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7

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

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

**CALIFORNIA DEPARTMENT OF**  
**WATER RESOURCES' RESPONSES**  
**TO CLIFTON COURT L.P. WRITTEN**  
**PART 2 CROSS-EXAMINATION**  
**QUESTIONS**

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17 Through this written response, DWR submits the responses of Mr. Bednarski and  
18 legal objections, where appropriate, to Clifton Court LP's ("CCLP") questions.  
19

20 For ease of review, DWR has copied the questions directly from the CCLP  
21 document and provided responses below.  
22

23 1. Questions regarding Control Structure (CS) on DMC Intake (Jones Channel)  
24

25 A. Does the proposed Control Structure take out our diversion at Delta Mendota  
26 Canal station L53 + 50?  
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1 **Response:** As currently proposed in the Supplemental EIR/EIS, the control structure  
2 appears to sit on top of the diversion point located at the Delta Mendota Canal  
3 (“DMC”) station L53 +50, as described by Ms. Womack. (See transcript August 10,  
4 2018, p.183.) For purposes of the responses to questions from CCLP, DWR  
5 accepts Ms. Womack’s representation that station L53 +50 is the diversion point of  
6 CCLP. In response to this new information, DWR plans to explore other locations  
7 for the proposed DMC control structure that will avoid alterations to the diversion  
8 point at station L53 +50 and, in the alternative, commits to moving or modifying the  
9 CCLP diversion point, as detailed below and as previously committed to and testified  
10 by Mr. Bednarski. (See DWR- 57, p. 12:23- 15:5.)

11  
12 B. If so, why?

13  
14 **Response:** Through preliminary design, DWR intends to investigate moving the  
15 DMC control structure from the spot proposed in the Supplemental EIR/EIS to the  
16 west, further into the DMC, of the diversion point so as not to interfere with the  
17 diversion point at station L53 +50. If moving the control structure is infeasible, DWR  
18 will relocate the diversion point to the east of the DMC control structure, closer to the  
19 Delta, or will modify station L53 +50 to allow diversions to continue. As testified to  
20 by Mr. Bednarski, DWR remains committed to mitigating diversions that the Project  
21 either permanently or temporarily impacts. (See DWR-57, pg. 12-15.)

22  
23 C. How will the CWF mitigate CCLP injury if our water diversion is taken?

24  
25 **Response:** DWR will mitigate CCLP as discussed above in response 1A and 1B.

26  
27 2. Questions if CWF moves Control Structure to accommodate our diversion

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A. “The footprint of the structure changed from 2.2 acres to 14.8 acres” (SWRCB 113 3--2 line 12). The Conceptual Engineering report has no conceptual rendering of this new structure. What will the 7X bigger structure look like? How tall will it be?

**Response:** The size (footprint) of the completed permanent DMC control structure has not changed from that shown in DWR-212. It is incorrect to say that the structure is seven times bigger because the size is referring to the footprint, not the structure. DWR-1305 shows a larger footprint when compared to DWR-212 because DWR-1305 shows the temporary construction footprint, in addition to the permanent footprint, which remains unchanged at 2.2 acres. The reason the construction footprint (14.8 acres) is larger is to accommodate a temporary canal during the construction period.

B. The “Control Structure Plan and Sections” in DWR--1305 (p. 87--89) appears simplistic. Where are details that show the changed Control Structure that is now 7X larger – 14.8 acres?

**Response:** See response to questions 2A, the DMC control structure size remains unchanged. As testified to by Mr. Bednarski, additional details will be developed through preliminary and final design.

C. Why is the footprint of the structure 7X larger?

**Response:** See response to 2A, the footprint is the temporary construction footprint and is larger to accommodate a temporary canal during construction.

1 D. Is there modeling or an engineering analysis as to how this Control Structure will  
2 work in relation to my diversion in the DMC Intake?

3  
4 **Response:** Through the conceptual engineering work completed to date,  
5 engineering analyses<sup>1</sup>, including hydraulic evaluation of the existing and new  
6 facilities, were conducted to establish design criteria for the California WaterFix.  
7 During the preliminary and final design overall operations will be further analyzed.  
8 DWR will design the DMC control structure so as not to interfere with the existing  
9 diversion point or will mitigate by moving the DMC control structure, moving the  
10 station L53 +50 diversion point or otherwise modifying the existing diversion point,  
11 as described in the above responses. All of these mitigation options will result in  
12 station L53 +50 retaining its existing access to and source of water in the southern  
13 Delta. Water quality and water level modeling was conducted for the southern Delta  
14 assessing the effects of CA WaterFix H3+. (See testimony of Ms. Smith, DWR-  
15 1015, pg. 18-32.)

