

State Water Resources Control Board

June 6, 2025

RE: Yuba County Water Agency's Motions to Cancel Protests – Ruling on Legal Sufficiency

TO ALL PARTIES:

This ruling addresses Yuba County Water Agency's (Yuba Water) motions to cancel four protests submitted in response to its petition for long-term water transfer approval under Permit 15026 (Application 5632). These protests were filed by: (1) Central Delta Water Agency, South Delta Water Agency, and Rudy Mussi Investments, L.P. (Delta Parties); (2) California Sportfishing Protection Alliance, South Yuba River Citizens League, Friends of the River, American Rivers, Northern California Council Fly Fishers International, and Sierra Club – Mother Lode Chapter (collectively, the "NGO Parties"); (3) Nevada Irrigation District (NID); and (4) Richard Morat.

As explained more fully below, I find that Mr. Morat's protest should be canceled and decline to cancel the protests of NID, the NGO Parties, and the Delta Parties. I also find that evidence related to NID's relicensing proceeding before the Federal Energy Regulatory Commission (FERC) cannot support NID's claim of water right injury and is irrelevant to the question of whether the State Water Board should grant the pending petition. I will therefore exclude evidence relating to potential releases that may be required of NID by FERC through a process that is separate from this proceeding.

I. Factual and Procedural Background

Yuba Water diverts water from the Yuba River watershed for consumptive use under Permit Nos. 15026, 15027, and 15030. After the State Water Board incorporated interim and long-term flow requirements into Yuba Water's permits in 2003, Yuba Water, other water purveyors, various state and federal agencies, and four environmental organizations entered into three agreements that comprise the Yuba Accord. (Corrected Order WR 2008-00014, pp. 5-6.) In general terms, the Yuba Accord established:

1. Instream flow requirements that Yuba Water is responsible for meeting in the lower Yuba River (the Fisheries Agreement);
2. Terms and conditions under which Yuba Water transfers water stored in New Bullards Bar Reservoir to the California Department of Water Resources (DWR) (the Water Purchase Agreement); and
3. An arrangement under which Yuba Water and seven local irrigation districts and mutual water companies pump groundwater in lieu of surface water in some years to

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

make surface water available for transfer under the Water Purchase Agreement (Conjunctive Use Agreements).

In Corrected Order WR 2008-0014, the State Water Board approved changes to Permit Nos. 15026, 15027, and 15030 to implement the Fisheries Agreement, and approved Yuba Water's petition for long-term transfer of water under Permit 15026 to implement the Water Purchase Agreement through December 31, 2025.

On April 4, 2024, Yuba Water filed a petition for long-term transfer of up to 200,000 acre-feet of water per year (AFY) under Water Code sections 1735 *et seq.* Yuba Water's petition seeks approval of changes in place of use, purpose of use, and points of re-diversion of Permit 15026 to continue operation of the Yuba Accord Water Transfer Program through December 31, 2050. Yuba Water certified a supplemental environmental impact report for this project on September 17, 2024.

The Division issued public notice of Yuba Water's petition for long-term transfer on May 29, 2024. Richard Morat, the NGO Parties, NID, and the Delta Parties protested the petition. Yuba Water filed its answers on August 30, 2024. On December 24, 2024, the State Water Board's executive director assigned Yuba Water's petition for long-term transfer under water right Permit 15026 to the AHO. The assignment authorized the AHO to "resolve pending protests under Water Code sections 1703.1, 1703.3, 1703.4, 1703.5, and 1703.6." The protest resolution period ended on December 26, 2024.

On April 15, 2025, Yuba Water filed motions to cancel all four protests. All protestants except for Richard Morat timely filed oppositions to Yuba Water's motions to cancel their protests.

II. The AHO's Authority to Cancel or Reject Protests

Chapter 10 of Part 2, Division 2 of the Water Code and Articles 9, 10, and 11 of Chapter 2 of the State Water Board's regulations govern the process for protesting Yuba Water's petition for long-term transfer under Permit No. 15026. Yuba Water contends that the AHO has authority and should exercise that authority to dismiss all four protests for the following reasons:

1. NID cannot state a valid ground of protest based on the petition's interference with NID's prior upstream rights under section 749 of the Board's regulations;
2. The Delta Parties failed to provide sufficient information about the water rights that would be injured if the petition is approved, and even if such information had been provided, water right holders within CDWA's and SDWA's boundaries cannot state a valid ground of protest under section 749 of the Board's regulations because they have no right to receive water from Yuba Water's reservoir storage releases; and
3. The NGOs and Richard Morat have failed to provide a statement of facts sufficient to support their protest under section 745, subdivision (c) of the Board's regulations.

