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24 San Joaquin County Flood Control and  
25 Water Conservation District, and  
26 Mokelumne River Water and Power Authority

27 [ADDITIONAL COUNSEL LISTED ON FOLLOWING PAGE]

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

HEARING IN THE MATTER OF  
CALIFORNIA DEPARTMENT OF WATER  
RESOURCES AND UNITED STATES  
BUREAU OF RECLAMATION  
REQUEST FOR A CHANGE IN POINT OF  
DIVERSION FOR CALIFORNIA WATER  
FIX

**JOINDER OF COUNTY OF SAN JOAQUIN,  
SAN JOAQUIN COUNTY FLOOD  
CONTROL AND WATER CONSERVATION  
DISTRICT, THE MOKELUMNE RIVER  
WATER AND POWER AUTHORITY, AND  
LOCAL AGENCIES OF THE NORTH  
DELTA IN NRDC, ET AL.'S SEPTEMBER  
6, 2017 OBJECTION AND PETITION FOR  
RECONSIDERATION**

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Stillwater Orchards / Delta Watershed Landowner Coalition

1 Protestants **COUNTY OF SAN JOAQUIN, SAN JOAQUIN COUNTY FLOOD**  
2 **CONTROL AND WATER CONSERVATION DISTRICT, THE MOKELUMNE RIVER WATER**  
3 **AND POWER AUTHORITY, AND LOCAL AGENCIES OF THE NORTH DELTA** (“San  
4 Joaquin County, et al.”) hereby join in the “Objection to and Petition for Reconsideration of  
5 August 31, 2017 Ruling Regarding Scheduling of Part 2 and Other Procedural Matters” filed  
6 herein on September 6, 2017, by the Natural Resources Defense Council, Defenders of  
7 Wildlife, and the Bay Institute (“NRDC, et al.”).

8 As the SWRCB Hearing Officers have acknowledged on multiple occasions, and again  
9 in the August 31 Ruling itself, Petitioners DWR and the U.S. Bureau of Reclamation bear the  
10 burden of proof with respect to their Petition. For that reason, common sense and a basic  
11 regard for due process favor a staggered schedule, in which Petitioners – those who bear the  
12 burden of proof – submit their case-in-chief first and that protestants submit their cases-in-chief  
13 thereafter. This Board was correct in its ruling establishing such a staggered schedule for  
14 Part 1 submissions.

15 However, the August 31 Ruling orders protestants to file their case-in-chief for Part 2 on  
16 November 30, 2017, simultaneously with Petitioners. This briefing schedule does not give due  
17 regard to the Petitioners’ burden of proof, the relationships between the Petitioners’ and  
18 protestants’ submissions, or to the prejudice to protestants inherent in an approach which  
19 requires simultaneous submissions of cases-in-chief.<sup>1</sup>

20 For these reasons and those set forth in NRDC, et al.’s Objection and Petition, the San  
21 Joaquin County, et al., parties respectfully request that the briefing schedule be staggered,  
22 consistent with Part 1 of the Hearing. To allow protestants sufficient time to provide case-in-  
23 chief evidence that relates specifically to the Project information Petitioners must provide to  
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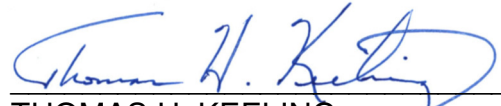
25 <sup>1</sup> Nothing herein should be deemed a waiver of San Joaquin County, et al.’s previously stated  
26 position that Part 2 should not proceed at all unless and until this Board’s requirements are  
27 met, including the federal government’s issuance of a Record of Decision (“ROD”). Further,  
28 nothing in the woefully insufficient articulation of operating criteria provided by Petitioners on  
September 8, 2017 alters San Joaquin County, et al.’s position that the information provided to  
date is not sufficient to justify proceeding with Part 2 at all.

1 meet their burden of proof, we ask that SWRCB set a protestant case-in-chief filing deadline  
2 90 day after Petitioners' filing deadline. In light of the complexity and scale of the proposed  
3 Project, such a schedule would assure basic fairness consistent with the rules governing  
4 burden of proof in this proceeding, advance the public interest, and result in a more complete  
5 record.

6  
7 Respectfully submitted,

8 September 11, 2017

9 THE FREEMAN FIRM

10 

11 THOMAS H. KEELING  
12 Attorneys for County of San Joaquin,  
13 San Joaquin County Flood Control and  
14 Water Conservation District, and  
15 Mokelumne River Water and Power Authority

16 September 11, 2017

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