

State of California
State Water Resources Control Board
DIVISION OF WATER RIGHTS
P.O. Box 2000, Sacramento, CA 95812-2000
Info: (916) 341-5300, FAX: (916) 341-5400, Web: http://www.waterrights.ca.gov

PROTEST – (Petitions)

BASED ON ENVIRONMENTAL OR PUBLIC INTEREST CONSIDERATIONS
Protests based on Injury to Vested Rights should be completed on other side of this form

APPLICATION _____ PERMIT _____ LICENSE _____

I, (We,) Steamboat Resort
Name of protestant
of 12540 Grand Island Road, Walnut Grove, Ca 95690 have read carefully
Post Office address of protestant

a notice relative to a petition for change or extension of time.
under APPLICATION _____ of Petition for diversion and rediversion submitted by DWR and BOR
State name of petitioner

to appropriate water from the Sacramento River
Name of source

It is desired to protest against the approval thereof because to the best of OUR information and belief:
my or our

the proposed change/extension will

- (1) not be within the State Water Resources Control Board's (SWRCB) jurisdiction
- (2) not best serve the public interest
- (3) be contrary to law
- (4) have an adverse environmental impact

State facts, which support the foregoing allegations see attached.

Under what conditions may this protest be disregarded and dismissed? _____
State conditions that will relieve protest, or if none, so state

Upon retraction/SWRCB denial of the petition to change point of diversion for the California
Water Fix Project.

A true copy of this protest has been served upon the petitioner by email.
Personally or by mail

Date 1/5/16

Protestant(s) or Authorized Representative sign here

Protests MUST be filed within the time allowed by the SWRCB as stated in the notice relative to the change or such further time as may be allowed.
(NOTE: Attach supplemental sheets as necessary)

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PROTEST – (Petitions)

BASED ON INJURY TO VESTED RIGHTS

Protests based on Environmental or Public Interest Considerations should be completed on other side of this form

APPLICATION _____ PERMIT _____ LICENSE _____

I, (We,) Steamboat Resort
Name of protestant
of 12540 Grand Island Road, Walnut Grove, Ca 95690 have read carefully
Post Office address of protestant

a notice relative to a petition for change or extension of time.

under APPLICATION _____ of Petition for diversion and rediversion submitted by DWR and BOR
State name of petitioner

to appropriate water from Sacramento River
Name of source

It is desired to protest against the approval thereof because to the best of our information and belief the
my or our
proposed change will result in injury to us as follows: see attached
me or us State the injury which will result to you (see NOTE below)

Protestant claims a right to the use of water from the source from which petitioner is diverting, or proposes to divert, which right is based on: existing riparian water rights.
Prior to application, notice posted, use begun prior to 12/19/14, riparian claim, or other right

Please provide application, permit or license numbers or statement of diversion and use numbers, which cover your use of water, or state 'none' riparian. The extent of present and past use of water by protestant or his predecessors in interest from this source is as follows: see attached

State approximate date first use made, amount used, time of year when diversion made, the use to which water is put

Where is YOUR DIVERSION POINT located? _____ ¼ of _____ ¼ of Section 7
Describe location with sufficient accuracy that position thereof relative to that of petitioner may be determined.

T. 5N, R. 4E, M.D B. & M. Is this point downstream from petitioner's point of diversion? YES NO
If Yes, explain: located on Steamboat Slough which is downstream from all of the intake facilities.

Under what conditions may this protest be disregarded and dismissed? Upon retraction/SWRCB denial of
State conditions which will relieve protest, or if none, so state.
the petition to change point of diversion for the California Water Fix project.

A true copy of this protest has been served upon the petitioner, by email.

Date: 1/5/16
personally or by mail
Protestant(s) or Authorized Representative sign here Emily Pappalardo

Protests MUST be filed within the time allowed by the SWRCB as stated in the notice relative to the change or such further time as may be allowed.

(NOTE: Attach supplemental sheets as necessary)

January 5, 2016

Submitted via email to: CWFhearing@waterboards.ca.gov

Subject: Petition for change to the water rights of the State Water Project (SWP) and the Central Valley Project (CVP) for the California Water Fix, submitted to the State Water Resources Control Board August 25, 2015, by the California Department of Water Resources and the US Bureau of Reclamation; and addendum and errata to aforesaid petition submitted September 11, 2015, to the State Water Board by petitioners.

