earth LAW CENTER
FIGHTING FOR NATURE'S RIGHTS

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VIA U.S. MAIL & ONLINE SUBMISSION

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460

March 29, 2018

Re: Freedom of Information Act Request

Dear Freedom of Information Act Officer:

On behalf of Earth Law Center ("ELC") and pursuant to the Freedom of Information Act, 5 U.S.C. § 552, I request that a copy of the following documents be provided to me by the U.S. Environmental Protection Agency ("EPA"):

1. All correspondence between EPA and the California State Water Resources Control Board related to the February 5, 2018, "Transmittal of the 2014 and 2016 California Integrated Report [Clean Water Act Sections 303(d) and 305(b)]" attached hereto as **Exhibit A** from February 5, 2018, to present;

2. All correspondence between EPA and U.S. Environmental Protection Agency, Region 9 related to the February 5, 2018, "Transmittal of the 2014 and 2016 California Integrated Report [Clean Water Act Sections 303(d) and 305(b)]" attached hereto as **Exhibit A** from February 5, 2018, to present;

3. All documents related to the February 5, 2018, "Transmittal of the 2014 and 2016 California Integrated Report [Clean Water Act Sections 303(d) and 305(b)]" attached hereto as **Exhibit A** from February 5, 2018, to present.

We request that to the extent that the EPA can do so, ELC be furnished with electronic copies of the above documents in lieu of paper copies to minimize the expense and burden of copying.

If all or part of the request is denied, please provide the name, address, and telephone number of the agency official responsible for the denial, and the official responsible for appeals of denial requests. Also, if portions of the requested records are exempt from release, we request that all reasonable, segregable, nonexempt portions of those records be released. We reserve our right to appeal the withholding or deletion of any information.

Additionally, I hereby also request a fee waiver for searching for, duplicating, and/or sending the above requested files, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). These documents, which states that "documents shall be furnished without any charge or at a charge reduced below the fees established under clause (ii) if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of operations or activities of the government and is not primarily for commercial purposes," as set out below ELC requests a waiver of fees for searching for and duplicating the above requested records. To the extent the requested fee waiver is not granted, please contact me at lsheehan@earthlaw.org.

The Documents Relate to Past and Proposed Activities of Great Interest to the Public

ELC works particularly to ensure that waterways and aquatic species enjoy rights to the water quality and flows that they need to thrive and be healthy. For more information on our clean water work, please see: http://www.earthlawcenter.org/california-waterways. Waterway and species rights necessarily underlie a water governance system that effectively guides our behavior. The documents requested are necessary for ELC pursue its purpose by to monitoring, publicizing and enforcing responsible agencies' obligations under the Clean Water Act and other environmental laws, and will contribute significantly to the public's overall understanding of the past and proposed implementation of the Clean Water Act.

Further, the requested information will contribute significantly to the public's understanding of EPA's development of the latest guidance for identifying the state of the public's waterways. The evolution of this guidance is of particular interest in California, which has lagged significantly behind other states in complying with Clean Water Act section 303(d) listing mandates.

ELC Will Use and Disseminate the Requested Documents for the Public Benefit

ELC will use the requested documents in numerous ways that benefit the public interest. First, we will pursue litigation, if and as appropriate, to enforce the provisions of the Clean Water Act, and/or other federal, state, and local environmental laws. This use alone warrants grant of a fee waiver, even if it were our only purpose in requesting the documents. *See Idaho Wildlife Federal v. United States Forest Service No. 82-1206* (D.D.C. July 20, 1983) (public interest group entitled to a fee waiver when requesting documents to support monitoring and enforcement of agency compliance with environmental laws).

ELC also would use the requested information as a part of its ongoing efforts to educate the public, and federal and regional agencies about the implementation of the Clean Water Act. The requested information is essential to be able to accurately inform these groups the requirements of the Clean Water Act in relation to impaired water bodies.

Finally, ELC will disseminate the information from the requested documents to the interested community and the general public through its public education activities. ELC publishes and distributes to its members and others via action alerts and its website. In addition, ELC would

incorporate information obtained from this request in its numerous presentations to and discussions with local, state and federal agencies and other interested parties.

ELC Is Uniquely Well-Qualified to Use and Disseminate the Requested Documents

ELC is a leader on issues relating to the inherent rights of waterways to flow and fish populations to thrive. Specifically, ELC has been involved with the development of California's Clean Water Act 303(d) list since August 2010. Additional information about ELC's work related to waterways' rights is available here: http://www.earthlawcenter.org/california-waterways.

ELC Will Not Benefit Financially from the Requested Information

ELC will not benefit financially from the requested documents. Rather, ELC will use the documents to assess and to monitor responsible agencies' compliance with applicable environmental laws and, as appropriate, to seek equitable relief form the courts if agencies are violating their obligations under these laws.

ELC is a 501(c)(3) non-profit public benefit conservation and research organization that works to ensure that the laws of all governments recognize and protect nature's inherent rights, to exist, thrive and evolve. To support its work in monitoring (and if necessary, challenging) activities that do not comport with applicable laws, ELC will rely primarily on foundation grants and charitable donations.

