

1 DOWNEY BRAND LLP
2 KEVIN M. O'BRIEN (Bar No. 122713)
3 MEREDITH E. NIKKEL (Bar No. 254818)
4 621 Capitol Mall, 18th Floor
5 Sacramento, CA 95814-4731
6 Telephone: 916.444.1000
7 Facsimile: 916.444.2100
8 kobrien@downeybrand.com

6 Attorneys for Protestants
7 NORTH DELTA WATER AGENCY,
8 RECLAMATION DISTRICT 999,
9 RECLAMATION DISTRICT 2060,
10 RECLAMATION DISTRICT 2068

BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

11
12 In the matter of Hearing re California
13 WaterFix Petition for Change

**NORTH DELTA WATER AGENCY'S
RESPONSE TO OBJECTIONS TO
WRITTEN TESTIMONY AND EXHIBITS
AND JOINDER TO SACRAMENTO
VALLEY WATER USERS' RESPONSE TO
OBJECTIONS TO WRITTEN
TESTIMONY AND EXHIBITS**

14
15
16
17 **I. INTRODUCTION**

18 The objections raised in San Luis & Delta Mendota Water Authority's ("SLDMWA")
19 Objections to Part 1B Parties' Case in Chief ("SLDMWA Objection") to the written testimony of
20 North Delta Water Agency ("NDWA") are without merit. As that testimony is relevant, reliable,
21 and plainly admissible, NDWA respectfully requests that the SWRCB overrule SLDMWA's
22 objections in their entirety.

23 The Department of Water Resources has not asserted any specific evidentiary objection to
24 the testimony or exhibits of NDWA. Accordingly, the SWRCB should deem that any objections
25 DWR might attempt to subsequently raise against NDWA's submitted evidence have
26 conclusively been waived.

27 **II. BACKGROUND**

28 Water Code section 1702 requires that when a petition for change is filed, the petitioner

1 must establish that the change will not operate to the injury of any legal user of the water
2 involved. Consistent with that requirement, Part 1 of this hearing addresses two questions: (1)
3 whether the proposed changes would in effect initiate a new water right, and (2) whether the
4 proposed changes would cause injury to any municipal, industrial or agricultural uses of water,
5 including associated legal users of water. (October 30, 2015 Notice of Hearing (“Notice”), p. 11.)

6 On May 31, 2016, the Petitioners submitted testimony and exhibits in support of their case
7 in chief for their petition to add points of diversion to their water rights. On September 1, 2016,
8 NDWA submitted the written testimony and exhibits of Mr. Gary Kienlen (MBK Engineers), Ms.
9 Melinda Terry (General Manager of NDWA), Mr. Steve Mello (Chairman of the NDWA Board,
10 and a farmer in NDWA’s service area), and Mr. Tom Slater (President of the Reclamation District
11 999 Board, and a farmer in NDWA’s service area). Each of these witnesses offered written
12 testimony on potential injury to legal users of water in the NDWA service area as a result of the
13 petitioned Project. SLDMWA objects to certain portions of this testimony as hearsay, improper
14 legal opinion, and as lacking in foundation. For the reasons outlined below, the objections are
15 without merit, and should be overruled.

16 **III. ARGUMENT**

17 Evidence in a hearing on a petition for change is admitted in accordance with Government
18 Code § 11513, which requires the admission of relevant evidence if “it is the sort of evidence on
19 which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of
20 the existence of any common law or statutory rule which might make improper the admission of
21 the evidence over objection in civil actions.” (Gov. Code § 11513(c).) The Board has recognized
22 that this standard is generally more permissive than the one imposed in civil actions, observing
23 that “hearing officers generally prefer to admit evidence that would be admissible under the State
24 Water Board’s regulations, using the more liberal standards applicable to administrative
25 proceedings.” (SWRCB Ruling on Joint Objections to Truckee-Carson Irrigation District’s
26 Exhibits in the Truckee River Hearing (Aug. 11, 2010, p. 1).) The testimony and exhibits offered
27 by Ms. Terry and by Messrs. Kienlen, Parvathinathan, Mello, and Slater are both relevant and
28 reliable, and would be admissible in any civil action.

