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## State Water Resources Control Board

April 25, 2016

### VIA ELECTRONIC MAIL

TO: [CURRENT SERVICE LIST AND INTERESTED PERSONS LIST](#)

### REVISED HEARING SCHEDULE, REVISED NOTICES OF INTENT TO APPEAR, AND MOTION TO DISQUALIFY HEARING OFFICERS - CALIFORNIA WATERFIX WATER RIGHT CHANGE PETITION HEARING

This ruling addresses requests and motions submitted recently by multiple parties regarding the State Water Resources Control Board (State Water Board) hearing on the joint water right change petition (petition) from the Department of Water Resources (DWR) and the U.S. Department of Interior (collectively petitioners) for the California WaterFix Project (WaterFix). This letter also addresses the revised Notices of Intent to Appear received by the State Water Board on or before March 16, 2016, as required in our February 11, 2016 ruling letter. As indicated in our March 4, 2016 ruling, we have kept our fellow Board Members apprised of procedural matters pertaining to this proceeding, including the matters addressed in this ruling, in closed sessions duly noticed in accordance with the Bagley-Keene Open Meeting Act.

### Request for 60-Day Continuance of WaterFix Hearing Schedule

On March 28, 2016, we received a letter from the petitioners requesting a 60-day continuance of all dates and deadlines associated with the hearing. Petitioners stated that based upon recent progress settling issues raised in the WaterFix Environmental Impact Report/Environmental Impact Statement (EIR/EIS) process and ongoing discussions with the protestants, a continuance: 1) could provide additional time to resolve other protests to simplify and expedite the hearing process; and 2) would reduce the State Water Board's burden of analyzing and deliberating on a number of parties' claims and scope of the hearing.

In response to the petitioners' request, a coalition of environmental and other organizations<sup>1</sup> submitted a letter dated March 29, 2016, requesting that we dismiss the WaterFix petition until a complete petition is submitted to the State Water Board. By letter dated April 1, 2016, the coalition of organizations renewed their request to dismiss the petition on the grounds that a recent agreement between DWR and Contra Costa Water District (CCWD) resulted in changes to the WaterFix that need to be described in a complete petition and reviewed pursuant to the California Environmental Quality Act (CEQA).

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<sup>1</sup> The organizations are the Planning and Conservation League, California Sportfishing Protection Alliance, Restore the Delta, California Water Impact Network, Environmental Justice Coalition for Water, Environmental Water Caucus, Sierra Club California, Friends of the River, and Local Agencies of the North Delta.

On March 29, 2016, the South Delta Water Agency (SDWA) submitted a request to suspend the hearing for at least 60 days in order to hold a second pre-hearing conference to address a variety of issues, including petitioners' request for a 60-day continuance, a motion from San Luis & Delta-Mendota Water Authority (SLDMWA) to disqualify the hearing officers (addressed below), CCWD's agreement with DWR, multiple parties' request to dismiss the petition, and the petitioners' use of different modeling assumptions for the EIR/EIS and Biological Assessment. In a letter dated April 2, 2016, Ms. Deirdre Des Jardins also argued that the hearing should be delayed until issues concerning the modeling for the WaterFix are resolved.

On March 29, 2016, staff sent an email on our behalf to the petitioners and other interested parties stating that the upcoming hearing deadlines were suspended. Additionally, the petitioners were directed to confirm by noon on Friday, April 1, 2016, that they will be prepared to proceed without further delay should a continuance be granted. By letter dated April 1, 2016, petitioners so confirmed.

On April 20, 2016, the San Joaquin Tributaries Authority and its member agencies<sup>2</sup> (SJTA) submitted an application to dismiss the petition on the grounds that it does not include a legally sufficient proposal for the "appropriate Delta flow criteria" that must be included as a condition of any approval of the petition pursuant to the Sacramento-San Joaquin Delta Reform Act of 2009. SJTA argued that the "appropriate Delta flow criteria" will impact project operations, which could in turn result in impacts to other legal users of water. Accordingly, SJTA argued that the State Water Board should dismiss the petition, order the petitioners to supplement the petition, or hold an independent and preliminary hearing on the issue of "appropriate Delta flow criteria" before proceeding with Part 1 of the hearing. SJTA presented a number of arguments in support of its contention that the Delta flow criteria described in the petition are deficient.<sup>3</sup>

