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STATE WATER RESOURCES  
CONTROL BOARD

2003 JUL 18 PM 3:04

DEPT. OF WATER RIGHTS  
SACRAMENTO

8 Attorneys for San Joaquin River Group Authority,  
9 Merced Irrigation District, Turlock Irrigation District,  
10 and Modesto Irrigation District

11 **STATE OF CALIFORNIA**

12 **STATE WATER RESOURCES CONTROL BOARD**

13 **In the matter of:**

14 **REPLY BRIEF OF THE**  
15 **SAN JOAQUIN RIVER GROUP**  
16 **AUTHORITY, ET AL.**

17 **Petitions for Long Term Change and**  
18 **Permanent Change by Merced Irrigation**  
19 **District, Modesto Irrigation District and**  
20 **Turlock Irrigation District,**  
21 **Applications Nos. 1224, 10572, 16186,**  
22 **1233 and 14127**

23 **I. INTRODUCTION**

24 Protestants Stockton East Water District ("SEWD"), South Delta Water Agency ("SDWA")  
25 and Alexander Hildebrand (collectively "South Delta Parties"), and Central Delta Water Agency  
26 ("CDWA") and R.C. Farms, Inc. (collectively "Central Delta Parties") each filed closing briefs in  
27 this matter seeking to prevent approval of the petition or to make its approval subject to conditions  
28 that are unreasonable and not supported by law or evidence. Petitioners Merced Irrigation District  
("Merced ID"), Modesto Irrigation District ("MID"), and Turlock Irrigation District ("TID") hereby  
propose that the arguments and suggestions provided by protesting parties should be rejected, and  
that the petition should be approved in accordance with the evidence, legal argument and proposed  
conditions submitted by the Petitioners.

1 II. ARGUMENT

2 A. SEWD Not a Legal User of Water.

3 SEWD does not disagree that, as a general matter, water service contractors are not  
4 considered legal users of water for purposes of Water Code sections 1702, 1707 and 1736. Instead,  
5 SEWD attempts to rely upon a minor exception created by the SWRCB to justify its participation in  
6 this matter. However, the exception that SEWD relies upon is not applicable.  
7

8 The SWRCB has held that a water supply contractor can be considered a legal user of water  
9 in those rare instances where the actual water right holder, from which the water supply contractor  
10 receives its water, may be injured and does not propose or agree with the change at issue. (Order  
11 2000-02, 2000 WL 348461, p. 11-13, 18; Order 2000-10, 2000 WL 1177692, p. 7, 9). Of course,  
12 "section 1702 does not protect a water service contractor from water shortages resulting from an  
13 action requested or *consented to* by the contractor's water supplier who holds the water right." (WL  
14 1177692, p. 9 (emphasis added); See Order 2000-02, WL 348461, p. 13 [where a water right holder  
15 agrees to a proposed change, "neither the water right holder nor any contractor whose entitlement to  
16 water deliveries is dependent on the water right holder has suffered injury within the meaning of  
17 Water Code section 1702."]).  
18

19  
20 In this case, the USBR holds the water right from which SEWD receives water by contract  
21 (SEWD Ex. 1, p. 2; SEWD Ex. 5; RT 172; RT 174) and did consent to the changes proposed by  
22 Merced ID, MID and TID. The record clearly reflects that the USBR received notice of the proposed  
23 change, filed a protest, requested that certain conditions contained in D-1641 be included if the  
24 proposed change were approved, and upon agreement of the petitioners to include such conditions,  
25 withdrew their protest. (Hearing Notice, p. 3; See June 11, 2002 letter of USBR to SWRCB  
26 notifying the SWRCB that the USBR was dismissing its protest (Attached hereto as Ex. A); See also  
27  
28

1 July 26, 2002 letter of SWRCB to USBR acknowledging the dismissal of the USBR's protest  
2 (Attached hereto as Ex. B)). As a result of the dismissal of its protest, the USBR did not submit a  
3 Notice of Intent to Appear, did not exchange testimony, exhibits and witness qualifications with the  
4 other parties, and did not participate in the hearing.  
5

