



All protests must be served on the petitioner. Provide the date served and method of service used:

Served Party	Address	Email Address (service method employed)	Date Served
State Water Resources Control Board, Division of Water Rights, % California WaterFix Hearing Staff	P.O. Box 2000 Sacramento, CA 95812	<a href="mailto:CWFhearing@waterboards.ca.gov">CWFhearing@waterboards.ca.gov</a>	<u>5 January 2016</u>
California Department of Water Resources, % James Mizell  Department of Water Resources	1416 Ninth Street, Room 1104, Sacramento, CA 95818	<a href="mailto:James.Mizell@water.ca.gov">James.Mizell@water.ca.gov</a>	<u>5 January 2016</u>
U.S. Bureau of Reclamation, % Amy Aufdemberge U.S. Department of Interior, Office of Regional Solicitor, Pacific Southwest Region	2800 Cottage Way Sacramento, CA 95825-1898	<a href="mailto:Amy.Aufdemberge@sol.doi.gov">Amy.Aufdemberge@sol.doi.gov</a>	<u>5 January 2016</u>

## Attachment A

### Friends of Stone Lakes National Wildlife Refuge

#### Protest of Petition to Change the Water Rights of the State Water Project and the Central Valley Project for the California WaterFix,

Interests proposed to be served by the project described in the Petition are not broadly public, as evidenced by the fact that large agricultural interests in the southern San Joaquin Valley account for a significant percentage of State and Central Valley Water Projects' water use, yet comprise only a small fraction of California's gross domestic product.

Among the many interests that **would** be harmed by the Petition and are cited in other protests to the Petition, is the harm to the public interest by significantly impacting the Stone Lakes National Wildlife Refuge, located just west of Elk Grove in Sacramento County. The Stone Lakes NWR was created by an act of Congress as an urban refuge with the goals to

1. Preserve, enhance, and restore a diverse assemblage of native Central Valley plant communities and their associated fish, wildlife, and plant species;
2. Preserve, enhance, and restore habitat to maintain and assist in the recovery of rare, endangered, and threatened plants and animals;
3. Preserve, enhance, and restore wetlands and adjacent agricultural lands to provide foraging and sanctuary habitat needed to achieve the distribution and population levels of migratory waterfowl and other water birds consistent with the goals and objectives of the North American Waterfowl Management Plan and Central Valley Habitat Joint Venture;
4. Create linkages between Refuge habitats and habitats on adjacent lands to reverse past impacts of habitat fragmentation on wildlife and plant species;
5. Coordinate Refuge land acquisition and management activities with other agencies and organizations and to maximize the effectiveness of Refuge contributions to regional habitat needs;
6. Provide for environmental education, interpretation, and fish and wildlife-oriented recreation in an urban setting accessible to large populations; and
7. Manage riverine wetlands and adjacent floodplain lands in a manner consistent with local, State, and Federal flood management; sediment and erosion control; and water quality objectives.(57 Fed.Reg. 33007 (July 24, 1992).)

The implementation of the changes in point of diversion by Petitioners will require construction of huge new intake facilities, a forebay and a tunnel, the construction and operation of which will interfere significantly with the attainment of these goals. The Stone Lakes NWR is ground zero for these facilities—adjacent to all three proposed Tunnel Intakes (see Exhibit B, attached); the Intermediate Forebay located within the Refuge Boundary; and new high power lines proposed to cross the Refuge. Geotechnical exploration, construction equipment and associated traffic and noise will interfere with the Refuge for much of the fourteen year construction period, and then industrial-scale water infrastructure will permanently dominate the landscape and the nearby Sacramento River. In short the approval of the Petition is not in the public interest as expressed by Congress in establishing the Stone Lakes NWR.

As recognized previously in the DEIR/S for the WaterFix Project and more recently by the Delta Independent Science Board, construction of new transmission lines to power construction and operation of the WaterFix Project will lead to bird strike deaths. (September 30, 2015, DISB Letter, pp. 3, 17.) The Lead Agencies previously estimated that there would be 138 deaths per year, which is estimated to be reduced to 48 deaths per year if the power lines are marked. (See 2013 Draft BDCP, Appendix 5.J.C, p. 18 and Table 2, attached as Exhibit 3.) Cranes, kite and rail are fully protected species under California law (Fish & G. Code, § 3511.) Take is not possible for a project subject to the typical CESA 2081 take permitting process

Traffic demands from construction of the intake structures, tunnels and forebay will significantly increase traffic on roads serving the Stone Lakes NWR and significantly impact the Refuge and the species the Refuge is charged with protecting. The key road segments serving the Refuge are Hood Franklin Road between River Road (Highway 160) and Interstate 5, and Lambert Road from Herzog Road to Franklin Boulevard. Hood Franklin Road is the main access to the Refuge Visitor Center and Blue Heron Trails public use area. Lambert Road is the access point for refuge staff and hunters to the South Stone Lakes unit of the Refuge. Hourly traffic volumes associated with the 14 year construction of the project on these roads are estimated by the WaterFix DEIR/S to be 620 vehicles per hour. Most of this traffic will be haul trucks, which means that traffic in and around Refuge facilities will amount to an average of over 10 trucks a minute—one truck every 6 seconds— throughout the day. Petitioners have not adequately described how the level of truck traffic will impact wildlife and the Refuge, and they do not propose to significantly mitigate the impacts.

The project will generate a significant volume of tunnel muck (with now over 30 million cubic yards estimated from tunneling alone) that will need to be stored, used or disposed. Preliminary testing indicates that the muck may have high heavy metal content, making it unsuitable for use in areas exposed to wildlife and people. Petitioners do not account for the fact that the muck may not be reusable or put forward enforceable mitigation measures to deal with safe muck disposal.

For the above-cited reasons, and for many other reasons identified by other commenters on the DEIR/S, the recirculated draft environmental impact report and supplemental environmental impact statement are inadequate. Their inadequacy violates the

California Environmental Quality Act and the National Environmental Policy Act, and as a matter of course are contrary to law.