

State Water Resources Control Board

**NINTH AMENDED NOTICE OF PUBLIC HEARING AND  
PROCEDURAL RULING**

The State Water Resources Control Board  
Administrative Hearings Office is holding  
a Public Hearing on the pending Petitions for Change of Water Right  
Permits 16478, 16479, 16481, and 16482  
(Applications 5630, 14443, 14445A, and 17512, respectively) of the

**Department of Water Resources.**

The case-in-chief portion of the Public Hearing  
**will continue on December 9, 2025, in hybrid format**  
(in person with the option to participate by Zoom Webinar),  
starting at 9:00 a.m. at

Joe Serna Jr. CalEPA Building, Sierra Hearing Room,  
1001 I Street, Second Floor, Sacramento, California,

and continuing on **December 9, 2025**, by Zoom Webinar only, after  
completion of witnesses to be heard in person.

The hearing will continue on **December 10, 2025**, starting at 9:00 a.m., by  
Zoom Webinar only, and will adjourn no later than 1:00 p.m.

Petitioner's rebuttal portion of the Public Hearing will begin on  
**February 20, 2026**, and continue on  
**February 23, 24, & 25 and March 2, 5, & 6, 2026.**

Protestants' rebuttal portion of the Public Hearing  
will begin on **June 1, 2026**,  
and continue on **June 4, 5, 8, 9, 11, 15, 18, 23, 24, & 26, 2026.**

If necessary, Petitioner's surrebuttal portion of the Public Hearing will  
begin on **August 20, 2026**, and continue on **August 21 & 24, 2026.**

All hearing days will begin at 9:00 a.m.  
and will be held by Zoom Webinar, unless otherwise indicated.  
Representatives of parties will receive an individual invitation to join the hearing  
by e-mail from Zoom.

### **VISITOR CHECK-IN PROCEDURES:**

Please check-in with the security booth on the 1st floor to receive a visitor badge and to be directed to the Sierra Hearing Room on the 2nd floor. If you experience any issues contact the Administrative Hearings Office at [DCP-WR-Petition@waterboards.ca.gov](mailto:DCP-WR-Petition@waterboards.ca.gov) or at (916) 341-6940.

### **LIVE STREAMING:**

**Parties or interested members of the public who would like to watch this hearing without participating may do so through the Administrative Hearings Office YouTube channel at: [bit.ly/aho-youtube](https://bit.ly/aho-youtube).**

### **LANGUAGE SERVICES AND ACCESSIBILITY:**

This hearing will be conducted in English. To request translation of a written document, interpretation services for the hearing, or sign language services, please use one of the following options at least **two days before the hearing dates 12/09/2025 and 12/10/2025 and two weeks before the remaining hearing dates.**

- Submit a [Language Services Request online](#)
- Call (916) 341-5254
- E-mail [languageservices@waterboards.ca.gov](mailto:languageservices@waterboards.ca.gov)

**Users of a Telecommunications Device for the Deaf (TDD) may contact the California Relay Service at (800) 735-2929 or the teletype (TTY) voice line at (800) 735-2922.**

## **PURPOSE OF HEARING**

The State Water Resources Control Board (State Water Board or Board) Administrative Hearings Office is conducting a public hearing about the Delta Conveyance Project. The purpose of the hearing is to gather evidence that the State Water Board will consider to determine whether to approve change petitions filed by the Department of Water Resources (DWR or Petitioner) to add two new points of diversion and rediversion to water right Permits 16478, 16479, 16481, and 16482 (Applications 5630, 14443, 14445A, and 17512, respectively) and, if so, terms and conditions the Board should include in the amended permits.

## **BACKGROUND**

On February 22, 2024, the State Water Board's Division of Water Rights received petitions for change from DWR to add two new points of diversion and points of rediversion to water right Permits 16478, 16479, 16481, and 16482, which are associated with the State Water Project. The proposed new points of diversion and points of rediversion would consist of screened intakes 2.3 miles apart located on the lower Sacramento River between Freeport and Sutter Slough. The proposed new intakes are part of the Delta Conveyance Project, which would allow DWR to divert water from the Sacramento River in the northern portion of the Sacramento-San Joaquin Delta Estuary (Delta) and convey the water through a tunnel to existing water distribution facilities in the southern Delta. A more detailed description of the Delta Conveyance Project and the associated petitions for change can be found in the July 31, 2024 Notice of Public Hearing.

This hearing is being conducted in accordance with the procedural requirements in the July 31, 2024 Notice of Public Hearing as amended by subsequent rulings and notices.

## **PROCEDURAL RULING**

### *Clarification of Scope of Rebuttal*

DWR requested clarification about the scope of rebuttal evidence and cross-examination of rebuttal witnesses. (2025-10-24 DWR Objections to 8<sup>th</sup> Hearing Notice.) Consistent with past practice in State Water Board and Administrative Hearings Office (AHO) hearings and the July 31, 2024 Notice of Public Hearing in this proceeding, cross-examination of rebuttal witnesses will be limited in scope to matters raised by the witness during rebuttal. (2024-07-31 Hearing Notice, p. 24.) Rebuttal evidence may respond to matters raised during cross-examination of a case-in-chief witness even if the matter was not raised in written case-in-chief testimony.

