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BEFORE THE

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

HEARING IN THE MATTER OF CALIFORNIA DEPARTMENT OF WATER RESOURCES AND UNITED STATES BUREAU OF RECLAMATION REQUEST FOR A CHANGE IN POINT OF DIVERSION FOR CALIFORNIA WATER FIX	**OBJECTION TO MOTION BY SVWU TO ADMIT MODELING RESULTS INTO EVIDENCE**

The California Department of Water Resources ("DWR") objects to the Motion to Admit Modeling Results BY DWR into Evidence that was filed by the Sacramento Valley Water Users ("SVWU") on July 25, 2018 as being duplicative and unnecessary of exhibits DWR-1077.

SVWU is correct in describing that Petitioners relied heavily upon modeling as a basis for their testimony. DWR-1077 was presented as the complete CALSIM modeling underlying the testimony of DWR and was admitted into evidence on April 23, 2018. It contains a complete set of CALSIM modeling results for the California WaterFix operational scenario H3+, the adopted project. The materials SVWU suggests are a complete set of modeling results are, in fact, a subset of the modeling results as subpoenaed by SVWU and in a format dictated by SVWU, as ordered by the Hearing Officers.
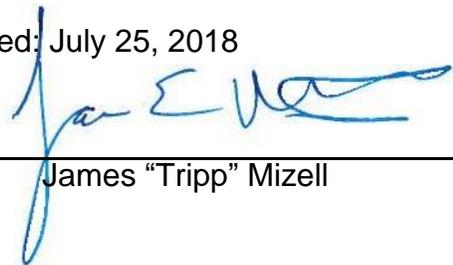
Similar to the March 12, 2018 motion filed by SVWU against the entry of another

OBJECTION TO MOTION BY SVWU TO ADMIT MODELING RESULTS INTO EVIDENECE

1 helpful exhibit ordered by the Board at the behest of SVWU, DWR-1143, the CALSIM

2 modeling results identified by SVWU are simply a reformatted subset of information

3 submitted as evidence by DWR. Surprise testimony, even when used to explain or validate

4 previously submitted testimony, is inappropriate and should be excluded. (Cal. Code

5 Regs., tit.23, § 648.4(a).) In their objection to DWR-1143, SVWU argued the ordered

6 information was surprise testimony and therefore impermissible even though the content of

7 DWR-1143 was contained within the evidence previously submitted by DWR. Therefore,

8 DWR relies upon the Hearing Officers granting of SVWU's objection to DWR-1143 to now

9 object to the very same aspects of the modeling data being moved into evidence here.

10

11 SVWU contends that their motion should be granted because it will simplify cross-

12 examination of Part 2 rebuttal witnesses. Their modeling does need to be admitted into

13 evidence to be used as a cross-examination exhibit. Many parties have produced cross-

14 examination exhibits that were not previously entered into evidence. In fact, some cross-

15 examination exhibits have never been entered into evidence even after being used.

16

17 Again, should SVWU, any other party, or the Hearing Officers or hearing staff wish

18 to explore a complete set of CALSIM modeling results, those are found within DWR-1077.

19 If SVWU seeks to offer into evidence a reformatted subset of this information, they should

20 do so through the proper process of submitting it in a timely fashion with testimony.

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23 Dated: July 25, 2018

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25 James "Tripp" Mizell

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OBJECTION TO MOTION BY SVWU TO ADMIT MODELING RESULTS INTO EVIDENECE