16  
17 E. How will the Control Structure operations affect tidal flow in DMC Intake? Has  
18 this been modeled? If so, where is the modeling?

19  
20 **Response:** Based upon the prior answers it is anticipated that there will be no  
21 impacts to the tidal flow related to station L53 +50.

22  
23 F. CCLP has year round water rights/license. During construction, will CCLP be  
24 compensated for every day that water is not available? CCLP would like permit  
25 terms that beyond one single day that water is not available, CWF will pay \$50,000

26  
27 <sup>1</sup> DWR has conducted engineering analysis in the CER evaluating existing and new facilities to  
28 establish design criteria for the project. Through preliminary and final design these analyses will be refined. All response to modeling in this document incorporate this footnote.

1 per day without going through any claim process as no water at crucial times can  
2 ruin crops. Since CWF claims that the DMC Intake will not be without water for more  
3 than part of one single day, this term should be no problem.

4  
5 **Response:** DWR will respond to the sole question, which is “During construction,  
6 will CCLP be compensated for every day water is not available?” Should the CA  
7 WaterFix impact CCLP’s diversion of water, it will be made whole as described  
8 above in response to question 1B. Furthermore, DWR objects to the statements  
9 made beyond this question as assuming facts not in evidence.

10  
11 3. Questions about the Control Structure and Subsidence

12  
13 A. Impact Soils-3 in the Supplemental EIR/EIS, Exhibit 113, Chapter 10, refers to  
14 “Property Loss, Personal Injury, or Death from Instability, Failure, and Damage from  
15 Construction on or in Soils Subject to Subsidence as a Result of Constructing the  
16 Proposed Water Conveyance Facilities. (p. 10--6 at 8--10.) Are the soils for where  
17 the Control Structure is located subject to subsidence?

18  
19 **Response:** DWR has conducted some geotechnical work in the vicinity of the  
20 proposed DMC control structure. Additional geotechnical work is still necessary and  
21 will be conducted through preliminary and final design as disclosed in the CER.

22  
23 B. What impacts would there be if there was subsidence during construction?  
24 During operation?

25  
26 **Response:** DWR objects that the question is vague and ambiguous as to the  
27 location of any subsidence during construction or operation. DWR answers this  
28 question assuming that the question refers to the location of the DMC control

1 structure and responds as follows: If after further geotechnical work is completed  
2 there are indications that some potential vulnerability in the soils located at the  
3 Control Structure exist, DWR will remediate the site before any construction begins  
4 by stabilizing the soils. Thus, DWR anticipates there will not be any subsidence  
5 impacts during or after construction.  
6

7 C. Chapter 10 of the Supplemental EIR/EIS states that risks of subsidence will be  
8 addressed by geotechnical studies and “state and federal design standards and  
9 guidelines” (Exhibit SWRCB--113, p. 10--6 at 38.) Where are those studies?  
10

11 **Response:** The geotechnical studies completed to date serve as the basis of the  
12 CER, as previously testified to Mr. Bednarski and Mr. Pirabarooban, and are shown  
13 within the CERs (exhibits DWR-1304, DWR-1305 and DWR-1306). Future  
14 geotechnical work will be completed through preliminary and final design.  
15

16 D. Why is the draft 2011 geotechnical data report the last report listed in the  
17 Supplemental EIR (Draft Phase II Geotechnical Investigation— Geotechnical Data  
18 Report—Pipeline/Tunnel Option. August 22, 2011. Revision 1.1. Delta Habitat  
19 Conservation and Conveyance Program, p. 10--9.) Was this report ever finalized? If  
20 not, why not?  
21

22 **Response:** DWR objects to the vague and ambiguous question as to what  
23 constitutes “last report listed” as a review of the proffered citation does not support a  
24 common understanding of this phrase, but provides the following answer to the  
25 question on finalization. In addition to the draft 2011 geotechnical report listed in  
26 your question, DWR has disclosed, in both DWR-212, and DWR-1305, the existence  
27 of the April 2013 draft geotechnical data report that served as the basis of  
28 engineering recommendations made in the conceptual engineering reports. The

1 references to this draft data report can be found as Footnote 2 to Figures 3-2  
2 through 3-6 in DWR-212, and as Footnote 2 to Figures 4-2 through 4-6 in DWR-  
3 1305. Due to the conceptual nature of the work completed to date, the geotechnical  
4 reports were left in a “draft” form, recognizing the fact that additional geotechnical  
5 information will be obtain in preliminary and final design phases of the program, as  
6 disclosed in both DWR-212 and DWR-1305.

