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6
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Carmichael Water District

8
9 BEFORE THE
10 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

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

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16 NOTICE OF ERRATA TO CWD-1
RE TESTIMONY OF STEVE
17 NUGENT AND SUBMITTAL OF
CWD-10 AS A SUBSTITUTE FOR
18 INCOMPLETE CWD-1

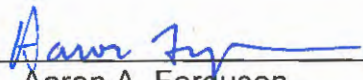
19 One August 31, 2016, Carmichael Water District submitted Exhibit CWD-1.
20 Inadvertently, page 4 was omitted when uploading Exhibit CWD-1 into the State Water
21 Resources Control Boards' FTP site.

22 Carmichael Water District hereby corrects this omission by including page 4 and
23 requests that the attached CWD-10 be introduced into evidence as a substitute for
24 Carmichael Water District's incomplete Exhibit CWD-1.

25 I declare under penalty of perjury that the foregoing is true and correct.

26 Executed on the 21st day of September 2016.

27 SOMACH SIMMONS & DUNN
A Professional Corporation

28 By: 
Aaron A. Ferguson
Attorneys for Protestant
Carmichael Water District

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BEFORE THE

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CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

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

TESTIMONY OF STEVE NUGENT

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17 I, Steve Nugent, declare:

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I. INTRODUCTION

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I am the General Manager of Carmichael Water District (CWD). I have worked for CWD consistently since 1994, starting out first as Production Supervisor (1994-1995). I then served in the capacity of Assistant General Manager for eight years (1995-2003), and then was promoted to General Manager on July 1, 2003, and have served in this capacity since that time. Prior to my work most current service with CWD, I held positions as a serviceman, pump operator, foreman and operations supervisor with water districts and a private utility over a period of about 13 years.

I am a member of the Sacramento Water Works Association and American Water Works Association. I have chaired several water industry committees, and have been a presenter at many water industry conferences and continue to teach water distribution

1 and water treatment classes for operators.

2 **II. SUMMARY OF TESTIMONY**

3 I am familiar with the scope and extent of CWD's water rights and CWD's
4 beneficial use of water under its water rights. The purpose of my testimony is to identify,
5 provide a brief description of, and document the water rights held and claimed by CWD,
6 and that are subject to potential injury by the proposed California WaterFix Project.
7 CWD holds two water right licenses and one permit to divert water from the American
8 River, a tributary to the Sacramento River. This testimony is not intended to be an
9 exhaustive description of CWD's water rights, but includes the water rights that would be
10 subject to injury by the proposed California WaterFix project that is the subject of this
11 proceeding.

12 **III. CWD BACKGROUND**

13 The CWD is located in unincorporated Sacramento County and serves primarily
14 residential and commercial customers in the community of Carmichael. CWD is located
15 about ten miles east of downtown Sacramento along the north side of the American
16 River and has a long history of providing water for irrigation, municipal, and commercial
17 purposes. CWD was formed in 1916 to supply irrigation water for farming, but as the
18 community of Carmichael became more urbanized, CWD became predominantly an
19 urban water supplier. CWD is a public agency irrigation district operating pursuant to
20 Division 11 of the California Water Code (Wat. Code § 20500 *et seq.*). CWD covers an
21 area of approximately eight square miles and currently serves a population of 37,900
22 through approximately 11,050 residential connections and hundreds of non-residential
23 connections. A map depicting CWD's service area and other key features is included as
24 Exhibit CWD-8.

25 CWD's water supply comes from direct water diversions off of the American River.
26 These water diversions are conveyed to CWD's Bajamont Water Treatment Plant for
27 treatment and delivery throughout the CWD's potable water system. CWD also
28 maintains five (5) groundwater wells. As a practical matter, the discovery and continued

1 presence of groundwater contamination in and around CWD's service area originating
2 from the Aerojet/Rocketdyne Superfund Site on the opposite side of the American River
3 has resulted in CWD relying more on surface water. Exhibit CWD-9 is a map depicting
4 the extent of the groundwater contaminant plume. Groundwater is used to manage
5 surface supply shortfalls and handle system peaking needs. Water use has been
6 trending down in the CWD since the 12,500 acre-foot per year (af/yr) peak in 2006, as
7 growth within CWD has stabilized. In 2014, District-wide water use was reduced to
8 8,267 af/yr under a water rights curtailment and mandatory conservation.

