

1 Stacey P. Geis, State Bar No. 181444
Michelle Ghafar, State Bar No. 315842
2 EARTHJUSTICE
3 50 California Street, Suite 500
San Francisco, CA 94111
4 T: (415) 217-2000
F: (415) 217-2040
5 E: sgeis@earthjustice.org
mghafar@earthjustice.org
6

7 *Attorneys for Protestant Restore the Delta*

8
9 **BEFORE THE**
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

10
11
12 HEARING IN THE MATTER OF
13 CALIFORNIA DEPARTMENT OF WATER
RESOURCES AND UNITED STATES
14 BUREAU OF RECLAMATION REQUEST
FOR A CHANGE IN POINT OF DIVERSION
15 FOR CALIFORNIA WATERFIX

16
17
18
19
20
21
22
23
24
25
26
27
28
**ADDENDUM TO SUBPOENA DUCES
TECUM TO THE CALIFORNIA
DEPARTMENT OF WATER RESOURCES
AND AFFIDAVIT IN SUPPORT**

1 **TO THE CALIFORNIA DEPARTMENT OF WATER RESOURCES AND THEIR**
2 **COUNSEL OF RECORD:**

3 Pursuant to the provisions of Water Code section 1080, Government Code sections
4 11450.10-11450.50, and Code of Civil Procedure sections 1985 and 1987, the California Department
5 of Water Resources (“DWR”) is commanded to provide the following documents, communications,
6 and electronics data, as described below and in connection with the above-titled proceeding, by
7 9:30am on March 2, 2018. Please make the requested records available to download via the
8 WaterFix hearing ftp site and notify Stacey Geis by email at sgeis@earthjustice.org. If all of the
9 requested documents are not available within that time frame, DWR is commanded to provide the
10 documents that are available, together with a statement of the documents that are yet to be produced,
11 and an estimate of the time required for production.

12
13 **I. DEFINITIONS**

14 The capitalized terms listed below, as used in this Subpoena Duces Tecum, are defined as
15 follows:

- 16 1. The terms “COMMUNICATION” or “COMMUNICATIONS” mean any occurrence
17 whereby data, expressions, facts, opinions, thoughts, or other information of any kind is
18 transmitted in any form including, but not limited to, any correspondence, electronic mail,
19 meeting, conversation, memorandum, message, note, or web conference on the Internet.
- 20 2. The term “CONTROL” means control, custody, or possession in the broadest sense possible
21 under Code of Civil Procedure section 2031.010.
- 22 3. The terms “DOCUMENT” or “DOCUMENTS” encompass all physical and/or electronic
23 documents within the control of the California Department of Water Resources and includes
24 all writing as defined in section 250 of the Evidence Code, and shall include, but not be
25 limited to, technical, legal, and other memoranda, opinions, summaries, notes, work
26 documents, spreadsheets, powerpoints, reports, studies, analyses, evaluations, manuals,
27 schematics, plans or other engineering drawings, maps, contracts, agreements, document
28

1 repositories, and things similar to any of the foregoing, whether sent or received, including
2 drafts.

- 3 4. The term “DWR” means the California Department of Water Resources and any and all
4 persons acting on behalf of DWR, as well as DWR officers, representatives, agents,
5 employees, affiliates, consultants, and individual directors.
- 6 5. The term “ELECTRONIC DATA” shall include, but not be limited to, data sets, computer
7 code, input and output parameter sets, and linked data or metadata.
- 8 6. The term “KCWA” means the Kern County Water Agency and any and all persons acting on
9 behalf of KCWA, as well as KCWA officers, representatives, agents, employees, affiliates,
10 consultants, and individual directors.
- 11 7. The term “MWD” means the Metropolitan Water District of Southern California and any and
12 all persons acting on behalf of MWD, as well as MWD’s Board of Directors, officers,
13 representatives, agents, employees, affiliates, consultants, and individual directors.
- 14 8. The terms “PERSON” or “PERSONS” means natural persons, partnerships, corporations,
15 businesses, state or federal agencies, public or private water agencies, joint powers
16 authorities, or other forms of governmental or legal entities.
- 17 9. The term “PUBLICLY DISTRIBUTED” refers to the publication or publicly noticed
18 distribution of a document, communication, or electronic data as defined herein, via the
19 Internet or other method of access available to the general public. Documents only available
20 on Internet sites with passcodes or on inspection in offices are not considered “PUBLICLY
21 DISTRIBUTED.”
- 22 10. The terms “RELATING TO” or “RELATED TO” shall be construed in the broadest possible
23 sense and shall mean, without limitation, pertaining to, regarding, concerning, comprising,
24 constituting, in connection with, reflecting, respecting, referring to, stating, describing,
25 recording, noting, embodying, containing, mentioning, studying, analyzing, discussing, or
26 evaluating, and as defined in Black’s Law Dictionary. (Black’s Law Dict. (5th ed. 1979) p.
27 1158, col. 1.)
28

