



ATTORNEYS AT LAW

18101 Von Karman Avenue
Suite 1800
Irvine, CA 92612
T 949.833.7800
F 949.833.7878

Paul S. Weiland
D 949.477.7644
pweiland@nossaman.com

Refer To File #: 300062-0009

January 22, 2016

Via Email

Felicia Marcus, Chair and Co-Hearing Officer
Tam Doduc, Member and Co-Hearing Officer
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814
CWFhearing@waterboards.ca.gov

Re: Comments on California Water Fix Pre-Hearing Conference

Dear Ms. Marcus and Ms. Doduc:

On behalf of the Coalition for a Sustainable Delta (Coalition), we appreciate the opportunity to provide comments regarding the California WaterFix (Project) pre-hearing conference that is scheduled for January 28, 2016, as well as on the proposed agenda, which was issued by the State Water Resources Control Board (Board) on January 15, 2016, and the Notice of Petition and Public Hearing (Notice), issued on October 30, 2015.

As the Board is well aware, the number of parties that have indicated their intent to participate in the evidentiary portion of the Project hearing through direct testimony, cross-examination or rebuttal is extremely large. It is therefore critical that the co-chairs provide specific direction to the parties, in order for the proceedings to move forward in an efficient manner. This direction should include grouping parties with similar interests in order to facilitate the development of a coherent and logical record, as well as to reduce redundant testimony and expedite cross-examination. The Coalition suggests that reasonable and appropriate time limitations be imposed on the combined testimony, and that an appropriate opportunity for procedural motions, including motions in limine, be afforded the parties. Such measures will best accommodate the complexity of the issues and the number of hearing participants, so as to ensure that the hearing proceeds as efficiently as possible.

Specifically, the Coalition suggests the following:

Case in Chief:

Petitioners should be allowed a sufficient amount time to put on their case in chief. As currently drafted, the Notice would limit them to one hour. This is not enough time for the petitioners to present their case, a point recognized in the January 15 letter from the Board to

the parties. Given that the petitioners hold the initial burden of proof, and that the other parties will have potentially 30 days to cross-examine and question petitioners' arguments and testimony, it is of paramount importance that petitioners have an adequate amount of time to present their case in chief. Thus, the Coalition requests that the parties be allowed additional time beyond what is stated in the Notice.

Recommended Hearing Structure:

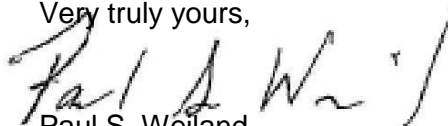
The Coalition encourages the Board to require procedural motions and other pre-hearing motions to be filed prior to commencing the case in chief. Specifically, the Coalition would suggest requiring such motions to be filed by March 21, 2016 and responsive motions to be filed by April 4, 2016. These motions could include motions in limine and/or other preliminary procedural motions. To the extent relevant, rulings on motions should proceed before policy statements are presented.

Hearing Efficiency and Limitations:

The Coalition supports the Board's proposal to require grouping of parties on direct, cross-examination, and rebuttal. See January 15, 2016 Letter at p. 4; Notice at p. 31. The Coalition also recommends that the co-chairs allow the parties to attempt to self-organize and present grouping and time limit proposals to the co-chairs in a second pre-hearing conference approximately one week after submittal of testimony and exhibits. Providing parties an opportunity to review the submitted testimony will assist in determining if positions taken are compatible and if they are willing to consolidate and coordinate with others.

We appreciate your consideration of the foregoing. Please do not hesitate to contact us with questions.

Very truly yours,



Paul S. Weiland
of Nossaman LLP

PSW:ajr