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8 BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD
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10 HEARING IN THE MATTER OF
11 CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES
12 BUREAU OF RECLAMATION REQUEST
FOR A CHANGE IN POINT OF
13 DIVERSION FOR CALIFORNIA WATER
FIX
14

**DEPARTMENT OF WATER
RESOURCES' OBJECTIONS TO
TESTIMONY AND EXHIBITS
SUBMITTED BY LOCAL AGENCIES OF
THE NORTH DELTA, ET AL.
(GROUP 19) AND DANIEL WILSON
(GROUP 20) AND MOTION TO STRIKE**

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I. INTRODUCTION

California Department of Water Resources (“DWR”) submits these objections,¹ to the Part 1B testimony and exhibits (case-in-chief) submitted by Group 19 comprised of Local Agencies of the North Delta; Bogle Vineyards/Delta Watershed Landowner Coalition (“DWLC”); Diablo Vineyards/DWLC; and Stillwater Orchards/DWLC; Islands Inc. and Group 20, Daniel Wilson, (collectively “LAND et al.”) in the matter of DWR and U.S. Bureau of Reclamation’s (collectively “Petitioners”) Request for a Change in Point of Diversion for California Water Fix.² DWR also concurrently moves to strike the same written testimony and exhibits. Where applicable in these objections, DWR cites to its concurrently-filed Master Objections to Protestants’ Cases-In-Chief (“Master Objections”), which also provides a common Statement of Facts and Legal Standards for DWR’s separate responses to Protestants’ cases-in-chief.

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II. OBJECTIONS/REQUESTS TO EXCLUDE

A. LAND et al. Submitted Exhibits for Which There is No Sponsoring Testimony and Which, Therefore, Lack Foundation and Demonstrated Relevance

A large number of exhibits submitted by LAND et al. are not referenced in any of the testimony of LAND et al.’s witnesses. There is no witness providing testimony as to the authenticity,³ reliability or provenance of these exhibits or any testimony establishing the relevance of these exhibits to the proceeding. As such, these exhibits wholly lack

¹ DWR reserves the right to make additional evidentiary/procedural objections to evidence and exhibits submitted by Protestants in support of their cases-in-chief.

² LAND et al. (Groups 19 and 20) submitted a revised Notice of Intent (“NOI”) that now proposes a joint case-in-chief, in part, with Group 24 comprised of San Joaquin County, San Joaquin County Flood Control and Water Conservation District, and the Mokelumne River Water and Power Authority (“County of San Joaquin et al.”). This joint case-in-chief appears to be comprised by the testimony and exhibits submitted nominally by three parties: Local Agencies of the North Delta, Islands, Inc., and County of San Joaquin et al. This response addresses the testimony and exhibits submitted by Local Agencies of the North Delta (LAND-1 through LAND-73) and Islands, Inc. (IL-1 through IL-43). The testimony and exhibits submitted by County of San Joaquin et al. (SJC-001 through SJC-068.) are addressed in a separate filing.

³ In fact, LAND et al. provides no testimony for any of its referenced exhibits stating that such exhibits are “true and correct copies.”

1 any foundation as well as any demonstrated relevance and should be excluded from
2 Part 1 of this proceeding. Exhibits lacking any “sponsoring” testimony are the following:
3 LAND-1, LAND-2, LAND-5, LAND-6, LAND-8, LAND-50, LAND-51, LAND-52, LAND-55,
4 LAND-61, LAND-66, LAND-67, LAND-68, LAND-70, LAND-73; II-4, II-5, II-6, II-7, II-11,
5 II-17, II-18, II-20, II-31, II-33, II-34, II-35, II-36, II-37, II-38, and II-39.

6 **B. LAND et al. Submitted a Number of Exhibits That Lack Foundation**
7 **and are not Information on Which a Responsible Person Can Rely**

8 LAND et al. fails to provide an adequate foundation for a series of documents it
9 seeks to introduce into evidence, which purport to show alleged impacts and injuries
10 caused by the Proposed Petition or more broadly the WaterFix project. These
11 documents are exhibits LAND-3, LAND-4, LAND-5, LAND-6, LAND-7, LAND-57, LAND-
12 58, LAND-59, LAND-60, LAND-61 and LAND-69. Under Government Code § 11513(c),
13 the Water Board may admit any relevant evidence provided that it is the sort of evidence
14 on which responsible persons are accustomed to rely. The exhibits submitted by LAND
15 et al., however, lack sufficient supporting testimony regarding their preparation, and in
16 many cases, a witness that can be questioned about the documents.

17 Exhibits LAND-3, LAND-4, LAND-5, LAND-6, LAND-7, LAND-57, LAND-58, LAND-
18 60 and LAND-61 are a series of created figures based on underlying Google maps
19 created by firm BSK Associates that claim to show “Tunnel/WaterFix Impacts,” “Surface
20 Impacts” or “Water Rights Injuries.” These exhibits are cited by various LAND et al.
21 witnesses, but no witness provides any testimony concerning the preparation of these
22 documents. No witness “sponsors” the introduction of these documents and can explain
23 their content. Significantly, there is no witness from BSK Associates, the nominal source
24 of these documents, that can be questioned regarding the impacts they purport to show.
25 For this reason, the documents lack foundation and are not the type of evidence on
26 which a responsible person would rely.

27 Similarly, exhibits LAND-60 and LAND-61 are figures that appear to come from the
28 “EIR/EIS” on which hand-drawn annotations denoting well locations have been added.

1 While some LAND et al. witnesses cite to these documents, no LAND et al witness
2 discusses how these documents were prepared, by whom, and from what source of
3 information. There is no “sponsoring” witness to cross examine on the veracity of these
4 documents. Because these documents lack an adequate foundation, they should also
5 be excluded from the record.

6 Finally, LAND-69, is a draft document titled “DCE CM1 Property Management
7 Plan” that is clearly marked “Confidential draft – Prepared for internal discussion
8 purposes only and not intended for public distribution.” While cited by a couple
9 witnesses, no LAND et al. witness provides any information as to how this “confidential
10 document” was acquired or whether this draft version of the document is reliable, current
11 information on which to base conclusions. As a draft document for which an adequate
12 foundation has not been provided, this document is also not the type of evidence on
13 which a responsible person would rely and, thus, should be excluded.

14 **III. Testimony of Daniel Wilson (LAND-20)**

15 **A. Mr. Wilson Lacks the Necessary Qualifications to Provide Expert 16 Opinion Testimony on Water Level and Water Quality Impacts**

17 Mr. Wilson is not qualified to offer expert opinion testimony on the impacts of the
18 WaterFix on water quality and water levels and related impacts on unspecified Delta
19 water users, areas sufficiently outside the common experience of a lay witness.⁴
20 (Evidence Code § 801). Under Evidence Code § 800(a), lay witness testimony must be
21 rationally based on the perception of the witness, i.e., personal observation of the
22 witness. Generally, lay witnesses may only express opinions on matters within common
23 knowledge or experience. (See Evidence Code §§ 800(a), 801(a); see also *Miller v. Los*
24 *Angeles County Flood Control Dist.* (1973) 8 Cal.3d 689, 702.) Expert testimony is

25 _____
26 ⁴ In his original NOI, Mr. Wilson, a party to this proceeding named himself as an expert witness for the
27 purposes of providing testimony on “Multiple Numbers/North Intake.” The revised NOI submitted with the testimony of
28 LAND et al. now states that Mr. Wilson will be providing percipient/expert testimony on the “Impacts to Rivermaid
Farms.”