6 By dismissing its protest and failing to participate in the hearing, the USBR has indicated  
7 that it consents to the changes sought by the petitioners. (See Order WRO-2003-0013-DWR, 2003  
8 WL 21405847 [SWRCB found that failure to (1) file a timely Notice of Intent to Appear and (2)  
9 make an appearance at the hearing demonstrates that party does not oppose the imposition of civil  
10 liability]). Had the USBR not consented to the changes proposed by Petitioners, it would have  
11 manifested its lack of consent by protesting the proposed changes, participating in the hearing, or  
12 providing a policy statement or other indication of its disapproval.  
13

14 The record shows that both the USBR and SEWD got notice of the proposed changes,  
15 protested, reached agreement with the petitioners, and withdrew their protests. However, the record  
16 also shows that after dismissing its protest, SEWD nonetheless filed a Notice of Intent to Appear,  
17 participated in discovery, and participated in the hearing in an effort to express its opposition to the  
18 proposed changes. Unlike SEWD, the USBR did not file a Notice of Intent to Appear, participate in  
19 discovery, participate in the hearing or otherwise manifest its opposition to the proposed changes  
20 submitted by Petitioners. The juxtaposition of the actions taken by SEWD and the USBR  
21 demonstrate that the USBR's failure to participate in the hearing is verification of its consent to the  
22 changes sought by Petitioners.  
23

24 Since the USBR consented to the changes sought by the Petitioners, SEWD cannot be  
25 considered an injured legal user of water. (Order 2000-02, 2000 WL 348461, p. 11-13, 18; Order  
26 2000-10, 2000 WL 1177692, p. 7, 9).  
27  
28

1 SEWD's fundamental problem is stated succinctly at page 2 of its closing brief, where they  
2 assert: "The ongoing concern led SEWD to question the ability of that condition to adequately  
3 protect its water supply." What SEWD continues to ignore, or fails to recognize, is that it does not  
4 have a water supply. To the contrary, SEWD has a contract, and an interim contract at that, to  
5 receive water from the USBR. The USBR owns New Melones Reservoir; holds the water rights  
6 permits and has the "water supply," not SEWD. As such, while SEWD may not like the SJRA, may  
7 not like D-1641, may not like the coordination between the USBR and Petitioners, and may not like  
8 the proposed petition at issue, such dislikes are of no relevance because SEWD is not a legal user of  
9 water.  
10

11  
12 B. Proposed Transfer Does Not Violate Water Code Sections 1392 and 1629.

13 Both CDWA and SDWA argue that Water Code sections 1629 and 1392 preclude the  
14 transfer of any of the water rights at issue for profit. (SDWA Closing Br., p. 7-8; CDWA Closing  
15 Br., p. 8-9). This argument has been made by CDWA and SDWA in other cases before the SWRCB  
16 and the Sacramento County Superior Court and has, in each instance, been rejected. It should be  
17 rejected here as well.  
18

19 In 2000, the Oroville-Wyandotte Irrigation District sought permission from the SWRCB  
20 under Water Code section 1725 to transfer up to 10,000 acre-feet of water to the Environmental  
21 Water Account. CDWA protested the petition on the basis that it was prohibited by Water Code  
22 section 1392. The SWRCB disagreed, finding that the State's policy, as evidenced by Water Code  
23 sections 109(a) and (b), 475 and 480, was clearly designed to encourage voluntary transfers of water  
24 between willing parties. Based upon the intention of the Legislature to encourage voluntary transfers  
25 of water, the SWRCB rejected CDWA's position, stating that "the SWRCB does not interpret Water  
26 Code section 1392...as prohibiting the voluntary transfer of water." (WR 2000-16, WL 33777671  
27  
28

1 (Dec. 8, 2000), p. 2-3).

2 Undaunted, CDWA and SDWA again raised the issue in the case of RCRC et al. v. State of  
3 California. (Sacramento County Superior Court Case No. 00CS01331; Judicial Council  
4 Coordination Proceeding No. JC04152). The court rejected the effort, finding that Water Code  
5 sections 1392 and 1629 pertained in only two instances: ratemaking and condemnation. The court  
6 ruled that these sections do not apply to voluntary water transfers between willing parties since such  
7 transfers are a preferred policy of the State. Moreover, the court found that the interpretation offered  
8 by CDWA and SDWA "would seriously constrain water transfers and water banking arrangements  
9 that are becoming more and more important to the management of the State's increasingly scarce  
10 water supplies." (Final Ruling, May 5, 2003, p. 3)(Attached hereto as Ex. C).

