



1 APPEARANCES

2 CALIFORNIA WATER RESOURCES BOARD

3 Division of Water Rights

4 Board Members Present:

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

8 Staff Present:

9 Dana Heinrich, Senior Staff Attorney  
10 Nicole Kuenzi, Staff Attorney  
11 Conny Mitterhofer, Supervising Water Resource Control  
12 Engineer

13 PART 2

14 For Petitioners:

15 California Department of Water Resources:

16 James (Tripp) Mizell  
17 Jolie-Anne Ansley

18 INTERESTED PARTIES:

19 For San Joaquin Tributaries Authority, The (SJTA),  
20 Merced Irrigation District, Modesto Irrigation  
21 District, Oakdale Irrigation District, South San  
22 Joaquin Irrigation District, Turlock Irrigation  
23 District, and City and County of San Francisco:

24 Tim O'Laughlin

25

1 APPEARANCES (Continued)

2 INTERESTED PARTIES (Continued):

3 For County of Yolo, Local Agencies of the North Delta,  
4 et al., County of San Joaquin, et al. & County of  
5 Sacramento:

6 Thomas H. Keeling  
7 Philip J. Pogledich  
8 Osha Meserve

9 For Central Delta Water Agency, South Delta Water  
10 Agency (Delta Agencies), Lafayette Ranch, Heritage  
11 Lands Inc., Mark Bachetti Farms and Rudy Mussi  
12 Investments L.P.:

13 John Herrick, Esq.

14 For Sacramento County Water Agency, Glenn-Colusa  
15 Irrigation District, Biggs-West Gridley Water District,  
16 Carmichael Water District as well as Placer County  
17 Water Agency and the County of Sacramento:

18 Aaron Ferguson  
19 Bill Burke  
20 Osha Meserve

21 For California Sportfishing Protection Alliance (CSPA),  
22 California Water Impact Network (C-WIN), and  
23 AquAlliance:

24 Michael Jackson

25 For County of San Joaquin, San Joaquin County Flood  
Control and Water Conservation District, and Mokelumne  
River Water and Power Authority:

Thomas H. Keeling

For Islands, Inc:

Osha Meserve

23

24

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1 Thursday, March 22, 2018 9:30 a.m.

2 PROCEEDINGS

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4 CO-HEARING OFFICER DODUC: Good morning,  
5 everyone. Please take a seat.

6 It is 9:30 and we are resuming this California  
7 Water Right Change Petition hearing for the California  
8 WaterFix Project.

9 I am Tam Doduc. To my right is Board Chair  
10 and Co-Hearing Officer Felicia Marcus. We will be  
11 joined shortly and will be sitting to the Chair's right  
12 will be Board Member Dee Dee D'Adamo.

13 To my left today, we have Dana Heinrich and  
14 Conny Mitterhofer. We're also being assisted by Jason  
15 Baker.

16 Since I see some new faces, a couple of  
17 announcements.

18 Please take a moment right now and identify  
19 the exit closest to you. In the event of an emergency,  
20 an alarm will sound. We will evacuate using the stairs  
21 down to the first floor and meet up in the park across  
22 the street.

23 If you are not able to use the stairs, please  
24 flag down one of the safety people, and they will  
25 direct you to a protective area.

1           Secondly, this meeting's be Webcasted and  
2 recorded, so please speak into the microphone, after  
3 making sure that it is on, and begin by stating your  
4 affiliation -- your name and your affiliation.

5           Our court reporter is back with us. Thank  
6 you, Candace.

7           We will make the transcript available as soon  
8 as we receive it, or at the end of Part 2. If you wish  
9 to have it sooner, please make your arrangements  
10 directly with her.

11           And, finally and most importantly, since we've  
12 had a couple of days break, please take a moment and  
13 put all your noise-making devices to silent, vibrate,  
14 do not disturb.

15           All right. A couple housekeeping matters.

16           I will announce the two that I have from staff  
17 and then we'll get to others.

18           For scheduling purposes, please note that we  
19 are canceling next Friday, March 30th, which is Good  
20 Friday.

21           We will also be canceling some additional  
22 hearing dates in April. We will send out an updated  
23 hearing schedule shortly.

24           Also, next week, in addition to canceling  
25 Friday, we will try to adjourn on Thursday no later



1 than 4 p.m.

2           Also, I think you may know by now, yesterday  
3 the Hearing Team sent an e-mail notifying parties that  
4 the transcript for February 28th has been posted.

5           And Ms. Nikkel, who is not here but I'm sure  
6 is watching, has until noon tomorrow to file her  
7 written objection that was previously raised early on  
8 February 28th, and all other parties may respond to  
9 Miss Nikkel's objection by noon on Tuesday.

10           That's it for my housekeeping matter.

11           Mr. Mizell, Mr. O'Laughlin?

12           MR. MIZELL: Morning. Tripp Mizell, DWR.

13           As per your instructions earlier this year to  
14 keep you apprized of any updates or new information  
15 related to the California WaterFix, in the first half  
16 of next week, the Department will be releasing  
17 additional engineering detail associated with its  
18 ongoing discussions with the U.S. Army Corps of  
19 Engineers and fish agencies.

20           This is related to the -- to developing  
21 additional level of detailing in the engineering  
22 design.

23           So this is something -- This isn't necessarily  
24 new, a new concept. It's something that our witnesses  
25 have talked about, that the Conceptual Engineering

1 Report did require additional level of detail to be  
2 designed. This is what these discussions are around.

3 And in early next week, we expect to have  
4 something released for the public.

5 The discussions also sought to reduce impacts  
6 to waters to the United States and other environmental  
7 concerns raised by the agencies.

8 CO-HEARING OFFICER DODUC: You said "release  
9 to the public."

10 Is this something, if you can answer, that  
11 Petitioners plan to include in your rebuttal?

12 MR. MIZELL: I would expect that, when -- when  
13 we have it -- when I have a better sense of what is  
14 contained in the additional information, I can  
15 certainly make a proposal as to how it might  
16 incorporate into this -- into this process.

17 But I would hesitate to say that everything  
18 released would be part of a rebuttal because it may be  
19 beyond the scope of what is appropriate absent a ruling  
20 by yourselves.

21 CO-HEARING OFFICER DODUC: Thank you,  
22 Mr. Mizell.

23 Any other questions for Mr. Mizell?

24 Mr. O'Laughlin.

25 And thank you for the heads-up.

1 MR. O'LAUGHLIN: Good morning. Tim  
2 O'Laughlin, San Joaquin Tributaries Authority.

3 Pleasure to all see you again. I'll be  
4 spending some time with you hopefully tomorrow.

5 I wanted to bring up the scheduling issue.  
6 We're trying to work around Dr. Paulsen's schedule and  
7 we're getting that worked out.

8 My other witness, Mr. Steiner, whose direct  
9 testimony will not exceed 10 minutes, may not be able  
10 to -- he will not be able to make it on Friday morning.  
11 So even if we have to split Dr. Paulsen to start her  
12 testimony in the morning, then we'd take Mr. Steiner,  
13 but he will be here at 1 o'clock on Friday.

14 So if we -- I'm working with all the other  
15 parties. Hopefully, we'll keep a seamless transition  
16 and keep the train moving, but that was one heads-up  
17 that I wanted to make you aware of. We've tried to  
18 work around that scheduling conflict, but it's been  
19 unable to be moved.

20 CO-HEARING OFFICER DODUC: Thank you very  
21 much, Mr. O'Laughlin.

22 MR. O'LAUGHLIN: Thank you.

23 CO-HEARING OFFICER DODUC: And I as always  
24 appreciate the work -- the parties coordinating and  
25 working out these scheduling issues by yourself.

1           All right. Unless I am advised, or unless  
2 there are further requests, my understanding is, we  
3 will be spending at least the majority of this morning  
4 on the joint, I guess, three -- two -- three panels by  
5 County of Yolo, LAND, County of San Joaquin, and County  
6 of Sacramento.

7           And should we are able to complete that, we  
8 then -- my understanding based on Friday -- will go to  
9 Sacramento Regional County Sand District.

10           Is that correct, Mr. Ferguson?

11           MR. FERGUSON: Yes.

12           CO-HEARING OFFICER DODUC: All right. With  
13 that, I will ask your witnesses to stand, Mr. Keeling.

14           MR. KEELING: Yes.

15           CO-HEARING OFFICER DODUC: Please raise  
16 your -- Both of you. I'm sorry.

17           Please stand and raise your right hands.

18                           Kris Balaji

19                                   and

20                           Panos Kokkas,

21           called as witnesses by the County of Yolo,  
22           Local Agencies of the North Delta, et al.,  
23           County of San Joaquin, et al. & County of  
24           Sacramento, having been duly sworn, were  
25           examined and testified as follows:

1 CO-HEARING OFFICER DODUC: Thank you very  
2 much.

3 MR. KEELING: Good morning. Tom Keeling on  
4 behalf of the San Joaquin County Protestants.

5 DIRECT EXAMINATION BY

6 MR. KEELING: Mr. Balaji, is Exhibit SJC-322 a  
7 true and correct copy of your Statement of  
8 Qualifications?

9 WITNESS BALAJI: Yes.

10 MR. KEELING: Is your mic on?

11 WITNESS BALAJI: Yes.

12 MR. KEELING: And is Exhibit SJC-323 a true  
13 and correct copy of your written testimony?

14 WITNESS BALAJI: Yes.

15 MR. KEELING: And are Exhibits SJC-324-Errata  
16 and 325-Errata true and correct copies of exhibits  
17 referred to in your written testimony?

18 WITNESS BALAJI: Yes.

19 MR. KEELING: Mr. Balaji, could you please  
20 summarize your testimony for the Hearing Officers.

21 WITNESS BALAJI: I will. Thank you.

22 Good morning, Madam Chair and the Hearing  
23 Officers.

24 As Mr. Keeling referred me to as, I am Kris  
25 Balaji. I'm here to provide a brief summary of the

1 concerns that were raised in my written testimony,  
2 submitted to you as Exhibit SJC-323 regarding the  
3 construction-related traffic impacts in San Joaquin  
4 County.

5 I'm a licensed Professional Civil Engineer in  
6 the State of California with over 25 years of  
7 experience in managing and delivering infrastructure  
8 projects.

9 I currently serve as the Director of Public  
10 Works for the San Joaquin County. And my prior  
11 assignments include managing Transportation Program for  
12 two major global architectural and engineering company,  
13 and various capacities for over 14, 15 years with  
14 Caltrans as well.

15 My testimony today revolves around the  
16 inadequacy of the transportation analysis in the Final  
17 Recirculated Draft EIR/EIS for the California WaterFix  
18 under the Mitigation Monitoring and Reporting Program.

19 I'm sure you would give me the latitude to  
20 simply refer to those two as just the EIR and the MMRP  
21 so that you won't be mouthful repeating that names.

22 In my opinion that the EIR and the MMRP  
23 documents do not adequately address the WaterFix  
24 construction-related traffic impacts to the roadways  
25 within the San Joaquin County.

1           While the EIR identifies about 114 roadway  
2 segments which will likely be utilized by the  
3 construction crew for construction-related activities,  
4 they do not go beyond identifying the annual average  
5 daily traffic on these road segments and the level of  
6 service designations.

7           The unprecedented scale of construction that  
8 is anticipated for a long extended time period of about  
9 14 years concentrated specifically within a specific  
10 compact geographic area, in my opinion, calls for  
11 construction impact analysis well beyond this  
12 consideration of the average daily traffic and the  
13 level of services.

14           In the next few minutes, I'm going to  
15 substantiate why I believe that these analysis  
16 performed for the EIR related to the construction  
17 impacts are insufficient and did not go far enough.

18           Specifically, I'm going to focus my testimony  
19 on four straightforward issues with respect to the EIR  
20 that I believe would demonstrate the inadequacy of the  
21 analysis with respect to the construction-related  
22 traffic impacts to the local roadway system.

23           Number 1. I believe that the road segments  
24 within the San Joaquin County that were considered in  
25 the EIR are not exhaustive. I believe additional

1 segments should have been considered.

2           Number 2. I believe that there will be  
3 significant traffic issues that could arise due to the  
4 fact that the county has some major construction  
5 projects that are scheduled and will be undergoing at  
6 the same time as the WaterFix Project, should it  
7 proceed. Proper and continued coordination should have  
8 been done with local governments to assess these  
9 impacts.

10           I also believe, Number 3, that additional  
11 construction-related traffic safety, operational and  
12 physical condition of the roadway segments should have  
13 been done but were not.

14           And, finally, Number 4, I believe that there  
15 will be potential WaterFix construction traffic-related  
16 impacts to the economic sectors of the San Joaquin  
17 County, that I know of, that should have been analyzed  
18 but I could not find those analysis in the EIR.

19           So let's get to the first item that I  
20 mentioned related to the road segments -- additional  
21 road segments that should have been considered but were  
22 not.

23           So I will refer to the map in Exhibit  
24 SJC-324-Errata.

25           (Exhibit displayed on screen.)



1           WITNESS BALAJI: So this exhibit, you know,  
2 shows about 20 road segments within San Joaquin County  
3 that are shown in the pink color. So these are the  
4 road segments that were identified in the EIR that are  
5 within the San Joaquin County and were referred in the  
6 EIR as likely to be used by the construction-related  
7 traffic.

8           Please note that these -- the four settings  
9 that I'm going to be talking about, specifically to  
10 give you an illustration of why this analysis didn't go  
11 far, by no means they're all inclusive as a thorough  
12 analysis might be warranted to evaluate if there are  
13 other segments that may have been omitted in the  
14 WaterFix analysis.

15           So these four segments would serve as a  
16 representation of the lack of completeness a logical  
17 analysis performed in the EIR.

18           Let's talk about the first such roadway  
19 segment.

20           I would like to draw your attention to the  
21 southwest corner of that map right here (indicating)  
22 where you would see that State Route 4 is highlighted  
23 in pink, indicating that that would be a road that  
24 would be used by the construction traffic, and it leads  
25 to the tunnel alignment.

1           That State Route 4 intersects with the  
2 tunnel -- tunnel alignment where you could see that  
3 Number 4, you know, denoted in between those two  
4 vertical lines that run north-south.

5           And it also shows in circle with a cross mark  
6 indicating the boring or the shaft locations. And in  
7 blue-colored line, indicating that those are proposed  
8 new access roads that are essential to get to that  
9 location to -- to -- to make the construction possible.

10           So those -- That blue lines are lines that are  
11 shown in the EIR as new proposed, you know, access  
12 routes coming from Highway 4. That's fantastic.

13           So now let's go a little bit to the north  
14 where it says BNSF, the Burlington Northern Santa Fe.

15           Right above that, you will see a circle with a  
16 cross that is a shaft, and it also shows a blue short  
17 stub that indicates that there is going to be an -- a  
18 proposed new access road to get to that shaft location.

19           However, you would see that there are no pink  
20 lines that is shown connecting to that blue access --  
21 new proposed access road to anywhere, meaning that  
22 there is a -- there is that yellow color road segment  
23 that exists, which is the Bacon Island Road. That's  
24 the only means of getting connection to that blue line,  
25 the newly proposed access road, that would enable the

1 construction vehicles, equipment and material to be  
2 transported in and out of that shaft location.

3           So in -- in my opinion, that particular  
4 segment of the Bacon Island Road shown highlighted in  
5 yellow should have been considered for  
6 construction-related traffic impacts but was not.

7           Now, let us go for the second segment a little  
8 bit to the northeasterly to the new east-west segment  
9 shown under the Eight Mile Road.

10           And the EIR refers to the limits of this  
11 segment indicated by -- identified by STK -- Sam, Tom,  
12 King -- 01 to be from Interstate 5 to Stockton city  
13 limits.

14           This is an essential segment, in my opinion,  
15 to transport workers, equipment and material to the  
16 shaft location that is shown farther to the west on  
17 that -- on the tunnel alignment. You will see the test  
18 "Eight Mile" and then you'll see those two shaft  
19 locations, one shaft location to the north and a Safe  
20 Haven location to the south.

21           The only way to access those two locations  
22 is . . . the -- The location where you see that, when  
23 we point out to the Safe Haven location right there  
24 (indicating), and there is a shaft location right here  
25 (indicating).

1           The only way you can access these two points  
2 is using that pink segment that has been identified in  
3 the EIR that just stops abruptly at the Rio Blanco  
4 Road, extend that all the way, and it meets at the  
5 Empire Tract Road. From there, you would take a barge  
6 or some vessel and reach -- to reach these shaft  
7 location -- the Safe Haven location and shaft location.

8           Even though the EIR identifies newly proposed  
9 access roads -- if we can move up a little bit -- just  
10 a little bit -- move up a little bit to the --

11           (Exhibit displayed on screen.)

12           WITNESS BALAJI: Sorry. Down maybe. I should  
13 say down.

14           (Exhibit displayed on screen.)

15           WITNESS BALAJI: You can see that the newly  
16 proposed access road connecting the Safe Haven and the  
17 shaft location is shown.

18           So, as I pointed out before, without this  
19 Bacon Island Road connection, you can't get to this  
20 Safe Haven area. And without having this road extended  
21 all the way and accessing it through a barge or other  
22 vessel through water, and then, you know, off-loading  
23 it at this point and using that newly proposed -- you  
24 know, the access road, that's the only way you can get  
25 to this shaft location.

1           So I believe that this portion (indicating)  
2 between the Rio Blanco Road and the Empire Tract Road  
3 should also be -- have been considered in the analysis  
4 of the EIR but it is missing.

5           Now, let us see the third segment almost to  
6 the northernmost area of the map.

7           (Exhibit displayed on screen.)

8           WITNESS BALAJI: The EIR identifies a short  
9 step, Peltier Road a little bit to the north --

10          (Exhibit displayed on screen.)

11          WITNESS BALAJI: There you go.

12          So . . . I don't want to point that on  
13 anyone's face here.

14          So this location (indicating) is where we're  
15 referring to right now. So this location is identified  
16 in the EIR document as SJC-02 and it is the Peltier  
17 rode that runs east-west. So the EIR identifies the  
18 limits of that road as from Interstate 5 to -- to the  
19 Blossom Road.

20          I could not understand why that segment, which  
21 is -- which originates from I-5, which is an important  
22 segment, just dead-ends at Blossom Road without any  
23 further connection to anywhere.

24          So, yes, there is Walnut Grove Road to the  
25 north (indicating) that has been identified and

1 analyzed in the EIR, but this short road segment  
2 (indicating) just stops abruptly there.

3           So it would make sense if this Blossom Road  
4 connection was also analyzed, so at least it provides a  
5 connection to the Walnut Grove Road that has been  
6 already considered.

7           So, I believe that if the Proponents believe  
8 that this road is essential for construction-related  
9 activities, they should have also considered the  
10 Blossom Road that runs north-south and provides a  
11 connection to the Walnut -- Walnut Grove Road.

12           So that's a third segment.

13           The fourth segment that I want to bring to  
14 your attention to is the Staten Island Road right here  
15 (indicating).

16           So, the only way one can access the shaft  
17 location and the Safe Haven is through that Staten  
18 Island Road. And the Proponents have properly analyzed  
19 or I'd say, you know, they have considered the Walnut  
20 Grove Road but they just stopped it right here  
21 (indicating). And if -- The only way they can access  
22 any construction-related activity can access that shaft  
23 is through that Staten Island Road. So that road  
24 segment is missing.

25           And I just want to point out that, you know,

1 these were stuff that was readily apparent, just  
2 looking at that map actually without spending hours and  
3 hours of, you know, thorough analysis. These -- These  
4 anomalies just jumped up.

5           And if we were to, you know, do a very  
6 thorough analysis in there, there is a possibility  
7 that -- that we could discover more errors and  
8 omissions or in -- inadequacies in the analysis of the  
9 roadway segments that would have construction-related  
10 traffic impacts.

11           Now, let me talk about the second item I  
12 indicated that I would cover. That item is related to  
13 the WaterFix analysis not taking into account major  
14 construction projects that are either about to start or  
15 would be underway during the course of the WaterFix's  
16 construction should the Project be approved, WaterFix  
17 Project be approved.

18           Let me turn your attention to the Walnut Grove  
19 Bridge (indicating) on the north end we just talked  
20 about.

21           So, there is a mobile bridge at that location.  
22 It is at the county line between San Joaquin and  
23 Sacramento. And that Walnut Grove Bridge is -- is a  
24 bridge that opens and closes to allow passage of boats  
25 and, you know, higher -- high vessels to pass through.

1           That bridge opens and closes, you know, close  
2 to 20, 25 times a day during the peak summer season of,  
3 like, May to October.

4           And that bridge was, you know, deemed by the  
5 Federal Highway Administration as critically deficient,  
6 and the San Joaquin County Department of Public Works  
7 has undertaken a project to replace that bridge using  
8 Federal funding.

9           So we are on the preliminary stages of the  
10 replacement of that bridge. And I'm very positive,  
11 given the 14-year span of the WaterFix construction,  
12 that major bridge, which provides a critical east-west  
13 link in and out of the county, will be under  
14 construction during the time that WaterFix construction  
15 is going to happen.

16           And needless to point out, the proximity of  
17 the shaft (indicating) to that bridge (indicating) is  
18 going to cause a lot of construction-related traffic  
19 conflicts in that particular location, yet that bridge  
20 was not -- you know, that type -- those types of things  
21 were not considered in the -- in the EIR when analyzing  
22 the traffic impacts.

23           And these -- This is a long-duration Project  
24 as well, you know, in our parlance, like, you know, two  
25 to three years, so this would have major traffic



1 conflicts.

2           So let us go down all the way south to the  
3 Bacon Island Road --

4           (Exhibit displayed on screen.)

5           WITNESS BALAJI: -- that was shown in yellow  
6 that we discussed as one of the road segments that was  
7 not described -- discussed in the EIR.

8           So, the Bacon Island Road runs north, and  
9 right about -- around here (indicating), there is a  
10 ferry operation currently in place. And that is the  
11 ferry that, you know, takes, you know people and  
12 equipment from one side of the Bacon Island Road to the  
13 other side. And that ferry service is going to be  
14 discontinued as we are planning on building a bridge  
15 across that area.

16           And that contract has recently been awarded  
17 and the construction is going to begin.

18           Should the WaterFix Proponents use that Bacon  
19 Island Road and -- you know, to cross -- to get to  
20 that, you know, areas where it is highlighted as the  
21 BN&SF and the shaft to the north and south, it is going  
22 to pose a conflict when that major bridge construction  
23 is underway.

24           We're going to be having interruptions to the  
25 traffic through the Bacon Island Road that is going to

1 conflict with the WaterFix construction-related  
2 activities -- the traffic that it's going to be used  
3 for the construction-related activities.

4           So I did not see any mention of this type of  
5 things in the EIR as well.

6           So, those are -- those are the two items that  
7 illustrate that there could be other construction  
8 projects during this 14 years approximate construction  
9 time for the WaterFix that could happen, and that needs  
10 to be coordinated with the local agencies that, in my  
11 opinion, did not happen during the -- you know, during  
12 the process of preparation of the EIR.

13           Let me move on to the third item I wanted to  
14 focus on that is related to the safety, operational and  
15 physical condition analysis that should have been  
16 analyzed but, in my opinion, were not.

17           Let me talk about the safety and operational  
18 conditions first.

19           To give you a flavor for the physical geometry  
20 of the roadways that are being proposed for the  
21 WaterFix construction traffic, let's take the Walnut  
22 Grove Road, for example.

23           It is a narrow two-lane road with no standard  
24 shoulders. Slow-moving ag vehicles travels this road  
25 from time to time. And the combination of construction

1 delivery vehicles from WaterFix, combined with the  
2 Walnut Grove Bridge Project, along with the ag-related  
3 traffic passing through, especially the slow-moving ag  
4 vehicles passing through that road, is going to amplify  
5 the impacts that the traveling motorist is going to  
6 experience once -- should the WaterFix Project be  
7 approved and if it proceeds, especially during the  
8 harvest time.

9           Some crops, such as wine grapes, require a  
10 very timely harvest and, you know, transport to the  
11 production facilities.

12           So, you know, it may be okay for, you know,  
13 normal traffic to say that, okay, there's going to be a  
14 half an hour delay, but these are extremely sensitive  
15 for -- for -- for the time period from the time they  
16 get harvested and the time they arrive at the  
17 production facility.

18           So, those kinds of things should have been  
19 considered in the analysis, but I did not see such  
20 things in the -- in the EIR.

21           So, I -- I do want to point out in the EIR's  
22 Mitigation Monitoring Plan, or the MMRP, it states that  
23 the DWR will ask the Contractor to produce Traffic  
24 Management Plans , or the TMP to address this.

25           But I believe that it is not sufficient for a

1 14-year construction Project of this immense magnitude  
2 to start without such analysis and coordination happen  
3 in advance and do that thing that the seat of the  
4 plants on the fly would not work for this region.

5           In my opinion, if those unusual TMPs that are  
6 deemed by the EIR as mitigation are gathered together,  
7 you know, and analyzed globally, it could show that the  
8 impacts are going to be far more than what is shown on  
9 the EIR itself.

10           Let's talk about the structural section of the  
11 roadways in most of the proposed segments that are not  
12 in a great shape to take repeated heavy loads.

13           See, having -- You know, we do go through some  
14 heavy construction from time to time on our roadways.  
15 Those roadways are low-volume roadways. They are not  
16 designed for sustained cyclical heavy construction-type  
17 traffic to put on those roadways. And these roads  
18 could crumble, you know, due to sustained heavy loads.

19           I would like to call your attention to Page 13  
20 of Exhibit SJC-323 for a second.

21           (Exhibit displayed on screen.)

22           WITNESS BALAJI: Let's look at the picture  
23 that is in --

24           (Exhibit displayed on screen.)

25           WITNESS BALAJI: Right there. Let's look at

1 the picture of this roadway; right?

2           This picture shows the condition of the Empire  
3 Tract Road during a construction project by the City of  
4 Stockton for a water intake facility.

5           I should point out that that water intake  
6 facility construction project pales in comparison to  
7 the magnitude of what we would see during the WaterFix  
8 construction.

9           See, these types of -- These roadways are not  
10 designed for that type of sustained heavy traffic  
11 going -- going through for, let alone, 14 years.

12           And it is very difficult to reconstruct these  
13 roadways, as you would hear later during the testimony  
14 of my colleague from Yolo County, that these are  
15 basically floating, you know, roadways and they're  
16 built on decomposed peat soil, and it's very hard to  
17 keep -- to rebuild them and maintain them for it.

18           I also want to point out that these are not  
19 just roads where, you know, that is predominantly used  
20 for, like, recreational purposes or ag purposes. These  
21 roads also serve important purpose to maintain the  
22 levee on which these roads are constructed.

23           So these are not any roads where we can afford  
24 to say that, you know, they can take these beatings  
25 because they're very essential for levee inspection, go

1 perform maintenance activities such as, like, you know,  
2 patching any, you know, seepages and boils and such.  
3 So these are roads that are accessed, you know, 365  
4 days a year. These are not seasonal usage roads.

5           So these -- these roads, in addition to that,  
6 God forbid if there was a, you know, heavy rain, and if  
7 there was any flooding -- threat of flooding, these  
8 roads are also used for flood fight by our Reclamation  
9 Districts.

10           And so getting these roads, you know, in a  
11 good condition is of paramount importance for the  
12 county and the -- and the countless number of residents  
13 and the businesses that these levee roads -- levees  
14 protect.

15           And the Delta roads are essentially built on  
16 what, you know, the engineers fondly refer to as the  
17 muck; right? These are essentially decomposed  
18 vegetation.

19           If we subject these roads that are already on  
20 a high water table to repeated heavy road -- heavy  
21 loads, they will likely degrade much faster. The fix,  
22 as I mentioned before, is not that easy.

23           Finally, let me cover the fourth item I wanted  
24 to bring to your attention. This is related to the  
25 economic impacts.

1 I already talked about the impacts to the  
2 harvested grapes if they don't reach the production  
3 facilities on time.

4 Whenever we schedule any even a maintenance  
5 type roadway operations, we coordinate with the grape  
6 growers. We coordinate with the wineries. We want to  
7 make sure that even a minor roadway operation which may  
8 last a few weeks doesn't interfere with any of their  
9 operations.

10 Sometimes they spray and, you know, during  
11 those times, they request us to suspend our operations  
12 there. And during the harvest season, they request  
13 that we do not have any lane closures or detours or  
14 traffic-related constructions.

15 So we coordinate very closely with the growers  
16 and the winery industry to ensure that there is no  
17 impact to that.

18 I did not see such coordination, you know,  
19 being done and, you know, their -- their impacts  
20 analyzed and mitigation proposed for this EIR.

21 And, lastly, Delta is a host to a number of  
22 special events throughout the year.

23 I must confess, three years ago, if you were  
24 to ask me about how special this place that we call  
25 Delta is, I probably would have just flunked. I did

1 not realize the cultural heritage that this place  
2 carries, the recreational value this place brings, the  
3 amount of, you know, pride that these people who live  
4 in there carry, whether you talk about, you know, a  
5 Rio Vista Bass Festival and Derby, or the Cajun Blues  
6 Festival or Barron Hilton fireworks and countless other  
7 small events that makes this place special as their  
8 home.

9           And, you know, this -- these types of things  
10 will be greatly impacted by this type of construction  
11 activities and should have been given a serious  
12 consideration.

13           And let me also point out that it is not just  
14 the pride of the people who live and recreate in the  
15 San Joaquin, you know, County. It draws people from  
16 all over the world to visit these places.

17           So that -- When you bring in such number of  
18 people to celebrate what is the -- you know, the life  
19 of the Delta, it brings in a lot of dollars and cents  
20 to the local businesses as well.

21           A lot of these people rely on those seasonal,  
22 you know, attractions, seasonal festivals, for their  
23 livelihood. And this type of sustained 14-year  
24 construction project, if you don't pay close attention  
25 and analyze it, will wipe out those businesses and they



1 will never be able to sustain and come back.

2           So, in summary, it is my opinion that the  
3 WaterFix environmental document did not fully analyze  
4 the construction-related traffic impacts in the  
5 following areas that I mentioned already.

6           The road segments within the San Joaquin  
7 County that were considered in the EIR are not  
8 exhaustive. I think that additional segments should be  
9 analyzed and properly coordinated with the local  
10 agencies to find out which -- find out what the extent  
11 of the impacts could be and, if at all, there is a  
12 mitigation that is possible.

13           And I also believe, number 2, there will be  
14 significant traffic issues that could arise due to the  
15 fact that the county has major construction projects  
16 scheduled that would go at the same time as the  
17 WaterFix Project.

18           Number 3. Additional construction-related  
19 safety, operational and physical condition analysis  
20 should have been under -- undertaken but were not.

21           And, finally, there will be potential  
22 WaterFix-related traffic construction impacts to the  
23 economic sectors of the San Joaquin County that should  
24 have been analyzed but was not.

25           With this, I complete my oral testimony and

1 thank you for your attention.

2 MR. KEELING: Thank you, Mr. Balaji. And now  
3 I'll turn it over.

4 MR. POGLEDICH: All right. Thank you,  
5 Mr. Keeling.

6 DIRECT EXAMINATION BY

7 MR. POGLEDICH: Mr. Kokkas, could you please  
8 state your name for the record.

9 WITNESS KOKKAS: Panos Kokkas.

10 MR. POGLEDICH: And what's your current  
11 position with Yolo County?

12 WITNESS KOKKAS: Director of Public Works.

13 MR. POGLEDICH: How long have you held that  
14 position?

15 WITNESS KOKKAS: 10 and a half years.

16 MR. POGLEDICH: And what are your general  
17 responsibilities in that position?

18 WITNESS KOKKAS: My responsibility is the  
19 public infrastructure for Yolo County, which includes  
20 bridges, roads, water conveyance facilities and other  
21 transportation-related infrastructure.

22 MR. POGLEDICH: Thank you.

23 Have you had a chance to review Exhibit YOLO-2  
24 which is your CV?

25 WITNESS KOKKAS: Yes, I have.

1 MR. POGLEDICH: Is that a true and accurate  
2 statement of your experience and qualifications?

3 WITNESS KOKKAS: It is.

4 MR. POGLEDICH: Aside from your present  
5 position, are there any aspects of your prior  
6 experience that you care to briefly highlight for the  
7 Hearing Officers this morning?

8 WITNESS KOKKAS: Prior to Yolo County, I  
9 worked for the Illinois State Highway Authority. It's  
10 a large Highway Authority around Chicago. They have  
11 about 1500 lane miles of express -- toll ways and  
12 express roads.

13 Prior to that, I worked for several -- two  
14 cities in California and Contra Costa Water District.

15 MR. POGLEDICH: Have you also reviewed Exhibit  
16 YOLO-1 which is your written testimony in this  
17 proceeding?

18 WITNESS KOKKAS: Yes, I have.

19 MR. POGLEDICH: And is that a true and correct  
20 copy of the testimony you provided in this proceeding?

21 WITNESS KOKKAS: It is correct.

22 MR. POGLEDICH: Have you had a chance to  
23 review that document since you signed it in November of  
24 2017?

25 WITNESS KOKKAS: Yes, I have.

1 MR. POGLEDICH: Is there anything in that that  
2 you need to change or correct.

3 WITNESS KOKKAS: Not -- No.

4 MR. POGLEDICH: And then, finally, have you  
5 had a chance to review the documents marked YOLO-3  
6 through YOLO-7, which are the exhibits to your  
7 testimony?

8 WITNESS KOKKAS: Yes, I have.

9 MR. POGLEDICH: With the exception of a few  
10 slides in the PowerPoint marked as YOLO-4, are all  
11 those documents, YOLO-3, -5, -6 and -7, true and  
12 correct copies of items from the files and records of  
13 your Department?

14 WITNESS KOKKAS: Yes, they are.

15 MR. POGLEDICH: Now, in your role as Director  
16 of Public Works for Yolo County, had an opportunity to  
17 become familiar with the roads and other improvements,  
18 such as bridges, in the Clarksburg area?

19 WITNESS KOKKAS: I'm very, very familiar with  
20 them.

21 MR. POGLEDICH: I'd like to please ask for  
22 Exhibit 4 -- Exhibit YOLO-4, Page 3, to be put up on  
23 the screen.

24 (Exhibit displayed on screen.)

25 MR. POGLEDICH: And, Mr. Kokkas, do you

1 recognize the graphic shown on this exhibit?

2 WITNESS KOKKAS: Yes, I do.

3 MR. POGLEDICH: And do you see the different  
4 labels off to the left-hand side?

5 WITNESS KOKKAS: Yes.

6 MR. POGLEDICH: Do each of those -- and you  
7 can take just a moment, if necessary -- accurately  
8 identify the different road segments that the arrows  
9 point to?

10 WITNESS KOKKAS: They're correct, with the  
11 exception of the South River Road should extend a  
12 little farther, right here where the pointer shows it  
13 (indicating).

14 MR. POGLEDICH: Okay. Thank you.

15 And do the abbreviations after each  
16 identifying label on the left, CT 33, for example,  
17 do -- do you recall those from the Final EIR for the  
18 WaterFix Project?

19 WITNESS KOKKAS: Yes, I do.

20 MR. POGLEDICH: And do each of those  
21 accurately identify the different road segments studied  
22 in the EIR?

23 WITNESS KOKKAS: They do identify them  
24 correctly.

25 MR. POGLEDICH: So, referring to this graphic

1 as needed, could you please provide a general overview  
2 of the road network in Clarksburg, its -- its physical  
3 layout and main components.

4 WITNESS KOKKAS: As you can tell, the road  
5 network into the Clarksburg area isn't as large as the  
6 previous presentations has shown. However, they are  
7 the lifeline of the region.

8 Without CT 3 (sic), which is the north and  
9 south road, and YOLO-1, which is the South River Road,  
10 Clarksburg has no other way to get out going north to  
11 Sacramento. It's used for their emergency services and  
12 commerce.

13 MR. POGLEDICH: Can you please describe --  
14 we'll stay with State Route 84 for just a minute -- the  
15 existing conditions of State Route 84.

16 WITNESS KOKKAS: The existing conditions of  
17 State Route 84 are not necessarily what I would call  
18 ideal, for several reasons.

19 First of all, like my colleague earlier  
20 mentioned, it's built on this swampland on the muck and  
21 poor soil and constantly is in need of repairs.

22 A portion of the road is on an upper levee  
23 adjacent to the deep-sea channel, which you can see  
24 right to the left of the road (indicating). And that  
25 portion of the road constantly shows cracks into the

1 pavement, and that's because of the sliding of the  
2 slope that it's built on.

3           The rest of it also has damage due to the  
4 surrounding area and, as we mentioned -- my colleague  
5 mentioned earlier, the surrounding area is muck. It  
6 cannot carry sustained loads such as vehicle traffic.

7           MR. POGLEDICH: So -- And what is the  
8 approximate width of State Route 84?

9           WITNESS KOKKAS: It's about 11 to 12 feet to  
10 the shoulders. It could vary from no shoulder at all  
11 to maybe two feet at best.

12          MR. POGLEDICH: Okay.

13          WITNESS KOKKAS: Go ahead.

14          MR. POGLEDICH: Sorry. Did I interrupt you?

15          WITNESS KOKKAS: No, you haven't.

16          MR. POGLEDICH: All right. Then referring  
17 briefly to the other three road segments shown on this  
18 graphic.

19                 Are those road segments similar in nature to  
20 State Route 84, or are there any important differences  
21 that you want to highlight?

22          WITNESS KOKKAS: As -- There are a few  
23 important differences, especially YOLO-1 -- 01, which  
24 is the South River Road that is built on the Sacramento  
25 levee.

1           And, as you all know, the levees are not  
2 necessarily the best places to build roads as they are  
3 the spoils when they widen the rivers. Very, very poor  
4 material.

5           That road does not have that much traffic on  
6 it, so to say. However, it has a lot of damage.

7           We recently made some pavement repairs and we  
8 are very, very concerned what may happen during those  
9 repairs.

10          MR. POGLEDICH: Okay. What types of vehicles  
11 currently use these four road segments?

12          WITNESS KOKKAS: They're used by agricultural  
13 vehicles, passenger vehicles, and transport -- large  
14 transportation trucks, because there is a large winery  
15 on County Road -- I'm sorry -- on State Route 84 or  
16 CT 3 (sic), and that has both trucks going into the  
17 winery and going out of the winery, so it has a  
18 sustained vehicle -- has a -- large heavy loads going  
19 through it.

20          MR. POGLEDICH: Okay. So just to break that  
21 down a bit.

22          Each of these roads receives traffic from  
23 agricultural equipment?

24          WITNESS KOKKAS: Yes.

25          MR. POGLEDICH: And passenger vehicles?



1 WITNESS KOKKAS: Both passenger and  
2 agricultural.

3 MR. POGLEDICH: And heavy trucks.

4 WITNESS KOKKAS: And heavy trucks. Not that  
5 many heavy trucks, but there are heavy tracks on them.

6 MR. POGLEDICH: Understood. Do each of these  
7 roads provide access to farms?

8 WITNESS KOKKAS: Yes.

9 MR. POGLEDICH: Are each of these roads used  
10 to move equipment between fields?

11 WITNESS KOKKAS: They are predominantly used  
12 for -- to move equipment between fields.

13 MR. POGLEDICH: Are they also used --

14 WITNESS KOKKAS: But that's the -- That's the  
15 only way north and south. There is no other way  
16 without using CT 33 or YOLO-1 to move north and south  
17 in Clarks -- Clarksburg. The are the only two roads.

18 MR. POGLEDICH: The only two roads that  
19 provide --

20 WITNESS KOKKAS: Going north and south --

21 MR. POGLEDICH: -- north and south --

22 WITNESS KOKKAS: -- traffic or access.

23 MR. POGLEDICH: Understood.

24 Are these roads also used to move agricultural  
25 commodities to processing facilities and other entities

1 after harvest?

2 WITNESS KOKKAS: Yes, they are.

3 MR. POGLEDICH: Are they used to deliver  
4 equipment and supplies to local businesses and farms?

5 WITNESS KOKKAS: Yes, they are.

6 MR. POGLEDICH: And are they also used for  
7 emergency vehicle traffic?

8 WITNESS KOKKAS: They are.

9 MR. POGLEDICH: And do you have an  
10 understanding of what the approximate volume of  
11 vehicles our hour is on State Route 84?

12 WITNESS KOKKAS: I think we mentioned in my  
13 testimony. I think it's close to 200 vehicles per day  
14 or hour. I can't remember the exact number but . . .

15 MR. POGLEDICH: If necessary, you can take a  
16 moment to refer to your testimony for that information.

17 I can point -- provide you a page reference if  
18 you like.

19 WITNESS KOKKAS: (Examining document.)

20 Yes, I found it.

21 They vary between 40 to 169 vehicles per hour,  
22 let's say about 200 vehicles per hour.

23 MR. POGLEDICH: That's information from the  
24 Final EIR for the Project?

25 WITNESS KOKKAS: That's correct.

1 MR. POGLEDICH: And is it consistent with your  
2 understanding of the current level of vehicle traffic  
3 per hour on State Route 84?

4 WITNESS KOKKAS: That is -- Yes, it is.

5 MR. POGLEDICH: Would you say that the current  
6 volume of vehicle traffic on the other three road  
7 segments is similar?

8 WITNESS KOKKAS: It's similar as this one.

9 MR. POGLEDICH: That's a "yes"?

10 WITNESS KOKKAS: Yes, it is, and they vary  
11 from 150-200 per hour.

12 MR. POGLEDICH: Thank you.

13 Could you describe the concept of a Level of  
14 Service Threshold.

15 WITNESS KOKKAS: Level of Service is the  
16 number of vehicles going in the road and that dictates  
17 the traffic.

18 For example, Level of Service A is going to  
19 say that the traffic is moving at the speed limit. Let  
20 it be 55 or 65, they're moving all at the speed limit.

21 As vehicles slow down to -- because more  
22 vehicles are on the road, the traffic slows down, and  
23 eventually it reaches Level F, which is stop-and-go,  
24 mostly stop.

25 The EIR and the EIS identified those roads as

1 Level of Service A. And they also mentioned that they  
2 would not be substantially changed due to the addition  
3 of traffic.

4           However, when you do the Level of Service  
5 Analysis, we usually look at regular State Routes, not  
6 farmlands.

7           In an area where you have a lot of farm  
8 vehicles going in and out of the fields with a top  
9 speed, at best, maybe 10 miles an hour, and the width  
10 of the vehicle can be from 10, 14, maybe 20 feet. The  
11 farm vehicle takes at least a lane and a half,  
12 sometimes two lanes, at 10 miles an hour, at best.

13           It doesn't matter how many vehicles you have  
14 behind it. If the road is full of vehicles in a  
15 regular road where you can have 7, 8,000 vehicles and  
16 make it Level F here, you can have four vehicles behind  
17 that farm -- piece of farm equipment and move the Level  
18 of Service to F or E or something of that sort.

19           That meaning, emergency equipment or farm  
20 equipment, especially at harvest time, they need to  
21 take the grapes to the winery, can't move because the  
22 farm vehicles are going slow.

23           And it isn't one. A farm vehicle can get off  
24 from one field, enter in a different location. Another  
25 farm vehicle can come back from the opposite direction.

1           Most of the time, our experience has been, if  
2 a farm vehicle sees people behind them, they try to  
3 pull in a wide spot of the road to allow others to  
4 pass.

5           Well, this is not very possible in this area  
6 because there are not that many wide spots on the road,  
7 except the intersecting roads.

8           And if we look up and down State Route 84 or  
9 CT 33, there may be less than a handful where people --  
10 farm vehicles can pull in the side to allow the traffic  
11 to pass from behind them.

12           And you have an additional problem if the  
13 traffic is coming from the opposite end, because they  
14 can't pull in the side. So they'll be forced to get  
15 off the road or farther out than it's safe, both  
16 vehicles, the ones that they meet each other, farm  
17 equipment and the other vehicles.

18           So, planning to put a thousand vehicles a day,  
19 especially construction vehicles, there's an urgent  
20 need for them to be at the timely -- be timely at the  
21 construction site is going to create many, many safety  
22 issues. There's going to be a Level of Service F is  
23 going to be a traffic jam due to farm vehicles and  
24 construction vehicles.

25           So, as far as we're concerned, the Level of

1 Service Analysis has not -- is not correct because it  
2 takes into account regular roads where you do not have  
3 the slow-moving wide farm equipment.

4 So I think that needs to be relooked.

5 MR. POGLEDICH: Now, you said just a moment  
6 ago that the Level of Service Analysis is not correct.  
7 Is that --

8 WITNESS KOKKAS: It's not correct for this  
9 type of a road. It's the type of equipment and the --  
10 (Timer rings.)

11 WITNESS KOKKAS: -- type of vehicles that we  
12 have on the road that is not correct.

13 If it was a regular road without any farm  
14 equipment, by all means, we are not going to dispute  
15 it.

16 However, having slow equipment and that  
17 they're wide and they're coming often from either side  
18 of the road is going to create many safety issues.

19 MR. POGLEDICH: Thank you.

20 I think we have about another 10 minutes. We  
21 can probably end this in 10 minutes. Is that  
22 acceptable?

23 CO-HEARING OFFICER DODUC: You went over your  
24 time limit.

25 MR. POGLEDICH: I understand.

1 CO-HEARING OFFICER DODUC: How much  
2 additional --

3 MR. POGLEDICH: I have --

4 CO-HEARING OFFICER DODUC: -- line of  
5 inquiries do you have?

6 MR. POGLEDICH: I have about seven or eight  
7 more questions, which I think will be pretty quickly  
8 reviewed.

9 And then Mr. Kokkas has a PowerPoint which I  
10 can ask him to review probably in 5 minutes or so.

11 CO-HEARING OFFICER DODUC: This is the  
12 PowerPoint that you've been using --

13 MR. POGLEDICH: That's correct.

14 CO-HEARING OFFICER DODUC: -- correct?

15 MR. POGLEDICH: There are four or five slides  
16 near the end of it that I think would be useful to see  
17 as an illustration of what both Mr. Kokkas and  
18 Mr. Balaji have been discussing.

19 CO-HEARING OFFICER DODUC: All right. We'll  
20 give you 10 minutes to wrap up.

21 MR. POGLEDICH: Okay. Thank you.

22 Your testimony uses a phrase "actual  
23 operation" in reference to rural road traffic and  
24 safety conditions.

25 What does "actual operation" mean in that

1 context?

2 WITNESS KOKKAS: Actual operation means that  
3 you have to look beyond the computer model, because the  
4 computer model has certain assumptions and they are not  
5 looking at the on-site operational issues.

6 Many, many times, traffic analysis are looking  
7 what has been written in the computer program, what --  
8 or what is in the textbook.

9 Unless a person has operated certain  
10 facilities, they cannot specify what are the  
11 differences into that analysis. So they cannot give us  
12 correct -- a correct picture of the actual traffic  
13 issues.

14 MR. POGLEDICH: Okay. In your opinion, will a  
15 substantial increase in traffic on these roads such as  
16 that analyzed in the Final EIR for the WaterFix result  
17 in increased conflicts between agricultural vehicles  
18 and other types of traffic?

19 WITNESS KOKKAS: There is no doubt about it.  
20 There's going to be many, many conflicts, and they're  
21 going to compromise also the safety of those roads.

22 MR. POGLEDICH: Will that also result in  
23 delays in moving agricultural equipment --

24 WITNESS KOKKAS: Oh, by all --

25 MR. POGLEDICH: -- between the fields?



1 WITNESS KOKKAS: -- means. It's going to  
2 be -- resulting in many, many delays, not only of  
3 agricultural equipment but also safety equipment and  
4 safety piece of equipment going through.

5 MR. POGLEDICH: Are you referring to emergency  
6 vehicle traffic?

7 WITNESS KOKKAS: Emergency vehicles, yes.

8 MR. POGLEDICH: Okay.

9 WITNESS KOKKAS: Ambulance, fire truck and so  
10 forth.

11 MR. POGLEDICH: Okay. And will it result in  
12 delays at intersections?

13 WITNESS KOKKAS: Yes, it will.

14 MR. POGLEDICH: And delays for nonagricultural  
15 traffic as well?

16 WITNESS KOKKAS: It will be delays for all  
17 types of traffic.

18 MR. POGLEDICH: All right. So, at this point,  
19 I'd like to ask you to present the PowerPoint, keeping  
20 in mind that we have a strict time limit, and try and  
21 walk through it within 6 minutes or so.

22 So -- And the PowerPoint's on the screen.  
23 Maybe we could retreat to --

24 WITNESS KOKKAS: Can we go to --

25 MR. POGLEDICH: -- the very first slide, and

1 Mr. Kokkas can then direct the clerk as necessary to  
2 rotate through the slides.

3 (Exhibit displayed on screen.)

4 WITNESS KOKKAS: Thank you.

5 This one identifies the area that's in  
6 question, CT 33, which is one of the major routes of --  
7 in and out of Clarksburg.

8 What you see there on it top, the little  
9 circles (indicating) that we show, there are some  
10 examples of the areas we had to do some construction,  
11 and we found out that Clarksburg is great to grow  
12 grapes and other produce. However, the soil in this  
13 area, it's muck. It's like something floating on the  
14 water, and you can't sustain any loads of any type.  
15 Even agricultural loads in this area have created  
16 severe damage on those roads.

17 Can I have the next slide, please.

18 (Exhibit displayed on screen.)

19 WITNESS KOKKAS: And here, what I'm going to  
20 talk to you about, several road segments to show you  
21 what the traffic has been done -- has been done -- what  
22 damage has been done.

23 Could we go to the next one.

24 (Exhibit displayed on screen.)

25 WITNESS KOKKAS: One more.

1 (Exhibit displayed on screen.)

2 WITNESS KOKKAS: We talk about PCI, which is  
3 the Pavement Condition Index. And many times Pavement  
4 Condition Index is how nice is the pavement, the  
5 surface of the road, not necessarily what is under the  
6 road.