- 1 11. The term “SCVWD” means the Santa Clara Valley Water District and any and all persons
2 acting on behalf of SCVWD, as well as SCVWD officers, representatives, agents,
3 employees, affiliates, consultants, and individual directors.
- 4 12. The term “SWC” means the State Water Contractors and any and all persons acting on behalf
5 of SWC, as well as the SWC’s officers, representatives, agents, employees, affiliates,
6 consultants, and individual directors.
- 7 13. The term “SWRCB” means the State Water Resources Control Board and any and all persons
8 acting on behalf of SWRCB, as well as SWRCB’s officers, representatives, agents,
9 employees, affiliates, consultants, and individual directors.
- 10 14. The term “USBR” means the United States Bureau of Reclamation and any and all persons
11 acting on behalf of USBR, as well as USBR officers, representatives, agents, employees,
12 affiliates, consultants, and individual directors.
- 13 15. The term “WATERFIX PROJECT” encompasses the project known as the WaterFix, and the
14 Delta Habitat Conservation and Conveyance Program (DHCCP), including any new State
15 Water Project diversion, conveyance, and storage facilities in the Sacramento Delta. The
16 term “WATERFIX PROJECT” also encompasses the planning or operation of said new
17 facilities in coordination with the existing State Water Project and Central Valley Project
18 facilities.
- 19 16. Definitions for water industry or regulatory terms contained herein are to be construed
20 broadly. Where the water industry or regulatory definition set forth herein does not coincide
21 precisely with DWR’s definition, the question, inquiry, or production request should be
22 responded to or answered by using the definition that DWR applies and/or recognizes in its
23 usage of the term, and DWR should further document its definition in the response. Non-
24 industry or non-trade definitions should be applied as defined herein.

25 **II. INSTRUCTIONS**

- 26 1. DWR’s response to the subpoena should include a declaration or affidavit, pursuant to
27 Evidence Code section 1561. The declaration or affidavit should state that a diligent search for all
28 requested documents, communications, and electronic data has been conducted and that the affiant

1 or declarant oversaw the search or otherwise monitored and reviewed the search sufficiently to
2 represent under oath that such a search was conducted. The declaration or affidavit should be signed
3 under oath by the person most knowledgeable about the documents, communications, and electronic
4 data as well as DWR's efforts to comply with the subpoena. If different people are the most
5 knowledgeable about portions of the search, each should sign an affidavit or declaration identifying
6 the category in the request for documents, communications, and electronic data for which that person
7 is the most knowledgeable.

8 2. Unless otherwise indicated, for any documents, communications, or electronic data stored in
9 a computer, including all electronic mail messages, DWR should produce the documents,
10 communications, or electronic data in the original electronic file format in which it was created,
11 together with instructions and all other materials necessary to use or interpret the data. Electronic
12 mail messages should be provided, even if only available on backup or archive. Computer files,
13 other than those with common file extensions (e.g., .doc, .docx, .xls, .xlsx, .pdf, .zip, etc.) should be
14 accompanied by (a) an identification of the software needed to open and view the documents or (b) a
15 copy of the software needed to open and view the documents.