11  
12  
13 The SWRCB should, consistent with its own precedents and the findings of the Sacramento  
14 County Superior Court, find that the petition at issue is not prohibited by Water Code sections 1392  
15 and/or 1629.

16  
17 C. There is No Injury

18 SDWA and CDWA assert in their closing briefs that approval of the petitions "would likely  
19 result" in injury to legal users of water. (See SDWA Br., p. 4). Such a statement is outrageous given  
20 the evidence presented by Petitioners. It either shows a complete ignorance of how the SJRA  
21 works, or is a deliberate attempt to misstate the facts. Petitioners understand SDWA and CDWA do  
22 not like the fact that, as senior water rights holders with storage rights, Petitioners can propose such  
23 changes. However, their discomfort with the priority system, coupled with their dislike of the  
24 SJRA, should not be the basis for their distortion of the facts.

25  
26 The testimony by Mr. Steiner is uncontroverted. In all four scenarios modeled over 72 years;  
27 i.e., 288 total years, there were only two years of potential impact to operations at New Melones.  
28

1 (See SJRA Ex. 1). The proposed condition by Petitioners alleviates that potential impact. As such,  
2 there is no aggravation of the USBR's alleged non-compliance with the Vernalis salinity standard.

3 SDWA and CDWA continue to assert that this transfer is a shift of summer flows. (See  
4 SDWA Br., p. 4-6; see also CDWA Br., p. 8). Such continued assertion flies in the face of the  
5 evidence. Mr. Steiner's testimony shows one instance wherein discretionary flows to get to flood  
6 control criteria in the fall are released during the spring pulse flow. (SJRG Ex. 1, p. 39). In this  
7 scenario, there was no impact to either USBR operations at New Melones or the Vernalis Salinity  
8 Standard. (Id.). What SDWA and CDWA continue to ignore is if hydrologic conditions are such that  
9 reservoirs are releasing water to meet fall flood control criteria there is no impact because water in  
10 the San Joaquin River Basin is abundant. (SJRG Ex. 5, p. 3 ["if the districts are making pre-flood  
11 releases, the hydrologic conditions in the San Joaquin Basin are such that water quality objectives at  
12 Vernalis are being met."]). In all other years Petitioners continue to meet their required downstream  
13 releases so summer flows remain unchanged. The plain fact is that no matter what Mr. Hildebrand  
14 believes, this transfer, like the preceding transfer, does not shift summer flows, but rather  
15 maximizes the flexibility afforded by Petitioners' storage.

### 19 III. CONCLUSION

20 For all of the above reasons, the proposed transfer should be approved subject to the  
21 conditions suggested by Petitioners.

22 Respectfully submitted,

23 O'LAUGHLIN & PARIS LLP

24 Dated: July 17, 2003

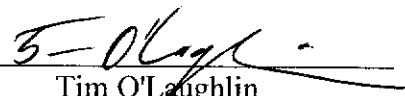
25 By   
26 Tim O'Laughlin  
27 Attorneys for Petitioners  
28

Exhibit A



# United States Department of the Interior

BUREAU OF RECLAMATION  
Mid-Pacific Regional Office  
2800 Cottage Way  
Sacramento, California 95825-1898

IN REPLY  
REFER TO:  
MP-440  
WTR-4.10

JUL 11 2002

**RECEIVED**

JUL 11 2002

**O'LAUGHLIN & PARIS**

Mr. Harry Schueller  
Chief, Division of Water Rights  
Attention: Mr. Greg Wilson  
State Water Resources Control Board  
P.O. Box 2000  
Sacramento, CA 95812-2000

