State Water Resources Control Board

December 1, 2025

Re: Procedural Ruling on Evidentiary Motions, DWR Case-in-Chief

TO ALL PARTIES:

On June 20, 2025, DWR offered its case-in-chief exhibits into the evidentiary record. (2025-06-20 DWR e-mail to AHO (Offer of Exhibits).) This procedural ruling addresses the objections submitted by the parties to the Department of Water Resources' (DWR) case-in-chief evidence.

Evidentiary Rulings

North Delta Water Agency et al. (NDWA),[1] Local Agencies of the North Delta et al. (LAND),[2] County of Sacramento et al. (Sacramento County),[3] and Dierdre Des Jardins submitted objections to oral testimony and written exhibits, including written testimony, offered by DWR into evidence. The hearing officer has ruled on these objections in the following attachments:

- Attachment 1 – Rulings on NDWA Evidentiary Objections to DWR Case-in-Chief
- Attachment 2 – Rulings on LAND Evidentiary Objections to DWR Case-in-Chief
- Attachment 3 – Rulings on Sacramento County Evidentiary Objections to DWR Case-in-Chief

[1] North Delta Water Agency, Reclamation District 999, Reclamation District 2060, and Reclamation District 2068.
[2] Local Agencies of the North Delta, Frank Loretz, David J. Elliot & Sons/Stillwater Orchards, and Wurster Ranches, LP.
[3] County of Sacramento, Sacramento County Water Agency, Sacramento Area Sewer District, City of Stockton, and Byron-Bethany Irrigation District.

- Attachment 4 – Rulings on Dierdre Des Jardins Evidentiary Objections to DWR Case-in-Chief

Sincerely,



Nicole Kuenzi
Presiding Hearing Officer
Administrative Hearings Office
State Water Resources Control Board

Attachments:

- Attachment 1 – Rulings on NDWA Evidentiary Objections to DWR Case-in-Chief
- Attachment 2 – Rulings on LAND Evidentiary Objections to DWR Case-in-Chief
- Attachment 3 – Rulings on Sacramento County Evidentiary Objections to DWR Case-in-Chief
- Attachment 4 – Rulings on Dierdre Des Jardins Evidentiary Objections to DWR Case-in-Chief
- Attachment 5 – Service List

ATTACHMENT 1
Rulings on NDWA Evidentiary Objections to DWR Case-in-Chief

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
DWR-600 (Reyes Testimony, ¶ 20, 9:9-11.)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.) **Improper Expert/ Legal Opinion.** (Evid. Code, §§ 720, 800-803.) Mr. Reyes' testimony that the model calibration at Threemile Slough was similar to other Sacramento River locations showing "consistently smaller" mean square error values is directly contradicted by the calibration memo for DSM2, DWR-607 at p. 9, which shows tidally averaged flow simulations at Threemile Slough "deviated notably" from the other locations and mean square errors were higher at that location. (See also 2025-04-07 YouTube webcast at 1:21:41-1:23:00.)	"…calibration. Similarly, the current calibration yielded very close flow simulations to those of the previous calibration at Three Mile Slough and Jersey Point on the San Joaquin River. They mimicked the observations well on both tidal scale and daily scale." (DWR-600, 9:9-11.) NDWA objection is confusing the Sacramento River locations with that of the San Joaquin River. Mr. Reyes testified that the memo (DWR-00607) begins with addressing the Sacramento locations, and then separately addresses the Three Mile Slough and Jersey Point on the San Joaquin River. (Vol. 2, p. 46, lines 4-7.) DWR-00607 states, "The mean errors and RMSE values of the tidally averaged flow simulations of the	☐ Sustained ☒ Overruled The objection raises a substantive factual dispute and goes to the weight of the evidence. The hearing officer will take the objection into account in considering the weight to be afforded the testimony.

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		current calibration were consistently smaller compared to their counterparts in the previous calibration." and "the current calibration yielded very close flow simulations to those of the previous calibration at two *San Joaquin River* locations (Figures 2-4 and 2-5). They mimicked the observations well on both tidal scale and daily scale." It goes further to state, "Overall, the current calibration yielded satisfactory flow simulations at selected locations." Mr. Reyes was proffered as an expert witness on modeling methodologies, model calibration and validation. Evid. Code, § 801 allows for opinions by an expert in their testimony. The memo above (DWR-607) is the type of information on which an expert would reasonably	

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		rely. (Evid. Code, §§ 801(b), 802.)	
Reyes Cross-Examination Testimony (2025-04-07 YouTube webcast at 2:06:47-2:08:35; 2:09:10-2:10-52)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.) **Improper Expert/ Legal Opinion.** (Evid. Code, §§ 720, 800-803.) Mr. Reyes' testimony during cross-examination that Fall X-2 can serve as a proxy for satisfying 1981 Contract water quality criteria lacks foundation and is improper expert opinion, as Mr. Reyes acknowledged he is not familiar with the 1981 Contract terms. (2025-04-07 YouTube webcast at 2:10:21-2:10:28.)	"[X2] represents the effects of the diversions at the North Delta Intakes on the salinity conditions in the western Delta. In the months when diversions occur at the North Delta Intakes primarily in the winter months X2 shows eastward movement. The differences in the X2 in the DCP ITP compared to the updated Baseline are lower than the differences in the FEIR model runs. Therefore, the conclusions in the FEIR with respect to DCP effects on salinity in the western Delta and estuarine habitat in the western Delta and the Suisun Bay remain unchanged." (DWR-00110, 15:1-9.) Mr. Reyes has over 25 years of experience in Central Valley and Bay-Delta water modeling and hydrology. (DWR-00600, 1:7-9; DWR-00602 [Mr.	☒ Sustained, in part ☐Overruled The objection raises, in part, a factual dispute about the relationship between Fall X-2 and salinity at Threemile Slough. Mr. Reyes has over 25 years of experience in Central Valley and Bay-Delta water modeling and hydrology. (DWR-006000; DWR-00602.) His training and experience allow him to opine as to the relationship of Fall X-2 and salinity in the Delta. To the extent the objection raises a factual dispute, the hearing officer will consider the objection when determining the weight to be afforded the evidence. The objection also addresses Mr. Reye's opinions provided on cross-examination about the relationship between Fall X-2 and the provisions of the 1981 Contract. Because Mr. Reyes testified that he is not familiar with the 1981 Contract terms (2025-04-07 DWR Hearing Transcript (Vol. 2) 73:7-8), the following portions of Mr. Reyes' testimony is stricken:

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		Reyes' statement of qualifications].) Reyes has been offered as an expert witness on modeling tools, technical aspects of the models, and modeling methodology for DCP. (Evid. Code, § 720, DWR-00600.) Mr. Reyes' training and experience allow him to understand hydrology in the Delta, such as X2, and its relation to salinity in the Delta. Mr. Reyes has special training and experience to interpret modeling results. Evid. Code, § 801, allows for opinions by an expert in their testimony. Mr. Reyes based his opinion on the type of information on which an expert would reasonably rely. (Evid. Code, § 801(b), Evid. Code, § 802.)	2025-04-07 DWR Hearing Transcript (Vol. 2) 71:7-17, 71:20-72:3, 73:1-3, 73:9-12.
Atelijevich Cross-Examination Testimony (2025-04-07 YouTube webcast at 2:12:21-2:12:45.)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.)	Misstates Testimony. Dr. Ateljevich testified that Fall X2 is "*not* an absolute proxy." Vol. 2, p.	☐ Sustained ☒ Overruled The objection is moot given the error in describing Dr.

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	Improper Expert/ Legal Opinion. (Evid. Code, §§ 720, 800-803.) Dr. Atelijevich's testimony that Fall X-2 is an "absolute proxy" for satisfying 1981 Contract criteria lacks foundation and is improper expert opinion not based on any evidence in the record.	74, lines 9-10.	Atelijevich's testimony.
DWR-001 (Murdock Testimony, ¶¶ 5-7, 2:15-3:7)	**Hearsay.** (Gov. Code, § 11513, subd. (d); Cal. Code Regs., tit. 23, § 648.5.1.) **Lack of Foundation.** (Evid. Code, §§ 702, 801.) Mr. Murdock describes Stakeholder Engagement Committee (SEC) meetings that occurred before he joined the DCA in 2023. His testimony regarding the SEC's intent to reduce adverse construction impacts is not based on his experience or his expertise. These out-of-court statements, offered for the truth of the matter asserted, are unsupported by	An expert witness may rely on hearsay evidence if it is independently proven by competent evidence or covered by a hearsay exception. (*People v. Sanchez* (2016) 63 Cal.4th 665, 686.) DWR presented both Mr. Murdock and Ms. Buchholz to testify. DWR also submitted multiple exhibits, which include publicly available minutes, reports, and documents prepared by the DCA, into the record in support of Mr. Murdock's and Ms. Buchholz's testimony. (DWR-	☒ Sustained, in part ☐ Overruled Mr. Murdock relies on DWR-0004, *Delta Conveyance Design and Construction Joint Powers Authority, Implementation of the Stakeholder Engagement Committee (SEC)* (January 2022) and DWR-0005, Memorandum from Department of Water Resources RE Role of the Stakeholder Engagement Committee during the Environmental Impact Report Process, for information about the SEC. This is the type of information that reasonably may be relied upon by an expert in forming an opinion upon the

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	other evidence and therefore cannot be used to support a finding by the SWRCB. (Gov. Code, § 11513, subd. (d); Cal. Code Regs., tit. 23, § 648.5.1.)	00001-00031, Evid. Code, § 1280.) Ms. Buchholz provided competent evidence of her involvement in the SEC as an environmental liaison (DWR-00033,1:18-20) independently, which further supported Mr. Murdock's understanding of the SEC meetings and the intentions of the SEC. (See specifically, DWR-00004, Implementation of the Stakeholder Engagement Committee, p. 2, ¶ 1; DWR-00001, 4:12-15.)	subject. (Evid. Code § 801.) To the extent Mr. Murdock's testimony relays out-of-court statements by others, it is hearsay evidence. Hearsay is admissible in State Water Board hearings. Hearsay evidence can be used only for the purpose of supplementing or explaining other evidence and is not sufficient to support findings unless it would be admissible over objection in civil actions. (Gov. Code, § 11513, subd. (d).) This hearsay evidence is admitted into evidence but will only be relied upon to supplement or explain other evidence.
DWR-001 (Murdock Testimony, ¶ 41, 16:21-17:5.)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.) Mr. Murdock acknowledged his testimony that DWR will modify conveyance facilities and provide land-based continuity to water users adversely affected by construction impacts is not based on any	Vol. 4, p. 71, lines17-23 – Ms. Buchholz testifies that this is a consideration for the design phase and that this is a "worst case scenario". The basis for Mr. Murdock's and Ms. Buchholz's statements is found in DWR-01101 *Proposed Permit Terms*, Term 30, where DWR committed	☐ Sustained ☒ Overruled Because strict rules of evidence do not apply in administrative proceedings, this objection is more appropriately addressed in considering the weight to be afforded the testimony rather than its admissibility. This portion of Mr. Murdock's testimony states and relies upon proposed permit term

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	document in DWR's case-in-chief identifying the affected water users. (2025-04-09 YouTube webcast at 1:49:09-1:49:21.) Ms. Buchholz confirmed as well that that no diversion modifications have been defined since at least 2021. (2025-04-09 YouTube webcast at 2:14:34-2:15:07.)	to implement measures to maintain land-based continuity for water rights holders should construction of the two DCP intakes, Twin Cities Complex, or construction at Lower Roberts Island interfere with continued use of a remaining parcel's riparian rights. DWR will also modify conveyance facilities to maintain water rights deliveries for the manner used prior to DCP construction. (DWR-01101, Permit Term 30.) Evid. Code, § 801 allows for opinions by an expert in their testimony. The facts and exhibits relied on in Mr. Murdock's testimony are the type of information on which an expert would reasonably rely. (Evid. Code, § 802; *People v. Sanchez* (2016) 63 Cal.4th 665, 686.) Further, Ms. Buchholz's	30 in DWR-01101, which is the type of information that may reasonably be relied upon by an expert in forming an opinion. (See Evid. Code, § 801.) The hearing officer will consider whether other evidence in the record supports Mr. Murdock's statement in considering the testimony's persuasive value.