In response, NID and the Delta Parties argue that the AHO lacks authority to dismiss their protests because neither the State Water Board nor the AHO has requested additional information under Water Code sections 1703.3 or 1703.5. (See NID Opposition to Yuba Water Agency's Motion to Cancel Protest (NID Opp.) at 3:6-10 [citing Water Code, § 1703.6]; Protestant Central Delta Parties' Opposition to Yuba County Water Agency's Motion to Cancel

Central Delta Parties' Protest (Delta Parties Opp.) at 2:15-3:2 [citing Water Code, § 1703.6].) NID and the Delta Parties further argue that their protest cannot be cancelled because it has already been "accepted" by the State Water Board. (NID Opp. at 2:1-3; Delta Parties Opp. at 3:10-13.) Finally, NID argues that the AHO cannot cancel its protest because the executive director's assignment of Yuba Water's petition contemplates that the AHO would address the merits of NID's water right injury claims after a full adjudicative hearing. (NID Opp. at 4:1-14.)

As a matter of statutory interpretation, NID and the Delta Parties' arguments fail. Although Water Code section 1703.6 authorizes the State Water Board to cancel protests and petitions based on a party's failure "to provide information requested" by the Board, it is silent on the question of whether the Board may reject or cancel protests based on arguments that the protests are insufficient as a matter of law.

Section 1703.6's silence on legally deficient protests does not mean that the State Water Board or the AHO cannot act on Yuba Water's motions. Here, Yuba Water's motions essentially argue that NID and the Delta Parties cannot show that approval of the petition would injure the exercise of their water rights as a matter of law; in other words, there is no additional information that could lead the Board to reject the petition based on protestants' water right injury claims. (See Motion to Cancel re Delta Parties, at 4:7-28; Motion to Cancel re NID, at 3:6-5:13.) If Yuba Water's legal arguments are correct, it would be absurd to interpret Water Code section 1703.6 and section 749 of the State Water Board's regulations to require the State Water Board to give protestants an opportunity to provide information that cannot substantiate their claims before rejecting their protests.¹ (See e.g., *People v. Bullard* (2020) 9 Cal.5th 94, 106.)

Further, administrative agencies and their hearing officers have broad discretion and inherent power to manage the cases before them. (*Mileikowsky v. Tenet Healthsystem* (2005) 128 Cal.App.4th 531, 560-561.) A critical aspect of this power is the authority to assess the legal merits of the parties' claims and defenses, and to prohibit the introduction of irrelevant evidence and legal argument. (See Gov. Code, § 11513.) If the AHO can make determinations about the merits of the parties' legal arguments and exclude evidence based on its probative value, the authority of AHO hearing officers should similarly be construed to include cancellation of protests that lack merit as a matter of law.

If the AHO were to grant Yuba Water's motions to cancel the Delta Parties' or NID's protests, it would not be the first time State Water Board staff have rejected a protest on legal grounds without requesting additional information from a protestant. In Order WR 2009-0061, a protestant argued that the State Water Board has no authority to change a water right's method of diversion from storage to direct diversion except to prevent waste and unreasonable use. (Order WR 2009-0061 at p. 3.) In denying the protestant's request for reconsideration, the Board upheld Division of Water Rights staff's determination that the protest could be rejected as

¹ In any event, the AHO's invitation for parties to submit briefing on the motions to cancel served as a request for both legal and factual information such that any requirement that the State Water Board solicit additional information before cancelling a protest would be satisfied.

a matter of law without the need to solicit additional information about the legal basis of the protest. (*Id.* at 2, 19.)

