BOARD MEETING

STATE OF CALIFORNIA

WATER RESOURCES CONTROL BOARD

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SACRAMENTO, CALIFORNIA

WEDNESDAY, OCTOBER 25, 2006
1:10 P.M.

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
APPEARANCES

BOARD MEMBERS
Ms. Tam Doduc, Chairperson
Mr. Arthur Baggett
Mr. Charlie Hoppin
Dr. Gary Wolff

STAFF
Mr. Tom Howard, Chief Deputy Director
Ms. Beth Jines, Chief Deputy Director
Mr. Michael Lauffer, Chief Counsel
Mr. Steven Blum, Staff Counsel
Ms. Jesse Maxfield, Environmental Scientist
Mr. Craig Wilson, Senior Environmental Scientist

ALSO PRESENT
Ms. Jose Angel, Colorado River Basin Regional Water Quality Control Board
Mr. David Arwood, Karuk Tribe
Ms. Beth Bax, Los Angeles County Sanitation Districts
Mr. Lawrence Bazel, Big Bear Municipal Water District
Mr. Steve Bigley, Coachella Valley Water District
Mr. David Bolland, Association of California Water Agencies
Mr. David Bradshaw, Imperial Irrigation District
Ms. Regine Chichizole

PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
ALSO PRESENT

Ms. MaryLynn Coffee, Newhall Land & Farming

Ms. Dana Rose Colegrove, Yurok Tribe

Mr. Kevin Collins, Lompico Watershed Conservancy, Santa Cruz Group Sierra Club

Ms. Pamela Creedon, Central Valley Regional Water Quality Control Board

Mr. Wayne Dyok, Plumas County

Ms. Sara Everitt, Pacific, Gas & Electric

Mr. Tim Frahm, San Mateo County Farm Bureau

Ms. Starla Goff, The New Algae Company

Dr. Mark Gold, Heal the Bay

Mr. Zeke Grader, Pacific Coast Federation and Fisherman's Association

Ms. Sharon Green, Los Angeles County Sanitation Districts

Dr. Gerald Greene, Executive Advisory Committee, Los Angeles County MS4 Permittees

Mr. Chook Chook Hillman, Karuk Tribe

Mr. Joe Karkoski, Central Valley Regional Water Quality Control Board

Mr. Alan Levine, Coast Action Group

Mr. Mark Miller

Mr. Tim O'Laughlin, San Joaquin River Group Authority

Ms. Cindy Paulson, Turlock Irrigation District

Ms. Deb Self, Baykeeper

Ms. Linda Sheehan, California Coast Keeper Alliance
ALSO PRESENT

Ms. Michelle Smith, Humboldt Baykeeper

Ms. Jenny Staats, Klamath River citizen

Ms. Alexis Strauss, United States Environmental Protection Agency

Mr. Bill Thomas, Lake Elsinore Valley Municipal Water District

Mr. Craig Tucker, Karuk Tribe

Mr. Mati Waiya, National Water Keeper Alliance

Ms. Charlene Walden, Citizens of Siskiyou County Property Owners on Klamath River

Mr. Richard Watson, Richard Watson & Associates, Coalition for Practical Regulation

Ms. Susan Young, Coastal Advocates for Small Towns
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PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
Chairperson Doduc: Good afternoon. We're back in session.
At this point we're going to open the meeting up for public forum comments on any matter that is not pending before the Board. And I do have ten speakers cards for this item. It says we've only allotted 30 minutes. I'm going to limit everyone to 3 minutes each please.
And we'll begin with Ms. Charlene Walden from Citizens of Siskiyou County.
And after Ms. Walden will be Mr. Craig Tucker.
Ms. Walden: Good afternoon.
Chairperson Doduc: Welcome.
Ms. Walden: Is this on?
Good afternoon. I'm Charlene Walden. I'm from Iron Gate Lakes on the Klamath River, Siskiyou County.
We are here representing the citizens of Siskiyou and residents of southern Oregon that have responded to an opinion poll we have circulated over the past three months to businesses, residents, and property owners of Iron Gate Lake Estates, Copco Lake, and Klamath Basin; KRCE Ranch; Klamath Ranch Resort; the PFUSA; Hornbrook and Greenhorn Granges; and the SOSS.
We would like to take our side of water quality
issues of the Klamath River Basin, Iron Gate Lake and Copco Lake Reservoirs. As citizens of Siskiyou County, we've asked the County Health Department for information on the algae problems. They have become a headline in our area over the past few years. We have read all information and news articles connected to the water quality issues, namely, the blue-green algae problem that is so very present in the summer months of July and August in Siskiyou County, as well as every other water body of the world.

There has never been a fish killed from the algae, nor has there been an illness or a death recorded from exposure to the blue-green algae in Siskiyou County or the State of California.

We believe there are answers and solutions to all the water quality issues and the survival of the salmon. But there needs to be much more information gathered and research done to come to a solution that can benefit all. Removal of the algae before it blooms is a less drastic solution than removal of the dams. The Bureau of Reclamation is now working on this very issue.

Let us all use good and sound science in the water quality issues before us. Save our dams, lakes, salmon and our way of life in Siskiyou County.

Thank you.
CHAIRPERSON DODUC: Thank you very much, Ms. Walden. Thank you for joining us today.

Mr. Tucker, followed by Ms. Jenny Staats.

MR. TUCKER: Good afternoon. My name is Craig Tucker. I'm the Klamath Coordinator for the Karuk Tribe.

The Karuk Tribe is the second largest tribe in the State of California, with over 3400 members. About half of the ancestral territory of the Karuk Nation is in Siskiyou County.

The toxic algae blooms have been aptly described in different reports in the media; and in the film you'll see next are a major health threat for both people living around the reservoirs, but also for people who live downstream.

The toxic blue-green algae microcystis aeruginosa has made people sick around the planet. The blue-green algae itself secretes a toxin -- protein toxin called microcystin. It's a water soluble toxin. So even though when you look at the reservoirs and they turn this shade of antifreeze green in the summer, the toxin itself is colorless. And so even though you may not see algae blooms downstream in the moving water because this algae likes stagnant warm water, nutrient-rich water, which is exactly what it finds in these reservoirs, those of us who live downstream also have the potential of getting
poisoned even though we can't see the algae because the water soluble toxin is washing downstream of these dams. We think the State of California needs to move quickly to set a numerical water quality standard for the toxin microcystin. The State of California, I understand, has to do scientific review to come up with what that standard is, because currently neither the State of California nor the U.S. EPA has a standard. However, since this problem is seen throughout the third world, the World Health Organization has done the research and set a standard. And we think until the state finishes its analysis, that it should adopt the World Health Organization standard until, you know, further science is done. And I think it's the only thing appropriate to do. We've known this probably -- we've measured -- the Karuk Tribe has measured this plume two years in a row. And we didn't know until we went out there and started doing an analysis that the blooms were this toxic form of blue-green algae microcystis aeruginosa. And so far all we've gotten in response are postings around the reservoirs. But we need to hold people accountable for treating this problem. And as in the video you're about to see, we cannot measure the toxic algae in the inflow of Copco Reservoir. But in the reservoir some of our sample
sites exceeded World Health Organization guidelines by 4,000-fold. And we shouldn't have to wait till somebody get sick before we do something to fix this problem.

We've got the science now and we know this is pending. And some kid's going to go up there, they're going to fall in one of these eddies, one of these backwater eddies and they're going to get a mouthful of this stuff. And then everybody is going to say, "You know what, we should have done something before this happened."

And so that's what we're urging you to do.

Thanks.

CHAIRPERSON DODUC: Thank you.

Mr. Baggett.

BOARD MEMBER BAGGETT: Yeah. I think as Craig knows, we have a working group on this. We've dedicated a million dollars, which we're just now getting the contracts to begin the studies. I don't know if Beth wants to -- I know Beth has been coordinating that -- Beth Jines, our Chief Deputy.

CHIEF DEPUTY DIRECTOR JINES: Yes, that's correct. We have allocated -- the Board has allocated a half a million dollars to do sampling statewide to determine the extent of the blue-green algae. And it is statewide. We've found it in a number of different locations so far.
And then we also have -- the Board has also allocated funding to the Office of Environmental Health Hazard Assessment to do a human health and ecological health risk assessment of what we find in the sampling. We did some samplings this year. We will do more through -- within the next year. And as the data is gathered, we will supply that to them and they will do the risk assessment.

BOARD MEMBER BAGGETT: You know, I think as Craig stated, you know, you need the empirical basis. You need -- you don't just set water quality standards in a vacuum. And that's -- but we're moving as quickly as we can get this done.

So I appreciate the concern.

CHIEF DEPUTY DIRECTOR JINES: We've also -- I just bring it to your attention. We have also added funding this year to complete the Klamath blue-green algae group's sampling that they were doing, because they ran short of funding because the blooms were quite extensive this year. We were able to supply an additional funding so that could be completed.

And then also we have put together a work group made up of representatives from a number of different health organizations. It started out the Office of Drinking Water of Health Services and ourselves. And as
people became aware of the work group, it grew enormously, and eventually we've had representatives from Centers for Disease Control in the State of Oregon and all over California. And that group has put together postings, notices that can be used by county health officers throughout the state.

And we also have on our website -- on the Water Board's main page there's a link there for blue-green algae. And it will take you to both our website and the Department of Health Services website. And there's a whole wealth of information. And we keep people posted on where we are in the process of studying and analyzing the risk that's posed by the blue-green algae.

MR. TUCKER: I would just offer that. I don't want people to misinterpret what we're saying. We are very appreciative of what the Water Board's done and the State of California's done. I don't mean to stand up here and say, "Hey, you're not doing anything about this problem," because you guys are, and I do acknowledge that. And I think what we're saying is we want to go one step further. And until we -- I know the state's putting the pieces together for itself. But there is a good scientific foundation behind the standards set by World Health Organization. And it seems to me that in the interim until you're finished let's be careful and take
good precaution and go ahead and adopt a standard that
exists. And that's really the bottom line for why we came
here today.

BOARD MEMBER BAGGETT: Thank you. Thanks for
your help.

CHAIRPERSON DODUC: Thank you very much.

Ms. Jenny Staats, followed by Mr. Zeke Grader.

MS. STAATS: Hi. I'm Jenny Staats and I work
with the Klamath Salmon Media Collaborative. We do
independent local media out of the mid-Klamath river.

And what I'd like to present today is -- my
comment is part of a longer film giving some information
about the toxic algae in the Klamath River.

So thanks.

Oh, and just also about the media -- we
disseminated the voices from local media in trying to get
it into the, you know, more major media, because our local
stories are not getting through.

So thank you for watching this.

(Thereupon a video was played.)

CHAIRPERSON DODUC: Thank you very much.

Is there anything else?

MS. STAATS: No, thank you.

CHAIRPERSON DODUC: Thank you.

Mr. Grader, and then Mr. David Arwood.
MR. GRADER: Thank you, Madam Chairman, members
of the Board. My name is Zeke Grader. I'm the Executive
Director for the Pacific Coast Federation of Fishermen's
Associations.

Our concern here today with this issue is that
our members fish along the Pacific Coast for Pacific
Salmon, and the fact is is that we're managed on the basis
of the health of the Klamath River fish. And we certainly
know that this toxic algae is not only a concern for human
health, as you just saw on the end of this video, but we
also have a very specific concern about how it's affecting
fish life as well, certainly as far as everything from
dissolved oxygen.

But probably more important is that this algae is
also helping to create a host for the -- or, excuse me --
habitat for the host worm that -- and the worm that hosts
the parasite in the river that of course is largely
responsible particularly for the juvenile salmon die-offs
that we've seen, particularly since 2002.

So we think it's extremely important that this
board establish now, as has been requested by the speakers
before me, to establish numeric standards and get on top
of this issue as quickly as possible. I think it's
absolutely imperative that we deal with this algal
problem, this microcystin as quickly as possible, not
simply for the human health, which is very important, but also for the sake of the economies up and down the California and Oregon coast that depend on this salmon resource.

Thank you.

CHAIRPERSON DODUC: Thank you.

Question from Hoppin.

Mr. Grader, please don't go away.

BOARD MEMBER HOPPIN: Mr. Grader, is your biggest concern with the blue-green algae and the resultant microcystin or is with the temperatures that allow this algae to bloom?

MR. GRADER: I think it's a combination of both. We have got to be concerned with the high water temperatures. But then also the concern is is that -- for example, we're finding the worms that act as the host to the parasite, see Shasta, we're finding is those worms can -- could to be found more where there's really fine sediments. This would reflect from where you get this algae, just breaking down the algae as it comes out of Iron Gate Dam, we're finding it in the lower river.

So it's a combination of factors. I don't think there's any one thing. It seems to be mostly two things are converging together to create both the water temperature problem and the problem with algal blooms.
You have nutrient rich water coming out of Klamath Lake coming down the river, hits these reservoirs. They're shallow. In the summer time it warms up. You'll get the algal blooms and that begins creating new problems, everything from warm water discharges to the microcystin, that is, the toxic itself, as well as the fine sediments that are created, that then create the habitat in the river downstream of Iron Gate then for this worm that is part of the lifecycle then of the parasite that's been just so devastating to these juvenile salmon.

BOARD MEMBER HOPPIN: Thank you.

CHAIRPERSON DODUC: Thank you, Mr. Grader.

Mr. Arwood, followed by Regine Chichizole.

I will apologize now for mangling everyone's name.

Mr. Arwood, welcome.

MR. ARWOOD: Thank you.

Hello. My name is David Arwood. I was born in Happy Camp. I'm Karuk.

I didn't plan on talking when I came down here. Excuse me. Actually I came down here to drum. But they wanted me to talk. So I thought, what could I say that could possibly make a difference this decision-making process that you folks have got to go through concerning the water quality on the Klamath River?
The Klamath Tribe, the Shasta Tribe, Karuk Tribe, Yurok Tribe, we're all river people. Everything that we do revolves around that river. We count on that river for our subsistence.

Our stories tell us that the creator gave us these rivers and the resources so we could live here, and that we'd always be able to do so. And as our blood continues to proliferate into mainstream society, I wonder if we're going to be able to live here. Maybe we should just wait till someone dies from this algae bloom before we stop and do something about it. I know you all think you're doing something about it now. But you have to really ask yourself, "Am I doing the right thing?" That's what I ask myself all the time -- all the time.

I'm from a medicine family, and I have obligations.

(Thereupon he spoke in an indian dialect.)

MR. ARWOOD: And I'll say it in English.

My name is Treewich. I come from T-bar. I'm a medicine person. What's the world coming to? What is the world coming to? Some people aren't real people. We are real people. I know medicine. I carry medicine. I make medicine for the real people in the world.

Thank you. God bless us all.

CHAIRPERSON DODUC: Thank you, sir.
I don't want to mangle your name a second time.

MS. CHICHIZOLE: Hello. My name is Regine Chichizole and I'm the Klamath River Keeper. I brought a picture today of what it looks like in the Iron Gate Reservoir. It looked like this as of three weeks ago.

This is from last year, but I've confirmed with many people this is currently what it was looking like.

As you can see, the reservoir --

CHAIRPERSON DODUC: Can we see?

BOARD MEMBER WOLFF: I cannot see.

MS. CHICHIZOLE: I'm sorry. Hard to hold it up.

I'm kind of short.

CHAIRPERSON DODUC: Thank you.

MS. CHICHIZOLE: I also brought a letter here today from over 35 different organizations on the Klamath River and throughout the country asking for microcystin to be treated as a pollutant on the Klamath river and for microcystin to be listed as a pollutant on the Klamath River. On this letter Senator Chesbro and Assemblywoman Patty Berg have also asked for this toxic algae issue to be dealt with by this Board.

I believe that PacifiCorps should be listed as a polluter. Their dams are creating this algae. And while the nutrients and the temperatures are adding to it, it is actually the impoundment at the reservoir that is creating
the algae, and it is being released from the reservoir.
In my knowledge, they should have to have a permit to
release this algae down river. People are afraid to use
the river. I get calls all the time from people that are
saying, "Hey, I can't go and I don't feel safe going in
the river." "I own a fishing industry. I don't know what
to do." "I own a boating industry. I don't know what to
do." Should I tell people that they shouldn't go in the
Klamath River?
This is a very serious situation. People on the
Yurok Reservation are afraid to go fishing. This is
something that needs to be dealt with, it needs to be
dealt with some time soon. And so I really encourage you
to do it in whichever way you have to, whether it's
getting a waste discharge permit, listing it as a
pollutant, setting numerical standards. Something does
have to be done about this.
That being said, I would like to thank the Board
for supporting the sediment listing. I heard there's a
very good chance that might happen. I would like to
courage the Board also by their looking at that listing
to think about what it means to the Klamath dams. I
support the sediment listing myself, but I also support
the Klamath dams coming out. So if it comes time for the
permit to go through on the sediment in the Klamath dams,
please do do that.

Other than that, I would just like to say that we really need to do something in the Klamath River right now. It's not like exaggerating that people are afraid to use the river at all. People are driving very, very far to use tributaries at this point. Fish kills are a very regular thing. People don't know whether or not the toxic algae is present in fish. There's a lot of fear right now going on. And I know there has to be more studies to figure out whether or not -- what this means, what the microcystin problem means. But in the short term we should adhere to the WHO standards and we should do something about that.

That being said, I of course want to thank you for all your support throughout the time and thank the State of California for their help right now in trying to get the Klamath dams out, and we really need to do it. It's the only way I can see that the microcystin is not going to become a problem any more.

Thank you.
CHAIRPERSON DODUC: Please.

Welcome, Karuk Tribal Member Hillman, followed by Yurok Tribal Member Colegrove.

MR. HILLMAN: Chook Chook Hillman from Orleans, California.

I come here today as a medicine person also. And all I can really say is that, you know, this is scary. I don't know if you guys although understand what the river means to us. I mean we go to our river to get our groceries, you know. And our groceries are contaminated. I don't know if you are familiar with that -- the spinach the other day, it was a big deal. You know, I mean we go to the store, groceries are contaminated. We go to our church and you can get deathly ill. It's just ludicrous to me that something like this could even happen.

I don't have much to say. Because I get pretty upset when I talk about it. But this definitely has to be dealt with. You know, it's hard to send our priest to go down to the river to pray, you know what I mean, because he's going to get sick. And, you know, this is our way of life and we just keep going. And this is a big part of it right here.

So I'd appreciate, you know, whatever has to happen, it will happen. It will be well appreciated.

CHAIRPERSON DODUC: Thank you, sir.
MS. COLEGROVE: I'm Dana Colegrove, and I'm pretty much going to say the same thing he says.

We're river people. We have real concerns of what's going on in our river. It's like he said, it is the grocery store for us. You guys had the whole United States freaking out over spinach a couple months ago. Whole California was freaking out over spinach. I don't see nobody freaking out over the river.

What's going on? We're not people? We come from a -- there's a lot of us, just like you guys. We need all the help we can get to clean up our rivers. That's our way of life.

Sorry. I'm choked up. It makes me upset too to think about all the bad stuff that's going on.

We couldn't fish. We couldn't gut our fish in the river. The kids couldn't swim in the river. You couldn't let your animals out to even drink the water because it made them sick, made kids have rashes, everything. It's way out of control.

I came a long ways today, and I appreciate you guys listening to me. I'm sorry for checking up.

Thank you. Appreciate all your help you can give us.

CHAIRPERSON DODUC: Thank you, Ms. Colegrove, and thank you for spending time with us today.
Mr. Richard Watson, followed by Mr. Mati Waiya.

MR. WATSON: Thank you, Chair Doduc and members of the Board.

Earlier today we were talking a little bit about --

CHAIRPERSON DODUC: Actually, Mr. Watson, my apologies. I just looked at your note, and you're not speaking on the Klamath.

MR. WATSON: That is correct.

CHAIRPERSON DODUC: So if I could please ask for you to step back, and we'll invite you back after the Klamath speakers.

MR. WAIYA: I want to thank you for this opportunity. My name is Mati Waiya. I'm working with the National Water Keeper Alliance. And we were really influential in creating the Klamath River Keeper. And we do enjoy suing the state and bringing in the federal government to make sure they do their job. And we look forward to doing that here with the Klamath.

Please take into consideration the issues at hand. Go to the river, look at the purity in some areas and the destruction in others. Look at the children playing, just like you would yours, and see the pains that they have to suffer because of memories of a ancestral place is being depleted, destroyed and threatened.
You look at these dams, they're like arteries in your heart. They're clogging up a system of life. You look at the health of the people and a history of a traditional way, a life way. Take for a moment and let yourself into the sacredness of the relationship between you and an environment.

I came here about three years ago when Mr. Tamminen was appointed. I did a blessing on this building. I got so many e-mails, hundreds, of people that forgot why they were here; that it wasn't just a job anymore, it was a responsibility. You're here to protect the environment.

I want to give you, just for the record, an ancestral song about the water, one verse.

"Please, listen to, like a mother giving their child nourishment through their breasts, what the waters do to the land."

(Thereupon a song was played.)

MR. WAIYA: As you look at the way we treat regulations and process, as we think of our commitment and our responsibility and respect to one another, let's don't take lightly this issue. Let's enforce the Clean Water Act law to the fullest. Let's do our job. The budgets are low, manpower is low. Pay attention to those that are working with you, and that's the citizens. Not special
interests, not necessarily recreation, but the health of an ecosystem.

Thank you.

CHAIRPERSON DODUC: Thank you, sir.

Mr. Mark Miller, followed by Starla Goff.

MR. MILLER: Hello. I'm studying ecology at Humboldt and I visited the Klamath frequently. I'm very concerned about the health of the riparian ecosystem because of the toxic algae. And I feel that a very simple and effective way of removing this problem is to decommission and remove the lower four dams on the Klamath river, currently owned by PacifiCorps. For a number of reasons this is very, very important for the Yurok, Hupa, Karuk nations that live along the Klamath River and depend upon the healthy returning migratory salmon populations, and the risks of the Salmon becoming threatened, endangered or extinct because of the continual year after year obstruction of the Klamath River from these four lower dams, that are very outdated and don't even supply a great deal of energy to the power grid.

The salmon are affected directly by these toxic algae and all the other microbes, like the C-Shasta that caused the fish kill in 2002 where over 50,000 fish died from the water quality being affected. The dams are directly responsible for several factors. It's the algae
blooms because of the higher temperature, the lower water velocity and the trapping of nitrates from the runoff that are coming from the Klamath Basin, the fertilizers and whatnot that enter. So you have these factors.

And by removing these dams, this would not be a problem anymore. The water would flow through, the temperature would go to its normal cooler temperature, which the salmon are able to tolerate, which gets them to be able to swim out to the ocean when they're juveniles so they don't get trapped there and they end up having these fish kills.

And it's very important for the three nations that I mentioned to have these salmon populations returning and to actually have an increase. And I think what we could see for the benefit of removing these dams is that everyone along the coast who depends upon fishing, whether they be professional fishermen or whether it's for the tribal nations that live there, there would be an increase in salmon populations because the salmon could then have better restored habitat, there'd be less putrification, less toxic algae, or none at all if even -- because they would not be trapped behind these impoundments. These dams are basically obstructions. They're obstructing the water flow, and that's why this toxic algae is magnified to the point where it's becoming
a crisis. And I believe that it is a crisis.

In order to save the salmon and to prevent the
salmon from becoming endangered, threatened and extinct,
we need to really focus on decommissioning these dams and
recommending that the Federal Energy Regulatory Commission
decommission the PacificCorps' lower four Klamath dams in
this year of 2006 and that they be removed and the river
be restored. And then we will see in 5, 10, 15 years an
increase in salmon population, which will be good for the
economy of the coastal region and for the spiritual and
cultural health of the Yurok, Hupa, and Karuk peoples who
depend upon this.

Anything else to me, in my opinion, and other
people's too, is a form of cultural genocide that by
keeping these obstruction dams -- the dams obstructing the
Klamath River, this is contributing to a genocide because
it is not allowing the spiritual activities and the
cultural activities that revolve around the salmon and the
returning of the salmon, the world renewal ceremony to
continue because of the threat of the toxic algae to the
fish, number one, that is a food source, a nutrition
source and a spiritual source, and also just being there
and being in the physical presence of that river is
important. And you cannot get that close to the water
without having some kind of a contact with either the

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aerosol particulates from the algae or just the
unpleasant -- the general unpleasantness of it. And it is
dangerous and it is toxic.

So these dams really need to be removed, and we
need to recognize -- I really hope that you could
recommend to FERC that the Klamath dams are decommissioned
and removed.

Thank you very much.

CHAIRPERSON DODUC: Thank you. Thank you, Mr.
Miller.

Please.

MS. GOFF: Yes. My name is Starla Goff. I am an
attorney for the New Algae Company in Klamath Falls,
Oregon. We're your neighbor to the north.

Klamath Falls, as you know, sits right next to
Klamath Lake, which is full of blue-green algae. The New
Algae Company has been involved in actually the
nutritional supplements of blue-green algae for decades.

Klamath, lake as you know, even though it is
replete with blue-green algae, it is a naturally forming
occurrence. It is an occurrence that occurred, you know,
thousands of years ago due to the nature of the ancient
seabed, and is actually one of the sources for your
Klamath River.

It is something that we've been dealing with in
the State of Oregon, my favorite place to be, for decades. And it's something that we have a dialogue on, a discussion on, on what to do with the different species. And so I think one of the things that we're here -- I'm here today to kind of tell you about is the beneficial uses of blue-green algae; and also asking you to be specific, and when you refer to blue-algae, which species you're talking about. There are some that are toxic and there are some that are not. There are some with toxins that are greater than others.

But with regards to this industry, the industry of blue-green algae is actually a national industry of health for the country. And not only human supplements, but also what we're finding is a great source of nutrients for animals. It's doing a phenomenal job right now with shrimp in Belize.

It is consumed in, oddly enough, Japan quite plentifully. They eat it like jerky. They sprinkle it on their food. And -- I know you want some, don't you? You want to sprinkle some algae on your food.

And it is considered actually in Europe and all over the world as a great source, as a foundation.

What we are looking at at least in the State of Oregon and in the County of Klamath is, in looking at pollutants, looking at things that may cause the ecosystem
to go out of balance, whether it be through cattle,
whether it be through runoff, to make sure that we're not
adding to the problem.

But nature has created blue-green algae, and it's
created blue-green algae for a reason. Sometimes we
haven't a clue why. But on some of the species it seems
that it has an extremely -- well, exceptional beneficial
health to humans and animals alike.

Just so you know how big the industry is: There
are 200 people full-time in our company in Klamath Falls,
Oregon. There's 2,000 people in the blue-green algae
business in Klamath Falls -- or in Klamath County.
There's approximately 20,000 people nationwide that are in
the industry of blue-green algae.

And the company would also like to avail itself,
because we've been in this for a while, for the beneficial
uses or just the research that we've done or been in
conjunction with, whether or not it's the State of Oregon
or the county, on the things that we've looked at. And
we're more than happy to avail ourselves and let you see
our research on the area.

CHAIRPERSON DODUC: Thank you very much.
And that completes our speaker cards on Klamath
river.

Let me take a moment and thank you all for being
here today, for traveling the distance and sharing your experience with all of us. I think we all appreciate the magnitude of the concerns that you've expressed. And please know that this Board, this administration, this Governor is very much committed to addressing problems in the Klamath Basin. And to that extent we've actually designated Board Member Baggett to be our leader on this issue. And I know that he's been very much involved in all of the discussions, all the efforts revolving around Klamath, blue-green algae and all -- dams and other issues involved there.

So let me now ask Mr. Baggett to please share some of the thoughts and the efforts that you've been involved in in this matter.

BOARD MEMBER BAGGETT: I think I'd just like to give you a couple comments. I was just talking to Secretary Mike Chrisman, who's the lead along with myself and Director of Fish and Game, Ryan Broddrick. But they totally -- spent over two years on negotiations with 28 parties. And I think some are aware on the Klamath issues.

The Governor is very committed to, not just the FERC process, but also to dealing with restoration of the Klamath River. I think some of you may be aware, last week he and Governor Kulongoski of Oregon sent a formal
letter out requesting a summit of parties from both
states, federal government, tribal governments, the
environmental community, you know, the agricultural
community, the counties along the river, to spend three
days trying to come up with a resolution, of not just the
FERC issues, but I think the river as a whole.

So the Governor is extremely committed along with
his colleague, you know, the Governor to the north,
Oregon. And rest assured, we're spending a lot of time.

Today there's a -- it's where I should be
actually right now -- there's a session going on in
Redding, and we'll be spending days next week and the week
after working with our federal counterparts, trying to
come up with some solutions in a short timeframe. The
summit is scheduled for the middle of December. So we're
working hard and fast.

CHAIRPERSON DODUC: Thank you.

Any other comments from Board members?

Once again, I really appreciate the time, the
commitment that you've all made to helping us address
these issues on the Klamath River. And you have this
Board's commitment, this Governor's commitment that we
take these concerns very seriously. And we will be doing
our best, working in concert through Mr. Baggett's effort
with other state agencies, with tribes, with other
organizations that have offered their assistance to us, in order to bring this to an expedited resolution as soon as possible.

Thank you very much.

With that, Mr. Watson, I welcome you back, to be followed by Ms. Linda Sheehan.

MR. WATSON: Thank you, Chair Doduc. What I'd like to do is on my -- my name is Richard Watson. I'm speaking for myself at the moment. I want to address two quick issues. One is statewide policy and the other is atmospheric deposition.

Earlier today there was considerable discussion about development of a statewide policy to bring about consistency in the application of time schedules.

It reminds me that we've had for some time discussions going on about a statewide storm water policy.

In fact, I think we're probably approaching two years since we had workshops and hearings in northern and southern California.

This is an area that we really do need to address -- and I hope it doesn't get behind other policies -- that we need to bring that back to the forefront to develop statewide policy on storm water quality. And you are the policy-making body, and we hope that you will proceed with that.
Secondly, I wanted to mention atmospheric deposition. We were really pleased -- or I was personally really pleased when you had the workshop back in February with the Air Board. And I note that the Chair of the Air Board has an air pollution seminar series. And tomorrow there is a program on atmospheric perspective on toxic metal deposition to water bodies and watersheds. That is very encouraging. I'm going to not be here, but I will tune into it. I just want to encourage you to work even more diligently trying to get the Air Board to work with you to address the relationship between atmospheric deposition and water quality.

Thank you.

CHAIRPERSON DODUC: Thank you, Mr. Watson. I do know that on the issue of atmospheric deposition, that there has been discussions between Air Board and the Water Board on proceeding on this issue.

And if Mr. Howard or Ms. Jines could please provide an update on your efforts.

CHIEF DEPUTY DIRECTOR JINES: What we have discussed with the Air Board and agreed on is to do two pilot projects that look at the issue. One is we would be working with our Los Angeles Regional Board. And it is dealing with the ports -- atmospheric deposition of the ports of Los Angeles. And we'll tie into their TMDL
process for the ports. We're going to have the first
meeting on that with our folks, with the regional board
folks I believe it's next week or the week after.

And then the second pilot project we'll be
looking at mercury in the San Francisco Bay Area and
atmospheric deposition from that, and try to tie it into
some of the research that's being done by the Brake Pad
Coalition, I think that's -- or some name something
similar to that -- in the San Francisco Bay Area.

And we hope to within a year be at a point where
we'll have some specific proposals possibly for programs
for funding or something along those lines.

CHAIRPERSON DODUC: Okay. Thank you. Please
keep us up to date on that.

Dr. Wolff.

BOARD MEMBER WOLFF: Could you say a few more
words about what is the -- what will these pilot projects
encompass? That is, what are the activities that are
going to take place over the course of this year?

CHIEF DEPUTY DIRECTOR JINES: It will be data
gathering and trying -- what we're trying to do is through
these two pilots is to work out a process for how the Air
Board and the Water Board -- I mean we don't really know
exactly how to carry out the project. We're going to be
working that out through these two projects.
BOARD MEMBER WOLFF: But there will be infield monitoring and assessment analysis, et cetera? Or is it more of a paper project?

CHIEF DEPUTY DIRECTOR JINES: I think it will be a combination. We'll be using the data that's already being gathered in both the TMDL and the brake pad efforts.

BOARD MEMBER WOLFF: Okay.

CHAIRPERSON DODUC: Thank you, Ms. Jines.

Ms. Sheehan.

MS. SHEEHAN: Thank you. Good afternoon. Linda Sheehan, Executive Director of California Coast Keeper Alliance. I had a quick comment on CIWQS.

But I wanted to reiterate and support the comments about the Klamath and the toxic algae. I had the opportunity to visit there this summer. And it's not just a water body. It's food, it's home, it's church. And the toxic algae problem, it's just pervasive. It's what everybody talks about. It's kind of hard to appreciate from here how significant it is. So I wanted to make sure that I reiterated that point.

So thank you for the opportunity to raise another issue with respect CIWQS. I testified here about a month ago with regard to the need for more public accountability on enforcement and monitoring. And CIWQS is the database that ostensibly is supposed to move that forward.
At the most recent Board meeting -- I wasn't here -- but I believe the Board approved a number of millions of dollars for bond funds to be spent on various grant implementation and monitoring programs. And Dr. Wolff I believe, I was told, asked a question about the types of analysis that will be done with the data and how the data would be entered and where would it be entered. And I'm told that staff responded that there's nothing in place to do this.

