
23 decision, it's -- we can say broad things. The
24 specifics that people are really interested in just
25 aren't visible, and won't be visible, until we get to

1 the specific implementation programs. So I would
2 envision, I guess, two things. One -- first is, I
3 think, we've committed to and we are scheduled for the
4 next policy group meeting to deal with this issue in
5 part, to start down the road of here are some policy
6 directions that CALFED agencies will give this way.
7 And, secondly, is how do we make sure that those
8 processes then will continue on, those analyses will
9 continue on, prior to the Record of Decision and beyond,
10 because I think, even if the Record of Decision saying
11 certain things will be helpful, but the rubber meets the
12 road when you get to actions and what the implications
13 of those will be. I personally think I've balanced
14 many -- a majority of the CALFED actions will actually
15 be beneficial. But particularly relative to water
16 transfers, I think there's some unsettling issues there,
17 particularly for farm worker communities, that we need
18 to deal with. And we need to make sure we've got a very
19 clear process that will get the assessment going and
20 make sure that we don't violate that no significant
21 redirected impacts rule. That is where this is kind of
22 encapsulated, but I think we can be more specific
23 relative to environmental justice there.

24 CHAIRMAN MADIGAN: We're working on it.
25 Pietro, and then Roberta, and then Bob Meacher.

1 MR. PARRAVANO: My comments are along the same
2 lines as the discussion that we're having, specifically
3 referring to B and F. And if -- I would like to add a
4 parallel to Martha's request of rural communities to
5 also add coastal communities to the problem areas. And
6 then also a parallel to Marcia's request for, in F, to
7 also include the -- and address the effects of CALFED
8 activities on coastal communities.

9 CHAIRMAN MADIGAN: Okay. Let's see. Roberta.

10 MS. BORGONOVO: I wanted to go back to a point
11 that Torri and Martha and other people made when we
12 first began to discuss that. And that is to have the
13 resources available as we go into implementation. So
14 we're looking here at the programmatic EIR/EIS, and I
15 think they also made the request that those kinds of
16 resources be there for doing the analysis as we go into
17 the implementation plan. I'm not quite sure exactly how
18 that works, and that we've treated some of these issues
19 differently. But I'm assuming that if you have a
20 process that goes forward, that it implies that the
21 resources are there to continue it.

22 CHAIRMAN MADIGAN: Steve, do you want to say
23 anything about that, or Patrick, or Alf?

24 EXECUTIVE DIRECTOR RITCHIE: I think it's part
25 of the package. As anything that CALFED commits to in

1 the Record of Decision, it needs to back that up with
2 funding. And that's part of the package is sort of the
3 State budget. The State has put out a down payment, but
4 I think we're all struggling with the concern about how
5 we're going to make sure resources continue to stay
6 available, State resources, federal resources, and other
7 resources from water users and others, to make sure that
8 these things all happen. That's, you know, sort of that
9 last piece when you've agreed on what you're going to
10 do, making sure that the resources are there to pay for
11 it. We've got to find a way to make that commitment.

12 CHAIRMAN MADIGAN: Bob.

13 MR. MEACHER: I just wanted to sort of assert
14 that, and Steve, when you said -- as Steve goes through
15 the analysis on the EJ issue, that it is probably
16 some -- Pietro mentioned his interest group. A lot of
17 these, I guess some of you would label as fringe
18 stakeholders, I would like you to look at the entire
19 solution area and the program areas, the whole system,
20 rather than just perhaps the farm workers and the rural
21 areas. Look at the whole rural area, the whole
22 community of place issue.

23 EXECUTIVE DIRECTOR RITCHIE: Yeah. I think
24 that's absolutely essential. And this is striking me as
25 when I came to CALFED, I had been trained historically

1 to think in terms of ag, urban, and environmental. And
2 I rapidly figured out that there was rural, fishing, and
3 Delta as well. So all I need is for Alex to say let's
4 put the Delta in here, too, and then my motto will be
5 complete. And this is not being facetious. There are
6 all those interest groups and they all must be
7 addressed.

8 MR. MEACHER: And I was going to mention, my
9 next point was, I think it was Marcia that brought up
10 the earlier urban/rural, insertion of the word rural.
11 We have that old three-legged stool, ag, urban, enviro
12 peppered through this thing. Wherever that appears, I'm
13 requesting that you add rural. Unless you add, you
14 know, making it official, the fourth leg of the stool
15 that we used to have as a three-legged stool, unless you
16 want to make it the seven-legged stool that you just
17 brought up.

18 CHAIRMAN MADIGAN: My stool has 216 legs on it
19 right now. And while it won't fall over, it's also
20 immovable.

21 MR. MEACHER: Right. But I'm sure that Martha
22 will bring it up each time. But it appears in
23 several -- it comes up next, I think, in water supply
24 and reliability, water supply reliability and ecosystem
25 restoration, which is our next discussion.

1 But if we could just insert that each time, I
2 think Martha would agree with that.

3 MS. GUZMAN: And we actually saw it a little
4 different in other cases. It was economic,
5 environmental. And what we would like to have is
6 social. Because there was a few parts, I think it was
7 page nine, that did actually include social. But it's
8 missing from another -- some of the others.

9 CHAIRMAN MADIGAN: Stu.

10 MR. PYLE: Yes. On item E, on top of page
11 four, same as item E on the table up there, that is so
12 generalized, I'm not sure it says anything. And I think
13 it ought to be a little more specific about what
14 decisions. And I think stage one should be amply noted
15 as being the implementation stage. It seems to me that
16 there's -- as we get into the items further on in here,
17 so many of them are timing items that I would like to
18 have attention, at least in this document, brought to
19 the planners that stage one is an implementation stage,
20 and that decisions regarding planning need to be to
21 further implementation within stage one.

22 VICE CHAIR MCPEAK: I think I understand the
23 thrust and, personally, concur with it. This -- you
24 know, and this was raised earlier about -- by Bob about
25 CALFED will make decisions. That's, again, a result of

1 inartful wording when we put it out there. It was meant
2 to say that decisions need -- the decisions that will be
3 made in stage one need to be identified now in the
4 preferred program alternative. The decisions that will
5 be made in the future need to be also specified. And
6 when we're using the term decisions, that's not to
7 exclude implementation. In fact, it's the decisions
8 about implementation.

9 The thrust of that bullet is to say we've got
10 to be very clear about how we're going to implement and
11 specify what will be actually accomplished, and
12 accomplish more rather than less, earlier rather than
13 later. That's -- that was the thrust here. So it
14 wasn't intended to say, well, CALFED will make these
15 decisions, so conferring power. It was to assert
16 decisions must be made for the, you know, implementation
17 of actions. And maybe we need to elaborate on it so
18 that it's clear to the policy group what we mean by that
19 bullet.

20 MR. PYLE: Your average policy maker is not
21 going to get it.

22 VICE CHAIR MCPEAK: I'm just one of those
23 fringe elements in CALFED. I'm representing business.

24 CHAIRMAN MADIGAN: Okay. Thank you.

25 Next. Put the next one up there. Let's take

1 a look at it. Hap.

2 MR. DUNNING: I want to address the decision
3 making part of it, the material on page five, two
4 paragraphs under item three. And as all of us know,
5 starting in August of 1996, BDAC has been very concerned
6 about the assurances problem, and then along the way, it
7 got focused particularly on governance. And two
8 specific things which came out of our many discussions
9 of governance were the following: First, that there
10 should be a new entity, a Bay-Delta commission
11 established, which would have federal, state, and other
12 representatives. Second, that there should be an
13 ecosystem conservancy, a conservancy which would run the
14 ecosystem program.

15 I don't find either of those elements
16 mentioned here under decision making. And I'm
17 wondering, Mike and Sunne, why these things have been
18 left out given all the work we've done on them.

19 VICE CHAIR MCPEAK: Because they are in the
20 preferred program alternative; is that not true, Hap?

21 MR. DUNNING: They're -- there's an appendix
22 to the PPA that talks about --

23 VICE CHAIR MCPEAK: Okay. Okay.

24 CHAIRMAN MADIGAN: You would feel more
25 comfortable if we made that explicit?

1 MR. DUNNING: Absolutely. I mean, there are
2 lots of things in here that are covered in the PPA. But
3 we're saying these are things we think, as BDAC, are
4 important. I think it should be explicit. EZE may want
5 to comment on it, too, as cochair of the governance work
6 group.

7 CHAIRMAN MADIGAN: EZE, did you want to add to
8 that?

9 MR. BURTS: I would just say I agree that
10 there was a reference. And that's been the heart of the
11 discussion we've had throughout.

12 VICE CHAIR MCPEAK: I personally don't have a
13 problem with that. I think part of what we were trying
14 to do was not totally reiterate in this letter --

15 MR. BURTS: We agree with that.

16 VICE CHAIR MCPEAK: -- where there was
17 differences. It was -- even though some of the items
18 here in this letter, cover, obviously, issues or actions
19 that are described in the preferred program alternative,
20 in every case what we're talking about is a change or do
21 more or modify it in this way.

22 So let's -- we'll include what you're saying,
23 Hap. I'm just trying to explain. It wasn't left out
24 because it's not important. We didn't address it
25 because we weren't proposing to change it.

1 MR. DUNNING: I think this could be
2 misunderstood. Look at the second paragraph, Sunne,
3 where there's a lot about adaptive management as a tool
4 to ensure informed decision making. That's been an
5 accepted principle for a long time that permeates the
6 PPA. And yet here, in our recommendation or your
7 recommendation, you're saying that BDAC acknowledges --

8 CHAIRMAN MADIGAN: Fair. Governance is
9 important.

10 MR. DUNNING: -- that staged decision making
11 process uses adaptive management.

12 CHAIRMAN MADIGAN: We can reference it. It's
13 implied.

14 MR. DUNNING: It should be referenced and
15 emphasized.

16 CHAIRMAN MADIGAN: And we can make it
17 explicit. No problem.

18 MR. BUCK: Just a question on the reference.
19 Are we just saying implement the governance proposal and
20 the preferred program alternative, or are we being a
21 little more generic saying adopt a governance proposal,
22 say, within the first two years of stage one?

23 And, Hap, what are you looking for?

24 MR. DUNNING: I'm looking for an explicit
25 statement as to the things we've talked about, the

1 Bay-Delta commission that brings together state,
2 federal, and other representatives. We've had a lot of
3 talk about the composition of that, tribal
4 participation, and so forth. And then number two, the
5 conservancy to do the implementation on the ecosystem
6 restoration program. These are the two things we've
7 talked about again and again. I think they should be
8 endorsed here.

9 CHAIRMAN MADIGAN: I'm comfortable. That
10 works for me. Bob.

11 MR. MEACHER: Does anybody know off the top of
12 their head why involvement was changed to participation?

13 CHAIRMAN MADIGAN: It probably has more
14 letters in it. I don't know.

15 VICE CHAIR MCPEAK: Yes, I do. It switched
16 the other way, and I'm holding my tongue on the -- on
17 the cross-out. Well, some argue that the word
18 participation was used originally in this and in the
19 letter to our cochairs to suggest that there be policy
20 makers, elected officials from both the legislature and
21 congress sitting as a part of the governance group.

22 And some say, well, you can't do that. That's
23 a mix of two branches of government. The legislators
24 can't be a part of an implementation or executive
25 function. We have others who have cited back that there

1 are many examples in California where elected officials,
2 members of the legislature, are, in fact, ex officio
3 members of commissions of implementation bodies.

4 CHAIRMAN MADIGAN: Board of regions, for
5 example.

6 VICE CHAIR MCPEAK: They are albeit nonvoting,
7 but they are ex officio members of those boards and sit
8 with them. And so the compromise word involvement was
9 selected and acquiesced to by us at the last meeting.
10 You know, those who think it's going to be better
11 without having the legislators in the room I think are
12 misguided.

13 MR. MEACHER: That's the point I'm raising
14 here. As most of you probably know, CALFED is going
15 through a reauthorization right now at the federal
16 level. And there's a lot of consternation by some of
17 the -- us stakeholders and by members of congress
18 regarding the governance structure, which they feel
19 hasn't been adequately addressed. And without some --
20 without some sort of opener or written discussion in --
21 in either this document or things that are going to be
22 attached to the ROD regarding who is going to actually
23 steer this 30-year multiple billions of dollars, I think
24 it's going to fall on its face for reauthorization this
25 year.

1 Our feeling is is that it's a local -- local
2 government and state government issue, because it's
3 California. And if those folks that -- networking with
4 their -- with the agencies here that California really
5 needs to run this thing more than the feds. And that
6 whatever governance structure is set up, it's got to
7 have elected officials that are responsible to these
8 taxpayers that are going to be paying for this program
9 be held accountable. And it can't be top-heavy agency
10 versus those elected officials.

11 And now I suppose you have these discussions
12 in the governance circles, but I've never been a part of
13 it. But I'm here to tell you that it's being discussed
14 now as part of reauthorization as a big pothole.

15 CHAIRMAN MADIGAN: I don't disagree with you
16 that there are serious concerns. I will tell you as one
17 of the bloodied survivors of BDOC that anything less
18 than full participation by the federal government in
19 this thing is, A, a no-hoper, and B, for the long-term,
20 makes no sense.

21 So the idea is that this is -- that this, is
22 in our minds anyway, an equal involvement, equal sharing
23 of the responsibilities, equal participation all the way
24 down the line. And if participation is a better word
25 than involvement, it's fine with me. But in a layman's

1 mind like mine, it approaches whatever the term is, a
2 distinction without a difference.

3 But I'm comfortable with the words. I will
4 say that my own feeling is that the closer the
5 involvement or participation of elected officials is in
6 this, the happier I am. And that is state elected
7 officials and their direct appointees at cabinet level
8 positions and federal officials and their direct
9 appointees in the relevant agencies.

10 I mean, our notion of this is that these
11 people should be as senior as possible and that there
12 should be active participation by elected officials in
13 this, and that that is as equally true for the federal
14 side of the house as is for the state side of the house.

15 MR. MEACHER: I understand the reality, Mike,
16 about not excluding the federal government. But in
17 Washington, some folks are looking at this as a state's
18 rights issue in congress. And I don't know how we get
19 over that hurdle.

20 CHAIRMAN MADIGAN: Listen, I understand
21 that -- you know, having been back there in the
22 not-too-distant past and having been beaten up by the
23 relevant parties on the issue, I understand some of the
24 sensitivities. But I don't know how else it works.

25 Hap.

1 MR. DUNNING: I just wanted to add, I can
2 agree completely with Mike on this, Robert. You know,
3 it's all happening in California, but we got into this
4 back in 1994 largely because there had been severe
5 conflict between state and federal agencies. And
6 federal law mandates things to be done by federal
7 agencies which bear directly on what we are trying to do
8 here in terms of facing the Delta. So I think it would
9 be very shortsighted not to continue to include the
10 federal agencies as full partners.

11 MR. MEACHER: Federal agencies, I'm thinking
12 of the elected official side of it. I don't know how
13 much our congressional delegation wants to get involved
14 in it. But there certainly has to be local and state
15 elected officials, and it should not be agency top heavy
16 when you build that governance structure.

17 CHAIRMAN MADIGAN: And tribal.

18 MR. SCHAUVER: I would like to agree with both
19 comments about involving elected officials, and also
20 make the comment for tribal elected officials.

21 CHAIRMAN MADIGAN: Made it. Just in time,
22 too. I agree with you. Absolutely.

23 Sunne.

24 VICE CHAIR MCPEAK: Well, there may be a way
25 to remedy this. And I'm going to take a stab at it.

1 Because we have now been doing this sentence by
2 committee and adding words. But it turns out it doesn't
3 have parallel structure. It doesn't make that much
4 sense now. And we've already used the word
5 participation following institutionalized stakeholder
6 and tribal participation.

7 In the context of who was forming CALFED, i.e.
8 the state and federal government, local officials have
9 been part of the key stakeholders. Okay? So I have
10 envisioned in all of this supervisory that there would
11 be local officials involved. So institutionalize
12 stakeholder, tribal, and local government participation,
13 comma, and involve direct participation. I think we
14 need to -- we need to -- address participation doesn't
15 get it. We are -- we were probably searching for words
16 not to, as Eric pointed out, duplicate the use of the
17 word participation in that sentence. So I am going to
18 suggest and involve direct participation by California
19 legislature and congress. And that -- I think people
20 can figure out how to directly do that.

21 So add local government explicitly, so it's
22 not just stakeholder. Am I understanding you correctly?

23 MR. MEACHER: Yeah, that's getting close.

24 VICE CHAIR MCPEAK: Institutionalize
25 stakeholder, tribal, and local government participation,

1 comma, and involve direct participation by the
2 California legislature and congress. That would
3 accomplish it.

4 MR. MEACHER: That's getting real close.

5 VICE CHAIR MCPEAK: Pardon?

6 MR. MEACHER: That's getting real close.

7 VICE CHAIR MCPEAK: Well, real close I'll take
8 then.

9 MR. BURTS: I'm not going to add to this.
10 Only to say that in the list of general principles that
11 came out of the governance group, each one of these
12 items was discussed specifically, and so --

13 VICE CHAIR MCPEAK: Right. We need to
14 reference that. We need to reference the
15 recommendations that you've got.

16 CHAIRMAN MADIGAN: Let me ask Alf or Patrick
17 if there's anything you guys want to say on the
18 governance issue specifically here.

19 MR. BRANDT: This is one that -- you know,
20 this actually is getting quite a bit of attention. And
21 we are, at this time, considering this issue. So this
22 is a timely discussion. I think we will -- we need your
23 input. And we've gotten the input and we have
24 incorporated all the stuff that the governance work
25 group has done. So it's ultimately come down, in some

1 ways, this is one of the issues, I guess, that we might
2 need to address at some point, which is is this a
3 state -- really a state-led program with federal
4 participation, or is this truly where the feds are on an
5 equal level and driving this just as much as the state.
6 And, I mean, that's a big picture. We have some
7 specifics of options we're considering. But that is an
8 answer -- a question that we kind of need to answer, you
9 know, we will need an answer to. And some of this, you
10 know, depends on the state's view of where the state
11 wants to go with this. So I'll just leave that, that
12 this timely discussion.

13 MR. WRIGHT: I would just add that I think
14 there is broad support for the general framework that
15 was laid out by the governance work group. It's
16 actually one of the -- I shouldn't say it's one of the
17 few areas, but it's certainly one of the areas where the
18 stakeholder groups have really helped us come along,
19 probably a lot further than we would have ourselves.

