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March 23, 2017

Hearing Officer Tam Doduc
Co-Hearing Officer Felicia Marcus
State Water Resources Control Board
1001 I Street
Sacramento, California 95814

VIA E-MAIL

Re: California WaterFix Hearing – Rebuttal Testimony and Proposed
Terms and Conditions of American River Water Agencies

Dear Ms. Doduc and Ms. Marcus:

Consistent with prior SWRCB rulings, the American River Water Agencies (ARWA) have submitted testimony for the Part 1 rebuttal portion of this hearing. This testimony rebuts testimony presented by the Department of Water Resources (DWR) and the Bureau of Reclamation (Reclamation) during Part 1A of this hearing and supports the ARWA group's proposed terms and conditions. Those proposed terms and conditions collectively are known as the "Modified Flow Management Standard" – the "Modified FMS" or "MFMS" for short. As you know, the ARWA group consists of the Cities of Folsom, Roseville and Sacramento, Placer County Water Agency (PCWA), Sacramento County Water Agency, Sacramento Suburban Water District and San Juan Water District.

Keith Durkin, Marcus Yasutake and Tom Gohring will rebut testimony presented by DWR and Reclamation that, while DWR's hydrologic modeling should not be understood to "reflect actually what would occur in the future" in "stressed water supply conditions" when "system wide storage levels are at or near dead pool," there is no possibility of California WaterFix injuring legal users of water. (See exhibit DWR-71, p. 12, lines 15-18.) DWR's and Reclamation's witnesses testified under cross-examination that they reached this conclusion because DWR's modeling showed that the no action alternative and with-action alternatives would result in similar end-of-September reservoir storage and, in their opinion, DWR and Reclamation would operate the Central Valley Project (CVP) and the State Water Project (SWP) in real time to ensure that no such injuries would occur. (See, e.g., August 10, 2016 transcript, pp. 253-256 (John Leahigh, DWR, and Ron Milligan, Reclamation); August 11, 2016 transcript, pp. 10, 42-44 (Mr. Milligan); August 23, 2016 transcript, pp. 207, 211-217, 226-233 (Kristen White, Reclamation, and Armin Munevar, DWR consultant); September 22, 2016 transcript, pp. 183-188, 193-210, 213-221, 224-226, 230-233 (Maureen Sergent, DWR, and Ray Sahlberg, Reclamation).) DWR and Reclamation have stipulated that they have not proposed any terms and conditions to govern the CVP's and the SWP's operations with California WaterFix.

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Consistent with the SWRCB's August 30, 2016 and March 3, 2017 e-mail rulings concerning proposed terms and conditions, Mr. Gohring also will present and explain the Modified FMS. Mr. Weaver will provide technical support concerning the modeling of the Modified FMS's effects on key American River basin conditions that affect legal users of water in the basin, namely Folsom Reservoir storage and releases from Nimbus Dam to the lower American River. Also consistent with the above-referenced rulings, the ARWA group now is presenting only that testimony necessary to demonstrate the content of the Modified FMS and its effect in protecting ARWA members as legal users of water. The Modified FMS, however, is an integrated package of water-supply and environmental measures, so, in Part 2 of this hearing, the ARWA group intends to present a full suite of technical testimony on environmental issues.

Please contact any of the counsel listed below if you have any questions about this letter or the testimony discussed in this letter.

Very truly yours,

BARTKIEWICZ, KRONICK & SHANAHAN SACRAMENTO COUNTY WATER
AGENCY

By: /s/ Ryan S. Bezerra
Ryan S. Bezerra

By: /s/ Sarah Britton
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8618/CWF/WRC/ARWA Rebut/L032317 ARWA Rebuttal
Cc: California WaterFix service list

STATEMENT OF SERVICE

**CALIFORNIA WATERFIX PETITION HEARING
Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)**

I hereby certify that I have this day submitted to the State Water Resources Control Board and caused a true and correct copy of the following document(s):

California WaterFix Hearing – Rebuttal Testimony and Proposed Terms and Conditions of
American River Water Agencies

to be served **by Electronic Mail** (email) upon the parties listed in Table 1 of the Current Service List for the California WaterFix Petition hearing, dated March 23, 2017, posted by the State Water Resources Control Board at

http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml:

I certify that the foregoing is true and correct and that this document was executed on March 23, 2017.

Signature: 

Name: Terry M. Olson

Title: Legal Assistant

Party/Affiliation: Cities of Folsom, Roseville, Sacramento Suburban Water District, San Juan Water District

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