### *DWR's Objections to the Schedule in the Eighth Amended Hearing Notice*

DWR filed an objection to the hearing schedule for rebuttal in the Eighth Amended Hearing Notice. (2025-10-24 DWR Objections to 8<sup>th</sup> Hearing Notice.) DWR raises concerns about the efficiency of the hearing schedule, identifying several aspects of the schedule that DWR believes could be accelerated. I have carefully re-considered the current schedule and DWR's recommendations but find that no change to the schedule

is feasible when considered with the multiple significant matters affecting the San Francisco Bay/Sacramento-San Joaquin Delta watershed (Bay-Delta Watershed) that are currently pending before the State Water Board. These high priority items are proceeding concurrently, and the deadlines associated with each of these processes must be coordinated within the constraints of the schedules of State Water Board members, staff resources of the Division of Water Rights and the AHO, and the burdens on public agencies, non-governmental organizations, and other entities who are participating in the various proceedings.<sup>1</sup> The current schedule reflects a careful balancing of the various deadlines, comment periods, hearing and Board meeting and workshop dates, and contingencies that could affect these schedules. The AHO intends to pursue this hearing to completion and submit a recommended order to the Board as expeditiously as possible given the complexity of the factual and legal issues and the magnitude of the public policy considerations, while conducting this hearing in a manner that is equitable, allows for meaningful participation by the parties and other members of the public, and produces a robust record on which the Board can make an informed decision that will withstand judicial challenge.

#### *SWC's Objections to the Schedule in the Eighth Amended Hearing Notice*

State Water Contractors (SWC) objects to the staggered rebuttal schedule in the Eighth Amended Hearing Notice because the notice did not include an opportunity for SWC to present surrebuttal evidence in response to protestants' rebuttal evidence. (2025-10-24 SWC Objection to 8<sup>th</sup> Amended Hearing Notice.) The Eighth Amended Hearing Notice states that "Petitioner will have the option to submit surrebuttal exhibits, including testimony, and shall inform the hearing officer by the last day of the rebuttal portion of the hearing whether Petitioner intends to do so. The hearing schedule includes dates reserved for surrebuttal for use in the event Petitioner submits surrebuttal testimony." (2025-10-22 Eighth Amended Hearing Notice and Procedural Ruling, p. 4.) I did not intend to exclude SWC and other parties aligned with DWR from the option to present surrebuttal evidence. SWC and other parties aligned with DWR may exercise the same option to submit surrebuttal exhibits by stating their intent by the last day of the rebuttal portion of the hearing.

One reason for staggering the rebuttal portion of the hearing and requiring DWR, SWC, and other parties aligned with DWR to submit their rebuttal evidence in advance of protestants, is to avoid, or significantly limit, any surrebuttal portion of the hearing. By requiring DWR, SWC, and any other aligned parties to submit their rebuttal evidence before protestants, protestants will already have had the opportunity to respond to

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<sup>1</sup> I previously declined to follow the recommendation of many of the protestants that these processes proceed linearly and to postpone this hearing until the update to the Water Quality Control Plan for the Bay-Delta Watershed was final. Although I concluded that such a delay was not warranted, the decision to proceed concurrently requires coordination of dates and deadlines to avoid unreasonable overlap with the schedules of the various matters pending before the Board that affect the Bay-Delta Watershed.

opposing rebuttal evidence. Therefore, surrebuttal will be limited to any evidence that DWR or aligned parties seek to present in response to protestants' rebuttal evidence.

SWC also submitted revised objections to the Eighth Amended Hearing Notice, explicitly seeking the opportunity to evaluate and respond to additional modeling that the AHO has directed DWR to submit prior to the rebuttal portion of the hearing. (2025-10-29 SWC Revised Objection to 8<sup>th</sup> Amended Hearing Notice.) Because the request is made in the abstract, without access to model results that DWR has yet to develop, I decline to rule on the request at this time. SWC may reiterate its request to submit evidence that responds to the additional model results after it has had an opportunity to review them. Furthermore, if DWR does not seek a similar opportunity to submit evidence related to the additional model results, I expect SWC to demonstrate why it should be allowed to respond even though the Petitioner does not seek to do so.

#### *Deirdre Des Jardins' Motion to Address Pattern of Misrepresentation*

During the case-in-chief portion of the hearing, Ms. Des Jardins submitted a "Motion to Address Pattern of Misrepresentation." (2025-09-16 DDJ Motion to Address Pattern of Misrepresentation.) By this motion, Ms. Des Jardins seeks to strike alleged "false testimony" from the record and other relief.

DWR submitted revisions to Mr. Murdock's testimony on September 11 (Exhibit DWR-00001R) to clarify that participants in the Stakeholder Engagement Committee included persons representing residents of Sacramento, Yolo, San Joaquin, Solano, and Contra Costa Counties, rather than the counties as entities. With this revision, much of Ms. Des Jardins' motion is rendered moot. In addition, Ms. Des Jardins' motion appears to consist of both an attempt to re-argue evidentiary objections that were to be submitted in writing by July 25 and substantive argument about the veracity of testimony that would be most appropriately included in closing briefs. Some of the requested relief in the form of "findings of facts" would be inappropriate at this time, as such findings are to be made by the State Water Board after considering the whole of the evidentiary record. Finally, Ms. Des Jardins has made no showing that the protestants have been or would be prejudiced in their ability to challenge the portions of testimony presented by DWR's witnesses to which she objects. Contrary to Ms. Des Jardins' assertions, time limits are a necessary and appropriate means to conduct efficient hearings, and Ms. Des Jardins was afforded four hours to cross-examine DWR's witnesses in addition to the 56 hours granted to the other protesting parties. For these reasons, I deny Ms. Des Jardins' motion.

