

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.waterboards.ca.gov/waterrights>

PROTEST

CALIFORNIA WATERFIX HEARING
California Department of Water Resources and U.S. Bureau of Reclamation
The Public Hearing scheduled to commence on **Thursday, April 7, 2016**

I (We) have carefully read the notice (state name):

South Valley Water Association

Address, email address and phone number of protestant or authorized agent:

c/o Alex M. Peltzer, Lead Counsel for the Protest
100 Willow Plaza, Suite 309
Visalia, CA 93291
(559) 362-2400 – Phone
(559) 553-6221 – Fax
apelzter@prlawcorp.com

Attach supplemental sheets as needed. To simplify this form, all references herein are to protests and protestants although the form may be used to file comments on temporary urgent changes and transfers.

Protest based on ENVIRONMENTAL OR PUBLIC INTEREST CONSIDERATIONS (Prior right protests should be completed in the section below):

- the proposed action will not be within the State Water Resources Control Board's jurisdiction
- not best serve the public interest
- be contrary to law
- have an adverse environmental impact

State facts which support the foregoing allegations

Under what conditions may this protest be disregarded and dismissed? (Conditions should be of a nature that the petitioner can address and may include mitigation measures.)

Protest based on INJURY TO PRIOR RIGHTS:

To the best of my (our) information and belief the proposed change or transfer will result in injury as follows: *See Attachment*

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 (identify type of right protestant claims, such as permit, license, pre-1914 appropriative or riparian right): *See Attachment*

List permit or license or statement of diversion and use numbers, which cover your use of water (if adjudicated right, list decree). *See Attachment*

Where is your diversion point located? *See Attachment* ¼ of Section ¼ of , T , R , B&M

If new point of diversion is being requested, is your point of diversion downstream from petitioner's proposed point of diversion? *See Attachment*

- a. Source _____
- b. Approximate date first use made _____
- c. Amount used (list units) _____
- d. Diversion season _____
- e. Purpose(s) of use _____

Under what conditions may this protest be disregarded and dismissed? *See Attachment* _____

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

Signed:  Date: January 4, 2016

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

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss
COUNTY OF TULARE)

I am employed in the aforesaid County, State of California ; I am over the age of 18 years and not a party to the within action; my business address is 100 Willow Plaza, Suite 309, Visalia, California 93291.

On January 5, 2016, I submitted this **PROTEST AND ITS ATTACHMENT** to the State Water Resources Control Board via electronic mail to CWFhearing@waterboards.ca.gov, with the subject "California WaterFix Hearing," and served the interested parties in this action, as stated below, by providing each a true copy thereof as follows: **SEE SERVICE LIST**

BY FIRST CLASS MAIL. I placed such envelope for deposit in the U.S. Mail for service by the United States Postal Service, with first-class postage thereon fully prepaid. I am readily familiar with my employer's practice for the collection and processing of mail. Under that practice, envelopes would be deposited with the U.S. Postal Service that same day, with first class postage thereon fully prepaid, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing shown in this proof of service.

BY FEDERAL EXPRESS. I placed such envelope for deposit in a Federal Express drop box for service by Federal Express delivery, with postage thereon fully prepaid.

BY FACSIMILE/ELECTRONIC TRANSMISSION. I caused such document to be delivered by facsimile/electronic transmission to the addressee(s) on the service list.

BY PERSONAL SERVICE:

I delivered such envelope by hand to the offices of the addressee(s).

I caused such envelope to be delivered by hand to the offices of the addressee(s).

I declare under penalty of perjury under the laws of the state of California that the above is true and correct.

Executed on January 5, 2016 at Visalia, California


Victoria Acosta

SERVICE LIST

California Department of Water Resources
c/o James Mizell
1416 Ninth Street, Room 1104
Sacramento, California 95818
James.Mizell@water.ca.gov

VIA EMAIL

U.S. Bureau of Reclamation
c/o Amy Aufdemberge
U.S. Department of Interior
Office of Regional Solicitor, Pacific Southwest Region
2800 Cottage Way
Sacramento, California 95825
Amy.Aufdemberge@sol.doi.gov

VIA EMAIL

In Re: Cal Water Fix Hearings

Petition for Change in Point of Diversion

California Department of Water Resources
and United State Bureau of Reclamation,
Petitioners

Department of Water Resources permits
16478, 16479, 16481, 16482 for the State
Water Project; and United States Bureau of
Reclamation permits 11315, 11316, 12721,
12722, 12723, 11967, 11968, 11969, 11971,
11973, and 12364 for the Central Valley
Project

Protest

**of South Valley Water Association,
Delano-Earlimart Irrigation District,
Exeter Irrigation District, Ivanhoe
Irrigation District, Lower Tule River
Irrigation District, Pixley Irrigation
District, Stone Corral Irrigation
District, Shafter Wasco Irrigation
District, and Tea Pot Dome Water
District**

I. Parties to this Protest

The parties to this Protest ("SVWA Protestants") are:

South Valley Water Association ("SVWA" or "Association")
c/o Daniel Vink, Executive Director
357 East Olive Ave.
Tipton, California 93272
(559) 686-4716

Delano-Earlimart Irrigation District
c/o Dale Brogan, General Manager
14181 Avenue 24
Delano, California 93215
(661) 725-2526

Exeter Irrigation District
c/o Thomas G. Weddle, General Manager
P.O. Box 546
Exeter, California 93221-0546
(559) 592-2181

Ivanhoe Irrigation District
c/o Thomas G. Weddle, General Manager
33777 Road 164
Visalia, California 93292-9176
(559) 796-1118

Lower Tule River Irrigation District
c/o Dan Vink, General Manager
357 East Olive Ave
Tipton, California 93272
(559) 686-4716

Pixley Irrigation District
Dan Vink, General Manager
357 East Olive Ave
Tipton, California 93272
(559) 686-4716

Stone Corral Irrigation District
c/o Dale West, General Manager
P.O. Box 367
Ivanhoe, California 93235
(559) 528-4408

Shafter Wasco Irrigation District
c/o Dana S. Munn, General Manager
P.O. Box 1168
Wasco, California 93280-8068
(661) 758-5153

Tea Pot Dome Water District
c/o Keith Norris, General Manager
105 W. Tea Pot Dome Ave.
Porterville, California 93257
(559) 784-8641

The Association is an unincorporated association, consisting of the individual districts listed above. Among the purposes of the Association is the protection and preservation of the water supplies and the associated contractual water rights of the Members and those they serve. All of the Association's members have authorized the Association to participate in these proceedings on their behalf, and have also authorized participating in this Protest as individual protestants.¹

All parties are represented herein by:

Alex M. Peltzer, Lead Counsel for this protest – apeltzer@prlawcorp.com

¹ The SVWA members were previously members of the Friant Water Authority, and while they were members of Friant Water Authority, the Authority participated on behalf of its members in various administrative proceedings that are related to the instant Petition. Also while the SVWA members were members of Friant Water Authority, the Authority developed or participated in the development of expert reports and analyses, some of which may be relied upon in support of the instant Protest.

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II. The Petition

The Petition at issue seeks to add points of diversion and rediversion contained in water rights held by the Department of Water Resources (“DWR”) and the Bureau of Reclamation (“Bureau”) (collectively, “Petitioners”) to allow the State Water Project (“SWP”) and the Central Valley Project (“CVP”) to move water through three intakes on the east bank of the Sacramento River between Clarksburg and Courtland for the purpose of implementing the California WaterFix Project, identified as Alternative 4A in the Bay Delta Conservation Plan/California WaterFix Partially Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (“RDEIR/SDEIS”). See Aug. 25 Petition, Environmental Information for Petitions, at 1; Sept. 11 Petition, Environmental Information for Petitions, at 1. The Petition specifically seeks to add points of diversion and rediversion within the Sacramento/San Joaquin Delta Estuary for DWR permits 16478, 16479, 16481 and 16482 for the SWP, and Reclamation permits 11315, 11316, 12721, 12722, 12723, 11967, 11968, 11969, 11971, 11973 and 12364 for the CVP. See Supplemental Information for Petition for Change in Point of Diversion (Aug. 25, 2015), at 1.

III. Summary of Protest

Petitioners must show that the Petition’s proposed changes to water rights will not cause injury to any other legal user of the water involved. SVWA Protestants, as CVP contractors who depend on the Bureau to deliver water from both the San Joaquin River and the Delta in accordance with established water rights and contractual obligations, are legal users of the water involved. However, due to serious flaws in the environmental documents submitted in support of the Petition, Petitioners cannot demonstrate a reasonable likelihood that the Petition’s proposed changes will not injure SVWA Protestants. On the contrary, to the extent the data can be used to draw any meaningful conclusions at all, it suggests the opposite finding: that the Petition’s proposed changes *will* cause injury, both to SVWA Protestants’ water rights and to SVWA Protestants’ contractual rights. The Petition must therefore be denied.

