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15
16 BEFORE THE
17 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

18 HEARING ON THE MATTER OF
19 CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES
20 BUREAU OF RECLAMATION REQUEST
FOR A CHANGE IN POINT OF DIVERSION
21 FOR CALIFORNIA WATER FIX.

CITY OF STOCKTON'S JOINDER IN
DEIRDRE DES JARDINS' MOTION TO
CONTINUE OBJECTION TO
HEARSAY TESTIMONY, TO EXCLUDE
EVIDENCE AND STRIKE WRITTEN
TESTIMONY, TO RULE ON PRIOR
OBJECTIONS, AND TO ALLOW
CROSS-EXAMINATION OF ALL
TESTIMONY; MOTION OPPOSING
PETITIONERS' SUBMISSION OF
SURPRISE EXHIBITS; AND
OBJECTION TO LATE FILINGS BY
THE PROTESTANTS AND MOTION
FOR CLARIFICATION OF
SEPTEMBER 27, 2016 HEARING
RULINGS, AND IN LOCAL AGENCIES
OF THE NORTH DELTA ET AL.'S
MOTION IN OPPOSITION TO
PETITIONERS' MODELING EVIDENCE

I. INTRODUCTION

The City of Stockton (Stockton) joins and incorporates by reference Deirdre Des Jardins', Principle at California Water Research, Motion to Continue Objection to Hearsay Testimony, to Exclude Evidence and Strike Written Testimony, to Rule On Prior Objections, and to Allow Cross-Examination of All Testimony filed on September 21, 2016 (Sept. 21 Motion); Motion Opposing Petitioners' Submission of Surprise Exhibits filed on September 27, 2016 (Sept. 27 Motion); and Objection to Late Filings by the Protestants and Motion for Clarification of September 27, 2016 Hearing Rulings filed on September 30, 2016 (Sept. 30 Objections). Stockton also joins and incorporates by reference Local Agencies of the North Delta et al., Islands, Inc., and the San Joaquin County Protestants' Motion in Opposition to Petitioners' Modeling Evidence filed on October 6, 2016 (Oct. 6 Motion) (collectively, "Motions and Objections").

A. Moving the Modeling Into Evidence Would Deny Stockton Due Process

The Motions and Objections request that the State Water Resources Control Board (State Water Board) refuse to allow the Department of Water Resources (DWR) to submit certain model packages¹ (Modeling) as exhibits and move them into evidence. Alternatively, the Motions and Objections request that if these surprise exhibits are allowed to be moved into evidence, the hearing schedule must be changed to give Protestants an opportunity to fully analyze the Modeling and cross-examine the witnesses who relied on it in their testimony. Allowing the Modeling to be moved into evidence is fundamentally improper because DWR did not submit the Modeling as an exhibit within the deadline required by the State Water Board, and DWR has consistently represented that the Modeling was not an exhibit. Furthermore, for the reasons stated in the Motions and Objections, because of DWR's actions and representations, moving the Modeling into evidence would be a denial of Stockton's due process rights because

¹ DWR submitted the Modeling as exhibit DWR-500 - May 25, 2015 Petitioners' letter "Physical Modeling to Support CWF Water Right Petition" and modeling file attachments for Alternatives H3, H4, Boundary 1, Boundary 2, No Action with Fall X2-CalSim, and No Action with Fall X2-DSM2.

1 Stockton was not able to fully analyze the Modeling and cross-examine DWR's
2 witnesses about it.

3 In DWR's letter submitted on September 28, 2016 for the purpose of moving its
4 exhibits into evidence, DWR makes several unsupported assertions regarding the
5 permissibility of admitting the Modeling into evidence. First, DWR states that the
6 Modeling was submitted on May 25, 2016. However, these files were provided only in
7 response to a request from State Water Board staff, not on DWR's own initiative, and
8 only for the purpose of posting on the WaterFix website; the files were not represented to
9 be exhibits supporting Petitioners' case in chief until the last day of DWR's case in chief
10 on September 27, 2016. DWR submitted its exhibit list on May 31, 2016 in accordance
11 with the State Water Board's Second Revised Notice,² the Modeling is not shown as an
12 exhibit on that list or on the supplemental exhibit list DWR submitted on June 22, 2016.