1 required when related to a “subject that is sufficiently beyond the common experience
2 that the opinion of an expert would assist the trier of fact.” (Evidence Code § 801; see
3 also *Miller*, 8 Cal.3d at 702.)

4 As shown by his testimony, Mr. Wilson, though a Delta farmer and mechanical
5 engineer with contract administration experience, has no particular training or expertise
6 with hydrology or hydrologic modeling.⁵ (LAND-20, page 1:1-6.) Without the benefit of
7 specialized expertise, however, Mr. Wilson provides expert opinion on the impacts of the
8 proposed Petition on water levels, water quality and the sufficiency of the modeling done
9 in support of Petitioners’ case-in-chief.

10 Mr. Wilson opines that impacts to water levels by the proposed WaterFix “could
11 interfere with our ability to irrigate crops with our diversions” but that “[s]ufficient
12 information has not been provided in the Petition to assess this injury.” (LAND-20, p.
13 1:19-26.) Mr. Wilson bases his testimony on his own interpretation of the modeling
14 testimony of DWR witness Dr. Nader-Tehrani. (*Id.*) Similarly, based on his concerns
15 over water quality demonstrated by Dr. Nader-Parviz testimony (DWR-66, pp. 4-6), Mr.
16 Wilson states that, if the DWR’s proposed dams on Sutter and Steamboat Sloughs
17 during low flow years are combined with pulling up to 9,000 cfs out of the Sacramento
18 River, “it is clear to me that this will interfere with our ability to irrigate our orchards with
19 high quality water and produce high quality fruit.” (LAND-20, p. 2:3-11.) He goes on to
20 state that, in his opinion, sufficient information has not been provided in the Petition to
21 assess this injury. (*Id.*) Finally, Mr. Wilson provides an opinion that the modeling of
22 future scenarios and regulations by Petitioners is “inadequate and inaccurate by its very
23 nature.” (LAND-20, p. 2:12-16.) Because Mr. Wilson lacks sufficient expertise to assess
24 impacts of the proposed change in point of diversion on water levels and water quality or
25 the sufficiency of the modeling performed, his testimony is conclusory and not useful to

26
27 ⁵ Aside from these few lines of testimony, LAND et al. did not submit an exhibit containing a statement of Mr.
28 Wilson’s qualifications.

1 aid the trier of fact in this proceeding. Even under the relaxed standards for admissibility
2 of evidence in administrative proceedings, the following testimony should be excluded:
3 LAND-20, pp. 1:21-26, 2:3-16.

4 **B. Mr. Wilson’s Testimony Lacks Foundation And Is not the Type of**
5 **Information on Which a Responsible Person Would Rely**

6 Mr. Wilson’s testimony reads more like a policy statement from a concerned Delta
7 landowner than testimony intended to provide relevant evidence on the issues before the
8 hearing officers in Part 1. Mr. Wilson’s opinions, detailed in the previous section, are
9 based on no more than Mr. Wilson’s conjecture and he cites absolutely no bases or
10 supporting evidence for his conclusory opinions. (See LAND-20, pp. 1:19-2:19.)

11 For example, Mr. Wilson provides no basis or evidence for his statement that DWR
12 proposes to build dams on Sutter or Steamboat Slough or his opinion that such dams
13 would have a cumulative effect on the impacts of the proposed changes. (*Id.*, p. 2:5-8.)
14 Similarly, Mr. Wilson provides no support for his opinion that Petitioners’ modeling
15 testimony is inadequate or inaccurate or for his off-the-cuff statement that “we know the
16 export water interests will use all the power they have to take as much water as possible
17 regardless of the impacts on us.” (*Id.*, p. 2:12-19.) Mr. Wilson’s conclusory opinion
18 testimony, LAND-20, pp. 1:19-2:19, entirely lacks foundation and should be excluded as
19 information on which a responsible person would not rely. (Government Code
20 § 11513(c).)

21 Mr. Wilson’s final point concerns the destruction of an orchard due to the siting of
22 Intake number 2. However, Mr. Wilson’s testimony that the siting of the intake will
23 destroy the entire orchard is based on two exhibits which themselves lack foundation.
24 (LAND-20, pp. 2:20-3:2; Government Code § 11513(c); Evidence Code § 801(b).)
25 These two documents, exhibits LAND-57 and LAND-69, are discussed above in Section
26 II. LAND-69 is a draft document titled DCE CM1 Property Management Plan clearly
27 marked “Confidential draft – Prepared for internal discussion purposes only and not
28 intended for public distribution.” Mr. Wilson provides no information as to how this

1 “confidential document” was acquired and whether this draft version of the document is
2 reliable, current information on which to base his conclusions. Similarly, exhibit LAND-
3 57 is a series of maps prepared by BSK Associates which purport to show impacts and
4 for which Mr. Wilson provides no testimony regarding their preparation. For these
5 reasons, Mr. Wilson’s testimony supported by these two exhibits (LAND-20, pp. 2:22-23
6 p. 2:25-3:1) and as well as the two exhibits, LAND-69 and LAND-57, should be excluded
7 for lack of adequate foundation.

8 **IV. Testimony of Richard Elliot (LAND-25)**

9 **A. Testimony Concerning Construction Impacts and Impacts on the 10 Delta’s Agricultural Heritage Are Not Relevant to Part 1 Issues.**

11 Like other landowner testimony submitted by LAND et al., much of Mr. Elliot’s
12 testimony contains general concerns regarding the potential impacts of the WaterFix
13 project on Delta agriculture and its heritage. (See LAND-25, pp. 1:8-2:7 and p. 2:16-20.)
14 However, the scope of Part 1 of the proceeding is limited to testimony and evidence
15 concerning the effects of the Petition (proposed changes in points of diversion) on legal
16 users of water and other human uses of water. (See February 11, 2016 Ruling, p. 10;
17 DWR’s Master Objections.) Mr. Elliot’s testimony reflecting generalized concerns, for
18 example construction impacts (e.g., truck traffic) on Delta agriculture, are irrelevant to
19 Part 1 of this proceeding and should be excluded. This testimony can be found at
20 LAND-25, pp. 1:8-2:7 and p. 2:16-20, p. 2:23-26.