IV. Protest

A. Standard for Granting Petition

Pursuant to Water Code § 1702, Petitioners must establish to the Board’s satisfaction, and the Board must find, that the change will not operate to the injury of any legal user of the water involved. Satisfying this standard requires that the Petition contain “sufficient information to demonstrate a reasonable likelihood that the proposed change will not injure any other legal user of water.” § 1701.1(d). The term “legal user of water” employed in § 1702 is not limited to the

holder of an appropriative water right, but encompasses any person who legally uses the water involved, including one who uses the water pursuant to a contract with the appropriative right holder. See State Water Resources Control Bd. Cases, 136 Cal. App. 4th at 804; Decision 1651, 2012 WL 5494093 at *14. Further, the effect of the proposed change on the rights of others is the controlling consideration in the “no injury” inquiry. State Water Resources Control Bd. Cases, 136 Cal. App. 4th 674, 740, 39 Cal. Rptr. 3d 189, 242 (2006). Determining that effect requires resolution of two questions: First, does the objecting party have a right to the water involved? And second, will the proposed change have an injurious effect on that right, whatever the source of that right may be? See id., 136 Cal. App. 4th at 740; see also In re Petition for Reconsideration by Truckee-Carson Irrigation District, City of Fallon, & Churchill County Regarding Water Right Decision 1651, Order WR 2013-0009, 2013 WL 492576 at *5 (Cal. St. Wat. Res. Control Bd. Feb. 5, 2013).

B. SVWA Protestants Are Legal Users of Water

All of the Association Members, other than Pixley Irrigation District, hold permanent Repayment Contracts with the United States entitling them to a supply of water from the San Joaquin River through Millerton Reservoir and the Friant-Kern Canal, a component of the CVP. The Association Members’ Repayment Contracts are listed in the following table, along with the number of the contract² between the member and the United States Department of the Interior, Bureau of Reclamation, and the quantities of Class 1 Water and Class 2 Water to which the member is entitled.

District	Contract No.	Quantity of Class 1 Water (Acre Feet)	Quantity of Class 2 Water (Acre Feet)
Delano-Earlimart Irrigation District	I75r-3327D	108,800	74,500
Exeter Irrigation District	I75r-2508D	11,500	19,000
Ivanhoe Irrigation District	I75r-1809D	6,500	500
Lower Tule River Irrigation District	I75r-2771D	61,200	238,000

² Pixley Irrigation District does not hold a permanent Repayment Contract, but does hold a contract with the United States for a Cross Valley Canal water supply, which entitles the District to certain benefits from the Friant Division facilities, including access to Section 215 water supplies and ability to receive transfer water from Friant Division Repayment Contractors.

Stone Corral Irrigation District	I75r-2555D	10,000	0
Shafter Wasco Irrigation District	14-06-200-4032D	50,000	39,600
Tea Pot Dome Water District	14-06-200-7430D	7,500	0
Totals		255,500	371,600

The above-described contracts, entered into pursuant to Section 9(d) of the Federal Reclamation Act of 1939, establish a permanent, contractual right to the stated water quantities. Through the above contracts, the Bureau pledged to “make reasonable efforts to protect the water rights [of the Friant Division] ... and to provide the water available under this Contract.” Repayment Contracts, Art. 3(j). The Bureau also committed to “make all reasonable efforts to maintain sufficient flows and levels of water in the Friant-Kern Canal to deliver Project Water to [Friant contractors] at specific turnouts.” *Id.*, at Art. 5(b).

C. SVWA Protestants Hold Rights to the Water Involved in the Petition

The Bureau’s water rights to the San Joaquin River and the Sacramento River and Delta were acquired for project purposes and are therefore held in trust for water users, including SVWA Protestants, who put the water to beneficial use. In addition, Article 3(n) of SVWA Protestants’ Repayment Contracts with the Bureau establishes contractual rights in favor of SVWA Protestants with regard to the Bureau’s dispensation of water from the San Joaquin River and the Sacramento River and Delta.

1. SVWA Protestants’ interest in the San Joaquin River.

Prior to the construction of the Friant dam, and in order to provide a water supply for the Repayment Contracts (and the Water Service Contracts that preceded them), it was necessary for the Bureau to enter into water rights settlement contracts with downstream riparian water rights holders on the San Joaquin River. Westlands Water District v. United States, 153 F.Supp.2d 1133, 1143 (“Westlands VI”), *aff’d*, 337 F.3d 1092 (9th Cir. 2003) (“Westlands VII”). Thus, in 1939 the Bureau executed contracts with the owners of pre-1914 riparian and appropriative rights along the San Joaquin River (the “Exchange Contractors”). *Id.* These agreements, the Purchase Contract and the Exchange Contract, together allow the Bureau to divert nearly the entire flow of the San Joaquin River for delivery to Friant Division contractors.

Under the Purchase Contract, the Exchange Contractors sold all of their rights to water from the upper San Joaquin River to the United States, except for “reserved water,” water to which the Exchange Contractors held vested rights. Westlands Water District v. Patterson, 900 F.Supp. 1304, 1310 (E.D. Cal. 1995) (“Westlands IV”) *rev’d sub nom. on unrelated grounds*,

Westlands Water District v. United States, 100 F.3d 94 (9th Cir. 1996) (“Westlands V”). Simultaneously, under the Exchange Contract, the Exchange Contractors agreed not to exercise their rights to reserved water, as long as they received substitute water from the Federal Delta–Mendota Canal, or other sources that delivered to the Mendota Pool. Id.

The rights obtained by the United States under the Purchase Contract hold priorities of 1916, 1919 and 1927. See State Board Decision 935 (June 2, 1959) (“D-935”). These rights are not conditional; however, they exclude certain priority flows of the San Joaquin River which the Exchange Contractors reserved to themselves—i.e., the “reserved water” mentioned above. The Bureau’s rights under the Exchange Contract, in contrast, are conditional: the Exchange Contractors agreed not to exercise their right to “reserved water” “only so long as, the United States does deliver to the [Exchange Contractors] ... substitute water.” Westlands VI, 153 F.Supp.2d at 1155. Thus, if, as has been the case for the past two years, the United States is unable to deliver substitute water to the Exchange Contractors, the Exchange Contractors exercise their reserved rights to the San Joaquin River in accordance with the Purchase and Exchange Contracts.

The United States, through the Bureau, holds the rights identified in the Purchase and Exchange Contracts in trust for water users, including SVWA Protestants. See Westlands VI, 153 F. Supp. 2d 1133, 1149, 1170-71, 1173, 1175 (E.D. Cal. 2001) (“Westlands VI”), aff’d, 337 F.3d 1092 (9th Cir. 2003) (“Westlands VII”). In D-935, the Board considered the Bureau’s application to appropriate unappropriated waters of the San Joaquin River. In that proceeding, the Bureau objected to the inclusion of conditions in the permit declaring a trusteeship of the United States with respect to the rights under consideration. In the Bureau’s view, imposition of the condition was outside of the Board’s authority and discriminatory against the United States. See D-935, at 90. However, the Board flatly rejected these contentions. See id. at 90. As the Board explained:

[B]y force of applicable, law, state and federal, the United States holds all water rights acquired for project purposes in trust for the project beneficiaries who by use of the water on the land will become the true owners of the perpetual right to continue such use.

Id. at 99.

2. SVWA Protestants’ rights in the Sacramento River and Delta.

As with the Bureau’s rights in the San Joaquin River, the Bureau’s Sacramento River and Delta rights were acquired for a project purpose and are therefore held in trust for project beneficiaries, including SVWA Protestants.

In order to exercise its conditional right to provide Friant Division contractors with water from the San Joaquin River, the United States must provide the Exchange Contractors with a substitute supply from another source. Thus, pursuant to D-990, the Bureau obtained rights to store and divert Sacramento River and Delta flows as a source for the Exchange Contractors’ substitute supply. See State Board Decision 990 (Feb 2, 1961) (“D-990”) (Applications 5625, 5626, 9363, 9364, 9365, 10588).

Although ostensibly for the benefit of the Exchange Contractors, the Bureau's acquisition of Delta rights was for a "project purpose." Without Delta rights, the Bureau would be unable to deliver a permanent substitute supply to the Exchange Contractors. This, in turn, would lead the Exchange Contractors to exercise their reserved rights to San Joaquin River water, thereby eliminating the source of water used to serve the Friant Division and jeopardizing CVP operations. See Westlands VI, 153 F.Supp.2d at 1168. Recognizing the need to secure a source for the Exchange Contractors' substitute supply, the Bureau's applications, and the Board's subsequent order granting the associated permits, contained a requirement to provide 855,000 acre feet of water through the Delta-Mendota Canal to the Exchange Contractors. See D-990, at 18.

D-990 also reaffirmed D-935's conclusion that the United States holds all water rights acquired for project purposes in trust for the project beneficiaries who use project water. Therefore, just as with the Bureau's San Joaquin River diversion rights secured under D-935, the Bureau's Delta and Sacramento River rights secured under D-990 are held in trust for the benefit of the legal users of the water, which includes SVWA Protestants. See id., at 77-78 ("[T]he United States holds all water rights acquired for project purposes in trust for the project beneficiaries who by use of the water on the land will become the true owners of the perpetual right to continue such use subject only to continued beneficial use and to observance of any and all contractual commitments to the United States.").

Although the Exchange Contractors are the direct users of the water diverted through the Delta-Mendota Canal, satisfying the Exchange Contract is a necessary pre-condition to the United States' right to divert San Joaquin River water for delivery to SVWA Protestants. Thus, the Bureau must exercise its Sacramento River and Delta rights to serve the Exchange Contractors if it is to be able to exercise its San Joaquin River rights to serve SVWA Protestants. Accordingly, because the Bureau's San Joaquin River rights are contingent upon the Bureau's Sacramento River and Delta rights, SVWA Protestants continued beneficial use of San Joaquin River water establishes a trust relationship with respect to the rights the Bureau acquired in D-990 for the purpose of satisfying the Exchange Contract.

