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BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

CALIFORNIA WATERFIX WATER)
RIGHT CHANGE PETITION)
HEARING)

JOE SERNA, JR. BUILDING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
BYRON SHER AUDITORIUM
1001 I STREET
SECOND FLOOR
SACRAMENTO, CALIFORNIA

THURSDAY, JULY 28, 2016
DAY 3, AFTERNOON SESSION
1:00 P.M. - 1:13 P.M.

REPORTED BY: ELIZABETH A. WILLIS-LEWIS
CSR NO. 12155, CCRR, RPR

1 APPEARANCES

2 CALIFORNIA WATER RESOURCES BOARD

3 Division of Water Rights

4 Board Members Present

5 Tam Doduc, Co-Hearing Officer
Felicia Marcus, Chair & Co-Hearing Officer
6 Dorene D'Adamo, Board Member

7 Staff Present

8 Diane Riddle, Environmental Program Manager
Dana Heinrich, Senior Staff Attorney
9 Kyle Ochendusko, Senior Water Resources Control
Engineer
10 Jean McCue

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1 CO-HEARING OFFICER DODUC: Good afternoon,
2 everyone. It is 1 o'clock and we are back on this third
3 day of the water rights hearing on the petition for the
4 change in point of diversion or, I guess, addition in
5 points of diversion by the Department of Water Resources
6 and the U.S. Bureau of Reclamation.

7 We have two speakers who would like to provide
8 policy statements to the board. The first one is
9 Ms. Shaw. Ms. Shaw, will you come?

10 MS. SHAW: Thank you very much.

11 CO-HEARING OFFICER DODUC: I believe you have
12 comments about water rights and something about
13 practical headings.

14 MS. SHAW: I learned last time to not ad-lib,
15 so I will try to keep to what I am reading.

16 CO-HEARING OFFICER DODUC: I think if you have
17 something in writing we would love to have that as well.

18 MS. SHAW: Thank you very much. It is the
19 district -- the Director of the Woodbridge Irrigation
20 District who said, "Jackie, we need growers to go to the
21 state water board meetings or they are going to make us
22 into a dust bowl." We know you wouldn't do that
23 intentionally, but we really want to address the issues.
24 Thank you.

25 So Board Chair Marcus -- excuse me -- just the

1 last names -- Doduc, D'Adamo, Heinrich and Riddle and
2 Ochendusko.

3 MR. OCHENDUSZKO: Yes, thank you.

4 MS. SHAW: I was an ESL teacher. Thank you for
5 the web site pictographs on groundwater. It is a real
6 maze studying your web site and it is important. We
7 need more headings pointing the way to most effective or
8 proven California water solutions. I helped my dad in
9 the vineyards, so -- I was born and raised in Lodi, part
10 of the Delta loop. For over 100 years with Lodi,
11 California, near the Delta loop, Lodi has been losing
12 groundwater. That is due to Norcal drought and to
13 Oakland via part B reservoir. Now the loss is for soil
14 solinity by reverse flows with Delta river neglect. For
15 pragmatism develop concrete or develop productive
16 alternatives to Delta river destruction that is in
17 any -- to us horrifying, concrete twin water tunnels,
18 40-foot wide, 40 miles under the Delta river of
19 Sacramento, San Joaquin and other Delta counties.

20 To your web site news releases please add
21 heading and maps with heritage towns in practical
22 solutions. Lodi isn't on the legal delta but it is part
23 of the delta loop.

24 1. Recharge groundwater rights. Avoid six
25 undesirable results given very well by Brewster at our

1 state -- the sustainable meeting in Stockton. For
2 instance, land subsidence can cause earthquakes. I
3 couldn't find earthquakes on the web site. Maybe I just
4 didn't look far enough, after hours.

5 2. Renew deep pure Delta river dredging from
6 Antioch Bay to Sacramento with 100-year maps of U.S.
7 ACE. It has been at 80 percent non-compliance and levy
8 maintenance. Develop --

9 3. Develop 27 testing points for California
10 desalination, north and south drought with U.S. Senator
11 Feinstein. It was invented at UC Berkeley and used in
12 100 nations and now we rate Monterey's doing deep water
13 desalination.

