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9 City of Antioch

10 **BEFORE THE**  
11 **CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

12 HEARING IN THE MATTER OF  
13 CALIFORNIA DEPARTMENT OF  
14 WATER RESOURCES AND UNITED  
15 STATES BUREAU OF RECLAMATION  
16 REQUEST FOR A CHANGE IN POINT  
17 OF DIVERSION FOR CALIFORNIA  
18 WATER FIX

19 JOINDER IN MOTION TO FORMALLY  
20 CONSIDER ADDITIONAL  
21 INFORMATION SUBMITTED IN  
22 SUPPORT OF PETITION

23 The City of Antioch hereby joins in and incorporates as if set forth in full Deirdre  
24 Des Jardins' February 13, 2018 motion to formally consider additional information  
25 submitted in support of petition, and provides the following additional points in support  
26 of the motion.

27 The issues with the Petition date back to filing. The City of Antioch commented  
28 on September 2, 2015 that the petition submitted by the Department of Water  
Resources and the U.S. Bureau of Reclamation was defective and incomplete and  
requested that the petition be rejected.<sup>1</sup> That letter stated in part:

The City believes the Petition is defective and incomplete as follows:

<sup>1</sup> Antioch's September 2, 2015 letter to the State Water Resources Control Board, RE: DWR and BOR Defective "Water Fix" Petition for Change Application, is incorporated as if set forth in full herein.

- 1                   1. The Petition fails to provide sufficient information necessary to identify  
2                   potentially impacted water users and the specific impacts to those  
3                   users in the detail required by law. Water Code section 1701 et seq; 23  
4                   CCR 794 (a)(7),(9). This information is also almost completely absent  
5                   from the Draft Recirculated Environmental Impact Report (“DREIR”)  
6                   referenced in the Petition. In place of specific analysis of impacts to the  
7                   literally hundreds of potentially impacted water rights, the Petition (and  
8                   the DREIR) rely on broad statements promising to operate and divert  
9                   in such a way as to meet applicable law. This is simply insufficient  
10                  under the law for a change petition and especially for such a project  
11                  that will so fundamentally modify the present methods and location of  
12                  diversion. [...]
- 13                  4. The Petition references additional studies regarding the operation and  
14                  design of the project that are as yet uncompleted (see pg. 14 of the  
15                  Supplemental Information attachment). Because these studies will  
16                  “inform design and operation of the diversion structures,” we conclude  
17                  that the proposed Project and the DREIR are currently incomplete. The  
18                  fact that the details of design and operation are currently unknown also  
19                  indicates that the Petition may be incomplete, as all the potential  
20                  impacts of the project to water users and to fish and wildlife are  
21                  unknown at this time.
- 22                  5. The Applicants have not modeled the preferred alternative. The  
23                  modeling performed by the Applicants is for a different alternative  
24                  (Alternative 4, rather September 2, 2015 Page 3 than Alternative 4a).  
25                  The Applicants have not updated to model the current project, and  
26                  there are significant differences (e.g., amount of tidal restoration,  
27                  salinity compliance points, etc.) between the model runs and the  
28                  preferred alternative. Neither the Petition nor the RDEIR provide  
adequate detail as to how the applicants will operate the project.  
Project operations are proposed to be determined during an “adaptive  
management” process, but they have not described how this will work,  
or within what bounds. The Applicants underestimate the impacts of  
the preferred alternative because they continue to use the incorrect  
baseline condition, which the City and others have previously pointed  
out to the Applicants. Therefore, relying on the present modeling to  
demonstrate a “no harm/no injury” project impact is insufficient to meet  
the standards required to proceed with the Change Petition. (p. 2-3.)

Antioch’s letter concluded by requesting that the State Water Resources Control  
Board delay consideration of any petition until the Record of Decision was approved.  
There were requests by other protestants to reject the petition as incomplete. The

1 petition was accepted for filing after Ex Parte discussion with the Department of Water  
2 Resources and the WaterFix hearing was scheduled on October 30, 2015. The Board  
3 met in closed session with the Office of Chief Counsel on December 2, 2015 to  
4 “deliberate on procedural decisions” for the petition, but made no provision for a process  
5 to formally require the Petitioners to supply the missing information.

6 The defects in the petition were not adequately corrected in Part 1 of the hearing,  
7 and must be addressed before Part 2 to ensure a fair hearing.

8  
9 Dated: February 19, 2018

10 /s/ *MATTHEW EMRICK*  
11 Matthew Emrick  
12 Attorney for Protestant  
13 City of Antioch  
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**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 (FTP) and caused a true and correct copy of the following document(s):

**City of Antioch's:** - *Deirdre Des Jardins' February 13, 2018 motion to formally consider additional information submitted in support of petition*

to be served **by Electronic Mail** (email) upon the parties listed in the **Current Service List** for the California WaterFix Petition Hearing, dated Jan. 24, 2018, 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](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 Feb, 19, 2018

Signature: /s/ *Jessica Decker*

Name: Jessica Decker

Title: Assistant to Matthew Emrick

Party/Affiliation: City of Antioch

Address: **6520 Lonetree Blvd., #1009, Rocklin, CA 95762**