Californians have allocated literally billions of dollars in bond funds to 13, 40, 50 and also Prop 204 for ecosystem restoration. With respect to 13, 40 and 50, they were supposed to enter this data consistent with the SWMP format. And I know that this would have sort of helped that language along. And I am very eager to sort of see that information, especially being, not only a water quality expert, but a taxpayer. And I'd like to know that the bond funds are spent appropriately.

And, you know, it's my understanding that about a million and a half dollars has been spent so far to complete the ambient water quality monitor level for CIWQS. And I'm hopeful that the data will be entered in there. And I'm just wondering with respect to the Board's question for today is, where is the idea of a CIWQS audit? You know, has that been followed through? Is there a time...
for that? And also, is there a way to definitively say when, where and how the bond funded monitoring data that is supposed to be SWMP consistent is going to be put into a database so that we can see it? I'm very worried that the bond money might be spent, and then we wouldn't have anything really to learn from.

So I'd be very appreciative to sort of know more specifics about that.

Thank you.

CHAIRPERSON DODUC: Thank you, Ms. Sheehan.

Mr. Howard, please respond.

CHIEF DEPUTY DIRECTOR HOWARD: Yeah. Two weeks ago Board members asked about what the plans were to get the data into the ambient monitoring module. And I indicated that I'd be bringing forward a proposal to that effect. I have been meeting with staff and talking about the various alternatives, which I'll, you know, bring to the Board some time in the next couple of weeks.

With respect to the question of the audit, we have got the approval of Steve Weisberg of SCCWRP to head up a audit similar to the one that was undertaken by -- for SWMP to get together a series of experts, and he would facilitate that. We would provide him with funds and he would find the independent folks who would be doing the evaluation. And he would be reporting back to us.
With respect to timing. You know, we have to get together a contractual relationship. But at least a framework is established for that and we're moving forward on putting that together.

Does that answer --

CHAIRPERSON DODUC: Again, what's the time estimate on that?

CHIEF DEPUTY DIRECTOR HOWARD: Well, we assume that it will take us a couple of months to get the contractual stuff together, and that we assume about six months. And so I have been thinking of having it completed around the end of this fiscal year.

CHAIRPERSON DODUC: That's way too long.

CHIEF DEPUTY DIRECTOR HOWARD: Well, I don't know -- I mean if we're going to ask a series of experts to review the work that's been done, I don't know that you can -- you know, if they can drop everything. But, you know, if there's a timeframe the Board prefers, I'll certainly try to pass that along.

CHAIRPERSON DODUC: My understanding also is that you and Mr. Polhemus, which I don't know if he's still here, is working to address the gaps that currently exist right now and perhaps developing some interim measures to provide the tools necessary to provide reports and other measures that various stakeholders, as well as U.S. EPA,
is interested in. How is that effort going in the meantime?

CHIEF DEPUTY DIRECTOR HOWARD: Well, we had said that we'd come back by December 13th with a series of reports that are being developed. The first set of reports is supposed to be deployed on Friday, and it will list all the violations in the database, plus the storm water ambient monitoring -- annual monitoring module. We also the next week are intending to deploy a series of reports on enforcement actions. And we have a whole slough of them backed up that we'll be reporting to you on December 13th which ones are presently employed on the Internet.

CHAIRPERSON DODUC: Okay.

CHIEF DEPUTY DIRECTOR HOWARD: The other thing of course that -- you know, the problem that we have with respect to getting the SWMP data in, as I mentioned to you before -- it doesn't have anything to do with CIWQS, if that's the concern that's being expressed. The problem we have is that the data has to be QAQC'd and it has to pass through what we call our nodes, where it's uploaded into CIWQS. And the problem there is that we have two nodes operating and they're fully engaged right now putting the SWMP data in.

We're in the process of developing two additional
nodes around the state. You know, we have to find the
staff, the contracts -- you know, arrange the contracts
and that sort of thing. Even then, we've got backed up a
huge amount of data to get uploaded into SWMP. And so
it's quite possible, especially considering the additional
bond funds that may be forthcoming, that we need to put
together another two or four nodes in order to have, you
know, enough places where the data can be adequately
QAQC'd, ensure that it's SWMP compatible, and then
unloaded it into the data system.

The problem, as I'm trying to relay, is not with
the data system; it's with the choke points of getting the
data passed the QAQC process.

CHAIRPERSON DODUC: Dr. Wolff.

BOARD MEMBER WOLFF: I'm just going to comment
that I had a two and a half hour demonstration of CIWQS
two, three weeks ago maybe, since we discussed it at this
Board meeting. Maybe it was a month ago and then maybe
three weeks since the demo.

In any case, in the conversations surrounding
that, it became clear that the system is capable of doing
a lot more than sort of the minimum that is required in
order to have information input to it that is, you know,
consistent, usable, useful to various audiences. The
system is very flexible. It can do a lot more than sort
of a minimum that might be required.

So one of the questions that I asked the staff to look into was: What are the minimum data entry requirements to have adequate information for someone to not be misled by a report generated by the system? And they're looking into that. And what are the time requirements to input that minimum information? Because those are the time requirements that are ultimately going to bear on the staff and the regions who have to make those inputs.

So that's part of what the staff was looking into. It would feed into this audit, I think. The auditors would then confirm that the time estimates to make these minimum requirements, you know, are what the staff say, et cetera. So that's part of it.

And the other part of it is: What reports do we actually need? There have been requests for a lot of custom reports. And, frankly, I think that the -- that rather than generating a lot custom reports, which takes up a lot of time, we might be better off to have a custom report service where someone can say, "Here's the kind of report I want," and then they would be instructed as to exactly how to query the system to get that report. So you wouldn't actually have a custom report where you punch a button to get that report. You'd have a very short
instruction set that says, if you want this report, here's how you get it out of the system. That might actually take less time and effort for everyone involved. So that was another suggestion that was made to the staff, and it's presumably trailing along here in the discussions about audits and the discussion about getting all this SWAMP-compatible data uploaded in the system through nodes.

So I wanted to call those two points out, because I think those may cut through a lot of the tension around the CIWQS system. It's a masterful system. You can do lots of things with it. We don't at the beginning need to do all those things. We need to get very clear on what we need done now, make that functional as soon as possible, and so forth.

CHAIRPERSON DODUC: Ms. Sheehan, do you have anything else?

MS. SHEEHAN: Thank you very much.

I think that that's an important point, is that there's certain basic information that the public can get out of that. And that will help keep some of the costs of CIWQS down, hopefully, so we can make sure that monitoring money is spent as appropriate on the ground and getting some good information until later put into the basic system.
So I think those are excellent comments. Thank you.

BOARD MEMBER WOLFF: I'm glad you agree. I just wanted to clarify. I was told by the staff that you were actually one of the people who was asking for all these custom reports. And I --

MS. SHEEHAN: No, I basically want to know --

BOARD MEMBER WOLFF: -- but we don't need all those all those reports. So --

MS. SHEEHAN: Some reports would be good.

Basic enforcement and violation information consistent with SB 729, I would be thrilled to have that.

BOARD MEMBER WOLFF: No, that's coming along, definitely.

MS. SHEEHAN: That would be great.

BOARD MEMBER WOLFF: Okay.

MS. SHEEHAN: Thanks.

CHAIRPERSON DODUC: All right. Thank you very much.

And that completes our half hour of public forum for this afternoon.

(Laughter.)

CHAIRPERSON DODUC: We will now move on to Item No. 10.

Mr. Wilson.
Mr. Baggett has suggested that that be on consent calendar.

(Laughter.)

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Thank you, Mr. Baggett.

CHAIRPERSON DODUC: Given that I have 20 comment cards plus, I don't know about that.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Good afternoon, Chair Doduc, members of the Board.

The next item under Agenda Item 10 is Consideration of the 2006 Section 303(d) list.

My name is Craig J. Wilson. I'm Chief of the Water Quality Assessment Unit in the Division of Water Quality.

In my presentation I'd like to give you a very brief overview of the requirements of Section 303(d), a summary of the steps we've taken to develop the revised list, a very brief summary of the comments received and my responses, and then finally some new changes for you to consider.

The State of California is required by the Clean Water Act in federal regulations to prepare a list of waters and set priorities for so-called water quality limited segments that still require total maximum daily loads, or TMDLs. The section 303(d) list was last revised
A water quality limited segment is any segment of a water body where it's known that water quality does not meet water quality standards or is not expected to meet applicable water quality standards even after application of technology-based effluent limitations.

The 2006 list -- listing process began in 2004 with the review and analysis of data and information. In September of '05 staff released draft proposals for changes in the list for public view. We held two workshops and received over 200 submittals.

The comment period ended on January 31st of this year. After responding to the comments and revising the list in staff documents, the final draft of the proposed list was released on September 20th, 2006. Based on the original comments received, just over 700 fact sheets were either revised or new.

To establish priorities we worked with the regional water boards to develop schedules for TMDL completion for listed waters that still require TMDLs.

The comment period on the latest set of recommendations closed last Friday. We received 77 letters. And in the next few minutes I would like to give you my responses to the specific changes we will make in response to these comments.
The comment letters that we received fall into four general categories:

The first group are those comments that are focused on our incorrect application of the listing policy. And I think some changes are in order based on those comments.

We made mistakes in interpretation for the Klamath River sediment. I think we took it off -- we recommended that it not be listed because there was a jurisdictional issue with the federal government. There was some concern that the listing would be on federal -- or tribal lands, not state lands.

The data is unequivocal. It needs to be listed on some list. And what I would like to do is put it on California's 303(d) list. And if it needs to be taken off by U.S. EPA, they should make that change when it's their turn to review this list.

The second major change is in the L.A. River Reach 1 for aluminum. I'd like to remove that water from the list. It was inadvertantly left on there. It's an old listing. We removed several of our recommendations for -- in Region 4 they have a beneficial use that's a conditional use, that should not be regulated. And we just simply made a mistake leaving it on.

The third major change is on the All-American
Canal. When we first developed our recommendations, we based the changes on the recommendation interpreting the maximum contaminant levels. That was an incorrect interpretation. We should have used the upstream water quality objective in the Colorado river for salinity. And when we use that value, there is no listing for the All-American Canal.

A second group of changes were the data and information were evaluated and we just came to the wrong conclusion. There's two parts to the 303(d) list. One part is those waters still needing TMDLs and waters that already have TMDLs but the standards are not met yet. And we made some mistakes in incorrectly placing waters in those categories, and I want to straighten that out.

We also made a mistake in our interpretation just -- our finding for Anaheim Bay for copper. That needs to be removed from the list. The data supports not listing -- not maintaining the listing.

And then, lastly, on Buena Creek we made some mistakes for some of the sulfate listings. And there's a few others there that I'll talk about when I speak about the specific listings.

Now, a third class where we need to make some changes are some of the commenters pointed out that there are listings where no data and information is available,
yet there are listings for pollutants. This was pointed out by U.S. EPA and the Los Angeles Regional Board for the loin portion of Dominguez Channel. There's absolutely no data or information available for aldrin, Chem A, chlordane, DDT, Dieldrin, PCBs, chromium, or PAHs in that water body. And I feel since there's nothing to support that listing, it was simply a mistake. It needs to be removed. And for Dominguez Channel estuary, for aldrin and Chem A, same kind of problem, it needs to be removed.

The second major category of comments are minor changes to the list that are outside the scope of the listing policy. And I recommend that these changes be made. They're related to minor area changes, like the Coachella storm water drain or the change in the Laguna Canyon Channel. There's several requests from regional boards to change the potential pollutant sources, like in north fork of the American -- or Feather River for temperature. We need to identify the source. And I'll talk about the specifics in a second. Lake Pillsbury, we need additional source information.

We also need to change some of the pollutant names. For example, for some pesticides we identified the product name. And we should just identify the chemical name, to be fair about it.

And then many commenters spoke about our
responses to comments: We were unresponsive.

We need to go back and fix a lot of those. And I'm just simply going to do that as part of our effort. It doesn't need to be acted on by the Board, but I wanted to let you know. And we had to be -- we need to be clear on some of our fact sheets. And we're going to fix those, although it does not change the recommendations that we have.

Third major category. We did not develop fact sheets for some data and information where status of the listing needs to be changed. This whole process, we developed a staff report that's almost 5,000 pages in volume. And there's still information out there that we're trying to get to. But we needed to get before the Board so we could finish this process.

Commenters brought up several issues that I'd like to address now.

For Humboldt Bay, we need to list for dioxin. I found the information. I'd evaluated it. There's bio-accumulation of 2,3,7,8 TCD equivalents in crab tissue, muscle tissue, oysters. It's sufficient under the provisions of the listing policy to place it on the list.

There's also information for South San Francisco Bay for nickel for removing it from the list. There's a site-specific objective there, and it's appropriate to
take it off.

Coyote Creek nitrate for in Region 4. This was an oversight by me. We have the data. We just didn't evaluate it during our first process. It was kindly pointed out by one of the commenters. And now we're going to address it completely.

There were many comments on other aspects of our proposal that we -- in our implementation of the listing policy. And I'd like to go over those very briefly and respond to them.

Many of the new comment letters we got last Friday submitted new data. For example, there was a new report on Walnut Creek in Region 4 for toxicity. The draft report was just completed October 5th. Frankly, I haven't had a chance to review that information and come to a conclusion on whether we should list or delist. And we didn't open this whole process up to new data anyway, because we needed to finish this process.

And so if -- I will absolutely pour that into the next listing process, which I anticipate beginning within the next few weeks. We've drafted a letter to solicit new information for 2008, and we're going to start this all over again.

So there's new information that's out there. We didn't review it in this last five days.
Many commenters talked about how water quality objectives are wrong, the basin plans for beneficial uses are incorrect, that they disagree with us protecting an existing beneficial use like fish consumption.

On the first two, we're not writing basin plans. We're just interpreting them. We're not changing any standards whatsoever. We're just using them as they exist. The trade or review process deals with that.

On existing beneficial uses, if the basin plan does not contain a beneficial use that exists in our water bodies, I think we're compelled to protect that use in the water body. And so we listed if we thought there was fish consumption in certain water bodies.

One very difficult issue that we have addressed or discussed is when natural conditions are out of balance. We just had a lot of excellent presentations about blue-green algae.

Blue-green when it's out of balance in the environment is a real problem. It causes potential human health problems, definitely problems with animals. And if you want to control those algae blooms if they're not desirable, the way to do that, this naturally growing plant or bacteria, is to control the things that control its growth.

Nutrients control its growth. Depth of water,
quiet water, the speed at which water moves controls it.
The North Coast Regional Water Board is developing a TMDL for these factors. It's listed for nutrients, for temperature, for dissolved oxygen problems. All those things, once they're addressed, will address this toxic algae bloom, which is a real problem.

We've also had -- a lot of commenters talked about inconsistencies in what we did. For algae listings in Region 4 we only removed the algae listings if a TMDL had been completed, for the regional board had made a very good effort at identifying the pollutants. We left the other algae listings on the list to give the regional board the option of evaluating all that information when they got to those TMDLs. We did not want to remove them in a blanket fashion because there might be a problem in those water bodies with respect to nutrients. And we wanted to make sure that they had that option to address those problems.

Many people came up with counter-arguments to explain why standards are not met: You know, the fish don't bio-accumulate the pollutants in the water body, the chemicals are banned, there's natural causes, fish are not eating -- all of these things. If the fish were caught in the water body, we assumed that it was impacting the uses in that water body. We couldn't assume otherwise.
Sometimes we used forage fish as an indicator of impacts on water quality where we didn't have fish that were commonly consumed. But we felt that was a conservative -- environmentally conservative approach for listing.

Many people came up with counter-assessments and reached different answers than we did. There's some very creative people out there and they're reading these policies very carefully.

EPA is planning -- or has mentioned that they would like to reverse several of the close calls that we made using our statistical approach. They're just using a different statistical approach, and it's just not expressed what it is. Ours is.

For the Santa Clara River Reach 2 for --

BOARD MEMBER WOLFF: I'm sorry, Mr. Wilson.

Could you clarify that?

We use one statistical approach and you're saying EPA uses another -- there's isn't clear and ours is, is that what --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Well, our statistical approach is very clear. We used a balanced error, kind of binomial model. And it's laid out, it's very clear what it is. It's been vetted.

They looked at our data and said, "Well, there's
over 10 percent exceedance. That does not meet standards. Therefore, we'll put it on the list."

That protects for type 2 errors more than our process did. In other words, it says there might be a problem there. They're more conservative. If you use statistics --

BOARD MEMBER WOLFF: They're more conservative. And how many additional listings would that lead to?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I don't know, a handful, three, five maybe, something like that. It's not a large number.

BOARD MEMBER WOLFF: Okay.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: But there are a few.

Santa Clara River --

CHAIRPERSON DODUC: Mr. Wilson, I think what I will do is interrupt you because I know you have a long list of comments that you want to run through and discuss and provide the staff responses to them.

I know that we also have over 20 speakers cards. And what I'd like do is, if my colleagues concur, is get to the speakers and then ask you or Board members will ask you to respond to any remaining issues that come up as each speaker brings them up.

SENIOR ENVIRONMENTAL SCIENTIST WILSON:
Certainly. I provided a recommended changes to the list. And if you wish, I could go over each of those at the appropriate time.

CHAIRPERSON DODUC: We then --

BOARD MEMBER HOPPIN: Madam Chair, can I make one comment?

CHAIRPERSON DODUC: Please. Mr. Hoppin.

BOARD MEMBER HOPPIN: Mr. Wilson, not that you're at the podium to be reprimanded, but I think it's an opportune time to make a comment. And it's not to you. It's to staff and it's to all of those in the audience and it's to all of these people that sent in these 77 response letters. As a Board member, I understand why we have deadlines. And I hope we can lengthen the period of time that I have these comment letters in my hand in the future. When I get done with a comment letter, it looks like this. It's marked up. And it is my responsibility to the public, regardless of what side of an issue they're on, to read them.

I appreciate the fact, and I think our other Board members do, the staff reviews these, they condense them in the cliff-note version for us and we go forward with them. But it's important for me to read each and every one of these.

Some of these are prepared by grassroots

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organizations, some of them are prepared by organizations
of national notoriety. Most of them arrived on October
the 20th, which I realize was the deadline. I received
them yesterday because I was out of the office the day
before. And for us to do our job correctly, I think it's
important that we create a mechanism that we receive these
comment letters in a more timely basis. I would assume
that it would help yourself and the rest of staff as well.
And I just want to go on the public record to state that
we need to move forward with some improvement in this
process, because there's a lot of time that was spent here
that hasn't been thoroughly reviewed by this particular
Board member and I don't feel right about that.

And Like I said, I'm not chiding you. You just
happen to be there. I wanted to make this comment before
we went forward with the process. And I realize in this
month as well there was an exception to procedure for
reasons beyond anyone's control. But the more time -- you
know, I just went to a state college, and it takes me
longer to read than some of my colleagues that went to Cal
and other places.

(Laughter.)

BOARD MEMBER HOPPIN: So if we can address that
in the future, I'll let you go.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Yes, sir.
CHAIRPERSON DODUC: I will definitely second that.

BOARD MEMBER WOLFF: I think that the British Parliament would say something like, "How's that one?" When you hear something like that. And I can assure you -- I have two Masters degrees and a PhD, and I could not possibly read those documents any faster than you could, Charlie. So --

BOARD MEMBER HOPPIN: So it wasn't a state college deal?

BOARD MEMBER WOLFF: No, it wasn't. It wasn't, no.

(Laughter.)

BOARD MEMBER HOPPIN: But it slowed you down.

BOARD MEMBER WOLFF: I did want to ask Mr. Wilson, before you sit down and people start coming, is there any -- are there any comments you feel a pressing need to comment on before people start -- Okay. I just wanted to give you that chance. Thank you.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Thank you.

CHAIRPERSON DODUC: Mr. Baggett?

BOARD MEMBER BAGGETT: Yeah, I just have one. I notice since the Klamath was just brought up and it's --
notice we've recommended change is to listed it for sediment, in which I would concur. And I would just like to make it real clear at some point, and hope that my colleagues agree, that we've put some specific language in there, something to the effect that if the listing is determined to be on tribal lands, that the U.S. EPA should place this water body pollutant on Section 303(d), because we don't have that authority.

And, secondly, that it's not the State Board's intent that this listing would affect any decommissioning of any hydroelectric projects or dams in the Klamath River, because I think, you know, you can see that unintended consequence. So I think we need to make sure that that is in clear direction at the regional Board that there is a decommissioning and sediment is released as a result of that decommissioning. It is taken into account of when the TMDLs develop that that is an option as part of the implementation plan.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: We will make that change.

CHAIRPERSON DODUC: Thank you, Mr. Baggett. With that, we'll get to speakers. And, Mr. Tim O'Laughlin, are you still here? Mr. O'Laughlin made a special request since he as a very, very important commitment.
MR. O'LAUGHLIN: Thank you very much for allowing me to jump to the front of the line this afternoon. I appreciate that courtesy.

My name is Tim O'Laughlin. I represent the San Joaquin River Group Authority. I have not appeared in front of you almost for a year now, so you've had a nice rest --

CHAIRPERSON DODUC: We have missed you so much.

MR. O'LAUGHLIN: Yeah, I know you have.

I have three short issues to bring up in regards to the 303(d). If you remember, back in September of last year, on behalf of the San Joaquin River Group Authority, we filed a petition to delist the lower San Joaquin River for salinity at Vernalis. What we agreed to do was since you had this -- we filed that. And you had this wonderful 303(d) process going on, so we figured that it wasn't worth trying to do both at the same time and having two separate hearing records. And as we agreed with your staff, the logical outcome was, is that if you listed the lower San Joaquin River as a 303(d) impaired for salt, boron again, you would be effectively denying our petition to delist the lower San Joaquin River for salt, boron.

So it would be helpful for us is if you do one or two things. You could in this order write a brief
sentence that basically says "Your petition to delist the lower San Joaquin River for salinity has been denied pursuant to the following" -- or the following above or below or wherever you want to put it. That would be very helpful to us. Because then we could have both of these wrapped up in one package, one administrative record, because we took all of our petition to delist and put it into your 303(d) record.

If you don't want to do that, what we would then ask is that you would follow up with another order, which basically says that "We ruled on the 303(d). We've re-reviewed your petition to delist, and we deny your petition to delist for the reasons stated in our 303(d) listing."

Either way, I don't care. I just -- I need a ruling from you that you're going to deny our petition to delist. And actually this has worked out quite well from staff and resources, time that we didn't have to go through two separate hearing processes.

So if your staff and your counsel would take that under consideration, we would appreciate.

The other then inning is, I would ask that -- we didn't find this out until the 303(d) revise came out. I don't know if it's actually -- and it's a strange situation. I'm not going to say that it's -- I don't know
what the correct -- I've been trying to find the correct
terminology for this. The hearing record was closed.
And, granted, your hearing notice said that, you know, you
could go seek additional information. And I realize this
is a quasi-legislative process and that, you know, you can
do what you want. But it seems very strange to us that
the hearing record gets closed to everyone. Your staff
then contacts a staff person at the Central Valley
Regional Water Quality Control Board, not even the
regional water quality control board, and requests
additional information, which they provided from two draft
staff reports, which is no one else saw, which is now the
basis to uphold your 303(d) listing for salinity on the
lower San Joaquin River, which we never had an opportunity
to review, discuss, analyze, or comment on.

And not only that. It didn't actually come from
the regional board. It came from a staff member, because
it's not signed by the executive officer and the
communication went from your staff to their staff.

And then the other thing that's kind of not good
about it is that it's from draft staff reports that have
never even been sent to the regional board, let alone the
public to review or anybody else. And you're relying on
that information.

So we'd like you to -- for the record, so it's
clear, we're objecting to that, and we've noted that in
the record. But we would ask that you would have that
particular document withdrawn from the record.
And then, finally, one last thing is, we've
noticed selenium is back on the list for the San Joaquin
River. And we don't understand, and there's little or no
documentation in the records, selenium pops back up on the
list again. And we're kind of perplexed about why that's
back on the list again.

Those are my comments. Thank you for your
consideration.

If there's any questions, I'd be happy to answer
them.

CHAIRPERSON DODUC: Thank you, Mr. O'Laughlin.
And thank you for the suggestions about more efficiency in
our processes in responding to your petition.

MR. O'LAUGHLIN: Thank you very much.

CHAIRPERSON DODUC: I would like Mr. Wilson or
Mr. Blum to address Mr. O'Laughlin's concern regarding the
record in the draft staff report that was received from
the regional water board.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: In
evaluating the record, the information that was sent by
Mr. O'Laughlin, I consulted with the regional board staff
to figure out how they proceeded with developing their

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basis for finding that standards were not met in this
water body.

So I sent an e-mail to a person named Les Grober. And he provided me the information that -- and I think it was from the staff reports that were used to develop the TMDL for the salt, boron TMDL. He provided me that information that showed me, to inform me of where they were with this effort. And so I evaluated that in light of Mr. O'Laughlin's information in the record. And I viewed that information as in-house information. And I just referenced that report that Mr. Grober sent me.

MR. O'LAUGHLIN: I have --

CHAIRPERSON DODUC: Welcome back, Mr. O'Laughlin.

MR. O'LAUGHLIN: Well, yeah, thank you.

Just so the record's clear, the reports that were sent were not sent in regards to the TMDLs that have actually been adopted, but were based upon draft staff reports that were in the process of being done for the upper San Joaquin -- the upper San Joaquin River for the establishment of salt, boron TMDL objectives upstream.

See, and that's a disconnect here, because -- I mean just one more second -- is the disconnect is we said that the Vernalis' salinity standards have been met for 12 years. And there's no disputing that. So the question that was sent to regional board was, "Well, how do you
figure out that you have exceedances?" Well, wait. We're meeting Vernalis. The information that was received by your staff had to do with upstream violations. But there can't be any upstream violations, because there's no water quality objective upstream and there's been no designation of beneficial uses upstream that will be protected by those, nor are there any standards.

So it's kind of -- it's a strange situation where I'm saying we've met the standard -- everybody agrees we've met the standard. And then in the staff -- the draft staff report they got back from Les has to do with upstream standards and objectives that you told them to adopt that they're going to come to us in May of 2007 with.

But that's not what the issue was about. And not only that, it was all draft information.

So I'm done. And I thank you for your time very much. And I appreciate you putting me through to the front of the line.

CHAIRPERSON DODUC: Thank you, Mr. O'Laughlin.

Any other questions, comments, Mr. Blum, Mr. Wilson?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I did not use the upstream information at all. I used the data that was in the record for the San Joaquin River at Vernalis.
Over the last ten years I found 71 violations of the standard. In that period under the binomial approach standards have been met. In the period from 1986 to about 1998 those were critical water years, and standards were not met in that time period. When you look at -- use the binomial approach required by the listing policy, standards are not met.

So it's not the upstream data in any way.

CHAIRPERSON DODUC: Mr. Baggett, and then Dr. Wolff.

BOARD MEMBER BAGGETT: I think probably the simplest thing -- we're not going to resolve the evidence here. It's not before us. We don't have it.

It seems to me if we could figure out some way today to deny the petitions as part of this adoption, then we'll let other bodies sort out the --

(Laughter.)

BOARD MEMBER BAGGETT: -- efficacy of the truth of the evidence so we don't have to deal with it. I just think that if we could somehow incorporate a motion denying the petitions so it's presented in a --

CHAIRPERSON DODUC: Yeah, Mr. O'Laughlin has suggested an addition of one sentence.

BOARD MEMBER BAGGETT: Is that a problem with the attorneys and our -- I mean it was truly brought before us
last -- a year -- Jeez, over a year ago. And we did fold
it into this. But it probably was at water rights and now
bifurcated divisions.

CHIEF COUNSEL LAUFFER: My only concern -- and I
think Mr. O'Laughlin correctly characterizes what the
effect of adopting the 303(d) list today is. The issue
is, if there is a specific request for the petition, you
know, in other words to delist, that action hasn't been
noticed up to today. And I think that's a sufficiently
discrete issue.

Something like a petition, as the Board knows on
water quality matters, if it fails to raise substantial
issues, it could be denied by the Executive Director. The
Exec -- I think what Mr. O'Laughlin is getting at -- and
correct me if I'm wrong -- is he just wants a clear
document, to make it clear that the Board has ruled. And
so I think based on the Board's action today, the
Executive Director could issue and to deny --

CHAIRPERSON DODUC: Dr. Wolff.

BOARD MEMBER WOLFF: I think it's critical though
that petitions to be denied in whatever format that the
rationale for the denial be clear. And what I've heard in
these last few exchanges is a lot of confusion.

My understanding for the denial of this object in
the briefings that I received was that the means which
have been employed to achieve the standards over the last 12 years, or whatever the exact time period is, are means which may not continue into the future, are means which might not be supportable in the event of a six-year drought like we had '87 to '93 or so. And so this sort of rationale needs to be expressed. If it doesn't exist in this document, then we shouldn't be denying the petition in this document. If we want to deny it here, then we need to add the rationale. If the Executive Officer is going to send a letter, we need to be darn sure that the letter explains the rationale for the denial. Because, as Mr. Baggett said, there are other bodies which may take this up. And if we haven't been clear what our rationale was, then, you know, we're just wasting everyone's time. It will be an endless process.

CHAIRPERSON DODUC: All right. With that, we'll move -- Mr. Hoppin any comment?

Thank you, Mr. O'Laughlin. Best wishes to your son.

MR. O'LAUGHLIN: Thanks.

CHAIRPERSON DODUC: Ms. Strauss, followed by Central Valley Regional Board and then Mr. Jose Angel from the Region 7, Colorado River.

MS. STRAUSS: Good afternoon, Madam Chair and Board members. I'm Alexis Strauss from the U.S. EPA. And
on behalf of our agency, we'd like to extend our appreciation for you holding this hearing and, in particular, for the several years of sustained effort put forward by the State Board and the regional boards in this matter. Craig Wilson and his team have done an extraordinary job to compile what is before you, looking it over, 2300 individual assessments.

We are very pleased that I can say that we concur with over 99 percent of the package which they recommend to you.

We did, as you can tell from the package that Mr. Hoppin had raised, provided detailed comments, as did many others. I'd like to just highlight a few of our key comments; but, most importantly, urge that the Board might consider adopting the list as soon as possible, as there's so much for us now to turn to in working on the integrated report for '07-'08.

I know that on many occasions we've all rued the fact that this statutory obligation comes around so quickly and there's so much work that results from it. It would be lovely if it were not every other year. But in the meantime, it will be good to bring this particular process to a close.

We indeed appreciate and support several of the listings in the proposed final list per our comments,
things like several of the Central Valley water straits on ex species in temperature, Laguna into Santa Rosa for nitrogen and phosphorus, L.A. Harbor for the several toxicants noted.

I think that the decisions to list exotic species, should you make them, are consistent with the recently approved state program to focus on exotic species controlled by regulating ballast water discharges. And I'm hopeful that I may yet come to be able to work on that, bringing the federal program in line with the state's leadership on this matter.

In addition, regarding the exotic species, these listings will help address the recent ocean conservancy litigation against EPA and would avoid the need for EPA to add these listings.

We also support the team's decision not to list the lower Lost River for temperature, not to list Santa Monica Bay for chlordane, not to list San Gabriel River for toxicity. I think these decisions would enable the state and EPA to focus on the true priorities and not to be working on TMDLs that aren't needed for these waters.

There are indeed just a handful of matters where we differ with the recommendations or, based on the record, couldn't determine the basis for the decisions. And just to summarize: In ten situations we think that
waters may need to be listed that are not presently proposed for listing: In about nine cases there are some listings proposed that we professionally just disagree and think do not need to be included. In some cases it's a little bit unclear, as Craig had noted. And we'll be working with him and his team to review the information supporting the assessments and what comes forward. So, for example, we'll carefully review the detailed information about 45 beaches. And if warranted, we could add them to the list after your process is concluded if you don't have time to deal with that now.

Might I ask for 30 seconds more?

CHAIRPERSON DODUC: Please, go ahead.

MS. STRAUSS: Thank you.

The next steps. Once you have a final record submitted, we will review that and work with the team here to obtain any additional documentation, if needed; and expect to approve virtually all of the listing decisions you may make, although we might need to make a few changes as we had noted.

With regard to Board Member Wolff's query, I'd like to just address that for a moment, because it comes into play -- what comes into play is the issue with regard to the listing policy versus how the standards themselves are worded.
Most of the cases where we identified additional waters for listing involve cases where staff may have relied solely on the binomial assessment method which is in the listing policy. The binomial tests in the policy set allowable exceedance frequencies that are less stringent than the applicable water quality standards in some cases, particularly for toxicants and conventional pollutants. So where you have a listing policy not in agreement with what constitutes an exceedance of a standard, reliance on the binomial tests would mean that here today waters are not being proposed for listings that do exceed toxic or conventional pollutant standards. It is more an issue of the exceedance frequencies than any great particular disagreement, and I think we can work through these.

As we might wrap up this process and move on, we've made some suggestions about how the next process could be improved and hope to work with you on that. Thank you very much.

CHAIRPERSON DODUC: Thank you, Ms. Strauss.

Thank you especially for those recommendations on how to improve the process. And thank you for accepting our 1 percent degree of disagreement.

(Laughter.)

MS. STRAUSS: It's great to be so close. Thank
CHAIRPERSON DODUC: Questions or comments?

Thank you.

We'll now hear from the Central Valley Regional Board.

MS. CREEDON: I think we have a presentation.

Good afternoon, Chair Doduc and Board members. My name is Pamela Creedon and I'm the Executive Officer of the Central Valley Water Board. And I'm here today with staff because the item before you is of critical importance to our board.

