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Principal, California Water Research

BEFORE THE  
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

HEARING IN THE MATTER OF  
CALIFORNIA DEPARTMENT OF WATER RESOURCES AND UNITED STATES  
BUREAU OF RECLAMATION  
REQUEST FOR A CHANGE IN POINT OF DIVERSION FOR CALIFORNIA WATER FIX

MOTION TO CONTINUE HEARING TO ALLOW PRODUCTION OF EX PARTE CORRESPONDENCE WITH OTHER AGENCIES

Deirdre Des Jardins, principal at California Water Research (“California Water Research”) is submitting the attached Public Records Act request to the State Water Resources Control Board Office of Chief Counsel, to provide for expedited disclosure of Ex Parte communications regarding the WaterFix hearing or proposed SWP and CVP permit terms in the Phase 2 update by the Natural Resources Agency, the Governor’s Office, or the State Water Contractors who are parties to the WaterFix hearing and WaterFix proponents. Any substantive communications relating to the WaterFix hearing are requested, as well as communications relating to permit terms for the State Water Project (“SWP”) and Central Valley Project (“CVP”) in the Phase 2 Bay-Delta Water Quality Control Plan update.

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California Water Research (Deirdre Des Jardins) Motion to Continue Hearing To Allow Production Of Ex Parte Correspondence With Other Agencies
California Water Research recently ran across the February 11, 2016 Hearing Officers ruling that communications about any” issues concerning the WaterFix” relevant to the Phase 2 update of the Bay-Delta planning process would be consistent with the Ex Parte rule:

We acknowledge the concerns raised by some of the parties regarding how application of the prohibition against ex parte communications in this proceeding could restrict otherwise permissible communications in the Bay-Delta planning process. At this time, it is not clear to what extent, if any, issues concerning the WaterFix will be relevant in the larger planning process. If this becomes a problem as Phase 2 progresses, the State Water Board will reach out to stakeholders and parties and determine the best way to allow any necessary open dialogue in the planning arena consistent with the ex parte rule applicable to the WaterFix hearing. (February 11, 2016 Hearing ruling, p. 5, underlining added.)

While the Phase 2 Bay-Delta Water Quality Control Plan update (“Phase 2 update”) is not considering the WaterFix, the Phase 2 update is considering amendment of the permits of the SWP and CVP, which has significant overlap with the Board’s consideration of adoption of “appropriate Delta flow criteria” in the WaterFix Water Right Change Petition hearing (“WaterFix hearing”.)

The State Water Resources Control Board has not, to date, reached out to WaterFix hearing parties and stakeholders to “determine the best way to allow any necessary open dialogue in the planning arena consistent with the ex parte rule applicable to the WaterFix hearing,” nor has the Board disclosed any Ex Parte communications regarding proposed permit terms for the SWP and CVP to the WaterFix hearing parties. Ex Parte issues regarding parallel processes should be addressed and resolved before the WaterFix hearing proceeds.

To allow WaterFix hearing parties the chance to resolve any Ex Parte issues that are uncovered, California Water Research hereby moves that the Hearing Officers continue the hearing until Ex Parte correspondence and documents in the attached document, “Public Records Act request for Ex Parte communications by other agencies” is produced. (This continuance

California Water Research (Deirdre Des Jardins) Motion to Continue Hearing To Allow Production Of Ex Parte Correspondence With Other Agencies
motion is moot if the stay requested by Save the California Delta Alliance and Sacramento County et. al. is granted.)

Dated Jan 28, 2018

Respectfully submitted,

Deirdre Des Jardins
Principal, California Water Research
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):

Motion to Continue Hearing to Allow Production of Ex Parte Correspondence With Other Agencies

Public Records Act request for Ex Parte communications by other agencies
to be served by Electronic Mail (email) upon the parties listed in the Current Service List for the California Water Fix Petition Hearing, dated January 24, 2018, 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.

I certify that the foregoing is true and correct and that this document was executed on January 28, 2017.

Signature:

Name: Deirdre Des Jardins
Title: Principal, California Water Research

Party/Affiliation:
Deirdre Des Jardins

Address:
145 Beel Dr
Santa Cruz, California 95060

Statement of Service