
From: Russell Frink [<mailto:Russell@spalettalaw.com>]

Sent: Friday, June 02, 2017 3:31 PM

To: abi@bkslawfirm.com; aferguson@somachlaw.com; ahitchings@somachlaw.com; ajr@bkslawfirm.com; amy.aufdemberge@sol.doi.gov; apeltzer@prlawcorp.com; awearn@nrdc.org; barbara@restorethedelta.org; barbarav@aqualliance.net; barry@solagra.com; bdalymns@citlink.net; bjohnson@tu.org; blancapaloma@msn.com; bobker@bay.org; bradpappa@gmail.com; brettgbaker@gmail.com; brittons@saccounty.net; bwright@friendsoftheriver.org; Wilcox, Carl@Wildlife; caroleekrieger7@gmail.com; colin@ejcw.org; connere@gmail.com; CWFhearing; daladjem@downeybrand.com; daniel@kaydix.com; dcooper@minasianlaw.com; dcoty@bpmnj.com; ddj@cah2oresearch.com; dean@hprlaw.net; deltakeep@me.com; dkelly@pcwa.net; dgarrett@volkerlaw.com; dobegi@nrdc.org; dohanlon@kmtg.com; [dorth@davidorthconsulting.com](mailto:dorth@ davidorthconsulting.com); empappa@gmail.com; evielma@cafecoop.org; elamoe@minasianlaw.com; fetherid@ebmud.com; fmorrissey@orange Coveid.org; friendsofsfestuary@gmail.com; gadams@fclaw.com; info@californiadelta.org; Mizell, James@DWR; jailin@awattorneys.com; jtb@bkslawfirm.com; jconway@rd800.org; jfox@awattorneys.com; Jennifer Spaletta; jherlaw@aol.com; jminton@pcl.org; john.lueberke@stocktonca.gov; Jon.Rubin@SLDMWA.org; jph@tulareid.org; jrobinson@cityofsacramento.org; jsagwomack@gmail.com; jsalmon@ebmud.com; jvolker@volkerlaw.com; kcorby@somachlaw.com; kelweg1@aol.com; kharrigfeld@herumcrabtree.com; kobrien@downeybrand.com; kpoole@nrdc.org; ktaber@somachlaw.com; kyle.jones@sierraclub.org; lcaster@fclaw.com; matlas@jmatlaslaw.com; matthew@mlelaw.com; mbently@countyofcolusa.org; melissa.poole@wonderful.com; mhagman@lindmoreid.com; michael@brodskylaw.net; mjatty@sbcglobal.net; mkropf@countyofcolusa.com; mlarsen@kdwcd.com; mnikkel@downeybrand.com; mvanzandt@hansonbridgett.com; myoung@awattorneys.com; ncardella@prlawcorp.com; office@ecosacramento.net; osha@semlawyers.com; philip.pogledich@yolocounty.org; pminasian@minasianlaw.com; pp@planetarysolutionaries.org; prmiljanich@solanocounty.com; psimmons@somachlaw.com; pwilliams@westlandswater.org; rakroyd@kmtg.com; randy@ejcw.org; rbernal@ci.antioch.ca.us; rmaddow@bpmnj.com; rdenton06@comcast.net; rmburness@comcast.net; roland@ssjmud.org; rsb@bkslawfirm.com; rsmith@downeybrand.com; Russell Frink; ryan.hernandez@dcd.cccounty.us; rzwilling@defenders.org; sae16@lsid.org; schaffin@awattorneys.com; sdalke@kern-tulare.com; sgeivet@ocsnet.net; smorris@swc.org; Sophie.Froelich@Roll.com; sonstot@awattorneys.com; rothert@americanrivers.org; ssaxton@downeybrand.com; ssdwaterfix@somachlaw.com; stephen.siptroth@cc.cccounty.us; sunshine@snugharbor.net; svolker@volkerlaw.com; sgrady@eslawfirm.com; red@eslawfirm.com; tara.mazzanti@stocktonca.gov; tgohring@waterforum.org; thomas.esqueda@fresno.gov; tim@restorethedelta.org; tkeeling@freemanfirm.com; trobanch@freemanfirm.com; torr@earthjustice.org; towater@olaughlinparis.com; vkincaid@olaughlinparis.com; wes.miliband@stoel.com; wfemlen@solanocounty.com; wirthsoscranes@yahoo.com; ygarcia@earthjustice.org
Subject: California WaterFix Hearing - North San Joaquin WCD's and San Joaquin County's Notice and Subpoena Duces Tecum Requesting the Production of Documents & Motion for Shortened Time to Compel Production