7  
8 E. Have any geotechnical studies been done in the area of the Control Structure?

9  
10 **Response:** See response to question 3A.

11  
12 F. What “state and federal design standards and guidelines” apply to the Control  
13 Structure?

14  
15 **Response:** DWR is required to design and construct the facilities according to 38  
16 state and federal design standards and guidelines (e.g., California Building Code,  
17 American Society of 39 Civil Engineers Minimum Design Loads for Buildings and  
18 Other Structures, ASCE/SEI 7-10, 2010. (DWR-1304, p. 10-6, lines 38-40.)

19  
20 G. Who will review the Control Structure design and construction plan for  
21 conformance with the guidelines?

22  
23 **Response:** DWR’s licensed engineers will approve all final design and construction  
24 plans.

25  
26 4. Operation Isolated North Delta Operation (DWR 1304 5--6, 5.1.6.2),

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28 A. How will CCLP access its year round water rights if the gates are closed?

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**Response:** See response to question 1B.

B. If the “Tracy Fish Facility gates” refer to the Control Structure on the DMC Intake, how will water be drawn to our diversion if the CS gate is closed? What if the TFF trash racks are plugged with debris?

**Response:** See response to question 1B for flow at the diversion point related to closure of the Control Structure. The Project will not have any effect on the Tracy Fish Facility or its trash racks and those facilities will continue unmodified by the California WaterFix. Questions regarding the Tracy Fish Facility are beyond the scope of this hearing as they are not facilities proposed as a part of the California WaterFix, nor is it anticipated that those facilities are to be modified in relation to the California WaterFix.

C. Where is this modeled how the Isolated North Delta Operation will affect my diversion in the DMC intake?

**Response:** There will be no impact to CCLP diversion as described in the response to question 1B. Modeling exists for the expected mitigation of any effects to CCLP diversions as described in the response to question 2D.

5. Potential Dual Operation with WaterFix BTO (DWR 1304 5--6, 5.1.6.3. “Under the dual source operation scenario, control gates will control flow out of BTF, CCF and the Old River to meet target deliveries at both Banks and Jones PP’s... “The control scheme will require flow meters, WSE transmitters, and a sophisticated SCADA system controls.”



1 A. Could you explain the SCADA system and how it relates to the CWF operations?

2  
3 **Response:** This question was asked and answered of Panel 2 witnesses (see  
4 transcript August 10, 2018, beginning p. 197.) Further elaboration includes that  
5 SCADA stands for supervisory control and data acquisition. SCADA will operate the  
6 Control Structure gates and collect data.  
7

8 B. How is CCF not considered part of the CWF if it is part of this sophisticated  
9 SCADA system?

10 .  
11 **Response:** This question was asked and answered of Panel 2 witnesses (see  
12 transcript August 10, 2018, beginning p. 197.) Further elaboration includes that  
13 California WaterFix does not contemplate any changes to the existing Clifton Court  
14 Forebay. California WaterFix will be operated as an integral part of the CVP/SWP  
15 projects.  
16

17 C. Where is there a model of this sophisticated system? What would be the impact  
18 to CCLP's water rights and diversions?

19  
20 **Response:** This question was asked and answered of Panel 2 witnesses (see  
21 transcript August 10, 2018, beginning p. 197.) Further elaboration includes that  
22 during preliminary and final design DWR will work on modeling new structures as  
23 they fit into existing operations and interact with existing structures. However, these  
24 operations as described above, will not have an impact on any legal user of water,  
25 including CCLP.  
26

27 D. What happens when the sophisticated system fails?

1 **Response:** This question was asked and answered of Panel 2 witnesses (see  
2 transcript August 10, 2018, beginning p. 197.) Further elaboration includes that that  
3 there will be multi back-up systems, including but not limited to manual operations.  
4

5 E. What happens 10 years down the road when the sophisticated system is  
6 obsolete and is not maintained properly? Will DWR/CVP/CWF pay for higher  
7 pumping costs, burnt out pump replacement, and lost crops caused by SCADA  
8 system failure? Will DWR agree to immediate payments to CCLP for damages  
9 without going through any claim process as a permit term?  
10

11 **Response:** DWR objects to this incorrect assumption that the “system” would not  
12 be maintained. DWR further objects to the question on the basis that it implies that  
13 there will be a SCADA failure because it assumes facts not in evidence. DWR also  
14 objects to the question because it lacks foundation and does not provide evidence  
15 that a SCADA failure would cause the alleged injury. Finally, DWR objects to the  
16 question as outside the scope of the hearing as it attempts to circumvent the  
17 California Tort Claims Act. DWR responds that CCLP will not incur damages as  
18 described in the response to 1B.  
19