13 Further, DWR continued to represent throughout the hearing that it did not intend
14 to submit the Modeling: "Petitioners do not believe it is necessary to include the
15 complete model packages for CalSim II and DSM2 in their testimony as the testimony
16 includes the relevant input and output information used in their analysis." (DWR's
17 Master Response to Similar Objections Made by Protestants Collectively (July 20, 2016),
18 p. 17, fn. 14.) By not submitting the Modeling as an exhibit, and its continued
19 representations that the Modeling is not an exhibit, DWR misled Stockton and other
20 Protestants into believing that the Modeling was not part of Petitioners' case in chief.
21 Because there were no references to Stockton in Petitioners' case in chief, or to model
22 results or locations addressing Stockton's protest issues, Stockton did not conduct a
23 detailed analysis of the Modeling. Only during Stockton's cross examination of the
24 modeling panel, on August 25, 2016, did Stockton hear from Petitioner's modeling panel
25 that its experts had relied on vague, unspecified modeling results, including unidentified
26

27 ² Second Revised Notice of Rescheduled Public Hearing to Consider a Petition Requesting Changes in
28 Water Rights of the Department of Water Resources and U.S. Bureau of Reclamation for the California
WaterFix Project (May 11, 2016), p. 2.

1 modeling locations, in forming an opinion regarding legal injury that the experts belatedly
2 asserted included Stockton. (Hearing Transcript, dated Aug. 25, 2016 (Exhibit A)
3 attached hereto at pp. 85:23-88:11, 89:19-93:1.) Petitioners' failure to timely and
4 properly submit the Modeling as an exhibit, including their failure to specifically link the
5 modeling results to individual Protestants' injuries, allowed DWR to avoid scrutiny of the
6 Modeling by the Protestants and effectively hid the ball as to the basis for its experts'
7 generic opinion that Stockton would suffer no injury as a legal user of water.

8 Second, DWR claims that the Modeling was frequently the subject of Protestants'
9 cross-examination, and therefore, it should be admitted as an exhibit. This is a non-
10 sequitur, and unsupported by any principle of evidence. Moreover, the Modeling exhibits
11 that DWR seeks to introduce as evidence are large data files that DWR purports reflect
12 the complete model packages of the CalSim II and DSM2 models. By DWR's experts'
13 admission, these files are unintelligible without a proficiency in Modeling and, even then,
14 a person who is proficient with Modeling would need additional tools to produce any
15 relevant usable information. (Exhibit A, 104:19-105:9, 106:18-107:17). For example, as
16 noted by Ms. Des Jardins, DWR has not provided a node table that would allow for the
17 extraction of relevant usable information. (Sept. 21 Motion at p. 10, fn. 3.) Nor has
18 DWR or its experts identified the specific nodes which formed the basis for its expert
19 opinions regarding lack of injury to individual Protestants, and DWR refused to answer
20 questions from Protestants who did seek advice on how to access the modeling results.
21 (Petitioners' Opposition to Requests of Protestants for Extension of Time to File and
22 Serve Objections (June 3, 2016), p. 2, fn. 2.) Due to these technical constraints, even if
23 it had been on notice that DWR had relied on the Modeling in forming its opinion as to
24 legal injury to Stockton, it was impossible for Stockton to analyze the Modeling and ask
25 questions about the Modeling during cross-examination. Instead, Stockton focused its
26 cross-examination on the Modeling panel's testimony, which was submitted as an
27 exhibit, and exhibits cited in the testimony. Because Stockton was not provided the
28 opportunity to scrutinize the evidence DWR now claims supports its expert opinions

1 regarding legal injury, to conduct cross-examination on such evidence or to address it in
2 its case in chief, it would be a denial of Stockton's due process rights to admit the
3 Modeling as an exhibit at this late date. (Cal. Const., art. I, § 7(a).)