Finally—and contrary to NID and the Delta Parties’ representations—neither the State Water Board or its staff have “accepted” any of the protests to the pending petition. (See Jian Ling, Petitioner and Protestant Directives for Protests Timely Filed Against Yuba County Water Agency’s Petition for Long-Term Transfer for Water Right Permit 15026 (Application 5632) (Jul. 31, 2024).)² Even if the protests had been accepted, however, the AHO would remain free to consider Yuba Water’s arguments. Nothing in the Water Code or the Board’s regulations suggests that staff’s acceptance of a protest constitutes an endorsement of its legal arguments or precludes a re-examination of a protest’s sufficiency after it has been initially accepted. Indeed, the Board’s regulations specifically provide an opportunity for petitioners and applicants to argue against the allegations in a previously accepted protest. (See Cal. Code Regs., tit. 23, § 751-752.) These regulations suggest that protests could be resolved as a matter of law despite the acceptance of the protest if the answer is persuasive. (See *id.* at § 751 [“To facilitate resolution of protests, answers shall be filed not later than 15 days following notification of acceptance of the protest”].) Thus, the fact that Board staff did not reject NID’s protest at the time of its filing does not foreclose consideration of Yuba Water’s arguments.

The language of the assignment of this matter to the AHO and the AHO’s actions thereafter also does not prevent the hearing officer from considering Yuba Water’s arguments. The Notice of Assignment for this matter expressly authorizes the AHO to “resolve pending protests under Water Code sections 1703.1, 1703.3, 1703.4, 1703.5, and 1703.6.” (Dec. 24, 2024, Memorandum from E. Oppenheimer to N. Kuenzi.) The Board has already determined that a protest may be resolved through rejection when a protest fails to state a valid ground of protest, and the relevant regulation specifically identifies protests “based upon interference with a prior right of” an upstream user as subject to rejection. (See Cal. Code Regs., tit. 23, §§ 749, 815.) The Notice of Assignment thus expressly delegated the AHO discretion to resolve NID’s protest under section 749 of the Board’s regulations. And contrary to NID’s argument, the AHO’s hearing notice for this petition explicitly contemplated the possibility that the AHO might exercise that discretion by authorizing Yuba Water to file its motions. (Amended Notice of Hearing (Apr. 7, 2025), at p. 9.)

Accordingly, nothing in the Water Code, the Board’s regulations, or the history of this matter from the time the AHO received it prevents the AHO from considering the merits of Yuba Water’s motions.

III. The Merits of Yuba Water’s Motions to Cancel

A. The Delta Parties’ Protest

Yuba Water argues that the Delta Parties’ protest should be cancelled because it does not provide sufficient information about the legal users of water the Delta Parties claim would be

² A true and correct copy of the cited letter from Jian Ling to the parties is attached hereto as **Attachment 1**. I assume that NID and the Delta Parties’ failure to acknowledge and address this communication was inadvertent.

injured by the pending petition. (Motion to Cancel Delta Parties' Protest at 3:15-4:6.) Yuba Water also argues that the Delta Parties cannot state a valid ground of protest based on injury as a matter of law because any water right holders represented by the Delta parties have no rights to water that would be transferred if the Board approves the pending petition. (*Id.* at 4:7-28.) In response, the Delta Parties argue that: (1) their protest contained sufficient information about the water right holders they represent to satisfy section 749's requirements; (2) the supplemental information about the water rights held by persons and entities they represent that they submitted with their opposition cures any alleged deficiency with their protest under section 745, subdivision (b) of the Board's regulations; and (3) their protest does not depend on an alleged entitlement for the release of water stored in upstream reservoirs. (Delta Parties Opp. at 3:18-15:26.)

Although I agree that the Delta Parties' protest initially failed to provide sufficient information about the water rights that might be injured by Yuba Water's petition, the Delta Parties cured any deficiency under section 745, subdivision (b) of the Board's regulations by submitting detailed information about the water rights they represent in this proceeding with their opposition brief. (See generally, Delta Parties Opp., Exh. B.) And as the Delta Parties observe, their protest does not assert a legal right to Yuba's stored water. Instead, their protest focuses on how the terms and conditions of the proposed transfer, and Yuba Water's proposed operations, may affect the quantity and quality available to South and Central Delta water right holders. (Delta Parties' Opp. at 13:5-15:26.; Delta Parties Protest Form, Attachment 1.)