Ms. Des Jardins also asserts that her requests for document production and depositions included in the evidentiary objections to DWR's case-in-chief evidence remain pending. (2025-09-16 DDJ Motion to Address Pattern of Misrepresentation, p. 7; 2025-07-25 DDJ Objections.) Ms. Des Jardins requests that the AHO order DWR to produce all documents related to the intake design process and allow deposition of certain witnesses.

The AHO declines to issue such an order because Ms. Des Jardins may request a subpoena pursuant to Government Code section 11450.20 that would require the production of documents or witnesses. Government Code section 11450.20 states that

a subpoena shall be issued by an agency at the request of a party in accordance with sections 1985 through 1985.4 of the California Code of Civil Procedure. Section 1985 provides that “[t]he clerk, or a judge, shall issue a subpoena or subpoena duces tecum signed and sealed but otherwise in blank to a party requesting it, who shall fill it in before service.” The AHO will issue a subpoena or subpoena duces tecum signed and sealed but otherwise in blank to Ms. Des Jardins if she submits a request, in accordance with section 1985, but only after Ms. Des Jardins has met and conferred with DWR. This conference shall address the specific documents to be requested, the identity of any witnesses sought to be deposed, and other means to focus the scope of or eliminate the need for a subpoena.

If issued, a subpoena is subject to a motion for a protective order or motion to quash. (Gov. Code, § 11450.30.) Any objections to a subpoena will be resolved by the hearing officer, who may quash or limit a subpoena as appropriate to protect parties or witnesses from unreasonable or oppressive demands.

#### *Other Procedural Objections*

Several protestants objected to the December 1 deadline for responses to evidentiary objections to case-in-chief evidence that was included in the Eighth Amended Hearing Notice. These objections were addressed in the hearing officer’s e-mail ruling of October 31, which extended the deadline for these responses until December 10.

### **HEARING SCHEDULE AND DEADLINES**

The hearing schedule is revised to include hearing days on December 9 and 10, 2025, for cross-examination of witnesses who testified during the site visit.

The deadline for submission by DWR of additional information in accordance with the hearing officer’s October 10 letter, which is currently set concurrent with the deadline for submission by DWR of rebuttal exhibits, is subject to revision.

<b>Deadlines / Schedule</b>	<b>Date and Time</b>
Deadline for parties to identify whether site visit witnesses will testify in person (on the morning of December 9) or by Zoom Webinar or will offer testimony for acceptance as a policy statement only.	<b>December 5, 2025.</b>
Hearing days for cross-examination of witnesses presenting testimony during site visit.	<b>December 9, 2025, starting at 9:00 a.m., in person (with Zoom Webinar option) for cross-examination of witnesses appearing in person, continuing after a one-hour break by Zoom Webinar only, for cross-examination of witnesses appearing remotely. Continuing on December 10,</b>

	<b>2025, (by Zoom Webinar only) starting at 9:00 a.m., and adjourning by 1:00 p.m.</b>
Deadline for parties to respond to evidentiary objections to case-in-chief evidence (except Hood Community Council and Save the California Delta Alliance [HCC-SCDA] evidence).	<b>December 10, 2025.</b>
Deadline for Petitioner to submit model results and updated SacWAM model per October 10, October 31, and November 10, 2025 letters.	<b>December 22, 2025.</b>
Deadline for parties to file objections to direct or cross-examination testimony of site visit witnesses or HCC-SCDA evidence.	<b>December 22, 2025.</b>
Deadline for Petitioner and aligned parties to submit rebuttal exhibits, updated exhibit identification indices, and proposed order of witness presentation.	<b>December 22, 2025.</b>
Deadline for parties to respond to evidentiary objections submitted pursuant to the December 22 deadline above.	<b>January 9, 2026.</b>
Hearing on Petitioner's and aligned parties' rebuttal testimony.	<b>February 20, 23, 24, &amp; 25 and March 2, 5, &amp; 6, 2026, starting at 9:00 a.m.</b>
Deadline for Protestants to submit rebuttal exhibits, updated exhibit identification indices, and proposed order of witness presentation.	<b>April 30, 2026.</b>
Hearing on Protestants' rebuttal testimony.	<b>June 1, 4, 5, 8, 9, 11, 15, 18, 23, 24, &amp; 26, 2026, starting at 9:00 a.m.</b>

Deadline for Petitioner to submit surrebuttal exhibits and updated exhibit identification indices (if requested and approved by hearing officer).	<b>July 24, 2026.</b>
Hearing on Petitioner's surrebuttal testimony (as necessary).	<b>August 20, 21, &amp; 24, 2026, starting at 9:00 a.m.</b>