20 6. Throttling the WSE at Control Structure “The open channels that feeds Banks and  
21 Jones PP downstream of the Skinner Fish Facility and downstream of the Trach Fish  
22 Facility must maintain a lower WSE from all three sources to maintain flow control of  
23 all the throttling gates at each source. (DWR 1304 5--6, 5.1.6.3)  
24

25 A. Since farmer will not be able to depend on tides for water level, will  
26 DWR/CVP/CWF pay for pumping costs and pump replacement costs due to lower  
27 WSE? Will DWR agree to immediate payments to CCLP without going through any  
28 claim process as a permit term?

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**Response:** DWR objects to the question as outside the scope of the hearing as it attempts to circumvent the California Tort Claims Act. DWR responds that a permit term is not necessary since as described above in 1B, CCLP will remain whole and its operations will not be impacted by the California WaterFix.

B. Will DWR/CVP/CWF pay for crop failure if there is not sufficient water for pumping? Will DWR agree to immediate payments to CCLP without going through any claim process as a permit term?

**Response:** DWR objects to this question as it assumes facts not in evidence, lacks foundation and is outside the scope of this proceeding to the extent it attempts to circumvent the California Torts Claims Act. DWR responds that as provided in response 1B CCLP will remain whole and its diversions will not be impacted by the California WaterFix.

7. Implications of WaterFix BTO on Current SWP & CVP Operations DWR 1304 5-14, 5.5 “Removing tidal influence on water levels upstream of both export pumping plants when diverting from BTF.”

A. Do you have modeling of how this will affect CCLP’s DMC diversion with tidal waters?

**Response:** Modeling will be completed in the preliminary and final construction plans. However, as indicated above there will be no impact to CCLP because DWR commits to moving the Control Structure, modifying CCLP’s diversion or moving CCLP’s diversion as described in response 1B.

1 B. "Receiving water from BTF will require a greater level of daily operational  
2 coordination between DWR & Reclamation." Was this in the approved plan? If not  
3 this is a huge operational change --where is the operations information? How will  
4 CCLP's water rights be protected if there are operational mishaps? Has DWR made  
5 any attempt to determine impacts to CCLP's diversions or water rights? Will DWR  
6 commit to permit terms intended to protect CCLP's diversions and water rights?

7  
8 **Response:** As discussed above, there will be no impacts to CCLP because DWR  
9 will either move the Control Structure, modify the CCLP diversion point or move the  
10 CCLP diversion point as described in response 1B. DWR objects to this line of  
11 question as being outside the scope of harm to legal users of water as all of these  
12 operations occur within SWP/CVP facilities. DWR also responds that operational  
13 changes will be necessary but they are isolated to SWP/CVP facilities.

14  
15 C. "Common scheduling of individual pump operations at both Banks and Jones PP  
16 will be needed to manage the WSEs and volumes in both BTF & CCF & associated  
17 conveyance facilities." Is this in the approved plan? How will CCLP water rights be  
18 protected if there are scheduling mishaps? Why is CCF included if it is not part of the  
19 CWF? Will DWR commit to permit terms intended to protect CCLP's diversions and  
20 water rights?

21  
22 **Response:** As discussed above, there will be no impacts to CCLP because DWR  
23 will either move the Control Structure, modify the CCLP diversion point or move the  
24 CCLP diversion point as described in response 1B. DWR objects to this question as  
25 being outside the scope of harm to legal users of water as all of these operations  
26 occur within SWP/CVP facilities. DWR also responds that operational changes will  
27 be necessary but they are isolated to SWP/CVP facilities.

1 D. “Utilizing a common conveyance system serving BTF that would be connected to  
2 both Banks and Jones PP.” What is this talking about? (South Tunnels & South  
3 Tunnels Outlet Structure?) Where is this in the approved plan? Where is the  
4 modeling to show how this affects CCLP’s diversion in the DMC Intake?  
5

6 **Response:** The South Tunnels and South Tunnels Outlet Structure are part of the  
7 2018 Supplemental EIR/S, not the approved Project. There were further  
8 refinements to mitigate impacts to CCLP by relocating the terminal facility to Byron  
9 Tract and away from the CCLP property. There is no modeling with respect to  
10 CCLP’s diversion because the modeling of this operation is wholly within the  
11 CVP/SWP facilities. However, there will be additionally operations modeling as  
12 explained above.  
13

