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**WATER FIX**  
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DWR-7

# SWP WATER RIGHTS REBUTTAL TESTIMONY



# OVERVIEW

- **The CWF Petition will not in effect initiate a new water right**
- **The SWP Permits have not expired**
- **Operation of the CWF will not injure other legal users**
  - Settlement Agreements protective
  - Projects operated to meet D-1641
  - Projects operations during dry periods provide incidental benefits to in-Delta diverters



# NOT A NEW WATER RIGHT

- **Petition is consistent with Water Code Section 1701**
- **No change in Quantities DWR Authorized to Divert from Delta**
  - Maximum rate of diversion 10,350 cfs from Delta will not be increased
  - Season of diversion will not change
- **Source authorized in permits will not change**
  - Feather River - P16478 and P16479
  - Sacramento-San Joaquin Delta Channels – P16479, P16481, P16482
- **Existing SWP Permits contain north Delta Point of Diversion**
  - Delta Water Facilities (Hood) point of diversion included when SWP permits when issued in 1972



## SWP PERMITS HAVE NOT EXPIRED

- **State Water Board has not Revoked Permits**
- **DWR continues to operate consistent with Terms and Conditions of Permits**
- **DWR continues to develop SWP facilities to put authorized quantities to beneficial use**
- **DWR Petition for Extension of Time to be addressed in separate State Water Board process**



# NO INJURY TO OTHER LEGAL USERS

- **Feather River Settlement Agreements are Protective**
  - Agreements provide defined water supply
  - CWF does not alter Agreement terms or upstream operational criteria
  - Agreements do not convey water right to Lake Oroville storage or particular end of season target
  - DWR has sole discretion over Lake Oroville operations
  - Modeling shows Settlement Contractors will continue to receive full contract amounts
  - DWR committed to meeting obligations under the Settlement Agreements



# NO INJURY TO OTHER LEGAL USERS

CONT.

- **North Delta Water Agency**

- NDWA Agreement is protective
  - Article 2 - Water quality objectives specified at seven NDWA locations
  - Article 4 - Drought emergency and compensation provisions
  - Article 6 – Water level protections
- NDWA Obligations under Agreement – Article 8
  - NDWA agrees to defend affirmatively as reasonable and beneficial water quality objectives in Agreement
  - NDWA Consents to SWP diversions from Delta
- NDWA Agreement is in full force and effect
- DWR is in compliance with Agreement



# NO INJURY TO OTHER LEGAL USERS

CONT.

- **City of Brentwood**

- Brentwood receives water supply under ECCID Agreements delivered through CCWD
  - 1981 DWR-ECCID and 1991 DWR-ECCID-CCWD (as amended in 2000)
- Water quality objectives defined in ECCID Agreements
- ECCID Agreements provide there will be no greater obligation for water quality as a result of diversions at CCWD Pumping Plant
- CWF modeling shows no significant degradation in water quality at CCWD Pumping Plant
- DWR is in compliance with terms of ECCID Agreements



# NO INJURY TO OTHER LEGAL USERS

CONT.

- **City of Antioch**

- 1968 DWR-Antioch Agreement executed to reimburse Antioch for impacts of SWP operations
  - Agreement not partial reimbursement
  - SWP impact determined to be 1/3 of reduction in availability of water of suitable quality at Antioch
- Agreement remains in effect indefinitely until terminated by either party
- Antioch releases DWR from any liability due to any change in flows in Delta and effects of changes caused by SWP
- CWF modeling for proposed CWF Project shows slight improvement on average at Antioch point of diversion
- Agreement remains in effect and DWR complies with Agreement



# NO INJURY TO OTHER LEGAL USERS

CONT.

- **Other Delta Diverters**

- Change in water quality alone not sufficient to establish injury
  - In-Delta diverters are not entitled to Project storage releases
  - In-Delta diverters are not entitled to better water quality than that necessary to protect beneficial use (WQCP)
- Projects maintain water quality objectives during dry periods with storage releases
- Project storage releases provide incidental benefits to Delta diverters
- CWF modeling shows no significant degradation in Delta water quality due to CWF operations
- Projects will continue to meet D-1641 Objectives



## CONCLUSIONS

- **CWF Petition is consistent with CWC Section 1701**
  - Not a new water right
  - No expansion of quantity or source of water authorized in existing water rights permits
- **Permits have not expired**
- **Information provided by DWR and Reclamation supports decision by State Water Board of no injury to other legal users**