Dear CWF Hearing Team and all WaterFix Hearing Parties:

Attached please find North San Joaquin Water Conservation District's and San Joaquin County's Notice and Subpoena Duces Tecum Requesting the Production of Documents & a letter to the hearing officers containing a Motion for Shortened Time to Compel Production.

Russell Frink

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JENNIFER L. SPALETTA
Attorney-at-Law
jennifer@spallettalaw.com

June 2, 2017

VIA E-Mail CWFhearing@waterboards.ca.gov
Tam Doduc, WaterFix Project Co-Hearing Officer
Felicia Marcus, WaterFix Project Co-Hearing Officer
State Water Resources Control Board
1001 I Street
Sacramento, California 95814

RE: California WaterFix Change Petition - Motion for Shortened Time to Compel Production

Dear Hearing Officers Marcus and Doduc:

Please find attached a notice and request for production of documents to the Department of Water Resources (DWR). This request is made to obtain electronically stored data as requested during my cross examination of Mr. Leahigh on behalf of North San Joaquin Water Conservation District and San Joaquin County. DWR has refused to provide the requested documents, necessitating this formal approach. The timeline of my informal requests and the rationale supporting the requests are detailed in the affidavit attached to the Notice.

Code of Civil Procedure section 1987(c) typically requires a 20 day notice period for this type of formal request to DWR, which may be shortened by order of the court (or hearing officers in this case). Through this letter I am respectfully requesting that the hearing officers order DWR to produce the requested documents no later than June 15, 2017, the date on which the hearing will resume. Preferably, however, the documents would be ordered produced earlier so that the parties could review them in advance of the hearing and be more efficient in dealing with them during the hearing, if at all.

Thank you for considering this request.

Very truly yours,



JENNIFER L. SPALETTA
Attorney at law

Cc: Service List

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9 Counsel for North San Joaquin Water
10 Conservation District; Co-Counsel for
11 Protestants San Joaquin County,
12 San Joaquin County Flood Control and
13 Water Conservation District, and
14 Mokelumne River Water and Power Authority

15 THOMAS H. KEELING (SBN 114979)
16 FREEMAN FIRM
17 1818 Grand Canal Boulevard, Suite 4
18 Stockton, CA 95207
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22 Co-Counsel for Protestants San Joaquin County,
23 San Joaquin County Flood Control and
24 Water Conservation District, and
25 Mokelumne River Water and Power Authority

26 BEFORE THE
27 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

28 HEARING IN THE MATTER OF
CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES
BUREAU OF RECLAMATION'S
REQUEST FOR A CHANGE IN POINT OF
DIVERSION FOR CALIFORNIA WATER FIX

**San Joaquin County's and North San
Joaquin Water Conservation District's Notice
and Subpoena Duces Tecum Requesting the
Appearance at Hearing and Production of
Documents by the Department of Water
Resources**

29 **TO THE DEPARTMENT OF WATER RESOURCES AND THEIR COUNSEL OF
30 RECORD:**

31 **NOTICE IS HEREBY GIVEN**, pursuant to the provisions of Water Code section 1080,
32 Government Code sections 11450.10-11450.50 and Code of Civil Procedure sections 1985 and
33 1987, that the Department of Water Resources is requested to attend the State Water Resources
34 Control Board hearing in the above entitled action, at 1001 I Street, Sacramento California 95814,

1 on June 15, 2017, at 9:00 AM, or as soon thereafter as the Hearing Officers may order, to provide
2 the following documents and to testify regarding their authenticity and contents:


3 (1) The electronic Excel versions of the tables previously produced by DWR as
4 California Water Fix Hearing Exhibits DWR-903, -904, -905, and -906.