#### 14 8. South Tunnel Questions

15  
16 A. Were the 1.6 miles of South Tunnels a part of the approved plan?  
17

18 **Response:** This question was asked and answered of Panel 2 witnesses (see  
19 transcript August 10, 2018, beginning p. 200.) Further elaboration includes that the  
20 South Tunnels and South Tunnels Outlet Structure are part of the 2018  
21 Supplemental EIR/S, not the approved Project. Therefore, they were not obtained in  
22 the approved Project but rather are analyzed in the Supplemental EIR/S. (See  
23 testimony of Mr. Bednarski, DWR-1212.)  
24

25 B. Impact Soils--4 in the Supplemental EIR/EIS, Chapter 10, refers to Risk to Life  
26 and Property as a Result of Constructing the Proposed Water Conveyance Facilities  
27 in Areas of Expansive, Corrosive, and Compressible Soils (p. 7 at 8--9.) Are the  
28 soils that the South Tunnels will be constructed in expansive or compressive?

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**Response:** During preliminary and final plan design geotechnical data will be obtained and the tunnels will be designed appropriately.

C. The South Tunnels are routed near Clifton Court Forebay. What would be the potential impacts if the South Tunnels leaked in that location because of expansion or compression?

**Response:** The tunnels will use the same tunnel liner system as the main tunnels and significant leakage is not anticipated, as Mr. Bednarski has previously and extensively testified in both Part 1 and Part 2.

D. Chapter 10 of the Supplemental EIR/EIS states that risks of expansive or compressive soils will be addressed because DWR will be required to design and construct the facilities in conformance with “state and federal design standards and guidelines” (Exhibit SWRCB--113, p. 10--7 at 32.)

**Response:** No question.

E. What “state and federal design standards and guidelines” apply to the South Tunnels? Who will review the South Tunnel design for conformance with these standards?

**Response:** DWR would be required to design and construct the facilities according to 38 state and federal design standards and guidelines (e.g., California Building Code, American Society of Civil Engineers Minimum Design Loads for Buildings and Other Structures, ASCE/SEI 7-10, 2010”. (DWR-1304, p. 10-6, lines 38-40.) As stated above DWR licensed engineers will review and approve the plans.

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F. How will the South Tunnels operate? Where is the operations information in the Conceptual Engineering Report, DWR 1304?

**Response:** Modeling will be completed in the preliminary and final construction plans. However, as indicated above there will be no impact to CCLP because DWR commits to moving the Control Structure, modifying CCLP’s diversion or moving CCLP’s diversion as described in response 1B.

G. How much will the 1.6 miles of tunnels cost?

**Response:** DWR objects to this question as outside the scope of this hearing and on relevance grounds.

H. Is this part of the \$17 billion total cost?

**Response:** DWR objects to this question as outside the scope of this hearing and on relevance grounds.

I. Where are the studies and modeling that show how CCLP’s diversion in the DMC Intake will be affected by the South Tunnels?

**Response:** Modeling will be completed in the preliminary and final construction plans. However, as indicated above there will be no impact to CCLP because DWR commits to moving the Control Structure, modifying CCLP’s diversion or moving CCLP’s diversion as described in response 1B.

1 9. Bouldin Island Construction Questions

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3 A. John Bednarski's testimony refers to Exhibit DWR--1309 (p. 27 at line 20.)

4 Exhibit DWR--1309 is a draft contract to begin construction on the Bouldin Island  
5 Tunnel Launch Pad, tentatively in December of 2018. Why December of 2018?

6  
7 **Response:** Construction cannot begin until several regulatory proceedings have  
8 concluded and permits are issued. It is common for projects to have draft dates and  
9 they may or may not be met depending on several factors.

10  
11 B. How do you expect to meet the commitments to do more complete geotechnical  
12 exploration and engineering design if you start construction in December 2018?

13  
14 **Response:** DWR has conducted geotechnical work for the launch pad on Bouldin  
15 Island.

16  
17 C. Who has reviewed the design for the Bouldin Island Tunnel Launch Pad for  
18 conformance with applicable state and federal guidelines?

19  
20 **Response:** Conformance with applicable state and federal guidelines will begin in  
21 preliminary design and concluded in final design. State and federal guideline  
22 conformance is not appropriate at conceptual design.

23  
24 D. Exhibit DWR--1309 states on p. 4: Pursuant to Document 00703 – Applicable  
25 Laws and Regulations, Contractor shall obtain necessary permits and licenses not  
26 obtained by the Department. So the contractor will be responsible for obtaining any  
27 further permits?