4 **B. The Modeling is Neither Judicially Noticeable Nor Officially Noticeable**
5 **Because It Is the Subject of Dispute**

6 The Modeling is not judicially noticeable because it is not "so universally known
7 that it cannot reasonably be the subject of dispute." (Evid. Code, § 451(f).) DWR claims
8 that the Modeling is judicially noticeable because it has been publicly available. The
9 Modeling, however, is the subject of significant dispute and it being publicly available
10 does nothing to resolve these disputes. The inputs to the model, the assumptions made
11 in the Modeling, and the effects the Modeling allegedly demonstrates in its results are all
12 subject to dispute, and therefore, the Modeling is not judicially noticeable.

13 The Modeling is not officially noticeable either. Certainly, the State Water Board
14 could take official notice of the *existence* of the CalSim II and DSM2 models. However,
15 the inputs, assumptions, and results contained in the Modeling is not a "generally
16 accepted technical or scientific matter." (Gov. Code, § 11515.) Furthermore, if the State
17 Water Board were to take official notice of the Modeling, Stockton and the other
18 Protestants must be given an opportunity to refute the officially noticed matters. (*Ibid.*)
19 This would require that Stockton be given sufficient time to review the Modeling, and all
20 the tools necessary to retrieve relevant information from the Modeling, i.e. the node
21 table. Taking official notice of the Modeling is improper, but if this were done, Stockton
22 and the other Protestants must be provided an opportunity to refute the officially noticed
23 matters.

24 **C. The Modeling Is Not Properly Authenticated**

25 Finally, DWR did not properly authenticate the Modeling it seeks to move into
26 evidence. All documentary evidence must be authenticated before it can be moved into
27 evidence. (Evid. Code, § 1401.) DWR has not presented evidence that the Modeling it
28 seeks to move into evidence is in fact the Modeling used by its experts to draw the

1 conclusions in their testimony, and it was never made clear in Part 1A that this was the
2 case. Under cross-examination, when questioned about the basis for their opinion
3 regarding injury to Stockton, Petitioners' experts made reference to the Modeling now
4 proposed for entry as an exhibit as well as modeling conducted for the Draft
5 Environmental Impact Report/Environmental Impact Statement, and thus it also is not
6 clear which modeling DWR asserts supports its opinions. Failure to present such
7 evidence precludes the State Water Board from making a finding that the Modeling is
8 authentic. DWR has not authenticated the Modeling, it cannot be relied on as evidence,
9 and therefore, it cannot be moved into evidence.

10 **II. CONCLUSION**

11 DWR did not submit the Modeling as an exhibit when it was required to do so by
12 the State Water Board, and represented that the Modeling would not be submitted as an
13 exhibit. By doing so, DWR has avoided scrutiny of the Modeling by the Protestants, and
14 prejudiced Stockton in its ability to effectively participate in these proceedings, thus
15 denying Stockton its due process rights. Furthermore, the Modeling is not judicially
16 noticeable and not properly authenticated so it cannot be moved into evidence.
17 Stockton respectfully requests the State Water Board grant the Sept. 21 Motion, Sept. 27
18 Motion, and Oct. 6 Motion, and sustain the Sept. 30 Objections to exclude the Modeling
19 from evidence. If the Modeling is admitted into evidence, Stockton requests that the
20 hearing schedule be modified as proposed by the Local Agencies of the North Delta, et
21 al. to allow sufficient time and opportunity for protestants to properly analyze the
22 Modeling and cross-examine the relevant witnesses.