Subject: Notice of Petitions for Long Term Change Pursuant to Water Code Section 1735, et seq. and 1707 Under Merced Irrigation District's Licenses 2685, 6047, and 11395 (Applications 1224, 1233 and 14127) and Modesto and Turlock Irrigation District's Licenses 5417 and 11058 (Applications 1233 and 14127) - Dated October 16, 2001

Dear Mr. Schueller:

The purpose of this letter is to advise you that the Bureau of Reclamation and the Petitioners Merced, Modesto, and Turlock Irrigation Districts have reached an agreement on resolution of Reclamation's protest filed with your office on November 16, 2001. Reclamation has received a copy of letter dated May 21, 2002, addressed to your office from Mr. William Paris, attorney for the subject petitioners. The letter states that the subject petitioners are willing to accept the inclusion of specific conditions consistent with SWRCB Decision 1641 as recommended in our protest letter. Based on the acceptance of these conditions, Reclamation hereby dismisses its protest.

If you have any questions regarding this matter, please contact Ms. Jo Ann Struebing, Water Rights Specialist, at 916-978-5249 (TDD 916-978-5608).

Sincerely,

Donna E. Tegelman  
Acting Regional Resources Manager



cc: Modesto and Turlock Irrigation Districts  
c/o Roger Masuda  
P.O. Box 510  
Turlock, CA 95380

O'Laughlin & Paris LLP  
Attorneys at Law  
870 Manzanita Court, Suite B  
Chico, CA 95926

Exhibit B



# State Water Resources Control Board



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

**Division of Water Rights**  
1001 I Street, 14<sup>th</sup> Floor • Sacramento, California 95814 • (916) 341-5300  
Mailing Address: P.O. Box 2000 • Sacramento, California • 95812-2000  
FAX (916) 341-5400 • Web Site Address: <http://www.swrcb.ca.gov>  
Division of Water Rights: <http://www.waterrights.ca.gov>

**Gray Davis**  
Governor

JUL 26 2002

In Reply Refer  
to:334:GFW:1224

United States Bureau of Reclamation  
c/o John F. Davis  
2800 Cottage Way, MP-440  
Sacramento, CA 95825-1898

Dear Mr. Davis:

PETITION FOR LONG-TERM TRANSFER UNDER MERCED IRRIGATION DISTRICT'S LICENSES 2685, 6047, AND 11395 (APPLICATIONS 1224, 10572, AND 16186) AND MODESTO AND TURLOCK IRRIGATION DISTRICTS' LICENSES 5417 AND 11058 (APPLICATIONS 1233 AND 14127)

By letter of May 21, 2002, the petitioner accepted the modified protest dismissal terms contained in your November 16, 2001 protest against the subject petition. Based on our June 4, 2002 phone conversation with Ms. Jo Ann Struebing of your office, the modified terms are acceptable to the United States Bureau of Reclamation. Accordingly, your protest will be dismissed with the understanding that any order approving this petition will contain the dismissal terms as stated in the petitioner's May 21, 2002 letter.

If you have any questions regarding this letter, please contact Greg Wilson, the staff person currently assigned to process this petition, at (916) 341-5427.

Sincerely,

ORIGINAL SIGNED BY

Edward C. Anton, Chief  
Division of Water Rights

cc: Modesto and Turlock Irrigation Districts  
c/o Roger Masuda  
P.O. Box 510  
Turlock, CA 95380

Don Mooney  
Law Offices of Donald B. Mooney  
129 C Street, Suite 2  
Davis, CA 95616

Central Delta Water Agency  
R. C. Farms, Inc.  
c/o Dante John Nomellini  
P.O. Box 1461  
Stockton, CA 95201-1461

South Delta Water Agency  
Alex Hildebrand, Lafayette Ranch  
c/o John Herrick  
P.O. Box 70392  
Stockton, CA 95267

Stockton East Water District  
c/o Jeanne Zolezzi  
2291 West March Lane, Suite B100  
Stockton, CA 95207

O'Laughlin & Paris LLP  
c/o Bill Paris  
870 Manzanita Court, Suite B  
Chico, CA 95926

*"The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>"*

Exhibit C

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SACRAMENTO

**FILED**  
MAY - 5 2003  
*L. Hashikuni*  
DEPUTY CLERK

DATE/TIME : MAY 5, 2003  
JUDGE : PATRICIA C. ESGRO  
REPORTER : NONE

DEPT. NO : 13  
CLERK : L. HASHIKUNI  
CT ATTNT : T. VENKUS

Coordination Proceeding  
Special Title (Rule 1550(b))  
BAY-DELTA PROGRAMMATIC EIR CASES,

JUDICIAL COUNCIL  
COORDINATION PROCEEDING  
NO. JC04152

Case No.: JC04152

Nature of Proceedings: FINAL RULING

The Court affirms its tentative ruling as modified below.

