

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

CALIFORNIA WATERFIX WATER)
RIGHT CHANGE PETITION)
HEARING)

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

Friday, October 21, 2016
9:00 A.M.

PART I-B

VOLUME 21

PAGES 1 - 137

Reported by: Megan Alvarez, RPR, CSR No. 12470
Certified Shorthand Reporter

1 APPEARANCES

2 CALIFORNIA WATER RESOURCES BOARD

3 Division of Water Rights

4 Board Members Present:

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

8 Staff Present:

- 9 Diane Riddle, Environmental Program Manager
- 10 Dana Heinrich, Senior Staff Attorney

11 PART I

12 For Petitioners:

13 California Department of Water Resources:

- 14 James (Tripp) Mizell, Esq.
- 15 Thomas M. Berliner, Esq.

16 The U.S. Department of the Interior:

- 17 Amy L. Aufdemberge, Esq.

18 INTERESTED PARTIES:

19 State Water Contractors:

- 20 Stefanie Morris, Esq.

21 California Water Research:

- 22 Deirdre Des Jardins, Esq.

23 The Sacramento Valley Group:

- 24 David Aladjem, Esq.

25

1 INTERESTED PARTIES (Continued):

2 The City of Roseville; Sacramento Suburban Water
3 District; San Juan Water District; the City of Folsom;
4 Yuba County Water Agency:

4 Alan Lilly, Esq.
5 Ryan Bezerra, Esq.
6 Jennifer Buckman, Esq.

6
7 San Joaquin Tributaries Authority, The (SJTA), Merced
8 Irrigation District, Modesto Irrigation District,
9 Oakdale Irrigation District, South San Joaquin
10 Irrigation District, Turlock Irrigation District, and
11 City and County of San Francisco:

9
10 Tim Wasiewski, Esq.

10

11 Westlands Water District:

12 Philip A. Williams, Esq.

13

13 Biggs-West Gridley Water District (BWGWD), Glenn-Colusa
14 Irrigation District (GCID):

15 Andrew M. Hitchings, Esq.

16

16 Nevada Irrigation District (NID), Butte Water District
17 (BWD), Richvale Irrigation District (RID), Anderson -
18 Cottonwood Irrigation District, Plumas Mutual Water
19 Company (PMWC), Reclamation District 1004, South Feather
20 Water and Power Agency, western Canal Water District
21 (WCWD), paradise Irrigation District:

20 Dustin C. Cooper, Esq.

21

21 Tehama-Colusa Canal Authority & water service
22 contractors in its service area:

23 Meredith Nikkel, Esq.

24 ///

25

- 1 INTERESTED PARTIES (Continued):
- 2 North Delta Water Agency & Member Districts:
- 3 Kevin O'Brien, Esq.
- 4
- 5 California Sportfishing Protection Alliance (CSPA),
6 California Water Impact Network (C-WIN), and
7 AquAlliance:
- 8 Michael Jackson, Esq.
- 9
- 10 For Brett G. Baker, Local Agencies of the North Delta,
11 Bogle Vineyards/Delta Watershed Landowner Coalition,
12 Diablo Vineyards and Brad Lange/Delta Watershed
13 Landowner Coalition, Stillwater Orchards/Delta Watershed
14 Landowner Coalition, Islands, Inc., SAVE OUR SANDHILL
15 CRANES and Friends of Stone Lakes National Wildlife
16 Refuge, City of Antioch:
- 17 Osha Meserve, Esq.
- 18
- 19 Central Delta Water Agency, South Delta Water Agency
20 (Delta Agencies), Lafayette Ranch, Heritage Lands Inc.,
21 Mark Bachetti Farms and Rudy Mussi Investments L.P.:
- 22 John Herrick, Esq.
23 Dean Ruiz, Esq.
- 24
- 25 The Placer County Water Agency:
- 26
- 27 Dan Kelly, Esq.
- 28
- 29 Sacramento Regional County Sanitation District; City of
30 Stockton:
- 31
- 32 Kelley Taber, Esq.
- 33
- 34 San Luis & Delta-Mendota Water Authority:
- 35
- 36 Daniel O'Hanlon, Esq.
- 37
- 38

I N D E X

1

2

3 RESPONDENTS' WITNESSES PAGE

4 GROUP 7 - PANEL 1

5 WALTER BOUREZ

6 DAN EASTON

7

8 Cross-Examination by Mr. Berliner (Resumed)3

9 Cross-Examination by Ms. Aufdemberge24

10 Cross-Examination by Ms. Morris36

11 Cross-Examination by Mr. Herrick42

12 Cross-Examination by Mr. Jackson49

13 Cross-Examination by Ms. Des Jardins66

14 Redirect Examination by Mr. Lilly88

15 Recross-Examination by Ms. Des Jardins100

16

17

18

19

20

21

22

23

24

25

1 PANEL 2

2 MARC VAN CAMP

3

4 Direct Examination by Ms. Nikkel106

5 Direct Examination by Mr. Cooper107

6 Cross-Examination by Mr. Mizell112

7 Cross-Examination by Ms. Des Jardins117

8

9 --o0o--

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

	EXHIBITS			
	RESPONDENTS' EXHIBITS	W/DRAWN	IDEN	EVID
1				
2				
3	DDJ-92		82	
4	DDJ-109		82	
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25				

1 OCTOBER 21, 2016 - FRIDAY 9:00 A.M.

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

3 V O L U M E 2 1

4 --oOo--

5 CO-HEARING OFFICER DODUC: Welcome back to
6 casual Friday of the WaterFix hearing.

7 I'm Tam Doduc. With me today are
8 Chair Felicia Marcus, and I believe DeDe D'Adamo will be
9 joining us shortly. On my left are Dana Heinrich and
10 Diane Riddle.

11 And we also have Mr. Portman and Mr. Baker
12 assisting us today.

13 Since it is Friday, let's do a little pop
14 quiz. I will pick on someone who's wearing a tie today.

15 Mr. Hitchings. Please come up and give us the
16 three general announcements. I want to be sure you've
17 been paying attention.

18 MR. HITCHINGS: If you hear an alarm, look for
19 the closest exit and proceed immediately. Bathrooms are
20 down the hall to the right and to the left.

21 And we want this hearing to be transparent,
22 efficient, and with integrity.

23 And turn off your cell phone. Take a moment
24 right now to do that. Thank you.

25 CO-HEARING OFFICER DODUC: Thank you. I think

1 I will give that a B, a B+. Yes, because he forgot this
2 meeting is being Webcasted and recorded, so please speak
3 into the microphone and provide your name and
4 affiliation.

5 You also forgot, I believe, to take the stairs
6 and not the elevators down to the ground floor and meet
7 in our relocation site in the park across the street.

8 You also forgot that if you cannot use the
9 stairs, please flag one of the staff and you'll be
10 redirected into a protective area.

11 And forgot to acknowledge that the court
12 reporter is here today. And the transcript will be made
13 available after I-B. If you would like a transcript
14 earlier, please make arrangements with the court
15 reporter.

16 I'll have to downgrade you to a C+. But
17 you're good for your first shot at it, Mr. Hitchings.

18 MR. HITCHINGS: Thank you. Thank you.

19 CO-HEARING OFFICER DODUC: With that, we are
20 ready to resume here today.

21 I don't see a lot of people here so we'll just
22 resume with you, Mr. Berliner.

23 Ms. Aufdemberge up next for the U.S.
24 Department of the Interior. And then Ms. Morris for the
25 State Water Contractors.

1 MR. BERLINER: Thank you. Good morning.

2 --o0o--

3 CROSS-EXAMINATION (RESUMED)

4 MR. BERLINER: I've passed out and added to an
5 exhibit yesterday, which is DWR Exhibit No. 545 errata.

6 Yesterday there was a wrong scale attached to
7 the chart. We have corrected the scale on this chart.

8 We had asked a whole series of questions
9 comparing the MBK modeling charts against the California
10 WaterFix modeling charts. I was not intending to ask
11 questions about this other than to submit it for the
12 record, that this is, again, yet another similar chart
13 to the ones we had gone through.

14 CO-HEARING OFFICER DODUC: Any objection,
15 Mr. Lilly?

16 MR. LILLY: Well, I don't know what
17 "submitting for the record" means. As far as submitting
18 into evidence, there's been no authentication or any
19 foundation for this exhibit.

20 So I don't mind having it marked as an exhibit
21 for part of the record. But, so far, there have been no
22 questions about it. Obviously, it's not ready to be
23 submitted into evidence.

24 CO-HEARING OFFICER DODUC: We'll so mark it.

25 And, Mr. Berliner, just because of that, ask

1 one question.

2 MR. BERLINER: Mr. Bourez, good morning.

3 You recall yesterday we looked at a series of
4 comparisons. This one concerns the deliveries to the
5 Feather River -- to the State Water Project Feather
6 River water rights contractors.

7 MBK did modeling work to show what impacts
8 would be on the Alternatives 4A and 4A-DO. Do you see
9 those in the left-hand of the chart?

10 WITNESS BOUREZ: Yes.

11 MR. BERLINER: Is your microphone on?

12 WITNESS BOUREZ: Yes.

13 MR. BERLINER: Bottom of the chart, do you see
14 the source from where the information was taken?

15 WITNESS BOUREZ: Yes, I do.

16 MR. BERLINER: Are you familiar with the
17 right-hand chart, which was an exhibit previously in
18 this proceeding?

19 WITNESS BOUREZ: Yes.

20 MR. BERLINER: In your view, do the charts
21 roughly show similar impacts with the exception that
22 there's some slight differences in the critical year of
23 the California WaterFix?

24 WITNESS BOUREZ: Yes.

25 MR. BERLINER: I have no further questions on

1 this chart. And per our prior practice, we will be, on
2 rebuttal, authenticating the basis for the left-hand
3 chart.

4 Next question for Mr. Easton.

5 Mr. Easton, reflecting on the time that you
6 were with the Department of Water Resources, to the best
7 of your knowledge, was it common practice to have the
8 operations staff sign off on DWR modeling assumptions
9 prior to doing any major planning studies?

10 WITNESS EASTON: As I recall, you asked this
11 question yesterday, and my answer is the same. If -- if
12 it was, I don't -- I don't recall. I don't recall
13 having my studies signed off by --

14 MR. BERLINER: That's fine. Thank you.

15 Again for Mr. Easton: Do you agree that
16 CalSim is useful when used in a comparative planned
17 model for studies?

18 WITNESS EASTON: Yes, I do.

19 MR. BERLINER: Do you agree the CalSim is the
20 state-of-the-art model for project operations?

21 MR. LILLY: Object. The question is vague as
22 to which version of CalSim he means, particularly
23 whether he means petitioners' version versus the MBK
24 version. Mr. Easton may have different responses
25 depending on which version he's being asked about.

1 MR. BERLINER: I'm referring generally to
2 CalSim II.

3 WITNESS EASTON: Is your question: Is it the
4 best available tool for doing planning studies of CVP
5 and SWP operations?

6 MR. BERLINER: Yes.

7 WITNESS EASTON: It is, in my opinion, the
8 best available tool, but that does not mean it's always
9 right.

10 MR. BERLINER: Understood. I think we have a
11 quote about all models being wrong and some are useful.

12 Do you agree CalSim does a good job estimating
13 long-term operational response?

14 WITNESS EASTON: It can with the proper
15 oversight of an expert modeler. Not anybody can run
16 this model and expect to get a reasonable result. You
17 need to review the results. You need to make sure that
18 it's operating properly.

19 MR. BERLINER: Has it been your experience
20 that CalSim provides useful information when used in DWR
21 and reclamation long-term planning studies?

22 WITNESS EASTON: It -- can you give me an
23 example of what those studies you're talking about are?

24 MR. BERLINER: Just planning studies in
25 general. General question, not specific to any.

1 WITNESS EASTON: Please repeat the question.

2 MR. BERLINER: Sure. Has it been your
3 experience that CalSim provides useful information when
4 used in DWR and reclamation long-term planning studies?

5 WITNESS EASTON: It provides useful
6 information when you review it appropriately and make a
7 determination whether it is operating properly.

8 MR. BERLINER: And is that the kind of
9 exercise that modelers at DWR and reclamation have to go
10 through in order to make sure that the CalSim model will
11 produce useful results?

12 WITNESS EASTON: It is the job of DWR and
13 reclamation modelers to review their modeling results
14 and ensure that they are appropriate.

15 MR. BERLINER: In your experience, is that
16 something that they do?

17 WITNESS EASTON: In my experience, it's
18 something that they do to the best of their ability.

19 MR. BERLINER: Generally, do you agree it's
20 better to use systematic generalized rules rather than
21 customized rules for planning studies?

22 MR. LILLY: And I'm going to object. That
23 question is so general that it's not appropriate and
24 particularly if it's for applicability to this
25 proceeding.

1 CO-HEARING OFFICER DODUC: Mr. Berliner?

2 MR. BERLINER: It's a general question. I'm
3 not asking in the context of WaterFix.

4 I'm asking, as I indicated at the beginning of
5 the question, generally, do you agree?

6 CO-HEARING OFFICER DODUC: Hold on.

7 Mr. Berliner, please repeat your question for
8 me.

9 MR. BERLINER: Generally, do you agree it's
10 better to use systematic generalized rules rather than
11 customized rules for planning studies?

12 MR. LILLY: And I'm still going to object.
13 That question's so vague that it's not possible to get
14 any useful information from an answer to it.

15 CO-HEARING OFFICER DODUC: I'm sure Mr. Easton
16 or Mr. Bourez can answer to that effect after your
17 coaching now. Go ahead, please.

18 WITNESS BOUREZ: I'd like to take a crack at
19 this. Generalized rules do not fit every alternative
20 with CalSim. When you impose or evaluate a project with
21 CalSim, the generalized rules often don't apply to that
22 change. And, therefore, every change I've ever made to
23 CalSim modeling, any alternative, has required custom
24 tools and evaluation of those rules.

25 So you can't just plug something in the model

1 and run it with a generalized rule and expect to have a
2 reasonable result or expect that that would occur in
3 actual operations. It takes a lot of adjustment and
4 evaluation of those model results to determine if it's
5 reflective of what may actually happen.

6 MR. BERLINER: Change of subject. Go to
7 climate change.

8 I think we established that the model that MBK
9 created did not include climate change, correct?

10 WITNESS BOUREZ: That's correct.

11 MR. BERLINER: So I have some specific
12 questions as to whether certain variables were addressed
13 in the model. And hopefully these are "yes," "no." But
14 if "yes," "no," is not sufficient, you can, of course,
15 expand it.

16 CO-HEARING OFFICER DODUC: Mr. Berliner,
17 please get the microphone closer to you.

18 MR. BERLINER: Does the MBK modeling estimate
19 how sea level rise will affect Delta salinity?

20 WITNESS BOUREZ: Does mine include climate
21 change or sea level rise? So, no, it doesn't.

22 MR. BERLINER: Does the model estimate how the
23 State Water Project and Central Valley Project would be
24 operated to satisfy D-1641 outflow and salinity
25 standards in the future with sea level rise?

1 WITNESS BOUREZ: Sea level rise is not
2 included, so no.

3 MR. BERLINER: Does the MBK modeling estimate
4 changes in runoff patterns in the future with climate
5 change?

6 WITNESS BOUREZ: No, it doesn't.

7 MR. BERLINER: Do you have an understanding
8 that DWR and reclamation are required by law to consider
9 climate change in their analysis of California WaterFix?

10 WITNESS BOUREZ: Yes. However, the way in
11 which you do it is the subject of debate. I don't think
12 that a climate change scenario should replace the use of
13 the historically based hydrologic sequence in CalSim,
14 and we've documented this in several of our reports.

15 We certainly do believe that climate change
16 needs to be looked at. It's real. Its happening.
17 There's a lot of evidence for it. And it should be
18 evaluated in all alternatives and for every project.

19 However, not using a historically based
20 hydrology, we believe, is an inappropriate approach.
21 Climate change should be evaluated on a sensitivity
22 analysis, and we've written a large number of comments
23 regarding that. And I can explain why we believe that
24 in quite a bit of detail if you'd like.

25 MR. BERLINER: No. Thank you very much.

1 CO-HEARING OFFICER DODUC: Mr. Berliner, how
2 much more time do you anticipate needing?

3 MR. BERLINER: Very little. 10 minutes.

4 CO-HEARING OFFICER DODUC: Okay.

5 MR. BERLINER: In your Exhibit 1 of 3, you
6 indicated that, in your view, the incorporation of
7 climate change by the agencies will ignore reasonably
8 foreseeable adaptation measures. Do you recall that?

9 WITNESS BOUREZ: I do, but if you'd like to
10 call up the exact effects if you want to get specific,
11 we can go through that.

12 MR. BERLINER: Well, let me ask you some
13 questions and we can see whether we need it.

14 Just for Mr. Baker's convenience, in case we
15 do, it will be Sacramento Valley Water Users Exhibit 103
16 at page 7.

17 For Mr. Bourez or Mr. Easton, I'm not sure
18 which, you included a number of adaptations that you
19 thought would occur. Do you recall that one of them was
20 updating the operational rules regarding water releases
21 from reservoirs for flood protection?

22 WITNESS BOUREZ: Yes, I do.

23 MR. BERLINER: And do you also recall second
24 was that during severe droughts, emergency drought
25 declarations call for mandatory conservation and changes

1 in some regulatory criteria similarly to what's been
2 experienced in previous droughts?

3 WITNESS BOUREZ: Yes, I do.

4 MR. BERLINER: And third, if droughts become
5 more frequent, the projects would likely revisit the
6 rules by which they allocate water during shortages and
7 operate more conservatively in wetter years?

8 WITNESS BOUREZ: Yes, I do.

9 MR. LILLY: Excuse me. Since he's reading
10 from Exhibit SVWU-103, page 7, it might be helpful for
11 everyone if we put it up on the screen. I request that.

12 CO-HEARING OFFICER DODUC: I think Mr. Baker
13 is doing that.

14 MR. BERLINER: That's fine.

15 Regarding the first recommendation on flood
16 control, at this particular time, isn't it uncertain as
17 to what changes the Army Corps of Engineers would allow
18 considering issues of dam safety?

19 WITNESS BOUREZ: It certainly is. However,
20 this comment is -- it includes the changes in hydrology
21 and what effects it might have on flood control rules.

22 But one of things, when you look at the way
23 climate change was imposed in CalSim, they took the
24 changes in hydrology and applied that to reservoir
25 inflows. For example, the American River Basin, the

1 climate change hydrology was opposed on the Folsom
2 inflow rather than in the entire basin.

3 And the flood control rules in Folsom are
4 highly dependent upon how much water is in upstream
5 reservoirs in Union Valley, French Meadows, and
6 Hell Hole. And the combined storage in those three
7 reservoirs is 600,000 acre feet roughly, while Folsom is
8 1 million acre feet.