(Thereupon an overhead presentation was Presented as follows.)

MS. CREEDON: My staff has worked with your staff for the last year and a half on 303(d) listing, and we appreciate the opportunity to review your staff's products and analysis prior to release to the public. However, there are -- while there are positive changes that have been made, there are several significant policy issues that remain for us. And I think you know that for me to come up here and to say I'm not in full agreement with State Board staff and EPA is hard for me, because I value working with both of you so much.

CHAIRPERSON DODUC: Let me guess. It's not more than 1 percent, is it?
MS. CREEDON: We are very concerned that your staff has proposed listing certain constituents using an approach to interpret our narrative objectives contained in our basin plan using an approach that's inconsistent with how our board interprets the narrative objectives. So we respectfully request that you defer the interpretation of our narrative objectives to the regional board.

It's important for the Board to have the primary responsibility of interpreting compliance with our objectives. And we -- not only they evaluate compliance for our 303(d) listing, but also for our other regulatory programs.

So I'm going to have Joe Karkoski, a senior engineer with my staff, come forward to complete the presentation.

Thank you.

MR. KARKOSKI: Good afternoon. So I've got about three issues, two of which are exact opposite of what you heard from Alexis. One is in agreement with her.

The first one is on the exotic species issue. When we look at the fact sheets that the staff prepared, what is actually listed are non-native aquatic species.
And they're being listed because they are identified as pollutants. And so we looked at the fact sheets and pulled out these specific species that are identified essentially as pollutants. So Channel catfish, which of course are consumed by fishermen and their families in the Delta; Mosquito fish, which are used as a biological control by mosquito control districts; and of course largemouth bass. There's a big bass recreational sport industry in the Delta.

So in contrast to what Alexis mentioned, this is not about aquatic invasive species coming from ballast water. These species have been established in Central Valley waterways for sometime over 100 years.

--o0o--

MR. KARKOSKI: Now, move on to our temperature objectives.

So the trick here again is we -- we have a narrative objective that's being interpreted. And basically the narrative says that the natural temperature cannot be altered unless it's demonstrated to the regional board that beneficial uses are not adversely impacted.

So the approach your staff took is twofold. One is they picked a 21 degree Celsius annual maximum criterion from the literature. And they also looked at fisheries data. That 21-degree C annual mass cannot be
achieved in Central Valley streams at lower elevations.

And I'll give an example in a second.

The fishery comparison was comparing the status of the fishery before major hydro projects like dams and hydro power. So, again, it's the question of: What is the current natural condition? Do we go back before we had these hydro projects or are we looking at current conditions or are we looking at what the State Board may do through your water rights or water quality certification authorities?

--o0o--

MR. KARKOSKI: So quickly, here's the upper Sacramento River about at Dunsmuir. It's spring fed.

--o0o--

MR. KARKOSKI: If you look at this data, as you would expect from a spring fed, the temperatures are relatively constant, even in the hottest part of the year, hottest part of the day. And there's the 21-degree C maximum.

So the reason we look at this is this is similar to the North Fork of the Feather River, same elevation roughly, but there are no diversions. So in the North Fork of the Feather there are a lot of water diversions for the hydro operations.

--o0o--
MR. KARKOSKI: So then you go downstream. This is a great trout fishery according to our Redding office staff.

--o0o--

MR. KARKOSKI: And you look at the temperature profile. And there are multiple exceedances of the 21-degree C maximum during the hottest part of the summer. So this is all due to natural heating.

--o0o--

MR. KARKOSKI: Okay. So the last issue that I want to touch on, also EPA touched on, and that is there are some waters, and just a few, that are proposed for delisting although the standards are not attained. So it's that 1 in 3 or allowable exceedance rate which applies to toxic pollutants. So in a few cases that's not yet being met.

The other thing is we also need to make sure we consider additive toxicity. So we've been before the Board before to talk about Diazinon and Chlorpyrifos and the additive toxic effect. And so that needs to be considered as part of a weight of evidence approach which is part of your listing policy. So we don't strictly need to rely on binomial method. There is an option using the weight-of-evidence approach, which we think justifies continued listing.
BOARD MEMBER BAGGETT: So basically you agree with the changes staff has recommended?

MR. KARKOSKI: No, they didn't --

BOARD MEMBER BAGGETT: They've got Diazinon, Chlorpyrifos TMDLs cover all Delta waterways. Is that what you're --

MR. KARKOSKI: No. No, there were three other water bodies. I'll show you on the next slide.

---o0o---

MR. KARKOSKI: That we would suggest still needs to remain on the list. There's clearly improvement. It may well be the next time we come before you those waters will clearly be attaining standards. It's the Sacramento River, Feather River and Morrison Creek for Diazinon. We already have TMDLs done for those. So there's a plan in place. You've approved our basin plan amendment. So we're moving forward.

So our recommendation is to basically give the regional board the opportunity to interpret our narrative objectives. We ask that you not list the exotic species for the Delta and Cosumnes River and San Joaquin, and not list temperature for the North Fork Feather and for Willow Creek.

And should you decide to go ahead with those listings, we put in our comment letter some suggested
language to add to the resolution just to clarify the
scope of the listing and what you expect us to do.
Because, again, like with temperature, it seems like it's
clearly related to hydro power operations and dams. It's
not a discharge of waste. And with the exotic species, I
don't think we can regulate non-native established
species.
So that's all I got.
CHAIRPERSON DODUC: Dr. Wolff.
BOARD MEMBER WOLFF: A question about Diazinon.
You said the TMDL for those segments, Sacramento
River, Feather River, and Morrison Creek, that TMDL's been
adopted?
MR. KARKOSKI: Yeah.
BOARD MEMBER WOLFF: And it's been approved by
this Board?
MR. KARKOSKI: For the Sacramento and Feather
River, yes. Morrison Creek we actually incorporated that
into a storm water permit, so that didn't require your
approval. But it's being worked through the storm water
permit.
BOARD MEMBER WOLFF: They've been approved by
EPA?
MR. KARKOSKI: Yes.
BOARD MEMBER WOLFF: Okay. So there are measures
already in place fully through the process which are going
to protect those reaches from Diazinon. And so I'm not
sure whether the listing or the delisting has any -- I
guess my question is: Does a listing or delisting really
have any consequence then for what will actually take
place on the ground with respect to protection of those
reaches?

MR. KARKOSKI: It has a potential consequence in
terms of precedence. So you do have one portion of your
list that says, "These waters still are not attaining
standards, but a TMDL has been approved by the U.S. EPA."
So we're just saying put those waters back on that list,
acknowledge that we're moving forward, standards aren't
quite attained.

BOARD MEMBER WOLFF: Well, what difference does
it make if I take off the list in terms of on-the-ground
implementation? Does it undermine implementation in a
way --

MR. KARKOSKI: It may well, because basically the
State Board is saying that standards are being met, right?
So if you say standards are being met, then there's less
incentive to actually move forward with some of the
on-the-ground implementation that we're trying to get done
in those watersheds.

BOARD MEMBER WOLFF: I see. And there are
measures in there which haven't been implemented yet?

MR. KARKOSKI: Correct.

BOARD MEMBER WOLFF: And which perhaps will not
be implemented if we delist?

MR. KARKOSKI: Well, right. We'll be in an
argument with -- "Well, gee, why are you guys making us
monitor? Why are you making us do this?" State Board's
decided that the standards are attained.

BOARD MEMBER BAGGETT: And also it's just an
opportunity for funding, you know, for other -- if it's
impaired, you can, you know, proposition monies. There's
a reason now.

BOARD MEMBER WOLFF: So, Mr. Wilson, could you
comment on this?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: In the
examples, these examples --

BOARD MEMBER WOLFF: Oh, I'm sorry. Just the
Diazinon.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I can't
remember the exact numbers, but I think there were two
hits out of about 116 to 120 samples. And that was
sufficient to remove it from the list. That's the factual
basis for that delisting.

BOARD MEMBER WOLFF: Well, but their point is
that the weight of evidence suggests continued listing
even though the statistics has delist.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Right.

The weight of evidence -- you know, to keep it on the list based on, you know, more -- to convince people that you need more monitoring, I mean I guess that's an issue that needs to be addressed. But, you know, I was looking at the data, and the data says it shouldn't be listed. I mean I don't have a better response.

MR. KARKOSKI: Yeah, I mean basically we looked at the information, and the standards are not yet attained. I think when the standards are attained, we're clearly going to advocate delisting. But right now it's close but it's not there.

BOARD MEMBER WOLFF: Are there any stakeholders who have commented that they support the delisting?

MR. KARKOSKI: Yeah, I think so. I can't remember --

CHAIRPERSON DODUC: Actually that's a great segue, because I'm going to toss my blue cards out the window, sort of.

The blue cards don't give me any indication of the interest in various regional water boards issue. And judging how things are going, I would like to focus this on one region at a time so that maybe we can vote on the listing for one region at a time, rather than wait till
the end to vote on the whole thing.

So given the fact that we already heard three speakers pertaining to the listing in the Central Valley Regional Water Board area, let me now ask for the speakers who have provided comment cards who wish to speak on matters pertaining to the listing in this regional water board area.

So would you please come up.

BOARD MEMBER WOLFF: That sounds fine. If we could get anyone who wants to speak to Diazinon speak first, that would help me to maintain my train of thoughts.

CHAIRPERSON DODUC: Exactly.

BOARD MEMBER WOLFF: Thank you.

CHAIRPERSON DODUC: So the floor is open. Anyone wishing to comment on listing in the Central Valley Regional Water Board watershed, please come up. And those of you who specifically want to talk about Diazinon, please let me know and come up first.

Diazinon, anyone?

MS. SELF: Hi. My name is Deb Self. I'm Associate Director of Baykeeper. Thank you very much for the opportunity to speak. I'll keep my comments specifically to Diazinon right now.

We would just certainly say that while the
binomial analysis may provide a lot of evidence for a listing if weight of evidence is really important. And certainly if the Water Board feels that water quality standards are not attained, then we feel strongly that we should support them, the continued listing of those water bodies for Diazinon.

Thank you.

CHAIRPERSON DODUC: Great.

Any other comments on Diazinon?

Ms. Self, do you wish to make any other comments on other listing in the Central Valley Regional Water Board?

MS. SELF: I do, thank you.

Let's see. I don't really have my comments divided up by region, but I'll do my best.

Okay. We do definitely support the listing of the various Delta waterways for invasive species. I can see the points about the largemouth bass.

Certainly temperature for the North Fork of the Feather River, Willow Creek. I think it's important to note that temperature is in fact a pollutant and hydro power has to be considered in terms of its effect on water quality standards. So we definitely support that listing.

And we also support the San Joaquin River listing for selenium.
We do believe that there is some other --

CHAIRPERSON DODUC: We saw all changes that the staff has proposed.

MS. SELF: And we support those.

CHAIRPERSON DODUC: Great.

MS. SELF: On the other hand, we believe that there is sufficient evidence for the listing of several other water bodies that are definitely affected by highway toxic pollutants. And let me see if I can divide these up.

We do support and we would like the Delta be listed for pyrethroids.

And I believe that's it for Region 5.

CHAIRPERSON DODUC: All right. Thank you.

MS. SELF: Thank you.

CHAIRPERSON DODUC: Next.

MS. EVERITT: I have my statement here.

Good afternoon, Chair Doduc and members of the State Water Resources Control Board. I'm Sara Everitt representing Pacific Gas & Electric. And I would like to thank you and the State Water Resources Control Board for the opportunity to comment on the proposed revisions to the State's Section 303(d) listing. We provided written comments both in January and again on October 19th, 2006.

PG&E acknowledges and appreciates the State Water
Resources Control Board staff's tremendous effort in preparing this complicated and detailed document. PG&E is concerned that the State Water Resources Control Board staff does not have adequate time to address all the comments on the new lines of evidence added and would suggest delaying the issuance of the document until all the comments may be adequately evaluated.

PG&E provided comments on six different listings. First, it is PG&E's understanding that after a reconsideration of the data, the staff will recommend that the Lower Bear River Reservoir, the Mokelumne River and Sugar Pine Creek not be listed for dissolved copper.

PG&E believes that the Feather River should not be listed for mercury -- should only be listed for mercury where there is evidence that mercury standard is exceeded. This segment is the Feather River North Fork below the Poe Reservoir. There is no mercury exceedances on the North Fork Feather River between the Poe Reservoir and Cresta Dam, and therefore this listing should be revised to reflect this fact.

PG&E also believes that the Feather River North Fork below Lake Amador should not be listed for temperature. The use of a single water temperature criteria does not address the complexity of the river.

And, further, the data -- there's data and modeling which
indicates that the river would not have met this criteria historically even at the turn of the century.

In addition, there were seven new lines of evidence added, with the first five providing information on fish population between 1940 and 1980. However, none of the data was available from the recent relicensing effort for the Upper North Fork Feather River Project and the Rock Creek Cresta project was used as part of the determination.

This data included studies on fish population and catch rates, demonstrates that populations and catch rates are much closer to or exceed the data used by the State Water Resources Control Board staff to represent historical conditions.

PG&E believes that the data collected as part of the relicensing process must be used to accurately assess the current conditions of the Feather River before making determinations on temperature.

These reports were provided to the State Water Resources Control Board, Division of Water Rights starting in 2001 and continuing through 2005 and were submitted again with our comments on October 19th, 2006.

Lastly, PG&E believes Willow Creek should not be listed for temperature because, as with the Feather River, using a single water temperature criteria does not address...
the complexity of the river. Further, the criteria is for
a single cold water species, and Willow Creek supports
both warm and cold water species.

Finally, as a part of the Crane Valley Water --
Crane Valley Project relicensing, temperature and water
quality studies will be performed that will provide
invaluable insights into a temperature determination. A
listing at this time is premature.

Again, thank you for the opportunity to comment
on the proposed 303(d) listing. I'm available to answer
questions, as is my colleague, Tom Jair, a senior project
manager in our hydro relicensing project.

CHAIRPERSON DODUC: Thank you.

Dr. Wolff.

BOARD MEMBER WOLFF: When was the information on
the Feather River and Rock Creek Cresta project originally
submitted?

MR. JAIR: I'm Tom Jair with PG&E and I'm
responsible for that kind of information that is submitted
through our relicensing. Beginning in 2001 that
information was submitted.

BOARD MEMBER WOLFF: Subcommittee to the Water
Rights. When did you submitted it to the group working,
you know, through a 303(d) list? They've held workshops,
they solicited comments, so forth. When was that data
submitted to them or when were they told that the data was
available?
MR. JAIR: I'm not familiar when it was submitted
to them, if we submitted it to them at all. They
solicited the Division of Water Rights staff for that kind
of information. That's my understanding.
BOARD MEMBER WOLFF: I see.
CHAIRPERSON DODUC: Mr. Wilson.
BOARD MEMBER WOLFF: Do you have a comment on the
timing of the data coming to your attention?
SENIOR ENVIRONMENTAL SCIENTIST WILSON: We
tracked down the information as part of our data
solicitation process from the Division of Water Rights and
we obtained it from them, and completed that record for
our process and didn't augment it at all after we obtained
it. And that was --
BOARD MEMBER WOLFF: And then why do they reach a
different conclusion than you did?
SENIOR ENVIRONMENTAL SCIENTIST WILSON: Well, you
know, a lot of these -- you mean on the temperature data?
BOARD MEMBER WOLFF: Maybe I'm misunderstanding.
But I thought that the evidence that -- they're claiming
the evidence that they, you know, submitted is
overwhelming. And yet, you know, our staff is saying the
opposite. And I thought perhaps it was because of a lack
of communication on the evidence. Maybe I'm misunderstanding.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Well, on the temperature data I think it's pretty clear. And like the disagreement is over which number to use. The data that was available to us was annual maximum temperature data, and so we used the actual -- the annual maximum value in our assessment. We had ten or so sites over a four-year period. And we found a large percentage of those sites over that four-year period did not meet that 21-degree value, and that's what we used.

Had we had MWAW, maximum weekly average weekly temperature data, we would have used that value and maybe come to a different conclusion. But we didn't have that information before me.

BOARD MEMBER WOLFF: I see. Thank you. Mr. Bolland, do you have a comment?

CHAIRPERSON DODUC: All right. Thank you.

MR. BOLLAND: Chair Doduc, Board members. I'm David Bolland. I'm with the Association of California Water Agencies. I did have a statement in general about kind of background of interest here on policy issues. I'm going to save that till another region where we've got more focus.

But on this particular --
CHAIRPERSON DODUC: Actually I was going to ask for a general statement after we finish with Region 5.

MR. BOLLAND: Oh, all right.

Okay. Well, back to Region 5 on the specific temperature thing on the North Fork of the Feather, again I just wanted to underscore our concern from a policy perspective.

I think Joe Karkoski laid it out very clearly, that the regional board has made a determination about how to interpret their numeric standards and that the State Board staff should defer to the regional board in this particular case. And there are some technical reasons why that needs to happen. I think Joe did a good job of documenting that in the record. And we're concerned that this sort of judgment call by the State Board staff sets a bad precedent for the way this process works around the state, not just on maximum temperature exceedances, but other kinds of, I guess you'd call it, subjective calls. And I guess we would like your consideration of Joe's comments, and we would support those.

Thanks.

CHAIRPERSON DODUC: Thank you.

MR. DYOK: Madam Chair, Board members. My name is Wayne Dyok. I'm a consultant to Plumas County. And Plumas County very much supports the statements of the
regional board, Pacific Gas and Electric, and the Association of California Water Agencies with respect to the recommendations not to list the Upper North Fork Feather River for temperature.

We would look forward to working with the State Board, regional board and other participants to come up with a better approach, if you like, to identify whether the Upper North Fork should be listed.

We believe that the 21 degree Celsius temperature is flawed. We provided some evidence to that in our letter to you last Friday. And we would hope that you would take that into account in your determination.

Thank you.

CHAIRPERSON DODUC: Thank you very much.

Any other commenters on Central Valley?

It's so nice to be seeing people so courteous to each other.

MS. SHEEHAN: I'll be brief.

Linda Sheehan, California Coast Keeper Alliance. I support the proposed listings for exotic species and temperature in the Central Valley.

Thank you.

CHAIRPERSON DODUC: To list or delist? The temperature --

MS. SHEEHAN: To list.
CHAIRPERSON DODUC: To list?

MS. SHEEHAN: Yeah, to list.

Thanks.

CHAIRPERSON DODUC: Thank you.

MS. PAULSON: Good afternoon. My name is Cindy Paulson. I'm an environmental engineering with Brown & Caldwell, here today representing the Turlock Irrigation District.

I've been working with the TID over the last five years on water quality issues in the Harding Drain. And I'm happy to be here today and want to thank the State Board staff in their efforts to work with us in reviewing the data and the analyses that we've provided and their decision to delist the Harding Drain for both ammonia and Diazinon.

It's not entirely clear to me here today what the final decision was with regard to Chlorpyrifos in the Harding Drain. We'd greatly appreciate some clarification there.

But I am happy to report as well that the TID is very actively engaged in a local effort, a Prop 50 funded effort working with stakeholders to continue to address water quality issues in the Harding Drain and, in particular, to address the remaining listing for unknown toxicity. So they will continue those efforts.
And I would appreciate if we could get a little bit of clarification on Chlorpyrifos.

CHAIRPERSON DODUC: Thank you.

And, Mr. Wilson, please address Ms. Paulson's question.

SENIOR ENVIRONMENTAL SCIENTIST WILSON:

Certainly.

On Chlorpyrifos there were approximately 36 exceedances of the standard of about 300 or so samples. And that was enough to keep it on the list. And that's our justification.

There was some creative use of the listing policy. We got some interesting comments on this, using decreasing trends in this pollutant. It's my belief that by using the decreasing trends, it circumvents the delisting factors that the Water Board adopted in '04.

As you may recall, Mr. Baggett, it requires -- the policy requires more information to get off the list than to get on the list. And so by using these trends in water quality, you might get to that delisting more quickly than you would if you used the binomial approach.

And that's kind of the crux of the different --

BOARD MEMBER BAGGETT: Yeah, a very contentious decision.

CHAIRPERSON DODUC: Thank you.
Mr. Levine.

MR. LEVINE: Yes. Alan Levine for Coast Action Group. We have some experience with stream temperatures and salmon. I just wanted to make a clear statement about representations that were made about temperature in the case of the North Fork Feather and Willow Creek. And I forget the name of the other creek.

Twenty-one degrees is very, very warm. You start getting concerned at 17. Twenty-one's near lethal. It depends on the duration and frequency, and I'd just like you to keep that in mind.

Thank you.

CHAIRPERSON DODUC: But you support the listing of the temperature in those water bodies?

MR. LEVINE: I haven't seen all of the data. So I would leave it up to your staff to make the interpretation.

CHAIRPERSON DODUC: Okay. Thank you.

Any other comments on Central Valley Region?

All right. What is the pleasure of the Board?

We have a lot of comments. There was a question on Diazinon. There was a suggestion regarding other pesticides. So --

BOARD MEMBER WOLFF: May I ask a question of Central Valley staff?

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
CHAIRPERSON DODUC: Please.

BOARD MEMBER WOLFF: I'm curious, if we do list the exotic species and temperature, when the TMDLs for that might begin. I think it's a long time from now, isn't that correct?

MR. KARKOSKI: Well, we would try not to make it a priority, because we don't have any authority to control the reproduction of catfish or mosquito fish. And with the temperature issue, you know, we --

BOARD MEMBER WOLFF: You don't? I thought the Water Board system was all powerful.

MR. KARKOSKI: Well, that's what I've been told.

BOARD MEMBER WOLFF: I thought the fish at least paid attention to us.

(Laughter.)

MR. KARKOSKI: Yeah. But I think -- you know, one of the issues is sort of the unintended consequences of listing based on, say, mosquito fish is then -- the mosquito control districts are discharging mosquito fish. So does that then obligate us, if you all say that mosquito fish are pollutant, to regulate the discharge of mosquito fish?

Then the other situation we have, you know, whether we address it as a TMDL or not, is we may have some waters where there are primarily non-natives. So if
non-natives are considered a pollutant, do we have to
protect non-natives from traditional pollutants?

BOARD MEMBER WOLFF: I appreciate all that
detail. But I'm actually asking something that's a much,
much higher level -- I don't know if it's unfair to you --
a much cruder question.

MR. KARKOSKI: Okay.

BOARD MEMBER WOLFF: That is, if we list for
temperature and exotic species, three years from now will
really much have happened? I think probably not. And as
a result, there will be plenty of time sort out the data
and make another decision three years from now, because
these are going to be at the end of the line from the
TMDLs. So my gut tells me, go ahead and list them. It's
not going to harm anyone. And it will keep people focused
on the task that ultimately we either need to prove that
there's not a problem or we need to move forward for doing
something about it.

While if we follow your advice to not list them
now, then, you know, we sort of have taken them off plate,
we just said, "Ah, don't worry about them," which I'm not
quite comfortable doing given the ambiguity in the
situation.

MR. KARKOSKI: Right. I would say first for the
exotic species issue, the issue that EPA brought up and
the issue that I've heard from the environmental groups is a concern over the discharge of ballast water. So listing that is based on established non-natives, actually diverts attention from that issue and then moves it to something that we're not going to address.

But it adds confusion in terms of when our next permits come up or when, you know, somebody says, "Well, the mosquito control district is putting these mosquito" -- So it's not necessarily a TMDL issue per se. It's a potential impact on our other programs, because if there's a reasonable potential that there's a discharge into an impaired water, all of a sudden all of our other programs have to deal with that. It's not necessarily something that will come to the TMDL program.

BOARD MEMBER WOLFF: So your response is focused on your concern with respect to exotic species, and the breadth is to help all exotics. But with respect to temperature, perhaps you might -- you know, you're not going to have to do anything in the next three years over that.

MR. KARKOSKI: Well, the temperature -- you know, part of what we asked for is if you're going to go ahead with temperature, is to clarify that. For these two listings, the ball's really in your court. I mean these are related to FERC relicensing and hydro power.
operations. So the main thing we would want clarified is that there's not an expectation that we're going to -- that we at the regional board are going to try to address this through issuing permits or anything, because it appears based on the information in the fact sheets, that this is a flow-related issue. I don't even know if it's, you know, temperature really per se. But it's clearly a flow -- there is a flow-related issue in both of those water bodies.

CHIEF DEPUTY DIRECTOR HOWARD: A clarification. This is Thomas Howard.

We are in the middle of a FERC proceeding in Lake Almanor in which -- which is -- eventually the water from Lake Almanor gets to the North Fork of the Feather. We have the CEQA document that's being prepared for the purpose of dealing with the temperature issues in the North Fork of the Feather through -- some alternatives that we're looking at there, a number of alternatives have been suggested like a temperature curtain or reoperation of the reservoirs. And those are being analyzed. There are four alternatives the State Water Board are going to have to -- going to analyze, or the staff are, and the CEQA document will be finalized in December.

But the point is, I'm not sure how -- if the Board decides not to list North Fork temperature, it seems
like that would have an impact on our FERC proceeding,
because we would -- I would imagine we'd back away from
trying to look for temperature solutions in the North Fork
of the Feather if there's not an issue of impediment.

CHAIRPERSON DODUC: Good point.

BOARD MEMBER WOLFF: Thank you.

MR. KARKOSKI: Thanks.

BOARD MEMBER WOLFF: Well, it's a tough one, but
I'm prepared to go ahead and list them all, including
Diazinon.

Should I state that in the form of a motion?

CHAIRPERSON DODUC: So you actually want to list
the Sacramento River, Feather River and Morrison Creek for
Diazinon?

BOARD MEMBER WOLFF: Yes.

CHAIRPERSON DODUC: That would be a change -- an
addition to the current proposal that's before us for this
region?

BOARD MEMBER WOLFF: Yes.

CHAIRPERSON DODUC: So there's been a motion by
Dr. Wolff.

Is there a second?

BOARD MEMBER BAGGETT: I'd second that.

I do have a challenge with the exotic species. I
wish Mr. Jennings were here. Where's Bill when I really
need him? So I can debate.

It's a tough one. But I think EPA seems to have made their call. And we can go to litigate or they can litigate when we end up with it.

If you're going to list those though, I mean there's other issues, like pike. I mean pike should be listed. It seems it's clear. And I don't know that it takes a whole lot of evidence before us to list it for pike since they've -- on the lake twice now.

And where do we stop with the German Brown? They've raised havoc in Yosemite where I'm familiar with, with the native trout population on the eastern Sierra. But they're a great sport fish. So -- bass. I mean there's a challenge. I don't know that --

BOARD MEMBER WOLFF: Can I speak to that Art?

BOARD MEMBER BAGGETT: I'd really like to hear from Linda and from Alexis on why -- what we hope to accomplish by listing bass and -- but if we're going to do it, then we've got to start looking at all these other species. Maybe it helps Fish & Game.

I'd agree with the temperature, by the way, because there is a proceeding. Regional board doesn't have the -- there's not much they can do. That's a FERC process. They'll deal with it there. Maybe we should make that clear. I would like to see that clear in the
motion, that response to TMDL lies somewhere else.

CHAIRPERSON DODUC: Ms. Strauss.

MS. STRAUSS: I'm very sympathetic to the comments that Pamela, Joe, and Board Member Baggett have made. I wouldn't propose at this stage or ever that we would list by a particular species of fish or organism -- an effective organism.

I'm just cognizant as we all focused on some of the major ecosystems in California, like the Sacramento, San Joaquin, and Delta, we're all looking at what might be the causative factors in the health of the Bay Delta ecosystem; exotic species has time and again come to the fore.

I would suggest that we are trying to pay attention to the role of exotic species that might be sport fish, but just exotic species as a category to be further defined for a specific place. And that we would do our best to reduce the negative impacts or the impacts on beneficial uses from those exotic species through the analytic process that is a TMDL.

And I realize that probably neither Joe nor I feel that we have the authority to deal with ballast water at this stage. But if we can help be part of the solution that is to come, include both the state's leadership and other things, I think that it's a task worth doing. We
might not get there in the next couple of years, but we should definitely get underway.

BOARD MEMBER BAGGETT: So now we can rephrase a bit if it's less species specific. I see a real challenge from --

MS. STRAUSS: I don't think it is species specific. I believe it's exotic species as a category.

BOARD MEMBER BAGGETT: But the regional board seemed to think it was species specific.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: It is not species specific. It is as a category. Because we looked at communities. We didn't look at individual organisms. We're not recommending listing mosquito fish or any other specific organism. We're looking at it as a category.

BOARD MEMBER BAGGETT: So, for example, if Fish and Game has a bit of challenges on Lake Davis, they could look to this I guess to provide some support for their position, because we have listed these water bodies impaired for exotic species. Pike's obviously an exotic species in this system. So they would just decide pike, since it is by definition an exotic species, they could use that as a rationale in their CEQA document or their policy documents.

I mean does that make -- it seems to me that's the only benefit of doing this really, because we're not
going to ask the regional board to come up with a plan to
get rid of bass. Well I guess you could have a bass
derbies --

(Laughter.)

BOARD MEMBER WOLFF: If I could just clarify.

My understanding was that not Central Valley
Board -- perhaps you could speak to this -- was that the
Central Valley Board would have been fine with listing
certain specific exotic species. It was the generic
exotic species listing that raised the concern, because it
opens up all these issues you raised.

The problem is our staff is not prepared to list
them specifically now. As -- points out, trying to list
them specifically now is not a good idea. So my thinking
in going forward with the listing is that we're basically
saying there are exotic species. The problem is they're
not all exotic species, but some. And you as the Central
Valley Board are going to have to figure out which ones
are most important and need to be addressed and so forth
and refine the listing over time. That becomes part of
your responsibility. Sorry to put it upon you, but it's
the only way I could see to go forward from here
productively with the fact that there are some real exotic
species problems that someone needs to deal with.

CHAIRPERSON DODUC: Well, Ms. Creedon, we'll take

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
temperature, you take exotic species.

MS. SHEEHAN: Just to -- since I was asked to come up, when I was at the Ocean Conservancy, I initiated two lawsuits on this issue, which is one of the reasons why they're here today. One -- and both of them, you know, emphasized the point that, yes, invasive species are within the definition of pollutants. So it's not as if that we really have a choice. I mean we have to list them.

The question of the boundaries of what exotic species means I mean I think is really defined by the 303(d). I mean if they don't impair beneficial uses, then they're not a pollutant under the 303(d), I mean. So I think that as you're sort of going through all of this, that will help cull out what's important and what's not.

And there is some precedent on this. I mean Region 2 did go through this exercise a number of years ago and did do a TMDL plan for a discharge of invasive species in Region 2. So it's not as if this hasn't really been addressed before. And it's right on their website and you can take a look at it.

Certainly one thing that we can start to do is address the discharge of invasive species from vessels. As you know, the Court -- the United States District Court ruled a month ago that -- on September 18th that, you
know, the EPA needs to get rid of its regulation exempting
the discharges incidental to normal operation of a vessel
by 2008, which is pretty soon. And that it's pretty clear
that there -- you know, unless all the appeals are done,
there won't be a regulation. So there's lots of room for
you all and State Lands and EPA to work together to start
this implementation process now, which will get at a lot
of what exotic species are actually pollutants under
303(d).

Thanks.

CHAIRPERSON DODUC: All right. With that, we
have a motion by Dr. Wolff.

MR. KARKOSKI: Can I say one more thing?

CHAIRPERSON DODUC: You have 15 seconds.

MR. KARKOSKI: Okay.

CHAIRPERSON DODUC: Oh. Well, 20 seconds.

(Laughter.)

MR. KARKOSKI: Okay. So on the -- the fact
sheets actually do name those species. So the category is
generic. But the named ones are the ones that I
mentioned. So if you can put that -- the qualification
that you mentioned in terms of we're not expected to deal
with every single non-native species and control of those
I think is important. And especially if there's something
in the resolution that says the focus is really on aquatic invasive species and not really on established non-natives.

BOARD MEMBER WOLFF: Well, I'm open to that. But I'm not certain that it works for Mr. Wilson or for EPA.

BOARD MEMBER BAGGETT: I would -- again, I would figure out a way to say it, Craig.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Well, let's see what we see.

BOARD MEMBER WOLFF: There are problems with doing that. And I want to be fair to those who are much more aware of those problems than myself.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: The way we set this up, the information that we used to come up with these listings was if we had a population of exotic species and we could show that there was an impact on native species, we listed this kind of a group, a general group, not any specific one. I'm uncomfortable naming these individual species on the list, because it was a true weight of evidence, a big picture look at these listings. And I frankly don't know what the unintended consequences might be of doing what's recommended here.

But I think what we have now is very similar to Region 2, and we know the consequence of those listings. And so I think the consequence will be the same.
BOARD MEMBER BAGGETT: I'm confused. I thought Region 5 just said you listed species.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: In our documentation for the fact sheets, which is in the staff report, it's -- we're not asking the Board to adopt the staff report. It's just the documentation.

BOARD MEMBER BAGGETT: Well, then that's a clarification Region 5's asking for. The resolution doesn't mention the species. It just mentions it as a generic -- Okay. Then I think that satisfies Region 5's concern. It doesn't have extended --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I'm not sure that it does exactly.

BOARD MEMBER WOLFF: No, Region 5 was asking that we not list for exotic species. We list for the specific species that are listed in fact sheet. Our staff is saying, no, that's unintended consequences. EPA has said the same. I don't think going down that road is useful.