Following the Court's earlier rulings concerning the sufficiency of its pleadings, the RCRC Petitioners filed their Second Amendment to First Amended Petition for Writ of Mandate (Docket No. 279, Aug. 26, 2002) ("Second Amendment"). Three pleadings have been filed challenging the sufficiency of this most recent petition. They are: (1) Motion to Dismiss Real Parties in Interest, filed by the Sacramento Groundwater Auth., San Juan Water Dist., Sacramento Suburban Water Dist., Citrus Heights Water Dist., Fair Oaks Water Dist., and City of Sacramento (Docket No. 332, Jan. 31, 2003); (2) Motion for Judgment on Pleadings, filed by the State Respondents (Docket No. 331, Jan. 31, 2003), joined by the San Joaquin River Group Auth. (Docket No. 334, Feb. 5, 2003), Regents of the University of California (Docket No. 338, Mar. 17, 2003), and the State Water Contractors, Santa Clara Valley Water Dist., and Metropolitan Water Dist. of Southern California (Docket No. 342, Mar. 20, 2003); and (3) Demurrer and Motion to Strike, filed by the Kern County Water Agency (Docket No. 336, Feb. 18, 2003), joined by the Regents of the University of California (Docket No. 339, Mar. 17, 2003). Other parties have joined in these pleadings, and the RCRC Petitioners have responded to the first two of these pleadings. Both the State Respondents and the RCRC Petitioners have requested judicial notice of certain documents filed with their pleadings, and these requests are GRANTED.

The Motion to Dismiss Real Parties in Interest, filed by the Sacramento Groundwater Authority *et al.*, is unopposed by the RCRC Petitioners. The motion is, therefore, GRANTED. Also, for the reasons provided in the following discussion, the motions to strike and for judgment on the pleadings of the State Respondents and Kern County Water Agency are also GRANTED and the demurrers for failure to state a cause of action are

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CASE TITLE : BAY DELTA PROGRAMMATIC EIR CASES

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SACRAMENTO

*L. Hashikuni*  
BY: L. HASHIKUNI,  
Deputy Clerk

CASE NUMBER: JC04152  
CASE TITLE: BAY DELTA PROGRAMMATIC\EIR CASES  
PROCEEDINGS: FINAL RULING

DEPARTMENT: 13

SUSTAINED, without leave to amend. Since oral argument on April 11, 2003, Tulare Lake Basin Water Storage District has filed a demurrer and motion to strike (Docket No. 350, April 11, 2003). Tulare's pleadings are now moot and are DENIED only for that reason.

RCRC's most recent petition asserts a taxpayer cause of action (second cause of action), request for mandate (third cause of action), and request for declaratory relief (fourth cause of action). The taxpayer cause of action alleges the illegal expenditure of time and money by state employees of the California Resources Agency in negotiating agreements, executing a record of decision (ROD), and implementing certain features of the CALFED program, especially those pertaining to environmental restoration and water transfer and efficiency measures. RCRC's first cause of action, alleging noncompliance with the California Environmental Quality Act, has been fully addressed by the Court in the earlier phase of this proceeding.