23
24 SOMACH SIMMONS & DUNN
25 A Professional Corporation

26 DATED: October 14, 2016

27 By


28 _____
Kelley M. Taber,
Attorneys for City of Stockton

EXHIBIT A

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BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

CALIFORNIA WATERFIX WATER)
RIGHT CHANGE PETITION)
HEARING)

JOE SERNA, JR. BUILDING
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
BYRON SHER AUDITORIUM
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PART 1A

Thursday, August 25, 2016

9:00 A.M.

VOLUME 15

Pages 1 - 267

Reported By: Deborah Fuqua, CSR No. 1248

Computerized Transcription by ProCAT

1 APPEARANCES:

2 CALIFORNIA WATER RESOURCES BOARD

3 Division of Water Rights

4 Board Members Present

5 Tam Doduc, Co-Hearing Officer:
6 Felicia Marcus, Chair and Co-Hearing Officer:
7 Dorene D'Adamo, Board Member

8 Staff Present

9 Diane Riddle, Environmental Program Manager
10 Dana Heinrich, Senior Staff Attorney (a.m.)
11 Samantha Olson, Senior Staff Attorney (p.m.)
12 Kyle Ochenduzsko, Senior Water Resources Control Engr.

13

14

15

16 For California Department of Water Resources

17

18 James (Tripp) Mizell, Senior Attorney

19

20 Duane Morris, LLP

21

22 By: Thomas Martin Berliner, Attorney at Law

23

24 U.S. Department of the Interior, Bureau of Reclamation,
25 and Fish and Wildlife Service

26

27 Amy Aufdemberge, Assistant Regional Solicitor

28

29 State Water Contractors

30

31 Stefanie Morris

32

33 Adam Kear

34

35 Becky Sheehan

36

37

38

39 (Continued)

1	<u>APPEARANCES (continued)</u>
2	<u>South Delta Water Agency, Central Delta Water</u>
3	<u>Agency, et al.</u>
	John Herrick
4	
5	<u>City of Stockton</u>
	Kelley Taber
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7	<u>City of Antioch</u>
	Matthew Emrick
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9	<u>County of Solano</u>
	Peter Miljanich
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11	<u>County of Contra Costa and Contra Costa Water Agency</u>
	Stephen Siptroth
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13	<u>North San Joaquin and the San Joaquin County entities</u>
	Jennifer Spaletta
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15	<u>California Sport Fishing Protection Alliance,</u>
16	<u>California Water Impact Network, and AquAlliance</u>
	Michael Bruce Jackson
17	
18	<u>Deirdre DesJardins</u>
	Deirdre DesJardins
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20	<u>Pacific Coast Federation of Fishermen's Associations</u>
	<u>and Institute for Fisheries Resources</u>
	Ben Eichenberg
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1 Perhaps, Mike, go ahead?

2 WITNESS BRYAN: Yeah, I can add a little bit
3 to that. So when we talk about chloride and its
4 effects on water quality in the Delta, it's really a
5 seawater intrusion issue. The San Joaquin River water
6 is higher in chloride as well, but not so much higher
7 as -- not anywhere close to threatening the standards.
8 In fact, the San Joaquin River at Vernalis averages
9 about 81 milligrams per liter chloride versus the 150
10 or the 250 that we talk about in the standards.

11 So when we set up a relationship, because
12 where the chloride's coming from is seawater intrusion,
13 that's why the chloride-EC relationship is set up for
14 the Western Delta because that's where it's coming
15 from.

16 DSM2 pretty much takes over from there. When
17 we get the fingerprinting of how much water to the
18 Bacon Island area, for example, is coming from the San
19 Joaquin, the Bay water, the Sac, then we can calculate
20 or estimate chloride. So it's most important to get
21 that chloride relationship to EC right for the Bay,
22 which is primarily where the chloride is coming from.

23 MS. TABER: So was that method used to
24 estimate changes in chloride in the vicinity of
25 Stockton's drinking water intake in the modeling and

1 the analysis that support Dr. Tehrani's testimony, not
2 the EIR?

