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10 BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

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12 HEARING IN THE MATTER OF
CALIFORNIA DEPARTMENT OF WATER
13 RESOURCES AND UNITED STATES
BUREAU OF RECLAMATION REQUEST
14 FOR A CHANGE IN POINT OF
DIVERSION FOR CALIFORNIA WATER
15 FIX
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**CALIFORNIA DEPARTMENT OF
WATER RESOURCES' OBJECTIONS
TO SNUG HARBOR RESORTS, LLC
WRITTEN TESTIMONY AND
EXHIBITS SUBMITTED BY
PROTESTANTS IN SUPPORT OF
PART 1B CASE IN CHIEF AND any
RELATED JOINDERS**

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18 California Department of Water Resources ("DWR") submits this objection to the
19 written testimony and objections submitted by Snug Harbor Resorts, LLC, for their case
20 in chief, Part 1A. In addition to submitting general and specific objections, DWR
21 incorporates by reference the Master Objection to Protestant's Cases in Chief ("DWR's
22 Master Objection") filed on September 21, 2016, which also provides a common
23 Statement of Facts and Evidentiary Standards for DWR's separate objections to
24 individual cases in chief.

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26 The credentials presented by Nicole S. Suard, Esq., evidence that she is not
27 qualified to offer expert opinion testimony on the impacts of the WaterFix on water
28 quality, water levels and related impacts on Delta water users generally – and

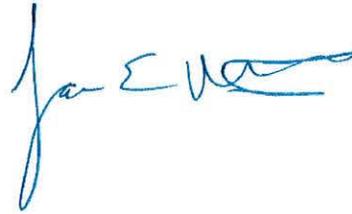
1 specifically Snug Harbor Resort – as these are areas sufficiently outside the common
2 experience of a lay witness. (Evidence Code §801). Under Evidence Code §800(a), lay
3 witness testimony must be rationally based on the perception of the witness, i.e.,
4 personal observation of the witness. Generally, lay witnesses may only express opinions
5 on matters within common knowledge or experience. (See Evidence Code §§ 800(a),
6 801(a); see also *Miller v. Los Angeles County Flood Control Dist.* (1973) 8 Cal.3d. 689,
7 702.) Expert testimony is required when related to a “subject that is sufficiently beyond
8 the common experience that the opinion of an expert would assist the trier of fact.”
9 (Evidence Code §801; see also *Miller*, 8 Cal.3d at 702.)

10 Although the Notice of Intent signed by Ms. Suard on January 15, 2016 indicates
11 she is not testifying as an expert, Ms. Suard proceeds to offer conclusions and analysis
12 more consistent with the type of testimony typically offered by experts. The Statement of
13 Witness Qualification offered by Ms. Suard herein (SHR-109) show she is an attorney
14 with experience in business transactions, not-for-profit corporation advisory services,
15 and children's rights advocate. Ms. Suard also references management of various
16 matters related to marina and RV park oversight. There is nothing to indicate Ms. Suard
17 has any particular training or expertise with hydrology or hydrologic modeling. These
18 credentials fail support a finding that she has any expertise or special knowledge fit for
19 the purpose of offering testimony on the broad range of subjects referenced in her
20 opening statement, declaration, or other testimony, nor the ability to properly
21 authenticate all or most of her exhibits. Because Ms. Suard lacks sufficient expertise to
22 assess impacts of the proposed change in point of diversion on water levels and water
23 quality or the sufficiency of the modeling performed, her testimony is conclusory and not
24 useful to aid the trier of fact in this proceeding. Even under the relaxed standards for
25 admissibility of evidence in administrative proceedings, the testimony and exhibits
26 objected to below should be excluded. DWR provides specific objections to Snug Harbor
27 LLC's written testimony in Exhibit A attached hereto.
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1 As a result of Protestant Snug Harbor Resorts LLC's failure to provide relevant
2 and credible evidence upon which a responsible person could rely in support of its claim
3 that legal users of water would be injured by the proposed change, Protestant Snug
4 Harbor Resorts LLC's evidence should be excluded in its entirety.
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7 Dated: September 21, 2016

CALIFORNIA DEPARTMENT OF WATER
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