5 (2) The electronic Excel version of the “master spreadsheet” referred on page 254 of
6 the hearing transcript from Jennifer Spaletta’s May 9, 2017 cross-examination of John Leahigh as
7 the original source of the data contained in DWR-903, -904, -905, and -906.

8 An affidavit supporting this request is attached hereto.

9 Dated: June 2, 2017

SPALETTA LAW P.C.

10 By: 
11 Jennifer L. Spaletta

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1 **AFFIDVIT IN SUPPORT OF NOTICE AND SUBPOENA DUCES TECUM**

2 1. I, Jennifer Spaletta, am an attorney duly licensed to practice law in California and am
3 counsel of record for North San Joaquin Water Conservation District and co-counsel of record for
4 San Joaquin County in this proceeding.

5 2. On May 4, 2017 DWR witness Mr. Leahigh presented rebuttal testimony, including a
6 powerpoint labeled Exhibit DWR-10. The powerpoint contained several graphs purporting to
7 characterize State Water Project operations with and without the California Water Fix, based on
8 compiled data regarding sources of water exported among other details. Neither the exhibit nor
9 Mr. Leahigh’s accompanying written rebuttal testimony (Exhibit DWR-78) provided a source
10 reference for the summarized and compiled information in the graphs. Mr. Leahigh did not
11 describe the source of the information in his oral testimony. (*See Leahigh Rebuttal Testimony,*
12 *May 4, 2017 Transcript of California Waterfix Hearing Part I Rebuttal (“Transcript”),* pgs. 48-
13 70.)

14 3. On May 5, 2017 I emailed counsel for Department of Water Resources (“DWR”) and
15 requested that DWR identify and produce the data from which the graphs in DWR-10 were
16 created. (Attached hereto as Exhibit A.)

17 4. On May 8, 2017 DWR produced via email to all parties DWR-903, -904, -905, and -906,
18 purporting to represent the data presented in the graphs on DWR-10 pages 6, 8, 10 and 12 (which
19 pages also correspond to DWR Exhibits 851-852).

20 5. On May 9, 2017, Tim O’Laughlin and I cross-examined Mr. Leahigh regarding DWR-
21 903, -904, -905, and -906. During that examination, Mr. Leahigh testified:

- 22 a) Mr. Aaron Miller, a member of Mr. Leahigh’s staff, created the graphs in DWR-10.
23 (Spaletta Cross-Examination of John Leahigh (“Spaletta Cross”), May 9, 2017 Transcript
24 at pgs. 249-250).
- 25 b) Mr. Leahigh created Exhibits DWR-903, -904, -905, and -906 the weekend before (May
26 6-7, 2017). (*Id.*, at pgs. 250-251.).
- 27 c) Mr. Leahigh pulled data from a “master spreadsheet” maintained by DWR to create
28 Exhibits DWR-903, -904, -905, and -906. (*Id.*, at pgs. 252).
- d) Mr. Miller pulled data from the “master spreadsheet” to create DWR-10. (*Ibid.*).

- 1 e) Mr. Leahigh was not able to explain certain aspects of the tables he created, including:
- 2 i. Why some of the export numbers in the tables were negative. (O’Laughlin Cross-
- 3 Examination of John Leahigh (“O’Laughlin Cross”), May 9, 2017 Transcript at pgs. 89-
- 4 90).
- 5 ii. Whether the table in exhibit DWR-905 is counting the 2,845 cfs of water shown being
- 6 released at Oroville Dam as the source of the 2,845 cfs that is shown being rediverted for
- 7 export in the Delta. (Spaletta Cross, May 9, 2017 Transcript, pgs. 264-265.)

8 6. During the hearing on May 9, 2017 I requested that DWR produce:

- 9 a. The electronic Excel form of DWR-903, -904, -905, and -906 (*Id.*, at pg. 254.); and
- 10 b. The “master spreadsheet” maintained by DWR that contained the data that was used by

11 Mr. Miller to create the graphs in DWR-10. (*Ibid.*)

12 7. DWR’s counsel did not agree with either request. (*Id.*, at 255.)The hearing officer said she

13 would take the matter under advisement, but did not overrule either request. (*Ibid.*)

14 8. On May 26, 2017 I inquired into the status of my request for the “master spreadsheet” by