The petitioners' request for a continuance of the WaterFix hearing is hereby granted. The revised hearing schedule is set forth below. Revised Enclosure A to our March 4, 2016 ruling for this proceeding established hearing dates for Part 1A of the hearing for the months of May and June 2016 and Part 1B of the hearing for the months of July through October 2016. The May and June hearing dates are canceled because they are no longer needed. Part 1A of the hearing is now scheduled to commence on July 26, 2016. An April 25, 2016 Revised Enclosure A is enclosed, which establishes hearing dates for Parts 1A and 1B for the months of July 2016 through January 2017. A formal notice of the revised hearing schedule will be issued in the near future. Consistent with the proposal in their letter requesting a continuance, petitioners are directed to submit to the State Water Board by May 15, 2016, a status report on settlement discussions, potential proposed permit conditions, and any other additional modeling in support of the WaterFix EIR/EIS project description.

We are cognizant of the inconvenience to the parties and other hearing participants that will be caused by rescheduling the WaterFix petition hearing. However, we have concluded that this inconvenience is outweighed by the potential benefit to the parties if protests are resolved and the amount of time and financial resources needed to participate in the hearing is reduced as a result. That being said, we are unlikely to grant further requests for delay by the petitioners.

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<sup>2</sup> Modesto Irrigation District, Oakdale Irrigation District, South San Joaquin Irrigation District, Turlock Irrigation District, and the City and County of San Francisco.

<sup>3</sup> SJTA also reiterated its objection to our characterization of "appropriate Delta flow criteria" as interim in nature and subject to change after the State Water Board completes Phase 3 of the update to the Water Quality Control Plan for the San Francisco Bay/ Sacramento-San Joaquin Delta Estuary. This objection was addressed in our March 4, 2016, ruling, and will not be discussed further here.

The request to dismiss the petition is denied. Parties raised similar concerns about petition completeness during the pre-hearing conference, and this issue was addressed in our February 11, 2016 ruling. Rather than supplement the petition, the petitioners are expected to provide more information concerning project operations and potential effects on legal users of water during the petitioners' case in chief. Although ultimately the State Water Board will decide what Delta flow criteria are appropriate in any approval of the petition, we expect the petitioners to describe, as part of their case in chief, what Delta flow criteria they believe would be appropriate. Similarly, we expect petitioners to describe the changes to project infrastructure and operations that are proposed as a result of DWR's recent agreement with CCWD. According to the agreement, these changes will be identified as mitigation measures and evaluated in the WaterFix Final EIR/EIS. (Agreement for Mitigation of Impacts to Contra Costa Water District from Construction and Operation of Bay Delta Conservation Plan/California WaterFix, Mar. 29, 2016, pp. 5, 23, ¶¶ 1.1.3, 3.11.)<sup>4</sup>

SJTA asserted that allowing petitioners to present additional information during the hearing will place an undue burden on protestants, who should have had the opportunity to review a complete petition before deciding whether and to what extent to participate in the hearing. Petitioners are required, however, to provide their written testimony and exhibits before Part 1A of the hearing begins. As set forth below, petitioners must submit their written testimony and exhibits by May 31, 2016. Part 1A of the hearing is scheduled to begin on July 26, 2016, and written testimony and exhibits for Part 1B of the hearing are not due until September 1, 2016. Accordingly, protestants and other parties will have ample opportunity to review the additional information that petitioners are expected to present before the hearing begins and before participants in Part 1B of the hearing have to prepare their own cases in chief.

We also disagree with SDWA's argument that the hearing should be suspended in order to hold a second pre-hearing conference. The issues raised in SDWA's letter are addressed in this ruling, and another pre-hearing conference is not required. Likewise, we disagree with SJTA's argument that a preliminary and independent hearing on the issue of "appropriate Delta flow criteria" must be held before proceeding with Part 1 of the hearing. As stated in our March 4, 2016 ruling, the Delta Reform Act does not require the State Water Board to hold a separate proceeding on this issue, and doing so would be inefficient. Although SJTA has not explained how its member agencies could be injured by any Delta flow criteria imposed on petitioners, SJTA is correct that, at least in theory, Delta flow criteria could affect water flows or quality in a manner that causes impacts to other legal users of water. Conversely, it is also at least theoretically possible that any flow or water quality conditions necessary to avoid impacts to other legal users could affect the desirability or feasibility of implementing certain Delta flow criteria. Because these issues are interrelated, they should be addressed together in the final order taking action on the petition, not separately. As indicated in the notice for this hearing, it may be necessary to revisit Part 1 hearing issues at the close of the hearing to the extent that any substantial changes to the final CEQA document for WaterFix relative to the draft document have a material bearing on Part 1 issues. Similarly, it may be necessary to revisit Part 1 issues at the close of the hearing based on the information presented during Part 2 concerning appropriate Delta flow criteria. After conducting Part 2 of the hearing, we will evaluate whether the record is adequate for purposes of formulating a decision on the petition, or whether any Part 1 issues need to be revisited based on information presented during Part 2.

