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10 Attorneys for State Water Contractors

11
12 **BEFORE THE**
13 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

14 ENFORCEMENT ACTION ENF01949 -
15 DRAFT CEASE AND DESIST ORDER
REGARDING UNAUTHORIZED OR
16 THREATENED UNAUTHORIZED
17 DIVERSIONS OF WATER FROM OLD RIVER
IN SAN JOAQUIN

**OBJECTION TO SOUTH DELTA
WATER AGENCY'S AND CENTRAL
DELTA WATER AGENCY'S NOTICE
OF TAKING DEPOSITION OF
EXPERT WITNESS PAUL HUTTON
WITH REQUESTS FOR
PRODUCTION OF DOCUMENTS**

18
19 In the Matter of ENFORCEMENT ACTION
ENF01951 - ADMINISTRATIVE CIVIL
20 LIABILITY COMPLAINT REGARDING
UNAUTHORIZED DIVERSION OF WATER
21 FROM THE INTAKE CHANNEL TO THE
BANKS PUMPING PLANT (FORMERLY
22 ITALIAN SLOUGH) IN CONTRA COSTA
COUNTY

Date: March 7, 2016

23
24
25 Pursuant to Civil Code of Procedure section §2025.010 *et seq.*, State Water
26 Contractors ("SWC"), on behalf of its rebuttal witness, Paul Hutton ("deponent"), hereby
27 objects to document requests contained in the Notice of Taking Deposition of Expert
28

1 Witness Paul Hutton. The requests to which objections are made, and the objections, are
2 as follows:

3 **REQUEST NO. 1:**

4 All DOCUMENTS, including but not limited to source code, data and parameter
5 inputs, related to the modeling described in paragraphs 13-15 and 17 your testimony dated
6 February 22, 2016 (“Testimony”).

7 **OBJECTION TO REQUEST NO. 1:**

8 SWC objects to this request on the grounds that it is vague and ambiguous in its use
9 of the undefined terms “source code” and “parameter inputs,” and thus is overbroad,
10 burdensome as to scope. SWC further objects to this request to the extent the request
11 seeks production of documents not in the possession, custody or control of deponent.
12 SWC also objects to the extent the request seeks documents equally available to Central
13 Delta Water Agency and South Delta Water Agency (“noticing parties”).

14 **REQUEST NO. 2:**

15 All DOCUMENTS that relate to or form the basis of the conclusion in paragraph 19
16 of your Testimony that “Unauthorized diversions of SWP stored water released for the
17 purpose of satisfying WQCP and other regulatory obligations and/or for diversion by the
18 SWP impact the SWC member agencies as the contractual beneficiaries of the SWP.
19 These unauthorized diversions cause the SWP to make additional stored water releases or
20 to reduce exports to satisfy WCQP and other regulatory requirements, thereby decreasing
21 the stored water supplies of the SWP available to SWC member agencies.”

22 **OBJECTION TO REQUEST NO. 2:**

23 SWC object to this request on the grounds that it is vague and ambiguous in its use
24 of the undefined phrases “relate to” and “form the basis of”, and is thus overbroad and
25 burdensome as to scope. SWC further objects to this request to the extent the request
26 seeks production of documents not in the possession, custody or control of deponent.
27
28

1 **REQUEST NO. 3:**

2 All DOCUMENTS related to the conclusion in paragraph 23 of your Testimony that “The
3 1931 baseline assumption in Susan Paulson’s modeling (BCID384) is inappropriate.”

4 **OBJECTION TO REQUEST NO. 3:**

5 SWC object to this request on the grounds that it is vague and ambiguous in its use
6 of the undefined phrase “related to,” and is thus overbroad and burdensome as to scope.

7 **REQUEST NO. 4:**

8 All DOCUMENTS related to the conclusion in paragraph 23 of your Testimony that
9 “upstream development was lower in 1931 than in 2015.”

10 **OBJECTION TO REQUEST NO. 4:**

11 SWC object to this request on the grounds that it is vague and ambiguous in its use
12 of the undefined phrase “related to,” and is thus overbroad and burdensome as to scope.

