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7 Principal, California Water Research

8 **BEFORE THE**  
9 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

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

MOTION TO CONTINUE HEARING TO  
ALLOW PRODUCTION OF EX PARTE  
CORRESPONDENCE WITH OTHER  
AGENCIES

17 Deirdre Des Jardins, principal at California Water Research (“California Water Research”) is  
18 submitting the attached Public Records Act request to the State Water Resources Control Board  
19 Office of Chief Counsel, to provide for expedited disclosure of Ex Parte communications  
20 regarding the WaterFix hearing or proposed SWP and CVP permit terms in the Phase 2 update  
21 by the Natural Resources Agency, the Governor’s Office, or the State Water Contractors who are  
22 parties to the WaterFix hearing and WaterFix proponents. Any substantive communications  
23 relating to the WaterFix hearing are requested, as well as communications relating to permit  
24 terms for the State Water Project (“SWP”) and Central Valley Project (“CVP”) in the Phase 2  
25 Bay-Delta Water Quality Control Plan update.

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26 California Water Research (Deirdre Des Jardins) Motion to Continue Hearing To Allow  
27 Production Of Ex Parte Correspondence With Other Agencies  
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1 California Water Research recently ran across the February 11, 2016 Hearing Officers  
2 ruling that communications about any” issues concerning the WaterFix” relevant to the Phase 2  
3 update of the Bay-Delta planning process would be consistent with the Ex Parte rule:

4 We acknowledge the concerns raised by some of the parties regarding how application of  
5 the prohibition against ex parte communications in this proceeding could restrict  
6 otherwise permissible communications in the Bay-Delta planning process. At this time, it  
7 is not clear to what extent, if any, issues concerning the WaterFix will be relevant in the  
8 larger planning process. If this becomes a problem as Phase 2 progresses, the State Water  
9 Board will reach out to stakeholders and parties and determine the best way to allow any  
10 necessary open dialogue in the planning arena consistent with the ex parte rule applicable  
11 to the WaterFix hearing. (February 11, 2016 Hearing ruling, p. 5, underlining added.)

12 While the Phase 2 Bay-Delta Water Quality Control Plan update (“Phase 2 update”) is  
13 not considering the WaterFix, the Phase 2 update is considering amendment of the permits of the  
14 SWP and CVP, which has significant overlap with the Board’s consideration of adoption of  
15 “appropriate Delta flow criteria” in the WaterFix Water Right Change Petition hearing  
16 (“WaterFix hearing”).

17 The State Water Resources Control Board has not, to date, reached out to WaterFix  
18 hearing parties and stakeholders to “determine the best way to allow any necessary open  
19 dialogue in the planning arena consistent with the ex parte rule applicable to the WaterFix  
20 hearing,” nor has the Board disclosed any Ex Parte communications regarding proposed permit  
21 terms for the SWP and CVP to the WaterFix hearing parties. Ex Parte issues regarding parallel  
22 processes should be addressed and resolved before the WaterFix hearing proceeds.

23 To allow WaterFix hearing parties the chance to resolve any Ex Parte issues that are  
24 uncovered, California Water Research hereby moves that the Hearing Officers continue the  
25 hearing until Ex Parte correspondence and documents in the attached document, “Public Records  
26 Act request for Ex Parte communications by other agencies” is produced. (This continuance

1 motion is moot if the stay requested by Save the California Delta Alliance and Sacramento  
2 County et. al. is granted.)

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4 Dated Jan 28, 2018

Respectfully submitted,

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8 Deirdre Des Jardins

9 Principal, California Water Research  
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1 **STATEMENT OF SERVICE**

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

4 I hereby certify that I have this day submitted to the State Water Resources  
5 Control Board and caused a true and correct copy of the following document(s):

6 **Motion to Continue Hearing to Allow Production  
7 of Ex Parte Correspondence With Other Agencies**

8 **Public Records Act request for Ex Parte communications by other agencies**

9 to be served by Electronic Mail (email) upon the parties listed in the Current Service List  
10 for the California Water Fix Petition Hearing, dated January 24, 2018, posted by the  
11 State Water Resources Control Board at

[http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/service\\_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)

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

15 I certify that the foregoing is true and correct and that this document was executed on  
16 January 28, 2017.

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19 Signature:



20 Name: Deirdre Des Jardins  
21 Title: Principal, California Water Research

22 Party/Affiliation:  
23 Deirdre Des Jardins

24 Address:  
25 145 Beel Dr  
26 Santa Cruz, California 95060

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28 Statement of Service