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13 TEHAMA-COLUSA CANAL AUTHORITY,
GLENN VALLEY WATER DISTRICT,
14 MYERS-MARSH MUTUAL WATER COMPANY

15 BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

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18 In the matter of 2016 SWRCB Hearing re
Cal WaterFix Petition for Change

**TESTIMONY OF JEFFREY P. SUTTON
ON BEHALF OF TEHAMA-COLUSA
CANAL AUTHORITY AND WATER
SERVICE CONTRACTORS WITHIN ITS
SERVICE AREA**

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1 I, Jeffrey P. Sutton, offer this testimony on behalf of the Tehama-Colusa Canal Authority
2 (“TCCA”) and water service contractors within its service area identified below, each of which
3 has protested the Petition for Change in Water Rights of the Department of Water Resources
4 (“DWR”) and United States Bureau of Reclamation (“Reclamation”) for the California WaterFix
5 Project (the “Petition”):

- 6 Colusa County Water District
- 7 Corning Water District
- 8 Cortina Water District
- 9 Davis Water District
- 10 Dunnigan Water District
- 11 4M Water District
- 12 Glenn Valley Water District
- 13 Glide Water District
- 14 Holthouse Water District
- 15 Kanawha Water District
- 16 Kirkwood Water District
- 17 La Grande Water District
- 18 Myers-Marsh Mutual Water Company
- 19 Orland-Artois Water District
- 20 Proberta Water District
- 21 Thomes Creek Water District
- 22 Westside Water District

23 Glenn Valley Water District and Myers-Marsh Mutual Water Company, listed above,
24 receive CVP water through TCCA facilities under water service contracts with Reclamation, but
25 are not members of TCCA.

26 **I. WITNESS BACKGROUND & QUALIFICATIONS**

27 I am the General Manager for the Tehama-Colusa Canal Authority and have held that
28 position since January 1, 2007. Prior to becoming General Manager, I was the Executive Director

1 of the Family Water Alliance, a 501(c)(3) non-profit focused on education and outreach regarding
2 northern California water issues. I was also an attorney at The Watkins Firm and the Law Offices
3 of Susan Trager, practicing business, real property and water law. In 1994, I graduated from the
4 University of California, Berkeley with a B.S. in Economics, and obtained a J.D. from the
5 University of San Diego School of Law in 1998.

6 I grew up and participated in my family's farming business, which dates back to 1870 in
7 Maxwell, California, in the Sacramento Valley. I have served as a director on the board for the
8 Colusa County Farm Bureau and as an appointee by the United States Secretary of Interior to the
9 Trinity Adaptive Management Working Group. I currently am a director on the board of the
10 Glenn Colusa Production Credit Association and a member of the Advisory Committee to the
11 Family Farm Alliance.

12 **II. BACKGROUND OF THE TEHAMA-COLUSA CANAL AUTHORITY**

13 TCCA is a joint powers authority comprised of seventeen water entities that receive water
14 from the federal Central Valley Project ("CVP") and use that water in the Sacramento River
15 watershed. Exhibit TCCA-2 is a true and correct copy of the TCCA Joint Powers Agreement as
16 amended in 1996. The TCCA service area is 150,000 acres of irrigated farmland located along
17 the west side of the Sacramento Valley in the counties of Yolo, Colusa, Glenn and Tehama.
18 TCCA also operates and maintains the 140-mile Tehama-Colusa and Corning canals irrigation
19 water supply system. TCCA was formed in part to secure a reliable water supply that would meet
20 the needs of its member agencies and to exercise the member entities' rights to water originating
21 in the Sacramento Valley.

22 TCCA diverts water from the Sacramento River through the recently constructed Red
23 Bluff Fish Passage Improvement Project, a quarter mile-long, positive barrier, flat plate fish
24 screen (one of the largest of its kind in the world) and new pumping plant, which retired the Red
25 Bluff Diversion Dam, and eliminated the fishery impacts associated with it. This project,
26 implemented in partnership with Reclamation, achieved two important goals: (1) providing the
27 means for year-round, reliable diversions of irrigation water for the farms within the TCCA
28 service area, while (2) simultaneously providing for unimpeded fish passage to prime spawning

1 habitat on the Sacramento River for several threatened and endangered species (Winter and
 2 Spring Run Chinook Salmon, Steelhead, and Green Sturgeon), providing benefits to these
 3 important fish resources and greatly enhancing recovery efforts.