20 And so I think there is general support for
21 that framework. Obviously, that's going to be subject
22 to both congressional and legislative tinkering, but I
23 think folks are generally comfortable with it.

24 I should also add, however, that I think
25 there's equal interest in what I would call short --

1 shorter-term decision making processes, because of the
2 recognition that any kind of new governance structure is
3 going to take a while to create, and people want to be
4 assured in the meantime that we have decision making
5 processes in place to --

6 CHAIRMAN MADIGAN: That there will be some
7 sort of an interim vehicle there until the more
8 permanent structure can work its way through. I
9 understand that. That makes sense.

10 I have, let's see, Byron, and Tom, then Bob.

11 MR. BUCK: Just a question to Patrick and Alf.
12 When you say you're discussing it, it's in the context
13 of what the decision is going to be? You're
14 anticipating there's going to be some specificity as to
15 what the both interim and long-term governance proposals
16 will be as a result of the Record of Decision?

17 MR. BRANDT: Yes. And one will be -- I mean,
18 Patrick is right. We are in the middle of working out
19 exactly how we get these things done. And that kind
20 of -- those kinds of decisions will be in the Record of
21 Decision. It's something that we can deal with. The
22 other one will be a proposal. But we will definitely be
23 making a rather specific proposal to the legislature and
24 to the congress. And we'll leave it to them to work it
25 out.

1 CHAIRMAN MADIGAN: Tom.

2 MR. GRAFF: Let me see. I want to start,
3 since I don't think I'll be here at the end of the
4 meeting, by officially thanking you, Mike, and you,
5 Sunne, for your remarkable leadership of this operation.

6 Second, if I understood your ground rules at
7 the beginning of the meeting, let me say the following.
8 Three of us, I think, on this -- on this council were in
9 Washington last week meeting with both of our senators.
10 And I think one of the overall messages we sent to them
11 was -- or we presented to them was that we were
12 encouraging a resolution of this long process this year.
13 But what we also said, and I think this is consistent
14 with your ground rules in this meeting, that we would
15 likely have some reservations with whatever emerges from
16 the process in the next few months.

17 Having said all that, let me just -- since
18 we've got it on the board, one specific reservation that
19 I have and Environmental Defense has is with regard to
20 funding and accountability. I would simply have to
21 express disappointment that this is all we have. We had
22 hoped, at the beginning of the process, to have specific
23 formula, formulae that people would understand and it
24 would constrain the expectations that I think are likely
25 to emerge from other elements in this package.

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1 People will think, as they have over the
2 years, that the governments involved, federal and state,
3 will be supplying them with great water projects that
4 they don't have to pay for. And the failure to really
5 define those kinds of constraints in this overall
6 package, I think, is a significant problem and something
7 that we will likely critique when the -- when the
8 overall package comes out.

9 CHAIRMAN MADIGAN: Okay. Thank you. Thanks
10 for your kind thought.

11 Bob.

12 MR. RAAB: I'm confused about what the thrust
13 of this decision making section three is.

14 CHAIRMAN MADIGAN: Okay.

15 MR. RAAB: I just wonder, most of what's in
16 here in form of our recommendations deal with
17 programmatic issues and goals. But I just wonder if
18 this whole matter of decision making isn't kind of
19 outside the box for CALFED. Because the reality is that
20 this phase, this part, is going to be decided in the
21 state legislature, and maybe partially in congress. And
22 I'm just wondering if CALFED, just what -- the way this
23 is phrased, might be taking on responsibility for
24 something CALFED actually cannot implement.

25 CHAIRMAN MADIGAN: Let me try and -- yeah, I

1 understand and Sunne understands for sure that this
2 long-term, great, big, expensive, complicated project
3 will have lots and lots of oversight in the congress, on
4 the hill, you know, in Washington, and in the
5 legislature in California, and the Governor's office,
6 and the President's own set of advisors that will
7 transpire over the next 30 years. I think our notion of
8 trying to move forward on something with governance was
9 to say here's how within that larger political arena we
10 think that the specific -- this specific project should
11 be done.

12 I mean, everything that the federal government
13 does is eventually subject to what the President and his
14 people and what the congress and their leadership do in
15 terms of their input. The same thing is true with the
16 state. But the reason that I was comfortable with where
17 Hap was headed in terms of specific language is because
18 at least this is our suggestion as to the way the
19 process should be worked. And because of our
20 sensitivity that a lot of elected officials on the hill
21 and here in California have made it abundantly clear
22 that their views are going to be heard one way or
23 another. We would like their views to be heard as a
24 part of the process and as a part of their active
25 involvement or participation, whatever that word might

1 be.

2 So do I think that this -- if it's adopted in
3 its entirety as a governance structure, ends it and
4 takes it away from the halls of congress, nope, not for
5 a second.

6 But I do think that it's -- I do think that
7 it's helpful. And I appreciate Patrick's comments that
8 said this may be one of the few things where we've
9 actually helped move the project forward a little bit.

10 Sure.

11 MR. RAAB: Just a quick response. It says
12 here that -- that it should be instituting a transparent
13 process. Now, that makes it sound like CALFED is going
14 to be instituting this. And I wonder if this shouldn't
15 be couched as a recommendation, CALFED recommendation,
16 rather than implying that this is a CALFED decision.
17 That's -- that's the key to part of my --

18 CHAIRMAN MADIGAN: Okay. Tell me again. Tell
19 me again what -- I'm not trying to --

20 MR. RAAB: It says here instituting -- it says
21 instituting a transparent decision making process. That
22 implies to me that you're saying CALFED will be doing
23 this when, in fact, it won't. And that's been the
24 source of my puzzlement about this paragraph.

25 CHAIRMAN MADIGAN: Your concern is that this

1 suggests that CALFED itself is going to be capable of
2 creating this decision making process as a part -- as
3 opposed to the governance of the United States and
4 California creating that process?

5 Well, and I certainly have no problem with the
6 notion that it's going to be the governance of the
7 United States and California that create the process.
8 But if -- if in saying something there that makes that
9 more explicit, that certainly is fine with me.

10 Steve.

11 EXECUTIVE DIRECTOR RITCHIE: Yeah. That's
12 fine. Just with the recognition that, you know, the
13 ultimate decision makers, in my mind, are the voters and
14 the legislature and the congress. But I think there are
15 two levels. One, CALFED must, and I think we've done a
16 fairly good job, of having a transparent decision making
17 process. We have to continue to improve that just at
18 the day-to-day level, while the longer-term decision
19 making also must be the same way. So it's interim
20 versus long-term kinds of issues. At all levels, the
21 decision making process should be as transparent as
22 possible.

23 CHAIRMAN MADIGAN: Okay. Sunne.

24 VICE CHAIR MCPEAK: Let me just build on the
25 point that Steve was just making. And as we're looking

1 at it, to be able to understand each of these sections,
2 you have to sort of go back to what is the previous
3 overarching heading that -- that gives it context.

4 And in this case, we are saying that there
5 needs to be aggressive progress from now and into the
6 implementation of CALFED on the following issues. So
7 it's that first sentence on the bottom of the page four
8 which leads to what is one of those issues, instituting
9 a transparent decision making process. Now, it will be,
10 we are recommending, I want to be clear here as I
11 interpret this, that all of the effort and bodies and
12 people that make up CALFED, including us and the policy
13 groups and the Governor and the President and the
14 Secretary are to institute a transparent decision making
15 process, all of what has been recommended by the work
16 group.

17 Because this document, remember, is to be read
18 in concert with the preferred program alternative that's
19 on the table. This is all the way to make it better, to
20 make it acceptable, so not everything is reiterated.
21 And therein lies a dilemma. So, I mean, it's -- or at
22 least a challenge for those of us who can't remember the
23 several hundred pages. And I keep going back and forth
24 thinking what is it -- why didn't I put that in here?
25 Well, because it was somewhere else. Okay.

1 CHAIRMAN MADIGAN: Because, in fact, this is
2 not a stand-alone document. It requires a host in order
3 to have life, you know. It's --

4 VICE CHAIR MCPEAK: But, Mr. Chairman, when I
5 first raised my hand it was on -- it was on two issues.
6 One was on governance, because Alf triggered something
7 I'll come back to, so you can continue to talk to Hap
8 and not pay attention. I'll tell you when you do pay
9 attention. And the other was on funding, because
10 Tom Graff raised the comment around -- on page two --
11 it's number two on page five, that he had hoped that
12 there would be a formula for funding. Me, too, as a --
13 you know, speaking for one representative here. And
14 what this says is there should be that specific formula
15 before we get the Record of Decision adopted.

16 Now, some of us from one of those fringe
17 groups, i.e. representing the business community, EZE
18 and I and others, have submitted a very specific
19 recommendation. I would be happy if somebody wanted to
20 embrace it, which I think goes pretty far towards
21 payers -- you know, beneficiaries pay and people really
22 are flitting the bill.

23 CHAIRMAN MADIGAN: I thought it did, too.

24 VICE CHAIR MCPEAK: It does, doesn't it, Mike?
25 It really is probably very common sense. And the

1 business community will stand foursquare behind that.
2 And anybody else who wants to join us, great, because
3 we're going to continue to advocate that.

4 But what this says, I didn't want the point
5 missed, that we, as BDAC, are recommending that, in
6 fact, there must be that very specific formula that Tom
7 talked about. What we're not recommending is what -- is
8 the substance of that formula. But I don't want the
9 point lost that we are just glossing over funding and
10 suggesting it's okay to go to a Record of Decision
11 without that formula having been worked out. Saying,
12 no, do not continue this debate beyond the Record of
13 Decision. Get this squared away, who is going to pay
14 what amount of storage, who is going to pay for the
15 conveyance, et cetera, et cetera. That's what this
16 says.

17 Okay. The comment that Alf made that caused
18 me to perk up, because I thought, oh, my goodness, I
19 don't -- I'm in a number of meetings around water and I
20 don't want anyone to think that I'm intentionally being
21 inconsistent on something. And herein lies that when
22 you said that it's timely and there is this discussion
23 about is it going to be state led or is it going to be
24 state and federal, that made me think there is a
25 discussion, I gather or imagine, is emerging about a

1 state only approach because of frustration in
2 negotiations between the state and federal government.
3 That -- that may be part of it.

4 And, in fact, in years passed, and even today,
5 I have been in discussions with folks about what would
6 be advantages of the state having operational control
7 over all of the water in California, some of the state's
8 right discussions.

9 Having said that, I want to make it clear, at
10 least personally, as long as there's any state say,
11 i.e., law that applies to California about governing
12 water, then CALFED has got to be operated as a joint
13 effort, or it's going to be less than it could be. And
14 that's what this argument, this is meant to be, is you
15 know, it's not going to work, as Mike said, as our
16 chairman said, unless --

17 MR. BURTS: The key word has been partnership.
18 It's got to be all reiterated all along the way.

19 VICE CHAIR MCPEAK: Right.

20 MR. DUNNING: Sunne, you meant as there isn't
21 any federal.

22 VICE CHAIR MCPEAK: Did I say state? I meant
23 federal. Thank you. See, you know me well enough now
24 you can, like my husband, you can finish my sentences
25 and know what I meant to say.

1 CHAIRMAN MADIGAN: Careful. Okay. Back to
2 the overhead. Comments? Questions?

3 Steve.

4 MR. ZAPOTICZNY: Mike, on the accountability,
5 it only says here that we're -- CALFED is going to
6 provide annual reports. To me, just reporting on
7 something doesn't mean we've really made the progress we
8 wanted to. And somehow to tie in -- I use the word key
9 performance indicators. To me, there has to be some
10 goals that we strive for to see how we compare to those.

11 For instance, just reporting on progress,
12 because the progress could be good or it could be good.

13 CHAIRMAN MADIGAN: Works for me. This notion
14 of progress as opposed to status, yeah, I have no
15 problem with that idea.

16 All right. Torri.

17 MR. ESTRADA: As related to that as well,
18 accountability to whom? We specified legislature and
19 congress. I guess I would move to add the public in
20 general.

21 CHAIRMAN MADIGAN: Well, of course, yeah. And
22 I have no problem with doing that, too. This
23 organization is going to report to its immediate
24 masters. You know, the basic rules of the republic are
25 that it's okay that not everybody is elected as long as

1 they're accountable to people who are elected. And this
2 organization is going to be accountable. Is that right?

3 MR. BURTS: That was the basic --

4 CHAIRMAN MADIGAN: That's -- Madison said
5 that. And that's -- this is no -- this is no different
6 in that regard.

7 But, ultimately, it has to get back to the
8 people, the development, the power residing there
9 without a doubt.

10 MR. ESTRADA: In terms of the annual report in
11 paragraph one, we identify legislature and congress. It
12 should be public should also get access to.

13 VICE CHAIR MCPEAK: The people are in charge.

14 CHAIRMAN MADIGAN: Boy, you're not kidding.

15 Okay. Thank you. Comments?

16 Okay. Next. I have Byron, and then Alex, and
17 then Tom.

18 MR. BUCK: On number four, I think that
19 balancing for water quality as well needs to be linked
20 in with this balancing for supply and fisheries
21 management, wildlife population. I'm sorry. We should
22 insert water quality into four as part of the balancing
23 that's going on. Right now, it just implies inflows and
24 outflows for water supply reliability and fisheries.
25 But, clearly, operation of projects for water quality is

1 part of the equation.

2 CHAIRMAN MADIGAN: Okay. Let's see. Tom.
3 No, Alex, and then Tom, and then Steve, and then Bob,
4 and then Hap.

5 MR. HILDEBRAND: On item five, refers to
6 assurances for recovery in Delta fisheries. It doesn't
7 define the recovery, but I think, in any event, there
8 should be some recognition of the fact that this can
9 only be done to the extent it's feasible.

10 Possible additional wording would be to the
11 extent that recovery is not limited by exotic species
12 and other unmitigable conflicts. I'm not stuck on that
13 wording, but I think there needs to be some recognition
14 there that what we can do is limited by feasibility.

15 CHAIRMAN MADIGAN: Comments anybody? Anybody
16 on that specific point? Richard.

17 MR. IZMIRIAN: Yeah. I think we should go far
18 beyond talking about limitations. I would like to see a
19 little more boldness in our vision for fisheries, not
20 just recovery. But -- well, I guess recovery would be
21 fine. When we're talking about bringing it up to the
22 robustness that it once had, there is a tendency to
23 scapegoat exotic species, ocean harvest, and other
24 things for our fisheries. I think that there is a
25 tremendous opportunity to recover our fisheries. It has

1 some very robust fisheries, and I don't think that we
2 ought to put in any more language that would suggest
3 that this is limiting.

4 CHAIRMAN MADIGAN: Do they limit them? Do
5 exotic species in the Delta limit the recovery of native
6 fishes?

7 MR. IZMIRIAN: For instance, stripe bass have
8 been blamed for limiting recovery of salmon.

9 CHAIRMAN MADIGAN: I've heard that.

10 MR. IZMIRIAN: It's not -- it's not the case.
11 That's not the limiting factor. There are, you know,
12 very small organisms, there are clams, there are all
13 kinds of things. But I'm saying let's not use this as a
14 reason not to try. Let's use the same kind of bold
15 vision that moved Trinity water to San Diego County to
16 recover our fisheries.

17 CHAIRMAN MADIGAN: It seems -- okay. The
18 point here is that, Alex, on the one hand is saying
19 there are impacts. You, on the other hand, are saying
20 don't let that limit your vision. I mean, those are
21 reconcilable. It is irreconcilable to say they have an
22 impact, they don't have an impact. But as I understand
23 the conversation that's been held, I can live with the
24 idea that we should be enthusiastic and aggressive in
25 our support of the recovery of the fisheries, even

1 recognizing that there are, in fact, limitations because
2 of 90 percent -- 95 percent of the biomass in the Delta
3 being introduced, or whatever the hell the numbers are.
4 So I can do that.

5 I'm going to go back to Alex, because this is
6 the conversation that he triggered here. Go ahead.

7 MR. HILDEBRAND: I think we're confusing two
8 things here. I have no quarrel with setting high goals.
9 But when you say you're going to assure the achievement
10 of those goals, that's a different matter.

11 For example, in the shallow water habitat, we
12 don't currently know how to control the aquatic species
13 that -- plants that are making those useless, the ones
14 we already have. And so if we add more shallow water
15 habitat and we can't control your range of oil and
16 things like that, you don't gain anything. So there are
17 limits to what we can achieve. That's not to say we
18 shouldn't try. But I don't think you can assure
19 success.

20 CHAIRMAN MADIGAN: Okay.

21 VICE CHAIR MCPEAK: I'm lost. Richard, I'm
22 just trying to follow where you thought that the concept
23 that you had and Mike commented on was to go, where did
24 it best fit here? I mean, you -- Richard, yeah.

25 MR. IZMIRIAN: Well, I was --

1 VICE CHAIR MCPEAK: Is it all in number five
2 that you thought it best fit?

3 MR. IZMIRIAN: Well, I was responding to what
4 Alex was saying.

5 VICE CHAIR MCPEAK: Right. Okay.

6 MR. IZMIRIAN: And if -- so if Alex thought
7 that it best fit in five, then I think it best fits in
8 five. I guess I don't follow your question.

9 VICE CHAIR MCPEAK: Okay. You were just
10 commenting on Alex's comment, and not a suggestion on
11 one of these bullets?

12 MR. IZMIRIAN: I have a number of suggestions
13 about fisheries, but I was commenting on -- I don't want
14 to -- it was just a matter of not wanting to limit our
15 expectations of success here for fisheries recovery.

16 CHAIRMAN MADIGAN: There are a number of
17 people who want speak, but I want to go to Mike Spear
18 first.

19 MR. SPEAR: On the subjects of number four and
20 five, first of all, with the exception of Richard's
21 point on the, quote, limitation of the word recovery, I
22 think five generally reads well.

23 Number four, however, I'm not sure what we're
24 trying to get at it. It looks to me like the general
25 topic is about balancing the inflows and outflows with

1 water supply, water quality, availability for beneficial
2 uses. Yet in the middle of that paragraph or -- is a
3 long, as far as I'm concerned, inappropriate statement
4 about ocean fisheries management that somehow brings it
5 out to a level as an issue far beyond all the other
6 aspects that are being talked about and is highlighted
7 here. It is one of many factors, and probably one of
8 the least, in my view, that is of significance for
9 sustaining and recovering, particularly, salmon. And
10 I'm curious why it gets that attention. I would
11 recommend deleting that whole -- the whole two lines
12 starting with corresponding and ending with healthy
13 populations there.

