

1 SOMACH SIMMONS & DUNN  
A Professional Corporation  
2 ANDREW M. HITCHINGS, ESQ. (SBN 154554)  
AARON A. FERGUSON, ESQ. (SBN 271427)  
3 KRISTIAN C. CORBY (SBN 296146)  
500 Capitol Mall, Suite 1000  
4 Sacramento, CA 95814  
Telephone: (916) 446-7979  
5 Facsimile: (916) 446-8199  
[ahitchings@somachlaw.com](mailto:ahitchings@somachlaw.com)  
6 [aferguson@somachlaw.com](mailto:aferguson@somachlaw.com)  
[kcoby@somachlaw.com](mailto:kcoby@somachlaw.com)

7 Attorneys for COUNTY OF SACRAMENTO

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10 BEFORE THE  
11 CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

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

16 WITNESS STATEMENT OF JEFF  
LEATHERMAN ON BEHALF OF THE  
COUNTY OF SACRAMENTO

17 **I. SUMMARY OF TESTIMONY**

18 My testimony addresses the BDCP/California WaterFix's ("the Project") impacts  
19 on recreation and recreational facilities throughout Sacramento County.

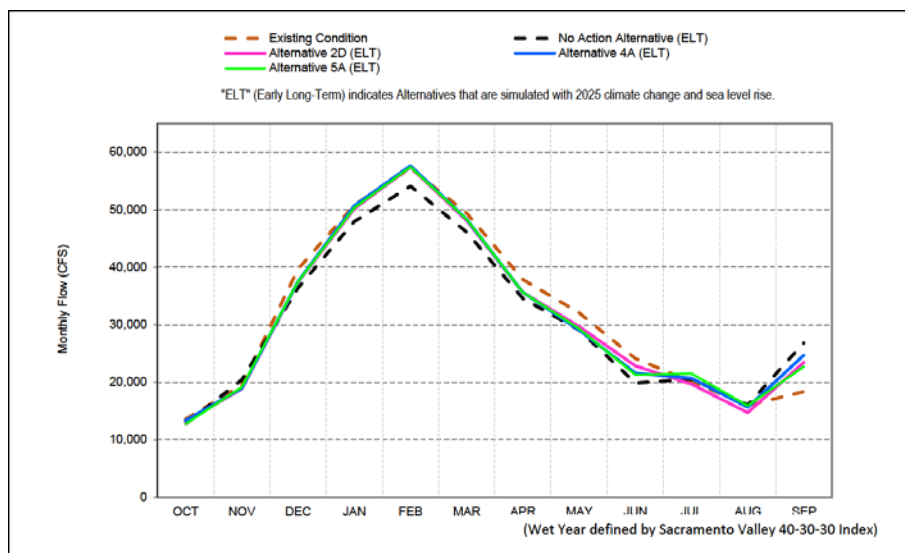
20 **II. IMPACT OF WATERFIX ON SACRAMENTO  
COUNTY PARKS AND RECREATION**

21  
22 **A. Reservoir and River Flow Levels**

23 A key issue of importance to the County of Sacramento is the impact and  
24 potential harm of the Project on river flows and river levels, as changes in river levels  
25 have the potential to significantly impact river-dependent recreational uses, including  
26 marinas and riverside parks. The Recreation chapter of the Project Final EIR/EIS  
27 ("FEIR") contains no analysis of Project effects on river levels and the resulting effect on  
28

1 river-dependent recreational uses.<sup>1</sup> The FEIR states that “CALSIM modeling results  
2 indicate that effect on Sacramento...River flows would be less than significant. [ ]  
3 Therefore, these are not discussed further.” (See FEIR, p. 15-64.) However, other  
4 evidence in the record indicates that various Project scenarios would result in reduced  
5 Sacramento River flows at certain times of the year, if not the entire year. (See, e.g.,  
6 FEIR Figures 6-26, 6-27, 6-30 and 6-31.)