The Delta Parties have plausibly alleged that the way in which Yuba Water conducts its transfers and refills its reservoirs from natural inflows may adversely affect the exercise of Delta water rights. And although Yuba Water claims its proposed terms and conditions would avoid such effects, it has not—and likely cannot—prove the effectiveness of those terms as a matter of law at this stage of the proceeding. Accordingly, an evidentiary hearing is necessary to assess the merits of the Delta Parties objection to the petition, and Yuba Water's motion to cancel their protest is DENIED.

B. The NGO Protest

Yuba Water argues that the NGO Parties' protest (NGO Protest) fails to present a legally sufficient claim under Water Code section 1736 or section 745 of the Board's regulations because it does not meaningfully address the proposed terms and conditions of the petition. Yuba Water further argues that the NGOs rely on generalized concerns about Delta conditions and propose alternative policy positions, rather than articulating actual environmental harm resulting from the petition itself. (See generally, Motion to Cancel NGO Protest at 5:1-11:22.)

The NGO Protest asserts that approval of the pending petition will not best serve the public interest and have an adverse environmental impact. (NGO Protest at p. 1.) Under section 745 of the Board's regulations, allegations that a petition would not best conserve the public interest or would have an adverse environmental impact must "be accompanied by a statement of facts supporting the allegation." (Cal. Code Regs., tit. 23, § 745 subd. (c).)

The NGO Protest's detailed statement of facts and argument easily satisfies the requirements of section 745, subdivision (c) of the Board's regulations. For example, the NGO Protestants point

to “publicly available data regarding fisheries declines in the Yuba River watershed,” adverse impacts from through-Delta transfers that occur in years when Delta water quality standards are relaxed by the Board’s approval of temporary urgency change petitions, reductions in spring flows caused by Yuba Water’s transfers that may harm salmonids, and Board staff’s draft conclusions that some of the flow Yuba Water stores and transfers may need to be reallocated to Delta environmental needs. (NGO Protest at pp. 2, 5-10.) They also articulate public interest concerns about the revenues generated by Yuba Water’s transfers, the alleged overallocation of California’s water resources, and how individual transferees should be prioritized if the Board grants the pending petition. (*Id.* at 11-13.) Finally, the NGO Protestants suggest discrete, specific permit terms that would resolve their objections to the petition. (*Id.* at 14).

Contrary to Yuba Water’s arguments, nothing in the Water Code or the Board’s regulations requires a protest to exhaustively address every facet of a petitioner’s proposed terms and conditions. (See Yuba Water Motion to Cancel NGOs’ Joint Protest, at pp. 5-11; Yuba Water’s Reply at 2-3.) Section 745 of the Board’s regulations requires only that a protest provide a statement of facts that, if proven true at a hearing, would demonstrate adverse environmental or public interest impacts. Protestants have done so here. Yuba Water’s arguments that its proposed terms and conditions will avoid those alleged impacts cannot be decided as a matter of law. Thus, the venue for resolving the NGO Protest is an evidentiary hearing, and Yuba Water’s motion to cancel the NGO Protest is DENIED.

C. Nevada Irrigation District (NID) Protest

Under section 749 of the Board’s regulations, protests based on interference with a prior right of an upstream user will “normally” not be accepted. Although NID is an upstream user, it contends that its protest falls outside section 749’s general rule because Yuba Water has requested in a separate proceeding that the Federal Energy Regulatory Commission (FERC) require NID to release water from its upstream facilities to benefit listed species in the lower Yuba River. (NID Protest at Attachment 1, pp. 002-004.) NID alleges that if FERC grants Yuba Water’s request, Yuba Water will use the water NID releases to support its transfer program. (*Id.* at p. 005.)

NID’s argument is not persuasive. FERC appears to have discretion to require NID to release additional water from NID’s upstream facilities regardless of whether the State Water Board approves the pending petition. (See generally, 16 U.S.C. § 803.) Thus, the State Water Board’s approval of the pending petition cannot, as a matter of law, cause injury to NID’s upstream water rights based on the theory advanced in NID’s protest.