7 So if we just paved the road with two inches  
8 of asphalt, it has great PCI; however, if the  
9 supporting soil be -- below it isn't strong enough to  
10 carry any weights, that pavement is going to be cracked  
11 within the next year or two.

12 So most of the roads in the Clarksburg area,  
13 they're 50 or below, and they are poor, and they cannot  
14 sustain any of the heavy loads that are proposed  
15 through this Project.

16 Can I go to the next slide.

17 (Exhibit displayed on screen.)

18 WITNESS KOKKAS: This is a list of PCI  
19 numbers. And as you can tell, most of them in the  
20 Clarksburg area, they're very, very low. And, again,  
21 those are -- those need to be improved.

22 Next slide.

23 (Exhibit displayed on screen.)

24 WITNESS KOKKAS: Here's some areas, typical  
25 patches on CT 33.

1           And -- And those are always -- There's always  
2 failures in the side of the road because of the poor  
3 soils.

4           In this area, I think it's on the top of the  
5 levee, as you can tell, and it constantly has issues,  
6 cracks on the road because of failures of the levee,  
7 not necessarily large failures but slippage of the  
8 levees mostly.

9           Next slide.

10           (Exhibit displayed on screen.)

11           WITNESS KOKKAS: And let's look at the damage  
12 that has to occur during construction.

13           If you look -- This came from Federal  
14 highways. We used it in my previous employment where  
15 we looked how to charge tolls of different times of  
16 vehicles.

17           If you look at the car, it drives on a road  
18 that has damage of 1, approximately. This is our  
19 benchmark.

20           As you can go through and you look at the  
21 construction traffic, they're going to be equivalent to  
22 2400 or 6700 cars going through those roads, and those  
23 roads are not made for that.

24           The other item you're going to ask: What  
25 about the farm vehicles? What is the damage for those?

1 I will say 1 or less because the damage to the road,  
2 it's based on the amount of weight that's going per  
3 square inch of the tire on that road.

4 A car cannot drive in a field that's plowed.  
5 A piece of farm equipment can drive in that because the  
6 load distribution is much, much less than a car.

7 So even though a piece of farm equipment, it's  
8 heavier than a bus, it puts less strain on the road  
9 because it distributes the load through a charger area  
10 due to the large tires or tracks.

11 So, going back to the roads that we have now  
12 and looking at the damage that Mr. Balaji has shown you  
13 earlier, that was done by regular trucks.

14 If we put a sustained load of large  
15 construction trucks, we will not have a road. We'll be  
16 having an air field that has been bombed.

17 Next slide.

18 (Exhibit displayed on screen.)

19 WITNESS KOKKAS: Let's look at Hamilton Road.  
20 Now, they had a mine -- winery constructed on Hamilton  
21 Road, and they're supposed to repair Hamilton Road but,  
22 first of all, the requirements are that they complete  
23 the construction.

24 If you look at the pictures to the left, here  
25 is Hamilton Road at the same location before the

1 construction. Nine months later, where we did not have  
2 as many construction trucks going through, here's --  
3 look at the damage in nine-month period with maybe a  
4 fraction of the trucks that are going to be going  
5 through the WaterFix construction.

6 Next slide.

7 (Exhibit displayed on screen.)

8 WITNESS KOKKAS: Well, as we spoke about  
9 Hamilton Road, they had to change a culvert, a pipe  
10 underneath the road.

11 So the Contractors and the farmers in the area  
12 who probably has the winery, they dewater all the  
13 channels. As you may be aware, the Clarksburg area has  
14 high groundwater and they're constantly pumping it out  
15 in order to keep it dry. If you shut off the pumps,  
16 the area is going to be a swamp like it used to be 80,  
17 90, hundred years ago.

18 So as they water -- dewater the channels to  
19 put the culvert in, then they decided to repair the  
20 soil because it could not sustain any loads and they  
21 had to lime treat it.

22 On the first area, the lime treating truck  
23 just got stuck. It couldn't go. There is no way to  
24 have any sustainable construction in the County -- in  
25 Clarksburg.

1           There are several roads we like to repair, but  
2 we have concerns that, if we start to repair those  
3 roads, we're going to have worse events than this one  
4 that's shown in the slide because we cannot dewater the  
5 channels or the canals in that area for four, five  
6 months to be able to get this type of condition.

7           So, without dewatering any of the canals in  
8 that area for sustained period of time, even this type  
9 of construction is going to be very, very difficult.

10           Next slide.

11           (Exhibit displayed on screen.)

12           WITNESS KOKKAS: In 2012, when the Bogle  
13 Winery was constructed -- This is Z Line Road. Here is  
14 the damage that show what happened in these roads due  
15 to the minor traffic that went around for the winery  
16 construction.

17           The following year, we reconstructed those  
18 roads and let's see the damage today.

19           Could I have the next slide.

20           (Exhibit displayed on screen.)

21           WITNESS KOKKAS: We reconstructed those roads.  
22 Without any traffic, no construction traffic on it,  
23 this is strictly farm traffic.

24           This is Z Line Road. It does not have any  
25 through traffic. The only traffic that goes to that

1 road is from the local farmers to harvest their  
2 products.

3           The soil in that area is so poor that it  
4 cannot even sustain farm traffic on it. As you can  
5 say -- see, the same location that we had repaired,  
6 it's back into just about the same area five years  
7 later without any construction traffic or any large  
8 traffic. This is strictly the local farm traffic.

9           Next slide.

10           (Exhibit displayed on screen.)

11           WITNESS KOKKAS: And as you can tell on this  
12 slide, there's a lot -- there are a lot of canals,  
13 channels, irrigation channels in Clarksburg.

14           If you look at the road that's just been  
15 constructed, you will -- you can see the pavement is  
16 fairly new, and yet the damage in the side of that road  
17 is substantial in a short period of time.

18           Next slide.

19           (Exhibit displayed on screen.)

20           WITNESS KOKKAS: In conclusion, we believe  
21 that the area that you propose to have this  
22 construction have all those trucks is not capable of  
23 carrying the additional construction traffic because  
24 the material, it's muck. It's so poor, it's like  
25 putting a pontoon on the water without any basis to



1 hold it.

2           The roads are going to be destroyed. They'll  
3 not be able to carry any traffic on them.

4           MR. POGLEDICH: Okay. Thank you, Mr. Kokkas.

5           That concludes my questions and his  
6 presentation.

7           CO-HEARING OFFICER DODUC: Thank you very  
8 much.

9           May I ask those who would like to conduct  
10 cross-examination of this panel to please come up and  
11 give me a time estimate.

12           MS. ANSLEY: I would estimate that I have  
13 about 20 to 30 minutes for this panel.

14           CO-HEARING OFFICER DODUC: Thank you,  
15 Miss Ansley.

16           MR. HERRICK: John Herrick, South Delta  
17 parties.

18           15, 20 minutes maybe.

19           CO-HEARING OFFICER DODUC: All right. So if  
20 the court reporter is okay with proceeding, we will  
21 go --

22           THE REPORTER: (Nodding head.)

23           CO-HEARING OFFICER DODUC: -- ahead and begin  
24 with you, Miss Ansley.

25           MS. ANSLEY: Good morning. My name is

1 Jolie-Anne Ansley for the Department of Water  
2 Resources.

3           As for the subjects of my cross-examination,  
4 it's -- for these witnesses, it's obviously all to  
5 traffic impacts, and it doesn't stray very far from  
6 the -- the direct conclusions in their testimony.

7           CO-HEARING OFFICER DODUC: (Nodding head.)

8           MS. ANSLEY: Can we call up SWRCB-102, which  
9 is the Final EIR. And can we call up Appendix 19A.

10           19A.

11           (Exhibit displayed on screen.)

12           MS. ANSLEY: Thank you.

13           Can we go to Page 32, please.

14           (Exhibit displayed on screen.)

15           MS. ANSLEY: And the actual Page 32, so  
16 scrolling down a page or two.

17           (Exhibit displayed on screen.)

18           MS. ANSLEY: Thank you.

19           Can we blow that up, please.

20           (Exhibit displayed on screen.)

21           MS. ANSLEY: And I am happy -- I'm going to  
22 direct some questions to both witnesses, but if there's  
23 objections, I'm happy to start breaking it down, but  
24 I'm trying to pick up the pace.

25

1 CROSS-EXAMINATION BY

2 MS. ANSLEY: So Mr. -- Is it Balaji?

3 WITNESS BALAJI: Balaji.

4 MS. ANSLEY: And Mr. Kokkas?

5 WITNESS KOKKAS: Yes.

6 MS. ANSLEY: Thanks. Make sure I pronounce  
7 things correctly.

8 You're familiar with the Traffic Impact  
9 Analysis that is described in Appendix 19A of the FEIR?

10 WITNESS BALAJI: Yes.

11 MS. ANSLEY: And Mr. Kokkas?

12 WITNESS KOKKAS: Yes.

13 MS. ANSLEY: Okay. And I don't know if you  
14 can read this page. They can blow it up for you if  
15 you'd like to read more. And if you ever want to read  
16 further than what I'm showing you, please let me know.  
17 I'm not meaning to ask you to answer questions about  
18 isolated sentences.

19 Looking at the BDCP Construction Traffic  
20 Impact Analysis, can you see -- or do you recall that  
21 in -- beginning in 2012, local transportation agencies  
22 were contacted?

23 Are you aware of that?

24 MR. KEELING: Objection: Assumes facts not in  
25 evidence.

1 MS. ANSLEY: Okay. Are you aware that the  
2 Traffic Impact Analysis involved reaching out to local  
3 transportation agencies?

4 Mr. Balaji, may I ask?

5 WITNESS BALAJI: Since that date that you're  
6 referring to happened way before I started working in  
7 there, I can only speculate based on the information  
8 that is there.

9 So I cannot confirm with credence that, yes,  
10 they were contacted or no, they were not.

11 MS. ANSLEY: Okay. And, Mr. Kokkas, do you  
12 recall your agency, which is County of Yolo, being  
13 contacted regarding Traffic Impact Analysis?

14 WITNESS KOKKAS: I don't recall, but they  
15 would not contact me. They probably contacted one of  
16 the other engineers.

17 MS. ANSLEY: Can we just scroll to the second  
18 page.

19 (Exhibit displayed on screen.)

20 MS. ANSLEY: Do you re -- Do you recall  
21 reviewing this section of Appendix 19A?

22 Mr. Kokkas.

23 WITNESS KOKKAS: Yes, I -- I recall reviewing  
24 it prior to the preparation of the testimony.

25 MS. ANSLEY: And do you recall seeing

1 this -- And looking at this, does this re -- Having  
2 reviewed 19A, does seeing this chart refresh your  
3 recollection that both Yolo County and County of  
4 San Joaquin were contacted by the DWR regarding the  
5 Traffic Impact Analysis.

6 WITNESS BALAJI: I do.

7 WITNESS KOKKAS: I do.

8 MS. ANSLEY: You do recall that?

9 CO-HEARING OFFICER DODUC: I'm sorry. Could  
10 you clarify?

11 Do you recall reading this or --

12 MS. ANSLEY: I'm sorry.

13 CO-HEARING OFFICER DODUC: -- do you recall  
14 the actual contact?

15 WITNESS BALAJI: I recall reading this.

16 MS. ANSLEY: Yeah. I believe they both --  
17 Neither of them were the person contacted, so . . .

18 You recall seeing this chart.

19 WITNESS KOKKAS: I recall reading it, but I  
20 don't recall being contacted about the information  
21 because it did not come to me. It would be coming to  
22 somebody else.

23 MS. ANSLEY: And just because I think I've  
24 muddied the record a little:

25 Mr. Kokkas, you have not heard from any of

1 your colleagues at Yolo County that they were the  
2 person contacted by the DWR for Traffic Impact  
3 Analysis?

4 WITNESS KOKKAS: About 6 years ago. I can't  
5 remember.

6 MS. ANSLEY: And the similar question to you,  
7 Mr. Balaji.

8 You don't know who was contacted at County --

9 WITNESS BALAJI: I --

10 MS. ANSLEY: -- of San Joaquin?

11 WITNESS BALAJI: I was told by my staff that  
12 there were some information that was sought from the  
13 County engineers for this particular -- regarding the  
14 particular EIR, yes.

15 MS. ANSLEY: So you have had conversations  
16 with staff regarding this Traffic Impact Analysis.

17 WITNESS BALAJI: After I read this, I did ask  
18 the question that, were there any contacts, and the  
19 answer was yes.

20 MS. ANSLEY: And is it your understanding from  
21 those conversations that the County of San Joaquin was  
22 contacted regarding roadway segments of concern?

23 WITNESS BALAJI: The question is a little bit  
24 vague because, you know, one -- one -- Let us say, for  
25 example, take this information that's put on the

1 screen.

2           If someone were to contact staff and say,  
3 "Give Us the OCIs for your roadway segment, they will  
4 give that information because it's public information.

5           Unless if someone comes to them and said,  
6 "Hey, let's sit down and have a conversation about the  
7 pavement conditions in your county with respect to the  
8 amount of traffic that we anticipate is going to go  
9 through, and, well, let's find out, you know, what your  
10 concerns are," the answer could be completely  
11 different.

12           MS. ANSLEY: Can we go to the previous page,  
13 please.

14           (Exhibit displayed on screen.)

15           MS. ANSLEY: And can we highlight -- Can we  
16 blow up Lines 9 through 17.

17           (Exhibit displayed on screen.)

18           MS. ANSLEY: And please feel free to read  
19 that. I'm just providing this as the basis for why I'm  
20 asking these questions.

21           WITNESS BALAJI: (Nodding head.)

22           MS. ANSLEY: So it is not your understanding  
23 that County of San Joaquin was approached to help  
24 identify roadway segments of concern?

25           WITNESS BALAJI: Here -- Here is how I would

1 respond to that; right?

2           So, a lot of agencies contact us asking for  
3 information; right? We do provide them because they  
4 are public information.

5           The 9 through 12, is -- Line 9 through 12?

6 Yes, it's a correct statement. They were contacted;  
7 right? And they -- when they contact and say, "Give  
8 us, you know, your ADT" -- or annual -- you know,  
9 average daily traffic -- "or your PCI," we're going to  
10 provide that information to them, yes.

11           MS. ANSLEY: Would that also include pavement  
12 conditions if requested?

13           WITNESS BALAJI: That information is  
14 available, yes.

15           MS. ANSLEY: Would it include -- would it  
16 include anal -- Would it include a . . . a review of  
17 study segments of roadways of concern?

18           WITNESS BALAJI: I'm not sure when you ask,  
19 like, if it is a review of roadway segments of concern,  
20 unless, you know -- In 2012, I have no idea what level  
21 of -- what -- what stage of the traffic analysis that  
22 they were in and what specific questions were asked  
23 because different questions, of course, elicit  
24 different answers; right?

25           So if they came and asked that -- a question



1 that, "Hey, you know what? We're going to use this  
2 particular roadway segment for, you know -- you know,  
3 WaterFix" -- or BDCP back in those days -- "traffic,  
4 and section traffic. "Do you have any concerns?"

5           It's very hard to answer that question without  
6 having a thorough analysis of how many vehicles that  
7 they are planning to use, what type of vehicles that  
8 it's going to be, what they are going to carry, and  
9 what season that they are going to carry.

10           So we need a lot of information before they  
11 could answer that.

12           And I can't tell that -- what conversation  
13 took place, and what was the level of details that the  
14 analysis entailed.

15           So, unfortunately, I could see -- I was told  
16 that there was -- there were some contacts, but I'm not  
17 privy to the detailed, you know, level of conversation  
18 that happened, which I would expect that someone would  
19 come in and have meaningful discussion with respect to  
20 that stuff, but I -- I heard no such thing happened.

21           MS. ANSLEY: Okay. Can we call up SWRCB-111,  
22 please. And I just need the cover page.

23           (Exhibit displayed on screen.)

24           MS. ANSLEY: Mr. Kokkas, are you familiar with  
25 the Mitigation Monitoring and Reporting Program for the

1 California WaterFix?

2 WITNESS KOKKAS: Yes.

3 MS. ANSLEY: Okay. And the same question to  
4 you, Mr. Balaji.

5 WITNESS BALAJI: I do.

6 MS. ANSLEY: So you are aware of the  
7 mitigation measures proposed for transportation?

8 WITNESS BALAJI: I am.

9 MS. ANSLEY: Okay. And the same question to  
10 you, Mr. Kokkas.

11 WITNESS KOKKAS: Yes.

12 MS. ANSLEY: And do you understand Mitigation  
13 Measure TRANS-2a to prohibit or limit construction --  
14 or activity on physically deficient roadways?

15 WITNESS BALAJI: I do.

16 MS. ANSLEY: And same to you, Mr. Kokkas?  
17 You --

18 WITNESS KOKKAS: Yes.

19 MS. ANSLEY: -- understand that as well?

20 And do you understand TRANS-2c to be a  
21 Mitigation Measure to potentially improve the condition  
22 of affected roadways? That would be 2c if I didn't say  
23 it clearly. Sorry.

24 Mr. Kokkas?

25 WITNESS KOKKAS: Yes, I understand what it

1 means.

2 MS. ANSLEY: And you recall that Mitigation  
3 Measure.

4 WITNESS KOKKAS: In a -- Yes, I recall the  
5 Mitigation Measure, and I understand what it means, but  
6 I have questions about it.

7 MS. ANSLEY: I understand that from your  
8 testimony.

9 The same question to you, Mr. Balaji: You are  
10 familiar --

11 WITNESS BALAJI: I do.

12 MS. ANSLEY: -- with TRANS-2c --

13 WITNESS BALAJI: Yes.

14 MS. ANSLEY: -- Mitigation Measure?

15 Mr. Kokkas, I have a series of questions I'm  
16 going to just ask you specifically.

17 Did you prepare your testimony, Mr. Kokkas?

18 WITNESS KOKKAS: Yes, I have.

19 MS. ANSLEY: Did anyone help you with the  
20 preparation of your testimony?

21 WITNESS KOKKAS: Yes, I have. Yes.

22 MS. ANSLEY: Who was that?

23 WITNESS KOKKAS: Several engineers that were  
24 familiar with the area. I'm also familiar with the  
25 area. I'm sorry. They looked up information. We had

1 to do a lot of work in very brief time.

2 MS. ANSLEY: And these were members of your  
3 staff.

4 WITNESS KOKKAS: Members of my staff.

5 MS. ANSLEY: Can we call up YOLO-4.

6 (Exhibit displayed on screen.)

7 MS. ANSLEY: Did you prepare the PowerPoint  
8 presentation labeled as YOLO-4?

9 WITNESS KOKKAS: I prepared that in  
10 conjunction with -- in collaboration with County  
11 Counsel.

12 MS. ANSLEY: Were you responsible for the --  
13 what I'm going to call -- But if it's unclear we can  
14 work on this.

15 Are you responsible for the annotations on  
16 these figures?

17 MR. POGLEDICH: I'll object: That's vague and  
18 ambiguous.

19 MS. ANSLEY: Okay.

20 MR. POGLEDICH: You can answer if you  
21 understand what she means by annotations.

22 WITNESS KOKKAS: No, I don't.

23 MS. ANSLEY: You don't? That's fine. I was  
24 just -- We can do it.

25 Can we go to Slide 3, I believe.

1 (Exhibit displayed on screen.)

2 MS. ANSLEY: Yes.

3 So I believe that I recognize the base map.

4 What I'm asking is, did you add the  
5 annotations identifying specific roadway segments?

6 WITNESS KOKKAS: Yes. One of the staff people  
7 did.

8 MS. ANSLEY: And are these roadway segments  
9 that you identified for someone to annotate?

10 WITNESS KOKKAS: Yes.

11 MS. ANSLEY: Okay. And so this figure was  
12 prepared at your direction.

13 WITNESS KOKKAS: Yes.

14 MS. ANSLEY: Okay.

15 Can we switch to YOLO-1, please.

16 (Exhibit displayed on screen.)

17 MS. ANSLEY: If we could go to Page 12.

18 (Exhibit displayed on screen.)

19 MS. ANSLEY: Do you have -- Do you have a copy  
20 of your testimony in front of you, Mr. --

21 WITNESS KOKKAS: Yes --

22 MS. ANSLEY: -- Kokkas?

23 WITNESS KOKKAS: -- I do.

24 MS. ANSLEY: It looks like both screens are  
25 working. Let me know if you ever need something

1 displayed differently on the screen.

2 Can we look at Lines 8 through 10.

3 (Exhibit displayed on screen.)

4 MS. ANSLEY: Do you see that, Mr. Kokkas?

5 WITNESS KOKKAS: Yes, I do.

6 MS. ANSLEY: In that statement, you say that  
7 you (reading):

8 ". . . recognize that the . . . volume  
9 estimates are conservative and likely  
10 overestimate actual traffic volumes."

11 Do you see that?

12 WITNESS KOKKAS: Yes, I do.

13 MS. ANSLEY: Is it your understanding that the  
14 FEIR Traffic Impact Analysis utilized what we called in  
15 the FEIR a worst-case scenario?

16 WITNESS KOKKAS: Yes.

17 MS. ANSLEY: And is it your understanding  
18 that's because all construction truck and employee  
19 trips were assigned to the roadway network for each  
20 analysis hour?

21 WITNESS KOKKAS: I don't know what happened,  
22 but I understand that they're conservative.

23 MS. ANSLEY: And, so, do you understand --  
24 What is your understanding of why it was conservative?

25 WITNESS KOKKAS: Because at this time, you

1 don't know the exact number of trips so you estimate a  
2 little more conservative to cover all bases if things  
3 change.

4 MS. ANSLEY: But you -- As you sit here today,  
5 you don't recall how the trips were calculated or --

6 WITNESS KOKKAS: I don't know --

7 MS. ANSLEY: -- analyzed.

8 WITNESS KOKKAS: -- how the trips were  
9 calculated or analyzed by the person who prepared the  
10 EIR.

11 I don't know of their method or analysis  
12 because we did not prepare that document. It was  
13 prepared by someone else.

14 MS. ANSLEY: Do you recall that Chapter 19 had  
15 a Method of Analysis section?

16 WITNESS KOKKAS: Yes, it did have a Method of  
17 Analysis. But, again, it was prepared by someone else  
18 so I can't vouch for their work.

19 MS. ANSLEY: Oh, I understand what you're  
20 saying, sir.

21 Yes. I'm not asking you to vouch exactly what  
22 they did. I'm asking for your understanding of what  
23 they did based on your review of Chapter 19.

24 WITNESS KOKKAS: Yes.

25 MS. ANSLEY: Okay. And, so, based on your

1 review of Chapter 19, you don't have an understanding  
2 of how construction truck and employee trips were --  
3 from -- to and from the construction sites were  
4 assigned in the analysis.

5 WITNESS KOKKAS: I don't know how they're  
6 assigned. They -- They used that themselves.

7 MR. POGLEDICH: So I believe the document  
8 speaks for itself and Footnote 8 contains --

9 CO-HEARING OFFICER DODUC: I don't believe  
10 your microphone is on, Mr. -- Is it Pogledich?

11 MR. POGLEDICH: Yes. Thank you. Perfect.

12 I was saying that the document speaks for  
13 itself and Footnote 8 directly responds to or addresses  
14 the question being asked of Mr. Kokkas.

15 CO-HEARING OFFICER DODUC: So was that an  
16 objection?

17 MR. POGLEDICH: Yes.

18 CO-HEARING OFFICER DODUC: And the objection  
19 was?

20 MR. POGLEDICH: Document speaks for itself.

21 CO-HEARING OFFICER DODUC: I believe she's  
22 trying to ascertain his understanding of the document.

23 MR. POGLEDICH: His understanding is stated in  
24 Footnote 8, which is the point of my objection that the  
25 document speaks for itself.



1 The document's --

2 CO-HEARING OFFICER DODUC: Sorry.

3 MR. POGLEDICH: -- in his testimony.

4 CO-HEARING OFFICER DODUC: Hold on.

5 Footnote 8 of his testimony?

6 MS. ANSLEY: Page 12, his --

7 MR. POGLEDICH: Correct.

8 MS. ANSLEY: -- amount.

9 CO-HEARING OFFICER DODUC: Got it. Okay.

10 (Exhibit displayed on screen.)

11 CO-HEARING OFFICER DODUC: Miss Ansley.

12 MS. ANSLEY: Yes. I would agree the document  
13 speaks for itself, but I am still entitled to ask the  
14 basis for his conclusion.

15 I do see his footnote for -- stating that the  
16 "volume estimates are conservative and likely  
17 overestimated (sic) . . ."

18 And I was aware of that footnote and I was  
19 just trying to establish that there was nothing else he  
20 was relying on, like what was the basis of his -- And I  
21 have asked that question --

22 CO-HEARING OFFICER DODUC: You've asked that.

23 MS. ANSLEY: -- and I'm done with it.

24 CO-HEARING OFFICER DODUC: Objection  
25 overruled.

1 MS. ANSLEY: Mr. Kokkas, I believe you  
2 testified that, in your opinion, Level of Service (LOS)  
3 thresholds are of limited value in the context of small  
4 rural roads?

5 WITNESS KOKKAS: That's depends. If it's a  
6 small rural road or it's in the middle of a forest area  
7 without any driveways from fields with farm equipment  
8 would be different than something that's in the -- the  
9 valley where we have all types of farm equipment coming  
10 in and out of the road of the fields using those roads.

11 So, you have two different types of roads.  
12 So, one has many farm driveways with farm vehicles  
13 coming in and out, and the other is a small rural road  
14 that does not have any driveways in a nice forested  
15 area or wherever that may be.

16 So, yeah, there is difference.

17 MS. ANSLEY: Does -- Does Yolo County utilize  
18 the concept of Level of Service?

19 WITNESS KOKKAS: Yes, we are.

20 MS. ANSLEY: And you have local standards that  
21 are based on Level of Service.

22 WITNESS KOKKAS: Yes, we are.

23 MS. ANSLEY: Do you have something other than  
24 Level of Service as the established threshold for what  
25 you characterize as small rural roads?

1 WITNESS KOKKAS: Not -- Not yet.

2 MS. ANSLEY: You also have PCI ratings for  
3 pavement conditions; is that correct?

4 WITNESS KOKKAS: Yes, we do.

5 MS. ANSLEY: Is it your understanding that  
6 this Level of Service and pavement conditions for Yolo  
7 County were utilized in the Traffic Impact Analysis?

8 WITNESS KOKKAS: Yes.

9 MS. ANSLEY: It is your understanding that  
10 that was --

11 WITNESS KOKKAS: I understand.

12 MS. ANSLEY: -- the threshold utilized.

13 WITNESS KOKKAS: Yes.

14 MS. ANSLEY: And if you like, we can call up  
15 the Yolo County Level of Service.

16 But I just want to make sure that you and I  
17 are -- that I am asking a question clearly.

18 Is it your understanding that Chapter 19,  
19 which is the Traffic Impact Analysis, used a threshold  
20 of Yolo County's established Levels of Service and  
21 pavement conditions?

22 WITNESS KOKKAS: Yes.

23 MS. ANSLEY: Okay. Thank you.

24 I'm going to ask a very short similar line of  
25 questioning for Mr. Balaji and then I'm done with this

1 panel.

2 Mr. Balaji, did you prepare your testimony?

3 WITNESS BALAJI: Yes, similar to Mr. -- Sorry.

4 Similar to Mr. Kokkas, yes, in collaboration

5 with a team of my engineers and staff, yes.

6 MS. ANSLEY: Did anyone else assist you in the

7 preparation of your testimony besides your staff?

8 WITNESS BALAJI: Of course, my counsel.

9 MS. ANSLEY: And in what way did your counsel

10 help with the preparation of your testimony?

11 WITNESS BALAJI: Just for completeness.

12 MS. ANSLEY: Anything else?

13 WITNESS BALAJI: Not that I recall.

14 MS. ANSLEY: Can we call up SJC-324-Errata.

15 Excuse me. It's an errata.

16 (Exhibit displayed on screen.)

17 MS. ANSLEY: And we can zoom out.

18 Oh, the screens aren't on.

19 (Exhibit displayed on screen.)

20 MS. ANSLEY: Thanks.

21 And can we zoom out so that the witness can

22 see the entire figure?

23 (Exhibit displayed on screen.)

24 MS. ANSLEY: And this is the map referenced in

25 your testimony; is that correct, Mr. Balaji?

1 WITNESS BALAJI: Correct.

2 MS. ANSLEY: Did you prepare this figure?

3 WITNESS BALAJI: Again, when you say like I  
4 prepared that figure, I directed the preparation of the  
5 figure. I didn't prepare it myself.

6 MS. ANSLEY: No, I understand that. That's --

7 WITNESS BALAJI: Yeah.

8 MS. ANSLEY: -- a -- That's the answer I was  
9 looking for.

10 And at your direction, were these roadways  
11 specifically identified?

12 WITNESS BALAJI: Which --

13 MS. ANSLEY: The roadways -- The roadways that  
14 you annotate on this in colors are -- I guess they're  
15 annotated in pink and yellow.

16 WITNESS BALAJI: That's correct. The pink  
17 roadways are roadways that are identified already in  
18 the EIR.

19 MS. ANSLEY: You just anticipated my next  
20 question. Okay.

21 (Timer rings.)

22 MS. ANSLEY: I think I need five to 10 more  
23 minutes.

24 CO-HEARING OFFICER DODUC: Let's give her  
25 five. We'll go first with that.

1 MS. ANSLEY: Yeah. I think I'm good.

2 And is it your understanding that the -- the  
3 WaterFix Traffic Impact Analysis showed 114 roadway  
4 segments as being potentially impacted; is that  
5 correct?

6 WITNESS BALAJI: That's what I read.

7 MS. ANSLEY: But under Alt 4A in Chapter 19,  
8 only 38 roadway segments were identified as exceeding  
9 the Level of Service thresholds; is that correct?

10 WITNESS BALAJI: I don't --

11 MS. ANSLEY: Under the proposed Project.

12 WITNESS BALAJI: -- recall, but I will take  
13 your word for it.

14 MS. ANSLEY: Okay. On Page 8 of your  
15 testimony -- And we can call that up if you like. It's  
16 SJC-323.

17 (Exhibit displayed on screen.)

18 MS. ANSLEY: On Lines 15 to 17.

19 (Exhibit displayed on screen.)

20 MS. ANSLEY: Do you see Lines 15 to 17 of your  
21 testimony --

22 WITNESS BALAJI: Yes, I do.

23 MS. ANSLEY: -- where you state that  
24 (reading):

25 ". . . the Analysis erroneously assumes

1           the trips will be relatively consistent  
2           throughout the timeframe of 6AM to 7PM."

3           WITNESS BALAJI: I see that.

4           MS. ANSLEY: Isn't it true that the assumption  
5 wasn't necessarily that the traffic level was  
6 consistent but that all construction truck and employee  
7 traffic was assigned to each of the different hours, 13  
8 hours, to provide a worst-case scenario?

9           WITNESS BALAJI: I'm sorry. Could you please  
10 restate that --

11          MS. ANSLEY: Yeah --

12          WITNESS BALAJI: -- question.

13          MS. ANSLEY: -- I think that needs to be done.

14          You . . . You conclude that the Analysis  
15 erroneously assumed that trips would be relatively  
16 consistent throughout the timeframe of 6 a.m. to  
17 7 p.m.; correct?

18          WITNESS BALAJI: That's correct.

19          MS. ANSLEY: Wasn't this assumption done to  
20 provide a worst-case most-conservative scenario.

21          WITNESS BALAJI: I would say that.

22          MS. ANSLEY: And then my last two questions.

23          Similar to what I asked Mr. Kokkas,  
24 San Joaquin County also has established Level of  
25 Service and pavement thresholds for use in its traffic

1 analyses; right? Correct?

2 WITNESS BALAJI: Before I go there, can I go  
3 back to your previous question?

4 MS. ANSLEY: I think my previous question was  
5 asked and answered.

6 WITNESS BALAJI: Okay.

7 MS. ANSLEY: But your attorney can certainly  
8 follow up on redirect if you feel like more explanation  
9 is necessary.

10 WITNESS BALAJI: All right. Thank you.

11 MS. ANSLEY: I'm running down to two minutes.

12 WITNESS BALAJI: I see that. I see that. I'm  
13 sorry.

14 MS. ANSLEY: Does San Joaquin County have  
15 established Level of Service and pavement thresholds  
16 for use in its traffic analyses?

17 WITNESS BALAJI: We do.

18 MS. ANSLEY: And -- And I can call it up if  
19 you need to, but is it your understanding that  
20 Chapter 19 also used the Level of Service and pavement  
21 condition thresholds established by the County of  
22 San Joaquin for its impact analysis?

23 WITNESS BALAJI: Yes, it does.

24 MS. ANSLEY: Okay. I have no further  
25 questions.



1 Thank you.

2 CO-HEARING OFFICER DODUC: Thank you,  
3 Miss Ansley.

4 MS. ANSLEY: And thank you for the extra time.

5 CO-HEARING OFFICER DODUC: Mr. Herrick.

6 We will take our break after Mr. Herrick  
7 concludes his cross-examination.

8 MR. HERRICK: Thank you.

9 John Herrick for the South Delta parties.

10 I have a few questions. Most of them are for  
11 Mr. Balaji, and deal with the topics he covered, as in  
12 traffic impacts, construction impacts, and those things  
13 won't take very long.

14 CROSS-EXAMINATION BY

15 MR. HERRICK: Mr. Balaji, I'd like to start at  
16 sort of a -- a higher level.

17 And you said that you're familiar with the --  
18 the Final EIR/EIS and the mitigation plan and all those  
19 documents associated with your analysis; correct?

20 WITNESS BALAJI: That's correct.

21 MR. HERRICK: And so you're familiar with the  
22 roadways proposed for use by the -- the traffic  
23 associated with the WaterFix Project; is that correct?

24 WITNESS BALAJI: That's correct.

25 MR. HERRICK: So let's go through some of

1 those.

2           You're -- You're familiar with Highway 4; is  
3 that correct?

4           WITNESS BALAJI: That's right.

5           MR. HERRICK: And does Highway 4 follow levees  
6 for part -- part of its route from Stockton to, say,  
7 you know, Discovery Bay?

8           WITNESS BALAJI: That's correct.

9           MR. HERRICK: And those roadways are very  
10 narrow, aren't they, along the levees?

11           WITNESS BALAJI: Very narrow with limited  
12 shoulders or no shoulders at some occasions.

13           MR. HERRICK: And there are long stretches  
14 that there's no place to pull over if you need to in an  
15 emergency; is that correct?

16           WITNESS BALAJI: That's correct.

17           MR. HERRICK: And you're familiar with Bacon  
18 Island Road?

19           WITNESS BALAJI: Yes, sir.

20           MR. HERRICK: And that's -- I'm please use  
21 your terms, but that's a not very good road to the  
22 middle of Bacon Island; is it?

23           WITNESS BALAJI: It is a road that serves its  
24 purpose, basically. Yes, it is not a good road at all.  
25 Windy, narrow, very tight curves, and structural

1 conditions are, like, bumpy. Yes, it's not a very good  
2 road.

3 MR. HERRICK: And you're familiar with  
4 Highway 12; correct?

5 WITNESS BALAJI: Correct.

6 MR. HERRICK: And Highway 12 also, along part  
7 of its route, follows levees; is that correct?

8 WITNESS BALAJI: Yes.

9 MR. HERRICK: And it goes through the center  
10 of some of the islands, too; is that correct?

11 WITNESS BALAJI: Correct.

12 MR. KEELING: And that is also narrow, in some  
13 places without hardly any -- no shoulders, is that  
14 correct?

15 WITNESS BALAJI: That's correct.

16 MR. HERRICK: Isn't it true that Highway 12 is  
17 known locally as Death Alley from all of the fatalities  
18 from traffic accidents?

19 WITNESS BALAJI: Having worked for the State  
20 Department of Transportation, I hesitantly say yes.

21 MR. HERRICK: And I think both Highway 4 and  
22 Highway 12 require, you know, the headlight-mandatory  
23 area because of those problems; correct?

24 WITNESS BALAJI: Correct.

25 MR. HERRICK: And is it your understanding

1 that the WaterFix Project will -- will add thousands of  
2 vehicle traffic to those roads we covered, and others?

3 WITNESS BALAJI: That's correct.

4 MR. HERRICK: And at least some of that  
5 traffic are heavy trucks carrying the muck we've heard  
6 about from the construction; is that correct?

7 WITNESS BALAJI: That's correct.

8 MR. HERRICK: Now, again, this is sort of a  
9 broad view.

10 In your opinion, is -- is there a -- is there  
11 a worst area that you can think of to have this size of  
12 a project add thousands of truck hours over 10 to 14  
13 years on these sort of roads?

14 WITNESS BALAJI: No construction project is  
15 easy, but given a -- bigger magnitude construction  
16 projects are not easy.

17 And, especially, a bigger magnitude of  
18 construction projects so focused in a compact, narrow  
19 geographical area is not even easier.

20 And given this particular Project, where there  
21 is going to be focused traffic coming out of these  
22 specific segments makes it really a mess.

23 MR. HERRICK: And I'm not trying to get you to  
24 speculate, but wouldn't it be reasonable to conclude  
25 that, given the magnitude of this Project, the number

1 of heavy-equipment hours on these particular roads, we  
2 will certainly have increased deaths on these highways;  
3 correct?

4 This is just your opinion. You can disagree.  
5 I don't -- I'm just speculating.

6 WITNESS BALAJI: Again, I hate to say "yes."

7 MR. HERRICK: But are you saying "yes"?

8 WITNESS BALAJI: I am.

9 MR. HERRICK: And -- And just to bring this  
10 home, I mean, we've all traveled down Highway 160;  
11 correct?

12 WITNESS BALAJI: Correct.

13 MR. HERRICK: And we see, that if the driver  
14 who's coming toward you at night, or even during the  
15 day, you know, is not paying attention, just a slight  
16 movement of his car or her car in the wrong direction,  
17 and it -- it -- it creates a life-and-death situation;  
18 does it not?

19 WITNESS BALAJI: Right. Mr. Herrick, I'll  
20 tell you this:

21 The situation on Highway 4 and Highway 12  
22 already are perilous.

23 And you add more traffic on that roadway,  
24 especially heavy vehicles like construction vehicles,  
25 and if you cause even a slight delay to the delays that

1 we already have on those narrow two-lane roadways,  
2 typically the drivers tend to get impatient, they tend  
3 to make wrong moves, they tend to do things that are  
4 illogical, and cause accidents in there.

5           So, these roadway segments are not very  
6 conducive to carry these types of sustained heavy  
7 vehicles that we anticipate from this WaterFix  
8 Construction Project.

9           MR. HERRICK: And do you think the -- as you  
10 referred to it -- the analysis, which is all the  
11 documents you've reviewed, do you think that adequately  
12 covers the potential impacts from this Project on both  
13 the roads and the safety associated with traffic on the  
14 roads?

15           WITNESS BALAJI: I'm going to use a technical  
16 term called Garbage In/Garbage Out.

17           Those computer programs, you take certain  
18 numbers, put those things in, and it spits out what you  
19 may call them as Level of Service.

20           Only the people who are very familiar with the  
21 physical geometry of the area, accident history through  
22 these locations, people who have performed maintenance  
23 and operation in those specific areas, they truly  
24 understand what these roadways can carry and what those  
25 issues that you could foresee when you mix these types

1 of heavy construction traffic for a sustained period of  
2 time, along with the regular traffic that you normally  
3 see on the roadway, which is ever growing as well.

4           So, you know, I can't say that, just with  
5 that, you know, analysis, if you just throw me a chart  
6 and say, "Hey, you know, we assumed a worst-case  
7 scenario so the threshold is far beyond the threshold  
8 for the Level of Service," in my opinion, that by  
9 itself -- Yes, that is one of the factors that I would  
10 consider, but by itself would not justify saying that  
11 these operations are going to be safer and it would  
12 be -- it would work. I -- I won't agree with that.

13           MR. HERRICK: In your opinion, could you  
14 develop later in time, I guess, as it's now -- some  
15 mitigation plan that would -- that would -- that would  
16 take away this additional risk if you're still going to  
17 have those truck hours on those roads?

18           WITNESS BALAJI: You mentioned that you are  
19 familiar with Highway 12 and Highway 4 with little or  
20 no shoulders.

21           And you saw pictures of some of these  
22 similar-looking roadways that are right next to a river  
23 or, like, a water body with little or no room to widen.

24           And what type of mitigation can we do on such  
25 narrow lanes?

1           Yes, you know, there is -- if you -- if you  
2 pour in billions of dollars, you know, to fix -- to  
3 widen them, to provide for, like, safe passage, or  
4 pullover, that type of stuff, it's possible.

5           But is it feasible? It's very difficult to do  
6 those kind of mitigation.

7           MR. HERRICK: Yes. Would you agree that,  
8 absent, you know, replacing those roads with something  
9 more stable, wider, perhaps multilane, absent that, if  
10 you still plan on having trucks go down those roads,  
11 you will still have the safety and -- and damage  
12 problems that you've identified; correct?

13          WITNESS BALAJI: That's correct.

14          MR. HERRICK: Okay. Now, you're familiar with  
15 large projects and dealing with -- dealing with  
16 roadways and everything, through your experience?

17          WITNESS BALAJI: I have.

18          MR. HERRICK: Is it typical for truckers to  
19 try to find alternate routes when the routes that  
20 they're on are clogged up or slow?

21          WITNESS BALAJI: I tell you, these truckers  
22 carry waste these days. So, you -- no matter what you  
23 tell them, this is the road that you can use and these  
24 are segments that you cannot use, we often have  
25 problems with these heavy vehicles going to roadways



1 that they are not designed for.

2           And to answer your question: Correct. The  
3 drivers pick the road that is of least, you know,  
4 obstruction for them where they can -- they think they  
5 can get through faster to their destination.

6           MR. HERRICK: Mr. Balaji, if truckers choose  
7 to sometimes get off of the routes we've identified  
8 here, will they be able to find roads that are in  
9 better condition or less safe to use?

10           WITNESS BALAJI: Well, there is -- there are  
11 no better condition roadways, alternatives, that exist  
12 for them, because these roads are not designed for  
13 these types of vehicles. I mean, these are roads that  
14 they use for regular maintenance and inspection of  
15 levees and for harvest purposes, for, you know,  
16 periodic spurts of harvesting vehicles and, you know,  
17 farm equipments going in and out.

18           So, to answer your question, they can find  
19 alternative road -- alternate roads but that is not  
20 going to be a pleasant solution for the people that  
21 already use that roadways, and it won't be conducive to  
22 the physical characteristics of the roadway also.

23           So, you -- you -- they will find -- look for  
24 other areas once, you know, these roads get beaten up.  
25 Once they find out that these roads are narrow turns,

1 no shoulders, difficult to maneuver, they're going to  
2 look for alternative roadways, but it is going to cause  
3 a big mess at the end.

4 MR. HERRICK: To your knowledge, does the  
5 Final EIR/EIS cover that contingency of truckers  
6 seeking other routes when -- when desirable or  
7 necessary?

8 WITNESS BALAJI: You know, in the  
9 mitigation -- MMRP, mitigation measures on the  
10 reporting program, it says -- it uses the word "more  
11 often," "to the extent feasible," "to the extent  
12 feasible we'll do this," "to the extent feasible we'll  
13 do that." And that itself raises a red flag for me.

14 It does speak to that, but it doesn't identify  
15 with -- concretely how they're going to solve this  
16 problem.

17 And if the extent is not feasible, then what  
18 would be the solution? We don't know that.

19 So, in my opinion, those things should have  
20 been analyzed with much more detail and with care.

21 MR. HERRICK: And that leads to my next line  
22 of questioning, which is the damage to roadways.

23 So let's just hypothetically assume that one  
24 of the roadways we've covered, which is supposed to  
25 have increased traffic due to the WaterFix, it gets

1 damaged from those trucks -- truck routes -- truck  
2 hours.

3           Now, what's the response of all the parties to  
4 the damage to the road? Whether or not somebody tries  
5 to fix it right away, doesn't that mean that the  
6 WaterFix traffic will then necessarily have to be  
7 routed to other routes -- routed to other roads?

8           WITNESS BALAJI: Absolutely.

9           So, you saw some of the slides that Mr. Kokkas  
10 put out, how during, you know, construction fix that  
11 cause more damage, or when you go to fix those  
12 roadways, obviously those roads have to be shut down or  
13 rerouted.

14           So that's going to take the construction  
15 traffic to alternative routes, which are going to get  
16 the beatings. And those alternative road -- routes may  
17 not have been already analyzed for physical condition  
18 or the operational characteristics.

19           So, yes, there could be those domino effects.

20           And I want to also point out, since you asked  
21 about, like, the -- mitigating those types of physical  
22 damages.

23           I'm not sure who will pay for that. And I'm  
24 not even sure -- I read that there -- there are  
25 agreements in place where which party is going to be

1 responsible for fixing such damages.

2 MR. HERRICK: Well, let's -- let's say  
3 something catastrophic happens on Highway 4 and rush  
4 hour's starting. You've got literally thousands of  
5 cars backed up in both directions.

6 How would your various departments in  
7 San Joaquin County fix that road?

8 WITNESS BALAJI: That's a very difficult task.

9 MR. HERRICK: Let's move on, then.

10 Excuse me for having gone so far ahead of my  
11 own notes.

12 If we could pull up San Joaquin County, I  
13 think it's errata, but 324, the map, please.

14 (Exhibit displayed on screen.)

15 MR. HERRICK: Mr. Balaji, you reference this  
16 map in your testimony and it's now on the screen.

17 Do you recall that?

18 WITNESS BALAJI: Right.

19 MR. HERRICK: And one of your questions deals  
20 with the Eight Mile Road west of the City of Stockton;  
21 is that correct?

22 WITNESS BALAJI: Right.

23 MR. HERRICK: If we could zoom in to Eight  
24 Mile Road, if you can find that.

25 (Exhibit displayed on screen.)

1 MR. HERRICK: There you go.

2 (Exhibit displayed on screen.)

3 MR. HERRICK: Oop. Pan -- Pan the screen up.

4 (Exhibit displayed on screen.)

5 WITNESS BALAJI: Down.

6 MR. HERRICK: One of those two directions,  
7 please.

8 (Exhibit displayed on screen.)

9 WITNESS BALAJI: There we go.

10 MR. HERRICK: There we go. Right there.

11 Now, I'm not familiar with this, so excuse me  
12 if I make a mistake here.

13 But you've identified some darker color in the  
14 bluer shade of the spectrum of I-5 as -- as --

15 WITNESS BALAJI: The pink?

16 MR. HERRICK: Whatever that may be.

17 The pink as identified as a segment analyzed  
18 under the FEIR/EIS and/or the mitigation, whatever it  
19 is.

20 WITNESS BALAJI: That's correct.

21 MR. HERRICK: And the -- Is that green or  
22 yellow, the other part?

23 CO-HEARING OFFICER DODUC: Yellow.

24 WITNESS BALAJI: That -- It's yellow.

25 MR. HERRICK: Don't laugh at me.

1           Sorry.  It's green?

2           WITNESS BALAJI:  I was told it is yellow  
3 because I'm on your same side actually when it comes to  
4 colors.

5           MR. HERRICK:  So -- And, again, I'm just  
6 trying to find what you know.  Because I understood you  
7 to say, why would the -- the darker color end at Rio  
8 Blanco Road?

9           WITNESS BALAJI:  Rio Blanco, yes.

10          MR. HERRICK:  Right.

11          So, to your knowledge, is the -- does the  
12 WaterFix Project propose trucks going on Eight Mile  
13 Road to Rio Blanco and then stopping and not doing  
14 anything?  Or --

15          WITNESS BALAJI:  I --

16          MR. HERRICK:  Or --

17          WITNESS BALAJI:  -- could not --

18          MR. HERRICK:  -- other traffic.

19          WITNESS BALAJI:  I couldn't ascertain why this  
20 road segment was analyzed only up to Rio Blanco Road.  
21 I could not speculate to see, was it an oversight or,  
22 you know, there was some other idea?

23          And if it is; right?  If they were going to  
24 use Rio Blanco Road, that road should have been  
25 analyzed and it wasn't.  It wasn't -- It wasn't shown

1 on the EIR, so --

2 MR. HERRICK: Rio Blanco's worse than Eight  
3 Mile; is it not?

4 WITNESS BALAJI: Oh, yes. Yes, it is. Yes.

5 MR. HERRICK: Okay. And I guess it's possible  
6 that, if you go to the end of the pink or blue, that  
7 maybe that's a muck pile or something, I guess; right?

8 But as far as we know, there's no reason for  
9 Eight Mile Road analysis to stop there; is that  
10 correct?

11 WITNESS BALAJI: That's correct, yeah. That  
12 was my question earlier, yes.

13 MR. HERRICK: Okay. I didn't mean to beat  
14 that to death. I just didn't understand it myself.

15 You -- Mr. Balaji, you covered other -- other  
16 factors that weren't analyzed on Page 10 of your  
17 testimony. And you list things such as fog, limited  
18 shoulders, time of the year, turn areas.

19 Do you recall that?

20 WITNESS BALAJI: Yes, I do.

21 MR. HERRICK: And -- And, again, without  
22 wasting the Hearing Officers' time.

23 The -- The issue of fog during sometimes years  
24 is extremely important; is it not?

25 WITNESS BALAJI: Absolutely, yes.

1 MR. HERRICK: And whether or not the WaterFix  
2 adjusts for that, absent some treatment of that, is it  
3 your opinion that the analysis of traffic impacts is  
4 not complete?

5 WITNESS BALAJI: Yes.

6 Again -- right? -- you know, those are not  
7 things that you would put it in to a computer and it  
8 just spits out, you know, what is the Level of Service.  
9 So those are things that needs to be given careful  
10 consideration apart from those Level of Service  
11 Analysis that was performed.