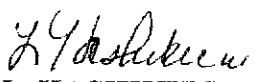
RCRC's original petition was filed in September 2000. Almost all of the factual allegations set forth in the Second Amendment refer to actions or events that have occurred subsequent to that filing. Petitioners are apparently attempting to transform the original lawsuit into an ever-changing proceeding that serially adds their most recent purported injuries. Kern County Water Agency's recent reply summarizes the long history of these attempts. Such an open-ended method of pleading is an impermissible attempt to salvage the deficiencies in Petitioners' original pleading. Code of Civil Procedure section 464(a) governs the filing of a pleadings alleging facts material to the case occurring after the former complaint or answer. The allegations in the Second Amendment concern facts that occurred after the petition was filed. The statute requires that such allegations be made in a supplemental petition. Section 464 requires permission of the court on noticed motion before a supplemental petition is filed. Here, Petitioner has not sought and the Court has not granted permission to file such a supplemental complaint. The Second Amendment was improperly filed.

Even if a motion had been properly noticed the Court would be reluctant to further complicate and extend this litigation since it mainly concerns CEQA issues that are to be expedited by the Court. (See Pub. Res. Code § 21167.1(a).) There would be no prejudice to Petitioners in denying a request to file a supplemental petition. They are not barred from filing a separate lawsuit asserting causes of action based on facts occurring after the original petition. (See *Earp v. Nobmann*, (1981) 122 Cal. App. 3d 270)

Petitioners do allege a few facts that may have occurred before their original filing. The first set of these concerns alleged violations of the state constitutional prohibition against illegal gifts of public funds, (Cal. Const., Art. 16, § 6) and the Davis-Dolwig Act (Water Code § 11900 et seq.) As to the constitutional issue, Petitioners have alleged nothing more than possible, incidental private benefits from environmental restoration and water management programs of broad public significance, as evidenced by the assignment of publicly approved bond proceeds to many of these programs. (See Water Code § 78684 et seq.) As to the Davis-Dolwig Act allegations, this statute was passed in 1961, soon after the authorization of the State Water Project (SWP).

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SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SACRAMENTO

  
BY: L. HASHIKUNI,  
Deputy Clerk

CASE NUMBER: JC04152  
CASE TITLE: BAY DELTA PROGRAMMATIC\EIR CASES  
PROCEEDINGS: FINAL RULING

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The Davis-Dolwig Act sought to incorporate adequate fish and wildlife and recreational measures in the physical features of the SWP. The Department of Water Resources, as SWP manager, is obligated to ensure that its water supply contracts require that the water contractors pay for measures necessary for the preservation of fish and wildlife (reimbursable costs). (Water Code § 11912) Petitioners do not plead DWR's contracts and they are not otherwise before this Court. The expenditures identified by Petitioners do not implicate the Davis-Dolwig Act. Petitioners fail in their pleading of these issues.

At oral argument, Petitioners requested leave to amend their petition to plead facts concerning the water supply contracts but did not provide a copy of their proposed pleading. Petitioners have previously amended their petition "once of course," and permission to amend again is now required. The original petition challenged the record of decision and environmental review associated with the CALFED program. Petitioners now urge entirely different litigation upon the Court, *i.e.*, What essentially is a challenge to the longstanding water supply contracts executed by DWR for the units of the State Water Project. The Court DENIES Petitioners' request since these proposed allegations do not relate to the same general set of facts asserted in petitioners' original pleading. (*See Kim v. Regents of Univ. Of California*, (2000) 80 Cal. App. 4<sup>th</sup> 160.)

Petitioners also allege that purchases of water for use for environmental restoration purposes, water transfers, and the Environmental Water Account violate sections 1392 and 1629 of the Water Code. These provisions, pertaining to water right permittees and licensees, limit the valuation of these rights in two specific circumstances: ratemaking ("price of the services to be rendered") and condemnation. The types of water acquisitions alleged by Petitioners do not implicate these sections. Such an interpretation would also run contrary to the well established, general State policy embodied in the Water Code to increase water use flexibility and the State Water Resources Board's own expert interpretation and application of these sections. (See, e.g., Water Code § 109 (transferability of water rights). In this regard, the Court specifically notes, State Water Resources Control Bd., Order WR 2000-16, 2000 WL 33777671 (Dec. 8, 2000) in which the Board states "[T]he SWRCB does not interpret Water Code section 1392 . . . As prohibiting the voluntary transfer of water."

While petitioners point to the phrase "or otherwise" in both sections, the Court interprets this language as an involuntary or regulatory acquisition of water rights similar to condemnation. Petitioners' interpretation would seriously constrain water transfers and water banking arrangements that are becoming more and more important to the management of the State's increasingly scarce water supplies.