Date: December 4, 2025



Nicole L. Kuenzi  
Presiding Hearing Officer  
Administrative Hearings Office  
State Water Resources Control Board

Attachments:

- Attachment 1 - Service List



## ATTACHMENT 1 SERVICE LIST

Ann Carroll  
Collin Chandler  
Maya Ferry Stafford  
Stefanie Morris  
Kenneth Bogdan  
Christopher Butcher  
Department of Water Resources  
[Ann.Carroll@water.ca.gov](mailto:Ann.Carroll@water.ca.gov)  
[Collin.Chandler@water.ca.gov](mailto:Collin.Chandler@water.ca.gov)  
[Maya.Stafford@water.ca.gov](mailto:Maya.Stafford@water.ca.gov)  
[smorris@calnevawaterlaw.com](mailto:smorris@calnevawaterlaw.com)  
[Kenneth.Bogdan@water.ca.gov](mailto:Kenneth.Bogdan@water.ca.gov)  
[Christopher.Butcher@water.ca.gov](mailto:Christopher.Butcher@water.ca.gov)

Russell van Loben Sels  
Amistad Ranches  
[revanlobensels@gmail.com](mailto:revanlobensels@gmail.com)

Kelly Taber  
Janie Collier  
Ellen M. Moskal  
Gloria Loomis  
Yolanda De La Cruz  
Pennie MacPherson  
Danielle Fatta  
Somach Simmons & Dunn  
[ktaber@somachlaw.com](mailto:ktaber@somachlaw.com)  
[jcollier@somachlaw.com](mailto:jcollier@somachlaw.com)  
[emoskal@somachlaw.com](mailto:emoskal@somachlaw.com)  
[gloomis@somachlaw.com](mailto:gloomis@somachlaw.com)  
[ydelacruz@somachlaw.com](mailto:ydelacruz@somachlaw.com)  
[pmacpherson@somachlaw.com](mailto:pmacpherson@somachlaw.com)  
[dfatta@somachlaw.com](mailto:dfatta@somachlaw.com)  
*Attorneys for Byron-Bethany Irrigation District*

Michael E. Vergara  
Alyson E. Ackerman  
Downey Brand LLP  
[mvergara@downeybrand.com](mailto:mvergara@downeybrand.com)  
[aackerman@downeybrand.com](mailto:aackerman@downeybrand.com)  
*Attorneys for Byron-Bethany Irrigation District*

Adam Keats  
Law Office of Adam Keats, Pc  
[adam@keatslaw.org](mailto:adam@keatslaw.org)  
*Attorney for California Water Impact Network*

Chris Shutes  
Eric Woodruff  
Jessica Zimmer  
California Sportfishing Protection Alliance (CSPA)  
[blancapaloma@msn.com](mailto:blancapaloma@msn.com)  
[ewoodruff@calsport.org](mailto:ewoodruff@calsport.org)  
[jessica@calsport.org](mailto:jessica@calsport.org)

Barbara Vlamis  
AquAlliance  
[barbarav@aqualliance.net](mailto:barbarav@aqualliance.net)

David Fries  
San Joaquin Audubon Society  
[dfries.audubon@gmail.com](mailto:dfries.audubon@gmail.com)

Roger B. Moore  
Law Office of Roger B. Moore  
[rbm@landwater.com](mailto:rbm@landwater.com)  
*Attorney for California Water Impact Network*

S. Dean Ruiz  
John Herrick  
Dante J. Nomellini, Sr.  
Dante J. Nomellini, Jr.  
Mohan, Harris, Ruiz LLP  
[dean@mohanlaw.net](mailto:dean@mohanlaw.net)  
[dean@sdeltawater.net](mailto:dean@sdeltawater.net)  
[jherlaw@aol.com](mailto:jherlaw@aol.com)  
[john@sdeltawater.net](mailto:john@sdeltawater.net)  
[ngmplcs@pacbell.net](mailto:ngmplcs@pacbell.net)  
[dantejr@pacbell.net](mailto:dantejr@pacbell.net)  
[brettgbaker@gmail.com](mailto:brettgbaker@gmail.com)  
*Attorneys for Central Delta Water Agency, South Delta Water Agency, Heritage Land Co., and Rudy Mussi Investment L.P.*

Matthew Emerick  
Law Offices of Matthew Emerick  
[matthew@mlelaw.com](mailto:matthew@mlelaw.com)

Aaron Ferguson  
Kelley M. Taber  
Casey A. Shorrock  
William Burke  
Gloria Loomis  
Crystal Rivera  
Pennie MacPherson  
Michelle Chester  
Danielle Fatta  
Somach Simmons & Dunn, PC  
[aferguson@somachlaw.com](mailto:aferguson@somachlaw.com)  
[ktaber@somachlaw.com](mailto:ktaber@somachlaw.com)  
[cshorrock@somachlaw.com](mailto:cshorrock@somachlaw.com)  
[burkew@saccounty.gov](mailto:burkew@saccounty.gov)  
[gloomis@somachlaw.com](mailto:gloomis@somachlaw.com)  
[crivera@somachlaw.com](mailto:crivera@somachlaw.com)  
[pmacpherson@somachlaw.com](mailto:pmacpherson@somachlaw.com)  
[mchester@somachlaw.com](mailto:mchester@somachlaw.com)  
[dfatta@somachlaw.com](mailto:dfatta@somachlaw.com)  
*Attorneys for Sacramento County, and  
Sacramento County Water Agency*

