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Sent: Wednesday, February 03, 2016 3:43 PM
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Subject: CalWaterFix - SVWU's Letter re Schedule for Part I
Attachments: SVWU Letter re Schedule for Part I.pdf

Please see attached.

Catharine Irvine
Legal Secretary to David R.E. Aladjem,
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February 3, 2016

VIA ELECTRONIC MAIL: CWFhearing@waterboards.ca.gov

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

Re: Schedule for Part 1 of California WaterFix Hearing

Dear Chair Marcus and Member Doduc:

On behalf of the Sacramento Valley Water Users (SVWU), we appreciated your interest in the proposal we made during the January 28, 2016 pre-hearing conference for the SWRCB to set a staggered schedule for the submission of exhibits and the presentation of testimony in Part 1 of the California WaterFix hearing. This morning, the attorneys for the petitioners, the Department of Water Resources (DWR) and the U.S. Bureau of Reclamation (Reclamation), sent you a letter regarding our proposal. That letter argues that the SWRCB should not stagger the Part 1 exhibit and testimony schedule as we proposed. DWR's and Reclamation's letter, however, actually supports the idea that the Part 1 schedule should be staggered.

As we mentioned during the January 28 pre-hearing conference, section 794, subdivision (a)(9) of the SWRCB's regulations requires that the petition contain "[i]nformation identifying any effects of the proposed change(s) on other known users of water, including identification in quantitative terms of any projected change in water quantity, water quality, timing of diversion or use, consumptive use of the water, reduction in return flows, or reduction in the availability of water within the streams affected by the proposed change(s)." Information submitted in compliance with this regulation normally provides protestants with detailed information that helps them focus their protests, and their exhibits and testimony for any hearing on the petition, on the specific issues concerning potential impacts on legal users of water. This information has not yet been provided by petitioners.

Our proposal to stagger the schedule for the submission of exhibits and the presentation of testimony would, consistent with this regulation, require the petitioners to provide the considerable missing information about their proposed project and, as a result, allow protestants

to focus their exhibits and testimony. This should help narrow the issues for the SWRCB's hearing.

As discussed in our comments and the comments of many others for the pre-hearing conference, DWR's and Reclamation's February 2, 2016 letter demonstrates that there still is a substantial lack of clarity about how they would operate the State Water Project (SWP) and the Central Valley Project (CVP) if the SWRCB were to approve their change petition. Their letter states that hydrologic modeling of projected CVP/SWP operations already exists within the draft CEQA/NEPA documents for the project and then goes on to state that another set of modeling of projected CVP/SWP operations exists -- apparently both a different, updated model as well as different model runs --and is publicly available from Reclamation in connection with its working draft Biological Assessment. In other words, petitioners admit that they have made available two different sets of modeling of CVP/SWP operations associated with the California WaterFix change petition. This exacerbates the pre-existing conflicts in information regarding the change petition project. Also, at this time, we do not know whether petitioners will provide additional details regarding their proposed operations, or the modeling of their proposed operations, in the exhibits that they will submit on March 1 or in their hearing testimony. Because petitioners have asked for 13 hours to summarize their testimony, it certainly is possible that they will provide such additional details.

At best, this situation is making it extremely difficult for protestants to prepare clear and focused exhibits and testimony concerning the possible effects of California WaterFix on their legal uses of water. This situation also may require protestants and the SWRCB to spend a very large amount of unproductive time, energy and resources in preparing for the hearing and during the hearing. In addition, this situation may require protestants to have to present an enormous amount of testimony through rebuttal to DWR's and Reclamation's case-in-chief. Because DWR's and Reclamation's testimony may provide the needed information regarding how the California WaterFix project would change CVP/SWP operations, many of these inefficiencies could be avoided if the SWRCB staggers the Part 1 hearing schedule.

We believe that our proposal for a staggered Part 1 hearing schedule appropriately addresses this situation and would allow the SWRCB to continue with its hearing process without any undue delays. Specifically, we propose that the SWRCB adopt the following staggered schedule for Part 1:

- March 1 – DWR, Reclamation, State Water Contractors, San Luis & Delta-Mendota Water Authority and any other project proponents file their exhibits and written testimony for Part 1A;
- April 7 – Part 1A hearing commences with DWR, Reclamation and project proponents' presentations of their exhibits and testimony, and proceeds through cross-examination of their witnesses.

- 60 days after completion of Part 1A – Protestants submit their exhibits and written testimony for Part 1B
- 30 days after submission of Part 1B exhibits and written testimony – Part 1B hearing commences.

We appreciate your consideration of our proposal.

Very truly yours,

DOWNEY BRAND LLP



Kevin M. O'Brien



David Aladjem

NORTHERN CALIFORNIA WATER ASSOCIATION

/s/David J. Guy

David J. Guy, President

BARTKIEWICZ, KRONICK & SHANAHAN

/s/Alan Lilly

Alan Lilly

/s/Ryan Bezzerra

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SOMACH, SIMMONS & DUNN, PC

/s/Andrew M. Hitchings

Andrew M. Hitchings

/s/Daniel Kelly

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/s/Dustin C. Cooper

Dustin C. Cooper

LENNIHAN LAW

/s/Martha H. Lennihan

Martha H. Lennihan

cc: Service List

Enclosure: Attachment 1 – SVWU Parties

Attachment 1—Sacramento Valley Water Users

Northern California Water Association

Clients represented by Downey Brand LLP

Carter Mutual Water Company
El Dorado Irrigation District
El Dorado Water & Power Authority
Howald Farms, Inc.
Maxwell Irrigation District
Natomas Central Mutual Water Company
Meridian Farms Water Company
Oji Brothers Farm, Inc.
Oji Family Partnership
Pelger Mutual Water Company
Pleasant-Grove Verona Mutual Water Co.
Princeton Codora-Glenn Irrigation District
Provident Irrigation District
Reclamation District 108
Sacramento Municipal Utility District
Henry D. Richter, et al.
River Garden Farms Company
South Sutter Water District
Sutter Extension Water District
Sutter Mutual Water Company
Tisdale Irrigation and Drainage Company
Windswept Land and Livestock Company

Clients represented by Somach Simmons & Dunn

Glenn-Colusa Irrigation District
Biggs-West Gridley Water District
Sacramento County Water Agency
Placer County Water Agency
Carmichael Water District

Clients represented by Bartkiewicz, Kronick & Shanahan

City of Folsom
City of Roseville
San Juan Water District
Sacramento Suburban Water District
Yuba County Water Agency

Clients represented by Minasian, Meith, Soares, Sexton & Cooper, LLP

Anderson-Cottonwood Irrigation District

Butte Water District

Nevada Irrigation District

Paradise Irrigation District

Plumas Mutual Water Company

Reclamation District No. 1004

Richvale Irrigation District

South Feather Water & Power Agency

Western Canal Water District

Clients represented by Lennihan Law, APC

City of Sacramento