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12  
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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
15 **COUNTY OF SHASTA**

16 PEOPLE OF THE STATE OF CALIFORNIA  
EX REL. ATTORNEY GENERAL XAVIER  
17 BECERRA,  
18 Plaintiff and Petitioner,  
19 v.  
20 WESTLANDS WATER DISTRICT AND  
DOES 1-20,  
21 Defendants and Respondents.

Case No. 192487  
**DECLARATION OF JENIFER GEE IN  
SUPPORT OF DEFENDANT AND  
RESPONDENT WESTLANDS WATER  
DISTRICT'S REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF OPPOSITION  
TO MOTION FOR PRELIMINARY  
INJUNCTION**

**BY FAX**  
Date: July 29, 2019  
Time: 8:30 a.m.  
Dept.: 8  
Assigned for All Purposes to:  
Hon. Tamara L. Wood  
Action Filed: May 13, 2019  
Trial Date: April 14, 2020

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Attorneys for Defendant and Respondent  
WESTLANDS WATER DISTRICT

1 **DECLARATION OF JENIFER GEE**

2 I, Jenifer Gee, declare as follows:

3 1. I am an attorney duly admitted to practice before this Court. I am an associate with  
4 Kronick, Moskovitz, Tiedemann & Girard, attorneys of record for Defendant and Respondent  
5 WESTLANDS WATER DISTRICT. I make this declaration in support of Defendant And  
6 Respondent Westlands Water District’s Request for Judicial Notice In Support Of Opposition To  
7 Motion For Preliminary Injunction.

8 2. Attached hereto as Exhibit 1 is a true and correct copy of an excerpt of the CALFED  
9 Bay-Delta Program’s Programmatic Record of Decision, dated August 28, 2000. I obtained this  
10 excerpt by accessing the California Department of Fish and Wildlife’s website at:  
11 [https://www.dfg.ca.gov/erp/envcomp\\_rod.asp](https://www.dfg.ca.gov/erp/envcomp_rod.asp).

12 3. Attached hereto as Exhibit 2 is a true and correct copy of an excerpt of the Federal  
13 Energy Regulatory Commission’s (“FERC”) Final Environmental Impact Statement for  
14 Hydropower License for the McCloud-Pit Hydroelectric Project, FERC Project No. 2106,  
15 California, dated February 2011. I obtained this excerpt by accessing FERC’s website at:  
16 <https://www.ferc.gov/industries/hydropower/enviro/eis/2011/02-25-11.asp>.

17 4. Attached hereto as Exhibit 3 is a true and correct copy of an excerpt of the California  
18 State Water Resources Control Board’s Draft Initial Study/Negative Declaration for PG&E  
19 McCloud-Pit Hydroelectric Project, FERC Project No. 2106, dated May 2019. I obtained this  
20 excerpt by accessing the California State Water Resources Control Board’s website at:  
21 [https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/water\\_quality\\_cert/docs/mccloud\\_ferc2106/20190502\\_mccloud\\_pit\\_draft\\_isnd.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/mccloud_ferc2106/20190502_mccloud_pit_draft_isnd.pdf).

23 5. Attached hereto as Exhibit 4 is a true and correct copy of Winnemem Wintu Tribe  
24 and North Coast Rivers Alliance’s comment letter regarding the Notice of Intent to Adopt a Negative  
25 Declaration for PG&E’s McCloud-Pit Hydroelectric Project, FERC Project No. 2106, dated June 3,  
26 2019. I obtained this letter by accessing the California State Water Resources Control Board’s  
27 website at:  
28 [https://www.waterboards.ca.gov/waterrights/water\\_issues/programs/water\\_quality\\_cert/docs/mccloud\\_ferc2106/20190603\\_winnemem\\_wintu\\_north\\_coast\\_rivers\\_alliance\\_comment\\_letter.pdf](https://www.waterboards.ca.gov/waterrights/water_issues/programs/water_quality_cert/docs/mccloud_ferc2106/20190603_winnemem_wintu_north_coast_rivers_alliance_comment_letter.pdf).

1 order by the courts called upon to apply it. An injunction which forbids an act in terms so vague that  
2 men of common intelligence must necessarily guess at its meaning and differ as to its application  
3 exceeds the power of the court.” (*Pitchess v. Super. Ct. of Los Angeles County* (1969) 2 Cal.App.3d  
4 644, 651.) Numbered paragraphs 1 and 3 of the form submitted by the AG do not meet these  
5 requirements, and Westlands objects to the proposed order on those grounds.

6 The first numbered paragraph in the proposed order provides: “Westlands is enjoined from  
7 assisting or cooperating in any planning for or the construction of the Shasta Dam Raise project,  
8 pending trial of this matter.” As discussed above, Westlands does not believe that it has engaged in  
9 any “planning” of the Project to date. The AG disagrees, and apparently has a far more expansive  
10 interpretation of “planning.” If the Court issues an injunction, what constitutes prohibited planning  
11 should be specifically defined in the order.

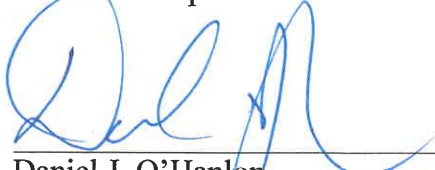
12 The third numbered paragraph in the proposed order provides: “Westlands is enjoined from  
13 taking any action that would violate the California Wild and Scenic Rivers Act, Public Resources  
14 Code section 5093.542, pending trial of this matter.” Westlands has discussed its understanding of  
15 section 5093.542 above, and explained that application of the statute is not so simple as the AG’s  
16 motion presumes. If the Court nonetheless issues an injunction, that injunction should specifically  
17 identify what actions Westlands cannot take.

18 **VI. CONCLUSION**

19 Based on the foregoing, Westlands respectfully requests the Court deny the AG’s motion  
20 for preliminary injunction.

21 DATED: July 16, 2019

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD  
A Professional Corporation

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24 By: 

25 Daniel J. O’Hanlon  
26 Attorneys for Defendant and Respondent  
WESTLANDS WATER DISTRICT

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**PROOF OF SERVICE**

**People, et al. v. Westlands Water District, et al.  
Shasta County Superior Court Case No. 192487**

**STATE OF CALIFORNIA, COUNTY OF SACRAMENTO**

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Sacramento, State of California. My business address is 400 Capitol Mall, 27th Floor, Sacramento, CA 95814.

On July 16, 2019, I served true copies of the following document(s) described as **DECLARATION OF JENIFER GEE IN SUPPORT OF DEFENDANT AND RESPONDENT WESTLANDS WATER DISTRICT'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION** on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

**BY FEDEX:** I enclosed said document(s) in an envelope or package provided by FedEx and addressed to the persons at the addresses listed in the Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of FedEx or delivered such document(s) to a courier or driver authorized by FedEx to receive documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 16, 2019, at Sacramento, California.



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Selena Paradee

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**SERVICE LIST**  
**People, et al. v. Westlands Water District, et al.**  
**Shasta County Superior Court Case No. 192487**

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