To whom it concerns:

Steamboat Resort is a private boat club that has been in operation since 1986. The dock has existed since 1968 when the property operated as a restaurant. Steamboat Slough is a designated anchorage area. Many tenants have been visiting the resort since before we took ownership in 1991. The dock permanently moors seven houseboats and acts as a access point for people who moor their boats in the slough during the summer. The property also contains a single family residence and two other vacation residences. This property has been a recreational and tourism destination for almost 50 years and is part of what makes the Delta a unique place.

Steamboat Resort petitions the State Water Resources Control Board to participate in Parts 1 and 2 of the evidentiary hearing on the Petition. We enclose our Notice of Intent to Appear as required by the Notice of Petition and Public Hearings released to the public by the State Water Resources Control Board on October 30th.

Steamboat Resort protests the above-mentioned petition and addendum and errata (collectively, "Petition") on the grounds that:

1. The Petition would cause injury to a legal user of water.
2. The Petition does not best serve the public interest.
3. Petition is contrary to law.
4. The Petition has adverse environmental impacts.

Our specific allegations, with supporting facts, are as follows:

- 1. The Petition would cause injury to a legal user of water.**

Steamboat Resort is not currently exercising its riparian water right, the resort's water supply comes from a well on the landside of the levee. In the event that the well goes out of service, the resort may need to utilize its riparian right for a water supply. Thus, the intakes can negatively impact the resort's riparian right in the event that the resort chooses to exercise that right.

2. The Petition does not best serve the public interest.

The proposal is not in the public interest and rather is aimed to primarily serve few large agricultural interests in the western and southern San Joaquin Valley and metropolitan interests in the southern Bay Area and Southern California. Although the metropolitan demand for water is only one-quarter of agricultural demand. Metropolitan areas served by the SWP and CVP, particularly Los Angeles, have successfully implemented water conservation measures that has in the very least maintained their water demand despite significant growth in the last 30 years. It is these municipalities that are expected to pay a lion's share for the estimated \$15 billion project through increased water rates. On the other hand, a few large agricultural conglomerates will receive a majority of the benefit of water at a subsidized cost. The Water Fix is also not drought tolerant and will not benefit any of the public interest, even the few who stand to benefit from the project, when water is needed the most. The Water Fix unequally burdens most for the benefit of the few and by definition does not serve a public interest.

Many water users and public interests will be harmed by the WaterFix. Speaking specifically for Steamboat Resort, a reduction in river flows as a result of the massive proposed pumps are a major concern. A reduction in flow will decrease the water level and reduce water quality. The past few years of low outflows due to the drought have served as an indicator of what may come as a result of reduced downstream outflow from the intakes. The resort requires a several feet of water depth to operate as a recreational facility. During the past few years of drought, the dock was left with little freeboard above the river bed during low tide. This made the inside of the dock inaccessible to boats. Very little to no modeling was done as a part of the Water Fix to indicate expected water levels in connected sloughs due to pumping activities. Based on the Effects Analysis of the 2013 Draft BDCP (p. 5C.5.4-6) it can be expected that a 3-foot drop would occur in the Sacramento River if 6000 cfs is removed via the Fremont Weir. One could infer similar impacts from removal water via the intakes on the Sacramento River. A 3-ft drop at low tide on Steamboat Slough would result in the dock resting on the river bed, eliminating its ability to be used for recreation.

Furthermore, the reduction in outflow has drastically increased the amount of non-native, invasive plant species such as water hyacinth. These invasive species have successfully choked out channels and areas used for recreational purposes in the past few drought years. Though no complete operations plan has been submitted, it appears that the intakes will be fully operational during all periods of greater than normal flows thereby decreasing the benefits of these peak outflows. Greater than normal water years flush-out the system, removing non-native species and scouring channels where sedimentation has occurred from years of low flows. Sedimentation of the channels and non-native species can negatively impact recreation by making them unnavigable. Operation of these intakes will violate the public trust doctrine that obligates the government to protect and preserve waterways for public uses.