3 WITNESS NADER-TEHRANI: In my testimony, I
4 showed a number of locations. And the locations that I
5 included I guess -- we have a list here, about four
6 locations. And I used basically the EC-to-chloride
7 conversion at those location.

8 The only -- well, for example, the Antioch was
9 one location. I forget the other one. But, yeah,
10 those are all using the EC-to-chloride relationship
11 that I showed, yeah.

12 MS. TABER: Okay. Thank you. That is a good
13 transition to my next exhibit and question. And this
14 is -- if you could please put up Exhibit Stockton 5.

15 (City of Stockton Exhibit 5 marked for
16 identification)

17 MS. TABER: Okay. This is an exhibit that
18 shows the D1641 -- I used this creating, by the way,
19 Exhibit DWR-405. And I took DWR-405, and I added the
20 locations of the Stockton drinking water intake and the
21 Stockton wastewater treatment plant discharge and,
22 again, just so we have a sense of where we are.

23 And this exhibit, as I understand it, shows
24 the D1641 Bay-Delta standards compliance stations and
25 perhaps also monitoring stations.

1 And I wonder, Dr. Tehrani, could you please
2 identify the locations on this exhibit where D1641
3 municipal and industrial standards must be met?

4 WITNESS NADER-TEHRANI: The first one I can
5 think of is the Contra Costa Canal intake at Rock
6 Slough.

7 MS. TABER: Are there any others, to your
8 knowledge? And if anyone else on the modeling team has
9 any input on this, I'd welcome that as well. I think I
10 understand it, but I'd like the experts to tell me.

11 WITNESS NADER-TEHRANI: I'm sorry. The
12 Clifton Court Forebay intake and the Tracy Pumping
13 Plant.

14 MS. TABER: And are there any others?

15 WITNESS SMITH: Looks like the ones that are
16 marked with the red squares are the ones on the graph.

17 MS. TABER: So would that include the City of
18 Vallejo intake at Cache Slough and the North Bay
19 Aqueduct to Barker Slough?

20 WITNESS NADER-TEHRANI: Yes, yes.

21 MS. TABER: Thank you. And these were the
22 locations where the modeling team evaluated the
23 project's ability to comply with D1641 M and I water
24 quality standards, correct?

25 WITNESS NADER-TEHRANI: I used the -- I

1 believe -- sorry. I got a brain freeze.

2 MS. TABER: No problem. Take your time. I
3 want to make sure I understand this.

4 WITNESS NADER-TEHRANI: The examples I
5 provided include Contra Costa Canal, Clifton Court
6 Forebay, and North Bay Aqueduct.

7 MS. TABER: So those three locations were the
8 ones you considered?

9 WITNESS NADER-TEHRANI: I did include those,
10 yes. I have looked at others, but those are the only
11 ones that are included in this testimony.

12 MS. TABER: So those three were the only
13 locations.

14 Were there other locations where the modeling
15 team evaluated the water quality effects of the
16 different operational scenarios as they relate to
17 M and I uses?

18 WITNESS NADER-TEHRANI: I have looked at model
19 results at locations throughout the Delta, and when I
20 look at model results, the only model results that I
21 have at my fingertips are the EC. And in my head,
22 then, I used that as an interpretation of what other
23 water quality constituents, such as chloride, would be
24 affected.

25 So if I don't see a change in electrical

1 conductivity, that would tell me that I don't expect to
2 see a change in chloride as well.

3 MS. TABER: Okay. Thank you. That's --
4 that's more information, but it's certainly helpful.

5 And, Dr. Tehrani, are any of the locations
6 that we've identified on this exhibit as being
7 compliance points for the D1641 M and I standards
8 located on the San Joaquin River?

