

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



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A2503016

Application of Union Pacific Railroad
Company, d/b/a Keene Water System
(U0434W) for Adjustments to Revenue
Requirement, Rate Design, and Rates.

Application 25-03-016

And Related Matter.

Application 25-03-017

**THE PUBLIC ADVOCATES OFFICE COMMENTS
ON THE ADMINISTRATIVE LAW JUDGE'S OCTOBER 13, 2026 RULING
NOTIFYING PARTIES OF INTENT TO TAKE OFFICIAL NOTICE**

I. INTRODUCTION

Pursuant to Administrative Law Judge (ALJ's) Minh LeQuang's October 13, 2026 Ruling Notifying the Parties of His Intent to Take Official Notice and Allowing the Parties to Comment (Ruling), the Public Advocates Office at the California Public Utilities Commission (Cal Advocates) submits these Comments. The Ruling states the ALJ intends to take official notice of the State Water Resources Control Board's (Water Board) September 28, 2026 letter¹ (Update Letter) concerning the status of the Technical Assistance (TA) Work Plan for the Keene Water System.

Cal Advocates opposes official notice of the Update Letter in its entirety. Although Evidence Code section 452(c) generally permits judicial notice of government communications, Union Pacific Railroad Company, dba, Keene Water System (UPRR) has not established that the mere existence or issuance of the Update Letter has any material probative value independent of its disputed substantive assertions. Those assertions directly contradict Cal Advocates' testimony and concern material issues in

¹ The Update Letter's cover page is dated September 2, 2026, while the electronic signature reflects execution on September 28, 2026.

these proceedings yet have not been supported by the underlying analyses or subjected to the procedural safeguards applicable to the existing evidentiary record.

Taking official notice of the Update Letter, even solely to acknowledge its existence, would confer negligible prohibitive value while creating substantial risk of unfair prejudice, confusion, and improper reliance on unsupported conclusions bearing the apparent authority of another state agency. Cal Advocates therefore requests that the ALJ decline official notice altogether.

Alternatively, if official notice is granted, it should be expressly limited to the Update Letter's existence and issuance, without establishing the truth, reliability, or evidentiary weight of any substantive assertion contained therein. If a party seeks to rely on any such assertion as substantive proof of a material fact, the California Public Utilities Commission (Commission) should evaluate that proposed use through an appropriate evidentiary process that affords the parties a fair opportunity to respond, seek discovery, submit testimony and develop the record for Commission review.

II. LEGAL STANDARD OF REVIEW

Rule 13.10 of the Commission's Rules of Practice and Procedure (Rules) authorizes the Commission to take official notice of matters that California courts may judicially notice under Evidence Code section 450 et seq. UPRR requests official notice of the Update Letter in its entirety pursuant to Evidence Code sections 452(c) and 452(h). However, neither provision authorizes the Commission to accept reasonably disputed assertions in a government document as true merely because the document was issued by a public agency.

Evidence Code section 452(c) permits notice of official acts of state agencies, including the existence and issuance of official documents. Whether the Update Letter is an "official act" of the Water Board is disputable but, regardless, judicial notice of a document does not establish the truth of its disputed contents. (*Mangini v. R.J. Reynolds Tobacco Co.* (1994) 7 Cal.4th 1057, 1063–1064; *StorMedia, Inc. v. Superior Court* (1999) 20 Cal.4th 449, 456, fn. 9.) To the extent UPRR seeks official notice of the Update Letter's substantive assertions as true, each such assertion must independently

satisfy the requirements of section 452(h). Specifically, in relevant part, section 452(h) directs that judicial notice may be taken of:

Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

Thus, section 452(h) requires both that any substantive assertion not be reasonably subject to dispute and that they be capable of immediate and accurate determination through sources of reasonably indisputable accuracy. As discussed below, the Update Letter's material assertions do not satisfy this standard.

Even when a document is otherwise eligible for judicial notice, the tribunal must independently consider whether the matter proposed to be noticed is relevant and whether its limited probative value justifies the risks associated with its consideration.² In *Mangini*, the California Supreme Court explained that judicial notice is confined to relevant matters and recognized that the requirements of judicial notice are also subject to Evidence Code section 352's balancing principles. (*Mangini*, supra, 7 Cal.4th at pp. 1062–1063, citing *Gbur v. Cohen* (1979) 93 Cal.App.3d 296, 301, and *Mozetti v. City of Brisbane* (1977) 67 Cal.App.3d 565, 578.)³ Under Evid. Code section 352, evidence may be excluded when its probative value is substantially outweighed by the danger of undue prejudice, confusion of issues, or undue consumption of time.

