

27 April 2017

To: CWF Hearing Officers, Team and Participants

Re: Invalid email addresses in the CWF's Current Service List an Assertion of an Ex parte Communication by Porgans

- (1) In the CWF Hearing Officers' 21 April 2017 email communication it contains a Current Service List, with a number of invalid email addresses, making it very difficult to successfully send emails to all of the participants. Due to the invalid email addresses, the emails kept showing up as failure to deliver. In particular, and of major importance, is the error in the email address for James Mizell, the lead attorney representing the Department of Water Resources (DWR), in its pending petition before the State Water Resources Control Board (SWRCB) CWF Hearing Officers and Team. FYI: The emails were sent in sub sets (due to limits of your system).

Failure to notify and provide Mr. Mizell with exhibits or other required submittals could have serious consequence on Protestants' participation in the so-called California WaterFix and the change petition for the place of Delta diversions. Porgans brought the fact of the invalid email addresses to the CWF Hearing Officers and the CWF Team once before; however, it is apparent that the Current Service List does not reflect the required corrections; including Mr. Mizell's valid email address. Porgans obtained the correct email address for Mr. Mizell and other participants and entered them accordingly. The Hearing Officers should direct staff to make the required changes in the invalid email addresses in your Current Service List for the mutual benefit of all concerned.

- (2) There appeared to have been some discussion at the CWF Hearing on Tuesday, 25 April 2017 by the CWF Hearing Officers and CWF Team as to Porgans ex parte communication with the CWF Team; however, this assertion was not brought to Porgans attention by either the CWF Hearing Officers or the CWF Team. This information was brought to Porgans attention by another participant in the CWF Hearing process.

In order to put this assertion in perspective, inclusive in this email communication is the entire "procedural question" that Porgans sent to one of the CWF Team members, a request that was made on the heels of a pending deadline to submit exhibits. On 23 March 2017 "I [Porgans is having a] very difficult time trying [to upload a file] to the FTP site; Do you have any suggestions; Ted Thomas SWP-CVP – Annual Pumping 1951-2012 – Microsoft Works Spreadsheet 2xlr. The Team member was unable to provide the assistance requested; however, through trial and tribulations, Porgans succeeded in uploading the file on his own. As previously pointed out, at a CWF Hearing, Porgans computer was hacked, and right up until the end of March, Porgans had to retain the services of a computer consultant to get the "bugs" out of his computer system. Also, Porgans **did not** have a problem uploading other exhibits to the FTP site, when the system was up.

Lastly, in the CWF Hearing Officers' 21 April 2017 email correspondence to participants it states, the following, on the last page: "If you have any **non-controversial, procedural questions about this ruling or other matters related to the California WaterFix Hearing, please contact the hearing team at CWFhearing@waterboards.ca.gov** or (916) 319-0960." [Emphasis added]

Porgans followed the aforementioned instructions, the outcome of which was addressed in the body of this email communication. **So as a point of clarification, what is the CWF Hearing Officers' position regarding contact with the CWF Team on procedural issues, i.e., how to upload a particular file to the FTP site; is it classified as an ex parte communication?** Please advise me accordingly. For your information this email is being sent to all of the CWF participants. As you are undoubtedly aware, your FTP site has had its own share of problems.

Sincerely,

Patrick Porgans
Patrick Porgans