14 CHAIRMAN MADIGAN: Okay. Thank you. I have
15 Tom.

16 MR. GRAFF: I guess this is my opportunity to
17 present a proposed sentence, I guess. In -- in response
18 to one of the questions that you asked us to think about
19 in advance of the meeting, and it pertains as well to
20 items eight and nine on this list and the title of this,
21 and I'll hand it in, is conditions for permitting new
22 storage and conveyance facilities. And that, I think,
23 was basically the question you asked. And here's a
24 proposed response, which a number of us have worked on.

25 The answer is when it has been demonstrated

1 that a facility is among the most economically
2 efficient, environmentally sound, equitable, and just
3 means to achieve one or more approved CALFED objectives,
4 and when all federal and state laws have been complied
5 with in assessing its merits.

6 CHAIRMAN MADIGAN: Do you have copies of that?

7 MR. HILDEBRAND: Where did you plan to put
8 that, Tom?

9 MR. GRAFF: Well, somehow, it would fit in
10 eight and nine.

11 CHAIRMAN MADIGAN: Okay. Thank you for this.

12 EXECUTIVE DIRECTOR RITCHIE: The chairman just
13 had some good news, so he's relaxing.

14 CHAIRMAN MADIGAN: My day tomorrow was a legal
15 arbitration the entire day. And I had -- I had given my
16 expert opinion on this matter and had my depositions and
17 that whole things. And I was prepared for a really
18 miserable time. And I just got a note that it's been
19 settled. So, yeah, for me at least, tomorrow is a
20 better day.

21 Let's see here. I have Steve.

22 MR. ZAPOTICZNY: On item five, I thought last
23 meeting we tried to get a little bolder and say instead
24 of under the one, environmental water account, I thought
25 we said instead of seek to minimize we were going to try

1 to avoid taking of additional water.

2 CHAIRMAN MADIGAN: Tell me again.

3 MR. ZAPOTICZNY: Instead of saying seek to
4 minimize, I thought we had decided to say avoid. At
5 least that's my recollection. Correct or not, that's my
6 recollection.

7 CHAIRMAN MADIGAN: I remember the discussion.

8 MS. BORGONOVO: We worked on that. I think
9 that's exactly what we agreed on.

10 CHAIRMAN MADIGAN: Did we agree to avoid?

11 MS. BORGONOVO: No. We agreed on what you put
12 in here, seek to minimize.

13 CHAIRMAN MADIGAN: So we agreed to seek to
14 minimize?

15 VICE CHAIR MCPEAK: Could have been. I mean,
16 you can see that it was originally a lot bolder. We
17 have a --

18 MR. BUCK: Pursue recovery, and seek to
19 minimize, make them parallel in term of their level of
20 assurance.

21 CHAIRMAN MADIGAN: Okay. All right. That's a
22 good point. I got to think about that one.

23 Bob.

24 MR. MEACHER: And I have to apologize for not
25 being at the last meeting. But under ten, under the

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1 bullets, all through ten, the wills have been changed to
2 shoulds. And for some reason, in my mind, equates that
3 in terms of as in legislation where shall is changed to
4 may. And so are we saying that, under the first bullet,
5 that we might fully analyze? Are we not -- I just
6 need -- and I'm sorry that I wasn't here for the
7 discussion. Why we're not saying that we're going to
8 fully analyze, or why we will not optimize where we're
9 just going -- we should optimize. It's just peppered
10 through all the bullets in number ten.

11 And I understand sometimes you have to make
12 things shoulds. But some of these are pretty important
13 that should be wills.

14 CHAIRMAN MADIGAN: Your thoughts, Sunne?

15 MR. MEACHER: Do you want me to go -- I don't
16 know how to -- I don't want to have to go through them
17 specifically.

18 VICE CHAIR MCPEAK: I don't know where the
19 shoulds came from. Did we negotiate that? Was that
20 some individual's comments? Because we aren't trying to
21 equivocate in these recommendations.

22 MS. LAYCHAK: Do you want an explanation?

23 VICE CHAIR MCPEAK: Yeah.

24 MS. LAYCHAK: And also, Mary Scoonover, if
25 she's here, might be able to help me out, too.

1 What we did -- so this is -- this was based on
2 legal advice, so --

3 MS. SCOONOVER: I apologize. I was out trying
4 to twist the EPA folks' arms on another matter. The
5 question?

6 CHAIRMAN MADIGAN: The question was the
7 conversion of wills to shoulds on page seven under item
8 number ten in several of the bullets.

9 MS. SCOONOVER: I think it was merely that
10 this is a recommendation from the citizens group to the
11 decision makers. And as opposed to -- it's toned more
12 than anything. So the suggestion was not to
13 substantively change it, but to suggest that the policy
14 makers should consider doing this or should do this.
15 That was the only -- there wasn't a legal significance
16 to it.

17 CHAIRMAN MADIGAN: Okay.

18 VICE CHAIR MCPEAK: And I sort of appreciate
19 that perspective. I think, with that information, it
20 really should be changed back. Because we are -- yes,
21 we are recommending, but we're recommending that the
22 policy makers adopt in the solution, that they would do
23 this. And that's why the word will was proposed.

24 CHAIRMAN MADIGAN: Okay. Good point.

25 MR. MEACHER: Thank you.

1 VICE CHAIR MCPEAK: I do want to comment. You
2 know, item number four, this may not result in any
3 change. In fact, I have agreed to what is in number
4 four. I wanted to remind everybody what this started
5 out to be. It was guaranteeing additional outflow. It
6 was my wording or, you know, the essence of a proposal
7 two meetings ago. Somebody then said, well, if you're
8 going to have outflow, you have to have inflow. And if
9 you're going to have more water going out for fisheries,
10 well, you better try to limit taking of fish
11 inappropriately. And then if you're going to do that,
12 you have to balance against everything else. I gave up.
13 I said, fine, yes, absolutely, I stipulate to that.

14 I just want to go on record as saying that out
15 of this entire sentence, however, the thing that will
16 make the most difference for the fisheries that we're
17 not doing now is guaranteeing additional outflow. And
18 that cannot be done without also having a comprehensive
19 solution that includes facilities.

20 So this has gotten so bastardized as we have
21 gone through the process of trying to create it, you
22 know, by committee to ensure that we got all the
23 nuances. But the heart of this bullet started out to be
24 more water out the -- out the estuary for fish. That's
25 where I'm at.

1 CHAIRMAN MADIGAN: Okay. Thank you. Hap.

2 MR. DUNNING: I have two comments on number
3 five and one comment on number four. Number five starts
4 by talking about implementing the ecosystem restoration
5 plan and the environmental water account to do certain
6 things. I think that's kind of limited. There are
7 other aspects of the CALFED program which have a bearing
8 here, for example, the environmental water program,
9 which is something else, which is the acquisition
10 program.

11 My suggestion would be to say implementing
12 CALFED, comma, e.g., the ecosystem restoration program,
13 the environmental water account, and the environmental
14 water program to do the following.

15 And then my second comment is, what we're
16 trying to do here, it says to provide assurances for
17 recovery of Delta fisheries. Recovery, of course, is a
18 word that comes to us out of the endangered species
19 legislation, state and federal. But there are other
20 things in state and federal law that are relevant, such
21 as the doubling goal, which exists in state law and also
22 exists in the CVPIA. So I think that that should be
23 referenced as well, to say provide assurances for
24 recovery of Delta fish, fisheries, and meeting existing
25 doubling goals in state and federal law.

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1 So those are my two comments on number five.
2 On number four --

3 CHAIRMAN MADIGAN: Not so fast. Let me go
4 through this for a second, because we're trying to make
5 notes here. So if we were to say implementing preferred
6 alternative, maybe the --

7 MR. DUNNING: Or the PPA. Okay. Particularly
8 through, you might say, ERP, EWA, and the EWP --

9 CHAIRMAN MADIGAN: Okay.

10 MR. DUNNING: -- to provide assurances for
11 recovery of Delta fisheries and achievement of the
12 doubling goals in state and federal law, and then --

13 CHAIRMAN MADIGAN: And then you would balance
14 that off?

15 MR. DUNNING: Right. I don't know how
16 doubling and recovery relate to each other. It could be
17 that doubling isn't enough to get recovery. I mean,
18 that's a question I don't know the answer to. But I
19 think both those things are important, and they both
20 should be referenced.

21 CHAIRMAN MADIGAN: Okay.

22 MR. DUNNING: Okay. And then on number four,
23 I just wanted to indicate I agree completely with
24 Mike Spear on the inappropriateness of the parenthetical
25 material about limiting harvest. It talks about

1 corresponding improvements of ocean fisheries
2 management, such as limiting harvest, as if that's
3 something that isn't being done. I mean, there is
4 severe limits on harvest now. And harvesting, as he
5 indicated, may not be a major factor in the equation.
6 He suggested taking out those two lines. Another way to
7 do it would be to talk about corresponding improvements
8 in management, which would cover not just fisheries
9 management, but other sources of management, such as
10 water projects, to assure sustainable fisheries, and
11 then go on to the reference, to water supply
12 reliability, et cetera.

13 CHAIRMAN MADIGAN: All right. So --

14 MR. DUNNING: That's just another option.

15 CHAIRMAN MADIGAN: Fisheries management for
16 the maintenance of healthy fish populations?

17 MR. DUNNING: Improvements in management, not
18 just fisheries management, but all kinds of management,
19 to assure sustainable fisheries would be an option
20 different from Mike's, which was to take out the whole
21 reference.

22 MR. BUCK: My sentiment is pretty much the
23 same. I kind of agree with Mike. It tends to
24 inappropriately point out just one aspect of ecosystem
25 recovery. And rather than taking it out all together,

1 which leaves it just as kind of the old it's just about
2 flow and water supply paradigm, I think better language
3 would be that -- we take that sentence out and the
4 parenthetical statement, we would insert management of
5 other aspects of ecosystem recovery and species -- or
6 ecosystem restoration and species recovery. So you've
7 got, basically, everything else, not just flow, but all
8 the other --

9 CHAIRMAN MADIGAN: Say that again.

10 MR. BUCK: Management of other aspects of
11 ecosystem recovery, ecosystem restoration, and species
12 recovery, which includes everything that's affecting the
13 fisheries and the ecosystem, including fisheries
14 management, including toxics, and including everything
15 else.

16 CHAIRMAN MADIGAN: Let's put that up as our
17 target. Steve, you have something on this point?

18 MR. HALL: Not exactly on this point, just a
19 more general question.

20 CHAIRMAN MADIGAN: Go ahead.

21 MR. HALL: I was -- I was -- well, what do you
22 want to try to get done today? What is the goal?

23 CHAIRMAN MADIGAN: What I am trying to do
24 today is to refine a document that was distributed to
25 everybody on the 9th, so that Sunne and I can submit

1 this document to the policy group as our recommendation
2 for what should be done, seeking such support as there
3 is in this group for that document, and certainly
4 allowing for differences of opinion or disagreements on
5 those areas where such differences are logged.

6 I mean, Tom has logged one in already. That's
7 fine. That is entirely appropriate in this process.
8 But I think to the extent that we have consensus, to the
9 extent that we have agreement, it helps the process. At
10 least that's -- that's the advice and counsel that we
11 have been -- that we have been given here. And that's
12 what we're really trying to do.

13 MR. HALL: I, unfortunately, have a hearing
14 that I have to testify at and I have to leave soon to be
15 there. So let me -- we'll submit some comments in
16 writing to address the points that we have on this
17 document. So I won't -- I won't repeat them here.

18 CHAIRMAN MADIGAN: Well, I mean, I would like
19 to find those areas where the comments that you have
20 have a wide level of support. I mean, I believe -- I
21 believe it is helpful if this document reflects all
22 those areas where there is a broad level of support. I
23 certainly appreciate the fact that you have to get to a
24 hearing and testify. I understand that. That's a
25 dilemma.

1 But my notion today is to try to elicit as
2 much support as we can get without just turning this
3 thing into pablum.

4 MR. HALL: Yeah, I -- and I -- boy, do I
5 sympathize with you.

6 CHAIRMAN MADIGAN: Thank you.

7 MR. HALL: For what that's worth. I will make
8 one general comment, that most of our concerns will
9 revolve around -- as opposed to the concepts that are
10 being addressed here, the use of certain terms that have
11 either legal meaning or some pretty profound political
12 meaning. And let me go to five, just as an example.
13 There is no question there is strong support for
14 sustainable fish populations, and no disagreement about
15 what the law requires about keeping endangered species
16 out of jeopardy. Where there is no consensus that I
17 know of is over the issue of using the tools of CALFED,
18 i.e., ecosystem restoration plan and environmental water
19 account, to meet specific legal requirements in federal
20 law under CVPIA and ESA, i.e., a recovery standard.
21 Which, you know, I -- I don't know what recovery means.
22 I don't -- I don't -- I know that it has a legal
23 definition under the Endangered Species Act. But that
24 doesn't translate into a certain population level of any
25 species. And so we're going to have a hard time

1 agreeing that we're going to write, essentially, a blank
2 check to the ERP and the EWP for a standard that no one
3 can define adequately.

4 So my suggestion is, for purposes of reaching
5 agreement, that you avoid using terms that have those
6 kinds of legal meanings. Because, invariably, you're
7 going to have people staking out positions on them, not
8 because they want to necessarily, but because they feel
9 they have to to protect some position. So that's -- I
10 guess I would make that blanket statement.

11 CHAIRMAN MADIGAN: Okay. I hear you.

12 MR. HALL: Beyond that, you know, I think that
13 you're probably going to get various interest groups
14 writing things.

15 CHAIRMAN MADIGAN: See, I'd bet a nickel on
16 that one.

17 MR. HALL: Yeah. And to the policy makers
18 just to make sure that -- again, I'm --

19 CHAIRMAN MADIGAN: I'll bet you they haven't
20 heard the last of the people around this table, no,
21 siree, Bob.

22 MR. HALL: And that's regrettable in a sense,
23 but I guess at this point unavoidable.

24 CHAIRMAN MADIGAN: Okay.

25 MR. HALL: And with that, I'll just echo what

1 Tom Graff said. I want my closing comment in BDAC to be
2 in agreement with Tom Graff. Some odd symbolism there
3 that I -- and that is to thank the two of you for your
4 extraordinary patience and perseverance in this. It --
5 I won't say it's thankless, but the thank yous aren't
6 near enough to compensate you for the pain and suffering
7 you have undergone, and you know, the wisdom and
8 leadership you've shown. And I think it's appreciated
9 around the table.

10 CHAIRMAN MADIGAN: Okay. Thank you. Steve.

11 EXECUTIVE DIRECTOR RITCHIE: Just a mechanical
12 point. Steve there kind of opened the dike of, well,
13 we'll give you some written comments and I'm sure others
14 will give you written comments for the product that
15 you're trying to generate that needs to go in writing to
16 the policy group before next Wednesday. I think -- I'm
17 presuming you need to set some pretty severe limits
18 around written comments you might get and what you might
19 do with those. Everybody will have their opportunity
20 for written and other comments in a whole lot of forums,
21 but just to --

22 CHAIRMAN MADIGAN: If you want to leave notes
23 off today that Sunne and I can look at tonight, or geez,
24 tomorrow now. You know, I'll take them back on the
25 plane. I don't know about Sunne today, but I'll read

1 them and try to -- you know, if it seems like it
2 advances the cause to try to include some of that in the
3 document that we finally send in. And, clearly, you
4 know, the rules of democracy still apply, that anybody
5 is entitled to write to our masters in whatever fashion
6 they choose and in whatever time they choose here.

7 Brenda. Okay. I wanted to make comments on
8 four and five, specifically with respect to the addition
9 of the language in part four. It was suggested by
10 Mike Spear and Hap Dunning. I tend to agree with Byron
11 that it's not necessary here to single out any certain
12 management actions, if I understood you correctly, to
13 the exclusion of others. But I think it is important to
14 point out that there are certain things that appear to
15 be overlooked in the existing document. And as we have
16 pointed out several times before, when you're looking at
17 the cumulative impact analysis in a comprehensive
18 nature, the action that's -- that's supposed to be
19 taking place here, you cannot ignore things like ocean
20 fisheries management. And there may be disagreement
21 among experts about how much that influences fish
22 recovery as opposed to any other measure that's
23 undertaken, but to dismiss it all together is simply
24 wrong headed. So I would disagree with just deleting it
25 as if that's not a factor.

1 But I agree with Byron that you don't exclude
2 other things. I would prefer, rather than a sort of
3 vague, general statement about what those management
4 actions should be, that perhaps you list them all in the
5 same way that Hap wanted to list CALFED actions as
6 including the ecosystem restoration plan, environmental
7 water account, fish doubling, and all that. It comes
8 down to a question of do you want to be -- have summary
9 statements or do you want to have lists so that people
10 have a clearer picture of what was being discussed.
11 That needs to be one way or the other, because I don't
12 think that you can have very general statements here on
13 some things, and then, you know, vague things on other
14 things and, you know, feel like you're getting the same
15 effect.

16 CHAIRMAN MADIGAN: All right. I agree.

17 MS. JAHNS-SOUTHWICK: I disagree with that.

18 CHAIRMAN MADIGAN: Roberta.

19 MS. BORGONOVO: No surprise, I wanted to agree
20 with the statements that Mike Spear and Hap Dunning made
21 on four and five, and also to agree with Tom Graff's
22 statement for eight and nine.

23 I think that the way in which the ERP has been
24 put together, it does address these broader issues.

25 It's, again, adaptive management, science based, and

1 existing laws that are in place that have been the basis
2 for the CALFED is a base program, and I think it's
3 proper to reference them.

4 CHAIRMAN MADIGAN: Okay. Thank you. Alex.

5 MR. HILDEBRAND: I have one comment on number
6 nine and two on number ten.

7 CHAIRMAN MADIGAN: Okay.

8 MR. HILDEBRAND: In regard to number nine, I
9 don't think there should be any disagreement that we do
10 have to have a almost continuous flow of Sacramento
11 water to the central Delta in order to control quality
12 and for other reasons. But I think it's premature to
13 judge that that necessarily has to be a new screen
14 connection. So I think, at the very least, we ought to
15 modify that to refer to constructing a screened
16 diversion and/or other measures.

17 Some of the alternative approaches in the
18 letter I sent regarding the ways in which the
19 through-Delta could be improved, I don't rule out the
20 possibility we might end up with a screened diversion.
21 But I think it should be a last resort, and I don't
22 think it's clearly necessary.

