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BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

HEARING ON THE MATTER OF
CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES
BUREAU OF RECLAMATION REQUEST
FOR A CHANGE IN POINT OF DIVERSION
FOR CALIFORNIA WATER FIX.

**PART TWO TESTIMONY OF C. MEL
LYTLE, Ph.D.**

This testimony is offered on behalf of the City of Stockton (“City” or “Stockton”).

I. INTRODUCTION

I currently serve as a Deputy City Manager with the City of Stockton. I began in this position in 2017, after serving for five years as the City’s Director of Municipal

1 Utilities Directors (MUD). Over the past 25 years, my career focus has included the
2 Municipal Utilities, Public Works, and Natural Resource fields. Prior to serving as the
3 City’s Director of MUD, I was the Water Resources Coordinator for San Joaquin County
4 for 10 years. My formal education and training includes a Ph.D. degree from Brigham
5 Young University together with a Post-Doctoral Fellowship from the University of
6 California, Berkeley. I am also a published author and an invited lecturer at local,
7 national, and international workshops and symposia.

8 A true and correct copy of my curriculum vitae is submitted as Exhibit STKN-058.
9 My testimony for Part Two will summarize the impacts from the California WaterFix
10 Project (“WaterFix” or “Project”) and associated water rights change petition (Petition) to
11 the City’s water resources, including the Project’s financial impact on the City and its
12 ratepayers. The Petition is not in the public interest, especially with respect to the City,
13 and in part because Stockton may be required to invest significant resources in
14 additional water and wastewater treatment technology that essentially shifts the burden
15 of the Project on the City and its residents by requiring them to pay for the detrimental
16 impacts of the Project on water quality in the Delta. The Department of Water
17 Resources (DWR) and U.S. Bureau of Reclamation (collectively referred to as
18 “Petitioners”) have not proposed any terms and conditions to the proposed permits, nor
19 did the WaterFix environmental impact report/environmental impact statement (EIR/EIS)
20 propose any mitigation measures to address the Project’s impacts to the City, its water
21 supply and treatment needs, and its residents.

22 **II. STOCKTON’S INVESTMENT IN WATER AND WASTEWATER SYSTEMS**

23 Recently, the City has made major capital improvements to its water supply and
24 wastewater systems. Stockton invested \$223 million to construct Phase 1 of its Delta
25 Water Supply Project Water Treatment Plant (DWSP), which consists of an intake on the
26 San Joaquin River at the southwest tip of Empire Tract, eighteen (18) miles of raw water
27 pipeline, a 30 million gallons per day (MGD) water treatment plant, and six (6) miles of
28 treated water pipeline. The City has been the subject of considerable scrutiny in its

1 water rights pursuits and National Pollution Discharge Elimination System (NPDES)
2 permitting, both of which required extensive and significant investments in water quality
3 modeling and mitigation, the cost of which is borne entirely by the businesses and
4 residents of the City.

5 The City's Regional Wastewater Control Facility (RWCF) operates under a
6 Central Valley Regional Water Board NPDES Permit (No. CA0079138) and
7 consequently is subject to regulation based on strict water quality standards. (Exhibit
8 STKN-020 is a true and correct copy of NPDES No. CA0079138, exclusive of its
9 attachments.) The City has made considerable investments in its wastewater treatment
10 processes to achieve the tertiary water quality standards set forth in its NPDES permits.
11 In 2008, the City invested tens of millions of dollars in ammonia treatment and, with the
12 2014 NPDES permit renewal, is facing another major requirement to reduce total
13 nitrogen in its discharge to the San Joaquin River.

14 **III. IMPACTS FROM THE PETITION TO WATER SUPPLY AND WASTEWATER**
15 **SYSTEMS ARE AGAINST THE PUBLIC INTEREST**

16 Changes to Delta water quality may have serious negative impacts on the more
17 than 300,000 residents of the City. Much of the City lies within the official Delta and is
18 surrounded by one of the richest agricultural and dairy regions in California.
19 Furthermore, the City's location within the Delta enables it to serve as a major shipping
20 point for many of the agricultural and manufactured products of Northern California and
21 is home to the State's first inland seaport.

