

CWFhearing

From: Irvine, Catharine <cirvine@DowneyBrand.com>
Sent: Friday, January 22, 2016 11:47 AM
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Subject: CalWaterFix 1/28/16 Pre-hearing conference (NCWA, etc.)
Attachments: marcus.settlementjan2016.pdf

Please see attached.

Catharine Irvine
Legal Secretary to David R.E. Aladjem,
Rebecca R.A. Smith and Meredith E. Nikkel

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NCWA
Northern California Water Association



January 21, 2016

Via E-mail (CWFhearing@waterboards.ca.gov)

Chair Felicia Marcus
Board Member Tam Doduc
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: Pre-Hearing Conference for Hearing on Petition Requesting Changes in Water Rights of the Department of Water Resources and U.S. Bureau of Reclamation for the California WaterFix Project

Dear Chair Marcus and Board Member Doduc:

The signatories to this letter have all filed notices of intent to appear in the above-referenced proceeding. We are writing to request that the State Water Board, in establishing procedures and timelines for this proceeding, (i) encourage the resolution of protests through settlement or other negotiated resolutions, and (ii) include procedural mechanisms that will accommodate settlements as they occur during the course of the hearing process. We offer specific thoughts on appropriate procedural mechanisms and timelines below.

The State Water Board has long encouraged settlements of water right disputes. For example, in the hearings that preceded D-1641, the Board devoted an entire phase of the hearing to consideration of proposed settlements. With regard to the present hearing, the resolution of protests through settlement would greatly expedite a complex and lengthy hearing process, conserve the resources of the Board and hearing participants, and reduce the length and complexity of any subsequent litigation. In particular, we believe that the approval of settlements during or following Part I of the hearing would dramatically reduce the length and complexity of Part II.

While the Notice of Hearing mentions the goal of protest resolution, it does not specify how protest resolution will be addressed by the State Water Board during the course of the hearing process. This is a major issue. Before parties will be willing to commit the time and resources required to settle the

complex issues involved in this proceeding they will need assurances that the State Water Board will provide an opportunity for the presentation of proposed settlements during the course of the hearing process. In other words, the parties need assurances that the State Water Board will not wait until the end of the hearing process to provide an opportunity for the presentation of proposed settlements.

Accordingly, we recommend that the State Water Board issue a supplement to the Notice of Hearing specifying the procedures and timelines by which (i) settling parties may submit proposed protest dismissal settlements to the Board and to the other hearing participants, and (ii) the Board will conduct further proceedings relating to the proposed settlements. One option we believe has merit is to designate a time period between the Part I and Part II hearings for the submission of proposed settlements to the Board and other hearing participants and the conduct of further proceedings relating to such settlements.

Thank you for your consideration of these comments.

Very truly yours,



Roger Patterson
Metropolitan Water District



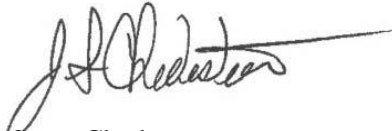
David Guy
Northern California Water Association



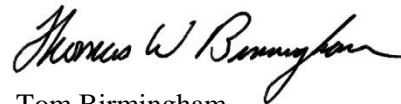
Jason Peltier
San Luis & Delta-Mendota Water Authority



Terry Erlewine
State Water Contractors



Steve Chedester
San Joaquin River Exchange Water Authority



Tom Birmingham
Westlands Water District



Steve Knell
San Joaquin Tributaries Authority