9 WITNESS NADER-TEHRANI: I have a hard time
10 seeing the colors, but -- just give me one minute.

11 MS. TABER: Take your time. I appreciate this
12 Delta is a rabbit warren of waterways.

13 WITNESS NADER-TEHRANI: Can you go up a
14 little, please? Up further, I just want to see the
15 top. Just go higher a little. Sorry.

16 WITNESS ANDERSON: We're trying to see the
17 whole legend so we can see which color of squares we're
18 looking for.

19 WITNESS NADER-TEHRANI: So on Sacramento -- on
20 San Joaquin River, I see one location near Prisoners
21 Point.

22 MS. TABER: Okay. And just to be clear, that
23 is a -- according to the exhibit as I read it, that is
24 identified under water quality as a location for fish
25 and wildlife. And the purple boxes, I believe, are

1 identified as municipal and industrial locations. So
2 my question goes to --

3 WITNESS NADER-TEHRANI: I have a hard time
4 seeing the difference in colors.

5 MS. TABER: Right. I understand it's
6 difficult. Is it just as difficult on your paper copy
7 that I gave you?

8 CO-HEARING OFFICER DODUC: Ms. Taber, I've
9 actually lost track. What's your question again?

10 MS. TABER: So my question was are any of the
11 locations where the modeling team evaluated the
12 project's ability to comply with the D1641 M and I
13 water quality standards located on the San Joaquin
14 River?

15 WITNESS NADER-TEHRANI: No, I don't see one.

16 MS. TABER: Okay. Thank you.

17 And in conducting the modeling for the
18 project, did the modeling team evaluate -- let me back
19 up.

20 I thought I understood your testimony
21 yesterday to say that you -- in conducting the modeling
22 and in forming your opinion, you in fact considered
23 water quality changes at a broader range of locations
24 than the ones specifically identified in your written
25 testimony and exhibits; is that correct?

1 WITNESS NADER-TEHRANI: Yes.

2 MS. TABER: Okay. So in that vein, conducting
3 the modeling for the project, did the modeling team
4 evaluate water quality changes at Stockton's drinking
5 water intake that would occur as a result of the
6 project operations?

7 WITNESS NADER-TEHRANI: I have not
8 specifically looked at that location, but I have looked
9 at areas that are nearby.

10 MS. TABER: Could you identify for me -- and I
11 understand you may not be able to do this on this map,
12 but help me understand where the nearby locations would
13 be that you could see.

14 WITNESS NADER-TEHRANI: For example, San
15 Andreas Landing, Prisoners Point, Terminus, and then
16 along with the river, going down, also along San
17 Joaquin River near Turner Cut and Columbia Cut. So
18 they are fairly near.

19 MS. TABER: So I apologize that this exhibit
20 doesn't seem to have a scale on it. When you say
21 "fairly near," could you give me just a -- your best
22 guess as to how close the closest location of the ones
23 you cited would be to Stockton's drinking water intake?

24 WITNESS NADER-TEHRANI: Few miles.

25 MS. TABER: A few files, okay.

1 And with respect to Stockton's wastewater
2 discharge location, could you identify the locations
3 that you consider that you felt were closest to the
4 location of Stockton's wastewater discharge?

5 WITNESS NADER-TEHRANI: We've looked at a
6 number of locations along San Joaquin River including
7 Brent Bridge, including the Stockton Rough and Ready
8 Island Station, and -- yeah.

9 MS. TABER: Okay. And where would I look to
10 see or understand the modeling team's analysis of
11 chloride impacts to Stockton? And by here, I guess I'm
12 referring to either the drinking water intake or the
13 wastewater treatment plant discharge location?

14 WITNESS NADER-TEHRANI: I'm sorry. Can you
15 repeat that question?

16 MS. TABER: Where would I look to see or
17 understand the modeling team's analysis of chloride
18 impacts to the City of Stockton?

19 WITNESS NADER-TEHRANI: One would have to look
20 at the model output to get that information.

21 MS. TABER: Okay. And where would I look to
22 see or understand the modeling team's analysis of
23 bromide impacts to Stockton?