But I did appreciate the comment from Ms. Sheehan that in helping the Central Valley Board to deal with this, that the -- the lawsuits involved, which I was not familiar with at all, in essence, say that there's a pollutant if it's impairing beneficial uses. So the fact something is exotic in and of itself doesn't mean that it's being listed here today. We were listing the exotics...
which impair beneficial uses. That should help you to
focus your efforts as you move forward.

CHAIRPERSON DODUC: All right. With that, a
motion has been made by Dr. Wolff to approve the listing
in the Central Valley Regional watershed area, with the
changes suggested by staff today, with the addition
listing of the Sacramento River, Feather River, and
Morrison Creek for Diazinon.

Did I capture that right?

BOARD MEMBER BAGGETT: And I seconded it.

CHAIRPERSON DODUC: And it's been seconded my Mr.
Baggett.

CHIEF COUNSEL LAUFFER: Madam Chair. Michael
Lauffer, Chief Counsel. I just want to be clear that this
motion isn't to adopt the resolution, because there's one
resolution before the Board at this point. This is
essentially an intermediate motion that at the end of the
day --

CHAIRPERSON DODUC: Fine, fine. Whatever.

(Laughter.)

BOARD MEMBER BAGGETT: We're going around in
circles.

CHIEF COUNSEL LAUFFER: And as long as you make
it legal --

CHAIRPERSON DODUC: Don't you want to rewrite the
resolution as we go through every single region?

CHIEF COUNSEL LAUFFER: Nine times.

CHAIRPERSON DODUC: All right. With that, all in favor?

(Ayes.)

CHAIRPERSON DODUC: Any opposed or abstain?

Hearing none, this interim motion is carried.

Thank you.

With that, I would ask anyone who has general statements on the 303(d) list not specific to any particular listing and any particular region to come up.

And I see two people, maybe more.

Please begin.

MR. BRADSHAW: Thank you, Madam Chair. David Bradshaw, Imperial County, from the Imperial Irrigation District. Thanks for the opportunity to comment.

I want to give support to comments already submitted, so I won't read the pages and pages that were submitted. But it's referring to an October 17th letter from the Colorado River Board. And the Imperial Irrigation District would support that letter.

CHAIRPERSON DODUC: I'm sorry. Are you speaking to a specific listing to a specific region?

MR. BRADSHAW: Sure. I'll get there.

Region 7.
CHAIRPERSON DODUC: Actually I'm not on Region 7 yet.

MR. BRADSHAW: Oh, that's right. We're still on 5.

CHAIRPERSON DODUC: No, we're done with 5.

General statements not specific to any region.

MR. BRADSHAW: Okay. Pardon me.

CHAIRPERSON DODUC: Thank you.

I'm going to try to work my way through the regions. We've just finished 5. We'll go to 4 next, work our way through.

So, Mr. Watson, I assume you have a general statement.

MR. WATSON: Yes, Chair Doduc. I have a mixed statement, but I will try to eliminate the one that's specific and ask someone else to do that as soon as they bring up the PowerPoint, if they would.

(Thereupon an overhead presentation was Presented as follows.)

MR. WATSON: First I would like to --

CHAIRPERSON DODUC: I'm going to ask you to please limit your statement to three minutes.

MR. WATSON: Yes. First I'd like to agree with Alexis Strauss that Craig and his team have done an extraordinary job working on this. And I think overall
since the State Board centralized the process with the 2002 listing and this 2004-6 listing, it's been vastly improved.

What I'd like to do is -- I had one that I'll skip over and someone else can address this because it relates to Region 4.

--oOo--

MR. WATSON: I have a concern about Assumption 7 in the staff report. And initially the way I did this slide was suggesting some addition to the assumption. But the way I ended up writing it, probably the immediate could work. But the problem at the end probably better addresses a policy question by you.

What bothers me about this assumption is -- I think it was in response to a concern from the environmental community that if things were delisted, it might foul up existing TMDLs. What I'm concerned about is the other side of the coin, that if something is delisted, this assumption will be used to keep all these delisted things still in TMDLs that are just getting underway and people will be spending money to address something that's already been delisted. And if we want to focus our efforts and our resources, if something's been delisted we think it should be taken out of the TMDL through the amendment process and it should be taken out of any
implementation plan that's been incorporated into a basin plan.

So this is really a policy question: What happens with a delisting? And this may be something that you have to address from a policy point of view.

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MR. WATSON: The next issue -- in Craig's report he suggested that he had left certain items to the regional boards to consider, certain of these historic listings that were either based on potential rather than probable future uses or that were conditions.

And I'm suggesting that the regional boards generally have not done this at the beginning of the TMDL process. And I would like you to actually direct staff to find the additional ones and remove them.

--o0o--

MR. WATSON: Point of clarification. And this also relates to the TMDLs. There were some instances where staff said by adopting a TMDL the regional boards confirm that there's a problem. And I don't think that's necessarily the case. What they confirmed is there was a listing. And some of those listings may in fact have been erroneous. And so just the fact that something's been in a TMDL should not be the primary justification for continuing those combinations in the -- on the list or to
be listed.

And, lastly, I'd like to ask you to at a future time amend your listing/delisting policy. Your current Policy Item 6.3 says that after this list things are going to go back to the regional boards. We would ask you to continue with the centralized process. It's been much improved since the State Board staff took it over.

There are problems, with interpretations, various problems. But it has been so vastly improved that we'd ask you to continue with this process and amend the order at some appropriate time.

CHAIRPERSON DODUC: Thank you, Mr. Watson. And amended by all the fun we're having today.

Mr. Wilson, any comments?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: On the change to the assumption, it truly is a -- what's being requested is a policy statement by the State Board. I was trying to be factual. If the water's listed -- a TMDL's being completed, it's in the basin plan. Its actions are in place. They need to be implemented. The list has no effect on any of that. And that was my one and only intent. To do what was recommended expands that into something that I'm not comfortable with saying in a staff report.

CHAIRPERSON DODUC: Thank you.
Any other general statements?

Ms. Sheehan.

MS. SHEEHAN: Good afternoon. Linda Sheehan, Coast Keeper Alliance. I'm also speaking on behalf of NRDC.

My general statement is that we ask that you adopt the list with these recommended additions that have been put forth by EPA and in the sheets today as well as the additions that are in Heal the Bay's letter with respect to beaches and Klamath sediment, Humboldt Bay dioxin, and we'd like to see that Klamath algae as well, but that's later.

Two very general points in addition to that, and both are with respect to moving forward. One is in response partly to Mr. Watson's comment with respect to having a regional water board's maybe not take so much part next time. That would require reopening a listing guidance. And I was intimately involved with the appropriation of a listing guidance, and Mr. Baggett can testify to that, a 150-page comment letter that we coordinated on the listing guidance.

And it's possible that we could reopen -- I could ask for a reopening of the listing guidance. But perhaps another suggestion might be for the Board to take a lessons-learned approach. EPA raised a number of concerns
with respect to how the listing guidance was applied in terms of perhaps transgressions with the Clean Water act and standards. And we raised those on a number of our letters. And I don't need to necessarily go into all of them -- the weight of evidence approach, the narrative standards, the binomial statistic approach, minimum sample size, all of those were applied in ways to avoid listing waters that needed to be listed.

And we need to step back as we start the 2008 process, which was now, and take a look at what are the lessons learned and perhaps create some operational guidelines based on those lessons learned for applying the policy as we move forward, and particularly because the regional water boards are required now to be involved and must be involved in order for a proper public representation to be had and perhaps lessen the burden at the state level as well.

And one last point, with respect to moving forward. In light of Agenda Item No. 8 today, compliance schedules. It's just once we got them listed, I mean some of these are -- you know, the TMDLs aren't set to be finished for another 13 years. And at the rate we're going, it will probably be longer than that. We've got thousands to do. And in some of the compliance schedules, for example, extend the deadline for complying with
standards until at least the TMDL's been adopted. That could be decades before we'd even start looking at them in permits.

So I think at a minimum we need to start adjusting permits where we can to address impaired water bodies. We need to revisit this -- the use of waivers for discharges into impaired water bodies, look at using WDR, look at the tools we have to start addressing issues now, not wait until the TMDLs are adopted before taking any action.

So thank you very much.

CHAIRPERSON DODUC: Thank you. Those are good suggestions.

Mr. Howard.

CHIEF DEPUTY DIRECTOR HOWARD: A couple of quick questions -- comments, that is. One on the question of the regional board being involved in the listing. And Linda said the guidance did indicate that. But, you know, we are also in the process of putting out a solicitation of data in which we would be stating that the regional boards were going to evaluate the data first. And that's going to go out in the next couple of weeks. If the Board members have a different perspective on that, we'd like to hear it as quickly as possible.

The issue of reevaluating the policy, one of the
things we committed to when the policy was adopted is that after we use it once we will come back at a board meeting to talk about lessons learned and what changes might be appropriate in the policy, because, after all, we've now taken it out for a spin and we've learned something about how it works. And we still intend to do that. So that will be coming to the Board in the next few months.

And just the other comment regarding the listing. We have completed TMDLs for about 30 percent of the listings. And we really didn't get rolling until about 2002, because we had -- you know, the fact that it took a while -- we started in 1990. So it took us a few years to pick, you know, the first TMDLs out. At the rate we're going, you know, I don't think it's going to be as long as people seem to think.

However, unfortunately if the Board acts today, we're back down to about 22 percent, I think, or something like that.

CHAIRPERSON DODUC: Thank you.

Mr. Wolff.

BOARD MEMBER WOLFF: I just want to confirm my understanding of what's to occur in the next round. My understanding essentially is that the method that has been used by State Board staff this time is simply going to be implemented at the regional level in the next round. And
then as that information comes up, the State Board staff will check to make sure that that method was implemented correctly. So this next round is not really going back to the method or the approach that was used in the first round, nor was it exactly like this round. It's something in between, which I think is appropriate.

CHIEF DEPUTY DIRECTOR HOWARD: I think many of the comments relate to the actual use of the policy. I think the policy that was made provided a lot of clarity to the process. The regional boards will still be directed to use the policy. Our staff will work with them through the listing process so that they understand how we've done it and the way we expect them to do it. Then after they've completed it, we will be checking it before we bring it to the Board for approval.

BOARD MEMBER WOLFF: I'm perfectly comfortable with it. And I think that really addresses Mr. Watson's concern actually. I think perhaps he had the impression that it was going to be sent back to the Boards to be done -- regions to be done as it was done in the past. Perhaps I'm misunderstanding him.

CHAIRPERSON DODUC: All right. Thank you.

If there are no other general statements, we'll now -- oh, Dr. Gold. I know that you also had a presentation relating to --
DR. GOLD: Right. I'm not sure how you'd like to deal with it. And I'm also conscious of the fact that I'm trying to get a flight on the other end.

But we have some statewide comments and we have some regional board comments.

CHAIRPERSON DODUC: Then please do both, because I will be moving to Region 4 next.

DR. GOLD: Great. Thank you.

So if I can get that -- thank you.

(Thereupon an overhead presentation was Presented as follows.)

DR. GOLD: For the record, my name's Mark Gold, Executive Director of the environmental group, Heal the Bay. Hello again.

These comments are representing not only Heal the Bay, but also the NRDC and the Santa Monica Baykeeper.

To start out with I just want to thank State Water Board staff for their decision to list Compton Creek for trash. We do probably more trash cleanups in this state than probably just about anybody. And I can tell you Compton Creek is about the most trashed water body that we've seen definitely within the Los Angeles region.

Also we want to thank them for the addition of DDT and PCBs for the Dominguez Channel, L.A. River estuaries, and the Port of L.A. and Long Beach. Those
continue to be a problem. And so having them on the list
is very important.

Next slide.

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DR. GOLD: So, the beaches, something we've
talked a lot about today. And just for background
purposes, Heal the Bay provided the data to your staff ten
months ago in our submission. It was quite a great deal
of data. I think it was brought up earlier by Board
Member Hoppin. I think that was probably the example, was
our letter.

And a couple of things. First on a local basis,
for Santa Monica Bay, Pico-Kenter Drain and Ashland Avenue
Drain we think were mistakenly removed from the list. And
we'll get to that in a second.

And then statewide, there are 45 beaches that are
not proposed for listing, despite meeting the listing
criteria that was approved by the State Water Resources
Control Board. And these are the same criteria that, as
you heard from Linda Sheehan, that were negotiated at
length in front of the State Water Resources Control Board
and for well over a year before that happened. As a
reminder, its 4 percent exceedances for AB 411. And then
binomial -- the binomial table that you're all too
familiar with at this point for the year-round data.
Also, there's three beaches proposed for delisting: Ormond Beach, San Buenaventura Beach, and Mission Bay shoreline, which is actually a lot more than three beaches, without really a rationale for why they're being delisted.

Just to remind you, TMDL regulations state clearly that each state shall assemble and evaluate all existing and readily available water quality data and information to develop the Section 303(d) list. And this is in 40 CFR Section 130-765.

And just to let you know, if there's any database that's more accessible than beach water quality, I don't know what it is. So beach water quality data is very, very accessible. And we work, as you heard earlier, with the clean beach initiative with your staff on a regular basis providing the data and discussing it. So we're more than a little disappointed that they clearly -- that data was not adequately analyzed.

Next slide.

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DR. GOLD: Just the examples on Pico-Kenter and Ashland Avenue -- and we think this must be a misunderstanding, unless to the best of our knowledge it was actually the storm drains themselves that were listed under the 303(d) list. But we don't think that's the
case. But the beaches -- as you can see, there are
beaches right in front of these storm drains that are --
that you have storm drain discharges that reach the shore.
The monitoring locations are actually in the surf zone.

We have major water quality problems at both
Pico-Kenter and Ashland Avenue. No one could look at this
data and make any other determination than saying it
should stay on the list. So it was more than a little bit
surprising to see that those actually came off the list.
So just to let you know on that. The beach monitoring
data of course justifies a listing.

Next.

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DR. GOLD: Moving on to another issue that you've
heard a lot about already today with the Klamath River,
which is excess algal growth.

Right now we have a situation where algae is a
condition, not a pollutant, according to your staff. And
actually tell that to the fish and the degraded ecological
communities. It's a very severe impairment that's
occurring. Plus it's contrary to numerous court rulings
that have considered algae a pollutant if it actually
causes an impairment. I think the L.A. Times series, that
you probably all read, that it had two of the five
articles were actually on the impacts of algal impairment,
bringing out the case of how devastating this can be. And I think you heard on the Klamath on some of the problems as well.

Our own personal experience at Heal the Bay, we've monitored algae in the Malibu Creek watershed for over five years. We provided data to the state that substantiates the impairment. Malibu Creek is still listed for algae impairment, yet the Calleguas Creek is not. Calleguas Creek has a great deal of data as well that's been put together by the EPA as well as by local universities as well as the Calleguas Creek watershed representatives. The nutrient TMDL that was developed for Calleguas Creek, I defy anyone in this room to say ten milligrams per liter of nitrate is a number that anyone would choose to actually deal with an algae impairment issue. Yet that was the number that was chosen for the TMDL.

So this supposition that if there's a TMDL in place, that that's going to deal with the related problem is completely fallacious when you look at that example. Ten milligrams per liter, as you know, is stated more from a drinking water number, which was a big concern on Calleguas, not from the standpoint of the impacts on algae and the ecology.

We bring this article right -- this photo right
here for you to look at. Right now, as you know, your State Water Board staff has failed to actually come up with what they consider algae impairment would be. We've asked both the EPA as well as the State Board to make a recommendation on this for the last three plus years. They don't like the New Zealand data using 10 percent, 30 percent, whatever the case may be. But if you have creeks that have 100 percent covered 100 percent of the days, is that impaired? Right now we can't even get that direction? And instead we're seeing delisting or no listing decisions for algae, which is unfortunate.

Region 4 staff in their letter to the State Water Board found that retention of algae listings support the rationale that excessive algae can impair beneficial uses and the algae is an appropriate constituent for inclusion on the 303(d) list. So that's the recommendation of staff that was provided to you from the regional board in the letter.

BOARD MEMBER BAGGETT: Are these -- Mark, are these also listed for nutrients?

DR. GOLD: Yes.

BOARD MEMBER BAGGETT: And they're listed for all the underlying causes of -- causing algal blooms?

DR. GOLD: No, because you can have algal blooms, yes, because of nutrients, believing the numbers that are
being developed aren't -- like I said, I gave you the ten milligram per liter for Calleguas, which is not related to algal bloom causing. You'd be looking at numbers way lower than that. You'd also be looking at phosphorus as well.

BOARD MEMBER BAGGETT: Correct.

You'd also be looking at temperature. You'd also be looking at other issues.

BOARD MEMBER BAGGETT: So my question is: Are any of these creeks proposed for delisting, those water bodies? Are they listed for all those constituents, phosphorus, not nutrients, temperature?

DR. GOLD: No, usually nitrate would be -- or nitrogen was the only thing that would be listed. It depends on the water body. I'm saying for Calleguas itself you do not have a phosphate listing. So you're never going to get at the algae problem if you're just dealing with nitrate at ten milligrams per liter. It's basically a complete failure.

BOARD MEMBER BAGGETT: Right.

BOARD MEMBER WOLFF: We have a nutrient listing though for it. Is the TMDL being adopted already? What's the ten milligrams per liter? Is it an adopted --

DR. GOLD: It's in their adopted TMDL for Calleguas Creek.
BOARD MEMBER WOLFF: With a target of ten milligrams per liter?

DR. GOLD: Correct. So the waste load allocation as well is ten milligram per liter.

Okay. Well, moving along to exotic species.

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DR. GOLD: All right. So this example, the Malibu Santa Monica Mountains and Simi Hills. Some examples of exotic species' problems that we have within those areas are the New Zealand Mudsnail, Carp, Largemouth bass, Green sunfish Bluegill, Mosquito fish, Black bullhead, Red swamp crayfish, and Bullfrogs.

And I can tell you in particular the mudsnail and the crayfish are causing devastating impacts on the ecology. And in this case we provided again a substantial amount of data. And, again, we did not get a staff response to that data.

Next slide.

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DR. GOLD: To give you an idea of how big an issue this is, this is a sign that is now posted at forty different locations within the Malibu Creek watershed. The New Zealand Mudsnail has completely taken over the main stem of Malibu Creek. And because of that, we're basically telling everybody to stay out of the water for
most of the time. Heal the Bay -- we've been doing this monitoring program for eight years within the watershed. We actually stopped doing the monitoring program because we didn't want to track mudsnails from one area of the Malibu Creek watershed to a pristine area, because of our fear that it would have on the local ecology.

And so we've seen -- and this has all happened -- in two short years it's just amazing how prolific this particular exotic species is. And if you haven't seen it before, I mean you could fit over a hundred of them on a dime. And they just -- they're parthenogenetic. They can live out of water for 30 days. And they're just completely taking over the Malibu Creek watershed and outcompeting on the other macro-invertebrates that you would expect to see within the sediments. And so it's a major problem. Yet in this particular case we can't even get a response to our request of actually listing the watershed for this. And it's been a big issue, that clearly you can see from the bottom in all the logos that are on this, that the state as well as the National Park Service are taking it pretty seriously.

Next slide.

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DR. GOLD: Another area somewhat related that we provide extensive data on is biological communities.
impairment. And what we did, again using best available science, working with Harrington and Fish and Game, was we've done an extensive amount of work within the watershed on the index of biological integrity, the IBI. And what these examples are right here are severely degraded communities for macro-invertebrates at a number of different sites within the watershed. And basically we can't seem to get an answer on this either as to why IBI information is basically not something that's being used to make determinations on biological community impairment. It doesn't really make much sense in light of the fact that, in essence, this sort of information has been the key decision-making tool on 301(h) waivers for the last 20 plus years. Yet for some -- and so that's for full secondary treatment discharges to the ocean. But yet when we start applying it to the creeks using state methods, using actually Tim Harrington, the most respected person in this field in the State of California, the data is not actually being used to make the determination on impairment. And, again, clearly all the other water quality problems that we have, as well as the algae impairment, as well as the sediment impairment that we have within that watershed, and now the exotic species, that's why you end up seeing something like this as an outcome.
Just to finish up, next.

DR. GOLD: Do you have any idea of the extent -- I won't go through this -- but the extent -- this is a list of the beaches that meet the criteria. Some of them are actually quite notorious for water quality problems. And so it's a pretty amazing list to see that they're not actually on there. A lot of them have gotten F's on their report cards. Some of them are getting -- major projects getting done on the Clean Beach Initiative. But somehow they don't quite pass muster to be listed as impaired on the 303(d) list.

Next slide.

DR. GOLD: Again more detailed than I'm going to get into. But these are the extensive data and multiple lines of evidence demonstrating the areas that have major excess algal growth problems. And, again, not listed on the 303(d) list, again with substantial information.

And the next slide.

DR. GOLD: These are some of the areas that are impaired by exotic species within the Malibu Creek watershed and beyond. And then that continues on the next --
DR. GOLD: -- with biological communities impairment.

The next one.

DR. GOLD: So there's a lot of data out there that demonstrate that it's an impairment. We submitted everything in a timely manner. We made it clear for staff to look at. Yet it appears that the vast majority of the data that I've just recapped here today was not used to make a determination. Or if it was, we certainly weren't given a good reason as to why, for example, the beaches weren't listed as impaired on this latest 303(d) list.

Thank you for the opportunity to comment.

CHAIRPERSON DODUC: Mr. Hoppin.

BOARD MEMBER HOPPIN: I assume, given the list you've just given us, this plane you're hopeful of catching to southern California would be the red-eye special?

(Laughter.)

BOARD MEMBER HOPPIN: You know, you -- I did read your comment letter. And you are -- you know, I have report card here too. You are -- while you were on time, this letter was received on the 20th. And I realize this has been an ongoing process. But you have to realize that
my colleague, Dr. Wolff, and I are short-timers. So some
of these issues were initiated, you know, prior to our
tenure on the Board.
When I did read your comments, given your
organization's involvement in the Clean Beach Task Force,
given the fact that in many cases our staff defers to your
clean beach report card gives you an extraordinary amount
of credibility on this subject, quite frankly. So before
I got to the snails and a lot of these other things I
spent time asking staff why in fact the 45 beaches that
you were concerned about were not listed.
And while Mr. Wilson's here, while you're at the
podium, I would like to discuss their view on this as well
as yours and see if we can come to some resolution of this
issue without any perception of giving anyone special
consideration on anything.
So if you would, Mr. Wilson, would you please
address in your views why these beaches, while may be
qualifying, were not listed in this session?
SENIOR ENVIRONMENTAL SCIENTIST WILSON: This is
an overwhelming task to develop a 303(d) list, and all
data and information need to be considered. And I really
hear Mark, I really hear Mr. Gold, his comments. And if I
had my druthers, we would have evaluated every bit of
information that was out there, developed fact sheets, and
come to a conclusion.

We went through -- very carefully through the listings that we have. We came up with a factual basis for these listings. And we had to set priorities. We had to have reasons -- we established reasons for evaluating what we could evaluate in the time that was available to us.

I love evaluating this data. I think it's very meaningful. I think it moves the ball in our programs, like the TMDL program.

Essentially we ran out of time. We had to bring this forward. I think -- you know, there's a couple of options for the Water Board. You can defer this till next time. You could ask EPA to continue this, as they've already offered to adopt this. Or you could direct us to evaluate this information in some period of time and come back to you with more recommendations for listing.

BOARD MEMBER HOPPIN: If we gave you, say, six months to complete your evaluation, would we be creating a situation where every person that could articulate their issues that weren't addressed in the future would come up and say, "Hey, back in the 28th of October you folks gave special consideration to Dr. Gold's concerns of these 48 beaches"? Or would it be legitimate to say that the decision was delayed simply by virtue of the overwhelming
amount of material that you needed to digest that was in fact submitted on a timely basis?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I think others would come forward and request additional time, additional review. But in these cases, I think these are important listings. I think you could limit this to these issues so we could get this done.

DR. GOLD: With all due respect, we used your listing criteria and on all the data that's readily available and we did it in less than a week. So I mean it's not -- I understand some of these other issues that we're talking about are a lot more complex. But the way the listing criteria was set up or -- I mean you're looking at percentages and you're running the data through it. This is not a complex analysis.

BOARD MEMBER HOPPIN: Mr. Wilson.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: The analysis is part of the assessment. On average, it took us 11 hours to do the analysis on -- for these fact sheets. We have 2300 or so. On average it took us about 11 hours per fact sheet. That includes analyzing the data, writing the report, getting several reviews of the staff, working it through our management review. It's not just evaluating the data and putting it into a table. And I have to make sure that these listing criteria are used.
appropriately.

Many of these water bodies, it's easy to slice and dice or -- some information together to come to -- you can come to whatever conclusion you want, depending on how you slice up this data. So you have to take a thoughtful, careful approach. And Mark always does take that approach. But it's not a trivial effort to do this. It has not been one.

BOARD MEMBER WOLFF: Are you suggesting we take 11 hours times 45?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: It's going to take me probably -- It's probably going to take me a month and a half to get it together. The first thing I have to do if you adopt this list today is finish off this process. And that's going to take about a month. And then we'll go into a possess where we'll review this new data. It's going to take a certain period of time. Then we put it out for review, like we always do, public review, and then it comes back to the Board. I think, you know, a six-month period is reasonable.

BOARD MEMBER HOPPIN: You know, clearly we have a difficult time granting a listing before we've had some material reviewed. I would suggest that possibly we allow a six-month extension on these 45 beaches so you don't get thrown into the next cycle, which is going to take a lot
longer than that.

DR. GOLD: I mean I think frankly that maybe the public health has a better shot at getting protected through the EPA and their process. I mean I hate to sound that cynical. But, you know, they're going to get through this a lot quicker than clearly Craig's staff's going to get it. I just -- we're very frustrated, Heal the Bay, from the standpoint of -- it is the most public database that there is for water quality in the State of California. We share that data with you on a regular basis. This is not something that you got October 20th. This is something that you got ten months ago. And it's one of the most public high profile issues that clearly is a big priority for the Governor. He's going around the state today talking about how we need Prop 84 to clean up our beaches. And, yet, here we are. It just -- it doesn't make sense in light of what a high priority this has been, clean beaches, for the State of California. And you heard all that great news this morning on the Clean Beach Initiative. But here we are on a listing process and we're doing a half-assed job. It's very disappointing.

Thank you.

CHAIRPERSON DODUC: Dr. Wolff.

BOARD MEMBER WOLFF: May I ask staff -- that's
all right. Finish your consultation if you need to.

CHIEF DEPUTY DIRECTOR HOWARD: Go ahead.

BOARD MEMBER WOLFF: What about this option of doing something with EPA, so that EPA evaluates this data at the time between, you know, our adoption of the list presumably and finalization? But with respect to these 45 beaches or whatever number we choose, you know, we would -- it's not quite delegate to them, because they have independent authority. But do I understand correctly that they could take care of it and we would probably be comfortable with that?

CHIEF DEPUTY DIRECTOR HOWARD: Yes. EPA will look at this data in any event. So, you know, they will make an independent judgment of everything that this Board has done and all the information that was sent to us, regardless of the level of review that we gave it. We will send that to U.S. EPA as well. And, in fact, we can work with U.S. EPA, to have Craig's staff work with them to make sure that the data's in the condition that we both agree to and that, you know, at least have our own input and EPA's analysis of the data.

BOARD MEMBER WOLFF: And how long does it take EPA to consider our recommendation before they make their recommendation?

CHIEF DEPUTY DIRECTOR HOWARD: Well, we have
Alexis here, so she might be able to give her timeline.

BOARD MEMBER WOLFF: That would be great if she's...

MS. STRAUSS: I think the answer to your question is three to four months is typical for a list of this size. In our smaller states we can turn this around more rapidly. But given the nature of this record and the nature of the complexity of some of these issues, I think, including our own comment period, I'm looking at three to four months, and making sure that we are very clear where we have an exceedance of state-established standards.

BOARD MEMBER WOLFF: Are you prepared or do you have adequate staff to address this concern? I mean, you know, there's a difference between reviewing the whole packet, which you have to do, and putting some focused attention into a particular subset of questionable decisions on our part.

MS. STRAUSS: Well, I think that our folks and Craig and his team have been working together for years on this package. And so this process is more than the two-year process it appears to be. We've been working together and giving a great deal of time to this particular listing cycle. It's been about a four-to-five-year process. So there's a great deal of information in the record that is not new. And therefore
I think our fine tuning of this per the comments we send -- have sent you just reflect some fine tuning of the list and is 99 percent in agreement.

For example, this information on the pathogen dilemma, we need to look at where we have standards exceedances and what that means. Procedurally we can handle it if you can't. But it doesn't -- I'm not standing here to say I am going to list X. I'm just saying procedurally we can do it in a three-to-four-month time without too much process.

BOARD MEMBER WOLFF: I appreciate that. And I think you're telling me that we can and perhaps should trust you to figure this one out in the next three to four months; we don't need to delay the overall decision for six months; this can be addressed as a normal process on roles. Is that fair or am I putting words in your mouth?

MS. STRAUSS: No, you're not at all. I think that we would be working together with this group of folks and that they could give you one-on-one updates over the next few months as to how that is turning out. I think it might be given that we all have very limited amount of staff and a number of things to do. It might overall -- if we combine our resources this way, it might be a more efficient use of the resources at hand if that's what the Board wishes to do.
CHIEF DEPUTY DIRECTOR HOWARD: And we would combine our resources with U.S. EPA to make this happen as quickly as possible.

BOARD MEMBER BAGGETT: I guess I would propose a slightly different twist then. Why don't we in the resolution recommend that U.S. EPA look at these specific beaches and be -- to work with us on it. I mean just put it in the resolution, so we don't adopt but we recommend. We say, "Here's the data. We ran out of time. But we recommend" -- "we think there's merit to spending time on this." So at least it puts us in -- I think as Mark said, it puts us in a position of recognizing we do have a problem, we have spent a lot of money on a lot of these beaches, they are a high priority for this Governor and for this Board. And I think it's a different -- rather than sort of hunting and say, "We hope you take care of it," we say, "We think you should really look at these. Here's the data. We'll help you. But we just ran out of time."

MS. STRAUSS: I think that as we work through this process, if there are ones that we choose to list and ones that we don't choose to list, that there would be a good process for working with the commenters and with you so that you would understand that set of decisions as we go into our own public comment period.
BOARD MEMBER BAGGETT: It's just more of an affirmative statement than just sort of "here".

Is my --

BOARD MEMBER WOLFF: No, I agree with you completely. I would have wanted to do it that way. I agree completely.

But it's with respect to the beaches issue we need to talk about algae and exotic species separately. I mean I'm not suggesting that you'd have to do that with respect to -- or algae or exotic species. We need to talk about those.

CHAIRPERSON DODUC: I think we've wrapped up the beaches discussion.

Any other speakers? I'm sure they have other speakers from the L.A. Basin.

Please, come on up.

MR. GREENE: All right. Well, I'll just go ahead and start. My name is Jerry Greene. I'm a senior civil engineer with the City of Downey. I'm here representing the Executive Advisory Committee of the Los Angeles County permittees.

Again, I want to acknowledge the heavy work that was done by all the Board staff.

I would also like to start out by commenting that -- and we are in support of the comments that were
prepared by L.A. County Sanitation Districts, in particular those with regards to in the L.A. River which at this point is being done at least by the agreement. We also are concerned though about the remaining of lead in the San Gabriel River Reach No. 2, which we think the San District has developed some excellent data to suggest it should be delisted.

In addition, we also want to support the staff's decision not to list Coyote Creek for nitrate, not to list the L.A. River -- I got out the aluminum -- excuse me -- and San Gabriel River Reach 3 for delisting on toxicity. We would like to encourage the Board to look at the listing for toxicity on Walnut Creek.

Also, supporting Burbank in regards to cadmium delistings. They've done a heck of a lot of data analyses. They've taken many, many samples. Roughly a year or so ago we were here discussing the L.A. River metals TMDL. And at that time they were told that, you know, bring the data forward. And if it's not listed, it will be part of the TMDL.

It seems like we're going into a circle or circular situation where, because there's a TMDL, we end up with listings for things because there exist TMDLs. In fact, that was one of the most common complaints I had recently in speaking with other cities on
this 303(d) list from our area, is it seemed like in many cases we were seeing things that essentially said, because there's an existing TMDL, the listing should continue on. As an example, south Santa Monica Bay beaches, many of which do not have the impairments but which are still showing up in the list just because it's a larger TMDL. The TMDL looks at a large number, a large area of beaches.

I'd like to commend the staff on their decision to move away from physical characteristics such as just straight toxicity, and trying to focus more on definable pollutant issues, more of a problem.

That also goes with algae though. Algae is, frankly, an organism that is, like all organisms, wanting to take advantage of the situation. If it can find a place to live, it will do so. I can understand some of the assertions made that we need to better find out what the source is that's causing the algae to be there, whether it be phosphorus, nitrogen, et cetera, but to just list for algae is not helpful to us.

Let's see. Boy, I was going to take a different path. Anyway -- oh, 303(d) -- I'll just let it go at that.

Thank you very much. And we appreciate your staff's time in putting this together.

CHAIRPERSON DODUC: Thank you very much.
Questions, comments?
Next please.

MS. GREEN:  Good afternoon, Madam Chairman

Doduc and -- Chair Madam Doduc -- excuse me -- and members
of the Board.  I'm Sharon Green with L.A. County
Sanitation Districts.

We have just a very few slides today.