12 MR. HERRICK: Now, Mr. Balaji, you also  
13 discuss the -- the project to replace the Walnut Grove  
14 Bridge.

15 Do you recall that?

16 WITNESS BALAJI: That's correct, yes.

17 MR. HERRICK: And that will entail in itself  
18 some additional truck traffic, some work on the water,  
19 so probably barges and things like that; correct.

20 WITNESS BALAJI: That's correct.

21 MR. HERRICK: And your project has a budget  
22 and a timeframe and you've -- your departments have  
23 estimated how you can get that done in a certain amount  
24 of time for a certain amount of money; correct.

25 WITNESS BALAJI: It has a limited time window



1 that we need to comply with, yes.

2 MR. HERRICK: So, if -- if your efforts are  
3 delayed by additional traffic, or additional road  
4 damage, or additional barge traffic, or additional  
5 bridge openings in other areas, what would that do to  
6 your timeframe to accomplish the -- the bridge project?

7 WITNESS BALAJI: I don't even want to think  
8 about that stuff, actually.

9 It is going to be a big, big problem, because  
10 that's a key east-west road, and it is on the county  
11 line and we share that road between Sacramento County  
12 and San Joaquin County.

13 And, as I mentioned before, that's a bridge  
14 that is -- that's a -- a swing bridge. It opens when  
15 the, you know, vessels pass through.

16 So not only the surface traffic will be  
17 impacted by it if we don't finish that project on time,  
18 but also marine traffic that passes through are going  
19 to be impacted.

20 And, also, we have -- we are using Federal  
21 dollars for that -- the replacement of that Project.  
22 If it causes any delay, then it's going to create a lot  
23 of bureaucracy that we wish that it doesn't happen.

24 MR. HERRICK: Well, and a delay necessarily  
25 means additional cost; does it not?

1 WITNESS BALAJI: It will, yes. In  
2 construction, you know, time is money.

3 MR. HERRICK: And do you -- Have you budgeted,  
4 you know, extra money in case WaterFix delays you a  
5 year or two or three?

6 WITNESS BALAJI: We did not include that type  
7 of analysis when we estimated the cost of the project.

8 MR. HERRICK: Has the -- Has anybody  
9 representing the WaterFix process, I'll say, contacted  
10 you about this issue and how it might be resolved?

11 WITNESS BALAJI: No.

12 MR. HERRICK: Now, let's move on to the  
13 impacts to Reclamation District activities. And I'll  
14 just --

15 (Timer rings.)

16 MR. HERRICK: I'm sorry.

17 Maybe -- Maybe three minutes or something, you  
18 know.

19 CO-HEARING OFFICER DODUC: All right.

20 MR. HERRICK: Let's just make a hypothetical  
21 where there is some levee issue that needs addressing.  
22 And it doesn't have to be a flood time issue but it  
23 could be at any time a -- you know, there's a -- a  
24 crack in a levee or a washout or something.

25 Is it your understanding, to -- to repair such

1 levee concerns, it requires immediate action and  
2 normally it takes heavy equipment getting there and  
3 trucks perhaps with dirt and rock?

4           WITNESS BALAJI: These are the -- The answer  
5 is yes. These are the type of things that I, you know,  
6 think that a computer program just using Level of  
7 Service and average annual daily traffic would address.

8           Like, as you mentioned, this is not a  
9 construction vehicle, you know, put a pothole on a  
10 piece of roadway. Yes, of course our -- our  
11 maintenance folks are very diligent. They go and fix  
12 it right away.

13           But when you have a problem of a seepage or a  
14 boil in a levee, there is no time for you to just sit  
15 around and watch it; right? You need to move on  
16 immediately.

17           And every, you know, minute, actually -- I'm  
18 not exaggerating when I say this thing. Every minute  
19 you delay, because there is -- Those roadways, those  
20 embankments are subject to extreme water pressure. And  
21 if you see a boil or a seepage coming through and you  
22 don't fix it immediately and if you delay it, that's  
23 going to cause major problem and it may even lead to  
24 catastrophic failure of the levee itself.

25           MR. HERRICK: And it may be a worst-case

1 scenario, but if we have increased traffic or slow  
2 traffic and lots of WaterFix vehicles on the road at a  
3 time when a Reclamation District needs 50 trucks of  
4 rock and an excavator to get to that site, what  
5 possible mitigation could be done to clear the road for  
6 that effort?

7 WITNESS BALAJI: Nothing that I could think  
8 of.

9 MR. HERRICK: We don't have enough  
10 helicopters; do we?

11 WITNESS BALAJI: We don't.

12 MR. HERRICK: Lastly, I'd just like to, as an  
13 explanation:

14 You talked about, and Mr. Kokkas too, about  
15 the delay in -- in produce being delivered to  
16 processing. And I just -- Because that's sort of a  
17 general thing.

18 Is it your understanding that grapes nowadays  
19 are harvested due to sugar content after some sort of  
20 measurement in the field?

21 WITNESS BALAJI: I -- I would -- I would  
22 confess that, you know, I wish they taught us that  
23 thing in engineering school and the computer program we  
24 use to analyze these roadway segments.

25 And it was a rude awakening for me after I

1 took this job in San Joaquin County that it's not just  
2 the -- the sheer number of cars and peak hour traffic  
3 that impacts, you know, whatever we do on a roadway.

4 I found out that sometimes the farmers want us  
5 to, you know, limit the amount of maintenance  
6 activities we do alongside the roadway because they may  
7 want to spray the fields and they don't want to, you  
8 know, impact our people's safety.

9 And wineries, during -- especially during the  
10 harvest season, you know, they want to get their, you  
11 know, harvest to product, you know, within a certain  
12 amount of time.

13 I don't know if it's the moisture content or  
14 sweetness, whatever it is, that they would not want us  
15 to go -- you know, be doing any activities that would  
16 impact or slow down those vehicles reaching the  
17 production facilities.

18 So I wish these modern-day computers, you  
19 know, could analyze those kinds of stuff as well. But  
20 the ADT and LOS we talked about, they don't take into  
21 account that type of stuff.

22 MR. HERRICK: Yes. And you may not be able to  
23 say, but wineries don't have grapes delivered, then  
24 pile them up for weeks before they crush them. They  
25 want the grapes there fast and then they crush it right

1 away; is that correct?

2 WITNESS BALAJI: I -- That's what my  
3 understanding is.

4 MR. HERRICK: And that's why you raise the  
5 issue of it's not just a question of, oh, they might  
6 not get there on time. This is a time-sensitive  
7 operation, those things.

8 WITNESS BALAJI: That's exactly right.

9 MR. HERRICK: There's one more thing. I  
10 apologize.

11 You talked about, like, Barron Hilton  
12 fireworks and other events in the in the Delta. And,  
13 of course, those things include thousands of additional  
14 boats in areas sometimes and tens of thousands of  
15 additional cars, which would just compound any problem  
16 we just talked about; correct.

17 WITNESS BALAJI: That's correct.

18 MR. HERRICK: So, in your opinion, based upon  
19 all of your analysis and your testimony, do you  
20 conclude that the impacts to roadways and safety due to  
21 traffic of the WaterFix Project have been adequately  
22 ana -- adequately analyzed?

23 WITNESS BALAJI: That's correct.

24 MR. HERRICK: Have it -- Has it been  
25 adequately analyzed?

1           WITNESS BALAJI: They have -- They have not  
2 been adequately analyzed.

3           MR. HERRICK: In your opinion, is this Project  
4 in the public interest, given your conclusion?

5           WITNESS BALAJI: I would venture to say no.

6           MR. HERRICK: Thank you very much. I have no  
7 further questions.

8           I apologize if I went late.

9           CO-HEARING OFFICER DODUC: Thank you,  
10 Mr. Herrick.

11           At this time, do counsel need to consult with  
12 your witnesses regarding redirect?

13           MR. KEELING: Yes. I think if we had a few  
14 minutes, this might be a good time for the morning  
15 break.

16           CO-HEARING OFFICER DODUC: Then why don't we  
17 do that, and we will return at 11:30.

18           MR. KEELING: Thank you.

19           (Recess taken at 11:16 a.m.)

20           (Proceedings resumed at 11:30 a.m.):

21           CO-HEARING OFFICER DODUC: All right. Please  
22 take a seat. It is 11:30 and we are resuming.

23           Let me turn now to counsel and ask if there is  
24 any redirect of these witnesses?

25           MR. KEELING: Tom Keeling for the San Joaquin

1 County Protestants.

2 Yes, we have just a few questions. I don't  
3 anticipate more than a couple minutes, three minutes  
4 maybe.

5 MR. POGLEDICH: Same for Yolo.

6 CO-HEARING OFFICER DODUC: All right. Go  
7 ahead.

8 MR. KEELING: Mr. Baker, could we have Exhibit  
9 SJC-323, Page 8.

10 (Exhibit displayed on screen.)

11 MR. KEELING: Around Lines 15 through 18.

12 (Exhibit displayed on screen.)

13 MR. KEELING: Yes. You've got it.

14 REDIRECT EXAMINATION BY

15 MR. KEELING: Mr. Balaji, do you recall this  
16 morning being asked about -- about this section of your  
17 testimony?

18 WITNESS BALAJI: Yes.

19 MR. KEELING: Yes.

20 Had you finished your response?

21 WITNESS BALAJI: No.

22 MR. KEELING: Can you please finish it now.

23 WITNESS BALAJI: Sure. Thank you for the  
24 opportunity.

25 What I was about to say to the question was:



1           You know, just -- just be cause they --  
2 they -- the analysis -- the EIR analysis states that  
3 they used the average of this higher conservative  
4 number throughout the timeframe of 6 a.m. to 7 p.m.  
5 doesn't mean that it is really conservative. And  
6 here's the reason why:

7           You know, if -- if -- if -- if one were to  
8 look at that volumes, obviously, when people get to  
9 work and leave their work, there is going to be a  
10 higher volume of people coming in.

11           So, you know, instead of using that average,  
12 which is -- typically, it's going to be higher than a  
13 midday traffic, you know, and call it conservative, I  
14 would still think that, you know, there -- there should  
15 be consideration given to the specific time periods  
16 when the workers would, you know, arrive and leave a  
17 particular shift.

18           Or depending on any major operations that  
19 could happen, that could actually, you know, involve  
20 much more constrained traffic conditions in there.

21           If that helps.

22           MR. KEELING: Do you recall -- Do you recall  
23 this morning being asked about communications between  
24 DWR and the County of San Joaquin with respect to the  
25 BDCP, or WaterFix?

1           Do you -- Do you recall that line of  
2 questions?

3           WITNESS BALAJI: Yes. There's something that  
4 related to the 2012 correspondence, or something like  
5 that.

6           Yes, I do recall a question was asked  
7 regarding the communications between the DWR and the --  
8 and the county staff, yes.

9           MR. KEELING: Other than that line item, which  
10 indicates an e-mail in 2012, six years ago, do you have  
11 any information about such communications?

12          WITNESS BALAJI: No.

13          MR. KEELING: Do you know what questions, if  
14 any, DWR asked of the County of San Joaquin back in  
15 2012?

16          WITNESS BALAJI: No. I have no knowledge of  
17 that.

18          MR. KEELING: Do you have any knowledge as to  
19 who at DWR contacted the county?

20          WITNESS BALAJI: No. All I know is, from what  
21 was in the EIR, that there was some contacts that were  
22 made, but I don't know who was contacted.

23          MR. KEELING: So you don't know who at the  
24 county was part of that communication.

25          WITNESS BALAJI: That's correct, I don't know

1 that.

2 MR. KEELING: And you don't know what  
3 information was provided by the County of  
4 San Joaquin --

5 WITNESS BALAJI: That's --

6 MR. KEELING: -- if any.

7 WITNESS BALAJI: -- correct, I do not know.

8 MR. KEELING: To your knowledge, has there  
9 been any attempt by DWR to obtain any update to any --  
10 anything they might have obtained from the county in  
11 2012?

12 WITNESS BALAJI: No.

13 MR. KEELING: You mentioned the Walnut Grove  
14 Bridge replacement project.

15 Do you recall that testimony?

16 WITNESS BALAJI: Yes, I do.

17 MR. KEELING: How long has that been on the  
18 books, in the works?

19 WITNESS BALAJI: The -- The project got  
20 initiated about two to three years ago.

21 MR. KEELING: Has DWR contacted you about that  
22 project or about the fact that that bridge will be  
23 under construction and out of commission for -- what  
24 did you say -- three years?

25 WITNESS BALAJI: Yeah.

1           And the answer is -- The answer is no. The  
2 DWR did not contact -- You know, I have no knowledge of  
3 them contacting any of our staff or myself to inquire  
4 about any major construction projects that could be  
5 going, you know, parallel with or in conflict with the  
6 WaterFix Proposed Project.

7           MR. KEELING: Thank you, Mr. Balaji.

8           That completes my redirect.

9                           REDIRECT EXAMINATION BY

10           MR. POGLEDICH: Mr. Kokkas, do you also recall  
11 the line of questions from the attorney for DWR  
12 relating to communications between Yolo County Planning  
13 and Public Works and that agency regarding the  
14 California WaterFix construction traffic?

15           WITNESS KOKKAS: Yes, I do remember the  
16 question.

17           MR. POGLEDICH: Do you have any information as  
18 to nature of any data or other material provided by  
19 Yolo County to DWR in response to those inquiries?

20           WITNESS KOKKAS: Typically, if someone asks  
21 for PCI or Level of Service analysis or other data, we  
22 just provide it to them just like any other citizen.

23           If they had to have something specific and  
24 they want to let us know about it, I would hear about  
25 it because, most of the time -- actually, all the time

1 if there is something other than just routine  
2 information, if there's a construction project to take  
3 place by another agency within Yolo County and there  
4 are conversations among lower-level staff, it would be  
5 elevated to me.

6 I will have it in my weekly discussions and  
7 meetings with them what is going on in the county with  
8 respect to new projects, new developments. I have not  
9 heard anything, nor have I spoke to anyone about any  
10 potential issues or concerns that we may have about  
11 that construction.

12 MR. POGLEDICH: Do you know what information  
13 was provided by your staff to DWR, if any?

14 WITNESS BALAJI: PCI information and probably  
15 Level of Service, LOS.

16 MR. POGLEDICH: Okay. And that Level of  
17 Service information, was it taken from the County  
18 General Plan.

19 WITNESS KOKKAS: Usually, yes, that's where  
20 it's taken from. We do not have counts of county roads  
21 unless there's a specific reason.

22 And, in this case, I don't believe there was a  
23 specific reason to have a Level of Service analysis or  
24 traffic counts, so to speak, that is going to give us  
25 the number of vehicles and that would dictate what is

1 Level of Service.

2 MR. POGLEDICH: When the county assesses  
3 traffic and circulation impacts for a county Project,  
4 does it assess factors beyond the county-established  
5 Level of Service for a particular road?

6 WITNESS KOKKAS: Oh, by all means. Because  
7 Level of Service is only one of the metrics that we use  
8 to determine what are the effects of a particular  
9 construction project.

10 And a case in point, we have Northwest Indian  
11 Health Project is going in Western Yolo County. And at  
12 that time, we looked at the Level of Service and they  
13 determined it's not -- does not need a left-turn lane.

14 However, operational issues were brought to  
15 the Traffic Engineer's attentions and what is the  
16 history of incidence in that area. And the Traffic  
17 Engineer went and changed the report to include a  
18 left-turn lane.

19 So if you were taking the Level of Service, it  
20 would not need the left-turn lane. However, once the  
21 operational issues were brought to their attention,  
22 they revised the report to include a left-turn lane for  
23 that facility.

24 So, yes, by all means, we look at all aspects  
25 of a traffic situation other than just a Level of

1 Service, because there are more items to look at than  
2 just how many vehicles go through an area a day.

3 MR. POGLEDICH: And are those factors that you  
4 consider as within the realm of the actual operation of  
5 county roads that we discussed earlier this morning?

6 WITNESS KOKKAS: Oh, yes, by all means.  
7 Because the Level of Service, like I say, it's only one  
8 indication and it may be flawed. Especially in this  
9 case where you have slow vehicles that are wide and  
10 they take more than one lane to go through.

11 So the Level of Service analysis, you just  
12 take and throw it out of the window because it's not  
13 true and correct of what is the actual happening on  
14 that road.

15 MR. POGLEDICH: So one final question. I have  
16 to retreat to my original topic because I forgot to ask  
17 it.

18 Do you have any knowledge of inquiries from  
19 DWR since 2012 relating to county road information in  
20 connection with WaterFix construction traffic?

21 WITNESS KOKKAS: None.

22 MR. POGLEDICH: Okay. Thank you.

23 CO-HEARING OFFICER DODUC: Thank you.

24 Any recross?

25 MS. ANSLEY: I think I have one or two

1 questions.

2 Jolie-Anne Ansley for Department of Water  
3 Resources.

4 RECROSS-EXAMINATION BY

5 MS. ANSLEY: Mr. Balaji, I -- I believe you  
6 just testified that all you know about contacts with  
7 County of San Joaquin is from what you read in the  
8 FEIR.

9 Is that what you just testified?

10 WITNESS BALAJI: I just -- You know, whatever  
11 was put in on the document. And my question to the  
12 staff that, hey, you know, was there a contact made?  
13 Yes. And that's all I know of.

14 MS. ANSLEY: Okay. I just wanted to clarify  
15 that you did testify earlier that you had knowledge  
16 from staff that there were contacts --

17 WITNESS BALAJI: Oh, yes.

18 MS. ANSLEY: -- regarding the Project traffic  
19 impacts.

20 WITNESS BALAJI: Correct, yeah.

21 MS. ANSLEY: Okay. And, similarly,  
22 Mr. Kokkas, just to -- to make sure I'm clear on what  
23 you're saying.

24 Earlier, you said -- you testified in response  
25 to redirect as to what information you believe was



1 provided to the Traffic Impact Analysis for the  
2 California WaterFix.

3           And I'm unsure whether you meant information  
4 typically provided in response to inquiries or  
5 information specifically provided.

6           Do you have knowledge of what was specifically  
7 provided by the County of Yolo to any inquiries by the  
8 Department of Water Resources?

9           WITNESS KOKKAS: I mentioned, typically, if  
10 someone asks for existing information like Level of  
11 Service, PCI, so forth, they will provide to them.

12           If there is additional information about the  
13 effects of future construction projects or anything  
14 else within the roads, I would be informed of it.  
15 That's our typical method of operation.

16           I would know about it and we would be having a  
17 united response, not just the Engineer who had the  
18 request to provide information. But he'll be seeking  
19 advice from myself and other people, including our  
20 Maintenance Department -- Division, to make sure that  
21 the effects of the proposed construction, or whatever  
22 is going to go on the roads, is not going to affect our  
23 operations and maintenance of the roads.

24           MS. ANSLEY: So, my understanding of your  
25 statement is that is your understanding of what would

1 typically occur in response to such an inquiry.

2 But my question is more specific. As you sit  
3 here today, do you know what information was provided  
4 to the Department of Water Resources in response to a  
5 request for information for the Traffic Impact  
6 Analysis?

7 WITNESS KOKKAS: I don't remember exactly what  
8 was provided. I don't know.

9 MS. ANSLEY: Okay. Thank you.

10 No further questions.

11 CO-HEARING OFFICER DODUC: Thank you.

12 And thank you, Mr. Balaji and Mr. Kokkas.

13 WITNESS BALAJI: Thank you.

14 CO-HEARING OFFICER DODUC: At this point,  
15 Mr. Keeling, does this conclude the County of  
16 San Joaquin's case in chief?

17 MR. KEELING: No. We still have  
18 Mr. Del Piero --

19 CO-HEARING OFFICER DODUC: Oh.

20 MR. KEELING: -- coming up at the end.

21 CO-HEARING OFFICER DODUC: Why did I not have  
22 that?

23 MR. KEELING: And, as you will recall, I think  
24 last Friday it was, that we were having --

25 CO-HEARING OFFICER DODUC: I'm sorry. I have

1 Mr. Del Piero listed as a CSPA witness.

2 MR. KEELING: He is a County of San Joaquin  
3 witness as well.

4 CO-HEARING OFFICER DODUC: Ah. We need to  
5 correct that.

6 MR. KEELING: And --

7 CO-HEARING OFFICER DODUC: Okay. Then I will  
8 not ask you to move your exhibits into the record.

9 (Panel excused.)

10 CO-HEARING OFFICER DODUC: And I do want to  
11 clarify that we did receive your request regarding  
12 Supervisor Miller as well as her written Policy  
13 Statement, and we look forward to hearing from her  
14 first thing in the morning.

15 MR. KEELING: I appreciate that. Thank you  
16 very much.

17 CO-HEARING OFFICER DODUC: All right. Thank  
18 you.

19 And I will ask Mr. Pogledich, will you bring  
20 up your next panel of witnesses.

21 MR. POGLEDICH: Yes. Thank you.

22 CO-HEARING OFFICER DODUC: Could I have an  
23 estimate in terms of the direct for this panel, please?

24 MR. POGLEDICH: So I believe I -- I believe  
25 I've requested an hour. I think it's more likely to be

1 in the 30- to 40-minute range.

2 CO-HEARING OFFICER DODUC: Perfect.

3 And at this time, what is the anticipated  
4 cross-examination, which we will start after we take  
5 our lunch break, but I just want to get an idea.

6 Miss Ansley?

7 MS. ANSLEY: I believe I only have, at most,  
8 10 to 15 minutes, but that actually could decrease as I  
9 listen to the testimony again.

10 So, I'm reserving 10 to 15 minutes, but it  
11 could be as little as no questions, so . . .

12 CO-HEARING OFFICER DODUC: Any other cross?

13 I think what we might do, if this panel does  
14 indeed wrap up its direct within half an hour, then we  
15 will go ahead and go ahead try to do your direct (sic),  
16 Miss Ansley, since it seems relatively short. That  
17 way, these gentlemen won't have to stay and come back  
18 after our lunch break.

19 MS. ANSLEY: That would be fine.

20 And then is it . . .

21 Just as a quick housekeeping matter to make  
22 sure I have the order of proceeding correct.

23 I -- I understand there's a next very large  
24 panel for this Yolo, et al., group.

25 And then, after that, are we moving directly

1 to Sac Regional?

2 CO-HEARING OFFICER DODUC: Yes.

3 MS. ANSLEY: Okay.

4 CO-HEARING OFFICER DODUC: Well, it depends on  
5 how long the panel takes.

6 MS. ANSLEY: Correct. I just want to make  
7 sure that I'm on top of the order of things.

8 CO-HEARING OFFICER DODUC: That is the order.

9 All right.

10 MR. POGLEDICH: Should we wait for name tags  
11 or --

12 CO-HEARING OFFICER DODUC: Oh, actually, I  
13 need to swear them.

14 Please raise your right hands.

15

16 David Mark Wilson,

17 Steven Frederick Heringer III,

18 and

19 Tom Slater,

20 called as witnesses by the County of Yolo,

21 Local Agencies of the North Delta, et al.,

22 County of San Joaquin, et al. & County of

23 Sacramento, having been duly sworn, were

24 examined and testified as follows:

25 CO-HEARING OFFICER DODUC: Thank you.

1 MR. POGLEDICH: Should I begin?

2 CO-HEARING OFFICER DODUC: (Nodding head.)

3 MR. POGLEDICH: Okay.

4 DIRECT EXAMINATION BY

5 MR. POGLEDICH: Starting with Mr. Wilson,  
6 could you each please state your name for the record.

7 WITNESS WILSON: David Mark Wilson.

8 MR. POGLEDICH: Mr. Heringer.

9 WITNESS HERINGER: Steven Frederick Heringer,  
10 the Third.

11 WITNESS SLATER: Thomas Slater.

12 MR. POGLEDICH: All right. Now, Mr. Wilson,  
13 have you had a chance to review the exhibit marked as  
14 YOLO 11?

15 WITNESS WILSON: Yes, I have.

16 MR. POGLEDICH: And is that a true and correct  
17 copy of the testimony you provided in this proceeding?

18 WITNESS WILSON: It is.

19 MR. POGLEDICH: Mr. Heringer, same questions  
20 to you.

21 Have you had a chance to review Exhibit  
22 YOLO-8?

23 WITNESS HERINGER: Yes, I have.

24 MR. POGLEDICH: And is that a true and correct  
25 copy of the testimony you provided in this proceeding?

1 WITNESS HERINGER: Yes, it is.

2 MR. POGLEDICH: And, then, finally,  
3 Mr. Slater, Exhibit YOLO-9, have you had a chance to  
4 review that?

5 WITNESS SLATER: Yes.

6 MR. POGLEDICH: And is it a true and correct  
7 copy of your testimony in this proceeding?

8 WITNESS SLATER: Yes.

9 MR. POGLEDICH: Do any of you have any changes  
10 you need to make to your testimony, corrections?

11 WITNESS HERINGER: No.

12 WITNESS WILSON: None.

13 MR. POGLEDICH: Let's see.

14 Then, Mr. Slater, just to you.

15 Have you -- Mr. Slater, have you had a chance  
16 to review Exhibit YOLO-10, which is a copy of a Wine  
17 Grape Purchase Agreement?

18 WITNESS WILSON: I have.

19 MR. POGLEDICH: Is that from the files and  
20 records of your business?

21 WITNESS WILSON: It is.

22 MR. POGLEDICH: Was it obtained in the  
23 ordinary course of business?

24 WITNESS WILSON: Yes.

25 MR. POGLEDICH: And is it a true and correct

1 copy of the document from your file?

2 WITNESS WILSON: It is.

3 MR. POGLEDICH: Okay. Thank you.

4 So, starting with Mr. Heringer, could you  
5 please provide the Hearing Officers a brief overview of  
6 your family's agricultural operations in -- in the  
7 Clarksburg area.

8 WITNESS HERINGER: The Heringer family has  
9 been farming Clarksburg soils since 1968. I'm  
10 fifth-generation. The sixth-generation is now running  
11 the ranch, and the seventh generation is in the cradle.

12 We're -- We're strictly in grapes now. We  
13 do -- We grow grapes. We do contract management. And  
14 we -- we grow grapes on leased and owned ground. We do  
15 contract management, and we run a small winery in  
16 Clarksburg.

17 MR. POGLEDICH: About how many acres of wine  
18 grapes do you have planted on owned and -- and leased  
19 ground in the Clarksburg area?

20 WITNESS HERINGER: We're farming around 800  
21 acres now.

22 MR. POGLEDICH: Okay. And approximately how  
23 many wineries do you provide wine grapes to each year.

24 WITNESS HERINGER: This last year, we provided  
25 wine grapes to over 60 different wineries.



1 MR. POGLEDICH: Okay. Mr. Wilson, could you  
2 please describe your agricultural operations and  
3 history in the Clarksburg area.

4 WITNESS WILSON: Our family are newcomers.  
5 They only got there in 1922. The Heringers, they've  
6 been around, like, since the Gold Rush.

7 So, anyway, we have -- we're in our --  
8 starting our fourth generation right now.

9 We're farming -- well, it says -- Actually,  
10 it's 1750 acres of owned and leased ground. We're  
11 primarily in vineyards, 1150 acres in wine grape  
12 vineyards.

13 We have . . . about 25 employees, and we've  
14 been -- Again, our operations started in 1922.

15 What else do you want to hear?

16 MR. POGLEDICH: So just one final question on  
17 that:

18 About how many wineries do you provide wine  
19 grapes to each year?

20 WITNESS SLATER: A dozen wineries.

21 MR. POGLEDICH: A dozen wineries.

22 So, finally, Mr. Slater, could you please  
23 briefly summarize your family's history and your  
24 agricultural operations in the Clarksburg area.

25 WITNESS SLATER: Yeah. We've been -- I'm

1 third-generation. We've been around about as long as  
2 the Wilsons. The District where we're farming was  
3 formed in 1913, so in that range.

4 We currently farm 750 acres, 300 of which  
5 are -- are grapes, and we last year probably sent those  
6 grapes to predominantly two different wineries, but  
7 small blocks to two other wineries as well.

8 MR. POGLEDICH: Okay. And what other crops do  
9 you grow besides wine grapes on --

10 WITNESS SLATER: We have --

11 MR. POGLEDICH: -- an annual basis?

12 WITNESS SLATER: -- several row crops. We're  
13 still row crop farmers. We used to farm a lot more  
14 acres, and as that lease has ran out, we didn't renew.  
15 For economic reasons, it wasn't viable.

16 But corn, wheat -- We haven't raised corn in a  
17 long time, but wheat, safflower, alfalfa. Those are  
18 some of the other commodities.

19 MR. POGLEDICH: Okay. Thank you.

20 Now, Mr. Heringer, I understand that the  
21 Clarksburg region is designated an Appalachian; is that  
22 correct?

23 WITNESS HERINGER: That is correct.

24 MR. POGLEDICH: And could you explain briefly  
25 what an Appalachian is.

1           WITNESS HERINGER:  It's a specific  
2 geographical area that is -- that is proven to have  
3 different soil, land, nature, weather or water  
4 requirements that -- or not requirements --  
5 characteristics that differentiate it from regions  
6 around -- surrounding.  We've been -- Clarksburg has  
7 been an Appalachian since 1982 or '3.

8           MR. POGLEDICH:  And approximately how many  
9 acres of wine grapes are planted in the Clarksburg  
10 Appalachian?

11           WITNESS HERINGER:  There's some place in the  
12 16,000-acre range now.  It's probably a little higher  
13 than that.  Hard number to track because there's grapes  
14 growing -- going in, being developed, on a regular  
15 basis every year.

16           MR. POGLEDICH:  And unless this was covered by  
17 your original answer, did -- could you please briefly  
18 describe the geographical boundaries of the  
19 Appalachian.

20           WITNESS HERINGER:  Yes.  From West Sacramento  
21 south along the deep ship channel to Highway 12, across  
22 to Highway 5, north from Highway 5 to . . . south to --  
23 oh, the county -- the county -- Stone Lakes, I suppose.

24           MR. POGLEDICH:  Okay.  All right.  Thank you.

25           CO-HEARING OFFICER DODUC:  May I ask you to

1 stop for a second.

2 Miss Ansley?

3 MS. ANSLEY: Yes.

4 I am making objection to beyond the scope of  
5 direct, but it's also more as a caution. I do not want  
6 to slow the flow of this too much.

7 As an example, I note that the -- a number of  
8 the numbers the witnesses have cited are not exactly  
9 what's in their testimony. I am not going to move to  
10 strike anything.

11 For example, he just said 16,000 acres are in  
12 the Clarksburg Appalachian. He provided extra  
13 testimony about what is an Appalachian.

14 I'm not going to come up every time that's  
15 quibbled. I'm just now offering a little caution that  
16 I would prefer that the witnesses stay on the subject  
17 of their direct testimony so that I don't have to,  
18 like, pop up a lot.

19 CO-HEARING OFFICER DODUC: Thank you,  
20 Miss Ansley.

21 MR. POGLEDICH: Thank you.

22 So I'd like to ask the clerk to bring up Yolo  
23 Exhibit 4, Slide 3.

24 And when that's up, I'll have to questions for  
25 you, Mr. Heringer.

1           So I -- I --

2           (Exhibit displayed on screen.)

3           MR. POGLEDICH:   There we go.

4           All right.   So do you recognize the graphic  
5 shown on this slide?

6           WITNESS HERINGER:   Yes, I do.

7           MR. POGLEDICH:   Does it depict roads in the  
8 Clarksburg area?

9           WITNESS HERINGER:   Yes, it does.

10          MR. POGLEDICH:   Are you familiar with those  
11 roads?

12          WITNESS HERINGER:   Every one of them.

13          MR. POGLEDICH:   And do the labels at the  
14 left-hand side correspond with your knowledge regarding  
15 the identity of the road segments?

16          WITNESS HERINGER:   Yes.

17          MR. POGLEDICH:   Which roads do you use in your  
18 agricultural operations on a regular basis?

19          WITNESS HERINGER:   We use South River Road  
20 extensively.   We use State Highway 84.   We use  
21 Courtland Road, Willow Point Road, Netherlands Road,  
22 Clarksburg Road and Ryer Avenue, some of which are not  
23 marked on your map -- or not highlighted.

24          MR. POGLEDICH:   Okay.   Thank you.

25          So, then, to you, Mr. Wilson.

1           Which roads do you use on a regular basis in  
2 your agricultural operations? And if it's generally  
3 the same as Mr. Heringer, you can simply say that.

4           WITNESS WILSON: Generally the same. Abel  
5 Slough Road would be added. We have operations there.

6           But extensively Highway 84, Courtland Road,  
7 South River Road, Clarksburg Road.

8           MR. POGLEDICH: So -- And Abel Slough Road, is  
9 that within the -- Although it's not marked  
10 specifically on here, I believe, is it within the area  
11 shown on this graphic?

12          WITNESS WILSON: Yes, it is.

13          MR. POGLEDICH: Back to you, Mr. Heringer.

14          You identified a few roads that are not  
15 specifically identified on this graphic. Are they also  
16 within the -- the geographical area shown here.

17          WITNESS HERINGER: Yes, they are.

18          MR. POGLEDICH: Finally, Mr. Slater, do you  
19 use the same roads in general as these other gentlemen,  
20 or are there any roads you'd like to take off with what  
21 they described or add to?

22          WITNESS SLATER: No. We use them all as well.

23          MR. POGLEDICH: Now, Mr. Wilson, how often do  
24 you use the words that we just discussed in your  
25 agricultural operations?

1 WITNESS WILSON: Daily.

2 MR. POGLEDICH: And is that true throughout  
3 the course of the calendar year?

4 WITNESS WILSON: Pretty much, unless there's  
5 just a heck of a lot of rainfall at the moment, like  
6 right now. And we'll probably still have a -- a couple  
7 of people on those road -- every section of that road  
8 sometime during the day.

9 MR. POGLEDICH: I think your microphone might  
10 be turned off. There's a little green -- Or there's a  
11 little button that says "push" right in the middle  
12 there.

13 WITNESS WILSON: Well, there's a green light  
14 on.

15 MR. POGLEDICH: It's on and then it's really  
16 on when it's on.

17 WITNESS WILSON: There we go.

18 MR. POGLEDICH: Okay. What types of equipment  
19 do you regularly move over the road network in the  
20 Clarksburg area?

21 WITNESS WILSON: Well, I just started writing  
22 those down.

23 MR. POGLEDICH: If you need to refer to your  
24 testimony, that's fine.

25 WITNESS WILSON: Well, I just started writing

1 down some of the types of equipment, and it's a pretty  
2 extensive list.

3 But, obviously, pickups, tractors . . . I had  
4 a . . .

5 MR. POGLEDICH: So --

6 WITNESS WILSON: Pickups, tractors, trailers,  
7 tillage equipment, pruning equipment, fuel wagons,  
8 service trucks, pipe trucks, or pipe trailers,  
9 irrigation pumps.

10 MR. POGLEDICH: Let me -- Let me just stop you  
11 right there. I have a couple followup questions on  
12 this topic.

13 WITNESS WILSON: Yeah.

14 MR. POGLEDICH: You might -- may find it  
15 useful to look at Page 4 of your written testimony,  
16 Lines 22 through 27.

17 Do you recall, in preparing your written  
18 testimony, that you reviewed your business records to  
19 determine the nature and volume of different  
20 agricultural equipment trips on Clarksburg roads?

21 WITNESS WILSON: Yes, I do.

22 MR. POGLEDICH: And does the description of --  
23 of what you found in your records that appears towards  
24 the bottom of Page 4, is that accurate based on your --  
25 your business records?



1 WITNESS WILSON: It is for certain classes of  
2 vehicles.

3 MR. POGLEDICH: Okay. Can you please briefly  
4 state the number of trips that were made with  
5 tractors -- or for tractors -- yeah, with tractors  
6 between January 1st and November 6, 2017?

7 WITNESS WILSON: I can't say just tractors.  
8 The numbers I have refer to licensed vehicles, whether  
9 they be self-propelled, like a pickup, or a trailer  
10 that is licensed.

11 This -- This somewhat undercaptures the amount  
12 of traffic from our operation because it does not  
13 include unlicensed vehicles like tractors and some  
14 trailers and so forth.

15 So this is only for licensed vehicles. And so  
16 it comes down to about 6.5 trips per day --

17 MR. POGLEDICH: Okay.

18 WITNESS WILSON: -- per vehicle.

19 MR. POGLEDICH: So I want to make sure we have  
20 the accurate information here.

21 Page 4. It's line 23 or 23 and a half really.  
22 It says (reading):

23 ". . . Wilson Vineyards has recorded  
24 1,298 road trips for tractors with  
25 equipment mounted or towed."

1 And that's in the 2017 --

2 WITNESS WILSON: You're --

3 MR. POGLEDICH: -- time period.

4 WITNESS WILSON: You're correct. I'm looking  
5 at the 15,000 down here, which mainly --

6 MR. POGLEDICH: I thought you might have been  
7 looking --

8 WITNESS WILSON: Yeah.

9 MR. POGLEDICH: -- further down.

10 So that information is taken directly from  
11 your business records?

12 WITNESS WILSON: Correct.

13 MR. POGLEDICH: And you recall pulling that  
14 information at the time you prepared this --

15 WITNESS WILSON: I --

16 MR. POGLEDICH: -- testimony?

17 WITNESS WILSON: I recall having it pulled,  
18 yes.

19 MR. POGLEDICH: Okay. Thank you.

20 Now, Mr. Heringer . . .

21 Actually, let's stay with you just a minute,  
22 Mr. Wilson.

23 What are the average moving speeds of some of  
24 the larger equipment, not the pickup trucks but  
25 tractors and other larger agricultural equipment that

1 you move on a routine basis?

2 WITNESS WILSON: As stated earlier, 5 to  
3 10 miles an hour.

4 MR. POGLEDICH: Okay. What sort of traffic  
5 conflicts arise in moving that equipment?

6 WITNESS WILSON: People who are in a hurry  
7 that are generally in passenger type vehicles that  
8 often maybe don't know the area well, decide that they  
9 just have to get around the vehicle, and -- and they  
10 make unsafe passes.

11 We also have people -- there are on narrow  
12 roads -- coming in the opposite direction who are not  
13 paying attention and hit -- hit equipment, hit  
14 vehicles, or -- or realize too late that they're in the  
15 wrong lane and pull out of the way and hit a tree on  
16 the side of the road.

17 So, I mean, it's -- we're constantly having  
18 conflicts like that.

19 MR. POGLEDICH: Um-hmm. Do these conflicts  
20 occur regularly every time or close to every time that  
21 you move large equipment?

22 WITNESS WILSON: Not every time, no, but quite  
23 often.

24 MR. POGLEDICH: Thank you.

25 So, Mr. Heringer, how often do you use the

1 roads on this slide as well as the other ones mentioned  
2 briefly in your verbal testimony to move agricultural  
3 equipment?

4 WITNESS HERINGER: Multiple times daily.

5 MR. POGLEDICH: And over what course the --  
6 what period of time during the year?

7 WITNESS HERINGER: Generally, as Mark  
8 mentioned, during -- during wet weather from December  
9 to January, the mechanical operations are -- are at a  
10 minimum because of wet fields.

11 Outside of that, we're in there every chance  
12 we get.

13 MR. POGLEDICH: Okay. And just to clarify:

14 You move large agricultural equipment, such as  
15 tractors with implements, on a daily basis during most  
16 of the calendar year?

17 WITNESS HERINGER: Absolutely.

18 I might add that, because we're -- we're --  
19 our -- our vineyards are set up in small blocks of  
20 specific varieties versus one variety for the whole  
21 vineyard, oftentimes we're in a -- in and out of a  
22 vineyard multiple times a day.

23 MR. POGLEDICH: And would you concur with what  
24 Mr. Wilson said regarding the average moving speed of  
25 the larger agricultural equipment?

1 WITNESS HERINGER: Definitely.

2 MR. POGLEDICH: And would you also concur with  
3 his testimony regarding traffic conflicts, conflicts  
4 with other vehicles?

5 WITNESS HERINGER: Yes.

6 If I could -- If I could add something not in  
7 my testimony. Just this last fall, we had a tractor  
8 and a spray rig rear-ended on River Road from a -- from  
9 a car that did not even brake. Hit it at 55 miles an  
10 hour.

11 MR. POGLEDICH: Yes. I believe I -- I might  
12 have heard you say that that was not in your testimony.  
13 It actually is in your written testimony.

14 WITNESS HERINGER: Hmm.

15 MR. POGLEDICH: Point of verification. Got  
16 that in there.

17 CO-HEARING OFFICER DODUC: Hold on a second,  
18 please.

19 Miss Ansley.

20 MS. ANSLEY: Yes. I'd like to -- And -- And  
21 I'm happy to be corrected.

22 I'd like to make objection of the use of this  
23 slide for this panel. I don't believe that YOLO-4 --  
24 And the basis of my objection is, I prefer them to  
25 provide testimony on roads or areas that they

1 identified specifically in their direct testimony and  
2 not on -- And I'm -- And I'm not convinced that they  
3 are speaking of this area as a whole. And this was  
4 created, I believe, from our last panel by Mr. Kokkas  
5 and his staff.

6           And I don't believe these witnesses rely on  
7 this graphic, and they have been asked already to  
8 provide opinions here on roadways identified here. And  
9 I'm not sure that they're -- The questions are then  
10 vague and ambiguous as to exactly which roadways. And  
11 then they don't rely on this figure.

12           So I'm worried the record is -- That they're  
13 providing more expansive testimony than they do in  
14 their direct. Does that . . .

15           CO-HEARING OFFICER DODUC: I assume  
16 Mr. Pogledich was simply using it as a reference but  
17 perhaps you might clarify.

18           MR. POGLEDICH: You know, I can switch to the  
19 page from the EIR that includes this graphic if it  
20 would be the Hearing Officers' preference. It really  
21 is just an aid to their testimony.

22           MS. ANSLEY: I understand it's an aid to their  
23 testimony, but it's not referenced in their testimony.  
24 Maybe they were referencing the underlying map.

25           It's not that I have a problem with,

1 necessarily, an aid. I just have a problem in advance  
2 knowing what witnesses are going to testify and the  
3 scope of the geographic area that they're going to  
4 testify on.

5 I know that they identify specific roads. I  
6 am fine with the testimony in their direct. What I'm  
7 worried about is pulling up large figures that show  
8 large areas and then having questions asked about  
9 things that are beyond their scope of their direct.

10 CO-HEARING OFFICER DODUC: Have you noted any  
11 specific question that was beyond the scope of their  
12 direct?

13 MS. ANSLEY: There was -- I should probably  
14 get the real-time. There was an earlier question that  
15 said something about the road shown on this figure and  
16 that's what caught my attention. And I started looking  
17 to see if this figure is indeed referenced in anybody's  
18 testimony.

19 So I'd be happy to go back and look but --

20 CO-HEARING OFFICER DODUC: I also --

21 MS. ANSLEY: -- I'm just stopping it now.

22 CO-HEARING OFFICER DODUC: I also did check  
23 and, no, this particular figure was not referenced in  
24 their testimony. But I was under the impression that,  
25 for convenience, Mr. Pogle . . .

1 MR. POGLEDICH: Pogledich.

2 CO-HEARING OFFICER DODUC: Thank you.

3 MR. POGLEDICH: You nailed it the first time.

4 CO-HEARING OFFICER DODUC: I know. I got it  
5 right the first time.

6 MS. ANSLEY: And I --

7 CO-HEARING OFFICER DODUC: Pure luck.

8 MS. ANSLEY: And I would add that usually --

9 CO-HEARING OFFICER DODUC: Wait. Hold on.

10 MS. ANSLEY: Oh.

11 CO-HEARING OFFICER DODUC: Miss Ansley was  
12 using -- just using it for reference.

13 I would caution you to say within, obviously,  
14 the scope of these witnesses' testimony.

15 MS. ANSLEY: And -- And I would add that,  
16 usually, we are well apprized of which PowerPoints go  
17 with which witnesses. Parties have been very good  
18 about letting us know that this is a certain witness'  
19 PowerPoint presentation.

20 I -- I think -- I believe this is the  
21 PowerPoint presentation for Mr. Kokkas, so, yes.

22 CO-HEARING OFFICER DODUC: It is.

23 MS. ANSLEY: I will be -- Yes.

24 And so I -- I do have a slight objection to  
25 just using something as reference on direct when it



1 wasn't -- when it wasn't disclosed who the slide went  
2 with.

3 MR. POGLEDICH: So I'm -- I'm sorry if this  
4 was misleading to anybody. And we did confer with DWR  
5 counsel, although it was Mr. Mizell, on Tuesday about  
6 this slide. I knew there may be some reservations  
7 about it.

8 I'm happy to just switch to the page out of  
9 the EIR if that's . . . that would --

10 MS. ANSLEY: I'm happy with that if the  
11 witnesses reference the page in the EIR, they're  
12 familiar with it, and they stick to the roads and areas  
13 they have in their direct.

14 MR. POGLEDICH: They -- They all did cite to a  
15 page in the EIR which includes the same graphic, so --

16 CO-HEARING OFFICER DODUC: So let's do that.

17 MR. POGLEDICH: -- why don't we switch to that,  
18 and that is . . .

19 CO-HEARING OFFICER DODUC: Oh, I rolled my  
20 eyes, yes, I did.

21 MS. MESERVE: If we could go, please, to  
22 SWRCB-102, and it's going to be Chapter 19, and it's  
23 going to be the figures, and it's going to be the  
24 second page of those figures.

25 MR. POGLEDICH: Thank you.

1 (Exhibit displayed on screen.)

2 MR. POGLEDICH: Here we go.

3 And if it's possible to zoom in maybe on the  
4 Clarksburg area center, a little above --

5 (Exhibit displayed on screen.)

6 MR. POGLEDICH: Oh, that's perfect.

7 Here we go. This should be familiar.

8 Let's see. Mr. Slater, I believe I had a  
9 couple questions for you, and I was finishing with you  
10 on this line of questioning.

11 Do you also regularly use Clarksburg area  
12 roads, including those on this graphic to move large  
13 agricultural equipment in the course of your  
14 operations?

15 WITNESS SLATER: We do.

16 MR. POGLEDICH: And how often do you use those  
17 roads?

18 WITNESS SLATER: Similar times that  
19 Mr. Heringer and Mr. Wilson indicated.

20 We, however, do, like I indicated, farm row  
21 crops where the tractors are larger than vineyard  
22 tractors, and sometimes the implements are 20 or  
23 30 feet wide that are folded up, so it may require more  
24 of a roadway than vineyard equipment.

25 MR. POGLEDICH: Yeah. I believe you used the

1 word "often" in referring to the frequency.

2 Do you use the roads on a daily basis or  
3 nearly so?

4 WITNESS SLATER: On a daily basis.

5 MR. POGLEDICH: Okay.

6 WITNESS SLATER: In a similar -- During the  
7 winter, we use them less but we still use them.

8 MR. POGLEDICH: And have you observed similar  
9 traffic conflicts to those described by Mr. Wilson in  
10 the course of moving that equipment?

11 WITNESS SLATER: Yes, for many years.

12 MR. POGLEDICH: All right. Thank you.

13 So back to you, Mr. Heringer.

14 Tell me a little bit about agricultural  
15 equipment movement during harvest. And I'm talking  
16 just about the movement of equipment for the harvest  
17 itself, not the post-harvest transport of goods to  
18 market.

19 WITNESS HERINGER: So, for harvest itself, we  
20 do both the mechanical and hand harvest. And the  
21 equipment are -- the equipment varies from the two.

22 Mechanical equipment is, we move -- we use --  
23 engage two large grape harvesters, which I wish I had a  
24 PowerPoint of.

25 We use -- We have a four gondola tractors and

1 trailer -- gondo -- five-ton gondola trailer. We have  
2 fuel service equipment. We have a light tower. We'll  
3 have a water -- We have a water tanker for -- for  
4 cleanup.

5           And a parts trailer.

6           So when we move from vineyard to vineyard,  
7 it's a -- it is -- you know, it's a long wagon train of  
8 equipment. And we do have a flag car. We try and keep  
9 the flag car both in front and back.

10           But our operation varies from some of the  
11 other vineyard operations in Clarksburg in that we have  
12 multiple varieties of grapes in every vineyard and they  
13 are never harvested at the same time. So we are in and  
14 out of every vineyard multiple times during the season.

15           And we occasionally will make -- we'll  
16 routinely make two mechanical moves between vineyards  
17 for harvest equipment in a -- in a shift, and  
18 occasionally we will move three times.

19           So it's -- it's -- it's a big deal.

20           For hand harvest, we have four tractors  
21 pulling bin trailers that carry four bins, and the  
22 assorted light towers and -- and fuel service  
23 equipment.

24           MR. POGLEDICH: Okay. And harvest season  
25 occurs approximately when in the course of your

1 operations?

2 WITNESS HERINGER: It can start as early as  
3 late July, more routinely from August through November.

4 MR. POGLEDICH: And as you're moving  
5 equipment, do you use the roads that are shown on this  
6 slide here, the roads within Yolo County?

7 WITNESS HERINGER: Yes, we do. We have no  
8 alternatives to those.

9 MR. POGLEDICH: Okay. Thank you.

10 And are the average moving speeds of the  
11 harvest equipment generally up to 10 miles an hour as  
12 with the other larger agricultural equipment?

13 WITNESS HERINGER: 10 to maybe 12, you know,  
14 if they're slow.

15 MR. POGLEDICH: Thank you.

16 Now, let's see. Mr. Wilson, same general  
17 questions regarding harvest.

18 Do your operations differ in any substantial  
19 way from those described by Mr. Heringer either in  
20 terms of timing, equipment utilized, or roads utilized?

21 WITNESS WILSON: Generally, no.

22 But one thing that wasn't mentioned is that,  
23 we're moving that equipment day and night, depending on  
24 where the -- the next vineyard is that we're going to  
25 be harvesting and when we finish with one and go to on

1 it.