Further, there appears to be no dispute that Yuba Water’s proposed approval terms would prohibit the transfer of any water FERC may require to NID to release. Yuba Water’s proposed Term 20 provides:

Only Released Transfer Water, as defined in Exhibit 1 (Scheduling and Accounting Principles) to Exhibit YCWA-11a, as submitted during the State Water Board’s 2007 hearing that led to Corrected Order WR 2008-0014 **(the 2007 Hearing)**, may be transferred through the **FRWP PORDs authorized by this Order under this permit.**

(Exhibit NGO-1, p. 5.)

Under the Scheduling and Accounting Principles, Yuba Water only receives compensation for “Delivered Transfer Water,” which is defined as “Released Transfer Water that is accounted as being exported by the Projects or contributing to exports” (Exhibit NID-4 at p. 35) The term “Released Transfer Water” is defined as “average daily flows measured at the Marysville Gage that are greater than the Baseline Flows.” (*Id.* at p. 36.) Finally, “Baseline Flows” are defined as the flows that would have been present at the Marysville Gage under the Decision 1644 interim flow requirements and all other conditions that would occur without implementation of the Transfer Agreement or the Fisheries Agreement. (*Id.* at p. 34.)

As Yuba Water concedes, any flows FERC may require NID to release for fish protection purposes would fall within the definition of Baseline Flows. (Motion to Cancel NID protest at 4:4-9.) Thus, even if the Board approves its petition as requested, Yuba Water cannot transfer or otherwise receive compensation for any additional water FERC may require NID to release. NID did not dispute this construction of Yuba Water’s proposed Term 20 in its opposition brief or at the pre-hearing conference. I therefore conclude that NID’s protest is not sufficient as a matter of law to overcome section 749’s general rule that the prior right of an upstream user cannot be injured by downstream diversions. (See Cal. Code Regs., tit. 23, § 749.)

Although NID’s water right injury claim appears invalid, I decline to grant Yuba Water’s motion. NID also appears to protest the pending petition on environmental and public interest grounds. (See NID Protest at pdf p. 1.) Yuba Water’s motion did not address those aspects of NID’s protest. NID also timely filed a Notice of Intent to Appear as a party at the hearing and is free to make arguments about the impacts of approving the petition regardless of the status of its protest. (See Amended Notice of Public Hearing and Pre-Hearing Conference at p. 10; NID, Notice of Intent to Appear (Feb. 25, 2025).) It is not clear that dismissing NID’s protest will have any effect on the scope of the hearing or NID’s participation, so Yuba Water’s motion to cancel NID’s protest is DENIED.

Instead of dismissing NID’s protest, I find that evidence relating to the pending FERC proceeding’s effect on NID’s water rights is not relevant to the question of whether Yuba Water’s petition for long-term transfer should be approved. Although NID remains free to participate as a party at the hearing on the pending petition, I will exclude any evidence related to the effect of the FERC re-licensing proceeding on NID’s water rights under Government Code section 11513, subdivisions (c) and (f).

D. Richard Morat’s Protest

Yuba Water seeks dismissal of the protest filed by Richard Morat on the grounds that it is procedurally and substantively deficient. Yuba Water argues that Mr. Morat’s protest is vague, lacks factual specificity, and fails to meet the requirements of Water Code section 1703.2(c) and section 745(c) of the Board’s regulations.

I agree that Mr. Morat’s protest is insufficient under section 745, subdivision (c) of the Board’s regulations. Mr. Morat’s protest appears to be based entirely on the environmental impacts of the proposed transfer on downstream fish. The only “facts” he offers in support of his arguments

are a reference to Yuba Water temporary transfers that occurred between 1987-1992 and his memory of fish that he caught during a fishing trip in September of 1992. (Morat Protest Email at pp. 1-2.) These allegations do not support his allegation that the proposed transfer will adversely impact the environment without a refill agreement. (See *id.* at p. 2; Cal. Code Regs., tit. 23, § 745.)

More fundamentally, the hearing notice for this matter expressly stated that the requirement to file a Notice of Intent to Appear by the March 14, 2025, deadline is “a request for additional information pursuant to Water Code section 1703.5[.]” and that protests can be cancelled under Water Code section 1703.6 if a protestant fails to file an NOI by the deadline. Mr. Morat has never filed an NOI to appear as a party, and did not oppose Yuba Water’s motion in accordance with the briefing schedule set forth in the hearing notice. Accordingly, Yuba Water’s motion to cancel Mr. Morat’s motion is GRANTED, and his protest is canceled under Water Code section 1703.6.