I have with me today Beth Bax, who's a senior
engineer at the districts, who's worked on our comments on
the list and has prepared a lot of the data review.

(Thereupon an overhead presentation was
Presented as follows.)

MS. GREEN:  Just in summary -- oops.
Okay.  There we go.

The summary really of several of our comments.

As many people have stated, we also greatly appreciate the
hard work of the staff and the amazing staff report
really, to think of what has been produced here and how
well documented things are.  It's an understatement to say
it's night and day from processes that some of us, like
myself, worked on in the 1990s.  I mean I've been
commenting on these since the mid 1990s, and there was
almost no documentation back in the first couple of rounds
of doing 303(d) lists.  Not to mention there was very
little public process.  So we really appreciate the
listing policy and how it's being implemented.

We do support -- I haven't figured out a percent,
but I would say we're probably also in support of 99
percent of the listings that we have reviewed and that
affect us and the modifications to the list being
proposed.

There are several issues that we wanted to
highlight for you that are discussed in our most recent
comments. Almost all of them were also in our previous
comments submitted in January.

One of the first ones -- I'm just going to go to
the next slide.

--o0o--

MS. GREEN: This is a policy issue we wanted to
highlight for you. We did comment on it previously. And
it's something that is within the discretion of the Board
to take action on. And I know this is a complicated
slide, and I will be trying to simplify it briefly in
terms of what the message is.

This is a picture of the Santa Clara River
watershed on the bottom. Towards the right-hand portion
of the slide where it says "A&B," that's the eastern
portion on the Santa Clarita Valley, L.A. County.

On the left-hand portion past the dotted line,
that's Ventura County. That's known as the lower portion
of the Santa Clara River watershed.

The green portion shows where salt-sensitive

   crops are grown in the watershed.

   This letters represent different water segments

   that have different listings for salt-related compounds.

Some of them are existing listings. Some of them are

   newly proposed -- two or three of them are newly proposed.

   All in all, in the watershed, 14 listings.

   Two of them have a TMDL that has been adopted by

the regional board back in 2004. It was recently

modified. Has not come before you yet for those

   modifications.

   But the other listings have not been addressed,

with the one exception of the Reach 3 chloride, which EPA

established a TMDL for in 2003. However, to our knowledge

   that's never been implemented because it was an

   EPA-established TMDL. The regional board has never

   developed an implementation plan.

   What we want to ask you to do is to give the

   chance for our watershed approach and to really encourage

   the regional board to put these all together into a

   regional TMDL for all the salt-related listings in the

   watershed. Since the beneficial use being impacted is in

   the downstream portion, it seems strange to us that those

   are not being prioritized and done now when the other
parts with the other TMDL for chloride in the upper part
of the watershed's being implemented.
So I'm going to stop now and let Beth talk about
the other few comments we have.

MS. BAX: Hi. I don't know how to use these. I
don't want to start spitting out or anything.

--o0o--

MS. BAX: I'm Beth Bax. I am a senior engineer
at the Sanitation Districts. I've worked there for six
years. I'm intimate with all the data that Craig's
already mentioned.

You know, we did put in these six comments this
October, yes, five days ago. And it's really interesting,
because I think they're all equally valid, and Craig
agrees with us on two of them, and he expects me to be
happy.

(Laughter.)

MS. BAX: And he did tell me earlier that he read
every single word of my comments. So I'm just going to
highlight three of them really quick and tell you why
they're important. It's obviously not the first two that
Craig has already agreed with us on.

For lead in San Gabriel Reach 2 -- River Reach 2.
The objective is attained. I sent this data in January
2006. So the data has been available. It's been before
the State Board staff. And basically it shows there's attainment of the lead standard. And why that is important is that there's a TMDL that has been approved in July at our regional level that will come before you this fall. And I'll probably be back here again. And why it's important is that there is no other listing for wet weather for the San Gabriel River. So that means that 18 cities had to put in BMPs, probably spent millions of dollars to try to attain a standard which is already attained. So I sent this data in again. Even though Craig keeps telling me not to, I keep doing it.

The Santa Clara River Reach 7 is kind of -- it's kind of an interesting listing. On September 2005, it wasn't proposed. And there's been no data put forward about why this is impaired. But on this listing round, on this -- on September 2006 proposed listing, they popped up. And in my infinite knowledge what I think the problem is is that the regional board and EPA have in the past had two different numbering systems for San Clara River Reach 7, and I think it's a mistake. And originally it was proposed to be put on the list for listings being addressed by TMDLs. And I provided comments to the state, saying, "Look, there are two adopted TMDLs U.S. EPA approved and they don't address Reach 7."
So now, it's a -- in the -- sorry, Craig -- in the State Board's infinite wisdom, these listings have been put on the list of not yet being addressed by TMDLs. Well, there's no data that's been put forward that shows there's any impairment. And we actually, the districts, maintain our state water station at Reach 7. And I did send in the data, you know, five days ago. I'm guilty. But being as how these were never in the September 2005 list packet, they were never out there before, so, yeah, I send in the data. And there's no violation. We've only taken 10 measurements over the last 15 years because this water body is normally dry.

So it's like, okay, so now we're -- my fear is that it will push forward another TMDL. My fear is that if we leave it on a list for two years, no one will think it's a mistake that it's there. And in two years or in three weeks, whenever the solicitation begins, we have to start the mass mailings again to Craig.

And Walnut Creek toxicity, again, the reason why it is important and why you can't leave it on the list for two more years is that there's a TMDL on the consent decree that is due in March 2007. And this is the last listing that's on the consent decree for the watershed and -- excuse me -- the last listing that's on -- you know, that is pushing the consent decree. And there's
actually agreement between, you know, the sanitation districts and EPA and other people that the water body is actually -- it's meeting the objective for toxicity. So we're just asking for it to be delisted.

But as Sharon says, we do agree with 99 percent of the list. And we're very thankful to Craig and we will be sending you a fruit basket.

(Laughter.)

CHAIRPERSON DODUC: Thank you.

Let me ask Mr. Wilson to please respond.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Well, we are in agreement on aluminum in the L.A. River Reach 1 and in nitrite in Coyote Creek. That's a good thing.

On the chloride and nitrite for Santa Clara River Reach 7, we inappropriately identified that as being addressed by a TMDL. We did not review any of the foundation data. We just wanted to move it to that being addressed portion of the list.

The regional board --

CHAIRPERSON DODUC: So it was listed prior to this listing?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: That's correct.

CHAIRPERSON DODUC: No, no. I'm just hearing --

I'm seeing shaking of the head.
SENIOR ENVIRONMENTAL SCIENTIST WILSON: We moved it from the list to the being addressed part. That's all we did. And my recommendation now is to move it back to the list. I think we need to take a careful look at it. I love talking to Beth. She's very convincing. I need to look at the data and check it out to make sure it -- it either satisfies the listing -- or the delisting requirements or not, and I need to look at that. And I am not there yet.

On the lead in San Diego River Reach 2, this is an extremely close call. It's the difference between one or two hits in the data set. We made an assessment of the data. We said keep it on the list. We talked on the phone; there was an agreement that we would leave it on the list. We got a further analysis by the San Districts, you know, remove some of the data points.

This is a very difficult one. I'm standing by the assessment that was made by my staff. I think we made it correctly. I don't want to end the debate over this, because we need to discuss these things vigorously to make sure we're absolutely doing the right thing.

I'm not in agreement on removing any more of these hits from the data set.

That's my conclusion on this particular one. And I think we need to leave this on the 303(d) list and deal
with that as part of the TMDL.

BOARD MEMBER WOLFF: Did you speak to toxicity, Walnut Creek --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Well, toxicity is brand new data. This is that October 5th, 2006, report that just showed up Friday. And, quite frankly, I -- you know, I've read it once. It says delist. I think this is going to be addressed again through this process with U.S. EPA as they get into this. And I will definitely work with their staff to analyze this information as part of that process. But I just haven't had a chance to get to thoroughly.

CHAIRPERSON DODUC: All right. Our court reporter is dying and I think may need a break. Let's take a ten-minute break. Is that adequate? And we will resume at -- oh, my gosh, 4:25.

(Thereupon a recess was taken.)

CHAIRPERSON DODUC: Will the next speaker please step up. We're still on the Los Angeles Basin.

MS. COFFEE: Good afternoon, almost evening. I'm MaryLynn Coffee from Nossaman, Guthner, Knox, and Elliott on behalf of Newhall Land and Farming.

We too appreciate the tremendous amount of work that your staff has put into the listing process and the clarity and great deal of clarification that proceeding
under the state listing policy has lent the process in
general.

We really just have a question this afternoon,
and it really builds upon the question raised by the San
Districts prior to ours. And, that is, that we would just
like an explanation and a clarification in the record as
to why the Santa Clara River Reach 7 is proposed for
listing for chloride, nitrite, and nitrate. It's our
understanding that Regional Board Reach 7 has never been
listed for these pollutants in the past.

And while Regional Board Reach 5 has been on the
list and is now being proposed to be one of those
already-listed-being-addressed types of listings, as far
as we can tell Reach 7 has not been on the list. And
there may be a confusion, because EPA has had for years
different reach numbers and for years EPA called -- what
the regional board refers to as Reach 5, EPA called that
Reach 7. I think we could all agree that that area was
listed. But there is still some confusion as to why we'd
be proposing a new this listing for Reach 7. So if we
could get that clarified, that would be terrific.

CHAIRPERSON DODUC: Thank you.

MS. COFFEE: Thank you.

CHAIRPERSON DODUC: Mr. Wilson.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: In the
past when we've made a mistake like this where we've done something, we just want to go back to where we were. And that's what we want to do now. I will establish this listing -- or the listings the way they were in the '02 list. We thought we were pulling a listing and putting it on that "being addressed" part of the 303(d) list. And we did that incorrectly. And I'm going back to where we started, nowhere else.

CHAIRPERSON DODUC: So the answer to the question is that the Santa Clara River Reach 7 was listed in 2002 for chloride, nitrate, and nitrite, is that your answer?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: That's my answer.

CHAIRPERSON DODUC: In the draft that you released for this year you mistakenly moved it to the already address through a TMDL category and now you're just moving it back to the way it was on the 2002 list?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: That's correct, Ms. Doduc.

CHAIRPERSON DODUC: Thank you.

All right. Next speaker?

I see dwindling interest.

(Laughter.)

MS. SHEEHAN: Linda Sheehan, California Coast Keeper Alliance.

PETERS SHORTHAND REPORTING CORPORATION  (916) 362-2345
Just a point of order. I wanted to comment on the algae issue in support of Dr. Gold's comments. But also whatever you decide on this directly impacts obviously the Klamath algae issue, on which I definitely wanted to speak. So perhaps I could kill two birds with one stone.

CHAIRPERSON DODUC: Please go ahead.

MS. SHEEHAN: Okay, great. Thank you.

My understanding is that staff didn't list them early because of this issue about toxic algae as a condition, not a pollutant. And Dr. Gold spoke at length with regard to some of the impairment issues. But I wanted to reiterate some of the legal issues, that it's not clear to me, you know, where the legal basis is, for the Section 303(d) says if it's a pollutant, then you need to list the water body that is impaired by the pollutant for that pollutant.

Forty CFR 122.2 defines pollutants to include biologic materials. And I know this particularly well because this was something that I have debated back and forth with with State Water staff for a number of years with respect to invasive species. And that was part of the TMDL litigation that was brought. And one last year where the Court definitively said that invasive species are biological materials and therefore need to be listed,
just like bacteria and viruses. And whether or not there
are other pollutants in the water body that may exacerbate
or enable the biological material to be there or not be
there has never been an issue with invasive species and
with bacteria and viruses.

Even though that is sort of the case, high
nitrogen content can create regrowth conditions for
bacteria that otherwise might die, certainly some
pollution issues are things that invasive species
particularly like, for example. But that doesn't come up
because it shouldn't come up. And so it shouldn't be an
issue here as to whether nitrogen or phosphorus or other
issues that, you know, sort of address the toxic algae --
that should not be a legal basis and is not a legal basis
for not listing it. It's a biological material, it's
impairing the waters. It could also be viewed as a
toxicant in this case, you know, just like a chemical
toxicant impairs beneficial uses. So in that case could
be listed in that regard as well.

So I would ask you to support -- I support Dr.
Gold's comments. I think that toxic algae listings for
Calleguas Creek, et cetera, should be included in Region 4
and for the same reasons as I'll more briefly state later.
The Klamath River should be listed for toxic
algae as well. It does not seem to be clear that there's
a legal basis for not including it.

Thank you.

CHAIRPERSON DODUC: Dr. Wolff.

BOARD MEMBER WOLFF: Let me ask you about a legal basis. Who's discharging it?

MS. SHEEHAN: I'm sorry?

BOARD MEMBER WOLFF: In order to list a body we need an impairment as a result of a discharge.

MS. SHEEHAN: Yeah. Well, and that would be prior to TMDL process is to assess where the rate and condition of the discharge is.

BOARD MEMBER WOLFF: But the algae's not being discharged by anyone.

MS. SHEEHAN: Well --

BOARD MEMBER WOLFF: I mean this is essentially the staff position, that there are nutrients or something else that are being discharged. If we want to list, we need to list for those. Algae is a condition, not a pollutant that is being discharges. That's the legal basis for not listing them.

MS. SHEEHAN: Well, yeah, I would respectfully disagree that you necessarily need to have a definitive discharge associated with a particular toxic algae the biological material it issues. So, for example if you had a bacterial regrowth situation, you may or may not have a
charge associated with that. And yet that's not been the
kind of thing, the kind of detail that we've gotten into
in the past. And whether the Board wants to or not, you
know, I would defer that for a later discussion.

But I would support the proposal to list for
toxic algae for that reason.

BOARD MEMBER WOLFF: I don't want to get into an
argument with you. But I'm looking for a discharge of
something, a total maximum daily load. We're talking
about discharges of things which overwhelm the
assimilative capacity of the receiving water body. What's
being -- you know, algae are not being discharged.
Something else is being discharged. So I'm failing to
understand your legal argument.

MS. SHEEHAN: Well, then in that case that would
be an implementation question if we were going to, for
example -- I'm just trying to address the issue of toxic
algae being addressed by nitrogen, which in case it isn't.
I mean nitrogen is being addressed by nitrogen. In this
case for Calleguas toxic algae is not being addressed by
ten milligrams per liter of nitrogen. So if there is a
discharger associated with the nitrogen, then perhaps we
can work that into the TMDL.

But the way -- you know, the way that it's
proposed right now is not working to address this
particular problem, which is a pollutant. So I'm not
certain how we would be able to go forward without listing
the water body as impaired and then addressing it through
the implementation process.

BOARD MEMBER WOLFF: Okay. Thank you.

BOARD MEMBER BAGGETT: What about -- Craig, what
about water heights? Have we listed the Central Valley
for water heights?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: No.

BOARD MEMBER BAGGETT: I mean it just seems like
a slippery slope that would be -- unless you have a --
see, with the ballast water we had a discharge for those
invasive species. I think -- we've got algae -- red algae
in the South Coast. I mean we could -- I guess we could
start this all in my backyard, start this also.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: A comment
on the algae --

BOARD MEMBER BAGGETT: I don't know where we'd
stop.

CHAIRPERSON DODUC: Mr. Wilson.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: A comment
on the algae and the nutrient levels. You know, it's been
brought up that the ten milligrams per liter is a drinking
water number, and that's true. Ideally it would be
focused on aquatic life. The Water Board is developing
numerical nutrient endpoints for TMDLs. I've seen reports
where they have different numbers. These listings -- or
listings for nutrients to protect aquatic life, they're
going to be very low nitrogen numbers. That's just the
way it's going to play out.

The regional boards use that ten milligrams per
liter because that's a number that they have. And that's
going to improve the water quality in those water bodies
even though it's a drinking water number. I see it as an
interim step.

But listing the algae is -- it's not discharged.
It's a natural feature of all water bodies of the state.
And it's only bad when it's out of balance because of
these pollutants and other conditions in water bodies.

CHAIRPERSON DODUC: Thank you.

Mr. Levine, did you want to speak on Los Angeles
Basin issues?

MR. LEVINE: Yeah -- well, there was just a
question before the Board. Al Levine from Coast Action
Group.

If you read the Court's findings in Pronsolino
versus Nastri and before that Pronsolino versus Marcus
that supported that, all pollutants shall be listed
regardless of the source if they are causing an
impairment.

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
BOARD MEMBER WOLFF: All pollutants that are being discharged regardless of the source.

MR. LEVINE: It doesn't say anything about discharge. All pollutants that are causing impairment where water quality standards aren't being met need to be listed, according to the Court statement in those cases.

CHAIRPERSON DODUC: Mr. Blum.

STAFF COUNSEL BLUM: Based on my knowledge at the moment, I would agree with Dr. Wolff. There has to be some form of discharge or something like that. I'm not prepared at this moment to give a definitive opinion. However, my belief at this point is that there must be some discharge that can be controlled.

CHAIRPERSON DODUC: Ms. Sheehan.

You're about to read something to us. I can tell.

MS. SHEEHAN: Well, it just -- it doesn't -- yeah, I just wanted to clarify. It doesn't talk about discharge in 303(d). It talks about whether or not existing effluent limitations are sufficient in order to meet water quality standards. And that was the issue in Pronsolino, which reminded me --

CHAIRPERSON DODUC: Well, when you're talking about effluent, you're talking about a discharge.

MS. SHEEHAN: Well, the issue in Pronsolino is
the practices -- you're right. A larger conversation.

But the issue in Pronsolino was, you know, you were not irrigated, agriculture wasn't regulated under the Clean Water Act, so there were no issue about the discharges. And yet Pronsolino said that you needed to pull that in in order to develop the loads. Whether you needed to implement it or not was another question. So I think perhaps, you know, it would merit some more discussion.

Thank you.

CHAIRPERSON DODUC: Perhaps the next round.

(Laughter.)

BOARD MEMBER BAGGETT: I would second that.

CHAIRPERSON DODUC: Any other comments on L.A. Basin?

Seeing none.

What is the Board's pleasure? Discussion, questions on L.A.'s --

BOARD MEMBER WOLFF: Is anyone here from the L.A. Board staff here?

CHAIRPERSON DODUC: I don't have any cards from L.A. Board staff.

BOARD MEMBER WOLFF: I wonder if State Board staff can help us to understand what the L.A. Board is doing with respect to algae and how listing or not listing fits into that. You know, are any of these bodies that
people want us to list, are they going to be addressed?
Are there going to be water quality samples taken in them?
Is anything going to be done about them in the future if
we say, "No, don't list them. But, you know, try to
figure out what's causing this algal growth?" Are they
going to be doing that?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: The only
listings that we are removing are the ones where TMDLs
have been completed. And those listings are for -- and
there are control actions for the nitrogen and other
nutrients in some of those TMDLs. We're not removing the
listings for water bodies where they haven't done a TMDL
yet, because we -- I wanted to make sure that we didn't
say there was no problem when in fact there might be a
problem there.

BOARD MEMBER WOLFF: Did I understand
correctly --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: We're not
adding a new list.

BOARD MEMBER WOLFF: I understand.

Did I understand correctly earlier that Dr. Gold
said the L.A. Board supports maintaining these listings
for algae?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Yes, they
do.
BOARD MEMBER WOLFF: Why do they do that if the TMDLs have been adopted?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I'm sorry. I just can't answer --

BOARD MEMBER WOLFF: That's fair. I don't want you to speculate.

CHAIRPERSON DODUC: Mr. Blum.

STAFF COUNSEL BLUM: Well, to some degree I'm speculating too because I wasn't there at the regional board. But just because a TMDL has been adopted doesn't mean that something has become delisted. It still could be impaired. It just means it's impaired being addressed.

BOARD MEMBER WOLFF: Of course. Well, okay. I understand that. I guess -- I guess I'm back to my original question then. I'm not clear, if we go ahead and follow the staff recommendation, whether nutrients or whatever are causing the algal problem are going to be studied and addressed down the road. Or do we need a listing in order to stimulate that action?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: For the TMDLs that have been completed I think they have information -- they're going to have the nutrient information so they can correct those problems. You don't need those algae listings. For the ones where they haven't done the work yet, it's okay to leave those on...
until they've done that work to develop the TMDL to
ccontrol nutrients. And that's a prompt, if you will, for
those future TMDLs.

BOARD MEMBER BAGGETT: The other challenge I
have -- I mean you can't list bodies for toxic -- for
toxic amounts -- toxicity and toxic amounts if you don't
know what the toxin is. And if -- I don't really have a
handle on which ones of these they have it more than just
nutrients. So I think Dr. Gold made a point phosphorus.
There's a number of causes in probably all of them. So if
you listed for all those at Klamath, for example, it would
be listed for pretty much -- for all the basic causes. I
think it's listed for a number of pollutants, depending on
what reach you're in.

But the other challenge this Board is going to
have to grapple with -- and I don't think this is the
forum to do it today -- is the whole issue of flows.
Because when you're starting to get into all of these
biological issues, be it water hyoscine, algae or so on,
you're really talking, not just temperature. You're
talking flows, which under -- you know, what is it? --
101(g) of the Clean Water Act, prohibits the Clean Water
Act from delving into the water rights arena. So we're
setting ourselves up for a very long legal and policy
discussion here if we're going to start really coming up
with implementation plans and how we solve these.

So I would agree that it's -- to try to get to
that detail at this point at this hour on this listing,
and we're going to start next month on the next one,
that's two years away. Maybe these are the conditions we
should cue up for that next discussion.

CHAIRPERSON DODUC: Well, I have one question
regarding something that the regional board did comment on
with respect to algae. And, that is, they said the State
Board staff proposes to retain 16 algae listing. So
we -- you do support or recommend that we list for algae.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: What I
support is leaving those on the list as a placeholder.
For when the regional board gets to those listings, they
can find those things, like nitrogen and phosphorus and
the flow issues and all these other things. If we remove
them, they might not have the impetus. I don't want to
err on the side of not finding the problem, you know.
They can't see the wolf error, if you know what I mean --
the Type 2 error. So leaving those on is an
environmentally conservative approach. Taking them off
the list wherein the TMDL has been completed is just a
rational approach based on what they've already done and
they focused on those nutrients.

And I think it's protective to leave those on
because it starts the discussion on how to deal with these 

extremely complex TMDLs when it comes to nutrient control.

CHAIRPERSON DODUC: So you support leaving algae 
on the list, leaving it on the list to initiate that 
discussion in that work, but you don't support adding it 
to the list to initiate that discussion and that work, 
which I think is what Ms. Sheehan is trying to get at. 
Perhaps not for the Region 4 listing, but perhaps for 
Region 1's.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: On the 
Region 1, we haven't evaluated all that information. But 
it's the same general argument. If it's important to 
control the blue-green algae, you control those things 
that are out there that are controllable by humans. And 
the toxic agent, that chemical, only comes out of those 
cells when the plant dies.

CHAIRPERSON DODUC: But if that's the case, then 
you would recommend delisting the 16 algae.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: No, I 
wouldn't recommend delisting. I'm -- see, this whole idea 
of blue-green algae coming up, these are existing listings 
on the Klamath River for temperature -- flow-related 
issues, you know, like temperature --

CHAIRPERSON DODUC: But not algae?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: But not
algae. And the regional board is in the development of their TMDL. We've talked to them about it. They're going to have endpoints related to these blue-green algae and the chemical that are causing these toxic effects. You know, that's common sense. That's good, because that shows them when they're being successful. And the nutrient levels are going to be quite low in this on TMDLs.

So, you know, they're in a great track to solve that problem up there. It's just, once this list -- you know, these blue-green algae are in every water body in the state. It's just when they're out of balance that it's an issue.

CHAIRPERSON DODUC: Well, I would agree with Mr. Baggett and Dr. Wolff that we cue this issue up as one of the priorities when you proceed on the 2008 listing.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Be happy to do that.

CHAIRPERSON DODUC: Any other comments, questions, motion?

BOARD MEMBER WOLFF: Well, we still have exotic species and --

CHAIRPERSON DODUC: Oh, that's right.

BOARD MEMBER WOLFF: -- and biological communities impairment from Dr. Gold's presentation.
Exotic species, I'm not clear. What are the
L.A. -- well, actually for both of these. Exotic species
and biological communities impairment. Dr. Gold asked for
listings. What does the L.A. Board staff ask for?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: They
haven't responded on these issues to us. I didn't see it
in their letter. At least I don't recall seeing it in
their letter. Let me pull it out.

BOARD MEMBER WOLFF: Okay. We can come back in a
minute if you want.

BOARD MEMBER BAGGETT: While we're on that, I
would propose again to my colleagues that we bring that
one back also and have a discussion with Fish and Game.
We've got a major problem with various mussels. We've got
it on the east side of the Sierra streams now. You've
got -- it's something that maybe we should deal with. I
think we should. But to deal with it right now at this
time, I'd rather deal with it with the science, work with
Fish and Game and U.S. Fish and Wildlife and NOAA
Fisheries. They've all got the data. They've all got
programs going. It might be useful to their programs to
have this list for these different evasive species. But
let's do it with a little more thought than -- would be my
only comment.

But it's something I think we should cue up and
1 at least work with resource agencies. I'm sure they've
got all kinds of -- I know they've got a lot of data.
I've seen all here science.

Did they list -- did they propose? That was the
question. Did they propose to do anything, regional?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: No. I
can't find it in the letter.

BOARD MEMBER BAGGETT: I think we should propose
it. I really do. But let's get some more information --

BOARD MEMBER WOLFF: I'm concerned about
consistency between regions too. I mean in Region 5 we
said, okay, exotic species at least are listed for
discharges of them, of which we know there are some
ballast water.

In this case I'm not sure any of these species
are being discharged. Maybe that's the distinction as to,
you know, why we shouldn't be moving forward at this
point. But if they are discharged, then it would be
inconsistent to have -- require Region 5 to, you know, put
it on their list to do something but not to do the same
for Region 4.

CHIEF DEPUTY DIRECTOR HOWARD: I guess I'd only
make the comment that -- I mean I'm certain they're
discharged. The New Zealand Mudsnail is starting to
appear in various areas and, you know, it's been

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introduced. I know we've got it here in Putah Creek -- and it's affecting the trout fisheries there.

But I think one of the reasons is there has been a substantial amount of time to consider the listing of the Region 5. This was a subject of intense discussion in the last listing back in 2002. And so there's a history here that was something that made staff comfortable over a long period of time.

There just isn't that type of history at this location yet, a chance to get the regional board input and further evaluate the information and to get comfortable with the concept of listing. I mean if we're really going to take the tack that every introduced species needs a listing, then we are going to list -- everything in the state right now.

BOARD MEMBER WOLFF: No, no. It's not that -- it's not that every introduced species needs a listing. It's that every introduced species which harm beneficial uses needs a listing.

CHIEF DEPUTY DIRECTOR HOWARD: Right. There's the issue. And that hasn't been I think adequately looked at in these water bodies that have been raised in Region 4. Whereas in Region 5, they have been the subject of intense discussion at Bay Delta forums and other forums. And they simply have a history and it makes them feel
comfortable --

BOARD MEMBER WOLFF: Thank you. That's a good answer.

BOARD MEMBER BAGGETT: And the snail is being transported by fishing boats, by boots and waders and all kinds of things. So we're having -- but I mean again we just need to think about it more. And it does impact the Sierra streams and the native fish. I mean it's clear. Fish and Game has made it a major priority.

CHIEF DEPUTY DIRECTOR HOWARD: Yes, it's a serious problem.

BOARD MEMBER BAGGETT: Serious problem. But maybe there's a -- but I think we need to figure out, does this help, hurt? How do we plan it?

CHAIRPERSON DODUC: Questions, comments, further discussion?

BOARD MEMBER WOLFF: So it sounds like we're moving toward moving the list for Region 5 -- I'm sorry -- Region 4, with an additional direction to staff and to EPA to work out whether these various beaches should be listed or delisted, those beaches specifically raised in the submittal from Dr. Gold.

CHIEF DEPUTY DIRECTOR HOWARD: You'll probably request U.S. EPA and direct us. It would be a good thing.

BOARD MEMBER WOLFF: Sure. Thank you.
CHAIRPERSON DODUC: Ms. Strauss just left.

BOARD MEMBER WOLFF: Isn't that a standard meeting rule? I thought you get to task people who aren't present.

CHAIRPERSON DODUC: Mr. Wilson.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Would you also like us to look at that toxicity data with that bacteria information --

CHAIRPERSON DODUC: Yes.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: -- with them?

CHAIRPERSON DODUC: Yes, please.

BOARD MEMBER WOLFF: The toxicity data by L.A. County San Districts?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: The Walnut Creek information that was -- toxicity data that came in that's --

CHAIRPERSON DODUC: From the L.A. County?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Yeah, that's correct.

BOARD MEMBER WOLFF: I would like any -- yeah, I would like any other information that can be resolved without making a policy judgment to be processed and resolved.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Then
1 we'll do that too.
2           CHAIRPERSON DODUC: Was that a motion, Dr. Wolff?
3           BOARD MEMBER WOLFF: Yes, if anyone understands
4 the motion. Do I need to restate it?
5           CHIEF COUNSEL LAUFFER: It's sufficiently clear.
6           BOARD MEMBER WOLFF: It's a motion.
7           CHAIRPERSON DODUC: I will second.
8           All in favor?
9           (Ayes.)
10          CHAIRPERSON DODUC: Any opposed?
11          Abstain?
12          Hearing none, the motion -- the interim motion is
13 carried.
14          We are done with Los Angeles Basin.
15          Two down and seven to go.
16          If I may take a moment and see a show of hands
17 for those who are here for Region 1, North Coast.
18          I see two, three.
19          Region 3 -- I mean Region 2 -- sorry -- San
20 Francisco.
21          Three, Central Coast?
22          Four and five we've done.
23          Six, Lahontan.
24          No Lahontan.
25          BOARD MEMBER WOLFF: Let's move that right away.
CHAIRPERSON DODUC: Seven, Colorado.

I see four for 7.

Eight, Santa Ana.

Oh, lots for -- two for Santa Ana.

San Diego?

Two.

Does anyone wish to move Lahontan?

BOARD MEMBER WOLFF: Sure. I move Lahontan.

BOARD MEMBER BAGGETT: Second.

CHAIRPERSON DODUC: All in favor?

(Ayes.)

CHAIRPERSON DODUC: No opposed or abstained?

Lahontan is moved.

All right. Let's go ahead and take 9, San Diego, since there are only two speakers for that.

And the two speakers have left already.

Oh, no?

Okay. San Diego please.

Why be -- I want to be consistently inconsistent.

BOARD MEMBER WOLFF: Please don't.

(Laughter.)

CHAIRPERSON DODUC: Actually I do have a request from someone from the San Diego area who needs to leave.

So San Diego.

MR. BOLLAND: Okay. It's not me --
CHAIRPERSON DODUC: Maybe he left already.

MR. BOLLAND: -- the person who would like to speak first.

Okay. I'll stay up hear.

CHAIRPERSON DODUC: Oh, okay.

MR. BOLLAND: I'm David Bolland with the Association of California Water Agencies. Thanks again, Chair Doduc and members.

What I'm here to talk about is ACWA's concern about the blanket listing of a whole bunch of terminal reservoirs in San Diego region for salinity and associated impairments.

We recognize that -- and a number of our member agencies have written comments to this effect and are concerned basically about how these reservoirs are being handled in this process. Those agencies have made it very clear why they believe this is an erroneous approach to using the listing process and the TMDL process. It revolves around the question of whether the water quality standards are applicable and whether or not the exceedances are controllable by the agencies involved. A lot of these reservoirs actually are source -- are reservoirs that use imported water from Colorado River, which already is high in salinity. And they actually have native salinity issues with some of the rocks that
underlie a lot of those reservoirs in that area.

And so we're concerned in general, ACWA supporting the concerns of its member agencies in that area, that the TMDL process is really not the right approach to handling this. We see a basin plan amendment situation possibly to deal with the standards problem. We see a more collaborative approach to salinity management in the San Diego area. Our agencies are interested and expressed that.

We do recognize the technical response, I guess, that the staff has made that they believe that this is nothing they can do through the listing process. But I guess I will say you have the attention of a lot of water agencies from that -- down to the most local agencies in that area. A lot of them are concerned about enormous possible expenses, for no real reason -- no environmental reason, to try to deal with salinity, when in fact through the mixing process and through the treatment process this drinking water is processed and is consumable by the public and is acceptable for drinking water standards.

And that's pretty much the crux of my comments.

CHAIRPERSON DODUC: Mr. Baggett.

BOARD MEMBER HOPPIN: So you're not suggesting that you cease importing water from the Colorado river, I assume?
MR. BOLLAND: Well, that's a concern I think some folks have, is that, you know, the next process here would be to start doing TMDLs on salinity. And when you look at controllable sources and discharges, you know, we're getting at Dr. Wolff's nuance here, that I think is a very important one, that you have to have dischargers that you can control and that you -- you're not talking about just conditions of the water bodies. If you were to trace that down to the exporters and try to look at those reservoirs as if they were habitat and that somehow you had to protect it from the salinity, from the very water that's filling those reservoirs, you would conceivably come to some point of concluding that your implementation measures are to cease importing and managing water in southern California, which is an absurd conclusion.

So I guess the concern we have is that this entire TMDL process kind of deals with salinity and deals with the use of terminal reservoirs in a way that's not effective to managing water resources in California. And we're really concerned about just long-term costs of dealing with this bureaucratic jump-through-the-hoops situation. And we hope that there are some ways that we can enter into fruitful discussions with the regional boards to deal with these issues in a more effective way.