2           So, often, this equipment is being moved in  
3 the middle of the night, too.

4           MR. POGLEDICH: Understood.

5           And then, finally, Mr. Slater, is there  
6 anything you want to add regarding harvest and how your  
7 operations may differ from those described by  
8 Mr. Heringer or Mr. Wilson in terms of timing,  
9 equipment used, or roads utilized?

10           WITNESS SLATER: No, other than adding on to  
11 what Mr. Wilson said.

12           Grapes aren't the only thing being harvested  
13 in that region affected by the EIR -- or the WaterFix.  
14 So there are a lot of pears, cherries, and then a lot  
15 of grains. We're still maybe less vehicles on the road  
16 per field or per operation, but still used  
17 considerably.

18           MR. POGLEDICH: Okay. Thank you.

19           So staying with you for just a minute.

20           Do you recall that when we met in November, we  
21 reviewed some tables, graphics, from the WaterFix  
22 environmental document that reflected potential  
23 increases in traffic during WaterFix construction in  
24 the Clarksburg area?

25           WITNESS SLATER: I do.

1 MR. POGLEDICH: And we reviewed tables for  
2 each of the four road segments shown on this slide,  
3 which are: CT 33, Jefferson Boulevard; YOLO-1, which  
4 is a portion of South River Road; YOLO-3, which is a  
5 portion of Courtland Road; and YOLO-2, which is a  
6 portion of South River Road.

7 WITNESS SLATER: Yes.

8 MR. POGLEDICH: Do you recall generally that  
9 the magnitude of those increases was up to 7 or 800  
10 vehicles per hour on State Route 84, Jefferson  
11 Boulevard?

12 WITNESS SLATER: That's what the chart  
13 indicated, yeah.

14 MR. POGLEDICH: And that there was a similar  
15 increase in traffic levels on an hourly basis on the  
16 other three road segments studied in the EIR.

17 WITNESS SLATER: Correct.

18 MR. POGLEDICH: Do you recall we worked out  
19 that that means, on average, a vehicle of every four --  
20 every four to five seconds?

21 WITNESS SLATER: That's correct.

22 MR. POGLEDICH: How would that increase in  
23 traffic relative to existing conditions affect the  
24 movement of agricultural equipment within the  
25 Clarksburg area on these road segments?

1           WITNESS SLATER: Yeah. I -- I -- I just think  
2 it's pretty obvious.

3           Any time a road gets congested like that, not  
4 just agricultural equipment, but we use it more than --  
5 than the average household, so it would affect us more.

6           Yeah, some of those intersections, Jefferson  
7 Boulevard or State Highway 84, are -- are -- the  
8 traffic along those roads normally go a pretty good  
9 clip. At 800 vehicles an hour, I'm going to guess it  
10 would be a little slower.

11           But you come to an intersection there, we --  
12 we regularly require either a lead car or someone out  
13 there helping us make the turn.

14           I -- I can envision waiting a half an hour to  
15 make a turn, and -- and that -- the -- Well, we cover  
16 the farm to fork later, but it would impact greatly.

17           MR. POGLEDICH: So you said half an hour. But  
18 for delays of any significant magnitude, how would that  
19 affect your day-to-day operations?

20           WITNESS SLATER: Well, it would be a chain  
21 reaction if there's several vehicles moving from one  
22 field to another or several tractors, which is common.

23           One guy would get there, 20 minutes later  
24 another guy would get there. So it's just a domino  
25 effect.



1 MR. POGLEDICH: Is it important to you to be  
2 able to move agricultural equipment in a relatively  
3 short period of time from field to field?

4 WITNESS SLATER: Yeah. We pretty much rely on  
5 it.

6 MR. POGLEDICH: And Mr. Heringer, I'll ask you  
7 a couple of similar questions.

8 Is it also necessary for you to move equipment  
9 from field to field in a relatively short period of  
10 time?

11 WITNESS HERINGER: Yes, it is.

12 MR. POGLEDICH: Do you have an opinion as to  
13 how the potential increase of traffic that was studied  
14 in the Environmental Impact Report would affect your  
15 movement of equipment from field to field?

16 WITNESS HERINGER: It would be very dramatic.  
17 We have six vineyards on YOLO-01, which is the River  
18 Road, from just north of Freeport to a little south of  
19 Clarksburg.

20 And all of those access roads from the fields  
21 are up a steep levee bank. And so there's -- With  
22 no -- no meld lanes or anything like that, it would be  
23 very difficult. Very difficult.

24 MR. POGLEDICH: Thank you.

25 And, Mr. Wilson, anything you'd like to add to

1 the testimony of Mr. Heringer or Mr. Slater regarding  
2 the potential effects of increased traffic during  
3 WaterFix construction on your day-to-day movement of  
4 agricultural equipment?

5 WITNESS WILSON: It would cause a lot of  
6 problems for our operation. We have seven -- Today, we  
7 have seven direct entrances on to SR 84 from our  
8 properties.

9 We have four directly on to Courtland Road  
10 from our agricultural properties. And we have four on  
11 South River Road directly on to our agricultural  
12 properties.

13 And equipment and personnel, passenger  
14 vehicles and so forth gets moved in and out onto those  
15 roads from those entrances, and it would be -- it would  
16 cause us a lot of problem in time and safety moving  
17 equipment --

18 MR. POGLEDICH: Thank you.

19 WITNESS WILSON: -- with that increased  
20 traffic.

21 So back to Mr. Heringer.

22 With regard to harvest and post-harvest  
23 activities, can you describe the major farm-to-market  
24 routes in the Clarksburg region.

25 WITNESS HERINGER: The -- Again, this differs

1 a little bit for our operation than -- than some others  
2 because we deal with so many different wineries.

3 But, generally, the -- the -- the only main  
4 access north and south is State Highway 84 and YOLO-01  
5 along -- along South River Road.

6 And . . . trucking, it just -- To think about  
7 dealing with vehicle traffic on a -- you know, a  
8 dozen -- a dozen cars-per-minute basis, and having  
9 trucks and trailers pull out.

10 We also have a much higher incidence of travel  
11 on those roads because a lot of our grape lots are  
12 smaller lots, which are pulled by pickup with a trailer  
13 or a -- a flatbed, or things like that. So we have a  
14 much higher incidence number of movements of fruit  
15 than -- than a lot.

16 MR. POGLEDICH: Do you truck your own  
17 commodities to wineries and other purchasers after  
18 harvest?

19 WITNESS HERINGER: We do a little of that. We  
20 try and stay away from that. Mostly, the wineries will  
21 come and pick up their -- their grapes or they will  
22 hire a commercial hauler.

23 MR. POGLEDICH: Okay. And is there a lot of  
24 competition in the Clarksburg area for commercial  
25 hauling during harvest season?

1 WITNESS HERINGER: There is a tremendous  
2 amount. It's not just grapes; it's all crops.

3 MR. POGLEDICH: How many firms serve that  
4 area -- trucking firms serve that area.

5 WITNESS HERINGER: We have three to four.  
6 Only one is resident in the area.

7 MR. POGLEDICH: Okay. When you say "resident  
8 in the area," what do you mean?

9 WITNESS HERINGER: I mean, they're  
10 headquartered in Walnut Grove actually.

11 MR. POGLEDICH: Okay. And do you have an  
12 understanding of where the other firms are  
13 headquartered?

14 WITNESS HERINGER: Well, Valley Farm is in  
15 Dixon, Tiger Lines is in Stockton, Gallo is out of  
16 Livingston.

17 MR. POGLEDICH: And if those firms had to  
18 contend with a substantial increase in traffic volume  
19 on Clarksburg roads, how would that affect your ability  
20 to utilize those firms or trucking commodities during  
21 harvest?

22 WITNESS HERINGER: Well, they -- they --  
23 they're going to make the -- they're going to make the  
24 obvious choice to go where there's less resistance, for  
25 one thing.

1           And as was pointed out in the earlier  
2 testimony, timing is very, very critical in the grape  
3 industry.

4           MR. POGLEDICH: Do you feel it may increase  
5 costs to you during harvest to entice trucking firms to  
6 the Clarksburg area in light of additional traffic?

7           WITNESS HERINGER: Not only -- Not only in --  
8 in light of -- of inspiring them to come there but also  
9 for standby time. We get charged for standby time. We  
10 get charged for fuel surcharges if they -- if they burn  
11 diesel while they're waiting, and things like that.

12          MR. POGLEDICH: Thank you.

13          Mr. Wilson, is there anything you'd like to  
14 add to the remarks or Mr. Heringer regarding harvest  
15 and trucking firms serving the area?

16          WITNESS WILSON: I think they pretty well  
17 covered it. Thank you.

18          MR. POGLEDICH: Thank you.

19          And, Mr. Slater, anything you would like to  
20 add?

21          WITNESS SLATER: No.

22          MR. POGLEDICH: Okay.

23          Mr. Slater, just staying with you for a  
24 minute.

25          Which bridges in the Clarksburg area are most

1 heavily utilized by growers such as yourself and  
2 trucking commodities to the market?

3 WITNESS SLATER: It would be the Freeport  
4 Bridge at the north end there and the Courtland Bridge,  
5 or the Paintersville Bridge, at the south.

6 And, so, for reference, it would be State  
7 Route 84 till the end, make a left and go to the river  
8 at YOLO-3, and then the Courtland Bridge is just below  
9 that.

10 MR. POGLEDICH: So YOLO-3, the Courtland  
11 Bridge, is just below that? That's --

12 WITNESS HERINGER: Yeah.

13 MR. POGLEDICH: -- towards the bottom of the  
14 graph?

15 WITNESS HERINGER: Yeah. Right near the word  
16 "Courtland." It's the Courtland Bridge.

17 MR. POGLEDICH: And the Freeport Bridge is up  
18 near --

19 WITNESS HERINGER: Right near the word  
20 "Freeport."

21 MR. POGLEDICH: -- along South River Road?

22 WITNESS HERINGER: Before that, where that --  
23 That's right.

24 MR. POGLEDICH: Okay. Are there any  
25 difficulties moving large trucks across either of those

1 two bridges?

2 WITNESS HERINGER: Yeah. Those bridges were  
3 built in the '20s and -- and they're very narrow with  
4 respect to trucks.

5 Truckers have used -- have learned to  
6 manipulate them, but they're usually a one-way -- When  
7 a truck gets on there, the people on the other side  
8 stop, back up, let them through. Turns and maneuvering  
9 on those bridges is quite difficult.

10 MR. POGLEDICH: And is it fair to say that a  
11 substantial increase in traffic would compound the  
12 difficulties --

13 WITNESS HERINGER: Yeah.

14 MR. POGLEDICH: -- associated with moving  
15 trucks across these bridges?

16 WITNESS HERINGER: Yeah, for obvious reasons.

17 When a truck is going on the river -- or on  
18 the bridge, either cars in the same direction could be  
19 backed up for -- I've seen them backed up 12, 15 cars  
20 or vehicles waiting for that truck, and -- and that's  
21 with the normal traffic vehicles.

22 So if you increase that by 800 or by 600, it  
23 would dramatically affect it.

24 MR. POGLEDICH: All right. Thank you.

25 So I'd like to go now to a different exhibit.

1 It's Page 2 of Exhibit YOLO-10. And we'll stay with  
2 you for a couple questions here, Mr. Slater.

3 (Exhibit displayed on screen.)

4 MR. POGLEDICH: Is that time -- I have to  
5 ask -- was it originally set for 30 minutes or 40?

6 MR. BAKER: 30.

7 MR. POGLEDICH: Okay. I won't sweat too much,  
8 then.

9 So Page 2 of this exhibit.

10 (Exhibit displayed on screen.)

11 MR. POGLEDICH: Just -- Yeah, just keep it  
12 right there.

13 So, Mr. Slater, do you recognize this exhibit?

14 WITNESS SLATER: I do.

15 MR. POGLEDICH: And what is it?

16 WITNESS SLATER: It is a contract that we've  
17 signed with a winery with all the covenants associated  
18 with it.

19 MR. POGLEDICH: And do you see the language in  
20 bold that's displayed on the screen?

21 WITNESS SLATER: Yes.

22 MR. POGLEDICH: And in your own words, what  
23 does that language say?

24 WITNESS SLATER: What it amounts to is, get  
25 the grapes to our winery in the -- in the required time



1 or they have the right to reject them.

2 MR. POGLEDICH: Okay. And how much time does  
3 this particular clause give you to deliver the wine  
4 grapes after harvest?

5 WITNESS SLATER: That particular one is five  
6 hours.

7 MR. POGLEDICH: Is this sort of provision  
8 typical in Wine Grape Purchase Agreements?

9 WITNESS SLATER: I think it is for everybody,  
10 but it certainly is on my ranch, yeah.

11 MR. POGLEDICH: Okay.

12 Mr. Heringer, you also have Wine Grape  
13 Purchase Agreements; correct?

14 WITNESS HERINGER: Yes, we do.

15 MR. POGLEDICH: You deliver to 50 or more  
16 wineries each year?

17 WITNESS HERINGER: We -- We deliver to smaller  
18 wineries generally, and -- and those wine -- we have  
19 more than -- not so much written contractual  
20 agreements, but we have verbal agreements with them.

21 They call in and say, "Okay. Tomorrow's  
22 deliveries, we're going to take a load at -- at, you  
23 know, 4 a.m., another one at 6:00, another one at 8:00  
24 and another one at 11:00," and those grapes have to be  
25 there.

1 MR. POGLEDICH: So is it, then, fair to say  
2 that the verbal agreements also include delivery  
3 windows similar to what's displayed here?

4 WITNESS HERINGER: Absolutely.

5 MR. POGLEDICH: And, Mr. Wilson, same question  
6 to you.

7 Are delivery windows typical in Wine Grape  
8 Purchase Agreements?

9 WITNESS WILSON: Yes. And if it's not in the  
10 written agreement, there's -- it is understood we're  
11 given delivery windows as far as different wineries  
12 what -- by what time in the morning they want our cold  
13 grapes there that were harvested the night before.

14 MR. POGLEDICH: And what are the consequences  
15 typically of a late delivery?

16 WITNESS WILSON: Well, consequences are, they  
17 could reject the load. And you may be able to find a  
18 secondary buyer and turn it into brandy or something,  
19 or -- or -- or you wind up dumping them.

20 MR. POGLEDICH: And secondary buyers, do they  
21 pay the same rate as the original intended purchaser?

22 WITNESS WILSON: No, they don't.

23 MR. POGLEDICH: How much less would you say  
24 they --

25 (Timer rings.)

1 MR. POGLEDICH: -- typically pay?

2 WITNESS WILSON: About 80 percent less.

3 MR. POGLEDICH: Thank you.

4 And what's the average value of a 25-ton,  
5 which I understand is a typical truckload of wine  
6 grapes?

7 WITNESS WILSON: Probably, generally on the  
8 low end, 15,000, to 30,000 or more on the high end for  
9 Clarksburg grapes.

10 MR. POGLEDICH: And, Mr. Heringer, would you  
11 agree with that value estimate?

12 WITNESS HERINGER: Yes, I would.

13 MR. POGLEDICH: And Mr. Slater?

14 WITNESS SLATER: Yes.

15 MR. POGLEDICH: All right. Thank you.

16 So I'd like to go back to the document we just  
17 had up.

18 CO-HEARING OFFICER DODUC: Mr. Pogledich.

19 MR. POGLEDICH: Yes.

20 CO-HEARING OFFICER DODUC: How much additional  
21 time do you need to wrap up?

22 MR. POGLEDICH: 10 minutes at most.

23 CO-HEARING OFFICER DODUC: All right. Let's  
24 do that.

25 MR. POGLEDICH: I'm on my final page.

1 (Exhibit displayed on screen.)

2 MR. POGLEDICH: So -- oh, perfect.

3 So, Mr. Wilson, I'll go back to you.

4 If WaterFix traffic through the Clarksburg  
5 area identified and utilized just a single north-south  
6 route, as between State Route 84 and South River Road,  
7 can you just shift your traffic to the other  
8 north-south segment not utilized by WaterFix traffic?

9 And if that question's not clear, I can ask it  
10 again.

11 WITNESS WILSON: I can, but that doesn't  
12 necessarily make it so I can access all of my  
13 properties that we have operations on.

14 It depends on the actual operation scenario  
15 going on at the time what -- where that -- that, I  
16 guess, WaterFix traffic is.

17 And . . . if all -- If -- If I had to switch  
18 everything to South River Road, I would have a tough  
19 time getting access to all of my properties.

20 MR. POGLEDICH: So -- And this may cover some  
21 of your original testimony earlier today.

22 But you rely on both of those north-south  
23 routes, South River Road to the east, State Route 84 to  
24 the west, to move equipment as -- as part of your  
25 operations.

1 WITNESS WILSON: Absolutely.

2 MR. POGLEDICH: Okay. Now, what if only one  
3 north-south route were available for all traffic during  
4 WaterFix construction, the WaterFix traffic, your  
5 equipment movement, passenger vehicles, everything  
6 going through the Clarksburg area, such as in the event  
7 of a reconstruction of one of the roads.

8 How would that affect your operations?

9 WITNESS WILSON: You're asking me?

10 MR. POGLEDICH: Correct.

11 WITNESS WILSON: Well, in the scenario you  
12 just talked about, if there's reconstruction going on  
13 on one road, that means WaterFix is using the other  
14 road, and so that means there are no roads available  
15 for us to use and it's -- WaterFix traffic ties up the  
16 whole district.

17 I'm -- There isn't -- There isn't a way to --  
18 to operate once we get to the point that they're  
19 reconstructing one road and then -- one north-south  
20 road and then taking the other north-south road as an  
21 alternative till they get the first one rebuilt. Then  
22 we have no way to get north and south anymore.

23 MR. POGLEDICH: Understood. Thank you.

24 CO-HEARING OFFICER DODUC: Hold on.

25 Miss Ansley?

1 MS. ANSLEY: I'm . . . I'm just trying to --

2 CO-HEARING OFFICER DODUC: You need to turn on  
3 the mic.

4 MS. ANSLEY: I'm sorry.

5 I'm trying to catch up.

6 I -- I don't believe that scenario is pos --  
7 It calls for speculation because they don't -- I'm  
8 looking at Mr. Wilson's testimony, Pages 8 and 9. I'm  
9 not sure that exact scenario is posited and then a  
10 conclusion reached about it.

11 I mean, I see some stuff that gets close  
12 but . . .

13 I see discussion of alternate routes. I see  
14 that.

15 MR. POGLEDICH: So, there is substantial  
16 discussion of alternate routes on Pages 8 and 9 of  
17 Mr. Wilson's testimony. I think what he stated is  
18 covered by that testimony.

19 MS. ANSLEY: What I heard was a specific  
20 scenario and then a conclusion based on that scenario,  
21 which I'm going to object calls for speculation and is  
22 not listed as . . .

23 I'm struggling to recall the scenario.  
24 Something about if one road was absolutely closed, what  
25 would -- and one was being used by the WaterFix, what

1 would -- what would you do?

2 I think his testimony here is clear. I think  
3 that's beyond the scope. Positing that specific  
4 question on direct, I think, is improper because -- and  
5 I -- and I object that it also calls for --

6 CO-HEARING OFFICER DODUC: I'm --

7 MS. ANSLEY: -- speculation.

8 CO-HEARING OFFICER DODUC: I'm confused,  
9 Miss Ansley, because the whole point to having to find  
10 an alternative route is that the initial route was not  
11 available, which was the question.

12 MS. ANSLEY: I think his question was more  
13 specific, like -- I understand that -- that we're  
14 talking about different routes that access, I believe,  
15 Mr. Wilson's property, and then he raises a number of  
16 concerns about the -- which routes he could use.

17 But my understanding of the scenario posited  
18 was, you know, what if one route is being -- is out of  
19 use because it's being resurfaced or reconditioned -- I  
20 can't remember the exact word -- and then there was an  
21 added scenario of: And the other road is being used by  
22 Cal WaterFix. What would that mean to you?

23 And I'm just saying that is a scenario I don't  
24 see. I just see discussions --

25 CO-HEARING OFFICER DODUC: The scenario --

1 MS. ANSLEY: -- of alternate routes.

2 CO-HEARING OFFICER DODUC: -- in there -- I  
3 mean, his testimony talked about roads being out of  
4 service due to Wa -- to Delta tunnel traffic and/or  
5 related repair or reconstruction work.

6 MS. ANSLEY: That's --

7 MR. POGLEDICH: I believe --

8 MS. ANSLEY: My objection --

9 MR. POGLEDICH: -- this is --

10 MS. ANSLEY: -- is to the specific --

11 MR. POGLEDICH: -- directly within the --

12 MS. ANSLEY: Oh.

13 MR. POGLEDICH: -- scope of the testimony in  
14 his -- in his written statement at the top of Page 9.

15 That was what the question was intended to  
16 track and I believe the answer followed it pretty  
17 closely.

18 CO-HEARING OFFICER DODUC: I would agree.

19 MS. ANSLEY: Okay. That's fine.

20 CO-HEARING OFFICER DODUC: Objection  
21 overruled.

22 MR. POGLEDICH: Okay. Just a handful of final  
23 questions.

24 Mr. Heringer, how would you characterize the  
25 market for agricultural laborers in the Clarksburg



1 area?

2 WITNESS HERINGER: Very tight. All of  
3 agriculture is suffering from lack of labor.

4 MR. POGLEDICH: Do you believe, based on your  
5 experience working with agricultural laborers, hiring  
6 them, et cetera, that one of the factors they consider  
7 prior to taking a position is difficulty getting to and  
8 from the -- the job site?

9 WITNESS HERINGER: Absolutely.

10 MR. POGLEDICH: Are you concerned that  
11 WaterFix construction traffic could increase the  
12 difficulties you have attracting agricultural laborers  
13 to your properties in the Clarksburg area?

14 WITNESS HERINGER: It definitely will. Many  
15 of our laborers come from Galt and from Lodi because of  
16 lack of housing in the Delta, and this -- this does not  
17 bode well for them --

18 MR. POGLEDICH: Thank you. And --

19 WITNESS HERINGER: -- or me.

20 MR. POGLEDICH: Mr. Wilson, same -- same  
21 question substantially to you, regarding agricultural  
22 laborers and how WaterFix construction traffic could  
23 affect your ability to attract laborers to the  
24 Clarksburg area and your fields.

25 WITNESS WILSON: It certainly isn't going to

1 help. It increases the travel time for -- for our  
2 employees that live out of District and it's certainly  
3 going to increase the safety hazards as far as driving,  
4 coming to and from work, so . . .

5 MR. POGLEDICH: Thank you.

6 Mr. Slater, anything you want to add on this  
7 topic to the testimony of Mr. Heringer and Mr. Wilson?

8 WITNESS SLATER: No.

9 MR. POGLEDICH: All right. So, staying with  
10 you, Mr. Slater, we've covered a lot of topics this  
11 morning. I just want to ask a final question.

12 Again, we need to stay within the bounds of  
13 your written testimony.

14 But is there anything you'd like to add  
15 regarding the WaterFix and how construction traffic  
16 could affect your agricultural operations in Clarksburg  
17 that we didn't touch upon?

18 WITNESS SLATER: Yeah. I -- I think we need  
19 to touch on the economic effects of -- of what it will  
20 do to the -- to our particular grape industry with the  
21 delay of trucks.

22 And not just the delay and the rejection of  
23 wines -- or grapes, but, for example, as I list in my  
24 testimony, each load of grapes will -- will end up  
25 being about 1450 cases of wine. So the destination

1 point for that winery, that increases the value of  
2 anywhere from \$130,000 for that load and finished  
3 product at the winery to a million dollars maybe, and  
4 that's just based on \$7.50 a bottle versus \$57 a  
5 bottle, which is a common wine to drink these days.

6           The point that I think is necessary to make is  
7 the domino effect that the wineries will have.

8           Our region is extremely well respected but it  
9 can only go so far. And if those wineries have  
10 difficulty getting our loads and work with us on a  
11 daily and nightly basis to adjust and bring in a load  
12 because a truck blocked a road or some -- some problem  
13 other than ones we created, they're not going to come  
14 back to us the next year with a contract.

15           So it -- it -- it absolutely will -- will  
16 damage us and the relationship we have with wineries  
17 which we spent many years developing.

18           MR. POGLEDICH: Okay. Thank you, Mr. Slater.

19           Mr. Heringer, same general question to you.  
20 We covered a lot of topics.

21           Is there anything you'd like to add staying  
22 within the bounds of your written testimony that we  
23 haven't covered directly this morning?

24           WITNESS HERINGER: Yes, definitely.

25           Our -- Our operation includes a small winery

1 at the old Sugar Mill, and it's -- My -- My youngest  
2 son is our winemaker. We have high traffic into the  
3 Sugar Mill now which comes down South River Road  
4 over -- We've been there about 15 years.

5           And -- And people that walk into the Sugar  
6 Mill are just stunned if it's their first time down,  
7 coming down into the Delta, and seeing the beauty and  
8 the tranquility of the area.

9           Matter of fact, many, many, many times people  
10 have mentioned that crossing the Freeport Bridge is  
11 like coming into a different century, an old -- you  
12 know, a previous century.

13           And -- And all of our -- Not all of.

14           95 percent of our wines are sold across the  
15 counter at the old Sugar Mill, so we rely on that  
16 business for wine sales.

17           And if people don't have a good experience, if  
18 they can't get down there, if they're fighting traffic,  
19 they're not going to come. They're going to go  
20 someplace else.

21           And it's just -- Yolo County is partnered with  
22 the Clarksburg District and we're a special Ag  
23 District, and they're working with us on ag tourism,  
24 which is -- which is a huge deal anymore and  
25 supplements everything that we're doing on the growing

1 end.

2 And to -- You know, to approve a 10- to  
3 15-year project which turns the beauty of the Delta  
4 into an industrial wasteland is -- is just unthinkable.

5 Thank you.

6 MR. POGLEDICH: Okay. And then, lastly, to  
7 you, Mr. Wilson.

8 Anything you'd like to add to the testimony  
9 that was provided this morning, again, staying within  
10 the boundary of your written statement?

11 It's hard to follow Mr. Heringer, I know.

12 WITNESS WILSON: I -- I would like to offer  
13 the Hearing Officers and Board Members a tour -- a  
14 personal tour of the Clarksburg District. It's about  
15 20 minutes from here. And I can take you on every one  
16 of those road segments so you can get a real-life  
17 picture of what we've been talking about today.

18 Oh. Heringer said they -- you can taste wine,  
19 too.

20 (Laughter.)

21 MR. POGLEDICH: All right. Thank you,  
22 gentlemen.

23 That concludes my direct examination.

24 CO-HEARING OFFICER DODUC: Thank you.

25 And thank you for that offer but you couldn't

1 take us without taking all the parties and all the  
2 public as well.

3 WITNESS WILSON: They're all welcome.

4 (Laughter.)

5 WITNESS WILSON: I can handle a group that  
6 size if you would -- if you would come.

7 CO-HEARING OFFICER DODUC: Yes. What about --  
8 But we'd need to an environmental impact analysis of  
9 such a tour.

10 (Laughter.)

11 CO-HEARING OFFICER DODUC: All right. Thank  
12 you.

13 Miss Ansley?

14 MS. ANSLEY: No.

15 CO-HEARING OFFICER DODUC: Nope? Any other  
16 cross?

17 All right. Well, thank you. Thank you very  
18 much for coming here today and for providing input into  
19 our process.

20 And thank you for the offer. We,  
21 unfortunately, cannot take you up on it but we will  
22 keep that in mind for afterwards.

23 MR. POGLEDICH: Thank you very much.

24 CO-HEARING OFFICER DODUC: All right. Thank  
25 you.

1 (Panel excused.)

2 CO-HEARING OFFICER DODUC: With that, we will  
3 take our lunch break and when we return, we will get to  
4 the third panel.

5 Can we do a time estimate in terms of direct  
6 of the third panel?

7 MR. POGLEDICH: I'm not involved in the third  
8 panel. I --

9 CO-HEARING OFFICER DODUC: I was --

10 MR. POGLEDICH: -- think that's --

11 CO-HEARING OFFICER DODUC: -- actually looking  
12 at Miss Meserve.

13 MR. POGLEDICH: Oh, is that you?

14 MS. MESERVE: Yeah.

15 Is there cross?

16 CO-HEARING OFFICER DODUC: Sorry?

17 MS. MESERVE: Is there cross?

18 CO-HEARING OFFICER DODUC: No, there's no  
19 cross.

20 MS. MESERVE: We've asked for an hour and 30  
21 minutes for this panel, which focuses on Sacramento  
22 County impacts.

23 CO-HEARING OFFICER DODUC: And at this time,  
24 what is the estimated cross for the third panel,  
25 Miss Ansley?

1 MS. ANSLEY: I would say 40 to 50 minutes.

2 CO-HEARING OFFICER DODUC: Okay. Any other  
3 cross for this panel?

4 MR. KEELING: Tom Keeling for the San Joaquin  
5 County Protestants.

6 I have about 15 minutes.

7 CO-HEARING OFFICER DODUC: Okay.

8 MR. JACKSON: Michael -- Michael Jackson for  
9 the CSPA parties.

10 I would think about 40 minutes.

11 CO-HEARING OFFICER DODUC: Okay.

12 So I'm going to go ahead and project that we  
13 will not get to the Sacramento Regional County  
14 Sanitation District panel today, Mr. Ferguson, because  
15 we're resuming at 1:30 with an hour and a half for  
16 direct, and at least two hours of cross that I have so  
17 far.

18 MR. FERGUSON: Okay. Thanks. So I can tell  
19 them tomorrow morning?

20 CO-HEARING OFFICER DODUC: Tomorrow morning.

21 MR. FERGUSON: Okay. Great. Thanks.

22 CO-HEARING OFFICER DODUC: After Supervisor  
23 Miller provides her Policy Statement.

24 MR. FERGUSON: Okay.

25 CO-HEARING OFFICER DODUC: And before we -- we



1 adjourn, Mr. Pogledich, if you could come back up to  
2 the -- This is the last time, hopefully, I will mangle  
3 your name.

4 Does that conclude the County of Yolo's case  
5 in chief?

6 MR. POGLEDICH: It does, yes.

7 CO-HEARING OFFICER DODUC: At this time, would  
8 you like to move your exhibits into the record?

9 MR. POGLEDICH: I would, yes, please.

10 CO-HEARING OFFICER DODUC: Are there any  
11 objections to those exhibits?

12 Seeing none, they are accepted into the  
13 record.

14 (The County of Yolo's Exhibits YOLO-1,  
15 YOLO-2, YOLO-3, YOLO-4, YOLO-8,  
16 YOLO-9, YOLO-10, YOLO-11 received in  
17 evidence)

18 CO-HEARING OFFICER DODUC: Miss Ansley, before  
19 we break for lunch -- I'm cutting into our lunch break  
20 here.

21 We received from the Central Delta South Delta  
22 their list of exhibits that they wish to move into the  
23 record.

24 Did -- Did Petitioners have any objections to  
25 those?

1 MS. ANSLEY: We do not. We noticed that they  
2 had filed a correction naming 300-Errata instead of 300  
3 and so we did review their list and we are fine.

4 CO-HEARING OFFICER DODUC: At this time,  
5 Mr. Herrick, those exhibits are also accepted to the  
6 record.

7 MR. HERRICK: Thank you.

8 CO-HEARING OFFICER DODUC: Any other matters  
9 before we adjourn for lunch?

10 MR. JACKSON: Yes. Michael Jackson again for  
11 the CSPA parties.

12 I have another witness. He's listed as Arve  
13 Sjovold on our -- what I would expect to be sometime  
14 next week. And I've been notified -- I was notified  
15 four or five days ago that he's going into hospice and  
16 cannot travel.

17 So when he's --

18 CO-HEARING OFFICER DODUC: I'm sorry. Would  
19 you like to move him to join Mr. Del Piero, and  
20 Dr. Whitelaw, and Mr. Smith?

21 MR. JACKSON: Exactly.

22 When we filed Mr. Sjovold's testimony, it was  
23 a joint filing with a man by the name of Aaron Budgor  
24 for exactly this purpose. We knew he had cancer. We  
25 didn't know how long he had.

1           So there may be some dispute about changing  
2 the witness. I have no agreement with DWR about that.

3           But they have graciously agreed to move  
4 Mr. Sjovold to the last group with -- with my hospital  
5 brigade.

6           CO-HEARING OFFICER DODUC: Well, we wish them  
7 all well.

8           MR. JACKSON: Thank you.

9           CO-HEARING OFFICER DODUC: All right.  
10 Anything else, Mr. -- Mr. Mizell?

11          MR. MIZELL: Yeah. Tripp Mizell, DWR.

12          Our agreement to move the witness to the end,  
13 that was accurate. It was premised on an assertion by  
14 Mr. Jackson that there was no cross-referencing between  
15 the members of that panel. So absent -- And  
16 Mr. Jackson assured us that there wasn't any. And so,  
17 with that understanding, we agreed to -- to the  
18 movement that witness.

19          CO-HEARING OFFICER DODUC: All right. Thank  
20 you.

21          With that, we will return at 1:40 now.

22                   (Lunch recess at 12:39 p.m.)

23                               \* \* \*

24

25

1 Thursday, March 22, 2018 1:40 p.m.

2 PROCEEDINGS

3 ---000---

4 (Proceedings resumed at 1:40 p.m.):

5 CO-HEARING OFFICER DODUC: Good afternoon. It  
6 is 1:40. Welcome back.

7 One housekeeping matter from me and then I'll  
8 ask if there are any other.

9 I would like to be able to stay, if necessary,  
10 until 6 p.m. today to get through this panel so that  
11 they don't have to return tomorrow.

12 Are there any objections to that? Any  
13 concerns?

14 All right. At this time -- Oh, was there a  
15 hand?

16 WITNESS PHILLEY: I'll just have to call my  
17 wife.

18 (Laughter.)

19 CO-HEARING OFFICER DODUC: You may blame it on  
20 me.

21 What we could also do is, we can  
22 cross-examine -- take any cross-examination for you  
23 first, if necessary, in order for you to leave.

24 WITNESS PHILLEY: You don't need to change the  
25 regular order. I just have to --

1 CO-HEARING OFFICER DODUC: Okay. Okay. Blame  
2 it on me, then.

3 And to make sure that I have everybody, at  
4 this time, I have cross-examination from the Department  
5 for around 40, 45 minutes.

6 MS. ANSLEY: (Nodding head.)

7 CO-HEARING OFFICER DODUC: From the County of  
8 San Joaquin for about 15; from CSPA until about 40.

9 Am I missing anybody?

10 Okay. All right. Maybe we won't have to stay  
11 till 6:00 but just in case.

12 All right. With that, I will ask all the  
13 witnesses to please stand and raise your right hands.

14

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1 Don Nottoli,  
2 Robert Benedetti,  
3 Jeff Leatherman,  
4 Juli Jensen,  
5 Russell Van Loben Sels,  
6 Virginia Hemly Chhabra

7 and

8 Paul Philley,

9 called as witnesses by the County of Yolo,  
10 Local Agencies of the North Delta, et al.,  
11 County of San Joaquin, et al. & County of  
12 Sacramento, having been duly sworn, were  
13 examined and testified as follows:

14 CO-HEARING OFFICER DODUC: Thank you.

15 And I will turn it over to your counsels.

16 MR. FERGUSON: Good afternoon. Aaron Ferguson  
17 on behalf of County of Sacramento.

18 We've got a panel of county witnesses along  
19 with one joint witness, Russell Van Loben Sels on  
20 behalf of the county and LAND.

21 So we're going to start -- We're going to go  
22 in order here in terms of the direct, from Supervisor  
23 Nottoli down to Mr. Philley.

24

25

1 DIRECT EXAMINATION BY

2 MR. FERGUSON: Good afternoon, Supervisor  
3 Nottoli.

4 Would you please state your name for the  
5 record.

6 WITNESS NOTTOLI: Don Nottoli, County  
7 Supervisor, Sacramento County, District 5.

8 MR. FERGUSON: Great.

9 Is Exhibit SACO-16 a true and correct copy of  
10 your written testimony?

11 WITNESS NOTTOLI: Yes.

12 MR. FERGUSON: Can you briefly describe your  
13 experience in Sacramento County government and the  
14 Delta.

15 WITNESS NOTTOLI: I'm in my 24th year as a  
16 member of the Board of Supervisors. District 5  
17 includes the Sacramento portion of the Delta from the  
18 Town of Freeport to the tip of Sherman Island.

19 I've been with Sacramento County, I'm now in  
20 my 40th year. I served previously for my predecessor  
21 on the Board of Supervisors, County Supervisor Toby  
22 Johnson, who represented the same District, so about 40  
23 years' experience in county government.

24 I'm very familiar with the communities and  
25 certainly know many of people and, again, familiar with

1 the Delta communities and certainly the County of  
2 Sacramento.

3 MR. FERGUSON: In preparation of your  
4 testimony, did you review portions of the WaterFix  
5 Final EIR?

6 WITNESS NOTTOLI: Yes, I did. Certainly, with  
7 40,000 pages appended to it, I didn't review all those,  
8 by any means.

9 But in preparation for my testimony, as  
10 necessary, I read and reviewed and became familiar with  
11 those sections that pertain to my testimony today.

12 MR. FERGUSON: And can you please go ahead and  
13 summarize your written testimony.

14 WITNESS NOTTOLI: Okay. And then, I guess  
15 with the indulgence of our Hearing Board, I wanted just  
16 to say good afternoon and thank all the Board Members  
17 for their attention to this very important matter.

18 And I'm very pleased to be with a  
19 distinguished panel of folks, each of whom I know. And  
20 I think this panel will provide the opportunity for  
21 this Board and for those that are following these  
22 proceedings to get a flavor for some of the impacts in  
23 Sacramento County.

24 To summarize, I previously served as a member  
25 of the Delta Stewardship Council and currently am a



1 member of the Delta Protection Commission and Delta  
2 Conservancy Board as adjunct duties certainly to my  
3 service as a member of the Board of Supervisors,  
4 Sacramento County.

5           During my years of service, I've had a  
6 tremendous opportunity to work side-by-side with many  
7 dedicated and experienced folks on water management  
8 issues of vital importance to the Delta and its people.

9           But, in my view, nothing holds a potentially  
10 greater impact to the long-term viability and  
11 sustainability of the Delta than the California  
12 WaterFix.

13           Sacramento County and the historic communities  
14 of Courtland, Hood, Locke, Walnut Grove, Isleton will,  
15 in my view, be at Ground Zero for both construction and  
16 long-term impacts associated with the California  
17 WaterFix.

18           Many of these communities -- and you'll meet  
19 some of the people here on this panel -- were settled  
20 around the time of the Gold Rush and today represent a  
21 legacy of seven, if not more, generations of farming  
22 families, Delta residents.

23           The California WaterFix, as people well know,  
24 proposes two massive 35-mile-long tunnels, 40-foot in  
25 diameter, to be built underneath the Delta to improve

1 the reliability for water deliveries to downstream  
2 customers.

3           However, I continue to pose the question as to  
4 whether this really reduces reliance or, in actuality,  
5 assures continued, sustained, and potentially increased  
6 reliance on the Delta.

7           And though often lost in the drive to assure  
8 water supply portion of the coequal goals, there's an  
9 important fact that needs to be acknowledged. The  
10 coequal goals are to be implemented in tandem, and I  
11 quote, "shall be achieved in a manner that protects and  
12 enhances the unique cultural, recreational, natural  
13 resources, the agricultural values of the Delta as an  
14 evolving place.

15           That comes out of statute.

16           In my view, the Delta Reform Act makes it  
17 clear the coequal goals need to be accounted for  
18 reduced reliance on the Delta, improve the reliability  
19 of water supply, protect the land, the ecosystem and  
20 the people of the Delta.

21           Please allow me just to -- for a moment to  
22 briefly paint a picture of what I view as Project  
23 construction impacts.

24           Imagine hundreds of additional truck trips per  
25 day on rural roads throughout the Delta. And I know

1 you heard about some of that this morning earlier in  
2 testimony.

3           Imagine, too, snarling traffic, crawling  
4 through Delta towns dotted with modest homes, small  
5 businesses, schools, parks, churches and other  
6 amenities and along with it the roar and rumble of big  
7 rigs and other transports laden with materials of every  
8 shape and size.

9           Imagine, too, this is not a temporal  
10 occurrence for only a short period of time. No. It  
11 may last for one, two, three, four, five, maybe 10 or  
12 even more years.

13           Add to this all the daily activity of  
14 hundreds -- in the hundreds, if not thousands, of other  
15 vehicles squeezing onto rural two-lane roads, many of  
16 them levee roadways, and the continued disruption of  
17 daily life and commerce, as well as interference with  
18 annual planting and harvest seasons for a decade or  
19 more.

20           And, finally, add to the traffic congestion  
21 and frustration all the boring, drilling, auguring,  
22 transporting, moving, dewatering, relocating, testing,  
23 collecting, sampling, pumping, exploring, constructing,  
24 deconstructing, on and on and on.

25           And yet you throw the trucking into that as

1 well and you get a full, I think, package of what it --  
2 the ongoing activities that will really, I believe,  
3 serve to disrupt, to interrupt, destroy in some cases,  
4 and I truly believe forever change life in the Delta  
5 communities and throughout the accompanying  
6 environment.

7           Quiet rural farming towns in areas will be  
8 transformed into gigantic construction zones, more akin  
9 to an industrial complex than tranquil country  
10 settings.

11           Impacts of these prolonged, intense  
12 activities, sometimes seven days a week, 24 hours a  
13 day, for years, including the traffic generation as I  
14 mentioned, the noise, the vibrations and the general  
15 disruption will undoubtedly affect the quality of life  
16 and daily activities of these rural farming towns and  
17 their people.

18           It will likely displace people from their  
19 homes, create economic uncertainty for many small  
20 businesses and farming pursuits, and negatively affect  
21 the recreational, the fishing, the boating, and  
22 ecotourism activities along hundreds of miles of  
23 waterways and in the Stone Lakes National Wildlife  
24 Refuge.

25           In addition to this incessant activity, the

1 question of what happens to all the spoils generated  
2 from tunneling and other excavation sites also needs to  
3 be pointed out.

4           This tunnel muck -- I refer to it as wonder  
5 mud -- will be stockpiled in multiple locations on  
6 roughly 2600 acres across the countryside for however  
7 long it takes to find a suitable permanent location for  
8 the reusable tunnel muck.

9           Again, imagine more than 30 million cubic  
10 yards of this material stored landside in piles  
11 reaching 10 to 15 feet in height scattered throughout  
12 the Delta. It impacts the esthetics as well as  
13 virtually rendering useless sites which were formerly  
14 farmed or used for other purposes.

15           The economy of the Delta, dependent primarily  
16 on agriculture and recreation, exceeds \$1 billion  
17 annually. It would be negatively affected in untold  
18 ways.

19           And, meanwhile, its people, families from all  
20 walks of life, will have to endure nearly endless  
21 construction-related activities for more than a decade  
22 no matter what the day and time.

23           And to what end, I ask? I believe it will  
24 bring a gradual but very real degradation destruction  
25 in the Delta from which there will be no recovery.

1           How, then, is it, I ask, that the Delta with  
2 its diversity of agriculture, wildlife, habitat and  
3 rural communities will benefit from any of this?

4           What real economic analysis has been done  
5 which demonstrates the true cost benefit components of  
6 this proposed WaterFix?

7           And why is the Delta Region considered to be  
8 less valuable to our state than other more arid or  
9 popular regions in California.

10           And, finally, I ask, why aren't more viable  
11 21st Century alternatives to the WaterFix given more  
12 serious and thoughtful consideration?

13           I pose these questions because they tend to  
14 highlight what is really wrong with the WaterFix  
15 proposal.

16           In great part, the Petitioners are largely  
17 ignoring the impacts of this megaproject on the Delta;  
18 in so doing, are sacrificing the San Joaquin-Sacramento  
19 Delta and its many treasured resources for the benefit  
20 of other regions of California.

21           This all-or-nothing approach is wrong headed  
22 and misguided. We should, as the Delta Reform Act  
23 mandates, protect the resources in the Delta, both  
24 natural and man-made, for generations to come.

25           Rather, pursuing a multibillion-dollar

1 WaterFix Project which damages the Delta, we should  
2 invest in our levees, support our communities, protect  
3 our environment, and work to preserve this very special  
4 place in all the world for today and tomorrow.

5           It's important to note that the  
6 Sacramento-San Joaquin Delta is a key contributor to  
7 the local, regional and state economies, and is home to  
8 more than 500,000 people.

9           The Delta should not be viewed as just a  
10 plumbing fixture for movement of water in our state but  
11 valued for its many unique resources and connectivity  
12 to the Sierra watersheds which feed our rivers as well  
13 as the San Francisco Bay Estuary and the Pacific Ocean.

14           I know we are challenged to find solutions to  
15 quench the thirst and meet the needs of a growing  
16 California. But in order for the Delta to thrive and  
17 prosper, it will require all of us to seek more  
18 creative and sustainable approaches to water management  
19 in our state.

20           California WaterFix and its component parts  
21 are not the answer to California's long-term water  
22 management needs.

23           The Delta is worthy of our focused attention,  
24 and we should do everything we possibly can to protect  
25 and preserve it for future generations.

1           The California WaterFix is not the way to  
2 achieve that future.

3           In closing, Madam Chair, it's my hope that  
4 several, generations from now, people from throughout  
5 the Sacramento-San Joaquin Delta and all of California  
6 can proudly look back and acknowledge and honestly say  
7 that we in our time did the right thing in the  
8 decisions we made to serve the Delta, its people, the  
9 environment, and the people of the State of California.

10           That concludes my summary comments. And with  
11 that, I wanted to thank you for your attention, the  
12 opportunity to speak before you today, and I stand  
13 ready to answer any questions.

14           Thank you.

15           MR. FERGUSON: Thank you.

16                           DIRECT EXAMINATION BY

17           MR. FERGUSON: Dr. Benedetti, will you please  
18 state your name for the record.

19           WITNESS BENEDETTI: Robert Benedetti.

20           MR. FERGUSON: You need to turn to on your  
21 microphone.

22           WITNESS BENEDETTI: Oh. Robert Benedetti.

23           MR. FERGUSON: Thank you.

24           Dr. Benedetti is Exhibit SACO-2 a true and  
25 correct copy of your written testimony?



1 WITNESS BENEDETTI: Yes.

2 MR. FERGUSON: And is Exhibit SACO-3 a true  
3 and correct copy of your written Statement of  
4 Qualifications.

5 WITNESS BENEDETTI: Yes.

6 MR. FERGUSON: Can you please describe your  
7 academic credentials, relevant work experience, and  
8 current job title.

9 WITNESS BENEDETTI: Yes. I hold a Doctorate  
10 from the University of Pennsylvania. I was Co-Director  
11 of the Delta Narratives Project from the Delta  
12 Protection Commission, which assembled the historic  
13 record of the Sacramento-San Joaquin Delta and  
14 attempted to relate that record to regional and  
15 national trends -- historic trends.

16 Currently, I am a Research Scholar at the  
17 Center for California Studies, CSU Sacramento.

18 MR. FERGUSON: In preparation of your  
19 testimony, did you read portions of the California  
20 WaterFix Final EIR?

21 WITNESS BENEDETTI: Yes, I did.

22 MR. FERGUSON: Is Exhibit SACO-4 a PowerPoint  
23 presentation that you plan to use to summarize your  
24 testimony?

25 WITNESS BENEDETTI: It is, yes.

1 MR. FERGUSON: Mr. Hunt, can we please bring  
2 in SACO-4.

3 (Exhibit displayed on screen.)

4 MR. FERGUSON: All right. Dr. Benedetti, can  
5 you please summarize your testimony.

6 WITNESS BENEDETTI: My testimony addresses the  
7 portion of the Delta from Hood to Courtland as this is  
8 the area most at risk from the implementation of the  
9 WaterFix.

10 In my opinion, the built environment, the  
11 natural environment, the transportation venues, and the  
12 historic artifacts of the region provide a unique view  
13 of California's historical evolution.

14 The Delta Region has preserved a landscape  
15 which sustained native people for 13,000 years as it  
16 was also a seabed for agricultural innovation during  
17 the late 19th and 20th Centuries, and a Mecca for  
18 recreational boating with the invention of the outboard  
19 motor, and sites are there today which are nurturing  
20 the growth of a tourist destination.

21 To animate these stories, the Delta has  
22 attracted the attention of artists and writers, as well  
23 as a continuing stream of immigrants from every  
24 continent.

25 To preserve their stories, it is necessary to

1 project the environment out of which they have grown.  
2 The WaterFix puts such historical materials and the  
3 natural environment that has nurtured them at risk.

4 Next slide.

5 (Exhibit displayed on screen.)

6 WITNESS BENEDETTI: Plains Miwok tribes were  
7 strung along the Sacramento River on the eastern as  
8 well as the western banks from Rio Vista north for as  
9 many as 13,000 years.

10 The EIR identifies multiple archeological  
11 sites in San -- in Sacramento County potentially  
12 affect -- affected by WaterFix.

13 The EIR also documents the multiple  
14 archeological sites which have yet to be fully explored  
15 and which new techniques may make available to us.

16 WaterFix makes less likely our continued  
17 recovery of the way of life of these peoples by failing  
18 to prioritize the protection of these sites.

19 Next slide.

20 (Exhibit displayed on screen.)

21 WITNESS BENEDETTI: Father Narciso Duran  
22 recorded detailed observations of the Lower Sacramento  
23 River in 1817.

24 But the Spanish did not settle the area.

25 Those possessing land grants focused settlements in

1 Sacramento, Stockton, and the Pittsburg-Antioch region,  
2 leaving much of the Delta open for future immigrants to  
3 settle.

4 Next slide.

5 (Exhibit displayed on screen.)

6 WITNESS BENEDETTI: The world rushed in to  
7 find gold following its discovery in 1849. An option  
8 for many who did not strike it rich was farming the  
9 rich soils of the Delta.

