

FILED

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CLERK OF THE SUPERIOR COURT
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BY FAX

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9 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF SHASTA

11 FRIENDS OF THE RIVER;
12 GOLDEN GATE SALMON ASSOCIATION;
13 PACIFIC COAST FEDERATION OF
14 FISHERMEN'S ASSOCIATIONS
15 INSTITUTE FOR FISHERIES RESOURCES;
16 SIERRA CLUB;
17 DEFENDERS OF WILDLIFE; and
18 NATURAL RESOURCES DEFENSE
19 COUNCIL,

20 Plaintiffs and Petitioners,

21 v.

22 WESTLANDS WATER DISTRICT; and DOES
23 1-20,

24 Defendants and Respondents.

Case No. 192490

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF PLAINTIFFS' OPPOSITION
TO DEFENDANT'S MOTION TO
TRANSFER ACTION FROM SHASTA
COUNTY TO FRESNO COUNTY**

Date: July 22, 2019
Time: 8:30 a.m.
Dept: 8
Judge: Hon. Tamara L. Wood
Trial Date: April 14, 2020
Action Filed: May 13, 2019

25 Pursuant to Evidence Code Section 450 *et. seq.* and California Rules of Court, Rules
26 3.1113(l) and 3.1306(c), Plaintiffs Friends of the River et al. ("Plaintiffs") hereby respectfully
27 request that the Court take judicial notice of the documents listed below. Evidence Code Section
28 453 states that "the trial court shall take judicial notice of any matter specified in Section 452 if a
party requests it" and the requesting party (1) gives adequate notice to the adverse party and (2)
includes sufficient information to enable the Court to take judicial notice. (Evid. Code, §§ 452,
453.)

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23 3.1113(l) and 3.1306(c), Plaintiffs Friends of the River et al. ("Plaintiffs") hereby respectfully
24 request that the Court take judicial notice of the documents listed below. Evidence Code Section
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26 party requests it" and the requesting party (1) gives adequate notice to the adverse party and (2)
27 includes sufficient information to enable the Court to take judicial notice. (Evid. Code, §§ 452,
28 453.)

1 The documents listed below fall directly within the category of matters appropriate for
2 judicial notice under Section 452 of the Evidence Code. Courts are entitled to take judicial notice of
3 “[o]fficial acts of the legislative, executive, and judicial departments of the United States and of any
4 state of the United States.” (Evid. Code, § 452, subd. (c).) “Evidence Code 452(c) ... [has] been
5 read to allow judicial notice of administrative agency records.” (*Associated Builders & Contractors,*
6 *Inc. v. San Francisco Airports Com.* (1999) 21 Cal.4th 352, 374, fn. 4; accord *Rodas v. Spiegel*
7 (2001) 87 Cal.App.4th 513, 518 [“Official acts include records, reports, and orders of administrative
8 agencies”].) Administrative agency records that are properly judicially noticed include agency
9 reports, board meeting materials, and inter-agency correspondence. (See, e.g., *Long Beach Equities,*
10 *Inc. v. County of Ventura* (1991) 231 Cal.App.3d 1016, 2024 [stating “resolutions, reports, and other
11 official acts of County and City” are appropriate for judicial notice]; *Souza v. Westlands Water Dist.*
12 (2006) 135 Cal.App.4th 879, 886 fn.1 [taking judicial notice of Westlands Water District board
13 meeting agenda]; *Am. Indian Model School v. Oakland Unified School Dist.* (2014) 227 Cal.App.4th
14 258, 293 [taking judicial notice of state agency letters].) As set forth below, Exhibits A through I all
15 may be judicially noticed because they are administrative agency records.

16 In addition, pursuant to Evidence Code Section 350, these materials are relevant to the
17 Court’s disposition of matters in dispute in this action. (Evid. Code, § 350.) Defendant Westlands
18 Water District has filed a motion to transfer this action to Fresno County, arguing that its activities
19 do not have any impacts in Shasta County. (See Westlands Memorandum of Points and Authorities
20 in support of Motion to Transfer Action from Shasta County to Fresno County at pp. 3, 8-9.) The
21 materials included with this request for judicial notice are relevant for understanding Westlands’
22 activities in Shasta County to assist and cooperate in the planning and construction of a raised Shasta
23 Dam and the effects of such activities. Such relevant materials are appropriate for judicial notice.

24 For the foregoing reasons, Plaintiffs respectfully requests that this Court take judicial notice
25 of the following:

26 1. The U.S. Bureau of Reclamation’s document entitled “Key Anticipated Actions” for the
27 “Shasta Dam Raise & Enlargement Project,” attached as Exhibit A to the Declaration of Nina C.
28 Robertson in Support of Plaintiffs’ Request for Judicial Notice [“Robertson Declaration”].

1 2. Excerpts of a document titled “Westlands Water District - Financial Statements and
2 Supplementary Information with Independent Auditor’s Report” and dated February 28, 2018,
3 attached as Exhibit B to the Robertson Declaration.

4 3. Excerpts of a document titled “Shasta Lake Water Resources Investigation, California
5 Final Environmental Impact Statement.” The document was prepared by the United States
6 Department of the Interior, Bureau of Reclamation - Mid-Pacific Region and it is dated December
7 2014. The excerpts are attached as Exhibit C to the Robertson Declaration.

8 4. Letter dated January 14, 2019, from Eileen Sobek, Executive Director, California State
9 Water Resources Board, to Jose Gutierrez, Westlands Water District, regarding “Comments on
10 Westlands Water District’s Initial Study/Notice of Preparation for the Shasta Dam Raise Project;
11 Shasta County.” The letter is attached as Exhibit D to the Robertson Declaration.

12 5. Letter dated January 14, 2019, from Tina Bartlett, Regional Manager, California
13 Department of Fish and Wildlife, to Jose Gutierrez of Westlands Water District, entitled “Review of
14 the Initial Study and Notice of Preparation for the Shasta Dam Raise Project, State Clearinghouse
15 Number 2018111058, Shasta and Tehama Counties.” The letter is attached as Exhibit E to the
16 Robertson Declaration.

17 6. Westlands Water District’s “Initial Study/Notice of Preparation for the Shasta Dam Raise
18 Project Environmental Impact Report,” dated November 2018. The document is attached as Exhibit
19 F to the Robertson Declaration.

20 7. A document labeled “Westlands Water District Board of Directors Meeting, September
21 18, 2018, Item 15.” The stated “subject” is “Consider Authorizing the District to Retain Consultants
22 to Prepare an Environmental Impact Report Pursuant to the California Environmental Quality Act
23 for the Shasta Lake Water Resources Investigation (Raising Shasta Reservoir).” The document is
24 attached as Exhibit G to the Robertson Declaration.

25 8. Email dated February 11, 2018, from David van Rijn, Regional Planning Officer for
26 Bureau of Reclamation’s Mid-Pacific Region, to Russ Freeman, Deputy General Manager –
27 Resources, Westlands Water District, with the subject “Shasta Raise – Agreement in Principle for
28 Potential Cost Sharing.” The email is attached as Exhibit H to the Robertson Declaration.

1 9. Email dated March 6, 2019 from Jose Gutierrez, Chief Operating Officer of the
2 Westlands Water District, to officials representing various other California public water agencies,
3 with the subject “Update on Shasta Dam Raise Project.” The email is attached as Exhibit I to the
4 Robertson Declaration.

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6 DATED: July 8, 2019

Respectfully submitted,

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