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

9 HEARING REGARDING PETITION FILED  
10 BY THE DEPARTMENT OF WATER  
RESOURCES AND U.S. BUREAU OF  
11 RECLAMATION REQUESTING  
12 CHANGES IN WATER RIGHTS FOR THE  
CALIFORNIA WATERFIX PROJECT

JOINDER IN CALIFORNIA  
SPORTFISHING PROTECTION  
ALLIANCE ET. AL.'S MOTION TO STAY  
OR CONTINUE THE WATERFIX  
HEARING

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16 Deirdre Des Jardins, principal at California Water Research (“California Water  
17 Research”), hereby joins in and incorporates in full the Motion by California Sportfishing  
18 Protection Alliance et. al. (“CSPA et. al.”) to Stay or Continue the WaterFix Hearing, filed on  
19 April 3, 2018 and all documents and evidence filed in support thereof.

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21 California Water Research provides further argument in support of CSPA et. al.’s motion.  
22 As California Water Research has previously argued,

23 The requirements of [Cal Code Regs tit 23] section 794(a) are very clear and specific,  
24 and the information is required to be *in the petition at the time of filing*. (Cal Code Regs  
tit 23 § 794(d.))

25 Subdivision 11 of the Board’s regulations (Cal Code Regs tit 23 § 794(a)) requires the following:

26 Map(s) prepared in accordance with Article 7 which describe the proposed change(s),  
27 delineate any additional information required by Items (4), (5), and (7) above, and show

1 the hydrologic basin of origin and the streams which could be affected by the proposed  
2 change(s).

3 The Board's standard form, ENVIRONMENTAL INFORMATION FOR PETITIONS, also  
4 clearly requires the following information:

5 DESCRIPTION OF PROPOSED CHANGES OR WORK REMAINING TO BE  
6 COMPLETED

7 For a petition for change, provide a description of the proposed changes to your project  
8 including, but not limited to, type of construction activity, structures existing or to be  
9 built, area to be graded or excavated, increase in water diversion and use (up to the  
10 amount authorized by the permit), changes in land use, and project operational changes,  
11 including changes in how the water will be used. For a petition for extension of time,  
12 provide a description of what work has been completed and what remains to be done.  
13 Include in your description any of the above elements that will occur during the requested  
14 extension period. (underlining added.)

15 The WaterFix Petition Application (Exhibit SWRCB-1) includes this standard form (p. 6-

16 9.) The answer by the Petitioners states in part:

17 A map and a schematic diagram depicting the conveyance facilities associated with  
18 Alternative 4A are provided in Mapbook Figure M3-4 in the Mapbook Volume and  
19 Figure 3-10 in Appendix A of this 5 RDEIR/SDEIS.  
20 (Exhibit SWRCB-1, p. 6.)

21 The answer by the Petitioners also refers to section 4.3.8 of the RDEIR/SDEIS, Terrestrial  
22 Biological Resources, which contains a terrestrial impact analysis associated with the project  
23 facilities described in Mapbook Figure M3-4.

24 The revisions announced for the WaterFix project include substantial changes to the  
25 Alternative 4A project facilities described in MapBook Figure 3-4. The changes to Alternative  
26 4A project facilities make the terrestrial impacts analysis in Section 4.3.8 of the RDEIR/SDEIS  
27 obsolete. They also make the terrestrial impacts analysis in the Final EIR/EIS obsolete. The  
28 testimony on terrestrial impacts by Chistopher Earle in Part 2 of the Hearing (Exhibit DWR-  
1014) relies on the analysis in the Final EIR/EIS:

The 2017 Certified FEIR, composed in part of the 2016 FEIR/S, examines impacts to  
numerous species that collectively comprise all wildlife potentially present in the project  
vicinity; those impacts are summarized in the impact determinations for biological  
resources of the 2016 FEIR/S Table ES-8. (Exhibit SWRCB-102, pp. ES-93 to ES-117.)

1 None of the FEIR/S impacts to species are significant and unavoidable; all are less than  
2 significant, or less than significant with mitigation. (p. 3 at 9.)

3 Earle's testimony on terrestrial impacts of the WaterFix project is thus obsolete. The  
4 changes also make sections of John Bednarski's testimony about the proposed project in Part 1  
5 obsolete. Bednarski's testimony states on p. 7 at 12:

6 Existing Clifton Court Forebay facility will be divided into two parts: North Clifton  
7 Court Forebay and South Clifton Court Forebay.

8 • North Clifton Court Forebay will receive water from the main tunnels in order to  
9 isolate that water from the existing Clifton Court Forebay.

10 • South Clifton Court Forebay will function as a replacement of the current  
11 Clifton Court Forebay. South Clifton Court Forebay will consist of the southern  
12 portion of the existing Clifton Court Forebay, with expansion to the south into  
13 Byron Tract. (Exhibit DWR-212, Sections 14.1.2 and 14.1.3.)

14 • Pumping plant located at the northeast corner of North Clifton Court Forebay.  
15 (Exhibit DWR-212, Section 7.1.)

16 It is too late for protestants to object to either Earle's testimony for DWR's Part 2 Case in  
17 Chief or Bednarski's testimony for DWR's Part 1 Case in Chief as not referring to the actual  
18 facilities that DWR is proposing to construct. This creates significant due process issues, which  
19 are not cured by DWR's simply announcing the availability of the information on revisions to  
20 the project during Part 2.

21 Jeff Michaels has testified for South Delta Water Agency et. al. that there is considerable  
22 evidence that the WaterFix project, as defined in the WaterFix Final EIR/EIS, is not financially  
23 feasible (Exhibit SDWA 265, p. 15 at 19.) These changes, and DWR's previously announced  
24 changes to a two-intake, one tunnel project, appear to be related to the need to reduce the costs of  
25 the project. It appears likely that there will be more changes. For these reasons, the Board  
26 should grant CSPA et. al.'s motion.

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Dated April 3, 2018

Respectfully submitted,



Deirdre Des Jardins  
Principal, California Water Research