14 4. Restore reservoirs with forestry.

15 CO-HEARING OFFICER DODUC: You can wrap up that
16 point, please.

17 MS. SHAW: Okay. Redwood trees died. And a
18 very important one, report Norcal health data --
19 increased allergies and death, and sorry to say
20 including my husband who passed away from breathing
21 complications. It is very serious in Northern
22 California and I -- we need that message.

23 CO-HEARING OFFICER DODUC: Thank you. And,
24 please, provide us with your written letter there that
25 you are -- you have been using. Your comments

1 especially regarding some of the improvements on our web
2 site would be extremely helpful.

3 MS. SHAW: Thank you very much.

4 CO-HEARING OFFICER DODUC: Thank you, Ms. Shaw.

5 MS. RIDDLE: I think you may be referring to
6 DWR's website, the Department of Water Resources, with
7 their WaterFix environmental document.

8 MS. SHAW: I looked at them all and I admit
9 that you click one and all of a sudden you are on an
10 Easter egg hunt in the others and then you try to get
11 back.

12 CO-HEARING OFFICER DODUC: Please do provide us
13 with your written comments, your written policy
14 statement. We will post it so everyone can see it. If
15 it is something that the Department of Water Resources
16 needs to address I am sure they will look into it.

17 MS. SHAW: I do mean the State Water Resources
18 Board web site.

19 CO-HEARING OFFICER DODUC: We will as well.

20 MS. SHAW: Your names are all on it. So it
21 needs to be made.

22 CO-HEARING OFFICER DODUC: Thank you. As long
23 as they spell my name correctly.

24 MS. SHAW: Yes.

25 CO-HEARING OFFICER DODUC: Next we have

1 Mr. Porgans.

2 MR. PORGANS: Members of the board, my name is
3 Patrick Porgans. I am representing Planetary
4 Solutionaries and I am here for two reasons. It wasn't
5 my intention to come here for this particular statement.
6 However, after viewing the web cast yesterday I believe
7 it is important for -- to clear this point up.

8 CO-HEARING OFFICER DODUC: Okay.

9 MR. PORGANS: Policy statements are nothing but
10 statements. They are opinions. They are not weighted
11 in the final determination by this board on this water
12 right decision. Is that correct? Okay. So it gives
13 the public an opportunity to talk. But bottom line, we
14 have to have facts in order to make that determination.
15 Is that correct?

16 CO-HEARING OFFICER DODUC: That is correct.

17 MR. PORGANS: Okay. So what I am saying -- I
18 am advising everybody in this room bulletin 13263,
19 starting on page 95 and thereafter in there you will
20 learn that the reason why the problem that we're having
21 now is -- drought does play a role, but the key issue is
22 water mismanagement. The whole concept upon which water
23 would be exploited from the delta had to do with surplus
24 flows. Those surplus flows are gone. Now what we are
25 doing is the Department of Water Resources and the

1 Bureau of Reclamation heretofore had to resort to taking
2 water that didn't belong to them. That's in the record.
3 And I am looking now at 3.2 million acre feet of water
4 that I can't locate that was purportedly saved during
5 this drought. That water is worth 3 billion dollars. I
6 am going to find out where the water is. We are going
7 to get that water back to the public.

8 Now, the next thing I want you to do if you
9 could -- this is the Central Valley Basin Plan. This is
10 the 19 -- excuse me. I don't want to waste my time
11 here, but this is the Central Valley Basin. It is the
12 comprehensive plan from the State Board way back when.
13 Read it. It tells you there the reason why we built the
14 surface reservoirs was because we caused a -- diverted
15 most of the surface water and we overdrafted. We have
16 no comprehensive conjunctive surfacing groundwater
17 program here. I have been arguing that for 40 years the
18 Delta is not broken, total misnomer. What we have here
19 is a situation where the -- it is the recipient of a
20 litany of government broken promises since 1960. The
21 Delta facilities were never built. The department and
22 the bureau is using those channels to convey water
23 through the system. And section 12934 of the Water Code
24 is -- specifically states that there would be master
25 levies in that Delta. They were never built. These

1 projects have been using those Deltas as a conveyance
2 system.