4 **III. WATER SERVICE CONTRACTS**

5 Entities within TCCA’s service area have executed water service contracts with
 6 Reclamation for delivery of CVP water and have renewed those contracts on a long-term basis as
 7 reflected in the water service contracts attached as Exhibits TCCA-5 through TCCA-23.¹ In each
 8 such renewal contract, entities within TCCA’s service area and Reclamation acknowledge that the
 9 member has used CVP water supplies made available to it for reasonable and beneficial use based
 10 on a needs analysis. In recent years, water service contractors within TCCA’s service area have
 11 used substantially all of the water made available by Reclamation and expect to exercise all rights
 12 under the water service contracts to the fullest extent possible in the future.

13 Each year Reclamation allocates the amount of water it will make available under water
 14 service contracts with entities within TCCA’s service area. The percentage allocations made by
 15 Reclamation for agricultural use pursuant to these water service contracts were 100% in all years
 16 prior to 1977; allocations since 1977 are set forth in Table 1:

17 **Table 1**

Year	Allocation
1977	25 %
1978	100 %
1979	100 %
1980	100 %
1981	100 %
1982	100 %
1983	100 %
1984	100 %
1985	100 %
1986	100 %
1987	100 %
1988	100 %
1989	100 %

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 28 ¹ Exhibits TCCA-5 through TCCA-23 are true and correct copies of the water service contracts.

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1990	50 %
1991	50 %
1992	25 %
1993	100 %
1994	35 %
1995	100 %
1996	100 %
1997	90 %
1998	100 %
1999	100 %
2000	100 %
2001	60 %
2002	100 %
2003	100 %
2004	100 %
2005	100 %
2006	100 %
2007	100 %
2008	40 %
2009	40 %
2010	100 %
2011	100 %
2012	100 %
2013	75 %
2014	0 %
2015	0 %
2016	100 %

The amounts of water delivered pursuant to these allocations under water service contracts with entities within TCCA’s service area from 2011 through 2015 are set forth in Table 2:

Table 2

	2011	2012	2013	2014	2015
Colusa County Water District	52,310	58,183	72,621	0	0
Corning Water District	10,537	14,084	14,659	0	0
Cortina Water District	809	538	438	0	0
Davis Water District	2,087	2,755	3,849	0	0
Dunnigan Water District	12,175	12,928	14,398	0	0
4M Water District	1817	1638	2774	0	0
Glide Water District	11,329	13,953	14,947	0	0
Glenn-Valley Water District	1,722	1,135	2,079	0	0
Holthouse Water District	344	1,023	1,217	0	0
Kanawha Water District	30,740	30,066	35,675	0	0
Kirkwood Water District	328	360	458	0	0

1	La Grande Water District	3,386	5,214	5,475	0	0
2	Myers Marsh Mutual Water Company	0	0	0	0	0
3	Orland-Artois Water District	43,634	50,054	54,168	0	0
4	Proberta Water District	2,389	2,932	3,241	0	0
	Thomes Creek Water District	2,629	3,006	3,311	0	0
	Westside Water District	29,610	31,954	42,479	0	0

5 **IV. IMPACTS TO ENTITIES WITHIN TCCA’S SERVICE AREA**

6 The Petition states that it is “limited in scope” and “proposes only to add points of
7 diversion and redirection” and not to change “any other aspect of existing SWP/CVP permits.”
8 (Petition Supp., at p. 1.) The Petition goes on to state that “operations both now and in the future
9 will not impact the quantity of water available for water users in the watershed because these
10 demands are accounted for prior to diversions to storage or export.” (Petition Supp., at p. 19.)
11 The written testimony submitted by Reclamation and DWR similarly states that the Petition does
12 not alter the terms of existing water service contracts and Reclamation and DWR will continue to
13 operate pursuant to their obligations. (*See* Exhibits DOI-4, at pg. 8; DOI-7, at pg. 4; DWR-53, at
14 pgs. 8-9; DWR-61, at pg. 3.)