Significantly, *Mangini* denied judicial notice of government reports where either their existence was irrelevant to the issue before the court⁴ or the truth of their

² *StorMedia, Inc. v. Superior Court* (1999) 20 Cal.4th 449, 456, FN 9 (“When judicial notice is taken of a document, however, the truthfulness and proper interpretation of the document are disputable.”)

³ *Mangini* was later overruled on unrelated grounds by *In re Tobacco Cases II*, 41 Cal. 4th 1257 (FCLAA preemption of regulation over cigarette advertising).

⁴ *Mangini*, supra, 7 Cal.4th at pp. 1063 (We therefore "decline" to judicially notice material that "has no bearing on the limited legal question at hand.")

substantive assertions could not properly be noticed.⁵ Thus, the mere fact that a government document qualifies for notice under section 452(c) does not establish that taking notice serves a legitimate evidentiary purpose.

As the Commission noted in D.23-11-055, “the taking of judicial notice is not required, but may occur, in the case of ‘facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.’” In that instance, because “the Applicant disputes at least one aspect of the [facts sought to be noticed]” the Commission found Judicial Notice inappropriate as the requirements for Evidence Code §452 could not be met.⁶

Accordingly, the Commission should not take official notice of the Update Letter merely because its issuance is capable of verification. Where the existence of a document offers little or no probative value independent of its disputed assertions, and official notice would create substantial risks of confusion, unfair prejudice, or improper reliance on untested material, the Commission must exercise its discretion under Rule 13.10 to decline official notice altogether.

III. JUDICIAL NOTICE SHOULD BE DENIED

A. The Update Letter’s minimal probative value is substantially outweighed by the risk of unfair prejudice

Cal Advocates opposes UPRR’s request for official notice of the Update Letter in its entirety, including notice limited to its existence, issuance, or contents. Although Evidence Code section 452(c) may permit notice that the Update Letter was issued, UPRR has not identified any specific fact for notice or otherwise demonstrated that any

⁵ *Id.* at 1063, 1064 (“[T]he taking of judicial notice of the official acts of a governmental entity does not in and of itself require acceptance of the truth of factual matters which might be deduced therefrom, since in many instances what is being noticed, and thereby established, is no more than the existence of such acts and not, without supporting evidence, what might factually be associated with or flow therefrom.”)

⁶ D.23-11-055 (November 21, 2023) at 6. (Evidence Code §452(f)... Here, the Applicant disputes at least one aspect of the [facts sought to be noticed]” thus the requirements for Evidence Code §452 cannot be met.)

specifically identified fact has any material probative value independent of the letter's substantive assertions. The relevant issues in these proceedings concern UPRR's management of the Keene Water System along with its operations, water resources, financial requirements, and available alternatives.⁷ The mere fact that SWRCB staff issued a letter that describes further action that may occur "once that work is complete"⁸ does not, as a matter of law, establish any fact material to resolving these issues.

UPRR's request for judicial notice, if granted, would place before the Commission the Update Letter's substantive assessments and conclusions concerning matters directly disputed in these proceedings. These matters include the availability and value of water rights, the feasibility of consolidation, groundwater conditions, projected water demand, funding opportunities, and governance alternatives. Yet none of those disputed assertions may be accepted as true through official notice here. (*Mangini*, supra, 7 Cal.4th at pp. 1063–1064; D.22-05-003, at p. 99, fn. 127.) Consequently, the Update Letter's probative value for the limited purpose of establishing its existence is negligible at best.

In contrast, the risk of prejudice is substantial. The Update Letter directly contradicts material portions of testimony of record in these proceedings. (See Table 1 below for examples). Unlike that testimony, the Update Letter is not supported by the underlying technical analyses, communications, assumptions, or other materials necessary to evaluate its factual assertions. Nor have the parties been afforded an equivalent opportunity to investigate and test those assertions through discovery, responsive testimony, or cross-examination.