1 **A. SLDMWA’s hearsay objections are incorrect and unwarranted.**

2 Under Government Code section 11513, hearsay evidence may be used “for the purpose
3 of supplementing or explaining other evidence” but is not sufficient in itself to support a finding
4 by the Board, unless that evidence “would be admissible over objection in civil actions.” (Gov.
5 Code, § 11513(d); see also Notice, Enclosure D, p. 36.) The SWRCB has previously stated it will
6 “decline to exclude or strike any evidence on the grounds that it is hearsay,” but will consider
7 relevant hearsay evidence “subject to the limitations imposed by Government Code section
8 11513, subdivision (d).” (Procedural Ruling on Motions filed in the matter the Administrative
9 Civil Liability Complaint against Byron-Bethany Irrigation District and Draft Cease and Desist
10 Order against West Side Irrigation District, March 18, p. 4.)

11 SLDMWA objects to the testimony of Mr. Kienlen regarding maps and charts prepared by
12 MBK Engineers (Exhibits NDWA-13 through NDWA-27) and summary of the analysis
13 performed by Walter Bourez and MBK Engineers as hearsay “because it relies on the statements
14 by someone other than the witness to establish the truth regarding water quality compliance,
15 standards, and mean EC.” (Obj., 52:10-19.) As a preliminary matter, that the objection should be
16 overruled because written testimony submitted to a factfinder cannot itself be hearsay if it is
17 offered in court. “Neither the hearsay rule nor its exceptions are concerned with the credibility of
18 witnesses who testify directly to the jury.” (*People v. Cudjo* (1993) 6 Cal.4th 585, 608.) Mr.
19 Kienlen’s in-court statements regarding exhibits also offered in court cannot conceivably be
20 inadmissible hearsay.

21 If SLDMWA intended to object on the ground that Mr. Kienlen improperly relied on
22 hearsay evidence as a basis for his opinion, it is also incorrect. Under Evidence Code section
23 801, the opinion testimony of an expert may be based on matters personally perceived by or
24 known to the expert or any matter “made known” to the expert. The California Supreme Court
25 explained the leeway given to experts on this issue: “[b]ecause the jury must independently
26 evaluate the probative value of an expert’s testimony, Evidence Code section 802 properly allows
27 an expert to relate generally the kind and source of the “matter” upon which his opinion rests.”
28 (*People v. Sanchez*, (2016) 63 Cal.4th 665, 685-686.) In fact, “when context is needed to

1 understand what has transpired,” the expert may even read excerpts of the material relied upon
2 directly to the fact-finder. (*Notrica v. State Compensation Insurance Fund* (1999) 70 Cal.App.4th
3 911, 933.)

4 Mr. Kienlen’s testimony on the water quality charts he prepared is well within the scope
5 of admissible expert testimony for summarizing and relying on technical reports prepared by his
6 firm, MBK Engineers. Indeed, the Notice for the Petition specifically requested that exhibits
7 “based on technical studies or models [] be accompanied by sufficient information to clearly
8 identify and explain the logic, assumptions, development, and operation of the studies or models.”
9 (Notice, Enclosure D, p. 33.) In his testimony, Mr. Kienlen identifies and explains each water
10 quality chart so that the SWRCB can better understand those exhibits, pursuant to the Notice
11 requirements. (Exhibit NDWA-3, 8:21-9:14.) Mr. Kienlen’s summary of work performed by
12 Walter Bourez and MBK Engineers (NDWA-3, 11:13-27, 13:16-21) is similarly well within the
13 scope of admissible testimony, as the exhibits are used as a basis for Mr. Kienlen’s expert
14 opinion.

15 The SWRCB ordered that direct testimony in this hearing be submitted in writing.
16 (Notice, Enclosure D, p. 33.) The referenced charts, as well as the exhibits submitted by Walter
17 Bourez, have all been submitted as exhibits for Part 1B of this hearing and are part of the
18 testimony currently before the SWRCB. Under Evidence Code section 1200, hearsay is a
19 statement made other than by a witness while testifying at the hearing. The statements and
20 reports to which SLDMWA objects therefore are just as much testimony in this hearing as the rest
21 of Mr. Bourez's and Mr. Kienlen’s written testimony. Statements of a witness explaining his
22 interpretation of an exhibit which is also offered as evidence are not hearsay. (See, e.g., *People v.*
23 *Cudjo* (1993) 6 Cal.4th 585, 608 (“Neither the hearsay rule nor its exceptions are concerned with
24 the credibility of witnesses who testify directly to the jury.”).)