16 3. For all documents, communications, or electronic data for which DWR submits copies
17 (physical or electronic copies if the original was on paper, and, if the original was in electronic
18 format, in the same electronic medium as the original), such copies should be accompanied by an
19 affidavit stating that the copies of all types of documents, communications, or electronic data are
20 true, correct, and complete copies of the original documents, communications, or electronic data. If
21 no original version is in DWR's possession, custody, or control (only a copy thereof), then DWR
22 should produce a true and legible copy of each of such documents, communications, or electronic
23 data in the form in which it is maintained.

24 4. If any documents, communications, or electronic data are responsive to this subpoena and are
25 in DWR's control, but are not in DWR's possession or custody, DWR should obtain and produce the
26 documents, communications, or electronic data, and identify the person who had possession or
27 custody along with their telephone number and current business and residence addresses.

28 5. If any documents, communications, or electronic data subpoenaed are no longer in DWR's

1 possession, custody, control, or care, DWR should provide a written statement identifying the
2 documents, communications, or electronic data with specificity, stating whether it is lost, missing,
3 destroyed, transferred to others, or otherwise disposed. The written statement should also identify
4 the person who disposed of the documents, communications, or electronic data, explain the
5 circumstances and authorization for the disposition, and the approximate date of the disposition.

6 6. All documents, communications, or electronic data produced pursuant to this subpoena
7 should be identified according to the category in the subpoena to which it is responsive. In lieu of
8 indicating on each document, communication, or electronic data the category to which it is
9 responsive, on the date set for production, DWR may instead provide an index of all produced
10 documents, only if done so in electronic form (such as a computerized Excel spreadsheet, Word
11 document, or WordPerfect document set up in a table format). This index should include the
12 request(s) to which the documents, communications, or electronic data are responsive. Responsive
13 documents from each person's files should be produced together, in electronic file directories if
14 provided as an electronic file, or in boxes if provided as paper copies. DWR should indicate in the
15 response to the request(s) to which they are responsive.

16 7. For documents, communications, or electronics data produced in spreadsheets or tables,
17 DWR should include in the declaration or affidavit the identification of the fields and codes as well
18 as a description of the information contained in each coded field.

19 8. The requests contained in this subpoena shall be deemed to include a request for all relevant
20 documents, communications, or electronic data in the personal files of all DWR officers, employees,
21 agents, and representatives, including contractors.

22 9. Whenever necessary to bring within the scope of this subpoena such documents,
23 communications, or electronic data that might otherwise be construed as outside its scope, the use of
24 the verb in any tense shall be construed as the use of that verb in all other tenses, and the singular
25 shall include the plural and vice versa, so as to make this subpoena broadly inclusive.

26 ///

27 ///

28 ///

1 **III. DOCUMENTS TO BE PRODUCED**

2 1. From May 1, 2017 to the present, all documents referencing or relating to (1) a 6000 cfs
3 single tunnel alternative for the WaterFix Project, or (2) separation of the two tunnels (and related
4 facilities, such as intakes) proposed in the WaterFix Project into two distinct phases of construction
5 and/or operation.

6 2. From May 1, 2017 to the present, all documents referencing or relating to (1) the operation of
7 a 6000 cfs single tunnel alternative for the WaterFix Project, and (2) operation of the WaterFix
8 Project, if the WaterFix Project is constructed in two or more distinct phases of construction and/or
9 operation. “Operation” includes, but is not limited to, the amount and timing of diversions at both
10 North and South Delta intakes and the amount of water delivered to State Water Project and/or
11 Central Valley Project contractors, or any single contractor or combination of them. All documents
12 include any and all data and analysis of said data, including modeling data, of operation of either a
13 6000 cfs single tunnel or phased-in operation.

14 3. From May 1, 2017 to the present, all documents referencing or relating to the evaluation of
15 environmental effects of (1) a 6000 cfs single tunnel alternative for the WaterFix Project, or (2)
16 separation of the two tunnels (and related facilities, such as intakes) proposed in the WaterFix
17 Project into two distinct phases of construction and/or operation.