15 email to attorneys for DWR. On May 30, 2017 DWR’s attorneys confirmed that they would not

16 provide the requested spreadsheet and that I would need to make a formal request. (*See* Email

17 Correspondence attached hereto as Exhibit B.)

18 9. The information sought is relevant: The issues to be determined in Phase I of the hearing

19 include whether or not the petition for change seeks to initiate a new water right and whether the

20 proposed change will injure any other legal user of water. (Notice of Petition and Notice of Public

21 Hearing and Pre-Hearing Conference to Consider the Petition, (October 30, 2015), pg. 11

22 available at [http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/docs/cwfnotice_pet_hrg.pdf)

23 [california_waterfix/docs/cwfnotice_pet_hrg.pdf](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/docs/cwfnotice_pet_hrg.pdf).) To date in Phase 1, DWR has presented

24 evidence that it claims represents SWP operations before and after the proposed change,

25 including source of water for exports. DWR-10 is an example of this evidence. DWR-10 contains

26 summarized and computed data, prepared by DWR, that purports to compile actual operational

27 data that DWR has deemed relevant to the Phase 1 issues. However, because Protestants do not

28 have access to the operational data contained in the “master spreadsheet” they have not had the

opportunity to analyze or critique decisions that DWR has made regarding which data is relevant.

1 Additionally, because Exhibits DWR-903, -904, -905, and -906 were not provided in their native
2 Excel format, responding parties are currently unable to verify the accuracy of the calculations
3 without resort to tedious and labor intensive re-creation of the tables in Excel.

4 10. The information sought is proper surrebuttal: DWR submitted rebuttal testimony and
5 exhibits summarizing SWP operational data from the time period prior to when the change
6 petition was filed. It is properly within the scope of surrebuttal to seek verification that the data
7 submitted by DWR during rebuttal is accurate, and to determine which operational data that
8 DWR has chosen to omit, and to inquire how the omitted data might affect the value and
9 conclusions to be drawn from the testimony and exhibits being presented by DWR to support the
10 change petition.

11 11. Responding parties will be prejudiced if the information is not provided: If a party is allowed
12 to submit into evidence (or the record) a summary of data, but the other parties are not able to see
13 the original data from which the summary was prepared, the other parties are severely prejudiced
14 because they cannot verify the accuracy of the summarized information, nor can they determine if
15 any relevant data was omitted from the presented summary. For this reason, California courts
16 may exclude written summaries of evidence as “unfair” under Evidence Code 1521(a)(2) if the
17 original documents are unavailable. (L. Rev. Comm. Comments to Evidence Code § 1521.)
18 Federal Courts actually have a specific evidentially rule that requires the originals or duplicates of
19 voluminous information that is provided in summary form to be made available to the other
20 parties, and in court if necessary:

21 The proponent may use a summary, chart, or calculation to prove the content of
22 voluminous writings, recordings, or photographs that cannot be conveniently
23 examined in court. The proponent must make the originals or duplicates
24 available for examination or copying, or both, by other parties at a reasonable
25 time and place. And the court may order the proponent to produce them in court.

26 (Fed. Rule of Evidence 1006.) While the federal rules of evidence are not binding on the
27 State Water Resources Control Board (“SWRCB”), the fairness and policy reasons
28 behind the rule are equally applicable in a SWRCB hearing – particularly this hearing
where the Petitioners’ are requesting such a significant change to very large water rights
and Petitioners are the only parties who control the information on project operations
necessary to evaluate the change petition.

1 12. DWR will not be prejudiced if the information must be provided: DWR will not be
2 prejudiced by having to produce the electronic excel versions of DWR-903, -904, -905, and -906.
3 DWR has already produced the information in PDF form and it is merely a matter of emailing the
4 already existing excel format of the same documents. DWR also will not be prejudiced by having
5 to produce the electronic version of its “master spreadsheet” of operational data. DWR is a public
6 agency operating the State Water Project pursuant to permits issued by and subject to the
7 jurisdiction of the State Water Resources Control Board. It cannot claim that the information in
8 the spreadsheet is proprietary or otherwise confidential. Rather, the information appears critical to
9 allowing the responding parties and SWRCB hearing team to understand and verify how DWR
10 has operated under the permits that are the subject of this petition for change so that the hearing
11 team can properly evaluate whether or not the requested changes will cause injury or initiate a
12 new water right.