IV. Conclusion

Yuba Water’s motion to cancel Richard Morat’s protest is GRANTED. Yuba Water’s motions to cancel the three remaining protests are DENIED. Although I have denied Yuba Water’s motion with respect to NID’s Protest, I will exclude any evidence regarding separate proceedings before FERC that NID may offer to support its claim of injury.

Date: June 6, 2025

/s/ Sam Bivins
Sam Bivins, Hearing Officer

Service List

Kate Gaffney
State Water Resources Control Board
Division of Water Rights
P.O. Box 2000
Sacramento, CA 95812-2000
kathryn.gaffney@waterboards.ca.gov

John James
Yuba County Water Agency
1220 F Street
Marysville, CA 95901
jjames@yubawater.org

Ryan Bezerra
Maggie Foley
Morgan Biggerstaff
BKS Law Firm
rsb@bkslawfirm.com
mef@bkslawfirm.com
msb@bkslawfirm.com
Attorneys for Petitioner Yuba County Water Agency

Sarah Vardaro
Administrative and Policy Associate
California Sportfishing Protection Alliance
PO Box 1061
Groveland, CA 95321
sarah@calsport.org

Richard Morat
2821 Berkshire Way
Sacramento, CA 95864
rjmorat@gmail.com

Chris Shutes
Executive Director
California Sportfishing Protection Alliance
cshutes@calsport.org

Aaron Zettler-Mann
Traci Sheehan
Executive Director
South Yuba River Citizens League
aaron@yubariver.org
traci@yubariver.org

Keiko Mertz
Ron Stork
Jan Dorman
Gary Bobker
Friends of the River
keiko@friendsoftheriver.org
rstork@friendsoftheriver.org
janndorman@friendsoftheriver.org
gbobker@friendsoftheriver.org

Meghan Quinn
Director
California Dam Removal and Hydropower Program
American Rivers
mquinn@americanrivers.org

Mark Rockwell
Director and VP of Conservation,
Northern California Council Fly Fishers International
mrockwell1945@gmail.com

Sean Wirth
Conservation Committee Chair,
Sierra Club – Mother Lode Chapter
wirthsoscranes@yahoo.com

Andrew McClure
Minasian Law Firm
NEVADA IRRIGATION DISTRICT
amcclure@minasianlaw.com

John Herrick, Esq
S. Dean Ruiz, Esq.
*South Delta Water Agency, Central Delta
Water Agency and Rudy Mussi Investments
L.P.*

jherrlaw@aol.com
dean@mohanlaw.net

Rebecca Akroyd
Rebecca Harms
San Luis & Delta Mendota Water Authority
Rebecca.Akroyd@sldmwa.org
Rebecca.Harms@sldmwa.org

Erik Soderlund
CA Department of Water Resource
Erick.Soderlund@water.ca.gov

Kira Johnson
Jenna Mandell-Rice
State Water Contractors
kira.johnson@bbklaw.com
jrm@vnf.com

Administrative Hearings Office
exec-adminhrsgoffice@waterboards.ca.gov



State Water Resources Control Board

July 31, 2024

To: Enclosed email List

PETITIONER AND PROTESTANT DIRECTIVES FOR PROTESTS TIMELY FILED AGAINST YUBA COUNTY WATER AGENCY'S PETITION FOR LONG-TERM TRANSFER FOR WATER RIGHT PERMIT 15026 (APPLICATION 5632)

This letter is directed to Yuba County Water Agency (Petitioner) and parties who filed protests against the approval of the subject petition (Protestants) within the timeframe allowed by the State Water Resources Control Board (State Water Board).

The purpose of this letter is to acknowledge the receipt of timely filed protests and provide instructions to engage in good faith negotiation to resolve them. It is important to read the following instructions closely and respond accordingly. Failure to follow these instructions or respond to related requests for information from the State Water Board within the timeframes stated below or as otherwise allowed may result in cancellation of the subject petition or rejection, dismissal, or cancellation of protests. (Wat. Code, § 1703.6; Cal. Code Regs., tit. 23, §§ 749, 750, 796, 815.)