18 4. From May 1, 2017 to the present, all documents referencing or relating to the cost of (1) a
19 6000 cfs single tunnel alternative for the WaterFix Project, or (2) separation of the two tunnels
20 proposed (and related facilities, such as intakes) in the WaterFix Project into two distinct phases of
21 construction and/or operation, including costs associated with planning, design, investigation,
22 environmental review, construction, and operation.

23 5. All communications between DWR and SWRCB, during the period of May 1, 2017, to the
24 present, referencing or relating to (1) consideration of a 6000 cfs single tunnel alternative for the
25 WaterFix Project, or (2) separation of the two tunnels (and related facilities, such as intakes)
26 proposed in the WaterFix Project into two distinct phases of construction and/or operation.

27 6. All communications between DWR and MWD, during the period of May 1, 2017, to the
28 present, referencing or relating to (1) a 6000 cfs single tunnel alternative for the WaterFix Project, or

1 (2) separation of the two tunnels (and related facilities, such as intakes) proposed in the WaterFix
2 Project into two distinct phases of construction and/or operation.

3 7. All communications between DWR and SWC, during the period of May 1, 2017, to the
4 present, referencing or relating to (1) a 6000 cfs single tunnel alternative for the WaterFix Project, or
5 (2) separation of the two tunnels (and related facilities, such as intakes) proposed in the WaterFix
6 Project into two distinct phases of construction and/or operation.

7 8. All communications between DWR and USBR, during the period of May 1, 2017, to the
8 present, referencing or relating to (1) a 6000 cfs single tunnel alternative for the WaterFix Project, or
9 (2) separation of the two tunnels (and related facilities, such as intakes) proposed in the WaterFix
10 Project into two distinct phases of construction and/or operation.

11 9. All communications between DWR and SCVWD, during the period of May 1, 2017, to the
12 present, referencing or relating to (1) a 6000 cfs single tunnel alternative for the WaterFix Project, or
13 (2) separation of the two tunnels (and related facilities, such as intakes) proposed in the WaterFix
14 Project into two distinct phases of construction and/or operation.

15 10. All communications between DWR and KCWA, during the period of May 1, 2017, to the
16 present, referencing or relating to (1) a 6000 cfs single tunnel alternative for the WaterFix Project, or
17 (2) separation of the two tunnels (and related facilities, such as intakes) proposed in the WaterFix
18 Project into two distinct phases of construction and/or operation.

19
20 ///

21
22 ///

23
24 ///

25
26 ///

27
28 ///

1 An affidavit supporting this request is attached hereto.

2
3 Respectfully submitted,

4 

5 Dated: February 14, 2018

6

7 Stacey P. Geis, State Bar No. 181444
8 Michelle Ghafar, State Bar No. 315842
9 EARTHJUSTICE
10 50 California Street, Suite 500
11 San Francisco, CA 94111
12 T: (415) 217-2000
13 F: (415) 217-2040
14 E: mghafar@earthjustice.org
15 sgeis@earthjustice.org

16 *Attorneys for Protestant Restore the Delta*

AFFIDAVIT IN SUPPORT OF SUBPOENA DUCES TECUM

I, Stacey Geis, do declare as follows:

I am an attorney admitted to practice law in the State of California and the attorney of record for Restore the Delta in this proceeding. The following matters are within my personal knowledge and, if called as a witness, I could competently testify thereto. Based on the considerations enumerated below, I believe the requests for production of the documents described in the attached Addendum to the Subpoena Duces Tecum above are relevant, reasonable, and necessary for Part 2 of the California WaterFix change petition hearing. Moreover, I have reason to believe the documents requested are under the control of the California Department of Water Resources.