13 I declare under penalty of perjury pursuant to the laws of California that the foregoing is true and
14 correct.

15 Executed this 2nd day of June in Lodi, California

16 
17 JENNIFER L. SPALETTA

Exhibit A - May 5, 2017 Correspondence with DWR

From: [Jennifer Spaletta](#)
To: [Terry Olson](#); [CWFhearing@waterboards.ca.gov](#); [Alan Lilly](#); [aferguson@somachlaw.com](#); [ahitchings@somachlaw.com](#); [Andrew Ramos](#); [amy.aufdemberge@sol.doi.gov](#); [apeltzer@prlawcorp.com](#); [awearn@nrdc.org](#); [barbara@restorethedelta.org](#); [barbarav@aqualliance.net](#); [barry@solagra.com](#); [bdalymn@citlink.net](#); [bjohnson@tu.org](#); [blancapaloma@msn.com](#); [bobker@bay.org](#); [bradpappa@gmail.com](#); [brettgbaker@gmail.com](#); [brittons@saccounty.net](#); [bwright@friendsoftheriver.org](#); [carl.wilcox@wildlife.ca.gov](#); [caroleekrieger7@gmail.com](#); [colin@ejcw.org](#); [connere@gmail.com](#); [CWFhearing@waterboards.ca.gov](#); [daladjem@downeybrand.com](#); [daniel@kaydix.com](#); [dcooper@minasianlaw.com](#); [dcoty@bpmnj.com](#); [ddj@cah2oresearch.com](#); [dean@hprraw.net](#); [deltakeep@me.com](#); [dgarrett@volkerlaw.com](#); [dkelly@pcwa.net](#); [dobeji@nrdc.org](#); [dohanlon@kmtg.com](#); [dorth@davidorthconsulting.com](#); [elamoe@minasianlaw.com](#); [empappa@gmail.com](#); [evielma@cafecoop.org](#); [fetherid@ebmud.com](#); [fmorrissey@orangecoveld.org](#); [friendsofsfestuary@gmail.com](#); [gadams@fclaw.com](#); [info@californiadelta.org](#); [jailin@awattorneys.com](#); [Jennifer Buckman](#); [jconway@rd800.org](#); [jfox@awattorneys.com](#); [james.mizell@water.ca.gov](#); [jherlaw@aol.com](#); [jminton@pcl.org](#); [john.luebberke@stocktonca.gov](#); [Jon.Rubin@SLDMWA.org](#); [jph@tulareid.org](#); [jrobinson@cityofsacramento.org](#); [jsagwomack@gmail.com](#); [jsalmon@ebmud.com](#); [jvolker@volkerlaw.com](#); [kcorbi@somachlaw.com](#); [kelweg1@aol.com](#); [kharrigfeld@herumcrabtree.com](#); [kobrien@downeybrand.com](#); [kpoole@nrdc.org](#); [ktaber@somachlaw.com](#); [kyle.jones@sierraclub.org](#); [lcaster@fclaw.com](#); [matlas@jmatlaslaw.com](#); [matthew@mlelaw.com](#); [mbently@countyofcolusa.org](#); [melissa.poole@wonderful.com](#); [mhagman@lindmoreid.com](#); [michael@brodskylaw.net](#); [mjatty@sbcglobal.net](#); [mkropf@countyofcolusa.com](#); [mlarsen@kdwcd.com](#); [mnikkel@downeybrand.com](#); [mvanzandt@hansonbridgett.com](#); [myoung@awattorneys.com](#); [ncardella@prlawcorp.com](#); [office@ecosacramento.net](#); [osha@semlawyers.com](#); [philip.pogledich@volocounty.org](#); [pminasian@minasianlaw.com](#); [pp@planetarysolutionaries.org](#); [prmiljanich@solanocounty.com](#); [psimmons@somachlaw.com](#); [pwilliams@westlandswater.org](#); [rakroyd@kmtg.com](#); [randy@ejcw.org](#); [rbernal@ci.antioch.ca.us](#); [rdenton06@comcast.net](#); [rmaddow@bpmnj.com](#); [rmburness@comcast.net](#); [roland@ssjmud.org](#); [Ryan Bezerra](#); [rsmith@downeybrand.com](#); [Russell Frink](#); [ryan.hernandez@dcd.cccounty.us](#); [rzwilling@defenders.org](#); [sae16@lsid.org](#); [schaffin@awattorneys.com](#); [sdalke@kern-tulare.com](#); [sgeivet@ocsnet.net](#); [smorris@swc.org](#); [Sophie.Froelich@Roll.com](#); [sonstot@awattorneys.com](#); [strothert@americanrivers.org](#); [ssaxton@downeybrand.com](#); [ssdwaterfix@somachlaw.com](#); [stephen.siptroth@cc.cccounty.us](#); [sunshine@snugharbor.net](#); [svolker@volkerlaw.com](#); [sgrady@eslawfirm.com](#); [red@eslawfirm.com](#); [tara.mazzanti@stocktonca.gov](#); [tgohring@waterforum.org](#); [thomas.esqueda@fresno.gov](#); [tim@restorethedelta.org](#); [tkeeling@freemanfirm.com](#); [trobancho@freemanfirm.com](#); [torr@earthjustice.org](#); [towler@olaughlinparis.com](#); [vkincaid@olaughlinparis.com](#); [wes.miliband@stoel.com](#); [wfemlen@solanocounty.com](#); [wirthsoscranes@yahoo.com](#); [vgarcia@earthjustice.org](#)
Cc: [Mizell, James@DWR](#)
Subject: RE: Cal Water Fix Hearing - Request for Data Used to Create Charts in DWR-10
Date: Friday, May 05, 2017 11:31:11 AM