Petitioners allege the improper export of water through SWP facilities, but these allegations are subsequent to Petitioners' original petition. Additionally, there is no showing that Petitioners have exhausted administrative remedies available to them before the State Water Resources Control Board (SWRCB). While some of Petitioners' allegations concerning the San Joaquin River Agreement predate their original petition, Exhibit A to State Respondents' Request for Judicial Notice indicates that Decision 1641 of the SWRCB is the authority for

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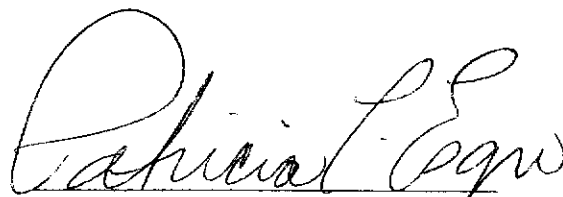
DEPARTMENT: 13

actions taken under the San Joaquin River Agreement. Decision 1641 (including challenges to the San Joaquin River Agreement) was challenged before another Department of this Court (No. JC 4118), is not before this Court, and is beyond this proceeding.

This ruling addresses and resolves all residual contested matters as to all parties pending before the Court in these consolidated proceedings. Within thirty days of the finalization of this ruling, the Attorney General shall prepare, serve and submit a formal order and judgment for the Court's signature. (Cal. Rules of Court, rule 391.)

IT IS SO ORDERED.

Dated: May 5, 2003

  
PATRICIA C. ESGRO, Judge


**CERTIFICATE OF SERVICE BY MAILING**  
**C.C.P. Sec. 1013a(3))**

I, the undersigned deputy clerk of the Superior Court of California, County of Sacramento, do declare under penalty of perjury that I did this date place a copy of the above entitled notice in envelopes addressed to each of the parties, or their counsel of record as stated below, with sufficient postage affixed thereto and deposited the same in the United States Post Office at Sacramento, California.

Pursuant to Master Service list dated  
March 24, 2003

Dated: May 5, 2003

Superior Court of California,  
County of Sacramento

By: L. HASHIKUNI,   
Deputy Clerk

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CASE TITLE : BAY DELTA PROGRAMMATIC\EIR  
CASES

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SACRAMENTO**

  
BY: L. HASHIKUNI,  
Deputy Clerk



**PROOF OF SERVICE BY MAIL**

(Government Code §11440.20)

1  
2  
3 I, JILL L. DRAGSETH, declare that:

4 I am employed in the County of Butte, State of California. I am over the age of eighteen  
5 years and not a party to the within cause. My Business address is 2571 California Park Drive, Suite  
6 210, Chico, California 95928. I am familiar with this firm's practice for collection and processing  
7 of correspondence for mailing with the United States Postal Service pursuant to which practice all  
8 correspondence will be deposited with the United States Postal Service the same day as it is placed  
9 for collection in the ordinary course of business.

10 On July 17, 2003, I served the within **REPLY BRIEF OF THE SAN JOAQUIN RIVER**  
11 **GROUP AUTHORITY, ET AL.** on the parties in said cause, by placing a true copy thereof  
12 enclosed in a sealed envelope, addressed as follows, and placed each for collection following  
13 ordinary business practices:

14 Karna E. Harrigfeld  
15 Stockton East Water District  
16 2291 W. March Lane, Suite B100  
Stockton, CA 95207

John Herrick, Esq.  
4255 Pacific Avenue, Suite 2  
Stockton, CA 95207

17 Dante John Nomellini, Esq.  
18 235 East Weber Avenue  
19 P.O. Box 1462  
Stockton, CA 95201

Arthur F. Godwin, Esq.  
555 Capitol Mall, 9<sup>th</sup> Floor  
Sacramento, CA 95814

20 I declare under penalty of perjury under the laws of the State of California that the foregoing  
21 is true and correct, and that this declaration was executed on July 17, 2003, at Chico, California.  
22

23  
24   
25 JILL L. DRAGSETH  
26  
27  
28