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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.
22

Case No. 192487

**DEFENDANT AND RESPONDENT
WESTLANDS WATER DISTRICT'S
OBJECTIONS TO EVIDENCE IN
SUPPORT OF 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 Defendant and Respondent Westlands Water District (“Westlands”) hereby objects to the
2 evidence offered by the Plaintiff and Petitioner People of the State Of California Ex Rel. Attorney
3 General Xavier Becerra (“AG”) in support of his Motion for Preliminary Injunction:

4 Westlands does not object to the AG’s Request for Judicial Notice. Westlands does,
5 however, object to the AG’s use of statements within those documents, with the exception of official
6 statements from Westlands, for the truth of the matter asserted or any purpose beyond the
7 documents’ mere existence. The effect of judicial notice of an official act or record, where proper,
8 extends only to existence of the act or record and not to truth of any statement therein. (*Arce v.*
9 *Kaiser Foundation Health Plan, Inc.* (2010) 181 Cal. App. 4th 471, 482 [“While we may take
10 judicial notice of court records and official acts of state agencies (Evid. Code, § 452, subds. (c), (d)),
11 the truth of matters asserted in such documents is not subject to judicial notice”]; *Coyne v. City and*
12 *County of San Francisco* (2017) 9 Cal. App. 5th 1215, 1223.) To the extent the AG seeks to
13 introduce statements from any of the judicially noticed documents not created by Westlands for the
14 truth of the matter asserted, Westlands objects to such evidence as hearsay. (Evid. Code, § 1200.)

15 Westlands lodges the following specific objections to the use of inadmissible hearsay in the
16 AG’s Motion for Preliminary Injunction:

17 1. EXHIBIT A: United States Department of the Interior, Bureau of Reclamation,
18 “Final Shasta Lake Water Resources Investigation Environmental Impact Statement,” dated
19 December 2014:

20 OBJECTION: Westlands objects to the AG’s use of this document in the following sections
21 of the Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction:

Page, Lines	Objection	Response	Ruling
7:24-26	Hearsay (Evid. Code § 1200)		SUSTAINED: ___ OVERRULED: ___
9: 1-4, 8-9	Hearsay (Evid. Code § 1200)		SUSTAINED: ___ OVERRULED: ___

1	10:20-22	Hearsay (Evid. Code § 1200)		SUSTAINED: ___ OVERRULED: ___
2				
3	10:24-11:18	Hearsay (Evid. Code § 1200)		SUSTAINED: ___ OVERRULED: ___
4				
5	18:13-22	Hearsay (Evid. Code § 1200)		SUSTAINED: ___ OVERRULED: ___
6				

7

8 2. EXHIBIT B: United States Department of the Interior, Bureau of Reclamation,
9 “Appraisal Assessment of the Potential for Enlarging Shasta Dam and Reservoir,” dated May 1999:

10 OBJECTION: Westlands objects to the AG’s use of this document in the following sections
11 of the Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction:

12	Page, Lines	Objection	Response	Ruling
13	7:15-19	Hearsay (Evid. Code § 1200)		SUSTAINED: ___ OVERRULED: ___
14				
15	9: 3-4, 8-9	Hearsay (Evid. Code § 1200)		SUSTAINED: ___ OVERRULED: ___
16				

17

18 3. EXHIBIT C: United States Department of the Interior, Bureau of Reclamation,
19 “Shasta Lake Water Resources Investigation Feasibility Report,” dated July 2015:

20 OBJECTION: Westlands objects to the AG’s use of this document in the following sections
21 of the Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction:

22	Page, Lines	Objection	Response	Ruling
23	7:24-26	Hearsay (Evid. Code § 1200)		SUSTAINED: ___ OVERRULED: ___
24				
25	9: 3-4, 8-9	Hearsay (Evid. Code § 1200)		SUSTAINED: ___ OVERRULED: ___
26				

11:20-12:3	Hearsay (Evid. Code § 1200)		SUSTAINED: ____ OVERRULED: ____
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4 4. EXHIBIT D: “Agreement in Principle for Potential Sharing. of Costs of Enlarging
5 Shasta Dam and Reservoir Between The Bureau of Reclamation and The Westlands Water District,”
6 executed April 22, 2014:

7 OBJECTION: Westlands objects to the extent the AG mischaracterizes this document. This
8 agreement is only for “potential” cost sharing between Westlands and Reclamation, and provides
9 that each party “may” be willing to enter formal negotiations, subject to a number of contingencies
10 that have not occurred. That agreement expired by its terms on September 30, 2017 and has not been
11 renewed. (See accompanying Declaration of Jose Gutierrez, ¶ 14.)

12 5. EXHIBIT G: United States Department of the Interior, Fish and Wildlife Service,
13 “Fish and Wildlife Coordination Act Report For the Shasta Lake Water Resources Investigation,”
14 dated November 2014:

15 OBJECTION: Westlands objects to the AG’s use of this document in the following sections
16 of the Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction:

Page, Lines	Objection	Response	Ruling
12:7-21	Hearsay (Evid. Code § 1200)		SUSTAINED: ____ OVERRULED: ____

21 6. EXHIBIT H: Letter dated September 30, 2013, from Neil Manji, Regional Manager,
22 California Department of Fish and Wildlife, to Katrina Chow, Project Manager/Civil Engineer,
23 Bureau of Reclamation Planning Division, Re: “Comments on the Draft Environmental Impact
24 Statement and Proposed Shasta Dam Enlargement Project/Shasta Lake Water Resources
25 Investigation”:

26 OBJECTION: Westlands objects to the AG’s use of this document in the following sections
27 of the Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction:
28

Page, Lines	Objection	Response	Ruling
12:24-28	Hearsay (Evid. Code § 1200)		SUSTAINED: ____ OVERRULED: ____

7. EXHIBIT I: Letter dated January 14, 2019, from Tina Bartlett, Regional Manager, California Department of Fish and Wildlife, to Jose Gutierrez, Westlands Water District, Re: “Review of the Initial Study and Notice of Preparation for the Shasta Dam Raise Project, State Clearinghouse Number 2018111058, Shasta and Tehama Counties”:

OBJECTION: Westlands objects to the AG’s use of this document in the following sections of the Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction:

Page, Lines	Objection	Response	Ruling
12:28-13:7	Hearsay (Evid. Code § 1200)		SUSTAINED: ____ OVERRULED: ____

8. EXHIBIT Q: United States Department of the Interior, Bureau of Reclamation “Shasta Dam Raise & Enlargement Project Key Anticipated Actions,” dated April 2019:

OBJECTION: Westlands objects to the AG’s use of this document in the following sections of the Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction:

Page, Lines	Objection	Response	Ruling
17:24-18:2	Hearsay (Evid. Code § 1200)		SUSTAINED: ____ OVERRULED: ____

DATED: July 16, 2019

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation

By:

Daniel O’Hanlon
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 **DEFENDANT AND RESPONDENT WESTLANDS WATER DISTRICT'S** 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.



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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