

## State Water Resources Control Board

July 09, 2018

VIA ELECTRONIC MAIL

TO: [CURRENT SERVICE LIST](#)

### **CALIFORNIA WATERFIX HEARING – RULING ON SAVE THE CALIFORNIA DELTA ALLIANCE’S MOTION FOR CONTINUANCE**

This ruling addresses outstanding requests by Save the California Delta Alliance (SCDA) and provides revised direction and deadlines for parties’ Part 2 rebuttal submittals.

#### **SAVE THE CALIFORNIA DELTA ALLIANCE’S REQUEST**

On July 5, 2018, SCDA filed a motion requesting that we continue the hearing for 45 days and direct Petitioners to provide certain information regarding changes to barge traffic in their Part 2 rebuttal. SCDA’s motion alleges that Petitioners’ Administrative Draft Supplemental EIR/S (EIR/S Supplement) does not describe the number, distribution, or path of barge trips in light of revised locations for barge landing facilities with the level of detail required by our April 18, 2018 ruling. SCDA supplemented its motion on July 6, 2018 with additional detail and specific questions regarding the total number of barge trips. On July 9, 2018, SCDA also inquired as to the appropriate time to propose permit conditions and whether they must be submitted in the form of sworn testimony.

#### **PART 2 REBUTTAL SCHEDULE**

Based on our review of SCDA’s motion and Petitioners’ EIR/S Supplement, we agree that informational gaps remain regarding the number and distribution of barge trips in light of the elimination of two barge landing facilities. We further agree that this information is important for understanding the proposed project’s potential impacts to the public interest and to public trust uses such as recreation.

We therefore revise the Part 2 rebuttal deadlines as follows:

Petitioners have until **Tuesday, July 10, 2018, at 5:00 pm** to submit their Part 2 rebuttal, which shall include and direct the reader to the following information responsive to SCDA’s motion:

- Clarification regarding the number and distribution of estimated barge trips, specifying whether they are counted as one-way or round trips, and how those numbers compare to the numbers provided in the National Marine Fisheries Service Biological Opinion (BiOp) and Incidental Take Permit. The comparison should make reference to changes from Table 2-33 and Table 2-34 from the BiOp.
- Any changes to barge routes in light of the elimination of barge landing facilities.

- Information regarding any redirected construction-related impacts stemming from changes to barge landing facilities, barge routes, or the number of barge trips (e.g., corresponding changes to or increases in truck trips).

Other parties now have until **Friday, July 13, 2018, at 5:00 pm** to submit their Part 2 rebuttal. Although all of Petitioners' Part 2 rebuttal will be available for other parties to review between July 10 and July 13, this staggered deadline is being provided specifically for parties to review and incorporate into their Part 2 rebuttal only the barge-related information required of Petitioners in this ruling. Please see our June 18, 2018 ruling regarding the deadline for Part 2 rebuttal testimony and exhibits for a reminder concerning the scope of Part 2 rebuttal.

The hearing will reconvene with presentation of Part 2 rebuttal as scheduled on **Thursday, August 2, 2018, at 9:30 am**.

#### **CLARIFICATION REGARDING SUBMITTAL OF PROPOSED CONDITIONS**

Proposed water right permit conditions in connection with the WaterFix Project may be submitted at any time, including closing briefs, but require supporting evidence in the record before they can be considered by the State Water Board. Therefore, parties should bear in mind the remaining opportunities to present new evidence when deciding when to propose a permit condition. We encourage parties to submit proposed permit conditions with their Part 2 rebuttal evidence, if possible.

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:*

---

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

*ORIGINAL SIGNED BY:*

---

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