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BEFORE THE

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

HEARING IN THE MATTER OF CALIFORNIA DEPARTMENT OF WATER RESOURCES AND UNITED STATES BUREAU OF RECLAMATION REQUEST FOR A CHANGE IN POINT OF DIVERSION FOR CALIFORNIA WATERFIX	RESPONSE TO DWR OBJECTIONS TO SHR SUBMISSION OF EXHIBITS INTO EVIDENCE DATED AUGUST 30, 2018 AND SEPTEMBER 4, 2018 ALONG WITH ATTACHMENT OFFERED AS PROOF OF CAUSE OF ADMITTED EVIDENCE CLAIRIFICATION REQUEST

This letter is written in response to DWR's objections to SHR submission of exhibits into evidence dated August 30, 2018 and September 4, 2018. I wish to clarify my request, point out the reason for the confusion, and request that the corrections be made as follows, including submission of evidence into the record of the documents listed in the SHR 9-4-2018 letter. I will refer to the DWR specific objections in the order presented by DWR in its 9-6-2018 DWR Objections to SHR Submission of Exhibits.

DWR 9/6/18, Page 1, Lines 15 to 22: Per Hearing Board ruling, Part 2 rebuttal evidence requested to be submitted into evidence by 9/4/18 at 5:00 pm was submitted on time by SHR. As to exhibits for the first part of Part 2, and exhibits for Part 1, I noticed that the SHR exhibit list and links as it appeared online does not indicate correctly which documents were admitted into evidence previously by SWRCB, and which were not or had specific ruings. In other words, if you go to other parties exhibits list online at https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/index.htm and then go to parties exhibits online, such as DWR you will see clear statement of admitted evidence and ruling dates. Examples are https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/california_dept_waterresources.html and https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/restore_the_delta.html and https://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/exhibits/deirdre_des_jardins.html

Compare those online lists to the SHR list, (screen print below) which indicates documents withdrawn but does not consistently list the evidence that was accepted per SWRCB ruling letter of 6/1/2018 and 6/18/18. Rather than listing all of the undesignated documents, I should have requested that SWRCB instruct the technical team to reflect the rulings SWRCB of 6/1/18 and 6/18/18 to show admitted evidence for SHR. I have created a screen print below, and also cut and pasted other party exhibits in the Attachment to this letter, for your reference. Screen prints and copy-paste data were downloaded and created today 9-7-18 at the times stated in the downloads or screen prints.

In any case please note my specific responses as follows:

DWR 9/6/18, Page 2, lines 2 to 13. I agree evidence previously not admitted for Part 1 should not now be admitted for Part 2 unless that evidence was referred to during Part 2 rebuttal. Specifically, SHR-352 and SHR-350 were referred to by me during Part 2 case-in-chief phase and Part 2 rebuttal, and also discussed by DWR computer modeling witness

when confirming for the record that the revised proposed operations H3+ flow splits between the North Delta waterways after diversions from proposed tunnels is the same as the Part 1 computer modeling. SHR-350 and SHR-352 are the graphics prepared by DWR at the direction of SWRCB hearing Chair, Ms. Doduc, during Part 1 of the hearing. Those graphics were originally received by email from DWR, and also hard copies were provided to me by DWR attorney Mr. Mizel and his staff at the CalEPA building. SHR-351 is my disclosure statement explaining to all parties how the data was received, since it did not appear to SHR that DWR had delivered the same data to all parties, as would appear to be appropriate. I continue to request that SHR-352 and SHR-351 be admitted into evidence. SHR-350 was previously admitted into evidence but that does not show online at this time. SHR-350 is a DWR-generated graphic showing flow splits down river from proposed intakes, but the flow splits do not include flow into the Delta Cross Channel area. SHR-352 is a DWR-generated graphic showing flow splits down river from proposed intakes, including flow into the Delta Cross Channel area. Both graphics are important for reference to residual flows in North Delta waterways down river from proposed intakes.

As to the other evidence listed between lines 2 and 13 on page 2, I agree evidence not accepted by the board should reflect in the online listing as not accepted.

DWR 9/6/18, Page 2, lines 14 to 15. I agree SHR-389 should not be admitted by SHR-389-errata should be reflected as accepted into the record.

DWR 9/6/18, Page 2, lines 16 to 18. I agree, SHR-50 should not show as being admitted into evidence.

DWR 9/6/18, Page 2, lines 19 to 22. I agree evidence excluded from the hearing officers ruling dated May 31, 2017 should be excluded and that fact should be reflected in the online exhibit table.