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<sup>4</sup> We take official notice of the settlement agreement, which is available on DWR's website at: [http://www.water.ca.gov/news/docs/CCWD\\_DWR\\_Agreement\\_3-24-16.pdf](http://www.water.ca.gov/news/docs/CCWD_DWR_Agreement_3-24-16.pdf).

SJTA's arguments concerning the adequacy of the Delta flow criteria proposed by petitioners can be addressed during the hearing. Likewise, issues concerning the modeling conducted for the WaterFix can be addressed during the hearing, and do not need to be resolved before the hearing can proceed.

Revised Hearing Schedule

The hearing schedule is revised as follows:

- |                                |  |
|--------------------------------|--|
| 12:00 noon, May 31, 2016       | Deadline for receipt and service of petitioners' case in chief, including witnesses' proposed testimony, witness qualifications, exhibits, list of exhibits, and a statement of service for Part 1A of the hearing.  |
| 12:00 noon, June 15, 2016      | Due date for receipt of any written procedural/ evidentiary objections concerning petitioners' case in chief. Rulings to follow as appropriate and necessary. As explained in our previous rulings, follow-up comments on rulings and duplicative motions are strongly discouraged.      |
| 12:00 noon, June 15, 2016      | Due date for receipt of proposed groupings and order of parties for cross-examination in Part 1A of the hearing.   |
| 9:00 A.M., July 26, 2016       | Begin policy statements followed immediately by Part 1A of the hearing with petitioners' case in chief and cross-examination of petitioners' witnesses.  |
| 12:00 noon, September 1, 2016  | Due date for receipt and service of all other parties' cases in chief for Part 1B of the hearing, including witnesses' proposed testimony, witness qualifications, exhibits, list of exhibits, a statement of service, and any requests for additional time for direct testimony.        |
| 12:00 noon, September 15, 2016 | Due date for receipt of any written procedural/ evidentiary objections concerning Part 1B parties' cases in chief. Rulings to follow as appropriate and necessary. As explained in our previous rulings, follow-up comments on rulings and duplicative motions are strongly discouraged. |
| 12:00 noon, September 15, 2016 | Due date for receipt of proposed groupings and order of parties for direct testimony in Part 1B and proposed order of parties for cross-examination.   |

9:00 A.M., October 20, 2016

Part 1B of the hearing commences, beginning with other parties' cases in chief for Part 1 of the hearing, including direct testimony, cross-examination, any redirect, and any recross-examination. Following the cases in chief, petitioners and other parties may present rebuttal testimony and exhibits.

**Revised Notices of Intent to Appear:**

Our February 11, 2016 ruling established a February 26, 2016 deadline for Part 2 parties to submit a revised notice of intent to appear (NOI) if they wish to conduct cross-examination in Part 1. This deadline was subsequently extended to March 16, 2016. In addition, our March 4, 2016 ruling allowed Part 2 parties to submit a revised NOI by March 16 if they wish to present testimony on impacts to human uses, such as flood control issues, during Part 1 instead of Part 2. We did not otherwise permit parties to revise existing NOI's or to submit new NOI's.

Metropolitan Water District of Southern California's Request To Participate as a Party

On March 8, 2016, Metropolitan Water District of Southern California (MWD) filed a request to amend its NOI, seeking for the first time to participate as a party in the hearing. MWD proposes to participate in both Parts 1 and 2, and to present six witnesses during Part 1B. (Witnesses for Part 2 do not need to be identified at this time.) MWD's original NOI, filed by the January 5, 2016 deadline, indicated that MWD intended only to present policy statements in Parts 1 and 2.

