

# HARRIS, PERISHO & RUIZ

ATTORNEYS AT LAW

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January 5, 2016

Via email: [CWFhearing@waterboards.com](mailto:CWFhearing@waterboards.com)  
State Water Resources Control Board  
Division of Water Rights  
ATTN: California WaterFix Hearing Team  
P.O. Box 2000  
Sacramento, CA 95812-2000

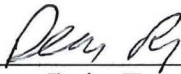
Dear Hearing Team:

Please find attached a Notice of Intent to Appear (NOI) submitted on behalf of Central Delta Water Agency, South Delta Water Agency, Lafayette Ranch, Heritage Lands, Mark Bachetti Farms, and Rudy Mussi Investments L.P. ("Protestants."). All six Protestants are being represented by John Herrick and I and we will be presenting the same eleven witnesses and testimony. As such, we request that we be allotted three and a half (3.5) hours to present our case in chief on behalf of all six parties. This equates to far less than the one hour per party otherwise allowed. Given the complexity of the issues and expert testimony, we feel our request is reasonable and responsive to the Board's request for coordinated testimony.

Thank you in advance for your professional courtesy concerning this matter. John Herrick is submitting the Protest under separate cover.

Very truly yours,

HARRIS, PERISHO & RUIZ  
Attorneys at Law

  
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S. Dean Ruiz, Esq.

SDR/bs  
Enclosures as noted  
Cc: John Herrick Esq.

## NOTICE OF INTENT TO APPEAR

Central Delta Water Agency, South Delta Water Agency (“Delta Agencies”), Lafayette Ranch, Heritage Lands Inc., Mark Bachetti Farms and Rudy Mussi Investments L.P. plan to participate in the water right hearing regarding

### CALIFORNIA WATERFIX HEARING

California Department of Water Resources and U.S. Bureau of Reclamation

The Public Hearing scheduled to commence on **Thursday, April 7, 2016**

**1) Check all that apply:**

- I/we intend to participate in Part I of the hearing
- I/we intend to participate in Part II of the hearing

**2) Check the applicable boxes below. Be sure to accurately describe your participation in the hearing.** (Please refer to Enclosure D of the October 30, 2015 [Notice of Petition, Public Hearing, and Pre-Hearing Conference](#) (Hearing Notice) for descriptions of “parties” and “interested persons”):

- I/we intend to participate in the hearing as an interested person and present a policy statement **only**.  Part I  Part II
- I/we intend to participate in the hearing as a party by cross-examination and/or rebuttal **only** and may present an opening statement.  Part I  Part II
- Part I:** I/we plan to participate in Part I as a party and call the following witnesses to testify at the hearing. (Fill in the following table for Part I of the hearing **only**)

NAME	SUBJECT OF PROPOSED TESTIMONY (Please indicate Application Number if Appropriate)	ESTIMATED LENGTH OF DIRECT TESTIMONY	EXPERT WITNESS (YES/NO)
Tom Burke	Analysis of hydro-dynamic impacts of the project and of flaws and omissions of WaterFix modeling.	30	Yes
Terry Prichard	Harm to agricultural lands within the Delta Agencies; Adverse impacts on crops from increases in salinity.	20	Percipient/Expert
Dr. Jeffery Michael	Adverse economic impacts from increased salinity in the central and south Delta.	20	Yes
Dante John Nomellini Sr.	Unlawful predetermination of project; Inappropriate delegation of authority for water quality certification; premature and piecemeal proceedings and lack of due process; Impermissible creation of water right; Pattern and practice of collaborative circumvention of compliance with water quality standards; protection of senior water rights, statutory mandates and protection of public trust; Petitioners' lack of water rights and lack of availability of sufficient surplus water to support the requested change and water quality certification; resulting unreasonable and wasteful use of	60	Percipient/Expert



	water; harm to domestic, agricultural, recreational and other users of water in the Delta and public trust; Unlawful degradation of water quality including increases in salinity, methyl mercury, microcytic, and boron; inadequate environmental review; Delta geography.		
Thomas M. Zuckerman	Harm to legal users of water in the Delta including salinity and other impacts to agricultural and other water uses in the Delta; Failure to protect public trust and senior water rights and comply with statutory mandates; Delta geography.	30	Percipient/Expert
Rudy M. Mussi	Impacts to local agricultural resulting from elevated salinity levels in applied water	10	Percipient/Expert
Mark Bachetti	Impacts to local agricultural resulting from elevated salinity levels in applied water		
Edward Zuckerman	Harm to legal users of water including salinity and other impacts to agricultural and other water users in the Delta; Delta geography.	10	Percipient/Expert
Regina Linville, Ned Butler or Peggy Lehman	Harmful effects of Microcystis and propagation of same in the Delta.	5	Expert and possible percipient
Lisa Medina	Microcystis public health warnings within the San Joaquin Delta.	5	Percipient
Chris Neudeck	Delta geography, levees, and channels	20	Percipient/Expert

(If more space is required, please add additional pages.)

**Part II:** I/we plan to participate in Part II as a party and will call witnesses to testify at the hearing. Please note that you will be required to submit a Supplemental Notice of Intent to Appear at a date to be determined for Part II of the hearing that lists your witnesses, subject of proposed testimony, etc.

**3) Check if applicable:**

I/we have also protested the Petition in accordance with Water Code section 1703.2.

*Note: If have protested the Petition, you must also fill out sections 1 and 2 of this form above and indicate your intent to appear at the hearing to present evidence in support of your protest. If you do not resolve your protest with the petitioners prior to the hearing, and then do not present a case supporting your protest at the hearing, your protest will be dismissed. It is **not** necessary to file a protest to participate in the hearing.*

**Continue to next page**

**4) Fill in the following information of the Participant, Party, Attorney, or Other Representative:**

Name (Print): John Herrick, Esq. and Dean Ruiz, Esq.

**Mailing**

Address: 4255 Pacific Avenue, Ste. 2 Stockton, CA 95207

Phone Number: (209) 956-0150 Fax Number: 209-956-0154

E-mail: [jherrlaw@aol.com](mailto:jherrlaw@aol.com); [dean@hprlaw.net](mailto:dean@hprlaw.net)

**Optional:**

I/we **decline** electronic service of hearing-related materials. If you are unable to accept electronic service for any reason, please contact the hearing team by Tuesday, January 5, 2016, at 916-319-0960 or by email at [CWFhearing@waterboards.ca.gov](mailto:CWFhearing@waterboards.ca.gov).

Signature: Dean Ruiz Date: 1/15/16