3. SVWA Protestants' contract rights in the San Joaquin River and the Sacramento River and Delta.

All of the Association's Members' Repayment Contracts contain Article 3(n). Article 3(n) not only establishes a Friant Division priority to waters of the San Joaquin River as against all other CVP contractors, it also prohibits the Bureau from taking action that renders the agency unable to satisfy prior rights holders with water delivered from the Delta.

Article 3(n) was an amendment added in response to the authorization and development of the San Luis Unit in 1960. Concerned that the addition of the San Luis Unit would reduce the availability of Sacramento River and Delta water, which in turn would cause the Exchange Contractors to exercise their reserved rights to the San Joaquin River, Friant Division contractors began negotiating with the Bureau seeking assurances that their water supply would not be adversely affected by increased demand placed on the Delta. See Westlands Water District v. Patterson, 864 F. Supp. 1536, 1547 (E.D. Cal. 1994) ("Westlands III"). Interior's Thomas Clarke

responded to these concerns in a memorandum of understanding dated December 29, 1959, in which he represented that:

[I]t has been, is and will continue to be the policy and practice of the United States *to utilize the water available.... from the Sacramento River and its tributaries and the Sacramento–San Joaquin Delta to first satisfy the requirements of the Exchange Contract ... so long as it is legally and reasonably physically possible to satisfy these requirements; provided that the United States has not, and will not voluntarily impair the delivery of water required to satisfy those requirements.*

Westlands VI, 153 F.Supp.2d at 1156 (emphasis added); see also id., at 1157, fn 31 (finding that the Clarke Letter shows that “Friant Division water-users foresaw the need to maintain the Bureau’s ability to service the Friant Division, and sought written confirmation ... that appropriated Sacramento River and Delta water [w]as the primary source for substitute water under the Exchange Contract”).

Consistent with the Clarke memorandum, and in exchange for Friant Division’s non-opposition to the place-of-use application for the then-proposed San Luis Unit, the Bureau agreed to amend Friant’s contracts by adding Article 3(n). See Westlands IV, 900 F.Supp. at 1317 (“In consideration of the Friant water districts’ non-opposition to the [place-of-use application for the proposed San Luis Unit], the Bureau agreed to amend [Friant’s] contracts.”). As evident from the Clarke memorandum, the amendment was intended to alleviate Friant’s concerns regarding the increased risk that the Exchange Contractors would claim their reserved San Joaquin River rights in the event of a Delta shortage. Toward that end, Article 3(n) provides:

[T]he United States agrees that it *will not deliver to the [Exchange Contractors] waters of the San Joaquin River unless and until required by the terms of [the Exchange Contract]* ... and the United States further agrees that it *will not voluntarily and knowingly render itself unable to deliver to the parties entitled thereto from water that is available or that may become available to it from the Sacramento River and its tributaries of the Sacramento–San Joaquin Delta* those quantities required to satisfy the obligations of the United States [to the Exchange Contractors].

Although it was understood that the Delta would be the primary source of the Exchange Contractors’ substitute supply, the Exchange Contract itself does not mandate where that water must come from. See Westlands VI, 153 F.Supp.2d at 1166. Rather, it commits the United States “to provide substitute water to the Exchange Contractors from any source selected by Interior in its discretion.” Id. Thus, under the terms of the Exchange Contract, the Bureau must deliver San Joaquin River water to the Exchange Contractors *only if* there is no other source available. Read in conjunction with the relevant provisions of the Exchange Contract, Article 3(n) thus prohibits the Bureau from delivering San Joaquin River water to the Exchange Contractors except when there is no other source available to provide the Exchange Contractors’ substitute supply. If any other source is available (i.e., *any* source other than the San Joaquin River) then, pursuant to Article 3(n), the Bureau must use that source. Thus, because Friant Division contractors’ rights to the San Joaquin River are junior only to the Exchange Contractors’ pre-1914 riparian and

appropriate rights, and because Article 3(n) prohibits the Bureau from delivering San Joaquin River water to the Exchange Contractors except when there is no other source available, Friant Division contractors hold priority rights to the San Joaquin River to the extent those flows are not required to satisfy the Exchange Contractors. In other words, the Exchange Contract and Article 3(n) effectively create a Friant Division priority on the San Joaquin River as against all other CVP contractors.

In addition to establishing a Friant Division priority to San Joaquin River flows, Article 3(n) prohibits the Bureau from taking any voluntary and knowing action that renders the agency unable to deliver to the Exchange Contractors water that is, or may become, available from the Sacramento River or the Delta. Thus, Article 3(n) also establishes a contractual right in favor of SVWA Protestants against the Bureau's engaging in certain prohibited conduct.

D. Petitioners Cannot Meet Their Burden of Showing a Reasonable Likelihood that the Proposed Change Will Not Injure the Rights of Other Legal Users of the Water Involved

Through a combination of an erroneous definition of the No Action Alternative, an improper assumption of expanding uses, and an arbitrary prediction of future Delta outflow requirements, the Petitioners would effectively nullify the priority of Friant Division entitlements by shorting deliveries to or substitute water to senior downstream San Joaquin River water right holders. The Exchange Contractors are entitled to exercise their reserved water rights if the United States fails to meet its obligation to provide substitute water under the Exchange Contract. However, the RDEIR/SDEIS cannot show that Alternative 4A will fully satisfy the Government's obligation to the Exchange Contractors. Therefore, Petitioners cannot show a reasonable likelihood that the Petition's proposed changes will not injure SVWA Protestants rights to the water involved. For this reason, the Petition must be denied.

1. The Petition does not include an operations plan.

The Petition is unable to demonstrate a reasonable likelihood that the proposed change will not injure any other legal user of water because it does not include an operations plan. Normally, the United States sets forth its proposed operations for the CVP in the Operations Criteria and Plan (OCAP), which gives potentially affected contractors—the legal users of CVP water—written notice and an opportunity to review, comment, and be heard with respect to proposed operational parameters and their potential impact on CVP contractors. Here, however, the Petition fails to disclose any operations plan explaining how the SWP and CVP will be operated after the proposed new facilities and points of diversion and rediversion are constructed and operational. Further, Petitioners have made no attempt to model the potential impacts of those operations. However, absent sufficient modeling data to support a well-defined operations plan, the Petition cannot make any credible showing that other legal users of water will not be injured as a result of the Petition's proposed changes.

Even assuming Petitioners intend to put Alternative 4A forward as an operations plan, Alternative 4A lacks sufficient detail to support the Petition's approval. Alternative 4A relies on an adaptive management and monitoring program whereby operations change in response to new

science and data. See Bay Delta Conservation Plan/California WaterFix RDEIR/SDEIS, at ES-37-39. Essentially little more than a trial-and-error approach, Alternative 4A's adaptive management program forecloses any meaningful assessment of the project's impacts because it bases project operations on the results of future monitoring and study. Id. But the results of future science cannot presently be known and, consequently, neither can project operations under Alternative 4A.

Indeed, RDEIR/SDEIS even admits that its model results under extreme conditions "may not be representative of actual future conditions because changes in assumed operations may be implemented to avoid these conditions." See Bay Delta Conservation Plan/California WaterFix RDEIR/SDEIS, at 4.3.1-6; see also id. at 5-2 ("Under extreme hydrologic and operational conditions where there is not enough water supply to meet all requirements, CALSIM II utilizes a series of operating rules to reach a solution to allow for the continuation of the simulation. It is recognized that these operating rules are a simplified version of the very complex decision processes that SWP and CVP operations would use in actual extreme conditions. Therefore, model results and potential changes under these extreme conditions should be evaluated on a comparative basis between alternatives and are an approximation of extreme operational conditions."). The RDEIR/SDEIS also acknowledges that "long-term results of SWP/CVP operations may be different than described due to changes in location and extent of tidal marsh restoration." Id. In light of these inadequacies, the modeling results associated with Alternative 4A cannot sustain the Petition's approval.

2. The Petition's inaccurate description of the No Action Alternative is inappropriately used as a baseline for determining injury to other legal water users.

In order to determine whether a legal user of water will be injured by the Petition, the Petition must accurately describe the baseline condition as compared to the condition that will result from the Petition's proposed changes. The Petition uses the No Action Alternative, as defined in the California WaterFix RDEIR/SDEIS, as the baseline for this determination. Using that baseline, the RDEIR/SDEIS concludes that there will be no shortages in delivery of Sacramento River water and Delta water. However, in defining the No Action Alternative the RDEIR/SDEIS makes a number of crucial assumptions regarding the facilities and operations of the CVP and SWP. See Report on Review of Bay Delta Conservation Program Modeling, at 4. As a result, the No Action Alternative predicts water delivery reductions that are completely illusory. Id. The RDEIR/SDEIS then analyzes whether Alternative 4A will cause injury to other legal users by comparing its impacts against this flawed baseline. However, because the assumptions implicit in the No Action Alternative artificially manufacture a reduced level of water deliveries, the Petition effectively conceals the true impacts of its proposed changes.

3. The Petition contains inaccuracies, inconsistencies, and contradictions that fundamentally compromise its analysis of the effects on other legal water users.