9 **IV. SCWA WATER SUPPLIES**

10 **A. License 1387**

11 CWD primarily relies on its American River surface water supplies in order to
12 preserve its groundwater assets for dry conditions. CWD also uses reclaimed water
13 developed from Aerojet's Groundwater Extraction and Treatment (GET) facilities for
14 irrigation of Ancil Hoffman Golf Course. Collectively, all of these water assets make up
15 the CWD's water supply portfolio.

16 CWD's surface water supplies are secured through two licensed water rights and
17 one permitted water right. CWD diverts water under License 1387 to meet demands in
18 its service area. This water right license has a 1915 priority date for a water diversion of
19 15 cubic-feet per second (cfs) from January 1 to December 31 of each year from the
20 natural flow of the American River for domestic and irrigation uses within the boundaries
21 of the Carmichael Irrigation District (now Carmichael Water District). The total annual
22 diversion allowed under License 1387 equals approximately 10,859 af/yr. Exhibit CWD-
23 2 contains a true and correct copy of License 1387. Copies of Reports of Licensee, as
24 filed with the State Water Resources Control Board (SWRCB) and reflecting use under
25 this right for years 2011 through 2015, are included as Exhibit CWD-3.

26 The 1915 priority date is relatively senior in the overall picture of water rights in
27 California, thereby making License 1387 highly reliable, except during the most critical
28 dry years. On May 1, 2015, however, during the driest year in California's history – the

1 SWRCB declared the License 1387 unavailable for diversion. The Curtailment Order
2 was lifted on October 27, 2015 allowing CWD to resume diversions under this senior
3 water right. License 1387 had not been curtailed in the 100-year history of CWD until
4 the emergency conditions of 2014 and 2015.

5 **B. License 8731.**

6 CWD also holds License 8731. License 8731 has a priority date of 1925. License
7 8731 provides for a diversion of 10 cfs from May 1 to November 1 of each year for
8 application to "municipal uses." Assuming a continuous diversion for this time period,
9 the total divertible quantity of water is about 3,669 af/yr. Water supplies diverted from
10 the American River under License 8731 may be used anywhere in CWD's boundary like
11 License 1387. Exhibit CWD-4 contains a true and correct copy of License 8731. Copies
12 of Reports of Licensee, as filed with the SWRCB and reflecting use under this right for
13 years 2011 through 2015, are included as Exhibit CWD-5.

14 In normal water years and non-critical dry years, License 8731 has provided CWD
15 with a highly reliable water supply from the American River. In 2014 and 2015, however,
16 the SWRCB also curtailed this water right license. The curtailment order was issued on
17 May 1, 2015 and lifted on October 27, 2015 – giving this water right merely four days of
18 utility for CWD during the critically dry year.

19 **C. Permit 7356**

20 CWD holds a third post-1914 appropriative water right from the American River -
21 Permit 7356. Permit 7356 allows for diversion of 25 cfs from the American River with a
22 priority date of March 1, 1948. CWD's water right Permit 7356 allows for diversion of up
23 to 25 cfs of the natural flow of the American River for domestic, irrigation and municipal
24 uses from January 1 to December 31 of each year. Exhibit CWD-6 contains a true and
25 correct copy of Permit 7356. Copies of Progress Reports, as filed with the SWRCB and
26 reflecting use under this right for years 2011 through 2015, are included as Exhibit
27 CWD-7.