7 *Sacramento River Flow at Freeport, Average Wet Years*



18 **Figure 6-26**  
19 **Sacramento River Flow at Freeport for Alternatives 2D, 4A and 5A, Average Wet Years<sup>1</sup>**

20 Utilizing the Existing Condition as the basis for comparison, a noticeable  
21 difference in Sacramento River flows at Freeport would occur between the months of  
22 April and July in average wet years.

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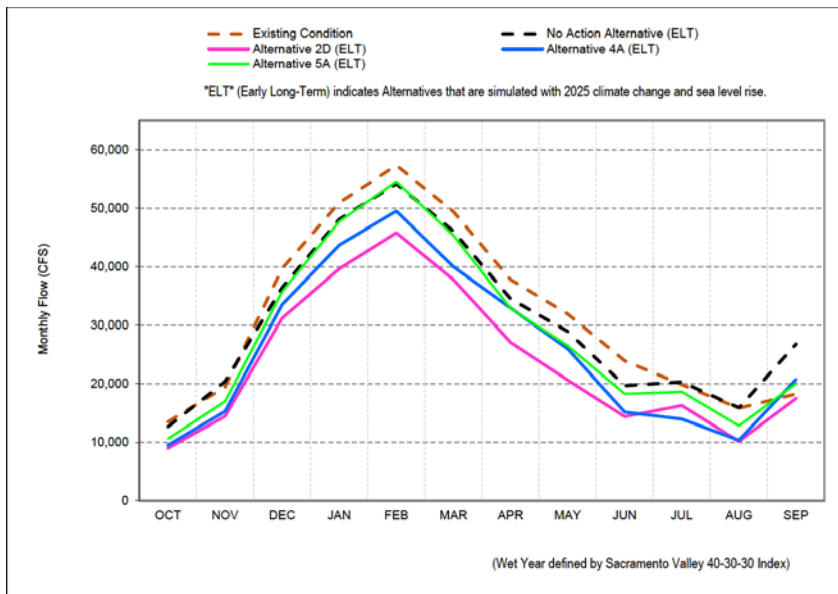
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28 <sup>1</sup> References to the FEIR are references to Exhibit SWRCB-102.

1 *Sacramento River Flow Downstream of North Delta Intakes, Average Wet Years*



11 **Figure 6-30**  
12 **Sacramento River Flow downstream of North Delta Intakes for Alternatives 2D, 4A and 5A, Average Wet Years**

13 The adverse changes in Sacramento River flows downstream of the north delta  
14 intakes under Alternative 4A appear to be particularly considerable in terms of reduced  
15 cubic feet per second (cfs). Such reductions in flow levels affect recreation in a variety  
16 of ways, including aesthetics, boating and viability of fish habitat. This constitutes an  
17 actual harm to the public interest.

18 In Sacramento County’s comments on the Draft EIR, the County noted the DEIR’s  
19 emphasis on reliance upon the No Action Alternative (NAA) baseline rather than existing  
20 conditions baseline. We argued that use of the NAA with respect to recreation impacts  
21 to reservoirs and rivers would not capture the severity of short-term (i.e., the first few  
22 decades of Project operation) impacts to reservoir storage and river flow levels. The  
23 NAA’s incorporation of considerations such as climate change and sea level rise would  
24 minimize the Project’s actual recreation impacts on reservoirs and rivers. Whereas, use  
25 of an existing conditions baseline would potentially disclose significant impacts to  
26 recreation uses that are likely to occur in the years immediately following  
27 commencement of operations unless and until the predicted future climatic influences  
28

1 actually occur.

2 The FEIR does include brief consideration of how an existing conditions baseline  
3 could alter the analysis with respect to impacts on recreation. (See FEIR, p. 15-475,  
4 discussing Impact REC-6.) The FEIR acknowledges that, under Alternative 4A:

5 “recreational thresholds would be exceeded more frequently at Trinity,  
6 Shasta, Oroville, Folsom and San Luis Reservoirs relative to Existing  
7 Conditions. These changes represent a greater than 10% increase in the  
8 frequency the recreation thresholds are exceeded at Trinity, Shasta,  
9 Oroville, Folsom and San Luis Reservoirs, compared to Existing  
10 Conditions.”