24 WITNESS NADER-TEHRANI: Again, one would have
25 to rely on the information in the model output to get

1 that information.

2 WITNESS BRYAN: Again, you're going to see the
3 analyses of these things in terms of their impacts on
4 beneficial uses in the EIR/EIS.

5 MS. TABER: Right. And so that bromide
6 information, I would look to the EIR/EIS and the
7 modeling that was done for the EIR/EIS?

8 WITNESS BRYAN: Yes. I mean, if you're
9 looking at bromide impacts to the beneficial uses such
10 as M and I, you would look in the EIR/EIS, and you'd
11 have a discussion on that.

12 MS. TABER: Aside from the discussion, the
13 specific data, and numeric changes, would I look to the
14 modeling that was submitted in May here, or would I
15 look to the modeling that was submitted -- or that was
16 performed for the EIR? Because I thought I heard this
17 morning that those are two different technical
18 evaluations.

19 WITNESS BRYAN: Yeah, well, certainly the
20 EIR/EIS will have all of the --

21 CO-HEARING OFFICER DODUC: Mr. Bryan, is your
22 microphone on?

23 WITNESS MUNEVAR: Yes.

24 CO-HEARING OFFICER DODUC: Please get closer.

25 WITNESS BRYAN: The EIR/EIS will have all of

1 well, let's go through the last one, Stockton 9. If
2 you could put Stockton 9 up, which is the Alternative
3 4, with Fall X2 zip file. This, again, is a very
4 poor-quality screen shot of that file.

5 But that also, Dr. Tehrani, does that look
6 correct to you as the files that you submitted?

7 WITNESS NADER-TEHRANI: That looks about
8 right. Mm-hmm.

9 (City of Stockton Exhibit 9 marked for
10 identification)

11 MS. TABER: Okay. What I didn't see in
12 opening either of those two files or in the list of
13 files was any document comparing the water quality
14 results or the data of the various scenarios.

15 Does any such document exist?

16 WITNESS NADER-TEHRANI: If you click on the
17 output, that's where we will find the model output for
18 water levels, flows, and water quality EC.

19 MS. TABER: And if I clicked on that and
20 opened it, can you just describe briefly and generally,
21 what would I see?

22 WITNESS NADER-TEHRANI: These are raw model
23 outputs that there are utilities that are free and
24 available to download that you can use to, you know,
25 look at the information in -- for different locations

1 and so forth.

2 MS. TABER: So that would be a series of
3 numbers?

4 WITNESS NADER-TEHRANI: Would be a series of
5 numbers, but then there are utilities that you can use
6 to make specific requests, looking at a daily average,
7 monthly average, whatever you want to choose. There
8 are utilities that are available for you to download,
9 and you can use that information.

10 MS. TABER: Could you just briefly describe
11 what those utilities are? Because -- I beg your
12 indulgence, but as you can see, I'm legally blonde, and
13 I -- I don't have any expertise in this area.

14 So I just wonder if you could tell us what
15 would it take for me to do that analysis?

16 CO-HEARING OFFICER DODUC: Before you answer, hold
17 on.

18 Ms. Morris?

19 MS. MORRIS: I'm objecting based on relevance.

20 I think that Mr. Mizell has made an offer for
21 technical assistance outside of the hearing and that
22 this isn't relevant as to Cal WaterFix. And most of --
23 most folks have experts that have the programs and can
24 run this and extract this information.

25 And I am sure Ms. Taber has access to an

1 expert who can help her with this, or the Department
2 has offered to help with technical assistance not
3 during this hearing.

4 CO-HEARING OFFICER DODUC: Thank you,
5 Ms. Morris. Your objection is noted.

6 Unless you have a new objection,
7 Ms. DesJardins, I do not wish to hear anything further.
8 I want to give Ms. Taber a chance to finish her
9 cross-examination. Do you have a new objection?