23 CHAIRMAN MADIGAN: Okay.

24 MR. HILDEBRAND: Number ten, if you go to the
25 second bullet, the last sentence attempts to define

1 local expertise. I would leave the things in there that
2 are there that are all good sources, but they're not
3 local. There should -- it should include the reference
4 to the Delta Protection Commission, to reclamation
5 districts, to the three Delta water agencies, and to the
6 Central Valley and San Joaquin River Flood Control
7 Associations.

8 And on the --

9 CHAIRMAN MADIGAN: I haven't even found it
10 yet, Alex. Tell me again where I'm looking.

11 MR. HILDEBRAND: It's the last sentence of the
12 second bullet on page seven.

13 CHAIRMAN MADIGAN: The second one. I'm sorry.
14 Excuse me.

15 MR. HILDEBRAND: See, the last sentence --

16 CHAIRMAN MADIGAN: Yeah, I see it.

17 MR. HILDEBRAND: -- says local expertise such
18 as. Well, those are all good sources, but they're not
19 local expertise. And we do not include -- have not
20 included the local expertise. And I think that those --
21 it should refer --

22 CHAIRMAN MADIGAN: Okay. I got you. All
23 right. Available expertise such as those including
24 local. That's fine. Yeah, I agree. No problem. Yeah.
25 Okay. All right. Go ahead.

1 MR. HILDEBRAND: On the last bullet, I am not
2 entirely comfortable with the first clause there. But
3 if it's going to be there, I think it should say a
4 through-Delta -- optimization of through-Delta strategy
5 as compared to some other conveyance method. There is
6 no perfect method. So what we're really talking about
7 in the final analysis is not whether the through-Delta
8 will be 100 percent satisfactory, but whether some other
9 method would be more satisfactory. It's a relevance
10 thing. And so I think we need to indicate that at that
11 point where it comes in again later.

12 CHAIRMAN MADIGAN: Okay. And I heard what you
13 said. I have to think about it.

14 Stu.

15 MR. PYLE: Well, you'll be happy to know I'm
16 still back on four and five.

17 CHAIRMAN MADIGAN: Hey, works for me.

18 MR. PYLE: Okay. I think the number four, I
19 would like to see that remain as addressing the
20 balancing of Delta inflows and outflows for the purposes
21 stated there, water supply reliability, water quality is
22 added, and availability for all beneficial uses.

23 I think the other item that -- Sunne's item
24 addressing guaranteeing outflows to the Bay ought to be
25 integrated into item five.

1 You're not listening.

2 CHAIRMAN MADIGAN: No, I'm not. I apologize.
3 Tell me again.

4 MR. PYLE: Yeah. I would like to see four
5 stay there as related to balancing inflows and outflows
6 for the purposes stated, and as Mike Spear brought up,
7 take out those specific items on fisheries.

8 CHAIRMAN MADIGAN: Okay. We got that.

9 MR. PYLE: Okay. Sunne's point, she wanted to
10 bring in there guaranteeing additional outflows.

11 CHAIRMAN MADIGAN: Yeah.

12 MR. PYLE: And I think that ought to be built
13 into the first sentence on number five, implementing of
14 the ERP and the environmental water account. You could
15 have it to provide for additional outflows and recovery
16 of fishes, but I -- I think you could do the same thing
17 by moving that thought into the second one.

18 Also in five, the point of having CALFED
19 endorse the regulatory taking of additional water is
20 just a no-starter for the water users.

21 CHAIRMAN MADIGAN: This is a balance question
22 again. This is the sort of the Zapoticzny clause.

23 MR. PYLE: So if you put in there avoid
24 taking, as Steve says, that's all right. But,
25 otherwise, there's just no acceptance from the water

1 users on anything that -- that endorses additional
2 regulatory taking.

3 CHAIRMAN MADIGAN: Clearly, we are going to
4 have a whole more conversation on five. And that is --
5 because it is really a big deal here. It is a piece of
6 the heart of this whole thing. And so that's helpful
7 input. Thank you.

8 Bob Meacher, and then Pietro.

9 MR. MEACHER: Yeah. And I suppose that my
10 question falls under the same. Because it's related to
11 ten. It's the third bullet.

12 CHAIRMAN MADIGAN: Okay.

13 MR. MEACHER: Last sentence, optimization may
14 also include a new channel from Sacramento River to the
15 Mokelumne Channel --

16 CHAIRMAN MADIGAN: Yeah.

17 MR. MEACHER: -- for a dam that's physically
18 limited. If that falls, say, biologically, then how
19 does that relate to five? And the question I'm asking,
20 is that something that we should address with the policy
21 group rather than with this group?

22 CHAIRMAN MADIGAN: Okay.

23 MR. MEACHER: If that 4,000 CFS biologically
24 confuses the fish, it could trigger an action that would
25 release from Amador County more water to flush through

1 there so that the -- it doesn't mess up with their noses
2 as to which way they're supposed to be going, the way
3 fish smell. So these are -- I'm -- I suppose that's
4 something I should go to policy with, not this group?

5 EXECUTIVE DIRECTOR RITCHIE: Actually, the
6 issue you raised is kind of the fundamental fishery
7 issue relative to this kind of connection is relative to
8 Mokelumne River fisheries and relative to Sacramento
9 River fisheries, is this going to cause harm to those
10 fisheries. That's a real fundamental biological
11 question that we got to deal with.

12 MR. MEACHER: It's also a water supply
13 question. Because how we -- we might not turn off the
14 4,000 CFS. We might just require more release through
15 number five of water stores up in Amador County in order
16 to rectify the situation. So it goes back to your
17 point, Mike, that this is a fundamental discussion --

18 CHAIRMAN MADIGAN: Well, it is.

19 MR. MEACHER: -- that I would like you guys to
20 address somehow.

21 EXECUTIVE DIRECTOR RITCHIE: So certainly I
22 know that we have received comments particularly from
23 East Bay MUD relative to that concern about what might
24 happen to the Mokelumne fishery, either implications
25 from them or the fisheries.

1 MR. MEACHER: Well, that's a liability
2 question on their part, right?

3 EXECUTIVE DIRECTOR RITCHIE: Well, it's the
4 same issue either way.

5 MR. MEACHER: Who is going to be liable for
6 that and what do you do about it.

7 EXECUTIVE DIRECTOR RITCHIE: Yeah. So I think
8 it's a good issue to make sure that it stays on the
9 radar screen, because there's no question about that.
10 We will have to deal with that issue.

11 MR. MEACHER: Okay. Well, you can see I'm
12 just expressing a concern that that sort of triggers
13 that regulatory taking.

14 CHAIRMAN MADIGAN: I'm not the first to say
15 something about the resolution of that being an
16 important early piece of this. I think your point is a
17 good one. And I think that, Eugenia, we need to talk a
18 little bit about how it gets said. But I think that's
19 fair.

20 MR. MEACHER: Okay. And then mine is just on
21 moving forward to 11 and 12.

22 CHAIRMAN MADIGAN: Let's -- let's talk a
23 little bit at lunch, too, about this thing before we get
24 too far off of it, because five is a clearly an
25 interesting --

1 EXECUTIVE DIRECTOR RITCHIE: He turned the
2 page.

3 MR. MEACHER: I turned the page. And it's
4 real simple. I would like the will/should to be
5 inclusive of 11 and 12.

6 CHAIRMAN MADIGAN: Where?

7 MR. MEACHER: That will and should discussion
8 we had earlier.

9 CHAIRMAN MADIGAN: Yeah.

10 MR. MEACHER: I would like it to be inclusive
11 of 11 and 12, and not just ten.

12 CHAIRMAN MADIGAN: Okay. Got you. Works for
13 me.

14 I have Pietro, and then I have Torri, Steve,
15 Roger, Mike.

16 MR. PARRAVANO: I would like to go back to
17 four and five. And it seems like the direction that the
18 discussion is taking for number four, and it does
19 support Sunne's previous thoughts on that it was
20 guaranteeing or assuring water flows. And somehow in
21 the process, assuring and guaranteeing was replaced with
22 balancing. Because by the time you read the statement
23 as it's been modified today, it's very difficult to, for
24 example, as Byron suggested, to balance water quality,
25 one should not be -- I don't think it should be a

1 principle of CALFED to balance water quality. It should
2 be an objective to improve water quality or to maintain
3 water quality, not to balance. Because by the time you
4 read -- you leave the word balancing in the beginning
5 and go through the whole sentence of Delta inflows and
6 outflows and water quality to protect and restore fish
7 and wildlife populations, water supply reliability and
8 availability for all beneficial uses, you lose the two
9 components of a balance.

10 And I would strongly suggest that we go back
11 and replace the word balancing with the original word of
12 guaranteeing or assuring.

13 And then taking off on what Stu was mentioning
14 in number five, that the assurances should also be in
15 there. Now, what number five does not address, and this
16 might be an education for members of BDAC, that the
17 recovery of Delta fisheries is one -- is a whole
18 separate issue from the restoration of fishes. For
19 example, the recovery is mandated by the Endangered
20 Species Act. There also is a federal law that's in
21 place that needs assurances for water, and that's called
22 the CVPIA, which requires a doubling of all anadromous
23 fish stocks.

24 So if we were to insert in number five the
25 mandates of the CVPIA and the recovery of the -- of the

1 Delta fisheries under the ESA, it would be a lot more of
2 an anchored statement. So --

3 CHAIRMAN MADIGAN: Okay. All right. I mean,
4 let me think about it.

5 Torri.

6 MR. ESTRADA: I have just three general
7 comments for the different numbers. Under number seven,
8 we have linkages would deem different storage, water use
9 efficiency. I think we should add probably water
10 management programs to be accurate.

11 And under number eight, number ten, there's
12 references in both those paragraphs to studies. Under
13 eight, around stage one, groundwater surface storage
14 analyses, and under eight, the impact analysis does
15 include social, a look at social impact, or what the
16 environmental justice analysis would be.

17 And then under number ten, bullet number five,
18 a study on isolated conveyance --

19 CHAIRMAN MADIGAN: Okay. Before we go any
20 further, I agree with that last one. We definitely
21 should incorporate that.

22 MR. ESTRADA: Okay. And then the same on the
23 study of isolated conveyances. So we should be explicit
24 about social environmental justice impact analysis. And
25 it raises a -- maybe a larger issue in terms of the

1 science board and who may be on that to look at social
2 impact assessment, environmental justice, and social
3 impact analysis around that.

4 CHAIRMAN MADIGAN: Okay.

5 MR. ESTRADA: And then the -- and as well as
6 with number nine. And then number ten as well, just to
7 make sure we're integrating the stuff, there's mention
8 of different fisheries, water quality, and water supply
9 reliability goals, just to make sure that the
10 environmental justice goals that we're going to come up
11 with get integrated into that goal.

12 CHAIRMAN MADIGAN: All right. Got it.
13 Steve.

14 MR. ZAPOTICZNY: Under number ten, the last
15 bullet, I know we beat this to death last time on the
16 sufficient number of years. We talked about a few years
17 to what could be many years. And I'm just wondering, I
18 still have some cause for concern on where we say a
19 sufficient numbers of years to constitute a
20 representative spectrum of water years. It still seems
21 a little too open.

22 Obviously, we don't want to shortchange
23 ourselves and do it too short a period of time. But it
24 also has the potential of going on through a long time.

25 CHAIRMAN MADIGAN: What did we say?

1 MR. ZAPOTICZNY: Can we -- I don't know the
2 right words, but can there be some kind of trigger
3 mechanism that somebody has to be accountable, there has
4 to be maybe more specific goals along the way. And then
5 we -- after a certain period of time, we just trigger it
6 and have a review and make sure we're on track.

7 I understand that we have to let it go
8 sufficiently, but that's the -- that's the problem,
9 what -- can it go too long.

10 And I only have those two suggestions. I
11 don't really have a good wording for that.

12 CHAIRMAN MADIGAN: All right. Let us think
13 about it.

14 MR. ZAPOTICZNY: We put it together, and we
15 should have some time lines.

16 CHAIRMAN MADIGAN: We kind of struggled around
17 that one before some in terms of, you know, what if you
18 ran into three years or something, or you're into five
19 years or something.

20 MR. ZAPOTICZNY: Maybe it's an annual
21 reassessment to make sure we're on track or what needs
22 to be changed. Just so there's accountability that if
23 it is --

24 CHAIRMAN MADIGAN: A piece of this is. You
25 know, a piece of this is that there is going to be

1 regular, not just periodic. And we discussed earlier,
2 not just the notion of reporting, but actually, you
3 know, for measurable progress here. So that there
4 are -- there are certainly opportunities for that. It's
5 a question of how you say it here so that you don't
6 shortchange yourself in terms of the information that
7 you really want to collect before you make some of these
8 decisions. Okay. But I understand the point.

9 Roger.

10 MR. THOMAS: Thank you. In regards to four
11 and five, to make it very brief, I agree with Mr. Spear,
12 Mr. Dunning, and also Pietro.

13 And in regards to five, you, Pietro, pointed
14 out federal law. You also have state law that probably
15 should be in there.

16 In regards to fisheries management, just a
17 short comment. I said, as a Pacific Fisheries
18 Management consult member, and we have severely limited
19 both recreational and commercial fishery to meet ESA
20 requirements, as well as to help spring runs. So
21 fisheries have been very regulated. It adds a real
22 hardship to the coast by the way. Thank you.

23 CHAIRMAN MADIGAN: Okay. Thank you.

24 Mike.

25 MR. SCHAUVER: I would like to make a comment

1 on number 12, first paragraph, first sentence. Along
2 the lines of what Bob Meacher had indicated, including
3 rural. I believe he had said we need to include,
4 towards the end of the sentence, future needs of urban,
5 environmental, and tribal, and agricultural purposes.

6 I would like to get a comment in support of
7 that. Many tribes have their own independent water
8 districts. And tribal governments have obligations to
9 provide water supply to their tribal members and the
10 tribal community projects. Due to recent positive
11 progress by tribes in their economic endeavors, many
12 more tribes may develop independent water supplies for
13 tribal needs in the near future. At this time, there's
14 a lack of support for the -- lack of support by the
15 Department of Interior to quantify the rights and needs
16 of the tribes. CALFED needs to consult with tribes on
17 their needs for future water supply.

18 And then in the second paragraph, those
19 different users or groups have been identified for how
20 their need would be based. And that need would have to
21 be determined in the future. I would suggest consulting
22 with tribes on how that need --

23 CHAIRMAN MADIGAN: Can you give that language
24 to Alf?

25 MR. SCHAVER: Yes.

1 CHAIRMAN MADIGAN: All right. Fair enough.
2 I have Richard. I have then three speaker
3 slips, and then we are going to break for lunch. I have
4 the -- Steve, Alex. Okay. Let's try to keep it short.
5 Go ahead, Richard.
6 MR. IZMIRIAN: Okay. Let me associate myself
7 with Pietro's comments regarding item four, and Mike's
8 comment about -- and Hap's about getting rid of that
9 parenthetical about tying to ocean fisheries management.
10 Certainly, here's a prime example of where you
11 should get rid of the word balancing. I don't think
12 anybody here really understands what balancing Delta
13 inflows and outflows is all about.
14 On the second point of -- second bullet on
15 ten, it lists fish protection, which is fine, but to
16 some people, that means putting up a no fishing sign.
17 So somewhere in here I would like to see a specific
18 mention --
19 CHAIRMAN MADIGAN: That would only work for
20 the fish that was actually caught though, wouldn't it?
21 MR. IZMIRIAN: Right.
22 CHAIRMAN MADIGAN: I'm just coming to grips
23 with this myself.
24 MR. IZMIRIAN: We've -- I think we should
25 explicitly state that something about migration,

1 spawning, rearing food supply, reduced entrainment.

2 CHAIRMAN MADIGAN: Okay. All right. Let me
3 think about it. Thank you.

4 Alex, and then Steve.

5 MR. HILDEBRAND: On item 11, the question
6 isn't just whether the isolated conveyance is feasible,
7 but whether it's better than the through-Delta. So I
8 think it ought to be worded that you have feasibility
9 studies for isolated conveyance and analyses of
10 comparative merit with optimized through-Delta
11 conveyance.

12 CHAIRMAN MADIGAN: Okay.

13 MR. HILDEBRAND: And then on number 15, where
14 it refers to a time table of -- a time table and process
15 for addressing.

16 CHAIRMAN MADIGAN: Okay. Sunne.

17 VICE CHAIR MCPEAK: I think that all these
18 questions about what was -- what we tried to start with
19 is a simple statement about sincerity and optimizing
20 through-Delta conveyance, not against performance
21 standards. I mean, there has to be -- I mean, there --
22 there -- I am under the impression, and I'm sorry to be
23 so slow today, that the kind of accountability that
24 Steve Zapoticzny is asking for and the performance
25 standards, including for fisheries, actually are in base

1 documents. I'm sorry if they're not in -- let's just
2 say they -- I guess we have to underscore they must be
3 there.

4 I mean, there was actually on continuous
5 improvement in fisheries, water quality and supply
6 reliability, at least the phase two document had a lot
7 of -- had a lot of specificity in it. So maybe it's
8 been stripped and it needs to be reinserted.

9 So against absolute performance standards,
10 what we've been trying to say is, if we're going to
11 pursue, with sincerity, the through-Delta approach and
12 optimize that, then you have to have a number -- you
13 have to have a representative set of years. That's not
14 to go indefinite, because there's another bullet, which
15 I added, that said go study whatever is the isolated
16 component of the dual facility, be ready to move on it.

17 This is so qualified now I have a hard time
18 understanding what I intended to say to begin with. And
19 I'm just -- I'm expressing that. When, again, the words
20 seven to ten years have been -- been stripped out. But
21 seven to ten is about the time frame that it has taken
22 us in recent water history, the last 100, the last 100
23 years. I mean, that's recent when we look at tree
24 rings, when we look at what we have experienced over
25 time. I mean, the recorded water history of the last

1 century suggests it takes about a seven to ten-year
2 cycle to get a representative experience from below to
3 above average and the transition through a below to
4 above in normal years.

5 So don't anyone leave this room thinking
6 you're going to have data in three years. You're not.
7 It just has to be understood. Now, does that mean that
8 we're trying to drag our heels? No, we're not.