9 So there's significant flood storage capacity
10 in those reservoirs. And by imposing climate change on
11 Folsom inflow without adjusting the flood control for
12 that upstream storage, we have a mismatch in hydrology
13 within that basin that is very significant.

14 MR. BERLINER: Move to strike that answer as
15 nonresponsive starting after the word "yes."

16 I did not ask about how -- whether modeling
17 was appropriately done. I asked: Isn't it uncertain
18 what changes the Army Corps of Engineers would allow
19 considering issues of dam safety?

20 CO-HEARING OFFICER DODUC: Mr. Lilly, did you
21 want to add something?

22 MR. LILLY: You know, I think it's appropriate
23 for Mr. Bourez to provide the context of his answers.
24 This is complicated material and sometimes a simple
25 "yes" or "no" answer doesn't really explain the whole

1 situation. I think he's trying very hard to explain the
2 whole picture here.

3 CO-HEARING OFFICER DODUC: Thank you,
4 Mr. Lilly. I'll note your objection and ask Mr. Bourez
5 to provide you with a direct answer. However, the
6 explanation he provided, I found helpful.

7 MR. BERLINER: At this point in time, wouldn't
8 any assumed change in the flood control rules be
9 speculative?

10 WITNESS BOUREZ: Yes, they would.

11 MR. BERLINER: Did the MBK modeling adopt a
12 change to the operational rules regarding water releases
13 for flood control?

14 WITNESS BOUREZ: We did not.

15 MR. BERLINER: As to the second point, while I
16 appreciate your testimony was prepared prior to
17 September, in light of the hearing officer's admonition
18 about assuming TUCPs and any other regulatory measures
19 that the Water Board or others might issue, are you
20 still contending that DWR and reclamation should know
21 what operational changes the Water Board will allow in
22 the future?

23 WITNESS BOUREZ: I can't speculate on what
24 TUCPs will be in the future.

25 MR. BERLINER: Isn't it true that a variety of

1 approaches have been used during drought conditions by
2 the agencies in order to respond to drought? And would
3 an example be that during 1977, various barriers were
4 constructed in the Delta, whereas in 2015, only one
5 barrier was constructed?

6 WITNESS BOUREZ: Yes.

7 MR. BERLINER: Weren't there also other
8 regulatory approaches adopted in the 1977 drought that
9 were not adopted in the most recent drought?

10 WITNESS BOUREZ: I have not compared what
11 happened in 1977 compared to 2015. We had a completely
12 different regulatory requirement on a lot of the system
13 in 1977. So even your baseline operations and criteria
14 are different. So, by definition, they have to be
15 different.

16 MR. BERLINER: Regarding the third point that
17 you raised stating that DWR and reclamation could
18 operate more conservatively during future wet years,
19 didn't the MBK adopt a higher risk tolerance than the
20 modeling by the California WaterFix?

21 MR. LILLY: Object. That misstates the
22 testimony. The Point No. 3 on this does not say they
23 would operate more conservatively; it says they would
24 likely revisit the rules. So he's misstating
25 Mr. Bourez' testimony.

1 CO-HEARING OFFICER DODUC: Mr. Berliner, can
2 you rephrase?

3 MR. BERLINER: I asked if this was an accurate
4 rephrasing, but I think maybe we ought to, in fact, pull
5 it up and look at it exactly.

6 MR. LILLY: It does say both "revisit" and I
7 see here, "and operate more conservatively." So I think
8 if he just tracks that language, the question will be
9 more accurate.

10 CO-HEARING OFFICER DODUC: Do we have that
11 language? Would you point that out?

12 MR. BERLINER: Yeah, just so we can point it
13 out exactly.

14 CO-HEARING OFFICER DODUC: Where is that
15 language?

16 WITNESS BOUREZ: On page 7. In the bottom
17 paragraph about two-thirds of the way through the
18 paragraph. Number 3 bracketed in that paragraph.

19 "If droughts become more frequent, the CVP and
20 SWP would likely revisit the rules by which they
21 allocate water during shortages and operate more
22 conservatively in wetter years."

23 CO-HEARING OFFICER DODUC: And your question
24 again, Mr. Berliner?

25 MR. BERLINER: Yes.

1 And so my question was: Didn't MBK modeling
2 adopt a higher risk tolerance than the modeling
3 performed for the California WaterFix?

4 WITNESS BOUREZ: That really compares apples
5 and oranges, because the California WaterFix modeling
6 had climate change. Ours did not. And the increased
7 risk was associated with the California WaterFix and the
8 ability to move more stored water during high storage
9 conditions.

10 And, you know, it depends on how you define
11 risk and risk to whom. It may be risk to upstream
12 storage and a lower risk for south of Delta water
13 contractors.

14 So I think you have to be more specific on
15 what you mean as risk and whether you're distinguishing
16 the possible changes in operating criteria due to
17 climate change versus change in operating criteria or
18 effects of the California WaterFix.

19 MR. BERLINER: Just to be clear on the climate
20 change, you did not include climate change in either the
21 no-action alternative or the Alternative 4A H3-plus,
22 correct?

23 WITNESS BOUREZ: Correct.

24 MR. BERLINER: And why did you remove them out
25 of both the no-action alternative and the H3-plus?

1 WITNESS BOUREZ: Well, keep in mind that to
2 determine the effects of a proposed action, you want to
3 have consistency in hydrology between the two modeling
4 runs that you're comparing. And if we introduced
5 climate change, we would not have been able to determine
6 what the effects of the north of Delta diversion would
7 be, or the tunnels, if we introduced a difference in
8 hydrology between those two modeling runs. So they had
9 to be consistent.

10 MR. BERLINER: Thank you.

11 Refresh my recollection. We were talking
12 about DSM2 yesterday. I asked questions about your
13 familiarity. Do you have enough familiarity to respond
14 to questions regarding CalSim and compliance with water
15 quality control standards by applying DSM2 or is that
16 beyond your experience?

17 WITNESS BOUREZ: I have worked closely with
18 DSM2 modeling, and we've iterated between CalSim and
19 DSM2. And I have evaluated results of DSM2 and effects
20 that it might have on CalSim simulation.

21 I am not a DSM2 expert. I've never run the
22 model, but I worked very closely with those who do.

23 MR. BERLINER: Let me ask you a question. And
24 if this is beyond, then we'll just move on.

25 If a water quality control salinity standard

1 is based on a 14-day average, would you necessarily
2 expect that CalSim and DSM2 would report the same level
3 of compliance?

4 WITNESS BOUREZ: Being that DSM2 has a
5 15-minute time step and CalSim has a monthly time step,
6 I would expect that there's times that, on a daily
7 basis, water quality could exceed a standard where
8 CalSim, on average monthly basis, may not. So they
9 could be different.

10 MR. BERLINER: In terms of looking at water
11 quality control plan compliance, is it more appropriate
12 to look at CalSim results for determining the compliance
13 or DSM2 results?

14 WITNESS BOUREZ: It depends on which standard
15 you're referring to.

16 CalSim does have representation of water
17 quality to an artificial neural network, an ANN, which
18 is trained on DSM2 and is used to represent the flow
19 necessary to meet water quality standards in the Delta.
20 And there's a lot of checks between CalSim and DSM2.
21 DWR's done some quite excellent work on comparing those.

22 Not sure if I answered your question or not.

23 MR. BERLINER: So let's put it in the context
24 of salinity. For example, in a wet year, would you
25 suspect that CalSim would show compliance with water

1 quality salinity standards based on a 14-day average
2 such as Emmaton, but DSM2 could show exceedances in the
3 same standard?

4 MR. LILLY: I'm going to object. That's an
5 incomplete hypothetical, and clearly a lot of other
6 factors are necessary to answer that question.

7 CO-HEARING OFFICER DODUC: Mr. Bourez, are you
8 able to answer the question?

9 WITNESS BOUREZ: It's ambiguous.

10 If CalSim is showing water quality at Emmaton
11 within compliance, the ANN is not as accurate as DSM2.
12 However, DSM2 also shows exceedances of standards that,
13 when you look at the calibration of the model, it may
14 show an exceedance for a reality that's not. It's a
15 very complex model, but it is possible that CalSim may
16 see compliance for an average month where DSM2 may not.

17 CO-HEARING OFFICER DODUC: Do you have much
18 further to go, Mr. Berliner?

19 MR. BERLINER: No, not much.

20 CO-HEARING OFFICER DODUC: "Not much" meaning?

21 MR. BERLINER: I have five questions.

22 CO-HEARING OFFICER DODUC: All right. Let's
23 put another 10 minutes on there, assuming two minutes
24 per question.

25 MR. BERLINER: Try to beat that by a lot.

1 Regarding October Cross Channel Gate
2 operations, does the MBK modeling of the no-action
3 alternative and the California WaterFix modeling of the
4 no-action alternative contain the same modeling
5 assumptions regarding the October Cross Channel Gate
6 operations?

7 WITNESS BOUREZ: The MBK modeling operation of
8 the Cross Channel Gate in October does differ from the
9 petitioners' modeling of the Cross Channel Gate.

10 MR. BERLINER: In what way?

11 WITNESS BOUREZ: To answer that, yes, I'd like
12 to refer to SVWU Exhibit 102 on page 17.

13 There's a description of our logic in the
14 section of why we changed the Cross Channel Gate logic.

15 CO-HEARING OFFICER DODUC: 102, page?

16 WITNESS BOUREZ: 17.

17 CO-HEARING OFFICER DODUC: 17. All right.
18 Please continue.

19 WITNESS BOUREZ: It's on the -- yeah. That
20 paragraph right below where it says: "Cross Channel
21 Gate operation assumptions overestimated in October" --
22 "overestimates October outflow."

23 This is one of the issues we saw with the
24 California WaterFix modeling. And, you know, there's
25 some details associated with this operation.

1 In October, the assumptions of the California
2 WaterFix placed increased export restrictions to Old and
3 Middle River flow requirements in the South Delta, yet
4 they have increased flow requirement at Rio Vista.

5 And so what happens is that you have a flow
6 requirement in Rio Vista that causes more water to come
7 down the Sacramento River. Under current operations,
8 that water could be exported to the South Delta.

9 When you put the Old and Middle River flow
10 requirement on the South Delta, you end up with more
11 Delta surplus that can't be exported.

12 You see this in both the petitioners' modeling
13 and MBK modeling. If you notice, a change in October
14 outflow, delta outflow, it increases in October.

15 So what we did, based on historical
16 operations, and we cite in this paragraph that, in
17 October and November of 2013, the Bureau of Reclamation
18 closed the Delta Cross Channel Gate to meet compliance
19 along the Sacramento River.

20 And we're assuming that -- that they would
21 close that Cross Channel Gate to meet the Rio Vista flow
22 requirement rather than have that water flow out the
23 Deltas as surplus flow that can't be captured.

24 So the change we made was to protect storage
25 and not have surplus Delta outflow. And that's why we

1 put in the operation of a Cross Channel Gate. We
2 believe it's a more reasonable representation of how the
3 project would operate.

4 MR. BERLINER: Do both the MBK and the DWR
5 models show an increase in outflow in October?

6 WITNESS BOUREZ: Yes, they do.

7 MR. BERLINER: Bear with me. That may have
8 been my last question.

9 I have one other question. Yesterday you
10 mentioned that the modeling approach that you're using
11 or proposing here has been used in prior applications
12 by, I believe, the Bureau of Reclamation; is that
13 correct?

14 WITNESS BOUREZ: I hate to ask, but I'd like
15 to be more specific.

16 When you say the modeling changes that we made
17 have been applied, there's some of the modeling changes
18 that we made that we have used in performing work for
19 the Bureau of Reclamation. Not all of them.

20 MR. BERLINER: And could you identify which
21 projects those are that you worked for the Bureau of
22 Reclamation?

23 WITNESS BOUREZ: The project in particular
24 that our changes for the San Luis operation has the most
25 influence is the San Luis Low Point Improvement Project.

1 And in that project, it's really important to
2 have the best depiction of San Luis operation that we
3 can. And so we used those improvements for that
4 analysis.

5 MR. BERLINER: Great. Thank you very much.
6 Appreciate it. I have no further questions.

7 CO-HEARING OFFICER DODUC: Thank you.

8 Does that conclude cross-examination of this
9 panel by the Department of Water Resources?

10 MR. BERLINER: Yes.

11 CO-HEARING OFFICER DODUC: Thank you.

12 Ms. Aufdemberge for the U.S. Department of the
13 Interior.

14 --o0o--

15 CROSS-EXAMINATION

16 MS. AUFDEMBERGE: Good morning, Mr. Bourez and
17 Mr. Easton. My name is Amy Aufdemberge. I'm with the
18 United States Department of Regional -- I'm with the
19 United States Department of the Interior Regional
20 Solicitors Office here in Sacramento.

21 And with me today is Kristin White. She's a
22 modeler with the Bureau of Reclamation.

23 So I believe you testified that the State
24 Water Project and the Central Valley Project are
25 integrated projects; is that correct?

1 WITNESS BOUREZ: They operate in an integrated
2 fashion, yes.

3 MS. AUFDEMBERGE: And they serve multiple
4 beneficial uses; is that correct?

5 WITNESS BOUREZ: That's correct.

6 MS. AUFDEMBERGE: Do they serve these multiple
7 uses on an interannual basis; is that correct?

8 WITNESS BOUREZ: Yes.

9 MS. AUFDEMBERGE: Interannual or over a
10 multiple span of years, correct?

11 WITNESS BOUREZ: (Witness nods head.)

12 MS. AUFDEMBERGE: For example, are Delta
13 outflow obligations under the Water Board Control Plan,
14 D-1641, are those beneficial uses of project operations?

15 MR. LILLY: I object. That calls for a legal
16 conclusion. I don't think that's really an engineering
17 question.

18 CO-HEARING OFFICER DODUC: Mr. Bourez, do you
19 have an understanding of beneficial uses?

20 WITNESS BOUREZ: I have an understanding, but
21 I don't think it's as complete as the legal opinion.

22 I can -- I can answer the question in terms of
23 are we complying with the State Water Board standards.
24 And I believe that the Bureau of Reclamation operates to
25 meet those standards.

1 CO-HEARING OFFICER DODUC: Thank you.

2 MS. AUFDEMBERGE: Are Delta outflow
3 obligations a use of project operation yield?

4 Let me ask that a different way.

5 Are Delta outflow obligations a use of the
6 project?

7 WITNESS BOUREZ: The projects operate to meet
8 the standards, and they have a range of operations that
9 they can do -- employ to meet those requirements.

10 MS. AUFDEMBERGE: Is water quality a use of
11 the projects?

12 WITNESS BOUREZ: It is.

13 MS. AUFDEMBERGE: Are consumptive use demands
14 on flows uses of the project?

15 WITNESS BOUREZ: Yes, they are.

16 MS. AUFDEMBERGE: And you've testified in your
17 opinion, apparently, is that your models of operations
18 are more realistic than petitioners' models of
19 operations, correct?

20 WITNESS BOUREZ: I believe they are.

21 MS. AUFDEMBERGE: And that's because you
22 believe your operating philosophy is more reflective of
23 realistic operation philosophies with the project; isn't
24 that correct?

25 MR. LILLY: I going to object. That misstates

1 the testimony. It's not operating philosophy. It's
2 modeling assumption, is what he testified to yesterday.

3 CO-HEARING OFFICER DODUC: Would you stipulate
4 to that change in your question?

5 MS. AUFDEMBERGE: Yes.

6 WITNESS BOUREZ: I believe our modeling
7 assumptions result in a model mimicking his actual
8 operations better than petitioners' model.

9 CO-HEARING OFFICER DODUC: And we've covered
10 this, Ms. Aufdemberge.

11 MS. AUFDEMBERGE: Yes, I understand.

12 Does the Bureau of Reclamation currently
13 consider risk of drier hydrology in subsequent years
14 when deciding whether to store water in summer or fall
15 exclusively for exports?

16 WITNESS BOUREZ: I don't believe it's
17 exclusively for exports, but they do consider carryover
18 storage.

19 MS. AUFDEMBERGE: Is one reason CVP might
20 decide to retain water in storage, particularly in
21 summer and fall, be to reduce the risk of the not
22 meeting -- of multiple obligations in subsequent years?

23 WITNESS BOUREZ: Yes.

24 MS. AUFDEMBERGE: Does the operational
25 philosophy or the modeling assumptions reflected in your

1 model selectively prioritize a current year's exports
2 over subsequent years beneficial use needs of storage
3 or -- or ability to meet obligations in subsequent
4 years?

5 WITNESS BOUREZ: No, it does not.

6 MS. AUFDEMBERGE: Can you explain how it does
7 not?

8 WITNESS BOUREZ: This might be a long
9 explanation.

10 When you look at the balancing of reservoirs
11 in use of water, you don't bring your reservoirs down so
12 low that you risk a subsequent year of drought. You
13 have to have enough carryover in those reservoirs to
14 protect against dry years.

15 However, you can't leave them so full that
16 you're -- that you just spill that water out and don't
17 beneficially use it in the current year. There's a
18 balance between use of water in a current year and where
19 your storage ends up relative to a subsequent year.

20 I also want to point out that, in our
21 modeling, we're carrying over far more water in both the
22 no-action and the WaterFix alternative than the
23 petitioners' model. They bring their storage down to
24 dead pool, and they have much lower storages.

25 So ours -- both of our model runs are much

1 more conservative in protecting against a dry year than
2 the petitioners' modeling in both alternatives.

3 MS. AUFDEMBERGE: So it's in the wetter years
4 that you're saying that there is surplus storage in --
5 that should be exported; is that correct?

6 WITNESS BOUREZ: Let me restate your question
7 to make sure that I got it right.

8 In our modeling, if we had high storage in
9 Shasta/Folsom/Oroville, and in the no-action
10 alternative, the capacity is such that you couldn't move
11 that water. And then the tunnels provide additional
12 capacity to convey that stored water.

13 If we had excess stored water upstream
14 reservoirs in those wetter years, we conveyed that water
15 to south of Delta and delivered it.

16 We have a lot of constraints on how much water
17 we release. For example, in our MBK alternative where
18 we model the spring outflow criteria as an outflow
19 criteria rather than an export constraint, we actually
20 consider storage in Shasta and we don't release that
21 water in the spring unless Shasta is high enough.

22 So the storage levels have to be above the top
23 temperature shutters in order for us to release that
24 water. So we're looking at protecting the upstream
25 storage to a pretty high degree.

1 And the only time we move additional water in
2 our alternative relative to the no-action is if we have
3 water above RPA level and we're meeting all requirements
4 upstream, and we do consider carryover for subsequent
5 drought years.

6 MS. AUFDEMBERGE: Could the Bureau of
7 Reclamation now operate federal facilities in a matter
8 that maximizes exports at the expense of carryover for
9 future years?

10 WITNESS BOUREZ: I don't believe that the
11 Bureau of Reclamation operates to maximize exports and
12 sacrifices storage in order to do that.

13 It's my understanding operations, they look at
14 water supply in upstream reservoirs and determine, based
15 on the condition of that reservoir, how much water it is
16 reasonable to release for exports.

