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September 14, 2017

Submitted to CWFhearing@waterboards.ca.gov and California WaterFix Service List

Tam Doduc, Hearing Officer
Felicia Marcus, Hearing Officer
State Water Resources Control Board
1001 I Street
Sacramento, CA 94596

Subject: JOINDER TO NRDC ET AL. OBJECTION TO AND PETITION FOR RECONSIDERATION OF AUGUST 31, 2017 RULING REGARDING SCHEDULING OF PART 2 AND OTHER PROCEDURAL MATTERS

Dear Hearing Officers Doduc and Marcus:

The Hearing Officers' ruling of August 31, 2017, indicates that November 30, 2017, at noon, is the "due date for receipt and service of parties' cases-in-chief, including written opening statements, witnesses' proposed testimony, as well as a summary of that testimony, witness qualifications, exhibits, exhibit identification index, identification of any witness panels and a statement of service for Part 2 of the hearing."

The Environmental Justice Coalition for Water and Restore the Delta join NRDC et al. *Objection to and Petition for Reconsideration of August 31, 2017, Ruling Regarding Scheduling of Part 2 and Other Procedural Matters*, dated September 6, 2017. We also join with San Joaquin County, San Joaquin County Flood Control and Water Conservation District, the Mokelumne River Water and Power Authority, Local Agencies of the North Delta, Friends of the River, Sierra Club, Friends of Stone Lakes National Wildlife Refuge, and Save Our Sandhill Cranes in their support of the motion.

The Hearing Officers made this scheduling decision on August 31, 2017, without explanation, when it had previously chosen to stagger case-in-chief submissions by Petitioners (earlier) and Protestants (later) for Part 1 of this proceeding. In Part 1, Petitioners' cases-in-chief were due to the Board on May 31, 2016, while Protestants and other parties were required to submit their cases in chief by September 2, 2016, *three months later*. Petitioners continue to bear the burden of proof that their petitioned changes and project will not alter flow and water quality that create unreasonable effects to fish, wildlife, recreational uses, and other public trust resources in the Delta. Petitioners should be required to present their case first, so Protestants may revise their cases-in-chief to be as responsive and efficient as possible. Procedurally, this is fair, it would advance the public interest, and, in our view, would result in a more complete and efficiently rendered administrative record.

In addition, we further request the Board reconsider its scheduling choice because low-resource environmental justice and water groups like ours possess limited means and time for arranging and preparing our cases in chief, especially compared to the fiscal and expert resources available to the Petitioners. We ask that the Hearing Officers weigh this disparity in reconsidering its scheduling decision.

We respectfully request that the Hearing Officers reconsider this scheduling decision. We request a staggered schedule for case submissions, where Protestants' cases-in-chief are due a reasonable time (preferably 90 days) after the close of Petitioners' Part 2 presentations.

We thank you for your consideration of this request.



Barbara Barrigan-Parrilla
Executive Director
Restore the Delta



Tim Stroshane
Policy Analyst
Restore the Delta



Colin Bailey
Executive Director
Environmental Justice Coalition for Water

cc: California WaterFix Hearing Service List as of September 12, 2017