9 I -- so that's a preface to say I acquiesce to
10 taking out seven to ten. I was trying to be really
11 clear with everybody what I meant. But it's been taken
12 out. We're trying to figure out how to make what is a
13 sufficient number of years. And I just say to my
14 colleague from San Diego, I'm with you on
15 accountability. We want to be able to see that. But
16 understand to be sincere on this is going to take some
17 years.

18 MR. ZAPOTICZNY: I just wanted to make sure,
19 Sunne, it didn't take longer. If seven to ten is the
20 time frame that is really needed that it doesn't go 15
21 to 20.

22 VICE CHAIR MCPEAK: Good. I'm in total
23 agreement with you. But I would like to see this
24 decision made in my lifetime. And I have a longer, you
25 know, hope that seven to ten actually.

1 But page seven, I have to have a question.
2 The bottom, that bottom bullet, can anybody tell me what
3 the hell that first phrase is meant to be and who added
4 it? Provided baseline environmental and regulatory
5 conditions have not significantly altered the prospects
6 of successful optimization of a through-Delta
7 strategy --

8 CHAIRMAN MADIGAN: They were paid by the word.
9 It's okay.

10 VICE CHAIR MCPEAK: What is that? What does
11 that mean?

12 MR. HILDEBRAND: That came from Byron.

13 VICE CHAIR MCPEAK: I mean, because I am going
14 into this saying that there aren't those conditions.
15 They haven't been precluded. So I'm trying to
16 understand -- I mean, I don't think this needs to be
17 qualified. That's why I'm raising it.

18 MR. HILDEBRAND: As I said earlier, I think it
19 ought to be stricken.

20 VICE CHAIR MCPEAK: You did. Okay. I'm
21 sorry. I'm so slow. I'm behind on trying to understand
22 each bullet comment and then find it here as people are
23 talking.

24 Byron, do you really need to defend that? Is
25 that yours?

1 MR. BUCK: Give me a minute.

2 VICE CHAIR MCPEAK: Does anybody else want to
3 keep that in?

4 MR. BUCK: I will defend it to the extent I
5 think we have to recognize that the playing field could
6 significantly change based upon events we can't control
7 now. We can see a decline in -- a drastic decline in
8 fisheries that we simply don't understand, even though
9 we think we're doing the right things. You can see a
10 hydrologic series of events that we've never seen
11 before. So it's just -- that was the caveat. That was
12 the intent there that, you know, we have a certain
13 baseline of knowledge now, but that can all change. And
14 that's the notion of adaptive management.

15 CHAIRMAN MADIGAN: Okay.

16 VICE CHAIR MCPEAK: But adaptive management,
17 this is -- I actually understand that intellectually.
18 But, Byron, I just want to say respectfully back that
19 the notion of adaptive management says we're going to
20 make a decision to optimize through-Delta now. We're
21 making that decision. And the adaptive management
22 aspect of it is to see how that succeeds. We are
23 saying, we are intending to say at least, I think we are
24 putting on the table a recommendation to the policy
25 group that, in fact, we do optimize through-Delta. So,

1 I mean, and adaptive management will come into -- new
2 information will presumably be discovered, and that will
3 be the adaptive management part of it. But to suggest
4 that that's then the basis for immediately going to
5 isolated construction and abandoning the course of
6 optimizing through-Delta is certainly not what I want to
7 be saying here. That's -- that's why I'm trying to be
8 clear and not equivocate.

9 The way that we have offset this, and to get,
10 if you will, a strategy that will work, that will work
11 for the -- will work for the system, will work
12 physically as well for the policy makers is, okay, we're
13 aggressive on both, optimizing through-Delta and
14 preparing for whatever changes might come about so that
15 we can implement the isolated component. That's the, if
16 you will, the balance -- policy balance that we've
17 struck and that I really wanted to stick with.

18 MR. BUCK: Yeah. And I agree with that. I'm
19 just, again, trying to point out the notion that things
20 could change. When we go into a real strong dry cycle,
21 it's going to change the baseline for a lot of things.
22 And we may realize four years into the analysis that we
23 simply can't make a through-Delta optimization work
24 under any scenario. We may learn that, we may not.

25 MR. HILDEBRAND: And that may be equally true

1 of the isolated.

2 MR. BUCK: That's true.

3 VICE CHAIR MCPEAK: Right. Unless we're going
4 to have an all-inland saltwater sea, which is -- which
5 is why -- which is why we are -- can we flag this and
6 try to work on it? I now understood whose it is.

7 MR. BUCK: Thanks, Alex.

8 CHAIRMAN MADIGAN: Steve, and then I'm going
9 to take public comment.

10 MR. ZAPOTICZNY: Item 12, I'm not sure where
11 does the DWR play a role in forecasting water needs?
12 Why would CALFED be forecasting that?

13 CHAIRMAN MADIGAN: You're going to --

14 VICE CHAIR MCPEAK: I'll respond. There was
15 not -- well, first of all, DWR was a part of CALFED.
16 And what is being -- what was the thrust behind this
17 discussion was not to suggest a new responsibility or a
18 responsibility being moved from an existing agency,
19 since that existing agency is a part of CALFED. But
20 rather that the work of CALFED needed to be pursued in
21 light of this kind of information.

22 That's what that was about, right, Alex?

23 MR. HILDEBRAND: That's right.

24 VICE CHAIR MCPEAK: Okay. I do know where
25 that one came from. So maybe we need to make that

1 clearer. I must say, you know, I tend to think of it,
2 if you are a part of CALFED, CALFED is you, you is
3 CALFED, we all is CALFED. It's the public.

4 EXECUTIVE DIRECTOR RITCHIE: People think
5 CALFED interchangeably means CALFED and the CALFED
6 process and every single thing ever done by any CALFED
7 agency. And both apply at different times. And, in
8 fact, the CALFED agencies understanding that has been a
9 little bit of a learning process.

10 CHAIRMAN MADIGAN: Okay. On that point, Stu?

11 MR. PYLE: On that point, I agree that we
12 should identify DWR, which has the legislative
13 responsibility for forecasting. But then CALFED also
14 has this responsibility for checking up how through the
15 forecast and the achievements of CALFED balance out. So
16 there's a two-step thing.

17 But on the next paragraph following that, I
18 think that whole paragraph ought to just come out. It
19 tends to impose some limitations on what that whole
20 forecast system should be. And I don't think they're
21 appropriate to this type of document.

22 CHAIRMAN MADIGAN: I'll take a look at it.

23 All right. I have three comments or three
24 speaker slips anyway from the audience.

25 First, Michael Umbrello. Good afternoon.

1 MR. UMBRELLO: Good afternoon. Thank you. My
2 name is Mike Umbrello for the record. I'm from the
3 Cahto indian tribe.

4 I would like to address this document that
5 says CALFED tribal outreach document on page two. It
6 says CALFED itself is not a federal agency and has no --
7 and has not -- excuse me. Let me start over. CALFED
8 itself is not a federal agency and has no consultation
9 obligations. However, the federal agencies that
10 participate in the CALFED do not consultate -- do not
11 have consultation obligations, which they believe have
12 been met.

13 I was wondering who put this document together
14 and who believes that this consultation has been met
15 with the federally recognized tribes?

16 Alfred, could you --

17 CHAIRMAN MADIGAN: Do you want to start, Alf?
18 Do you want to --

19 MR. BRANDT: Sure. Actually, I think this was
20 a CALFED staff. I have not seen this one, this
21 particular version before. And I guess my only comment
22 is that, Michael, as you can see from the paragraph
23 right above is, you know, well, we may -- we may say
24 CALFED is not a federal agency, it's not a state agency,
25 but, I mean, that's kind of just a fact. But the

1 federal agencies continue to remain committed to
2 fulfilling our consultation responsibilities and doing
3 even more. And while this may have been -- I think this
4 may have just been poorly written to -- and to not
5 reflect -- it should have reflected something that we
6 are continuing to do that, and we are continuing to
7 perceive that. It doesn't mean though we stopped, we're
8 done. We will continue to do all the consultation that
9 we can and to engage with tribes. And I think our
10 reflection of that commitment is the 100,000 that, I
11 think, will be awarded shortly to try to make sure that
12 that happens and that tribes have the ability to do this
13 and participate effectively and fully.

14 So I think that's -- that may have been poor
15 crafting or poor writing on exactly how that was framed.
16 But I think that's not that's it's met and it's over,
17 it's done, it's just that we are continuing -- we
18 recognize our responsibilities and we continued -- and
19 we've done a number of things, and we will continue to
20 do them.

21 CHAIRMAN MADIGAN: Steve, do you want to
22 defend this poorly written document?

23 EXECUTIVE DIRECTOR RITCHIE: No, not to defend
24 it. But I have responsibility for it, although it was
25 one that I hadn't actually seen for myself. But I think

1 I would agree with Alf that, at the end, there is an
2 ongoing obligation, and that still continues, and will
3 be continually pursued. There's no question about that.

4 MR. UMBRELLO: Thank you.

5 CHAIRMAN MADIGAN: Felicia.

6 MS. MARCUS: Can I just call out from the
7 back? I don't know who wrote that. I don't want to
8 beat anybody up, but it's so not true that we're not
9 going to let other folks who say we just barely begun.
10 And it is, in fact, as the first paragraph said, an
11 ongoing responsibility. But we're just getting out of
12 the blocks and catching up on this one.

13 CHAIRMAN MADIGAN: Okay. Thank you very much.

14 Zeke Grader. Zeke?

15 MR. GRADER: Yeah. Zeke Grader, Pacific Coast
16 Federation of Fishermen's Associations. Commenting on
17 four and five, and I think a lot of this has been taken
18 as being commented on already. But just emphasis, give
19 it some emphasis, particularly in the issue of the
20 balancing term, I think it's a very bad one. And I
21 think one of the reasons we're in trouble here today,
22 particularly with our fisheries, is because of past
23 state law requiring balancing. We have a number of
24 streams right now that every time there is a new
25 appropriation, the State Board or the regional boards

1 were balancing the water request versus the fisheries.
2 And it's gotten to the point where a number of our
3 streams now, there's virtually nothing left in them to
4 be appropriated and the fish are gone. And it's an
5 example of where we basically balanced a lot of our
6 resources to death. So I think it's something that we
7 need to avoid.

8 The other thing in here, too, and I think it's
9 been alluded to and I think Mike Spear has gotten at it,
10 is the particular emphasis on the fisheries. There has
11 been, I think as Roger Thomas and others can say, a very
12 aggressive program on managing ocean salmon fisheries in
13 place since 1977. Probably no natural resource has been
14 as extensively regulated as those fisheries and we can
15 refer to that. But if there are people unhappy with it,
16 I would suggest they attend a Pacific Council meeting
17 and they will probably come back and thank God that
18 their water is not so regulated.

19 But, nevertheless, I think that perhaps the
20 proper term in there ought to be managing for
21 sustainable fisheries. And that would look at
22 everything, look at all the impacts, rather than just
23 trying to point out some sort of specific magic bullet
24 that people think they can take in the ocean.

25 I should add, as well, that many of our

1 streams right now, the constraining factors, not that
2 we're not getting enough fish back, the problem is what
3 happens into the fish when they come back. Like on
4 Battle Creek, when you have 100,000 fish and they have
5 got no place to go, you got no habitat for them. So
6 that's largely been the constraining factor on fish
7 production is what happens when those fish get back.
8 How can we then get maximum production? How do we make
9 sure that we have survival of their progeny? And that,
10 in fact, has been the limiting factor. Now, there may
11 be people that choose to ignore that. But I would
12 submit those are probably the same people that submit to
13 tobacco science, that somehow cigarettes are not
14 killers.

15 But, you know, you can choose to believe what
16 science you want. I'm just simply saying I think what
17 the facts indicate out there, and it's pretty much that
18 the problem we're having right now, is the constraining
19 factors within the habitat.

20 Secondly, onto five, I think that it would be,
21 and I think Professor Dunning has already mentioned
22 that, I think it is useful to refer to the specific
23 acts, because we have two acts in particular. And I
24 submit there might also be a third in the Clean Water
25 Act that we do have to be mindful of that CALFED is

1 required to -- to give adherence to. And that is, first
2 of all, there is the, as has been mentioned already, the
3 Endangered Species Act, which has a requirement for
4 recovery. You can't get around that legally. There
5 is -- there are those recovery requirements.

6 Moreover, there is within the Central Valley
7 Project Improvement Act, and I should also add within
8 our own California Fish and Game Code going back to the
9 1980s, doubling requirements. And that is not a vague
10 doubling requirement. Go back and look at the Fish and
11 Game Code, and that statute -- those statutes are in
12 place today on the doubling. That's where the federal
13 law came from. And it gives specific times that they
14 measure the doubling against, the specific periods that
15 you shall double from. You can't ignore that. So it's
16 not some vague doubling thing that's out there. It's
17 pretty specific in the statutes. Go back and take a
18 look at it.

19 And then, finally, I think the other thing is,
20 although I know it does bother some in the corporate
21 agricultural community, is we have such things out there
22 now known as TMDLs, and that under the Clean Water Act.
23 And people better start paying attention to those as
24 well, too, because we're starting to see them enforce
25 them in north coast and elsewhere. And those are going

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1 to make a big difference as far as protecting water
2 quality. And I would submit not just in the rivers, but
3 perhaps it could be expanded as well to the Delta, and
4 what would require then for the protection of fisheries.

5 So I think that, under number five, I think it
6 would be useful, particularly for those reviewers and
7 people looking at this document later on, to fully
8 understand what type of constraints or what type of
9 statutes that you are mandated to follow as having
10 specific reference to the statutes and what they say.

11 And, of course, Endangered Species Act, it's
12 recovery. Under state and federal law, federal law, of
13 course, CVPIA says you shall double. And that's the
14 law. And so I think, you know, you've got to refer it.
15 There's no way of getting around it unless you go to
16 congress, or in the case of the state act, the state
17 legislature. Thank you.

18 CHAIRMAN MADIGAN: Okay. Thank you.

19 John Mills.

20 MR. MILLS: Mr. Chairman, members of BDAC,
21 thank you for letting me speak today. As I read through
22 this latest version, I wanted to take the time to thank
23 you and Sunne for -- for your noble efforts in this and
24 all the time you spent. But since this is a CALFED
25 meeting, you know that no good deed goes unpunished. So

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1 I would like to get into some comments on this.

2 The first item is governance. I will come
3 back to that later. The second relates to item eight
4 and nine. And I would only point out that item eight,
5 we talk about reaching a decision regarding groundwater
6 and surface storage. That's noncommittal. It really
7 just talks about how you'll make a decision.

8 Item nine actually talks about construction.
9 And I -- and as a general rule of thumb, speaking on
10 behalf of Regional Council of Rural Counties, 28
11 counties, we're in that group who likes to see it dammed
12 before it's diverted. There is a threat with new
13 diversion and no new storage that the north has
14 recognized for over 20 years. So just be aware that if
15 there's a political third rail here, you're about to
16 lean over it and it's raining.

17 And item number three that I have on my list
18 goes to assurances. And Robert Meacher touched on it,
19 which is what happens when proposals in here fail, who
20 is responsible. And item number five seeks to minimize
21 taking of additional water. And that is not really an
22 assurance. It -- we're going to try to not take any
23 additional water. But as an example, if we try this on
24 the Mokelumne and it doesn't work, is it East Bay MUD,
25 PG&E, or the Amador County Water Agency who is on the

1 hook now? And that's -- and so, therefore, this bullet
2 on page seven, the third bullet down, relates back to
3 item five, and that's a real world assurance issue. And
4 Steve is right, it isn't just on the Mokelumne. It's on
5 virtually every tributary to the Delta. And every one
6 of your actions that you're proposing here, whether they
7 be a Hood diversion or something else, you have to think
8 about if that one doesn't work, who is responsible. And
9 the problem is, usually, those who are responsible
10 happen to be upstream.

11 So that's -- if you wonder why we're paranoid
12 about assurances, that's one of the reasons. And I'm
13 not suggesting I have any language that fixes that. I'm
14 just pointing out to you that this is a -- this is an
15 issue that was discussed quite intensively by our board,
16 and it is one of the roots of their problem with CALFED
17 in terms of having an assurance they can take home.

18 On page nine, there is a big paragraph in the
19 middle here that talks about what we all know is the
20 likelihood of shortages in California water supply
21 either through climate or regulation or both. But the
22 idea that CALFED is going to examine, I think, is a good
23 idea. I'm not sure what examine means though. I think
24 you go to the doctor, he examines you. But he can't tie
25 you down and operate on you if you don't want it.

1 CALFED has agencies who can do that and have
2 done that. So the idea that CALFED is going to then
3 decide who is going to share the pain in a balanced
4 manner, I think, runs up against the doctrine of
5 California water law. And there are a whole host of us
6 who would feel more comfortable in front of the State
7 Board arguing on a priority basis than we would in front
8 of CALFED arguing on a we want to help you share the
9 pain basis. But just understand, to the extent that
10 this is a concept you want to advance, there is a State
11 Board proceeding going on right now that may deal with
12 at least part of this issue.

13 We would also note that this section, however,
14 ties back to the previous page when we talk about
15 increasing supplies. But we're not sure if that means
16 in the problem area, in the solution area, or both. And
17 there's a clarification there, and that's one of the
18 conundrums we see with CALFED is as long as the problem
19 area and the solution area are different, you're always
20 going to have an inequity in how people see what your
21 actions are aimed at achieving.

22 The underlying premise of all this is that
23 CALFED has some systemic problems that no matter what
24 you do are going to cause problems if they're aren't
25 fixed. One of those is governance. And I heard some

1 comments early -- Mary Scoonover, when I heard Mary say,
2 you know, we took out the word will and put in should
3 because we really didn't want to offend the agencies.
4 Believe me, folks, you know, the idea that in a
5 presidential election year that we're considering a
6 CALFED governance structure which places agencies above
7 elected officials is silly. Let's go back a couple
8 hundred years. There were folks over here in red coats
9 who didn't have representation, and we used to shoot at
10 them to get away from that form of governance. I'm not
11 trying to be too light about this. But in response to a
12 question from the water and power subcommittee and the
13 house resources committee, we were asked what's wrong
14 with CALFED governance and can you describe a way out of
15 it. My point, and our organization agreed with this and
16 our analysis, is that CALFED governance needs to go back
17 to a representative governance where the elected
18 officials are in charge and the agencies are actually
19 officio members who give technical advice.

20 CALFED reauthorization is a major issue. But
21 aside from that, we think there needs to be election --
22 elected officials from cities, at least eight, who sit
23 on the CALFED decision making board. Probably grouping
24 California's 58 counties into 11 subgroups, each who
25 would self-appoint their own elected official.

