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15 BEFORE THE  
16 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

17 HEARING ON THE MATTER OF  
18 CALIFORNIA DEPARTMENT OF WATER  
RESOURCES AND UNITED STATES  
19 BUREAU OF RECLAMATION REQUEST  
FOR A CHANGE IN POINT OF DIVERSION  
20 FOR CALIFORNIA WATER FIX.

**OPENING STATEMENT OF  
CITY OF STOCKTON**

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22 Petitioners seeking a change to state-issued water rights must demonstrate by a  
23 preponderance of the evidence that the requested change will not injure *any* legal user  
24 of water. The evidence in this case does not establish lack of any such injury to the City  
25 of Stockton.

26 With a population of approximately 300,000, the City of Stockton ("City" or  
27 "Stockton") is the largest municipality within the Sacramento-San Joaquin River Delta.  
28 The City's primary water supply comes from the San Joaquin River, where the City

1 diverts water for municipal and industrial purposes pursuant to a state-issued water right.  
2 The well-being of the City, its residents, and economy is thus inextricably linked to the  
3 Delta, the quantity and quality of Delta water supplies, and the Delta ecosystem.

4 Stockton's evidence will show the importance of its Delta water source, including  
5 how the development of that supply has helped overdrafted groundwater basins recover.  
6 It will also underscore the adverse effects to the City and residents that can occur due to  
7 water quality changes such as those that may be caused by the proposed water rights  
8 changes.

9 For more than eight (8) years, the City has diligently participated in the various  
10 public processes associated with Petitioners' proposed north Delta diversions and twin  
11 tunnel project. The City repeatedly has raised substantial questions to Petitioners  
12 regarding the effects the so-called "Water Fix" project (Project) would have on the City  
13 as a legal user of water, including questions about the specific water quality changes  
14 that would occur at the location of the City's drinking water intake on the San Joaquin  
15 River. As Stockton and many others have asserted, the proposed action would, or  
16 threatens to, degrade water quality by various means. For nearly a decade, Stockton  
17 has made the more-than-reasonable request that Petitioners analyze and disclose  
18 impacts to Stockton's water supply. Petitioners have declined to analyze, disclose, or  
19 acknowledge these impacts.

20 Water quality at Stockton's drinking water intake will be affected by changes in  
21 San Joaquin River flows and Sacramento River flows resulting from the added points or  
22 diversion, associated operational changes or both, and the adverse changes in water  
23 quality threaten to result in substantial injury and burdens to Stockton and its residents.  
24 The Petitioners' draft environmental documents, which they withheld from their cases in  
25 chief, demonstrate negative changes in Delta water quality for certain parameters,  
26 including electrical conductivity, chloride, and bromide, all of which are of concern for  
27 municipal and industrial (M&I) water supplies. Petitioners' draft environmental  
28 documents also identify the proposed water right changes will result in increased

1 residence time for water in the Delta, which in turn will increase the undesirable  
2 production of highly toxic cyanobacteria (e.g., Microcystis), which has both direct and  
3 indirect adverse effect on municipal water treatment and supply.

4 Despite the City's efforts to identify these issues in the environmental process and  
5 in its protest, Petitioners' case in chief in support does not contain *any* evidence or  
6 analysis that would address the City's concerns about impacts to its water supply. In  
7 fact, as cross-examination of Petitioners' modeling panel confirmed, the expert  
8 responsible for evaluating Project water quality impacts was not familiar with Stockton's  
9 protest, or the numerous comments the City submitted on the WaterFix (or Bay Delta  
10 Conservation Plan) environmental documents, nor did he conduct *any* analysis of the  
11 water quality changes at any location on the entire San Joaquin River for any water  
12 quality constituent of concern to M&I water purveyors, let alone at the City's drinking  
13 water intake, prior to proffering his opinion that the requested water rights changes will  
14 not result in injury to legal users of water from water quality changes.

15 In cross-examination, Petitioners' response to Stockton's concerns was to point  
16 vaguely to the ever-changing water quality modeling performed for the Project.  
17 However, the modeling on which Petitioners' experts purport to rely has not been  
18 introduced in evidence, let alone in a form reasonably calculated to inform the City or the  
19 Hearing Board, and Petitioners have provided no analysis or summary of the model  
20 results that address the effects of the requested water rights changes on M&I  
21 constituents on the San Joaquin River. To our knowledge, there is not even any  
22 modeling in existence that addresses the actual location of Stockton's diversion.  
23 Because the only information that might arguably relate to impacts to Stockton is not in  
24 the evidence, Petitioners have completely failed to meet their burden of proof that the  
25 Petition will not result in injury to Stockton.

26 The proposed water right changes, intended to enable the WaterFix Project,  
27 would injure the City as a legal user of water, adversely affect environmental resources,  
28 and are contrary to the public interest. The Petition and Petitioners' cases in chief do not

1 acknowledge or cure any of the deficiencies identified by the City and many other  
2 parties, or address issues that are necessary for lawfully adequate consideration of the  
3 Petition. Rather they demonstrate an astonishing disregard both for their burden of  
4 proof as well as for the health and well-being of the residents of Stockton. The Petition  
5 must be denied.

6 DATED: August 31, 2016

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