

SOUTH DELTA WATER AGENCY

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September 15, 2017

Via E-Mail Felicia.Marcus@waterboards.ca.gov

Ms. Felicia Marcus, Chair
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Ms. Tam M. Doduc
Co-Hearing Officer
State Water Resources Control Board
Post Office Box 100
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**Re: Natural Resource Defense Council et. al.'s Motion to Strike
Sept. 8, 2017 Letter from Department of Water Resources
and United States Bureau of Reclamation**

Dear Hearing Officers Marcus and Doduc:

The South Delta Water Agency, et. al., ("SDWA") joins in the Natural Resources Defense Council et. al.'s ("NRDC") Motion to Strike the September 8, 2017 letter from the Department of Water Resources ("DWR") and United States Bureau of Reclamation ("USBR").

The September 8, 2017 letter from DWR and USBR was in response to the Hearing Officers' August 31, 2017 Ruling, which among other things stated/directed:

To eliminate any confusion concerning petitioners' current proposal, we direct the petitioners to provide an updated summary of operating criteria that makes explicit whether particular criteria are proposed conditions of operation or are set forth solely as modeling assumptions.

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Any reasonable reading of the September 8 letter indicates that DWR and USBR did not comply with the directives contained in the August 31 Ruling. As described by NRDC, the September 8 letter does not give an updated summary of WaterFix operating criteria and in fact gives conflicting descriptions of a still incomplete operating scenario for the project.

In addition, and also as described by NRDC, the September 8 letter confuses what are and what are not the modeling criteria used for the project. The letter makes clear that all the work done by protestants and other parties is now in question because the potential effects of the project continue to change and thus remain unexamined. We have gone through approximately half of this multi-million dollar process and still do not know how the proposed project will be operated. The September 8 letter only adds confusion to the already incomplete and inadequate petition for a change in point of diversion.

If the Hearing Officers decide a motion to strike is inappropriate in this instance, at the very minimum they should inform DWR and USBR that those agencies have not complied with the August 31 Ruling and direct them to do so. Until such compliance, the schedule for Part 2 should be suspended. The preferred action by the Hearing Officers should be to finally dismiss the wholly inadequate petition.

Very truly yours,


JOHN HERRICK

cc: WaterFix Service list