DWR 9/6/18, Page 2, lines 23 to 24. I agree SHR-360-errata and not SHR-360 should be reflected as admitted into the record.

DWR 9/6/18, Page 2, lines 25 to 27. I agree SHR-363-errata and not SHR-363 should be reflected as accepted into the record.

DWR 9/6/18, Page 3, lines 1 to 7. I am not sure what DWR is saying, but just ask for correct listing online.

DWR 9/6/18 Page 3, lines 8 to 12. No, I do not believe SHR-2-17 was withdrawn and should be submitted into evidence.

DWR 9/6/18 Page 3, lines 13 to 14. I agree SHR-707-errata should be reflected as accepted into evidence, not SHR-707.

DWR 9/6/18, Page 3, line 15 to 16. I agree, SHR-2-24 should be reflected as withdrawn on 4/16/18.

DWR 9/6/18, Page 3, lines 17 to 20. I agree, the correct reference is SHR-2-219-2.

DWR 9/6/18, Page 3, lines 21 to 4. SHR-2-21F was accepted into the record per 6/18/18 ruling. However, on page 49 of that ruling the evidence is listed as SHR-2-21R. The correct document reference should be SHR-2-21F. ("F" stands for the full document as it was originally found online).

It is my hope that this detailed response to DWR objections to SHR evidence may be resolved by correction to the evidence rulings as they show on the online evidence list, consistent with the way other party evidence rulings are reflected. However, I again request the evidence as listed in my request dated 9/4/18 be admitted into evidence, recognizing the errata version of any document should be the correct version to admit. Please see Attachment to this response letter for proof of evidence listing as of this morning.

(CONTINUED NEXT PAGE)

Respectfully submitted on September 7, 2018, at approximately 11:55 am

Nicole S. Suard, Esq.
Managing Member, Snug Harbor Resorts, LLC

	Islands and Waterways	4, 2018
~~SHR-2-29~~	~~Summary map showing the mistakes of the Directionally Challenged DWR consultants: 2-2 to 2017~~	
~~SHR-2-30~~	~~Impacts: CALTRANS in the Delta~~	
SHR-2-31	Delta History & Water Conveyance Plans. Slide set compiled by N. Suard 2009-2014, updated 2017	
~~SHR-2-101~~	~~Water Resources White Paper~~	Withdrawn per Letter dated April 16, 2018
SHR-2-102	Draft Development of Flow Criteria for the Sacramento-San Joaquin Delta Ecosystem	
SHR-2-103	Developing Flow Prescriptions for the Sacramento-San Joaquin Delta	
SHR-2-104	Delta Recreation incorrect data: Section 18, Draft Delta Plan EIR Program Report	
SHR-2-105	Where's The Water? Power Point dated 5-15-14 by N. Suard review of noted flow issues in the North Delta ~~Where's The Water?~~	
~~SHR-2-106~~	~~The Value of Water in 21st Century California~~	Withdrawn per Letter dated April 16, 2018
~~SHR-2-107~~	~~Draft Part 3 of the Water Quality Control Plan for Inland Surface Waters, June 2017~~	Withdrawn per Letter dated April 16, 2018
SHR-2-108	Water Quality Slide Show-Waterboard	
SHR-2-109	Scientific Basis Report in Support of New and Modified Requirements for Inflows from the Sacramento River et al 2017	
~~SHR-2-110~~	~~SWRCB review of aquifer exemptions: Solution legislation~~	
~~SHR-2-111~~	~~Dangerous and Close: Fracking Puts the Nations Most Vulnerable People at Risk~~	Withdrawn per Letter dated April 16, 2018
~~SHR-2-112~~	~~Economic Analysis of the Costs~~	Withdrawn per Letter dated April 16, 2018
SHR-2-113	Reclamation Water Supply & Yield Studies, pages 13,22,34,37,52	
~~SHR-2-114~~	~~DWR Annual Peak Delta Inflows Chart~~	Withdrawn per Letter dated April 16, 2018
SHR-2-115	Example of CalTrans detour route Memorial Day Weekend 2011 https://youtube/04BBZvoU40Y	
~~SHR-2-210~~	~~1950 Navigation on the Sacramento River and description of area~~	Withdrawn per Letter dated April 16, 2018
~~SHR-2-211~~	1852 map and Sketches and locations of Steamboat Slough in 1850's; Island names noted	

GO TO ATTACHMENT FOR ADDITIONAL SCREEN PRINTS AND DOWNLOADS