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		testimony referenced in the objection is not in conflict with Term 30 (DWR-01101.) Mr. Murdock opinion was made in consideration of both Ms. Buchholz's testimony and Term 30 in DWR-01101. Ms. Buchholz has approximately 50 years of experience as an engineer working on water resource projects. (DWR 00033, 1:1-5.) Mr. Murdock has 26 years of experience in planning, design, construction, and operations of large water conveyance and storage infrastructure projects. DWR-00001, 1:4-6.)	
DWR-01000 (Hatch Testimony, ¶ 8, 3:6-8.)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.) Dr. Hatch confirmed that his opinion that "DCP construction activities will not impact legal users of water" was constrained only to legal users of	Dr. Hatch testified that "impacts are not anticipated" and that there are steps that will be taken to mitigate impacts. Evidentiary support was provided in DWR-00804, GW-1 and AHO-1055 pp. 8-30, 8-38, 8-43, 8-	☐ Sustained ☒ Overruled The objection goes to the weight of the evidence and the hearing officer will take the objection into account in considering the weight to be afforded the testimony.

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	groundwater. (See 2025-04-22 YouTube webcast, at 00:42:07-00:45:28.) Dr. Hatch further confirmed that he did not look at the actual groundwater rights or surface water rights within the proposed DCP construction footprint, nor does he have expertise in water rights. (See *id.* at 00:45:29-00:45:56.)	48, 8-51, 8-54, 8-58. Dr. Hatch used the Delta GW model, which includes the DCP area and extends beyond the boundaries of the Legal Delta. This model incorporates the available hydrogeologic data and understanding of the region. (See DWR-01000, p. 5, ¶¶ 16 and 17.) Analysis of alternatives primarily utilized water budgets (land and water use, groundwater, stream) hydrographs at specific wells, and groundwater elevation contours. (AHO-1057.)	Strict rules governing the admissibility of evidence do not apply in administrative proceedings. This is so in part because the hearing officer is "presumably competent to … discount that evidence which has lesser probative value, [and] it makes little sense, as a practical matter, for a judge in that position to apply strict exclusionary evidentiary rules." (*Underwood v. Elkay Min., Inc.* (4th Cir. 1997) 105 F.3d 946, 949.) To the extent Dr. Hatch's testimony may include legal opinion, the hearing officer will discount that testimony, alleviating the risk of confusion.
DWR-100 (Singh Testimony at ¶¶ 3-4, 2:7-3:3, ¶ 43, 20:5)	**Irrelevant.** (Gov. Code, § 11513 subd. (c).) Testimony regarding modeling assumptions used in the final EIR, which expressly does not include the operational changes in the ITP, is not an accurate representation of	When the testimony was due in January 2025, the ITP had not been issued and the final terms were not known. The ITP was issued on February 14, 2025. On February 21, 2025, DWR submitted supplemental testimony,	☐ Sustained ☒ Overruled Testimony regarding modeling assumptions used in the final EIR without incorporating operational constraints included in the 2024 ITP is potentially relevant to the hearing issues. The ITP issued on February 14, 2025 (AHO-065), expires

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	DCP operations and is not relevant to this proceeding.	exhibits and an updated PowerPoint for Amardeep Singh to review the ITP refinements changes from a modeling perspective. (DWR-110 through DWR 116.) DWR-110 and its exhibits showed the differences between the modeling previously submitted by Mr. Singh compared to the new modeling incorporating the ITP refinements. The information submitted in DWR-110 builds on and uses the information submitted in DWR-100. Therefore, DWR-100 and related testimony by Amardeep Singh is relevant as it provides support for DWR-110 and the supplemental testimony. Additionally, the ITP criteria are more restrictive than the FEIR DCP criteria. State Water Board regulations provide that Government Code	on October 30, 2045. The conditions in the 2024 ITP may not control operation of the project after the expiration date unless those conditions are incorporated into any approval of the petitions by the Board. Alternatively, the Board might consider whether to include additional terms, such as, for example, a term that requires pulse flow protections as incorporated into the modeling assumptions used in the final EIR, even though the 2024 ITP does not include this requirement. The testimony and evidence objected to by NDWA may be relevant to this consideration. In addition, the testimony addresses model runs used in the final EIR and therefore is relevant to the bases of the conclusions reached in the final EIR regarding potential impacts of the project. Finally, as stated by DWR, Mr. Singh's updated testimony based on modeling that had been refined using the ITP conditions builds on and uses the

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		section 11513, subd. (c) [relevance] applies to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Evidence Code section 210 defines relevance, stating that "relevant evidence means evidence … having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." This testimony is relevant because it shows that while there were multiple refinements to testimonies and exhibits, the conclusions are consistent in showing that the ITP refinements do not result in a substantial change from the effects analysis of the Final Environmental Impact Report. The State Water Board has stated repeatedly that a water rights process, such as this hearing, can consider operational	information in DWR-100. The objection will be considered in determining the weight to be afforded Mr. Singh's opinion that "The modeling assumptions accurately represent DCP operations." (DWR-100, pp. 2:12 & 20:5.)

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		criteria beyond that described in the ITP due to the separate and distinct requirements of law placed upon the State Water Board and its decisions. Potential operations are relevant.	
DWR-100 (Singh Testimony at ¶ 5, 3:20; ¶¶ 9-12, 5:13-7:9)	**Irrelevant.** (Gov. Code, § 11513 subd. (c).) Pulse operations and low-level pumping were removed from operations under the approved ITP. (2025-04-22 YouTube webcast at 2:12:47-2:13:20.)	When the testimony was due in January 2025, the ITP had not been issued and the final terms were not known. The ITP was issued on February 14, 2025. On February 21, 2025, DWR submitted supplemental testimony, exhibits and an updated PowerPoint for Amardeep Singh to review the ITP refinements changes from a modeling perspective. (DWR-110 through DWR-116.) DWR-110 and its exhibits showed the differences between the modeling previously submitted by Mr.	☐ Sustained ☒ Overruled See above.

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		Singh compared to the new modeling incorporating the ITP refinements. The information submitted in DWR-110 builds on and uses the information submitted in DWR-100. Therefore, DWR-100 and related testimony by Amardeep Singh is relevant as it provides support for DWR-110 and the supplemental testimony. Additionally, the ITP criteria are more restrictive than the FEIR DCP criteria. State Water Board regulations provide that Government Code section 11513, subd. (c) [relevance] applies to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Evidence Code section 210 defines relevance, stating that "relevant evidence means evidence … having any tendency in reason to prove or disprove any disputed fact that is of consequence	

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		to the determination of the action." This testimony is relevant because operations under the approved ITP are directly related to, build upon, and are informed by, the proposed operations of the DCP, including pulse operations and low-level pumping operations, and this hearing is assessing the potential impacts of possible operations. The State Water Board has stated repeatedly that a water rights process, such as this hearing, can consider operational criteria beyond that described in the ITP due to the separate and distinct requirements of law placed upon the State Water Board and its decisions. Potential operations are relevant.	
DWR-100 (Singh Testimony at ¶ 21, 11:9-12)	**Irrelevant.** (Gov. Code, § 11513 subd. (c).)	When the testimony was due in January	☐ Sustained ☒ Overruled

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	The spring outflow requirement criteria for the DCP are no longer based on the 2020 ITP. (See DWR-110 at ¶ 3, 3:6-14.)	2025, the ITP had not been issued and the final terms were not known. The ITP was issued on February 14, 2025. On February 21, 2025, DWR submitted supplemental testimony, exhibits and an updated PowerPoint for Amardeep Singh to review the ITP refinements changes from a modeling perspective. (DWR-110 through DWR-116.) DWR-110 and its exhibits showed the differences between the modeling previously submitted by Mr. Singh compared to the new modeling incorporating the ITP refinements. The information submitted in DWR-110 builds on and uses the information submitted in DWR-100. Therefore, DWR-100 and related testimony by Amardeep Singh is relevant as it	See above.

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		provides support for DWR-110 and the supplemental testimony. Additionally, the ITP criteria are more restrictive than the FEIR DCP criteria. State Water Board regulations provide that Government Code section 11513, subd. (c) [relevance] applies to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Evidence Code section 210 defines relevance, stating that "relevant evidence means evidence … having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." This testimony is relevant because operations under the approved ITP are directly related to, build upon, and are informed by the proposed operations of the DCP, including the initial spring outflow	

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		requirement and the 2020 ITP, and this hearing is assessing the potential impacts of possible operations. The State Water Board has stated repeatedly that a water rights process, such as this hearing, can consider operational criteria beyond that described in the ITP due to the separate and distinct requirements of law placed upon the State Water Board and its decisions. Potential operations are relevant.	
DWR-100 (Singh Testimony at ¶¶ 30-32, ¶ 34, ¶¶ 36-37, ¶ 39, ¶ 41-42, ¶ 43, 20:17)	**Irrelevant.** (Gov. Code, § 11513 subd. (c).) Descriptions of water supply, end of September storage, and references to DWR-107 are no longer relevant due to changes from the ITP. (See DWR-110 at p. 18, Table 2.)	When the testimony was due in January 2025, the ITP had not been issued and the final terms were not known. The ITP was issued on February 14, 2025. On February 21, 2025, DWR submitted supplemental testimony, exhibits and an updated PowerPoint for Amardeep Singh	☐ Sustained ☒ Overruled See above.

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		to review the ITP refinements changes from a modeling perspective. (DWR-110 through DWR-116.) DWR-110 and its exhibits showed the differences between the modeling previously submitted by Mr. Singh compared to the new modeling incorporating the ITP refinements. The information submitted in DWR-110 builds on and uses the information submitted in DWR-100. Therefore, DWR-100 and related testimony by Amardeep Singh is relevant as it provides support for DWR-110 and the supplemental testimony. Additionally, the ITP criteria are more restrictive than the FEIR DCP criteria. State Water Board regulations provide that Government Code section 11513, subd. (c) [relevance] applies to this	

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		proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Evidence Code section 210 defines relevance, stating that "relevant evidence means evidence … having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." This testimony is relevant because operations under the approved ITP are directly related to, build upon, and are informed by the proposed operations of the DCP, including descriptions of spring outflow, end of September storage, and deliveries and exports included in DWR-107. The State Water Board has stated repeatedly that a water rights process, such as this hearing, can consider operational criteria beyond that described in the ITP due to the	

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		separate and distinct requirements of law placed upon the State Water Board and its decisions. Potential operations are relevant.	
DWR-104R (FEIR Modeling Assumption Table Revised, Table 2 at p. 6.)	**Irrelevant.** (Gov. Code, § 11513 subd. (c).) Pulse operations and low-level pumping were removed from operations under the approved ITP and are therefore irrelevant. (2025-04-22 YouTube webcast at 2:12:47-2:13:20.)	When the testimony was due in January 2025, the ITP had not been issued and the final terms were not known. The ITP was issued on February 14, 2025. On February 21, 2025, DWR submitted supplemental testimony, exhibits and an updated PowerPoint for Amardeep Singh to review the ITP refinements changes from a modeling perspective. (DWR-110 through DWR-116.) DWR-110 and its exhibits showed the differences between the modeling previously submitted by Mr. Singh compared to the new modeling	☐ Sustained ☒ Overruled See above.