25 SLDMWA has not objected to the admission of the exhibits themselves as hearsay, *but*
26 *even if it did*, Mr. Kienlen would still be entitled to rely on these materials to form his expert
27 opinion. An expert is entitled to base his opinion even upon matters not included as testimony,
28 including technical reports and scientific literature, provided such matter is “of a type that

1 reasonably may be relied upon by an expert in forming an opinion upon the subject to which his
 2 testimony relates.” (Evid. Code, § 801(b); *People v. Bui* (2001) 86 Cal.App.4th 1187, 1196.) An
 3 expert may refer to hearsay material as may be necessary to present the context of the material
 4 upon which the expert relied. (See *West v. Johnson & Johnson Products, Inc.* (1985) 174
 5 Cal.App.3d 831, 859-861.) The testimony and reports offered are the “sort of evidence on which
 6 responsible persons are accustomed to rely in the conduct of serious affairs” and are admissible
 7 on this basis alone. (See Gov. Code § 11513(c).) As such, SLDMWA’s hearsay objections are
 8 entirely unfounded.

9 **B. The NDWA witnesses properly opine on the operation of the 1981 Contract.**

10 SLDMWA objects to the testimonies of Mr. Kienlen, Ms. Terry and Mr. Mello on the
 11 grounds that they include inadmissible legal opinions. (Obj., 51:19-24, 52:2-9, 53:12-13, 54:27-
 12 55:3.) There are limits to opinion testimony, not the least of which is the prohibition against
 13 admission of an expert's opinion on a question of law. (*Summers v. A.L. Gilbert Co.* (1999) 69
 14 Cal.App.4th 1155, 1178.) However, “testimony in the form of an opinion that is otherwise
 15 admissible is not objectionable because it embraces the ultimate issue to be decided by the trier of
 16 fact.” (Evid. Code, § 805; *Jones v. P.S. Development Co., Inc.* (2008) 166 Cal.App.4th 707
 17 (disapproved on other grounds) (statements by project supervisor for contractor hired to perform
 18 electrical work regarding contractor's duties under contracts were not inadmissible opinions on
 19 questions of law).) SLDMWA adopts the mistaken belief that any reference to a contract
 20 invariably involves an inadmissible legal conclusion, but the law clearly states otherwise.

21 As the SWRCB has held, “[a] distinction must be made between testimony that is ‘helpful
 22 to a clear understanding of [the witness’s] testimony,’ (Evid. Code, § 800), and that which does
 23 no more than make conclusory statements as to what the law is.” (Procedural Ruling on Motions
 24 filed in the matter the Administrative Civil Liability Complaint against Byron-Bethany Irrigation
 25 District and Draft Cease and Desist Order against West Side Irrigation District, March 18, p. 4.)
 26 Thus, a witness or expert witness may describe his or her understanding of the legal framework
 27 governing their relative functions without disturbing the general rule against legal conclusions.
 28 (See *id.* (“staff’s understanding of the legal framework is relevant to explain decisions by staff in

1 the methodology and inputs for its analysis of water availability, and is also relevant to other
2 issues in the proceedings.”.)

3 Mr. Kienlen is the engineer for NDWA, and is closely involved in tracking compliance
4 with the 1981 Contract. Ms. Terry, as the General Manager of NDWA, also deals with the
5 practical implications of the contracts provisions as part of her job responsibilities. Similarly, Mr.
6 Mello’s general understanding of the 1981 Contract is a core aspect of his role and functions as
7 the Chair of the NDWA Board of Directors. Testimony by these three witnesses as to their
8 experience in administering the 1981 Contract and associated legal agreements, and their
9 understanding as to how the provisions of those agreements operate, is well within the scope of
10 permissible witness testimony. The SWRCB has the expertise and ability to distinguish and
11 disregard unhelpful testimony, and to make its own conclusions about the legal effect of these
12 documents. The fact that this testimony includes a description of the legal framework in which
13 Mr. Kienlen, Ms. Terry, and Mr. Mello conduct their work for NDWA, however, does not render
14 it inadmissible or usurp the SWRCB’s role in making the ultimate determination of injury.