Taking official notice of the Update Letter would therefore constitute a due process violation as it would create a significant risk that the Update Letter's untested conclusions would receive undue evidentiary weight merely because they originate from another California regulatory agency. Although official notice of a document's existence does not legally establish the truth of its contents, the risk remains that the Update

⁷ March 2, 2026 Scoping Memo at 3.

⁸ Update Letter at 2.

Letter's substantive assertions will influence the Commission's evaluation of disputed facts without having been subjected to the evidentiary safeguards applicable to other material in the proceeding. That the Update Letter carries an apparent seal of governmental authority adds to the potential for prejudice; it could improperly elevate a staff-level assessment (without any supporting material) above evidence developed through the Commission's established procedures.

Limiting official notice to the Update Letter's existence would not meaningfully alleviate this concern as the Update Letter's contents are inextricably tied to the purpose for which UPRR seeks its consideration.² To be clear, the danger here is not simply that the Update Letter contains information unfavorable to Cal Advocates, but that official notice could give unsupported factual assertions an appearance of evidentiary legitimacy disproportionate to their actual probative value.

Therefore, permitting official notice solely of its existence would not meaningfully resolve the prejudicial impact of the letter. Allowing official notice would also impose an unjustified procedural burden on Cal Advocates. To address the Update Letter's unsupported assertions, Cal Advocates would need to obtain and evaluate the underlying technical studies, communications, and analyses; conduct additional discovery; and submit supplemental testimony to respond to any contradictory conclusions from the Update Letter. To the extent that they are possible, such additional measures would consume Commission and party resources without advancing the resolution of issues through evidence properly developed in the record.¹⁰

Balancing the principles recognized in *Mangini*, the minimal probative value of noticing the Update Letter's existence is substantially outweighed by the risk of unfair prejudice, confusion of disputed issues, and undue consumption of time. Accordingly,

² These problems are particularly significant because the Update Letter includes technical judgments and characterizations of third-party communications rather than merely reporting objectively verifiable administrative events.

¹⁰ It is important to note that the Commission would be compelled to authorize discovery on a sister state agency that is not a party to this proceeding.

Cal Advocates respectfully requests that the ALJ decline to take official notice of the Update Letter for any purpose. If UPRR wishes to rely on its substantive assertions, it should be required to present those assertions through an appropriate evidentiary process, subject to the same procedural safeguards afforded to other evidence in these proceedings.

B. In short, the Update Letter lacks foundation and cannot be adopted as a determination by the Water Board

Before admitting the Update Letter into the evidentiary record there must be a finding on the letter's foundation. Specifically, not only must it be relevant and material to the issues in dispute, there first must be a determination that (1) there is sufficient basis to establish its authenticity and reliability, and (2) the parties have a meaningful opportunity to examine and challenge its contents.

The Update Letter is signed by an Assistant Deputy Director of the Division of Financial Assistance. It describes staff-level program assessments, funding considerations, third-party communications, and anticipated next steps. Issuance by agency staff does not transform every factual assertion, technical judgment, or prediction into an indisputable fact or an adopted Water Board finding. On its face, the letter does not purport to speak on behalf of the Water Board; it does not identify any action taken or determination adopted by the Water Board, does not state that its contents have been reviewed or approved by the Water Board, and does not identify any statutory or delegated authority pursuant to which the Assistant Deputy Director purportedly made a determination on the Water Board's behalf. Nor has UPRR identified a Water Board resolution, delegation instrument, or other authority that establishes that the Assistant Deputy Director was authorized to adopt the letter's substantive representations as official findings or conclusions of the Water Board. By analogy, taking judicial notice of this Update Letter as a position of the Water Board would be akin to a court's treating a letter from a sub-director in the Commission's Consumer Affairs Bureau, Energy Division, Human Resources, etc., as equivalent to a Commission Decision.

C. The Record demonstrates the Update Letter’s contents are subject to reasonable dispute and relate to material issues before the Commission

The Update Letter refers to circumstances that have “materially changed” – in particular, feasibility studies, engineering analyses, unsuccessful communications with potential partners, groundwater assessments, and internal funding evaluations. Though all of the “facts” referenced are reasonably disputed, the Update Letter’s reference materials were not offered into evidence and are not otherwise in the present record. That omission is significant as the Update Letter purports to summarize technical and evaluative conclusions rather than merely report objectively verifiable facts that could be subject to judicial notice. As a result, UPRR did not identify any specific indisputable propositions or furnish sufficient information to establish a basis for mandatory notice under Evidence Code section 453(b). The following Table 1 offers examples solely to show that material assertions in the Update Letter rather than being indisputable facts capable of immediate and accurate determination, are reasonably disputed by the parties as material issues in this matter.¹¹

¹¹ Cal Advocates does not ask the ALJ to resolve these factual disputes in ruling on official notice or to accept Cal Advocates' competing position as true.