The Petition asserts that it "leaves intact all existing places of use, manner of use, other existing points of diversion, quantities of diversion and other water rights terms and conditions

identified in Water Rights Decision 1641 (D-1641). Supplemental Information for Petition for Change in Point of Diversion (Aug. 25, 2015), at 9. The Petition further represents that “existing obligations will continue to be met and beneficial uses in the Delta will not be negatively impacted by operations with the new point of diversion.” *Id.* at 19. “[O]perations both now and in the future will not impact the quantity of water available for water users in the watershed because these demands are accounted for prior to diversions to storage or export.” *Id.* “[T]he requested changes to points of diversion/rediversion identified in Alternative 4A would not detract from the ability of the SWP/CVP to meet current or future criteria or objectives.” *Id.* at 10. “[T]here are no requested changes to the SWP or CVP quantity or timing of diversion, place of use, return flows, or consumptive uses of water ... [and] this Petition does not request any modification of D-1641 obligations.” *Id.* at 19. “In addition to the priority system, water rights that are in the Area of Origin are protected by existing state law which provides that the CVP and SWP can only export water that is surplus to the legitimate water needs of the Bay-Delta watershed. The Petitioners operate the Projects consistent with the priority system and Area of Origin protections.” *Id.* at 20. “Deliveries to the CVP Settlement, Refuge, and Exchange Contractors . . . will continue to be made under the terms of those agreements. This Petition does not propose any changes to any contractual obligations.” *Id.* at 21.

These assertions, however, are belied by the supporting documentation included or referred to within the Petition. For instance, despite representing that the Petition “leaves intact all existing ... rights[,] terms and conditions identified in [D-1641],” according to the RDEIR/SDEIS “Alternative 4A proposes a range of spring outflows *above* D-1641.” *Id.* at 1 (emphasis added). Obviously these statements cannot both be true. Indeed, the RDEIR/SDEIS later admits that “the exact flows proposed in Alternative 4(a) will be determined using [a] science based adaptive management process.” *Id.* at 14. Thus, the RDEIR/SDEIS explains, “if best available science resulting from collaborative scientific research program shows that Longfin Smelt abundance can be maintained in the absence of spring outflow ... an alternative operation for spring outflow could be to follow flow constraints established under D-1641.” *Id.* at 4.1-9 n.17. By providing for an “alternative operation” that “follow[]s flow constraints established under D-1641,” it is clear that Alternative 4A contemplates at least some departure from D-1641, even if the extent of that departure cannot presently be known.

E. The Petition’s Proposed Changes Will Injure SVWA Protestants’ Rights to the Water Involved

As explained above, SVWA Protestants are legal users of water who hold contract rights and water rights to water from the San Joaquin River and the Sacramento River and Delta. If the Petition is granted, those rights will be injured to the extent of any reduction in water delivered to the Exchange Contractors from the Delta or to the Friant Division contractors from the San Joaquin River.

1. The proposed changes will injure SVWA Protestants’ contract rights.

SVWA Protestants possess a contractual right prohibiting the Bureau from taking any voluntary and knowing action that renders the agency unable to deliver to the Exchange Contractors water that is, or may become, available from the Sacramento River or the Delta. See

Repayment Contracts, Article 3(n) (“[T]he United States further agrees that it will not voluntarily and knowingly render itself unable to deliver to the [Exchange Contractors] from water that is available or that may become available to it from the Sacramento River and ... the ... Delta.”).

The Bureau’s submission of this Petition, and its decision to implement Alternative 4A, is plainly a voluntary act within the meaning of Article 3(n). Moreover, the environmental documents submitted with the Petition clearly establish that, if implemented, Alternative 4A would reduce Delta exports during dry years. See Bay Delta Conservation Plan/California WaterFix RDEIR/SDEIS, at 5-9. However, a reduction in Delta exports could render the Bureau unable to deliver Delta water to the Exchange Contractors. Thus, to the extent that implementation of Alternative 4A would cause a reduction in Delta exports, or would otherwise cause the Bureau to be unable to deliver to the Exchange Contractors water from the Delta and Sacramento River, SVWA Protestants’ Article 3(n) rights would be injured. Accordingly, to avoid injury to these rights, any order approving the Petition’s proposed changes must be made contingent upon the Bureau’s compliance with Article 3(n).

2. The proposed changes will injure SVWA Protestants’ water rights.

The RDEIR/SDEIS indicates that Alternative 4A’s implementation would likely diminish SVWA Protestants’ access to water, either directly, by reducing the amount of water available to satisfy SVWA Protestants’ priority rights to the San Joaquin River, or indirectly, by reducing Delta deliveries to satisfy the Exchange Contractors. Consequently, the Petition’s proposed changes would injure SVWA Protestants rights to the water involved.

The Petition represents that “[d]eliveries to the ... CVP Settlement, Refuge, and Exchange Contractors ... will continue to be made under the terms of those agreements. This Petition does not propose any changes to any contractual obligations.” Supplemental Information for Petition for Change in Point of Diversion (Aug. 25, 2015), at 21. However, the RDEIR/SDEIS indicates only that deliveries to the Exchange Contractors under Alternative 4A would “remain” at 814,000 acre feet.³ See Bay Delta Conservation Plan/California WaterFix RDEIR/SDEIS, at B-40. Crucially, it does not reveal the *source* of deliveries to the Exchange Contractors (e.g., whether those delivers come from the Sacramento River and Delta, from the San Joaquin River, from a combination of these sources, or from other sources). It also does not explain why deliveries to the Exchange Contractors in dry years would not meet their entitlement of 840,000 acre feet, or disclose whether deliveries to the additional “Settlement Contractors” identified on Exhibit A to the Friant/SLDMWA MOU would occur, and if so, in what amount. Furthermore, there is no indication of the assumed losses Reclamation used in the past when determining diversions required to meet its Exchange Contract delivery obligation.

³ Article 8 of the Second Amended Contract for Exchange of Waters, Contract Ilr-1144, dated Feb. 14, 1968, entitles the Exchange Contractors to substitute water in an amount not to exceed 840,000 acre feet in all calendar years other than those defined as critical, and to an amount not to exceed 650,000 acre feet in critical calendar years. Reclamation in the past assumed a 10% loss in deliveries to the Exchange Contractors. See Bureau of Reclamation, San Luis Unit, West San Joaquin Division, Central Valley Project (Ultimate Plan), Appendix, Import Water Supply (May 1954) at 00308, 00311-12.

The RDEIR/SDEIS also shows that CVP south of Delta agricultural deliveries under Alternative 4A for “Annual (Mar-Feb)” will fall short of the Existing Conditions. *Id.*, at 4.3.1-5. Similarly, modeling of Alternative 4A’s impact on San Joaquin River mean flows at Vernalis in comparison to Existing Conditions predicts less flow at critical times of the year. *See id.*, at 4.3.1-1. Such impacts would seriously injure SVWA Protestants rights in the San Joaquin River and the Delta, either directly by reducing the San Joaquin River supply or indirectly by reducing Delta deliveries to the Exchange Contractors. In either event, less water is available to satisfy SVWA Protestants’ rights.

In addition to the overall recognition that deliveries south of the Delta will be reduced, the specifics of the prediction, as they are explained in the RDEIR/SDEIS, are extremely unclear and speculative, and in some cases even contradictory. Without more complete and accurate modeling, the extent of the effect of the proposed change on the rights of other legal water users cannot be reliably ascertained.

V. Terms and Conditions Under Which This Protest May Be Disregarded or Dismissed

The Form of Protest inquires under what conditions this Protest may be disregarded or dismissed. The Parties to this Protest respond as follows:

The Friant Division contractors, including the SVWA Protestants, have developed terms and conditions that must be incorporated into any revised permits approved by the Board in response to the Petition, to prevent injury to the legal users of CVP water entitled to delivery of Friant Division water supplies:

1. Any permit issued in response to the Petition shall be subject to vested rights.
2. All rights and privileges under any permit issued in response to the Permit are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare.
3. No permit issued in response to the Petition shall alter the quantity or timing of diversion, place of use, return flows, or consumptive uses of water in the State Water Project and Central Valley Project.
4. Existing obligations shall continue to be met and beneficial uses of water shall not be impacted negatively by operations under any permit issued in response to the Petition. Without limiting the generality of the preceding sentence, there shall be no changes to any contractual obligations as a result of the granting of all or any part of the Petition.
5. Any operations plan developed as a result of granting all or any part of the Petition shall not injure any legal user of water.
6. Consistent with its obligations to the Friant Division long-term contractors under the terms of the Friant Division repayment contracts and water service contracts, the United States shall not deliver waters of the San Joaquin River to the Exchange Contractors (as

identified under the Exchange Contract), unless and until required by the terms of the Exchange Contract;