22 The potential adverse effects of the proposed Petition on surface water in the
23 Delta is of great significance to the City. The City's Part 1 testimony showed that Water
24 Fix-caused alterations to the flows of the Sacramento and San Joaquin Rivers will
25 negatively impact the quality of water in the San Joaquin River. As communicated
26 repeatedly to Petitioners, the City is concerned with any adverse changes in
27 San Joaquin River water quality at its water supply intake and the point of treated
28 wastewater discharge. Water quality degradation will shift the burden of the Project to

1 the City by forcing it to invest in additional water supply and wastewater treatment
2 processes, or forego diversions and either purchase substitute water supplies or
3 increase its use of groundwater pumped from the critically overdrafted Eastern
4 San Joaquin Basin. Under the Sustainable Groundwater Management Act, this could
5 lead to a highly “undesirable result” (Wat. Code, § 10721(x)) where additional
6 groundwater pumping would lower the groundwater table under the City and further
7 expose the Basin to saline-intrusion (at depth) along its western reach. It is imperative
8 that the standards set by the State Water Resources Control Board (State Water Board)
9 to protect beneficial uses located within the Delta, San Joaquin County, and the City be
10 enforced, and not be ignored for the Project or some other proposed beneficial use, as
11 should be the case in any location in the State where the protection of the beneficial
12 uses of water is in question.

13 The City’s MUD has experienced a significant reduction in revenue due to water
14 conservation in response to the historic drought. As a result of declining revenues, the
15 capital improvement program for water projects was curtailed, and only essential
16 projects were funded or planned for fiscal year 2016-2017. In addition, personnel
17 vacancies in the water utility were frozen in order to limit expenditures. In response,
18 MUD undertook a water rate study in 2015 to determine the revenue requirement and a
19 possible future rate structure.

20 The City’s utility ratepayers include economically disadvantaged groups that have
21 been required to shoulder rate increases due to the City’s significant investment in its
22 water supply and wastewater infrastructure. The City contains a significant
23 concentration of people and families whose incomes in 2014 were below the federally-
24 recognized poverty level. (Exhibit RTD-206.) Within San Joaquin County, poverty is
25 concentrated within the City, where about 21.4 percent of families, 35.3 percent of
26 children, 21.8 percent of adults, and 12.9 percent of seniors are considered
27 impoverished. (Exhibit RTD-206.)
28

1 Rate increases adopted in 2009 to finance the DWSP assumed a conservative
2 increase in water consumption and associated revenue over time; however, drought
3 effects that began in 2012 and accelerated in 2014 and 2015 resulted in State-mandated
4 water conservation requirements. The City's target for water use reduction was set at
5 28% compared to 2013 use. As a result of these drought impacts, water utility revenues
6 declined by approximately \$3 million dollars in 2014 and 2015. MUD commissioned a
7 water rate study in mid-2015 to determine a rate structure that would address the
8 adequacy and equity of water rates to maintain a sound fiscal water utility, to meet
9 operating expenses, and funding of ongoing critical capital needs. (Exhibit STKN-059 is
10 a true and correct copy of the City's approved 2016 Water Rate Study.)

11 Due to conservation measures including those mandated by the State, annual
12 water utility rate revenues were reduced. However, given the fixed nature of MUD's
13 costs, overall operating costs did not reduce at the same level as revenues. Given the
14 level of fixed costs, and declining consumption, the 2016 Water Rate Study
15 recommended that the current level of fixed revenues, approximately 50%, be
16 maintained in the proposed rates. In addition, drought surcharges were recommended
17 to provide MUD with rates that result in target revenues being met to fund operating and
18 capital costs during times of drought or water shortage events.

19 Findings and recommendations from the 2016 Water Rate Study included:

- 20 • The drought impacted customer consumption levels, which in turn
21 considerably reduced overall revenues for the City's water utility;
- 22 • Rate adjustments were necessary to meet legally required debt service
23 coverage ratios and prudently fund operating and necessary capital renewal
24 and replacement expenses;
- 25 • The water rates reflect the results of the cost of service analysis and the
26 proportional allocation of costs to the various customer classes of service; and
- 27 • Drought surcharges were adopted based on the need to maintain sufficient
28 revenues for operating and capital needs during water shortages.

1 The water rate transition plan included the following rate increases:

2

Fiscal Year	Water Rate Increase
2016/2017	18.5%
2017/2018	11%
2018/2019	3.0%
2019/2020	3.0%
2020/2021	3.0%

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6 The total rate increase was 38.5 percent through 2021. In addition to these
7 proposed rate increases, the study also recommended the implementation of drought
8 surcharges to ensure adequate revenue in the event of increased water conservation
9 requirements.

10 MUD conducted nine (9) public ratepayer information sessions in 2016 as part of
11 the rate increase approval process. For example, a Special Session City Council
12 Meeting was held on March 26, 2016. One of the items on the agenda was a discussion
13 of the proposed water rate increase. At that meeting, the City's ratepayers spoke,
14 expressing concerns, and asking questions regarding the 38.5 percent increase in water
15 rates including:

- 16 • Concern for low income and disadvantaged residents
- 17 • Rate increases passed on to low income renters
- 18 • Conserving ratepayers will still be charged higher rates
- 19 • Expressed frustration over other rate increases
- 20 • Concern about not maintaining infrastructure

21 The predicted reduction in water quality at the DWSP intake pump station,
22 particularly increased salinity, caused by the Project may require the City to make
23 additional investments into desalination systems at the DWSP, which would cause an
24 unfair burden on City ratepayers that is not in the public interest.