Wes Miliband  
Miliband Water Law  
[wes.miliband@mwaterlaw.com](mailto:wes.miliband@mwaterlaw.com)  
*Attorney for City of Sacramento and  
Diablo Water District*

Osha Meserve  
Soluri Meserve, A Law Corporation  
[osha@semlawyers.com](mailto:osha@semlawyers.com)  
[legal@semlawyers.com](mailto:legal@semlawyers.com)  
*Attorney for County of Contra Costa,  
Contra Costa County Water Agency,  
County of San Joaquin, County of  
Solano, David J. Elliot & Sons/Stillwater  
Orchards, Frank Loretz, Friends of  
Stone Lakes National Wildlife Refuge,  
Local Agencies of the North Delta, and  
Wurster Ranches, LP*

Thomas H. Keeling  
Freeman Firm  
[tkeeling@freemanfirm.com](mailto:tkeeling@freemanfirm.com)  
*Attorney for San Joaquin County*

Aaron Ferguson  
Kelley M. Taber  
Ellen M. Moskal  
Casey A. Shorrock  
Mel Lytle  
Lori Asuncion  
Danielle Fatta  
Somach Simmons & Dunn  
[aferguson@somachlaw.com](mailto:aferguson@somachlaw.com)  
[ktaber@somachlaw.com](mailto:ktaber@somachlaw.com)  
[emoskal@somachlaw.com](mailto:emoskal@somachlaw.com)  
[cshorrock@somachlaw.com](mailto:cshorrock@somachlaw.com)  
[mel.lytle@stocktonca.gov](mailto:mel.lytle@stocktonca.gov)  
[lori.asuncion@stocktonca.gov](mailto:lori.asuncion@stocktonca.gov)  
[gloomis@somachlaw.com](mailto:gloomis@somachlaw.com)  
[crivera@somachlaw.com](mailto:crivera@somachlaw.com)  
[pmacpherson@somachlaw.com](mailto:pmacpherson@somachlaw.com)  
[dfatta@somachlaw.com](mailto:dfatta@somachlaw.com)  
*Attorneys for the City of Stockton*

Protestant County of San Joaquin  
Kirnpreet Kaur Virk  
Deputy County Counsel  
Office of the County Counsel  
County of San Joaquin  
[kvirk@sjgov.org](mailto:kvirk@sjgov.org)

Jennifer Spaletta  
Stoel Rives, LLP  
500 Capitol Mall, Suite 1600  
Sacramento, CA 95814  
[jennifer.spaletta@stoel.com](mailto:jennifer.spaletta@stoel.com)

Protestant County of Contra Costa and  
the Contra Costa County Water Agency  
Contra Costa County  
Contra Costa County Water Agency  
c/o Ryan Hernandez  
Department of Conservation and  
Development  
[Ryan.Hernandez@dcd.cccounty.us](mailto:Ryan.Hernandez@dcd.cccounty.us)

Thomas L. Geiger, County Counsel  
Stephen Siptroth, Assistant Co. Counsel  
Contra Costa County Counsel's Office  
[Stephen.Siptroth@cc.cccounty.us](mailto:Stephen.Siptroth@cc.cccounty.us)

Protestant County of Solano  
Bernadette Curry, County Counsel  
Holly E. Tokar, Deputy County Counsel  
Solano County  
[BSCurry@SolanoCounty.com](mailto:BSCurry@SolanoCounty.com)  
[HETokar@SolanoCounty.com](mailto:HETokar@SolanoCounty.com)

Dan Whaley  
Delta Communities Inc.  
[Whaley500@yahoo.com](mailto:Whaley500@yahoo.com)

Dan Muelrath  
Diablo Water District  
[dmuelrath@diablowater.org](mailto:dmuelrath@diablowater.org)

Deirdre Des Jardins  
[ddj@cah2oresearch.com](mailto:ddj@cah2oresearch.com)

Jon Salmon  
East Bay Municipal Utility District  
[Jon.salmon@ebmud.com](mailto:Jon.salmon@ebmud.com)

Ellison, Schneider, Harris & Donlan LLP  
[kwb@eslawfirm.com](mailto:kwb@eslawfirm.com)  
*Attorney for East Contra Costa Irrigation District*

Brian Poulsen  
Rachel Sarge  
El Dorado Irrigation District  
[bpoulsen@eid.org](mailto:bpoulsen@eid.org)  
[rsarge@eid.org](mailto:rsarge@eid.org)

Amber McDowell  
Farm Bureau Delta Caucus  
Sacramento County Farm Bureau  
[executivedirector@sacfarmbureau.org](mailto:executivedirector@sacfarmbureau.org)

Michael A. Brodsky  
Law Offices of Michael A. Brodsky  
[michael@brodskylaw.net](mailto:michael@brodskylaw.net)  
*Attorney for Hood Community Council  
and Save the California Delta Alliance*