7. Consistent with its obligations to the Friant Division long-term contractors under the terms of the Friant Division repayment contracts and water service contracts, the United States shall not voluntarily and knowingly determine itself unable to deliver to the Exchange Contractors, from water that is available or that may become available to the United States from the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta, those quantities of substitute water required to satisfy the obligations of the United States under the Exchange Contract
8. The United States acknowledges that the federal courts have resolved numerous issues arising from establishment and operation of the CVP and SWP, and that those decisions are final and binding.
9. Any permit revised in response to the Petition shall be subject to Water Rights Decisions D-935 and D-990.
10. The United States acknowledges and agrees that the operation of the Friant Division have never been fully integrated with the operation of the remaining units of the CVP. Through this Petition, the United States has not sought the permission of the State Water Resources Control Board to integrate the Friant Division operation with the operation of the other units of the CVP, and the United States shall not seek to do so in the future unless each of the Friant Division contractors agrees to support operational integration of the Friant Division into the CVP.
11. The United States and DWR must ensure that the COA, as amended:
 - a. Honors the United States' legal obligation to treat the Exchange Contractor substitute supply as a "vested priority obligation" that the United States must satisfy, consistent with the terms of the Exchange and Purchase Contracts, without including it in the CVP available supply;
 - b. Specifies that only the "CVP available supply" is subject to sharing under the COA;
 - c. Does not apply the percentages developed for Sacramento Valley in-basin uses outside of the context for which they were developed;
 - d. Provides a new means of sharing responsibility for requirements such as Delta outflow (and other water quality flows) and Delta pumping constraints, and the sharing of those burdens must be equitable to both the CVP and SWP. Current percentages are not proportional between the CVP and SWP and negatively impact the CVP; the COA must be amended to correct that inequity;
 - e. Provides for sharing of responsibility for Sacramento Valley in-basin uses that is fair to the CVP and SWP. The COA, as amended, cannot assign the CVP direct or indirect responsibility for meeting SWP's senior water right obligations or the

indirect effects caused by DWR's allocation decisions, such as occurred in 2014 where DWR's decision to increase the allocation to Feather River Settlement Contractors (SWP Contractors) to 100% imposed increased Delta Water Quality and outflow obligations on the CVP;

- f. Consistent with the multi-party water user agreement reached in 2006, San Joaquin River Restoration Flows entering the Delta must be recognized as CVP water. For purposes of CVP exports and COA accounting, Reclamation must ensure that San Joaquin River Restoration Flows are not subject to use by contractors outside the Friant Division or by Reclamation as offsets for COA obligations.

The Foregoing Protest Submitted is Submitted This 5th Day of January, 2016, by:

Alex M. Peltzer

Attorney for:

**South Valley Water Association
Delano-Earlimart Irrigation District
Exeter Irrigation District
Ivanhoe Irrigation District
Lower Tule River Irrigation District
Pixley Irrigation District
Stone Corral Irrigation District
Shafter Wasco Irrigation District
Tea Pot Dome Water District**

In Re: Cal Water Fix Hearings

Petition for Change in Point of Diversion

California Department of Water Resources
and United State Bureau of Reclamation,
Petitioners

Department of Water Resources permits
16478, 16479, 16481, 16482 for the State
Water Project; and United States Bureau of
Reclamation permits 11315, 11316, 12721,
12722, 12723, 11967, 11968, 11969, 11971,
11973, and 12364 for the Central Valley
Project

Protest

**of South Valley Water Association,
Delano-Earlimart Irrigation District,
Exeter Irrigation District, Ivanhoe
Irrigation District, Lower Tule River
Irrigation District, Pixley Irrigation
District, Stone Corral Irrigation
District, Shafter Wasco Irrigation
District, and Tea Pot Dome Water
District**

I. Parties to this Protest

The parties to this Protest ("SVWA Protestants") are:

South Valley Water Association ("SVWA" or "Association")
c/o Daniel Vink, Executive Director
357 East Olive Ave.
Tipton, California 93272
(559) 686-4716

Delano-Earlimart Irrigation District
c/o Dale Brogan, General Manager
14181 Avenue 24
Delano, California 93215
(661) 725-2526

Exeter Irrigation District
c/o Thomas G. Weddle, General Manager
P.O. Box 546
Exeter, California 93221-0546
(559) 592-2181

Ivanhoe Irrigation District
c/o Thomas G. Weddle, General Manager
33777 Road 164
Visalia, California 93292-9176
(559) 796-1118

Lower Tule River Irrigation District
c/o Dan Vink, General Manager
357 East Olive Ave
Tipton, California 93272
(559) 686-4716

Pixley Irrigation District
Dan Vink, General Manager
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Tipton, California 93272
(559) 686-4716

Stone Corral Irrigation District
c/o Dale West, General Manager
P.O. Box 367
Ivanhoe, California 93235
(559) 528-4408

Shafter Wasco Irrigation District
c/o Dana S. Munn, General Manager
P.O. Box 1168
Wasco, California 93280-8068
(661) 758-5153

Tea Pot Dome Water District
c/o Keith Norris, General Manager
105 W. Tea Pot Dome Ave.
Porterville, California 93257
(559) 784-8641

The Association is an unincorporated association, consisting of the individual districts listed above. Among the purposes of the Association is the protection and preservation of the water supplies and the associated contractual water rights of the Members and those they serve. All of the Association's members have authorized the Association to participate in these proceedings on their behalf, and have also authorized participating in this Protest as individual protestants.¹

All parties are represented herein by:

Alex M. Peltzer, Lead Counsel for this protest – apeltzer@prlawcorp.com

¹ The SVWA members were previously members of the Friant Water Authority, and while they were members of Friant Water Authority, the Authority participated on behalf of its members in various administrative proceedings that are related to the instant Petition. Also while the SVWA members were members of Friant Water Authority, the Authority developed or participated in the development of expert reports and analyses, some of which may be relied upon in support of the instant Protest.

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II. The Petition

The Petition at issue seeks to add points of diversion and rediversion contained in water rights held by the Department of Water Resources (“DWR”) and the Bureau of Reclamation (“Bureau”) (collectively, “Petitioners”) to allow the State Water Project (“SWP”) and the Central Valley Project (“CVP”) to move water through three intakes on the east bank of the Sacramento River between Clarksburg and Courtland for the purpose of implementing the California WaterFix Project, identified as Alternative 4A in the Bay Delta Conservation Plan/California WaterFix Partially Recirculated Draft Environmental Impact Report/Supplemental Draft Environmental Impact Statement (“RDEIR/SDEIS”). See Aug. 25 Petition, Environmental Information for Petitions, at 1; Sept. 11 Petition, Environmental Information for Petitions, at 1. The Petition specifically seeks to add points of diversion and rediversion within the Sacramento/San Joaquin Delta Estuary for DWR permits 16478, 16479, 16481 and 16482 for the SWP, and Reclamation permits 11315, 11316, 12721, 12722, 12723, 11967, 11968, 11969, 11971, 11973 and 12364 for the CVP. See Supplemental Information for Petition for Change in Point of Diversion (Aug. 25, 2015), at 1.

III. Summary of Protest

Petitioners must show that the Petition’s proposed changes to water rights will not cause injury to any other legal user of the water involved. SVWA Protestants, as CVP contractors who depend on the Bureau to deliver water from both the San Joaquin River and the Delta in accordance with established water rights and contractual obligations, are legal users of the water involved. However, due to serious flaws in the environmental documents submitted in support of the Petition, Petitioners cannot demonstrate a reasonable likelihood that the Petition’s proposed changes will not injure SVWA Protestants. On the contrary, to the extent the data can be used to draw any meaningful conclusions at all, it suggests the opposite finding: that the Petition’s proposed changes *will* cause injury, both to SVWA Protestants’ water rights and to SVWA Protestants’ contractual rights. The Petition must therefore be denied.

IV. Protest

A. Standard for Granting Petition

Pursuant to Water Code § 1702, Petitioners must establish to the Board’s satisfaction, and the Board must find, that the change will not operate to the injury of any legal user of the water involved. Satisfying this standard requires that the Petition contain “sufficient information to demonstrate a reasonable likelihood that the proposed change will not injure any other legal user of water.” § 1701.1(d). The term “legal user of water” employed in § 1702 is not limited to the

holder of an appropriative water right, but encompasses any person who legally uses the water involved, including one who uses the water pursuant to a contract with the appropriative right holder. See State Water Resources Control Bd. Cases, 136 Cal. App. 4th at 804; Decision 1651, 2012 WL 5494093 at *14. Further, the effect of the proposed change on the rights of others is the controlling consideration in the “no injury” inquiry. State Water Resources Control Bd. Cases, 136 Cal. App. 4th 674, 740, 39 Cal. Rptr. 3d 189, 242 (2006). Determining that effect requires resolution of two questions: First, does the objecting party have a right to the water involved? And second, will the proposed change have an injurious effect on that right, whatever the source of that right may be? See id., 136 Cal. App. 4th at 740; see also In re Petition for Reconsideration by Truckee-Carson Irrigation District, City of Fallon, & Churchill County Regarding Water Right Decision 1651, Order WR 2013-0009, 2013 WL 492576 at *5 (Cal. St. Wat. Res. Control Bd. Feb. 5, 2013).

B. SVWA Protestants Are Legal Users of Water

All of the Association Members, other than Pixley Irrigation District, hold permanent Repayment Contracts with the United States entitling them to a supply of water from the San Joaquin River through Millerton Reservoir and the Friant-Kern Canal, a component of the CVP. The Association Members’ Repayment Contracts are listed in the following table, along with the number of the contract² between the member and the United States Department of the Interior, Bureau of Reclamation, and the quantities of Class 1 Water and Class 2 Water to which the member is entitled.

District	Contract No.	Quantity of Class 1 Water (Acre Feet)	Quantity of Class 2 Water (Acre Feet)
Delano-Earlimart Irrigation District	I75r-3327D	108,800	74,500
Exeter Irrigation District	I75r-2508D	11,500	19,000
Ivanhoe Irrigation District	I75r-1809D	6,500	500
Lower Tule River Irrigation District	I75r-2771D	61,200	238,000

² Pixley Irrigation District does not hold a permanent Repayment Contract, but does hold a contract with the United States for a Cross Valley Canal water supply, which entitles the District to certain benefits from the Friant Division facilities, including access to Section 215 water supplies and ability to receive transfer water from Friant Division Repayment Contractors.