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		incorporating the ITP refinements. The information submitted in DWR-110 builds on and uses the information submitted in DWR-100. Therefore, DWR-100 and related testimony by Amardeep Singh is relevant as it provides support for DWR-110 and the supplemental testimony. Additionally, the ITP criteria are more restrictive than the FEIR DCP criteria. State Water Board regulations provide that Government Code section 11513, subd. (c) [relevance] applies to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Evidence Code section 210 defines relevance, stating that "relevant evidence means evidence … having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of	

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		the action." This testimony is relevant because operations under the approved ITP are directly related to, build upon, and are informed by, the proposed operations of the DCP, including pulse operations and low-level pumping operations, and this hearing is assessing the potential impacts of possible operations. The State Water Board has stated repeatedly that a water rights process, such as this hearing, can consider operational criteria beyond that described in the ITP due to the separate and distinct requirements of law placed upon the State Water Board and its decisions. Potential operations are relevant.	
DWR-107 (Water Supply Table)	**Irrelevant.** (Gov. Code, § 11513 subd. (c).)	When the testimony was due in January 2025, the ITP had not been issued	☐ Sustained ☒ Overruled See above. In addition, Table 2 on

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	DWR-107 is not a relevant description of water supply, end of September storage, and deliveries under DCP operations following issuance of the ITP. The numerical figures for water supply and end of September storage for the DCP have been replaced by Table 2 on page 18 of DWR-110.	and the final terms were not known. The ITP was issued on February 14, 2025. On February 21,2025, DWR submitted supplemental testimony, exhibits and an updated PowerPoint for Amardeep Singh to review the ITP refinements changes from a modeling perspective. (DWR-110 through DWR-116.) DWR-110 and its exhibits showed the differences between the modeling previously submitted by Mr. Singh compared to the new modeling incorporating the ITP refinements. The information submitted in DWR-110 builds on and uses the information submitted in DWR-100. Therefore, DWR-100 and related testimony by Amardeep Singh is relevant as it provides support for DWR-110 and the supplemental	page 18 of DWR-110 does not incorporate all of the information included in DWR-107.

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		testimony. Additionally, the ITP criteria are more restrictive than the FEIR DCP criteria. State Water Board regulations provide that Government Code section11513, subd. (c) [relevance] applies to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Evidence Code section 210 defines relevance, stating that "relevant evidence means evidence … having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." This testimony is relevant because operations under the approved ITP are directly related to, build upon, and are informed by the proposed operations of the DCP, including descriptions of spring outflow, end of September storage, and deliveries and	

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		exports included in DWR-107. The State Water Board has stated repeatedly that a water rights process, such as this hearing, can consider operational criteria beyond that described in the ITP due to the separate and distinct requirements of law placed upon the State Water Board and its decisions. Potential operations are relevant.	
DWR-400 (Preece Testimony, ¶ 3, 1:19-21)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.) **Improper Expert/ Legal Opinion.** (Evid. Code, §§ 720, 800-803.) **Irrelevant.** (Gov. Code, § 11513 subd. (c).) Dr. Preece's opinion on reasonable degradation of water quality due to changes in salinity lacks foundation and is based solely on modeling for the final EIR, which was	"This testimony supports my opinion that the DCP will not unreasonably degrade water quality due to potential changes in salinity, as represented by electrical conductivity (EC) and chloride, or cyanobacteria harmful algal blooms (CHABs). My…" (DWR-400, 1:19-21.) While there were multiple refinements to testimonies and exhibits, the conclusions are	☐ Sustained ☒ Overruled See above. As discussed above, the modeling that incorporates the ITP terms and conditions reflects differences in operations but does not necessarily supersede the modeling for the final EIR. The sets of model runs provide a range of information. The Board will consider the objection in determining the applicability of Dr. Preece's opinions to the particular factual finding that the Board may be considering.

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	superseded by ITP modeling.	consistent in showing the ITP refinements do not result in a substantial change from the effects analysis of the Final Environmental Impact Report. (DWR-00110 p.1, ¶ 1.) Mr. Singh testified that "Under the updated baseline and refined ITP DCP criteria, incremental effects to the flows, storages, water levels, flow reversals and delta *water quality* remain consistent with the FEIR conclusions." (Emphasis added, DWR-00110, 1:19-21.) Mr. Singh further provided testimony on water quality to support his conclusion (and Dr. Preece's) that changes in water quality are not affected by the DCP ITP and the salinity related conclusions in the FEIR remain unchanged. (DWR-00110, p. 19-20,¶15.). Dr. Preece has been offered as an expert witness	

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		for water quality. She has over 15 years of experience working on a wide variety of water quality projects and nine years of experience working on water quality projects in the Sacramento-San Joaquin Delta. (DWR-00400, 1:11-14.) Mr. Singh has over 10 years of experience modeling water operations hydrodynamics, and water quality in the Delta (DWR-00100, 1:16-18.) Dr. Preece was proffered as an expert witness on water quality. Evid. Code, § 801 allows for opinions by an expert in their testimony. Dr. Preece is qualified to form the above opinion and Mr. Singh's testimony above is the type of information on which an expert would reasonably rely. (Evid. Code, §§ 801(b), 802.) State Water Board regulations provide that Government Code	

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		section 11513, subd. (c) [relevance] applies to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Evidence Code section 210 defines relevance, stating that "relevant evidence means evidence … having any tendency in reason to prove or disprove any disputed fact that is of consequence to the determination of the action." This testimony is relevant, because as noted above, ITP refinements do not result in substantial changes in relation to the FEIR effects analysis. Dr. Preece's specifically states in her testimony that her analysis is not based solely on FEIR modeling and there are only similar, incremental changes when considering the ITP modeling. (See e.g., "No, because the incremental changes relative	

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		to the baseline or existing conditions are similar." Vol. 7, p. 67, lines 23-25, "In October, yes, but the incremental increase that's done by the ITP-DCP is similar to the incremental increase that you would see under existing conditions relative to EC." Vol. 7, p. 68, lines 2-5.) The State Water Board has stated repeatedly that a water rights process, such as this hearing, can consider operational criteria beyond that described in the ITP due to the separate and distinct requirements of law placed upon the State Water Board and its decisions. Potential operations are relevant.	
DWR-400 (Preece Testimony, ¶ 14, 6:22-7:5)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.) **Irrelevant.** (Gov. Code, § 11513 subd. (c).)	"…increases occurred are July through January. The modeled monthly average EC from July through January under existing conditions ranges from 549	☐ Sustained ☒ Overruled See above.

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
	Modeled EC at Emmaton under the ITP is higher than the figures described by Dr. Preece based irrelevant on final EIR modeling.	µmhos/cm (in January) to 1,613 µmhos/cm (in November) for the full simulation period. (Exhibit DWR-00402, Section EC.4.1.1, Figure EC-2.) With the DCP, the modeled monthly average EC ranges from 596 µmhos/cm (in January) to 1,733 µmhos/cm (in November) for the full simulation period. (Exhibit DWR-00402, Section EC.4.1.1, Figure EC-2.) Thus, on a…"DWR-00110, "Figures 19 through 22 show the long-term monthly average electrical conductivity (EC) at four locations (Sacramento River at Emmaton, Three Mile Slough, San Joaquin River at Jersey Point, and Old River at Rock Slough).The incremental changes in EC for DCP are very similar under both the existing conditions and the Updated Baseline. This indicates that changes in water	

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		quality are not affected by the DCP ITP and the salinity related conclusions in the FEIR remain unchanged." The salinity related conclusions in the final EIR are relevant. (Gov. Code, § 11513, subd. (c) [relevance required]; Cal. Code Regs., tit. 23, §648.5.1 [State Water Resources Control Board hearings are subject to Gov. Code, § 11513]; Evid. Code, § 210 [definition of relevance].)	
DWR-400 (Preece Testimony, ¶ 15, 7:8-15)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.) **Irrelevant.** (Gov. Code, § 11513 subd. (c).) Modeled EC at Threemile Slough under the ITP is higher than the figures described by Dr. Preece based on irrelevant final EIR modeling.	"15. Modeled EC levels for the Sacramento River at Threemile Slough were similarly higher with the DCP compared to existing conditions in July through January, but to a lesser degree. (Exhibit DWR-00402, Section EC.4.2.1.) The modeled monthly average EC from July through January under existing	☐ Sustained ☒ Overruled See above.

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		conditions ranges from 332 µmhos/cm (in January) to 794 µmhos/cm (in November) for the full simulation period. (Exhibit DWR-00402, Section 4.2.1, Figure EC-13.) Under the DCP, the modeled monthly average EC ranges from 352 µmhos/cm (in January) to 856 µmhos/cm (in November) for the full simulation period. (Exhibit DWR-00402, Section 4.2.1, Figure EC-13.) Thus, on a long…" (DWR-400, ¶ 15, 7:8-15.) DWR-00110, "Figures 19 through 22 show the long-term monthly average electrical conductivity (EC) at four locations (Sacramento River at Emmaton, Three Mile Slough, San Joaquin River at Jersey Point, and Old River at Rock Slough). The incremental changes in EC for DCP are very similar under both the existing conditions and the	

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		Updated Baseline. This indicates that changes in water quality are not affected by the DCP ITP and the salinity related conclusions in the FEIR remain unchanged." The salinity related conclusions in the final EIR are relevant. (Gov. Code, § 11513, subd. (c) [relevance required]; Cal. Code Regs., tit. 23, §648.5.1 [State Water Resources Control Board hearings are subject to Gov. Code, § 11513]; Evid. Code, § 210 [definition of relevance].)	
DWR-400 (Preece Testimony, ¶ 17, 8:1-17)	**Irrelevant.** (Gov. Code, § 11513 subd. (c).) Modeled EC results under the ITP are higher than the figures described by Dr. Preece based on irrelevant final EIR modeling.	"Modeling results show a slight (<1 percent) lower ability for the Delta EC 2 objectives to be met with DCP operations compared to existing conditions. (Exhibit 3 DWR-00402, Section EC.4.1.7, Tables EC-4 and EC-5.) The modeled increased	☐ Sustained ☒ Overruled See above.