21 **B. Mr. Elliot’s Testimony Lacks Foundation And Is not the Type of 22 Information on Which a Responsible Person Would Rely**

23 Mr. Elliot makes a number of conclusory assertions regarding impacts of the
24 WaterFix for which he provides no bases or supporting evidence. For example, at page
25 1, lines 20-23, Mr. Elliot testifies that the WaterFix will “paralyze the entire Delta area”
26 and that there “is no benefit or mitigation for the people that live in the Delta” but
27 provides no evidence regarding such impacts other than this conjecture. He also
28 provides an opinion that the planned tunnels may obstruct subsurface groundwater flow

1 and cause wells to go dry or worsen water quality, relying solely on Mr. Tootle's
2 testimony which itself lacks foundation as is discussed below in Section IV. (LAND-25,
3 p. 3:1-2). He then concludes, with no explanation or evidence, that slurry walls "would
4 also likely interfere with water flows below the surface." (LAND-25, p. 3-5.) At the end of
5 his testimony, Mr. Elliot offers the unsupported opinion that lower water levels
6 downstream of the proposed intakes will injure "our water rights." (LAND-25, p. 3:17-21.)
7 Finally, in his testimony, Mr. Elliot also relies on exhibits LAND-57, LAND-58, and
8 LAND-69 to support certain assertions which themselves lack foundation and should be
9 excluded from the record as discussed above in Section II. Because the testimony is
10 conclusory without supporting bases or evidence, the following testimony should be
11 excluded: LAND-25, pp. 1:20-23, 2:21-27, 3:1-9 and 3:17-21.

12 **C. Mr. Elliot is not Qualified to Provide Expert Testimony on the issue of**
13 **Impacts to Subsurface Groundwater Flow.**

14 As an operations manager for his family's farms, Mr. Elliot is not qualified to offer
15 expert opinion testimony on matters concerning impacts to subsurface groundwater
16 flows. (See LAND-25, p. 3:1-5 and 3:12-14.) On both the original NOI filed by Stillwater
17 Orchards/Delta Watershed Landowner Coalition and the revised NOI filed by LAND et
18 al., Mr. Elliot is listed as both a percipient and expert witness on the topic of "Pear Farm
19 Water Operations" and "Impacts on Stillwater Orchards" respectively. Neither Mr. Elliot
20 nor LAND et al. provide a statement of qualifications demonstrating that Mr. Elliot is
21 qualified to provide expert testimony on such matters, which are beyond common
22 experience, that would be useful to the trier of fact. (Evidence Code § 801.) Despite a
23 lack of expertise, Mr. Elliot provides testimony that the impacts of the project will interfere
24 with groundwater flow and groundwater wells. (See LAND-25, pp. 3:1-5 and 3:12-14.)
25 For these reasons, Mr. Elliot's testimony at LAND-25, p. 3:1-5 and 3:12-14 should be
26 excluded.

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V. Testimony of Russell Van Loben Sels (LAND-30)

A. Testimony on Impacts to Amistad Ranch were Not Disclosed on the Original Notice of Intent filed by Local Agencies of the North Delta or any other Party in Group 19 or 20.

On the revised NOI recently filed by LAND et al., Mr. Van Loben Sels is disclosed as a percipient and expert witness on the topic of “Impacts on Amistad Ranch.” No party in Group 19 or 20 disclosed that testimony would be provided on the topic of impacts to Amistad Ranch. LAND et al. did not receive permission from the hearing officers to revise or submit a new NOI adding a witness or new topic of testimony. For this reason, Mr. Van Loben Sels testimony should be excluded in its entirety. (See April 25, 2016 Ruling; August 24, 2016 Ruling regarding revised NOIs.)

B. Testimony Concerning Construction Impacts Are Not Relevant to Part 1 Key Issues

Mr. Van Loben Sels’ general concerns about construction impacts of the WaterFix project on the Delta economy, while important, are not relevant to Part 1 issues. The scope of Part 1 is limited to testimony and evidence concerning the effects of the Petition on legal users of water and other human uses of water. (See February 11, 2016 Ruling, p. 10; see also DWR’s Master Objections.) Mr. Van Loben Sels’ testimony at LAND-30, p. 1:16-24, titled “General Concerns” should be excluded as irrelevant.

C. Mr. Van Loben Sels’ Conclusory Testimony Regarding Impacts on Water Quality, Water Levels, Water Delivery and Drainage Systems Lacks Foundation

Mr. Van Loben Sels provides conclusory testimony without sufficient bases or citation to supporting evidence regarding impacts of the Petition on water quality, water levels and groundwater flow. For example, Mr. Van Loben Sels testifies as to the impacts of the proposed diversions on water levels and water quality in the Delta without citation to any actual evidence of impact. (See LAND-30, p. 1:26-2:4.) Mr. Van Loben Sels then makes the unsupported statement that the DWR has refused to provide the relevant modeling information in support of the Petition citing to an e-mail exchange offered at LAND-72. However, as that e-mail clearly states, all of the data LAND et al.

1 sought was provided in the model files released last spring and the EIR/S modeling
2 released even earlier. (See LAND-72.) Protestants in this case have had access to all
3 modeling data in support of the Petition as well as technical assistance from DWR staff
4 in accessing the information well in advance of the deadline for Protestants' cases-in-
5 chief.

6 Mr. Van Loben Sels also provides largely unsupported testimony that construction
7 of the tunnels will interfere with the groundwater and surface water delivery and drainage
8 systems. (See LAND-30, pp. 2:12-3:24.) Mr. Van Loben Sels also testifies that
9 mitigation for impacted water diversions would likely be insufficient, expressing concern
10 over the difficulties that would be encountered on his land, but provides no supporting
11 evidence or specific bases demonstrating that mitigation for impacted water diversions
12 would actually be insufficient. (See LAND-30, pp. 2:21-3:19.) Where he does cite to
13 evidence, Mr. Van Loben Sels relies on evidence that is itself insufficient and lacks
14 adequate foundation. In his testimony regarding factors that control the groundwater
15 table, Mr. Van Loben Sels merely cites to comments written by LAND et al.'s attorney to
16 the BDCP DEIR/EIS. (See LAND-30, p. 2:16-19 citing to LAND-71.) He also cites to
17 exhibits LAND-3 and LAND-60, both of which purport to show impacts. However, LAND
18 et al. has not provided a sufficient foundation for admission into evidence as described in
19 Section II, above.

20 Finally, Mr. Van Loben Sels testifies that other water users who depend on
21 Reclamation District 74 for their water will also be adversely impacted but he again
22 provides no evidence or information regarding these other water uses or Reclamation
23 District 74's water rights. (LAND-30, p. 3:20-24.) Mr. Van Loben Sels' testimony is
24 largely composed of speculation and conjecture with no supporting evidence or
25 adequate bases and is not the sort of information on which a responsible person would
26 rely in serious affairs or that would be helpful to the trier of facts in Part 1 of this
27 proceeding. For this reason, Mr. Van Lobel Sels' testimony on purported impacts,
28 LAND-30, p. 1:25-3:24 should largely be excluded or disregarded.