Stone Corral Irrigation District	I75r-2555D	10,000	0
Shafter Wasco Irrigation District	14-06-200-4032D	50,000	39,600
Tea Pot Dome Water District	14-06-200-7430D	7,500	0
Totals		255,500	371,600

The above-described contracts, entered into pursuant to Section 9(d) of the Federal Reclamation Act of 1939, establish a permanent, contractual right to the stated water quantities. Through the above contracts, the Bureau pledged to “make reasonable efforts to protect the water rights [of the Friant Division] ... and to provide the water available under this Contract.” Repayment Contracts, Art. 3(j). The Bureau also committed to “make all reasonable efforts to maintain sufficient flows and levels of water in the Friant-Kern Canal to deliver Project Water to [Friant contractors] at specific turnouts.” *Id.*, at Art. 5(b).

C. SVWA Protestants Hold Rights to the Water Involved in the Petition

The Bureau’s water rights to the San Joaquin River and the Sacramento River and Delta were acquired for project purposes and are therefore held in trust for water users, including SVWA Protestants, who put the water to beneficial use. In addition, Article 3(n) of SVWA Protestants’ Repayment Contracts with the Bureau establishes contractual rights in favor of SVWA Protestants with regard to the Bureau’s dispensation of water from the San Joaquin River and the Sacramento River and Delta.

1. SVWA Protestants’ interest in the San Joaquin River.

Prior to the construction of the Friant dam, and in order to provide a water supply for the Repayment Contracts (and the Water Service Contracts that preceded them), it was necessary for the Bureau to enter into water rights settlement contracts with downstream riparian water rights holders on the San Joaquin River. Westlands Water District v. United States, 153 F.Supp.2d 1133, 1143 (“Westlands VI”), *aff’d*, 337 F.3d 1092 (9th Cir. 2003) (“Westlands VII”). Thus, in 1939 the Bureau executed contracts with the owners of pre-1914 riparian and appropriative rights along the San Joaquin River (the “Exchange Contractors”). *Id.* These agreements, the Purchase Contract and the Exchange Contract, together allow the Bureau to divert nearly the entire flow of the San Joaquin River for delivery to Friant Division contractors.

Under the Purchase Contract, the Exchange Contractors sold all of their rights to water from the upper San Joaquin River to the United States, except for “reserved water,” water to which the Exchange Contractors held vested rights. Westlands Water District v. Patterson, 900 F.Supp. 1304, 1310 (E.D. Cal. 1995) (“Westlands IV”) *rev’d sub nom. on unrelated grounds*,

Westlands Water District v. United States, 100 F.3d 94 (9th Cir. 1996) (“Westlands V”). Simultaneously, under the Exchange Contract, the Exchange Contractors agreed not to exercise their rights to reserved water, as long as they received substitute water from the Federal Delta–Mendota Canal, or other sources that delivered to the Mendota Pool. Id.

The rights obtained by the United States under the Purchase Contract hold priorities of 1916, 1919 and 1927. See State Board Decision 935 (June 2, 1959) (“D-935”). These rights are not conditional; however, they exclude certain priority flows of the San Joaquin River which the Exchange Contractors reserved to themselves—i.e., the “reserved water” mentioned above. The Bureau’s rights under the Exchange Contract, in contrast, are conditional: the Exchange Contractors agreed not to exercise their right to “reserved water” “only so long as, the United States does deliver to the [Exchange Contractors] ... substitute water.” Westlands VI, 153 F.Supp.2d at 1155. Thus, if, as has been the case for the past two years, the United States is unable to deliver substitute water to the Exchange Contractors, the Exchange Contractors exercise their reserved rights to the San Joaquin River in accordance with the Purchase and Exchange Contracts.

The United States, through the Bureau, holds the rights identified in the Purchase and Exchange Contracts in trust for water users, including SVWA Protestants. See Westlands VI, 153 F. Supp. 2d 1133, 1149, 1170-71, 1173, 1175 (E.D. Cal. 2001) (“Westlands VI”), aff’d, 337 F.3d 1092 (9th Cir. 2003) (“Westlands VII”). In D-935, the Board considered the Bureau’s application to appropriate unappropriated waters of the San Joaquin River. In that proceeding, the Bureau objected to the inclusion of conditions in the permit declaring a trusteeship of the United States with respect to the rights under consideration. In the Bureau’s view, imposition of the condition was outside of the Board’s authority and discriminatory against the United States. See D-935, at 90. However, the Board flatly rejected these contentions. See id. at 90. As the Board explained:

[B]y force of applicable, law, state and federal, the United States holds all water rights acquired for project purposes in trust for the project beneficiaries who by use of the water on the land will become the true owners of the perpetual right to continue such use.

Id. at 99.

2. SVWA Protestants’ rights in the Sacramento River and Delta.

As with the Bureau’s rights in the San Joaquin River, the Bureau’s Sacramento River and Delta rights were acquired for a project purpose and are therefore held in trust for project beneficiaries, including SVWA Protestants.

In order to exercise its conditional right to provide Friant Division contractors with water from the San Joaquin River, the United States must provide the Exchange Contractors with a substitute supply from another source. Thus, pursuant to D-990, the Bureau obtained rights to store and divert Sacramento River and Delta flows as a source for the Exchange Contractors’ substitute supply. See State Board Decision 990 (Feb 2, 1961) (“D-990”) (Applications 5625, 5626, 9363, 9364, 9365, 10588).

Although ostensibly for the benefit of the Exchange Contractors, the Bureau's acquisition of Delta rights was for a "project purpose." Without Delta rights, the Bureau would be unable to deliver a permanent substitute supply to the Exchange Contractors. This, in turn, would lead the Exchange Contractors to exercise their reserved rights to San Joaquin River water, thereby eliminating the source of water used to serve the Friant Division and jeopardizing CVP operations. See Westlands VI, 153 F.Supp.2d at 1168. Recognizing the need to secure a source for the Exchange Contractors' substitute supply, the Bureau's applications, and the Board's subsequent order granting the associated permits, contained a requirement to provide 855,000 acre feet of water through the Delta-Mendota Canal to the Exchange Contractors. See D-990, at 18.

D-990 also reaffirmed D-935's conclusion that the United States holds all water rights acquired for project purposes in trust for the project beneficiaries who use project water. Therefore, just as with the Bureau's San Joaquin River diversion rights secured under D-935, the Bureau's Delta and Sacramento River rights secured under D-990 are held in trust for the benefit of the legal users of the water, which includes SVWA Protestants. See *id.*, at 77-78 ("[T]he United States holds all water rights acquired for project purposes in trust for the project beneficiaries who by use of the water on the land will become the true owners of the perpetual right to continue such use subject only to continued beneficial use and to observance of any and all contractual commitments to the United States.").

Although the Exchange Contractors are the direct users of the water diverted through the Delta-Mendota Canal, satisfying the Exchange Contract is a necessary pre-condition to the United States' right to divert San Joaquin River water for delivery to SVWA Protestants. Thus, the Bureau must exercise its Sacramento River and Delta rights to serve the Exchange Contractors if it is to be able to exercise its San Joaquin River rights to serve SVWA Protestants. Accordingly, because the Bureau's San Joaquin River rights are contingent upon the Bureau's Sacramento River and Delta rights, SVWA Protestants' continued beneficial use of San Joaquin River water establishes a trust relationship with respect to the rights the Bureau acquired in D-990 for the purpose of satisfying the Exchange Contract.

3. SVWA Protestants' contract rights in the San Joaquin River and the Sacramento River and Delta.

All of the Association's Members' Repayment Contracts contain Article 3(n). Article 3(n) not only establishes a Friant Division priority to waters of the San Joaquin River as against all other CVP contractors, it also prohibits the Bureau from taking action that renders the agency unable to satisfy prior rights holders with water delivered from the Delta.

Article 3(n) was an amendment added in response to the authorization and development of the San Luis Unit in 1960. Concerned that the addition of the San Luis Unit would reduce the availability of Sacramento River and Delta water, which in turn would cause the Exchange Contractors to exercise their reserved rights to the San Joaquin River, Friant Division contractors began negotiating with the Bureau seeking assurances that their water supply would not be adversely affected by increased demand placed on the Delta. See Westlands Water District v. Patterson, 864 F. Supp. 1536, 1547 (E.D. Cal. 1994) ("Westlands III"). Interior's Thomas Clarke

responded to these concerns in a memorandum of understanding dated December 29, 1959, in which he represented that:

[I]t has been, is and will continue to be the policy and practice of the United States to *utilize the water available... from the Sacramento River and its tributaries and the Sacramento–San Joaquin Delta to first satisfy the requirements of the Exchange Contract ... so long as it is legally and reasonably physically possible to satisfy these requirements; provided that the United States has not, and will not voluntarily impair the delivery of water required to satisfy those requirements.*

Westlands VI, 153 F.Supp.2d at 1156 (emphasis added); see also id., at 1157, fn 31 (finding that the Clarke Letter shows that “Friant Division water-users foresaw the need to maintain the Bureau's ability to service the Friant Division, and sought written confirmation ... that appropriated Sacramento River and Delta water [w]as the primary source for substitute water under the Exchange Contract”).