10 For example, with funds saved from successful  
11 prospecting, Josiah Buckman Green bought property on  
12 the western side of the Sacramento River sight unseen  
13 in 1850. He later expanded his holdings on the eastern  
14 side where the house bearing the Greene name still  
15 stands.

16 He and his family were responsible for early  
17 levee building and had a talent for the use of  
18 technology, including the early dredge and tule  
19 breaker, which is pictured in the slide.

20 In addition to these successful agricultural  
21 ventures, the Delta generally, and Courtland-Hood --  
22 the Courtland-Hood area particularly, has long been a  
23 Mecca for recreational activities.

24 Jack London loved to cruise the Delta when he  
25 wasn't writing -- he wrote a thousand words a day --

1 with his wife Charmian and their friends.

2 Erle Stanley Gardner, who invented Perry  
3 Mason, chronicled those that relax in the Delta in  
4 three books on the subject.

5 There have now been --

6 Next slide.

7 (Exhibit displayed on screen.)

8 WITNESS BENEDETTI: Next slide.

9 That's the slide for Jack London and Stanley  
10 Gardner.

11 Next slide.

12 Go to the next slide.

13 (Exhibit displayed on screen.)

14 WITNESS BENEDETTI: Okay. There have now been  
15 five generations of Joseph Greene's family raising  
16 pears in this location.

17 The EIR warns of serious impact on the Greene  
18 property, including permanent visual damage. The  
19 Greene property is a clear example of the ways that the  
20 WaterFix will compromise cultural resources by  
21 structural change and change in the settings severe  
22 enough to alter the character of the property.

23 Can we go back, then one slide.

24 (Exhibit displayed on screen.)

25 WITNESS BENEDETTI: That's fine.

1           The Final EIR discusses mitigation for three  
2 historic structures along River Road between Freeport  
3 and Courtland: The Mosher House, the Greene House, and  
4 the Rosebud Rancho.

5           It is suggested that the Mosher House be  
6 moved, the Greene House be stabilized and possibly  
7 moved temporarily, and the Rosebud Rancho be ignored  
8 since it has sustained fire damage.

9           However, part of the value of these residences  
10 is their location. Relocation will lessen their value  
11 and their impact on visitors. Temporary relocation and  
12 mothballing would take portions of these properties out  
13 of commission for an indeterminate period, risking mold  
14 and other destructive forces.

15           Next slide.

16           (Exhibit displayed on screen.)

17           WITNESS BENEDETTI: And then the next slide.

18           (Exhibit displayed on screen.)

19           WITNESS BENEDETTI: That's right.

20           While the Rosebud Rancho may have suffered  
21 fire damage, refusing it mitigation makes less likely  
22 future renovation of the property.

23           History buffs in Elk Grove have long taken  
24 tours to Rosebud Rancho and is -- and its gardens, even  
25 though the EIR suggests the property is in such

1 disrepair that it should be declassified as a national  
2 historic site.

3 Private foundations and local organizations do  
4 not define projects worthy of investment based on  
5 governmental approval, but they would expect no further  
6 damage be done.

7 The EIR states that WaterFax (sic) would --  
8 WaterFix would result in permanent service impact on  
9 the Rancho, including an access road and transmission  
10 lines at the site.

11 Such disruption would -- would, thus, allow --  
12 would, thus, slow, if not make impossible, any attempt  
13 to restore this house and its lovely gardens.

14 One of the goals of the Delta Heritage Area  
15 Application is to link partner sites, and the loss of a  
16 site like Rosebud Rancho will make the entire chain  
17 less compelling.

18 Next slide.

19 (Exhibit displayed on screen.)

20 WITNESS BENEDETTI: An evaluation of historic  
21 resources undertaken in 2012 as part of the preparation  
22 for the day -- the Bay-Delta Conservation Plan found  
23 680 structures of potential historic value, but only  
24 440, or two-thirds, could be accessed.

25 A second evaluation, the Build Historic

1 Resource Evaluation Report, cites 74 sites in  
2 Sacramento County which are not accessible and,  
3 therefore, were not evaluated. Six were in Hood, four  
4 were in Courtland, and an additional 11 were along the  
5 River Road near these towns.

6           The fact that two reports have noted a  
7 significant number of structures that have not been  
8 evaluated opens the possibility that residences of  
9 historic value were undercounted and not -- have not  
10 yet been appropriately assessed for potential val --  
11 potential damage.

12           In sum, then, the Greene House and others  
13 along the River Road between Hood and Courtland are  
14 part of a chain of architectural gems, documenting the  
15 story of agra business in the Delta.

16           Their assessment, restoration and maintenance  
17 is an important part of maintaining and establishing  
18 agricultural and heritage tourism in the area.

19           Much still needs to be done to ensure their  
20 con -- their contribution to this vision.

21           Next slide.

22           (Exhibit displayed on screen.)

23           WITNESS BENEDETTI: The Delta and the area  
24 within Sacramento County in par -- The Delta and the  
25 area within Sacramento County in particular is blessed



1 with historic bridges. These structures are of  
2 national significance and are often rated high on  
3 evaluations of historic bridges in America.

4 Next slide.

5 (Exhibit displayed on screen.)

6 WITNESS BENEDETTI: In addition to native  
7 habitats, historic homes, bridges and long-established  
8 agricultural businesses, the east side of the Sacra --  
9 the Sacramento River benefits from the founding of  
10 several towns, two of which survived to the present  
11 day.

12 Both Hood and Courtland have been recognized  
13 by the California legislature as Legacy communities.  
14 These towns provide the anchors for any attempt to  
15 revitalize the Delta.

16 In 1909, the Southern Pacific Company named a  
17 small shipping enclave Hood for William Hood, a  
18 Southern Pacific Engineer who had planned a rail spur  
19 from a landing on the river to Franklin junction on --  
20 where the Sacramento Southern Railroad met it.

21 Southern Pacific later partnered with Madison  
22 Barnes to develop a residential community adjacent to  
23 the new shipping facility.

24 However, while Hood's residential growth  
25 lagged, growers established warehouses, packing houses,

1 and cold storage facilities near the Southern Pacific  
2 wharf.

3 Next slide.

4 (Exhibit displayed on screen.)

5 WITNESS BENEDETTI: Courtland was founded  
6 earlier, in 1867, when a Post Office was moved there.  
7 The town experienced continued growth after 1900.  
8 Unlike other Delta landing settlements, Courtland sent  
9 its fruit and vegetables to other locations for  
10 processing.

11 Rather than industry, Courtland remained a  
12 residen -- focused on being a residential settlement  
13 and an agricultural shipping center. It would become  
14 well known for pear production.

15 With the introduction of the outboard motor,  
16 Courtland became a Mecca for recreational activities.

17 The EIR, which was the source of the facts  
18 that I've just given you, does not, however, discuss  
19 how community life in Courtland and Hood will be  
20 sustained during the following implementation --  
21 during -- and follow -- will be sustained during and  
22 following the implementation of WaterFix.

23 There's no sociology there.

24 Traffic will make daily contact between  
25 citizens difficult and will damage the transaction of

1 business. Customers and residents will not be able to  
2 continue routines. Community events may be disrupted.  
3 Investment may be put on hold. Some residents may  
4 leave and others may not arrive. Safety that has been  
5 taken for granted may no longer be secure.

6 For these towns to survive as social units,  
7 the boomtown milieu that often accompanies a  
8 construction site will need to be avoided.

9 Next slide.

10 (Exhibit displayed on screen.)

11 WITNESS BENEDETTI: State Highway 160 runs the  
12 length of the Delta from Sacramento to Antioch. It has  
13 been designated a Scenic Highway because of its beauty  
14 and history. The section between Sacramento and Walnut  
15 Grove has been selected by some authors as typifying  
16 the heritage of the Delta.

17 This idyllic route would be physically altered  
18 forever with the relocation of the highway at each of  
19 the three intakes.

20 The suggestion is to move the roadway 220 feet  
21 further inland from the liver. The visual esthetic of  
22 the highway in and around the intakes would contrast  
23 starkly with the relatively placid surroundings  
24 elsewhere on the route.

25 Construction will disrupt the driving

1 experience for 10-plus years on Highway 160, given the  
2 increased traffic volumes from Sacramento to Walnut  
3 Grove.

4 Next slide.

5 (Exhibit displayed on screen.)

6 WITNESS BENEDETTI: That the State of  
7 California intends to protect the Delta's esthetic and  
8 cultural values is made manifest from the legal  
9 citations noted in Chapter 18 of the EIR.

10 However, the analysis of the impact of  
11 WaterFix on these values explores the hypothetical  
12 visual and psychological disruption experienced by  
13 casual visitors.

14 It does not adequately take into account the  
15 fatigue factor which would weigh on property and  
16 business owners and potential investors in heritage  
17 tourism over the course of instruction -- construction.

18 The esthetics -- The esthetic significance of  
19 the landscape and built resources endangered by the  
20 WaterFix installation is great.

21 A number of recognized artists -- including,  
22 as is pictured in the picture there, Wayne Thiebaud,  
23 Ning Hou and Greg Kondos, as well as photographers like  
24 Rich Turner -- continue to focus major works on the  
25 Delta and, in particular, the stretch from Freeport to

1 Walnut Grove. They should have been consulted.

2           One of the specific vulnerabilities for  
3 heritage tourism regarding the WaterFix Project relates  
4 to the potential investment in historic resurrect --  
5 historic res -- restoration in the Courtland-Hood area.

6           Clarksburg across the Sacramento River has  
7 already begun several restoration projects in the hope  
8 of stimulating heritage tourism.

9           WaterFix -- The WaterFix initiative could  
10 effectively put on hold any such projects in Courtland  
11 and Hood.

12           Next slide.

13           (Exhibit displayed on screen.)

14           WITNESS BENEDETTI: While each of the five  
15 Delta counties have developed future-oriented plans for  
16 the region, the most visionary plan is the one  
17 developed by the Delta Protection Commission in their  
18 application for the Delta heritage area.

19           The slide shows that California has yet to  
20 have a heritage area, but they are heavily in the  
21 eastern part of the United States.

22           And, also, you'll notice Colorado. That's  
23 because a recent Secretary of the Interior came from  
24 Colorado and knew the value of these programs.

25           The Heritage Area Application sets forth six

1 goals: Identify the Delta as a region of national  
2 significance; support economic development of the Delta  
3 by drawing visitors to designated partner sites;  
4 promote heritage tourism, ecotourism and ag tourism;  
5 make available maps to conduct -- connect the sites;  
6 undertake and provide resources for historic  
7 preservation; and develop interpretive signage which  
8 teaches Delta history.

9           It is difficult to see how the WaterFix  
10 supports these goals. In fact, it may retard progress  
11 that has already been made in regard to tourism and  
12 recreation. The WaterFix puts at risk the preservation  
13 of historic sites, which is the foundation of this  
14 vision.

15           Those who reflect on the future of the Delta  
16 have concluded that agritourism, ecotourism and  
17 heritage tourism is the appropriate future for the  
18 region. The WaterFix does not align with this vision.

19           Thank you.

20           MR. BURKE: Are we on?

21           Okay. My name is Bill Burke. I'm a Deputy  
22 County Counsel for the County of Sacramento.

23           Good afternoon, Board Members. I'm going to  
24 ask a few questions of Jeff Leatherman.

25

1 DIRECT EXAMINATION BY

2 MR. BURKE: Mr. Leatherman, would you please  
3 state your name for the record.

4 WITNESS LEATHERMAN: It is Jeff Leatherman.

5 MR. BURKE: And do you want to note the proper  
6 spelling?

7 WITNESS LEATHERMAN: Yeah. There is an "A"  
8 here, L-E-A-T-H-E-R-M-A-N.

9 MR. BURKE: Is Exhibit SACO-20 a true and  
10 correct copy of your written testimony?

11 WITNESS LEATHERMAN: Yes, it is.

12 MR. BURKE: And is Exhibit SACO-21 a true and  
13 correct copy of your written Statement of  
14 Qualifications?

15 WITNESS LEATHERMAN: Yes, it is.

16 MR. BURKE: And what is your current job  
17 title?

18 WITNESS LEATHERMAN: It's the Director of  
19 Regional Parks for Sacramento County.

20 MR. BURKE: Can you briefly summarize your  
21 academic and professional background as they relate to  
22 your testimony.

23 WITNESS LEATHERMAN: Sure.

24 I have my Bachelor of Science in Community and  
25 Commercial Recreation from California State University

1 Chico; spent six years managing a lake marina operation  
2 in Southern California; three years managing community  
3 commercial recreation operations also in Southern  
4 California; and I've been with the County for the past  
5 six years.

6 MR. BURKE: Can you tell us some of your  
7 duties as Regional Parks Director for the county.

8 WITNESS LEATHERMAN: So, as the Regional Parks  
9 Director, I'm responsible for 15,000 acres of  
10 management and protection throughout the county.

11 We have the American River Parkway here in  
12 Sacramento County, as well as the Dry Creek Parkway.

13 We are partners in the Consumnes River  
14 Preserve and he also a number of preserves throughout  
15 the county. And we have a number of recreation sites  
16 along the Sacramento River as well.

17 MR. BURKE: In preparation for your testimony,  
18 did you read portions of the California WaterFix  
19 Final EIR?

20 WITNESS LEATHERMAN: I did, concentrating  
21 primarily on the recreation chapter, Chapter 15, but  
22 other portions of the Final EIR as well.

23 MR. BURKE: And have you formed an opinion as  
24 to how the WaterFix may impact recreational resources  
25 at the Consumnes River Preserve.



1 WITNESS LEATHERMAN: I have.

2 MR. BURKE: And can you tell us your reasons  
3 for your conclusions and your opinion.

4 WITNESS LEATHERMAN: So, the opinion that I  
5 have, in looking at the impacts associated specifically  
6 with the Preserve at Consumnes River, is that the  
7 Project in the construction phase, as well as beyond  
8 the construction phase, will have a significant and  
9 negative impact of the recreation values there at the  
10 Preserve.

11 As we look at the construction opportunities,  
12 there's going to be significant construction impacts  
13 adjacent to the Preserve as well as on the Preserve.

14 And, as you heard from previous testimony,  
15 the -- the Delta really as a recreational asset depends  
16 on the quiet enjoyment of the beauty that -- that is  
17 there in the Delta.

18 And with additional recreation coming to the  
19 Delta, both by the youth in our surrounding community,  
20 as well as tourism in and around our community,  
21 bringing significant construction equipment and then  
22 essentially having tunnels, leftover spoils, in and  
23 around the Consumnes River Preserve will have a  
24 significant and negative impact on the recreation  
25 enjoyment there.

1 MR. BURKE: And can I take a step back.

2 And can you just summarize a bit about what  
3 the Preserve is and why it's a valuable resource.

4 WITNESS LEATHERMAN: Sure.

5 So the Consumnes River Preserve is a  
6 partnership with Sacramento County and about nine other  
7 partners at the Federal and State level, as well as the  
8 local level with some non-profits included.

9 It is a group of landowners that are  
10 essentially promoting the Preserve and its natural  
11 esthetics, primarily for recreation but also for  
12 waterfowl protection and migratory bird protection.

13 MR. BURKE: And are there any specific  
14 elements of the Proposed Project that are on or near  
15 the Preserve that cause you concern?

16 WITNESS LEATHERMAN: There are.

17 Specifically as it relates to the Preserve,  
18 there's the east-west transmission line that's adjacent  
19 to the North Preserve Boundary. There is the tunnel  
20 material that will be stored north of the Preserve, as  
21 well as permanent tunnel shafts on the Preserve.

22 MR. BURKE: And do you recall the conclusion  
23 in the Final EIR with respect to construction-related  
24 impacts to the Preserve?

25 WITNESS LEATHERMAN: I do recall. And it

1 concludes the construction-related impacts to  
2 recreation will be significant and unavoidable, even  
3 with mitigation.

4 MR. BURKE: Thank you.

5 Have you formed an opinion as to how the  
6 WaterFix may affect recreational resources at the Stone  
7 Lakes National Wildlife Refuge?

8 WITNESS LEATHERMAN: I have.

9 And the background in our operation at Stone  
10 Lakes is, Sacramento County and the Regional Parks  
11 Department is part owner of that Preserve along with a  
12 number of partners. We own about 12,000 -- 1200 acres  
13 within the Stone Lakes Preserve.

14 And specifically as it relates to this  
15 Project, there's going to be impacts, as essentially  
16 the Preserve is adjacent to this Project and it's  
17 within the 1200- to 1400-foot indirect impact area.

18 The noise and visual impacts from the  
19 temporary construction will be significant and impact  
20 the recreation enjoyment of people visiting the  
21 Preserve, and our docent-led tours, as well as casual  
22 recreation visitors.

23 MR. BURKE: Okay. And did you have an opinion  
24 about how the construction of the Project would affect  
25 Stone Lakes?

1 WITNESS LEATHERMAN: I do have an opinion.

2 And, as previously stated, the adjacency of  
3 this Project to Stone Lakes will have a very negative  
4 impact. The impact of noise, the geotechnical  
5 exploration, and the temporary transmission lines that  
6 are adjacent to Stone Lakes will impact those  
7 recreational values.

8 MR. BURKE: Have you formed an opinion as to  
9 how the WaterFix may affect recreational resources at  
10 Staten Island?

11 WITNESS LEATHERMAN: I have.

12 Staten Island is also a portion of the  
13 Consumnes River Preserve.

14 But it's worth calling out specifically the  
15 island because it also provides additional recreation  
16 opportunities that's adjacent to the Preserve separate  
17 from our volunteer operation that we have on the  
18 Preserve boundary.

19 MR. BURKE: Was there any correction you  
20 wanted to make to your written testimony regarding  
21 Stat -- the impacts to Staten Island?

22 WITNESS LEATHERMAN: I did.

23 In my written testimony, you'll find that  
24 there has been identified the launch shafts, vent  
25 shafts, conveyer facilities, temporary access roads and

1 permanent access roads. That was from my original  
2 exploration of the EIR.

3 And, in my review in preparation for the  
4 testimony today, I found that those had been removed  
5 from the island and relocated to different areas within  
6 the Project.

7 MR. BURKE: And, so, just to be clear, are  
8 there remaining Project facilities that will be on or  
9 near Staten Island?

10 WITNESS LEATHERMAN: There will be.

11 There -- What remains is temporary access  
12 roads, two sets of tunnel shafts, and some temporary  
13 work areas, along with permanent access roads, but the  
14 remainder that is written in my testimony has been  
15 removed.

16 MR. BURKE: And where does the tunnel route  
17 run with respect to -- or in relation to Staten Island?

18 WITNESS LEATHERMAN: It essentially runs right  
19 down the middle of the island, bifurcating two sides of  
20 the island.

21 And, in my opinion, having a very significant  
22 impact both during the construction process but also  
23 after the construction process to the recreational  
24 values that we hold there on the island.

25 Having the construction essentially bifurcate

1 the recreational opportunities will significantly  
2 diminish people's ability to access that space during  
3 the construction process.

4           Assuming that we're two, five or 10 years into  
5 the construction process, we essentially miss  
6 potentially a whole generation of somewhere between the  
7 ages of five and 15 years old of our school kids being  
8 able to experience that space and the recreational  
9 values that it holds in its current natural state.

10           MR. BURKE: Okay. Thank you.

11           And could I have ask to have Sac County  
12 Exhibit 20 up on the screen.

13           (Exhibit displayed on screen.)

14           MR. BURKE: And can we scroll to Page 2.

15           (Exhibit displayed on screen.)

16           MR. BURKE: And just so we show that graph.

17           Okay. Mr. Leatherman, continuing:

18           Have you formed an opinion as to how the  
19 WaterFix may affect recreation resources in and along  
20 the Sacramento River?

21           WITNESS LEATHERMAN: I have.

22           And, as we continued to look at the potential  
23 impacts with WaterFix, we see a decrease in flows on  
24 the Sacramento River specifically, as well as impacts  
25 to Folsom Lake and others.

1           With -- Specific to the Sacramento area --  
2 Specific to the Sacramento River area, we see potential  
3 decrease in water flows throughout the region.

4           That's going to impact the recreation and  
5 enjoyment. It's going to impact people's recreational  
6 behaviors on the Sacramento River and, thereby, having  
7 a very negative impact overall in people's recreational  
8 experiences.

9           MR. BURKE: And do you recognize this -- this  
10 graph shown as being included in your written  
11 testimony?

12          WITNESS LEATHERMAN: I do.

13          MR. BURKE: And do you recognize that as being  
14 taken from the Final EIR for the WaterFix?

15          WITNESS LEATHERMAN: Yes, I do.

16          MR. BURKE: And can you tell us what this  
17 graph shows with respect to your concerns about the  
18 Sacramento River.

19          WITNESS LEATHERMAN: So, if you see the  
20 existing condition that is the, I believe, orange line  
21 there at the top, and then our Alternative A (sic).

22                 In territory areas, especially in and around  
23 the July and August timeframe, that Alt -- the  
24 Alternative 4A is going to drop below both our existing  
25 condition and potentially the No-Action Alternative,

1 having lower flows in the Sacramento River.

2 Lower flows in the Sacramento River are going  
3 to cause impacts potentially to the recreation  
4 enjoyment, fishing, angling, boating, on the Sacramento  
5 River.

6 MR. BURKE: And just to be precise, this graph  
7 is showing the flow levels at -- at what point along  
8 the river?

9 WITNESS LEATHERMAN: It's at the Freeport  
10 location on the Sacramento River.

11 MR. BURKE: Can we scroll to the next page.

12 (Exhibit displayed on screen.)

13 MR. BURKE: Okay. And does -- Well,  
14 foundation.

15 Do you recognize this graph as being included  
16 in your written testimony?

17 WITNESS LEATHERMAN: I do.

18 MR. BURKE: And . . . to your knowledge, is  
19 this a graph taken from the Project Final EIR?

20 WITNESS LEATHERMAN: To my knowledge, it is.

21 MR. BURKE: So can you explain a bit about how  
22 this graph is relevant to really the testimony you've  
23 just given?

24 WITNESS LEATHERMAN: Yeah. This is the  
25 downstream area, which would be north of the Delta



1 intakes.

2           And, similar, in this area, you see even more  
3 dramatic example of the potential decrease in water  
4 flows, especially during the primary recreation months  
5 of June, July and August.

6           You have both represented the existing  
7 conditions as well as the No-Action Alternative. And  
8 the impacts of the WaterFix, which is represented by  
9 the blue line, is significant below -- significantly  
10 below those current and projected future water  
11 elevations.

12           Again, with lower waters in the Sac --  
13 Sacramento River, you're going to see a decrease in  
14 recreational opportunities, decrease in behaviors of  
15 recreation, and potentially a complete displacement of  
16 recreation on the Sacramento River because of those low  
17 flows.

18           MR. BURKE: Okay. Can we scroll to the next  
19 page.

20           (Exhibit displayed on screen.)

21           MR. BURKE: Actually, Page 8.

22           (Exhibit displayed on screen.)

23           MR. BURKE: And there's a graph there. Thank  
24 you.

25           Okay. Mr. Leatherman, continuing:

1           Have you formed an opinion as to how the  
2 WaterFix Project may affect recreational resources at  
3 Folsom Reservoir?

4           WITNESS LEATHERMAN: I have.

5           MR. BURKE: And can you please explain what  
6 your opinion is and your conclusions are.

7           WITNESS LEATHERMAN: I can.

8           And, for the record, I just want to be clear  
9 that the Department of Regional Parks, while we don't  
10 have direct recreational management or control over  
11 Folsom Lake, it does fall within the county and is part  
12 of our recreational assets that we consider and offer  
13 throughout the county.

14           And the existing condition I want to key in  
15 on, as well as the No-Action Alternative. And, as you  
16 can see from the Alternative 4A labeled in the blue  
17 line, the potential water elevations at Folsom at the  
18 end of September significantly drop from the existing  
19 condition and, in some cases, are below the No-Action  
20 Alternative, meaning that we have a decrease number of  
21 recreational years at the end of September that are  
22 available for the recreation community to use in  
23 Sacramento County and specifically on Folsom Lake.

24           MR. BURKE: And was there any particular  
25 information in the Final EIR that supports your opinion

1 regarding reduced years of available recreational  
2 opportunities at -- at Folsom Reservoir?

3 WITNESS LEATHERMAN: There were.

4 There were a number of tables that were  
5 included in the Final EIR that identified, based on  
6 either the existing condition or the No-Action  
7 Alternative, years that would increase.

8 I believe on the No-Action Alternative, it was  
9 an increase of three years, and on the existing  
10 condition, it was increased to potentially 14 years, if  
11 I've got my numbers right. Let me doublecheck my  
12 notes.

13 For decrease in recreational asset --  
14 recreational opportunities at a total of 82 years that  
15 were projected.

16 In some cases, this is significant because we  
17 potentially lose the opportunity to recreate and it  
18 also displaces that recreation into other areas of the  
19 county, potentially on to the Sacramento River or other  
20 locations outside of the county.

21 MR. BURKE: Okay. And have you formed an  
22 opinion as to how the WaterFix might affect  
23 recreational resources in and along the American River,  
24 including Discovery Park?

25 WITNESS LEATHERMAN: I have.

1           There was no specific impacts on the analysis  
2 for surface water elevation. But as I look at the  
3 impacts associated with Folsom Lake, as well as the  
4 impacts associated with the Sacramento River, I look at  
5 what the potential water flows are on the American  
6 River.

7           And, as we decrease water flows in those areas  
8 based on the No-Action Alternative or the existing  
9 condition, we're going to see a decrease in the  
10 recreational opportunities along the American River as  
11 well.

12           As you look at Discovery Park, a decrease in  
13 water elevations on the American and on the Sacramento  
14 River decrease our recreational opportunity but it also  
15 impacts our safety.

16           Unfortunately, we found in 2015, we had a  
17 number of drownings in and around the Discovery Park  
18 area at Tiscornia Beach.

19           As we were looking at the impacts associated  
20 with that, we were watching the low flows around  
21 Sacramento and the American River, concluding that, in  
22 some cases, people felt more comfortable to enter the  
23 water and swim in the water as the lower flows down the  
24 American and Sacramento River and increase our --  
25 increasing our drowning risk in those locations.

1 MR. BURKE: Can you explain what scouring is  
2 and how that might be affected by flow rates in -- in  
3 either or both the Sacramento or American Rivers?

4 WITNESS LEATHERMAN: As we look at a change in  
5 potentially the -- The American River, I'll use as an  
6 example.

7 As we look at the potential change around low  
8 flows down the American River, we have the potential  
9 for a change in the riverbank, and a change in the  
10 access to recreation along the riverbank because of  
11 those lower flows, whether it be recreational-related  
12 footpaths or launch ramps, a significant change in  
13 those water elevations and flows impact people's  
14 ability to access recreation along the river.

15 CO-HEARING OFFICER DODUC: Let me interrupt.  
16 Miss Ansley.

17 MS. ANSLEY: Yes.

18 I'm a little late to the podium.

19 I'd like to lodge an objection. I don't see  
20 any testimony regarding drowning and the impacts of  
21 people entering the water at low flows.

22 And then I'd also like to lodge, then, an  
23 objection to -- so -- as beyond the scope of direct.

24 And then this current testimony, I'm looking.  
25 I -- I don't see any testimony regarding impacts of

1 increased scouring, and I believe he said access along  
2 footpaths.

3           So I -- There have been gentle strayings from  
4 the direct and I generally kept myself in my seat, but  
5 I believe that those two issues are extensions of his  
6 impact testimony here.

7           CO-HEARING OFFICER DODUC: I see some mention  
8 of scouring --

9           MS. ANSLEY: Where is that?

10          CO-HEARING OFFICER DODUC: -- but not the  
11 others.

12          So maybe, Mr. Burke, you can . . .

13          MR. BURKE: The testimony on scouring, I  
14 believe, is Page 8 --

15          CO-HEARING OFFICER DODUC: Eight.

16          MS. ANSLEY: Eight?

17          MR. BURKE: -- Line 10.

18          (Exhibit displayed on screen.)

19          MR. BURKE: There it is.

20          MS. ANSLEY: Okay. I will with . . . I  
21 will --

22          MR. BURKE: I believe the test --

23          MS. ANSLEY: -- withdraw the objection  
24 regarding the scouring.

25          MR. BURKE: The testimony on the drowning, I

1 believe that's -- that's not in the written testimony.

2 WITNESS LEATHERMAN: It's not.

3 MS. ANSLEY: I do. I do withdraw the  
4 objection on the scouring.

5 MR. BURKE: Well, there is -- He does talk  
6 about the failure to analyze the impacts to the  
7 American River flow rates and flow levels as  
8 constituting a risk. He does not specify drowning.

9 But I think it can be implied that one of the  
10 risks that that entails could be safety to swimmers.

11 CO-HEARING OFFICER DODUC: It will go to  
12 weight, Miss Ansley.

13 MS. ANSLEY: Fine.

14 MR. BURKE: Okay. Just a couple more  
15 questions.

16 Mr. Leatherman, are you familiar with  
17 Mitigation Measure REC-2 in the Final EIR?

18 WITNESS LEATHERMAN: Yes, I am.

19 MR. BURKE: Okay. Have you formed an opinion  
20 regarding the feasibility of that Mitigation Measure?

21 WITNESS LEATHERMAN: I have.

22 MR. BURKE: And what is that opinion?

23 WITNESS LEATHERMAN: The Mitigation Measure  
24 REC-2 essentially identifies Georgiana Slough and  
25 Cliffhouse fishing access as alternative locations for

1 recreation.

2           While that is true, the County of Sacramento  
3 doesn't have enough information to really understand  
4 what the expectation is for increase in recreational  
5 access as it results from that Mitigation Measure, so  
6 we wouldn't know the costs associated with the  
7 increased recreational access, we wouldn't know the  
8 impacts to the surrounding parkland on those increase  
9 to recreation impacts, so there was no way to evaluate  
10 whether that Mitigation Measure and -- and what the  
11 impacts of that Mitigation Measure was to the county.

12           MR. BURKE: And last question:

13           Have you formed an opinion with respect to any  
14 portion of the final EIR's discussion of the  
15 environmental setting for impacts to recreation and, in  
16 particular, as relates to boating?

17           WITNESS LEATHERMAN: I did.

18           In -- The Final EIR uses what I believe is a  
19 misrepresentation of the boat registration data. And  
20 it looked at data from 2002 to 2009 and concluded that  
21 there was a decrease in registration.

22           While that may be true, I also looked at what  
23 the economy was doing in and around that area. And as  
24 we know from the recreation, just business, boats and  
25 especial -- specifically powerboats are the first thing



1 to go out of people's budgets when times get tough.

2           So it doesn't surprise me to see a potential  
3 decrease around the 2008-2009 boating season. But I  
4 would also argue that we're seeing an increase in -- in  
5 boating and registration just from the number of people  
6 that are using our launch ramps and using our  
7 facilities.

8           MR. BURKE: Thank you.

9                           DIRECT EXAMINATION BY

10           MR. FERGUSON: All right. Good afternoon,  
11 Miss Jensen.

12           Would you please state your name for the  
13 record.

14           WITNESS JENSEN: Juli Jensen.

15           MR. FERGUSON: And is Sacramento SACO-14 a  
16 true and correct copy of your written testimony?

17           WITNESS JENSEN: And it is.

18           MR. FERGUSON: And is SACO-15 a true and  
19 correct copy of your written Statement of  
20 Qualifications?

21           WITNESS JENSEN: Yes, it is.

22           MR. FERGUSON: Can you previously summarize  
23 your academic and professional background as they  
24 relate to your testimony.

25           WITNESS JENSEN: Yes.

1 I am currently serving as the Sacramento  
2 County Agriculture Commissioner, and I have been since  
3 2011.

4 However, I have worked for the Sacramento  
5 County Agricultural Commissioner's Office since 1981  
6 minus one year when I served as the Agricultural  
7 Commissioner for El Dorado and Alpine Counties, and  
8 then I came back.

9 I have a Bachelor's in agronomy from the  
10 University of California, Davis; have worked for  
11 San Joaquin County in my early career as an  
12 agricultural biologist.

13 Also, I've done some time with the Illinois  
14 Department of Agriculture while I was in university.

15 MR. FERGUSON: Thank you.

16 In preparation of your testimony, did you  
17 review certain portions of the EIR?

18 WITNESS JENSEN: Yes, I did, with emphasis on  
19 the agricultural portion.

20 MR. FERGUSON: Great. Thank you.

21 Can you please go ahead and summarize your  
22 testimony.

23 WITNESS JENSEN: Certainly.

24 My testimony today addresses the extent and  
25 nature of agriculture throughout the Delta with an

1 emphasis, focus, on the portion that lies within  
2 Sacramento County.

3           So I'm going to start with a little bit of a  
4 setting.

5           The primary soil of the Delta is peat soil,  
6 which has a very rich nutritional, serves as a really  
7 rich substrate for agriculture.

8           The -- The Delta first came into production  
9 back just right at the beginning of the Gold Rush. The  
10 miners came, and they needed to be fed, so they needed  
11 fruits and vegetables, and with that rich peat soil,  
12 the Delta was the perfect place for it.

13           I think it should be noted that the lasting  
14 wealth of California was not the gold that the miners  
15 removed but the agriculture that we still produce  
16 today. We are the Number 1 state for agriculture in  
17 the United States.

18           The Delta consists of 738,000 acres.  
19 73 percent of that, or 538,000 acres, is devoted to  
20 agriculture. And of that 538,000 acres, just about  
21 75 percent of that is designated as prime farmland.

22           And prime farmland is that which has the best  
23 physical and chemical characteristics, and also a  
24 source of reliable irrigation water.

25           As I mentioned earlier, that peat soil,

1 together with the moderating marine influences, make  
2 yields in the Delta almost 50 percent higher than the  
3 state's average. This is on a per-acre basis.

4           The economy in the Delta is based on a  
5 diversified crops that average \$654,766,000 annual  
6 gross agricultural revenue.

7           Secondary benefits to the local economies  
8 is -- also adds in an additional almost \$2 billion  
9 annually.

10           So if the Delta was a county by itself, it  
11 would rank 15th out of 58 counties in the agricultural  
12 production value.

13           In general, in California, agriculture  
14 contributes 7 percent of all State jobs. This is  
15 likely a little bit higher in the Delta due to the  
16 labor intensity of some of the crops that we have  
17 there, some of our orchards and vineyards. Those are  
18 high-labor crops.

19           Now, I've painted a picture of a wonderful  
20 agricultural production area, but that doesn't mean  
21 that it isn't without its challenges.

22           Our growers face several challenges in that  
23 area, including the water quality and the intrusion of  
24 the brackish water; also, conversion of farmland due to  
25 urbanization and also for public open spaces uses.

1           And so some of the highest rates of farmland  
2 conversion take place in San Joaquin and Sacramento  
3 Counties, and those two counties make up 75 percent of  
4 the Delta.

5           As I mentioned, our crops are diversified, and  
6 agriculture is the principal land use in the Delta.

7           Taking a look at our crops, some of our  
8 permanent crops include orchards and vineyards, pears  
9 have been mentioned before. We are the top pear  
10 producer -- the top pear-producing county in California  
11 and California is the third highest pear producer in  
12 the nation.

13           Recently, we have had vineyards replace some  
14 of our orchards and some of our annual crops due to the  
15 higher value per acre. Grapes are really a high money  
16 crop right now.

17           Our semipermanent crops in the Delta include  
18 alfalfa and turf grasses; and our annual crops include  
19 corn, grain, safflower, hay and tomatoes.

20           We have noted that, particularly in the  
21 southern part of the Delta, some areas have switched to  
22 lower-risk crops due to salinity. And so what -- what  
23 they've done is gone to grazing because the grasses can  
24 be raised in a higher salinity soil, and so, therefore,  
25 their grasses that are used for grazing and livestock

1 production, which is not as high a value production per  
2 acre as some of our more permanent crops, like I  
3 mentioned, the orchards and vineyards.

4           There are other values of our ag lands other  
5 than food production, including wildlife habitat,  
6 recreation and scenic open spaces.

7           Some of our growers leave uncultivated areas  
8 that serve as wetlands and riparian areas.

9           Our annual crops that are in there are  
10 actually sites for Sandhill Cranes and many other  
11 migrating waterfowl that are going up and down the  
12 Pacific floodway.

13           Agritourism in the Delta is in its infancy but  
14 growing. There is a Delta-grown organization that is  
15 working to promote agritourism in the Delta. It  
16 includes vineyards, orchards, and some pumpkin growers.

17           The producers in the Delta are primarily  
18 medium-size family farms. Many of them have several  
19 generations, and a couple of which you will hear from  
20 today.

21           Although there's been a significant increase  
22 in public or quasi-public land ownership for some of  
23 the conservancies, much of that land still remains in  
24 agricultural production that is complementary to the  
25 conservation goal of those conservancies.

1           The Final EIR -- The impacts of the WaterFix  
2 are stated quite clearly in the Final EIR which states  
3 in Chapter 10 that (reading):

4           ". . . Topsoil loss would be significant  
5           and unavoidable for each alternative,  
6           with the exception of No-Action."

7           I've already discussed the significance of the  
8 Delta soils to agriculture in that they're one of the  
9 primary factors that makes this area one of the most  
10 productive per acre in California.

11           So it, therefore, follows that a significant  
12 loss of this topsoil would be a significant loss to  
13 agriculture in the Delta and that a loss of some of the  
14 most productive ag lands in California is a loss to  
15 California agriculture that would be felt most acutely  
16 in the local agricultural community and economy.

17           Land for the tunnel intakes and deposit of  
18 tunnel materials will never be able to return to  
19 agricultural production again.

20           Using the lost agricultural revenue  
21 calculations of Dr. Jeffrey Michael, I've roughly  
22 calculated the economic impact to Sacramento County,  
23 just -- just Sacramento County, associated with the  
24 permanent conversions.

25           We're looking at about 1,000 acres of

1 agricultural land here in Sacramento County, at a value  
2 of \$1,949 per acre, and that is in 2009 dollars. This  
3 equates to \$1.9 million in 2009 dollars.

4           Additionally, it accounts for about 12.2 jobs  
5 per million and \$859,000 in income per million. So  
6 that's a loss of about 24 jobs and a -- an income -- an  
7 additional income loss of \$1.7 million.

8           Then, let's say, look just -- just briefly at  
9 the temporary loss of land -- of the land use.

10           Our medium-size producers that make up the  
11 majority of our producers cannot survive removal from  
12 production for any signif -- significant period of  
13 time, as they will testify to.

14           The land may -- and I emphasize "may" -- be  
15 able to return to an agricultural use at some time in  
16 the future. But the current families that grow there  
17 don't have the financial resources to survive in  
18 agriculture until that happens, and if it does.

19           The disruption of transportation we've heard  
20 about earlier this morning. The geography of the Delta  
21 is not conducive to large, wide modern roadways.

22           Transportation is also challenging for large  
23 trucks and agricultural equipment. Closure of some  
24 roadways would affect most if not all growers within  
25 the boundaries of the Project.



1           This adds to the cost of transportation, of  
2 labor, materials, equipment, and the -- finally, the  
3 agricultural commodities that are produced.

4           This added construction onto fewer roads would  
5 only -- The construction traffic added to these roads  
6 would only add to the burden.

7           I just also want to take a quick look at  
8 Williamson Act. The majority of the agricultural land  
9 in Sacramento Counties within the Project boundaries is  
10 in Williamson Act contracts.

11           So when you're in a contract, the area that is  
12 removed from agricultural production is immediately  
13 removed from the contract.

14           Surveying costs are normally borne by the land  
15 over. However, I'm assuming that, through mitigation,  
16 possibly the Project would assume those costs.

17           And when this happens, it does necessitate the  
18 rescinding and reentering into a new contract. And  
19 this is going to create a significant workload for our  
20 Sacramento County Planning and Environmental Review  
21 Department.

22           So, in conclusion, I have no doubt that this  
23 Project will negatively affect Sacramento County's  
24 agricultural economy for many years to come and, most  
25 likely, permanently, as well as change the agrarian

1 culture and atmosphere of this unique environment.

2 Thank you.

3 MS. MESERVE: Good afternoon. I'll be helping  
4 with the direct testimony of Mr. Russell van Loben Sels  
5 next.

6 Folks are doing great on time. However, I  
7 would point out, I think we may need another 10 to 15  
8 minutes to complete so that we don't short any one of  
9 our Sacramento County witnesses.

10 CO-HEARING OFFICER DODUC: (Nodding head.)

11 DIRECT EXAMINATION BY

12 MS. MESERVE: And now turning to you,  
13 Mr. van Loben Sels.

14 Is LAND-130 a true and correct copy of your  
15 written testimony?

16 WITNESS VAN LOBEN SELS: It is.

17 MS. MESERVE: And can you just briefly  
18 summarize your professional background and history in  
19 the Delta as they pertain to the testimony you're  
20 providing.

21 WITNESS VAN LOBEN SELS: My great -- My  
22 great-grandfather came to the Delta in 1876, began to  
23 reclaim land, farmed, and today my brother, my nephew  
24 and, this summer, two of my grandsons were working on  
25 the farm with us. So, we've been there quite awhile.

1           With the exception of four years in -- in --  
2 in college and three years in the military, I've spent  
3 74 years living in the Delta, so I'm pretty well aware  
4 of -- of what happens and -- and how it happens.

5           Currently, I'm the Vice-President/Chief  
6 Financial Officer of our operating company Amistad  
7 Ranches.

8           I am -- Currently, I am Chief Financial  
9 Officer and Secretary of Esperanza Enterprises, which  
10 is a land holding company.

11           I'm a Trustee of Reclamation District 744.

12           And I also Chair the Delta Caucus, which is a  
13 five-county Delta farm Bureau organization which was  
14 created in 2008, when BDCP was first introduced to the  
15 public, in order to protect and enhance the viability  
16 and the resiliency of Delta agriculture.

17           MS. MESERVE: And then in preparation for your  
18 testimony, did you look at portions of the EIR and  
19 other Project materials?

20           WITNESS VAN LOBEN SELS: I -- I did.

21           I looked at most of the items that are  
22 referenced in -- in my testimony, as well as the  
23 chapter on agricultural resources, and a little bit on  
24 the transportation, and a couple of other little -- a  
25 couple of other spots.

1 MS. MESERVE: And, Mr. van Loben Sels, if you  
2 could just go ahead and briefly summarize your  
3 testimony for us.

4 WITNESS VAN LOBEN SELS: So, it's -- it's my  
5 belief that California will impact the public interest  
6 and the lives of the Delta residents in a variety of  
7 different ways.

8 I've -- I've mentioned to you my -- my  
9 business. I've mentioned to you my overall interest in  
10 Delta agriculture, and -- and my own personal interest  
11 of having lived there for a lot of years.

12 I've lived in the Town of Clarksburg for the  
13 last 40. And the impacts to the residents of  
14 Clarksburg and -- will make it very difficult to stay  
15 there.

16 To begin with, almost all of the residences in  
17 Clarksburg are supported by individual wells of 150 to  
18 200 feet deep, same depth as California WaterFix will  
19 dewater right across the water and a quarter mile  
20 south, the first -- the first diversion point.

21 It's unknown how that dewatering will affect  
22 the water supply for the Town of Clarksburg. But it is  
23 possible that it could interrupt it for a short period  
24 of time and -- and could actually create permanent  
25 damage to the aquifer that supports the town.

1           Construction of the intake across from the  
2 town will involve massive amounts of noisy construction  
3 activities, to include pile driving, traffic, truck  
4 traffic, and other const -- noise.

5           It has been posed that some of this activity  
6 will be seven days a week, 365 days a week (sic),  
7 making it very difficult to live in the Town of  
8 Clarksburg.

9           Clark -- In Clarksburg, transportation,  
10 driving, is a way of life. You saw maps earlier today  
11 that basically show one way in and one way out.

12           In the town itself, there's one small store  
13 equivalent to a 7-Eleven, and so everybody pretty much  
14 does their shopping in Sacramento or -- or in other  
15 locations. So transportation, driving, is a way of  
16 life if you live in the Delta and especially in  
17 Clarksburg.

18           All of this transportation occurs on very  
19 narrow, very unforgiving roads. And when I say  
20 "unforgiving," I mean it -- a small accident can turn  
21 fatal. An accident of running off the road in  
22 Sacramento might mean running off into the river in --  
23 in Clarksburg. So the roads are very, very dangerous.

24           In addition to that, there are times of the  
25 year when you can't see more than 20 feet in front of

1 you. And so the proposed -- the proposed increase in  
2 truck traffic and -- and -- and construction-related  
3 traffic is a really, really serious impact upon the  
4 community of Clarksburg. Again, I'll expand on that  
5 when it comes to the operation of farming in the  
6 region.

7           Because of those impacts, I believe that it  
8 will be very difficult for people to live in Clarksburg  
9 for the 14 years that impact -- that -- that  
10 construction will take place. And -- And -- And,  
11 therefore, you know, living in Clarksburg could become  
12 intolerable for the -- for the citizens.

13           Impacts to my own farming operation.

14           We farm 200 -- approximately 250 acres in the  
15 footprint of the northernmost diversion site. Most of  
16 that land, if not permanently removed, will be, quote  
17 according to WaterFix, "temporarily removed," but I --  
18 I believe areas that are used for construction-related  
19 staging areas and those kinds of things would be very  
20 difficult to return to Clarksburg -- to production.

21           In addition to that, there are lands that are  
22 very -- that are close to -- to the 250 acres of the  
23 farming that'll be interrupted either through cut off  
24 of drainage, dust, irrigation systems disruption, those  
25 kinds of things. So it's not just a 250-acre area.

1 It's -- It's -- It's larger.

2 In -- In addition to the 200 -- the -- the  
3 acreage that will be impacted, Amistad Ranches moves  
4 equipment, moves people, moves product every day up and  
5 down those roads.

6 Now, if you look in the -- in the  
7 transportation part of it, you might find that, in --  
8 that the . . . What is it called? The . . . The  
9 level of --

10 WITNESS CHHABRA: Services?

11 WITNESS VAN LOBEN SELS: Yeah. Level of  
12 service, LOS, on the River Road is 740 per hour.  
13 That's two every second.

14 At two every second, you will not be able to  
15 get up a driveway. You'll not be able to access that  
16 road. It will be gridlocked. So the transportation  
17 issues are really, really serious for -- for our -- our  
18 own operations.

19 Our employees. We -- We have a large seasonal  
20 workforce. And you heard it earlier today, that they  
21 will be disrupted. If they can't get to their job  
22 easily, they'll look elsewhere.

23 Right now, sourcing em -- employees is -- is a  
24 little bit difficult. And we have -- Two of our crops  
25 have very, very intensive when it comes to employees,

1 and those are pears and wine grapes.

2           And so it's critical that we be able to -- to  
3 move people in and out into the -- to the areas that we  
4 need them.

5           The -- The impacts of WaterFix that I see are  
6 not only in our operation related to people and -- and  
7 our own individual operations.

8           Every -- Every September 15th, Sandhill Cranes  
9 arrive from up north and right across the levee from  
10 our operation is North Stone Lakes. And the Sandhill  
11 Cranes come to North Stone Lakes. They -- They stay  
12 there in the -- in the shallow water. And every day in  
13 the morning, they come out and they forage on land that  
14 is now going to be part of WaterFix, going to be part  
15 of an industrial area that -- that will not be  
16 accessible to them. Every evening, they come out  
17 again, and then they go back to roost in -- in the --  
18 in the Refuge.

19           So it's not just people, it's also the  
20 wildlife of the area, that will be affected.

21           So coming to the overall aspects of  
22 agriculture in the Delta.

23           General plans of all the counties recognize  
24 and value the agriculture resources that they have  
25 within their boundaries.



1           We have -- The Delta Protection Act of 1992  
2 describes the Delta as an agriculture region of great  
3 value and states that the primary zone should be  
4 protected from the intrusion of nonagricultural  
5 resources.

6           The -- The Act mandated a Land Use Management  
7 Plan, and there are very strong, strong policies  
8 protecting agriculture in the Delta within that Plan.

9           And in the -- Pursuant to the Delta Reform Act  
10 of 2009, the Delta Protection Commission did a . . .  
11 Economic Sustainability Plan, which clearly shows that  
12 agriculture is the backbone of the Delta's economy.

13           The -- In addition to mandating that a  
14 Sustainability Plan be created in 2009, the Delta  
15 Reform Act institutionalized the coequal goals:  
16 Reliable water supply; ecosystem restoration; and, as  
17 Supervisor Nottoli explained earlier, conditioned them  
18 on the protection and enhancement of Delta agricultural  
19 resources, including agriculture.

20           So that is key. Its It's -- a condition.  
21 It's not "may." It's "shall be."

22           So when you look at overall the potential for  
23 degraded water supply, you look at taking land out of  
24 production, you take a look at the disruptions in --  
25 in -- in transportation throughout the Delta, this Plan

1 will devastate the Delta's economy. This Plan will  
2 devastate -- will actually devastate -- Delta  
3 agriculture. And I -- It's in the public interest,  
4 I -- I believe, to -- to not go forward with this plan.

5           There are other options that I believe are  
6 available for making water supply more reliable in  
7 California, for making the Delta a better supply of  
8 water for the -- for the rest of California, and those  
9 are the things that we should pursue.

10           Thank you.

11           MS. MESERVE: Mr. van Loben Sels, just to  
12 follow up on one item in your testimony.

13           You spoke a lot about the construction  
14 effects, the -- the lengthy construction period.

15           In addition -- and I would refer you to  
16 Page stick of your testimony -- are you concerned that,  
17 even if farming could survive the construction period,  
18 about increased salinity and the fact that could have  
19 on farming in the Delta?

20           WITNESS VAN LOBEN SELS: That's a very  
21 long-term impact. As I've -- as I've stated in  
22 previous testimony before you, as you reduce the --  
23 the -- the -- the flow in the Sacramento River, you  
24 reduce the hydraulic barrier to the ocean, and the  
25 hydraulic barrier to the ocean is what keeps the Delta

1 fresh.