11 (FEIR, p. 15-475.)

12 The recreation significance threshold is a 10 percent or greater reduction in the  
13 frequency of recreation facility availability, based upon reservoir levels. I am troubled by  
14 this finding with respect to Folsom Reservoir, even though the FEIR attributes the  
15 significant change in reservoir elevations primarily to external factors such as change in  
16 demand, sea level rise and climate change. Again, those external factors would not  
17 necessarily have an effect during the first decade or more of Project operations.

18 Notably, the FEIR declines to make an impact conclusion for REC-6 using the Existing  
19 Conditions baseline due to an inability to isolate the precise contributions of the external  
20 factors to the total differences between Existing Conditions and Alternative 4A. Rather  
21 than evading a conclusion, this impact should be deemed significant to the public  
22 interest in recreational opportunities.

23 FEIR Table 15-12b is instructive on this point. In the FEIR’s 82-year simulation  
24 period, the loss of recreation access under existing conditions is 22 years out of 82;  
25 under the NAA, it is 50 years out of 82; and under Alternative 4 it is 41 years out of 82.  
26 The FEIR thus concludes Alternative 4 would be an improvement as compared to the  
27 NAA. (See FEIR, p. 15-90; 15-280 to 15-281.) By failing to evaluate the Project’s  
28 impacts against existing conditions, the FEIR fails to disclose that the Project will

1 substantially reduce access to recreation (by a factor of almost 2). Using the threshold  
2 of significance set forth for impacts to reservoirs (see above), it would appear that the  
3 Project would have a significant impact when compared to existing conditions because it  
4 reduces the frequency of availability 50 percent of the time, compared to just 26 percent  
5 of the time under existing conditions, a 24 percent reduction in availability.

6 In any event, using the NAA baseline, the FEIR concludes there would be three  
7 additional years (out of 82) under Alternative 4A during which the reservoir levels would  
8 fall below the reservoir boating threshold at the end of September. Although this  
9 apparently does not trigger the FEIR's significance threshold that would indicate an  
10 adverse impact on recreation occurring at the reservoir, the County of Sacramento  
11 nevertheless considers this result to be harmful to the public interest in recreational  
12 opportunities.

13 **B. Impacts to Cosumnes River Preserve and Stone Lakes NWR**

14 The FEIR improperly diminishes the Project's permanent and direct impact to  
15 recreational opportunities at the Cosumnes River Preserve (Preserve). Alternative 4A  
16 facilities include elements that would be permanently located within and adjacent to the  
17 Preserve. (See FEIR, pp. 15-258, 15-467.) A Reusable Tunnel Material area would be  
18 built to the north of the Preserve, southeast of the intermediate forebay. An east-west  
19 permanent transmission line would be constructed adjacent to the northern boundary of  
20 the Preserve along Lambert Road where California Department of Fish and Wildlife  
21 manages the lands as an ecological reserve. Permanent tunnel shafts would be located  
22 on the Preserve. The FEIR concludes these features and impacts are less than  
23 significant. (Impact REC-1.)

24 Sacramento County disagrees with this impact conclusion. The FEIR  
25 acknowledges that the Project would cause permanent surface impacts to the Preserve  
26 "and would displace portions of the preserve that may be used by recreationists." (FEIR,  
27 p. 15-467.) Permanent noise and visual impacts would occur from the RTM areas  
28 adjacent to the Preserve. The FEIR appears to rationalize that this impact is not

1 significant because it would not result in the permanent loss or closure of a facility or  
2 activity. That is not a proper measure for the impact. The value of the Preserve  
3 depends in great deal upon its quiet, natural and undisturbed aural and visual character.  
4 These Project features would meaningfully conflict with each of those values, thus  
5 diminishing the recreational experience at the Preserve. This constitutes an  
6 unreasonable harm to the public interest.

7 More accurately, the FEIR concludes that the construction-related impacts to  
8 recreational opportunities and experiences such as the Preserve will be significant and  
9 unavoidable (Impact REC-2), even with mitigation. (FEIR, pp. 15-267, 15-469.) The  
10 Preserve is located within the construction footprint of the Project. Other recreational  
11 sites, including Stone Lakes National Wildlife Refuge, are within the 1,200 to 1,400 foot  
12 indirect impact area. These significant impacts are unacceptable and clearly constitute  
13 harm to the public interest.