10 MS. DES JARDINS: I just wanted to observe --

11 CO-HEARING OFFICER DODUC: No observations.

12 MS. DES JARDINS: -- that it's \$200 an hour.

13 CO-HEARING OFFICER DODUC: Do you have a new
14 objection?

15 MS. DES JARDINS: Uhm -- okay.

16 CO-HEARING OFFICER DODUC: Thank you.

17 Ms. Taber?

18 MS. TABER: So I believe that my question to
19 Dr. Tehrani was if he could just briefly give me some
20 indication of the types of tools that would be required
21 to do that analysis.

22 CO-HEARING OFFICER DODUC: And, Doctor, I
23 would suggest you answer that question as if I were the
24 one to be opening this input file and wanted to do the
25 analysis myself, which I will do.

1 WITNESS NADER-TEHRANI: Well, it would take a
2 technical person to look at this information.

3 But there is a -- you know, a free -- a
4 utility -- it's called HEC DSS -- where you can freely
5 download that information. And with that, you can open
6 all the raw output files and then make whatever. It
7 has plotting routines. It has numerical procedures
8 asking, for example, for daily average, monthly
9 average, all those. And with that, you can open and --
10 multiple scenarios in this case.

11 For example, if you want no action, H3, you
12 can basically load all those modeling scenarios and do
13 your comparison, you know, specifically locate --
14 looking at specific flows, EC, whatever. Yeah.

15 WITNESS ANDERSON: And just to clarify, the
16 name of the tool is H-E-C, D-S-S, Vue, and I think
17 "Vue" is spelled V-U-E, for the tool.

18 MS. TABER: Okay. Thank you. And in your --
19 this might be a question that's better suited for the
20 panel members who are consultants who work in private
21 sector doing this type of work.

22 Could anyone give me a just order of magnitude
23 estimate of how much would that sort of analysis cost
24 if I were to try to engage an expert to perform that
25 analysis, and how much time would it take?

1 STATE OF CALIFORNIA)
2 COUNTY OF MARIN) ss.

3 I, DEBORAH FUQUA, a Certified Shorthand
4 Reporter of the State of California, do hereby certify
5 that the foregoing proceedings were reported by me, a
6 disinterested person, and thereafter transcribed under
7 my direction into typewriting and is a true and correct
8 transcription of said proceedings.

9 I further certify that I am not of counsel or
10 attorney for either or any of the parties in the
11 foregoing proceeding and caption named, nor in any way
12 interested in the outcome of the cause named in said
13 caption.

14 Dated the 31st day of August, 2016.

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Deborah Fuqua

DEBORAH FUQUA

CSR NO. 12948

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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):

CITY OF STOCKTON'S JOINDER IN DEIRDRE DES JARDINS' MOTION TO CONTINUE OBJECTION TO HEARSAY TESTIMONY, TO EXCLUDE EVIDENCE AND STRIKE WRITTEN TESTIMONY, TO RULE ON PRIOR OBJECTIONS, AND TO ALLOW CROSS-EXAMINATION OF ALL TESTIMONY; MOTION OPPOSING PETITIONERS' SUBMISSION OF SURPRISE EXHIBITS; AND OBJECTION TO LATE FILINGS BY THE PROTESTANTS AND MOTION FOR CLARIFICATION OF SEPTEMBER 27, 2016 HEARING RULINGS, AND IN LOCAL AGENCIES OF THE NORTH DELTA ET AL.'S MOTION IN OPPOSITION TO PETITIONERS' MODELING EVIDENCE

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 October 6, 2016, 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:

I certify that the foregoing is true and correct and that this document was executed on October 14, 2016.

Signature: 
Name: Michelle Bracha
Title: Legal Secretary
Party/Affiliation: City of Stockton
Address: 500 Capitol Mall, Suite 1000
Sacramento, CA 95814