

July 12, 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 appreciate the Department of Water Resources’ attempt to quickly respond to our letter concerning DWR-1143. Unfortunately, it does not suffice to offer an attorney letter in lieu of the Hearing Officers’ clear direction to offer *evidence* within DWR’s Part 2 rebuttal that identifies operating conditions and regulatory requirements for the WaterFix project. Indeed, the Hearing Officers expressed the expectation that the “Part 2 rebuttal exhibit” would “reflect the additional time that DWR will have had to prepare it” by, for example, providing “greater specificity when tying a particular operating condition to a regulatory requirement or other source.” (March 27, 2018 *Ruling on Objections and Motions to Strike*.) DWR’s hurried attempt to remedy the failure of its Part 2 rebuttal evidence by submitting a non-evidentiary letter constitutes a violation of the Hearing Officer’s March 27, 2018 ruling.

In addition, we appreciate that DWR identified Erik Reyes and Chandra Chilmakuri as witnesses who will be available for cross examination regarding DWR-1143. However, DWR-1143 has not been accepted into this hearing's evidentiary record and, per the March 27, 2018 Ruling, DWR was required to augment or replace DWR-1143 with actual evidence. Moreover, both Mr. Reyes and Dr. Chilmakuri have offered testimony regarding modeling, but it is not clear whether those witnesses are qualified to address the project operations issues associated with DWR-1143 or any subsequent exhibit submitted in compliance with the Hearing Officers’ direction. The SVWU requests that DWR further specify a witness or witnesses who will be available to answer questions associated with the operating conditions for WaterFix as directed by the Hearing Officers.

Ultimately, the Hearing Officers must consider excluding from this hearing – before Part 2 rebuttal testimony begins – any DWR proposed rebuttal evidence that seeks to rely on DWR-1143 because that exhibit is not in the record and DWR has failed to supplement it with evidence as required by the March 27 Ruling.

The SVWU appreciates the Hearing Officers' consideration of these issues.

Very truly yours,

DOWNEY BRAND LLP



Meredith E. Nikkel

MEN

**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:

**7/12/2018 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](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 <b>hard copy</b> 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:  <b>Method of Service:</b> _____
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I certify that the foregoing is true and correct and that this document was executed on July 12, 2018.

Signature: 

Name: Catharine Irvine

Title: Legal Secretary

Party/Affiliation: Downey Brand, LLP

Address: 621 Capitol Mall, Sacramento, CA 95814