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1 Clearly, the tribes have been short-sheeted in
2 this. A lot of those tribes are in our counties, and we
3 think there should be a minimum of five tribal
4 representatives in this group and 11 stakeholders.

5 So as we look at this, our problem is also
6 that the state legislature needs to be in here. And we
7 would urge that there be membership. If they can't be
8 voting members for legal reasons, we would certainly
9 like to see them as ex officio members. The chair and
10 the vice chair each from the water, parks, and wildlife,
11 and natural resources committees of the assembly and the
12 Senate.

13 We would also like to see the Brown Act
14 incorporated into all CALFED meetings. We thought the
15 idea of open meetings would be a novel idea, and that it
16 should go from here on. The idea though, the very
17 premise that we would move ahead with the CALFED
18 reauthorization or a CALFED program in which the
19 agencies are still only taking advice from the
20 California legislature and congress is ridiculous. And
21 we have asked congress and we have asked the legislature
22 to make sure that that doesn't occur. But if CALFED is
23 going to go ahead in any -- any sort of format, whether
24 it be a California dominated or a federal dominated, let
25 there be elected officials, and some folks off this BDAC

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1 group who sit at the table who actually make the
2 decisions. If the agencies are offended by that, that's
3 too bad.

4 And I agree with you that a California process
5 without the federal government hasn't worked before.
6 But our experience is that sometimes the federal
7 government comes up with silly ideas, because they don't
8 listen to elected officials. And we, in rural areas,
9 have experienced this with federal land managers who
10 actively think that fuel lows that are 50 times normal
11 are great conditions for burning. And that's why we
12 have New Mexico in flames and a pilot from my home
13 county is dead.

14 Federal policies without elected officials
15 being in the room making decisions and being answerable
16 to their constituents are failures. They will be.
17 Thank you.

18 CHAIRMAN MADIGAN: Thank you. All right. We
19 have reached and slightly exceeded the noon hour. We
20 are going to take a recess here. Let's try to come back
21 about ten after 1:00. Is that okay? And keep going.
22 Thank you very much for your participation this morning.
23 It has been very, very helpful.

24 (A lunch break was taken.)

25 CHAIRMAN MADIGAN: Okay. We are back. Thank

1 you for being so prompt. We are going to continue
2 looking at the overheads here. Despite how long it took
3 this morning, I thought we made good progress. I
4 thought we made a number of things that would be
5 constructive changes in the documents.

6 Did -- Sunne, did you and Eugenia just talk
7 about tomorrow at all? No, we'll do that. It's our
8 intention to try to go over this conversation as soon as
9 possible since my day looks better tomorrow. The real
10 question is what's Sunne's opportunity. But as soon as
11 we get through this thing, the notion will be that we
12 will distribute this thing to everybody here, what we
13 think -- what we think came out of this event. We
14 would, obviously, solicit support, agreement,
15 concurrence. But we also want you to have the document
16 for those comments that you want to make on it where you
17 have issues that remain. The notion is that we will
18 also get this document to both the -- the principles in
19 the CALFED process and to the appointing authorities,
20 the Governor and his staff and the Secretary and his
21 staff, so that everybody has it with whatever lead time
22 we can provide before next Wednesday's meeting of the
23 CALFED policy group, on the assumption that that meeting
24 holds. And I don't know anything today that says it
25 won't, although I've heard that it's possible that that

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1 meeting is not going to be held a week from today. And
2 so no source of any particular information beyond that.

3 MS. LAYCHAK: The latest is that it will be
4 held.

5 CHAIRMAN MADIGAN: Fine. Great. Terrific.
6 That's the presumed outcome of today, where we go from
7 here. So, hopefully, you will be getting from us very
8 shortly our understanding of what was discussed and done
9 today.

10 Bob?

11 MR. RAAB: What will be the format of this
12 letter that you will write? In what -- I'm referring
13 specifically to will it have areas of agreement or, as
14 in the past, areas of disagreement?

15 CHAIRMAN MADIGAN: No, this letter will be --
16 this letter is going to be from Sunne and me. It's
17 going to be our position of what our recommendation to
18 the policy group. To the extent that you want to
19 associate yourself with that letter, either in its
20 entirety or in some great or lesser degree, that's good,
21 because it helps provide input to the -- to the policy
22 group. To the extent that you have a serious remaining
23 concern with something that's in the document, it at
24 least gives you a document that you can react to and
25 say, you know, from the standpoint of me, or my group,

1 or the five of us, or whatever, that we think that the
2 language in this section should say that instead.

3 MR. HASSELTINE: What would be the procedures
4 for either signing our --

5 CHAIRMAN MADIGAN: If we had two or three
6 weeks, I would say that's the way to do it. I don't
7 want to mislead anybody by saying, yeah, you know, get
8 your comments back in a timely fashion and we'll
9 incorporate them, and then what's determined to be a
10 timely fashion, so your comments don't get to the policy
11 group. If we had two or three weeks, I would say we go
12 through the process that we went through last time. But
13 I just don't think we have time to do it now.

14 So Alf?

15 MR. BRANDT: In that case, can I ask a
16 question?

17 CHAIRMAN MADIGAN: Sure.

18 MR. BRANDT: Would you prefer that the policy
19 group got delayed?

20 CHAIRMAN MADIGAN: No.

21 MR. BRANDT: Just because that may go into
22 these considerations that we're talking about.

23 CHAIRMAN MADIGAN: No. I would prefer that we
24 do those things that we have to do in order to meet your
25 schedule.

1 MR. BRANDT: Okay. Because -- that's fine.

2 CHAIRMAN MADIGAN: Bob.

3 MR. HASSELTINE: People don't know how to
4 sign in or sign on or --

5 MR. RAAB: Mike, could I just finish up on the
6 thought I --

7 CHAIRMAN MADIGAN: I don't know. That's a
8 good question. I got to think about it for a minute.

9 Yeah. Bob.

10 MR. RAAB: Well, will there not then be a
11 document put out by BDAC that will show where we agreed
12 and where we disagreed?

13 CHAIRMAN MADIGAN: We may well be able to
14 summarize this after the policy group meeting in some
15 other way. But I just don't think we have time to do it
16 right now. And I think that the timeliness of the input
17 is more important than the -- than the sort of the --
18 the format of the input.

19 The question that Eric asks is a good one, and
20 that is one of how do you associate yourself. And, I
21 guess, Eugenia, maybe we can make a call --

22 MS. LAYCHAK: Yeah. What I --

23 CHAIRMAN MADIGAN: -- to everybody and say you
24 want to sign onto this thing, or are you -- have you got
25 comments? If you got comments, do you want me to

1 distribute them for you?

2 MR. HASSELTINE: Will there be one more draft
3 sent out then, the final document would be sent out to
4 everybody or --

5 MS. LAYCHAK: Yes.

6 CHAIRMAN MADIGAN: Yeah. Probably, yeah. We
7 would probably do something like that after the meeting.
8 But I just -- yeah.

9 MS. LAYCHAK: We'll try to do that so that
10 I --

11 CHAIRMAN MADIGAN: In fact, that's a good
12 idea.

13 MS. LAYCHAK: We would try to do that by no
14 later than Monday. And then you would maybe have like a
15 24-hour turnaround. And then we can turn it around and
16 get it ready for Wednesday morning.

17 CHAIRMAN MADIGAN: Okay. Bob.

18 MR. MEACHER: That was the essence of my
19 question. I was hoping that perhaps, Eugenia, we can
20 E-mail to everyone that has your letter.

21 CHAIRMAN MADIGAN: Yeah. By all means.
22 Absolutely. We want to --

23 MR. MEACHER: And/or fax.

24 CHAIRMAN MADIGAN: Absolutely.

25 MS. LAYCHAK: Yes. And if E-mail was more

1 convenient for some of you, make sure that I have it.
2 So make sure you give me your E-mail addresses, whether
3 you think I have it or not. But make sure I have it,
4 and then we can E-mail it as well.

5 MR. MEACHER: If we put it on our sign-in
6 sheet here, is that --

7 MS. LAYCHAK: Fine.

8 MR. MEACHER: -- good enough for you?

9 MS. LAYCHAK: Fine. Just make sure it's
10 there, yeah.

11 CHAIRMAN MADIGAN: Okay. Sunne.

12 VICE CHAIR MCPEAK: I just wanted to make sure
13 you-all were aware that all of the comments that we had
14 from the last BDAC meeting are a part of the policy
15 group record. So, you know, we submitted everything.
16 So that every -- all the comments that were recorded,
17 there was in a -- you know, almost a verbatim transcript
18 of what was on the paper, and then a summary that
19 Eugenia did so that the pros, cons, the differences of
20 opinion are already on the record. So that's number
21 one, so that your views haven't been filtered out.

22 Secondly, we've got -- we've got the benefit
23 of this won't be the last policy group meeting that's
24 coming up. And the documents and comments you've sent
25 back to us are all part of a public record and also can

1 be submitted.

2 CHAIRMAN MADIGAN: And I think the idea that
3 we would follow up is a good one, that we would try to
4 make some sort of a more formal document at the end of
5 this enterprise. I certainly think that would be
6 useful. I'm just trying to be as timely as possible
7 right now in terms of the policy group meeting.

8 Hap.

9 MR. DUNNING: With BDAC finished and the
10 policy group continuing to work through these problems,
11 there's no mechanism now for any advice. I think that
12 it will probably take a long time to set up a new
13 advisory body, if indeed they start to do that. I
14 wonder if Wednesday you could raise with them the
15 question of how they're -- will there be no forum at all
16 in existence, or how are they going to --

17 CHAIRMAN MADIGAN: Yes.

18 MR. DUNNING: -- hear from people in any
19 formal way.

20 CHAIRMAN MADIGAN: Okay. We should do that.

21 MR. DUNNING: I think we ought to focus on
22 that.

23 CHAIRMAN MADIGAN: Yes. I think that's a fair
24 point. There should be -- this may even at some level
25 get back to discussion we had earlier today about some

1 sort of an interim mechanism while the long-term
2 governance is -- is being formulated.

3 VICE CHAIR MCPEAK: And, also, --

4 CHAIRMAN MADIGAN: Go ahead. Yeah. Sunne.

5 VICE CHAIR MCPEAK: I think that the policy
6 group is still welcoming the kind of joint participation
7 with it; is that right, Alf?

8 MR. BRANDT: Yes.

9 CHAIRMAN MADIGAN: In fact, one of the things
10 that we need to do today is get people who want to be
11 there this next Wednesday.

12 MR. DUNNING: So this is our last meeting, but
13 we don't go out of existence?

14 VICE CHAIR MCPEAK: No, we're further bound.

15 MR. DUNNING: But you're saying people will be
16 going from BDAC to --

17 CHAIRMAN MADIGAN: I think we will have people
18 who will go from here to the next meeting. I think we
19 will then inquire as to whether the policy group would
20 like to have some sort of an ongoing participation by
21 BDAC members or how -- how they would prefer to have it
22 done.

23 Alf.

24 MR. BRANDT: Let me just comment on a couple
25 of things. One is that, you know, your charter is set

1 up and it goes through next June.

2 CHAIRMAN MADIGAN: Through 3:00 o'clock.

3 MR. BRANDT: Although it has certain
4 limitations about what your role is, and that's where, I
5 think, the intent of, at this point, is that there would
6 be a new, in the interim, once the -- the decision or
7 the Record of Decision comes out and there -- your
8 formal role has ended, because you have focused on the
9 preferred alternative comments.

10 Once that happens, then I -- our intent is to
11 either create a new one, or there would be a new entity
12 of some sort, or a continuation, or something along
13 those lines. But there's an anticipation that there
14 would be a new charter coming out sometime, maybe not by
15 the time of the ROD, because sometimes it takes a while
16 paperwork wise to get through.

17 MS. LAYCHAK: Also what that means is that --
18 so BDAC officially will not go out of existence. It
19 also means that if the work groups choose to continue to
20 meet between now and -- and a new group, they will be
21 able to do that.

22 CHAIRMAN MADIGAN: Yeah. I guess there is
23 something to me that says this is what we were asked to
24 do, this thing. If -- if the policy group says would
25 you convene the group to ask a specific question, or

1 would you continue to inquire as to whether people who
2 were on it, given all of their experience, not
3 necessarily representing BDAC, but that would show up
4 and participate because of knowledge or expertise or
5 experience, that that's something the policy group could
6 do.

7 Maybe it's -- maybe I'm -- maybe it's the -- I
8 would rather that we ended with a bang than a whimper,
9 but that I would like us to submit this and say this is
10 the result of five years worth of thoughtful
11 consideration by this group, this and all of the things
12 that have -- that have preceded it.

13 Hap.

14 MR. DUNNING: Eugenia said something about the
15 work groups continuing, which is a little puzzling to
16 me, because the work groups, I thought, were advisory to
17 BDAC and BDAC is finished.

18 CHAIRMAN MADIGAN: Yeah. I mean, that's the
19 way I would view it. I would -- I would hope that there
20 is -- that the policy group moves quickly on the notion
21 of what sort of interim advisory or participatory
22 vehicle they would wish. But that it is time to move to
23 that phase now.

24 Bob.

25 MR. MEACHER: The watershed work group has got

1 itself scheduled for meetings through the rest of the
2 federal budget year, at least through into the fall. So
3 I would probably be asking then from the chairs some
4 direction, if I should, with CALFED to --

5 CHAIRMAN MADIGAN: Why don't you write me a
6 letter and explain what you have going on. And I would
7 take that to the policy group with a recommendation that
8 their interim governance structure recognize some of
9 these ongoing activities, and that this could be a
10 useful piece of what --

11 MR. MEACHER: Because, and the reason we are
12 meeting, CALFED has asked for specific --

13 CHAIRMAN MADIGAN: Right. I agree.

14 MR. MEACHER: -- deliverables.

15 CHAIRMAN MADIGAN: Bob.

16 MR. RAAB: I think the policy group is in
17 great need of fresh air. And I think that -- and maybe
18 that's an overstatement. I think the BDAC members that
19 showed up at the policy meetings were a plus. So here's
20 a suggestion, Michael, for your consideration. How
21 about an interim group between now and the interim
22 group?

23 CHAIRMAN MADIGAN: How about I check this out
24 on Wednesday. I understand where you're headed. And I,
25 for one, value, I say not only your advice, but your

1 experience, your energy, and your wisdom in all of this.
2 And I think that there is some appreciation of that by a
3 number of the people on the policy group that may not be
4 universally shared on the policy group, but I have
5 certainly heard from several of the more prominent
6 players in that operation that they value the input of
7 all of you who have accumulated all of this knowledge.
8 But let me bring it up with them, and let's see where
9 they want to go.

10 MR. RAAB: You didn't hear my suggestion
11 though.

12 CHAIRMAN MADIGAN: I didn't want to. Go
13 ahead.

14 MR. RAAB: Okay. Thank you. How about
15 submitting the names of all the people who are currently
16 BDAC members to the policy group, at least all of those
17 who are interested in attending policy group meetings on
18 a rotational basis, just as we've done for the last
19 seven or eight months? How about doing that as a -- as
20 a very simple interim solution to advice that they could
21 use or opinions that they could use?

22 CHAIRMAN MADIGAN: That's fine. I just -- you
23 know, that's fine. I mean, I'm happy to take names of
24 people who would like to continue to participate and
25 allow the policy group to avail themselves of the

1 accumulated wisdom of the individuals. And I would like
2 to know who is going to -- who would like to be there.
3 You know, we have, what is it, six seats at the table,
4 or something like that this -- six to eight, yeah.
5 We've -- depending on who doesn't show up. Alex is one
6 this next week, Bob is two. You're going to be there?
7 I'm going to be there. Torri. Okay. Okay. Yeah. All
8 right. All right.

9 Let's get back to the draft recommendations.
10 Let's see. We are now on 14, providing water supply
11 reliability assurances. Okay. Comments.

12 Martha.

13 MS. GUZMAN: Okay. Just, again, to point out
14 some of the parts where rural is missing, page five,
15 under the background paragraph, two sentences, page six,
16 number six. And Torri pointed out where social could be
17 put in with economic and environmental already.

18 And the other thing I wanted to add was, on
19 page eight, under point 12, there's another rural there.

20 On page nine, number 15, another point that we
21 would like to add there, is an open issue for us, is how
22 the EJ principles will be integrated at every level, and
23 how the resources will be either staffwise or otherwise.
24 So that's -- that's an issue for us.

25 CHAIRMAN MADIGAN: Okay. Okay. Richard, and

1 then Roberta.

2 MR. IZMIRIAN: I thought there was somebody
3 else who was before me.

4 CHAIRMAN MADIGAN: No. Go ahead.

5 MR. IZMIRIAN: Okay. Under point 12, that
6 second paragraph, it seems to me that to over promise
7 resources that the state doesn't have, and I think that
8 could be a very bad idea.

9 It also -- this whole point never gets to the
10 notion of market forces helping to close the gap between
11 supply and demand. According to my old economic text,
12 that is the most efficient and appropriate way to
13 distribute limited resources. And somewhere in here, it
14 ought to be given a shot.

15 CHAIRMAN MADIGAN: Gee. I'm as much a
16 believer in market forces as most, I guess. It's never
17 been clear to me how, for some uses of water, we
18 establish what the -- what the market force is. I mean,
19 that's been the problem that I've had. And I'm happy to
20 say market forces, but I think it's going to do a
21 disservice to some sectors where the market really
22 isn't -- isn't going to function to provide the water.
23 That would be my only concern.

24 Byron.

25 MR. BUCK: I would agree if you left it simply

1 to the market, fisheries would be shortchanged.

2 CHAIRMAN MADIGAN: Right. That's kind of how
3 I feel about it.

4 MR. IZMIRIAN: I didn't say simply to the
5 market. Okay? But there is certainly a role to play
6 there. And I was a cynic at one of the very first
7 meetings when I referred to bogus markets, and you
8 jumped on me, Mike. It was about five years ago. And
9 now you've convinced me. And now I don't hear you
10 talking about this anymore.

11 CHAIRMAN MADIGAN: We've all grown.

12 MR. IZMIRIAN: There are, for instance, in
13 water use efficiency and in development of new surface
14 storage, if a water user, an agricultural water user,
15 has a choice of buying water on a local -- on the market
16 or paying the marginal cost of developing new water
17 supplies, that can make a fundamental difference.

