

**Area-of-Origin/Reasonableness Oral Arguments  
Monday-Wednesday, September 23-25, 2002**

**SWRCB Cases, No. JC 4118**

**Judge Roland, Candee, Presiding**

**SCHEDULE FOR ORAL ARGUMENTS**

**NOTE: If a party completes its oral argument early, the next scheduled party should be ready to present its oral argument without delay, even if originally scheduled for the following day.**

**PETITIONERS' OPENING ARGUMENTS (Monday, Sept. 23):**

- San Joaquin County Entities (Monday morning, 2 hours, 40 minutes)
- Central Delta Water Agency *et al.* (Monday afternoon, 2 hours, 40 minutes)

**STATE RESPONDENTS' OPPOSING ARGUMENTS (Tuesday, September 24):**

- State of California Respondents (all day)

**REAL PARTY IN INTEREST ARGUMENTS (Morning, Wednesday, Sept. 25; 2 hours, 40 minutes total):**

**Position Supportive of State Respondents:**

- California Department of Water Resources (20 minutes)
- Westlands Water District *et al.* (20 minutes)
- State Water Contractors *et al.* (20 minutes)
- East Bay Municipal Utility District (20 minutes)
- San Joaquin River Group Authority *et al.* (20 minutes)
- North Delta Water Agency (partial joinder in State Respondents' brief) (20 minutes)
- Woodbridge Irrigation District (20 minutes)

**Supporting D1641 But Opposing State Arguments on These Issues:**

- Contra Costa Water District (20 minutes)

**ARGUMENTS IN REPLY (Afternoon, Wednesday, Sept. 25; 1 hour, 50 minutes):**

- State Respondents' Combined Reply to RPI Briefs [State Water Contractors & Contra Costa Water District (30 minutes)

- Central Delta Water Agency’s Replies [San Joaquin River Group Authority, State Water Contractors, State Respondents] (30 minutes)
- Golden Gate Audubon Society’s Joinder in Central Delta Water Agency’s Reply to State Respondents’ Opposition (20 minutes)
- San Joaquin County Entities Reply to State Respondents’ Opposition (30 minutes)

**QUESTIONS FOR ORAL ARGUMENTS**

**NOTE: Please consult this site throughout the week of September 16-20 for additional questions that may be posted.**

**General**

1. For each of the area-of-origin protective statutes (County-of-Origin Statute, Watershed Protection Act, Delta Protection Act, and the San Joaquin River Protection Act), please define in your view:

- The protected geographic area
- The protected class of users (e.g., riparians, appropriators, existing users, future users etc.)
- The persons against whom the protections may be enforced
- The prohibited actions

2. It appears that many of the protections of these statutes might be obtained as the result of an enforcement of priorities. What other legal means are available, either to the SWRCB or persons claiming protection under these statutes, to seek the protections of these enactments (e.g., CWC § 1052)?

**Watershed Protection Act**

3. Is the County-of-Origin Statute, CWC § 10505, simply a separate codification of part of the Watershed Protection Act, CWC §§ 11460-11465?

4. Should both the County of Origin Statute and the Watershed Protection Act be read narrowly to proscribe only actions by the Department of Water Resources? How should §§ 11461 & 11462 (limited to DWR) be reconciled with § 11128 (limited to operators/constructors of Central Valley Project)?

5. What is the meaning of “Central Valley Project” in CWC § 11104? Is it the State Water Project, federal Central Valley Project, or both? Please explain the legislative trail that leads to your conclusion.

6. Assuming the Watershed Protection Act applies only to DWR, must enforcement of the act await some act or failure to act by DWR, rather than a writ directed to the SWRCB?

7. Does the compensation requirement, § 11462, apply to water that would otherwise be available as natural flow?

**Delta Protection Act**

8. Does § 12201 evidence two legislative purposes, *i.e.*, maintenance of an adequate in-Delta water supply and a common supply of water for export, with no legislative preference between the two (except for enforcement of the Watershed Protection Act against DWR)?

9. What is the meaning of “adequate water supply” in § 12202 and “entitled” in § 12203? Do they express the same concept?

**San Joaquin River Protection Act**

10. Who are the major water users on the San Joaquin River segment described in the statute (Merced-Middle River reach)?

11. The statute appears to exempt other vested rights and pre-1961 project applications. Does this statute have any application to SWP/CVP exports or any actions taken by the Board in D-1641?

**Reasonableness**

12. Briefly, in reviewing D1641, is the Court’s review of “reasonableness” issues based on substantial evidence, *de novo*, or *de novo* with deference to the Board’s determinations?