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9 and Water Conservation District, and Orange County Flood Control District, collectively, the  
10 Santa Ana River Mainstem Project Local Sponsors

11 STATE WATER RESOURCES CONTROL BOARD  
12 SACRAMENTO, CALIFORNIA

13 In re Hearing to Consider Water Right  
14 Applications 31165 and 31370 of  
15 San Bernardino Valley Municipal Water District  
16 and Western Municipal Water District of  
17 Riverside County; Application 31174 of Orange  
18 County Water District; Application 31369 of  
19 Chino Basin Watermaster; Application 31371 of  
20 San Bernardino Valley Water Conservation  
21 District; and Application 31372 and Wastewater  
22 Change Petition WW-0045 of the City of  
23 Riverside

**CLOSING BRIEF OF THE SANTA  
ANA RIVER MAINSTEM LOCAL  
SPONSORS**

24 SANTA ANA RIVER MAINSTEM PROJECT  
25 LOCAL SPONSORS,

26 Protestants.

27 **I. Introduction**

28 The San Bernardino County Flood Control District, Riverside County Flood Control and  
Water Conservation District, and Orange County Flood Control District, collectively the Santa  
Ana River Mainstem Project Local Sponsors (“Local Sponsors”), participated in the hearing on  
the Santa Ana River Water Right Applications for the following reasons: (1) to inform the State  
Water Resources Control Board and parties about the Local Sponsors’ flood control obligations  
associated with the federal Santa Ana River Mainstem Project; (2) to present evidence regarding  
the dismissal of the Local Sponsors’ protest to the Orange County Water District Application  
No. 31174 in accordance with the Operations Agreement entered into between Orange County

1 Water District and the Orange County Flood Control District; and (3) to present evidence  
2 concerning a proposed access term and condition regarding San Bernardino Valley Municipal  
3 Water District and Western Municipal Water District of Riverside County (“Muni/Western”)  
4 Application Nos. 31165 and 31370.

5 **II. Proposed Term and Condition for Permits Issued to Orange County Water District**  
6 **in Accordance with Application No. 31174**

7 The Local Sponsors dismissed their protest to the Orange County Water District (Exhibit  
8 LS-1-1) following the execution of the Operations Agreement between Orange County Water  
9 District and the Orange County Flood Control District (Exhibit LS-1-2). In accordance with the  
10 protest dismissal, the Local Sponsors request that the State Board condition any water right  
11 permit granted to Orange County Water District on compliance with the Operations Agreement.

12 **III. Stipulated Access Term and Condition for Permits Issued to Muni/Western in**  
13 **Accordance with Application Nos. 31165 and 31370**

14 During the Hearing, the Local Sponsors and Muni/Western stipulated that an access term  
15 and condition be added to any permits issued to Muni/Western and that the Local Sponsors  
16 withdraw its protest to the Muni/Western applications. (Exhibit LS-1-18, “Stipulation Regarding  
17 Local Sponsors’ Protests of Water Right Applications 031165 and 03170”.) Muni/Western and  
18 the Local Sponsors stipulated that the following term and condition be added to all water right  
19 permits issues to Muni/Western pursuant to Application Nos. 31165 and 31370:

20 This permit shall not be construed as conferring upon permittee the  
21 right of access to Seven Oaks Dam, the points of diversion, and  
22 lands necessary for related facilities, or the lands necessary for  
23 inundation for water storage. Permittee shall not commence  
24 construction and operation of water diversion facilities at Seven  
25 Oaks Dam without a written access agreement from the Santa Ana  
26 River Mainstem Project Local Sponsors.

25 (Exhibit LS-1-18, ¶ 3.)

26 Access to the points of diversion and other lands necessary for the project is a required  
27 condition of granting a water right permit. (Cal. Code Regs, tit. 23, § 775.) The stipulated term  
28 and condition above satisfies State Board Regulation section 775. The State Board has the

1 authority to, and should, include the stipulated term and condition in all permits granted to  
2 Muni/Western.

3 **V. Support for Muni/Western's Proposed Permit Term 3**

4 Muni/Western proposes that the State Board incorporate the following permit term 3:

5 Permittees shall not divert water released by the U.S. Army Corps  
6 of Engineers and/or the Santa Ana River Mainstem Project Local  
7 Sponsors from Seven Oaks Reservoir for environmental mitigation  
8 purposes as required in the Multi-Species Habitat Management  
9 Plan to be developed pursuant to the December 19, 2002  
10 Biological Opinion for the operation of Seven Oaks Dam for flood  
control purposes, and as may be revised in the future. Nothing in  
this paragraph shall prevent Permittees from diverting any water  
released from Seven Oaks Reservoir in excess of such  
environmental mitigation releases.


11 The Local Sponsors support the proposed Permit Term 3, which will ensure that Muni/Western  
12 will not interfere with water released from Seven Oaks Dam for environmental mitigation  
13 purposes as required by the 2002 Biological Opinion and Multi-Species Habitat Management  
14 Plan for flood control operations.

15 **V. Conclusion**

16 The Local Sponsors respectfully request that the State Water Resources Control Board  
17 include the proposed terms above be included in any permits issued for the above referenced  
18 applications.

19 Dated: June 6, 2007

ELLISON, SCHNEIDER & HARRIS L.L.P.

20  
21 By:  \_\_\_\_\_

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PROOF OF SERVICE

I declare that:

I am employed in the County of Sacramento, State of California. I am over the age of eighteen years and am not a party to the within action. My business address is ELLISON, SCHNEIDER & HARRIS L.L.P.; 2015 H Street; Sacramento, California 95814-3109; telephone (916) 447-2166.

On June 6, 2007, I served the attached Closing Brief of the Santa Ana River Mainstem Local Sponsors by electronic mail to each person shown on the attached service list.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on June 6, 2007, at Sacramento, California.



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Peter J. Kiel

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