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## State Water Resources Control Board

May 22, 2017

VIA ELECTRONIC MAIL

TO: [CURRENT SERVICE LIST](#)

### **CALIFORNIA WATERFIX HEARING – RULING DENYING MR. PORGANS’ REQUEST FOR RECONSIDERATION OF RULING CONCERNING HIS REBUTTAL TESTIMONY AND EXHIBITS**

On April 25, 2017, Mr. Porgans submitted a request for reconsideration of our April 13, 2017 ruling concerning his rebuttal testimony and exhibits and the redactions to his written testimony that were made by hearing team staff pursuant to that ruling. These requests are denied.

Rebuttal testimony must be relevant to the key hearing issues, responsive to another party’s case-in-chief, and sufficiently reliable to be admissible. The redacted portions of Mr. Porgans’ testimony do not meet all of these requirements. We appreciate that Mr. Porgans’ believes that his rebuttal testimony is responsive to the petitioners’ case-in-chief, but most of his rebuttal testimony that has been redacted is not relevant to the key hearing issues, which are narrowly focused on the changes in point of diversion proposed for the WaterFix project.

Mr. Porgans emphasized in his request for reconsideration that he has not withdrawn any of his rebuttal testimony or exhibits. Presumably, the basis for this assertion is the fact that our website indicates that some of his rebuttal exhibits have been withdrawn. Our website will be revised to reflect the fact that Mr. Porgans has not withdrawn his testimony or exhibits. Regardless of whether they have been withdrawn, however, we have stricken the redacted portions of Mr. Porgans’ rebuttal testimony, and we are unlikely to admit the exhibits associated with the stricken testimony into the evidentiary record, whether Mr. Porgans offers them into evidence or not. Mr. Porgans should not include the redacted portions of his testimony in his oral summary of his testimony, and the redacted portions of his testimony will not be subject to cross-examination or admitted into the evidentiary record.

If you have any non-controversial, procedural questions about this ruling or other matters related to the California WaterFix Hearing, please contact the hearing team at [CWFhearing@waterboards.ca.gov](mailto:CWFhearing@waterboards.ca.gov) or (916) 319-0960.

Sincerely,

*ORIGINAL SIGNED BY*

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Felicia Marcus, State Water Board Chair  
WaterFix Project Co-Hearing Officer

*ORIGINAL SIGNED BY*

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Tam M. Doduc, State Water Board Member  
WaterFix Project Co-Hearing Officer

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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