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BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

HEARING ON THE MATTER OF
CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES
BUREAU OF RECLAMATION REQUEST
FOR A CHANGE IN POINT OF DIVERSION
FOR CALIFORNIA WATER FIX.

SACRAMENTO REGIONAL COUNTY
SANITATION DISTRICT'S
RESPONSES TO DEPARTMENT OF
WATER RESOURCES' OBJECTIONS
TO SACRAMENTO REGIONAL
COUNTY SANITATION DISTRICT'S
PART 1B CASE IN CHIEF

I. INTRODUCTION

Sacramento Regional County Sanitation District (Regional San) filed its case in chief on August 31, 2016. It included 13 exhibits, including the testimony of Regional San employees, Prabhakar Somavarapu and Christoph Dobson. Mr. Somavarapu is the District Engineer, and Mr. Dobson is the Director of Policy and Planning. The Department of Water Resources (DWR) objected to the 13 exhibits, including Mr. Somavarapu's and Mr. Dobson's testimonies as being outside the scope of these proceedings, irrelevant, and lacking foundation. (California Department of Water Resources' Objections to Sacramento Regional County Sanitation District Written

1 Testimony and Exhibits Submitted by Protestants in Support of Part 1B Case In Chief
2 and any Related Joinders (Sept. 21, 2016), p. 4 (DWR's Objections).) Additionally, San
3 Luis & Delta-Mendota Water Authority (SLDMWA) objected to the relevance of portions
4 of Mr. Dobson's testimony. (San Luis & Delta-Mendota Water Authority's Objections to
5 Part 1B Parties' Cases in Chief (Sept. 21, 2016), pp. 73-74 (SLDMWA's Objections).)
6 Regional San responded to DWR's and SLDMWA's objections regarding scope and
7 relevance on September 30, 2016, and therefore, responds here to only DWR's
8 objection regarding lack of foundation.

9 DWR's objection regarding lack of foundation is vague and ambiguous because it
10 does not specify which parts of Regional San's case in chief lacks foundation, and the
11 objection includes a reference to DWR's Master Objections to Protestants' Cases-In-
12 Chief Collectively (DWR's Master Objections) that does not exist. Furthermore, both
13 Mr. Somavarapu and Mr. Dobson provided sufficient foundation regarding their
14 professional backgrounds and knowledge of Regional San's operations to support their
15 testimonies and the exhibits. Therefore, DWR's objections should be overruled.

16 II. LEGAL STANDARD

17 This hearing is governed by chapter 4.5 of the Administrative Procedure Act,
18 (Gov. Code, § 11400 et seq.); regulations adopted by the State Water Resources
19 Control Board (State Water Board) (Cal. Code Regs., tit. 23, § 648-648.8); sections 801
20 to 805 of the Evidence Code; and section 11513 of the Government Code. (Cal. Code
21 Regs., tit. 23, § 648(b).) The State Water Board is not required to conduct adjudicative
22 hearings according to the technical rules of evidence applicable to a court. (Gov. Code,
23 § 11513(c).) Instead, "[a]ny relevant evidence shall be admitted if it is the sort of
24 evidence on which responsible persons are accustomed to rely in the conduct of serious
25 affairs, regardless of the existence of any common law or statutory rule which might
26 make improper the admission of evidence over objection in civil actions." (*Ibid.*) The
27 State Water Board follows these relaxed standards because the Hearing Officers'
28 expertise in the subject matter justifies the State Water Board's ability to make both legal

1 and factual determinations.

2 **III. ARGUMENT**

3 DWR's objection regarding lack of foundation is vague and ambiguous because it
4 does not identify which parts of Regional San's case in chief allegedly lack foundation.
5 An objection for lack of foundation must be specific such that it informs the State Water
6 Board what is being objected to, and provides the responding party an opportunity to
7 provide the necessary foundation. (See Evid. Code, § 353(a); *People v. Partida* (2005)
8 37 Cal.4th 428, 434-435.) DWR's objection is merely a blanket statement that Regional
9 San should "refer to DWR's Master Objections regarding lack of foundation." (DWR's
10 Objections at p. 4.) However, neither DWR's Master Objections, nor DWR's Objections
11 indicate which part of Regional San's case in chief allegedly lack foundation. Moreover,
12 DWR's Master Objections does not include a general objection regarding lack of
13 foundation, and there is no reference to a specific objection of lack of foundation directed
14 at Regional San. Thus, DWR's objection should be overruled because it is vague and
15 ambiguous.

