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17 San Joaquin County Flood Control and
18 Water Conservation District, and
19 Mokelumne River Water and Power Authority

20 [ADDITIONAL COUNSEL LISTED ON FOLLOWING PAGE]

21 **BEFORE THE**
22 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

23 HEARING IN THE MATTER OF
24 CALIFORNIA DEPARTMENT OF
25 WATER RESOURCES AND UNITED
26 STATES BUREAU OF RECLAMATION
27 REQUEST FOR A CHANGE IN POINT
28 OF DIVERSION FOR CALIFORNIA
WATER FIX

**SAN JOAQUIN COUNTY
PROTESTANTS' AND LOCAL
AGENCIES OF THE NORTH DELTA,
ET AL.'S PROPOSAL RE: PART 1
REBUTTAL EVIDENCE AND CLOSING
BRIEFS; JOINDER IN COMMENTS
FILED BY PCFFA ON NOVEMBER 23,
2016**

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10 Bogle Vineyards / Delta Watershed Landowner Coalition
11 Diablo Vineyards and Brad Lange / Delta Watershed Landowner Coalition
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21 San Joaquin County Flood Control and
22 Water Conservation District, and
23 Mokelumne River Water and Power Authority
24 and North San Joaquin Water Conservation District

1 To the Hearing Officers and Hearing Team:

2 Protestants County of San Joaquin, San Joaquin County Flood Control and Water
3 Conservation District, Mokelumne River Water and Power Authority, Local Agencies of the
4 North Delta, Islands, Inc., Bogle Vineyards/Delta Watershed Landowner Coalition (“DWLC”),
5 Diablo Vineyards and Brad Lange/DWLC, and Stillwater Orchards/DWLC (collectively, “County
6 of San Joaquin, et al.”) respectfully submit the following proposal regarding the presentation of
7 rebuttal evidence and submission of closing briefs in Part 1 of this proceeding. This
8 submission responds to the November 15, 2016 proposal submitted by the Sacramento Valley
9 Water Users (“SVWU”) concerning Part 1 rebuttal evidence and Part 1 closing briefs.
10

11 The County of San Joaquin, et al. also join in the proposals set forth in the “Comments
12 on Sacramento Valley Water Users’ Proposal” submitted on behalf of protestants Pacific
13 Coast Federation of Fishermen’s Associations and Institute for Fisheries Resources
14 (collectively “PCFFA”) on November 23, 2016. The proposals included in the PCFFA
15 Comments are consistent with those proposed below.
16

17 **PART 1 REBUTTAL EVIDENCE**

18 It is critically important that adequate time be allowed for all parties who present Part 1
19 cases in chief to prepare their rebuttal cases. Such preparation cannot reasonably be
20 accomplished while the Part 1B cases in chief are continuing. Rather, a reasonable period of
21 time should separate the conclusion of Part 1B cases in chief and any due date for submission
22 of rebuttal evidence and/or rebuttal testimony. Until completion of the Part 1B cases in chief,
23 some parties will not have a full understanding of the scope and content of their rebuttal cases.
24 We propose the following:
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- 1 (1) Within thirty (30) days following the conclusion of Part 1B cases in chief
2 (including cross-examination), the Petitioners should submit their rebuttal
3 evidence, if any, and a written summary of their rebuttal testimony, if any.
4 (2) Within thirty (30) days following Petitioners' submission of their rebuttal evidence
5 and written rebuttal testimony, if any, Protestants may submit their rebuttal
6 evidence, if any, and a written summary of their rebuttal testimony, if any.
7 (3) Presentation of parties' rebuttal evidence should proceed in the same order of
8 presentation that was used in Part 1B.
9 (4) *Alternatively, if the Hearing Officers adopt the proposal submitted by certain
10 other parties herein, under which Protestants would be required to submit their
11 rebuttal evidence and testimony prior to the date upon which Petitioners would
12 be required to submit their rebuttal evidence, then the Protestants should be
13 allowed to present sur-rebuttal evidence that responds to rebuttal evidence
14 submitted by Petitioners. If Petitioners' rebuttal evidence is substantial and/or
15 complex, sufficient time to respond must be allowed. For example, if Petitioners
16 were to introduce the FEIR or new modeling as rebuttal evidence, the Protestants
17 will need a substantial amount of time to review the new evidence and mount a
18 meaningful sur-rebuttal. Under these circumstances, we therefore propose a 60-
19 day period between the close of Petitioners' rebuttal case and the due date for
20 submission of Protestants' sur-rebuttal evidence.*

21
22
23 **PART 1 CLOSING BRIEFS**

24
25 SVWA proposed that closing briefs be submitted at the conclusion of Part 2. San
26 Joaquin County, et al. disagree.