In its request, MWD stated that recent decisions on the scope of Part 1 and changing deadlines have led MWD to seek to amend its NOI. MWD also argued that its request will not affect the current hearing schedule. Finally, MWD argued that it could be significantly impacted by the outcome of this proceeding.

MWD's request is denied because MWD has not provided an adequate justification for its failure to submit an NOI by the original deadline indicating MWD's intent to participate as a party. Our decision to modify the scope of Part 1 to include impacts to human uses does not justify MWD's failure to seek to participate as a party by the original deadline to submit an NOI because the scope of the hearing as a whole has not changed. As to "changing deadlines," we are not persuaded by the argument that granting petitioners' requests to delay the hearing, or the decision to change any other deadlines, has any bearing on MWD's decision to seek to change its status as a hearing participant at this late date.

We concur with MWD's argument that its participation is not likely to significantly impact the current schedule. However, if we were to grant MWD's request, other people or entities are likely to seek to participate as parties or add witnesses, and such an increase in parties or witnesses could delay the hearing significantly.

Finally, MWD's argument that it could be significantly impacted by the outcome of this proceeding may have merit, but it does not excuse the failure to file an NOI indicating MWD's intent to participate as a party by the January 5, 2016 deadline. In addition, MWD's interests will be represented to some extent by DWR and the State Water Contractors.

### Additional Issues with Revised NOI's

Several parties submitted revised NOIs by the March 16, 2016 deadline in which they now propose to call witnesses in Part 1B. In many cases, it is difficult to determine based on the brief description of the subject of the proposed testimony whether the parties seek to present testimony concerning human use impacts that the parties otherwise could have presented during Part 2 of the hearing, as permitted by our March 4, 2016 ruling, or whether the parties seek to expand their participation in Part 1B beyond what they previously submitted by adding witnesses to testify concerning injury to legal users of water. State Water Board staff will contact those parties whose revised NOI's present this issue after this ruling is issued to confirm that new witness testimony proposed to be presented in Part 1B is testimony that could have been presented in Part 2. The WaterFix website ([http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/water\\_right\\_petition.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/water_right_petition.shtml)) will be updated as State Water Board staff clarify parties' participation in the hearing.

### **Motion to Disqualify Hearing Officers**

On March 21, 2016, SLDMWA submitted a Motion for Disqualification of Hearing Officers Felicia Marcus and Tam Doduc. SLDMWA contends that we must be recused and new hearing officers appointed because we have demonstrated bias by predetermining an issue concerning the "appropriate Delta flow criteria" that must be included as a condition of any approval of the water right change petition for the WaterFix project pursuant to the Delta Reform Act.

SJTA submitted a letter dated March 29, 2016, supporting SLDMWA's motion. SJTA also suggested that Hearing Officer Marcus should be recused because her prior tenure as Western Director of the Natural Resources Defense Council (NRDC) could create an appearance of bias and lack of impartiality. In support of this suggestion, SJTA pointed to the fact that NRDC has advocated for higher flows in the San Francisco Bay/Sacramento-San Joaquin Delta Estuary (Bay-Delta), and registered support with the Legislature for such a position with respect to the Delta Reform Act.

Friends of the River and Sierra Club California filed a response dated April 4, 2016, opposing SLDMWA's motion and renewing once again their request to cancel this proceeding until the Water Quality Control Plan for the Bay-Delta (Bay-Delta Plan) has been updated.

For the reasons set forth below, SLDMWA's motion is denied. The request of Friends of the River and Sierra Club California to cancel this proceeding has been addressed above.

The basis for SLDMWA's motion stems from a statement in our February 11, 2016 ruling. That ruling addressed several arguments concerning the timing of this proceeding, including the argument that this proceeding must be delayed until the State Water Board has updated the Bay-Delta Plan. As part of the discussion of this timing issue, we explained that we do not interpret "appropriate Delta flow criteria" to mean the same thing as either existing water quality objectives, which petitioners are currently required to meet, or revised water quality objectives. We explained further that what constitutes "appropriate Delta flow criteria" would be determined during the hearing process, and would not be limited to existing requirements, or require promulgation of new water quality objectives. In the context of this discussion, we stated that the "appropriate Delta flow criteria" will be more stringent than petitioners' current obligations and may well be more stringent than the petitioners' preferred project."

