

STEPHAN C. VOLKER (CSB #63093)
DANIEL P. GARRETT-STEINMAN (CSB #269146)
JAMEY M.B. VOLKER (CSB #273544)
M. BENJAMIN EICHENBERG (CSB #270893)
LAW OFFICES OF STEPHAN C. VOLKER
436 14th Street, Suite 1300
Oakland, California 94612
Tel: 510/496-0600
Fax: 510/496-1366

Attorneys for Protestants
PACIFIC COAST FEDERATION OF
FISHERMEN'S ASSOCIATIONS and
INSTITUTE FOR FISHERIES RESOURCES

BEFORE THE
CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

HEARING IN THE MATTER OF
CALIFORNIA DEPARTMENT OF
WATER RESOURCES AND UNITED
STATES BUREAU OF RECLAMATION
REQUEST FOR A CHANGE IN POINT
OF DIVERSION FOR CALIFORNIA
WATERFIX PROJECT

**OBJECTION OF PROTESTANTS PACIFIC
COAST FEDERATION OF FISHERMEN'S
ASSOCIATIONS AND INSTITUTE FOR
FISHERIES RESOURCES TO THE CASE-
IN-CHIEF TESTIMONY AND EXHIBITS
SUBMITTED BY WESTLANDS WATER
DISTRICT AND MOTION TO EXCLUDE
SUCH EVIDENCE**

Protestants Pacific Coast Federation of Fishermen's Associations ("PCFFA") and Institute for Fisheries Resources ("IFR") respectfully object to and move to exclude the case-in-chief evidence submitted by Westlands Water District ("Westlands") on September 1, 2016, consisting of the Testimony of Jose Gutierrez and five related exhibits (WWD-1 through WWD-6).

Westlands' submissions are not relevant to the scope of issues in Part 1 of this proceeding. In its October 30, 2015 Notice of Petition and Notice of Public Hearing and Pre-Hearing Conference to consider the Petition, this Board defined the scope of issues in Part 1 as follows:

1. Will the changes proposed in the Petition in effect initiate a new water right?
2. Will the proposed changes cause injury to any municipal, industrial or agricultural uses of water, including associated legal users of water?

- 1 a. Will the proposed changes in points of diversion alter water flows in a
2 manner that causes injury to municipal, industrial, or agricultural uses of water?
- 3 b. Will the proposed changes in points of diversion alter water quality in a
4 manner that causes injury to municipal, industrial, or agricultural uses of water?
- 5 c. If so, what specific conditions, if any, should the State Water Board include
6 in any approval of the Petition to avoid injury to these uses?

7 *Id.* at p. 11.

8 On February 11, 2016, the Board clarified the scope of Part 1, explaining that “some
9 issues could cross over Part 1 and 2, but generally Part 1 focuses on human uses of water (water
10 right and water use impacts).” Hearing Officers’ Ruling on Pre-Hearing Conference Procedural
11 Issues, p. 10. The Board further clarified that “Part 1 can address human uses that extend beyond
12 the strict definition of legal users of water, including flood control issues and environmental
13 justice concerns.” *Id.*

14 Westlands’ proffered testimony does not fall within the scope of Part 1 as delimited (and
15 clarified) by this Board in its October 30, 2015 Notice and February 11, 2016 Ruling. Instead,
16 Westlands’ testimony “provide[s] background information regarding Westlands and describe[s]
17 Westlands’ water supply, the role of Central Valley Project operations in delivering Westlands’
18 supply, and how Westlands puts its water to use.” Testimony of Jose Gutierrez [WWD-1] at 2.
19 Westlands’ testimony also “discuss[es] the need for California WaterFix existing [sic] in
20 Westlands, and both the likely benefits to Westlands if California WaterFix moves forward and
21 likely adverse impacts to Westlands if California WaterFix does not move forward, or moves
22 forward in a way with more significant operational limitations than exist today.” *Id.* At no point
23 does Westlands’ proposed testimony address any of the issues for Part 1 that are delineated in this
24 Board’s October 30, 2015 Notice and February 16, 2016 Ruling.

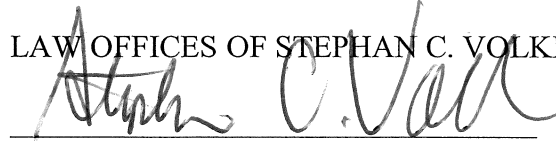
25 Because Westlands’ proffered testimony does not fall within the scope of Part 1 as defined
26 by this Board, it is irrelevant to any issue in Part 1 and should be excluded.

1 For the foregoing reasons, protestants PCFFA and IFR respectfully request that this Board
2 sustain their objection to Westlands' testimony and associated Exhibits (WWD-1 through WWD-
3 6), and grant their motion to exclude this evidence.

4 Respectfully submitted,

5 Dated: September 21, 2016

LAW OFFICES OF STEPHAN C. VOLKER



7 STEPHAN C. VOLKER

8 Attorney for Protestants

9 PACIFIC COAST FEDERATION OF FISHERMEN'S
10 ASSOCIATIONS and INSTITUTE FOR FISHERIES
11 RESOURCES
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1 **STATEMENT OF SERVICE**

2 CALIFORNIA WATERFIX PETITION HEARING
3 Department of Water Resources and U.S. Bureau of Reclamation (Petitioners)

4 I hereby certify that I have this day submitted to the State Water Resources Control Board and
5 caused a true and correct copy of the following document(s):

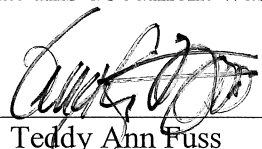
6 **OBJECTION OF PROTESTANTS PACIFIC COAST FEDERATION OF FISHERMEN'S**
7 **ASSOCIATIONS AND INSTITUTE FOR FISHERIES RESOURCES TO THE CASE-IN-**
8 **CHIEF TESTIMONY AND EXHIBITS SUBMITTED BY WESTLANDS WATER**
9 **DISTRICT AND MOTION TO EXCLUDE SUCH EVIDENCE**

10 to be served by Electronic Mail (email) upon the parties listed in Table 1 of the Current Service
11 List for the California WaterFix Petition Hearing, dated September 20, 2016, posted by the State
12 Water Resources Control Board at

13 [http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)
14 [service_list.shtml](http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix/service_list.shtml)

15 I certify that the foregoing is true and correct and that this document was executed on September
16 21, 2016.

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Name:	 Teddy Ann Fuss
Title:	Legal Secretary
Party/Affiliation:	Pacific Coast Federation of Fishermen's Associations and Institute for Fisheries Resources
Address:	436 14 th Street, Suite 1300 Oakland, CA 94612