Consistent with the Clarke memorandum, and in exchange for Friant Division’s non-opposition to the place-of-use application for the then-proposed San Luis Unit, the Bureau agreed to amend Friant’s contracts by adding Article 3(n). See Westlands IV, 900 F.Supp. at 1317 (“In consideration of the Friant water districts' non-opposition to the [place-of-use application for the proposed San Luis Unit], the Bureau agreed to amend [Friant’s] contracts.”). As evident from the Clarke memorandum, the amendment was intended to alleviate Friant’s concerns regarding the increased risk that the Exchange Contractors would claim their reserved San Joaquin River rights in the event of a Delta shortage. Toward that end, Article 3(n) provides:

[T]he United States agrees that it *will not deliver to the [Exchange Contractors] waters of the San Joaquin River unless and until required by the terms of [the Exchange Contract] ... and the United States further agrees that it will not voluntarily and knowingly render itself unable to deliver to the parties entitled thereto from water that is available or that may become available to it from the Sacramento River and its tributaries of the Sacramento–San Joaquin Delta those quantities required to satisfy the obligations of the United States [to the Exchange Contractors].*

Although it was understood that the Delta would be the primary source of the Exchange Contractors’ substitute supply, the Exchange Contract itself does not mandate where that water must come from. See Westlands VI, 153 F.Supp.2d at 1166. Rather, it commits the United States “to provide substitute water to the Exchange Contractors from any source selected by Interior in its discretion.” Id. Thus, under the terms of the Exchange Contract, the Bureau must deliver San Joaquin River water to the Exchange Contractors *only if* there is no other source available. Read in conjunction with the relevant provisions of the Exchange Contract, Article 3(n) thus prohibits the Bureau from delivering San Joaquin River water to the Exchange Contractors except when there is no other source available to provide the Exchange Contractors’ substitute supply. If any other source is available (i.e., *any* source other than the San Joaquin River) then, pursuant to Article 3(n), the Bureau must use that source. Thus, because Friant Division contractors’ rights to the San Joaquin River are junior only to the Exchange Contractors’ pre-1914 riparian and

appropriative rights, and because Article 3(n) prohibits the Bureau from delivering San Joaquin River water to the Exchange Contractors except when there is no other source available, Friant Division contractors hold priority rights to the San Joaquin River to the extent those flows are not required to satisfy the Exchange Contractors. In other words, the Exchange Contract and Article 3(n) effectively create a Friant Division priority on the San Joaquin River as against all other CVP contractors.

In addition to establishing a Friant Division priority to San Joaquin River flows, Article 3(n) prohibits the Bureau from taking any voluntary and knowing action that renders the agency unable to deliver to the Exchange Contractors water that is, or may become, available from the Sacramento River or the Delta. Thus, Article 3(n) also establishes a contractual right in favor of SVWA Protestants against the Bureau's engaging in certain prohibited conduct.

D. Petitioners Cannot Meet Their Burden of Showing a Reasonable Likelihood that the Proposed Change Will Not Injure the Rights of Other Legal Users of the Water Involved

Through a combination of an erroneous definition of the No Action Alternative, an improper assumption of expanding uses, and an arbitrary prediction of future Delta outflow requirements, the Petitioners would effectively nullify the priority of Friant Division entitlements by shorting deliveries to of substitute water to senior downstream San Joaquin River water right holders. The Exchange Contractors are entitled to exercise their reserved water rights if the United States fails to meet its obligation to provide substitute water under the Exchange Contract. However, the RDEIR/SDEIS cannot show that Alternative 4A will fully satisfy the Government's obligation to the Exchange Contractors. Therefore, Petitioners cannot show a reasonable likelihood that the Petition's proposed changes will not injure SVWA Protestants' rights to the water involved. For this reason, the Petition must be denied.

1. The Petition does not include an operations plan.

The Petition is unable to demonstrate a reasonable likelihood that the proposed change will not injure any other legal user of water because it does not include an operations plan. Normally, the United States sets forth its proposed operations for the CVP in the Operations Criteria and Plan (OCAP), which gives potentially affected contractors—the legal users of CVP water—written notice and an opportunity to review, comment, and be heard with respect to proposed operational parameters and their potential impact on CVP contractors. Here, however, the Petition fails to disclose any operations plan explaining how the SWP and CVP will be operated after the proposed new facilities and points of diversion and rediversion are constructed and operational. Further, Petitioners have made no attempt to model the potential impacts of those operations. However, absent sufficient modeling data to support a well-defined operations plan, the Petition cannot make any credible showing that other legal users of water will not be injured as a result of the Petition's proposed changes.

Even assuming Petitioners intend to put Alternative 4A forward as an operations plan, Alternative 4A lacks sufficient detail to support the Petition's approval. Alternative 4A relies on an adaptive management and monitoring program whereby operations change in response to new

science and data. See Bay Delta Conservation Plan/California WaterFix RDEIR/SDEIS, at ES-37-39. Essentially little more than a trial-and-error approach, Alternative 4A's adaptive management program forecloses any meaningful assessment of the project's impacts because it bases project operations on the results of future monitoring and study. Id. But the results of future science cannot presently be known and, consequently, neither can project operations under Alternative 4A.

Indeed, RDEIR/SDEIS even admits that its model results under extreme conditions "may not be representative of actual future conditions because changes in assumed operations may be implemented to avoid these conditions." See Bay Delta Conservation Plan/California WaterFix RDEIR/SDEIS, at 4.3.1-6; see also id. at 5-2 ("Under extreme hydrologic and operational conditions where there is not enough water supply to meet all requirements, CALSIM II utilizes a series of operating rules to reach a solution to allow for the continuation of the simulation. It is recognized that these operating rules are a simplified version of the very complex decision processes that SWP and CVP operations would use in actual extreme conditions. Therefore, model results and potential changes under these extreme conditions should be evaluated on a comparative basis between alternatives and are an approximation of extreme operational conditions."). The RDEIR/SDEIS also acknowledges that "long-term results of SWP/CVP operations may be different than described due to changes in location and extent of tidal marsh restoration." Id. In light of these inadequacies, the modeling results associated with Alternative 4A cannot sustain the Petition's approval.

2. The Petition's inaccurate description of the No Action Alternative is inappropriately used as a baseline for determining injury to other legal water users.

In order to determine whether a legal user of water will be injured by the Petition, the Petition must accurately describe the baseline condition as compared to the condition that will result from the Petition's proposed changes. The Petition uses the No Action Alternative, as defined in the California WaterFix RDEIR/SDEIS, as the baseline for this determination. Using that baseline, the RDEIR/SDEIS concludes that there will be no shortages in delivery of Sacramento River water and Delta water. However, in defining the No Action Alternative the RDEIR/SDEIS makes a number of crucial assumptions regarding the facilities and operations of the CVP and SWP. See Report on Review of Bay Delta Conservation Program Modeling, at 4. As a result, the No Action Alternative predicts water delivery reductions that are completely illusory. Id. The RDEIR/SDEIS then analyzes whether Alternative 4A will cause injury to other legal users by comparing its impacts against this flawed baseline. However, because the assumptions implicit in the No Action Alternative artificially manufacture a reduced level of water deliveries, the Petition effectively conceals the true impacts of its proposed changes.

3. The Petition contains inaccuracies, inconsistencies, and contradictions that fundamentally compromise its analysis of the effects on other legal water users.

The Petition asserts that it "leaves intact all existing places of use, manner of use, other existing points of diversion, quantities of diversion and other water rights terms and conditions

identified in Water Rights Decision 1641 (D-1641). Supplemental Information for Petition for Change in Point of Diversion (Aug. 25, 2015), at 9. The Petition further represents that “existing obligations will continue to be met and beneficial uses in the Delta will not be negatively impacted by operations with the new point of diversion.” *Id.* at 19. “[O]perations both now and in the future will not impact the quantity of water available for water users in the watershed because these demands are accounted for prior to diversions to storage or export.” *Id.* “[T]he requested changes to points of diversion/rediversion identified in Alternative 4A would not detract from the ability of the SWP/CVP to meet current or future criteria or objectives.” *Id.* at 10. “[T]here are no requested changes to the SWP or CVP quantity or timing of diversion, place of use, return flows, or consumptive uses of water ... [and] this Petition does not request any modification of D-1641 obligations.” *Id.* at 19. “In addition to the priority system, water rights that are in the Area of Origin are protected by existing state law which provides that the CVP and SWP can only export water that is surplus to the legitimate water needs of the Bay-Delta watershed. The Petitioners operate the Projects consistent with the priority system and Area of Origin protections.” *Id.* at 20. “Deliveries to the CVP Settlement, Refuge, and Exchange Contractors . . . will continue to be made under the terms of those agreements. This Petition does not propose any changes to any contractual obligations.” *Id.* at 21.

These assertions, however, are belied by the supporting documentation included or referred to within the Petition. For instance, despite representing that the Petition “leaves intact all existing ... rights[,] terms and conditions identified in [D-1641],” according to the RDEIR/SDEIS “Alternative 4A proposes a range of spring outflows *above* D-1641.” *Id.* at 1 (emphasis added). Obviously these statements cannot both be true. Indeed, the RDEIR/SDEIS later admits that “the exact flows proposed in Alternative 4(a) will be determined using [a] science based adaptive management process.” *Id.* at 14. Thus, the RDEIR/SDEIS explains, “if best available science resulting from collaborative scientific research program shows that Longfin Smelt abundance can be maintained in the absence of spring outflow ... an alternative operation for spring outflow could be to follow flow constraints established under D-1641.” *Id.* at 4.1-9 n.17. By providing for an “alternative operation” that “follow[s] flow constraints established under D-1641,” it is clear that Alternative 4A contemplates at least some departure from D-1641, even if the extent of that departure cannot presently be known.