TABLE 1 – EXAMPLES OF DISPUTED MATERIAL ISSUES		
Issue	Update Letter	Contrary record evidence or position
Water rights	States 35 acre-feet with a limited value.	Cal Advocates testimony states 98 acre-feet and values the rights at \$2-\$3 million. (See Cal Advocates Testimony, Ch. 3.)
Consolidation	Characterizes physical consolidation as infeasible and potential partners as unwilling or constrained.	Cal Advocates testimony presents consolidation as viable and disputes the stated barriers and costs. (See Cal Advocates Testimony, Chs. 5 and 7)
Groundwater and test wells	Describes contamination risks, prior well abandonment, and unaffordable treatment.	Cal Advocates testimony addresses continued production from Well 7, prior well use, and treatment options. (See Cal Advocates Testimony, Chs. 4-5.)
Demand assumptions	Uses demand assumptions that support two wells and higher operating costs.	Cal Advocates testimony presents lower actual or regulatory demand estimates. (See Cal Advocates Testimony, Ch. 2.)
Funding and governance	Describes limited funding and the absence of a viable governing entity.	Cal Advocates testimony identifies other funding or revenue options and disputes that governance barriers foreclose alternatives. (See Cal Advocates Testimony, Chs. 3, 5, and 7.)

Judicial notice is a “short-cut to avoid the necessity for the formal introduction of evidence” permissible only where there is no possibility of reasonable dispute.¹² Official notice cannot supply the legal foundation for the underlying materials or establish the truth of summaries or factual statements.

The Commission has embraced this standard for Judicial Notice. For example, in D.23-02-041¹³ after noting that “it is clear that certain factual assertions made in the [proposed document to be noticed] are subject to dispute and not verifiable by resort to sources of reasonably indisputable accuracy,” the Commission explained that if there is a dispute “Evidence Code section 452(h) does not provide a basis to take official notice.”

¹² *Communist Party of U.S. of America v. Peek* (1942) 20 Cal.2d 536, 546. (“[I]f there [is] any possibility of dispute’ the fact cannot be judicially noticed...”).

¹³ D.23-02-041 (Feb. 24, 2023) at p. 19 (“it is clear that certain factual assertions made in the [proposed document to be noticed] are subject to dispute and not verifiable by resort to sources of reasonably indisputable accuracy... If there is a dispute “Evidence Code section 452(h) does not provide a basis to take official notice.”)

Because the record here contains specific competing evidence or positions, the Update Letter's propositions cannot be deemed indisputable facts via a request for judicial notice under section 452(h). The prejudicial nature of the Update Letter's unsupported and disputed assertions far outweighs any potential probative value.

If a party seeks substantive reliance on any disputed assertion, the Commission must consider the assertion's source, foundation, and reliability through the evidentiary procedures appropriate to the proposed use. Allowing UPRR to introduce the Update Letter through official notice would improperly confer an appearance of governmental authority upon disputed factual assertions, prejudicing Cal Advocates and undermining the fundamental requirement that contested evidence be subject to appropriate evidentiary scrutiny.

IV. IF OFFICIAL NOTICE IS GRANTED IT MUST BE LIMITED TO THE EXISTENCE OF THE UPDATE LETTER AND NOT THE TRUTH OF ITS CONTENTS

UPRR requests official notice of the Update Letter in its entirety pursuant to Evidence Code sections 452(c) and 452(h). Although these provisions authorize notice of different categories of matters, neither permits the Commission to accept reasonably disputed factual assertions as true merely because they appear in an official agency communication.