1 **D. Mr. Van Loben Sels Lacks the Qualifications to Provide Expert**
2 **Testimony on Impacts to Water Quality, Water Levels and Water**
3 **Delivery and Drainage Systems**

4 Finally, Mr. Van Loben Sels, like many LAND et al. witnesses, lacks the necessary
5 expert qualifications to provide opinion testimony on the impacts of the proposed
6 changes on water quality, water levels, and groundwater flow, matters well beyond the
7 common experience of a lay witness. The revised NOI filed by LAND et al. states that
8 Mr. Van Loben Sels is a percipient/expert witness on “Impacts to Stillwater Orchards.”
9 Expert testimony is required when related to a “subject that is sufficiently beyond the
10 common experience that the opinion of an expert would assist the trier of fact.”
(Evidence Code § 801; *see also Miller*, 8 Cal.3d at 702.)

11 Mr. Van Loben Sels’ testimony states that he is a CFO of various farming
12 enterprises, chairs a caucus of Delta farm bureaus and is a trustee for a reclamation
13 district. Neither Mr. Van Loben Sels nor LAND et al. provide an additional statement of
14 qualifications demonstrating that Mr. Van Loben Sels, who is neither an engineer nor
15 scientist, is qualified to opine on such matters as an expert witness in a manner useful to
16 the trier of fact. (Evidence Code § 801.) Despite any expertise or experience, Mr. Van
17 Loben Sels provides opinion testimony on the factors controlling saltwater intrusion and
18 groundwater levels in the Delta and makes the unsupported conclusion that
19 “[c]onstruction of the Tunnels will damage Delta agriculture by interfering with surface
20 water delivery and drainage systems and by discharging massive amounts of water
21 during dewatering activities”. (See LAND-30, p. 2:13-19.) For these reasons, Mr. Van
22 Loben Sels’ testimony at LAND-30, pp. 1:26-2:4, 2:13-19 and 3:20-24 should be
23 excluded.

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VI. Testimony of Josef Tootle (LAND-35)

A. Mr. Tootle’s Testimony Lacks Adequate Foundation Being Based Mainly on Conjecture and Speculation But No Real Supporting Evidence

Mr. Tootle provides expert opinion testimony on three main topics: impacts on groundwater use (LAND-35, pp. 1:14-6:12), spoils disposal (LAND-30, pp. 6:13-8:4), and “loss of ground as a result of tunneling activities.” (LAND-35, pp. 8:5-10:10.) Throughout his testimony, however, Mr. Tootle makes pronouncements on possible impacts but never provides any supporting bases or evidence that any purported impacts would or even could occur. For the most part, Mr. Tootle’s statements are wholly unsupported conjecture. “An expert opinion has no value if its basis is unsound.” (*In re Lockheed Litigation Cases* (2004) 115 Cal.App.4th 558, 564.) “Expert opinion based on speculation or conjecture is inadmissible.” (*Id.*)

Regarding groundwater impacts, Mr. Tootle concludes that the tunnels may act as a significant barrier to groundwater flows given the complex heterogeneity of soils in the Delta. However, he only raises generalized concerns that impacts “may” occur. (See LAND-35, pp. 1:14-3:25.) He provides no evidence or bases that an impact would occur in any particular location along the tunnel length or that any particular groundwater well would be affected due to the particular soil types in its vicinity. He makes no specific analyses. Moreover, the smattering of supporting evidence he does cite itself lacks foundation. As support for his statements on the complexity of Delta soils, Mr. Tootle short cites to what appear to be publications (“Atwater 1982”; “Frazier and Osanik 1969”) but provides no full references or accompanying exhibit of such documents. (LAND-35, pp. 2: 17, 2:28-3:1, 5:5-6.) He also relies on LAND-58 and LAND-59 for the location of water wells in the Delta, which themselves lack foundation as discussed above in Section II. (LAND-35, pp. 2:12, 3:19-20.)

Similarly, Mr. Tootle provides testimony on the proposed impact of slurry walls on groundwater flow at isolated shaft locations. (LAND-35, p. 3:26-5:9.) Based solely on the conclusion that slurry walls act as local impermeable barriers, he broadly concludes

1 that there “exists a substantial possibility that adjacent property owners that rely on
2 drainage of groundwater for agriculture production and/or use of shallow groundwater
3 aquifers for irrigation water will be significantly adversely impacted by this introduction of
4 nearly impermeable barriers to groundwater flow.” (LAND-35, p. 3:12-15.) Again, Mr.
5 Tootle provides no evidence or bases for assuming that such impacts will actually occur.
6 He relies, with no investigation or analysis of any particular location, on the general
7 heterogeneous complexity of soils in the Delta for this sweeping conclusion. He sums
8 up his testimony on groundwater impacts by stating that “[c]ertainly, nothing that I’ve
9 seen in the CWF project documentation . . . affords any assurance – much less a
10 credible science-based assurance – that the project will not result in such injury.”
11 (LAND-35, p. 5:22-27.) His testimony, however, provides no contrary evidence that such
12 injuries would or are even likely to occur.

13 Regarding impacts from spoils disposal, Mr. Tootle provides testimony raising
14 general concerns about soil disposal and potential impacts to “adjacent legal users of
15 water,” but provides no bases or evidence for concluding that spoils disposal for the
16 WaterFix project will cause injury to any particular legal users of water or water uses.
17 (LAND-30, p. 6:13-8:4.) Instead, Mr. Tootle’s comments are based on his conjecture for
18 how spoils may or may not be handled by the project. (Id.) He states generally that if
19 problems with soils disposal are encountered or spoils are not disposed of properly then
20 there could be (nonspecified) injury to legal users of water. (Id.)

21 Finally, Mr. Tootle testifies on the possible loss of ground due to tunneling activities
22 “with catastrophic impacts on levees and islands.” (LAND-35, pp. 8:5-10:10.) Again, Mr.
23 Tootle provides no bases or evidence in support of any conclusion that losses of ground
24 or levee breaches are significant risks due to the WaterFix project. He made no specific
25 investigation or analysis. Instead, he mainly testifies about what he believes to be the
26 “no injury” legal standard that should be applied and DWR’s general analysis of risk in
27 light of mitigating measures. (See *id.*)

1 Mr. Tootle's broad generalized statements of concern and conclusory statements
2 of likely injury without specific bases or supporting evidence are not the sort of evidence
3 upon which a responsible person would rely and his expert opinion, lacking adequate
4 foundation, is not helpful for the trier of fact in determining whether or not there is actual
5 injury to legal users of water or impacts on other human uses of water in Part 1 of this
6 proceeding. For these reasons, Mr. Tootle's testimony should be excluded.

7 **B. Mr. Tootle Provides Improper Testimony on the Legal Requirements**
8 **of Water Code Section 1701.2**

9 On pages 8, line 23 through 9:4, Mr. Tootle provides testimony on the showing that
10 Petitioners are required to make under Water Code Section 1701.2(d) and his opinion on
11 whether such a showing has been made. He states:

12 However, this focus on potential mitigation measures rather than on a "no
13 injury" analysis, though common in the context of an EIR/EIS analysis does
14 not address the requirement of Water Code section 1701.2, subdivision (d)
15 that petitioners demonstrate a reasonable likelihood that the proposed
16 change will not injure any other legal user of water. (LAND-35, pp. 8:23-26.)