Several parties, including petitioners, objected to this statement on the grounds that it prejudged the issue of whether the Delta flow criteria would be more stringent than petitioners' existing obligations. In our ruling dated March 4, 2016, we explained that, despite the statement in our February 11, 2016 ruling, we have not in fact made a final determination with respect to this issue. We assured the parties that we will objectively consider the arguments and evidence presented during the hearing concerning what constitute "appropriate Delta flow criteria." We also explained the reasons for our preliminary determination that the Delta flow criteria likely would be more stringent than petitioners' existing obligations. Perhaps most important, petitioners themselves have proposed to operate the WaterFix project in accordance with Delta flow criteria that are more stringent than their existing obligations, as described in the environmental documentation for the project. The statement in our February 11, 2016 ruling merely acknowledges the reality of the petition before us, as prepared by petitioners. In addition, the Delta Reform Act of 2009 requires the "appropriate Delta flow criteria" to be informed by the State Water Board's 2010 Delta flow criteria report, which found that current flow requirements are insufficient to protect public trust resources in the Delta. The State Water Board's periodic review of the Bay-Delta Plan also indicated that changes to existing water quality objectives, including Delta outflow objectives, are needed to prevent the continued decline of numerous fish species.

Case law holds that a fair hearing before an unbiased decision-maker is a basic due process requirement. (*Morongo Band of Mission Indians v. State Water Resources Control Bd.* (2009) 45 Cal.4th 731, 737.) Similarly, chapter 4.5 of the Administrative Procedure Act (APA), which governs adjudicative proceedings before the Board, establishes the rule that a decision-maker in an adjudicative proceeding is subject to disqualification for bias, prejudice, or interest in the proceeding. (Gov. Code, § 11425.40.)

In the absence of financial or other personal interest, decision-makers are presumed to be impartial, and the presumption of impartiality can be overcome only by specific evidence demonstrating actual bias or a combination of circumstances creating an unacceptable risk of bias. (*Morongo Band of Mission Indians v. State Water Resources Control Bd.*, *supra*, 45 Cal.4th at pp. 737, 741-742; see also *State Water Resources Control Bd. Cases* (2006) 136 Cal.App.4th 674, 840-841 [bias and prejudice must be clearly established based on concrete facts].) Contrary to SJTA's suggestion, a subjective appearance of bias is not grounds for disqualification. (*Andrews v. Agricultural Labor Relations Bd.* (1981) 28 Cal.3d 781, 791-794.)

The word bias generally refers to a mental attitude or disposition toward a party, not to the decision-maker's views regarding the subject matter involved. (*Andrews v. Agricultural Labor Relations Bd.*, *supra*, 28 Cal.3d 781, 790.) As explained by the California Supreme Court, "[t]he right to an impartial trier of fact is not synonymous with the claimed right to a trier completely indifferent to the general subject matter of the claim before him." (*Ibid.*) "A trier of fact with expressed political or legal views cannot be disqualified on that basis alone even in controversial cases." (*Id.* at p. 791.) "This long established, practical rule is merely a recognition of the fact that anyone acting in a judicial role will have attitudes and preconceptions toward some of the legal and social issues that may come before him." (*Id.* at p. 790.)

Similar to the case law on the issue of prejudgment, the APA also specifies that it is not in itself grounds for disqualification, without further evidence of bias, prejudice, or interest, that a decision-maker has "experience, technical competence, or specialized knowledge of, or has in any capacity expressed a view on, a legal, factual, or policy issue presented in the proceeding." (*Id.*, § 11425.40, subd. (b)(2), emphasis added.) The Law Revision Commission comments on this section clarify that expression of a view concerning the particular proceeding before the decision-maker could be grounds for disqualification. (Cal. Law Revision Com. com., West's Ann.

Gov. Code (2005 ed.) foll. § 11425.40, p. 297.) Although the APA leaves open the possibility that expression of a view concerning a contested issue of fact may be grounds for disqualification, the APA also specifies that agency decision-makers may make probable cause or other preliminary determinations in a proceeding without being subject to disqualification for bias. (Gov. Code, § 11425.30, subd. (b)(2); see also *Federal Trade Commission v. Cement Institute* (1948) 333 U.S. 683 [members of Federal Trade Commission who expressed opinions regarding legality of pricing structure at issue in pending proceeding not subject to disqualification for bias because their opinions could change based on arguments and evidence presented].)