Dear Mr. Mizell:

Yesterday Mr. Lehigh presented his oral testimony and DWR-10. DWR-10 is a powerpoint presentation. Pages 6, 8, 10 and 12 of DWR-10 contain graphs of data. The graphs do not indicate the source of the information/data used to create the graphs. I reviewed Mr. Lehigh's written rebuttal testimony and also could not find a reference to the source of the information/data used to create the graphs. Could you please provide the parties with a source/data reference for each graph? Also, if this information is available on the internet, could you please provide the web address. If the information is not accessible on the internet, could you please provide the information/data to the parties to this proceeding electronically? I would like to have the ability to review the data underlying the graphs prior to my opportunity to cross-examine Mr. Lehigh. It is possible that review of the data may eliminate the need for the cross-examination.

Thank you in advance for your professional courtesy in addressing this request.

JENNIFER L. SPALETTA

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Exhibit B - May 30, 2017 Correspondence with DWR

From: [Mizell, James@DWR](mailto:Mizell_James@DWR)
To: [Jennifer Spaletta](mailto:Jennifer_Spaletta); [McGinnis, Robin C.@DWR](mailto:McGinnis_Robin_C.@DWR)
Cc: [Russell Frink](mailto:Russell_Frink); [Thomas H. Keeling](mailto:Thomas_H_Keeling); [Morrow, Michelle@DWR](mailto:Morrow_Michelle@DWR)
Subject: RE: DWR Excel Spreadsheet
Date: Tuesday, May 30, 2017 2:32:05 PM

Hi Jen,

You will need to make a formal request for whatever information you believe exists and has not been provided. The pdf previously provided to you includes all the numbers (and thus calculations) behind Mr. Leahigh's testimony. Thus, you have a complete copy of the information for purposes of his testimony and DWR believes your request does not require any further information.

Regards,

Tripp Mizell

Sr. Attorney, Office of the Chief Counsel
California Department of Water Resources
Office 1118-B
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Sacramento, California 95814
o: (916) 653-7533
c: (949) 395-4444
James.Mizell@water.ca.gov

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From: Jennifer Spaletta [mailto:jennifer@spalettalaw.com]
Sent: Tuesday, May 30, 2017 2:25 PM
To: McGinnis, Robin C.@DWR
Cc: Russell Frink; Thomas H. Keeling; Mizell, James@DWR; Morrow, Michelle@DWR
Subject: RE: DWR Excel Spreadsheet

Hi Robin – I was able to locate a complete copy of the transcript from May 9. The conversation about producing the complete excel file continued to page 255, line 17 where Hearing Officer Dudoc said she would take your concerns “under advisement.” She did not rule on my request or your objection to it. The request is simply for a spreadsheet that DWR maintains as part of operations, which should be a public record. It should not be controversial. The reason for the request is that the information that DWR pulled from that spreadsheet to create the tables that were produced appears incomplete and is difficult to understand out of context (for example, some of the numbers are negative). The complete spreadsheet should allow everyone to see the same information. Please advise if you will agree to produce it or if I will need to make a formal request.