17 I think the Bureau of Reclamation operators do
18 a very good job at protecting upstream storage and not
19 overreleasing for south of Delta. We tried to mimic
20 that in our modeling.

21 Again, when we look at the petitioners'
22 modeling, they're more aggressive about making those
23 releases and bringing storage down. And you can tell --
24 and if you bring up some storage plots, if you would
25 like to compare the modeling where their drier year

1 storage levels are far below any alternative that we've
2 run.

3 MS. AUFDEMBERGE: So one difference, though,
4 is that you're exporting more -- I believe you used the
5 term "excess storage"?

6 WITNESS BOUREZ: Yes. This is a term I think
7 John Leahigh characterizes very well in his testimony.

8 If storage in the reservoir's above what's
9 needed in meet upstream requirements and those upstream
10 requirements will be contract -- in excess of what's
11 required to meet contract obligations upstream, instream
12 flow requirements, storage levels, and biological
13 opinions. If there's water in excess of those
14 requirements, then we're releasing that water and
15 exporting it.

16 MS. AUFDEMBERGE: And why do you do that?

17 WITNESS BOUREZ: I mean, it's a water supply
18 project, and we're trying to increase water supply but
19 not increase -- but not endanger the ability to meet
20 those requirements upstream. There's a balance between
21 delivering that water and leaving it in storage.

22 If you leave it in storage, it's going to
23 spill out. And those spills, the way we model it,
24 aren't considered a beneficial use.

25 MS. AUFDEMBERGE: If you're only exporting

1 water that would otherwise be spilled, how do you show a
2 deficit in the following year created by those exports?

3 WITNESS BOUREZ: This is a really kind of
4 Water Operations 101 kind of comment.

5 If you release water in a wetter year and you
6 end up in that wetter year at a little bit lower
7 storage, if you fill the next year, you've created
8 yield. You've delivered that water and you've
9 recovered.

10 If you go into a drought, you could be a
11 little bit lower going into that drought. And at that
12 time -- and we've gone through our two-year example
13 yesterday when we explained that moving water in those
14 wetter years, and, you know, you still have very high
15 storage a lot of times, but you're moving more water,
16 that you go to into a dry year with that lower storage,
17 you could have an impact.

18 MS. AUFDEMBERGE: So you are overestimating
19 excess storage because it's rippling through the deficit
20 to get to your end-of-September carryover storage; is
21 that correct?

22 WITNESS BOUREZ: I'm not sure I understand the
23 question. But we're not overestimating excess storage.
24 Even without the California WaterFix, in the no action
25 alternative, there's a balance between storage and

1 conveyance.

2 And when you look at the dry critical years in
3 a CalSim simulation, there's often times that we're not
4 at full capacity in those export pumps. There's a
5 balance between how much you're going to leave in
6 storage and how much you're going to export.

7 If you're in wetter years, you can't maintain
8 a balance as easily because you're export-constrained.
9 When you add the tunnels, you have another degree of
10 freedom to balance that storage with water deliveries.

11 And so when you remove that constraint, this
12 is more prevalent on the CVP side than the SWP side,
13 because Oroville -- on the state side, Oroville has a
14 lot more capacity to move water through bigger pumps to
15 balance north of Delta, south of Delta. But on the CVP
16 side, you're more constrained on, you know -- with
17 export capacity, yet you have much more storage
18 upstream.

19 So when you remove that export constraint,
20 having the tunnels, the balance between north of Delta
21 reservoirs and south of Delta deliveries can change
22 to -- to increase water supply.

23 Now, any time that you increase water supply,
24 there is a risk. There's a risk in the no-action
25 alternative as well as the California WaterFix

1 alternative. And what we tried to do with our modeling
2 is to balance that delivery of water the way we think it
3 would occur in actual operations.

4 So if there was high water, high storage
5 upstream in those wetter years, we conveyed that. And
6 in the middle of the rogue years, we actually deliver
7 less water south of Delta.

8 So it's a matter of the balancing the system.
9 And the California WaterFix allows increased flexibility
10 for the projects to balance the system. That's one of
11 the things that it does offer the system. You have more
12 of a choice to balance.

13 And the petitioners' modeling, they
14 artificially constrain south of Delta allocations. And
15 we spent a lot of time talking about the export estimate
16 and the use of joint point of diversion where they don't
17 allow that balance to occur and don't use the
18 flexibility that the project offers.

19 MS. AUFDEMBERGE: So is it your belief that
20 reclamation would change its operational philosophy
21 because the facilities might physically allow for it?

22 WITNESS BOUREZ: I don't think that the
23 reclamation would change its operational philosophy. I
24 think that they would still operate to protect the
25 upstream storage as they do now. It just offers

1 flexibility to convey more stored water when it's
2 available.

3 MS. AUFDEMBERGE: Thank you very much. That
4 ends my cross-examination.

5 CO-HEARING OFFICER DODUC: Thank you,
6 Ms. Aufdemberge.

7 Ms. Morris?

8 Yesterday, I believe Mr. Mizell conveyed a
9 message that you expect to take an hour and a half.
10 Okay.

11 Let me ask the witnesses: Would you like to
12 take a short break now?

13 MS. MORRIS: Actually, that's not correct. I
14 went through and I have -- my estimation is five minutes
15 if they're short answers. They're very specific
16 questions. I think we've covered the details very well
17 yesterday.

18 CO-HEARING OFFICER DODUC: So I think you just
19 became one of my favorite people. Between the not
20 wearing a business suit today and that, you're on top of
21 my list. And you'll never have to do the general
22 announcement. I promise you that.

23 In that case, why don't we proceed.

24

25

1 --o0o--

2 CROSS-EXAMINATION

3 MS. MORRIS: Good morning. I think most of my
4 questions are for --

5 CO-HEARING OFFICER DODUC: Why don't you
6 identify yourself for the record.

7 MS. MORRIS: Stephanie Morris for the State
8 Water Contractors. And I'll try to speak very slow.

9 To be very clear so we don't have any
10 confusion, my questions are not about why you changed
11 the model. They are specifically about what changes you
12 made to the allocation logic.

13 I heard all of your testimony on that in
14 detail yesterday, so I understand your rationale for why
15 you changed it. And I really just have a couple quick
16 questions.

17 Yesterday, I think it was Mr. Easton was
18 talking about a trial-and-error process used for the
19 export estimate for your allocation logic, correct?

20 WITNESS BOUREZ: That's correct.

21 MS. MORRIS: Once you get the allocations from
22 that approach, did you manual -- did you manually change
23 allocations for some years in the 82-year period for
24 your no-action alternative?

25 WITNESS EASTON: I'm going to have you repeat

1 that.

2 MS. MORRIS: Sure. Happy to. One more time.

3 I think it might be 10 minutes now.

4 Once you get the allocation from the export
5 estimate, which you identified as the trial-and-error
6 process yesterday, for allocations for some years in the
7 82-year period, did you make manual changes?

8 WITNESS EASTON: So, first of all, the export
9 estimate wasn't a trial-and-error process. That's
10 actually an iterative process.

11 MS. MORRIS: Stop there. I'll go back, then.
12 If I need to be clear, I will be.

13 I think your testimony, Mr. Bourez' testimony,
14 page 39, this is Exhibit SVWU-107, and I'm going to look
15 at page 39 -- actually, it's probably easier if you just
16 look at page 42.

17 When you talk about adjustments to the
18 allocation logic, as I understand it --

19 CO-HEARING OFFICER DODUC: Hold on. Hold on,
20 Ms. Morris. Let Mr. Baker pull that. Page 42.

21 Where specifically on page 42, Ms. Morris?

22 MS. MORRIS: Page 42 towards the bottom under
23 Roman numeral V, "Adjustments to Allocation Logic."

24 CO-HEARING OFFICER DODUC: We're there.

25 MS. MORRIS: You did three things. You ran

1 the model. You used the WSI-DI. Correct?

2 WITNESS EASTON: We ran the model, and we
3 assumed WSI-DI for that.

4 MS. MORRIS: Okay.

5 WITNESS EASTON: There was also an initial
6 export estimate for that, which initially, that could be
7 far off. And we have an iterative process for the
8 export estimate.

9 MS. MORRIS: My question was: Did you run the
10 WSI-DI? Okay. Then you did your iterative process.

11 Is that what you recall -- you actually
12 referred it to as trial and error yesterday. Is that
13 what you meant by iterative process?

14 WITNESS EASTON: No, no. We're talking about
15 two different things. So the export estimate --

16 MS. MORRIS: No, no. I don't want to do this.

17 CO-HEARING OFFICER DODUC: Hold on. Hold on.

18 Ms. Morris, what is your question?

19 MS. MORRIS: I don't have a question pending.

20 Let me step back and ask the question.

21 When you did apply your allocation logic, did
22 you manually change allocations for some years in the
23 82-year period that you ran for your no-action
24 alternative? It's a yes-or-no question.

25 WITNESS EASTON: Yes.

1 MS. MORRIS: Thank you. Did you also make
2 manual changes for allocations for the modeling run in
3 MBK 4A?

4 WITNESS EASTON: Yes.

5 MS. MORRIS: Did you also do that -- I should
6 be clear. Did you also make manual changes in the
7 allocation for the model run MBK DO?

8 WITNESS EASTON: Yes.

9 MS. MORRIS: For those changes that you made
10 in the allocation that you made changes specifically to
11 the CVP allocations and the both -- I'm sorry -- and the
12 no-action alternative, the 4A run, and the DO run,
13 correct?

14 WITNESS EASTON: Forgive me. My brain works
15 slowly.

16 MS. MORRIS: Let me go again. That was a bad
17 question. Fair.

18 You made changes to the CVP allocation
19 manually in all three runs?

20 WITNESS EASTON: Yes.

21 MS. MORRIS: Okay. For the SWP, you made
22 changes to the allocation only in the MBK DO run,
23 correct?

24 WITNESS EASTON: I would like to explain why
25 that is, but yes.

1 MS. MORRIS: We've done that yesterday. I
2 don't care today.

3 MR. LILLY: You know what? Isn't it fair to
4 let him explain?

5 CO-HEARING OFFICER DODUC: Hold on. Let her
6 finish her line of questioning first.

7 MS. MORRIS: And then the manual changes that
8 you made -- I'm assuming it was you and not
9 Mr. Bourez -- and actually, who did make the manual
10 changes? Which one of you?

11 WITNESS EASTON: I made the manual changes,
12 but Mr. Bourez -- we all reviewed the studies together
13 to make a determination as to the reasonableness.

14 MS. MORRIS: Let me ask Mr. Bourez, then: The
15 manual changes that were made by you and Mr. Easton,
16 those changes were based on your own professional
17 judgment, correct?

18 WITNESS BOUREZ: That's correct.

19 MS. MORRIS: Okay. I have no further
20 questions.

21 CO-HEARING OFFICER DODUC: Thank you,
22 Ms. Morris.

23 Group No. 4.

24 MR. O'HANLON: Daniel O'Hanlon for the
25 San Luis and Delta-Mendota. I'll have no questions this

1 morning. Thank you.

2 CO-HEARING OFFICER DODUC: Thank you.

3 Number 5, Mr. Williams.

4 MR. WILLIAMS: Philip Williams for Westlands

5 Water District. No questions.

6 CO-HEARING OFFICER DODUC: Number 6, Coalition

7 for Sustainable Delta is not here.

8 Number 8 is not here.

9 Number 9, North Delta. Mr. O'Brien.

10 MR. O'BIEN: North Delta has no questions.

11 Thank you.

12 CO-HEARING OFFICER DODUC: Confirm again,

13 Mr. Aladjem. Number 10.

14 MR. ALADJEM: No questions.

15 CO-HEARING OFFICER DODUC: Number 11 has yet

16 to show to this hearing and is still a no-show.

17 Number 12, Colusa, is not here.

18 Number 13.

19 MS. TABER: Good morning. Kelley Taber,

20 Sacramento Regional County Sanitation District. No

21 questions.

22 CO-HEARING OFFICER DODUC: Number 14, County

23 of Yolo is not here.

24 Number 15, I believe said they did not have

25 any questions.

1 Okay. Number 16, South Valley Water
2 Association, et al., is not here.

3 17 is not here.

4 18.

5 MR. WASIEWSKI: Tim Wasiewski, San Joaquin
6 Tributaries Authority. We'll have no questions.

7 CO-HEARING OFFICER DODUC: 19, I don't see
8 Ms. Meserve or Mr. --

9 20, still not here.

10 21. I see Mr. Herrick and Mr. Ruiz.

11 MR. HERRICK: I don't know why everybody's so
12 scared today. I don't mind messing up in front of the
13 public.

14 --o0o--

15 CROSS-EXAMINATION

16 MR. HERRICK: John Herrick for South Delta
17 Water Agency. I'll just have a couple of questions for
18 the panel.

19 I think I'll follow up with Mr. Easton. I
20 think you wanted to explain something in response to
21 previous questions you asserted.

22 Would you like to explain that?

23 WITNESS EASTON: I think we're -- I think
24 we've said enough about that.

25 CO-HEARING OFFICER DODUC: Mr. Easton is on my

1 good list. Mr. Herrick is not.

2 MR. HERRICK: In your testimony, one of the
3 things that you mentioned is that the biological
4 assessment model includes artificial limits on the joint
5 point of diversion. Do you recall that?

6 WITNESS BOUREZ: Yes, I recall that.

7 MR. HERRICK: And do you know whether or not
8 the modeling for the joint point includes any sort of
9 restrictions on those operations based upon any water
10 quality measurements in the South Delta?

11 WITNESS BOUREZ: The model is designed to meet
12 the standards, and I'm very much aware that some of the
13 standards in the South Delta are difficult to meet. And
14 the model doesn't consider those standards when it looks
15 at joint point.

16 MR. HERRICK: So the model doesn't assume some
17 new operation in order to meet a standard to allow joint
18 point, correct?

19 WITNESS BOUREZ: That's correct.

20 And I want to be clear that when we talk about
21 joint point -- if -- I just want to make sure we're on
22 the same page. I gave an example yesterday of what the
23 artificial limit is. And I'd like to repeat that
24 example just to make sure that we're not talking past
25 each other.

1 MR. HERRICK: Please do.

2 WITNESS BOUREZ: For a hypothetical, if
3 Banks -- if the state is using Banks Pumping Plant and
4 diverts 6680 CFS out of the South Delta and nothing out
5 of the North Delta diversion, so it's not using the
6 tunnels, and under the hypothetical, the CVP is
7 exporting 4600 CFS at Jones Pumping Plant, and under
8 this hypothetical, if the CVP has a lot of storage in
9 Shasta and Folsom, and it's likely to spill, under this
10 condition, the CVP could not use the North Delta
11 diversion and convey that water through Banks the way
12 that the petitioners' model is set up.

13 We believe that's an unrealistic operation and
14 that the CVP should have the access to that North Delta
15 diversion. And we're assuming in our modeling that the
16 state would allow that use of joint point of diversion
17 to convey that water.

18 That's the, I think, the primary difference
19 between their assumptions and our assumptions. There's
20 nothing in the project description that would prevent
21 the use of joint point under that condition.

22 MR. HERRICK: So even though the state pumping
23 may not be able to do joint point under normal
24 operations in the model, with the California WaterFix,
25 joint point could occur with the North Delta diversion?

1 Is that what you're saying?

2 WITNESS BOUREZ: Yes.

3 MR. HERRICK: I asked you a few questions
4 about whether the model addresses water quality as part
5 of the conditions to achieving joint point.

6 Does it address water levels as a limiting
7 criteria for using joint point?

8 WITNESS BOUREZ: CalSim does not.

9 MR. HERRICK: Your testimony talks about how
10 the model runs done by the WaterFix petitioners result
11 in some reservoirs going down to dead pool, but that
12 you've provided modeling that shows not doing that. In
13 other words, a more practical operation. Would that be
14 a correct statement?

15 WITNESS BOUREZ: I believe our modeling is
16 more practical.

17 MR. HERRICK: So does that mean, with your
18 modeling, there's a better likelihood of meeting water
19 quality standards with that additional storage in
20 subsequent years than the WaterFix does?

21 WITNESS BOUREZ: Yes, it does.

22 But I just -- I want to make sure that
23 everybody's aware that they have climate change in
24 theirs without the adaptation measures, and that's one
25 of the reasons their reservoirs are going to dead pool.

1 But we don't have climate change and we have
2 refined our operations and the balance of the reservoirs
3 to prevent dead pool from occurring. And, therefore, it
4 would be easier for the modeling to meet water quality
5 compliance.

6 MR. HERRICK: The model runs that you've done?

7 WITNESS BOUREZ: I think both models, their
8 modeling and our modeling, meets compliance of water
9 quality standards in the Delta in the same way.

10 MR. HERRICK: Earlier this morning you
11 answered a question regarding DSM2. And you said that
12 sometimes it may show exceedance where, in fact, there
13 isn't one. Do you recall that?

14 WITNESS BOUREZ: Yes.

15 MR. HERRICK: Is the opposite also true? Does
16 DSM2 sometimes show compliance when, in fact, the
17 standard may be exceeded?

18 WITNESS BOUREZ: I really -- I'm not sure.

19 MR. HERRICK: But would you -- well, never
20 mind.

21 You said you weren't overly familiar with DSM2
22 except you've worked with people that have modeled on
23 it, right?

24 WITNESS BOUREZ: Right.

25 MR. HERRICK: You also answered questions

1 about Old and Middle River flows. Is it your
2 understanding that the WaterFix proposes times when
3 there will -- there will be times when a head of Old
4 River barrier will be installed and operated, but they
5 also seek to have positive Old and Middle River flows;
6 is that correct?

7 WITNESS EASTON: It is my understanding -- and
8 bear with me, because there's so many details in all the
9 different examples. But in some of their -- I know that
10 they do have further closure at the head of Old River
11 barrier gates in the Boundary 2 analysis. I can't
12 recall the others. I'm sorry. Slipped my mind.

13 WITNESS BOUREZ: Yeah, I understand your
14 question, that if there is an additional barrier, it's
15 basically impossible to comply with Old and Middle River
16 flow requirements because there's no flow going into Old
17 and Middle River.

18 And I don't recall what those assumptions are
19 in all of the modeling. I'd have to go back and look
20 into it.

21 MR. HERRICK: That's all right. I want to
22 make sure it's clear for the record.

23 Would you agree that if there's barrier at the
24 head of Old River that blocks off flow into Old River,
25 then that affects whether or not -- affects Old and

1 Middle River flow levels?

2 WITNESS BOUREZ: Absolutely.

3 MR. HERRICK: And if you block off the water,
4 you can't have downstream flow, net downstream flow?

5 WITNESS BOUREZ: That's correct.

6 MR. HERRICK: Thank you.

7 That's all I have. Thank you very much.

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

10 22, City of Stockton.