2           And if you reduce that hydraulic barrier, you  
3 increase salinity intrusion, and that will ruin the  
4 soils, ruin the long-term sustainability of the -- and  
5 viability of Delta agriculture.

6           MS. MESERVE: And even if those increases in  
7 salinity of the water and the soil were incremental,  
8 might that still be a concern over the long term?

9           WITNESS VAN LOBEN SELS: Absolutely.

10           Some crops are more sensitive than others,  
11 and -- and a slight increment could ruin the ability,  
12 for example, to grow grapes.

13           MS. MESERVE: Thank you.

14           CO-HEARING OFFICER DODUC: Let me check with  
15 Candace.

16           You okay?

17           THE REPORTER: Um-hmm.

18           CO-HEARING OFFICER DODUC: We'll take a break  
19 after the last two witnesses.

20                           DIRECT EXAMINATION BY

21           MR. FERGUSON: Good afternoon, Miss Chhabra.

22           Would you please state your name for the  
23 record.

24           WITNESS CHHABRA: Virginia Hemly Chhabra.

25           MR. FERGUSON: And is SACO-17 a true and

1 correct copy of your written testimony?

2 WITNESS CHHABRA: It is.

3 MR. FERGUSON: Can you please summarize your  
4 professional background and history in the Delta as it  
5 relates to preparation of your testimony.

6 WITNESS CHHABRA: I have been Packing House  
7 Manager at Greene & Hemly for over 20 years. And I am  
8 a descendant of the Josiah Greene that was referenced  
9 earlier, so our family's been in the same place since  
10 1850.

11 MR. FERGUSON: And in preparation for your  
12 testimony, did you read portions -- read or review  
13 portions of the California WaterFix EIR?

14 WITNESS CHHABRA: I did, the parts that are  
15 referenced in my testimony.

16 MR. FERGUSON: Great.

17 Can you please go ahead and summarize your  
18 testimony.

19 WITNESS CHHABRA: Okay. Our family is a  
20 little unusual for California, not so much for other  
21 places. But I'm Generation 6 in the same place with  
22 the same land doing the same sorts of things. We would  
23 love the opportunity for Generation 7 to be able to  
24 make the choice that the rest of us did.

25 I realized at dinner last night that, for me,

1 it is literally mom and apple pie.

2           We are -- We are totally Ground Zero for the  
3 WaterFix with the current proposed alternative and the  
4 three outtakes, which I know are technically intakes,  
5 and on advice of counsel, I called them intakes in my  
6 testimony but I refer to them as outtakes.

7           They all affect, you know, what we do. The  
8 northernmost one, the one across from Clarksburg, it --  
9 you know, it'll affect my nephews when they're at  
10 school across the river, but it also takes out a  
11 portion of an orchard that we have managed for decades.  
12 40, I want to say, years. And it's owned by a family  
13 that we are not related to by blood, but that is just  
14 an accident, you know. We might as well be.

15           The middle outtake takes out an apple orchard  
16 that is owned by our neighbors and whose fruit I pack.

17           The southernmost outtake is immediately north  
18 of my parent's house, the Greene House that was  
19 referenced before. And it, you know, cuts the driveway  
20 into my Packing House, so I don't know who I pissed off  
21 at some point, or if it was my dad or someone, but  
22 it's -- it's tough not to take it personally when it  
23 does affect you personally.

24           It's not just the personal part, though, you  
25 know. What really worries me about this are the

1 unintended consequences: The -- the noise, and the  
2 dust, and the -- the loss of land, you know. For --  
3 For farming, land is business. If you lose the land,  
4 you lose the business.

5           For permanent crops, you need several years to  
6 get back into production. Orchards are not super duper  
7 mobile. A -- A law office, you pack up those boxes,  
8 you move across the street, you're good. An orchard,  
9 you can't dig up the trees and move them across the  
10 street. That's just not going to work.

11           So the loss of the trees is the loss of that  
12 production, which means the loss of the current market  
13 and the future market, you know, the future viability  
14 of the business.

15           It's loss of habitat. You've heard, I'm sure,  
16 a whole bunch about that, but one of the nice things of  
17 being in the Delta is seeing the seasonal migration of  
18 things, you know.

19           One of my aunts is an insane birder and I have  
20 learned and forgotten so much from her. And just being  
21 able to sit and see, you know, what's out there in  
22 September versus what's out there in June. And no bird  
23 in their right mind is going to come to a construction  
24 site. You know, they're just not.

25           The thing that really kind of hits me in the

1 gut, though, is the loss of the towns. You know,  
2 there's -- there's not a whole lot of small-town  
3 America left. And the Delta is the only place like  
4 this, you know. It's kind of an odd combination of  
5 Mississippi and the Netherlands.

6           And if you turn it into a canal, it's all  
7 going to go away. You know, Hood is -- Hood is doomed  
8 right now. There is absolutely no way that that little  
9 town at the end of Hood Franklin Road is going to exist  
10 between two industrial sites and as a staging area.  
11 It's just impossible.

12           Clarksburg is going to slowly die as, you  
13 know, it's not comfortable to live near pounding all  
14 the time.

15           Courtland will go away. You know, when they  
16 were painting the Courtland Bridge and it took many,  
17 many months longer than it was supposed to, so people  
18 had to cross either at Freeport or at Walnut Grove,  
19 Courtland Market almost didn't make it because they  
20 rely on the lunch business of people who are driving  
21 through. And if you have to go on the other side of  
22 the river, you're not going to the Courtland Market.  
23 So Courtland is going to die.

24           Move down the river. Walnut Grove will go.  
25 You know, if you've got the -- the bridge over the

1 Mokelumne that's going to be replaced, well, that  
2 takes -- That's the truck route to our Parking House  
3 and the Packing House next to us, and the Packing House  
4 on Andrus island, and the Packing House on the back of  
5 Grand Island. That's how we get trucks in and out. So  
6 the Packing Houses go away, which means one of the  
7 larger opportunities for employment goes away.

8           And, you know, there's not a whole lot my dad  
9 and my brother and I have in common. You know, we are  
10 very similar but we are also very, very different.

11           But we all went off to college knowing that we  
12 were not coming back to the ranch because we were  
13 smarter than that. It is hard work. It is long hours.  
14 It is pretty thankless most of the time.

15           And dad went off to study history. My brother  
16 got a degree in economics. I was going to be a lawyer.  
17 We had it just all dialed in and we are all very, very  
18 stupid together right now.

19           And I would -- I would really like for the  
20 future generations to have the choice to be stupid or  
21 not, you know. There's the saying that, you know, if  
22 you're lucky, you only need a lawyer a couple of times  
23 in your lifetime, but you need a farmer three times a  
24 day.

25           You know, it's hokey, but it's totally,



1 totally true where farmers feed people but farming  
2 feeds your soul.

3           We would -- We would be better off  
4 economically if we were doing something else, but I  
5 don't know what the rest of the world would do if  
6 farmers, you know, voted with -- by their pocketbook  
7 with what they were going to do.

8           MR. FERGUSON: Thanks, Miss Chhabra.

9           I wanted to perhaps have you elaborate on a  
10 couple of additional points that you covered in your  
11 testimony.

12           In particular, you discuss how you believe the  
13 noise and vibration associated with construction of the  
14 intake nearest the property could impact your business.

15           Would you please elaborate on your thoughts  
16 there.

17           WITNESS CHHABRA: You know, I -- I run the  
18 Packing House. So it is machinery. And the . . . the  
19 newer the machinery, the more delicate and sensitive to  
20 noise and vibration it is.

21           The best way to tell if something might  
22 possibly go wrong is to pay attention. You look, you  
23 listen, you smell. And if there are noises and smells  
24 from construction and dust and what not that are just  
25 out there in the environment, then I question -- I

1 question our ability to react appropriately to perhaps  
2 equipment emergencies. I question the -- the longevity  
3 of more-sensitive electronic equipment.

4 MR. FERGUSON: Thank you.

5 You also mention concerns about dust and its  
6 potential impacts on fruit.

7 Could you please ex -- explain.

8 WITNESS CHHABRA: A dusty orchard is an  
9 orchard that is very hospitable to mites, and an  
10 orchard that is hospitable to mites is not very, shall  
11 we say, retail friendly.

12 Regardless of what people say, they buy with  
13 their eyes. And fruit that is less than, let's say --  
14 I've heard this is a little ugly -- no longer has the  
15 higher value. And so dustier orchards tend to have  
16 lower returns and not be as economically viable.

17 And we have orchards right around, you know,  
18 either next to or across the river from all three of  
19 the sites.

20 MR. FERGUSON: Thank you.

21 And, finally, with respect to viability of  
22 orchards, you offer some thoughts on the viability of  
23 pear orchards in relationship to certain water quality  
24 issues.

25 Would you mind explaining your thoughts there.

1           WITNESS CHHABRA: Pears, Barletts in  
2 particular, are relatively long-lived perennial crops.  
3 You know, they're right up there with some of the wine  
4 grapes where you'll have -- Everybody on the river has  
5 an orchard that's over 100 years old. You know,  
6 everyone. It's just -- You do.

7           If left to their own devices, they'll last for  
8 a really, really long time, but the water quality does  
9 affect their survival.

10           The southern orchards, in a couple of years  
11 where it was a little salty, didn't quite do as well.  
12 You know, nothing substantial, but everybody was  
13 talking about it.

14           And so that does make everyone worried about  
15 when salt water comes up -- And if you take the water  
16 out of the Delta before it gets to the Delta,  
17 everybody's going to be saltier. And so it has -- it  
18 has everyone worried.

19           MR. FERGUSON: Thank you very much.

20                           DIRECT EXAMINATION BY

21           MR. FERGUSON: Okay. And, finally,  
22 Mr. Philley.

23           Will you please state your name for the  
24 record.

25           WITNESS PHILLEY: Paul Philley.

1 MR. FERGUSON: And is Exhibit SACO-10 a true  
2 and correct copy of your written testimony?

3 WITNESS PHILLEY: It is.

4 MR. FERGUSON: And is SACO-11 a true and  
5 correct copy of your Written Statement of  
6 Qualifications?

7 WITNESS PHILLEY: It is.

8 MR. FERGUSON: And could you briefly summarize  
9 your academic and professional background as they  
10 pertain to development of your testimony.

11 WITNESS PHILLEY: I have a Bachelor of Science  
12 from the California State University Bakersfield. I  
13 have a Master -- Oh, sorry. In geology. And I have a  
14 Master of Arts in planning from UCLA.

15 I've been an employee of the Sacramento  
16 Metropolitan Air Quality Management District for nine  
17 years, seven of those as an Air Quality Planner  
18 Analyst, and the most recent two of those as the  
19 Program Supervisor of the CEQA and Land Use Section.

20 MR. FERGUSON: Thank you.

21 In preparation of your testimony, did you  
22 review certain portions of the EIR?

23 WITNESS PHILLEY: I did.

24 MR. FERGUSON: Can you please go ahead and  
25 summarize your testimony.

1 WITNESS PHILLEY: What we're . . .

2 When the Air District received the  
3 environmental document, we reviewed the air quality  
4 sections and a lot of the appendices.

5 And we found it to be generally consistent  
6 with AQMD guidance, and we had a back and forth through  
7 the process. And in the end, we had a very robust  
8 Mitigation Monitoring and Reporting Plan.

9 The reason I'm here today is because the scale  
10 of this Project and the stakes of it are such that  
11 going from a 40,000-page document to actually being  
12 implemented on the ground is challenging even in small  
13 Projects.

14 And it's -- Something for this big, what we're  
15 asking for is the Hearing Officers to add additional  
16 terms and conditions to help ensure that that very  
17 robust protections for the Delta Region and the  
18 breathers therein are implemented accurately.

19 So, the first thing I want to talk about is  
20 Environmental Commitment 3.14, which requires an  
21 Equipment Exhaust Reduction Plan.

22 In our experience, occasionally -- well,  
23 sometimes more than occasionally -- construction  
24 mitigation isn't known by the Contractors and they'll  
25 bid on the job and, oftentimes, the low bid will be the

1 person who didn't know that you had to do all of this  
2 extra equipment work.

3           And so we're going to request that you require  
4 that all of the Air Quality Mitigation Requirements  
5 being included in bid specs so that everybody's aware  
6 that you need to use newer equipment and that there'll  
7 be costs associated with the bidding as this Project  
8 moves forward.

9           We also -- It requires to have a Construction  
10 Monitor. But we would encourage you to require that  
11 the Construction Monitor be brought in before the  
12 construction starts so that they can help arrange bid  
13 packets, education campaigns, workshops, so that the  
14 Contractors know exactly what is to be required of  
15 them.

16           And then the EIR req -- has funny language  
17 about 2010 trucks and 2007 trucks. And we think it  
18 would be more health protective and cleaner if it was  
19 just 2010 trucks or newer. It would make  
20 implementation much easier for everyone.

21           Moving on to Air Quality Measure AQ-1a.

22           It requires that criteria pollutants in the  
23 nonattainment area be mitigated or offset to Net Zero.

24           So we looked at that and we just want  
25 everybody to know that it's going to be really

1 expensive. 150 to \$200 million is generally what we're  
2 coming up with.

3           And, so, again, it's -- we can do it. I mean,  
4 you can always go and get more emissions with -- if you  
5 have more money.

6           But it's important that, whether DWR is having  
7 the Contractors pay a portund (phonetic) fee or if  
8 they're just going to write a check, that number needs  
9 to be -- Again, everybody needs to be well aware of the  
10 air quality commitments of this Project so that they  
11 can go forward and make sure that it's implemented.

12           With respect to Air Quality Measure 9, this is  
13 with respect to reducing re-entrained dust and receptor  
14 exposure.

15           We're going to request that you require a --  
16 that DWR put together an Air Monitoring Plan to ensure  
17 that air monitoring data is collected, make sure that  
18 it's valid, and describes how the data will be used to  
19 make decisions to implement additional dust controls,  
20 if necessary.

21           So it says there's a plan. We'd like to have,  
22 as the local Air Quality District, a talk with DWR so  
23 that we can all agree on a good plan and what the data  
24 from the monitoring will result in.

25           With respect to dust.

1           Something that has changed since the  
2 environmental document was put together is Valley  
3 Fever.

4           I mentioned that I went to CSU Bakersfield.  
5 And the South Valley has Valley Fever. It's endemic.

6           When we dig on Sharktooth Hill, we had to be  
7 very careful, and other places. And with climate  
8 change, we now have more and more Valley Fever exposure  
9 and cases up here in Northern California.

10           We're going to be -- Yes.

11           CO-HEARING OFFICER DODUC: Miss Ansley.

12           MS. ANSLEY: Yes.

13           At this time, the DWR would like to lodge a  
14 standing objection to this testimony. There has been  
15 also some testimony earlier today. It's something that  
16 we have been considering.

17           So I would like a standing objection that  
18 testimony that only pertains to the mitigation measures  
19 adopted in the Final EIR/EIS is a matter that strays  
20 over the line to a critique of the CEQA document as  
21 opposed to being strictly in the public interest.

22           But now what they're asking for is changes in  
23 the mitigation measures and the adequacy of the EIR,  
24 which I believe this witness actually earlier said that  
25 he's critiquing the -- the FEIR.



1           I know that it is a subtle difference and that  
2 it has been difficult in this hearing to draw the line  
3 between what is a public interest testimony and then  
4 what is an actual mechanical sort of getting to the  
5 mechanics of CEQA and the mitigation of impacts that  
6 are required under CEQA.

7           I believe that this testimony is an example of  
8 straying over into the mitigation measures that -- that  
9 are not going necessarily to the public interest but  
10 adequate mitigation under CEQA.

11           And I think that, at this point, like I said,  
12 it is something that we have been struggling with, that  
13 line, and I think that this testimony is where I'd like  
14 to lodge a standing objection to testimony that is  
15 beyond the scope of the hearing because it is verging  
16 from a public interest argument into a . . . argument  
17 more properly brought in a -- in a CEQA case.

18           CO-HEARING OFFICER DODUC: Mr. Ferguson.

19           MR. FERGUSON: Yeah.

20           The purpose of Mr. Philley's testimony -- and  
21 I think he laid it out in the beginning -- is that any  
22 appro -- His opinion is that any approval of this  
23 Project without these additional conditions would not  
24 be in the public interest.

25           And so that's why he's here today testifying.

1 CO-HEARING OFFICER DODUC: And I actually was  
2 going to bring up that issue as well.

3 So, Miss Ansley, your response to that.

4 MS. ANSLEY: My response to that is -- and I  
5 understand that this has been -- we have been  
6 struggling with this -- that there is a -- the -- There  
7 has been very little definition in this proceeding  
8 about what constitutes testimony in the -- in the  
9 public interest. We've seen a great deal of testimony  
10 regarding noise impacts, we've seen a great deal of  
11 testimony regarding traffic impacts. This is air  
12 quality, obviously, impacts.

13 And it's really sort of verged over the line  
14 between what this Board has the jurisdiction to -- to  
15 put in a Permit condition, what this Board must  
16 consider in terms of whether the Project is in the  
17 public interest more generally, and then what is  
18 actually a complaint over the adequacy under CEQA of  
19 mitigation.

20 So we have ourselves been very much struggling  
21 with what is that line between public interest and  
22 CEQA.

23 And I think that now, with this testimony, we  
24 would like to lodge a standing objection to -- to -- to  
25 testimony that specifically goes to the adequacy of the

1 Mitigation Measure and asks specifically for a  
2 Mitigation Measure as to air quality impacts from this  
3 Board, which we consider a matter under CEQA and a  
4 matter for a -- a CEQA challenge, basically, that --  
5 that is not something that this Board would put in a  
6 Permit condition.

7           So we have been struggling with that. I -- I  
8 realize that a lot of testimony has -- has also  
9 happened today. We will consider that.

10           But we -- we would like a standing objection  
11 to today's testimony about some of the traffic noise.  
12 And we're happy to work on that further and brief that  
13 further, but I think that's our standing objection. I  
14 see a lot more testimony coming up that could cross  
15 that line, so . . .

16           CO-HEARING OFFICER DODUC: Let's hear from  
17 others.

18           Mr. Jackson, and then Mr. Keeling.

19           MR. JACKSON: Michael Jackson on behalf of  
20 the --

21           CO-HEARING OFFICER DODUC: Your microphone.

22           If I can ask Mr. Jackson to turn off (sic) his  
23 microphone and the attorneys on the right to turn off  
24 theirs, that will work.

25           MR. JACKSON: Michael Jackson on behalf of the

1 CalSPA parties.

2           It's been a difficult time to try to determine  
3 what the public interest and the CEQA document, how to  
4 mesh them. And we've had the same problems with Part 1  
5 and Part 2.

6           I'd like to point out that CEQA does not have  
7 a public interest section. You are a responsible  
8 agency that is trying to grant a -- either grant or not  
9 grant -- a -- a Permit that's going to change the lives  
10 of a whole bunch of people.

11           One of the things you're supposed to do in  
12 that is to take a look at the public trust, the public  
13 interest, and unreasonable effects on fish and  
14 wildlife.

15           The importance of the CEQA document is less  
16 for that decision. It's an example of a -- another  
17 process.

18           Now, you are required under CEQA to take the  
19 document at its face that it is adequate.

20           But if it's not adequate for what you're  
21 doing -- and that's what the public interest is, and  
22 that's what the public trust is, and that's what fish  
23 and wildlife are -- your -- you should really hear the  
24 testimony.

25           Because it's -- In -- In the 3 million pages

1 that they told us the other day that there are in the  
2 CEQA record -- we're going to be in court tomorrow  
3 morning about that -- the -- don't talk about  
4 unreasonable effects on fish and wildlife, they don't  
5 talk about the public interest, they don't talk about  
6 the things that are within your jurisdiction.

7           So, since I know that the Board has a lot of  
8 experience at admitting things into the record and then  
9 giving them the weight that they find -- that you find  
10 that they're worth on issues that are relevant to your  
11 jurisdiction, like public interest, it seems to me that  
12 air quality is going to affect fish and wildlife. It's  
13 going to -- It's -- Wildlife for sure. And it's going  
14 to affect the people who live there.

15           And so I think you -- It's a tough thing, and  
16 I understand Jolie-Anne's argument, but the . . .

17           If you -- If you don't look at the public  
18 interest and how it's going to affect Permit  
19 conditions, or your ultimate decision, I don't know how  
20 to get evidence in front of you that is outside the  
21 CEQA record. And CEQA was not designed for a  
22 substantive decision, and that's what this is.

23           The Water Code is a substantive document. A  
24 change in point of diversion is a substantive decision.  
25 CEQA doesn't do that for us. It's not -- not designed

1 for it.

2           So I would ask that, yes, there's probably  
3 going to be more argument into the future about public  
4 interest, but you've got a lot of experience at taking  
5 evidence from all kinds of people about all kinds of  
6 things, and letting it in and then deciding what weight  
7 you're going to give it. And I would suggest you do  
8 the same thing now.

9           CO-HEARING OFFICER DODUC: Candace, how are  
10 you doing?

11          THE REPORTER: Fine.

12          CO-HEARING OFFICER DODUC: Okay. Mr. Keeling.

13          MR. KEELING: Tom Keeling on behalf of the  
14 San Joaquin County Protestants.

15           While it's certainly true that the precise  
16 contours of public interest and public trust, for that  
17 matter, are sometimes amorphous, I would point out  
18 that, over the last few days of public interest and  
19 public trust testimony, including this morning's  
20 transportation testimony, one predictable strain in the  
21 litany of cross-examination has always been, "Well,  
22 didn't you look at the mitigation? Didn't you look at  
23 Chapter 19 mitigation measures? Didn't you look at the  
24 monitoring and mitigation?"

25           Clearly, the State thinks that attention to

1 whether the sufficiency of mitigation is part of this  
2 public interest and public trust component of the  
3 hearing.

4 CO-HEARING OFFICER DODUC: All right.  
5 Anything to add, Miss Ansley, before I give  
6 Mr. Ferguson the final word on this?

7 MS. ANSLEY: Yeah. Yes.

8 I think that there is -- I think that part of  
9 the struggle is that the Board is here trying to  
10 determine whether the Project is in the public  
11 interest, but that is a different matter than what they  
12 may be able to -- or would be -- you know, have the  
13 jurisdiction to put in a Permit term and condition.

14 I understand that there are Permit terms and  
15 conditions that say we will comply with the mitigation  
16 measures in the CEQA document, but the Board is not  
17 here to set air quality standards.

18 I'm -- I'm using Mr. --

19 Or is it --

20 WITNESS PHILLEY: Philley.

21 MS. ANSLEY: -- Mr. Philley's testimony as a  
22 specific example.

23 Here, he is asking for specific tweaks to  
24 specific mitigation measures in the CEQA document. And  
25 so I'm struggling but trying to divide that line

1 between what is verging over into a CEQA argument.

2           And I do think that a lot of the noise and  
3 traffic testimony that we heard is -- is really skating  
4 over that line. And what is -- what is a consideration  
5 of the public interest in the Board's -- that the Board  
6 must consider.

7           And I think that, to the argument of letting  
8 everything into the record and -- and -- and sorting  
9 things out by weight, I do think that there is also a  
10 line to that argument, because this is not only a  
11 record that must support the Board's decision but also,  
12 you know, should there be an appeal, it has to be clear  
13 what sort of evidence was relevant and what sort of  
14 evidence the Board considers.

15           So, I do have a little bit of a problem with  
16 the -- the philosophy of just let it all in. I mean,  
17 we do need a clear record and we do need clear  
18 standards about what -- what is or is not within the  
19 scope of this hearing.

20           Thank you.

21           I will let Mr. Ferguson have the final word.

22           CO-HEARING OFFICER DODUC: Mr. Ferguson, final  
23 words before we take this under advisement?

24           Or Miss Meserve.

25           MR. FERGUSON: Yeah. Let me just add one



1 point and I'll let Miss Meserve go if that's all right.

2           On that -- that last point, I mean,  
3 ultimately, the Board has to make findings to support  
4 its decision, so it'll cull through the evidence, grant  
5 the evidence the weight it deems it deserves, and  
6 develop their findings to support the decision.

7           So, as a matter of concern about what's in  
8 play on an appeal or a challenge, there shouldn't be  
9 any question about that as long as you've developed  
10 those findings and they're -- they're in your order.  
11 And that's what any challenge would be based on, the  
12 adequacy of those.

13           MS. MESERVE: And just to chime in a little  
14 bit.

15           I mean, I think I do have a little bit of a  
16 problem with some kind of standing objection. I think,  
17 just to have a clear record, we would need to have  
18 objections to certain things.

19           So I understand there's a specific objection  
20 to Mr. Philley's testimony that comments on whether  
21 certain mitigation measures are adequate to protect the  
22 public interest.

23           But, you know, the mitigation measures are  
24 part of the Petition. There is an ongoing CEQA  
25 litigation, which is separate from this, and I don't

1 think anyone on the panels or within the counsel for  
2 the panels is trying to make CEQA arguments before you  
3 today.

4           But these witnesses are able to look at what  
5 mitigation has been offered as part of the Petition and  
6 opine on whether that's protective of the public  
7 interest. And then, additionally, what conditions  
8 might be appropriate to levee on the Project if it --  
9 if the Petition was granted.

10           And I think with respect to what the  
11 jurisdiction of the Board may be to impose certain  
12 conditions in the public interest, I don't think we're  
13 at the point of arguing over that yet.

14           And certainly if there was a Petition with  
15 conditions, you know, those could be challenged by the  
16 Petitioner as being outside of the scope of the  
17 jurisdiction, if necessary.

18           But I think it's really important for us here  
19 today, the Protestants, to be able to put forth  
20 additional information. And since the Petition  
21 includes the mitigation measures which are so essential  
22 to, you know, their Petition, we're allowed to comment  
23 on those in the context of the public interest.

24           So, it -- it seems quite within the realm of  
25 all of the testimony you've been hearing about this,

1 and we've been advising our witnesses to be aware of  
2 the mitigations so that they can speak about it and --  
3 with particularity and offer suggestions if there  
4 should be additional conditions.

5 CO-HEARING OFFICER DODUC: Thank you.

6 Mr. Mizell.

7 MR. MIZELL: Yes. Tripp Mizell for DWR.

8 I'm not going to argue more about the  
9 substance. Miss Meserve can have the last word on  
10 that.

11 However, I would like to address her concern  
12 about the -- the process requirement of not allowing  
13 for standing objections.

14 What DWR has attempted to do is follow the  
15 guidance of the Hearing Officers and not continually be  
16 up at this microphone objecting.

17 So I would appreciate if we could allow for  
18 standing objections. That will simply limit how often  
19 we have to get up and interrupt the proceeding.

20 CO-HEARING OFFICER DODUC: I think we would  
21 all appreciate that.

22 All right. We will take that objection as  
23 well as all the input under consideration.

24 But, in the meantime, I will allow Mr. Philley  
25 to continue with his testimony.

1           WITNESS PHILLEY:  If it's any help, I'm a  
2 Certified Planner so I'm ethically bound to act in the  
3 public interest, so something to consider.

4                           (Laughter.)

5           WITNESS PHILLEY:  I think we left off at  
6 Valley Fever.

7           And so with respect to Valley Fever, dust  
8 control.

9           CO-HEARING OFFICER DODUC:  I think you just  
10 got the quote of the day.

11                           (Laughter.)

12           WITNESS PHILLEY:  The -- The spore lives on  
13 dust, and so it's really about dust control and making  
14 sure that we have a really good dust exposure -- A Dust  
15 Reduction Plan is really key to keeping that exposure.

16           The other thing that wasn't in the CEQA  
17 document but we feel would be in the public interest  
18 would be outreach campaign.

19           It's one thing to tell people not to go  
20 breathe dust that you see at the constructions.  It's  
21 another to say there's this spore that lives on dust  
22 that might be part of this Project and you shouldn't  
23 play in it because you could get Valley Fever.

24           You know, it's -- it's important that Olivia  
25 Kasirye, the Health Officer, know that there is

1 potentially Valley Fever things.

2           So any sort of -- With all the different  
3 languages spoken in the Delta, and the different  
4 socioeconomic backgrounds in the Delta, we feel the  
5 public health -- or a campaign about the importance of  
6 Valley Fever and dust and avoiding breathing the dust  
7 would be an important thing to consider.

8           And then, finally, similar to the Equipment  
9 Exhaust Reduction Plan, the plan through Environmental  
10 Commitment 3.22 requires a Fugitive Dust Control Plan  
11 that also needs to be part of the bid process so that  
12 all the Contractors and everybody knows what the  
13 vigorous commitments are of this big Project, everybody  
14 from DWR to Reclamation to the Contractors, to the  
15 Subcontractors, to the sub sub subs all the way down.

16           Thank you.

17           MR. FERGUSON: Thank you.

18           That completes our direct examination of the  
19 panel.

20           CO-HEARING OFFICER DODUC: All right. Before  
21 we take our much-needed break, Miss Ansley, are there  
22 anyone on the panel for whom you do not have  
23 cross-examination questions?

24           You're all welcome to stay, but I thought I  
25 would see if . . .

1 MS. ANSLEY: I know that Miss Huss has been --

2 CO-HEARING OFFICER DODUC: Yes.

3 MS. ANSLEY: -- withdrawn.

4 CO-HEARING OFFICER DODUC: She's withdrawn.

5 MS. ANSLEY: I didn't have questions,  
6 obviously, for her originally.

7 I will say that I have very short -- I mean,  
8 like, one question or less for Mr. Nottoli.

9 I have almost nothing for Miss --

10 And I'm sorry. I don't remember how to  
11 pronounce your name. Chhabra?

12 WITNESS CHHABRA: Chhabra.

13 MS. ANSLEY: -- Chhabra, very, very little.

14 I would -- And . . . so I think those two  
15 witnesses, if -- if there's -- you know, if we -- if no  
16 one else has questions for them, I can quickly probably  
17 let them -- let them go.

18 CO-HEARING OFFICER DODUC: Mr. Keeling,  
19 Mr. Jackson, do you have extensive questions for  
20 Supervisor Nottoli and Miss Chhabra?

21 MS. ANSLEY: And I also could probably very  
22 much cut my questions down for Mr. van Loben Sels as  
23 well.

24 So if there's a reason to do that kind of  
25 procedure, I'm fine with that.

1 CO-HEARING OFFICER DODUC: Okay. Let's what  
2 I'm trying to find out.

3 MR. KEELING: All of my questions will be for  
4 Mr. Leatherman.

5 CO-HEARING OFFICER DODUC: All right. Only 15  
6 minutes, though.

7 WITNESS LEATHERMAN: That's okay.

8 CO-HEARING OFFICER DODUC: Mr. Jackson.

9 MR. JACKSON: Um --

10 CO-HEARING OFFICER DODUC: Mr. Jackson's the  
11 one you have to watch out for. He requested 40  
12 minutes.

13 WITNESS LEATHERMAN: Thanks for the heads-up.

14 MR. JACKSON: And so I'll warn them in order.

15 (Laughter.)

16 MR. JACKSON: So, Mr. Benedetti, you're  
17 definitely going to be here for a while.

18 (Laughter.)

19 MR. JACKSON: And I mean that in the kindest  
20 way.

21 The . . .

22 I have questions for Mr. Leatherman.

23 For -- I actually do not have questions for  
24 Ms. Jensen.

25 I have questions for Mr. van Loben Sels.

1 I do not have questions for Mr. Philley.

2 And I do have questions for Miss Chhabra.

3 CO-HEARING OFFICER DODUC: Miss Ansley, did  
4 you have questions for Miss Jensen?

5 MS. ANSLEY: Yes, I do.

6 But I do think that I would -- Did Mr. Jackson  
7 just say he doesn't have questions for Mr. Philley?

8 CO-HEARING OFFICER DODUC: He does not.

9 MS. ANSLEY: He said he does not?

10 MR. JACKSON: Do not.

11 CO-HEARING OFFICER DODUC: I suspect that you  
12 would.

13 MS. ANSLEY: Sorry. You -- I thought you said  
14 Leatherman.

15 MR. KEELING: I just noticed that I do have  
16 one line of questions for Mr. Philley.

17 MS. ANSLEY: And I may not have questions for  
18 him so --

19 CO-HEARING OFFICER DODUC: Okay.

20 MS. ANSLEY: -- he's also a witness on that  
21 list.

22 CO-HEARING OFFICER DODUC: So when we get  
23 back, see if I can figure all this out.

24 So you do not have questions for Miss Jensen.  
25 No one has questions --



1 MS. ANSLEY: I do. Just a couple.

2 CO-HEARING OFFICER DODUC: Just a couple. All  
3 right.

4 So we will try to focus on Supervisor Nottoli,  
5 Miss Jensen, Miss . . .

6 MS. ANSLEY: Chhabra.

7 WITNESS CHHABRA: Chhabra.

8 CO-HEARING OFFICER DODUC: . . . Chhabra and  
9 Mr. Philley when we return.

10 And I'm sorry, Mr. -- Mr. Leatherman and Mr.  
11 Bene -- Dr. Benedi -- Benedetti, you might be here  
12 awhile. But we do -- We'll try to get you all done  
13 today so you don't have to come back tomorrow.

14 CO-HEARING OFFICER MARCUS: Can we have  
15 snacks?

16 (Laughter.)

17 CO-HEARING OFFICER DODUC: All right.

18 CO-HEARING OFFICER MARCUS: We'll give you  
19 treats.

20 CO-HEARING OFFICER DODUC: With that, we -- we  
21 definitely need a break, so we'll break until 3:45.

22 (Recess taken at 3:30 p.m.)

23 (Proceedings resumed at 3:45 p.m.):

24 CO-HEARING OFFICER DODUC: All right,  
25 everyone. Take a seat, please.

1           It is 3:45. We are back in session.

2           I'll ask DWR to come up and . . . start your  
3 cross-examination with the folks that you have the  
4 fewest questions for and perhaps they might be able to  
5 beat traffic.

6           MS. ANSLEY: Okay. I believe I have no  
7 questions for Mr. Philley.

8           I'm sorry if I mispronounced that.

9           CO-HEARING OFFICER DODUC: Philley?

10          MS. ANSLEY: Philley. I apologize.

11          CO-HEARING OFFICER DODUC: Okay. And Mr. --  
12 Mr. Keeling had one or two questions for Mr. Philley?

13          MR. KEELING: I just took a look and I'm going  
14 to withdraw that. I will have no questions for  
15 Mr. Philley.

16          CO-HEARING OFFICER DODUC: Mr. Philley, you  
17 are done, unless -- There is no redirect because  
18 there's no cross.

19          MR. KEELING: Right.

20          MS. ANSLEY: Okay.

21          CO-HEARING OFFICER DODUC: Mr. Philley, thank  
22 you.

23          (Witness Philley excused.)

24          MS. ANSLEY: And then I guess I -- my next  
25 person would be Miss Chhabra.

1 CROSS-EXAMINATION BY

2 MS. ANSLEY: Miss Chhabra -- Is it Shabra  
3 (phonetic) or Chabra (phonetic)?

4 WITNESS CHHABRA: Chhabra.

5 MS. ANSLEY: Chhabra.

6 Who prepared your testimony, Miss Chhabra?

7 WITNESS CHHABRA: I did.

8 MS. ANSLEY: And did anyone assist you in the  
9 preparation of your testimony?

10 WITNESS CHHABRA: With the references and  
11 whatnot, counsel did help with the specific citations,  
12 yes.

13 MS. ANSLEY: And I'm going to try and cut  
14 these questions down, but feel free to ask me to  
15 elaborate or we can break things down.

16 On Page 2 of your testimony, which is Sac  
17 County, SACO-17.

18 Oh, yeah, we can bring it up.

19 (Exhibit displayed on screen.)

20 MS. ANSLEY: Looking at Pages 2, Lines 12 to  
21 20.

22 (Exhibit displayed on screen.)

23 MS. ANSLEY: Do you have a copy in front of  
24 you or can you --

25 WITNESS CHHABRA: Yes.

1 MS. ANSLEY: -- see it on the screen?

2 WITNESS CHHABRA: Um-hmm.

3 MS. ANSLEY: Great.

4 And you -- you provide testimony here that  
5 depends on location of the intakes.

6 Do you agree?

7 WITNESS CHHABRA: I provided testimony here  
8 that depends on the location of the intakes?

9 MS. ANSLEY: Yeah. It's -- It's testimony  
10 that relies on LAND-3 and LAND-57 --

11 WITNESS CHHABRA: Yes.

12 MS. ANSLEY: -- which we have seen before in  
13 this.

14 I take it -- And I'm pretty sure I know the  
15 answer.

16 I take it you did not prepare LAND-3 and  
17 LAND-57; is that correct?

18 WITNESS CHHABRA: Correct.

19 MS. ANSLEY: Did you verify the locations on  
20 LAND-3 and LAND-57?

21 WITNESS CHHABRA: I did.

22 MS. ANSLEY: I'm sorry?

23 WITNESS CHHABRA: Yes.

24 MS. ANSLEY: Your answer was "yes"?

25 So you verified the locations of the intakes

1 and the -- What I'm talking about specifically is the  
2 WaterFix facilities, not necessarily your property.

3           You verified that the locations on LAND-3 and  
4 LAND-57 are correct.

5           WITNESS CHHABRA: I can't speak to the  
6 locations being absolutely 100 percent correct. I can  
7 speak to the maps that I saw with the parcel numbers  
8 that I could match up to Greene & Hemly parcel numbers.

9           MS. ANSLEY: Okay. Did you receive these  
10 figures from your counsel?

11           WITNESS CHHABRA: The actual amounts?

12           MS. ANSLEY: LAND-3 and LAND-57, to be clear.

13           WITNESS CHHABRA: The specific ones that are  
14 referenced in the testimony? Yes. They have been  
15 around for a while, though.

16           MS. ANSLEY: They have. I agree.

17           And in your testimony, you expressed concerns  
18 regarding noise impacts; is that correct?

19           WITNESS CHHABRA: Correct.

20           MS. ANSLEY: Traffic impacts; correct?

21           WITNESS CHHABRA: Correct.

22           MS. ANSLEY: Dust impacts?

23           WITNESS CHHABRA: Correct.

24           MS. ANSLEY: Groundwater impacts?

25           WITNESS CHHABRA: Correct.

1 MS. ANSLEY: And recreation impacts --

2 WITNESS CHHABRA: Yes.

3 MS. ANSLEY: -- is that correct?

4 Is there any other -- I might have missed an  
5 impact. I'm not trying to make that an exclusive list.  
6 I'm merely trying to summarize.

7 WITNESS CHHABRA: Well, let's see.

8 Removal, dewatering, traffic, noise,  
9 vibration, traffic noise, decreased air and water  
10 quality, general quality of life. That could be added.  
11 Dust, again loss of orchards, wildlife, boaters and  
12 water-skiers, wildlife again, loss of flexibility, loss  
13 of time.

14 MS. ANSLEY: I'm sorry. I don't want to  
15 interrupt you.

16 Is that your --

17 WITNESS CHHABRA: That's it.

18 MS. ANSLEY: Okay.

19 WITNESS CHHABRA: Loss of flexibility and loss  
20 of time are probably the big ones, in my mind.

21 MS. ANSLEY: Okay. And I'm -- I apologize I  
22 decided to kind of move on.

23 And on Page -- On Page 4 of your testimony --  
24 (Exhibit displayed on screen.)

25 MS. ANSLEY: Let me make sure.

1 -- on Lines 13 through 23 --

2 (Exhibit displayed on screen.)

3 MS. ANSLEY: -- you talk about salinity  
4 intrusion.

5 Do you see that?

6 WITNESS CHHABRA: Yes.

7 MS. ANSLEY: And it says it is your (reading):

8 ". . . Understanding that Water 'Fix'

9 will result in salinity intrusion due to

10 removal of Sacramento River flows."

11 WITNESS CHHABRA: Yes.

12 MS. ANSLEY: What do you base that on, that  
13 conclusion of yours, or your understanding?

14 WITNESS CHHABRA: The southern islands in my  
15 neck of the Delta are already dealing with salinity  
16 intrusion during dry years.

17 If -- If the funders for this Project  
18 continue -- Or if the funders for this Project take  
19 water during dry years, which is when they will need  
20 it, then there will be less water to keep salinity  
21 farther south and it will create further north.

22 MS. ANSLEY: And what is that analysis -- And  
23 what is that conclusion based on? Is it based on any  
24 particular analysis?

25 WITNESS CHHABRA: No. That's not my

1 expertise.

2 MS. ANSLEY: Here at Line 16 and 17, you say

3 "II-24."

4 Do you see that?

5 WITNESS CHHABRA: Um-hmm.

6 MS. ANSLEY: What is your understanding of

7 what II-24 is?

8 WITNESS CHHABRA: Allow me to look at my

9 notes.

10 MS. ANSLEY: I'm sorry. What?

11 WITNESS CHHABRA: Allow me to look at my

12 notes.

13 MR. FERGUSON: That's supposed to -- Excuse

14 me.

15 That's supposed to be "IL."

16 MS. ANSLEY: I thought it was Islands, Inc.

17 I'm sorry if I --

18 MR. FERGUSON: Yes --

19 MS. ANSLEY: -- got that wrong.

20 MR. FERGUSON: -- it is Islands. I think you

21 said -- Okay.

22 I believe I got the acronym incorrect as it's

23 been labeled in this proceeding. Sorry about that.

24 WITNESS CHHABRA: That would be the . . .

25 Lines 15 through 20, I believe?



1 MS. ANSLEY: Of your testimony, it would be --

2 WITNESS CHHABRA: Oh. 8.

3 MS. ANSLEY: -- Line 18?

4 WITNESS CHHABRA: Yes.

5 MS. ANSLEY: And -- And what I asked you was:

6 Are you aware of what Exhibit II-24 Revised is?

7 WITNESS CHHABRA: I believe I am, unless I've

8 gotten my notes entirely shuffled, which I may have,

9 yeah.

10 MS. ANSLEY: That's fine. I'm not trying to

11 trick you. I'm asking -- I'm asking you: What is it,

12 then, II-24 Revised?

13 WITNESS CHHABRA: If my notes are correct, it

14 is Page 8, as noted, a testimony und -- about river

15 flows. And the lines that I was concerned with were 15

16 through 20.

17 Shall I read them?

18 MS. ANSLEY: No.

19 So I think I can shortcut this again.

20 WITNESS CHHABRA: All right.

21 MS. ANSLEY: Are you looking at the testimony

22 of Erik Ringelberg?

23 WITNESS CHHABRA: Yes.

24 MS. ANSLEY: And that is what you're relying

25 on for your assertion that the WaterFix will result

1 salinity --

2 WITNESS CHHABRA: That is --

3 MS. ANSLEY: -- intrusion?

4 WITNESS CHHABRA: That is not what I'm relying  
5 on for my assertion now. That is what is referenced in  
6 the testimony which, for the purposes of this hearing,  
7 is what I'm relying on.

8 MS. ANSLEY: Okay. And is that the only  
9 analysis of WaterFix impacts on salinity that you are  
10 relying on?

11 WITNESS CHHABRA: For the purposes of this  
12 hearing, yes, since that is the only thing that is in  
13 my testimony.

14 MS. ANSLEY: Okay. No further questions.

15 CO-HEARING OFFICER DODUC: And I believe  
16 Mr. Keeling does not have any questions for you, but  
17 Mr. Jackson does.

18 Are we talking about just a series of one or  
19 two questions, Mr. Jackson?

20 MR. JACKSON: Probably more like four or five.

21 CO-HEARING OFFICER DODUC: All right.  
22 Miss Ansley, would you mind if we asked -- allowed  
23 Mr. Jackson to ask his questions?

24 MS. ANSLEY: No, not at all.

25 CO-HEARING OFFICER DODUC: Mr. Jackson,

1 perhaps you can grab a seat there or at the  
2 microphone --

3 MR. JACKSON: Sure.

4 CO-HEARING OFFICER DODUC: -- or --

5 MR. JACKSON: That way, they don't have to  
6 leave.

7 CO-HEARING OFFICER DODUC: Really appreciate  
8 you all taking time out of your busy schedule to be  
9 here, so we'll do our best to be as efficient as  
10 possible in respecting your time.

11 CROSS-EXAMINATION BY

12 MR. JACKSON: Miss Chhabra, you are a  
13 descendant of the Greenes; is that correct?

14 WITNESS CHHABRA: Correct.

15 MR. JACKSON: And the . . .

16 In the time that your family has lived in the  
17 same home since 1850, have there been major changes  
18 in -- in the Delta ecosystem during the time you've  
19 been there?

20 WITNESS CHHABRA: Kind of hard for there not  
21 to have been in 160-plus years.

22 People change things. It's kind of what we  
23 do.

24 MR. JACKSON: Have you noticed a trend during  
25 the time that you've been there, and maybe within the

1 oral histories of your family, of . . . a change in the  
2 recreational values in the Delta?

3 WITNESS CHHABRA: That's -- It's a tough one  
4 for me to speak to personally, because the best boating  
5 times are the busiest packing times.

6 MR. JACKSON: Numbers of people?

7 WITNESS CHHABRA: Oh, there's been an  
8 increase.

9 MR. JACKSON: And in terms of the -- the towns  
10 along Highway 160, are they leaning more to tourism now  
11 than they were earlier?

12 WITNESS CHHABRA: Absolutely.

13 MR. JACKSON: I think you -- you testified  
14 that -- about farming, tourism, and the way of life  
15 in -- in the Delta.

16 What exactly are you worried about with the  
17 WaterFix coming in, let's say, during the construction  
18 period?

19 WITNESS CHHABRA: There's that scene in the  
20 movie Grease where they're racing the cars towards the  
21 end, and they're in the concrete dried-up river, and  
22 that's what I'm worried about.

23 MR. JACKSON: If there are 6 or 7,000 new  
24 people, mostly male construction workers from around  
25 the world, do you foresee that that would add to the

1 way of life in the community or detract?

2 WITNESS CHHABRA: It will make it messier. I  
3 can guarantee that.

4 A lot of construction workers tend to be in  
5 their -- in their 20s and, God bless them, boys don't  
6 gain their brains back until mid-to-late 20s. And --  
7 No offense to all you boys out there.

8 But I don't see it as -- I don't see it as a  
9 public safety thing other than people don't tend to  
10 take care of where they don't live as closely as they  
11 do where they do live.

12 MR. JACKSON: Does what -- How does that fit  
13 with ecotourism?

14 WITNESS CHHABRA: It doesn't. You know, you  
15 can't -- There is no ecotourism on the construction  
16 site. For one thing, it wouldn't be safe, and for  
17 another, there's no -- there's not enough "there" there  
18 to go look at.

19 MR. JACKSON: So . . . You also indicated  
20 that the . . . the levee roads would be a problem for  
21 the truck traffic and, perhaps, the way of life of the  
22 construction workers?

23 WITNESS CHHABRA: Very much so.

24 There are only a few places on the levee roads  
25 where the -- the road striping even allows for passing

1 and, frankly, you should only do it if you know what  
2 you're doing.

3           The -- The best time for construction is also  
4 the best time for ag when the weather is nice. And all  
5 of the construction trucks plus all of the produce  
6 trucks, both the trucks bringing produce in and the  
7 trucks taking produce out, is going to add up to one  
8 heck of a traffic mess.

9           And my concern is, because we have seen it,  
10 that when customers have delays in getting their trucks  
11 through our facility, we lose those customers, and they  
12 will send them elsewhere.

13           MR. JACKSON: Thank you.

14           I think that's all I have for Miss Chhabra.

15           CO-HEARING OFFICER DODUC: Any redirect?

16           MR. FERGUSON: I do have a couple of quick  
17 questions.

18                           REDIRECT EXAMINATION BY

19           MR. FERGUSON: Miss Chhabra, you were asked by  
20 Miss Ansley whether you relied on anything other than  
21 II-24 in forming your opinion on Page 4 about potential  
22 salinity impacts on pear orchards.

23           Do you recall that question?

24           WITNESS CHHABRA: I do.

25           MR. FERGUSON: In your experience as a farmer,

1 when -- when flows are lower in a water source,  
2 salinity is likely to increase; correct?

3 WITNESS CHHABRA: Correct.

4 MR. FERGUSON: So would you think the  
5 reduction of up to half of the normal flow in the  
6 Sacramento River would likely increase salinity, based  
7 on your experience?

8 CO-HEARING OFFICER DODUC: Mr. --

9 MR. MIZELL: Objection.

10 CO-HEARING OFFICER DODUC: -- Mizell.

11 MR. MIZELL: Yes. I'm going to object to  
12 being beyond the scope of cross-examination.

13 What Miss Ansley was asking for were the  
14 sources within her testimony, not for a lengthy  
15 explanation of additional information that might  
16 justify her opinion.

17 CO-HEARING OFFICER DODUC: Mr. Ferguson.

18 MR. FERGUSON: I was just trying to get to the  
19 point that she'd also relied on her experience as a  
20 farmer.

21 CO-HEARING OFFICER DODUC: Can we just make  
22 that point without getting into the detail?

23 MR. FERGUSON: Okay. In addition to II-24, in  
24 forming the your opinion about salinity impacts on pear  
25 production, did you also rely on your experience as a

1 farmer and -- and water diverter?

2 WITNESS CHHABRA: Yes.

3 MR. FERGUSON: Thank you.

4 CO-HEARING OFFICER DODUC: Is that all?

5 MR. FERGUSON: That's it.

6 CO-HEARING OFFICER DODUC: Any recross based  
7 on the changes to redirect?

8 MR. MIZELL: Certainly.

9 RECROSS-EXAMINATION BY

10 MR. MIZELL: Miss Chhabra, can you point to me  
11 where in your testimony you state that you rely upon  
12 your experience as a farmer to make ascer -- to make an  
13 assessment of water quality in the Delta?