SLDMWA's argument that we have demonstrated bias by prejudging an issue concerning the "appropriate Delta flow criteria" lacks merit. As explained above, our statement that the "appropriate Delta flow criteria" would be more stringent than petitioners' existing obligations was made in a preliminary ruling on requests to delay this proceeding. The statement was intended to illuminate the distinction between "appropriate Delta flow criteria" and water quality objectives because that distinction is relevant to the timing issue. As we have since clarified, and contrary to SLDMWA's assertion, we have not in fact made a final determination with respect to the stringency of the Delta flow criteria. Moreover, our initial view on this issue was not remarkable or unreasonable given that petitioners, themselves, have proposed to operate the project in accordance with more stringent Delta flow criteria. In its motion, SLDMWA also argues that the 2010 Delta flow criteria report and the periodic review of the Bay-Delta Plan do not support the conclusion that appropriate Delta flow criteria for the WaterFix will be more stringent than current requirements. Our citation to those matters, however, was intended to explain the context in which our statement was made, not to justify a final determination that the Delta flow criteria will be more stringent than current requirements.

SJTA's suggestion that Hearing Officer Marcus should be recused because of her tenure with NRDC also lacks merit. As set forth above, a subjective appearance of bias is not grounds for disqualification. In addition, the circumstances do not prove actual bias or create an unacceptable risk of bias. It is not reasonable to infer that she is biased in favor of NRDC or is incapable of evaluating the hearing issues impartially because of her past affiliation with NRDC. Hearing Officer Marcus also served as head of the Los Angeles Department of Public Works, but it does not follow that she is biased in favor of Southern California municipalities or municipalities in general. Between the time she was with NRDC and appointed to the State Water Board, she also served as a member of a sister state agency, the Delta Stewardship Council. Her varied experience is evidence of her substantial qualifications to serve as Chair of the State Water Board and Hearing Officer in this proceeding, not evidence of bias.

In summary, the facts presented by SLDMWA and SJTA are not grounds for disqualification. We are confident that we can evaluate the factual and legal arguments in this proceeding impartially, and reach a fair and reasonable decision based on the evidence in the record. Accordingly, SLDMWA's motion is denied.

### **Staff Exhibits**

As stated in previously rulings, the staff exhibits posted on the State Water Board's website at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/exhibits/index.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/index.shtml) were compiled by hearing team staff as a convenience to the parties in the interest of efficiency. As stated in our February 11, 2016 ruling, hearing team staff do not currently propose to offer the staff exhibits into evidence at the petition hearing (although staff may introduce exhibits if strictly necessary). (Please see our rulings dated [February 11, 2016](#) and [March 4, 2016](#) for additional information on the submission and use of staff exhibits.)

Please note that hearing team staff will not be providing or posting updates to staff exhibits SWRCB-1 through SWRCB-103. It is incumbent on the parties to determine if a particular document has been superseded or revised. In addition, hearing team staff had intended to include comments on the 2013 Public Review Draft BDCP EIR/EIS as part of SWRCB-4. The electronic copies of the comment letters staff received from DWR, however, were not in a usable format. Therefore, the words "and comments" will be deleted from the exhibit description for SWRCB-4 on the exhibits website. The petitioners are expected to provide the comment letters, in an indexed usable format, as one of their petition hearing exhibits.

### Hearing Team Members

The October 30, 2015 Notice of Petition and Notice of Public Hearing and Pre-Hearing Conference to Consider the Petition listed the hearing officers and hearing team staff. Mr. Rich Satkowski has assumed responsibility for another project and is no longer working on this hearing. Mr. Kyle Ochendusko, Senior Water Resource Control Engineer, has replaced Mr. Satkowski on the hearing team.

### Ex Parte Communications

Please remember that ex-parte communications concerning substantive or controversial procedural issues relevant to this hearing are prohibited. Parties must provide a copy of any correspondence to the State Water Board concerning substantive or controversial procedural issues to all of the parties listed in Table 1 of the service list located at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/service\\_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml). Any such correspondence must also be accompanied by a statement of service.

If you have any non-controversial procedural questions regarding this letter, please contact the hearing team at [CWFhearing@waterboards.ca.gov](mailto:CWFhearing@waterboards.ca.gov) or (916) 319-0960. All requests and motions have been or will be posted on the State Water Board's website at: [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfix/water\\_right\\_petition.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/water_right_petition.shtml).