15 C. **Mr. Parvathinathan provides ample foundation to testify as a modeling**
16 **expert.**

17 SLDMWA objects to the testimony of Mr. Shankar Parvathinathan of MBK Engineers on
18 the ground that his expert opinion on the validity of the operational assumptions for WaterFix that
19 stem from originally flawed modeling lacks foundation. (Obj., 52:27-53:7.) Under the Evidence
20 Code, the opinion testimony of an expert may be based on matter personally perceived by or
21 known to the expert or any matter “made known” to the expert, provided such matter is “of a type
22 that reasonably may be relied upon by an expert in forming an opinion upon the subject to which
23 his testimony relates.” (Evid.Code, § 801(b); *People v. Bui* (2001) 86 Cal.App.4th 1187, 1196.)
24 Mr. Parvathinathan lays out the foundation for his opinion in paragraphs 1 through 4 of his
25 testimony. In addition to specializing in water resources engineering and his general familiarity
26 with the DSM2 model, Mr. Parvathinathan states that he reviewed the testimony of the
27 Petitioners’ modeling experts, Dr. Nader-Tehrani and Mr. Armin Munevar, the results of their
28 analyses, and the DSM2 modeling files that DWR made available. (NDWA-5, 2:2-3.) Despite

1 SLDMWA's contention that "there is no foundation showing the relationship between CalSim II
2 and the DSM2 modeling" (Obj., 53:4-7), Mr. Parvathinathan expressly states that the DSM2 and
3 CalSim II modeling performed by Dr. Nader-Tehrani and Mr. Munevar "utilize[] the same
4 operational assumptions regarding how WaterFix would be operated if built." (NDWA-5, 2:21-
5 24.) Accordingly, SLDMWA's objection should be overruled.

6 **D. Mr. Mello and Mr. Slater are lay witnesses with ample foundation to testify**
7 **on their experience with Delta water patterns.**

8 SLDMWA objects to testimony offered by Mr. Slater and Mr. Mello on the grounds that
9 they have not established an adequate foundation to opine on the hydrologic conditions in the
10 Delta, and asks that this testimony be excluded. SLDMWA is mistaken; this testimony is a
11 proper subject for these two lay witnesses, and is wholly admissible in this action because it is
12 based on their rational perceptions as lifelong farmers in the Delta.

13 The testimony of a lay witness like Mr. Slater or Mr. Mello should be both rationally
14 based on the perception of the witness; and helpful to a clear understanding of his testimony.
15 (Evid. Code, § 801.) In particular, opinion testimony must be based on the proper foundation and
16 "provide a reasonable basis for the particular opinion offered." (*Lockheed Litigation Cases*
17 (2004) 115 Cal.App.4th 558, 564.)

18 Mr. Mello lays the foundation for his testimony in paragraphs 1 through 3 by describing
19 his roles as Chairman of the NDWA Board of Directors, the President of the Board of Directors
20 for Reclamation District 563, the Delta Protection Commission, the Delta chapter of Ducks
21 Unlimited, and the North Delta Conservancy. He is also a third-generation farmer in the Delta
22 and has farmed the area for more than 40 years. (NDWA-9, ¶¶ 1-3.) Likewise, Mr. Slater is the
23 President of the Board of Trustees of Reclamation District 999, an alternate Commissioner on the
24 Delta Protection Commission, and a third-generation farmer in the Delta. (NDWA-10, ¶¶ 1-3.)
25 Each of these two witnesses is entitled to rely upon his personal experiences in the Delta in
26 offering his opinion, and neither is required to be an expert in hydrology to offer these
27 observations. Accordingly, these materials should be admitted.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

E. NDWA joins in SVWU’s Response to Objections.

NDWA hereby joins and incorporates in full by reference the Sacramento Valley Water Users’ Response to Objections to Written Testimony, filed on October 19, 2016.

IV. SEPARATE RESPONSES

NDWA offers the following responses to the specific portions of testimony that SLDMWA has objected to:

