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Via-E-mail Only [CWFhearing@waterboards.ca.gov](mailto:CWFhearing@waterboards.ca.gov)

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

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

***Re: CWF - Revised DWR Modeling Output***

Dear Hearing Officers:

At the conclusion of the California Water Fix ("CWF") hearing on October 1, 2018 counsel for the South Delta Water Agency ("SDWA") Protestants addressed the Hearing Officers regarding the fact that the Department of Water Resources ("DWR") recently released (September 20, 2018) an Economic Analysis of the California Water Fix ("Economic Analysis") based on new CALSIM modeling which assumes all water diverted through the CWF will go to the SWP ("SWP Only Assumption.")

This issue was raised within the context of considering whether a schedule for closing briefs should be set at this time. All Protestants present objected to the setting of a briefing schedule until DWR certifies the CWF Supplemental Environmental Impact Report ("SEIR") and co-petitioner United States Bureau of Reclamation ("BOR") issues a Record of Decision for the Project, and the Final SEIR/EIS is entered into the evidentiary record. As noted at the hearing on October 1, and in subsequent letters by other Protestants, the public comment period for the Draft SEIR does not close until November 5, 2018. There is no indication if, or when, BOR will issue a Record of Decision.

On September 30, 2018, prior to raising this issue before the Hearing Officers on October 1, 2018, the SDWA Protestants requested that DWR's counsel provide modeling information for the SWP Only Assumption. Rather than providing the model information,

on October 4, 2018 counsel for DWR forwarded the request for processing as a Public Records Act Request. Given the significantly contested nature of the ongoing CWF proceedings, and Protestants continual complaints about the ever-changing actual project description, it seems


reasonable to expect that DWR's counsel would be well aware, and have immediate access, to the modeling for the SWP Only Assumption. Regardless, if recent CWF related PRA requests are any indication, there is no telling when modeling information will be provided.

The SWP Only scenario is not the Project which has been presented in the CWF proceedings. All realistic indications are that the BOR will not, ultimately, participate in the CWF and the SWP Only Assumption seems like the most plausible result. However, DWR's recent Economic Analysis raises other important issues. The modeling referenced therein of the 67% SWP/33% CVP seems to reflect an increase of almost 200,000-acre feet per year on average of SWP south of delta deliveries compared to the modeling results analyzed by the Final EIR (see P. 10, Table 2 of the Economic Analysis.) DWR's previous assertions with respect to the so called "float" analysis are seriously undermined since, in fact, the modeling results for the 55% SWP/45% CVP and 67% SWP/33% CVP are significantly different. Even if the Hearing Officers continue to give DWR the benefit of the doubt with regard to the 33% CVP assumption, the "float" analysis does not capture the differences between the two assumed CVP allocations and demonstrates that DWR's assertions to the contrary are false.

The Economic Report was not developed in a vacuum. It presents significant evidence that the actual project description has not been analyzed in the CWF proceedings to date. The Hearing Officers should require that, within ten days, DWR upload the complete modeling results upon which the Economic Analysis is based and submit testimony explaining the differences between same and the modeling assumptions and results which have been the basis of the CWF proceedings thus far. Protestants should be given thirty days to submit responsive testimony. Thereafter, the Hearing Officers should schedule hearing days to consider the differences and the impacts therefrom. Finally, the SDWA Protestants note the Hearing Officers previously ruled that a third phase of the proceedings was necessary after DWR announced a single tunnel project. Thus, the request herein will not delay the proceedings beyond that previously contemplated and can occur while we await the Certification of the SEIR and Record of Decision for the EIS.

Very Truly Yours,

MOHAN, HARRIS, RUIZ,  
WORTMANN, PERISHO & RUBINO

  
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SDR/bs

cc: Service List