



The Environmental Justice Coalition for Water

Water Justice for All

December 5, 2017

Via E-mail to CWFhearing@waterboards.ca.gov

The Honorable Felicia Marcus, Chair
Co-Hearing Officer
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

The Honorable Tam Doduc
Co-Hearing Officer
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: EJCW letter explaining why exhibits submitted late

Dear Hearing Officers Doduc and Marcus:

Pursuant to instructions received from the CA WaterFix Hearing Team via e-mail on Monday, December 4, 2017, at 3:09 p.m., The Environmental Justice Coalition for Water (EJCW) uploads this letter explaining why our exhibits are being submitted late. Thank you for making the FTP site available for this purpose.

In short, EJCW experienced technical difficulties in attempting to upload our submittal on Thursday, November 30, 2017, as described in EJCW's December 1, 2017, request to the hearing officers to upload EJCW's exhibits to the FTP site (attached below and incorporated by reference as if fully set forth herein). Once the FTP site was reopened on the afternoon of Monday, December 4, 2017, EJCW, again, experienced the same technical difficulties in attempting to upload our submittal, which, as described below, shed some light on the technical difficulties EJCW experienced when originally attempted before noon on Thursday, November 30, 2017. Upon experiencing these technical difficulties in uploading our documents a second time on Monday, December 4, 2017, EJCW corresponded with Kyle Ochenduszkowski of the Hearing Team in an attempt to find a solution to the technical difficulties. EJCW's correspondence with Mr. Ochenduszkowski included EJCW e-mailing Mr. Ochenduszkowski a photograph of the error message then-still displaying on the FTP site on EJCW's computer screen. Mr. Ochenduszkowski then forwarded this photograph (a.k.a. "screen shot") to Kevin

Heinemann, who serves as a technical advisor to the State Water Board for such matters. On Tuesday, December 5, 2017, Mr. Heinemann sent an e-mail to EJCW's operations manager with the following instructions:

Thank you for the screen shot. I did some troubleshooting and what I could find is that this error usually results from one file that failed to upload then the system continues to try the same file generating the same error messages. The recommended course of action would be to disconnect from the FTP web site, make sure all files that are being uploaded are closed and then logging back in to the FTP and trying it again.

EJCW followed Mr. Heinemann's instructions and all of EJCW's exhibit files now appear to have uploaded properly, along with the revised Exhibit List and this letter of explanation.

By way of further explanation, EJCW's now-uploaded exhibits fall into two different sets of circumstances with respect to their timeliness, each of which is addressed, separately, below.

First, there is a set of documents that, due to the technical difficulties, described above, failed to upload properly before the November 30, 2017, noon deadline, despite being in final form and attempted to upload before the noon deadline. This set of documents includes, in numerical order, EJCW exhibits EJCW-1 through EJCW-15 and EJCW-17 through EJCW-38. One witness exhibit was inadvertently and mistakenly not listed in EJCW's Exhibit List, although it was in hand and, as with the others in the first group, we attempted to upload it before noon, only to fail to do so due the technical difficulties, described above. The newly uploaded EJCW Exhibit List has this exhibit correctly identified.

Second, EJCW received a document from a witness to whose testimony it pertained, after the noon deadline. A hold had been placed in EJCW's original Exhibit List in the hope of being able to add it later. See EJCW-16 (Fish Consumption Report 704).

EJCW's revised and now-accurate Exhibit List has been uploaded to the FTP site.

We thank the hearing officers and hearing team for their consideration and the parties to this proceeding for their understanding and forbearance. If you have any questions, please do not hesitate to contact me by phone at (916) 432-EJCW(3529) or by e-mail at colin@ejcw.org.

Sincerely,



Colin Bailey, Esq.
Executive Director and Attorney
The Environmental Justice Coalition for Water

cc: Service List