1 **Response:** Yes.

2

3 E. Under Borrow Areas, Exhibit DWR--1309 states: 1.11 PROJECT CONDITIONS

4 1.Borrow Areas

5

6 a. The Contractor is responsible for finding earthfill for tunnel shaft pads and  
7 embankment. Where will the Contractor get this dirt? What type of dirt is needed for  
8 the shafts and embankments?

9

10 **Response:** The Contractor will be able to find earthfill from a variety of local sources  
11 including other construction projects, quarries, and possibly onsite borrow. The exact  
12 import source location will vary depending on the construction schedule in relation to  
13 the status of other construction projects that generate excess material during  
14 earthwork activities. Local earthwork contractors have an expert network of contacts  
15 and sources, so import material availability is not expected to limited. A relatively  
16 wide range of material types and blends will be acceptable for earthfill, which will  
17 facilitate material availability. Unsuitable material will consist of non-blended clean  
18 gravels, clean sands, fat clay and organic soils.

19

20 b. The Contractor shall be responsible for all loading, hauling, and unloading of  
21 borrow material. How will the “dirt” get to the site? By barge or by truck?

22

23 **Response:** As Mr. Bednarski and Mr. Choa previously testified, the contractor will  
24 determine the route and method of delivery within the options analyzed as a part of  
25 the project. Objection as asked and answered. DWR witnesses answered  
26 questions regarding truck and barge routes numerous times in Part 2. DWR also  
27 responds, the project design and construction schedule currently allows the  
28 Contractor to import material using trucks from Highway 12, barges from Potato

1 Slough, or a combination of both. Prior to construction, the DWR will implement site  
2 specific construction management plans (SWRCB-111, TRANS-1a, 1b, and 1c) and  
3 limit construction activity on physically deficient roadways (SWRCB-111, TRANS-2a,  
4 2b and 2c) with San Joaquin County, Sacramento County and Yolo County.

5  
6 c. Do you have a detailed study for Bouldin Island identifying where the fill/dirt will  
7 come from on the island?

8  
9 **Response:** See response to 9.E.1.a.

10  
11 d. If not, how do you expect the contractor to identify sources for the fill/dirt?

12  
13 **Response:** See response to 9.E.1.a.

14  
15 10. South Tunnel Outlet Structure DWR 1305 pdf 84 & 85(attached)

16  
17 A. What is a Dual Conveyance Facility at the South Tunnels Outlet Structure? DWR  
18 1305 pdf 84

19  
20 **Response:** The reference in the PDF depicts an artist rendering of the new outlet  
21 structure on Byron Tract Forebay.

22  
23 B. How will the Dual Conveyance Facility operate in specific terms?

24  
25 **Response:** The Dual Conveyance Facility operations are described in Chapter 5 of  
26 the CER (DWR-1304) where it summarizes the Conveyance System Operational  
27 Parameters.

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C. Was the “South Tunnel Outlet Structure” part of the approved plan? Why is it not included in DWR 1304 5-8, 5.3.2. Overall Operation of System Components?

**Response:** Detailed discussion of the South Tunnel Outlet Structure is described in DWR-1304 at page 5-11. The South Tunnel Outlet Structure is not part of the approved Project, as it was included in the Supplemental EIR/S.

D. Where is the modeling of how the “South Tunnel Outlet Structure will work in conjunction with the existing DMC Intake and Jones pumping plant?

**Response:** See response to question 8H.

E. The approved plan had a simple canal connection. What is the estimated cost of the South Tunnel Outlet Structure?

**Response:** DWR objects to this question as outside the scope of this hearing and on relevance grounds.

F. Will this “South Tunnel Outlet Structure” change the DMC Intake (Jones Channel)? Could you describe how it will change the DMC?

**Response:** The South Tunnel Outlet Structure does not change the DMC.

G. Where is the operations information for the “South Tunnel Outlet Structure”?

1 **Response:** Detailed discussion on operations of the South Tunnel Outlet Structure  
2 are in 5.3.7 of DWR-1304. The South Tunnel Outlet Structure is not part of the  
3 approved Project it was included in the Supplemental EIR/S. (DWR 1304 AT PG. 5-  
4 11.)

5  
6  
7 H. Who will operate this structure DWR or Bureau? What documents describe how  
8 this operation or joint operation will work?

9  
10 **Response:** DWR will operate the South Tunnel Outlet Structure in coordination with  
11 USBR.

12  
13 I. How will the operations of the South Tunnel Outlet Structure affect my diversion  
14 and my water rights?