15 Although the Petition purports to seek only a change in point of diversion, it is my
16 understanding that the requested change will result in what would amount to significant re-
17 operation of the CVP. The Petition does not demonstrate that the proposed changes would not
18 adversely affect any legal user of the water involved, and specifically the water service
19 contractors within TCCA’s service area because: (i) neither the Petition nor the evidence
20 submitted by DWR and Reclamation describe any definite operation plan for the CVP and the
21 SWP with the proposed new points of diversion, and (ii) there is no analysis of the potential
22 effects of the proposed Cal WaterFix project on the Coordinated Operations Agreement. TCCA
23 has previously prepared and submitted detailed comments on the Bay-Delta Conservation Plan
24 Draft EIR/EIS (DEIR/EIS) and the California WaterFix Recirculated DEIR/Supplemental DEIS
25 (RDEIR/SDEIS). Together these comments describe much of the potential impacts to the water
26 service contractors within TCCA’s service area. TCCA’s comment letters are attached as
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1 Exhibits TCCA-3 and TCCA-4, respectively.² In addition, TCCA has incorporated and joined in
2 the comments of the North State Water Alliance on these documents, including technical critique
3 of the modeling performed by DWR and Reclamation.

4 TCCA and the water service contractors within its service area incorporate herein the
5 Testimony of Walter Bourez and related Report on WaterFix Modeling. (Exhibits SVWU-100
6 and SVWU-107.) In particular, under a realistic operations scenario for the proposed project, it is
7 reasonable to expect that deliveries to water service contractors within the TCCA service area
8 will on average decrease by approximately 14,000 acre-feet annually in all year types. (Exhibit
9 SVWU-107, Table 6.) In below normal years, deliveries within the TCCA service area will likely
10 decrease by approximately 62,000 acre-feet on average. (*Id.*) Operation of the CVP in this
11 manner will reduce allocations to TCCA contractors below the allocations Reclamation would
12 make without the proposed project.

13 In addition, under the same realistic operations scenario, deliveries to Central Valley
14 Project water users south of the Delta and outside of the Sacramento River watershed would
15 increase by approximately 193,000 acre feet on average each year under the proposed project.
16 (Exhibit SVWU-107, Table 6.) As shown in Figures 56 and 57 of Exhibit SVWU-107, it is likely
17 that water service entities within TCCA's service area will experience a reduction in allocation
18 percentages under the proposed project at the same time as water service contractors south of the
19 Delta will experience increased allocations. To the extent that the reduced deliveries to water
20 service contractors within TCCA's service area are made in order to increase these supplies to
21 users outside the area of origin, the proposed project will result in injury to the entities within
22 TCCA's service area. (*See State Water Resources Control Bd. Cases (2006) 136 Cal.App.4th*
23 *674, 758.*)

24 In addition, if DWR and Reclamation were to operate the SWP and the CVP to divert and
25 re-divert water at the proposed new points of diversion, then water service contractors within
26 TCCA's service area could be adversely impacted in several ways, including the following: (i) the

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28 ² Exhibits TCCA-3 and TCCA-4 are true and correct copies of the comment letters.

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1 new operations of the SWP and CVP could result in lower SWP and CVP settlement contract and
2 water service contract water supplies being available for diversion and use by TCCA members
3 than would occur without the California WaterFix project; (ii) these new operations could change
4 the amounts of storage in SWP and CVP reservoirs and the flows in rivers controlled by the SWP
5 and CVP, and could result in physical limitations on the ability of water service contractors
6 within TCCA's service area to divert water under their CVP contracts; ~~(iii) the new Delta flow~~
7 ~~criteria required by Water Code section 85086, subdivision (c)(2) could be incorporated into a~~
8 ~~revised Bay/Delta Water Quality Control Plan, and TCCA members could be required to~~
9 ~~contribute to the implementation of those new requirements;~~ and (iv) new operations of the SWP
10 and CVP could result in increased costs to water service contractors (*i.e.* costs associated with
11 CVP water delivered to south of Delta refuges), including entities within TCCA's service area
12 that are not beneficiaries of the proposed Cal WaterFix project. Increased costs to water service
13 contractors within TCCA's service area can effectively reduce the supplies available under a
14 water service contract by making the water unaffordable.

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