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**Allen Matkins Leck Gamble & Mallory LLP**  
*attorneys at law*

501 West Broadway 9th Floor San Diego California 92101-3577  
telephone. 619 233 1155 facsimile. 619 233 1158  
www.allenmatkins.com

**writer.** David L. Osias t. 619 235 1526  
**file number.** I4161-002/SD556458.01 e. dosias@allenmatkins.com

April 18, 2002

**VIA E-MAIL**

Mr. Arthur Baggett, Jr., Hearing Officer  
Chairman of State Water Resources Control Board  
State Water Resources Control Board  
1001 "I" Street, 22nd Floor  
Sacramento, CA 95814

Re: IID/SDCWA Joint SWRCB Petition

Dear Mr. Baggett:

We are in receipt of the letter of April 15, 2002, from Defenders of Wildlife regarding witness order for Phase II. The letter constitutes the response by Imperial Irrigation District ("IID").

IID is appreciative of the environmental protesting parties' attempts to organize their time, and to provide notice of the same to all parties. IID has no objection to persons being called as panels as specified (assuming IID can do the same), or the time requests for witness testimony (again assuming IID is given similar latitude on its sought time extensions). However, IID takes strong exception to the following:

- a) Split Opening Statements. The proposal made in the Defenders of Wildlife letter is that opening statements be made in series over the course of extensive testimony, as opposed to at the beginning of the Phase II hearing, as would normally be done. This prejudices IID, since we need to hear the opening statements ahead of time to effectively cross-examine witnesses. Further, it allows opposing counsel the (unfair) opportunity to craft and re-craft "opening statements" based on prior witness testimony. This should not be allowed.
- b) "Summary" Of Testimony." There is a proposed 15-minute concluding "summary" of the witnesses' testimony (letter page 3, following the "Group 5" testimony) that is objectionable. We assume that all parties will be allowed closing argument when the hearing is completed. It would be improper to allow any party a "double" closing argument by allowing a "summary" of testimony, and then a closing argument.

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A copy of this letter has been sent to all parties. Thank you for your consideration of these objections and comments.

Very truly yours,

David L. Osias

DLO:cs

cc: All Parties by E-Service  
or Overnight Mail Service  
or facsimile