15  
16 **Response:** South Tunnel Outlet Structure will not affect CCLP diversion as  
17 previously described.

18  
19 11. Agricultural Delivery & Drainage Ditches DWR 1304 24--36, 24.13.7 CCLP  
20 believes that the damages caused by the addition of the Control Structure and the  
21 South Tunnel & South Tunnel Outlet Structure to the DMC intake cannot be  
22 mitigated. If CWF does not take all of CCLP, will CWF/DWR/Bureau provide:

23  
24 A. New pumping plant in DMC Intake with special modifications for control structure  
25 and special accommodations to prevent trespassing by fishermen?

26  
27 **Response:** DWR objects to this question as ambiguous as to pumping plant. DWR  
28 also objects to the fact that it cannot control trespassing and that CCLP will need to

1 call the appropriate authorities. To the extent that pumping plant refers to CCLP  
2 diversion point, see answer to question 1b.

3  
4 B. New extended pipe delivery?

5  
6 **Response:** See response to question 1B.

7 C. New delivery and drainage system?

8  
9 **Response:** DWR objects to this question as it assumes fact not in evidence. There  
10 is no evidence that California WaterFix will impact CCLP drainage as to the  
11 diversion point see the response to question 1B.

12  
13 D. New drainage pumping plant?

14  
15 **Response:** DWR objects to this question as it assumes fact not in evidence. There  
16 is no evidence that California WaterFix will impact CCLP drainage.

17  
18 E. New access roads on top of DMC Intake embankment -- built to a high standard  
19 so that CWF/DWR/Bureau can easily replace CCLP pumps when they burn out.

20  
21 **Response:** DWR objects to this question because it assumes facts not in evidence.  
22 There is no evidence of need for access roads or that CCLP pumps will burn out  
23 from California WaterFix operations.

24  
25 F. Agree to all of the above as a permit condition?

26  
27 **Response:** DWR will agree to mitigation for any adverse impact as described in  
28 response to question 1B.

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12. Liquefaction – EARTHQUAKES DWR 1304 4--11, 4.2.1.6 “Available subsurface information indicates that the potential for liquefaction exists along all sides of the existing Clifton Court Forebay. For the purpose of the conceptual design, it is assumed that this analysis is valid for the area of the BTF. As more subsurface data is collected, additional liquefaction analyses should be performed to evaluate embankment stability and to determine potential mitigation measures.”

A. Doesn't this analysis also indicate that CCF embankments are subject to failure from liquefaction?

**Response:** DWR is not proposing any changes to the Clifton Court Forebay. DWR objects to this question as it is outside the scope of the hearing because this is a potential impact that is not related to California WaterFix.

B. If CCF embankments fail from liquefaction, couldn't it also take out BTF?

**Response:** DWR is not proposing any changes to the Clifton Court Forebay. DWR objects to this question as it is outside the scope of the hearing because this is a potential impact that is not related to California WaterFix.

C. When was the most recent seismic hazard analysis for CCF embankments?

1 **Response:** DWR is not proposing any changes to the Clifton Court Forebay. DWR  
2 objects to this question as it is outside the scope of the hearing because this is a  
3 potential impact that is not related to California WaterFix.

4  
5  
6  
7 13. Flood Protection Considerations DWR 1304 4-- 12, 4.2 "The conveyance  
8 facilities are considered to be critical lifeline facilities for the State of California."

9  
10 A. Given the CCF Intake structure failure in March of 2017, how can CWF ignore  
11 the problems with the aging CCF?

12  
13 **Response:** DWR is not proposing any changes to the Clifton Court Forebay. DWR  
14 objects to this question as it is outside the scope of the hearing because this is a  
15 potential impact that is not related to California WaterFix.

16  
17 B. Given the fact that the embankments of the CCF do not meet 200 year flood  
18 standards, how can CWF and the Board ignore flood safety measures for the CCF?

19  
20 **Response:** DWR is not proposing any changes to the Clifton Court Forebay. DWR  
21 objects to this question as it is outside the scope of the hearing because this is a  
22 potential impact that is not related to California WaterFix.

23  
24 C. Given the fact that DWR admits the CCF has under--seepage problems, how  
25 can CWF ignore installing slurry cutoff walls on all sides of the CCF to help prevent  
26 embankment failure?

