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**CALIFORNIA DEPARTMENT OF WATER  
3 RESOURCES**

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9 **BEFORE THE CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

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

**CALIFORNIA DEPARTMENT OF  
WATER RESOURCES' OBJECTIONS  
TO PART 1B TESTIMONY AND  
EXHIBITS SUBMITTED BY DEIRDRE  
DES JARDINS AND CALIFORNIA  
WATER RESEARCH**

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16 California Department of Water Resources ("DWR") submits the following  
17 objections to and motion to strike and/or exclude testimony and exhibits submitted by  
18 Deirdre Des Jardins on behalf of herself and California Water Research (referred to  
19 collectively herein as "CWR"). CWR's filings consist of written testimony by Ms. Des  
20 Jardins and five exhibits presenting criticisms of Petitioners' modeling testimony that  
21 were already covered extensively during cross examination during the Part 1A hearing.  
22 CWR's testimony does not present evidence on injury to legal users of water or impacts  
23 to other human uses of water, and it therefore does not meet the requirements set in the  
24 hearing notices and rulings. Instead, CWR's case-in-chief is a continuation CWR's  
25 attempt to cast doubt on the validity of DWR's modeling work. DWR already responded  
26 to these criticisms on July 22, 2016 and August 1, 2016 and hereby incorporates these  
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1 filings by reference. CWR's testimony also mischaracterizes Petitioners' testimony and  
2 does not meet the requirements of Evidence Code section 805, because CWR's  
3 submitted expert opinion is not helpful to the Hearing Officers in considering and  
4 weighing the evidence and drawing the necessary conclusions.

5 DWR incorporates its Master Objections to Protestants' Cases-in-Chief Collectively  
6 ("Master Objections"), which have been filed concurrently with these objections, as  
7 though set forth herein in their entirety. DWR also submits the following specific  
8 arguments and reserves the right to provide additional written and oral objections.  
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10 The noticed issues for Part 1 of this hearing are:

11 **1) Will the changes proposed in the Petition in effect initiate a new water right?**

12 **2) Will the proposed changes cause injury to any municipal, industrial or  
13 agricultural uses of water, including associated legal users of water?**

14 **(a) Will the proposed changes in points of diversion alter water flows in a manner  
15 that causes injury to municipal, industrial, or agricultural uses of water?**

16 **(b) Will the proposed changes in points of diversion alter water quality in a manner  
17 that causes injury to municipal, industrial, or agricultural uses of water?**

18 **(c) If so, what specific conditions, if any, should the State Water Board include in  
19 any approval of the Petition to avoid injury to these uses?**

20 (October 30, 2015 Hearing Notice, at page 12.) This was expanded to include "human  
21 uses that extend beyond the strict definition of legal users of water, including flood  
22 control issues and environmental justice concerns." (February 11, 2016 Ruling, at page  
23 10.)  
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26 CWR makes no mention of water rights, injury to users of water, or human uses of  
27 water. (See DDJ-108, section entitled, "Overview of Testimony" at 5:6-5:10.) Instead,  
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1 CWR's testimony summarizes efforts of the Bay-Delta modeling community from 2009-  
2 2012 without providing supporting exhibits (DDJ-108, at 5:12-6:13), includes a legal  
3 argument regarding the admissibility of modeling data under Government Code section  
4 11513 (DDJ-108, at 6:15-7:19), and provides 11 pages of criticism of Armin Munevar's  
5 testimony (DDJ-108, at 7:21-18:5).

6 In CWR's testimony summarizing efforts of the Bay-Delta modeling community  
7 from 2009-2012, it failed to explain how this effort is relevant to the proposed project or  
8 Part 1 issues. This testimony should be excluded.

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10 CWR's case-in-chief is not the place for legal argument regarding the admissibility  
11 of modeling data under Government Code section 11513. Perhaps this argument should  
12 be made in an objection to Petitioners' evidence or in closing legal briefs, but it is clear  
13 that this case-in-chief is not the place for this legal argument. It should be excluded.

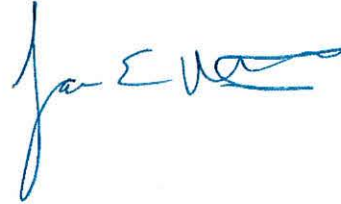
14 In CWR's 11 pages of criticism of Armin Munevar's testimony, it does not mention  
15 water rights, injury to users of water, or human uses of water. It therefore does not meet  
16 the requirements for a Part 1B case-in-chief. CWR cross examined each panel of  
17 Petitioners' witnesses that has testified so far. For the modeling panel, CWR began its  
18 cross examination, but was having trouble focusing on issues related to the testimony. It  
19 was given an opportunity to refocus its questions. It does not now deserve a third  
20 chance to criticize Petitioners' evidence. This testimony is not appropriate for a case-in-  
21 chief and should be excluded.

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23 To the extent that CWR mischaracterizes the exhibits that it submitted and  
24 Petitioners' testimony, DWR objects to those mischaracterizations. (See, e.g., DDJ-108,  
25 at 8:7-8:12 & 10:1-10:28.)  
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1 For the reasons stated above and in the incorporated Master Objections filed  
2 concurrently, CWR's testimony and exhibits should be excluded from this hearing.

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4 Dated: September 21, 2016

CALIFORNIA DEPARTMENT OF WATER  
RESOURCES

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