BOARD MEMBER BAGGETT: My concern is -- if it is
an impairment, then maybe we should deal with it and maybe
it's upper basin state's challenge and we deal with them.
But if we're blanketly listing all reservoirs in the San
Diego region, or is this a site by site --

MR. BOLLAND: Well, it's not -- yeah, it sounded
like a listing for all. There's a long list of them, but
probably a few there --

BOARD MEMBER WOLFF: But you can see each one and
identify whether it's an underlying problem? Like you
could just -- Mono lake, Sails Lake. I mean there's
always sight of the Sierra water. You list all those?

MR. BOLLAND: Saline water. We're talking about
actual terminal reservoirs.

BOARD MEMBER HOPPIN: Mr. Wilson, would -- to add
to Mr. Baggett's comment, would -- in light of the
comments presenter's making, would you see this situation
being markedly different than the situation we dealt with
with the All American Canal where we're dealing with
natural occurrence and water that meets standards at the
point of diversion with no additional inputs, or is this a
uniquely different situation in your view?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: This is
an issue where the beneficial use is the municipal source.
We looked at the basin plan, had a narrative objective for
protection of beneficial uses. We applied the maximum
contaminant level values to this water body. It showed that there was an exceedance in some percentage of the samples. I mean I could show you the details.

MR. BOLLAND: Could I speak back to that very --

the crux of the issue is the standard. Because I think that's the crux.

BOARD MEMBER WOLFF: Excuse me. Could we let our staff finish.

MR. BOLLAND: Yes. Oh, absolutely.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: And our recommendation was based on our assessment of those data with respect to, you know, these standards. And we used these numbers to interpret the narrative, and that's the conclusion we came to.

You know, we didn't -- we looked at the water as it exists. We didn't say, "Well, it's higher than the source water so we'll not list it." We just looked at the water bodies for themselves and listed based on the numbers that we had available to us, and that's what we did. It's pretty much that simple and that straightforward. It was not a blanket listing. We did not pick all water bodies that are terminal reservoirs and list them all in some fashion. We went through one by one. And, you know, there are dozens of constituents and there's just a few per water body. You know, like
Loveland Reservoir we have three. It's aluminum, manganese, and dissolved oxygen. There's a dissolved oxygen problem in that water body. So that's what we did.

BOARD MEMBER BAGGETT: But are there fish in the water body? Or is it a water storage?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I assume there are fish in the water body.

CHAIRPERSON DODUC: Okay.

BOARD MEMBER BAGGETT: So have you taken this approach to all the other southern California regions?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Whenever we had data from these kinds of source water assessments -- and the policy -- the listing policy says we'll review all that kind of information, including source water assessments, and that's what we did in this case. We're trying to follow the provisions of that policy.

BOARD MEMBER BAGGETT: Because Region 8, Region 7, Region 4, you'd have the same challenges in all the --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: We'd have the same challenges.

CHAIRPERSON DODUC: And they were consistent.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: We were -- yeah, we were consistently challenged by all of these.
BOARD MEMBER BAGGETT: But you would know this in Region 9, not in the other three southern --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Well, we did some of it in Region 7 and, you know, inappropriately listed -- or recommended listing the All American Canal, and we dealt with that as an issue, and applied the upstream Colorado River number. We haven't done that for these water --

BOARD MEMBER BAGGETT: Where's San Diego County Water Authority?

MR. BOLLAND: Well, they've written a very detailed letter, as a matter of fact, and several others have too.

And to get to the crux of it, the very reason on the All American Canal that was given by staff for listing it, which was this use of the maximum contaminant level, is actually a secondary MCL that was adopted by DHS for drinking water purposes. And it's actually a consumer acceptance contaminant level range. And the top level of the range was exceeded. This is a drinking water standard. It's for essentially aesthetic purposes for the consumer of the water. It's not intended to protect beneficial uses of any sort in the environment. And we believe it was used appropriately on the All American Canal.
Canal, which we'll get to in Region 7. But the same rationale was used on all these -- various of these drinking water reservoirs in San Diego area.

Now, I have looked through the list. There are a few reservoirs in various other locations that are listed for salinity. I haven't looked at the background fact sheets, so I don't know what the rationale was on those. I'm focused strictly on the rash of them. And there are at least probably a dozen in the San Diego area. And some of those do have challenges that are associated with other constituents, like manganese and this dissolved oxygen situation and other things, which again are maybe native conditions of the rock and leaching into the water.

But what I'm talking about specifically are TDS listings or chlorides or related -- kind of salt-related listings. And we're just concerned that the rationale that was used by the staff for setting the standard for interpreting the narrative standard by the region, that rationale that was used was inappropriate use of a drinking water standard that does not protect the beneficial use. And, in fact, it obfuscates the very purpose of that water, which is drinking water.

BOARD MEMBER BAGGETT: So we just export more of Sacramento Delta water to make up for water they're getting from Colorado --
MR. BOLLAND: As long as it's good water. We'll want it when it's the most -- or the least saline.

BOARD MEMBER WOLFF: So if I understand correctly -- and I apologize. It's getting late. I didn't quite catch the beginning. You're only objecting to those listings for terminal reservoirs where a listed contaminant is some sort of salt?

MR. BOLLAND: And by that -- in general that's the objection that I'm bringing forward as ACWA. And it's based on this larger policy concern about misuse of the secondary MCL view.

However, I will say that the members and San Diego County Water Authority and Sweet Water and all the various -- Helix and all the other agencies, they have some very specific concerns about manganese and dissolved oxygen and other things. And, again, their argument is that it's all related to the way they manage the reservoirs, the way the thermocline happens, the way the water moves in and out. And it's all an artifact of the fact that these are drinking water reservoirs; they are not habitat that needs to be protected.

BOARD MEMBER BAGGETT: Maybe Craig or somebody, Tom, could refresh my memory here.

Last time around we had -- it was one of L.A. DWP's reservoirs where it was impaired for copper up in
Region 7 -- 6, right?

STAFF COUNSEL BLUM: Yeah, right.

BOARD MEMBER BAGGETT: I think Steve probably knows it well.

STAFF COUNSEL BLUM: I know it well.

BOARD MEMBER BAGGETT: And we listed it for copper even though they were required to put the copper in to deal with --

STAFF COUNSEL BLUM: It was the way they were putting the copper in that caused problem. When they changed their practices, it turned out that they -- the regional board was able to delist it for copper because they were meeting the standards.

This I think is an artifact -- the argument here is an artifact of the larger argument that these reservoirs are not waters of the state and therefore don't have any water quality standards other than we're using this water to serve our customers for drinking.

It's what L.A. DWP was arguing and --

BOARD MEMBER BAGGETT: We could argue it again.

STAFF COUNSEL BLUM: It's the same thing here.

CHIEF DEPUTY DIRECTOR HOWARD: I actually have a slightly different perspective on it, which I'll share.

This I think is very similar to the All American Canal issue as raised by Board Member Hoppin. We have in
the Colorado River a salinity problem. And the
Board -- this Board has adopted objectives that exceed the
secondary MCL for TDS. And even though the beneficial use
of the Colorado River is drinking water supply, and even
though it has narrative objectives that would -- under the
kind of conditions that are being suggested here would
have suggested a use of a secondary MCL, based on those
kind of considerations -- but the Colorado River is not
being listed for salinity because we had adopted a
specific salinity objective which was assumed to be
consistent with the narrative objective and the municipal
use.

We had at one point suggested listing the All
American Canal. Even though the same narrative objective
applied, but there was no salinity objective and it
exceeded secondary MCLs. But we -- the staff decided that
that wasn't appropriate because that water was being
diverted from the Colorado River to put to beneficial use
for very beneficial uses that were identified in the
Colorado River. And so it would hardly make sense to say
that it was impaired if in fact it hadn't been impaired
when it was in the Colorado River.

And we're now here sitting in sort of the same
circumstance. Much of that water is ending up in the
terminal reservoirs. We're again taking the narrative
objective, the municipal drinking water supply, applying secondary standard and saying that it doesn't meet those uses.

So I think the same arguments that you see in Colorado River and the All American Canal and these terminal reservoirs are repeating themselves.

I would assert that this is a policy issue that the Board needs to address, it needs to make a decision on now. The recommendation from the staff was that the All American Canal appropriately shouldn't be listed. I think the same rationale could very possibly apply here. But I would leave that to the discretion of the Board members in their policy determination.

BOARD MEMBER HOPPIN: Mr. Howard, in addition to the well identified Colorado River, the speaker mentioned that there was a natural occurrence. Is there a tolerance for natural occurrence or is it a significant issue in this case?

CHIEF DEPUTY DIRECTOR HOWARD: There is potentially. However, the way we've handled naturally occurring pollutants in the past -- it's occurred quite a bit in Region 6 -- is if the -- the exceed water quality objectives, they get listed. If it's a naturally occurring phenomenon and it's being managed appropriately, then the approach from the regional board should be to
change the water quality objective to reflect the fact that it's a naturally occurring pollutant and you're still managing to meet the purposes of what the reservoir's constructed.

So this is the way we've managed things in the past. Of course you could make the exact same argument for TDS. I mean you could say they should be changing the objective -- the numerical objective in the All American Canal, and they should be changing the narrative objective -- the salinity objective in these terminal reservoirs.

However, since the source water already has an objective, that's why we elected not to do that in the All American. And I think the same rationale could be applied to the terminal reservoirs.

Is that all clear enough?

BOARD MEMBER BAGGETT: Yeah.

BOARD MEMBER WOLFF: Perfect.

CHIEF DEPUTY DIRECTOR HOWARD: Thank you.

CHAIRPERSON DODUC: Matter of consistent application.

Comments.

BOARD MEMBER BAGGETT: I don't see how we can list these. And if we do, we need to have a much bigger forum than this, because you're going to have great
interest expressed by a lot of people in the water supply community that aren't even aware this conversation's taking place.

BOARD MEMBER WOLFF: Well, I would agree for TDS. I think that listings for dissolved oxygen or other things, you know, are appropriate. If the terminal reservoir has fish in it and there's an applicable objective protecting those fish, then the operator of the reservoir's got to protect those fish.

CHIEF DEPUTY DIRECTOR HOWARD: These terminal reservoirs all have an existing beneficial use fish habitat need --

BOARD MEMBER WOLFF: Yes, except what they gave us. So I would agree completely with respect to TDS or salts of various types, because it is a secondary MCL and the purpose of the water is drinking water. People bring water in that's salty as part of their water supply planning. So I can't see how that could be possibly impairing the use of the water for drinking water.

CHAIRPERSON DODUC: Thank you.

I don't think I have a card for you. Would you fill one out just for the court reporter's sake.

MR. BOLLAND: Well, I filed one earlier that didn't identify the specific regions.
CHAIRPERSON DODUC: Very good.

BOARD MEMBER BAGGETT: He'll be back again.

MR. BOLLAND: Just one more --

CHAIRPERSON DODUC: And then I think there was one other commenter on San Diego.

Maybe not.

Any other comments on San Diego?

BOARD MEMBER WOLFF: Move quickly before they -- before they come back from the bathroom let's move San Diego --

(Laughter.)

BOARD MEMBER WOLFF: -- with the change that we've just discussed as the lead for those listings that were caused by the secondary MCL.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: It appears there are 11 reservoirs -- 11 listings that we'll remove.

CHAIRPERSON DODUC: Okay. Removing those 11 listings for TDS.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: They're not all reservoirs. We will remove all of them, even if there's more than 11. Okay?

BOARD MEMBER WOLFF: Okay. But only with respect to TDS.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Only TDS.
CHAIRPERSON DODUC: Motion by --

BOARD MEMBER WOLFF: Let's clarify the motion.

It's to move the list for Region 9 with the
deletion of those terminal reservoirs which -- for which a
listing was proposed, based on the secondary MCL for TDS.

BOARD MEMBER HOPPIN: I'll second the motion.

CHAIRPERSON DODUC: Okay. Quickly vote.

All in favor?

(Ayes.)

CHAIRPERSON DODUC: Any opposed?

Abstain?

Okay. This motion's carried. Thank you.

Let's work backwards. Santa Ana, Region 8.

And, by the way, just so it's clear. All this
are with the changes that the staff recommended in this
list.

MR. BAZEL: Madam Chair, members of the Board,
thank you. My name is Larry Bazel with the Law Firm of
Briscoe, Ivester & Bazel in San Francisco. And I'm here
to talk about Big Bear Lake.

Big Bear Lake is proposed to be listed for PCBs.

In effect, the listing tells the public the PCB levels in
sport fish in this lake are high enough to harm public
health. I hope you will reconsider that statement or that
conclusion. Because -- it's important to Big Bear Lake,
which is heavily used for fishing. And after you see what
it's based on, I hope you'll conclude that there really
isn't enough to support it.

It turns on two things: One is a suggestion in
an OEHHA staff report; and the other is carp, which is not
a commercial list sport fish. It was on Dr. Gold's list
of exotic species. And it is a nuisance in Big Bear Lake.

The level that's being used here is to determine
whether the PCBs in the fish are harmful to the public
health. It comes from an OEHHA staff report in which the
author said -- and I want to read this to you -- it's one
sentence -- because it shows that the author did not
intend this to be used as a regulatory value. "The
screening values are not intended as levels at which
consumption advisories should be issued, but are useful as
a guide to identify a fish species in chemicals from a
limited data set, such as this one, for which more
intensive sampling, analysis or health evaluation are to
be recommended."

So what's being used here to list Big Bear Lake
is not an official OEHHA guideline, but it's a
recommendation in a staff report. I think that's two
conservative. This Board shouldn't be that conservative.
It should rely on official guidelines. If OEHHA comes up
with an official guideline, then there's plenty of time to
list in the next round, assuming that the fish data's supported, which takes me to Point 2 here.

This turns on carp. It turns on four samples, of which three are carp. A look at the fourth, it was a Largemouth bass.

If you take away those three carp samples, you have one data point one. Data point isn't enough to list. Carp, as I've said, are nuisance. Each year there's an annual carp roundup in Big Bear Lake in which they take thousands of tons of carp out of the lake and bury them. This may very well be a good way of dealing with exotic species. But it's not a reason to tell the public that PCB levels in the fish that they are fishing for, taking home and eating, are too high.

There is yet another issue here, which is that there's no discharge of waste water into Big Bear Lake. So if PCBs are there, there must be some historic remnant.

The concern here --

CHAIRPERSON DODUC: Please do wrap up.

MR. BAZEL: -- is that listing will not do any good. It will confuse the public. It will interfere with other things that are going on in the lake, things like control of algae and nuisance plants. And it just -- it won't be helpful.

Thank you.
CHAIRPERSON DODUC: Mr. Wilson.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: The guideline that we used comes from OEHHA. They talk in their documents about using these numbers -- not using them to develop fish consumption advisories. We are by no means developing a fish consumption advisory in this process.

They go through a long, involved process for posting the whole thing. Listing policy allows the Board to use these types of guidelines in this type -- in this process. Yes, it comes out of that staff report. It's the best available value that we could use for this purpose. OEHHA is reevaluating their guidance -- their guidelines, if you will. Some are higher, some are lower. My recollection on PCBs is it's exactly the same number as the one we're using.

I think we're within -- I think this is a good listing. The use of carp fish -- again, I mentioned this in my earlier presentation -- I think we're being conservative environmentally, protective, if you will, by using this. If you don't want to use that, we would only -- we would exclude that and there would not be a listing. But I think including all the information for all the fish is consistent with the listing policy and that's how we proceeded with this recommendation. And
we've done this in several other water bodies in the State.

CHAIRPERSON DODUC: Thank you, Mr. Wilson.

BOARD MEMBER WOLFF: Is it true that listing the water body will in some way lead to posting of signs, as suggested by the speaker?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I don't see that happening, because OEHHA would have to come up with a fish advisory. And they -- their burden is much greater than our burden. So there would not be posting of signs related to this listing.

BOARD MEMBER WOLFF: Thank you.

And then one other question, which is: Where is Big Bear Lake?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Southern California.

MR. BAZEL: It's up in mountains from Riverside -- at Riverside.

BOARD MEMBER WOLFF: Up in the mountains from Riverside.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Eighteen or twenty miles from Riverside up in the San Gabriel Mountains.

BOARD MEMBER WOLFF: San Gabriel Mountains.

That's good, that helps. And how big is Big Bear Lake,
MR. BAZEL: It's miles long. Big enough so that
it is a popular tourist destination. People from L.A. can
drive up there on the weekend. Have snow in the winter.
A nice lake to fish in the summertime. And enjoy
themselves.

Whether or not OEHHA actually posts signs, but
the water district here has some obligations. Once you
say that the levels are high enough so that they're
harmful to health, then that --

BOARD MEMBER WOLFF: That's not what the listing
says.

MR. BAZEL: Yes, it is -- yes, it does. It
says -- the narrative standard says that PCB shall not be
discharged by the waste types of discharges at levels that
are harmful to human health. This is to protect the
beneficial use of commercial and sport fisher. So if
you're saying that that narrative standard is being
exceeded and levels are high enough to harm human health,
it's not a maybe.

BOARD MEMBER WOLFF: I see.

Are there other lakes -- please, go ahead.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: There's
one more point.

You know, PCBs are not a naturally occurring
substance. I can't explain how it got into that lake, but it had to get in in some fashion. It's probably, you know, a water treatment plant discharge or something like that. But that's some kind of surface runoff and it makes its way into that water body.

BOARD MEMBER WOLFF: This relates to another question. Are there other lakes in that area for which we have data?

CHAIRPERSON DODUC: I heard Arrowhead.

BOARD MEMBER WOLFF: Okay. So this is near Lake Arrowhead. That helps.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: But your question's --

BOARD MEMBER HOPPIN: Mr. Wilson, would you agree then with the speaker, is that this could potentially be a legacy-type issue and not a result of current discharge?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Could very well be. I just don't know.

CHAIRPERSON DODUC: Well, just because it could be a legacy issue doesn't necessarily mean that we don't list it.

CHIEF DEPUTY DIRECTOR HOWARD: Need clarification in that respect.

We list many legacy issues.

CHAIRPERSON DODUC: Exactly.
CHIEF DEPUTY DIRECTOR HOWARD: We have listings for DDT, which we're reasonably certain is no longer being used in California in agriculture. So, you know, it's not unheard of to list legacy.

CHAIRPERSON DODUC: Thank you, Mr. Bazel.

I think on this one my preference is to err on the side of caution. But we do appreciate the comments and the discussion.

For now we'll move on to any other speakers dealing with Santa Ana.

MR. THOMAS: Thank you, Madam Chair and members.

Bill Thomas speaking on behalf of Lake Elsinore Valley Municipal Water District. And it's a PCB listing very similar to what you just heard. Although it's even a little more exotic than you would list in lake Elsinore.

We submitted comments January 30th and then Charlie complicated things further by the 19th of October.

Having gone to the same state university, I commiserate with the reading impairment that some of us have.

In Lake Elsinore there is no beneficial use that is being impacted relative to these PCBs. There is no listing for municipal or for the sport fisheries.

I served on the State Board's PAG with a couple other members in this room -- and with Craig on the listing criteria. And we clearly talked about, and it
found its way to the State Board policy, that you do these listings and develop the TMDLs to protect specific beneficial uses and water quality objectives. In fact, the policy also says that it should not be used to change beneficial uses or to change water quality objectives. And we think that this listing is not reflective of any beneficial use protection.

I'll make a couple of other points quickly. I associate myself with all the comments that the previous speaker had said on behalf of the other water body.

This 20 PCB screening level is in one staff document at OEHHA. And the document itself says that it shall not be intended to be used as a health advisory. Your obligation relative to OEHHA is to deal with listings dealing with when they have set health advisories. This expressly says it is not to be used for that purpose. Thus, we think that this is on an inappropriate protective level.

We also think that the old fish data that you heard referenced in the 1990s is remote, even though there isn't a standard in listing that stuff is too old. There has been in 2002, 2003 water quality testing in Elsinore 60 samples, one of which -- 59 showed no PCB, one of which had low levels of PCB. The source of the PCB -- and I'll rapidly
conclude -- is that there are some exotic carp still in Elsinore that feed along the bottom of the lake. That's where they get exposed. There is virtually no PCB in the water column. There is an active fish eradication program targeted at these carp.

So we think there's a number of points that are in our written comments that would gravitate against the listing, and that there is no reason to list. There is no use of this product. There is no discharge of this product. It is historic legacy at the lake bottom. There is no exposure in the water column.

And what are you going to do with establishing a load to implement, you know, a TMDL where we're already trying to take care of this carp problem? It is not a commercial or a sport fish and there is no such beneficial use protection there that you're protecting.

Thank you.

CHAIRPERSON DODUC: So you're saying that Lake Elsinore does not have any municipal or fishery beneficial uses?

MR. THOMAS: No, it does not.

CHAIRPERSON DODUC: Mr. Wilson.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: When we first started developing this listing we went to the basin plan and we found just what Mr. Thomas had talked about.
There's not a listing for the fish consumption beneficial use.

So the next thing we did was we called the regional board and we asked them directly, "Do people fish in Lake Elsinore?" And they say, "Absolutely, yes. It's an existing use." And existing uses need to be protected. I'll turn to my attorney friends to confirm that. But we felt that if there was an existing use, that we needed to evaluate this data in this way. And that's what we did. It's pretty much that simple.

CHAIRPERSON DODUC: Dr. Wolff.

BOARD MEMBER WOLFF: Do we know where Region 8 staff stand on this? On these two actually, both of them.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Sorry, I -- I don't have a letter from them on this, and I just can't --

BOARD MEMBER WOLFF: I just wondered if we knew.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I can't remember.

MR. BAZEL: My understanding is that Region 8 staff do not agree with the State Board staff here, do not support listing. They met with OEHHA before this process started and concluded that PCBs were not a problem in the lake.

BOARD MEMBER WOLFF: I appreciate that. But it's
sort of hearsay, right? I mean --

CHAIRPERSON DODUC: Mr. Wilson.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Well, yeah, we can debate who said what when. But that focused on developing a health advisory for the water body, and I think that's what they agreed upon.

BOARD MEMBER WOLFF: I just want to clarify -- before we try to figure out what to do about this, I want to clarify my earlier remark about discharges. I think that we're obligated to list any impaired water body that was impaired by discharges of pollutants. Those discharges don't have to be current. So the fact that it's legacy I don't think, you know, releases us of the obligation to list. That's just my understanding of the law. So, you know, PCBs obviously were discharged by someone someplace if they're present there. So I think we have a basis for a listing.

The question for me is whether the violation of either receiving water objectives or of, you know, impact on beneficial uses is sort of clear enough here to make these listings.

BOARD MEMBER HOPPIN: Mr. Wilson, I have one more question for you. Both the previous speakers have mentioned that they don't feel that the OEHHA document that was used to
establish the basis for this whole conversation was
intended to be used for the purpose for what we're using
it for, in fact specifically stated that it was not to be
used for that purpose. Would you comment on that, please.

SENIOR ENVIRONMENTAL SCIENTIST WILSON:

Certainly.

The numbers were published. We evaluated them.

As part of the evaluation when we developed the listing
policy, one of our recommendations was to establish these
numbers in the policy. But the Board decided, with good
reason, to put the criteria for what made a good guideline
in there, but allow the science to evolve and to use the
best available numbers. And I think that's good sense.

OEHHA has, you know -- I don't know if they're
here now. But they haven't objected to me about using
these numbers in our process. We've put these out widely
to a lot of different people to look at.

You know, there are disagreements when you use
these numbers. And this is the downside to being so
transparent, you know. You know what we use, and you
might disagree with it. But I'm looking for an
alternative to use. And I'm -- just about it.

BOARD MEMBER HOPPIN: To that point -- and not to
interrupt you --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: No,
please.

BOARD MEMBER HOPPIN: -- if OEHHA has not commented to the contrary but they originally stated that that was not the intent of the data, it would occur to me just as item slip through our fingers in this level, possibly this is not something that OEHHA would have felt compelled or been aware that they needed to respond to it. Is that a possibility?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Well, it is a possibility. But the point here is, that their job is to develop these consumption advisories. And we took a conservative approach in evaluating fish tissue data. We could have only relied on their advisories. But, you know, they have trouble getting those out. There's just been a few around the state, that are so bad, that they have them. And we view this as a -- I hate to use the word "precautionary," but it is, approach for placing waters on the 303(d) list, because we feel that there's a potential for human health impacts based on these levels.

CHAIRPERSON DODUC: It is a difficult issue because I know there are -- there's just so many pollutants, and we do not have the complete scientific data to have standards and objectives for all of them. And to the extent that we can, we do try to build upon the work of others.
The question then becomes, on a specific issue, whether it is appropriate. And I think, you know, the Board had before looked at the issue of, for example, using the public health goal as the value in certain actions being taken by the regional water boards.

I do think -- I would hesitate to make a blanket statement that would throw out the use of data and information and numbers set by OEHHA or any other of our -- they are the scientific regulatory body. But I do appreciate that such use needs to be taken with care and it has to be applicable to the matter before us.

So I think the question is, with respect to PCB in these two water bodies, whether it is appropriate. And we've heard that for one there is a municipal water use -- beneficial use, and for the other, even though it's not in the basin plan, fishing is occurring and fish is being consumed.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: It's an existing use.

CHAIRPERSON DODUC: It's an existing use.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: It's an existing use of the water body.

MR. THOMAS: I don't know who's eating carp.

BOARD MEMBER WOLFF: Well, actually that's the question I was about to ask.
The data was in carp or the data was in a variety of fish?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: For Big Bear it was -- for Elsinore it was carp. For Big Bear it was split between carp and Largemouth bass. And most of the bioaccumulation is in the carp.

And we -- you know, instead of throwing out data, we included it and evaluated it in a conservative fashion.

BOARD MEMBER WOLFF: All right. Now, there are people who eat carp. The question is: Are people eating carp from Lake Elsinore or Big Bear Lake?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I literally cannot tell you that.

BOARD MEMBER WOLFF: Yeah, I know, I know. We have no clear information on that but those who were down there who say, no, they're not eating that.

BOARD MEMBER HOPPIN: Mr. Wilson, would it be unusual that -- are you done?

BOARD MEMBER WOLFF: I'm done.

BOARD MEMBER HOPPIN: You want me to be quiet?

BOARD MEMBER WOLFF: No.

BOARD MEMBER HOPPIN: Would it be unusual or would you -- would it mitigate your feelings at all that PCB is not detected in the water column? Would that be unusual if it was highly contaminated and, in fact, would
assume, given the fact that a carp was a bottom feeder,
that there would be some merit to the argument that it
could possibly be limited to a layer of silt or the
residual from carp that live even longer than I have?

         SENIOR ENVIRONMENTAL SCIENTIST WILSON: You know,
these kinds of pollutants tend to accumulate in sediments.
You don't find high concentrations in the water column.
It's not unusual to find high concentrations in sediments
and nothing in the water column. But there's still an
impact to beneficial uses.

         CHIEF DEPUTY DIRECTOR HOWARD: Just to further
that. I doubt if we have any PCB listings that are water
column related. They're all either fish or the sediment.
It's just the nature of that --

         BOARD MEMBER BAGGETT: Yeah, we've listed abalone
shell for DDT. It's been listed for years.

         BOARD MEMBER WOLFF: Could staff clarify what --
the basis for any of the other PCB listings in the state?
I mean we have others, I know. Are they always fish
tissue like this and they're always compared against this
OEHHA level, or are there other --

         SENIOR ENVIRONMENTAL SCIENTIST WILSON: In
general, there's a lot of fish tissue listings. There's
also sediment listings when it exceeds a sediment
guideline that's out there.
Like Tom said, I don't recall any water listings for PCBs.

BOARD MEMBER WOLFF: But they're always based on these sort of fish tissue, you know, levels from OEHHA, are strictly regulatory and, you know, et cetera, et cetera?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: That's right. Again, and this is the downside of explaining what we do. I'm showing --

BOARD MEMBER WOLFF: No, that's not a downside.

CHAIRPERSON DODUC: Thank you, gentlemen.

Any other comments on Santa Ana basin?

Seeing none.

It's now up to this Board to make a motion.

And I will move the Santa Ana Basin list with the changes on this page.

BOARD MEMBER BAGGETT: Second.

CHAIRPERSON DODUC: Seconded by Mr. Baggett.

Any discussion?

BOARD MEMBER HOPPIN: Would you repeat your motion, Madam Chair.

CHAIRPERSON DODUC: Just move the listing without any change.

Discussion?

All --
CHIEF COUNSEL LAUFFER: And just to be clear, I think what perhaps Board Member Hoppin was speaking with respect to the staff proposal from earlier today, but it seems like a long time ago now, did have a couple changes. And that's what Chair Doduc is incorporating into her motion.

CHAIRPERSON DODUC: Yes, with this change.

All in favor?

BOARD MEMBER WOLFF: I'll support the motion.

But I would like to direct staff in the next round, the 2008 round to think carefully about the bases for these sort of fish tissue listings. You know, I'm a little concerned about using the OEHHA number. Not enough to vote against the staff on this one. But I'm a little concerned about what numbers we're using as we go forward for these types of things.

And I'd like to just be sure we have consistency across regions, that when we use one type of number from OEHHA, that we're always using other similar numbers from OEHHA. I think this Board took action on recycled water in L.A. and said, oh, the L.A. Board couldn't use OEHHA numbers for salt -- or BHS -- somebody's numbers for something. And I'd like to see consistency on the way we're using these numbers from other agencies.

CHAIRPERSON DODUC: To the extent we can be
CHIEF DEPUTY DIRECTOR HOWARD: Yeah. I only have -- it's not really a concern. I agree with the idea behind that. It's just that there are a vast number of compounds out there for which we don't have water quality objectives, but which narrative objectives are applied to and put into permits and things like that based on these other sources of information. And it's been an ongoing policy issue from the discharger community especially, that the Water Board should be much more circumspect about doing that.

So it's a big issue and maybe one we should talk about in more detail.

BOARD MEMBER WOLFF: We're in agreement. I'm not suggesting we need to be more circumspect. I am suggesting we need to be as consistent as possible as we move forward, because in fact it is an issue there's a lot of discussion around.

CHAIRPERSON DODUC: Okay. So with that, all in favor?

(Ayes.)

CHAIRPERSON DODUC: Any opposed or abstain?

BOARD MEMBER HOPPIN: Opposed. I fail to see where we were going to make any substantial environmental gains with this TMDL. I remain concerned not over this
solely. But that as we load up the world with TMDLs, that we're not going to really be able to alter the end result anyhow. That frustrates me. So I will vote in opposition to my colleagues.

CHAIRPERSON DODUC: Thank you.

Well not "thank you" but thank you.

(Laughter.)

BOARD MEMBER HOPPIN: I know what you meant by "thank you".

CHAIRPERSON DODUC: All right. Colorado River, please come up to speak on Item -- the Regional Board 7.

MR. ANGEL: Thank you but no thank you.

CHAIRPERSON DODUC: I'm sorry. I thought you told me you were from San Diego. So I moved San Diego up.

MR. ANGEL: No, I just appear.

CHAIRPERSON DODUC: Okay.

MR. ANGEL: Jose Angel. I'm the Assistant Executive Officer for the water board down there.

We're encouraged by the discussion on the All American Canal and by the changes on the proposal from the staff. And beyond that, as I point out to the staff, other issues that go more to the fact sheets than the actual resolutions. So we're able to also to address that today.

Having gone to Fresno State also, I feel your
BOARD MEMBER HOPPIN: You understand?

MR. ANGEL: Yes. Besides that, I'll be happy to answer any questions. And I may reserve some time to answer some of the concerns that other speakers may bring to your attention.

CHAIRPERSON DODUC: Thank you.

Welcome back. And thank you for staying with us.

MR. BRADSHAW: Sure. Sorry I spoke too early there a little while back.

My name is David Bradshaw. I'm with the Imperial Irrigation district. And I have a few concerns. And we do first want to thank Mr. Wilson for reconsidering the All American Canal.

And along those lines, we have an issue with selenium And the Colorado River Board letter from Jerry Zimmerman was turned in. I see it didn't quite make it to this one sheet of revisions.

Also there was a letter from the Imperial Irrigation District, a four-page letter. But I won't read these. They've already been submitted by the timeline.

But the crux is that the irrigation district would support Jerry Zimmerman's letter and asking that this Board withdraw its recommendation to list the Colorado River from Imperial Reservoir to the
California/Mexico border as a water quality limited water
body for selenium. And selenium again, is -- this is a --
not a discharge issue. It's a natural occurring feature.
It's part of the landscape.

Again, we're with that same -- I don't know a lot
about fish tissue testing, but it's the same testing. Our
letter on page 4, section B talks about: "The five
samples used to support this listing are inadequate and
insufficient and must therefore be supplemented and
reanalyzed." So we recommend that that part would be
removed with selenium.

I would think it would cause quite a ripple
effect for the southern California water agencies. They
definitely would want to comment. And this water is
wholesale to water treatment. It's not a drinking water
after it gets into our All American Canal. No one's
drinking that water per se.

BOARD MEMBER BAGGETT: Yes, isn't the -- a number
of the canals are already listed around the Salton Sea for
selenium, as I recall, from about a day's worth of
testimony on ID transfer.

MR. BRADSHAW: That's correct.

BOARD MEMBER BAGGETT: And isn't the source of
that water the same?