First, even if Evidence Code section 452(c) permits official notice of the Update Letter's existence and issuance, notice cannot be taken as to its reasonably disputed contents. California courts consistently distinguish between taking judicial notice of an official document and accepting its factual assertions as true. As the Court of Appeal explained, "judicial notice of a document does not extend to the truthfulness of its

contents or the interpretation of statements contained therein, if those matters are reasonably disputable." (*Apple Inc. v. Superior Court* (2017) 18 Cal.App.5th 222, 241).¹⁴

The Commission applies the same distinction,¹⁵ declining to take official notice of the truth of disputed allegations, factual findings, declarations, and reports.¹⁶ Accordingly, section 452(c) may permit the Commission to recognize that the Update Letter was issued and transmitted, but that recognition "does not extend to the truth of assertions or other statements that are subject to interpretation or dispute."¹⁷

Second, the Update Letter's substantive assertions do not satisfy section 452(h)'s requirements for authorizing judicial notice only of "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy."¹⁸ The Update Letter contains

¹⁴ See also *StorMedia, Inc. v. Superior Court* (1999) 20 Cal.4th 449, 456, fn. 9.; *L.B. Research & Education Foundation v. UCLA Foundation* (2005) 130 Cal.App.4th 171, 180, fn. 2 ("“however tantalizing this public information might be, it is plainly subject to interpretation and for that reason not subject to judicial notice....”"); *Searles Valley Minerals Operations v. State Bd. of Equalization* (2008) 160 Cal.App.4th 514, 519 ("while it might be appropriate to take judicial notice of the existence of [foundation and Government websites], the same is not true of their factual content.")

¹⁵ D.22-05-003 (May 6, 2022), at p. 99, fn. 127 ("Numerous other decisions are in accord with this limitation on the use of judicial notice. (See *Richtek USA, Inc. v. UPI Semiconductor* (2015) 242 Cal.App.4th 651, 660-662 [facts in pleadings]; *Kilroy v. State of California* (2004) 119 Cal.App.4th 140, 148 [findings of fact in prior judicial opinion]; *Lockley v. Law Office of Cantrell, Green Pekich, Cruz & McCort* (2001) 91 Cal.App.4th 875, 882 [hearsay statements in decisions and court files]; and *Sosinsky v. Grant* (1992) 6 Cal.App.4th 1548, 1565 and 1568 [truth of judge's factual finding].) This reluctance also extends to not taking official notice of the truth of allegations in affidavits, declarations, and reports. (See *Bach v. McNelis* (1989) 207 Cal.App.3d 852, 865 [affidavits]; *Tarr v. Merco Construction Engineers, Inc.* (1978) 84 Cal.App.3d 707, 715 [affidavits, pleadings, and allegations]; and *Ramsden v. Western Union* (1977) 71 Cal.App.3d 873, 878-879 [arrest report].)").

¹⁶ ALJ Michelle Cooke, Apr. 7, 2003 Ruling Granting Request for Official Notice in A.01-03-036 (taking official notice of the existence of an unadopted agency staff assessment but holding that notice did not establish the truth of the matters stated in it.); D.19-08-049, p. 9. (The Commission relied on the existence of allegations regarding a company's service to determine that the company was required to report the allegations, without relying on whether the allegations were accurate).

¹⁷ ALJ Valerie U. Kao, Jan. 16, 2026 Ruling Providing Notice and Opportunity on Taking Official Notice in A.22-05-022 et al. ("Official notice is limited to notice of the contents of the documents and the fact that they were published and received; official notice does not extend to the truth of assertions or other statements that are subject to interpretation or dispute.").

¹⁸ *Joslin v. H.A.S. Ins. Brokerage* (1986) 184 Cal.App.3d 369, 374 (Taking judicial notice of a document is not the same as accepting the truth of its contents or accepting a particular interpretation of its

(continued on next page)

technical assessments, characterizations of third-party communications, funding and governance evaluations, and predictions concerning future developments. These matters involve judgments, assumptions, and factual propositions that are reasonably subject to dispute, including matters directly contested in these proceedings.