<p><u>Testimony Objected to:</u> “[b]ecause the water quality benefits... inseparable from the water supply benefits of the 1981 Contract.” (Kienlen Testimony, NDWA-3 at 4:13-16.)</p> <p><u>Objection:</u> Inadmissible legal opinion.</p>	<p><u>Response:</u> This statement is not a legal opinion, but an explanation of how the 1981 Contract operates, in Mr. Kienlen’s experience. Mr. Kienlen’s observations regarding the relationship between water supply and water quality is based on his expertise in hydrology, hydraulics, and water supply.</p>
<p><u>Testimony Objected to:</u> “[t]he release of water by DWR ... without the operation of the SWP and CVP.” (Kienlen Testimony, NDWA-3 at 7:12-16.)</p> <p><u>Objection:</u> Inadmissible legal opinion.</p>	<p><u>Response:</u> This statement is not a legal opinion, but an explanation of how the 1981 Contract operates, in Mr. Kienlen’s experience. Mr. Kienlen’s observations regarding the relationship between water supply and water quality is based on his expertise in hydrology, hydraulics, and water supply.</p>
<p><u>Testimony Objected to:</u> “The crux of the 1981 Contract ...in all channels within NDWA’s boundaries.” (Terry Testimony, NDWA-7, at p. 4:2-5.)</p> <p><u>Objection:</u> Inadmissible legal opinion.</p>	<p><u>Response:</u> As the General Manager of NDWA, Ms. Terry’s statement regarding the practical effect of the 1981 Contract is rationally based on her personal experience administering the Contract, not improper legal interpretation.</p>
<p><u>Testimony Objected to:</u> “Recognizing the importance of protecting water quality...1981 Contract, Article 12.” (Terry Testimony, NDWA-7, at p. 4:21-25.)</p> <p><u>Objection:</u> Inadmissible legal opinion.</p>	<p><u>Response:</u> As the General Manager of NDWA, Ms. Terry’s statement regarding the practical effect of the 1981 Contract is rationally based on her personal experience administering the Contract, not improper legal interpretation.</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

<p><u>Testimony Objected to:</u> “A 1998 Memorandum of Understanding... water users in the NDWA.” (Terry Testimony, NDWA-7, at p. 5:9-16.)</p> <p><u>Objection:</u> Inadmissible legal opinion.</p>	<p><u>Response:</u> As the General Manager of NDWA, Ms. Terry’s statement regarding the practical effect of the 1998 Memorandum of Understanding is rationally based on her personal experience administering the 1981 Contract and the subsequent 1998 MOU, not improper legal interpretation.</p>
<p><u>Testimony Objected to:</u> “While I am not an attorney... other beneficial uses.” (Mello Testimony, NDWA-9, at p. 5:6-9.)</p> <p><u>Objection:</u> Inadmissible legal opinion.</p>	<p><u>Response:</u> As the Chair of NDWA’s Board of Directors, Mr. Mello’s understanding of the general effect of the 1981 Contract is rationally based on his personal experience administering the Contract, not improper legal interpretation.</p>
<p><u>Testimony Objected to:</u> “Before the CVP and SWP ...serious impact on north Delta water quality and water surface elevations.” (Mello Testimony, NDWA-9, at pp. 4:24-5:3)</p> <p><u>Objection:</u> Lack of foundation.</p>	<p><u>Response:</u> Mr. Mello’s lay testimony is rationally based upon his experience and direct observation. (See Evid. Code, § 800.)</p>
<p><u>Testimony Objected to:</u> “The siphon systems within NDWA were designed with historic water surface elevations in north Delta channels as a base line.” (Mello Testimony, NDWA-9, at p. 6:6-7.)</p> <p><u>Objection:</u> Lack of foundation.</p>	<p><u>Response:</u> Mr. Mello’s lay testimony on historic water elevations is rationally based upon his experience and direct observation. (See Evid. Code § 800.)</p>
<p><u>Testimony Objected to:</u> The Water Authority also objects to Mr. Mello’s testimony that “Use of water degraded by salt compounds, even over a short period of time, degrades the long-term productivity of the ground.” (Mello Testimony, NDWA-9, at p. 7:8-10.)</p>	<p><u>Response:</u> Mr. Mello’s lay testimony on historic water elevations is rationally based upon his experience and direct observation. (See Evid. Code, § 800.)</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