11 MS. TABER: Kelley Taber for City of Stockton.

12 We have no questions. Thank you.

13 CO-HEARING OFFICER DODUC: Thank you,
14 Ms. Taber.

15 23, not here.

16 24, not here.

17 25, not here.

18 26, not here.

19 27, not here.

20 28, not here.

21 29, not here.

22 30, Mr. Brodsky is not here.

23 31, Mr. Jackson.

24 I forgot to ask Mr. Herrick, but, Mr. Jackson,
25 how much time do you anticipate needing and what topic

1 areas will you be covering?

2 MR. JACKSON: I would expect it would be
3 between 20 and 30 minutes, but that depends on the
4 colloquy between the two of us.

5 Actually, I want to put up Exhibit SV -- the
6 Sacramento Valley Water Users 110, and I will be asking
7 questions in regards to Slide 4, Slide 13, Slide 21,
8 Slide 28, and Slide 40.

9 CO-HEARING OFFICER DODUC: 40?

10 MR. JACKSON: Yes.

11 CO-HEARING OFFICER DODUC: Let me check with
12 the court reporter and the witness.

13 Shall we go ahead and take our break after
14 Mr. Jackson is done in about a half hour or so?

15 All right. Proceed.

16 --o0o--

17 CROSS-EXAMINATION

18 MR. JACKSON: Mr. Baker, could you put up
19 Exhibit 110?

20 May I move so that I can follow the slides a
21 little better here?

22 Mr. Bourez, in terms of this slide --

23 CO-HEARING OFFICER DODUC: Is your mic on,
24 Mr. Jackson?

25 MR. JACKSON: No.

1 In terms of this slide, is it fair to say that
2 these are the differences between the California
3 WaterFix alternatives minus what is presently done in
4 terms of no-impact or in terms of no-project?

5 WITNESS BOUREZ: This is the -- each one of
6 these bars represents the average annual -- the
7 difference between the average annual outflow of each of
8 those alternatives compared to the average annual
9 outflow of the no-action alternative.

10 MR. JACKSON: So it's fair to say that each
11 alternative, H4A or H3-plus, is going to result, at
12 least from your review of the modeling, is going to
13 result in less Delta outflow than is present on an
14 annual basis?

15 WITNESS BOUREZ: Alternative 4A would have
16 less Delta outflow than the no-action alternative.

17 MR. JACKSON: For the purposes of these
18 questions, I want you to assume that my clients own a
19 piece of land in the town of Collinsville which is below
20 the point of diversion for the California WaterFix.

21 Are you familiar with the Collinsville
22 location?

23 WITNESS BOUREZ: Yes, I am.

24 MR. JACKSON: And would you describe that in
25 general?

1 WITNESS BOUREZ: Essentially, it's the Western
2 Delta. It's where the confluence of the San Joaquin and
3 the Sacramento Rivers come together. And I could point
4 it out on a map if you would like.

5 MR. JACKSON: No, I think that will do.

6 But it is clearly below the diversion point
7 for the California WaterFix?

8 WITNESS BOUREZ: That's correct.

9 MR. JACKSON: This measurement of the change
10 in Delta outflow takes place at what location?

11 WITNESS BOUREZ: The net Delta outflow is
12 actually calculated. So this would be Delta outflow.
13 You could call it Collinsville, if you would. It's
14 calculated Delta outflow.

15 MR. JACKSON: So right there?

16 WITNESS BOUREZ: Yes.

17 MR. JACKSON: Okay. Now, I understand that
18 there is in these boundaries, the boundary that is
19 Boundary 1, I believe, is indicated, by your review, is
20 1.2 million acre foot less outflow than what is
21 presently happening in the no-project?

22 WITNESS BOUREZ: It is.

23 And you say "what's presently happening." I
24 just want to be clear. These are differences between
25 two model runs, one with project and one without. And

1 this is the difference between those two model runs,
2 yes.

3 MR. JACKSON: And so if there is less outflow
4 in the model run, can you determine from the model run
5 what effect that will have on our piece of property?

6 WITNESS BOUREZ: When you say "what effect,"
7 you have to define what that effect is.

8 MR. JACKSON: Will the water quality be
9 different?

10 WITNESS BOUREZ: It may be different. It just
11 depends on so many factors. A lot of times that water's
12 coming out, as we pointed out, you might have 60,000 CFS
13 outflow in a month. And with the WaterFix, that might
14 be 58,000. And those conditions, those high flows, I
15 wouldn't expect that there would be a change in salinity
16 at those times.

17 And if we're conveying stored water, the
18 projects have to meet water quality requirements under
19 1641. So when they're conveying stored water, they're
20 ensuring that they have that water quality.

21 Now, if those standards are not controlling,
22 it is possible that the salts come in farther. But the
23 standards are designed to protect those beneficial uses
24 of water in the Delta. But it is possible that they're,
25 with that outflow, depending on the timing, there could

1 be a change in water quality.

2 MR. JACKSON: So the water quality could be
3 changed at various times of the year that are critical
4 or might be critical to the operation of agriculture on
5 the property?

6 WITNESS BOUREZ: Yeah. That's -- I have not
7 analyzed that in detail. We have looked at North Delta
8 compliance points, and we do see some -- some issues
9 there. But I have not looked at Collinsville output.
10 So I really can't speculate on what the water quality
11 changes would be there.

12 MR. JACKSON: All right. Since you haven't
13 looked at it, this question will be in general: Is the
14 iteration that you're using of CalSim II capable of
15 predicting what will happen on that property at
16 Collinsville with the operation of the California
17 WaterFix?

18 WITNESS BOUREZ: That's a tough question to
19 answer. CalSim is a -- you know, it's -- it's more of
20 an operations-type model on a monthly time step, and so
21 some of the operations you're talking about are a lot
22 more detailed. And that's why, you know, folks use DSM2
23 to get more detail on what those changes would be at
24 various locations within the Delta.

25 CalSim could be used to tell you what the

1 changes in outflow would be on a monthly basis. It can
2 feed into DSM2 where they can do more detailed analysis
3 on water quality and probably answer some of your
4 questions.

5 But CalSim, itself, cannot really determine
6 the changes in water quality at Collinsville. We can
7 tell you what the average change of inflow is, and that
8 can be used to determine that.

9 MR. JACKSON: But it depends to -- for finer
10 work on the -- on another model?

11 WITNESS BOUREZ: Yes. That would be DSM2.

12 MR. JACKSON: Could we put up Slide 21?

13 There's been some discussion, which is
14 reflected on your Slide 21, about something called a
15 "big gulp."

16 What are you describing in terms of a big
17 gulp?

18 WITNESS BOUREZ: First, I want to be clear
19 that you don't pick this up at 7-Eleven.

20 The big gulp, with the way we describe it, at
21 times when we have very high Delta surplus, in this
22 example, in the no-action alternative in January, we
23 have roughly a -- Delta outflow of about 65,000 CFS on
24 average. And at times during the month, it could
25 exceed -- 100- or 150,000 would not be unusual for those

1 higher flows.

2 During those higher flows, the big gulp really
3 is taking as much of that surplus as we can out of the
4 system while still leaving significant surplus. You see
5 the Delta outflow went from about 65,000 CFS in January
6 down to roughly 59,000 CFS.

7 And, really, when you're out -- I don't know
8 how -- how -- if we can really measure that in Delta
9 outflow because I don't think gauges are even accurate
10 enough within 10 percent. Maybe pick up a difference in
11 that Delta outflow.

12 Well, that's a very significant increase in
13 water supply for the state. And I think, you know, from
14 my personal view, that's a reasonable use of the tunnels
15 to capture that big gulp because we're not affecting
16 water quality even at Collinsville.

17 So, again, that big gulp is a capture of as
18 much flow as we can when we have high surpluses in the
19 system.

20 MR. JACKSON: All right. So when you talk
21 about Delta outflow, are you talking about water to the
22 sea or are you talking about inflow to
23 San Francisco Bay?

24 WITNESS BOUREZ: Inflow to San Francisco Bay.

25 MR. JACKSON: And how does -- how does your

1 modeling treat the need for freshwater in
2 San Francisco Bay?

3 WITNESS BOUREZ: CalSim does not model the
4 San Francisco Bay. So it doesn't consider it.

5 MR. JACKSON: So there's no way to tell
6 whether the big gulp would harm beneficial uses in
7 San Francisco Bay using the CalSim model?

8 WITNESS BOUREZ: I don't believe there is.
9 I've never looked it. I'm not a bay expert.

10 MR. JACKSON: You talked about a modeling
11 forum that you're a member of. And it's -- I believe
12 either you or Mr. Easton talked about it as sort of a
13 tight-knit group; is that correct?

14 WITNESS BOUREZ: That's correct.

15 MR. JACKSON: Does -- are there any bay
16 specialists looking at these problems within that group?

17 WITNESS BOUREZ: I know there's bay
18 specialists within that group. I don't know if
19 they've -- the degree to which they have analyzed this.

20 MR. JACKSON: Could we go to Slide 13?

21 Calling your attention to the modeling. It
22 looks like in the winter months -- November, December,
23 January, February -- there are changes in Delta outflow
24 in -- of -- from the California WaterFix compared to
25 no-action that result in as much as 2,000 CFS difference

1 in less outflow by the operation of the California
2 WaterFix.

3 WITNESS BOUREZ: To be clear, this is a --
4 these numbers are calculated by taking the average
5 monthly outflow from the alternatives compared to the
6 monthly average outflow of the no-action alternative.
7 And on average during that period, there seems to be --
8 or is calculated less Delta outflow. I don't see where
9 it's 2,000 CFS less.

10 And when you're talking about some of these
11 effects, that could be times when the Delta outflow
12 could have been an average of 50,000 CFS, and it dropped
13 to 40,000 CFS in a month. And that could just be a
14 average of all the wet years, where the drier and
15 critical years may not be affected.

16 There's a whole lot of information in these
17 plots. You got to be careful what conclusions you draw.
18 And I would say that, on average, the outflow is
19 generally less during the wintertime.

20 MR. JACKSON: Thank you.

21 Could you put up Slide 33?

22 You talked in other testimony that I will not
23 go over, about No. 1, 2, and 3.

24 I'm interested in Key Finding No. 4:
25 "CalSim II does not address effects to water rights."

1 What do you mean by that?

2 WITNESS BOUREZ: I'm going to have to refer to
3 another one of our exhibits in our two-year example.
4 Let me pull up the -- it's Slide No. 25. If you could
5 pull that one up in this exhibit. This is a slide where
6 we used to discuss this very issue.

7 CalSim's not designed to curtail water rights.
8 And, in particular, I'm going to start with Term 91.

9 CalSim does not have a calculation internal
10 that calculates supplemental water as an imposed --
11 (Reporter request for clarification.)

12 WITNESS BOUREZ: CalSim does not have a
13 calculation of supplemental water under Term 91. It has
14 to be calculated based on the CalSim output. So
15 CalSim I doesn't address effects on those water right
16 holders, nor does it impose curtailments on other more
17 senior water right holders.

18 And CalSim also isn't designed to impose
19 deficiencies other than what are based on the contract
20 criteria for the Sacramento River settlement
21 contractors, Feather River service area contractors, the
22 CVP, San Joaquin River Exchange Contractors, or refuge.

23 Those are -- the model is designed to meet
24 those requirements and won't cut them beyond the input
25 criteria.

1 MR. JACKSON: So does -- CalSim does have --
2 you've used the term -- or I heard the term "hardwired"?

3 WITNESS BOUREZ: Yes.

4 MR. JACKSON: Does it have an allocation
5 hierarchy?

6 WITNESS BOUREZ: Yes, it does.

7 MR. JACKSON: Would you tell me what that is?

8 WITNESS BOUREZ: This can get to be a very
9 long conversation, but there's different ones.

10 There's an allocation hierarchy for the State
11 Water Project. And what the model does will allocate
12 for the State Contractors Table A allocations based on
13 water supply availability.

14 And for the Feather River service area
15 contractors, their allocations are based on unimpaired
16 inflow to Oroville which is input to the model.

17 So the difference between those two is the
18 Table A allocations are dynamic in the model calculated
19 by the model and can be influenced by model inputs,
20 where the allocations to the Feather River service area
21 contractors are input to the model. The model doesn't
22 change them.

23 And the same is true for the CVP contractors
24 or the Sacramento River Settlement Contractors, CVP,
25 San Joaquin River Exchange Contractors, and the refuges.

1 Those allocations are input to CalSim based on Shasta
2 inflow, and the model does not change those dynamically.

3 MR. JACKSON: Does the model have any
4 hierarchy in terms of rights system?

5 WITNESS BOUREZ: It does not. It meets those
6 deliveries all the time.

7 And one of the things that we see with CalSim,
8 if there were to be a curtailment during drought, that
9 those water rights are not reduced.

10 So this is one of the issues we have with
11 climate change hydrology and drought conditions, is that
12 those water rights are curtailed and the projects have
13 to meet the requirements rather than those curtailments.

14 And I want to further say that this is a
15 significant fundamental change to any model. To
16 determine the effects of imposing Term 91 curtailments
17 on the system is a daunting task.

18 MR. JACKSON: Now, for those of us who are
19 not -- who have water rights that are not related to the
20 projects, does CalSim do -- how do they calculate our
21 water -- well, let's assume for the purpose of this
22 discussion that the property that I'm talking about at
23 Collinsville is on both sides of the levy and is a
24 riparian right.

25 Does CalSim II model riparians?

1 WITNESS BOUREZ: What CalSim does is it
2 actually starts with land use, and so whatever crop
3 would be assumed in CalSim. And they've used a lot of
4 aerial surveys to come up with crops. And then they run
5 a model to determine what the irrigation requirements
6 are and the consumptive use requirements are. And that
7 is input to CalSim as a diversion requirement. And then
8 the model will meet those.

9 And if it's riparian, the model assumes that
10 it is always going to be met.

11 MR. JACKSON: How does model check to see
12 whether or not it's being met?

13 WITNESS BOUREZ: That's a good question.

14 The model is going to meet all of those
15 consumptive use needs that come out of the model. And
16 what would happen is the reservoirs will release water
17 to meet Delta outflow.

18 And since your diversions in the Delta would
19 be taken out of the system, the projects would have to
20 release more water in order to meet that Delta outflow
21 obligation. So if -- so by definition, their design of
22 the model has to meet all of those riparian diversions.

23 MR. JACKSON: Can the model predict whether it
24 does?

25 WITNESS BOUREZ: It does in the model, always.

1 If it's meeting outflow obligations, it's meeting all
2 the diversions.

3 MR. JACKSON: What does -- first of all, has
4 CalSim ever been validated?

5 WITNESS BOUREZ: Can you define what you mean
6 by "validated"?

7 MR. JACKSON: Sure. Is there a process by
8 which the CalSim modeling is refined based upon actual
9 conditions?

10 CO-HEARING OFFICER DODUC: Before Mr. Bourez
11 answers that, we went through this some of this when
12 petitioners were up here.

13 Where are we going with this?

14 MR. JACKSON: Well, where I'm going with this
15 is I'm trying to determine how my client can determine
16 the effect of the WaterFix on the conditions that we
17 have had prior to the WaterFix.

18 CO-HEARING OFFICER DODUC: I understand that.

19 MR. JACKSON: And so I'm trying to determine
20 whether or not CalSim can help me with that process.

21 CO-HEARING OFFICER DODUC: Mr. Bourez, do you
22 know if CalSim can help with that process?

23 WITNESS BOUREZ: I think CalSim is helping
24 with that process. And what we're finding from both of
25 the petitioners' modeling and our modeling is that all

1 the modeling is complying with the standards in the
2 Delta and all the modeling is meeting all the
3 consumptive needs in the Delta.

4 And I believe that the model has had
5 significant enough review with all the peers that we've
6 worked with on it to ensure that that's the case. And
7 when we check our model results we are, in fact, meeting
8 those consumptive demands.

9 I think the real issue for you is, you know,
10 when you're meeting -- when water quality is not
11 controlling the operation of the project, do the salts
12 come in a little bit more and is that an effect on you.

13 And that's not my area of expertise to know
14 what that change in salinity, what that effect would
15 have on you.

16 MR. JACKSON: When you say it's not in your
17 area of expertise, you mean it's -- do you mean it's not
18 yours or it's not CalSim's area of expertise?

19 WITNESS BOUREZ: I think you have to run DSM2,
20 which I know DWR has done, and that can help answer this
21 question.

22 MR. JACKSON: Actually, I think I can end
23 there. Thanks.

24 CO-HEARING OFFICER DODUC: Thank you,
25 Mr. Jackson.

1 Before we take our break, let me do a rundown
2 to do a time check.

3 32, not here.

4 33, not here.

5 34, not here.

6 35, no show.

7 Ms. Des Jardins, 37, I believe you said
8 yesterday you do have cross-examination. How much time
9 do you anticipate needing?

10 MS. DES JARDINS: About an hour.

11 CO-HEARING OFFICER DODUC: Okay.

12 38, not here.

13 39, not here.

14 40? 41? 42? 43?

15 So let's plan on resuming after our break with
16 Ms. Des Jardins. We -- after her cross-examination,
17 we'll take our lunch break.

18 Do you anticipate any redirect, Mr. Lilly?

19 MR. LILLY: Right now, my list is probably
20 about five minutes.

21 CO-HEARING OFFICER DODUC: Of redirect?

22 MR. LILLY: Of redirect, yes.

23 CO-HEARING OFFICER DODUC: Okay.

24 So we will -- in all likelihood, I'm looking
25 to Group 7, get to your Panel 2 later this afternoon. I

1 believe your witness, Mr. Van Camp, is available.

2 With that, we'll take a break, and we'll
3 resume at 10:55.

4 (Off the record at 10:37 a.m. and back
5 on the record at 10:55 a.m.)

6 CO-HEARING OFFICER DODUC: If everyone could
7 please take your seats. It is 10:55. And we are now
8 resuming with cross-examination by Ms. Des Jardins.

9 Your topics areas that you will be exploring,
10 Ms. Des Jardins?

11 MS. DES JARDINS: I wanted to go into --

12 CO-HEARING OFFICER DODUC: I'm going to ask
13 you to get very close to the microphone.

14 MS. DES JARDINS: I wanted to go into -- I
15 have follow-up questions on joint point of diversion,
16 one on Delta Cross Channel.

17 And Mr. Mizell asked questions about whether
18 what Mr. Bourez did comported with agency practices. I
19 also have questions about whether what he did comported
20 with standard engineering practices.

21 CO-HEARING OFFICER DODUC: All right. We
22 don't go over grounds that have already been covered.

23 You may proceed.

24

25

1 --o0o--

2 CROSS-EXAMINATION

3 MS. DES JARDINS: Mr. -- can we bring up put
4 Exhibit DJ93 on here? This is from comments --
5 prehearing comments by Richard Denton.

6 Mr. Denton looked into the total South Delta
7 exports for the revised DEIR/DEIS modeling which showed
8 that it went to 15,000 CFS at times.