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		exceedance of the EC objectives are attributable to the monthly timestep of the hydrologic modeling conducted by CalSim 3, as compared to the 15-minute time step of DSM2. CalSim 3 includes an algorithm to operate the SWP and CVP to meet Bay-Delta WQCP objectives, among other requirements. While CalSim 3 simulates operations on a monthly timestep, actual decisions associated with real-time system operations are…" (DWR-400, ¶ 17, 8:1-17) DWR-00110, "Figures 19 through 22 show the long-term monthly average electrical conductivity (EC) at four locations (Sacramento River at Emmaton, Three Mile Slough, San Joaquin River at Jersey Point, and Old River at Rock Slough). The incremental changes in EC for DCP are very	

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		similar under both the existing conditions and the Updated Baseline. This indicates that changes in water quality are not affected by the DCP ITP and the salinity related conclusions in the FEIR remain unchanged." The salinity related conclusions in the final EIR are relevant. (Gov. Code, § 11513, subd. (c) [relevance required]; Cal. Code Regs., tit. 23, § 648.5.1 [State Water Resources Control Board hearings are subject to Gov. Code, § 11513]; Evid. Code, § 210 [definition of relevance].)	
DWR-400 (Preece Testimony, ¶ 18)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.) **Improper Expert/ Legal Opinion.** (Evid. Code, §§ 720, 800-803.) Dr. Preece lacks foundation to testify regarding the	"Finally, modeling results for EC indicate that the DCP would not cause more frequent exceedance of the EC criteria established in DWR's contract with the North Delta Water Agency. (Exhibit DWR-00402,	☐ Sustained ☒ Overruled The objection more appropriately goes to the weight to be afforded to Dr. Preece's testimony as considered in light of the evidence in the record as a whole, rather than as a matter of admissibility absent a complete

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
	frequency of exceedances of the 1981 Contract water quality criteria because she did not calculate compliance using the correct criteria in the contract. (See 2025-04-22 YouTube webcast at 3:03:54-3:09:46.)	Section EC.4.2). The modeling results show that the monthly average EC is below the contract criteria except in above normal water year types. However, in above normal water year types, the frequency of exceeding the criteria would be the same with the project." DWR-400, p. 8, ¶ 18.) Dr. Preece testified that she used the 1981 contract criteria in combination with the water quality objectives that are in place April through August to conclude that the project would continue to meet the 1981 contract requirements. (Vol. 7, HT, p. 110, lines 18-22.) (See also DWR-00414, PDF p. 7.) Dr. Preece has been offered as an expert witness for water quality. She has over 15 years of experience working on a wide variety of water quality projects and nine years of experience	record. The Board will consider the objection in determining the persuasive value of Dr. Preece's testimony on this issue.

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		working on water quality projects in the Sacramento-San Joaquin Delta. (DWR-00400, 1:11-14.)	
DWR-400 (Preece Testimony, ¶ 19)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.) **Improper Expert/ Legal Opinion.** (Evid. Code, §§ 720, 800-803.) Dr. Preece is not a water rights expert and lacks foundation in her opinion that the increased salinity caused by the DCP will not result in adverse effects to legal users of water. (See 2025-04-22 YouTube webcast at 2:26:39-2:27:40.)	Mr. Singh testified that "Under the updated baseline and refined ITP DCP criteria, incremental effects to the flows, storages, water levels, flow reversals and delta *water quality* remain consistent with the FEIR conclusions." (Emphasis added, DWR-00110, ¶ 1, lines 19-21.) Mr. Singh further provided testimony on water quality to support his conclusion (and Dr. Preece's) that changes in water quality are not affected by the DCP ITP and the salinity related conclusions in the FEIR remain unchanged. (DWR-00110, p. 19-20, ¶15.) Dr. Preece has been offered as an expert witness for water quality. She has over 15 years of experience	☐ Sustained ☒ Overruled The objection goes to the weight of the evidence and the hearing officer and the Board will take the objection into account in considering the weight to be afforded the testimony. Strict rules governing the admissibility of evidence do not apply in administrative proceedings. This is so in part because the hearing officer is "presumably competent to … discount that evidence which has lesser probative value, [and] it makes little sense, as a practical matter, for a judge in that position to apply strict exclusionary evidentiary rules." (*Underwood v. Elkay Min., Inc.* (4th Cir. 1997) 105 F.3d 946, 949.)

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		working on a wide variety of water quality projects and nine years of experience working on water quality projects in the Sacramento-San Joaquin Delta. (DWR-00400, 1:11-14.) Mr. Singh has over 10 years of experience modeling water operations hydrodynamics, and water quality in the Delta. (DWR-00100, 1:16-18.) Dr. Preece is qualified to form the above opinion and Mr. Singh's testimony above is the type of information on which an expert would reasonably rely. (Evid. Code, §§ 801(b), 802.)	
DWR-402 (Preece Report EC Final)	**Irrelevant.** (Gov. Code, § 11513 subds. (c), (f).) EC modeling results based on final EIR have been superseded by new modeling under the ITP. The probative value of the proposed evidence is substantially	DWR-00110, "Figures 19 through 22 show the long-term monthly average electrical conductivity (EC) at four locations (Sacramento River at Emmaton, Three Mile Slough, San Joaquin River at Jersey Point, and Old River at Rock	☐ Sustained ☒ Overruled As discussed above, the modeling that incorporates the ITP terms and conditions reflects differences in operations but does not necessarily supersede the modeling for the final EIR. The sets of model runs provide a range of information. The Board will

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
	outweighed by the risk of confusion.	Slough). The incremental changes in EC for DCP are very similar under both the existing conditions and the Updated Baseline. This indicates that changes in water quality are not affected by the DCP ITP and the salinity related conclusions in the FEIR remain unchanged." The salinity related conclusions in the final EIR are relevant. (Gov. Code, § 11513, subd. (c) [relevance required]; Cal. Code Regs., tit. 23, § 648.5.1 [State Water Resources Control Board hearings are subject to Gov. Code, § 11513]; Evid. Code, § 210 [definition of relevance].)	consider the objection in determining the applicability of Dr. Preece's opinions to the particular factual finding that the Board may be considering.
DWR-300R (White Testimony at ¶ 8, 5:5-6.)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.) **Improper Expert/ Legal Opinion.** (Evid. Code, §§ 720, 800-803.)	State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Ms. White is qualified to offer	☐ Sustained ☒ Overruled: The objection is more appropriately considered in determining the weight of the evidence, and the hearing officer and the Board will take the

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
	Ms. White's opinion that all diversions will be consistent with applicable legal and regulatory requirements is not based on reliable facts or data, only speculation; namely, Ms. White admitted that there have been historical exceedances of the 1981 Contract. (See 2025-04-23 YouTube webcast at 3:14:51-3:16:15.)	the above noted portions of expert testimony that are her expert opinion given her 14 years of experience in State Water Project (SWP) operations, including 7 years as lead manager for water operations planning, coordination, and scheduling of SWP supply allocation. (DWR-00300R 1:10-18). Ms. White is additionally required to operationally coordinate with the United States Bureau of Reclamation (USBR) to ensure joint compliance of all regulatory requirements between the Central Valley Project (CVP) and the SWP. (DWR-00300R, 3:14-18). Ms. White's extensive professional experience provides adequate basis for her expert opinion pertaining to applicable SWP and the proposed DCP operational	objection into account in considering the persuasive value of the testimony.

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		regulatory compliance. Additionally, Evidence Code Section 664 states "It is presumed that official duty has been regularly performed." Ms. White's testimony and supporting exhibits also support Ms. White's opinion, consistent with Evidence Code section 664, that at all times the SWP is operated with the objective of complying with the myriads of changing State and Federal regulatory compliances obligations. The strong track record of compliance provides support for Ms. White's opinion that DCP will be operated consistent with all applicable requirements.	
DWR-300R (White Testimony at ¶ 15, 8:8-9.)	**Lack of Foundation.** (Evid. Code, §§ 702, 801.) **Improper Expert/ Legal Opinion.** (Evid. Code, §§ 720, 800-803.)	State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Ms. White is	☐ Sustained ☒ Overruled The objection is more appropriately considered in determining the weight of the evidence, and the hearing officer and

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
	Ms. White's testimony that decisions regarding diversion or storage of saved carriage water will meet all regulatory and contractual requirements is not based on reliable facts or data, only speculation; namely, Ms. White admitted that there have been historical exceedances of the 1981 Contract. (See 2025-04-23 YouTube webcast at 3:14:51-3:16:15.)	qualified to offer the above noted portions of expert testimony that are her expert opinion given her 14 years of experience in State Water Project (SWP) operations, including 7 years as lead manager for water operations planning, coordination, and scheduling of SWP supply allocation. (DWR-00300R 1:10-18). Ms. White is additionally required to operationally coordinate with the USBR to ensure joint compliance of all regulatory requirements between the CVP and the SWP. (DWR-00300R, 3:14-18). Ms. White's extensive professional experience provides adequate basis for her expert opinion pertaining to applicable .SWP and the proposed DCP operational regulatory compliance.	the Board will take the objection into account in considering the persuasive value of the testimony.

Material Objected to:	Grounds for Objection:	Response to Objection:	Ruling on Objection
		Additionally, Evidence Code Section 664 states "It is presumed that official duty has been regularly performed." Ms. White's testimony and supporting exhibits also support Ms. White's opinion, consistent with Evidence Code section 664, that at all times the SWP is operated with the objective of complying with the myriads of changing State and Federal regulatory compliances obligations. The strong track record of compliance provides support for Ms. White's opinion that DCP will be operated consistent with all applicable requirements.	

ATTACHMENT 2
Rulings on LAND Evidentiary Objections to DWR Case-in-Chief

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
DWR-00001, p. 21:9-10 [Murdoch; DWR has minimized impacts through stakeholder engagement]	Lacks relevance to key issues such as injury to other legal users and the potential for the DCP to be in the public interest. (Gov. Code, § 11513, subd. (c) [relevance required]; Cal. Code Regs., tit. 23, § 648.5.1 [State Water Resources Control Board hearings are subject to Gov. Code, § 11513]; Evid. Code, § 210 [definition of relevance].) Testimony is also hearsay and as such is inadmissible. (Gov. Code, § 11513, subd. (d) [hearsay insufficient to support findings].)	"In my opinion, DWR has made a significant and concerted effort to address local Delta concerns related to the effects of the DCP. These efforts helped to avoid and…" (DWR-00001, 21:9-10.) This objection misstates Mr. Murdock's testimony. The November 18, 2024, hearing notice identified the relevant hearing issues, which include those addressed by Mr. Murdock's testimony (e.g., mitigation measures). Vol. 1, p. 72, line 25 and p. 73, lines 1-12. Mr. Murdock's testimony at DWR-00001, 21:9-10, constitutes Mr. Murdock's opinion based on relevant evidence discussed in Mr.	☐ Sustained, in art ☒ Overruled The referenced portion of Mr. Murdock's testimony appears to be relevant to whether there is a feasible alternative or feasible mitigation measures within the State Water Board's authority that would substantially lessen or avoid any significant effect of the project identified in the Final EIR, and may also be relevant to the Board's consideration of whether approval of the petition is in the public interest. Under Evidence Code § 801, subd. (b), an expert opinion may be based on a matter "made known to him at or before the hearing, whether or not admissible, that is of a type that reasonably may be relied upon by an expert in forming

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		Murdock's testimony and is not hearsay. Even if Mr. Murdock's testimony could be construed as relying on hearsay evidence, an expert witness may rely on hearsay evidence if it is independently proven by competent evidence or covered by a hearsay exception. (*People v. Sanchez* (2016) 63 Cal.4th 665, 686.) DWR presented both Mr. Murdock and Ms. Buchholz to testify to the engagement of the Stakeholder Engagement Committee (SEC). DWR also submitted multiple exhibits into the record in support of Mr. Murdock's and Ms. Buchholz's testimony. (DWR-00001-00031.) Ms. Buchholz served as the environmental liaison within the SEC and between the engineering	an opinion upon the subject to which his testimony relates…" Hearsay is admissible in State Water Board hearings and can be relied upon in forming an expert opinion. The hearing officer and the Board will consider this objection and the bases for Mr. Murdock's expert opinion in determining the weight to be afforded the testimony.