<p><u>Objection:</u> Lack of foundation.</p>	
<p><u>Testimony Objected to:</u> “If the proposed Project will result in lower water surface elevations ... as a result of the operation of the proposed Project . . .” (Mello Testimony, NDWA-9, at p. 11:1-4.)</p> <p><u>Objection:</u> Lack of foundation.</p>	<p><u>Response:</u> Mr. Mello’s lay testimony on historic water elevations is rationally based upon his experience and direct observation, and on his understanding the MBK testimony. (See Evid. Code, § 800.)</p>
<p><u>Testimony Objected to:</u> “based on my many years of observing ... particularly in dry years.” (Slater Testimony, NDWA-10, at p. 3:13-16.)</p> <p><u>Objection:</u> Lack of foundation</p>	<p><u>Response:</u> Mr. Slater’s testimony is rationally based upon his experience as a Delta farmer, and states he has personally observed the hydrodynamics of water in the Delta. (See Evid. Code, § 800.)</p>
<p><u>Testimony Objected to:</u> “In addition, the lower water surface elevations...channels referenced above.” (Slater Testimony, NDWA-10, at p. 4:6-8.)</p> <p><u>Objection:</u> Lack of foundation.</p>	<p><u>Response:</u> Mr. Slater’s testimony is rationally based upon his experience as a Delta resident and farmer, and states he has personally observed the vulnerability of Delta sloughs and channels to silting. (See Evid. Code, § 800.)</p>
<p><u>Testimony Objected to:</u> “Based on my experience as a farmer...land values will decline rapidly.” (Mello Testimony, NDWA-10, at p. 3:20-22.)</p> <p><u>Objection:</u> Lack of foundation; there is no foundation regarding what water quality qualifies as “salt water.”</p>	<p><u>Response:</u> Mr. Slater’s testimony is rationally based upon his experience, and his firsthand observations of the results of irrigating with salt water. (See Evid. Code, § 800.)</p>
<p><u>Testimony Objected to:</u> “From the standpoint of a Delta farmer...could be devastating.” (Slater Testimony, NDWA-10, at p. 4:3-5.)</p>	<p><u>Response:</u> Mr. Slater lays the foundation for his lay witness testimony in paragraphs 1 through 3 of his written testimony. His testimony provides that he is speaking as a farmer who occasionally must deal with EC increases and the resulting effect on crops and permanent crops,</p>

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

<p><u>Objection:</u> Lack of foundation; there is no foundation showing what qualifies as an “impact” on a crop, nor is there foundation showing which “permanent crops” are being referenced.</p>	<p>generally.</p>
<p><u>Testimony Objected to:</u> “The current compliance locations are identified on Exhibit NDWA-13...as reflected in Exhibit NDWA-44.” (Kienlen Testimony, NDWA-3 at 8:21-9:14.)</p> <p><u>Objection:</u> Hearsay.</p>	<p><u>Response:</u> These materials are not out-of-court statements, but are offered as part of testimony. Moreover, these materials would be admitted over objection in civil court as the type of special knowledge, skill, and matter upon which an expert is entitled to base his opinion, and therefore must be admitted here. (See Evid. Code, § 801.)</p>
<p><u>Testimony Objected to:</u> “As described in the testimony of Walter Bourez...for the CWF BA.”</p> <p>“As identified in the MBK Tech Memo...(Exhibit NDWA-32).” (Kienlen Testimony, NDWA-3 at 11:13-27, 13:16-21.)</p> <p><u>Objection:</u> Hearsay.</p>	<p><u>Response:</u> These materials are not out-of-court statements, but are offered as part of testimony. Moreover, these materials would be admitted over objection in civil court, as the type of special knowledge, skill, and matter upon which an expert is entitled to base his opinion, and therefore must be admitted here. (See Evid. Code, § 801.)</p>

V. CONCLUSION

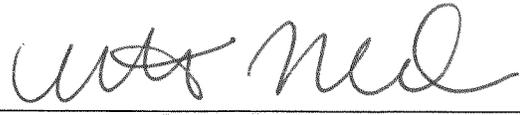
For the reasons outlined herein, and summarized above, SLDMWA’s objections to the testimony and exhibits presented by NDWA should be overruled in their entirety.

DOWNEY BRAND LLP

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: October 19, 2016

DOWNEY BRAND LLP

By: 

Meredith E. Nikkel
NORTH DELTA WATER AGENCY,
RECLAMATION DISTRICT 999,
RECLAMATION DISTRICT 2060,
RECLAMATION DISTRICT 2068

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(s);

**NORTH DELTA WATER AGENCY'S RESPONSE TO OBJECTIONS TO
WRITTEN TESTIMONY AND EXHIBITS AND JOINDER TO SACRAMENTO
VALLEY WATER USERS' RESPONSE TO OBJECTIONS TO WRITTEN
TESTIMONY AND EXHIBITS**

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 6, 2016, 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:

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 hard copy 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: Method of Service: _____
--	--

I certify that the foregoing is true and correct and that this document was executed on October 19, 2016.

Signature: 

Name: Catharine Irvine

Title: Legal Secretary

Party/Affiliation: Downey Brand, LLP

Address: 621 Capitol Mall, Sacramento, CA 95814