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BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

HEARING ON 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.

THE CITY OF STOCKTON'S
RESPONSE TO SAN LUIS & DELTA-
MENDOTA WATER AUTHORITY AND
WESTLANDS WATER DISTRICT'S
OBJECTIONS TO EXHIBITS
SUBMITTED FOR ADMISSION INTO
EVIDENCE BY GROUP 22 AT THE
CLOSE OF ITS PART 1B CASE IN
CHIEF

1 I. INTRODUCTION

2 The City of Stockton (Stockton) respectfully requests that the State Water
3 Resources Control Board (State Water Board) overrule San Luis & Delta-Mendota Water
4 Authority (SLDMWA) and Westlands Water District's (Westlands) Objections To Exhibits
5 Submitted For Admission Into Evidence By Groups 15 and 22 At The Close Of Their Part
6 1B Cases In Chief (Objections to Exhibits). Specifically, SLDMWA and Westlands
7 objected to the admission of Stockton's May 30, 2008 Comments on the Notice of
8 Preparation for BDCP EIR, July 29, 2014 Comments on BDCP Draft EIR/EIS, and
9 October 29, 2015 Comments on CalWaterFix RDEIR/SDEIS, identified as STKN-002,
10 STKN-003, and STKN-004 respectively, on the grounds that they constitute hearsay.

11 II. LEGAL STANDARD

12 This hearing is governed by Chapter 4.5 of the Administrative Procedure Act,
13 (Gov. Code, § 11400 et. seq.); regulations adopted by the State Water Board, (Cal.
14 Code of Regs., tit. 23, § 648-648.8); sections 801 to 805 of the Evidence Code; and
15 section 11513 of the Government Code. (Cal. Code of Regs., tit. 23, § 648(b).) The
16 State Water Board is not required to conduct adjudicative hearings according to the
17 technical rules of evidence applicable to a court. (Gov. Code, § 11513(c).) Instead,
18 "[a]ny relevant evidence shall be admitted if it is the sort of evidence on which
19 responsible persons are accustomed to rely in the conduct of serious affairs, regardless
20 of the existence of any common law or statutory rule which might make improper the
21 admission of evidence over objection in civil actions." (*Ibid.*) The State Water Board
22 follows these relaxed standards because the Hearing Officers' expertise in the subject
23 matter justifies the State Water Board's ability to make both legal and factual
24 determinations.

25 III. ARGUMENT

26 A. Stockton's Comment Letters Are Admissible and SLDMWA and Westlands'
27 Objection is Meritless

28 SLDMWA and Westlands' objection to the admission of Stockton's comment

1 letters are vague and without merit. First, SLDMWA and Westlands fail to identify any
2 statements in the documents to which they object. (See Objections to Exhibits at p.
3 2:25-27.) The objection should be overruled because they fail to point to any specific
4 statement that they allege to be hearsay. Second, the objection should be overruled on
5 the ground that the documents are relevant and properly identified as documents relied
6 on by Stockton's witness in forming his opinions. Mr. Granberg references STKN-002,
7 STKN-003, and STKN-004 in support of his opinion that Stockton has made its concerns
8 regarding the effects of the proposed Project known to Petitioners, and that those
9 concerns were not addressed in subsequent drafts of the environmental documents.
10 Furthermore, the comment letters are properly admitted as business and public records,
11 previously prepared and submitted by Stockton to several state and federal agencies.
12 (Evid. Code, §§ 1271, 1280.) Therefore, SLDMWA and Westlands' objection should be
13 overruled.

14 **B. Conclusion**

15 For the foregoing reasons, Stockton respectfully requests that the State Water
16 Board overrule SLDMWA and Westland's objection to STKN-002, STKN-003, and
17 STKN-004, and admit these documents into evidence.

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SOMACH SIMMONS & DUNN
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DATED: December 15, 2016

By 
Kelley M. Taber
Attorneys for City of Stockton

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STATEMENT OF SERVICE

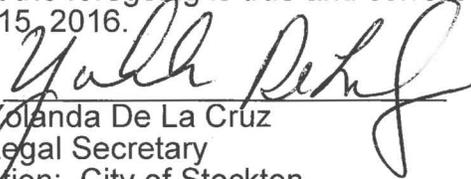
**CALIFORNIA WATERFIX PETITION HEARING
Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)**

I hereby certify that I have this day submitted to the State Water Resources Control Board and caused a true and correct copy of the following document(s):

**THE CITY OF STOCKTON'S RESPONSE TO SAN LUIS & DELTA-MENDOTA
WATER AUTHORITY AND WESTLANDS WATER DISTRICT'S OBJECTIONS TO
EXHIBITS SUBMITTED FOR ADMISSION INTO EVIDENCE BY GROUP 22 AT THE
CLOSE OF ITS PART 1B CASE IN CHIEF**

to be served by **Electronic Mail** (email) upon the parties listed in Table 1 of the Current Service List for the California WaterFix Petition hearing, dated November 15, 2016 posted by the State Water Resources Control Board at http://www.waterboards.ca.gov/waterights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml:

I certify that the foregoing is true and correct and that this document was executed on December 15, 2016.

Signature: 
Name: Yolanda De La Cruz
Title: Legal Secretary
Party/Affiliation: City of Stockton
Address: 500 Capitol Mall, Suite 1000
Sacramento, CA 95814

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