E. The Petition’s Proposed Changes Will Injure SVWA Protestants’ Rights to the Water Involved

As explained above, SVWA Protestants are legal users of water who hold contract rights and water rights to water from the San Joaquin River and the Sacramento River and Delta. If the Petition is granted, those rights will be injured to the extent of any reduction in water delivered to the Exchange Contractors from the Delta or to the Friant Division contractors from the San Joaquin River.

1. The proposed changes will injure SVWA Protestants’ contract rights.

SVWA Protestants possess a contractual right prohibiting the Bureau from taking any voluntary and knowing action that renders the agency unable to deliver to the Exchange Contractors water that is, or may become, available from the Sacramento River or the Delta. See

Repayment Contracts, Article 3(n) (“[T]he United States further agrees that it will not voluntarily and knowingly render itself unable to deliver to the [Exchange Contractors] from water that is available or that may become available to it from the Sacramento River and ... the ... Delta.”).

The Bureau’s submission of this Petition, and its decision to implement Alternative 4A, is plainly a voluntary act within the meaning of Article 3(n). Moreover, the environmental documents submitted with the Petition clearly establish that, if implemented, Alternative 4A would reduce Delta exports during dry years. See Bay Delta Conservation Plan/California WaterFix RDEIR/SDEIS, at 5-9. However, a reduction in Delta exports could render the Bureau unable to deliver Delta water to the Exchange Contractors. Thus, to the extent that implementation of Alternative 4A would cause a reduction in Delta exports, or would otherwise cause the Bureau to be unable to deliver to the Exchange Contractors water from the Delta and Sacramento River, SVWA Protestants’ Article 3(n) rights would be injured. Accordingly, to avoid injury to these rights, any order approving the Petition’s proposed changes must be made contingent upon the Bureau’s compliance with Article 3(n).

2. The proposed changes will injure SVWA Protestants’ water rights.

The RDEIR/SDEIS indicates that Alternative 4A’s implementation would likely diminish SVWA Protestants’ access to water, either directly, by reducing the amount of water available to satisfy SVWA Protestants’ priority rights to the San Joaquin River, or indirectly, by reducing Delta deliveries to satisfy the Exchange Contractors. Consequently, the Petition’s proposed changes would injure SVWA Protestants’ rights to the water involved.

The Petition represents that “[d]eliveries to the ... CVP Settlement, Refuge, and Exchange Contractors ... will continue to be made under the terms of those agreements. This Petition does not propose any changes to any contractual obligations.” Supplemental Information for Petition for Change in Point of Diversion (Aug. 25, 2015), at 21. However, the RDEIR/SDEIS indicates only that deliveries to the Exchange Contractors under Alternative 4A would “remain” at 814,000 acre feet.³ See Bay Delta Conservation Plan/California WaterFix RDEIR/SDEIS, at B-40. Crucially, it does not reveal the *source* of deliveries to the Exchange Contractors (e.g., whether those deliveries come from the Sacramento River and Delta, from the San Joaquin River, from a combination of these sources, or from other sources). It also does not explain why deliveries to the Exchange Contractors in dry years would not meet their entitlement of 840,000 acre feet, or disclose whether deliveries to the additional “Settlement Contractors” identified on Exhibit A to the Friant/SLDMWA MOU would occur, and if so, in what amount. Furthermore, there is no indication of the assumed losses Reclamation used in the past when determining diversions required to meet its Exchange Contract delivery obligation.

³ Article 8 of the Second Amended Contract for Exchange of Waters, Contract Ilr-1144, dated Feb. 14, 1968, entitles the Exchange Contractors to substitute water in an amount not to exceed 840,000 acre feet in all calendar years other than those defined as critical, and to an amount not to exceed 650,000 acre feet in critical calendar years. Reclamation in the past assumed a 10% loss in deliveries to the Exchange Contractors. See Bureau of Reclamation, San Luis Unit, West San Joaquin Division, Central Valley Project (Ultimate Plan), Appendix, Import Water Supply (May 1954) at 00308, 00311-12.

The RDEIR/SDEIS also shows that CVP south of Delta agricultural deliveries under Alternative 4A for “Annual (Mar-Feb)” will fall short of the Existing Conditions. Id., at 4.3.1-5. Similarly, modeling of Alternative 4A’s impact on San Joaquin River mean flows at Vernalis in comparison to Existing Conditions predicts less flow at critical times of the year. See id., at 4.3.1-1. Such impacts would seriously injure SVWA Protestants’ rights in the San Joaquin River and the Delta, either directly by reducing the San Joaquin River supply or indirectly by reducing Delta deliveries to the Exchange Contractors. In either event, less water is available to satisfy SVWA Protestants’ rights.

In addition to the overall recognition that deliveries south of the Delta will be reduced, the specifics of the prediction, as they are explained in the RDEIR/SDEIS, are extremely unclear and speculative, and in some cases even contradictory. Without more complete and accurate modeling, the extent of the effect of the proposed change on the rights of other legal water users cannot be reliably ascertained.

V. Terms and Conditions Under Which This Protest May Be Disregarded or Dismissed

The Form of Protest inquires under what conditions this Protest may be disregarded or dismissed. The Parties to this Protest respond as follows:

The Friant Division contractors, including the SVWA Protestants, have developed terms and conditions that must be incorporated into any revised permits approved by the Board in response to the Petition, to prevent injury to the legal users of CVP water entitled to delivery of Friant Division water supplies:

1. Any permit issued in response to the Petition shall be subject to vested rights.
2. All rights and privileges under any permit issued in response to the Permit are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare.
3. No permit issued in response to the Petition shall alter the quantity or timing of diversion, place of use, return flows, or consumptive uses of water in the State Water Project and Central Valley Project.
4. Existing obligations shall continue to be met and beneficial uses of water shall not be impacted negatively by operations under any permit issued in response to the Petition. Without limiting the generality of the preceding sentence, there shall be no changes to any contractual obligations as a result of the granting of all or any part of the Petition.
5. Any operations plan developed as a result of granting all or any part of the Petition shall not injure any legal user of water.
6. Consistent with its obligations to the Friant Division long-term contractors under the terms of the Friant Division repayment contracts and water service contracts, the United States shall not deliver waters of the San Joaquin River to the Exchange Contractors (as

identified under the Exchange Contract), unless and until required by the terms of the Exchange Contract;

7. Consistent with its obligations to the Friant Division long-term contractors under the terms of the Friant Division repayment contracts and water service contracts, the United States shall not voluntarily and knowingly determine itself unable to deliver to the Exchange Contractors, from water that is available or that may become available to the United States from the Sacramento River and its tributaries or the Sacramento-San Joaquin Delta, those quantities of substitute water required to satisfy the obligations of the United States under the Exchange Contract
8. The United States acknowledges that the federal courts have resolved numerous issues arising from establishment and operation of the CVP and SWP, and that those decisions are final and binding.
9. Any permit revised in response to the Petition shall be subject to Water Rights Decisions D-935 and D-990.
10. The United States acknowledges and agrees that the operation of the Friant Division have never been fully integrated with the operation of the remaining units of the CVP. Through this Petition, the United States has not sought the permission of the State Water Resources Control Board to integrate the Friant Division operation with the operation of the other units of the CVP, and the United States shall not seek to do so in the future unless each of the Friant Division contractors agrees to support operational integration of the Friant Division into the CVP.
11. The United States and DWR must ensure that the COA, as amended:
 - a. Honors the United States' legal obligation to treat the Exchange Contractor substitute supply as a "vested priority obligation" that the United States must satisfy, consistent with the terms of the Exchange and Purchase Contracts, without including it in the CVP available supply;
 - b. Specifies that only the "CVP available supply" is subject to sharing under the COA;
 - c. Does not apply the percentages developed for Sacramento Valley in-basin uses outside of the context for which they were developed;
 - d. Provides a new means of sharing responsibility for requirements such as Delta outflow (and other water quality flows) and Delta pumping constraints, and the sharing of those burdens must be equitable to both the CVP and SWP. Current percentages are not proportional between the CVP and SWP and negatively impact the CVP; the COA must be amended to correct that inequity;
 - e. Provides for sharing of responsibility for Sacramento Valley in-basin uses that is fair to the CVP and SWP. The COA, as amended, cannot assign the CVP direct or indirect responsibility for meeting SWP's senior water right obligations or the

indirect effects caused by DWR's allocation decisions, such as occurred in 2014 where DWR's decision to increase the allocation to Feather River Settlement Contractors (SWP Contractors) to 100% imposed increased Delta Water Quality and outflow obligations on the CVP;

- f. Consistent with the multi-party water user agreement reached in 2006, San Joaquin River Restoration Flows entering the Delta must be recognized as CVP water. For purposes of CVP exports and COA accounting, Reclamation must ensure that San Joaquin River Restoration Flows are not subject to use by contractors outside the Friant Division or by Reclamation as offsets for COA obligations.

The Foregoing Protest Submitted is Submitted This 5th Day of January, 2016, by:

Alex M. Peltzer

Attorney for:

**South Valley Water Association
Deiano-Earlimart Irrigation District
Exeter Irrigation District
Ivanhoe Irrigation District
Lower Tule River Irrigation District
Pixley Irrigation District
Stone Corral Irrigation District
Shafter Wasco Irrigation District
Tea Pot Dome Water District**