BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

Hearing on the Matter of California Department of Water Resources and United States Bureau of Reclamation Request for a Change in Point of Diversion for California WaterFix. California Sportfishing Protection Alliance Et al.'s Motion to Stay or Continue WaterFix Part 2 Hearing

1. On March 28, 2018, DWR announced to the Hearing Officers that they had changed their conceptual design for the WaterFix project. See Exhibit A attached.

2. The announced changes included:

a. The tunnels would be moved to different locations that were mostly undisclosed, potentially affecting Delta water rights holders other than the ones taking part in the two-year WaterFix hearing;

b. Tunnel shaft locations were moved to areas that have no geotechnical data to support their locations;

c. Tunnel muck storage locations were re-located to sites that have the potential to harm fish and wildlife species;
d. The new terminal forebay for the tunnels was moved without disclosure of potential legal injury to other water users, and to environmental impacts on fish, wildlife and other public trust assets;

e. Two new canal segments were added to the project that have the potential to harm other legal users of water and fish and wildlife;

f. New power line routes were added that have the potential to affect avian species.

3. These changes in the conceptual design are the second major change in the engineering design for the WaterFix project since the November 30, 2017 deadline for written presentation required for Part 2 testimony. The first proposed change was the announcement by DWR’s management that they were considering either a one tunnel alternative to the proposed WaterFix project or a staged two tunnel alternative instead of the two tunnel project described in the change petition that is portrayed in the WaterFix testimony for both Part 1 and Part 2.

4. In the first announcement of potential change to the project, DWR revealed that the project changes were substantive enough to require further environmental review to support the changed project. DWR admitted as much in their opposition to the first motion by Sacramento County to stay these hearings. (Opposition to Motion to Stay Proceedings.) “DWR will prepare supplemental environmental documentation for the WaterFix project.”

5. DWR expects to release the Supplemental E.I.R in draft form in June of 2018 with the final E.I.R to be issued in October of 2018. (DWR Opposition to Motion to Stay at page 3, l. 25-26).

6. DWR now admits that it has changed the conceptual design for the WaterFix project again in substantive ways, thereby potentially negating much of the testimony filed November 30, 2017, by CSPA et. al. and other protesters. These changes will require new testimony and ample
time for all of us to examine the environmental effects of the changes caused by the two revisions of the WaterFix project.

7. The protestants to the WaterFix project are prejudiced by the changes in the project. We cannot determine the parameters of the present project, which has changed in so many ways since our testimony in both Part 1 and Part 2. The constantly changing project description does not meet the standards for change petitions outlined in the Water Code and the California Code of Regulations. The new environmental review may or may not be consistent with the previous environmental documentation for the WaterFix hearing. The testimony previously given by the proponents of the project will have to be amended. The testimony of the protestants will also have to be amended. The Supplemental Environmental Review will need to be finished in October before the SWRCB itself will know whether or not there are additional direct and cumulative environmental impacts, and therefore cannot determine whether there are unreasonable effects on fish and wildlife, public trust assets in the Central Valley watershed, and whether the WaterFix project will be in the public interest of the people of California.

8. In the few days between the release of the conceptual plan changes announced by DWR and the filing of this motion, both the Los Angeles Times and the Sacramento Bee have written articles indicating that the Metropolitan Water District of Southern California has decided not to fund the dual tunnel version of the California WaterFix. Jeffrey Kightlinger, Metropolitan’s Executive Director, says that the Metropolitan will not pay for the full WaterFix project and that they now support a one tunnel project or staged implementation of the project, with an expanded one tunnel project followed in some number of years by the construction of the second tunnel. Neither of these options is the same as the present WaterFix project for change in point of diversion. Both of these options are not presently supported by the existing environmental documentation or the present hearing testimony. The present testimony admitted during part 1 of
the hearing has to be amended. Part 2 testimony likewise needs to be amended. Witnesses will need to be recalled to testify on new facts about the altered project. Due process is important for substantive reasons and is a Constitutional right for all parties in an administrative hearing.

9. CSPA et. al. again requests the SWRCB to grant us and the other protesters our rights in this hearing under both the United States and California Constitutions and laws. The appropriate first step is to stay the present hearing until both the protesters and the SWRCB can rely on a fixed WaterFix project description and determine how to respond procedurally and substantively to the new WaterFix project, whatever it may turn out to be. To do otherwise wastes precious time and money and leads only to years of delay and litigation for all parties.

Date: April 3, 2018

MICHAEL B. JACKSON
Attorney for CSPA, CWIN, AquAlliance
Exhibit A
DESIGN REFINEMENTS PROPOSED
To Minimize Impacts, Improve Performance and Reduce Costs

Design improvements are being proposed to minimize impacts of the WaterFix project on local communities and the environment. The proposed changes build on past modifications that significantly reduced the project's footprint and costs. The new optimizations also seek to minimize impacts on Delta wetlands and the natural environment.

The proposed optimizations will be subject to environmental review as a part of the forthcoming Supplemental Environmental Impact Report expected in Spring 2018.

KEY BENEFITS OF THE NEWLY PROPOSED OPTIMIZATIONS

- Significantly reduces wetland impacts.
- Reduces impact to salmon and steelhead at the Clifton Court Fishway.
- Reduces the number of power fails and lines required which improves aesthetics and reduces impacts to birds, and minimizes the need for power facilities near the town of Coal Bank, while also eliminating the need to reroute the large 230 kV and 800 kV transmission lines.
- Consolidates the necessary tunnel material (TBM) to incorporate six existing impacts to Stone Lakes Wildlife Refuge and nearby agricultural lands.
- Reduces potential impacts to the town of Hood and residential neighborhoods along King Island.
DESIGN REFINEMENTS & PROPOSED MODIFICATIONS

With Final environmental documentation complete, CDFW has approved:

- Removing 500 acres
- Removing 2,000 acres

Eliminate large landing at Snodgrass Slough

Move shaft site on Mandeville Island

Optimize Bolinas Island activities by relocating shaft site, RTM, and large landing

Move pumping plant away from Kings Island

Move the north tunnel alignment to the west just outside the town of Half Moon Bay instead of directly below it

Move the power line alignment to use SR 80, reducing transmission corridor

Consolidate the Reusable Tunnel Material (RTM) footprint near the interchange at Forestville along SR 116

Eliminate the Clifton Court Forest modifications by moving the terminus of the main tunnel to the forest area and new locations

Eliminate the need to relocate a 500 kV and 230 kV transmission line from the main collector line

MAP LEGEND

- Forebay
- Reusable Tunnel Material Area
- Main Tunnel
- Inter-Tunnel Shafts
- Inter-Tunnel Construction Shaft
- Ventilation/Access Shaft
- Dams
- Existing CV/VP and CV/VP Pumps
- County Lines

*Previously implemented, no further environmental review