Thanks! Jen

JENNIFER L. SPALETTA

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From: McGinnis, Robin C.@DWR [<mailto:Robin.McGinnis@water.ca.gov>]

Sent: Tuesday, May 30, 2017 1:29 PM

To: Jennifer Spaletta

Cc: Russell Frink; Thomas H. Keeling; Mizell, James@DWR; Morrow, Michelle@DWR

Subject: RE: DWR Excel Spreadsheet

Hi Jennifer,

Hearing Officer Doduc already denied this request. Please see page 253 of the attached transcript excerpt.

Robin

Robin McGinnis

Attorney

Office of the Chief Counsel

Department of Water Resources

Direct: (916) 657-5400

robin.mcginis@water.ca.gov

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From: Mizell, James@DWR

Sent: Friday, May 26, 2017 2:25 PM

To: Jennifer Spaletta; McGinnis, Robin C.@DWR

Cc: Russell Frink; Thomas H. Keeling

Subject: RE: DWR Excel Spreadsheet

Hi Jennifer,

Thank you for the email and we will strive to get you a response by May 30.

Best,

Tripp Mizell

Sr. Attorney, Office of the Chief Counsel
California Department of Water Resources
Office 1118-B
1416 Ninth Street
Sacramento, California 95814
o: (916) 653-7533
c: (949) 395-4444
James.Mizell@water.ca.gov

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From: Jennifer Spaletta [<mailto:jennifer@spalettalaw.com>]
Sent: Friday, May 26, 2017 11:37 AM
To: Mizell, James@DWR; McGinnis, Robin C.@DWR
Cc: Russell Frink; Thomas H. Keeling
Subject: DWR Excel Spreadsheet

Dear Mr. Mizell and Ms. McGinnis:

During my cross examination of Mr. Leahigh he described an excel spreadsheet housed within DWR with operational data that was used to generate the tables in DWR Exhibits 903-906 and the graphs in DWR Exhibits 850,851 and 852. I requested a copy of the excel file during the hearing. I have not received a response to this request. Can you please advise if you are willing to send me the excel file or if you will require a formal discovery request. Please advise by Tuesday May 30, 2017. Thank you.

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STATEMENT OF SERVICE

**CALIFORNIA WATERFIX PETITION HEARING
Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)**

I hereby certify that I have this day submitted to the State Water Resources Control Board and caused a true and correct copy of the following document(s):

1. Letter to Hearing Officers and Motion for Shortened Time to Compel Production

2. San Joaquin County and North San Joaquin Water Conservation District's Notice and Subpoena Duces Tecum Requesting the Appearance at Hearing and Production of Documents by the Department of Water Resources

to be served **by Electronic Mail** (email) upon the parties listed in Table 1 of the **Current Service List** for the California WaterFix Petition Hearing, dated 6/2/2017, posted by the State Water Resources Control Board at

http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml:

Note: In the event that any emails to any parties on the Current Service List are undeliverable, you must attempt to effectuate service using another method of service, if necessary, and submit another statement of service that describes any changes to the date and method of service for those parties.

For Petitioners Only:

	<p>I caused a true and correct hard copy of the document(s) to be served by the following method of service to Suzanne Womack & Sheldon Moore, Clifton Court, L.P., 3619 Land Park Drive, Sacramento, CA 95818:</p> <p>Method of Service: _____</p>
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I certify that the foregoing is true and correct and that this document was executed on 6/2/2017
Date

Signature: 

Name: Russell Frink

Title: Attorney

Party/Affiliation: NSJWCD/SJC, et al.

Address: PO Box 2660, Lodi, CA 95241