9 Mr. Bourez, did you ever look at the -- the
10 JPOD exports and revised DEIR/DEIS model?

11 WITNESS BOUREZ: What you're showing is from
12 the revised circulated document?

13 MS. DES JARDINS: Mr. Denton prepared this and
14 submitted this in comments to the State Board prehearing
15 comments. And he was concerned that he plotted the
16 South Delta exports versus Delta outflow, and he noted
17 that at least in --

18 CO-HEARING OFFICER DODUC: Hold on,
19 Ms. Des Jardins. You're not testifying here.

20 MS. DES JARDINS: What this shows, Mr. Bourez,
21 if you look at this, what does it --

22 CO-HEARING OFFICER DODUC: Hold -- hold on.
23 Hold on a second.

24 What is the source of this information?

25 MS. DES JARDINS: It's from Mr. Denton. I was

1 going to ask if Mr. Bourez had looked at the revised
2 DEIR/DEIS modeling.

3 CO-HEARING OFFICER DODUC: Hold on. Slow
4 down.

5 Was this submitted as an exhibit by you, or is
6 this something that you're introducing right now?

7 MS. DES JARDINS: I'm introducing this right
8 now.

9 CO-HEARING OFFICER DODUC: Okay. What is it
10 showing? Not your conclusion, but where does the data
11 come from?

12 MS. DES JARDINS: It's from the revised
13 DEIR/DEIS 4A H3.

14 CO-HEARING OFFICER DODUC: Okay.

15 MS. DES JARDINS: So this is for the CEQA/NEPA
16 documents that were submitted with the WaterFix petition
17 and associated model.

18 CO-HEARING OFFICER DODUC: Assuming that this
19 indeed is the data and it's accurately portrayed, what
20 is your question to Mr. Bourez?

21 MS. DES JARDINS: My question to Mr. Bourez
22 is, one: Would you agree that this appears to show that
23 there are exports above 11 -- above 11,280 CFS, which is
24 the current limit, and did you ever look at the revised
25 DEIR/DEIS at the exports?

1 CO-HEARING OFFICER DODUC: Let's break it up
2 first. Did you look at the revised DEIR/DEIS?

3 MS. DES JARDINS: South Delta exports?

4 CO-HEARING OFFICER DODUC: Looking at South
5 Delta exports and Delta outflow?

6 WITNESS BOUREZ: Yes, we've looked at it.

7 MS. DES JARDINS: Did you notice these kind of
8 exceedances of the current Army Corps of Engineers
9 limits with that modeling?

10 WITNESS BOUREZ: Yes. We noticed that in the
11 draft environmental documents, we saw that the
12 South Delta diversions were higher than permitted
13 capacity.

14 I also want to add to that in the modeling
15 that the petitioners performed for the biological
16 assessment, this has been revised and you no longer see
17 that in updated modeling. But we did comment on this in
18 our SVWU-102, in a report. We noticed this as well.

19 MS. DES JARDINS: Did the agency give any
20 explanation for the conflict between the CEQA/NEPA
21 analysis and the biological assessment assumptions?

22 WITNESS BOUREZ: I have not discussed it with
23 them, and I have not heard any explanation.

24 MS. DES JARDINS: Has the agency indicated
25 that they might seek any changes in the future to the

1 Army Corps of Engineer limits? Has there been -- or did
2 you -- I mean, when you looked at the biological
3 assessment modeling, did you have any information beyond
4 what the current Army Corps of Engineers limits are as
5 far as any future plans?

6 WITNESS BOUREZ: So there's -- you had two
7 questions. The first one, I believe, was have the
8 agencies asked for revision of the Army Corps of
9 Engineers permit? Not to my knowledge.

10 And then you also asked a question -- and
11 please correct me if I misstate this: Have I heard any
12 reason why the modeling in the biological assessment
13 differs from the draft EIR/EIS?

14 MS. DES JARDINS: I already asked that. I
15 just wanted to say in your engineering analysis, the
16 only information -- was the only information that you
17 had available for the biological assessment the current
18 Army Corps of Engineers limit of 6680 CFS?

19 WITNESS BOUREZ: In the biological assessment
20 modeling, we did review that, and I believe that the
21 Army Corps of Engineers permit for South Delta
22 diversions were adhered to in the petitioners' modeling.
23 In other words, they did not export more than 6680 CFS
24 at Banks in the updated modeling.

25 MS. DES JARDINS: Is it your understanding

1 that the Army Corps permit governs the diversions from
2 the Delta into Clifton Court Forebay?

3 WITNESS BOUREZ: Well, it's my understanding
4 that the Army Corps of Engineers permit does govern the
5 diversions from the South Delta into Clifton Court
6 Forebay.

7 MS. DES JARDINS: Are you aware that they're
8 talking about building an isolated section of
9 Clifton Court for the North Delta diversions to go into?

10 WITNESS BOUREZ: I did watch some of the
11 testimony on that, and I'm not real familiar with the
12 design. But I understand that they are looking at
13 separating the South Delta diversion from the tunnels.

14 MS. DES JARDINS: If it was completely
15 separated, would the limits -- if it was completely
16 separated, would the limits on diversions into
17 Clifton Court apply?

18 WITNESS BOUREZ: I believe -- and I can't say
19 what the Corps -- Army Corps of Engineers would do
20 regarding permits for South Delta diversions. I'm
21 assuming that the diversions from the South Delta into
22 Clifton Court, that the Army Corps of Engineer permits
23 would still apply. But they would not apply to the
24 diversions from the North Delta diversions that enter
25 into Clifton Court. That would be my understanding.

1 MS. DES JARDINS: Thank you. That concludes
2 my line of questioning on the joint point of diversion.

3 I'd like to go to Exhibit SWRCB -- SVWU-102.
4 And I'd like to go to page 17. Scroll down to the part
5 of the North Delta Cross Channel.

6 So the question here, this was fairly clear on
7 the reasons for your changing the Delta Cross Channel
8 Gate operations in October. You state: "As long as the
9 Delta salinity standards are met, operators have
10 indicated they would indeed close the Delta Cross
11 Channel gates in this manner."

12 In the BDCP model, the Delta Cross Channel is
13 not closed in that manner and that result is that the
14 BDCP model overestimates outflow under such
15 circumstances.

16 Which -- was your observation that this
17 continued in the WaterFix modeling that you examined?

18 WITNESS BOUREZ: In the WaterFix modeling that
19 we examined that the petitioners performed, they did not
20 close the Cross Channel Gate in order to meet Rio Vista
21 flow requirements.

22 They increased Delta outflow. You know, they
23 changed operations in order to meet that standard. It
24 could have been increased releases from upstream
25 reservoirs or decreases in North Delta diversion in

1 order to meet that flow requirement on the
2 Sacramento River.

3 In our modeling, we had partial closures of
4 the Delta Cross Channel Gate in order to meet the flow
5 requirements on the Sacramento River at Rio Vista.

6 MS. DES JARDINS: Which you believe is closest
7 to recent historical operations?

8 WITNESS BOUREZ: The Bureau of Reclamation has
9 closed the Cross Channel Gate in the past. And we cite
10 the example of October and November of 2013 where they
11 did close the Cross Channel Gate in order to meet
12 compliance standards on the Sacramento River.

13 MS. DES JARDINS: Okay. The question I asked
14 here was if -- does the WaterFix modeling have the same
15 issue with overestimated outflow as you saw in the BDCP
16 modeling with possibly overestimating outflow and
17 overestimating benefits to Delta smelt?

18 WITNESS BOUREZ: To answer this question, I'd
19 like to pull up Exhibit SVWU-110, slide 37.

20 I'd like to turn your attention to --

21 CO-HEARING OFFICER DODUC: Hold on. Since
22 you're answering her questions, it's best that she's --

23 MS. DES JARDINS: Apologies.

24 CO-HEARING OFFICER DODUC: -- ready. Okay.

25 WITNESS BOUREZ: I'd like to turn your

1 attention to the average monthly difference -- well, let
2 me remind everybody again what this slide shows.

3 These are changes in Delta outflow for the
4 preferred alternative, or Alternative 4A in the
5 biological assessment. And the top two plots are the
6 petitioners' models. They're alternative minus the
7 no-action. And the bottom two charts are MBK modeling,
8 the Alternative 4A minus the no-action alternative.

9 And I'd like to turn your attention to October
10 in the monthly difference plots. You can see that the
11 increase in the Delta outflow in petitioners' modeling
12 in October is often over 1,000 CFS increased Delta
13 outflow for that month in almost all year types.

14 In the MBK modeling, it's typically less than
15 a thousand CFS. That difference is primarily driven by
16 the Cross Channel Gate operation.

17 We still have Delta surplus in both modeling
18 scenarios. But we have less Delta surplus in the MBK
19 modeling. That's because we operate the Cross Channel
20 Gate to meet that Rio Vista flow requirement and we're
21 only doing that when we're in compliance with water
22 quality at Jersey Point and Rock Slough.

23 So that's really the difference that we're
24 talking about.

25 MS. DES JARDINS: So your assessment is that

1 it's more realistic for the projects to be operated
2 mainly to meet the water quality requirements than these
3 other assumptions that, if you look at the recent
4 historical operations, that the assumptions that you
5 made were more realistic?

6 WITNESS BOUREZ: I believe our assumptions are
7 more realistic in that the projects would operate the
8 Cross Channel Gate.

9 MS. DES JARDINS: Okay. Thank you.

10 Next exhibit I'd like to go to is DDJ-51.
11 It's on the exhibit list. It's from previous
12 examination. Yeah, Exhibit DDJ-51.

13 And, Mr. Bourez, you did this iterative
14 process of adjusting the reservoir operations to be what
15 you -- to, in your opinion, be more realistic and
16 comport more with current operating procedures; is that
17 correct?

18 WITNESS BOUREZ: We've adjusted the model to
19 get the most realistic simulations as we could.

20 MS. DES JARDINS: Yeah. And I just wanted to
21 go -- let's scroll down to the objective function. This
22 is related to the objective function.

23 CO-HEARING OFFICER DODUC: Ms. Des Jardins,
24 what is this document?

25 MS. DES JARDINS: This is an excerpt from the

1 petitioners' 2004 response to the CalSim peer review.

2 The CalSim peer review also noted some issues
3 with the -- Mr. Bourez, would it surprise you that the
4 issues with the modeling of reservoir operations are
5 long-standing in CalSim?

6 WITNESS BOUREZ: I'm sorry. They're more?

7 MS. DES JARDINS: Would -- is it -- how long
8 have there been issues with CalSim's modeling of
9 reservoir operations? Do you have any idea?

10 WITNESS BOUREZ: How long have there been
11 problems with it? I'm not sure what you mean by
12 "problems."

13 But even -- and I see DWR Sim is up here as
14 well. It's just a predecessor. Some of the logic that
15 we used to use in DWR Sim is still present in CalSim II.
16 It's a model. There's always weaknesses in any model
17 run, but I believe that the operation of the model is
18 adequate and, you know, to mimic actual CVP/SWP
19 operations for planning studies.

20 MS. DES JARDINS: It says: "Most successful
21 applications of optimization that attempt to simulate
22 the behavior of a system have calibrated their objective
23 function so that the model results correspond to what
24 actually happens or would happen under a particular
25 hydrologic and demand scenario."

1 This is what the peer review orders noted in
2 2003.

3 And DWR stated: "The lack of calibration is
4 one reason why the simulation of historical operations,
5 which they introduced as Exhibit DWR-505, was unable to
6 mimic historical project carryover storage during
7 drought conditions."

8 Are these issues similar to what you saw in
9 the WaterFix models that -- with, you know,
10 corresponding to what would -- at what actually happened
11 during a repeat of certain water years during the
12 particular hydrologic and demand scenario?

13 WITNESS BOUREZ: I think we're mixing apples
14 and oranges a little bit.

15 MS. DES JARDINS: Okay.

16 WITNESS BOUREZ: Let's address this peer
17 review comment and then talk about the adequacy for
18 modeling the WaterFix.

19 It's impossible to calibrate an operations
20 model to historical operations in terms of a formal
21 calibration. Calibration is very different than is the
22 model adequate or a valid tool.

23 When you look at historical operations, we've
24 had some very significant changes in operational
25 criteria and standards. And, you know, even, for

1 example, in 2014/2015, we had temporary urgency change
2 petitions where we didn't meet all the standards in the
3 system.

4 And when you look at that change in historical
5 operations, it's very difficult to calibrate a model
6 based on historical operations.

7 I don't think that's a valid metric for
8 determining if CalSim is an adequate tool for evaluating
9 the WaterFix. That's my personal opinion. And I think
10 there's a lot of folks in our profession who are of the
11 same opinion.

12 Now, is the modeling adequate for evaluating
13 the California WaterFix? And -- well, I'll have to
14 defend ourselves. I believe that the modeling we did
15 certainly is adequate for evaluating the California
16 WaterFix.

17 MS. DES JARDINS: I wasn't asking about your
18 model. I was asking about the modeling presented by the
19 petitioners and the discrepancies you saw with the
20 reservoir operations which caused you to make changes.

21 WITNESS BOUREZ: Yeah. We spent quite a bit
22 of time comparing and contrasting those models. I'm
23 happy to repeat a lot of that.

24 CO-HEARING OFFICER DODUC: Please do not.

25 MS. DES JARDINS: No. I'm just -- is -- what

1 I was -- it's just a question about the petitioners'
2 modeling. They noticed there were discrepancies in the
3 historical operations with mimicking carryover storage,
4 and you saw some discrepancies when carryover storage, I
5 believe, as in exports; isn't that correct?

6 WITNESS BOUREZ: Again, it's really difficult
7 to take the CalSim simulation, compare it to historical
8 operations. We can use historical operations and what's
9 happened, the decisions that the operators made in
10 operating the project and why they made those decisions
11 and incorporate that into the model logic. And that's
12 typically what is done with these simulation models.

13 And I think that there's -- there is some
14 helpful information in the petitioners' models. You
15 know, they're showing how much surplus we can grab out
16 of the system. We're showing that. We operated the
17 reservoirs differently than they did and balanced the
18 system differently.

19 And I said several times I believe our
20 modeling is a better depiction or a closer depiction of
21 how the project would actually operate. That doesn't
22 mean that what the petitioners did is completely
23 useless. These are all ways of operating the system.

24 So I'm struggling to, you know, really how to
25 answer your question.

1 MS. DES JARDINS: Thank you. Let me go to
2 Exhibit DDJ-54 to ask a clarifying follow-up question.

3 Scroll down, please. Keep scrolling.

4 So if it says --

5 MR. LILLY: Excuse me. I just request that
6 Ms. Des Jardins identify what that document is.

7 MS. DES JARDINS: I apologize. This is an
8 excerpt. This is Exhibit DDJ-54. It's an excerpt from
9 the 2004 CalSim peer review response in which they
10 specifically responded to the issue about calibration
11 and validation of the operations modeling, specifically
12 issues of reservoirs and how well the model represented
13 operating rules.

14 And so this states that a more reasonable --
15 what they proposed was a more reasonable approach to
16 defining behavioral parameters through discussions of
17 system operators to define current operational policy or
18 rules. And that it would appear more reasonable to
19 define operating rules in conversations with operators
20 and subsequently use a recent wet, normal, and dry year
21 in a validation exercise.

22 Mr. Bourez, I just wanted to say if you had
23 like a post-2009 BiOp data set, if you had a recent, you
24 know, like 2010 to 2015, if there was an input data set
25 for CalSim and you had a recent wet, normal, dry,

1 critically dry year, would it make it easier to assess
2 how the model actually -- your model or the petitioners'
3 model -- represented current operations?

4 WITNESS BOUREZ: So when you look at recent
5 historical operations, which we do and we track
6 operations pretty closely, and the decisions that are
7 made to operate the project and we try to incorporate
8 that logic into CalSim.

9 And since 2009, there has been significant
10 effort from the Department of Water Resources, Bureau of
11 Reclamation, and several consultants to improve that
12 representation of those biological opinions in CalSim.

13 We operate the model. We do pay attention to
14 what has happened and how the projects operate so that
15 we get an operation that does mimic those recent
16 operations. So I would agree with the statement that
17 the way the project operators operate is how we want the
18 models to operate.

19 MS. DES JARDINS: So the -- you described a
20 series of qualitative changes you made that were based
21 on sort of assessments of how well you believed the
22 WaterFix modeling presented by the petitioner
23 represented this recent historical operations; is that
24 correct?

25 And you -- the changes you've made, would it

1 be correct to say that you were trying to meet what your
2 understanding was of these recent historical operations?

3 WITNESS BOUREZ: Yes. If I understand your
4 question, we're trying to take that -- the way the
5 project operators operate and incorporate that into our
6 model runs. And that's the goal of the models, is to
7 mimic those operational rules and the decisions they
8 make.

9 CO-HEARING OFFICER DODUC: And you believe the
10 changes you've made are more representative of -- more
11 realistic in terms of the operations aspect?

12 WITNESS BOUREZ: Yes, I do.

13 MS. DES JARDINS: Okay. The next thing, I
14 want to go back to one of my exhibit files, the files
15 that I submitted.

16 If you could bring that folder up, DDJ-93.
17 I'd like to go to "Musings on a Model." I believe it's
18 page 12.

19 CO-HEARING OFFICER DODUC: What is this
20 document?

21 MS. DES JARDINS: Okay. So this document is
22 entitled "Musings on a Model CalSim II in California
23 Water Community."

24 CO-HEARING OFFICER DODUC: Are you familiar
25 with this document?

1 WITNESS BOUREZ: Yes, I am.

2 MS. DES JARDINS: So I want to go to --

3 MS. McCUE: You've identified this as

4 DDJX-109.

5 MS. DES JARDINS: Yes, DDJX-109. It's going

6 to be DDJ-109. Thank you.

7 (Respondent Exhibit DDJ-109

8 marked for identification.)

9 MS. DES JARDINS: Scroll back. Scroll back.

10 DIANE RIDDLE: Is it highlighted?

11 MS. DES JARDINS: No, it's not.

12 I'm going to have to skip this question.

13 I did have a question. Let's go to DDJX-92.

14 And I had some exhibits.

15 (Respondent Exhibit DDJ-92

16 marked for identification.)

17 MS. DES JARDINS: Mr. Bourez, I wanted to ask

18 you: There was a change to the State Water Project

19 delivery that was done in -- for some early modeling --

20 CO-HEARING OFFICER DODUC: You need to

21 identify what that is.

22 MS. DES JARDINS: Let's go back. Edit --

23 go --

24 CO-HEARING OFFICER DODUC: It's only one page.

25 MS. DES JARDINS: Can we go back to the

1 spreadsheet? There's a spreadsheet on there. Let's go
2 back to the spreadsheet.

3 So this is from the modeling support Web site.
4 And it's a comparison of the 2009 and 2010 delivery
5 logic and the 2010 logic. Let's go to SWP WSI-DI. The
6 2010 logic was what was used for the State Water for
7 some of the early BDCP scenarios. And I have a PDF of
8 this as well.

