



June 1, 2016

[CWFhearing@waterboards.ca.gov](mailto:CWFhearing@waterboards.ca.gov) all Via Email

Hearing Chair Tam Doduc  
Hearing Officer Felicia Marcus  
State Water Resources Control Board  
Sacramento, CA

**Re: Request for a 27-Day Extension of time to file and serve Objections in Hearing on California Waterfix Water Rights Change Petition**

Dear Hearing Chair Doduc and Hearing Officer Marcus:

Protestants AquaAlliance, California Sportfishing Protection Alliance, Environmental Justice Coalition for Water, Environmental Water Caucus, Friends of the River, Planning and Conservation League, Restore the Delta and Sierra Club California respectfully request a 27-day extension of time for *all* protestants in the Hearing on the California Waterfix Change Petition to file and serve any written procedural/evidentiary objections concerning petitioners' case in chief. This request if granted would change the present time and date for receipt of any written procedural/evidentiary objections from 12:00 noon, June 15, 2016 to **12:00 noon, July 12, 2016**.

Yesterday, on May 31, 2016, petitioners filed their proposed testimony, witness qualifications, exhibits and exhibit lists. These voluminous submissions consist of many pages of complex materials including as best as we can count so far, at least 5,200 pages. Moreover, the petitioners have recently updated modeling related to the proposed project. On May 25, 2016, Ms. Nicole Darby of petitioner DWR transmitted a copy of the updated model study package to

Mr. Kyle Ochendusko of the Water Board Hearing Team, but she did not transmit either the transmittal letter or the updated model study package to the CWFhearing parties. Notice was not given of the placement of the updated modeling until an email on Friday, May 27, 2016 from the Water Fix Hearing Team, Mr. Ochendusko, to the Service List. Consequently, most if not all protestants did not even learn of the availability of the updated modeling on the website until yesterday, following the Memorial Day holiday weekend.

The Water Board website describes the updated modeling as “the below files are very large and have been placed on the Water Board FTP server for download.” According to the information on the website, the modeling files include at least 19.3 GB. It will be difficult if not impossible to read and attempt to understand the 5,200 pages of exhibits, and 19.3 GB of modeling analysis by June 15, let alone identify, consider and prepare appropriate objections. DWR itself apparently anticipates potential problems with the modeling analysis, stating in its May 25, 2016 transmittal letter: “In exchange for receiving this data Department of Water Resources (DWR) requests prompt notification of any and all defects, errors, inaccuracies or any other discrepancies discovered in the data.”

The petitioners failed to respond fully to requests by California Water Research for the petitioners’ analyses of the raw modeling data, including comparison of base model outputs with previous versions of the code, and sensitivity and uncertainty analyses. To the extent that petitioners have failed to provide this information in the new submittal, protestants will need more time to understand the analyses.

Petitioners have also failed to respond fully to requests by California Water Research and Sacramento Valley Water Users for a complete and accurate version history of the base code, including a description of all changes made since the release of the Revised Draft EIR/EIS. Failure to provide such a history will require a code comparison with previous versions.

Since the State Water Board gave notice of the petition on October 30, 2015, petitioners have made changes in documents including modeling that they have claimed to be relying on and have sought and been granted continuances in starting the Hearing totaling 90 days so far. The Hearing does not commence until July 26, 2016. Granting the extension we request will ensure the filing and service of objections a full two weeks before the start of the Hearing. That is ample time for petitioners to learn what the objections are and yet allows protestants a reasonable period of time to attempt to read and evaluate the May 31 submissions and the new modeling analysis for the purpose of identifying and writing appropriate objections. In court proceedings, parties do not learn of opposing parties’ objections until the witness is actually testifying.

Because protestants’ objections are due in less than two weeks under the current schedule, protestants respectfully request approval of this request by tomorrow, June 2, 2016, or as soon thereafter as possible. Thank you for your consideration of this request. We must emphasize that protestants need the additional time requested to be able to evaluate the voluminous material that has been submitted for possible appropriate objections.

Sincerely,



E. Robert Wright, Senior Counsel  
Friends of the River



Bill Jennings, Executive Director  
California Sportfishing Protection Alliance



Tim Stroshane, Policy Analyst  
Restore the Delta



Barbara Barrigan-Parrilla, Executive Director  
Restore the Delta



Barbara Vlamis, Executive Director  
AquAlliance



Kyle Jones, Policy Advocate  
Sierra Club California



Colin Bailey, Executive Director  
Environmental Justice Coalition for Water



Jonas Minton, Water Policy Advisor  
Planning and Conservation League



Conner Everts, Facilitator  
Environmental Water Caucus

Attachment: Service Certificate

cc: All by electronic service  
All party representatives on May 27, 2016 State Water Resources Control Board  
(SWRCB) service list  
Tom Howard, Executive Director, SWRCB  
Michael Lauffer, Chief Counsel, SWRCB  
Dana Heinrich, Staff Attorney IV, SWRCB  
Diane Riddle, Environmental Program Manager, SWRCB