
From: Randhawa, Baljit@DWR <Baljit.Randhawa@water.ca.gov>
Sent: Thursday, September 6, 2018 12:08 PM
To: CWFhearing; Doduc, Tam@Waterboards; Marcus, Felicia@Waterboards
Cc: abl@bkslawfirm.com; aerguson@somachlaw.com; ahitchings@somachlaw.com; ajr@bkslawfirm.com; akrieg@volkerlaw.com; amy.aufdemberge@sol.doi.gov; apeltzer@prlawcorp.com; awaren@nrhc.org; barbara@restoredelta.org; barbarav@aqualliance.net; barry@solagra.com; bdalymns@citlink.net; bjohnson@tu.org; blancapaloma@msn.com; bobker@bay.org; bpoulsen@eid.org; bradpappa@gmail.com; brettgbaker@gmail.com; burkew@saccounty.net; bwright@friendsoftheriver.org; 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; dmwolk@solanocounty.com; dobegi@nrhc.org; dohanlon@kmtg.com; dorth@davidorthconsulting.com; empappa@gmail.com; evielma@cafecoop.org; ewehr@gwdwater.org; elamoe@minasianlaw.com; fetherid@ebmud.com; fmorrissey@orangecoveid.org; gadams@fclaw.com; hwalter@kmtg.com; info@californiadelta.org; Mizell, James@DWR; jainlin@awattorneys.com; jtb@bkslawfirm.com; jconway@rd800.org; jfox@awattorneys.com; jennifer@spalettalaw.com; jherrlaw@aol.com; jminasian@minasianlaw.com; jminton@pcl.org; john.luebberke@stocktonca.gov; jph@tulareid.org; jrubin@westlandswater.org; jsagwomack@gmail.com; jsalmon@ebmud.com; jvolker@volkerlaw.com; kcorby@somachlaw.com; kelweg1@aol.com; kharrigfeld@herumcrabtree.com; kobrien@downeybrand.com; kpoole@nrhc.org; ktaber@somachlaw.com; kurtis.keller@cc.cccounty.us; kyle.jones@sierraclub.org; lcaster@fclaw.com; mae@semlawyers.com; matlas@downeybrand.com; matthew@mlelaw.com; melissa.poole@wonderful.com; mghafar@earthjustice.org; mhagman@lindmoreid.com; michael@brodskylaw.net; mjatty@sbcglobal.net; mkropf@countyofcolusa.com; mlarsen@kdwcd.com; mnikkel@downeybrand.com; mvanzandt@hansonbridgett.com; mvoss@cityofsacramento.org; myoung@awattorneys.com; nick@semlawyers.com; nrobertson@earthjustice.org; office@ecosacramento.net; osha@semlawyers.com; philip.pogledich@yolocounty.org; pkf@bkslawfirm.com; pminasian@minasianlaw.com; pp@planetarysolutionaries.org; psimmons@somachlaw.com; pwilliams@westlandswater.org; rharms@kmtg.com; rebecca.akroyd@sldmwa.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@spalettalaw.com; ryan.hernandez@dcd.cccounty.us; rzwilling@defenders.org; sae16@lsid.org; schaffin@awattorneys.com; sclarke@volkerlaw.com; sdalke@kern-tulare.com; sgeivet@ocsnet.net; smorris@swc.org; sonstot@awattorneys.com; srothert@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; tgstoked@gmail.com; tim@restoredelta.org; tkeeling@freemanfirm.com; trobancho@freemanfirm.com; towater@olaughlinparis.com; vkincaid@olaughlinparis.com; wes.miliband@aalrr.com; wfemlen@solanocounty.com; wirthsoscranes@yahoo.com
Subject: DWR'S Reply to South Delta Water Agency Parties' Opposition
Attachments: DWR Response to SDWA Objection to Pt2 Rebuttal Cross Exhibits.pdf; DWR'S Statement of Service (9-6-18).pdf

Dear Hearing Officers Doduc and Marcus,

The Department of Water Resources respectfully submits its Reply to South Delta Water Agency Parties' Opposition to DWR Part 2 Rebuttal Cross Examination Exhibits.