9 Mr. Bourez, I have a paper copy if you'd like
10 to look at one.

11 MS. McCUE: This is DDJ-91.

12 MS. DES JARDINS: Yeah. I just wanted to ask
13 you about the water supply index demand index curve and
14 what this kind of change would do to exports at
15 Oroville.

16 So it shows the old curve is dashed in blue
17 and the new curve is in pink.

18 WITNESS BOUREZ: So still it is difficult to
19 comment on this, because each CalSim scenario that is
20 developed, you retrain these curves to be commensurate
21 with the standards and requirements of facilities that
22 you have in that CalSim run.

23 So CalSim actually has an iterative process to
24 develop these curves based on that. And this is what we
25 talked about as kind of a standard procedure for CalSim,

1 is to redevelop these curves.

2 So I'm not quite sure, even though that these
3 are from, you know, a CalSim run or BDCP, it could be
4 from a wide variety of CalSim runs. So it's very
5 difficult to comment on what the changes would mean
6 here.

7 And, you know, further, you know, describing
8 what the water supply index is versus the delivery index
9 and how's that used in the model is -- you know, it's a
10 complex operation. And, you know, the model uses this
11 in conjunction with a delivery versus carryover index.
12 So once you get that delivery index, there's a delivery
13 versus carryover curve that is also used to set
14 allocations.

15 And then on top of that, there's the export
16 estimate which will further change south of Delta
17 deliveries.

18 So this is one component of several factors
19 that determine deliveries. And I can't tell you what
20 influence this would have on a CalSim run or which
21 CalSim run this is from.

22 So it's a really vague question, and you have
23 to put really the whole picture together.

24 MS. DES JARDINS: Let me ask you then about
25 the hierarchy of what happens in -- so the -- so the

1 water supply index. I've looked at the code, and
2 it's -- they start in March, they estimate -- have an
3 estimate of water supply.

4 Isn't it the water supply in the future is,
5 they assume, will be equal to the runoff at that point,
6 or if they have an estimate of the water supply? They
7 have an estimate of the water supply, and then, from
8 that, they estimate how much water is going to be put
9 into demand.

10 WITNESS BOUREZ: Okay. So let's -- and Dan
11 knows the details of this logic in a lot more detail
12 than I do, but let's try a simple explanation first.

13 CO-HEARING OFFICER DODUC: Okay. Before you
14 do, help me understand where you're going with this,
15 Ms. Des Jardins. And what is -- what specifically is
16 the point you're trying to make? That will be helpful
17 to us in this matter.

18 MS. DES JARDINS: Well, there were some
19 conclusions that, you know, are in -- and I can go to
20 that section of the DEIR/DEIS -- that it was not
21 possible for the projects to meet the 2010 flow criteria
22 because of the effects on Oroville because it drained
23 Oroville.

24 CO-HEARING OFFICER DODUC: Okay. So without
25 getting into all this detail, what is it about that

1 assertion that you would like to ask Mr. Bourez?

2 MS. DES JARDINS: I was trying to ask him,
3 first, about some of the detail about how the model
4 represents water supply and demands. And so I would
5 understand a little bit about how changing these curves,
6 which, as Mr. Bourez says, happens between different
7 CalSim runs, what that does to the assumptions about
8 reservoir operations -- and if he can't comment on this
9 specific.

10 CO-HEARING OFFICER DODUC: That's fine. I
11 would like us to step back from perhaps rolling in the
12 weeds and going back to your point, which is a good
13 point, this assertion that was made by petitioners.

14 Mr. Bourez, do you have an opinion on the
15 assertion regarding --

16 Well, I'll let you state that assertion again,
17 that point that you wanted to get to in terms of the
18 modeling that petitioners' presented.

19 MS. DES JARDINS: Well, more generally,
20 Mr. Bourez, I guess what I'm saying is you state that
21 with -- that there is -- that these water supply
22 index-demand index that it's trained and that it differs
23 from application to application. It's changed for
24 different -- there isn't a single standard WSI-DI that
25 used.

1 So, in some sense, the water supply -- the
2 reservoir operations assumptions are changing for both
3 the State Water Project and Central Valley Project
4 reservoirs.

5 CO-HEARING OFFICER DODUC: You've lost me
6 again. Go back. I asked -- I asked what was the main
7 point that you were trying to get to, not the details
8 but the main point that you are trying -- the
9 overarching point that you are trying to get to.

10 And you mention that there was an assertion
11 made by petitioners when they did the modeling that they
12 could not meet.

13 MS. DES JARDINS: They could not meet the 2010
14 flow criteria or some variant of it.

15 CO-HEARING OFFICER DODUC: Because?

16 MS. DES JARDINS: Because unacceptable impacts
17 on Oroville Reservoir.

18 CO-HEARING OFFICER DODUC: Do you have an
19 opinion on that, Mr. Bourez?

20 WITNESS BOUREZ: I don't have an opinion.

21 MS. DES JARDINS: Okay. Thank you.

22 WITNESS BOUREZ: I don't have an opinion on
23 that.

24 CO-HEARING OFFICER DODUC: Thank you.

25 MS. DES JARDINS: Okay. Let me go back to my

1 set of folders.

2 Yeah. That concludes my questions. Thank
3 you, Mr. Bourez.

4 CO-HEARING OFFICER DODUC: Thank you,
5 Ms. Des Jardins.

6 And unless someone else shows up, I believe
7 that concludes the cross-examination.

8 Mr. Lilly, your redirect? And I see that
9 you've taken off your tie.

10 MR. LILLY: I figured I better try to comport
11 to norms here.

12 --o0o--

13 REDIRECT EXAMINATION

14 MR. LILLY: I would like Mr. Baker to put on
15 the SWRCB 104. Yes, it will be Chapter 3 and page 3-83.
16 Scroll down right to there.

17 So, Mr. Easton, during some of the questioning
18 yesterday, some questions came up about the -- and just
19 for the record, this is -- this exhibit has been
20 identified before. But this is the final biological
21 assessment for California WaterFix project.

22 And, Mr. Easton, some questions came up
23 yesterday about the difference between the biological
24 assessments, proposed action, and spring Delta outflow
25 criteria versus the modeling assumption of that being

1 done as an EI ratio. Do you generally remember that
2 line of questioning?

3 WITNESS EASTON: Yes, I do.

4 MR. LILLY: And I think you said at that point
5 that you were shown a table which was page 3-88 and you
6 said that there was, in fact, some text earlier in the
7 document that described how the outflow criteria might
8 be implemented. And is this, in fact, the text you were
9 referring to?

10 WITNESS EASTON: So you're referring to the
11 top paragraph?

12 MR. LILLY: Yes, good question. The paragraph
13 that begins: "The proposed operational criteria are
14 described in the following sections and in Table 3.3-1."

15 WITNESS EASTON: Yes, it is.

16 MR. LILLY: Then could you just elaborate,
17 maybe referring to the appropriate parts of this
18 paragraph, why reading that and you concluded that the
19 spring outflow criteria might be implemented by methods
20 other than simply an EI ratio limitation?

21 WITNESS EASTON: So I'll start with -- you
22 want me to read directly from the paragraph?

23 MR. LILLY: That's okay. If you go slowly.

24 WITNESS EASTON: "To avoid a reduction in
25 overall abundance from longfin smelt, the PA includes

1 spring outflow criteria which are intended to be
2 provided by appropriate beneficiaries through the
3 acquisition of water from willing sellers.

4 "If sufficient water cannot be acquired for
5 this purpose, the spring outflow criteria will be
6 accomplished through operations of the CVP/SWP to the
7 extent an obligation is imposed on either SWP or CVP
8 under federal or applicable state law."

9 MR. LILLY: Based on that, what was your
10 conclusion regarding how these potential new Delta
11 outflow criteria might be implemented?

12 CO-HEARING OFFICER DODUC: Hold on before you
13 answer.

14 Mr. Berliner?

15 MR. BERLINER: While we did discuss the IE
16 ratio, we did not discuss the EI ratio. I'm not sure
17 where we're going here. My objection may be premature,
18 but since Mr. Lilly introduced this as an EI ratio, we
19 did not discuss that.

20 MR. LILLY: And I'm sorry if I misspoke. It
21 is referring to the same thing. I meant the IE ratio
22 and I stand corrected.

23 CO-HEARING OFFICER DODUC: All right. Thank
24 you.

25 WITNESS EASTON: Well, this paragraph clearly

1 defines it as a spring outflow criteria with no mention
2 of the SJR IE.

3 In a sentence where it says "will be
4 accomplished through operations of the CVP/SWP to the
5 extent an obligation is imposed on either SWP or CVP,"
6 to me, I read that and I see that the CVP/SWP have the
7 flexibility to meet this flow requirement, not just with
8 export -- not necessarily through the San Joaquin River
9 IE export constraint.

10 MR. LILLY: Just so we're all clear, what are
11 the other ways that the CVP and SWP could implement
12 these outflow criteria?

13 WITNESS EASTON: They could make additional
14 releases from upstream reservoirs. And they -- they
15 mention the purchase of water, but we did not model
16 that.

17 MR. LILLY: Then have you had discussions with
18 anybody at DWR or the Bureau of Reclamation regarding
19 this question of implementation of these Delta outflow
20 criteria?

21 WITNESS EASTON: We -- well, we were at a
22 reclamation meeting to discuss the BA modeling where the
23 implementation was discussed, yes.

24 MR. LILLY: And what -- what was the -- what
25 did the Bureau of Reclamation representative say about

1 implementation of these Delta outflow criteria?

2 WITNESS EASTON: A representative with
3 reclamation -- the consultant for reclamation, had
4 mentioned that the San Joaquin River and IE was, at that
5 time, when we were discussing the modeling, was a
6 mechanism for meeting the outflow, but it was also
7 considered an option that the reservoirs could be
8 operated to meet the outflow criteria.

9 MR. LILLY: Now I'm going to turn to you,
10 Mr. Bourez. And there were some questions this morning
11 about climate change from Mr. Berliner that I think need
12 some follow-up explanation.

13 I would like to ask you, in your opinion, what
14 is wrong with the petitioners using climate change in
15 their modeling?

16 WITNESS BOUREZ: The main problem I see with
17 the climate change modeling, it does not have adaptation
18 measures and the operation of the projects don't seem
19 realistic. That's -- and we've written several reports
20 that address that.

21 I also mentioned the issue with Folsom
22 operations, and we developed comments for the long-term
23 operations EIS/EIR regarding climate change specific to
24 Folsom and the American River operations.

25 And what we saw is when they impose climate

1 change, they impose it at the project reservoir so the
2 change in American River Basin hydrology would be
3 imposed at Folsom rather than all of the individual
4 reservoirs within the American River watershed.

5 And what that does, it doesn't capture the
6 reoperation of those upstream reservoirs. And this
7 affects both wetter years and very dry conditions. If
8 the dry years get drier, then we -- the upstream
9 reservoirs may also operate differently.

10 So -- so ignoring those upstream -- upstream
11 reservoirs would definitely skew the results.

12 So, you know, it's -- it's -- and these --
13 these reservoirs operate together in a lot of
14 circumstance. For example, if allocations to some of
15 the CVP contractors from Folsom and the American River
16 are decreased by the Bureau of Reclamation, there's
17 agreements for additional releases from upstream
18 reservoirs to meet those demands.

19 And there's also flood control in Folsom
20 dependent upon the upstream reservoirs storage
21 conditions.

22 And by only changing the inflow to Folsom and
23 not the operation of the upstream reservoirs, you have
24 inconsistent hydrology between the upstream reservoirs
25 and Folsom. And that skews the results. And that, at

1 times, could be significant for reservoirs like Folsom.

2 Other reservoirs such as Shasta, they don't
3 have that upstream storage. So you have different
4 issues there.

5 So there's these problems with climate change
6 and, you know, particularly the adaptation measures make
7 it difficult to be the only hydrologic data set to use
8 for analysis.

9 MR. LILLY: I think just on a general term, I
10 think that was a useful explanation.

11 But what exactly -- you talked about
12 adaptations. And for those of us who don't do this
13 stuff as much as you do, maybe if you could just explain
14 more generally. I think you may have talked about some
15 adaptations; but what, in general, are the types of
16 adaptations that the project operations might have to
17 make in response to climate change?

18 WITNESS BOUREZ: Well, I think there's two
19 types.

20 CO-HEARING OFFICER DODUC: Hold on,
21 Mr. Bourez.

22 Mr. Berliner?

23 MR. BERLINER: Object. This is beyond the
24 scope of the cross-examination. We discussed three
25 specific series of areas where Mr. Bourez cited

1 recommendations, and now we're going into all the world
2 of possibility. We never asked about that.

3 CO-HEARING OFFICER DODUC: Mr. Lilly?

4 MR. LILLY: I think that this is within the
5 scope because they basically were critiquing how MBK
6 treated climate change. And I think this is appropriate
7 to explain the situations to give more explanation for
8 why MBK did what they did.

9 CO-HEARING OFFICER DODUC: I agree it's an
10 outgrowth of that. I will allow Mr. Bourez to answer.

11 WITNESS BOUREZ: I'm sorry. Could you repeat
12 the question?

13 MR. LILLY: Yes. You referred to adaptations
14 and project operations in response to climate change.
15 You don't need to detail all of them.

16 What types of adaptations are you talking
17 about that potentially could occur in response to
18 climate change?

19 WITNESS BOUREZ: I think there's really two
20 types. One is more of a discretionary operation where
21 the balance between storage and use of that storage
22 within a year may change. If we're subject to change in
23 seasonal runoff and are exposed to longer term droughts,
24 there could be differences in that balance between
25 project storage and delivery in certain years.

1 Also, the requirements that we have -- State
2 Board requirements, flow requirements, biological
3 opinions -- have all been developed based on what we've
4 seen in the system and historical hydrology.

5 If we have some significant changes over time,
6 it's possible that those regulations may change to
7 protect -- I mean, if you can't meet those requirements
8 in the future or if different requirements are needed
9 for protection of fishery, then it's -- those could be
10 changed in the future. And that would be adaptation to
11 climate change or different hydrologic conditions.

12 MR. LILLY: So, in your opinion, how would
13 climate change properly be included in an analysis of
14 the effects of the Cal WaterFix project?

15 WITNESS BOUREZ: So if I were to do it -- and
16 I also want to state that I think the climate change
17 projections that were used in the California WaterFix
18 are a little bit outdated and the newer projections that
19 we've seen are significantly different than those
20 climate change predictions.

21 So with -- given that we're really not sure
22 where the climate is going and what's going to happen, I
23 don't believe that you should solely rely on climate
24 change for the only analysis. We don't know what's
25 going to happen, but we do know what has happened. And

1 that historical hydrologic trace should be used to
2 evaluate the project.

3 And I think that the climate change scenarios
4 are very important to understand how robust our
5 decisions are and what might happen in the future. So I
6 think you should really use both. Again, you should use
7 historically based hydrologic trace for a lot of reasons
8 that we've cited. But we should run the climate change
9 scenarios as a sensitivity analysis so we that make sure
10 that the decisions we're making are robust.

11 MR. LILLY: And did the petitioners submit any
12 exhibits or testimony that includes any such sensitivity
13 analysis?

14 WITNESS BOUREZ: I haven't seen where they --
15 no, I don't believe they've run any sensitivity analysis
16 with different climates. They've only run with the
17 early long-term in these submittals, and they have not
18 run the historical hydrologic trace.

19 MR. LILLY: I take it the earlier long-term
20 runs do not include the adaptations that you described
21 and believe are appropriate?

22 WITNESS BOUREZ: That's correct.

23 MR. LILLY: Why did you not include climate
24 change in modeling you have submitted for this
25 proceeding?

1 WITNESS BOUREZ: Well, there's a couple
2 reasons. One, we didn't come up with the adaptation
3 measures that we believe are necessary to really operate
4 with climate change. And we believe we got a -- a
5 better depiction or idea of what could happen with -- by
6 using historically based hydrologic data sets.

7 MR. LILLY: Do you have an opinion as to
8 whether including some kind of recognition or analysis
9 of climate change would change the conclusions that you
10 have described regarding the effects of the Cal WaterFix
11 project?

12 WITNESS BOUREZ: I think some of our basic
13 conclusions would remain the same. And those are the
14 export estimate issues that we described with -- would
15 remain, whether we had climate change or not, and the
16 effect of those would be similar. The effect of joint
17 point of diversion limitations would be similar. And
18 the balancing of San Luis, use of the San Luis rule
19 curve would be similar.

20 However, some of the changes in reservoir
21 storages, if those storage levels were lower or higher,
22 it could change some of the water supply reliability
23 maybe for the Folsom diverters, but it could also change
24 reliability for cold water pool. So -- and those would
25 be different under different climate change scenarios.

1 OCTOBER 21, 2016 AFTERNOON SESSION 1:00 P.M.

2 --o0o--

3 CO-HEARING OFFICER DODUC: All right,
4 everyone. Please find a seat. It is 1:00 o'clock, and
5 we are resuming.

6 Mr. Berliner or Mr. Mizell, does the
7 department wish to conduct recross?

8 MR. BERLINER: We have no recross for this
9 witness.

10 CO-HEARING OFFICER DODUC: Ms. Aufdemberge?

11 MS. AUFDEMBERGE: This is Amy Aufdemberge for
12 interior. We have no cross. Thank you.

13 CO-HEARING OFFICER DODUC: Let me do it the
14 easy way. Who is here that conducted cross and would
15 like to conduct recross?

16 Ms. Des Jardins, please come up on.

17 MS. DES JARDINS: This will be on the topics
18 of Mr. Lilly's redirect. I'm Deirdre Des Jardins.

19 Can we go ahead and open this up?

20 --o0o--

21 REXCROSS-EXAMINATION

22 MS. DES JARDINS: Mr. Bourez, you participate
23 regularly in California Water and Environmental Modeling
24 Forum; is that correct?

25 WITNESS BOUREZ: I participated but not so

1 regularly.

2 MS. DES JARDINS: Okay. Well, I'd like to go
3 to -- this was a presentation by Francis Chung, who is
4 the principal engineer with the Department of Water
5 Resources, I believe, and it also pertains to climate
6 change.

7 Can we go to page 12 of this document?

8 And so this problem -- you saw this as well
9 with dead storage. This goes back to the early -- early
10 days of --

11 CO-HEARING OFFICER DODUC: Hold on.

12 Mr. Berliner?

13 MR. BERLINER: I have an objection. This is
14 beyond the scope of redirect.

15 CO-HEARING OFFICER DODUC: I was wondering,
16 too.

17 Ms. Des Jardins, where are you going with
18 this?

19 MS. DES JARDINS: I would like to say I think
20 it is relevant that Francis Chung also recommended that
21 the department develop a reoperation strategy for the
22 reservoirs prior to release of the BDCP modeling.