13 **REQUEST NO. 5:**

14 All DOCUMENTS related to the conclusion in paragraph 33 of your Testimony that:
15 “Absent the SWP and CVP, salinity in the south Delta would typically exceed 1.0 mS/cm
16 specific conductance during the irrigation season of dry and critically dry years, which is
17 higher than the current irrigation season WQCP agricultural salinity standard of 0.7
18 mS/cm.”

19 **OBJECTION TO REQUEST NO. 5:**

20 SWC object to this request on the grounds that it is vague and ambiguous in its use
21 of the undefined phrase “related to,” and is thus overbroad and burdensome as to scope.

22 **REQUEST NO. 6:**

23 All DOCUMENTS related to the conclusion in paragraph 33 of your Testimony that:
24 “This suggests that water quality would be too poor to support agricultural use during
25 summer and fall of dry and critically dry years if the SWP and CVP did not exist.”

26 **OBJECTION TO REQUEST NO. 6:**

27 SWC object to this request on the grounds that it is vague and ambiguous in its use
28 of the undefined phrase “related to,” and is thus overbroad and burdensome as to scope.

1 **REQUEST NO. 7:**

2 All DOCUMENTS related to communications between YOU and any Board or staff
3 member of the State Water Resources Control Board in 2014 or 2015 related to water
4 availability determinations.

5 **OBJECTION TO REQUEST NO. 7:**

6 SWC object to this request on the grounds that it is vague and ambiguous in its use
7 of the undefined phrase "related to," and is thus overbroad and burdensome as to scope.
8 SWC further objects to this request on the grounds that this request is overbroad,
9 burdensome and oppressive as to scope in its request for all documents related to
10 unspecified "water availability determinations." SWC further objects to this request on the
11 grounds that this request is overbroad, burdensome and oppressive in its request for all
12 responsive documents over a two-year time frame. SWC further objects to this request to
13 the extent it seeks documents neither relevant to the subject matter of the above-
14 referenced enforcement proceedings nor calculated to lead to the discovery of admissible
15 evidence.

16 **REQUEST NO. 8:**

17 All DOCUMENTS related to communications between any representative of
18 Metropolitan Water District and any Board or staff member of the State Water Resources
19 Control Board in 2014 or 2015 related to water availability determinations.

20 **OBJECTION TO REQUEST NO. 8:**

21 SWC object to this request on the grounds that it is vague and ambiguous in its use
22 of the undefined phrase "related to," and is thus overbroad and burdensome as to scope.
23 SWC further objects to this request on the grounds that it is overbroad, burdensome and
24 oppressive as to scope in its request for all documents related to unspecified "water
25 availability determinations." SWC further objects to this request on the grounds that it is
26 overbroad, burdensome and oppressive in its request for all responsive documents over a
27 two-year time frame. SWC further objects to this request to the extent it seeks documents
28 neither relevant to the subject matter of the above-referenced enforcement proceedings nor

1 calculated to lead to the discovery of admissible evidence. SWC further objects to this
2 request to the extent the request seeks production of documents not in the possession,
3 custody or control of deponent.

4 **REQUEST NO. 9:**

5 All DOCUMENTS related to communications between any representative of the State
6 Water Contractors and any Board or staff member of the State Water Resources Control
7 Board in 2014 or 2015 related to water availability determinations.

8 **OBJECTION TO REQUEST NO. 9:**

9 SWC object to this request on the grounds that it is vague and ambiguous in its use
10 of the undefined phrase "related to," and is thus overbroad and burdensome as to scope.
11 SWC further objects to this request on the grounds that it is overbroad, burdensome and
12 oppressive as to scope in its request for all documents related to unspecified "water
13 availability determinations." SWC further objects to this request on the grounds that it is
14 overbroad, burdensome and oppressive in its request for responsive documents over a
15 two-year time frame. SWC further objects to this request to the extent it seeks documents
16 neither relevant to the subject matter of the above-referenced enforcement proceedings nor
17 calculated to lead to the discovery of admissible evidence. SWC further objects to this
18 request to the extent the request seeks production of documents not in the possession,
19 custody or control of deponent.

20 Dated: March 2, 2016

21 **DUANE MORRIS LLP**

22 By: 

23 Thomas M. Berliner
24 Jolie-Anne S. Ansley

25 Attorneys for State Water Contractors

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