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7 **BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

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9 **IN RE CALIFORNIA WATERFIX**
10 **CALIFORNIA DEPARTMENT OF**
11 **WATER RESOURCES AND U.S.**
12 **BUREAU OF RECLAMATION**
13 **PETITION FOR CHANGES IN**
14 **WATER RIGHTS, POINTS OF**
15 **DIVERSION/RE-DIVERSION**

PROTESTANT NORTH DELTA CARES /
BARBARA DALEY OPPOSITION TO DWR'S
OBJECTIONS TO NORTH DELTA CARES
WRITTEN TESTIMONY AND EXHIBITS

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1 Protestant North Delta Cares / Barbara Daley (“N. Delta Cares”) hereby responds to
2 Petitioners’ objections to N. Delta Cares written testimony and exhibits (“Petitioners’ Objections”).
3 Petitioners submitted a very brief two-page memorandum of objections that generally argues that N.
4 Delta Cares’ witnesses are not qualified to offer testimony and/or are alleging injuries that should be
5 addressed through filing claims under the California Government Claims Act, rather than through a
6 protest to Petitioners’ change petition.

7 Under separate cover, for reasons unrelated to DWR’s objections, N. Delta Cares has
8 withdrawn the testimony of Nicole Suard and Steve Haze. The remaining witnesses, Barbara Daley,
9 Mark Pruner, and Richard Marshal, are qualified to testify as to the facts stated in their written
10 testimony, which are within their own personal knowledge and competence. The documents offered
11 into evidence are directly relevant. NDC-11, 13, 14, and 15 are pages from the EIR/S (SWRCB-3)
12 that have been offered into evidence by Petitioners and show the location / alignment of the tunnels
13 / construction areas relative to the town of Clarksburg and describe impacts of the project on
14 drinking water wells of Protestants, who reside in Clarksburg. NDC-12 is a publication of the Delta
15 Protection Commission showing impacts on Delta Communities of tunnel construction. It includes a
16 view of Clarksburg and surrounding areas. NDC-26 is a Delta Map labeled “Delta Recreation,”
17 however it is offered for orientation only and N. Delta Cares does not present it as evidence of
18 recreational injury (which is reserved for, and will be presented in, Part 2).

19 Barbara Daley

20 Ms. Daley offers written testimony that she lives directly across the river from the
21 construction site for intake #2 and that her only source of drinking water for her home is a backyard
22 well. She states that she believes she will be injured as “a legal user of water.” (NDC-4, p.3.) Her
23 written testimony states that she has been a legal user of water in the Delta for 25 years (she has
24 depended on and tended her backyard well as the family’s source of drinking water). (NDC-4, p.3.)
25 Ms. Daley’s testimony that her source of drinking water will be destroyed by intake construction
26 and de-watering directly across the river from her is within her competence and knowledge and is
27 supported by Petitioners’ own documents. (See SWRCB-3, Appendix A, Chapter 7, page 7-11
28 [wells within 2600 feet of intake #2 will be impacted by dewatering.]

1 Ms. Daley also testifies as to the impact of three very large construction sites, one
2 immediately across the river, on the small community of Clarksburg. Ms. Daley testifies that she is
3 an active, long-time community member. Testifying about the impacts on a Delta legacy
4 community of noise, vibration, traffic, glare, and other construction-related issues is well within the
5 competence of a long-term resident of that community, and is supported by Petitioners' own
6 documents. (See NDC-15 [page 16-31 from Petitioners' EIR/s] stating that "Legacy communities in
7 the Delta [including Clarksburg] ... [could suffer] noise-related effects on residential property [that]
8 could lead to localized abandonment of buildings.") Ms. Daley is also competent to testify about the
9 impacts of construction immediately across the river from her home on her own well-being.

10 Mark Pruner

11 DWR does not offer any specific objections to Mr. Pruner's testimony. Mr. Pruner's written
12 statement of qualifications states that he is the Chair of the Clarksburg Fire Protection District
13 Board of Directors ("District"), a government agency. His written testimony states that he is
14 familiar with the operation of the District, and its water well. Mr. Pruner is qualified to testify as to
15 the impacts on the District's well of de-watering / construction activities directly across the river.
16 Mr. Pruner also offers written, detailed testimony as to the impact of thousands of construction
17 workers on the demand for emergency services, and the costs to his district of providing those
18 services. He is qualified to offer testimony as to the impact of the project on the District that he
19 manages.

20 Richard Marshall

21 It is unclear, due to schedule constraints, if Richard Marshall will be allowed to testify.
22 However, he is well-qualified. He is a former Manager of Reclamation District #999, which is
23 responsible for maintenance of Delta levies. He is also a former senior manager at DWR. Mr.
24 Marshall was the Chief of the Division of Flood Management, Flood Project Inspection Service
25 from 2000 to 2005. (See NDC-7, Marshal Statement of Qualifications.) Mr. Marshall offers written
26 testimony that there is not enough available water to make the diversions through the NDD
27 proffered by DWR without injuring the water rights of senior and riparian rights holders. (NDC-8,
28 p. 1.) His testimony is in line with that offered by the Sacramento Valley Water Users and other

1 experts who have testified in these hearings as to the lack of available water to make WaterFix
2 viable without injuring other legal users of water.

3 Mr. Marshall is also a life-long member of the Clarksburg community and offers written
4 testimony as to the impact of the tunnels on population decline in Clarksburg and attendant negative
5 impacts on the schools and community. This testimony is supported by Petitioners' own documents.
6 (*See* SWRCB-3, Appendix A, p. 16-31:46, 16-32:1-2 [“adverse social effects could also arise as a
7 result of declining economic stability in communities closest to construction effects ... ”].) Mr.
8 Marshall is qualified to testify as to adverse social impacts on his life-long home town, and that
9 testimony is well-supported.

10 Respectfully Submitted,

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12 Michael A. Brodsky

13 On behalf of North Delta Cares

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15 Dated: December 12, 2016.
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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 and caused a true and correct copy of the following document(s):

NOITICE OF LIMITED APPEARANCE OF MICHAEL A. BRODKSY ON BEHALF OF PROTESTANT NORTH DELTA CARES / BARBARA DALEY

NOITICE OF NORTH DELTA CARES / BARBARA DALEY WITHDRAWING WITNESSES STEVE HAZE AND NICOLE SUARD

PROTESTANT NORTH DELTA CARES / BARBARA DALEY OPPOSITION TO DWR'S OBJECTIONS TO NORTH DELTA CARES WRITTEN TESTIMONY AND EXHIBITS

to be served **by Electronic Mail** (email) upon the parties listed in Table 1 of the **Current Service List** for the California WaterFix Petition Hearing, dated November 15, 2016, 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

I certify that the foregoing is true and correct and that this document was executed on December 12 , 2016, at Discovery Bay, California.

Signature: 
Name: Michael A. Brodsky
Title: Attorney

Party/Affiliation:
North Delta Cares / Barbara Daley

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