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7 Party to the WaterFix Hearing
8 Principal, California Water Research

9
10 **BEFORE THE**
11 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

12 HEARING IN THE MATTER OF
13 CALIFORNIA DEPARTMENT OF WATER
14 RESOURCES AND UNITED STATES
15 BUREAU OF RECLAMATION
16 REQUEST FOR A CHANGE IN POINT OF
17 DIVERSION FOR CALIFORNIA WATER
18 FIX

19 **RESPONSE TO CALIFORNIA**
20 **DEPARTMENT OF WATER**
21 **RESOURCES' OBJECTIONS TO PART**
22 **1B TESTIMONY AND EXHIBITS**
23 **SUBMITTED BY DEIRDRE DES**
24 **JARDINS AND CALIFORNIA WATER**
25 **RESEARCH**

26 Deirdre Des Jardins, principal at California Water Research, (“California Water
27 Research”), hereby provides this response to “California Department of Water Resources’
28 Objections To Part 1B Testimony and Exhibits Submitted by Deirdre Des Jardins and California
Water Research.” The objections by the Department of Water Resources (“DWR”) to Ms. Des
Jardins’ testimony state in part:

CWR's testimony does not present evidence on injury to legal users of water or
impacts to other human uses of water, and it therefore does not meet the requirements set
in the hearing notices and rulings. Instead, CWR's case-in-chief is a continuation CWR's
attempt to cast doubt on the validity of DWR's modeling work.

(p. 1: 22.)

The fact that Ms. Des Jardins testimony does not reach the ultimate question of law
before the Board does not render it irrelevant or inadmissible. (See, e.g., People v. McDonald

1 (1984) 37 Cal.3d 351, 366-367 (expert testimony is still admissible when it speaks only to facts,
2 and not final opinions.)

3 DWR has also previously filed legal arguments in this proceeding that the reliability of
4 the CALSIM model and its admissibility in Board proceedings has already been decided by the
5 courts. California Water Research hereby incorporates the attached response to those
6 arguments, “Response To Section E Of California Water Resources’ “Master Response To
7 Similar Objections Made By Protestants Collectively.” DWR’s legal arguments mischaracterize
8 the case law on CALSIM.

9 DWR also incorporates responses to California Water Research on July 22, 2016 and
10 August 1, 2016 by reference. (DWR’s objections, 1:27.) The August 1, 2016 filing, entitled,
11 “California Department Of Water Resources' Response To Various Filings Of California Water
12 Research,” (“August 1, 2016 filing”), included a response to a subpoena by Pacific Coast
13 Federation of Fishermen’s Associations (“PCFFA”) / Institute for Fisheries Resources (“IFR”)
14 for information on recent testing, calibration and validation of the current BDCP/WaterFix
15 model versions. (August 1, 2016 filing, Attachment B.) DWR responded to PCFFA/IFR’s
16 subpoena with web links to information on the CALSIM model that dated to 2006 and prior
17 years. DWR declined to provide any more recent testing or calibration information. (August 1,
18 2016 filing, Attachment B, 13:1-25.) DWR has since objected to cross-examination of DWR’s
19 witnesses on the information provided in response to PCFFA/IFR’s subpoena as not being
20 relevant. DWR now objects to submission of the documents referenced in the subpoena as part
21 of California Water Research’s case in chief.

22 DWR has also made misleading statements to the Hearing Officers about DWR’s
23 response to PCFFA/IFR’s subpoena. In cross-examination on the model’s representation of the
24 flow split at the Delta Cross Channel, Mr. Mizell stated that he was “unaware” that PCFFA/IFR
25 had subpoenaed the recent testing and calibration information for that component. (Tr. August
26
27

1 26, 2016 260:5.) But Appendix B of DWR’s August 1, 2016 filing clearly shows that the
2 information was subpoenaed:

3
4 7.f. version history, calibration and testing information, field data, and documentation of
5 assumptions for interior Delta flow splits, including the Sacramento River to Sutter and
6 Steamboat Sloughs, and the Delta Cross Channel and Georgiana Slough, the San Joaquin
7 River to Old and Middle River, and flow through Three Mile Slough, as well as Delta
8 Island consumptive use;

9 (August 1, 2016 filing, Attachment B, 12: 8-13)

10 Given the refusal by DWR to provide current testing and calibration information on the
11 CALSIM model, even under subpoena, the Hearing Officer should allow testimony on the
12 inadequacy of the information that DWR did provide. In addition, DWR’s witnesses’ testimony
13 relied on the information that DWR now seeks to exclude. The written testimony of DWR’s
14 chief CALSIM modeling witness, Armin Munevar, includes web links to the 2003 peer review as
15 allegedly supporting the use of the model results in the Hearing. (Exhibit DWR-71, 8:1.) Mr.
16 Munevar also refers to the 2003 CalSim II Simulation of Historical SWP/CVP Operations
17 Technical Memorandum Report (“2003 Historical Operations Study”), as a “quasi-validation” of
18 the model, and testifies that it supports the use of the model in the hearing. (DWR-71, 8:25.)

19 Ms. Des Jardins’ testimony explains that the referenced 2003 peer review identified
20 major issues in the 2003 Historical Operations Study, and so the 2003 Historical Operations
21 Study does NOT support the use of the proposed use of the model in the Hearing. Although
22 DWR has objected that the testimony by Ms. Des Jardins “mischaracterizes” Mr. Munevar’s
23 written testimony, Ms. Des Jardins’ testimony includes exact quotes so that there is no
24 misrepresentation.

25 Ms. Des Jardins corroborates her opinion that the CALSIM model needs to be tested and
26 calibrated, by a similar opinion by the National Research Council review panel, and by
27 statements by the CALSIM modeling community, including DWR’s own modelers. DWR
28 moves to strike the quoted statements by the modeling community, stating incorrectly that the

1 letter from the modeling community was not presented for evidence. The testimony clearly
2 states:

3
4 The letter was titled “Re: Improved Modeling Capabilities Needed for the Bay-Delta
5 Planning Effort.” It was included in the report of the 2012 panel on Analytical Tools,
6 Exhibit DDJ-104.
7 (DDJ-108 Errata 12-6, 5:19.)

8 DWR’s motion to strike is based on an incorrect assertion and should be overruled.

9 DWR also moves to strike a discussion of criteria for acceptance of computer modeling
10 results in Board proceedings, stating that the discussion is “legal argument.” The discussion
11 only discusses whether past criteria for use of model results in Board proceedings included
12 objective engineering standards for reliability. This is an appropriate level of discussion for
13 expert testimony.

14 Respectfully submitted,

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16 Deirdre Des Jardins
17 Principal, California Water Research

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2 **STATEMENT OF SERVICE**

3
4 **CALIFORNIA WATERFIX PETITION HEARING**
5 **Department of Water Resources and U.S. Bureau of Reclamation**
6 **(Petitioners)**

7 I hereby certify that I have this day submitted to the State Water Resources
8 Control Board and caused a true and correct copy of the following document(s):

9 **Response to DWR's Objections to DDJ CIC**

10 to be served **by Electronic Mail** (email) and **by reference to the FTP site** per the
11 Hearing Rulings, in parts due to server limitations, upon the parties listed in Table 1 of
12 the **Current Service List** for the California WaterFix Petition Hearing, dated November
13 15, 2016, posted by the State Water Resources Control Board at
14 http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml

15 I certify that the foregoing is true and correct and that this document was
16 executed on December 12, 2016.

17 Signature: 

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

20 Party/Affiliation:
21 Deirdre Des Jardins

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