14 WITNESS CHHABRA: Since you're asking the  
15 question, I'm going to assume that you already know,  
16 but no, that assertion is not specifically made.

17 MR. MIZELL: Then I'd like to move to strike  
18 the answer to redirect.

19 CO-HEARING OFFICER DODUC: Mr. Ferguson.

20 MR. FERGUSON: Certainly she's ar --  
21 articulated her experience at the Greene & Hemly  
22 operation over a period of many years and that  
23 encompasses a whole host of activities related to pear  
24 production, so --

25 CO-HEARING OFFICER DODUC: And I --



1 MR. FERGUSON: -- I would assume that would be  
2 applied in -- in development of her testimony.

3 CO-HEARING OFFICER DODUC: And I think it  
4 would be implied that a witness' experience contributes  
5 to the preparation of her testimony whether or not she  
6 specifically cited to it.

7 Objection overruled; motion denied.

8 I think that concludes it. Thank you,  
9 Miss Chhabra.

10 WITNESS CHHABRA: You're welcome.

11 (Witness Chhabra excused.)

12 CO-HEARING OFFICER DODUC: Next, Miss Ansley.

13 MS. ANSLEY: Yes. And I'm sorry for, like,  
14 the furtive whispering.

15 I've actually gone through and -- and slashed  
16 questions down. I believe I do not now have questions  
17 for Mr. Nottoli or Miss Jensen. I have reconsidered  
18 some of my questions.

19 CO-HEARING OFFICER DODUC: Does anyone else  
20 have questions for Supervisor Nottoli or Miss Jensen?

21 Then thank you.

22 MS. ANSLEY: That will help. Thank you.

23 WITNESS NOTTOLI: Thank you very much, Madam  
24 Chair.

25 (Witnesses Nottoli and Jensen excused.)

1 CO-HEARING OFFICER DODUC: All right. And  
2 then there were three.

3 (Laughter.)

4 MS. ANSLEY: We're winnowing it down to the  
5 best.

6 WITNESS BALAJI: I hope this is not an Agatha  
7 Christie . . .

8 (Laughter.)

9 MS. ANSLEY: Oh, you're next, Dr. Benetti --  
10 Benedetti, as soon as I find your testimony.

11 I actually only have a couple questions for  
12 you, sir.

13 WITNESS BENEDETTI: Are you talking to me?

14 MS. ANSLEY: Yes, I am, Dr. Benedetti. Let me  
15 know when you're ready.

16 CROSS-EXAMINATION BY

17 MS. ANSLEY: So on Page 11 of your testimony,  
18 which is Sac County 2, SACO-2 --

19 WITNESS BENEDETTI: Um-hmm.

20 MS. ANSLEY: -- on Pages 6 to 7 --

21 WITNESS BENEDETTI: I'm sorry. Pages --

22 MS. ANSLEY: Sorry. Page 11, Lines 6 to 7. I  
23 apologize.

24 (Exhibit displayed on screen.)

25 MS. ANSLEY: You discuss the Rosebud Rancho;

1 correct?

2 WITNESS BENEDETTI: Right.

3 MS. ANSLEY: Is it correct to say that the  
4 property burned in 1989?

5 WITNESS BENEDETTI: It did burn. I'm -- I'm  
6 sorry.

7 It did burn. I don't have in front of me the  
8 date, but I assume that you do. That's fine. It did  
9 burn, yes.

10 MS. ANSLEY: And is it correct to say that the  
11 entire main house except for the fagade burned?

12 WITNESS BENEDETTI: I have not inspected it,  
13 but it was a serious burn.

14 MS. ANSLEY: And is it correct to say that the  
15 outbuildings -- and I can name them if you like -- also  
16 all burned?

17 WITNESS BENEDETTI: That was my understanding.

18 MS. ANSLEY: And then the house was then -- Is  
19 it your understanding that the house was then  
20 reconstructed entirely and the -- just the front fagade  
21 is what remains; is that correct?

22 WITNESS BENEDETTI: Again, I don't have in  
23 front of me the extension of exactly the extent of the  
24 remodeling.

25 But my understanding was that it was remodeled

1 in 1990, yes, but I don't have that . . .

2 MS. ANSLEY: And in Footnote 24 on Page 11,  
3 that's your cite for your assertion that the FEIR  
4 suggests that the site should be declassified?

5 WITNESS BENEDETTI: Again, I'd have to check  
6 that, but that's what it was supposed to be.

7 Is that 24?

8 MS. ANSLEY: Yes, sir.

9 I'm just reading the footnote at the end --

10 WITNESS BENEDETTI: Yeah.

11 MS. ANSLEY: -- of your sentence --

12 WITNESS BENEDETTI: Yes.

13 MS. ANSLEY: -- so that we're --

14 WITNESS BENEDETTI: Yes.

15 MS. ANSLEY: -- looking at the right place.

16 WITNESS BENEDETTI: Yeah.

17 It -- It suggested that, in light of the fact  
18 that it was no longer -- it had been burned and that it  
19 was no longer whole, that it not be re -- unclassified  
20 yeah.

21 MS. ANSLEY: Isn't it correct to say that  
22 the -- the site you reference here actually doesn't say  
23 that the building should be disclassi -- declassified.  
24 It merely just asserts that the property itself no  
25 longer meets the criteria for listing under the --

1 WITNESS BENEDETTI: Right.

2 MS. ANSLEY: -- National Resource --

3 WITNESS BENEDETTI: That's correct. I --  
4 it -- I think what I would have better said would be,  
5 "would be disclass -- declassified should it be again  
6 reviewed" because that -- My understanding of that  
7 statement was that it no longer met the qualifications  
8 for a national historic site.

9 MS. ANSLEY: And as an expert in the field, do  
10 you have an understanding whether it does meet the  
11 criteria for listing?

12 WITNESS BENEDETTI: I have not inspected it.  
13 I took that -- their word that it did not.

14 Subsequent to looking into the site, one of  
15 the things that interested me was that the gardens are  
16 also very valuable, and a lot of the historical  
17 interest in the -- tour interest in the site was the  
18 gardens.

19 And I have not inspected to the degree to  
20 which the community has still bloomed, but they're  
21 supposed to be, by the way, beautiful if they're still  
22 blooming and as large as trees.

23 But, again, I haven't checked that out.

24 MS. ANSLEY: So you're not aware of,  
25 obviously, the damage to the gardens from any fire in

1 1990.

2 WITNESS BENEDETTI: I know that the gardens  
3 were not -- that the gardens exist, but I do not know  
4 before and after. But I know that there's enough there  
5 to be worth looking at.

6 MS. ANSLEY: And is it your understanding that  
7 the -- that an inventory was prepared by the DWR for  
8 purposes of the FEIR of archeologic resources and  
9 cultural resources?

10 WITNESS BENEDETTI: Yes. The -- I -- I -- In  
11 this doc -- In my testimony, I cite to the  
12 archeological focusing on native peoples.

13 But my understanding was that they -- they  
14 were looking for -- the term "archeological" was  
15 covering cultural in terms of the native peoples.

16 MS. ANSLEY: And by "cultural," maybe I'm  
17 using the wrong word. I'm trying to split between your  
18 prehistoric cultural resources and your historic area  
19 cultural resources in your testimony.

20 Are you aware that the Department of Water  
21 Resources indeed did conduct --

22 WITNESS BENEDETTI: Yes.

23 MS. ANSLEY: -- an inventory of both of those.

24 WITNESS BENEDETTI: Yes. That -- In fact,  
25 the -- I cite the document that reviewed the 680 sites

1 of possible historic interest, of which 400 and, I  
2 think, 30, were -- 440, were accessed, were judged.  
3 But the others -- the other third was not.

4 MS. ANSLEY: And is it your understanding that  
5 the other third were not included in the inventory  
6 because the Department of Water Resources or their  
7 consultants were blocked from access to the property?

8 WITNESS BENEDETTI: I wouldn't use the term  
9 "blocked." They were not able to gain access. I do  
10 not know why.

11 MS. ANSLEY: Okay. Let me look.

12 I believe I'm done with questions for you,  
13 Dr. Benedetti.

14 Thank you very much.

15 CO-HEARING OFFICER DODUC: Are there any other  
16 questions for the doctor?

17 Perhaps that --

18 MR. JACKSON: This may be a little longer, so  
19 I --

20 CO-HEARING OFFICER DODUC: Oh. How much  
21 longer?

22 CO-HEARING OFFICER MARCUS: He said it might  
23 be awhile.

24 MS. ANSLEY: Oh. Yeah. He did say  
25 Dr. Benedetti would be here for a while.

1 CO-HEARING OFFICER DODUC: Then, in that  
2 case -- In that case, we will --

3 MR. JACKSON: And I didn't --

4 CO-HEARING OFFICER MARCUS: You can sit there.

5 CO-HEARING OFFICER DODUC: You can sit there,  
6 but that's -- that's all right.

7 I think we'll just turn back to Miss Ansley.

8 MR. JACKSON: Can -- Can we leave -- Okay.

9 You're going to go back --

10 CO-HEARING OFFICER DODUC: Yeah.

11 MR. JACKSON: -- to Miss Ansley?

12 CO-HEARING OFFICER DODUC: Yeah. We'll let  
13 her finish up her cross-examination.

14 I might check in with you, though, after she  
15 crosses Mr. van Loben Sels.

16 Are there questions for Mr. van Loben Sels  
17 from the two of you?

18 MR. JACKSON: Yes.

19 CO-HEARING OFFICER DODUC: Short or --

20 MR. JACKSON: Short.

21 CO-HEARING OFFICER DODUC: Okay. Well, we  
22 might be able to get to him next.

23 MR. JACKSON: We'll be done.

24 MS. ANSLEY: We are fine not asking questions  
25 of Mr. van Loben Sels. We're --



1 CO-HEARING OFFICER DODUC: I'm sorry?

2 MS. ANSLEY: We are fine letting  
3 Mr. van Loben Sels go. If he -- If someone has one or  
4 two questions, we've decided not to ask our questions  
5 of Mr. van Loben Sels.

6 CO-HEARING OFFICER DODUC: Mr. Jackson, do you  
7 have just a few questions for Mr. van Loben Sels?

8 MR. JACKSON: Yes.

9 CROSS-EXAMINATION BY

10 MR. JACKSON: Mr. van Loben Sels, would you  
11 describe what the Delta Caucus is.

12 WITNESS VAN LOBEN SELS: The delta Caucus is  
13 comprised of the five Delta County Farm Bureaus.  
14 San Joaquin, Sacramento, Contra Costa, Solano and Yolo  
15 County Farm Bureaus formed the -- an organization  
16 called the Delta Caucus primarily to deal with Delta  
17 issues.

18 And our initial issue was -- I believe we  
19 formed and negotiated with DWR with regards to Entry  
20 Permits. That was our first action.

21 I am now the Chair. I've been the Chair since  
22 about two months after it was formed and the first  
23 Chair decided he didn't want to do it and they  
24 railroaded me, so -- And they haven't replaced me yet,  
25 so . . .

1 MR. JACKSON: The -- Is it fair to say that  
2 the Delta Caucus was formed because of the  
3 BDCP/WaterFix program?

4 WITNESS VAN LOBEN SELS: Yes.

5 MR. JACKSON: Did the Delta Caucus have any --  
6 anything to do with the language in the Delta Reform  
7 Act that talked about preserving and enhancing  
8 Delta . . .

9 WITNESS VAN LOBEN SELS: The Delta Reform Act  
10 was a very, I would call, hasty and . . . a negotiation  
11 that occurred over a very short period of time. I  
12 believe it was a -- an emergency session of -- of the  
13 legislature.

14 And the Delta -- the Delta Caucus was not part  
15 of that discussion. And I believe, in a lot of cases,  
16 the Farm Bureau -- State Farm Bureau was excluded from  
17 the conversation and the negotiations.

18 MR. JACKSON: Did . . . Does the Delta Caucus  
19 still meet?

20 WITNESS VAN LOBEN SELS: The Delta Caucus  
21 still meets. We had a booth just the other day at --  
22 at Ag Day on the State capitol.

23 And we passed out 150 little packets of nuts  
24 with a -- with a statement inside that "The California  
25 WaterFix is nuts."

1 (Laughter.)

2 MR. JACKSON: I think you indicated in your  
3 testimony that the Delta -- which is LAND-130 -- that  
4 the -- that the Delta Caucus is interested in the ag --  
5 in ag resources, transportation, pile driving, traffic,  
6 and an increase in salinity in groundwater, among other  
7 things.

8 Is that correct?

9 WITNESS VAN LOBEN SELS: If you could point me  
10 to the location in that testimony.

11 But the -- the Delta Caucus is basically  
12 interested in anything that compromises and/or  
13 jeopardizes agricultural resources. And, of course,  
14 one of the major agricultural resources in the Delta is  
15 the land.

16 And so any of those things that might  
17 jeopardize it to the extent that they do, the Delta  
18 Caucus would -- has -- has been very active at trying  
19 to protect and preserve.

20 MR. JACKSON: Is it fair to say that the Delta  
21 Caucus opposes the WaterFix?

22 WITNESS VAN LOBEN SELS: Yes, for a variety of  
23 reasons again.

24 MR. JACKSON: Would you give those reasons,  
25 sir.

1           WITNESS VAN LOBEN SELS: Well, probably --  
2 The -- From our perspective, the major impacts of  
3 California WaterFix are -- are resultant from the  
4 construction. That's one set of impacts.

5           But the more general impact to Delta  
6 agriculture will be water quality.

7           And the ag im -- or the construction impacts  
8 will be very localized in -- in certain communities and  
9 certain areas.

10           But when you are dealing with water quality  
11 impacts, that's much more widespread. So that's  
12 probably the most widespread negative impact that the  
13 Delta Caucus would be opposed to.

14           MR. JACKSON: In terms of the construction  
15 problems that you envision, have you reviewed the  
16 construction well enough to know how long and how often  
17 the pile driving is going to go on?

18           WITNESS VAN LOBEN SELS: I believe in the  
19 documents, it said that a lot of the construction  
20 activity would be seven days a week, 365, 24 hours a  
21 day.

22           Now, that, I believe, was the dewatering.

23           Initially, the con -- the pile driving was a  
24 major issue. And the -- the changes in the documents  
25 became not just a bang pile driving but vibrating pile

1 driving.

2 I don't know what all that means as far as  
3 noise. But certainly from the -- the residents in the  
4 area of -- of pile driving, that -- that will be a  
5 major concern.

6 MR. JACKSON: You also indicated that -- I  
7 believe on Page 6 of your testimony -- that -- that you  
8 were . . . very interested in the increase in traffic?

9 WITNESS VAN LOBEN SELS: Yeah. The increase  
10 in traffic will have a tremendous effect upon the  
11 ability to farm in the area of the construction.

12 Again, we move equipment, we move people, we  
13 move product every day. And the increase in traffic  
14 300 to 400 percent, even though it falls within the  
15 area where there's no mitigation required, it -- it  
16 will have a major impact.

17 In fact, right now, we are seeing -- we're  
18 seeing commuter kind of impacts and traffic on Twin  
19 Cities Road where it's difficult to get out of a  
20 driveway or -- and between Hood and Freeport, every  
21 morning, there's commuter traffic that goes through  
22 there.

23 We don't move any equipment on that stretch of  
24 the road until 10 o'clock in the morning because there  
25 are too many -- I call them -- crazies on the road.

1 They just don't respect that road the way they should.

2 MR. JACKSON: And I think you indicated in  
3 your testimony on Page 6 that you've -- you feared an  
4 increase in salinity in your groundwater from the --  
5 from the construction of the WaterFix?

6 WITNESS VAN LOBEN SELS: The -- The  
7 groundwater impacts are not so much a salinity issue.  
8 They're -- They're a -- a -- a result of dewatering of  
9 the area of construction.

10 Further down in the Delta, I know that there  
11 are salinity issues in groundwater where salinity  
12 intrusion has occurred regularly. It eventually  
13 affects the groundwater.

14 But up in the construction area, we're dealing  
15 with impacts to groundwater that are from dewatering,  
16 and the unknowns of how that will affect water supplies  
17 of the individual wells. All those houses out there  
18 are on individual wells, as well as the town of  
19 Clarksburg.

20 MR. JACKSON: Have you been able to tell from  
21 the conceptual of the WaterFix engineering product  
22 what's going to happen to your -- your well that I  
23 think you described is about 200 feet deep?

24 WITNESS VAN LOBEN SELS: No.

25 And there -- there was an effort to -- to

1 pro -- pro -- protect other areas by -- by putting in  
2 slurry walls --

3 MR. JACKSON: Yes.

4 WITNESS VAN LOBEN SELS: -- in order to  
5 restrict the area that would be influenced by the  
6 dewatering.

7 But the reality is, in the Delta, all water is  
8 connected. And there -- the -- the ground is not  
9 homogeneous. And so water moves in different manners.

10 And I don't think we understand it completely,  
11 and -- and I don't think it could -- the schematics  
12 really -- really show how -- how it will actually  
13 happen. And -- And I think we have to under --  
14 understand that that is an unknown.

15 MR. JACKSON: You indicated in your direct  
16 testimony that you believe that the WaterFix violates  
17 the General Plan in your area?

18 WITNESS VAN LOBEN SELS: Absolutely.

19 MR. JACKSON: Would you tell me how.

20 WITNESS VAN LOBEN SELS: Sacramento County  
21 General Plan states that (reading):

22 "Agricultural production in  
23 Sacramento County is (sic) a significant  
24 contributor to the local economy."

25 And that that (reading):

1                   "Protection/maintenance of the  
2                   county's agricultural lands, their  
3                   agricultural productivity and natural  
4                   resource benefits . . ." et cetera,  
5                   et cetera.

6                   And -- And, therefore, the -- the -- the  
7                   General Plan strives to protect and -- and maintain  
8                   their agricultural lands.

9                   MR. JACKSON: Is it fair to say that the  
10                  General Plan strives to favor the existing agricultural  
11                  and quality of life in that area?

12                  WITNESS VAN LOBEN SELS: Yes. I think -- I  
13                  think that's a fair characterization.

14                  MR. JACKSON: You also indicate that -- I  
15                  think, in your -- in your direct testimony, that you  
16                  believe that the WaterFix violates the Economic  
17                  Sustainability Plan for the Delta.

18                  WITNESS VAN LOBEN SELS: So, the -- the  
19                  Economic Sustainability Plan shows that there are  
20                  25,000 jobs supported by Delta agriculture, and  
21                  5,000 -- \$5.372 billion of economic activity.

22                  And it clearly shows that agriculture is the  
23                  backbone of -- of the Delta economy -- of the Delta  
24                  economy.

25                  So anything that impacts -- negatively impacts



1 the Delta economy results in a sort of a -- I would  
2 call it cascading effect.

3           If -- If -- If agriculture slows down, you  
4 lose businesses that are part of the infrastructure to  
5 support agriculture, and -- and you lose the -- the  
6 businesses that might be in town, a hardware store or  
7 that kind of thing.

8           And so it's -- it's a sort of a cascading  
9 effect. What happens to agriculture will happen to the  
10 balance of the economy in the Delta.

11           MR. JACKSON: Is it fair to say that the  
12 second-largest employer in the Delta area is recreation  
13 and tourism?

14           WITNESS VAN LOBEN SELS: I really don't know,  
15 but I would -- I would say it's a -- a fairly large  
16 one.

17           MR. JACKSON: Thank you, sir.

18           I think that's all the questions I have.

19           WITNESS VAN LOBEN SELS: Thank you.

20           CO-HEARING OFFICER DODUC: Any redirect,  
21 Miss Meserve?

22           MS. MESERVE: Yes. I just have a couple of  
23 clarifying questions for Mr. van Loben Sels.

24

25

1 REDIRECT EXAMINATION BY

2 MS. MESERVE: In responding to questions  
3 regarding groundwater concerns, you mentioned you were  
4 concerned about impacts from dewatering in  
5 construction.

6 Thinking about your testimony and your  
7 concerns, would you also be concerned if the tunnels  
8 themselves created a barrier to underground flows of  
9 water?

10 WITNESS VAN LOBEN SELS: Yes. That's a very  
11 strong possibility.

12 Water in -- In -- In the Delta, the Sacramento  
13 River system and the sloughs established the  
14 groundwater levels within our area. Three to  
15 five feet, say, is the groundwater level.

16 As rivers go up, the groundwater level go up.  
17 As the rivers go down, the groundwater level goes down.

18 Well, if you put any kind of obstruction in  
19 the ground 150 to 200 feet, you really don't know where  
20 that water that used to come in to establish the  
21 groundwater level came from. Did it come from the  
22 Sacramento River? Did it come from the slough on the  
23 east side or the westside?

24 And so there is a very strong possibility that  
25 any kind of structure based at that level, or any

1 level, will have an effect upon how groundwater --  
2 the -- the levels of groundwater within any particular  
3 area.

4 MS. MESERVE: And just following up on what  
5 you just said.

6 If the water levels in the river and other  
7 channels were lowered from the diversions, would you be  
8 concerned about reductions in recharge that might  
9 affect groundwater?

10 WITNESS VAN LOBEN SELS: So, in the Delta,  
11 in -- in -- For example, tomatoes. I use about half  
12 the water that normally you would expect a tomato crop  
13 to need in order to get to production, mainly because  
14 we have high groundwater levels, and we're just  
15 irrigating within a very small root zone and the  
16 balance is provided by the groundwater level.

17 So, if those groundwater levels are obstructed  
18 and they become 20 feet instead of five feet, then we  
19 are going to have to farm differently than we do today.

20 And the difficulty with the lack of  
21 homogeneity in our soils is, I might have a field that  
22 has three different soil types. And so I may have an  
23 area that -- that the -- the groundwater subsides  
24 substantially and another area where it stays very  
25 high. And it becomes very difficult to manage crops

1 when you have those kinds of changes and those kinds of  
2 differences in -- in cultural practices that you have  
3 to perform.

4 MS. MESERVE: That's it. Thank you.

5 CO-HEARING OFFICER DODUC: Any recross?

6 Not seeing any, thank you.

7 Oh, I'm sorry.

8 MR. MIZELL: That's okay.

9 CO-HEARING OFFICER DODUC: You didn't have  
10 questions for him. You can't recross.

11 MR. MIZELL: I have questions on redirect so  
12 we're recrossing on redirect.

13 CO-HEARING OFFICER DODUC: Okay.

14 MS. MESERVE: Is that open to anybody even if  
15 they didn't have crosses.

16 CO-HEARING OFFICER DODUC: My attorneys are  
17 saying yes, so yes.

18 MR. MIZELL: And this should be very brief.

19 RE-CROSS-EXAMINATION BY

20 MR. MIZELL: Mr. van Loben Sels, in response  
21 to Miss Meserve's questions about groundwater impacts  
22 just now, are your answers informed by a review of the  
23 groundwater modeling analysis done by DWR?

24 WITNESS VAN LOBEN SELS: They're informed by  
25 50 years of farming in the Delta and in dealing with

1 water, both --

2 CO-HEARING OFFICER DODUC: Turn on your mic --  
3 microphone.

4 WITNESS VAN LOBEN SELS: Oh, excuse me.

5 They're informed by 50 years of farming in the  
6 Delta and not only at farming but also as -- as a  
7 Reclamation District Trustee responsible for removing  
8 excess water, as well as a farmer putting on whatever's  
9 needed.

10 So, it's mainly an experience, information.  
11 That's what I'm using to inform my . . .

12 MR. MIZELL: Okay. So, if I can summarize  
13 that answer, that would be:

14 No, you did not review or rely upon DWR's  
15 groundwater analysis.

16 WITNESS VAN LOBEN SELS: No, I did not.

17 MR. MIZELL: Thank you.

18 No other questions.

19 CO-HEARING OFFICER DODUC: Thank you,  
20 Mr. van Loben Sels.

21 (Witness van Loben Sels excused.)

22 CO-HEARING OFFICER DODUC: We now turn back to  
23 Miss Ansley for -- I believe we're now on  
24 Mr. Leatherman.

25 MS. ANSLEY: I am. Just as with

1 Mr. Leatherman (sic), I've cut my questions for him, so  
2 we're ready.

3 Can we look -- Thank you for your indulgence  
4 for letting me cross.

5 Can we look at his testimony, which is Sac  
6 County 20.

7 CROSS-EXAMINATION BY

8 MS. ANSLEY: And do you have a copy of that in  
9 front of you, Mr. Leatherman?

10 WITNESS LEATHERMAN: I do.

11 MS. ANSLEY: Okay. And your testimony  
12 primarily concerns recreational impacts; is that  
13 correct?

14 WITNESS LEATHERMAN: That's correct.

15 MS. ANSLEY: And it appears, starting on  
16 Page 2, that you rely on CalSim modeling of the FEIR of  
17 river flows; is that correct?

18 WITNESS LEATHERMAN: That's correct.

19 MS. ANSLEY: And you use the existing  
20 condition as the basis for your comparison; is that  
21 correct?

22 WITNESS LEATHERMAN: I reviewed both the  
23 existing action and the No-Action Alternative as it  
24 relates to Alternative 4A.

25 MS. ANSLEY: Can we blow up the graphic that's

1 here a little bit?

2 (Exhibit displayed on screen.)

3 MS. ANSLEY: And can we -- Yeah, that's  
4 perfect.

5 So, looking at this graphic that you used to  
6 conclude that there would be a noticeable difference in  
7 Sac River flows at Freeport, do you see that?

8 WITNESS LEATHERMAN: I do.

9 MS. ANSLEY: And you see your testimony there  
10 on Lines 19 to 20?

11 WITNESS LEATHERMAN: I do.

12 MS. ANSLEY: And you cite Figure 6-26 from the  
13 FEIR; is that correct?

14 WITNESS LEATHERMAN: That's correct, and -27  
15 and -30 and -31.

16 MS. ANSLEY: Oh, yeah. I see you're -- you're  
17 referring to your testimony on Line 6.

18 WITNESS LEATHERMAN: Correct.

19 MS. ANSLEY: Focusing just on this figure as a  
20 frame of reference, is it your understanding -- just to  
21 make sure that we understand these modeling runs and  
22 we're speaking about the same thing -- that the  
23 existing conditions doesn't include climate change or  
24 sea-level rise; is that correct?

25 WITNESS LEATHERMAN: That is my understanding

1 from the documents.

2 MS. ANSLEY: And it appears that it's also  
3 your understanding that the No-Action Alternative  
4 all -- does contain projections of climate change and  
5 sea-level rise; is that correct?

6 WITNESS LEATHERMAN: That's my understanding.

7 MS. ANSLEY: And is it also your understanding  
8 that Alternative 4A also includes projections of  
9 climate change and sea-level rise; is that correct?

10 WITNESS LEATHERMAN: That is not my  
11 understanding.

12 My understanding is Alternative 4A is a  
13 comparison of the No-Action Alternative and existing  
14 conditions.

15 MS. ANSLEY: It is not your understanding that  
16 Alternative 4A -- and take a moment -- that  
17 Alternative 4A is not the alignment -- the facilities  
18 alignment for the Proposed Project?

19 WITNESS LEATHERMAN: That is the facility  
20 alignment to the Proposed Project, but I am not aware  
21 if that is inclusive of the No-Action Alternative.  
22 They are separate lines on the graph.

23 MS. ANSLEY: They are.

24 And so do you understand that these lines  
25 represent modeling runs --



1 WITNESS LEATHERMAN: I do.

2 MS. ANSLEY: -- in CalSim?

3 And, so, I think going back to my question, is  
4 it your understanding or do you know whether  
5 Alternative 4A includes projections -- includes not  
6 only the Proposed Project 4A, which is a scenario, but  
7 also includes projections of climate change and  
8 sea-level rise?

9 Is that your understanding?

10 WITNESS LEATHERMAN: My understanding is, is  
11 that those are three different lines on the same graph.

12 MS. ANSLEY: Um-hmm. But what I'm asking for  
13 is your understanding of the modeling runs that are --  
14 that these lines represent. The modeling runs in the  
15 model.

16 So we've already established that you --  
17 you -- you understand that the existing condition does  
18 not include climate change and sea-level rise; is that  
19 correct?

20 WITNESS LEATHERMAN: That is correct.

21 MS. ANSLEY: It is a modeling run that is  
22 intended to summarize existing conditions.

23 WITNESS LEATHERMAN: Correct.

24 MS. ANSLEY: And that the No-Action  
25 Alternative is a -- Is it your understanding that that

1 is a Without-Project modeling run scenario that does  
2 include climate change and sea-level rise; is that  
3 correct?

4 MR. BURKE: Objection --

5 MS. ANSLEY: Oh.

6 MR. BURKE: -- asked and answered.

7 MS. ANSLEY: It appears that he's un -- he  
8 does not -- It appears that either I have not asked  
9 clear questions.

10 CO-HEARING OFFICER DODUC: Hold on.

11 MS. ANSLEY: Or he does not confirm --

12 CO-HEARING OFFICER DODUC: I understand the  
13 point that she is trying to pursue. And to the extent  
14 that you need to repeat it, I'm going to give her that  
15 latitude.

16 So the objection is overruled.

17 MS. ANSLEY: I'm sorry. Do you need that  
18 repeated?

19 WITNESS LEATHERMAN: I'm not sure what the  
20 question is at this point.

21 MS. ANSLEY: Yeah. Well, I'll try again since  
22 I don't remember, either.

23 We could have the court reporter read it back  
24 but I'm not sure that I completely finished it so I  
25 will try again.

1           Is it your understanding that the No-Action  
2 Alternative is a Without-Project modeling run?

3           WITNESS LEATHERMAN: Yes.

4           MS. ANSLEY: Let's start there.

5           And is it also your understanding that the  
6 No-Action Alternative includes projections of climate  
7 change and sea-level rise?

8           WITNESS LEATHERMAN: That is not my  
9 understanding.

10          MS. ANSLEY: The No-Action Alternative.

11          WITNESS LEATHERMAN: No. You just said the  
12 "Project Alternative." Two different things.

13          MS. ANSLEY: Okay. Looking at the No-Action  
14 Alternative, is it your understanding that the  
15 No-Action Alternative, which is a Without-Project  
16 scenario, includes projections of climate change and  
17 sea-level rise?

18          WITNESS LEATHERMAN: That is my understanding.

19          MS. ANSLEY: Okay. And is it your  
20 understanding that Alternative 4A, the modeling run,  
21 the CalSim modeling run, which is the -- 4A is the  
22 Proposed Project. I'm not sure which operational  
23 scenario this is, H3, H4, H3+.

24          But Alternative 4A -- Is it your understanding  
25 that the modeling run for Alternative 4A also includes

1 projections of climate change and sea-level rise?

2 WITNESS LEATHERMAN: I do not know.

3 MS. ANSLEY: Do you see the graph there where  
4 he says "ELT," early long-term?

5 WITNESS LEATHERMAN: I do.

6 MS. ANSLEY: Do you have an understanding of  
7 "early long-term" is.

8 WITNESS LEATHERMAN: My understanding is  
9 that's a revised projection of impacts in the early  
10 long-term as opposed to the late long-term.

11 MS. ANSLEY: And do you understand that -- You  
12 see what it says there at the top of the graph that the  
13 (reading):

14 ". . . Early long-term indicates  
15 Alternatives with simulated 2025 climate  
16 change" --

17 WITNESS LEATHERMAN: I do see that.

18 MS. ANSLEY: -- "and sea-level rise"?

19 WITNESS LEATHERMAN: Yes.

20 MS. ANSLEY: And that Alternative 4A also has  
21 a bracket after it that says "early long-term"?

22 WITNESS LEATHERMAN: Yes.

23 MS. ANSLEY: And do you have an understanding  
24 between -- the difference between early long-term and  
25 late long-term?

1           WITNESS LEATHERMAN: My understanding is, it's  
2 the projection of the climate change related to the  
3 Project, one in 2025, and then one beyond.

4           MS. ANSLEY: Okay. And what is your  
5 understanding of what -- how long the Project will --  
6 is projected to take to construct?

7           WITNESS LEATHERMAN: My understanding is, the  
8 Project construction is somewhere between 10 and 12  
9 years.

10          MS. ANSLEY: Okay. So it is not your  
11 understanding that the Project is projected to take 13  
12 to 14 years.

13          WITNESS LEATHERMAN: No, it's not.

14          MS. ANSLEY: Where did you get your figure  
15 of -- I'm sorry. Did you say 10 to 12 years?

16          Where did you get your estimate of 10 to 12  
17 years for Project construction?

18          WITNESS LEATHERMAN: I believe it was in the  
19 original evaluation that I reviewed in the EIR.

20          MS. ANSLEY: And I know that's a lot to ask,  
21 but you don't have a cite for that, obviously, in your  
22 testimony.

23          WITNESS LEATHERMAN: No. That's just in my  
24 notes.

25          MS. ANSLEY: Okay. So, looking at this graph

1 with the understanding that Alternative 4A includes  
2 climate change and sea-level rise but existing  
3 conditions do not, would you agree that, if you compare  
4 Alternative 4A to existing conditions, you are not  
5 distinguishing the effects of the Project from effects  
6 due to climate change and sea-level rise?

7 WITNESS LEATHERMAN: Can you repeat that  
8 question or have it read back into the record?

9 MS. ANSLEY: Sure, she can -- she can read  
10 that back.

11 (Record read.)

12 WITNESS LEATHERMAN: I -- I think I understand  
13 what you're asking in that, as I look at the existing  
14 conditions in both Project Alternative 4A and the  
15 No-Action Alternative, they both include climate change  
16 evaluation.

17 MS. ANSLEY: So, in your testimony, you make a  
18 lot of comparisons between Alternative 4A, as you read  
19 these graphs, and the existing conditions; is that  
20 correct?

21 WITNESS LEATHERMAN: I do.

22 MS. ANSLEY: When you make that comparison, is  
23 it your understanding that that comparison would not  
24 distinguish the effects of the Project from effects of  
25 climate change and sea-level rise?

1           WITNESS LEATHERMAN: So when I look at and  
2 evaluate the existing condition and either the  
3 No-Action Alternative or the Project Alternative, and  
4 specifically in this case the Alternative 4A Project  
5 Alternative, my issues are with -- specifically around  
6 how is it going to impact public recreation and the  
7 access to public recreation now and today.

8           And that's what I'm mostly focused in on,  
9 along with the No-Action Alternative. But, you know,  
10 we can look at the impacts of climate change and  
11 sea-level rise out into the future.

12           But in the short-term, is, we're looking at  
13 how people are impacted by this Project in the  
14 short-term. There is a significant amount of impact as  
15 you compare it to the existing condition. And that's  
16 the evaluation that I'm making.

17           MS. ANSLEY: So the evaluation you're making,  
18 how would you de -- how would you determine impacts --  
19 If you -- If you compare between existing conditions  
20 and the Alternative 4A, how are you distinguishing  
21 impacts to recreation from the Proposed Project?

22           WITNESS LEATHERMAN: I'm making that  
23 distinction in that we have monthly flows both on the  
24 Sacramento, we have decreased flows on the American  
25 River, and we also have decrease on Folsom Reservoir

1 compared to the existing condition. And all of that  
2 carries true.

3 And as we see decreases in flows and water  
4 elevation in our recreational uses, those are impacted.  
5 And so I'm making that case based on the existing  
6 conditions because those are going to be impacted in  
7 the short run to our recreational community.

8 MS. ANSLEY: So looking at this line --  
9 Looking at this graph, if you -- And I assume your  
10 conclusions are coming from the relative difference  
11 between two lines on this graph; is that correct?

12 WITNESS LEATHERMAN: That's correct.

13 MS. ANSLEY: And those two lines would be the  
14 existing condition, and which other line are you  
15 comparing?

16 WITNESS LEATHERMAN: The Alternative 4A.

17 MS. ANSLEY: So, looking at the relative  
18 difference between the existing condition or  
19 Alternative 4A in any particular month here, is it --  
20 is it your understanding that all the impacts or all of  
21 the difference between those two lines would be  
22 attributable to the Project?

23 WITNESS LEATHERMAN: Both the Project and --  
24 Well, it's the construction of the Project and the  
25 operation of the Project over time.



1 MS. ANSLEY: I'm -- I'm -- When I say "the  
2 Project," I'm including both.

3 When you look at --

4 WITNESS LEATHERMAN: Yes, that is my  
5 understanding.

6 MS. ANSLEY: Your understanding is, the  
7 difference between those two lines would be impacts  
8 attributable solely to the Project.

9 WITNESS LEATHERMAN: Between the  
10 Alternative 4A Project and the existing condition, yes.

11 MS. ANSLEY: And just to close the loop and  
12 then I'm -- I think I can ask different questions about  
13 this graph.

14 If that is your understanding, how are you --  
15 how are you distinguishing the -- the modeling  
16 projections for climate change and sea-level rise,  
17 meaning impacts to flows from climate change and  
18 sea-level rise?

19 WITNESS LEATHERMAN: How am I distinguishing  
20 those?

21 MS. ANSLEY: That's right.

22 WITNESS LEATHERMAN: By reviewing the lines on  
23 the graph.

24 MS. ANSLEY: So if all of the lines on the  
25 graph contain climate change and sea-level rise, except

1 for existing conditions, and you are taking the  
2 difference between -- your visual difference between  
3 flows between existing conditions and Alt 4A, doesn't  
4 your understanding -- isn't it your understanding that  
5 that difference would include changes due to climate  
6 change and sea-level rise as well?

7 WITNESS LEATHERMAN: The -- The challenge that  
8 we have with looking at the recreational impacts of  
9 this graph are that we have no way of knowing when  
10 we're going to be impacted in the whole scale of what  
11 the assumptions are made for climate change and  
12 sea-level rise.

13 And so we're trying to make the distinguish --  
14 the distinction, as it relates to recreational impacts,  
15 that there is going to be a significant and short-term  
16 recreation impact in all bodies of the water,  
17 especially in Sacramento County, specifically the  
18 Sacramento River, the American River and Folsom  
19 Reservoir.

20 MS. ANSLEY: Is it your understanding that  
21 when early long-term is including projections with 2025  
22 climate change and sea-level rise, that what it is  
23 projecting is the climate change and sea-level rise --

24 MR. BURKE: Objection: I'm going to --

25 MS. ANSLEY: -- for that time period around

1 2025?

2 CO-HEARING OFFICER DODUC: What is your  
3 objection, Mr. Burke?

4 MR. BURKE: It's basically asked and answered.

5 Again, he's testified to what his  
6 understanding of the chart/graph is, what his  
7 methodology is.

8 If the State disagrees with how he's reading  
9 it, that's an argument -- well, argumentative, too --  
10 argument for rebuttal.

11 CO-HEARING OFFICER DODUC: Miss Ansley, you  
12 have covered this quite extensively.

13 MS. ANSLEY: I have covered it pretty  
14 extensively.

15 CO-HEARING OFFICER DODUC: And you have made  
16 your point with respect to the lines on this chart.

17 MS. ANSLEY: All right. Then I will move on  
18 to other questions about this chart.

19 Is -- This is a chart that -- that analyzes  
20 flow in average wet years; is that correct?

21 WITNESS LEATHERMAN: That's what the label  
22 says on the bottom.

23 MS. ANSLEY: Yes.

24 And is it your understanding -- I think I  
25 heard you testify earlier that this chart in any way

1 shows low flows; is that correct?

2 WITNESS LEATHERMAN: I don't believe I said  
3 that.

4 MS. ANSLEY: So you would not consider  
5 flows -- I guess that looks about 12,000.

6 You would not consider flows above 12,000 cfs  
7 in the Sacramento to be low flows?

8 WITNESS LEATHERMAN: I think the flow rate on  
9 any of our rivers is subject to the individual's  
10 interpretation of that.

11 I am not as familiar with the flow rate on the  
12 Sacramento River and can't speak to it.

13 MS. ANSLEY: You don't know the relative range  
14 of flows on the Sacramento River?

15 WITNESS LEATHERMAN: Not to make a  
16 determination if it is a low flow and . . .

17 MS. ANSLEY: Yet, if you look at your  
18 testimony on Page 3, Lines 15 to 16 -- And we can look  
19 at the next graph, too, real fast, if you'll scroll  
20 down to the next graph which is on Page 3.

21 (Exhibit displayed on screen.)

22 MS. ANSLEY: These are the flows downstream of  
23 the North -- the proposed North Delta intakes; correct?

24 WITNESS LEATHERMAN: Correct.

25 MS. ANSLEY: And this is again for an average

1 wet year; is that correct?

2 WITNESS LEATHERMAN: That's correct.

3 MS. ANSLEY: And I am assuming -- but please  
4 correct me -- that you're including this to show both  
5 upstream of the North Delta intakes and downstream of  
6 the North Delta intakes, these two graphs; is that  
7 correct?

8 WITNESS LEATHERMAN: That's the purpose for  
9 including are both.

10 MS. ANSLEY: Right.

11 And you see that we are talking about the same  
12 modeling scenarios between these two graphs; is that  
13 correct?

14 WITNESS LEATHERMAN: That's correct.

15 MS. ANSLEY: And on Lines 15 and 16 -- And let  
16 me just clarify.

17 So when you read this graph as well, you  
18 compared the existing condition which is a dashed brown  
19 line with the Alternative 4A which is a blue line; is  
20 that correct?

21 WITNESS LEATHERMAN: That's correct.

22 MS. ANSLEY: And you reached your conclusion  
23 on Lines 15 to 16 of Page 3 that this reduction in flow  
24 levels would affect recreation in a variety of ways,  
25 including esthetics, boating and viability of fish

1 habitat; is that correct?

2 WITNESS LEATHERMAN: That's correct.

3 MS. ANSLEY: Did you do any analysis of the  
4 relative difference between those two modeling  
5 scenarios as to their significance on esthetics,  
6 boating and viability of fish habitat?

7 WITNESS LEATHERMAN: No analysis, just relied  
8 on my experience.

9 MS. ANSLEY: So you do not know whether those  
10 differences and flows impact the viability of any  
11 particular fish species' habitat?

12 WITNESS LEATHERMAN: That was not part of my  
13 analysis for fish. I was looking primarily at  
14 recreational-related uses.

15 MS. ANSLEY: How about esthetics? How -- How  
16 did you judge esthetics from a flowchart?

17 WITNESS LEATHERMAN: Essentially, as we see  
18 a -- prolonged decreases in flow rates on any river, in  
19 my experience primarily with the American River as well  
20 as the Sacramento River, is that you have change in the  
21 esthetics along the riverbanks themselves.

22 Water, as you look at the existing condition,  
23 which we would assume is what we see today, is going to  
24 find essentially what it means -- what the high  
25 watermark is on a regular basis.

1           When you decrease that water from an esthetic  
2 perspective, you start to see changes in waterline,  
3 which starts to see a change the riparian habitat on  
4 the riverbanks associated with the recreational use.

5           So, in this case, if you dropped the water by  
6 a significant flow rate, you're going to be further  
7 away from what would be a shaded riparian habitat. You  
8 would have decreased visual enhancements such as  
9 scouring, more rocks, which in some cases can decrease  
10 the recreational enjoyment of the river itself.

11           MS. ANSLEY: And have you observed those  
12 conditions under 10,000 cfs on the Sacramento River?

13           WITNESS LEATHERMAN: I have not personally.  
14           (Timer rings.)

15           MS. ANSLEY: And -- Pardon me.

16           So, as you sit here today, you do not know the  
17 esthetic difference between maybe 10,000 and 20,000  
18 cfs?

19           WITNESS LEATHERMAN: And what that looks like  
20 on the Sacramento River? No, I don't.

21           MS. ANSLEY: The same question for boating.

22           How did you determine the significance of what  
23 you determined a relative change in flows for boating  
24 impacts?

25           WITNESS LEATHERMAN: As we start to see the

1 relative information on flows, especially in the  
2 boating areas of June, July, August and September,  
3 which primarily are the recreational boating years,  
4 outside of our angling community, what we start to see  
5 in my experience is, a decrease in flow rate also  
6 changes the behavior of the river itself, starts the  
7 slow the pattern of the river down, changes people's  
8 recreational behaviors and potentially changes their  
9 recreational habits on the river.

10 MS. ANSLEY: Yes, I understand that. I  
11 actually have experienced white water kayaking.

12 At what flows on the Sacramento River do you  
13 judge that boating impacts occur?

14 WITNESS LEATHERMAN: I think you'll see  
15 boating impacts at any change in river elevation.

16 MS. ANSLEY: So, let me ask it this way:

17 Are any flows in the Sacramento River too high  
18 for boating?

19 WITNESS LEATHERMAN: There are limits to  
20 boating safely on any river, yes.

21 MS. ANSLEY: And what impacts would you see  
22 between 20,000 and 10,000 cfs on the Sacramento River?

23 WITNESS LEATHERMAN: Change in river  
24 velocities, change in surface acreage on different  
25 areas of the river.



1 MS. ANSLEY: And -- And how would that  
2 decrease or have an impact on boating?

3 WITNESS LEATHERMAN: Well, if you have less  
4 space and you have more people using the area, you have  
5 a diminished access to the recreational space.

6 You have more people in the water in a  
7 confined area. The more people you place on a river or  
8 a lake in a confined area decreases the recreational  
9 value of that experience.

10 By decreasing that recreational value, you're  
11 impacting their beneficial use of that space.

12 MS. ANSLEY: Did you look at the DWR's  
13 analysis of impacts to river stage on the Sacramento  
14 River?

15 WITNESS LEATHERMAN: No, I did not.

16 MS. ANSLEY: Even assuming your assumption  
17 that the construction of the WaterFix will take only 10  
18 to 12 years, wouldn't that mean that, if the Project  
19 were implemented tomorrow or constructed tomorrow, it  
20 would not be operational until 2028, 2030, under your  
21 assumption?

22 WITNESS LEATHERMAN: Under my assumption,  
23 that's correct.

24 But the recreational impacts during that  
25 construction period also have an impact to the access

1 to different areas along the Sacramento River from a  
2 recreation perspective.

3 As has been testified earlier, you have  
4 increased traffic. That can change people's decision  
5 and behavior on whether or not they want to go recreate  
6 in the Delta.

7 MS. ANSLEY: Is it your understanding that  
8 these graphs analyze the operations of the California  
9 WaterFix and not the construction?

10 WITNESS LEATHERMAN: That's my understanding,  
11 yes.

12 MS. ANSLEY: Can we look at Page 4 of your  
13 testimony.

14 (Exhibit displayed on screen.)

15 MS. ANSLEY: And we're looking at Lines 22 to  
16 27 or 8.

17 (Exhibit displayed on screen.)

18 MS. ANSLEY: And you reference Table 15-12b.  
19 Do you see that there?

20 WITNESS LEATHERMAN: I do.

21 MS. ANSLEY: And you discuss Alternative 4.  
22 Do you see that?

23 WITNESS LEATHERMAN: I do.

24 MS. ANSLEY: Is it your understanding that  
25 Alternative 4 is different than Alternative 4A?

1 WITNESS LEATHERMAN: That is my understanding,  
2 yes.

3 MS. ANSLEY: And that Alternative 4 is a -- is  
4 a scenario from the earlier BDCP?

5 WITNESS LEATHERMAN: Yes, I understand that.

6 MS. ANSLEY: Did I hear you -- Moving to  
7 Page 5 of your testimony regarding impacts to the  
8 Consumnes River Preserve --

9 (Exhibit displayed on screen.)

10 MS. ANSLEY: -- to make sure I heard your  
11 earlier testimony on direct.

12 You are correcting this testimony regarding  
13 the Consumnes River Preserve because you have now  
14 learned that there will be less facilities sited there?  
15 Is that what you testified to this morning?

16 WITNESS LEATHERMAN: That testimony was  
17 specific to Staten Island.

18 MS. ANSLEY: Oh, excuse me. If we could go  
19 over that.

20 WITNESS LEATHERMAN: Sure.

21 MS. ANSLEY: What is it you understood was  
22 removed from Staten Island?

23 WITNESS LEATHERMAN: So Staten Island, for  
24 reference, Page 7, Lines -- middle of 12 to 13, in that  
25 section, what would be eliminated under Project 4A

1 is . . . starting with the launch shaft, vent shaft, to  
2 reusable tunnel material areas, conveyer facility, two  
3 temporary access roads, permanent access roads, and a  
4 temporary barge unloading facility.

5 MS. ANSLEY: And what did you review that  
6 changed your testimony?

7 WITNESS LEATHERMAN: I was going through the  
8 FEIR related to the WaterFix. And I believe it was on  
9 Page 3-15 in an introductory section that I found some  
10 changes that were specifically cited in reference to  
11 Staten Island.

12 MS. ANSLEY: I'd like to move to your  
13 testimony on Page 8 regarding the American River.

14 CO-HEARING OFFICER DODUC: Miss Ansley?

15 MS. ANSLEY: Yes.

16 CO-HEARING OFFICER DODUC: We interrupted your  
17 cross-examination, so I'm not holding you to the clock,  
18 but I would like to get a time estimate.

19 MS. ANSLEY: I think that I'm, like, five to  
20 10 minutes. I'm down to the --

21 CO-HEARING OFFICER DODUC: All right.

22 MS. ANSLEY: -- end of it.

23 CO-HEARING OFFICER DODUC: Then we'll get to  
24 Mr. Keeling.

25 I'm just going by group number, Mr. Jackson.

1 MS. ANSLEY: And can we scroll down to the  
2 bottom of Page 8 and take a look at that Figure 5-46.

3 (Exhibit displayed on screen.)

4 MS. ANSLEY: And just to confirm: This is  
5 your -- the basis for your conclusion that there are  
6 reductions that are significant to recreation impacts  
7 on the American River; is that correct?

8 WITNESS LEATHERMAN: That's correct, based on  
9 the existing conditions.

10 MS. ANSLEY: Right.

11 Is it your understanding that the FEIR  
12 concluded that the impacts to the American River in  
13 terms of flow rates and flow levels, which I will also  
14 call water stage, were not significant?

