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8 BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD
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10 HEARING IN THE MATTER OF
11 CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES
12 BUREAU OF RECLAMATION REQUEST
FOR A CHANGE IN POINT OF
13 DIVERSION FOR CALIFORNIA WATER
FIX
14

**CALIFORNIA DEPARTMENT OF
WATER RESOURCES' OBJECTION
TO SACRAMENTO VALLEY WATER
USERS SUBPOENA DUCES TECUM
FILED**

15 The California Department of Water Resources ("DWR") objects and responds as
16 follows to the Subpoena Duces Tecum served April 6, 2018 demanding an appearance
17 on April 16, 2018, via electronic submission to the SWRCB FTB site: DWR is not
18 required to "generate" records as demanded by Sacramento Valley Water Users/City of
19 Folsom (SVU) and objects on that basis.¹
20

21 INTRODUCTION:

22 DWR through Part 1 and Part 2 of these proceedings have made available all
23 relevant modeling results and data. In fact, DWR has posted various references to
24 assist parties in accessing the publicly available models that can be utilized to generate
25 their own analysis. For example: California Water Research (CWR) and PCFFA
26 requested detailed information about modeling. In Part 1 DWR filed various Motions for
27

28 ¹ Concurrently DWR herein requests this Objection be considered a Motion for Protective
Order and motion to quash pursuant to CA Government Code 11450.30.

1 Protective Orders and detailed responses to similar demands by parties, see:
 2 [https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california](https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/docs/20160801_dwr_resp.pdf)
 3 [_waterfix/docs/20160801_dwr_resp.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/docs/20160801_dwr_resp.pdf); As with demands by CWR, it is the
 4 responsibility of SVU to prepare its case in chief in Part 2 and employ the appropriate
 5 expert to advise it in these proceedings.
 6 DWR provided the full model input, full model code (WRESL/WRIMS), and the full model
 7 output as posted on the hearing website as follows:

DWR-1074	DSM2 HYDRO modeling files (2471.76 MB)
DWR-1075	CALSIM BA H3+ modeling files (19.13 MB)
DWR-1076	DSM2 BA H3+ modeling files (2250.09 MB)
DWR-1077	CALSIM CWF H3+ modeling files (11.74 MB)
DWR-1078	DSM2 CWF H3+ modeling files (3638.55 MB)
DWR-1079	(reserved)
DWR-1080	(reserved)
DWR-1081	US Temperature modeling files BA H3+ (134.43 MB)
DWR-1082	US Temperature modeling files NAA (135.11 MB)

14
 15 Where to find model outputs: the modeling documents and their analyses are
 16 contained in the modeling submittals by DWR in its Case in Chief as noted above. Here
 17 SVU is requesting “DWR’s production, in Microsoft Excel or PDF format, of numerical
 18 results from Exhibit DWR-1077 for NAA and CWF H3+ scenarios, as well as
 19 comparisons of those scenarios monthly results, for the following parameters....” (page 2
 20 lines 12-15 of Ryan Bezerra’s Affidavit in Support of the Subpoena Duces Tecum).
 21 DWR modeling submittals contains all the output data requested by SVU. Specifically,
 22 the data requested in (a) – (cc) are included. Specifically, (j) is CalSim node C169 and
 23 (k) CalSim node C400. If SVU had questions about the location of specific modeling
 24 data it had an opportunity on cross-examination of DWR’s witnesses. Instead SVU is
 25 requesting DWR generate parts of the overall modeling produced in November 2017 or
 26 generate spreadsheets for its use.

1 ARGUMENT:

2 DWR is not required to generate new records for protestants. Government Code
3 section 11450.30 and Title 23 California Code of Regulations, section 649.6 authorize
4 parties to issue subpoenas for attendance at a hearing and for production of
5 documents, but they do not authorize parties to demand that the recipient prepare
6 documents.

7 DWR additionally objects to the subpoena because it seeks information
8 duplicative of information already available through more convenient, less burdensome,
9 and less expensive methods; the demands constitute an undue burden and expense on
10 DWR.

11 DWR also objects as to the reasonableness of the request, both on the timing of
12 a response and that it is not the responsibility of DWR to prepare modeling results in
13 formats and comparatives because a party to the proceeding demands it to do so,
14 particularly where the data has been made public and the party has demonstrated it has
15 access to adequate expertise of its own.

16 SVU had an opportunity to cross exam DWR's witnesses regarding the modeling
17 testimony to seek clarification of where particular data sets could be located. As noted
18 in previous filings by DWR, the models themselves are publicly available and parties
19 can access those at www.californiawaterfix.com;
20 [http://baydeltaoffice.water.ca.gov/modeling/hydrology/CalSim/Documentation/
21 WreslLanguageReference.pdf](http://baydeltaoffice.water.ca.gov/modeling/hydrology/CalSim/Documentation/WreslLanguageReference.pdf);
22 github.com/CVWRSM/cvwrsm/tree/master/wrims_v2/wrims_v2;
23 www.baydeltaoffice.water.ca.gov/modeling/deltamodeling/annual_reports.cfm;
24 baydeltaoffice.water.ca.gov/swpreliability/HistoricalSimulationReport_111203.pdf.
25 These resources, and many others, were described by DWR in its July 29, 2016 filing in
26 response to the last demand of DWR to produce work product for another party to this
27 hearing.

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CONCLUSION:

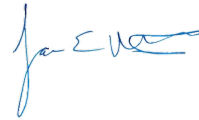
DWR objects to the Subpoena Duces Tecum on the basis that is a request beyond the scope required by law. DWR, nor any party, is required to prepare new records in response to a request, or to compile, synthesize, or index information or records in a form that does not exist at the time of the request.

In addition, DWR motions to quash this subpoena in all parts on that basis and those identified herein.

Respectfully submitted,

Dated: April 16, 2018

CALIFORNIA DEPARTMENT OF WATER
RESOURCES



James (Tripp) Mizell

Office of the Chief Counsel