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		and environmental teams during preparation of the Engineering Project Reports and the Environmental documentation. (DWR-00033, 1:18-20.)	
DWR-01000; p. 3:6-7, 15-19 [Hatch; Delta Tunnel construction will not impact legal users of water, is not likely to impact groundwater levels, and there will be no impact to groundwater users]	Expert opinion may not be based on conjecture or speculation. (Evid. Code, § 801; *Sargon Enterprises, Inc. v. University of Southern California* (2012) 55 Cal.4th 747 [*Sargon*].) Evidence may be excluded due to lack of probative value. (Gov. Code, § 11513, subd. (f).) Because other diversions of water were not considered, and relevant subject matter expertise is lacking, these legal conclusions as to the ultimate injury other users is speculation.	"It is my opinion that DCP construction activities will not impact legal users of water. Mitigation measures, including monitoring will ensure there are not construction…" (DWR-01000, 3:6-7.) Dr. Hatch testified that "impacts are not anticipated" and that there are steps that will be taken to mitigate impacts. Evidentiary support was provided in (DWR-00804, GW-1 and AHO-1055 pp. 8-30, 8-38, 8-43, 8-48, 8-51, 8-54, 8-58.) "It is my opinion based on modeling results that there are not	☐ Sustained ☒ Overruled The objection raises a dispute about the adequacy of the information underlying the expert opinion that is more properly addressed when determining the weight to be afforded the testimony. Dr. Hatch provides the factual bases for his opinions about potential construction impacts (DWR-01004; AHO-1055, pp. 8-30, 8-38, 8-43, 8-48, 8-51, 8-54, and 8-58.) Dr. Hatch relies on the Delta GW model to reach conclusions about groundwater elevations and

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		significant changes in stream gains or losses, groundwater elevations, reduction in groundwater levels affecting supply wells, long term change in groundwater storage, or increases in groundwater elevation near the DCP intakes that will impact agricultural drainage. Based on this analysis there will be no impact to groundwater users." (DWR-01000, 3:15-19.) Dr. Hatch used the Delta GW model, which includes the DCP area and extends beyond the boundaries of the Legal Delta. This model incorporates the available hydrogeologic data and understanding of the region. (See DWR-01000, 5:6-21.) Analysis of alternatives primarily utilized	groundwater levels, and groundwater storage. To the extent that protestants seek to challenge the information underlying Dr. Hatch's opinions or the adequacy of the model, those issues are more properly addressed through rebuttal and in closing briefs than as a threshold evidentiary matter. In judicial proceedings, the rules governing the admissibility of expert testimony serve a gatekeeping function to ensure that speculative or irrelevant expert opinion is not presented to the jury. (See *Sargon Enterprises, Inc. v. University of Southern California* (2012) 55 Cal.4th 747, 753; *People ex rel. Dept. of Transportation v. Dry Canyon Enterprises, LLC* (2012) 211

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		water budgets (land and water use, groundwater, stream) hydrographs at specific wells, and groundwater elevation contours (AHO-1057.) Evid. Code, § 801 allows for opinions by an expert in their testimony. The above information is the type of information on which an expert would reasonably rely	Cal.App.4th 486, 493.) In proceedings in which there is no jury, "[t]here is less need for the gatekeeper to keep the gate when the gatekeeper is keeping the gate only for himself." (*United States v. Brown* (11th Cir. 2005) 415 F.3d 1257, 1269.) The hearing officer and the Board are qualified to assess and will take into account the objection in considering the weight to be afforded the evidence. The inclusion of legal opinion or conclusion in testimony in an administrative proceeding before the AHO is not typically a basis to exclude the testimony, but, rather, goes to the weight of the evidence. Strict rules governing the admissibility of evidence do not apply in

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
			administrative proceedings. This is so in part because the hearing officer is "presumably competent to … discount that evidence which has lesser probative value, it makes little sense, as a practical matter, for a judge in that position to apply strict exclusionary evidentiary rules." (*Underwood v. Elkay Min., Inc.* (4th Cir. 1997) 105 F.3d 946, 949.) Those portions of the testimony that are non-evidentiary policy or legal argument shall be considered by the hearing officer as such, and not as evidence.
DWR-400, p. 8:21-22, p. 9:1].) [Preece; changes in salinity would not harm legal users]		"…in higher EC in the Delta at certain locations in some months, the project would not cause water quality degradation in regard to EC such that beneficial uses	☐ Sustained ☒ Overruled See above.

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		would be adversely affected or there would be injury to legal users of water. This is because the…" (DWR-400, 8:21-22,and 9:1.) Dr. Preece testified that "the sources of salinity to the Delta would not change with DCP operation and that DWR would continue to comply with D-1641 requirements." (DWR-00403). State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) As demonstrated by Dr. Preece's CV (DWR-401) and testimony (DWR-400), Dr. Preece is qualified to offer the above noted portions of expert testimony that are her expert opinion. Dr. Preece has over 15 years of experience working on a wide variety of water quality projects in the Sacramento-San	

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		Joaquin Delta. (DWR 400, 1:11-14.) Dr. Preece was part of the team that prepared and reviewed the Water Quality chapter for the DCP FEIR. (DWR 400, 1:15-17.) Dr. Preece previously provided expert testimony in the Change in Point of Diversion proceeding for the California Water Fix project before the State Water Resources Control Board. Dr. Preece's testimony is supported by several reports marked as DWR-402 through 404 and was on the witness panel with Mr. Singh. As an expert, Dr. Preece is permitted to rely on the modeling results prepared by other experts and make her expert opinion. She, and Mr. Singh, were made available to answer any questions relating to modeling results or interpretation of	

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		those results.	
DWR-0100, p. 2:18-19; DWR-110, p. 30:4-5 [Singh; diversions for the Delta Tunnel will not impact other legal users' ability to divert water]		"…at the proposed DCP intakes will not impact the existing legal water users' ability to divert water from the river." (DWR-0100, 2:18-19.)"…minimum levels and, therefore, will not impact the existing legal water users' ability to divert water from the river. During low flow periods (50-100 percent exceedance levels)…." (DWR-110, 30:4-5.) This is a summary of Mr. Singh's opinion that is based on evidence submitted in exhibit DWR-110. PP 19-21 and Fig. 27-31. This testimony is based on modeling of stage differences of the DCP. Mr. Singh has been offered as an expert witness for modeling. Further, State Water Board	☐ Sustained ☒ Overruled See above.

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Mr. Singh is qualified to offer the above noted portions of expert testimony that are his expert opinion given his extensive experience and training with numerical modeling in water operations, hydrodynamics, in the Sacramento San Joaquin Delta as applied to his unique understanding of DCP operations, and DCP operations' effect on modeled stage or water levels, as provided in DWR-105 and paragraphs 23, 24, 25, 26, and 27 of his own testimony (DWR-00100_A.) This testimony is based on modeling. Mr. Singh has been offered as an expert witness in	

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		hydrodynamic modeling. This objection is duplicative of the objection made by County of Sacramento, Sacramento County Water Agency, Sacramento Area Sewer District, City of Stockton, and Byron-Bethany Irrigation District.	

ATTACHMENT 3
Rulings on Sacramento County Evidentiary Objections to DWR Case-in-Chief

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
DWR-00001 (4:19-20)	**Lack of Foundation.** (Evid. Code, §§ 702, 801; *Sargon Enterprises, Inc. v. Univ. of Southern California* (2012) 55 Cal.4th 747, 770 (*Sargon*) ["the matter relied on must provide a reasonable basis for the particular opinion offered, and … an expert opinion based on speculation or conjecture is inadmissible" (internal quotes omitted)].) Testimony lacks foundation when the underlying factual basis has not been submitted or is improper. Regarding 4:19-20 of DWR-00001 submitted on June 20, 2025, the underlying factual basis supporting Mr. Murdock's testimony that "[t]he SEC [Stakeholder Engagement Committee] members included: … Sacramento, Yolo, San Joaquin, and Contra Costa counties" is incorrect. As Mr. Murdock testified during cross-examination, he has no	DWR objects to striking the testimony but will submit revised testimony consistent with Mr. Murdock's and Ms. Buchholz's response that it was residents of those counties and not county staff. (Vol.4, p. 90, lines 5-17, 17-18.)	☐ Sustained ☒ Overruled Objection is overruled as moot. DWR submitted revised testimony, DWR-00001R addressing the objection.

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	personal knowledge of the Delta counties' participation in the SEC. Additionally, Ms. Buchholz confirmed that the Delta counties did not participate in the SEC. (4 HT at 90:4-24.)[4]		
DWR-00100_A (2:15-19)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.) Regarding 2:15-19 of DWR-00100_A submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill, experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Mr. Singh's opinion that the DCP will not impact the existing legal water users' ability to divert water from the river is an improper legal or policy argument outside of Mr. Singh's areas of specialty, knowledge, or expertise. (See DWR-00102.) The probative value of the proposed evidence is substantially outweighed	"During periods when water levels are low and diversions by other legal users could be affected, DCP operation will not result in a reduction in water levels. Therefore, diversions at the proposed DCP intakes will not impact the existing legal water users' ability to divert water from the river." (DWR-00100_A, 2:15-19.) This is a summary of Mr. Singh's opinion that is based on evidence submitted in the exhibits (DWR-105) and Paragraphs 23, 24, 25, 26, 27 of his testimony (DWR-00100_A). This testimony is based on modeling of stage differences of the DCP. Mr. Singh has been offered as an expert witness for modeling.	☐ Sustained ☒ Overruled The inclusion of legal opinion or conclusion in testimony in an administrative proceeding before the AHO is not typically a basis to exclude the testimony, but, rather, goes to the weight of the evidence. Strict rules governing the admissibility of evidence do not apply in administrative proceedings. This is so in part because the hearing officer is "presumably competent to … discount that evidence which has lesser probative value,

[4] References to hearing transcript testimony are by volume number followed by the abbreviation "HT" and the pages or page/line citation(s).

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	by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	Further, State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal.Code Regs., tit. 23, § 648, subd. (b).) Mr. Singh is qualified to offer the above noted portions of expert testimony that are his expert opinion given his extensive experience and training with numerical modeling in water operations, and hydrodynamics in the Sacramento San Joaquin Delta as applied to his unique understanding of DCP operations, and DCP operations' effect on modeled stage or water levels, as provided in DWR-105 and paragraphs 23, 24, 25, 26, and 27 of his own testimony (DWR-00100_A.) This testimony is based on modeling. Mr. Singh has been offered as an expert witness in hydrodynamic modeling	[and] it makes little sense, as a practical matter, for a judge in that position to apply strict exclusionary evidentiary rules." (*Underwood v. Elkay Min., Inc.* (4th Cir. 1997) 105 F.3d 946, 949.) The objection goes to the weight of the evidence and the hearing officer and the Board will take the objection into account in considering the weight to be afforded the evidence. The hearing officer has the expertise to discount legal opinion testimony, alleviating the risk of confusion. Those portions of the testimony that are non-evidentiary policy or legal argument shall be considered by the hearing officer as such, and not as evidence.
DWR-00100_A (14:12-15)	**Inadmissible opinion testimony by expert witness.**	"Modeling results indicate that the diversions at the proposed	☐ Sustained ☒ Overruled

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	(Evid. Code, §§ 720, 801--803.) Regarding 14:12-15 of DWR-0100_A submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill, experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Mr. Singh's opinion that diversions at the proposed DCP intakes will not impact the existing legal water users' ability to divert water from the river is an improper legal or policy argument outside of Mr. Singh's areas of specialty, knowledge, or expertise. (See DWR-00102.) The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	DCP intakes are not likely to reduce the water levels below the existing minimum levels and, therefore, will not impact the existing legal water users' ability to divert water from the river." (DWR-00100_A, 14:12-15.) This is a summary of Mr. Singh's opinion that is based on evidence submitted in the exhibits (DWR-105) and Paragraphs 23, 24, 25, 26, 27 of his testimony (DWR-00100_A). This testimony is based on modeling of stage differences of the DCP. Mr. Singh has been offered as an expert witness for modeling. Further, State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Mr. Singh is qualified to offer the above noted portions of expert testimony that are his expert opinion given his extensive experience and training with numerical modeling in water operations, and hydrodynamics in the	See above.

