November 15, 2016

**VIA EMAIL**

State Water Resources Control Board  
Division of Water Rights  
Attn: California WaterFix Hearing Team  
P.O. Box 2000  
Sacramento, California 95812-2000  
CWFhearing@waterboards.ca.gov

Re: Sacramento Valley Water Users’ Proposal Regarding Part 1 Rebuttal Evidence and Submission of Closing Briefs

Dear Hearing Chair Doduc, Hearing Officer Marcus, and California WaterFix Hearing Staff:

The Sacramento Valley Water Users (“SVWU”) have submitted the testimony and exhibits in support of their cases in chief for Part 1 of the California WaterFix Hearing. Looking ahead to the next phases of this proceeding, the SVWU submits the following proposal regarding procedures for the presentation of rebuttal evidence and submission of closing briefs. We appreciate the Hearing Team’s consideration of this proposal.

**Part 1 Rebuttal Evidence**

The Hearing Notice explains that the presentation of rebuttal evidence will be allowed after all parties have presented their cases-in-chief and witnesses have been cross-examined. (Notice of Petition and Notice of Public Hearing for California WaterFix Project (“Notice”), October 30, 2015, at 35.) In the interest of an efficient and orderly proceeding, the SVWU request that the Hearing Team adopt the following procedures to govern the rebuttal phase of Part 1:

1. In light of the ongoing presentation of evidence by parties to the proceeding that will last through the end of this year and possibly into January 2017, presentation of rebuttal evidence should occur no earlier than 30 days after submission of all cases in chief. This will allow the parties time to coordinate preparation of rebuttal evidence and ensure that it is not repetitive.

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1 The SVWU is comprised of the protestants identified in Attachment 1.
2. Parties should simultaneously submit rebuttal evidence in writing prior to presentation of such evidence at the hearing. This will allow the parties time to review all rebuttal evidence and prepare cross-examination that is tailored to that evidence. Unlike the staggered approach used for presentation of cases in chief, the SVWU suggests that all parties simultaneously submit rebuttal evidence in the interest of timely and efficient proceedings.

3. At times during cross-examination, various parties marked documents for identification purposes only. If a party intends to offer such a document into the record and it was not included in that party's case in chief, then the party should be required to include that document in its submittal of rebuttal evidence. This will clarify the record as to what documents are being offered into the record and it will allow all parties to conduct cross examination regarding such new evidence or prepare and offer appropriate sur-rebuttal.

4. The admission of sur-rebuttal evidence that is directly responsive to evidence presented by any party during rebuttal should be considered on a case-by-case basis upon a showing of good cause.

Closing Briefs

The Notice explains that the hearing officers may allow for closing statements or legal briefs at the close of the hearing or at other times, if appropriate. (Notice, at 36.) It has been suggested that closing briefs be submitted at the end of Part 1. However, the SVWU request that closing statements and legal briefs not be filed until the end of Part 2, because the issues of Part 1 and Part 2 have intersected at times during the proceeding and will continue to do so through presentation of evidence during Part 2. For example, as the Notice acknowledges, issues arising out of the California Environmental Quality Act and Endangered Species Act processes that will not be completed prior to the completion of Part 1 may have a material bearing on Part 1 issues and those issues may be revisited in Part 2. (Notice, at 11.) In addition, the Hearing Team has clarified that the administrative record for the Board’s decision will include all evidence admitted to evidence in Part 1 and Part 2 of the Hearing. Because the Board will be considering all evidence as it prepares its decision in this matter, the SVWU believe that closing briefs should be based on the entire record and submitted at an appropriate time after completion of Part 2. If discrete issues arise prior to the conclusion of Part 2, the Hearing Officers can direct parties to submit briefs as necessary.
SVWU appreciates your consideration of these requests.

Very truly yours,

DOWNNEY BRAND LLP

David R.E. Aladjem
Kevin M. O’Brien

SOMACH, SIMMONS & DUNN, PC

/s/ Andrew M. Hitchings
Andrew M. Hitchings

/s/ Kelley M. Taber
Kelley M. Taber

/s/ Andrew M. Hitchings
Andrew M. Hitchings

/s/ Kelley M. Taber
Kelley M. Taber

/s/ Alan Lilly
Alan Lilly

/s/ Ryan Bezerra
Ryan Bezerra

/s/ Alan Lilly
Alan Lilly

/s/ Ryan Bezerra
Ryan Bezerra

BARTKIEWICZ, KRONICK & SHANAHAN

MINASIAN, MEITH, SOARES, SEXTON & COOPER, LLP

/s/ Dustin C. Cooper
Dustin C. Cooper

STOEL RIVES LLP

/s/ Wesley A. Miliband
Wesley A. Miliband

/s/ Wesley A. Miliband
Wesley A. Miliband

cc: CA WaterFix Service List
Northern California Water Association

**Clients represented by Downey Brand LLP**

Carter Mutual Water Company  
El Dorado Irrigation District  
El Dorado Water & Power Authority  
Howald Farms, Inc.  
Maxwell Irrigation District  
Natomas Central Mutual Water Company  
Meridian Farms Water Company  
Oji Brothers Farm, Inc.  
Oji Family Partnership  
Pelger Mutual Water Company  
Pleasant-Grove Verona Mutual Water Co.  
Princeton Codora-Glenn Irrigation District  
Provident Irrigation District  
Reclamation District 108  
Sacramento Municipal Utility District  
Henry D. Richter, et al.  
River Garden Farms Company  
South Sutter Water District  
Sutter Extension Water District  
Sutter Mutual Water Company  
Tisdale Irrigation and Drainage Company  
Windswept Land and Livestock Company

**Clients represented by Somach Simmons & Dunn**

Glenn-Colusa Irrigation District  
Biggs-West Gridley Water District  
Sacramento County Water Agency  
Placer County Water Agency  
Carmichael Water District

**Clients represented by Bartkiewicz, Kronick & Shanahan**

City of Folsom  
City of Roseville  
San Juan Water District  
Sacramento Suburban Water District  
Yuba County Water Agency
Clients represented by Minasian, Meith, Soares, Sexton & Cooper, LLP
Anderson-Cottonwood Irrigation District
Butte Water District
Nevada Irrigation District
Paradise Irrigation District
Plumas Mutual Water Company
Reclamation District No. 1004
Richvale Irrigation District
South Feather Water & Power Agency
Western Canal Water District

Clients represented by Stoel Rives
City of Sacramento
STATEMENT OF SERVICE

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

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

Letter dated 11/15/16 Re SVWU’s Proposal Regarding Part 1 Rebuttal Evidence and Submission of Closing Briefs

to be served by Electronic Mail (email) upon the parties listed in Table 1 of the Current Service List for the California WaterFix Petition Hearing, dated November 15, 2016, posted by the State of Water Resources Control Board at http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml:

Note: In the event that any emails to any parties on the Current Service List are undeliverable, you must attempt to effectuate service using another method of service, if necessary, and submit another statement of service that describes any changes to the date and method of service for those parties.

For Petitioners Only:

| I caused a true and correct hard copy of the document(s) to be served by the following method of service to Suzanne Womack & Sheldon Moore, Clifton Court, L.P., 3619 Land Park Drive, Sacramento, CA 95818: |
| Method of Service: |

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

Signature: Catharine Irvine

Name: Catharine Irvine

Title: Legal Secretary

Party/Affiliation: Downey Brand, LLP

Address: 621 Capitol Mall, Sacramento, CA 95814