25 The ratepayers, many of whom are disadvantaged or low-income, would be
26 required to pay for the necessary investments the City will have to make in order to
27 maintain drinking water quality and comply with its NPDES permit. It is against public
28

1 policy and not in the public interest to shift the financial burden of dealing with WaterFix-
2 caused water quality degradation from the Project to Stockton's ratepayers.

3 **IV. IF GRANTED, THE WATERFIX PERMIT MUST INCLUDE TERMS TO**
4 **PROTECT STOCKTON'S WATER SUPPLY AND WASTEWATER SYSTEMS,**
5 **AND ITS RATEPAYERS**

6 The City has been subject to significant scrutiny in its pursuits for water rights
7 permits and NPDES permit renewal, and was required to implement permit terms and
8 conditions that protected the Project proponents' use of their water supply. In addition to
9 the conditions contained in the City's water rights Permit 21176, Stockton's ability to
10 divert from the San Joaquin River at the DWSP is subject to the following permits and
11 biological opinions:

12 1. Exhibit STKN-015 is a true and correct copy of the National Marine
13 Fisheries Service Biological Opinion for the DWSP.

14 2. Exhibit STKN-016 is a true and correct copy of the United States
15 Department of the Interior Fish and Wildlife Service Biological Opinion for the DWSP.

16 3. Exhibit STKN-017 is a true and correct copy of the United States Army
17 Corps of Engineers 404 Permit, SPK-1997-00759 for the DWSP.

18 4. Exhibit STKN-018 is a true and correct copy of the California Department
19 of Fish and Game Incidental Take Permit for the DWSP.

20 The City's ability to divert water from the San Joaquin River under its water right
21 permit and to discharge water consistent with its NPDES permit is dependent upon
22 maintaining the water quality in the San Joaquin River such that the above-mentioned
23 permits and biological opinions are also maintained. Furthermore, the permit terms that
24 were included in Stockton's NPDES permit were advocated by the Project proponents,
25 including the San Luis & Delta-Mendota Water Authority, State Water Contractors, and
26 Metropolitan Water District of Southern California, in order to protect their water supply.
27 (Comments on the Tentative Order R5-2014-XXXX, NPDES No. CA0079138, for the
28 City of Stockton Regional Wastewater Control Facility, San Joaquin County, April 25,
2014, Exhibit STKN-060; Testimony by Metropolitan Water District of Southern California

1 at Central Valley Regional Water Quality Control Board Hearing, December 11, 2015,
2 Agenda Item 26(c), City of Stockton, Regional Wastewater Control Facility, San Joaquin
3 County – (*Amendment*) Order R5-2014-0070-01 and Time Schedule Order R5-2014-
4 0071 (*Rescission*) NPDES Permit CA0079138.) In their comments, the Project
5 proponents stressed that “[e]xcess nutrient loading to the Bay-Delta can contribute to
6 excess and/or nuisance algae blooms that result in significant impacts including
7 ecosystem changes, depressed dissolved oxygen, cyanotoxin production, nuisance to
8 recreational uses and water provider operations, and taste and odor issues for drinking
9 water supplies.” (*Id.*) If Stockton is required to protect the Project proponents’ water
10 supply, then Petitioners must equally be required to protect Stockton’s water supply,
11 which is partially based on Stockton’s ability to discharge wastewater under its NPDES
12 permit.

13 V. CONCLUSION

14 Stockton has made significant investments in its water supply and wastewater
15 treatment systems, and the Petition threatens to place an additional financial burden
16 from degraded water quality on the City and its ratepayers. Approval of the Petition as it
17 is proposed is against the public interest because it will cause significant impacts to
18 water quality, including potential impacts to public health, destabilize the City’s water
19 supply, and shift the financial impacts of the Project to the City’s ratepayers, a significant
20 percentage of whom are economically disadvantaged. Approval of the Petition as
21 proposed will lead to degradation of public trust resources and significant adverse
22 impacts to the Delta and its vast array of infrastructure, its urban areas, its agriculture
23 and its ecosystem.

24 These significant concerns must be addressed before the Petition can be
25 considered. However, if the State Water Board decides to grant the Petition, then the
26 Petitioners’ permits must include terms and conditions that ensure that WaterFix will not
27 cause the impacts that have been described herein, or that the Petitioners will bear the
28 burden of mitigating the impacts.

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on this 29th day of November, 2017 in Stockton, California.



C. Mel Lytle, Ph.D.