23 CO-HEARING OFFICER DODUC: I don't believe
24 that was in the scope of Mr. Bourez' redirect.

25 MS. DES JARDINS: Okay. I would say --

1 CO-HEARING OFFICER DODUC: You would ask?

2 MS. DES JARDINS: So it is a serious future
3 problem with climate change, how the projects are going
4 to operate with increased outflow needs due to sea level
5 rise and increased demands and area of origin; is that
6 not correct?

7 WITNESS BOUREZ: I believe --

8 CO-HEARING OFFICER DODUC: Hold on.

9 Mr. Berliner?

10 MR. BERLINER: Object again. That's beyond
11 the scope of the direct.

12 MS. DES JARDINS: Okay. So it is an issue of
13 how the projects are going to operate in the future, and
14 that was an issue with the modeling that you saw that
15 it's -- do you think it's an open question about how the
16 projects are going to operate or would we -- are you
17 assuming that there's going to be some appropriate
18 adaptation?

19 CO-HEARING OFFICER DODUC: Mr. Bourez'
20 redirect clarified some of the reasons why they don't
21 believe the climate change analysis that was conducted
22 by petitioners was adequate.

23 Mr. Bourez also pointed out some of the
24 weaknesses, things the just -- why he thought it was not
25 adequate, because he didn't address things such as

1 adaptation measures and it wasn't realistic.

2 His testimony was quite general in nature. So
3 I'm trying to understand where you're going with this.

4 MS. DES JARDINS: I was just trying to get
5 Walter's opinion. It's a pity I can't compare to
6 another engineer's opinion, but modelers are faced with
7 a question when looking at future conditions, you know:
8 Is -- is this an appropriate -- is this a real effect or
9 is this something that the system would adopt to?

10 CO-HEARING OFFICER DODUC: Are you talking
11 about climate change in particular?

12 MS. DES JARDINS: The dead pool conditions in
13 particular. So I was trying to clarify more with
14 Walter.

15 As a modeler, not as a system operator, but as
16 a modeler, when you see the dead pool conditions, is
17 your assessment that that's a realistic assumption about
18 future -- future operations when you saw the dead pool
19 conditions in --

20 CO-HEARING OFFICER DODUC: Mr. Berliner?

21 MR. BERLINER: I'm going to object again.
22 This came up during the case in chief discussions, but
23 this did not come up in redirect.

24 CO-HEARING OFFICER DODUC: Ms. Des Jardins,
25 you need to focus on what Mr. Bourez testified on

1 redirect by Mr. Lilly. This is not to open the entire
2 cross-examination process over again.

3 MS. DES JARDINS: I was just trying to focus
4 on climate change. And I believe Mr. Lilly asked
5 Mr. Bourez about why -- he didn't include climate
6 change, and there was a question about...

7 Mr. Bourez, Mr. Lilly asked you some of the
8 reasons why you didn't include climate change. Was one
9 of them this question about future operations under
10 climate change?

11 CO-HEARING OFFICER DODUC: Is that future
12 operations were not certain and adaptations had not been
13 developed to reflect that as part of the modeling?

14 WITNESS BOUREZ: That's correct.

15 MS. DES JARDINS: Thank you. That concludes
16 my cross-examination.

17 CO-HEARING OFFICER DODUC: Thank you,
18 Ms. Des Jardins.

19 Mr. Lilly, I'm going to ask that you wait
20 until entire Group 7 completes its entire case in chief.

21 MR. LILLY: I will follow the hearing
22 officer's direction. And I do want to appreciate
23 everybody's attention and insightful questions both
24 yesterday and today. Thank you very much.

25 CO-HEARING OFFICER DODUC: Thank you,

1 Mr. Lilly.

2 We will now move to Panel No. 2 from Group 7.

3 Thank you, Mr. Bourez and Mr. Easton.

4 Mr. Van Camp, before you get too comfortable,
5 please remain standing, and raise your right hand.

6 MARC VAN CAMP,

7 called as a witness by the Respondents, having
8 been first duly sworn, was examined and
9 testified as follows:

10 CO-HEARING OFFICER DODUC: Thank you.

11 MS. NIKKEL: Good afternoon. My name is
12 Meredith Nikkel. I'm an attorney with Downey Brand,
13 here on behalf of the group of protestants conveniently
14 called the Sacramento Valley Group. This group is made
15 up of numerous protestants all of which are part of but
16 not the entirety of the similarly named Sacramento
17 Valley Water Users.

18 The purpose of this panel of just
19 Marc Van Camp is limited to introducing the water rights
20 and use of those rights for the protestants of the
21 Sacramento Valley Group as well as RD 1004.

22 And Dustin Cooper is here on behalf of the
23 RD 1004.

24

25

1 through SVG-25-037 contain true and correct copies of
2 the water rights claimed and held by protestants of the
3 Sacramento Valley Group as reflected in those exhibits
4 or in documents on file with the State Water Board and
5 the use of those rights?

6 WITNESS VAN CAMP: Yes, they do.

7 --o0o--

8 DIRECT EXAMINATION

9 MR. COOPER: Good afternoon.

10 Dustin Cooper on behalf of Reclamation
11 District No. 1004. Mr. Van Camp is also offering
12 testimony on behalf of RD 1004.

13 Before going through a similar exercise, I
14 would like to incorporate the opening statement by
15 Mr. Lilly of the Sacramento Valley Water Users for
16 RD 1004.

17 Mr. Van Camp, if I could direct your attention
18 to the exhibit that's been marked as MLF-100. And let
19 me know when you've had a chance to pull that up.

20 WITNESS VAN CAMP: I have.

21 MR. COOPER: Is this a true and correct copy
22 of your testimony on behalf of the Reclamation District
23 No. 1004?

24 WITNESS VAN CAMP: Yes, it is.

25 MR. COOPER: Would you please turn to

1 Exhibit MLF-101.

2 WITNESS VAN CAMP: Okay.

3 MR. COOPER: Is Exhibit MLF-101 a true and
4 correct copy of your resume and professional
5 qualifications?

6 WITNESS VAN CAMP: Yes, it is.

7 MR. COOPER: If I could direct your attention
8 to the documents that have been identified as Exhibits
9 MLF-102 through 165. Only through 165 for this
10 question.

11 WITNESS VAN CAMP: Okay.

12 MR. COOPER: Are Exhibits MLF-102 through 165,
13 MLF-165, true and correct copies of Reclamation District
14 1004's statements of diversion and use and supplemental
15 statements under water rights held by the district for
16 the years 2010 through 2014?

17 WITNESS VAN CAMP: Yes.

18 MR. COOPER: If I could now direct your
19 attention to the exhibits identified as MLF-166 through
20 188.

21 WITNESS VAN CAMP: Okay.

22 MR. COOPER: Are those true and correct copies
23 of the water right licenses and permits, as well as
24 reports under those licenses and permits, as well as
25 the -- a true and correct copy of the settlement

1 agreement that the Reclamation District No. 1004 holds
2 with the United States?

3 WITNESS VAN CAMP: Yes. Along with the
4 monthly diversions reported by reclamation.

5 MR. COOPER: Thank you.

6 MS. NIKKEL: Mr. Van Camp, will you please
7 take a moment and summarize your written testimony in
8 Exhibits MLF-100 and SVG-01-001.

9 WITNESS VAN CAMP: Certainly.

10 As Ms. Nikkel presented, the purpose is simply
11 to document and identify the water rights on file by
12 these protestants for this proceeding for the Sacramento
13 Valley Group in addition to RD 1004. To also identify
14 the water use under those water rights for the years
15 2010 through 2014.

16 In the case of the use of water pursuant to
17 the contracts that many of these water right holders
18 have with reclamation or with DWR, I have water use
19 through 2015.

20 I also identified -- because of our
21 familiarity and involvement with the water transfers, I
22 have identified the quantities of water transfers by
23 each of these water right holders and protestants from
24 2010 through 2015.

25 In developing this testimony for these

1 protestants of the Sac Valley Group and RD 1004 -- well,
2 for the Sac Valley Group, I elected to group them by
3 similar categories.

4 Those categories -- the first category is what
5 I refer to or what's commonly referred to as Sacramento
6 River settlement contractors.

7 So in addition to the water rights held with
8 your agency, they have what is referred to as a
9 settlement contract with the Bureau of Reclamation.
10 That also pertains to RD 1004.

11 The second group is consistent of one, meaning
12 Sutter Extension Water District. And in addition to the
13 numerous water rights it holds, it also has an agreement
14 with the Department of Water Resources which generally
15 is similar to the Sac River settlement contracts.

16 The third group of entities or protestants
17 within my testimony are those that do not hold contracts
18 or may have a contract with reclamation but not in the
19 form of a settlement contract but hold numerous water
20 rights. And many of them include storage facilities and
21 have the water rights for those storage facilities.

22 So I have detailed that for each of these
23 protestants. I don't think for the purpose of this
24 proceeding and for efficiency I need to go through each
25 one of them. They are very similar in nature.

1 CO-HEARING OFFICER DODUC: Thank you.

2 WITNESS VAN CAMP: I refer to your files --
3 refer to your files rather than providing paper copies
4 when possible.

5 MS. NIKKEL: And that can concludes our direct
6 examination.

7 CO-HEARING OFFICER DODUC: Thank you.
8 You are also finished as well, Mr. Cooper?

9 MR. COOPER: Yes.

10 CO-HEARING OFFICER DODUC: All right.

11 Group No. 1, Department of Water Resources.

12 Actually, while Mr. Mizell is getting set up,
13 let me do a quick check.

14 How many parties intend to cross-examine
15 Mr. Van Camp, just by a show of hands.

16 Just Ms. Des Jardins, then. All right.

17 I'm sorry. Did I miss you, Mr. Jackson?

18 MR. JACKSON: No, you didn't.

19 CO-HEARING OFFICER DODUC: Okay.

20 Mr. Mizell, estimated time and --

21 MS. NIKKEL: I would expect to be 30 minutes
22 or less.

23 CO-HEARING OFFICER DODUC: All right.

24 Please begin.

25

1 --o0o--

2 CROSS-EXAMINATION

3 MR. MIZELL: Mr. Van Camp, thank you for
4 coming in today to answer questions.

5 I'll be asking rather similar questions both
6 about the Sac Valley Group exhibits and the MLF exhibits
7 so bear with me. I'll separate them out so that we
8 don't get confused in the record.

9 Did you draft what has been marked as
10 Exhibit SVG-01-001?

11 WITNESS VAN CAMP: Yes, I did.

12 MR. MIZELL: And did you draft what has been
13 marked as Exhibit MLF-100?

14 WITNESS VAN CAMP: Yes, I did.

15 MR. MIZELL: Okay. And did anyone assist you
16 in drafting the testimony SVG-01-001?

17 WITNESS VAN CAMP: I had communication with
18 folks in my office, but I was the one that drafted it.

19 MR. MIZELL: Similar question: Did anyone
20 assist you in drafting the testimony of MLF-100?

21 WITNESS VAN CAMP: Same answer.

22 MR. MIZELL: Okay. Did you rely upon
23 Mr. Donald Kingman to draft the testimony SVG-01-001?

24 WITNESS VAN CAMP: No, I did not.

25 MR. MIZELL: Okay. Similarly, did you rely on

1 Donald Kingman to draft MLF-100?

2 WITNESS VAN CAMP: No, I did not.

3 MR. MIZELL: Can you please confirm the
4 primary purpose of your testimony is to identify and
5 provide a description of the water rights held by each
6 of the parties listed in those two exhibits?

7 WITNESS VAN CAMP: Yes. The primary purposes
8 is just to document the water rights, the water use, in
9 addition to the contracts held.

10 MR. MIZELL: So I understand correctly that
11 you're familiar with all of the contracts identified in
12 those two exhibits?

13 WITNESS VAN CAMP: I am familiar with the form
14 of contract and work with them on a regular basis, yes.

15 MR. MIZELL: Do you agree that the contract
16 between the joint boards and the Department of Water
17 Resources is a settlement agreement?

18 WITNESS VAN CAMP: I believe the agreement
19 refers to the water rights. I believe it's a form of a
20 settlement agreement, yes.

21 MR. MIZELL: So is it true that the settlement
22 agreement marked as SVG-20-72 does not change or modify
23 the parties' water rights except for a change in point
24 of diversion agreed to on July 6, 1964?

25 WITNESS VAN CAMP: Mr. Mizell, I believe

1 you're referring -- actually refers to a portion of my
2 testimony on page 12.

3 MR. MIZELL: There's an exhibit marked as
4 SVG-20-72 that I believe is previously marked DWR-329.

5 And if, Mr. Baker, you could bring up either
6 one, I guess, DWR-329, pages 19 and 20.

7 You could see the text that I'm actually
8 referring to. So pages 19 and 20, looking for paragraph
9 number 11. I'll give you a moment to read that.

10 WITNESS VAN CAMP: Further down as well,
11 Mr. Mizell?

12 MR. MIZELL: No. I think up to the end of the
13 first sentence would be fine.

14 WITNESS VAN CAMP: I have read it.

15 MR. MIZELL: So is it true that this sentence
16 states that this settlement agreement does not change or
17 modify the parties' water rights except for a change in
18 point of diversion agreed to on July 6th, 1964?

19 WITNESS VAN CAMP: That is what it says.

20 MR. MIZELL: Okay. In fact, your testimony --
21 going back to SVU-01-001 [sic], page 12, your testimony
22 states that the 1969 agreement that we've just been
23 reviewing provides that water diverted under the
24 agreement shall be deemed diverted under the joint
25 district's water rights; is that correct?

1 WITNESS VAN CAMP: Yes.

2 MR. MIZELL: More generally now, do any of the
3 contracts with the State of California for the contract
4 holders listed in your testimony, either the SVG-01-001
5 or the MLF-100, do any of those contracts with the
6 department provide for rights to storage in any state
7 facility?

8 MS. NIKKEL: Objection. Calls for a legal
9 conclusion.

10 CO-HEARING OFFICER DODUC: Mr. Mizell is
11 asking for the content of that contract.

12 Do you have that information? Do you have
13 that knowledge, Mr. Van Camp? Not an interpretation,
14 but whether the contract contains that language?

15 WITNESS VAN CAMP: Not specifically. I'm
16 aware the contracts call for quantities of water.

17 Mr. Mizell, I'd ask you to be a little more
18 clear. The only state contract is the one held by
19 Sutter Extension Water District.

20 MR. MIZELL: Did any of the contracts with the
21 United States afford those contractors to storage in a
22 federal facility?

23 MR. LILLY: Same objection.

24 CO-HEARING OFFICER DODUC: Answer if you can,
25 Mr. Van Camp. If it's beyond your expertise, you may

1 say so.

2 WITNESS VAN CAMP: I will provide my position
3 from an technical engineer standpoint in dealing with
4 those contracts. There are water rights settlement
5 contracts. So that to the extent the water rights are
6 deficient, the contracting entity has agreed to
7 supplement those water rights, likely with stored water,
8 to provide the contract quantities defined in those
9 contracts.

10 MR. MIZELL: Okay. When you use the word
11 "likely from stored water," that's in anticipation, a
12 speculation, as to what might happen in the future or
13 not necessarily spelled out explicitly in the text that
14 you're aware of?

15 WITNESS VAN CAMP: From my experience in the
16 development of the Sacramento River settlement contract,
17 studies were performed to arrive at an estimated
18 quantity of water that would be needed available to
19 supplement those water rights.

20 MR. MIZELL: I think I've covered all my
21 points actually. So thank you very much.

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

24 Ms. Des Jardins.

25 Ms. Des Jardins, your time estimate?

1 MS. DES JARDINS: This should be 15 minutes,
2 tops.

3 CO-HEARING OFFICER DODUC: And your focus
4 area?

5 MS. DES JARDINS: I wanted to ask about the --
6 when the settlement contracts were signed and what were
7 the conditions under which they were signed.

8 And then I want to ask about the amounts and
9 rates of diversion under the contracts that are done
10 under the bureau's permit.

11 CO-HEARING OFFICER DODUC: Ms. Des Jardins,
12 you need to get closer to the microphone.

13 MS. DES JARDINS: I apologize. I seem to have
14 a problem with hoarseness.

15 --o0o--

16 CROSS-EXAMINATION

17 MS. DES JARDINS: Mr. Van Camp, a number of
18 the settlement contracts were signed around 1964; is
19 that correct?

20 WITNESS VAN CAMP: That is correct.

21 MS. DES JARDINS: Originally?

22 And that was done as a result of Decision 990?
23 Are you aware of that history?

24 WITNESS VAN CAMP: I am.

25 MS. DES JARDINS: Quickly go ahead and open to

1 Decision 990. I want to go to page 86.

2 MR. BAKER: Before you do that, you have
3 labeled it DDJ-97.

4 Sorry. If I can mark it as DDJ-97.

5 MR. BAKER: No. You marked an earlier cross
6 exhibit as DDJ-97.

7 MS. DES JARDINS: Oh, no.

8 MR. BAKER: This is a different document.

9 MS. DES JARDINS: Let's make it DDJ-98, then.
10 I won't wreck that. Thank you.

11 So I believe page 86 -- let's look at Term 23.
12 That's correct, page 86. Roll up stop.

13 Term 23, I believe this is the term under
14 which your contracts were signed. "The export of stored
15 water under permits issued pursuant to
16 Applications 5626, 9363, and 9364 outside the watershed
17 of Sacramento River Basin or beyond the
18 Sacramento-San Joaquin Delta shall be subject to the
19 reasonable beneficial use of said stored water within
20 said watershed and Delta, both present and prospective,
21 provided, however, that agreements for the use of said
22 stored water are entered into with the United States
23 prior to March 1st, 1964, by parties currently diverting
24 water from Sacramento River."

25 And it continues for prior to 1971 for the

1 Sacramento San Joaquin Delta.

2 But, Mr. Van Camp, is it your understanding
3 that the contracts were signed under this permit term of
4 Decision 990?

5 WITNESS VAN CAMP: It may be difficult for me
6 to decide or to state how they were signed under -- but
7 clearly this was direction provided by this board to the
8 Bureau of Reclamation for a permit to operate the
9 Central Valley Project.

10 MS. DES JARDINS: And is it your understanding
11 that those contracts were signed in part in
12 consideration of that -- of beneficial use of stored
13 water within the Sacramento Valley?

14 MS. NIKKEL: Object. Vague and ambiguous as
15 to what "consideration" means.

16 MS. DES JARDINS: Maybe I'm not a water rights
17 attorney. So there were area of origin statutes. Are
18 you aware of how those intersect with the settlement
19 contracts?

20 MS. NIKKEL: Object, again, as to vague and
21 ambiguous as to the words "intersect with."

22 MS. DES JARDINS: All right. If here's
23 something...

24 I'd like to go to page 84. And scroll back
25 up. I'm looking for permit Term 14.

1 The other thing I wanted to ask: There was a
2 reporting requirement. In this decision, it says: "No
3 directed diversion or rediversion of stored water for
4 beneficial use under permits issued pursuant to
5 Applications 5626, 9363," yadda yadda -- "other than
6 through the conduits or canals hereinafter named in this
7 paragraph, shall be made until a description of the
8 location of each point of diversion and a statement of
9 the quantity of water to be diverted is filed with the
10 State Water Rights Board."