1 We do not yet know when Part 2 will begin, much less when it will conclude. The
2 complexity of the Part 1 issues and the vast amount of testimony and evidence submitted in
3 Part 1 weigh strongly in favor of submitting Part 1 closing briefs while memory of that testimony
4 and evidence is still fresh. Requiring separate closing briefs for Parts 1 and 2 will also yield
5 more focused and succinct briefs; a closing brief that attempts to respond to both Part 1 and
6 Part 2 testimony and evidence could easily become unwieldy in scope.

7
8 The timing of other processes critically important to the WaterFix Hearing (e.g., ESA,
9 CEQA, CESA, Bay-Delta planning and implementation processes, etc.) remains uncertain and
10 will certainly affect the Part 2 schedule. As other parties to this proceeding have observed,
11 there are several core issues that should be decided by the end of Part 1, the resolution of
12 which may terminate this proceeding altogether.

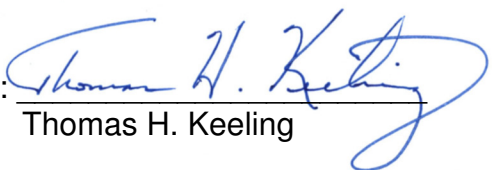
13 For all these reasons, the San Joaquin Protestants, et al. propose that Closing Briefs be
14 submitted following completion of Part 1 and prior to commencement of Part 2. **Given the**
15 **length of Part 1 and the complexity of the Part 1 evidentiary presentations, we propose**
16 **that Part 1 closing briefs be due forty-five (45) days after the close of Part 1.**

17
18 **JOINDER IN COMMENTS FILED BY PCFFA ON NOVEMBER 23, 2016**

19 The proposals set forth above are consistent with the proposals set forth in the
20 "Comments on Sacramento Valley Water Users' Proposal" submitted on behalf of protestants
21 Pacific Coast Federation of Fishermen's Associations and Institute for Fisheries Resources
22 (collectively "PCFFA") on November 23, 2016. The County of San Joaquin et al. hereby join
23 in the PCFFA Comments and incorporate those Comments by this reference.
24

25 Dated: November 23, 2016


FREEMAN FIRM,

26
27 By: 
28 Thomas H. Keeling

Attorneys for Protestants County of San Joaquin,
San Joaquin County Flood Control and Water
Conservation District, and Mokelumne River
Water and Power Authority


Dated: November 23, 2016

OFFICE OF THE COUNTY COUNSEL
COUNTY OF SAN JOAQUIN

By: 
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Conservation District, and Mokelumne River
Water and Power Authority


Dated: November 23, 2016

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San Joaquin County Flood Control and Water
Conservation District, and Mokelumne River
Water and Power Authority and North San
Joaquin Water Conservation District

Dated: November 23, 2016

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A LAW CORPORATION

By: 
Osha R. Meserve
Attorneys for Protestants
Local Agencies of the North Delta
Bogle Vineyards/DWLC
Diablo Vineyards and Brad Lange/DWLC
Stillwater Orchards/DWLC

STATEMENT OF SERVICE

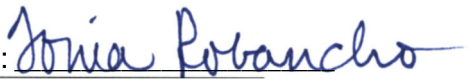
**CALIFORNIA WATERFIX PETITION HEARING
Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)**

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):

**SAN JOAQUIN COUNTY PROTESTANTS' AND LOCAL AGENCIES OF THE
NORTH DELTA, ET AL.'S PROPOSAL RE: PART 1 REBUTTAL EVIDENCE
AND CLOSING BRIEFS; JOINDER IN COMMENTS FILED BY PCFFA ON
NOVEMBER 23, 2016**

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 November 15, 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 November 23, 2016.

Signature: 
Name: Tonia Robancho
Title: Legal Assistant for Thomas H. Keeling
Freeman Firm

Party/Affiliation:
County of San Joaquin, San Joaquin County Flood Control
and Water Conservation District, and Mokelumne River
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