17 These are conclusory statements as to what the law requires of Petitioners, which is the
18 purview of the Water Board, not protestants. Such testimony is not helpful to the trier of
19 fact and should be excluded. (See also DWR's Master Objections.)

20 **VII. Testimony of Erik Ringelberg (IL-24)**

21 **A. Mr. Ringelberg Lacks the Necessary Qualifications to Provide**
22 **Testimony on Salinity Impacts, Project Operations and Modeling**

23 As can be seen from his Statement of Qualifications, Mr. Ringelberg is an
24 environmental scientist with experience managing and directing conservation projects,
25 restoration projects and research programs. (See II-23.) He is not, however, a
26 hydrologist or engineer and does not appear to have any significant modeling
27 experience, in particular with the hydrologic models used to analyze the Delta (CalSim
28 and DSM2), or experience with the operations of large-scale water systems such as the
Central Valley Project ("CVP") or State Water Project ("SWP"). Moreover, he does not

1 appear to have any significant experience with agriculture and the irrigation of crops.
2 (Id.)

3 Despite this lack of expertise, Mr. Ringelberg provides expert opinion testimony on
4 project impacts on water quality and quantity on agriculture as well as the operation of
5 the projects and the modeling analyses performed by Petitioners. Based on his analysis
6 of the data, he concludes that operations of the project will keep the Delta in a state of
7 permanent drought with effects on flows and salinity (EC). (See II-24, p. 3:25-7:15.) He
8 then concludes that the modeling performed by Petitioners was flawed concluding that
9 the “project failed to provide fine scale modeling for key agricultural intake locations
10 within the Delta” and that even the “coarse scale modeling it did provide is insufficient to
11 provide any predictive ability to show it does not harm beneficial uses and in particular
12 agricultural water users with sensitive crops.” (See II-24, pp. 7:17-8:13 and 8:24-9:2.)

13 Mr. Ringelberg lacks the sufficient expertise to provide testimony that would assist
14 the trier of fact on matters concerning project operations and the complex hydrologic
15 modeling used in this proceeding, matters well beyond the common experience of a lay
16 witness. For this reason, his testimony should be excluded. (Evidence Code § 801; see
17 *also Miller*, 8 Cal.3d at 702.)

18 **B. Mr. Ringelberg’s Conclusory Testimony Lacks Adequate Support and**
19 **is not Evidence on which A Responsible Person would Rely.**

20 Mr. Ringelberg “scientific analysis and conclusions about the likely project impacts
21 on water quantity and quality” consists of conclusory statements unsupported by any
22 bases or evidence. For example, Mr. Ringelberg expounds on current Delta salinity and
23 ecological and agricultural tolerance ranges without once citing any authority for his
24 propositions or any actual data. (II-24, pp. 2:24-3:23.) He opines that “[f]or agriculture,
25 the highest concentration (not the average) of the water diverted for crop use, salinity
26 control and wildlife management can significantly impair productivity and lead to salt
27 buildup” and that “[t]he average can influence the total load of the salt and effect [sic]

1 leaching, but it is the absolute instantaneous concentration during irrigation that is
2 critical, not the average.” (II-24, p. 3:15-19.) He then concludes that:

3 For example, it is the timing of the salinity during the agricultural growing
4 season, preirrigation and salinity flushing that are important. The important
5 level in both these cases is the peak salinity, and for the season, the area
6 under the curve that leads to the seasonal loading, which is the sum total of
7 the salinity load (net). (II-24, p. 3:20-23.)

8 Salinity impacts on agriculture are matters outside of Mr. Ringelberg’s experience and
9 expertise. By failing to cite to any supporting information or evidence, these bald
10 pronouncements lack foundation and should be excluded.

11 Mr. Ringelberg then proceeds to discuss and analyze proposed project operations,
12 including a discussion of factors that affect flow and circulation in the Delta. (II-24, pp.
13 3:24-7:15.) Mr. Ringelberg provides no citation to evidence or bases for his conclusions
14 concerning factors affecting flow in the Delta. For example, there is no evidence cited to
15 support his general conclusion that “flow routing the DCC [Delta Cross Channel], and
16 dam operations yield lower salinity in portions of the South Delta, while at times creating
17 reverse flows that draw in greater flows from Suisun into the western Delta” and similar
18 statements. (See II-24, pp. 3:26-4:14.)

19 In his testimony, Mr. Ringelberg reaches the overall conclusion that “the proposed
20 project diversion in the North Delta under certain project scenarios will establish
21 essentially the equivalent of drought conditions, and their associated lower flows, in the
22 Delta by removing significant flow of the Sacramento River during critical agricultural
23 water use periods.” (II-24, p 4:15-20.) Mr. Ringelberg reaches this conclusion from his
24 analysis of “operational rules” from the modeling analyses regarding diversion from the
25 North Intakes which he sourced from DWR-515 and DWR-5. (II-24, pp. 4:21-7:14.) Mr.
26 Ringelber’s testimony lacks foundation because his analysis relies, without an adequate
27 basis, on a small subset of the proposed flow conditions contained in the referenced
28 exhibits concerning North Delta Bypass Flows which has differing parameters during
different time periods and under different pulse flow conditions. (See DWR 515, Table 2
and DWR-5.) Mr. Ringelberg’s testimony that the “rules” he describes would be in

1 operation the “vast majority of time” is unsupported by the referenced exhibits and Mr.
2 Ringelberg provides no other evidence. (II-24, p. 5:1-4.)

3 Moreover, Mr. Ringelberg completely dismisses the admonishment at the top of
4 Table 2 of DWR-515, which clearly states “[t]hese parameters are for modeling
5 purposes. Actual operations will be based on real-time monitoring of hydrologic
6 conditions and fish presence/movement.” Mr. Ringelberg cavalierly dismisses this
7 caveat concluding that, because there is every incentive to use the northern intakes, the
8 operational rules he describes, “are the only limitations on diversion at the new intakes”
9 completely ignoring both the referenced material as well as testimony regarding real
10 time operations of the SWP. (II-24, p. 5: 4-14.) As a quick reference to the sources
11 cited demonstrates, Mr. Ringelberg’s conclusions regarding impacts of the proposed
12 northern diversion on flows and resulting salinity levels in the Delta are based on
13 incomplete and misconstrued information and lack foundation. As an incomplete and
14 overly-simplistic analysis of more complicated modeling scenarios, such testimony is not
15 evidence on which a responsible person would rely and certainly, in this proceeding, will
16 not assist the trier of fact. Mr. Ringelberg’s testimony on project operations, II-24, pp.
17 3:25-7:15, should be excluded.

18 Finally, Mr. Ringelberg provides a cursory list of reasons why the modeling
19 analyses by Petitioners was flawed. (See II-24, pp. 7:17-8:13.) Again, Mr. Ringelberg
20 provides no citations to evidence or exhibits in his testimony but provides a conclusory
21 opinion that the Petitioners could have provided the type of modeling that would provide
22 predictive, as opposed to comparative, impacts under various bounded operational
23 scenarios and that the coarse-scale modeling by Petitioners was insufficient due to its
24 use of D-1641 compliance and averages. Mr. Ringelberg provides no example of such
25 modeling for the Delta. (*Id.*) Because the testimony is conclusory and lacks an
26 adequate foundation, Mr. Ringelberg’s testimony at II-24, p. 7:17-8:13 should also be
27 excluded.