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		Sacramento San Joaquin Delta as applied to his unique understanding of DCP operations, and DCP operations' effect on modeled stage or water levels, as provided in DWR-105 and paragraphs 23, 24, 25, 26, and 27 of his own testimony (DWR-00100_A.) This testimony is based on modeling. Mr. Singh has been offered as an expert witness in hydrodynamic modeling.	
DWR-00100_A (15:2-3)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.) Regarding 15:2-3 of DWR-00100_A submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill, experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Mr. Singh's opinion that there will not be negative effects on legal users of water due to water level changes is	"It is my opinion that there will not be negative effects to legal users of water due to water level changes." (DWR-00100_A, 15:2-3.) This is a summary of Mr. Singh's opinion that is based on evidence submitted in the exhibits (DWR-105) and Paragraphs 23, 24, 25, 26, 27 of his testimony (DWR-00100_A). This testimony is based on modeling of stage differences of the DCP. Mr. Singh has been offered as an	☐ Sustained ☒ Overruled See above.

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	an improper legal or policy argument outside of Mr. Singh's areas of specialty, knowledge, or expertise. (See DWR-00102.) The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	expert witness for modeling. Further, State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Mr. Singh is qualified to offer the above noted portions of expert testimony that are his expert opinion given his extensive experience and training with numerical modeling in water operations, and hydrodynamics in the Sacramento San Joaquin Delta as applied to his unique understanding of DCP operations, and DCP operations' effect on modeled stage or water levels, as provided in DWR-105 and paragraphs 23, 24, 25, 26, and 27 of his own testimony (DWR-00100_A.) This testimony is based on modeling. Mr. Singh has been offered as an expert witness in hydrodynamic modeling.	
DWR-00100_A (20:8-13)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.)	"During periods when water levels are low and diversions by other legal users could be	☐ Sustained ☒ Overruled

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	Regarding 20:8-13 of DWR-00100_A submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill, experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Mr. Singh's opinion that the DCP will not impact the existing legal water users' ability to divert water from the river is an improper legal or policy argument outside of Mr. Singh's areas of specialty, knowledge, or expertise. (See DWR-00102.) The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	affected, DCP operation will not result in a reduction of water levels. Diversions at the proposed DCP intakes will not reduce the water levels below the existing minimum levels and, therefore diversions at the proposed DCP intakes, will not impact the existing legal water users' ability to divert water from the river." (DWR-00100_A, 20:8-13.) This is a summary of Mr. Singh's opinion that is based on evidence submitted in the exhibits (DWR-105) and Paragraphs 23, 24, 25, 26, 27 of his testimony (DWR-00100_A). This testimony is based on modeling of stage differences of the DCP. Mr. Singh has been offered as an expert witness for modeling. Further, State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Mr. Singh is qualified to offer the above noted portions of expert testimony that are his expert opinion given his extensive experience and	See above.

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		training with numerical modeling in water operations, and hydrodynamics in the Sacramento San Joaquin Delta as applied to his unique understanding of DCP operations, and DCP operations' effect on modeled stage or water levels, as provided in DWR-105 and paragraphs 23, 24, 25, 26, and 27 of his own testimony (DWR-00100_A.) This testimony is based on modeling. Mr. Singh has been offered as an expert witness in hydrodynamic modeling	
DWR-00110 (30:4-5)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.) Regarding 30:4-5 of DWR-00110 submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill, experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Mr. Singh's opinion that diversions at the proposed DCP intakes will not	"...minimum levels and, therefore, will not impact the existing legal water users' ability to divert water from the river. During low flow periods (50-100 percent exceedance levels)..." (DWR-00110, 30:4-5.) This is a summary of Mr. Singh's opinion that is based on evidence submitted in exhibit DWR-110. PP 19-21 and Fig. 27-31. This testimony is based on modeling of stage differences of the DCP. Mr.	☐ Sustained ☒ Overruled See above.

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	impact the existing legal water users' ability to divert water from the river is an improper legal or policy argument outside of Mr. Singh's areas of specialty, knowledge, or expertise. (See DWR-00102.) The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	Singh has been offered as an expert witness for modeling. Further, State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Mr. Singh is qualified to offer the above noted portions of expert testimony that are his expert opinion given his extensive experience and training with numerical modeling in water operations, and hydrodynamics in the Sacramento San Joaquin Delta as applied to his unique understanding of DCP operations, and DCP operations' effect on modeled stage or water levels, as provided in DWR-110 and figures 27-31 (DWR-00110.) This testimony is based on modeling. Mr. Singh has been offered as an expert witness in hydrodynamic modeling.	
DWR-00300R (4:21-23)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.) Regarding 4:21-23 of DWR-00300R	"Once the DCP is constructed and operational, the operations will be in accordance with the water rights permits, regulatory	☐ Sustained ☒ Overruled See above.

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	submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill, experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Ms. White's opinion that the DCP operations will meet regulatory requirements, permit conditions, and applicable laws at that time is an improper legal or policy argument outside of Ms. White's areas of specialty, knowledge, or expertise. (See DWR-00301.) The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	requirements, permit conditions, and applicable laws at that time." (DWR-00300R, 4:21-23.) State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Ms. White is qualified to offer the above noted portions of expert testimony that are her expert opinion given her 14 years of experience in State Water Project (SWP) operations, including 7 years as lead manager for water operations planning, coordination, and scheduling of SWP supply allocation. (DWR-00300R, 1:10-18.) Ms. White is additionally required to operationally coordinate with the United States Bureau of Reclamation (USBR) to ensure joint compliance of all regulatory requirements between the Central Valley Project (CVP) and the SWP. (DWR-00300R, 3:14-18.) Ms. White's extensive professional experience provides adequate basis for her expert opinion pertaining to applicable SWP and proposed	

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		DCP operational regulatory compliance. Additionally, Evidence Code Section 664 states "It is presumed that official duty has been regularly performed." Ms. White's testimony and supporting exhibits also support Ms. White's opinion, consistent with Evidence Code section 664, that at all times the SWP is operated with the objective of complying with the myriads of changing State and Federal regulatory compliances obligations. The strong track record of compliance provides support for Ms. White's opinion that DCP will be operated consistent with all applicable requirements.	
DWR-00300R (5:5-6)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.) Regarding 5:5-6 of DWR-00300R submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill, experience, training, or education to	"...becomes operational. All diversions through the North Delta intakes will be coordinated with Reclamation and consistent with applicable legal and regulatory requirements." (DWR-00300R, 5:5-6.) State Water Board regulations provide that Evidence Code	☐ Sustained ☒ Overruled See above.

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	testify in the form of opinions to the matters addressed in this exhibit. Ms. White's opinion that all diversions through the North Delta intakes will be consistent with applicable legal and regulatory requirements is an improper legal or policy argument outside of Ms. White's areas of specialty, knowledge, or expertise. (See DWR-00301.) The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Ms. White is qualified to offer the above noted portions of expert testimony that are her expert opinion given her 14 years of experience in SWP operations, including 7 years as lead manager for water operations planning, coordination, and scheduling of SWP supply allocation. (DWR-00300R, 1:10-18.) Ms. White is additionally required to operationally coordinate with the USBR to ensure joint compliance of all regulatory requirements between the CVP and the SWP. (DWR-00300R, 3:14-18.) Ms. White's extensive professional experience provides adequate basis for her expert opinion pertaining to applicable SWP and proposed DCP operational regulatory compliance. Additionally, Evidence Code Section 664 states "It is presumed that official duty has been regularly performed." Ms. White's testimony and supporting exhibits also support Ms. White's opinion, consistent with Evidence Code section	

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		664, that at all times the SWP is operated with the objective of complying with the myriads of changing State and Federal regulatory compliances obligations. The strong track record of compliance provides support for Ms. White's opinion that DCP will be operated consistent with all applicable requirements.	
DWR-00300R (8:8-9)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.) Regarding 8:8-9 of DWR-00300R submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill, experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Ms. White's opinion that diversion or storage of Carriage Water will meet all regulatory and contractual requirements is an improper legal or policy argument outside of Ms. White's areas of specialty, knowledge, or expertise. (See DWR-00301.) The probative value of the	"...future use. Decisions regarding diversion or storage of saved Carriage Water will meet all regulatory and contractual requirements." (DWR-00300R, 8:8-9.) State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Ms. White is qualified to offer the above noted portions of expert testimony that are her expert opinion given her 14 years of experience in SWP operations, including 7 years as lead manager for water operations planning, coordination, and scheduling of SWP supply allocation. (DWR-00300R, 1:10-	☐ Sustained ☒ Overruled See above.

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	proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	18.) Ms. White is additionally required to operationally coordinate with the USBR to ensure joint compliance of all regulatory requirements between the CVP and the SWP. (DWR-00300R, 3:14-18.) Ms. White's extensive professional experience provides adequate basis for her expert opinion pertaining to applicable SWP and proposed DCP operational regulatory compliance. Additionally, Evidence Code Section 664 states "It is presumed that official duty has been regularly performed." Ms. White's testimony and supporting exhibits also support Ms. White's opinion, consistent with Evidence Code section 664, that at all times the SWP is operated with the objective of complying with the myriads of changing State and Federal regulatory compliances obligations. The strong track record of compliance provides support for Ms. White's opinion that DCP will be operated consistent with all applicable requirements.	

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DWR-00300R (9:4-5)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.) Regarding 9:4-5 of DWR-00300R submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill, experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Ms. White's opinion that upstream SWP storage operations will continue to be managed to meet existing and future SWP regulatory and contractual obligations is an improper legal or policy argument outside of Ms. White's areas of specialty, knowledge, or expertise. (See DWR-00301.) The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	"...reservoirs. Upstream SWP storage operations will continue to be managed to meet existing and future SWP regulatory and contractual obligations. DWR will not divert..." (DWR-00300R, 9:4-5.) State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) Ms. White is qualified to offer the above noted portions of expert testimony that are her expert opinion given her 14 years of experience in SWP operations, including 7 years as lead manager for water operations planning, coordination, and scheduling of SWP supply allocation. (DWR-00300R, 1:10-18.) Ms. White is additionally required to operationally coordinate with the United States Bureau of Reclamation (USBR) to ensure joint compliance of all regulatory requirements between the CVP and the SWP. (DWR-00300R, 3:14-18.) Ms. White's extensive professional experience	Sustained x Overruled See above.