Alexis K. Stevens  
Ellen M. Moskal  
Kelley M. Taber  
Danielle Fatta  
Somach Simmons & Dunn  
[astevens@somachlaw.com](mailto:astevens@somachlaw.com)  
[emoskal@somachlaw.com](mailto:emoskal@somachlaw.com)  
[ktaber@somachlaw.com](mailto:ktaber@somachlaw.com)  
[crivera@somachlaw.com](mailto:crivera@somachlaw.com)  
[pmacpherson@somachlaw.com](mailto:pmacpherson@somachlaw.com)  
[dfatta@somachlaw.com](mailto:dfatta@somachlaw.com)  
*Attorneys for Naglee Burk Irrigation  
District and Pescadero Reclamation  
District No. 2058*

Kevin O'Brien  
Brian Hamilton  
Austin Cho  
Downey Brand LLP  
[bhamilton@downeybrand.com](mailto:bhamilton@downeybrand.com)  
[acho@downeybrand.com](mailto:acho@downeybrand.com)  
[dfillon@downeybrand.com](mailto:dfillon@downeybrand.com)  
[kobrien@downeybrand.com](mailto:kobrien@downeybrand.com)  
*Attorneys for North Delta Water Agency  
and associated Reclamation Districts*

Robert Cheng  
Coachella Valley Water District  
[rcheng@cvwd.org](mailto:rcheng@cvwd.org)

Howard Penn  
Planning and Conservation League  
[howard@pcl.org](mailto:howard@pcl.org)

Regina Chichizola  
Save California Salmon  
[regina@californiasalmon.org](mailto:regina@californiasalmon.org)

Emily Pappalardo  
DCC Engineering Co., Inc  
[Epappalardo@dcceng.net](mailto:Epappalardo@dcceng.net)  
*Representative for Steamboat Resort*

Philip J. Pogledich  
County of Yolo  
[Philip.pogledich@yolocounty.gov](mailto:Philip.pogledich@yolocounty.gov)

Aaron Ferguson  
Kelley M. Taber  
Ellen M. Moskal  
Casey A. Shorrock  
Diane McElhern  
Danielle Fatta  
Somach Simmons & Dunn, PC  
[aferguson@somachlaw.com](mailto:aferguson@somachlaw.com)  
[ktaber@somachlaw.com](mailto:ktaber@somachlaw.com)  
[emoskal@somachlaw.com](mailto:emoskal@somachlaw.com)  
[cshorrock@somachlaw.com](mailto:cshorrock@somachlaw.com)  
[mcelhernd@saccounty.gov](mailto:mcelhernd@saccounty.gov)  
[gloomis@somachlaw.com](mailto:gloomis@somachlaw.com)  
[crivera@somachlaw.com](mailto:crivera@somachlaw.com)  
[pmacpherson@somachlaw.com](mailto:pmacpherson@somachlaw.com)  
[dfatta@somachlaw.com](mailto:dfatta@somachlaw.com)  
*Attorneys for Sacramento Area Sewer District*

E. Robert Wright  
Caty Wagner  
Molly Culton  
Sierra Club California  
[bwrightatty@gmail.com](mailto:bwrightatty@gmail.com)  
[Caty.Wagner@sierraclub.org](mailto:Caty.Wagner@sierraclub.org)  
[Molly.Culton@sierraclub.org](mailto:Molly.Culton@sierraclub.org)

John Buse  
Harrison Beck  
Center for Biological Diversity  
[jbuse@biologicaldiversity.org](mailto:jbuse@biologicaldiversity.org)  
[hbeck@biologicaldiversity.org](mailto:hbeck@biologicaldiversity.org)

Jann Dorman  
Keiko Mertz  
Gary Bobker  
Don Mooney  
Jason Flanders  
Friends of the River  
[janndorman@friendsoftheriver.org](mailto:janndorman@friendsoftheriver.org)  
[keiko@friendsoftheriver.org](mailto:keiko@friendsoftheriver.org)  
[gbobker@friendsoftheriver.org](mailto:gbobker@friendsoftheriver.org)  
[dbmooneylaw@gmail.com](mailto:dbmooneylaw@gmail.com)  
[jrf@atalawgroup.com](mailto:jrf@atalawgroup.com)

Eric Buescher  
Christie Ralston  
San Francisco Baykeeper  
[eric@baykeeper.org](mailto:eric@baykeeper.org)  
[christie@baykeeper.org](mailto:christie@baykeeper.org)

Clavey Wendt  
OARS California Rafting (OARS)  
[claveywendt@gmail.com](mailto:claveywendt@gmail.com)

Kevin Wolf  
Restoring the Stanislaus River  
[kevinjwolf@gmail.com](mailto:kevinjwolf@gmail.com)

Dan Kelly  
Elise M. Nelson  
Placer County Water Agency  
[dkelly@pcwa.net](mailto:dkelly@pcwa.net)  
[enelson@pcwa.net](mailto:enelson@pcwa.net)