27  
28 **Response:** DWR is not proposing any changes to the Clifton Court Forebay. DWR

1 objects to this question as it is outside the scope of the hearing because this is a  
2 potential impact that is not related to California WaterFix. Furthermore, DWR has  
3 entered into a settlement agreement with the owners of CCLP related to seepage.  
4 (DWR-939.)  
5  
6

7 13. Hydrogen Sulfide and Emissions

8  
9 A. Could the excavations for Byron Tract Forebay cause the emission of Hydrogen  
10 Sulfide?  
11

12 **Response:**

13 As described in the Final EIR/EIS, Chapter 22, *Air Quality and Greenhouse Gases*,  
14 anaerobic decay can generate H<sub>2</sub>S emissions if specific organic material is present  
15 in the RTM. However, geotechnical tests indicate that soils in the Plan Area have a  
16 high moisture content generally ranging about 38 to 41 percent. Testing shows that  
17 soils in the Plan Area are predominately comprised of silt and clay, with a variety of  
18 inorganic materials that are not anticipated to result in malodors. The majority of test  
19 results for organic constituents were below the method detection limits, indicating  
20 that organic decay of exposed RTM and associated H<sub>2</sub>S emissions would be  
21 relatively low. Moreover, drying and stockpiling of the removed RTM will occur under  
22 aerobic conditions.  
23

24 B. Could excavations for borrow fill for Byron Tract Forebay cause emission of  
25 Hydrogen Sulfide?  
26

27 **Response:** Please see response to question 13A  
28



1 C. Exhibit DWR--1306, p. 13 shows new tunnel muck pile to the North and West of  
2 the new Byron Tract Forebay. Could the tunnel muck piles emit Hydrogen Sulfide  
3 gas?

4  
5 **Response:** Please see response to question 13A

6  
7 D. The Supplemental EIR/EIS has a table of emissions on p. 22--9 (Table 22--2.)  
8 Why is Hydrogen Sulfide gas not included in the table of emissions?

9  
10 **Response:** Drying and stockpiling of the removed RTM will occur under aerobic  
11 conditions, which will limit any potential decomposition and associated malodorous  
12 products (e.g., H<sub>2</sub>S). Accordingly, construction of the proposed project is not  
13 anticipated to generate substantial concentrations of H<sub>2</sub>S. The environmental  
14 analysis focuses on the key criteria pollutants that will be generated by construction  
15 activities, which are ozone precursors (ROG and NO<sub>x</sub>), CO, SO<sub>2</sub>, PM<sub>10</sub>, and  
16 PM<sub>2.5</sub>. This is consistent with air district CEQA guidelines and available analysis  
17 methodologies.

18  
19 E. Has there been any analysis of Hydrogen Sulfide gas emissions?

20  
21 **Response:** Chapter 22 does not include a quantitative analysis of H<sub>2</sub>S. Impact AQ-  
22 19 in the Final EIR/EIS and Impact AQ-12 in the Draft Supplemental EIR/EIS  
23 qualitatively analyze H<sub>2</sub>S in the context of odors. DWR is not aware of any models  
24 that can quantify H<sub>2</sub>S emissions, and none of the four air districts have adopted  
25 mass emission thresholds for H<sub>2</sub>S (although CA does have an ambient air quality  
26 standard). It is not a pollutant of concern for the project given the soil conditions and  
27 drying procedures.

1 14. Recreation

2  
3 A. What measures are DWR going to take to provide public access, public parking,  
4 and public bathrooms at Clifton Court Forebay south embankment during the 11  
5 year construction process?

6  
7 **Response:** DWR is not modifying Clifton Court Forebay under the Supplemental  
8 EIR/Sand therefore is not taking any measures to provide for public access, public  
9 parking, and public bathrooms at Clifton Court Forebay south embankment.

10  
11 B. As part of the permit terms, will DWR pay compensation for any damages  
12 suffered by CCLP due to trespassers as a result of construction without going  
13 through any claim process? Will DWR indemnify CCLP from lawsuits arising from  
14 fishermen trespassing across our land?

15  
16 **Response:** Trespassing is a legal violation that is outside the scope of DWR's  
17 authority and DWR has not legal standing to pursue or police trespassing on  
18 property it does not own.

19  
20 15. Would DWR agree that the most effective way to resolve these issues of impacts  
21 to CCLP would be a permit term requiring DWR to purchase CCLP? If no, please  
22 explain in detail why not?

23  
24 **Response:** DWR objects to this question because this would not be an appropriate  
25 permit term. Eminent Domain is a separate legal proceeding outside the scope of  
26 the State Water Board's jurisdiction. DWR has moved facilities so as not to impact  
27 CCLP property. As demonstrated through the responses to these questions, DWR  
28 will ensure there is no harm to CCLP as outlined in response to question 1B.

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