MR. BRADSHAW: Yeah, I'm not sure exactly where
the source of the selenium is. Or the watershed --

BOARD MEMBER BAGGETT: Well, as I understand,
it's from western Colorado. So we could have an
entertaining discussion here. It's much like the west
land of our state. So I mean it is a byproduct of
irrigation. It is -- and the soil's native to those
soils. But it is a byproduct caused by non -- it
wasn't -- it wasn't used in that manner. It's very
unlikely you would notice it because it would be locked up
in the soils.

MR. BRADSHAW: Is that -- would it be considered
a discharge then?

BOARD MEMBER WOLFF: I think that's the challenge
we have, because we have the Central Valley impaired for
selenium, we have Salton Sea impaired for selenium.

CHIEF DEPUTY DIRECTOR HOWARD: Staff would
consider it a discharge -- a non-point discharge from
agricultural operations.

BOARD MEMBER WOLFF: Mr. Howard's an expert on
Kesterson, as I recall.

MR. BRADSHAW: So we're saying from agricultural
areas is where the selenium comes from?

BOARD MEMBER BAGGETT: I mean the challenge is
what do we do with it since it's coming from another
state. We could -- that's where our Executive Officer is
as we speak, at the Colorado Salinity Forum. We could
give her something to...

MR. BRADSHAW: Well, we would hope you'd consider
Mr. Zimmerman's comments. And we'd like to also reiterate
that.

As far as the All American Canal, would the web
page be updated any time -- on a certain timeline? I know
that the listing's still there, at least the group I work
with, as long as it's still there. No one's comfortable
hearing that it's coming off as far as the 303(d) listing.

CHAIRPERSON DODUC: Mr. Wilson.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I will
update these web pages as soon as I can. We need to
change the list. We need to change our fact sheets. And
we'll update everything. I'll put a notice on the
website, if it's agreeable to you, that changes are being
made to many, many listings, and to just wait for the new
version.

BOARD MEMBER BAGGETT: But I think we should
clarify. It's not listed now, because the Board hasn't --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: We are
going to take it off.

BOARD MEMBER BAGGETT: -- we haven't passed a
resolution doing anything. It's a recommendation from
staff.
SENIOR ENVIRONMENTAL SCIENTIST WILSON: My recommendation is to not list the All American Canal for the constituents we --

BOARD MEMBER BAGGETT: He's talking about --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Were you talking about selenium?

MR. BRADSHAW: No, we're talking back to the All American Canal, just the -- if I can go get a printout like I've gotten today, it's still on there as a proposed listing.

BOARD MEMBER HOPPIN: Now, trust us here.

(Laughter.)

BOARD MEMBER BAGGETT: It's a proposed. But today we will vote. You will have --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Yeah, it's not approved until it's voted on.

MR. BRADSHAW: Okay. Thank you for that.

Yeah, the last thing, I was a little shocked to find out if a water body is delisted, you're looking for comments on that as well? Because an earlier speaker was talking about having an item removed and there were no comments in the affirmative, so that -- and there was someone from that regional board wanting to put it back on. And this Board was considering putting it back on due to the regional board comments. Is that a --
CHAIRPERSON DODUC: Every recommendation, whether it's to list or delist, that the staff has proposed is up for the Board consideration today. That is therefore open for comments.

MR. BRADSHAW: Okay. Thanks.

I'm thinking in the future if one of these does -- another impaired body does come off the list, are you looking for comments in the affirmative in that?

CHAIRPERSON DODUC: Correct.

MR. BRADSHAW: Okay. Thank you.

CHAIRPERSON DODUC: Thank you.

MR. ANGEL: Please indulge me, Chair Doduc. Just a point of clarification.

I think Mr. Baggett is right. And as a matter of consistency, we listed all the impaired body drains as impaired for selenium, not just because what comes out of state but also because of the agricultural practices in the valley then do exacerbate the problem. So it is in the runoff. And it's also in the -- and the Board may not find it especially clear in the water transfer order, in the previous 303(d) listings cycles anyway.

The other issue that I wanted to point out is that we're also encouraged by the fact that the Board's going to consider the TDS issue in a broader context, because as far as the region is concerned it doesn't just
have implications of surface waters. There are sources of
drinking water that are also in groundwater basins that
are not at 500. People are perfectly using them for
drinking water purposes. But they may be within the lower
and the upper range. So we do take issue with whether or
not the number has to be at 500 or it can be within a
range between the lower and the upper limit.

Thank you.

CHAIRPERSON DODUC: Thank you.

Any other comments on Colorado River Basin?

MR. BIGLEY: Steve Bigley, Coachella Valley Water
District.

We definitely support staff's recommendation that
we heard today to remove the listing for the All American
Canal.

And I certainly can understand where the
confusion has come up with the use of recommended
secondary MCLs. The Department of Health has recognized
this confusion. And just this year they have adopted new
regulations regarding secondary maximum contaminant levels
to help clarify how they intend these MCLs to be used.

They clarified this with the language that these are
consumer acceptance contaminant level ranges. The lower
level of the range is perfectly acceptable for all uses of
drinking water municipal uses.
So there is no impairment when that lower level has been exceeded. And whether or not when the upper level has been exceeded -- we're not recommending that -- but that could be a more acceptable use of those recommended MCLs for secondary standards.

So we definitely would encourage Board staff to look at that new regulation. That should help them in addressing this issue and give better support for how you've looked at this issue and decided not to list these water bodies.

We also support the staff recommendation that we heard today to better designate the Coachella Valley Storm Water Channel listing, which was an affected area of 69 miles. The channel's only 22 miles long and it has 17 miles with water. So we support staff's recommendation to change that to 17 miles.

We do not agree with the proposed listing for toxaphene on the Coachella Valley Storm Water Channel. The listing identifies sediment for the matrix listed in the lines of evidence. Yet the administrative record contains no sediment data supporting the listing.

Results for over 18 years of water monitoring that we have performed, submitted and submitted -- summarize and submitted to State Board staff, indicate toxaphene is not present in the water segment.
Further, two of the three fish tissue samples that are the only supporting evidence for this listing are based on Red Shiner. Red Shiner is a popular bait fish. And the use of those tissue tests may have been from fish raised in farms where they're exposed to toxaphene known to occur in contaminated commercial fish food.

It would be inappropriate to use bait fish with unknown exposure history to support the proposed toxaphene listing. And without fish tissue results from these Red Shiner samples, these two fish, there is insufficient evidence to meet the listing policy for toxaphene.

If you decide to approve this listing, the water segment name and estimated affected site described in the listing needs to be revised to match the supporting report the water body needs to maintain taken from Lincoln Street to Salton Sea. And the estimated size which would be effected would be 2 miles, not 69 miles.

So if you decide to list, that correction would have to be made.

Finally, we also agree with the comments from the Imperial Irrigation District in regards to the listing for selenium in the Colorado River. Although it only affects those final 11 miles before the border, it's difficult for the public to segment the perception of impairment that comes with this type of listing. It's based on three
fish -- three out of five total fish samples. Again, the fish tissue issue comes up.

And we believe a water body as important as the Colorado River, used by 23 million people as a drinking water supply, deserves more than five fish samples before you are going to designate it as impaired.

CHAIRPERSON DODUC: Thank you. Please wrap up.

MR. BIGLEY: That's all I have. Thank you.

CHAIRPERSON DODUC: Mr. Wilson, would you please respond.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I need to correct the statement that it was sediment. It's not sediment. It's tissue. And all the data that we have is for fish tissue.

There were three -- this is for toxaphene in the Coachella Valley drain. There were three different fish species used. I think it's appropriate to pare down the listing to the two miles that has been described to us -- I think that's a good change -- and focus on -- you said Lincoln street to --

MR. BIGLEY: Lincoln Street is a crossing of the water body, to the Salton Sea.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: To the Salton Sea. I think that's a good modification of this listing. And I would like to propose that
recommendation -- that change.

CHAIRPERSON DODUC: All right. Thank you.

Any offer comments on Colorado River?

MR. BRADSHAW: Real quick. I may have misspoke earlier. David Bradshaw, Imperial Irrigation District.

In the Imperial Irrigation District the canals are not listed at this time for selenium. The drains are, and that's where the drain -- the water running off the fields goes into the drains. But at this time our source water -- this is our source water we're talking about -- that's coming in, and that's being impaired somewhere in this -- you know, this other watershed in another state. And that's why we're against that listing.

Thank you.

CHAIRPERSON DODUC: Thank you.

MR. BOLLAND: David Bolland, again with ACWA.

I just wanted to appreciate staff jumping on the All American Canal situation. And actually I just wanted to make my prepared statements, which I --

CHAIRPERSON DODUC: It benefited your 11 reservoirs.

MR. BOLLAND: Yes, yes, absolutely. That too.

And I just wanted to say, in my prepared statements I did have some accolades for the staff and for this long, long process that the staff has mounted for
years now to try to do a better job of listing water bodies in California. And I want to say on behalf the California Water Agencies, we really appreciate the effort and the money, the time that's gone into this in California to do a better job of doing this 303(d) listing process. We think that the transparency and the procedural approaches that are being used are something that will do nothing but get better.

And we do -- a number of our agencies implied that they had a lot of data that they didn't submit on certain water bodies. I think now that it's more well understood some of the implications are being listed, I think you're going to get a lot more data through time from all kinds of sources. And it will be a lot better data. And through time I think we're going to get a handle on water quality --

CHAIRPERSON DODUC: Mr. Wilson is jumping for joy on the inside.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Just covering my eyelids.

MR. BOLLAND: Thank you.

CHAIRPERSON DODUC: Thank you very much.

All right. Mr. Angel.

MR. ANGEL: Chair Doduc, a last comment regarding selenium. If the Board decides to do this, the Colorado
for selenium, we would hope that the Board could provide
the regional board with some guidance as to what exactly
which is to do in relationship to selenium.

Thank you.

CHIEF DEPUTY DIRECTOR HOWARD: Why don't we just
send a nasty letter to Colorado.

BOARD MEMBER BAGGETT: E-mail Celeste to break
the news tomorrow morning.

BOARD MEMBER BAGGETT: I have a question.

CHAIRPERSON DODUC: For?

BOARD MEMBER BAGGETT: For one of the staff.

On the selenium issue, you're proposing only from
Imperial Dam. What about above? There are diversions off
the Colorado above there. Is it not impaired above there?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I only
have the fish data from where we're proposing to stop --

BOARD MEMBER BAGGETT: So we don't have anything
from L.A. --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I didn't
see anything from above there. If we had it, we would
make that recommendation. We just don't have the
information. We have Largemouth bass and that's what
it's -- it's a bioaccumulation issues. Sorry.

CHAIRPERSON DODUC: Questions, comments?

What is the Board's pleasure?
Besides to go home?

BOARD MEMBER WOLFF: I have a quick comment, a comment with respect to the regional -- staff's question.

I don't feel as if the ability to fix an impaired water body was relevant to the question of whether you list or not.

You know, that's not sort of how the structure works, you know. We don't even need to know who the dischargers are or whether we can fix the problem. We just need to know there's an impairment that resulted from discharged pollutants and we've listed. And If you can't figure out what the heck to do about it, it's going to be on the end of your priority list, and we know how far away from now that is. And that's how it will be. You know, that's the world we live in.

So I can't help you with what to do about it. But I think I'm still obligated to make the listing.

BOARD MEMBER BAGGETT: I would move the action.

I think it's different than the TDS issue -- I mean the selenium issue. Selenium we'd know -- we know the consequences of. I mean TDS is a taste. We're talking about sort of -- I guess I'd call it floating MCL. Since it's Colorado, it's a little different standard. But we know it's not harmful or serious. The selenium we do know. And it hits the fish.
tissue. You know what it does. We've got all too -- very
real experience in this state with it.

And even if it's not a state problem, I think we
could -- like I think Gary just said, I agree with your
comments.

So I'd make a motion.

CHAIRPERSON DODUC: And let me be clear. The
motion, Mr. Baggett, is for the list with the written
changes the staff needs to make.

BOARD MEMBER BAGGETT: Taking All American Canal
off.

CHAIRPERSON DODUC: Yes, taking the All American
Canal off. And the verbal change that Mr. Wilson
committed to just now as well on a reach narrowing --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Shorter
reach for -- yes.

CHAIRPERSON DODUC: The two miles --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: -- for
the Coachella Valley Drain.

CHAIRPERSON DODUC: Coachella, thank you.

BOARD MEMBER BAGGETT: Going to have the water
rights attorneys --

CHAIRPERSON DODUC: Any other discussions?

BOARD MEMBER HOPPIN: You're going to be able to
thank me on this one.
CHAIRPERSON DODUC: Please.

Are you seconding or --

BOARD MEMBER HOPPIN: Yes.

CHAIRPERSON DODUC: A major motion was made by Mr. Baggett and seconded by Mr. Hoppin, with my heartfelt warm thanks.

All in favor?

(Ayes.)

CHAIRPERSON DODUC: Any opposed or abstain?

Hearing none, it's carried.

Thank you.

Does the court reporter need a break?

You're okay?

I think we can quickly move through this without taking a dinner break. We only have a few speakers left.

So now we're on to the Central Coast.

And I should have two speakers.

MR. COLLINS: Good afternoon or good evening.

Kevin Collins, Lompico Watershed Conservancy. I'm also representing the Santa Cruz Group of the Sierra Club.

There's a few different stream segments in Region 3 that were proposed. These are for listing and/or delisting.

First I'm going to address the delisting proposal. That's for Waddell Creek, the East Fork of
I've hiked Waddell for many years. This stream drains Big Basin State Park. The state park sewage treatment plant was flagged by Fish and Game in around -- in the early nineties as being a major discharger of -- well, you can imagine. And there was all kinds of algae in the stream. The stream was listed. And now there's a proposal to delist.

I've been looking at the stream for the last two fall periods. And last year the East Fork was filled with black globular algae. This year there was another kind of algae on it. There's a very easy test there. You can look at the West Fork, which is completely clean and it looks like it's coming out of the wilderness area, which it essentially is. The East Fork is still impacted.

And to quote from the letter -- another letter someone submitted today:

"The existing narrative standards of impairment occur when bio-stimulatory substances promote aquatic growth and concentration that cause nuisance or adversely affect beneficial uses."

So what I'm -- the point I'm making is that regardless of whatever chemical samples may have been taken to justify delisting, there's still quite clear evidence of eutrophication in a stream, East Waddell. And
I'm objecting to the delisting of that stream. I think it should be postponed until further investigation is undertaken.

There were two other -- let's see -- four other San Lorenzo River segments that were proposed for listing. The main stem San Lorenzo and Lompico were both in the first draft for pathogens. Both were removed. I don't know the reason for this. I only found out about this meeting after the 20th, or I would have submitted a letter on this one.

Bean Creek and Bear Creek, which are also San Lorenzo tributaries, are both severely sediment impacted. They were both removed from the list for reasons that I can't -- I don't have any access to.

And the Soquel Creek Lagoon -- Soquel is a stream just south of the San Lorenzo -- it was proposed for nutrients, pathogens and sediment. And it is also being removed from consideration.

I'm objecting to those removals. But in general I support the listing on San Vicente. San Vicente is a very complex situation. It's being listed for turbidity. The real problem is sediment. And I think it would be more sensible to go ahead and list the stream for the actual pollutant that we're talking -- that is the problem, being sediment. There is major logging under --
and mining in that watershed.

Those are my comments. Thank you.

CHAIRPERSON DODUC: Thank you.

BOARD MEMBER WOLFF: I'm sorry. But Before we go
to the next speaker, I wonder if I could just ask. We
have a listing for turbidity proposed? I mean turbidity
is a condition again, not a pollutant.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: No,
there's a -- there's a numeric water quality objective for
turbidity in the Region 3 basin plan. And that's what we
used. That's what we compared our information to.

BOARD MEMBER WOLFF: Well, that's the basis for a
listing for sediment, I would think.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: That's
correct.

BOARD MEMBER WOLFF: Okay. But we should be
listing it for sediment impairment as opposed to --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: We just
listed for what the objective said it was for. We could
change that listing.

BOARD MEMBER WOLFF: Yeah, I think we need to be
consistent here, that all the listings are for the
discharges of pollutant.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I
understand.
BOARD MEMBER WOLFF: Otherwise, you know, we got the algae earlier, we're going to be inconsistent with that.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I understand.

We could go through each of those points -- like we looked up Waddell Creek. Regional board requested it be taken off the list. Fifty-four nutrient samples. None of them exceeded their value that -- you know, the water quality objective. So we think it's a pretty clear-cut case for delisting. We weren't able to go through each one of them as you spoke. I'm sorry. That was the first one. What was the -- would you like to go through all of them?

MR. COLLINS: The only comment I could make about Waddell is that it's a state park and the impact to the sewage treatment plant is most intense at one -- at the end of summer. And then of course if you took a sample in the winter, you're not going to get much of anything. So I don't know anything about the samples that actually came in. But there's still evidence of eutrophication in those streams.

BOARD MEMBER BAGGETT: So it sounds like it's a case where you'd have algae growing and we think we fixed the cause and the algae's still growing?

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MR. COLLINS: That's my contention, is the algae's still there.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: That's the problem with these natural systems. They're kind of controlling themselves. And, you know, the regional board thinks they controlled the nitrogen and they think it's not a problem there. But it may still be. And that's where these numeric nutrient imports come in that we're developing. And they're a lot different than the existing water quality objectives. They're a lot lower, and it's going to change things around.

BOARD MEMBER WOLFF: So in this particular creek, Waddell Creek, the Region 3 staff, they support delisting?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: They recommended it to us.

BOARD MEMBER WOLFF: They recommended the delisting.

CHAIRPERSON DODUC: And what did they say about the problem that remains?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Jessie, could you...

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I just don't know. I don't have information what they say about the problem that still remains.

BOARD MEMBER WOLFF: I think you do need to go
through the other water body that were asked.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Come back
to the podium.

What was the second water body that -- the second
on your list? You had mentioned Bean Creek at one point.

MR. COLLINS: Well, a Bean and Bear are two
tributaries of the San Lorenzo. Bear is a quite large
one, probably about 23, 30 square miles.

BOARD MEMBER WOLFF: We just want to know what
you said they should be listed for.

MR. COLLINS: Well, they should be listed for
sediment. I've watched them stay incredibly turbid for
days on end after a storm. They're --

BOARD MEMBER WOLFF: Okay. That's --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: We
haven't evaluated any information. We don't have any fact
sheets on that water body.

BOARD MEMBER WOLFF: I see. So there's no data.

So, sir, do you have any data on the -- or you
just -- you've observed them?

MR. COLLINS: I've observed them personally.

I've taken some grab sample turbidity that I submitted to
the regional board. But I don't have long-term records.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: The next
water body on your list?
MR. COLLINS: Was Bean. Bean is a tributary for Zayante. Zyante is listed, so this is a sub-watershed of Zayante. But both of them are in the San Lorenzo.

BOARD MEMBER BAGGETT: It seems the best course may be to just direct these be specifically looked at next month.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I'd be happy to look at all of those.

BOARD MEMBER BAGGETT: Because we'll be back here in two years. And if we don't have the data -- I mean you hate to list something without -- but we can certainly have them give the data. Starting next month we'll be --

CHAIRPERSON DODUC: -- starting over again.

MR. COLLINS: All right, granted. If he has approval, I'll put it in continuous sediment -- suspended sediment monitoring station up there.

BOARD MEMBER WOLFF: Also it's worth noting that if Bean Creek is a tributary for the listed creek, which is Zayante, then in the TMDL for Zayante, you know, they can give a waste load allocator on -- I guess it's a load allocation for sediment coming out of that tributary. So they can address it within the existing list.

CHAIRPERSON DODUC: Thank you.

Will the next commenter please come up.

MS. YOUNG: My name is Susan Young and I'm from Peters Shorthand Reporting Corporation (916) 362-2345
COAST, which is Coastal Advocates for Small Town. It's a group -- a community group based in Davenport, which is adjacent to the San Vicente Creek. And I believe Mr. Collins, you know, just discussed San Vicente Creek.

One of my points has already been addressed, because I was wondering why it had turbidity listed when it should be sediment. But it sounds like that's being addressed already; is that correct?

And then the other thing is that it said: "Potential Source: Source unknown." And I have -- and you realize that we've been under boil water, so we have to boil our drinking water and our cooking water all during all the winter months because of the sediment in the creek and the high turbidity which is caused.

And it says: "Potential Source: Source unknown." And if I had known earlier -- because again we were not noticed properly -- or we weren't noticed at all, so we couldn't put anything in writing. However, I do have a couple of letters that put the source of the turbidity and the sediment straight at the cement plant, which logs right next to this. It does timber harvest plants over and over again. It's here in the banks of San Vicente Creek.

And here's a letter dated June 19th, 2006, to the Director of Forestry from the District Engineer, Thomas PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
And then he says, you know, "We sent a letter to you last fall regarding this same timber harvest application stating that because of the proximity of the timber harvest to San Vicente Creek we had serious concerns about erosion and soil stability during the winter months that could occur due to timber harvest operations." And then it goes on about that.

Here's a second letter. This is to the person who's then the managing director I believe. I don't know what his title is now, but Mr. Satish Sheth S-h-e-t-h of Cemex, which conducts the timber harvest. And here Thomas Bolich, the District Engineer from the Davenport County Sanitation District in a letter dated August 31st, 2006, says, "As you know, the Davenport County Sanitation District was under a boil water order last winter and we anticipate that will occur again this coming year. The order is the result of the high sediment content of the raw water at that time of year and the inability of the District's water treatment plant to treat the water during stormy weather periods," blah, blah, blah.

And then asks them to remove the sediment from behind San Vicente dam and install a self-cleaning cyclone separator to remove fine silt particles, and asked them to
do things.

So on the one hand they're asking the cement plant to help fix the sediment in the water. And then in the second letter the Department of Forestry is saying, you know, this is what's causing it, is the -- you know, all the roads that they build next to the creek in order to do their logging.

And we've been having problems with the timber harvest plans without, you know, proper monitoring.

Thank you.

And we're supporting the listing of it. This is the final outcome of a list. We support the listing.

CHAIRPERSON DODUC: Thank you.

MS. YOUNG: Thank you.

CHAIRPERSON DODUC: Mr. Wilson.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I'm glad you're supporting the listing.

I'm supporting the identification of the source on our list, using -- the way I understand you would be to use silviculture as the source of the problem.

MS. YOUNG: Silviculture?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Forest harvest silviculture, correct?

MS. YOUNG: Yes.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: May I
I have the letter for our record?

MS. YOUNG: Well, can I have it back? I wanted one and they weren't going to give it to me. And I finally demanded it.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I will make you -- can I make you a copy and send it to you?

MS. YOUNG: Yes. I can give you copies of all my --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I'll make it before I leave tonight.

MS. YOUNG: Okay. Because we drove up to Santa Cruz, with a bunch of noisy kids in the lobby.

(Laughter.)

SENIOR ENVIRONMENTAL SCIENTIST WILSON: They're not so bad.

I think we should modify our recommendation, change it from "source unknown" to silviculture.

CHAIRPERSON DODUC: Any other comments, questions, copying requests?

BOARD MEMBER WOLFF: I know it's quite late. But just to respond to the lady who just spoke. I'm sorry, I didn't get your name.

But I think it might be worth your knowing, if you don't know already, that the local regional board I believe has the capacity to not approve timber harvest

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plans and therefore to prevent timber harvest from taking place. So --

MS. YOUNG: They never do that with cement. And it's very powerful in our community.

BOARD MEMBER WOLFF: Have you spoken with the regional board staff about it?

MS. YOUNG: Yes, we talk to them all the time. I've gone to different meetings.

Kevin, you've gone to different meetings --

MR. COLLINS: We've filed an appeal of their timber waiver, as a matter of fact.

BOARD MEMBER WOLFF: Oh, you did. All right. Well, then we'll be considering your appeal. Thank you.

CHAIRPERSON DODUC: Don't cringe, Mr. Lauffer. All right. With that, any other questions, discussion, motion, please?

BOARD MEMBER BAGGETT: I'll move, with the clarification made that we identify the source.

CHAIRPERSON DODUC: As silviculture.

BOARD MEMBER BAGGETT: -- As silviculture.

And I think then, secondly, that we ask them to look at these other creeks that were mentioned for the next listing cycle.

CHAIRPERSON DODUC: Definitely.
I will second.

Mr. Blum.

STAFF COUNSEL BLUM: Yeah, I'm just seeking a clarification. I think this was the one where you were talking about sediment versus turbidity.

BOARD MEMBER BAGGETT: And sediment versus turbidity.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: You want to make that change as well.

BOARD MEMBER BAGGETT: Turbidity's the monitoring sediments.

CHAIRPERSON DODUC: All right. All in favor?

(Ayes.)

CHAIRPERSON DODUC: Any opposed or abstain?

Motion is carried. Thank you.

Two to go.

And thank you for staying and for providing us with those comments.

San Francisco Bay Area. Comments, please.

MS. SELF: Hi. Thank you for the opportunity to speak. This is Deb Self with Baykeeper.

I have a -- getting a little tired. And I will do my best to summarize our comments. Of course they were submitted recently and also January 31st.

So to summarize, first of all we want to thank

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the Board staff for recommending the listing of the San Francisco Bay for PAHs. We're excited about that.

And we would really like to encourage the State Board to consider listing the San Francisco Bay for PBDEs. We feel that there is sufficient evidence that has been cited in this process. We cited a number of studies in our January 31st letter, including studies by the San Francisco Estuary Institute and other bodies on mussels and invertebrates that are stationary. We feel like the consequences of PBDEs -- it's an emerging pollutant, but the health effects are pretty scary and bio-accumulative. And we feel strongly that there's enough evidence and it should be listed.

Secondly, we would like to encourage the state to put on the list Kerker Creek for pyrethroids. Again, this is a case where you feel like there is ample evidence of contamination. And, by extension, even though there's not a lot of specific evidence, that all Bay Area urban creeks are likely to be similarly contaminated because of the residential use of those pesticides and storm water runoff.

We also would -- go into a slightly different issue. But we feel strongly that Bay Area urban creeks and the San Francisco Bay itself should be listed for trash. We feel like there is good evidence for that,
because it really impairs both recreationists and fills in
the riffles and has an impact on fish, blocks migration
corridors and that kind of thing.

We understand that the San Francisco Regional
Board -- after the bay was put on the watch list in 2002,
the regional board went and collected a good amount of
data. A lot of that is in the swamp system, I believe.
And our understanding is that they were in favor of
listing the bay. But it's not on the proposed list.

And, finally -- oh, 24 seconds -- there are 22
water body and pollutant combinations that I won't list
that we feel like there -- the weight of evidence is
enough to consider them. And let me just see if I can get
to that page.

For example, Islais Creek for Endosulfan, Mission
Creek for Chlorpyrifos and mirex, San Leandro Bay for
selenium and DDT. And we have a whole section in our
comment letters. But feel like these impaired water
bodies shouldn't be kept off the 303(d) list just because
no appropriate evaluation guidelines have been set.

Those are my comments.

CHAIRPERSON DODUC: Thank you very much.
Mr. Wilson, let's start with San Francisco Bay
PBDEs.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: PBDEs.
There is monitoring data out there. There's sediment data. There's tissue data. I have no way -- I don't know how to interpret that information in terms of beneficial use impact.

OEHHA is in the process -- you know, they've evaluated this information. And one of their findings in their report -- I wish I had it with me today -- is to develop a guideline so we can evaluate that information. And I've really tried to list these water bodies for PBDEs using the trends information. And, frankly, I can't make sense out of it in terms of the listing policy.

It seems like it should be a listing. I just can't get there with the information that's before -- that we have.

CHAIRPERSON DODUC: What does OEHHA expect to finish their guidelines?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: They don't have a date in their report. But I will call them and find out for you.

But it's a very strong recommendation. I made a presentation to the University of California scientists to please help us understand this information. You know, it's a very important issue. I can't deny it. I just can't evaluate it carefully.

CHAIRPERSON DODUC: Urban creeks.

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SENIOR ENVIRONMENTAL SCIENTIST WILSON: Urban creeks. Pyrethroids are an emerging pollutant throughout the State of California. We have four listings right now. They're in the Central Valley. I don't have the data for San Francisco Bay Area. But I wouldn't be surprised in the next listing cycle if we have a lot more listings including those. I just haven't seen the information. I haven't been able to evaluate it.

I'm sure it's going to pop up in southern California as well.

BOARD MEMBER WOLFF: I should make a comment on that.

We have a pesticide-related toxicity TMDL coming to us that was previously adopted by the San Francisco Bay Board, and it claims to address pyrethroids. So even if we listed, they're going to say the TMDL's already been adopted.

Now, it happens I voted against that TMDL, so I'm not very confident that it will do anything much. But that's what the answer will be, is that, you know, "Go ahead and list. We've already adopt a TMDL."

And I should say, in fairness, every other member of the San Francisco Board voted in favor of it because they wanted to give it a chance. It involved doing some things that I thought were not likely to solve the
problem. But other reasonable people thought that it was
good place to begin. So I'm not trying to -- you know,
to say we're not going to solve the problem through the
TMDL. I'm just saying -- I'm trying to fill people in on
the background.

So whether we list Kerker Creek or not for
pyrethroids, it's not going to change what happens on the
ground with respect to implementation plans, the basin
plan and so forth, I don't think.

BOARD MEMBER BAGGETT: So we're going to get an
opportunity to decide how reasonable you are?

BOARD MEMBER WOLFF: Well, you're going to get --

BOARD MEMBER BAGGETT: Or unreasonable you are?

BOARD MEMBER WOLFF: That will be up to you.

Actually I'm -- when it comes before us, I do not intend
to vote against it. I intend to abstain on it, out of
respect for my fellow San Francisco Bay Board members. So
the three of you will get to do it.

BOARD MEMBER BAGGETT: Okay. You're going to
decide how reasonable or unreasonable we are.

BOARD MEMBER WOLFF: Something like that.

So that's with respect to pyrethroids. I think
there's already -- you know, it's not going to matter
whether we list it or not, fortunately.

Trash is next.
What do you think about trash, Craig?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I've seen a couple of pictures of some tissue in some trees next to some of the creeks. I think we need a systematic view of the trash in San Francisco Bay.

Mark Gold of Heal the Bay nailed it for us with Compton Creek. We had some other, you know, pretty good views of trash in southern California. I just haven't seen the same level of information for San Francisco. I'm not doubting it's a problem. I just need the evidence to recommend that to you.

BOARD MEMBER BAGGETT: Yeah, I would agree. And I think we need to come up with some quantifiable -- some measure, because you could do this to a lot of California. Maybe we should list it for trash. But I think we have to have something to hang our hat on besides one picture.

SENIOR ENVIRONMENTAL SCIENTIST WILSON:

Photographs are not my favorite evidence, because all you see in photographs are what the photographer wants me to see, you know.

BOARD MEMBER BAGGETT: As I recall, we did -- what was the San Diego --

CHAIRPERSON DODUC: As a photographer, I object to that.

(Laughter.)
SENIOR ENVIRONMENTAL SCIENTIST WILSON: Very good.

BOARD MEMBER BAGGETT: Was it in San Diego where they actually came in and showed us how many tons of trash they were taking out every weekend from one of the four service campgrounds? And then they had pictures, but they also had a quantifiable measure. I mean it was of how much they were having to remove.

BOARD MEMBER WOLFF: I guess also as liaison to that region I should also comment on something here as well.

There are plenty pictures of the trash in the San Francisco Bay Area and the creeks and on the shores of the bay. Roger James, the former executive director, has made a hobby of going around taking such pictures. And he's presented them, you know, to the regional board in that area. And it's a Storm Water Subcommittee Workshop at which he presented them as well. And he thinks they ought to have a trash TMDL. But the staff hasn't put that forward.

So I'm not sure that the issue is a matter of pictures or evidence. It's a matter of the prioritization by the staff. And, unfortunately, Tom, who was here earlier, has left, the planning director in the San Francisco Bay Area. And so I'd be curious to hear what he
has to say.

So we could just list it.

(Laughter.)

BOARD MEMBER WOLFF: Or perhaps, more appropriately, we could direct them, you know, to make a definitive determination as to whether it should be listed or not in the 2008 cycle. And I think that they'd have a very difficult time not listing it if we directed them to -- you know, to give us a definitive answer.

CHAIRPERSON DODUC: Ms. Self.

MS. SELF: I did have a follow-up question, Mr. Wilson.

The data that we cited in our comments -- and I just would like some direction about how we can encourage our regional board -- is a draft report from 2005, a rapid assessment method applied to waters of the San Francisco Bay Region. I assume that that is part of what you saw and feel like it's not enough.

Right. Okay.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: This -- listings for trash are -- they're a matter of judgment.

And the ones that we've made, we've made under that situation-specific weight of evidence. And we've found a finding of impairment based on what these things look like. For me, it's quite difficult. Mr. Baggett talked
about, you know, quantifying it in some way. That's quite hard to do. In the last listing we tried to take the most quantified study that I've ever seen on trash before the Board, and it really didn't work out to support a listing at that time.

This is very difficult issue from an evaluation perspective to do it in a fair manner. So we're doing it consistently throughout the state.

CHAIRPERSON DODUC: Thank you very much.

Next commenter please.

MR. FRAHM: Hi. My name is Tim Frahm, San Mateo County Farm Bureau. I'm down in the coastal San Mateo area. And I'm here to provide some input about the potential of delisting a watershed, Pescadero Creek watershed down in coastal San Mateo County.

