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8 Local Agencies of the North Delta  
9 Bogle Vineyards / Delta Watershed Landowner Coalition  
10 Diablo Vineyards and Brad Lange / Delta Watershed Landowner Coalition  
11 Stillwater Orchards / Delta Watershed Landowner Coalition  
12 Friends of Stone Lakes National Wildlife Refuge

11 [ADDITIONAL COUNSEL LISTED ON FOLLOWING PAGE]

13 **BEFORE THE**

14 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

15 HEARING IN THE MATTER OF  
16 CALIFORNIA DEPARTMENT OF WATER  
17 RESOURCES AND UNITED STATES  
18 BUREAU OF RECLAMATION  
19 REQUEST FOR A CHANGE IN POINT OF  
20 DIVERSION FOR CALIFORNIA WATER FIX

**JOINT PROPOSED TOPICS FOR PRE-  
HEARING CONFERENCE AGENDA  
TOPICS FOR PART 2**

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23 Attorneys for Protestants County of San Joaquin,  
24 San Joaquin County Flood Control and Water Conservation District, and  
25 Mokelumne River Water and Power Authority  
26  
27  
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1 According to the October 30, 2015 Ruling, Part 2 will examine questions, including:

- 2 • Will the changes proposed in the Petition unreasonably affect fish and wildlife or  
3 recreational uses of water, or other public trust resources?
- 4 • Are the proposed changes requested in the Petition in the public interest? If so, what  
5 specific conditions, if any, should be included in any approval of the Petition to ensure  
6 that the changes are in the public interest?

7 For the Part 2 pre-hearing conference, Protestants Local Agencies of the North Delta  
8 Bogle Vineyards / Delta Watershed Landowner Coalition Diablo Vineyards and Brad Lange /  
9 Delta Watershed Landowner Coalition Stillwater Orchards / Delta Watershed Landowner  
10 Coalition and Friends of Stone Lakes National Wildlife Refuge (collectively "LAND et al.") and  
11 San Joaquin County, San Joaquin County Flood Control and Water Conservation District,  
12 Mokelumne River Water and Power Authority (collectively "SJC et al.") suggest consideration  
13 of the following topics:

14 (A) Has an adequately detailed and stable description of the proposed change in  
15 water rights been provided by Petitioners so that Protestants may prepare  
16 responsive cases in chief? Particular concern areas include:

17 (1) Specificity of proposed operations, as discussed in filings this month by  
18 the Department of Water Resources ("DWR") and the Natural Resources  
19 Defense Council ("NRDC"), particularly where there exist differences  
20 between operations as described in the environmental documents and the  
21 permitting documents. For instance, what should Protestants assume is  
22 the Rio Vista Flow standard? What is shown in the Final EIR/S (3,000 cfs  
23 January – August), or what is shown in the NOD and the Biological  
24 Opinions (no requirement January – August)?

25 (2) Specificity of the design and footprint of the proposed project, including  
26 location of transmission lines, and whether they will be permanent or be in  
27 place during the 14-year construction period and then removed, as  
28

1 discussed in the Joinder of Friends of Stone Lakes National Wildlife  
2 Refuge and Save Our Sandhill Cranes filed on September 8, 2017;  
3 (3) Specificity of information regarding secure funding to ensure full  
4 implementation of adopted mitigation measures, environmental  
5 commitments and permit conditions that would avoid unreasonable effects  
6 on fish and wildlife or recreational uses of water, or other public trust  
7 resources and public interest concerns.

8 (B) The need for a staggered briefing schedule similar to that ordered for Part 1. The  
9 Petitioners bear the burden of proof, just as in Part 1, and, for that reason, it is  
10 fitting and appropriate under basic principles of evidence and due process that  
11 protestants should be allowed to know what Petitioners' case-in-chief is before  
12 framing their own cases. To what extent Petitioners fail to meet their burden, and  
13 exactly how they may fail to meet their burden, will affect not only protestants'  
14 rebuttal cases, but the extent and focus of their cases in chief. This issue was  
15 raised in the NRDC Objection, in which LAND et al. and SJC et al. joined.

16 As described in previous filings that will not be repeated here, LAND et al. and SJC et  
17 al. continue to assert that a complete Petition was not submitted in 2015 and that the Petition  
18 remains incomplete. At this juncture, however, LAND et al. and SJC et al. are focused on  
19 ensuring that their Part 2 evidence is relevant and responsive to the Petition before the Board.  
20 We appreciate the Hearing Officers' consideration of these topics for further discussion on  
21 October 19, 2017.

22 Respectfully submitted,

23 Dated: September 22, 2017

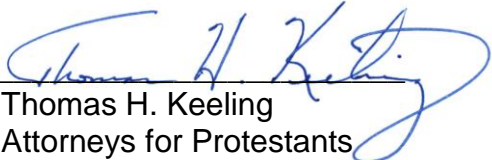
SOLURI MESERVE,  
A LAW CORPORATION

24  
25 By: 

26 Osha R. Meserve  
27 Attorney for Protestants  
28 Local Agencies of the North Delta  
Bogle Vineyards/DWLC, Diablo Vineyards and  
Brad Lange/DWLC, Stillwater Orchards/DWLC,  
Friends of Stone Lakes National Wildlife Refuge,  
and Save Our Sandhill Cranes

1 Dated: September 22, 2017

FREEMAN FIRM,

2  
3 By:   
4 Thomas H. Keeling  
5 Attorneys for Protestants  
6 County of San Joaquin, San Joaquin County  
7 Flood Control and Water Conservation District,  
8 and Mokelumne River Water and Power  
9 Authority  
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1 **STATEMENT OF SERVICE**

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

4 I hereby certify that I have this day on September 22, 2017, submitted to the State  
5 Water Resources Control Board and caused a true and correct copy of the following  
6 document(s):

7 **JOINT PROPOSED TOPICS FOR PRE-HEARING CONFERENCE**  
8 **AGENDA TOPICS FOR PART 2**

9 to be served **by Electronic Mail** (email) upon the parties listed in Table 1 of the **Current**  
10 **Service List** for the California WaterFix Petition Hearing, dated September 12, 2017, posted  
11 by the State Water Resources Control Board at  
12 [http://www.waterboards.ca.gov/waterrights/water\\_issues/programs/bay\\_delta/california\\_waterfi](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)  
13 [x/service\\_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)

14 I certify that the foregoing is true and correct and that this document was executed on  
15 September 22, 2017.

16 Signature:  \_\_\_\_\_

17 Name: Mae Ryan Empleo

18 Title: Legal Assistant for Osha R. Meserve  
19 Soluri Meserve, A Law Corporation

20 Party/Affiliation:

21 Local Agencies of the North Delta

22 Bogle Vineyards/DWLC

23 Diablo Vineyards and Brad Lange/DWLC

24 Stillwater Orchards/DWLC

25 Friends of Stone Lakes National Wildlife Refuge

26 Save Our Sandhill Cranes

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