

1 Spencer Kenner (SBN 148930)
2 James E. Mizell (SBN 232698)
3 **DEPARTMENT OF WATER RESOURCES**
4 Office of the Chief Counsel
5 1416 9th St., Room 1104
6 Sacramento, CA 95814
7 Telephone: 916-653-5966
8 E-mail: jmizell@water.ca.gov

9 Attorneys for California Department of Water
10 Resources

11 **BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

12 HEARING IN THE MATTER OF CALIFORNIA
13 DEPARTMENT OF WATER RESOURCES
14 AND UNITED STATES BUREAU OF
15 RECLAMATION REQUEST FOR A CHANGE
16 IN POINT OF DIVERSION FOR CALIFORNIA
17 WATER FIX

18 **DEPARTMENT OF WATER
19 RESOURCES' CONSOLIDATED
20 OBJECTIONS TO ADMISSION OF
21 PART 2 CROSS EXAMINATION
22 EXHIBITS INTO EVIDENCE OF
23 PROTESTANTS: DEIDRE DES
24 JARDINS, RESTORE THE DELTA,
25 LOCAL AGENCIES OF THE NORTH
26 DELTA ET AL., CENTRAL DELTA
27 WATER AGENCY ET AL. AND
28 NATURAL RESOURCE DEFENSE
COUNCIL.**

INTRODUCTION

Petitioner California Department of Water Resources ("DWR") submits these objections to the Part 2 cross examination exhibits submitted by the following parties: Deirdre Des Jardins, Restore the Delta ("RTD"), Local Agencies of the North Delta, et al. ("LAND"), Central Delta Water Agency et al. ("CDWA") and Natural Resources Defense Council ("NRDC").

DWR notes that it reached an agreement with Snug Harbor Resorts resolving its objections to Snug Harbor's exhibits. In particular, DWR agreed not to object to the admission of individual slides in presentations submitted as Exhibits SHR-2-251, 2-263, and 2-264, which are accurately reflected on Snug Harbor Resort's most recent updated exhibit index. DWR, however, anticipated that slides not submitted as evidence would be removed from the record. DWR respectfully requests that these exhibits be amended to contain only the slides now being submitted by Snug Harbor Resorts into the Record.

1 **OBJECTIONS**

2 **I. Deirdre Des Jardins**

3 DWR objects to the admission of Exhibit DDJ-286 because the exhibit is unreliable,
4 unauthenticated and clearly not the type of evidence that a responsible person would rely
5 on in the conduct of serious affairs. (Government Code § 11513(c).) Exhibit DDJ-286 is a
6 collection of images taken from a Wikipedia webpage. Wikipedia by definition is a source
7 of free online information that is created and edited by any number of unknown volunteers.
8 Information drawn from Wikipedia is therefore highly unreliable, and should not be used to
9 support testimony or provide evidence in the context of a hearing, or any other legal matter.

10 DWR also takes the opportunity to lodge a timely hearsay objection, pursuant to
11 Government Code § 11513(d), to the following cross examination exhibits, Ms. Des Jardins
12 offered for the truth of the statements contained within the exhibits:

- 13 • DDJ-286, Wikipedia, Timeline of Oroville Dam Crisis, February 2017 (Graphics); and
- 14 • DDJ-287, Nina Erlich-Williams, Nearly Half of California’s Native Salmon, Steelhead
15 and Trout on Tract to be Extinct Within 50 Years; State of Salmonids Report for
16 2017 Details Crisis and Opportunities to Reverse the Trend, UC Davis News, May
17 16, 2017.

18 **II. Restore the Delta**

19 DWR objects to RTD-1035, Table of Kern County Agricultural SWP Deliveries San
20 Joaquin Valley Area SWP Deliveries, MWDSC Deliveries, Southern California Area Total
21 Deliveries, Westlands Water District Deliveries, and Total Delta Mendota and San Luis
22 Canals' Deliveries, with descriptive statistics, on the grounds that the information lacks
23 foundation and is not self-authenticating. (See February 21, 2017 Ruling p. 16.) RTD-
24 1035 consists of extracted data synthesized into a table, including descriptive statistics,
25 which lacks citation or a sponsoring witness regarding the information utilized and/or
26 excluded. Representations of the cross-examiner as to the source of the data are
27 insufficient to establish foundation. RTD-1035 was not used as part of RTD’s case-in-chief.

1 DWR respectfully requests that RTD-1035 be excluded from the record.

2 DWR also lodges a timely hearsay objection, pursuant to Government Code §
3 11513(d), to RTD-1033, California Waterfix Change Petition – Policy Statement of
4 Westlands Water District General Manager Thomas Birmingham, dated February 2017,
5 which RTD offered for the truth of the statements contained within the exhibit.

6 **III. Local Agencies of the North Delta, et al**

7 DWR objects to the admission of LAND-216, a table created purportedly showing air
8 temperatures and graphics with a fitted line, and LAND-222, a boat survey purportedly
9 conducted by a legal intern in LAND’s counsel’s office. Neither document is self-
10 authenticating and both lack foundation in that no sponsoring witness was provided
11 regarding how the data was collected and analyzed. (See February 21, 2017 Ruling, p.
12 16.) Representations of counsel during cross-examination when such exhibits are utilized
13 are insufficient. DWR respectfully requests that such exhibits be excluded because they
14 lack foundation and demonstrated relevance, and therefore do not constitute reliable
15 information on which the Board can rely.

16 DWR also respectfully lodges a timely hearsay objection, pursuant to Government
17 Code § 11513(d), to two newspaper articles submitted by LAND as cross-examination
18 exhibits, which were out-of-court statements cited during cross examination for the truth of
19 the matters asserted:

- 20 • LAND-236, New York Times (Dec. 30, 2015) Farmers Try Political Force to Twist
21 Open California Taps, and
- 22 • LAND-238, San Francisco Chronical (Mar. 29, 2018) LA is Deceiving Itself If It
23 Thinks It Doesn’t Need Delta Tunnels.

24 **IV. Central Delta Water Agency et al.**

25 DWR lodges a timely hearsay objection, pursuant to Government Code § 11513(d)
26 to cross-examination, exhibit SDWA-315, a PowerPoint presentation by Metropolitan Water
27 District of South California, which constitutes an out-of-court statement submitted for the
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1 truth of the matter asserted.

2 **V. Natural Resources Defense Council**

3 DWR notes that it currently has pending objections to cross examination exhibits
4 NRDC-100 and NRDC-102, filed February 23, 2018.

5 **CONCLUSION**

6 For the foregoing reasons, DWR respectfully requests that the Board sustain its
7 objections to the above-referenced Part 2 cross examination exhibits.

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9 Dated: May 1, 2018

CALIFORNIA DEPARTMENT OF WATER
RESOURCES



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12 James "Tripp" Mizell
13 Office of the Chief Counsel
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