Pescadero's the largest coastal watershed --

CHAIRPERSON DODUC: So are you opposing or supporting the delisting?

MR. FRAHM: I'm suggesting that there's a potential that we can delist. Right now the regional board is contesting and not suggesting a delisting.

San Mateo is proud to have Pescadero in our watersheds. It's the largest watershed between San Francisco and San Lorenzo River down in Santa Cruz County. It was listed in the '98 selection, listed for sediment
and sedimentation after a letter was received by
Department of Fish and Game suggesting that it and several
other streams on the Central Coast should be added or
could be added to the 303(d) listing in order to protect
coho and Steelhead anadromous fish habitat.

According to the regional board notes, there was
no data provided at that time by that letter or no data to
be analyzed to support that conclusion. But at that time
it was proper to have a consensus of opinion by
professionals, and that was the reason for the listing.

Since that time there's been several things that
have occurred in this watershed. The state facilitated a
319(h) grant, which accomplished the sediment source
transport habitat assessment for Pescadero watershed, as
well as Butano watershed. And my comments are limited to
Pescadero. They're two distinct watersheds with two
different ID numbers. And I'm just referring to
Pescadero, not making any reference to Butano.

Also in 2003, the regional board conducted their
year-long swamp monitoring up and down the watershed in
Pescadero. Also, stream assessments have been conducted
by the Department of Fish and Game since that '98 listing
and after the oh El Nio storms, the extraordinary storms
which we endured. And they have assessed the stream of
'99, 2001, '02, '03 '04, '05 and this year, in which they
did snorkel surveys, in which they have walked the watershed. They've walked all of the tributaries and a preponderance of the watershed, lacking only the very lower part of the watershed which was assessed by the sediment and watershed assessment 319 grant.

DFG and NOAA Fisheries in consultation in 2002, apparently after assessing habitat conditions, decided to reintroduce coho salmon into Pescadero Creek, a big step forward for our creek. Ten thousand individual juvenile cohos were introduced into the system. Since that time, since that 2002 reintroduction of cohos, snorkel surveys have been conducted by DFG to show that there are young in year now existing in this creek, which has led to further introduction of cohos this year, another 10,000 juveniles introduced.

Since the listing originally was done by DFG representation that the system may be impaired, but there was no data, but subsequent surveys by DFG have led to this partnership with NOAA to reintroduce the species, we believe that there's evidence that perhaps we are not impaired for sediment impairing that beneficial use for the cold water rare and endangered species.

Regional board staff has demonstrated a lot of knowledge about habitat requirements for these sensitive species. But we believe that it's NOAA and Fish and Game
that's charged with the protection of not only the species, the individuals, but the habitat associated.

Now, obviously I'm not a scientist or a geologist and I can't speak to the intricacies of the law or science. Really I'm just -- I'm a Farm Bureau guy, I'm a practical guy. And it seems to me that if a water body is impaired to the detriment of Steelhead and cohos, that the agencies in charge of protection, reintroduction and recovery of those species wouldn't be introducing them to a system which may threaten them because of an impairment.

And the landowners kind of look at it like we're getting hit by both sides of the sword. On one hand we're told that the water is too impaired to support the fish; on the other hand we're watching the introduction of the threatened and endangered fish.

Delisting is a goal of our rural community. Our rural community has stepped forward, facilitating access to the scientists, to the fishery experts. We've been building riparian fencing, we've been repairing gullies. We think that we're achieving a voluntary compliance. It would be a boon to our community to have recognition that since the agencies believe that there doesn't seem to be an impairment, at least Fish and Game and NOAA, that we would hope that the State Board would agree.

I'm hoping that you will agree with us. We would
consider it a great achievement in Pescadero to delist this water body. And we believe that DFG has developed information since the original listing which can help you lead to that conclusion.

CHAIRPERSON DODUC: Thank you. You have -- that was very interesting. You captured all our interest at 6:30. That is pretty awesome.

MR. FRAHM: Thank you, Mr. Wilson.

CHAIRPERSON DODUC: Mr. Wilson, please address this.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Mr. Frahm has come and talked to us a couple of times, we've talked on the phone, sent e-mails. This is one of those issues where we've used the site-specific weight of evidence to keep a water body on the list.

The study that was performed under the 319 grant was an excellent effort. It had a lot of pertinent data on fish habitat. It had a lot of pertinent data on water quality information.

The regional board -- one of my original recommendations was to take this off the list. When I talked to the regional board, they felt there was some missing information in the record. And we have a line of evidence in our fact sheets characterizing this information, that for coho salmon they need additional

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information before they would consider taking it off the
list.

The information that I have in hand says it's a pretty good habitat for Steelhead.

CHAIRPERSON DODUC: What additional information do they need?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Just a moment.

Although the Steelhead and trout run in both creeks does not appear to be immediately threatened by local extinction, run size is substantially reduced from historical values by a variety of limiting factors, including the lack of woody debris and substantial increase in total in fine sediment supply.

That's the comment the regional board staff gave me. And I accept it as their site-specific weight of evidence to keep this on the list.

BOARD MEMBER WOLFF: And the impairment is for sediment; is that correct?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: That's correct.

BOARD MEMBER WOLFF: And so the regional board is saying the sediment loads are still substantially above the historical numbers, even though they're better and the runs are healthier, they're still substantially above --
SENIOR ENVIRONMENTAL SCIENTIST WILSON: The evidence shows that for Steelhead, the runs are good. It's not at historic levels for coho, and the regional board is asking for additional information and additional work to get back to that. That's the situation.

CHAIRPERSON DODUC: Mr. Frahm.

MR. FRAHM: And I agree that that's the regional board position. I would just like to resubmit that Department of Fish and Game and NOAA Fisheries over the last four years have introduced now 20,000 threatened individuals into this watershed. And I can only suspect they will only do that if they believe they are in appropriate habitat and an unimpaired habitat. So that's our contest.

Thank you.

BOARD MEMBER BAGGETT: I have no problem going with our staff's recommendation on that one. I mean it sounds like this is a significant weight of evidence and --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: My recommendation --

BOARD MEMBER BAGGETT: It's a close call. I would propose we delist it.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: My recommendation was to agree with the regional board. If
you'd like that reversed to base it on the data --

BOARD MEMBER BAGGETT: But your original analysis --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: That was quite a while ago, as we -- you know, we debated these with the regional boards, and this is one where we went the way that the regional board wanted based on their weight of evidence.

BOARD MEMBER BAGGETT: And their fishery biologists are equal to NOAA?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I'm not sure what the expertise of the staff I spoke to is.

BOARD MEMBER BAGGETT: This is the people in charge of the ESA. I mean both -- and ESA.

BOARD MEMBER WOLFF: Yeah. But do we have a letter on file from NOAA saying that, you know, it should be delisted? Do we have any kind of statement from NOAA or we just have -- I'm sorry, not to criticize your statement. But, you know, the fact that they planted a bunch of fish there doesn't necessarily mean that they agree that the stream is fully restored.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: That's a great point.

MR. FRAHM: I can only say that I have heard that from regional board staff, that Fish and Game and NOAA
Fisheries don't care about habitat, they plant fish everywhere hoping that a few will return. And I can -- I would contest that thinking more along the lines that if they didn't think the fish were going to survive in that habitat, then it is a -- then they're breaching the Endangered Species Act. These are the folks that assess habitats, sir.

BOARD MEMBER WOLFF: Thank you. I was trying to raise the point though, do we have any submittals from NOAA or from DFG with respect to this issue? And I'm hearing staff indicating we don't. So with respect to Board Member Baggett's point, I don't know where those agencies stand.

CHAIRPERSON DODUC: Thank you, Mr. Frahm.

MR. FRAHM: Thank you.

CHAIRPERSON DODUC: Any other comments, San Francisco Bay Area?

Seeing none.

BOARD MEMBER WOLFF: Could we return to the comments made by Ms. Self earlier? She had a bunch of comments. We only addressed the first three, I think trash, pyrethroids --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Islais Creek, those comments?

BOARD MEMBER WOLFF: I'm sorry?
SENIOR ENVIRONMENTAL SCIENTIST WILSON: Was it Islais Creek that we didn't address?

BOARD MEMBER WOLFF: Well, no. There were 22 at the end that she didn't have time to go through them. I guess they're in their written submittal.

Did I understand that correctly, Ms. Self?

MS. SELF: Yes.

BOARD MEMBER WOLFF: There were 22 comments -- you know, I don't know when the letter was received. I don't know if these questions were raised on Friday, you know, at the deadline or whether they were raised months ago. I don't want to just blow past them --

CHAIRPERSON DODUC: I'm sorry. The letter that I have that's dated October 20th has the PBDEs, which we discussed; the pyrethroids, that we discussed; the trash. And then you had a comment about dioxin TMDL must be completed before 2019. And then the final comment you had was regarding the fact sheets and the responses to comments frustrate public involvement.

I don't have anything --

MS. SELF: You know, I think that the really detailed suggestions about these 22 water body pollutant combinations is in the January letter. And we didn't receive any specific --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: This is
on Islais Creek and the San Leandro Bay --

MS. SELF: No, I can actually -- it's not
really --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I can
respond. But I need to know.

BOARD MEMBER WOLFF: Oh, yeah, please do.

MS. SELF: Just a moment.

Here we go.

It's Islais Creek for Endosulfan; Mission Creek
for Chlorpyrifos and mirex; Oakland Harbor for
Chlorpyrifos, tributyltin, and PBDE; San Leandro Bay for
selenium and DDT; Payton Slough for -- pyrene, selenium
and PBDE, et cetera.

And then there are several more that have even
longer lists of chemicals.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: All of
those mentioned on listings, except for the one for
PBDE -- except for that one are from the Bay Protection
and Toxic Cleanup Program database. In 2002, we put those
on the list because the Board made a finding that there
was an impact from those chemicals. When we went back and
looked at all of that data -- and, you know, it was
collected between about 1993 and 1998 -- when we went back
and looked at it all, pollutants like mirex were based
on -- those levels were elevated over other places in
California, not an impact on beneficial use. There's no
guideline for that. If we left it on the list, it would
never come off because there's no -- it's just elevated.
I don't have any information related to that for impacts.
Same for Endosulfan and DDT, selenium. All of those
chemicals were based on they were above background
concentrations. And so we backed off from those listings
in this go-around, applying the provisions of the State
Board's listing policy.

BOARD MEMBER WOLFF: So, in essence, you're
saying we have evidence of some sort of discharges in the
past of pollutants which cause elevated levels, but
there's no link from those to impairment of beneficial
uses?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: That's
correct.

BOARD MEMBER WOLFF: Thank you.

MS. SELF: I guess our main point would be that
if we're dealing with biocumulative toxic chemicals that
are known to have deleterious effects on aquatic organisms
and public health, that we take a somewhat more protective
approach and go on and develop evaluation criteria and
list them so we have something to start with.

Thank you.

CHAIRPERSON DODUC: Let me go back to actually
Mr. Frahm's very intriguing comments, and ask staff the
question going up to Dr. Wolff's question about NOAA and
Department of Fish and Game: What sort of coordination do
we do with those other agencies in developing the listing
when it comes to a fishery's beneficial uses?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: In 1998,
those listings that were discussed were based on a letter
from the Department of Fish and Game to the regional
board, simply a letter, "You should list these because
we're worried about the habitat of these organisms."

CHAIRPERSON DODUC: But now that we're doing
one -- you know, we're doing an update, during the update
process were they contacted and asked for input now that
there is more information, now that they're reintroducing
coho hoe into the --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I did not
contact them directly personally. And I can't speak for
the regional board.

BOARD MEMBER WOLFF: May I suggest that we might
address this one by directing staff to request those
agencies as to whether they would support delisting in the
period between our adoption of list today and EPA's
finalization? If both those agencies say, "You should
delist Pescadero Creek," then I would be -- support that.

But I simply don't know where those agencies
SENIOR ENVIRONMENTAL SCIENTIST WILSON: DFG and NOAA -- NMFS?

BOARD MEMBER WOLFF: Yes, DFG and NMFS, because the listing was based on their original request that they be listed. Is that right?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Yes, Fish and Game.

CHAIRPERSON DODUC: I would expand it beyond just this particular listing as well. What other listings are there that needs to be coordinated with DFG and NOAA?

BOARD MEMBER WOLFF: Well, that needs to be done as we go forward, because we have this particular, you know, request that has been made. And I'm respectful of the request. I just don't want us to act in a way -- I don't want us to assume what those experts at those agencies believe.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: So we'll get a response from them on this listing and whether it should be maintained based on the information that's before you and the information that they have.

BOARD MEMBER BAGGETT: And if they concur, then it should be delisted then.

BOARD MEMBER WOLFF: That's correct. If they both say it should be delisted, then --
BOARD MEMBER BAGGETT: -- we delist it.

BOARD MEMBER WOLFF: Okay. We conditionally approve that delisting. That would be my approach.

BOARD MEMBER BAGGETT: That's the motion.

CHAIRPERSON DODUC: For the next round, coordinate with NOAA and DFG.

Are there any other appropriate listings out there?

CHIEF COUNSEL LAUFFER: If I could just throw out for Board Member Wolff's consideration. I understand the conditional listing. What I would feel more comfortable with since the Board is acting today is that we relay that to U.S. EPA for them to consider in their -- because they're the ones that ultimately have to adopt the list under the Clean Water Act. I mean they're the final arbiter, if you will. And so --

BOARD MEMBER BAGGETT: Like we've done with beaches down south.

CHIEF COUNSEL LAUFFER: Like we've done with the beaches. You know, we'll forward the data along to them for their consideration.

BOARD MEMBER WOLFF: Well, except with respect to the beaches, we in essence agreed to defer to EPA's decision. I mean they're going to have the final decision anyway. But we agreed to defer to their decision if they
work with our staff.

With respect to this I'm trying to do something a little stronger, which is to say if both of those agencies clearly say it should be delisted, then this Board is endorsing delisting. EPA doesn't have to agree. That's up to them. That's where I was going.

CHIEF COUNSEL LAUFFER: I understand where you're going. The greater concern is just having Board actions that are contingent upon subsequent actions of other agencies. Because we don't know what conditions they might put on that, and it creates more ambiguity about the list. Whereas if, you know, we require the staff to relay that on to U.S. EPA, it's clearer. You know, the Board is approving it based on a conservative approach now with the direction that, you know, NMFS or DFG weighed in separately, U.S. EPA should give that significant consideration.

BOARD MEMBER WOLFF: Not "or" but "and." I'll go with it.

BOARD MEMBER BAGGETT: So you bring it back at the next Board meeting then is what you would propose, in three weeks. It shouldn't take long to get a letter out. That would be better just for this one item and bring it back for an affirmative vote if the letter be true.

CHIEF COUNSEL LAUFFER: Yeah, well, I guess I
just -- I don't have any sense of how long they would take
to kick out a letter. I mean there are options. You
could delist it and then for data submittal have U.S. EPA
add it if NMFS and DFG disagree. You could leave it on
and have EPA remove it -- recommend that EPA remove if DFG
and NMFS disagree.

STAFF COUNSEL BLUM: We really can't bring it
back in three weeks unless we can somehow get it on the
agenda for public notice.

CHAIRPERSON DODUC: Mr. Wilson.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: You could
list with a footnote that if EPA finds through
consultation with the Department of Fish and Game and NMFS
that it should be taken off the list, that they should --
that EPA should take it off the list.

BOARD MEMBER HOPPIN: Couldn't do it conversely
and delist it?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: You could
do it that way too. And it's really your call, how you
want to proceed on this. If you delist it, then EPA has
to put it on. And they might put it on by contacting NMFS
or not, right?

CHAIRPERSON DODUC: Yeah.

BOARD MEMBER WOLFF: I think I'd rather leave it
on the list and let EPA take it off. And the reason for
that is I'm trying to defer to the regional board staff. I mean they may have already spoken to these agencies, you know. I don't want to reverse their recommendation, but I do want to open the door to someone else reversing their recommendation.

BOARD MEMBER BAGGETT: I would concur with that approach, with the footnote I think like Craig just suggested.

CHAIRPERSON DODUC: Leave it for now?

BOARD MEMBER BAGGETT: Leave it free -- if they can get -- in consultation with California Fish and Game and National Marine Fisheries if EPA finds that they can concur with the delist, then...

SENIOR ENVIRONMENTAL SCIENTIST WILSON: So the conclusion is keep it on the list, with a footnote that if EPA finds that DFG and NMFS think it should be removed, that you would concur with taking it off the list?

BOARD MEMBER BAGGETT: Right.

CHAIRPERSON DODUC: Correct.

Any other discussion or -- was there a motion made?

BOARD MEMBER WOLFF: Well, not quite yet.

Mr. Baggett, you've got something about trash or you wanted to discuss trash here?

BOARD MEMBER BAGGETT: I don't think that's going
to be part of the motion. But I think at some point we need -- there's two things that are becoming evident.

Maybe we should wait till we're totally done. But I think two things that need -- one is the trash issue. We've gone through it, as painful as it was, down south. And I think we need to spend some time developing some criteria and outside this process.

The second is I think we really do need to spend more time with some of our other agencies, like Fish and Game, and develop some relationship to be used throughout this next round, with Fish and Game, NOAA Fisheries and NMFS, just to sort of get their sense and their involvement since they are responsible for those ESA issues, and get their input, not just on the ESA issues but on the exotics. I think the mussel issues are very real. And if we can play a beneficial role in cleaning up some of these species issues we've got around the state by using Clean Water Act authority and reinforcing what they're spending hundreds of thousands of dollars already dealing with, I think it's a good thing for us to do, to use the Clean Water Act to that end.

But I think we need to start having some dialog with those agencies, probably at the board levels, some of our staff and the Fish and Game director and so on, and Steve Thompson from U.S. Fish and Wildlife, and see what
they consider are the high priorities. You know, like the issue dealt with the trout up in -- with the cutthroat trout. There's a lot of interplay we should have with those agencies, and we could have, and use our collective powers to do good for the public and the environment. But I think those dialogues, it was pretty evident today, haven't been -- I don't know if it's anybody's fault. We're just out on a different edge than most other states are. And I think it's a new way of looking at things maybe.

So that's my suggestion. That and trash and maybe a couple Board member -- I don't how far you want to go, Tam.

CHAIRPERSON DODUC: We have a session afterwards to discuss Board member priorities and assignments, at least according to our agenda.

I could write the minutes on that one.

BOARD MEMBER BAGGETT: With that, I would move the recommendations with the changes to the footnote and the change on the --

SENIOR ENVIRONMENTAL SCIENTIST WILSON:

-- Pescadero.

CHAIRPERSON DODUC: -- Pescadero.

BOARD MEMBER HOPPIN: Second that.

CHAIRPERSON DODUC: Motion was made by Mr.
Baggett, seconded by Mr. Hoppin. And I'm so pleased with myself. I can actually remember names at this time.

But --

BOARD MEMBER WOLFF: I'm going to keep us for a few more minutes on a discussion on the motion.

CHAIRPERSON DODUC: Okay. Discussion.

BOARD MEMBER WOLFF: I generally like the motion, but I'm not completely done with trash yet.

Is there any sort of direction -- this is a question for staff, I guess. Is there any sort of direction to the staff of Region 2 that we can make with respect to next listing round with respect to their making a positive determination as to whether a trash listing is needed or not or to examine the creeks, or is that -- is any such direction going to be essentially what they're going to do anyway in the next round?

CHIEF COUNSEL LAUFFER: Well, You could certainly make as part of the motion strong encouragement for Region 2 staff to closely evaluate trash issues throughout the San Francisco Bay Area. It doesn't have any regulatory effect, but it certainly conveys the sense of this Board and -- largely, as you may have heard -- I think you were at the All Chairs meeting during the time where a few of the executive officers said, "Yes, when we hear those directions, we march to them." And so that can certainly
be a component if that is some interest to this Board.

BOARD MEMBER BAGGETT: I think maybe something
that might be more efficient is -- we have the TMDL
Coordinators Council, which is the regional boards. We
have the EO's annual and monthly meeting. We also have
the regional board attorneys under the assistant counsel.
So I think if we asked the attorneys and the TMDL
coordinators to get together with our chief counsel and
then Craig and his staff and sit down and ponder how they
would approach this project -- I think it's statewide. I
mean I think we need to come up -- but that seems to be --
then they could bring something back for the workshop
maybe that we could discuss in the forum. But they put
together a proposal based on what the nine regional board
attorneys, coupled with their TMDL coordinators, coupled
with our staff, because they're the ones who deal with it
day in and day out, like you said. And Region 2 and
region 4 will probably have a lot of good input. But I
think -- I can tell you Mexicali there's a problem.
There's more than one river in this state, a water body,
that we could maybe play a role in cleaning up.

BOARD MEMBER WOLFF: So I was thinking of
directing the San Francisco Bay staff to do something
more -- paying more attention to, you know, perhaps the
trash listing in the next cycle. Board Member Baggett is

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saying maybe let's direct the TMDL coordinating, or
whatever it's called, to examine that statewide. And
that's much more expansive. I don't personally have
knowledge of trash in all these other urban creeks around
the state. But I walked my dog before dawn on Cole Creek
this morning in the Bay Area and there's trash there.
Okay. So, you know, I'd like to see a little more
attention paid to it.

BOARD MEMBER BAGGETT: Take the train from Fresno
to Sacramento sometime, and just look out the windows,
man. It's amazing.

BOARD MEMBER WOLFF: Well, what does staff think
of a recommendation to these TMDL coordinators then to do
something or other with respect to the trash issue in the
next cycle?

CHIEF DEPUTY DIRECTOR HOWARD: Well, I think it
would be more effective if you were interested in San
Francisco Bay, in particular, to direct the regional board
to take a look at this issue. I mean you heard some
evidence in this round and you're interested in having
them review it.

Now, I mean if you really want us to get you
seriously into this, I'd suggest you do both. I mean if
we -- and, quite frankly, even without direction from the
Board to do both, after listening to the conversation here
I would ask the TMDL coordinators to discuss this issue and maybe bring it up as an MCC agenda item. Because, after all, it's appearing in many regions and we need to get some consistency regarding methodologies that are being employed to develop, you know, whether a trash TMDL is appropriate, whether listing is appropriate.

So you can -- I'd suggest you do the San Francisco Bay, and you could direct us to take this up in other forums as well.

BOARD MEMBER BAGGETT: Can I amend the motion?

BOARD MEMBER WOLFF: So the maker of the motion and the second, will you amend it to do -- to provide direction both to San Francisco Bay staff --

BOARD MEMBER BAGGETT: Yes.

BOARD MEMBER WOLFF: -- and to our staff through the TMDL Coordinating Committee.

CHAIRPERSON DODUC: All right.

BOARD MEMBER WOLFF: To pay more attention to trash in the next cycle.

Now, "pay more attention" is not a precise enough wording. From a legal perspective, what should we do here? Help me. Chief Counsel.

CHAIRPERSON DODUC: We can do that.

I just received a note that the car garage is going to close at 7. What does that mean? Do we all need
to move our cars?

BOARD MEMBER BAGGETT: Now, only if you have --

if you're a regular parker, like many of us, it's not an
issue. But if you pull out a ticket, the --

CHAIRPERSON DODUC: Any visitors.

So I think we need to stop --

BOARD MEMBER WOLFF: We need to wrap it up.

CHAIRPERSON DODUC: We need to wrap it up.

Mr. Lauffer, if you could do this like in 30
seconds, do it.

CHIEF COUNSEL LAUFFER: I was just going to
suggest that the coordinator systematically evaluate --
aggressively and systematically evaluate trash options in
the impaired water body listing program.

BOARD MEMBER WOLFF: I think we all had the true
former counsel in the L.A. Region. Aggressively and
systematically evaluate, we'll give that direction to the
TMDL coordinators and to the Regional 2 staff; is that
correct, maker of the motion?

CHAIRPERSON DODUC: Aye.

Seconder of the motion.

All in favor?

(Ayes.)

CHAIRPERSON DODUC: Any opposed?

Hearing none.

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People, go move your cars. We will reconvene at about 5 after 7.

(Thereupon a recess was taken.)

CHAIRPERSON DODUC: We saved the best for last.

North Coast Region.

Will speakers for the North Coast Region please come up.

And I do see Mr. Levine and Ms. Self and others.

MR. ST. JOHN: I'm Matt St. John. I'm staff with the North Coast Regional Board.

And I'm actually not here with a prepared statement. But just if there were questions of clarification regarding North Coast Board's position on some of the Klamath related or any other recommendations for the North Coast, I'm here to answer those.

CHAIRPERSON DODUC: How do you feel about trash?

MR. ST. JOHN: Luckily at North Coast Region we haven't had to contemplate that one.

STAFF COUNSEL BLUM: There is no trash.

BOARD MEMBER WOLFF: Given the hour, I want to introduce a note of levity, actually it's a serious bit of levity. I'd like to recommend to Ms. Jines when we start issuing performance rewards, we discussed a couple weeks ago, that this gentleman get one for staying so late just to answer questions.
CHIEF DEPUTY DIRECTOR JINES: All right.

CHAIRPERSON DODUC: I think he should be nominated for a customer service award indeed.

(Applause.)

BOARD MEMBER WOLFF: And I'm being serious.

BOARD MEMBER HOPPIN: Maybe from that side of the bench it just really looks like we need help.

(Laughter.)

MS. SMITH: I'm Michelle Smith from Humboldt Baykeeper. And I wanted to thank the staff tonight for making my job a little bit easier and hopefully getting us out of here a little bit quicker.

I planned on trying to convince the Board to reconsider staff's decision not to list Humboldt Bay as impaired for dioxin. And as staff has made that recommendation, I hope that the Board will adopt it tonight.

Thank you.

CHAIRPERSON DODUC: Thank you very much.

Mr. Levine, thank you for staying as well.

I thank everyone for staying.

MR. LEVINE: Thank you for staying.

Al Levine for Coast Action Group, North Coast, Mendocino County.

Before I get going into my region, I want to say...
that on Pescadero Creek you took exactly the appropriate
action. You don't know what the responsible managing
agency's going to say and you should check with them,
because things may not be as represented.

I want to say that staff did a great job in
Region 1. There's basically very little to complain
about, maybe nothing.

CHAIRPERSON DODUC: Oh, let's stop there.

(Laughter.)

MR. LEVINE: You have some additional temperature
listings that have been added. And I believe they're
appropriate. And I want to remind Art that temperature is
not just a flow issue. Near stream ambient temperatures
are very important for temperature readings and so is
sediment filling also.

Laguna de Santa Rosa recommended for listing. I
wish that it wasn't forced on you by the EPA. I wish that
the State Board used the narrative bio-stimulation
objectives in the regional board basin plan as the basis
for listing. But I'll still take it anyway.

And I think it's important to state that while
the City of Santa Rosa left earlier today, but they
objected to listing and they are continuing to refuse to
acknowledge any responsibility for discharges that are
contributing to the nutrient bio-stimulatory problems in

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the Laguna, as much as 43 tons of nitrogen per year. And
I think it's a bummer that they're in that place. And
that's even disregarding the nutrients that go in there
from storm water issues too, which might even be more.
And I want you to know there's a nuisance issue
going on there, that the bio-stimulants are producing an
invasive species growth which may encumber another listing
in the form of ludwigia, and it's a human health hazard
and it's a serious health hazard and nuisance vector for
West Nile Virus.
I think that the Klamath sediment listing
problems are going to get resolved, and I'm happy about
that.
So basically the one last thought I have is that
listing to my mind and my way of thinking or the argument
I would present, listing for all pollutants should be
acceptable and reasonable in that, let's say, in the case
of blue-green algae or another type of algae, when you
deal with the underlying causes, which would also be
listed nutrients or temperature or whatever was associated
with that, when they go away, whatever's causing the
problem goes away, then the algae problem goes away too.
And so you have not harmed anything by listing for, let's
say, algae which didn't have a discharger.
Thank you very much.
CHAIRPERSON DODUC: Thank you.

In Mr. Levine's comments I don't think I heard any questions to which Mr. Wilson will need to respond.

MR. LEVINE: No.

CHAIRPERSON DODUC: Right?

Any other comments?

Seeing none.

Is there a motion on the North Coast matter?

BOARD MEMBER WOLFF: I want to make sure I understood the first commenter. I believe you said that you supported the staff -- the changed staff recommendation to -- to maintain a listing or to delist Humboldt Bay?

MS. SMITH: No, I want Humboldt Bay listed for dioxin.

BOARD MEMBER WOLFF: And the staff agrees with that or not?

MS. SMITH: Yes.

BOARD MEMBER WOLFF: They do?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Yes.

What I would like to list for is 2,3,7,8 TCDD equivalents, which includes the penta, hexa and octa dibenzodioxins and the penta, hexa and septa dibenzofuans. It includes all of those as one listing.

MS. SMITH: Correct.
SENIOR ENVIRONMENTAL SCIENTIST WILSON: You're good with that, right?

MS. SMITH: Yeah, That's exactly what we're looking for.

BOARD MEMBER WOLFF: But the proposed listing was circulated didn't have --

CHAIRPERSON DODUC: I am so impressed that you remember that.

BOARD MEMBER WOLFF: Yeah, That was impressive. But you're proposing little something different than what was sent out for comment, is that right?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Yeah, completely different that was sent out for comments.

BOARD MEMBER WOLFF: Reversed, right.

All right. So I wanted to ask the fellow from Region 1, how does Region 1 feel about that?

MR. ST. JOHN: I'll be honest, that I hadn't reviewed the data in a detailed way. But from what I know about it, we would support the listing and go along with the State Board's recommendation.

BOARD MEMBER WOLFF: Boy, everyone gets so congenial after 7.

(Laughter.)

BOARD MEMBER WOLFF: I'll move the list with this one amendment -- you know, the originally proposed list
with this one change.

   CHAIRPERSON DODUC: What change?

   SENIOR ENVIRONMENTAL SCIENTIST WILSON: There's no change from -- there's no change from this sheet, is there?

   BOARD MEMBER WOLFF: Oh, I'm sorry. It was taken out earlier.

   All right. So I'll move the amended list, the staff recommendation for Region 1.

   CHAIRPERSON DODUC: Okay. Instead of having the interim motion and then a final motion, would you also move adoption of the resolution?

   BOARD MEMBER WOLFF: Yes, with all of the component parts adopted on an interim basis previous today.

   CHAIRPERSON DODUC: Thank you.

   Does that cover all the legal bases, Mr. Blum, Mr. Lauffer?

   STAFF COUNSEL BLUM: Yes, ma'am.

   CHAIRPERSON DODUC: Okay. And I will second that.

   Before I take vote though, I do want to ask if the regional board representatives, if they have anything to add, since you're standing there?

   MR. ST. JOHN: Yeah, I apologize.
CHAIRPERSON DODUC: Please.

MR. ST. JOHN: It's actually just a question of clarification regarding the Klamath sediment listing. The addendum doesn't indicate whether -- what reach of the Klamath River is being recommended. And I was wondering if they could clarify that here.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: It's identified in our fact sheet.

MR. ST. JOHN: So it's referring to the original September 2005 --

SENIOR ENVIRONMENTAL SCIENTIST WILSON: That's right. We're going back to where we were in September '05.

MR. ST. JOHN: Okay.

CHAIRPERSON DODUC: Great.

So let's take a moment before we take a vote. And I thank all of you for coming and staying, and especially to thank the staff, Mr. Wilson, Mr. Blum, your staff.

Do you wish to introduce any of your staff?

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I would really just like to take a moment to introduce all the people who worked on this.

Jessie Maxfield worked on Region 4, Region 1, Region 5, like most of the regions.
Dorena Goding was the temperature and exotic species person, and she worked on 3, 7 and 8. Randy Yates, Regions 1 and 2. And he's our data guy.

Robert Musial, 6 and 9, an engineer who's worked on a variety of these issues and has helped with a lot of the administrative materials that we've presented. And a fellow who's not here who's in China right now is Jeffrey Shu, who's worked for us for about four or five months. And he's our data analysis geek. He's fabulous.

So those are the five people, plus me, who worked on this.

CHAIRPERSON DODUC: Well, thank you, all of you.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: I left out the most important person, the person with the most history is Nancy Kapellas. And she is the person who assembles the list for us. She takes all of our recommendations and puts them altogether into something that everybody sees. And she develops the maps for all of these listings.

And I apologize, Nancy, forgetting you.

BOARD MEMBER BAGGETT: So if someone wants something deleted or added, that's who they should really talk to.
(Laughter.)

SENIOR ENVIRONMENTAL SCIENTIST WILSON: She's very good. She will -- yes.

CHAIRPERSON DODUC: And, finally, a very, very special thank you and acknowledgement to you, Mr. Wilson.

You've done a wonderful job, not only leading your staff to get to this point in the project, but also in being here and responding to all these questions now for well over five hours.

SENIOR ENVIRONMENTAL SCIENTIST WILSON: Thank you.

CHAIRPERSON DODUC: Terrific. Thank you so much for doing it.

(Applause.)

CHAIRPERSON DODUC: Any other comments?

With that, I'll call for a vote.

All in favor?

(Ayes.)

CHAIRPERSON DODUC: Any opposed or abstain, at the threat of death?

(Laughter.)

CHAIRPERSON DODUC: Hearing no, the motion is carried.

Thank you, everyone.

(Thereupon the State Water Resources Control PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345
Board meeting adjourned at 7:15 p.m.)
CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing State Water Resources Control Board meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of November, 2006.

JAMES F. PETERS, CSR, RPR
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