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9 BEFORE THE STATE WATER RESOURCES CONTROL BOARD

10 HEARING IN THE MATTER OF  
CALIFORNIA DEPARTMENT OF  
11 WATER RESOURCES AND UNITED  
STATES BUREAU OF  
12 RECLAMATION REQUEST FOR A  
CHANGE IN POINT OF DIVERSION  
13 FOR CALIFORNIA WATERFIX  
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**MOTION FOR SECOND EXTENSION OF  
TIME TO FILE WITNESS TESTIMONY  
IN LIGHT OF EXIGENT  
CIRCUMSTANCES**

1 The Natural Resources Defense Council, Defenders of Wildlife, and The Bay Institute  
2 hereby petition the State Water Resources Control Board (“SWRCB”) to grant a second extension  
3 of time for filing the testimony and associated exhibits of Dr. Jon Rosenfield, Ph.D due to his  
4 continued unavailability as a result of an ongoing medical emergency.

5 On November 20, 2017, the Hearing Officers issued a ruling granting our motion to  
6 extend time for Dr. Rosenfield to submit his testimony due to exigent circumstances until 12:00  
7 pm (noon) on December 29, 2017. At the time of filing our first motion, we hoped and expected  
8 that Dr. Rosenfield would have been released from the hospital and would have been able to  
9 resume work-related activities by this date. Unfortunately, Dr. Rosenfield continues to be  
10 hospitalized in the Intensive Care Unit and unable to do any work-related activities.

11 However, it is our understanding that Dr. Rosenfield’s condition is significantly improved  
12 compared to several weeks ago, and that his doctors are cautiously optimistic that he will be  
13 released from the hospital to an acute rehabilitation facility in the near future. While the timeline  
14 for Dr. Rosenfield to return to work is uncertain, we hope that Dr. Rosenfield will be able to  
15 return to work related activities sometime in February, and that he will be able to participate in  
16 NRDC’s case-in-chief phase of Part 2 of the hearing.

17 Due to these exigent circumstances, we hereby move for a second extension of time to file  
18 Dr. Rosenfield’s testimony and exhibits. Due to his medical emergency, we propose that Dr.  
19 Rosenfield’s testimony and exhibits would be due on Friday, February 23, 2018 at 12:00 noon.  
20 In addition, as a result of Dr. Rosenfield’s medical condition and in order to provide other parties  
21 with adequate time to prepare for cross examination, we also move that the Hearing Officers  
22 permit Dr. Rosenfield to testify after other witnesses, consistent with the request in our November  
23 29, 2017 Identification of Witness Panels and Scheduling of Witness Testimony (“Consistent  
24 with that ruling and in light of Dr. Rosenfield’s continued hospitalization and unavailability, we  
25 request that he be scheduled to testify after the other witnesses.”). In order to provide the other  
26 parties with sufficient time to review his testimony and prepare for cross-examination, we  
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1 propose that Dr. Rosenfield's oral testimony and cross-examination would occur no less than two  
2 weeks after his written testimony and exhibits are filed and served.

3           We appreciate the Hearing Officers' consideration of this motion, in light of Dr.  
4 Rosenfield's continuing medical emergency. We hope and expect that granting this motion should  
5 not unduly prejudice other parties, given the anticipated period of time before our case in chief  
6 would be heard by the Hearing Officers and our proposal that adverse parties would have at least  
7 two weeks to review the written testimony and exhibits before his direct examination and cross  
8 examination would occur. We will update the parties and Hearing Officers when Dr. Rosenfield  
9 is able to resume work-related activities.  
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12           Dated: December 18, 2017

Natural Resources Defense Council

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Doug Obegi

15           On behalf of the Natural Resources Defense  
16           Council, Defenders of Wildlife, and the Bay Institute  
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