Stephanie Safdi  
Danna Castro-Galindo  
Terra Baer  
Stephanie Prufer  
Justin Saint-Loubert Bie  
Naji Thompson  
Environmental Justice Law and  
Advocacy Clinic, Yale Law School  
[stephanie.safdi@ylsclinics.org](mailto:stephanie.safdi@ylsclinics.org)  
[danna.castrogalindo@ylsclinics.org](mailto:danna.castrogalindo@ylsclinics.org)  
[terra.baer@YLSCLinics.org](mailto:terra.baer@YLSCLinics.org)  
[stephanie.prufer@ylsclinics.org](mailto:stephanie.prufer@ylsclinics.org)  
[justin.saint-loubert-bie@ylsclinics.org](mailto:justin.saint-loubert-bie@ylsclinics.org)  
[naji.thompson@ylsclinics.org](mailto:naji.thompson@ylsclinics.org)  
*Counsel for Buena Vista Rancheria of  
Me-Wuk Indians, Little Manila Rising,  
Restore the Delta, Shingle Springs Band  
of Miwok Indians, Winnemem Wintu  
Tribe*

Charles Center  
Camp Lotus  
[charlesmcenter@gmail.com](mailto:charlesmcenter@gmail.com)

Scott Armstrong  
All-Outdoors California Whitewater  
Rafting  
[scott@aorrafting.com](mailto:scott@aorrafting.com)

Isaac Ingram  
American River Touring Association  
[isaac@arta.org](mailto:isaac@arta.org)

Theresa Lorejo-Simsiman  
American Whitewater  
[theresa@americanwhitewater.org](mailto:theresa@americanwhitewater.org)

Keith Miller  
California Canoe and Kayak  
[cckjefe@gmail.com](mailto:cckjefe@gmail.com)

Nathan Rangel  
California Outdoors  
[nathanjrangel@gmail.com](mailto:nathanjrangel@gmail.com)

Brian Jobson  
Foothill Conservancy  
[jobsonbrian@hotmail.com](mailto:jobsonbrian@hotmail.com)

Scott Underwood  
Mother Lode River Center  
[scott@malode.com](mailto:scott@malode.com)

Marty McDonnell  
Sierra Mac River Trips  
[marty@sierramac.com](mailto:marty@sierramac.com)

Aaron Zettler-Mann  
South Yuba River Citizens League  
(SYRCL)  
[aaron@yubariver.org](mailto:aaron@yubariver.org)

Patrick Koepele  
Tuolumne River Trust  
[patrick@tuolumne.org](mailto:patrick@tuolumne.org)

Stephen Smallcombe  
Upper Merced River Watershed Council  
[kristinarylands@gmail.com](mailto:kristinarylands@gmail.com)

Sean Wirth  
ECOS/Habitat 2020  
[office@ecosacramento.net](mailto:office@ecosacramento.net)

Barbara Barrigan-Parrilla  
Cintia Cortez  
Morgen Snyder  
Restore the Delta  
[barbara@restorethedelta.org](mailto:barbara@restorethedelta.org)  
[cintia@restorethedelta.org](mailto:cintia@restorethedelta.org)  
[morgen@restorethedelta.org](mailto:morgen@restorethedelta.org)

Sherri Norris  
California Indian Environmental Alliance  
[sherri@cieaweb.org](mailto:sherri@cieaweb.org)

Glen Spain  
Pacific Coast Federation of Fishermen's  
Associations (PCFFA) and Institute for  
Fisheries Resources (IFR)  
[fish1ifr@aol.com](mailto:fish1ifr@aol.com)

Rebecca Akroyd  
Rebecca L. Harms  
Daniel J. O'Hanlon  
Andreyaa Woo Nazal  
Terri Whitman  
Sherry Ramirez  
Jessica Anton  
[rebecca.akroyd@sldmwa.org](mailto:rebecca.akroyd@sldmwa.org)  
[rebecca.harms@sldmwa.org](mailto:rebecca.harms@sldmwa.org)  
[dohanlon@kmtg.com](mailto:dohanlon@kmtg.com)  
[awoonazal@kmtg.com](mailto:awoonazal@kmtg.com)  
[twhitman@kmtg.com](mailto:twhitman@kmtg.com)  
[sramirez@kmtg.com](mailto:sramirez@kmtg.com)  
[janton@kmtg.com](mailto:janton@kmtg.com)  
*San Luis & Delta-Mendota Water Authority*

Mike Savino  
Save our Sandhill Cranes  
[yogoombah@yahoo.com](mailto:yogoombah@yahoo.com)

Adam Nickels  
Lisa Holm  
Anna Brathwaite  
Amy Aufdemberge  
Kate Laubach  
United States Department of Interior  
Bureau of Reclamation  
[anickels@usbr.gov](mailto:anickels@usbr.gov)  
[lholt@usbr.gov](mailto:lholt@usbr.gov)  
[anna.brathwaite@sol.doi.gov](mailto:anna.brathwaite@sol.doi.gov)  
[Amy.Aufdemberge@sol.doi.gov](mailto:Amy.Aufdemberge@sol.doi.gov)  
[Katharine.Laubach@usdoj.gov](mailto:Katharine.Laubach@usdoj.gov)

Scott Slater  
Elisabeth Esposito  
Benjamin Markham  
Mary Loum  
Mack Carlson  
Brownstein Hyatt Farber Schreck, LLP  
[sslater@bhfs.com](mailto:sslater@bhfs.com)  
[eesposito@bhfs.com](mailto:eesposito@bhfs.com)  
[bmarkham@bhfs.com](mailto:bmarkham@bhfs.com)  
[mloum@bhfs.com](mailto:mloum@bhfs.com)  
[mcarlson@bhfs.com](mailto:mcarlson@bhfs.com)  
*Attorneys for Westlands Water District*  
Allison Febbo  
Westlands Water District  
[afebbo@wwd.ca.gov](mailto:afebbo@wwd.ca.gov)