28 In Permit 7356, the original deadline to put water to beneficial use was 1951. But

1 the SWRCB regularly granted extensions because CWD could demonstrate that it was
2 planning to use the entire supply identified in the permit at some point in the future. In
3 2005, however, the SWRCB determined that CWD had not adequately demonstrated
4 that it could apply all of the water under Permit 7356 to beneficial use by the year 2025
5 and denied CWD's request for a permit extension. In 2013, CWD staff met with the
6 SWRCB and requested that the SWRCB allow CWD to perfect the water right as much
7 as possible based upon the conditions prevailing in CWD in 2005. The CWD has
8 organized information to present to the SWRCB regarding beneficial use of the water.
9 Subsequent investigations indicate that CWD is using water under Permit 7356 in all
10 months of the year based on the "municipal use" beneficial use designation, the
11 expanded contamination of groundwater in CWD's service area, and CWD's peak hourly
12 needs¹ during the high demand months of June through September. Importantly, it is
13 likely that any license issued by the SWRCB will be conditioned with new terms – like
14 Term 91² – that will limit the availability of this water asset under certain hydrological and
15 regulatory conditions.

16 Given the documented groundwater contamination underlying CWD, surface
17 supplies from the American River remain critical to the CWD's longevity to (1) to make
18 up for supplies limited by the contamination; and (2) reduce hydrogeological gradients
19 that affect contaminant movement that an over-reliance on groundwater pumping might
20 create.

21 V. INJURY TO CWD'S WATER RIGHTS

22 As explained above, CWD holds two water right licenses and one permit for the
23 diversion of surface water from the American River. Based upon the expert work of and
24 testimony by MBK Engineers that has been submitted on behalf of the Sacramento
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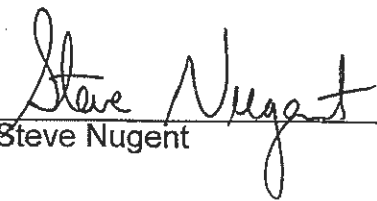
26 ¹ Peak hourly conditions occur when CWD's water system is producing its maximum flow during the
highest hour of demand on CWD's water system.

27 ² Term 91 is declared by the SWRCB when it is determined that the State Water Project (SWP) and U.S.
28 Bureau of Reclamation's Central Valley Project (CVP) are required to release stored water in excess of
low natural flow to meet Sacramento Valley in-basin uses plus export demands.

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Valley Water Users, it is my understanding that the modeling conducted by Petitioners to determine whether the WaterFix Project would cause injury to CWD and other legal users of water, is inadequate to ultimately answer this question. In this respect, Petitioners have not met their burden of showing that the WaterFix Project will not cause injury to CWD and other legal uses of water.

I declare under penalty of perjury under the laws of the State of California that the facts recited above are true and correct. Executed on this 31st day of August 2016 in Sacramento, California.



Steve Nugent

NOTICE OF AVAILABILITY
and
STATEMENT OF SERVICE

CALIFORNIA WATERFIX PETITION HEARING
Department of Water Resources and U.S. Bureau of Reclamation
(Petitioners)

I hereby certify that on September 21, 2016, I submitted to the State Water Resources Control Board and caused a true and correct copy of the following document(s):

**NOTICE OF ERRATA TO CWD-1 RE TESTIMONY OF STEVE NUGENT AND
SUBMITTAL OF CWD-10 AS A SUBSTITUTE FOR INCOMPLETE CWD-1**

to be uploaded to the Board's FTB site at

[https://ftp.waterboards.ca.gov/?u=water fix download&p=waterfix123](https://ftp.waterboards.ca.gov/?u=water+fix+download&p=waterfix123). This Notice of Availability and Statement of Service was served by **Electronic Mail** (email) upon the parties listed in Table 1 of the Current Service List for the California WaterFix Petition hearing, dated September 20, 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 September 21, 2016

Signature: 

Name: Yolanda De La Cruz

Title: Legal Secretary

Party/Affiliation: CARMICHAEL WATER DISTRICT

Address: 500 Capitol Mall, Suite 1000
Sacramento, CA 95814