

San Luis & Delta-Mendota Water Authority



P.O. Box 2157
Los Banos, CA 93635
Phone: (209) 826-9696
Fax: (209) 826-9698



Westlands Water District



3130 N. Fresno St
P.O. Box 6056
Fresno, CA 93703-6056
Phone: (559) 224-1523
Fax: (559) 241-6277

June 15, 2016

VIA E-MAIL

Chair Felicia Marcus
Board Member Tam Doduc
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
E-Mail: CWFhearing@waterboards.ca.gov

Re: Proposed Grouping of Parties and Information re Objections in Hearing on Petition Requesting Changes in Water Rights of the Department of Water Resources and U.S. Bureau of Reclamation for the California WaterFix Project

Dear Chair Marcus and Board Member Doduc:

As parties to the California WaterFix Water Right Change Petition Hearing, the signatories to this letter—the San Luis & Delta-Mendota Water Authority, the State Water Contractors, and Westlands Water District (together, “Public Water Agencies”)—appreciate the opportunity to provide input on the proposed groupings and order of parties for cross-examination in Part 1A of the hearing and to provide objections concerning petitioners’ case in chief. The Public Water Agencies collectively represent more than 50 entities, 25 million people, and 3 million acres of irrigated land. We are writing to provide input on groupings and order for and to reserve the right to raise objections during the oral testimony portion of Part 1A of the hearing.

Input on Proposed Groupings and Order of Parties for Cross-Examination in Part 1A

The State Water Resources Control Board (“State Water Board”), the Public Water Agencies, and all parties to the hearing have a strong interest in having an orderly proceeding that is as efficient as possible, while still preserving the parties’ rights.

Approximately 75 separate individuals or groups of individuals have submitted Notices of Intent to Appear that indicate an intent to present witnesses or to participate via cross-examination and rebuttal only in Part 1 of the hearing. Grouping of the parties is therefore necessary to eliminate redundancy and to encourage an orderly and equitable hearing. Establishing the right number of groups will help focus the hearing – too few groups will likely result in issues not being raised, while too many will lead to confusion.

The Public Water Agencies request that you, as the Hearing Officers, exercise your considerable discretion and make the final determination as to the grouping of all parties for Part 1 of the hearing. (See, e.g., Cal. Code Regs., tit. 23, §§ 648, 648.1, 648.5.) The Public Water Agencies propose organizing the parties into groups based on some combination of the following criteria: type of claimed injury, common interest, geographic area, and common witness(es). For example, the Public Water Agencies request that you consider the following

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groupings: (1) North-of-Delta, upstream water users; (2) other upstream water users, e.g. water users on the San Joaquin River; (3) in-Delta water users, including organizations representing Delta interests; (4) environmental and other non-governmental organizations; and (5) export contractors. It is appropriate for you to identify which parties belong in which groups, after asking the parties to self-identify as belonging to one of the groups.

The Public Water Agencies propose requiring the groups to present cross-examination and rebuttal in Part 1A of the hearing in the order listed above. From the notices of intent to appear and protests that have been submitted, it appears that parties in groups 1 and 2 may allege similar types of injury and rely on the testimony of at least some common witnesses, and the same may be said of parties in groups 3 and 4. The parties in group 5 appear to have somewhat different interests as compared to the other groups.

The Public Water Agencies also encourage the Hearing Officers to set firm time limits for cross-examination, rebuttal, and re-direct during Part 1A of the hearing, and time limits for the same plus direct testimony during Part 1B of the hearing. To avoid confusion that has occurred in other recent State Water Board proceedings, the Public Water Agencies encourage you to prohibit parties in separate groups from combining time. Entities with similar interests and/or witnesses should already be in the same group.

Right to Make Procedural and Evidentiary Objections During the Hearing

At this time, the Public Water Agencies do not have any procedural or evidentiary objections to the petitioners' case-in-chief. However, the Public Water Agencies hereby reserve their right to make appropriate objections at the time of the witnesses' oral testimony.

Thank you for your consideration of these comments.

Regards,



Jon D. Rubin
General Counsel
San Luis & Delta-Mendota Water Authority



Stefanie Morris
General Counsel
State Water Contractors



Philip Williams
Deputy General Counsel
Westlands Water District

cc: [Service List]

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):

Proposed Grouping of Parties

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 June 9, 2016, posted by the State 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 June 15, 2016
Date

Signature: _____

Name: Rebecca R. Akroyd

Title: Attorney

Party/Affiliation: SLDMWA

Address: 400 Capitol Mall, 27th Floor
Sacramento, CA 95814