

July 11, 2018

VIA ELECTRONIC MAIL (CWFHEARING@WATERBOARDS.CA.GOV)

Hearing Chair Tam Doduc
Hearing Co-Chair Felicia Marcus
State Water Resources Control Board
1001 I Street
Sacramento, California 95814

Re: DWR-1143 – Compliance with the Hearing Officers’ March 27, 2018 *Ruling on Objections and Motions to Strike*

Dear Hearing Chair Doduc and Hearing Co-Chair Marcus:

The Sacramento Valley Water Users respectfully request that the Hearing Officers require the Department of Water Resources’ prompt compliance with the Hearing Officers’ March 27, 2018 *Ruling on Objections and Motions to Strike*. In that ruling, the Hearing Officers declined to admit the Department of Water Resources’ “Consolidated Operational Criteria and Criteria Source Chart” (DWR-1143) into evidence, and directed DWR to:

- (1) Prepare and include an exhibit within its Part 2 rebuttal that identified each proposed operating condition for the WaterFix Project and the regulatory requirement or other basis for each one; and
- (2) Identify and make the persons involved in preparing that exhibit available for cross-examination during Part 2 rebuttal; and
- (3) Anticipate and address the alleged inconsistency raised in the Downey Brand protestants’ March 12, 2018 written objection.

March 27, 2018 *Ruling on Objections and Motions to Strike*, p. 2 [emphasis added]. In a subsequent reminder regarding the March 27, 2018 Ruling, the Hearing Officers further directed DWR to “specifically differentiate between regulatory requirements and operational or modeling assumptions and identify how the regulatory requirements are reflected in the operational and modeling assumptions to the extent applicable.” June 28, 2018 *CWF - Reminder Regarding Hearing Officers’ March 27, 2018 Ruling*.

DWR’s July 10, 2018 rebuttal submission fails to comply with these clear directives.

Though DWR-1143 is referenced and relied upon throughout the proposed rebuttal testimony,¹ that testimony contains no revised version of the previously rejected DWR-1143, or any other exhibit prepared “with the same purpose that motivated DWR-1143: identifying each proposed operating condition for the WaterFix Project and the regulatory requirement or other basis for each one.” March 27 Ruling, p. 2.

DWR’s failure to comply in a timely fashion with the March 27 Ruling must not be allowed to jeopardize other parties’ ability to appropriately review and evaluate the new exhibit, prepare cross-examination accordingly, and evaluate potentially applicable objections. *See* March 27 Ruling, p. 2.

In the interest of efficiency and fairness, the SVWU respectfully request that the Hearing Officers require DWR to respond and comply with March 27, 2018 Ruling and the June 28, 2018 Reminder by providing the required information no later than 5pm on Friday, July 13, 2018.

Very truly yours,

DOWNEY BRAND LLP



Meredith E. Nikkel

MEN

¹ *See* DWR-1217, Testimony of Chandra Chilmakuri (“CWF H3+ does not include any changes to the DCC gate operations criteria compared to the NAA. (DWR-1143.)”); DWR-1221, Testimony of Marin Greenwood (“It is incorrect that the south Delta export rules are to be unchanged; see discussion by Mr. Reyes (Exhibit DWR-1226) and Exhibit DWR-1143, for examples.”); DWR-1226, Testimony of Erik Reyes (“DWR-1143 summarizes the water operations criteria for CWF H3+ operational scenario adopted in the July 2017 CWF Certified Final EIR (SWRCB-109, SWRCB-108).”)

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:

**7/11/2018 Letter re DWR-1143 – Compliance with the Hearing Officers’ March 27,
2018 Ruling on Objections and Motions to Strike**

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 July 3, 2018, posted by the State of Water Resources Control Board at

http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml:

Note: In the event that any emails to any parties on the Current Service List are undeliverable, you must attempt to effectuate service using another method of service, if necessary, and submit another statement of service that describes any changes to the date and method of service for those parties.

For Petitioners Only:

	I caused a true and correct hard copy of the document(s) to be served by the following method of service to Suzanne Womack & Sheldon Moore, Clifton Court, L.P., 3619 Land Park Drive, Sacramento, CA 95818: Method of Service: _____
--	--

I certify that the foregoing is true and correct and that this document was executed on July 11, 2018.

Signature: 

Name: Catharine Irvine

Title: Legal Secretary

Party/Affiliation: Downey Brand, LLP

Address: 621 Capitol Mall, Sacramento, CA 95814