11 And it lists project canals.

12 Is it your understanding that the bureau filed
13 statements of -- of points of rediversion of stored
14 water under your contracts with this board, or is there
15 a record of that, the location and the quantity of water
16 to be diverted?

17 MS. NIKKEL: I'm going to object as to
18 mischaracterizing the testimony. The entities here do
19 not have contracts with this board.

20 MS. DES JARDINS: No. This is --
21 When you divert stored water, are you
22 diverting under your permit or the board's permit?

23 MS. NIKKEL: Object. Vague and ambiguous as
24 to "you." I'm not sure who we're talking about.

25 MS. DES JARDINS: Reclamation District 1008

1 diverts stored water under the contract -- or is that
2 under Reclamation District 108's water right or the
3 bureau's?

4 MS. NIKKEL: Sorry. I heard two. Are we
5 talking about RD 1004 or 108?

6 MS. DES JARDINS: I believe it's RD 1008, but
7 maybe I am not correctly recollecting.

8 MS. NIKKEL: This is testimony. There's an
9 RD 108 and RD 1004.

10 MS. DES JARDINS: All right. Let's try 1004.

11 WITNESS VAN CAMP: Let me try to give you a
12 general understanding of how the reporting goes.

13 CO-HEARING OFFICER DODUC: Before you do that,
14 help me understand, Ms. Des Jardins, again, what is the
15 broader context of where you're going with this line of
16 questioning? What is it that you're trying to get at?

17 MS. DES JARDINS: California Code of
18 Recollections, Title 23, 794, requires information under
19 terms -- under Subdivision 6 requires the information on
20 diversion and this term also was rediversion of stored
21 water.

22 And I'm just trying to find out about -- if
23 there's -- about if there's statements of the amount of
24 water being rediverted under the bureau's permits.
25 There's many different settlement contractor locations

1 and the peak rates of diversion. And I believe it is
2 relevant to this proceeding as cumulatively as a lot of
3 diversions of stored water.

4 CO-HEARING OFFICER DODUC: Ms. Nikkel?

5 MS. NIKKEL: I think I heard a Code of
6 Regulation section in there, 794. And I don't have my
7 code in front of me, but I believe that's the section
8 that refers to the information that must be in the
9 petition.

10 And we're not here offering any sort of
11 petition for change, rather, we have submitted protests
12 in this proceeding.

13 So I don't see how this witness could answer a
14 question about a petition we did not file.

15 MS. DES JARDINS: I'm not asking him to answer
16 questions about a petition. I can just ask you instead.

17 But let me go first -- I would like to
18 ascertain -- but let me give you some specifics.

19 Let's go to Provident Irrigation District.

20 So Provident Irrigation District signed a
21 settlement contract with the Bureau of Reclamation and
22 I'd like to ask you, specifically: Did -- to your
23 knowledge, was the location and the amount of diverted,
24 did you ever -- do you have any knowledge that the
25 statement and the location under this permit form was

1 filed with the board?

2 And I understand that's a responsibility of
3 reclamation. I'm just asking if you have any knowledge
4 about it. And I understand that you report separately
5 under your own water rights.

6 WITNESS VAN CAMP: You are correct.

7 The individual districts file their water use
8 statements with this board on their diversions under
9 their water rights, and they refer to their Sac River
10 settlement contract.

11 Reclamation files their own reports of water
12 use, and I have not analyzed the bureau's reports of
13 water use.

14 MS. DES JARDINS: Okay. Thank you.

15 The other thing I'd like to ask, for example,
16 with Provident, you have a contract and it specifies a
17 base amount and a, quote/unquote, project amount. But
18 I -- my understanding is that, depending upon the actual
19 flows, you may be -- the bureau could be required to
20 provide up to the entire contract amount, not just --
21 not just what is called the project amount.

22 Is that your understanding as well,
23 Mr. Van Camp?

24 WITNESS VAN CAMP: I will provide you my
25 understanding from the experience I've had with the

1 Sac River contracts, renewals of those contracts.

2 Studies were undertaken back in the '50s,
3 often referred to as 1956 studies.

4 The deficiencies of water rights changes on a
5 regular basis, every year. Hopefully, most years
6 they're fulfilled with natural flow.

7 For the purpose of ease of these contracts,
8 the contractors and the Bureau of Reclamation negotiated
9 average deficiencies. And that is what's represented in
10 the contracts in quantity of base supply and a quantity
11 of project water or otherwise would be the deficiency of
12 the water rights.

13 It would be difficult for the bureau to, I
14 believe, administer those contracts on a regular annual
15 basis. So the purpose of those contracts was to do it
16 on an average basis and have a payment based on that
17 assumed average deficiency.

18 You're right. In any one year, the deficiency
19 of the water right may be less or more.

20 CO-HEARING OFFICER DODUC: Ms. Des Jardins,
21 help me understand the relevance of your question to the
22 WaterFix petition that is before us.

23 I'm struggling to determine the value of this
24 cross-examination and this line of questioning.

25 MS. DES JARDINS: The question regards what

1 the peak diversions under the bureau's permits will be,
2 and it is relevant to the overall questions before this
3 board. Unless --

4 CO-HEARING OFFICER DODUC: Go ahead,
5 Ms. Nikkel, jump in.

6 MS. NIKKEL: I'm not sure how the questions
7 relate to that topic.

8 MS. DES JARDINS: I'm trying to determine what
9 both the peak market -- so he's clarified that there's
10 an average deficiency that's in the contracts.

11 And my next question is going to be that in
12 terms of a -- like Natomas Mutual Water Company, I
13 believe, has a post-1914 right. So that in the
14 circumstance of curtailment of that right, then Natomas
15 would have the right to have the entire deficiency made
16 up of stored water and ask if that was your
17 understanding of the contracts.

18 MS. NIKKEL: I guess I still don't see how
19 that question relates to the issue of the peak diversion
20 under the project.

21 CO-HEARING OFFICER DODUC: And neither do I.

22 MS. DES JARDINS: Then let me ask --

23 CO-HEARING OFFICER DODUC: Ms. Des Jardins,
24 before you throw the whole due process at me again, yes,
25 you do have the right to conduct cross-examination, but

1 your cross-examination must be relevant to the petition
2 before us, and it must add value to the record, and it
3 must help us better understand the issues before us.

4 I have struggled with your cross-examinations,
5 and I need you to provide that clear linkage before I
6 will allow you to continue.

7 MS. DES JARDINS: Am I allowed to propose a
8 different line of questioning? Because that's what I
9 was going to do. I wanted to ask about the rates of
10 diversion under the contracts.

11 CO-HEARING OFFICER DODUC: The rates of
12 diversion under the contracts?

13 MS. DES JARDINS: Yes.

14 CO-HEARING OFFICER DODUC: That would be
15 diversion by the projects?

16 MS. DES JARDINS: My understanding is that the
17 stored water is rediverted under -- under the bureau by
18 the settlement contractors under the bureau's right.
19 And it was for that reason that your example in the 2014
20 curtailment, there was a number which was the most
21 extreme example -- there were a number of settlement
22 contractors who were curtailed but their contract
23 specifies that the bureau will make it up.

24 And I raised the question then because I
25 looked at Sacramento Valley very closely. And I said

1 how can you do this if they're curtailed?

2 But I believe they're allowed to divert
3 under the stored water right. And so I believe that --
4 that's what I'm not getting clarification on. But I
5 believe these are all diversions of stored water under
6 the bureau's water right. I believe the bureau asserted
7 very strongly that nobody has a right to divert stored
8 water except under the water rights.

9 CO-HEARING OFFICER DODUC: Ms. Nikkel?

10 MS. DES JARDINS: That is where -- unless
11 they're willing to stipulate that the settlement
12 contractors are diverting abandoned water, but I don't
13 think that's the case.

14 CO-HEARING OFFICER DODUC: Ms. Nikkel and then
15 Mr. Berliner.

16 MS. NIKKEL: I still don't see the relevance
17 to this proceeding. I understand the questions are
18 about the bureau's water rights and the use of those
19 rights, but that has nothing to do with the change in --
20 the proposed change in point of diversion.

21 CO-HEARING OFFICER DODUC: Mr. Berliner?

22 MR. BERLINER: Same objection.

23 CO-HEARING OFFICER DODUC: Ms. Des Jardins, do
24 you have a different line of questioning that is
25 relevant to the issue in --

1 MS. DES JARDINS: I'm trying to read, but I
2 don't find -- Title 23, California Code of Regulations
3 very clearly states that information on rates of
4 diversion would be supplied.

5 I didn't see it in the petitioners'
6 application.

7 CO-HEARING OFFICER DODUC: Yes, by the
8 petitioner. These are not petitioners before us.

9 MS. DES JARDINS: I was just trying to get
10 some information in the absence of that information
11 being supplied, but I'm willing to stop.

12 CO-HEARING OFFICER DODUC: Thank you.

13 MS. DES JARDINS: Thank you.

14 CO-HEARING OFFICER DODUC: Any further
15 relevant, meaningful, substantive, helpful
16 cross-examination?

17 Not seeing any other volunteers.

18 Ms Nikkel, Mr. Cooper, does that conclude?

19 MS. NIKKEL: That concludes. We have no
20 redirect.

21 MR. COOPER: Yes.

22 CO-HEARING OFFICER DODUC: And I will again
23 ask you to wait until the conclusion of all the panels
24 for Group 7 before introducing your exhibits.

25 MS. NIKKEL: Thank you.

1 CO-HEARING OFFICER DODUC: We are moving
2 quicker than anticipated. I don't see Panel 3 in the
3 audience. I think we may be adjourning today.

4 Mr. Hitchings, I'm so pleased to see that I
5 have corrupted you enough that you have taken off your
6 tie.

7 MR. HITCHINGS: Your point is well taken.

8 CO-HEARING OFFICER DODUC: And I see only one
9 other tie in this room, which I will now have to work
10 on.

11 Oh, two.

12 MR. HITCHINGS: You may be getting to this,
13 Hearing Officer Doduc, but the next two panels, they're
14 coming from Northern California, two- to three-hour
15 drive for each witness.

16 It would be very helpful particularly for
17 Panel 4 if we could get some estimate as to how long we
18 think Panel 3 will take, and that will help with the
19 Tuesday/Wednesday hearing scheduling.

20 CO-HEARING OFFICER DODUC: I see that, and I
21 see that your Panels 5, 6, and 7, you have some specific
22 dates being requested?

23 MR. HITCHINGS: Yes. And Mr. Bezerra can
24 speak to the availability for witnesses on those panels.

25 CO-HEARING OFFICER DODUC: Let's talk about

1 Panel No. 3.

2 Who's in charge of Panel No. 3?

3 MR. COOPER: That would be myself and

4 Mr. Hitchings.

5 CO-HEARING OFFICER DODUC: We will start with

6 Panel No. 3 on Tuesday, Byron Sher Auditorium. How much

7 time do you anticipate for direct?

8 MR. COOPER: No more than 30 minutes.

9 CO-HEARING OFFICER DODUC: Show of hands?

10 Those at this time thinking they might conduct

11 cross-examination?

12 Okay. So I'm guessing at least one day.

13 Panel No. 4, you don't think it will take a

14 whole day?

15 MR. HITCHINGS: That would also be a panel

16 that Mr. Cooper and I will be conducting direct on. I

17 think that would probably be maybe 40 minutes of direct.

18 CO-HEARING OFFICER DODUC: Will they be

19 available on Tuesday, as well?

20 MR. COOPER: Yes. With the exception of

21 Mark Orme. Mr. Orme is not available until Friday.

22 CO-HEARING OFFICER DODUC: Okay.

23 MR. COOPER: What I would propose is we go

24 ahead with the panel, and then we can trail Mr. Orme to

25 a later date when it's convenient.

1 CO-HEARING OFFICER DODUC: Mr. Berliner, I see
2 you there.

3 MR. BERLINER: We don't think that our
4 cross-examination will take a considerable amount of
5 time. So it seemed to us that it would be reasonable to
6 expect these two panels could get done on Tuesday.
7 Depending on direct, but cross-examination will be
8 pretty standard routine so -- and fairly repetitious, I
9 believe.

10 CO-HEARING OFFICER DODUC: Thank you,
11 Mr. Berliner.

12 Now, my understanding is that your Panels 5,
13 6, and 7 will not be available until November 3rd; is
14 that correct?

15 MR. BEZERRA: Ryan Bezerra for Roseville.

16 No, actually, we were just trying to
17 coordinate those into those dates. Those were the dates
18 that at the time we sent the letter we thought would
19 work. We think we can probably arrange for at least one
20 of those panels to be here on Wednesday. We have some
21 childcare issues. We have people leaving town. We have
22 a variety of issues coordinating all those witnesses. I
23 believe we're pretty sure we can get at least one panel
24 here on Wednesday.

25 CO-HEARING OFFICER DODUC: And the others on

1 Thursday and Friday?

2 MR. BEZERRA: Depending on cross-examination,
3 we may be able to do more than one on Wednesday. I
4 don't know what the cross is planned for each of those
5 three panels.

6 CO-HEARING OFFICER DODUC: Mr. Berliner, might
7 you give us some clue?

8 MR. BERLINER: So these panels are
9 substantially different between the three of them, and
10 so it would be very helpful to know which ones you're
11 anticipating for which days.

12 CO-HEARING OFFICER DODUC: Panel 6 is -- well,
13 let me refer back to the attorneys representing those
14 panels.

15 MS. BUCKMAN: Ms. Buckman for the panel.

16 So the Folsom diverters panel needs to go on
17 Wednesday, if possible, starting no earlier than 10:00
18 in order to accommodate the childcare dropoff.

19 And so we would be looking for them on
20 Wednesday: The Folsom diverters, Roseville, San Juan,
21 Folsom.

22 And Placer County Water Agency, Mr. Maisch is
23 in Spain. But we spoke with -- this morning with the
24 attorneys for Placer County Water Agency, and Mr. Fecko
25 can step in for Mr. Maisch on the panel. And Mr. Maisch

1 will make himself available for any further discussion
2 people want to have with him when he returns to the
3 country.

4 MR. BERLINER: We don't have a time estimate
5 at this point for the Placer County Water Agency
6 witness, but we would imagine it will be --

7 CO-HEARING OFFICER DODUC: This is why I said
8 no to a scheduling meeting. It's just too difficult to
9 project, especially with the number of parties, and, you
10 know, how much cross-examination will take and all that.

11 So let's just aim to complete Group 7 next
12 week assuming that your -- your witnesses are available.

13 MS. BUCKMAN: If we don't have extensive
14 cross, we think we could do two panels, either 5 and 7
15 or 5 and 6 on Wednesday and the other one on Thursday.

16 MR. BERLINER: Could I take a minute to confer
17 with the attorneys and get right back to you for a
18 second?

19 CO-HEARING OFFICER DODUC: Okay. And as
20 you're doing that, let me ask: Is there a
21 representative here from the Group No. 7 and 15?

22 Is there a representative from Group 7 and 15?

23 Mr. Hitchings is trying to fight his way to
24 the podium.

25 MR. HITCHINGS: Yes, thank you.

1 My -- one of my other colleagues at the firm,
2 Aaron Ferguson, is the lead for that. I can confer with
3 him. I believe they are prepared to immediately follow
4 as soon as the Group 7, other panels are done. So we
5 can report on that on Tuesday the morning.

6 CO-HEARING OFFICER DODUC: Excellent.

7 MR. HITCHINGS: One other thing I might add
8 for the Feather River Panel, that it sounds that the
9 Sac River Settlement Contractor Panel on Tuesday would
10 take the morning. And would it be fair and appropriate
11 to say they should be ready to go as of 12:30 -- be here
12 by 12:30, just in case they do start that early?

13 CO-HEARING OFFICER DODUC: That sounds --

14 MR. HITCHINGS: But no need before then to be?

15 CO-HEARING OFFICER DODUC: That is correct.

16 MR. HITCHINGS: Okay. Thank you.

17 CO-HEARING OFFICER DODUC: Let me be extra
18 ambitious. Is there a representative here representing
19 Group 8?

20 MS. NIKKEL: Meredith Nikkel on behalf of
21 Tehama-Colusa Canal Authority. Group No. 8 will be
22 ready next week.

23 CO-HEARING OFFICER DODUC: Thank you,

24 Ms. Nikkel.

25 Group 9? North Delta Water Agency, anyone

1 here representing them?

2 MR. O'BRIEN: Kevin O'Brien representing
3 North Delta Water Agency. We'll be ready next week in
4 whatever order you'd like.

5 CO-HEARING OFFICER DODUC: Excellent.

6 Number 10?

7 MR. ALADJEM: Good afternoon, Chair Doduc.
8 David Aladjem for Group No. 10. We'll be ready on
9 November 3rd, and I believe that group number --
10 actually Group No. 10, let's leave it at that.

11 CO-HEARING OFFICER DODUC: All right. I think
12 that's far enough ahead.

13 Was there a report from the huddle?

14 MR. BEZERRA: We decided to throw a Hail Mary.

15 CO-HEARING OFFICER DODUC: As long as you
16 don't run into the band.

17 MR. BEZERRA: Depending on your reference.

18 I think what we'd like to do is propose that
19 those of us presenting Panel Five, 6, and 7 caucus with
20 those who plan to be cross-examining. We'll figure that
21 out and report back as soon as we can.

22 Panel 5 will be ready to go at 10:00 o'clock
23 on Wednesday. I think that's the best available
24 information, and then we can proceed from there.

25 As Mr. Hitchings indicated, one of the

1 Sacramento County Water agency witnesses has some
2 scheduling constraints that may require him to go at a
3 little bit different time. But I believe Wednesday,
4 10:00 o'clock, we should be ready with Panel 5.

5 CO-HEARING OFFICER DODUC: All right. Since
6 we're adjourning early, you have plenty of time to
7 coordinate.

8 MR. BEZERRA: Yes. Thank you.

9 CO-HEARING OFFICER DODUC: Anything else,
10 before we adjourn for the week?

11 All right. Thank you, everyone. And we'll
12 see you Tuesday in Byron Sher Auditorium.

13 (Whereupon, the hearing was adjourned
14 at 1:58 p.m.)

15 --o0o--

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF REPORTER

I, Megan Alvarez, a Certified Shorthand Reporter, hereby certify that the foregoing proceedings were taken in shorthand by me at the time and place therein stated, and that the said proceedings were thereafter reduced to typewriting, by computer, under my direction and supervision;

I further certify that I am not of counsel or attorney for either or any of the parties to the said proceedings, nor in any way interested in the event of this cause, and that I am not related to any of the parties thereto.

DATED: _____, 2016

MEGAN F. ALVAREZ, RPR
Certified Shorthand Reporter
License No. 12470