
State Water Resources Control Board

December 13, 2024

RE: AHO Hearing on the Proposed Delta Conveyance Project, Procedural Ruling on Party Status and Notices of Intent to Appear

TO ALL PARTIES:

As provided in California Code of Regulations, title 23, section 648.1, subdivision (b), parties to this proceeding include the Department of Water Resources (DWR) and the protestants to DWR's petitions for change who timely filed a Notice of Intent to Appear with the Administrative Hearings Office (AHO). Attachment A lists these parties and the entities granted party status by this ruling letter.

Any protestant seeking to participate in the hearing as a party was required to submit a Notice of Intent to Appear to the AHO by December 9, 2024. (July 31 Notice of Public Hearing, p. 16; November 18 Amended Notice of Public Hearing, p. 13.) "Persons who fail to comply with the procedural requirements specified in the hearing notice for participation as parties in a proceeding may be dismissed as parties to the proceeding." (Cal. Code Regs., tit. 23, § 648.1, subd. (c).) Protestants who did not timely file a Notice of Intent to Appear in this proceeding are listed in Attachment B and are dismissed as parties. The requirement for protestants to file a Notice of Intent to Appear was also a request for additional information pursuant to Water Code section 1703.5. I intend to recommend that the Board cancel the protests filed by persons or entities listed in Attachment B pursuant to Water Code sections 1703.5 and 1703.6.

The July 31 Notice of Public Hearing and November 18 Amended Notice of Public Hearing state that the hearing officer may allow a person or entity not identified as a party in the notice to participate in the hearing as a party if the person or entity timely files a Notice of Intent to Appear and demonstrates good cause. (July 31 Notice of Public Hearing, p. 16; November 18 Amended Notice of Public Hearing, p. 13; see also Cal. Code Regs., tit. 23, § 648.1, subd. (a) & (b).) In determining whether the person or entity has demonstrated good cause, the hearing officer considers, among other potentially relevant factors, whether the person's or entity's legal rights, duties, privileges, or immunities may be substantially affected by the proceeding and whether the interests of justice and the orderly and prompt conduct of the proceeding may be impaired by allowing the intervention. (*Ibid.*)

The AHO received Notices of Intent to Appear requesting to participate in the proceeding as a party from the following entities who were not previously identified as

E. JOAQUIN ESQUIVEL, CHAIR | ERIC OPPENHEIMER, EXECUTIVE DIRECTOR

parties: United States Bureau of Reclamation (Reclamation), San Luis and Delta-Mendota Water Authority, Westlands Water District, Coachella Valley Water District, State Water Contractors, and Tulare Lake Basin Water Storage District. I grant these requests, as described below, based on the entities' showing of good cause and my conclusion that granting party status at this early stage in the proceeding will not prejudice any other party or impede the orderly conduct of the hearing.

Reclamation requests party status to protect its interests as a water right holder for and operator of the Central Valley Project (CVP). The CVP and State Water Project share responsibility for meeting water quality objectives in the Sacramento/San Joaquin Delta Estuary (Delta) as required by State Water Board Decision 1641. The Projects operate in coordination and share responsibility for meeting in-basin uses and Delta objectives as governed by the 1986 Coordinated Operations Agreement, as amended in 2018. (2024-05-13 USBR NOI Statement.) I **grant** Reclamation's request to participate as a party in this proceeding for good cause arising from Reclamation's interest in protecting its water rights and legal obligations related to the coordinated operations of the CVP and State Water Project.

San Luis and Delta-Mendota Water Authority (SLDMWA) is made up of member agencies, 25 of which hold contracts with Reclamation for delivery of water diverted and delivered through the CVP pursuant to Reclamation's water rights. Westlands Water District (Westlands) is a member of SLDMWA and holds a contract with Reclamation for delivery of water diverted and delivered through the CVP pursuant to Reclamation's water rights. SLDMWA and Westlands request party status in this proceeding to protect their interests in water supplied by the CVP, which could be affected by any approval of DWR's petitions for change, and SLDMWA's interest in an agreement with DWR that addresses the relationship between operation of the proposed Delta Conveyance Project and the CVP. I **grant** SLDMWA and Westlands' requests to participate as parties in this proceeding to protect their legal interest in water supplied through the CVP, and SLDMWA's interest in its agreement with DWR.

Coachella Valley Water District (CVWD) and the State Water Contractors (SWC) request party status—CVWD as a water agency and SWC as a representative of member water agencies with long-term water supply contracts with DWR for water diverted and delivered through the State Water Project. CVWD and SWC assert that the proposed Delta Conveyance Project would “provide important benefits to SWC's member agencies under their Contracts by helping the SWP safely capture, move, and store water...” (2024-12-06 SWC Notice of Intent to Appear, p. 3; 2024-12-07 CVWD Request for Party Status, p. 1.) I **grant** these requests to participate as parties for good cause arising from CVWD's and SWC's member agencies' legal interest in water supplied by the State Water Project.