The State Water Board has not yet evaluated the protests to determine if they are based on issues within the State Water Board's jurisdiction, state valid grounds of protest, and substantially comply with protest filing requirements other than the filing deadline. (Wat. Code, § 1703.2; Cal. Code Regs., tit. 23, §§ 745, 746, 796, 815.) The State Water Board may do so at any time during the proceeding on the subject petition and request additional information necessary to satisfy these requirements or to clarify, amplify, or otherwise supplement required information. The State Water Board may reject or cancel protests if the requested information is not received within the timeframe given. (Wat. Code, §§ 1703.3, 1703.5, 1703.6; Cal. Code Regs., tit. 23, §§ 749, 796, 815.) This letter should not be construed as making any determinations regarding whether protests are acceptable. No additional protest issues may be added to a protest once it has been filed. Consequently, the protests cannot be amended to include new issues.

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

Instructions for Petitioner (Yuba County Water Agency)

The Petitioner must provide a written answer to each protest no later than 30 days from the date of this letter. Answers must be responsive to the allegations made, indicate the intended line of defense, and indicate any possibilities for settlement. Answers shall be provided to the Protestants and filed with the State Water Board. (Cal. Code Regs., tit. 23, §§ 751, 752, 796, 815.)

The Petitioner may request additional time to answer protests in order to enable negotiation of contested issues. Such requests must be submitted to the State Water Board and accompanied by a showing of diligent good faith efforts to reach an agreement between the parties with reasonable prospects of success. (Cal. Code Regs., tit. 23, §§ 753, 796, 815.)

Instructions for Petitioner and Protestants

Water Code section 1703.4 requires Protestants and the Petitioner to make a good faith effort to resolve the protests not later than 180 days after the deadline to file a protest for all petitions to change water right applications, permits, or licenses. Based on this timeline, Protestants and the Petitioner must make a good faith effort to resolve the protests by December 26, 2024, the first business day following the 180-day period. The State Water Board may allow additional time for protest negotiation for good cause shown. Requests for additional time should be submitted in writing prior to the close of the initial 180-day protest resolution period noted above. (Wat. Code, § 1703.4.)

By December 26, 2024, each Protestant must provide the State Water Board a written status report for their protest, and the Petitioner must provide a written status report for all protests. Status reports must state whether the protest in question has been resolved, clearly describe the steps taken to address the protest, and if applicable, propose a schedule for continued protest negotiations. The State Water Board may allow additional time for filing protest status reports for good cause shown. (Wat. Code, § 1703.5.)

If you have any questions, please contact Kate Gaffney at kathryn.gaffney@waterboards.ca.gov. Written correspondence or inquiries should be addressed as follows: State Water Resources Control Board, Division of Water Rights, Attn: Kate Gaffney, P.O. Box 2000, Sacramento, CA, 95812-2000.

Sincerely,

ORIGINAL SIGNED BY:

Jian Ling, Acting Manager
Petitions, Licensing, and Registration Section
Division of Water Rights

ec: See next page.

ecc: Yuba County Water Agency
John James
jjames@yubawater.org

Yuba County Water Agency
c/o Ryan Bezerra
Bartkiewicz, Kronick & Shanahan,
PC
rsb@bkslawfirm.com

California Sportfishing Protection
Alliance
Sarah Vardaro
sarah@calsport.org
Chris Shutes
blancapaloma@msn.com

South Yuba River Citizens League
Aaron Zettler-Mann
aaron@yubariver.org

Friends of the River
Keiko Mertz
keiko@friendsoftheriver.org
Jann Dorman
janndorman@friendsoftheriver.org

American Rivers
California Dam Removal and
Hydropower Program
Meghan Quinn
mquinn@americanrivers.org

Mark Rockwell
Northern California Council Fly Fishers
International
mrockwell1945@gmail.com

Sierra Club – Mother Lode Chapter
Sean Wirth
wirthsoscranes@yahoo.com

Richard Morat
rjmorat@gmail.com

South Delta Water Agency
Central Delta Water Agency
Rudy Mussi Investments L.P.
c/o John Herrick
jherrlaw@aol.com
c/o S. Dean Ruiz
dean@mohanlaw.net

Nevada Irrigation District
c/o Andrew McClure
Minasian Law Firm
amcclure@minasianlaw.com