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		provides adequate basis for her expert opinion pertaining to applicable SWP and proposed DCP operational regulatory compliance. Additionally, Evidence Code Section 664 states "It is presumed that official duty has been regularly performed." Ms. White's testimony and supporting exhibits also support Ms. White's opinion, consistent with Evidence Code section 664, that at all times the SWP is operated with the objective of complying with the myriads of changing State and Federal regulatory compliances obligations. The strong track record of compliance provides support for Ms. White's opinion that DCP will be operated consistent with all applicable requirements.	
DWR-00310_E (p. 7, Table 2)	**Lack of Foundation**. (Evid. Code, §§ 702, 801; *Sargon, supra*, 55 Cal.4th at p. 770 ["the matter relied on must provide a reasonable basis for the particular opinion offered, and … an expert	This is a summary table of the information required to be produced by the Hearing Officer. The underlying data and analysis for DWR-00310_E were provided in DWR-311 errata 2. The Excel data files	☐ Sustained ☒ Overruled Petitioners submitted DWR-00310E at the direction of the hearing officer pursuant to her

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	opinion based on speculation or conjecture is inadmissible" (internal quotes omitted)].) Testimony lacks foundation when the underlying factual basis has not been submitted or is improper. Regarding DWR-00310-E submitted on June 20, 2025, the underlying factual basis supporting the response to Request No. 1 is improper because it is based only on daily storage volume data, which was used to "parse out storage collection and withdrawal." (18 HT at 118:10-13.) It is impossible to determine whether a volume of water was in storage for less than 30 days, therefore qualifying as "direct diversion" or "regulatory storage" rather than "collection to storage," without considering inflow and outflow data. The conclusions reached in response to Request No. 1, as reflected in Table 2 (DWR-00310-E, p. 7), are not supported by a proper factual basis and therefore lack foundation. The probative value of the proposed evidence is substantially outweighed by the risk	requested by Protestants were also provided in DWR-315 through DWR-326. DWR utilized guidance developed by regulatory agencies to develop its water rights reporting. One main component of this guidance is the State Water Board's Guidelines, which was created around 2013 and is publicly available from the State Water Board Division of Water Rights website. (DWR-00313.)	request of November 18, 2024, pursuant to Water Code section 1701.3, for supplemental information about maximum diversion and beneficial use of water under the SWP Permits before the December 31, 2009 deadline for full beneficial use (November 18 Amended Hearing Notice and Procedural Ruling, pp. 9-10.) Request No. 1 sought the maximum volume of water diverted to storage at Oroville Reservoir during one authorized storage period before December 31, 2009. To support the responses in Table 2, petitioner provided data about reservoir storage in DWR-315 and described the methodology used to determine maximum reservoir storage using this data in DWR-311E (see page 5). The reservoir storage data is sufficient to identify the difference in inflows and

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	of confusion. (Gov. Code, § 11513, subd. (f).)		outflows in the reservoir on a daily basis. This information and the description of the methodology applied is sufficient for a qualified independent expert to reproduce the results in Table 2. (See 07-31-2024 DCP Hearing Notice, p. 20.)
DWR-00310_E (p. 7, Table 2)	**Lack of Foundation.** (Evid. Code, §§ 702, 801; *Sargon, supra*, 55 Cal.4th at p. 770 ["the matter relied on must provide a reasonable basis for the particular opinion offered, and … an expert opinion based on speculation or conjecture is inadmissible" (internal quotes omitted)].) Testimony lacks foundation when the underlying factual basis has not been submitted or is improper. Regarding DWR-00310-E, submitted on June 20, 2025, the underlying factual basis supporting the response to Request No. 4 is improper because it assumes that all releases from	This is a summary table of the information required to be produced by the Hearing Officer. DWR utilizes guidance developed by regulatory agencies to develop its water rights reporting. One main component of this guidance is the State Water Board's Guidelines, which was created around 2013 and is publicly available from the State Water Board Division of Water Rights website. (DWR-00313.)	☐ Sustained ☒ Overruled See above. In addition, there appears to be an underlying dispute of mixed law and fact regarding the definition of and proper accounting for the beneficial use of water. The hearing officer concludes that this contested issue is not appropriately resolved through an evidentiary objection but rather goes to the weight to be afforded the evidence. Furthermore, the protesting parties had the

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	south-of-Delta storage were put to beneficial use without providing any factual support. During cross-examination, Ms. Wu confirmed that DWR had not provided support for its assumption that all releases were put to beneficial use. (18 HT at 125:1-132:10.) Additionally, because only storage withdrawal data is provided for each permit (see 18 HT at 122:5-123:3) it is impossible to determine that water was in fact withdrawn under each permit. In order to verify the purported maximum withdrawals under each permit, storage collection data must be provided to confirm that sufficient water was collected to storage to be available for withdrawal. The underlying factual basis for the conclusions reached in response to Request No. 4, as reflected in Table 2 (DWR-00310-E, p. 7), therefore lacks foundation. The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)		opportunity to ask questions of DWR's witnesses about this issue during the hearing on June 10 and 11 and will have the opportunity to present rebuttal evidence.

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DWR-00311E2 (12:4-13:8)	**Lack of Foundation.** (Evid. Code, §§ 702, 801; *Sargon, supra*, 55 Cal.4th at p. 770 ["the matter relied on must provide a reasonable basis for the particular opinion offered, and … an expert opinion based on speculation or conjecture is inadmissible" (internal quotes omitted)].) Testimony lacks foundation when the underlying factual basis has not been submitted or is improper. Regarding DWR-00311E2 submitted on June 20, 2025, the underlying factual basis supporting the response to Request No. 1, as reflected in Figure 4 is improper because it is based only on daily storage volume data, which was used to "parse out storage collection and withdrawal." (18 HT at 118:10-13.) It is impossible to determine whether a volume of water was in storage for less than 30 days, therefore qualifying as "direct diversion" or "regulatory storage" rather than "collection to storage," without considering inflow and outflow data. The conclusions reached in the analysis contained in	This is a summary of the information required to be produced by the Hearing Officer. The underlying data and analysis for DWR-00310_E were provided in DWR-311 errata 2. The Excel data files requested by Protestants were also provided in DWR-315 through DWR-326. DWR utilized guidance developed by regulatory agencies to develop its water rights reporting. One main component of this guidance is the State Water Board's Guidelines, which was created around 2013 and is publicly available from the State Water Board Division of Water Rights website. (DWR-00313.)	☐ Sustained ☒ Overruled Petitioners submitted DWR-00311E2 in response to the direction of the hearing officer pursuant to her request of November 18, 2024, pursuant to Water Code section 1701.3, for supplemental information about maximum diversion and beneficial use of water under the SWP Permits before the December 31, 2009 deadline for full beneficial use (November 18 Amended Hearing Notice and Procedural Ruling, pp. 9-10.) Request No. 1 sought the maximum volume of water diverted to storage at Oroville Reservoir during one authorized storage period before December 31, 2009. Petitioner provided data about reservoir storage in DWR-315 and described the methodology used to

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	response to Request No. 1 (DWR-00311E2 at 12:4-13:8) are not supported by a proper factual basis and therefore lack foundation. The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)		determine maximum reservoir storage using this data in DWR-311E. The reservoir storage data is sufficient to identify the difference in inflows and outflows in the reservoir on a daily basis. This information and the description of the methodology applied is sufficient for a qualified independent expert to reproduce the results described in DWR-00311E2 at 12:4-13:8. (See 07-31-2024 DCP Hearing Notice, p. 20.)
DWR-00311E2 (13:31-20:8)	**Lack of Foundation.** (Evid. Code, §§ 702, 801; *Sargon, supra*, 55 Cal.4th at p. 770 [“the matter relied on must provide a reasonable basis for the particular opinion offered, and … an expert opinion based on speculation or conjecture is inadmissible” (internal quotes omitted)].) Testimony lacks foundation when the underlying factual basis has not been submitted or is improper. Regarding DWR-	This is a summary of the information required to be produced by the Hearing Officer. The underlying data and analysis for DWR-00310_E were provided in DWR-311 errata 2. The Excel data files requested by Protestants were also provided in DWR-315 through DWR-326. DWR utilized guidance developed by regulatory agencies to develop its water rights reporting. One main	☐ Sustained ☒ Overruled See above. In addition, there appears to be an underlying dispute of mixed law and fact regarding the definition of and proper accounting for the beneficial use of water. The hearing officer concludes that this contested issue is not appropriately resolved

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	00311E2 submitted on June 20, 2025, the underlying factual basis supporting the response to Request No. 4 is improper because it assumes that all releases from south-of-Delta storage were put to beneficial use without providing any factual support. (18 HT at 125:1-132:10.) Additionally, because only storage withdrawal data is provided for each permit (see 18 HT at 122:5-123:3), it is impossible to determine that water was in fact withdrawn under each permit. In order to verify the purported maximum withdrawals under each permit, storage collection data must be provided to confirm that sufficient water was collected to storage to be available for withdrawal. The conclusions reached in the analysis contained in response to Request No. 4 (DWR-00311E2 at 13:31-20:8), therefore lack foundation. The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	component of this guidance is the State Water Board's Guidelines, which was created around 2013 and is publicly available from the State Water Board Division of Water Rights website. (DWR-00313.)	through an evidentiary objection but rather goes to the weight to be afforded the evidence. Furthermore, the protesting parties had the opportunity to ask questions of DWR's witnesses about this issue during the hearing on June 10 and 11 and will have the opportunity to present rebuttal evidence.

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
DWR-00400 (1:19-20)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.) Regarding 1:19-20 of DWR-00400 submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill, experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Dr. Preece's opinion that the DCP will not unreasonably degrade water quality due to potential changes in salinity, chlorophyll, or cyanobacteria harmful algae blooms (CHABs) is an improper legal or policy argument outside of Dr. Preece's areas of specialty, knowledge, or expertise. (See DWR-00401.) The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	"This testimony supports my opinion that the DCP will not unreasonably degrade water quality due to potential changes in salinity, as represented by electrical..." (DWR-00400, 1:19-20.) State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) As demonstrated by Dr. Preece's CV (DWR-401) and testimony (DWR-400), Dr. Preece is qualified to offer the above noted portions of expert testimony that are her expert opinion. Dr. Preece has over 15 years of experience working on a wide variety of water quality projects in the Sacramento-San Joaquin Delta. (DWR 400, 1:11-14.) Dr. Preece was part of the team that prepared and reviewed the Water Quality chapter for the DCP Final Environmental Impact Report (FEIR). (DWR 400, 1:15-17.) Dr. Preece previously provided expert testimony in the Change in Point of Diversion (CPOD)	☐ Sustained ☒ Overruled The inclusion of legal opinion or conclusion in testimony in an administrative proceeding before the AHO is not typically a basis to exclude the testimony, but, rather, goes to the weight of the evidence. Strict rules governing the admissibility of evidence do not apply in administrative proceedings. This is so in part because the hearing officer is "presumably competent to … discount that evidence which has lesser probative value, [and] it makes little sense, as a practical matter, for a judge in that position to apply strict exclusionary evidentiary rules." (*Underwood v. Elkay Min., Inc.* (4th Cir. 1997) 105 F.3d 946, 949.)

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		proceeding for the California Water Fix project before the State Water Resources Control Board. Dr. Preece is the lead author of the Sacramento-San Joaquin Harmful Algal Bloom Monitoring Strategy and has over 20 peer reviewed papers. (DWR-401.) Dr. Preece's testimony is supported by several reports marked as DWR-402 through 404 and was on the witness panel with Mr. Singh. As an expert, Dr. Preece is permitted to rely on the modeling results prepared by other experts and make her expert opinion. She, and Mr. Singh, were made available to answer any questions relating to modeling results or interpretation of those results.	The objection goes to the weight of the evidence and the hearing officer will take the objection into account in considering the weight to be afforded the evidence. The hearing officer has the expertise to discount legal opinion testimony, alleviating the risk of confusion. Those portions of the testimony that are non-evidentiary policy or legal argument shall be considered by the hearing officer as such, and not as evidence.
DWR-00400 (8:20-9:3)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.) Regarding 8:20-9:3 of DWR-0400 submitted on June 20, 2025, there is no basis in the written testimony to	"...provided in Exhibit DWR-00402, it is my opinion that, while DCP operations could result in higher EC in the Delta at certain locations in some months, the project would not	☐ Sustained ☒ Overruled See above.