Tulare Lake Basin Water Storage District (TLBWSD) also contracts for water diverted and delivered through the State Water Project but it “does not support DWR's Delta Conveyance Project (DCP) and has not opted-in as a project beneficiary.” (2024-12-06 TLBWSD NOI & Statement of Good Cause, p. 3.) TLBWSD seeks to participate as a

party in this proceeding to “ensure that any water right and operational changes do not adversely affect the SWP supply available to TLBWSD.” (*Id.* at p. 4.) I **grant** the request to participate as a party for good cause arising from TLBWSD’s legal interest in water supplied by the State Water Project.

East Bay Municipal Utility District (EBMUD) seeks to maintain party status though it has withdrawn its protest to DWR’s petitions for change pursuant to a Protest Dismissal Agreement. EBMUD seeks to participate in the proceeding as a party to support inclusion of conditions agreed to in the Protest Dismissal Agreement in any order approving the petitions for change; preserve the opportunity to address any changes to the proposed project; and brief legal issues in the proceeding. (2024-12-09 EBMUD NOI, p. 1.) I **grant** EBMUD’s request to participate as a party to support inclusion of conditions agreed to in the Protest Dismissal Agreement in any order approving the petitions for change and to address any changes to the proposed project to the extent those changes may affect EBMUD’s water rights or other legal interests. If EBMUD seeks to address legal issues in the proceeding that are not directly related to its Protest Dismissal Agreement or changes to the project, EBMUD must submit a request to the hearing officer.

The AHO also received four Notices of Intent to Appear from individual representatives from DWR, requesting leave to present policy statements. A party to a proceeding may present an opening statement. DWR may choose to present statements from these four individuals as part of its opening statement. As is true of policy statements, statements made in an opening statement are non-evidentiary and may not be relied upon by the decision-maker for any finding of fact. If DWR does present statements from these individuals as part of its opening statement, the time to present those statements would count toward the 10 minutes allotted to DWR to make an opening statement. If DWR seeks additional time to present an opening statement, it may submit a request to the AHO for additional time.

Sincerely,



Nicole L. Kuenzi
Presiding Hearing Officer
Administrative Hearings Office

Attachments:

- Attachment A – List of Parties
- Attachment B - Protestants Without a Notice of Intent to Appear (Dismissed as Parties)
- Attachment C – Service List

ATTACHMENT A
List of Parties

Buena Vista Rancheria of Me-Wuk Indians
Byron-Bethany Irrigation District
California Indian Environmental Alliance
California Sportfishing Protection Alliance
California Water Impact Network
Central Delta Water Agency
Center for Biological Diversity
City of Antioch
City of Sacramento
City of Stockton
Coachella Valley Water District
Contra Costa County Water Agency
County of Contra Costa
County of Sacramento
County of San Joaquin
County of Solano
David J. Elliot & Sons/Stillwater Orchards
Deirdre Des Jardins
Department of Water Resources
Desert Water Agency
Diablo Water District
East Bay Municipal Utility District
El Dorado Irrigation District
Frank Loretz
Friends of Stone Lakes National Wildlife Refuge
Friends of the River
Golden State Salmon Association
Heritage Land Co.
Hood Community Council
Institute for Fisheries Resources
Little Manila Rising
Local Agencies of the North Delta
North Coast Rivers Alliance
Pacific Coast Federation of Fisherman's Associations
Placer County Water Agency
Planning and Conservation League
Restore the Delta
Rudy Mussi Investments L.P.
Sacramento Area Sewer District
Sacramento County Water Agency

San Luis & Delta-Mendota Water Authority
San Joaquin Audubon Society
San Francisco Baykeeper
Save California Salmon
Save Our Sandhill Cranes
Save the California Delta Alliance
Sierra Club
Shingle Springs Band of Miwok Indians
South Delta Water Agency
State Water Contractors
Tulare Lake Basin Water Storage District
United States Bureau of Reclamation
Westlands Water District
Winnemem Wintu Tribe
Wurst Ranches, LP

ATTACHMENT B
Protestants Without a Notice of Intent to Appear (Dismissed as Parties)

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American River Touring Association
American Whitewater
AquAlliance
Armistad Ranches
California Canoe and Kayak
California Outdoors
Camp Lotus
Delta Legacy Communities
ECOS/Habitat 2020
Environmental Council of Sacramento
Farm Bureau Delta Caucus
Foothill Conservancy
Mother Lode River Center
Naglee Burk Irrigation District
North Delta Water Agency
OARS California Rafting
Pescadero Reclamation District No. 2058
Reclamation Districts 999, 2060, and 2068
Restoring the Stanislaus River
Sacramento County Farm Bureau
Sierra Mac River Trips
South Yuba River Citizens League
Steamboat Resort
Tuolumne River Trust
Yolo County
Upper Merced River Watershed Council

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