18 CHAIRMAN MADIGAN: I'm for that. I am for the
19 water market. I am. But, you know, even when we talk
20 about the water market, we get into unintended
21 redirected impacts.

22 MR. IZMIRIAN: We're talking about
23 clearinghouses, we're talking about a regulated market,
24 third party impacts, and all that stuff that we've
25 talked about and talked about. And, you know, as

1 shorthand, I want to just say a market. But there is a
2 role for that.

3 CHAIRMAN MADIGAN: Okay. I got that.
4 Richard, and then who did I -- Roberta, and then Alex.
5 Thank you.

6 MS. BORGONOVO: Under number 12, there were --
7 I had mentioned this before. I was picking up part of
8 the suggestion from Pietro's letter from PCFFA. But on
9 the first paragraph, when we talk about the need to
10 promptly forecast how much water supply is needed to
11 avoid long-term overdraft of groundwater, I again want
12 to mention that we should address the groundwater
13 management plan that would take care of that.

14 And I agree with Stu that, for the second
15 paragraph, my instinct is to drop it simply because I
16 think that the whole issue of -- of water use needs to
17 be able to take into consideration ongoing factors.

18 As a substitute, I would go back to a letter
19 that several of us had sent to this first BDAC
20 recommendation. And we said that we believe there must
21 be a reforecasting of future water demands, perhaps the
22 Bulletin 160-03, one that accurately describes the
23 relationship between supply, demand, and price, and the
24 wide array of ways available to meet demand.

25 And I think that what I'm really interested in

1 is if we're able to do a really good water use
2 efficiency program and in the ag and urban sector, we
3 are able to do a strong recycling program throughout the
4 state, that those changes be incorporated into the
5 demand forecast.

6 VICE CHAIR MCPEAK: How would --

7 CHAIRMAN MADIGAN: Go ahead. Sunne.

8 VICE CHAIR MCPEAK: This is more a technical
9 question, because it's not a disagreement with doing all
10 those things. In fact, I think that the commitment in
11 the preferred program alternative is to do that, and
12 that we were trying to emphasize it here. And I'm
13 grateful and a little embarrassed that it's Richard who
14 is talking about the water market, since I've spent a
15 good deal of the last five years on that issue. But
16 it's now in the preferred program alternative. So I
17 didn't need -- you know, I didn't raise it again here.

18 But having said that, Roberta, what I was just
19 responding to is -- if it's in the forecast, this says
20 forecast for demand, that the -- the aggressive
21 conservation water use efficiency programs that we are
22 committed to in a -- and anticipate, expect to be
23 implemented, would probably -- I guess it would alter
24 both the demand per person and the need. I was just
25 looking on the other side of the table. It will be.

1 Okay. Never mind.

2 CHAIRMAN MADIGAN: And my impression is that
3 the people who are working on Bulletin 160 understand
4 the dynamics of that, and that they are including --
5 they are including water use efficiency in their
6 projections for the future. They may not be right, but
7 that they have included and at least gets you started on
8 the fact of making the appropriate adjustments as new
9 information becomes available.

10 MS. BORGONOVO: I guess several of us had
11 submitted comments that we did not want the previous
12 Bulletin 160 demands to be the basis. We have a lot of
13 problems with that. I guess it's one of the reasons I
14 agree with Stu. If you drop the paragraph, and there's
15 a reference to the ongoing Bulletin 160 process, and it
16 takes into account several of these suggestions that
17 have come from Torri, and Martha, and Marcia, and
18 Pietro, and Roger that all of these factors become part
19 of the way in which we evaluate demand as we move
20 forward. I'm satisfied with that.

21 But the paragraph, the way it is, seems to me
22 to be not taking into consideration the way which the
23 program is going to move forward, which is through
24 adaptive management and seeing what works.

25 CHAIRMAN MADIGAN: Okay. I hear you. Alex.

1 MR. HILDEBRAND: First, just a comment that I
2 don't know where the 20 million -- or 10 million and
3 28 million-acre figures came from. If they're right,
4 that's fine, but I don't know whether they are or not.
5 So unless we know they're right, I would take those
6 numbers out.

7 But as regards this Bulletin 160 as a
8 substitute for what we have here, I got some problems
9 with that. We don't know what they'll do in the next
10 Bulletin 160, which they haven't done it yet. But in
11 the past, Bulletin 160 has not really addressed the
12 question of the effect on the water demand versus
13 supply, which will result from CALFED's actions, for
14 example. They have not examined the question of the
15 effect on the agricultural productivity needed by the
16 growing population. They have, to a large degree, just
17 said, well, we're going to let the urbans slop all over
18 the country, and then we won't have so much ag land,
19 therefore, we won't need so much ag water. That of and
20 by itself is fallacious.

21 Because if you have less ag land, you're going
22 to try to get more yield per acre. And in order to get
23 more yield per acre, you have to increase the
24 consumptive use of water on those acres. You may not
25 improportionately increase the applied use of water.

1 But the consumptive use --

2 CHAIRMAN MADIGAN: No questions. No quarrel.

3 MR. HILDEBRAND: And that's the only thing
4 that really matters in Central Valley. Because the
5 overapplied water, with minor exceptions, is all
6 recovered and reused. So I don't think that the
7 Bulletin 160 has addressed the question which we need to
8 have answered here in connection with the CALFED program
9 of whether the program is really going to diminish the
10 gap between supply and demand, and if so, by how much.
11 And CALFED has not done that. And if we don't give them
12 some rather explicit direction, I don't think it's going
13 to happen. The particular formula that's suggested
14 here, you could debate, but at least it gives you a
15 number. And then the people can debate whether those
16 are the right numbers or not. But at least it gives us
17 something to go from.

18 Now, with regard to market forces, I'm a
19 market man myself, but you have to recognize that in
20 this case of water, it's a long time between the time
21 you start to get short of water for agriculture and the
22 time that the price of food goes up. And then there's,
23 again, a long time lag before you can do anything about
24 it, build any new -- acquire any new yield. So the --
25 so the system is not responsive on an adequate time

1 scale to just use market forces to determine what to do.

2 We don't rely on market forces for a lot of
3 other things where if this kind of situation arises.
4 Market forces are fine if you're going to get a fairly
5 quick response time. In deciding what crop to plant,
6 for example, market forces have pretty quick reaction
7 time. But in respect to what you should do about the
8 yield of water, it's just too long a time lag.

9 CHAIRMAN MADIGAN: Dick points out to me that
10 the -- the standard operating procedure for Bulletin 160
11 is that scoping sessions precede the development of the
12 document. And that, one, that, you know, there ought to
13 be -- these comments are appropriate for those scoping
14 sessions. Maybe it's also useful for us to encapsulate
15 some of this in this document that would be referred to
16 those scoping sessions, having sat through them before
17 on the water commission. And I did say it -- the
18 scoping sessions are a useful exercise, and that would
19 be appropriate input --

20 MR. HILDEBRAND: I think that's right. But
21 until that new session comes out, we don't know how
22 they're going to react to this.

23 CHAIRMAN MADIGAN: I agree.

24 MR. HILDEBRAND: And in the last bulletin,
25 when these points were raised, DWR just missed them all.

1 They didn't respond to them.

2 CHAIRMAN MADIGAN: Okay. All right. Eric.

3 MR. HASSELTINE: Mike, I had one question here
4 in reading through the end of the document here on page
5 ten. The last bullet, under what was number 15 from the
6 page before, is who gets the water saved by implementing
7 water use efficiency measures. And I'm wondering
8 whether or not that's really an issue for -- if it's an
9 appropriate issue for this particular recommendation. I
10 mean, we -- we have set up this beneficiary pays type of
11 approach to the whole program, but we have never really
12 gone back and said we're going to reexamine and decide
13 who gets what water all the way through. Because
14 there's already a whole system of rights and contracts
15 and everything else in play, and I don't -- and I'm not
16 sure where -- what this is intended to do. Obviously,
17 if you have a certain need for water and you don't have
18 the rights to enough of it, you can overcome that
19 problem by implementing water use efficiency, by doing
20 more with the water that you get, in which case there
21 isn't any water saved, because it wasn't there in the
22 first place. You're just doing better with what you
23 got.

24 CHAIRMAN MADIGAN: Yeah. And some of that, I
25 think, was the theory behind this. And some of this

1 really had to do with the Weslins (phonetic)
2 conversation, and that if they were going to have ag
3 land taken out of production and that they were never
4 going to get even with all of this 100 percent
5 allocation, that to the extent that that -- that land
6 came out of production and there was water use
7 efficiency in the area, that they could keep that water
8 in there for the remaining crop lands that they -- that
9 they had. And I don't know whether this says that.

10 MR. HASSELTINE: I mean, the other thing is
11 that, obviously, water use efficiency may be a very
12 strong part of the water transfer program.

13 CHAIRMAN MADIGAN: Yeah.

14 MR. HASSELTINE: I know there's a lot of the
15 districts, irrigation districts, that have rights to
16 certain water. And they have been able to sell some of
17 that because they have been --

18 CHAIRMAN MADIGAN: Right.

19 MR. HASSELTINE: -- more efficient with the
20 use of the water they have. So I am -- I'm just
21 wondering if we really want to try to set up some formal
22 mechanism for somebody somewhere deciding who is going
23 to get water saved out of water use efficiency. I think
24 it's a --

25 CHAIRMAN MADIGAN: I guess it's a notion

1 that -- to me, if an Imperial Valley conserves
2 agricultural water and they can make some of it
3 available to sell to San Diego County Water Authority,
4 then they have been the beneficiary of the water, and
5 they have simply then chosen to move it on for market
6 reasons, because they got more for it than they would
7 have gotten from a crop, and they can use that money
8 to -- for all the things that IID and their friends are
9 going to use it for. There's an important notion in
10 here, it seems to me, and maybe we haven't said it as
11 well as we should.

12 Byron.

13 MR. BUCK: Two points. I think maybe we
14 should modify this. The only question I think really is
15 out there that's valid is who gets the water saved by
16 implementing water use efficiency measures. We're
17 funded by public finds or by CALFED program. If it's
18 locally funded, it's pretty obvious the locals get the
19 water.

20 CHAIRMAN MADIGAN: That's true.

21 MR. BUCK: That's, in large part, why you're
22 doing it, is to stretch the existing supplies.

23 CHAIRMAN MADIGAN: That's true. That's true.

24 MR. BUCK: I also have a concern on the prior
25 bullet, --

1 CHAIRMAN MADIGAN: That is a good point.

2 MR. BUCK: -- the weather and how to balance

3 needs of fisheries. We stated earlier that we do want

4 balance so that the weather question, I think we've

5 eliminated, in that we've said we do want to balance all

6 these fishery needs. The how is perhaps --

7 CHAIRMAN MADIGAN: That's exactly right.

8 Right. I agree with that.

9 Yeah, Fran.

10 MS. SPIVY-WEBER: I would concur with what was

11 just said about how -- how grants from the -- from the

12 government will be used for -- for grants for water use

13 efficiency, how the water that results from that would

14 be used. And, in fact, I believe, in the water

15 management plan that CALFED put together, there was an

16 indication that there might be an opportunity for water

17 agencies to, or communities to, direct their savings

18 toward an environmental water account or some other

19 activities.

20 CHAIRMAN MADIGAN: Right.

21 MS. SPIVY-WEBER: So I think that's --

22 CHAIRMAN MADIGAN: Okay. All right. Good.

23 Good. Yeah, good. Good. Good way of thinking about

24 it.

25 All right. Who else? Bob.

1 MR. RAAB: On the -- on page ten, the last
2 bullet that Eric alluded to, I'm strongly in favor of
3 leaving it in for this reason. That in back of and
4 behind what we've been talking about is the most
5 fundamental issue of all. And that's water rights. And
6 I think that whole issue can be aired under this last
7 bulletin, because it asks the State Water Board to come
8 to grips with a basic problem, which is that California
9 citizens own the water, and water districts, farmers,
10 urbans, nobody -- no agency has the final right, in my
11 view, to make a water use decision unless it complies
12 with the rights of the citizens, of all of the citizens
13 of the state. And we've never gotten to that issue.
14 And I think this would be an opening to -- along the
15 line of getting into a serious discussion of what do we
16 do with saved water.

17 CHAIRMAN MADIGAN: Okay. Brenda.

18 MS. JAHNS-SOUTHWICK: I would just like to
19 point out that State Water Resources Control Board is
20 the forum for making that decision for all water rights
21 after 1914. So I don't really see that CALFED has,
22 except with the State Water Resources Control Board as a
23 participant among CALFED agencies, that's not a decision
24 that CALFED makes.

25 MR. RAAB: Well, the 1914 water rights ought

1 to be taken at the exclusion. That whole business, we
2 ought to have a look taken at that, because it may be
3 just simply out of date to say if you got your water
4 rights before 1914, you don't have to answer to the
5 persons --

6 MS. JAHNS-SOUTHWICK: Well, you're changing
7 the law. But the way the law is written already
8 accounts for those things.

9 MR. RAAB: Exactly.

10 CHAIRMAN MADIGAN: Additional comments?

11 All right. We're going to try to get this
12 thing out in -- as fast as possible to you. I think the
13 notion of formalizing it as quickly as we can after that
14 is a good one. And we will -- and we will do that as
15 well, but I think, again, that the most important thing
16 that we can do is get this thing to you so that you
17 can -- we'll try to take the poll, yeah, there's
18 agreement here on these things, but that's -- that
19 really isn't the end of the deal. The end of the deal
20 is that we want to get on with getting these comments to
21 the policy group.

22 Brenda.

23 MS. JAHNS-SOUTHWICK: I just have -- I'm
24 somewhat confused about this process as it relates to
25 the administrative record.

1 CHAIRMAN MADIGAN: Yes.

2 MS. JAHNS-SOUTHWICK: This document is
3 supposed to be BDAC's take on issues that would improve
4 the preferred program alternative --

5 CHAIRMAN MADIGAN: Yes.

6 MS. JAHNS-SOUTHWICK: -- that's already been
7 put forth by CALFED.

8 CHAIRMAN MADIGAN: Yes.

9 MS. JAHNS-SOUTHWICK: Correct? So, I guess,
10 my concern is does this become part of the
11 administrative record, or is this something that's extra
12 record discussion that's being put before the policy
13 group?

14 CHAIRMAN MADIGAN: Counselor?

15 MS. SCOONOVER: This will be contained in a
16 whole host of copies of correspondence that are part of
17 the information that's before the policy makers when
18 they make their decision.

19 In terms of whether this is part of the
20 administrative record, an administrative record is
21 prepared, generally, when there's a challenge, and the
22 record is dependent upon what the nature of the
23 challenge is. So depending on what the legal challenge
24 is, the administrative record changes. This is part of
25 the body of information that is before the decision

1 makers in making this decision, and it's part of the
2 official CALFED records. Whether it actually ends up
3 being part of an administrative record or not is, again,
4 dependent upon what the precise nature of the claim is
5 that's filed.

6 CHAIRMAN MADIGAN: Okay. Thank you.

7 MS. JAHNS-SOUTHWICK: I asked that clarifying
8 question because, as she says, if this does not become
9 part of the administrative record, then we take a
10 different view of how the document looks. And if it is
11 becoming part of the administrative record, then I
12 guess, based on her answer, I'm going to assume that it
13 will be part of the administrative record. And I just
14 want to point out that our feeling is that --

15 CHAIRMAN MADIGAN: Caution would seem to
16 dictate that view.

17 MS. JAHNS-SOUTHWICK: Yes. And our feeling is
18 that we certainly appreciate what you and Sunne are
19 trying to do in putting together this document, but our
20 feeling is there's still a number of areas of
21 disagreement. And while we would like to keep an open
22 mind on how these things can be resolved, the things
23 that we have officially submitted as comments in writing
24 during the CALFED process still would supersede anything
25 that's stated in this document.

1 CHAIRMAN MADIGAN: Yeah. And I understand
2 that. I fully anticipate that there are groups that for
3 all sorts of good and valid and legitimate reasons will
4 want to keep their powder dry in this particular effort
5 and take that message directly to the policy group, or
6 the legislature, or their own elected official, or any
7 of a number of other venues.

8 I think it's the hope of Sunne and me, it's
9 the hope of those people that I have talked to, that we
10 can reflect in what we're doing as much agreement as
11 possible. But that's a judgment that you have to make.
12 And you have to say, now, we prefer not to play in that
13 proceeding or --

14 MS. JAHNS-SOUTHWICK: Well, I guess my main
15 concern is that we still feel that the preferred program
16 alternative, as drafted, is not an adequate document.
17 And this does not cure that document, unless they're
18 going to put some of these things in there with some
19 detail and recirculate that document for public review.

20 CHAIRMAN MADIGAN: Well, then, I would --
21 that's what I would say. You know, I would say just
22 that. And that -- you know, I have no heartburn with
23 that idea.

24 Hap.

25 MR. DUNNING: If I recall, the charter calls

1 for BDAC, as a whole, to give advice. So in your letter
2 where you point out that there is no advice from BDAC as
3 a whole, --

4 CHAIRMAN MADIGAN: Yeah. I mean, the letter
5 will be from Sunne and me, and it will be our position,
6 and we will be explicit that this is not something that
7 was -- that was voted on, and that we have sought
8 agreement where it exists and have encouraged comment
9 where -- where the individual participants deem it
10 appropriate. Absolutely. That's our sense of what's
11 going to work. Absolutely.

12 Stu.

13 MR. PYLE: The last actual copy of the
14 proposed preferred program alternative that we have is
15 dated in February. And will we ever see another one
16 that's revised before it comes out, or is it just going
17 to come out as the ROD and the revised final program
18 preferred -- what am I trying to say, phase two report?

19 CHAIRMAN MADIGAN: Yeah. My mouthpiece rises
20 to answer. Go ahead.

21 MS. SCOONOVER: The final environmental impact
22 statement and report will contain the final version of
23 the preferred program alternative. Record of Decision
24 and certification should follow about 60 days later.
25 And, basically, affirms the decision in the final,

1 absence of major change. Now, between this point in
2 time and when a final EIS/EIR is issued, it's completely
3 up to the decision makers whether or not they want to
4 come out with a revised draft or make any changes to a
5 preferred program alternative.

6 At this point, you know, we've not gotten any
7 indication from the decision makers that, in light of
8 the comments on the draft environmental impact statement
9 and the additional work that they've been doing on the
10 implementation plan, that they are anticipating any kind
11 of fundamental change in the existing program
12 alternative. But that's still completely within the
13 agency's discretion.