1. Petitioner California Department of Water Resources (“DWR”) is seeking a permit for approval of the California WaterFix Project, which until recently officially and publicly consisted of a two tunnel, three intakes (total 9000 cfs) project, as described in DWR’s petition dated August 25, 2015. The three intakes along the Sacramento River in the north Delta would ultimately connect to two tunnels departing from the proposed intermediate forebay.
2. The State Water Resources Control Board (“SWRCB”) is responsible for issuing the permit approval for the WaterFix Project. To that end, SWRCB is holding a hearing to receive evidence relevant to determining whether it should approve the permit. The hearings are divided into two parts, Part 1 of which focused on potential effects of the petition on other legal users of water and ran from July 2016 to July 2017. Part 2 of the hearing is focused on the potential effects of the petition on fish, wildlife, and recreational uses and began on February 8, 2018.
3. Restore the Delta (“RTD”) is a protestant of the WaterFix Project and has actively participated in the SWRCB hearings since the commencement of Part 1. RTD will continue to actively participate in this proceeding throughout Part 2 of the hearing.
4. Since May 2017, evidence began emerging that the project description, which formed the basis of the hearings and was attested to by DWR in its August 2015 petition, had changed. Specifically,

it appeared that the proposed operations, engineering design, and construction of the WaterFix Project would change to a single tunnel, two intakes (total 6000 cfs) project, which is substantially different than the two tunnel, three intakes (total 9000 cfs) project originally proposed by DWR and which formed the basis for all testimony and evidence presented at Part 1 of the hearing.

5. Such evidence of a project change initially included, but was not limited to, statements between May 2017 and February 2018 from relevant agencies, including Metropolitan Water District of Southern California (“MWDSC”), Westlands Water District (“WWD”), Santa Clara Valley Water District (“SCVWD”), and DWR itself.
6. On February 7, 2018, one day before commencement of Part 2 of the hearing, DWR confirmed what earlier evidence suggested and formally proposed changes to the originally defined WaterFix Project. DWR now intends to pursue construction in a phased approach, with the first phase including a single tunnel and two intakes (total 6000 cfs) and no certainty that a second phase would in fact be constructed. Although a single tunnel, two intakes (total 6000 cfs) project is substantially different than a two tunnel, three intakes (total 9000 cfs) project, DWR continues to claim that it “is not modifying the proposed WaterFix project or the petition.” (Email from DWR to Cal. WaterFix Hearing service list, “California Waterfix Additional Construction Option” [Feb. 7, 2018] at p. 2.)
7. On February 8, 2018, after several schedule changes due to motions from various parties to continue Part 2 of the hearing, the SWRCB commenced the Part 2 hearing for one day and then vacated the remaining hearing dates until February 22, 2018 while SWRCB considered a motion to continue the Part II hearing in light of DWR’s announcement of a phased-in approach and how that impacts the Part 2 hearing.
8. The requested documents are relevant and necessary: RTD cannot properly participate in Part 2 of the WaterFix hearing nor continue in its role as an active protestant without the requested

documents, especially if the hearing resumes February 22, 2018. Thus, RTD will be prejudiced without the requested documents while DWR will not be prejudiced by releasing them.

- a. The requests for production of the documents described in the attached Addendum to the Subpoena Duces Tecum are relevant, reasonable, and necessary to the SWRCB's consideration of whether the WaterFix Project will have unreasonable impacts on fish, wildlife, and recreational use, which is the key hearing issue in Part 2. The requested documents should be fully disclosed, as required by regulation. (Wat. Code, §§1701.1, 1701.2; Cal. Code Regs., tit. 23, § 794, subds. (a)(6) & (a)(8) – (a)(9).)
- b. The issues to be determined in Part 2 of the hearing include whether or not the petition is subject to new information and analysis regarding the scope, content, phasing/timing, and duration of the proposed project; about environmental effects on fish and wildlife of changes to the proposed project; about water quality effects of changes to the proposed project; about whether cold storage of water rights would occur due to a lack of diligent construction of a two-tunnel project configuration as compared with a phased single-tunnel configuration; the reasonableness of changes to the proposed project; and whether changes to the proposed project would be in the public interest.
- c. The documents requested are directly relevant and necessary to allow protestants to undertake proper review and analysis of the project now being proposed, to be able to provide relevant testimony, and to cross-examine and rebut proffered evidence from DWR regarding the project now being proposed, including, but not limited to, examining how a changed project impacts the issues noted above, and what DWR has done or not done with regard to its own analysis and findings on this proposed project, which differs significantly in scope from the project description attested to at the beginning of the hearings and upon which the entire Part I hearing was based.
- d. Protestants will be prejudiced if the information is not timely provided. For example, if a petitioner submits a project description associated with its petition for change that differs