As Table 1 above shows, Cal Advocates' testimony identifies specific competing evidence and positions concerning several of the Update Letter's material assertions. Consequently, those assertions cannot be deemed indisputably true through official notice under section 452(h). As the Commission explained in D.23-02-041,¹⁹ section 452(h) does not authorize official notice where the requesting party fails to identify which factual propositions are indisputable or where the document contains assertions subject to reasonable dispute.-

Finally, UPRR has not furnished sufficient information to establish that any particular disputed assertion qualifies for official notice as true. Evidence Code section 453(b) requires a party seeking mandatory judicial notice to furnish sufficient information enabling the tribunal to take notice of the requested matter.²⁰ UPRR's request to notice the Update Letter in its entirety does not identify which particular factual assertions purportedly satisfy section 452(h), much less establish that those assertions are capable of immediate and accurate determination through sources of

meaning.”); *Love v. Wolf* (1964) 226 Cal.App.2d 378, 403 (“While courts take judicial notice of public records, we do not take judicial notice of the truth of all matters stated therein.”))

¹⁹ D.23-02-041 (Feb. 24, 2023) at p. 19 (“Pursuant to [Movant’s] cited Evidence Code section, 452(h), a court may take judicial notice of “[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” (Evid. Code, § 452, subd. (h).) [Movant] does not explain how the identified documents meet this requirement. [Movant] does not even explain which facts and propositions within the documents are not subject to dispute. To the contrary, it is clear that certain factual assertions made in the [proposed document to be noticed] are subject to dispute and not verifiable by resort to sources of reasonably indisputable accuracy... (See *Lockley v. Law Office of Cantrell, Green, Pekich, Cruz and McCort* (2001) 91 Cal.App.4th 875, 882 [“Courts may not take judicial notice of allegations in affidavits ... [and] declarations ... in court records because such matters are reasonably subject to dispute... ”].) Thus, Evidence Code section 452(h) does not provide a basis to take official notice.”)

²⁰ D.23-11-055 (Nov. 21, 2023), at p. 5 (“The taking of judicial notice first requires that the requesting party furnish the court with sufficient information to enable it to take judicial notice. (Evidence Code § 453(b).)

reasonably indisputable accuracy. The Commission has consistently rejected requests for official notice where the requesting party failed to make the necessary showing. (See D.23-02-041²¹ and D.23-11-055²²). Accordingly, even assuming UPRR contends that particular assertions are not reasonably disputable, its request does not establish a basis for taking official notice of their truth.

The Ruling appropriately allows parties to address whether official notice should be taken, and the tenor of the matter noticed. But comments on notice do not provide the access to the technical analyses, underlying communications, or assumptions summarized in the Update Letter due process demands. Accordingly, the law requires that the Commission expressly decline to treat the Update Letter's reasonably disputed substantive assertions as established facts. Any request to rely on those assertions as proof of material facts must be addressed through an appropriate evidentiary process rather than through official notice alone. Parties should receive a fair opportunity, consistent with the Commission's rules and procedural rulings, to address each assertion's foundation, reliability, and weight through testimony, discovery, briefing, or other appropriate record development. The Commission need not decide the precise procedure now. It should clarify that official notice alone does not convert any factual assertion into established proof.

V. CONCLUSION

For the foregoing reasons, Cal Advocates respectfully requests that the ALJ deny UPRR's request for official notice of the Update Letter in its entirety. The mere

²¹ D.23-02-041 (Feb. 24, 2023) at p. 19 (Movants must identify specific facts sought to be noticed and explain how those facts are not subject to dispute pursuant to Evid. Code §452(h). If there is a dispute "Evidence Code section 452(h) does not provide a basis to take official notice.")

²² D.23-11-055 (November 21, 2023) at 5 ("Assuming sufficient information had been provided by [the moving party], the taking of judicial notice is required in the case of "facts or propositions of general knowledge that are so universally known that they cannot reasonably be the subject of dispute... Here, the Applicant disputes at least one aspect of the [facts sought to be noticed thus], peer-review and publication of two articles [published] in different journals fail to elevate the conclusions to "facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.").

existence of the Update Letter provides negligible probative value, while its unsupported factual assertions directly contradict material testimony in the record and present substantial risks of unfair prejudice, confusion, and improper reliance on untested evidence. Because those risks substantially outweigh any permissible evidentiary value, official notice should be denied altogether.

Alternatively, should the ALJ determine that limited official notice is warranted, Cal Advocates requires an express ruling that notice extends only to Update Letter's existence and issuance and does not establish the truth, accuracy, reliability, or evidentiary weight of its substantive assertions. Any subsequent reliance on those assertions as proof of material facts should require appropriate evidentiary procedures affording the parties a meaningful opportunity to investigate, respond, and develop the record.

Respectfully submitted,

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