14 Similar to the permanent impacts noted above, the direct construction impacts to  
15 the Preserve would introduce adverse noise, light and temporary facilities such as  
16 access roads, safe haven work sites and tunnel shaft with temporary work areas for up  
17 to thirteen years. Together, these impacts will cause a loss of public use of a well-  
18 established recreation opportunity and experience. The impacts would occur year-  
19 round.

20 The impacts to Stone Lakes NWR, although “indirect”, are no less concerning. As  
21 explained by the FEIR:

22  
23 “The northern section of Stone Lakes NWR is adjacent to Intakes 2 and 3,  
24 and the southern portion is approximately 1 mile from Intake 5.  
25 Recreation does occur in the northernmost section of Stone Lakes NWR,  
26 which would be east of a temporary work area and an RTM area  
27 associated with Intake 2 and could cause noise and visual disturbances to  
28 recreationists. Geotechnical exploration would occur along the tunnel  
corridor, to the east of Stone Lakes NWR, for up to 2.5 years.  
[ ]

1 Construction of the intakes and temporary work areas could also cause  
2 noise and visual disturbances to recreationists. Construction of the  
3 proposed 230 kV and 69 kV temporary transmission lines would be  
4 constructed to the west and south of the North Stone Lake Unit, and could  
5 cause noise and visual disturbances to visitors in the refuge for up to 1.5  
6 years. Access to the refuge would be preserved, but because of the  
proximity of the alignment and associated construction work areas and  
borrow/spoil areas, there could be effects on wildlife viewing and  
environmental education opportunities within the Stone Lakes NWR.”

7 (FEIR, p. 15-260.)

8 FEIR, Figure M3-4, Sheets 1 and 2, visually depict the close proximity of Project features  
9 with Stone Lakes NWR. The Project proponents concede this significant and  
10 unavoidable impact. As such, it must be regarded as equally harmful to the public  
11 interest.

### 12 **C. Impacts To Staten Island**

13 In addition to tunneling through the Staten Island nature preserve, the Project  
14 would build a tunnel shaft, a launch shaft, a vent shaft, two reusable tunnel material  
15 areas and a conveyor facility, two temporary access roads, a permanent access road,  
16 temporary work areas, and a temporary barge unloading facility on the island. (FEIR, pp.  
17 15-258, 15-261 to 15-262.) The FEIR downplays the significant adverse effect this  
18 construction will have on recreational opportunities and the visitor experience at Staten  
19 Island.

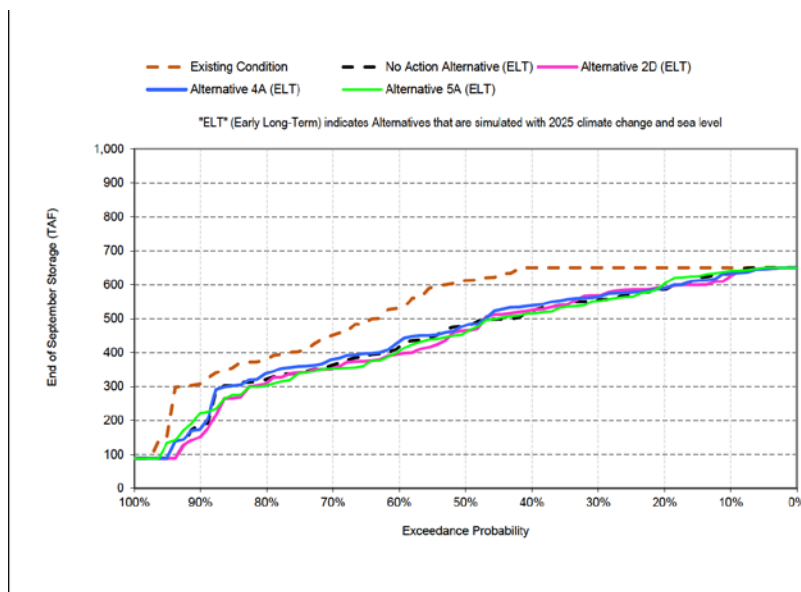
20 Staten Island receives significant amounts of visitors – over 3,000 per year  
21 according to staff at the Nature Conservancy, which manages conservation easements  
22 on the island. Not only would recreation use be substantially diminished during the  
23 years of construction, but the placement of RTM areas, shaft locations, and a permanent  
24 access road would cause permanent surface impacts and would permanently displace  
25 portions of the preserve that are used by recreationists. The Project would result in the  
26 permanent loss of a substantial portion of the preserve. The fact that the preserve as a  
27 whole would not be permanently lost or closed does not mean the significant  
28