in design, scope, capacity, points of diversion, and timing of construction from what may actually be constructed, then other parties may be prejudiced in their ability to ensure that water rights are not subjected to cold storage. Parties may also be prejudiced to the extent that environmental effects of a revised project may have different or worse effects on fish and wildlife than have been heretofore evaluated under endangered species and environmental review/full disclosure requirements.

- e. DWR will not be prejudiced if the information must be provided because it is a public agency operating the State Water Project pursuant to permits issued by and subject to the jurisdiction of the SWRCB. Moreover, based on DWR representations, it appears DWR has been in control of this information for months. See DWR Consolidated Opposition to Motion to Continue Hearing at 2. It cannot claim that the information sought is proprietary or otherwise confidential since the WaterFix Project would be owned and operated by DWR. Rather, the information sought is critical to enabling responding parties and the SWRCB hearing team to understand and verify through cross-examination and rebuttal what project DWR will actually build and under what terms (e.g., legal, environmental, financial, operational) it is considering building the WaterFix Project.
- f. DWR already notified the County of Sacramento et al. on January 31, 2018 that it would not provide records requested under the Public Records Act relating to the recently announced phased implementation of the WaterFix Project until March 24, 2018.
- g. In the event the hearing resumes on February 22, 2018, RTD will need these documents in order to prepare its own Part 2 testimony and evidence as well as properly cross-examine and otherwise respond to DWR's testimony and evidence. The documents now requested by RTD are thus necessary to ensure protestants' timely and effective participation in the remainder of this proceeding.

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

Executed this 14th day of February, 2018, in San Francisco, California.

DATED: February 14, 2018



A handwritten signature in cursive script that reads "Stacey P. Geis". The signature is written in black ink and is positioned above a horizontal line.

STACEY P. GEIS, State Bar No. 181444
Earthjustice
50 California Street
San Francisco, CA 94111
sgeis@earthjustice.org
Tel: 415-217-2000/Fax: 415-217-2040

PROOF OF SERVICE OF SUBPOENA

(Gov. Code, § 11440.20; Code Civ. Proc., §§ 1987, 1987.5, 1988, 1989, 2015.3, 2015.5.)

1. I served this subpoena subpoena duces tecum and supporting affidavit by:

personally delivering a copy to the person served as follows:

a. Person served (name):	b. Date of delivery:
c. Address where served:	d. Time of delivery:
e. Witness fees and mileage both ways (check one): (1) <input type="checkbox"/> were paid. Amount: \$ _____ (2) <input type="checkbox"/> were not paid. (3) <input type="checkbox"/> were tendered to the witness's public entity employer as required by Government Code § 68097.2. The amount tendered was \$ _____	f. Fees for service. Amount: \$ _____

delivering true copies thereof by certified mail, return receipt requested, to the address as shown below.

delivering true copies thereof enclosed in a sealed envelope to a messenger for immediate personal delivery to the address as shown below.

Address where served: California Department of Water Resources, Attn: Records and Content Management,
P.O. Box 942836, Sacramento, CA 94236

2. I certify that I received this subpoena subpoena duces tecum for service on February 14, 2018
Date

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on:
Date _____ at (place) _____, California Signature _____

(For California sheriff, marshal, or constable use only)

I certify that the foregoing is true and correct and that this certificate is executed on:
Date _____ at (place) _____, California Signature _____

