



The Environmental Justice Coalition for Water

Water Justice for All

November 30, 2017

Via E-mail Only to CWFhearing@waterboards.ca.gov

The Honorable Felicia Marcus, Chair
Co-Hearing Officer
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

The Honorable Tam Doduc
Co-Hearing Officer
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: Request to Upload CWF Part 2 Submittal to FTP Site

Dear Hearing Officers Doduc and Marcus:

The Environmental Justice Coalition for Water (EJCW) experienced technical difficulties in attempting to upload our submittal on November 30, 2017, and respectfully requests the opportunity to upload to the FTP site for the California WaterFix proceeding, as soon as possible, the following three related parts:

- 1) the documents that, due to technical difficulties, failed to upload properly before the November 30, 2017, noon deadline, and for which more detail is provided below;
- 2) one witness exhibit which was inadvertently not included in EJCW's Exhibit List, although it was in hand and, as with the others, we attempted, unsuccessfully, to upload it before noon; and, lastly,
- 3) a witness exhibit for which a hold was placed in EJCW's Exhibit List (see EJCW-16 of Statement of Service, dated November 30, 2017, attached hereto) and which document EJCW received from the witness to whose testimony it pertains after the noon deadline in the hope of being able to add it later.

We also were alerted by one of our witnesses to the fact that one exhibit pertaining to that same witness's testimony was mislabeled as EJCW-17, now correctly labeled as EJCW-18 in the list below. Combined with the exhibit that was inadvertently left off of EJCW's Exhibit List, but, as above, was in our possession and which we attempted, unsuccessfully, to upload to the FTP site, the exhibit numbers

assigned to each exhibit on EJCW's Exhibit List would need to shift up by one digit, in order to be accurate, starting with EJCW-17. EJCW's revised and now-accurate Exhibit List would read as follows:

EJCW-1	EJCW Exhibit List (as revised to reflect the changes below)
EJCW-2	WaterFix Testimony Dr. Fraser Schilling
EJCW-3	Schlosberg - 2004 - Reconcept EJ
EJCW-4	Shilling_2009a
EJCW-5	Final_EIR-EIS_Chapter_28_-_Environmental_Justice
EJCW-6	Silver et al 2007
EJCW-7	Shilling 2014 California Tribes Fish Use_Final_Report_Public
EJCW-8	USACE_404_Permit_App 8.25.2015
EJCW-9	Shilling et al 2010_Fish Contamination-Consumption Central Valley
EJCW-10	Sur_Rebuttal_MBrett
EJCW-11	Dijkstra_2013_mercury_temperature
EJCW-12	DFW_Incidental_Take_Permit- Attachment 7- Modeling
EJCW-13	Final_FEIR-EIS_Chapter_8_Water_Quality
EJCW-14	Creswell_2017_mercury_methylation_dynamics
EJCW-15	Wang_et_al_mercury_methylation_demethylation_2013
EJCW-16	Fish Consumption Report 704
EJCW-17	Shilling 2009 Memo
EJCW-18	Food_security_Youn_2014
EJCW-19	Inland_Fisheries_Lynch_2017
EJCW-20	Final_EIR-EIS_Appendix_8I_Mercury
EJCW-21	Dr. Fraser Schilling Statement of Qualifications
EJCW-22	WaterFix Testimony Andria Ventura
EJCW-23	EJCW-22 BU timeline hg_prov_time3b
EJCW-24	Res 2016-0011
EJCW-25	staff BU presentation hg_workshop
EJCW-26	bu_factsheet
EJCW-27	pr050317_mercury_limits
EJCW-28	Res 2017-0027
EJCW-29	Part 2 WQCP Inland BU hg_prov_final
EJCW-30	OAL approval June 28, 2017
EJCW-31	US EPA Approval
EJCW-32	Statewide Mercury Provisions
EJCW-33	WaterFix Testimony Sherri Norris
EJCW-34	WaterFix Testimony Milo Wetherall
EJCW-35	WaterFix Testimony Luci Paczkowski
EJCW-36	WaterFix Testimony Allegra Schunemann
EJCW-37	WaterFix Testimony Caroline Schurz
EJCW-38	WaterFix Testimony Daniel Heagerty

As may be evident from the Exhibit List, above, the testimony that failed to upload, yesterday, despite our pre-noon efforts, and which we now seek the opportunity to upload represents the entirety of EJCW's direct witness testimony.