3 I am almost done here. I want you to know I
4 appreciate everything you are doing. I understand you
5 are on the front line here. Okay. I am not here to
6 make any derogatory comments against you or anybody.
7 You got that? I'm here because I spent 40 years of my
8 own time and my life working on these issues and we have
9 held those projects accountable. And I am saying to
10 you, you have a trust responsibility here that's going
11 to affect future generations. They already killed one
12 Delta down at the Sea of Cortez. And as long as I am
13 alive, I don't want to be too dramatic, that Delta is
14 not going to be destroyed. Okay.

15 CO-HEARING OFFICER DODUC: Thank you, Mr. --

16 MR. PORGANS: Not going to be destroyed. I
17 don't care who is behind it.

18 CO-HEARING OFFICER DODUC: And as you know, the
19 policy statement is not the forum upon which to
20 introduce evidence or exhibits, but we will look forward
21 to receiving those from you as part of your
22 cross-examination and/or case-in-chief.

23 MR. PORGANS: Thank you. And I just want you
24 to know that I hope you can read this information and
25 find really what's wrong here. It is the Department of

1 Water Resources and mismanagement of resources. Thank
2 you.

3 CO-HEARING OFFICER DODUC: Thank you. Do we
4 have any other policy speakers, Ms. McCue?

5 MS. MCCUE: I haven't received any other green
6 cards.

7 CO-HEARING OFFICER DODUC: All right. Does
8 anybody else wish to speak?

9 Not seeing anyone rushing up to the podium, I
10 think this concludes the policy statement portion of our
11 hearing. We will reconvene at 9:00 a.m. tomorrow to
12 begin the evidentiary portion starting with the
13 case-in-chief starting with the opening/policy
14 statements by the Department of Water Resource and the
15 U.S. Bureau of Reclamation and/or DOI and then their
16 case-in-chief.

17 Just for those parties who are participating in
18 the evidentiary portion, we will do the remaining many,
19 many days of part 1A and 1B and perhaps continuing on.
20 We will try to adhere to a 9:00 to 5:00 schedule as much
21 as possible with a one-hour lunch break around the noon
22 to, you know, 12:30 time frame. We will do our best,
23 depending on the flow of the hearing, to find the
24 appropriate time to break; once in the morning as well
25 as once in the afternoon for the court reporter's sake

1 as well as all of our own. And Fridays, casual
2 business, casual dress is entirely acceptable,
3 encouraged and indeed this hearing officer will be
4 casual on Friday in dress only. We will still,
5 obviously, maintain the formality of our hearing, but
6 recognizing that we have months of hearing before us we
7 will do our best to try to make it as comfortable as
8 possible going forward. So thank you all and we will
9 see you at 9 o'clock tomorrow.

10 (Hearing concluded at 1:13 p.m.)

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1 State of California)

2 County of Placer)

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4 I, Elizabeth A. Willis-Lewis, Certified
5 Shorthand Reporter for the State of California,
6 County of Placer, do hereby certify:

7 That I was present at the time of the above
8 proceedings;

9 That I took down in machine shorthand notes
10 all proceedings had and testimony given;

11 That I thereafter transcribed said shorthand
12 notes with the aid of a computer;

13 That the above and foregoing is a full, true,
14 and correct transcription of said shorthand notes,
15 and a full, true and correct transcript of all
16 proceedings had and testimony taken;

17 That I am not a party to the action or related
18 to a party or counsel;

19 That I have no financial or other interest in
20 the outcome of the action.

21 Dated: _____, 2016

22

23 _____
Elizabeth A. Willis-Lewis, RPR, CCRR, CSR No. 12155

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