3. Petition is contrary to law.

The proposed changes in the Petition will, in effect, initiate a new water right. The intakes will be placed upstream of water users whose water right exceeds those associated with the SWP and CVP projects. Water users within the Delta have riparian and pre-1914 water rights which are the most senior water rights within the Delta and the State of California. Moving the intakes upstream of these water right holders has the ability to put junior water right holders physically ahead in line of senior water right holders. It is only after the intakes become operational will the negative impacts to downstream senior water-right users be fully realized. These negative impacts will include reduced water levels and water quality as discussed above and be in violation of State law.

This Petition could create a similar situation to what occurred in the San Joaquin River from the construction of Friant Dam. Construction of the Friant Dam reduced flows in the San Joaquin River to the point where portions of the River completely dried up killing a Chinook salmon run and eliminating water available to riparian water users. The water users and fish agencies were forced to sue the Bureau of Reclamation to release enough water for ecological and riparian use. The lawsuits took decades, all the while riparian users and fisheries were without water. The fear is the same will occur for senior water users, environmental groups, and fisheries in the Delta. Decades long lawsuits could effectively shut down businesses dependent on Delta water (i.e. agriculture, recreational) and cause at-risk species to go extinct. While the legal framework exists to protect senior water users and environmental uses in the Delta, there are no assurances that they will not suffer unavoidable negative impacts by the Water Fix operations and be forced to sue. In light of the history of water development projects in the State, it is highly likely the Water Fix will result in such violations to existing environmental laws and senior water rights. Thus, this Petition without strict assurances to cover downstream users is contrary to law.

4. The Petition has adverse environmental impacts.

The proposed changes in points of diversion will alter flows in a manner that will unreasonably affect recreational uses of water. As previously mentioned, there is no modeling detailing the changes to water levels in rivers and sloughs downstream from the intakes on the Sacramento River. Drops in water level could make some channels impassable for boats or reduce the amount of surface area available so that two boats are unable to occupy the same width of river. A drop in flows could also eliminate the utility of downstream boat launches and docks.

Construction of the intake facilities will result in barge traffic and restricted boating zones that will directly conflict with recreational uses for the duration of the construction period, an estimated 14 years. Continuous barge traffic will essentially make boating recreation dangerous. A significant amount of boaters utilize the Sacramento River near to and downstream of the intakes along the proposed barge routes in the summer and peak fishing periods. Barge traffic will make the river extremely congested to the point where it will turn

people away from recreating in the areas of the Delta where construction is taking place for a significant amount of time.

The noise impacts from construction, primarily pile driving, will also deter tourism and recreational users. Steamboat Resort's tenants come to the resort to relax and enjoy the serene nature of the Delta. The noise and traffic from 14 years of 24-7 construction directly conflicts with the qualities that bring people to the Delta for recreation, tourism and large events such as weddings. This in turn will be a big hit to businesses that are dependent on recreation and tourism such as Steamboat Resort. Marinas, wineries, shops and farm stands will not be able to survive a significant downturn of visitors from the extended construction period. The unavoidable and significant impacts effectively shutting down these businesses will nullify the Delta as a unique place, in violation of the Delta Reform Act of 2009. This would be contrary to Water Code Section 85022.

Under what conditions may this protest be disregarded and dismissed?

This protest may be resolved upon the withdrawal of the Petition from further consideration by the State Water Resources Control Board.

All protests must be signed by the protestant or authorized representative:

Signed:  _____

Owner and resident of Steamboat Resort, Brad Pappalardo

Date: 5 January 2016

Signed:  _____

Minor owner and resident of Steamboat Resort, Emily Pappalardo

Date: 5 January 2016

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	CWFhearing@waterboards.ca.gov	<u>5 January 2016</u>
California Department of Water Resources, % James Mizell Department of Water Resources	1416 Ninth Street, Room 1104, Sacramento, CA 95818	James.Mizell@water.ca.gov	<u>5 January 2016</u>
U.S. Bureau of Reclamation Water Resources, % Amy Aufdenberge U.S. Department of the Interior	2800 Cottage Way, Sacramento, CA 95825	Amy.Aufdenberge@sol.doi.gov	<u>5 January 2016</u>