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
	support that the witness has the necessary knowledge, skill, experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Dr. Preece's opinions that the DCP would not cause water quality degradation in regard to EC such that beneficial uses would be adversely affected or there would be injury to legal users of water are improper legal or policy arguments outside of Dr. Preece's areas of specialty, knowledge, or expertise. (See DWR-00401.) The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	cause water quality degradation in regard to EC such that beneficial uses would be adversely affected or there would be injury to legal users of water. This is because the sources of salinity to the Delta would not change with DCP operation and DWR would continue to comply with D-1641 requirements." (DWR-00400, 8:20-9.) State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) As demonstrated by Dr. Preece's CV (DWR-401) and testimony (DWR-400), Dr. Preece is qualified to offer the above noted portions of expert testimony that are her expert opinion. Dr. Preece has over 15 years of experience working on a wide variety of water quality projects in the Sacramento-San Joaquin Delta. (DWR 400, 1:11-14.) Dr. Preece was part of the team that prepared and reviewed the Water Quality chapter for the DCP FEIR. (DWR 400, 1:15-17.) Dr. Preece previously provided expert testimony in the	

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		CPOD proceeding for the California Water Fix project before the State Water Resources Control Board. Dr. Preece is the lead author of the Sacramento-San Joaquin Harmful Algal Bloom Monitoring Strategy and has over 20 peer reviewed papers. (DWR-401.) Dr. Preece's testimony is supported by several reports marked as DWR-402 through 404 and was on the witness panel with Mr. Singh. As an expert, Dr. Preece is permitted to rely on the modeling results prepared by other experts and make her expert opinion. She, and Mr. Singh, were made available to answer any questions relating to modeling results or interpretation of those results.	
DWR-00400 (13:11-14)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.) Regarding 13:11-14 of DWR-0400 submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill,	"...provided in Exhibit DWR-00403, it is my opinion that, while DCP operations could result in differences in chloride in the Delta at certain locations, the project would not cause water quality degradation in regard to chloride such that beneficial uses would be	☐ Sustained ☒ Overruled See above.

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
	experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Dr. Preece's opinions that the DCP would not cause water quality degradation in regard to chloride such that beneficial users would be adversely affected or there would be injury to legal users of water are improper legal or policy arguments outside of Dr. Preece's areas of specialty, knowledge, or expertise. (See DWR-00401.) The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	adversely affected or there would be injury to legal users of water. This is because the..." (DWR-00400, 13:11-14.) State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) As demonstrated by Dr. Preece's CV (DWR-401) and testimony (DWR-400), Dr. Preece is qualified to offer the above noted portions of expert testimony that are her expert opinion. Dr. Preece has over 15 years of experience working on a wide variety of water quality projects in the Sacramento-San Joaquin Delta. (DWR 400, 1:11-14.) Dr. Preece was part of the team that prepared and reviewed the Water Quality chapter for the DCP FEIR. (DWR 400, 1:15-17.) Dr. Preece previously provided expert testimony in the CPOD proceeding for the California Water Fix project before the State Water Resources Control Board. Dr. Preece is the lead author of the Sacramento-San Joaquin	

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		Harmful Algal Bloom Monitoring Strategy and has over 20 peer reviewed papers. (DWR-401.) Dr. Preece's testimony is supported by several reports marked as DWR-402 through 404 and was on the witness panel with Mr. Singh. As an expert, Dr. Preece is permitted to rely on the modeling results prepared by other experts and make her expert opinion. She, and Mr. Singh, were made available to answer any questions relating to modeling results or interpretation of those moments.	
DWR-00400 (22:5-7)	**Inadmissible opinion testimony by expert witness.** (Evid. Code, §§ 720, 801-803.) Regarding 22:5-7 of DWR-0400 submitted on June 20, 2025, there is no basis in the written testimony to support that the witness has the necessary knowledge, skill, experience, training, or education to testify in the form of opinions to the matters addressed in this exhibit. Dr. Preece's opinion that DCP operations would not increase the	"...DCP operations would not increase the frequency and magnitude of CHABs that would result in substantially increased risks of negative effects to beneficial uses associated with CHABs in the Delta or injury to legal users of water." (DWR-00400, 22:5-7.) State Water Board regulations provide that Evidence Code sections 801-805 apply to this proceeding. (Cal. Code Regs., tit. 23, § 648, subd. (b).) As demonstrated by Dr. Preece's	☐ Sustained ☒ Overruled See above.

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
	frequency and magnitude of CHABs sufficiently to result in injury to legal users of water is an improper legal or policy argument outside of Dr. Preece's areas of specialty, knowledge, or expertise. (See DWR-00401.) The probative value of the proposed evidence is substantially outweighed by the risk of confusion. (Gov. Code, § 11513, subd. (f).)	CV (DWR-401) and testimony (DWR-400), Dr. Preece is qualified to offer the above noted portions of expert testimony that are her expert opinion. Dr. Preece has over 15 years of experience working on a wide variety of water quality projects in the Sacramento-San Joaquin Delta. (DWR 400, 1:11-14.) Dr. Preece was part of the team that prepared and reviewed the Water Quality chapter for the DCP FEIR. (DWR 400, 1:15-17.) Dr. Preece previously provided expert testimony in the CPOD proceeding for the California Water Fix project before the State Water Resources Control Board. Dr. Preece is the lead author of the Sacramento-San Joaquin Harmful Algal Bloom Monitoring Strategy and has over 20 peer reviewed papers. (DWR-401.) Dr. Preece's testimony is supported by several reports marked as DWR-402 through 404 and was on the witness panel with Mr. Singh. As an expert, Dr. Preece is permitted to rely on the modeling results	

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		prepared by other experts and make her expert opinion. She, and Mr. Singh, were made available to answer any questions relating to modeling results or interpretation of those results.	

ATTACHMENT 4
Rulings on Dierdre Des Jardins Evidentiary Objections to DWR Case-in-Chief

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
DWR-00001, p. 2:13-p. 3:2, p. 10:5-16 [Murdoch; Stakeholder Engagement Committee, Intake design process]	**Murdoch not at DCA until 2023. Testimony is hearsay and as such is inadmissible.** (Gov. Code, § 11513, subd. (d) [hearsay insufficient to support findings].)	The November 18, 2024 hearing notice identified the relevant hearing issues, which include those addressed by Mr. Murdoch's testimony (e.g., mitigation measures). (Vol. 1, p. 72, line 25 and p. 73, lines1-12.) Mr. Murdock's testimony constitutes Mr. Murdock's opinion based on relevant evidence discussed in Mr. Murdock's testimony and is not hearsay. Even if Mr. Murdock's testimony could be construed as relying on hearsay evidence, an expert witness may rely on hearsay evidence if it is independently proven by competent evidence or covered by a hearsay exception. (*People v. Sanchez* (2016) 63 Cal.4th 665, 686.) DWR presented both Mr. Murdock and Ms. Buchholz to testify to the engagement of the Stakeholder Engagement Committee (SEC). DWR also	☒ Sustained, in part. ☐ Overruled To the extent Mr. Murdock's testimony relays out-of-court statements by others, it is hearsay evidence. Hearsay is admissible in State Water Board hearings. Hearsay evidence can be used only for the purpose of supplementing or explaining other evidence and is not sufficient to support findings unless it would be admissible over objection in civil actions. (Gov. Code, § 11513, subd. (d).) This hearsay evidence is admitted into evidence but will only be relied upon to supplement or explain other evidence. Under Evidence Code § 801, subd. (b), an expert opinion may be

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		submitted multiple exhibits into the record in support of Mr. Murdock's and Ms. Buchholz's testimony. (DWR-00001-00031, Evid. Code, § 1280.) Ms. Buchholz served as the environmental liaison within the SEC and between the engineering and environmental teams during preparation of the Engineering Project Reports and the Environmental documentation. (DWR-00033, 1:18-20.) Local Agencies of the North Delta, Frank Loretz, David J. Elliot & Sons/Stillwater Orchards, and Wurster Ranches, LP also made this objection.	based on a matter "made known to him at or before the hearing, whether or not admissible, that is of a type that reasonably may be relied upon by an expert in forming an opinion upon the subject to which his testimony relates…" Hearsay is admissible in State Water Board hearings and can be relied upon in forming an expert opinion.
DWR-00033, p. 1:15-22 [Buchholz; relied on by Mr. Murdoch]	**False statements made during cross-examination** (Ev. Code 802 and 803)	"As the Environmental Liaison for DCP from 2019 through 2021 and Environmental Consultant from 2021 through present, I am familiar with both engineering aspects and environmental/regulatory permitting aspects of the DCP. I contributed to the testimony of Mr. Adam	☐ Sustained ☒ Overruled The objection is overruled with respect to the admissibility of Ms. Buchholz's testimony. The objection does not cite any evidence that contradicts the assumptions on which Ms. Buchholz's testimony is

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		Murdock. Specifically, I was relied upon by Mr. Murdock for my experience in serving as the environmental liaison within the Stakeholder Engagement Committee and between the engineering and environmental teams during preparation of the Engineering Project Reports and the environmental documentation. In addition, Mr. Murdock relied on me for my familiarity with certain..." (DWR-00033, 1:15-22.) This objection fails to adequately identify which statements during cross-examination Ms. Des Jardin asserts are false. DWR presented witnesses for testimony under oath and asserts that no false statements were made.	based. Although Ms. Des Jardins references an Exhibit A in her declaration in support of the evidentiary objection, no such Exhibit A is attached. The objection properly goes to the weight to be afforded Ms. Buchholz's testimony – the hearing officer and the Board are able to weight the probative value of Ms. Buchholz's testimony upon considering the evidentiary record as a whole, which may include any evidence presented by Ms. Des Jardins challenging the factual assumptions underlying Ms. Buchholz's opinions. Ms. Des Jardins had an adequate opportunity to cross-examine Ms. Buchholz and explore the foundations for her opinions, and

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
			arguments about the persuasive value of Ms. Buchholz's testimony and her credibility may be raised in the closing brief with reference to any supporting contrary evidence.
DWR-00015 Intake Site Identification and Evaluation	**Relies on testimony of Murdoch and Bucholz.**	The memorandum is subject to the official record exception to the hearsay rule and is admissible pursuant to Government Code section 11513(d), which provides that hearsay evidence may be used in administrative hearings for the purpose of supplementing or explaining other evidence. An expert witness may rely on hearsay evidence if it is independently proven by competent evidence or covered by a hearsay exception. (*People v. Sanchez* (2016) 63 Cal.4th 665, 686.) DWR presented both Mr. Murdock and Ms. Buchholz to testify. DWR also submitted multiple exhibits into the	☐ Sustained ☒ Overruled The objection includes no legal basis and therefore is unclear. DWR-00015 is a memorandum authored by the Delta Conveyance Design and Construction Authority (DCA) dated December 23, 2021. The document did not reference or rely on testimony submitted by Mr. Murdock or Ms. Buchholz in this proceeding. To the extent the objection is phrased in error, and is intended to object to Mr.

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTION	RESPONSE TO OBJECTION	RULING ON OBJECTION
		record in support of Mr. Murdock's and Ms. Buchholz's testimony. (DWR-00001-00031.)	Murdock and Ms. Buchholz's reliance on the document, the objection does not include any explanation of the bases for the objection.

ATTACHMENT 5
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