16 Additionally, Regional San provided sufficient foundation for the 13 exhibits,
17 including the testimony of both Mr. Somavarapu and Mr. Dobson. Mr. Somavarapu and
18 Mr. Dobson are offered as lay witnesses to provide facts and opinions. (See Regional
19 San's Notice of Intent to Appear (Jan. 5, 2016), p. 1.) A lay witness can offer opinion
20 testimony that is "[r]ationally based on the perception of the witness" and "[h]elpful to a
21 clear understanding of his testimony." (Evid. Code, § 800.) Both Mr. Somavarapu and
22 Mr. Dobson based their testimonies on their extensive background and experience with
23 Regional San. Mr. Somavarapu has worked with Regional San for approximately
24 20 years, and has been the District Engineer since 2013. (Testimony of Prabhakar
25 Somavarapu at pp. 1-2.) He has also held the positions of Director of Policy and
26 Planning, the Director of Operations, and the manager for the Operations Support Group
27 and Asset Management Group. (*Id.* at p. 2.) He is also a registered engineer in
28 California. (*Ibid.*) Mr. Somavarapu's testimony "addresses Regional San's history and

1 operations, and the development of the EchoWater Project.” (*Ibid.*) Mr. Somavarapu
2 has the requisite personal knowledge that provides a foundation for his testimony, and
3 his opinions are “rationally based on [his] perception” and “helpful to a clear
4 understanding of his testimony.” (Evid. Code, § 800.) Furthermore, Mr. Somavarapu
5 provided a foundation for Exhibits 3 and 4 in his testimony. (Testimony of Prabhakar
6 Somavarapu at pp. 4-5.)


7 Mr. Dobson also provided sufficient foundation for his testimony and Exhibits 5
8 through 13. Mr. Dobson has been working for Regional San and the Sacramento Area
9 Sewer District for 23 years. (Testimony of Christoph Dobson at p. 1.) He is currently the
10 Director of Policy and Planning, and is responsible for several of Regional San’s
11 programs, including water recycling, legislative and regulatory affairs, and scientific
12 research. (*Id.* at pp. 1-2.) Mr. Dobson’s testimony “addresses Regional San’s efforts
13 over many years to increase water recycling and contribute to the region’s water supply
14 reliability.” (*Id.* at p. 2.) Mr. Dobson has the requisite personal knowledge that provides
15 a foundation for his testimony, and his opinions are “[r]ationally based on [his]
16 perception” and “[h]elpful to a clear understanding of his testimony.” (Evid. Code,
17 § 800.) Furthermore, Mr. Dobson provides the necessary foundation for Exhibits 5
18 through 13 in his testimony. (Testimony of Christoph Dobson at pp. 2-7.) Therefore,
19 DWR’s objection that Mr. Somavarapu’s testimony, Mr. Dobson’s testimony, and the
20 13 exhibits lack foundation should be overruled.

21 IV. CONCLUSION

22 Based on the foregoing, Regional San respectfully requests that the State Water
23 Board overrule DWR’s Objections.

24 SOMACH SIMMONS & DUNN
25 A Professional Corporation

26 Dated: October 26, 2016

27 By 
28 Andrew M. Hitchings
Attorneys for Sacramento Regional
County Sanitation District

1 STATEMENT OF SERVICE

2 **CALIFORNIA WATERFIX PETITION HEARING**
3 **Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)**

4 I hereby certify that I have this day submitted to the State Water Resources Control
5 Board and caused a true and correct copy of the following document(s):

6 **SACRAMENTO REGIONAL COUNTY SANITATION DISTRICT'S RESPONSES TO**
7 **DEPARTMENT OF WATER RESOURCES' OBJECTIONS TO SACRAMENTO**
8 **REGIONAL COUNTY SANITATION DISTRICT'S PART 1B CASE IN CHIEF**

9 to be served **by Electronic Mail** (email) upon the parties listed in Table 1 of the Current
10 Service List for the California WaterFix Petition hearing, dated October 6, 2016, posted
11 by the State Water Resources Control Board at
12 [http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)
13 [waterfix/service_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml):

14 I certify that the foregoing is true and correct and that this document was executed on
15 October 26, 2016.

16 Signature: 

17 Name: Crystal Rivera

18 Title: Legal Secretary

19 Party/Affiliation: Sacramento Regional County Sanitation District

20 Address: 500 Capitol Mall, Suite 1000
21 Sacramento, CA 95814