

FREEMANFIRM

A PROFESSIONAL LAW CORPORATION

PRINCIPALS

MAXWELL M. FREEMAN

MICHAEL L. GUREV

THOMAS H. KEELING

ARNOLD J. WOLF

LEE ROY PIERCE, JR.

1818 GRAND CANAL BOULEVARD · STOCKTON · CA 95207

ASSOCIATES

FRANKLIN J. BRUMMETT

MICHAEL N. MORLAN

JOHN W. VISS

MATTHEW P. BROWN

March 4, 2019

Via Email CWFhearing@waterboards.ca.gov

Board Member Tam Doduc,
Hearing Officer, California WaterFix CPOD
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: Response to DWR's March 1, 2019 Request for Sixty-Day Stay

Dear Hearing Officer Doduc:

On behalf of Protestants County of San Joaquin, et al., and Local Agencies of the North Delta, we are writing in response to the Department of Water Resources' March 1 request that this Board place the Petition "in abeyance and issue a temporary sixty (60) day stay on all proceedings for the WaterFix CPOD."

We understand the terms "abeyance" and "stay" to be synonymous in this context; both denote a period of inactivity or suspension – not a dismissal of the Petition. We do not believe DWR is also asking for a suspension or relaxation of the existing prohibition against ex parte communication set forth at page 36 of this Board's October 30, 2015 Notice of Petition and Notice of Public Hearing, which states, in pertinent part:

EX PARTE CONTACTS. During the pendency of this proceeding, . . . , there shall be no ex parte communications with State Water Board members or State Water Board hearing team staff and supervisors, regarding substantive or controversial procedural issues within the scope of the proceeding. (Gov. Code, §§ 11430.10-11430.80.) **Any communications regarding potentially substantive or controversial procedural matters, including but not limited to evidence, briefs, and motions, must demonstrate that all parties were served and the manner of service.**

The Hearing Officers have reiterated this admonition against substantive ex parte communications on multiple occasions during the WaterFix Hearing. We understand that the prohibition against ex parte communications would remain in place during the requested "stay" or "abeyance" and that any discussion by DWR personnel with the SWRCB related to the WaterFix CPOD Petition and/or any proposed changes to the project, including any additional review under CEQA, would be subject to that continuing prohibition.

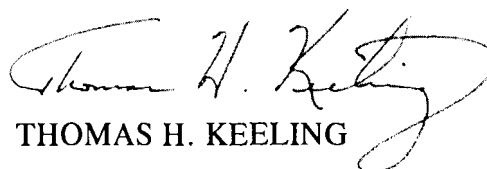
Board Member Tam Doduc,
Hearing Officer, California WaterFix CPOD
March 4, 2019
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With that understanding - and in light of Governor Newsom's February 12 announced opposition to the Twin Tunnels project and other recent developments - we do not oppose DWR's request. If our understanding about the continuing prohibition against ex parte communications is incorrect, please let us know, as that could materially change our position.

Please contact me if you have any questions. Thank you.

Very truly yours,

FREEMAN FIRM



THOMAS H. KEELING

SOLURI MESERVE



OSHA R. MESERVE

THK:tmr

STATEMENT OF SERVICE

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

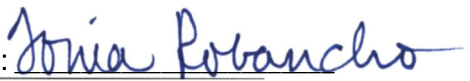
STATEMENT OF SERVICE

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):

**PROTESTANTS COUNTY OF SAN JOAQUIN, ET AL.'S RESPONSE TO DWR'S MARCH 1, 2019
REQUEST FOR SIXTY-DAY STAY**

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 October 30, 2018, posted by the State Water Resources Control Board at http://www.waterboards.ca.gov/waterrights/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 March 4, 2019.

Signature: 
Name: Tonia Robancho
Title: Legal Assistant for Thomas H. Keeling
Freeman Firm

Party/Affiliation:
County of San Joaquin, San Joaquin County Flood Control
and Water Conservation District, and Mokelumne River
Water and Power Authority

Address:
Freeman Firm, A Professional Law Corporation
1818 Grand Canal Blvd., Suite 4, Stockton, CA 95207