



April 19, 2017

Via email to:
CWFhearing@waterboards.ca.gov

State Water Resources Control Board
Division of Water Rights
Attn: California WaterFix Hearing Staff
P.O. Box 2000
Sacramento, CA 95812-2000

**Re: Sacramento Valley Group's Request for Hydrologic Modeling Supporting
Petitioners' Rebuttal Testimony**

Dear Hearing Chair Doduc and Hearing Officer Marcus:

On April 11, 2017 the attorneys for the combined group of the Sacramento Valley Group (SVG) filed an interrogatory with the Hearing Officers, Department of Water Resources (DWR) and U.S. Bureau of Reclamation (Reclamation) (jointly Petitioners). Within that letter SVG expressed confusion of the presentation of CALSIM modeling for CA WaterFix scenario Alt4A H3+ that was a part of the submitted Biological Assessment (BA). Furthermore, they expressed confusion over the "NoCC", or no climate change, results discussed within the Petitioners' exhibits. Please be aware that the modeling runs relied upon by Petitioners' in the rebuttal testimony were published with the BA, or otherwise made publicly available. The "NoCC" is merely the BA model, using the Q0, or historical hydrology.

To clarify these questions about CALSIM modeling, Petitioners' CALSIM modeling testimony is based upon:

- 1) A case-in-chief utilizing Water Rights Petition scenarios Alt 4A H3, H4, B1 and B2, and made available to the public repeatedly but most recently on May 25, 2016. However, Dan Easton of MBK requested and received this modeling on or around May 16, 2016. A full description of the use of these models and scenarios was provided in response to previous requests by SVG in a letter dated March 11, 2016. This modeling is a part of exhibit SWRCB-3, SWRCB-4 and SWRCB-102, and the data was provided as a standalone exhibit DWR-500.
- 2) A rebuttal to SVG's case-in-chief that utilized modeling from the submitted BA scenario Alt 4A H3+. Petitioners made the submitted BA modeling available to the public beginning in February 2016 and MBK requested and received this data on July 18, 2016. This included all of the climate change scenarios utilized in the Petitioners' rebuttal, including Q0. This modeling is a part of exhibit SWRCB-104.
- 3) A rebuttal to SVG's case-in-chief that utilized new modeling presented by SVG during its case-in-chief, only some of which was provided to the Petitioners. The 2-year example used by SVG was never submitted in the hearing nor released to the public.

The method of analysis conducted for the rebuttal of MBK's modeling data is described in DWR's testimony and exhibits. It bears repeating that all but the MBK CALSIM modeling was available to the public since July 2016. If there is any missing information in the public sphere it is the data behind the MBK modeling runs. Nonetheless, Petitioners are submitting to the FTP site stand-alone files for all of the modeling data not already uploaded. These files are given the exhibit numbers of DWR-901, DWR-902, DWR-903, and DWR-904.¹

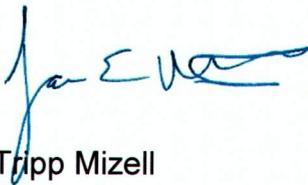
We believe that this issue is relatively simple and does not warrant the level of confusion claimed by SVG. Given the number and expertise of witnesses appearing in this hearing, further questions regarding the basis of Petitioners' rebuttal are more appropriately brought forth during cross-examination of the modeling witnesses and

¹ DSM2 modeling data was previously submitted as part of the Rebuttal materials as DWR-900.

additional attempts at discovery are inappropriate given the State Water Board's rules in these proceedings that discourage unreasonably cumulative or duplicative production of information.²

SVG also included in its April 11 letter an interrogatory seeking confirmation of its Attachment entitled, "Reclamation/DWR California Water Fix Biological Assessment Modeling." As we understand it, interrogatories are not allowed in hearings before the State Water Board, and thus Petitioners will not be responding to this question.³ If SVG continues to have questions regarding its Attachment, those questions should be brought forth in cross-examination of the modeling witnesses.

Sincerely,



Tripp Mizell
Senior Attorney
Office of the Chief Counsel
CA Department of Water Resources



Amy L. Aufdemberge
Assistant Regional Solicitor
Office of the Regional Solicitor
U.S. Department of the Interior

cc: Board member Dorene D'Adamo
CA WaterFix Hearing Service List

² The Code of Civil Procedure allows parties to obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence. (Civ. Code Proc., §2017.010.) The scope of discovery shall be limited if the burden, expense, or intrusiveness of that discovery clearly outweighs the likelihood of discovering admissible evidence. (Civ. Code Proc., §2017.020.) The use of depositions may be restricted if the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive. (*Id.*, §2019.030, subds. (a)(1)-(2).) The Administrative Procedure Act authorizes the presiding officer in an adjudicative proceeding to issue an order that is appropriate to protect the parties or witnesses from unreasonable or oppressive demands. (Gov. Code, §11450.30.)

³ Water Code section 1100 and Government Code sections 11450.10 and 11450.20 do not authorize all of the forms of discovery that are permissible pursuant to the Civil Discovery Act, including interrogatories, inspection demands, and requests for admission.

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):

Sacramento Valley Group's Request for Hydrologic Modeling Supporting Petitioners' Rebuttal Testimony

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 March 30, 2017, posted by the State 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:

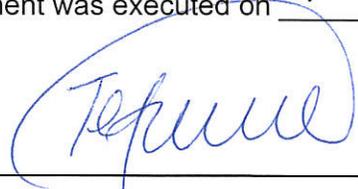
	I caused a true and correct hard copy of the document(s) to be served by the following method of service to Suzanne Womack & Sheldon Moore, Clifton Court, L.P., 3619 Land Park Drive, Sacramento, CA 95818:
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	Method of Service: <u>U.S. Postal</u>
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I certify that the foregoing is true and correct and that this document was executed on April 19, 2017

Date

Signature: _____



Name: Valentina German

Title: Legal Analyst

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