NOTE: IF THIS SUBPOENA IS ISSUED IN CONNECTION WITH A HEARING IN AN ADJUDICATIVE PROCEEDING UNDER GOVERNMENT CODE § 11400 ET SEQ., THE ATTORNEY OR PARTY WITHOUT AN ATTORNEY REQUESTING THIS SUBPOENA MUST PROVIDE A COPY OF THE SUBPOENA TO EVERY PARTY IN THE HEARING, AND FILE A COPY WITH THE STATE WATER RESOURCES CONTROL BOARD. THE COPY PROVIDED TO THE STATE WATER RESOURCES CONTROL BOARD MUST BE ACCOMPANIED BY A CERTIFICATE OF SERVICE LISTING THE NAMES AND ADDRESSES OF PARTIES WHO WERE PROVIDED COPIES IN ACCORDANCE WITH GOVERNMENT CODE § 11440.20. (Gov. Code, § 11440.20; Cal. Code Regs., tit. 23, § 648.4(c).) (Send to: The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100.)

ENDORSEMENT ON SUBPOENA IN A PROCEEDING OTHER THAN AN ADJUDICATIVE PROCEEDING

Pursuant to Water Code §1086 and upon affidavit of _____ (copy attached) showing that the testimony of the witness ordered by the subpoena to appear is material and necessary to this proceeding, it is required that said witness attend this proceeding.

Dated: _____ (signature) _____
Name: _____
Title: _____
State Water Resources Control Board

NOTE: This ENDORSEMENT is required if the subpoena is in connection with a proceeding other than a hearing under Government Code § 11400 and the witness is being compelled to testify at a location that is both out of the witness's county of residence and 150 miles or more from the witness's place of residence. (Wat. Code, § 1086; Cal. Code Regs., tit. 23, § 649.6(c).)

BEFORE THE STATE WATER RESOURCES CONTROL BOARD OF THE STATE OF CALIFORNIA

ATTORNEY OR PARTY WITHOUT ATTORNEY REQUESTING SUBPOENA (<i>name, address, and telephone no.</i>): REPRESENTING: TITLE OF THE PROCEEDING:	FOR STATE WATER BOARD USE ONLY
<input type="checkbox"/> SUBPOENA <input type="checkbox"/> RE HEARING <input type="checkbox"/> SUBPOENA DUCES TECUM <input type="checkbox"/> RE DEPOSITION	

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (*name*):

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this proceeding as follows unless you make special agreement with the person named in item 3:

a. Date:	Time:
b. Address:	

2. AND YOU ARE:

- a. Ordered to appear in person. (Wat. Code, § 1080; Gov. Code, § 11450.10; Cal. Code Regs., tit. 23, § 649.6(a).)
- b. Not required to appear in person if you produce the records described in the accompanying affidavit in compliance with Evidence Code sections 1560 and 1561. (Wat. Code, § 1080; Gov. Code, § 11450.10(b); Cal. Code Regs., tit. 23, § 649.6(a).)
- c. Ordered to appear in person and to produce the records described in the accompanying affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records is required by this subpoena. The procedure authorized by subdivision (b) of section 1560, and sections 1561 and 1562, of the Evidence Code will not be deemed sufficient compliance with this subpoena. (Wat. Code, § 1080; Gov. Code, § 11450.10; Cal. Code Regs., tit. 23, § 649.6(a).)

3. IF YOU HAVE ANY QUESTIONS ABOUT WITNESS FEES OR THE TIME OR DATE FOR YOU TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

a. Name:	b. Telephone number:
----------	----------------------

(Gov. Code, § 11450.20(a); Code Civ. Proc., § 1985.2.)

4. **WITNESS FEES:** You are entitled to witness fees and mileage actually traveled, both ways, as provided by law. Request them from the person who serves this subpoena or from the person named in item 3. (Wat. Code, §§ 1081, 1083, 1084; Gov. Code, §§ 11450.40, 68070 et seq.; Code Civ. Proc., §§ 1986.5, 2065.)

5. If you object to the terms of this subpoena, you may file a motion for a protective order including a motion to quash with the hearing officer assigned to your case. Motions must be made within a reasonable period after receipt of the subpoena, and shall be made with written notice to all parties, with proof of service upon all parties attached. In response to your motion, the hearing officer may make an order quashing the subpoena entirely, modifying it, or directing compliance with it, or may make any order needed to protect the parties or witnesses from unreasonable or oppressive demands, including unreasonable violations of the right to privacy. (Gov. Code, § 11450.30.) (Send motions to: The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100.)