15 WITNESS LEATHERMAN: That is my understanding,  
16 that the document made. However, I disagree with the  
17 significance evaluation.

18 MS. ANSLEY: I have no further questions.

19 Thank you.

20 CO-HEARING OFFICER DODUC: Thank you.

21 Are you okay with continuing, Candace?

22 THE REPORTER: Um-hmm.

23 CO-HEARING OFFICER DODUC: All right.

24 Mr. Keeling.

25 MR. KEELING: Tom Keeling for the San Joaquin

1 County Protestants.

2 All of my questions will be for Mr. Leatherman  
3 going to flows on the American River, and  
4 communications between his Department and the  
5 Department of Water Resources.

6 CO-HEARING OFFICER DODUC: (Nodding head.)

7 CROSS-EXAMINATION BY

8 MR. KEELING: Do you think you can take a few  
9 more minutes? Can you endure a few more minutes of  
10 this, Mr. Leatherman?

11 WITNESS LEATHERMAN: If we're talking about  
12 recreation impacts, it's my pleasure to be here.

13 (Laughter.)

14 CO-HEARING OFFICER DODUC: Remember, you are  
15 under oath, Mr. Leatherman.

16 MR. KEELING: Oh, that was heartfelt, I could  
17 tell. That was heartfelt.

18 Mr. Leatherman, you recall earlier today --  
19 seems like so long ago -- that you were discussing  
20 WaterFix impacts on the American River.

21 Do you recall that testimony?

22 WITNESS LEATHERMAN: I do.

23 MR. KEELING: I forget. Was that in  
24 connection specifically with Discovery Park?

25 WITNESS LEATHERMAN: It was Discovery Park,

1 but the Department manages not only Discovery Park but  
2 the first 23 miles of the American River Parkway which  
3 begins at Discovery Park and ends at Hazel.

4 MR. KEELING: Mr. Hunt, could we have Exhibit  
5 SWRCB-102 -- that's the FEIR -- Appendix 5.A, Figure  
6 C-58-two which is at Page 5.A-C1789.

7 Do you need that page number again?

8 The page number is 5.A- C -- it's 5.A-C1789.

9 This is really a test for Mr. Hunt.

10 MR. HUNT: Which Appendix A file am I looking  
11 for?

12 CO-HEARING OFFICER DODUC: Perhaps you might  
13 repeat, Mr. Keeling, which document.

14 MR. KEELING: It was -- It was, obviously,  
15 Appendix 5.A, Page 5.A-C1789.

16 Do you need the figure number?

17 MS. McCUE: Is there a --

18 MS. MESERVE: I'm going to guess it's C Part2  
19 which is, like, the fifth one down.

20 MR. KEELING: Well, the figure -- the figure  
21 number is C5.A-2 if that would help.

22 CO-HEARING OFFICER DODUC: I would go with  
23 Final FEIR, go down to Appendix 5.A, Section C, Part 2.

24 (Searching in FEIR.)

25 CO-HEARING OFFICER DODUC: So, yes, that one.

1 MR. HUNT: Oh.

2 (Exhibit displayed on screen.)

3 CO-HEARING OFFICER DODUC: And the page number  
4 again?

5 MR. KEELING: The page number for this one is  
6 5.A-C1789.

7 CO-HEARING OFFICER DODUC: So down some more.  
8 And what would be the table or figure number?

9 MR. KEELING: It's a graph -- It's a line  
10 graph for -- about flows. You'll see it has -- In  
11 fact, it's very similar to the one that he was just  
12 questioned on about the Sacramento River.

13 CO-HEARING OFFICER DODUC: You don't have a  
14 figure number.

15 MR. KEELING: I do. C-58-2.

16 CO-HEARING OFFICER DODUC: I think we just  
17 killed the computer.

18 MS. MESERVE: Maybe you could search for  
19 Nimbus Dam Wet Year, and that might help you find it,  
20 because the numbers are awfully confusing.

21 And I apologize for speaking without being  
22 acknowledged.

23 CO-HEARING OFFICER DODUC: It's searching 1400  
24 pages, which might take awhile.

25 MR. KEELING: I hope you appreciate the fact



1 that I am refraining from making any comments about  
2 this as a informational document.

3 It's C-58-2 is the figure number.

4 Looks like you're getting close.

5 CO-HEARING OFFICER DODUC: Oh. Too far.

6 (Exhibit displayed on screen.)

7 WITNESS LEATHERMAN: That's 5-6. Close.

8 (Exhibit displayed on screen.)

9 WITNESS LEATHERMAN: There we go.

10 MR. KEELING: There we go. Thank you,  
11 Mr. Hunt. We'll -- We will have that evaluation of  
12 your performance later.

13 Wait, we lost it. Where'd it go?

14 CO-HEARING OFFICER DODUC: Uh-oh.

15 (Exhibit displayed on screen.)

16 MR. KEELING: There you go.

17 Okay. Freeze that frame.

18 Mr. -- Mr. Leatherman, you testified earlier  
19 that you had reviewed portions of the Final EIR; is  
20 that correct?

21 WITNESS LEATHERMAN: That's correct.

22 MR. KEELING: Did you review this -- this  
23 chart?

24 WITNESS LEATHERMAN: I did.

25 MR. KEELING: Can you tell me: What is your

1 understanding as to what this chart is -- shows?

2 WITNESS LEATHERMAN: My understanding of what  
3 this chart shows is a decrease in flows on the American  
4 River with Alternative 4A as compared to the existing  
5 conditions.

6 MR. KEELING: Is this consistent with your  
7 testimony that you gave earlier today about the impact  
8 of WaterFix on the American River?

9 WITNESS LEATHERMAN: This is consistent with  
10 that testimony.

11 MR. KEELING: Mr. Hunt, in the same exhibit,  
12 same Appendix 5.A, could we go to Figure C-58-5.

13 You want the page number? It's 5.A-C1792.

14 (Exhibit displayed on screen.)

15 MR. KEELING: And you have it.

16 Mr. Leatherman, did you also review this  
17 figure, which is Figure C-58-5?

18 WITNESS LEATHERMAN: I did.

19 MR. KEELING: Can you tell me what this figure  
20 shows.

21 WITNESS LEATHERMAN: As I review this figure,  
22 it shows a decrease in flows on the American River as  
23 compared to the existing conditions specifically around  
24 the primary recreation years of rafting and boating in  
25 July, August and September.

1 MR. KEELING: And the location shown here?

2 WITNESS LEATHERMAN: The location would be the  
3 American River below Nimbus, Nimbus Dam, which is also  
4 equivalent or near the Hazel Crossing.

5 MR. KEELING: So "D/S" means downstream?

6 WITNESS LEATHERMAN: That's correct. That's  
7 my understanding.

8 MR. KEELING: And is this graphic consistent  
9 with the testimony you gave earlier today about flows  
10 on the American River?

11 WITNESS LEATHERMAN: This graphic is  
12 consistent in that it shows the impact to recreation  
13 access in boating and the potential negative impact of  
14 that access as it relates to the existing conditions on  
15 the American River.

16 MR. KEELING: Mr. Leatherman, can low flows on  
17 the American River present a threat to the safety of  
18 swimmers?

19 WITNESS LEATHERMAN: In my opinion, it can,  
20 yes.

21 MR. KEELING: What is your basis for that  
22 opinion?

23 WITNESS LEATHERMAN: Primarily in 2015, when  
24 we were kind of at the height of our drought season, we  
25 saw significant drownings on the American River

1 Parkway, specifically around the confluence but also in  
2 other areas of the parkway.

3           We also had a number of rescues. In -- In the  
4 conversations with rescues not only in 2015, but at  
5 other times we discussed the reason why people are out  
6 and potentially getting themselves into hazardous  
7 situations.

8           What we found in some cases on the American  
9 River as it relates to swimmers is, we see a decrease  
10 in river flows on the American River. There's a sense  
11 of a less dangerous condition and/or a shorter river to  
12 swim across.

13           And we see a lot of swimmers attempting to  
14 swim across the American River not realizing how cold  
15 and potentially how swift the area is. And even in a  
16 Class 1 river like the American River, you're still  
17 going to get pushed downstream swimming across. And so  
18 it's not a direct route straight loss. It's  
19 potentially more of a diagonal route. Somebody that is  
20 not accustomed either to the cold water, potentially to  
21 the distance they're swimming, can get themselves into  
22 trouble.

23           MR. KEELING: So, in effect, those low-flow  
24 conditions create a lure for swimmers who might  
25 otherwise not go.

1 WITNESS LEATHERMAN: It can.

2 MR. KEELING: And I want you to forgive me.

3 It's late and it's been awhile.

4 Can you give me again: What is your position?

5 What is the title?

6 WITNESS LEATHERMAN: The Director of Regional  
7 Parks for Sacramento County.

8 MR. KEELING: And how long have you been that  
9 Director of Regional Parks for Sacramento?

10 WITNESS LEATHERMAN: For six years.

11 MR. KEELING: How long have you been with the  
12 county?

13 WITNESS LEATHERMAN: Six years.

14 MR. KEELING: And thinking back on your  
15 testimony today, as I recall -- and correct me if I'm  
16 wrong -- you have responsibility for Consumnes River  
17 Preserve; is that right?

18 WITNESS LEATHERMAN: We're in partnership with  
19 many agencies and departments down at the Consumnes  
20 River Preserve.

21 Primarily, our role is both of a landowner as  
22 well as the volunteer coordinator for the docents and  
23 recreation programs there at the Preserve.

24 MR. KEELING: And you have some responsibility  
25 for Discovery Park?

1 WITNESS LEATHERMAN: A hundred percent  
2 responsibility for Discovery Park.

3 MR. KEELING: Folsom Reservoir?

4 WITNESS LEATHERMAN: Folsom Reservoir, not  
5 from an operation perspective, but because Folsom  
6 Reservoir falls within Sacramento County, or a portion  
7 of it does, we look at the recreation benefits  
8 associated with the Reservoir.

9 MR. KEELING: American River Parkway?

10 WITNESS LEATHERMAN: Yes. From the Discovery  
11 Park -- confluence of Discover Park and Sacramento  
12 River only to Nimbus Dam. From Nimbus Dam to the  
13 Folsom Lake Reservoir is the State Parks.

14 MR. KEELING: Staten Island?

15 WITNESS LEATHERMAN: Staten Island only by  
16 relationship with our involvement at Consumnes River  
17 Preserve.

18 MR. KEELING: And the Stone Lakes?

19 WITNESS LEATHERMAN: As a landowner there.  
20 And we speak a little bit to the operation, but the  
21 operations are primarily run by the Federal government.

22 MR. KEELING: Well, given the extent of your  
23 responsibilities for these areas, am I correct in  
24 assuming that you have been contacted by the Department  
25 of Water Resources with respect to coordinating

1 WaterFix activities with your responsibilities for  
2 these locations?

3 WITNESS LEATHERMAN: I have not.

4 MR. KEELING: Not --

5 WITNESS LEATHERMAN: No.

6 MR. KEELING: -- for your entire six years?

7 WITNESS LEATHERMAN: No.

8 MR. KEELING: DWR has not initiated any  
9 meetings with you to coordinate on any of these  
10 locations?

11 WITNESS LEATHERMAN: No.

12 MR. KEELING: Mr. Leatherman, thank you.

13 That's all I have.

14 WITNESS LEATHERMAN: Thank you.

15 CO-HEARING OFFICER DODUC: Thank you,  
16 Mr. Keeling.

17 And now Mr. Jackson.

18 Mr. Jackson, you had estimated 40 minutes but  
19 we've already --

20 MR. JACKSON: I --

21 CO-HEARING OFFICER DODUC: We've already taken  
22 care of some of your cross.

23 MR. JACKSON: We have.

24 And the questions that were just asked deal  
25 with most of my questions for Mr. Leatherman, but I do

1 have a couple more.

2           And then I will abbreviate my happy discussion  
3 with Dr. Benedetti in an attempt to get -- You want to  
4 go tonight; right?

5           CO-HEARING OFFICER DODUC: I want to get a  
6 time estimate from you.

7           MR. JACKSON: If -- If I can do it without  
8 calling him back tomorrow, in 15 minutes.

9           CO-HEARING OFFICER DODUC: 15 minutes would be  
10 good because I don't know that -- There might be some  
11 redirect and perhaps recross.

12           MR. JACKSON: Yeah. That's not --

13           CO-HEARING OFFICER DODUC: And we do need to  
14 stop at 6:00.

15           MR. JACKSON: -- my responsibility.

16           CO-HEARING OFFICER DODUC: Okay.

17           MR. JACKSON: When you use the gavel, it won't  
18 be on me.

19           CO-HEARING OFFICER DODUC: I think I've yet to  
20 use the gavel on you, Mr. Jackson.

21           MR. JACKSON: Okay.

22           CO-HEARING OFFICER DODUC: Tomorrow is another  
23 day.

24           MR. JACKSON: Yes, I know that.

25           Mr. Hunt, could you put up Mr. Leatherman's



1 testimony, which I believe is SAC -- SACO Number 20.

2 (Exhibit displayed on screen.)

3 MR. JACKSON: And I'm interested in  
4 Figure 6-31.

5 (Exhibit displayed on screen.)

6 MR. JACKSON: Thank you, sir.

7 MR. BURKE: That's 6-30.

8 MR. JACKSON: Oh, yes, it is.

9 MR. BURKE: That's -- There is not a 6-31.

10 MR. JACKSON: I wrote that down wrong. 6-30  
11 is the one I was looking for.

12 (Exhibit displayed on screen.)

13 CROSS-EXAMINATION BY

14 MR. JACKSON: Mr. Leatherman, calling your  
15 attention to the different graphs -- or the different  
16 lines on the graph, you see that four of them, not  
17 including the existing condition, have ELT after them?

18 WITNESS LEATHERMAN: I do see that, yes.

19 MR. JACKSON: If you're correct -- or DWR's  
20 correct -- that it'll take 12 to 14 years to build this  
21 Project, and they've got three or four years of  
22 preliminary design to do, does the year 2025 have  
23 anything to do with reality?

24 WITNESS LEATHERMAN: Based on earlier  
25 statements that were in 10 to 13 years of construction,

1 2025 would be before the construction is completed on  
2 that Project.

3 MR. JACKSON: Yes. And so . . .

4 You -- It -- Does that have -- Did that cause  
5 you to pick the existing condition because it was real?

6 WITNESS LEATHERMAN: That's what I evaluated.  
7 And why I evaluated the existing condition, it's  
8 because of what we know today. And as it relates to  
9 recreational impacts specifically in the short-term,  
10 the existing conditions seem most appropriate.

11 MR. JACKSON: And so is there any way that you  
12 could judge what was going to happen when they started  
13 operating this Project using the year 2025 to compare  
14 it to today?

15 WITNESS LEATHERMAN: It would be very  
16 difficult to do that.

17 MR. JACKSON: You indicated -- Thank you very  
18 much. That's all I need from -- Oh, wait.

19 The . . . The -- The two graphs, the  
20 Alternative 4A and -- and existing conditions on the  
21 Sacramento River downstream of the Delta show a number  
22 that's different by 8,000 cfs or -- or so?

23 WITNESS LEATHERMAN: That's my evaluation and  
24 understanding, yes.

25 MR. JACKSON: Do you know what the outflow

1 that is requested for Alternative 4A in the summer is?

2 WITNESS LEATHERMAN: I do not.

3 MR. JACKSON: Okay. Thanks.

4 Mr. Leatherman, if -- if this Project were --  
5 were built, you say that the Delta recreation depends  
6 on quiet enjoyment; is that correct?

7 WITNESS LEATHERMAN: In our Consumnes River  
8 Preserve, and other areas around the Preserve,  
9 including Stone Lakes, it is highly dependent on quiet  
10 enjoyment of recreation in those areas.

11 MR. JACKSON: And that would be true at Staten  
12 Island.

13 WITNESS LEATHERMAN: That would also be true  
14 at Staten Island, yes.

15 MR. JACKSON: And probably would be true  
16 around Discovery Bay.

17 WITNESS LEATHERMAN: Discovery Bay and  
18 Discovery Parkway is a little bit different, because we  
19 have more active recreation going on in that space.  
20 You can find quiet enjoyment of activities there but  
21 you arrive with the expectation that there's more  
22 activity along the American River Parkway than the  
23 Consumnes River Preserve, Stone Lakes, or Staten  
24 Island.

25 MR. JACKSON: Yeah. I -- I -- We

1 miscommunicated a little.

2 I had taken you outside of Sacramento County  
3 to other places in the Delta where people live.

4 Would you imagine that that would be the same?

5 WITNESS LEATHERMAN: Yes, I would.

6 MR. JACKSON: You indicated that there -- that  
7 one of the things that you were worried about in the  
8 Consumnes -- in the area of Sacramento County and its  
9 recreation that you're responsible for, is an east-west  
10 transmission line?

11 WITNESS LEATHERMAN: Correct. On the  
12 Consumnes River Preserve, I believe it's on the north  
13 end of the property.

14 MR. JACKSON: And what -- Why would the  
15 east-west transmission line be a worry?

16 WITNESS LEATHERMAN: Anytime that you put  
17 permanent fixtures in and around an area that is  
18 primarily geared towards quiet enjoyment and quiet  
19 recreation, you've essentially put what is more of a  
20 permanent fixture into that space and it decreases the  
21 esthetic value of that area from a recreation  
22 perspective.

23 MR. JACKSON: Calling your attention to one of  
24 the issues in this case, whether or not an effect would  
25 be unreasonable on fish and wildlife, and thinking

1 about avian species at the present time, are these  
2 transmission lines also a threat to birds?

3 WITNESS LEATHERMAN: While I'm not an expert  
4 on that issue, I know that we have transmission lines  
5 in a variety of our park areas, and we do see impacts  
6 to birds, including death on those transmission wires.

7 MR. JACKSON: You indicate that, on the  
8 Consumnes Preserve, there are going to be tunnel  
9 materials.

10 WITNESS LEATHERMAN: Correct. That's my  
11 understanding.

12 MR. JACKSON: Do you have any idea how much?

13 WITNESS LEATHERMAN: I do not know the total  
14 volume in that location.

15 MR. JACKSON: Do you have any idea what's in  
16 the tunnel materials?

17 WITNESS LEATHERMAN: Again, as was testified  
18 earlier, and I'll use supervisor Nottoli's description,  
19 is tunnel sludge.

20 MR. JACKSON: Do you have any idea whether or  
21 not there is selenium --

22 WITNESS LEATHERMAN: I do not --

23 MR. JACKSON: -- in the sludge?

24 WITNESS LEATHERMAN: I do not know the makeup  
25 of that material.

1 MR. JACKSON: Okay. Does it reassure you that  
2 the FEIR indicates that there will be significant and  
3 unmitigable environmental impacts?

4 WITNESS LEATHERMAN: That causes me great  
5 concern.

6 MR. JACKSON: Now, you understand that CEQA's  
7 a different thing than what we're doing here today --

8 WITNESS LEATHERMAN: I do.

9 MR. JACKSON: -- correct?

10 Would you consider a significant and  
11 unavoidable impact to be unreasonable in a location  
12 like the Consumnes Preserve for your purposes?

13 WITNESS LEATHERMAN: For my purposes, as I  
14 evaluate it from a recreation and esthetic perspective,  
15 yes.

16 MR. JACKSON: Now, I could ask you the same  
17 question about Stone Lakes Preserve.

18 You identified noise, esthetics, and impacts  
19 on visitors.

20 And does it reassure you to find that the FEIR  
21 says those are significant and unavoidable impacts for  
22 the purposes of CEQA?

23 WITNESS LEATHERMAN: That does also cause me  
24 concern.

25 MR. JACKSON: Would you consider those impacts

1 to be -- Assuming that -- for a moment that noise and  
2 esthetic impacts are applicable -- Well, is it fair to  
3 say it's applicable to both people and wildlife?

4 WITNESS LEATHERMAN: That's fair.

5 MR. JACKSON: In the same circumstance that  
6 CEQA allows you to say something is significant and  
7 unavoidable and then override it for other purposes.

8 Looking at the decision about whether or not  
9 it's unreasonable to do to the birds, and to the  
10 people, would you -- would you find that to be  
11 unreasonable?

12 Maybe I used "unreasonable" twice.

13 WITNESS LEATHERMAN: Can you repeat the  
14 question, please?

15 MR. JACKSON: Yeah.

16 The -- The EIR admits that noise, and  
17 esthetic, and visitors, and traffic, and pile driving,  
18 and all of that are significant and unavoidable  
19 impacts.

20 WITNESS LEATHERMAN: Um-hmm.

21 MR. JACKSON: Setting that aside, do you  
22 consider them unreasonable in this location?

23 WITNESS LEATHERMAN: I do consider them  
24 unreasonable, recognizing, you know, as they indicated,  
25 that they are significant and unavoidable, and that

1 we've gone to great lengths both at Stone Lakes and the  
2 Consumnes River Preserve to protect a natural habitat  
3 that doesn't occur anywhere else in our county, and  
4 even in a larger region beyond.

5           And the -- the purpose of the Consumnes River  
6 Preserve was to band together a group of like-minded  
7 local community members as well as local government and  
8 our State government in protecting that space.

9           And the Stone Lakes Preserve is something  
10 similar with our fish and wildlife partners there.

11           And as I look at the unavoidable impacts in  
12 those areas, those impacts are to the extent that we  
13 may never recover from those either from a visitation  
14 perspective or from a wildlife perspective.

15           And in visitation, all we rely on essentially  
16 is people's connection to that specific park or that  
17 specific Refuge. And if people are disconnected from  
18 that for a period of 10 or 12 years during the  
19 construction cycle, we may not get them back as  
20 advocates for protecting of that -- protection of those  
21 parks and facilities.

22           MR. JACKSON: Thank you, sir.

23                           CROSS-EXAMINATION BY

24           MR. JACKSON: Dr. Benedetti, in your direct  
25 testimony, you indicated that you were a Director of



1 the Delta Center for . . .

2 WITNESS BENEDETTI: I was a Co-Director of a  
3 Project called Delta Narratives which was funded by the  
4 Delta Protection Commission in order to explore the  
5 history and culture of the Delta and relate it to  
6 state, regional and national historic trends.

7 MR. JACKSON: Now, the Delta Protection  
8 Commission was established at the same time as the  
9 Delta Reform Act was passed?

10 WITNESS BENEDETTI: I would -- I believe that  
11 it preceded it but I --

12 MR. JACKSON: Okay.

13 WITNESS BENEDETTI: I am not an expert on  
14 that.

15 MR. JACKSON: All right. And Professor  
16 van Loben Sels down there is shaking his head so I've  
17 got it wrong.

18 WITNESS VAN LOBEN SELS: The Delta Protection  
19 Commission was established in 1992 by the Delta  
20 Protection Act, and the 2009 Delta Reform -- or the  
21 Delta . . .

22 Let me see. The Delta Reform Act was in 2009.

23 WITNESS BENEDETTI: Which established the  
24 Stewardship Council.

25 WITNESS VAN LOBEN SELS: Yes.

1 MR. JACKSON: Okay. In your direct testimony,  
2 Dr. Benedetti, I was taken by the fact that you started  
3 13,000 years ago.

4 You -- You mention --

5 WITNESS BENEDETTI: I'm not that old but --

6 MR. JACKSON: I under -- I understand.

7 WITNESS BENEDETTI: -- I'm feeling that right  
8 now.

9 MR. JACKSON: The -- The -- But in your  
10 description of the Delta --

11 WITNESS BENEDETTI: Correct.

12 MR. JACKSON: -- you started historically with  
13 the Miwok.

14 WITNESS BENEDETTI: It was predecessors to the  
15 Miwok. But, yes, the estimates are now that there  
16 are -- have been inhabitants of this area for 13,000  
17 years.

18 MR. JACKSON: Do -- Are there still Native  
19 American inhabitants that live in the Delta?

20 WITNESS BENEDETTI: I believe the answer to  
21 that is yes, but there are very few that have lineage to  
22 the Miwok.

23 The significant dates are 1830 when about  
24 50 percent of the population was killed through  
25 malaria, I believe.

1           And then during the Gold Rush, when a large  
2 population of Native Americans were killed in the  
3 conflicts over the -- over the gold such that, when the  
4 anthropologists at U.C. Berkeley tried to reconstruct  
5 their life, they had to rely on a single person, whose  
6 book is famous, called Ishi.

7           MR. JACKSON: Yes.

8           WITNESS BENEDETTI: And so that we don't have  
9 the direct human links that we would like. Most of the  
10 links are through cross-marriages. And in the Delta  
11 Region, there, of course, would be people of Native  
12 American descent from other tribes that came from other  
13 regions.

14          MR. JACKSON: Is Laura Cunningham's book an  
15 important historical reference?

16          WITNESS BENEDETTI: Laura Cunningham has tried  
17 to reconstruct the habitat of -- of the -- of the  
18 Native Americans and even reaching before they came,  
19 but that has to reach from way -- very far back.

20          The -- The book that probably is best in terms  
21 of the lifestyle of the Native Americans in the region  
22 actually was written about the Ohlone and it was  
23 written by Malcolm Margolin several years ago. It's  
24 called The Ohlone Way.

25          And it does about as good a job as I think can

1 be done about -- with current information on  
2 documenting the lifestyle of the people who they -- the  
3 Miwok, the Ohlone and the Yucca and their predecessors  
4 who lived in this area.

5 MR. JACKSON: The . . . The science of  
6 archeology has changed many things in many places in  
7 regard to historical knowledge around the world.

8 And one of the ways that . . . that historical  
9 record is avoided in construction projects is  
10 avoidance.

11 Is there any way that the archeological  
12 history of the original inhabitants of the Delta could  
13 be conserved with this construction Project going down  
14 on top of the land?

15 WITNESS BENEDETTI: I'm not an archeologist.

16 MR. JACKSON: I understand that.

17 WITNESS BENEDETTI: And what I do know is that  
18 this particular settlement of what we call triplets was  
19 along the rivers. And so the most important places to  
20 maintain protection are along the rivers, because  
21 that's where the -- the Yucca, the Ohlone and the Miwok  
22 settled.

23 They did not leave the same material remains  
24 of -- They built it with things that could easily be  
25 destroyed, and they were basket weavers as opposed to

1 potters.

2           However, there is a footprint that they left,  
3 both because of their agricultural management  
4 techniques, and because of the mindens (sic) of the  
5 piles of garbage that they left, which can tell a great  
6 deal about their -- what they're eating and some of  
7 their cultural practices.

8           We've come quite far in what some people call  
9 garbology, looking at garbage and analyzing it, and  
10 probably have a ways to go.

11           So it would seem to me that, at this point in  
12 time, we need to protect as far as possible the --  
13 those -- those sites that we know existed.

14           We are lucky that some of the Spanish,  
15 particularly this Narciso Duran, located them when they  
16 came in 1817 because most of them were in place at that  
17 time.

18           (Timer rings.)

19           MR. JACKSON: I have a number of questions  
20 about Legacy, and then historic features after the  
21 Native Americans. It would take about five minutes.

22           CO-HEARING OFFICER DODUC: All right.

23           MR. JACKSON: I'll start right -- right off.

24           You indicated that there were bridges of  
25 natural -- national significance in the --

1 WITNESS BENEDETTI: Yes.

2 MR. JACKSON: -- Delta.

3 WITNESS BENEDETTI: Yes.

4 MR. JACKSON: Is there a program around the  
5 nation that -- that defines these bridges?

6 WITNESS BENEDETTI: There is a website that  
7 reviews and ranks bridges of historic significance, and  
8 the bridges that I noted are ranked rather highly on  
9 that evaluation.

10 MR. JACKSON: You also indicated that there  
11 were significant numbers of residences in the Delta  
12 that were of national historical significance.

13 WITNESS BENEDETTI: I don't know that I said  
14 that.

15 MR. JACKSON: Eligible for that?

16 WITNESS BENEDETTI: What I said is that  
17 there -- there were three residences that are on the  
18 National Registry in this particular area.

19 I wasn't looking at the Delta as a whole: The  
20 Mosher House, the Greene house, and Rosebud.

21 However, when they -- when -- as preparatory  
22 to the Delta Bay Report, they did a census. They found  
23 680 homes in the area that they took in -- in the Delta  
24 that are buildings that they thought might have  
25 historical significance.

1           Of those, they were only able to vi -- to get  
2 access to two-thirds. So there are still a third that  
3 they don't know whether they're important or not.

4           Of those that they did get access, they only  
5 found, I think, 25 or 30 that they thought was of  
6 historical significance.

7           Again, that is a governmental decision. That  
8 is to say, the National and the State. That is not the  
9 same decision that private foundations might come to,  
10 because it's not necessarily based for private  
11 companies or private foundations on returning something  
12 to pristine condition. There may be other historical  
13 reasons for preserving it.

14           MR. JACKSON: The . . . The City of San  
15 Francisco has an awful lot of houses, and I imagine  
16 they don't all qualify?

17           WITNESS BENEDETTI: Right. It depends on who  
18 lived there --

19           MR. JACKSON: Right.

20           WITNESS BENEDETTI: -- and the -- the --  
21 whether they represent a particular kind of  
22 architecture.

23           I might suggest that we do have -- One of the  
24 reasons that they cast their net so large at 680 is  
25 that many of those houses are of some significance.

1 Whether they rise to the level of State or -- or  
2 National protection, I'm not sure.

3 But one of the things that makes  
4 San Francisco, of course, as nice as it is is that  
5 there's a lot of them.

6 MR. JACKSON: Yes.

7 You used a term, I believe, in your testimony  
8 about -- that struck me -- boomtown milieu?

9 WITNESS BENEDETTI: Yes.

10 MR. JACKSON: What did you mean by that?

11 WITNESS BENEDETTI: Well, one of the things  
12 that happens when an event brings a lot of people there  
13 for a relatively short time is that there's kind of a  
14 carnival atmosphere created.

15 One can think of the recent milieu created in  
16 North Dakota with the oil, or around Gold Rush  
17 communities during the Gold Rush year.

18 Something similar can occur with a large  
19 construction site when people are there for a fair  
20 amount of time but don't -- as one of the people that  
21 testified today -- that don't have a stake in the area.  
22 They aren't from the area. They don't live there, at  
23 least not permanently.

24 And that kind of attitude can disregard  
25 local -- The people who are involved can disregard



1 local customs and even property rights.

2 MR. JACKSON: Have you had occasion to look  
3 into the history of -- I grew up in Redding -- the  
4 history of the building of Shasta Dam or Oroville Dam  
5 or any of those --

6 WITNESS BENEDETTI: No.

7 MR. JACKSON: -- boomtowns.

8 WITNESS BENEDETTI: I have not made a study of  
9 it, though I think it's a wonderful topic for research.

10 MR. JACKSON: So this -- This boomtown milieu  
11 is going to be placed in a very delicate ecosystem with  
12 the historic culture of the people that you've  
13 described in your testimony.

14 WITNESS BENEDETTI: I can't -- I -- I'm also  
15 not an ecologist.

16 MR. JACKSON: I understand that.

17 WITNESS BENEDETTI: And so I would leave to  
18 others the disruption of the ecosystem.

19 However, I am an urbanist. And the sociology  
20 of this area could well be disrupted by this activity.

21 MR. JACKSON: Given that particular  
22 background -- and I'll make this my last question --  
23 how does that mesh with farm kids trying to grow up on  
24 a family farm?

25 WITNESS BENEDETTI: I suppose, in a way,

1 that --

2 CO-HEARING OFFICER DODUC: Hold on.

3 WITNESS BENEDETTI: -- depends on --

4 CO-HEARING OFFICER DODUC: Hold on, please.

5 WITNESS BENEDETTI: -- the farm kids.

6 CO-HEARING OFFICER DODUC: Hold on.

7 Miss Ansley.

8 MS. ANSLEY: Objection: Vague and ambiguous;  
9 assumes facts not in evidence.

10 Farm kids growing up on a farm generally? Is  
11 there some more context to this?

12 MR. JACKSON: Sure. I'll make it a more  
13 complete question.

14 You heard the description of  
15 Mr. van Loben Sels and the testimony of Miss Chhakra  
16 (sic).

17 From your historical and sociological work,  
18 would you see these two things as compatible?

19 WITNESS BENEDETTI: My own background has led  
20 me to focus on urban dwellings and the disruption  
21 there.

22 However, small towns are something I have  
23 looked into, and there is disruption in small town life  
24 that can be related to the boomtown activity.

25 I can't speak specifically to whether, if the

1 kid was a farm kid as opposed to the son of a retailer  
2 in a small town, that there would be any difference.

3           But this does create a kind of carnival  
4 sideshow not too different from the -- I'm trying to  
5 think of the name of it. The musical we all liked in  
6 the '80s and '90s which brought a carnival to town and  
7 it created all sorts of disruption. That's what I  
8 meant to say.

9           I wouldn't focus it only on kids who grew up  
10 on a farm.

11           MR. JACKSON: All right. I -- That was --  
12 That was my mistake.

13           Just take kids who were kids of the five women  
14 up here on the dais.

15           Would this carnival atmosphere fit? Or maybe  
16 six, because here comes one.

17           Does this fit with what they would want for  
18 their kids?

19           MS. ANSLEY: Objection: Calls for  
20 speculation.

21           WITNESS BENEDETTI: Yeah. I -- I -- I have no  
22 idea what people want --

23           CO-HEARING OFFICER DODUC: Sustained.

24           WITNESS BENEDETTI: -- for their --

25           CO-HEARING OFFICER DODUC: All right.

1 WITNESS BENEDETTI: -- kids.

2 CO-HEARING OFFICER DODUC: All right. Enough.

3 MR. JACKSON: That was a national bridge too  
4 far.

5 (Laughter.)

6 CO-HEARING OFFICER DODUC: And, again, I  
7 refrain from throwing my gavel at you. See?

8 MR. JACKSON: Thank you.

9 CO-HEARING OFFICER DODUC: Any redirect?

10 MR. BURKE: Yes.

11 MR. FERGUSON: I have some, too, for  
12 Dr. Benedetti.

13 CO-HEARING OFFICER DODUC: All right.

14 MR. FERGUSON: Do you want me to go first?

15 WITNESS BENEDETTI: Am I hooked up?

16 CO-HEARING OFFICER DODUC: Go.

17 MR. FERGUSON: I'll go first. Okay. Great.

18 Yeah. Mr. Hunt, can you please bring up

19 Appendix 18B that's in SWRCB-102.

20 (Exhibit displayed on screen.)

21 MR. FERGUSON: And go to Page 18B-69.

22 (Exhibit displayed on screen.)

23 REDIRECT EXAMINATION BY

24 MR. FERGUSON: Dr. Benedetti, we're looking at

25 Table 18-24 from Appendix 18B.

1 Are you familiar with this?

2 WITNESS BENEDETTI: Yes, I -- I believe I am.

3 MR. FERGUSON: You see the line in the middle  
4 there describing Rosebud Rancho?

5 WITNESS BENEDETTI: Yes, I do.

6 MR. FERGUSON: And did you review this entry  
7 here in this table?

8 WITNESS BENEDETTI: Right, I did.

9 That's where I got the idea of D --  
10 recommended initiating procedures for delisting. And I  
11 assume that was delisting from the National Register  
12 for Historic Places because it's mentioned in the  
13 clause above.

14 MR. FERGUSON: Okay. Thank you.

15 So Table 18B-24 recognizes that Rosebud Rancho  
16 is still listed on the National Register of Historic  
17 Places.

18 WITNESS BENEDETTI: Correct. At least as of  
19 the time that was done, which I believe is 2012.

20 MR. FERGUSON: Okay. So are you -- are you  
21 aware today whether it's still --

22 WITNESS BENEDETTI: No, I did not check  
23 whether there's been anything.

24 MR. FERGUSON: Okay.

25 WITNESS BENEDETTI: I don't know if that

1 recommendation was forwarded.

2 MR. FERGUSON: You testified that you're aware  
3 that Rosebud Rancho was remodeled after a fire; right?

4 WITNESS BENEDETTI: That was my understanding,  
5 that there was a fire in 1990. Maybe I've got that  
6 date wrong.

7 There was a fire, and it was remodeled. And  
8 that was one of the reasons for the loss of integrity  
9 is the idea that it was no longer the same building as  
10 had been listed on the Register.

11 MR. FERGUSON: So even if it's no longer  
12 perhaps the same building and has been modified, it  
13 still may be of interest to the public?

14 WITNESS BENEDETTI: Absolutely.

15 MR. FERGUSON: As a tourist attraction; right?

16 WITNESS BENEDETTI: Absolutely. Because part  
17 of the interest of that property was the gardens, which  
18 my understanding is that some of that still remains and  
19 could be brought back.

20 It's also not clear to me that restoring a  
21 building would be of no value or little value if it  
22 didn't live up to the National Register of Historic  
23 Places guidelines, so -- because private foundations  
24 often look at other activities.

25 For example, after a tour of a property, the

1 woman who lived there into the 20th Century was a very  
2 prominent raiser of -- or a patron of camellias and she  
3 was world -- a world class camellia grower.

4 And my understanding is that some of the  
5 things she brought there are still growing.

6 MR. FERGUSON: Thank you.

7 And please take a look at the middle column  
8 under Project Feature.

9 Do you see where it says, "Intake 3, permanent  
10 surface impact"?

11 WITNESS BENEDETTI: I'm sorry. I -- Which --  
12 Which one in the mid --

13 MR. FERGUSON: So --

14 WITNESS BENEDETTI: Right where you have the  
15 thing? Intake --

16 MR. FERGUSON: The column --

17 WITNESS BENEDETTI: Yes, yes.

18 MR. FERGUSON: Yes.

19 WITNESS BENEDETTI: Yes.

20 MR. FERGUSON: So, in your opinion -- Well,  
21 first of all, you recognize that the EIR states there  
22 would be a permanent surface impact to the Rosebud  
23 Rancho?

24 WITNESS BENEDETTI: Yes. That's why I  
25 reviewed that. And that seemed to me to be serious

1 because it said -- they used the word "permanent."

2 MR. FERGUSON: So in your -- in your opinion,  
3 would a permanent surface impact make Rosebud Rancho  
4 more or less attractive as a historic resource?

5 WITNESS BENEDETTI: Certainly less attractive.  
6 And it has been in the past a historic resource because  
7 I've documented that the people from Elk Grove  
8 Historical Society have brought people over there to  
9 visit it.

10 MR. FERGUSON: Thank you.

11 Would -- Would a permanent surface impact make  
12 it more or less likely for the Rosebud Rancho to  
13 maintain its designation as a historic place?

14 WITNESS BENEDETTI: I -- I can't answer that,  
15 because I'm not right up to date on how they make that  
16 classification, particularly since it once was  
17 historic. So I don't have that in front of me.

18 But my estimate would be that, certainly if on  
19 top of the fire and the remodeling, if there was these  
20 impacts, that the chance for it to remain on the  
21 Historic Register would probably be small.

22 MR. FERGUSON: Okay. Thank you very much.

23 REDIRECT EXAMINATION BY

24 MR. BURKE: Mr. Leatherman.

25 It's going to be about 10 minutes, I hope.



1           Okay. Are you a hydrologist?

2           WITNESS LEATHERMAN: No.

3           MR. BURKE: Are you a water supply engineer?

4           WITNESS LEATHERMAN: No.

5           MR. BURKE: Would you say that the testimony  
6 you've offered today as it relates to the modeling and  
7 the graphs from the EIR is offered as a lay witness,  
8 lay person?

9           WITNESS LEATHERMAN: As a lay person related  
10 to the recreation impacts, yes.

11          MR. BURKE: Can I ask to have Sac County  
12 Exhibit 20 up on the screen.

13          (Exhibit displayed on screen.)

14          MR. BURKE: And can we go to Page 3, the graph  
15 at the top.

16          (Exhibit displayed on screen.)

17          MR. BURKE: Thank you.

18          Mr. Leatherman, you're -- you're familiar with  
19 this graph. We've talked about it a few times today.

20          Are you familiar?

21          WITNESS LEATHERMAN: Yes.

22          MR. BURKE: Okay. In looking at this -- at  
23 this figure, did you consider how the graph line for  
24 Alternative 4A relates to the No-Action Alternative?

25          WITNESS LEATHERMAN: I did look at both lines,

1 yes.

2 MR. BURKE: And how do they relate?

3 WITNESS LEATHERMAN: In that the No-Action  
4 Alternative factors in solely just the impacts with  
5 climate change.

6 MR. BURKE: But -- I don't even -- I'm not  
7 asking you to even go into that level of detail.

8 How do they relate on the chart in terms of  
9 the flow rate -- comparative flow rate?

10 WITNESS LEATHERMAN: The No-Action Alternative  
11 is greater than the Project Alternative,  
12 Alternative 4A.

13 MR. BURKE: Thank you.

14 One more line of questioning to go down.

15 Can we go to State Water Board Exhibit 102.

16 (Exhibit displayed on screen.)

17 MR. BURKE: And it's going to be Chapter 15.

18 (Exhibit displayed on screen.)

19 MR. BURKE: And once we get in there, it's at

20 Page 478.

21 (Searching for exhibit.)

22 MR. BURKE: I probably should have stayed with  
23 your written testimony.

24 Okay. We can do this without it.

25 Mr. Leatherman . . .

1 No. I'm sorry. I . . .

2 I really need that last -- I apologize. If  
3 you could put it back up again.

4 CO-HEARING OFFICER DODUC: What's the --

5 MR. BURKE: Sac County 20.

6 CO-HEARING OFFICER DODUC: Oh, I'm sorry.

7 MR. BURKE: Sorry. I have to lay a bit of a  
8 foundation for this first.

9 (Exhibit displayed on screen.)

10 MR. BURKE: Okay. So on Page 4.

11 (Exhibit displayed on screen.)

12 MR. BURKE: Okay. Great. Scroll up just a  
13 little bit.

14 (Exhibit displayed on screen.)

15 MR. BURKE: Okay. Mr. Leatherman, looking at  
16 Page 4 of your written testimony, Lines 2 through 11,  
17 do you see where you have a discussion regarding  
18 Final EIR Impact REC-6?

19 WITNESS LEATHERMAN: Yes, I do.

20 MR. BURKE: And do you see what is a citation  
21 to the Final EIR to Page 15-475?

22 WITNESS LEATHERMAN: I do.

23 MR. BURKE: Is it your understanding that that  
24 discussion from Lines 2 to 11 is regarding  
25 Alternative 4A?

1 WITNESS LEATHERMAN: That's my understanding,  
2 yes.

3 MR. BURKE: Okay. Now back to the EIR.

4 CO-HEARING OFFICER DODUC: Miss Ansley?

5 MS. ANSLEY: I'm listening carefully. I know  
6 that I didn't ask any questions about that particular  
7 testimony, nor -- nor FEIR Page 15-475, or REC-6.

8 MR. BURKE: She asked a question a little --  
9 about Table 15-12b, which Mr. Leatherman discusses in  
10 his testimony.

11 I'm just trying to make sure that -- I'm not  
12 sure what to infer from that line of cross-examination.  
13 I want to make sure that the Board's not confused about  
14 what Mr. Leatherman is testifying to on this page.

15 CO-HEARING OFFICER DODUC: On the page in  
16 which she conducted her cross-examination.

17 MS. ANSLEY: I conducted cross-examination  
18 about Lines 22 to 27. I asked him to confirm that he  
19 was aware that Alt 4 in FEIR Table 15-12b, which is  
20 what he's written here, that he understands that is not  
21 the same thing as 4A, and that was the scope of my  
22 question.

23 CO-HEARING OFFICER DODUC: And Mr. Burke?

24 MR. BURKE: Yes. I just want to make sure, in  
25 the scope of this discussion on Page 4 and the first

1 half of Page 5, that the Board is not -- that there's  
2 no confusion about the point that the witness is trying  
3 to make.

4 MS. ANSLEY: I would object as beyond the  
5 scope of my cross.

6 CO-HEARING OFFICER DODUC: I think we can  
7 infer from his testimony what is in there.

8 MR. BURKE: Okay. Then I have no further  
9 questions.

10 CO-HEARING OFFICER DODUC: Recross.

11 MR. MIZELL: (Shaking head.)

12 MS. ANSLEY: No, we do not have any recross.

13 CO-HEARING OFFICER DODUC: Thank you.

14 Thank you, gentlemen.

15 At this time, Miss Meserve, does that complete  
16 LAND's case in chief? I believe the county --  
17 Sacramento County has one other witness.

18 MR. FERGUSON: That's right.

19 MS. MESERVE: And we also -- LAND is a sponsor  
20 of Del Piero as well --

21 CO-HEARING OFFICER DODUC: Ah.

22 MS. MESERVE: -- so --

23 CO-HEARING OFFICER DODUC: It's not on my  
24 chart.

25 MS. MESERVE: I apologize.

1 He got moved away from his people.

2 So, you know, I could submit --

3 CO-HEARING OFFICER DODUC: No, no.

4 MS. MESERVE: -- what we've done so far.

5 CO-HEARING OFFICER DODUC: Don't. Let's wait  
6 until the end of your case in chief. I thought that  
7 that was the end.

8 Let me do a couple of housekeeping matters.

9 Mr. Ferguson, since I have you here.

10 Tomorrow --

11 Thank you again, gentlemen. And you are  
12 dismissed.

13 WITNESS VAN LOBEN SELS: Thank you very much.

14 (Panel excused.)

15 CO-HEARING OFFICER DODUC: Tomorrow, we will  
16 begin with a Policy Statement from Supervisor Miller,  
17 but then we will move directly to Sac Regional.

18 MR. FERGUSON: Correct.

19 CO-HEARING OFFICER DODUC: How much time do  
20 you estimate needing for direct?

21 I believe -- And, first of all --

22 MR. FERGUSON: I'd say, yeah, Miss Taber is a  
23 little more familiar.

24 But I think they probably need in the area  
25 of -- I don't want to speculate. Sorry. Maybe an hour

1 and a half.

2 But they do have five witnesses, so --

3 CO-HEARING OFFICER DODUC: Okay. And do you  
4 know whether or not they plan to have an oral Opening  
5 Statement? They did submit a written Opening  
6 Statement.

7 MR. FERGUSON: I honestly do not know. I'm  
8 sorry.

9 CO-HEARING OFFICER DODUC: All right.  
10 Miss Ansley, estimate for cross-examination of Sac  
11 Regional Sand District's panel.

12 MS. ANSLEY: An hour to an hour and a half.

13 CO-HEARING OFFICER DODUC: Okay. Mr. Jackson,  
14 do you anticipate, since you're the only other party  
15 remaining.

16 Oh, Miss Meserve is here. That's right.

17 MR. JACKSON: 30 minutes.

18 CO-HEARING OFFICER DODUC: Miss Meserve?

19 MS. MESERVE: I would like to reserve 15  
20 minutes.

21 CO-HEARING OFFICER DODUC: Okay. So the  
22 reason I'm doing this is, it is possible that we may  
23 get to EBMUD tomorrow so I wanted to make sure EBMUD  
24 was aware of that, because we will not get to  
25 Dr. Petrie until Monday.

1 MS. ANSLEY: Right. Because Dr. Petrie wasn't  
2 available, right.

3 CO-HEARING OFFICER DODUC: Exactly.

4 MS. ANSLEY: Is there any understanding  
5 whether we will reach San Joaquin Tributaries  
6 Authority. I don't know if someone's asked from that  
7 group or not.

8 I just am trying to make sure we plan  
9 adequately.

10 CO-HEARING OFFICER DODUC: If we do, it would  
11 be Dr. Paulsen and not Mr. Steiner. I think that's  
12 what I heard from Mr. O'Laughlin this morning.

13 MS. ANSLEY: I don't want to misrepresent what  
14 he said. I -- I -- I thought Mr. Steiner might be  
15 available tomorrow afternoon, but I'm just losing track  
16 of all the parties a little bit.

17 CO-HEARING OFFICER DODUC: But, in any case,  
18 let me ask you this:

19 What do you anticipate in terms of  
20 cross-examination of EBMUD?

21 MS. ANSLEY: We have coordinated our cross  
22 with -- You know, we've coordinated our cross with  
23 State Water Contractors. We think it's about an hour.

24 CO-HEARING OFFICER DODUC: Given that it's  
25 Friday, unless Mr. Steiner cannot -- is not able to



1 appear Monday and needs to have -- needs to present his  
2 testimony on Friday, we will adjourn after East Bay MUD  
3 is completed.

4 MS. ANSLEY: And then resume with Dr. Petrie  
5 first thing Monday, presumably, followed by San Joaquin  
6 Tributary Authority.

7 CO-HEARING OFFICER DODUC: That is the plan.

8 MS. ANSLEY: Okay. Thank you.

9 CO-HEARING OFFICER DODUC: Okay. All right.  
10 So if someone would make sure EBMUD knows.

11 All right. Thank you all.

12 Thank you, Candace, for staying late.

13 Thank you to the AV guys for also hanging with  
14 us with.

15 And we will you at 9:30 tomorrow.

16 MR. BURKE: Thank you.

17 MR. FERGUSON: Thank you.

18 (Proceedings adjourned at 5:50 p.m.)  
19  
20  
21  
22  
23  
24  
25

1 State of California     )  
                                   )  
2 County of Sacramento    )

3

4         I, Candace L. Yount, Certified Shorthand Reporter  
5 for the State of California, County of Sacramento, do  
6 hereby certify:

7         That I was present at the time of the above  
8 proceedings;

9         That I took down in machine shorthand notes all  
10 proceedings had and testimony given;

11         That I thereafter transcribed said shorthand notes  
12 with the aid of a computer;

13         That the above and foregoing is a full, true, and  
14 correct transcription of said shorthand notes, and a  
15 full, true and correct transcript of all proceedings  
16 had and testimony taken;

17         That I am not a party to the action or related to  
18 a party or counsel;

19         That I have no financial or other interest in the  
20 outcome of the action.

21

22 Dated: March 27, 2018

23

24

25

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Candace L. Yount, CSR No. 2737