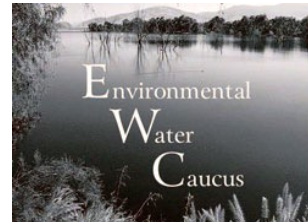




## AQUALLIANCE

DEFENDING NORTHERN CALIFORNIA WATERS



### Via email to California WaterFix Petition service list

April 1, 2016

Tam Doduc  
Felicia Marcus  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

[CWFhearing@waterboards.ca.gov](mailto:CWFhearing@waterboards.ca.gov)

### Re: Request to Dismiss California WaterFix Change Petition Due to Contra Costa Water District Settlement Agreement Proposal, and Other Reasons

Dear Hearing Officers and Board Hearing Staff:

Events have moved quickly this week regarding the California WaterFix Change Petition proceeding, to say the least. We write to urge once more that the Hearing Officers dismiss the Change Petition, this time because it is now demonstrable that the State Water Board is confronted with an unstable project description.

Request for Dismissal: Unstable Project Description  
April 1, 2016

We appreciate that the Hearing Officers suspended the hearing schedule until it completes its next ruling “in the near future.” Petitioners stated March 28 that they have had “recent success settling issues raised in the EIR/EIS process and ongoing discussions with protestants.” (March 28 letter, page 1) The next day, March 29, Contra Costa Water District (CCWD) announced and disseminated its proposed settlement agreement with DWR mitigating costs and impacts of the California WaterFix project, assuming the latter goes forward. At the pre-hearing conference in January, various parties suggested to the Hearing Officers and staff they were open to settlements with DWR in exchange for resolving protestants.

The content of CCWD’s proposed settlement agreement involves new project facilities and accompanying impacts not originally contemplated by the Change Petition or the Board’s original Notice of Petition and Hearing last October. Its effect on financing is unknown. These new project components must be described in a complete petition and subjected to environmental review under the California Environmental Quality Act. These new components pertain to changes in points of diversion in both the Delta (e.g., the CCWD “secondary conveyance” point) as well as a change in the place of use of water diverted at the Freeport regional diversion facility. Additionally, we think it is necessary to restart the process because other parties may be excluded who, because of the CCWD settlement, may wish to protest the Change Petition but may not at present because the Board’s deadline for protest submissions lapsed in January 2016 and was reliant on the Change Petition and Notice of October 30, 2015, which is now outdated. If other settlements are entered, the petition will need to describe them and undertake environmental review of them, in a manner consistent with due process rights to protest.

In conclusion, the Hearing Officers should dismiss the Change Petition without prejudice until such time as there is a stable, complete and fully evaluated (i.e., CEQA-compliant) project description for California WaterFix. We request that the Hearing Officers consider and assess the reasonableness of dismissing the petition in its next ruling, regardless of whether Petitioners provide assurance of no further delays. To continue this process seems to us like attempting to audit a bank while a robbery is under way. It cannot possibly result in an accurate accounting, to say the least, let alone protect the due process rights of those for whom the project results in redirected impacts.

Thank you for considering our latest request. We look forward to your ruling in the near future.

Sincerely,



Jonas Minton  
Planning and Conservation League



Bill Jennings  
California Sportfishing Protection  
Alliance



Colin Bailey  
Environmental Justice Coalition for  
Water



Barbara Barrigan-Parrilla  
Restore the Delta



Conner Everts  
Environmental Water Caucus



E. Robert Wright  
Friends of the River



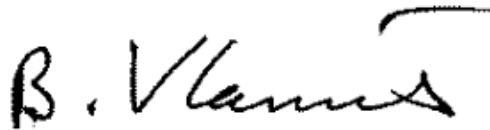
Tim Strohane  
Restore the Delta



Kyle Jones  
Sierra Club California



Carolee Krieger  
California Water Impact Network



Barbara Vlamis  
AquAlliance