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1 For the reasons stated above, Mr. Ringelberg's expert testimony should be
2 excluded or disregarded as lacking an adequate foundation. For the same reasons, Mr.
3 Ringelberg's PowerPoint presentation (II-25) summarizing this same testimony should
4 also be excluded.

5 **VIII. Testimony of Michelle Leinfelder-Miles (II-13)**

6 **A. LAND et al. failed to establish that Ms. Leinfelder-Miles' Testimony is**
7 **Relevant**

8 Ms. Leinfelder-Miles' expert testimony regarding the general effect of water quality
9 (salinity) on crop yields, specifically on Ryer Island, is irrelevant to the issues in Part 1
10 because neither she nor any LAND et al. witnesses provide evidence that salinity will
11 actually be impacted at Ryer Island or anywhere else in the Delta due to the proposed
12 changes in the points of diversion. Mr. Ringelberg, LAND et al.'s nominal expert on
13 "Injuries from WaterFix-Salinity," submits only evidence of salinity levels at Rio Vista in
14 the Delta from the last few years during the drought (2013-2015) under his simplistic
15 theory that operations of the WaterFix will create flow conditions similar to drought
16 conditions in the Delta. (See II-24, p. 7:1-15; see also Section VII above.) He makes no
17 actual analysis of impacts of the proposed changes in diversion on salinity aside from
18 this inference. (*Id.*) Because Mr. Ringelberg's testimony on impacts of the proposed
19 diversions on salinity entirely lack foundation, Ms. Leinfelder-Miles' testimony regarding
20 impacts of salinity on soils and crops in the Delta, in particular Ryer Island, are not useful
21 to the trier of fact and irrelevant to the issues in Part 1 of this proceeding. On this basis,
22 Ms Leinfelder-Miles' testimony, II-13, and her accompanying PowerPoint presentation,
23 II-14, should be excluded. Even if marginally probative, the value of Ms.
24 Leinfelder-Miles' academic discourse on the general effects of irrigation with high salinity
25 water on crop yields is substantially outweighed by the probability that admission of her
26 testimony will necessitate an undue consumption of hearing time. (Government Code §
27 11513(f).)

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IX. Testimony of Stan Grant (II-2)

A. Mr. Grant Lacks the Necessary Qualifications to Render Expert Opinions on the Impact of the Proposed Changes on Flows and Salinity Levels in the Delta

According to his statement of qualifications (II-1), Mr. Grant is a soil scientist and horticulturist by education with a long work history in viticulture. Mr. Grant is not a hydrologist or an engineer with any particular experience in hydrologic modeling of water quantity or quality, matters beyond the common experience. (Evidence Code § 801.) Yet, Mr. Grant makes the following unsupported, conclusory statements regarding impacts on salinity in the Delta due to the proposed changes:

Especially in summer months, saltwater intrusion will diminish the quality of riparian waters used for irrigation of Delta farms, affecting both the quantity and quality of farm produce. (See II-2, p. 1:23-25.)

If the Tunnels are built and operated, a wide range of high value crops will be irrigated with saline waters. (See II-2, p. 2:3-4.)

As a soil scientist/horticulturist, Mr. Grant lacks the necessary qualifications to render an expert opinion, useful to a trier of fact, on the hydrologic impacts of the proposed changes in the points of diversion. For this reason, Mr. Grant's testimony at II-2, pp. 1:23-25 and 2:3-4, should be excluded, as well as similar statements made in Mr. Grant's PowerPoint presentation at II-3.

B. Mr. Grant's Conclusory Statements Regarding the Impact of the Proposed Changes on Flows and Salinity Levels in the Delta Lack an Adequate Foundation

Moreover, Mr. Grant's conclusory statements regarding purported impacts of the proposed changes in points of diversion on flow and salinity in the Delta at II-2, pp. 1:18-2:4 are conclusory opinions that lack any basis or citation to supporting evidence. Such testimony lacks foundation and is not testimony on which a responsible person would rely. (Gov't Code § 11513(c).) For these reasons, this testimony, II-2, pp. 1:18-2:4 and corresponding assertions in Mr. Grant's PowerPoint presentations should be excluded.

1 **C. Mr. Grant’s Testimony Regarding the Impacts of Salinity on Crops is Irrelevant to the Proceeding**

2 Similar to Ms. Leinfelder-Miles’ testimony, Mr. Grant’s testimony on the impact
3 irrigating with saline irrigation water on crops is irrelevant to the issues in Part 1 because
4 neither he nor any LAND et al. witnesses provide evidence that salinity will actually be
5 actual impacted anywhere in the Delta, or in particular at LAND et al.’s points of
6 diversion, due to the proposed changes. Mr. Grant’s conclusory opinions on salinity
7 impacts are not supported by any bases or evidence. Further, Mr. Ringelberg, LAND et
8 al.’s nominal expert on “Injuries from WaterFix-Salinity,” submits only evidence of salinity
9 levels at Rio Vista in the Delta from the last few years during the drought (2013-2015)
10 under his simplistic theory that operations of the WaterFix will create flow conditions
11 similar to drought conditions in the Delta. (See II-24, p. 7:1-15; see also Section VII
12 above.) Mr. Ringelberg makes no actual analysis of impacts on salinity of the proposed
13 changes in diversion aside from this inference. (*Id.*)

14 Because Mr. Ringelberg’s and Mr. Grant’s testimony on impacts of the proposed
15 diversions on salinity entirely lack foundation, Mr. Grant’s testimony regarding crop
16 impacts in the Delta are not useful to the trier of fact and are irrelevant to the issues in
17 Part 1 of this proceeding. Further, even if slightly probative, the value of Mr. Grant’s
18 academic discourse on the general effects of irrigating with high salinity water is
19 substantially outweighed by the probability that admission of his testimony will
20 necessitate an undue consumption of hearing time. (Government Code § 11513(f).)

21 On this basis, Mr. Grant’s testimony, and accompanying powerpoint presentation,
22 II- 3 should be excluded and/or struck from the proceeding.

23 **X. Testimony of Tom Hester (II-40)**

24 **A. Mr. Hester’s Testimony is Largely Irrelevant to this Proceeding and not Useful to the Trier of Fact**

25 As the president of company farming in the Delta, Mr. Hester’s testimony
26 expresses a number of “concerns” regarding possible impacts from the proposed
27 Petition and the WaterFix generally, potential mitigation measures, and potential costs to
28

1 Islands Inc. but provides no actual evidence or testimony that any impacts from the
2 proposed diversions, whether to water levels or water quality, are likely to occur. For
3 example, regarding salinity, Mr. Hester testifies that “[t]here is considerable concern that
4 the Cal WaterFix will increase the salinity for the Sacramento River as more and more
5 fresh water is diverted at the North Delta Intakes and pumped from the Delta.” (II-40, p.
6 3:3-5.) Mr. Hester then recommends that any interference with water quality be
7 evaluated and appropriate mitigation measures implemented before launching into a
8 discussion regarding how salinity intrusion is managed on Ryer Island. (See II-40, p.
9 3:5-27.)