Miles Krieger  
Steven Moctezuma  
Best Best & Krieger  
[Miles.Krieger@bbklaw.com](mailto:Miles.Krieger@bbklaw.com)  
[steven.moctezuma@bbklaw.com](mailto:steven.moctezuma@bbklaw.com)  
[heather.mccoy@bbklaw.com](mailto:heather.mccoy@bbklaw.com)  
*Attorneys for State Water Contractors*

Vance Staplin  
Barry Nelson  
Golden State Salmon Association  
[vance@goldenstatesalmon.org](mailto:vance@goldenstatesalmon.org)  
[barry@westernwaterstrategies.com](mailto:barry@westernwaterstrategies.com)

Peter Kiel  
Vincent Goble  
Aubrey Mauritsen  
Josh Fox  
[pkiel@cawaterlaw.com](mailto:pkiel@cawaterlaw.com)  
[vgoble@cawaterlaw.com](mailto:vgoble@cawaterlaw.com)  
[amauritsen@visaliaalaw.com](mailto:amauritsen@visaliaalaw.com)  
[jfox@visaliaalaw.com](mailto:jfox@visaliaalaw.com)  
*Attorneys for Tulare Lake Basin Water Storage District*

Wade Crowfoot  
California Natural Resources Agency  
[wade.crowfoot@resources.ca.gov](mailto:wade.crowfoot@resources.ca.gov)

Adnan Anabtawi  
Mojave Water Agency  
[aanabtawi@mojavewater.org](mailto:aanabtawi@mojavewater.org)

Steve L. Johnson  
Desert Water Agency  
[sjohnson@dwa.org](mailto:sjohnson@dwa.org)

James D. Ciampa  
Kern County Water Agency  
[jciampa@lagerlof.com](mailto:jciampa@lagerlof.com)

Michael Plinski  
San Bernardino Valley Municipal Water District  
[MichaelP@sbvmwd.com](mailto:MichaelP@sbvmwd.com)

Anecita Agustinez  
Carolyn Buckman  
Karla Nemeth  
California Department of Water Resources  
[anecita.agustinez@water.ca.gov](mailto:anecita.agustinez@water.ca.gov)  
[carolyn.buckman@water.ca.gov](mailto:carolyn.buckman@water.ca.gov)  
[karla.nemeth@water.ca.gov](mailto:karla.nemeth@water.ca.gov)

Janet Barbieri  
JB-Comm, Inc.  
[janet@jb-comm.com](mailto:janet@jb-comm.com)

Rebecca Sheehan  
Metropolitan Water District  
[Rsheehan@mwddh2o.com](mailto:Rsheehan@mwddh2o.com)

Antonio Alfaro  
Santa Clara Valley Water District  
[AAlfaro@valleywater.org](mailto:AAlfaro@valleywater.org)

Ed Stevenson  
Alameda County Water District  
[ed.stevenson@acwd.com](mailto:ed.stevenson@acwd.com)

Thomas Berliner  
John Sweigard  
Hicham ElTal  
Bryan Kelly  
Phillip McMurray  
Merced Irrigation District  
[tmberliner@duanemorris.com](mailto:tmberliner@duanemorris.com)  
[jsweigard@mercedid.org](mailto:jsweigard@mercedid.org)  
[heltal@mercedid.org](mailto:heltal@mercedid.org)  
[bkelly@mercedid.org](mailto:bkelly@mercedid.org)  
[pmcmurray@mercedid.org](mailto:pmcmurray@mercedid.org)

Lance Eckhart  
San Geronimo Pass Water Agency  
[LEckhart@sgpwa.com](mailto:LEckhart@sgpwa.com)

Valerie Pryor  
Sarah Palmer, Ph.D.  
Zone 7 Water Agency  
[vpryor@zone7water.com](mailto:vpryor@zone7water.com)  
[palmer.sarahL@gmail.com](mailto:palmer.sarahL@gmail.com)

Yvonne Perkins  
Tribal Historic Preservation Officer  
YD0122202005  
Yocha Dehe Wintun Nation  
[THPO@yochadehe.gov](mailto:THPO@yochadehe.gov)

Janet Lake  
Freeport Citizens Community (FCC)  
[riverscitybrand@gmail.com](mailto:riverscitybrand@gmail.com)

Robert E. Donlan  
Kevin W. Bursey  
Danika E. Jones

Wanger Jones Helsey PC  
[rdonlan@wjhattorneys.com](mailto:rdonlan@wjhattorneys.com)  
[kbursey@wjhattorneys.com](mailto:kbursey@wjhattorneys.com)  
[djones@wjhattorneys.com](mailto:djones@wjhattorneys.com)  
*Counsel for El Dorado Irrigation District  
and Placer County Water Agency*

Debie Rasmussen  
Enterprise Rancheria  
[debier@enterpriserancheria.org](mailto:debier@enterpriserancheria.org)