14 CHAIRMAN MADIGAN: Okay. Thanks. Having
15 arrived at this point, Felicia, let me ask you if you
16 have anything that you would like to say. You have sat
17 patiently back there and listened to this all between
18 telephone calls on dioxins and diesel regulations, and
19 all the other activities of the day.

20 MS. MARCUS: Well, you should have -- I guess
21 the Delta part makes it a 3-D day for me though.

22 CHAIRMAN MADIGAN: There you go. Dioxins,
23 diesels, and Delta.

24 MS. MARCUS: No, thanks. I don't want to pile
25 on with the praise and the thanks, not just to you guys,

1 but to the whole group, for struggling with this. And
2 for me, in particular, bouncing between the various
3 forums in which we're trying to pull this unwieldy beast
4 together, this is an ocean of sanity for me. So I thank
5 you therapeutically as well, and I owe you-all about 90
6 bucks an hour prorated for the time I've been in here.

7 But I do think it's important to get these
8 very thoughtful comments, as well as anything else
9 anyone wants to add, to the whole array of decision
10 makers, not just to the policy committee, but just
11 everyone that you can think of. Because it is sort of
12 at a -- it's not a free-for-all stage where people -- it
13 is actually coming together, but it's coming together in
14 kind of a chaos theory sort of way, rather than an
15 orderly matrixed way. So I would just encourage folks
16 to make sure they can get their stuff in.

17 And I think this -- particularly the level of
18 even where you disagreed, the level of balance, not a
19 necessary caveat, but sensible common sense caveats
20 about how each of these things work is really just
21 wonderful and important. And I think probably more than
22 you know, because you are frustrated that you don't all
23 agree on everything, you have moved mountains in getting
24 to this level of discourse and being able to display it,
25 even with minority opinions, in a way that I hope all of

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1 the policy makers and decision makers will reflect on
2 and use. Because in the chaos or the hecticness or
3 whatever it is of trying to come to some kind of closure
4 on this, it's easy for people to ignore. And so I think
5 you're trying to put it together in a format that people
6 can't ignore, and I would encourage you to figure out
7 every way to make sure that happens in all the noise.
8 But I just think you've done a great job.

9 CHAIRMAN MADIGAN: Thank you very much. I
10 sort of view it as coagulating out of the primordial
11 slime. But I suppose we all have our own view of how
12 it's coming together.

13 All right. Yeah, shut that machine off. It
14 is time to move on. Wendy.

15 MS. HALVERSON: I'm going to reverse the order
16 of the topics I was going to discuss today and start
17 with our proposal solicitation that's just closed. And
18 then I'll follow with a discussion of the overall
19 program status.

20 Monday, this Monday, two days ago, hardly
21 seems like any time has gone by at all, we closed the
22 proposal solicitation for 2001 ecosystem restoration
23 projects. We received 142 projects, and you should have
24 copies of these overheads at your place, so you don't
25 have to try and squint and read this. 142 overheads --

1 or overheads. That's kind of the CALFED way, isn't it?
2 142 projects, 263 million dollars was the request for
3 this go-round. In a variety of topic areas, we had 12
4 topic areas, fairly even distributions. Some of the
5 categories did not receive very many proposals, but
6 there was none that was really out of balance with the
7 others. The most expensive project that we had
8 submitted was in excessive of 35 million dollars, and
9 the least expensive was about \$11,000. We had more than
10 50 projects that asked for more than a million dollars.
11 And of those, eight projects asked for more than
12 5 million dollars. So we had some fairly expensive
13 projects come in, which is not unexpected given where we
14 are at in the progression of restoration. We have
15 funded many early parts of projects in the form of
16 planning and design, and we are now moving into the
17 actual implementation stage, which tends to be more
18 costly.

19 Just to give you kind of a little visual of
20 the number of proposals and the cost, you can see that a
21 center bar right there in the middle, that was the
22 category that had the 35-million-dollar project. Which
23 for those of you who are interested, it was a proposal
24 to purchase Staten (phonetic) Island in the Delta. But,
25 again, not absolutely uniform, but give you a visual

1 observation of how things are distributed, just to give
2 you a sense of where we are historically, over the last
3 four submittal cycles, this is what we have had. Of
4 particular note is the 1999 solicitation. And this one,
5 essentially, the same dollar figure with substantially
6 less proposals in this go-round. So the projects by and
7 far are becoming more expensive.

8 And what we plan to do with these, this is
9 kind of our very simplistic time chart. We are now in
10 the review process. The review process is more complex
11 and more detailed than it has been in the past. It
12 includes a number of steps of independent, geographic,
13 and overall review. That we expect to have completed
14 around the end of September with recommendations on
15 project selection around the October time frame. That
16 coincides with whatever funding becomes available in the
17 federal fiscal year.

18 We then immediately move into defining the
19 2002 implementation plan and starting the process again.
20 And this is a segue into our regular overall program
21 status. At the last policy group meeting,
22 Greg Gartrell (phonetic) raised an issue about the
23 status of the ecosystem restoration projects. He was
24 concerned about the large number of projects that had
25 zero or low expenditures. One of the undertakings as

1 part of the revision to the project selection process is
2 a comprehensive review of all projects that feeds into
3 the decision making cycle, so that we have current
4 information on all projects at the time we make
5 decisions on new projects. And so we have ramped up
6 that evaluation. It is currently being undertaken. We
7 are using the contract administrators as the forum for
8 achieving and obtaining the most current information in
9 addition to the standard reporting processes that we use
10 for tracking projects.

11 We did do an assessment of the ecosystem
12 restoration projects and try to characterize them in a
13 way that was consistent with Greg's concerns. And we
14 presented this to the ecosystem roundtable this morning.
15 One of the key points that I wanted to raise here is
16 that the vast majority of the projects that we have
17 currently under -- that have been approved are under
18 contract, eighty-seven percent, and that includes the
19 fiscal year 2000 projects as well.

20 So this is a pretty high standard that we've
21 sought to maintain. A couple of years ago, the
22 percentage of projects under contract was substantially
23 less. So we are really pushing to get these projects
24 under contract.

25 You can see that there are four projects that

1 are identified as under contract but not progressing.
2 These are the projects that are in risk of having their
3 funding withdrawn if they don't get off the stick and
4 start doing what it is they're supposed to be doing.
5 And we are actively pursuing those projects. If they do
6 not come through, if they are unable to satisfy the
7 terms of their contract and move things forward, we will
8 withdraw their funding.

9 Of those projects that are actively in the
10 contracting process, there are 35 of them. We have
11 another kind of watch area, and that's the one where we
12 say waiting recipient action. What that means is the
13 contract has been completed, it's been negotiated, the
14 contracting entity has okayed it, and it's given to the
15 recipient for their signature. And that's kind of the
16 last step before things get underway. As far as I'm
17 concerned, if we go to all that work and we give it to
18 you to sign so we can give you some money and you can't
19 take the time to do that, you also are at risk of having
20 your funding withdrawn. Because that is -- there's no
21 good reason to take extensive amounts of time at that
22 point in the process. So we are watching these eight
23 projects. There is some normal administrative time
24 allotted. But if it becomes excessive, then we -- they
25 are at risk of losing their funding.

1 And I just want to draw your attention, over
2 the last year, we have withdrawn funding on four
3 projects that had been previously approved for failure
4 to perform.

5 So all in all, we are in good shape. There
6 are some administrative issues. We have this unique
7 category called progressing, but no expenditure is shown
8 on our books. That means they show up as zeros when we
9 print out our database. But the projects are underway.
10 And part of that are -- those reasons are primarily
11 associated with administrative problems within the
12 agencies, either they don't invoice on a regular basis,
13 or in the case of the Department of Water Resources,
14 they adopted a new bookkeeping system about nine months
15 ago called SAP. And since SAP has been implemented, we
16 have received no invoices on any of the DWR projects.
17 So the projects are underway, the people who are doing
18 them are charging against that money, but nothing has
19 come to us. It's stuck in the administrative morass.

20 Anyway, so we're guardedly optimistic that
21 they'll be able to sort all that out. The good news is
22 the work is progressing. The bad news is when we go to
23 substantiate our expenditures, which are what some
24 people use as a measure of accomplishment, they'll show
25 up as zeros. So that's a bit unfortunate. But all in

1 all --

2 CHAIRMAN MADIGAN: But we have gotten hammered
3 on this back on the hill big time. So, I mean, it is
4 good to show progress. You hate to say that it's a good
5 thing that we're spending money. That's not true. It's
6 actually a good thing that we're doing the things that
7 we said we were going to do. And whether the Department
8 of Water Resources chooses to bill us or not seems to be
9 a bit modest, you know, overall concern, except as it
10 reflects itself on some sort of a report that's going to
11 be read by a congressional office somewhere. But it's
12 good that you're quantifying this, and it's good that we
13 are showing progress.

14 MS. HALVERSON: I think the folks at DWR and
15 the Department of Fish and Game and others who have
16 administrative problems at getting the invoicing to us
17 are now aware of them, and they're actively pursuing it.
18 The difficulty is just that each contract has to be
19 worked through individually, justifying where things are
20 held up. But we are tracking these projects, we are
21 looking at this information as part of a broader
22 comprehensive review that will feed into an overall
23 annual decision making process. So all in all, I think
24 we're in pretty good shape.

25 CHAIRMAN MADIGAN: Okay. Questions? Alex,

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1 and then Stu.

2 MR. HILDEBRAND: Question. What do you mean
3 by natural flow regimes on item A here? What is that?

4 MS. HALVERSON: Going back to the proposals?
5 Natural flow regimes has to do with the flood -- or the
6 natural geomorphology of the stream, trying to restore
7 stream meanders in those streams which have the
8 capability or the capacity to do that. It ties very
9 closely into restoring, in some cases, anadromous fish
10 spawning habitat.

11 MR. HILDEBRAND: Does it include increasing
12 the meander in the San Joaquin system?

13 MS. HALVERSON: The topic areas were not
14 geographic specific. They were looking at opportunities
15 for this to occur. I don't think -- I don't think we
16 received any proposals addressing that on the San
17 Joaquin. I'm not sure. We haven't been through them
18 all yet. But they were not geographic specific in that.

19 MR. HILDEBRAND: Have these had impartial
20 oversight as respect to how they affect flood flows?

21 MS. HALVERSON: They have not, because we just
22 received them. But there is a very comprehensive review
23 process that will be undertaken where issues like that
24 should be called out.

25 MR. HILDEBRAND: Does item C include this

1 so-called habitat restoration in the San Joaquin?

2 MS. HALVERSON: A proposal that -- well, I
3 don't know the specifics. You could put a proposal like
4 that in that topic area, but that is not what that topic
5 area was designed for. That topic area was designed to
6 look at some of the natural processes that are necessary
7 to restore functions in an ecological system and reduce
8 stressors.

9 MR. DANIEL: Alex, maybe I can clarify for
10 you. The categories here are categories that we
11 established and the applicants put on the cover sheet of
12 their proposal that it fits in A, B, C, D, or X. At
13 this point, we have logged them in and put them in
14 boxes. They came in, quite literally, 3:00 o'clock
15 Monday afternoon.

16 Wendy's team sorted them out so we have some
17 statistics to present to you. This represents what we
18 received, not what we're proposing to fund. That goes
19 through a very elaborate process. And then after
20 they're funded, we go through the process of
21 environmental documentation, such as for this particular
22 project.

23 MR. HILDEBRAND: What is the status of the
24 granting the requests for the -- this habitat
25 restoration in San Joaquin?

1 MS. HALVERSON: If they submitted a proposal,
2 it's sitting in a box in my offices.

3 MR. HILDEBRAND: The EIS, they're proposing to
4 implement it on the 9th of June, CALFED money, billions
5 of dollars. And the Budget Control Association is fully
6 in sympathy with the goals, but thinks that the
7 implementation plan must be done before --

8 MR. DANIEL: I think what you're talking about
9 is a proposal that went into the Governor's revised
10 budget process.

11 MR. HILDEBRAND: It's not in the CALFED plan?

12 MR. DANIEL: It is not in the CALFED
13 solicitation package. It could be, but I don't think it
14 is. That is the specific budget item under the
15 Governor's revised proposal for the budget. And your
16 June 9th date is a little puzzling, because the budget
17 won't be signed by then.

18 MR. HILDEBRAND: They just put out their EIS a
19 few days ago and announced that they expect to adopt a
20 finding of no impact and proceed with it on the 9th of
21 June. And it does, indeed, have some serious impacts.
22 And it's not a matter of the goals, it's a matter of how
23 they plan to do it.

24 Well, to my third question, is -- where is the
25 money in here, or is it in here, for the DO, problem of

1 DO control in the ship channel, San Joaquin ship
2 channel?

3 MS. HALVERSON: Well, there is not funding
4 tied to any of these categories. As a matter of fact,
5 we do not have the commitment of the funding to fund any
6 of these projects at this time. We have funded DO
7 studies in the past, two go-rounds. There are two very
8 large studies that have been funded. The topic area,
9 the place that it would rest is topic area F in the
10 contaminants category.

11 MR. HILDEBRAND: Thank you.

12 CHAIRMAN MADIGAN: Stu, and then Gene.

13 MR. PYLE: My questions probably go to the
14 awards you've made rather than these ones you just
15 received. But I'm curious as to the distribution of
16 your funds and effort to what you might call paperwork
17 studies as compared to actual on-the-ground physical
18 modifications if you expect to have an environmental
19 improvement.

20 MS. HALVERSON: In the past, prior to this
21 last go-round of funding, there was a policy guidance
22 that we conformed to that said 80 percent of the
23 activities had to be implementation based activities.

24 MR. PYLE: Eighty?

25 MS. HALVERSON: Eighty percent. That included

1 prefeasibility design, you know, the early steps of an
2 implementation project.

3 In this go-round, we do not have that type of
4 policy guidance. We are trying to use a more
5 science-based, rigorous, science-based approach that
6 treats all of these projects, even those that are field
7 implementation, as experiments. So we are using the
8 scientific rigor as the goalpost for how we make those
9 decisions, not just making an arbitrary decision that we
10 should fund this because it's tractor work as compared
11 to lab work. We want to get at the important scientific
12 questions that are driving the ecosystem restoration, or
13 in some cases, constraining our ability to do ecosystem
14 restoration.

15 MR. PYLE: So you think there could be a
16 higher percentage of scientific work out of this than
17 implementation, field implementation?

18 MS. HALVERSON: Every one of these projects is
19 going to include scientific work. That's included in
20 the solicitation. It's required. You will not be
21 funded if you don't have a conceptual model and
22 supporting literature for every project.

23 The scientists who advise the ecosystem
24 restoration program, our interim science board, are very
25 conscious of the fact that there's a need to physically

1 implement projects. So their emphasis is not just on
2 doing a bunch more research in the laboratory, but
3 actually taking research that's been done and testing it
4 in the field. What they don't want to encourage is
5 large-scale implementation that doesn't have a strong
6 basis of knowledge to support it. So we want to go
7 carefully down this path and responsibly.

8 So you're likely to see many tests, or
9 demonstration, or pilot type projects that help clarify
10 the certainties as we move into field implementation.

11 CHAIRMAN MADIGAN: Gene.

12 MR. ANDREUCCETTI: Which of these topics
13 includes the funds for acquisition of additional land?

14 MS. HALVERSON: It's --

15 MR. ANDREUCCETTI: I think you mentioned
16 Staten Island, for example.

17 MS. HALVERSON: Staten Island falls beyond the
18 Riparian Corridor. It would depend on the type of land.
19 If it was wetlands, it could fall in the shallow water
20 habitat. If it was riparian, it could be in the channel
21 dynamics -- or what's the other one, channel dynamics
22 category. So it depends on the type of land
23 acquisition, where it might be placed.

24 MR. ANDREUCCETTI: For example, Staten is all
25 agriculture land.

1 MS. HALVERSON: Right. Staten is, what we
2 call, beyond the Riparian Corridor, which would be those
3 lands that adjoin the riparian zone, which is next to
4 the river. It may still be important for restoration
5 purposes, but are not aquatic or riparian, you know,
6 water related habitats.

7 MR. HILDEBRAND: Who would own Staten Island?

8 MS. HALVERSON: Whoever submitted the proposal
9 or -- you know, again, I don't know the definitive terms
10 of the proposal. We haven't been through them. But if
11 someone submits a request to be funded, the assumption
12 is they would be the owners. It's not going to be
13 CALFED taking ownership.

14 In many cases, there are arrangements made
15 with government agencies to hold title to property. It
16 may be a nonprofit. But CALFED doesn't exist, so we
17 can't hold title to anything.

18 CHAIRMAN MADIGAN: Counselor.

19 MS. SCOONOVER: And I'm rising because we're
20 getting awfully close to discussing the specifics of
21 those proposals that we've only just received, that have
22 not yet gone through the scientific review. We're not
23 asking for any recommendations on these projects, and I
24 would caution you-all not to push Wendy too far on the
25 specifics of the projects that have just come in. We're

1 trying to, again, maintain some confidentiality at this
2 step of the process in order for the scientists to be
3 able to evaluate the merits of the project. We'll be
4 back with more specifics to this group or its progeny in
5 the future with -- to seek your input on the specific
6 recommendations again once we see what kind of funding
7 we have to hand out to these folks and what projects we
8 want to recommend.

9 So not too many more questions about
10 specifics, please.

11 CHAIRMAN MADIGAN: Progeny has implications of
12 parenthood. You want to be careful around here with
13 that notion.

14 Anybody else? All right. Let me ask if there
15 are any members of the audience who have any comments on
16 the ecosystem restoration program. If not, guys, this
17 is it. This is the last meeting of this organization.
18 Thank you all so much. It has been a pleasure meeting
19 with you-all. We are adjourned.

20 MR. DANIEL: But before you leave. I'm not
21 trying to get in the last word, but on behalf of the
22 staff at CALFED, I want to thank you-all not only for
23 the provocative questions and attention that you have
24 paid to our presentations in this forum, but the many,
25 many hours of very valuable work that you've done in the

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various work groups and supporting the -- the individual programs. On behalf of all the staff, I thank you very much.

CHAIRMAN MADIGAN: Thank you.

(The meeting adjourned at 2:23 p.m.)

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I, MANDY M. GALARSA, a Certified Shorthand Reporter in and for the State of California, do hereby certify that the above and foregoing contain a true and correct transcription of all proceedings, all of which occurred and were reported by me.

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