10 Mr. Hester also makes the following general statements of concern regarding
11 impacts:

12 [i]f, due to diversion of fresh water at the North Delta Intakes for WaterFix, the
13 quality of water suffers;

14 Islands, Inc. is also concerned with concentrations of selenium, chloride,
15 mercury and other harmful substances increasing as a result of the bypassing
16 of large quantities of water...

17 As more and more water is shipped south and with the tunnels proposed to
18 bypass the regional, there is considerable concern that the Water Fix will
19 result in less fresh water being available for farmers

20 (See, II-40, pp. 4: 1-20 - 5:5-15.)

21 Such generalized concerns provide no evidence or information useful to the trier of
22 fact on the issues of Part 1 of this proceeding, which is whether there is a potential
23 impact to legal users of water including other human uses of water, and if so, what
24 measures should be taken to avoid such injury. By and large, Mr. Hester’s testimony is
25 not relevant to Part 1 of the proceeding and the following testimony expressing
26 generalized concerns and potential hypothetical but unsupported impacts, such as
27 impacts to Island’s Inc. crops or Delta agriculture should be excluded: II-40, pp. 3:1-7:2.
28 Even if slightly probative, the value of Mr. Hester’s testimony is far outweighed by the
probability that its admission will necessitate an undue consumption of hearing time.
(Government Code § 11513(f).)

1 **B. Mr. Hester’s Testimony Regarding Land Subsidence Lacks Foundation**

2 Mr. Hester provides the following brief, conclusory opinions regarding land
3 subsidence that are wholly unsupported by citation to evidence:

4 It is an accepted fact that the groundwater beneath Ryer Island is
5 hydrogeologically connected directly to the flows of the Sacramento River. As
6 water is withdrawn from the Delta that otherwise would flow as part of the
7 underground flow of the river, then subsidence of the overlying lands can
8 occur. (II-40, pp. 4:21-5:4.)

9 Such testimony is without foundation and, thus, not evidence on which a responsible
10 person would rely. As such, Mr. Hester’s testimony at II-40, pp. 4:31-5:4 should be
11 excluded.

12 **C. Mr. Hester Also Lacks the Necessary Qualifications to Provide Expert Testimony on the Causes of Land Subsidence.**

13 Mr. Hester is the President of Islands, Inc., a large landowner on Ryer Island.
14 Though the revised NOI issued by LAND et al. now names Mr. Hester as a
15 percipient/expert witness on “Agricultural water use on Ryer Island by Islands, Inc.,” no
16 additional statement of qualifications was provided by LAND et al. Regardless, Mr.
17 Hester is not a hydrogeologist or engineer and lacks the necessary qualifications to
18 provide expert opinion testimony on the factors governing land subsidence, matters
19 beyond the common experience of a lay witness. (Evidence Code §§ 801 et seq.) For
20 this reason, Mr. Hester’s testimony at II-40, pp. 4:31-5:4 should also be excluded.

21 **XI. Testimony of Bradley Lang (II-43)**

22 **A. Mr. Lang’s Conclusory Statements Concerning Impacts to Water Quality Lack Foundation and Should be Excluded**

23 Mr. Lang makes the following statements regarding purported impacts of the
24 proposed diversions on water quality, which are entirely unsupported, and, thus, lack
25 foundation.

26 If Sacramento River freshwater flows are significantly reduced, as shown in
27 modeling assumptions (e.g., DWR-515; see also DWR-5 Errata slide 25), our
28 water quality would become more saline. (II-43, p. 2:5-7.)

1 It is reasonable to assume that there will also be increases in salinity at Ryer
and our other vineyards if the Tunnels are built and operated. (II-43, p. 2:13-
14.)

2
3 In the long term, we believe the amounts of water that would be diverted in
the Tunnels would seriously impair our ability to continue exercising our
4 senior water rights and producing high quality grapes in the north Delta. (II-
43, p. 2:26-28.)

5 Because these conclusory statements are of opinion are entirely without support, they
6 are not information on which a responsible person would rely.

7 **B. Mr. Lang's Lacks the Necessary Qualification to Provide Testimony**
8 **on Water Quality Impacts Useful to the Triers of Fact**

9 Mr. Lang is the owner and operator of a vineyard, but not a scientist, hydrologist, or
10 engineer. (II-43, p. 1:2-5.) For this reason, Mr. Lang's testimony on the impacts of the
11 proposed diversions on water quality, matters sufficiently beyond the common
12 experience, are not useful to the triers of fact in this proceeding. (Evidence Code § 801.)
13 On these grounds, Mr. Lang's statements at II-43, p. 2:5-7, 11-14 and 26-28, should be
14 excluded.

15 **CONCLUSION**

16 For the foregoing reasons, Petitioner DWR respectfully requests that the Water
17 Board exclude the identified exhibits and testimony. To aid the Water Board in its
18 decision, given the large number of exhibits and testimony submitted by LAND et al,
19 attached hereto is a chart summarizing the objections made above to testimony and
20 exhibits.

21
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23 Dated: July 22, 2016

CALIFORNIA DEPARTMENT OF WATER
RESOURCES



24
25
26 Tripp Mizell
Office of the Chief Counsel

California WaterFix hearing
California Department of Water Resources and U.S. Bureau of Reclamation

The Public Hearing will commence on
Thursday, October 20, 2016

PARTICIPANT: LAND et al

Exhibit Identification Number	Exhibit Description	Objections
LAND-1	Excerpt from the February 12, 2015, PowerPoint presented by the Department of Water Resources re: Draft Contingency Planning - Drought Preparedness and Response	Lacks Foundation and Relevance due to lack of testimony
LAND-2	Excerpt of the Conceptual Engineering Report. Volume 2 – Maps. Page 34	Lacks Foundation and Relevance due to lack of testimony
LAND-3	Map - Intakes Overview Figure	Lacks Foundation
LAND-4	Map - Local Agencies of the North Delta Coalition Member Districts	Lacks Foundation
LAND-5	Map - Bogle Water Rights Injuries from CWF Tunnels	Lacks Foundation and Relevance due to lack of testimony
LAND-6	Map - LangeTwins Water Rights Injuries from CWF Tunnels	Lacks Foundation and Relevance due to lack of testimony
LAND-7	Map - Elliot/Stillwater Orchards Injuries from CWF Tunnels	Lacks Foundation
LAND-8	Excerpts from the July 30, 2014 Power Point Presentation from Tara Smith. Titled: Top Seven Insights from the 2014 Delta Drought Modeling. Municipal Water Quality Investigations Annual Meeting	Lacks Foundation and Relevance due to lack of testimony
LAND-20	Written Testimony of Daniel Wilson	Lacks Expert Qualification: LAND-20, pp. 1:21-26 and 2:3-16 Lacks Foundation: LAND-20, pp. 1:19-3:2