The Environmental Justice Coalition for Water had all WaterFix, Part 2, exhibits ready, except for the one exhibit, described above, for which a hold was placed in the Exhibit List. EJCW staff attempted to upload the documents in our possession to the FTP folder assigned to EJCW at approximately 11:55 a.m. Upon checking the progress those documents were making with only a few minutes to go before noon, some of the documents appeared to EJCW's operations manager to have successfully uploaded, while the other documents were still in the process of uploading, but no "red flags" had been raised yet. EJCW's operations manager circulated the attached Statement of Service, then-believing the process of uploading the exhibits to the FTP site to have been successful. Only after e-mailing the Statement of Service at 11:59 a.m. on November 30, 2017, did EJCW's operations manager turn attention back to the FTP site, at which time an ominous error message had appeared in place of what had previously appeared to be some affirmation of completion and otherwise steady progress towards uploading the documents. EJCW's operations manager then attempted to re-upload the documents for which an error message had appeared, only to meet with the same error message. A short while after noon, perhaps as late as 12:10 p.m., the FTP rejected all further attempts to upload any documents.

EJCW's operations manager then called and e-mailed the California WaterFix hearing team, who responded in the early afternoon, after a few e-mail exchanges, that the matter would have to be resolved by way of a request addressed to the hearing officers and circulated to the service list. Hence, this request for your permission to upload these documents now. If granted leave to upload the exhibits, EJCW would promptly do so and send a new notice of availability and statement of service.

With apologies to the hearing officers, hearing team, all parties to the proceeding, and my own staff, seeking to upload documents at, literally, the 11th hour, is not the way I like to operate. I take full responsibility for subjecting my staff to a set of circumstances where time was too short to resolve any technical glitches, which, unfortunately, we encountered. In the future, my staff and I will make every effort to make sure we allow ample time, so that scenario does not repeat itself. In the meantime, we request that we be able to upload the testimony our witnesses and we worked so hard to prepare.

We thank the hearing officers and hearing team in advance for their consideration and the parties to this proceeding for their understanding and forbearance. If you have any questions, please do not hesitate to contact me by phone at (916) 432-EJCW(3529) or by e-mail at colin@ejcw.org.

Sincerely,



Colin Bailey, Executive Director and Attorney
The Environmental Justice Coalition for Water

cc: Service List

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):

EJCW'S EXHIBITS:

EJCW-1	EJCW Exhibit List
EJCW-2	WaterFix Testimony- Dr. Fraser Schilling
EJCW-3	Schlosberg - 2004 - Reconcept EJ
EJCW-4	Shilling_2009a
EJCW-5	Final_EIR-EIS_Chapter_28_-_Environmental_Justice
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EJCW-16	HOLD
EJCW-17	Food_security_Youn_2014
EJCW-18	Inland_Fisheries_Lynch_2017
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EJCW-23	Res 2016-0011
EJCW-24	staff BU presentation hg_workshop
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EJCW-26	pr050317_mercury_limits
EJCW-27	Res 2017-0027
EJCW-28	Part 2 WQCP Inland BU hg_prov_final
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EJCW-36	WaterFix Testimony Allegra Schunemann
EJCW-37	WaterFix Testimony Caroline Shurz
EJCW-38	WaterFiux Testimony Daniel Heagerty

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 Resources Control Board at, posted by the State Water

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 11/30/2017

/S JENNIFER DONOHUE

Signature:

Name: Jennifer Donohue

Title: Operations Manager

Party/Affiliation: The Environmental Justice Coalition for Water

Address:P.O. Box 188911, Sacramento, CA 95818