This message is electronically served upon the parties indicated in the revised service list dated August 14, 2018. A copy is being mailed to Clifton Court L.P.

Respectfully,

Bobbie Randhawa

Legal Analyst

Office of the Chief Counsel

Department of Water Resources

(916) 653-8167

Baljit.Randhawa@water.ca.gov

1 Spencer Kenner (SBN 148930)
James E. Mizell (SBN 232698)
Emily M. Thor (SBN 303169)
2 **DEPARTMENT OF WATER RESOURCES**
Office of the Chief Counsel
3 1416 9th St., Room 1104
Sacramento, CA 95814
4 Telephone: 916-653-5966
E-mail: jmizell@water.ca.gov

5
6 Attorneys for California Department of Water
Resources

7
8 **BEFORE THE**
9 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

10 **HEARING IN THE MATTER OF CALIFORNIA**
11 **DEPARTMENT OF WATER RESOURCES**
12 **AND UNITED STATES BUREAU OF**
13 **RECLAMATION REQUEST FOR A CHANGE**
14 **IN POINT OF DIVERSION FOR CALIFORNIA**
15 **WATER FIX**

DWR RESPONSE TO SOUTH DELTA
WATER AGENCY PARTIES'
OPPOSITION TO CERTAIN DWR
PART 2 REBUTTAL CROSS
EXAMINATION EXHIBITS

15 The California Department of Water Resources (“DWR”) responds to the
16 opposition to specific DWR Part 2 rebuttal exhibits filed by South Delta Water Agency et
17 al. (“SDWA”) on September 5, 2018.

18 DWR-1293 is indeed the PowerPoint presentation of Mr. Reyes associated with
19 DWR-1212 that was struck by the Hearing Officers on July 27, 2018. This was
20 inadvertent and DWR agrees with SDWA that it should be excluded from admission into
21 evidence.


22 Upon reviewing the transcripts of DWR’s cross-examination of Mr. Burke, DWR
23 also agrees that DWR-1404 was not utilized in cross-examination and is appropriately
24 excluded from evidence.

25 DWR disagrees, however, with the remaining basis of the objections filed by
26 SDWA for exhibits DWR-1400, DWR-1401, DWR-1402, DWR-1403, DWR-1406, and
27 DWR-1408. In each of these cases, SDWA asserts that the exhibit is outside the scope
28 of Mr. Burke’s testimony or that Mr. Burke has no knowledge of the document. This has

1 not been the test for admitting cross-examination exhibits into evidence in this hearing.
2 The probative value is demonstrated through the cross-examination of Mr. Burke using
3 the exhibits regardless of whether he prepared, is familiar with, or can speak to the
4 documents. We need only look at numerous exhibits admitted into evidence throughout
5 Parts 1 and 2 that were not prepared by the witnesses being questioned, were not
6 familiar to the witnesses being questioned, and in some cases were unrelated to the
7 specifics of the testimony provided by the witnesses.

8 For the reasoning found above, the exhibits DWR-1400 through DWR-1403, DWR-
9 1406 and DWR-1408 are appropriately requested to be entered into evidence.

10
11 Submitted September 6, 2018.

12 
13 _____
14 (James "Tripp" Mizell)

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):

DWR'S Reply to South Delta Water Agency Parties' Opposition to DWR Part 2 Rebuttal Cross Examination Exhibits

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 August 14, 2018, 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:

	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: Method of Service: <u>U.S Postal</u>
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I certify that the foregoing is true and correct and that this document was executed on September 6, 2018
Date

Signature: Bobbie Randhawa

Name: Bobbie Randhawa

Title: Legal Analyst

Party/Affiliation: DWR

Address: 1416 Ninth Street 1104
Sacramento, CA 95814