1     diminishment of the quality of the island as a nature preserve, and diminishment of the  
 2     visitor experience due to the intrusion of these industrial elements, would not be a  
 3     significant adverse impact on a recreation facility and the public interest.

4     **D.     Impacts to the American River and Discovery Park**

5             The FEIR refers to goals and policies of the American River Parkway Plan,  
 6     including policies specific to the Discovery Park Land Use area. (FEIR, p. 15-47.) The  
 7     FEIR recognizes impacts to Discovery Park but fails to look at the 23 miles of river  
 8     upstream from Discovery Park on the American River and how Project-related flows will  
 9     impact recreation on the river. A change in flow standards will impact access to  
 10    recreation on the river, parking and trails and may cause scouring of river banks, trails  
 11    and access areas near the American River. The graphs included above in the  
 12    discussion of river flows demonstrate that the Project will affect flow rates and levels in  
 13    the Sacramento River, not far from its confluence with the American River. The  
 14    variations in Folsom Reservoir storage between Alternative 4A and the existing condition  
 15    (See FEIR Figures 5-45 and 5-46) further suggest the Project will have an effect on flow  
 16    rates and flow levels for the American River.

17     *Figure 5-46: Folsom Lake End of September Storage*



18     Figure 5-46  
 19     Folsom Lake End of September Storage for Alternatives 2D, 4A and 5A



1 The FEIR has not analyzed the potential impacts to the American River in terms  
2 of flow rates and flow levels and the attendant impact on American River recreational  
3 opportunities. The failure to do so constitutes a risk that should not be tolerated and is  
4 harmful to the public interest.

5 **E. Mitigation Measure REC-2**

6 The mitigation measures for Georgianna Slough Fishing Access and Cliffhouse  
7 Fishing Access improvements will create additional cost of management, maintenance  
8 and law enforcement responsibilities for County of Sacramento Regional Parks. While  
9 the mitigation measure creates alternative recreation opportunities, it also financially  
10 impacts the Department of Regional Parks with cost increases to managing the facilities.  
11 This is an additional taxpayer burden that the County had not planned for or anticipated.  
12 Moreover, the FEIR's failure to define "enhancements" precludes the County from  
13 evaluating their potential cost and effectiveness.

14 **F. FEIR Misinterprets Boat Registration Data**

15 The FEIR may attempt to diminish the level of interest and investment in  
16 recreational boating activity in establishing the Project's environmental setting. The  
17 FEIR observes that boat registration data for 2002-2009 indicates "a pattern of slight but  
18 steady declines in boat registrations over that period in most counties." (FEIR, p. 15-3.)  
19 Although that may be factually accurate, it does not take into account the economy in  
20 2007-2009 and the impacts to boat purchases due to the recession. That period likely  
21 represents an aberration in the ordinary rate of boat registrations, and should not be  
22 relied upon as a basis for determining that impacts to boating recreation are not  
23 significant.

24 **III. CLOSING**

25 The proposed California WaterFix will significantly and adversely affect the public  
26 interest in the context of park use and recreation opportunities and experience. The  
27 impacts will be realized in the form of reduced river and reservoir water levels,  
28 construction disturbances upon well-established nature preserves, and permanent

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industrial-type intrusions upon designated and protected natural wildlife reserves.