Exhibit Identification Number	Exhibit Description	Objections
LAND-25	Written Testimony of Richard Elliot	Relevance: LAND-25, pp. 1:8-2:7, 2:16-20, 2:23-26 Lacks Foundation: LAND-25, pp. 1:20-23, 2:21-3:9, 3:17-21 Lacks Expert Qualifications: LAND-25, pp. 3:1-3, 3:12-14 Conclusory Legal Opinion: LAND-25, p. 3:16-17
LAND-30	Written Testimony of Russell Van Loben Sels	Unpermitted revision to NOI: LAND-30 to add new topic of testimony Relevance: LAND-30, p. 1:16-24 Lacks Foundation: LAND-30, pp. 1:25-3:24 Lacks Expert Qualifications: LAND-30, pp. 1:26-2:4, 2:13-19, 3:20-24
LAND-35	Written Testimony of Josef Tootle	Lacks Foundation: LAND-35, pp. 1:14-10:10 Conclusory Legal Opinion: LAND-35, pp. 8:23-9:4
LAND-37	PowerPoint Presentation of Josef Tootle	See Objections to Written Testimony of Josef Tootle
LAND-50	Russell Van Loben Sels Water Rights associated with S021406	Lacks Foundation and Relevance due to lack of testimony
LAND-51	Warren Bogle water rights as described in the protest filed on January 5, 2016	Lacks Foundation and Relevance due to lack of testimony
LAND-52	Daniel Wilson water rights as described in the protest filed on January 5, 2016	Lacks Foundation and Relevance due to lack of testimony
LAND-55	LAND member agency property owners' water rights as described in the protest filed on January 5, 2016	Lacks Foundation and Relevance due to lack of testimony
LAND-57	Map - Private Properties Needed for Water Tunnel, Intake No. 2, 3, and 5	Lacks Foundation

Exhibit Identification Number	Exhibit Description	Objections
LAND-58	Map - Sacramento County Wells in Vicinity of Tunnels	Lacks Foundation
LAND-59	Map - San Joaquin County Wells in Vicinity of Tunnels	Lacks Foundation
LAND-60	Map - Intakes 2 and 3 Tunnels/WaterFix Injuries – Water Delivery System Example	Lacks Foundation
LAND-61	Map - Intakes 5 Tunnels/WaterFix Injuries – Water Delivery System Example	Lacks Foundation and Relevance due to lack of testimony
LAND-66	2002, CCF DWR Correspondences	Lacks Foundation and Relevance due to lack of testimony
LAND-67	March 19, 2004, Letter from the State Water Resources Control Board addressed to the Bureau of Reclamation, Central Valley Operations Office, the Department of Water Resources, SWP Operations Control Office, and to Contra Costa Water District re: Water Quality Response Plan Pursuant to Decision 1641	Lacks Foundation and Relevance due to lack of testimony
LAND-68	July 28, 2004, Letter from the State Water Resources Control Board addressed to the Bureau of Reclamation, Central Valley Operations Office and the Department of Water Resources, SWP Operations Control Office re: Water Quality Response Plan Pursuant to Decision 1641	Lacks Foundation and Relevance due to lack of testimony
LAND-69	2014, Draft DCE CM1 Property Acquisition Management Plan	Lacks Foundation

Exhibit Identification Number	Exhibit Description	Objections
LAND-70	July 25, 2014, Letter from the Friends of Stone Lakes National Wildlife Refuge Association addressed to National Marine Fisheries Service re: Draft Bay Delta Conservation Plan and Associated Draft Environmental Impact Report/Environmental Impact Statement (BDCP EIR/EIS)	Lacks Foundation and Relevance due to lack of testimony
LAND-73	Delta Plan Litigation May 18, 2016 Ruling and June 24, 2016 Minute Order	Lacks Foundation and Relevance due to lack of testimony
II-2	Grant Testimony	Lacks Expert Qualification: II-2, pp. 1:23-25, 2:3-4 Lacks Foundation: II-2, pp. 1:18-2:4 Relevance: II-2 Undue Consumption of Time: II-2
II-3	Grant PowerPoint	See Objections to Written Testimony of Grant
II-4	2014-7-28 SWRCB Ltr re; Water Quality Response Plan	Lacks Foundation and Relevance due to lack of testimony
II-5	Ayers Irrigation Water Quality; Soil and Plant Tissue Testing in California	Lacks Foundation and Relevance due to lack of testimony
II-6	Historical Freshwater & Salinity Conditions Report Highlights	Lacks Foundation and Relevance due to lack of testimony
II-7	de Loryn et al NaCl Sensory Thresholds	Lacks Foundation and Relevance due to lack of testimony
II-8	Grattan Irrigation Water Salinity and Crop Production	Lacks Foundation and Relevance due to lack of testimony
II-11	Historical Fresh Water and Salinity Conditions	Lacks Foundation and Relevance due to lack of testimony

Exhibit Identification Number	Exhibit Description	Objections
II-13	Leinfelder-Miles Testimony	Relevance - II-13 Undue Consumption of Hearing Time: II-13
II-14	Leinfelder-Miles PowerPoint	See Objections to Written Testimony of Leinfelder-Miles
II-17	MLM EC Diagram	Lacks Foundation and Relevance due to lack of testimony
II-18	MLM Ryer Sampling Sites	Lacks Foundation and Relevance due to lack of testimony
II-20	Rhoades 1974 Intro Pages	Lacks Foundation and Relevance due to lack of testimony
II-24	Ringelberg Testimony	Lacks Expert Qualification: II-24 Lacks Foundation: II-24
II-25	Ringleberg PowerPoint	See Objections to Written Testimony of Ringelberg
II-31	Bulletin_27 1931	Lacks Foundation and Relevance due to lack of testimony
II-33	Bulletin_76-Appendix-Salinity 1962 Mod	Lacks Foundation and Relevance due to lack of testimony
II-34	Bulletin_125 1967	Lacks Foundation and Relevance due to lack of testimony
II-35	Rio Vista Salinity	Lacks Foundation and Relevance due to lack of testimony
II-36	RWQCB 2007	Lacks Foundation and Relevance due to lack of testimony
II-37	Islands, Inc. Water Rights	Lacks Foundation and Relevance due to lack of testimony

Exhibit Identification Number	Exhibit Description	Objections
II-38	Islands, Inc. Parcel Map	Lacks Foundation and Relevance due to lack of testimony
II-39	2016 Crop Map	Lacks Foundation and Relevance due to lack of testimony
II-40	Tom Hester Testimony	Relevance: II-40, pp. 3:1-7:2 Lacks Foundaton: II-40, pp. 4:31-5:4 Lacks Expert Qualification: II-40, pp. 4:31-5:4
II-43	Bradford Lange Testimony	Lacks Foundation: II-43, pp. 2:5-7, 2:13-14, 2:26-28