DISOBEDIENCE OF THIS SUBPOENA MAY CAUSE YOU TO BE LIABLE FOR CONTEMPT AND OTHER PENALTIES PROVIDED BY LAW

(Wat. Code, §§ 1090-1097; Gov. Code, §§ 11450.20(b), 11455.10-11455.20.)

Dated: _____



 (signature)

Name: _____

Title: _____

Unless issued by an attorney pursuant to Code of Civil Procedure, Section 1985, subdivision (c), the original subpoena is embossed with this seal.

(See reverse for Endorsement on Subpoena, if used, and Proof of Service)

PROOF OF SERVICE OF SUBPOENA

(Gov. Code, § 11440.20; Code Civ. Proc., §§ 1987, 1987.5, 1988, 1989, 2015.3, 2015.5.)

1. I served this subpoena subpoena duces tecum and supporting affidavit by:

personally delivering a copy to the person served as follows:

a. Person served (name):	b. Date of delivery:
c. Address where served:	d. Time of delivery:
e. Witness fees and mileage both ways (check one): (1) <input type="checkbox"/> were paid. Amount: \$ _____ (2) <input type="checkbox"/> were not paid. (3) <input type="checkbox"/> were tendered to the witness's public entity employer as required by Government Code § 68097.2. The amount tendered was \$ _____	f. Fees for service. Amount: \$ _____

delivering true copies thereof by certified mail, return receipt requested, to the address as shown below.

delivering true copies thereof enclosed in a sealed envelope to a messenger for immediate personal delivery to the address as shown below.

Address where served: California Department of Water Resources, Attn: Office of Chief Counsel, 1416 9th Street, 11th Floor, Sacramento, CA 95814

2. I certify that I received this subpoena subpoena duces tecum for service on February 14, 2018.
Date

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on:
Date _____ at (place) _____, California Signature _____

(For California sheriff, marshal, or constable use only)

I certify that the foregoing is true and correct and that this certificate is executed on:
Date _____ at (place) _____, California Signature _____

NOTE: IF THIS SUBPOENA IS ISSUED IN CONNECTION WITH A HEARING IN AN ADJUDICATIVE PROCEEDING UNDER GOVERNMENT CODE § 11400 ET SEQ., THE ATTORNEY OR PARTY WITHOUT AN ATTORNEY REQUESTING THIS SUBPOENA MUST PROVIDE A COPY OF THE SUBPOENA TO EVERY PARTY IN THE HEARING, AND FILE A COPY WITH THE STATE WATER RESOURCES CONTROL BOARD. THE COPY PROVIDED TO THE STATE WATER RESOURCES CONTROL BOARD MUST BE ACCOMPANIED BY A CERTIFICATE OF SERVICE LISTING THE NAMES AND ADDRESSES OF PARTIES WHO WERE PROVIDED COPIES IN ACCORDANCE WITH GOVERNMENT CODE § 11440.20. (Gov. Code, § 11440.20; Cal. Code Regs., tit. 23, § 648.4(c).) (Send to: The State Water Resources Control Board, Office of Chief Counsel, P.O. Box 100, Sacramento, CA 95812-0100.)

ENDORSEMENT ON SUBPOENA IN A PROCEEDING OTHER THAN AN ADJUDICATIVE PROCEEDING

Pursuant to Water Code §1086 and upon affidavit of _____ (copy attached) showing that the testimony of the witness ordered by the subpoena to appear is material and necessary to this proceeding, it is required that said witness attend this proceeding.

Dated: _____ (signature) _____
Name: _____
Title: _____
State Water Resources Control Board

NOTE: This ENDORSEMENT is required if the subpoena is in connection with a proceeding other than a hearing under Government Code § 11400 and the witness is being compelled to testify at a location that is both out of the witness's county of residence and 150 miles or more from the witness's place of residence. (Wat. Code, § 1086; Cal. Code Regs., tit. 23, § 649.6(c).)