Pursuant to the Freedom of Information Act, please respond to this request within 20 business days. If you have any questions, please e-mail me at gwilson@earthlaw.org.

Sincerely yours,

Grant Wilson
Directing Attorney
Earth Law Center

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

FEB 0 5 2018

Mr. Tomas Torres, Director
Water Division (WTR-1)
U.S. Environmental Protection Agency,
Region 9
75 Hawthorne Street
San Francisco, CA 94105

Dear Mr. Torres:

TRANSMITTAL OF THE 2014 AND 2016 CALIFORNIA INTEGRATED REPORT [CLEAN WATER ACT SECTIONS 303(d) AND 305(b)]

On October 3, 2017, by Resolution No. 2017-0059, the State Water Resources Control Board (State Water Board) approved the Clean Water Act section 303(d) List of water quality limited segments (303(d) List) portion of the 2014 and 2016 California Integrated Report. Pursuant to Clean Water Act section 303(d)(2), the State Water Board is submitting to the U.S. Environmental Protection Agency (U.S. EPA) the Clean Water Act section 303(d) List and supporting documentation for review and approval. The 2014 and 2016 California Integrated Report contains five categories consistent with U.S. EPA guidance. Consistent with Section 2 of the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List, the Clean Water Act section 303(d) List portion of the California Integrated Report is comprised of Integrated Report categories 4a, 4b, and 5.

The complete 2014 and 2016 California Integrated Report and supporting documentation listed below are being sent separately to Mr. Terrence Fleming of your office:

(1) The State Water Board Staff Report which contains the listing methodology used; summaries of the proposed additions, deletions, and area changes (Tables 4 and 5); and the 2012 California 303(d) List (Appendix J);
(2) 2014 and 2016 California Integrated Report category reports (Appendices A-G);
(3) Fact sheets supporting recommendations for listing, delisting, and area changes (Appendix I);
(4) Miscellaneous Changes Report (Appendix K);
(5) State Water Board Summary of Comments and Responses;
(6) State Water Board Resolution; and
(7) A DVD copy of the October 3, 2017 State Water Board Meeting.

The complete 2014 and 2016 California Integrated Report, including the Clean Water Act 303(d) List portion approved by the State Water Board, is available online at http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2014_2016.shtml.

We look forward to receiving your approval of the Clean Water Act 303(d) List portion of the 2014 and 2016 California Integrated Report. If you have any questions on this subject, please contact me at (916) 341-5599 (Eileen.Sobeck@Waterboards.ca.gov). You may also contact Mr. Nick Martorano, Chief of the Water Quality Assessment Unit, who is the lead staff person on this matter, at (916) 341-5290 (Nicholas.Martorano@waterboard.ca.gov).

Sincerely,

Eileen Sobeck
Executive Director

cc: (with attachments)

Mr. Terrence Fleming, WTR-2
U.S. Environmental Protection Agency,
75 Hawthorne Street
San Francisco, CA 94105
Fleming.Terrence@epa.gov

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2017-0059

APPROVING THE CLEAN WATER ACT SECTION 303(d) LIST FOR THE LOS ANGELES REGION AND THE CLEAN WATER ACT SECTION 303(d) LIST PORTION OF THE PROPOSED 2014 AND 2016 CALIFORNIA INTEGRATED REPORT

WHEREAS:

1. Section 303(d)(1) of the Clean Water Act (CWA) (33 U.S.C. § 1313(d)) requires states to regularly identify surface waters that do not meet applicable water quality standards (beneficial uses and water quality objectives) after technology-based controls have been implemented (referred to as the 303(d) List) and prioritize such surface waters for the purposes of developing total maximum daily loads (40 C.F.R. § 130.7(b)). The 303(d) List must include a description of the pollutants causing impairment and a completion date for ranking the development of a total maximum daily load (TMDL). States are required to submit their respective 303(d) Lists biennially to the United States Environmental Protection Agency (U.S. EPA) (40 C.F.R. § 130.7(d)).

2. In addition to submitting the 303(d) List, section 305(b) of the CWA requires states to report to U.S. EPA on the health of all their surface waters (referred to as the 305(b) Report). The State Water Resources Control Board (State Water Board) combines its reporting requirements under CWA sections 303(d) and 305(b) into a single "Integrated Report."

3. Only the 303(d) List requires approval by the State Water Board and U.S. EPA.

4. The process for developing and approving the 303(d) List is described in the Water Quality Control Policy for Developing California's Clean Water Act Section 303(d) List (Listing Policy):

   a. A Regional Water Quality Control Board (Regional Water Board) administers the listing process for the listing cycle applicable to the region or the State Water Board may administer the listing process for the region on behalf of a Regional Water Board.

   b. After approving the 303(d) List (region-specific lists are referred to as 303(d) lists) at a public hearing, the Regional Water Board submits the region-specific 303(d) List recommendations to the State Water Board. If the State Water Board administers the listing process on behalf of a Regional Water Board, the State Water Board consolidates that region's 303(d) List into the statewide list submitted to U.S. EPA without further consideration.

   c. The State Water Board consolidates the lists approved by the Regional Water Boards into a statewide 303(d) List.