Sincerely,

ORIGINAL SIGNED BY:

ORIGINAL SIGNED BY:

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Felicia Marcus  
State Water Board Member  
California WaterFix Co-Hearing Officer

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Tam M. Doduc  
State Water Board Member  
California WaterFix Co-Hearing Officer

Enclosure

**April 25, 2016 Revised Enclosure A:**  
Hearing Dates and Room Schedule  
California WaterFix Petition

**PART 1A** of the hearing will commence at **9 a.m. on July 26, 2016** and continue, as necessary, on the following dates at the Joe Serna Jr. Cal EPA Building, 1001 I Street, Second Floor, Sacramento, CA. **Please note that the dates in the table below were previously scheduled for Part 1B in the hearing officers' [March 4, 2016 ruling](#).**

DATE	HEARING ROOM
July 26, 2016	Byron Sher Auditorium
July 27, 2016	Byron Sher Auditorium
July 28, 2016	Byron Sher Auditorium
July 29, 2016	Byron Sher Auditorium
August 04, 2016	Byron Sher Auditorium
August 05, 2016	Byron Sher Auditorium
August 09, 2016	Byron Sher Auditorium
August 10, 2016	Byron Sher Auditorium
August 11, 2016	Byron Sher Auditorium
August 12, 2016	Byron Sher Auditorium
August 18, 2016	Coastal Hearing Room
August 19, 2016	Coastal Hearing Room
August 23, 2016	Coastal Hearing Room
August 24, 2016	Byron Sher Auditorium
August 25, 2016	Byron Sher Auditorium
August 26, 2016	Byron Sher Auditorium
August 30, 2016	Byron Sher Auditorium
August 31, 2016	Byron Sher Auditorium
September 22, 2016	Sierra Hearing Room
September 23, 2016	Sierra Hearing Room
September 27, 2016	Byron Sher Auditorium
September 28, 2016	Byron Sher Auditorium
September 29, 2016	Byron Sher Auditorium
September 30, 2016	Byron Sher Auditorium

**PART 1B** of the hearing will commence at **9 a.m. on October 20, 2016** and continue, as necessary, on the following dates at the Joe Serna Jr. Cal EPA Building, 1001 I Street, Second Floor, Sacramento, CA. **Please note that the October 2016 hearing dates were previously scheduled for Part 1B in the hearing officers' [March 4, 2016 ruling](#).**

<b>DATE</b>	<b>HEARING ROOM</b>
October 20, 2016	Coastal Hearing Room
October 21, 2016	Coastal Hearing Room
October 25, 2016	Byron Sher Auditorium
October 26, 2016	Byron Sher Auditorium
October 27, 2016	Byron Sher Auditorium
October 28, 2016	Byron Sher Auditorium
November 3, 2016	Byron Sher Auditorium
November 4, 2016	Byron Sher Auditorium
November 8, 2016	Byron Sher Auditorium
November 9, 2016	Byron Sher Auditorium
November 10, 2016	Byron Sher Auditorium
November 17, 2016	Coastal Hearing Room
November 18, 2016	Coastal Hearing Room
November 29, 2016	Byron Sher Auditorium
November 30, 2016	Byron Sher Auditorium
December 1, 2016	Byron Sher Auditorium
December 2, 2016	Byron Sher Auditorium
December 8, 2016	Coastal Hearing Room
December 9, 2016	Coastal Hearing Room
December 13, 2016	Coastal Hearing Room
December 14, 2016	Coastal Hearing Room
December 15, 2016	Coastal Hearing Room
January 5, 2017	Byron Sher Auditorium <sup>5</sup>
January 6, 2017	Byron Sher Auditorium <sup>1</sup>
January 10, 2017	Byron Sher Auditorium <sup>1</sup>
January 11, 2017	Byron Sher Auditorium <sup>1</sup>
January 12, 2017	Byron Sher Auditorium <sup>1</sup>
January 13, 2017	Byron Sher Auditorium <sup>1</sup>
January 19, 2017	Byron Sher Auditorium <sup>1</sup>
January 20, 2017	Byron Sher Auditorium <sup>1</sup>
January 24, 2017	Byron Sher Auditorium <sup>1</sup>
January 25, 2017	Byron Sher Auditorium <sup>1</sup>

<sup>5</sup> Date is confirmed. Room is subject to availability. Clarifications will be made before the start of Part 1B.